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Tuesday
August 21, 1979

Highlights

- 48949 Oil Decontrol** Executive order
- 48955 Food and Nutrition Programs** USDA/FNS adopts rules on distribution and utilization of State administrative expense funds
- 48975 Small Business Energy Loans** SBA proposes rules to clarify when loans would be approved under certain programs; comments by 9-20-79
- 49166 Housing** HUD/FHC establishes general prototype costs for one-to-four family dwelling units for each market area of the country; effective 8-21-79 (Part II)
- 49188 Air Carriers** CAB establishes program for gradual elimination of domestic operating certificate restrictions excluding those applicable to intra-Alaska and intra-Hawaii markets; effective 8-21-79 (Part III of this issue)
- 49037 Steel Mill Products** Treasury/Sec'y announces trigger prices for the fourth quarter of 1979
- 48971 State or Local Fair Employment Practices Agencies** EEOC amends regulations on designation of certain agencies to authorize handling of employment discrimination charges within jurisdictions; effective 6-26-79

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- 48987 State or Local Fair Employment Practices Agencies** EEOC proposes revising procedural regulations governing designation as deferral agencies; comments by 10-22-79
- 49010 Personnel Boards, Merit boards, and Civil Service Systems** EEOC states policy reasons for recognition as 706 agencies
- 49087 Veterans Home Loan Program** VA proposes policies and procedures governing participation of appraisers and compliance inspectors; comments by 9-20-79
- 49090 Veterans Exposed to Ionizing Radiation** VA issues program guide to be used in development and disposition of claims
- 49222 Air Pollution Control** EPA identifies major source categories for which performance standards for new stationary sources are to be promulgated; effective 8-21-79 (Part V of this issue)
- 48967 Food Additives** HEW/FDA provides for use of styrene-maleic anhydride copolymer, amidated, ammonium sodium salt in paper and paperboard intended for food-contact use; effective 8-21-79; objections by 9-20-79
- 48964 Color Additives** HEW/FDA amends temporary tolerances for certain provisionally listed additives used in ingested cosmetics and drugs; effective 11-19-79; objections by 9-20-79
- 48979, 48983 Drugs For Human or Animal Use** HEW/FDA proposes rules regarding separation of functions in withdrawal proceedings involving imminent hazard determinations and establishes imminent hazard criteria and procedure; comments by 10-22-79 (2 documents)
- 48968 Drugs for Human Use** HEW/FDA changes requirements for requesting certification of insulin products; effective 9-20-79
- 48959 Meat Inspection** USDA/FSQS amends regulations regarding nitrates and nitrites in food products and labeling and selling of foods no longer preserved with such chemicals; effective 9-20-79
- 49116 Sunshine Act Meetings**
- Separate Parts of This Issue**
- 49166 Part II, HUD**
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Presidential Documents

Title 3—

The President

Executive Order 12153 of August 17, 1979

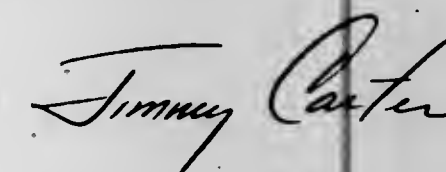
Decontrol of Heavy Oil

By the authority vested in me as President by the Constitution and statutes of the United States of America, including the Emergency Petroleum Allocation Act of 1973, as amended (15 U.S.C. 701 *et seq.*), and notwithstanding the delegations to the Secretary of Energy in Executive Order No. 11790; as amended by Executive Order No. 12038, it is hereby ordered as follows:

1-101. Effective August 17, 1979, prices charged in the first sale of heavy crude oil are exempted from price controls adopted pursuant to the Emergency Petroleum Allocation Act of 1973, as amended. For purposes of this section, the term "heavy crude oil" means all crude oil produced from a property, but only if, during the last month prior to July 1979 in which crude oil was produced and sold from that property, such crude oil had a weighted average gravity of 16.0° API or less, corrected to 60° Fahrenheit.

1-102. The Secretary of Energy, or his delegate, shall expeditiously conduct a public inquiry as to what other types of heavy crude oil, if any, should be exempted from price controls adopted pursuant to the Emergency Petroleum Allocation Act of 1973, as amended, in order to maintain or increase production of such crude oil. Upon completion of that inquiry, the Secretary shall make a recommendation to the President as to what other types of heavy crude oil, if any, should be exempt from price controls.

1-103. The Secretary of Energy may pursuant to Executive Order 11790, as amended by Executive Order 12038, adopt such regulations as he deems necessary to implement this Order.



THE WHITE HOUSE,
August 17, 1979.

[FR Doc. 79-25980
Filed 8-17-79; 3:32 pm]
Billing code 3195-01-M

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Rules and Regulations

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510. The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Parts 151, 300, 302, 315, 330, 351, 352, 353, 531, 550, 731, 733, 754, and 930

Deletion of Procedural Regulations

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This document deletes from the Office's regulations the procedures for investigating and prosecuting alleged improper political activity and procedures for governing employee appeals which are obsolete as a result of the reorganization and issuance of Merit Systems Protection Board regulations.

EFFECTIVE DATE: August 21, 1979.

FOR FURTHER INFORMATION CONTACT:

Part	Name	Telephone
151,733	Thomas F. Moyer	(202) 632-2992
300, 302, 315, 330, 351, 352, 353, 731	Morton I. Horvitz	(202) 632-6817
531, 550	James N. Woodruff	(202) 632-6553
754	Wilma Lehman	(202) 632-5623
930	Joseph A. Norris	(202) 632-4638

SUPPLEMENTARY INFORMATION:

Reorganization Plan No. 2 of 1978 (43 FR 36067) abolished the Civil Service Commission and transferred its functions to the Office of Personnel Management and the Merit Systems Protection Board.

Among those functions transferred from the Commission to the Board are:

(1) the authority to investigate and prosecute alleged improper political activity; (2) the authority to decide employee appeals; and (3) the authority to issue regulations on these matters. Interim regulations were published by the Board on January 19, 1979 (44 FR 3946). Final regulations governing appeals were published on June 29, 1979 (44 FR 38342 et seq.).

The following are corrections to Chapter 1, 5 CFR, Parts 151, 300, 302, 315, 330, 351, 352, 353, 531, 550, 731, 733, 754, and 930, resulting from the implementation of Reorganization Plan No. 2 of 1978 and the Civil Service Reform Act of 1978 (Pub. L. 95-454). Part 772 of the Office's regulations was deleted at 44 FR 46249, published on August 7, 1979.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

PART 151—POLITICAL ACTIVITY OF STATE OR LOCAL OFFICERS OR EMPLOYEES

Accordingly, 5 CFR chapter 1 is amended as follows:

§§ 151.131-151.138 [Deleted]

(1) In Part 151, §§ 151.131, 151.132, 151.133, 151.134, 151.135, 151.136, 151.137 and 151.138 are deleted.

PART 300—EMPLOYMENT (GENERAL)

(2) In § 300.104, paragraphs (a)(2) and (3) are deleted, and §§ 300.104(a)(1), 104(b) and 104(c)(2) are revised to read as follows:

§ 300.104 Appeals, grievances and complaints.

(a) *Employment practices.* A candidate who believes that an employment practice which was applied to him or her by the Office of Personnel Management violates a basic requirement in section 300.103 is entitled to appeal to the Merit Systems Protection Board under the provisions of its regulations.

(b) *Examination ratings.* A candidate may file an appeal with the Office from his examination rating or the rejection of his application, except that, where the Office has delegated examining authority to an agency, the candidate should appeal directly to that agency. The appeal shall be filed and processed in accordance with instructions in chapter 337 of the Federal Personnel Manual.

(c) * * *

(2) Except as provided in paragraph (c)(1) of this section, an employee may file a grievance with an agency when he or she believes that an employment practice which was applied to him or her and which is administered or required by the agency violates a basic requirement in § 300.103. The grievance

shall be filed and processed under the agency grievance system established in accordance with Part 771 of this chapter, or a negotiated grievance system.

PART 302—EMPLOYMENT IN THE EXCEPTED SERVICE

§§ 302.502 and 302.503 [Deleted]

(3) Subpart E of Part 302 is amended by deleting §§ 302.502 and 302.503 and revising § 302.501 to read as follows:

§ 302.501 Entitlement.

An individual who is covered by 5 U.S.C. 8101(1) and is entitled to priority consideration under this Part (see § 302.103) may appeal a violation of his/her restoration rights to the Merit Systems Protection Board under the provisions of the Board's regulations by presenting factual information that he or she was denied restoration rights because of the employment of another person.

PART 315—CAREER AND CAREER-CONDITIONAL EMPLOYMENT

(4) Subpart H of the table of contents at the beginning of Part 315 is amended to read as follows:

Subpart H—Probation on Initial Appointment to a Competitive Position

Sec.

315.801 Probationary period; when required.
315.802 Length of probationary period.

315.803 Agency action during probationary period (general).

315.804 Termination of probationers for unsatisfactory performance or conduct.

315.805 Termination of probationers for conditions arising before appointment.

315.806 Appeal rights to the Merit Systems Protection Board.

§ 315.807 [Deleted]

(5) Subpart H of Part 315 is amended by deleting §§ 315.807, 315.808(b)(1) and 315.806(e); and by revising §§ 315.806(b)(2) and 315.806(d) to read as follows:

§ 315.806 Appeal rights to the Merit Systems Protection Board.

* * *

(b) *On discrimination.* An employee may appeal under this subparagraph a termination not required by statute which he or she alleges was based on

partisan political reasons or marital status.

(d) An employee may appeal to the Board under this section a termination which the employee alleges was based on discrimination because of race, color, religion, sex, or national origin; or age, provided that at the time of the alleged discriminatory action the employee was at least 40 years of age; or physical handicap, only if such discrimination is raised in addition to one of the issues stated in paragraphs (b) or (c) of this section.

PART 330—RECRUITMENT, SELECTION, AND PLACEMENT (GENERAL)

(6) Subpart B of the table of contents at the beginning of Part 330 is amended to read as follows:

Subpart B—Appointment From Reemployment Priority List

Sec.

330.201 Priority in filling vacancies.

330.202 Reemployment priority list appeals.

§§ 330.203 and 330.204 [Deleted]

(7) Subpart B of Part 330 is amended by deleting §§ 330.203 and 330.204 and revising § 330.202 to read as follows:

§ 330.202 Reemployment priority list appeals.

An employee or former employee who thinks his or her reemployment priority rights under this subpart have been violated is entitled to appeal to the Merit Systems Protection Board under the provisions of the Board's regulations by presenting factual information that he or she was denied restoration rights because of the employment of another person.

PART 351—REDUCTION IN FORCE

(8) Subpart I of the table of contents at the beginning of Part 351 is amended to read as follows:

Subpart I—Appeals and Corrective Action

Sec.

351.901 Appeal.

351.902 Correction by agency.

(9) Subpart H of Part 351 is amended by revising §§ 351.802 and 351.807 as follows:

§ 351.802 Content of notice.

Except as provided in § 351.803, the notice required by § 351.801 shall state specifically the action to be taken and its effective date; the employee's competitive area, competitive level, subgroup, and service date; the place where the employee may inspect the regulations and records pertinent to this case; the reasons for retaining a lower-standing employee in the same competitive level under § 351.607; the reasons for retaining a lower-standing employee in the same competitive level for more than 30 days under § 351.608; and the employee's right to appeal to the Merit Systems Protection Board under the provisions of the Board's regulations. The agency shall comply with the provisions of section 1201.21 of this title.

§ 351.807 Status during notice period.

When possible, the agency shall retain the employee on active duty during the notice period, but it may place him/her on annual leave with or without his/her consent, on leave without pay with his/her consent, or in a nonpay status without his/her consent when in an emergency the agency lacks work or funds for all or part of the notice period.

(9a) Subpart I of Part 351 is amended by deleting §§ 351.902 and 351.901(b) through (d) and is further amended by revising § 351.901 and redesignating § 351.903 as § 351.902 to read as follows:

§ 351.901 Appeal.

An employee who has been affected by a reduction in force action and who believes this part has not been correctly applied may appeal to the Merit Systems Protection Board under the provisions of the Board's regulations.

§ 351.902 Correction by agency. [Redesignated from § 351.903]

§ 351.903 [Redesignated as § 351.902]

PART 352—REEMPLOYMENT RIGHTS

§§ 352.313, 352.508, 352.607, 352.707 [Amended]

(10) Part 352 is amended by deleting §§ 352.313 (d)-(f), 352.508 (b)-(e), 352.607 (b) and (c), and 352.707 (b) and (c). Part 352 is also amended by revising §§ 352.209; 352.313 (a), (b) and (c); 352.508(a) (1), (2) and (3); 352.607; and 352.707(a) (1), (2), and (3) to read as follows:

§ 352.209 Employee appeals to the Merit Systems Protection Board.

When an agency denies reemployment to a person claiming reemployment rights under this subpart, the agency shall inform him or her of that denial by a written notice. In the same notice, the agency shall inform him/her of his/her right to appeal to the Merit Systems Protection Board under the provisions of the Board's regulations. The agency shall comply with the provisions of § 1201.21 of this title.

§ 352.313 Failure to reemploy and right of appeal.

(a) When an agency fails to reemploy an employee within 30 days of his/her application, it shall notify him/her in writing of the reasons and of his/her right to appeal to the Merit Systems Protection Board under the provisions of the Board's regulations. The agency shall comply with the provisions of § 1201.21 of this title.

(b) If the agency fails to reach and issue a decision to the employee within 30 days from his/her application for reemployment, the employee is entitled to appeal the failure of the agency to the Merit Systems Protection Board under the provisions of the Board's regulations.

(c) An appeal alleging that the agency has failed to comply with any of the other provisions of sections 3343 and 3581-3584 of title 5, United States Code, or of this Part may be submitted to the Merit Systems Protection Board under the provisions of the Board's regulations.

§ 352.508 Appeals to the Merit Systems Protection Board.

(a) If an agency determines that an employee who has applied for reinstatement is not eligible for reinstatement, it shall notify the employee as promptly as possible of its decision, of the basis therefor, and of the employee's appeal rights under this subpart. The employee is entitled to appeal the decision to the Merit Systems Protection Board under the provisions of the Board's regulations. The agency shall comply with the provisions of § 1201.21 of this title.

(b) If an agency fails to reinstate an employee within the time limits specified in § 352.507, the employee is entitled to appeal to the Merit Systems Protection Board under the provisions of the Board's regulations.

(c) If an employee considers that his reinstatement is not in accordance with the act and this subpart, he or she is entitled to appeal to the Merit Systems

Protection Board under the provisions of the Board's regulations.

§ 352.607 Appeals to the Merit Systems Protection Board.

If an employee considers that he/she has been improperly reemployed or has been improperly denied reemployment to which the employee considers he/she is entitled under this subpart, the employee may appeal to the Merit Systems Protection Board under the provisions of the Board's regulations.

§ 352.707 Employee appeals to the Merit Systems Protection Board.

(a) If an agency denies reemployment to a person claiming reemployment rights under this subpart, the agency shall inform the individual of that denial and of the reasons therefor by a written notice. In the same notice, the agency shall inform the employee of the right to appeal to the Merit Systems Protection Board under the provisions of the Board's regulations. The agency shall comply with the provisions of § 1201.21 of this title.

(b) If an employee considers reemployment to be not in accordance with this subpart, the employee is entitled to appeal to the Merit Systems Protection Board under the provisions of the Board's regulations.

(c) Refusal of a tribe to hire a Federal employee is not appealable to the Merit Systems Protection Board.

PART 353—RESTORATION TO DUTY

(11) Subpart D of the table of contents at the beginning of Part 353 is amended to read as follows:

Subpart D—Appeals

Sec.

353.401 Appeals.

§§ 353.402-353.405 [Deleted]

(12) Part 353 is amended by deleting §§ 353.402, 353.403, 353.404, and 353.405. This Part is also amended by revising §§ 353.308 (a) and (b), 353.401(a)(1) (i)-(iv), and 353.401(b); and redesignating § 353.401(a)(1)(v) as § 353.401(c) to read as follows:

§ 353.308 Notice of right of appeal.

(a) When an agency refuses to restore, or determines that it is not feasible to restore an employee under the provisions of law and this Part, it shall notify the employee in writing of the

reasons for its decision and of his or her right to appeal to the Merit Systems Protection Board under the provisions of the Board's regulations. The agency shall comply with the provisions of § 1201.21 of this title and shall forward a copy of the notice to the Board.

(b) When an agency restores an employee it shall notify the employee that he or she is being restored in accordance with the requirements of § 353.303. The agency shall also inform the employee that he or she is entitled to appeal to the Merit Systems Protection Board under the provisions of the Board's regulations. The agency shall comply with the provisions of § 1201.21 of this title.

§ 353.401 Appeals.

(a) *

(1) *

(i) *Failure of restoration.* If, after proper notification by the employee of his/her desire to exercise his/her restoration rights, the agency concerned fails to restore the employee within the time limits specified by law and in this Part, the employee may appeal to the Board under the provisions of the Board's regulations.

(ii) *Not feasible to restore.* If the agency concerned decides that it is not feasible to restore an employee, he or she may appeal this decision to the Board under the provisions of the Board's regulations.

(iii) *Refusal of restoration.* If the agency concerned refuses to restore an employee, the employee may appeal to the Board under the provisions of the Board's regulations.

(iv) *Improper restoration.* If an employee considers that he or she has been improperly restored, the employee may appeal to the Board under the provisions of the Board's regulations.

(b) Other employees. An employee of another branch who is entitled by law to appeal to the Merit Systems Protection Board may do so under the provisions of the Board's regulations.

(c) *Former agency abolished.* If the Executive branch or District of Columbia agency in which an employee was employed when he or she left for military duty or was injured is abolished and its functions are not transferred to another agency, the employee is entitled to request that the Office find him or her employment.

PART 531—PAY UNDER THE GENERAL SCHEDULE

(13) Part 531 is amended by deleting §§ 531.407(e) (2)-(4) and by revising §§ 531.407 (d)(3) and (e) to read as follows:

§ 531.407 Work of an acceptable level of competence.

(d) *

(3) When the decision on the employee's request for reconsideration sustains the original negative determination, the notice of decision shall inform the employee of his or her right to appeal that decision to the Merit Systems Protection Board under the provisions of the Board's regulations. The agency shall comply with the provisions of section 1201.21 of this title.

(e) *Appeal to the Merit Systems Protection Board.* An employee may appeal to the Merit Systems Protection Board under the provisions of the Board's regulations the decision by his or her agency sustaining the negative determination.

(14) Subpart E of Part 531 is amended by revising § 531.517 to read as follows:

§ 531.517 Appeals to the Merit Systems Protection Board.¹

(a) *General.* An employee who is reduced in grade or pay, or reassigned during his or her salary retention period, may appeal to the Merit Systems Protection Board from a decision of the agency that (1) he or she is not entitled to salary retention, or (2) will terminate or adversely affect the salary retention he or she is currently receiving. This right of appeal does not in any way restrict an employee's entitlement to appeal to the Board under another part of this chapter or under statute.

(b) *Agency notification to employee.* When an employee is reduced in grade or pay, or reassigned during a salary retention period, the agency shall inform him or her in writing whether or not he or she is entitled to salary retention, or whether the salary retention he or she is currently receiving will be terminated or adversely affected. When an agency decides that (1) an employee is not

¹ The provisions of this section apply only to: (1) determinations of entitlement under 5 U.S.C. 5337; and (2) agency decisions to terminate or adversely affect the retained rate received under 5 U.S.C. 5337. 5 U.S.C. 5337 was repealed by the Civil Service Reform Act of 1978 (Pub. L. 95-454) effective on the first day of the first pay period beginning on or after January 11, 1979. For information concerning entitlement to pay retention in actions which occurred after the effective date of the CSRA, see Part 536 of this chapter.

entitled to salary retention, or (2) the salary retention an employee is currently receiving will be terminated, the agency shall inform him or her in writing of his or her right to appeal to the Board under the provisions of the Board's regulations. The agency shall comply with the provisions of section 1201.21 of this title.

PART 550—PAY ADMINISTRATION (GENERAL)

(15) In part 550, §§ 550.803 (c) and (d) are revised to read as follows:

§ 550.803 Determining entitlement.

(c) The requirement for a "timely appeal" referred to in section 5596 of title 5, United States Code, is met when an employee or personal representative initiates a claim to the Comptroller General for settlement of his or her claim against the Government, or an appeal or grievance under an appeal or grievance system including appeal procedures included in a collective bargaining agreement, and that claim is accepted as timely filed by the Comptroller General, or that appeal or grievance is accepted as timely filed by the Government authority administering the appeal or grievance system, or is found to be timely filed by an appropriate authority, e.g., an arbitrator, or a court having jurisdiction.

(d) The "appropriate authority" referred to in section 5596 of title 5, United States Code, is (1) a court having jurisdiction; (2) the Comptroller General; (3) the Office of Personnel Management; (4) a grievance board established by section 692 of the Foreign Service Act of 1946; (5) the head of the employing agency or an agency official to whom corrective action authority is delegated; (6) an arbitrator or the Federal Labor Relations Authority in decisions under chapter 71 of title 5, United States Code; (7) the Merit Systems Protection Board, including the Special Counsel; or (8) the Equal Employment Opportunity Commission.

PART 731—SUITABILITY

(16) Subpart D of the table of contents at the beginning of Part 731 is amended to read as follows:

Subpart D—Appeal to the Merit Systems Protection Board

Sec.
731.401 Right to appeal.

§ 731.401 [Amended] § 731.402 [Deleted]

(17) Part 731 is amended by deleting §§ 731.401(c) and 731.402. Part 731 is also amended by revising §§ 731.302(d) and 731.401 to read as follows:

§ 731.302 Actions against employees by the Office.

(d) When the Office instructs an agency to remove an appointee under this Part it shall notify the agency and the appointee of its decision in writing, giving reasons for the decision, and informing the agency and the appointee of the right to appeal to the Merit Systems Protection Board under the provisions of the Board's regulations. The Office shall comply with the provisions of section 1201.21 of this title.

§ 731.401 Right to appeal.

(a) Any applicant or eligible who is disqualified from examination or appointment by the Office for any reason named in § 731.202 may appeal to the Merit Systems Protection Board under the Board's regulations.

(b) An appointee who is disqualified by the Office for any reason named in § 731.202 or his or her employing agency may appeal to the Board under the Board's regulations.

PART 733—POLITICAL ACTIVITY OF FEDERAL EMPLOYEES

(18) The table of contents of Part 733 is amended to read as follows:

Subpart A—The Competitive Service

General Provisions

Sec.
733.101 Definitions.

Permissible Activities

733.111 Permissible activities.

Prohibited Activities

733.121 Use of official authority; prohibition.

733.122 Political management and political campaigning; prohibitions.

733.123 Prohibited activity; exception of certain employees.

733.124 Political management and political campaigning; exception of certain elections.

Subpart B—The Excepted Service

733.201 Jurisdiction.

Subpart C—The U.S. Postal Service

733.301 Jurisdiction.

§§ 733.131-733.137, §§ 733.202-733.302 and 733.402 [Deleted]

§ 733.401 [Redesignated as § 733.301]

(19) Part 733 is amended by deleting §§ 733.131 through 733.137, 733.202 through 733.302, and 733.402; by redesignating § 733.401 as 733.301; and by revising §§ 733.124(b) and 733.401 to read as follows:

§ 733.124 Political management and political campaigning; exception of certain elections.

(b) For the purpose of paragraph (a)(2) of this section, the Office may designate a municipality or political subdivision in Maryland or Virginia in the immediate vicinity of the District of Columbia or a municipality in which the majority of voters are employed by the Government of the United States, when the Office determines that, because of special or unusual circumstances, it is in the domestic interest of employees to participate in local elections. Information as to the documentation required to support a request for designation is furnished by the Office on request. The following municipalities and political subdivisions have been designated, effective on the date specified:

Subpart C—The U.S. Postal Service

§ 733.301 Jurisdiction.

Sections 733.101 (c), (d), (e), and (f) through 733.124 apply to an employee of the U.S. Postal Service.

PART 754—ADVERSE ACTIONS BY THE COMMISSION

(20) Part 754 is amended by revising §§ 754.104 and 754.105 to read as follows:

§ 754.104 Decision.

The Associate Director shall notify the employee and the agency of his or her decision and inform the employee of his or her appeal rights. The decision shall be in writing, be dated, and inform the employee of the reasons for the decision. The Office shall comply with the provisions of § 1201.21 of this title.

§ 754.105 Appeal rights.

(a) An employee may appeal an adverse decision of the Associate Director to the Merit Systems Protection Board under the provisions of the Board's regulations.

(b) An employee who appeals under this section is entitled to be retained in an active duty status until action on his/

her appeal is completed under Part 1201 of this title.

PART 772—APPEALS TO THE COMMISSION [DELETED]

(21) Part 772 was deleted in its entirety by document 44 FR 48249 published on August 7, 1979.

PART 930—PROGRAMS FOR SPECIFIC POSITIONS AND EXAMINATIONS (MISCELLANEOUS)

§§ 930.221-930.234 [Deleted]

(22) Subpart B of Part 930 is amended by deleting §§ 930.221, 930.222, 930.223, 930.224, 930.225, 930.226, 930.227, 930.228, 930.229, 930.230, 930.231, 930.232, 930.233, and 930.234. This subpart is also amended by revising §§ 930.202(f) and 930.214 to read as follows:

§ 930.202 Definitions.

(f) "Removal" means an involuntary change in the status of an administrative law judge, including discharge, suspension, reduction in grade, reduction in pay, and a furlough of 30 days or less from the position of administrative law judge and demotion, reassignment, and promotion to a position other than that of administrative law judge.

§ 930.214 Separation.

(a) *Removal.* An agency may remove an administrative law judge only for good cause, established and determined by the Merit Systems Protection Board on the record and after opportunity for hearing before the Board as provided in §§ 1201.131 through 1201.136 of this title.

(b) *Status during removal proceedings.* In exceptional cases when there are circumstances by reason of which the retention of an administrative law judge in his/her position, pending adjudication of the existence of good cause for his/her removal, would be detrimental to the interests of the Government, the agency shall either assign the administrative law judge to duties in which these conditions would not exist, or place him/her on annual leave for the period that will be covered by the annual leave to his/her credit. An agency may take action under this paragraph only with the prior approval of the Board.

(5 U.S.C. 7701 et seq.)

[FR Doc. 79-25887 Filed 8-20-79; 8:45 am]

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DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Part 235

[Amdt. 2]

State Administrative Expense Funds; Final Rule

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation is issued to (1) finalize the rulemaking process initiated by interim State administrative expense (SAE) fund regulations promulgated on August 22, 1978 (43 FR 37170) and (2) implement in final regulatory form certain nondiscretionary provisions of Pub. L. 95-627 which was enacted on November 10, 1978. The Department intends that this rulemaking serve as the authority for and the guidelines under which SAE funds will be distributed and utilized.

DATES: Effective upon signature.

FOR FURTHER INFORMATION, CONTACT: Margaret O.K. Glavin, Director, School Programs Division, USDA, FNS, Washington, D.C. 20250, (202)447-8130. **SUPPLEMENTARY INFORMATION:** Pub. L. 95-166, enacted November 10, 1977, brought about a number of changes in the structure of the SAE funding process. They included a change in the allocation formula; the availability of start-up assistance for State agencies assuming program administration, a carryover provision covering funds allocated in fiscal year 1978, authorization for the use of SAE funds in the administration of the Food Distribution Program, a State-level maintenance of effort requirement and mandatory annual submission by State agencies of a plan for the use of SAE funds.

All of the preceding provisions were incorporated into the above-referenced interim rulemaking. They were issued on an interim basis because it was determined that they were nondiscretionary in nature and that the child nutrition programs would be best served if they were in effect prior to the 1978-79 school year. However, a public comment period, extending through October 6, 1978, was provided for.

Public Comments

A total of five (5) comments on the interim regulations were received, all from State Departments of Education. The following describes the substance of the comments and the FNS reaction to them.

Use of "Discretionary" Funds—Two commenters suggested that the establishment of a basic SAE payment to each State of one-percent of the funds expended during the second previous year was inconsistent with the intent of Pub. L. 95-166 (i.e., that payments up to one and one-half percent could and should be provided for). FNS believes that the one-percent payment was intended to be the minimum State entitlement (except where a State would earn less than \$75,000 or the amount it earned in fiscal year 1977) and that it has a discretionary authority to provide additional funding to States within appropriated amounts based on the needs of State agencies. This is reinforced by the fact that the Appropriations Act for fiscal year 1979, the first year under this formula, provided for an amount equal to one percent (\$21 million), with an additional amount (\$4 million) for dealing with State-level problems in the administration of child nutrition programs.

With regard to these discretionary funds, the preamble to the interim regulations states, in part, that "the Department has determined that this issue (i.e., the use of the funds above the one percent level) would be appropriately addressed in a proposed format (regulation) in order that the public's comments may be taken into consideration . . .". In the interval, increasing concern has been raised about alleged problems related to program administration. The amount of concern has caused FNS to devise a plan for determining the extent of and dealing with such problems. As mentioned above, \$4 million has been appropriated for such activity. Regulations dealing with the plan are currently being developed by FNS.

Amounts of SAE Allocated—Two comments reflected the concern that, since the allocation formulae are based on program size in the second preceding fiscal year, the SAE allocation to a State agency which assumed administration of a program in the interval would not include funds for that program. Similarly, a State agency which relinquished administration, would receive an allocation based, in part, on a program which it is no longer administering. FNS believes that the intention was to tie the allocations to (1) whether or not a given program, in whole or in part, is currently being administered by the State agency and (2) the amount of program funds expended in a program in the applicable year, regardless of which agency was administering it. This position is

reflected in the language of this final regulation.

Negotiated Start-up Assistance—The interim regulation provides that, when a State agency assumes administration of a program or programs in nonprofit private schools and child care institutions from FNS an appropriate adjustment in the form of start-up cost assistance from \$10,000 to \$100,000 will be paid by FNS to the State agency. One commenter asked that clarification be provided as to whether or not this would be a one year payment or would be repeated during the second year of administration. Since this is "start-up assistance", it is a one-year payment, provided to a State agency to assist in meeting administrative expenses inherent in assuming program administration. During the first year, and in each subsequent year, SAE funds, as provided for in the applicable formulae, will also be made available.

In the same area, a second commenter suggested that the provision requiring payment of the start-up cost assistance "not later than the succeeding fiscal year" could cause a delay in such payment far beyond the time by which it was needed. FNS agrees that these funds are most appropriately payable at the earliest possible time, certainly during the first full year of the State agency's administration of a program, and that the referenced language, extracted from Pub. L. 95-166, serves only as a final deadline for such payments.

Use of SAE in the Food Distribution Program—One commenter stated that the interim regulation appeared to be too restrictive in describing the uses for which SAE funds may be used in the Food Distribution Program. FNS did not intend that the use of these funds be as limited as a literal reading of the interim regulations might suggest and has changed this paragraph in the final regulations to make the costs allowable under the commodity program consistent with those in effect for the other programs. The use of SAE funds is, of course, limited to the administration of the Food Distribution Program in schools and institutions which participate in the child nutrition programs.

SAE and State Planning—Several comments pointed out the fact that some State agencies must know with some certainty the amounts of money which will be available to them under SAE. This is related to the fact that in some States, agency budgets must be approved by legislatures, and to amend such budgets during the year, based on anticipated receipt of additional funds,

can be a difficult process. FNS understands this problem but feels that the one-percent formula for schools and the Child Care Food Program (CCFP) formula (the combined total of which represents nearly 80 percent of available SAE funds) gives the States a firm basis upon which to plan. As suggested previously, the funds remaining after the required allocations will be made available to States based on an assessment of individual State needs. In taking any such action, FNS will do whatever it can to accommodate the situations in which State agencies find themselves.

FNSRO Approval of State Administrative Expenses—The interim regulation includes a provision for FNSRO approval of amounts of SAE funds for "general administrative expenses" including travel and related expenses. Since the approval of SAE expenditures is part of the overall Regional Office approval of the State's Plan of Child Nutrition Operations, the specific reference to FNSRO approval discussed above has been removed from this final regulation so as not to suggest the need for an approval process in addition to that established for State plans.

Final Regulations

As stated previously, Pub. L. 95-627 made several changes in the allocation and use of SAE funds. These changes, which are incorporated in these final regulations, are discussed below. They are issued in final regulatory form in order to implement statutory mandates. For this reason, they are being issued without the benefit of public comment. Furthermore, since they are mandatory, FNS would not be able to alter them based on unfavorable public comment.

Allocation Formula—Section 7 of Pub. L. 95-627 sets out specific formulae for allocation of SAE funds for school feeding programs (i.e., the National School Lunch, School Breakfast, Special Milk and Food Service Equipment Assistance Programs) and the Child Care Food Program. In addition, as provided for in Pub. L. 95-166, SAE funds may be used in the administration of the Food Distribution Program.

The school program allocation to each State will be one percent of the school program funds expended within the State during the second preceding year. States which would earn less than \$100,000 under this formula will receive a minimum grant of \$100,000, or the amount of SAE funds which the State was allocated in the fiscal year 1978, if that amount is more than \$100,000. As suggested above, States will be

allocated SAE funds based on the school feeding programs they are administering during the year that the funds are allocable, not those they administered two years ago, and the expenditures to which the formula is applied are the total expenditures in the State on a program-by-program basis. Thus, for example, a State agency which assumed administration of private schools from FNS in fiscal year 1978 would, in fiscal year 1979, be allocated, in part, SAE funds on the basis of one percent of applicable program funds paid by FNSRO to private schools in 1977.

Prior to Pub. L. 95-627, SAE funds for the Child Care Food Program were included in the one percent school program allocation. Now a separate formula for Child Care Food Program SAE funds is provided for and is to be applied in a manner similar to that for the school programs. However, in the case of Child Care Food Program SAE funds, there is no minimum allocation and the law permits FNS the discretionary authority to increase or decrease the allocation to a State, depending on the current size of the program within the State. Thus, as example, if the Child Care Food Program in a State has grown substantially over the prior two year period, FNS may increase the SAE allocation to that State if it determines that the level allocable under the formula is inadequate to administer the larger program.

Under Pub. L. 95-627, FNS has the authority to allocate the remaining funds to States in amounts determined necessary for the effective administration of the programs (the law provides for an annual overall SAE appropriation of one and one-half percent of school program and CCFP program funds expended during the second preceding fiscal year). FNS is developing a plan for implementing this provision which will be issued in proposed rulemaking.

Fund Transfers, Limitations and Recordkeeping—Section 7(a)(5) of Pub. L. 95-627 requires funds be used for the costs related to administering the program for which each allocation is made. It also provides that States have the authority to transfer SAE funds among the amounts allocated for school feeding programs, the CCFP and the Summer Food Service Program for Children (a separate SAE allocation is provided for the administration of summer programs under Section 13 of the National School Lunch Act, as amended, and 7 CFR Part 225). The amounts of the transfers are limited to ten percent of any one fund allocation.

In addition, prior to the enactment of Pub. L. 95-627 and the initiation of separate fund allocations, State agencies were required to keep records on total SAE expenditures which were in conformance with the information required in their State plans. Since the law now contains requirements that SAE funds be spent in specific programs and that transfers be limited to ten percent, States would be responsible for the use of SAE funds in light of the separate program fund allocations. These regulations contain the ten percent limitation on transfers.

FNS is concerned that the immediate implementation of the transfer limitation provision could be disruptive and create a hardship for some States. In some cases, it would force them to reorder priorities established in State Plans or withdraw fiscal commitments to one or more programs, thus eliminating administrative services. Therefore, FNS will be providing detailed guidance to States to enable them to implement this provision with as little disruption in the administration of the programs as possible.

In addition, the Department has proposed legislation which would remove this transfer limitation and allow the use of SAE funds for all programs rather than only programs designated in allocations. A bill containing this provision has already been reported out of the House Committee on Education and Labor and is pending in the Senate. It now seems extremely likely that this program will be enacted by the Congress, and that the 10 percent limitation will be removed from the law.

Fund Reallocation—Pub. L. 95-166 requires that for fiscal years 1979 and 1980, each State agency must submit a plan for disbursement of SAE funds and that, based on an evaluation of the information provided and other information available to FNS such as that found in State Plans, the results of audits and management evaluations, etc., FNS will recall and reallocate funds which will not be used by the State to which they were allocated. These regulations require that State agencies provide the necessary information by March 1 and again by June 1. The information will be similar to that developed by the State agency for inclusion in its State Plan of Child Nutrition Operations.

Prior to the enactment of Pub. L. 95-166, FNS surveyed State agencies during the third quarter of each fiscal year in an attempt to ascertain whether the amounts of SAE funds provided were adequate to meet the needs of the

individual States. To the extent possible, excess funds were recalled from States and made available where need existed. Under the allocation formula in existence at that time, this procedure was satisfactory. Section 14 of Pub. L. 95-166, however, formalized the requirement for recall and reallocation; these regulations implement the requirement. FNS envisions this requirement as nothing more than a submission of data which will indicate the relationship between that needed by a State and that available to it under the allocation formulae. The March and June submission dates have been chosen to make the process as timely as possible and at the same time provide the maximum amount of flexibility.

Start-up Assistance—Based on a provision contained in Section 14 of Pub. L. 95-166, interim regulations established a start-up assistance rate for State agencies which assume program administration of at least \$10,000, but not more than \$100,000. These final regulations retain the start-up assistance rate but add a provision for recovering an appropriate amount of SAE in States which terminate program administration. In most cases, such a recovery would occur when administration is surrendered during a fiscal year. It is not intended to be a punitive action but rather is based on the assumption that the State's administrative burden has been lessened.

FNS State-level Administration—Section 7 of Pub. L. 95-627 and these regulations allow for the use by FNS of SAE funds in those States in which it administers the child nutrition programs.

Availability of Funds—While this regulation establishes guaranteed formulae and other provisions for allocation of SAE funds, the availability of SAE funds is dependent upon appropriations of such funds by Congress.

Additional Provisions—Several sections in the interim regulations have not been changed and are included in the final regulation.

Accordingly, 7 CFR Part 235 is amended to read as follows:

1. Section 235.1, paragraphs 235.2 (b), (k), (l), and (p-1) and paragraph 235.3(a) are issued in final form as they appeared in the interim regulations as follows:

§ 235.1 General purpose and scope.

This part announces the policies and prescribes the regulations necessary to carry out the provisions of section 7 of the Child Nutrition Act of 1966, as amended. It prescribes the methods for

making payments of funds to State agencies for use for administrative expenses incurred in supervising and giving technical assistance in connection with activities undertaken by them under the National School Lunch Program (7 CFR Part 210), the Special Milk Program (7 CFR Part 215), the School Breakfast Program (7 CFR Part 220), the Child Care Food Program (7 CFR Part 226), and the Food Service Equipment Assistance Program (7 CFR Part 230).

§ 235.2 Definitions.

(b) "CCSPD" means the Child Care and Summer Programs Division of the Food and Nutrition Service of the U.S. Department of Agriculture.

(k) [Reserved].

(l) "OIG" means the Office of the Inspector General of the Department.

(p-1) "SPD" means the School Programs Division of the Food and Nutrition Service of the U.S. Department of Agriculture.

§ 235.3 Administration.

(a) Within the Department, FNS shall act on behalf of the Department in the administration of the program for payment to States of State administrative expense funds covered by this part. Within FNS, SPD shall be responsible for administration of the program.

2. Section 235.4 is amended to read as follows:

§ 235.4 Allocation of funds to States.

(a) For the fiscal year ending September 30, 1979, and for each succeeding fiscal year, FNS shall allocate to each State agency an amount equal to one percent of the funds expended within the State under sections 4 and 11 of the National School Lunch Act, as amended, and sections 3, 4 and 5 of the Child Nutrition Act of 1966, as amended, during the second preceding fiscal year. *Provided, however,* That the amount of the allocation to any State shall not be less than the greater of \$100,000 or the amount allocated to the State in the fiscal year ending September 30, 1978.

(b) For the fiscal year ending September 30, 1979, and for each succeeding fiscal year, FNS shall, in addition, allocate to each State agency an amount equal to the sum of (1) twenty percent of the first \$50,000, (2)

ten percent of the next \$100,000, (3) five percent of the next \$250,000, and (4) two and one-half percent of any remaining funds expended within the State under section 17 of the National School Lunch Act, as amended, during the second preceding fiscal year. FNS may adjust the amount of any such allocation in accordance with changes in the size of the Child Care Food Program in a State.

(c) Funds allocated under paragraphs (a) and (b) of this section and 7 CFR Part 225 shall be used by the State agency for administrative costs incurred by it in connection with the programs governed by Parts 210, 215, 220, 225, 226, and 230 of this title. In addition, funds allocated under paragraphs (a) and (b) of this section may be used for the Food Distribution Program, as provided for in § 235.6(c). Funds shall be used by the State agency for the program(s) for which allocated, except that the State agency may transfer up to ten percent of the funds allocated for any program(s) to other eligible programs.

(d) As part of its State Plan of Child Nutrition Operations, required by § 210.4a of this title, each State agency shall submit a plan for the use of State administrative expense funds in the school nutrition programs and in the Child Care Food Program, including a staff formula for State personnel, system level supervisory personnel and operating personnel, and school level personnel.

(e) For the fiscal year ending September 30, 1979, and each succeeding fiscal year, each State agency shall, by March 1 and June 1, submit to FNS data on the use of State administrative expense funds provided under this part for the fiscal year in which the plan is submitted. Based on a review of the data, FNS may recall and reallocate such State administrative expense funds which it determines cannot or will not be expended by the State agency to which they were allocated. Funds reallocated under this provision shall be disbursed on the basis of State agency needs. Notwithstanding the above, each State shall release to FNS any Federal funds made available to it under this part which are unexpended or unobligated at the end of each fiscal year. Release of funds by the State agency shall be made as soon as practicable, but in any event not later than 30 days following demand by FNSRO, and shall be reflected in a related adjustment on the State agency's letter of credit.

(f) For any State agency which agrees to assume responsibility for the administration of food service programs in nonprofit private schools or child care

institutions that were previously administered by FNS, an appropriate adjustment in the administrative funds paid under this part to the State shall be made by FNS not later than the succeeding fiscal year. Such an adjustment shall consist of an amount of start-up cost assistance, negotiated with the State agency, of no less than \$10,000 and not exceeding \$100,000, per State.

(g) For any State agency which terminates its administration of any food service program for which State administrative expense funds are provided under this part, a reduction in the amount of such funds, negotiated with the State agency, shall be made by FNS.

(h) FNS shall have available to it the applicable amounts provided for in paragraphs (a) and (b) of this section, and Part 225 of this title, when it is responsible for the administration of a program or programs within a State.

3. Section 235.5 is amended to read as follows:

§ 235.5 Payments to States.

State administrative expense funds allocated to any State shall be made available by means of letters of credit issued by FNS in favor of the State agency. Funds shall not be made available before approval of the State Plan of Child Nutrition Operations provided for under 7 CFR 210.4a and 7 CFR 226.7.

4. In § 235.6, paragraphs (b) and (f) are issued in final form as they appeared in interim regulations and paragraphs (a) and (c) are revised to read as follows:

§ 235.6 Use of funds.

(a) State administrative expense funds paid to any State may be used by State agencies to pay salaries, including employee benefits and travel expenses for administrative and supervisory personnel, for support services, for office equipment, and for staff development, particularly for monitoring and training of food service personnel at the local level in areas such as food purchasing and merchandizing. Such funds shall be used to employ additional personnel, as approved in the applicable State plan to supervise, improve management, and give technical assistance to school food authorities and to institutions in their initiation, expansion, and conduct of any programs for which the funds are made available. State agencies may also use these funds for their general administrative expenses in connection with any such programs, including travel and related expenses. Additional personnel or part-time personnel hired are expected to

meet professional qualifications and to be paid at salary scales of positions of comparable difficulty and responsibility under the State agency. Personnel may be used on a staff year equivalent basis, thus permitting new personnel and existing staff to be cross-utilized for most effective and economical operation under existing and new programs.

(b) State administrative expense funds shall be used consistent with the cost principles and constraints on allowable and unallowable costs and indirect cost rates as prescribed in Federal Management Circular 74-4 (32 CFR Part 255).

(c) State administrative expense funds may be used to assist in the administration of the Food Distribution Program when such program is administered within the State agency and may also be used to pay administrative expenses of a distributing agency, when such agency is other than the State agency. Expenditures of State administrative expense funds in the Food Distribution Program shall be consistent with the guidelines set forth in paragraph (a) of this section.

(f) [Reserved].

5. In § 235.7 the first sentence of paragraph (a) is amended by substituting the following three sentences to read as follows:

§ 235.7 Records and reports.

(a) Each State agency shall keep records on the expenditure of State administrative expense funds provided under this part and Part 225 of this title. Such records shall conform with the applicable State plan for use of State administrative expense funds. The State agency shall make such records available, upon a reasonable request, to FNS, OIG, or the U.S. Comptroller General and shall maintain current accounting records of State administrative expense funds which shall adequately identify fund authorizations, obligations, unobligated balances, assets, liabilities, outlays and income.

6. In § 235.11, paragraph (a) is amended to read as follows:

§ 325.11 Other provisions.

(a) *State funds.* Expenditures of funds from State sources in any fiscal year for the administration of the National School Lunch Program, School Breakfast Program, Special Milk Program, Child Care Food Program, and Food Service Equipment Assistance Program shall not be less than that expended or obligated

in fiscal year 1977. Failure of a State to maintain this level of funding shall result in the total withdrawal of SAE funds.

(Sec. 14, Pub. L. 95-166, 91 Stat. 1338 (42 U.S.C. 1776); Sec. 7, Pub. L. 95-627, 92 Stat. 3821 (42 U.S.C. 1776))

Note.—This final rule has been reviewed under the USDA criteria established to implement Executive Order 12044, "Improving Government Regulations." A determination has been made that this action should not be classified "significant" under those criteria. A Final Impact Statement has been prepared and is available at the Office of the Director, School Programs Division, USDA-FNS, Washington, D.C. 20250 during regular business hours (8:30 a.m. to 5:00 p.m., Monday through Friday).

Note.—The reporting and/or recording keeping requirements contained herein have been approved by the Office of Management and Budget in accordance with the Federal Reports Act of 1942.

(Catalog of Federal Domestic Assistance Program No. 10.560, National Archives Reference Services.)

Dated: August 18, 1979.

Carol Tucker Foreman,
Assistant Secretary for Food and Consumer Services.

[FR Doc. 79-25857 Filed 8-20-79; 8:45 am]

BILLING CODE 3410-30-M

Food Safety and Quality Service

9 CFR Parts 317, 318, 319

Nitrates and Nitrites

AGENCY: Food Safety and Quality Service, USDA.

ACTION: Final rule.

SUMMARY: This document amends the Federal meat inspection regulations to permit meat food products traditionally preserved with nitrates and/or nitrites to be prepared without nitrates or nitrites and be labeled and sold under the same name as that preserved with nitrates and/or nitrites, except that the term "Uncured" must precede such name and be part of the product name. Certain cautionary information would also be required to be included on the labeling of such products. Further, this document amends the regulations to prohibit the use of nitrates or nitrites in baby, junior, and toddler meat food products. These amendments are necessary to inform consumers of the nature of such products prepared without nitrates or nitrites, to insure that such products prepared without nitrates or nitrites are safely handled, and to reflect the findings that nitrates and nitrites serve no useful purpose in baby, junior, and toddler meat food products.

EFFECTIVE DATE: September 20, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Irwin Fried, Acting Director, Meat and Poultry Standards and Labeling Division, Compliance, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447-6042.

SUPPLEMENTARY INFORMATION:

Background

On April 28, 1978, in response to petitions by consumer groups and manufacturers, a document was published in the *Federal Register* (43 FR 18193-18195) proposing to permit the preparation and sale of meat food products under traditional names, such as bacon, corned beef, and frankfurters, even though such products, which have been traditionally cured with nitrite and/or nitrate, would be prepared without nitrite and/or nitrate or with reduced levels of nitrite and/or nitrate. The document also proposed to require certain cautionary information on the labeling of such products. Further, the document proposed to prohibit the use of nitrates or nitrites in baby, junior, and toddler foods.

Comments

Most of the 365 comments received were from individual consumers, industries, and organizations. The majority of the comments involved labeling of the products, health concerns, and handling practices. Comments postmarked after the June 28, 1978, closing date were not considered.

The proposal provided that any product having a common or usual name, descriptive name, or standard name and permitted or required to be prepared with nitrates or nitrites, or both, may be prepared without nitrates or nitrites and labeled with such name if prepared with some added substance or substances, and found by the Administrator to have a similar flavor and consistency to such product preserved with nitrates or nitrites, or both.

Some commenters indicated that the name for products cured with nitrates or nitrites should be distinguishable from the name of such products prepared without nitrates or nitrites in order to avoid confusion between product names. The proposal distinguished these products which were not otherwise preserved by requiring the qualifying statement "No Nitrate or Nitrite Added" (in addition to the statement "Not Preserved, Must Be Refrigerated Below 40° F. At All Times") adjacent to the product name for those products

prepared without nitrates or nitrites and not preserved. The final rule requires all such products prepared without nitrates or nitrites to bear the qualifying statement "No Nitrate or Nitrite Added" in order to help inform consumers that these substances are absent from such products traditionally prepared with nitrates or nitrites. In addition, the Administrator has determined, based on the comments, that the use of nitrates and nitrites is of such importance in products preserved by these substances, that products prepared without such substances should have different names from those prepared with nitrates or nitrites in order to more clearly distinguish such products. Under these circumstances, it has been determined that such products prepared without nitrates or nitrites may bear the traditional name, but that the traditional name must be preceded by the term "Uncured."

The term "Uncured" in the labeling of a meat food product is commonly understood to mean that the product does not contain nitrates or nitrites, and that the product was not preserved with salt. Therefore although salt cured products were within the scope of that section of the proposal relating to the product name, they are not subject to this "Uncured" labeling requirement of the final rule. Accordingly, products cured with salt and prepared without nitrates or nitrites may bear common or usual names, descriptive names, or standard names, as appropriate.

The term "Uncured" would be required to be in the same size and style of lettering as the product name since it would be part of the product name.

It was also proposed to require such products prepared without nitrates or nitrites, to bear adjacent to the product name in letters of easily readable style at least one-half the size of the product name, the statement "Not Preserved, Must Be Refrigerated Below 40° F. At All Times" (in addition to the statement "No Nitrate or Nitrite Added") unless such products were preserved by one of the specified methods.

Many commenters, including 13 of the 14 members of the House Committee on Agriculture, expressed concern whether such labeling provisions would be adequate to protect against botulism with respect to those unpreserved products. In this connection, some commenters questioned whether products would always be handled in accordance with the warnings on the labeling and be kept below 40° F.

Some commenters indicated that abuses could occur because of improperly operating home refrigerators;

careless food handlers; refrigerator breakdowns in storage facilities, transportation vehicles and retail stores; and food taken on picnics, to work, and to school.

A few commenters indicated that 40° F. was inadequate protection for such products prepared without nitrates or nitrites, and that the product should be kept frozen. On the other hand, a few commenters indicated the present practice of freezing "no nitrite added" products is unnecessary.

The Administrator has carefully considered these comments. He is aware that products requiring such special handling such as pork sausage, bratwurst and bockwurst have presented no apparent health hazards even though prepared without nitrates or nitrites and marketed unfrozen. He concludes that consumers have demonstrated a knowledge of the handling practices necessary for any of such products prepared without nitrates or nitrites and that the prescribed labeling for such products, i.e., "Not Preserved—Keep Refrigerated Below 40° F. At All Times," will adequately inform the consumer of how to maintain such products in a wholesome condition until consumed.

Some commenters opposed the provisions relating to labeling products "Keep Refrigerated Below 40° F. At All Times" on the basis that the 40° F. requirement is too stringent because many refrigeration units used in stores and homes do not maintain a temperature of 40° F. or below. One comment indicated that stipulating that products should be "kept at 40° F." will increase costs 15 to 25 percent. The Administrator has determined that the "below 40° F." requirement should be retained as proposed. This temperature appears to be the normal operating temperature of most refrigerating units and even with the known variability of such units products would be maintained in a wholesome condition during normal and usual shelf life.

It was also proposed that such products prepared without nitrates or nitrites be required to have similar flavor and consistency to those products preserved with nitrates or nitrites in order to be eligible for this special labeling. The purpose of these requirements was to be able to offer to consumers such products prepared without nitrates and nitrites with similar characteristics to those products preserved by nitrates or nitrites. In accordance with this purpose, the final rule also requires such products prepared without nitrates or nitrites to be similar in size and general

appearance to such products prepared with nitrates or nitrites.

It was also proposed that such products prepared without nitrates or nitrites be required to be prepared with "some added substance or substances." This reference to "some added, substance or substances" was included as part of the criteria relating to whether such products would be similar in flavor or consistency. The important concept is that the product prepared without nitrates or nitrites be similar in flavor and consistency regardless of whether it contains "some added substance or substances." Accordingly, the reference to "some added substance or substances" has been deleted.

It was proposed to ban the use of nitrates or nitrites in baby, junior, and toddler foods. A small number of comments expressed support for a ban on the use of nitrates and nitrites in these foods. There were no comments in opposition to such a ban. The Administrator has decided to adopt the proposal to ban the use of nitrates and nitrites in these foods. Such a step is warranted since there is no need for nitrates and nitrites in these products for preservative purposes because they are thermally processed in hermetically sealed containers at temperatures and for time periods sufficient to destroy spoilage and food poisoning bacteria, including *Clostridium botulinum*. In addition, it appears that babies, infants, and toddlers are less tolerant of nitrates and nitrites than adults. Further, nitrates and nitrites serve no useful purpose in baby, junior, and toddler meat food products.

The proposal contained provisions relating to products prepared with low levels of nitrates or nitrites. It was proposed that products prepared with less than 1320 ppm nitrates or 120 ppm nitrites (or less than 80 ppm nitrite coupled with additional requirements for fermented semi-dry sausage) be required to be labeled "Not Fully Preserved, Must Be Refrigerated Below 40° F. At All Times," unless preserved by one of the specified methods. Question has been raised as to whether, regardless of additional cautionary language, consumers might misuse such products not otherwise preserved, based on a false assurance that the listing of nitrates or nitrites in the ingredients statement would be understood to represent that products could be handled under the same circumstances acceptable for products fully preserved by nitrates or nitrites. Further, with respect to the use of nitrates or nitrites in products at levels less than adequate for preservation, questions have been

raised as to whether additional requirements should be implemented concerning the purposes for which these substances should be permitted to be used. These questions have not been fully resolved. Accordingly, provisions relating to low levels of nitrates and nitrites are not included in the final rule. However, consideration is being given concerning further rulemaking with respect to these matters.

Many of the comments expressed support for reducing the levels of nitrates and nitrites in meat food products or banning the use of these substances in all meat food products. Many other comments argued that nitrates and nitrites should not be banned generally from meat food products. It was proposed to ban nitrates and nitrites in baby, junior, and toddler foods but the subject of a ban on the use of these substances in meat food products generally was not included in the proposal. Studies evaluating the safety and efficacy of nitrates and nitrites are currently underway or under consideration. Actions dealing with their use or disuse on a general basis will be the subject of other proceedings.

Other comments expressed concerns that in themselves are substantive but are not pertinent to the provisions of the proposal. Accordingly, these issues were not considered in connection with determinations relating to the final rule contained in this document. These comments included statements concerning the need for the Government to provide clean air and water; the proposition that Government is regulating too extensively, should reduce payrolls, and stay out of the private sector's business; the economic consequences of removing bacon and other meat food products from the market; the use of salt (which is assumed to be sodium chloride) generally in products; the use of substitutes for nitrates and nitrites such as ascorbic acid or citric acid in meat food products; and cautionary statements on the labels of products containing nitrites.

One commenter indicated that shelf-life dates should be required on packages of products subject to this rulemaking proceeding. This is a general concept that relates to all meat food products and not just to the limited number of products affected by this rulemaking proceeding. The Administrator does view shelf-life dates as helpful labeling information and believes more processors should utilize shelf-life dates on a voluntary basis. Regulations concerning such voluntary dating are contained in § 317.8(b)(32) of

the Federal meat inspection regulations (9 CFR 317.8(b)(32)). Mandatory provisions relating to shelf-life dates were not part of the proposal, but are under separate consideration by the Department and could be the subject of a future rulemaking proceeding.

A few commenters questioned why the recommendations of the Expert Panel on Nitrites and Nitrosamines were not more closely adhered to. The Expert Panel's recommendations did not directly relate to the production and labeling of uncured products. Its primary recommendations related to a reduction in permitted levels of nitrite and nitrate in various products and to the need for further study concerning the use of nitrates and nitrites in products. These issues are currently being considered by the Department.

On July 18, 1979, the National Advisory Committee on Meat and Poultry Inspection was consulted regarding these regulations. Members of the Committee expressed comments both in support of the proposal and in opposition to it. The Committee members did not raise issues outside the scope of the written comments as discussed above, but their views were also considered in the preparation of this final rule.

Editorial changes were made to clarify the language of §§ 317.17(b) and 319.2 and to amend the chart in § 318.7(c)(4) to specify the nitrates and nitrites are not permitted to be added to baby, junior, and toddler meat food products.

On the basis of the foregoing, the Federal meat inspection regulations (9 CFR Parts 317, 318 and 319) are amended as set forth below.

1. The table of contents for Part 317 of the regulations is amended to reflect the heading change for § 317.17 as set forth below; and § 317.17 is amended by changing the section heading, by designating the present text as paragraph (a), and by adding new paragraphs (b) and (c) as follows:

§ 317.17 Interpretation and statement of labeling policy for cured products special labeling requirements concerning nitrate and nitrite.

(a) * * *

(b) Any product, such as bacon and pepperoni, which is required to be labeled by a common or usual name or descriptive name in accordance with § 317.2(c)(1) and to which nitrate or nitrite is permitted or required to be added may be prepared without nitrate or nitrite and labeled with such common or usual name or descriptive name when immediately preceded with the term "Uncured" as part of the product name

in the same size and style of lettering as the product name, provided that the product is found by the Administrator to be similar in size, flavor, consistency, and general appearance to such product as commonly prepared with nitrate or nitrite, or both.

(c)(1) Products described in paragraph (b) of this section or § 319.2 of this subchapter, which contain no nitrate or nitrite shall bear the statement "No Nitrate or Nitrite Added." This statement shall be adjacent to the product name in lettering of easily readable style and at least one-half the size of the product name.

(2) Products described in paragraph (b) of this section and § 319.2 of this subchapter shall bear, adjacent to the product name in lettering of easily readable style and at least one-half the size of the product name, the statement "Not Preserved—Keep Refrigerated Below 40° F. At All Times" unless they have been thermally processed to F₀ 3 or more; they have been fermented or pickled to pH of 4.6 or less; or they have been dried to a water activity of 0.92 or less.

(3) Products described in paragraph (b) of this section and § 319.2 of this subchapter shall not be subject to the labeling requirements of paragraphs (b) and (c) of this section if they contain an amount of salt sufficient to achieve a brine concentration of 10 percent or more.

§ 318.7 [Amended]

2. The first reference to the term "Cured products" in the "Products" column with respect to "Curing agents" in the chart in § 318.7(c)(4) is amended to read "Cured products other than bacon. Nitrates may not be used in baby, junior, and toddler foods." The second reference to the term "Cured products" in the column is amended to read "Cured products. Nitrates may not be used in baby, junior, or toddler foods."

3. The table of contents for Subpart A of Part 319 of the regulations is amended by adding "§ 319.2 Products and nitrites," and a new § 319.2 is added to read:

§ 319.2 Products and nitrates and nitrites.

Any product, such as frankfurters and corned beef; for which there is a standard in this part and to which nitrate or nitrite is permitted or required to be added, may be prepared without nitrate or nitrite and labeled with such standard name when immediately preceded with the term "Uncured" in the same size and style of lettering as the rest of such standard name: *Provided*,

That the product is found by the Administrator to be similar in size, flavor, consistency, and general appearance to such product as commonly prepared with nitrate and nitrite: *And provided further*, That labeling for such product complies with the provisions of § 317.17(c) of this subchapter.

(Sec. 21, 34 Stat. 1264, as amended, 21 U.S.C. 621; 42 FR 35625, 35626, 35631)

Note.—This final rule has been reviewed under the USDA criteria established to implement Executive Order 12044, "Improving Government Regulations," and has been designated "significant." An approved Final Impact Statement is available from Mr. Irwin Fried, Acting Director, Meat and Poultry Standards and Labeling Division, Compliance, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, D.C. 20250.

Done at Washington, D.C., on August 15, 1979.

Donald L. Houston,
Acting Administrator, Food Safety and Quality Service.

[FR Doc. 79-25824 Filed 8-20-79; 8:45 am]

BILLING CODE 3410-DM-M

CIVIL AERONAUTICS BOARD

14 CFR Part 385

[Regulation OR-155, Amdt. 88; Docket 34291]

Delegations and Review of Action Under Delegation; Nonhearing Matters

Adopted by the Civil Aeronautics Board at its office in Washington, D.C.

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: For the reasons stated in ER-1139, issued simultaneously, the CAB is delegating authority to the Director of its Bureau of Domestic Aviation to issue revised certificates in accordance with certificate changes made by 14 CFR Part 203.

DATES: Effective: August 15, 1979.
Adopted: August 15, 1979.

FOR FURTHER INFORMATION CONTACT:
Roy Pulsifer, Associate Director, Licensing Programs and Policy Development, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428; 202-673-5448.

The Board amends 14 CFR Part 385 by adding new paragraph (r) to read:

§ 385.13 Delegation to the Director, Bureau of Domestic Aviation.

* * *

(rr) To issue revised certificates of authority to air carriers showing new authority granted by removal of operating restrictions under Part 203 of this chapter.

(Sec. 204 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 49 U.S.C. 1324. Reorganization Plan No. 3 of 1961, 75 Stat. 837, 26 FR 5989, 49 U.S.C. 1324 (note).)

By the Civil Aeronautics Board:

Phyllis T. Kaylor,
Secretary.

[FR Doc. 79-25811 Filed 8-20-79; 8:45 am]
BILLING CODE 6320-01-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[Docket No. 9068]

Prohibited Trade Practices, and Affirmative Corrective Actions; MacLeod Mobile Homes, Inc., et al.

AGENCY: Federal Trade Commission.
ACTION: Final order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, among other things, requires a Riverhead, N.Y. mobile homes dealer and its affiliates to cease entering into, or enforcing any arrangement or rule which restricts the availability of mobile home sites to only those parties who purchase, lease or rent mobile homes, accessories and services from MacLeod Mobile Homes, Inc. or other designated sources.

DATES: Complaint issued Dec. 19, 1975. Decision issued July 25, 1979.¹

FOR FURTHER INFORMATION CONTACT: Leroy Richie, Director, 8R, New York Regional Office, Federal Trade Commission, 2243-EB Federal Bldg., 28 Federal Plaza, New York, N.Y. 10007. (212) 264-1207.

SUPPLEMENTARY INFORMATION: On Wednesday, March 8, 1978, there was published in the Federal Register, 43 FR 9495, a proposed consent agreement with analysis in the Matter of MacLeod Mobile Homes, Inc., a corporation, and Pashisha, Inc., a corporation, and Myron T. MacLeod, individually and as an officer of said corporations, and John J. Couch, individually and as an officer of said corporations, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of order.

¹ Copies of the Complaint and Decision and Order are filed with the original document.

Comments were filed and considered by the Commission. The Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows: Subpart-Coercing and Intimidating: § 13.350 Customers or prospective customers; § 13.355 Customers or prospective customers of competitors. Subpart-Combining or Conspiring: § 13.395 To control marketing practices and conditions; § 13.410 To eliminate competition in conspirators' goods; § 13.470 To restrain or monopolize trade; § 13.497 To terminate or threaten to terminate contracts, dealings, franchises, etc. Subpart-Corrective Actions and/or Requirements: § 13.533 Corrective actions and/or requirements; 13.533-45 Maintain records. Subpart-Cutting Off Access To Customers or Market: § 13.540 Forcing goods; § 13.605 Withholding supplies or goods from competitors' customers. Subpart-Cutting Off Supplies or Service: § 13.610 Cutting off supplies or service; § 13.655 Threatening disciplinary action or otherwise.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45.)

James A. Tobin,
Secretary.

[FR Doc. 79-25774 Filed 8-20-79; 8:45 am]
BILLING CODE 6750-01-M

16 CFR Part 13

[Docket No. C-2346]

Prohibited Trade Practices, and Affirmative Corrective Actions; Norris Industries, Inc.

AGENCY: Federal Trade Commission.

ACTION: Modification of order to cease and desist.

SUMMARY: This order modifies the cease and desist order issued on December 27, 1978, by revising Paragraph "2." of Part II of the original order to require affirmative disclosures and include definitions of "clear and conspicuous" for purposes of print, radio, and television advertising.

DATES: Decision issued Dec. 27, 1978. Modifying order issued July 12, 1979.¹

¹ Copies of the Modifying Order filed with the original document.

FOR FURTHER INFORMATION CONTACT: FTC/P. Albert H. Kramer, Washington, D.C. 20580. (202) 523-3727.

SUPPLEMENTARY INFORMATION: In the Matter of Norris Industries, Inc. The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, appearing at 44 FR 6380, remains unchanged.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45.)

The order modifying order to cease and desist is as follows:

Order Modifying Order To Cease And Desist

The Commission on April 25, 1979, issued its Order to Show Cause why this proceeding should not be reopened and its Order of December 27, 1978, modified.

Respondents filed an Answer on May 31, 1979, setting forth objections to the Order to Show Cause, and proposing certain amendments. Commission staff interposed no objections and recommended that the Respondents' amendments be incorporated into the Order.

Now, therefore, it is hereby ordered, That the aforesaid Order to Cease and Desist be, and it hereby is, modified in accordance with the Order to Show Cause and the Respondent's Answer, without necessity of further action by the Commission, as follows:

Order

Part I

It is ordered, That Norris Industries, Inc. (hereinafter referred to as the Respondent), its successors and assigns, either jointly or individually, and its officers, representatives, and agents and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, offering for sale, distribution or sale of dishwashers in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing, directly or by implication, that any dishwasher manufactured or sold by Respondent can sterilize or destroy all microorganisms on utensils placed in the dishwasher.

2. Representing, directly or by implication, that the stainless steel parts in any dishwasher manufactured or sold by Respondent are rustproof or will not rust under normal household conditions.

3. Representing, directly or by implication, that the disposal-drain in

any dishwasher manufactured or sold by Respondent will remove all soft food waste from the dishwasher.

4. Representing, directly or by implication, that any dishwasher manufactured or sold by Respondent can completely clean dishes, cookware, and other utensils placed in the dishwasher, without prior scraping, scouring, or rinsing.

5. Representing, directly or by implication, that any dishwasher manufactured or sold by Respondent can be randomly loaded or that there are no special instructions to follow when loading.

Part II

It is further ordered, That Respondent, its successors and assigns, either jointly or individually, and its officers, representatives, agents and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, offering for sale, distribution of sale of major home appliances in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. (a) Making any statements or representations, directly or by implication, concerning the performance of such products unless at the time that the statements or representations are made Respondent possesses and relies on a reasonable basis for such statements or representations, which shall consist of a competent and reliable scientific test, as defined in Paragraph One (b) hereafter.

(b) For purposes of this order a "competent and reliable scientific test" is one in which one or more persons with education, knowledge, and experience in the field conduct a test and evaluate its results in an objective manner using testing, evaluation, and analysis procedures generally accepted in the profession and which best insure valid and reliable results. Moreover, the test results must either accurately predict, or be correlated with, the results that a consumer ordinarily would obtain using the product under normal household conditions.

2. Failing to make a "clear and conspicuous disclosure" that product features, depicted or described in advertising for a product, apply only to the model being advertised or, if applicable, only to certain models. Such disclosure shall identify the model(s) by number(s) (and name(s) if applicable) to which the product features do or, at the Respondent's option, do not apply. This disclosure shall not be required where the advertisement clearly and

conspicuously identifies the model by number (and model name if applicable) to which the product features being advertised apply.

For purposes of this provision:

Television Advertising—clear and conspicuous shall be as set forth in the FTC's Statement of Enforcement Policy of October 21, 1970;

Radio Advertising—the disclosure shall be clear and conspicuous and shall be made with no other sounds including music;

Print Advertising—clear and conspicuous shall mean that the disclosure of the model number and name, if applicable, shall be in no less a type size than that used to describe the product features and shall be in immediate conjunction with the description of the product features.¹

3. Making any statements or representations, directly or by implication, in connection with the advertisement of any such product, which are inconsistent in any material respect with any statements or representations contained, directly or by implication, in post purchase material(s) supplied to the purchaser of such products.

4. For purposes of this Order the term "major home appliances" means the following appliances presently manufactured or sold by the Respondent: automatic dishwashers; garbage disposers; trash compactors; and microwave ovens.

Part III

It is further ordered, That Respondent, its successors and assigns, either jointly or individually, and its officers, representatives, and agents and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the advertising, offering for sale, distribution or sale of "major home appliances" in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from failing to maintain the following accurate records which may be inspected by Commission staff members upon reasonable notice:

¹ The provisions of this Order in respect to print advertising will be implemented per the following schedule: (1) Reproducible advertising for use by distributors and retail dealers—when stock in existence on June 1, 1979, is exhausted but in any event no later than January 1, 1980; (2) Advertising for placement by Respondent—promptly upon the effective date of this modification to the final Order; (3) Brochures—when stock in existence on June 1, 1979, is exhausted but in any event no later than January 1, 1980, except Respondent's brochure identified as Exhibit 22 in the Compliance Report dated as of April 12, 1979—promptly upon the effective date of this modification to the final Order.

(a) Documentation in support of and on which Respondent relied in making any claim included in advertising, sales promotional material, or post purchase materials, disseminated by respondent or by any division or subdivision of respondent, or by any advertising agency engaged for such purpose by respondent or by any such division or subsidiary, concerning the performance characteristics of any of Respondent's major home appliances;

(b) Documentation which contradicts, qualifies or calls into serious question any claim included in advertising, sales promotional material or post purchase materials disseminated by respondent or by any division or subdivision of respondent, or by any advertising agency engaged for such purpose by respondent or by any such division or subsidiary, concerning the performance characteristics of any of Respondent's major home appliances.

Such documentation shall be retained by Respondent for a period of three years from the date such advertising, sales promotional or post purchase materials were last disseminated.

Part IV

It is further ordered, That Respondent notify the Commission at least 30 days prior to the effective date of any proposed change in the corporate Respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of the order.

It is further ordered, That the Respondent shall forthwith distribute a copy of this Order to each of its officers, agents, representatives or employees of the Respondent's Thermador/Waste King division who are engaged in the preparation, placement, or review of advertisements for the "major home appliances" defined in this order.

It is further ordered, That the Respondent shall, within sixty (60) days after service upon it of this Order, file with the Commission a report, in writing, setting forth in detail the manner and form in which it has complied with this Order.

By the Commission.

James A. Tobin,
Acting Secretary.

[FR Doc. 79-25772 Filed 8-20-79; 8:45 am]
BILLING CODE 6750-01-M

16 CFR Part 13

[Docket No. 9116]

Prohibited Trade Practices, and Affirmative Corrective Actions; Rhinechem Corporation, et al.**AGENCY:** Federal Trade Commission.**ACTION:** Dismissal order.

SUMMARY: This order dismisses the August 23, 1978 complaint issued against Allegheny Ludlum Industries, Inc. and its subsidiary, Chemetron Corporation, a producer of organic pigments, for alleged violations of Section 7 of the Clayton Act and Section 5 of the Federal Trade Commission Act. The complaint was dismissed on grounds that changed circumstances which have occurred since issuance of the complaint have provided the Commission with adequate assurances that the challenged matter will not reoccur, and additional relief will not be necessary.

DATES: Complaint issued Aug. 23, 1978. Dismissal order issued July 11, 1979.¹

FOR FURTHER INFORMATION CONTACT: Glenn M. Fellman, Attorney, Chicago Regional Office, 3R, Federal Trade Commission, 55 East Monroe St., Suite 1437, Chicago, Ill. 60603. (312) 353-4423.

SUPPLEMENTARY INFORMATION: In the Matter of Rhinechem Corporation, a wholly owned subsidiary of Bayer A.G., a corporation, and Allegheny Ludlum Industries, Inc., a corporation, and Chemetron Corporation, a wholly owned subsidiary of Allegheny Ludlum Industries, Inc., a corporation.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 48. Interpret or apply sec. 5, 38 Stat. 719, as amended; sec. 7, 38 Stat. 731, as amended; 15 U.S.C. 45, 18)

The Dismissal Order is as follows:

Final Order

The Administrative Law Judge filed an Initial Decision in this matter on May 30, 1979, dismissing the complaint against respondents Allegheny Ludlum Industries, Inc. and Chemetron Corporation on the ground that changed circumstances which have occurred since issuance of the complaint have provided the Commission with adequate assurances that the matter which was challenged in the complaint will not reoccur and no additional relief is necessary. No appeal from the Initial Decision was filed.

The Commission having now determined that the matter should not be placed on its own docket for review, and that the Initial Decision should

become effective as provided in § 3.51(a) of the Commission's rules of practice, *It is ordered*, That the Initial Decision and Order contained therein shall become effective on July 12, 1979.

By the Commission,
James A. Tobin,
Acting Secretary.

[FR Doc. 79-25773 Filed 8-20-79; 8:45 am]

BILLING CODE 6750-01-M

16 CFR Part 13

[Docket No. C-2971]

Fedders Corp.; Prohibited Trade Practices, and Affirmative Corrective Actions**AGENCY:** Federal Trade Commission.**ACTION:** Modifying order.

SUMMARY: The Federal Trade Commission has issued a modifying order amending the final consent order issued in the Matter of Fedders Corporation June 14, 1979, appearing in the Federal Register issue of July 24, 1979, 44 FR 43263. This modification is in response to a petition filed by Fedders Corporation to modify the order and granted by the Commission.

DATE: Decision issued June 14, 1979. Modifying Order issued August 8, 1979.¹

FOR FURTHER INFORMATION CONTACT: FTC/PE, Robert S. Blacher, Washington, D.C. 20580. (202) 724-1507.

SUPPLEMENTARY INFORMATION: The Federal Trade Commission has issued an order modifying the consent order issued June 14, 1979, in the Matter of Fedders Corporation. The modification does not affect the codification under 16 CFR Part 13 appearing at 44 FR 43264. The text of the modifying order is set forth below:

Order

Respondent's petition to modify the consent order is granted. The order is hereby modified as follows:

Add the following paragraph after the first paragraph of Section III:

Provided however, Respondent is not required to place both of the "recall advertisements" set forth in Appendices (F) and (G) of this Order, if it places one advertisement in each of the periodicals listed in Appendix (E) of this Order which advertisement refers to both Fedders and Climatrol, contains language identical to that in the "recall advertisements" set forth in Appendices (F) and (G), except that reference is made to both Fedders and Climatrol

¹ Copies of the modifying order filed with the original document.

heat pumps, and meets all other requirements set forth in Section III, and Appendices (E), (F) and (G) of the Order.

By direction of the Commission dated August 8, 1979.
(Sec. 6, 38 Stat. 721; 15 U.S.C. 48). Interprets or applies sec. 5, 38 Stat. 719, as amended; (15 U.S.C. 45.)

James A. Tobin,
Acting Secretary.

[FR Doc. 79-25854 Filed 8-20-79; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE**Food and Drug Administration**

[Docket No. 79N-0194]

21 CFR Part 81

General Specifications and General Restrictions for Provisional Color Additives for Use in Foods, Drugs, and Cosmetics; Temporary Tolerances**AGENCY:** Food and Drug Administration.**ACTION:** Final rule.

SUMMARY: The Food and Drug Administration (FDA) amends the temporary tolerances for certain provisionally listed color additives that are used in ingested cosmetics and drugs. The revisions in the temporary tolerances are based on toxicological and usage data showing that the current temporary tolerances for certain colors should be reduced. The agency is also revising the regulations to clarify the specific types of drug and cosmetic products covered by the temporary tolerances.

DATES: Effective November 19, 1979; objections by September 20, 1979.

ADDRESS: Written objections to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Gerald L. McCowin, Bureau of Foods (HFF-334), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, DC 20204, 202-472-5740.

SUPPLEMENTARY INFORMATION: In the Federal Register of October 12, 1960 (25 FR 9759), as amended August 16, 1961 (26 FR 7578), and December 30, 1970 (35 FR 19749), FDA established temporary tolerances under § 81.25 (21 CFR 81.25 (formerly § 8.503 (21 CFR 8.503)), before recodification published in the Federal Register of March 22, 1977 (42 FR 15553)) for the use of certain color additives in lipsticks, ingested drugs,

and other products subject to ingestion, such as mouthwashes and dentifrices.

The original temporary tolerance levels for certain color additives were based on preliminary usage information and preliminary toxicological data from tests performed in the 1950's. Later, color additive petitions were submitted that contained data concerning the use of each of the colors, as well as data from chronic feeding studies with each of the colors. Additional data were also obtained from teratology and multigeneration reproduction studies conducted with the colors listed under temporary tolerances, as required by a regulation published in the Federal Register of September 11, 1971 (36 FR 18336) (amended June 12, 1973 (38 FR 15472)). These three sources of data provide a more substantive base for determining appropriate levels of use for the colors requiring temporary tolerances.

Temporary tolerances are being provided for certain color additives while they are provisionally listed. The conditions of provisional listing outlined in § 81.27 (21 CFR 81.27) require new chronic toxicity studies, which are currently underway, for all of these colors. The closing date for provisional listing of all of these color additives is January 31, 1981, at which time permanent, rather than temporary, levels of use will be determined for the colors that are "permanently" listed.

The Cosmetic, Toiletry and Fragrance Association (CTFA), petitioner or copetitioner for the color additives listed in the regulations set forth below, has requested revisions of the temporary tolerances that would: (1) include both lipstick and drug tolerances for related colors; (2) clarify the allowances for mouthwashes and dentifrices; and (3) change the levels of the temporary tolerances to those suggested in the respective petitions, which are generally lower than the levels in § 81.25. The current revision coincides with nearly all of the petitioner's requests.

For ingested drugs, the levels are being reduced for D&C Red Nos. 8, 19, and 37. For lipstick use, the levels are being reduced for D&C Orange No. 17 and D&C Red Nos. 8, 9, 19, 33, and 38. D&C Red No. 38 was added to the temporary tolerances in 1970 at a level of 3 percent pure dye by weight of the lipstick. Through a later publication error in the 1973 edition of the Code of Federal Regulations (CFR), § 81.25(a) now gives the level at 6 percent. This level is being corrected to 3 percent.

For D&C Red No. 33, the petition requests a level of usage in ingested drugs of 5.5 milligrams (mg) in a daily

dose. This is greater than the 0.75 mg currently provided by § 81.25. At the higher level, however, the simultaneous use of cosmetics and drugs containing this color might result in levels of daily usage that exceed the levels that can be supported by available safety data. The manufacturers' survey in the petition did not show any usage at higher levels. Because these are intended to be temporary tolerances until further toxicity data are submitted and evaluated, it would be inappropriate to increase the permitted level of use before all the data are considered and a final action is taken. Accordingly, the temporary tolerance for D&C Red No. 33 is retained at its current level for ingested drugs.

For D&C Orange No. 5, the petition requests no limitation other than good manufacturing practice for lipstick use. Currently, § 81.25 provides a tolerance of 0.75 mg. Again, it would not be appropriate to remove a restriction before complete information is available for final action; therefore, the tolerance is being retained at its current level for lipsticks. However, the revision permits the use of D&C Orange No. 5 in mouthwashes and dentifrices in amounts consistent with good manufacturing practice. The petition does not request drug use for D&C Orange No. 5 other than for mouthwashes and dentifrices, and no ingested drug tolerance is being provided.

For D&C Yellow No. 10, the petition requests its use in ingested drugs and cosmetics with levels of 20 mg in a daily dose of a drug and 1 percent by weight of lipstick or lip cosmetic. The agency agrees that this color should be added to the temporary tolerances and that the data require limitations on the amount of color that may be ingested. However, the safety data on hand support a level of only 10 mg per drug, which is the level now given.

CTFA notes that D&C Red No. 9 was omitted from the list of temporary tolerances for drugs, although a closely related color, D&C Red No. 8, was on the drug list and both were listed for lipstick use. Similarly, D&C Red No. 37 (related to D&C Red No. 19) was omitted from the lipstick list. CTFA requests uniform inclusion of these colors on both lists and the placement of D&C Orange No. 17 on the drug list. The available toxicological data support these inclusions, and the temporary tolerances are revised accordingly.

A previous limitation on the total amount of the colors in a lipstick is changed to limit the combinations of related colors. CTFA also requests the

use of the colors in § 81.25 in cosmetic mouthwashes and dentifrices. A separate paragraph is included in the regulations to clarify this area of usage. For some of the colors, simultaneous use of both cosmetics and drugs containing the same color might give a daily intake approaching the maximum acceptable intake. Thus, temporary tolerances are stated for these colors in mouthwashes and dentifrices.

Six colors previously mentioned in this section are no longer listed. D&C Red Nos. 10, 11, 12, and 13 were prohibited from use on December 13, 1977 (42 FR 62475); and their temporary tolerances were revoked at that time. D&C Yellow Nos. 7 and 8 were permanently listed for external use on November 19, 1976 (41 FR 51003, 51004) and are thus deleted from this section.

On the basis of available toxicological data from multigeneration reproduction studies, tests of teratological potential, and chronic feeding studies, and also on the basis of suggested levels of usage contained in color additive petitions, FDA finds that the temporary tolerances for certain color additives should be revised as set forth below. This revision is considered necessary at this time in view of the extension to January 31, 1981, of the closing date for those colors named. The effective date of the regulations set forth below is delayed 90 days to permit any formulation changes of drugs or cosmetics that may be required by these revisions.

Certificates for the color additives listed in § 81.25 will be limited, on the effective date of these revisions, by the conditions stated in revised § 81.25 detailed below.

Manufacturers of new drugs and new animal drugs (including certifiable antibiotics for animal use) that contain D&C Orange No. 5, D&C Orange No. 17, D&C Red No. 8, D&C Red No. 9, D&C Red No. 19, D&C Red No. 33, D&C Red No. 38, D&C Red No. 37, or D&C Yellow No. 10 may delete the color additive, decrease the amount of color additive, or substitute a different color additive in accordance with the provisions of § 314.8 (d)(3) and (e) (21 CFR 314.8 (d)(3) and (e)) or § 514.8 (d)(3) and (e) (21 CFR 514.8 (d)(3) and (e)), as appropriate. The applicant shall submit data providing the new composition and showing that the change in composition does not interfere with any assay or other control procedures used in manufacturing the drug, or that the assay and control procedures have been revised to make them adequate. The applicant shall also submit data available to establish the stability of the revised formulation or, if the data are too limited to support a

¹ Copies of the Complaint, Initial Decision and Final Order are filed with the original document.

conclusion that the drug will retain its declared potency for a reasonable marketing period, a commitment to test the stability of marketed batches at reasonable intervals, to submit the data as they become available, and to recall from the market any batch found to fall outside the approved specifications for the drug.

The agency has carefully considered the environmental effects of this action and, because the action will not significantly affect the quality of the human environment, has concluded that an environmental impact statement is not required. Copies of the environmental impact analysis report and the environmental assessment are on file with the Hearing Clerk, FDA (address above).

Therefore, under the transitional provisions of the Color Additive Amendments of 1960 (Title II, Pub. L. 86-818, sec. 203(d)(1)(C), 74 Stat. 405 (21 U.S.C. 376 note)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), Part 81 is amended as follows:

§ 81.1 [Amended]

1. In § 81.1 *Provisional lists of color additives*, the table in paragraph (b) is amended by adding to the entry for D&C Yellow No. 10 the restriction "Sec. 81.25."

§ 81.10 [Amended]

2. In § 81.10 *Termination of provisional listings of color additives*, by deleting and reserving paragraph (b).

3. By revising § 81.25 to read as follows:

§ 81.25 Temporary tolerances.

The available data for certain provisionally listed color additives indicate that their usage must be restricted to levels consistent with the toxicological data available for each of the colors listed in this section. The usage levels proposed in the petitions for these color additives have also been considered in establishing temporary tolerances. On the basis of the available toxicological data, the Food and Drug Administration has concluded that it is consistent with the protection of the public health to allow the continued use of these provisionally listed color additives under the conditions set forth in this section pending the completion and evaluation of the further toxicology studies required by § 81.27. A final determination of the status of these colors, including appropriate usage levels, must await completion and evaluation of the required further toxicology studies. The color additives

named in this section may be used in externally applied drugs and cosmetics in amounts consistent with good manufacturing practice.

(a)(1) The color additives named in this paragraph may be used in lipsticks and other cosmetics intended to be applied to the lips, in the amount specified in this paragraph. These temporary tolerances are expressed as percent pure dye by weight of each lipstick or other lip cosmetic.

Color additive:	Percent
D&C Orange No. 5.....	6.0
D&C Orange No. 17.....	5.0
D&C Red No. 8.....	3.0
D&C Red No. 9.....	3.0
D&C Red No. 19.....	1.3
D&C Red No. 33.....	3.0
D&C Red No. 36.....	3.0
D&C Red No. 37.....	1.3
D&C Yellow No. 10.....	1.0

(2) Combinations of the color additives named in paragraph (a)(1) of this section may be used in a lipstick or other lip cosmetic, provided the individual temporary tolerance is not exceeded, except that the combined total of D&C Red Nos. 8 and 9 may not exceed 3.0 percent, and the combined total of D&C Red Nos. 19 and 37 may not exceed 1.3 percent.

(b)(1) Mouthwashes and dentifrices, whether drugs or cosmetics, may contain the following color additives in the amounts specified (the term "mouthwashes" includes breath fresheners):

(i) D&C Orange No. 5, D&C Red No. 33, D&C Red No. 36, and D&C Yellow No. 10 may be used in amounts consistent with good manufacturing practice.

(ii) D&C Orange No. 17, D&C Red No. 8, D&C Red No. 9, D&C Red No. 19, or D&C Red No. 37 individually may be used in a dentifrice at not more than 0.002 percent of the pure dye by weight of the dentifrice or, in a mouthwash, at not more than 0.005 percent of the pure dye by weight of the mouthwash.

(2) Combinations of the color additives named in paragraph (b)(1) of this section may be used, provided the individual temporary tolerance is not exceeded, except that the combined total of D&C Red Nos. 8 and 9 or the combined total of D&C Red Nos. 19 and 37 may not exceed 0.002 percent in a dentifrice or 0.005 percent in a mouthwash, measured as the pure dyes by weight of the product.

(c)(1) The color additives named in this paragraph may be used in drugs subject to ingestion, other than mouthwashes and dentifrices, in the amounts specified in this paragraph. These temporary tolerances are expressed as milligrams of the pure dye in the amount of the product that is

reasonably expected to be ingested in one day.

Color additive:	Amount per day (mg)
D&C Orange No. 17.....	0.2
D&C Red No. 8.....	0.1
D&C Red No. 9.....	0.1
D&C Red No. 19.....	0.25
D&C Red No. 33.....	0.75
D&C Red No. 36.....	1.7
D&C Red No. 37.....	0.25
D&C Yellow No. 10.....	10.0

(2) Combinations of the color additives named in paragraph (c)(1) of this section may be used in a product, provided the individual temporary tolerance is not exceeded, except that the combined total of D&C Red Nos. 8 and 9 may not exceed 0.1 milligram per day, and the combined total of D&C Red Nos. 19 and 37 may not exceed 0.25 milligram per day.

4. By revising § 81.32 to read as follows:

§ 81.32 Limitation of certificates.

Certificates issued for the color additives listed in § 81.25 and for all mixtures containing these color additives are limited to the conditions stated in § 81.25. The use of these color additives in drugs and cosmetics in any other manner will result in adulteration. Each of these color additives shall bear a label statement of the tolerance and use limitations applicable to it.

Notice and public procedure are not necessary prerequisites to the promulgation of this regulation because section 203(d)(2) of Pub. L. 86-618 so provides. Any person who will be adversely affected by the foregoing regulation may at any time on or before September 20, 1979 submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a

hearing on the objection. Four copies of all documents shall be submitted and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this regulation. Received objections may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Note.—In accordance with Executive Order 12044, the economic effects of this rule have been carefully analyzed and it has been determined that the action does not involve major economic consequences as defined by that order. A copy of the Regulatory Analysis Assessment supporting this determination is on file with the Hearing Clerk, Food and Drug Administration.

Effective date. This regulation shall be effective November 19, 1979.

(Sec. 203(d)(1)(C), 74 Stat. 405 (21 U.S.C. 376 note).)

Dated: August 14, 1979.

Joseph P. Hile,
Associate Commissioner for Regulatory Affairs.

[FR Doc. 25803 Filed 8-20-79; 8:45 am]

BILLING CODE 4110-03-M

21 CFR Part 176

[Docket No. 78F-0431]

Styrene-Maleic Anhydride Copolymer, Amidated, Ammonium Sodium Salt

AGENCY: Food and Drug Administration.
ACTION: Final rule.

SUMMARY: The food additive regulations are amended to provide for the safe use of styrene-maleic anhydride copolymer, amidated, ammonium sodium salt, as a surface size on paper and paperboard intended for food-contact use. This action is being taken in response to a petition filed by American Cyanamid Co.

DATES: Effective August 21, 1979; objections by September 20, 1979.

ADDRESS: Written objections to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Gerard L. McCowin, Bureau of Foods (HFF-334), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, D.C. 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: A notice published in the Federal Register of February 23, 1979 (44 FR 10789) announced that a food additive petition (FAP 6B3232) was filed by American Cyanamid Co., Wayne, NJ 07470, proposing that § 176.170 *Components of paper and paperboard in contact with aqueous and fatty foods* (21 CFR 176.170) be amended to provide for the safe use of maleic anhydride polymer with styrene, reaction product with ammonia and sodium hydroxide, as a surface size on paper and paperboard.

The agency has evaluated data in the petition and other relevant material and concludes that § 176.170 should be amended as set forth below. The amendment reflects the agency's

conclusion that the chemical name "styrene-maleic anhydride copolymer, amidated, ammonium sodium salt" is preferable to the name given in the filing notice because it more adequately describes the food additive and is consistent with the name of the regulated food additive "styrene-maleic anhydride copolymer, sodium salt."

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786 (21 U.S.C. 348(c)(1))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), § 176.170 is amended in paragraph (a)(5) by alphabetically inserting a new item in the list of substances as follows:

§ 176.170 *Components of paper and paperboard in contact with aqueous and fatty foods.*

(a) * * *
(5) * * *

List of substances	Limitations
Styrene-maleic anhydride copolymer, amidated, ammonium sodium salt; For use only as a surface size at a level not to exceed, having, in a 25 percent by weight aqueous solution at pH 8.8, a minimum viscosity of 600 centipoises at 25° C as determined by Brookfield model LVT viscometer using a No. 3 spindle at 60 r.p.m. (g equivalent method).	1 percent by weight of paper or paperboard substrate.

Any person who will be adversely affected by the foregoing regulation may at any time on or before September 20, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing

is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Four copies of all documents shall be submitted and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this regulation. Received objections may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Effective date.—This regulation shall become effective August 21, 1979. (Sec. 409(c)(1), 72 Stat. 1786 (21 U.S.C. 348(c)(1)))

Dated: August 8, 1979.
 William F. Randolph,
 Acting Associate Commissioner for
 Regulatory Affairs.
 [FR Doc. 79-25805 Filed 8-20-79; 8:45 am]
 BILLING CODE 4110-03-M

21 CFR Part 429

[Docket No. 79N-0025]

Drugs Composed Wholly or Partly of Insulin Requirements for Requesting Certification

AGENCY: Food and Drug Administration.
ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the insulin certification regulations to make the submission of samples and test results for certain types of insulin products unnecessary under certain conditions. This action is taken to eliminate unnecessary testing and reduce the number of samples required to be submitted with requests for certification of these insulin products.

EFFECTIVE DATE: September 20, 1979.

FOR FURTHER INFORMATION CONTACT: Ed Farha, Bureau of Drugs (HFD-30), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-6490.

SUPPLEMENTARY INFORMATION: In the Federal Register of March 31, 1978 (43 FR 13585), FDA proposed to amend § 429.40 (21 CFR 429.40) of the insulin certification regulations to eliminate the requirement for submitting samples and test results of trial mixtures or trial dilutions of certain insulin products. The requirement would be omitted when a sample of a trial mixture or trial dilution of one of these products, prepared from the same materials and containing 40, 80, or 100 U.S.P. units of insulin per milliliter (mL), had been previously approved by the agency. This proposed revision was in response to a petition submitted by an insulin manufacturer. Although the petition requested that the revisions apply to samples and test results of trial mixtures or trial dilutions of all insulin products, the March 31, 1978 proposal was made applicable only to insulin injection, protamine zinc insulin suspension, globin insulin injection, and isophane insulin suspension products.

Interested persons were allowed 60 days in which to submit written comments on the proposal. The only comment received came from the manufacturer who submitted the

petition which led to the proposed amendment.

The comment objected to the continued requirement of testing each concentration (40, 80, or 100 U.S.P. units per mL) of a trial mixture of insulin zinc suspension, insulin zinc suspension prompt, and insulin zinc suspension extended to obtain approval of subsequent batches of the same concentration. The comment argued that the 100 unit per mL trial mixture of any of these insulin products can accurately represent any other concentration of subsequent batches. In support of this position, the comment pointed out that out of 650 batches of these products submitted for certification within the past 6 years by the commentor, no trial mixtures had been rejected due to improper formulation of crystals.

As stated in the preamble to the proposal, due to the precipitation and crystallization process used in manufacturing these three insulin zinc suspension products, agency testing experience with them has demonstrated that the trial mixture can represent the finished product accurately only if it is of the same concentration as the final batch. Although the comment mentioned the firm's record of not having any of these insulin zinc suspension products rejected due to the improper formulation of crystals, FDA believes there are still manufacturing problems generally associated with these products. Further, because this final rule will apply to all firms currently submitting these three insulin zinc suspension products and to all firms which may request certification of these products in the future, one firm's record of the number of trial mixtures rejected cannot be a controlling factor. Therefore, the final rule requires the trial mixtures of each concentration of insulin zinc suspension, insulin zinc suspension prompt, and insulin zinc suspension extended to continue to be tested.

The comment also suggested that certain changes be made in the United States Pharmacopeia (U.S.P.) to make it compatible with the final rule. The changes listed in the comment relate to the Insulin Assay on page 611 of the U.S.P. XIX.

The suggested changes were forwarded to the U.S.P. for its consideration. U.S.P.'s response, which has been placed on file in the office of FDA's Hearing Clerk, advised the agency that there was no incompatibility between U.S.P. requirements and the proposed regulation.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 506,

701(a), 55 Stat. 851, 52 Stat. 1055 (21 U.S.C. 356, 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) and redelegated to the Director of the Bureau of Drugs (21 CFR 5.73), Part 429 is amended in § 429.40 by revising paragraphs (d) (2), (3), (5), (7), and (g)(1) to read as follows:

§ 429.40 Requests for certification; samples; storage; approvals preliminary to certification.

(2) If the batch is to be insulin injection, a trial mixture made from such master lot or mixture, glycerin, phenol or cresol, and hydrochloric acid, which dilution conforms to the standard of identity, strength, quality, and purity for insulin injection, except that it may contain approximately 40, 80, or 100 units of insulin per milliliter in a quantity containing approximately 5,000 U.S.P. units of insulin.

(3) If the batch is to be protamine zinc insulin suspension, a trial mixture which is intended to be accurately representative of the mixture which will constitute the finished batch; in a quantity containing approximately 10,000 U.S.P. units of insulin.

(5) If the batch is to be globin zinc insulin injection, a trial mixture made from the master lot or mixture referred to in paragraph (d)(1) of this section, globin, zinc chloride, hydrochloric acid, glycerin, and phenol or cresol, which mixture is intended to be accurately representative of the mixture which will constitute the finished batch; in a quantity containing approximately 10,000 U.S.P. units of insulin.

(7) If the batch is to be isophane insulin suspension, a trial mixture which is intended to be accurately representative of the finished batch; in a quantity of approximately 10,000 U.S.P. units of insulin.

(g)(1) No sample referred to in paragraph (d) (1) to (9), inclusive, of this section, and no result referred to in paragraph (c) (1) to (8), inclusive of this section, is required if such sample or result has been submitted in connection with a previous request for certification. Except for paragraph (d) (9), (10), and (e)(9), the samples referred to in paragraph (d) of this section and the results referred to in paragraph (e) of this section for insulin injection, protamine zinc insulin suspension, globin zinc insulin injection, or isophane insulin suspension are not required if

the Commissioner has previously approved a trial mixture containing 40, 80, or 100 units of insulin per milliliter or trial dilution containing approximately 40, 80, or 100 units of insulin per milliliter and the mixture or dilution was prepared from the same materials and in the same manner, except for adjustment of pH of the buffer solution.

Effective date. This regulation is effective September 20, 1979.

Dated: August 14, 1979.
 Jerome A. Halperin,
 Acting Director, Bureau of Drugs.
 [FR Doc. 79-25802 Filed 8-20-79; 8:45 am]
 BILLING CODE 4110-03-M

21 CFR Part 510

[Docket No. 79N-0189]

New Animal Drugs; Drug Listing No./ Drug Labeler Code; Designation of Sponsor Number

AGENCY: Food and Drug Administration.
ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) amends the animal drug regulations to provide for a change of designation of the sponsor number from drug listing number to drug labeler code. This change concerns only the descriptive term designating the sponsor number and does not affect any specific sponsor or approval.

EFFECTIVE DATE: August 21, 1979.

FOR FURTHER INFORMATION CONTACT: Robert S. Brigham, Bureau of Veterinary Medicine (HFV-238), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-6243.

SUPPLEMENTARY INFORMATION: Section 512(i) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(i)) provides that when a new animal drug application (NADA) is approved, the name and address of the applicant and the conditions of use of the new animal drug be published in the Federal Register. The Federal Register publication provides, among other things, for a regulation codifying each approved NADA and identifying the applicant (sponsor). To avoid repeating a firm's complete name and address in each regulation, the agency identifies each firm by the drug labeler code, which is indexed alphabetically by firm name and numerically by code number in § 510.600 (21 CFR 510.600). The current regulations erroneously refer to this number as the drug listing number.

Accordingly, this document changes the term "drug listing number" to read "drug labeler code."

Under the Administrative Procedure Act (5 U.S.C. 553 (b) and (d)), the Commissioner finds that notice, public procedure, and delayed effective date are unnecessary. The action taken concerns change in descriptive term designation only and does not alter the requirements of the regulations.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 512, 701(a), 52 Stat. 1055, 82 Stat. 343-351 (21 U.S.C. 360b, 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), Part 510 is amended in § 510.600 by revising the section heading, paragraphs (b) and (c) introductory text, and the column headings in paragraph (c) (1) and (2) to read as follows:

§ 510.600 Names, addresses, and drug labeler codes of sponsors of approved applications.

(b) In this section each name and address is identified by a numerical drug labeler code. The labeler codes identify the sponsors of the new animal drug applications associated with the regulations published pursuant to section 512(i) of the act. The codes appear in the appropriate regulations and serve as a reference to the names and addresses listed in this section. The drug labeler code is established pursuant to section 510 of the act.

(c) The names, addresses, and drug labeler codes of sponsors of approved new animal drug applications are as follows:

(1) * * *
 Firm name and address
 Drug Labeler Code

(2) * * *
 Drug Labeler Code
 Firm name and address

In accordance with Executive Order 12044, the economic effects of this action have been carefully analyzed, and it has been determined that the action does not involve major economic consequences as defined by that order. A copy of the regulatory analysis assessment supporting this determination is on file with the Hearing Clerk, Food and Drug Administration.

Effective Date: August 21, 1979.

(Sec. 512, 701(a), 52 Stat. 1055, 82 Stat. 343-351 (21 U.S.C. 360b, 371(a)))

Dated: August 13, 1979.

William F. Randolph,
 Acting Associate Commissioner for
 Regulatory Affairs.
 [FR Doc. 79-25804 Filed 8-20-79; 8:45 am]
 BILLING CODE 4110-03-M

21 CFR Part 524

[Docket No. 79N-0222]

Ophthalmic and Topical Dosage Form New Animal Drugs Not Subject to Certification; Neomycin Sulfate, Hydrocortisone Acetate, Tetracaine Hydrochloride Ear Ointment

AGENCY: Food and Drug Administration.
ACTION: Final rule.

SUMMARY: This document amends the animal drug regulations for neomycin sulfate, hydrocortisone acetate, tetracaine hydrochloride ear ointment to indicate those conditions of use for which approvals for identical products need not include certain types of efficacy data. These conditions of use were classified as probably effective as a result of a National Academy of Sciences/National Research Council (NAS/NRC), Drug Efficacy Study Group evaluation of the product. In lieu of certain efficacy data, approval may require submission of bioequivalence or similar data. An earlier Federal Register publication has reflected this product's compliance with the conclusions of the review.

EFFECTIVE DATE: August 21, 1979.

FOR FURTHER INFORMATION CONTACT: Donald A. Gable, Bureau of Veterinary Medicine (HFV-100), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4313.

SUPPLEMENTARY INFORMATION: The NAS/NRC review of this product was published in the Federal Register of August 22, 1970 (35 FR 13490). In that document, the Academy concluded, and the Food and Drug Administration (FDA) concurred, that the product was probably effective for the treatment of certain ear conditions in domestic animals.

That announcement was issued to inform holders of new animal drug applications (NADA's) of the findings of the Academy and the agency, and to inform all interested persons that such articles could be marketed if they were the subject of approved NADA's and otherwise complied with the requirements of the Federal Food, Drug, and Cosmetic Act.

The Upjohn Co., Kalamazoo, MI 49001, responded to the notice by submitting a supplemental NADA (10-524V) providing current information covering manufacturing and controls and revising the labeling for the safe and effective use of the ointment on dogs and cats. The supplemental application was approved by regulation issued in the Federal Register of October 17, 1972 (37 FR 21905). The regulation reflecting this approval (21 CFR 135a.31, recodified 21 CFR 524.1484d) did not specify those conditions of use that were NAS/NRC approved.

This document amends the regulations to indicate those conditions of use for which approvals for identical products need not include certain types of efficacy data required for approval by § 514.111(a)(5)(vi) of the animal drug regulations. In lieu of those data, approval of such products may be obtained if bioequivalency or similar data are submitted as suggested in the guideline for submitting NADA's for generic drugs reviewed by the NAS/NRC. The guideline is available from the office of the Hearing Clerk (HFA-305), Rm. 4-65, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))), and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) and redelegated to the Director of the Bureau of Veterinary Medicine (21 CFR 5.83), Part 524 is amended in § 524.1484d by adding after paragraph (c) (1), (2) and (3) the footnote reference "1" and by adding at the end of the section the footnote to read as follows:

§ 524.1484d Neomycin sulfate, hydrocortisone acetate, tetracaine hydrochloride ear ointment.

(c) Conditions of use (1) * * * 1
(2) * * * 1
(3) * * * 1

Effective date. This regulation shall be effective August 21, 1979.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: August 13, 1979.

Lester M. Crawford,
Director, Bureau of Veterinary Medicine.
[FR Doc. 79-25604 Filed 8-20-79; 8:45 am]
BILLING CODE 4110-03-M

¹ These conditions are NAS/NRC reviewed and deemed effective. Applications for these uses need not include effectiveness data as specified by § 514.111 of this chapter, but may require bioequivalency and safety information.

21 CFR Part 524

[Docket No. 79N-0223]

Ophthalmic and Topical Dosage Form New Animal Drugs Not Subject to Certification; Neomycin Sulfate, Prednisolone Acetate, Tetracaine Hydrochloride Eardrops

AGENCY: Food and Drug Administration.
ACTION: Final rule.

SUMMARY: This document amends the animal drug regulations for neomycin sulfate, prednisolone acetate, tetracaine hydrochloride eardrops to indicate those conditions of use for which approvals for identical products need not include certain types of efficacy data. These conditions of use were classified as probably effective as a result of a National Academy of Sciences/National Research Council (NAS/NRC), Drug Efficacy Study Group evaluation of the product. In lieu of certain efficacy data, approval may require submission of bioequivalence or similar data. An earlier Federal Register publication has reflected this product's compliance with the conclusions of the review.

EFFECTIVE DATE: August 21, 1979.

FOR FURTHER INFORMATION CONTACT: Donald A. Gable, Bureau of Veterinary Medicine (HFV-100), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4313.

SUPPLEMENTARY INFORMATION: The NAS/NRC review of this product was published in the Federal Register of July 22, 1970 (35 FR 11713). In that document, the Academy concluded, and the Food and Drug Administration (FDA) concurred, that the product was probably effective for the treatment of certain ear conditions in domestic animals.

That announcement was issued to inform holders of new animal drug applications (NADA's) of the findings of the Academy and the agency, and to inform all interested persons that such articles could be marketed if they were the subject of approved NADA's and otherwise complied with the requirements of the Federal Food, Drug, and Cosmetic Act.

The Upjohn Co., Kalamazoo, MI 49001, responded to the notice by submitting a supplemental NADA (11-703V) providing current information covering manufacturing and controls and revising the labeling for the safe and effective use of the product for the treatment of certain ear conditions in dogs and cats. The supplemental application was

approved by regulation issued in the Federal Register of October 28, 1972 (37 FR 23110). The regulation reflecting this approval (21 CFR 135a.32, recodified 21 CFR 524.1484f) did not specify those conditions of use that were NAS/NRC approved.

This document amends the regulations to indicate those conditions of use for which approvals for identical products need not include certain types of efficacy data required for approval by § 514.111(a)(5)(vi) of the animal drug regulations. In lieu of those data, approval of such products may be obtained if bioequivalency or similar data are submitted as suggested in the guideline for submitting NADA's for generic drugs reviewed by the NAS/NRC. The guideline is available from the office of the Hearing Clerk (HFA-305), Rm. 4-65, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))), and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) and redelegated to the Director of the Bureau of Veterinary Medicine (21 CFR 5.83), Part 524, § 524.1484f, is amended by adding after paragraph (c) (1), (2) and (3) the footnote reference "1" and by adding at the end of the section the footnote to read as follows:

§ 524.1484f Neomycin sulfate, prednisolone acetate, tetracaine hydrochloride eardrops.

(c) Conditions of use. (1) * * * 1
(2) * * * 1
(3) * * * 1

Effective date. This regulation shall be effective August 21, 1979.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: August 13, 1979.

Lester M. Crawford,
Director, Bureau of Veterinary Medicine.
[FR Doc. 79-25601 Filed 8-20-79; 8:45 am]
BILLING CODE 4110-03-M

21 CFR Part 524

[Docket No. 79N-0221]

Ophthalmic and Topical Dosage Form New Animal Drugs Not Subject to Certification; Prednisolone Acetate, Sodium Sulfacetamide, Neomycin Ointment

AGENCY: Food and Drug Administration.

¹ These conditions are NAS/NRC reviewed and deemed effective. Applications for these uses need not include effectiveness data as specified by § 514.111 of this chapter, but may require bioequivalency and safety information.

ACTION: Final rule.

SUMMARY: This document amends the animal drug regulations for prednisolone acetate, sodium sulfacetamide, neomycin ointment to indicate those conditions of use for which approvals for identical products need not include certain types of efficacy data. These conditions of use were classified as effective following a National Academy of Sciences/National Research Council (NAS/NRC), Drug Efficacy Study Group evaluation of the product. In lieu of certain efficacy data, approval may require submission of bioequivalence or similar data. An earlier Federal Register publication has reflected this product's compliance with the conclusions of the review.

EFFECTIVE DATE: August 21, 1979.

FOR FURTHER INFORMATION CONTACT: Donald A. Gable, Bureau of Veterinary Medicine (HFV-100), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4313.

SUPPLEMENTARY INFORMATION: The NAS/NRC review of this product was published in the Federal Register of August 25, 1970 (35 FR 13543). In that document, the Academy concluded, and the Food and Drug Administration (FDA) concurred, that the product was probably effective as an eye and ear ointment. The Academy stated the claim for "deep penetration" must be withdrawn to earn this rating and they recommended that the label carry the steroid warning indicating that the product is contraindicated in the initial treatment of corneal ulcers.

That announcement was issued to inform holders of new animal drug applications (NADA's) of the findings of the Academy and the agency, and to inform all interested persons that such articles could be marketed if they were the subject of approved NADA's and otherwise complied with the requirements of the Federal Food, Drug, and Cosmetic Act.

Schering Corporation, 86 Orange Street, Bloomfield, NJ 07003, responded to the notice by submitting a supplemental NADA (10-471V) providing current information covering manufacturing and controls and revising the labeling for the safe and effective use of the ointment for the treatment of dogs and cats. The supplemental application was approved by regulation issued in the Federal Register of September 13, 1972 (37 FR 18530). The regulation reflecting this approval (21 CFR 135a.27, recodified 21 CFR

524.1881a) did not specify those conditions of use that were NAS/NRC approved.

This document amends the regulations to indicate those conditions of use for which approvals for identical products need not include certain types of efficacy data required for approval by § 514.111(a)(5)(vi) of the animal drug regulations. In lieu of those data, approval of such products may be obtained if bioequivalency or similar data are submitted as suggested in the guideline for submitting NADA's for generic drugs reviewed by the NAS/NRC. The guideline is available from the office of the Hearing Clerk (HFA-305), Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))), and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) and redelegated to the Director of the Bureau of Veterinary Medicine (21 CFR 5.83), Part 524 is amended in § 524.1881a by adding after paragraph (c) (1), (2), (3), and (4) the footnote reference "1" and by adding at the end of the section the footnote to read as follows:

§ 524.1881a Prednisolone acetate, sodium sulfacetamide, neomycin ointment.

(c) Conditions of use. (1) * * * 1
(2) * * * 1
(3) * * * 1
(4) * * * 1

Effective date: This regulation shall be effective August 21, 1979.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: August 13, 1979.

Lester M. Crawford,
Director, Bureau of Veterinary Medicine.
[FR Doc. 79-25603 Filed 8-20-79; 8:45 am]
BILLING CODE 4110-03-M

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

29 CFR Part 1601

Procedural Regulations; 706 Designation

AGENCY: Equal Employment Opportunity Commission.

ACTION: Final rule.

SUMMARY: The Equal Employment Opportunity Commission amends its regulations on designation of certain

¹ These conditions are NAS/NRC reviewed and deemed effective. Applications for these uses need not include effectiveness data as specified by § 514.111 of this chapter, but may require bioequivalency and safety information.

State and local fair employment practices agencies so that they may handle employment discrimination charges within their jurisdiction, filed with the Commission.

EFFECTIVE DATE: June 26, 1979.

FOR FURTHER INFORMATION CONTACT: Dorothy D. Howze, telephone 202-634-6040, Equal Employment Opportunity Commission (State and Local), 2401 E Street, N.W., Washington, D.C. 20506.

SUPPLEMENTARY INFORMATION: Publication of this amendment to section 1601.74(a) effectuates the designation of the following as a 706 Agency:

Colorado State Personnel Board

Notice of proposed designation was published in the February 28, 1979 issue of the Federal Register, (44 FR 11240), with notice that written comments must have been filed with the Commission on or before March 15, 1979. The Commission received 31 negative comments from persons and organizations. It was the opinion of the Commission that the objections to designation of this agency were directed more toward a personnel board investigating itself than the legal standing of a personnel board to operate under the 706(c) authority of Title VII of the Civil Rights Act of 1964, as amended.

A statement of policy regarding the reasons for recognizing as 706 agencies some state or local personnel boards, merit boards or civil service commissions, is published elsewhere in today's edition of the Federal Register. With the addition of the above mentioned agency, § 1601.74 (a) and (b) are amended and published as follows:

1601.74 Designated and notice agencies.

(a) The designated 706 Agencies are:

Alaska Commission for Human Rights
Alexandria (Va.) Human Rights Office
Allentown (Pa.) Human Relations Commission
Anchorage (Alaska) Equal Rights Commission
Arizona Civil Rights Division
Augusta/Richmond County (Ga.) Human Relations Commission
Austin (Tex.) Human Relations Commission
Baltimore (Md.) Community Relations Commission
Bloomington (Ind.) Human Rights Commission
Broward County (Fla.) Human Relations Division

¹ The Colorado State Personnel Board has been designated as a 706 Agency for only those charges which relate to appointments, promotions, and other personnel actions that take place in the state personnel system. In addition, it has been designated as a 706 Agency for all of the above mentioned charges except charges which allege a violation of Section 704(a) of Title VII. For this type of charge it shall be deemed a "Notice Agency" pursuant to 29 CFR 1601.71(3).

California Fair Employment Practices Commission
 Charleston (W. Va.) Human Rights Commission
 Colorado Civil Rights Commission
 Colorado State Personnel Board
 Commonwealth of Puerto Rico Department of Labor
 Connecticut Commission on Human Rights and Opportunities
 Corpus Christi (Tx.) Human Relations Commission
 Dade County (Fla.) Fair Housing and Employment Commission
 Delaware Department of Labor
 District of Columbia Office of Human Rights
 East Chicago (Ind.) Human Relations Commission
 Evansville (Ind.) Human Relations Commission
 Fairfax County (Va.) Human Rights Commission
 Florida Commission on Human Relations
 Fort Wayne (In.) Metropolitan Human Relations Commission
 Fort Worth (Tx.) Human Relations Commission
 Gary (In.) Human Relations Commission
 Georgia Office of Fair Employment Practices
 Howard County (Md.) Human Rights Commission
 Hawaii Department of Labor and Industrial Relations
 Idaho Commission on Human Rights
 Illinois Fair Employment Practices Commission
 Indiana Civil Rights Commission
 Iowa Commission on Civil Rights
 Jacksonville (Fla.) Community Relations Commission
 Kansas Commission on Human Rights
 Kentucky Commission on Human Rights
 Lexington-Fayette (Ky.) Urban County Human Rights Commission
 Lincoln (Neb.) Commission on Human Rights
 Madison (Wi.) Equal Opportunities Commission
 Maine Human Rights Commission
 Maryland Commission on Human Relations
 Massachusetts Commission Against Discrimination
 Michigan Civil Rights Commission
 Minneapolis (Mn.) Department of Civil Rights
 Minnesota Department of Human Rights
 Missouri Commission on Human Rights
 Montana Commission for Human Rights
 Montgomery County (Md.) Human Relations Commission
 Nebraska Equal Opportunity Commission
 Nevada Commission on Equal Rights of Citizens
 New Hampshire Commission for Human Rights
 New Jersey Division on Civil Rights, Department of Law and Public Safety
 New Mexico Human Rights Commission
 New York City (N.Y.) Commission on Human Rights
 New York State Division on Human Rights
 Ohio Civil Rights Commission
 Oklahoma Human Rights Commission
 Omaha (Ne.) Human Relations Department
 Oregon Bureau of Labor
 Orlando (Fla.) Human Relations Department
 Pennsylvania Human Relations Commission

Philadelphia (Pa.) Commission on Human Relations
 Pittsburgh (Pa.) Commission on Human Relations
 Prince George's County (Md.) Human Relations Commission
 Rhode Island Commission for Human Rights
 Rockville (Md.) Human Rights Commission
 St. Paul (Mn.) Department of Human Rights
 St. Petersburg (Fla.) Office of Human Relations
 Seattle (Wa.) Human Rights Commission
 Sioux Falls (S.D.) Human Relations Commission
 South Bend (In.) Human Rights Commission
 South Carolina Human Affairs Commission
 South Dakota Division of Human Rights
 Springfield (Off.) Human Relations Department
 Tacoma (Wa.) Human Rights Commission
 Tennessee Commission for Human Development
 Utah Industrial Commission
 Vermont Attorney General's Office, Civil Rights Division
 Virgin Islands Department of Labor
 Washington Human Rights Commission
 West Virginia Human Rights Commission
 Wheeling (W. Va.) Human Rights Commission
 Wichita (Ka.) Commission on Civil Rights
 Wisconsin Equal Rights Division, Department of Industry, Labor and Human Relations
 Wyoming Fair Employment Practices Commission

(b) The designated Notice Agencies are:

Arkansas Governor's Committee on Human Resources
 North Dakota Commission on Labor
 Ohio Director of Industrial Relations
 Raleigh (NC) Human Resources Department, Civil Rights Unit
 (Sec. 713(a) 78 Stat. 265 (42 U.S.C. 2000e-12(a)))

Signed at Washington, D.C. this 26th day of July, 1979.

For the Commission:
 Eleanor Holmes Norton,
 Chair, Equal Employment Opportunity Commission.

[FR Doc. 79-25742 Filed 8-20-79; 8:45 am]
 BILLING CODE 6570-06-M

DEPARTMENT OF LABOR

41 CFR Part 29-70

Public Contracts and Property Management; Federal Standards for Federally Funded Grants and Agreements; Correction.

AGENCY: Department of Labor.

ACTION: Final rule; correction.

SUMMARY: This document corrects a final rule relating to Department of Labor grant and agreement regulations published at 44 FR 42920, July 20, 1979.

EFFECTIVE DATE: August 21, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. H. B. Patrick, Acting Director, Office of Grants, Procurement and ADP Management Policy, OASAM, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210, (202) 523-9174.

SUPPLEMENTARY INFORMATION: In FR Doc. 79-22541 appearing at page 42920 *et seq.* in the issue of July 20, 1979, the following were incorrectly printed and should be changed to read as follows:

1. In the discussion of major comments, on page 42922, in the second column, under the heading, *Provisions, Recipient Contracts and Subcontracts*, the reference at the end of the third paragraph, printed as "§ 29-70.216-8(b)(5)", should read "§ 29-70.216-8(d)(5)".

2. On page 42924, in the first column, in the fourth line under the heading, *Authority*, the reference printed as "11101" should be changed to read "1101".

3. On page 42925, in the first column, the first word of paragraph (g)(3), printed as "the", should be changed to read "The".

4. On page 42928, in the third column, under the definition of "Nonprofit organization," the last word of the third from last line, printed as "government", should be changed to read "governments".

5. On page 42931, in the first column, the last word of line seven of § 29-70.200(a)(1), printed as "state", should be changed to read "State".

6. On page 42931, in the first column, the section reference at the end of § 29-70.200(a)(2), printed as § 29-70.202b, should be changed by inserting a quotation mark before the reference to read, "§ 29-70.202b".

7. On page 42932, in the third column, the next to last word of the second line of the text of § 29-70.202b-3, printed as "Programs", should be changed to read "programs".

8. On page 42935, in the third column, the caption of § 29-70.207-2(e), printed as "Advance Payments.", should be changed to read "Advance payments."

9. On page 42937, in the third column, the second word of the title of SF 271 at line fourteen of § 29-70.208-2(c), printed as "report", should be changed to read "Report".

10. On page 42939, in column two, at the end of line four of § 29-70.210-2(b)(2), captioned *Treasury check*, the reference, printed as "§ 29-70.210(b)(1)", should be changed to read "§ 29-70.210-2(b)(1)".

11. On page 42942, in the first column, in line three of the text of § 29-70.214-

4(a)(1), the word "preapplications" should be changed to read "preapplication".

12. On page 42942, in the second column, the third word in the caption of § 29-70.214-4(c), printed as "federal", should be changed to read "Federal".

13. On page 42942, in the second column, the title of SF 424 at the beginning of the fifth line of § 29-70.214a, printed as "federal assistance", should be changed to read, "FEDERAL ASSISTANCE".

14. On page 42942, in the third column, the second word on line three of § 29-70.214a(a)(5), printed as "activity," should be changed to read, "activity."

15. On page 42944, in the first column, the word on line three of § 29-70.214a(b)(5), printed as "state", should be changed to read "State".

16. On page 42944, in the first column, the word on line four of § 29-70.214a(b)(11), printed as "government", means United States Government and should be changed to read "Government".

17. On page 42945, in the first column, the first word on line two of § 29-70.214a(b)(22), printed as "Anti-Kickback", should be changed to read "Anti-Kickback".

18. On page 42945, in the third column, the last word on line two of § 29-70.215-2(c), printed as "purpose", should be changed to read "purposes".

19. On page 42945, in the third column, line five of the text of § 29-70.215-2(c), printed to begin "from grant officer", should be changed to read "from the grant officer".

20. On page 42949, in the first column, the first word on line three of § 29-70.216-4(a)(1), printed as "supplies", should be changed to read "suppliers".

21. On page 42949, in the third column, the first word on line three of § 29-70.216-5(b)(2)(iii), printed as "preferential", should be changed to read "preferential".

22. On page 42950, in the second column, the first word on line two of § 29-70.216-6(f)(1)(vi), printed as "recieved", should be changed to read "received".

23. On page 42951, in the third column, the first word on line one of paragraph (b)(4) of the *Clean Air and Water* provision in § 29-70.216-8(c), printed as "the", should be changed to read "The".

24. On page 42952, in the first column, the third word on the next to last line of § 29-70.216-8(c)(3), printed as "trainess", should be changed to read "trainees".

25. On page 42954, in the second column, wording on lines fourteen and fifteen of the fourth paragraph of § 29-

70.216-8(d)(5), printed as "recipient of subrecipient", should be changed to read "recipient or subrecipient".

26. On page 42954, in the third column, the first word on line thirteen of § 29-70.216a-1(b), printed as "reasonableness", should be changed to read "reasonableness".

27. On page 42954, in the third column, the last word on next to the last line of § 29-70.216a-1(b), printed as "costs", should be changed to read "cost".

Signed at Washington, D.C. this 14th day of August, 1979.

R. L. Davis,
 Deputy Assistant Secretary for
 Administration and Management.

[FR Doc. 79-25863 Filed 8-20-79; 8:45 am]
 BILLING CODE 4510-23-M

Proposed Rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[9 CFR Part 92]

Importation of Animals; Revision of Certain Requirements

AGENCY: Animal and Plant Health Inspection Services, USDA.

ACTION: Proposed rule.

SUMMARY: The purposes of these proposed amendments are to revise certain requirements pertaining to the importation of horses and other animals. The circumstances which created the need for actions reflected in these amendments are: (1) the need to revise the requirements for the return of animals of United States origin and certain of their offspring born outside of the United States, following their exhibition in Canada; and (2) to provide for the exemption of offspring of certain Canadian mares from certain test requirements. The intended effect of these proposed amendments is to remove unnecessary barriers to the importation of horses and other animals into the United States and to modify certain requirements contained in the current regulations.

DATE: Comments on or before October 22, 1979.

ADDRESSES: Written comments to Deputy Administrator, USDA, APHIS, VS, Room 815, Federal Building, Hyattsville, MD 20782.

FOR FURTHER INFORMATION CONTACT: Dr. D. E. Herrick, USDA, APHIS, VS, Federal Building, Room 815, Hyattsville, MD 20782, (301) 436-8170.

SUPPLEMENTARY INFORMATION: Notice is hereby given in accordance with the administrative procedure provisions in 5 U.S.C. 553, that pursuant to the provisions of Section 2 of the Act of February 22, 1903, as amended and Sections 3, 4, and 11 of the Act of July 2, 1962 (21 U.S.C. 111, 134b, 134c, and 134f,

respectively), the Animal and Plant Health Inspection Service is considering amending Part 92, Title 9, Code of Federal Regulations.

Section 92.25(b) of the regulations presently contains provisions under which exhibition animals from the United States may go into Canada for exhibition and return to the United States without additional Canadian health or test certification. However, paragraph (b) of that section has two subparagraphs (1 and 2) which distinguish between the exhibition animals and the requirements for return to the United States. Specifically, § 92.25(b)(1) pertains to animals, including poultry, from the United States which have been exhibited at the Royal Agricultural Winter Fair at Toronto or other publicly recognized expositions in Canada. Section 92.25(b)(2) concerns ruminants, swine, horses, poultry from the United States used for rodeo, circus or stage exhibitions in Canada. The conditions for such animals to return to the United States without additional Canadian health or test certification are identical except that Section 92.25(b)(1) animals must not have been in Canada for more than 30 days and must return to the United States within 10 days of the close of the exhibition, and Section 92.25(b)(2) animals must not have been out of the United States for a period exceeding 3 months.

The proposed regulations would combine paragraphs (b)(1) and (2) so that all animals attending a public exhibition in Canada would be eligible to return to the United States under prescribed conditions without additional Canadian health or test certification, if such animals had not been out of the United States for more than 90 days. The administrative officials of the Animal and Plant Health Inspection Service (APHIS) believe that there is no significant difference between exhibitions referred to in paragraph (b)(1) and those in (b)(2) and that the longer time period established in (b)(2) has proven to be adequate to prevent the entry of communicable diseases of livestock or poultry by animals returning to the United States under such subparagraph. Such time period also appears to be a reasonable time to permit the owners of the animals to exhibit their animals in Canada without having undue risk of introducing

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communicable disease into the United States. Further, the Canadian disease control requirements for the movement and participation of animals in rodeos, circuses and other publicly recognized exhibitions are similar to those of the United States. Animals appearing in such exhibitions must meet Canadian health requirements and be certified free of communicable disease. Therefore, it is believed that United States animals returning from Canada that have attended such exhibitions are less likely to have been exposed to communicable disease than similar animals which have been in Canada on farms or places other than publicly recognized exhibitions. Consequently, the Department is proposing to combine paragraph (b) (1) and (2) so that the animals from the United States, attending publicly recognized exhibitions in Canada may return to the United States without Canadian health or test certificates under prescribed conditions, if such animals have not been out of the United States for a period exceeding 90 days from the date of exportation from the United States.

Two additional changes to § 92.25(b) are also contemplated, namely:

1. The official United States health certificate for a returning horse must show that an official test for equine infectious anemia (EIA) with negative results was conducted within 90 days of the date of re-entry into the United States. This would be required because the Department believes that for U.S. horses originally certified for export by the Department EIA test results would be valid for such period. As test results become older the Department believes that they become less reliable, and further retesting would probably be necessary.

2. Offspring of horses returning to the United States from Canada which were born subsequent to the official test dates specified on the dam's official United States health certificate would also be able to enter the United States without additional Canadian health or test certificates. This is being proposed because if the dam tested negative to official tests, the offspring should be negative as well.

The proposed regulations would also revise § 92.24(a) to provide that foals of Canadian mares born after such mares were negative to a test for EIA

administered within 60 days immediately prior to exportation to the United States would be exempt from the test requirement for EIA. This is being proposed because in all likelihood, if the mare tested negative for EIA prior to foaling, the foal should also be negative.

Additionally, in order to avoid confusion between exhibition animals returning to the United States as provided in § 92.25(b) of the regulations, and horses of United States origin which have entered Canada for periods of not more than 72 hours and are returning to the United States as provided in § 92.24(b) of the regulations, § 92.25(b) would be revised to clearly indicate that the provisions of § 92.24(b) would still be in effect. There are less restrictions for horses returning to the United States from Canada after an absence of less than 72 hours than horses which have been in Canada for a greater period of time because the threat to introduce communicable disease should be significantly less because of the horses' short absence from the United States.

Accordingly, Part 92, Title 9, Code of Federal Regulations, would be amended in the following respects:

1. In § 92.24, that portion of paragraph (a) after the second semicolon and before the first proviso would be amended to read:

§ 92.24 Horses from Canada.

(a) * * * Except, that animals accompanying their dams which were foaled after their dam was so tested negative need not be so tested; and shall otherwise be handled as provided in § 92.17: * * *

2. In § 92.25, paragraph (b) would be amended to read:

§ 92.25 Special provisions.

(b) *Exhibition animals.* Except as provided for horses in § 92.24(b), animals, including poultry, from the United States which have been exhibited at the Royal Agricultural Winter Fair at Toronto or other publicly recognized expositions in Canada, including racing, rodeo, circus, or stage exhibitions in Canada, and have not been in that country for more than 90 days are eligible for return to the United States without Canadian health or test certificates, if they are accompanied by copies of the United States health certificate, issued and endorsed in accordance with the export regulations

contained in Part 91 of this chapter for entry into Canada. *Provided*, that in the case of horses for exhibition, including race horses, the certificates shall certify that negative results were obtained from tests for equine infectious anemia which were conducted within 10 days of the date the horses were offered for entry into Canada and such horses are returned to the United States not more than 90 days after the test was conducted and, *provided further* that all the animals offered for re-entry upon examination by the veterinary inspector at the U.S. port of entry, are found by the inspector to be free of communicable diseases and exposure thereto and are determined to be the identical animals covered by said certificates or are the natural increase of such animals born after official test dates certified on the dam's health certificate, or that in the case of poultry, they otherwise qualify for entry into Canada under the Canadian regulations.

All written submissions made pursuant to this notice will be made available for public inspection at the Federal Building, Room 817, 6505 Belcrest Road, Hyattsville, Maryland 20782, during regular hours of business (8 a.m. to 4:30 p.m., Monday to Friday, except holidays) in a manner convenient to the public business (7 CFR 1.27(b)).

Comments submitted should bear a reference to the date and page number of this issue of the Federal Register.

Note.—This proposed rulemaking has been reviewed under the USDA criteria established to implement E.O. 12044, "Improving Government Regulations." While this action has not been designated "significant" under those criteria, an approved Draft Impact Analysis Statement has been prepared and is available from Program Services Staff, Room 870, Federal Building, 6505 Belcrest Road, Hyattsville, Maryland 20782, 301-436-8695.

Done at Washington, D.C., this 15th day of August 1979.

M. T. Goff,

Deputy Administrator, Veterinary Services

[FR Doc. 79-25753 Filed 8-20-79; 8:45 am]

BILLING CODE 3410-34-M

SMALL BUSINESS ADMINISTRATION

[13 CFR Part 130]

Small Business Energy Loans; Proposed Rule

AGENCY: Small Business Administration.

ACTION: Proposed rule.

SUMMARY: SBA is proposing to revise § 130.8, which states that energy loans will be made under Section 7(1) regardless of whether they might have qualified under Section 7(a) of the Small Business Act, 15 U.S.C. 636. This revision would clarify when energy loans may be approved under other loan programs.

COMMENTS BY: September 20, 1979.

ADDRESSES: Comments, in duplicate, should be addressed to the Associate Administrator for Finance and Investment, Small Business Administration, 1441 L Street, N.W., Washington, D.C. 20416.

FOR FURTHER INFORMATION CONTACT: Everly Cherry, Chief, Special Projects Division, Small Business Administration, 1441 L Street, N.W., Washington, D.C. 20416, (202) 658-6696.

SUPPLEMENTARY INFORMATION: Part 130 was promulgated to implement Pub. L. 95-315, 92 STAT. 377, approved July 4, 1978, which required the SBA to provide appropriate regulations for the Small Business Energy Loan Program, 44 FR 1369. SBA has determined that § 130.8 ought to be revised. As currently stated in § 130.8, the last sentence could be interpreted to prevent an applicant from obtaining an energy loan under another loan program if for some reason the applicants were found ineligible, or if funds were not available, under section 7(1). Also, it would be legally and administratively improper if a higher loan category (e.g., a deferred guaranty loan) is available to the applicant under another program, to approve a lower category loan (immediate participation or direct) under section 7(1). The revised section would clarify that assistance under other loan programs would be available at an equal loan category level.

Comment is especially invited on whether energy loan applicants should continue to be processed first as section 7(1) applications, or whether assistance under other loan programs should be examined first and section 7(1) assistance reserved for those applicants which could not be assisted under other programs. Reasons for processing first under section 7(1) include: it immediately provides the benefits of the

broader credit evaluation provided in section 130.7; direct funds under section 7(1) are often more immediately available to the energy loan recipient; and it facilitates the collection of more comprehensive and meaningful information that must be reported annually by SBA to the President and Congress pursuant to section 6 of Pub. L. 95-315. The argument in favor of first processing energy loan applications under other loan programs is that it would preserve the funds and assistance under section 7(1) for those applicants which cannot meet the qualifications, particularly the credit criteria, under other loan programs.

In consideration of the foregoing, it is proposed to amend § 130.8 as follows:

§ 130.8 Other financing.

No loan shall be made under this program unless the financial assistance is not otherwise available on reasonable terms from non-Federal sources. The initial processing of an energy loan will be under Section 7(1) of the Small Business Act. If a loan is approved, Section 7(1) guaranty (deferred) participation funds will be utilized. If a Section 7(1) guaranty participation is unavailable for any reason, a guaranty participation may be approved under another loan program for which the applicant is qualified. If no guaranty participation loan is available, or if applicant does not qualify for a guaranty participation under another program, the applicant may be considered for an immediate participation under Section 7(1). If a Section 7(1) immediate participation is unavailable, consideration for an immediate participation may be made under another program for which applicant is eligible. A direct Section 7(1) loan, or direct loan under another section if direct Section 7(1) loan funds are exhausted, will be granted only if no immediate participations are available under any program or if applicant does not qualify for an immediate participation under other programs. The requirements of § 120.2(a)(1) and (2), except § 120.2(a)(2)(iv), relating to documentation of efforts to find other financing, shall apply to loans under this program.

(Catalog of Federal Domestic Assistance Programs No. 59.028 Energy Loan Program.)

Dated: August 13, 1979.

A. Vernon Weaver,
Administrator.

[FR Doc. 79-25771 Filed 8-20-79; 8:45 am]
BILLING CODE 8025-01-M

**DEPARTMENT OF COMMERCE
Office of the Secretary**

[13 CFR Ch. VI]

[15 CFR Chs. I-IV, VIII, IX, XII]

[32A CFR Ch. VI]

[37 CFR Ch. I]

[45 CFR Ch. XX]

[46 CFR Ch. II]

[50 CFR Chs. II and VI]

**Semiannual Agenda of Regulations
Schedule**

AGENCY: U.S. Department of Commerce.

ACTION: Schedule for publication of semiannual agenda of regulations.

SUMMARY: The Department's semiannual agenda of regulations, required by Executive Order 12044, "Improving Government Regulations," will be published in the Federal Register on or before September 14, 1979, instead of August 15, as originally scheduled.

The publication dates for the Department's agendas in calendar year 1980 are being changed to coincide with the publication schedule of the Regulatory Council's Calendar of Regulations. The prospective dates for the publication of the Department's agendas are May 15, 1980, and November 14, 1980.

FOR FURTHER INFORMATION CONTACT:
Robert T. Miki, (202) 377-2482.

C. L. Haslam,
Acting Secretary of Commerce.

[FR Doc. 79-25786 Filed 8-20-79; 8:45 am]

BILLING CODE 3510-17-M

FEDERAL TRADE COMMISSION

[16 CFR Part 13]

[File No. 791 0119]

**Bayer AG, et al.; Consent Agreement
with Analysis To Aid Public Comment**

AGENCY: Federal Trade Commission.

ACTION: Consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order, accepted subject to final Commission approval, among other things, would require a diversified chemical company, located in Leverkusen, Germany, and its two American subsidiaries to divest within one year to a Commission-approved buyer, all United States assets gained through their acquisition of Miles Laboratories, Inc. Additionally, for

specified time periods, the firms would be barred from acquiring, without prior Commission approval, any concern engaged in the manufacture, distribution or sale in the United States of allergenic extracts or chemically treated diagnostic reagent strips used for in vitro quantitative urinalysis.

DATE: Comments must be received on or before October 22, 1979.

ADDRESS: Comments should be directed to: Office of the Secretary, Federal Trade Commission, 6th St. and Pennsylvania Ave., NW., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: ETC/C. Alfred F. Dougherty, Jr., Washington, D.C. 20580 (202) 523-3601.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's rules of practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist and an explanation thereof, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(14) of the Commission's rules of practice (16 CFR 4.9(b)(14)).

[File No. 791 0119]

Bayer AG et al.

Agreement Containing Consent Order

In the matter of Bayer AG, a corporation, Rhinechem Corporation, a corporation, and Miles Laboratories, Inc. (formerly Rhinechem Laboratories, Inc.), a corporation.

The Federal Trade Commission having initiated an investigation of the acquisition of Miles Laboratories, Inc., a corporation, by Rhinechem Laboratories, Inc. (now known as Miles Laboratories, Inc.), a wholly owned subsidiary corporation of Rhinechem Corporation, which in turn is an indirect wholly owned subsidiary corporation of Bayer AG, a corporation, and it now appearing that Miles Laboratories, Inc., Rhinechem Corporation and Bayer AG, hereinafter sometimes referred to as proposed respondents, are willing to enter into an agreement containing an order with respect to the acquisition being investigated.

It is hereby agreed by and between Bayer AG, Rhinechem Corporation and

Miles Laboratories, Inc., by their duly authorized officers and attorneys, and counsel for the Federal Trade Commission that:

1. Proposed respondent Bayer AG (Bayer) is a corporation organized and existing under and by virtue of the laws of the Federal Republic of Germany, with its principal office and place of business located at 5090 Leverkusen, Federal Republic of Germany.

2. Proposed respondent Rhinechem Corporation (Rhinechem) is a corporation organized and existing under and by virtue of the laws of the State of Delaware, with its principal office and place of business located at 425 Park Avenue, New York, New York 10022. Rhinechem is a wholly owned subsidiary corporation of Bayer International Finance N.V., which in turn is a wholly owned subsidiary corporation of proposed respondent Bayer.

3. Proposed respondent Miles Laboratories, Inc. (Miles Labs) is a corporation existing under and by virtue of the laws of the State of Delaware, with its principal office and place of business located at 1127 Myrtle Street, Elkhart, Indiana 46514. Miles Labs was organized originally under the name of Rhinechem Laboratories, Inc. for the purpose of acquiring Miles Laboratories, Inc. On February 8, 1979, the acquired company Miles Laboratories, Inc. merged into its nominal acquirer Rhinechem Laboratories, Inc., and the successor corporation has been named Miles Laboratories, Inc. Miles Labs is a wholly owned subsidiary corporation of proposed respondent Rhinechem.

4. Miles Laboratories, Inc. (Miles) was a corporation organized and existing under and by virtue of the laws of the State of Indiana, with its principal office and place of business located at 1127 Myrtle Street, Elkhart, Indiana 46514.

5. Proposed respondents Rhinechem and Miles Labs admit all the jurisdictional facts set forth in the draft of complaint here attached. Proposed respondent Bayer admits the jurisdictional facts set forth in the draft of complaint here attached only for purposes of this agreement and the enforcement of the order.

6. Proposed respondents waive:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law; and

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement.

7. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission it, together with the draft of complaint contemplated thereby and related material pursuant to Rule 2.34, will be placed on the public record for a period of sixty (60) days and information with respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify the proposed respondents, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding.

8. This agreement is for settlement purposes only and does not constitute an admission by proposed respondents that the law has been violated as alleged in the draft of complaint here attached.

9. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's rules, the Commission may, without further notice to proposed respondents, (1) issue its complaint corresponding in form and substance with the draft of complaint here attached and its decision containing the following order in disposition of the proceeding and (2) make information public with respect thereto. When so entered, the order shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Mailing of the complaint and decision containing the agreed-to order to each of the proposed respondents' addresses as stated in this agreement shall constitute service. Proposed respondents waive any right they may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation or interpretation not contained in the terms of the order or this agreement may be used to vary or contradict the terms of the order.

10. Proposed respondents have read the proposed complaint and order contemplated hereby. They understand that once the order has been issued, they will be required to file one or more compliance reports showing that they have fully complied with the order, and that they may be liable for civil

penalties in the amount provided by law for each violation of the order after it becomes final.

Order

For the purpose of this order, the following definition shall apply:

"Allergenic Extracts" are biological products that are administered to man primarily for the diagnosis or treatment of allergies.

I

It is ordered, That, subject to the prior approval of the Federal Trade Commission, respondents, through their officers, directors, employees, subsidiaries, affiliates, divisions, successors and assigns, whether direct or indirect, shall within one (1) year from the date on which this order becomes final divest absolutely and in good faith all United States assets (other than items which cannot be moved without substantial injury to the premises), of whatever description acquired by respondents as a result of their acquisition of Miles Laboratories, Inc. (Miles), as well as subsequent additions and improvements thereto, and primarily utilized by Miles in the manufacture, distribution or sale in the United States of Allergenic Extracts. Such assets shall include equipment, machinery, raw material reserves, inventory, a list of customers, product trade names, product trademarks, patents, assignable licenses (non-assignable licenses shall be relinquished), manufacturing specifications and procedures, market research materials, sales training materials, research and development projects (including licenses, license applications and Notices of Claimed Investigational Exemption for a New Drug (IND's)), and such other property of whatever description relating primarily to Miles Allergenic Extracts. Such divestiture shall be made to a third party which represents that it intends to use such assets in the manufacture, distribution or sale of Allergenic Extracts in the United States.

It is further ordered, That, upon the written request of the acquirer of the divested property, respondents shall, for no longer than three (3) years from the date of the agreement with a third party to transfer the assets referred to in Paragraph I, furnish such technical, market and quality control information of Miles and make available such personnel and technical assistance as may be necessary to enable such acquirer to manufacture and market those Allergenic Extracts manufactured

in the United States by Miles at the time of its acquisition by respondents.

III

It is further ordered. That, pending the divestiture required by this order, respondents shall not cause, and shall use their best efforts to prevent, any diminution of the value of the Miles Allergenic Extracts products or assets.

IV

It is further ordered. That, pursuant to the requirements of Paragraph I above, none of the Miles Allergenic Extracts assets shall be divested directly or indirectly to anyone who is, at the time of divestiture, an officer, director, employee or agent of, or under the control, direction or influence of, respondents or any of respondents' subsidiaries or affiliated corporations, whether direct or indirect, or who owns or controls more than one (1) percent of the outstanding shares of the capital stock of any respondent.

V

It is further ordered. That, for a period of ten (10) years from the date this order becomes final, no respondent, its subsidiaries, affiliates, divisions, successors or assigns, shall, without the prior approval of the Federal Trade Commission, directly or indirectly acquire any stock, share capital, or equity interest in any concern, corporate or noncorporate, engaged in, or the assets of such concern relating to, the manufacture, distribution or sale in the United States of Allergenic Extracts: *Provided, however,* That the foregoing provision shall not prohibit, with respect to Allergenic Extracts, (1) the taking by respondents from such concerns of non-exclusive licenses that contain no restrictions with respect to limiting other market entrants, and (2) purchases in the ordinary course of business which do not result in the elimination of a competitor.

VI

It is further ordered. That, for a period of five (5) years from the date this order becomes final, no respondent, its subsidiaries, affiliates, divisions, successors or assigns, shall, without the prior approval of the Federal Trade Commission, directly or indirectly acquire any stock, share capital or equity interest in any concern, corporate or noncorporate, engaged in, or the assets of such concern relating to, the manufacture, distribution or sale in the United States of chemically treated diagnostic reagent strips used for in vitro quantitative urinalysis: *Provided,*

however, That the foregoing provision shall not prohibit, with respect to such strips, (1) the taking by respondents from such concerns of non-exclusive licenses that contain no restrictions with respect to limiting other market entrants, and (2) purchases in the ordinary course of business which do not result in the elimination of a competitor.

VII

It is further ordered. That respondents shall, within sixty (60) days after the date of service of this order, and every sixty (60) days thereafter until respondents have fully complied with the divestiture provision of this order, and annually thereafter, on the anniversary date of service of this order, for the duration of this order, submit in writing to the Federal Trade Commission a verified report setting forth in detail the manner and form in which each or every respondent intends to comply, is complying or has complied with this order. Until divestiture is accomplished, all compliance reports shall include, among other things that are from time to time required, a summary of contracts or negotiations with anyone for the disposition of the assets specified in Paragraph I of this order, the identity of all such persons and copies of all written communications between such persons and any respondent.

VIII

It is further ordered. That respondents notify the Federal Trade Commission at least thirty (30) days prior to any proposed change in the corporate respondents such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries of any other change in the corporation, which may affect compliance obligations arising out of the order.

Bayer AG, et al.

[File No. 791 0119]

Analysis of Proposed Consent Order to Aid Public Comment

The Federal Trade Commission has accepted an agreement to a proposed consent order from Bayer AG, Rhinechem Corporation and Miles Laboratories, Inc. (formerly Rhinechem Laboratories, Inc.).

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days,

the Commission will again review the agreement and comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

The Allegations of the Complaint

As of January 5, 1978, respondents acquired, through tender offer, over 90% of the outstanding common shares of Miles Laboratories, Inc. (Miles) for approximately \$250 million. On February 8, 1979, Miles was merged into its nominal acquirer Rhinechem Laboratories, Inc. and the successor company was named Miles Laboratories, Inc.

The Federal Trade Commission alleged in its complaint that this acquisition violates Section 7 of the Clayton Act and Section 5 of the Federal Trade Commission Act in that it lessens or eliminates competition and tends to create a monopoly in the manufacture and sale of allergenic extracts in the United States.

The Federal Trade Commission alleges that the acquisition violates Section 7 and Section 5 by (a) eliminating actual and potential competition between respondents and Miles in the manufacture and sale of allergenic extracts, (b) eliminating a substantial, independent competitive factor in the manufacture and sale of allergenic extracts, (c) entrenching respondents' leading position in the manufacture and sale of allergenic extracts, (d) maintaining or increasing the concentration in the manufacture and sale of allergenic extracts, and reducing the possibility of deconcentration, (e) substantially increasing the existing barriers to entry, (f) encouraging additional acquisitions and mergers in the industry, (g) depriving independent manufacturers and sellers of allergenic extracts of a fair opportunity to compete with the combined resources and market position of respondents and Miles, and (h) depriving members of the consuming public of the benefits of free and unrestricted competition in the manufacture and sale of allergenic extracts.

The Terms of the Proposed Consent Order

Paragraph I of the proposed order requires respondents to divest, subject to prior Commission approval and within one (1) year from the date the order becomes final, all United States assets (other than items which cannot be moved without substantial injury to the premises) that were primarily utilized by Miles in the manufacture,

distribution or sale in the United States of allergenic extracts. The assets include equipment, machinery, raw material, inventory, a list of customers, product trade names and trademarks, patents, licenses, manufacturing specifications and procedures, market research materials, sales training materials and research and development projects.

Paragraph II of the proposed order requires respondents to assist the acquirer, at the acquirer's request and for no longer than three (3) years, by providing Miles' technical, market and quality control information and by making available personnel and technical assistance to enable the acquirer to manufacture and market the allergenic extracts that Miles manufactured at the time of its acquisition by respondents.

Paragraphs III and IV are standard provisions. Paragraph III prohibits respondents from causing, and requires respondents to prevent, any diminution of the value of the Miles allergenic extract assets or products. Paragraph IV prohibits the divestiture of the assets to anyone who is, at the time of the divestiture, an officer, director, employee or agent of, or under contract, direction or influence of respondents or who owns or controls more than one percent of the outstanding shares of any respondent.

Paragraph V prohibits respondents for 10 years from acquiring, without prior Commission approval, any stock, share capital or equity interest in any concern engaged in, or the assets of any concern relating to, the manufacture, distribution or sale in the United States of allergenic extracts. However, respondents may enter into non-exclusive licensing arrangements and may make purchases in the ordinary course of business with respect to allergenic extracts without prior Commission approval.

Paragraph VI prohibits respondents for 5 years from acquiring, without prior Commission approval, any stock, share capital or equity interest in any concern engaged in, or the assets of any concern relating to, the manufacture, distribution or sale in the United States of diagnostic reagent strips used for urinalysis. However, respondents may enter into non-exclusive licensing arrangements and may make purchases in the ordinary course of business with respect to this product market without prior Commission approval.

Paragraphs VII and VIII are standard provisions. Paragraph VII sets forth the standard compliance obligations of a company under a Commission consent order. Paragraph VIII requires notice to be given to the Commission of any

change in the corporate structure of any respondent.

The divestiture of the assets described in Paragraph I furthers competition in the United States allergenic extracts market by restoring an independent competitor that would otherwise be eliminated. The acquisition bans in Paragraphs V and VI protect future competition in those markets without the expenditure of significant Commission resources.

The purpose of this analysis is to facilitate public comment on the proposed order and it is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

James A. Tobin,
Acting Secretary.

[FR Doc. 79-25853 Filed 8-20-79; 8:45 am]
BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 2]

[Docket No. 79N-0305]

Imminent Hazard Criteria and Procedure; Proposed Rule

AGENCY: Department of Health, Education, and Welfare.

ACTION: Proposed rule.

SUMMARY: The Secretary of Health, Education, and Welfare is proposing rules to establish the criteria and procedure for determining whether the approval of certain human and animal drugs should be immediately suspended under the "imminent hazard" provisions of the Federal Food, Drug, and Cosmetic Act. The Food and Drug Administration has published elsewhere in this issue of the Federal Register a proposed rule concerning separation of functions in withdrawal proceedings involving a product for which an imminent hazard determination must be made.

DATES: Comments by October 22, 1979. The effective date of the final rule based on this proposal is proposed to be 30 days after date of its publication.

ADDRESSES: Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Margaret Gilhooley, Office of the General Counsel, Food and Drug Division (GCF-1), Department of Health, Education, and Welfare, 5600 Fishers

Lane, Rockville, MD 20857, 301-443-1345.

SUPPLEMENTARY INFORMATION:

The Statutory Framework

The Secretary of Health, Education, and Welfare, and by delegation, the Commissioner of Food and Drugs, are responsible for the administration of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 301 et seq.; 21 CFR 5.1). The provisions of the act require that all "new drugs," "new animal drugs," and "animal feed bearing or containing a new animal drug" be subject to an application "approved" by the Secretary before they are shipped in interstate commerce (21 U.S.C. 355(a), 360b(a)(1) and 360b(a)(2)). To obtain approval for an application, the applicant must establish that the product is safe and effective for its intended use, and that it meets other statutory requirements.

The burden of establishing safety and efficacy of these products remains at all times on the applicant. Whenever information warrants the conclusion that an approved new drug, new animal drug, or animal feed bearing or containing a new animal drug is unsafe or ineffective, the Secretary, acting through the Food and Drug Administration (FDA), is required to remove the product from the market. The act establishes two procedures for removing an approved product from the market: "withdrawal" and "suspension" (21 U.S.C. 355e, 360b(e)(1) and 360b(m)(4)(A)).

(1) *Procedures for Withdrawal of Approval.* The act requires FDA to withdraw approval of the application for a product if information shows that the product is unsafe or ineffective. The administrative procedure for withdrawing approval of a product includes notice to the applicant of an opportunity for hearing, and administrative determination of whether a hearing is justified, the conduct of a full evidentiary public hearing before a presiding officer, or the preparation of an order denying a hearing, and a decision by the Commissioner based on the administrative record.

This procedure usually requires at least 6 months, and sometimes much longer. A drug may remain on the market for years while withdrawal proceedings are under way.

(2) *Procedures for Suspension of Approval.* The elaborate procedural protections against improvident withdrawals emphasize the importance of the immediate suspension provision available under the act. This summary procedure permits the Secretary to act

promptly to suspend approval of an application temporarily, and thereby remove the product from the market. A new drug may be suspended if it represents an "imminent hazard to the public health" (21 U.S.C. 355(e)). A new animal drug or animal feed bearing or containing a new animal drug may be suspended if it presents an "imminent hazard to the health of man or of the animals for which * * * intended" (21 U.S.C. 360b(e)(1), 360b(m)(4)(A)). Once having suspended approval, the Secretary must provide the applicant with an opportunity for an expedited hearing on whether the application should be withdrawn and the product permanently removed from the market. This authority to suspend approval is placed by law in the Secretary, or in the absence of the Secretary, on the officer acting as Secretary, and may not be delegated.

The summary suspension procedure provides a critical procedural tool to carry out the obligation of this Department and of FDA to protect the public health and safety. Rapid action may be necessary if scientific data raise serious new questions concerning the safety of an approved product. If new evidence or further and more careful analysis of existing evidence indicates that a life-threatening or other serious risk is present, the summary suspension procedure allows the Secretary to end this serious risk promptly. The summary procedure does not eliminate the need to conduct a full administrative proceeding to determine whether the drug should be permanently removed from the market.

Development of Criteria

Because the "imminent hazard" provisions of the act are the only statutory mechanism permitting immediate suspension of approval, the criteria and procedure for making imminent hazard determinations are highly important to those seeking suspension, those holding applications for the products, those using the products, and others affected.

There are at present no regulations issued by the Secretary stating the criteria for making imminent hazard determinations. Until there is sufficient information to articulate general rules, the Secretary may proceed, as has been done, to develop the standards for decision on a case-by-case basis. As the Supreme Court stated in *Securities & Exchange Comm'n v. Chenery Corp.*, 332 U.S. 194, 203 (1947), " * * * the choice made between proceeding by general rule or by individual, ad hoc litigation is one that lies primarily in the informed discretion of the administrative agency."

The recent imminent hazard determinations made by the Secretary described below have provided a base of experience that has permitted the identification of general standards that can be used in future proceedings of this type. Accordingly, the Secretary believes it is appropriate at this time to establish the criteria and procedures for imminent hazard determinations in regulations, and to provide the public an opportunity for comment on the proposed rule.

At present, FDA has a regulation (21 CFR 2.5) that states the considerations that guide FDA in making recommendations to the Secretary concerning imminent hazard determinations. This FDA regulation was issued in 1971, before the recent developments that permitted a full examination by the Secretary of the criteria for the ultimate decision. The FDA regulation does not govern the actions of the Secretary, but the regulation has been taken into account in developing the Secretary's criteria. The Secretary's criteria and the FDA regulations differ in language, but they are not at "substantial variance," as stated by the court upon judicial review in *Forsham v. Califano*, 442 F. Supp. 203, 208 (D.D.C. 1977), appeal from denial of preliminary injunction dismissed as moot No. 77-2072 (D.C. Cir. April 10, 1979); dismissed as moot No. 77-1478 (D.D.C. July 23, 1979). FDA is proposing to withdraw the regulation, in a document published elsewhere in this issue of the Federal Register, because it is unnecessary and potentially confusing to have separate criteria for FDA's recommendations to the Secretary and for the Secretary's decision.

The Secretary invoked an imminent hazard provision for the first time on July 25, 1977, by suspending approval of the new drug applications for phenformin, a drug indicated for use in diabetes. A petition for invocation of this suspension power with respect to propoxyphene, an analgesic found in Darvon and other drugs, recently has been denied. These decisions are on display in the office of the FDA Hearing Clerk. In these proceedings, the Secretary identified the factors to be considered in making imminent hazard determinations. These factors are the basis of the criteria proposed in this document.

The Secretary's decision in the phenformin matter gave the following explanation of the legislative history of the imminent hazard provision of the act governing new drugs and recent judicial interpretations of comparable provisions

applicable to suspension of approval of pesticides.

[A] Legislative History of the Suspension Provision

The legislative history of the suspension provision is comparatively sparse. The provision was proposed by President Kennedy in a letter to Senator Eastland on August 3, 1962, very shortly before the 1962 Amendments were enacted. The proposal was a response to an inadequacy in the existing law—and in the proposed legislation already under consideration—to empower the Secretary to remove a drug from the market rapidly if necessary to protect the public health. 108 Cong. Rec. 16303 (Aug. 23, 1962).

The Senate report attempts to set out generally the circumstances when the suspension authority should be utilized: [Suspension is appropriate] when the evidence before the Secretary shows that a drug is so unsafe as to create a public health situation which must be corrected immediately, and cannot be permitted to continue while a hearing is being held. The committee contemplates that this power would be exercised only in the exceptional case of an emergency, which does not permit the Secretary to correct it by other means. S. Rep. No. 1744, Pt. 2, 87th Cong., 2d Sess., p. 7 (1962).

Senator Eastland, the Chairman of the Senate Committee that considered the bill, elaborated on this discussion in describing the bill on the Senate floor:

The committee believes that this authority, which could have grave effects upon a manufacturer and upon the confidence of the public in a drug which might later be found appropriate for continued availability to physicians, should only be exercised under the most extreme conditions and with the utmost care. For that reason, it is provided that it may be exercised only by the Secretary or the Acting Secretary. I feel that it would be desirable, wherever possible, for the Secretary, before taking action, not only to confer with the manufacturer, but also to consult a committee of experts appointed by the National Research Council. It should not be forgotten also that there may be other remedies available to the Secretary to cope with the situation instead of using the potentially lethal weapon of immediate suspension. 108 Cong. Rec. 16304-5 (August 23, 1962).

The only discussion of the provision in the House Report [H. Rept. No. 2524, 87th Cong., 2d Sess., 8-9 (1962)] also urges the Department to permit the manufacturers an opportunity to argue against suspension before the Secretary acts.

The standard that emerges most clearly from this legislative history is the declaration in the Senate Report that the Secretary should act "when the evidence before the Secretary shows that a drug is so unsafe as to create a public health situation which must be corrected immediately and cannot be permitted to continue while a hearing is being held." Such a standard plainly contemplates that the suspension power should be used

whenever delay in removing a drug from the market would significantly jeopardize the public health.

In my judgment, the legislative history suggests that Congress intended:

(1) that the summary suspension procedure be employed "when the evidence before the Secretary shows that a drug is so unsafe as to create a public health situation which must be corrected immediately and cannot be permitted to continue while a hearing is being held";

(2) that this procedure be used only when the public health situation to be corrected is serious; and

(3) that the Secretary's actions reflect the nature of the hazard and the extent of the proceedings that have occurred prior to his action.

[B] Relevant Judicial Precedents

In determining the appropriate standards to govern suspension of new drug applications under the Act, the recent case law interpreting an almost identical summary suspension procedure in the statute regulating pesticides provides some important guideposts.

(1) *Standard for Invoking Summary Suspension.* The United States Court of Appeals for the District of Columbia Circuit has approved a broad standard for invoking the summary suspension provision—specifically adopted from the Food, Drug, and Cosmetic Act—in the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. 136d(d) (FIFRA). See *Environmental Defense Fund, Inc. v. Environmental Protection Agency*, 465 F. 2d 528 (D.C. Cir. 1972); *Environmental Defense Fund v. Environmental Protection Agency*, 510 F. 2d 1292 (D.C. Cir. 1979); *Environmental Protection Agency*, 548 F. 2d 998 (D.C. Cir. 1976) (cert. denied 431 U.S. 925 (1977)).

These decisions caution against any interpretation of the phrase "imminent hazard to the public health" that would restrict the suspension procedure to "crisis" situations. Rather, the Court of Appeals has held that summary suspension is appropriate in any circumstance where there was a "substantial likelihood that serious harm will be experienced during the year or two required in any realistic projection of the administrative process." 465 F. 2d, at 540; 510 F. 2d, at 1297; and 548 F. 2d, at 1005.

In those cases, the Court held that long-term damage to health and to environment threatened by continued use of pesticides justified the use of the summary suspension power, both because the harm threatened was serious and because it was irreversible. The Court specifically approved EPA's determination that the suspension authority should be exercised on the basis of an analysis of the "magnitude of the anticipated harm, and the likelihood that it will occur." 465 F. 2d, at 534. The court, in short, held that the nature of the hazard that would justify suspension should not be limited to a sudden or overwhelming threat. Indeed, the pesticides involved in the three cases in which the EPA administrator's suspension of pesticide registrations were upheld had been

in use for some time and threatened long-term environmental contamination. At the same time, the Court made clear that, in determining whether a pesticide posed an imminent hazard to health, the agency was empowered to consider the benefits of its use and the risks from its immediate removal from the market.

While the assessment of the factors involved (the nature of the risks, the nature of the benefits, the likelihood of harm) will clearly be different in the case of drugs intended for human consumption, the analysis of the appropriate legal standards for applying the summary suspension procedures in the FIFRA cases are directly relevant to interpretations of the same provision in the Food, Drug, and Cosmetic Act. Order of the Secretary Suspending Approval, New Drug Application for Phenformin, pp. 27-33 (July 25, 1977) (Footnote omitted).

Secretary's Criteria

On the basis of this review of the legislative history and relevant court decisions, the phenformin decision stated the factors to be considered for suspensions. The criteria proposed in this rulemaking proceeding are essentially the same as the criteria stated in the phenformin decision. Editorial revisions have been made to reflect the broader applicability of the proposed criteria to new animal drugs and animal feed bearing or containing new animal drugs, as well as to all new drugs for human use.

The criteria take into account the severity and likelihood of harm that could be caused during the completion of the withdrawal proceeding, the risk that might be occasioned by immediate withdrawal of the product from the market, the likelihood the product will be withdrawn after completion of the withdrawal proceeding, and the availability of other approaches to protect the public health. As the discussion in the phenformin proceeding quoted above makes clear, an imminent hazard can be found not only on the basis of harm that will actually occur during the completion of the withdrawal proceeding but also on the basis of harm with long-term effects that may be initiated during that period, the final anticipated injury from which occurs later. This interpretation is consistent with decisions, under the imminent hazard provisions of FIFRA, in which certain pesticides were found to be imminent hazards because of long-term carcinogenic risks (*Environmental Defense Fund v. EPA*, 510 F.2d 1292 (D.C. Cir. 1975) (aldrin/dieldrin); *Environmental Defense Fund v. EPA*, 548 F.2d 998 (D.C. Cir. 1976), cert. denied 431 U.S. 925 (1977) (heptachlor/chlordane)).

The criteria articulated in the phenformin proceeding have been upheld as acceptable upon judicial review in *Forsham v. Califano*, supra. In the only other judicial decision interpreting an imminent hazard provision under the act, the court rejected a charge that the Secretary was delinquent in not invoking the suspension power in that case and stated that "invocation of this emergency power is a matter which is peculiarly one of judgment" (*American Public Health Ass'n v. Veneman*, 349 F. Supp. 1311, 1316 (D.D.C. 1972)).

Applicability

The criteria for imminent hazard determinations for new drugs for human use are also applicable to determinations concerning new animal drugs and animal feed bearing or containing new animal drugs. The act gives the Secretary authority to suspend approval for these products when a product presents an "imminent hazard to the health of man or of the animals for which * * * intended" (21 U.S.C. 360b(e)(1), 360b(m)(4)(A)). This standard takes account of the effect on animals, as well as humans, but in all other respects it is the same as the standard of an "imminent hazard to the public health" that governs suspension of new drugs for human use (21 U.S.C. 355(e)). The legislative history of the animal drug amendments indicates that the imminent hazard provision was intended to be the same as that governing new drugs (Hearing on H.R. 3639 before the Subcommittee on Public Health and Welfare of the Health Committee on Interstate and Foreign Commerce, 90th Cong., 1st Sess. 43 (1967); H. Rept. No. 875, 90th Cong., 1st Sess. 5 (1967); H. Rept. No. 2168, 89th Cong., 2d Sess. (1966)).

Procedures

The statutory provisions governing imminent hazard do not prescribe the procedures to be used by the Secretary in reaching the decision, but do require that there be prompt notice of the decision to the applicant and an opportunity for an expedited hearing on the withdrawal determination. The proposed rule, and the FDA proposal published elsewhere in this issue of the Federal Register, provide that FDA shall provide notice of the decision promptly and an opportunity for a hearing on an expedited basis on the withdrawal of a product determined by the Secretary to be an imminent hazard.

In addition, the proposed rule states the procedures the Secretary uses in reaching the imminent hazard

determination. The proposed procedures contain provisions on the initiation of an imminent hazard proceeding, including the manner of filing a citizen's petition. The procedures provide for an evaluation by FDA of a citizen's petition requesting an imminent hazard determination. The Commissioner and the staff of FDA will also be available to advise the Secretary, upon request, in connection with every imminent hazard determination under the act. In accordance with the congressional intent discussed above, notice that a proceeding has been initiated will be provided to the appropriate applicant. Notice will also be given, when feasible, to other persons, known to FDA, who are interested in the proceeding. The Secretary will also provide an opportunity for interested persons to submit arguments for consideration in reaching his or her decision. If the Secretary finds it necessary, the Secretary may issue his or her decision without waiting for these submissions. As a matter of discretion, the Secretary may provide for meetings or provide for a public hearing by FDA concerning the imminent hazard determination. The Secretary will issue a written decision.

The proposal provides for a suspension order that allows a period of continued distribution of a product to permit a safe and orderly transition to alternative products or forms of therapy. A suspension order of this type was issued in the phenformin matter and was upheld as valid in *Forsham v. Califano, supra*.

The Secretary has carefully considered the environmental effects of the proposed regulation and, because the proposed action will not significantly affect the quality of the human environment, has concluded that an environmental impact statement is not required.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 505(e), 512, and 701(a), 52 Stat. 1055, 76 Stat. 782 as amended, 82 Stat. 343-351 (21 U.S.C. 355(e), 360b, and 371(a))), it is proposed that Subchapter A be amended in Part 2 by adding § 2.1 to read as follows:

§ 2.1 Secretary's determination of imminent hazard.

(a) *Factors to be considered.* In determining whether an imminent hazard to health exists that requires suspension of approval of an application for a new drug, new animal drug, or animal feed bearing or containing a new animal drug, the Secretary, or in the absence of the Secretary, the officer acting as Secretary, will consider—

(1) The likelihood that, after the customary administrative process is completed, the product will be withdrawn from the market;

(2) The severity of the harm that could be caused by the product during the completion of customary administrative proceedings to withdraw the product from the market;

(3) The likelihood that the product will cause such harm while the administrative process is being completed;

(4) The risk to the health of humans or animals currently taking the product that might be occasioned by the immediate removal of the product from the market, taking into account the availability of alternatives to the product and the steps necessary for affected persons to adjust to these other alternatives; and

(5) The availability of other approaches to protect the public health.

(b) *Procedures for initiating an imminent hazard determination.* (1) The Secretary will consider whether an imminent hazard to health is posed by a new drug, new animal drug, or animal feed bearing or containing a new animal drug when any of the following occurs:

(i) The Secretary initiates such a determination;

(ii) The Commissioner of Food and Drugs requests the Secretary to make such a determination.

(iii) A citizen files a petition pursuant to paragraph (b)(2) of this section requesting such a determination.

(2) A citizen's petition to the Secretary requesting suspension of approval of an application for a new drug, new animal drug, or animal feed bearing or containing a new animal drug due to the existence of an imminent hazard to health shall—

(i) Be addressed to the Secretary;

(ii) Identify the product that the petitioner contends presents an imminent hazard to health;

(iii) State clearly the harm from use of the product in question that the petitioner believes presents an imminent hazard to health;

(iv) State in detail how each of the factors described in paragraph (a) of this section applies to the product in question;

(v) Include all data and information upon which the petitioner relies and representative data and information known to the petitioner that are unfavorable to the petition;

(vi) Include the following statement: "The undersigned certifies that, to the best of my knowledge and belief, this petition includes all data and information on which the petition relies,

and that it includes representative data and information known to the petitioner that are unfavorable to the petition";

(vii) Be signed by an individual and include that individual's mailing address and telephone number;

(viii) Be submitted to the Hearing Clerk of the Food and Drug Administration in the manner stated in § 10.20 of this chapter, except that five copies of the petition (rather than the four copies required by § 10.20) shall be submitted.

(3) In the event that a petitioner believes that an emergency exists that precludes the submission of a full petition pursuant to this section and § 10.20 of this chapter, the petitioner may request a waiver of any provision of those sections by a letter addressed to the Secretary and submitted with the petition. The Secretary will grant a waiver only in unusual circumstances.

(4) The Hearing Clerk shall file, stamp with the date of filing, and assign a docket number to any petition that appears to meet the requirements of paragraph (b)(2) of this section and the requirements of § 10.20 of this chapter. All subsequent submissions relating to the matter shall refer to the docket number and shall be filed in the administrative file. The Hearing Clerk may file together and give the same docket number to identical, similar, or related petitions. The Hearing Clerk shall promptly notify the petitioner in writing of the filing and docket number of a petition.

(5) The Hearing Clerk shall transmit, by the fastest means feasible, one copy of the petition to the office of the Secretary.

(6) The Hearing Clerk shall place the petition, together with supporting information, on public display. Any interested person may submit to the Hearing Clerk written comments on any filed petition. Those comments will become part of the administrative record.

(c) *Procedures for decision.* (1) FDA will evaluate all petitions for imminent hazard determinations and will report its evaluation to the Secretary.

(2) FDA will notify each person holding an approved application for the product and, if feasible, any other person known to FDA to have an interest in the proceeding, and will solicit their views.

(3) The Secretary will, in reaching a decision, consider information and written arguments presented by any interested person.

(4) The Secretary may, as a matter of discretion, meet with any interested person to discuss the issues raised by a

decision under this section. Any meeting with any person outside the Department which involves more than a brief description of the matter shall be summarized in a written memorandum which shall become part of the administrative record.

(5) The Secretary may, as a matter of discretion, direct that a public hearing to gather information on an imminent hazard question be held by FDA under Part 15 of this chapter.

(6) The Secretary will issue a written statement announcing the decision whether or not to suspend the approval of a product under an imminent hazard provision. The secretary will include in that written decision reference to the information upon which the Secretary relies.

(7) The administrative record for an imminent hazard decision includes any request from the Commissioner under paragraph (b)(1) of this section, any citizen's petition filed under paragraph (b)(2) of this section, the report of the FDA evaluation submitted under paragraph (c)(1) of this section, any memorandum of meeting under paragraph (c)(4) of this section, the record of any hearing held under paragraph (c)(5) of this section, the decision issued under paragraph (c)(6) of this section, and all other documents and information submitted by petitioners and by persons commenting upon the proceeding. Each document or piece of information that is to be disclosed to the public will be placed on display in the office of the Hearing Clerk, Food and Drug Administration. Any information that is not available for public disclosure under Part 20 of this chapter will be placed in the office of the Hearing Clerk, Food and Drug Administration, but will be marked "Confidential."

(8) The Secretary may, when an emergency exists, immediately suspend the approval of an application pursuant to an imminent hazard provision without awaiting the submission of information and views under paragraph (c)(3) of this section by affected persons.

(9) The Food and Drug Administration shall give prompt notice to the applicant of any determination by the Secretary that a product presents an imminent hazard and afford an opportunity for hearing on an expedited basis on the withdrawal of the product, as provided in §§ 314.115 and 514.115 of this chapter.

(d) *Suspension order.* If the Secretary suspends approval of a new drug, new animal drug, or animal feed bearing or containing a new animal drug, the Secretary, as a matter of discretion, may provide for a period of continued

distribution of the product in order to permit a safe and orderly transition of patients or animals to alternative products or forms of therapy, or for other good reason.

Interested persons may, on or before October 22, 1979, submit to FDA written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the FDA Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Note.—In accordance with Executive Order 12044, the economic effects of this proposal have been carefully analyzed, and it has been determined that the proposed rulemaking does not involve major economic consequences as defined by that order. A copy of the regulatory analysis assessment supporting this determination is on file with the Hearing Clerk, Food and Drug Administration.

Dated: August 2, 1979.

Joseph A. Califano, Jr.,

Secretary.

(FR Doc. 79-25814 Filed 8-20-79; 8:45 am)
BILLING CODE 4110-03-M

[21 CFR Parts 2, 5, 10, 314, and 514]

[Docket No. 79N-0306]

Imminent Hazard Determinations; Separation of Functions

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing rules to govern separation of functions in withdrawal proceedings involving products for which an imminent hazard determination by the Secretary of Health, Education, and Welfare must be made. In addition, FDA proposes to revoke its criteria for making recommendations to the Secretary concerning imminent hazard determinations. The Secretary has published elsewhere in this issue of the Federal Register a proposed rule stating the criteria for imminent hazard determinations.

DATES: Comments by October 22, 1979. The effective date of the final rule based on this proposal is proposed to be 30 days after its date of publication.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Margaret Gilhooley, Office of the General Counsel, Food and Drug Division (GCF-1), Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-1345.

SUPPLEMENTARY INFORMATION: The Secretary of Health, Education, and Welfare has published elsewhere in this issue of the Federal Register a proposed rule establishing the criteria and procedures for determinations by the Secretary that a new drug, new animal drug, or animal feed bearing or containing a new animal drug presents an "imminent hazard" that requires suspension of approval of the marketing application under the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 301 et seq.). Under the Secretary's proposal, FDA is to make a report to the Secretary concerning its evaluation of any petition requesting an imminent hazard determination, and FDA is to be available to provide advice to the Secretary on any determination. The rules proposed in this document state the separation of function requirements that FDA intends to observe in pending withdrawal proceedings concerning products that are the subject of imminent hazard determinations by the Secretary. Under proposed § 10.55(g) (21 CFR 10.55(g)), the Commissioner of Food and Drugs may consult with the responsible Bureau in formulating a report and advice to the Secretary on an imminent hazard determination. When the Commissioner has consulted with the responsible Bureau off the record, the Deputy Commissioner would be designated to make the final decision for the agency in any associated withdrawal proceeding in progress concerning the same product. If the Deputy Commissioner is not available, the Associate Commissioner for Health Affairs would make the agency decision. This procedure would ensure that the final decision in the withdrawal proceeding is made by an official who has not communicated outside the record about the same product with the agency participants in the withdrawal proceedings.

Under the act, new drugs, new animal drugs, and animal feeds bearing or containing a new animal drug can be removed from the market in two ways: by withdrawal following an opportunity for an administrative hearing, or by a suspension effective without a prior opportunity for hearing in the case of those products found by the Secretary to present an imminent hazard (21 U.S.C. 355(e), 360b(e)(1), 360b(m)(4)(A)). The

authority to conduct withdrawal proceedings has been delegated to the Commissioner (21 CFR 5.1); the authority to make imminent hazard determinations is placed by statute in the Secretary and cannot be delegated (21 U.S.C. 355(e), 360b(e)(1), and 360b(m)(4)(A)).

The FDA withdrawal proceedings are subject to separation of function rules established by statute (5 U.S.C. 554) and by FDA regulation (21 CFR 10.55). The regulation precludes communications concerning the withdrawal proceeding between the Bureau responsible for the proceeding and the representatives of the Commissioner's office who are to make the final decision for the agency. No separation of function requirements apply to imminent hazard determinations by the Secretary.

Under the Secretary's proposal, FDA is to provide an evaluation of each citizen's petition seeking an imminent hazard determination and to be available to provide advice to the Secretary on the determination. This evaluation and advice to the Secretary will generally be made for FDA by the Commissioner and the Bureau responsible for regulating the product. Due to the need for prompt action on imminent hazard determinations, and the importance of the decision both to the general public and the manufacturers and users of the product, it is essential that the FDA report to the Secretary be made on the most informed basis possible. The Bureau responsible for the regulation of the product will ordinarily have the greatest familiarity with the history of the product and expertise on the evaluation of the issues involved in the imminent hazard determination. Consequently, the Commissioner needs to be able to consult with the Bureau, to the extent necessary, in formulating FDA's report and advice to the Secretary. The proposed rules will permit the Commissioner to consult fully with the Bureau on the agency's report and advice to the Secretary on every imminent hazard determination, including determinations affecting products involved in pending withdrawal proceedings that are subject to separation of function rules.

The need to make an imminent hazard determination can arise at any time, either upon the initiative of the Secretary, a request by the Commissioner, or the petition of any interested person. If an imminent hazard proceeding commences when a withdrawal proceeding is not in progress, separation of function rules do not apply. Thus, the Commissioner can

consult freely with the Bureau in formulating a report to the Secretary and make the final decision for FDA in any withdrawal proceeding concerning the product. However, if a withdrawal proceeding has already begun, communications between the Commissioner and the responsible Bureau about the imminent hazard determination give rise to more concern. The imminent hazard determination is likely to encompass issues that correspond to those involved in the withdrawal proceeding. Indeed, one of the factors proposed by the Secretary to be considered in the imminent hazard determination is the likelihood that the application will be withdrawn at the end of the administrative proceeding.

The separation of functions requirements in the Administrative Procedure Act (APA) (5 U.S.C. 554(d)) do not preclude the Commissioner from making the decision in the withdrawal proceeding even though the Commissioner has consulted with the Bureau during the proceeding about an imminent hazard determination concerning the same product. Under comparable procedures governing pesticides, the imminent hazard determination and withdrawal have been considered "separate proceedings * * * made under different legal standards" (*Environmental Defense Fund v. EPA*, 510 F. 2d 1292, 1305 (D.C. Cir. 1975)). The court also found that "to the extent that [the proceedings] are related," the prosecuting staff in a formal proceeding may consult with the agency head about the need to initiate a new proceeding. (Ibid.) The court noted that the APA (5 U.S.C. 554(d)) "only prohibits participation or advice in the decision, recommended decision or agency review" (510 F. 2d, at 1305, n. 45; see *Environmental Defense Fund v. EPA*, 548 F. 2d 998, 1006 n. 20 (D.C. Cir. 1976), cert. denied 431 U.S. 925 (1977)).

Nonetheless, FDA is concerned with any possible perception of unfairness if the Commissioner makes the final decision in the withdrawal proceeding after having consulted with the Bureau outside the public record during the proceeding about an imminent hazard determination for the same product. The Bureau is a party to the withdrawal proceeding, and consultations off the record during the proceeding about the same product, even though for a distinct purpose, may be perceived as allowing the Bureau to make arguments about the withdrawal proceeding that the other party cannot meet, and as having an exceptional potential to influence the final decision in the withdrawal proceeding. The withdrawal proceeding

is intended to allow affected persons a full opportunity to dispute the basis for the decision to initiate the withdrawal. The initial and final decisions in the withdrawal proceeding are made by officials who act as adjudicators, and in that capacity, they thoroughly review the agency action based on the complete record developed by the parties. The Commissioner believes it desirable, to the extent possible, to minimize the risk of nonrecord communications between the final adjudicator and one of the parties that could bear upon a withdrawal proceeding in progress and to remove the perception that these communications may occur.

Furthermore, FDA also believes it is feasible to adopt an alternative procedure that will eliminate the basis for this concern. Under the proposed procedure, in these circumstances, the Commissioner will designate the Deputy Commissioner, or if not available, the Associate Commissioner for Health Affairs, to make the agency decision in the withdrawal proceeding. The Commissioner will not communicate with this official about the withdrawal proceeding or about the imminent hazard determination. Thus, under the proposal, the final agency decision in a withdrawal proceeding in progress, when an imminent hazard proceeding arises will be made by an official who has not consulted in private with the Bureau about the product in either proceeding. This proposed procedure is similar to the procedure in 21 CFR 10.55(b)(2)(i), under which special designations can be made of persons in the Bureau to advise the Commissioner's office on matters subject to separation of functions.

The members of FDA and the Office of General Counsel who advise the Deputy Commissioner with respect to the final decision in the withdrawal proceeding will be subject to similar limitations on communications from the Bureau and the Commissioner about the imminent hazard determination.

The proposed rule would apply to any withdrawal proceeding to which separation of functions have become applicable if the Commissioner decides to consult off the record with the Bureau on the imminent hazard matter. Thus, the rule precluding the Commissioner from making the final decision in the withdrawal proceeding would not be applicable if the Commissioner obtains comments from the Bureau solely through a written submission included in the record of the withdrawal proceeding or through the Bureau's participation as witness or counsel in a public proceeding, such as a public

hearing before the Commissioner on the imminent hazard determination. In these circumstances, there is no need to preclude the Commissioner from making the final decision, because any communications from the Bureau about the imminent hazard determination will be a matter of public record in the withdrawal proceeding and can be evaluated in that proceeding for its bearing on it. In addition, the Commissioner will not automatically be precluded from making the final decision in the withdrawal proceeding upon the filing of a citizen's petition seeking an imminent hazard determination, but, instead, would be precluded only when the additional determination is made that the Commissioner needs to make a nonrecord communication with the Bureau in order to advise the Secretary.

In proceedings concerning withdrawal of applications for new animal drugs and animal feeds bearing or containing a new animal drug, separation of functions applies, under the present regulations (21 CFR 10.55, 514.200), only when a notice of hearing has been issued. As stated in the Federal Register of December 19, 1978 (43 FR 59095), in practice, FDA has observed separation of functions for proposed actions concerning these applications at the same point at which separation of functions applies in withdrawal proceedings for new drug applications, i.e., publication of the notice of opportunity for hearing. FDA intends to observe the proposed rules for separation of functions concerning products subject to imminent hazard determinations at the same point in withdrawal proceedings concerning new animal drugs and animal feed as it does for new drugs.

The agency recognizes that this proposal provides a novel solution to an unusual and difficult problem, and one that may rarely occur. If the proposed procedure proves unsatisfactory or lacking in feasibility in practice, the agency will reexamine these separation of function rules, and any alternative means to satisfy the concerns discussed above.

At present, FDA has a regulation (21 CFR 2.5) that states the considerations that guide the agency in making recommendations to the Secretary concerning imminent hazard determinations. This regulation was issued in 1971, before the recent developments that permitted a fuller examination by the Secretary of the criteria for the ultimate decision. The FDA regulation does not govern the actions of the Secretary, but the

regulation has been taken into account in developing the Secretary's criteria. The Secretary's criteria and the FDA regulation differ in language but they are not at substantial variance, as stated by the court upon judicial review in *Forsham v. Califano*, 442 F. Supp. 203, 208, (D. D.C. 1977), appeal from denial of preliminary injunction dismissed as moot, No. 77-2072 (D.C. Cir. Dec. 6, 1977); dismissed as moot, No. 77-1478 (D. D.C. July 23, 1979). The FDA regulation is being withdrawn because it is unnecessary and potentially confusing to have criteria for FDA's recommendations to the Secretary separate from the criteria for the Secretary's decision.

This proposal would also make conforming changes in §§ 314.115 and 514.115 (21 CFR 314.115 and 514.115) with respect to withdrawal of applications, and include an express provision that the Commissioner shall give prompt notice and an opportunity for hearing on an expedited basis on the withdrawal of approval of any of these products found to present an imminent hazard by the Secretary.

The Commissioner has carefully considered the environmental effects of the proposed regulation and, because the proposed action will not significantly affect the quality of the human environment, has concluded that an environmental impact statement is not required.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 505(e), 512, and 701(a), 52 Stat. 1055, 76 Stat. 782 as amended, 82 Stat. 343-352 (21 U.S.C. 355(e), 360b, and 371(a))) and under authority delegated to the Commissioner (21 CFR 5.1), it is proposed that Chapter I of Title 21 of the Code of Federal Regulations be amended as follows:

PART 2—GENERAL ADMINISTRATIVE RULINGS AND DECISIONS

§ 2.5 [Revoked]

1. By revoking § 2.5 *Imminent hazard to the public health*.

PART 5—DELEGATIONS OF AUTHORITY AND ORGANIZATION

2. By adding new § 5.85, to read as follows:

§ 5.85 Imminent hazard determinations and withdrawal proceedings.

The Associate Commissioner for Health Affairs is authorized when designated by the Commissioner in accordance with § 10.55(g) of this chapter to make the final decision under § 12.130 of this chapter following a formal evidentiary public hearing for the

withdrawal of approval of an application for a new drug, new animal drug, or animal feed bearing or containing a new animal drug for which an imminent hazard determination must be made.

PART 10—ADMINISTRATIVE PRACTICES AND PROCEDURES

3. By adding a new paragraph (g) to § 10.55 to read as follows:

§ 10.55 Separation of functions; ex parte communications.

(g) Where the pendency of a formal evidentiary public hearing on the withdrawal of approval of an application for a new drug, new animal drug, or animal feed bearing or containing a new animal drug requires separation of functions under paragraph (b) or (c) of this section between the Commissioner's office and the Bureau responsible for a product for which an imminent hazard decision must be made, the Commissioner may consult the responsible Bureau in order to advise and make a report to the Secretary under § 2.1 about an imminent hazard determination. When the Commissioner requests the Bureau to consult with the Commissioner on the imminent hazard determination, other than as witness or counsel in a public proceeding or in a written submission included in the record of the withdrawal proceeding, the following procedures will be observed:

(1) The Deputy Commissioner under authority delegated in § 5.20(b) will be designated to make the final decision under § 12.130 and exercise the Commissioner's functions in the withdrawal proceeding, and a copy of the designation will be included in the record. If the Deputy Commissioner is not available, the Associate Commissioner for Health Affairs under authority delegated in § 5.85 will be designated to perform these functions subject to the same requirements that would apply to the Deputy Commissioner under this paragraph.

(2) Separation of functions will continue between the Deputy Commissioner and the Bureau with respect to the withdrawal proceeding.

(3) The Commissioner will not communicate with the Deputy Commissioner concerning the withdrawal proceeding.

(4) The Deputy Commissioner and members of FDA and the Office of General Counsel who advise and participate with the Deputy Commissioner in the final decision and the exercise of the Commissioner's

function in the withdrawal proceeding shall have no communications with the Commissioner or Bureau concerning the imminent hazard determination other than as witness or counsel in a public proceeding or in a written submission included in the record of the withdrawal proceeding.

PART 314—NEW DRUG APPLICATIONS

4. By revising § 314.115(a) and (d) to read as follows:

§ 314.115

WITHDRAWAL OF APPROVAL OF AN APPLICATION.

(a) The Secretary has suspended the approval of such application on a finding that there is an imminent hazard to the public health under the criteria and procedure in § 2.1 of this chapter; or

(d) After any summary suspension on a finding of an imminent hazard to the public health, the Commissioner shall provide prompt notice of the action and an opportunity for hearing on the withdrawal of approval under this section on an expedited basis.

PART 514—NEW ANIMAL DRUG APPLICATIONS

5. By revising § 514.115(a) to read as follows:

§ 514.115

WITHDRAWAL OF APPROVAL OF APPLICATIONS.

(a) The Secretary may suspend approval of an application approved under section 512(c) or (m)(2) of the act if the Secretary finds, under section 512(e)(1) or (m)(4)(A) of the act and the criteria and procedure in § 2.1 of this chapter that there is an imminent hazard to the health of man or of the animals for which the animal drug or animal feed is intended. The Commissioner shall provide the applicant prompt notice of the action and afford the applicant the opportunity for an expedited hearing on the withdrawal of approval of the application.

Interested persons may, on or before October 22, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the Hearing Clerk docket number found in brackets in the heading

of this document. Received comments may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

NOTE.—In accordance with Executive Order 12044, the economic effects of this proposal have been carefully analyzed, and it has been determined that the proposed rulemaking does not involve major economic consequences as defined by that order. A copy of the regulatory analysis assessment supporting this determination is on file with the Hearing Clerk, Food and Drug Administration.

Dated: August 10, 1979.

Sherwin Gardner,

Acting Commissioner of Food and Drugs.

[FR Doc. 79-25813 Filed 8-20-79; 8:45 am]

BILLING CODE 4110-02-M

[21 CFR Part 74]

[Docket No. 79N-0043]

Lakes of Color Additives; Intent To List; Extension of Comment Period

AGENCY: Food and Drug Administration.

ACTION: Extension of Comment Period.

SUMMARY: The agency extends the comment period on its notice of intent to propose regulations concerning lakes of color additives. This action is taken in response to a request for extension of the comment period.

DATE: Comments and information by November 19, 1979.

ADDRESS: Written comments and information to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Gerad L. McCowin, Bureau of Foods (HFF-334), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: In the Federal Register of June 22, 1979 (44 FR 36411), the Food and Drug Administration announced its intention to propose regulations concerning lakes of color additives. Interested persons were requested to submit comments and information by August 21, 1979.

On August 8, 1979, a letter was received from the Cosmetic, Toiletry and Fragrance Association, Inc. (CTFA), Washington, DC, requesting an additional 90 days, to November 19, 1979, to allow sufficient time to prepare comments to this notice of intent.

The agency believes that the extension of the comment period on this notice is appropriate, and that the

additional time should be extended to all interested persons.

Therefore, the comment period for the notice of intent to propose regulations concerning lakes of color additives is extended to November 19, 1979.

Interested persons may, on or before November 19, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments and information (preferably four copies and identified with the Hearing Clerk docket number found in brackets in the heading of this document) regarding the subject notice of intent. Received comments may be seen in the Hearing Clerk's office between 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 15, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-2775 Filed 8-16-79; 8:45 am]

BILLING CODE 4110-03-M

[21 CFR PART 172]

[Docket No. 79N-0017]

Sodium Stearoyl-2-Lactylate; Proposed Revision of Food Additive Provisions; Extension of Comment Period

AGENCY: Food and Drug Administration.

ACTION: Extension of comment period.

SUMMARY: The Food and Drug Administration (FDA) extends the comment period on the proposal to revise the food additive provisions for sodium stearoyl-2-lactylate. Durkee Foods, Division of SCM Corp. has requested a 90-day extension of time to complete a study on the use levels of the additive.

DATE: Written comments by September 17, 1979.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Gerad L. McCowin, Bureau of Foods (HFF-334), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: In the Federal Register of April 20, 1979 (44 FR 23539), FDA proposed to revise § 172.846 Sodium stearoyl-2-lactylate (21 CFR 172.846) by providing for additional uses and functions, establishing tolerances for currently regulated uses, revising the name of the additive, and by

incorporating the specifications prescribed for the additive in the "Food Chemicals Codex." FDA took these actions after evaluating the available information in two petitions from a manufacturer and in light of current data and information on the additive. Interested persons were requested to submit their comments on the proposal on or before June 19, 1979.

FDA received a letter from Durkee Foods, Division of SCM Corp. The firm requested a 90-day extension of the comment period to complete a study on the use levels of sodium stearoyl-2-lactylate as an emulsifier or stabilizer in liquid and solid edible fat-water emulsions intended for use as substitutes for milk or cream in beverage coffee. Section 172.46 currently provides for the use of the additive as an emulsifier in liquid and solid edible vegetable fat-water emulsions intended for use as substitutes for milk or cream in beverage coffee with no prescribed tolerance.

FDA determined that the requested extension is warranted and is therefore extending the comment period for an additional 90 days.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 402, 409, 701, 52 Stat. 1046-1047 as amended, 1055-1056 as amended, 72 Stat. 1784-1788 as amended (21 U.S.C. 321(s), 342, 348, 371)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), the comment period on the April 20, 1979 proposal to revise the provisions for sodium stearoyl-2-lactylate is extended to close of business September 17, 1979.

Interested persons may, on or before September 17, 1979 submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 14, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-25805 Filed 8-20-79; 8:45 am]

BILLING CODE 4110-03-M

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

[29 CFR Part 1601]

Procedural Regulations

AGENCY: Equal Employment Opportunity Commission.

ACTION: Proposed rulemaking.

SUMMARY: The Equal Employment Opportunity Commission is publishing its proposed revisions to its procedural regulations for notice and comment by the public. The procedural regulations § 1601.70 and § 1601.71 currently provide that the Commission shall designate 706 deferral agencies only when notified of their qualifications under section 706(c) of Title VII and after meeting the strict requirements outlined in § 1601.70. The Commission is amending its procedural regulations to provide for the deferral of charges of all agencies that meet the less stringent requirements of the revised § 1601.70.

DATES: Comments on the proposed regulations must be received within 60 days of the date of the publication of this notice. The Commission proposes to consider the submissions for a period of at least ten days and thereafter to adopt final regulations.

ADDRESSES: Interested persons are invited to submit written comments regarding the proposed revisions to Marie Wilson, Executive Secretariat, Equal Employment Opportunity Commission, 2401 E Street, N.W., Washington, D.C. 20506. Copies of the comments submitted by the public will be available for review at the Social Sciences Library, Room 2003, EEOC, 2401 E Street, N.W., Washington, D.C. 20506, between the hours of 9:30 A.M. and 5:00 P.M.

FOR FURTHER INFORMATION CONTACT: Constance L. Dupre, Associate General Counsel, EEOC, 2401 E Street, N.W., Washington, D.C. 20506, Telephone (202) 634-6595.

SUPPLEMENTARY INFORMATION: The Equal Employment Opportunity Commission published its procedural regulations on September 22, 1977, as amended October 14, 1977 (42 F.R. 55388). Sections 1601.71 set forth the procedures by which the Commission designates a State or local fair employment practice agency as a deferral agency under Section 706(c) of Title VII. The regulations currently provide that only those agencies which notify the Commission of their qualifications under section 706(c) of Title VII and section 1601.70 and request designation as a "706 agency" will be

eligible for such designation. The regulations also require the establishment of an agency to process charges filed under the State fair employment practice law.

However, due to the *en banc* decision of the U.S. Court of Appeals for the Fifth Circuit in the case of *White v. Dallas Independent School District*, 581 F.2d 556 (5th Cir. 1978), the Commission has voted to revise Commission regulations § 1601.70 and § 1601.71 to conform with that decision.

The *White* decision held that all charges against employers must be deferred in jurisdictions where there are provisions for the enforcement of laws prohibiting discrimination in employment. Enforcement may include criminal penalties for violations. Also, because of the *White* decision, the performance and decertification standards of § 1601.72 are no longer applicable and therefore, § 1601.72 is revoked and reserved.

Revised § 1601.70 continues to request certain materials and information from an agency for designation as a 706 agency. However, § 1601.70 is amended to allow for the deferral of charges to a qualified agency or authority even though the agency authority has made no request for 706 designation.

Revised § 1601.70 is also amended to allow for the deferral of charges to a newly established State or local authority or an already existing State or local authority empowered to address employment practices found to be unlawful. Revised § 1601.71 is amended to conform with the changes made to § 1601.70. In addition, based on the *White* decision, there is no requirement for publishing in the Federal Register for notice and comment the Commission's designation of a 706 agency; therefore, revised § 1601.71 includes no provision for notice and comment. The proposed regulation authorizes the State and Local Division, Office of Field Services, in consultation with the Legal Counsel Division, Office of General Counsel, to ascertain that an agency qualifies under § 706(c) of Title VII and § 1601.70 and to publish notification in the Federal Register as an amendment to § 1601.74. The proposed revised regulations appear below.

Signed at Washington, DC, this 26th day of July, 1979.

For The Commission.

Eleanor Holmes Norton,

Chair, Equal Employment Opportunity Commission.

In 29 CFR Part 1601, §§ 1601.70 and 1601.71 are revised to read as follows:

§ 1601.70 706 Agency qualifications.

(a) State and local fair employment practice agencies or authorities which qualify under section 706(c) of Title VII and this section shall be designated as "706 Agencies." The qualifications for designation under section 706(c) are as follows:

- (1) That the State or political subdivision has a fair employment practice law which makes unlawful employment practices based upon race, color, religion, sex or national origin; and
 - (2) That the State or political subdivision has either established a state or local authority or authorized an existing state or local authority that is empowered, with respect to employment practices found to be unlawful, to do one of three things: to grant relief from the practice; to seek relief from the practice; or to institute criminal proceedings with respect to the practice.
- (b) Any State or local agency or authority seeking 706 designation should submit a written request to the Director, State and Local Division, Office of Field Services. However, if the Commission is aware that an agency or authority meets the above criteria for 706 designation, the Commission may defer charges to such agency or authority even though no request for 706 designation has been made.

(c) A request for 706 designation should include a copy of the agency's fair employment practices law and any rules, regulations and guidelines of general interpretation issued pursuant thereto. Submission of such data will allow the Commission to ascertain which employment practices are made unlawful and which bases are covered by the State or local entity. Agencies or authorities are requested, but not required, to provide the following helpful information:

- (1) A chart of the organization of the agency or authority responsible for administering and enforcing said law.
- (2) The amount of funds made available to or allocated by the agency or authority of fair employment purposes.
- (3) The identity and telephone number of the agency (authority) representative whom the Commission may contact with reference to any legal or other questions that may arise regarding designation.
- (4) A detailed statement as to how the agency or authority meets the qualifications of subsection (a) (1) and (2) of § 1601.70.
- (d) Where both State and local 706 Agencies exist, the Commission reserves the right to defer to the State 706 Agency only. However, if the Commission

determines that it would best serve the purposes of the Act, it may defer to either or both State and local 706 Agencies.

§ 1601.71 706 Agency notification.

(1) When the State and Local Division, Office of Field Services (OFS) determines that an agency meets the criteria outlined in § 706(c) of Title VII and § 1601.70, it shall so notify the agency by letter and shall notify the public by publication in the Federal Register of an amendment to 1601.74.

(2) Where the State and Local Division, OFS, determines that a State or Local agency or authority does not come within the definition of a 706 Agency for purposes of a particular basis of discrimination or where the agency or authority applies for designation as a Notice Agency, the State and Local Division, OFS, shall notify that agency or authority of the filing of charges for which the agency is not a 706 Agency. For such purposes that State or local agency will be deemed a Notice Agency.

§§ 1601.72 and 1601.73 [Reserved]

2. In 29 CFR part 1601, sections 1601.72 and 1601.73 are revoked and reserved.
[FR Doc. 79-25743 Filed 8-20-79; 8:45 am]
BILLING CODE 6570-06-M

ENVIRONMENTAL PROTECTION AGENCY**[40 CFR Part 52]****[FRL 1301-1]****Approval and Promulgation of Implementation Plans; Tennessee: Proposed 1979 Plan Revisions**

AGENCY: U.S. Environmental Protection Agency, Region IV.

ACTION: Correction to proposed rule.

SUMMARY: In FR Doc. 79-22828 appearing at page 43306 in the Federal Register of July 24, 1979, make the following correction. Under *Proposed Action*, replace the last sentence of the paragraph with the following sentence: "It is proposed to conditionally approve the Memphis CO plan."

EFFECTIVE DATE: August 21, 1979.

FOR FURTHER INFORMATION CONTACT: Archie Lee of the Air Programs Branch, EPA Region IV in Atlanta (404/881-2864).

(Section 110, 172 of the Clean Air Act (42 U.S.C. 7410, 7502))

Dated: August 8, 1979.

John C. White,
Regional Administrator.
[FR Doc. 79-25855 Filed 8-20-79; 8:45 am]
BILLING CODE 6580-01-M

FEDERAL COMMUNICATIONS COMMISSION**[47 CFR Part 31]****[CC Docket No. 79-105; FCC 79-263]****Accounting for Station Connections, Optional Payment Plan, Revenues, and Related Capital Costs, Customer Provided Equipment and Sale of Terminal Equipment**

AGENCY: Federal Communications Commission.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Federal Communications Commission is proposing amendments to the present uniform system of accounts to provide accounting procedures for, (1) expensing station connection costs, (2) the sale of terminal equipment and the repair of customer provided terminal equipment, and (3) capital recovery of terminals offered under optional payment plan tariffs. This notice is issued to implement a Commission decision that the present accounting system should be modified so as to place the burden of all costs associated with station connections on the causative ratepayer as opposed to the present system which places the burden on present and future ratepayers.

DATES: Comments must be received before October 9, 1979, and Reply comments must be received before November 12, 1979.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.
FOR FURTHER INFORMATION CONTACT: Sanford Margolin, Accounting Branch, Accounting and Audits Division, Common Carrier Bureau, (202) 632-3863.

Adopted: August 10, 1979.
Released: August 14, 1979.

In the matter of Amendment of Part 31, Uniform System of Accounts for Class A and Class B Telephone Companies, of the Commission's Rules and Regulations with respect to accounting for station connections, optional payment plan revenues and related capital costs, customer provided equipment and sale of terminal equipment, CG Docket No. 79-105, RM-3017.

1. On November 16, 1977, the American Telephone and Telegraph

Company and the associated Bell System operating companies, (AT&T) filed a petition for rulemaking (RM 3017) requesting amendment of the uniform system of accounts to provide for expensing certain station connection costs currently capitalized in account 232, "Station Connections." AT&T's petition results from the Commission's Phase II Final Decision and Order in Docket No. 19129, 64 FCC 2d 1 (1977) (Phase II Order), wherein it held that the present accounting system should be modified so as to place the burden of all costs associated with station connections on the causative ratepayer as opposed to the present system which places the burden on present and future ratepayers. To accomplish this, AT&T was ordered to submit a proposal to change the accounting for station connections.

The station connection activities involved are: 1. Assignment, testing, and plant clerical. 2. Travel time of the craftsman to and from the customer's location. 3. Motor vehicle and tool use. 4. Apparatus handling (unpacking, connecting, etc.). 5. Inside wiring to all stations. 6. Drop wire, and protector. 7. Other (e.g., engineering, contractor charges).

AT&T's proposal only provided for the partial expensing (charged to the current accounting year instead of being deferred or capitalized over a longer period) for certain of the costs involved in an initial installation of telecommunications service at a location, currently capitalized to account 232. The costs to be expensed which are mentioned above are those associated with reconnections, reconnections and extensions, as well as a number of miscellaneous costs in connection with initial main installations. They are considered by AT&T as not reusable by subsequent customers at a location, and include such activities as assignment, testing, and apparatus handling. The costs to be changed from capitalization to expense would be phased-in over a four year period. The costs to the initial installation of the drop wire, protector and inside wiring to the main station in the AT&T proposal¹ would continue to

¹ We understand that main stations are synonymous with main telephones recognized by the telephone industry as telephones connected by individual or party line circuits directly to a central office switchboard or toll board. Only one telephone for each central office line is classified as main, subsidiary telephones connected to the same line are classified as extension. In key systems served exclusively by central office lines, the telephones up to the number of lines are classified as main, telephones in excess of the number of lines are classified as extension. A call director connected to

be capitalized to account 232. Further, the total embedded investment in account 232 would be separated into two parts. The first would include past costs of the type which would continue to be capitalized. These amounts (and corresponding additions to accounts 232 with respect to initial main installations) would be depreciated over the expected life of the plant.² The second part would include embedded costs (plus corresponding additions prior to change in treatment during the phase-in period) of the type to be expensed under the plan. These amounts would be amortized in equal amounts over a ten-year period. A more detailed discussion of the accounting proposed by AT&T is contained in appendix A of its petition.

2. The rationale behind AT&T's proposal is that the first installation of a main station at a location adds an availability for a customer to access the network. This installation is of value not only to the new subscriber at that location but also to all other subscribers since the value of their service depends on the number of subscribers who can call or be called. On the other hand, in AT&T's view, a reconnection, reinstallation or extension does not represent additional availability of access to the network (even though a reconnection or reinstallation does increase the number of customers on the network); whatever costs are incurred in providing it may, therefore, be more closely associated with the causative subscriber. Extensions represent even more of the individualized wants of subscribers, for which cost-causative pricing will be responsive. For the above reason, AT&T's proposal distinguishes

an individual or party line circuit is classified as a main telephone.

² AT&T requests in its petition that Equal Life Group (ELG) depreciation procedures proposed in Docket 20188 also be made applicable to additions to account 232 when such procedures are made applicable to accounts 231, "Station apparatus," and 234 "Large private branch exchanges," or upon approval of the accounting changes requested in its petition, whichever occurs later. AT&T also indicates that adoption of its proposed accounting would lead to significant changes in the life characteristics of station connections remaining in account 232 and requests prompt approval upon application of individual companies of revised depreciation rates for account 232. Neither of these requests shall be addressed in this proceeding. Docket 20188 is the appropriate proceeding to address the application of ELG depreciation to additions to the station connections account. The individual company depreciation rate prescription procedures would be the suitable vehicles in which to address any changes in the life characteristics of the investment that will remain in account 232 on a company-by-company basis. In addition, the proposed starting reserve balance, implied to be zero, will also have to be addressed at that time. We do address herein the issue of depreciation rates for station apparatus provided under optional payment plans (two-tier pricing).

between capitalized main costs and expensed supplemental costs. It is AT&T's position that in the sense of a continuing, revenue-generating availability to provide telephone service, the drop wire, protector and inside wiring for the main station on individual line service cannot be distinguished from the pair of wires leading through multiple customers at the location, servicing them, in turn, as they change. A clear and pragmatic line can be drawn, it is claimed, between the costs of installing main telecommunications service for the first time at a location, and the other costs now included in account 232.

3. In our Phase II Order, which concurred with the Presiding Judge's Initial Decision (paras. 135-139, and 705-722, respectively), the principle was established that the causative ratepayer should bear the full burden of the costs of station connections. That principle was held to be consistent with other policies that have been recently adopted (para. 137). Additionally, we found in rejecting the primary instrument concept petition that there is no valid basis for distinguishing between main stations and other extensions. In fact, the comments of the New York Public Service Commission which were directed towards AT&T's petition stated that adequate access to the network can be attained at a junction point other than at a main station. Therefore, to be compatible with our previous policies, we must reject AT&T's proposal and substitute our own proposed amendment to the present account Rules and Regulations.

4. In our Notice of Proposed Rulemaking issued in Docket CC 78-196 (paragraph 59), we invited general comments on the need for new or amended accounting rules because of the changed operating environment resulting from the equipment registration program. In this proceeding, we are proposing accounting rule changes to provide for several such items and request specific comment thereon. In commenting in this proceeding, interested parties may reference their comments prepared for submittal in Docket CC 78-196 so that they may be considered in addition to any additional comments submitted on our specific proposals. We note our findings in Docket 78-36 wherein we rejected the telephone industry's primary instrument concept and stressed the importance of allowing telephone customers the option to select terminal equipment and repair service which they think most beneficial. Therefore, we believe our final rules will have to be expanded to

provide appropriate accounting for the several optional station connection offerings that will be available to telephone company customers, including the sale of inside wiring, a practice already authorized by the New York Commission and favored by the Utah Commission in its comments to AT&T's petition.

5. We propose expensing the entire cost of station connections, which would include the drop and block wire, underground service wire, protector, and all inside wiring presently recorded in account 232. These costs would now be charged to expense account 605, "Repair of station equipment." This accounting change should permit the telephone carriers to recover from the causative ratepayer, the full burden of the costs of station connections, rather than recovering their costs from the general body of ratepayers, as is presently done. Changes to the applicable sections of Part 31 to accomplish this accounting are set forth in the Appendix.

6. Comments are invited on how to account for the several optional station connection offerings including the sale of either the entire connection, or only the inside wiring. How should we differentiate between the sale of in-place connections versus the sale of new installations? We also invite comments on:

(1) Whether the change in accounting should be phased in over a determinate period, or become effective with the final rulemaking.

(2) Should station connection activity be recorded in separate subaccounts of account 605, for residence, business, etc. and by type of service, i.e., main extension, vertical type of equipment, etc.

(3) What methods and/or treatment would be appropriate to dispose of the present balance in account 232, and the related theoretical depreciation reserve, if any?

If time periods are suggested for a phase-in period and the disposition of present embedded investment, a full showing of the impact upon revenue requirements should be submitted. If new accounts or sections are suggested, the proper definition, contents, and required changes to other affected sections of Part 31, should be included with the response.

7. We are also inviting specific comments on the appropriateness of the currently prescribed accounting for the costs of replacing aerial drop wire with buried or underground drop wire where service discontinuance is not involved. At present, and as continued in this Notice, these costs are required to be

charged to expense account 605. In the case of extensive replacements a company may request permission to defer these costs in account 138, "Extraordinary maintenance and retirements," with subsequent amortization to account 605 over some reasonable future period. At the time these requirements were established, the Commission called attention to this accounting anomaly and indicated that it might well be that the replacement of an entire station connection assembly should be treated as a plant retirement and an installation of a new unit of plant. However, because of the infrequency of an entire station connection being replaced under such circumstances and the advantage of simplicity in the reporting of plant work and changes, expense accounting for these replacements was adopted. We are aware that several state commissions have allowed, on a case-by-case basis, the capitalization of station connections installed in conversion from aerial to buried plant and at least one state commission has formally recognized the need for capitalization of replacements of the drop portion of station connections by amending its prescribed system of accounts accordingly. Therefore, we invite comments on whether expense accounting for changing drop and block wires should continue to be prescribed or whether provision should be made for capitalization and retirement accounting only under certain conditions. Comments should address the frequency of these occurrences in relation to the additional reporting of plant and work changes required for capitalization and retirement accounting versus expense accounting. In other words, has today's situation changed sufficiently from that upon which the Commission based its adoption of expense accounting to warrant a change in our accounting requirements? Parties that think a change is warranted should submit suggested revised language to Part 31 and should comment on the conditions under which capitalization and retirement accounting should be allowed.

8. As stated earlier, we are also proposing to amend Part 31 to provide appropriate accounting for several areas relating to terminal equipment offerings. Among these is the accounting to be performed for two-tier and other customer optional payment plan revenues and related capital costs. Two-tier and other optional payment plan tariffs offered for the provision of PBX and other terminal equipment services provide for one level of rates to apply

during an initial period with a lower level to apply after the initial period. The rates reflected in this tariff structure provide for the recovery of substantially all of the capital costs of the asset during the initial period of higher rates and are required to be recorded as revenue under Part 31. Because the period of capital recovery is less than the useful life of the asset during the early stages of the installation life, but depreciation thereon under Part 31 is recorded for some time beyond this initial period, a mismatch of revenue and expense occurs. In order that the accounting performed for these transactions accurately reflects the economic consequences of these tariffs, we are proposing amendments to Part 31 to: (1) Remove the investment in terminal equipment used in the provision of offerings covered by two-tier and other optional payment plan tariffs from the existing depreciation categories; (2) require this investment to be maintained separately; and (3) require that depreciation of this investment be recorded in line with actual capital recovery. Appropriate changes to the applicable sections of Part 31 to accomplish this accounting are set forth in the Appendix. Specific comments are invited on the accounting procedures required to safeguard against additional recovery of investment in this equipment from the general body of ratepayers in those instances where an item, the cost of which has been fully recovered, is used again in the provision of service. Because the actual recovery period is a matter of tariff, different PBX's installed at different dates may have different recovery periods if the tariffs have changed. Therefore, PBX's and other equipment offered under 2 part tariffs should be subject to unit plan amortization with individually kept reserves (since the matching of revenues and expense will be different for each amortization period, requiring many classes of plant, each with its own reserve). The initial amount of the reserve for plant in service will be determined by adding the debits and credits of the existing group plan, as if it were a unit plan, and transferring that amount from the group reserve to the unit reserve.

9. In 1978, telephone companies subject to Part 31 and required to report to this Commission were instructed to follow the current provisions of § 31.605(a) of Part 31 in accounting for the replacement of telephone company provided stations (TPE) with customer provided stations (CPE) when the station connections serving the CPE

continue to generate revenue, i.e., service discontinuance is not involved. Thereunder, account 605 would be charged for the costs of activities involved in removing the TPE, installing jacks, and related travel costs. Further, since this accounting would not result in retirements of station connections when the TPE is removed, the total number of station connections (TPE plus CPE) had to be considered in developing retirement unit costs for account 232. In our instructions to the companies, we noted that these matters would be addressed in a rulemaking proceeding, and that among the areas that must be reviewed is the disparate treatment of costs and revenues under currently applicable local tariffs in those instances where jacks are installed as part of the replacement effort as compared with those instances where jacks are already installed and a visit is made to remove the TPE only. In the first instance, an attempt is being made to match revenues and costs and to charge the causative ratepayer for these costs. However, in the second instance, the cost of the visit is spread to all ratepayers and not specifically to the cost causing customer. Under our present proposal, we no longer need to develop retirement unit costs for account 232, nor do we have the problem of disparate treatment of costs-revenues since the cost of the visit will no longer be distributed amongst all ratepayers. But, we invite specific comments on the accounting treatment to be prescribed for the visit to remove the TPE only in the instance when jacks are already installed.

10. Lastly, we are proposing amendments to Part 31 to address the sale of telephone sets and inside wire and the provision of repair service on customer provided equipment. The present provisions of Part 31 provide for cradle-to-grave accounting for telephone sets included in account 231, "Station apparatus." This means that equipment is included in this account from the date of purchase until its final disposition. Effectively, movement out of and back into service during its life is ignored for purposes of plant investment accounting. Section 31.171(b) of Part 31 treats proceeds from the sale of telephone equipment sold without traffic as salvage, therefore, no gains or losses are recognized in the income accounts. Section 31.2-25(g), however, treats gains or losses on items of plant sold with traffic as extraordinary income. Sales of telephone sets could involve any of three situations: (1) Sets in place at customers' premises; (2) reconditioned sets; and (3) new sets. Present

accounting rules do not provide a means to view the separate financial impact of realized gains or losses if telephone companies decide to sell station apparatus. In formulating our proposal, we are mindful of our decision in Docket 19129 wherein we ruled that all gains or losses realized from property sold from or previously included in a rate base account shall accrue to the ratepayers, and our decision regarding the primary instrument concept wherein we stated that the provision of terminals is not required to be a common carrier service. Accordingly, we are proposing that sales of new telephone sets, decorator housings, new station connections, and the provision of repair service on customer provided equipment shall be accounted for as non-telephone operations. It is proposed that separate subaccounts of account 122, "Material and supplies," be established to record the cost of merchandise held for sale or for use in repair service on customer provided equipment. In addition, we are expanding account 316, "Miscellaneous income," so that revenues and expenses associated with these operations will be separately accounted for. For sets, connections or inside wiring sold in place we are establishing separate subaccounts of accounts 675, "Other expenses," and 526, "Other operating revenues," to record the effects of these transactions as telephone operations. We solicit specific comments relating to the costing procedures to be used to ensure that both the direct and overhead costs of equipment sold, as well as, repair charges, are borne by the causative ratepayer. We are especially concerned that: (1) No costs properly associable with the sales or repair operations shall be borne by subscribers who continue to lease their equipment; and (2) sales operations costs not directly assignable to either telephone or non-telephone operations are equitably apportioned between them. We also solicit comments on the appropriate accounting to follow for the sale of reconditioned telephone sets. We propose that for used telephones, drop and block wire and protector and inside wiring the average cost per telephone or per jack be subtracted from plant; average depreciation reserve per telephone (calculated by adding debits and credits year by year) be subtracted from reserve; and the net amount so calculated be used as the cost.

11. The Commission proposes to make any rule amendments adopted as a result of this proceeding effective not less than six months after the issuance of a final order with respect to this docket, as required by Section 220(g) of

the Communications Act of 1934, as amended, 47 U.S.C. 220(g). As a practical matter and in order to avoid making substantive changes in accounting during the year, it is planned that any rule amendments adopted would be made effective as of January 1 of the first full calendar year beginning not less than six months after the issuance of a final order in this docket with the option that those telephone companies which desire to do so may place any amendments which may be adopted in this proceeding into effect retroactively to January 1 of the year in which the final order is issued.

12. This Notice of Proposed Rulemaking is issued under authority contained in Sections 4(i), 4(j), and 220 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j), and 220.

13. In accordance with applicable procedures set forth in 47 CFR 1.415, interested persons may file comments on or before October 9, 1979 and reply comments on or before November 12, 1979.

14. In accordance with the provisions of § 1.419 of the Commission's rules, 47 CFR 1.419, an original and 5 copies of all statements or briefs shall be furnished to the Commission. Responses filed in this proceeding will be available for public inspection during regular business hours in the Commission's Broadcast and Dockets Reference Room.

Federal Communications Commission.
William J. Tricarico,
Secretary.

Appendix

Part 31, Uniform System of Accounts for Class A and Class B Telephone Companies, is amended as follows:

1. In the Table of Contents, under Telephone Plant accounts, delete § 31.232 Station Connections.

Telephone Plant Accounts

• • • • •
31.232 Station connections. [Deleted]

§§ 31.01-3, 31.02-80 and 31.02-81 [Amended]

2. Add at the end of §§ 31.01-3(n), 31.02-80(a) and 31.02-81(a) the words (Note exception in § 31.02-82(b) for plant used in the provision of PBX and other terminal equipment services under optional payment plan tariffs).

§ 31.01-3 [Amended]

3. Delete from paragraph(s) of § 31.01-3 the words "station connections". Paragraph(s), as amended, will read:

• • • • •

(s) "Minor items," as applied to depreciable telephone plant, means any part or element of such plant, other than station apparatus, which is not designated as a retirement unit in section § 31.8.

4. Delete from paragraph (ee) of § 31.01-3 the colon, item (1) following the colon, and the designation "(2)". Delete also the words "value" and "for other telephone plant" at the end of the paragraph. Paragraph (ee), as amended, will read:

(ee) "Service value" means the difference between the original cost and the net salvage as defined in paragraph (u) of this section.

5. Delete the last two sentences of paragraph (c) § 31.02-80, and substitute the words "(See account 605 for the accounting for costs incurred in the disconnection and removal of station apparatus.)" Paragraph (c), as amended, will read:

§ 31.02-80 Computation of depreciation rates.

(c) The company shall keep such records of property and property retirements as will reflect the service life of property which has been retired, or will permit the determination of service-life indications by mortality, turnover, or other appropriate methods, and also such records as will reflect the percentage of salvage value, or net salvage value, as appropriate, for property retired from each class of depreciable telephone plant. (See account 605 for the accounting for costs incurred in the disconnection and removal of station apparatus.)

6. In § 31.02-82, designate the present paragraph as (a), add a new paragraph (b), and delete the item "Station connections" in the list of classes of depreciable plant in paragraph (a). Make the existing note "Note A" and add a new "Note B". Section 31.02-82 as amended, will read:

§ 31.02-82 Classes of depreciable telephone plant.

(a) The classes of depreciable telephone plant and the accounts covering such plant are as follows:

Buildings (account 212).
Central office equipment (account 221).
Station apparatus (account 231).
Large private branch exchanges (account 234).
Pole lines (account 241).
Aerial cable (account 242:1).
Underground cable (account 242:2).
Buried cable (account 242:3).

Submarine cable (account 242:4).
Aerial wire (account 243).
Underground conduit (account 244).
Furniture and office equipment (account 261).
Vehicles and other work equipment (account 264).

(b) The investment in plant used in the provision of PBX and other terminal equipment services under optional payment plan tariffs shall be recorded in separate subaccounts of the accounts listed in paragraph (a) of this section for each unit of such plant installed. Depreciation of this investment shall be recorded in line with actual capital recovery by utilizing separate subaccounts of accounts 608, "Depreciation," and 171, "Depreciation reserve."

Note A.—When depreciable plant carried in account 276, "Telephone plant acquired," is distributed to the appropriate plant accounts, adjusting entries shall be made covering the depreciation charges applicable to such plant for the period during which it was carried in account 276.

Note B.—Plant held in separate subaccounts pursuant to paragraph (b) above will be subject to special unit plan depreciation in which the depreciable life will be considered to be the same as the capital recovery period. Initial amounts in the depreciation reserve for such plant will be computed using the actual full embedded cost of the particular retirement units and applying to the plant, for each year it has been in service, the depreciation rate appropriate to that class of plant in that year. Such amounts will then be transferred from the overall general plant asset and reserve accounts (231, 234 and 171) to the special subaccounts for these accounts for plant offered under optional payment plans. Such plant will also be omitted from all longevity studies for the classes of plant in question. It is expressly intended that the depreciable life of each unit of plant be that of the capital recovery period of the particular optional payment plan under which it is offered, which may vary from unit to unit according to the length of the recovery period in tariffs in force in particular years, and, at the time of the imposition of this rule, the number of years remaining in the optional payment period of the plant transferred from group to unit plant depreciation.

7. Delete from paragraph (a) of § 31.100:2 the words "station connections". Paragraph (a), as amended, will read:

§ 31.100:2 Telephone plant under construction.

(a) This account shall include the original cost of construction of telephone plant, other than station apparatus, that is not completed ready for service. It shall include interest during construction, as provided for in paragraph (d) of this section, taxes during construction, and all other

elements of cost of such construction work. (Note also §§ 31.2-20 to 31.2-22 and account 231).

8*. Amend § 31.122 as follows:

Add a new paragraph (b) and redesignate present paragraphs (b), (c), and (d) as (c), (d), and (e). Paragraph (b) will read:

§ 31.122 Material and supplies.

(b) This account shall also include the cost of terminal station equipment held for resale and the cost of material and supplies held for use in the provision of repair service on customer provided equipment. These costs shall be maintained in separate subaccounts and shall include applicable transportation charges, sales and use taxes, cash and other purchase discounts. Inventory shortages and overages shall be charged and credited, respectively to account 316.

Note D to § 31.122 [Amended]

9. Add the words (See paragraph (b) of this section for specific requirements for terminal station equipment held for resale and material and supplies held for use in the provision of repair service on customer provided equipment) at the end of Note D.

10. Delete from paragraph (b) of § 31.138, the words, "inside wires, and drop and block wires," and the words, "or wires" from paragraph (c). Paragraphs (b) as amended, will read:

§ 31.138 Extraordinary maintenance and retirements.

(b) This account shall include also the cost of extensive replacements of station apparatus, in accordance with the provisions of § 31.6-64. (Note also account 605).

(c) Charges provided in paragraphs (a) and (b) of this section shall be included in this account only after permission of this Commission has been obtained. The company's application to this Commission for such permission shall give full particulars concerning the property retired or of the extensive replacements of apparatus, the amounts chargeable to operating expenses, and the period over which in its judgement the amount of such charges should be distributed.

11. Delete from paragraph (b) of § 31.171 the words "station connections." Paragraph (b), as amended, will read:

§ 31.171 Depreciation reserved

(b) At the time of retirement of depreciable telephone plant, this account shall be charged with the original cost of the property retired plus the cost of removal and shall be credited with the salvage value and insurance recovered, if any. (With respect to entries relating to station apparatus, see account 231). This account shall also be credited with amounts chargeable to account 138, "Extraordinary maintenance and retirements," as provided in § 31.02-83, and with amounts charged to account 609, "Extraordinary retirements," as provided in paragraph (b) thereof. (Note also § 31.2-25.)

§ 31.2-20 [Amended]

12. Add at the end of paragraph (a) of § 31.2-20 the words "(See accounts 316 and 605 for the cost of installing or connecting station apparatus and station wiring and cabling, drop and block wires and of underground service wires)". Paragraph (a), as amended, will read:

(a) The telephone plant accounts (201 to 231 and 234 to 277, inclusive) are designed to show the original cost of the company's telephone plant which ordinarily has a service life of more than 1 year, including such plant whether used by the company or others in telephone service; also the original cost of franchises, patents, leaseholds and other interests in land. They shall also include the general expenses of organization of the accounting company. (See accounts 316 and 605 for the cost of installing or connecting station apparatus and station wiring and cabling, drop and block wires and of underground service wires.)

§ 31.2-20 [Amended]

13. Amend the reference in paragraph (b) of § 31.2-20 to include paragraph (1) in addition to paragraph (2) of § 31.5-50 (b). Paragraph (b), as amended, will read:

(b) The telephone plant accounts shall not include the cost or other value of telephone plant contributed to the company. Contributions in the form of money or its equivalent toward the construction of telephone plant shall be credited to the accounts charged with the cost of such construction. Amounts of initial non-recurring charges based on the cost of plant or equipment furnished in rendering service to a customer, other than as provided in § 31.5-50 (b) (1) and (2), shall be credited to the accounts

charged with the cost of the plant or equipment. Amounts of initial charges based on the estimated cost of removal of such plant or equipment shall be credited to account 171, "Depreciation reserve." Amounts received for construction which are ultimately to be repaid wholly or in part, shall be credited to account 174; when final determination has been made as to the amount to be returned, any unrefunded amounts shall be credited to the accounts charged with the cost of such construction. Amounts received for the construction of plant, the ownership of which rests with or will revert to others, shall be credited to the accounts charged with the cost of such construction.

14. In paragraph (a) of § 31.2-25, delete the words, "account 232" in the parenthetical exception. The first sentence of paragraph (a), as amended, will read:

§ 31.2-25 Retirement units.

(a) To the end that the telephone plant accounts (note §§ 31.2-20 and 31.2-21) shall at all times disclose the original cost of all property in service, the original cost of retired property, whether replaced or not (except as provided in paragraph (b)(2) of this section and in account 231), shall be credited to the account or accounts in this classification to which such cost was charged.

15. In Paragraph (b)(2) of § 31.2-25 delete the words "station connections". The first sentence of paragraph (b)(2), as amended will read:

(2) Minor items: This group includes any part or element of plant, other than station apparatus which is not designated as a retirement unit.

16. In paragraph (b)(3) of § 31.2-25 delete the parenthetical note at the end. Paragraph (b)(3), as amended, will read:

(3) Station apparatus: The accounting to be performed upon the disposition of station apparatus shall be as provided in account 231.

(4) [Deleted]

17. Delete paragraph (b)(4) of § 31.2-25.

18. In paragraph (e) of § 31.2-25, delete the words "station connections". Paragraph (e), as amended, will read:

(e) Determination of the cost of property to be retired: The cost of telephone plant retired shall be the amount at which such property is included in the telephone plant accounts. When it is impracticable to determine the cost of each item due to the relatively large number or small cost of such items, the average cost of all the items covered by an appropriate subdivision of the account shall be used in determining the cost to be assigned to such items when retired: *Provided*, That the method used in determining average cost gives due regard to the quantity, size and kind of items, the area in which they were installed and their classification in other respects, as called for by the rules of the Commission regarding continuing property records and by the system of continuing property records accepted by the Commission specifically for use of the accounting company. This method of average cost may be applied in retirement of such items as telephones, poles, wire, cable, cable terminals, conduit, small private branch exchanges, and booths. Any company may use average cost of property installed in a year or band of years. It should be understood however, that the use of average costs shall not relieve the company of the requirement for maintaining its continuing property records in such manner as to show, where practicable, dates of installation and removal so as to provide these data for purposes of mortality studies.

19. Amend § 31.231 as follows:
Add the words, "except for items purchased for resale," following the word "thereto", in paragraph (a). Paragraph (a), as amended, will read:

§ 31.231 Station apparatus.

(a) This account shall include the original cost of station apparatus, including small private branch exchanges and booths, installed either for customers' or the company's use. This account shall also include the cost of materials in stock which are normally used as station apparatus or additions thereto, except for items purchased for resale, as distinguished from items normally used for repair purposes. Items included in this account which are normally used as station apparatus shall remain herein until finally disposed of or until used in such manner as to be includible in other accounts.

Delete Note A and substitute the following:

Note A.—The cost of installing and connecting station apparatus shall be charged to account 605, "Repairs of station equipment", if for telephone company ownership, or to account 316, "Miscellaneous income," if for customer ownership.

Add a new Note F to read:

Note F.—Items provided under optional payment plan tariffs will be subject to unit plan depreciation and a separate subaccount must be maintained for them, using actual (not average) embedded costs.

§ 31.232 [Deleted]

20. Delete § 31.232.

§ 31.234 [Amended]

21. In § 31.234 add a new Note D to read:

Note D.—Items provided under optional payment plan tariffs will be subject to unit plan depreciation and a separate subaccount must be maintained for them, using actual embedded costs.

§ 31.242.1 [Note A Amended]

22. Delete from Note A of § 31.242.1 the words "which are included in account 232", and "which are included in account 232 or account 234, as appropriate". At the end of Note A, add the words "(See accounts 234, 316, and 605). Note A, as amended, will read:

Note A.—House cables are considered to be extensions of aerial cable plant. They do not include the inside wires extending from terminal boxes of house cables to subscribers' stations or the cables for subscribers' private branch exchange switchboards. (See accounts 234, 316, and 605).

§ 31.242.2 [Note B Amended]

23. At the end of Note B of § 31.242.2 add the words "account 316 or account 605 as provided for in §§ 31.316 and 31.605". Note B, as amended, will read:

Note B.—The cost of small cables used in station installations or as drop wires shall be charged to account 316 or account 605 as provided for in §§ 31.316, and 31.605.

§ 31.242.2 [Note D Amended]

24. Delete from Note D of § 31.242.2 the words "which are included in account 232", and "which are included in account 232 or account 234, as appropriate". At the end of Note D, add the words "(See accounts 234, 316 and 605.)" Note D, as amended will read:

Note D.—House cables are considered to be extensions of aerial cable plant. They do not include the inside wires extending from terminal boxes of house cables to subscribers' stations or the cables for subscribers' private branch exchange switchboards. (See accounts 234, 316 and 605.)

§ 31.243 [Amended]

25. Delete the Note of § 31.243 and substitute the following:

Note.—The cost of drop and block wires shall be included in account 605.

§ 31.244 [Note B Amended]

25a. Delete from Note B of § 31.244 the words "shall be included in account 232", and substitute "shall be charged to account 605 as provided for in § 31.605, if for telephone company ownership, and to account 316, as provided in § 31.316 if for customer ownership." Note B, as amended, will read:

Note B.—The cost of pipes or other protective covering for underground drop and block wires or service connections shall be charged to account 605 as provided for in section 31.605 if for telephone company ownership, and to account 316 as provided in § 31.316 if for customer ownership.

26. Section 31.316 is revised to read as follows:

§ 31.316 Miscellaneous income.

(a) This account shall include in separate subaccounts revenues from and the cost of and expenses (direct and indirect) associated with the sale of new terminal telephone equipment initially includible in account 122, "Materials and supplies." It shall also include in separate subaccounts revenues and expenses associated with the provision of repair service on customer provided equipment.

(b) This account shall also include in separate subaccounts revenues from and the cost of and expenses (direct and indirect) associated with the sale of subscribers inside wiring and cabling which were constructed for customer ownership and were not in revenue service at the time of the transfer of ownership to the customer.

(c) This account shall also include all other items not provided for elsewhere, properly creditable to income.

Items

(Note § 31.01-8)

Fees collected in connection with the exchange of coupon bonds for registered bonds.

Profits from the telephone operations of other companies realized by the company under contracts.

Profits realized from custom work performed for others not incident to the company's telephone operations.

Profits realized on the sale of temporary cash investments.

§ 31.5-50 [Amended]

27. At the end of paragraph (b) (1) of § 31.5-50, add the words "(Note § 31.2-

20 (b).)" The paragraph, as amended, will read:

(b) *

(1) Amounts charged for connection, restoration and termination of service, and for inside moves, outside moves, instrument changes, and similar service requirements. (Note § 31.2-20 (b).)

28. Delete from paragraph (b) (2) of § 31.5-50 the account number "232". The paragraph, as amended, will read:

(b) *

(2) Amounts of initial nonrecurring charges for plant or equipment, furnished in rendering service to a customer, includible in accounts 231 and 234, except initial charges based on the cost of specially assembled private branch exchanges includible in account 234. (Note § 31.2-20 (b).)

29. In § 31.528 a new paragraph (b) is added and the present paragraph is designated (a). Paragraph (b) reads as follows:

§ 31.526 Other operating revenues.

(b) This account shall also include in a separate subaccount revenues received from the sale of terminal telephone equipment sold in-place and for the sale of station wire and cable, the cost of which had been charged to account 605, "Repairs of station equipment," and had been previously included in telephone plant in service (see also account 316).

30. In § 31.6-61, add paragraph (c). Section 31.6-61, as amended, will read:

§ 31.6-61 Cost of repairs.

(a) The cost of repairs chargeable to the various operating expense and clearing accounts includes: inspecting, testing, and reporting on the condition of telephone plant to determine the need for repairs, replacements,

rearrangements and changes; testing for, locating and clearing trouble; routing work (note also paragraph (b) of this section) to prevent trouble, such as pulling up slack, tightening guys and raking guy stubs, trimming trees, straightening poles and crossarms, and cleaning and adjusting equipment; replacing minor items of telephone plant (note also § 31.2-25); rearranging and changing the location of property not retired; repairing material for reuse; restoring the condition of property damaged by (paragraph (b) of this section); training employees for maintenance work; inspecting and testing after repairs have been made; and an equitable proportion of the cost of local plant administration, general plant supervision and engineering.

(b) The cost of repairs does not include the cost of replacing items of property designated as "retirement units." (Note also § 31.2-25.)

(c) The cost of repairs includes certain costs of station installations, and the costs of installing, connecting, disconnecting, and removing station apparatus. (See accounts 316 and 605.)

31. Delete from § 31.6-64 the words "inside wires or drop block wires," following the word "apparatus." Section 31.6-64, as amended, will read:

§ 31.6-64 Extensive replacements.

When it becomes necessary to replace the majority of station apparatus, in any given central office district, together with any number of such items in contiguous districts, the cost of the replacements chargeable to account 605, "Repairs of station equipment", if so authorized by this Commission upon application to it, shall be charged to account 138, "Extraordinary maintenance and retirements", and cleared to account 605 over the period specified in the authority.

§ 31.603 [Amended]

32. Amend paragraph (a) of § 31.603 as follows:

Delete the term "repairmen" (in two places) and substitute the phrase "people who are doing repair work".

After the words "location of trouble" replace the semicolon with a period, and capitalize "Dispatching".

After the words "condition of the plant" delete the remainder of this paragraph and insert "will be charged to this account if done on telephone company owned lines and equipment, and will be charged to account 316 if done on customer owned lines and equipment."

Add a last sentence to paragraph (a), so that, as amended, it will read:

(a) This account shall include the costs incurred by forces located in central offices and engaged in the work of receiving and recording reports of trouble from subscribers and others and; testing from test desks to determine the nature and location of trouble. Dispatching from test desks people who are doing repair work; testing from test desks with people who are doing repair work during the course of their work or upon its completion and making other tests from test desks to determine the condition of the plant will be charged to this account if done on telephone company owned lines or equipment, and will be charged to account 316 if done on customer owned lines or equipment.

This account shall also include all service order testing from test desks if

the telephone company will own the equipment ordered; the service order testing for those orders or portions of orders that will be customer owned will be charged to account 316.

§ 31.604 [Note B Amended]

33. Amend Note B of § 31.604 as follows:

After the word "test-board" delete the word "men" and substitute the word "personnel".

After the words "such as testing with" delete the terms "station repairmen, cablemen" and substitute the term "cable personnel".

Add two sentences to Note B, so that, as amended, it will read:

Note B.—The pay and expenses of test-board personnel and other employees in central offices engaged in testing circuits in connection with the maintenance of plant, such as testing with cable personnel, etc., shall be charged to account 603. Similar costs in connection with construction projects shall be included in the telephone plant accounts appropriate for the class of plant tested. Similar costs in connection with service orders shall be charged to account 603. Similar costs in connection with testing of service orders for customer owned equipment shall be charged to account 316.

34. Amend § 31.605 as follows: Delete paragraphs (a) and (b).

Add new paragraphs (a), (b), (c) and (d) so that § 31.605, as amended, will read:

§ 31.605 Repairs to station equipment.

(a) This account shall include the cost of installing or connecting items of station apparatus and the cost of inside wiring and cabling, drop and block wires, and of underground service wires. It shall also include the cost of reconnecting customers' lines at customers' premises.

(b) This account shall include the cost of repairing station apparatus, inside wiring and cabling, drop and block wires, underground service wires, and large private branch exchanges. It shall also include the cost of replacing station apparatus (excluding the cost of material other than repair parts) and the cost of replacing inside wiring and cabling, drop and block wires, and underground service wires.

(c) This account shall include the cost of disconnecting or removing station apparatus, inside wiring and cabling, drop and block wires, and underground service wires, if company owned.

(d) This account shall include also amortization of costs of extensive replacements of station apparatus, inside wires, drop and block wires, and

underground service wires, which, under conditions provided in § 31.6-64, have been included in account 138, "Extraordinary maintenance and retirements".

§ 31.605 [Amended]

35. Amend the Items list following § 31.605 as follows:

Delete from the second item the words "and drop and block wires", and substitute the words, "drop and block wires and underground service wires".

Delete the parenthetical note at the end of the fourth item. Add two sentences at the end of the fourth item to say "If the disconnection and reconnection are made in central offices, the cost thereof shall be charged to account 604, Repairs of central office equipment."

Delete from the sixth item the words "Inside moves (moves or relocations on the same premises or at the same address)" and substitute the words "Move or relocations". Delete the words "(See also Note A to this account)."

Delete from the ninth item the words "not incident to station connections".

Add to the list thirteen new items (which after placing the list in final arrangement appear as items 1 through 13, 12, 14, 20, 21 and 22, so that the Items list under § 31.605, as amended, will read:

Items

(Note § 31.01-8)

The wires (or small cables) from the station apparatus to the point of connection with the general overhead or underground system or to the junction boxes where the house cable or other cable terminates. This includes circuits carried by means of wire or small cables, wire plant in cases where connection is made to a general wire system, or to the point of connection with the aerial wire plant in cases where connection is made with a general wire system.

The wires (or small cables) used to connect station apparatus in the same building, such as main stations and extension stations, and stations of intercommunicating systems.

The wires (or small cables) used to connect private branch exchange switchboards or their distributing frames (or equivalent distributing panels) with terminal stations in the same building.

The wires (or small cables) used to connect the various parts of a small private branch exchange, such as the cables or wires from distributing frames (or equivalent distributing panels) to switchboards.

The wires (or small cables) installed specifically to serve as trunk, battery, or generator circuits from a small private branch exchange to the point of connection with the permanent or outside cables or wires.

Connecting blocks, jacks, ground wires, ground rods, station protectors, clamps, cleats, nails, screws and other material used

in the installation of station apparatus and inside wiring and cabling.

Labor and other costs incurred in connection with station apparatus and wiring installations or additions thereto.

Brackets, bridle rings, insulators, knobs, span clamps, screws, sleeves, strand, tubes, and other material used in the installation of drop and block wires, and underground service wires; trimming trees and other costs incurred in the installation of such wires; pipes or other protective covering used for underground drop and block wires or service connections; and permits and privileges for installation.

Changing inside, drop and block wires, and underground service wires.

Changing type of telephone, such as from nondial to dial or from one color to another.

Cleaning station apparatus and large private branch exchange equipment.

Connecting or installing station apparatus.

Disconnecting customers' lines at customers' premises. If the disconnection is made in a central office, the cost thereof shall be charged to account 604, "Repairs of central office equipment."

Disconnecting or removing station apparatus. House service for public telephones.

Inspecting, testing, and reporting on condition of equipment to determine the need for repairs and replacements. (See also account 603.)

Material normally used as repair parts for stations apparatus. Moves or relocations of items of station apparatus. Number plate changes.

Plant assignment and related clerical work (e.g., assigning plant facilities, service order dispatch, service order final completion, and assignment record administrative work).

Reconnecting customers' lines at customers' premises. If the reconnection is made in a central office, the cost thereof shall be charged to account 604, "Repairs of central office equipment."

Removing inside wiring and cabling, drop and block wires, and underground service wires.

Removing sediment from and cleaning batteries.

Repainting and other repairs of booths, except those owned by others.

Repairing used station equipment for reuse.

Replacing defective station apparatus.

Replacing dry-cell batteries.

Replacing minor items of large private branch exchanges, including labor and material used and the removal and recovery of the items retired less salvage recovered, except when such items are replaced through the replacement of retirement units. (note also section 31.2-25.)

Replacing one small private branch exchange by another.

Routine work to prevent trouble, such as trimming trees to protect existing drop and block wires.

Supply expense applicable to station apparatus being reused.

Testing for, locating and clearing trouble in station apparatus and large private branch exchanges. (See also account 603.)

§ 31.605 [Notes Amended]

36. Amend the notes to § 31.605 as follows: Delete Note A.

In Note B, following the words "large private branch exchanges", delete the remainder of the sentence and substitute the words "and for installing or connecting station inside wiring and cabling, drop and block wires, underground service wires, and station apparatus shall be accounted for as prescribed in § 31.5-50 (b)". Change the designation "Note B" to "Note C".

Add two new notes, designated "Note A" and "Note B", so that the notes to § 31.605, as amended, will read:

Note A.—Costs chargeable to this account in connection with inside cabling are restricted to small cables used in station installations instead of wires, such as those run from wall outlets or floor terminals to the station apparatus, and to cables used in installing small private branch exchanges. The cost of cables used in installing equipment includible in account 234, "Large private branch exchanges," shall be included in that account. The cost of other inside cables, including riser and distributing cables in buildings, which by their physical character, method of installation, and permanence constitute house cables, is chargeable to account 242:1, "Aerial cable."

Note B.—The cost of outside plant, such as poles, wires, and cables, whether or not on private property, used to connect a private branch exchange with its terminal stations shall be charged to the appropriate pole, wire and cable accounts.

Note C.—Amounts charged customers for moves and changes of station apparatus and large private branch exchanges and for installing or connecting station inside wiring and cabling, drop and block wires, underground service wires and station apparatus shall be accounted for as prescribed in § 31.5-50(b).

37. In § 31.675 a new paragraph (b) is added and the present paragraph is designated as (a). Paragraph (b) reads as follows:

§ 31.675 Other expenses

(b) This account shall also include the net book value of terminal telephone equipment and any formerly (prior to . . .) capitalized portion of station wire and cable sold in-place. A separate subaccount shall be maintained for these accounts.

§ 31.8 [Amended]

38. In § 31.8, delete the title and the parenthetical reference "(See § 31.2-25, 31.232, and 31.605)".

Appendix A [Amended]

39. In Appendix A, delete from item (h) in the Answer to Case 6-R-2 the

words "station connections". This item to be identified as a substantially complete telephone system, as amended, will read:

(h) All the central office equipment, station apparatus, large private branch exchanges, furniture and office equipment, or vehicles and other work equipment situated in or utilized in a single exchange area, central office area, or other extensive area, without additional classes of associated plant.

40. In Appendix A, delete from the last parenthetical expression in the Answer to Case 9-R-1 the words "See account 232, 'Station connections'" and substitute the words "see account 605, 'Repairs of station equipment'".

41. Delete from paragraphs 4(a) and 5 of Appendix B the words "station connections". Paragraphs 4 and 5 of Appendix B, as amended, will read:

4. Average costs. (a) In the development of average costs for plant consisting of a large number of similar units, such as telephones, poles, wire, cable, cable terminals, conduit, small private branch exchanges, and booths, units of similar size and type within each specified accounting area and plant account may be grouped without regard to year of construction. Each such average cost shall be set forth in the continuing property record or in records, supplemental thereto and in support thereof.

(b) The averaging of costs permitted under the provisions of the foregoing paragraph is restricted to the averaging of costs incurred within an accounting area as defined in paragraph 1 (a). The provisions of paragraph 4(a) shall not be interpreted as permitting the inclusion within such average cost of the cost of units involved in any unusual or special types of construction. The units involved in such unusual or special types of construction shall be recorded at actual cost by locations.

(c) When classes of plant are subdivided between exchange and toll, the bases of the average costs shall be confined to items priced in the respective subdivisions.

5. Identification of property-record units. There shall be shown in the continuing property record or in records supplemental thereto and in support thereof, a complete description of the property-record units in such detail as to identify plainly such units. The description (except for classes of plant for which it is impracticable, such as station apparatus) shall include the identification of the work order under which constructed, the year of installation (unless not determinable at reasonable expense with respect to past acquisitions or installations), the specific location of the property within each accounting area in such manner that it can be readily spot-checked for proof of physical existence, the accounting company's number or designation, and any other description used in connection with the determination of the original cost. Descriptions of units of similar size and type shall follow prescribed groupings.

(FR Doc. 79-25833 Filed 8-20-79; 8:45 am)

BILLING CODE 6712-01-M

[47 CFR Part 76]

[CT Docket No. 79-193; RM-3115; > FCC 79-484]

Proposing To Add Florence, Alabama, to the Huntsville-Decatur Television Market

AGENCY: Federal Communications Commission.

ACTION: Notice of Proposed Rulemaking in Cable Television Docket.

SUMMARY: It is proposed to amend the Commission's cable television rules to include Florence, Alabama, as a designated city in the Huntsville-Decatur, Alabama, television market. This change is found to be consistent with the criteria used in the initial creation of the list of major television markets for purposes of the cable television rules.

DATES: Comments must be received on or before October 15, 1979, and reply comments on or before November 14, 1979.

ADDRESSES: Comments should be sent to: Office of the Secretary, Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: William Johnson, Cable Television Bureau (202) 632-6468.

SUPPLEMENTARY INFORMATION:

Adopted: August 1, 1979.

Released: August 16, 1979.

By the Commission: Commissioner Lee absent.

In the matter of amendment to § 76.51 of the Commission's rules and regulations, CT-Docket No. 79-193, RM-3115.

1. Television Muscle Shoals, Inc. ("TMS"), licensee of station WOWL-TV (NBC, channel 15), Florence, Alabama, has requested that the Commission revise its list of top 100 television markets utilized in the cable television rules, to add the city of Florence, Alabama to the hyphenated market now designated as Huntsville-Decatur, Alabama (#96). TMS had originally filed its request as a petition for special relief pursuant to § 76.7 of the Commission's rules. Objections to that petition were filed by Teleprompter Southeast, Inc. and Decatur TeleCable Corp., both operators of cable systems located within this television market. When TMS replied to these objections, it became clear that what TMS sought was in fact a change in § 76.51(a)(96) of the rules, rather than special relief. TMS's pleading was thus converted to a petition for rule making, and all pleadings in the special relief

proceeding have been considered in the present context. Additionally, an informal comment in support of this petition was filed by Athens TV Cable of Alabama, Inc.

2. The pleadings of Teleprompter Southeast, Inc., operator of a cable television system at Huntsville, Alabama, and Decatur TeleCable Corporation, operator of a cable television system at Decatur and Morgan County, suggest that the signal of WOWL-TV may not be readily available for carriage in these communities, that the station has not presented programming directed to the needs and interests of these communities, and that another signal would have to be dropped or the systems redesigned in order to accommodate the signal. They, therefore, oppose the change requested.

3. This change, if made, would have four principal results: (1) It would entitle stations in Florence to carriage on cable television systems throughout the Huntsville-Decatur-Florence market as that term is defined in the Commission's cable television rules, (2) it would reduce the area in which Florence stations are entitled to network program non-duplication from 55 miles to 35 miles, (3) it would entitle stations in Florence to syndicated program exclusivity on cable television systems, and (4) it would permit cable systems within what is now the Florence market to carry two distant independent station signals in accordance with the top 100 market rules instead of the one distant independent allowed by the smaller market rules.

4. The Commission originally based its major market list on the American Research Bureau's (ARB) 1970 primetime households ranking, although it made minor adjustments to this list not relevant here. Para. 75, *Cable Television Report and Order*, FCC 72-108, 36 FCC 2d 143, 171-172 (1972). It is therefore significant that ARB's 1970 market rankings refer to the "Huntsville-Decatur-Florence" market. In fact, ARB appears never to have utilized a "Huntsville-Decatur" market designation; before ARB combined these markets (in 1966), they were considered separate television markets. This case therefore is readily distinguishable from those instances in which ARB changed its market rankings after our major market list was established; in those circumstances, the Commission stated that it would not revise its list, since a need for stability was perceived in this area. *Id.* The absence of Florence from this list therefore appears to be the result of inadvertent error.

5. In the past the Commission has characterized a hyphenated market as an area with more than one major population center supporting all stations in the cities within the market area. Para. 5 *Report and Order in Docket*, 19990, FCC 74-638, 47 FCC 2d 752, 753 (1974). The problem here seems to be that the area around Florence clearly provides support for the Huntsville stations which have significant audience in Florence and the surrounding counties. The reverse is not necessarily true—that Huntsville area residents view the Florence station. Thus, the designation of what is the proper "market" for purpose of the cable television rules is necessarily something of a compromise. In addition, since the cable rules determine the carriage rights on cable systems the rules create as well as reflect what the market will actually be like. In our view the Florence area seems to be part of the market on which Huntsville stations rely for advertising support and reciprocally the Commission's rules should not cut-off the Florence station from advertiser support in the Huntsville area.

6. In general the change proposed would be of benefit to cable subscribers by increasing access to broadcast programming and it does not appear that there would be any adverse impact on the television service provided by local stations to the area. Accordingly, we believe the proposal warrants consideration through the rulemaking process. We do recognize the problems raised by the Huntsville and Decatur cable systems concerning insufficient channel capacity and problems with reception of WOWL-TV. It may be that this situation will warrant special consideration if the market structure is changed so that the rules allow carriage but do not mandate it. Specific comments on this issue is requested. This does not, however, change the fact that the market structure proposed by Television Muscle Shoals appears to be in line with that used when the list was originally prepared and that the change can aid cable subscribers on other systems and create a more rational market structure. We are therefore issuing the rule change proposal as

¹Another confusing factor here is the inclusion of Decatur on the market list in the cable television rules. Section 76.51. Although Huntsville stations may identify with Decatur, no station is licensed to that city and accordingly it has no specified 35-mile zone under the cable rules and should not have been made a part of the market. Thus, for purposes of the cable rules the market should either be the Huntsville market or the Huntsville-Florence market but not Huntsville-Decatur. Compare *Order* FCC 74-1126, 49 FCC 74-1126, 49 CFF 2d 198 (1974) deleting Jacksonville from the Springfield-Decatur-Champaign, Illinois market.

requested. If the change is adopted the new market would become, in accordance with footnote 1 above, the Huntsville-Florence market.

7. In a rulemaking proceeding now pending (*Notice of Proposed Rule Making in Dockets 20988 and 21284*, FCC 79-243, FCC 2d (May 7, 1979)) some of the rules here involved are being re-evaluated and rule changes could be made as a result of this proceeding that would alter in some respects the consequences of the change requested by Television Muscle Shoals, Inc. Nevertheless, it seems to us that the change proposed here is likely to have consequence as long as the Commission continues to regulate any aspect of cable television signal carriage and that we should therefore proceed with this proposal.

8. Accordingly, we propose to amend § 7651(a)(96) of the rules to include Florence, Alabama within this major television market. Authority for the rule amendment proposed herein is contained in Sections in 2, 3, 4(i) and (j), 301, 303, 307, 308 and 309 of the Communications Act of 1934, as amended. All interested parties are invited to file written comments in this proceeding on or before October 15, 1979, and reply comments on or before November 14, 1979. All submissions by parties to this must be made in written comments, reply comments, or other appropriate pleadings.

9. In accordance with the provisions of § 1.419 of the Commission's rules and regulations, an original and 5 copies of all comments, replies, or other documents filed in this proceeding shall be furnished to the Commission. Participants filing the required copies who also wish each Commissioner to have a personal copy of the comments may file an additional 8 copies. Members of the general public who wish to express their interest by participating informally in the rule making proceeding may do so by submitting one copy of the comments, without regard to form, provided only that the Docket Number is specified in the heading. Responses will be available for public inspection during regular business hours in the Commission's dockets Reference Room (Room 239) at its headquarters in Washington, D.C. (1919 M St., NW.).

Federal Communications Commission.

William J. Tricarico,
Secretary.

[FR Doc. 79-25882 Filed 8-20-79; 8:45 am]

BILLING CODE 6712-01-M

Notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

1980 Wheat, Barley, Oats and Rye Programs; Determinations Regarding the Proclamation of 1980-Crop National Program Acreage, Set-Aside Level and Other Program Provisions for Wheat, Barley, Oats and Rye

AGENCY: Agricultural Stabilization and Conservation Service.

ACTION: Notice of Determination of 1980-Crop National Program Acreage, Set-Aside Level and Other Program Provisions for Wheat, Barley, Oats and Rye.

SUMMARY: This notice is for the purpose of proclaiming a national program acreage, no set-aside and other program provisions for the 1980 crop of wheat in accordance with applicable sections of the Agricultural Act of 1949, as amended (hereinafter referred to as the "Act"). Provisions of the Act require that a determination of national program acreage and set-aside requirements be made for wheat not later than August 15 prior to the year in which the crop is harvested.

EFFECTIVE DATE: August 15, 1979.

ADDRESSES: Production Adjustment Division, ASCS-USDA, 3630 South Building, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: Bruce R. Weber (ASCS) (202) 447-6688.

SUPPLEMENTARY INFORMATION: A notice that the Secretary was preparing to make determinations with respect to the 1980 wheat, barley, oats and rye program was published in the Federal Register on June 5, 1979 (44 FR 32257) in accordance with 5 U.S.C. 553 and provided for a 60-day comment period. The comment period was subsequently shortened to allow the Secretary to announce the 1980 program provisions

at an earlier date (See 44 FR 39566, dated July 6, 1979). Comments were received from over 130 entities in 24 States. The breakdown of comments received were 87 farmers, three State and county farm organizations, 22 State and county ASC Committees, one State government agency, one State Agribusiness, four national farm organizations, seven national agribusinesses and six Members of Congress. The majority of the comments involved five issues: (1) set-aside, (2) announcement of barley and oats program along with wheat, (3) target price levels, (4) loan levels, and (5) special wheat acreage grazing and hay program. A majority of the comments favored set-aside for the 1980-crop of wheat. The general level of set-aside suggested was between 5 and 15 percent, with suggestions as high as 35 percent. All comments made favored an early announcement of the barley and oats program. Suggested target levels ranged from a low of \$3.50 per bushel to parity for wheat and \$2.88 per bushel to parity for barley. Comments on loan levels ranged from \$2.75 per bushel to parity for wheat; \$2.20 per bushel to parity on barley and \$1.75 per bushel for oats. A large majority of the comments made concerning the special wheat acreage grazing and hay program favored continuation of the program with a minimum payment guarantee. All comments received were duly considered by the Secretary. Accordingly the Secretary has made the following program decisions pertaining to the 1980-crops of wheat.

Notice of Determinations

1. 1980-Crop Barley, Oats and Rye

Although comments received unanimously favored announcement of the 1980-crop barley and oats program provisions along with wheat, it is hereby determined that a decision on the various program provisions pertaining to the 1980-crops of barley, oats and rye will be delayed until further information becomes available on the 1979 feed grains crop and utilization prospects. Section 105A(f)(1) of the Act provides that when a determination is to be made as to whether set-aside is needed for the 1980 crops of feed grains, such determination is to be based on the total feed grains complex rather than on the individual commodities. Accordingly, it

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has been determined that until more complete 1979-80 supply and demand data becomes available for the 1979 feed grains crop (principally corn), a final 1980-crop program decision cannot be made.

2. National Program Acreage for 1980-Crop Wheat

It is hereby proclaimed that the preliminary national program acreage for the 1980 crop of wheat shall be 70.0 million acres. The national program acreage is based on the following data:

(a) Estimated domestic consumption 1980-81 (million bushels)	884.0
(b) Plus estimated exports, 1980-81 (million bushels)	1,250.0
(c) Minus estimated imports, 1980-81 (million bushels)	-2.0
(d) Plus adjustment to increase stocks to desired level (million bushels)	+157.0
(e) Divided by estimated national weighted average farm program yield (bushels/acre)	32.7
(f) Equals: Preliminary 1980 national program acreage (million acres)	70.0

¹The 157 million bushel adjustment for increased stocks was determined appropriate to bring the 1980-81 carryover more in line with a desired carryover level. 1979-80 carryover wheat stocks are estimated to be around 900 million bushels. The announced level of the national program acreage would likely result in a 1980-81 carryover of wheat at close to 1.0 billion bushels.

The Secretary may revise the national program acreage as proclaimed for the purpose of determining the allocation factor if he determines it is necessary based on latest information. The national allocation factor will be determined in the fall of 1980.

3. No set-Aside for 1980-Crop Wheat

Section 107A (f)(1) of the Act provides that the Secretary shall provide for a set-aside of cropland if the Secretary determines that the total supply of wheat will, in the absence of such a set-aside, likely be excessive taking into account the need for an adequate carryover to maintain reasonable and stable supplies and prices to meet a national emergency. In accordance with those criteria, it is hereby determined and proclaimed that no set-aside of cropland will be required for the 1980-crop of wheat. No set-aside will likely result in an 8 to 11 percent increase in planted acreage for 1980 and a modest increase in carryover stocks. Producers are encouraged to follow good farming practices in planting their 1980 crop of wheat. In 1978, world wheat production at 438 million metric tons (a record) was up 56 million tons (15%) from the previous year. Although trade remained strong, world ending stocks increased by 23 million tons. This stock increase

occurred outside of the United States. As a result of the 1979 set-aside program and near record exports, ending stocks declined nearly 7 million tons from the previous year. The 1979/80 world wheat production is forecast at 406 million tons, down more than 30 million tons (7%) from 1978-79. Global utilization is projected at 417 million tons. Trade is forecast to increase nearly 10 percent due largely to increased imports by the Soviet Union, but also to larger imports by some countries in Eastern and Western Europe where crops will likely be down from last year. As a result, world ending stocks for the 1979-80 season are forecast to be drawn down by 11 million tons (based on July 16 Foreign Agriculture Circular-Grains) and would represent less than 24 percent of utilization, next to the smallest in the past 4 years and nearly equal to that for 1971-72. Projected U.S. ending stocks (based on July 13, Agricultural Supply and Demand Estimates) at 23.4 million tons will likely decline by 2 million tons or more and would be the lowest since 1975-76.

The Southern Hemisphere wheat crop will not be harvested until December. The advent of unfavorable weather in that part of the world could seriously tighten current year world wheat supplies and exacerbate the 1979 and 1980 wheat supply-demand situation.

Given this outlook, it was determined that no set-aside was needed for the 1980 crop of wheat. The chances are just too great for wide swings in production and prices in the event of bad weather. Other measures such as the continuation and expansion, if needed, of the farmer-owned reserve program will be used in designing a 1980-81 supply management program aimed at providing remunerative prices to producers and will assure the U.S. consumer and our foreign customers of a reliable and adequate supply of wheat.

4. 1980 Land Diversion

It is hereby determined that in accordance with the no "set-aside" decision, no land diversion program will be implemented for the 1980 crop of wheat.

5. Voluntary Reduction from 1979 Planting for 1980-Crop Wheat

It is hereby determined and proclaimed that producers who plant no more wheat for 1980 harvest than was planted and considered planted for harvest in 1979 shall be guaranteed target price protection on the normal production from the entire acreage.

In applying the voluntary reduction for 1980, the 1979 wheat acreage shall be:

The 1979 wheat acreage planted for harvest. Such acreage shall be increased by any approved prevented planted acreage plus any special wheat grazing and hay acreage in addition to the larger of:

- (a) The total set-aside for 1979 or
- (b) The acreage reduced from the previous year but not to exceed the recommended 1979 voluntary reduction.

6. 1980 Established "TARGET" Price for Wheat

Based on the formula required by law, the 1980 established "target" price for wheat is expected to be between \$2.95 and \$3.20 per bushel. Based on preliminary costs of production data, the 1980 target price is indicated to be \$3.07 per bushel. However, this level is subject to change depending upon final 1979-crop costs of production and the final 1979 wheat yield per planted acre. It is anticipated that the final 1980 target price will be announced not later than March 15, 1980.

7. 1980 Loan and Purchase Level

It is hereby determined that the 1980-crop wheat loan and purchase level shall be \$2.50 per bushel, 15 cents higher than the 1979-crop level. It has been determined that this level will maintain the competitive relationship of wheat to other grains in domestic and export markets.

8. Special Wheat Acreage Grazing and Hay Program

It is hereby determined that in accord with the no set-aside decision, the Special Wheat Acreage Grazing and Hay Program will not be implemented at this time for the 1980-crop of wheat. However, if later information becomes available that indicates a need for this program it will be implemented.

Note.—This final determination has been reviewed under the USDA criteria established to implement Executive Order 12044 "Improving Government Regulations" and has been classified "significant." An approved Final Impact Statement will be available from Bruce R. Weber, (ASCS) (202) 447-6688.

Note.—ASCS has determined an environmental assessment will not be necessary since it has been determined that there will be no set-aside for the 1980 crop of wheat.

Bob Bergland,
Secretary

August 15, 1979.

[FR Doc. 79-25788 Filed 8-20-79; 8:45 am]

BILLING CODE 3410-05-M

CIVIL AERONAUTICS BOARD

[Docs. 33361 and 32460]

Former Large Irregular Air Service Investigation; Application of Imperial Airlines, Inc.; Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1968, as amended, that a hearing in the above-entitled proceeding will be held on November 6, 1979, at 9:30 a.m. (local time), in Hearing Room 1003 B, Universal North Building, 1875 Connecticut Avenue NW., Washington, D.C., before me.

For information concerning the issues involved and other details in this proceeding, interested persons are referred to the prehearing conference report served November 9, 1978, and other documents which are in the docket of this proceeding on file in the Docket Section of the Civil Aeronautics Board.

Dated at Washington, D.C., August 15, 1979.

Marvin H. Morse,

Administrative Law Judge.

[FR Doc. 79-25810 Filed 8-20-79; 8:45 am]

BILLING CODE 6320-01-M

[Docket No. 32851; Agreement C.A.B. 1175, as amended Order 79-8-92]

International Air Transport Association

Order

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 15th day of August 1979.

On August 6, 1979, the International Air Transport Association (IATA) filed a motion requesting that the filing date for original testimony in this proceeding be extended until at least 60 days after: (a) The release of the Board's transcripts of the July 23-31, intergovernmental meetings; (b) the conclusion of diplomatic consultations related to this proceeding; or (c) the public announcement of the identity of the witnesses whom the Board has invited to participate in the legislative hearing, depending on which happens last. IATA also requested that reply testimony be due at least 60 days after the original testimony.¹

¹ On July 12, 1979, the Department of Justice filed a motion requesting that the deadline for filing original testimony be extended from August 1 until September 5, 1979. Although that motion was discussed at our meeting on July 12, it was not mentioned in Order 79-7-78, served July 13, which extended the filing date for original testimony from August 1 to August 20. Justice argued that the filing date for original testimony should follow governmental consultations so that information from the consultations could form a part of the

Footnotes continued on next page

Replies were filed by Air Canada, British Airways, Alitalia, Varig, S.A., Aer Lingus, and Lufthansa.

IATA's request that the procedural dates in this docket be further extended is denied. As IATA correctly noted in its pleading, the views of foreign governments are one of the many important factors that we intend to consider in reaching a final decision. However, as we indicated at our Board meeting on July 12, the extension granted in Order 79-7-76 was not calculated to allow parties to discuss the results of the intergovernmental consultations in their original testimony, but was directed instead to the need expressed by many parties for additional time to make final witness selections and begin preparation of original testimony. It appears at this time that the transcripts of the consultations will be available this week, so that analysis and discussion of their contents by the parties will be possible in reply testimony, at the legislative hearing, and in final briefs to the Board.²

In the course of the consultations, several governments made proposals to the United States delegation. The Department of State agreed to consider the proposals and provide the response of the United States government at a later date. IATA has requested a delay in the proceedings until after that response has been given.

As IATA certainly realizes, the proposals were directed by the foreign governments to the government of the United States, not the Board. The positions taken with respect to those proposals by the various organs of the government that are parties to this proceeding will no doubt become part of the record. There is, however, no reason why the procedure we have previously established should be delayed until those positions are clarified.

Both in Order 78-6-78 and Order 79-5-113 we set out the issues that we believed to be important to the resolution of this case. In the latter order

Footnotes continued from last page original testimony. On August 14, 1979, the Department of Transportation filed a motion, supported by the Departments of Justice and State, for a 30 day extension of the date for filing original testimony. The motions of Justice and Transportation are similar to IATA's, and this Order will therefore treat all three motions.

Due to the proximity of the filing date for original testimony, we are issuing this Order prior to the receipt of all replies to IATA's motion. To do otherwise would leave all parties in unjustified uncertainty as to whether or not they are still required to file their testimony on August 20.

² Copies of the transcripts can be obtained from Alpha Reporting Services, 201 I Street, S.W., Washington, D.C., 20024. Telephone inquiries should be directed to Phyllis Edwards (202) 737-2214.

we invited the parties to submit evidence on those issues through written testimony and witnesses at the legislative hearing. The previous filings in this docket convinced us that the testimony of the parties would not necessarily represent a full range of opinion on the issues, and we, therefore, decided to invite a number of witnesses who might be expected to "flesh out" the record. We did not, by our invitations, attempt to insure that all possible views would be presented. The parties have positions on the issues and we expect that they will present them. Furthermore, by our selection of witnesses we did not undertake to "present a case." All witnesses were requested to submit their personal views; none was asked to defend or justify a specified position.

There is no merit to IATA's argument that its preparation is hampered by ignorance of the identity of those we have asked to participate. All parties have been on notice since May that they would have an opportunity to present an affirmative case. If any party wishes to respond to a position taken, or argument made, by one of the witnesses we have invited, it will have that opportunity both in reply testimony and at the legislative hearing.

Although we will not delay the proceedings further, we are prepared to provide the names of the witnesses we have invited to submit testimony and appear at the legislative hearing. Appendix A lists those witnesses and their addresses. They have been added to the updated service list in Appendix B and should receive copies of the testimony filed by the parties.

In Appendix D of Order 79-5-113 we listed suggested topics that parties might wish to address in their testimony and at the oral hearing. Topic 5 of that appendix posed these questions: "Will any countries or group of countries be more seriously affected than others by CAB disapproval or withdrawal of immunity from Traffic Conferences? Is different treatment justified? Feasible?" During the consultation held in Bogota, Brussels, and Nairobi, various governmental parties suggested that IATA Traffic Conferences might be more necessary or desirable in certain parts of the world than in others, and that our final decision should recognize such differences. Because of the interest displayed at the governmental level in the possibility of regional solutions, we wish parties to focus on the question of whether certain regions of the world have a special need for the collective rate-setting offered by IATA.

Accordingly, 1. We deny the motions of the Departments of Justice and Transportation IATA that we further extend the date for filing original testimony or otherwise change the procedural schedule of this proceeding; and

2. We have set forth in Appendix A a list of the persons whom we have invited to participate in this proceeding, and in Appendix B an updated service list.

This Order shall be served on all parties who have previously filed in this docket and shall be published in the Federal Register.

By the Civil Aeronautics Board.

Phyllis T. Kaylor,³

Secretary.

O'Melia, Member, Dissenting:

I move to dismiss the IATA Review case.

A delegation made up of representatives from CAB and the Departments of State, Justice and Transportation has now returned from visits about our withdrawal of approval of IATA with delegations of foreign governments at Bogota, Brussels and Nairobi. No one but Chile, I understand, supported the Board's proposal to withdraw our decades-long approval of the IATA ratesetting mechanism. The foreign governments indicated a preference for the stability of a system in which fares are first proposed and discussed among the carriers and then referred to governments if agreement is not achieved. Some governments dispute as a matter of principle the anti-trust, anti-price-setting attitudes inherent in our original show cause order (Order 78-6-78). Others are concerned about the viability of their national carriers in a no-IATA environment in competition with the giant U.S. carriers. Many are worried about the disruption and chaos and overall annoyance that would follow withdrawal of our approval of IATA.

In summary, all the world governments who participated in this series of talks but Chile, apparently, opposed our proposed action. They pointed out that new rules permit each carrier member to decide whether or not it will participate in rate conference agreements. A carrier may decide against participation yet still retain the benefits of agreement on the so-called "facilitation" issues of doing business. The foreign governments felt these new rules should be given a fair chance to work. I agree. An organism as long-standing and as widely accepted as

³ All Members concurred except Member O'Melia who filed the attached dissenting statement.

IATA deserves a decent test of its reformed procedures.

The Board has made it clear that its primary concern is about the rate-setting aspects of IATA—not the myriad agreements on other subjects that make an international airline system work efficiently. If carriers can participate in rate agreements or not as they individually see fit, we should allow the dynamics of the new, agree or not, environment develop as it will without riding rough-shod over the experiment before it gets started.

My call for dismissal of this case does not rest on the solid opposition of the governments we have been visiting with on the issue. I base it rather on the fact that IATA is no longer an effective influence on U.S. rates and fares. Most major U.S. flag carriers have withdrawn from participation in the rate-setting conferences of IATA. Only National, soon to disappear from the carrier rolls, and Tiger continue their active participation in trans-oceanic rate setting. In the Western Hemisphere, American and Eastern, for the moment at least, continue as members in the Caribbean/Mexico rate agreements, but we have independent, competitive carriers setting the fare levels as a matter of routine in many of those markets. In only a couple of obscure geographical areas of the world is there an IATA fare or rate agreement in effect! Why should we be concerned about such an ineffective rate setter?

An argument may be made that when the present right-thinking Members/staff of the Board are gone, the hydra-headed rate-setting beast will rise up again and ravage the pocketbooks of world travellers and shippers. But there will no longer be anti-trust immunity after 1985. Section 414 authority goes to the Department of Justice. Can anyone reasonably expect it to permit any more international rate-setting agreements than we have? Even before that, if Senator Cannon's proposed international aviation bill passes, rate-setting agreements are in for serious trouble.

Moreover every one of our new route awards in the last year or so, those already in effect across the Atlantic and Pacific and those still pending in major route cases, each one is another nail in IATA's coffin. So is every new intergovernmental agreement to a mutual suspension or country of origin rate article. IATA's increasing inability to cope with this new competition tells me that the majority's battle against rate-setting agreements is won. Clearly that is so in U.S.-Europe markets and it is increasingly so in U.S.-Asia markets

with the new liberal rate articles agreed upon with several major and strategic countries. IATA may still seem to be strong in South America but that merely reflects government policy there. But the majority's battle is not won in South America by destroying IATA: it is won by negotiating more favorable bilateral agreements as we have consistently been doing throughout the world in the last year or so. Considering the adamant stance of the South American countries at Bogota, it would appear to me that a more competitive environment could be better achieved by firm but friendly persuasion than by denouncing IATA over their strong objections.

Thus why ruin everyone's Fall arguing about IATA? Why drag the professors from the shady groves of academe to the bloody CAB arena? Why upset all the foreign governments and their carriers over an issue that cannot survive more than a year or two. It is a dying issue. There is no hope for survival. Let us forget about it and, as a headache, it will pass away.

If some do not see IATA's future influence on U.S. rates and fares as waning or if there is a hesitation that IATA might rise again phoenix-like from the ashes, I say we should rely on our historic pattern of intervening in and disapproving any IATA agreement we do not like and then, when we are gone, leave the matter to the Department of Justice. Implementation of our other more important policies of competitive licensing in international markets, our innovative new bilateral rate approaches will be jeopardized if we continue to infuriate foreign governments by pressing for the guillotine for IATA. With an ineffective IATA rate influence at present, we should be devoting our efforts to implementing more important Administration policy goals. (My agreement to every facet of those goals, or not, is irrelevant to my argument. I am saying that fighting about IATA is no longer worth the candle and, in fact, is a retard on our achievement of more important Administration policies.) We diminish our chances for success on our licensing/rate goals if we poison our approaches to foreign governments with the IATA issue.

I would grant IATA's modest request for brief delays in the procedures for processing this case for the reasons it cites.

Richard J. O'Melia

Appendix A

Secor D. Browne, Secor D. Browne & Associates, Inc., Suite 602, 1200 18th Street, NW., Washington, D.C. 20036.
Dr. Richard E. Caves, 24 Agassiz Street, Cambridge, MA, 02140.
Professor Alan C. Day, Department of Economics, London School of Economics, Houghton Street, London WC2, England.
R. Tenney Johnson, Esq., Sullivan & Beaugard, Suite 925, South Building, 1800 M Street, NW., Washington, D.C. 20036.
Professor Thomas E. Kauper, University of Michigan Law School, Ann Arbor, MI 48104.
Sir Frederick Laker, c/o Laker Airways, Gatwick Airport, Horley, Surrey, England.
Dr. James C. Miller III, American Enterprise Institute, Suite 701, 1150 17th Street, NW., Washington, D.C. 20036.
ACAP, Box 19029, Washington, D.C. 20036.
Air New Zealand, 510 West 6th Street, Suite 1000, Los Angeles, CA 90014.
James R. Atwood, Deputy Assistant Secretary for Transportation Affairs, Department of State, Washington, D.C. 20520.
Edwin O. Bailey, Esq., Kirkland & Ellis, 1776 K Street, NW., Washington D.C. 20006.
Leonard N. Bebchick, Esq., Martin, Whitfield, Smith & Bebchick 1701 Pennsylvania Avenue, NW., Washington D.C. 20006.
Robert M. Beckman, Esq., 1001 Connecticut Avenue, NW., Suite 235, Washington, D.C. 20036.
Paul Bessel, Esq., Director, Aviation Affairs, American Society of Travel Agents, Inc., 711 Fifth Avenue, New York, NY 10022.
Mr. Oscar Bosshart, Swissair Transport Company, Ltd., (Swissair), Hanger 15, J. F. K. International Airport, New York, NY 11430.
Mr. J. Dan Brock, Vice President—International, National Airlines, Inc., P.O. Box 592055, Airport Mail Facility, Miami, FL 33159.

Appendix B

Mr. W. R. Brown, Director, Agency & Industry Relations World Wide Travel Department, American Automobile Association, Inc., 8111 Gatehouse Road, Falls Church, VA 22047.
Mr. Secor Browne, Secor D. Browne & Associates, Inc., Suite 602, 1200 18th Street, NW., Washington, D.C. 20036.
Mr. William M. Caldwell, Vice President, Marketing, The Flying Tiger Line, Inc., 7401 World Way West, International Airport, Los Angeles, CA 90009.
G. Nathan Calkins, Esq., Galland, Kharasch, Calkins & Short, 1054 Thirty-First Street, NW., Washington, D.C. 20007.
Dr. Richard E. Caves, 24 Agassiz Street, Cambridge, MA 02140.
Mr. C. S. Cervantes, Philippine Airlines, Inc., Legal Officer/Personnel Director 212 Stockton Street, San Francisco, CA 94108.
Mr. George Chan, Singapore Airlines, Ltd., Regional Director, The Americas, 510 West 6th Street, Suite 406, Los Angeles, CA 90014.

William C. Clark, Esq., Barrett, Smith, Shapiro, Simon and Armstrong, 26 Broadway, New York, NY 10004.
Mr. Terence Colli, Canadian Embassy, 1746 Massachusetts Avenue, NW, Washington, DC 20036.
Mr. Raymond Cope, International Air Transport Association, 26 Chemin de Joinville, P.O. Box 160, 1216 Cointrin, Geneva, Switzerland.
Alan A. D'Ambrosio, Esq., Herzfeld & Rubin, P.C., 40 Wall Street, New York, NY 10005.
Professor Alan C. Day, Department of Economics, London School of Economics, Houghton Street, London WC2, England.
Alfred J. Eichenlaub, Esq., Ginsburg, Feldman and Bress, 1700 Pennsylvania Avenue, NW, Washington, DC 20006.
L. John Eichner, Esq., Simat, Helliesen and Eichner, 708 Third Avenue, New York, NY 10017.
Dr. B. Espenkoetter, Lufthansa German Airlines, Administrative Manager for North & Central America, 1640 Hempstead Turnpike, East Meadow, L.I., NY 11554.
Fritz Freiburghaus, Director, FIATA Airfreight Institute, P.O. Box 177, CH-8026, Zurich, Switzerland.
Mr. Otto Gersbach, Managing Director, Balair AG, Airport Basel-Mulhouse, P.O. Box 173, 4002 Basel, Switzerland.
Albert F. Grisard, Esq., 1014 Washington Building, 1435 G Street, NW, Washington, DC 20005.
Louis P. Haffer, Esq., Happer and Alterman, 1730 Rhode Island Avenue, NW, Washington, DC 20036.
Mr. Knut Hammerskjold, International Air Transport Assoc., 26 Chemin de Joinville, P.O. Box 160, 1216 Cointrin, Geneva, Switzerland.
Mr. Roland J. Hawkins, Vice President and General Manager, North and Central American Division, Air France, 1350 Avenue of the Americas, New York, NY 10019.
Joseph H. Hermosillo, Trial Attorney, Office of Assistant General Counsel for Litigation, Department of Transportation, Washington, DC 20590 (2).
Jerome F. Huisentrut, Esq., Assistant General Counsel, Air Transport Association of America, 1709 New York Avenue, NW, Washington, DC 20006.
Mr. Kiichi Ito, Agent, Japan Air Lines Company, Ltd., 655 Fifth Avenue, New York, NY 10022.
Paul C. Jasinski, Esq., Trans World Airlines, Inc., 605 Third Avenue, New York, NY 10016.
R. Tenney Johnson, Esq., Sullivan & Beaugard, Suite 925, South Building, 1800 M Street, NW, Washington, DC 20028.
Mr. Dieter W. Kappacher, Condor Flugdienst GmbH, General Sales Manager, 701 Lee Street, Suite 550, Des Plaines, IL 60016.
Professor Thomas E. Kauper, University of Michigan Law School, Ann Arbor MI 48104.
Mr. A. J. P. Kusters, President and General Manager, Carabische Lucht Transport Maatschappij NV, P.O. Box 286, Curacao, Netherlands Antilles.
Sir Frederick Laker, c/o Laker Airways, Gatwick Airport, Horley, Surrey, England.

Mr. Geoffrey Lipman, International Air Transport Association, 26 Chemin de Joinville, P.O. Box 160, 1216 Cointrin, Geneva, Switzerland.
David B. Lytle, Esq., Hogan & Hartson, 815 Connecticut Avenue, NW, Washington, DC 20036.
Mr. Peter F. Mahta, Regional Director, USA & Canada, Air India, 345 Park Avenue, New York, NY 10022.
Bruce McDonald, Esq., Kirkland and Ellis, 1776 K Street, NW, Washington, DC 20006.
Robert N. Meiser, Esq., 1300 Connecticut Avenue, NW, Suite 307, Washington, DC 20036.
Allen I. Mendelsohn, Esq., Classie, Pewett, Beebe & Shanks, 1737 H Street, NW, Washington, DC 20006.
Dr. James C. Miller III, American Enterprise Institute, Suite 701, 1150 17th Street, NW, Washington, DC 20036.
Mr. Brian Molnar, Agent, International Jet Air, Ltd., Calgary International Airport, P.O. Box 3180, Stn. B, Calgary, Alberta, Canada.
William A. Nelson, Esq., Ballard, Beasley and Nelson, 505 Commerce Building, 1700 K Street, NW, Washington, DC 20006.
Mr. Oisín O'Siochra, Planning and Marketing Manager, Aer Lingus, 122 East 42nd Street, New York, NY 10017.
Robert D. Papkin, Esq., Squire, Sanders and Dempsey, 21 Dupont Circle, NW, Washington, DC 20036 (7).
Frederick V. Perry, Manager of Legal Affairs, International Division, AEROMEXICO, 8400 NW, 52nd Street, Suite 100, Miami, FL 33166.
Mr. S. A. Porter, Agent for Service, Olympic Airways, 1000 Connecticut Avenue, NW, Suite 403, Washington, DC 20036.
Mr. G. N. Pratt, Solicitor, Law Branch, Air Canada, 1 Place Ville-Marie, Montreal, P.Q., Canada H3B 3P7.
Bert W. Rein, Esq., Kirkland & Ellis, 1776 K Street, NW, Washington, DC 20006.
Mrs. Collette Rivoal, Air France, 1 Square Max Hymans, 75741 Paris CEDEX 15, France.
Jerry W. Ryan, Esq., 1100 Connecticut Avenue, NW, Suite 1200, Washington, DC 20036.
Mr. Reynold J. Schwab, Swissair Transport Company, Ltd., (Swissair), General Manager, 608 Fifth Avenue, New York, NY 10020.
John W. Simpson, Esq., Koteen & Burt, 1150 Connecticut Avenue, NW, Washington, DC 20036.
Marshall S. Sinick, Esq., Fisher, Gelband & Sinick, P.C., 2020 K Street, NW, Suite 440, Washington, DC 20006.
Mr. Vladimir Slivitsky, Director, Government & Industry Affairs, Air Canada, One Plaza Ville-Marie, Montreal, P.Q., Canada H3B 3P7.
Mr. Ira B. Sperry, Manager, Government Affairs, Alitalia Airlines, 1001 Connecticut Avenue, NW, Washington, DC 20036.
V. Michael Straus, Esq., 1001 Connecticut Ave., NW, Suite 401, Washington, DC 20036.
Mr. Michael A. Styles, International Air Transport Assoc., 1019 19th Street, NW, Penthouse No. 1, Washington, DC 20036.

Mr. George Turner, Vice President, Regulatory Proceedings, Continental Airlines, 7300 Worldway West, Los Angeles, CA 90009.
John M. Vittone, Esq., Antitrust Division, U.S. Department of Justice, Washington, DC 20530.
Mr. Thomas J. Whalen, Agent, Quantas Airways, Limited, Condon & Forsyth, 1001 Connecticut Avenue, NW, Washington, DC 20036.
[FR Doc. 79-25809 Filed 8-20-79; 8:45 am]
BILLING CODE 6320-01-M

COMMISSION ON CIVIL RIGHTS

Alaska Advisory Committee; Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Alaska Advisory Committee (SAC) of the Commission will convene at 3:00 pm and will end at 6:00 pm, on August 7, 1979, at the United Bank Alaska, 645 G Street, Anchorage, Alaska.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Northwestern Regional Office of the Commission, 915 Second Avenue, Room 2852, Seattle, Washington 98174.

The purpose of this meeting is for program planning.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., August 16, 1979.

John I. Binkley,
Advisory Committee Management Officer.

[FR Doc. 79-25846 Filed 8-20-79; 8:45 am]
BILLING CODE 6335-01-M

Idaho Advisory Committee; Agenda And Notice Of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Idaho Advisory Committee (SAC) of the Commission will convene at 10:00 am and will end at 4:00 pm, on September 8, 1979, at 850 Lindsay Boulevard, Idaho Falls, Idaho 83401.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Northwestern Regional Office of the Commission, 915 Second Avenue, Room 2852, Seattle, Washington 98174.

The purpose of this meeting is for a community forum to hear civil rights concerns of Eastern Idaho area, with special emphasis on Administration of Justice.

This meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, D.C., August 16, 1979.

John I. Binkley,
Advisory Committee Management Officer.
[FR Doc. 79-25845 Filed 8-20-79; 8:45 am]
BILLING CODE 6335-01-M

West Virginia Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a factfinding meeting of the West Virginia Advisory Committee (SAC) of the Commission will convene at 1:00 pm and will end at 5:00 pm, on September 6, 1979, at the State Board Conference Room; West Virginia Department of Education, Building 6, 1900 Washington Street, East, Charleston, West Virginia 25305.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Mid-Atlantic Regional Office of the Commission, 2120 L Street NW., Room 510, Washington, D.C. 20037.

The purpose of this meeting is to discuss various national, state, and local civil rights issues as they affect West Virginia or its local jurisdictions. The primary topic is education, and the meeting is to begin with a session with Dr. Roy Truby, new State Superintendent.

This meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, D.C., August 16, 1979.

John I. Binkley,
Advisory Committee Management Officer.
[FR Doc. 79-25847 Filed 8-20-79; 8:45 am]
BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

Industry and Trade Administration

Numerically Controlled Machine Tool Technical Advisory Committee; Partially Closed Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, as amended, 5 U.S.C. App. (1976), notice is hereby given that a meeting of the Numerically Controlled Machine Tool Technical Advisory Committee will be held on Thursday, September 6, 1979, at 10:00 a.m. in Room B841, Main Commerce Building, 14th Street and

Constitution Avenue, N.W., Washington, D.C.

The Numerically Controlled Machine Tool Technical Advisory Committee was initially established on January 3, 1973. On December 20, 1974, January 13, 1977, and August 28, 1978, the Assistant Secretary for Administration approved the recharter and extension of the Committee, pursuant to Section 5(c)(1) of the Export Administration Act of 1979, as amended, 50 U.S.C. App. Sec. 2404(c)(1) and the Federal Advisory Committee Act.

The Committee advises the Office of Export Administration with respect to questions involving (A) technical matters, (B) worldwide availability and actual utilization of production of technology, (C) licensing procedures which affect the level of export controls applicable to numerically controlled machine tools, including technical data or other information related thereto, and (D) exports to the aforementioned commodities and technical data subject to multilateral controls in which the United States participates including proposed revisions of any such multilateral controls.

The Committee meeting agenda has six parts:

General Session

- (1) Opening remarks by the Chairman.
- (2) Presentation of papers or comments by the public.
- (3) Continued discussion of accuracy parameters for numerically controlled machine tools.
- (4) Discussion of foreign availability of numerically controlled machine tools and numerically controlled machine tool technology.
- (5) New business.

Executive Session

- (6) Discussion of matters properly classified under Executive Order 11652 and 12065, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The General Session of the meeting will be open to the public and a limited number of seats will be available. To the extent time permits members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting.

With respect to agenda item (6), the Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on September 6, 1978, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended by Section 5(c) of the Government In The Sunshine Act, Pub. L. 94-409, that

the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1). Such matters are specifically authorized under criteria established by an Executive Order to be kept secret in the interests of the national defense or foreign policy. All materials to be reviewed and discussed by the Committee during the Executive Session of the meeting have been properly classified under Executive Order 11652 or 12065. All Committee members have appropriate security clearances.

The complete Notice of Determination to close meetings or portions thereof of the series of meetings of the Numerically Controlled Machine Tool Technical Advisory Committee and of any Subcommittees thereof, was published in the Federal Register on October 25, 1978 (43 FR 49828).

Copies of the minutes of the General Session will be available by calling Mrs. Margaret Cornejo, Policy Planning Division, Office of Export Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone: A/C 202-377-2583.

For further information contact Mrs. Cornejo either in writing or by phone at the address or number shown above.

Dated: August 16, 1979.

Robin B. Schwartzman,
Acting Director, Office of Export Administration, Bureau of Trade Regulation, U.S. Department of Commerce.

[FR Doc. 79-25872 Filed 8-20-79; 8:45 am]
BILLING CODE 3510-25-M

National Oceanic and Atmospheric Administration

Pacific Fishery Management Council's Groundfish Advisory Subpanel; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The Pacific Fishery Management Council, established by Section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265), has established a Groundfish Advisory Subpanel (AP) which will meet to discuss the draft Groundfish Fishery Management Plan.

DATES: The meeting will convene at 1 p.m. on Wednesday, September 12, 1979; 8 a.m. on Thursday, September 13, 1979; adjourning at 5 p.m. on both days. The meeting is open to the public.

ADDRESS: The meeting will take place at the Oregon Department of Fish and Wildlife Office, 8th and Mill Street, Portland, Oregon.

FOR FURTHER INFORMATION CONTACT: Pacific Fishery Management Council, 526 SW. Mill Street, Second Floor, Portland, Oregon 97201, Telephone: (503) 221-6352.

Dated: August 15, 1979.

Winfred H. Meibohm,
Executive Director, Notional Marine Fisheries Service.

[FR Doc. 79-25799 Filed 8-20-79; 8:45 am]
BILLING CODE 3510-22-M

Office of the Secretary

[Dept. Organization Order 40-1, Amdt. 4]

Industry and Trade Administration; Statement of Organization, Functions, and Delegation of Authority

This order effective August 7, 1979 further amends the materials appearing at 42 FR 64724 of December 28, 1977, 43 FR 35533 of August 10, 1978 43 FR 38614 of August 29, 1978 and 44 FR 24618 of April 26, 1979.

Department Organization Order 40-1, dated December 4, 1977 is hereby further amended as shown below. The purpose of this amendment is to transfer the Office of International Commercial Representation from the Deputy Assistant Secretary for Administration and Legislative Policy to the Bureau of Export Development.

1. In section 5, "Bureau of Export Development," paragraph .05 is added to read as follows:

".05 The Office of International Commercial Representation shall serve as the Department of Commerce representative to the Department of State and other Government agencies on matters relating to the management of Foreign Service programs and resources outside of the United States; develop, coordinate, and present Departmental views on the allocation of economic/commercial (E/C) resources abroad and the assignment of individual E/C officers, as these actions relate to Commerce programs and needs of U.S. business; and insure that all elements of the Department are informed of, and monitor compliance with, requirements, policies, interagency agreements, and programs relating to overseas E/C representation."

2. Amendment 2 dated August 9, 1978, which established the Office of International Commercial Representation under the Deputy Assistant Secretary for Administrative and Legislative Policy, is hereby superseded by this amendment.

3. The organization chart attached to this amendment supersedes the organization chart dated April 8, 1979. A copy of the organization chart is on file with the original of this document in the Office of the Federal Register.

Effective date: August 7, 1979.

Guy W. Chamberlin, Jr.,
Acting Assistant Secretary for Administration.

[FR Doc. 79-25829 Filed 8-20-79; 8:45 am]
BILLING CODE 3510-17-M

[Dept. Organization Order 25-5A]

National Oceanic and Atmospheric Administration; Statement of Organization, Functions, and Delegation of Authority

This order effective July 12, 1979 supersedes the materials appearing at 42 FR 35672 of July 11, 1977, 43 FR 6127 February 13, 1978, 43 FR 6128 February 13, 1978, 43 FR 21497 May 18, 1978, 43 FR 27224 June 23, 1978, 43 FR 57939 December 11, 1978 & 44 FR 12230 March 6, 1979.

Section 1. Purpose.

.01 This Order delegates authority to the Administrator of the National Oceanic and Atmospheric Administration ("NOAA") and prescribes the functions of NOAA.

.02 This revision: (1) Incorporates outstanding amendments; (2) brings the delegation of authority of the Administrator, NOAA, into conformance with the new Federal Grant and Cooperative Agreement Act of 1977 (subparagraph 3.01i); (3) delegates to the Administrator, NOAA, the Secretary's authority under Section 303(b)(3) of Title III of the Outer Continental Shelf Lands Act Amendments of 1978 (Subparagraph 3.01j); (4) delegates to the Administrator, NOAA, the Secretary's authority under the Antarctic Conservation Act of 1978 and the Fish and Wildlife Improvement Act of 1978 (subparagraphs 3.01kk, and 3.01ll); (5) delegates to the Administrator, NOAA, the Secretary's authority under the Endangered Species Act Amendments of 1978 (subparagraph 3.01x); and (6) generally updates the language of the Order.

Section 2. Status and Line of Authority.

.01 NOAA, established by Reorganization Plan No. 4 of 1970, effective October 3, 1970, is continued as an operating unit of the Department of Commerce.

.02 As provided by Reorganization Plan No. 4 of 1970:

a. The Administrator of NOAA, who is appointed by the President by and with the advice and consent of the Senate, shall be the head of NOAA.

b. The Deputy Administrator of NOAA, who is appointed by the President by and with the advice and consent of the Senate, shall perform such functions as the Administrator shall from time to time assign or delegate, and shall act as Administrator during the absence or disability of the Administrator or in the event of a vacancy in the office of Administrator.

c. The Associate Administrator of NOAA, who is appointed by the President by and with the advice and consent of the Senate, shall perform such functions as the Administrator shall from time to time assign or delegate, and shall act as Administrator during the absence or disability of the Administrator and Deputy Administrator.

.03 The Administrator shall report and be responsible to the Secretary of Commerce.

Section 3. Delegation of Authority.

.01 Pursuant to the authority vested in the Secretary of Commerce by Reorganization Plan No. 4 of 1970, Executive Order 11564 of October 6, 1970, and otherwise by law, the Administrator is hereby delegated authority to perform the following functions vested in the Secretary of Commerce; provided, however, that the Secretary reserves the authority to provide general policy guidance to the Administrator and, from time to time in the Secretary's discretion, either on the Secretary's own initiative or at the request of the Administrator, to consult with the Administrator to the extent permitted by law concerning the functions delegated by this section:

a. The functions in Title 15, Chapter 9, and in Title 49, Sections 1351 and 1463, of the U. S. Code, which relate to the provision of weather services.

b. The functions relating to weather in Title 49, Chapter 15 of the U. S. Code, which pertain to international aviation facilities.

c. The functions in 15 U.S.C. 272(f)(12), which relate to the transmission of radio waves, as applicable to the functions assigned herein.

d. The functions in Title 33, Chapter 17, U. S. Code, which pertain to commissioned officers, surveys and related matters.

e. The functions of Sections 901 (3)(a) and (b), 905 and 906 of Executive Order 11490, as amended, and the functions of Executive Order 10480, as amended. These relate to emergency

preparedness, provision of weather, geodetic, hydrographic, and oceanographic data in consonance with civil defense programs, and developing overall plans and programs for the fishing industry's continued production during an emergency.

f. The functions in Sections 3 and 4 of the Office of Management and Budget Circular No. A-62 of November 13, 1963, which pertain to the coordination of Federal meteorological services and supporting research.

g. The functions in Sections 3b. and 4 of the Office of Management and Budget Circular No. A-16 of May 6, 1967, which pertain to the establishment and maintenance of the National Networks of Geodetic Control, and to the Development and execution of a coordinated national program of geodetic surveys.

h. The functions in the President's memorandum of July 5, 1968, issued in accord with Senate concurrent resolution 67 of May 29, 1968, furthering participation in and support of the World Weather Program by the United States. The plan to be developed annually for submission by the President to Congress on the proposed participation by Federal agencies shall be prepared for transmittal to the President by the Secretary.

i. The functions in the Federal Grant and Cooperative Agreement Act of 1977 (Pub. L. 95-224), with regard to making grants and cooperative agreements, as they pertain to the authority delegated in this section.

j. The functions authorized to be performed by the Department of Commerce in accordance with Chapter 19B of Title 42, United States Code, relating to water resources planning.

k. The functions transferred to the Secretary of Commerce in Section 1 of the Reorganization Plan No. 4 of 1970. The functions are:

"(a) All functions vested by law in the Bureau of Commercial Fisheries of the Department of the Interior or in its head, together with all functions vested by law in the Secretary of the Interior or the Department of the Interior which are administered through that Bureau or are primarily related to the Bureau, exclusive of functions with respect to (1) Great Lakes fishery research and activities related to the Great Lakes Fisheries Commission, (2) Missouri River Reservoir research, (3) the Gulf Breeze Biological Laboratory of the said Bureau of Gulf Breeze, Florida, and (4) Trans-Alaska pipeline investigations.

"(b) The functions vested in the Secretary of the Interior by the Act of September 22, 1959 (Pub. L. 86-359, 73

Stat. 642, 16 U.S.C. 760e-760g; relating to migratory marine species of game fish).

"(c) The functions vested by law in the Secretary of the Interior, or in the Department of the Interior or in any officer or instrumentality of that Department, which are administered through the Marine Minerals Technology Center of the Bureau of Mines.

"(d) All functions vested in the National Science Foundation by the National Sea Grant College and Program Act of 1966 (80 Stat. 99), as amended (33 U.S.C. 1121 *et seq.*).

"(e) Those functions vested in the Secretary of Defense or in any officer, employee, or organizational entity of the Department of Defense by the provision of Pub. L. 91-144, 83 Stat. 326, under the heading 'Operation and maintenance, general' with respect to 'surveys and charting of northern and northwestern lakes and connecting waters,' or by other law, which come under the mission assigned as of July 1, 1969, to the United States Army Engineer District, Lake Survey, Corps of Engineers, Department of the Army and relate to (1) the conduct of hydrographic surveys of the Great Lakes and their outflow rivers, Lake Champlain, New York State Barge Canals, and the Minnesota-Ontario border lakes, and the compilation and publication of navigation charts, including recreational aspects, and the Great Lakes Pilot for the benefit and use of the public, (2) the conception, planning, and conduct of basic research and development in the fields of water motion, water characteristics, water quantity, and ice and snow, and (3) the publication of data and the results of research projects in forms useful to the Corps of Engineers and the public, and the operation of a Regional Data Center for the collection, coordination, analysis, and the furnishing to interested agencies of data relating to water resources of the Great Lakes.

"(f) So much of the functions of the transferor officers and agencies referred to in or affected by the foregoing provisions of this section as is incidental to or necessary for the performance by or under the Secretary of Commerce of the functions transferred by those provisions or relates primarily to those functions. The transfers to the Secretary of Commerce made by this section shall be deemed to include the transfer of authority, provided by law, to prescribe regulations relating primarily to the transferred functions."

l. The functions in Title 37 of the U.S. Code with respect to pay and allowances for the Commissioned Officer corps of NOAA established by

Section 4(d) of Reorganization Plan No. 4 of 1970.

m. The functions in Title 10 of the U.S. Code made applicable to commissioned officers of NOAA by 33 U.S.C. 857a.

n. The functions in following sections of Executive Order 11023: Sections 1 (a) through 1 (j) and 1 (1); Section 2(1); Section 3; Section 5; and Section 6. These relate to the appointment, promotion, retirement, separation, and resignation of commissioned officers of NOAA, and to the employment of public vessels.

o. The functions in Title II of the National Housing Act, as amended (12 U.S.C. 1715m), which pertain to mortgage insurance for commissioned officers to aid in the construction or purchase of homes.

p. The functions in 7 U.S.C. 450b and 2220, which relate to cooperation with outside sources and disposition of funds received.

q. The functions relating to the operation of (1) the National Oceanographic Instrumentation Center, (2) the National Oceanographic Data Center, and (3) the National Data Buoy Development Project, whose programs and activities were transferred to the Secretary of Commerce by Executive Order 11564.

r. The functions relating to (1) upper air observations taken on board ocean station vessels and at specific Pacific Trust Territories, and (2) hydroclimatic observations taken at stations located along U.S. rivers and the Great Lakes, which programs and activities were transferred to the Secretary of Commerce by Executive Order 11564.

s. The functions in Section 607 of the Merchant Marine Act, 1936, as amended by the Merchant Marine Act of 1970 (46 U.S.C. 1177), which relate to capital construction funds for those owning or leasing vessels which are operated in the fisheries of the United States, including, but not limited to, the adoption of regulations, and the preparation and signing of all necessary forms or agreements.

t. The functions prescribed in 15 U.S.C. 33d *et seq.*, which pertain to collection, maintenance and dissemination of information concerning weather modification activities.

u. The functions in 46 U.S.C. 749 (relating to the arbitration, compromise or settlement of maritime claims) with regard to any claim in the amount of \$5,000 or less involving a vessel operated by the Administration.

v. The functions prescribed by the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*).

w. The functions prescribed in the Coastal Zone Management Act of 1972, as amended (16 U.S.C. 1451 *et seq.*), including those prescribed in Pub. L. 94-370, subject to the following exceptions and limitations whereby the Secretary reserves the authority to:

1. Carry out the mediation functions under section 307(h) of the Act and to make the findings under subsections 307(c)(3) and 307(d) of the Act; and

2. Approve initial regulations for the implementation of the coastal energy impact program contained in section 308 of the Act.

x. The functions prescribed by the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

y. The functions prescribed by the Offshore Shrimp Fisheries Act of 1973, (16 U.S.C. 1100b *et seq.*).

z. The functions prescribed by the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1401 *et seq.* and 16 U.S.C. 1431 *et seq.*).

aa. The functions in Paragraphs 4 and 5, Office of Telecommunications Policy Circular No. 12 of October 12, 1973, which pertain to the coordination of Federal planning programs for environmental telecommunications systems and services.

bb. The functions assigned to the Secretary of Commerce by the Atlantic Tuna Convention Act of 1975, Pub. L. 94-70.

cc. The functions relating to section 202 of the Disaster Relief Act of 1974 (42 U.S.C. 5132) specified in the delegation of authority from the Secretary of Housing and Urban Development (40 FR 42769), effective September 16, 1975, which pertains to disaster warnings for meteorological catastrophes.

dd. The functions prescribed in the Fishery Conservation and Management Act of 1976, as amended (16 U.S.C. 1801 *et seq.* and other miscellaneous provisions), subject to the following exceptions and limitations.

1. The Secretary reserves the authority to:

(a) Submit the annual reports to the Congress and the President under subsection 305(f) of the Act;

(b) Make final findings and notifications under subsection 306(b) of the Act;

(c) To issue, in particular instances, preliminary fishery management plans and implementing regulations under subsection 201(g) of the Act in each instance where the Secretary specifically determines such action is appropriate; and

(d) In particular instances to approve, disapprove, partially disapprove, or issue a fishery management plan or

amendment and implementing regulations under sections 304 and 305 of the Act in each instance where the Secretary specifically determines that such action is appropriate.

2. To assure a full opportunity to the Secretary to exercise the authority which is reserved to the Secretary, the Administrator shall advise the Secretary before any final action is taken with respect to the following functions:

(a) The appointment of members of the Regional Fishery Management Councils under subparagraph 302(b)(1)(C) of the Act;

(b) The establishment of guidelines to assist in the development of fishery management plans under subsection 301(b) of the Act;

(c) The prescribing of uniform standards for each Regional Fishery Management Council under paragraph 302(f)(6) of the Act; and

(d) The taking of emergency actions under subsection 305(e) of the Act.

3. The Administrator shall not redelegate beyond an Assistant Administrator any of the final actions to be taken under those provisions of the Act set forth in subparagraphs 3.01dd.2(a) through (d) of this Order, or the establishment of schedules of fees under paragraph 204(b)(10) of the Act.

ee. The functions prescribed in the National Weather Modification Policy Act of 1976, Pub. L. 94-490, except that the Secretary reserves the authority to submit the final report to the President and the Congress under Section 5(a) of the Act.

ff. The functions prescribed by the Central, Western, and Southern Pacific Fisheries Development Act (16 U.S.C. 758e through 758e-5).

gg. The functions prescribed by the Whale Conservation and Protection Study Act (16 U.S.C. 917 through 917d).

hh. The functions prescribed by the Fisherman's Protective Act of 1967, as amended (22 U.S.C. 1977 *et seq.*).

ii. The functions prescribed by the National Climate Program Act (Pub. L. 95-367, September 17, 1978): *Provided, however, That the Secretary reserves the authority to:*

1. Submit 5-year plans to the Congress under section 5(d)(9) of the Act;

2. Establish the Advisory Committee under 5(e) of the Act; and

3. Submit the annual report to the President and the authorizing committees of the Congress under section 7 of the Act.

jj. The following functions prescribed by the Outer Continental Shelf Lands Act Amendments of 1978 (Pub. L. 95-372, September 18, 1978):

1. The conduct of environmental studies and monitoring of the Outer Continental Shelf for the Secretary of the Interior as authorized by Section 20 of the Outer Continental Shelf Lands Act, as amended (43 U.S.C. 1346).

2. The conduct of studies of underwater diving techniques and equipment suitable for protection of human safety and improvement of diver performance as authorized by Section 21(e) of the Outer Continental Shelf Lands Act, as amended (43 U.S.C. 1347(e)).

3. Title IV of Pub. L. 95-372, pertaining to the Fishermen's Contingency Fund, except that the Secretary reserves the authority to submit the annual report to Congress required by section 406 (43 U.S.C. 1846).

4. Responsibilities related to assertion of claims against the Offshore Oil Pollution Compensation Fund for injury, to or damage of natural resources and to expenditure of sums recovered for the restoration, rehabilitation or acquisition of equivalent natural resources as authorized by Section 303(b)(3) of Pub. L. 95-372 and delegated to the Secretary of Commerce by Executive Order 12123 of February 26, 1979.

kk. The functions assigned to the Secretary of Commerce by the Antarctic Conservation Act of 1978 (Pub. L. 95-541).

ll. The functions assigned to the Secretary of Commerce by the Fish and Wildlife Improvement Act of 1978 (Pub. L. 95-616).

02 The Administrator may exercise other authorities of the Secretary as applicable to performing the functions assigned in this Order.

03 The Administrator may delegate the Administrator's authority to any employee of NOAA subject to such conditions in the exercise of such authority as the Administrator may prescribe or as may be prescribed in this Order.

Section 4. Functions.

To insure the safety and welfare of the public, and to further the Nation's interests and activities with respect to the protection of public health against environmental pollution, the protection and management of the Nation's biological, mineral and water resources, the maintenance of environmental quality, agriculture, fisheries, industry, transportation, communications, space exploration, national defense, and the preservation of the Nation's wilderness and recreation areas, NOAA shall perform the following functions:

a. Observe, collect, communicate, analyze, process, provide and

disseminate comprehensive data and information about the state of the upper and lower atmosphere, of the oceans and the resources thereof including those in the seabed, of marine and anadromous fish and related biological resources, of inland waters, of the earth, the sun and the space environment;

b. Prepare and disseminate predictions of the future state of the environment and issue warnings of all severe hazards and extreme conditions of nature to all who may be affected;

c. Provide maps and charts of the oceans and inland waters for navigation, geophysical and other purposes, aeronautical charts, and related publications and services;

d. Operate and maintain a system for the storage, retrieval and dissemination of data relating to the state and resources of the oceans and inland waters including the seabed, and the state of the upper and lower atmosphere, of the earth, the sun and the space environment;

e. Explore the feasibility of, develop the basis for, and undertake the modification and control of environmental phenomena;

f. Coordinate efforts pertinent to Federal agencies in support of national and international programs as may be assigned from time to time, such as Federal meteorological services and supporting research, World Weather Program, National Networks of Geodetic Control, Integrated Global Ocean Station System, and Marine Environmental Prediction, Mapping and Charting;

g. Administer a program of sea grant colleges and education, training and research in the fields of marine science, engineering and related disciplines as provided in the Sea Grant College and Program Act of 1966, as amended;

h. Perform basic and applied research and develop technology relating to the state and utilization of resources of the oceans and inland waters including the seabed, the upper and lower atmosphere, the earth, the sun and the space environment, as may be necessary or desirable to develop an understanding of the processes and phenomena involved;

i. Perform research and develop technology relating to the observation, communication, processing, correlation, analysis, dissemination, storage, retrieval, and use of environmental data as may be necessary or desirable to permit NOAA to discharge its responsibilities;

j. Acquire, analyze and disseminate data and perform basic and applied research on electromagnetic waves, as

relate to or are useful in performing other functions assigned herein; prepare and issue predictions of atmospheric, ionospheric and solar conditions, and warnings of disturbances thereof; and acquire, analyze and disseminate data and perform basic and applied research on the propagation of sound waves, and on interactions between sound waves and other phenomena;

k. Administer a program for the protection, management and conservation of marine mammals and endangered marine species; provide for the administration of the Pribilof Islands; assist the native inhabitants of those islands; and manage the fur seal herds of the North Pacific Ocean;

l. Perform economic studies, education and other services related to management and utilization of marine and anadromous fisheries, administer grant-in-aid, fishery products inspection, financial and technical assistance, and other programs to conserve and develop fisheries resources and to foster and maintain a viable climate for industry to produce efficiently under competitive conditions;

m. Develop and implement policies on international fisheries including the negotiation and implementation of agreements, conventions and treaties in that area; and enforce provisions of international treaties and agreements on fishing activities of United States nationals and perform surveillance of foreign fishing activities;

n. Participate in technical assistance programs for fishery development projects in foreign countries;

o. Develop technology and carry out scientific and engineering data collection and analysis and other functions to assess, monitor, harvest, and utilize marine and anadromous fishery resources and their products;

p. As a Departmentwide responsibility, coordinate the requirements for and the management and use of radio frequencies by all organizations of Commerce;

q. Administer a national management program to preserve, protect, develop, and where possible restore or enhance the land and water resources of the coastal zones, including grants, loans, and loan guarantees to the States and interagency coordination and cooperation, as provided by the Coastal Zone Management Act of 1972, as amended; and

r. Administer a marine sanctuaries program to preserve or restore such areas for their conservation, recreational, ecological, or esthetic values.

Effective date: July 12, 1979.

Guy W. Chamberlin, Jr.,
Acting Assistant Secretary for
Administration.

[FR Doc. 79-25827 Filed 8-20-79; 8:45 am]
BILLING CODE 3510-17-M

[Dept. Organization Revocation Notice]

U.S. Fire Administration; Statement of Organization, Functions, and Delegation of Authority

This order effective August 6, 1979 supersedes the material appearing at 40 FR 25702 of June 18, 1975, 44 FR 12230 of March 6, 1979 and 44 FR 15523 of March 14, 1979.

Department Organization Orders 25-6A, dated April 28, 1975 as amended and 25-6B, dated February 6, 1979 are hereby revoked.

Explanation

In accordance with Reorganization Plan No. 3 of 1978, the functions, personnel, funds, property, and records of the United States Fire Administration have been transferred from the Department of Commerce to the Federal Emergency Management Agency effective April 1, 1979.

Effective date: August 6, 1979.

Guy W. Chamberlin, Jr.,
Acting Assistance Secretary for
Administration.

[FR Doc. 79-25827 Filed 8-20-79; 8:45 am]
BILLING CODE 3510-17-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Cancelling Import Restraint Level on Certain Man-Made Fiber Textile Products from the Dominican Republic

August 16, 1979.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Cancelling the import restraint level established on man-made fiber brassieres in Category 649, produced or manufactured in the Dominican Republic and exported to the United States during the twelve-month period which began on December 1, 1978.

(A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the *Federal Register* on January 4, 1978 (43 FR 884), as amended on January 25, 1978 (43 FR 3421), March 3, 1978 (43 FR 8828), June 22, 1978 (43 FR 26773), September 5, 1978 (43 FR 39408), January 2, 1979 (44 FR 94), March 22, 1979 (44 FR 17545), and April 12, 1979 (44 FR 21843))

SUMMARY: On August 7 and 8, 1979, the Governments of the United States and the Dominican Republic exchanged notes establishing a new Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement for the four-year period beginning on June 1, 1979 and extending through May 31, 1983. Accordingly, there is published below a letter from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs cancelling the directive of March 12, 1979, as amended, which limited imports of man-made fiber textile products during the twelve-month period which began on December 1, 1978.

EFFECTIVE DATE: August 16, 1979.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles, U.S. Department of Commerce, Washington, D.C. 20230 (202/377-5423).

Arthur Carel,

Acting Chairman, Committee for the
Implementation of Textile Agreements.

Committee for the Implementation of Textile
Agreements, August 16, 1979.

Commissioner of Customs,
Department of the Treasury,
Washington, D.C. 20229.

Dear Mr. Commissioner: This directive cancels and supersedes the directive issued to you on March 12, 1979, as amended, by the Chairman of the Committee for the Implementation of Textile Agreements, which directed you to prohibit entry for consumption or withdrawal from warehouse for consumption of man-made fiber textile products in Category 649, produced or manufactured in the Dominican Republic and exported to the United States during the twelve-month period which began on December 1, 1978.

The actions taken with respect to the Government of Dominican Republic and with respect to imports of textile products from Dominican Republic have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs which are necessary to the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the *Federal Register*.

Sincerely,

Arthur Carel,

Acting Chairman, Committee for the
Implementation of Textile Agreements.

[FR Doc. 79-25832 Filed 8-20-79; 8:45 am]

BILLING CODE 3510-25-M

DEPARTMENT OF DEFENSE

Department of Defense Wage Committee; Closed Meetings

Pursuant to the provisions of section 10 of Pub. L. 92-463, the Federal Advisory Committee Act, effective January 5, 1973, notice is hereby given that a meeting of the Department of Defense Wage Committee will be held on Tuesday, October 2, 1979; Tuesday, October 9, 1979; Tuesday, October 16, 1979; Tuesday, October 23, 1979; and Tuesday, October 30, 1979 at 10:00 a.m. in Room 3D-325, The Pentagon, Washington, D.C.

The Committee's primary responsibility is to consider and submit recommendations to the Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics) concerning all matters involved in the development and authorization of wage schedules for Federal prevailing rate employees pursuant to Public Law 92-392. At this meeting, the Committee will consider wage survey specifications, wage survey data, local wage survey committee reports and recommendations, and wage schedules derived therefrom.

Under the provisions of section 10(d) of Public Law 92-463, the Federal Advisory Committee Act, meetings may be closed to the public when they are "concerned with matters listed in section 552b. of Title 5, United States Code." Two of the matters so listed are those "related solely to the internal personnel rules and practices of an agency," (5 U.S.C. 552b. (c)(2)), and those involving "trade secrets and commercial or financial information obtained from a person and privileged or confidential" (5 U.S.C. 552b. (c)(4)).

Accordingly, the Deputy Assistant Secretary of Defense (Civilian Personnel Policy) hereby determines that all portions of the meeting will be closed to the public because the matters considered are related to the internal rules and practices of the Department of Defense (5 U.S.C. 552b. (c)(2)), and the detailed wage data considered by the Committee during its meetings have been obtained from officials of private establishments with a guarantee that the data will be held in confidence (5 U.S.C. 552b. (4)).

However, members of the public who may wish to do so are invited to submit material in writing to the Chairman concerning matters believed to be deserving of the Committee's attention. Additional information concerning this

meeting may be obtained by writing the Chairman, Department of Defense Wage Committee, Room 3D-281, The Pentagon, Washington, D.C.

H. E. Lofdahl,

Director, Correspondence and Directives,
Washington Headquarters Services,
Department of Defense.

August 16, 1979.

[FR Doc. 79-25848 Filed 8-20-79; 8:45 am]

BILLING CODE 3510-70-M

DEPARTMENT OF ENERGY

Bonneville Power Administration

Public Notice of Proposed Floodplain Action

Bonneville Power Administration (BPA) is proposing the reconductoring of 33 miles (53 km) of 115-kV transmission line to higher capacity. For a total of approximately 10 miles (16 km) between Colville and Spirit Substations in northeast Washington State, this action would be located in the floodplains of Mill Creek and the South Fork of Deep Creek. Minimal impacts to the floodplains are anticipated because existing access roads and right-of-way would be utilized. Existing facilities would also be used, with the exception of one new lattice steel tower to allow spanning a frequently flooded area. The only alternative that would completely avoid floodplains is no action, which would lead to impending overload conditions. All other location alternatives would require establishing a new transmission corridor and would result in greater environmental impacts. The proposed action conforms to applicable State and local floodplain protection standards. An environmental assessment including effects of the proposed action on the floodplains has been prepared.

Comments or requests for the environmental assessment may be directed to the Environmental Manager's Office, Bonneville Power Administration, P.O. Box 3821, Portland, OR 97208, telephone 503-234-3361, extension 4721. The public comment period will close September 21, 1979.

Dated at Portland, Oregon, this 13 day of August, 1979.

Ray Foleen,
Deputy Administrator.

[FR Doc. 79-25830 Filed 8-20-79; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

Advisory Committee on Revision of Rules of Practice and Procedure; Meeting

August 15, 1979.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770); notice is hereby given that the Advisory Committee on Revision of Rules of Practice and Procedure will meet Friday, September 7, 1979 from 10 a.m. to 3 p.m., at the Federal Energy Regulatory Commission, 825 N. Capitol Street NE., Hearing Room A, Washington, D.C.

The purpose of the meeting is to discuss the recommendations of the Subcommittee on *Ex Parte* and Separation of Functions.

The meeting is open to the public. A transcript of the meeting will be available for public review and copying at FERC's Division of Public Information, Room 1000, 825 North Capitol Street NE., between the hours of 8:30 a.m. and 5:00 p.m. Monday through Friday except Federal holidays. In addition, any person may purchase a copy of the transcript from the reporter. Kenneth F. Plumb, Secretary.

[FR Doc. 79-25862 Filed 8-20-79; 8:45 am]
BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL 1301.5]

Update of Power Plants Potentially Subject to Section 120 Noncompliance Penalties; Availability; Correction

AGENCY: U.S. Environmental Protection Agency.

ACTION: Correction notice to FRL 1288-4 published in the Federal Register, Vol. 44, No. 151, Friday, August 3, 1979, pages 45752-45754, Notice of Availability of information updated in support of proposed rule for Section 120 noncompliance penalties.

SUMMARY: Several errors were made when the above-referenced notice of availability was published on August 3, 1979. The supplementary information and accompanying list of power plants was intended to be made available through docket number EN-79-1 rather than being published with the notice. The list published in the August 3 Federal Register was not the most up-to-date list. The following changes to that list should be made to conform it to the

corrected copy, as contained in the official docket referenced above:

1. The Springfield W. L&P Lakeside station in Illinois should be shown as being in violation and on an unapproved schedule for visible emissions only.

2. The reference to Kansas City G&E Quindaro and Kaw River Plants should have been to the Kansas City Board of Public Utilities Quindaro and Kaw River plants.

3. The Cincinnati Gas and Electric Beckjord station name was misspelled.

4. The reference to Western Illinois Electric should have been to the Western Illinois Power Co-op.

5. All Commonwealth Edison and Western Illinois Power Co-op plants listed should have been under category #1, i.e.—"According to information available to the US EPA, the following sources are in final compliance with applicable SIP regulations. If such compliance is maintained, there will be no assessment of noncompliance penalties." (See EPA's Notice of Deficiency, 44 FR 40723, July 12, 1979)

FOR FURTHER INFORMATION CONTACT: Howard Wright, Chief, Compliance Analysis Section, Division of Stationary Source Enforcement, Environmental Protection Agency at (202) 755-0103.

Dated: August 16, 1979.

Edward E. Reich,
Director, Division of Stationary Source Enforcement (EN-341).

[FR Doc. 79-25858 Filed 8-20-79; 8:45 am]
BILLING CODE 6560-01-M

[OPP-00102; FRL 1301-4]

State-FIFRA Issues Research and Evaluation Group (SFIREG); Working Committee on Enforcement; Open Meeting

AGENCY: Environmental Protection Agency (EPA), Office of Pesticide Programs.

ACTION: Notice of Open Meeting.

SUMMARY: There will be a two-day meeting of the Working Committee on Enforcement of the State FIFRA Issues Research and Evaluation Group (SFIREG) on Wednesday and Thursday, September 12 and 13, 1979, beginning each day at 8:00 a.m. and ending by noon on September 13th. The meeting will be held at the American West 6th Avenue Motor Hotel, 2000 6th Avenue, Seattle, Washington, Telephone: 206/682-8300, and will be open to the public.

FOR FURTHER INFORMATION CONTACT:

Mr. William Buffalo, North Carolina Department of Agriculture, Raleigh, North Carolina, Telephone: 919/733-3558;

or

Mr. Anthony Dellavechia, Pesticide and Toxic Enforcement Division (EN-342), EPA, 401 M Street SW., Washington, D.C. 20460, Telephone: 202/755-0914.

SUPPLEMENTARY INFORMATION: This is the third meeting of the Working Committee on Enforcement. The tentative agenda is as follows:

1. ULV Report, Advisory Opinion and future plans;
2. Development for Inspector Manuals of uniform recommendations on size of pesticide samples which should be taken for laboratory analysis;
3. Discussion of enforcement actions taken by EPA on cases submitted by the States under enforcement grants;
4. Sale of restricted use pesticides to uncertified applicators when the pesticide is to be applied by a certified applicator;
5. Regulation of pesticide drift; and
6. Warning statement enforcement procedures.

Dated: August 15, 1979.

Edwin L. Johnson,
Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 79-25861 Filed 8-20-79; 8:45 am]
BILLING CODE 6560-01-M

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Policy on § 706 Designation of Personnel Boards, Merit Boards, and Civil Service Systems

SUPPLEMENTARY INFORMATION: On June 26 the Commission voted to grant to the Colorado Personnel Board (CPB) 706 designation. This action was taken only after exhaustive analysis of the issues involved by the Commissioners and their staffs with the assistance of the Office of the General Counsel, the Office of Field Services and the Office of Policy Implementation. It was determined that the requirements of law and the interest of charging parties mandated the designation. Similarly situated State and local personnel boards, merit boards or civil service systems will be treated similarly. Simultaneously with issuing notice of this action, the Commission has also today published new proposed regulations for the 706 designation process itself. Because the original proposal to grant 706 status to the CPB caused such concern, both within the Commission and among members of the public, we are issuing the following statement explaining the background and facts that have led to the 706 designation of the CPB.

On October 6, 1978 the Fifth Circuit Court of Appeals, pursuant to an en banc hearing, rendered an opinion in *White v. Dallas Independent School District*, 581 F.2d 558. The Court found that Section 706(c) of Title VII requires deferral whenever a state has a law prohibiting employment discrimination and has established an enforcement authority of any kind. The effect of the Court's reasoning, which appears to be shared by the Sixth and Ninth Circuits, *Mitchell v. Mid-Continent Spring Co.*, 466 F.2d 24 (8th Cir. 1972), *Cert. denied*, 410 U.S. 928 (1973); *Ferguson v. Kroger Co.*, 545 F.2d 1034 (8th Cir. 1976); *General Insurance Co. v. EEOC*, 491 F.2d 133 (9th Cir. 1974); *Crosslin v. Mountain States Telephone and Telegraph Co.*, 400 U.S. 1004 (1971), vacating 422 F.2d 1028 (9th Cir. 1970), is that 706 deferral status arises by operation of law and not by virtue of the Commission conferring such designation. The *White* case arose because the Commission had not deferred Ms. White's employment discrimination charge to the appropriate Texas County Attorney who had authority to process charges of discrimination pursuant to a Texas statute. When Ms. White sought to bring a federal suit on her Title VII claim, both the District Court and the Fifth Circuit Court dismissed her action for want of jurisdiction due to the lack of deferral. The Court of Appeals, in its en banc decision, re-affirmed the panel opinion that deferral was required, but reluctantly reinstated Ms. White's Title VII action.

The proposal to designate the Colorado Personnel Board (CPB) as a 706 agency caused considerable concern as to the *White* Court's reasoning and the extent of Commission discretion, if any, on the deferral question. Under the *White* reasoning, the Board is a 706 agency and the Commission must defer charges to it.

Numerous FEP Agencies and persons within the Commission expressed concern about adopting the *White* standard beyond the Fifth Circuit. At the recent conference in Philadelphia with representatives from almost all the 706 agencies, this question was a volatile issue. There was almost unanimous consent that *White* should not be applied outside the Fifth Circuit. There is belief that, with such a minimal standard, state and local governments will be encouraged to create token agencies or seek to withdraw jurisdiction from established agencies so as to weaken effective enforcement of FEP laws. It is for this reason that the proposal had been made not to designate personnel boards with FEP

law enforcement authority as 706 agencies. There is belief that personnel boards are too self-interested to fairly and objectively apply the law.

There is also the fear that designation of any personnel boards will encourage state to remove jurisdiction over state employees from state human rights agencies and lodge that jurisdiction in some ineffective branch of the state government.

Nonetheless, upon analysis of the applicable case law and of Section 706(c) of Title VII, including the legislative history of that Section, the Commission was compelled to adopt the *White* standard and find that the CPB qualified for 706 designation. The Court in *White* set forth the standards which the Commission is required to apply in deferring charges to state and local authorities under Section 706(c):

The statute on its face sets out three requirements. The practice alleged must violate the federal law, Title VII; it must also violate a state or local law prohibiting the practice alleged; the state must have set up some mechanism to deal with the violation. That last requirement is fulfilled if the state has either established a state or local authority or authorized an existing state or local authority that is empowered to do one of three things: to grant relief from the practice; to seek relief from the practice; or to institute criminal proceedings with respect to the practice. 42 U.S.C. 2000e-5; 581 F.2d at 558-59.

A comparison of this standard with the actual language of Section 706(c) demonstrates that the *White* Court did not invent its own criteria but merely paraphrased, point for point, the elements of 706(c). The Court's reasoning, therefore, is parallel to the language of the statute.

The CPB qualifies as a 706 agency under the *White* standard, and, indeed, under a literal reading of the statute, but not by virtue of simply being a personnel board. The CPB is an existing state authority empowered to enforce a state FEP statute on behalf of state employees. The CPB has been found by the Colorado State Supreme Court to be the *only* agency through which government employees may seek redress of employment discrimination. This holding is based upon provisions of the State Constitution giving the Personnel Board *exclusive* jurisdiction over such matters. The Court found that the Colorado Civil Rights Commission did not have jurisdiction over state government employees. However, designation of the CPB does *not* mean the Commission will find any and all personnel boards to be qualified deferral agencies.

Whatever ill may flow from the designation of the CPB can be offset by two potent policies. The Commission has already established that 706 designation and funding are separate and distinct matters. While 706 designation has been considered the threshold issue for funding eligibility, it is not determinative. Effective enforcement of FEP laws is the essential criterion. In this regard, the Commission has established as a matter of policy that personnel boards, merit boards, and civil service systems shall not be funded. Also a District Office may recommend at any time the policy whereby the Commission assumes actual processing of charges deferred to personnel boards, merit boards or civil service systems on the 61st (or 121st) day regardless of the board's action or interaction.

FOR FURTHER INFORMATION CONTACT: Dorothy D. Howze, telephone 202-634-6040, Equal Employment Opportunity Commission (State and Local), 2401 E Street, N.W., Washington, D.C. 20506.

Signed at Washington, D.C., this day of July 26, 1979.

For the Commission:
Eleanor Holmes Norton,
Chair, Equal Employment Opportunity Commission.

[FR Doc. 79-25744 Filed 8-20-79; 8:45 am]
BILLING CODE 6570-06-M

FEDERAL COMMUNICATIONS COMMISSION

[BC Docket No. 79-200, File No. BPH-9319; et al.]

Portland Communications Corp., et al.

Adopted: August 6, 1979.

Released: August 15, 1979.

In the matter of applications of Portland Communications Corporation, Portland, Oregon, Req: 103.3 MHz, #277, 100 kW, 877 feet (BC Docket No. 79-200, File No. BPH-9319); Gordon A. Rogers, Robert M. Schaefer, and John E. Wynne d.b.a. Columbia-Willamette Broadcasting Company, Beaverton, Oregon, Req: 103.3 MHz, #277, 100 kW, 940 feet (BC Docket No. 79-201, File No. BPH-9634); East-West FM Group, Inc., Portland, Oregon, Req: 103.3 MHz, #277, 100 kW, 897 feet (BC Docket No. 79-202, File No. BPH-9635); Leonard Kesselman, Laura Hopper, and Raymond Benton d.b.a. Gaviota Wireless Communications Company, Beaverton, Oregon, Req: 103.3 MHz, #277, 100 kW, 901 feet (BC Docket No. 79-203, File No. BPH-9681); for construction permits. Memorandum Opinion and Order

designating applications for consolidated hearing on stated issues.

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has under consideration the above-captioned mutually exclusive applications, filed by Portland Communications Corporation (hereinafter "Portland"), Gordon A. Rogers, Robert M. Schaefer, and John F. Wynne d.b.a. Columbia-Willamette Broadcasting Company (hereinafter "Columbia-Willamette"), East-West FM Group, Inc. (hereinafter "East-West") and Leonard Kesselman, Laura Hopper, and Raymond Benton d.b.a. Gaviota Wireless Communications Company (hereinafter "Gaviota").

2. Analysis of the financial data submitted by Gaviota reveals that \$62,249 will be required to construct and operate the proposed station for three months, itemized as follows:

Equipment (5 months rent plus last month pre-paid)	\$9,012
Building	500
Legal	30,000
Installation	1,000
Other	1,000
Operating Costs (3 months)	20,737
Total	62,249

Gaviota plans to finance the construction and operation of its proposed station with the proceeds of a loan of \$67,000 from Jeremy D. Lansman. As the financial statement submitted for Mr. Lansman by Gaviota fails to segregate his assets and liabilities into short and long term categories, no determination can be made as to his ability to make such a loan to the applicant corporation. Therefore, a limited financial issue will be specified with respect to Gaviota.

3. The respective proposals, although for different communities, would serve substantial areas in common. Consequently, in addition to determining, pursuant to Section 307(b) of the Communications Act of 1934, as amended, which of the proposals would provide a fair, efficient and equitable distribution of radio service, a contingent comparative issue will also be specified.

4. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive with each other, they must be designated for hearing in a consolidated proceeding on the issues specified below.

5. Accordingly, IT IS ORDERED. That, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the above-captioned applications, ARE DESIGNATED FOR

HEARING IN A CONSOLIDATED PROCEEDING, at a time and place to be specified in the subsequent Order, upon the following issues:

1. To determine whether Jeremy D. Lansman has available the funds necessary to make the proposed \$67,000 loan to Gaviota and, in light thereof, whether Gaviota is financially qualified.

2. To determine the areas and populations which would receive primary aural service (1 mV/m or greater) from Portland, Columbia-Willamette, East-West and Gaviota and the availability of other primary service to such areas and populations.

3. To determine, in the light of Section 307(b) of the Communications Act of 1934, as amended, which of the proposals would best provide a fair, efficient and equitable distribution of radio service.

4. To determine, in the event it is concluded that a choice between the applications should not be based solely on considerations relating to Section 307(b), which of the proposals would, on a comparative basis, best serve the public interest.

5. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

6. It is further ordered, That, to avail themselves of an opportunity to be heard, the applicants, pursuant to § 1.221(c) of the Commission's Rules, in person, or by attorney shall, within twenty (20) days of the mailing of this Order, file with the Commission in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this Order.

7. It is further ordered, That, the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, give notice of the hearing, either individually or, if feasible and consistent with the rules, jointly, within the time and in the manner prescribed in such rules, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the rules.

Federal Communications Commission.
Richard J. Shiben,
Chief, Broadcast Bureau.

[FR Doc. 79-25776 Filed 8-20-79; 8:45 am]
BILLING CODE 6712-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

U.S. Fire Administration

Sale of Real Property

The United States Fire Administration (USFA) is offering for sale the site of the former Marjorie Webster Junior College in northwest Washington, D.C. The site was purchased by the USFA in 1977 for use as the National Fire Academy; subsequently a larger facility was obtained to house the Academy.

The Administrator, USFA, is selling the property pursuant to Pub. L. 95-422, which authorizes the sale without regard to the provisions of the Federal Property and Administrative Services Act of 1949. The proceeds from the sale will be used to defray the renovation expense at the National Fire Academy, Emmitsburg, Maryland; therefore, only offers for value will be considered.

A bidder's information package is available from USFA. Requests should be directed to: Daniel P. Cosgrove, Assistant General Counsel for Fire, Federal Emergency Management Agency, Washington, D.C. 20472, Telephone: (202) 632-9685. The site may be previewed by appointment only.

The USFA reserves the right to accept or reject any or all bids, and to sell the site in its entirety or any portion thereof.

Bids, to be considered, should be received prior to November 1, 1979.

Dated: August 15, 1979.

Gordon Vickery,

Administrator, U.S. Fire Administration.

[FR Doc. 79-25885 Filed 8-20-79; 8:45 am]

BILLING CODE 4210-23-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Center for Disease Control

Mine Health Research Advisory Committee; Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92-463), the Center for Disease Control announces the following National Institute for Occupational Safety and Health Committee meeting:

Name: Mine Health Research Advisory Committee.

Date: September 13, 1979.

Place: Conference Room C, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

Time: 9 a.m.

Type of Meeting: Open: 9 a.m. to 4 p.m. on September 13. Closed: Remainder of meeting.

Contact Person: William A. Felsing, Jr.,
Interim Executive Secretary, 5600 Fishers
Lane, Room 8-47, Rockville, Maryland
20857, Phone: 301-443-3443.

Purpose: The Committee is charged with advising the Secretary, Department of Health, Education, and Welfare, on matters involving or relating to mine health research, including grants and contracts for such research.

Agenda: Agenda items for the open portion of the meeting will include announcements, consideration of future meeting dates, a discussion of the legislative background of the Federal Mine Safety and Health Amendments Act of 1977 (P.L. 95-164) and its implications for the National Institute for Occupational Safety and Health (NIOSH), the NIOSH mine research program including mine industry surveillance, coal workers' surveillance, health hazard evaluations, industry-wide studies of the mining industry, and mine health standards development. Discussions will also be held relative to the health issues related to development of new energy technology and discussion of mine health priorities. Beginning at 4 p.m., the Committee will be performing the final review of the mine research grant applications for Federal assistance, and this portion of the meeting will not be open to the public in accordance with the provisions set forth in Section 552b(c)(6), Title 5 U.S. Code, and the Determination by the Director, Center for Disease Control, pursuant to Pub. L. 92-463.

Agenda items are subject to change as priorities dictate.

The portion of the meeting so indicated is open to the public for observation and participation. Anyone wishing to make an oral presentation should notify the contact person listed above as soon as possible before the meeting. The request should state the amount of time desired, the capacity in which the person will appear, and a brief outline of the presentation. Oral presentations will be scheduled at the discretion of the Chairperson and as time permits. Anyone wishing to have a question answered during the meeting by a scheduled speaker should submit the question in writing, along with his or her name and affiliation, through the Executive Secretary to the Chairperson. At the discretion of the Chairperson and as time permits, appropriate questions will be asked of the speakers.

A roster of members and other relevant information regarding the meeting may be obtained from the contact person listed above.

Dated: August 15, 1979.

William H. Fooge,

Director, Center for Disease Control.

[FR Doc. 79-25989 Filed 8-20-79; 8:45 am]

BILLING CODE 4110-07-M

Food and Drug Administration

[Docket No. 78N-0135]

John D. Copanos, Inc., et al.;
Dihydrostreptomycin,
Dihydrostreptomycin-Streptomycin
Injectable Drugs for Animal Use;
Withdrawal of Approval

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This document withdraws approval of new animal drug applications (NADA's) for certain dihydrostreptomycin, and dihydrostreptomycin-streptomycin injectable drugs for animal use. This action is being taken because the sponsors have not filed appearances in response to a notice of opportunity for hearing on a proposal to withdraw the applications.

EFFECTIVE DATE: August 31, 1979.

FOR FURTHER INFORMATION CONTACT: Donald Gable, Bureau of Veterinary Medicine (HFV-101), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4313.

SUPPLEMENTARY INFORMATION: In the Federal Register of June 27, 1978 (43 FR 27894), the Food and Drug Administration issued a notice pertaining to dihydrostreptomycin, and dihydrostreptomycin-streptomycin injectable drugs for animal use. The notice stated that dihydrostreptomycin sulfate injectable is effective in the treatment of leptospirosis in dogs and horses due to *Leptospira canicola*, *L. icterohemorrhagiae* and *L. pomona*; in cattle due to *L. pomona* and in swine due to *L. pomona* and *L. grippotyphosa*. The notice also stated that dihydrostreptomycin injectable lacks substantial evidence of effectiveness for all other labeled indications and that there is no evidence to establish that the combination of dihydrostreptomycin-streptomycin injectable is effective for any indication. The notice permitted sponsors to submit supplements to their NADA's for revised labeling in accord with the effective uses and offered an opportunity for hearing to the sponsors for the indications lacking substantial evidence of effectiveness.

The following companies and products were identified as being subject to the notice:

NADA 65-120V, Dihydrostreptomycin Sulfate Injection; NADA 65-138V, Bi-Strept Solution (Dihydrostreptomycin-Streptomycin Sulfates Solution); NADA 65-231V, Dihydrostreptomycin for

Injection. John D. Copanos, Inc., Baltimore, MD 21225.

NADA 65-013V, Dihydrostreptomycin Sulfate Injection; NAS-069, Dihydrostreptomycin Sulfate-Streptomycin Sulfate Solution Veterinary. Maury Biological Co., Inc., Los Angeles, CA 90047.

NADA 65-097V, Twin Biotic Injectable (Dihydrostreptomycin Sulfate and Streptomycin Sulfate). Vineland Laboratories, Inc., Vineland, NJ 08360.

Maury Biological Co., Inc., submitted revised labeling regarding NADA 65-013V which was approved and notice published in the Federal Register of February 9, 1979 (44 FR 8260).

John D. Copanos, Inc., submitted revised labeling regarding NADA 65-120V which was found to be incomplete; the agency has informed the sponsor of the deficiencies. This application will be subject to a future Federal Register publication.

The following sponsors did not submit revised labeling, file a timely written appearance, or request a hearing: John D. Copanos, Inc., regarding NADA 65-138V or NADA 65-231V; Maury Biological Co., Inc., regarding NAS-069; or Vineland Laboratories, Inc., regarding NADA 65-097V.

Failure to file a written appearance or request for hearing within the 30-day period provided, as required by § 514.200 *Contents of notice of opportunity for a hearing* (21 CFR 514.200) is construed as an election by the sponsor not to avail itself of the opportunity for hearing and is grounds for entering a final order without further notice.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(e), 82 Stat. 345-347 (21 U.S.C. 360b(e))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) and redelegated to the Director of the Bureau of Veterinary Medicine (21 CFR 5.84) and in accordance with § 514.115 *Withdrawal of approval of applications* (21 CFR 514.115), notice is given that approval of NADA 65-138V, NADA 65-231V, NADA 65-097V, and NAS-069 and all supplements and amendments thereto is hereby withdrawn, effective August 31, 1979.

Dated: August 13, 1979.

Lester M. Crawford,

Director, Bureau of Veterinary Medicine.

[FR Doc. 79-25907 Filed 8-20-79; 8:45 am]

BILLING CODE 4110-03-M

[Docket No. 79N-0244]

**National Patent Development Corp.;
Premarket Approval of Hydron®
(Polymacon) Hydrophilic Contact Lens****AGENCY:** Food and Drug Administration.**ACTION:** Notice.

SUMMARY: The Food and Drug Administration (FDA) announces approval of the application for premarket approval under the Medical Device Amendments of 1976 of the Hydron® (polymacon) Hydrophilic Contact Lens sponsored by National Patent Development Corp., New Brunswick, NJ. After reviewing the Ophthalmology Device Classification Panel's recommendation, FDA notified the sponsor that the application was approved because the device had been shown to be safe and effective for use as recommended in the submitted labeling.

DATE: Petitions for administrative review by September 20, 1979.

ADDRESS: Requests for copies of the summary of safety and effectiveness, data and petitions for administrative review may be sent to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Keith Lusted, Bureau of Medical Devices (HFK-402), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7550.

SUPPLEMENTARY INFORMATION: The sponsor, National Patent Development Corp., New Brunswick, NJ 08902, submitted an application for premarket approval of the Hydron® (polymacon) Hydrophilic Contact Lens to FDA on October 16, 1978. The application was reviewed by the Ophthalmology Device Classification Panel, an FDA advisory committee, which recommended approval of the application. On April 6, 1979, FDA approved the application by a letter to the sponsor from the Director of the Bureau of Medical Devices.

Before enactment of the Medical Device Amendments of 1976 (Pub. L. 94-295, 90 Stat. 539-583 (the amendments)), soft contact lenses and solutions were regulated as new drugs. Because the amendments broadened the definition of the term "device" in section 201(h) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(h)) (the act), soft contact lenses and solutions are now regulated as class III devices (premarket

approval). As FDA explained in a notice published in the Federal Register of December 16, 1977 (42 FR 63472), the amendments provide transitional provisions to ensure continuation of premarket approval requirements for class III devices formerly considered new drugs. Furthermore, FDA requires, as a condition to approval, the sponsors of applications for premarket approval of soft contact lenses or solutions comply with the records and reports provisions of Part 310 (21 CFR Part 310), Subpart D, until these provisions are replaced by similar requirements under the amendments.

A summary of the information on which FDA's approval is based is available upon request from the Hearing Clerk (HFA-305), address above. Requests should be identified with the name of the device and the Hearing Clerk docket number found in brackets in the heading of this document.

The labeling of the Hydron® (polymacon) Hydrophilic Contact Lens, like that of other approved soft contact lenses, states that the lens is the only to be use with certain solutions for disinfection and other purposes, the restrictive labeling helps to inform new lens users that they must avoid purchasing inappropriate products, e.g., solutions for use with hard contact lenses. However, the restrictive labeling needs to be updated periodically to refer to new solutions that FDA approves for use with an approved lens. A sponsor who fails to update the restrictive labeling may violate the misbranding provisions of section 502 of the act (21 U.S.C. 352) as well as the Federal Trade Commission Act (15 U.S.C. 41-58), as amended by the Magnuson-Moss Warranty—Federal Trade Commission Improvement Act (Pub. L. 93-637). Furthermore, failure to update the restrictive labeling to refer to new solutions that may be used with an approved lens may be grounds for withdrawing approval of the application for the lens, under section 515(e)(1)(F) of the act (21 U.S.C. 360e(e)(1)(F)). Accordingly, whenever FDA publishes a notice in the Federal Register of the agency's approval of a new solution for use with an approved lens, the sponsor of the lens shall correct its labeling to refer to the new solution, at the next printing or at any other time as FDA prescribes by letter to the sponsor.

Opportunity for Administrative Review

Section 515(d)(3) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g)

of the act (21 U.S.C. 360e(g)), for administrative review of FDA's decision to approve this application. A petitioner may request either a formal hearing under Part 12 (21 CFR Part 12) of the FDA administrative practices and procedures regulations or a review of the application and FDA's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration of FDA action under § 10.33(b) (21 CFR 10.33(b)). A petition must designate the form of review requested (hearing or independent advisory committee) and must be accompanied by supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing any petition, FDA will decide whether to grant or deny the petition and publish a notice of its decision in the Federal Register. If FDA grants the petition, the notice will state the issues to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before September 20, 1979, file with the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, four copies of each petition and supporting data and information, identified with the name of the device and the Hearing Clerk Docket number found in brackets in the heading of this document. Received petitions may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 13, 1979.

William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.

[FR Doc. 79-25608 Filed 8-20-79; 8:45 am]

BILLING CODE 4110-03-M

[Docket No. 79N-0315]

**Diagnostic Radiology and Nuclear
Medicine Quality Assurance Programs;
Open Meeting****AGENCY:** Food and Drug Administration.**ACTION:** Notice.

SUMMARY: The Food and Drug Administration announces an open meeting to be conducted under contract by the American College of Radiology to discuss means of motivating diagnostic radiology and nuclear medicine facilities

to voluntarily establish quality assurance programs.

DATES: The meeting will be held September 6 and 7, 1979; sessions will convene at 9 a.m. on September 6 and at 8:30 a.m. on September 7.

ADDRESS: The meeting will be held at Arlington Hyatt House Hotel, 1325 Wilson Blvd., Arlington, VA 22209.

FOR FURTHER INFORMATION CONTACT: Richard E. Gross or Roger L. Burkhardt, Bureau of Radiological Health (HFX-70), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-2436.

SUPPLEMENTARY INFORMATION: Participants from industry, government, and appropriate professional organizations have been invited to make presentations and/or participate in workshops to discuss the problems delaying the establishment of programs in diagnostic radiology and nuclear medicine facilities. Other interested persons may attend the sessions as observers and, to the extent that time permits, express their views.

The goal of the meeting is to recommend mechanisms for motivating personnel in diagnostic radiology and nuclear medicine facilities to establish quality assurance programs. Proceedings of the open meeting will be published as a Bureau of Radiological Health (BRH) technical report. Availability of the report will be announced in the BRH Bulletin at a later date.

August 14, 1979.

William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.

[FR Doc. 79-25602 Filed 8-15-79; 10:55 am]

BILLING CODE 4110-03-M

**INTERAGENCY REGULATORY
LIAISON GROUP****Testing Standards and Guidelines
Work Group; Availability of Draft
Guidelines and Public Meeting**

AGENCY: Interagency Regulatory Liaison Group (IRLG), representing the Consumer Product Safety Commission (CPSC); the Environmental Protection Agency (EPA), the Food and Drug Administration, Department of Health Education and Welfare (FDA); the Food Safety and Quality Service, Department of Agriculture (FSQS); and the Occupational Safety and Health Administration, Department of Labor (OSHA).

ACTION: Notice of availability of draft guidelines and public meeting.

SUMMARY: A package containing drafts of the following IRLG guidelines is available: Acute Eye Irritation, Acute Oral Toxicity in Rodents, Acute Dermal Toxicity, Acute Inhalation, and Teratogenicity. These guidelines are being developed by the Testing Standards and Guidelines Work Group of the IRLG, for use when testing chemicals for toxicity.

REQUESTS FOR GUIDELINES: Single sets of guidelines may be obtained by writing to: Industry Assistance Office (TS-799), Environmental Protection Agency, 401 "M" Street, Washington, DC 20460, or by calling (800) 424-9065 (Toll Free) or (202) 554-1404.

DATE: Any written comments on the guidelines should be submitted by October 19, 1979.

ADDRESS: Comments should be addressed to Dr. Victor Morgenroth, III, HFF-185, Food and Drug Administration, Bureau of Foods, Division of Toxicology, 200 "C" Street, SW, Washington, DC 20204. Comments may be examined in the IRLG Office, Room 509, 1111 18th Street, NW, Washington, DC 20207, 9:00 a.m. to 4:00 p.m., Monday through Friday.

PUBLIC MEETING DATE AND LOCATION: A public meeting to discuss the guidelines and comments on the guidelines will be held at 9:00 a.m. on October 30, 1979, Auditorium, Main Floor, Hubert H. Humphrey Building, 200 Independence Avenue, SW, Washington, DC 20201. Work Group members representing the five IRLG agencies will discuss the philosophy of the Work Group, comparisons with other guidelines, the relationship of IRLG guidelines to other proposed guidelines, and future activities of the Work Group. Scientific issues of each guideline will be addressed individually, and the public will have opportunity to participate in all discussions. The proceedings will be recorded and made available to the public upon request at a later date.

SUPPLEMENTAL INFORMATION:**Background**

The IRLG was established for the purpose of improving public health through sharing of information, avoiding duplication of effort, and developing consistent regulatory policy. The testing of chemicals to determine their health effects is a fundamental step in many of the regulatory programs being implemented by the IRLG agencies. The agencies recognize that toxicity testing guidelines which they currently use are

not always uniform although the differences exist primarily in details of methodology and not in fundamental toxicological principles.

The IRLG established the Testing Standards and Guidelines Work Group for the purpose of attempting to resolve these differences and preparing guidelines which would satisfy the toxicity testing needs of all the agencies. The Work Group was to review tests and procedures already in use or under development, obtain outside guidance when appropriate, and coordinate its work with the agencies and others who might also be in the process of developing guidelines. On December 17, 1977, the Work Group held a public meeting to explain its purpose and goals, and to answer questions about its activities.

Draft guidelines on testing for Acute Eye irritation, Acute Oral Toxicity in Rodents, Acute Dermal Toxicity, Acute Inhalation, and Teratogenicity were prepared by the IRLG Work Group as a first step toward their ultimate goal of developing guidelines which satisfy the needs of the IRLG agencies. The Work Group is releasing these guidelines in order to obtain public comment before it prepares final drafts of the guidelines for submission to the member agencies for their consideration. These draft guidelines are not intended at this stage to have the force of law. In order to make them legally binding, some of the agencies would be required to issue them through a rulemaking procedure. The use agencies make of the guidelines and whether they initiate such rulemaking will be determined by each agency after receiving final draft guidelines prepared by the IRLG Work Group.

IRLG guidelines are based on those currently used or under development in the agencies, in international organizations, and in industry. Early drafts of the IRLG guidelines were circulated through each agency for review, and comments from that review are included in these draft guidelines. In addition, drafts of the EPA Office of Pesticides Programs (OPP) proposed guidelines (43 FR 37336, 22 August 1978) under the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), and public comments to those guidelines were used extensively in an effort to assure compatibility and to benefit from the appreciable time and effort the OPP staff and respondents put in to their development. A second major source of information was *Principles and Procedures for Evaluating the Toxicity of Household Substances* (NAS Pub. No. 1138), prepared for CPSC by the

National Academy of Sciences. Still others heavily relied on were the Pharmaceutical Manufacturers' Association *Guidelines for the Assessment of Drug and Medical Device Safety in Animals* (February 1977) the FDA, Bureau of Foods Direct Additive Cyclic Review Draft Guidelines; the *Appraisal of the Safety of Chemicals in Foods, Drugs and Cosmetics*, Association of Food and Drug Officials of the U.S.; and protocols submitted by several industrial organizations. To the extent possible, IRLG guidelines are being coordinated with development of guidelines by the Organization for Economic Cooperation and Development (OECD). The Work Group acknowledges the contributions from each of these information sources and takes this opportunity to express its appreciation to the scientists who developed them and made them available.

The draft guidelines are available for comment and a public meeting will be held on October 30, 1979, at 9:00 a.m., in the Auditorium, Main Floor, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201, in order to give interested persons an opportunity to express their views on the validity and appropriateness of the methods described for toxicity testing.

Dated: August 15, 1979.

Victor Morgenroth, III,

Chairman, Testing Standards and Guidelines Work Group, Interagency Regulatory Liaison Group.

(FR Doc. 79-25784 Filed 8-20-79; 8:45 am)
BILLING CODE 4110-03-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AA-6704-A AA-6704-B]

Alaska Native Claims Selection

On March 11, 1974 and July 24, 1974, Tazlina, Incorporated, for the Native village of Tazlina, filed selection applications AA-6704-A and AA-6704-B under the provisions of Sec. 12 of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 701; 43 U.S.C. 1601, 1611 (1976)) (ANCSA), for the surface estate of certain lands in the vicinity of Glennallen.

The village corporation selected lands which were withdrawn by Secs. 11(a)(1) and 11(a)(2) of ANCSA. Section 11(a)(2) specifically withdrew, subject to valid existing rights, all lands within the townships withdrawn by Sec. 11(a)(1) that had been selected by, or tentatively approved to, but not yet patented to the

State of Alaska under the Alaska Statehood Act of July 7, 1958 (72 Stat. 339, 340; 48 U.S.C. Ch. 2, Sec. 8(b) (1976)).

Section 12(a)(1) of ANCSA provides that village selections shall be made from lands withdrawn by Sec. 11(a). Section 12(a)(1) further provides that no village may select more than 69,120 acres from lands withdrawn by Sec. 11(a)(2).

The following described lands which are State selected have been properly selected under village selection applications AA-6704-A and AA-6704-B. Accordingly, tentative approvals are hereby rescinded and the State selection applications identified below are rejected as to the following described lands:

State selection A-051380, filed on March 9, 1960, as amended.

T. 3 N., R. 1 W., Copper River Meridian (Surveyed)

Sec. 4, Lots 6, 10, E $\frac{1}{2}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$;
Sec. 8, SW $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 9, Lots 10 and 14, NE $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 10, Lot 2;
Sec. 14, W $\frac{1}{2}$;
Sec. 17, E $\frac{1}{2}$;
Sec. 27, NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$.
Containing 1,339.95 acres.

State selection A-056786, filed March 20, 1962, as amended.

T. 4 N., R. 1 W., Copper River Meridian (Surveyed)

Sec. 4, Lots 1 to 6, inclusive, S $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$;
Sec. 7, Lots 6, 11, 17, 21, 22, 26, 27, 31, 32, 36, 37, 41, 42, SE $\frac{1}{4}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ SE $\frac{1}{4}$;
Sec. 8, S $\frac{1}{2}$;
Sec. 17, NE $\frac{1}{4}$;
Sec. 20, SW $\frac{1}{4}$;
Sec. 29, N $\frac{1}{2}$ SE $\frac{1}{4}$;
Sec. 30, Lots 1 to 4, inclusive, N $\frac{1}{2}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ W $\frac{1}{2}$;
Sec. 31, Lots 1 to 7, inclusive, NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$;
Sec. 32, SW $\frac{1}{4}$.
Containing 2,520.12 acres.

Those portions of Tract A, more particularly described as (protracted):

Sec. 3, all;
Sec. 4;
Secs. 9, 10, 15, 16, 21, 22, 27, 28, 33, 34, 35, 36, all.

Containing approximately 8,330 acres.

Of the above-described lands, approximately 6,370 acres were tentatively approved June 10, 1964 and November 22, 1965, as modified.

State selection A-056781, filed March 20, 1962, as amended.

T. 4 N., R. 2 W., Copper River Meridian (Surveyed)

Sec. 24, Lots 14, 18, 40, 43, 44, 45, 48, 49, 50, 51, 52, 54, 55, 56, 57, 58, 69, 70, N $\frac{1}{2}$ S $\frac{1}{2}$;
Sec. 25, all;
Sec. 29, NE $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$, W $\frac{1}{2}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$;

Sec. 30, Lot 2, S $\frac{1}{2}$ N $\frac{1}{2}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$, S $\frac{1}{2}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$.
Containing 993.17 acres.
Those portions of Tract A more particularly described as (protracted):

Secs. 1, 2, 3, all;
Secs. 7 to 18, inclusive, all;
Sec. 19, excluding U.S. Survey 4598 and U.S. Survey 5508.

Containing approximately 10,063 acres.
Tract B, excluding Native allotment application AA-5967.

Containing approximately 3,820 acres.
State selection AA-4800, filed December 18, 1968, as amended.

T. 4 N., R. 3 W., Copper River Meridian (Unsurveyed)

Sec. 31, all.
Containing approximately 607 acres.

Of the above-described lands, approximately 10,978 acres were tentatively approved June 4, 1964, as modified.

The State-selected lands described below, however, are not valid selections and the acreage will not be charged against the village corporation as State-selected lands.

On June 16, 1972, the State of Alaska amended selections A-051380, A-056781 and A-056786 to include additional lands. The lands described below were withdrawn for Native selection by Sec. 11(a)(1) of ANCSA on December 18, 1971 and therefore were not available for selection by the State of Alaska. In view of this, the State selection applications identified below are hereby rejected as to the following described lands:

Copper River Meridian (Surveyed)

State selection A-051380.

T. 3 N., R. 1 W.

Sec. 35, Lot 3;
Sec. 36, Lot 12.

Containing 222.52 acres.
State selection A-056786.

T. 4 N., R. 1 W.

Sec. 33, Lot 1.

Containing 37.68 acres.
State selection A-056781.

T. 4 N., R. 2 W.

Sec. 23, E $\frac{1}{2}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$.

Containing 20 acres.

On December 16, 1968, the State filed general purposes grant selection applications AA-4799, AA-4800, AA-4808 and AA-4809. These selection applications are also rejected as to the lands selected by Tazlina. Public Land Order 4582, dated January 17, 1969, withdrew "all public lands in Alaska which are unreserved or which would otherwise become unreserved * * * from all forms of appropriation and disposition under the public land laws * * * including selection by the State of Alaska pursuant to the Alaska

Statehood Act (72 Stat. 339) * * *." This reservation became effective prior to the date the selection applications were filed, when the telegram notifying the Alaska State Office of the proposed withdrawal was received on December 12, 1968, and the records were noted.

Paragraph 4 of P.L.O. 4582 permitted the State to complete its selection of lands "which at the time of such filing were embraced in leases, licenses, permits, or contracts issued pursuant to the Mineral Leasing Act of 1920 or the Alaska Coal Leasing Act of 1914 * * *."

Since there were no mineral leases, etc., on December 16, 1968, on any of the lands described below in State selection applications AA-4799, AA-4800, AA-4808 and AA-4809 as to the lands selected by Tazlina, none of those lands were available for State selection. Section 8(b) of the Alaska Statehood Act provides that the lands selected must be public lands which are " * * * vacant, unappropriated, and unreserved at the time of their selection * * *." (Emphasis added.) Therefore the selection applications must be and are hereby rejected as to the following described lands:

Copper River Meridian (Surveyed)

State Selection AA-4799

T. 4 N., R. 1 E.

Those portions more particularly described as (protracted):

Secs. 31 to 36, inclusive.
Containing approximately 3,807 acres.
State Selection AA-4808

T. 3 N., R. 2 W.

Those portions more particularly described as (protracted):

Secs. 1 to 18, inclusive;
Secs. 21 to 25 inclusive.
Containing approximately 13,378 acres.
State Selection AA-4809

T. 3 N., R. 3 W.

Those portions more particularly described as (protracted):

Secs. 1 to 8, inclusive;
Secs. 17, 18, 19, 30 and 31, all.

Containing approximately 8,157 acres.

State Selection AA-4800

T. 4 N., R. 3 W.

Those portions of Tract A more particularly described as (protracted):

Secs. 11 to 30, inclusive;
Secs. 32 to 36, inclusive.

Containing approximately 15,708 acres.

The State selected lands rejected above aggregate approximately 89,003 acres; however, 41,330 acres of State selections A-056786, A-056781, AA-051380, AA-4799, AA-4800, AA-4808 and AA-4809 were not valid selections and will not be charged against the village corporation as State selected lands. Further action on the subject State selection applications as to those

lands not rejected herein will be taken at a later date.

The total amount of lands which have been properly selected by the State, including any selection applications previously rejected to permit conveyances to Tazlina, Incorporated is approximately 27,673 acres, which is less than the 69,120 acres permitted by Sec. 12(a)(1) of ANCSA.

As to the lands described below, the applications, as amended, are properly filed and meet the requirements of the Alaska Natives Claims Settlement Act and of the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with laws leading to acquisition of title.

In view of the foregoing, the surface estate of the following described lands, selected pursuant to Sec. 12(a) of ANCSA, aggregating approximately 77,437 acres, is considered proper for acquisition by Tazlina, Incorporated and is hereby approved for conveyance pursuant to Sec. 14(a) of ANCSA:

U.S. Survey 5569, Alaska, located on the northerly side of the Glenn Highway at about Mile 180.

Containing 40.00 acres.

Copper River Meridian (Surveyed)

T. 3 N., R. 1 W.

Sec. 4, Lots 6, 10, E $\frac{1}{2}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$;
Sec. 8, SW $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 9, Lots 10, 14, NE $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 10, Lot 2;
Sec. 14, W $\frac{1}{2}$;
Sec. 17, E $\frac{1}{2}$;
Sec. 27, NE $\frac{1}{4}$ E $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$;
Sec. 35, Lot 3;
Sec. 36, Lot 12.

Containing 1,562.47 acres.

T. 4 N., R. 1 W.

Sec. 4, Lots 1 to 6, inclusive, S $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$;
Sec. 7, Lots 6, 11, 17, 21, 22, 26, 27, 31, 32, 36, 37, 41, 42, SE $\frac{1}{4}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ SE $\frac{1}{4}$;
Sec. 8, S $\frac{1}{2}$;
Sec. 17, NE $\frac{1}{4}$;
Sec. 20, SW $\frac{1}{4}$;
Sec. 29, N $\frac{1}{2}$ SE $\frac{1}{4}$;
Sec. 30, Lots 1 to 4, inclusive, N $\frac{1}{2}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ W $\frac{1}{2}$;
Sec. 31, Lots 1 to 7, inclusive, NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$;
Sec. 32, Lot 2, SW $\frac{1}{4}$;
Sec. 33, Lot 1.

Containing 2,559.83 acres.

T. 4 N., R. 2 W.

Sec. 23, E $\frac{1}{2}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 24, Lots 14, 18, 40, 43, 44, 45, 48, 49, 50, 51, 52, 54, 55, 56, 57, 58, 69, 70, N $\frac{1}{2}$ S $\frac{1}{2}$;
Sec. 25, all;
Sec. 29, NE $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$, W $\frac{1}{2}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$;
Sec. 30, Lot 2, S $\frac{1}{2}$ N $\frac{1}{2}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$.
Containing 1,013.17 acres.
Aggregating 5,175.47 acres.
Lands on Which Additional Survey Is Required:

Copper River Meridian (Surveyed)

T. 4 N., R. 1 E.

The following portions of Tract A, more particularly described as (protracted):

Secs. 31 to 36, inclusive, all.
Containing approximately 3,807 acres.

T. 4 N., R. 1 W.

The following portions of Tract A, excluding the Copper River, more particularly described as (protracted):

Sec. 3, all;
Sec. 4, the portion east of the west bank of the Copper River;
Secs. 9, 10, 15, 16, 21, 22, 27 and 28, all;
Sec. 33, the portion north and east of the Copper River;
Secs. 34, 35 and 36, all.

Containing approximately 7,850 acres.

T. 3 N., R. 2 W. (protracted):

Secs. 1 to 6, inclusive, all;
Secs. 8 to 18, inclusive, all;
Secs. 21 to 25, inclusive, all.

Containing approximately 12,786 acres.

T. 4 N., R. 2 W.

The following portions of Tract A, more particularly described as (protracted):

Secs. 1, 2 and 3, all;
Secs. 7 to 18, inclusive, all;
Sec. 19, excluding U.S. Survey 4598 and U.S. Survey 5508.

Containing approximately 10,063 acres.
Tract B, excluding Native allotment application AA-5967.

Containing approximately 3,820 acres.

T. 3 N., R. 3 W. (protracted)

Secs. 1 to 8, inclusive, all;
Secs. 17, 18, 19, 30 and 31, all;

Containing approximately 8,157 acres.

T. 4 N., R. 3 W.

The following portions of Tract A, more particularly described as (protracted):

Secs. 11 to 18, inclusive, all;
Sec. 19, excluding U.S. Surveys 4598 and 5644;
Sec. 20, excluding U.S. Survey 5664;
Sec. 21, all;
Sec. 22, excluding U.S. Survey 5569;
Sec. 23, excluding U.S. Survey 5665;
Secs. 24 and 25, excluding U.S. Surveys 3581, 3582, 4864, 5529 and 5565;
Sec. 26, excluding U.S. Surveys 5665 and 5678;
Secs. 27 and 28, all;

Sec. 29, excluding U.S. Survey 5664;
Sec. 30, excluding U.S. Survey 5644;
Secs. 31 to 36, inclusive, all.

Containing approximately 16,315 acres.
Aggregating approximately 62,780 acres.

Copper River Meridian (Unsurveyed)

T. 3 N., R. 1 E.

Sec. 1, all.

Containing approximately 640 acres.

T. 3 N., R. 2 E.

Sec. 6, all.

Containing approximately 608 acres.

T. 2 N., R. 3 W.

Secs. 5 to 8, inclusive, all;
Secs. 16 to 21, inclusive, all;
Secs. 28, 29 and 30, all.

Containing approximately 8,234 acres.
Aggregating approximately 9,482 acres.

The conveyance issued for the surface estate of the lands described above shall contain the following reservations to the United States:

1. The subsurface estate therein, and all rights, privileges, immunities, and appurtenances, of whatsoever nature, accruing unto said estate pursuant to the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 704; 43 U.S.C. 1601, 1613(f) (1978)); and

2. Pursuant to Sec. 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 708; 43 U.S.C. 1601, 1616(b) (1978)), the following public easements, referenced by easement identification number (EIN) on the easement maps attached to this document, copies of which will be found in case file AA-6704-EE, are reserved to the United States. All easements are subject to applicable Federal, State, or municipal corporation regulation. The following is a listing of uses allowed for each type of easement. Any uses which are not specifically listed are prohibited.

25 Foot Trail—The uses allowed on a twenty-five (25) foot wide trail easement are: Travel by foot, dogsled, animals, snowmobiles, two and three-wheel vehicles, and small all-terrain vehicles (less than 3,000 lbs Gross Vehicle Weight (GVW)).

50 Foot Trail—The uses allowed on a fifty (50) foot wide trail easement are: Travel by foot, dogsled, animals, snowmobiles, two and three-wheel vehicles, small and large all-terrain vehicles, track vehicles and four-wheel drive vehicles.

60 Foot Road—The uses allowed on a sixty (60) foot wide road easement are: Travel by foot, dogsled, animals, snowmobiles, two and three-wheel vehicles, small and large all-terrain vehicles, track vehicles, four-wheel drive vehicles, automobiles, and trucks.

One Acre Site—The uses allowed for a site easement are: Vehicle parking (e.g., aircraft, boats, ATVs, snowmobiles, cars, trucks), temporary camping, and loading or unloading. Temporary camping, loading, or unloading shall be limited to 24 hours.

a. (EIN 2 C1) A one (1) acre site easement upland of the ordinary high water mark in Sec. 10, T. 4 N., R. 1 W., Copper River Meridian, on the left bank of the Copper River. The uses allowed are those listed above for a one (1) acre site easement.

b. (EIN 4a C5, D9) An easement for an existing access trail fifty (50) feet in width from the left bank of the Copper River in Sec. 3, T. 4 N., R. 1 W., Copper River Meridian, southeasterly through site EIN 2 C1 and continuing southeasterly then northeasterly to public lands in Sec. 2, T. 4 N., R. 1 W., Copper River Meridian. The uses allowed are those listed above for a fifty (50) foot wide trail easement.

c. (EIN 6a C5, D1, D9) An easement for an existing access trail fifty (50) feet in width from the Glenn Highway in Sec. 22, T. 4 N., R. 3 W., Copper River Meridian, northerly to public lands. The uses allowed are those listed above for a fifty (50) foot wide trail easement.

d. (EIN 10b C5, D1) An easement sixty (60) feet in width for an existing road from the

Richardson Highway in Sec. 8, T. 3 N., R. 1 W., Copper River Meridian, southeasterly to public lands. The uses allowed are those listed above for a sixty (60) foot wide road easement.

e. (EIN 10c C5, D1) An easement sixty (60) feet in width for an existing road from the Richardson Highway in Sec. 38, T. 3 N., R. 1 W., Copper River Meridian, northerly to public lands. The uses allowed are those listed above for a sixty (60) foot wide road easement.

f. (EIN 11a C5, D9) An easement for an existing access trail twenty-five (25) feet in width from the western end of road EIN 11h C5, D9 in Sec. 7, T. 3 N., R. 1 W., Copper River Meridian, northwesterly through Sec. 3, T. 3 N., R. 2 W., Copper River Meridian, thence southerly to the southwest corner of Sec. 27, T. 3 N., R. 2 W., Copper River Meridian, thence joining trail EIN 11d C5, D9. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

g. (EIN 11d C5, D9) An easement for an existing access trail twenty-five (25) feet in width from trail EIN 11a C5, D9 in Secs. 27 and 28, T. 3 N., R. 2 W., Copper River Meridian, westerly to public lands in T. 3 N., R. 4 W., Copper River Meridian. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

(EIN 11h C5, D9) An easement sixty (60) feet in width for an existing road from the Richardson Highway in Sec. 17, T. 3 N., R. 1 W., Copper River Meridian, westerly to public lands and the Trans-Alaska Oil Pipeline in Sec. 7, T. 3 N., R. 1 W., Copper River Meridian. The uses allowed are those listed above for a sixty (60) foot wide road easement.

i. (EIN 11i D1) An easement twenty-five (25) feet in width for a proposed powerline and telephone line from the Richardson Highway in Sec. 17, T. 3 N., R. 1 W., Copper River Meridian, westerly along the north side of road EIN 11h C5, D9 to public lands in Sec. 7, T. 3 N., R. 1 W., Copper River Meridian. The uses allowed are those activities associated with the construction, operation, and maintenance of the telephone line and powerline.

j. (EIN 11j C5 D9) An easement for an existing access trail twenty-five (25) feet in width from Sec. 35, T. 2 N., R. 3 W., Copper River Meridian, northeasterly to trail EIN 11d C5, D9. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

k. (EIN 14 D1) An easement for an existing access trail twenty-five (25) feet in width from the southern border of Sec. 35 T. 4 N., R. 1 E., Copper River Meridian, northwesterly to public lands in Sec. 26, T. 4 N., R. 1 E., Copper River Meridian. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

l. (EIN 19 C5, L) An easement for a proposed express feeder line thirty-five (35) feet in width from Copper Valley Electric Association's present generating facilities in Sec. 23, T. 4 N., R. 2 W., Copper River Meridian, easterly about one mile; thence southeasterly, roughly paralleling the Trans-Alaska Pipeline to the proposed substation EIN 19a C5, L in Sec. 31, T. 4 N., R. 1 W.,

Copper River Meridian. The uses allowed are those activities associated with the construction, operation, and maintenance of the powerline facility.

m. (EIN 19a C5, L) An easement for a proposed substation 300 feet by 300 feet in size for the Copper Valley Electric Association located adjacent to Pump Station 11 of the Trans-Alaska Pipeline (AA-6890) in Sec. 31, T. 4 N., R. 1 W., Copper River Meridian. The uses allowed are those activities associated with the construction, operation and maintenance of a power facility.

n. (EIN 20 C5, L) An easement one hundred (100) feet in width for existing powerlines and telephone lines roughly paralleling the Glenn Highway from its junction with the Richardson Highway in Sec. 19, T. 4 N., R. 1 W., Copper River Meridian, westerly to public lands in T. 4 N., R. 4 W., Copper River Meridian. The uses allowed are those activities associated with operation and maintenance of the power and telephone line facilities.

o. (EIN 20a C5, L) An easement one hundred (100) feet in width for existing powerlines and telephone lines roughly paralleling the Richardson Highway from Sec. 1, T. 2 N., R. 1 W., Copper River Meridian, northerly to Sec. 6, T. 4 N., R. 1 W., Copper River Meridian. The uses allowed are those activities associated with operation and maintenance of the power and telephone line facilities.

The grant of the above-described lands shall be subject to:

1. Issuance of a patent confirming the boundary description of the unsurveyed lands hereinabove granted after approval and filing by the Bureau of Land Management of the official plat of survey covering such lands;

2. Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease issued under Sec. 6(g) of the Alaska Statehood Act of July 7, 1958 (72 Stat. 339, 341; 48 U.S.C. Ch. 2, Sec. 6(g) (1976))), contract, permit, right-of-way, or easement, and the right of the lessee, contractee, permitted, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him. Further, pursuant to Sec. 17(b)(2) of ANCSA, any valid existing right recognized by ANCSA shall continue to have whatever right of access as is now provided for under existing law;

3. Requirements of Sec. 14(c) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 703; 43 U.S.C. 1601, 1613(c) (1976)), that the grantee hereunder convey those portions, if any, of the lands hereinabove granted, as are prescribed in said section;

4. An easement for highway purposes, including appurtenant protective, scenic and service areas, extending 150 feet on each side of the centerline of the Glenn and Richardson Highways, as established by Public Land Order 1613 (23 FR 2376), pursuant to the Act of August 1, 1958 (70 Stat. 898), and transferred to the State of Alaska pursuant to the Alaska Omnibus Act, Pub. L. 86-70 (73 Stat. 141), as to:

Copper River Meridian

T. 3 N., R. 1 W.

Lot 6, E $\frac{1}{2}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 4; E $\frac{1}{2}$ E $\frac{1}{2}$ E $\frac{1}{2}$, Sec. 17; NE $\frac{1}{4}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 27; Lot 12, Sec. 38.

T. 4 N., R. 1 W.

Lots 6, 11, 17, 21, 22, 26, 27, 31, 32, 36, 37, 41 and 42, Sec. 7; N $\frac{1}{2}$ NE $\frac{1}{4}$, Sec. 30; Lot 2, Sec. 32; Lot 1, Sec. 33.

T. 4 N., R. 2 W.

S $\frac{1}{2}$ S $\frac{1}{2}$, Sec. 19; Lots 18, 40, 43, 44, 45, 48, 49, 50, 51, 52, 54, 55, 56, 57, 58, 69 and 70, Sec. 24; N $\frac{1}{2}$ N $\frac{1}{2}$, Sec. 29.

T. 4 N., R. 3 W.

S $\frac{1}{2}$ S $\frac{1}{2}$ protracted Secs. 19, 20, 21, 22, 23 and 24; N $\frac{1}{2}$ N $\frac{1}{2}$ protracted Secs. 25, 26, 27, 28, 29, and 30.

5. A right-of-way, A-042054, 100 feet in width for electric distribution lines under the Act of March 4, 1911 (36 Stat. 1253), as amended; 43 U.S.C. 961 (1970) as to lots 11, 17, 21, 22, 26, 27, 31, 32, 36, 37, 41, and 42, Sec. 7; NE $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 30; lot 2, Sec. 32; T. 4 N., R. 1 W., Copper River Meridian.

6. A recreation and public purposes lease, A-051601, for a school, granted under the Act of June 14, 1926 (44 Stat. 741) (43 U.S.C. 869) as to E $\frac{1}{2}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 23, T. 4 N., R. 2 W., Copper River Meridian.

7. A right-of-way, A-055035, for a material site, granted under the Federal Aid to Highways Act of August 27, 1958, 23 U.S.C. 317, as to protracted Sec. 25, T. 4 N., R. 3 W., Copper River Meridian.

8. A right-of-way, A-058104, for a material site, granted under the Federal Aid to Highways Act of August 27, 1958, as amended, 23 U.S.C. 317, as to lot 6, E $\frac{1}{2}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 4, T. 3 N., R. 1 W., Copper River Meridian.

9. A right-of-way, A-060161, 300 feet in width, for a highway, granted under the Federal Aid to Highways Act of August 27, 1958, as amended, 23 U.S.C. 317, as to lot 1, Sec. 33, T. 4 N., R. 1 W., Copper River Meridian.

10. A right-of-way, A-060364, for a material site, 750 feet by 500 feet, granted under the Federal Aid to Highways Act of August 27, 1958, as amended, 23 U.S.C. 317, as to W $\frac{1}{2}$, protracted Sec. 25, T. 4 N., R. 3 W., Copper River Meridian.

11. A right-of-way, AA-6122, Parcel 4, for a highway, granted under the Federal Aid to Highways Act of August 27, 1958, as amended, 23 U.S.C. 317, as to E $\frac{1}{2}$ E $\frac{1}{2}$ E $\frac{1}{2}$ Sec. 17, T. 3 N., R. 1 W., Copper River Meridian.

12. An easement and right-of-way 50 feet in width (25 feet on each side of the centerline), conveyed to RCA Alaska Communications, Inc., by Easement Deed dated January 10, 1971, AA-6188, pursuant to the Alaska Communications Disposal Act (81 Stat. 441; 40 U.S.C. 771, et seq.) as to:

Copper River Meridian

T. 3 N., R. 1 W.

Sec. 4, Lots 6 and 10, SW $\frac{1}{4}$; Sec. 9, Lot 14; Sec. 17, E $\frac{1}{2}$ E $\frac{1}{2}$; Sec. 27, N $\frac{1}{2}$ NE $\frac{1}{4}$; Sec. 35, Lot 3; Sec. 36, Lot 12.

T. 4 N., R. 1 W.

Sec. 7, Lots 6 and 11;

Sec. 30, NE $\frac{1}{4}$;

Sec. 32, Lot 2;

Sec. 33, Lot 1.

T. 4 N., R. 2 W.

Sec. 19, S $\frac{1}{2}$ S $\frac{1}{2}$;

Sec. 24, Lots 43, 44, 45, 48, 49, 50, 51, 52, 54,

55, 56, 57, 58, 69 and 70;

Sec. 29, N $\frac{1}{2}$ NE $\frac{1}{4}$;

T. 4 N., R. 3 W.

S $\frac{1}{2}$ S $\frac{1}{2}$ protracted Secs. 19, 20, 21, 22, 23,

and 24; N $\frac{1}{2}$ N $\frac{1}{2}$ protracted Secs. 25, 26,

27, 28, 29 and 30.

13. Those rights for pipeline purposes, as have been granted to Amerada Hess Corporation, ARCO Pipeline Company, Exxon Pipeline Company, Mobil Alaska Pipeline Company, Phillips Petroleum Company, Sohio Pipe Line Company, and Union Alaska Pipeline Company, their successors and assigns, in the Agreement and Grant dated January 23, 1974, as modified April 27, 1979, granted pursuant to Sec. 28 of the Mineral Leasing Act (30 U.S.C. 185), as amended, 87 Stat. 576, November 18, 1973, Serial No. AA-5847, and its related facilities more specifically identified as follows:

Copper River Meridian

a. An oil transportation pipeline AA-5847 in:

T. 4 N., R. 1 W.

Sec. 30, Lots 2, 3 and 4, E $\frac{1}{2}$ SW $\frac{1}{4}$;

Sec. 31, Lot 6, W $\frac{1}{2}$ W $\frac{1}{2}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ NE $\frac{1}{4}$;

NW $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$;

T. 4 N., R. 2 W.

Sec/ 1, E $\frac{1}{2}$;

Sec. 12, E $\frac{1}{2}$;

Sec. 13, E $\frac{1}{2}$;

Sec. 24, Lots 43 and 44, E $\frac{1}{2}$ E $\frac{1}{2}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$;

Sec. 25, E $\frac{1}{2}$ E $\frac{1}{2}$ NE $\frac{1}{4}$;

b. A pump station AA-6990 in:

T. 4 N., R. 1 W.

Sec. 30, Lot 4, SE $\frac{1}{2}$ SW $\frac{1}{4}$;

Sec. 31, Lots 1 and 2, E $\frac{1}{2}$ NW $\frac{1}{4}$; W $\frac{1}{2}$ NE $\frac{1}{4}$;

c. A communication site AA-6992 in:

T. 4 N., R. 1 W.

Sec. 31, SE $\frac{1}{4}$ NW $\frac{1}{4}$;

d. A mechanical refrigeration site AA-8618 in:

T. 4 N., R. 2 W.

Sec. 25, NE $\frac{1}{4}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$;

e. A disposal site AA-8751 in:

T. 4 N., R. 1 W.

Sec. 30, Lot 4, E $\frac{1}{2}$ SW $\frac{1}{4}$;

Sec. 31, Lot 1, NE $\frac{1}{4}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ NE $\frac{1}{4}$;

f. An access road AA-8865 in:

T. 4 N., R. 1 W.

Sec. 30, Lot 4, SE $\frac{1}{2}$ SW $\frac{1}{4}$;

Sec. 31, Lot 1, NE $\frac{1}{4}$ NW $\frac{1}{4}$;

14. Those rights for pipeline purposes, AA-

8862, 100 feet in width, access road, as have

been granted to Alyeska Pipeline Service

Company, its successors and assigns,

pursuant to Sec. 28, of the Mineral Leasing

Act (30 U.S.C. 185), as amended November

16, 1973, (87 Stat. 576), as to NE $\frac{1}{4}$, Sec. 17, T.

3 N., R. 1 W., Copper River Meridian.

15. Those rights for pipeline purposes as

have been issued to Alyeska Pipeline Service

Company, its successors and assigns,

pursuant to Sec. 28 of the Mineral Leasing

Act (30 U.S.C. 185), as amended November

16, 1973, (87 Stat. 576), more specifically

identified as follows:

a. As to S $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 25, T. 4 N., R. 2 W., Copper River Meridian, a mineral material sale, AA-8868;

b. As to SW $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 25, T. 4 N., R. 2 W., Copper River Meridian, a mineral material sale, AA-8867.

16. Those rights for pipeline purposes as have been issued to the owners of the Trans-Alaska Pipeline, their successors and assigns, pursuant to Sec. 28 of the Mineral Leasing Act (30 U.S.C. 185) as amended November 16, 1973, (87 Stat. 576), more specifically identified as follows:

a. As to Lots 6, 7, N $\frac{1}{2}$ SE $\frac{1}{4}$, Sec. 31, T. 4 N., R. 1 W., Copper River Meridian, a disposal site, AA-8750;

b. As to SW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 8; NE $\frac{1}{4}$, Sec. 17; T. 3 N., R. 1 W., Copper River Meridian, a mineral material sale, AA-8143.

17. Those rights for pipeline purposes as have been issued to the owners of the Trans-Alaska Pipeline their successors and assigns, pursuant to Sec. 28 of the Mineral Leasing Act (30 U.S.C. 185) as amended November 16, 1973, (87 Stat. 576), for construction zone permit AA-9149.

18. A right-of-way, 30 feet in width, AA-9552, for a transmission line, granted to the Copper Valley Electric Association, Inc. under the Act of March 4, 1911 (36 Stat. 1253), as amended; 43 U.S.C. 961 (1970), as to Lots 2, 3 and 4, E $\frac{1}{2}$ SW $\frac{1}{4}$, Sec. 30; E $\frac{1}{2}$ NW $\frac{1}{4}$, Sec. 31; T. 4 N., R. 1 W., Copper River Meridian; Lots 43 and 44, Sec. 24; E $\frac{1}{2}$ E $\frac{1}{2}$ NE $\frac{1}{4}$, Sec. 25; T. 4 N., R. 2 W., Copper River Meridian.

19. A right-of-way, 80 feet in width, AA-16679, for a road, under the Act of October 21, 1976 (43 U.S.C. 1701, 1761), as to Lots 14, 18, NW $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 24, T. 4 N., R. 2 W., Copper River Meridian.

Tazlina Incorporated is entitled to conveyance of 92,160 acres of land selected pursuant to Sec. 12(a) of ANCSA. Together with the lands herein approved, the total acreage conveyed or approved for conveyance is approximately 77,588 acres. The remaining entitlement of approximately 14,572 acres will be conveyed at a later date.

Pursuant to Sec. 14(f) of ANCSA, conveyance of the subsurface estate of the lands described above shall be issued to AHTNA, Inc. when the surface estate is conveyed to Tazlina, Incorporated, and shall be subject to the same conditions as the surface conveyance.

Within the above described lands, only the following inland water body is considered to be navigable: Copper River

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the Federal Register and once a week, for four (4) consecutive weeks, in the ANCHORAGE DAILY NEWS and the TUNDRA TIMES. Any party claiming a property interest in lands affected by

this decision may appeal the decision to the Alaska Native Claims Appeal Board, P.O. Box 2433, Anchorage, Alaska 99510 with a copy served upon both the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513 and the Regional Solicitor, Office of the Solicitor, 510 L Street, Suite 408, Anchorage, Alaska 99501, also:

1. Any party receiving service of this decision shall have 30 days from the receipt of this decision to file an appeal.

2. Any unknown parties, any parties unable to be located after reasonable efforts have been expended to locate, and any parties who failed to refused to sign the return receipt shall have until September 20, 1979, to file an appeal.

3. Any party known or unknown who may claim a property interest which is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Alaska Native Claims Appeal Board.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 "C" Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the parties to be served with a copy of the notice of appeal are:

Tazlina, Incorporated, Glennallen, Alaska 99588.

AHTNA, Inc., Drawer G, Copper Center, Alaska 99573.

State of Alaska, Division of Lands, 323 East Fourth Avenue, Anchorage, Alaska 99501.

Carlene M. Welfelt,
Acting Chief, Branch of Adjudication.

[FR Doc. 79-25821 Filed 8-20-79; 8:45 am]

BILLING CODE 4310-04-M

[F-14912-A, F-14912-B]

Alaska Native Claims Selection; Easement Conformance

By decision dated June 28, 1978, among other things, certain lands were determined proper for village selection and approved for interim conveyance or patent to Northway Natives Incorporated under the provisions of section 12(a) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 701; 43 U.S.C. 1601, 1611(a) (1976) (ANCSA). Additionally, that decision reserved certain public easements to the United States pursuant to section 17(b) of the ANCSA.

The decision of June 28, 1978, states that, "These reservations (section 17(b)

easements) have not been conformed to the Departmental easement policy announced March 3, 1978. Conformance is contingent upon resolution of the litigation *Calista, et al v. Andrus, et al*, and implementation of the Secretary's new easement policy." On November 27, 1978, new section 17(b) easement regulations were published in the Federal Register as final rule making (43 FR 56328). The process of review by the Bureau of Land Management to bring easements into conformance with the regulations is now complete.

Accordingly, the decision of June 28, 1978, is modified by deleting paragraph 12 of the listed reservations to the United States and substituting the following new paragraph:

"Pursuant to Sec. 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 701; 43 U.S.C. 1601, 1611(b) (1976)), the following public easements, referenced by easement identification number (EIN) on the easement maps attached to this document, copies of which will be found in case file F-14912-EE, are reserved to the United States. All easements are subject to applicable Federal, State, or municipal corporation regulation. The following is a listing of uses allowed for each type of easement. Any uses which are not specifically listed are prohibited.

25 Foot Trail—The uses allowed on a twenty-five (25) foot wide trail easement are: travel by foot, dogsled, animals, snowmobiles, two and three-wheel vehicles, and small all-terrain vehicles (less than 3,000 lbs. Gross Vehicle Weight (GVW)).

50 Foot Trail—The uses allowed on a fifty (50) foot wide trail easement are: Travel by foot, dogsled, animals, snowmobiles, two and three-wheel vehicles, small and large all-terrain vehicles, track vehicles, four-wheel drive vehicles, automobiles, and trucks.

60 Foot Trail—The uses allowed on a sixty (60) foot wide road easement are: Travel by foot, dogsled, animals, snowmobiles, two and three-wheel vehicles, small and large all-terrain vehicles, track vehicles, four-wheel drive vehicles, automobiles, and trucks.

One Acre Site—The uses allowed for a site easement are: Vehicle parking (e.g., aircraft, boats, ATVs, snowmobiles, cars, trucks), temporary camping, and loading or unloading. Temporary camping, loading, or unloading shall be limited to 24 hours.

Easements To Be Reserved

a. (EIN 5 C5, L) An easement for an existing access trail fifty (50) feet in width from the Alaska Highway in Sec. 19, T. 16 N., R. 18 E., Copper River Meridian, easterly to public lands. The uses allowed are those listed above for a fifty (50) foot wide trail easement.

b. (EIN 14 C5, L) An easement for an existing access trail twenty-five (25) feet in width from the Alaska Highway in Sec. 11, T. 14 N., R. 19 E., Copper River Meridian, northerly to public lands. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

c. (EIN 19 C5, M) A one (1) acre site easement upland of the ordinary high-water mark in Sec. 9, T. 14 N., R. 19 E., Copper River Meridian, on the right bank of the Chisana River. The uses allowed are those listed above for a one (1) acre site.

d. (EIN 27 C3, C5, D9) An easement for an existing access trail fifty (50) feet in width from the Northway Airport in Sec. 25, T. 14 N., R. 18 E., Copper River Meridian, southerly to public lands. The uses allowed are those listed above for a fifty (50) foot wide trail easement.

e. (EIN 28 D1) An easement sixty (60) feet in width for an existing road from the Northway Airport in Sec. 26, T. 14 N., R. 18 E., Copper River Meridian, northerly to Northway Village. The uses allowed are those listed above for a sixty (60) foot wide road easement.

f. (EIN 29 D9) A one (1) acre site easement upland of the ordinary high water mark in Sec. 21, T. 14 N., R. 19 E., Copper River Meridian, on the right bank of Moose Creek. The site is one (1) acre in size with an additional twenty-five (25) foot wide easement on the bed of the stream along the entire waterfront of the site. The uses allowed are those listed above for a one (1) acre site.

g. (EIN 39 C3, C5, D1) An easement sixty (60) feet in width for an existing road from the Alaska Highway in Sec. 30, T. 13 N., R. 21 E., Copper River Meridian, westerly to public lands on Deadman Lake. The uses allowed are those listed above for a sixty (60) foot wide road easement.

h. (EIN 46 I) An easement sixty (60) feet in width for an existing road from the Northway Airport in Sec. 25, T. 14 N., R. 18 E., Copper River Meridian, southerly to the FAA TACAN site in Sec. 36, T. 14 N., R. 18 E., Copper River Meridian. The uses allowed are those listed above for a sixty (60) foot wide road easement. The uses are limited to the U.S. Government, its agents, or assignees.

i. (EIN 49b K) An easement one hundred (100) feet in width for an existing road and utility line from the Beaver Creek Radio Relay Site in Sec. 28, T. 15 N., R. 19 E., Copper River Meridian, northerly to the AFTAC site in Sec. 21, T. 15 N., R. 19 E., Copper River Meridian. The uses allowed for the utility line are those activities associated with the operation and maintenance of the utility line facility and the uses allowed for the road are those listed above for a sixty (60) foot wide road easement. The uses are limited to the U.S. Government, its agents or assignees.

j. (EIN 50 K) An easement sixty (60) feet in width for an existing road from the Alaska Highway in Sec. 28, T. 15 N., R. 19 E., Copper River Meridian, northerly to the Beaver Creek Radio Relay Site in Sec. 21, T. 15 N., R. 19 E., Copper River Meridian. The uses allowed are those activities associated with the operation and maintenance of the road, the Beaver Creek Radio Relay site and the AFTAC site facility. The uses are limited to the U.S. Government, its agents or assignees.

k. (EIN 51 K) An easement fifty (50) feet in width for an existing communication cable from the ACS pole line in Sec. 28, T. 15 N., R. 19 E., Copper River Meridian, northerly to the Beaver Creek Radio Relay site. The uses

allowed are those activities associated with the operation and maintenance of the communication cable facility. The uses are limited to the U.S. Government, its agents, or assignees.

l. (EIN 53 C4, C5, E) A site easement upland of the ordinary high-water mark in Sec. 34, T. 14 N., R. 19 E., Copper River Meridian, on the south shore of Fish Lake. The site is one (1) acre in size with an additional twenty-five (25) foot wide easement on the bed of the lake along the entire waterfront of the site. The uses allowed are those listed above for a one (1) acre site.

m. (EIN 53a C4, C5, E) An easement for a proposed access trail twenty-five (25) feet in width from trail easement EIN 53 C4, C5, E in Sec. 34, T. 14 N., R. 19 E., Copper River Meridian, southerly to public land. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement."

Except as modified by this decision, the decision of June 26, 1978, stands as written.

Notice of this decision is being published once in the Federal Register and once a week, for four (4) consecutive weeks, in the FAIRBANKS DAILY NEWS-MINER. Any person who claims a property interest in land which is adversely affected by the modification set forth in this decision (as to conformed section 17(b) easements), may appeal the decision to the Alaska Native Claims Appeal Board, P.O. Box 2433, Anchorage, Alaska 99510 with a copy served upon both the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513 and the Regional Solicitor, Office of the Solicitor, 510 L Street, Suite 408, Anchorage, Alaska 99501. Also:

1. Any party receiving service of this decision shall have 30 days from the receipt of this decision to file an appeal.

2. Any unknown parties, any parties unable to be located after reasonable efforts have been expended to locate and any parties who failed or refused to sign the return receipt shall have until September 20, 1979, to file an appeal.

3. Any party known or unknown who may claim a property interest which is adversely affected by this decision as to the issue of section 17(b) easements, shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Alaska Native Claims Appeal Board.

If an appeal is taken, the adverse parties to be served with a copy of the notice of appeal are:

Northway Natives Incorporated, Box 441, Northway, Alaska 99784.

Doyon, Limited, First and Hall Streets, Fairbanks, Alaska 99701.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such

appeal. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

Judith A. Kammins,
Chief, Division of ANCSA Operations.

[FR Doc. 79-25820 Filed 8-20-79; 8:45 am]

BILLING CODE 4310-04-M

BLM In Nevada Issues Final Decision On Mineral Hill Special Wilderness Inventory

BLM Acting Nevada State Director Roger McCormack has approved the release of 18,500 acres of public lands in Eureka County from further wilderness consideration because the area lacks wilderness characteristics specified by Congress. Unless there are objections, the decision will be implemented on Sept. 4, 1979.

The area, known as the Mineral Hill unit (NV-010-083A) is about 36 miles south of Carlin and covers the Sulphur Springs Mountain Range. McCormack's decision is based upon a special project inventory that indicated the area lacks naturalness because of roads, ways, developed springs, evidence of mining activity, and fences that are substantially noticeable. Opportunities for outstanding solitude and a primitive and unconfined type of recreation were also found to be lacking.

The Bureau's findings were open to the public for a 30-day comment period. Five comments were received, four in favor of releasing the area from further consideration and one opposing that action. Of the four received in favor, one supported the Bureau's recommendation with the following reservations: That the 30-day comment period was too short for the public to adequately review the area; that the amount of information and photo documentation was inadequate and could have been improved; that special inventories tend to subvert and fragment the orderly process of the inventory process.

Another person who agreed with the recommendation stated that it was unfortunate that the company requesting the special inventory, so that it could mine barite in the area, was forced to hold up its operations until the special inventory was complete. The only comment received in opposition to the Bureau's recommendation stated that despite the evidence of man's activity identified in the area, it still should be preserved as wilderness or at least protected from further development because we have "too little wilderness."

Since no information contrary to the Bureau's findings was obtained from the public, the decision to release the unit from further wilderness consideration will become final September 4, 1979, 30 days from the close of the public comment period.

Further information on the decision can be obtained from the Bureau of Land Management, 300 Booth Street, Room 3008, Reno, NV 89509.

Dated: August 13, 1979.

Roger J. McCormack,
Acting State Director, Nevada.

[FR Doc. 79-25835 Filed 8-20-79; 8:45 am]

BILLING CODE 4310-04-M

[W-68636]

Wyoming; Application

August 13, 1979.

Notice is hereby given that pursuant to Sec. 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Colorado Interstate Gas Company of Colorado Springs, Colorado filed an application for a right-of-way to construct a 6 1/2 inch O.D. pipeline, a 4' X 6' meter house and related metering and dehydration facilities for the purpose of transporting natural gas across the following described public lands:

Sixth Principal Meridian, Wyoming

T. 39 N., R. 90 W.,

Sec. 14, SE 1/4 SW 1/4;

Sec. 23, E 1/2 NW 1/4 and SW 1/4 SW 1/4;

Sec. 26, NW 1/4 NW 1/4;

Sec. 27, E 1/2 NE 1/4 and NE 1/4 SE 1/4;

Sec. 35, W 1/2 NW 1/4, N 1/2 SW 1/4 and SE 1/4 SW 1/4.

The proposed pipeline will transport natural gas from the #1-14 Victor Well located in the SW 1/4 of section 14 to a point of connection with an existing pipeline located in the SW 1/4 of section 35. The 4' X 6' meter house and related metering and dehydration facilities are to be located entirely within the 60 foot right-of-way in the SW 1/4 of section 14, all within T. 39 N., R. 90 W., Fremont County, Wyoming.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, 1300 Third

Street, P.O. Box 870, Rawlins, Wyoming 82301.

Harold G. Stinchcomb,
Chief, Branch of Lands and Minerals
Operations.

[FR Doc. 79-25826 Filed 8-20-79; 8:45 am]
BILLING CODE 4310-84-M

Geological Survey

Known Recoverable Coal Resource Area; Knife River, N. Dak.; Revision

Pursuant to authority contained in the Act of March 3, 1879 (43 U.S.C. 31), as supplemented by Reorganization Plan No. 3 of 1950 (43 U.S.C. 1451, note), 220 Departmental Manual 2, Secretary's Order No. 2948, and Section 8A of the Mineral Leasing Act of February 25, 1920, as added by Section 7 of the Federal Coal Leasing Amendments Act of 1976 (Pub. L. 94-377, August 4, 1976), Federal lands within the State of North Dakota have been classified as subject to the coal leasing provisions of the Mineral Leasing Act of February 25, 1920, as amended (30 U.S.C. 201). The name of the area, effective date, and total acreage involved are as follows:

(34) North Dakota

Revised Knife River (North Dakota) Known Recoverable Coal Resource Area (KRCRA); September 12, 1978; 160 acres were added. Total area now classified for leasing is 1,351,814 acres.

A plat showing the revised boundary and acreage has been filed with the appropriate land office of the Bureau of Land Management. Copies of the diagram and the land description may be obtained from the Conservation Manager, Central Region, U.S. Geological Survey, Stop 609, Box 25046, Federal Center, Denver, Colorado 80225. J. S. Cragwall, Jr.,
Acting Director.

August 10, 1979.
[FR Doc. 79-25783 Filed 8-20-79; 8:45 am]
BILLING CODE 4310-31-M

Heritage Conservation and Recreation Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the Heritage Conservation and Recreation Service before August 10, 1979. Pursuant to § 60.13 of 36 CFR Part 60, written comments concerning the significance of these properties under the National Register criteria for

evaluation may be forwarded to the National Register, Heritage Conservation and Recreation Service, U.S. Department of the Interior, Washington, DC 20243. Written comments or a request for additional time to prepare comments should be submitted by August 31, 1979.

Charles A. Herrington,
Acting Keeper of the National Register.

ALABAMA

Jefferson County

Birmingham, *Watts Building*, 2008 3rd Ave., North.

Marshall County

Guntersville, *Henry-Jordan House*, 301 Blount Ave.

ARIZONA

Mohave County

Lake Mead, *Grand Wash Archeological District*, Lake Mead National Recreation Area.

Pima County

Tucson vicinity, *Rincon Mountain Foothills Archeological District*, SE of Tucson.

COLORADO

El Paso County

Colorado Springs, *Bemis, Judson Moss, House*, 506 N. Cascade Ave.

Fremont County

Canon City, *McClure House, The (Strathmore Hotel)* 323-331 Main St.

CONNECTICUT

New London County

North Stonington vicinity, *Palmer, Luther, House*, NE of North Stonington on CT 49.

ILLINOIS

Sangamon County

Springfield, *Weber, Howard K., House*, 925 7th St.

MAINE

Hancock County

Arcadia National Park and vicinity, *Carriage Paths, Bridges and Gatehouses*.
Islesford, *Islesford Historical Museum and Blue Duck Ship Store*, Little Cranberry Island.

Sorrento vicinity, *Gilley, Elisha, House, Baker Island Light Station and Keeper's House*, S of Sorrento on Baker Island.

NEBRASKA

Saline County

Crete, *Trinity Memorial Episcopal Church*, 14th and Juniper Sts.

NEW HAMPSHIRE

Cheshire County

Rindge, *Second Rindge Meetinghouse, Horsesheds, and Cemetery*, U.S. 202.

Merrimack County

Concord, *Pierce, Franklin, House*, 52 S. Main St.

NEW JERSEY

Bergen County

Closter, *Demaree, Abram, House*, Old Hooks and Schraalenburgh Rds.

Essex County

Newark, *Dock Bridge*, spans Passaic River (also in Hudson County).

Hunterdon County

Califon, *Apgar, J. K., Farmhouse*, SR 512 and Guinea Hollow Rd.
Pittstown vicinity, *Lansdown*, NE of Pittstown on SR 2.

Middlesex County

Perth Amboy, *Inness, George, House*, 313 Convery Blvd.
Spotswood, *St. Peter's Church and Buildings*, Main St. and DeVoe Ave.

Somerset County

Somerville vicinity, *Van Veghten House*, S of Somerville off NJ 28.

Sussex County

Hamburg vicinity, *Lawrence Mansion*, W of Hamburg on NJ 94.

NEW YORK

Ontario County

Geneva, *Smith's Opera House*, 82 Seneca St.

NORTH CAROLINA

Buncombe County

Black Mountain vicinity, *Blue Ridge Assembly Historic District*, S of Black Mountain on SR 2720.

Chowan County

Edenton, *Edenton Peanut Factory*, E. Church St.

Halifax County

Enfield, *Cellar, The*, 404 Whitfield St.

Johnston County

Kenly vicinity, *Boyette Slave House*, NW of Kenly on SR 2110.

Wake County

Raleigh, *Old Masonic Temple Building*, 133 Fayetteville St. Mall.

OKLAHOMA

Oklahoma County

Oklahoma City, *Skirvin Hotel*, 1 Park Ave.

RHODE ISLAND

Newport County

Tiverton vicinity, *Cook-Bateman Farm*, S of Tiverton at Fogland and Puncatest Neck Rds.

SOUTH DAKOTA

Spink County

Turton, *First Congregational Church*, Oak and 2nd Sts.

Yankton County

Yankton vicinity, *Western Portland Cement Plant*.

TENNESSEE

Cheatham County

Kingston Springs, *Kingston Springs Hotel and Buildings*, Kingston Springs Rd.

Shelby County

Memphis, *Bowles, Robert S., House*, 544-548 Vance Ave.

Memphis, *Hayley, Patrick H., House*, 604 Vance Ave

TEXAS

Bosque County

Meridian vicinity, *Bridges-Johnson House*, 1.6 mi. SW of Meridian off TX 6.

Hudspeth County

Sierra Blanca vicinity, *Johnson, Rod, Site (41 HZ 101)* W of Sierra Blanca.

Llano County

Llano, *Southern Hotel*, 201 W. Main St.

Trinity County

Trinity vicinity, *Hedrick House*, 10 mi. NE of Trinity.

VERMONT

Chittenden County

Burlington, *Wells, Edward, House*, 61 Summit St.

Rutland County

Healdville vicinity, *Crowley Cheese Factory*, SW of Healdville on Healdville Rd.

VIRGINIA

Lynchburg (independent city)

Diamond Hill Historic District, roughly bounded by Dunbar Dr., Main, Jackson and Arch Sts.

Montgomery County

Christiansburg vicinity, *Yellow Sulphur Springs*, N of Christiansburg on VA 643.

Richmond (independent city)

Byrd Theatre, 2908 W. Cary St.
Central National Bank, 3rd and Broad Sts.

WISCONSIN

Rock County

Beloit, *Emerson Hall*, Beloit College campus.

[FR Doc. 79-25454 Filed 8-20-79; 8:45 am]

BILLING CODE 4310-03-M

National Park Service

Chesapeake and Ohio Canal National Historical Park Commission; Meeting

Notice is hereby given in accordance with Federal Advisory Committee Act that a meeting of the Chesapeake and Ohio Canal National Historical Park Commission will be held Saturday, September 15, 1979, at 1:00 p.m. at the

Elks Lodge, 114 South Centre Street, Cumberland, Maryland.

The Commission was established by Public Law 91-664 to meet and consult with the Secretary of the Interior on general policies and specific matters related to the administration and development of the Chesapeake and Ohio Canal National Historical Park.

The members of the Commission are as follows:

Mr. Donald R. Frush, Chairman, Hagerstown, Maryland
Mrs. Bonnie Troxell, Cumberland, Maryland
Miss Nancy Long, Glen Echo, Maryland
Mrs. Constance Morella, Bethesda, Maryland
Mr. Kenneth S. Rollins, Brookmont, Maryland
Mr. Vladimir A. Wahbe, Baltimore, Maryland
Mr. Edwin F. Wesely, Jr., Brookmont, Maryland
Mr. John D. Millar, Cumberland, Maryland
Mr. James B. Coulter, Annapolis, Maryland
Mrs. Dorothy Grotos, Arlington, Virginia
Mrs. Minnie Pohlmann, Dickerson, Maryland
Mrs. Margaret G. Dietz, Lovettsville, Virginia
Mr. William H. Ansel, Jr., Romney, West Virginia
Dr. James H. Gilford, Frederick, Maryland
Mr. Lorenzo W. Jacobs, Jr., Washington, D.C.
Mr. Silas F. Starry, Shepherdstown, West Virginia
Mr. Rockwood H. Foster, Washington, D.C.
Mr. R. Lee Downey, Williamsport, Maryland
Mr. John C. Frye, Capland, Maryland

Matters to be discussed at this meeting include:

1. Development Concept Plan, North Branch/ Cumberland
2. Access to the Town of Brunswick campground
3. Development Concept Plan, Great Falls
4. Bridge to Olmstead Island
5. Ski jump ramp, Potomac River
6. Interpretive Prospectus, Seneca to Cumberland
7. Georgetown park complex access
8. Rattling Springs Development
9. Rockwood Tract

The meeting will be open to the public. Any member of the public may file with the Committee, a written statement concerning the matters to be discussed.

Persons wishing further information concerning this meeting, or who wish to submit written statements, may contact William R. Failor, Superintendent, C&O Canal National Historical Park, P.O. Box 4, Sharpsburg, Maryland 21782, telephone 301-948-5641 or 301-432-2231.

Minutes of the meeting will be available for public inspection four (4)

weeks after the meeting at Park Headquarters, Sharpsburg, Maryland. Manus J. Fish, Jr.,

Regional Director, National Capital Region, August 14, 1979.

[FR Doc. 79-25780 Filed 8-20-79; 8:45 am]
BILLING CODE 4310-70-M

[Order No. 93]

Land Acquisition Officers, Appalachian National Scenic Trail; Delegation of Authority

Section 1. Chief, Appalachian Trail Land Acquisition Field Office. The Chief, Appalachian Trail Land Acquisition Field Office, is authorized to execute the land acquisition program, including contracting for acquisition of lands and related properties, and acceptance of offers to sell to, or exchange with the United States, lands or interests in lands, and to execute all necessary agreements and conveyances incidental thereto; to accept deeds giving to the United States lands or interests in lands; to approve on behalf of the National Park Service offers of settlement in condemnation cases; to provide relocation assistance; and to approve claims for reimbursement under Pub. L. 91-646.

Section 2. Appalachian Trail Land Acquisition Officers. All Appalachian Trail Land Acquisition Officers are authorized to execute the land acquisition program in their assigned areas, including contracting for acquisition of lands and related property, acceptance of offers to sell to, or exchange with the United States, lands or interests in lands when the amount involved does not exceed \$250,000, and to execute all necessary agreements and conveyances incidental thereto; to accept deeds giving to the United States lands or interests in lands; to provide relocation assistance; and to approve claims for reimbursement under Public Law 91-646 when the amount involved does not exceed \$5,000.

Authority: 205 DM, as amended; 245 DM, as amended; Reorganization Plan No. 3 of 1950.

Dated: August 14, 1979.

Daniel J. Tobin, Jr.,

Director, National Park Service.

[FR Doc. 79-25779 Filed 8-20-79; 8:45 am]

BILLING CODE 4310-70-M

DEPARTMENT OF JUSTICE

Advisory Committee on Tax Litigation; Establishment

Pursuant to the Federal Advisory Committee Act of October 6, 1972 (Pub.

L. 92-463, 86 Stat. 770-776, 5 U.S.C. App. I, Supp. II), and with the approval of the Attorney General, and the concurrence of the Office of Management and Budget, the Assistant Attorney General, Tax Division, Department of Justice, has determined that establishment of the Advisory Committee on Tax Litigation is in the public interest in connection with the performance of duties imposed on the Tax Division by law.

Purpose. The primary purpose of the Advisory Committee on Tax Litigation is to provide an organized public forum for discussions of relevant tax litigation issues between Justice Department officials and representatives of the public. The Advisory Committee also is to provide constructive observations about the Tax Division's current or proposed policies, programs, and procedures, and problems which may be encountered by taxpayers and tax practitioners in dealing with the Tax Division, Department of Justice. Where appropriate or necessary, the Advisory Committee is to present recommendations on improving Tax Division operations.

Membership. The Advisory Committee will consist of twelve (12) members, all of whom must have a background and interest in, and concern for, litigation of Federal tax matters.

The Committee will have a balanced membership, including women, minority representatives, representatives of the academic and public interest group sectors, and private practitioners, selected from diverse geographical areas of the country, to be appointed by the Assistant Attorney General, Tax Division.

The Committee will function solely as an advisory body, and in compliance with the provisions of the Federal Advisory Committee Act. Its charter will be filed under the Act, on or before September 5, 1979.

Termination. The services of the Advisory Committee are expected to be needed for an indefinite period of time and the Committee will be an ongoing endeavor. Initial authorization is a one (1) year term, with provision for renewal of the Committee's charter on a biennial basis thereafter.

Interested persons are invited to submit comments regarding the establishment of the Advisory Committee on Tax Litigation. Such comments, as well as any inquiries, may be addressed to the Advisory Committee Management Officer, Office of Management and Finance, Department of Justice, Washington, D.C. 20530, phone: 202-633-4531.

Dated: August 13, 1979.

M. Carr Ferguson,
Assistant Attorney General, Tax Division,
Department of Justice.

[FR Doc. 79-25825 Filed 8-20-79; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF LABOR

Employment and Training Administration

Employment Transfer and Business Competition Determinations Under the Rural Development Act; Notice of Applications

The organizations listed in the attachment have applied to the Secretary of Agriculture for financial assistance in the form of grants, loans, or loan guarantees in order to establish or improve facilities at the locations listed for the purposes given in the attached list. The financial assistance would be authorized by the Consolidated Farm and Rural Development Act, as amended, 7 USC 1924(b), 1932, or 1942(b).

The Act requires the Secretary of Labor to determine whether such Federal assistance is calculated to or is likely to result in the transfer from one area to another of any employment or business activity provided by operations of the applicant. It is permissible to assist the establishment of a new branch, affiliate or subsidiary, only if this will not result in increased unemployment in the place of present operations and there is no reason to believe the new facility is being established with the intention of closing down an operating facility.

The Act also prohibits such assistance if the Secretary of Labor determines that it is calculated to or is likely to result in an increase in the production of goods, materials, or commodities, or the availability of services or facilities in the area, when there is not sufficient demand for such goods, materials, commodities, services, or facilities to employ the efficient capacity of existing competitive commercial or industrial enterprises, unless such financial or other assistance will not have an adverse effect upon existing competitive enterprises in the area.

The Secretary of Labor's review and certification procedures are set forth at 29 CFR Part 75. In determining whether the applications should be approved or denied, the Secretary will take into consideration the following factors:

1. The overall employment and unemployment situation in the local

area in which the proposed facility will be located.

2. Employment trends in the same industry in the local area.

3. The potential effect of the new facility upon the local labor market, with particular emphasis upon its potential impact upon competitive enterprises in the same area.

4. The competitive effect upon other facilities in the same industry located in other areas (where such competition is a factor).

5. In the case of applications involving the establishment of branch plants or facilities, the potential effect of such new facilities on other existing plants or facilities operated by the applicant.

All persons wishing to bring to the attention of the Secretary of Labor any information pertinent to the determinations which must be made regarding these applications are invited to submit such information in writing with two weeks of publication of this notice. Comments received after the two-week period may not be considered. Send comments to: Administrator, Employment and Training Administration, 601 D Street, N.W., Washington, D.C. 20213.

Signed at Washington, D.C. this 16th day of August 1979.

Ernest G. Green,
Assistant Secretary for Employment and Training.

Applications Received During the Week Ending August 18, 1979

Name of applicant and location of enterprise	Principal product or activity
One City Plaza, Plattsburgh, New York.....	Hotel.

[FR Doc. 79-25879 Filed 8-20-79; 8:45 am]

BILLING CODE 4510-30-M

Mine Safety and Health Administration

[Docket No. M-79-119-C]

Consolidation Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Consolidation Coal Company, 1800 Washington Road, Pittsburgh, Pennsylvania 15241, has filed a petition to modify the application of 30 CFR 75.305 (weekly examination of return airways) to its Franklin No. 65 Mine, located in Harrison County, Ohio. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977, Pub. L. 95-164.

The substance of the petition follows:

1. Due to adverse roof conditions, numerous roof falls have occurred in

designated return airways of the petitioner's mine, making these airways virtually impassable at points and extremely hazardous to travel and examine.

2. Attempts to rehabilitate these airways have proven unsuccessful.

3. The existing falls have had no effect on the velocity or quantity of air passing through the return airways, particularly since a new portal, a new return and other facilities have been established to accommodate the situation.

4. The return airways are not designated as return escapeways.

5. As an alternative to weekly examinations of the return airways, the petitioner proposes to establish a five station air monitoring system detailed in the petition.

6. The petitioner states that this alternative will achieve no less protection than that provided by the standard.

Request for Comments

Persons interested in this petition may furnish written comments on or before September 20, 1979. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: August 13, 1979.

Robert B. Lagather,
Assistant Secretary for Mine Safety and Health.

[FR Doc. 79-25867 Filed 8-20-79; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-79-117-C]

New Elk Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

New Elk Coal Company, General Delivery, Baisden, West Virginia, 25608 has filed a petition to modify the application of 30 CFR 75.1719 (illumination) to its No. 3 Mine located in Wyoming County, West Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977, Pub. L. 95-164.

The substance of the petition follows:

1. The petition concerns the illumination of underground working places in which self-propelled mining equipment is operated.

2. The petitioner is mining a coal seam averaging 30 inches in height.

3. In the close quarters of the petitioner's mine, lighting on the petitioner's continuous mining machine

and roof bolter would result in excessive and blinding glare, causing a diminution of safety to the miners involved.

4. In addition, the low seam heights make it infeasible to operate such equipment with the required lighting.

5. For these reasons, the petitioner requests relief from the application of the standard to its mine.

Request for Comments

Persons interested in this petition may furnish written comments on or before September 20, 1979. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: August 13, 1979.

Robert B. Lagather,
Assistant Secretary for Mine Safety and Health.

[FR Doc. 79-25866 Filed 8-20-79; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-79-116-C]

Union Carbide Corp.; Petition for Modification of Application of Mandatory Safety Standard

Union Carbide Corporation, P.O. Box 8004, South Charleston, West Virginia 25303, has filed a petition to modify the application of 30 CFR 75.305 (weekly inspection of return airways) to its No. 7 Mine in Kanawha County, West Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977, Pub. L. 95-164.

The substance of the petition follows:

1. The roof of a designated return airway in the petitioner's mine has deteriorated, making it hazardous to walk the airway for weekly inspections for a distance of about 5,200 feet.

2. As an alternative, the petitioner has established air monitoring checkpoints along the full length of the return airway to routinely monitor both air quantity and quality in the airway.

3. The petitioner states that this alternative method will achieve no less protection for its miners than that provided by the standard.

Request for Comments

Persons interested in this petition may furnish written comments on or before September 20, 1979. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Virginia 22203.

Copies of the petition are available for inspection at that address.

Dated: August 13, 1979.

Robert B. Lagather,
Assistant Secretary for Mine Safety and Health.

[FR Doc. 79-25868 Filed 8-20-79; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-79-113-C]

The Valley Camp Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

The Valley Camp Coal Company, Post Office Box 218, Triadelphia, West Virginia 26059 has filed a petition to modify the application of 30 CFR 75.1105 (permanent pump housings) to its Alexandria Mine located in Marshall County, West Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977, Pub. L. 95-164.

The substance of the petition follows:

1. The petitioner requests permission to operate six permanent pumps in designated areas without coursing the air ventilating the areas directly into return airways.

2. The return airways in the vicinity of the pumps have not been maintained and therefore have become unusable. To rehabilitate these airways would expose miners to undue hazards and disrupt the mine ventilation system, resulting in a diminution of safety.

3. The air that flows by the pumps is not used to ventilate working sections.

4. As an alternative to coursing the air directly to the return airways, the petitioner proposes the following:

(a) The pumps will be housed in a fireproof enclosure with doors that automatically close in the event of a fire.

(b) An automatic fire suppression device will be installed over each of the pumps.

(c) Combustible materials will not be stored within the pump enclosure.

(d) A warning light, connected with the fire suppression device, will be installed adjacent to the haulage track so that it can be readily seen by passers-by in the event of a pump fire.

5. The petitioner states that this alternative will achieve no less protection for its miners than that provided by the standard.

Request for Comments

Persons interested in this petition may furnish written comments on or before September 20, 1979. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety

and Health Administration, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: August 14, 1979.

Robert B. Lagather,
Assistant Secretary for Mine Safety and Health.

[FR Doc. 79-25865 Filed 8-20-79; 8:45 am]
BILLING CODE 4510-43-M

[Docket No. M-79-118-C]

**Virginia Iron, Coal and Coke Co.;
Petition for Modification of Application
of Mandatory Safety Standard**

Virginia Iron, Coal and Coke Company, Post Office Drawer C, Coeburn, Virginia 24230 has filed a petition to modify the application of 30 CFR 77.214(a) (refuse piles) to its Toms Creek Preparation Plant No. 1 located in Wise County, Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977, Pub. L. 95-164.

The substance of the petition follows:

1. The standard prohibits the locating and construction of refuse piles over abandoned mine openings.

2. The petitioner is planning to construct a new coal preparation plant and proposes to deposit waste material from the plant in an area that contains six abandoned mine openings (the entries of two abandoned mines).

3. The entry areas of these mines were recently strip mined and backfilled with eight to twenty-five feet of inert material and revegetated.

4. Mine maps and field investigations lead the petitioner to believe that water from the abandoned mines will drain away from the openings. However, the petitioner will insure that the entry areas properly drain by constructing underdrains to relieve any water pressure build-up.

5. The petitioner believes that its alternative method will always achieve no less protection for its workers than that provided by the standard.

Request for Comments

Persons interested in this petition may furnish written comments on or before September 20, 1979. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: August 13, 1979.

Robert B. Lagather,
Assistant Secretary for Mine Safety and Health.

[FR Doc. 79-25869 Filed 8-20-79; 8:45 am]
BILLING CODE 4510-43-M

Office of the Secretary

[TA-W-5599]

**Florence Coat Company, Inc.;
Hoboken, N.J.; Negative Determination
Regarding Eligibility To Apply for
Worker Adjustment Assistance**

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on June 18, 1979 in response to a worker petition received on June 12, 1979 which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' coats at Florence, Hoboken, New Jersey. The investigation revealed that the correct corporate title is Florence Coat Company, Incorporated. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

The investigation was initiated on June 18, 1979 in response to a worker petition received on June 12, 1979 which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' coats at Florence, Hoboken, New Jersey. The investigation revealed that the correct corporate title is Florence Coat Company, Incorporated. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

that increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

that increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Sales of ladies' coats by Florence Coat Company increased in 1978 compared with 1977. The manufacturer for whom Florence did contract work reported unchanged sales of ladies' coats from the first half of 1978 to the first half of 1979. This manufacturer discontinued imports of ladies' coats in 1979 while increasing inhouse production. The manufacturer had not relied upon foreign contractors for the production of ladies' coats during the period under investigation.

Conclusion

After careful review, I determine that all workers of Florence Coat Company, Incorporated, Hoboken, New Jersey are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 14th day of August 1979.

C. Michael Aho,
Director, Office of Foreign Economic Research.

[FR Doc. 79-25870 Filed 8-20-79; 8:45 am]
BILLING CODE 4510-28-M

**Holly Sugar Corp., et al.; Investigations
Regarding Certifications of Eligibility
To Apply For Worker Adjustment
Assistance**

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to Section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial

separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance,

at the address shown below, not later than August 31, 1979.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than August 31, 1979.

The petitions filed in this case are available for inspection at the Office of

the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210.

Signed at Washington, D.C. this 14th day of August 1979.

Harold A. Bratt,
Acting Director, Office of Trade Adjustment Assistance.

Appendix

Petitioner: Union/workers or former workers of—	Location	Date received	Date of Petition	Petition No.	Articles produced
Bradohm, Inc. (Workers)	Vestal, N.Y.	8/8/79	7/30/79	TA-W-5,860	Wire wound resistors and inductors
Holly Sugar Corp. (United Sugar Workers Council of Calif./Distillery, Rectifying, Wine & Allied Internat'l Union of America)	Brawley, Calif.	8/10/79	8/7/79	TA-W-5,861	Refined sugar.
Leemar Corp. (ILGWU)	Camden, N.J.	8/8/79	7/26/79	TA-W-5,862	Ladies' sportswear and dresses.
Leemar Corp. (ILGWU)	Mantua, N.J.	8/8/79	7/26/79	TA-W-5,863	Ladies' blouses.
Stucar Manufacturing Corp. (workers)	New York, N.Y.	8/8/79	7/30/79	TA-W-5,864	Contractors and men's suits and ladies' tailored coats
Union Sugar Company (United Sugar Workers Council of Calif./Distillery, Wine & Allied Internat'l Union of America)	Santa Maria, Calif.	8/10/79	8/7/79	TA-W-5,865	Refined sugar

[FR Doc. 79-25871 Filed 8-20-79; 8:45 am]
BILLING CODE 4510-28-M

**Pension and Welfare Benefit Programs
Advisory Council on Employee
Welfare and Pension Benefit Plans;
Meeting**

Pursuant to Section 512 of the Employee Retirement Income Security Act of 1974 (ERISA) 29 U.S.C. 1142, a meeting of the Advisory Council on Employee Welfare and Pension Benefit Plans will be held at 9:30 a.m. on Thursday, September 6, 1979, in the Federal Ballroom North, Quality Inn-Capitol Hill, 415 New Jersey Avenue, N.W., Washington, D.C.

The purpose of the meeting is to discuss the items listed below and to invite public comment on any aspect of the administration of ERISA.

1. Department of Labor Progress Report.

2. Council Work Group Reports: Collective Bargaining, Communications, Investment and Fiduciary, Legislation, Portability, Prohibited Transactions, Reporting, Disclosure, and Recordkeeping, Seasonal Industries.

3. Statements from the Public.

Members of the public are encouraged to file a written statement pertaining to any topic concerning ERISA, by submitting 30 copies on or before September 5, 1979, to the Administrator, Pension and Welfare Benefit Programs, U.S. Department of Labor, Room S-4522, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

Persons desiring to address the Council should notify Edward F. Lysczek, Executive Secretary of the Advisory Council, in care of the above address or by calling (202) 523-8753.

Signed at Washington, D.C., this 15th day of August 1979.

Ian D. Lanoff
Administrator of Pension and Welfare Benefit Programs.

[FR Doc. 79-25886 Filed 8-20-79; 8:45 am]
BILLING CODE 4510-29-M

[Application No. D-784]

**Proposed Class Exemption for Certain
Transactions Involving Bank Collective
Investment Funds**

Correction

In FR Doc. 79-22992 appearing at page 44290 in the issue for July 27, 1979, make the following corrections:

On page 44295, in the first column, in the first full paragraph, in the second line, replace "September 25, 1979" with "[date, 60 days after publication in the Federal Register of the grant of this exemption]"

(2) On page 44295, in the first column, in the second full paragraph, in the second line, replace "September 25, 1979" with "[date, 60 days after publication in the Federal Register of the grant of this exemption]"

BILLING CODE 1505-01-M

**NUCLEAR REGULATORY
COMMISSION**

**Advisory Committee on Reactor
Safeguards Ad Hoc Subcommittee on
the Three Mile Island, Unit 2 Accident;
Implications Re Nuclear Powerplant
Design; Meeting**

The ACRS Ad Hoc Subcommittee on the Three Mile Island, Unit 2 Accident—Implications Re Nuclear Power Plant Design, will hold a meeting on September 5, 1979 in Room 1046, 1717 H St., NW., Washington, DC 20555.

In accordance with the procedures outlined in the Federal Register on October 4, 1978, (43 FR 45926), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The agenda for subject meeting shall be as follows:

Wednesday, September 5, 1979—8:30 a.m.
Until the Conclusion of Business

The Subcommittee may meet in Executive Session, with any of its consultants who may be present, to explore and exchange their preliminary opinions regarding matters which should be considered during the meeting and to formulate a report and recommendation to the full Committee.

At the conclusion of the Executive Session, the Subcommittee will discuss with representatives of the NRC Staff, the nuclear industry, various utilities, and their consultants, state and local officials, and other interested persons, the implications of the Three Mile Island, Unit 2 Accident.

In addition, it may be necessary for the Subcommittee to hold one or more closed sessions for the purpose of exploring matters involving proprietary information. I have determined, in accordance with Subsection 10(d) of Pub. L. 92-463, that, should such sessions be required, it is necessary to close these sessions to protect proprietary information (5 U.S.C. 552b(c)(4)).

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the Designated Federal Employee for this meeting, Mr. Richard K. Major, (telephone 202/634-1414) between 8:15 a.m. and 5:00 p.m., EDT.

Background information concerning this nuclear station can be found in documents on file and available for public inspection at the NRC Public Document Room, 1717 H Street, N.W., Washington, DC 20555 and at the Government Publications Section, State Library of Pennsylvania, Education Building, Commonwealth and Walnut Street, Harrisburg, PA 17126.

Dated: August 15, 1979.

John C. Hoyle,
Advisory Committee Management Officer.

[FR Doc. 79-25701 Filed 8-20-79; 8:45 am]

BILLING CODE 7590-01-M

THE PRESIDENT'S ADVISORY COMMITTEE FOR WOMEN

Hearings

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463 as amended), notice is hereby given of a meeting of the President's Advisory Committee for Women.

Date, Time, and Place: September 13, 1979,
10:00 a.m.—5:00 p.m.

Public Hearings: The Capitol, State of North Carolina, Raleigh, North Carolina 27611.

Closed Business Session: September 14, 1979,
8:00 a.m.—9:30 a.m.; Holiday Inn, 320

Hillsborough Street, The Chambers Room, Raleigh, North Carolina.

Public Hearings: 10:00 a.m.—12:00 noon, The Capitol, State of North Carolina, Raleigh, North Carolina 27611.

Open Business Session: 12:15 p.m.—4:30 p.m., Holiday Inn, 320 Hillsborough Street, The Chambers Room, Raleigh, North Carolina.

Purpose: A regular scheduled regional meeting.

The agenda for the meeting will include the following: Public hearings on education, employment, health, and welfare. The Committee will focus on strategies, programs and meetings in their regular meetings. There will also be discussions on new committee business.

A portion of the above meeting will be closed under the authority of section 10(d) of the Federal Advisory Committee Act—Exemptions 2 and 6 of the Government in the Sunshine Act. During its closed session, the Committee will discuss personnel and Committee management.

Sarita Schotta,

Executive Director.

August 15, 1979.

[FR Doc. 79-25880 Filed 8-20-79; 8:45 am]

BILLING CODE 4510-23-M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. 10831; 812-4234]

Federal Life Insurance Co. (Mutual), et al.; Application

August 14, 1979.

Notice is hereby given that Federal Life Insurance Company (Mutual) ("Federal Life"), a mutual life insurance company organized under the laws of the State of Illinois, Federal Life Variable Annuity Account A ("Separate Account"), a separate account of Federal Life registered as a unit investment trust under the Investment Company of 1940 ("Act") and FED Mutual Financial Services, Inc. ("Underwriter"), 3703 W. Lake Avenue, Glenview, IL 60025, the principal underwriter of the Separate Account, (hereinafter collectively referred to as "Applicants"), filed an Application on November 25, 1977, and Amendments thereto dated February 24, 1978, and July 6, 1979 pursuant to Section 11 of the Act for an Order approving certain offers of exchange, pursuant to Section 6(c) of the Act for an amended Order of exemption from the provisions of Section 26(a) and 27(c)(2), and for additional exemptions under Section 22(d). The original Order which is sought to be amended was issued to the Applicants herein on April

7, 1976 (with the exception of Underwriter) (File No. 812-3810) pursuant to Section 11 of the Act approving certain offers of exchange, and pursuant to Section 6(c) of the Act granting exemptions from the provisions of Sections 26(a) and 27(c)(2) (Investment Company Act Release No. 9341).

All interested persons are referred to the Application, and Amendments thereto, on file with the Commission for a statement of the representations contained therein which are summarized below.

The Separate Account was established by Federal Life to fund both individual and group periodic premium deferred and single premium immediate variable annuity contracts ("Contracts") designed for use in connection with retirement plans, which may or may not qualify for Federal tax advantages. The Contracts are currently being offered and sold to the public pursuant to an effective registration statement under the Securities Act of 1933, the latest Post-Effective Amendment to which was declared effective on April 30, 1979 (File No. 2-53626). The Separate Account presently consists of six Account Divisions, which invest respectively, in the shares of Wellington Fund, Inc., Windsor Fund, Inc., Qualified Dividend Portfolio, Inc., Wellesley Income Fund, Inc., W.L. Morgan Growth Fund, Inc., and Westminster Bond Fund, Inc. ("Fund Participants"). Applicants propose to create two new Account Divisions or "Series", which would invest in the shares of Whitehall Money Market Trust and Qualified Dividend Portfolio II, Inc., respectively, ("Additional Fund Participants").

The Fund Participants and Additional Fund Participants are members of the Vanguard Group of Investment Companies, and each is diversified, open-end management investment company registered under the Act. Each has a currently effective registration statement under the Securities Act of 1933.

Applicant FED Mutual Financial Services, Inc. a registered broker-dealer, acts as the principal underwriter of the Contracts issued by the Separate Account. Wellington Management Company ("Wellington") serves as investment adviser to each of the above Fund Participants and Additional Fund Participants.

Under all of the Contracts, the Owner of an Individual Contract or a Certificate Holder under a Group Contract (hereinafter referred to as individual Participants) may allocate all or a portion of his Net Purchase

Payments (the amount remaining after deduction of sales and administrative expenses from the gross purchase payment) between any of the Account Divisions (limited to two Account Divisions at any one time). The value of Net Purchase Payments allocated to the Separate Account, and the value of an individual Participant's interest will vary depending upon the investment performance of the Fund shares of the designated Division in which such Net Purchase Payments are allocated. In addition, an individual Participant may transfer all or a part of his interest in one Division to another Division of the Separate Account or to a fixed accumulation account maintained by Federal Life; or he may transfer all or a part of his interest in a fixed accumulation account to a Separate Account Division. Transfers from the fixed accumulation account to the Separate Accounts may be effected only once annually, except such transfer may be also effected at time of annuitization. Except for the fact that no transfers may be made during the first contract year, transfers among the Divisions are not limited in number. No partial transfer will be permitted if the value of the Division from which amounts are to be transferred is less than \$600 after such transfer, or if the amount transferred is less than \$300. Each transfer is made at the relative net asset values of the Funds in the Divisions affected without the imposition of additional sales and administrative expense charges, at the next succeeding valuation on the date written directions from the individual Participant are received by Federal Life.

With regard to Section 11, Applicants seek to amend and supplement the Order of April 7, 1976 to add the Additional Fund Participants in the offers of exchange as approved by that Order, and to include such Additional Fund Participants and the Underwriter in the exemptions from Sections 26(a) and 27(c)(2) previously granted pursuant to Section 6(c). In addition, Applicants seek to amend and supplement the previous Order with regard to Section 22(d) of the Act to the extent necessary to permit aggregation of the value of shares of the Funds with the Adjusted Purchase Payments under the Contracts for purposes of calculating the applicable reduced sales load for quantity discounts.

Section 11

Section 11(a) of the Act makes it unlawful for any registered open-end investment company or principal underwriter therefor to make an offer to the holder of a security of such company

or of any other open-end investment company to exchange his security for a security in the same or another such company on any basis other than the relative net asset values of the respective securities to be exchanged unless the terms of the offer have first been submitted to and approved by the Commission. Section 11(c) provides that, irrespective of the basis of exchange, the provisions of subsection (a) shall be applicable to any type of offer of exchange of the securities of registered unit investment trusts for the securities of any other investment company.

The Order of April 7, 1976 approved the conversion of Contract Accumulation Units from any one of the six Divisions of the Separate Account to any other Division of the Separate Account then in existence. It is proposed that this conversion right be extended so as to encompass the two additional Divisions whose underlying investment media will consist of shares of Qualified Dividend Portfolio II, Inc. and Whitehall Money Market Trust, respectively.

Applicants assert that under the terms of the right to convert among Divisions of the Separate Account, no danger of any of the abuses that Section 11 was enacted to prevent is present. It is also asserted that the purpose of providing such rights is to permit Unitholders of one Division of the Separate Account who wish to have their annuity Contracts funded by the Fund shares of another Division the opportunity to do so, thus providing individual Participants with greater flexibility in planning for their financial futures.

Applicants submit that there will be no imposition of sales and administrative expense charges, and the conversion will be at net asset value.

Sections 26(a) and 27(c)(2)

Section 27(c)(2) of the Act, as here relevant, prohibits the issuer of a periodic payment plan certificate and any depositor or underwriter for such issuer from selling such periodic payment plan certificates unless the proceeds of all payments (other than any sales load) are deposited with a qualified bank as trustee or custodian, and held under an indenture or agreement containing specified provisions. Section 26(a) requires that such indenture or custodianship agreement must provide, *inter alia*, that the bank (i) shall have possession of all property of the unit investment trust and segregate and hold the same in trust subject only to the charges and collections specifically allowed under clauses (A), (B) and (C) of such Section until distribution to the security holders

of the trust; (ii) shall not resign until the trust has been liquidated or a successor has been appointed; (iii) may collect from the income and, if necessary, from the corpus of the trust such fees for services provided for in the agreement; (iv) shall not allow as an expense any payment to the depositor or principal underwriter except a fee, not exceeding such reasonable amount as the Commission may prescribe, for performing bookkeeping and other administrative services of a character normally performed by the bank itself.

In the arrangement now existing pursuant to the Order set forth in Investment Company Act Release No. 9241, the Separate Account acts as custodian of its own assets. Applicants request that the Order of exemption from Section 26(a) and 27(c)(2) of the Act be amended to include the Contracts funded in the proposed two additional Divisions of the Separate Account.

In support of such request, Applicants state that the assets of the eight Divisions of the Separate Account will consist solely of the shares of the mutual funds in which each particular Division of the Separate Account invests and that such shares will be held in an open account so that ownership of Fund shares by the Separate Account will only be indicated on the books of the Funds and the Separate Account, and will not be evidenced by transferable stock certificates. The assets of each Separate Account Division will be kept physically segregated by Federal Life and held separate from the assets of Federal Life itself. Applicants state that Federal Life will maintain a record of all purchases and redemptions of the Fund shares in each applicable Division of the Separate Account and will prepare and forward reports to the Commission and others where required.

Applicants further state that Federal life is subject to extensive supervision and control by the Illinois Insurance Commissioner and the comparable official of each state in which it does business; and that Federal Life's activities are subject to constant review by the Illinois Insurance Department and its representatives at all times and subject to comprehensive examination periodically. Applicants assert that Federal Life may not abrogate its obligations under the Contracts and that any substitution of an underlying Fund of the Separate Account can only take place upon sound reasons by Federal Life, as stated in the Separate Account prospectus, and then only upon a prior favorable vote of a majority of the units having an interest in the Fund to be

substituted and the prior approval of the Securities and Exchange Commission. Applicants finally state that Federal Life maintains fidelity bonds covering its employees which provide coverage in the amount of \$650,000.

Applicants contend that the foregoing laws, regulations and arrangements will provide substantial assurance that all obligations under the Contracts participating in the Separate Account will be performed, and that the dangers addressed by Sections 26(a) and 27(c)(2) are not present in this situation.

Applicants have consented that the request for the foregoing exemptions may be made subject to the following conditions: (1) that the deductions for administrative services shall not exceed such reasonable amount as the Commission shall prescribe, and the Commission may reserve jurisdiction for such purpose, and (2) that the payment of sums and charges out of the assets of the Separate Account shall not be determined to be exempted from regulation by the Commission by reason of the requested amended Order, provided that Applicants' consent to this condition shall not be determined to be a concession to the Commission of authority to regulate the payment of sums and charges out of such assets other than charges for administrative services, and Applicants reserve the right in any proceeding before the Commission, or in any suit or action in any court, to assert that the Commission has no authority to regulate the payment of such other sums and charges.

Additional Exemptions Requested—Section 22(d)

Applicants propose to permit present shareholders of the participating Funds who have held at least ninety percent of the value of their shares for one year or longer to purchase Contracts at a reduced sales load applicable to a quantity discount, which sales load is to be determined by combining the value of all Fund shares owned with the amount of Adjusted Purchase Payments under the Contracts. Shareholders of the Funds may do this without transferring shares held in an existing Fund Account into this Contract.

Section 22(d) of the Act provides in pertinent part that no registered investment company or principal underwriter thereof shall sell any redeemable security issued by such company to any person except at a current offering price described in the prospectus.

Rule 22d-3, in substance, permits the sale of variable annuity contracts at variations in the sales load deductions,

provided that the prospectus for such variable annuity discloses the variations in sales load and the basis therefor, and further provided that such variations are not unfairly discriminatory. Applicants warrant that the availability of the reduced sales loads to the proposed categories of prospective purchasers and the bases therefor will be fully disclosed in the prospectuses of the Contracts, if said variations are approved. Applicants concede that the Rule 22d-3 exemption criteria may not be literally satisfied, although they assert the proposed arrangement is not unfairly discriminatory against any person and will be disclosed in the prospectus for the Contracts. In proposing this reduced sales load privilege, Applicants indicate reliance on the Commission's announcement in Investment Company Act Release No. 8570 (November 4, 1974) which indicates that the Commission would favorably consider an application for exemption from Section 22(d) to permit sales load reductions offered to persons who have previously or contemporaneously purchased another investment or insurance product from the same retailer or distributed by the same underwriter, if such exemption were in the best interest of investors.

Applicants assert that it is in the public interest and in the interest of investors to permit the proposed reduction of sales load. This is so even though the underwriter of the Separate Account and the underwriter of the Funds are different entities, because of the close relationship existing among Applicants which warrants such reduced sales charge. The Separate Account only invests in mutual funds which are members of the Vanguard Group of Investment Companies.

NOTICE IS FURTHER GIVEN that any interested person may, not later than September 10, 1979, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or laws proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit or, in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and

Regulations promulgated under the Act, an order disposing of the application will be issued as of course following September 10, 1979, unless the Commission thereafter orders a hearing upon the Commission's motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing, if ordered, and any postponements thereof.

For the Commission, by the Divisions of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc. 79-25790 Filed 8-20-79; 8:45 am]
BILLING CODE 8010-01-M

[Rel. No. 6104; 18-31]

Pension Plan and Trust Agreement for Attorneys of Fulbright & Jaworski; Application

August 14, 1979.

Notice is hereby given that Fulbright & Jaworski ("Applicant" or the "Firm"), 800 Bank of the Southwest Building, Houston, TX 77002, a law firm organized as a partnership under the laws of the State of Texas, filed an application on January 9, 1979, for an exemption from the registration requirements of the Securities Act of 1933 (the "Act") for interests or participations issued in connection with the Pension Plan and Trust Agreement for Attorneys for Fulbright & Jaworski (the "Plan").

Introduction

The Plan covers the Firm's attorneys, of whom approximately 124 associates and 119 partners were participants in the Plan as of May 31, 1978. The Plan provides that attorneys of the Firm are eligible to participate therein if they have completed the requisite one year of service and received admissible annual compensations (i.e., the portion of the first \$100,000 of their annual earnings in excess of the maximum considered wages for FICA tax purposes for such year). Participation in the Plan by eligible partners and associates of the Firm is mandatory, and each eligible employee is automatically admitted to participation upon completion of one year of service or attainment of age 25 if later. Person who are 60 years of age when initially hired by the Firm are excluded.

The Plan covers persons (in this case Applicant's partners) who are employees within the meaning of Section 401(c)(1) of the Internal Revenue Code of 1954, as amended ("Code"), and

therefore the exemption provided by Section 3(a)(2) of the Act is inapplicable to the Plan.

The Commission may, pursuant to Section 3(a)(2), exempt from the provisions of Section 5 of the Act any interest or participation issued in connection with a stock bonus, pension, profit sharing, or annuity plan which covers employees some or all of whom are employees within the meaning of Section 401(c)(1) of the Code, if and to the extent that the Commission determines this to be necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Description and Administration of the Plan

The Firm represents that the Plan was adopted effective as of June 1, 1975, and was amended and restated in its entirety, effective as of May 23, 1978. The Plan was subsequently amended by the First Amendment thereto as was required by the Internal Revenue Service ("IRS") prior to approving the Plan as continuing to be a qualified plan under section 401(a) of the Code. In connection with these amendments the Plan has been reviewed by the IRS and the Firm has received a favorable determination letter confirming the qualification of the Plan under Section 401(a) of the Code. The Firm states that, under the Plan, contributions to the Plan are permitted only from the Firm based upon the funding requirements under the Internal Revenue Code as determined and certified by the independent actuaries. No contributions are permitted from any member.

The firm represents that it maintains substantial administrative control over the Plan. The Plan is administered by a Pension Committee ("Committee") consisting of one to five persons each of whom may or may not be a participant in the Plan. The Committee has overall responsibility and authority in connection with the general administration of the Plan, including the interpretation of all terms, provisions, conditions and limitations of the Plans establishment and enforcement of rules relating to administration of the Plan, the determining of the period of credit service and amount of earnings upon which the benefit of each member shall be calculated, the authority to instruct the Trustee in all matters relating to payment of Plan benefits and all matters relating to management of the Trust funds, and the authorization for

payment of proper expenses in administering the Plan.

The Firm represents that the Plan is an "employee pension benefit plan" subject to regulation by the Department of Labor under the Employee Retirement Income Security Act of 1974 ("ERISA") and is subject to the fiduciary standards and full reporting and disclosure requirements of ERISA.

The Firm represents that the Trustee has entered into, at the direction of the Committee, a Deposit Administration Contract (the "Contract") with The Prudential Insurance Company of America ("Prudential"), pursuant to which most of the assets of the Plan have been invested. The remainder of the assets are invested in short-term variable demand notes. Amounts invested through the Contract have been guaranteed by Prudential. The yield on such amounts will be compounded annually at a rate based on Prudential's investment experience but in any event not less than a stated rate agreed to by the Trustee and Prudential. The Contract is for a five year term, and no cash may be withdrawn therefrom until the Contract has expired.

The Firm represents that retirement benefits are a function of years of service, average monthly earnings from the Firm for certain years prior to retirement, and the member's monthly primary social security benefit at his normal retirement date. The normal retirement date under the Plan is the month next following the sixty-fifth (65) birthday of a participant. Options are available to participants for early or late retirement and for types of payouts at retirement date. A participant's benefit from the Plan upon termination of employment prior to retirement is his retirement benefit accrued to the date of severance to the extent vested. Vesting is determined by length of service. Both the benefit formulas and the method of vesting comply with the requirements of ERISA.

The Firm represents that the Firm has not distributed and does not intend to distribute any type of promotional material relating to the Plan (other than such material as the Firm may be required under ERISA to distribute to participants or employees) and has not and does not intend to make any solicitation of voluntary contributions to the Plan. The Firm makes available to each Plan participant a Pension Plan Description and, upon request, copies of the Pension Plan and Trust Agreement and the latest interim financial statements of the Plan.

Discussion

Applicant contends that if the Firm were a corporation rather than a partnership, interests or participations issued in connection with the Plan would be exempt from registration under Section 3(a)(2) of the Act. Applicant further represents that the Plan is subject to the fiduciary standards and reporting and disclosure requirements of ERISA; that the Applicant has retained substantial administrative control of the Plan, including ultimate control over investment policies; that the Applicant is engaged in providing legal services involving sophisticated and complex financial matters and can adequately represent its and its employees' interests; and that no solicitation of employee contributions has been or will be made.

Applicant submits that, in light of the foregoing, granting the requested exemptive order would be appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than September 8, 1979, at 5:30 p.m. submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit, or in the case of an attorney at law, by certificate) shall be filed contemporaneously with the request. An order disposing of the application will be issued as of course following September 8, 1979, unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc. 79-25791 Filed 8-20-79; 8:45 am]
BILLING CODE 8010-01-M

[Rel. No. 6107; 18-44]

The Rosenman Firm Profit-Sharing Plan; Application for Exemption

August 15, 1979.

Notice is hereby given that Rosenman Colin Freund Lewis & Cohen (the "Applicant" or "Firm"), Rosenman Colin Freund Lewis & Cohen, 575 Madison Avenue, New York, NY 10022, a law firm organized as a partnership under the laws of the State of New York, filed an application on February 16, 1979, and June 20, 1979, for exemption from the registration requirements of the Securities Act of 1933 (the "Act") for participations or interests issued in connection with the Rosenman Firm Profit-Sharing Plan (the "Plan"). All interested person are referred to that application which is on file with the Commission, for the facts and representations contained therein, which are summarized below.

Introduction

The Plan provides that partners of the Firm (except partners who own more than ten percent of either the capital interest or profits interest in the Firm) and employees of the Firm are eligible to participate therein if they are at least 24½ years of age and have completed 2½ years of service with the Firm. An individual practitioner or a member of another firm whose practice has been merged into that of the Firm (or a person who was employed by such individual practitioner or other firm prior to the merger) receives credit for service prior to the merger for the purposes of establishing his eligibility to participate in the Plan. Participation in the Plan begins on the first day of January, coincident with or next following the date on which a person first becomes eligible for participation. As of December 31, 1978, there were 128 participants in the Plan, including 87 employees and 41 partners.

The Plan is of the type commonly referred to as an "H.R. 10" or "Keogh" plan which covers persons who are employees within the meaning of Section 401(c)(1) of the Internal Revenue Code of 1954 (the "Code") and, therefore the exemption provided by Section 3(a)(2) of the Act for interests or participations in certain employee

benefit plans of corporate employers is inapplicable. Section 3(a)(2) of the Act provides, however, that the Commission may exempt from the provisions of Section 5 of the Act any interest or participation issued in connection with a pension or profit-sharing plan which covers employees some or all of whom are employees within the meaning of Section 401(c)(1) of the Code, if and to the extent the Commission determines this to be necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Description and Administration of the Plan

The Plan is a defined contribution H.R. 10 plan originally adopted in December, 1969, and most recently amended effective as of January 1, 1976. The Plan is subject to the Employee Retirement Income Security Act of 1974 ("ERISA"). The Internal Revenue Service has issued a determination letter to the effect that the Plan, as amended to date, continues to meet the requirements of Section 401(a) of the Code.

Under the Plan, the Firm contributes annually with respect to each employee participant in the Plan an amount which is determined in accordance with a formula contained in the Plan. This formula provides, with respect to the calendar year 1978, that the Firm will contribute 7% of the employee's compensation in excess of \$12,000 plus 1.34% of his total compensation. The \$12,000 figure automatically increases by \$500 a year and the 1.34% figure also automatically increases by .035% a year. Each partner participant in the Plan can contribute, at his own election, such amount as he determines up to the maximum amount that would be contributed on his behalf by the Firm if he were an employee participant. Each person's compensation is, of the purposes of the Plan, limited to \$100,000.

In addition to the foregoing, each participant in the Plan is permitted, at his or her option, to make voluntary contributions annually in an amount not exceeding 10% of his or her compensation paid during the period of his or her participation in the Plan.

Four partners of the Firm serve as Trustees under the Plan. The Trustees have the power to employ agents, attorneys, accountants and other persons to advise them as they deem necessary. The daily administration of the Plan is handled by the Plan Administrator, who is one of the Trustees.

The Plan is divided into two funds for investment purposes and each participant is allowed to choose, each year, in which of these two funds his account balances should be invested. The first of these funds is an "equity fund" which is managed by an independent investment adviser and the second of these funds is a "bond fund" which is managed by the Trustees.

Discussion

Applicant contends that if the Firm's business were organized in corporate form, interests and participations in the Plan would be exempt from registration pursuant to Section 3(a)(2) of the Act. It is only because of the participation of "employees" within the meaning of Section 401(c)(1) of the Code that the exemption is not available.

Applicant further contends that the Plan does not present the risks associated with the sale of interests or participations in multi-employer plans by financial institutions with which Congress was primarily concerned when it drafted Section 3(a)(2). The Plan is not a master or prototype plan designed to be marketed by a promoter to unrelated self-employed persons. The assets of the Plan are not commingled in pooled accounts with the assets of other employers' plans.

Applicant represents that the Firm exercises substantial administrative responsibility with respect to the Plan, and has employed independent experts to provide investment management and advisory services; that because the Plan is subject to the requirements of ERISA, the Firm must provide descriptive and financial information to Plan participants; that due to the nature of the Firm's business, which involves complex financial matters, the Firm is able to protect its interests and those of Plan participants.

Applicant concludes that for the foregoing reasons, granting the requested exemptive orders would be appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than September 10, 1979, at 5:30 p.m. submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication

should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit, or in the case of an attorney at law, by certificate) shall be filed contemporaneously with the request. An order disposing of the application will be issued as of course following September 10, 1979, unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc. 79-25850 Filed 8-20-79; 8:45 am]
BILLING CODE 8010-01

[Rel. No. 10836; 812-4471]

Shearson Daily Dividend Inc.; Application for Exemption

August 15, 1979.

Notice is hereby given that Shearson Daily Dividend Inc. ("Fund"), 767 Fifth Avenue, New York, New York 10022, registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified investment company filed an application on May 1, 1979, and an amendment thereto on July 23, 1979, requesting an order of the Commission, pursuant to Section 6(c) of the Act, exempting the Fund from the provisions of Rule 22c-1 thereunder to the extent necessary to permit the Fund to compute its net asset value per share, for purposes of effecting sales and redemptions of its shares, using a time other than the close of trading on the New York Stock Exchange. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

The Fund represents that it registered under the Act on March 20, 1979, as a "money market" fund designed as an investment vehicle for investors who desire to place assets in money market instruments where the primary considerations are safety, liquidity and, to the extent consistent with the foregoing, a high income return. The

Fund further represents that its portfolio may be invested exclusively in a variety of short-term money market instruments consisting of securities issued or guaranteed by the U.S. Government or its agencies or instrumentalities; certificates of deposit, including those issued by domestic banks, and savings and loan and similar associations; and high-grade commercial paper. According to the application, all investments by the Fund must consist of obligations maturing within one year from the date of acquisition, and the average maturity of all its investments (on a dollar-weighted basis) will be 120 days or less.

The Fund proposes to compute its net asset value using a time other than the close of trading on the New York Stock Exchange. In this regard, the Fund represents that the board of directors of the Fund, including a majority of the directors who are not interested persons, have determined that it is in the best interest of the Fund to compute its net asset value for the purposes of sales and redemptions of its shares solely as of 2:30 P.M., New York City time, and to require that notice of intent to purchase or redeem its shares be given prior to 2:30 P.M., New York City time in order for such purchases to be effected upon receipt of Federal Funds or for such redemptions to be effected on the same day as requested. The Fund also represents that such determination by its board of directors will be reviewed no less frequently than annually.

Rule 22c-1 under the Act provides, in pertinent part, that no registered investment company issuing any redeemable security shall sell, redeem, or repurchase any such security except at a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption or of an order to purchase or sell such security. Subsection (b) of Rule 22c-1 defines the term "current net asset value" of a redeemable security as that value computed on each day during which the New York Stock Exchange is open for trading, not less than once daily as of the time of the closing of trading on such exchange.

Section 6(c) of the Act provides, in part, that the Commission may, by order upon application, conditionally or unconditionally exempt any person, security or transaction, or any class or classes of persons, securities or transactions, from any provision of the Act or any rule thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly

intended by the policy and provisions of the Act.

In support of the relief requested, the Fund represents that this policy of computing net asset value as of 2:30 P.M., New York City time, would aid in the effective management of the Fund's portfolio. According to the application, in order for the Fund to make investments which will generate income immediately, it must have Federal Funds available to it. The earlier in the day that the Fund is aware of the cash available for investment through net purchases of its shares, the more time it will have to analyze the available investment alternatives and secure terms most attractive and beneficial to the Fund.

The Fund further proposes to declare its daily net dividend as of 2:30 P.M., New York City time, to shareholders of record, excluding shares purchased, but including shares redeemed, on that day. In view of the above and the fact that the portfolio securities of the Fund will not be listed on any stock exchange, the Fund's management can perceive no benefit to shareholders in computing the net asset value for a second time as of the close of trading on the New York Stock Exchange, aside from technical compliance with Rule 22c-1. The Fund asserts that opportunities for dilution of the value of the outstanding securities of the Fund will not be present if the requested exemption is granted. In addition, because the Fund's distributor and custodian reconcile their accounting records on a daily basis, the Fund rejects all orders for the purchase of its shares received by its distributor after 2:30 P.M., New York City time. The Fund believes that if it were permitted to determine its net asset value as of 2:30 P.M., there would be no necessity for the Fund to reject any orders for the purchase of its common shares.

The Fund submits that the exemption it requests is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than September 10, 1979, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission,

Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon the Fund at the address stated above. Proof of such service (by affidavit or, in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc. 79-25849 Filed 8-20-79; 8:45 am]

BILLING CODE 8010-01

SMALL BUSINESS ADMINISTRATION

[Lic. No. 03/03-5142]

Minority Broadcast Investment Corporation; Issuance of a License To Operate as a Small Business Investment Company

On June 26, 1979, a notice was published in the Federal Register (44 FR 3763), stating that Minority Broadcast Investment Corporation located at 1220 19th Street NW., Suite 501, Washington, D.C. 20036, has filed an application with the Small Business Administration pursuant to 13 CFR 107.102 (1979) for a license to operate as a small business investment company under the provisions of Section 301(d) of the Small Business Investment Act of 1958, as amended.

Interested parties were given until the close of business July 11, 1979, to submit their comments to SBA. No comments were received.

Notice is hereby given that having considered the application and other pertinent information, SBA has issued License No. 03/03-5142 to Minority Broadcast Investment Corporation on August 7, 1979.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: August 13, 1979.

Peter F. McNeish,

Acting Associate Administrator, Finance and Investment.

[FR Doc. 79-25781 Filed 8-20-79; 8:45 am]

BILLING CODE 8025-01-M

[Lic. No. 01/01-0072]

Vermont Investment Capital, Inc.; Notice of Granting of Application for Transfer of Control of Licensed Small Business Investment Company

On July 20, 1979, a notice was published in the Federal Register (44 FR 42833), stating that an Application has been filed with the Small Business Administration pursuant to § 107.701(a) of SBA Regulations (13 CFR 107.701(a)(1979)), for the Transfer of Control of the Vermont Investment Capital, Inc., Route 14, P.O. Box 84, South Royalton, Vermont, to Mr. Harold Jacobs.

Interested parties were given until the close of business on August 6, 1979, to submit written comments on the Application to the SBA.

Notice is hereby given that no comments were received, and having considered the Application and all other pertinent information, the SBA approved the Transfer of Control of Vermont Investment Capital, Inc. to Mr. Harold Jacobs, effective as of April 1, 1979.

(Catalog of Federal Domestic Assistance Program No. 59.011 Small Business Investment Companies.)

Dated: August 13, 1979.

Peter F. McNeish, Acting Associate Administrator, Finance and Investment.

[FR Doc. 79-25782 Filed 8-20-79; 8:45 am]

BILLING CODE 8025-01-M

[Proposal No. 05/05-0142]

Claremont/LaSalle Corp.; Application for a License as a Small Business Investment Company

Notice is hereby given of the filing of an application with the Small Business Administration pursuant to § 107.102 of the SBA Regulations (13 CFR 107.102(1979)), by Claremont/LaSalle Corporation, 29 South LaSalle Street, Chicago, Illinois 60603 for a license to operate as a small business investment company (SBIC) under the provisions of the Small Business Investment Act of 1958 (the Act), as amended (15 U.S.C. *et seq.*).

The proposed officers, directors and stockholders are:

Name and address, Title and relationship and Percent of ownership

Steven B. Randall, 888 Kimbal Rd., Highland Park, Ill. 60035, President, General Manager, Director, *
Harvey Pyes, 507 Karey Ct., Wilmette, Ill. 60091, Secretary, Director, *
S. William Pattis, 195 Elder Ln., Highland Park, Ill. 60035, Director, *
Patrick H. Arbor, 180 East Pearson, Chicago, Ill. 60611, Director, *
Dante A. Greco, 700 Old Elm Rd., Highland Park, Ill., 60035, Director, *

*The exact percentage of ownership will not be known until the conclusion of a private placement offering.

The Applicant proposes to begin operations with a capitalization of \$500,000 and will be a source of equity capital and long term loans for qualified small business concerns. This initial capital will be obtained through the sale of common stock to no more than 35 persons. The Applicant intends to render management consulting services to small business concerns.

Matters involved in SBA's consideration of the application include, the general business reputation and character of the proposed owners and management, and the probability of successful operations of the new company under their management, including adequate profitability and financial soundness, in accordance with the Act and Regulations.

Notice is further given that any person may, not later than 15 days from the date of the publication of this Notice, submit written comments on the proposed SBIC to the Acting Associate Administrator for Finance and Investment, Small Business Administration, 1441 "L" Street, NW., Washington, D.C. 20416.

A copy of the Notice will be published in a newspaper of general circulation in Chicago, Illinois.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: August 15, 1979.

Peter F. McNeish,

Acting Associate Administrator for Finance and Investment.

[FR Doc. 79-25874 Filed 8-20-79; 8:45 am]

BILLING CODE 8025-01-M

[Proposed License No. 05/05-5141]

Innercity Capital Access Center, Inc.; Application for License to Operate as a Small Business Investment Company

An application for a license to operate as a small business investment company under the provisions of Section 301(d) of the Small Business Investment Act of

1958, as amended (15 U.S.C. 661 *et seq.*), has been filed by Innercity Capital Access Center, Inc. (applicant), with the Small Business Administration (SBA), pursuant to 13 CFR 107.102 (1979).

The officers and directors of the applicant are as follows:

Hawkins R. Steele, 736 Pallister, Detroit, MI 48202, Chairman, Director.
Mark Rollinson, 410 Federal Bar Bldg., 1819 H St., N.W., Washington, D.C. 20006, Vice Chairman, Director.
Walter M. McMurtry Jr., 1535 Lincolnshire, Detroit, MI 48203, President, Director.
Richard P. Barnard, 784 Overhill Road, Birmingham, MI 48101, Director.
Thomas W. Cross, Cross & Company, 1985 W. Big Beaver Road, Suite 209, Troy, MI 48064, Director.
Karl Gregory, 18495 Adrian, Southfield, MI 48075, Director.
Kenneth Mabuchi, c/o P. F. Industries, Inc., 54 Buttonwood Street, Bristol, R. I. 02809, Director.
Claude Reese, 2481 Woodstock, Detroit, MI 48203, Director.
S. Martin Taylor, MESC, 7310 Woodward, 5th Floor RM #510, Detroit, MI 48202, Director.
Donald Carros, 40 Birwood, Pontiac, MI 48055, Vice President, Secretary.
Harbans Dang, 17214 Charest, Detroit, MI 48212, Treasurer.

The applicant will maintain its principal place of business at 3049 East Grand Boulevard, Detroit, Michigan 48202. It will begin operations with capital of \$1,178,500 of which \$935,000 will be a grant to the Inner City Business Forum, the sole stockholder of the applicant 3049 East Grand Avenue, Detroit, Michigan 48202 from the Office of Special Projects of the Economic Development Administration, U.S. Department of Commerce.

The applicant will operate principally in the State of Michigan.

As a small business investment company under Section 301(d) of the Act, the applicant has been organized and chartered solely for the purpose of performing the functions and conducting the activities contemplated under the Small Business Investment Act of 1958, as amended, from time to time, and will provide assistance solely to small business concerns which will contribute to a well-balanced national economy by facilitating ownership in such concerns by persons whose participation in the free enterprise system is hampered because of social or economic disadvantages.

Matters involved in SBA's consideration of the applicant include the general business reputation and character of the proposed owners and management, and the probability of successful operation of the applicant under their management, including

adequate profitability and financial soundness, in accordance with the Small Business Investment Act and the SBA Rules and Regulations.

Notice is hereby given that any person may, not later than 15 days from the date of publication of this notice, submit to SBA written comments on the proposed applicant. Any such communication should be addressed to the Acting Associate administrator for Finance and Investment, Small Business Administration, 1441 L Street, N. W., Washington, D.C. 20416.

A copy of this notice shall be published in a newspaper of general circulation in Detroit, Michigan.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: August 13, 1979.

Peter F. McNeish,

Acting Associate Administrator for Finance and Investment.

[FR Doc. 79-25877 Filed 8-20-79; 8:45 am]

BILLING CODE 8025-01-M

[Proposed License No. 08/08-5049]

Minority Enterprise Capital Corp.; Application for License to Operate as a Small Business Investment Company

An application for a license to operate as a small business investment company under the provisions of Section 301(d) of the Small Business Investment Act of 1958, as amended (15 U.S.C. 661 *et seq.*), has been filed by Minority Enterprise Capital Corporation (applicant), with the Small Business Administration (SBA), pursuant to 13 C.F.R. 107.102 (1979).

The officers, directors and stockholders of the applicant are as follows:

N. F. Anthony Seibert, 2661 Grapewood Lane, Boulder, Colorado 80302, Chairman of the Board, President, 100 percent Stockholder.
Lowell G. Shofner, 98 South Cherry, Denver, Colorado 80222, Vice President, Director.
Rebecca L. McBrayer, 7331 South Columbine Way, Littleton, Colorado 80122, Secretary-Treasurer, Director.

The applicant, a Colorado Corporation, with its principal place of business at 469 South Cherry Street, Suite 101, Denver, Colorado 80222, will begin operations with \$500,000 of paid-in capital and paid-in surplus derived from the sale of 50,000 shares of common stock.

The applicant will conduct its activities principally in the State of Colorado and in other areas within the Rocky Mountain region.

Applicant intends to provide assistance to all qualified socially or

economically disadvantaged small business concerns as the opportunity to profitably assist such concerns is presented.

As a small business investment company under Section 301(d) of the Act, the applicant has been organized and chartered solely for the purpose of performing the functions and conducting the activities contemplated under the Small Business Investment Act of 1958, as amended, from time to time, and will provide assistance solely to small business concerns which will contribute to a well-balanced national economy by facilitating ownership in such concerns by persons whose participation in the free enterprise system is hampered because of social or economic disadvantages.

Matters involved in SBA's consideration of the applicant include the general business reputation and character of the proposed owners and management, and the probability of successful operation of the applicant under their management, including adequate profitability and financial soundness, in accordance with the Small Business Investment Act and the SBA Rules and Regulations.

Notice is hereby given that any person may, not later than September 5, 1979, submit to SBA written comments on the proposed applicant. Any such communication should be addressed to the Acting Associate Administrator for Finance and Investment, Small Business Administration, 1441 L Street, N.W., Washington, D.C. 20416.

A copy of this notice shall be published in a newspaper of general circulation in Denver, Colorado.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: August 13, 1979.

Peter F. McNeish,

Acting Associate Administrator for Finance and Investment.

[FR Doc. 79-25878 Filed 8-20-79; 8:45 am]

BILLING CODE 8025-01-M

Region VIII Advisory Council Public Meeting

The Small Business Administration Region VIII Advisory Council, located in the geographical area of Denver, Colorado, will hold a public meeting at 9:30 a.m. on Wednesday, September 19, 1979, in the Federal Office Building, Room 1083 (10th Floor), 1961 Stout Street, Denver, Colorado, to discuss such business as may be presented by members, the staff of Small Business Administration, or others attending.

For further information, write or call Douglas F. Graves, District Director, U.S. Small Business Administration, 721—19th Street, Room 426, Denver, Colorado 80202, (303) 837-3673.

Dated: August 13, 1979.

K. Drew,

Deputy Advocate for Advisory Councils.

[FR Doc. 79-25875 Filed 8-20-79; 8:45 am]

BILLING CODE 8025-01

Region VIII Advisory Council Public Meeting

The Small Business Administration Region VIII Advisory Council located in the geographical area of Fargo, North Dakota, will hold a public meeting at 9:30 a.m., Wednesday, October 3, 1979, at the Ivanhoe Hotel, Dickinson, North Dakota, to discuss such business as may be presented by members, the staff of the U.S. Small Business Administration, and others attending.

For further information, write or call E. Maine Shafer, District Director, U.S. Small Business Administration, P.O. Box 3086, Fargo, North Dakota, 58102—(701) 783-5131.

Dated: August 15, 1979.

K. Drew,

Deputy Advocate for Advisory Councils.

[FR Doc. 79-25876 Filed 8-20-79; 8:45 am]

BILLING CODE 8025-01

[Proposed License No. 04/04-5176]

Tennessee Venture Capital Corp.; Application for License to Operate as a Small Business Investment Company

An application for a license to operate as a small business investment company under the provisions of Section 301(d) of the Small Business Investment Act of 1958, as amended (15 U.S.C. 661 *et seq.*), has been filed by Tennessee Venture Capital Corporation (TVCC), with the Small Business Administration (SBA), pursuant to 13 C.F.R. 107.102 (1979).

The officers, directors and principal stockholders of TVCC are as follows:

David O. Kardokus, 4005 Vailwood Drive, Nashville, TN 37215, President, Treasurer, Director.

Risley P. Lawrence, 919 Van Leer Drive, Nashville, TN 37220, Vice President, Director.

Mack S. Linebaugh, Jr., 5958 Post Road, Nashville, TN 37205, Vice President, Director.

Allen M. Steele, 1001 Overton Lea Road, Nashville, TN 37220, Director.

J. Lillard Templeton, Jr., 5948 Sedberry Road, Nashville, TN 37205, Vice President, Director.

George H. Thompson III, 500 5th Avenue,

North, Nashville, TN 37219, Vice President, Director.
E. Townes Duncan, 704 Kendall Drive, Nashville, TN 37209, Secretary.

10 common stockholders, each owning less than 10 percent of common stock..... 71.15
1 preferred stockholder, Tennessee Industrial Development Authority..... 28.85

100.00

TVCC, a Tennessee corporation with its principal place of business located at Room 622, J. C. Bradford Building, 170 Fourth Avenue North, Nashville, Tennessee 37219, will begin operations with \$505,000 of net combined paid-in capital and paid-in surplus derived from the sale of 3,700 shares of common stock and 1,500 shares of preferred stock.

TVCC will conduct its activities primarily in Middle Tennessee.

As a small business investment company under Section 301(d) of the Act, the applicant has been organized and chartered solely for the purpose of performing the functions and conducting the activities contemplated under the Small Business Investment Act of 1958, as amended, from time to time, and will provide assistance solely to small business concerns which will contribute to a well-balanced national economy by facilitating ownership in such concerns by persons whose participation in the free enterprise system is hampered because of social or economic disadvantages.

Matters involved in SBA's consideration of the applicant include the general business reputation and character of the proposed owners and management, and the probability of successful operation of the applicant under their management, including adequate profitability and financial soundness, in accordance with the Small Business Investment Act and the SBA Rules and Regulations.

Notice is hereby given that any person may, not later than 15 days from the date of publication of this notice, submit to SBA written comments on the proposed applicant. Any such communication should be addressed to the Acting Associate Administrator for Finance and Investment, Small Business Administration, 1441 L Street, NW., Washington, D.C. 20416.

A copy of this notice shall be published in a newspaper of general circulation in Nashville, Tennessee.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: August 9, 1979.

Peter F. McNeish,
Acting Associate Administrator for Finance and Investment.

[FR Doc. 79-25873 Filed 8-20-79; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF STATE

[Public Notice CM—8/214]

Study Group 1 of the U.S. Organization for the International Radio Consultative Committee (CCIR); Meeting

The Department of State announces that Study Group 1 of the U.S. Organization for the International Radio Consultative Committee (CCIR) will meet on September 13, 1979, in Room 856, Federal Communications Commission, 1919 M Street, NW., Washington, D.C., at 9:30 a.m.

Study Group 1 deals with matters relating to efficient use of the radio frequency spectrum, and in particular, with problems of frequency sharing, taking into account the attainable characteristics of radio equipment and systems; principles for classifying missions; and the measurement of emission characteristics and spectrum occupancy. The purpose of the meeting will be to work on documents for the 1980 international meeting of Study Group 1 and to consider responses to a questionnaire concerning future organization of CCIR Study Groups.

Members of the general public may attend the meeting and join in the discussions subject to instructions of the Chairman.

Requests for further information should be directed to Mr. Gordon Huffcutt, State Department, Washington, D.C. 20520, telephone (202) 632-2592.

Dated: August 9, 1979.

Gordon L. Huffcutt,
Chairman, U.S. CCIR National Committee.

[FR Doc. 79-25823 Filed 8-20-79; 8:45 am]

BILLING CODE 4710-07-M

Agency for International Development

Joint Committee for Agricultural Development of the Board for International Food and Agricultural Development; Meeting

Pursuant to Executive Order 11769 and the provisions of Section 10(a), (2),

Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given of the meeting of the Joint Committee on Agricultural Development (JCAD) of the Board for International Food and Agricultural Development (BIFAD) on September 10 and 11, 1979.

The purpose of the meeting is to: review and coordinate the reports from Regional Work Group (RWG) consultations with A.I.D. Missions; discuss the JCAD role in the involvement of Private Volunteer Organizations (PVO's) in Title XII Country Programs; discuss the desirability of Work Groups to monitor the Strengthening Grants; discuss the report of the Training Work Group and need for JCAD action; and discuss reorganization of RWG's and future meeting dates.

The meeting on September 10, 1979, will convene in Regional Work Groups: Africa RWG at 9:00 a.m. in Room 2941, New State Department Bldg. (Mr. William Johnson, A.I.D. Federal Designee for this meeting, can be contacted at (703)-632-0196); Latin America RWG at 10:00 a.m. in Room 2242 New State Department Bldg. (Mr. Blair Allen, A.I.D. Federal Designee for this meeting can be contacted at (202)-632-8279); Near East RWG at 9:30 a.m. in Room 6484 New State Department Bldg. (Mr. Russell Olson, A.I.D. Federal Designee for this meeting, can be contacted at (202)-632-9256); and the Asia RWG at 9:00 a.m. in Room 218, Rosslyn Plaza Bldg., 1601 North Kent Street, Rosslyn, Virginia. (Mr. David Lundberg, A.I.D. Federal Designee for this meeting can be contacted at (703)-235-8870). The meeting on September 11, 1979 will convene from 9:00 a.m. to 4:30 p.m. in the Dynasty Room of the Holiday Inn, 1850 N. Ft. Myer Drive, Arlington, Virginia, 22209. The meeting is open to the public. Any interested person may attend, may file written statements with the Committee before or after the meeting, or may present oral statements in accordance with procedures established by the Committee, and to the extent the time available for the meeting permits.

Dr. Frank H. Madden, Office of Title XII Coordination and University Relations, Development Support Bureau, is designated A.I.D. Advisory Committee Representative at the September 11 meeting. It is suggested that those desiring further information write to him in care of the Agency for International Development, State Department,

Washington, D.C. 20523, or telephone him at (703)-235-9085.

Dated: August 13, 1979.

Frank H. Madden,

A.I.D. Advisory Committee Representative,
Joint Committee on Agricultural Development, Board for International Food and Agricultural Development.

[FR Doc. 79-25787 Filed 8-20-79; 8:45 am]

BILLING CODE 4710-02-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

Imported Steel Mill Products Trigger Price Mechanism: Fourth-Quarter 1979 Revision of Trigger Prices

The Treasury Department hereby announces steel mill products trigger prices for the fourth quarter of 1979. These trigger prices are used by the Treasury Department to monitor the prices of steel mill product imports for possible initiation of dumping investigations under the Antidumping Act. Each quarter Treasury reviews the cost of Japanese steel production and revises trigger prices accordingly.

Fourth-quarter trigger base prices and extras for the steel mill products manufactured principally by integrated steel producers will remain at the third-quarter 1979 trigger price levels. These products account for about 90 percent of U.S. steel mill product imports.

The trigger base prices and extras of those steel mill products manufactured principally by electric furnace producers will decrease by 0.1 to 0.3 percent from their third-quarter levels. The trigger price bases and extras for stainless steel wire products will increase or decrease slightly, depending on the product.

The steel trigger price mechanism (TPM) includes a "flexibility band" designed to allow the moderation of price fluctuations, particularly those due to currency exchange rate changes, by as much as 5 percent. This band has been used each of the past three quarters to lessen the magnitude of trigger price increases and decreases that were caused by currency value movements. In determining the levels of fourth-quarter bases and extras, Treasury utilized 1.1 percent of this band to keep most trigger price bases and extras at their third-quarter levels. If Treasury had not used the flexibility band, fourth-quarter trigger prices would have been reduced 1.1 percent from their third-quarter levels.

Table 1.—Third and Fourth Quarter 1979 Average Costs and Trigger Prices: Integrated Producers

	(Dollars per net ton)	
	Third quarter	Fourth quarter
Average cost estimate.....	341.08	343.70
Average trigger price.....	347.54	347.54

I. Production Costs

A. Integrated and Electric Furnace Producers

Treasury estimated dollar-valued Japanese steel production costs for fourth-quarter 1979 trigger prices on the basis of recent cost submissions from Japan's Ministry of International Trade and Industry (MITI) and a 217 yen/dollar currency exchange ratio. The currency ratio used is the average yen/dollar exchange rate for the period June 8 through August 7. Treasury's production cost estimates for third-quarter trigger prices were based on a 212 yen/dollar ratio, the average for March 5 through May 4, 1979. This 2.4 percent depreciation in the yen's value relative to the dollar decreased Treasury's dollar-valued estimates of the steel production costs of Japan's integrated producers by 1.6 percent.

Offsetting the depreciation of the yen is the increasing cost of fuel. Fuel costs have a substantial impact on Japanese production costs both directly through the fuel oil used in steel production, and indirectly through the increase in the cost of transporting raw materials to the Japanese steel plants. As shown in Tables 2 and 3 below, these costs increases resulted in a net increase in Treasury's average production cost estimates of 0.8 percent for integrated producers and 0.4 percent and 0.5 percent for electric furnace producers.

The resulting base prices for products produced by integrated producers and electric furnace producers are shown in Table 4.

Table 2.—Japanese Production Cost Estimate: Integrated Steel Producers Third and Fourth Quarters, 1979

	(U.S. dollars per metric ton of finished product)	
	Third quarter	Fourth quarter
Basic raw materials.....	\$124.66	\$132.99
Other raw materials.....	67.10	65.55
Labor.....	91.86	89.88
Other expenses.....	26.62	26.01
Depreciation.....	27.62	26.98
Interest.....	24.12	23.56
Profit ¹	24.82	25.14
Yield credit.....	(10.70)	(11.05)
Total cost \$/MT.....	375.87	378.88
Total cost \$/NT.....	341.08	343.70

¹ Profit = 0.08 (Raw materials + labor + other expenses).

B. Stainless Steel Wire

Treasury's production cost estimates for stainless steel wire base prices and extras reflect information from a new MITI submission, use of 1.1 percent of the flexibility band, as well as adjustments to a 217 yen/dollar exchange average. The increase in stainless steel wire trigger base prices principally reflects changes in the cost of the metal contained in the wire. Since the magnitude of the price changes of the various metals used in stainless steel wire varied widely, the third-to-

fourth-quarter changes in the base prices of the wire vary depending on the type of metal each contains. The production costs of stainless steel trigger price extras increased significantly due primarily to the increase in the price of fuel. However, for most products these increases were more than offset by the effect of the change in the exchange rate.

The resulting stainless steel base prices and extras are shown in the revised pages of the *Trigger Price Manual*, which follows Table 5 of this notice.

Table 3.—Japanese Production Cost Estimates: Electric Furnace Products, Third and Fourth Quarter 1979
(U.S. dollars per metric ton of finished product)

	Group A ¹		Group B ²		Group C ³	
	Third quarter	Fourth quarter	Third quarter	Fourth quarter	Third quarter	Fourth quarter
Basic Raw Materials	\$168.08	\$170.78	\$182.82	\$188.18	\$168.52	\$171.29
Other Raw Materials	33.72	33.33	36.34	35.91	33.13	32.74
Labor	28.17	27.52	30.74	30.08	22.28	21.74
Other Expenses	11.20	10.94	17.23	16.68	13.55	13.24
Depreciation	7.00	6.83	9.65	9.48	6.34	6.20
Interest	8.33	6.18	7.25	7.08	6.35	6.21
Profit ⁴	19.29	18.41	21.37	21.52	19.00	19.12
Scrap Credit	(2.93)	(2.95)	(2.51)	(2.58)	(2.68)	(2.70)
Total \$/MT	270.66	272.04	302.89	304.45	266.49	267.84
Total \$/NT	245.72	246.79	274.78	276.19	241.76	242.98

¹Group A Products are equal angles, unequal angles, channels, and I-beams.

²Group B products are hot rolled strip from bar mills; merchant quality flat bars, hot rolled round bars, squares, and round cornered squares; and bar size channels.

³Group C products are concrete reinforcing bars, plain and deformed.

⁴Profit=.08 (Raw materials+labor=other expenses).

II. Freight and Interest Charges

MITI submitted current data concerning freight costs from Japan to the United States to reflect increases in the price of fuel oil. As a result, all TPM freight rates will increase \$3 for steel mill product imports entering the West Coast and \$5 for each of the other port areas.

As a result of increases in production costs, the interest component in trigger prices has been increased using the same interest formula as previously applied. For many products the interest

component will increase \$1 or \$2, although the interest charge on most products will remain unchanged.

Revised freight and interest charges are shown in Table 4.

III. Product Additions and Adjustments

Revised pages to the *Trigger Price Manual* containing additions and adjustments to previously published pages follow in Table 5. All prices in these pages are published in terms of the fourth quarter, 1979.

BILLING CODE 4810-25-M

Table 4
PRODUCT BASE PRICES FOR SHIPMENTS EXPORTED DURING
FOURTH QUARTER 1979 (All Figures in \$/Metric Ton)

Page-*	Product	Fourth Quarter 1979 Base Price	Fourth Quarter Ocean Freight W. G. A. L.	Fourth Quarter Interest W. G. A. L.
2-1	Wire Rods Commercial Quality AISI 1008 5.5mm	311	30	6
2-2	Wire Rods Welding Quality AISI 1008	312	34	8
2-3	Wire Rods High Carbon AISI 1065 5.5mm	361	39	8
2-5	Wire Rods Cold Heading Quality AISI 1038 12.7mm	373	39	9
2-7	Wire Rods Cold Finished Bar Quality	373	39	9
2-9	Spheroidized Annealed Mo Alloy Steel Wire Rod AISI 4037 5.5mm to 13mm	544	77	11
2-13	Spheroidized Annealed Si-Mn-Cr High Carbon Steel Wire Rod AISI 52100 5.5mm to 13mm	522	77	10
2-15	Spheroidized Annealed High Carbon Cr Steel Wire Rod AISI 52100 5.5mm to 13mm	599	77	12
3-1	Wide Flange Beams and Bearing Piling ASTM A-36 12" x 12"	302	38	6
3-4	Standard Carbon Steel Channels ASTM A-36 **	280	42	7
3-6	Unequal Leg Carbon Steel Angles ASTM A-36 **	294	37	5
3-8	Equal Leg Carbon Steel Angles ASTM A-36 **	264	37	5
3-10	Standard Carbon Steel 'I' Beams ASTM A-36 **	322	37	6
4-1	Sheet Piling ASTM A-328 Arch Web PDA-27	341	42	6
5-1	Steel Plates ASTM A-36 1/2" x 80" x 240"	312	33	6
6-1	Heavy Carbon Steel Rails AREA 115, 132 or 136 (40')	347	39	6
6-3	Light Rails 60 lbs./yd.	341	43	6
6-5	Tie Plates	348	47	6
8-1	Plain and Deformed Carbon Steel Concrete Reinforcing Bars ASTM A-615 ***	258	37	5
9-1	Hot-Rolled Carbon-Steel Bar Size Channel ASTM A-36 ***	389	37	7

* Page references are to the First and Second Quarter Trigger Price Manual published by the Department of the Treasury April, 1979. The first figure of each page reference corresponds to the AISI product category of that product.

** Electric Furnace, Group A. The decrease from the third to fourth quarter is 0.3 percent.

*** Electric Furnace, Group B. The decrease from third to fourth quarter is 0.1 percent.

**** Electric Furnace, Group C. The decrease from third to fourth quarter is 0.2 percent.

Table 4 (Continued)

Page- */	Product	Fourth Quarter 1979 Base Price	Fourth Quarter Ocean Freight W. G. A. L.	Fourth Quarter Interest W. G. A. L.
10-1	Rolled Carbon Bars Special Quality AISI 1045 40mm round x 4 meters	396	29 34 37 43	8 10 10 12
10-3	Merchant Quality Hot Rolled Carbon Steel Squares and Round Cornered Squares ASTM-36 or AISI 1020 ***	325	28 34 37 43	6 8 8 10
10-5	Merchant Quality Hot Rolled Carbon Steel Round Bar ASTM A-36 or AISI 1020 ***	325	28 34 37 43	6 8 8 10
10-7	Merchant Quality Carbon Steel Flat Bars ASTM A-36 or AISI 1020 ***	295	28 34 37 43	6 7 7 9
11-1	Hot Rolled Ni-Cr-Mo Alloy Steel Round Bar AISI 8620 40mm	457	54 59 71 87	9 12 12 15
11-6	Spheroidize Annealed High Carbon Cr Steel Round Bar AISI 52100	510	54 59 71 87	10 13 13 17
12-1	Cold Finished Carbon Steel Round Bar AISI 1008 through 1029	458	35 43 48 66	9 12 12 14
12-2	Cold Finished Round Steel Bar AISI 1212 through 1215	517	35 43 48 66	10 13 13 16
12-3	Cold Finished Round Steel Bar AISI 12L14 and 12L15	542	35 43 48 66	11 14 14 17
12-5	Cold Finished, Ni-Cr-Mo Alloy Steel Round Bar AISI 8620	457	54 59 71 87	9 12 12 15
12-7	Cold Finished Spheroidized Annealed, High Carbon Cr Steel Round Bar, AISI 52100, 50100, 51100	510	54 59 71 87	10 13 13 16
14-1	ERW Carbon Steel Pressure Tubing for use in Boilers, Heat Exchangers, Condensers, Etc.	510	See Freight Table	10 12 12 15
14-6	Continuous Butt Welded Standard Pipe	345	" "	6 8 8 10
14-8	ERW Pipe, Excluding Oil Well Casing, Without Coupling	363	" "	7 9 9 11
14-13	Submerged Arc Welded Pipe	440	" "	8 11 11 13
14-16	ERW Structural Tubing to ASTM A-500 Grades A, B & C	380	" "	8 10 10 12
14-22	ERW Standard Pipe ASTM A-120 (A-53)	350	" "	7 8 8 10

* Page references are to the First and Second Quarter Trigger Price Manual published by the Department of the Treasury April, 1979. The first figure of each page reference corresponds to the AISI product category of that product.

*** Electric Furnace, Group B. The decrease from third to fourth quarter is 0.1 percent.

Table 4 (Continued)

Page- */	Product	Fourth Quarter 1979 Base Price	Fourth Quarter Ocean Freight W. G. A. L.	Fourth Quarter Interest W. G. A. L.
14-24	Electric Resistance Welded Standard Pipe ASTM A-120 (Larger Sizes)	350	See Freight Table	7 8 8 10
14-26	Piling Pipe ASTM A-252	342	"	6 8 8 11
14-30	Electric Resistance Welded Hot Dipped Galvanized Fence Pipe and Tubing in Plain Ends	350	"	7 8 8 10
14-32	ERW Mechanical Tubing ASTM A-513	458	"	9 11 11 14
15-1	Seamless Carbon Steel Oil Well Casing, Not Threaded, up to 7" in Outside Diameter	429	"	9 11 11 13
15-4	Seamless Carbon Steel Oil Well Casing, Not Threaded, 7 inches and over in Outside Diameter	425	"	8 11 11 13
15-7	Seamless Carbon Steel Oil Well Casing, Threaded and Coupled, 7 inches and over in Outside Diameter	482	"	10 12 12 15
15-10	Seamless Carbon Steel Oil Well Casing, Threaded and Coupled, up to 7 inches in Outside Diameter	487	"	10 12 12 15
15-13	Electric Resistance Welded Carbon Steel Oil Well Casing, Not Threaded	383	"	7 9 9 11
15-15	Electric Resistance Welded Carbon Steel Oil Well Casing, Threaded	452	"	9 12 12 14
15-17	Seamless Carbon Steel Pressure Tubing Suitable for use in Boilers, Superheaters, Heat Exchangers, Condensers, Refining Furnaces, Feed Water Heaters, Cold Finish	819	"	17 21 21 26
15-43	Seamless Carbon Steel Oil Well Tubing EUE With Threading and Coupling	642	"	13 17 17 21
15-45	Seamless Carbon Steel Line Pipe	437	"	9 11 11 14
15-48	Hot Rolled High Carbon Cr Steel Tube Suitable for Use in Manufacture of Ball or Roller Bearings AISI 52100 60mm to 100mm	622	"	13 17 17 21
15-49	Cold Rolled High Carbon Cr Steel Tube Suitable for Use in Manufacture of Ball or Roller Bearings AISI 52100 60mm to 100mm	925	"	19 25 25 30
15-50	Seamless Stainless Steel Round Ornamental Tube AISI TP 304, 1 1/4 x 0.049"	2098	"	44 56 56 69
15-52	Seamless Stainless Steel Square Ornamental Tube AISI TP 304, 1 1/2 x 1 1/2 x 0.065"	2287	"	48 61 61 75

* Page references are to the First and Second Quarter Trigger Price Manual published by the Department of the Treasury April, 1979. The first figure of each page reference corresponds to the AISI product category of that product.

Table 4 (Continued)

Page- #	Product	Fourth Quarter 1979 Base Price	Fourth Quarter Ocean Freight W. G. A. L.	Fourth Quarter Interest W. G. A. L.
16-1	Cold Heading Round Wire AISI 1018 Killed 0.192" Hard Drawn	467	46 52 54 68	9 12 12 15
16-1	Cold Heading Drawn from Annealed Rods	530	46 52 54 68	11 14 14 18
16-1	Cold Heading Drawn from Spheroidized Annealed Rods	542	46 52 54 68	11 14 14 18
16-1	Cold Heading Anneal in Process	546	46 52 54 68	11 14 14 18
16-1	Cold Heading Spheroidize Anneal in Process	556	46 52 54 68	11 14 14 18
16-1	Cold Heading Anneal in Process and Drawn from Annealed Rods	589	46 52 54 68	12 15 15 19
16-1	Cold Heading Spheroidize Anneal in Process and Drawn from Annealed Rods	599	46 52 54 68	12 15 15 19
16-1	Cold Heading Anneal at Finish Size	530	46 52 54 68	11 14 14 18
16-1	Cold Heading Spheroidize Anneal At Finish Size	542	46 52 54 68	11 14 14 18
16-1	Cold Heading Anneal at Finished Size and Drawn from Annealed Rods	572	46 52 54 68	12 15 15 19
16-1	Cold Heading Spheroidize Anneal at Finished Size and Drawn from Annealed Rods	585	46 52 54 68	12 15 15 19
16-4	Bright Basic Round Wire AISI 1008 #8 Gauge Rimmed	384	45 50 53 68	8 10 10 12
16-5	Galvanized Iron Round Wire AISI Type I Coating #8 Gauge	483	45 49 53 68	10 12 12 15
16-8	Round Baling Wire 14.50	536	45 49 53 68	10 13 13 16
16-9	Cold Finished Spheroidized Annealed, Si-Mn-Cr High Carbon Steel Wire AISI 9254	522	63 77 80 87	11 14 14 17
16-11	Cold Finished Spheroidized Annealed Mo Alloy Steel Wire AISI 4037, 5.5mm to 13mm	544	63 77 80 87	11 14 14 17
16-13	High Carbon Cr Steel Wire in Coil AISI 52100, 50100, S1100, Suitable for use in manufacture of ball or roller bearings	814	63 77 80 87	17 21 21 26
16-15	Upholstery Spring Wire Automatic Coiling and Knotting Type	480	43 55 57 70	10 12 12 15
16-16	Mechanical Spring Wire ASTM A-227 and A-648	506	43 55 57 70	10 13 13 16
16-17	Oil Tempered Steel Spring Wire ASTM A-229	509	43 55 57 70	10 13 13 16

* / Page references are to the First and Second Quarter Trigger Price Manual published by the Department of the Treasury April, 1979. The first figure of each page reference corresponds to the AISI product category of that product.

Table 4 (Continued)

Page- #	Product	Fourth Quarter 1979 Base Price	Fourth Quarter Ocean Freight W. G. A. L.	Fourth Quarter Interest W. G. A. L.
16-18	Carbon Steel Valve Spring Quality Wire ASTM A-230	847	93 108 108 110	17 22 22 27
16-19	Automobile Tire Bead Wire	594	96 109 109 111	12 15 15 19
16-20	Galvanized Core Wire for A.C.S.R. ASTM B 498 Class "A"	633	55 61 63 73	13 16 16 20
16-21	Stainless Steel Wire	See attached pages 16-21 through 16-33		
19-1	Field Fence	579	47 58 63 68	11 14 14 17
20-1	Wire Nails Bright Common 20d #6 13/32 x 4"	448	47 58 63 68	11 14 14 18
21-1	Barbed Wire 2 Ply, 12.50	609	47 58 63 68	11 14 14 18
22-1	Black Plate ASTM A625-76 0.0083" x 34" x Coil	401	28 31 35 43	8 10 10 13
23-1	Electrolytic Tin Plate SR-25/25 75L x 34" x C	543	31 35 42 45	11 14 14 17
25-1	Hot Rolled Steel Sheets ASTM A-569 0.121" x 48" x Coil	276	28 31 35 39	6 7 7 9
25-2	Hot Rolled Steel Band ASTM 569 0.121" x 48" x Coil	264	28 31 35 39	5 7 7 9
26-1	Electrical Steel Sheets Grain Oriented M-4 0.012" x 33" x C	1129	31 35 41 45	24 30 30 37
26-3	Electrical Steel Sheets Non Oriented M-45 0.018" x 36" x C	629	31 35 41 45	17 21 21 27
26-5	Cold Rolled Sheets ASTM A-366 1.0 m/m x 48" x C	346	28 31 35 39	7 9 9 11
27-1	Electro Galvanized Sheets EGC 10g/M ² 1.0 m/m x 48" x C	409	29 31 35 44	8 11 11 13
27-4	Galvanized Sheet ASTM A525G90 0.8 m/m x 48" x C	411	29 31 35 44	8 11 11 13
29-1	Hot Rolled Carbon Steel Strip Produced on Bar Mills Cut Lengths ***	330	28 34 37 43	7 9 9 10
29-3	Hot Rolled Carbon Steel Strip Produced on Sheet Mills, Coils Only	270	28 34 37 43	6 7 7 9
32-1	Tin Free Steel Sheets SR 75L x 34" x C	465	31 35 42 44	9 12 12 15

* / Page references are to the First and Second Quarter Trigger Price Manual published by the Department of the Treasury April, 1979. The first figure of each page reference corresponds to the AISI product category of that product.

*** / Electric Furnace, Group B. The decrease from third to fourth quarter is 0.1 percent.

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Table-5 Product Additions and Adjustments

AISI Category/T.P. Manual
Page Number and Product Description

14-2	Freight Charges on Pipe and Tube Products	Increased freight rate charges to all coasts.
14-3	ERW Carbon Steel Pressure Tubing	Corrected size extras
15-5	Seamless Carbon Steel Oil Well Casing	Corrected size extras
15-43	Seamless Carbon Steel Oil Well Tubing EUE with Threading and coupling	Extended coverage to include plain end seamless carbon steel oil well tubing
16-21 Thru 16-33	Stainless Steel Wire	Revised base price and extras extended coverage to include "cold drawn bar" in wire gauges.
26-1, 26-2	Electrical Steel Sheets, Grain Oriented	Revised base price and extras
26-8	Cold Rolled Sheet, Full Hard Feedstock	Clarified distinction between feedstock used for galvanizing lines and feedstock for other uses; established negative extra for feedstock material suitable for painting, strapping and other similar uses.

14-2

Rev. August 1979

4th Quarter, 1979

FREIGHT CHARGES ON PIPE AND TUBE PRODUCTS
(\$/MT - Applies to all products in category 14 and 15)

FREIGHT	PACIFIC	GULF	ATLANTIC	GREAT LAKES
Pipe (up to 40') Outside diameter up to:				
4"	\$32	\$43	\$45	\$58
5"	34	43	45	58
6"	36	44	45	60
8"	37	45	47	62
10"	38	46	47	64
12"	39	47	49	66
14"	40	49	49	68
16"	40	50	52	70
18"	41	51	52	71
20"	42	53	55	73
22"	43	54	58	74
24"	44	55	58	76
26"	45	56	61	78
28"	47	56	61	80
30"	48	58	61	82
32"	50	52	63	84
34"	51	60	63	86
36"	53	62	65	88
38"	56	65	68	91
40"	58	69	72	95
42"	61	72	74	99
44"	64	74	77	103
46"	68	78	81	107
48"	71	81	84	111

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14-3
Rev. August, 1979

4TH QUARTER, 1979
BASE PRICE INCLUDING OD/WT EXTRAS (\$/MT)
ELECTRIC RESISTANCE WELDED CARBON-STEEL PRESSURE TUBING
AISI 14 TSUSA 610.32

NOTES	OD/WT	3/4	1	1 1/4	1 1/2	1-3/4	2	2-1/8	2 1/2	2-3/8	2 1/2	2-3/4	3	3 1/4	3 1/2	4	4 1/2
.049	867	790	739	662	662	662	560	560	534	534	534	534	534	510	510	534	587
.065	841	714	662	611	587	560	534	534	510	510	510	510	510	510	510	510	534
.083	739	662	662	587	560	534	534	534	510	510	510	510	510	510	510	510	534
.095	714	637	611	560	534	510	510	510	510	510	510	510	510	510	510	510	534
.109	714	637	587	534	510	510	510	510	510	510	510	510	510	510	510	510	534
.120	714	637	597	510	510	510	510	510	510	510	510	510	510	510	510	510	534
.125		637	587	510	510	510	510	510	510	510	510	510	510	510	510	510	534
.134		637	587	510	510	510	510	510	510	510	510	510	510	510	510	510	534
.135		637	587	510	510	510	510	510	510	510	510	510	510	510	510	510	534
.148			587	510	510	510	510	510	510	510	510	510	510	510	510	510	534
.150			611	534	510	510	510	510	510	510	510	510	510	510	510	510	534
.165			611	534	510	510	510	510	510	510	510	510	510	510	510	510	534
.180			611	560	510	510	510	510	510	510	510	510	510	510	510	510	534
.200				587	510	510	510	510	510	510	510	510	510	510	510	510	534
.209*				587	534	534	534	534	510	510	510	510	510	510	510	510	534
.220				611*	534	534	534	534	510	510	510	510	510	510	510	510	534
.238				560	560	560	560	560	510	510	510	510	510	510	510	510	534
.259				611	611	611	611	611	510	510	510	510	510	510	510	510	534
.284									560	534	534	510	510	510	510	510	534
.300									510	534	534	510	510	510	510	510	534

Intermediate wall thickness will be priced on the next heavier wall shown.

*Indicates correction of misprint in First and Second Quarter Trigger Price Manual.

15-5
Rev. August, 1979

4th Quarter, 1979
Base Prices Including OD/WT Extras
(\$/MT)

SEAMLESS CARBON STEEL OIL WELL CASING, NOT THREADED, SEVEN INCHES AND OVER IN OUTSIDE DIAMETER

AISI	15	OD	WT	\$/MT
		7"	.272	437
			.317	426
		8 5/8"	.264	444
			.352	425*
		9 5/8"	.352	425*
			.395	425*
		10 3/4"	.350	424
			.400	425*
			.450	424
		11 3/4"	.375	425
			.435	425*
			.489	423
		13 3/8"	.380	439
			.430	438
			.480	437
		16"	.438	468
			.495	463
			.656	463
		20"	.438	495
			.500	495
			.635	495
			.812	495

Intermediate WT will be priced on the nearest WT shown.

*Indicates correction of misprint in First and Second Quarter Trigger Price Manual.

15-43
Rev. August, 1979

SEAMLESS CARBON STEEL OIL WELL TUBING
EUE WITH THREADING AND COUPLING

Category AISI 15

Tariff Schedule Number(s) 610.49 10-1/2%

4th Quarter

Base Price per Metric Ton \$642

Charges to CIF	Ocean Freight	Handling	Interest
West Coast	See Freight	\$9	\$13
Gulf Coast	Table	\$5	17
Atlantic Coast		\$4	17
Great lakes		\$4	21

Insurance 1% of base price + extras + ocean freight

Extras

A. Outside Diameter/Wall Thickness and Grade Extras

B. Non upset, plain ends

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4th Quarter, 1979

BASE PRICES INCLUDING OD, GRADE EXTRAS
(\$/MT)

SEAMLESS CARBON STEEL OIL WELL TUBING
EUE WITH THREADING AND COUPLING

AISI 15 TSUSA 610.49

Grade	H40 J55 K55	N80 C75 L80 L90 Others 80-85	P105 Others 90 and up
Outside Diameter (inches)			
2 3/8" and under	706	898	1086
2 7/8"-4"	642	815	982

SEAMLESS CARBON STEEL OIL WELL TUBING
Non Upset, Plain Ends

Grade	H40 J55 K55	N80 C75 L80 L90 Others 80-85	P105 Others 90 and up
Outside Diameter (inches)			
2 3/8" and under	600	763	822
2 7/8"-4"	546	693	835

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Rev. August, 1979

STAINLESS STEEL WIRE T.P. SCHEDULES

Category AISI 16

Tariff Schedule Numbers 609.4510 and 609.4540
10 1/2% + Additional Duties (See Headnote 4, T.S.U.S.)

Sequence Guide

1. Annealed Wire - Group I
 - A. Grades and Base
 - B. Size Extras by Grade Group
2. Hard/Spring Wire - Group II
 - A. Grades and Base
 - B. Size Extras by Grade Group
3. Soft/Intermediate Wire - Group III
 - A. Grades and Base
 - B. Size Extras by Grade Group
4. Coating Extras
5. Finish Extras
 - A. Centerless Ground
 - B. Centerless Ground and Polished
6. Tolerance Extras
7. Straightening and Cut to Length Extras
8. Packaging Extras
9. Schedule for ocean freight, handling, interest, and insurance.

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Rev. August, 1979

GROUP I - ANNEALED WIRE

Annealed: The condition of soft wire in which there is no further cold drawing after the last annealing treatment. Wire of this temper is made by annealing in open fired furnaces or molten salt followed by pickling, which produces a clean gray matte finish. It is also made with a bright finish by annealing wet, oil or grease drawn wire in a protective atmosphere, and is sometimes described as bright annealed wire.

Grades	4th Quarter, 1979	
	Dollar per MT Wire Base Price	
301	1985	
302	1935	
303	2036	
304	1985	
305	2160	
310	3790	
314	4489	
316	2982	
316-L	3158	
317	3483	
317-L	3658	
304-L	2160	
17-4PH*	2310	
308	2135	
308-L	2310	
309	2688	
309-L	2861	
321	2310	
312	Not Available	
302 HQ(18-19LW)**	2109	
347	2637	
384	2587	
15-5PH***	Not Available	
409	1494	
410	1194	
416	1164	
420	1243	
430	1243	
430-F	1444	
434	1542	
434-A	1542	
446	1795	

* May also be designated as type 630 or as UNS 17400

** May also be designated as type 302 CU and as 306

*** May also be designated as type XM12 and UNS 15500

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Rev. August, 1979

GROUP I - ANNEALED WIRE (Continued)

Size*	4th Quarter, 1979 Dollar per MT Size Extras		
	300 Series & 17-7PH	400 Series	17-4PH 15-5PH
.574" - .703"	191	490	191
.501" - .573"	191	490	191
.500"	207	490	207
.375" - .499"	224	490	224
.3125" - .374"	240	490	240
.250" - .312"	320	490	320
.234" - .249"	364	490	360
.216" - .233"	414	527	414
.200" - .215"	571	571	571
.185" - .199"	586	598	586
.170" - .184"	603	625	603
.155" - .169"	614	652	614
.142" - .154"	631	772	631
.128" - .141"	658	892	658
.113" - .127"	734	984	652
.099" - .112"	848	1071	685
.086" - .098"	929	1137	712
.076" - .085"	984	1202	746
.067" - .075"	1037	1260	901
.058" - .066"	1136	1303	1053
.051" - .057"	1183	1344	1102
.044" - .050"	1231	1389	1149
.038" - .043"	1338	1431	1257
.033" - .037"	1453	1593	1371
.030" - .032"	1512	1701	1512
.027" - .029"	1659	Not Available	1827
.024" - .026"	1797	"	1797
.021" - .023"	1936	"	1941
.019" - .020"	2075	"	2075
.018"	2208	"	2208
.017"	2238	"	2238
.016"	2273	"	2273
.015"	2378	"	2378

*All intermediate sizes to take next higher price.

16-24
Rev. August, 1979

GROUP I - ANNEALED WIRE (Continued)

Size*	4th Quarter, 1979 Dollar per MT Size Extras		
	300 Series & 17-7PH	400 Series	17-4PH 15-5PH
.014"	2499	Not Available	2499
.013"	2603	"	2603
.012"	2714	"	2714
.011"	2818	"	2818
.010"	3072	"	3072
.009"	3190	"	3190
.008"	3332	"	3332
.0075"	3481	"	3481
.007	3641	"	3641
.0065"	4016	"	4016
.006"	4444	"	4444
.00575"	4871	"	4871
.0055"	5299	"	5299
.00525"	6155	"	6155
.005"	6315	"	6315
.00475"	6422	"	6422
.0045"	6635	"	6635
.00425"	7225	"	7225
.004"	7759	"	7759
.00375"	16314	"	16314
.0035"	19469	"	19469
.00325"	22249	"	22249
.003"	25029	"	25029
.0027"	25940	"	25940
.0025"	27009	"	27009
.002"	35029	"	35029

*All intermediate sizes to take next higher price.

Deduction to allow for absence of annealing and pickling (cold drawn "bar" in wire gauges):

Size Range	Deduction (\$/MT)
.703" through .375"	74
.374" through .216"	78
.215" through .187"	101

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GROUP II - HARD/SPRING WIRE

Hard/Spring: A condition of wire drawn several drafts as required to produce the high tensile strengths required for such products as spring wire.

Grades	4th Quarter, 1979 Dollar per MT Wire Base Price
301	1985
302	1935
303	2036
304	1985
305	2160
310	3790
314	4489
316	2982
316-L	3158
317	3483
317-L	3658
321	2310
17-4PH*	2310
17-7PH****	2987
330	Not Available
308	2135
308-L	2310
309	2688
309-L	2861
312	Not Available
302 HQ(18-19LW)**	2109
347	2637
384	2587
15-5PH***	Not Available
409	1494
410	1194
416	1164
420	1243
430	1243
430-F	1444
434	1542
434-A	1542
446	1795

* May also be designated as type 630 or as UNS 17400

** May also be designated as type 302 CU and as 306

*** May also be designated as type XM-12 and UNS 15500

**** May also be designated as type 631 and UNS-17700

16-26
Rev. August, 1979

GROUP II - HARD/SPRING WIRE (Continued)

Size*	4th Quarter, 1979 Dollar per MT Size Extras	
	300 Series & 17-7PH	400 Series
Over .375"	632	Not Available
.3125" - .374"	632	"
.250" - .312"	632	"
.234" - .249"	632	"
.216" - .233"	632	"
.200" - .215"	632	"
.185" - .199"	632	"
.170" - .184"	632	"
.155" - .169"	632	"
.142" - .154"	611	"
.128" - .141"	611	"
.113" - .127"	611	"
.099" - .112"	643	"
.086" - .098"	714	"
.076" - .085"	768	"
.067" - .075"	832	"
.058" - .066"	924	"
.051" - .057"	1112	"
.044" - .050"	1278	"
.038" - .043"	1346	"
.033" - .037"	1474	"
.030" - .032"	1543	"
.027" - .029"	1861	"
.024" - .026"	2031	"
.021" - .023"	2236	"
.019" - .020"	2504	"
.018"	3025	"
.017"	3291	"
.016"	3372	"
.015"	3453	"
.014"	3614	"
.013"	3748	"
.012"	4012	"

*All intermediate sizes to take next higher price.

16-27
Rev. August, 1979

GROUP II - HARD/SPRING WIRE (Continued)

Size*	4th Quarter, 1979 Dollar per MT Size Extras	
	300 Series & 17-7PH	400 Series
.011"	5134	Not Available
.010"	5268	"
.009"	5482	"
.008"	5664	"
.007"	Under Review	"
.0065"	"	"
.006"	"	"
.00575"	"	"
.0055"	"	"
.00525"	"	"
.005"	"	"
.00475"	"	"
.0045"	"	"
.00425"	"	"
.004"	"	"
.00375"	"	"
.0035"	"	"
.00325"	"	"
.003"	"	"
.0027"	Not Available	"
.0025"	"	"
.002"	"	"

*All intermediate sizes to take next higher price.

16-28
Rev. August, 1979

GROUP III - SOFT/INTERMEDIATE WIRE

Soft/Intermediate: A condition of wire drawn one or more drafts after annealing as required to produce minimum strength or hardness. The properties of such wire can be varied between those of soft temper and those approaching spring temper wire. Wire in this temper is usually produced in a variety of dry drawn tempers. Cold heading wire, by example, belongs in this group.

Grades	4th Quarter, 1979 Dollar per MT Wire Base Price	
301		1985
302		1935
302 (302HQ, 18-9LW)		2109
303		2036
304		1985
305		2160
310		3790
314		4489
316		2982
316-L		3158
317		3483
317-L		3658
321		2310
17-4PH*		2310
330		Not Available
308		2135
308-L		2310
309		2688
309-L		2861
312		Not Available
347		2637
384		2587
15-5PH**		Not Available
409		1494
410		1194
416		1164
420		1243
430		1243
430-F		1444
434		1542
434-A		1542
446		1795

* May also be designated as type 630 or as UNS 17400

** May also be designated as type XM-12 and UNS 15500

16-29
Rev. August, 1979

GROUP III - SOFT/INTERMEDIATE WIRE (Continued)

4th Quarter, 1979
Dollar per MT Size Extras

Size*	300 Series & 17-7PH	400 Series	17-4PH & 15-5PH
Over .375"	429	298	429
.3125" - .374"	429	298	429
.250" - .312"	429	309	429
.234" - .249"	429	331	429
.216" - .233"	429	353	429
.200" - .215"	429	379	429
.185" - .199"	532	406	532
.170" - .184"	559	429	559
.155" - .169"	586	466	586
.142" - .154"	608	527	608
.128" - .141"	656	629	656
.113" - .127"	788	701	788
.099" - .112"	863	798	863
.086" - .098"	912	825	912
.076" - .085"	1015	874	1015
.067" - .075"	1119	955	1119
.058" - .066"	1219	1160	1219
.051" - .057"	1263	1371	1263
.044" - .050"	1310	1412	1310
.038" - .043"	1422	1465	1422
.033" - .037"	1508	1637	1508
.030" - .032"	1610	1745	1610
.027" - .029"	1756	Not Available	1756
.024" - .026"	1897	"	1897
.021" - .023"	2042	"	2042
.019" - .020"	2176	"	2176

*Intermediate sizes to take next higher price.

16-30
Rev. August, 1979

COATING EXTRAS (\$/MT) - 4th Quarter, 1979

Material provided uncoated or coated with lime (or equivalent to lime) and/or soap will carry no extra. Other coatings require an appropriate extra where additional costs are involved.

Metallic coatings include copper, nickel, and lead. Non-metallic coatings include plastics, molybdenum disulfide, etc.

Type of Coating

Size Range	Oxide	Metallic		Non-Metallic
		Copper	Nickel	
Over .155"	None	105	31	22
.154" - .099"	"	158	31	22
.098" - .063"	"	210	41	30
.062" - .041"	"	Not Available	66	45
.040" - .030"	"	"	90	60
.029" - .025"	"	"	90	60
.024" - .020"	"	"	122	86
.019" - .015"	"	"	161	113
.014" - .010"	"	"	191	138

16-31
Rev. August, 1979

FINISH EXTRAS - 4th Quarter, 1979.

Size Range*	Centerless Ground	Centerless Ground and Polished
	300 Series, 17-7PH, 400 Series, 17-4PH, & 15-5PH	300 Series, 17-7PH, 400 Series, 17-4PH, & 15-5PH
.703" - .595"	453	569
.594" - .501"	453	569
.500"	500	633
.499" - .375"	512	655
.374" - .3125"	512	655
.3124" - .250"	512	655
.249" - .234"	786	954
.233" - .216"	786	954
.215" - .200"	871	1061
.199" - .185"	1017	1230
.184" - .170"	1198	1424
.169" - .155"	1435	1678
.154" - .142"	1672	1915
.141" - .128"	1968	2210
.127" - .113"	2464	2728
.112" - .093"	5018	5524

*All intermediate sizes to take next higher price.

17-4PH to be included in 400 series.

Straightening and cut to length extras are already included in the above finish extras in case of centerless ground and polished.

16-32
Rev. August, 1979

TOLERANCE EXTRAS - 4th Quarter, 1979.

Standard: AISI or JIS Specification

Diameter Tolerance	\$/MT
Standard	0
Not less than 1/2 standard	\$105
Closer than 1/2 to 1/4 standard	25% of size extra
Closer than 1/4 standard	50% of size extra

Straightening and Cut to Length Extras

Size Range	Dollar per MT
.703" - .595"	94
.594" - .501"	94
.500"	94
.499" - .375"	119
.374" - .3125"	119
.3124" - .170"	214
.169" - .099"	536
.098" - .051"	1550
.050" - .032"	1789

Length	Dollar per MT
Under 12"	84
12" to under 18"	54
18" to under 24"	54
24" to under 30"	35
30" to under 36"	35
36" to under 48"	35
48" to under 60"	35
60" to under 72"	35
72" to under 120"	30
120" to under 168"	30
168" to under 192"	30
192" to under 216"	30
216" to under 240"	30
240" to under 264"	23
264" to under 288"	23
288" to 316"	23

Packaging Extras

Type	Dollar per MT
Bundle	26
Wooden Boxes	79
Fibre Drums	79
Coil Carriers	26
Spools	
Sizes under .020"	132
Both Spools and Wooden Boxes	
Sizes .020" and greater	79
Sizes under .020"	210

16-33
Rev. August, 1979

Stainless Wire (Continued)
Category 16

Tariff Schedule Nos. 609.4510 and
609.4540

4th Quarter, 1979

	Ocean Freight	Handling	Interest Factor
West Coast	98	9	1.8%
Gulf Coast	117	5	2.4%
East Coast	117	4	2.4%
Great Lakes	150	4	2.9%

Interest charge equals F.O.B. trigger base price including size extra times interest factor.

Insurance at 1% of base plus extras plus ocean freight.

26-1
Rev. August, 1979

ELECTRICAL STEEL SHEETS - GRAIN ORIENTED - M-4 0.012" x 33" x C

Category AISI 26

Tariff Schedule Number(s) 608.8845 - 10%

4th Quarter

Base Price per Metric Ton \$1129

Charges to CIF	Ocean Freight	Handling	Interest
West Coast	\$31	\$9	\$24
Gulf Coast	35	5	30
Atlantic Coast	41	4	30
Great Lakes	45	4	37

Insurance 1% of base price + extras + ocean freight

Extras

1. Grade Extra
2. Surface Insulation Extras
3. Packing Extra
4. Size Extra

V
4
4
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1
6
3

A
G

2
1

7
9

UMI

26-2
Rev. August, 1979

EXTRA FOR ELECTRICAL STEEL

Grain Oriented Electrical Steel

(1) Grade Extra (M-4 = 100.0)

(Grade extra including
base) Multiplies Base
by:

(Grade)	(Thickness)	
M-2H	(0.012")	1.03
M-3H	(0.012" and 0.014")	1.015
M-4H	(0.012" and 0.014")	1.00 (Base)
M-4	(0.011")	1.00 (Base)
M-5	(0.012" and 0.014")	0.964
H-6	(0.014")	0.909

(2) Surface Insulation Extras

Coating Extras are included in a base price.

(3) Packing Extra

N11

(4) Size Extra (Unit-US\$/M.T.) - 4th Quarter, 1979

Width/ Grade	Over 1" Thru 2"	Over 2" Thru 6"	Over 6" Thru 17"	Over 17" Up to 31"	31", 33", or 34"
M-2H	84	58	53	68	N11
M-3H	83	57	53	67	N11
M-4H	81	57	52	66	N11
M-4	81	57	52	66	N11
M-5	78	54	52	63	N11
M-6	75	53	51	62	N11

26-8
Rev. August, 1979

Cold Rolled Full Hard Coiled Sheet
Feedstock Suitable for Painting
Lines or Strapping Production.
Material is not edge trimmed, not
temper rolled.

Minus \$11.00

Cold Rolled Full Hard Coiled Sheet
Feedstock Suitable for Continuous
Hot Dipped Galvanizing. Material
not produced to any surface specifi-
cation as to roughness, or to any
tensile strength specifications;
material not edge trimmed, not temper
rolled.

No trigger price

BILLING CODE 4810-25-C

Dated: August 15, 1979.

David R. Brennan,
Deputy General Counsel.

[FR Doc. 79-25822 Filed 8-20-79; 8:45 am]

BILLING CODE 4810-25-M

Questions and Answers Pertaining to the Revised Special Summary Steel Invoice

The Department of the Treasury has received numerous inquiries following the Federal Register Notice of March 7, 1979 amending the regulations requiring the presentation of a completed Special Summary Steel Invoice (SSSI) to accompany each importation of steel mill products. The Treasury Department hereby publishes the most frequently asked questions and the Department answers regarding the completion and Customs processing of the revised SSSI.

Dated: August 15, 1979.

David R. Brennan,
Deputy General Counsel.

Questions and Answers Pertaining to Revised SSSI

1. Q. A revised Special Summary Steel Invoice (SSSI) must be presented to Customs for each shipment of steel mill products exported on or after May 7, 1979. How is "shipment" defined?

A. A shipment of steel mill products is defined as that quantity shipped by one buyer to one seller, on one carrier, entering at one port of entry. (At land border crossings, one carrier is equated to one conveyance such as one truckload or one carload.)

2. Q. The Customs Procedural Reform and Simplification Act introduces new concepts of "entry" and "entry summary." When the regulation implementing these legislative changes takes effect, will the Special Summary Steel Invoice (SSSI) be required to be presented at "entry" or at "entry summary"?

A. Under the implementing regulations, the SSSI will be required to be presented at the time of "entry summary." If the SSSI is not presented, the entry will be rejected, and Customs will order redelivery of the goods or assess liquidated damages.

Note.—If the SSSI presented at entry summary is prepared incorrectly or inadequately, the entry may also be rejected.

3. Q. In completing section 28 (Other Costs) and 30 (Selling Expenses and Processing) of the revised SSSI, must each type of cost be listed separately?

A. Yes. In section 28, each type of expense and the cost incurred must be identified. Section 30 can be an aggregation of all selling expenses and/

or processing costs. If more room is needed to show the data, continuation sheets may be used.

4. Q. In case of an international transaction between related parties and a resale price to an unrelated party, section 29 of the revised SSSI should be completed showing the amount paid for duty. If the exact amount of duty is unknown, can an estimate be used?

A. An estimate should not be used. The amount of the duty is usually known at the time the entry summary is filed, if not earlier. Thus, the broker empowered to be the agent of the importer can fill in the amount of the duty at the time of entry summary, if the importer does not know the amount.

5. Q. Previously, where the international transaction was between related parties and a resale to an unrelated party in the United States has occurred, a resale worksheet was submitted with the entry. This resale worksheet listed the expenses now required to be shown in sections 28, 29, and 30 of the revised SSSI. Can the resale worksheet continue to be submitted instead of completing these sections of the SSSI?

A. If the resale worksheet incorporates all the information required in sections 28, 29, and 30 and if a copy of the worksheet is attached to each SSSI covering a shipment, the worksheet is acceptable in lieu of completing sections 28-30 of the SSSI. However, if a worksheet is submitted, a copy must be attached to each and every copy of the SSSI.

6. Q. In international sales a commission is often paid by the foreign seller to the importer or end user. Does Treasury make any distinction between a commission paid to a related party and a commission paid to unrelated parties?

A. Yes. In the case of the commission paid by a foreign seller to an unrelated importer or end user, Treasury always deducts the amount of this commission from the invoice price before the U.S. sales price is compared to the trigger price since such a commission is, in effect, a reduction in the sales price.

In the case of a sale between related parties, Treasury compares to the trigger price the sales price to the first unrelated party (adjusted to deduct the reseller's costs). As long as this sales price is available at the time of entry summary, Treasury disregards the commission paid by the foreign seller to the related importer, since this is viewed as an intracompany transaction.

In the case of a sale to a related importer where the latter's resale price is not available at the time of entry

summary, the commission paid to the related importer will be deducted from the international transaction price and the shipment then treated for purposes of comparison with the trigger price as though the sale were to an unrelated importer.

7. Q. In some transactions between a foreign seller and an unrelated U.S. purchaser, an agent (who may or may not be related to the foreign seller) acts as the importer of record and arranges the sale, although he is not a purchaser or reseller of the steel. If a commission is paid by the foreign seller to this agent, how is this commission treated for purposes of trigger price?

A. In this situation, Treasury would compare to the trigger price the sales price of the steel from the foreign seller to the unrelated purchaser, and the commission would not be deducted, since it does not reduce the price of the end user. However, if the commission were used to absorb such costs as duty, brokerage fees or inland freight, these costs would be deducted from the sales price before a comparison to the trigger price is made.

8. The final rulemaking regarding the revised Special Summary Steel Invoice (SSSI) was published in the Federal Register on March 7, 1979. The second paragraph on page 12413 reads:

"If in the course of its monitoring (including audits), the Department finds that a U.S. consumer of steel is using a foreign buying agent to avoid a direct sale from the foreign mill to that consumer so that the related firms, viewed as a whole, are acquiring steel below applicable trigger prices, the Department will consider the ex-mill prices as the proper basis for comparison to the trigger price. That is consistent with prior practice in anti-dumping cases."

8a. Q. What is meant by "consumer"?

A. For trigger price purposes, a "consumer" is any person/company that buys steel and does anything prior to its resale other than routine maintenance or warehousing. Routine maintenance includes re-packing or re-oiling. Thus, a person who trims the steel, edges it or processes it is a "consumer".

8b. Q. What is meant by "foreign buying agent"?

A. The term refers to a foreign company that purchases on behalf of, or on order of, a domestic consumer to which it is related within the meaning of the Antidumping Act "so that the related firms, viewed as a whole" are a single entity. The Customs Service may in such a situation request information on the price at which the foreign buying agent acquired the steel.

8c. Q. What is meant by "to avoid"? The phrase implies intent. Will it apply to a company whose standard method of doing business for years before the trigger price mechanism (TPM) came into effect has been to use a foreign agent who buys from a mill and sells to the related U.S. company?

A. No concept of "intent" is intended. The fact that a company's standard method of doing business before TPM came into effect has been to use a related foreign buying agent, or whether such an agent is newly created, does not preclude Treasury from considering the ex mill price as the proper basis of comparison with the trigger price if the related firms viewed as a whole are acquiring steel at prices below the applicable trigger price.

8d. Q. Does the cited paragraph apply if the foreign mill is unrelated to either the foreign agent or the U.S. consumer?

A. Yes.

8e. Q. What is meant by "related firms viewed as a whole"?

A. This phrase "related firms viewed as a whole" encompasses a variety of trade patterns in which there is a relationship between the mill, foreign trading company, the domestic importer or customer.

8f. Q. If a foreign agent is related to a U.S. importer that is also a processor of the steel, and if the U.S. importer provides a resale price at the time of entry summary, may that resale price be used for comparison with the trigger price?

A. Yes, provided all processing, handling and similar costs are also submitted with the resale price.

8g. Q. As most of the time processing costs are not known at the time of entry summary, would it be acceptable for the related processor to submit standard processing costs based on several months' experience and adjusted for inflation, with the understanding such submission would be subject to audit?

A. Such a submission would be acceptable.

9. Q. In answering Section 8, calling for information concerning the producer if other than the seller, is it permissible to identify the producing group and give its headquarters, where there are a number of mills in the groups?

A. Yes, assuming all mills are located in the same country. However, if mills are in different countries, the mill actually producing the steel must be identified.

10. Q. In answer to Section 14 calling for a description of the goods, will a chemical analysis be routinely required or will the applicable ASTM or AISI specification number be sufficient?

A. Normally a description by specification number is all that is required for the SSSI. However, whether or not a chemical analysis also will be required is a matter within the discretion of the local steel specialist, who may require such a document for classification purposes.

11. Q. In answer to Section 19a, in view of the limited space provided, will it be permissible to use an abbreviation such as "NSHM" to indicate that the product is not sold in the home market, if this is the case?

A. Yes. However, it is not acceptable to use such a phrase if "such or similar" merchandise is sold in the home market by the producer. Adjustments to render non-identical merchandise comparable may be detailed.

12. Q. If the international transaction is between unrelated parties should Section 19c be left blank?

A. Yes.

13. Q. If the international transaction is between related parties and the merchandise has not been resold by the importer by time of entry summary should Section 19c be left blank?

A. Yes. However, the importer should complete Section 31 by checking the appropriate box, signing, and dating the SSSI.

14. Q. The instructions for Section 19c call for "time of delivery if different from Section 12." Should this read "terms" rather than "time"?

A. Both the terms of delivery and the time of payment are required in answer to Section 19c. Insofar as time of payment is concerned, the trigger price is based on payment terms of 30 days after delivery. The attachment of the resale invoice will answer the question, if it contains the necessary information.

15. Q. In answer to Sections 24, 25, and 26, if the cost involved is included in the price, is the answer "included" sufficient?

A. No. The Customs Service needs a breakdown of the various costs called for by these boxes to analyze components of the price. If such information is available on the resale invoice or other document, such document can be attached to each copy of the SSSI in answer to these questions.

16. Q. With respect to Section 27 concerning freight from U.S. point of importation, if such costs are not borne by the importer or by a party related to the importer, is it permissible to answer "not included"?

A. Yes.

17. Q. For specialty steel items covered by the quotas or other products for which no trigger prices exist, is it

necessary to give the information required by the new SSSI form?

A. Yes. For the 32 categories of steel products for which the SSSI form must be filed at entry summary, all information must be provided. The Customs Service is monitoring all steel products in AISI categories 1-32, whether or not they are specifically covered by published trigger prices.

18. Q. Should a bunker surcharge be included as part of the ocean freight in answer to Section 25?

A. Yes.

19. Q. In view of the fact that the exporter in many cases does not know the price of the resale even if made by a related importer and prior to entry, can the importer provide this information on the SSSI form?

A. Yes.

20. Q. Where a renegotiation of the purchase price has taken place after the original contract of sale, what date should be given in answer to Section 10?

A. The last renegotiation date should be given since that is the date upon which the price terms are finally agreed.

21. Q. If a steel mill product is imported whose size is above or below the range of sizes for which size extras have been published, then the product is usually not intended to be covered by trigger prices. Does this mean that absolutely no check is made on the international transaction price of that product?

A. Trigger prices cover those steel mill products commonly made in or imported into the United States. Where the size of a particular product exceeds the published sizes, then no trigger price exists for that particular product. However, the nonexistence of a published trigger price for a specific product size does not indicate the lack of a check.

To illustrate, suppose a product is imported whose size is 60 feet but published trigger prices cover sizes to 50 feet. Technically there is no trigger price for the 60-foot product. However, based on trade practice and commodity knowledge, the 60-foot product can be assumed to be more expensive than the 50-foot one. Therefore, if the 60-foot product is imported at or below the trigger price published for the 50-foot product, Customs would scrutinize the price of the 60-foot product and report it to Headquarters if below the price of the 50-foot product. If shipments of the 60-foot size grow in number, a specific trigger price may be established for that product. The same applies to shipments of any unusual sizes or variations that appear to be mere evasions of trigger prices.

DEPARTMENT OF THE TREASURY
BUREAU OF CUSTOMS SERVICE

SPECIAL SUMMARY STEEL INVOICE
(Prepare in Duplicate)

FORM APPROVED
O.M.B. No. 48-00947

1. INVOICE NO. AND DATE

2. DOCUMENT NO.

3. REFERENCES

4. CODES FOR COLUMNS 13-15

5. BUYER

6. PRODUCER IF OTHER THAN SELLER (Name and Address)

7. SELLER

8. ORIGIN OF GOODS

9. DATE PRICE (If fixed or agreed)

10. TERMS OF SALE, PAYMENTS AND DISCOUNTS

11. QUANTITY

12. UNIT PRICE

13. INVOICE TOTALS

14. MARKS AND NUMBERS

15. DESCRIPTION OF GOODS (INCLUDE SPECIFICATIONS)

16. (6) OI is related to 0

NOTE: If section 12 is FOB, then OI completes sections 23 and 24. OI can complete sections 25, 26, and 28 if applicable. If OI completes sections 25, 26, and 28, OI should complete section 31.

17. BASE PRICE

18. EXTRAS

19. DUTY

20. SELLING EXPENSES & PROCESSING

21. PACKING COSTS

22. COSTS TO POINT OF EXPORTATION

23. FREIGHT FROM U.S. POINT OF IMPORTATION

24. OTHER COSTS (Specify)

25. COMPLETES

26. 0 completes or OI completes

27. CUSTOMS Form 5520 (1-18-79)

DEPARTMENT OF THE TREASURY
BUREAU OF CUSTOMS SERVICE

SPECIAL SUMMARY STEEL INVOICE
(Prepare in Duplicate)

FORM APPROVED
O.M.B. No. 48-00947

1. INVOICE NO. AND DATE

2. DOCUMENT NO.

3. REFERENCES

4. CODES FOR COLUMNS 13-15

5. BUYER

6. PRODUCER IF OTHER THAN SELLER (Name and Address)

7. SELLER

8. ORIGIN OF GOODS

9. DATE PRICE (If fixed or agreed)

10. TERMS OF SALE, PAYMENTS AND DISCOUNTS

11. QUANTITY

12. UNIT PRICE

13. INVOICE TOTALS

14. MARKS AND NUMBERS

15. DESCRIPTION OF GOODS (INCLUDE SPECIFICATIONS)

16. (7) PI and PIA are related to P or to each other. PIA sold to Q who is unrelated to P, PI, or PIA.

NOTE: If section 12 is FOB, then P completes sections 23 and 24. PI completes sections 25 and 26. Sections 27, 28, 29, 30, and 31 are completed by either PI or PIA; but section 30 must show costs of both PI and PIA.

17. BASE PRICE

18. EXTRAS

19. DUTY

20. SELLING EXPENSES & PROCESSING

21. PACKING COSTS

22. COSTS TO POINT OF EXPORTATION

23. FREIGHT FROM U.S. POINT OF IMPORTATION

24. OTHER COSTS (Specify)

25. COMPLETES

26. PI or PIA completes

27. CUSTOMS Form 5520 (1-18-79)

UNITED STATES RAILWAY ASSOCIATION

[Docket No. STP-1]

Evaluation of Supplemental Transaction, Proposal No. 1; Report

On April 11, 1979, the United States Railway Association ("USRA") received a Supplemental Transaction Proposal ("STP") developed and submitted by the Administrator of the Federal Railroad Administration ("Administrator"), under authority delegated to him by the Secretary of Transportation ("Secretary"). The following is USRA's report of its evaluation of that proposal.

I. Background

A. *The STP.*—The Administrator proposes that the Consolidated Rail Corporation ("Conrail") transfer 29.9 miles of railroad in eastern Connecticut to the Providence and Worcester Company ("P&W"). The lines proposed for transfer are:

1. The southernmost portion of the Norwich Secondary Track, from Groton, Connecticut, to Plainfield, Connecticut (MP 0.0 to MP 27.0); and
2. The "Groton Old Main Branch" located in the city of Groton, Connecticut (MP 0.0 to MP 2.9).

In addition, the proposal would require Conrail to relinquish to P&W, assuming agreement by the National Railroad Passenger Corporation ("Amtrak"), its right to operate freight service over some three miles of Amtrak's Shoreline Track between the Groton Old Main Branch and Norwich Secondary Track junctions.*

In developing the STP, the Administrator sought comments from interested parties and reported that there was no opposition to the proposal.

The Administrator also requested both Conrail and P&W to furnish information on financial terms of the transaction, including a proposed selling price and the cost and revenue data used to calculate that price. P&W submitted data supporting a price of \$813,626 based on estimates of the annual net freight income expected to be generated by P&W from the STP properties. Conrail submitted data in support of a price of \$2.75 million based on its estimate of the decrease in net revenue it would experience as a result of the transfer of the STP properties to P&W.

Finding that "the STP properties apparently generate net income", the Administrator concluded that the selling

* Counsel for P&W represents that an agreement already has been negotiated with Amtrak.

price should be the "going-concern value" of the lines to Conrail; and having "presently no reason to believe that the figures presented by Conrail are not accurate", he adopted Conrail's proposed price of \$2.75 million. At the same time, because of the disparity between the prices proposed by the parties, the Administrator stated that he would institute an audit of Conrail's revenue and cost data "to confirm the proposed transfer price of \$2.75 million." The audit was to be conducted concurrently with the STP process, and the results were to be made available to USRA within 90 days after delivery of the STP.

B. *The Statutory Process.*—Section 305 of the Regional Rail Reorganization Act of 1973 ("Act") (45 U.S.C. 745) provides a process for the further restructuring of rail properties of railroads reorganization in the "region" (as defined in Section 102 of the Act), through transactions supplemental to the Final System Plan prepared and approved pursuant to Sections 206 and 208 of the Act. Section 305(a) authorizes the Secretary to develop an STP if he finds that a supplemental transaction would "promote the establishment and retention of a financially self-sustaining rail service system in the region adequate to meet the needs of the region."

The Act requires that any such proposal be submitted by the Secretary to USRA, which, in turn, by public notice, must afford all interested parties an opportunity to comment. Section 305(b) then directs USRA to "analyze" the STP, "taking into account the comments of interested persons and statements and exhibits submitted at any public hearings which may have been held." Following its analysis, the Association must publish in the Federal Register a report evaluating the proposal: "Such evaluation shall state whether the supplemental transactions contained in such proposal, considered in their entirety, are (1) in the public interest and consistent with the purpose of this Act and the goals of the final system plan, and (2) fair and equitable."

The statute further provides that for purposes of the latter finding, "the term 'fair and equitable' means fair and equitable, in accordance with the standards applicable to the approval of a plan of reorganization (or a step in such plan) under Section 77 of the Bankruptcy Act to (1) the estates of railroads in reorganization in the region . . . who have conveyed rail properties . . . in exchange for securities of the Corporation, the Association, or profitable railroads . . .; and (2) the

holders of other securities of the Corporation."

In addition, Section 305(b) provides that if Conrail "opposes or seeks modification of" the STP, "its written comments shall be given due consideration by the Association and shall be published as part of the evaluation."

Within 30 days after publication of USRA's report, the proposed transferee of the STP properties, P&W in this case, must notify the Association in writing as to whether the supplemental transaction proposal is acceptable to it. If P&W fails to so notify USRA, all proceedings on the STP terminate.

During the course of the evaluation of this STP, a question was raised as to the legal effect to be accorded a qualified acceptance by P&W. USRA requested comment on this issue from the Secretary's General Counsel, Linda H. Kamm, Esq. She responded that it was the "view of the Department" that such a qualified acceptance should "be treated as a failure by P&W to notify the association that the proposal is acceptable to it." USRA concurs in and adopts this position.

If P&W accepts the STP, the next step in the statutory process is review by the Interstate Commerce Commission. Under Section 305(c) of the Act, the ICC has 90 days from the date of publication of this report to determine "whether the supplemental transactions referred to in the report, considered in their entirety, would be in the public interest and consistent with the purposes of this Act and the goals of the final system plan." In addition, Section 305(c) authorizes the Commission to modify the STP, and " . . . condition its approval . . . on such reasonable terms and conditions as it may deem necessary in the public interest."

If USRA has found in its report that the proposal is in the public interest and is "fair and equitable", and P&W has accepted it, the association must petition the Special Court for an order directing Conrail to carry out the transaction proposed. Section 305(d) requires this petition to be filed within 40 days after the ICC's determination under Section 305(c), or upon expiration of the 90-day ICC review period if the Commission does not act. If USRA does not make the required findings, it has no further responsibility or authority in the STP process. The Secretary, however, may himself make those findings and may petition the Special Court for the implementing order.

Upon presentation of a petition from either USRA or the Secretary, the Special Court must hold a hearing, after

which it may order the transaction to proceed or it may suggest modifications to the STP. If modifications are suggested, the Secretary may amend the STP in conformity with the Special Court's opinion and may request the Court's reconsideration of the proposal as modified.

C. *The Role of USRA.*—The first and second sentence of Section 305(b) of the Act require USRA to analyze STP's submitted by the Secretary and to publish a report evaluating each such proposal. The third sentence of that Section prescribes that the Association's published evaluation "shall state" USRA's conclusions with respect to two specific findings, namely, whether the STP is in the public interest and whether it is fair and equitable. The Association believes that the third sentence was intended to assure that the required findings be made and was not meant to limit the broader analysis called for in the first sentence. Since that analysis must take into account "the comments of interested persons and statements and exhibits submitted at any public hearing which may have been held", the Association has considered all factors deemed relevant to a full and fair evaluation of the STP.*

The requirement that USRA consider comments submitted at any hearing which "may have been held" implies that the Association may include a hearing in its evaluation process. Moreover, Section 203(c) of the Act specifically authorizes it to do so. None of the interested parties has disputed USRA's authority to hold hearings to consider the STP. However, there was a dispute as to the form those hearings should take. At the outset of USRA's consideration of the proposed Supplemental Transaction, P&W insisted that the Association hold hearings to receive testimony and evidence and at which P&W attorneys would be permitted to cross-examine Conrail witnesses. In addition, P&W has argued that the hearing should be adjudicatory in nature, with the Association's evaluation limited to considering information formally made of record and tested by cross-examination at the hearing. Conrail opposed any such hearing on the basis that Section 305 does not contemplate adversary proceedings. Instead, Conrail argued that the P&W's interests are

* It should be noted that the Department of Transportation concurs in this interpretation of Section 305(b). The Department's General Counsel in a letter to USRA dated July 10, 1979 stated that it was the view of the Department that "the Association is unrestricted in its ability to comment on the Supplemental Transaction Proposal submitted by the Secretary."

protected by the fact that at any point it may halt further proceedings merely by refusing to accept the transaction.

While it is clear that under Section 305 the holding of a hearing is not required but discretionary, USRA decided that a hearing should be held and that, consistent with Section 305, all interested parties should be invited to submit testimony and exhibits bearing on the proposed transaction, to further USRA's evaluation of the STP all interested parties were allowed to question one another concerning their respective positions.

The hearing was held on July 25th and 26th. At that hearing the P&W questioned FRA, USRA, and Conrail witnesses. In addition, representatives of organized labor and the Department of Defense were present and were offered the opportunity to participate. Since the Rail Act does not specify the form such hearings must take, the proceedings were conducted in a relatively informal manner, although a transcript was made. This was consistent not only with the Rail Act but with the position of the P&W which had agreed with USRA prior to the hearing that the Administrative Procedure Act does not apply in this case. In addition, it is evident from Section 305 that USRA's role in the Supplemental Transaction Process is neither adjudicatory nor rulemaking in nature. Rather, it is the duty of the Association to "analyze" the proposed transaction, "taking into account" statements and exhibits submitted at "any public hearings which may have been held." Thus, the hearing that was held is but one part of USRA's analysis of the STP, and the Association is not limited to considering only the information developed at that hearing.

Though USRA may broadly analyze and evaluate an STP, the Association lacks the statutory authority to modify the proposal by amending or deleting any of its terms, or imposing new conditions. The power to initiate supplemental transaction proposals is conferred on both the Secretary and the Association by Section 305(a) of the Act, subject to the definition and limitations of Section 102(19). However, USRA's authority under Section 305(a) is narrowly confined to a specified class of transactions. The STP which is the subject of this report is not of that class, and could only have been, as it was, initiated by the Secretary who has broad authority under Section 305(a). Since Section 305(b) "says nothing

* In contrast, as noted earlier, Section 305(c) expressly authorizes the Commission to condition its approval of an STP on reasonable terms and conditions modifying the proposal.

about initiation or modification of supplemental transaction proposals, it is unreasonable to conclude that the Association may, through its evaluation process, exercise powers specifically denied to it, but afforded to the Secretary, by Section 305(a).

This conclusion is fully supported by the legislative history of Section 305. The Committee of Conference on S. 2718 which followed the House version of proposed Section 305 (H.R. Rep. No. 781, 94th Cong., 2d Sess., 197 (1976)), did not retain from the rejected Senate version a provision that would have authorized the Association to modify a supplemental transaction proposal. This Senate provision was located in Section 609(b) of S. 2718 and stated that "prior to such publication, the Association may modify the initial proposal in accordance with public response or any comments submitted to the Secretary." The deletion of that provision from the bill as enacted indicates that Congress did not intend to authorize the Association to modify a supplemental transaction proposal submitted by the Secretary.

Regardless of the conclusions reached by USRA as a result of its evaluation, P&W, as transferee, is free to accept or reject the STP as proposed by the Administrator. If it accepts, the supplemental transaction process moves forward even though the Association's evaluation may have been unfavorable.

As noted above, if USRA's evaluation includes positive determinations with regard to the two findings required by the third sentence of Section 305(b), the Association must petition the Special Court for an order directing the proposed transfer (assuming P&W has accepted). If the Association's findings are negative, and P&W has nonetheless accepted the proposal, the Secretary may make the required findings and petition the Special Court, thereby overriding the Association's evaluation. To this limited procedural extent, USRA's evaluation may have some impact on the STP process in that negative findings would require some reconsideration of the STP by the Secretary (or his delegate, the Administrator). If the Secretary determines to proceed, however, the Special Court need not attribute any particular significance to the Association's findings. Under Section 305(c), only determinations of the Interstate Commerce Commission are entitled to be given "due weight and consideration" by the Court.

D. *USRA Proceedings.*—On April 20, 1979, 44 FR 23624, USRA published a notice of its receipt of the STP in the

Federal Register and solicited public comments. Comments were received from:

James Donoghue, General Manager, Worcester Business Development Corporation
Kris Cloyd, Transportation Manager, Worcester Area Chamber of Commerce
J. Alfred Clark, Jr., Mayor, Town of Ledyard, Ledyard, Connecticut
Duke Niebur, Military Traffic, Management Command, Department of the Army
John L. Richardson, Esq., Counsel for P&W
Arthur B. Powers, Commissioner, Connecticut Department of Transportation
Paul A. Cunningham, Esq. and Richard M. Rindler, Esq., Counsel for Conrail
William G. Mahoney, Esq., Counsel for the Brotherhood of Maintenance of Way Employees, the Brotherhood of Railroad Signalmen, and the United Transportation Union
Allen J. Dowd, Special Assistant for Engineering, Military Traffic Management Command, Department of the Army
Hon. Christopher J. Dodd, Member of Congress, 2d District, Connecticut.

The Worcester Business Development Corporation and the Worcester Area Chamber of Commerce expressed strong support for the STP, as did the Connecticut Department of Transportation. The Town of Ledyard, Connecticut, located on the Norwich secondary track, took a neutral position as between P&W and Conrail, expressing concern only that the two railroad bridges within the town be adequately maintained.

Mr. Dowd of the Military Traffic Management Command indicated in his comment that the Department of the Navy had expressed concern that reinstitution of passenger service on the rail line transiting its New London submarine base (located on the Norwich Secondary Track) might violate safety and security regulations. This was due to the fact that new weapons handling areas had been constructed since 1971 when passenger service through the base was terminated. Mr. Dowd stated that the Navy was conducting a safety and security study, and that its findings might result in a withdrawal of its objection to passenger service. Subsequently, Mr. Niebur of the MTMC reported that the Navy had not yet completed its full-scale study, but maintained its objection.

Representatives of labor urged USRA to include an assessment of the impact of the STP on affected employees of Conrail and P&W as a part of the "public interest aspect of the Association's evaluation."

Comments from P&W and Conrail focused on the scope and nature of proceedings to be conducted by USRA

in connection with its evaluation of the STP. P&W insisted that the Association should conduct full, formal, public evidentiary hearings on the issue of whether the price specified in the proposal was fair and equitable. Conrail argued that no formal proceedings were required. The P&W position was strongly supported in written comments received from Congressman Christopher J. Dodd of Connecticut and from Commissioner Arthur B. Powers of the Connecticut Department of Transportation.

On June 12, 1979, USRA received a copy of Audit Report No. 79-PH-11 prepared by the Office of the Inspector General of the Department of Transportation. This was the report of the audit which the Administrator, in his proposal, had stated would be conducted. The report stated that the auditors had completed an initial survey of the data sources, methodology, and assumptions used by Conrail in developing its financial presentations to FRA with respect to revenues, on-branch costs, and off-branch costs allocable to the STP rail properties. The survey was originally intended to be preliminary to a full audit of Conrail's submission. However, the report stated that because of problems encountered with Conrail's methodology, the auditors were "unable to determine the reasonableness and accuracy of the resultant financial presentations." It concluded that a full audit of Conrail's submission "would be of little value since no clearly defined or generally acceptable accounting criteria were established; revenues and costs were determined to be from different accounting periods; and, the fair presentation of most of the estimated costs rely on the validity of a large number of technical assumptions."

In an attempt to explore the possible need for the hearing P&W had suggested and in order to elicit a broader range of comments, USRA convoked a procedural conference on June 25, 1976. Counsel for P&W and Conrail, representatives of the Department of Transportation and the Department of Defense, and representatives of affected labor unions attended. Presiding was Douglas L. Siegel who had been appointed by USRA's Board of Directors to serve as Hearing Officer at any proceedings conducted by the Association.

Following the conference, further written comments were received from Conrail and P&W, reiterating the parties' respective positions with regard to the need for formal hearings. In addition, the Administrator, John M. Sullivan, in a

letter dated July 11, 1979 to Donald C. Cole, president of USRA, repeated his assessment that "the \$2.75 million valuation of the STP properties is fair", but added that should "USRA's evaluation of the STP disclose facts that call into question my initial assessment of the fairness of this price, I will, of course, reconsider the financial terms of the transaction."

On the basis of the discussions at the procedural conference, and the subsequent written comments received by the Association, the Board of Directors of USRA at its meeting on July 12, 1979, directed the Hearing Officer to order an exchange of information among interested parties through an informal discovery process; and to take evidence in the case primarily through written submissions, with open hearings to be utilized only for receiving statements and exhibits on substantive issues remaining in dispute.

Counsel for P&W, the Administrator, Conrail and the labor unions were notified of the Board's decision. They were advised that because of time limitations imposed by the Act, a period of informal discovery would begin immediately, to be completed no later than July 24, 1979. An evidentiary hearing would then be held on July 25, 1979, if necessary, pertaining to any matters still in dispute following discovery. They were advised, further, that it was "envisioned" by USRA that P&W and Conrail would "cooperate fully in allowing each other's attorneys and technical experts to explore the data and methodology underlying development of their respective estimates of value for the lines in question."

On July 18, 1979, a pre-hearing conference was held at the offices of the Association to discuss objections that Conrail had presented with respect to the informal discovery process. Counsel for P&W asserted at the conference that P&W had the right to obtain discovery from Conrail through interview of all persons taking part in Conrail's valuation of the lines proposed for transfer, and review of all documents related to such valuation. Counsel for Conrail questioned whether P&W, in fact, had that right, but had no objection to providing both USRA and the Department of Transportation with such information.

As a result of discussions at the conference, it was agreed that P&W would provide USRA with a written request specifying the kinds of documents and other information it required from Conrail. USRA would then review P&W's discovery proposal

and transmit a request for documents and information to Conrail.

A Document and Witness Production Request was prepared by USRA on July 18, 1979, and was served on counsel for Conrail that day. The request provided that any objections to the discovery requested would be heard at a conference at the offices of the Association on July 20, 1979.

On July 20th the conference was held. Counsel for Conrail, P&W and the Association were present. Conrail reiterated its position that the proceedings in progress were unnecessary and irrelevant to USRA's responsibilities under the Act. Counsel further objected to the discovery request on the grounds that much of the information required to be provided was proprietary in nature and, therefore, privileged from disclosure to P&W, a competitor; and that the request, if construed literally, would require the production of enormous masses of documents. After discussion, it was agreed that (a) Conrail need produce only the documents developed from primary data sources and not the bulk of the raw data itself; (b) Conrail would produce information considered by it to be proprietary to USRA; (c) USRA would review all documents to which a claim of privilege might be asserted by Conrail to determine if they should be disclosed to P&W; and (d) Conrail would appear at the hearing scheduled for July 25th, and would make all documents requested available on or before that date.

On July 20, 1979, the USRA staff issued a written evaluation of the STP price. The evaluation was based upon the staff's analysis of the revenue and cost assumptions posited by Conrail in its information submission to FRA.

On July 24, 1979, an informal discovery session was conducted at the offices of the Association to permit both P&W and Conrail to question the technical experts employed by USRA in preparation of the staff evaluation as to the data and methodology underlying the development of their conclusions. P&W counsel attended and questioned a number of witnesses. Conrail did not attend.

An evidentiary hearing on the STP convened as scheduled on July 25, 1979, and continued through July 26th. Present were counsel from Conrail, P&W and USRA, and representatives from labor and FRA. Presentations were made at the hearing by FRA, USRA staff and P&W. Conrail presented no direct testimony, but produced two employees who had been involved in the development of the cost and revenue

data provided by Conrail to FRA, and permitted them to testify.

At its meeting on August 2, 1979, the Board of Directors, of USRA considered the STP in open session. The members were provided with written submissions from P&W, Conrail and the USRA staff, as well as proposed findings prepared by the Hearing Officer. All interested parties were invited to make oral presentations. The conclusions of the Board with respect to the findings required of USRA under section 305(b) of the Act are embodied in this Report.

II. Evaluation of the STP

A. Recent History of the STP Lines.—

Prior to April 1, 1976, the Norwich Secondary Track was owned by the Norwich & Worcester Railroad ("N&Wo"), but was operated by Penn Central under the terms of a provision contained in the Interstate Commerce Commission order approving the Penn Central merger. As a "rail property" operated by a "railroad in reorganization in the region", as those terms were defined in the Act, the Norwich Secondary Track was deemed subject to designation and conveyance under Section 206(c) of the Act, and was included in the development of the Final System Plan ("FSP").

The northern segments of the line from Putnam, Connecticut, at MP 45.8, to Worcester, Massachusetts, at MP 70.8, were designated for offer to the P&W under the provisions of Section 206(c)(1)(B) of the Act. The southern portion, from Putnam to the junction with the Shoreline Track at MP 0.0 in Groton, was designated for conveyance to Conrail (FSP, Vol. I, P. 269).

In recognition of the fact that the N&Wo was itself a noncontrolled, nonbankrupt line, the FSP expressly afforded that company the opportunity to arrange for the operation of its properties outside the provisions of the Act. Two options were presented, each to remain open for 60 days from the effective date of the FSP. If the N&Wo were able to arrange with another railroad for the sale or operation of its properties designated to Conrail, those designations would not take effect. Or, if the company could demonstrate its own competence to operate its properties by presenting "a sound plan" which would maintain the same service coverage as the designations would provide, none of the designations of the Norwich Secondary Track would take effect.

On February 19, 1976, the Board of Directors of the Association considered the plan presented by the N&Wo under

the second option, and rejected it as failing to meet the required test of "soundness".

In the meantime, the State of Connecticut petitioned the Association pursuant to the provisions of Section 208 of the Act for a redesignation from Conrail to the P&W of the Norwich Secondary Track from Groton to Putnam; the Plainfield Secondary Track from Plainfield to Versailles, Connecticut; and the Groton Old Main Branch. At its meeting on February 19, 1976, the Board of Directors of the Association approved the redesignations as to the Norwich and Plainfield Secondary Tracks, but did not approve the redesignation of the Groton Old Main. The P&W was notified of the redesignations, and on March 1, 1976, was advised that net liquidation values had been established for the Groton to Putnam and Plainfield to Versailles lines at \$919,388 and \$58,832, respectively. On March 5, 1976, the P&W informed the Association that, while it desired to acquire the proffered lines, it was rejecting the offer as presented on the ground that the net liquidation value price was too high. However, further negotiations between the P&W and the Association resulted in the acceptance by P&W on March 12, 1976, of a modified offer to purchase the Putnam to Plainfield segment of the Norwich Secondary Track at a price of \$202,898, and the Plainfield Secondary Track. Accordingly, P&W now owns and operates the Norwich Secondary Track segment from Plainfield north, while the southern segment remains a part of the Conrail system.

Prior to the conveyance date, the Groton Old Main Branch was owned and operated by the Penn Central. It was, essentially, a spur of the Shoreline Track, and, as such, it was not separately identified and evaluated in the development of the FSP. The segment of the Shoreline Track running through the Groton, Connecticut area was designated for conveyance to Conrail under the provisions of Section 206(c)(1)(A), and for lease to or acquisition by Amtrak as part of the Northeast Corridor (NEC) under the provisions of Section 206(c)(1)(C). In identifying the specific properties along the corridor essential for passenger service, the Groton Old Main Branch was found to be suitable for freight service only and was excluded from the corridor properties identified for lease or conveyance to Amtrak. Consequently, the Groton Old Main remains a part of the Conrail system from its terminus to the boundary of Amtrak's NEC (Shoreline Track) property.

The sole rail link between the Groton Old Main Branch and the Norwich Secondary Track is an approximately three-mile long segment of Amtrak's Shoreline Track. In conveying the designated NEC properties to Amtrak, Conrail reserved to itself by easement the exclusive right to operate "freight trains, cars and locomotives" on the corridor lines. Under the terms of the Freight Operating Agreement implementing the easement, dated April 1, 1976, neither Amtrak nor Conrail may grant to any person any right to operate freight service on any portion of the NEC without the agreement of the other party.

D. *The STP and the Public Interest, the Purposes of the Act, and the Goals of the Final System Plan.*—For the most part, those factors relevant to an evaluation of whether the STP is "in the public interest" and is "consistent with the purposes of the Act" may be considered to be particularized in the statement of the goals of the FSP set forth in Section 206(a) of the Act. The consistency of the STP with each of those goals is analyzed below in the sequence in which the goals are listed in Section 206(a). Where additional public interest issues have been raised, they have been considered in conjunction with the FSP goal to which they most closely relate.

(1) *The Creation of a Financially Self-Sustaining Rail and Express Service System in the Region.*—This FSP goal corresponds to the purpose stated in Section 101(b)(2) of the Act to provide for "the reorganization of railroads in this region into an economically viable system." Evaluation of the consistency of the STP with this goal requires consideration of the financial impact of the transaction on both Conrail and the P&W.

In a valuation estimate prepared by P&W on October 10, 1977, the company indicated that it anticipated a net contribution from the STP lines of \$238,299 annually before federal taxes. In its final submission to the Administrator, P&W estimated that the annual net freight income it would receive from the lines would be \$23,931, but stated that it expected its profit margin to improve once it began actual operation of the lines. USRA evaluated this issue and concluded that operation of the STP lines by the P&W would generate an annual contribution to the company of \$600,000. Though the figures differ, all estimates indicate that operation of the STP lines by the P&W will be economically viable.

The overall financial impact of the STP on P&W depends on whether the

anticipated net contribution to the company from the STP lines will be sufficient to permit it to finance the purchase price. It should be repeated here that P&W, unlike Conrail, cannot be forced to accept the STP. It is free to accept or reject the proposal based on its perception of the profitability of the transaction. USRA has evaluated the available data only for the purpose of determining whether the STP is apparently economically sound. As the Association has concluded that operation of the STP lines will generate a net annual contribution to P&W of \$600,000, it appears that P&W should be well able to finance the Administrator's proposed purchase price of \$2.75 million.

The financial impact of the STP on Conrail depends entirely on the adequacy of the price it receives for the lines transferred. As discussed more fully in Section E below, USRA believes that the price established by the Administrator, in order to meet the fair and equitable test of Section 305, must fully compensate Conrail for any net loss of revenue that may reasonably be anticipated to result from implementation of the proposal. As further discussed in Section E, USRA has determined that the existence of certain unresolved issues precludes the Association from reaching a conclusion as to the appropriateness of the \$2.75 million price proposed by the Administrator. For the same reason, USRA cannot now assess the impact of the STP on Conrail's efforts to develop a financially self-sustaining system.

2. *The Establishment and Maintenance of a Rail Service System Adequate to Meet the Rail Transportation Needs and Service Requirements of the Region.*—The P&W proposes to service all customers presently served by Conrail on the STP lines. Nothing suggests that service to shippers on the lines as provided by the P&W would be other than adequate, or that the divestiture of these lines by Conrail would adversely affect the adequacy of service provided to Conrail's customers elsewhere on its system.

P&W cost projections for operation of the STP lines have made adequate provision for needed rehabilitation and for maintenance-of-way at a normalized level comparing at least with FRA Class I standards. USRA sees no reason to expect that the lines would be maintained by P&W at a level of efficiency lower than that which would be expected if they continued to be operated by Conrail.

The majority of shippers, municipalities, business organizations

and others who submitted comments on the STP expressed support for the proposal. Two shippers who submitted comments to the Administrator, Atlantic Carton Corporation and Wyre Wynd, Inc., had high praise for P&W operations on its line from Plainfield north, and expressed the opinion that service provided by the P&W on the STP lines would be of comparable quality. A few shippers, notably Dow Chemical USA (the second or third most important shipper on the STP lines), took a neutral position as between Conrail and P&W, Dow stating that current Conrail service was adequate. None of the rail service customers expressed any concern that the quality of service to be received from the P&W would be less than adequate.

Accordingly, USRA has concluded that implementation of the STP would promote the FSP goal of establishment and maintenance of a rail service system adequate to meet the rail transportation needs and service requirements of the region, in accordance with Section 206(a)(2) of the Act.

3. *Establishment of Improved High-Speed Rail Passenger Service in the Northeast Corridor.*—None of the STP lines include property required for the provision of passenger service in the NEC. Implementation of the STP will not affect accomplishment of the FSP goals set forth in Section 206(a)(3) of the Act.

4. *Preservation, Consistent with Other Goals, of Existing Patterns of Service by Railroads.* The STP will restore the pattern of service (single-carrier operation with access through the Worcester gateway) that existed in eastern Connecticut prior to implementation of the FSP. This is a pattern of service for which shippers and Municipalities in the affected area express strong preference. As discussed below in 7, the FSP itself attempted to preserve this pattern by recommending three alternatives for securing single carrier service over the Norwich secondary track.

The STP is consistent with this goal as stated in Section 206(a)(4) of the Act.

5. *Retention and Promotion of Competition in the Provision of Rail and Other Transportation Services in the Region.* Prior to the implementation of the FSP, the principal gateway for freight traffic originating and terminating on the Norwich secondary track and the Groton old main branch was Worcester, Massachusetts. This pattern may be expected to be reestablished if the STP lines are conveyed as proposed.

Shippers using the Worcester gateway have the option of sending traffic over either of the two principal freight routes entering New England from New York State gateways: Conrail's line via Springfield from Selkirk, New York; or the Boston and Maine line via Greenfield from Mechanicsville, New York. The P&W connects directly with Conrail at Worcester, and with the Boston and Maine at Gardner, Massachusetts.

Implementation of the STP would permit shippers on the affected lines some discretion in selecting routing on the basis of their perceptions of the service received from the competing carriers.

Since the proposal would merely substitute P&W for Conrail as the operator of the lines transferred, there would be no change in the single carrier direct service pattern that now obtains on the lines.

To the limited extent that implementation of the STP will provide shippers on the STP lines with routing options through the Worcester gateway that they do not now have, the potential for competition in the region in the provision of rail transportation services will be enhanced. The STP is, therefore, consistent with therefore, consistent with the goals set forth in Section 206(a)(5) of the Act.

6. *Attainment and Maintenance of Environmental Standards.* In its petition to the Secretary requesting the development of the STP, the State of Connecticut stated that it "believes that applicable air quality standards would not be affected by the STP." No information contradicting this assertion was presented to USRA by any interested person. Given that the STP will not require any construction or other physical disruption of the environment, and that the shippers affected by the proposal are presently using, and will continue to use, rail transportation, it appears that the STP is environmentally neutral.

7. *Efficient Movement of Passengers and Freight in Rail Transportation.* By providing for single carrier operation between Groton and Worcester, the STP would enhance the possibility of reinstitution of passenger service over this line. Although there are apparently no concrete plans for passenger operations at this time, the State of Connecticut indicated in its petition that it was considering the possibility of reinstituting such service, and that P&W had indicated its willingness to contract with the Connecticut Department of Transportation to provide service. ConnDOT found that "one of the major

obstacles to providing this service" was the disposition of the Norwich Secondary Track to two operators. The STP would resolve this problem and make future negotiations between the State and P&W for passenger operations more feasible.

As noted above, the Department of Defense has some reservations about the reestablishment of passenger service on the Norwich Secondary Track. Since the primary impact of the STP is on freight service and no concrete plans for passenger service presently exist, the Department's concern has no significant bearing on the propriety of implementation of the Supplemental Transaction. However, the Department may wish to present the issue to the ICC and the Special Court, since those bodies have authority to suggest appropriate conditions to the STP.

To the limited extent noted, the STP promotes the passenger service element of the FSP goal set forth in Section 206(a)(7) of the Act.

The Association has consistently viewed single-carrier operation of the Norwich Secondary Track as desirable from the standpoint of efficiency of freight service. The FSP, as presented to Congress on July 26, 1975, suggested three possible arrangements for accomplishing this objective: Operation by P&W under an agreement with the N&Wo as to the southern segment of the line; operation of the entire line by the N&Wo itself under the "sound plan" that never emerged; or operation by the P&W under an agreement with Conrail as to the southern segment. The latter proposal was developed by the Association under the provisions of Section 206(g) of the Act, and was recommended on the ground that it would provide "more efficient local service Groton to Putnam." (FSP, Vol. I, p. 344.)

The present division of the Norwich Secondary Track between two operators isolates the shippers on the southern portion of the line from access to the Worcester gateway. Traffic bound from the STP lines is presently routed by Conrail via New Haven to Springfield, and thence east to Worcester or west to the Selkirk gateway; or it is sent over the "Beacon Branch Route" via New Haven, Derby and Beacon to Selkirk. Compared with access to eastern Connecticut through Worcester, these routes are circuitous and wasteful in terms of transit time and distance covered. Furthermore, they impose additional costs on Conrail by reason of the need for switching at both Springfield and New Haven and for

operation over substantial segments of Amtrak-owned line.

Circuitous routing is less a factor for the Groton Old Main Branch than for the Norwich Secondary Track. For most shippers on the Groton Old Main, the difference in rail distance to the Springfield and Worcester gateways is not very significant. Either gateway will provide adequate access to freight routes from the south and west where most of the Connecticut bound traffic originates, though use of Worcester does allow for more efficient routing of traffic coming from the north to east.

Operation of both STP lines by a single carrier would, however, provide a number of other advantages. It would eliminate the need for the internal switch presently made by Conrail at Cedar Hill (New Haven). It would reduce the total volume of freight traffic presently operating over Amtrak-owned trackage, and, although Conrail would continue to service shippers located on the Shoreline Track between New Haven and Groton, only three trains per week would be required for this purpose rather than the presently scheduled five. Viewed on a regional basis, therefore, implementation of the STP would reduce total freight train movements on the Shoreline by two per week, with no loss of service.

The two principal shippers located on the Groton Old Main Branch: Pfizer, Inc. and Sonoco Service, have expressed strong support for the STP; Pfizer because it desires access to the Worcester gateway, and Sonoco because it expects lower shipping costs for stone, the principal commodity it receives.

Implementation of the STP will promote efficiency in the rail transportation of freight in the region; the proposal is consistent with the goal of the STP as stated in Section 206(a)(7) of the Act.

8. *Minimization of Job Losses and Community Benefit Costs.* Under the STP, all communities and shippers presently receiving rail service will continue to receive such service, and USRA found no evidence suggesting that implementation of the proposal would have any adverse impact on employment in the vicinity of the affected lines. On the other hand, a number of community and business organizations, notably the Worcester Business Development Corporation, the Worcester Area Chamber of Commerce, and the Norwich Area Chamber of Commerce, commented that P&W ownership of the STP lines would "improve" economic development potentials, and "the attractiveness of the

* * * Norwich area to industry seeking to expand or locate in the Northeast."

During the course of USRA proceedings, representatives of several labor unions argued that if the STP were implemented, the public interest would require that adequate provision be made for the "just and reasonable treatment of railroad employees in mitigation of the hardship imposed on them in carrying out the national policy of railway consolidation" * * * (quoting *Lowden v. United States*, 308 U.S. 225 (1939)). The Act expressly provides for the application of labor-protective provisions to STP's. Section 305(d)(7) states that "any supplemental transaction under this Section shall subject the transferor and transferee, * * * to the requirements and other provisions of Title V (Employee Protection) of this Act." That provision is reflected in Section 501(8) which defines "transaction" for purposes of Title V to include actions taken pursuant to Section 305. Moreover, Section 503(3)(D) defines "protected employee" for purposes of Title V to include any employee of a railroad who is adversely affected by a supplemental transaction, and Subsections 505(b)(1) and (b)(3) specifically refer to supplemental transactions in prescribing the computation of the monthly displacement allowance for protected employees.

Given the mandatory employee protection provisions of the Act and the assurances from both Conrail and P&W that they intend to comply with those provisions, it appears that implementation of the STP will not be inconsistent with the FSP goals set forth in Section 206(a)(8) of the Act.

E. Fair and Equitable. The definition contained in Section 305(e) of the Act focuses the "fair and equitable" inquiry on the value to Conrail of the lines proposed for transfer. The clear purpose of the definition is to afford some protection for the owners of Conrail—its security holders. This focus is logical since an STP developed by the Administrator will not necessarily reflect the type of agreement that would be negotiated at arm's length between a willing buyer and a willing seller, since supplemental transactions can be imposed on Conrail over its objection.

Nothing in Section 305(e) suggests any right on behalf of a voluntary purchaser such as P&W to object to the financial terms and conditions of a supplemental transaction proposal. A proposed transferee may submit any information and make any argument it desires to the Administrator during the STP development process. If it does not like

the resulting proposal for any reason, it is free to reject it under the provisions of Section 305(b). Thus, the transferee does not need the protection of the fair and equitable standard.

Moreover, in determining whether a Supplemental Transaction Proposal is fair and equitable, the Special Court has no duty under Section 305(e) similar to the duties imposed on it in the valuation litigation under Sections 303(c)(1)(B) and 303(c)(3) where it must find also whether the price is "more fair and equitable than is required by a Constitutional minimum", and, if so, direct a refund.

Given the statutory framework, the price proposed by the Administrator in the STP is "fair and equitable" if it is adequate to fully compensate Conrail for the loss of the lines to be transferred. Thus, the price is adequate to protect Conrail as long as it is not too low, and the Association has not attempted to determine whether the Administrator's proposal is "just right" from the standpoint of both Conrail and P&W. Any disagreement P&W may have with the financial terms and conditions of the STP must be resolved with the Administrator and cannot be resolved by the Association.

The appropriate measure of fairness and equitability of the STP price is the present value to Conrail of whatever positive contribution Conrail would lose if the STP properties were transferred to P&W. To calculate that figure, USRA attempted to estimate the annual revenues Conrail would lose as a result of P&W's operation of the STP lines, and the costs Conrail would avoid by not having to operate those lines. Revenue lost, less costs avoided, represents the annual contribution of the STP lines to the Conrail system.

To the annual contribution figure thus derived, USRA applied maximum and minimum capitalization rates of 7.3 and 4.2 to determine a range of present values for the stream of income from the STP lines. Those capitalization rates were determined by USRA's financial consultant on the basis of market-determined price/earnings ratios for Class I railroads operating in the northeast region. As noted above, this methodology was adopted not for the purpose of determining the "perfect price", but to locate a range of values within which the STP price could be said to be fair and equitable.

The \$2.75 million STP price adopted by the Administrator was derived by Conrail from 1977 cost and revenue data. From the 1977 data, Conrail projected its costs and revenues attributable to the STP lines for 1978. It adjusted both estimates to reflect

anticipated traffic increases for 1979, and estimated the reduction in both costs and revenues (expressed in 1978 dollars) that would occur upon transfer of the STP lines to P&W. Finding that its revenues would decrease more than its expenses, Conrail capitalized the anticipated lost earnings to arrive at the \$2.75 million price.

USRA's staff analyzed and refined Conrail's figures and found an expected loss of earnings of \$480,000. Applying the capitalization rates developed by USRA's consultant, the value of the STP lines to Conrail was determined to be in the range of \$1,932,000 to \$3,358,000.

A summary of the Conrail computation, as refined by USRA staff, is attached as Exhibit 1 to this report.

P&W's presentation to the Administrator in support of its suggested \$836,632 price was based on the value of the STP lines to P&W. For that reason the P&W. For that reason the P&W approach is not relevant to the "fair and equitable" determination required by the Act.

At the hearings conducted by USRA, P&W presented its own consultant's estimate of the projected cost savings that Conrail would experience upon conveyance of the STP lines. The study concluded, essentially, that the cost savings projected would exceed estimated revenue losses, thereby giving the STP lines a negative going-concern value to Conrail.

Both the Conrail and P&W studies relied heavily on methodologies utilizing the application of system-wide cost experience to the lines in question, rather than data derived directly from experience on the lines themselves, so-called "line-specific data". P&W's consultants did, however, make an effort to particularize costs to a greater extent than did Conrail, which in its study combined a wide variety of expenses in a single category entitled "Long-term Variable Costs". This particularization permitted USRA's staff to analyze some individual cost items more closely, on the basis of the line-specific data available. As a result of this analysis, USRA was able to revise the P&W study, and to conclude that it indicated a range of values for the STP lines, using USRA's capitalization rates, from \$1,092,000 to \$1,898,000.

A summary of the P&W study, together with an explanation of the revisions made by USRA, is included in Exhibit 1 to this Report.

Necessarily, there are a wide variety of assumptions underlying the figures presented in each of the valuation estimates considered by USRA. In most cases, particularly in regard to cost, the

degree of uncertainty involved can be minimized through the application of empirical data. On the revenue side, however, there are two major issues that have a potentially significant impact on the fair and equitable determination required of the Association: Division of revenue ("divisions") and diversion of traffic ("diversions").

1. Division of Revenue. At present Conrail receives all revenues attributable to the origination or termination of traffic on the STP lines. With implementation of the Supplemental Transaction, P&W will be entitled to a division of the revenue generated by that traffic. Conrail has maintained throughout the Supplemental Transaction proceedings that the appropriate range for the division to which P&W will be entitled is 22 to 25 percent.

USRA staff found Conrail's division figures reasonable in light of rates applicable elsewhere in the region, and used those figures in its analysis of the various valuation estimates presented. However, the matter of rate divisions is presently being litigated between the P&W and Conrail and each party has taken a position in this Supplemental Transaction which conforms with the position taken in its divisions litigation. Counsel for the P&W stated on the record that if P&W were successful in obtaining 42 to 45 percent division of revenues for its present lines, it would seek a similar division for the Norwich Secondary Track and Groton Old Main. While the USRA staff determined that the more conservative approach would be to accept Conrail's estimates, it should be noted that if the P&W is successful in its litigation, it would result in an annual decrease of revenue to Conrail of approximately \$1.1 million over and above the \$1.9 million decrease already attributed by P&W after conveyance of the line to P&W. Using the capitalization rates of 4.2 times earnings to 7.3 times earnings, this issue alone—if resolved against Conrail—could be valued at between \$4.5 and \$8 million.

2. Diversion of Traffic. Conrail now has considerable control over the routing of traffic originating and terminating on the STP lines. As noted above, however, the conveyance of those lines to P&W would result in the

routing of traffic through the Worcester gateway, giving shippers some option in the selection of routes. To some extent, traffic presently routed on Conrail would be diverted to other carriers. Conrail estimates a 7 percent diversion rate; P&W, 15 percent.

In its evaluation of the proposed Supplemental Transaction, USRA determined that an 11 percent diversion rate was an appropriately conservative rate to use for its analysis. However, P&W used a 15 percent diversion rate in its STP information response to FRA. Presumably, P&W's estimate was based on its expectations regarding the types of long distance traffic which it could reasonably take away from Conrail. Here again Conrail runs a substantial risk which cannot be quantified with absolute precision. However, if P&W is successful in attracting its estimated level of traffic away from Conrail, Conrail would suffer a further decline in revenues of almost \$300,000 per year, assuming an average net contribution per car load. Using the capitalization rates of 4.2 to 7.3 times earnings, this

USRA	P&W (revised)	Conrail	Conrail RSPO
\$1.9 to \$3.4 Million	\$1.1 to \$1.9 Million	\$2.75 Million	\$2.1 to \$3.7 Million

On the assumption that the division for the line would be in the range Conrail has estimated, the staff believes the \$2.75 million purchase price fair and equitable to Conrail; indeed, on that assumption no person has suggested that the price set forth in the STP is too low. The problem, however, lies in the uncertainty injected by the division litigation. If P&W were to prevail, the value of what Conrail would lose through the STP transfer would be much higher and the \$2.75 million price, therefore, not fair and equitable. Unfortunately, USRA cannot predict the likely outcome of the division litigation, nor can it remove the uncertainty by imposing a condition. In its comments submitted on August 1, 1979, Conrail reiterated the position it stated to the Administrator, indicating that the \$2.75 million price is acceptable only if the divisions are fixed in the range of its estimates.* Faced with a factor that could vary the acceptable price by

means that an additional \$1.26 to \$2.2 million of value is at risk to Conrail.

F. RSPO Valuation.—In the course of USRA's hearings on the STP, it was revealed that Conrail had performed an additional valuation of the line in the fall of 1978 using a modified version of the Rail Services Planning Office (RSPO) methodology for determining light density lines subsidies. That study concludes that the contribution to Conrail of operations on the line is approximately \$505,000. Applying the capitalization rate gives a range of values for the line of \$2.1 to \$3.7 million.

G. Conclusion.—As a result of its analysis, and in the absence of contrary comments from interested parties, USRA concludes that the STP is in the public interest and consistent with the purposes of the Act and the goals of the Final System Plan.

However, as discussed above, there remains a question as to whether the price specified by the Administrator is fair and equitable. The range of values derived from each of the valuations is summarized below:

orders of magnitude, no prudent businessman would agree to sell without that uncertainty being resolved. Since from Conrail's perspective the STP is a compelled transfer, USRA cannot determine whether the \$2.75 million price is fair and equitable so long as the divisions issue remains unresolved.

Dated: August 16, 1979.

The foregoing report is promulgated under the authority of Section 305(b) of the Regional Rail Reorganization Act of 1973, as amended, pursuant to the order of the Board of Directors of the United States Railway Association.

Peter J. Gallagher,
Secretary.

BILLING CODE 8240-01-M

*A copy of the letter submitted by Conrail is attached as Exhibit 2, pursuant to the publication requirement of Section 305(b).

Exhibit 1

COMPARISON OF USRA AND P&W VALUATIONS

(Figures Rounded to Nearest 5,000)

(All Figures in 1978 Dollars)

Item Description	USRA	P&W (Bixler-Harris Study)	P&W Revised
I. CRC Revenue (Current Results)	6,525,000		
II. CRC Revenue Decrease After Proposed Transaction	1,895,000		
III. Expenses			
A. Crew Wages	290,000	325,000	290,000 ^{1/}
B. Nonwage Line Haul			
1. Fuel		40,000	40,000
2. Locomotive Servicing		25,000	25,000
3. Locomotive Maintenance		105,000	105,000
4. Locomotive Ownership		220,000	0 ^{2/}
USRA Nonswitching	50,000		
USRA Switching	65,000		
C. Car Per Diem & Mileage	70,000	150,000	150,000
D. Nonwage Switching		85,000	85,000
E. Normalized Maintenance-of-Way	310,000	310,000	310,000
F. Clerical, Inspection, Data Communication Machines	80,000	85,000	80,000 ^{1/}
G. Long-Term Variable Costs Reduction	570,000		
H. Train Supplies & Expenses		45,000	45,000
I. Car Inspection		10,000	10,000
J. Clearing Wrecks		25,000	25,000
K. Damage to Property		5,000	5,000
L. Miscellaneous Variable (Overhead)		55,000	55,000
M. Claims		25,000	25,000
N. Taxes		40,000	0 ^{3/}
O. Amtrak Charges		255,000	230,000 ^{4/}
P. Diversion Savings		155,000	155,000
TOTAL EXPENSES	1,435,000	1,950,000	1,635,000
IV. Contribution to Conrail (Item II less Item III)	460,000	(None)	260,000
V. Valuation	1,932,000		1,092,000
Capitalization Rate at 4.2 to 7.3 times Contribution	to 3,358,000		to 1,898,000

BILLING CODE 8240-01-C

Notes

¹USRA's figure in this category was used since it is site-specific was obtained directly from Conrail records.

²P&W's figure was based on the amount it assumed Conrail would save in locomotive ownership costs because it would not be running trains on the line after conveyance of the line to P&W. However, given the shortage of locomotives on the Conrail system, the USRA staff concluded that it was unreasonable to assume that Conrail would eliminate locomotives as a result of the proposed transaction.

³The \$40,000 in taxes estimated by the P&W was computed using the property taxes actually paid by Conrail on the line (\$2,285) plus a Connecticut tax of 2% of gross revenues. However, the Connecticut statute imposing the tax allows credits to be applied against the tax on a dollar for dollar basis for maintenance-of-way expenses applied to the line. Since this statute went into effect in 1978, Conrail experienced no net tax liability. Given the level of maintenance projected for the line, it is reasonable to assume that situation will remain unchanged. Since the remaining property tax is rounded to the nearest \$5,000 for this analysis, the tax indicated is zero.

⁴The cost in this category was revised due to an apparent arithmetic error.

Exhibit 2

Pepper, Hamilton & Scheetz, Washington, D.C., August 1, 1979.

The Board of Directors, United States Railway Association, Washington, D.C.

Gentlemen: Pursuant to section 305(b) of the 3R Act, Conrail wishes to direct your attention to a point made in its earlier submissions in this proceeding (copies of which are enclosed), relating to the proposed transfer of certain Conrail properties to the Providence and Worcester Company (P&W).

The Secretary of Transportation has proposed that these properties be conveyed to P&W for cash payment of \$2.75 million. This price is acceptable to Conrail only if the divisions of revenues between Conrail and P&W are settled before the transfer of the property and if the level of those divisions is that claimed by Conrail. In addition, the operating agreements reached before transfer of the property cannot affect the value of the transfer to Conrail. If the proposed transfer is not so conditioned, the cost of the transfer to Conrail would increase and the price of the sale would accordingly have to increase. Under those circumstances, if the proposed price were not increased, Conrail would oppose the transfer.

Very truly yours,

Ronald M. Dietrich.

[FR Doc. 79-25851 Filed 8-20-79; 8:45 am]

BILLING CODE 8240-01-M

VETERANS ADMINISTRATION

Animal Research Facility; Vamroc, San Francisco, Calif.; Finding of No Significant Impact

The Veterans Administration proposes the design and construction of an Animal Research Facility consisting of a one-story expansion, 5,063 net square feet, to Building No. 12.

Development of the project will have impacts on the human and natural environments as it affects vehicular circulation, soil stability, erosion, vegetation and noise levels. During the construction phase, additional noise, fumes, odors, dust, traffic and visual impacts will exist. Mitigating actions include implementation of thorough erosion control methods, dust and fume emission controls, onsite noise abatement techniques, landscaping, and compatible architectural and open space design.

A "Finding of No Significant Impact" was concluded on the basis of the information presented in this assessment. This Environmental Assessment has been performed in accordance with the requirements of the National Environmental Policy Act Regulations, Section 1508.9, Title 40, Code of Federal Regulations. A "Finding of No Significant Impact" has been reached based on the information presented in this assessment.

The assessment is being placed for public examination at the Veterans Administration, Washington, D.C. Persons wishing to examine a copy of the document may do so at the following office: Mr. Willard Sitler, Director, Office of Environmental Affairs (004A), Room 1018, Veterans Administration, 810 Vermont Avenue, N.W., Washington, D.C. 20420. Questions may be addressed to and requests for single copies of the Environmental Assessment may be made to the above office.

Dated: August 14, 1979.

Maury S. Cralle, Jr.,

Assistant Deputy Administrator for Financial Management and Construction.

[FR Doc. 79-25841 Filed 8-20-79; 8:45 am]

BILLING CODE 8320-01-M

208-Bed Domiciliary; VAMC, Bath, N.Y.; Finding of No Significant Impact

The Veterans Administration has assessed the potential environmental impacts that may occur as the result of the construction of a 208-Bed Domiciliary Building at the Veterans Administration Medical Center (VAMC) at Bath, New York.

The domiciliary will consist of two, two-story bedroom units and a one-story support unit with a total net square footage of 93,362.

Development of the project will have impacts on the human and natural environment as it affects surface runoff, erosion and landscaping. Additionally, construction noise, fumes, dust, odors and visual impacts will exist during construction of the project.

Mitigating actions include: compatible architectural design; landscaping and open space design; control of erosion, dust and fumes; and noise abatement techniques, in conformance to Federal, State and local specifications.

Findings conclude that the proposed action will not cause significant adverse effects on the human and physical environment. Further investigation of the site, in the form of an Environmental Impact Statement, is not required. This action was recommended by the Environmental Determination Board and the final evaluation was conducted by the Environmental Planning Division after preparing an Environmental Assessment on the proposed project. This Environmental Assessment has been performed in accordance with the requirements of the National Environmental Policy Act Regulations, Section 1508.9, Title 40, Code of Federal Regulations. A "Finding of No Significant Impact" has been reached based on the information presented in this assessment.

The assessment is being placed for public examination at the Veterans Administration, Washington, D.C. Persons wishing to examine a copy of the document may do so at the following office: Mr. Willard Sitler, Director, Office of Environmental Affairs (004A), Room 1018, Veterans Administration, 810 Vermont Avenue, N.W., Washington, D.C. 20420. Questions or requests for single copies of the Environmental Assessment may be addressed to the above office.

Dated: August 15, 1979.

Maury S. Cralle, Jr.,

Assistant Deputy Administrator for Financial Management and Construction.

[FR Doc. 79-25838 Filed 8-20-79; 8:45 am]

BILLING CODE 8320-01-M

Clinical Addition; VAMC, Beckley, W. Va.; Finding of No Significant Impact

The Veterans Administration (VA) has assessed the potential environmental impacts that may occur as a result of the construction of a new Clinical Addition at the Veterans

Administration Medical Center (VAMC), Beckley, West Virginia.

The project proposes construction of two additions attached to Building No. 1. A two-story addition to the southeast will provide approximately 28,160 gross square feet and house the following services: ambulatory care, laboratory and radiology. The second two-story addition will be located to the northwest. It will provide 6,715 gross square feet and house the warehouse, supply, processing and distribution, and pharmacy services.

Development of the project will have minimal impacts on the human and natural environment as it affects erosion, circulation and parking. During construction, additional noise, dust, fumes and visual impacts will exist.

Mitigation of the project impacts include: soil erosion and sedimentation control, onsite noise abatement measures, alterations to traffic and parking, and building emissions design and operation in accordance with Federal, State and local air quality standards.

Findings conclude that the proposed action will not cause a significant effect on the physical and human environment and, therefore, does not require the preparation of an Environmental Impact Statement. This Environmental Assessment has been performed in accordance with the requirements of the National Environmental Policy Act Regulations, Section 1508.9, Title 40, Code of Federal Regulations. A "Finding of No Significant Impact" has been reached based on the information presented in this assessment.

The assessment is being placed for public examination at the Veterans Administration, Washington, D.C. Persons wishing to examine a copy of the document may do so at the following office: Mr. Willard Sitler, Director, Office of Environmental Affairs (004A), Room 1018, Veterans Administration, 810 Vermont Avenue, N.W., Washington, D.C. 20420. Questions may be addressed to and requests for single copies of the Environmental Assessment may be made to the above office.

Dated: August 14, 1979.

Maury S. Cralle, Jr.,

Assistant Deputy Administrator for Financial Management and Construction.

[FR Doc. 79-25836 Filed 8-20-79; 8:45 am]

BILLING CODE 8320-01-M

Clinical Administration Addition; VAMC, Perry Point, Md.; Finding of No Significant Impact

The Veterans Administration (VA) has assessed the potential environmental impacts that may occur as a result of the new Clinical Administration Addition at the Veterans Administration Medical Center (VAMC), Perry Point, Maryland.

The Clinical Administration Addition will consist of a multi-story addition attached to, and on both sides of, the connecting interior corridor. The addition will provide approximately 17,700 gross square feet and house the following services: building management, dietetics, fiscal, nursing administration, psychiatry, psychology, social work and the Director's suite.

Development of the project will have minimal impacts on the human and natural environment as it affects circulation, soil stability, erosion, vegetation, and noise levels. During construction, additional noise, fumes, dust, odors and visual impacts will exist. The administrative addition must also be compatible with the surrounding architectural style and long term open space plan.

Mitigation of the project impacts include: erosion control measures, dust and fume emission controls, onsite noise abatement techniques and landscaping. This Environmental Assessment has been performed in accordance with the requirements of the National Environmental Policy Act Regulations, Section 1508.9, Title 40, Code of Federal Regulations. A "Finding of No Significant Impact" has been reached based on the information presented in this assessment.

The assessment is being placed for public examination at the Veterans Administration, Washington, D.C. / Persons wishing to examine a copy of the document may do so at the following office: Mr. Willard Sitler, Director, Office of Environmental Affairs (004A), Room 1018, Veterans Administration, 810 Vermont Avenue NW., Washington, D.C. 20420. Questions or requests for single copies of the Environmental Assessment may be addressed to the above office.

Dated: August 15, 1979.

Maury S. Cralle, Jr.,

Assistant Deputy Administrator for Financial Management and Construction.

[FR Doc. 79-25837 Filed 8-20-79; 8:45 am]

BILLING CODE 8320-01-M

Clinical Services Addition and Renovation; VAMC, Charleston, S.C.; Finding of No Significant Impact

The Veterans Administration (VA) has assessed the potential environmental impacts that may occur as a result of the construction of a Clinical Services Addition and Renovation project at the Veterans Administration Medical Center (VAMC), Charleston, South Carolina.

The proposed project action will provide additional space and facilities for laboratory, radiology, cardio-pulmonary, hemodialysis and pharmacy services. The two-story vertical addition will provide approximately 20,000 gross square feet of space.

The specific project site lies directly in front of, and next to, the main hospital building. The project will include exterior site work and realignment of the hospital access, dropoff area.

Development of the proposed project will have impacts on the environment as they affect vegetation, open space, soil stability and noise levels. Although located within a base floodplain, the project action will not impact the base floodplain area of the Ashley River.

The mitigation of the project impacts on the environment include: implementation of erosion and sedimentation controls; onsite noise abatement measures; and possible development of an exterior open space area. Short term impacts of dust and fumes associated with the project construction will be minimized by control measures outlined in construction contract documents.

This Environmental Assessment has been performed in accordance with the requirements of the National Environmental Policy Act Regulations, Section 1508.9, Title 40, Code of Federal Regulations. A "Finding of No Significant Impact" has been reached based on the information presented in this assessment.

The assessment is being placed for public examination at the Veterans Administration, Washington, D.C. Persons wishing to examine a copy of the document may do so at the following office: Mr. Willard Sitler, Director, Office of Environmental Affairs (004A), Room 1018, Veterans Administration, 810 Vermont Avenue, N.W., Washington, D.C. 20420. Questions may be addressed to and requests for single copies of the Environmental Assessment may be made to the above office.

Dated: August 14, 1979.

Maury S. Cralle, Jr.,

Assistant Deputy Administrator for Financial Management and Construction.

[FR Doc. 79-25842 Filed 8-20-79; 8:45 am]

BILLING CODE 8320-01-M

Expansion of Clinical Outpatient and Education Space; VAMC, New Orleans, La.; Finding of No Significant Impact

This project proposes the construction of a new clinical addition, service core, and renovations to Building No. 1 for the purpose of expansion of clinical, outpatient and education space at the New Orleans Veterans Administration Medical Center. Construction of an eight-story (plus basement and mechanical penthouse) building will occur on an adjacent 1.1 acre site and the two-story service core (expansion space) will be developed in the existing service courtyard of the hospital. Renovations will occur within the interior spaces of Building No. 1.

It is estimated that a range of 263,000 to 332,000 gross square feet of new construction (175,000 to 217,000 gross square feet clinical addition, 80,000 to 115,000 gross square feet service core) will be required and a range of 159,000 to 179,000 gross square feet of renovations to Building No. 1 will be required as part of this project.

Construction of the project will have temporary minor impacts on the human, natural, and urban environment in the form of disruptions to transportation, degradation of local air quality, increases in noise levels, and special considerations for solid waste treatment and disposal. Additionally, minor impacts to the floodplain (500 year, critical action) will occur, however, development will be in total conformance with existing floodplain management objectives.

This Environmental Assessment has been performed in accordance with the requirements of the National Environmental Policy Act Regulations, Section 1508.9, Title 40, Code of Federal Regulations. A "Finding of No Significant Impact" has been reached based on the information presented in this assessment.

The assessment is being placed for public examination at the Veterans Administration, Washington, D.C. Persons wishing to examine a copy of the document may do so at the following office: Mr. Willard Sitler, Director, Office of Environmental Affairs (004A), Room 1018, Veterans Administration, 810 Vermont Avenue NW., Washington, D.C. 20420. Questions may be addressed

to and requests for single copies of the Environmental Assessment may be made to the above office.

Dated: August 14, 1979.

Maury S. Cralle, Jr.,

Assistant Deputy Administrator for Financial Management and Construction.

[FR Doc. 79-25840 Filed 8-20-79; 8:45 am]

BILLING CODE 8320-01-M

Issuance of Policies and Procedures for Participation of Fee Personnel in the Home Loan Program

AGENCY: Veterans' Administration.

ACTION: Notice of Proposed Policies.

SUMMARY: The VA (Veterans' Administration) is proposing to issue a statement of policies and procedures governing the participation of appraisers and compliance inspectors in the VA's guaranteed and direct home loan operations. Policies and procedures are being updated.

DATES: Comments must be received on or before September 20, 1979. It is proposed to make these policies effective on the date of final approval.

ADDRESS: Send written comments to Administrator of Veterans' Affairs (271A), Veterans' Administration, 810 Vermont Avenue, N.W., Washington, D.C. 20420.

Comments will be available for inspection at the address shown above until October 1, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Lyman T. Miller, Assistant Director for Construction and Valuation (262), Loan Guaranty Service, Veterans' Administration, Washington, D.C. 20420, 202-389-2691.

SUPPLEMENTARY INFORMATION: The VA utilizes the assistance of fee basis appraisers and compliance inspectors in the valuation and inspection of properties proposed as security for guaranteed and direct loans authorized by sections 1810, 1811, and 1819 of title 38, United States Code. A policy statement specifying the qualifications, selection methods, performance criteria, evaluation measures, and disciplinary action procedures will be issued as a Department of Veterans Benefits Circular after expiration of the comment period and consideration of all comments. Thereafter the policy statement will be applicable to fee basis personnel throughout the nation, and will be administered by the 49 VA Regional Offices and Centers with home loan operations. The proposed policy is shown below. The numbering system used is that of the circular.

ADDITIONAL COMMENT INFORMATION: Interested persons are invited to submit written comments, suggestions, or objections regarding the proposal to the Administrator of Veterans' Affairs (271A), Veterans' Administration, 810 Vermont Ave., NW, Washington, DC 20420. All written comments received will be available for public inspection at the above address only between 8 a.m. and 4:30 p.m. Monday through Friday (except holidays) until October 1, 1979. Any person visiting Central Office for the purpose of inspecting any such comments will be received by the Central Office Veterans Services Unit in room 132. Such visitors to any VA field station will be informed that the records are available for inspection only in Central Office and furnished the address and the above room number.

Approved: August 15, 1979.

Maury S. Cralle, Jr.,

Assistant Deputy Administrator for Financial Management and Construction.

Processing of Applicants for Fee Appraiser and Compliance Inspector Rosters

1. *Purpose.* The purpose of this circular is to announce new procedures for processing applications and appointing appraisers and compliance inspectors to fee rosters. The procedures for the supervision and removal of such fee personnel are also covered.

2. *Responsibility for Selection, Designation and Separation of Loan Guaranty Fee Personnel.* DVB field stations will be responsible for the selection and designation of qualified persons to Loan Guaranty fee rosters and for the removal of such designated personnel as may be in the best interest of the VA. The Construction and Valuation Section, Loan Guaranty Division, will handle all matters related to fee appraisers and compliance inspectors: i.e., maintenance of fee personnel files, receiving and responding to related correspondence, making arrangements for and administering written examinations, managing the roster of appraisers and compliance inspectors, etc.

3. *Fee Roster Committee.* A Fee Roster Committee will be established consisting of the Loan Guaranty Officer, the Assistant Loan Guaranty Officer, and the Chief of the Construction and Valuation Section. If there is no Assistant Loan Guaranty Officer position at a station, a section chief in the Division will be designated by the Loan Guaranty Officer. The Loan Guaranty Officer will be the Chairperson of the committee.

4. Qualification Requirements.

a. General Requirements for Appraisers and Compliance Inspectors.

(1) Applicants must have complied with local or State licensing requirements, if any, prior to designation.

(2) Designation will not be made in those instances in which an applicant's employment or other position may result in a conflict of interest between such position or employment and performance as a fee person with the VA, or when embarrassment, adverse public relations or adverse publicity concerning the applicant or the VA might result.

(3) An individual may be designated to more than one fee roster.

(4) A satisfactory credit report must be obtained for each applicant before designation.

(5) Employees of Federal or quasi-governmental organizations; i.e., FNMA (Federal National Mortgage Association), FHLMC (Federal Home Loan Mortgage Corporation), Postal Service, will not be approved by VA as fee appraisers or compliance inspectors. Employees of local or State governments may be designated, but care must be taken that assignments to them will not result in a conflict of interest or the appearance of a conflict of interest.

(6) An applicant must submit three letters of reference attesting to the applicant's qualifications as a appraiser or inspector as listed on the application.

b. *Fee Appraisers.* (1) With respect to qualifications for designation as a VA fee appraiser, VA Regulation 4339 provides as follows: "To qualify for approval as a designated fee appraiser, an applicant must show to the satisfaction of the Administrator that his or her character, experience, and the type of work in which he or she has had experience for at least 5 years qualifies the applicant to competently appraise and value within a prescribed area the type of property to which the approval relates."

(2) When it is possible, every effort should be made to only designate fee appraisers who (a) are full-time appraisers, (b) have completed basic appraisal courses and (c) are not connected with a firm or firms active in the origination of VA loan applications.

(3) Those appraisers who wish to appraise condominiums, planned unit developments, new construction or other complex assignments must demonstrate past significant experience, education and ability in this type of appraising.

(4) A written test and a performance test will be given the applicant in order to evaluate the applicant's capabilities.

The written test will be prepared by the station and will test the applicant's knowledge of appraisal theory and terminology. The performance test will be a demonstration appraisal on VA Form 26-1803, Residential Appraisal Report. The station may waive the written test in cases in which it is determined that the applicant possesses the desired knowledge. Completion of the demonstration appraisal, however, will not be waived. Prior to the performance test, the applicant will be furnished with instructional and procedural material necessary to complete the appraisal. A sample appraisal on VA Form 26-1803 should be part of this material.

(5) No written or performance test will be required for designation to make appraisals provided in VA Regulation 4340, or to make appraisals for supplemental loans when the cost of the repairs, alterations, or improvements does not exceed \$3,500. Evaluation of the qualifications of such applicants for approval shall be on the basis of information contained in the application.

(6) The procedures outlined in subparagraph (4) above will also be applicable to mobile home appraisers. However, the performance test will be a demonstration appraisal on VA Form 26-8712, Mobile Home Appraisal Report, instead of VA Form 26-1803.

Additionally, the instructional and procedural material necessary to complete the appraisal will include a sample appraisal on VA Form 26-8712.

Note: The requirement for a credit report and letters of reference will not be applicable in the case of an officer or employee of a supervised lending institution who is designated to make appraisals as provided in VA Regulation 4340.

c. *Compliance Inspector.* (1) To qualify for designation as a VA compliance inspector, an applicant must have at least 5 years of experience which would competently qualify him or her to make inspections within a prescribed area of the type of property to which the approval relates. To be considered qualifying, the experience must have been of one of the following types or a combination thereof:

(a) As a construction inspector of real properties for the purpose of determining compliance with construction requirements established by law;

(b) As a construction engineer;

(c) As an architect;

(d) As a superintendent of construction in large housing developments;

(e) As a builder of residential or commercial properties; and/or

(f) In other capacities of a like nature in which the applicant has demonstrated an ability to perform the duties of a compliance inspector.

(2) A written test and a performance test will be given the applicant in order to evaluate the applicant's capabilities. The written test will be prepared by the station and will test the applicant's knowledge of construction techniques and terminology. The performance test may be a demonstration inspection on VA Form 26-1839, Compliance Inspection Report. The station may waive the written test in cases in which it is determined that the applicant possesses the desired knowledge. Completion of the demonstration inspection, however, will not be waived. Prior to the performance test, the applicant will be furnished with instructional and procedural material necessary to complete the inspection.

5. *Application Processing.* a. One of the following application forms will be used when applying for designation as a VA fee appraiser or compliance inspector:

(1) VA Form 26-6681, Application for Designation as Fee Appraiser;

(2) VA Form 26-6681a, Application for Designation as Mobile Home Appraiser; or

(3) VA Form 26-6683, Application for Designation as Compliance Inspector.

b. In addition to one of the application forms listed above, each applicant must submit VA Form 26-6684, Statement of Fee Appraiser and Compliance Inspector.

c. Upon receipt of an application, the Chief, Construction and Valuation Section, will determine if the basic qualifications have been met.

Applications which meet the basic qualifications, but no vacancy exists, will be placed in a pending file and the applicant informed by letter that all eligible applications will be considered when a vacancy exists. Applicants who do not meet the basic qualifications will be so informed by letter and the application held for 6 months and then destroyed.

d. When the Loan Guaranty Officer determines that a need exists for fee personnel in an area, the committee will review the pending applications and determine the best qualified applicants.

6. *Designation Procedures.* Upon completion of the application processing described above, the Fee Roster Committee will review the application file and recommend the designation or rejection of the applicant to the Director. If the determination is made to

designate, the individual will be notified by letter signed by the station Director. The letter will welcome the person to the fee roster and remind the person of the responsibilities involved. The letter will also point out that the first year on the roster is a probationary period. During this time the individual can be removed from the panel at the discretion of the Director. After the 1-year probationary period has been satisfied, removal must follow the procedure described in paragraph 9.

7. *Personnel and Performance Files.* a. A fee personnel file will be established and maintained for each fee applicant. This file should contain the individual's application, supporting letters of reference and appropriate correspondence concerning appointment and termination actions. (Documents relating to work assignments and internal Loan Guaranty matters will not be filed in the fee personnel folder.) The folders should be filed alphabetically by name in an "active" or "inactive" file. An "active" file for this purpose should contain folders of fee personnel who are on approved rosters, regardless of degree of activity.

b. A separate performance file will be maintained for each individual on a fee roster. The file will contain copies of correspondence relating to the individual's performance, such as field reviews, late notices, letters, etc. Any material in this file more than 2 years old can be destroyed.

Detailed records of errors, delays in production, incompetence, pertinent interviews, letters of admonishment, and other similar material concerning designated fee appraisers and compliance inspectors shall be maintained to justify and support any action for disqualification.

c. Disposition of folders described above shall be in accordance with Records Control Schedule VB-1, part I.

8. *Private Interests of Fee Appraisers and Compliance Inspectors.* a. Except as may be otherwise expressly authorized by VA regulations, instructions or directives, designated or approved fee appraisers and compliance inspectors shall not engage in any private pursuits in which there may or will be:

(1) Any connection established that may result in a conflict between the private interests of the VA fee appraiser or compliance inspector and his or her duties and responsibilities to VA and veterans.

(2) Any connection established that may tend to bias his or her judgment as a VA fee appraiser or compliance inspector.

(3) Any circumstances in which information obtained from or through a VA assignment to appraise or to make compliance inspections will be used to the detriment of the Government or veterans.

b. The foregoing statement of policy and standards are intended to preclude any fee appraiser or compliance inspector from:

(1) Selling land to a builder or sponsor and then making an appraisal or compliance inspection of dwelling units erected or to be erected thereon which are or will be purchased by veterans with guaranteed, insured or direct loans.

(2) Owning an interest in, being employed by, or operating an architectural, engineering, or land planning firm which renders services to builders or sponsors and later accepting an assignment from VA to appraise or inspect dwelling units built or to be built by a particular builder or sponsor for whom architectural, engineering, or land planning services have been or are being rendered by the firm in which the fee appraiser or compliance inspector has employment or an interest.

(3) Appraising or inspecting dwelling units on VA assignments and later accepting exclusive selling rights for the homes.

(4) Appraising or inspecting properties for builders or sponsors who are purchasing hazard insurance or title service with respect to those properties from a company in which the fee appraiser or compliance inspector has an interest.

(5) Owning an interest in a project development by a builder and accepting VA assignments in another VA regional area in respect to dwelling units which the same builder owns, is building, or is handling as a real estate broker.

(6) Having an interest in or representing building supply firms and accepting VA assignments on dwelling units built or to be built by builders or sponsors who deal extensively with such supply firms.

(7) Accepting a VA assignment to appraise a property if his or her fee is contingent upon supporting a predetermined conclusion.

c. The foregoing examples do not include all possible situations in which the private interests or pursuits of fee appraisers and compliance inspectors would contravene VA standards. The above specific examples are supplied only to illustrate some of the activities prescribed by the standards.

d. It is not intended that the provision of subparagraph b(3) above will forever preclude a fee appraiser or compliance inspector from acting as sales agent or

broker in connection with a particular property which he or she has appraised or inspected. Those provisions mean that he or she may not accept exclusive selling rights for the sale of a property to a veteran financed with a VA loan when in the particular sale the appraisal is or has been used in establishing reasonable value or any compliance inspection made is or has been used in determining that onsite improvements were completed in accordance with approved plans and specifications and minimum property requirements. The rule in subparagraph b(3) does not apply when he or she accepts a listing or acts as a broker if the purchaser obtains non-VA financing or if any appraisal or inspection made by him or her pursuant to a VA assignment is not used in a transaction involving VA financing. Furthermore, the rule does not apply to the sale of a property by a veteran-obligor under terms whereby the transferee assumes an outstanding guaranteed, insured or direct loan.

e. The information contained in subparagraph a above shall be made available to all fee appraisers and compliance inspectors in connection with the execution of VA Form 26-6684. Upon initial designation and at intervals of not less than each 12 calendar months, each fee appraiser and compliance inspector will be required to complete and return such statement to the appropriate regional office.

f. When it is disclosed that a fee appraiser or a compliance inspector has any private pursuits or interests, such disclosure shall be carefully evaluated and investigated, if such action is deemed necessary. If any private pursuit or interest disclosed conflicts with VA standards, the particular fee appraiser or compliance inspector shall be promptly informed and immediate appropriate action taken; e.g., withdrawing pending assignments or withholding further assignments. In any case in which evidence is obtained indicating a contravention of VA standards, it will be determined whether or not the facts warrant removal of the appraiser or compliance inspector. If so, removal action shall be initiated as quickly as possible.

9. *Disciplinary Actions.* a. Assignments for a period up to 2 months' duration may be withheld by the Chief, Construction and Valuation Section for cause. Notice of such action will be given in writing to the individual and will specify the reasons for the action. The fee person will be notified that written appeal from the action can be made to the Fee Roster Committee. Appeals must be accompanied by

specific evidence showing the action by VA was not justified. Assignments will not be made during the appeal process. The Fee Roster Committee must consider the appeal within 2 weeks, make its determination as to whether the action should be sustained, modified or rescinded and notify the individual in writing.

b. Permanent removal of fee personnel may be made by the Fee Roster Committee for cause. The individual will be notified in writing of the action and will be given the reason(s) which formed the basis for the action. The individual will also be advised that if he/she believes the action is not warranted, he/she may ask to appear before the Fee Roster Committee and present evidence to show the action was not warranted or may submit such evidence in writing or both. If an appearance before the Committee is requested, the Loan Guaranty Officer will arrange for a mutually acceptable time and place. The proceedings of the Committee will be informal. Within 2 weeks from completion of the hearing and/or receipt of the written material, the Committee will make its determination as to whether the action should be sustained, modified or rescinded. Written notice of its determination will be given to the individual promptly. Such notice must include a statement that if the individual still believes the action was not warranted, he/she may, within 30 days, submit a written request to the Station Director for review and reconsideration of the action.

c. Upon receipt by the Station Director of an appeal, all relevant material concerning the matter will be furnished to the Director by the Fee Roster Committee. The Director will review the entire matter and notify the individual and the Committee of his/her decision as to whether the decision of the Committee is sustained, modified or rescinded.

d. If removal action is taken, Central Office (262) will be notified.

10. When fee personnel are removed from rosters for reasons other than cause; i.e., voluntary resignation, death, unavailability for assignments, etc., the reasons will be recorded in the individual's fee personnel folder. This folder will then be placed in the "inactive file" (see par. 7a). No report to Central Office is necessary in such cases.

11. Rescission: DVB Circular 25-66-6.

Dorothy L. Starbuck,
Chief Benefits Director.

[FR Doc. 79-25844 Filed 8-20-79; 8:45 am]

BILLING CODE 8320-01-M

National Memorial Cemetery of the Pacific, Honolulu, Hawaii; Availability of Draft Environmental Impact Statement

Notice is hereby given that a document entitled "Draft Environmental Impact Statement for the National Memorial Cemetery of the Pacific, Honolulu, Hawaii," dated July 1979, has been prepared as required by the National Environmental Policy Act of 1969.

The preferred course of action is to develop the existing National Cemetery as conceptually delineated in a master plan study prepared by a local consultant. Elements of this conceptual master plan include: an administrative/visitor center and parking facility; mausoleum/columbarium facilities; expanded service facility; and site improvements at the Punchbowl Overlook. There are several additional minor projects, but the above listing is the most significant.

The Draft Statement discusses the potential environmental impact of the master plan for the existing National Cemetery as identified above and the impact of the alternatives to this action. The document is being placed for public examination in the Veterans Administration office in Washington, D.C. Persons wishing to examine this report or to request a copy can do so at the following office: Mr. Willard Sittler, Director, Office of Environmental Affairs (004A) Room 1018, Veterans Administration, 810 Vermont Avenue, N.W., Washington, D.C. 20420.

Dated: August 14, 1979.

Maury S. Crallé, Jr.,

Assistant Deputy Administrator for Financial Management and Construction.

[FR Doc. 79-25839 Filed 8-20-79; 8:45 am]

BILLING CODE 8320-01-M

Procedures for Adjudication of Ionizing Radiation Claims

AGENCY: Veterans Administration.

ACTION: Issuance of Program Guide.

SUMMARY: The Veterans Administration is issuing a program guide for use by the various regional offices in the development and disposition of claims of veterans alleging exposure to ionizing radiation during service while

participating in atmospheric testing of nuclear weapons.

This program guide is intended as informational rather than directive to apprise all adjudication personnel of the background of the atmospheric nuclear testing program, the health effects upon veterans resulting from radiation generated by those tests, the types of diseases associated with radiation exposure, and assumptions with respect to low levels of radiation exposure. These guidelines are expected to lead to improvement in the adjudication of claims of veterans from alleged exposure to ionizing radiation resulting from their participation in atmospheric nuclear tests.

FOR FURTHER INFORMATION CONTACT:
Robert C. Macomber (211C) 202-389-2635.

SUPPLEMENTAL INFORMATION: Program guides are nondirective and non-rule or policy making. They are superseded by instructions, technical bulletins, or other non-rule making issues which may be at variance on the same subject matter.

Approval: August 15, 1979.

Maury S. Crallé, Jr.,

Assistant Deputy Administrator for Financial Management and Construction

Rating Practices and Procedures; Disability; Ionizing Radiation Exposure

1. *Claims Alleging Disabilities Attributed to Exposure to Ionizing Radiation.* For some time, claims have been received in which it is alleged that disabilities have resulted from veterans' exposure to ionizing radiation during service through their participation in atmospheric testing of nuclear devices.

Some 225,000 U.S. military personnel participated in the atmospheric testing of nuclear weapons in Nevada and the South Pacific between 1945 and 1962. Since the Atmospheric Test Ban Treaty of 1963, all U.S. tests have been underground.

This testing and the resultant health hazard are the subjects of a recent comprehensive study by representatives of several executive agencies, including the VA, HEW, DoD, DoE, DoL, EPA and NRC. The findings are contained in the "Report of the Interagency Task Force on the Health Effects of Ionizing Radiation," June 1979. The Interagency Task Force (hereafter referred to as "ITF") reported that an estimated 43% of the test participants received no exposure to ionizing radiation as a result of their participation; 87% received less than 1 rem of external radiation; 97% less than 3 rem, and over 99% less than 5 rem. It should be pointed out that these estimates are based upon

external film badge readings of participants. These dosimetry badges measured gamma and neutron radiation; they do not reflect what, if any, amounts of alpha-emitter material ingestion occurred through inhalation.

2. Health Effects of Ionizing Radiation.

a. *Acute Somatic Effects.* Individuals exposed to high levels and rates of ionizing radiation may experience acute somatic effects within days or weeks after exposure. The ITF reported that single, whole-body doses of over 100 rem can effect bone marrow cells and cells lining the intestinal tract, causing some effects as anemia, hemorrhage, infections, nausea and diarrhea. High doses were also said to cause neural cell and chromosome damage.

b. *Late Somatic Effects.* There is little empirical data on the long-term effects of the exposure of humans to ionizing radiation at the low levels experienced by the vast majority of those military personnel exposed during atomic testing. As pointed out by the ITF, current estimates of the health effects are largely based upon the studies of the survivors of the bombings of Hiroshima and Nagasaki, which involved single doses at very high rates. The ITF reported that the diseases which these studies have to date most firmly associated with radiation exposure are: leukemia, lymphomas (including multiple myelomas), thyroid cancer, female breast cancer, esophageal cancer, stomach cancer, urinary organ cancer, lung cancer.

The ITF acknowledged that ongoing and proposed research will permit a more definitive listing of late somatic effects of low-level ionizing radiation.

There are no distinguishable pathological features of the cancers induced by radiation from which they may be differentiated from cancers due to "natural" factors. It is thus impossible to say with certainty whether such a disease would have occurred regardless of the radiation exposure.

In the absence of acceptable hard data on the latent effects of low level radiation, the ITF reports, it has been necessary to assume that there is a directly proportional or "linear" relationship between the risks of high and low doses. This theory assumes as well that there is no threshold level of exposure below which radiation will not have any potentially carcinogenic effect. These assumptions have been criticized as both underestimating and overestimating the potential hazard of low-dose exposure, although it would appear that they currently offer the most rational basis for projecting this risk.

The Work Group on Care and Benefits of the ITF reported a "natural" incidence of fatal cancer of 1,600 in any population of 10,000. They provided the estimate of one additional death for each additional rem to which the entire group was exposed; for example, if all in a group of 10,000 were exposed to one rem in addition to naturally occurring background radiation, there would be only one fatal cancer beyond the 1,600 otherwise expected. Even assuming that such a projection underestimates the risk by a factor as much as 10, the realm of probabilities vis-a-vis the atomic test participants is placed in some perspective.

c. *Genetic Effects.* While animal experimentation has shown gene mutations as a result of exposure to ionizing radiation, the ITF reports that the study of the human survivors of the Japanese bombings has to date produced no evidence of increased genetic defects in offspring.

3. *Development of Evidence.* Claims for disabilities based upon such exposure pose unique development problems for claimants and special assistance should be extended to them. Paragraph 22.05.1 of M21-1 provides for Central Office coordination of the search of Government records for exposure data, and lists the identifying information necessary for these special searches to ensue.

4. *Adjudication of Claims—Reasonable Doubt.* The problems inherent in the adjudication of claims in which there are allegations of late somatic effects of radiation are many. The records obtained may not conclusively place an individual at a test site or elsewhere, or document with certainty the dosage of exposure in a given claim. The resolution of reasonable doubt in a claimant's favor requires that, at a minimum, veterans be presumed to have been present at a test or series of tests as claimed unless the service department conclusively places them elsewhere at the time in question. Also, when an individual dosimetry reading for a claimant is not available but the service department is able to supply or estimate a range of exposure for the claimant's organizational unit, exposure at the upper limit of the range can be conceded.

The many remaining unknowns concerning the carcinogenic effects of low-level radiation make such determinations especially perplexing. It should presently be assumed, however, that there is no level of exposure below which some risk does not attach, and that the probability of radiation-induced disease increases with the intensity and

duration of exposure. That is not to say that dosage should be the sole, or even controlling, criterion. Consideration should be given to such factors as the estimated date of onset of the disease in relation to the dates of exposure, and where available, to such post service personal and occupational histories as cigarette smoking (in lung cancer cases) and significant contact with other known carcinogens (such as benzene in leukemia cases).

Where the evidence in its entirety creates a reasonable doubt as distinguished from speculation or remote possibility, such doubt should be resolved in favor of service connection. Additionally, there should be no hesitancy in submitting claims based on malignancies to Central Office (212) for advisory opinions.

5. *Copies of Rating Sheets Furnished to Compensation and Pension Service.* The copies of rating sheets furnished in accordance with M21-1, paragraph 49.06a(6)(a), should contain the dates and branch of service; serial number; name, date and location of all A-tests attended; the military unit to which assigned at time of test; duty assignment at test; dosimetry reading or amount of radiation exposure, if known; and any other identifying information which would assist in any further search for information.

[FR Doc. 79-25843 Filed 8-20-79; 8:45 am]

BILLING CODE 8320-01-M

INTERSTATE COMMERCE COMMISSION

[Volume No. 98]

Permanent Authority Decisions; Decision-Notice

Correction

In FR Doc. 79-21420 appearing on page 40581 in the issue of Wednesday, July 11, 1979 make the following change.

On page 40584, in the third column, the sixth line of paragraph "MC 116132 (Sub-6F)" should have read "applicant). To operate as a contract."

[Permanent Authority Decisions Volume No. 118]

Permanent Authority Application; Decision-Notice

Correction

In FR Doc. 79-23518 appearing at page 45014 in the issue for Tuesday, July 31, 1979, make the following corrections:

(1) On page 45017, in the first column, in the paragraph "MC 115162 (Sub-77F)",

change "(Sub-77F)" to read "(Sub-477F)".

(2) Also on page 45017, in the first column, in the paragraph for "MC 115322 (Sub-70F)," change "(Sub-70F)" to read "(Sub-170F)".

Permanent Authority Decisions Volume No. 133

Permanent Authority Applications; Decision-Notice

Decided: August 2, 1979.

The following applications, filed on or after March 1, 1979, are governed by Special Rule 247 of the Commission's *Rules of Practice* (49 CFR § 1100.247). These rules provide, among other things, that a petition for intervention, either in support of or in opposition to the granting of an application, must be filed with the Commission within 30 days after the date notice of the application is published in the *Federal Register*.

Protests (such as were allowed to filings prior to March 1, 1979) will be rejected. A petition for intervention without leave must comply with Rule 247(k) which requires petitioner to demonstrate that it (1) holds operating authority permitting performance of any of the service which the applicant seeks authority to perform, (2) has the necessary equipment and facilities for performing that service, and (3) has performed service within the scope of the application either (a) for those supporting the application, or, (b) where the service is not limited to the facilities of particular shippers, from and to, or between, any of the involved points.

Persons unable to intervene under Rule 247(k) may file a petition for leave to intervene under Rule 247(l) setting forth the specific grounds upon which it is made, including a detailed statement of petitioner's interest, the particular facts, matters, and things relied upon, including the extent, if any, to which petitioner (a) has solicited the traffic or business of those supporting the application, or, (b) where the identity of those supporting the application is not included in the published application notice, has solicited traffic or business identical to any part of that sought by applicant within the affected marketplace the extent to which petitioner's interest will be represented by other parties, the extent to which petitioner's participation may reasonably be expected to assist in the development of a sound record, and the extent to which participation by the petitioner would broaden the issues or delay the proceeding.

Petitions not in reasonable compliance with the requirements of the rules may be rejected. An original and one copy of the petition to intervene shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named.

Section 247(f) provides, in part, that an applicant which does not intend to timely prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

If an applicant has introduced rates as an issue it is noted. Upon request, an applicant must provide a copy of the tentative rate schedule to any protestant.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication.*

Any authority granted may reflect administrative acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each common carrier applicant has demonstrated that its proposed service is required by the present and future public convenience and necessity, and that each contract carrier applicant qualifies as a contract carrier and its proposed contract carrier service will be consistent with the public interest and the transportation policy of 49 U.S.C. § 10101. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where specifically noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a petitioner, that the proposed dual operations are consistent with the public interest and

the transportation policy of 49 U.S.C. § 10101 subject to the right of the Commission, which is expressly reserved, to impose such terms, conditions or limitations as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. 10930(a) [formerly section 210 of the Interstate Commerce Act].

In the absence of legally sufficient petitions for intervention, filed within 30 days of publication of this decision-notice (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of the decision-notice. To the extent that the authority sought below may duplicate an applicant's other authority, such duplication shall be construed as conferring only a single operating right.

Applicants must comply with all specific conditions set forth in the grant or grants of authority within 90 days after the service of the notification of the effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

By the Commission, Review Board Number 3, Members Parker, Fortier, and Hill.
Agatha L. Mergenovich,
Secretary.

MC 1427 (Sub-5F), filed March 19, 1979. Applicant: NEW MEXICO TRANSPORTATION COMPANY, INC., 515 North Main St., P.O. Box 1494, Roswell, NM 88201. Representative: W. L. McCracken, Greyhound Tower, Phoenix, AZ 85077. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting passengers and their baggage, in the same vehicle with passengers, in special one-way and round-trip operations, from points in Castro, Deaf Smith, El Paso, Farmer, Potter, Randall, and Reeves Counties, TX, and Bernalillo, Chaves, Curry, De Baca, Dona Ana, Eddy, Guadalupe, Lincoln, Otero, Quay, Roosevelt, San Miguel, Santa Fe, and Torrance Counties, NM, to points in the United States, including AK, but excluding HI. (Hearing site: Roswell or Albuquerque, NM.)

MC 5227 (Sub-48F), filed March 26, 1979. Applicant: ECKLEY TRUCKING, INC., P.O. Box 201, Mead, NE 68041. Representative: A. J. Swanson, 521 S. 14th St., P.O. Box 81849, Lincoln, NE 68501. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes,

transporting iron and steel articles, from the facilities of Northwestern Steel & Wire Co., at Sterling and Rock Falls, IL, to points in IA, NE, MN, CO, KS, MO, AR, IN, MI, WI, WY, UT, MT, ID, NV, CA, OR, WA, TX, OK, NM, AZ, ND, and SD. (Hearing site: Sterling, IL, or Omaha, NE.)

MC 8457 (Sub-10F), filed March 28, 1979. Applicant: MILWAUKEE TRANSFER & FUEL CO., a Corporation, P.O. Box 522, Clackamas, OR 97015. Representative: Larry Smart, 419 N.W. 23rd, Portland, OR 97210. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting iron and steel articles, between points in CA, OR, WA, and ID. (Hearing site: Portland, OR, or Vancouver, WA.)

MC 11207 (Sub-471F), filed March 21, 1979. Applicant: DEATON, INC., Avenue 317 W, P.O. Box 938, Birmingham, AL 35201. Representative: Kim D. Mann, Suite 1010, 7101 Wisconsin Avenue, Washington, DC 20014. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting construction materials, and materials and supplies used in the manufacture and distribution of construction materials, (except commodities in bulk), between the facilities of The Celotex Corporation at or near Russellville, AL, on the one hand, and, on the other, points in AR, FL, GA, KY, LA, MS, NC, SC, and TN. (Hearing site: Birmingham, AL, or Tampa, FL.)

MC 11207 (Sub-472F), filed March 21, 1979. Applicant: DEATON, INC., Avenue 317 W, P.O. Box 938, Birmingham, AL 35201. Representative: Kim D. Mann, Suite 1010, 7101 Wisconsin Avenue, Washington, DC 20014. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting metal articles, from the facilities of O'Neal Steel, Inc., at or near Birmingham and Mobile, AL, Little Rock, AR, Jacksonville and Tampa, FL, Atlanta, GA, Lafayette, Monroe, and Shreveport, LA, Jackson, MN, and Chattanooga and Knoxville, TN, on the one hand, and, on the other points in AL, AR, FL, GA, KY, LA, MD, MS, MO, NC, OK, SC, TN, TX, VA, and WV. (Hearing site: Birmingham, AL, or Washington, DC.)

MC 26396 (Sub-237F), filed March 14, 1979. Applicant: POPELKA TRUCKING CO., d.b.a. THE WAGGONERS, P.O. Box 990, Livingston, MT 59047. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over

irregular routes, transporting fireplace logs, from the facilities of Northwest Forest Fuels, Inc., at or near Livingston, MT, to (1) points in AZ, CA, CO, FL, ID, IL, IA, IN, KS, MD, MO, MN, NE, NM, NY, ND, OH, OR, WA, WI and WY, and (2) to ports of entry on the International boundary line between the United States and Canada located in MT. (Hearing site: Billings, MT.)

MC 33037 (Sub-22F), filed March 23, 1979. Applicant: STUDER TRUCK LINE, INC., Beattie, KS 66406. Representative: John E. Jandera, 641 Harrison St., Topeka, KS 66603. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting fertilizer, in bulk and in bags, from the facilities of Farmland Industries, Inc., at or near Lawrence, KS, to points in CO, IL, KY, ND, OK, SD, TX, WI, and WY. (Hearing site: Kansas City, MO.)

MC 41118 (Sub-58F), filed March 23, 1979. Applicant: FOGLEMAN TRUCK LINE, INC., P.O. Box 1504, Crowley, LA 70528. Representative: Austin L. Hatchell, 801 Vaughn Bldg., Austin, TX 78701. To operate as a contract carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) paper and paper articles, plastics, plastic products, and chemicals, (except commodities in bulk), and (2) materials, equipment, and supplies used in the manufacture or distribution of the commodities named in (1), (except commodities in bulk), between points in the United States (except AK and HI), under continuing contract(s) with Union Camp Corporation, of Wayne, NJ. (Hearing site: Baton Rouge or New Orleans, LA.)

Note.—Dual operations may be involved.

MC 41406 (Sub-134F), filed March 21, 1979. Applicant: ARTIM TRANSPORTATION SYSTEM, INC., 7105 Kennedy Avenue, Hammond, IN 46323. Representative: Wade H. Bourdon (same address as applicant). To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting iron and steel articles, between Solon, OH, on the one hand, and, on the other, points in AR, FL, KY, NJ, RI, TN and TX. (Hearing site: Columbus, OH.)

MC 41406 (Sub-135F), filed March 21, 1979. Applicant: ARTIM TRANSPORTATION SYSTEM, INC., 7105 Kennedy Avenue, Hammond, IN 46323. Representative: Wade H. Bourdon (same address as applicant). To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting aluminum, zinc and lead articles, between the

facilities of U.S. Reduction Co. at Toledo, OH, Alton and Madison, IL, Gary, Hammond, and East Chicago, IN, Marietta, PA, and Russellville and Anniston, AL, on the one hand, and, on the other, those points in the United States in and east of ND, SD, NE, KS, OK and OK. (Hearing site: Chicago, IL.)

MC 43867 (Sub-45F), filed March 28, 1979. Applicant: A. L. McALLISTER TRUCKING COMPANY, P.O. Box 2114, Wichita Falls, TX 76307. Representative: John T. Wirth, 717 17th St., Suite 2000, Denver, CO 80202. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) iron and steel articles and pipe, from the facilities of Ft. Worth Pipe & Supply company at or near Conroe, TX, to points in the United States, including AK but excluding HI, and, (2) materials, equipment and supplies used in the manufacture and distribution of the commodities described in (1) above, in the reverse direction. (Hearing site: Dallas, TX.)

MC 52437 (Sub-4F), filed March 28, 1979. Applicant: SHIPPERS SERVICE EXPRESS, INC., 7200 Fly Rd., P.O. Box 207, East Syracuse, NY 13057. Representative: Herbert M. Canter, 305 Montgomery St., Syracuse, NY 13202. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting sugar, from Boston, MA, to those points in NY north of Sullivan, Ulster, and Dutchess Counties. (Hearing site: Boston, MA, or Syracuse, NY.)

MC 52727 (Sub-3F), filed March 22, 1979. Applicant: RAY BELLEW, INC., 7810 Alameda-Genoa Rd., Houston, TX 77034. Representative: Joe G. Fender, 711 Louisiana, Suite 1150, Houston, TX 77002. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting iron and steel articles, pipe, concrete beams, and concrete piling, between points in TX, on the one hand, and, on the other, points in LA, AR, OK, and NM. (Hearing site: Houston or Dallas, TX.)

MC 59367 (Sub-140F), filed March 23, 1979. Applicant: DECKER TRUCK LINE, INC., P.O. Box 915, Fort Dodge, IA 50501. Representative: William L. Fairbank, 1980 Financial Center, Des Moines, IA 50309. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting foodstuffs (except frozen foodstuffs and commodities in bulk), from the facilities of Del Monte Corporation, at De Kalb, Mendota, and

Rochelle, IL, to points in IA and NE. (Hearing site: Chicago, IL.)

MC 63417 (Sub-199F), filed March 28, 1979. Applicant: BLUE RIDGE TRANSFER COMPANY, INCORPORATED, P.O. Box 13447, Roanoke, VA 24034. Representative: William E. Bain (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *water heaters, hydropneumatic tanks, and parts of and accessories for water heaters and hydropneumatic tanks*, (except commodities which because of size or weight require the use of special equipment), from Chicago, IL, to points in AL, DE, FL, GA, IN, KY, MD, MI, MS, NJ, NY, NC, OH, PA, SC, TN, VA, WV, and DC. (Hearing site: Roanoke, VA, or Chicago, IL.)

MC 71296 (Sub-3F), filed March 27, 1979. Applicant: FORT TRANSPORTATION & SERVICE CO., INC., 1600 Janesville Ave., Fort Atkinson, WI 53538. Representative: Michael J. Wyngaard, 150 E. Gilman St., Madison, WI 53703. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Edgerton, WI, and Milton, WI, over WI Hwy 59, serving all intermediate points, and (2) between Milton, WI, and Fort Atkinson, WI, over WI Hwy 26, serving all intermediate points. (Hearing site: Madison or Milwaukee, WI.)

Note.—Applicant intends to tack this authority to others.

MC 98776 (Sub-6F), filed March 28, 1979. Applicant: ELDRIDGE TRUCK LINE, INC., P.O. Box 659, Somerset, KY 42501. Representative: Robert H. Kinker, 314 West Main Street, P.O. Box 464, Frankfort, KY 40602. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment) from Louisville, KY, over Interstate Hwy I-64 to junction Interstate Hwy I-75 north of Lexington, then over Interstate Hwy I-75 to access roads to Lexington, KY and return over the same route, serving no intermediate points as an alternate route

for operating convenience only. (Hearing site: Lexington, KY.)

Note.—Applicant states it will tack with its existing regular route authority in MC 98776 at Lexington, KY.

MC 100666 (Sub-450F), filed March 22, 1979. Applicant: MELTON TRUCK LINES, INC., P.O. Box 7666, Shreveport, LA 71107. Representative: Wilburn L. Williamson, Suite 615-East, The Oil Center, 2601 Northwest Expressway, Oklahoma City, OK 73112. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *paper and paper products*, from the facilities of The Alton Box Board Company at or near Jacksonville, Wilson, Statesville and Hendersonville, NC, Cedartown and Rossville, GA, and Jacksonville and Miami, FL, to points in AR, IL, IN, LA, MI, OH, OK, TX and WI. (Hearing site: Chicago, IL.)

MC 100666 (Sub-451F), filed March 23, 1979. Applicant: MELTON TRUCK LINES, INC., P.O. Box 7666, Shreveport, LA 71107. Representative: Wilburn L. Williamson, Suite 615-East, The Oil Center, 2601 Northwest Expressway, Oklahoma City, OK 73112. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *paper and paper articles* from the facilities of South Carolina Industries, Inc., at or near Florence, SC, to points in IL, IN, KY, MI, MN, OH, and WI. (Hearing site: Charleston, SC.)

MC 105007 (Sub-59F), filed March 22, 1979. Applicant: MATSON TRUCK LINES, INC., 1407 St. John Avenue, Albert Lea, MN 56007. Representative: Val M. Higgins, 1000 First National Bank Bldg., Minneapolis, MN 55402. To operate as a *common carrier*, by motor vehicle in interstate or foreign commerce, over irregular routes, transporting *meats, meat products, meat by-products and articles distributed by meat packing houses* as described in Sections A and C of Appendix 1 to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (except hides and commodities in bulk), from the facilities of Geo. A. Hormel & Co., at Ottumwa, IA, to points in KY, MI, OH, PA and WV. (Hearing site: Minneapolis-St. Paul, MN.)

MC 105016 (Sub-11F), filed March 25, 1979. Applicant: PELLISSIER TRUCKING, INC., 1002 Hostetter, P.O. Box 192, The Dalles, OR 97058. Representative: Russell M. Allen, 1200 Jackson Tower, Portland, OR 97205. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes,

transporting *lumber and wood products*, (1) between those points in WA east of the summit of the Cascade Range, on the one hand, and, on the other, points in OR, and (2) between those points in OR east of the summit of the Cascade Range, on the one hand, and, on the other, points in WA. (Hearing site: Portland or The Dalles, OR.)

MC 106207 (Sub-15F), filed February 16, 1979. Applicant: NEW YORK-KEASNBURG-LONG BRANCH BUS CO., INC., 50 State Highway, Leonardo, NJ 07737. Representative: Sidney J. Leshin, 575 Madison Avenue, New York, NY 10022. To operate as a *common carrier*, by motor vehicle in interstate or foreign commerce, over irregular routes, transporting *passengers and their baggage*, between Point Pleasant, NJ and the World Trade Center, New York, NY: From Point Pleasant, NJ, at Atlantic Avenue to Highway 35, over Highway 35 to Highway 71, over Highway 71 to Washington Boulevard, in Sea Girt, NJ, over Washington Blvd. to the Crescent to First Ave., over First Avenue to Lake Avenue in Spring Lake, NJ, over Lake Ave. to Third Ave., over Third Ave. to Ludlow Ave. over Ludlow Ave. to Allaire Rd., to the intersection of Highway 34, over Highway 34 to the interchange 98 on the Garden State Parkway, over the Garden State Parkway to the New Jersey Turnpike, over the New Jersey Turnpike to the Pulaski Skyway, over the Pulaski Skyway to the Holland Tunnel across the Hudson River to the Borough of Manhattan, NY, NY., and return over the same route. Service is authorized to and from all intermediate points. (Hearing site: New York, NY or Newark, NJ.)

MC 106707 (Sub-17F), filed March 23, 1979. Applicant: ADAMS TRUCKING INC., 1711 West Second St., Webster City, IA 50595. Representative: Ronald D. Adams (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *iron and steel articles*, from Chicago, IL, to points in IA and those in IL on and north of U.S. Hwy 136, restricted to the transportation of traffic originating at the facilities of J & L Steel Company, at or near Chicago, IL, and destined to the indicated destinations. (Hearing site: Chicago, IL, or Washington, DC.)

MC 107107 (Sub-475F), filed March 13, 1979. Applicant: ALTERMAN TRANSPORT LINES, INC., 12805 NW, 42nd Ave. Opa Locka, FL 33054. Representative: Ford W. Sewell (same address as applicant). To operate as a *common carrier*, by motor vehicle, in

interstate or foreign commerce, over irregular routes, transporting (1) *such merchandise* as is dealt in by wholesale, retail and chain grocery and food business houses, and (2) supplies and industrial products (except in bulk, in tank vehicles), from points in Clayton, Cobb, DeKalb, Fulton and Gwinnett Counties, GA, to points in FL. (Hearing site: Miami, FL.)

MC 107496 (Sub-1204F), filed March 23, 1979. Applicant: RUAN TRANSPORT CORPORATION, 666 Grand Ave., Des Moines, IA 50309. Representative: E. Check, P.O. Box 855, Des Moines, IA 50304. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *chemicals*, in bulk, between the facilities of Wausau Chemical Corporation, at points in MI and WI, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Des Moines, IA, or Chicago, IL.)

MC 107496 (Sub-120F), filed March 23, 1979. Applicant: RUAN TRANSPORT CORPORATION, 666 Grand Ave., Des Moines, IA 50309. Representative: E. Check, P.O. Box 855, Des Moines, IA 50304. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1)(a) *animal fats, animal oils, and vegetable oils*, in bulk, and (b) *blends and products of the commodities named in (1)(a)*, in bulk, from Champaign, IL, to points in IN, KY, MI, OH, and WI; and (2) *weed killing compounds*, in bulk, in tank vehicles, from Lafayette, IN, to points in SD, AR, and LA. (Hearing site: Memphis, TN, or Des Moines, IA.)

MC 109397 (Sub-447F), filed March 21, 1979. Applicant: TRI-STATE MOTOR TRANSIT CO., a corporation, P.O. Box 113, Joplin, MO 64801. Representative: A. N. Jacobs (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *refined copper*, from Garfield, UT, and Hurley, NM, to points in the United States (except AK and HI), and (2) *materials, equipment, and supplies* used in the mining and manufacture of refined copper, in the reverse direction. (Hearing site: Salt Lake City, UT.)

MC 109397 (Sub-448F), filed March 21, 1979. Applicant: TRI-STATE MOTOR TRANSIT CO., a corporation, P.O. Box 113, Joplin, MO 64801. Representative: A. N. Jacobs (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes,

transporting (1)(a) *commodities* the transportation of which because of size or weight requires the use of special equipment or special handling, and (b) *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), in mixed loads with the commodities named in (1)(a) above, (2)(a) *self-propelled articles*, on trailers, and (b) *machinery, tools, parts, and supplies* for the commodities named in (2)(a) above, from the facilities of Riley Beaird, Inc., at or near Shreveport, LA, to points in the United States (except AK and HI), and (3) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities named in (1) and (2) above, (except commodities in bulk), in the reverse direction. (Hearing site: Dallas, TX.)

MC 109397 (Sub-450F), filed March 26, 1979. Applicant: TRI-STATE MOTOR TRANSIT CO., a Corporation, P.O. Box 113, Joplin, MO 64801. Representative: A. N. Jacobs (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *heating and melting equipment, and electrical transformers*, (2) *parts of and accessories for the commodities named in (1)*, and (3) *such commodities as are used in the installation of the commodities named in (1)*, between points in Madison County, KY, on the one hand, and, on the other, points in the United States (except AK, HI, and KY). (Hearing site: Louisville, KY.)

MC 115056 (Sub-21F), filed March 26, 1979. Applicant: LANE TRUCK LINES, INC., 120 Newby Court, Rocky Mount, NC 27801. Representative: Thomas L. Young, 131 North Church Street, Rocky Mount, NC 27801. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *wooden fencing and fencing materials*, from points in Halifax County, NC, to points in CT, DE, FL, GA, MA, MD, NJ, NY, OH, PA, SC, VA, WV. (Hearing site: Raleigh, NC.)

MC 115826 (Sub-430F), filed March 26, 1979. Applicant: W. J. DIGBY, INC., 6015 E. 58th Ave., Commerce City, CO 80022. Representative: Howard Gore (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products, meat byproducts, articles distributed by meat-packing*

houses, and such commodities as are used by meat packers in the conduct of their business when destined to and for use by meat packers, as described in Sections A, C, and D of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk, in tank vehicles), between the facilities of Lauridsen Foods, Inc., at or near Britt, IA, on the one hand, and, on the other, points in the United States (except AK and HI), restricted to the transportation of traffic originating at or destined to the facilities of Lauridsen Foods, Inc. (Hearing site: Denver, CO.)

Note.—Dual operations may be involved.

MC 115826 (Sub-438F), filed March 25, 1979. Applicant: W. J. DIGBY, INC., 6015 E. 58th Ave., Commerce City, CO 80022. Representative: Howard Gore (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities as are dealt in by grocery and food business houses* (except commodities in bulk), from points in CA, OR, WA, and ID, to Hutchinson, KS. (Hearing site: Denver, CO.)

MC 117386 (Sub-9F), filed March 23, 1979. Applicant: L. B. TRANSPORT, INC., Buffalo Center, IA 50424. Representative: Kenneth F. Dudley, 611 Church St., P.O. Box 279, Ottumwa, IA 52501. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *lard, grease, and tallow*, in bulk, in tank vehicles, from the facilities of John Morrell & Co., at or near Esterville, IA, to points in IL, IA, MN, MO, NE, and WI. (Hearing site: Chicago, IL, or Kansas City, MO.)

MC 118696 (Sub-22F), filed March 26, 1979. Applicant: FERREE FURNITURE EXPRESS, INC., 252 Wildwood Rd., Hammond, IN 46324. Representative: Carl L. Steiner, 39 S. LaSalle St., Chicago, IL 60603. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *new furniture, clock cases, and parts of furniture*, from the facilities of Smith Cabinet Mfg. Co., at or near Salem, IN, to points in AR and TN. (Hearing site: Indianapolis, IN.)

MC 119656 (Sub-58F), filed March 26, 1979. Applicant: NORTH EXPRESS, INC., 219 Main Street, Winamac, IN 46996. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46420. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes,

transporting *aluminum scrap and aluminum*, between points in AK, AL, IA, IL, IN, KY, LA, MI, MO, MS, and OH, restricted to the transportation of traffic destined to the Schwartz Metal Trading Company facilities at points in the states named above. (Hearing site: Chicago, IL.)

MC 119726 (Sub-158F), filed March 27, 1979. Applicant: N. A. B. TRUCKING CO., INC., 1644 W. Edgewood Ave., Indianapolis, IN 46217. Representative: James L. Beattay, 130 E. Washington St., Suite One Thousand, Indianapolis, IN 46204. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *malt beverages*, in containers, between the facilities of Anheuser-Busch, Inc., at Jacksonville, FL, and La Grange, GA, and Lanett, AL. (Hearing site: Jacksonville, FL.)

MC 121107 (Sub-21F), filed March 27, 1979. Applicant: PITT COUNTY TRANSPORTATION COMPANY, INC., P.O. Box 207, Farmville, NC 27828. Representative: Harry J. Jordan, 1000 18th St., NW., Washington, DC 20036. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *lumber, fiberboard, and particleboard*, and (2) *materials, equipment, and supplies used in the manufacture or distribution of the commodities named in (1)* (except commodities in bulk), between Waverly and Stuart, VA, and Oxford, NC, on the one hand, and, on the other, those points in the United States in an east of MN, IA, MO, AR, and LA. (Hearing site: Raleigh, NC, or Washington, DC.)

MC 121496 (Sub-19F), filed March 23, 1979. Applicant: CANGO CORPORATION, Suite 2900, 1100 Milam Bldg., Houston, TX 77007. Representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 11th St. NW, Washington, DC 20001. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *neutral calcium sulfonate*, in bulk, in tank vehicles, from Gretna, LA, to Port Arthur, TX. (Hearing site: Dallas or Houston, TX.)

MC 121496 (Sub-20F), filed March 21, 1979. Applicant: CANGO CORPORATION, Suite 2900, 1100 Milam Bldg., Houston, TX 77002. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh Street NW., Washington, DC 20001. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *chemicals*, in bulk, from the

facilities of Union Carbide Corporation at or near Taft, St. Charles Parish, LA, to points in TX. (Hearing site: New York, NY.)

MC 123387 (Sub-15F), filed March 21, 1979. Applicant: E. E. HENRY, 1923 Sparrow Road, Chesapeake, VA 23320. Representative: Dwight L. Koerber, Jr., 805 McLachlen Bank Building, 666 Eleventh Street NW., Washington, DC 20001. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *bananas*, and (2) *agricultural commodities* which are otherwise exempt from economic regulation under 49 USC Section 10526(a)(8) (formerly section 203(b)(6) of the Interstate Commerce Act) in mixed loads with bananas, from Norfolk, VA, to points in the United States (except AK and HI). (Hearing site: Norfolk, VA, or Washington, DC.)

MC 123407 (Sub-559F), filed March 27, 1979. Applicant: SAWYER TRANSPORT, INC., Sawyer Center, Rt. 1, Chesterton, IN 46304. Representative: H. E. Miller, Jr. (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *lumber, lumber products, and wood products*, from points in IL, IN, IA, MI, MO, OH, PA and WI, to points in CO, MT, OR, UT, WA and WY. (Hearing site: Boise, ID.)

MC 123916 (Sub-16F), filed March 21, 1979. Applicant: GROVE CITY BUS LINES, INC., P.O. Box 31, Grove City, PA 16127. Representative: S. Harrison Kahn, Suite 733 Investment Bldg. 1511 K St. N.W., Washington, DC 20005. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *passengers and their baggage* in the same vehicle with passengers, in one-way charter operations, from points in Allegheny, Armstrong, Beaver, Butler, Clarion, Crawford, Erie, Forest, Indiana, Jefferson, Lawrence, Mercer, and Venango Counties, PA, to points in the United States, including AK but excluding HI, (2) *passengers and their baggage* in the same vehicle with passengers, in one-way charter operations, in the reverse direction of (1) above; (3) *passengers and their baggage* in the same vehicle with passengers, in special operations, in one-way sight-seeing and pleasure tours, from points in Allegheny, Armstrong, Beaver, Butler, Clarion, Crawford, Erie, Forest, Indiana, Jefferson, Lawrence, Mercer and Venango Counties, PA, to points in the United States, including AK, and (4) *passengers and their baggage* in the

same vehicle with passengers, in special operations, in one-way sight-seeing and pleasure tours, in the reverse direction of (3) above. (Hearing site: Pittsburgh, PA.)

MC 123916 (Sub-17F), filed March 21, 1979. Applicant: GROVE CITY BUS LINES, INC., P.O. Box 31, Grove City, PA 16127. Representative: S. Harrison Kahn, Suite 733 Investment Building, 1511 K Street, N.W., Washington, DC 20005. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *passengers and their baggage*, in the same vehicle with passengers, in round trip charter and special operations, beginning and ending at points in Jefferson and Washington Counties, PA, and Marshall and Ohio Counties, WV, and extending to points in the United States, including AK, but excluding HI, and (2) *passengers and their baggage*, in the same vehicle with passengers, in round trip special operations, and sightseeing and pleasure tours, beginning and ending at points in Allegheny County, PA, and extending to points in the United States, including AK, but excluding HI. (Hearing site: Pittsburgh, PA.)

MC 125777 (Sub-239F), filed March 26, 1979. Applicant: JACK GRAY TRANSPORT, INC., 4600 E. 15th Ave., Gary, IN 46403. Representative: Allan C. Zuckerman, 38 S. LaSalle St., Chicago, IL 60603. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *grinding balls*, in bulk, in dump vehicles, from Greenville, IL, to points in the United States (except AK and HI). (Hearing site: Chicago, IL.)

MC 125777 (Sub-240F), filed March 27, 1979. Applicant: JACK GRAY TRANSPORT, INC., 4600 E. 15th Ave., Gary, IN 46403. Representative: Allan C. Zuckerman, 39 S. LaSalle St., Chicago, IL 60603. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *flue dust, fertilizer compounds, zinc skimmings, manganese ore, slag, and catalyst*, between points in AL, AR, and IA, on the one hand, and, on the other, those points in the United States in and east of ND, SD, NE, CO, OK, and TX. (Hearing site: Chicago, IL.)

MC 125777 (Sub-242F), filed March 26, 1979. Applicant: JACK GRAY TRANSPORT, INC., 4600 E. 15th Ave., Gary, IN 46403. Representative: Allan C. Zuckerman, 39 S. LaSalle St., Chicago, IL 60603. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *lime, limestone, and*

limestone products, in dump vehicles, from the facilities of Marblehead Lime Co., at or near Pleasant Gap, Centre County, PA, to points in CT, DE, IL, IN, KY, ME, MD, MA, MI, NH, NJ, NY, OH, RI, VT, VA, WV, WI and DC. (Hearing site: Chicago, IL.)

MC 125996 (Sub-78F), filed March 27, 1979. Applicant: ROAD RUNNER TRUCKING, INC., P.O. Box 26908, Salt Lake City, UT 84125. Representative: John P. Rhodes, P.O. Box 5000, Waterloo, IA 50704. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *animal feed, animal feed supplements, animal feed additives, and materials and supplies used in the manufacture or distribution of animal feed*, (except commodities in bulk), between the facilities of Kal Kan Foods, Inc., at or near (1) Columbus, OH, and (2) Indianapolis and Terre Haute, IN, and those points in the United States in and west of OH, KY, TN, and AL. (Hearing site: San Francisco, CA.)

Note.—Dual operations may be involved.

MC 126196 (Sub-18F), filed April 2, 1979. Applicant: BLACKHOSKE TRUCK LINE, INC., R. R. 1 Fairmont, MN 56031. Representative: Gene P. Johnson, P.O. Box 2471, Fargo, ND 58108. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *bentonite clay*, from the facilities of American Colloid Co. at points in Phillips County, MT; Butte County, SD; and Big Horn, Crook and Weston Counties, WY, to points in IL, IA, MN, NE and WI, and (2) *foundry sand additives*, from points in Hennepin and Ramsey Counties, MN, to points in IL, IA, KS, MT, MO, NE, ND, SD and WI, restricted in part (1) above against the transportation of bentonite, in bags, to Council Bluffs, IA and Minneapolis, MN. (Hearing site: Minneapolis, MN.)

MC 127187 (Sub-49F), filed March 22, 1979. Applicant: FLOYD DUENOW, INC., 1728 Industrial Park Blvd., Fergus Falls, MN 56537. Representative: James B. Hovland 414 Gate City Bldg., P.O. Box 1680, Fargo, ND 58107. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *agricultural chemicals* (except in bulk, in tank vehicles), from points in MN, to points in MT, ND, and SD. (Hearing site: Fargo, ND.)

MC 129526 (Sub-7F), filed March 12, 1979. Applicant: FACTOR TRUCK SERVICE, INC., 2607 Old Rodgers Road, Bristol, PA 19007. Representative: Robert B. Einhorn, 3220 P.S.F.S. Building, 12 South 12th Street, Philadelphia, PA

19107. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (a) *toys, bicycles, sporting goods, and infant furniture*, from points in ME, NH, VT, MA, RI, CT, NY, NJ, DE, MD, DC, VA, WV, NC, SC, AL, GA, FL, TN, KY, AR, MS, LA, TX, OK, OH, IN, IL, MI, IA, WI, MN and KS, to the facilities of Marand Distributors, Inc. at Philadelphia, PA; (b)(1) *corrugated containers* for agricultural products, from the facilities of Multipack, Inc. at Bristol Township, Bucks County, PA, to points in ME, NH, VT, MA, RI, CT, NY, NJ, DE, MD, VA, WV, NC, SC, GA, TN, FL, OH, IN, IL, MI, WI, KY, MO, AL, MA, LA, AR, IA, MN, and TX, and (2) *materials used in the construction of corrugated containers* for agricultural products, from Meriden, CT, Newark, DE, Baltimore, MD, and Hanover, MD, to the facilities of Multipack, Inc. at Bristol Township, Bucks County, PA; and (c) *fluorescent lighting fixtures and parts and accessories of fluorescent lighting fixtures* from the facilities of Crescent Lighting Corp. and Creslite Products, at Pennsauken, NJ, to points in the United States (except AK and HI); (2) *plastic sheets and extrusions*, from Xenia and Columbus, OH, St. Louis, MO, Washington, IN, Santa Anna and Carson, CA, Fallsington, PA, Sheffield, MA, Dallas, TX, Chicago, IL, Brooklyn, and Long Island City, NY, to the facilities of Crescent Lighting Corp. at Pennsauken, NJ; (3) *fluorescent lamps*, from Lynn, MA, Bucyrus, OH, Fairmont, WV, and Salina, KS, to the facilities of Crescent Lighting Corp., at Pennsauken, NJ; and (4) *glass*, from Rochester, NY to the facilities of Crescent Lighting Corp. at Pennsauken, NJ, and (5) *electrical transformers*, from Chicago, and Danville, IL, Madisonville, KY and Mendenhall, MS, to the facilities of Crescent Lighting Corp. at Pennsauken, NJ. (Hearing site: Philadelphia, PA, or Washington, DC.)

MC 130567F, filed July 11, 1979. Applicant: DOROTHY WALKER, d.b.a. GROUP TRAVEL CLUB, 1600 Concordia Ave., St. Paul, MN 55104. Representative: William E. Fox, 4200 IDS Center, 80 South Eighth St., Minneapolis, MN 55402. To engage in operations, in interstate or foreign commerce, as a *broker*, at St. Paul, MN, in arranging for the transportation, by motor vehicle, of *passengers and their baggage*, in round-trip charter operations, beginning and ending at St. Paul, MN, and extending to points in the United States, including AK and excluding HI. NOTE: Applicant is cautioned that arrangements for charter

parties or groups should be made in conformity with the requirements set forth in *Tauk Tours, Inc., Extension—New York, N.Y.*, 54 M.C.C. 291 (1952). (Hearing site: St. Paul, MN.)

MC 130577F, filed June 25, 1979. Applicant: CLYDE R. INGERSOLL, d.b.a. GENERAL TRAVEL AGENCY, 410 Fifth Ave. West, Hendersonville, NC 28739. Representative: Clyde R. Ingersoll (same address as applicant). To engage in operations, in interstate or foreign commerce, as a *broker*, at Hendersonville, NC, in arranging for the transportation, by motor vehicle, of *passengers and their baggage*, in special and charter operations, between points in the United States, including AK and excluding HI. NOTE: Applicant is cautioned that arrangements for charter parties or groups should be made in conformity with the requirements set forth in *Tauk Tours, Inc., Extension—New York, N.Y.*, 54 M.C.C. 219 (1952). (Hearing site: Asheville or Hendersonville, NC.)

MC 133866 (Sub-3F), filed March 22, 1979. Applicant: EVERETT TRUCKING, INC., Route 3, Box 28, Everett, PA 15537. Representative: Arthur J. Diskin, 806 Frick Bldg., Pittsburgh, PA 15219. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *coal*, from points in Fayette, Westmoreland, and Indiana Counties, PA, to points in Carroll, Washington, and Frederick Counties, MD, and Warren County, VA. (Hearing site: Pittsburgh, PA or Washington, DC.)

MC 134477 (Sub-331F), filed March 21, 1979. Applicant: SCHANNO TRANSPORTATION, INC., 5 West Mendota Road, West St. Paul, MN 55118. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. To operate as a *common carrier*, by motor vehicle in interstate or foreign commerce, over irregular routes, transporting *meats, meat products, meat byproducts, and articles distributed by meat-packing houses* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), between the facilities of Lauridsen Foods, Inc., at or near Britt, IA, on the one hand, and, on the other, those points in the United States in and east of ND, SD, NE, CO, OK and TX, restricted to the transportation of traffic originating at or destined to the facilities of Lauridsen Foods, Inc., at or near Britt, IA. (Hearing site: St. Paul, MN.)

MC 134477 (Sub-332F), filed March 21, 1979. Applicant: SCHANNO

TRANSPORTATION, INC., 5 West Mendota Road, West St. Paul, MN 55118. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs* (except in bulk), from Independence, MO, to points in IL, IN and MI, restricted to the transportation of traffic originating at the facilities of Commercial Distribution Center, Inc., at or near Independence, MO, and destined to the indicated destinations. (Hearing site: St. Paul, MN.)

MC 135197 (Sub-22F), filed March 23, 1979. Applicant: LEESER TRANSPORTATION, INC., Route 3, Palmyra, MO 63461. Representative: Herman W. Huber, 101 E. High St., Jefferson City, MO 65101. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *dry fertilizer*, in bulk, and *liquid fertilizer solutions*, from the facilities of Mississippi Valley Chemical Company, at or near Palmyra, MO, to points in IL and IA. (Hearing site: St. Louis or Jefferson City, MO.)

MC 138686 (Sub-8F), filed March 12, 1979. Applicant: LCW TRUCKING, INC., 112 E. Chavez, Edinburg, TX 78539. Representative: M. Ward Bailey, 2412 Continental Life Bldg., Fort Worth, TX 76102. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *doors, door frames, and mouldings*, from ports of entry on the international boundary line between the United States and Mexico at or near El Paso, TX, to San Antonio and Houston, TX. (Hearing site: San Antonio or El Paso, TX.)

MC 139006 (Sub-12F), filed March 23, 1979. Applicant: RAPIER SMITH, R. R. 5, Loretto Rd., Bardstown, KY 40004. Representative: Robert H. Kinker, 314 W. Main St., P.O. Box 464, Frankfort, KY 40602. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities as are dealt in or used by manufacturers or distributors of alcoholic beverages, liquors, and wines*, (except commodities in bulk, in tank vehicles), between Peoria, IL, and Scobeyville, NJ, on the one hand, and, on the other, those points in the United States in the east of MN, IA, MO, KS, OK, and TX. (Hearing site: Louisville, KY.)

MC 139276 (Sub-6F), filed March 22, 1979. Applicant: ALOHA FREIGHTWAYS, INC., 1069 Bryn Mawr

Avenue, Bensenville, IL 60106. Representative: Grace Kasallis, (Same address as applicant). To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *sheet steel*, from the facilities of Pre Finish Metals, Inc., at or near Elk Grove Village, IL, to Kalamazoo, MI, under a continuing contract(s) with Pre Finish Metals, Inc., of Elk Grove Village, IL. (Hearing site: Chicago, IL.)

MC 139457 (Sub-18F), filed March 23, 1979. Applicant: G. L. SKIDMORE, d/b/a, JELLY SKIDMORE TRUCKING COMPANY, P.O. Box 38, Paris, TX 75460. Representative: Paul D. Angenend, P.O. Box 2207, Austin, TX 78788. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *canned foodstuffs*, from the facilities of Campbell Soup Company, at or near Worthington, MN, to the facilities of Campbell Soup Company, at or near Sacramento, CA, under a continuing contract(s) with Campbell Soup Company, of Worthington, MN. (Hearing site: Dallas, TX, or Washington, DC.)

MC 139577 (Sub-34F), filed March 26, 1979. Applicant: ADAMS TRANSIT, INC., P.O. Box 338, Friesland, WI 53935. Representative: Wayne W. Wilson, 150 E. Gilman St., Madison, WI 53703. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *canned or preserved foodstuffs*, from the facilities of Heinz U.S.A., division of H. J. Heinz Company, at Iowa City and Muscatine, IA, to points in MN and WI, restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Madison, WI, or Des Moines, IA.)

MC 139577 (Sub-37F), filed March 29, 1979. Applicant: ADAMS TRANSIT, INC., P.O. Box 338, Friesland, WI 53935. Representative: Wayne W. Wilson, 150 E. Gilman St., Madison, WI 53703. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *paper and paper articles, cellulose products, and textile softeners* (except in bulk, in tank vehicles), between Cheboygan, MI, Neelys Landing, MO, and Green Bay, WI, on the one hand, and, on the other, points in IL, IN, IA, KY, MI, MN, MO, OH, PA, and WI, restricted to the transportation of traffic originating at or destined to the facilities of Procter & Gamble Paper Products Co., at Cheyboygan, MI, Neelys Landing, MO, and Green Bay, WI.

(Hearing site: Madison, WI, or Cincinnati, OH.)

MC 139587 (Sub-17F), filed March 14, 1979. Applicant: BROWN REFRIGERATED EXPRESS, INC., P.O. Box 603, Fort Scott, KS 66701. Representative: Wilburn L. Williamson, Suite 815-East, The Oil Center, 2601 Northwest Expressway, Oklahoma City, OK 73112. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *cheese, cheese products, and synthetic cheese*, from the facilities of L. D. Schreiber Cheese Co., Inc. at points in Jasper, Lawrence, and Newton Counties, MO, to points in AL, AR, FL, GA, KY, LA, MS, NC, SC and TN. (Hearing site: Kansas City, MO.)

Note.—Dual operations may be involved.

MC 140717 (Sub-18F), filed March 13, 1979. Applicant: JULIAN MARTIN, INC., Highway 25, S, P.O. Box 3348, Batesville, AR 72501. Representative: Theodore Polydoroff, 1307 Dolley Madison Blvd., Suite 301, McLean, Va. 22101. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products and meat by-products and articles distributed by meat packing houses*, as described in Section A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the facilities used by Royal Packing Company at or near National Stockyards, IL and St. Louis, MO, to points in CT, DE, DC, ME, MD, MA, NH, NJ, NY, OH, PA, RI, and VT, under continuing contract(s) with Royal Packing Company of National City, IL. (Hearing site: St. Louis, MO or Washington, DC.)

Note.—Dual operations may be involved.

MC 140717 (Sub-20F), filed March 21, 1979. Applicant: JULIAN MARTIN, INC., Highway 25 West, P.O. Box 3348, Batesville, AR 72501. Representative: Timothy C. Miller, 9503 Marston Lane, Gaithersburg, MD 20760. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *rods, wire, bars, and welding products*, from the facilities of Alloy Rods Division, Chemetron Corporation at Hanover, PA, and Monticello, IN, to points in the United States (except AK and HI), and (2) *materials* used in the manufacture of the commodities named in (1) above, in the reverse direction, under continuing contracts with Chemetron Corporation of Hanover, PA. (Hearing site: Washington, DC.)

Note.—Dual operations may be involved.

MC 140717 (Sub-21F), filed March 28, 1979. Applicant: JULIAN MARTIN, INC., Hwy 25 West, P.O. Box 3348, Batesville, AR 72501. Representative: Theodore Polydoroff, Suite 301, 1307 Dolley Madison Blvd., McLean, VA 22101. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products, meat by-products, and articles distributed by meat-packing houses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (except hides and commodities in bulk), from the facilities of Wilson Foods Corporation, at Cedar Rapids, IA, to points in DE, MD, VA, and DC, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations, under continuing contract with Wilson Foods Corporation, of Oklahoma City, OK. (Hearing site: Dallas, TX, or Kansas City, MO.)

Note.—Dual operations may be involved.

MC 140846 (Sub-10F), filed March 7, 1979. Applicant: CENTRAL DELIVERY SERVICE OF MASSACHUSETTS, INC., 125 Magazine Street, Boston, MA 02119. Representative: Jeremy Kahn, Suite 733, Investment Building, 1511 K Street, N.W., Washington, D.C. 20005. To operate as a *contract carrier*, by motor vehicle in interstate or foreign commerce, over irregular routes, transporting *advertising matter*, from the facilities of First National Supermarkets at or near Windsor Locks, CT, to Westerly, RI, and Catskill, Mr. Kisco, Poughkeepsie, Staten Island, Yonkers, West Hampton, and New York, NY, restricted to the transportation of traffic (1) of any package or articles weighing more than 10 pounds or exceeding 72 inches in length and girth combined, and (2) of packages or articles weighing in the aggregate more than 30 pounds from one consignor at one location to one consignee at one location on any 1 day, under continuing contracts with First National Supermarkets, Inc., of Windsor Locks, CT. (Hearing site: Hartford, CT.)

Note.—Dual operations may be involved.

MC 141216 (Sub-7F), filed March 26, 1979. Applicant: DARREL K. OAKLEY, d.b.a. OAKLEY ENTERPRISES, P.O. Box 387 Rapid City, SD 57709. Representative: J. Maurice Andren, 1734 Sheridan Lake Rd., Rapid City, SD 57701. To operate as a *common carrier*, by motor vehicle in interstate or foreign commerce, over irregular routes, transporting *such commodities as are*

dealt in or used by grocery and food business houses, from the facilities of Ralston Purina Company, at Denver, CO, to Rapid City, SD. (Hearing site: Rapid City, SD, or Denver, CO.)

MC 141776 (Sub-40F), filed March 23, 1979. Applicant: FOODTRAIN, INC., Spring and South Center Streets, Ringtown, PA 17967. Representative: Pauline E. Myers, Suite 407, Walker Bldg., 734 15th St., N.W., Washington, DC 20005. To operate as a *common carrier*, by motor vehicle in interstate or foreign commerce, over irregular routes, transporting *dry spaghetti products and dry macaroni products*, from the facilities of C. F. Mueller Company, at or near Jersey City, NJ, to points in IL, IN, MI, and OH. (Hearing site: New York, NY, or Washington, DC.)

MC 143417 (Sub-4F), filed March 29, 1979. Applicant: FLASH INTERSTATE DELIVERY SYSTEM, INC., 4711 W. 18th St., Cicero, IL 60650. Representative: Barry Roberts, 888 17th St., N.W., Washington, DC 20006. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), from points in CT, IN, MA, MD, NJ, NY, PA, RI, WI, and DC, to Chicago, IL, restricted to the transportation of traffic having a subsequent movement by rail in trailer-on-flatcar service. (Hearing site: Chicago, IL.)

MC 143846 (Sub-6F), filed March 26, 1979. Applicant: P. POSA, INC., 50 Van Keuren Ave., Jersey City, NJ 07306. Representative: Arthur J. Piken, One Lefrak City Plaza, Flushing, NY 11368. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general department store merchandise* (except commodities in bulk), between points in NY, NJ, PA, OH, MD, MA, and DE, under continuing contract with Montgomery Ward & Co., Inc., of Chicago, IL. (Hearing site: New York, NY.)

MC 144616 (Sub-2F), filed April 2, 1979. Applicant: TRUCKS, INC., P.O. Box 79113, Saginaw, TX 76179. Representative: Harry F. Horak, Suite 115, 5001 Brentwood Stair Road, Fort Worth, TX 76112. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products, meat by-products, and articles distributed by meat packinghouses* as described in Sections

A and C of Appendix I to the report in *Descriptions of Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides, skins, and commodities in bulk), from the facilities of John Morrell & Co. at or near Sioux Falls, SD, Estherville and Sioux City, IA, to points in CT, DE, ME, MD, MA, NH, NY, PA, RI, VT, VA, WV and DC, restricted to the transportation of traffic originating at the above described origins and destined to points in the described destination points. (Hearing site: Fort Worth, TX, or Chicago, IL.)

MC 144667 (Sub-7F), filed March 29, 1979. Applicant: ARTHUR E. SMITH & SON TRUCKING, INC., P.O. Box 1054, Scottsbluff, NE 69361. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products, meat byproducts, and articles distributed by meat-packing houses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (except hides and commodities in bulk), (1) from the facilities of Geo. A. Hormel & Co., at Scottsbluff, NE, to points in CA, (2) from the facilities of Geo. A. Hormel & Co., at (a) Scottsbluff and Fremont, NE, and (b) Ottumwa, IA, to points in WI, IL, MI, NC, PA, NJ, NY, and CT, and (3) Schuyler, NE, to points in PA. (Hearing site: Minneapolis, MN.)

MC 145136 (Sub-2F), filed March 8, 1979. Applicant: JOHN H. UTSINGER, dba NICK'S CARTAGE CO., 100 Summit St., West Alexandria, OH 45381. Representative: Norbert B. Flick, 715 Executive Bldg., Cincinnati, OH 45202. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *polyester vinyl resins, in containers, plastic vinyl gloves, and latex gloves*, between Eaton, OH, and Richmond, IN, under continuing contract(s) with Dayton Flexible Products, of Eaton, OH. (Hearing site: Cincinnati, OH.)

MC 145186 (Sub-1F), filed March 1, 1979. Applicant: GERALD E. EIDAM, SR., dba SINGLE TOWING, P.O. Box 9057, Salem, OR 97305. Representative: Gerald E. Eidam Sr., 2092 Northtree Dr., NE, Salem, OR 97303. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *travel trailers and trailers equipped with fifth wheels*, in initial and secondary movements, in tow-away service, between points in AZ, CA, CO, ID, MT,

NV, OR, UT, WA, and WY. (Hearing site: Portland, OR, or Boise, ID.)

MC 145406 (Sub-32F), filed March 29, 1979. Applicant: MIDWEST EXPRESS, INC., 380 East Fourth Street, Dubuque, IA 52001. Representative: Richard A. Westley, 4506 Regent Street, Suite 100, Madison, WI 53705. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are manufactured or distributed or used by manufacturers or distributors of plastic and wooden products, and health care products, between the facilities of Bemis Mfg. Co., at points in WI, on the one hand, and, on the other, points in AZ, CA, FL, ID, MT, NE, NM, OR, UT and WA. (Hearing site: Milwaukee, WI or Chicago, IL.)

MC 146116 (Sub-3F), filed March 29, 1979. Applicant: LOCUST HARDWARE CO., INC., P.O. Box 265, Highway 27, Locust, NC 28097. Representative: Webster S. Medlin, 43 Union Street, South, Concord, NC 28025. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *brick*, (1) from the facilities of Ashe Brick Company at or near Van Wyck, SC, and (2) from the facilities of Boren Clay Products at or near Monroe, NC, to points in FL, GA, NC, SC, TN and VA. (Hearing site: Charlotte, NC.)

MC 146176 (Sub-5F), filed March 29, 1979. Applicant: J & L TRANSPORT, INC., Route 1, Box 306, Almond, WI 54509. Representative: Wayne W. Wilson, 150 East Gilman Street, Madison, WI 53703. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *paper and paper products*, from the facilities of Fox River Paper Company Division, Fox Valley Corporation, at Appleton, WI, to points in AZ, CA, OR and WA. (Hearing site: Appleton, WI or Madison, WI.)

MC 146187 (Sub-4F), filed March 28, 1979. Applicant: THE TEN WHEELERS, INC., Route 2, Gregory Rd., Greenback, TN 37742. Representative: Edward C. Blank, II, P.O. Box 1004, Columbia, TN 38401. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *automotive parts*, from the facilities of Holley Replacement Parts Division of Colt Industries, at Nashville, TN, to points in NJ, NY, and PA. (Hearing site: Nashville or Knoxville, TN.)

MC 146216 (Sub-1F), filed March 12, 1979. Applicant: ROAD COMMERCE CORPORATION, 807 Chestnut Street, Chattanooga, TN 37401. Representative:

Joel M. Merren, 295 Cities Service Bldg., 3445 Peachtree Road, N.E., Atlanta, GA 30326. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *scrap metals*, between points in AL, AR, DE, FL, GA, IN, IL, KY, LA, MA, MI, MS, MO, NC, NJ, NY, OK, OH, PA, TN, TX, VA, WV and DC, under continuing contract(s) with Southern Foundry Supply, Inc. of Chattanooga, TN. (Hearing site: Atlanta, GA.)

MC 146316 (Sub-2F), filed March 9, 1979. Applicant: EUGENE F. MAINOR, d.b.a. GENE MAINOR, P.O. Box G, Tifton, GA, 31794. Representative: C. E. Walker, P.O. Box 1085, Columbus, GA 31902. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *soft drinks*, from Orlando, FL, to Tifton, GA, and (2) *soft drinks*, from Tifton, GA, to Live Oak and Tallahassee, FL. (Hearing site: Tifton or Atlanta, GA.)

MC 146327 (Sub-2F), filed March 14, 1979. Applicant: UNITED TRUCKING COMPANY, P.O. Box 1158, Miles City, MT 59001. Representative: Joe Gerbase, 100 Transwestern Bldg., Billings, MT 59101. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *wine, champagne, and brandy*, from the facilities of E. and J. Gallo winery at or near Modesto, CA, to points in MT. (Hearing site: Billings, MT.)

MC 14616 (Sub-4F), filed March 26, 1979. Applicant: HERITAGE TRANSPORTATION COMPANY, a corporation, 155 N. Eucla Ave., P.O. Box 476, San Dimas, CA 91773. Representative: R. Y. Schureman, 1545 Wilshire Blvd., Los Angeles, CA 90017. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities as are dealt in or used by manufacturers or distributors of sound recordings*, (except commodities in bulk), (1) from Danbury, CT, New York, NY, and points in NJ, to Terre Haute, IN, and points in CA, (2) from Terre Haute, IN, to Danbury, CT, New York, NY, and points in NJ and CA, and (3) from points in CA, to Danbury, CT, Terre Haute, IN, New York, NY, and points in NJ, restricted, in (1) through (3) inclusive, to the transportation of traffic originating at or destined to the facilities of CBS, Inc. (Hearing site: Los Angeles, CA.)

MC 148567 (Sub-3F), filed March 22, 1979. Applicant: COAST TRANSPORT, INC., 4667 Somerton Rd., Trevoise, PA

19047. Representative: Ira G. Megdal, 499 Cooper Landing Rd., Cherry Hill, NJ 08002. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), in containers, (1) between Philadelphia, PA, on the one hand, and, on the other, Baltimore, MD, New York, NY, and Norfolk, VA, and (2) between points in Philadelphia, PA. (Hearing site: Philadelphia, PA, or Camden, NJ.)

MC 146736 (Sub-1F), filed March 12, 1979. Applicant: THEISEN BROTHERS, INC., Route 4, Norfolk, NE 68701. Representative: Paul G. Matt, 214 Sharp Building, Lincoln, NE 68508. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *flue dust and fertilizers* (1) between Norfolk, NE, and Humboldt, IA, under continuing contract(s) with Nucor Steel of Norfolk, NE and Frit Industries, Inc. of Ozark, AL. (Hearing site: Omaha, NE.)

MC 146956 (Sub-1F), filed April 2, 1979. Applicant: WEST EXPRESS TRUCKING COMPANY, General Delivery, Island, KY 42350. Representative: Ed Hodskins, 209 West Fourth Street, Owensboro, KY 42301. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *steel bars, rods and bolts*, from the facilities of Illinois Birmingham Bolt Company at or near Kankakee, IL, to points in KY. (Hearing site: Owensboro, KY or Kankakee, IL.)

MC 147336F, filed March 21, 1979. Applicant: LAUDERDALE MOVING & STORAGE CO., INC., 2108 A St., Meridian, MS 39301. Representative: Alan F. Wohlstetter, 1700 K St., NW, Washington, DC 20006. To operate as a *common carrier*, by motor vehicle in interstate or foreign commerce, over irregular routes, transporting *used household goods*, between points in Pickens, Greene, Hale, Sumter, Marengo, Choctaw, Clarke, and Washington Counties, AL, and Oktibbeha, Lowndes, Noxubee, Winston, Attala, Scott, Kemper, Neshoba, Leake, Newton, Rankin, Jones, Smith, Lauderdale, Covington, Wayne, Forrest, Jasper, and Clarke Counties, MS, restricted to the transportation of traffic having a prior or subsequent movement, in containers, beyond the points authorized, and further restricted to the performance of pickup and delivery service in connection with packing, crating, and

containerization or unpacking, uncrating, and decontainerization of such traffic. (Hearing site: Meridian, MS.)

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[Volume No. 28]

Petitions, Applications, Finance Matters (Including Temporary Authorities), Alternate Route Deviations, Intrastate Applications, Gateways, and Pack & Crate.

August 8, 1979.

Petitions for Modification, Interpretation, or Reinstatement of Motor Carrier Operating Rights Authority

The following petitions seek modification or interpretation of existing motor carrier operating rights authority, or reinstatement of terminated motor carrier operating rights authority.

All pleadings and documents must clearly specify the suffix numbers (e.g., M1 F, M2 F) where the docket is so identified in this notice.

The following petitions, filed on or after March 1, 1979, are governed by Special Rule 247 of the Commission's General Rules of Practice (49 CFR 1100.247). These rules provide, among other things, that a *petition to intervene either with or without leave* must be filed with the Commission within 30 days after the date of publication in the Federal Register with a copy being furnished the applicant. Protests to these applications will be *rejected*.

A petition for intervention without leave must comply with Rule 247(k) which requires petitioner to demonstrate that if (1) holds operating authority permitting performance of any of the service which the applicant seeks authority to perform, (2) has the necessary equipment and facilities for performing that service, and (3) has performed service within the scope of the application either (a) for those supporting the application, or, (b) where the service is not limited to the facilities of particular shippers, from and to, or between, any of the involved points.

Persons unable to intervene under Rule 247(k) may file a petition for leave to intervene under Rule 247(1). In deciding whether to grant leave to intervene, the Commission considers, among other things, whether petitioner has (a) solicited the traffic or business of those persons supporting the application, or, (b) where the identity of those supporting the application is not included in the published application

notice, has solicited traffic or business identical to any part of that sought by applicant within the affected marketplace. Another factor considered is the effects of any decision on petitioner's interests.

Samples of petitions and the text and explanation of the intervention rules can be found at 43 FR 50908, as modified at 43 FR 60277. Petitions not in reasonable compliance with these rules may be rejected. Note that Rule 247(e), where not inconsistent with the intervention rules, still applies. Especially refer to Rule 247(e) for requirements as to supplying a copy of conflicting authority, serving the petition on applicant's representative, and oral hearing requests.

MC 29960 (Sub-6) (M1F) (notice of filing of petition to modify certificate), filed January 4, 1979. Petitioner: GRESHAM TRANSFER, INC., 12008 NE. Inverness Drive, Portland, OR 97220. Representative: David C. White 2400 SW. Fourth Avenue, Portland, OR 97201. Petitioner holds motor *common carrier* certificate in MC 29960 Sub-6 issued July 17, 1972. MC 29960 Sub-6 authorizes transportation, over irregular routes, as pertinent, of *Dry bulk commodities* (except cement, fertilizer, lime, wood chips, sugar, and animal or poultry feed), between points in OR and WA. By the instant petition, petitioner seeks to modify the authority as follows: Delete the restrictions against the transportation of cement, fertilizer, and lime.

MC 59583 (M1F) (notice of filing of petition to modify certificate, filed December 7, 1978. Petitioner: THE MASON AND DIXON LINES, INCORPORATED, P.O. Box 969, Kingsport, TN 37662. Representative: Kim D. Mann, Suite 1010, 7101 Wisconsin Avenue, Washington, DC 20014. Petitioner holds authority as a motor *common carrier* in its lead certificate MC 59583 issued November 5, 1957, authorizing transportation, over regular routes, of *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), between Nashville, TN, and Knoxville, TN, serving the intermediate points of Lebanon, Carthage, and Chestnut Mound, TN, restricted against pick-up or delivery of eastbound traffic; Kingston and Rockwood, TN, restricted against pick-up or delivery of westbound traffic; and all others between Nashville and Crossville, TN, inclusive, unrestricted; and the off-route points of Byington,

Wheat, and Oak Ridge, TN, and the site of the Clinton Engineering Works at or near Blair, TN, restricted against the transportation of livestock: from Nashville over U.S. Hwy 70N to Crossville, TN, and then over U.S. Hwy 70 to Knoxville, and return over the same route. By the instant petition, petitioners seek to modify the authority as follows: delete Lebanon, TN from the restriction against picking up or delivering eastbound traffic at the specified intermediate points.

MC 114552 (Sub-135F)(M1F) (notice of filing of petition to modify certificate), filed April 23, 1979. Petitioner: SENN TRUCKING COMPANY, a Corporation, P.O. Drawer 220, Newberry, SC 29108. Representative: William P. Jackson, Jr., 3426 N. Washington Blvd., P.O. Box 1240, Arlington, VA 22210. Petitioner holds motor *common carrier* certificate in MC 114552 Sub-135, issued August 11, 1978, to transport in interstate or foreign commerce, over irregular routes, (1) *roofing asphalt* (except in bulk), from Memphis, TN, to points in AL, GA, IL, KY, MS, MO, NC, and SC, and (2) *Commodities used in the manufacture and distribution of roofing asphalt* (except commodities in bulk), from points in AL, GA, IL, KY, MS, MO, NC, and SC, to Memphis, TN. Restriction: The operations authorized herein are restricted to the transportation of shipments originating at or destined to the facilities of the Trumbull Asphalt Company at Memphis, TN. This certificate may not be tacked or joined with the carrier's other irregular route authority. By the instant petition, petitioner seeks to modify the authority as follows: delete the originating at or destined to in the restriction in this certificate.

MC 114552 (Sub-139F)(M1F) (notice of filing of petition to modify certificate), filed April 17, 1979. Petitioner: SENN TRUCKING COMPANY, a Corporation, P.O. Drawer 220, Newberry, SC 29108. Representative: William P. Jackson, Jr., 3426 N. Washington Blvd., P.O. Box 1240, Arlington, VA 22210. Petitioner holds motor *common carrier* certificate in MC 114552 Sub-139, issued June 6, 1978, to transport in interstate or foreign commerce, over irregular routes, *wood fiber insulation sheathing, hardboard siding, wallboard, particleboard, composition board, and lumber*, from the facilities of Temple Industries, at Diboll and Pineland, TX, and West Memphis, AR, to those points in the United States in and east of ND, SD, NE, KS, OK, and TX. Any duplication in this document of authority presently held by carrier does not confer more than one

operating right. This certificate may not be joined or tacked with the carrier's other irregular-route authority. By the instant petition, petitioner seeks to modify the authority as follows: add the transportation of urethane and urethane products to the commodity description, and to allow service from West Memphis, AR, as part of the territorial description.

MC 115182 (Sub-399)(M1F) (notice of filing of petition to modify certificate), filed February 14, 1979. Petitioner: POOLE TRUCK LINE, INC., P.O. Drawer 500, Evergreen, AL 36401. Representative: Robert E. Tate (same address as applicant). Petitioner holds motor common carrier certificate in MC 115182 Sub-399 issued January 3, 1979, authorizing transportation in interstate or foreign commerce, over irregular routes, of *plastic, plastic articles, plastic pipe, tubing, fittings, connections, and materials, supplies and accessories*, used in the manufacture and installation thereof, between the facilities utilized by Robintech Incorporated, at or near Grinnell, IA, Rolla, MO, and Wichita Falls, TX, on the one hand, and, on the other, points in the United States (except AK and HI). Restriction: The authority granted herein is restricted against the transportation of commodities in bulk, in tank vehicles. By the instant petition, petitioner seeks to modify the authority as follows: delete Hillsboro, TX and substitute Wichita Falls, TX as an origin point.

MC 134183 (Sub-2)(M-1)F (notice of filing of petition to modify permit to add contracting shipper and origin point, filed March 6, 1979.) Petitioner: C&E TRANSPORT, INC., d.b.a. C.E. ZUMSTEIN CO., P.O. Box 27, Lewisburg, OH 45338. Representative: E. STEPHEN HEISLEY, 805 McLachlen Bank Building, 666 Eleventh Street NW., Washington, DC 20001. Petitioner holds a motor contract carrier permit in No. MC 134183 (Sub-2), issued November 15, 1977, authorizing transportation, over irregular routes, as follows: (1) *Animal and poultry feed additives and supplements*, from the plant site and facilities of Henwood Feed Additives, Inc., at or near Lewisburg, OH, to points in the United States (except AK and HI); and (2) *Materials, equipment and supplies*, used in the manufacture, sale, distribution and production of the commodities in (1) above, from points in the United States (except AK and HI), to the plant site and facilities of Henwood Feed Additives, Inc., at or near Lewisburg, OH. Restriction: The operations authorized herein are subject to the following conditions: said

operations are restricted against the transportation of commodities in bulk, said operations are limited to a transportation service to be performed, under a continuing contract, or contracts, with Henwood Feed Additives, Inc., of Lewisburg, OH. By the instant petition, petitioner seeks to modify the permit as follows: Add as an additional contracting shipper Rachelle Laboratories, Inc., of Long Beach, CA, and in part (1) add the additional origin point of Dayton Terminal Cold Storage, at Dayton, OH.

MC 134183 (Sub-4)(M-1)F (notice of filing of petition to modify permit to add additional commodity), filed March 6, 1979. Petitioner: C&E TRANSPORT, INC., d.b.a. C.E. ZUMSTEIN CO., P.O. Box 27, Lewisburg, OH 45338. Representative: E. STEPHEN HEISLEY, 805 McLachlen Bank Building, 666 Eleventh Street NW., Washington, DC 20001. Petitioner holds a motor contract carrier permit in No. MC 134183 (Sub-4), issued January 19, 1979, authorizing transportation, over irregular routes, as follows: *Building materials*, from the facilities of Clark Industries, a Division of Clark Grave Vault Co., at Columbus, OH, to points in the United States (except OH, AK and HI). Restriction: The authority granted herein is limited to a transportation service to be performed, under a continuing contract(s) with Clark Industries, a Division of Clark Grave Vault Co., of Columbus, OH. By the instant petition, petitioner seeks to modify the above permit as follows: Add "caskets" to the commodity description.

Permanent Authority Decisions

Decided: August 7, 1979.

The following broker, freight forwarder or water carrier applications are governed by Special Rule 247 of the Commission's *Rules of Practice* (49 CFR § 1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date notice of the application is published in the *Federal Register*. Failure to file a protest within 30 days will be considered as a waiver of opposition to the application. A protest under these rules shall comply with Rule 247(e)(3) of the *Rules of Practice* which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding, as specifically noted below, and specify with particularity the facts, matters, and things relied upon. The protest shall not include issues or allegations phrased

generally. A protestant shall include a copy of the specific portion of its authority which it believes to be in conflict with that sought in the application, and describe in detail the method—whether by joinder, interline, or other means—by which protestant would use this authority to provide all or part of the service proposed. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission. A copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named. If the protest includes a request for oral hearing, the request shall meet the requirements of section 247(e)(4) of the special rules and shall include the certification required in that section.

Section 247(f) provides, in part, that an application which does not intend timely to prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication.*

Any authority granted may reflect administratively acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exceptions of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each applicant has demonstrated that its proposed service is either (a) required by the public convenience and necessity, or (b) will be consistent with the public interest and the transportation policy of 49 U.S.C. § 10101. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where specifically noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests, filed within 30 days of publication of this decision-notice (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, such duplication shall not be construed as conferring more than a single operating right.

Applicants must comply with all specific conditions set forth in the grant or grants of authority within 90 days after the service of the notification of the effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

By the Commission, Review Board Number 3, Members Parker, Hill, and Fortier. Member Fortier not participating.

MC 12660 (Sub-1F), filed June 25, 1979. Applicant: THRIFTY TOURS, INC., 438 Woodward Bldg., Washington, DC 20005. Representative: Gary E. Thompson, 4304 East-West Highway, Washington, DC 20014. To engage in operations, in interstate or foreign commerce, as a *broker*, at Washington, DC, in arranging for the transportation, by motor vehicle, of *passengers and their baggage*, in special and charter operations, (a) beginning and ending at points in the United States, including AK and HI, and extending to points in MD, VA, and DC, and (b) beginning and ending at points in MD, VA, and DC, and extending to points in the United States, including AK and HI. Condition: Prior cancellation, at applicant's written request, of its authority in MC 12660, issued September 25, 1975.

MC 135068, filed May 2, 1979. Applicant: J. LEO BURCH, JR., d.b.a. BURCH TRAFFIC SERVICE, 10205 Oasis, Suite 101, San Antonio, TX 78216. Representative: Kenneth R. Hoffman, 801 Vaughn Bldg., Austin, TX 78701. To engage in operations, in interstate or foreign commerce, as a *broker*, at San Antonio, TX, in arranging for the transportation, by motor vehicle, of *general commodities*, between points in the United States, including AK and HI. (Hearing site: San Antonio, TX.)

Permanent Authority Decisions

Decided: August 7, 1979.

The following applications filed on or before February 28, 1979, are governed by Special Rule 247 of the Commission's *Rules of Practice* (49 CFR § 1100.247).

For applications filed before March 1, 1979, these rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date notice of the application is published in the *Federal Register*. Failure to file a protest, within 30 days, will be considered as a waiver of opposition to the application. A protest under these rules should comply with Rule 247(e)(3) of the *Rules of Practice* which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (as specifically noted below), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. A protestant should include a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describe in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed.

Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named. If the protest includes a request for oral hearing, such request shall meet the requirements of section 247(e)(4) of the special rules and shall include the certification required in that section.

On cases filed on or after March 1, 1979, petitions for intervention either with or without leave are appropriate.

Section 247(f) provides, in part, that an applicant which does not intend timely to prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

If applicant has introduced rates as an issue it is noted. Upon request an applicant must provide a copy of the tentative rate schedule to any protestant.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication.*

Any authority granted may reflect administratively acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the

Commission's policy of simplifying grants of operating authority.

Findings

With the exceptions of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each common carrier applicant has demonstrated that its proposed service is required by the public convenience and necessity, and that each contract carrier applicant qualifies as a contract carrier and its proposed contracts carrier service will be consistent with the public interest and the transportation policy of 49 U.S.C. § 10101. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a protestant, that the proposed dual operations are consistent with the public interest and the transportation policy of 49 U.S.C. § 10101 subject to the right of the Commission, which is expressly reserved, to impose such conditions as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. § 10930(a) [formerly section 210 of the Interstate Commerce Act].

In the absence of legally sufficient protest, filed within 30 days of publication of this decision-notice (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, such duplication shall not be construed as conferring more than a single operating right.

Applicants must comply with all specific conditions set forth in the grant or grants of authority within 90 days after the service of the notification of the effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

By the Commission, Review Board Number 3, Members Parker, Hill, and Fortier. Member Fortier not participating.

MC 145315 (Sub-2F), filed January 12, 1979. Applicant: CHARLES LINCOLN VICKERS, d.b.a. C. L. VICKERS TRANSFER, Route 2, Albermarle, NC 28001. Representative: Charles Lincoln Vickers (same address as applicant). To operate as a *common carrier*, by motor vehicle in interstate or foreign commerce, over irregular routes, transporting *unground petroleum coke*, in bulk, from Badin, NC, to Piney River, VA. (Hearing site: Charlotte, NC.)

MC 146489F, filed February 28, 1979. Applicant: BROWN WRECKER SERVICE, INC., d.b.a. BROWN & BROWN, 3854 North Peachtree Road, Chamblee, GA 30341. Representative: Ariel V. Conlin, 53 Sixth St. M.W. N.E., Atlanta, GA 30308. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *wrecked, disabled, and repossessed motor vehicles*, (2) *replacement vehicles* for wrecked and disabled vehicles, (3) *salvage*, requiring the use of wrecker equipment, and (4) *empty motor freight trailers*, between points in GA, on the one hand, and, on the other, points in TN, AL, FL, MS, LA, NC, SC, VA, and KY. (Hearing site: Atlanta, Ga.)

Permanent Authority Decisions; Substitution Applications: Single-Line Service for Existing Joint-Line Service

Decided: August 7, 1979.

The following applications, filed on or after April 1, 1979, are governed by the special procedures set forth in Part 1062.2 of Title 49 of the Code of Federal Regulations (49 CFR 1062.2).

The rules provide, in part, that carriers may file petitions with this Commission for the purpose of seeking intervention in these proceedings. Such petitions may seek intervention either with or without leave as discussed below. However, all such petitions must be filed in the form of verified statements, and contain all of the information offered by the submitting party in opposition. Petitions must be filed with the Commission within 30 days of publication of this decision-notice.

Petitions for intervention without leave (i.e. automatic intervention), may be filed only by carriers which are, or have been, participating in the joint-line service sought to be replaced by applicant's single-line proposal, and then only if such participation has occurred within the one-year period immediately proceeding the

application's filing. Only carriers which fall within this filing category can base their opposition upon the issue of the public need for the proposed service.

Petitions for intervention with leave may be filed by any carrier. The nature of the opposition; however, must be limited to issues other than the public need for the proposed service. The appropriate basis for opposition, i.e. applicant's fitness, may include challenges concerning the veracity of the applicant's supporting information, and the bona-fides of the joint-line service sought to be replaced (including the issue of its substantiality). Petitions containing only unsupported and undocumented allegations will be rejected.

Petitions not in reasonable compliance with the requirements of the rules may be rejected. An original and one copy of the petition to intervene shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication.*

Any authority granted may reflect administratively acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each applicant has demonstrated that its proposed service is required by the present and future public convenience and necessity. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where specifically noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a petitioner, that the proposed dual operations are

consistent with the public interest and the transportation policy of 49 U.S.C. 10101 subject to the right of the Commission, which is expressly reserved, to impose such terms, conditions or limitations as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. 10930(a) (formerly section 210 of the Interstate Commerce Act).

In the absence of legally sufficient petitions for intervention, filed within 30 days of publication of this decision-notice (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of the decision-notice. To the extent that the authority sought below may duplicate an applicant's other authority, such duplication shall be construed as conferring only a single operating right.

Applicants must comply with all specific conditions set forth in the grant or grants of authority within 90 days after the service of the notification of the effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

By the Commission, Review Board Number 3, Members Parker, Hill, and Fortier. Member Fortier not participating.

MC 20582 (Sub-7F), filed April 30, 1979. Applicant: HENRY H. STEVENS, INC., 1273 Broadway, Flint, MI 48506. Representative: Arthur P. Boynton, 1600 First Federal Bldg., Detroit, MI 48226. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *household goods*, as defined by the Commission, between points in AZ, CA, OR, and WA, on the one hand, and, on the other, points in AR, CO, CT, DE, FL, GA, IL, IN, IA, KS, LA, MD, MA, MI, MN, MS, MO, NH, NJ, NY, OH, PA, TN, TX, VT, VA, WV, WI, and DC. (Hearing site: Detroit, MI, or Washington, DC.)

Note.—The purpose of this application is to substitute single-line service for existing joint-line operations.

MC 45134 (Sub-13F), filed April 12, 1979. Applicant: COLLINS TRUCK LINES, INC., 129 Osborne Rd., Minneapolis, MN 55432. Representative: John B. Van de North, Jr., 2200 First National Bank Bldg., St. Paul, MN 55101. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except automobiles, and household

goods as defined by the Commission), from Wahpeton, ND, to points in ND. (Hearing site: Minneapolis, MN, or Fargo, ND.)

Note.—(1) To the extent the certificate granted in this proceeding authorizes the transportation of classes A and B explosives it will expire 5 years from the date of issuance. (2) The purpose of this application is to substitute single line for joint-line operations.

Finance Applications

The following applications seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control through ownership of stock, of rail carriers or motor carriers pursuant to Sections 11343 (formerly Section 5(2)) or 11349 (formerly Section 210a(b)) of the Interstate Commerce Act.

An original and one copy of protests against the granting of the requested authority must be filed with the Commission within 30 days after the date of this Federal Register notice. Such protest shall comply with Special Rules 240(c) or 240(d) of the Commission's *General Rules of Practice* (49 CFR 1100.240) and shall include a concise statement of protestant's interest in the proceeding. A copy of the protest shall be served concurrently upon applicant's representative, or applicant, if no representative is named.

Each applicant states that approval of its application will not significantly affect the quality of the human environment nor involve a major regulatory action under the Energy Policy and Conservation Act of 1975.

Transfer Proceedings

The following publications include motor carrier, water carrier, broker, and freight forwarder transfer applications filed under Section 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act.

Each application (except as otherwise specifically noted) contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application.

Protests against approval of the application, which may include request for oral hearing, must be filed with the Commission on or before September 20, 1979. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest must be served upon applicants' representative(s), or applicants (if no such representative is named), and the protestant must certify that such service has been made.

Unless otherwise specified, the signed original and six copies of the protest shall be filed with the Commission. All protests must specify with particularity the factual basis, and the section of the Act, or the applicable rule governing the proposed transfer which protestant believes would preclude approval of the application. If the protest contains a request for oral hearing, the request shall be supported by an explanation as to why the evidence sought to be presented cannot reasonably be submitted through the use of affidavits.

The operating rights set forth below are in synopsis form, but are deemed sufficient to place interested persons on notice of the proposed transfer.

Finance Docket No. 29042, filed May 1, 1979. Transferee: PAULY LINES, INC., 57th Floor—600 Grant St., Pittsburgh, PA 15222. Transferor: The Union National Bank of Pittsburgh as successor in interest of Central States Forwarding Corp., 4th Ave. & Wood St., Pittsburgh, PA 15222. Representatives: William A. Chesnutt, 1776 F St. NW, Washington, DC 20006. M. Bruce McCullough, 5700—600 Grant St., Pittsburgh, PA 15219. Authority sought for the purchase by transferee of the operating rights of transferor as set forth in Second Amended Permit and Order in FF-38 issued to ABC Freight Forwarding Corporation on December 20, 1949 and purchased by Central States Forwarding Corporation, pursuant to Commission order in Finance Docket No. 27544 dated December 20, 1973, authorizing operations as a Freight Forwarder of commodities generally, in interstate commerce, between Baltimore, MD, Philadelphia, PA, Wilmington, DE, District of Columbia, and points in Bronx, Kings, Nassau, New York, Queens, Richmond, and Westchester Counties, NY, Bergen, Essex, Hudson, Middlesex, Passaic, and Union Counties, NJ, Cook, DuPage, Kane, Lake, and Will Counties, IL, and Lake County, IN, on the one hand, and, on the other, points in CO, IL, IN, KY, MI, MN, MO, NJ, NY, OH, PA, and WI. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under 49 U.S.C. 11349.

Finance Docket 29084 F. Filed June 29, 1979. Transferor: CONTINENTAL FORWARDERS, INC., 350 Broadway, New York, NY 10013. Transferee: Sam's Vans, Inc., 1948 Marina Boulevard, San Leandro, California 94577. Representative: Alan F. Wohlstetter, 1700 K Street, N.W., Washington, D.C. 20006. Authority sought for purchase by transferee of the operating rights of

transferor as set forth in Permit NO. FF-422 (Sub-No.2) issued December 2, 1977, as follows: (a) Used Household Goods and Unaccompanied Baggage, and (b) Used Automobiles, between points in the United States (including HI and AK), restricted in (b) to the transportation of export-import traffic. Transferee presently holds no authority from this Commission.

MC-FC-78077, filed April 9, 1979. Transferee: TOLEDO-DETROIT EXPRESS, INC., 6180 Benora Rd., Toledo, OH 43612. Transferor: The Service Transport Company, a Corporation, 114½ E. Main St., Ravenna, OH 44266. Representative: William P. Jackson, Jr., P.O. Box 1240, Arlington, VA 22210. Authority sought for purchase by transferee of a portion of the operating rights of transferor, as set forth in Certificate No. MC-106373, issued April 9, 1948, as changed by order of the Commission, Division 5, by order dated January 19, 1949, as follows: *General commodities*, except articles of size or weight that makes handling by motor vehicle impractical, bank bills, coins currency, drafts, notes, or other valuable papers, precious metals or articles manufactured therefrom, dangerous explosives, liquid bulk commodities, and household goods, between Toledo, OH and Detroit, MI, over U.S. Hwy 25. Transferee presently holds no authority from this Commission. Application has been filed for temporary authority under 49 U.S.C. 11349.

MC-FC-78078 filed March 16, 1979. Transferee: CHAS. LEVY TRANSPORTATION CO., INC., 1200 No. Branch St., Chicago, IL 60622. Transferor: Chas. Leby Circulating Company, same address as Transferee. Representative: Carl L. Steiner, 30 South LaSalle St., Chicago, IL 60603. Authority sought for purchase by transferee of all operating authority held by transferor in Permits No. MC 18037 Subs 3, 5, and 7, issued April 13, 1951, November 14, 1978, and November 3, 1978. Sub 3: Newspapers and related commodities, from Chicago, IL, to points in portions of IL, IN, IA, WI, and MI; magazines, and such books and other periodical publications as are normally distributed to news dealers, and related commodities, from Chicago, IL, to points in portions of IL, IN, IA, WI, and MI, with a restriction; from Kokomo, IN, to points in portions of IL, IN, IA, WI, and MI, with a restriction; from Kokomo, IN, to Chicago, IL, with a restriction, and from Chicago, IL, to Kokomo, IN. Sub 5: newspapers, magazines, books, periodicals, publications, and calendars.

from Chicago, IL, to points in IL, IN, points in IA on and east of Interstate Hwy 35, points in WI on and south of U.S. Hwy 10, under contract with printing houses, publishing houses, or new dealers. Sub 7: magazines, from Brookfield, WI, to Chicago, IL, and South Bend, IN, under contract with Newsweek, Inc. Transferee is not a carrier and temporary lease is not sought.

MC-FC-78065, filed March 15, 1979. Transferee: EDWARD RABEL 800 E. Scott St., Olyphant, PA 18447. Transferor: D. Steinman, d.b.a. N. Steinman Trucking Company, S. Washington Ave. and River St., Scranton, PA 18505. Representative: Joseph F. Hoary 121 S. Main St., Taylor, PA 18517. Authority sought for the purchase by transferee of a portion of the operating rights of transferor, as set forth in Certificate No. MC-9071, issued December 18, 1978, as follows: *Household goods*, as defined by the Commission, between Scranton, PA, on the one hand, and, on the other, points in NY and NJ. Transferee presently holds authority from this Commission in MC-67402. Application has not been filed for temporary authority under 49 U.S.C. 11349.

MC-FC-78088 filed March 26, 1979. Transferee: B. L. CARTAGE CO., 10735 South Cicero Ave., Oak Lawn, IL 60453. Transferor: Rogers Cartage Co., Same address as Transferee. Authority sought for purchase by transferee of operating rights of transferor in Certificate No. MC 64932 (portion) issued May 28, 1976, and in Certificate No. MC 64932 Sub 123, issued January 22, 1953 (entire), as follows: petroleum and petroleum products, in bulk, in tank vehicles, (1) from East Chicago, IN, and points in IN within ten miles of East Chicago, to points on that part of IL on and north of U.S. Highway 40; from points in IL within ten miles of East Chicago, IN, to points in a defined portion of IL; from a point in Center Township (St. Joseph) County, IN, to points in MI within 150 miles of such origin point; from Blue Island, IL, and points within one and one-half miles of Blue Island, to points in IN; and from points in the Chicago, IL Commercial Zone (except within 1 1/2 miles of Blue Island, IL, including Blue Island), to points in IN on and north of U.S. Highway 50. Transferee holds no authority from this Commission. An application for temporary lease has not been filed. Representative: Leonard R. Kofkin, 39 S. LaSalle St., Chicago, IL 60603.

MC-FC-78106, filed May 1, 1979. Transferee: CAROL BOWMAN, R.D. 2,

Box 75, Milford, DE 19963. Transferor: Kent-Sussex Tours, Inc., R.D. 2, Box 114C, Greenwood, DE 19950. Representative: Chester A. Zyblut, 366 Executive Bldg., 1030-15th St. NW, Washington, DC 20005. Authority sought for acquisition of control by transferee of transferor, including the operating rights of transferor, as set forth in Brokers License No. MC 12969, issued August 17, 1978 as follows: Operations as *broker*, at Greenwood, DE, in arranging for the transportation by motor vehicle, of *passengers and their baggage*, in special and charter operations, beginning and ending at points in Kent and Sussex Counties, DE, those in New Castle County, DE south of the Chesapeake and Delaware Canal, and Caroline and Queen Annes Counties, MD, and extending to points in the United States, including the ports of entry on the United States-Canada Boundary line and the United States-Mexico Boundary line. Transferee presently holds no authority from this Commission. Applications has not been filed for temporary authority under 49 U.S.C. 11349.

MC-FC-78111 filed April 20, 1979. Transferee: DENISE, INC., d.b.a. TRAVEL TIME, 277 Newbury St., Peabody, MA 01960. Transferor: A.B.C., Inc., d.b.a. A.B.C. Bus lines, 375 Promenade St., Providence, RI 02940. Authority sought for purchase by transferee of operating rights held by transferor in Certificate No. MC 107264 Sub-4, issued December 7, 1960, as follows: *passengers and their baggage*, and *express and newspapers* in the same vehicle with *passengers*, between Worcester, MA, and Putnam, CT, serving all intermediate points, over a specified regular route. Transferee holds authority under MC 143438. An application for temporary lease authority has been filed. Representative: Robert M. Santaniello, 95 State St., Suite 1010, Springfield, MA 01103.

MC-FC-78118 filed April 11, 1979. By decision dated July 17, 1979, the Motor Carrier Board approved the below-described transfer application. Transferee: D.C. MOTOR TOURS, INC., 326 Madison Street, N.W., Washington, DC 20001. Transferor: The Colonial Transit Company, Incorporated, P.O. Box 508, Fredericksburg, VA 22401. Representative: L. C. Major, Jr., Suite 400, Overlook Building, 6121 Lincolnia Road, Alexandria, VA 22312. Authority granted for the purchase by Transferee of the Certificate of Public Convenience and Necessity issued to Transferor in Docket No. MC 61802 Sub-No. 12 authorizing the transportation of

passengers and their baggage, and express and newspapers in the same vehicle with passengers as set forth below: Regular routes: Between Washington, DC, and Indian Head, MD, serving all intermediate points: From Washington over city streets to the District of Columbia-Maryland State line, then over MD Hwy 210 to Bryans Road, MD, then over MD Hwy 227 to Pomomkey, MD, then over MD Hwy 224 to Mason Springs, MD, and then over MD Hwy 225 to Indian Head, MD, and return over the same route. From Washington over Alternate MD Hwy 224 to Indian Head, MD and return over the same route. Between Fort Washington MD, and Silesia, MD, serving all intermediate points: From Fort Washington, over MD Hwy 549 to Silesia, and return over the same route. Incidental charter operations in interstate or foreign commerce may be conducted. Transferee holds no authority from the Commission. An application for temporary lease authority has not been filed.

MC-FC-78146, filed May 17, 1979. Transferee: ROSS TRANSPORT CO., INC., 518 Parlin St., Philadelphia, PA 19116. Transferor: ATSL, Inc., Bldg. A, 10 E. Oregon Ave., Philadelphia, PA 19148. Representative: Richard Rueda, 135 N. 4th St., Philadelphia, PA 19106. Authority sought for the purchase by transferee of the operating rights of transferor as set forth in Certificates MC-35706 (Sub-Nos. 4, 5, 6, and 9), issued January 31, 1978, May 3, 1978, May 3, 1978, and June 6, 1979, respectively, as follows: (A) *Juvenile furniture and juvenile vehicles*, (1) from the facilities of Hedstrom Company, at Bedford, PA, to the facilities of ATSL, Inc., at or near Philadelphia, PA, restricted to the transportation of traffic originating at the named origin, and (2) from the facilities of ATSL, Inc., at or near Philadelphia, PA, to points in DE, MD, and NJ. (B) (1) *Juvenile furniture and children's vehicles*, and (2) *materials, supplies and parts* used in the manufacture and packaging of the commodities in (B)(1) above (except commodities in bulk), between the facilities of Graco Children's Products, at Elverson and Hellam, PA, on the one hand, and, on the other, points in NJ, DE, MD, NY, CT, VA, and DC. (C) *New furniture*, from the facilities of Home Line Furniture Industries, Inc., in Philadelphia, PA, to points in VA, NY, CT, MA, RI, VT, NH, ME, and MD. and (D) *New furniture*, from the facilities of Telescope Folding Furniture Co., Inc., at Granville, NY, to points in DE, MD, NJ, NC, PA, SC, VA, and DC. Transferee

presently holds no authority from this Commission. Application has not been filed for temporary authority under 49 U.S.C. 11349.

MC-FC-78147, filed May 14, 1979. Transferee: MALLAK LEASING CO., INC., P.O. Box 11241, Charlotte, NC 28209. Transferor: Billings Transfer Corp., Inc., Green Needles Rd., Lexington, NC 27292. Representative: Paul F. Sullivan, 711 Washington Bldg., Washington, DC 20005. Authority sought for the purchase by transferee of a portion of the operating rights of transferor, as set forth in certificate MC-2473, issued July 13, 1943, as follows: *Household goods* as defined in *Practices of Motor Common Carriers of Household Goods*, 17 M.C.C. 467, between Lexington, NC, and points within 40 miles of Lexington, on the one hand, and, on the other, points in SC, VA, MD, PA, NJ, and DC. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under 49 U.S.C. 11349.

MC-FC-78156, filed May 22, 1979. Transferee: DAVID BONAGUIDE, d.b.a. MERIDEN TRANSFER AND STORAGE, 81 Colt Avenue, Torrington, CT 06790. Transferor: Anthony Cuccaro, d.b.a. Meriden Transfer and Storage, Camp and North George Streets, Meriden, CT 06450. Applicant's representative: Sidney L. Goldstein, 109 Church Street, New Haven, CT 06510. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate No. MC 110424, issued June 18, 1975, authorizing the transportation of household goods as defined by the Commission (1) between points in CT, (2) between Meriden, CT, on the one hand, and on the other, points in NH, MA, RI, NY, PA and NJ. Authority is sought to tack at Meriden, CT, for points where distance is 300 miles or less. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

MC-FC-78185, filed June 7, 1979. Transferee: VARRA COMPANIES, INC., 2130 S. 96th St., Broomfield, CO 80020. Transferor: Raymond L. Pherson and Patricia M. Pherson, a partnership, d.b.a. Pherson Trucking Company, 3200 Bluff St., Boulder, CO 80302. Representative: Thomas J. Burke, Jr., Suite 1660, 1660 Lincoln St., Denver, CO 80264. Authority sought for the purchase by transferee of the operating rights of transferor, as set forth in Certificate of Registration No. MC-98719 (Sub-No. 1), issued January 19, 1965, as follows: *Farm products, farm*

supplies and farm equipment (including furniture only in connection with a movement of farmers' or miners' equipment), and *coal*, between points in the south half of Boulder County, CO; and between points in the south half of Boulder County, CO, on the one hand, and, on the other, points in CO. *Ore and concentrates, mining equipment, supplies, and machinery*, between points in the following described area: Commencing at Boulder; then up Boulder Canyon to Four Mile Canyon to Sunset, then due west to the west Boulder County Line, to a point west of Raymond, then south along the St. Vrain Canyon Road to Lyons, then along the foothill road (CO Hwy 7), to Boulder, on the one hand, and, on the other points in CO, subject to restrictions. *General commodities* (except household goods, and fluid milk as a farm pickup), between points within a fifty-mile radius of Boulder (except the city and County of Denver, and that part of said fifty-mile radius lying west of U.S. Hwy 87 and south of the south line of Township 2 South); and between points in the immediately above-described area, on the one hand, and, on the other, points in CO, subject to restrictions. *Express packages* that can be handled in a passenger bus, between points in the metal mining area of Boulder County, CO and that part of Gilpin County, CO, north of South Boulder Creek, and between those points on the one hand, and, on the other, Boulder and Longmont, CO, subject to a restriction. Transferee presently holds no authority from this Commission, however, a subsidiary of transferee, Varra Enterprises, Inc., holds authority under MC 141135 (Sub-Nos. 1 and 4). Application has been filed for temporary authority under 49 U.S.C. 11349.

MC-FC-78186, filed June 7, 1979. Transferee: VARRA COMPANIES, INC., 2130 S. 96th St., Broomfield, CO 80020. Transferor: VARRA ENTERPRISES, INC., 2130 S. 96th St., Broomfield, CO 80020. Representative: Thomas J. Burke, Jr., 1660 Lincoln St., Suite 1600, Denver, CO 80264. Authority sought for the purchase by transferee of the operating rights of transferor, as set forth in Certificates MC-141135 (Sub-Nos. 1 and 4), issued June 3, 1977, and March 22, 1978, respectively, as follows: *Silica sand*, in bulk, in dump vehicles, from Denver, Brighton, and Pueblo, CO, to points in UT and WY; and from Hauck, AZ, Farmington, NM, Enid, Lindsay, and Woodward, OK, and Borger and Perryton, TX, to Commerce City and Brighton, CO. Transferee presently holds no authority from this

Commission. Application has not been filed for temporary authority under 49 U.S.C. 11349.

MC-FC-78191, filed June 13, 1979. Transferee: JAMES J. BAYLISS AND ELLEN BAYLISS, a partnership, d.b.a. CONNORS BROS., 370 Cole Ave., Williamstown, MA 01267. Transferor: OSWALD TOWER, JR., doing business as CONNORS BROS., 370 Cole Ave., Williamstown, MA 01267. Representative: Lawrence B. Urbano, 78 Spring St., Williamstown, MA 01267. Authority sought for the purchase by transferee of the operating rights of transferor, as set forth in Certificate MC 98245 (Sub-No. 1), issued December 11, 1974, as follows: *Household goods*, as defined by the Commission, between Williamstown, MA, and points within 10 miles thereof, on the one hand, and, on the other, points in ME, NH, VT, MA, CT, RI, NY, NJ, PA, MD, DE, and DC. *Building materials*, as described in Appendix VI to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, between Williamstown and North Adams, MA, on the one hand, and, on the other, points in NY and VT within 15 miles of Williamstown. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under 49 U.S.C. 11349.

MC-FC-78197, filed June 13, 1979. Transferee: SMYTH MOVING SERVICE, INC., 6307 Arctic Spur Road, Anchorage, AK 99509. Transferor: Smyth Overseas Van Lines, Inc., 2510 Post Road, Anchorage, AK 99501. Representative: Alan F. Wohlstetter, 1700 K Street, N.W., Washington, D.C. 20006. Authority sought for the purchase by transferee of the operating rights of transferor, as set forth in Certificate Nos. MC-118482 (Sub-Nos. 2, 3, 6 and 8), respectively, as follows: *Household Goods*, as defined by the Commission between points in Alaska except those east of an imaginary line constituting a southward extension of the United States-Canada Boundary Line (Alaska-Yukon Territory); *Household Goods as defined by the Commission* between Haines, Alaska, on the one hand, and, on the other, points in Alaska west of an imaginary line constituting a southward extension of the United States-Canada Boundary Line (Alaska-Yukon Territory). *Restriction*: The authority granted herein is restricted solely to the transportation of household goods received from or delivered to other carriers in interline service at Haines, and against the transportation of shipments originating at or destined to

Haines; *Household Goods*, as defined by the Commission between Seattle, WA, on the one hand, and, on the other, points in Alaska; and *New furniture*, between points in Alaska. Transferee presently holds no authority from the Commission. Application has been filed for temporary authority under Section 210a(b).

MC-FC-78205, filed June 22, 1979. Transferee: RAIL HIGHWAY TRANSPORTATION, INC., 2850 East River Rd., Dayton, OH 45439. Transferor: The Klug-Direct Transportation Co., a corporation, P.O. Box 417, Hamilton, OH 45012. Representative: David A. Turano, 100 E. Broad St., Columbus, OH 43215. Authority sought for purchase by transferee of a portion of the operating rights of transferor, as set forth in Certificate of Registration No. MC-99031 (Sub-No. 5); issued January 27, 1978, as follows: Property, from and to the site of the Atomic Energy Commission's plant near Fernald, OH, restricted against the use of dump trucks and the transportation of such commodities as are usually transported in dump trucks and unloaded by dumping. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under 49 U.S.C. 11349.

MC-FC-78207, filed June 15, 1979. Transferee: A & A TRANSPORT, INC., Route 87, Franklin, CT 06254. Transferor: Max Rogovin and Samuel Rogovin, d.b.a. Rogovin Express Company, 354 Coleman St., New London, CT 06320. Representative: William J. Meuser, 88 Cherry St., P.O. Box 507, Milford, CT 06460. Authority sought for the purchase by transferee of transferor's operating rights in Certificate No. MC-75593, issued July 13, 1955, as follows: General commodities (with exceptions), from New London, CT, to points in RI and CT within 30 miles of New London; furnaces and furnace equipment from New London, CT to Westerly and Hope Valley, RI; used furnaces and furnace equipment and parts, from Westerly and Hope Valley, RI, to New London, CT. Transferee is a non-carrier, and no application for temporary lease has been filed.

MC-FC-78208, filed June 25, 1979. Transferee: LAMBERT TRANSFER CO., INC., 1505 Huntsville Road, Florence, Alabama 35630. Transferor: Four Winds Van Lines, Inc., 7035 Convoy Court, P.O. Box 81985, San Diego, California 92138. Representative: Robert J. Gallagher, Esq., 1000 Connecticut Avenue, N.W., Suite 1200, Washington, D.C. 20036. Authority sought to purchase a portion of the operating rights of transferor as

set forth in Certificate of Public Convenience and Necessity No. MC-15643 Sub 5, issued December 5, 1968, as follows: Irregular routes: *Household goods*, as defined by the Commission. Between points in Alabama, on the one hand, and, on the other, North Carolina, South Carolina, Tennessee, Georgia, and Florida. Transferee holds authority from the Commission under docket number MC-62658. An application for temporary lease has been filed.

MC-FC-78215, filed July 5, 1979. Transferee: STEWCO, INC., P.O. Box 566, Waskom, TX 75692. Transferor: R. A. Corbett Transport, Inc., P.O. Box 125, Rockwall, TX 75082. Representative: Clayte Binion 1108 Continental Life Bldg., Ft. Worth, TX 76102. Authority sought for the purchase by transferee of the operating rights of transferor, as set forth in Certificates MC-127253, issued April 18, 1967, MC-127253 (Sub-Nos. 11, 20, 25, and 26) all issued April 28, 1967, MC-127253 (Sub-Nos. 28, 30, 33, 34, 35, 38, 40, 41, 43, 44, 45, 46, 47, 48, and 53) issued May 12, 1967, February 27, 1968, May 17, 1967, December 12, 1967, July 10, 1970, March 15, 1968, August 7, 1968, April 26, 1968, June 18, 1969, April 23, 1969, August 31, 1970, February 4, 1971, January 15, 1971, September 25, 1974, and May 5, 1977, respectively, and MC-127253 (Sub-No. E2) published in the FR issue of June 20, 1975, authorizing the transportation of (1) *petroleum products*, in bulk, in tank vehicles, generally between points in LA, TX, and AR; (2) *lacquer thinner, sulphur, coal tar, coal tar pitch, creosote oil, molasses, synthetic resins, insecticides, herbicides, fungicides, fertilizer, fertilizer materials, fertilizer ingredients, anhydrous ammonia, acids, ammonium nitrate, urea, corn syrup, animal feed and animal feed ingredients, sodium chlorate and sodium chlorate solutions, fertilizer solutions, chemicals, formaldehyde, and sulphuric acid*, generally from specified points in AR, LA, and TX, to points in AL, AZ, AR, CO, FL, GA, IL, IN, KS, KY, LA, MS, MO, NM, OK, TN, and TX. Transferee presently holds no authority from this Commission. Application has been filed for temporary authority under 49 U.S.C. 11349.

MC-FC-78216, filed July 2, 1979. Transferee: BETTENDORF TRANSFER, INC., Route 2, Box 261, River Falls, WI 54022. Transferor: Warren L. Bader, d.b.a. Bader Truck Line, Route 1, New Richmond, WI 54017. Representative: James R. Flescher, 1745 University Ave., St. Paul, MN 55104. Authority sought for the purchase by transferee of the operating rights of transferor, as set

forth in Certificate MC 35602 and MC 35602 (Sub-No. 1), issued February 20, 1959, and September 22, 1960, respectively, as follows: *Livestock*, from points in the Towns of Richmond, Somerset, Saint Joseph, Warren, Erin, and Hudson, WI, to South St. Paul, MN. *Form Machinery, farm supplies, books, school supplies, and furniture*, from South St. Paul, St. Paul, Minneapolis, and Stillwater, MN, to points in the above-specified Wisconsin towns. *Livestock, agricultural commodities, and empty containers* for petroleum products and beverages, from points in the Towns of Cylon, Forest, Stanton, Richmond, Erin, and Emerald, WI, to South St. Paul, Newport, St. Paul, and Minneapolis, MN. *General commodities* except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment, between points in the Towns of Erin, Emerald, Cylon, Forest, Stanton, and Richmond, WI, on the one hand, and, on the other, South St. Paul, St. Paul, Minneapolis, and Stillwater, MN. *Fertilizer*, from Winona, MN, to New Richmond, WI and points in WI within 25 miles of New Richmond. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under 49 U.S.C. 11349.

MC-FC-78217, filed June 21, 1979. Transferee: EXPLOSIVES CARRIER, INC., 8212 S. Bryant, Oklahoma City, OK 73129. Transferor: Marlatt Transfer and Storage Company, a Corporation, 8212 S. Bryant, Oklahoma City, OK 73129. Representative: C. L. Phillips, Room 248-Clasmen Terrace Bldg., 1411 N. Clasmen, Oklahoma City, OK 73106. Authority sought for the purchase by transferee of the operating rights of transferor, as set forth in 114252, issued March 27, 1958, as follows: *Spirituuous liquors, new furniture, sash and fixtures, stoves, hardware, ammunition, and toys*, from Joplin, MO, and points within 100 miles thereof, to points in OK. Transferee presently holds authority from this Commission in MC 121087 (Sub-No. 1). Application has not been filed for temporary authority under 49 U.S.C. 11349.

MC-FC-78218, filed July 2, 1979. Transferee: SAFE-WAY MOVING & STORAGE, INC., 499 N. York Rd., Warminster, PA 18974. Transferor: Carl G. Corson, d.b.a. Safe-Way Moving & Storage, 499 N. York Rd., Warminster, PA 18974. Representative: Harry J. Liederbach, 892 Second St. Pike Richboro, PA 18954. Authority sought for the purchase by transferee of the

operating rights of transferor, as set forth in Certificate MC 10653, issued December 3, 1963, as follows: *Household goods*, as defined by the Commission, (a) Between Philadelphia, PA, on the one hand, and, on the other, points in DE and NJ, within 25 miles of Philadelphia, PA; (b) Between points in Bucks and Montgomery Counties, PA, on the one hand, and, on the other, points in CT, MD, MA, NY, RI, VA, and DC; (c) Between Bristol, PA, and points within 25 miles of Bristol, on the one hand, and, on the other, points in PA, NY, NJ, and DE. Transferee presently holds no authority from this Commission, however, sole owner of transferee is sole owner of Town & County Van Lines, Inc., which holds authority under MC 25433. Application has not been filed for temporary authority under 49 U.S.C. 11349.

MC-FC-78220, filed June 29, 1979. Transferee: GARY STUFFO, d.b.a. Jersey City Transfer, 3 Lancelot Lane, Mount Laurel, NJ 08054. Transferor: Railway Motor Trucking, Inc., 317 Observer Hwy., Hoboken, NJ 07030. Representative: Robert B. Pepper, 168 Woodbridge Ave., Highland Park, NJ 08904. Authority sought for the purchase by transferee of the operating rights of transferor, as set forth in Certificates MC 26644 and MC 26644 (Sub-No. 1), issued December 21, 1940, and August 25, 1942, respectively, as follows: (1) *General commodities*, except those of unusual value, dangerous explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, between points in Morris, Union, Hudson, Middlesex, Essex, Bergen, and Passaic Counties, NJ, on the one hand, and, on the other, New York, NY. (2) *General commodities*, except those of unusual value, dangerous explosives, household goods as defined by the Commission, and commodities in bulk, between Jersey City, NJ, on the one hand, and, on the other, points in Hudson, Essex, Bergen, Passaic, Union, Middlesex, Somerset, and Morris Counties, NJ. (3) *Damaged, refused, or rejected shipments* of the commodities in (2) above, between Jersey City, NJ, on the one hand, and, on the other, points in the New Jersey Counties named in (2) above. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under 49 U.S.C. 11349.

MC-FC-78222, filed July 2, 1979. Transferee: AERO DELIVERIES, INC., 208 S. Kidd St. Ionia, MI 48846. Transferor: Aero Distributing Co., Inc.,

4814 Fulton Industrial Blvd., Atlanta, GA 30336. Representative: K. Edward Wolcott, 1200 Gas Light Tower, 235 Peachtree St. NE, Atlanta, GA 30303. Authority sought for the purchase by transferee of a portion of the operating rights of transferor, as set forth in Permits MC 142668, and MC 142668 (Sub-Nos. 5, and 13), issued October 28, 1977, January 31, 1979, May 2, 1979, respectively, as follows: *Such merchandise* as is dealt in by home products distributors, for the plant site of Amway Corporation, at or near Ada, MI, to points in NE, ND, SD, and those points in that part of IA on and west of U.S. Hwy 218, under continuing contract(s) with Amway Corporation, of ADA, MI. *Such merchandise* as is dealt in by home products distributors, (except commodities in bulk), (1) from Chicago, IL, to points in MI (except Huron, Sanilac, Lapeer, St. Clair, Oakland, McComb, Wayne, Lenawee, and Monroe Counties), and (2) from Dubuque, IA, to points in ND, SD, and those points in MN on and west of U.S. Hwy 71, under continuing contract with Stanley Home Products, Inc., of Easthampton, MA. *Such commodities* as are dealt in by retail department stores, from Fargo, ND, to points in ND and SD, under continuing contract with Spiegel, Inc., of Chicago, IL. Transferee also has authority pending in MC 142668 (Sub-No. 18), the portion of which it desires to sell to transferee, as follows: *Such merchandise*, as is marketed by home products distributors (except commodities in bulk), from Chicago, IL, to points in IA, KS, MI, MO, NE, ND, and SD, under continuing contract with Shaklee Corporation, of Hayward, CA. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under 49 U.S.C. 11349.

MC-FC-78224, filed July 3, 1979. Transferee: THOMAS J. McHUGH AND HOWARD J. BRENNAN, JR., a partnership, d.b.a. SUBURBAN EXPRESS COMPANY, P.O. Box 251, Brookside, NJ 07926. Transferor: John Charles Clackworthy, d.b.a. Suburban Express Company, 187 Whippany Rd., Whippany, NJ 07981. Representative: Louis T. Urbanczyk, 1750 New York Ave. NW, Suite 210, Washington, DC 20006. Authority sought for the purchase by transferee of the operating rights of transferor as set forth in Certificate No. MC 19112 (Sub-No. 2), issued March 28, 1958, as follows: *Household goods*, between Morristown, NJ, on the hand, and, on the other, points in CT, MD, MA, NY, PA, RI, and DC. Transferee presently holds no authority from this Commission. Application has not been

filed for temporary authority under 49 U.S.C. 11349.

MC-FC-78229 filed July 10, 1979. Transferee: ARCHIE HOLT, 502 W. State St., Vandalia, MO 63382. Transferor: Hazel F. Kersting, Martinsburg, MO 65264. Representative: Thomas P. Rose, P.O. Box 205, Jefferson City, MO 65102. Authority sought for purchase by transferee of operating rights held by transferor in Permit No. MC 142358 Sub 3, issued March 23, 1978, acquired by transferor pursuant to No. MC-FC-77842, authorizing coal, in bulk, in dump vehicles, from points in MO to points in IL and IA, under contract with Universal Coal and Energy Company, Inc., of Columbia, MO. Transferee holds no authority from this Commission. An application for temporary lease has not been filed.

MC-FC-78234, filed July 17, 1979. Transferee: KUEHL TRANSIT, INC., Storden, MN 56178. Transferor: Refrigerated Foods, Inc., 1420 33rd St., Denver, CO 80201. Representative: Donald L. Stern, Suite 610-7171 Mercy Rd., Omaha, NE 68106. Authority sought for the purchase by transferee of a portion of the operating rights of transferor as set forth in Certificate MC 134068, issued April 24, 1970, as follows: (1) *Cheese, dry dietary mix, and dessert preparations*, from Wanamingo, MN, to points in AZ, CA, CO, MT, and NM, and (2) *butter*, from Wanamingo and Ogilvie, MN, to points in AZ, CA, CO, MT, and NM; RESTRICTION: In connection with the authority granted in (2) above, service to points in AZ and NM is restricted to the transportation of shipments moving in the same vehicle and at the same time with a commodity described in (1) above. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under 49 U.S.C. 11349.

MC-FC-78239, filed July 19, 1979. Transferee: Gary E. Mowery and Connie E. Mowery, a partnership, d.b.a. MOWERY TRANSFER, Route 1 Box 46, Upper Tract, WV 26866. Transferor: Carl Warner, Galen Warner and Darel Warner, a partnership, d.b.a. Warner's Transfer, Route 4 Box 24, Franklin, WV 26807. Representative: Gary E. Mowery, Rte. 1 Box 46, Upper Tract, WV 26866. Authority sought for the purchase by transferee of the operating rights of transferor as set forth in Certificate MC 101898 (Sub-No. 3), issued July 17, 1974, as follows: *Poultry feeds and livestock feeds*, in bulk, from Harrisonburg, VA, to points in Pendleton, Hardy and Grant Counties, WV. Transferee presently holds no authority from this

Commission. Application has not been filed for temporary authority under 49 U.S.C. 11349.

MC-FC-78241, filed July 17, 1979. Transferee: COLLINS TRANSPORT, INC., Route 7, Box 365, Spartanburg, SC 29303. Transferor: Cox Refrigerated Express, Inc., 10606 Goodnight Lane, Dallas, TX 75220. Representative: Scott E. Daniel, 800 Nebraska Savings Building, 1623 Farnam, Omaha, NE 68102. Authority sought for the purchase by transferee of a portion of the operating rights of transferor as set forth in Certificate No. MC 140033 (Sub-No. 65F), issued February 15, 1979, authorizing the transportation of *copper and aluminum magnet wire*, from Abingdon, VA, to El Paso, Beaumont, Dallas and Houston, TX. Transferee presently holds no authority from the Commission and has sought temporary authority under section 210a(b).

MC-FC-78249, filed July 17, 1979. Transferee: RADAMES FIGUEROA, 6819 3rd. Ave., Brooklyn, NY 11220. Transferor: Arthur Bongiorno, 6934 53rd Ave., Maspeth, NY 11378. Representative: Truman O. Murrell, 1871 Victory Blvd., Staten Island, NY 10314. Authority sought for the purchase by transferee of the operating rights of transferor as set forth in Certificate MC 119437, issued September 30, 1974, as follows: *Homing pigeons, and feed and crates* incidental to the care and transportation thereof, during the season March 1 through October 31 of each year, between New York, NY, on the one hand, and, on the other, Bristol, PA and points in NJ. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under 49 U.S.C. 11349.

MC-FC-78250, filed July 30, 1979. Transferee: James Brunsen, d.b.a. JIM'S FREIGHT LINE, 71 2nd St., SE, Britt, IA 50423. Transferor: Robert H. Lewerke, d.b.a. BOB'S FREIGHT LINE, P.O. Box 209, Britt, IA 50423. Representative: James M. Hodge, 1980 Financial Center, Des Moines, IA 50309. Authority sought for the purchase by transferee of the operating rights of transferor as set forth in Certificate No. MC 124056, issued January 24, 1963, as follows: *General commodities*, except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment, over a specified regular route between Mason City, and Kanawha, IA, serving the intermediate points of Duncan and Britt, IA; and over a specified regular route between

junction IA Hwy 111 and unnumbered hwy and Corwith, IA, serving no intermediate points. Transferee presently holds no authority from this Commission. Application has been filed for temporary authority under 49 U.S.C. 11349.

MC-FC-78251, filed July 30, 1979. Transferee: Joseph H. Ellis, d.b.a. BUS-PAK, Box 219, Route 2, Wellford, SC 29385. Transferor: W. Earl Humphries, d.b.a. BUS-PAK, 212 E. Daniel Morgan Ave., Spartanburg, SC 29301. Representative: George W. Clapp, P.O. Box 836, Taylors, SC 29687. Authority sought for the purchase by transferee of the entire operating rights of transferor, as set forth in Certificate MC 142227 (Sub-No. 2), issued June 20, 1977, as follows: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in Spartanburg County, SC, subject to restrictions. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under 49 U.S.C. 11349.

MC-FC-78254, filed July 30, 1979. Transferee: BEEHIVE TOURS & TRAVEL, INC., 1325 S. Main St., Salt Lake City, UT 84115. Transferor: Anne Marie James, d.b.a. James Travel Tours, 2230 Scenic Drive, Salt Lake City, UT 84109. Representative: Irene Warr, 430 Judge Bldg., Salt Lake City, UT 84111. Authority sought for the purchase by transferee of the operating rights of transferor as set forth in brokers license MC 12697, issued June 25, 1979, as follows: Operations as a broker at Salt Lake City, UT, in arranging for the transportation by motor vehicle, of passengers and their baggage, in special and charter operations, in round-trip all-expense tours, beginning and ending at Salt Lake City, UT, and extending to points in the United States (including HI but excluding AK), and beginning and ending at points in UT (except Salt Lake City), ID, AZ, NV, and CA and extending to points in the United States (including AK and HI). Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under 49 U.S.C. 11349.

MOTOR CARRIER ALTERNATE ROUTE DEVIATIONS

The following letter-notice to operate over deviation routes for operating convenience only have been filed with the Commission under the Deviation

Rules—Motor Carrier of Property (49 CFR 1042.4(c)(11)).

Protests against the use of any proposed deviation route herein described may be filed with the Commission in the manner and form provided in such rules at any time, but will not operate to stay commencement of the proposed operations unless filed on or before September 20, 1979.

Each applicant states that there will be no significant effect on either the quality of the human environment or energy policy and conservation.

MOTOR CARRIERS OF PROPERTY

MC 11220 (Deviation No. 48), GORDON'S TRANSPORTS, INC., 185 West McLemore Ave., Memphis, TN 38101, filed August 1, 1979. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exception, over a deviation route as follows: From Houston, TX, over Interstate Hwy 10 to Junction Interstate Hwy 12, then over Interstate Hwy 12 to Junction Interstate Hwy 55, then over Interstate Hwy 55 to Jackson, MS, then over Interstate Hwy 20 to Birmingham, AL, and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over a pertinent service route as follows: From Houston, TX, over U.S. Hwy 75 to Durant, OK, then over U.S. Hwy 70 to Junction Interstate Hwy 30, west of Benton, AR, then over Interstate Hwy 30 to Little Rock, AR, then over U.S. Hwy 70 to Memphis, TN, then over U.S. Hwy 72 to Junction Alternate U.S. Hwy 72, then over Alternate U.S. Hwy 72 to Junction U.S. Hwy 31, then over U.S. Hwy 31 to Birmingham, AL, and return over the same route.

MC 29555 (Deviation No. 35), BRIGGS TRANSPORTATION CO., North 400 Griggs-Midway Bldg., St. Paul, MN 55104, filed July 31, 1979. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Rockford, IL, over U.S. Hwy 20 to Junction Interstate Hwy 90, then over Interstate Hwy 90 to Junction Wisconsin Hwy 15, then over Wisconsin Hwy 15 to Milwaukee, WI, and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over a pertinent service route as follows: From Rockford, IL, over U.S. Hwy 20 to Chicago, IL, then over Illinois Hwy 21 to Junction U.S. Hwy 45, then over U.S. Hwy 45 to West Allis, WI, and return

over the same route. NOTE: A portion of this deviation is premised on a grant of temporary authority under Section 210(a)(b). If applicant's right to operate all or part of the leased authority expires, this deviation, if authorized, will likewise expire.

MC 35320 (Deviation No. 24), T.I.M.E.-DC, INC., P.O. Box 2550, Lubbock, TX 79408, filed June 29, 1979. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Paris, TN, over U.S. Hwy 79 to Clarksville, TN, then over U.S. Alternate Hwy 41 to Nashville, TN, and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Paris, TN, over U.S. Hwy 79 to McKenzie, TN, then over Tennessee Hwy 22 to Huntingdon, TN, then over U.S. Hwy 70 to Nashville, TN, and return over the same route.

Motor Carrier Intrastate Application(s)

The following application(s) for motor common carrier authority to operate in intrastate commerce seek concurrent motor carrier authorization in interstate or foreign commerce within the limits of the intrastate authority sought, pursuant to Section 10931 (formerly Section 206(a)(6)) of the Interstate Commerce Act. These applications are governed by Special Rule 245 of the Commission's *General Rules of Practice* (49 CFR 1100.245), which provides, among other things, that protests and requests for information concerning the time and place of State Commission hearings or other proceedings, any subsequent changes therein, and any other related matters shall be directed to the State Commission with which the application is filed and shall not be addressed to or filed with the Interstate Commerce Commission.

California Docket No. 59000, filed July 17, 1979. Applicant: KERN VALLEY TRUCKING, 1272 Gossage Avenue, Petaluma, CA 94952. Representative: Martin J. Rosen, Michael S. Rubin, 256 Montgomery Street, San Francisco, CA 94104. Certificate of Public Convenience and Necessity sought to operate a freight service, as follows: Transportation of: *General commodities*, except those pursuant to the authority herein granted, carrier shall not transport any shipments of: (1) used household goods, personal effects and office, store and institution furniture, fixtures and equipment not packed in

salesmen's hand sample cases, suitcases, overnight or boston bags, brief cases, hat boxes, valises, traveling bags, trunks, life vans, barrels, boxes, cartons, crates, cases, baskets, pails, kits, tubs, drums, bags (jute, cotton, burlap or gunny) or bundles (completely wrapped in jute, cotton, burlap, gunny, fibreboard, or straw matting); (2) automobiles, trucks and buses, viz.: new and used, finished or unfinished passenger automobiles (including jeeps), ambulances, hearses and taxis; freight automobiles, automobile chassis, trucks, truck chassis, truck trailers, trucks and trailers combined, buses and bus chassis; (3) livestock, viz.: barrows, boars, bulls, butcher hogs, calves, cattle, cows, dairy cattle, ewes, feeder pigs, gilts, goats, heifers, hogs, kids, lambs, oxen, pigs, rams (bucks), sheep, sheep camp outfits, sows, steers, stags, swine or wethers; (4) liquids, compressed gases, commodities in semi-plastic form and commodities in suspension in liquids in bulk, in tank trucks, tank trailers, tank semitrailers or a combination of such highway vehicles; (5) commodities when transported in bulk in dump-type trucks or trailers or in hopper-type trucks or trailers; (6) commodities when transported in motor vehicles equipped for mechanical mixing in transit; (7) portland or similar cements, in bulk or packages, when loaded substantially to capacity of motor vehicle; (8) logs; (9) articles of extraordinary value; (10) commodities requiring the use of special refrigeration or temperature control in specially designed and constructed refrigerator equipment, via the following routes: 1. On and within 20 miles of the following named highways: (1) State Highway 1 between San Francisco and Carmel; (2) U.S. Highway 99 between its junction with Interstate Highway 5 near Roseville and its junction with Interstate Highway 5 near Red Bluff; (3) Interstate Highway 5 between Sacramento and Redding; (4) U.S. Highway 80 between Sacramento and Floriston; (5) State Highway 505 between Vacaville and Dunnigan; and 2. On and within 10 miles of the following named highways: (1) Interstate Highway 5 between Los Angeles and the California-Mexico Boundary Line, including points in the San Diego Territory, as described in Note below. (2) U.S. Highway 395 and interstate Highway 15 between the San Diego Territory, as described in Note below, and San Bernardino; (3) State Highway 101 between Los Angeles and Ventura; (4) Interstate Highway 10 between Los Angeles and Blythe; (5) U.S. Highway 101 between San Francisco and Salinas; (6) U.S. Highway

17 between San Francisco and Santa Cruz; (7) State Highway 156 between Castroville and Hollister; (8) State Highway 68 between State Highway 1 and Salinas; (9) State Highway 680 between Vallejo and San Jose; (10) Interstate Highway 780 between its junction with Interstate Highway 680 near Benicia and its junction with Interstate Highway 80 near Vallejo; (11) Interstate Highway 8 between the San Diego Territory, as described in Note below, and Winterhaven; (12) State Highway 86 between its junction with Interstate Highway 10 near Indio and its junction with Interstate Highway 8 near El Centro. Intrastate, interstate and foreign commerce authority sought. Hearing: Date, time and place not yet fixed. Requests for procedural information should be addressed to California Public Utilities Commission, State Building, Civic Center, San Francisco, CA 94102, and should not be direct to the Interstate Commerce Commission.

Note.—San Diego Territory is defined as follows: Between points in California within an area bounded by a line beginning at the northerly junction of U.S. Highways Nos. 101-E and 101-W (4 miles north of LaJolla); thence easterly to Miramar on U.S. Highway No. 395; thence southeasterly to Lakeside on the El Cajon-Ramona Highway (State Highway No. 67); thence southerly to Bostonia on U.S. Highway No. 80; thence southeasterly to Jamul on State Highway No. 94; thence due south to the International Boundary Line, west to the Pacific Ocean and north along the coast to point of beginning, and serving points within 5 miles of the boundaries of the above described area.

Montana Docket No. T-4529, filed July 9, 1979. Applicant: DARRYL L. BARKER AND ROBERT L. BARKER, d.b.a. BARKER TRUCKING, 107 South 23rd Street, P.O. Box 31651, Billings, MT 59107. Certificate of Public Convenience and Necessity sought to operate a freight service, as follows: Transportation of: *Dental, medical and surgical supplies and equipment*, between Billings & Bozeman, Glendive, Great Falls, Wolf Point, Choteau, Columbus, Glasgow, Deer Lodge, Lewistown, Conrad, Red Lodge, Plentywood, Hardin, Livingston, Big Timber, Baker, Jordan, Chester, Butte and Helena. Applicant desires to be able to transport shipments of this commodity having an immediate prior interstate haul by truck between these same points. Intrastate, interstate, and foreign commerce authority sought. Hearing: Date, time and place not yet fixed. Requests for procedural information should be addressed to Montana Public Service Commission.

1227 11th Avenue, Helena, MT 59601, and should not be directed to the Interstate Commerce Commission.

New York Docket No. T-1851, filed July 23, 1979. Applicant: P. J. GARVEY CARTING & STORAGE, INC., 465 Cornwall Avenue, Buffalo, NY 14215. Representative: James P. Burgio, Esq., 3350 Marine Midland Center, Buffalo, NY 14203. Certificate of Public Convenience and Necessity sought to operate a freight service, as follows: Transportation of: *General commodities* between all points in Erie County and all points in Allegany County, Cattaraugus County, Genesee County, Niagara County, Orleans County, Wyoming County and Chautauqua County. Intrastate, interstate and foreign commerce authority sought. Hearing: Date, time and place not yet fixed. Requests for procedural information should be addressed to Department of Transportation, 1220 Washington Ave., State Campus, Building #4, Room G-21, Albany, NY 12232, and should not be direct to the Interstate Commerce Commission.

Transportation of "Waste" Products for Reuse or Recycling

Special Certificate Letter Notice(s)

The following letter notices request participation in a Special Certificate of Public Convenience and Necessity for the transportation of "waste" products for reuse or recycling in furtherance of a recognized pollution control program under the Commission's regulations (49 CFR 1062) promulgated in "Waste" Products, Ex Parte No. MC-85, 124 M.C.C. 583 (1976). Requests are processed as seeking authority between all points in the United States.

An original and one copy of protests (including protestant's complete argument and evidence) against applicant's participation may be filed with the Interstate Commerce Commission on or before September 10, 1979. A copy must also be served upon applicant or its representative. Protests against the applicant's participation will not operate to stay commencement of the proposed operation.

If the applicant is not otherwise informed by the Commission, operations may commence *within 30 days* of the date of its notice in the *Federal Register*, subject to its tariff publication effective date.

P-6-79 (special certificate—waste products), filed July 23, 1979. Applicant: FARLEY H. WILLIAMS, 503 Willow Lane, Bridgeport, WV. Representative: James D. Gray, Steptoe & Johnson, P.O. Box 2190, Clarksburg, WV 26301.

Sponsor: Anchor Hocking Corporation, of Clarksburg, WV, South Connelssville, PA, and Lancaster, OH. Commodity: Cullet.

P-7-79 (special certificate—waste products), filed July 20, 1979. Applicant: EARL W. NORRIS, 3654 Gertrude St., Omaha, NE 68107. Representative: Paul D. Kratz, Stern & Becker, P.C., Suite 810, 7171 Mercy Rd., Omaha, NE 68106. Sponsor: Midland Auto Creusher, Inc., Council Bluffs, IA. Commodity: Wrecker auto bodies.

By the Commission.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 79-25801 Filed 8-20-79; 8:45 am]
BILLING CODE 7035-01-M

Released Value Rates

AGENCY: Interstate Commerce Commission.

ACTION: Notice. Released Rates Application No. MC 1503.

SUMMARY: Dependable Car Travel Service, Inc. seeks authority to amend Released Rates Order No. MC 630, as amended, to include additional operating authority, which was granted to the applicant in Docket No. MC 125978 (Sub-8 and Sub-9). The additional operating authority is in connection with single driveway service between points in MA, CT, RI, NY, NJ and PA. Also, between points in FL with certain restrictions. Also, in connection with truckaway service between New York, NY, on the one hand, and, on the other, points in Dade, Broward, and Palm Beach Counties, FL. The released rates authority is to apply on baggage, sporting equipment, and personal effects of owners of used passenger automobiles, when moving in such vehicles, in driveway or truckaway service.

ADDRESSES: Anyone seeking copies of this application should contact: Mr. Edward M. Alfano (or) Mr. John L. Alfano, Alfano & Alfano, P.C., 550 Mamaroneck Avenue, Harrison, NY 10528.

FOR FURTHER INFORMATION CONTACT: Mr. Harold Ward, Bureau of Traffic, Interstate Commerce Commission, Washington, D.C. 20423, Telephone: (202) 275-7447.

SUPPLEMENTARY INFORMATION: Relief is sought from 49 U.S.C. 10730, formerly Section 20(11) of the Interstate Commerce Act, to publish released

value rates in the tariffs of Dependable Car Travel Service, Inc.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 79-25792 Filed 8-20-79; 8:45 am]
BILLING CODE 7035-01-M

[Finance Docket No. 28972F]

Burlington Northern, Inc.—Merger—Spokane, Portland and Seattle Railway Co., Exemption Under 49 U.S.C. 10505 From 49 U.S.C. 11343-11347

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Exemption.

SUMMARY: The Interstate Commerce Commission exempts the merger of the Spokane, Portland and Seattle Railway Company into the Burlington Northern, Inc., from the requirements of 49 U.S.C. 11343-11347, which requires prior consideration and approval of the transaction by the Commission.

DATE: Effective August 21, 1979.

FOR FURTHER INFORMATION CONTACT: Michael Erenberg (202) 275-7546.

SUPPLEMENTARY INFORMATION:

Procedural Background

Burlington Northern, Inc. (BN) and the Spokane, Portland and Seattle Railway Company (SP&S) filed a petition for exemption under 49 U.S.C. 10505 on March 2, 1979, requesting that their proposed merger be exempted from the requirements of obtaining prior Commission approval under 49 U.S.C. 11343-11347. In response to this petition we published a notice in the *Federal Register* on May 21, 1979, 44 FR 29554 (1979) requesting comments on the proposed exemption. Comments in favor of the exemption were filed by the Southern Railway System (Southern) the Union Pacific Railroad Company (UP). No comments have been received opposing the proposed exemption.

The notice of proposed exemption set forth the facts in this proceeding. No comments have been filed controverting or otherwise questioning the facts presented in our notice. We will adopt the facts presented in the notice and refer to them as needed in our discussion. The notice is attached as an Appendix to this decision.

Rail Exemption Authority

BN seeks exemption of its merger with SP&S under 49 U.S.C. 10505. This section provides:

(a) In a matter related to a rail carrier providing transportation subject to the jurisdiction of the Interstate Commerce

Commission under this subchapter, the Commission shall exempt a person, class or persons, or a transaction or service because of the limited scope of the transaction or service, when the Commission finds that the application of a provision of this subtitle—

(1) is not necessary to carry out the transportation policy of section 10101 of this title;

(2) would be an unreasonable burden on a person, class of persons, or interstate or foreign commerce; and

(3) would serve little or no useful public purpose.

(b) The Commission may begin a proceeding under this section on its own initiative or on application by the Secretary of Transportation or an interested party. The Commission may specify the period of time during which the exemption is effective.

(c) The Commission may revoke an exemption, to the extent it specifies, when it finds that application of a provision of this subtitle to the person, class, or transportation is necessary—

(1) to carry out the transportation policy of section 10101 of this title;

(2) to achieve effective regulation by the Commission; and

(3) to serve a useful public purpose.

(d) The Commission may act under this section only after an opportunity for a proceeding.

This proposed exemption involves sections (a), (b), and (d).

The statutory requirements for exempting a transaction can be broken down into four parts: (1) whether the transaction is of a limited scope, (2) whether it is necessary to carry out the national transportation policy, (3) whether the provisions of 49 U.S.C. 11343-11347 would be an unreasonable burden on the BN and SP&S or interstate or foreign commerce, and (4) whether or not our application of 49 U.S.C. 11343-11347 would serve little or no useful public purpose.

Limited Scope

BN currently controls SP&S. BN also leases all of SP&S's assets, except for SP&S's franchise to be a corporation and corporate books and records. The proposed merger is solely within the corporate family and is actually a paper transaction. The merger is limited in scope since it is within a corporate family.

Additionally, the merger is of limited geographic scope. BN is a carrier with approximately 24,950 miles of lines in 19 States and two Canadian provinces. SP&S on the other hand is a non-operating, lessor railroad with

approximately 600 miles of track limited to the States of Oregon and Washington.

The transaction is also limited in scope because no employees are involved. SP&S has no rail employees. Its officers and directors are all employed by BN. Additionally BN employees conduct all operations over SP&S facilities.

Finally, the transaction is limited in scope as it affects competitors of BN and SP&S. BN has stated that there will be no change in operations, and that the only purposes of the merger are to avoid renewing a lease, fulfill the goals of *Great Northern Pac & B. Lines, Merger—Great Northern 331 I.C.C. 228 (1967) (The Northern Lines Merger)*, and to avoid the burden of complying with the *I.C.C. Railroad Acquisition, Control, Merger, Consolidation, Coordination Project, Trackage Rights, and Lease Procedures*, 49 C.F.R. Part 1111 (1978) (*Consolidation Procedures*). SP&S has no actual independent existence from BN as far as competition for freight traffic is concerned. There will be no change in rail competition resulting from the merger.

The exemption proposed by BN and SP&S is of a limited scope. It is limited to (1) a merger within a corporate family, (2) a geographic region, (3) no impact on employees, and (4) no effect on the competitive balance for freight traffic.

Since the proposed transaction is of a limited scope, we will now consider the other criteria.

Necessity to carry out the national transportation policy. The Transportation Policy of 49 U.S.C. 10101 is to provide impartial regulation of modes of transportation subject to subtitle IV. Impartial regulation is achieved through recognizing and preserving inherent advantage of each mode; promoting safe, adequate, economical, and efficient transportation; encouraging sound economic conditions in transportation, including sound economic condition among carriers; encouraging the establishment and maintenance of reasonable rates for transportation without unreasonable discrimination or unfair or destructive competitive practices; cooperating with each State and officials of each State on transportation matters; and encouraging fair wages and working conditions in the transportation industry.

The regulation of the BN and SP&S merger is not necessary to carry out the goals of the national transportation policy. It is a merger within a corporate family, and will not effect the considerations of the transportation policy since the elimination of a

corporate entity will be the only change resulting from the transaction.

Elimination of SP&S will only reduce duplicative reporting and bookkeeping. It will also simplify the corporate structure of BN. Commission regulation of this merger is not necessary to carry out the national transportation policy.

Unreasonable burden on a person. The Commission's *Consolidation Procedures* require a complete application to be filed so that a decision may be reached within the time constraints of 49 U.S.C. 11345. Compilation of all the material necessary to comply with the *Consolidation Procedures* is a time consuming task. Where there has been no public opposition to the proposal, the establishment of a massive record on which to base a decision would appear an unreasonable burden upon the BN and SP&S.

Southern points out the cost of filing an application with the Commission and maintaining SP&S's separate corporate existence are unreasonable in light of the fact that there is no compensatory advantage to BN, the Commission, shippers, or the public. UP points out that it strongly supports the use of the exemption when there will be an unreasonable burden on a carrier without any offsetting benefit to the public.

Requiring BN and SP&S to submit a complete application and then comply with the time requirements imposed by 49 U.S.C. 11345 would place an unreasonable burden on BN and SP&S. *Little or no useful public purpose.*

In determining whether or not to approve a merger, the Commission's function is to decide if it is within the public interest. In reaching this determination we rely upon the application submitted pursuant to the *Consolidation Procedures* and the comments of parties. Since we have provided the opportunity for comments on the proposal and no one has opposed it, we would rely upon the application to determine the public interest. As we have stated, the filing of an application under 49 U.S.C. 11343-11347 would be an unreasonable burden in this situation. Additionally, the Commission's review of the application would not be a beneficial use of public resources.

Southern points out that shippers and the public would not be able to reasonably object to the merger since service will be unaffected and no one connected with SP&S will suffer any injury. Southern also states that the merger appears to be a purely internal decision within the discretion of BN. UP

indicates its only concern with the proposed exemption is that the conditions imposed in the *Northern Lines Merger* remain in effect. There is no proposal before us to alter the conditions imposed in the *Northern Lines Merger*. The BN and SP&S merger will not alter those conditions.

Because this is a merger within a corporate family, involving merely a paper transaction, our review of it would serve little or no useful public purpose.

Conclusion

Our analysis leads us to conclude that the exemption of the merger between BN and SP&S from 49 U.S.C. section 11343-11347 meets the statutory requirements of 49 U.S.C. 10505. Congress itself has stated that "an exemption power in the Commission is very desirable". H.R. Rep. No. 94-499, p. 53 (1975). It has also stated that "the power to exempt from regulation in whole or in part will enable the Commission to commit its limited resources in areas where they are most needed, by enabling it to deregulate those areas which have no significant bearing on the overall regulatory scheme." *Id.* Congress also indicated that the exemption provision was consistent with the other provisions of the Railroad Revitalization and Regulatory Reform Act of 1976, Pub. Law 94-210. H.R. Rep. No. 94-725, p. 75 (1975). In enacting 49 U.S.C. 10505, Congress clearly intended us to exempt specific limited transactions from our regulatory power. This is one such transaction.

Procedural Matter

Accompanying its petition for exemption, under 49 U.S.C. 10505, BN alternatively requested waiver of the Commission's Consolidation Procedures. We have held the decision on the proposed waiver in abeyance until a decision was made on the exemption. Since we have determined to grant the exemption, the waiver need not be considered, and will be dismissed.

We find: (1) The application of the requirements of 49 U.S.C. 1143-1147 to the merger of the Spokane, Portland and Seattle Railway Company into Burlington Northern, Inc., is of a limited scope and (a) is not necessary to carry out the transportation policy of section 10101, (b) would be an unreasonable burden on BN and SP&S, and (c) would serve little or no useful public purpose. (2) This decision is not a major Federal action significantly affecting energy consumption or the quality of the human environment.

It is ordered: (1) Burlington Northern, Inc., and the Spokane, Portland and Seattle Railway Company are exempted under 49 U.S.C. 10505 from the requirements of 49 U.S.C. 11343-11347 for the limited purpose of merging the SP&S into BN.

(2) If SP&S is merged in BN, BN shall, within 60 days of the merger submit three copies of a sworn statement showing all general entries required to record the transaction.

(3) The petition for waiver is dismissed.

(4) Public notice of our action shall be given to the general public by delivery of a copy of this decision to the Director, Federal Register, for publication therein.

(5) This exemption will continue in effect for 90 days from the effective date of this decision. BN and SP&S must consummate this merger during that time in order to take advantage of the exemption which we have granted.

(6) This decision shall be effective August 21, 1979.

Dated: August 8, 1979.

By the Commission, Chairman O'Neal, Commissioners Stafford, Gresham, Clapp, Christian, Trantum, and Gaskins. Commissioner Christian not participating. Agatha L. Mergenovich, Secretary.

[FR Doc. 79-25798 Filed 8-20-79; 8:45 am]

BILLING CODE 7035-01-M

[Released Rates Application No. FF-449]

Dependable Auto Shippers, Inc.

AGENCY: Interstate Commerce Commission.

ACTION: Notice. Released Rates Application No. FF-449.

SUMMARY: Dependable Auto Shippers, Inc. seeks authority to publish released value rates between points in NJ, NY, CT, MA, RI, and PA, on the one hand, and, on the other, points in FL, with some restrictions, on baggage and personal effects moving in used passenger automobiles tendered for transportation in freight forwarder service. The net effect will be to limit applicant's maximum liability to a value declared by the shipper, but not to exceed \$250.

ADDRESSES: Anyone seeking copies of this application should contact: Mr. Edward M. Alfano (or) Mr. John L. Alfano, Alfano & Alfano, P.C., 550 Mamaroneck Avenue, Harrison, NY 10528.

FOR FURTHER INFORMATION CONTACT: Mr. Harold Ward, Bureau of Traffic, Interstate Commerce Commission,

Washington, D.C. 20423, telephone: (202) 275-7447.

SUPPLEMENTARY INFORMATION: Relief is sought from 49 USC 10730, formerly Section 20(11) of the Interstate Commerce Act, to publish released value rates in the tariffs of Dependable Auto Shippers, Inc.

Agatha L. Mergenovich, Secretary.

[FR Doc. 79-25794 Filed 8-20-79; 8:45 am]

BILLING CODE 7035-01-M

[Exemption No. 170]

Exemption Under Provision of Rule 19 of the Mandatory Car Service Rules Ordered in Ex Parte No. 241

August 15, 1979

There is an emergency movement of military supplies from Crane, Indiana, to Leland, North Carolina. The originating carrier has insufficient system cars of suitable dimensions immediately available for loading with this traffic. Sufficient cars of other ownerships having suitable dimensions are available on the lines of the originating carrier and on its connections, and compliance with Car Service Rules 1 and 2 would prevent the timely assembly and use of such cars.

It is ordered, That pursuant to the authority vested in me by Car Service Rule 19, the Car Service Division of the Association of American Railroads is authorized to direct the movement to the Chicago, Milwaukee, St. Paul and Pacific Railroad Company (Milwaukee), the railroads designated by the Car Service Division are authorized to move to, and the Milwaukee is authorized to accept, assemble, and load not to exceed 50 empty plain boxcars with military supplies from Crane, Indiana, to Leland, North Carolina, regardless of the provisions of Car Service Rules 1 and 2.

Effective August 3, 1979.

Expires August 31, 1979.

Interstate Commerce Commission.

Robert S. Turkington,

Agent.

[FR Doc. 79-25798 Filed 8-20-79; 8:45 am]

BILLING CODE 7035-01-M

Fourth Section Applications for Relief

August 15, 1979.

These applications for long-and-short-haul relief have been filed with the I.C.C.

Protests are due at the I.C.C. on or before September 5, 1979.

FSA NO. 43734 Southwestern Freight Bureau, Agent No. B-17, iron and steel

articles, in carloads, between Hurst, Tex., on the one hand, and on the other, points in the United States, in Supp. 435 to its Tariff ICC SWFB 4850, effective September 9, 1979. Grounds for relief—market competition.

FSA No. 43736, Southwestern Freight Bureau, Agent No. B-12, sugar, beet or cane, refined, in bulk, from points in Louisiana and Texas to points in Eastern, Southern, and Western Territories, in Supp. 170 to its Tariff ICC SWFB 4411, effective September 16, 1979. Grounds for relief—increased revenue.

FSA No. 43737, Trans-Continental Freight Bureau, Agent No. 541, sugar, beet or cane, in bags, from Crockett and Richmond, Calif. to Ft. Madison, Ia. and Streator, Ill., to be published in its Tariff ICC TCFB 7023-S. Grounds for relief—rate relationship.

By the Commission

Agatha L. Mergenovich, Secretary.

[FR Doc. 79-25795 Filed 8-20-79; 8:45 am]

BILLING CODE 7035-01-M

[Released Rates Application No. FF-448]

North American Forwarding, Inc.

AGENCY: Interstate Commerce Commission.

ACTION: Notice. Released Rates Application No. FF-448.

SUMMARY: North American Forwarding, Inc., seeks authority to publish released rates on (a) used household goods, (b) used automobiles, and (c) unaccompanied baggage, between points in the United States, including Hawaii, but excluding Alaska, restricted in (b) to the transportation of export and import traffic. Applicant anticipates publishing its rates in its Tariff No. 400, ICC NAMR 400. Presently similar rates are published in Household Goods Forwarders Tariff ICC HGF 400 and subject to Released Rates Order No. FF-289, July 6, 1977.

ADDRESSES: Anyone seeking copies of this application should contact: Mr. Stephen C. Clifford, Attorney, North American Van Lines, Law Department, P.O. Box 988, Fort Wayne, Indiana 46801.

FOR FURTHER INFORMATION CONTACT: Mr. Harold Ward, Bureau of Traffic, Interstate Commerce Commission, Washington, DC 20423, telephone: (202) 275-7447.

SUPPLEMENTARY INFORMATION: Relief is sought from 49 USC 10730, formerly Section 20(11) of the Interstate Commerce Act to publish released rates

in tariffs of North American Forwarding, Inc.

Agatha L. Mergenovich, Secretary.

[FR Doc. 79-25793 Filed 8-20-79; 8:45 am]

BILLING CODE 7035-01-M

[I.C.C. Order No. 43-A Under Service Order No. 1344]

Rerouting Traffic

August 15, 1979.

To: All Railroads.

Upon further consideration of I.C.C. Order No. 43, and good cause appearing therefor:

It is ordered, I.C.C. Order No. 43 is vacated.

This order shall become effective August 6, 1979, and shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. A copy shall be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., August 6, 1979. Interstate Commerce Commission.

Joel E. Burns,

Agent.

[FR Doc. 79-25797 Filed 8-20-79; 8:45 am]

BILLING CODE 7035-01-M

[Exception No. 11 to Rev. Service Order No. 1312]

Soo Line Railroad Co.

August 15, 1979.

Because of the inability of the railroad to assemble the cars, a movement of thirty-seven (37) loaded covered hopper cars will be seriously delayed on Soo Line Railroad Company enroute to Buffalo, New York, for unloading. General Mills desires to ship a sixty (60) car unit-grain-train of wheat to Buffalo, New York, routed Soo Line-ConRail. The consignee at Buffalo is badly in need of the wheat, but only 37 covered hoppers have arrived at Duluth. Section (a) of Revised Service Order No. 1312 authorizes any railroad which is unable to supply the number of covered hopper cars required by its tariffs to transport unit-grain-trains of fewer cars in accordance with the scale in Section (b).

Pursuant to the authority vested in the Director, Bureau of Operations, by section (h) of Revised Service Order No. 1312, Soo Line Railroad Company is authorized to operate a sixty (60) car unit-grain-train from Duluth, Minnesota,

to Buffalo, New York, comprised of sixty (60) railroad owned covered hoppers, on a one trip basis, with a minimum of 37 loaded cars operated in the first movement, and the remaining cars of the unit-train operated together in the final movement of this unit-grain-train. The total tariff minimum weight will be transported as required except if the railroad is unable to move all of the empty covered hoppers to the loading point on the final movement, the train can be reduced by the allowable number of cars or allowable weight percentage, as set forth in Section (b) of this Service Order.

This exception applies to railroad owned covered hopper cars.

The bills of lading and waybills shall bear the following endorsement: "Unit-grain-train of () tons or () cars. Partial movement of () tons or () cars forwarded authority Exception No. 11 to ICC Revised Service Order No. 1312. () tons or () cars to follow."

Demurrage rules will be treated as if each of the movements of the unit-train is a complete movement in itself.

Effective August 6, 1979.

Expires 11:59 p.m., August 10, 1979.

Issued at Washington, D.C., August 6, 1979.

Joel E. Burns,

Director.

[FR Doc. 79-25791 Filed 8-20-79; 8:45 am]

BILLING CODE 7035-01-M

Sunshine Act Meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

[M-239; August 16, 1979]

CIVIL AERONAUTICS BOARD.

TIME AND DATE: 10 a.m., August 23, 1979.

PLACE: Room 1027 (open); room 1011 (closed); 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT:

1. Ratification of items adopted by notation.
2. Docket 36126, Application of Tradewinds Airways Limited for an exemption to perform split-cargo charters between New York and London. (BIA, OGC)
3. Dockets 32851, 30373, 32161, 30777, 33159, and 35732; Staff-initiated review of pricing freedom and the intercarrier agreements affecting marketing via travel agencies. (BDA)
4. Docket 29198, *Alaska Fares Investigation*—Draft Order and Notice of Proposed Rulemaking. (OGC)
5. Docket 30790, *United States-Benelux Low-Fare Route Proceeding*. Opinion and Order. (Memo No. 9052, OGC)
6. Docket 31574, *California-Nevada Low-Fare route Investigation*, Order on Reconsideration. (Memo No. 7433-H, OGC)
7. Docket 35883, Application of Command Airways, Inc. for an exemption to permit it to suspend service at Pittsfield, Massachusetts, on less than the 90 days' notice required by Section 37(c) of the Airline Deregulation Act. (Memo No. 9051, BDA)
8. Docket 36244, Pioneer's 30-day notice of intent to suspend service at McCook, Kearney, Hastings, and Columbus, Nebraska. (BDA, OCCR, OC, OGC, BALJ, BIA)
9. Docket 34591, Essential Air Service at Hot Springs, VA (BDA, OCCR)
10. Docket 35734, USAir's notice to terminate all service at White Plains, N.Y., and the petition of various New York parties to prohibit USAir from terminating service as proposed until a replacement carrier is found. (BDA, OCCR)
11. Dockets 35464 and 34650; Final guidelines and procedures for essential air service determinations. (OGC, BDA)
12. Docket 34965, Direct marketing of charters by air carriers. (OGC, BDA)
13. Docket 35662, Direct sale of charter air transportation. Update report to Congress. (OGC)
14. Docket 31788, Split all-cargo and split passenger/cargo charters. (OGC, BDA, BIA)
15. Dockets 35708, 34753, 34604, 35900, 35903, 35905, 35907, 35910, 35916, 35921, and 35923; *Philadelphia-Pittsburgh Show-Cause Proceeding*. (BDA)
16. Dockets 35155, 35444, 35481, 35682, 35692, and 35833; Applications of TWA, US Air (Allegheny), Northwest, Ozark, Airwest, and United for Minneapolis-Denver authority. (Memo No. 9050, BDA)
17. Dockets 35932, 35998, 36127, and 36178; Applications of Air California, Airwest, USAir, and Western for Portland-San Jose/Sacramento/San Francisco/Oakland/Reno Authority. (BDA, BALJ, OGC)
18. Dockets 35851, 36032, 36023, 36039, 36029, 36026, 36034, 36046, 34990, 36055, and 36042; *Philadelphia-California-Nevada Show-Cause Proceeding*. U.S. Air, Continental, Eastern, Frontier, Western, Northwest, National, Texas International, Republic, and American. (Memo No. 8902-A, BDA)
19. Dockets 35659, 35861, 35857, and 35865; *Norfolk-Washington Show Cause Proceeding*. (Memo No. 8812-A, BDA)
20. Dockets 32705 and 34564; Application of Popular Latin Travel Agency, Inc., for reexamination of ATC agreements on declaration of travel agent default by individual carriers and liability for lost or stolen tickets; ATC agreements amending rules on default declaration by individual carriers. (Memo No. 8209-A, BDA, OGC, BCP)
21. Dockets 32497, Application of Wright Airlines, et al., for approval of control and interlocking relationships under sections 408 and 409 of the Act. (Memo No. 8938-A, BDA)
22. Discussion on IATA Show Cause Proceeding. (BDA, BIA)

STATUS: Open (items 1-21), closed (item 22).

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary, (202) 673-5068.

SUPPLEMENTAL INFORMATION: Public disclosures, particularly to foreign governments, of opinions, evaluations, and strategies relating to the issues could seriously compromise the ability of the United States Delegation to achieve agreements which would be in the best interests of the United States. Accordingly, the following Members have voted that the meeting on this

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Tuesday, August 21, 1979

subject would involve matters the premature disclosure of which would be likely to significantly frustrate implementation of proposed agency action within the meaning of the exemption provided under 5 U.S.C. 552(c)(9)(B) and 14 CFR Section 310b.5(9)(B) and that the meeting will be closed:

Chairman, Marvin S. Cohen, Member, Richard J. O'Melia, Member, Gloria Schaffer

Persons Expected To Attend

Board Members.—Chairman, Marvin S. Cohen; Member, Richard J. O'Melia; Member, Elizabeth E. Bailey; and Member, Gloria Schaffer.

Assistants to Board Members.—Mr. David Kirstein, Mr. James L. Deegan, Mr. Richard H. Klem, and Mr. Steven H. Lachter.

Managing Director.—Mr. Cressworth Lander.

Executive Assistant to the Managing Director.—Mr. John R. Hancock.

Office of the General Counsel.—Mr. Philip J. Bakes, Jr. and Mr. Gary J. Edles.

Bureau of International Aviation.—Mr. Sanford Rederer, Mr. Rosario J. Scibilia, Mr. Jerry Nelson, Mr. Ivars V. Mellups, Mr. Richard M. Loughlin, Mr. Regis P. Milan, Ms. Patricia A. Depuy, Mr. Herbert P. Aswall, Mr. Donald Litton, Mr. Francis S. Murphy, and Ms. Mary L. Pett.

Office of the General Director.—Mr. Michael E. Levine.

Bureau of Domestic Aviation.—Ms. Barbara A. Clark, Mr. Paul L. Gretch, Mr. Steven Baron, Mr. Paul Karlsson, and Mr. Charles McNagny.

Office of Economic Analysis.—Mr. Robert H. Frank, and Mr. Larry Manheim.

Bureau of Consumer Protection.—Mr. Reuben B. Robertson, and Mr. William Wentz.

Office of the Secretary.—Mrs. Phyllis T. Kaylor, Ms. Deborah A. Lee, and Ms. Louise Partick.

General Counsel Certification

I certify that this meeting may be closed to the public under 5 U.S.C. 552(c)(9)(B) and 14 CFR Section 3210b.5(9)(B) and that the meeting may be closed to public observation.

Phil J. Bakes,

General Counsel.

[S-1652-79 Filed 8-17-79; 2:59 pm]

BILLING CODE 6320-01-M

2

COMMODITY CREDIT CORPORATION.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: Published August 14, 1979, 44 FR 47686.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 2 p.m., August 21, 1979.

STATUS: Open.

CHANGE: The meeting has been canceled.

CONTACT PERSON FOR MORE INFORMATION:

Bill Cherry, Secretary, Commodity Credit Corporation, Room 202-W, Administration Building, U.S. Department of Agriculture, Washington, D.C. 20013, Telephone (202) 447-7583.

[S-1645-79 Filed 8-17-79; 11:13 am]

BILLING CODE 3410-05-M

3

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

TIME AND DATE: 10 a.m. (eastern time), Thursday, August 16, 1979.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: S-1640-79.

CHANGE IN THE MEETING: The following item, previously announced as being on the open portion of the agenda was moved to the portion closed to the public:

(1) National Employment Law Project proposal. A majority of the entire membership of the Commission determined by recorded vote that the business of the Commission required this change and that no earlier announcement was possible.

In favor of Change: Eleanor Holmes Norton, Chair; Daniel E. Leach, Vice Chair; J. Clay Smith, Jr., Commissioner.

CONTACT PERSON FOR MORE INFORMATION:

Marie D. Wilson, Executive Officer, Executive Secretariat, at (202) 634-6748.

This notice issued August 16, 1979.

[S-1650-79 Filed 8-17-79; 11:13 am]

BILLING CODE 6570-08-M

4

August 16, 1979.

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION.

TIME AND DATE: 10 a.m., August 15, 1979.

PLACE: Room 600, 1730 K Street NW., Washington, D.C.

STATUS: Closed (pursuant to 5 U.S.C. 552b(c)(10)).

MATTERS TO BE CONSIDERED: 1. Magma Copper Company, DENV 78-533-M. 2. Helen Mining Company, PITT 79-11-P. 3. Kentland-Elkhorn Coal Corporation, PIKE 78-399.

VOTE: Voting to close the meeting: Commissioners Waldie (Chairman), Backley, Jestrab, Nease. Opposing: Commissioner Lawson. It was determined by this vote that

Commission business required that this meeting be closed.

MATTERS TO BE CONSIDERED: 4. Disciplinary matter, D 79-2. (Reference Co-Op Mining Company, Docket Nos. DENV 78-128-P and DENV 78-129-P)

VOTE: Voting to close this portion of the meeting: Commissioners Waldie (Chairman), Backley, Jestrab, Lawson, Nease. It was determined by this vote that Commission business required that this portion of the meeting also be closed.

CONTACT PERSON FOR MORE INFORMATION:

Jean Ellen, 202-653-5632.

[S-1651-79 Filed 8-17-79; 2:26 pm]

BILLING CODE 6820-12-M

5

THE FEDERAL RESERVE SYSTEM: Board of Governors.

TIME AND DATE: 11 a.m., Friday, August 24, 1979.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Review of Board Officer positions.
2. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
3. Any agenda items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204.

Dated: August 16, 1979.

Theodore E. Allison,

Secretary of the Board.

[S-1644-79 Filed 8-17-79; 9:41 am]

BILLING CODE 6210-01-M

6

LEGAL SERVICES CORPORATION: Committee on Provision of Legal Services.

TIME AND DATE: 9:30 a.m.-11:30 a.m., Thursday, September 6, 1979.

PLACE: Legal Services Corporation, 11th Floor Conference Room, 733 15th Street NW., Washington, D.C.

STATUS: Open meeting.

MATTERS TO BE CONSIDERED:

1. Adoption of Agenda.
2. Approval of Minutes of July 20, 1979 Meeting.
3. Client Training.
4. Payment of Child Care Expenses.
5. Report on Implementation of 1007(h) Recommendations.
6. Report on the Poverty Law Reporter.
7. Reginald Heber Smith Contract.
8. Other Business.

CONTACT PERSON FOR MORE INFORMATION:

Dellana Young, Office of the President, telephone (202) 272-4040.

Issued: August 16, 1979.

Dan J. Bradley,

President.

[S-1646-79 Filed 8-17-79; 11:13 am]

BILLING CODE 6820-35-M

7

LEGAL SERVICES CORPORATION: Committee on Appropriations and Audit.

TIME AND DATE: 12:30 p.m.-4:30 p.m., Thursday, September 6, 1979.

PLACE: Legal Services Corporation, 11th Floor Conference Room, 733 15th Street NW., Washington, D.C.

STATUS: Open meeting.

MATTERS TO BE CONSIDERED:

1. Adoption of Agenda.
2. Approval of Minutes of July 27, 1979 Meeting.
3. Status of Fiscal Year 1979 Budget.
4. 1980 Budget, including specific reports requested by Board members:
 - a. Report on breakdown of Budget of Reginald Heber Smith Fellowship Program.
 - b. Report on Legal Services Institute.
 - c. Report on QIP and loan repayment program vis-a-vis investment income.
 - d. Short report on child care for client participation in Corporation sponsored events (cost estimates; administrative feasibility and problems; financing).
 - e. Report on 1980 expansion plans.
5. 1981 Budget.
6. Report on Budget of National Clients Council.
7. Renewal of Agreement with the Treasury Department for Disbursement of the Fiscal Year 1980 Appropriation.
8. Other Business.

CONTACT PERSON FOR MORE INFORMATION:

Dellana Young, Office of the President, telephone (202) 272-4040.

Issued: August 16, 1979.

Dan J. Bradley,

President.

[S-1647-79 Filed 8-17-79; 11:13 am]

BILLING CODE 6820-35-M

8

LEGAL SERVICES CORPORATION: Committee on Operations.

TIME AND DATE: 7 p.m.-9 p.m., Thursday, September 6, 1979.

PLACE: Legal Services Corporation, 7th Floor Conference Room, 733 15th Street, NW., Washington, D.C.

STATUS: Open meeting.

MATTERS TO BE CONSIDERED:

1. Adoption of Agenda.

2. Approval of Minutes of July 26, 1979 Meeting.
3. 45 C.F.R. Section 1624—Prohibition Against Discrimination on the Basis of Handicap.
4. Reauthorization of the Legal Services Corporation.
5. Report on the Implementation of the 1007(h) Recommendations.
6. Appointment of the Officers of the Corporation.
7. President's Report.
8. Other Business.

CONTACT PERSON FOR MORE INFORMATION: Dellanor Young, Office of the President, telephone, (202) 272-4040.

Issued: August 16, 1979.

Dan J. Bradley,
President.

[S-1648-79 Filed 8-17-79; 11:13 am]

BILLING CODE 6820-35-M

9

LEGAL SERVICES CORPORATION: Board of Directors Meeting.

TIME AND DATE: 9 a.m.-5 p.m., Friday and Saturday, September 7-8, 1979.

PLACE: George Washington University, Marvin Center, Room 410, 800 21st Street, N.W., Washington, D.C.

STATUS: Open meeting.

MATTERS TO BE CONSIDERED:

1. Adoption of Agenda.
2. Approval of Minutes of June 1-2, 1979 Meeting.
3. Reports from the Committee on Operations:
 - Reauthorization of the Legal Services Corporation.
 - 45 CFR Section 1624—Prohibition Against Discrimination on the Basis of Handicap.
4. Reports from the Committee on Appropriations and Audit.
 - Status of the Fiscal Year 1980 Budget.
 - Status of the Fiscal Year 1981 Budget Request.
 - Renewal of the Agreement with the Treasury Department for Disbursement of the Fiscal Year 1980 Appropriation.
5. Reports from the Committee on Provision of Legal Services.
 - Client Training.
 - Review and Approval of Reginald Herber Smith Contract.
6. Report from the President.
7. Selection of Chairperson of the Board.
8. Future Meeting Dates.
9. Other Business.

CONTACT PERSON FOR MORE INFORMATION: Dellanor Young, Office of the President, telephone (202) 272-4040.

Issued: August 16, 1979.

Dan J. Bradley,
President.

[S-1649-79 Filed 8-17-79; 11:13 am]

BILLING CODE 6820-35-M

10

NATIONAL RAILROAD PASSENGER CORPORATION: Board of Directors Meeting.

In accordance with Rule 4a. of Appendix A of the Bylaws of the National Railroad Passenger Corporation, notice is given that the Board of Directors will meet on August 29, 1979.

A. The meeting will be held on Wednesday, August 29, 1979, in the National Guard Association Building, 3rd Floor, One Massachusetts Avenue, Northwest, Washington, D.C., beginning at 9:00 a.m.

B. The meeting will be open to the public at 10:00 a.m., beginning with agenda item No. 3, as described below.

C. The agenda items to be discussed at the meeting follow.

Agenda—National Railroad Passenger Corporation

Meeting of the Board of Directors—August 29, 1979

Closed Session (9:00)

1. Internal personnel matters.
2. Litigation matters.

Open Session (10:00)

3. Approval of minutes of regular meeting of July 25, 1979.
4. Commitment approval requests:
 - 79-106 PCB Handling/Storage Facilities—Wilmington, DE.
 - 79-112 Construct New Station—Borie, WY.
 - 79-113 Modify Station Trackage—Temple, TX.
5. Superliner inaugural/Board trip.
6. Board committee reports: Audit, finance, Northeast Corridor Improvement Project, Organization and Compensation, Legal Affairs, and ad hoc ByLaws Revision.
7. Approval of preparation for October 1 route system.
8. President's report.
9. New business.
10. Adjournment.

D. Inquiries regarding the information required to be made available pursuant to Appendix A of the Corporation's Bylaws should be directed to the Corporate Secretary at (202) 383-3973.

Dated: August 17, 1979.

Elyse G. Wander,

Corporate Secretary.

[S-1654-79 Filed 8-17-79; 3:36 pm]

11

UNITED STATES PAROLE COMMISSION.

TIME AND DATE: 9:30 a.m., Thursday, August 16, 1979.

PLACE: Room 500, 320 First Street NW., Washington, D.C.

STATUS: Closed pursuant to a vote to be taken at beginning of the meeting.

CHANGES IN THE MEETING: On August 16, 1979, the Commission determined that the above meeting be continued from 9:00 to 9:30 a.m. on Friday, August 17, 1979, in Room 814, 320 First Street, N.W., for consideration of a parole case transferred to the Commission from one of its regions. This case had been originally heard by an examiner panel. The above change is being announced at the earliest practicable time.

CONTACT PERSON FOR MORE INFORMATION: A. Ronald Peterson, Analyst, (202) 724-3094.

[S-1653-79 Filed 8-17-79; 2:50 pm]

BILLING CODE 4410-01-M

federal register

Tuesday
August 21, 1979

Part II

Department of Housing and Urban Development

Office of the Assistant Secretary for
Housing—Federal Housing Commissioner

General Prototype Costs for One-to-Four
Family Dwelling Units

**DEPARTMENT OF HOUSING AND
URBAN DEVELOPMENT**

Office of the Assistant Secretary for
Housing—Federal Housing
Commissioner

[Docket No. N-79-942]

**General Prototype Housing Costs for
One-to-Four Family Dwelling Units**

AGENCY: Office of the Assistant
Secretary for Housing—Federal Housing
Commissioner/Department of Housing
and Urban Development.

ACTION: Notice.

SUMMARY: This Notice sets forth general
prototype costs for one-to-four family
dwelling units for each market area of
the country. The costs cover a broad
range of housing and are intended to
provide guidance and assistance to the
public pursuant to Section 904 of the
Housing and Community Development
Act of 1977.

DATE: These prototype costs will be
effective from publication until
publication of new cost figures in 1980.

FOR FURTHER INFORMATION CONTACT:
William L. Halpern, Director, Single
Family Development Division, Office of
Single Family Housing, Department of
Housing and Urban Development,
Washington, D.C. 20410, telephone (202)
755-6720.

SUPPLEMENTARY INFORMATION: Section
904 of the Housing and Community
Development Act of 1977 requires HUD,
starting in calendar year 1979, to publish
prototype housing costs for a broad
variety of one-to-four family housing in
each market area. These particular
prototype figures serve merely as an aid
to the general public and are not
applicable to prototype determinations
required for public housing under the
United States Housing Act of 1937. The
costs for land and site improvements are
included in the Section 904 prototype
cost figures.

In order to cover various economic
situations, prototype costs are divided
into three cost ranges: low, moderate
and high. The information sources for
developing the figures include data from
HUD field offices, the public, and the
basic Section 203(b) mortgage insurance
program. The prototype costs are
representative sales prices.

Due to the lack of information on two,
three, and four-family dwelling units,
generally costs shown are for one-family
dwellings. The prototype costs have
been developed showing a low, medium
and high range of costs in each market

area. The market areas, as designated,
are the Base and Key Localities used in
HUD's determination of Locality
Adjustment Percentages for Single
Family cost processing and cover both
the urban and rural areas of each
market area. Every Field Office has
maps of these designated areas. The
typical low range, one-family dwelling
will contain three bedrooms and one full
bath. The medium range one-family
dwelling will contain three or four
bedrooms and two full baths. The high
range one-family dwelling will contain

three to five bedrooms and two or three
full baths.

The figures shown below the cost
range designations are the typical
square-foot areas of a one-family
dwelling in the captioned market areas.

(Sec. 7(d), Department of HUD Act (42 U.S.C.
3535(d); sec. 904, Housing and Community
Development Act of 1977 (42 U.S.C. 354))

Issued at Washington, D.C., on August 6,
1979.

Lawrence B. Simons,
Assistant Secretary for Housing—Federal
Housing Commissioner.

Schedule of Prototype Housing Costs: One- to Four-Family Dwellings

	Low range	Medium range	High range
	1000	1250	1550
Field Office: Boston, Mass.			
Market area: Boston:			
One Family Dw.	42,000	61,700	83,200
Two Family Dw.		66,700	
Market area: Pittsfield:			
One Family Dw.	6,900	57,900	76,800
Two Family Dw.		62,600	
Market area: Cape Cod:			
One Family Dw.	41,300	67,700	76,500
Market area: Worcester:			
One Family Dw.	36,600	55,500	74,800
Two Family Dw.		60,200	
Market area: Springfield:			
One Family Dw.	40,200	57,600	76,500
Two Family Dw.		62,400	
Field Office: Hartford, Conn.			
	Low range	Medium range	High range
	820	960	1,070
Market area: Hartford-Base City:			
One Family Dw.	51,000	53,400	57,800
Market area: New Haven-Bridgeport-Key Loc.:			
One Family Dw.	50,700	53,000	57,300
Market area: Stamford-Key Loc.:			
One Family Dw.	57,400	60,000	64,700
Field Office: Manchester, N.H.			
	Low range	Medium range	High range
	960	1,060	1,920
Market area: Portland, Maine:			
One Family Dw.	45,200	73,100	87,200
Market area: Bangor, Maine:			
One Family Dw.	43,400	70,700	83,700
Market area: Augusta, Maine:			
One Family Dw.	42,900	69,900	82,700
Market area: Manchester, N.H.:			
One Family Dw.	43,900	73,600	89,700
Market area: Keene, N.H.:			
One Family Dw.	44,400	71,300	88,600
Market area: Portsmouth, N.H.:			
One Family Dw.	46,100	73,600	87,600
Market area: Burlington, Vt.:			
One Family Dw.	44,400	72,100	85,600
Field Office: Providence, R.I.			
	Low range	Medium range	High range
	980	1,140	1,340
Market area: Providence:			
One Family Dw.	41,800	55,200	69,800
Market area: Newport:			
One Family Dw.	42,700	56,400	71,200
Market area: Westerly:			
One Family Dw.	42,500	56,200	70,900

Field Office: Albany, N.Y.

	Low range	Medium range	High range
	940	1090	1970
Market area: Albany—Schenectady-Troy-Glens Falls:			
One Family Dw.	27,500	35,800	51,000
Market area: Syracuse-Rome-Utica:			
One Family Dw.	27,500	35,600	51,000
Market area: Binghamton-Cortland-ITHACA:			
One Family Dw.	27,400	35,400	50,700
Market area: Massena—Plattsburgh-Watertown:			
One Family Dw.	26,800	34,600	49,800

Field Office: Buffalo, N.Y.

	Low range	Medium range	High range
	1030	1080	1200
Market area: Buffalo:			
One Family Dw.	40,500	51,000	65,100
Market area: Rochester:			
One Family Dw.	40,200	50,600	64,600
Market area: Elmira:			
One Family Dw.	38,300	48,200	61,600
Market area: Jamestown:			
One Family Dw.	39,400	49,600	63,200

Field Office: Camden, N.J.

	Low range	Medium range	High range
	40	1780	2700
Market area: 1. Base City Area: Gloucester—Camden—Burlington:			
One Family Dw.	36,300	50,300	69,600
Market area: 2. Atlantic Shore:			
One Family Dw.	32,000	48,500	68,500
Market area: 3. Ocean County:			
One Family Dw.	32,300	37,300	71,700
Market area: 4. B.A.S.C. All of Cumberland and Salem; Part of Atlantic and Burlington:			
One Family Dw.	32,900	48,000	66,800
Market area: 5. Mercer County:			
One Family Dw.	40,000	43,600	73,700

Field Office: New York City, N.Y.

	Low range	Medium range	High range
	940	1060	2230
Market area: Dutchess, Ulster, Sullivan:			
One Family Dw.	34,600	48,700	81,400
Two Family Dw.	51,700	62,200	75,300
Three Family Dw.	77,100	84,200	104,100
Four Family Dw.	103,000	121,900	132,900
Market area: Orange:			
One Family Dw.	28,900	40,300	51,400
Two Family Dw.	41,600	51,200	61,700
Three Family Dw.	60,700	65,900	80,200
Four Family Dw.	80,400	95,400	104,400
Market area: Rockland:			
One Family Dw.	31,200	42,800	53,900
Two Family Dw.	42,300	53,800	64,200
Three Family Dw.	62,100	67,400	82,500
Four Family Dw.	81,500	98,600	106,000
Market area: Nassau/Suffolk:			
One Family Dw.	28,900	44,400	68,400
Two Family Dw.	43,600	57,000	80,400
Three Family Dw.	66,800	74,400	92,800
Four Family Dw.	89,600	109,300	121,100
Market area: New York City:			
One Family Dw.	41,500	44,000	70,000
Two Family Dw.	58,200	73,700	83,700
Three Family Dw.	82,200	97,200	115,600
Four Family Dw.	109,900	135,400	147,400

Field Office: Baltimore, Md.

	Low range 1240	Medium range 1660	High range 1940
Market area: Balto. (SMSA) Base:			
One Family Dw.	46,600	67,100	80,800
Market area: Hagerstown (Key Locality):			
One Family Dw.	47,300	61,000	73,400
Market area: Salisbury (Key Locality):			
One Family Dw.	37,800	48,200	61,300
Market area: Waldorf (Key Locality):			
One Family Dw.	47,800	58,200	70,100

Field Office: Charleston, W.Va.

	Low range 980	Medium range 1150	High range 2600
Market area: Charleston:			
One Family Dw.	48,200	65,000	113,400
Market area: Beckley, Princeton, Bluefield:			
One Family Dw.	46,400	62,500	109,000
Market area: Huntington:			
One Family Dw.	45,600	60,700	106,400
Market area: Parkersburg:			
One Family Dw.	44,100	59,000	104,200
Market area: Upper Monongahela Valley:			
One Family Dw.	47,800	64,400	112,400
Market area: Wheeling:			
One Family Dw.	46,900	63,200	109,500
Market area: Martinsburg:			
One Family Dw.	41,400	56,100	95,200

Field Office: Philadelphia, Pa.

	Low range 1220	Medium range 1790	High range 2200
Market area: Philadelphia:			
One Family Dw.	35,000	60,000	110,000
Market area: Pottstown-Reading:			
One Family Dw.	42,000	53,000	65,000
Market area: Allentown-Bethlehem-Easton:			
One Family Dw.	50,000	65,000	90,000
Market area: Lancaster-York:			
One Family Dw.	44,000	53,000	70,000
Market area: Harrisburg:			
One Family Dw.	50,000	65,000	80,000
Market area: Wilkes-Barre-Scranton:			
One Family Dw.	40,000	55,000	65,000
Market area: Bellefonte:			
One Family Dw.	40,000	55,000	70,000
Market area: Tioga:			
One Family Dw.	42,000	50,000	68,000
Market area: Wilmington-State of Delaware:			
One Family Dw.	45,000	60,000	75,000

Field Office: Pittsburgh, Pa.

	Low range 950	Medium range 1170	High range 1550
Market Area: Pittsburgh:			
One Family Dw.	45,200	50,500	53,600
Market Area: Altoona:			
One Family Dw.	39,200	44,300	47,400
Market Area: Johnstown:			
One Family Dw.	40,500	45,800	48,900
Market Area: Erie:			
One Family Dw.	40,800	46,200	49,300
Market Area: New Castle-Sharon:			
One Family Dw.	37,500	42,400	45,500

Field Office: Richmond, Va.

	Low range 1090	Medium range 1890	High range 2240
Market Area: Richmond:			
One Family Dw.	41,200	62,800	86,900
Market Area: Bristol, Marion and Wytheville:			
One Family Dw.	35,800	58,400	75,900

Field Office: Richmond, Va. —Continued

	Low range 1090	Medium range 1890	High range 2240
Market Area: Eastern Shore:			
One Family Dw.	32,100	52,300	66,800
Market Area: Emporia, Franklin, South Hill and South Boston:			
One Family Dw.	38,000	60,200	81,100
Market Area: Fredericksburg, Charlottesville and Culpeper:			
One Family Dw.	40,700	61,900	86,200
Market Area: Newport News, Hampton and Williamsburg:			
One Family Dw.	41,300	64,700	89,400
Market Area: Norfolk, Virginia Beach, Suffolk, Chesapeake and Portsmouth:			
One Family Dw.	38,500	60,800	82,400
Market Area: Roanoke, Lynchburg, Danville and Martinsville:			
One Family Dw.	38,300	60,800	83,200
Market Area: Winchester, Harrisonburg, Staunton and Waynesboro:			
One Family Dw.	40,300	63,700	86,600

Field Office: Washington, D.C.

	Low range 1040	Medium range 1370	High range 2480
Market Area: Washington Metro Area:			
One Family Dw.	64,500	79,900	109,100

Field Office: Atlanta, Ga.

	Low range 960	Medium range 1460	High range 2400
Market Area: Atlanta:			
One Family Dw.	26,400	52,400	72,900
Market Area: Albany:			
One Family Dw.	23,800	47,900	72,900
Market Area: Augusta:			
One Family Dw.	22,700	44,600	65,700
Market Area: Columbus:			
One Family Dw.	23,600	45,700	66,500
Market Area: Brunswick-Savannah:			
One Family Dw.	26,200	49,100	74,000
Market Area: Macon:			
One Family Dw.	22,300	46,400	71,100
Market Area: Rome:			
One Family Dw.	23,100	45,200	64,100

Field Office: Birmingham, Ala.

	Low range 1220	Medium range 1560	High range 1940
Market Area: Birmingham:			
One Family Dw.	39,600	50,400	64,300
Market Area: Anniston:			
One Family Dw.	35,800	42,100	56,900
Market Area: Montgomery:			
One Family Dw.	33,800	47,300	54,400
Market Area: Huntsville:			
One Family Dw.	30,500	46,100	62,800
Market Area: Mobile:			
One Family Dw.	44,800	51,900	59,400
Market Area: Dothan:			
One Family Dw.	36,900	39,500	59,300

Field Office: Columbia, S.C.

	Low range 1070	Medium range 1360	High range 1510
Market Area: Charleston:			
One Family Dw.	36,900	48,400	56,300
Two Family Dw.	55,200	64,400	
Market Area: Columbia:			
One Family Dw.	38,300	47,800	57,200
Two Family Dw.	54,800	63,800	
Market Area: Greenville:			
One Family Dw.	38,100	47,300	56,000
Two Family Dw.	54,400	63,300	
Market Area: Rock Hill:			
One Family Dw.	36,400	45,000	52,100
Two Family Dw.	52,400	60,600	
Market Area: Florence:			
One Family Dw.	36,900	45,500	53,700
Two Family Dw.	53,000	61,200	
Market area: Aiken-N. Augusta, S.C.:			
One Family Dw.	35,500	43,500	52,200
Two Family Dw.	61,900	60,100	

Field Office: Coral Gables, Fla.

	Low range 1050	Medium range 1340	High range 1780
Market area: Dade:			
One Family Dw.	34,000	48,000	85,000
Two Family Dw.	51,000	76,600	100,800
Market area: Broward:			
One Family Dw.	32,000	48,200	73,500
Two Family Dw.	48,200	68,500	88,500
Market area: Palm Beach:			
One Family Dw.	31,500	45,200	81,200
Two Family Dw.	48,800	71,300	85,800
Market area: Lee:			
One Family Dw.	29,400	41,700	57,600
Two Family Dw.	46,100	60,500	72,100
Market area: Monroe:			
One Family Dw.	37,500	61,900	84,400
Two Family Dw.	58,500	89,100	108,700

Field Office: Greensboro, N.C.

	Low range 990	Medium range 1410	High range 2050
Market area: Greensboro—Base City:			
One Family Dw.	36,200	46,700	62,800
Market area: Asheville—Key City:			
One Family Dw.	38,700	49,000	65,600
Market area: Charlotte—Key City:			
One Family Dw.	37,700	48,000	64,000
Two Family Dw.		72,200	
Market area: Elizabeth City—Key City:			
One Family Dw.	0	0	0
Market area: Greenville—Key City:			
One Family Dw.	36,400	46,800	0
Market area: Raleigh—Key City:			
One Family Dw.	37,900	46,700	63,200
Two Family Dw.		63,700	
Market area: Wilmington—Key City:			
One Family Dw.	38,400	45,400	61,900

Field Office: Jackson Miss.

	Low range 1170	Medium range 1860	High range 2560
Market area: Jackson:			
One Family Dw.	39,000	63,600	84,200
Two Family Dw.		87,000	
Four Family Dw.		106,500	
Market area: Biloxi:			
One Family Dw.	40,200	64,400	84,500
Two Family Dw.		67,800	
Four Family Dw.		107,500	
Market area: Greenville:			
One Family Dw.	40,500	63,900	87,900
Two Family Dw.		67,400	
Four Family Dw.		107,500	

Field Office: Jacksonville, Fla.

	Low range 1090	Medium range 1340	High range 1620
Market Area: Jacksonville:			
One Family Dw.	38,200	48,900	56,500
Market Area: Gainesville:			
One Family Dw.	33,100	39,700	50,700
Market Area: Tallahassee:			
One Family Dw.	36,500	43,800	54,100
Market Area: Panama City:			
One Family Dw.	33,600	39,300	50,500
Market Area: Pensacola:			
One Family Dw.	36,200	40,200	54,300

Field Office: Knoxville, Tenn.

	Low range 980	Medium range 1030	High range 1300
Market Area: Knoxville:			
One Family Dw.	38,700	42,300	50,000
Two Family Dw.	50,100		
Four Family Dw.		108,000	
Market Area: Chattanooga:			
One Family Dw.	35,000	40,600	48,000
Two Family Dw.	48,600		
Four Family Dw.		102,300	
Market Area: Johnson City:			
One Family Dw.	35,900	41,400	48,900
Two Family Dw.	48,700		
Four Family Dw.		103,800	
Market Area: Kingsport:			
One Family Dw.	35,500	41,000	48,300
Two Family Dw.	48,200		
Four Family Dw.		102,900	

Field Office: Louisville, Ky.

	Low range 930	Medium range	High range 1630
Market Area: Louisville:			
One Family Dw.	33,000		58,000
Two Family Dw.	52,000		
Four Family Dw.	100,000		
Market Area: Owensboro:			
One Family Dw.	32,000		56,000
Two Family Dw.	50,000		
Four Family Dw.	95,000		
Market Area: Ashland:			
One Family Dw.	34,000		60,000
Two Family Dw.	53,000		
Four Family Dw.	100,000		
Market Area: Covington:			
One Family Dw.	34,000		60,000
Two Family Dw.	53,000		
Four Family Dw.	100,000		
Market Area: Paducah:			
One Family Dw.	32,000		56,000
Two Family Dw.	52,000		
Four Family Dw.	95,000		

Field Office: Memphis, Tenn.

	Low range 1020	Medium range 2020	High range 3030
Market Area: Memphis:			
One Family Dw.	32,000	60,800	83,700
Market Area: Camden:			
One Family Dw.	29,500	57,200	78,100
Market Area: Jackson:			
One Family Dw.	31,500	59,300	81,700
Market Area: Union City:			
One Family Dw.	30,500	58,300	79,600
Market Area: Savannah:			
One Family Dw.	29,500	56,700	77,300

Field Office: Nashville, Tenn.

	Low range 1050	Medium range 1380	High range 2710
Market Area: Nashville S.O.:			
One Family Dw.	34,200	53,200	77,000
Two Family Dw.	52,400	71,500	106,600

Field Office: Orlando, Fla.

	Low range 1050	Medium range 1200	High range 1760
Market Area: Orange/Seminole/Osceola:			
One Family Dw.	33,700	39,000	51,600
Two Family Dw.		54,100	
Market Area: Brevard:			
One Family Dw.	33,700	39,000	51,600
Two Family Dw.		54,100	
Market Area: Volusia:			
One Family Dw.	33,700	39,000	51,600
Two Family Dw.		54,100	

Field Office: Tampa, Florida

	Low range 1010	Medium range 1320	High range 1680
Market area: Tampa:			
One Family Dw.	31,100	40,900	58,500
Market area: Lakeland:			
One Family Dw.	25,700	37,400	61,100
Market area: Sarasota:			
One Family Dw.	33,700	42,200	62,700

Filed Office: Chicago, Illinois

	Low range 1130	Medium range 1550	High range 2100
Market area: Chicago:			
One Family Dw.	57,300	64,300	70,400
Two Family Dw.	64,600	70,200	78,400
Three Family Dw.	111,000	115,800	125,900
Four Family Dw.	152,400	160,800	178,200
Market area: Rockford:			
One Family Dw.	52,800	59,300	64,900
Two Family Dw.	59,600	64,700	70,400
Market area: Rock Island:			
One Family Dw.	53,900	60,400	66,200
Two Family Dw.	60,700	66,000	71,800
Market area: Sterling:			
One Family Dw.	52,400	58,800	64,400
Two Family Dw.	69,100	64,200	69,800

Filed Office: Cincinnati, Ohio

	Low range 1120	Medium range 1210	High range 2010
Market area: Cincinnati:			
One Family Dw.	43,400	57,700	80,600
Two Family Dw.	82,700	103,800	123,500
Four Family Dw.	130,100	157,000	177,400
Market area: Dayton:			
One Family Dw.	41,300	57,200	76,000
Two Family Dw.	82,600	107,400	120,500
Four Family Dw.	127,000	156,300	175,200

Filed Office: Cleveland, Ohio

	Low range 1120	Medium range 1520	High range 2240
Market area: Cleveland:			
One Family Dw.	60,300	77,200	105,100
Market area: Akron:			
One Family Dw.	45,300	61,600	96,400

Filed Office: Cleveland, Ohio—Continued

	Low range 1120	Medium range 1520	High range 2240
Market area: Toledo:			
One Family Dw.	42,300	58,200	87,400
Market area: Youngstown:			
One Family Dw.	37,000	50,100	81,600
Market area: Findlay:			
One Family Dw.	38,900	51,700	79,500
Market area: Lorain:			
One Family Dw.	40,600	52,700	86,400
Market area: Mansfield:			
One Family Dw.	38,600	50,900	79,700

Field Office: Columbus, Ohio

	Low range 930	Medium range 1170	High range 2210
Market area: Columbus:			
One Family Dw.	43,100	61,400	89,800
Two Family Dw.	71,800	90,100	
Four Family Dw.			130,400
Market area: Athens:			
One Family Dw.	35,900	65,200	85,600
Market area: Lima:			
One Family Dw.	40,100	59,100	85,500
Two Family Dw.	74,300	89,600	
Market area: Zanesville:			
One Family Dw.	41,000	58,100	74,400
Three Family Dw.		98,900	
Market area: Newark:			
One Family Dw.	43,600	58,700	70,700
Two Family Dw.	65,500	82,000	
Three Family Dw.		101,200	
Four Family Dw.			122,200
Market area: Springfield:			
One Family Dw.	42,300	67,000	85,300
Market area: Troy:			
One Family Dw.	38,100	67,800	87,500

Field Office: Detroit, Mich.

	Low range 1170	Medium range 1980	High range 2060
Market area: Metropolitan Detroit:			
One Family Dw.	40,000	56,000	80,000

Field Office: Flint, Mich.

	Low range 1000	Medium range 1220	High range 1530
Market area: Flint:			
One Family Dw.	35,000	45,000	100,000
Market area: Saginaw:			
One Family Dw.	43,000	55,000	75,000
Market area: Bay City:			
One Family Dw.	43,000	55,000	90,000
Market area: Midland:			
One Family Dw.	50,000	68,000	110,000

Field Office: Grand Rapids, Mich.

	Low range 1060	Medium range 1320	High range 1860
Market area: Grand Rapids:			
One Family Dw.	41,500	47,300	65,400
Two Family Dw.	61,500	70,300	81,500
Market area: Benton Harbor:			
One Family Dw.	35,000	41,100	59,400
Two Family Dw.	55,100	63,100	74,400
Market area: Jackson:			
One Family Dw.	38,300	44,500	63,800
Two Family Dw.	59,000	66,800	76,400
Market area: Lansing:			
One Family Dw.	41,400	47,500	56,200
Two Family Dw.	68,400	76,100	87,700

Field Office: Grand Rapids, Mich.—Continued

	Low range 1060	Medium range 1320	High range 1660
Market area: Battle Creek:			
One Family Dw.	43,700	49,600	68,100
Two Family Dw.	64,800	74,100	85,500
Market area: Muskegon:			
One Family Dw.	36,600	42,500	61,400
Two Family Dw.	59,600	65,700	77,200
Market area: Traverse City:			
One Family Dw.	43,300	49,000	69,500
Two Family Dw.	63,900	72,500	84,300
Market area: Big Rapids:			
One Family Dw.	36,800	44,800	64,100
Two Family Dw.	59,200	67,900	79,400
Market area: Marquette:			
One Family Dw.	44,500	50,900	72,100
Two Family Dw.	66,300	77,600	89,900
Market area: Iron Mountain:			
One Family Dw.	44,700	51,000	70,400
Two Family Dw.	65,800	73,700	85,700
Market area: Escanaba:			
One Family Dw.	40,200	46,500	66,100
Two Family Dw.	63,500	71,900	83,900
Market area: Menominee:			
One Family Dw.	41,400	47,700	67,600
Two Family Dw.	63,500	72,300	84,400

Field Office: Indianapolis, Ind.

	Low range 1060	Medium range 1120	High range 2100
Market area: Indianapolis:			
One Family Dw.	43,600	47,800	66,400
Market area: Fort Wayne:			
One Family Dw.	44,100	48,400	68,400
Market area: Terre Haute:			
One Family Dw.	45,800	50,200	70,600
Market area: Gary:			
One Family Dw.	57,000	61,000	84,900

Field Office: Milwaukee, Wis.

	Low range 1200	Medium range 1650	High range 1890
Market area: Milwaukee:			
One Family Dw.	54,600	75,000	81,800
Two Family Dw.	91,700	112,800	120,000
Three Family Dw.	123,700	158,600	181,500
Four Family Dw.	115,500	134,400	236,800
Market area: Madison:			
One Family Dw.	50,500	68,300	73,000
Two Family Dw.	83,200	100,500	106,500
Three Family Dw.	116,100	144,900	164,300
Four Family Dw.	109,800	115,600	218,400
Market area: Green Bay:			
One Family Dw.	46,300	62,400	85,700
Two Family Dw.	78,400	95,000	98,800
Three Family Dw.	109,700	139,900	158,300
Four Family Dw.	102,200	107,900	205,400
Market area: Eau Claire:			
One Family Dw.	42,000	58,200	59,500
Two Family Dw.	71,900	88,700	92,400
Three Family Dw.	102,500	138,800	150,300
Four Family Dw.	93,500	101,400	200,900
Market area: Superior:			
One Family Dw.	44,300	62,900	66,700
Two Family Dw.	78,800	100,200	104,500
Three Family Dw.	113,000	146,100	168,000
Four Family Dw.	90,200	96,400	220,500

Field Office: Minneapolis-St. Paul, Minn.

	Low range 1080	Medium range 1260	High range 2010
Market area: Minneapolis-St. Paul:			
One Family Dw.	54,200	75,800	99,000
Market area: St. Cloud:			
One Family Dw.	48,800	66,300	90,000
Market area: Moorhead:			
One Family Dw.	50,000	70,300	92,600
Market area: Rochester City:			
One Family Dw.	52,500	73,900	97,500
Market area: Rochester Area:			
One Family Dw.	49,400	69,400	91,500
Market Area: Duluth:			
One Family Dw.	53,300	75,000	99,000
Market Area: Worthington Area:			
One Family Dw.	48,400	68,000	89,700
Market Area: Mankato Area:			
One Family Dw.	48,800	68,800	90,400

Field Office: Springfield, Ill.

	Low range 1130	Medium range 1350	High range 2020
Market Area: Springfield:			
One Family Dw.	51,400	81,100	70,500
Two Family Dw.	58,900	62,200	71,000
Three Family Dw.	81,500	87,700	99,500
Four Family Dw.	93,800	114,200	120,900
Market Area: Peoria-Pekin:			
One Family Dw.	51,400	81,100	70,500
Two Family Dw.	58,900	62,200	71,000
Three Family Dw.	81,500	87,700	99,500
Four Family Dw.	93,800	114,200	120,900
Market Area: Champaign-Urbana:			
One Family Dw.	51,400	81,100	70,500
Two Family Dw.	58,900	62,200	71,000
Three Family Dw.	81,500	87,700	99,500
Four Family Dw.	93,800	114,200	120,900
Market Area: Bloomington-Normal:			
One Family Dw.	51,400	81,100	70,500
Two Family Dw.	58,900	62,200	71,000
Three Family Dw.	81,500	87,700	99,500
Four Family Dw.	93,800	114,200	120,900
Market Area: Belleville-Alton:			
One Family Dw.	51,400	81,100	70,500
Two Family Dw.	58,900	62,200	71,000
Three Family Dw.	81,500	87,700	99,500
Four Family Dw.	93,800	114,200	120,900

Field Office: Albuquerque, N. Mex.

	Low range 1160	Medium range 1680	High range 2000
Market Area: Albuquerque:			
One Family Dw.	42,000	56,500	70,500
Three Family Dw.		79,000	
Four Family Dw.		92,500	
Market Area: Santa Fe:			
One Family Dw.	45,000	60,000	75,500
Three Family Dw.		85,000	
Four Family Dw.		99,500	
Market Area: Clovis:			
One Family Dw.	38,500	52,500	66,000
Three Family Dw.		75,000	
Four Family Dw.		89,000	
Market Area: Hobbs:			
One Family Dw.	43,000	57,500	72,500
Three Family Dw.		82,000	
Four Family Dw.		96,500	
Market Area: Las Cruces:			
One Family Dw.	40,500	54,500	68,500
Three Family Dw.		77,500	
Four Family Dw.		91,000	

Field Office: Dallas, Tex.

	Low range 1080	Medium range 1600	High range 2380
Market Area: Zone I Dallas:			
One Family Dw	36,000	56,500	76,600
Market Area: Zone II Waco:			
One Family Dw	36,500	51,400	74,900
Market Area: Zone III Tyler:			
One Family Dw	35,500	48,300	75,400
Market Area: Zone IV Sherman:			
One Family Dw	34,100	41,900	61,700

Field Office: Fort Worth, Tex.

	Low range 1400	Medium range 1100	High range 2200
Market Area: Fort Worth:			
One Family Dw	44,600	52,400	69,500
Market Area: Abilene:			
One Family Dw	36,400	52,600	70,300
Market Area: Brownwood:			
One Family Dw	34,500	40,200	68,000
Market Area: San Angelo:			
One Family Dw	33,200	51,800	70,300
Market Area: Wichita Falls:			
One Family Dw	44,300	52,500	69,700

Field Office: Houston, Tex.

	Low range 1620	Medium range 1620	High range 2150
Market area: Houston:			
One Family Dw	40,500	53,500	66,700
Market Area: Texas City:			
One Family Dw	40,200	53,300	66,800
Market area: Lufkin:			
One Family Dw	38,000	51,700	65,300
Market area: El Campo:			
One Family Dw	38,600	52,500	66,700
Market area: Beaumont:			
One Family Dw	41,900	55,800	70,000
Market area: Bryan:			
One Family Dw	39,000	52,200	65,500

Field Office: Little Rock, Ark.

	Low range 1200	Medium range 1260	High range 2420
Market area: Little Rock, Ar.			
One Family Dw	33,800	43,900	72,900
Two Family Dw		65,500	80,500
Four Family Dw	67,400	91,600	117,800
Market area: Texarkana, Ar.			
One Family Dw	30,100	39,100	63,200
Two Family Dw		58,500	72,700
Four Family Dw	78,400	82,200	105,500
Market area: Jonesboro, Ar.			
One Family Dw	29,300	38,300	61,000
Two Family Dw		57,400	70,900
Four Family Dw	76,900	80,300	103,900
Market area: Fort Smith, Ar.			
One Family Dw	31,100	41,200	85,800
Two Family Dw		81,500	76,500
Four Family Dw	81,900	85,900	111,100
Market area: Fayetteville, Ar.			
One Family Dw	31,500	41,400	67,000
Two Family Dw		61,600	77,300
Four Family Dw	83,400	86,500	113,100

Field Office: Lubbock, Tex.

	Low range 1080	Medium range 1380	High range 1700
Market area: Amarillo, Texas			
One Family Dw	31,000	45,400	52,200
Market area: El Paso, Texas			
One Family Dw	30,500	44,800	50,800
Market area: Lubbock, Texas			
One Family Dw	31,300	45,800	51,900
Market area: Midland-Odessa, Texas			
One Family Dw	32,300	47,000	54,500

Field Office: New Orleans, Louisiana

	Low range 960	Medium range 1470	High range 2260
Market area: New Orleans, La.			
One Family Dw	37,400	61,900	88,200
Two Family Dw	61,700	98,100	
Three Family Dw	102,000	138,400	
Four Family Dw	123,500	162,800	
Market area: Baton Rouge, La.			
One Family Dw	36,900	56,100	85,000
Two Family Dw	62,900	88,500	
Three Family Dw	81,300	123,000	
Four Family Dw	109,200	142,500	
Market area: Houma, La.			
One Family Dw	34,400	53,000	76,400
Two Family Dw	64,000	87,400	
Three Family Dw	85,800	122,900	
Four Family Dw	108,900	138,800	
Market area: Lafayette, La.			
One Family Dw	32,500	52,300	75,700
Two Family Dw	56,600	78,600	
Three Family Dw	76,600	111,200	
Four Family Dw	98,400	128,700	
Market area: Lake Charles, La.			
One Family Dw	31,900	50,900	73,600
Two Family Dw	56,700	79,200	
Three Family Dw	77,200	112,700	
Four Family Dw	99,600	130,400	

Field Office: Oklahoma City, Oklahoma

	Low range 1050	Medium range 1420	High range 1730
Market area: Oklahoma City			
One Family Dw	37,200	50,700	57,400
Market area: Enid			
One Family Dw	37,300	52,600	55,500
Market area: Lawton			
One Family Dw	37,200	52,100	54,900
Market area: Woodward			
One Family Dw	38,900	53,400	57,300
Market area: Ardmore			
One Family Dw	36,500	51,200	54,100

Field Office: San Antonio, Tex.

	Low range 900	Medium range 1140	High range 1680
Market area: San Antonio			
One Family Dw	27,500	38,400	50,000
Market area: Austin			
One Family Dw	28,000	38,800	50,500
Market area: Valley, Corpus Christi			
One Family Dw	28,800	38,500	49,400

Field Office: Shreveport, La.			
	Low range 1080	Medium range 1650	High range 2770
Market area: Shreveport-Bossier:			
One Family Dw.....	42,700	68,700	83,300
Market area: Monroe:			
One Family Dw.....	37,900	58,800	82,000
Market area: Alexandria:			
One Family Dw.....	36,100	53,600	70,400
Market area: Marshall, Tex.:			
One Family Dw.....	32,100	51,200	63,800
Field Office: Tulsa, Okla.			
	Low range 1220	Medium range 1520	High range 1920
Market area: Tulsa, Okla.:			
One Family Dw.....	41,900	51,900	63,800
Market area: Bartlesville, Okla.:			
One Family Dw.....	41,000	51,300	63,200
Market area: McAlester, Okla.:			
One Family Dw.....	38,100	48,100	59,400
Market area: Muskogee, Okla.:			
One Family Dw.....	37,700	47,500	58,700
Field Office: Des Moines, Iowa.			
	Low range 880	Medium range 1360	High range 2100
Market area: Cedar Rapids, Iowa:			
One Family Dw.....	39,800	59,400	93,100
Two Family Dw.....	69,300	87,600	
Four Family Dw.....	96,900	115,000	
Market area: Council Bluffs, Iowa:			
One Family Dw.....	36,200	54,400	84,600
Two Family Dw.....	62,600	79,700	
Four Family Dw.....	89,000	101,800	
Market area: Davenport, Iowa:			
One Family Dw.....	38,200	57,100	89,300
Two Family Dw.....	66,000	84,000	
Four Family Dw.....	92,800	110,200	
Market area: Des Moines, Iowa:			
One Family Dw.....	35,600	53,400	83,100
Two Family Dw.....	61,400	78,000	
Four Family Dw.....	86,300	102,400	
Market area: Sioux City, Iowa:			
One Family Dw.....	35,100	52,700	81,900
Two Family Dw.....	60,500	76,800	
Four Family Dw.....	85,100	100,400	
Market area: Waterloo, Iowa:			
One Family Dw.....	36,400	54,600	85,000
Two Family Dw.....	62,900	80,000	
Four Family Dw.....	88,400	104,800	
Field Office: Kansas City, Kans.			
	Low range 1080	Medium range 1200	High range 2150
Market area: Kansas City:			
One Family Dw.....	39,900	52,300	81,600
Market area: Joplin, Mo.:			
One Family Dw.....	46,300	53,800	95,600
Market area: Sedalia, Mo.:			
One Family Dw.....	42,100	58,900	
Market area: Springfield, Mo.:			
One Family Dw.....	42,500	63,600	93,300
Market area: St. Joseph, Mo.:			
One Family Dw.....	39,300	53,600	84,500

Field Office: Omaha, Nebr.			
	Low range 980	Medium range 1020	High range 1530
Market area: Omaha Base City:			
One Family Dw.....	39,300	44,100	66,200
Market area: Lincoln Key Area #2:			
One Family Dw.....	39,400	44,800	87,300
Market area: Norfolk Key Area #4:			
One Family Dw.....	41,600	NA	NA
Market area: Grand Island Key Area #5:			
One Family Dw.....	NA	56,700	NA
Market area: North Platte Key Area #7:			
One Family Dw.....	NA	56,700	NA
Market area: Scottsbluff Key Area #8:			
One Family Dw.....	NA	58,000	NA
Field Office: St. Louis, Mo.			
	Low range 980	Medium range 1550	High range 2770
Market area: St. Louis:			
One Family Dw.....	\$40,500	57,000	112,700
Two Family Dw.....	78,900		
Market area: Kirksville:			
One Family Dw.....	35,500		70,500
Market area: Columbia:			
One Family Dw.....	36,150	45,800	
Market area: Rolla:			
One Family Dw.....	38,400	48,800	75,800
Two Family Dw.....	69,500		
Four Family Dw.....			109,000
Market area: Cape Girardeau:			
One Family Dw.....	41,700	81,800	102,500
Two Family Dw.....		109,200	
Three Family Dw.....	70,100		104,500
Four Family Dw.....		106,100	132,900
Field Office: Topeka, Kansas			
	Low range 1060	Medium range 1200	High range 2150
Market area: Topeka:			
One Family Dw.....	39,700	50,800	79,200
Market area: Pittsburg:			
One Family Dw.....	37,700	46,700	73,800
Market area: Wichita:			
One Family Dw.....	39,800	49,000	75,300
Market area: Garden City:			
One Family Dw.....	36,300	45,400	72,000
Field Office: Casper, Wyoming			
	Low range 900	Medium range 1700	High range 1930
Market area: Casper, Wyoming:			
One Family Dw.....	46,600	64,600	90,000
Market area: Cheyenne, Wyoming:			
One Family Dw.....	42,500	69,500	82,100
Market area: Cody/Powell, Wyo.:			
One Family Dw.....	43,300	60,700	83,800
Market area: Jackson, Wyo.:			
One Family Dw.....	51,400	68,900	91,800
Market area: Laramie, Wyo.:			
One Family Dw.....	41,800	58,400	80,500
Market area: Gillette, Wyo.:			
One Family Dw.....	47,300	64,800	87,600
Market area: Riverton, Wyo.:			
One Family Dw.....	43,300	59,300	82,600
Market area: Rock Springs, Wyo.:			
One Family Dw.....	43,800	81,000	83,900

Field Office: Denver, Colo.

	Low range 860	Medium range 1610	High range 2110
Market area: Denver:			
One Family Dw.	42,800	52,600	68,500
Market area: Georgetown:			
One Family Dw.	43,500	53,800	69,400
Market area: Colorado Springs:			
One Family Dw.	38,400	47,900	63,400
Market area: Leadville:			
One Family Dw.	45,100	49,900	73,300
Market area: Pueblo:			
One Family Dw.	36,700	46,400	67,800
Market area: Colorado City:			
One Family Dw.	38,300	48,500	65,000
Market area: Durango/Cortez:			
One Family Dw.	43,400	53,700	70,500
Market area: Grand Junction:			
One Family Dw.	42,500	52,600	68,900
Market area: Rangely:			
One Family Dw.	46,000	57,000	74,800
Market area: Aspen/Carbondale:			
One Family Dw.	46,900	57,500	74,700
Market area: Greeley:			
One Family Dw.	40,500	50,300	66,000
Market area: Ft. Collins:			
One Family Dw.	42,600	52,500	68,800

Field Office: Fargo, N.D.

	Low range 960	Medium range 970	High range 1330
Market area: Fargo, N.D.:			
One Family Dw.	55,100	64,900	77,100
Market area: Bismarck, N.D.:			
One Family Dw.	53,600	63,800	74,000
Market area: Dickinson, N.D.:			
One Family Dw.	51,000	60,800	73,100
Market area: Grand Forks, N.D.:			
One Family Dw.	54,500	64,200	76,400
Market area: Minot, N.D.:			
One Family Dw.	54,200	64,200	76,700

Field Office: Helena, Mont.

	Low range 940	Medium range 1340	High range
Market area: Billings:			
One Family Dw.	38,400	60,300	
Market area: Great Falls:			
One Family Dw.	40,900	65,300	
Market area: Helena:			
One Family Dw.	45,400	73,600	
Market area: Butte:			
One Family Dw.	42,900	68,400	
Market area: Missoula:			
One Family Dw.	42,600	64,800	
Two Family Dw.			
Three Family Dw.			
Four Family Dw.	80,100		
Market area: Kalispell:			
One Family Dw.	42,700	66,600	
Market area: Bozeman:			
One Family Dw.	44,500	76,100	
Market area: Havre/Miles City:			
One Family Dw.	43,400	68,700	

Field Office: Salt Lake City, Utah

	Low range 890	Medium range 1110	High range 1640
Market area: Salt Lake City:			
One Family Dw.	43,400	49,400	66,500
Four Family Dw.		109,300	
Market area: Cedar City:			
One Family Dw.	39,000	48,600	62,600
Four Family Dw.		97,400	
Market area: Logan:			
One Family Dw.	41,200	44,900	85,100
Four Family Dw.		104,500	
Market area: Moab:			
One Family Dw.	39,800	45,300	63,200
Market area: Provo:			
One Family Dw.	44,300	50,500	87,600
Four Family Dw.		111,200	
Market area: Vernal:			
One Family Dw.	35,800	46,500	60,200
Market area: Richfield:			
One Family Dw.	38,800	42,600	61,100

Field Office: Sioux Falls, S.D.

	Low range 900	Medium range 1700	High range 1930
Market area: Sioux Falls:			
One Family Dw.	42,900	58,200	79,000
Market area: Aberdeen:			
One Family Dw.	41,500	56,300	76,300
Market area: Hills Area:			
One Family Dw.	44,100	60,100	81,700
Market area: Mitchell:			
One Family Dw.	39,900	54,000	73,000
Market area: Pierre:			
One Family Dw.	43,800	59,700	81,200
Market area: Watertown:			
One Family Dw.	41,800	56,600	75,600

Field Office: Fresno, Calif.

	1150	1580	2000
Market area: Fresno:			
One Family Dw.	42,500	61,000	110,500
Two Family Dw.	56,500	*20,000	*30,000
Three Family Dw.	*21,000	*30,000	*45,000
Four Family Dw.	*28,000	*40,000	*60,000
Market area: Modesto:			
One Family Dw.	45,500	64,500	117,500
Two Family Dw.	60,500	*25,000	*30,000
Three Family Dw.	*23,250	*33,000	*51,000
Four Family Dw.	*31,000	*44,000	*68,000
Market area: Visalia:			
One Family Dw.	43,500	65,500	113,000
Two Family Dw.	61,000	*28,000	*32,000
Three Family Dw.	*24,000	*36,000	*54,000
Four Family Dw.	*32,000	*48,000	*72,000
Market area: Bakersfield:			
One Family Dw.	48,500	73,500	126,000
Two Family Dw.	68,000	*20,000	*30,000
Three Family Dw.	*22,500	*33,000	*51,000
Four Family Dw.	*28,000	*40,000	*60,000

*Land value only.

Field Office: Honolulu, Hawaii.

	900	1400	1800
Market area: Honolulu:			
One Family Dw.	65,000	120,000	160,000
Market area: Maui:			
One Family Dw.	65,000	100,000	150,000
Market area: Hawaii:			
One Family Dw.	55,000	90,000	125,000
Market area: Kauai:			
One Family Dw.	60,000	95,000	130,000
Market area: Guam:			
One Family Dw.	45,000	60,000	100,000

Field Office: Las Vegas, Nev.

	900	1390	2200
Market Area: Las Vegas, Nev.:			
One Family Dw.	43,000	72,700	98,400

Field Office: Los Angeles, Calif.

	1280	2070	2760
Market Area: Los Angeles, Ventura, Oxnard:			
One Family Dw.	60,000	100,500	147,200
Two Family Dw.	103,400	136,100	
Three Family Dw.			
Four Family Dw.	178,900		
Market Area: Lancaster, Palmdale:			
One Family Dw.	49,900	82,500	105,400
Two Family Dw.	91,200	118,500	
Three Family Dw.			
Four Family Dw.	154,700		
Market Area: Santa Barbara, Ojai, Piru:			
One Family Dw.		150,100	200,900
Two Family Dw.	133,100	171,200	
Three Family Dw.			
Four Family Dw.	232,100		
Market Area: San Luis Obispo, Santa Maria, Paso Robles:			
One Family Dw.	60,000	102,300	134,100
Two Family Dw.	106,200	139,500	
Three Family Dw.			
Four Family Dw.	183,900		

Field Office: Phoenix, Ariz.

	Low range 1240	Medium range 1850	High range 2370
Market Area: Phoenix:			
One Family Dw.....	40,000	60,000	100,000
Two Family Dw.....	55,000	73,000	95,000
Three Family Dw.....	80,000	95,000	
Four Family Dw.....	100,000	125,000	150,000
Market Area: Casa Grande:			
One Family Dw.....	33,000	50,000	78,000
Two Family Dw.....	50,000	67,000	85,000
Three Family Dw.....	68,000	84,000	
Four Family Dw.....	97,000	120,000	132,000
Market Area:			
One Family Dw.....	41,000	62,000	110,000
Two Family Dw.....	68,000	85,000	125,000
Three Family Dw.....	95,000	110,000	
Four Family Dw.....	120,000	135,000	175,000
Market Area: Globe:			
One Family Dw.....	33,000	47,000	80,000
Two Family Dw.....	50,000	65,000	90,000
Three Family Dw.....	70,000	84,000	
Four Family Dw.....	95,000	115,000	135,000
Market Area: Kingman:			
One Family Dw.....	33,000	50,000	80,000
Two Family Dw.....	52,000	67,000	90,000
Three Family Dw.....	74,000	87,000	
Four Family Dw.....	97,000	117,000	135,000
Market Area: Lake Havasu City:			
One Family Dw.....	33,000	50,000	85,000
Two Family Dw.....	53,000	73,000	90,000
Three Family Dw.....	78,000	87,000	
Four Family Dw.....	98,000	115,000	130,000
Market Area: Prescott:			
One Family Dw.....	36,000	55,000	89,000
Two Family Dw.....	59,000	75,000	95,000
Three Family Dw.....	82,000	95,000	
Four Family Dw.....	116,000	130,000	150,000
Market Area: Yuma:			
One Family Dw.....	35,000	53,000	89,000
Two Family Dw.....	58,000	75,000	90,000
Three Family Dw.....	82,000	92,000	
Four Family Dw.....	112,000	122,000	133,000

Field Office: Reno, Nev.

	Low range 1200	Medium range 1360	High range 2200
Market Area: Reno-Sparks:			
One Family Dw.....	48,700	67,500	81,900

Field Office: Sacramento, Calif.

	Low range 840	Medium range 1190	High range 1890
Market Area: Sacramento:			
One Family Dw.....	43,500	51,200	82,400
Two Family Dw.....		83,400	94,800
Three Family Dw.....			
Four Family Dw.....		156,200	
Market Area: Placerville:			
One Family Dw.....	44,800	52,600	87,200
Market Area: Chico:			
One Family Dw.....	44,200	53,800	90,300
Market Area: Yreka:			
One Family Dw.....	34,500	43,800	
Two Family Dw.....	70,400		

Field Office: San Diego, Calif.

	Low range 940	Medium range 1640	High range 2670
Market Area: San Diego:			
One Family Dw.....	61,200	85,600	111,500

Field Office: San Francisco, Calif.

	Low range 1250	Medium range 1420	High range 1480
Market Area: San Francisco:			
One Family Dw.....	74,400	91,700	104,000
Market Area: San Jose (Base City):			
One Family Dw.....	84,100	78,000	103,400
Two Family Dw.....	110,800		
Market Area: San Rafael (Key City):			
One Family Dw.....	82,800	101,700	127,400
Two Family Dw.....	146,800		
Market Area: Salinas (Key City):			
One Family Dw.....	62,100	73,600	94,100
Two Family Dw.....	105,800		

Field Office: Santa Ana, Calif.

	Low range 1120	Medium range 1710	High range 2190
Market Area: Santa Ana:			
One Family Dw.....	57,300	94,500	133,000
Two Family Dw.....		121,300	
Market Area: Victorville:			
One Family Dw.....	52,300	89,300	
Two Family Dw.....		112,000	
Market Area: Indio:			
One Family Dw.....	53,000	89,800	
Two Family Dw.....		112,300	
Market Area: Blythe:			
One Family Dw.....	50,800	86,300	
Two Family Dw.....		109,000	
Market Area: Big Bear:			
One Family Dw.....	58,500	99,000	
Two Family Dw.....		122,300	
Market Area: Bishop:			
One Family Dw.....	52,800	91,300	
Two Family Dw.....		115,800	

Field Office: Tucson, Ariz.

	Low range 1090	Medium range 1240	High range 1880
Market Area: Tucson:			
One Family Dw.....	35,500	50,000	67,500
Market Area: Sierra Vista:			
One Family Dw.....	36,000	56,500	
Market Area: Nogales:			
One Family Dw.....	35,000		

Field Office: Anchorage, Alaska

	Low range 1020	Medium range 1150	High range 1300
Market area: Anchorage:			
One Family Dw.....	101,800	109,400	116,400
Two Family Dw.....	103,100	118,800	135,100
Three Family Dw.....			
Four Family Dw.....	149,300	165,600	192,000
Market area: Fairbanks:			
One Family Dw.....	98,800	105,600	115,900
Two Family Dw.....	100,800	117,400	130,800
Three Family Dw.....			
Four Family Dw.....	147,400	164,400	189,200
Market area: Juneau:			
One Family Dw.....	96,300	102,900	111,000
Two Family Dw.....	99,500	118,600	134,300
Three Family Dw.....			
Four Family Dw.....	146,600	164,900	191,200

Field Office: Boise, Idaho			
	Low range 940	Medium range 1220	High range 2340
Market area: Boise:			
One Family Dw.....	35,900	50,400	65,000
Two Family Dw.....		67,000	
Three Family Dw.....			
Four Family Dw.....		118,200	
Market area: Idaho Falls:			
One Family Dw.....	39,500	48,700	
Two Family Dw.....		71,900	
Three Family Dw.....			
Four Family Dw.....		125,100	
Market area: McCall:			
One Family Dw.....		48,700	
Market area: Pocatello:			
One Family Dw.....	39,600	49,100	51,600
Two Family Dw.....		71,900	
Three Family Dw.....			
Four Family Dw.....		126,100	
Market area: Twin Falls:			
One Family Dw.....	35,000	48,500	49,900
Two Family Dw.....		66,900	
Market area: Lewiston:			
One Family Dw.....	34,800	44,200	
Market area: Coeur d'Alene:			
One Family Dw.....	35,900	45,100	
Two Family Dw.....		65,500	
Field Office: Portland, Oreg.			
	Low range 1220	Medium range 1700	High range 2180
Market area: Bend:			
One Family Dw.....	43,700	57,800	69,700
Two Family Dw.....	64,000	79,200	90,200
Three Family Dw.....	96,000	109,500	140,100
Four Family Dw.....	115,200	129,100	165,400
Market area: Pendleton:			
One Family Dw.....	42,000	53,600	64,300
Two Family Dw.....	59,400	68,900	85,600
Three Family Dw.....	82,100	105,900	136,000
Four Family Dw.....	111,500	125,200	161,000
Market area: Portland:			
One Family Dw.....	41,200	53,600	65,300
Two Family Dw.....	60,800	68,500	84,700
Three Family Dw.....	91,000	104,300	133,300
Four Family Dw.....	109,900	123,100	157,600
Market area: Coos Bay:			
One Family Dw.....	41,400	53,100	63,600
Two Family Dw.....	56,900	65,800	83,500
Three Family Dw.....	91,000	105,700	135,400
Four Family Dw.....	110,200	123,700	157,800
Market area: Eugene:			
One Family Dw.....	40,400	52,800	64,400
Two Family Dw.....	59,800	67,500	83,800
Three Family Dw.....	89,800	103,000	131,800
Four Family Dw.....	103,600	121,800	156,000
Market area: Medford:			
One Family Dw.....	40,700	52,200	62,300
Two Family Dw.....	57,800	66,600	82,500
Three Family Dw.....	88,700	101,800	130,400
Four Family Dw.....	107,400	120,500	154,400

Field Office: Seattle, Wash.			
	Low range 1070	Medium range 1130	High range 1340
Market area: Seattle:			
One Family Dw.....	54,000	65,800	91,100
Two Family Dw.....	78,800	85,800	99,100
Three Family Dw.....		121,900	
Four Family Dw.....		156,800	
Market Area: Bellingham:			
One Family Dw.....	54,000	65,800	91,100
Two Family Dw.....	78,800	85,800	99,100
Three Family Dw.....		121,900	
Four Family Dw.....		156,600	
Market Area: Olympia:			
One Family Dw.....	54,000	65,800	91,100
Two Family Dw.....	76,800	85,800	99,100
Three Family Dw.....		121,900	
Four Family Dw.....		156,600	
Market Area: Aberdeen:			
One Family Dw.....	48,800	60,300	85,400
Two Family Dw.....	71,000	80,200	93,400
Three Family Dw.....		115,600	
Four Family Dw.....		150,000	
Market Area: Longview:			
One Family Dw.....	48,800	60,300	85,400
Two Family Dw.....	71,000	80,200	93,400
Three Family Dw.....		115,600	
Four Family Dw.....		150,000	
Market Area: Port Angeles:			
One Family Dw.....	48,800	60,300	85,400
Two Family Dw.....	71,000	80,200	93,400
Three Family Dw.....		115,600	
* Four Family Dw.....		156,000	
Market Area: Yakima:			
One Family Dw.....	48,800	60,300	85,400
Two Family Dw.....	71,000	80,200	93,400
Three Family Dw.....		115,600	
Four Family Dw.....		150,000	
Field Office: Spokane, Wash.			
	Low range 1000	Medium range 1200	High range 1560
Market Area: Spokane:			
One Family Dw.....	43,500	48,200	59,300
Two Family Dw.....	63,900	70,400	78,400
Market Area: Cheney:			
One Family Dw.....	44,300	50,000	60,200
Two Family Dw.....	65,100	71,900	80,700
Market Area: Pullman:			
One Family Dw.....	47,800	52,500	61,500
Two Family Dw.....	69,700	75,100	83,400
Market Area: Kennewick:			
One Family Dw.....	48,500	59,100	68,300
Two Family Dw.....	72,600	82,800	91,100
Field Office: Newark, N.J.			
	Low range 1600	Medium range 1820	High range 2010
Market area: Middlesex-Monmouth area:			
One Family Dw.....	46,400	55,300	66,300
Field Office: Hato Rey, Puerto Rico			
	Low range 950	Medium range 1150	High range 1550
Market area: San Juan:			
One Family Dw.....	31,800	45,000	56,000
Market Area: Mayaguez:			
One Family Dw.....	30,000	46,200	60,000

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federal register

Tuesday
August 21, 1979

Part III

**Civil Aeronautics
Board**

Removal of Certificate Restrictions

CIVIL AERONAUTICS BOARD

14 CFR Part 203

[Regulation ER-1139; Docket 34291]

Removal of Certificate Restrictions

Adopted by the Civil Aeronautics Board at its office in Washington, D.C.

AGENCY: Civil Aeronautics Board.

ACTION: Issuance of New Part.

SUMMARY: The CAB is establishing a program for the gradual elimination of almost all operating market restrictions included in air carrier certificates for domestic flights, except for those wholly within Alaska or Hawaii. After the first stage, the restrictions will be removed at 6-month intervals, concluding by December 31, 1980.

DATES: Effective: August 21, 1979, Adopted: August 15, 1979.

FOR FURTHER INFORMATION CONTACT: Roy Pulsifer, Associate Director, Licensing Programs and Policy Development, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428; 673-5448.

SUPPLEMENTARY INFORMATION: In ERD-379 (44 FR 30104, May 24, 1979) the Board proposed a phased elimination of virtually all domestic operating restrictions attached to air carrier certificates, except for restrictions in intra-Alaska and intra-Hawaii markets. The proposal was to rewrite certificates in a new format, and remove operating restrictions, beginning with the smallest markets, in five steps starting on August 1, 1979, and ending on June 30, 1981.

This program is based on the policy of the Board and Congress to promote competition, and to allow economic efficiency, rather than government regulation, to guide carriers' service option decisions. The route realignment program, which was begun in 1970, has largely eliminated stop and long-haul restrictions in smaller markets. Larger markets, however, remain highly restricted, except for those carriers authorized to provide nonstop service. The phased program adopted in this rule eliminates restrictions in the larger markets, thus leading to more competition and greater reliance on market demand. These forces can meet the air transportation needs within the United States better than can Board regulatory decisions.

Comments were filed USAir (Allegheny) Airlines, American Airlines, Delta Air Lines, Pacific Southwest Airlines, Piedmont Aviation, Republic Airlines, United, Western, the Dallas/Fort Worth Parties, the State of Hawaii and the State of Maryland. After careful analysis of these comments, and in view of the Congressional mandate expressed in the Airline Deregulation Act of 1978 (P.L. 95-504), the Board has decided, for the above reasons and for those stated in EDR-379, to eliminate operating restrictions for domestic flights as set forth in the proposed rule, with one modification.

Several commenters asked for clarification of certain terms of the rule. USAir and United requested that the Board make clear that the "operating restrictions" to be removed include stops that result from segment junction points, as well as those included as specific conditions in the carriers' certificates. Since this is our intent, we are revising the rule to state specifically that the restrictions to be lifted include both those contained as conditions and those that are the result of joining segments or routes.

USAir also requested that all restrictions in minor markets be lifted in phase one of the program, regardless of the fact that restricted authority in some minor markets was given to the carrier in recent awards. The Board intends to do this to the extent that it is administratively possible. The revised certificates issued in phase one of the program reflect all authority that has been granted through June 15, 1979, and restrictions on all markets in these certificates have been lifted or revised in accordance with the rule. We will then update the certificates in each succeeding phase.

United also requested that all restrictions in minor and monopoly markets identified in the Northwest, United, and TWA realignment applications, for which a show cause order has been issued, be lifted whether or not they qualify under this rule. The action taken to realign these carriers' routes has already granted them unrestricted nonstop authority in these markets (See Dockets 29449, 28755, 30909; Orders 79-6-180, 79-7-69, 79-7-179). Since the realignments were completed after June 15, 1979, however, some of this authority may not be shown

in the certificates issued in phase one of the restriction removal program. The carriers do have the authority granted in those cases, and it will be included in the revised certificates issued in phase two of the program.

Western argued that the proposed new certificate format is unclear and can be improved by the use of a matrix to show restrictions on various markets. We have reviewed the format. We find that our proposed certificate format will clearly and correctly show all present authority, and correctly incorporate new authority, without the need to design a matrix system. The revised certificates have one linear segment, and for simplicity, differ from present certificates only in that points on a carrier's route and restricted markets are listed in alphabetical order. Certificates can thus be easily revised at each phase of the program to incorporate all new authority gained since the certificates were last issued. This type of format will make clear that between the time of issuing new certificates, authority granted to new points will be treated as new segments and require a stop at a segment junction point. This procedure for handling new authority granted between the issuance of new certificates conforms to present Board practice. We believe that this type of linear format is better than a matrix system to accomplish the program's goals in a clear and concise manner.

Western also requested Board clarification as to whether the program applies to all domestic markets except for those being wholly within the States of Alaska and Hawaii. We have revised the rule to show more clearly that this is our intent.

Some commenters requested more substantive changes in the rule. USAir requested that authority to new points reflect, at the time of granting authority to serve such new points, changes involving markets that have been unrestricted in previous phases of the program. Since the first phase of the program will contain a complete list of restricted markets, USAir sees no reason not to grant nonstop rights in these additional markets at the time of the new award. While there is some merit in this proposal, we find that its potential disadvantages outweigh its limited advantages. If adopted, carriers would gain nonstop authority in a

limited number of markets involving new points only up to 6 months ahead of the dates in subsequent phases of the program. For this reason, we see USAir's request as having only limited advantage to the carriers. Finally, the administrative procedures that would have to be developed for this change would delay implementing the entire program. Conferring the authority sought by USAir would include all markets in a carrier's system in each show cause application.

Delta and United requested that the timetable for removing restrictions be changed so that the program would be completed before June 30, 1981, as was proposed. USAir, Republic, and Piedmont opposed such a change. The carriers in favor of the speed-up in removing restrictions claimed that the date for completing the program, 6 months before the Board loses its jurisdiction over route entry under the Airline Deregulation Act, is unnecessarily prolonged, and that such an extended timetable is inconsistent with the procompetitive policies and procedures of the Act. Further, they argued that, if the Board continues its liberal policy of granting multi-carrier authority in major markets, there is no valid reason to delay the lifting of market restrictions.

Carriers opposed to the speed-up in the program claimed that such a change in dates for lifting restrictions would be contrary to the desires of Congress for a "gradual and phased transition to a deregulated system" (H. Rep. 95-1779, p. 56). Further, they see the small carriers being put at an economic disadvantage if such a change is made, since they do not have the financial resources or equipment to exploit such massive amounts of new authority.

We have decided to shorten the transition period so that the last phase of the program will occur on December 31, 1980. Since enactment of the Deregulation Act, the Board has been liberal in granting improved, less restricted authority. In addition, markets with dormant authority are open to new carriers, and new authority is available by automatic entry on January 1, 1980, and January 1, 1981, under sections 401(d)(5) and 401(d)(7) of the Act, respectively. We agree with Delta and United that a shorter, yet still phased, transition period would further both Board and Congressional policy toward

freer entry and a gradually decreasing regulatory restriction on market supply and demand in passenger air transportation. By ending the transition to unrestricted market operations 6 months earlier than proposed, we will also have a longer period to evaluate operations in an unrestricted environment before all of our entry and route authority is ended on December 31, 1981. Step five of the proposed rule has thus been eliminated so that all stop restrictions are lifted by December 31, 1980. We are also modifying accordingly the percentage of markets in which restrictions are lifted in the other steps to 25 percent in step two, 35 percent in step three, and 40 percent in step four.

The State of Hawaii requested that Hilo not be removed as an intermediate point in carrier certificates. This was not proposed in the rule, and Hilo is still listed as an intermediate point in the certificates of all carriers that have authority to serve that point.

United claimed that the proposal to replace restrictions prohibiting single-plane service with one-stop restrictions is unnecessary since the former were declared null and void by the Airline Deregulation Act of 1978. It claimed that section 401(e)(7)(A) of the Act lifts all closed door restrictions, and single-plane restrictions fall within this category. As stated in detail in our order completing United's realignment (Order 79-7-69, July 12, 1979), we are not convinced by this argument. We are therefore continuing to replace single-plane restrictions in the manner that was proposed in EDR-379.

Western commented that since the Airline Deregulation Act in section 406(b) has prevented use of revenues from non-subsidized operations in determining a carrier's need for subsidy until after January 1, 1983, throughout the period during which this rule will be in effect, proposed § 203.7 is "surplusage." That section declares any nonstop authority granted under the part in markets of more than 20 passengers daily to be category II subsidy ineligible under section 406. Western is correct in its interpretation of the Deregulation Act. However, after this period, revenue-sharing will be applicable, thus there is a need for the guideline in § 203.7 to label the authority for future subsidy determinations in these markets.

In the proposed rule we stated that we

intended to treat hyphenated points as individual points in determining when they will become unrestricted. Western did not oppose such a handling of hyphenated points, but argued that section 401(g) of the Act requires that before the Board can alter, amend or modify any certificate, it must first either grant a hearing on the matter or handle it under section 401(p) of the Act by using the expedited procedures of Subpart Q of the Board's Rules of Practice (14 CFR Part 302). We are no more compelled to refrain from handling hyphenated points as individual points in this rule than we are to refrain from lifting stop and long-haul restrictions. The basic certificate authority for the carrier is not being changed; only the restrictions on service to a particular market are being removed. Since we are only eliminating hyphenation of points where different airports serve separate communities, and separately listing them, we are not altering certificate authority. The carriers should be alert to the fact that listing hyphenated points individually does open them up to being treated as dormant markets, and also that carriers providing service to these points may have to file section 401(j) applications if they eliminate service that they now provide.

The State of Maryland requested that Baltimore-Washington International airport (BWI) be included in certificates containing Washington, D.C., authority if individual airports are designated. This proceeding does not contemplate designating new airport authority; such authority may be requested through expedited certificate procedures. However, we have decided to designate service at BWI as service to Baltimore, Md./Washington, D.C. to be served through BWI, in accordance with current practice. The State also requested a change in the Board's policy to interpret section 401(d)(5), concerning dormant authority, to refer to individual airports instead of points. The Board has already decided against such an interpretation in another case, since this would contradict the Board's traditional rules of certificate construction and the apparent intention of Congress in drafting the unused authority provisions (see Order 78-11-41, issued November 9, 1978).

American and the Dallas/Fort Worth parties opposed the inclusion of Love Field as an alternate airport to Dallas/Fort Worth Regional Airport for flights

serving the Dallas/Fort Worth area. They stated that this issue is already under consideration in current proceedings, the *Dallas/Fort Worth-Florida Service Investigation*, (Docket 32711), the *Southwest Airlines Co. Automatic Entry Case*, (Docket 34582), and the *Chicago-Midway Expanded Service Proceeding*, (Docket 33019). For this reason, we are not including Love Field as an alternate point for service to the Dallas/Fort Worth area.

For the reason stated in EDR-379 (pp. 7-8), we are affirming our tentative conclusion that the first phase of the restriction removal program does not constitute a major Federal action significantly affecting the quality of the environment within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4321, *et seq.*), or a major regulatory action requiring an energy statement under the Energy Policy and Conservation Act (24 U.S.C. 6201, *et seq.*). This first phase of the program is designed to increase scheduling flexibility and equipment utilization, thereby resulting in more opportunities for reduction in fuel consumption, air pollution and ambient noise levels. The overall net environmental impact of this phase should be favorable. Also, by enabling carriers more management flexibility in responding to the flow of supply and demand in their service options, the removal of multi-stop and on-line connecting requirements should lead to more efficient use of fuel.

As stated in the *Improved Authority to Wichita Case*, Order 78-12-106, December 14, 1978 (p. 13), the Board is preparing a draft environmental impact statement (see notice of preparation at 43 FR 59864, December 22, 1978) to consider the consequences of our general regulatory policy of essentially open entry. This draft statement will cover the environmental issues contained in subsequent phases of the restriction removal program. If a final impact statement has not been issued before subsequent phases take effect, or if it appears that a general free entry policy will have a significant adverse environmental impact, the Board will consider the specific impact, if any, of each phase of the program before it is implemented.

By OR-155, issued simultaneously, the Board is delegating authority to the Director, Bureau of Domestic Aviation (formerly the Bureau of Pricing and Domestic Aviation) to issue revised certificates at each step of the program.

Initially, revised certificates will be issued only for trunkline and local service carriers; certificates for other

carriers will be issued shortly. We will include in this docket a list of all minor and monopoly markets where restrictions are being lifted.

The Board is making this rule effective immediately. The program is relieving a substantial number of operating restrictions on carriers of all classes. To delay the effectiveness of this rule would prolong the burden and operating inefficiencies of the present system, and would unnecessarily deprive the domestic air traveler of the benefits of such deregulation. It is therefore found, for good cause, that making this final rule effective upon publication in the *Federal Register* is in the public interest.

For the reasons discussed above the Board amends 14 CFR Chapter II by adding a new Part 203 to read as follows:

PART 203—REMOVAL OF CERTIFICATE RESTRICTIONS

Sec.

203.1 Scope.

203.2 Applicability.

203.3 Timetable for automatic removal of restrictions.

203.4 Issuance of revised certificate.

203.5 Individual air carrier applications.

203.6 Effective date for new authority.

203.7 Subsidy ineligibility.

203.8 Sunset provision.

Authority.—Sec. 102, 204, 401 of the Federal Aviation Act of 1958, as amended, 72 Stat. 740, 743, 92 Stat. 1710, 49 U.S.C. 1302, 1324, 1371.

§ 203.1 Scope.

This part establishes a procedure for the gradual elimination of operating restrictions in the certificates of air carriers for domestic scheduled service flights, except for those for markets wholly within Alaska and Hawaii, by December 31, 1980.

§ 203.2 Applicability.

The procedures in this part apply to all air carrier certificates under section 401 of the Act, and to any operating restrictions attached to a certificate authorizing flights between points within the United States, except for those wholly within Alaska or Hawaii.

§ 203.3 Timetable for automatic removal of restrictions.

Effective on the dates indicated in this section, the Board removes the restrictions contained in certificates of public convenience and necessity granted to air carriers under section 401 of the Act.

(a) On August 21, 1979:

(1) All operating restrictions attached to air carrier certificates imposing a

long-haul requirement shall cease to be in effect.

(2) All operating restrictions precluding single-plane service or specifying more than one stop on a route, or a required stop at a segment junction point, shall be changed to specify only one stop.

(3) All operating restrictions specifying one stop in minor markets that enplane not more than 7,300 origin/destination and connecting passengers each year, and in monopoly markets, shall cease to be in effect:

(b) On December 31, 1979, all operating restrictions attached to certificates for the following markets shall cease to be in effect: The smallest 25 percent of the markets listed in Appendix A, from Fresno-Sacramento (p. 18), to Harrisburg/York-Washington, D.C. (p. 24), inclusive.

(c) On June 30, 1980, all operating restrictions attached to certificates for the following markets shall cease to be in effect. The next smallest 35 percent of markets listed in Appendix A, from Houston-Jacksonville (p. 10), to Keene-New York (p. 18), inclusive.

(d) On December 31, 1980, all remaining one-stop operating restrictions attached to certificates shall cease to be in effect.

(e) Restrictions contained in any new market authority shall be removed in the phase that includes markets of equivalent size, except that where the date for removing restrictions in that market is already past, any such restrictions will be removed in the phase following the award of new authority.

§ 203.4 Issuance of revised certificate.

At each stage specified in § 203.3, the Board will issue a revised certificate reflecting any changes in an air carrier's authority, and listing authorized points and any remaining restricted markets in alphabetical order. Revised certificates shall be issued first to trunkline and local service carriers, and then to other air carriers. Delay in issuance of a revised certificate, however, shall not affect the removal of restrictions under § 203.3.

§ 203.5 Individual air carrier applications.

Nothing in this part limits the right of an air carrier at any time to file an application for removal of any term, condition, or limitation in an individual market or of any single restrictions. Procedures for the filing of such applications and answers shall be governed by Subpart Q of Part 302 of this chapter, unless the application is accompanied by a petition for show-cause procedures or a motion to

consolidate with an application accompanied by such a petition.

§ 203.6 Effective date of new authority.

For purposes of determining the start of a period of unused authority under section 401(d)(5) of the Act, any new authority received by an air carrier under this part shall be effective on the date the restriction is removed under § 203.3 or by order of the Board under § 203.5.

§ 203.7 Subsidy ineligibility.

Any nonstop authority given an air carrier under this part for markets with more than 20 passengers enplaned each day shall be considered Category II subsidy-ineligible under section 406 of the Act.

§ 203.8 Sunset provision.

This part shall cease to be in effect on January 1, 1982, unless the Board takes further action.

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

BILLING CODE 6320-01-M

Appendix A.—List Of Restricted Markets

Traffic Data from O&D Survey for the Year ended December 31, 1978.

RESTRICTED	MARKETS	RESTRICTED	MARKETS	APPENDIX A
NEW YORK, N.Y./NEWARK	WASHINGTON, D. C.	ATLANTA, GEORGIA	WASHINGTON, D. C.	328,380
CHICAGO, ILLINOIS	NEW YORK, NEW YORK	ATLANTA, GEORGIA	MIAMI, FLORIDA	326,510
ROSTON, MASSACHUSETT	NEW YORK, NEW YORK	LOS ANGELES, CALIFOR	MIAMI, FLORIDA	325,090
MIAMI, FLORIDA	NEW YORK, NEW YORK	RENO, NEVADA	SAN FRANCISCO, CALIF.	324,370
FORT LAUDERDALE, FLA	NEW YORK, NEW YORK	CHICAGO, ILLINOIS	TAMPA, FLORIDA	319,340
LOS ANGELES, CALIFOR	NEW YORK, NEW YORK	MIAMI, FLORIDA	WASHINGTON, D. C.	318,040
LOS ANGELES, CALIFOR	NEW YORK, NEW YORK	PORTLAND, OREGON	SEATTLE, WASHINGTON	316,680
NEW YORK, N.Y./NEWARK	NEW YORK, NEW YORK	CHICAGO, ILLINOIS	PITTSBURGH, PENNA.	315,620
CHICAGO, ILLINOIS	NEW YORK, NEW YORK	HONOLULU, OAHU, HAWA	SAN FRANCISCO, CALIF.	314,930
LAS VEGAS, NEVADA	NEW YORK, NEW YORK	MINNEAPOLIS, MINN.	NEW YORK, NEW YORK	306,760
DETROIT, MICHIGAN	NEW YORK, NEW YORK	CHICAGO, ILLINOIS	HOUSTON, TEXAS	306,410
ATLANTA, GEORGIA	NEW YORK, NEW YORK	DENVER, COLORADO	SALT LAKE CITY, UTAH	306,160
NEW YORK, N.Y./NEWARK	NEW YORK, NEW YORK	CHICAGO, ILLINOIS	SYRACUSE, NEW YORK	304,420
NEW YORK, N.Y./NEWARK	NEW YORK, NEW YORK	CHICAGO, ILLINOIS	FORT LAUDERDALE, FLA.	293,460
CHICAGO, ILLINOIS	NEW YORK, NEW YORK	LOS ANGELES, CALIFOR	MINNEAPOLIS, MINN.	286,830
CHICAGO, ILLINOIS	NEW YORK, NEW YORK	LOS ANGELES, CALIFOR	PHILADELPHIA, PENNA	283,110
CLEVELAND, OHIO	NEW YORK, NEW YORK	CINCINNATI, OHIO	PORTLAND, OREGON	282,690
NEW YORK, N.Y./NEWARK	NEW YORK, NEW YORK	BOSTON, MASSACHUSETT	NEW YORK, NEW YORK	282,250
CHICAGO, ILLINOIS	NEW YORK, NEW YORK	MIAMI, FLORIDA	SAN FRANCISCO, CALIF.	281,220
CHICAGO, ILLINOIS	NEW YORK, NEW YORK	MIAMI, FLORIDA	ORLANDO, FLORIDA	272,910
HONOLULU, OAHU, HAWA	NEW YORK, NEW YORK	DALLAS-FORT WORTH, T	DENVER, COLORADO	271,690
SEATTLE, WASHINGTON	NEW YORK, NEW YORK	ROSTON, MASSACHUSETT	MIAMI, FLORIDA	269,680
ST. LOUIS, MISSOURI	NEW YORK, NEW YORK	MIAMI, FLORIDA	PHILADELPHIA, PENNA	269,580
NEW YORK, NEW YORK	NEW YORK, NEW YORK	NEW YORK, N.Y./NEWARK	PHOENIX, ARIZONA	267,650
DALLAS-FORT WORTH, T	NEW YORK, NEW YORK	MIAMI, FLORIDA	PHOENIX, ARIZONA	262,810
HOUSTON, TEXAS	NEW YORK, NEW YORK	MIAMI, FLORIDA	MIAMI, FLORIDA	259,180
CHICAGO, ILLINOIS	NEW YORK, NEW YORK	COLUMBUS, OHIO	TAMPA, FLORIDA	258,140
MIAMI, FLORIDA	NEW YORK, NEW YORK	ROSTON, MASSACHUSETT	NEW YORK, NEW YORK	252,720
DENVER, COLORADO	NEW YORK, NEW YORK	SEATTLE, WASHINGTON	FORT LAUDERDALE, FLA.	252,540
CHICAGO, ILLINOIS	NEW YORK, NEW YORK	NEW YORK, N.Y./NEWARK	SPOKANE, WASHINGTON	251,140
NEW YORK, NEW YORK	NEW YORK, NEW YORK	DETROIT, MICHIGAN	RALEIGH/DURHAM, N.C.	251,000
ROSTON, MASSACHUSETT	NEW YORK, NEW YORK	DETROIT, MICHIGAN	TAMPA, FLORIDA	246,860
LOS ANGELES, CALIFOR	NEW YORK, NEW YORK	DENVER, COLORADO	HOUSTON, TEXAS	246,020
CHICAGO, ILLINOIS	NEW YORK, NEW YORK	CHICAGO, ILLINOIS	SACRAMENTO, CALIF.	245,130
DALLAS-FORT WORTH, T	NEW YORK, NEW YORK	LOS ANGELES, CALIFOR	SAN DIEGO, CALIFORNIA	243,260
SAN FRANCISCO, CALIF	NEW YORK, NEW YORK	LOS ANGELES, CALIFOR	RENO, NEVADA	242,160
DALLAS-FORT WORTH, T	NEW YORK, NEW YORK	LAS VEGAS, NEVADA	NEW YORK, NEW YORK	239,830
HOUSTON, TEXAS	NEW YORK, NEW YORK	PORTLAND, OREGON	SAN FRANCISCO, CALIF.	239,610
LOS ANGELES, CALIFOR	NEW YORK, NEW YORK	CHICAGO, ILLINOIS	LAS VEGAS, NEVADA	238,820
ROSTON, MASSACHUSETT	NEW YORK, NEW YORK	FORT LAUDERDALE, FLA	PHILADELPHIA, PENNA	237,230
CHICAGO, ILLINOIS	NEW YORK, NEW YORK	DETROIT, MICHIGAN	WASHINGTON, D. C.	236,410
CHICAGO, ILLINOIS	NEW YORK, NEW YORK	CHARLOTTE, NORTH CAR	WASHINGTON, D. C.	236,380
NEW YORK, N.Y./NEWARK	NEW YORK, NEW YORK	CHICAGO, ILLINOIS	CINCINNATI, OHIO	233,730
NEW YORK, N.Y./NEWARK	NEW YORK, NEW YORK	CHICAGO, ILLINOIS	ORLANDO, FLORIDA	233,300
NEW YORK, N.Y./NEWARK	NEW YORK, NEW YORK	LOS ANGELES, CALIFOR	ST. LOUIS, MISSOURI	226,810
CHICAGO, ILLINOIS	NEW YORK, NEW YORK	ATLANTA, GEORGIA	TAMPA, FLORIDA	226,790
ROSTON, MASSACHUSETT	NEW YORK, NEW YORK	ATLANTA, GEORGIA	DALLAS-FORT WORTH, TX	219,890
HOUSTON, TEXAS	NEW YORK, NEW YORK	ATLANTA, GEORGIA	LOS ANGELES, CALIF.	219,670
CHICAGO, ILLINOIS	NEW YORK, NEW YORK	GREENSBORO/HIGH POIN	NEW YORK, NEW YORK	218,080
ATLANTA, GEORGIA	NEW YORK, NEW YORK	DALLAS-FORT WORTH, T	WASHINGTON, D. C.	215,550
SAN FRANCISCO, CALIF	NEW YORK, NEW YORK	CPLAND, FLORIDA	PHILADELPHIA, PENNA	215,060
NEW ORLEANS, LOUISIA	NEW YORK, NEW YORK	CLEVELAND, OHIO	DETROIT, MICHIGAN	214,770
NEW ORLEANS, LOUISIA	NEW YORK, NEW YORK	NEW YORK, N.Y./NEWARK	SAN DIEGO, CALIFORNIA	214,470
DETROIT, MICHIGAN	NEW YORK, NEW YORK	DETROIT, MICHIGAN	MIAMI, FLORIDA	214,270
CHICAGO, ILLINOIS	NEW YORK, NEW YORK	ATLANTA, GEORGIA	PHILADELPHIA, PENNA	211,230
PHILADELPHIA, PA./CA	NEW YORK, NEW YORK	BALTIMORE, MARYLAND	CHICAGO, ILLINOIS	208,580

RESTRICTED	MARKETS	RESTRICTED	MARKETS	APPENDIX A
CHICAGO, ILLINOIS	COLUMBUS, OHIO	FRESNO, CALIFORNIA	SAN FRANCISCO, CALIF.	161,960
DENVER, COLORADO	PHOENIX, ARIZONA	DALLAS-FORT WORTH, T	TULSA, OKLAHOMA	160,540
BALTIMORE, MARYLAND	NEW YORK, NEW YORK	SALT LAKE CITY, UTAH	SAN FRANCISCO, CALIF.	159,790
INDIANAPOLIS, INDIANA	NEW YORK, NEW YORK	ATLANTA, GEORGIA	FORT LAUDERDALE, FLA.	159,690
CHICAGO, ILLINOIS	INDIANAPOLIS, INDIANA	MIAMI, FLORIDA	NEW ORLEANS, LA.	159,490
KANSAS CITY, MISSOUR	NEW YORK, NEW YORK	HONOLULU, OAHU, HAWA	SEATTLE, WASHINGTON	159,160
CHICAGO, ILLINOIS	NEW ORLEANS, LA.	LOS ANGELES, CALIFOR	PITTSBURGH, PENNA.	158,030
ROSTON, MASSACHUSETT	ORLANDO, FLORIDA	CHICAGO, ILLINOIS	SEATTLE, WASHINGTON	157,900
LAS VEGAS, NEVADA	SAN FRANCISCO, CALIF.	JACKSONVILLE, FLORID	NEW YORK, NEW YORK	157,900
ANCHORAGE, ALASKA	SEATTLE, WASHINGTON	LAS VEGAS, NEVADA	PHOENIX, ARIZONA	157,270
HOUSTON, TEXAS	MIAMI, FLORIDA	DETROIT, MICHIGAN	ORLANDO, FLORIDA	156,980
LAS VEGAS, NEVADA	RENO, NEVADA	MINNEAPOLIS, MINN.	WASHINGTON, D. C.	156,880
LOS ANGELES, CALIF.	SALT LAKE CITY, UTAH	RENO, NEVADA	WASHINGTON, D. C.	156,430
ALBUQUERQUE, NEW MEX	LOS ANGELES, CALIF.	NASHVILLE, TENNESSEE	SEATTLE, WASHINGTON	155,430
DETROIT, MICHIGAN	PHILADELPHIA, PENNA	PHOENIX, ARIZONA	NEW YORK, NEW YORK	154,370
KANSAS CITY, MISSOUR	ST. LOUIS, MISSOURI	HONOLULU, OAHU, HAWA	SAN DIEGO, CALIFORNIA	154,420
HOUSTON, TEXAS	LOS ANGELES, CALIF.	DAYTON, OHIO	NEW YORK, NEW YORK	153,720
DALLAS-FORT WORTH, T	SAN FRANCISCO, CALIF.	MIAMI, FLORIDA	NEW YORK, NEW YORK	153,070
PHOENIX, ARIZONA	FORT LAUDERDALE, FLA.	PITTSBURGH, PENNA.	WASHINGTON, D. C.	151,360
CHICAGO, ILLINOIS	HARTFORD, CONNECTICUT	WASHINGTON, D. C.	WASHINGTON, D. C.	151,150
DENVER, COLORADO	MEMPHIS, TENNESSEE	LAS VEGAS, NEVADA	SEATTLE, WASHINGTON	150,840
DETROIT, MICHIGAN	WASHINGTON, D. C.	ALBUQUERQUE, NEW MEX	TULSA, OKLAHOMA	150,570
DALLAS-FORT WORTH, T	KANSAS CITY, MISSOURI	HOUSTON, TEXAS	OKLAHOMA CITY, OKLA.	149,950
PHILADELPHIA, PA./CA	SEATTLE, WASHINGTON	LOUISVILLE, KENTUCKY	LOUISVILLE, KENTUCKY	149,560
ST. LOUIS, MISSOURI	SAN FRANCISCO, CALIF.	LOUISVILLE, KENTUCKY	DES MOINES, IOWA	149,280
HARTFORD/SPRINGFIELD	WASHINGTON, D. C.	EL PASO, TEXAS	CHARLOTTE, N. C.	147,460
DALLAS-FORT WORTH, T	LAS VEGAS, NEVADA	BOSTON, MASSACHUSETT	SAN DIEGO, CALIFORNIA	147,290
MIAMI, FLORIDA	KANSAS CITY, MISSOURI	DALLAS-FORT WORTH, T	PHILADELPHIA, PENNA	146,720
ATLANTA, GEORGIA	SEATTLE, WASHINGTON	AMARILLO, TEXAS	DENVER, COLORADO	145,210
MIAMI, FLORIDA	LOS ANGELES, CALIF.	DETROIT, MICHIGAN	WASHINGTON, D. C.	143,810
ATLANTA, GEORGIA	LAS VEGAS, NEVADA	DALLAS-FORT WORTH, T	MIAMI, FLORIDA	143,320
MIAMI, FLORIDA	HOUSTON, TEXAS	DETROIT, MICHIGAN	MINNEAPOLIS, MINN.	143,320
ATLANTA, GEORGIA	NEW YORK, NEW YORK	ATLANTA, GEORGIA	MIAMI, FLORIDA	135,540
MIAMI, FLORIDA	LAS VEGAS, NEVADA	DALLAS-FORT WORTH, T	MIAMI, FLORIDA	133,940
ATLANTA, GEORGIA	NEW YORK, NEW YORK	DALLAS-FORT WORTH, T	SAN FRANCISCO, CALIF.	131,040
MIAMI, FLORIDA	LAS VEGAS, NEVADA	ATLANTA, GEORGIA	DETROIT, MICHIGAN	129,810
ATLANTA, GEORGIA	ST. LOUIS, MISSOURI	ST. LOUIS, MISSOURI	SAN FRANCISCO, CALIF.	129,500
ATLANTA, GEORGIA	CHICAGO, ILLINOIS	ATLANTA, GEORGIA	NASHVILLE, TENNESSEE	129,460
LOS ANGELES, CALIFOR	HARTFORD/SPRINGFIELD	HARTFORD/SPRINGFIELD	DAYTON, OHIO	129,360
NEW YORK, N.Y./NEWARK	SAN DIEGO, CALIFORNIA	SAN DIEGO, CALIFORNIA	NEW YORK, NEW YORK	128,970
DENVER, COLORADO	DETROIT, MICHIGAN	DETROIT, MICHIGAN	SEATTLE, WASHINGTON	128,600
LOS ANGELES, CALIFOR	ORLANDO, FLORIDA	ORLANDO, FLORIDA	PITTSBURGH, PENNA.	127,520
LOS ANGELES, CALIFOR	NEW YORK, N.Y./NEWARK	NEW YORK, N.Y./NEWARK	WASHINGTON, D. C.	127,490
ATLANTA, GEORGIA	PORTLAND, OREGON	PORTLAND, OREGON	PITTSBURGH, PENNA.	127,180
ATLANTA, GEORGIA	RENO, NEVADA	RENO, NEVADA	SARASOTA, FLORIDA	126,410

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PITTSBURGH, PENNSYLV	126,050	TAMPA, FLORIDA	126,050	ROSTON, MASSACHUSETT	101,300	MINNEAPOLIS, MINN.	101,300				
CHICAGO, ILLINOIS	124,670	HONOLULU, HAWAII	124,670	RAITIMORE, MARYLAND	101,280	LOS ANGELES, CALIF.	101,280				
DENVER, COLORADO	124,640	ST. LOUIS, MISSOURI	124,640	CINCINNATI, OHIO	101,230	WASHINGTON, D. C.	101,230				
DETROIT, MICHIGAN	124,390	MINNEAPOLIS, MINN.	124,390	NEW YORK, N.Y./NEWARK	101,210	SAN ANTONIO, TEXAS	101,210				
BUFFALO, NEW YORK	124,330	CHICAGO, ILLINOIS	124,330	DETROIT, MICHIGAN	100,850	HOUSTON, TEXAS	100,850				
DALLAS-FORT WORTH, TEXAS	124,190	PHILADELPHIA, PENNA	124,190	DENVER, COLORADO	100,720	DETROIT, MICHIGAN	100,720				
MINNAPOLIS, MINN.	122,080	PHILADELPHIA, PENNA	122,080	PHILADELPHIA, PENNA	100,020	MIAMI, FLORIDA	100,020				
ATLANTA, GEORGIA	120,970	BALTIMORE, MARYLAND	120,970	CHICAGO, ILLINOIS	99,940	PORTLAND, OREGON	99,940				
DETROIT, MICHIGAN	120,710	MILWAUKEE, WISCONSIN	120,710	KANSAS CITY, MISSOURI	99,790	MINNEAPOLIS, MINN.	99,790				
HOUSTON, TEXAS	120,320	ST. LOUIS, MISSOURI	120,320	LOS ANGELES, CALIF.	99,120	MILWAUKEE, WISCONSIN	99,120				
ATLANTA, GEORGIA	119,470	SAN ANTONIO, TEXAS	119,470	SEATTLE, WASHINGTON	98,420	WASHINGTON, D. C.	98,420				
ALBANY, NEW YORK	119,190	NEW YORK, NEW YORK	119,190	HOUSTON, TEXAS	98,320	LAS VEGAS, NEVADA	98,320				
MINNEAPOLIS, MINN.	119,000	PHOENIX, ARIZONA	119,000	CHICAGO, ILLINOIS	98,060	NEW YORK, NEW YORK	98,060				
TAMPA, FLORIDA	118,440	WASHINGTON, D. C.	118,440	HARTFORD, CONNECTICUT	97,990	GRAND RAPIDS, MICH.	97,990				
SAN DIEGO, CALIFORNIA	118,420	SAN FRANCISCO, CALIF.	118,420	AUSTIN, TEXAS	97,920	DALLAS-FORT WORTH, TEXAS	97,920				
GREENVILLE, SOUTH CAROLINA	117,640	LURMOCK, TEXAS	117,640	BUFFALO, NEW YORK	97,050	WASHINGTON, D. C.	97,050				
PROVIDENCE, RHODE ISLAND	117,520	NEW YORK, NEW YORK	117,520	CLEVELAND, OHIO	96,930	TAMPA, FLORIDA	96,930				
MINNEAPOLIS, MINN.	117,250	WASHINGTON, D. C.	117,250	CHICAGO, ILLINOIS	96,160	SAN FRANCISCO, CALIF.	96,160				
DALLAS-FORT WORTH, TEXAS	116,660	ST. LOUIS, MISSOURI	116,660	RALEIGH, NORTH CAROLINA	95,960	SAN ANTONIO, TEXAS	95,960				
ROSTON, MASSACHUSETT	116,500	DENVER, COLORADO	116,500	INDIANAPOLIS, INDIAN	95,960	WASHINGTON, D. C.	95,960				
SAN DIEGO, CALIFORNIA	115,360	DALLAS-FORT WORTH, TEXAS	115,360	HOUSTON, TEXAS	95,050	WASHINGTON, D. C.	95,050				
HOUSTON, TEXAS	115,060	WASHINGTON, D. C.	115,060	KANSAS CITY, MISSOURI	94,680	ROCHESTER, NEW YORK	94,680				
ATLANTA, GEORGIA	114,820	OKLAHOMA CITY, OKLA.	114,820	ALBUQUERQUE, NEW MEX	94,610	LAS VEGAS, NEVADA	94,610				
DETROIT, MICHIGAN	114,700	CLEVELAND, OHIO	114,700	DAYTONA BEACH, FLORIDA	94,550	SAN FRANCISCO, CALIF.	94,550				
PHOENIX, ARIZONA	112,670	MIAMI, FLORIDA	112,670	DALLAS-FORT WORTH, TEXAS	94,160	NEW YORK, NEW YORK	94,160				
CHICAGO, ILLINOIS	112,220	NASHVILLE, TENNESSEE	112,220	DENVER, COLORADO	94,120	LITTLE ROCK, ARKANSAS	94,120				
CLEVELAND, OHIO	111,100	TAMPA, FLORIDA	111,100	MINNEAPOLIS, MINN.	93,750	PORTLAND, OREGON	93,750				
ATLANTA, GEORGIA	111,080	ST. LOUIS, MISSOURI	111,080	ROSTON, MASSACHUSETT	93,400	OMAHA, NEBRASKA	93,400				
COLUMBUS, OHIO	110,960	WASHINGTON, D. C.	110,960	LOS ANGELES, CALIF.	92,960	WEST PALM BEACH, FLA.	92,960				
MIAMI, FLORIDA	110,850	OKLAHOMA CITY, OKLA.	110,850	ALBANY, NEW YORK	92,910	TULSA, OKLAHOMA	92,910				
NORFOLK, VIRGINIA	110,560	ST. LOUIS, MISSOURI	110,560	NEW YORK, N.Y./NEWARK	92,850	RUFFALO, NEW YORK	92,850				
DALLAS-FORT WORTH, TEXAS	109,440	WASHINGTON, D. C.	109,440	INDIANAPOLIS, INDIAN	92,560	PORTLAND, MAINE	92,560				
ROSTON, MASSACHUSETT	109,010	MINNEAPOLIS, MINN.	109,010	SAN JOSE, CALIFORNIA	92,250	LCS ANGELES, CALIF.	92,250				
CHARLESTON, SOUTH CAROLINA	108,850	WASHINGTON, D. C.	108,850	CHICAGO, ILLINOIS	92,180	SEATTLE, WASHINGTON	92,180				
KANSAS CITY, MISSOURI	108,290	BUFFALO, NEW YORK	108,290	OAKLAND, CALIFORNIA	92,060	SEATTLE, WASHINGTON	92,060				
DALLAS-FORT WORTH, TEXAS	108,180	NEW YORK, NEW YORK	108,180	ATLANTA, GEORGIA	91,530	BIRMINGHAM, ALABAMA	91,530				
ALBUQUERQUE, NEW MEX	107,840	SAN FRANCISCO, CALIF.	107,840	DALLAS-FORT WORTH, TEXAS	91,250	SAN DIEGO, CALIFORNIA	91,250				
ATLANTA, GEORGIA	107,120	SAN ANTONIO, TEXAS	107,120	DALLAS-FORT WORTH, TEXAS	91,240	LOUISVILLE, KENTUCKY	91,240				
ATLANTA, GEORGIA	106,870	DENVER, COLORADO	106,870	PHILADELPHIA, PENNA	91,190	LOUISVILLE, KENTUCKY	91,190				
PITTSBURGH, PENNSYLV	106,670	SAVANNAH, GEORGIA	106,670	ST. LOUIS, MISSOURI	91,080	PHILADELPHIA, PENNA	91,080				
ATLANTA, GEORGIA	106,630	PITTSBURGH, PENNSYLV	106,630	DAYTON, OHIO	90,860	ST. LOUIS, MISSOURI	90,860				
DALLAS-FORT WORTH, TEXAS	105,110	MEMPHIS, TENNESSEE	105,110	FORT LAUDERDALE, FLA	90,800	HARTFORD, CONNECTICUT	90,800				
DETROIT, MICHIGAN	105,010	WEST PALM BEACH, FLA.	105,010	LAS VEGAS, NEVADA	90,370	ONTARIO, CALIFORNIA	90,370				
LOS ANGELES, CALIF.	105,000	DETROIT, MICHIGAN	105,000	ATLANTA, GEORGIA	90,340	GREENSBORO, N. C.	90,340				
MIAMI, FLORIDA	104,100	NEW YORK, NEW YORK	104,100	ATLANTA, GEORGIA	89,490	MINNEAPOLIS, MINN.	89,490				
ORLANDO, FLORIDA	102,600	PITTSBURGH, PENNSYLV	102,600	HOUSTON, TEXAS	89,450	WEST PALM BEACH, FLA.	89,450				
CLEVELAND, OHIO	102,420	FORT LAUDERDALE, FLA.	102,420	PORTLAND, OREGON	89,310	KANSAS CITY, MISSOURI	89,310				
ROSTON, MASSACHUSETT	102,297	WASHINGTON, D. C.	102,297	MINNEAPOLIS, MINN.	89,220	SAN JOSE, CALIFORNIA	89,220				
NEW ORLEANS, LOUISIANA	102,070	ST. LOUIS, MISSOURI	102,070	HOUSTON, TEXAS	88,590	SEATTLE, WASHINGTON	88,590				
CHICAGO, ILLINOIS	101,830	TUCSON, ARIZONA	101,830	OAKLAND, CALIFORNIA	88,430	PITTSBURGH, PENNA.	88,430				
	101,700			HARTFORD, CONNECTICUT	88,390	RENO, NEVADA	88,390				
						TULSA, OKLAHOMA	88,390				
						PHILADELPHIA, PENNA	88,390				

RESTRICTED		MARKETS		RESTRICTED		MARKETS		APPENDIX A		PAGE 4	
DENVER, COLORADO	87,930	OKLAHOMA CITY, OKLA.	87,930	ATLANTA, GEORGIA	77,990	RICHMOND, VIRGINIA	77,990				
LAS VEGAS, NEVADA	87,900	ST. LOUIS, MISSOURI	87,900	CLEVELAND, OHIO	77,980	DALLAS-FORT WORTH, TX	77,980				
ROSTON, MASSACHUSETT	87,410	SYRACUSE, NEW YORK	87,410	ATLANTA, GEORGIA	77,910	KANSAS CITY, MISSOURI	77,910				
ATLANTA, GEORGIA	87,330	MINNEAPOLIS, MINN.	87,330	BALTIMORE, MARYLAND	77,750	PITTSBURGH, PENNA.	77,750				
CHICAGO, ILLINOIS	87,260	ROCHESTER, NEW YORK	87,260	HOUSTON, TEXAS	77,610	MEMPHIS, TENNESSEE	77,610				
ATLANTA, GEORGIA	87,040	COLUMBIA, S. C.	87,040	NASHVILLE, TENNESSEE	76,640	WASHINGTON, D. C.	76,640				
DENVER, COLORADO	86,360	OMAHA, NEBRASKA	86,360	CINCINNATI, OHIO	76,600	TAMPA, FLORIDA	76,600				
MEMPHIS, TENNESSEE	86,250	NEW ORLEANS, LA.	86,250	BALTIMORE, MARYLAND	76,470	SEATTLE, WASHINGTON	76,470				
PHILADELPHIA, PENNA	85,180	PORTLAND, OREGON	85,180	DETROIT, MICHIGAN	76,240	SPokane, WASHINGTON	76,240				
HOUSTON, TEXAS	85,050	HOUSTON, TEXAS	85,050	NEW YORK, N.Y./NEWARK	76,120	TULSA, OKLAHOMA	76,120				
WASHINGTON, D. C.	84,400	NASHVILLE, TENNESSEE	84,400	PORTLAND, OREGON	75,690	SPokane, WASHINGTON	75,690				
MICHIGAN, KANSAS	83,860	MIAMI, FLORIDA	83,860	INDIANAPOLIS, INDIAN	75,550	TAMPA, FLORIDA	75,550				
WASHINGTON, D. C.	83,810	WASHINGTON, D. C.	83,810	FORT LAUDERDALE, FLA	75,360	SEATTLE, WASHINGTON	75,360				
WASHINGTON, D. C.	83,680	CINCINNATI, OHIO	83,680	MEMPHIS, TENNESSEE	75,360	ST. LOUIS, MISSOURI	75,360				
NEW ORLEANS, LA.	83,390	NEW ORLEANS, LA.	83,390	SAN FRANCISCO, CALIF	75,320	SPokane, WASHINGTON	75,320				
WEST PALM BEACH, FLA.	83,160	WEST PALM BEACH, FLA.	83,160	HARTFORD, CONNECTICUT	75,160	TAMPA, FLORIDA	75,160				
SALT LAKE CITY, UTAH	82,830	SALT LAKE CITY, UTAH	82,830	ST. LOUIS, MISSOURI	75,050	TAMPA, FLORIDA	75,050				
TUCSON, ARIZONA	82,770	ORLANDO, FLORIDA	82,770	BOISE, IDAHO	74,880	PORTLAND, OREGON	74,880				
ORLANDO, FLORIDA	82,380	TAMPA, FLORIDA	82,380	PHOENIX, ARIZONA	74,870	SYRACUSE, NEW YORK	74,870				
PHOENIX, ARIZONA	82,230	PHOENIX, ARIZONA	82,230	COLUMBUS, OHIO	74,830	ST. LOUIS, MISSOURI	74,830				
SAN FRANCISCO, CALIF.	81,950	SAN FRANCISCO, CALIF.	81,950	LOS ANGELES, CALIF	74,800	PHILADELPHIA, PENNA	74,800				
SAVANNAH, GEORGIA	81,420	SAVANNAH, GEORGIA	81,420	MINNEAPOLIS, MINN.	73,870	SPokane, WASHINGTON	73,870				
SAN FRANCISCO, CALIF.	81,750	PHOENIX, ARIZONA	81,750	CHICAGO, ILLINOIS	73,860	TAMPA, FLORIDA	73,860				
PHOENIX, ARIZONA	81,690	PHILADELPHIA, PENNA	81,690	ATLANTA, GEORGIA	73,680	SARASOTA, FLORIDA	73,680				
PHILADELPHIA, PENNA	81,670	OMAHA, NEBRASKA	81,670	BUFFALO, NEW YORK	73,630	CHARLESTON, S. C.	73,630				
OKLAHOMA CITY, OKLA.	81,380	OKLAHOMA CITY, OKLA.	81,380	FORT MYERS, FLORIDA	73,460	PHILADELPHIA, PENNA	73,460				
JACKSON, MISSISSIPPI	81,340	JACKSON, MISSISSIPPI	81,340	CHICAGO, ILLINOIS	73,460	ONTARIO, CALIFORNIA	73,460				
DETROIT, MICHIGAN	81,090	DETROIT, MICHIGAN	81,090	ATLANTA, GEORGIA	73,160	NEW YORK, NEW YORK	73,160				
TULSA, OKLAHOMA	80,630	TULSA, OKLAHOMA	80,630	CHICAGO, ILLINOIS	73,090	HARRISBURG, PA.	73,090				
SEATTLE, WASHINGTON	80,100	SEATTLE, WASHINGTON	80,100	CHICAGO, ILLINOIS	73,080	COLUMBUS, OHIO	73,080				
SEATTLE, WASHINGTON	80,080	SEATTLE, WASHINGTON	80,080	AKRON/CANTON, OHIO	72,710	RALEIGH/DURHAM, N. C.	72,710				
TOLEDO, OHIO	80,080	TOLEDO, OHIO	80,080	AUSTIN, TEXAS	72,640	CHICAGO, ILLINOIS	72,640				
LAS VEGAS, NEVADA	79,910	BURLINGTON, VERMONT	79,910	BURLINGTON, VERMONT	72,210	NEW YORK, NEW YORK	72,210				
HARTFORD, CONNECTICUT	79,880	HARTFORD, CONNECTICUT	79,880	DAYTON, OHIO	72,040	MIAMI, FLORIDA	72,040				
FORT LAUDERDALE, FLA.	79,470	CLEVELAND, OHIO	79,470	CLEVELAND, OHIO	71,930	LOS ANGELES, CALIF.	71,930				
MEMPHIS, TENNESSEE	79,420	ATLANTA, GEORGIA	79,420	ATLANTA, GEORGIA	71,860	HOUSTON, TEXAS	71,860				
PHILADELPHIA, PENNA	79,130	DENVER, COLORADO	79,130	DENVER, COLORADO	71,460	INDIANAPOLIS, INDIANA	71,460				
ST. LOUIS, MISSOURI	79,000	DALLAS-FORT WORTH, TEXAS	79,000	DALLAS-FORT WORTH, TEXAS	71,130	TUCSON, ARIZONA	71,130				
ST. LOUIS, MISSOURI	78,860	CHICAGO, ILLINOIS	78,860	CHICAGO, ILLINOIS	70,840	NASHVILLE, TENNESSEE	70,840				
SAN DIEGO, CALIFORNIA	78,710	PITTSBURGH, PENNSYLV	78,710	PITTSBURGH, PENNSYLV	70,760	PEORIA, ILLINOIS	70,760				
MINNEAPOLIS, MINN.	78,650	WASHINGTON, D. C.	78,650	WASHINGTON, D. C.	70,460	ST. LOUIS, MISSOURI	70,460				
OKLAHOMA CITY, OKLA.	78,570	DALLAS-FORT WORTH, TEXAS	78,570	DALLAS-FORT WORTH, TEXAS	70,420	WEST PALM BEACH, FLA.	70,420				
CINCINNATI, OHIO	78,550	MEMPHIS, TENNESSEE	78,550	MEMPHIS, TENNESSEE	70,340	ORLANDO, FLORIDA	70,340				
WASHINGTON, D. C.	78,500	NEW ORLEANS, LOUISIANA	78,500	NEW ORLEANS, LOUISIANA	69,980	TAMPA, FLORIDA	69,980				
PORTLAND, OREGON	78,500	PHILADELPHIA, PENNA	78,500	PHILADELPHIA, PENNA	69,970	SEATTLE, WASHINGTON	69,970				
MIAMI, FLORIDA	78,410	ALBUQUERQUE, NEW MEX	78,410	ALBUQUERQUE, NEW MEX	69,950	RENO, NEVADA	69,950				
LOS ANGELES, CALIF.	78,270	DALLAS-FORT WORTH, TEXAS	78,270	DALLAS-FORT WORTH, TEXAS	69,940	NEW YORK, NEW YORK	69,940				
		NEW ORLEANS, LOUISIANA		NEW ORLEANS, LOUISIANA	69,570	SEATTLE, WASHINGTON	69,570				
		PHILADELPHIA, PENNA		PHILADELPHIA, PENNA							

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BOSTON, MASSACHUSETT	PHOENIX, ARIZONA	ATLANTA, GEORGIA	MOBILE, ALABAMA	61,010	
DETROIT, MICHIGAN	KANSAS CITY, MISSOURI	BALTIMORE, MARYLAND	DETROIT, MICHIGAN	61,790	
JACKSONVILLE, FLORIDA	NASHVILLE, TENNESSEE	COLUMBUS, OHIO	DETROIT, MICHIGAN	61,940	
CHARLOTTE, NORTH CAROLINA	PHILADELPHIA, PENNSYLVANIA	FORT LAUDERDALE, FLORIDA	NEW ORLEANS, LA.	61,220	
HARTFORD, CONNECTICUT	PITTSBURGH, PENNSYLVANIA	INDIANAPOLIS, INDIANA	SAN DIEGO, CALIFORNIA	61,050	
MIAMI, FLORIDA	SAN FRANCISCO, CALIFORNIA	INDIANAPOLIS, INDIANA	MIAMI, FLORIDA	60,890	
PHOENIX, ARIZONA	SEATTLE, WASHINGTON	HOUSTON, TEXAS	FORT LAUDERDALE, FLORIDA	60,800	
SACRAMENTO, CALIFORNIA	CHICAGO, ILLINOIS	MINNEAPOLIS, MINNESOTA	SEATTLE, WASHINGTON	60,650	
ALBANY, NEW YORK	CHICAGO, ILLINOIS	KNOXVILLE, TENNESSEE	KNOXVILLE, TENNESSEE	60,260	
CINCINNATI, OHIO	PHILADELPHIA, PENNSYLVANIA	ATLANTA, GEORGIA	WASHINGTON, D. C.	60,010	
CLEVELAND, OHIO	HARTFORD, CONNECTICUT	MILWAUKEE, WISCONSIN	TAMPA, FLORIDA	59,860	
DES MOINES, IOWA	PHOENIX, ARIZONA	BUFFALO, NEW YORK	SAN FRANCISCO, CALIFORNIA	59,770	
DETROIT, MICHIGAN	NEW ORLEANS, LA.	OKLAHOMA CITY, OKLAHOMA	FORT WAYNE, INDIANA	59,720	
LAS VEGAS, NEVADA	SALT LAKE CITY, UTAH	CHICAGO, ILLINOIS	PHOENIX, ARIZONA	59,670	
PORTLAND, OREGON	SAN DIEGO, CALIFORNIA	CHICAGO, ILLINOIS	NORFOLK, VIRGINIA	59,560	
DALLAS, TEXAS	PITTSBURGH, PENNSYLVANIA	ONTARIO, CALIFORNIA	MADISON, WISCONSIN	59,410	
LOUISVILLE, KENTUCKY	WASHINGTON, D. C.	SAN ANTONIO, TEXAS	PHOENIX, ARIZONA	59,330	
COLUMBUS, OHIO	TAMPA, FLORIDA	SAN ANTONIO, TEXAS	SACRAMENTO, CALIFORNIA	59,210	
DALLAS-FORT WORTH, TEXAS	INDIANAPOLIS, INDIANA	SAN ANTONIO, TEXAS	SAN FRANCISCO, CALIFORNIA	59,120	
NEW YORK, N.Y./NEW JERSEY	ROANOKE, VIRGINIA	CHICAGO, ILLINOIS	WASHINGTON, D. C.	58,890	
BOSTON, MASSACHUSETT	NEW ORLEANS, LA.	CHICAGO, ILLINOIS	SAGINAW/BAY CITY, MICHIGAN	58,480	
BUFFALO, NEW YORK	LOS ANGELES, CALIFORNIA	CLEVELAND, OHIO	ROCHESTER, MINNESOTA	58,250	
HOUSTON, TEXAS	TAMPA, FLORIDA	EUGENE, OREGON	MINNEAPOLIS, MINNESOTA	58,110	
CHICAGO, ILLINOIS	LITTLE ROCK, ARKANSAS	KANSAS CITY, MISSOURI	LOS ANGELES, CALIFORNIA	58,090	
MINNEAPOLIS, MINNESOTA	CHICAGO, ILLINOIS	PHILADELPHIA, PENNSYLVANIA	OMAHA, NEBRASKA	58,050	
DETROIT, MICHIGAN	SAN DIEGO, CALIFORNIA	PHILADELPHIA, PENNSYLVANIA	DALLAS-FORT WORTH, TEXAS	57,990	
DETROIT, MICHIGAN	MEMPHIS, TENNESSEE	PHILADELPHIA, PENNSYLVANIA	SYRACUSE, NEW YORK	57,820	
DETROIT, MICHIGAN	TAMPA, FLORIDA	DENVER, COLORADO	SAN ANTONIO, TEXAS	57,550	
CHICAGO, ILLINOIS	SAN JOSE, CALIFORNIA	CHICAGO, ILLINOIS	NEW YORK, NEW YORK	57,270	
SAN FRANCISCO, CALIFORNIA	LOS ANGELES, CALIFORNIA	CHICAGO, ILLINOIS	ROCHESTER, NEW YORK	57,150	
DENVER, COLORADO	TUCSON, ARIZONA	CHICAGO, ILLINOIS	OMAHA, NEBRASKA	56,890	
CLEVELAND, OHIO	SAN JOSE, CALIFORNIA	CHICAGO, ILLINOIS	JACKSON, MISSISSIPPI	56,830	
DETROIT, MICHIGAN	DENVER, COLORADO	DALLAS, TEXAS	COLUMBUS, OHIO	56,450	
CHICAGO, ILLINOIS	LOUISVILLE, KENTUCKY	ALBUQUERQUE, NEW MEXICO	WICHITA, KANSAS	56,250	
BUFFALO, NEW YORK	HARTFORD, CONNECTICUT	CLEVELAND, OHIO	WASHINGTON, D. C.	55,980	
ISLAND, LONG ISLAND	WASHINGTON, D. C.	BOSTON, MASSACHUSETT	MILWAUKEE, WISCONSIN	55,900	
CINCINNATI, OHIO	ST. LOUIS, MISSOURI	KANSAS CITY, MISSOURI	SEATTLE, WASHINGTON	55,890	
DENVER, COLORADO	PITTSBURGH, PENNSYLVANIA	ALBANY, NEW YORK	PHILADELPHIA, PENNSYLVANIA	55,750	
CHARLOTTE, NORTH CAROLINA	CHICAGO, ILLINOIS	ALBANY, NEW YORK	CHICAGO, ILLINOIS	55,550	
BOSTON, MASSACHUSETT	COLUMBUS, OHIO	DES MOINES, IOWA	LOS ANGELES, CALIFORNIA	55,430	
PHILADELPHIA, PENNSYLVANIA	PHOENIX, ARIZONA	DALLAS-FORT WORTH, TEXAS	SHREVEPORT, LOUISIANA	55,410	
BIRMINGHAM, ALABAMA	CHICAGO, ILLINOIS	COLUMBUS, OHIO	MIAMI, FLORIDA	55,400	
CLEVELAND, OHIO	PHILADELPHIA, PENNSYLVANIA	LAS VEGAS, NEVADA	SAN JOSE, CALIFORNIA	55,360	
DENVER, COLORADO	ORLANDO, FLORIDA	BALTIMORE, MARYLAND	DENVER, COLORADO	55,330	
CHICAGO, ILLINOIS	MILWAUKEE, WISCONSIN	AUSTIN, TEXAS	NEW YORK, NEW YORK	55,200	
DAYTON, OHIO	GREENSBORO, N. C.	BALTIMORE, MARYLAND	NEW ORLEANS, LA.	54,860	
INDIANAPOLIS, INDIANA	DETROIT, MICHIGAN	MILWAUKEE, WISCONSIN	SAN FRANCISCO, CALIFORNIA	54,840	
JACKSONVILLE, FLORIDA	ST. LOUIS, MISSOURI	ALBANY, NEW YORK	PITTSBURGH, PENNSYLVANIA	54,700	
HARTFORD, CONNECTICUT	WASHINGTON, D. C.	DAYTON, OHIO	TAMPA, FLORIDA	54,550	
HOUSTON, TEXAS	SAN FRANCISCO, CALIFORNIA	CHICAGO, ILLINOIS	NCRFLK, VIRGINIA	54,460	
	PHOENIX, ARIZONA	ATLANTA, GEORGIA	DAYTON, OHIO	54,210	

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GREENSBORO, NORTH CAROLINA	WASHINGTON, D. C.	MADISON, WISCONSIN	MINNEAPOLIS, MINNESOTA	49,670	
BOSTON, MASSACHUSETT	LAS VEGAS, NEVADA	CHICAGO, ILLINOIS	FORT MYERS, FLORIDA	49,590	
ATLANTA, GEORGIA	DAYTONA BEACH, FLORIDA	GRAND RAPIDS, MICHIGAN	NEW YORK, NEW YORK	49,560	
CHICAGO, ILLINOIS	CLEVELAND, OHIO	DALLAS-FORT WORTH, TEXAS	LOUISVILLE, KENTUCKY	49,530	
PHOENIX, ARIZONA	FLORIDA, FLORIDA	PHOENIX, ARIZONA	TUCSON, ARIZONA	49,410	
KANSAS CITY, MISSOURI	MIAMI, FLORIDA	CORPUS CHRISTI, TEXAS	DALLAS-FORT WORTH, TEXAS	49,260	
PHOENIX, ARIZONA	PORTLAND, OREGON	ONTARIO, CALIFORNIA	PORTLAND, OREGON	49,210	
ALBANY, NEW YORK	PHILADELPHIA, PENNSYLVANIA	LAS VEGAS, NEVADA	OKLAHOMA, CALIFORNIA	49,160	
CLEVELAND, OHIO	INDIANAPOLIS, INDIANA	DENVER, COLORADO	EL PASO, TEXAS	49,080	
MILWAUKEE, WISCONSIN	ST. LOUIS, MISSOURI	MILWAUKEE, WISCONSIN	RENO, NEVADA	48,740	
DALLAS-FORT WORTH, TEXAS	ORLANDO, FLORIDA	ONTARIO, CALIFORNIA	TAMPA, FLORIDA	48,640	
BUFFALO, NEW YORK	PITTSBURGH, PENNSYLVANIA	BATON ROUGE, LOUISIANA	HOUSTON, TEXAS	48,500	
LAS VEGAS, NEVADA	PHILADELPHIA, PENNSYLVANIA	DALLAS-FORT WORTH, TEXAS	JACKSON, MISSISSIPPI	48,430	
CINCINNATI, OHIO	DALLAS-FORT WORTH, TEXAS	BILLINGS, MONTANA	DENVER, COLORADO	48,130	
CHICAGO, ILLINOIS	WASHINGTON, D. C.	MEMPHIS, TENNESSEE	MIAMI, FLORIDA	47,960	
DENVER, COLORADO	SACRAMENTO, CALIFORNIA	HOUSTON, TEXAS	ORLANDO, FLORIDA	47,930	
BALTIMORE, MARYLAND	NORFOLK, VIRGINIA	DETROIT, MICHIGAN	SARASOTA, FLORIDA	47,850	
MINNEAPOLIS, MINNESOTA	SIOUX FALLS, S. D.	CHARLESTON, SOUTH CAROLINA	WASHINGTON, D. C.	47,810	
PORTLAND, OREGON	SACRAMENTO, CALIFORNIA	LOS ANGELES, CALIFORNIA	NASHVILLE, TENNESSEE	47,790	
LOS ANGELES, CALIFORNIA	WICHITA, KANSAS	DALLAS-FORT WORTH, TEXAS	HONOLULU, HAWAII	47,590	
ATLANTA, GEORGIA	SEATTLE, WASHINGTON	MORE, ALA./PASCAGO	NEW YORK, NEW YORK	47,570	
ONTARIO, CALIFORNIA	SEATTLE, WASHINGTON	HARTFORD, CONNECTICUT	WEST PALM BEACH, FLORIDA	47,430	
KANSAS CITY, MISSOURI	OKLAHOMA CITY, OKLAHOMA	SAN FRANCISCO, CALIFORNIA	TAMPA, FLORIDA	47,400	
BIRMINGHAM, ALABAMA	NEW ORLEANS, LA.	BATON ROUGE, LOUISIANA	DALLAS-FORT WORTH, TEXAS	47,310	
HOUSTON, TEXAS	SAN DIEGO, CALIFORNIA	BEAUMONT, TEXAS	DALLAS-FORT WORTH, TEXAS	47,280	
SALT LAKE CITY, UTAH	SAN DIEGO, CALIFORNIA	COLUMBUS, OHIO	DALLAS-FORT WORTH, TEXAS	47,220	
LEXINGTON, KENTUCKY	NEW YORK, NEW YORK	BOSTON, MASSACHUSETT	KANSAS CITY, MISSOURI	47,100	
NEW YORK, N.Y./NEW JERSEY	TOLSON, OHIO	BIRMINGHAM, ALABAMA	DETROIT, MICHIGAN	47,080	
HOUSTON, TEXAS	SHREVEPORT, LOUISIANA	BIRMINGHAM, ALABAMA	PITTSBURGH, PENNSYLVANIA	47,020	
PORTLAND, OREGON	INDIANAPOLIS, INDIANA	COLUMBUS, OHIO	MOBILE, ALABAMA	46,970	
HOUSTON, TEXAS	SALT LAKE CITY, UTAH	FAIRBANKS, ALASKA	FORT LAUDERDALE, FLORIDA	46,830	
HONOLULU, HAWAII	LOS ANGELES, CALIFORNIA	AUGUSTA, GEORGIA	SEATTLE, WASHINGTON	46,800	
INDIANAPOLIS, INDIANA	LAS VEGAS, NEVADA	CLEVELAND, OHIO	NEW YORK, NEW YORK	46,730	
ATLANTA, GEORGIA	SAN FRANCISCO, CALIFORNIA	LITTLE ROCK, ARKANSAS	LAS VEGAS, NEVADA	46,670	
KNOXVILLE, TENNESSEE	WASHINGTON, D. C.	AKRON/CANTON, OHIO	WICHITA, KANSAS	46,610	
ST. LOUIS, MISSOURI	SAN DIEGO, CALIFORNIA	LITTLE ROCK, ARKANSAS	NEW YORK, NEW YORK	46,600	
CHICAGO, ILLINOIS	LANSING, MICHIGAN	AKRON/CANTON, OHIO	NEW YORK, NEW YORK	46,590	
SAN DIEGO, CALIFORNIA	THUNDERBOLT, ARIZONA	DENVER, COLORADO	INDIANAPOLIS, INDIANA	46,540	
CHICAGO, ILLINOIS	PROVIDENCE, R. I.	ORLANDO, FLORIDA	ST. LOUIS, MISSOURI	46,500	
AMARILLO, TEXAS	HOUSTON, TEXAS	HOUSTON, TEXAS	SEATTLE, WASHINGTON	46,370	
PHILADELPHIA, PENNSYLVANIA	SAN DIEGO, CALIFORNIA	MIAMI, FLORIDA	SEATTLE, WASHINGTON	46,300	
ALBUQUERQUE, NEW MEXICO	EL PASO, TEXAS	DES MOINES, IOWA	NEW YORK, NEW YORK	46,290	
CHICAGO, ILLINOIS	LEXINGTON, KENTUCKY	PORTLAND, OREGON	WASHINGTON, D. C.	46,260	
MIAMI, FLORIDA	TALLAHASSEE, FLORIDA	CHICAGO, ILLINOIS	SAN FRANCISCO, CALIFORNIA	46,220	
OKLAHOMA CITY, OKLAHOMA	WASHINGTON, D. C.	ORLANDO, FLORIDA	RICHMOND, VIRGINIA	46,020	
ROCHESTER, NEW YORK	TAMPA, FLORIDA	NASHVILLE, TENNESSEE	TALLAHASSEE, FLORIDA	45,820	
SALT LAKE CITY, UTAH	WASHINGTON, D. C.	DAYTON, OHIO	PHILADELPHIA, PENNSYLVANIA	45,730	
CHARLOTTE, NORTH CAROLINA	MIAMI, FLORIDA	NEW ORLEANS, LOUISIANA	PHILADELPHIA, PENNSYLVANIA	45,720	
MINNEAPOLIS, MINNESOTA	PORTLAND, OREGON	RATON, MARYLAND	TAMPA, FLORIDA	45,650	
MADISON, WISCONSIN	NEW YORK, NEW YORK	LAS VEGAS, NEVADA	OKLAHOMA CITY, OKLAHOMA	45,630	
DENVER, COLORADO	EL PASO, TEXAS	DALLAS-FORT WORTH, TEXAS	DAYTON, OHIO	45,620	
JACKSONVILLE, FLORIDA	DES MOINES, IOWA	DALLAS-FORT WORTH, TEXAS	SAN JOSE, CALIFORNIA	45,600	
BIRMINGHAM, ALABAMA	PHILADELPHIA, PENNSYLVANIA	NEW YORK, NEW YORK	SAN FRANCISCO, CALIFORNIA	45,560	
			ST. LOUIS, MISSOURI	45,560	

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BOSTON, MASSACHUSETT	DAYTON, OHIO	BURRANK, CALIFORNIA	SALT LAKE CITY, UTAH	41,540
BOSTON, MASSACHUSETT	PORTLAND, MAINE	OMAHA, NEBRASKA	SAN FRANCISCO, CALIF.	41,530
ST. LOUIS, MISSOURI	SEATTLE, WASHINGTON	CLEVELAND, OHIO	DAYTON, OHIO	41,490
DALLAS-FORT WORTH, TEXAS	FORT LAUDERDALE, FLA.	CLEVELAND, OHIO	WEST PALM BEACH, FLA.	41,430
PHOENIX, ARIZONA	PITTSBURGH, PENNA.	CHICAGO, ILLINOIS	INDIO, CALIFORNIA	41,390
CHICAGO, ILLINOIS	MILWAUKEE, WISCONSIN	KNOXVILLE, TENNESSEE	MEMPHIS, TENNESSEE	41,370
MINNEAPOLIS, MINN.	WASHINGTON, D. C.	PCFT LAURELDALE, FLO	ST. LOUIS, MISSOURI	41,310
COLUMBUS, OHIO	PITTSBURGH, PENNA.	ROSTON, MASSACHUSETT	RALEIGH/DURHAM, N.C.	41,270
FL PASO, TEXAS	PHOENIX, ARIZONA	INDIANAPOLIS, INDIAN	PHOENIX, ARIZONA	41,160
LITTLE ROCK, ARKANSAS	LOS ANGELES, CALIF.	DENVER, COLORADO	OAKLAND, CALIFORNIA	41,110
ATLANTA, GEORGIA	PITTSBURGH, PENNA.	PHILADELPHIA, PA./CA	PROVIDENCE, R. I.	41,050
ROSTON, MASSACHUSETT	TALLAHASSEE, FLORIDA	SACRAMENTO, CALIFORNIA	PENND, NEVADA	40,940
LOS ANGELES, CALIF.	MILWAUKEE, WISCONSIN	EL PASO, TEXAS	NEW YORK, NEW YORK	40,940
HOUSTON, TEXAS	ROCHESTER, NEW YORK	KANSAS CITY, MISSOURI	MEMPHIS, TENNESSEE	40,840
DALLAS-FORT WORTH, TEXAS	LITTLE ROCK, ARKANSAS	DETROIT/ANN ARBOR, M	ROCHESTER, NEW YORK	40,720
ST. LOUIS, MISSOURI	SALT LAKE CITY, UTAH	HONOLULU, OAHU, HAWA	MINNEAPOLIS, MINN.	40,690
KANSAS CITY, MISSOURI	SEATTLE, WASHINGTON	PHILADELPHIA, PA./CA	NEW ORLEANS, LA.	40,590
CHATTANOOGA, TENN	PORTLAND, OREGON	KANSAS CITY, MISSOURI	MIAMI, FLORIDA	40,580
CHICAGO, ILLINOIS	KNOXVILLE, TENNESSEE	BIRMINGHAM, ALABAMA	SAN ANTONIO, TEXAS	40,540
SALT LAKE CITY, UTAH	SAN JOSE, CALIFORNIA	NEW ORLEANS, LOUISIA	PITTSBURGH, PENNA.	40,490
INDIANAPOLIS, INDIAN	MINNEAPOLIS, MINN.	CHICAGO, ILLINOIS	SACRAMENTO, CALIF.	40,300
MINNAPOLIS, MINN.	WASHINGTON, D. C.	DETROIT/ANN ARBOR, M	SYRACUSE, NEW YORK	40,290
PHILADELPHIA, PA./CA	SEATTLE, WASHINGTON	ALBUQUERQUE, NEW MEX	HOUSTON, TEXAS	40,200
SAN FRANCISCO, CALIF	TULSA, OKLAHOMA	DALLAS-FORT WORTH, T	MILWAUKEE, WISCONSIN	40,190
CHICAGO, ILLINOIS	OAKLAND, CALIFORNIA	CHICAGO, ILLINOIS	YOUNGSTOWN, OHIO	40,170
RUFFENBARGER FALL	MIAMI, FLORIDA	EL PASO, TEXAS	SAN FRANCISCO, CALIF.	40,150
COLORADO SPRINGS, CO	LOS ANGELES, CALIF.	LOS ANGELES, CALIFOR	SYRACUSE, NEW YORK	40,120
CHICAGO, ILLINOIS	COLORADO SPRINGS, COLO	HONOLULU, OAHU, HAWA	SAN JOSE, CALIFORNIA	40,100
ATLANTA, GEORGIA	RUFFALO, NEW YORK	ATLANTA, GEORGIA	SARASOTA, FLORIDA	40,070
LOS ANGELES, CALIFOR	LOUISVILLE, KENTUCKY	INDIANAPOLIS, INDIAN	ORLANDO, FLORIDA	40,050
ROSE, IDAHO	SPOKANE, WASHINGTON	ALBANY, NEW YORK	BOSTON, MASSACHUSETTS	40,040
DENVER, COLORADO	HONOLULU, OAHU, HAWAII	MIAMI, FLORIDA	NASHVILLE, TENNESSEE	39,950
PITTSBURGH, PENNSYLV	WEST PALM BEACH, FLA.	DES MOINES, IOWA	KANSAS CITY, MISSOURI	39,930
ATLANTA, GEORGIA	SAN ANTONIO, TEXAS	LAS VEGAS, NEVADA	WASHINGTON, D. C.	39,930
COLUMBUS, OHIO	ORLANDO, FLORIDA	ATLANTA, GEORGIA	LEXINGTON, KENTUCKY	39,910
OMAHA, NEBRASKA	ST. LOUIS, MISSOURI	HOUSTON, TEXAS	NASHVILLE, TENNESSEE	39,880
ANCHORAGE, ALASKA	LOS ANGELES, CALIF.	CINCINNATI, OHIO	HOUSTON, TEXAS	39,880
OKLAHOMA CITY, OKLAH	ST. LOUIS, MISSOURI	HOUSTON, TEXAS	INDIANAPOLIS, INDIANA	39,680
COLUMBUS, OHIO	ST. LOUIS, MISSOURI	HOUSTON, TEXAS	PITTSBURGH, PENNA.	39,640
LOUISVILLE, KENTUCKY	ST. LOUIS, MISSOURI	HOUSTON, TEXAS	RALEIGH/DURHAM, N.C.	39,590
CHAPITTE, NORTH CAR	PITTSBURGH, PENNA.	HOUSTON, TEXAS	LOS ANGELES, CALIF.	39,540
MIAMI, FLORIDA	MILWAUKEE, WISCONSIN	HOUSTON, TEXAS	PENSACOLA, FLORIDA	39,530
KANSAS CITY, MISSOURI	ORLANDO, FLORIDA	HOUSTON, TEXAS	WASHINGTON, D. C.	39,320
BIRMINGHAM, ALABAMA	TULSA, OKLAHOMA	HOUSTON, TEXAS	NEW YORK, NEW YORK	39,310
HOUSTON, TEXAS	DALLAS-FORT WORTH, TEXAS	HOUSTON, TEXAS	PHILADELPHIA, PENNA.	39,310
MILN, HAWAII	LOS ANGELES, CALIF.	HOUSTON, TEXAS	PROVIDENCE, R. I.	39,090
HOUSTON, TEXAS	HONOLULU, OAHU, HAWAII	HOUSTON, TEXAS	WASHINGTON, D. C.	39,010
DALLAS-FORT WORTH, TEXAS	ONTARIO, CALIFORNIA	HOUSTON, TEXAS	SALT LAKE CITY, UTAH	38,950
HOUSTON, TEXAS	DENVER, COLORADO	HOUSTON, TEXAS	WEST PALM BEACH, FLA.	38,900
HOUSTON, TEXAS	PITTSBURGH, PENNA.	HOUSTON, TEXAS	OMAHA, NEBRASKA	38,860
HOUSTON, TEXAS	WASHINGTON, D. C.	HOUSTON, TEXAS	ST. LOUIS, MISSOURI	38,860
HOUSTON, TEXAS	FORT LAUDERDALE, FLA.	HOUSTON, TEXAS	LOS ANGELES, CALIF.	38,610
HOUSTON, TEXAS	HOUSTON, TEXAS	HOUSTON, TEXAS	OMAHA, NEBRASKA	38,440

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DETROIT/ANN ARBOR, M	HONOLULU, OAHU, HAWAII	NEW YORK, N.Y./NEWAR	WICHITA, KANSAS	35,030
CLEVELAND, OHIO	KANSAS CITY, MISSOURI	ATLANTA, GEORGIA	LAS VEGAS, NEVADA	34,980
BIRMINGHAM, ALABAMA	WASHINGTON, D. C.	LAS VEGAS, NEVADA	MIAMI, FLORIDA	34,860
ASHVILLE, NORTH CAR	NEW YORK, NEW YORK	BIRMINGHAM, ALABAMA	MEMPHIS, TENNESSEE	34,760
MINNEAPOLIS/ST. PAUL	NEW ORLEANS, LA.	AUSTIN, TEXAS	CHICAGO, ILLINOIS	34,750
DETROIT/ANN ARBOR, M	SEATTLE, WASHINGTON	BOSTON, MASSACHUSETT	AIRLINGTON, VERMONT	34,720
CLEVELAND, OHIO	NEW ORLEANS, LA.	ATLANTA, GEORGIA	TULSA, OKLAHOMA	34,690
RISMARCK/MANDAN, NOR	MINNEAPOLIS, MINN.	OAKLAND, CALIFORNIA	PHOENIX, ARIZONA	34,640
CINCINNATI, OHIO	ORLANDO, FLORIDA	CINCINNATI, OHIO	MINNEAPOLIS, MINN.	34,590
HOUSTON, MASSACHUSETT	CHAPLOTTE, N. C.	MINNEAPOLIS/ST. PAUL	PITTSBURGH, PENNA.	34,590
RUFFENBARGER FALL	CLEVELAND, OHIO	DENVER, COLORADO	SPOKANE, WASHINGTON	34,530
ATLANTA, GEORGIA	LOS ANGELES, CALIF.	HONOLULU, OAHU, HAWA	PHILADELPHIA, PENNA.	34,490
OMAHA, NEBRASKA	PHOENIX, ARIZONA	CHICAGO, ILLINOIS	SPRINGFIELD, MISSOURI	34,460
LAS VEGAS, NEVADA	WASHINGTON, D. C.	ATLANTA, GEORGIA	OKLAHOMA CITY, OKLA.	34,430
EL PASO, TEXAS	TUCSON, ARIZONA	MONTGOMERY, ALABAMA	NEW YORK, NEW YORK	34,420
ORLANDO, FLORIDA	LURROCK, TEXAS	EL PASO, TEXAS	MIDLAND/ODESSA, TEXAS	34,350
ATLANTA, GEORGIA	PROVIDENCE, R. I.	BOSTON, MASSACHUSETT	ISLIP, NEW YORK	34,300
MEMPHIS, TENNESSEE	ROANOKE, VIRGINIA	KANSAS CITY, MISSOURI	TAMPA, FLORIDA	34,230
CLEVELAND, OHIO	PHILADELPHIA, PENNA	NEW ORLEANS, LOUISIA	TULSA, OKLAHOMA	34,180
ATLANTA, GEORGIA	LOUISVILLE, KENTUCKY	MIAMI, FLORIDA	SYRACUSE, NEW YORK	34,160
GREENVILLE/SPARTANBU	MONTGOMERY, ALABAMA	DENVER, COLORADO	HOUSTON, TEXAS	34,020
LOUISVILLE, KENTUCKY	WASHINGTON, D. C.	BOSTON, MASSACHUSETT	ORLANDO, FLORIDA	33,940
GREENSBORO/HIGH POIN	TAMPA, FLORIDA	CHICAGO, ILLINOIS	SARASOTA, FLORIDA	33,930
KANSAS CITY, MISSOURI	MIAMI, FLORIDA	NEW YORK, N.Y./NEWAR	SOUTH BEND, INDIANA	33,930
INDIANAPOLIS, INDIAN	KANSAS CITY, MISSOURI	HARTFORD/SPRINGFLO/WE	SACRAMENTO, CALIF.	33,870
MILWAUKEE, WISCONSIN	PHILADELPHIA, PENNA	RENO, NEVADA	ST. LOUIS, MISSOURI	33,860
DAYTON, OHIO	ST. LOUIS, MISSOURI	CHICAGO, ILLINOIS	SAN DIEGO, CALIFORNIA	33,850
ST. LOUIS, MISSOURI	SAN ANTONIO, TEXAS	NORFOLK, VIRGINIA	COLUMBIA, S. C.	33,820
FORT LAUDERDALE, FLO	INDIANAPOLIS, INDIANA	FORT LAUDERDALE, FLO	PITTSBURGH, PENNA.	33,800
COLUMBUS, OHIO	SAN FRANCISCO, CALIF.	CHICAGO, ILLINOIS	MINNEAPOLIS, MINN.	33,790
RENO, NEVADA	SAN JOSE, CALIFORNIA	HOUSTON, TEXAS	HARTFORD/CONNECTICUT	33,750
DALLAS-FORT WORTH, T	TUCSON, ARIZONA	HONOLULU, OAHU, HAWA	WICHITA, KANSAS	33,650
ATLANTA, GEORGIA	FORT MYERS, FLORIDA	ARISTOL/KINGSPT/JHNS	FLINT, MICHIGAN	33,570
SYRACUSE, NEW YORK	TAMPA, FLORIDA	HUNTSMILLE/DECATUR,	PITTSBURGH, PENNA.	33,550
KANSAS CITY, MISSOURI	MILWAUKEE, WISCONSIN	MIAMI, FLORIDA	ROCHESTER, NEW YORK	33,530
DAYTON, OHIO	MIAMI, FLORIDA	JACKSON/VICKSBURG, M	NEW YORK, NEW YORK	33,450
EVANSVILLE, INDIANA	INDIANAPOLIS, INDIANA	PHOENIX, ARIZONA	PHOENIX, ARIZONA	33,300
BIRMINGHAM, ALABAMA	ORLANDO, FLORIDA	MINNEAPOLIS/ST. PAUL	MEMPHIS, TENNESSEE	33,250
CLEVELAND, OHIO	SEATTLE, WASHINGTON	LOS ANGELES, CALIFOR	SACRAMENTO, CALIF.	33,220
DENVER, COLORADO	HARTFORD/CONNECTICUT	MIAMI, FLORIDA	SARASOTA, FLORIDA	33,170
ST. LOUIS, MISSOURI	WICHITA, KANSAS	LOS ANGELES, CALIFOR	MEFORD, OREGON	33,120
FORT WAYNE, INDIANA	NEW YORK, NEW YORK	ROSTON, MASSACHUSETT	PHOENIX, ARIZONA	33,110
INDIO/PALM SPRINGS,	SAN FRANCISCO, CALIF.	MILWAUKEE, WISCONSIN	SAVANNAH, GEORGIA	33,080
MIAMI, FLORIDA	ROCHESTER, NEW YORK	CHICAGO, ILLINOIS	NEW ORLEANS, LA.	33,050
CHICAGO, ILLINOIS	DAYTONA BEACH, FLA.	NASHVILLE, TENNESSEE	WASHINGTON, D. C.	33,030
ATLANTA, GEORGIA	LITTLE ROCK, ARKANSAS	LITTLE ROCK, ARKANS	WASHINGTON, D. C.	32,910
HOUSTON, TEXAS	JACKSONVILLE, FLORIDA	PORTLAND, MAINE	WASHINGTON, D. C.	32,910
CHATTANOOGA, TENN	OAKLAND, CALIFORNIA	MIAMI, FLORIDA	SAN ANTONIO, TEXAS	32,890
ATLANTA, GEORGIA	CHICAGO, ILLINOIS	DENVER, COLORADO	MEMPHIS, TENNESSEE	32,810
ATLANTA, GEORGIA	ATLANTA, GEORGIA	FORT LAUDERDALE, FLO	HOUSTON, TEXAS	32,780
AUSTIN, TEXAS	ATLANTA, GEORGIA	DENVER, COLORADO	HOUSTON, TEXAS	32,770
AUSTIN, TEXAS	ATLANTA, GEORGIA	DETROIT/ANN ARBOR, M	GRAND RAPIDS, MICH.	32,750

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RIFFALONTAGARA FALL	SAN FRANCISCO, CALIF.	32,700	BURLINGTON, VERMONT	WASHINGTON, D. C.	29,740	
HARTFORD/SPRINGFLO	MINNEAPOLIS, MINN.	32,650	AKRON/CANTON, OHIO	TAMPA, FLORIDA	29,650	
NEW YORK, N.Y./NEWAR	SOUTH BEND, INDIANA	32,410	NEW YORK, N.Y./NEWAR	YOUNGSTOWN, OHIO	29,530	
ONTARIO/SAN BERNARDI	SALT LAKE CITY, UTAH	32,350	PHOENIX, ARIZONA	RENO, NEVADA	29,530	
HARTFORD/SPRINGFLO	HOUSTON, TEXAS	32,250	RUFFALONTAGARA FALL	HOUSTON, TEXAS	29,320	
CHARLOTTE, NORTH CAR	DETROIT, MICHIGAN	32,240	AUSTIN, TEXAS	DENVER, COLORADO	29,300	
ATLANTA, GEORGIA	SAN DIEGO-CALIFORNIA	32,210	LAS VEGAS, NEVADA	TULSA, OKLAHOMA	29,300	
TUCSON, ARIZONA	WASHINGTON, D. C.	32,210	ALLEN/ONTN/BETHLEHEM	BOSTON, MASSACHUSETTS	29,200	
MILWAUKEE, WISCONSIN	ORLANDO, FLORIDA	32,190	COLUMBUS, GEORGIA	NEW YORK, NEW YORK	29,070	
RALPH/ORE, MARYLAND	CINCINNATI, OHIO	32,160	PITTSBURGH, PENNSYLV	SYRACUSE, NEW YORK	29,060	
MEMPHIS, TENNESSEE	SAN FRANCISCO-CALIF.	32,150	BOSTON, MASSACHUSETT	PORTLAND, OREGON	28,900	
ORLANDO, FLORIDA	SAN FRANCISCO-CALIF.	32,140	BOSTON, MASSACHUSETT	RICHMOND, VIRGINIA	28,890	
MEMPHIS, TENNESSEE	TAMPA, FLORIDA	32,100	NASHVILLE, TENNESSEE	PITTSBURGH, PENNA.	28,840	
PITTSBURGH, PENNSYLV	ROCHESTER, NEW YORK	32,040	GRAND JUNCTION, COLO	LOS ANGELES, CALIF.	28,770	
ATLANTA, GEORGIA	AUGUSTA, GEORGIA	31,930	INDIANAPOLIS, INDIAN	MILWAUKEE, WISCONSIN	28,730	
ATLANTA, GEORGIA	HUNTSVILLE, ALABAMA	31,910	DALLAS-FORT WORTH, T	JACKSONVILLE-FLORIDA	28,680	
ATLANTA, GEORGIA	DENVER, COLORADO	31,740	HYANNIS, MASSACHUSET	NEW YORK, NEW YORK	28,650	
ANCHORAGE, ALASKA	HONOLULU-CAMU, HAWAII	31,680	JACKSONVICKSBURG, M	WASHINGTON, D. C.	28,650	
SALT LAKE CITY, UTAH	SALT LAKE CITY, UTAH	31,640	MADISON, WISCONSIN	WASHINGTON, D. C.	28,540	
SACRAMENTO, CALIFORN	MINNEAPOLIS, MINN.	31,580	DALLAS-FORT WORTH, T	DES MOINES, IOWA	28,530	
RUFFALONTAGARA FALL	JACKSON, MISSISSIPPI	31,570	BOSTON, MASSACHUSETT	GREENSBORO, N. C.	28,490	
HUNSTON, TEXAS	SACRAMENTO, CALIF.	31,560	CHICAGO, ILLINOIS	ST. LOUIS, MO.	28,460	
LAS VEGAS, NEVADA	MIAMI, FLORIDA	31,550	CHARLOTTE, NORTH CAR	LOS ANGELES, CALIF.	28,440	
DAYTON, OHIO	ST. LOUIS, MISSOURI	31,430	CINCINNATI, OHIO	MILWAUKEE, WISCONSIN	28,430	
RALPH/ORE, MARYLAND	MINNEAPOLIS, MINN.	31,400	CLEVELAND, OHIO	NASHVILLE, TENNESSEE	28,430	
COLUMBUS, OHIO	WASHINGTON, D. C.	31,390	DAYTON, OHIO	SAN FRANCISCO-CALIF.	28,400	
PHILADELPHIA, PA./CA	PITTSBURGH, PENNA.	31,390	PHILADELPHIA, PA./CA	SAN ANTONIO, TEXAS	28,380	
LOUISVILLE, KENTUCKY	TAMPA, FLORIDA	31,290	KANSAS CITY, MISSOUR	PORTLAND, OREGON	28,330	
TALLAHASSEE, FLORIDA	GREENVILLE, S. C.	31,270	PITTSBURGH, PENNSYLV	SCRANTON, PENNA.	28,330	
ATLANTA, GEORGIA	DENVER, COLORADO	31,250	FORT LAUDERDALE, FLA	ROCHESTER, NEW YORK	28,250	
COLUMBUS, OHIO	LOS ANGELES, CALIF.	31,250	NEW ORLEANS, LOUISIA	SAN DIEGO-CALIFORNIA	28,200	
HUNTSVILLE/DECATUR	LOUISVILLE, KENTUCKY	31,150	ATLANTA, GEORGIA	SARASOTA/LOUISIANA	28,180	
ROSTON, MASSACHUSETT	ORLANDO, FLORIDA	30,990	HOUSTON, TEXAS	LUBBOCK, TEXAS	28,180	
DAYTON, OHIO	PITTSBURGH, PENNA.	30,940	DES MOINES, IOWA	WASHINGTON, D. C.	28,070	
MILWAUKEE, WISCONSIN	ORLANDO, FLORIDA	30,790	NEW ORLEANS, LOUISIA	SEATTLE, WASHINGTON	28,010	
BRITAINCHAM, ALABAMA	DETROIT, MICHIGAN	30,770	DAYTON, OHIO	FORT LAUDERDALE, FLA.	28,000	
ALBANY, NEW YORK	SYRACUSE, NEW YORK	30,690	CINCINNATI, OHIO	NASHVILLE, TENNESSEE	27,990	
ORLANDO, FLORIDA	SPRINGFIELD, NEW YORK	30,620	SARASOTA/PRADENTON,	WASHINGTON, D. C.	27,900	
ATLANTA, GEORGIA	MILWAUKEE, WISCONSIN	30,610	AUSTIN, TEXAS	MIDLAND/ODESSA, TEXAS	27,790	
LAS VEGAS, NEVADA	DALLAS-FORT WORTH, TX	30,600	DAYTONA BEACH, FLORI	PITTSBURGH, PENNA.	27,600	
CHARLOTTE, NORTH CAR	NEW ORLEANS, LOUISIA	30,520	NEW YORK, N.Y./NEWAR	PENSACOLA, FLORIDA	27,500	
NEW ORLEANS, LOUISIA	OKLAHOMA CITY, OKLA.	30,500	INDIANAPOLIS, INDIAN	NEW ORLEANS, LA.	27,500	
DENVER, COLORADO	ST. LOUIS, MO.	30,460	ATLANTA, GEORGIA	PORTLAND, OREGON	27,550	
ATLANTA, GEORGIA	RATON ROUGE, LA.	30,460	KANSAS CITY, MISSOUR	PITTSBURGH, PENNA.	27,550	
JACKSONVILLE-FLORIDA	SALT LAKE CITY, UTAH	30,420	LOS ANGELES, CALIFOR	NORFOLK, VIRGINIA	27,550	
SALT LAKE CITY, UTAH	SAN DIEGO-CALIFORNIA	30,340	CINCINNATI, OHIO	KANSAS CITY, MISSOURI	27,500	
HUNSTON, TEXAS	MIAMI, FLORIDA	30,260	ALBUQUERQUE, NEW MEX	TUCSON, ARIZONA	27,380	
FUGENE, OREGON	SEATTLE, WASHINGTON	30,260	NASHVILLE, TENNESSEE	DELAND, FLORIDA	27,320	
MINNEAPOLIS/ST. PAUL	MOLINE, ILLINOIS	30,240	MIAMI, FLORIDA	OKLAHOMA CITY, OKLA.	27,310	
PHOENIX, ARIZONA	HOUSTON, TEXAS	30,240	LANSING, MICHIGAN	NEW YORK, NEW YORK	27,270	
COLUMBUS, OHIO	MINNEAPOLIS, MINN.	30,230	DALLAS-FORT WORTH, T	OAKLAND, CALIFORNIA	27,240	
CDAR RAPIDS/IOWA CI	EVANSVILLE, INDIANA	30,150	EVANSVILLE, INDIANA	NEW YORK, NEW YORK	27,230	
CHARLOTTE, NORTH CAR	CLEVELAND, OHIO	30,100	CLEVELAND, OHIO	MEMPHIS, TENNESSEE	27,150	
CHICAGO, ILLINOIS	NEW YORK, N.Y./NEWAR	30,060	NEW YORK, N.Y./NEWAR	RENO, NEVADA	27,140	
GREENSBORO/HIGH POIN	PHILADELPHIA, PENNA	30,060	DETROIT/CANN ARBOR, M	KNOXVILLE, TENNESSEE	27,070	
DETRIT/CANN ARBOR, M	TUCSON, ARIZONA	29,920	LOS ANGELES, CALIFOR	RALEIGH/DURHAM, N.C	27,060	
ALBANY, NEW YORK	PITTSBURGH, PENNA.	29,880				

RESTRICTED	MARKETS	MARKETS	RESTRICTED	MARKETS	APPENDIX A	PAGE 10
ST. LOUIS, MISSOURI	SPRINGFIELD, MISSOURI	27,030	DES MOINES, IOWA	PHOENIX, ARIZONA	25,120	
ST. LOUIS, MISSOURI	SHREVEPORT, LOUISIANA	27,000	DAYTON, OHIO	KANSAS CITY, MISSOURI	25,110	
ST. LOUIS, MISSOURI	MEMPHIS, TENNESSEE	26,990	PORTLAND, OREGON	MINNEAPOLIS, MINN.	25,080	
ST. LOUIS, MISSOURI	WICHITA, KANSAS	26,990	CHARLOTTE, NORTH CAR	ST. LOUIS, MISSOURI	25,080	
ST. LOUIS, MISSOURI	SAGINAW/MAY CITY, MICH	26,920	AUSTIN, TEXAS	HOUSTON, TEXAS	25,010	
ST. LOUIS, MISSOURI	RICHMOND, VIRGINIA	26,860	COLUMBIA, MISSOURI	LUBBOCK, TEXAS	24,980	
ST. LOUIS, MISSOURI	FORT LAUDERDALE, FLA.	26,840	TAMPA, FLORIDA	DALLAS-FORT WORTH, TX	24,960	
ST. LOUIS, MISSOURI	ROCHESTER, NEW YORK	26,820	WILMINGTON, DELAWARE	TOLEDO, OHIO	24,870	
ST. LOUIS, MISSOURI	MILWAUKEE, WISCONSIN	26,790	LOS ANGELES, CALIF.	PEORIA, ILLINOIS	24,860	
ST. LOUIS, MISSOURI	TAMPA, FLORIDA	26,760	LOS ANGELES, CALIF.	SAN FRANCISCO, CALIF.	24,860	
ST. LOUIS, MISSOURI	PHILADELPHIA, PENNA	26,730	LOS ANGELES, CALIF.	SAN ANTONIO, TEXAS	24,870	
ST. LOUIS, MISSOURI	RAPID CITY, S. D.	26,700	LOS ANGELES, CALIF.	NORFOLK, VIRGINIA	24,810	
ST. LOUIS, MISSOURI	NEW ORLEANS, LA.	26,690	LOS ANGELES, CALIF.	ST. LOUIS, MISSOURI	24,810	
ST. LOUIS, MISSOURI	HARTFORD, CONNECTICUT	26,680	LOS ANGELES, CALIF.	SAN FRANCISCO, CALIF.	24,750	
ST. LOUIS, MISSOURI	MELBURN, FLORIDA	26,670	LOS ANGELES, CALIF.	SYRACUSE, NEW YORK	24,720	
ST. LOUIS, MISSOURI	CHICAGO, ILLINOIS	26,630	LOS ANGELES, CALIF.	SHREVEPORT, LOUISIANA	24,710	
ST. LOUIS, MISSOURI	CHICAGO, ILLINOIS	26,540	LOS ANGELES, CALIF.	SEATTLE, WASHINGTON	24,690	
ST. LOUIS, MISSOURI	NORFOLK, VIRGINIA	26,500	LOS ANGELES, CALIF.	SAN ANTONIO, TEXAS	24,690	
ST. LOUIS, MISSOURI	LOS ANGELES, CALIF.	26,490	LOS ANGELES, CALIF.	SIOUX CITY, IOWA	24,680	
ST. LOUIS, MISSOURI	PORTLAND, MAINE	26,430	LOS ANGELES, CALIF.	MEMPHIS, TENNESSEE	24,620	
ST. LOUIS, MISSOURI	PHILADELPHIA, PA./CA	26,320	LOS ANGELES, CALIF.	PHOENIX, ARIZONA	24,590	
ST. LOUIS, MISSOURI	INDIANAPOLIS, INDIAN	26,320	LOS ANGELES, CALIF.	LOS ANGELES, CALIF.	24,560	
ST. LOUIS, MISSOURI	NASHVILLE, TENNESSEE	26,140	LOS ANGELES, CALIF.	SCRANTON, PENNA.	24,540	
ST. LOUIS, MISSOURI	TAMPA, FLORIDA	26,130	LOS ANGELES, CALIF.	ROCHESTER, NEW YORK	24,530	
ST. LOUIS, MISSOURI	FORT MYERS, FLORIDA	26,130	LOS ANGELES, CALIF.	NORFOLK, VIRGINIA	24,520	
ST. LOUIS, MISSOURI	SAN ANTONIO, TEXAS	26,130	LOS ANGELES, CALIF.	LOS ANGELES, CALIF.	24,520	
ST. LOUIS, MISSOURI	MUSKOGEE, MICHIGAN	26,110	LOS ANGELES, CALIF.	ST. LOUIS, MISSOURI	24,500	
ST. LOUIS, MISSOURI	MEMPHIS, TENNESSEE	26,030	LOS ANGELES, CALIF.	ORLANDO, FLORIDA	24,420	
ST. LOUIS, MISSOURI	DETROIT, MICHIGAN	26,020	LOS ANGELES, CALIF.	NEW YORK, NEW YORK	24,380	
ST. LOUIS, MISSOURI	PHOENIX, ARIZONA	26,010	LOS ANGELES, CALIF.	TULSA, OKLAHOMA	24,380	
ST. LOUIS, MISSOURI	SARASOTA, FLORIDA	25,990	LOS ANGELES, CALIF.	SYRACUSE, NEW YORK	24,370	
ST. LOUIS, MISSOURI	GRAND RAPIDS, MICH.	25,960	LOS ANGELES, CALIF.	SAN FRANCISCO, CALIF.	24,350	
ST. LOUIS, MISSOURI	SAN FRANCISCO, CALIF.	25,920	LOS ANGELES, CALIF.	LOS ANGELES, CALIF.	24,330	
ST. LOUIS, MISSOURI	NEW ORLEANS, LA.	25,890	LOS ANGELES, CALIF.	TAMPA, FLORIDA	24,300	
ST. LOUIS, MISSOURI	WASHINGTON, D. C.	25,850	LOS ANGELES, CALIF.	ISLIP, NEW YORK	24,280	
ST. LOUIS, MISSOURI	LOS ANGELES, CALIF.	25,830	LOS ANGELES, CALIF.	AUSTIN, TEXAS	24,280	
ST. LOUIS, MISSOURI	SAN ANTONIO, TEXAS	25,780	LOS ANGELES, CALIF.	PALLASSEE, FLORIDA	24,270	
ST. LOUIS, MISSOURI	SAN ANTONIO, TEXAS	25,760	LOS ANGELES, CALIF.	PITTSBURGH, PENNA.	24,250	
ST. LOUIS, MISSOURI	PROVIDENCE, R. I.	25,740	LOS ANGELES, CALIF.	RICHMOND, VIRGINIA	24,250	
ST. LOUIS, MISSOURI	SAN DIEGO, CALIFORNIA	25,730	LOS ANGELES, CALIF.	INDIANAPOLIS, INDIANA	24,210	
ST. LOUIS, MISSOURI	LOS ANGELES, CALIF.	25,720	LOS ANGELES, CALIF.	SEATTLE, WASHINGTON	24,200	
ST. LOUIS, MISSOURI	INDIANAPOLIS, INDIANA	25,670	LOS ANGELES, CALIF.	LAS VEGAS, NEVADA	24,170	
ST. LOUIS, MISSOURI	SALT LAKE CITY, UTAH	25,660	LOS ANGELES, CALIF.	PITTSBURGH, PENNA.	24,070	
ST. LOUIS, MISSOURI	JACKSONVILLE, FLORIDA	25,660	LOS ANGELES, CALIF.	CHARLESTON, S. C.	24,070	
ST. LOUIS, MISSOURI	NEW ORLEANS, LA.	25,660	LOS ANGELES, CALIF.	LAS VEGAS, NEVADA	24,020	

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ASHVILLE, NORTH CAR	ATLANTA, GEORGIA	HARTFORD/SPRINGFIELD/WE	NEW ORLEANS, LA.	21,800	
LOS ANGELES, CALIF	LIRROCK, TEXAS	DETROIT/ANN ARBOR, M	TULSA, OKLAHOMA	21,790	
ATLANTA, GEORGIA	PROVIDENCE, R. I.	LOS ANGELES, CALIF	ST. LOUIS, MISSOURI	21,780	
BALTIMORE, MARYLAND	BUFFALO, NEW YORK	KANSAS CITY, MISSOURI	ORLANDO, FLORIDA	21,750	
CHARLOTTE, NORTH CAR	CLEVELAND, OHIO	TOLEDO, OHIO	WASHINGTON, D. C.	21,740	
CHATTANOOGA, TENNESSEE	MEMPHIS, TENNESSEE	DALLAS-FORT WORTH, T	ROCHESTER, NEW YORK	21,730	
FORT LAUDERDALE, FLA	TALLAHASSEE, FLORIDA	HOUSTON, MASSACHUSETT	WASHINGTON, D. C.	21,680	
CLEVELAND, OHIO	MILWAUKEE, WISCONSIN	SALT LAKE CITY, UTAH	WICHITA, KANSAS	21,650	
HARTFORD/SPRINGFIELD/WE	SEATTLE, WASHINGTON	BUFFALO/ONTARIO FALL	CINCINNATI, OHIO	21,640	
CHICAGO, ILLINOIS	SYRACUSE, NEW YORK	CHICAGO, ILLINOIS	HUNTSVILLE, ALABAMA	21,630	
CINCINNATI, OHIO	GREENVILLE, S. C.	MEMPHIS, TENNESSEE	SPOKANE, WASHINGTON	21,580	
CHARLESTON/DUNBAR, W	HARTFORD/CONNECTICUT	CHICAGO, ILLINOIS	MIDLAND/ODESSA, TEXAS	21,570	
ALBANY, NEW YORK	ISLIP, NEW YORK	MINNEAPOLIS, MINN.	CHICAGO, ILLINOIS	21,520	
NEW YORK, N.Y./NEWARK	ONTARIO, CALIFORNIA	MEMPHIS, TENNESSEE	SHREVEPORT/LOUISIANA	21,510	
KANSAS CITY, MISSOURI	LITTLE ROCK, ARKANSAS	BRISTOL/KINGSBURY/JOHN	CHICAGO, ILLINOIS	21,410	
NEW YORK, N.Y./NEWARK	SAN JOSE, CALIFORNIA	LAS VEGAS, NEVADA	SAN ANTONIO, TEXAS	21,280	
PHOENIX, ARIZONA	TULSA, OKLAHOMA	ALBUQUERQUE, NEW MEX	OKLAHOMA CITY, OKLA.	21,270	
COLUMBIA, SOUTH CAR	PHILADELPHIA, PENNA	CHARLOTTE, NORTH CAR	ORLANDO, FLORIDA	21,270	
DENVER, COLORADO	MOLINE, ILLINOIS	RICHMOND, VIRGINIA	ROANOKE, VIRGINIA	21,240	
BIRMINGHAM, ALABAMA	JACKSON, MISSISSIPPI	CINCINNATI, OHIO	PHOENIX, ARIZONA	21,230	
GRAND RAPIDS, MICHIG	TAMPA, FLORIDA	OKLAHOMA CITY, OKLAH	SAN DIEGO, CALIFORNIA	21,230	
BALTIMORE, MARYLAND	SEATTLE, WASHINGTON	DALLAS-FORT WORTH, T	MONROE, LOUISIANA	21,200	
MONTELEONE, OHIO	SACRAMENTO, CALIF.	DALLAS-FORT WORTH, T	GREENSBORO, N. C.	21,170	
NEW YORK, N.Y./NEWARK	PEORIA, ILLINOIS	CHICAGO, ILLINOIS	FARGO, NORTH DAKOTA	21,150	
DENVER, COLORADO	GRAND RAPIDS, MICH.	CHICAGO, ILLINOIS	RALEIGH/DURHAM, N.C.	21,150	
JACKSONVILLE, FLORIDA	PITTSBURGH, PENNA.	PITTSBURGH, PENNSYLV	CHARLESTON, S. C.	21,140	
CEDAR RAPIDS/IOWA CI	NEW YORK, NEW YORK	BOSTON, MASSACHUSETT	WASHINGTON, D. C.	21,120	
COLUMBUS, OHIO	KANSAS CITY, MISSOURI	SACRAMENTO, CALIFORNIA	MONTGOMERY, ALABAMA	21,090	
BIRMINGHAM, ALABAMA	PHILADELPHIA, PENNA	CHICAGO, ILLINOIS	WASHINGTON, D. C.	21,080	
HOUSTON, MASSACHUSETT	OKLAHOMA CITY, OKLA.	ALLEN/CAN/RETHLEH/	TUCSON, ARIZONA	21,080	
CLEVELAND, OHIO	ROCHESTER, NEW YORK	HOUSTON, TEXAS	SAN FRANCISCO, CALIF.	21,070	
CHARLOTTE, NORTH CAR	MEMPHIS, TENNESSEE	ALBANY, NEW YORK	SAN FRANCISCO, CALIF.	21,050	
DETROIT/ANN ARBOR, M	GREENSBORO, N. C.	INDIANAPOLIS, INDIAN	LAS VEGAS, NEVADA	21,050	
HARTFORD/SPRINGFIELD/WE	SAN DIEGO, CALIFORNIA	LOUISVILLE, KENTUCKY	DALLAS, FLORIDA	21,050	
CHARLESTON/DUNBAR, W	PHILADELPHIA, PENNA	PHILADELPHIA, PA./CA	TOLEDO, OHIO	21,030	
NEW ORLEANS, LOUISIANA	PHOENIX, ARIZONA	ATLANTA, GEORGIA	TOLEDO, OHIO	21,010	
EL PASO, TEXAS	WASHINGTON, D. C.	MINNEAPOLIS, MINN.	OKLAHOMA CITY, OKLA.	21,010	
WILCO, HAWAII, HAWAII	SAN FRANCISCO, CALIF.	NANTUCKET, MASSACHUSETT	NEW YORK, NEW YORK	20,980	
INDIANAPOLIS, INDIAN	SAN DIEGO, CALIFORNIA	GREENVILLE/SPARTANBU	PHILADELPHIA, PENNA	20,890	
BALTIMORE, MARYLAND	SAN DIEGO, CALIFORNIA	BUFFALO/ONTARIO FALL	SYRACUSE, NEW YORK	20,860	
DAYTON, OHIO	MILWAUKEE, WISCONSIN	BUFFALO/ONTARIO FALL	INDIANAPOLIS, INDIAN	20,820	
HARTFORD/SPRINGFIELD/WE	PHOENIX, ARIZONA	ABARILLO, TEXAS	LOS ANGELES, CALIF.	20,790	
DAYTON, OHIO	DENVER, COLORADO	PITTSBURGH, PENNSYLV	PROVIDENCE, R. I.	20,750	
WASHINGTON, D. C.	WICHITA, KANSAS	PHOENIX, ARIZONA	WICHITA, KANSAS	20,730	
MONTELEONE, OHIO	SALT LAKE CITY, UTAH	ALLEN/CAN/RETHLEH/	OKLAHOMA, FLORIDA	20,720	
LOS ANGELES, CALIF	MOLINE, ILLINOIS	BUFFALO/ONTARIO FALL	COLUMBUS, OHIO	20,720	
CLEVELAND, OHIO	NORFOLK, VIRGINIA	FORT LAUDERDALE, FLA	SYRACUSE, NEW YORK	20,710	
MINNEAPOLIS, MINN.	RENO, NEVADA	ATLANTA, GEORGIA	CHATTANOOGA, TENN.	20,700	
RUFFALO/ONTARIO FALL	DALLAS-FORT WORTH, TX	BALTIMORE, MARYLAND	MINNEAPOLIS, MINN.	20,700	
HOUSTON, TEXAS	PORTLAND, OREGON	DAYTON, OHIO	HOUSTON, TEXAS	20,600	
RUFFALO/ONTARIO FALL	ST. LOUIS, MISSOURI	DAYTONA BEACH, FLORIDA	WASHINGTON, D. C.	20,580	
MEMPHIS, TENNESSEE	MINNEAPOLIS, MINN.	LITTLE ROCK, ARKANSAS	SAN FRANCISCO, CALIF.	20,580	
LOUISVILLE, KENTUCKY	MINNEAPOLIS, MINN.	ALBANY, NEW YORK	FORT LAUDERDALE, FLA.	20,550	
DAYTON, OHIO	PHOENIX, ARIZONA	RUFFALO/ONTARIO FALL	DENVER, COLORADO	20,550	
MONTGOMERY, ALABAMA	WASHINGTON, D. C.				

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BALTIMORE, MARYLAND	COLUMBUS, OHIO	EL PASO, TEXAS	SAN DIEGO, CALIFORNIA	19,530	
LOUISVILLE, KENTUCKY	NEW ORLEANS, LA.	SAN JOSE, CALIFORNIA	WASHINGTON, D. C.	19,500	
DENVER, COLORADO	ROCHESTER, NEW YORK	CEDAR RAPIDS/IOWA CI	DENVER, COLORADO	19,470	
ATLANTA, GEORGIA	PANAMA CITY, FLORIDA	DALLAS-FORT WORTH, T	SACRAMENTO, CALIF.	19,450	
DALLAS-FORT WORTH, T	KNOXVILLE, TENNESSEE	RALEIGH/DURHAM, NORT	SAN FRANCISCO, CALIF.	19,450	
SALT LAKE CITY, UTAH	SPOKANE, WASHINGTON	FORT WAYNE, INDIANA	TAMPA, FLORIDA	19,380	
DENVER, COLORADO	ST. LOUIS, MISSOURI	SAN ANTONIO, TEXAS	SAN DIEGO, CALIFORNIA	19,380	
DALLAS-FORT WORTH, T	RALEIGH/DURHAM, N.C.	MINNEAPOLIS, MINN.	SAN ANTONIO, TEXAS	19,370	
DETROIT/ANN ARBOR, M	RALEIGH/DURHAM, N.C.	BUFFALO/ONTARIO FALL	DAYTON, OHIO	19,360	
INDIANAPOLIS, INDIAN	NEW YORK, NEW YORK	KANSAS CITY, MISSOURI	SALT LAKE CITY, UTAH	19,360	
ALBUQUERQUE, NEW MEX	SEATTLE, WASHINGTON	PHILADELPHIA, PA./CA	SALT LAKE CITY, UTAH	19,320	
CHARLESTON/DUNBAR, W	CHICAGO, ILLINOIS	LOS ANGELES, CALIFORNIA	SOUTH BEND, INDIANA	19,310	
COLUMBUS, OHIO	HARTFORD/CONNECTICUT	SCRANTON/MILKES-BARR	WASHINGTON, D. C.	19,310	
OKLAHOMA CITY, OKLAH	SEATTLE, WASHINGTON	CHARLOTTE, NORTH CAR	JACKSONVILLE, FLORIDA	19,300	
LOUISVILLE, KENTUCKY	MEMPHIS, TENNESSEE	AMARILLO, TEXAS	DENVER, COLORADO	19,290	
BALTIMORE, MARYLAND	LAS VEGAS, NEVADA	CHATTANOOGA, TENNESSEE	WASHINGTON, D. C.	19,270	
HOUSTON, TEXAS	MILWAUKEE, WISCONSIN	ST. LOUIS, MISSOURI	SALT LAKE CITY, UTAH	19,250	
MILWAUKEE, WISCONSIN	NEW ORLEANS, LA.	ILLINOIS, MISSOURI	MINNEAPOLIS, MINN.	19,190	
DETROIT/ANN ARBOR, M	PEORIA, ILLINOIS	DENVER, COLORADO	PEORIA, ILLINOIS	19,180	
CHARLOTTE, NORTH CAR	CHATTANOOGA, TENN.	GREAT FALLS, MONTANA	SEATTLE, WASHINGTON	19,170	
MINNEAPOLIS, MINN.	NASHVILLE, TENNESSEE	LANSING, MICHIGAN	LOUISVILLE, KENTUCKY	19,150	
EL PASO, TEXAS	TUCSON, ARIZONA	DETROIT/ANN ARBOR, M	WASHINGTON, D. C.	19,150	
PHILADELPHIA, PA./CA	TULSA, OKLAHOMA	BALTIMORE, MARYLAND	MADISON, WISCONSIN	19,130	
HOUSTON, TEXAS	OMAHA, NEBRASKA	AUSTIN, TEXAS	HONOLULU, OAHU, HAWAII	19,120	
FORT MYERS, FLORIDA	WASHINGTON, D. C.	ALBUQUERQUE, NEW MEX	SAN ANTONIO, TEXAS	19,100	
BISMARCK/MANDAN, NOR	DENVER, COLORADO	COLUMBUS, OHIO	NEW ORLEANS, LA.	19,080	
JACKSONVILLE, FLORIDA	SAN FRANCISCO, CALIF.	IOWA FALLS, IOWA	SALT LAKE CITY, UTAH	19,080	
EL PASO, TEXAS	LAS VEGAS, NEVADA	RICHMOND, VIRGINIA	ST. LOUIS, MISSOURI	19,070	
ALBUQUERQUE, NEW MEX	ROSTON, MASSACHUSETT	FORT LAUDERDALE, FLA	MEMPHIS, TENNESSEE	19,030	
JACKSONVILLE, FLORIDA	TAMPA, FLORIDA	INDIANAPOLIS, INDIAN	SARASOTA, FLORIDA	18,990	
CLEVELAND, OHIO	HONOLULU, OAHU, HAWAII	RENO, NEVADA	SPOKANE, WASHINGTON	18,980	
MIAMI, FLORIDA	OMAHA, NEBRASKA	DETROIT/ANN ARBOR, M	LITTLE ROCK, ARKANSAS	18,970	
ROSTON, MASSACHUSETT	TUCSON, ARIZONA	HONOLULU, OAHU, HAWAII	KANSAS CITY, MISSOURI	18,960	
DENVER, COLORADO	GREAT FALLS, MONTANA	CHARLOTTE, NORTH CAR	NEW ORLEANS, LA.	18,950	
LAS VEGAS, NEVADA	WICHITA, KANSAS	DALLAS-FORT WORTH, T	ST. LOUIS, MISSOURI	18,930	
MIAMI, FLORIDA	PORTLAND, OREGON	CLEVELAND, OHIO	RENO, NEVADA	18,930	
ALBANY, NEW YORK	CLEVELAND, OHIO	DETROIT/ANN ARBOR, M	NASHVILLE, TENNESSEE	18,860	
DENVER, COLORADO	MADISON, WISCONSIN	BIRMINGHAM, ALABAMA	PORTLAND, OREGON	18,860	
GRAND RAPIDS, MICHIG	MINNEAPOLIS, MINN.	SEATTLE, WASHINGTON	SOUTH BEND, INDIANA	18,830	
PHILADELPHIA, PA./CA	PORTLAND, OREGON	RALEIGH/DURHAM, NORT	TUCSON, ARIZONA	18,830	
ASHVILLE, NORTH CAR	SAVANNAH, GEORGIA	TULSA, OKLAHOMA	ST. LOUIS, MISSOURI	18,800	
ATLANTA, GEORGIA	WASHINGTON, D. C.	NASHVILLE, TENNESSEE	WICHITA, KANSAS	18,750	
ALBANY, NEW YORK	TAMPA, FLORIDA	ROISE, IOWA	RALEIGH/DURHAM, N.C.	18,740	
ATLANTA, GEORGIA	HONOLULU, OAHU, HAWAII	DENVER, COLORADO	CHICAGO, ILLINOIS	18,710	
ALBANY, NEW YORK	ATLANTA, GEORGIA	DAYTONA BEACH, FLORIDA	SEATTLE, WASHINGTON	18,700	
MILWAUKEE, WISCONSIN	SEATTLE, WASHINGTON	CLEVELAND, OHIO	PHILADELPHIA, PENNA.	18,690	
BIRMINGHAM, ALABAMA	CLEVELAND, OHIO	ST. LOUIS, MISSOURI	PROVIDENCE, R. I.	18,650	
FORT MYERS, FLORIDA	INDIANAPOLIS, INDIAN	CLEVELAND, OHIO	TUCSON, ARIZONA	18,620	
INDIANAPOLIS, INDIAN	SEATTLE, WASHINGTON	JACKSONVILLE, FLORIDA	SAGINAW/RAY CITY, MICH	18,490	
MONROE, LOUISIANA	NEW ORLEANS, LA.	MINNEAPOLIS, MINN.	ST. LOUIS, MISSOURI	18,480	
DES MOINES, IOWA	MILWAUKEE, WISCONSIN	MINNEAPOLIS, MINN.	TULSA, OKLAHOMA	18,480	
DETROIT/ANN ARBOR, M	SALT LAKE CITY, UTAH	ALLEN/CAN/RETHLEH/	MIAMI, FLORIDA	18,460	
CHARLOTTE, NORTH CAR	RALEIGH/DURHAM, N.C.	DAYTON, OHIO	HARTFORD, CONNECTICUT	18,460	
DETROIT/ANN ARBOR, M	OKLAHOMA CITY, OKLA.	ARRESTON/MNGS/PT/JOHN	WASHINGTON, D. C.	18,430	

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RESTRICTED		MARKETS		MARKETS		APPENDIX A		PAGE 13
ALBANY, NEW YORK	18,430	LITTLE ROCK, ARKANSAS	18,430	ALBANY, NEW YORK	18,430	ALBANY, NEW YORK	18,430	17,310
SALT LAKE CITY, UTAH	18,400	WASHINGTON, D. C.	18,400	SALT LAKE CITY, UTAH	18,400	SALT LAKE CITY, UTAH	18,400	17,310
CLEVELAND, OHIO	18,397	NEW YORK, NEW YORK	18,397	CLEVELAND, OHIO	18,397	CLEVELAND, OHIO	18,397	17,270
KNOXVILLE, TENNESSEE	18,300	SEATTLE, WASHINGTON	18,300	KNOXVILLE, TENNESSEE	18,300	KNOXVILLE, TENNESSEE	18,300	17,240
INDIANAPOLIS, INDIANA	18,300	WEST PALM BEACH, FLA.	18,300	INDIANAPOLIS, INDIANA	18,300	INDIANAPOLIS, INDIANA	18,300	17,220
KNOXVILLE, TENNESSEE	18,300	NASHVILLE, TENNESSEE	18,300	KNOXVILLE, TENNESSEE	18,300	KNOXVILLE, TENNESSEE	18,300	17,220
CHARLOTTE, N. C.	18,290	CHARLOTTE, N. C.	18,290	CHARLOTTE, N. C.	18,290	CHARLOTTE, N. C.	18,290	17,220
FLINT, MICHIGAN	18,290	NEW YORK, NEW YORK	18,290	FLINT, MICHIGAN	18,290	FLINT, MICHIGAN	18,290	17,210
MARTHA'S VINEYARD, MASS.	18,250	NEW YORK, NEW YORK	18,250	MARTHA'S VINEYARD, MASS.	18,250	MARTHA'S VINEYARD, MASS.	18,250	17,070
KNOXVILLE, TENNESSEE	18,230	PITTSBURGH, PENNSYLVANIA	18,230	KNOXVILLE, TENNESSEE	18,230	KNOXVILLE, TENNESSEE	18,230	17,060
NEW YORK, NEW YORK	18,220	LOUISVILLE, KENTUCKY	18,220	NEW YORK, NEW YORK	18,220	NEW YORK, NEW YORK	18,220	17,010
NEW YORK, NEW YORK	18,210	NASHVILLE, TENNESSEE	18,210	NEW YORK, NEW YORK	18,210	NEW YORK, NEW YORK	18,210	17,010
NEW YORK, NEW YORK	18,180	TOLEDO, OHIO	18,180	NEW YORK, NEW YORK	18,180	NEW YORK, NEW YORK	18,180	17,000
NEW YORK, NEW YORK	18,160	WEST PALM BEACH, FLA.	18,160	NEW YORK, NEW YORK	18,160	NEW YORK, NEW YORK	18,160	16,990
NEW YORK, NEW YORK	18,150	JACKSON, MISSISSIPPI	18,150	NEW YORK, NEW YORK	18,150	NEW YORK, NEW YORK	18,150	16,980
NEW YORK, NEW YORK	18,130	MIAMI, FLORIDA	18,130	NEW YORK, NEW YORK	18,130	NEW YORK, NEW YORK	18,130	16,940
NEW YORK, NEW YORK	18,110	SAN FRANCISCO, CALIF.	18,110	NEW YORK, NEW YORK	18,110	NEW YORK, NEW YORK	18,110	16,920
NEW YORK, NEW YORK	18,080	WASHINGTON, D. C.	18,080	NEW YORK, NEW YORK	18,080	NEW YORK, NEW YORK	18,080	16,890
NEW YORK, NEW YORK	18,070	ROSTON, MASSACHUSETTS	18,070	NEW YORK, NEW YORK	18,070	NEW YORK, NEW YORK	18,070	16,880
NEW YORK, NEW YORK	18,040	TAMPA, FLORIDA	18,040	NEW YORK, NEW YORK	18,040	NEW YORK, NEW YORK	18,040	16,880
NEW YORK, NEW YORK	18,030	SAPASOTA, FLORIDA	18,030	NEW YORK, NEW YORK	18,030	NEW YORK, NEW YORK	18,030	16,850
NEW YORK, NEW YORK	18,030	SAN DIEGO, CALIFORNIA	18,030	NEW YORK, NEW YORK	18,030	NEW YORK, NEW YORK	18,030	16,840
NEW YORK, NEW YORK	18,030	PORTLAND, OREGON	18,030	NEW YORK, NEW YORK	18,030	NEW YORK, NEW YORK	18,030	16,830
NEW YORK, NEW YORK	18,010	SALT LAKE CITY, UTAH	18,010	NEW YORK, NEW YORK	18,010	NEW YORK, NEW YORK	18,010	16,820
NEW YORK, NEW YORK	18,000	TAMPA, FLORIDA	18,000	NEW YORK, NEW YORK	18,000	NEW YORK, NEW YORK	18,000	16,820
NEW YORK, NEW YORK	17,990	LOUISVILLE, KENTUCKY	17,990	NEW YORK, NEW YORK	17,990	NEW YORK, NEW YORK	17,990	16,810
NEW YORK, NEW YORK	17,970	IDAHO FALLS, IDAHO	17,970	NEW YORK, NEW YORK	17,970	NEW YORK, NEW YORK	17,970	16,810
NEW YORK, NEW YORK	17,960	NEW YORK, NEW YORK	17,960	NEW YORK, NEW YORK	17,960	NEW YORK, NEW YORK	17,960	16,800
NEW YORK, NEW YORK	17,960	WASHINGTON, D. C.	17,960	NEW YORK, NEW YORK	17,960	NEW YORK, NEW YORK	17,960	16,800
NEW YORK, NEW YORK	17,930	PHILADELPHIA, PENNA.	17,930	NEW YORK, NEW YORK	17,930	NEW YORK, NEW YORK	17,930	16,760
NEW YORK, NEW YORK	17,930	PORT WYNE, INDIANA	17,930	NEW YORK, NEW YORK	17,930	NEW YORK, NEW YORK	17,930	16,760
NEW YORK, NEW YORK	17,850	CLEVELAND, OHIO	17,850	NEW YORK, NEW YORK	17,850	NEW YORK, NEW YORK	17,850	16,760
NEW YORK, NEW YORK	17,840	NASHVILLE, TENNESSEE	17,840	NEW YORK, NEW YORK	17,840	NEW YORK, NEW YORK	17,840	16,740
NEW YORK, NEW YORK	17,820	PROVIDENCE, R. I.	17,820	NEW YORK, NEW YORK	17,820	NEW YORK, NEW YORK	17,820	16,730
NEW YORK, NEW YORK	17,810	RICHMOND, VIRGINIA	17,810	NEW YORK, NEW YORK	17,810	NEW YORK, NEW YORK	17,810	16,700
NEW YORK, NEW YORK	17,810	MIAMI, FLORIDA	17,810	NEW YORK, NEW YORK	17,810	NEW YORK, NEW YORK	17,810	16,700
NEW YORK, NEW YORK	17,800	SAN DIEGO, CALIFORNIA	17,800	NEW YORK, NEW YORK	17,800	NEW YORK, NEW YORK	17,800	16,670
NEW YORK, NEW YORK	17,670	EVANSVILLE, INDIANA	17,670	NEW YORK, NEW YORK	17,670	NEW YORK, NEW YORK	17,670	16,660
NEW YORK, NEW YORK	17,670	MILWAUKEE, WISCONSIN	17,670	NEW YORK, NEW YORK	17,670	NEW YORK, NEW YORK	17,670	16,600
NEW YORK, NEW YORK	17,640	PHILADELPHIA, PENNA.	17,640	NEW YORK, NEW YORK	17,640	NEW YORK, NEW YORK	17,640	16,560
NEW YORK, NEW YORK	17,640	NEW YORK, NEW YORK	17,640	NEW YORK, NEW YORK	17,640	NEW YORK, NEW YORK	17,640	16,560
NEW YORK, NEW YORK	17,620	NORFOLK, VIRGINIA	17,620	NEW YORK, NEW YORK	17,620	NEW YORK, NEW YORK	17,620	16,540
NEW YORK, NEW YORK	17,600	SPOKANE, WASHINGTON	17,600	NEW YORK, NEW YORK	17,600	NEW YORK, NEW YORK	17,600	16,520
NEW YORK, NEW YORK	17,470	PROVIDENCE, R. I.	17,470	NEW YORK, NEW YORK	17,470	NEW YORK, NEW YORK	17,470	16,520
NEW YORK, NEW YORK	17,470	OKLAHOMA CITY, OKLA.	17,470	NEW YORK, NEW YORK	17,470	NEW YORK, NEW YORK	17,470	16,520
NEW YORK, NEW YORK	17,470	ST. LOUIS, MISSOURI	17,470	NEW YORK, NEW YORK	17,470	NEW YORK, NEW YORK	17,470	16,510
NEW YORK, NEW YORK	17,470	TAMPA, FLORIDA	17,470	NEW YORK, NEW YORK	17,470	NEW YORK, NEW YORK	17,470	16,440
NEW YORK, NEW YORK	17,440	SAN DIEGO, CALIFORNIA	17,440	NEW YORK, NEW YORK	17,440	NEW YORK, NEW YORK	17,440	16,440
NEW YORK, NEW YORK	17,430	PHOENIX, ARIZONA	17,430	NEW YORK, NEW YORK	17,430	NEW YORK, NEW YORK	17,430	16,430
NEW YORK, NEW YORK	17,410	WASHINGTON, D. C.	17,410	NEW YORK, NEW YORK	17,410	NEW YORK, NEW YORK	17,410	16,360
NEW YORK, NEW YORK	17,400	SYRACUSE, NEW YORK	17,400	NEW YORK, NEW YORK	17,400	NEW YORK, NEW YORK	17,400	16,340
NEW YORK, NEW YORK	17,400	OMAHA, NEBRASKA	17,400	NEW YORK, NEW YORK	17,400	NEW YORK, NEW YORK	17,400	16,300
NEW YORK, NEW YORK	17,400	MORRIS, ALABAMA	17,400	NEW YORK, NEW YORK	17,400	NEW YORK, NEW YORK	17,400	16,290
NEW YORK, NEW YORK	17,350	LOUISVILLE, KENTUCKY	17,350	NEW YORK, NEW YORK	17,350	NEW YORK, NEW YORK	17,350	16,270
NEW YORK, NEW YORK	17,350	DENVER, COLORADO	17,350	NEW YORK, NEW YORK	17,350	NEW YORK, NEW YORK	17,350	16,240

RESTRICTED	MARKETS	MARKETS	RESTRICTED	MARKETS	APPENDIX A	PAGE 14
MEMPHIS, TENNESSEE	16,230	SAN DIEGO, CALIFORNIA	16,230	PHILADELPHIA, PENNA	15,340	
ATLANTA, GEORGIA	16,220	NEWPORT NEWS, VA.	16,220	AUSTIN, TEXAS	15,320	
DES MOINES, IOWA	16,150	HOUSTON, TEXAS	16,150	DETROIT, MICHIGAN	15,310	
ONTARIO, CALIFORNIA	16,140	WASHINGTON, D. C.	16,140	WEST PALM BEACH, FLA.	15,280	
SAN JOSE, CALIFORNIA	16,140	TUCSON, ARIZONA	16,140	LAS VEGAS, NEVADA	15,280	
PHILADELPHIA, PA./CA	16,130	TUCSON, ARIZONA	16,130	WEST PALM BEACH, FLA.	15,260	
COLUMBUS, OHIO	16,080	LAS VEGAS, NEVADA	16,080	TAMPA, FLORIDA	15,250	
ASHEVILLE, NORTH CAR	16,070	CHICAGO, ILLINOIS	16,070	KANSAS CITY, MISSOURI	15,230	
KANSAS CITY, MISSOURI	16,060	ONTARIO, CALIFORNIA	16,060	TULSA, OKLAHOMA	15,210	
WASHINGTON, D. C.	16,040	KANSAS CITY, MISSOURI	16,040	PHILADELPHIA, PENNA	15,200	
TULSA, OKLAHOMA	16,010	WASHINGTON, D. C.	16,010	SEATTLE, WASHINGTON	15,190	
HARTFORD/SPRINGFIELD/ME	15,990	TULSA, OKLAHOMA	15,990	SACRAMENTO, CALIF.	15,160	
ASHEVILLE, NORTH CAR	15,970	HARTFORD/CONNECTICUT	15,970	DENVER, COLORADO	15,150	
TAMPA/ST. PETERSBURG/CLMTR	15,960	ST. LOUIS, MISSOURI	15,960	MIAMI, FLORIDA	15,120	
DAYTONA BEACH, FLORIDA	15,940	OMAHA, NEBRASKA	15,940	RALEIGH/DURHAM, N.C.	15,110	
PEORIA, ILLINOIS	15,930	ST. LOUIS, MISSOURI	15,930	ST. LOUIS, MISSOURI	15,080	
ROSTON, MASSACHUSETT	15,920	PORT LAUDERDALE, FLA.	15,920	LANSING, MICHIGAN	15,050	
CINCINNATI, OHIO	15,910	SAN DIEGO, CALIFORNIA	15,910	OPLAND, FLORIDA	15,030	
CHATTANOOGA, TENNESSEE	15,860	DALLAS-FORT WORTH, TX	15,860	CHICAGO, ILLINOIS	15,030	
CLEVELAND, OHIO	15,800	TUCSON, ARIZONA	15,800	PHOENIX, ARIZONA	15,030	
SEATTLE, WASHINGTON	15,770	TULSA, OKLAHOMA	15,770	LEXINGTON, KENTUCKY	15,020	
ORLANDO, FLORIDA	15,760	SCRANTON, PENNA.	15,760	MOLINE, ILLINOIS	15,010	
ALL FORTY-NINE/HELENE/	15,750	ATLANTA, GEORGIA	15,750	GRAND RAPIDS, MICH.	15,000	
AUSTIN, TEXAS	15,730	TULSA, OKLAHOMA	15,730	LAS VEGAS, NEVADA	14,980	
ROSTON, MASSACHUSETT	15,730	SAN FRANCISCO, CALIF.	15,730	SAN DIEGO, CALIFORNIA	14,970	
DALLAS-FORT WORTH, TX	15,730	NANTUCKET, MASS.	15,730	SOUTH BEND, INDIANA	14,950	
DETROIT/ANN ARBOR, M	15,680	SPRINGFIELD, MISSOURI	15,680	RICHMOND, VIRGINIA	14,880	
JACKSON/VICKSBURG, M	15,670	MARIETTA, MISSOURI	15,670	CLEVELAND, OHIO	14,880	
MEMPHIS, TENNESSEE	15,660	MILWAUKEE, WISCONSIN	15,660	SPOKANE, WASHINGTON	14,880	
BALTIMORE, MARYLAND	15,660	PHOENIX, ARIZONA	15,660	WASHINGTON, D. C.	14,870	
MIAMI, FLORIDA	15,590	MOBILE, ALABAMA	15,590	DALLAS-FORT WORTH, TX	14,870	
KALAMAZOO, MICHIGAN	15,560	NEW YORK, NEW YORK	15,560	LAS VEGAS, NEVADA	14,860	
ROSTON, MASSACHUSETT	15,560	SAVANNAH, GEORGIA	15,560	MEMPHIS, TENNESSEE	14,860	
COLUMBIA, SOUTH CARO	15,540	DALLAS-FORT WORTH, TX	15,540	ST. LOUIS, MISSOURI	14,820	
DALLAS-FORT WORTH, TX	15,530	NORFOLK, VIRGINIA	15,530	PHILADELPHIA, PENNA	14,810	
ATLANTA, GEORGIA	15,510	WICHITA, KANSAS	15,510	JACKSONVILLE, FLORIDA	14,800	
DETROIT/ANN ARBOR, M	15,480	ONTARIO, CALIFORNIA	15,480	COLUMBUS, OHIO	14,780	
CHATTANOOGA, TENNESSEE	15,480	LOS ANGELES, CALIF.	15,480	LANCASTER, VIRGINIA	14,770	
DENVER, COLORADO	15,480	SPRINGFIELD, MISSOURI	15,480	LAS VEGAS, NEVADA	14,730	
PITTSBURGH, PENNSYLV	15,470	SAN ANTONIO, TEXAS	15,470	OKLAHOMA CITY, OKLA.	14,730	
SAN DIEGO, CALIFORNIA	15,460	TULSA, OKLAHOMA	15,460	TOLEDO, OHIO	14,710	
RALPH/DURHAM, N.C.	15,460	PORTLAND, OREGON	15,460	PITTSBURGH, PENNA.	14,640	
INDIAN/PALM SPRINGS.	15,440	NEW YORK, NEW YORK	15,440	WEST PALM BEACH, FLA.	14,620	
ANCHORAGE, ALASKA	15,440	CHICAGO, ILLINOIS	15,440	SALT LAKE CITY, UTAH	14,610	
ROSTON, MASSACHUSETT	15,420	SAN DIEGO, CALIFORNIA	15,420	WINTERS, CALIF.	14,600	
PHILADELPHIA, PENNA	15,410	PHILADELPHIA, PENNA	15,410	PITTSBURGH, PENNA.	14,590	
WICHITA, KANSAS	15,410	WICHITA, KANSAS	15,410	PORTLAND, OREGON	14,580	
SYRACUSE, NEW YORK	15,410	SYRACUSE, NEW YORK	15,410	MELBOURNE, FLORIDA	14,570	
TAMPA, FLORIDA	15,400	TAMPA, FLORIDA	15,400	DETROIT, MICHIGAN	14,570	
WASHINGTON, D. C.	15,400	WASHINGTON, D. C.	15,400	MOLINE, ILLINOIS	14,560	
PALEIGH/DURHAM, N.C.	15,370	PALEIGH/DURHAM, N.C.	15,370	SAN FRANCISCO, CALIF.	14,560	
WASHINGTON, D. C.	15,360	WASHINGTON, D. C.	15,360	OMAHA, NEBRASKA	14,550	
KANSAS CITY, MISSOURI	15,360	KANSAS CITY, MISSOURI	15,360	OMAHA, NEBRASKA	14,550	
PORT LAUDERDALE, FLORIDA	15,360	PORT LAUDERDALE, FLORIDA	15,360	NORFOLK, VIRGINIA	14,530	
JACKSONVILLE, FLORIDA	15,360	JACKSONVILLE, FLORIDA	15,360	TAMPA, FLORIDA	14,520	
CHICAGO, ILLINOIS	15,360	CHICAGO, ILLINOIS	15,360			

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BILLINGS, MONTANA	SALT LAKE CITY, UTAH	NEW YORK, N.Y./NEWARK	PARKERSBURG, W. VA.	13,750	
MEMPHIS, TENNESSEE	SAN ANTONIO, TEXAS	COLORADO SPRINGS, CO	WASHINGTON, D. C.	13,730	
AKRON/CANTON, OHIO	INDIANAPOLIS, INDIANA	ALBANY, NEW YORK	BALTIMORE, MARYLAND	13,710	
FRANKFORD/SPRINGFIELD/ME	PORTLAND, OREGON	AMARILLO, TEXAS	LAS VEGAS, NEVADA	13,710	
HARTFORD/SPRINGFIELD/ME	NASHVILLE, TENNESSEE	GREAT FALLS, MONTANA	LOS ANGELES, CALIF.	13,700	
MEMPHIS, TENNESSEE	SARASOTA, FLORIDA	BALTIMORE, MARYLAND	ROCHESTER, NEW YORK	13,680	
CEDAR RAPIDS/IDAHO CT	MOBILE, ALABAMA	CHATTANOOGA, TENNESSEE	TAMPA, FLORIDA	13,660	
DAYTON, OHIO	WASHINGTON, D. C.	LOS ANGELES, CALIFOR	SPRINGFIELD, MISSOURI	13,660	
DEWEEP, COLORADO	SEATTLE, WASHINGTON	BOISE, IDAHO	NEW YORK, NEW YORK	13,660	
AMARILLO, TEXAS	SYRACUSE, NEW YORK	COLUMBUS, OHIO	HUNTSVILLE, ALABAMA	13,660	
DAYTON, OHIO	CHICAGO, ILLINOIS	MIDLAND/ODESSA, TEXA	MOBILE, VIRGINIA	13,630	
MIAMI, FLORIDA	SEATTLE, WASHINGTON	NORFOLK, VIRGINIA	TULSA, OKLAHOMA	13,620	
HOUSTON, TEXAS	WEST PALM BEACH, FLA.	IDAHO FALLS, IDAHO	LOS ANGELES, CALIF.	13,610	
OKLAHOMA CITY, OKLAH	KNOXVILLE, TENNESSEE	PHOENIX, ARIZONA	ROCHESTER, NEW YORK	13,600	
BIRMINGHAM, ALABAMA	TULSA, OKLAHOMA	SAN DIEGO, CALIFORNIA	WICHITA, KANSAS	13,560	
PHOENIX, ARIZONA	CINCINNATI, OHIO	LOUISVILLE, KENTUCKY	OKLAHOMA CITY, OKLA.	13,510	
SAN FRANCISCO, CALIF	SPOKANE, WASHINGTON	MIDLAND/ODESSA, TEXA	MEMPHIS, TENNESSEE	13,500	
CHARLESTON, SOUTH CA	STOCKTON, CALIFORNIA	LAS VEGAS, NEVADA	COLUMBIA, S. C.	13,490	
GREENVILLE/SPARTANBU	LOS ANGELES, CALIF.	BOSTON, MASSACHUSETT	SAN DIEGO, CALIFORNIA	13,490	
PHOENIX, ARIZONA	MIAMI, FLORIDA	DES MOINES, IOWA	PITTSBURGH, PENNA.	13,470	
MINNEAPOLIS/ST. PAUL	SYRACUSE, NEW YORK	CHARLESTON, SOUTH CA	FORT WAYNE, INDIANA	13,450	
DAYTON, OHIO	NEW ORLEANS, LA.	BOSTON, MASSACHUSETT	MADISON, WISCONSIN	13,440	
FORT MYERS, FLORIDA	TAMPA, FLORIDA	JACKSONVILLE, FLORIDA	LOUISVILLE, KENTUCKY	13,440	
MINNEAPOLIS/ST. PAUL	PEORIA, ILLINOIS	FORT LAUDERDALE, FLO	SAN DIEGO, CALIFORNIA	13,430	
BIRMINGHAM, ALABAMA	CHARLOTTE, N. C.	CHARLESTON, SOUTH CA	DETROIT, MICHIGAN	13,420	
CHICAGO, ILLINOIS	FRESNO, CALIFORNIA	GRAND RAPIDS, MICHIG	MIAMI, FLORIDA	13,420	
KANSAS CITY, MISSOUR	TUCSON, ARIZONA	LAS VEGAS, NEVADA	SPokane, WASHINGTON	13,420	
COLORADO SPRINGS, CO	DENVER, COLORADO	AUSTIN, TEXAS	MIAMI, FLORIDA	13,410	
HARTFORD/SPRINGFIELD/ME	LAS VEGAS, NEVADA	DETROIT/ANN ARBOR, M	KALAMAZOO, MICHIGAN	13,400	
CLEVELAND, OHIO	SAN ANTONIO, TEXAS	FRESNO, CALIFORNIA	NEW YORK, NEW YORK	13,390	
ALLIANCE/RETHELEM/	DETROIT, MICHIGAN	COLUMBUS, OHIO	MEMPHIS, TENNESSEE	13,390	
ROSTON, MASSACHUSETT	GREENVILLE, S. C.	MINNEAPOLIS/ST. PAUL	ST. LOUIS, MISSOURI	13,380	
ROSTON, MASSACHUSETT	EL PASO, TEXAS	SHEPHERD, LOUISIANA	WASHINGTON, D. C.	13,380	
BRISTOL/KINGSPT/JHNS	NASHVILLE, TENNESSEE	SANTA BARBARA, CALIF	SEATTLE, WASHINGTON	13,350	
CHARLOTTE, NORTH CAR	DENVER, COLORADO	LEXINGTON, KENTUCKY	TAMPA, FLORIDA	13,330	
HOUSTON, TEXAS	RICHMOND, VIRGINIA	MADISON, WISCONSIN	SAN FRANCISCO, CALIF.	13,320	
RICHMOND, VIRGINIA	TAMPA, FLORIDA	TAMPA, FLORIDA	YOUNGSTOWN, OHIO	13,290	
CHARLESTON, SOUTH CA	DALLAS-FORT WORTH, TX	ROSTON, MASSACHUSETT	NEWPORT NEWS, VA.	13,280	
OPLANDO, FLORIDA	SEATTLE, WASHINGTON	NORFOLK, VIRGINIA	PROVIDENCE, R. I.	13,280	
ATLANTA, GEORGIA	DES MOINES, IOWA	SAGINAW/RAY CITY/MID	TOLEDO, OHIO	13,270	
ANCHORAGE, ALASKA	MINNEAPOLIS, MINN.	ALBUQUERQUE, NEW MEX	PHILADELPHIA, PENNA.	13,260	
BALTIMORE, MARYLAND	CHARLOTTE, N. C.	DES MOINES, IOWA	OMAHA, NEBRASKA	13,260	
KNOXVILLE, TENNESSEE	PHILADELPHIA, PENNA	LAS VEGAS, NEVADA	SANTA BARBARA, CALIF.	13,230	
LITTLE ROCK, ARKANSAS	NASHVILLE, TENNESSEE	HOUSTON, TEXAS	ROCHESTER, NEW YORK	13,220	
HOUSTON, TEXAS	SYRACUSE, NEW YORK	DAYTON, OHIO	SAN ANTONIO, TEXAS	13,180	
HOUSTON, TEXAS	SAN JOSE, CALIFORNIA	LEXINGTON, KENTUCKY	MIAMI, FLORIDA	13,180	
HOUSTON, TEXAS	POCAHONTO, IDAHO	JACKSON/VICKSBURG, M	NEW ORLEANS, LA.	13,170	
HOUSTON, TEXAS	WASHINGTON, D. C.	ROCHESTER, NEW YORK	ST. LOUIS, MISSOURI	13,170	
HOUSTON, TEXAS	RALPH/DURHAM, N.C.	FORT LAUDERDALE, FLO	TOLEDO, OHIO	13,160	
HOUSTON, TEXAS	MINNEAPOLIS, MINN.	GREENSBORO/HIGH POIN	OKLAHOMA CITY, MISSOURI	13,140	
HOUSTON, TEXAS	RICHMOND, VIRGINIA	CINCINNATI, OHIO	KANSAS CITY, MISSOURI	13,140	
HOUSTON, TEXAS	SEATTLE, WASHINGTON	COLORADO SPRINGS, CO	NEW ORLEANS, LA.	13,140	
HOUSTON, TEXAS	SAN FRANCISCO, CALIF.	CORPUS CHRISTI, TEXA			

RESTRICTED	MARKETS	RESTRICTED	MARKETS	APPENDIX A	PAGE 16
ALBANY, NEW YORK	GREAT FALLS, MONTANA	NEW YORK, N.Y./NEWARK	SALT LAKE CITY, UTAH	12,520	
ALBANY, NEW YORK	BOISE, IDAHO	COLORADO SPRINGS, CO	PHOENIX, ARIZONA	12,510	
ALBANY, NEW YORK	LEXINGTON, KENTUCKY	ALBANY, NEW YORK	LOS ANGELES, CALIF.	12,510	
ALBANY, NEW YORK	ALBUQUERQUE, NEW MEX	ALBANY, NEW YORK	DETROIT, MICHIGAN	12,500	
ALBANY, NEW YORK	MINNEAPOLIS/ST. PAUL	ALBANY, NEW YORK	NORFOLK, VIRGINIA	12,500	
ALBANY, NEW YORK	COLUMBIA, SOUTH CARO	ALBANY, NEW YORK	PITTSBURGH, PENNA.	12,480	
ALBANY, NEW YORK	BUFFALO/NIAGARA FALL	ALBANY, NEW YORK	PROVIDENCE, R. I.	12,470	
ALBANY, NEW YORK	BILLINGS, MONTANA	ALBANY, NEW YORK	CHICAGO, ILLINOIS	12,460	
ALBANY, NEW YORK	RATON, MONTANA	ALBANY, NEW YORK	MEMPHIS, TENNESSEE	12,450	
ALBANY, NEW YORK	HARTFORD/SPRINGFIELD/ME	ALBANY, NEW YORK	LOUISVILLE, KENTUCKY	12,450	
ALBANY, NEW YORK	JACKSON/VICKSBURG, M	ALBANY, NEW YORK	NASHVILLE, TENNESSEE	12,440	
ALBANY, NEW YORK	ALBUQUERQUE, NEW MEX	ALBANY, NEW YORK	ATLANTA, GEORGIA	12,420	
ALBANY, NEW YORK	NASHVILLE, TENNESSEE	ALBANY, NEW YORK	NORFOLK, VIRGINIA	12,420	
ALBANY, NEW YORK	RAKERSFIELD, CALIFOR	ALBANY, NEW YORK	LAS VEGAS, NEVADA	12,400	
ALBANY, NEW YORK	CLEVELAND, OHIO	ALBANY, NEW YORK	DAYTONA BEACH, FLA.	12,390	
ALBANY, NEW YORK	CLEVELAND, OHIO	ALBANY, NEW YORK	RALEIGH/DURHAM, N.C.	12,390	
ALBANY, NEW YORK	BIRMINGHAM, ALABAMA	ALBANY, NEW YORK	LOUISVILLE, KENTUCKY	12,380	
ALBANY, NEW YORK	ATLANTA, GEORGIA	ALBANY, NEW YORK	MCNREE, LOUISIANA	12,360	
ALBANY, NEW YORK	CHARLESTON/DUNHAM, M	ALBANY, NEW YORK	EVANSVILLE, INDIANA	12,340	
ALBANY, NEW YORK	CHICAGO, ILLINOIS	ALBANY, NEW YORK	HOUSTON, TEXAS	12,330	
ALBANY, NEW YORK	DES MOINES, IOWA	ALBANY, NEW YORK	QUINCY, ILLINOIS	12,330	
ALBANY, NEW YORK	LOUISVILLE, KENTUCKY	ALBANY, NEW YORK	PHILADELPHIA, PENNA	12,330	
ALBANY, NEW YORK	CHARLOTTE, NORTH CAR	ALBANY, NEW YORK	PHOENIX, ARIZONA	12,330	
ALBANY, NEW YORK	MILWAUKEE, WISCONSIN	ALBANY, NEW YORK	OHAMA, NEBRASKA	12,320	
ALBANY, NEW YORK	DETROIT/ANN ARBOR, M	ALBANY, NEW YORK	GREENVILLE, S. C.	12,310	
ALBANY, NEW YORK	NASHVILLE, TENNESSEE	ALBANY, NEW YORK	PHILADELPHIA, PENNA	12,310	
ALBANY, NEW YORK	DES MOINES, IOWA	ALBANY, NEW YORK	INDIANAPOLIS, INDIANA	12,300	
ALBANY, NEW YORK	LAS VEGAS, NEVADA	ALBANY, NEW YORK	LOUISVILLE, KENTUCKY	12,270	
ALBANY, NEW YORK	PITTSBURGH, PENNSYLV	ALBANY, NEW YORK	SALT LAKE CITY, UTAH	12,250	
ALBANY, NEW YORK	BILLINGS, MONTANA	ALBANY, NEW YORK	PORTLAND, OREGON	12,240	
ALBANY, NEW YORK	FORT MYERS, FLORIDA	ALBANY, NEW YORK	ST. LOUIS, MISSOURI	12,240	
ALBANY, NEW YORK	COLUMBUS, OHIO	ALBANY, NEW YORK	SEATTLE, WASHINGTON	12,230	
ALBANY, NEW YORK	DALLAS-FORT WORTH, T	ALBANY, NEW YORK	GREENVILLE, S. C.	12,230	
ALBANY, NEW YORK	GREENSBORO/HIGH POIN	ALBANY, NEW YORK	HOUSTON, TEXAS	12,230	
ALBANY, NEW YORK	NEW YORK, N.Y./NEWARK	ALBANY, NEW YORK	ROCHESTER, MINNESOTA	12,230	
ALBANY, NEW YORK	INDIANAPOLIS, INDIANA	ALBANY, NEW YORK	PHOENIX, ARIZONA	12,220	
ALBANY, NEW YORK	NEW ORLEANS, LOUISIA	ALBANY, NEW YORK	WEST PALM BEACH, FLA.	12,220	
ALBANY, NEW YORK	SAN ANTONIO, TEXAS	ALBANY, NEW YORK	TAMPA, FLORIDA	12,220	
ALBANY, NEW YORK	ALBUQUERQUE, NEW MEX	ALBANY, NEW YORK	MINNEAPOLIS, MINN.	12,200	
ALBANY, NEW YORK	AUSTIN, TEXAS	ALBANY, NEW YORK	KANSAS CITY, MISSOURI	12,170	
ALBANY, NEW YORK	MONTELU, OHIO	ALBANY, NEW YORK	MILWAUKEE, WISCONSIN	12,150	
ALBANY, NEW YORK	ALBUQUERQUE, NEW MEX	ALBANY, NEW YORK	PORTLAND, OREGON	12,150	
ALBANY, NEW YORK	DALLAS-FORT WORTH, T	ALBANY, NEW YORK	MORILE, ALABAMA	12,150	
ALBANY, NEW YORK	INDIANAPOLIS, INDIAN	ALBANY, NEW YORK	TUCSON, ARIZONA	12,150	
ALBANY, NEW YORK	MINNEAPOLIS/ST. PAUL	ALBANY, NEW YORK	WEST PALM BEACH, FLA.	12,140	
ALBANY, NEW YORK	PITTSBURGH, PENNSYLV	ALBANY, NEW YORK	TUCSON, ARIZONA	12,140	
ALBANY, NEW YORK	ATLANTA, GEORGIA	ALBANY, NEW YORK	HARTFORD/SPRINGFIELD/ME	12,130	
ALBANY, NEW YORK	CORPUS CHRISTI, TEXA	ALBANY, NEW YORK	DENVER, COLORADO	12,090	
ALBANY, NEW YORK	INDIANAPOLIS, INDIAN	ALBANY, NEW YORK	SAN ANTONIO, TEXAS	12,090	
ALBANY, NEW YORK	SAGINAW/RAY CITY/MID	ALBANY, NEW YORK	WASHINGTON, D. C.	12,090	
ALBANY, NEW YORK	NEW ORLEANS, LOUISIA	ALBANY, NEW YORK	RICHMOND, VIRGINIA	12,050	
ALBANY, NEW YORK	GREAT FALLS, MONTANA	ALBANY, NEW YORK	SPOKANE, WASHINGTON	12,050	
ALBANY, NEW YORK	BALTIMORE, MARYLAND	ALBANY, NEW YORK	BIRMINGHAM, ALABAMA	12,040	
ALBANY, NEW YORK	CHICAGO, ILLINOIS	ALBANY, NEW YORK	JOPLIN, MISSOURI	12,000	

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MELBOURNE, FLORIDA	PHILADELPHIA, PENNA	11,990	DAYTONA BEACH, FLORIDA	INDIANAPOLIS, INDIANA	11,370
RUFFALONTAGARA FALL	ISLIP, NEW YORK	11,980	CHARLOTTE, NORTH CAR	MINNEAPOLIS, MINN.	11,360
KNOXVILLE, TENNESSEE	NEW ORLEANS, LA.	11,980	HARTFORD/SPRINGFIELD/ME	HONOLULU, OAHU, HAWAII	11,360
ANCHORAGE, ALASKA	TALLAHASSEE, FLORIDA	11,960	MOISE, IDAHO	SAN DIEGO, CALIFORNIA	11,350
CHICAGO, ILLINOIS	PORTLAND, OREGON	11,950	BOSTON, MASSACHUSETT	ONTARIO, CALIFORNIA	11,340
CLEVELAND, OHIO	TAMPA, FLORIDA	11,920	ALBUQUERQUE, NEW MEX	MIDLAND/ODESSA, TEXAS	11,320
COLUMBIA, SOUTH CARO	LOUISVILLE, KENTUCKY	11,920	DETROIT/ANN ARBOR, M	SHREVEPORT, LOUISIANA	11,320
GREENSBORO/HIGH POIN	LOUISVILLE, KENTUCKY	11,920	GREENSBORO/HIGH POIN	ST. LOUIS, MISSOURI	11,320
AKRON/CANTON, OHIO	LOS ANGELES, CALIF.	11,890	ROSTON, MASSACHUSETT	ROANOKE, VIRGINIA	11,310
AUSTIN, TEXAS	OKLAHOMA CITY, OKLA.	11,880	CLEVELAND, OHIO	SALT LAKE CITY, UTAH	11,310
LANSING, MICHIGAN	LOS ANGELES, CALIF.	11,880	DETROIT/ANN ARBOR, M	WEST PALM BEACH, FLA.	11,270
MIAMI, FLORIDA	SALT LAKE CITY, UTAH	11,870	ROCHESTER, NEW YORK	OFLAND, FLORIDA	11,260
NEW ORLEANS, LOUISIANA	WICHITA, KANSAS	11,870	LAS VEGAS, NEVADA	WEST PALM BEACH, FLA.	11,260
FL PASO, TEXAS	MIAMI, FLORIDA	11,860	PROVIDENCE, RHODE IS	PORTLAND, MAINE	11,250
MIAMI, FLORIDA	MONTGOMERY, ALABAMA	11,860	ORLANDO, FLORIDA	NEW ORLEANS, LA.	11,240
WYNNIS, MASSACHUSETT	NANTUCKET, MASS.	11,850	ALBUQUERQUE, NEW MEX	SAN FRANCISCO, CALIF.	11,220
JACKSON/VICKSBURG, M	MIAMI, FLORIDA	11,850	COLUMBIA, SOUTH CARO	NEW ORLEANS, LA.	11,210
KANSAS CITY, MISSOURI	SACRAMENTO, CALIF.	11,850	HONOLULU, OAHU, HAWA	SPOKANE, WASHINGTON	11,210
CINCINNATI, OHIO	SEATTLE, WASHINGTON	11,840	DAYTONA BEACH, FLORIDA	SYRACUSE, NEW YORK	11,200
COLUMBUS, OHIO	FORT MYERS, FLORIDA	11,830	AMARILLO, TEXAS	NEW YORK, NEW YORK	11,160
GRAND RAPIDS, MICHIGAN	SAN FRANCISCO, CALIF.	11,820	CLEVELAND, OHIO	HARRISBURG/YORK, PA.	11,150
CHICAGO, ILLINOIS	MONROE, LOUISIANA	11,810	COLORADO SPRINGS, CO	HOUSTON, TEXAS	11,100
HOUSTON, TEXAS	MONROE, LOUISIANA	11,790	DALLAS-FORT WORTH, T	OKLAHOMA CITY, OKLA.	11,100
PHILADELPHIA, PA./CA	ROANOKE, VIRGINIA	11,780	INDIANAPOLIS, INDIAN	SACRAMENTO, CALIF.	11,080
ALBANY, NEW YORK	DALLAS F.T. WORTH, T	11,770	BILLINGS, MONTANA	LOS ANGELES, CALIF.	11,080
BOSTON, MASSACHUSETT	WYNNIS, MASS.	11,760	DENVER, COLORADO	SAGINAW/BAY CITY, MICH	11,080
EVANSVILLE, INDIANA	PITTSBURGH, PENNA.	11,710	SAN FRANCISCO, CALIF	SHREVEPORT, LOUISIANA	11,070
ROSTON, MASSACHUSETT	SACRAMENTO, CALIF.	11,710	LUBBOCK, TEXAS	NEW YORK, NEW YORK	11,050
MORILE, ALA./PASCAGO	PHILADELPHIA, PENNA	11,700	SAN DIEGO, CALIFORNI	DES MOINES, IOWA	11,040
CLEVELAND, OHIO	TULSA, OKLAHOMA	11,700	ROSTON, MASSACHUSETT	SOUTH BEND, INDIANA	11,040
LOS ANGELES, CALIFOR	MONTGOMERY, ALABAMA	11,690	BOSTON, MASSACHUSETT	SAN FRANCISCO, CALIF.	11,040
EL PASO, TEXAS	ST. LOUIS, MISSOURI	11,680	GRAND JUNCTION, COLO	WICHITA, KANSAS	11,030
JACKSON/VICKSBURG, M	SAN FRANCISCO, CALIF.	11,680	PORTLAND, OREGON	DENVER, COLORADO	11,020
INDIANAPOLIS, INDIAN	NORFOLK, VIRGINIA	11,670	BURBANK, CALIFORNIA	LOS ANGELES, CALIF.	11,010
DALLAS-FORT WORTH, T	LEXINGTON, KENTUCKY	11,640	BATON ROUGE, LOUISIA	SEATTLE, WASHINGTON	11,010
DALLAS-FORT WORTH, T	MONTGOMERY, ALABAMA	11,640	COLORADO SPRINGS, CO	LUBBOCK, TEXAS	11,000
DENVER, COLORADO	MISSOULA, MONTANA	11,640	CHICAGO, ILLINOIS	SALT LAKE CITY, UTAH	11,000
LOS ANGELES, CALIFOR	MONROE, LOUISIANA	11,620	POCATELLO, IDAHO	TUCSON, ARIZONA	10,990
COLUMBIA, SOUTH CARO	HOUSTON, TEXAS	11,600	PORTLAND, OREGON	HOUSTON, TEXAS	10,980
COLUMBIA, SOUTH CARO	MEMPHIS, TENNESSEE	11,560	CHARLESTON, SOUTH CA	KNOXVILLE, TENNESSEE	10,980
ROSTON, MASSACHUSETT	KNOXVILLE, TENNESSEE	11,550	CLEVELAND, OHIO	MINNEAPOLIS, MINN.	10,970
DAYTONA BEACH, FLORIDA	ST. LOUIS, MISSOURI	11,530	LANSING, MICHIGAN	PHILADELPHIA, PENNA	10,940
DAYTON, OHIO	SYRACUSE, NEW YORK	11,520	LEXINGTON, KENTUCKY	TAMPA, FLORIDA	10,940
CHATTANOOGA, TENNESS	HOUSTON, TEXAS	11,520	MORILE, ALA./PASCAGO	TAMPA, FLORIDA	10,940
DETROIT/ANN ARBOR, M	EL PASO, TEXAS	11,510	ALLEN/OMAHA/BETHLEHEM/	ST. LOUIS, MISSOURI	10,930
BALTIMORE, MARYLAND	NASHVILLE, TENNESSEE	11,510	AUSTIN, TEXAS	ST. LOUIS, MISSOURI	10,900
KANSAS CITY, MISSOURI	SHREVEPORT, LOUISIANA	11,500	OKLAHOMA CITY, OKLAH	PITTSBURGH, PENNA.	10,900
MIAMI, FLORIDA	TUCSON, ARIZONA	11,480	ALBANY, NEW YORK	ST. LOUIS, MISSOURI	10,890
ORLANDO, FLORIDA	TOLEDO, OHIO	11,480	EL PASO, TEXAS	NEW ORLEANS, LA.	10,890
CLEVELAND, OHIO	GREENSBORO, N. C.	11,460	PHILADELPHIA, PA./CA	SOUTH BEND, INDIANA	10,880
GREENSBORO/HIGH POIN	SAN FRANCISCO, CALIF.	11,460	AUSTIN, TEXAS	BOSTON, MASSACHUSETT	10,860
HUNTSVILLE/DECATUR,	NEW ORLEANS, LA.	11,460	LOS ANGELES, CALIFOR	SAVANNAH, GEORGIA	10,860
MINNEAPOLIS/ST. PAUL	RALEIGH/DURHAM, N.C.	11,460	ONTARIO/SAN BERNARDI	TUCSON, ARIZONA	10,840
MORILE, ILLINOIS/DAVE	PHOENIX, ARIZONA	11,450	BIRMINGHAM, ALABAMA	SHREVEPORT, LOUISIANA	10,820
JACKSONVILLE, FLORIDA	MINNEAPOLIS, MINN.	11,440	ROSTON, MASSACHUSETT	LITTLE ROCK, ARKANSAS	10,810
HARRISBURG/YORK, PA.	ST. LOUIS, MISSOURI	11,420			

RESTRICTED	MARKETS	RESTRICTED	MARKETS	APPENDIX A	PAGE 18
DALLAS-FORT WORTH, T	WEST PALM BEACH, FLA.	10,800	ROSTON, MASSACHUSETT	LANSING, MICHIGAN	10,380
KALISPELL, MONTANA	SEATTLE, WASHINGTON	10,790	CHARLESTON, SOUTH CA	ST. LOUIS, MISSOURI	10,380
GREENSBORO/HIGH POIN	NORFOLK, VIRGINIA	10,780	DETROIT/ANN ARBOR, M	SAN JOSE, CALIFORNIA	10,370
CHARLESTON, SOUTH CA	NEW ORLEANS, LA.	10,750	RURLINGTON, VERMONT	PHILADELPHIA, PENNA	10,360
AMARILLO, TEXAS	PHOENIX, ARIZONA	10,730	JACKSONVILLE, FLORIDA	KANSAS CITY, MISSOURI	10,360
CLEVELAND, OHIO	FLINT, MICHIGAN	10,730	HOUSTON, TEXAS	RENO, NEVADA	10,350
DALLAS-FORT WORTH, T	PEORIA, ILLINOIS	10,730	ALBANY, NEW YORK	CINCINNATI, OHIO	10,340
EVANSVILLE, INDIANA	LOS ANGELES, CALIF.	10,730	ONTARIO/SAN BERNARDI	PHILADELPHIA, PENNA	10,340
OMAHA, NEBRASKA	SALT LAKE CITY, UTAH	10,720	ALBANY, NEW YORK	COLUMBUS, OHIO	10,330
RUFFALONTAGARA FALL	NORFOLK, VIRGINIA	10,720	COLUMBUS, OHIO	SYRACUSE, NEW YORK	10,330
MEMPHIS, TENNESSEE	SEATTLE, WASHINGTON	10,720	FORT LAUDERDALE, FLO	RALEIGH/DURHAM, N.C.	10,330
HARTFORD/SPRINGFIELD/ME	MEMPHIS, TENNESSEE	10,710	JACKSONVILLE, FLORIDA	SAN DIEGO, CALIFORNIA	10,330
PITTSBURGH, PENNSYLV	PORTLAND, OREGON	10,710	BALTIMORE, MARYLAND	PHILADELPHIA, PENNA	10,320
WASHINGTON, D. C.	YOUNGSTOWN, OHIO	10,680	SAN ANTONIO, TEXAS	TUCSON, ARIZONA	10,320
ROSTON, MASSACHUSETT	TOLEDO, OHIO	10,670	ALBANY, NEW YORK	WEST PALM BEACH, FLA.	10,310
RENO, NEVADA	WASHINGTON, D. C.	10,660	FORT MYERS, FLORIDA	HARTFORD, CONNECTICUT	10,310
LOS ANGELES, CALIFOR	PENSACOLA, FLORIDA	10,640	KEENE, NEW HAMPSHIRE	NEW YORK, NEW YORK	10,310
DENVER, COLORADO	HELENA, MONTANA	10,630	FRESNO, CALIFORNIA	SACRAMENTO, CALIF.	10,300
SOUTH BEND, INDIANA	TAMPA, FLORIDA	10,630	GREENSBORO/HIGH POIN	RICHMOND, VIRGINIA	10,300
ALBUQUERQUE, NEW MEX	MIAMI, FLORIDA	10,620	BRISTOL/KINGSPT/JHNS	PITTSBURGH, PENNA.	10,280
LITTLE ROCK, ARKANSAS	SHREVEPORT, LOUISIANA	10,610	CINCINNATI, OHIO	SARASOTA, FLORIDA	10,280
ROSTON, MASSACHUSETT	SAN JOSE, CALIFORNIA	10,600	HYANNIS, MASSACHUSETT	WASHINGTON, D. C.	10,270
GREENVILLE/SPARTANBU	LOS ANGELES, CALIF.	10,600	DENVER, COLORADO	FORT WAYNE, INDIANA	10,250
ORLANDO, FLORIDA	PHOENIX, ARIZONA	10,590	BALTIMORE, MARYLAND	WICHITA, KANSAS	10,250
DETROIT/ANN ARBOR, M	RENO, NEVADA	10,590	PHILADELPHIA, PA./CA	DAYTON, OHIO	10,230
MONTGOMERY, ALABAMA	ORLANDO, FLORIDA	10,590	LOUISVILLE, KENTUCKY	WEST PALM BEACH, FLA.	10,230
ONTARIO/SAN BERNARDI	PITTSBURGH, PENNA.	10,580	LUBBOCK, TEXAS	WASHINGTON, D. C.	10,230
NASHVILLE, TENNESSEE	OKLAHOMA CITY, OKLA.	10,580	MINNEAPOLIS/ST. PAUL	ONTARIO, CALIFORNIA	10,230
FLINT, MICHIGAN	TAMPA, FLORIDA	10,550	BALTIMORE, MARYLAND	COLUMBIA, S. C.	10,220
HONOLULU, OAHU, HAWA	MIAMI, FLORIDA	10,550	COLORADO SPRINGS, CO	SAN DIEGO, CALIFORNIA	10,220
LITTLE ROCK, ARKANSAS	SAN ANTONIO, TEXAS	10,550	PENSACOLA, FLORIDA	SAN FRANCISCO, CALIF.	10,220
ALBANY, NEW YORK	PHOENIX, ARIZONA	10,540	SACRAMENTO, CALIFORNI	SPOKANE, WASHINGTON	10,220
ALBUQUERQUE, NEW MEX	LUBBOCK, TEXAS	10,540	DAYTON, OHIO	WICHITA, KANSAS	10,190
MILWAUKEE, WISCONSIN	SALT LAKE CITY, UTAH	10,540	GREENVILLE/SPARTANBU	MEMPHIS, TENNESSEE	10,190
NASHVILLE, TENNESSEE	SAN ANTONIO, TEXAS	10,540	ONTARIO/SAN BERNARDI	RENO, NEVADA	10,190
FORT LAUDERDALE, FLO	KNOXVILLE, TENNESSEE	10,520	SACRAMENTO, CALIFORNI	ST. LOUIS, MISSOURI	10,190
HOUSTON, TEXAS	TOLEDO, OHIO	10,510	MIDLAND/ODESSA, TEXA	PHOENIX, ARIZONA	10,180
CLEVELAND, OHIO	OKLAHOMA CITY, OKLA.	10,500	ATLANTA, GEORGIA	PORTLAND, MAINE	10,170
HOUSTON, TEXAS	SAVANNAH, GEORGIA	10,500	MILWAUKEE, WISCONSIN	NASHVILLE, TENNESSEE	10,170
LAS VEGAS, NEVADA	KNOXVILLE, TENNESSEE	10,500	OKLAHOMA CITY, OKLAH	SACRAMENTO, CALIF.	10,160
MINNEAPOLIS/ST. PAUL	SOUTH BEND, INDIANA	10,500	DAYTON, OHIO	MEMPHIS, TENNESSEE	10,150
WICHITA, KANSAS	FARGO, NORTH DAKOTA	10,490	FORT LAUDERDALE, FLO	LAS VEGAS, NEVADA	10,150
INDIANAPOLIS, INDIAN	LOUISVILLE, KENTUCKY	10,470	KNOXVILLE, TENNESSEE	ST. LOUIS, MISSOURI	10,150
COLUMBUS, OHIO	ROCHESTER, NEW YORK	10,440	MORILE, ALA./PASCAGO	NASHVILLE, TENNESSEE	10,150
LUBBOCK, TEXAS	SAN ANTONIO, TEXAS	10,430	DENVER, COLORADO	HARRISBURG/YORK, PA.	10,130
PORTLAND, OREGON	TULSA, OKLAHOMA	10,430	ATLANTA, GEORGIA	EL PASO, TEXAS	10,120
COLUMBIA, SOUTH CARO	NEW ORLEANS, LA.	10,420	SHREVEPORT, LOUISIANA	TULSA, OKLAHOMA	10,120
HOUSTON, TEXAS	SAGINAW/BAY CITY, MICH	10,420	ALLEN/OMAHA/BETHLEHEM/	SAN FRANCISCO, CALIF.	10,110
CINCINNATI, OHIO	RICHMOND, VIRGINIA	10,410	DALLAS-FORT WORTH, T	HILO, HAWAII	10,110
DENVER, COLORADO	KNOXVILLE, TENNESSEE	10,410	AUSTIN, TEXAS	LAS VEGAS, NEVADA	10,100
HARTFORD/SPRINGFIELD/ME	PALEIGH/DURHAM, N.C.	10,410	HUNTSVILLE/DECATUR,	ST. LOUIS, MISSOURI	10,100
ALBUQUERQUE, NEW MEX	AUSTIN, TEXAS	10,400	MONROE, LOUISIANA	NEW YORK, NEW YORK	10,080
BRISTOL/KINGSPT/JHNS	RICHMOND, VIRGINIA	10,400	EVANSVILLE, INDIANA	HOUSTON, TEXAS	10,070
BALTIMORE, MARYLAND	DAYTONA BEACH, FLA.	10,390	FORT WAYNE, INDIANA	MIAMI, FLORIDA	10,070
OKLAHOMA CITY, OKLAH	OMAHA, NEBRASKA	10,390	NASHVILLE, TENNESSEE	TULSA, OKLAHOMA	10,050
ROCHESTER, NEW YORK	SAN DIEGO, CALIFORNIA	10,390	DES MOINES, IOWA	MIAMI, FLORIDA	10,040

RESTRICTED	MARKETS	RESTRICTED	MARKETS	APPENDIX A	PAGE 19
HOUSTON, TEXAS	LEXINGTON, KENTUCKY	10,030	GREENVILLE/SPARTANBU	HOUSTON, TEXAS	9,670
SPRINGFIELD, MISSOURI	WASHINGTON, D. C.	10,030	MIAMI, FLORIDA	PENSACOLA, FLORIDA	9,670
MEMPHIS, TENNESSEE	RICHMOND, VIRGINIA	10,020	CINCINNATI, OHIO	SYRACUSE, NEW YORK	9,660
AMARILLO, TEXAS	SAN FRANCISCO, CALIF.	10,010	IDAM FALLS, IDAHO	SAN FRANCISCO, CALIF.	9,660
ROSTON, MASSACHUSETTS	FORT WAYNE, INDIANA	10,010	PARKERSBURG, W. VA.	PHILADELPHIA, PENNA	9,660
LOUISVILLE, KENTUCKY	SAN DIEGO, CALIFORNIA	10,010	HARTFORD/SPRINGFIELD	PHILADELPHIA, PENNA	9,660
GREENSBORO, N. C.	NEW ORLEANS, LA.	10,000	LITTLE ROCK, ARKANSAS	PHILADELPHIA, PENNA	9,660
ST. LOUIS, MISSOURI	SARASOTA, FLORIDA	10,000	AMARILLO, TEXAS	WICHITA, KANSAS	9,630
JACKSONVILLE, FLORIDA	PENSACOLA, FLORIDA	9,990	MINNEAPOLIS/ST. PAUL	TOLEDO, OHIO	9,630
DAYTON, OHIO	JACKSONVILLE, FLORIDA	9,970	SAN FRANCISCO, CALIF	TOLEDO, OHIO	9,630
EL PASO, TEXAS	KANSAS CITY, MISSOURI	9,970	NEW ORLEANS, LA.	SALT LAKE CITY, UTAH	9,610
DENVER, COLORADO	NORFOLK, VIRGINIA	9,960	DALLAS-FORT WORTH, T	HUNTSVILLE, ALABAMA	9,590
HOUSTON, TEXAS	SACRAMENTO, CALIF.	9,960	DETROIT/ANN ARBOR, M	PORTLAND, MAINE	9,590
WIRTINGHAM, ALABAMA	KANSAS CITY, MISSOURI	9,950	BALTIMORE, MARYLAND	SALT LAKE CITY, UTAH	9,560
DAYTON, OHIO	ROCHESTER, NEW YORK	9,930	BOISE, IDAHO	WASHINGTON, D. C.	9,560
KANSAS CITY, MISSOURI	SAVANNAH, GEORGIA	9,910	LOS ANGELES, CALIFOR	YOUNGSTOWN, OHIO	9,560
AUSTIN, TEXAS	ST. LOUIS, IOWA	9,900	MOBILE, ILLINOIS/DAVE	PHILADELPHIA, PENNA	9,530
ALBANY, NEW YORK	MINNEAPOLIS, MINN.	9,890	OHAMA, NEBRASKA	ORLANDO, FLORIDA	9,530
DETROIT/ANN ARBOR, M	NORFOLK, VIRGINIA	9,880	ANCHORAGE, ALASKA	NEW YORK, NEW YORK	9,520
CORPUS CHRISTI, TEXA	HOUSTON, TEXAS	9,860	COLUMBIA, SOUTH CARO	ORLANDO, FLORIDA	9,520
NEW YORK, N.Y./NEWAR	LOS ANGELES, CALIF.	9,860	LITTLE ROCK, ARKANSAS	OMAHA, NEBRASKA	9,520
EUGENE, OREGON	SPRINGFIELD, MISSOURI	9,850	COLUMBUS, OHIO	SAN DIEGO, CALIFORNIA	9,520
LITTLE ROCK, ARKANSAS	SAN DIEGO, CALIFORNIA	9,850	ANARILLO-RORGER, TEX	HONOLULU-OAHU, HAWAII	9,510
MADISON, WISCONSIN	PHOENIX, ARIZONA	9,850	CHARLESTON, SOUTH CA	KANSAS CITY, MISSOURI	9,500
OKLAHOMA CITY, OKLAH	PHILADELPHIA, PENNA	9,850	BEAUMONT/PORT ARTHUR	CLEVELAND, OHIO	9,500
OKLAHOMA CITY, OKLAH	SALT LAKE CITY, UTAH	9,850	EL PASO, TEXAS	NEW YORK, NEW YORK	9,490
DETROIT/ANN ARBOR, M	WICHITA, KANSAS	9,830	TAMPA, FLORIDA	OKLAHOMA CITY, OKLA	9,490
BUFFALO, NEW YORK	CHARLOTTE, N. C.	9,820	CINCINNATI, OHIO	WICHITA, KANSAS	9,480
DENVER, COLORADO	PIERRE, SOUTH DAKOTA	9,820	COLUMBIA, SOUTH CARO	ROCHESTER, NEW YORK	9,480
GRAND FALLS, MONTANA	SAN FRANCISCO, CALIF.	9,810	MILO, HAWAII, HAWAII	ST. LOUIS, MISSOURI	9,470
DES MOINES, IOWA	TAMPA, FLORIDA	9,810	LURROCK, TEXAS	PHOENIX, ARIZONA	9,470
FORT LAUDERDALE, FLO	GRAND RAPIDS, MICH.	9,810	FORT WAYNE, INDIANA	PHILADELPHIA, PENNA	9,460
MILWAUKEE, WISCONSIN	SHREVEPORT, LOUISIANA	9,810	GRAND RAPIDS, MICHIG	ST. LOUIS, MISSOURI	9,460
ISLIP, LONG ISLAND	ROCHESTER, NEW YORK	9,800	HUNTSVILLE, ALABAMA	MIAMI, FLORIDA	9,450
JOPLIN, MISSOURI	ST. LOUIS, MISSOURI	9,800	INDIANAPOLIS, INDIAN	SYRACUSE, NEW YORK	9,450
FORT LAUDERDALE, FLO	LEXINGTON, KENTUCKY	9,790	ALBUQUERQUE, NEW MEX	COLORADO SPRINGS, COLO	9,440
AUSTIN, TEXAS	PHILADELPHIA, PENNA	9,770	DENVER, COLORADO	SANTA BARBARA, CALIF.	9,440
OMAHA, NEBRASKA	TULSA, OKLAHOMA	9,760	DETROIT/ANN ARBOR, M	SCANTON, PENNA.	9,440
AUSTIN, TEXAS	DETROIT, MICHIGAN	9,750	BALTIMORE, MARYLAND	HOUSTON, TEXAS	9,430
GRAND RAPIDS, MICHIG	PHOENIX, ARIZONA	9,750	DALLAS-FORT WORTH, T	CHARLESTON, S. C.	9,430
LOUISVILLE, KENTUCKY	NASHVILLE, TENNESSEE	9,750	DALLAS-FORT WORTH, T	PORTLAND, MAINE	9,420
EL PASO, TEXAS	PHILADELPHIA, PENNA	9,740	DENVER, COLORADO	LEXINGTON, KENTUCKY	9,410
MORTON, ILL.	ORLANDO, FLORIDA	9,740	DETROIT/ANN ARBOR, M	SACRAMENTO, CALIF.	9,410
FORT LAUDERDALE, FLO	GREENSBORO, N. C.	9,730	KANSAS CITY, MISSOURI	SIoux FALLS, S. D.	9,410
MARTIN, TEXAS	SAN FRANCISCO, CALIF.	9,730	LITTLE ROCK, ARKANSAS	TULSA, OKLAHOMA	9,400
COLORADO SPRINGS, CO	LAS VEGAS, NEVADA	9,720	PROVIDENCE, RHODE IS	SAN FRANCISCO, CALIF.	9,400
CHARLESTON, SOUTH CA	MEMPHIS, TENNESSEE	9,710	ASHEVILLE, NORTH CAR	TAMPA, FLORIDA	9,390
DALLAS-FORT WORTH, T	PROVIDENCE, R. I.	9,710	DENVER, COLORADO	LANSING, MICHIGAN	9,390
DENVER, COLORADO	JACKSON, MISSISSIPPI	9,710	ALEXANDRIA, LOUISIANA	ATLANTA, GEORGIA	9,370
FL PASO, TEXAS	SEATTLE, WASHINGTON	9,700	CHICAGO, ILLINOIS	GRAND FORKS, N. D.	9,370
JACKSONVILLE, FLORID	RALEIGH/DURHAM, N.C.	9,700	OKLAHOMA CITY, OKLAH	CANTARIO, CALIFORNIA	9,360
COLORADO SPRINGS, CO	MINNEAPOLIS, MINN.	9,690	CINCINNATI, OHIO	RALEIGH/DURHAM, N.C.	9,350
ATMOSPHERIC/MANDAN, NDR	CHICAGO, ILLINOIS	9,680	CLEVELAND, OHIO	RICHMOND, VIRGINIA	9,340

RESTRICTED	MARKETS	RESTRICTED	MARKETS	APPENDIX A	PAGE 20
CHARLOTTE, NORTH CAR	INDIANAPOLIS, INDIANA	9,330	DES MOINES, IOWA	PORTLAND, OREGON	8,950
FRESNO, CALIFORNIA	SALT LAKE CITY, UTAH	9,330	MIAMI, FLORIDA	PORTLAND, MAINE	8,950
ST. LOUIS, MISSOURI	SAN JOSE, CALIFORNIA	9,310	MINNEAPOLIS/ST. PAUL	PROVIDENCE, R. I.	8,950
GRAND JUNCTION, COLO	LAS VEGAS, NEVADA	9,300	MONTGOMERY, ALABAMA	PHILADELPHIA, PENNA	8,950
HOUSTON, TEXAS	ONTARIO, CALIFORNIA	9,300	KALAMAZOO, MICHIGAN	LOS ANGELES, CALIF.	8,940
OMAHA, NEBRASKA	TAMPA, FLORIDA	9,300	LAS VEGAS, NEVADA	LINCOLN, NEBRASKA	8,930
AUSTIN, TEXAS	TULSA, OKLAHOMA	9,290	NASHVILLE, TENNESSEE	SAN DIEGO, CALIFORNIA	8,930
FRESNO, CALIFORNIA	HONOLULU-OAHU, HAWAII	9,280	COLORADO SPRINGS, CO	SAN ANTONIO, TEXAS	8,920
ORLANDO, FLORIDA	TULSA, OKLAHOMA	9,280	DES MOINES, IOWA	NEW ORLEANS, LA.	8,920
CHATTANOOGA, TENNESSEE	SACRAMENTO, CALIF.	9,270	NEW ORLEANS, LOUISIANA	SAVANNAH, GEORGIA	8,920
CINCINNATI, OHIO	ORLANDO, FLORIDA	9,260	CASPER, WYOMING	HOUSTON, TEXAS	8,910
FLINT, MICHIGAN	GREENSBORO, N. C.	9,260	MEMPHIS, TENNESSEE	HOUSTON, TEXAS	8,910
HUNTSVILLE/DECATUR,	WASHINGTON, D. C.	9,250	BALTIMORE, MARYLAND	SARASOTA, FLORIDA	8,880
DENVER, COLORADO	SAN FRANCISCO, CALIF.	9,240	CHARLESTON/DUNBAR, W	CINCINNATI, OHIO	8,880
HONOLULU, OAHU, HAWA	SHREVEPORT, LOUISIANA	9,230	LOUISVILLE, KENTUCKY	WICHITA, KANSAS	8,870
LANSING, MICHIGAN	OKLAHOMA CITY, OKLA.	9,200	ALBUQUERQUE, NEW MEX	MIAMI, FLORIDA	8,870
COLUMBUS, OHIO	TAMPA, FLORIDA	9,200	MADISON, WISCONSIN	OKLAHOMA CITY, OKLA	8,870
JACKSON/VICKSBURG, M	SARASOTA, FLORIDA	9,190	NEW YORK, N.Y./NEWAR	PITTSBURGH, PENNA.	8,860
ORLANDO, FLORIDA	ORLANDO, FLORIDA	9,190	PENSACOLA, FLORIDA	PHILADELPHIA, PENNA	8,860
MISSOURI A. MONTANA	KANSAS CITY, MISSOURI	9,180	HARTFORD/SPRINGFIELD	PORTLAND, OREGON	8,850
CHARLESTON, SOUTH CA	PORTLAND, OREGON	9,170	PORTLAND, OREGON	TAMPA, FLORIDA	8,850
LOS ANGELES, CALIFOR	SARASOTA, FLORIDA	9,170	CHARLESTON/DUNBAR, W	LOS ANGELES, CALIF.	8,840
NORFOLK, VIRGINIA	SYRACUSE, NEW YORK	9,160	CLEVELAND, OHIO	TOLEDO, OHIO	8,840
ALBUQUERQUE, NEW MEX	PITTSBURGH, PENNA.	9,150	GREENSBORO/HIGH POIN	JACKSONVILLE, FLORIDA	8,840
DENVER, COLORADO	ROCHESTER, MINNESOTA	9,140	NORFOLK, VIRGINIA	SEATTLE, WASHINGTON	8,840
CEDAR RAPIDS/IOWA CI	SAN FRANCISCO, CALIF.	9,130	BIRMINGHAM, ALABAMA	MINNEAPOLIS, MINN.	8,830
ANCHORAGE, ALASKA	PHOENIX, ARIZONA	9,120	AKRON/CANTON, OHIO	ROCHESTER, NEW YORK	8,800
ATLANTA, GEORGIA	SCANTON, PENNA.	9,110	LOS ANGELES, CALIFOR	MELBOURNE, FLORIDA	8,800
ALBUQUERQUE, NEW MEX	MILWAUKEE, WISCONSIN	9,110	ATLANTA, GEORGIA	MADISON, WISCONSIN	8,790
AKRON/CANTON, OHIO	TULSA, OKLAHOMA	9,100	CLEVELAND, OHIO	CANTARIO, CALIFORNIA	8,790
ASHLAND, KY./HUNTING	LOUISVILLE, KENTUCKY	9,100	INDIO/PALM SPRINGS,	MINNEAPOLIS, MINN.	8,790
ROSTON, MASSACHUSETT	ATLANTA, GEORGIA	9,090	MOBILE, ALA./PASCAGO	SAN FRANCISCO, CALIF.	8,790
GRAND RAPIDS, MICHIG	LEXINGTON, KENTUCKY	9,090	COLORADO SPRINGS, CO	CANTARIO, CALIFORNIA	8,780
GREENVILLE/SPARTANBU	PITTSBURGH, PENNA.	9,090	GRAND RAPIDS, MICHIG	WASHINGTON, D. C.	8,780
OMAHA, NEBRASKA	TAMPA, FLORIDA	9,090	CHARLOTTE, NORTH CAR	SAN ANTONIO, TEXAS	8,780
COLUMBUS, OHIO	SAN ANTONIO, TEXAS	9,060	DAYTON, OHIO	KANSAS CITY, MISSOURI	8,770
HARTFORD/SPRINGFIELD	RALEIGH/DURHAM, N.C.	9,040	INDIANAPOLIS, INDIAN	OKLAHOMA CITY, OKLA.	8,770
CLEVELAND, OHIO	SAN ANTONIO, TEXAS	9,040	PITTSBURGH, PENNSYLV	TULSA, OKLAHOMA	8,770
FORT MYERS, FLORIDA	OMAHA, NEBRASKA	9,030	CHICAGO, ILLINOIS	RICHMOND, VIRGINIA	8,770
HONOLULU, OAHU, HAWA	ST. LOUIS, MISSOURI	9,030	SAN ANTONIO, TEXAS	WICHITA, KANSAS	8,750
BUFFALO, NEW YORK	INDIANAPOLIS, INDIANA	9,030	CLEVELAND, OHIO	MIAMI, FLORIDA	8,750
ROSE, IDAHO	KANSAS CITY, MISSOURI	9,020	MURKIN, ALA./PASCAGO	PEORIA, ILLINOIS	8,730
BALTIMORE, MARYLAND	PORTLAND, OREGON	9,000	ANCHORAGE, ALASKA	ST. LOUIS, MISSOURI	8,730
ATLANTA, GEORGIA	SAN FRANCISCO, CALIF.	8,990	CHATTANOOGA, TENNESSEE	SPokane, WASHINGTON	8,720
HONOLULU, OAHU, HAWA	SAN ANTONIO, TEXAS	8,990	CHARLOTTE, NORTH CAR	FORT LAUDERDALE, FLA.	8,710
MINNEAPOLIS/ST. PAUL	SAGINAW/BAY CITY, MICH	8,990	DENVER, COLORADO	KNOXVILLE, TENNESSEE	8,700
BALTIMORE, MARYLAND	PROVIDENCE, R. I.	8,980	HARTFORD/SPRINGFIELD	GREENSBORO, N. C.	8,690
ASTORIA, OREGON	SAGINAW/BAY CITY, MICH	8,970	SAN DIEGO, CALIFORNIA	INDIANAPOLIS, INDIANA	8,690
DALLAS-FORT WORTH, T	INDIO, CALIFORNIA	8,960	AKRON/CANTON, OHIO	SIoux FALLS, S. D.	8,690
DALLAS-FORT WORTH, T	FRESNO, CALIFORNIA	8,960	FORT LAUDERDALE, FLO	FORT LAUDERDALE, FLO.	8,670
				TOLEDO, OHIO	8,670
				SEATTLE, WASHINGTON	8,660

RESTRICTED		MARKETS		RESTRICTED		MARKETS		APPENDIX A		PAGE 21	
SACRAMENTO, CALIFORNIA	8,660	TUCSON, ARIZONA	8,660	ALBUQUERQUE, NEW MEX	8,660	CLEVELAND, OHIO	8,260				
ALBUQUERQUE, NEW MEX	8,650	AMARILLO, TEXAS	8,650	CHICAGO, ILLINOIS	8,650	RAPID CITY, S. D.	8,260				
ATLANTA, GEORGIA	8,650	TUCSON, ARIZONA	8,650	MOLINE, ILLINOIS/DAVE	8,650	TAMPA, FLORIDA	8,260				
CHATTANOOGA, TENN	8,640	NEW ORLEANS, LA.	8,640	DAYTON, OHIO	8,640	SALT LAKE CITY, UTAH	8,240				
HONOLULU, OAHU, HAWAII	8,640	OMAHA, NEBRASKA	8,640	BUFFALO/NIAGARA FALL	8,640	LOUISVILLE, KENTUCKY	8,240				
OMAHA, NEBRASKA	8,640	WICHITA, KANSAS	8,640	HONOLULU, OAHU, HAWAII	8,640	WEST PALM BEACH, FLA.	8,240				
PHOENIX, ARIZONA	8,640	PHOENIX, ARIZONA	8,640	BALTIMORE, MARYLAND	8,640	MEMPHIS, TENNESSEE	8,230				
SAVANNAH, GEORGIA	8,620	SAVANNAH, GEORGIA	8,620	CHICAGO, ILLINOIS	8,620	GREENSBORO, N. C.	8,230				
NEW ORLEANS, LA.	8,610	SYRACUSE, NEW YORK	8,610	BOSTON, MASSACHUSETT	8,610	KALAMAZOO, MICHIGAN	8,210				
CINCINNATI, OHIO	8,610	DAYTONA BEACH, FLA.	8,610	CINCINNATI, OHIO	8,610	GRAND RAPIDS, MICH.	8,210				
FORT LAUDERDALE, FLA.	8,610	RICHMOND, VIRGINIA	8,610	EVANSVILLE, INDIANA	8,610	ST. LOUIS, MISSOURI	8,210				
LAS VEGAS, NEVADA	8,600	SIoux FALLS, S. D.	8,600	BOZEMAN, MONTANA	8,600	DENVER, COLORADO	8,190				
CHICAGO, ILLINOIS	8,600	GRAND JUNCTION, COLO.	8,600	CHICAGO, ILLINOIS	8,600	FORT SMITH, ARKANSAS	8,190				
COLUMBUS, OHIO	8,590	TUCSON, ARIZONA	8,590	BOSTON, MASSACHUSETT	8,590	NASHVILLE, TENNESSEE	8,170				
ONTARIO, CALIFORNIA	8,590	TULSA, OKLAHOMA	8,590	EVANSVILLE, INDIANA	8,590	MEMPHIS, TENNESSEE	8,170				
CLEVELAND, OHIO	8,580	ROANOK, VIRGINIA	8,580	FORT LAUDERDALE, FLA.	8,580	NORFOLK, VIRGINIA	8,170				
MIAMI, FLORIDA	8,580	SACRAMENTO, CALIF.	8,580	RALEIGH/DURHAM, NORT	8,580	WEST PALM BEACH, FLA.	8,170				
PHILADELPHIA, PA./CA	8,570	SHREVEPORT, LOUISIANA	8,570	RENO, NEVADA	8,570	SACRAMENTO, CALIF.	8,160				
NEW ORLEANS, LA.	8,560	OAKLAND, CALIFORNIA	8,560	AUGUSTA, GEORGIA	8,560	BOSTON, MASSACHUSETT	8,150				
LURANCK, TEXAS	8,560	OKLAHOMA CITY, OKLA.	8,560	LOS ANGELES, CALIFOR	8,560	LOUISVILLE, KENTUCKY	8,150				
BRISTOL/KINGSPT/JHNS	8,540	HOUSTON, TEXAS	8,540	HOUSTON, TEXAS	8,540	STOUC CITY, IOWA	8,150				
ALBUQUERQUE, NEW MEX	8,520	HOUSTON, TEXAS	8,520	FORT WAYNE, INDIANA	8,520	MONTGOMERY, ALABAMA	8,130				
MOLINE, ILLINOIS/DAVE	8,520	SAN FRANCISCO, CALIF.	8,520	BIRMINGHAM, ALABAMA	8,520	ORLANDO, FLORIDA	8,130				
MACON, GEORGIA	8,500	WASHINGTON, D. C.	8,500	KANSAS CITY, MISSOUR	8,500	LAS VEGAS, NEVADA	8,120				
MILWAUKEE, WISCONSIN	8,500	RENO, NEVADA	8,500	COLUMBIA, SOUTH CARO	8,500	RALEIGH/DURHAM, N. C.	8,120				
NASHVILLE, TENNESSEE	8,500	WEST PALM BEACH, FLA.	8,500	MINNEAPOLIS/ST. PAUL	8,500	NORFOLK, VIRGINIA	8,110				
CHATTANOOGA, TENN	8,480	SEATTLE, WASHINGTON	8,480	NEW ORLEANS, LOUISIA	8,480	SARASOTA, FLORIDA	8,080				
RICHMOND, VIRGINIA	8,480	ST. LOUIS, MISSOURI	8,480	SAN FRANCISCO, CALIF	8,480	SAN JOSE, CALIFORNIA	8,080				
LEXINGTON, KENTUCKY	8,460	RALEIGH/DURHAM, N. C.	8,460	MADISON, WISCONSIN	8,460	STOUC FALLS, S. D.	8,070				
MILWAUKEE, WISCONSIN	8,440	SAN FRANCISCO, CALIF.	8,440	MILWAUKEE, WISCONSIN	8,440	TAMPA, FLORIDA	8,070				
BOSTON, MASSACHUSETT	8,430	SYRACUSE, NEW YORK	8,430	MONTGOMERY, ALABAMA	8,430	SARASOTA, FLORIDA	8,070				
GREENSBORO/HIGH POIN	8,430	WICHITA, KANSAS	8,430	ROSTON, MASSACHUSETT	8,430	NEW ORLEANS, LA.	8,060				
KANSAS CITY, MISSOUR	8,410	MINNEAPOLIS, MINN.	8,410	INDIANAPOLIS, INDIAN	8,410	ONTARIO, CALIFORNIA	8,050				
COLORADO SPRINGS, CO	8,400	MADISON, WISCONSIN	8,400	SAN FRANCISCO, CALIF	8,400	SOUTH BEND, INDIANA	8,040				
OMAHA, NEBRASKA	8,400	OKLAHOMA CITY, OKLA.	8,400	DALLAS-FORT WORTH, T	8,400	TULSA, OKLAHOMA	8,040				
ATLANTA, GEORGIA	8,390	SACRAMENTO, CALIF.	8,390	GRAND RAPIDS, MICHIG	8,390	SOUTH BEND, INDIANA	8,030				
CHARLESTON/DUNBAR, M	8,370	MOLINE, ILLINOIS	8,370	GREENVILLE/SPARTANBU	8,370	ORLANDO, FLORIDA	8,030				
AMARILLO, TEXAS	8,370	TULSA, OKLAHOMA	8,370	BOSTON, MASSACHUSETT	8,370	NASHVILLE, TENNESSEE	8,020				
GREAT FALLS, MONTANA	8,370	MINNEAPOLIS, MINN.	8,370	GREENSBORO/HIGH POIN	8,370	RENO, NEVADA	8,020				
NASHVILLE, TENNESSEE	8,360	SEATTLE, WASHINGTON	8,360	MIDLAND/ODESSA, TEXA	8,360	HARTFORD, CONNECTICUT	8,020				
INDIANAPOLIS, INDIAN	8,350	PORTLAND, OREGON	8,350	DENVER, COLORADO	8,350	NEW ORLEANS, LA.	8,020				
ALBUQUERQUE, NEW MEX	8,350	WEST PALM BEACH, FLA.	8,350	HOUSTON, TEXAS	8,350	EUGENE, OREGON	8,010				
DENVER, COLORADO	8,350	PORTLAND, OREGON	8,350	MILWAUKEE, WISCONSIN	8,350	PROVIDENCE, R. I.	8,010				
IDAHO FALLS, IDAHO	8,350	PORTLAND, OREGON	8,350	NEW BEDFORD/FALL RIV	8,350	TUCSON, ARIZONA	8,010				
INDIANAPOLIS, INDIAN	8,330	LITTLE ROCK, ARKANSAS	8,330	CHATTANOOGA, TENN	8,330	NEW YORK, NEW YORK	8,010				
RAITMIRE, MARYLAND	8,320	SAVANNAH, GEORGIA	8,320	ALBUQUERQUE, NEW MEX	8,320	LOS ANGELES, CALIF.	8,000				
MEMPHIS, TENNESSEE	8,320	SPokane, WASHINGT	8,320	BURBANK, CALIFORNIA	8,320	SAN FRANCISCO, CALIF.	7,990				
RIPLINGTON, VERMONT	8,310	DETROIT, MICHIGAN	8,310	CHATTANOOGA, TENN	8,310	SAN JOSE, CALIFORNIA	7,990				
BOSTON, MASSACHUSETT	8,290	COLORADO SPRINGS, COLO	8,290	ASHLAND, KY./HUNTING	8,290	PITTSBURGH, PENNA.	7,990				
FORT LAUDERDALE, FLA	8,280	PHOENIX, ARIZONA	8,280	DES MOINES, IOWA	8,280	PHILADELPHIA, PENNA	7,990				
GRAND RAPIDS, MICHIG	8,280	LAS VEGAS, NEVADA	8,280	FARGO, N. D./MOOREHEAD	8,280	HONOLULU, OAHU, HAWAII	7,950				
BIRMINGHAM, ALABAMA	8,270	KNOXVILLE, TENNESSEE	8,270	BIRMINGHAM, ALABAMA	8,270	LOS ANGELES, CALIF.	7,950				

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CLEVELAND, OHIO	7,940	DES MOINES, IOWA	7,940	ALBANY, NEW YORK	7,940	SAN DIEGO, CALIFORNIA	7,680				
COLUMBUS, OHIO	7,940	RICHMOND, VIRGINIA	7,940	PHILADELPHIA, PA./CA	7,940	SAGINAW/BAY CITY, MICH	7,670				
LOS ANGELES, CALIFOR	7,930	RAPID CITY, S. D.	7,930	ALBUQUERQUE, NEW MEX	7,930	HONOLULU, OAHU, HAWAII	7,660				
LAS VEGAS, NEVADA	7,920	SHREVEPORT, LOUISIANA	7,920	MINNEAPOLIS/ST. PAUL	7,920	RICHMOND, VIRGINIA	7,660				
PHOENIX, ARIZONA	7,920	NEWPORT NEWS, VA.	7,920	MOLINE, ILLINOIS/DAVE	7,920	PITTSBURGH, PENNA.	7,650				
ATLANTA, GEORGIA	7,910	SOUTH BEND, INDIANA	7,910	BRISTOL/KINGSPT/JHNS	7,910	DETROIT, MICHIGAN	7,650				
RIFFALONIAGARA FALL	7,910	SEATTLE, WASHINGTON	7,910	CINCINNATI, OHIO	7,910	COLUMBIA, S. C.	7,650				
CHARLESTON/DUNBAR, M	7,910	JACKSONVILLE, FLORIDA	7,910	BUFFALO/NIAGARA FALL	7,910	ROCHESTER, NEW YORK	7,640				
AUGUSTA, GEORGIA	7,910	MAMI, FLORIDA	7,910	ATLANTA, GEORGIA	7,910	CORPUS CHRISTI, TEXAS	7,630				
RIFFALONIAGARA FALL	7,900	DALLAS-FORT WORTH, TX	7,900	LAS VEGAS, NEVADA	7,900	MOLINE, ILLINOIS	7,630				
MADISON, WISCONSIN	7,900	HONOLULU, OAHU, HAWAII	7,900	AUSTIN, TEXAS	7,900	MEMPHIS, TENNESSEE	7,620				
SAGINAW/BAY CITY, MID	7,900	PHOENIX, ARIZONA	7,900	MEMPHIS, TENNESSEE	7,900	WEST PALM BEACH, FLA.	7,620				
AMARILLO, TEXAS	7,890	SAN FRANCISCO, CALIF.	7,890	COLUMBIA, SOUTH CARO	7,890	LOUISVILLE, KENTUCKY	7,610				
CLEVELAND, OHIO	7,890	OKLAHOMA CITY, OKLA.	7,890	MILWAUKEE, WISCONSIN	7,890	TUCSON, ARIZONA	7,600				
GREAT FALLS, MONTANA	7,880	MADISON, WISCONSIN	7,880	AKRON/CANTON, OHIO	7,880	DENVER, COLORADO	7,590				
CHARLOTTE, NORTH CAR	7,880	PORTLAND, OREGON	7,880	JACKSONVILLE, FLORID	7,880	KNOXVILLE, TENNESSEE	7,580				
DES MOINES, IOWA	7,870	LAS VEGAS, NEVADA	7,870	ATLANTA, GEORGIA	7,870	SAGINAW/BAY CITY, MICH	7,580				
CLEVELAND, OHIO	7,870	OKLAHOMA CITY, OKLA.	7,870	FORT LAUDERDALE, FLA	7,870	PORTLAND, MAINE	7,570				
DEFROIT/CANN ARBOR, M	7,870	ROCHESTER, MINNESOTA	7,870	DENVER, COLORADO	7,870	RICHMOND, VIRGINIA	7,570				
RIFFALONIAGARA FALL	7,860	GREENSBORO, N. C.	7,860	INDIANAPOLIS, INDIAN	7,860	RALEIGH/DURHAM, N. C.	7,570				
NEW YORK, N. Y./NEWAR	7,850	PANAMA CITY, FLORIDA	7,850	STOUC CITY, IOWA	7,850	WASHINGTON, D. C.	7,570				
SARASOTA/BRADENTON	7,840	MIDLAND/ODESSA, TEXAS	7,840	CLEVELAND, OHIO	7,840	SAN JOSE, CALIFORNIA	7,560				
HARTFORD/SPRINGFIELD	7,840	SYRACUSE, NEW YORK	7,840	ALBANY, NEW YORK	7,840	ROCHESTER, NEW YORK	7,550				
OKLAHOMA CITY, OKLAH	7,820	TUCSON, ARIZONA	7,820	BOSTON, MASSACHUSETT	7,840	INDIANAPOLIS, INDIANA	7,550				
ATLANTA, GEORGIA	7,820	YOUNGSTOWN, OHIO	7,820	CHARLOTTE, NORTH CAR	7,840	SAN DIEGO, CALIFORNIA	7,550				
DALLAS-FORT WORTH, T	7,820	PENSACOLA, FLORIDA	7,820	FORT SMITH, ARKANSAS	7,820	LOS ANGELES, CALIF.	7,550				
HILO, HAWAII, HAWAII	7,820	PORTLAND, OREGON	7,820	CINCINNATI, OHIO	7,820	SAN ANTONIO, TEXAS	7,540				
OMAHA, NEBRASKA	7,820	STOUC FALLS, S. D.	7,820	POCATELLO, IDAHO	7,820	SEATTLE, WASHINGTON	7,540				
PHILADELPHIA, PA./CA	7,810	TALLAHASSEE, FLORIDA	7,810	MIAMI, FLORIDA	7,820	SAVANNAH, GEORGIA	7,530				
BRISTOL/KINGSPT/JHNS	7,810	PHILADELPHIA, PENNA	7,810	CINCINNATI, OHIO	7,820	YOUNGSTOWN, OHIO	7,530				
KANSAS CITY, MISSOUR	7,810	RENO, NEVADA	7,810	ALBANY, NEW YORK	7,810	LOUISVILLE, KENTUCKY	7,520				
CINCINNATI, OHIO	7,810	LOUISVILLE, KENTUCKY	7,810	COLUMBUS, OHIO	7,810	TULSA, OKLAHOMA	7,520				
JACKSON/VICKSBURG, M	7,800	CLEVELAND, OHIO	7,800	BATON ROUGE, LOUISIA	7,800	LITTLE ROCK, ARKANSAS	7,500				
DAYTON, OHIO	7,800	POCATELLO, IDAHO	7,800	BALTIMORE, MARYLAND	7,800	MONROE, LOUISIANA	7,490				
PIPTLAND, OREGON	7,800	SAN ANTONIO, TEXAS	7,800	BILLINGS, MONTANA	7,800	FORT MYERS, FLORIDA	7,480				
GREENVILLE/SPARTANBU	7,800	TUCSON, ARIZONA	7,800	DETROIT/CANN ARBOR, M	7,800	PHOENIX, ARIZONA	7,470				
HARTFORD/SPRINGFIELD	7,790	SAVANNAH, GEORGIA	7,790	NASHVILLE, TENNESSEE	7,790	FORT MYERS, FLORIDA	7,470				
SAN FRANCISCO, CALIF	7,790	LANSING, MICHIGAN	7,790	OKLAHOMA CITY, OKLAH	7,790	INDIO, CALIFORNIA	7,470				
ATLANTA, GEORGIA	7,790	PHILADELPHIA, PENNA	7,790	COLUMBUS, OHIO	7,790	ROANOK, VIRGINIA	7,470				
CINCINNATI, OHIO	7,790	INDIANAPOLIS, INDIANA	7,790	OKLAHOMA CITY, OKLAH	7,790	SHREVEPORT, LOUISIANA	7,470				
MEMPHIS, TENNESSEE	7,790	MONROE, LOUISIANA	7,790	NEW YORK, N. Y./NEWAR	7,790	DENVER, COLORADO	7,460				
MIAMI, FLORIDA	7,790	SHREVEPORT, LOUISIANA	7,790	DALLAS-FORT WORTH, T	7,790	ROANOK, VIRGINIA	7,450				
PHILADELPHIA, PA./CA	7,790	SAN JOSE, CALIFORNIA	7,790	HARTFORD/SPRINGFIELD	7,790	LEXINGTON, KENTUCKY	7,440				

RESTRICTED		MARKETS		RESTRICTED		MARKETS		APPENDIX A		PAGE 23	
I AMING, MICHIGAN		PHILADELPHIA, PENNA		PROVIDENCE, RMCE IS		ST. LOUIS, MISSOURI		ST. LOUIS, MISSOURI		7,060	
LOS ANGELES, CALIF		SCRANTON, PENNA.		DALLAS-FORT WORTH, T		WICHITA FALLS, TEXAS		WICHITA FALLS, TEXAS		7,040	
BALTIMORE, MARYLAND		EL PASO, TEXAS		HUNTSVILLE/DECATUR,		MEMPHIS, TENNESSEE		MEMPHIS, TENNESSEE		7,030	
ROSTON, MASSACHUSETT		OMAHA, NEBRASKA		INDIANAPOLIS, INDIAN		WICHITA, KANSAS		WICHITA, KANSAS		7,030	
CHARLESTON, SOUTH CA		HARTFORD/CONNECTICUT		CLEVELAND, OHIO		COLUMBIA, S. C.		COLUMBIA, S. C.		7,000	
GRAND RAPIDS, MICHIG		SEATTLE, WASHINGTON		MINNEAPOLIS, MINN.		PORTLAND, OREGON		PORTLAND, OREGON		7,000	
LITTLE ROCK, ARKANS		MINNEAPOLIS, MINN.		HONOLULU, FLORIDA		SAN FRANCISCO, CALIF.		SAN FRANCISCO, CALIF.		7,000	
CLEVELAND, OHIO		MOLINE, ILLINOIS		TAMPA, FLORIDA		TUCSON, ARIZONA		TUCSON, ARIZONA		6,990	
NEW ORLEANS, LOUISIA		PROVIDENCE, R. I.		ROCHESTER, NEW YORK		ONTARIO, CALIFORNIA		ONTARIO, CALIFORNIA		6,980	
ALBUQUERQUE, NEW MEX		TAMPA, FLORIDA		EVANSVILLE, INDIANA		CINCINNATI, OHIO		CINCINNATI, OHIO		6,970	
LAS VEGAS, NEVADA		EVANSVILLE, INDIANA		WASHINGTON, D. C.		NEW YORK, NEW YORK		NEW YORK, NEW YORK		6,960	
DENVER, COLORADO		WASHINGTON, D. C.		PITTSBURGH, PENNA.		SAN FRANCISCO, CALIF.		SAN FRANCISCO, CALIF.		6,960	
PANAMA CITY, FLORIDA		PITTSBURGH, PENNA.		SOUTH BEND, INDIANA		GREENVILLE, S. C.		GREENVILLE, S. C.		6,950	
PARKERSBURG, W. VA./MAR		SOUTH BEND, INDIANA		TAMPA, FLORIDA		CHICAGO, ILLINOIS		CHICAGO, ILLINOIS		6,950	
ATLANTA, GEORGIA		TAMPA, FLORIDA		LOUISVILLE, KENTUCKY		CINCINNATI, OHIO		CINCINNATI, OHIO		6,910	
MONTGOMERY, ALABAMA		LOUISVILLE, KENTUCKY		WASHINGTON, D. C.		PHILADELPHIA, PENNA		PHILADELPHIA, PENNA		6,900	
FLINT, MICHIGAN		WASHINGTON, D. C.		SPRINGFIELD, MISSOURI		SOUTH BEND, INDIANA		SOUTH BEND, INDIANA		6,900	
HARRISBURG/YORK, PEN		PHOENIX, ARIZONA		PHOENIX, ARIZONA		WASHINGTON, D. C.		WASHINGTON, D. C.		6,890	
ROSTON, MASSACHUSETT		PHOENIX, ARIZONA		MELROUSE, FLORIDA		SAN FRANCISCO, CALIF.		SAN FRANCISCO, CALIF.		6,890	
INDIANAPOLIS, INDIAN		PENSACOLA, FLORIDA		SHREVEPORT, LOUISIANA		PHILADELPHIA, PENNA		PHILADELPHIA, PENNA		6,880	
ROISF, IDAHO		SHREVEPORT, LOUISIANA		RENO, NEVADA		RALEIGH/DURHAM, N.C.		RALEIGH/DURHAM, N.C.		6,870	
ATLANTA, GEORGIA		RENO, NEVADA		PFORIA, ILLINOIS		HELENA, MONTANA		HELENA, MONTANA		6,830	
CASPER, WYOMING		LOS ANGELES, CALIF.		LOS ANGELES, CALIF.		WEST PALM BEACH, FLA.		WEST PALM BEACH, FLA.		6,830	
CLEVELAND, OHIO		LITTLE ROCK, ARKANSAS		LITTLE ROCK, ARKANSAS		SPRINGFIELD, MISSOURI		SPRINGFIELD, MISSOURI		6,810	
DENVER, COLORADO		GRAND FORKS, N. D.		GRAND FORKS, N. D.		SAN FRANCISCO, CALIF.		SAN FRANCISCO, CALIF.		6,810	
FARGO, N. D./MOORHEAD		SEATTLE, WASHINGTON		SEATTLE, WASHINGTON		WICHITA, KANSAS		WICHITA, KANSAS		6,800	
CHATTANOOGA, TENNESS		JACKSONVILLE, FLORIDA		JACKSONVILLE, FLORIDA		SAN JOSE, CALIFORNIA		SAN JOSE, CALIFORNIA		6,770	
DAYTON, OHIO		NORFOLK, VIRGINIA		NORFOLK, VIRGINIA		TOLEDO, OHIO		TOLEDO, OHIO		6,770	
POCAHONTO, IDAHO		PORTLAND, OREGON		PORTLAND, OREGON		RALEIGH/DURHAM, N.C.		RALEIGH/DURHAM, N.C.		6,750	
PHILADELPHIA, PA./CA		RENO, NEVADA		RENO, NEVADA		SALT LAKE CITY, UTAH		SALT LAKE CITY, UTAH		6,750	
DENVER, COLORADO		FLINT, MICHIGAN		FLINT, MICHIGAN		LOS ANGELES, CALIF.		LOS ANGELES, CALIF.		6,740	
KALAMAZOO, MICHIGAN		KNOXVILLE, TENNESSEE		KNOXVILLE, TENNESSEE		TUCSON, ARIZONA		TUCSON, ARIZONA		6,730	
OAKLAND, CALIFORNIA		MINNEAPOLIS, MINN.		MINNEAPOLIS, MINN.		MIAMI, FLORIDA		MIAMI, FLORIDA		6,730	
SALT LAKE CITY, UTAH		WASHINGTON, D. C.		WASHINGTON, D. C.		KANSAS CITY, MISSOURI		KANSAS CITY, MISSOURI		6,720	
HARTFORD/SPRINGFIELD/NE		SAN ANTONIO, TEXAS		SAN ANTONIO, TEXAS		BURLINGTON, VERMONT		BURLINGTON, VERMONT		6,710	
ATLANTA, GEORGIA		OKLAHOMA CITY, OKLA.		OKLAHOMA CITY, OKLA.		WICHITA, KANSAS		WICHITA, KANSAS		6,690	
ATLANTA, GEORGIA		INDIANAPOLIS, INDIANA		INDIANAPOLIS, INDIANA		PITTSBURGH, PENNA.		PITTSBURGH, PENNA.		6,690	
ATLANTA, GEORGIA		PITTSBURGH, PENNA.		PITTSBURGH, PENNA.		ST. LOUIS, MISSOURI		ST. LOUIS, MISSOURI		6,630	
ATLANTA, GEORGIA		RICHMOND, VIRGINIA		RICHMOND, VIRGINIA		DALLAS-FORT WORTH, TX		DALLAS-FORT WORTH, TX		6,620	
ATLANTA, GEORGIA		SOUTH BEND, INDIANA		SOUTH BEND, INDIANA		ROCHESTER, MINNESOTA		ROCHESTER, MINNESOTA		6,600	
ATLANTA, GEORGIA		LAS VEGAS, NEVADA		LAS VEGAS, NEVADA		LOUISVILLE, KENTUCKY		LOUISVILLE, KENTUCKY		6,580	
ATLANTA, GEORGIA		SAVANNAH, GEORGIA		SAVANNAH, GEORGIA		DENVER, COLORADO		DENVER, COLORADO		6,560	
ATLANTA, GEORGIA		WASHINGTON, D. C.		WASHINGTON, D. C.		SPRINGFIELD, MISSOURI		SPRINGFIELD, MISSOURI		6,550	
ATLANTA, GEORGIA		KANSAS CITY, MISSOURI		KANSAS CITY, MISSOURI		WICHITA, KANSAS		WICHITA, KANSAS		6,520	
ATLANTA, GEORGIA		ORLANDO, FLORIDA		ORLANDO, FLORIDA		LOUISVILLE, KENTUCKY		LOUISVILLE, KENTUCKY		6,520	
ATLANTA, GEORGIA		CEDAR RAPIDS, IOWA		CEDAR RAPIDS, IOWA		HONOLULU, OAHU, HAWAII		HONOLULU, OAHU, HAWAII		6,510	
ATLANTA, GEORGIA		PHOENIX, ARIZONA		PHOENIX, ARIZONA		DALLAS-FORT WORTH, TX		DALLAS-FORT WORTH, TX		6,480	
ATLANTA, GEORGIA		MIAMI, FLORIDA		MIAMI, FLORIDA		JACKSONVILLE, FLORIDA		JACKSONVILLE, FLORIDA		6,410	
ATLANTA, GEORGIA		TAMPA, FLORIDA		TAMPA, FLORIDA		SEATTLE, WASHINGTON		SEATTLE, WASHINGTON		6,400	
ATLANTA, GEORGIA		SAN FRANCISCO, CALIF.		SAN FRANCISCO, CALIF.		SALT LAKE CITY, UTAH		SALT LAKE CITY, UTAH		6,400	
ATLANTA, GEORGIA		BRISTOL, TENNESSEE		BRISTOL, TENNESSEE		HELENA, MONTANA		HELENA, MONTANA		6,400	
ATLANTA, GEORGIA		MOLINE, ILLINOIS		MOLINE, ILLINOIS							

RESTRICTED	MARKETS	RESTRICTED	MARKETS	APPENDIX A	PAGE 24
ORLANDO, FLORIDA	WEST PALM BEACH, FLA.	6,390	CINCINNATI, OHIO	LEXINGTON, KENTUCKY	1,850
DES MOINES, IOWA	ST. LOUIS, MISSOURI	6,380	NEW YORK, N.Y./NEWARK	SCRANTON, PENNA.	1,690
CHARLOTTE, SOUTH CAR	DENVER, COLORADO	6,360	ASHEVILLE, NORTH CAR	CHARLOTTE, N.C.	1,470
CHICAGO, ILLINOIS	PARKERSBURG, W. VA.	6,340	DETROIT/ANN ARBOR, MI	TOLEDO, OHIO	1,250
HONOLULU, OAHU, HAWA	NASHVILLE, TENNESSEE	6,340	COLUMBUS, OHIO	PARKERSBURG, W. VA.	1,220
DES MOINES, IOWA	SIoux FALLS, S. D.	6,320	HARRISBURG/YORK, PEN	WASHINGTON, D. C.	570
FORT MYERS, FLORIDA	LOS ANGELES, CALIF.	6,320			
BURLINGTON, VERMONT	CLEVELAND, OHIO	6,300			
COLUMBUS, OHIO	ROANOKE, VIRGINIA	6,280			
CORPUS CHRISTI, TEXA	KANSAS CITY, MISSOURI	6,280			
BATON ROUGE, LOUISIA	ST. LOUIS, MISSOURI	6,210			
LOUISVILLE, KENTUCKY	ROANOKE, VIRGINIA	6,160			
DALLAS-FORT WORTH, T	LAWTON/FT. SILL, OKLA.	6,090			
RIUTE, MONTANA	SALT LAKE CITY, UTAH	6,030			
CHATTANOOGA, TENNESS	DENVER, COLORADO	5,960			
ATLANTA, GEORGIA	CINCINNATI, OHIO	5,900			
PADUCAH, KENTUCKY	ST. LOUIS, MISSOURI	5,860			
EL PASO, TEXAS	MEMPHIS, TENNESSEE	5,800			
MISSOULA, MONTANA	SALT LAKE CITY, UTAH	5,740			
ASHLAND, KY./HUNTING	CINCINNATI, OHIO	5,710			
ATLANTA, GEORGIA	REAU MONT, TEXAS	5,700			
CHICAGO, ILLINOIS	MINOT, NORTH DAKOTA	5,690			
DENVER, COLORADO	MONTGOMERY, ALABAMA	5,670			
KANSAS CITY, MISSOUR	ROCHESTER, MINNESOTA	5,640			
DENVER, COLORADO	KALISPELL, MONTANA	5,440			
MILWAUKEE, WISCONSIN	ROCHESTER, MINNESOTA	5,440			
ATLANTA, GEORGIA	FLINT, MICHIGAN	5,250			
EL PASO, TEXAS	HONOLULU, OAHU, HAWAII	5,220			
DALLAS-FORT WORTH, T	TALLAHASSEE, FLORIDA	5,120			
KALISPELL, MONTANA	SPOKANE, WASHINGTON	5,120			
ROSTON, MASSACHUSETT	MONTPELIER/BARRE, VT.	5,070			
ROUSE, IDAHO	HONOLULU, OAHU, HAWAII	5,040			
FORT SMITH, ARKANSAS	ST. LOUIS, MISSOURI	5,040			
POCHESTER, NEW YORK	SYRACUSE, NEW YORK	4,950			
CHICAGO, ILLINOIS	MISSOULA, MONTANA	4,940			
SALT LAKE CITY, UTAH	SIoux FALLS, S. D.	4,790			
GRAND JUNCTION, COLO	SALT LAKE CITY, UTAH	4,760			
CHAPLOTTE, NORTH CAR	COLUMBIA, S. C.	4,750			
RALF TIGH/DURHAM, NORT	RICHMOND, VIRGINIA	4,690			
DAYTON, OHIO	LOUISVILLE, KENTUCKY	4,580			
DALLAS-FORT WORTH, T	HOT SPRINGS, ARKANSAS	4,460			
JOPLIN, MISSOURI	KANSAS CITY, MISSOURI	4,340			
CINCINNATI, OHIO	COLUMBUS, OHIO	4,270			
DENVER, COLORADO	HILO, HAWAII, HAWAII	4,240			
DENVER, COLORADO	LAWTON/FT. SILL, OKLA.	4,030			
NORFOLK, VIRGINIA	RICHMOND, VIRGINIA	3,550			
DAYTON, OHIO	INDIANAPOLIS, INDIANA	3,540			
EVANSVILLE, INDIANA	LOUISVILLE, KENTUCKY	3,540			
CHARLOTTE, NORTH CAR	GREENSBORO, N. C.	3,160			
ROZEMAN, MONTANA	SALT LAKE CITY, UTAH	3,110			
KALISPELL, MONTANA	SALT LAKE CITY, UTAH	3,000			
LOS ANGELES, CALIFOR	ONTARIO, CALIFORNIA	2,820			
PALM SPRING, CALIFOR	WASHINGTON, D. C.	2,780			
PHILADELPHIA, PA./CA	SCRANTON, PENNA.	2,670			
QUINCY, ILLINOIS/HAN	ST. LOUIS, MISSOURI	2,440			
LEXINGTON, KENTUCKY	LOUISVILLE, KENTUCKY	2,210			

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federal register

**Tuesday
August 21, 1979**

Part IV

**Department of the
Interior**

Fish and Wildlife Service

**Listing of Grevy's Zebra and Hartmann's
Mountain Zebra as Threatened Species;
Final Rule**

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Listing of Grevy's Zebra and Hartmann's Mountain Zebra as Threatened Species

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: Pursuant to the Endangered Species Act of 1973, as amended, the Service determines that Grevy's zebra (*Equus grevyi*) and Hartmann's mountain zebra (*Equus zebra hartmannae*) are Threatened species. Both of these species were originally proposed for listing as Endangered, but data received during the comment period of the proposal indicate that a Threatened listing is more appropriate. This rule will provide needed protection for both Grevy's zebra and Hartmann's mountain zebra and will contribute to their continued survival and recovery in the wild.

DATES: This rule will become effective on September 20, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Harold J. O'Connor, Acting Associate Director, Federal Assistance, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240, 202/343-4646.

SUPPLEMENTARY INFORMATION:

Background

Grevy's zebra is distributed in northern Kenya; it formerly occurred in southern Ethiopia and Somalia, but is probably extirpated there at the present time. It is the largest of the zebras and because of some structural and behavioral differences from other zebras, it is placed in a separate subgenus (*Dolichohippus*).

The Cape Mountain zebra (*Equus zebra zebra*) is already on the Endangered list. The present rulemaking therefore deals only with the other subspecies of this species, Hartmann's mountain zebra (*E. z. hartmannae*). Hartmann's mountain zebra lives in the mountainous escarpment zone which forms the eastern boundary of the Namib Desert. Its range formerly extended north into Angola and south to Namaqualand, Cape Province, South Africa.

On December 23, 1977, the Service published a proposed rulemaking in the Federal Register (42 FR 64382) to list

Grevy's zebra and Hartmann's mountain zebra as Endangered species under the Endangered Species Act of 1973. Since that proposal, the Endangered Species Act Amendments of 1978 have been enacted. The amendments did not effect the status of the proposal and the Service is now proceeding with a final rulemaking relative to these two species. This final rulemaking determines Hartmann's mountain zebra and Grevy's zebra to be Threatened rather than Endangered. The reason for this change is that new data, obtained during the comment period of the proposal, have shown that neither species is in danger of extinction throughout all or a significant portion of its range as was believed at the time of the proposal. The decrease in the known magnitude of the threat to these species is discussed in detail later in this rulemaking in the section titled "Summary of Factors Affecting the Species". The Service is permitting importation and other activities involving Grevy's zebra (parts, products or live animals) only under the provisions of 50 CFR 17.32, i.e., under a permit for scientific purposes, or the enhancement or propagation or survival, economic hardship, zoological exhibition, educational purposes, or special purposes consistent with the purposes of the Act. It should be noted that since Grevy's zebra is listed in Appendix I to the Convention on International Trade in Endangered Species of Wild Fauna and Flora there can be no importation of sport-hunting trophies.

With the Hartmann's mountain zebra, the Service is likewise requiring permits under 50 CFR 17.32. However, because the Hartmann's zebra is listed in Appendix II to the Convention, legally-taken, sport hunting trophies of this species may be imported. Importation of trophies must be consistent with the Act, including the provisions of Section 9(c)(2) and the definition of conservation, 16 U.S.C. 1532(3), 1538(c)(2). The Service is willing to allow the importation of legally taken sport hunting trophies because it is convinced that to do otherwise would be detrimental to the survival of the species. Hartmann's mountain zebra occurs over vast areas of privately owned ranches. On these private ranches, the zebras compete directly with the rancher's cattle and sheep. Comments received from knowledgeable individuals emphasize that almost without exception these ranchers would not permit the zebras to exist on their property if they could not derive a profit from their presence by permitting sportsmen to hunt them. These ranchers

have allowed the zebras to survive and breed on their property in order to provide a trophy for visiting sport hunters. One correspondent relates that the sportman boards with the rancher, is usually guided by the rancher, pays the rancher a daily fee, and also pays the rancher a substantial fee for each animal taken. This revenue makes up an important part of the rancher's income, and the survival of the zebra in South West Africa/Namibia may very well depend upon the ranchers maintaining this income. It should be emphasized that the South West African/Namibian government strictly controls the hunts on the private ranches and will issue permits for a hunt only if a rancher demonstrates excessive populations that are damaging his property.

Summary of Comments

A total of 21 letters and telegrams was received in response to the December 23, 1977, Proposed Rulemaking. Of these responses, 10 supported a listing as proposed, and the remainder recommended modifications to the proposal. Organizations that wholly supported the proposal were: African Equids Group, International Union for the Conservation of Nature and Natural Resources' Survival Service Commission; Elsa Wildlife Animal Appeal, North Hollywood, California; American Association of Zoological Parks and Aquariums; National Health and Human Services, Inc., Las Vegas, Nevada; and Ecology Center of Southern California, Los Angeles, California. Five individuals also supported the proposal.

Three organizations generally supported the proposal (Catskill Game Farm, Inc.; Mount Kenya Game Ranch, Nanyuki, Kenya; and Riverbanks Zoological Park, Columbia, South Carolina), but felt that some sort of measures should be adopted to ease restrictions on captive stocks so that captive propagation could be facilitated. Such measures have been adopted in the present rulemaking.

Four letters from two individuals and one organization (Basie Maartens Safari, Windhoek, South West Africa/Namibia) had reservations about Hartmann's mountain zebra while approving of, or not mentioning, the Grevy's zebra proposal. Basically the reservations on Hartmann's mountain zebra concerned the fact that the population of these species has remained stable since 1968, and that it is totally protected in game reserves covering large regions. In areas where Hartmann's mountain zebra occurs on private lands, the animals cause damage to fences and crops, and are generally unwanted. Ranchers,

however, tolerate and breed the zebras because government regulated hunting brings them revenue. The three respondents to the proposal expressed grave concern that a ban on import of sport-hunted trophies into the United States would remove this economic value and would lead the ranchers to destroy zebras on sight. This possible repercussion is addressed in the present rulemaking.

Safari Club International, in a letter dated February 14, 1978, endorsed the proposal to list Grevy's zebra as Endangered, but did not agree with the proposal on Hartmann's mountain zebra. This organization claimed that listing this zebra as Endangered would remove the primary incentive for conserving the animals by eliminating economic benefits to the ranchers of sport hunting. It further questioned the population estimates for this species used in our proposal; this has been corrected in the present rulemaking.

In a letter dated March 7, 1978, Safari Club International contacted the Service again and reported that new information had become available to it which indicated that the population of Grevy's zebra might be as high as 20,000 animals, and therefore, a Threatened rather than Endangered status might be more appropriate for the species. The Service has now obtained this new information from Kenya and it is discussed in detail below and in the "Summary of Factors Affecting the Species" section of this rulemaking.

The Service, at the time of the proposed rulemaking, contacted the countries in which these zebras are resident, and requested any data, views or comments on the proposed listing; only the Government of Kenya responded. That Government reported that it put the population of Grevy's zebra at 14,000 animals which indicated considerable potential for the species' conservation. However, Kenya cautioned that the rate of decline of this zebra over the past seven years is sufficient to demand strong conservation action; it recommended Endangered status for Grevy's zebra. The Service, however, is listing the species as Threatened for reasons outlined elsewhere in this rulemaking.

Only a single letter was received which was entirely negative to the proposed rulemaking. This letter, however, contained no data or pertinent comments and is not considered further in this rulemaking.

Section 4(a) of the Act states: "General.—(1) The Secretary shall by regulation determine whether any species is an endangered species or a

threatened species because of any of the following factors:

- (1) The present or threatened destruction, modification or curtailment of its habitat or range;
- (2) Overutilization for commercial, sporting, scientific or educational purposes;
- (3) Disease or predation;
- (4) The inadequacy of existing regulatory mechanisms; or
- (5) Other natural or manmade factors affecting its continued existence."

This authority has been delegated to the Director.

Summary of Factors Affecting the Species

Grevy's Zebra

With the Grevy's zebra, factors (2) and (4) above are operational, but the threat to the species is not as great as had been believed at the time of the proposal. The major factors that have moved the Service to designate this species as Threatened rather than Endangered are new and more accurate census data, and recent moves on the part of Kenya to conserve its game animals.

When the Service proposed Grevy's zebra as Endangered, it was believed that the species had been reduced through legal and illegal hunting for hides to less than 1,500 animals (Thornback and Burton, New Scientist, July 28, 1977). This estimate, however, was based on only minimal information. Recently, through a survey by the Kenya Rangeland Ecological Monitoring Unit (Aerial Survey Technical Report Series No. 4, February, 1978), it has been shown that the numbers of these zebras are actually in the neighborhood of some 13,718 individuals scattered thinly throughout the northeastern third of the country. This new and more accurate figure indicates considerable potential for the species' conservation. The Kenya Minister for Tourism and Wildlife, however, points out, in a February 28, 1978, press release, that while the number of Grevy's zebra is far greater than had been believed, there is still need for urgent action. He states that the Kenya Wildlife Planning Unit was able to show through a comparison of past and present figures from Samburu District, a key part of the Grevy's range, that the species had declined from 7000 in 1976 to 2,500 in 1977. The Kenya Minister of Tourism and Wildlife further states that: "While the remaining numbers give greater scope for conserving the species than was realized, there is little time left".

The second factor that leads the Service to believe that Grevy's zebra is Threatened rather than Endangered is that Kenya, now conscious of the plight of the species, is determined to institute conservation measures, and has banned sport hunting since May of 1977. One of the major purposes of this rulemaking is to provide assistance to Kenya in conserving the Grevy's zebra by assuring that illegally taken hides and other zebra products do not find a market in the United States.

Hartmann's Mountain Zebra

With regard to Hartmann's mountain zebra, the Service incorrectly cited Joubert (Modoqua, ser. 1, No. 7, p. 5, 1973) as stating that there were only 2000 animals in South West Africa/Namibia; actually, Joubert gave a population estimate of 7,000 as of 1967. The South West African/Namibian Director of Nature Conservation and Tourism (Communication dated July 26, 1977), estimates that there are 7000 Hartmann's mountain zebra in the country as of 1977. Therefore, the species has shown no decline in numbers during the past decade.

The Director of Nature Conservation and Tourism states that of the 7000 Hartmann's mountain zebra, 4200 are protected in game reserves; the remainder occur on privately owned ranches. These zebra would not be tolerated on the privately owned ranches if there were not incentive to keep them since they directly compete with cattle and sheep. Such an incentive is provided by sport hunting; other alternatives to relieve the population pressure have proved too costly to be practical.

Sport hunting of Hartmann's mountain zebra is controlled by the South West African/Namibian Government which issues a small number of permits to hunt a restricted number. The South West African/Namibian Government feels that if this zebra did not have an economic value to the ranchers, they would destroy them on sight; given, however, the economic value of the species, the ranchers themselves are protecting them.

The facts that (1) Hartmann's mountain zebra has maintained its population level over the past decade, and that (2) it is strictly protected by the South West African/Namibian Government, lead the Service to believe that an Endangered classification is not warranted. However, the numbers remaining are quite small (7,000 animals left from a population that once numbered between 50,000 and 75,000) and the political stability of the region is

uncertain. Therefore, the Service feels that a Threatened determination under the Act is justifiable.

Effects of the rulemaking

This rulemaking will prohibit the importation and other activities involving Grevy's zebra (live animals or parts and products) into the United States except under permit for scientific purposes, or the enhancement of propagation or survival, economic hardship, zoological exhibition, educational purposes, or special purposes consistent with the purposes of the Act (50 CFR 17.31(a), 17.32). Importation and other activities involving Hartmann's mountain zebra (live animals or parts and products) will be prohibited as with the Grevy's zebra

except importation of legally taken sport hunting trophies shall be allowed.

This rulemaking may also make funds and expertise available, if requested, to assist in conservation programs for both Hartmann's mountain zebra and Grevy's zebra. Under Section 7 of the Act, no Federal agency may authorize, fund, or carry out any action which would jeopardize the survival of either species.

Endangered Species Act Amendments of 1978

The Endangered Species Act Amendments of 1978 specify that the following be added at the end of subsection 9(a)(1) of the Endangered Species Act of 1973, as amended:

At the time any such regulation (any proposal to determine a species to be an Endangered or Threatened species) is

proposed, the Secretary shall by regulation, to the maximum extent prudent, specify any habitat of such species which is then considered to be critical habitat.

Since the two species under consideration in this rulemaking are foreign species no critical habitat designation is appropriate, and this amendment does not apply.

Dated: August 10, 1979.

Robert S. Cook,

Acting Director, Fish and Wildlife Service.

1. Accordingly, § 17.11 of Part 17 of Chapter I of Title 50 of the Code of Federal Regulations is amended by adding Grevy's zebra and Hartmann's mountain zebra alphabetically under "Mammals", as follows:

§ 17.11 [Amended]

* * * * *

Species		Range			Status	When listed	Special rules
Common name	Scientific name	Population	Known distribution	Portion endangered			
Mammals:							
Zebra, Grevy's	Equus grevyi	N/A	Kenya, Ethiopia, Somalia	Entire	T		
Zebra, Hartmann's mountain	Equus Zebra hartmannae	N/A	South West Africa/Namibia	Entire	T		

National Environmental Policy Act

An environmental assessment has been prepared and is on file in the Service's Washington Office of Endangered Species. It addresses this

action as it involves Grevy's zebra and Hartmann's mountain zebra. The assessment is the basis for a decision that issuance of these regulations is not a major Federal action which would significantly affect the quality of the

human environment within the meaning of Section 102(2)(C) of the National Environmental Policy Act of 1969.

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Tuesday
August 21, 1979

Part V

Environmental Protection Agency

Priority List and Additions
to the List of Categories of Stationary
Sources

federal register

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 60**

(FRL 1276-3)

Priority List and Additions to the List of Categories of Stationary Sources**AGENCY:** Environmental Protection Agency.**ACTION:** Final rule.

SUMMARY: This action contains EPA's promulgated list of major source categories for which standards of performance for new stationary sources are to be promulgated by August 1982. The Clean Air Act Amendments of 1977 specify that the Administrator publish a list of the categories of major stationary sources which have not been previously listed as source categories for which standards of performance will be established. The promulgated list implements the Clean Air Act and reflects the Administrator's determination that, based on preliminary assessments, emissions from the listed source categories contribute significantly to air pollution. The intended effect of this promulgation is to identify major source categories for which standards of performance are to be promulgated. The standards would apply only to new or modified stationary sources of air pollution.

EFFECTIVE DATE: August 21, 1979.

ADDRESSES: The background document for the promulgated priority list may be obtained from the U.S. EPA Library (MD-35), Research Triangle Park, North Carolina 27711, telephone number 919-541-2777. Please refer to "Revised Prioritized List of Source Categories for New Source Performance Standards," EPA-450/3-79-023. The prioritization methodology is explained in the background document for the proposed priority list. This document, "Priorities for New Source Performance Standards under the Clean Air Act Amendments of 1977," EPA-450/3-78-019, can also be obtained from the Research Triangle Park EPA Library. Copies of all comment letters received from interested persons participating in this rulemaking, a summary of these comments, and a summary of the September 29, 1978, public hearing are available for inspection and copying during normal business hours at EPA's Public Information Reference Unit, Room 2922 (EPA Library), 401 M Street, SW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Gary D. McCutchen, Emission Standards and Engineering Division (MD-13), Environmental Protection Agency, Research Triangle Park, N.C. 27711, telephone number (919) 541-5421.

SUPPLEMENTARY INFORMATION: On August 31, 1978 (43 FR 38872), EPA proposed a priority list of major source categories for which standards of performance would be promulgated by August 1982, and invited public comment on the list and the methodology used to prioritize the source categories. Promulgation of this list is required by section 111(f) of the Clean Air Act as amended August 7, 1977. The significant comments that were received during the public comment period, including those made at a September 29, 1978, public hearing, have been carefully reviewed and considered and, where determined by the Administrator to be appropriate, changes have been included in this notice of final rulemaking.

Background

The program to establish standards of performance for new stationary sources (also called New Source Performance Standards or NSPS) began on December 1970, when the Clean Air Act was signed into law. Authorized under section 111 of the Act, NSPS were to require the best control system (considering cost) for new facilities, and were intended to complement the other air quality management approaches authorized by the 1970 Act. A total of 27 source categories are regulated by NSPS, with NSPS for an additional 25 source categories under development.

During the 1977 hearings on the Clean Air Act, Congress received testimony on the need for more rapid development of NSPS. There was concern that not all sources which had the potential to endanger public health or welfare were controlled by NSPS and that the potential existed for "environmental blackmail" from source categories not subject to NSPS. These concerns were reflected in the Clean Air Act Amendments of 1977, specifically in section 111(f).

Section 111(f) requires that the Administrator publish a list of major stationary sources of air pollution not listed, as of August 7, 1977, under section 111(b)(1)(A), which in effect meant those sources for which NSPS had not yet been proposed or promulgated. Before promulgating this list, the Administrator was to provide notice of and opportunity for a public hearing and consult with Governors and State air pollution control agencies. In

developing priorities, section 111(f) specifies that the Administrator consider (1) the quantity of emissions from each source category, (2) the extent to which each pollutant endangers public health or welfare, and (3) the mobility and competitive nature of each stationary source category, e.g., the capability of a new or existing source to locate in areas with less stringent air pollution control regulations. Governors may at any time submit applications under section 111(g) to add major source categories to the list, add any source category to the list which may endanger public health or welfare, change the priority ranking, or revise promulgated NSPS.

Development of the Priority List

Development of the priority list was initiated by compiling data on a large number of source categories from literature resources. The data were first analyzed to determine major source categories, those categories for which an average size plant has the potential to emit 100 tons or more per year of any one pollutant. These major source categories were then subjected to a priority ranking procedure using the three criteria specified in section 111(f) of the Act.

The procedure used first ranks source categories on a pollutant by pollutant basis. This resulted in nine lists (one for each pollutant—volatile organic compounds (VOC), nitrogen oxides, particulate matter, sulfur dioxide, carbon monoxide, lead, fluorides, acid mist, and hydrogen sulfide) with each list ranked using the criteria in the Act. In this ranking, first priority was given to quantity of emissions, second priority to potential impact on health or welfare, and third priority to mobility. Thus, sources with the greatest growth rates and emission reduction potential were high on each list; sources with limited choice of location, low growth and small emission reduction potential were low on each list.

The nine lists were combined into one by selecting pollutant goals—a procedure which, in effect, assigned a relative priority to pollutants based upon the potential impact of NSPS. After the pollutant goals were selected, the final priority list was established through the selection of source categories which have maximum impact on attaining the selected goals. The effect of this procedure was to emphasize control of all criteria pollutants except carbon monoxide and to give carbon monoxide and non-criteria pollutants a lower priority.

In the background reports and in the preamble to the proposed priority list, the term "hydrocarbon" was used even though the emissions referred to were VOC which, unlike hydrocarbon compounds, can contain elements other than carbon and hydrogen. A VOC is defined by EPA as any organic compound that, when released to the atmosphere, can remain long enough to participate in photochemical reactions. Since VOC contribute to ambient levels of photochemical oxidants, they are considered a criteria pollutant.

The ranking of source categories on the list and the differentiation between major and minor sources was sensitive to the accuracy of the data utilized. The data base used to establish the priority list was obtained from a number of literature sources including EPA screening studies. However, screening studies were not available for all source categories. Therefore, if new information becomes available after promulgation of the list, the Administrator may delete from or add to the list in response to this new information.

Additional detail on the prioritization methodology, the input factors used, and the ranking of individual source categories is available in the two background documents (see "ADDRESSES").

Significance of Priority List

The promulgated list is essentially an advance notice of future standard development activity. It identifies major source categories and the approximate order in which NSPS development would be initiated. However, if further study indicates that an NSPS would have little or no effect on emissions, or that an NSPS would be impractical, a source category would be given a lower priority or removed from the list. Similarly, new information may increase the priority of a source category. The Administrator may also concurrently develop standards for sources which are not on the priority list, especially certain "minor" sources which, in aggregate, represent a large quantity of emissions.

The distinction between major and minor source categories is defined only for the purpose of determining NSPS priorities and should not be used to determine sources subject to New Source Review, which is conducted on a case-by-case basis. Moreover, some New Source Review programs, such as prevention of significant deterioration, have separate and distinct criteria for defining a major source (e.g., 100 tons per year potential for certain source types and 250 tons per year for others).

Identification of Source Categories

Two groups of sources in addition to minor sources are not included on the promulgated list. One group includes sources which could not be evaluated due to insufficient information. This lack of data suggests that these sources, which are identified in the background report, "Priorities for NSPS under the Clean Air Act of 1977," have not previously been regulated or studied and, therefore, are probably not major sources. Nevertheless, the Administrator will continue to investigate these sources and will consider development of NSPS for any which are identified as being significant sources of air pollution.

The second group of source categories not on the priority list consists of those listed under section 111(b)(1)(A) on or before August 7, 1977. These are:

Fossil-fuel-fired steam generators
Incinerators
Portland Cement Plants
Nitric Acid Plants
Sulfuric Acid Plants
Asphalt Concrete Plants
Petroleum Refineries
Storage Vessels for Petroleum Liquids
Secondary Lead Smelters
Secondary Brass and Bronze Ingot Production Plants
Iron and Steel Plants
Sewage Treatment Plants
Primary Copper Smelters
Primary Zinc Smelters
Primary Lead Smelters
Primary Aluminum Reduction Plants
Phosphate Fertilizer Industry: Wet Process
Phosphoric Acid Plants
Phosphate Fertilizer Industry:
Superphosphoric Acid Plants
Phosphate Fertilizer Industry: Diammonium Phosphate Plants
Phosphate Fertilizer Industry: Triple Superphosphate Plants
Phosphate Fertilizer Industry: Granular Triple Superphosphate Storage Facilities
Coal Preparation Plants
Ferroalloy Production Facilities
Steel Plants: Electric Arc Furnaces
Kraft Pulp Mills
Lime Plants
Grain Elevators

There are, however, some facilities (or subcategories) within these source categories for which NSPS have not been developed, but which may by themselves be significant sources of air pollution. A number of these facilities were evaluated as if they were separate source categories; three which rank high in priority are included on the promulgated list to indicate that the Administrator plans to develop standards for them: Petroleum refinery fugitive emissions, industrial fossil-fuel-fired steam generators, and non-municipal incinerators. In addition to these, the Administrator will continue to

evaluate affected facilities within listed source categories and may from time to time develop NSPS for such facilities. The iron and steel industry provides an example of a category which is already listed (so does not appear on the priority list), but in which an active interest remains. Although the growth rate for new sintering capacity is presently very low, the Administrator is continuing to assess emission control and measurement technology with a view toward possible development of an NSPS for sintering plants at a later date. A project is also underway to update emission factors for all steelmaking processes, including fugitive emissions, in an effort to determine the relative significance of emissions from each process. In addition, byproduct coke ovens, nearly always associated with steel mills, are included on the priority list and are undergoing standard development studies.

There are some differences between the format of the list in the background report, "Revised Prioritized List of Source Categories for NSPS Promulgation" and the format of the list which appears here. These differences are primarily a result of aggregation of subcategories which had been subdivided for size classification and priority ranking analysis. Non-metallic mineral processing, for example, had been subdivided into nine subcategories for prioritization, eight of which were analyzed separately (stone, sand and gravel, clay, gypsum lime, borax, fluorspar, and phosphate rock mining) and one of which is considered a minor source (mica mining). EPA plans to study the entire non-metallic mineral processing industry at one time, since many of the processes and control techniques are similar. For this reason, the industry is identified by a single aggregated listing. This does not necessarily imply that a single standard would apply to all sources within the listed category. Rather, as described below in the case of the synthetic organic chemical manufacturing industry, the nature and scope of standards will be determined only after a detailed study of sources within the category.

In addition to the major sources, three source categories not identified as being major source categories have been added to the list: organic solvent cleaning, industrial surface coating of metal furniture, and lead acid battery manufacture.

Organic solvent cleaning was chosen for study because this source category accounts for some 5 percent of stationary source VOC emissions.

typical air quality control region. Thus, although individual facilities typically emit less than 100 tons per year, this is a significant source of VOC emissions and the Administrator considers it prudent to continue the development of a standard for this source category.

The metal furniture coating industry is also a significant source of VOC emissions, and there are over 300 existing facilities with the potential to emit more than 100 tons per year.

Lead acid battery manufacture is a significant source of lead emissions. An NSPS for this source category is expected to assist in attainment of the National Ambient Air Quality Standard for lead.

Stationary gas turbines are included on this list because this source category had not been listed by August 7, 1977, when the Clean Air Act Amendments were enacted. However, this source category has not been prioritized, since it was listed under section 111(b)(1)(A) and NSPS were proposed October 3, 1977.

One listed source category which deserves special attention is the synthetic organic chemical manufacturing industry (SOCMI). Preliminary estimates indicate that there may be over 600 different processes included in this source category, but only 27 of these processes have been evaluated. For the others, there was not enough information available. As is the case with several other aggregated source categories, generic standards will be used to cover as many of the sources as possible, so separate NSPS for each of the 600 processes are unlikely.

Based on an effort which has been underway within EPA for two years to study this complex source category, the generic standards could regulate nearly all emissions by covering four broad areas: Process facilities, storage facilities, leakage, and transport and handling losses. Also, since a number of the pollutants emitted are potentially toxic or carcinogenic, regulation under section 112, National Emission Standards for Hazardous Air Pollutants (NESHAP), rather than NSPS may be more appropriate. Therefore, SOCMI is listed as a single source category. The 27 processes considered the most likely candidates for NSPS or NESHAP coverage through generic standards are listed in the preamble to the proposed priority list and discussed in the background documents.

Additional information has resulted in the exclusion from the list of some source categories which are shown in the background reports. Mixed fuel boilers and feed and grain milling are

regulated by the NSPS for fossil-fuel steam generators and grain elevators, respectively. Beer manufacture has a much lower emission level than had been assumed in the background report, and whiskey manufacture was deleted due to a lack of any demonstrated control technology.

Public Participation

The Clean Air Act requires that the Administrator, prior to promulgating this list of source categories, consult with Governors and State air pollution control agencies. An invitation was extended on February 28, 1978, to the State and Territorial Air Pollution Program Administrators (STAPPA) and the National Governors' Association (NGA) to attend the first Working Group meeting, March 16, 1978, and review the draft background report and the methods used to apply the priority criteria. On March 24, 1978, each Governor and the director of each State air pollution control agency was notified by letter of this project, including an invitation to participate or comment:

(1) At the April 5-6, 1978, National Air Pollution Control Techniques Advisory Committee (NAPCTAC) meeting in Alexandria, Virginia;

(2) When the final background report was mailed to them;

(3) When the list was proposed in the Federal Register; or

(4) At a public hearing to be held on the proposed list. The draft background report for the proposed list was mailed to all NAPCTAC members, five of which represent State or local agencies, two of which represent environmental groups, and eight of which represent industry. Copies were mailed to six environmental groups and three consumer groups at the same time, and to a representative of the NGA. Copies of the final background report for the proposed list were sent to the Governors, State and local air pollution control agencies, NAPCTAC members, environmental groups, the NGA, and other requesters in July 1978.

The public comment period on the proposed list, published in the August 31, 1978, Federal Register, extended through October 30, 1978. There were 18 comment letters received, 10 from industry and 8 from various regulatory agencies. Several comments resulted in changes to the proposed priority list.

A public hearing was held on September 29, 1978, to discuss the proposed priority list in accordance with section 111(g)(8) of the Clean Air Act. There were no written comments and only one verbal statement resulting from the public hearing.

Significant Comments and Changes to the Proposed Priority List

As a result of public comments and the availability of new screening studies and reports, 34 major and 11 minor source category data sets were reevaluated. This reexamination resulted in data changes for 29 major and 9 minor source categories.

Ten source categories have been removed from the proposed priority list. Eight of these source category deletions are a result of new data indicating that NSPS would have little or no effect. These source categories are: Varnish, carbon black, explosives, acid sulfite wood pulping, NSSC wood pulping, gasoline additives manufacturing, alfalfa dehydrating, and hydrofluoric acid manufacturing. Printing ink manufacturing was reclassified from a major to a minor source category. In addition, two source categories, gray iron and steel foundries, were combined into one source category. Finally, fuel conversion was removed from the list due to uncertainties regarding the approach and scheduled involved in developing environmental standards for the various processes. Likely candidates for NSPS include coal gasification (both low and high pressure), coal liquefaction, and oil shale and tar sand processing. These actions reduce the final priority list to 59 source categories.

The most significant comments and changes made to the proposed regulations are discussed below:

1. *Definition of "Mobility."* Several commenters felt that the treatment of source category mobility (movability) was too broad. Mobility in the prioritization analysis refers to the feasibility a stationary source has to relocate to, or locate new facilities in, areas with less stringent air pollution control regulations. Non-movable stationary source categories were identified on the basis of being firmly tied either to the market (e.g., dry cleaners) or to a supply of materials (e.g., mining operations). The Administrator recognizes that there are many other factors which would be considered in plant siting situations, but considers the approach used in determining the priority list sufficient for the purposes of this study.

2. *Source Category Aggregation.* Several commenters indicated that there were discrepancies between the source categories named in the priority list and those in the background document. The differences between the priority listing in the Federal Register and the background document list is a result of aggregation of sources which had been

subcategorized for size classification and priority ranking analysis in the background document. Aggregation indicates that all source categories under a generic industry heading, such as non-metallic mineral processing, will be evaluated at the same time, although this does not necessarily imply that a single standard would apply to all sources within the listed category.

3. *Control Costs.* Two commenters felt that the cost of pollution control to meet NSPS limitations should have been included in the criteria for prioritization. The Clean Air Act priority list criteria do not include the cost of pollution control, but pollution control costs were considered during the determination of control technology assumed for the priority list study. Control costs are examined in more detail during NSPS development studies for each source category, and must be considered in determining each NSPS.

4. *Minor Source Categories.* One commenter felt that the Administrator lacks statutory authority to make a policy decision to develop NSPS for a minor source category until after the major sources have been dealt with, since Congress indicated major sources must be given priority. The Administrator, in promulgating this list, is placing an almost exclusive emphasis on NSPS for major source categories. However, the Clean Air Act does not prohibit concurrent promulgation of NSPS for minor, but significant, source categories. For the three minor source categories listed in this regulation, NSPS development had been initiated before the priority list was available, and completion of standards development for these sources is considered justified.

5. *Stationary Fuel Combustion/Waste Incineration.* Two State agencies felt that stationary fuel combustion and waste incineration should have a high priority because of source activity growth in their respective States. In the promulgated list, both of these source categories are given high priority based on the most recent growth rates available. Given the concern expressed by these agencies, the Administrator has already initiated standard development studies for these source categories.

6. *Chemical Products Manufacture/Fuel Conversion.* One commenter felt that the growth rate and, therefore, the need for coal gasification plant NSPS is overestimated. High Btu coal gasification was reexamined; although no commercial-scale plants currently exist in this country, environmental programs need to keep pace with the emphasis on energy programs. The fuel conversion processes have been

removed from the priority list for special study.

7. *Chemical Products Manufacture/Printing Ink Manufacture.* One commenter indicated that neither existing conditions within the printing ink industry nor projections of future growth of the industry justify its categorization as a major source. The Administrator has examined the new data provided, and has reclassified printing ink manufacturing plants as a minor source category. As was discussed earlier, however, the Administrator may still develop standards for "minor" source categories, especially those which, in aggregate, represent a significant quantity of emissions.

8. *Wood Processing/NSSC and Acid Sulfite Pulping.* One commenter indicated that acid sulfite pulp production is a declining growth industry and therefore should not be included in the priority list. The Administrator agrees with this comment, based on examination of acid sulfite pulp production projections in a new screening study. In addition, the screening study indicates that NSSC pulping is, in effect, controlled by the promulgated NSPS for Kraft pulp mills, resulting in little or no further emission reduction from promulgation of an NSSC NSPS. Therefore, both acid sulfite and NSSC pulping have been removed from the list.

Development of Standards

The Administrator has undertaken a program to promulgate NSPS for the source categories on this priority list by August 7, 1982. Development of standards has already been initiated for nearly two-thirds of the source categories listed; work on the remaining source categories will be initiated within the next year.

The priority ranking is indicated by the number to the left of each source category and will be used to decide the order in which new projects are initiated, although this is not necessarily an indication of the order in which projects will be completed. In fact, higher priority source categories often present difficult technical and regulatory problems, and may be among the later source categories for which standards are promulgated.

It should be pointed out that several of the source categories listed could be subject to standards which may be adopted under section 112 of the Clean Air Act, national emission standards for hazardous air pollutants (NESHAP). Included are byproduct coke ovens and several source categories within the

petroleum transport and marketing industry. If standards are developed under section 112 for these or any other source categories on the promulgated list, then standards may not be developed for those source categories under section 111.

Promulgation of this list not only fulfills the section 111(f) requirements concerning establishment of priorities, but also constitutes notice that all source categories on the priority list are considered significant sources of air pollution and are hereby listed in accordance with section 111(b)(1)(A). It should be noted, however, that the source categories identified on this priority list, even though listed in accordance with section 111(b)(1)(A), are not subject to the provisions of section 111(b)(1)(B), which would require proposal of an NSPS for each listed source category within 120 days of adoption of the list. Rather, the promulgation of standards for sources contained on this priority list will be undertaken in accordance with the time schedule prescribed in section 111(f)(1) of the Clean Air Act Amendments. That is, NSPS for 25 percent of these source categories are to be promulgated by August 1980, 75 percent by August 1981, and all of the NSPS by August 1982.

Dated: August 15, 1979.

Douglas M. Costle,
Administrator.

Part 60 of Chapter I of Title 40 of the Code of Federal Regulations is amended by adding § 60.16 to Subpart A as follows:

§ 60.16 Priority list.

Prioritized Major Source Categories

Priority Number*

Source Category

1. Synthetic Organic Chemical Manufacturing
 - (a) Unit processes
 - (b) Storage and handling equipment
 - (c) Fugitive emission sources
 - (d) Secondary sources
2. Industrial Surface Coating: Cans
3. Petroleum Refineries: Fugitive Sources
4. Industrial Surface Coating: Paper
5. Dry Cleaning
 - (a) Perchloroethylene
 - (b) Petroleum solvent
6. Graphic Arts
7. Polymers and Resins: Acrylic Resins
8. Mineral Wool
9. Stationary Internal Combustion Engines
10. Industrial Surface Coating: Fabric
11. Fossil-Fuel-Fired Steam Generators: Industrial Boilers
12. Incineration: Non-Municipal
13. Non-Metallic Mineral Processing
14. Metallic Mineral Processing

* Low numbers have highest priority; e.g., No. 1 is high priority, No. 59 is low priority.

15. Secondary Copper
16. Phosphate Rock Preparation
17. Foundries: Steel and Gray Iron
18. Polymers and Resins: Polyethylene
19. Charcoal Production
20. Synthetic Rubber
 - (a) Tire manufacture
 - (b) SBR production
21. Vegetable Oil
22. Industrial Surface Coating: Metal Coil
23. Petroleum Transportation and Marketing
24. By-Product Coke Ovens
25. Synthetic Fibers
26. Plywood Manufacture
27. Industrial Surface Coating: Automobiles
28. Industrial Surface Coating: Large Appliances
29. Crude Oil and Natural Gas Production
30. Secondary Aluminum
31. Potash
32. Sintering: Clay and Fly Ash
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36. Secondary Zinc
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38. Polymers and Resins: Urea—Melamine
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41. Polymers and Resins: ABS—SAN Resins
42. Fiberglass
43. Polymers and Resins: Polypropylene
44. Textile Processing
45. Asphalt Roofing Plants
46. Brick and Related Clay Products
47. Ceramic Clay Manufacturing
48. Ammonium Nitrate Fertilizer
49. Castable Refractories
50. Borax and Boric Acid
51. Polymers and Resins: Polyester Resins
52. Ammonium Sulfate
53. Starch
54. Perlite
55. Phosphoric Acid: Thermal Process
56. Uranium Refining
57. Animal Feed Defluorination
58. Urea (for fertilizer and polymers)
59. Detergent

Other Source Categories

Lead acid battery manufacture**
 Organic solvent cleaning**
 Industrial surface coating: metal furniture**
 Stationary gas turbines***
 (Sec. 111, 301(a), Clean Air Act as amended
 (42 U.S.C. 7411, 7601))
 [FR Doc. 79-25856 Filed 8-20-79; 8:45 am]
BILLING CODE 6560-01-M

** Minor source category, but included on list since an NSPS is being developed for that source category.

*** Not prioritized, since an NSPS for this major source category has already been proposed.

Tuesday
August 21, 1979

Part VI

**Office of
Management and
Budget**

Budget Deferrals and Rescissions

federal register

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OFFICE OF MANAGEMENT AND BUDGET

Budget Deferrals and Rescissions

To The Congress of the United States:

In accordance with the Impoundment Control Act of 1974, I herewith report four new deferrals of budget authority totalling \$204.5 million. These items involve economic support fund assistance for Egypt, the White House Conference on Aging, the National Alcohol Fuels Commission, and the National Commission on the International Year of the Child.

The details of the deferrals are contained in the attached reports.

Jimmy Carter.

The White House, August 16, 1979.

BILLING CODE 3110-01-M

CONTENTS OF SPECIAL MESSAGE
(in thousands of dollars)

Deferral No.	Item	Budget Authority
	Funds Appropriated to the President:	
D79-59	International Security Assistance Economic Support Fund.....	200,000
	Department of Health, Education and Welfare:	
D79-60	Human Development Services White House Conference on Aging.....	2,700
	Other Independent Agencies:	
D79-61	National Alcohol Fuels Commission.....	1,350
D79-62	National Commission on the International Year of the Child.....	485
	Total, deferrals....	204,535

SUMMARY OF SPECIAL MESSAGES
FOR FY 1979
(in thousands of dollars)

	Rescissions	Deferrals
Eleventh special message:		
New items.....	---	204,535
Effect of eleventh special message.....	---	204,535
Previous special messages.....	908,692	4,380,010
Total amount proposed in special messages.....	908,692	4,584,545 ^{1/}
	(in 11 rescission proposals)	(in 62 deferrals)

^{1/} This amount represents budget authority except for \$15,809,478 in two Treasury Department deferrals of outlays only (D79-40A and D79-25B).

Deferral No: D79-59

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency Funds Appropriated to the President	New budget authority (P.L. 96-38)	\$ 300,000,000
Bureau International Security Assistance	Other budgetary resources	2,021,158,000
Appropriation title & symbol	Total budgetary resources	2,321,158,000
Economic Support Fund 11X1037	Amount to be deferred: Part of year	\$ ---
	Entire year	200,000,000
OMB identification code: 11-1006-0-1-151	Legal authority (in addition to sec. 1013): ☒ Antideficiency Act	
Grant program ☐ Yes ☒ No	☐ Other	
Type of account or fund: ☐ Annual ☐ Multiple-year (expiration date) ☒ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other	

Justification:

Pursuant to the Foreign Assistance Act of 1961, as amended, the President is authorized to "furnish assistance to friendly countries.... on such terms as he may determine, in order to support or promote economic or political stability."

The Supplemental Appropriations Act, 1979, (P.L. 96-38) provided \$300 million in economic assistance for Egypt as part of a package in support of the Treaty of Peace between Egypt and Israel. As presented to the Congress in testimony on the peace package, the special assistance for Egypt would be programmed for delivery over a three-year period. Thus, the \$300 million will be obligated in equal annual installments of \$100 million through FY 1981. Accordingly, \$200 million is deferred for the remainder of FY 1979.

This deferral action is taken in accordance with the Antideficiency Act (31 U.S.C. 665).

Estimated Effects:

This deferral will have no budgetary or programmatic impact.

Outlay Effects:

There is no outlay effect resulting from this deferral.

Deferral No: D79-60

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency Department of Health, Education & Welfare	New budget authority (P.L. 96-38)	\$ 3,000,000
Bureau Human Development Services	Other budgetary resources	---
Appropriation title & symbol	Total budgetary resources	3,000,000
75X1636 - Human Development Services (White House Conference on Aging)	Amount to be deferred: Part of year	\$ ---
	Entire year	2,700,000
OMB identification code: 75-1636-0-1-500	Legal authority (in addition to sec. 1013): ☒ Antideficiency Act	
Grant program ☐ Yes ☒ No	☐ Other	
Type of account or fund: ☐ Annual ☐ Multiple-year (expiration date) ☒ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other	

Justification: The 1981 White House Conference on Aging Act (P.L. 95-478) was enacted on October 18, 1978, authorizing the President to call a conference in 1981 for the purpose of developing recommendations for a comprehensive national policy on aging. The conference is scheduled to be held in December, 1981. Public Law 96-38, the Supplemental Appropriations Act, 1979, enacted on July 25, 1979, included a supplemental appropriation of \$3,000,000 which is to remain available until expended for the White House Conference on Aging. These funds are intended to cover the entire costs of planning and carrying out the conference through 1981. Start-up costs of the conference during the remainder of FY 1979 are estimated to be \$300,000, with the remaining \$2.7 million deferred for obligation in subsequent years.

This deferral action is taken in accordance with the Antideficiency Act (31 U.S.C. 665).

Estimated Effects: There is no programmatic or budgetary effect resulting from this deferral.

Outlay Effect: There is no outlay effect resulting from this deferral.

Deferral No: D79-61

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency National Alcohol Fuels Commission	New budget authority (P.L. 96-38)	\$ 1,500,000
Bureau	Other budgetary resources	---
Appropriation title & symbol Salaries and expenses 48X1700	Total budgetary resources	1,500,000
	Amount to be deferred: Part of year	\$ ---
	Entire year	1,350,000
OMB identification code: 48-1700-0-1-271	Legal authority (in addition to sec. 1013): ☒ Antideficiency Act	
Grant program ☐ Yes ☒ No	☐ Other	
Type of account or fund: ☐ Annual ☐ Multiple-year (expiration date) ☒ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other	

Justification: Authorized by P.L. 95-599, the Federal-Aid Highway Act of 1978, the National Alcohol Fuels Commission will undertake a thorough investigation of the long and short-term potential of alcohol fuels from various sources as a way to meet the nation's energy needs. The Commission will recommend policies and assess the associated costs and benefits of these policies.

The Supplemental Appropriations Act, 1979 (P.L. 96-38) provided \$1.5 million to establish the Commission and begin its operations. Of this amount, only \$150,000 is necessary for obligation in FY 1979 to establish the Commission. Therefore, \$1,350,000 is deferred for the remainder of this fiscal year.

This deferral action is taken in accordance with the Antideficiency Act (31 U.S.C. 665).

Estimated Effects: This deferral will have no budgetary or programmatic impact.

Outlay Effects: There is no outlay effect resulting from this deferral.

Deferral No: D79-62

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency National Commission on the International Year of the Child	New budget authority (P.L. 96-38)	\$ 685,000
Bureau	Other budgetary resources	---
Appropriation title & symbol Salaries and Expenses 48X2000	Total budgetary resources	685,000
	Amount to be deferred: Part of year	\$ ---
	Entire year	\$485,000
OMB identification code: 48-2000-0-1-506	Legal authority (in addition to sec. 1013): ☒ Antideficiency Act	
Grant program ☐ Yes ☒ No	☐ Other	
Type of account or fund: ☐ Annual ☐ Multiple-year (expiration date) ☒ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other	

The National Commission on the International Year of the Child is authorized by the Education Amendments of 1978 (P.L. 95-561) to promote in the United States the observance of the International Year of the Child (calendar year 1979).

The Supplemental Appropriations Act, 1979 (P.L. 96-38), enacted on July 25, 1979, appropriated \$685,000 to remain available until expended for the salaries and expenses of the Commission. Of this amount, \$200,000 will be needed by the Commission in FY 1979. The remaining \$485,000 will be needed to support Commission activities in the first two quarters of 1980, at the end of which the Commission expires. This obligation pattern is in keeping with the intent of Congress as expressed in Senate Report No. 96-224 accompanying the Supplemental Appropriations Act, 1979.

This deferral action is taken in accordance with the Antideficiency Act (31 U.S.C. 665).

Estimated Effects:

There is no programmatic or budgetary effect resulting from this deferral.

Outlay Effect:

There is no outlay effect resulting from this deferral.

Reader Aids

Federal Register
Vol. 44, No. 163
Tuesday, August 21, 1979

INFORMATION AND ASSISTANCE

Questions and requests for specific information may be directed to the following numbers. General inquiries may be made by dialing 202-523-5240.

Federal Register, Daily Issue:

- 202-783-3238 Subscription orders (GPO)
- 202-275-3054 Subscription problems (GPO)
- "Dial-a-Reg" (recorded summary of highlighted documents appearing in next day's issue):
 - 202-523-5022 Washington, D.C.
 - 312-063-0884 Chicago, Ill.
 - 213-688-6694 Los Angeles, Calif.
- 202-523-3187 Scheduling of documents for publication
- 523-5240 Photo copies of documents appearing in the Federal Register
- 523-5237 Corrections
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- 523-5227 Finding Aids
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- 523-3419
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Presidential Documents:

- 523-5233 Executive Orders and Proclamations
- 523-5235 Public Papers of the Presidents, and Weekly Compilation of Presidential Documents

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- 523-5266 Public Law Numbers and Dates, Slip Laws, U.S.
- 5282 Statutes at Large, and Index
- 275-3030 Slip Law Orders (GPO)

Other Publications and Services:

- 523-5239 TTY for the Deaf
- 523-5230 U.S. Government Manual
- 523-3408 Automation
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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY*	USDA/ASCS		DOT/SECRETARY*	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/FHWA	USDA/FSQS		DOT/FHWA	USDA/FSQS
DOT/FRA	USDA/REA		DOT/FRA	USDA/REA
DOT/NHTSA	MSPB/OPM		DOT/NHTSA	MSPB/OPM
DOT/RSPA	LABOR		DOT/RSPA	LABOR
DOT/SLS	HEW/FDA		DOT/SLS	HEW/FDA
DOT/UMTA			DOT/UMTA	
CSA			CSA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

*NOTE: As of July 2, 1979, all agencies in the Department of Transportation, will publish on the Monday/Thursday schedule.

REMINDERS**Rules Going Into Effect Today**

Note: There were no items eligible for inclusion in the list of Rules Going Into Effect Today.

List of Public Laws

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's List of Public Laws.

Last Listing August 17, 1979.

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(Revised as of January 1, 1979)

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Wednesday
August 22, 1979

Investment Reporter

Highlights

- 49235 Women's Equality Day** Presidential proclamation
- 49237 Economic Opportunity Act** Presidential proclamation on fifteenth anniversary of its signing
- 49406 Securities** SEC adopts a new rule and schedule relating to tender and exchange offers; effective 9-21-79 (Part III of this issue)
- 49241 Banking** FHLBB promulgates rules on mergers and consolidations; effective 9-30-79
- 49275 Income Taxes** Treasury IRS announces public hearing on 10-9-79 on proposed regulations relating to exemption for certain amateur athletic organizations; outlines of oral comments by 9-24-79
- 49287 Air Carriers** CAB institutes informal nonpublic investigation of airline reservations, bumping, and compensation action during the grounding of the DC-10 aircraft
- 49239 Aliens** Justice/INS establishes application to accept or continue employment by A-1 and A-2 nonimmigrants; effective 9-21-79
- 49288 Skateboards** CPSC provides a notice of denial of petition

CONTINUED INSIDE



FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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There are no restrictions on the republication of material appearing in the **Federal Register**.

Area Code 202-523-5240

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- 49245 Customs Duties** Treasury/Customs amends procedures relating to the entry of merchandise; effective 8-22-79
- 49239 Freedom of Information** Agriculture/SEA provides revised regulations on availability of public records; effective 9-21-79
- 49275 Clean Water** EPA proposes to allow citizen intervention in enforcement actions under various programs; comments by 10-9-79
- 49271 Conservation of Water, Land, and Wildlife Resources** USDA proposes criteria for exemption of certain Federal and State cost-sharing payments from income tax obligations; comments by 9-21-79
- 49279 Railroads: Movement of Containerized Freight** ICC proposes rule changes for trailer and container on flatcar (TOFC/COFC) service; comments by 10-22-79
- 49276 Pesticides** EPA proposes rule on tolerances and exemptions from tolerances for pesticide chemicals in or on raw agricultural commodities; comments by 9-21-79
- 49249 Pesticides** EPA renews temporary tolerances for profenofos
- 49249 Pesticides** EPA issues rule renewing a feed additive regulation related to experimental use of profenofos; effective 8-22-79
- 49277, 49278 Hazardous Waste** EPA solicits further comments on additional proposed information on hazardous waste; comments by 10-9-79 (2 documents)
- 49402 Hazardous Material** EPA intends to add approximately forty-five wastes to the proposed list; comments by 10-12-79 (Part II of this issue)
- 49303 Water Pollution** EPA grants class deviations relating to industrial cost recovery under the treatment works construction grants program
- 49248 Tomato Products from Europe** Treasury/Customs announces final countervailing duty determination; effective 8-22-79
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Federal Register
Vol. 44, No. 164
Wednesday, August 22, 1979

Presidential Documents

Title 3—

The President

Proclamation 4674 of August 20, 1979

Women's Equality Day, 1979

By the President of the United States of America

A Proclamation

On August 26, 1920, fifty-nine years ago, the 19th Amendment became a part of the United States Constitution, guaranteeing women the right to vote.

As we celebrate the anniversary of that victory for all Americans, we applaud the courage of the women and men who struggled for generations to achieve it. But the 19th Amendment was only one step on the long journey toward full equality for women.

Through persistent and dedicated effort, women have made great strides toward achieving that equality in recent years. But the need for the Equal Rights Amendment is still compelling. Today, I reiterate my continued commitment to make the ERA a part of our Constitution.

The ERA does not legislate that men and women are the same. It simply says that the law cannot penalize women because they are female. Nor does the ERA impose new, unwanted roles on women. Rather, it safeguards their opportunity to develop their full potential in the directions they choose. As women are freed from arbitrary barriers and stereotypes, men are liberated as well.

When passed, the ERA will provide a single, clear, comprehensive standard against which discrimination can be measured. Legal equality for women must be made a part of the Constitution.

The ERA is not a recent idea. It was first introduced in Congress in 1923. After lengthy and careful debate, Congress submitted it to the States for ratification on March 22, 1972. Now all but three of the necessary thirty-eight states have ratified it. The deadline is June 30, 1982.

The ratification of the ERA may be the single most important step in assuring American women their full equality. Gaining ratification in the remaining states will not be easy—but it will mean our country can tap the full resources and abilities of all its citizens.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, do hereby proclaim August 26, 1979, as Women's Equality Day and do hereby urge all Americans to work to guarantee full equality for women before the 1982 deadline.

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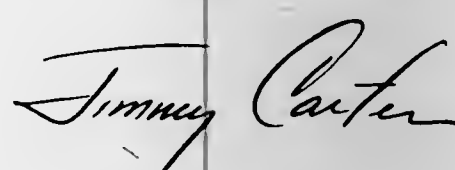
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I hope that, as a part of future celebrations for Women's Equality Day, we can celebrate the passage of the 19th Amendment and the passage of the Equal Rights Amendment.

IN WITNESS WHEREOF, I have hereunto set my hand this twentieth day of August, in the year of our Lord nineteen hundred seventy-nine, and of the Independence of the United States of America the two hundred and fourth.



[FR Doc. 79-26243
Filed 8-20-79; 4:45 pm]
Billing code 3195-01-M

Presidential Documents

Proclamation 4675 of August 20, 1979

Fifteenth Anniversary of the Signing of the Economic Opportunity Act

By the President of the United States of America

A Proclamation

On August 20, 1964, our Nation embarked upon its most altruistic enterprise since the Marshall Plan. President Lyndon B. Johnson signed into law an Act "to mobilize the human and financial resources of the Nation to combat poverty in the United States."

The ideal envisioned in the Economic Opportunity Act of 1964 was a Nation in which "every individual has the opportunity to contribute to the full extent of his capabilities and to participate in the workings of our society."

The proud litany of bold innovations which this legislation introduced into the Nation's vocabulary included Community Action, Head Start, Job Corps, Legal Services, VISTA, New Careers, Foster Grandparents, Upward Bound, Follow Through, Emergency Food and Medical Services, and Senior Opportunities and Services.

The experimental concepts tested in these many programs have long since left the laboratory. Along the way, we have made some important discoveries—about poverty, about ourselves and about our country. We have learned from these programs that poverty is not an isolated problem that can be overcome without changes in the larger economy. We have learned that the poor of America are by no means alone in their deep-seated desire for institutional change; in their desire for government responsiveness at all levels; in their desire for opportunities for genuine participation as members of our society. We have discovered along the way that poor and non-poor alike long for a sense of community, a share in decision-making, a feeling that the individual can be heard—in the councils of government, in corporate meetings, and in the marketplace.

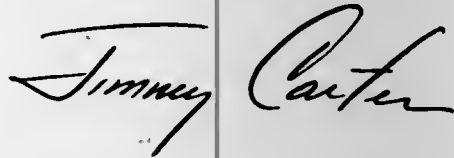
All Americans should have learned in these 15 tumultuous years that changing circumstances may place any one of us in the path of common enemies: obsolete skills in an age of technological revolution; the danger of disability through injury or disease in a hazardous environment; mutual vulnerability to shrinking energy, housing, and food resources. All of us have learned that our country cannot afford to allow differences—in income, in social status, in geography, in age, in intellect or health, in color, accent, or religion—to divide and polarize us.

This generation has learned also that poverty is not a question of income alone—we can be energy-poor, even though wealthy as a Nation; we can be spiritually impoverished, even when we are materially satiated.

Let us take this occasion, then, to rededicate ourselves and our country to the ideals of the Economic Opportunity Act with a renewed commitment to our Nation's goal of securing the opportunity for every individual to "attain the skills, knowledge, and motivations . . . to become fully self-sufficient."

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, do hereby proclaim and designate the next 12 months as a year of rekindled effort to open to everyone in our land "the opportunity to live in decency and dignity."

IN WITNESS WHEREOF, I have hereunto set my hand this twentieth day of August, in the year of our Lord nineteen hundred seventy-nine, and of the Independence of the United States of America, the two hundred and fourth.



[FR Doc. 79-26244
Filed 8-20-79; 4:48 pm]
Billing code 3195-01-M

Rules and Regulations

Federal Register

Vol. 44, No. 164

Wednesday, August 22, 1979

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510. The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Science and Education Administration¹

7 CFR Part 510

Public Information

AGENCY: Science and Education Administration.

ACTION: Final rule.

SUMMARY: This amendment revises the regulations on how the Science and Education Administration will make available to the public the records of the Department of Agriculture according to the Freedom of Information Act.

EFFECTIVE DATE: September 21, 1979.

FOR FURTHER INFORMATION CONTACT: Robert M. Nelson, FOIA Coordinator, USDA-SEA-Information Staff, Room 3143, South Building, 14th and Independence Ave., S.W., Washington, D.C. 20250. Telephone: (202) 447-2076.

SUPPLEMENTARY INFORMATION: The regulations on the availability of records maintained by the Science and Education Administration, 7 CFR Part 510, are revised to read as follows:

PART 510—PUBLIC INFORMATION

- Sec.
- 510.1 General Statement.
 - 510.2 Public Inspection and Copying.
 - 510.3 Indexes.
 - 510.4 Requests for Records.
 - 510.5 Appeals.

Authority.—5 U.S.C. 301.552; 7 CFR 1.1-1.16.

§ 510.1 General Statement.

This part is issued according to the regulations of the Secretary of

¹ 7 CFR Chapter V is currently designated Agricultural Research Service. A document in a future Federal Register will redesignate this Chapter Science and Education Administration.

Agriculture in Part 1, Subpart A of Subtitle A of this title (7 CFR 1.1-1.16), implementing the Freedom of Information Act (5 U.S.C. 552) including Appendix A thereto (Fee Schedule). The Secretary's regulations, as implemented by the regulations in this part, govern the availability of records of the Science and Education Administration to the public.

§ 510.2 Public Inspection and Copying.

5 U.S.C. 552(a)(2) requires that certain materials be made available for public inspection and copying. Members of the public may request access to such materials maintained by Science and Education Administration at five offices—one national office and four regional offices.

Information Staff, Room 3143, South Building, 14th and Independence Ave., S.W., Science and Education Administration, U.S. Department of Agriculture, Washington, D.C. 20250. Office hours: 8:30 a.m. to 5 p.m.

Regional Information Office, USDA-SEA-AR Northeastern Region, Room 251, Building 003, Beltsville, Agricultural Research Center-West, Beltsville, Maryland 20705. Office hours: 8 a.m. to 4:30 p.m.

Regional Information Office, USDA-SEA-AR North Central Region, 2000 W. Pioneer Parkway, Peoria, Illinois 61615. Office hours: 8 a.m. to 4:30 p.m.

Regional Information Office, USDA-SEA-AR Southern Region, 701 Loyola Avenue, P.O. Box 53328, New Orleans, Louisiana 70153. Office hours: 8 a.m. to 4:30 p.m.

Regional Information Office, USDA-SEA-AR Western Region, 1333 Broadway, Suite 400, Oakland, California 94612. Office hours: 7:30 a.m. to 4 p.m.

§ 510.3 Indexes.

In compliance with 5 U.S.C. 552(a)(2) the most current issues of the agency's indexes will be made available for public inspection and copying at the five locations cited in 510.2. Single copies may be obtained free by visiting, telephoning, or writing to these locations. Extra copies may be procured at a cost not to exceed the direct cost of duplication from the Administrative Operations Division, Room 203A, National Agricultural Library Building, Beltsville, Maryland 20705.

§ 510.4 Requests for Records.

Requests for records under 5 U.S.C. 552(a)(3) shall be made according to 7 CFR 1.3(a) and addressed to one of the five offices listed in 510.2 The SEA FOIA Coordinator and the Regional

Information Officers are hereby delegated authority to make determinations regarding such requests according to 7 CFR 1.4(c).

§ 510.5 Appeals.

Any person whose request under 510.4 is denied shall have the right to appeal such denial. Appeals shall be submitted according to 7 CFR 1.3(e) and addressed to Director, Science and Education Administration, U.S. Department of Agriculture, Washington, D.C. 20250.

Done at Washington, D.C. this 15th day of August 1979.

Anson R. Bertrand,
Director, Science and Education.

[FR Doc. 79-25987 Filed 8-21-79; 8:45 am]
BILLING CODE 3410-03-M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 214

Application To Accept or Continue Employment by A-1 and A-2 Nonimmigrants

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This final rule amends the regulations of the Immigration and Naturalization Service to establish a formal procedure under which the spouses and unmarried dependent sons and unmarried dependent daughters of aliens classified as A-1 and A-2 nonimmigrants and serving as officers or employees of diplomatic or consular establishments may apply for permission to accept or continue employment.

Currently, spouses and dependents of these nonimmigrants apply under an informal procedure to the Office of Protocol of the Department of State for permission to accept or continue employment.

These regulations are necessary because section 401(a) of the Foreign Relations Authorization Act of 1979 provides that the President shall seek to conclude bilateral and multilateral agreements with foreign countries to facilitate the expansion of employment opportunities for family members of U.S. Government personnel stationed

abroad. Thus, under this statutory provision, permission to work which is granted under this regulation must be on a basis of reciprocity. Eligibility for employment under this regulation will extend to family members of foreign diplomatic and consular officials stationed in this country whose governments extend similar employment opportunities to members of families of United States diplomatic and consular officials.

The rule is intended to incorporate existing informal procedures into the regulations, and to ensure compliance with the employment reciprocity requirement of section 401(a) of the Foreign Relations Authorization Act of 1979.

EFFECTIVE DATE: September 21, 1979.

FOR FURTHER INFORMATION CONTACT:

James G. Hoofnagle, Jr., Instructions Officer, Immigration and Naturalization Service. Telephone: (202) 633-3048; or Joseph F. Fagan, Visa Office, Department of State. Telephone: (202) 632-2903.

SUPPLEMENTARY INFORMATION: On January 29, 1979, the Service published a Notice of Proposed Rulemaking in the Federal Register in which it was proposed to set forth formal regulations for the employment of spouses and unmarried dependent sons and daughters of aliens classified as A-1 and A-2 nonimmigrants serving in the United States as officers or employees of diplomatic or consular establishments. See 44 FR 5669. The Assistant Secretary of State for Consular Affairs concurred in the proposed rule.

In response to our notice, we received representations from the Embassy of Great Britain, the Embassy of Canada, the Embassy of Switzerland, and the Association of American Foreign Service Women. These representations have been carefully considered by this Service and by the Department of State. The pertinent objections raised, along with our responses, are discussed below.

Virtually all of the objections raised in the Embassies' representations concerned the restricted applicability of the proposed rule, both with regard to the classes of aliens who would be able to apply for employment authorization and to the type of employment they would be permitted to accept. All three Embassies expressed concern about the dependents of their A-1 and A-2 nationals who would not qualify for employment authorization because they are not assigned to diplomatic or consular offices in the U.S. The British and Canadian Embassies wish to include the dependents of G-1 aliens.

The Embassies of Switzerland and Great Britain object to prohibiting employment in Schedule B occupations. All of the commenting Embassies indicated, explicitly or otherwise, that implementing the proposed rule on the basis of reciprocity would actually limit rather than expand the employment opportunities for the dependents of U.S. officials residing in their countries, since their Governments presently impose fewer restrictions on the employment of dependents of foreign diplomats than does the proposed rule.

With regard to the Embassies' proposal that the classes of eligible A-1 and A-2 dependents be expanded to include dependents of officials in non-diplomatic or non-consular establishments, it is not possible at this time to permit such expansion. It has been determined that there would be no adverse impact on the American labor market if the nonimmigrant A-1 and A-2 dependents assigned to diplomatic and consular posts were permitted to take jobs in this country. However, there has been no analysis made of the impact on the American labor market which would arise by permitting expansion of the class to include A-1 and A-2 nonimmigrants who are not assigned to diplomatic or consular establishments. Until that impact is determined, we are not in a position to expand the class beyond that included in the proposed rule.

We must also retain the restriction against employment in jobs appearing in Schedule B of the Department of Labor. As indicated above one of our responsibilities when promulgating this rule was to ensure that there was no adverse impact on the American labor market. The jobs listed on Schedule B are those for which the Secretary of Labor has determined there are sufficient American workers to occupy those positions and that employment of aliens in those jobs would adversely affect the American job market. Under these circumstances we cannot delete the proposed restrictions against employment in Schedule B jobs.

The Association of American Foreign Service Women asks that the rules be interpreted liberally, in a manner which will expand work opportunities for American dependents overseas; that the system not be set up to only parcel out job on a one-to-one basis because such process would be slow moving and costly, and that the two-year exception to the Schedule B job prohibition be extended to the overseas job markets.

We have no desire to apply a restrictive interpretation to these rules, nor do we wish to see the procedure become complex and cumbersome. The

primary consideration in determining whether an A-1 or A-2 nonimmigrant may work in this country will be whether the foreign country affords similar employment opportunities to dependents stationed at United States diplomatic and consular establishments in those countries. Also, the Association cites the two-year exemption provided in the proposed regulations for A-1 and A-2 aliens working in this country on the effective date of the regulation, and urges that foreign countries provide a similar waiver of their "Schedule B" requirements to make the new work permission system truly reciprocal. The reason the two-year exemption was provided was to avoid the hardship to the A-1 or A-2 employee and his employer which would result by applying these requirements without a transition period. The result of a literal interpretation would be that the individuals with Schedule B jobs would have to resign their position immediately upon this regulation becoming effective. We do not feel that such hardship is warranted or justified. Therefore, the two year Schedule B exemption will be retained for those A-1 and A-2 nonimmigrants who accepted those jobs in good faith and with the proper approval, prior to the promulgation of these regulations restricting employment in Schedule B jobs.

During our review of the proposed regulation for final publication, we considered again the proposal to require a sworn statement from the applicant that his earnings from this employment would be taxable. We note that G-4 nonimmigrant dependents of aliens stationed in this country as officers or employees of international organizations are not subject to this requirement. In addition, it has been determined that the sworn statement serves no real purpose, since a copy of the notification of approval is furnished the IRS in any case. Therefore, the sworn statement requirement will be deleted from the final rule.

In the light of the foregoing, Chapter I of Title 8 of the Code of Federal Regulations is hereby amended as set forth below.

PART 214—NONIMMIGRANT CLASSES

Part 214 is amended by redesignating the existing paragraph of 8 CFR 214.2(a) as subparagraph (1) *General* and by adding a new subparagraph (2) *Employment*. As amended, 8 CFR 214.2(a) reads as follows:

§ 214.2 Special requirements for admission, extension and maintenance of status.

(a) *Foreign government officials.*

(1) *General.*

(2) *Employment.* The spouse, unmarried dependent son or unmarried dependent daughter habitually residing with a foreign government official classified as a nonimmigrant under section 101(a)(15)(A)(i) or (ii) of the Act as an officer or employee assigned to a diplomatic or consular office in the United States may be granted permission to accept or continue employment in the United States if an application to do so has first been favorably recommended by an authorized representative of the Department of State and approved by the District Director of the Service as indicated below. To apply, the spouse or unmarried dependent son or unmarried dependent daughter shall first submit Form I-566 to the Office of Protocol of the Department of State for transmission to the Visa Office. The form shall be accompanied by a certification by the diplomatic mission of the Government employing the principal alien that the applicant is the spouse or unmarried dependent son or unmarried dependent daughter of an official of that Government whose assignment is expected to last more than six months. The applicant shall also submit with the application a statement from the prospective employer describing the position and salary offered, the duties of the position and verification that the applicant possesses the necessary qualifications for the position. The application may be approved if both the authorized representative of the Department of State and the District Director of this Service at Washington, DC are satisfied that: (i) both the principal alien and the applicant desiring employment are maintaining A-1 or A-2 status; (ii) the proposed employment is not in an occupation listed in the Department of Labor Schedule B (20 CFR 656) or otherwise determined by the Department of Labor to be one for which there is an oversupply of qualified U.S. workers in the area of proposed employment, except in the case of the employment of an unmarried dependent son or unmarried dependent daughter in A-1 or A-2 status who is a full-time student, if the employment is part-time, consisting of not more than 20 hours per week and/or if it is temporary employment of not more than 12 weeks at a time during school holiday periods; *Provided*, That if an A-1 or A-2 alien was authorized to accept full-time employment in a

Schedule B occupation prior to the effective date of this regulation he/she may continue in that employment for a period of 2 years following the effective date of this regulation; (iii) employment of a similar nature for family members of United States Government officials assigned to a diplomatic or consular office in the country employing the principal alien is not prohibited by the host country government; and (iv) the proposed employment would not be contrary to the interests of the United States. Employment of A-1 or A-2 aliens who have criminal records, or who have violated the immigration and nationality laws or regulations or who worked illegally or who cannot establish that they paid taxes on income from previous U.S. employment may be considered contrary to the interests of the United States. However, an A-1 or A-2 alien who is working without authorization on the effective date of this regulation must apply for authority to continue that work within 90 days of the effective date of this regulation. He/she must comply with the terms of this regulation in all respects except for the provision relating to illegal employment, and the fact of such illegal employment will not be construed against him/her in considering that application for employment. Permission to accept employment may not be granted to A-1 or A-2 spouses, unmarried dependent sons or unmarried dependent daughters if the principal alien will be stationed in this country for a definite period of six months or less. Permission to accept or continue employment under this section shall be granted in increments of not more than two years each. There shall be no appeal from a denial of permission to accept or continue employment under this section. The Service will inform the A-1 or A-2 applicant by letter whether the application has been granted or denied and if denied, of the reasons therefor. When an application is approved, the Service shall inform the Internal Revenue Service and Department of Labor. A family member of a principal alien classified A-3 may not be employed in the United States under these regulations.

(Secs. 103 and 214; 8 U.S.C. 1103 and 1184; Interpret or apply sec. 401(a) of the Foreign Relations Authorization Act of 1979)

Effective date: The amendments contained in this order become effective on September 21, 1979.

Dated: August 10, 1979.

Leonel J. Castillo,
Commissioner of Immigration and Naturalization.

Dated: August 14, 1979.

Barbara M. Watson,
Assistant Secretary of State for Consular Affairs.

[FR Doc. 79-25804 Filed 8-21-79; 8:45 am]
BILLING CODE 4410-10-M

FEDERAL HOME LOAN BANK BOARD

12 CFR Part 552

(79-445)

Stock Associations; Mergers and Consolidations

August 16, 1979.

AGENCY: Federal Home Loan Bank Board.

ACTION: Final rule.

SUMMARY: These regulations authorize the combination by means of merger or consolidation of federally-chartered stock associations with savings and loan associations the accounts of which are insured by the Federal Savings and Loan Insurance Corporation. These rules authorize corporate actions which the Bank Board believes, must be extended to Federal stock associations.

EFFECTIVE DATE: September 30, 1979.

FOR FURTHER INFORMATION CONTACT: Douglas P. Faucette, Associate General Counsel, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, D.C. 20552. Telephone Number (202) 377-6410.

SUPPLEMENTARY INFORMATION: The Federal Home Loan Bank Board, by Resolution No. 78-605, proposed to amend Part 552 of the Rules and Regulations for the Federal Savings and Loan System to provide merger and consolidation rules for federally-chartered stock savings and loan associations. Notice of such proposed rulemaking was published in the Federal Register on November 17, 1978, (43 FR 53762), with an invitation to interested persons to submit written comments by January 15, 1979.

Fifteen responses were received on Resolution No. 78-605. Eight of the respondents recommended adoption of the proposed regulations, four of whom also recommended technical modifications in the regulations. Of the remaining seven respondents three simply acknowledged publication of the proposed rules offering no comment, two recommended technical changes without offering a recommendation, and two recommended technical

modifications while expressing no serious objections.

Reasons for Amendments

By resolution No. 75-414, dated May 9, 1975, the Federal Home Loan Bank Board adopted Part 552 of the Rules and Regulations for the Federal Savings and Loan System (12 CFR 552). It was intended that Part 552 would constitute the minimum regulations necessary for the operation of Federal stock associations. Accordingly, the Board stated in the preamble to its March 7, 1975, proposal of Part 552 (Board Resolution No. 75-226) that regulations relating to corporate actions such as mergers would be proposed at a later date.

Promulgation of merger regulations was deferred primarily for two reasons. In May of 1975 merger regulations were not needed, therefore, the Board decided to concentrate its staff resources on converting mutuals. It also decided to afford the staff the opportunity to gather experience with Federal stock associations and thereby promulgate regulations which are more responsive to the practical needs of associations.

There are now eighteen Federal stock associations in operation. As one of them once was and could again be the subject of a proposed merger the necessity for merger regulations has arisen. In order to meet this necessity the Board proposes to amend Part 552 of the Federal Regulations, as discussed herein.

Discussion of Major Comments

Respondents were most concerned with ability of Federal stock associations to combine with other corporate entities. The proposed regulations authorize the merger of Federal stock associations only with institutions the accounts of which are insured by the Federal Savings and Loan Insurance Corporation and consolidations only with other Federal associations. Respondents are of the opinion that the regulations are too restrictive. It is their belief that Federal stock associations should have the authority to combine with non-Federal Savings and Loan Insurance Corporation insured state associations and non-Federal Savings and Loan Insurance Corporation insured corporations such as, real estate investment trusts and shell corporations. Such expansion of the proposed regulations is impermissible for the limitations imposed by these regulations reflect limitations which are expressly stated in the Home Owners' Loan Act of 1933. Specifically, Section 5(d)(11) of the Act limits combinations to institutions

the accounts of which are insured by the Federal Savings and Loan Insurance Corporation.

The proposed regulations would require that consolidation or merger of a Federal Stock association be approved by a two-thirds vote of its entire board of directors and voting stockholders. Several commenters believe that these voting requirements are overly restrictive and protectionist.

The proposed two-thirds of outstanding shares requirements was chosen after careful consideration by the Board. The Board recognizes that the National Bank Act and a substantial majority of the states including New York, California, and Illinois require a two-thirds vote, whereas Delaware and the Model Business Corporation Act require only a majority vote. After full consideration of respondents' comments the state of the law, and the nature of the savings and loan industry, the Board deemed it appropriate to retain the two-thirds voting requirement. The Board has also determined to retain a required affirmative vote of two-thirds of the board of directors of a Federal stock association, on the grounds that extraordinary corporate actions such as merger should be pursued only if there is substantial unanimity among the directorate of the institution. In this regard, it should be noted that Federal mutuals must receive an affirmative vote of two-thirds of the entire board of directors to merge.

Two respondents were primarily concerned with the proposed requirement that a combination involving a Federal stock and mutual association must result in a mutual association. This limitation is based on the requirement of Part 563b of the Rules and Regulations for Insurance of Accounts (12 CFR Part 563b), which exclusively governs the conversion of institutions from the mutual to stock form. It is the opinion of the Board that a combination of a mutual and stock institution resulting in a stock institution is a *de facto* conversion, and as such is subject to the provisions of Part 563b. However, the Board considers this issue to be worthy of further study.

Three respondents believed the right to appraisal granted by proposed § 552.14 adequately protected the proprietary rights of dissenting stockholders, while two respondents were of the opinion that the rights extended to dissenters were too liberal.

The right of appraisal is granted to stockholders of associations other than associations listed on a national securities exchange. Two respondents believe the right of appraisal should accrue only if a viable trading market

for dissenters' shares does not exist. The Board has determined, however, that use of a viable trading market standard or other similar concept model is not feasible due to the inherent vagueness and ambiguity of such concepts. The viability of a trading market is contingent upon the number of shares as to which the right of appraisal will be exercised. Since the determination of this number can be made only after the stockholders vote, a fundamental question for stockholders, that of whether the right of appraisal shall exist, will not be known at the time of the stockholders' meeting. The Board believes stockholders should know in advance whether or not the right of appraisal shall exist. The use of the listed on a national securities exchange standard further assures dissenting stockholders of a viable alternative market for their shares. However, the Board will monitor the experience of associations under the Section to determine if a more liberal test can be adopted in the future.

The advisability of the Board's participation in the appraisal process has been questioned by several respondents. Upon determination that a proper demand for appraisal has been made, the Board may either direct its Office of Economic Research, or if it so elects appoint one or more independent persons, to appraise the shares of dissenting stockholders. An appraisal report is prepared and submitted to the Board for its consideration and concurrence. As structured, the proposed process of appraisal affords the Board the flexibility needed in determining who shall conduct the appraisal while retaining the authority to review the report for adequacy and fairness.

One respondent expressed concern over the possible use of the proposed appraisal procedures to harass the merging association. The particular concern was that the merging association would be required to bear the cost of an appraisal where the dissenting stockholders refuse reasonable offers of settlement. The respondent recommended that the Board follow the procedures of the Model Business Corporation Act. In considering this comment and the trend in various State statutes, the Board has determined that the proposal should be revised to encourage informal resolution of any differences between stockholders and the association, and to deter vexatious appraisal demands. Revised § 552.14 as included in the amendment requires that the merging association make a written offer to dissenting

stockholders for the dissenting shares. Section 552.14(c) gives the association and dissenter sixty days in which to agree on a fair value, after which an appraisal demand may be made. The final amendment further provides that the Board may apportion costs of the appraisal. While the merging associations would normally bear the cost, this provision has been added so that in a case where the appraisal demand is made in bad faith the Board may assess dissenting stockholders for all or part of the costs.

The amendments also contain two revisions to § 552.15 that are of a clarifying nature. The basis for waiver of stockholder rights in supervisory mergers has been clarified to include insolvency situations, and the definition of the term insolvency is stated in the revision. The remaining revisions to the proposal are intended to conform to the substantive changes discussed above or are of a clarifying nature.

PART 552—STOCK ASSOCIATIONS

Accordingly, the Federal Home Loan Bank Board hereby amends Part 552 of its Rules and Regulations for the Federal Savings and Loan System by adding new §§ 552.13, 552.14, and 552.15 thereto, to read as set forth below:

§ 552.13 Combinations Involving Charter S associations.

(a) *Scope and authority.* Charter S associations may enter into combinations only in accordance with the provisions of this section.

(b) *Definitions.* The following definitions apply to §§ 552.13 and 552.14 of this Part:

(1) *Association.* Any building and loan, savings and loan, or homestead association, or cooperative bank, organized under Federal or State law.

(2) *Consolidation.* Fusion of two or more associations into a newly-created association having the combined powers and rights of all its constituents.

(3) *Constituent association.* Resulting or disappearing association.

(4) *Disappearing association.*—(i) Any association whose corporate existence does not continue after a merger effected under this section, (ii) any constituent association consolidating under this section, or (iii) the selling association in the case of a bulk sale of assets in exchange for assumption of liabilities.

(5) *Merger.* Uniting two or more associations by the transfer of all property rights and franchises to one, which retains its name and corporate identity.

(6) *Mutual association.* Any association organized in a form not

requiring nonwithdrawable stock under Federal or State law.

(7) *Stock association.* Any association organized in a form requiring nonwithdrawable stock.

(8) *Resulting association.* An association that continues its corporate existence after, or is created by, a combination effected under this section.

(9) *State.* Includes the District of Columbia, Commonwealth of Puerto Rico, and States, territories, and possessions of the United States.

(c) *Forms of combination.* Charter S associations may combine with other associations in the following ways:

(1) Mergers or bulk purchases of assets in exchange for assumption of liabilities: *Provided*, that (i) all constituent associations have accounts insured by the Federal Savings and Loan Insurance Corporation, and (ii) if any constituent is a mutual association, the resulting association shall be mutually held.

(2) Consolidations among Federal associations resulting in Federal mutual associations.

(d) *Board approval.* Prior written approval of the Board is required for every combination. In determining whether to confer such approval, the Board shall apply the criteria set forth in § 571.5 of this Chapter.

(e) *Approval of board of directors.* Before filing for Board approval, the combination shall be approved by each constituent association's board of directors: (1) By a two-thirds vote of the entire board of each Federal association, and (2) as required by State law for other constituents.

(f) *Combination agreement.* (1) All terms, conditions, agreements or understandings, or other provisions with respect to the combination, shall be set forth fully in a written combination agreement.

(2) The combination agreement shall state: (i) That the combination shall not be effective unless and until approved by the Board; (ii) which constituent association is to be the resulting association; (iii) the name of the resulting association; (iv) the location of the home office and any other offices of the resulting association; (v) the terms and conditions of the combination and method of effectuation; (vi) any charter amendments, or the new charter in the event of consolidation; (vii) the manner of converting or exchanging the stock of each constituent association into stock, savings accounts, or other securities of the resulting association or cash, property, rights, or securities of any other entity in connection with the combination; (viii) the basis upon which the savings accounts of the resulting

association shall be issued; (ix) the number, names and residence addresses, and terms of directors; (x) the effect upon and assumption of any liquidation account of a disappearing association by the resulting association; and (xi) such other provisions, agreements, or understandings as relate to the combination.

(g) *Application for Board approval.* (1) *Contents.* Applications shall be in a form prescribed by the Board and shall include appropriate information regarding fairness and legal, economic, managerial, financial, disclosure, accounting, and tax aspects of the combination:

(2) *Filing requirement.* Constituent associations shall file jointly and concurrently two copies of the application prepared pursuant to this section with their Principal Supervisory Agent, and two with the Board's Office of the Secretary.

(h) *Notice* (1) *Publication of Notice.* Constituent associations shall jointly publish notice within 15 days of filing an application with the Board. Notice shall be published on the same day of each of two consecutive weeks in a newspaper printed in the English language and having a general circulation in the community or communities served by the constituent associations. If the Supervisory Agent determines that the primary language of a significant number of the adult residents of the community is a language other than English, she/he may require that notice also be given in the appropriate language(s). The notice shall include: (i) a statement that an application under this section has been filed with the Board; (ii) the name and address of the home or principal office of each constituent association; (iii) a brief summary of the principal terms of the combination agreement; (iv) the name and address of the home office of the resulting association; (v) a statement as to which officers of constituent associations are to be maintained as home office or branches and which are to be discontinued; (vi) a statement that any person may file written comments concerning the application which will be considered by the Board if filed with the Office of the Principal Supervisory Agent and the Office of the Secretary (with addresses disclosed) within 10 days (or within 30 days if advice is filed within the first 10 days stating that more time is needed to furnish additional information) of publication or such later date as may be permitted by the Office of the Principal Supervisory Agent; and (vii) a statement that the application and all comments filed pursuant to the notice

shall be available for public inspection by any person at the above offices, except for any material exempt from disclosure pursuant to the Freedom of Information Act. Promptly after publication of the notice, the constituent associations shall jointly file with the Board two copies of the notice and publisher's affidavit of publication.

(2) *Notice to State officials and other interested persons.* The Supervisory Agent shall give notice of the application to the State official who supervises savings and loan associations in the State in which the constituent associations are located, and to persons whose requests for announcements under § 563e.8 of the Rules and Regulations for Insurance of Accounts have been received in time for such notification; these notices shall be in addition to legal notification as set forth in paragraph (h)(1) of this section. The Supervisory Agent may also give notice to any other persons she/he believes might have an interest in the application.

(3) *Notice to stockholders.* In addition to publication, constituent Charter S associations shall mail notice of the filing of applications to stockholders within ten days of filing. The contents of such notice shall include the information prescribed by paragraph (h)(1) of this section.

(4) *Republication.* In the event of a determination by the Board's Office of the General Counsel that at the time notice was published the application was materially incomplete, each constituent association shall, in accordance with the directions of that Office, republish or redeliver such notice.

(5) *Procedure.* Processing of an application under this section shall follow the procedures set forth in this paragraph and in § 543.2(e)(2)-(5) and § 543.2(f) of this subchapter.

(i) *Approval by stockholders (1) Prior Board approval.* No meeting for the purpose of voting on a combination agreement shall be held, and no proxies for such meeting of a stock association shall be solicited, prior to the approval of the combination agreement by the Board.

(2) *Charter S stockholder approval.* Except as provided below in this section, an affirmative vote of two-thirds of the outstanding voting stock shall be required for approval of the combination agreement. If any class of shares is entitled to vote as a class pursuant to § 552.4 of this Part, an affirmative vote of a majority of the shares of each voting class and two-thirds of the total voting shares shall be

required. The required votes shall be taken at a meeting of the association.

(3) *Exceptions.* Stockholders of the resulting association need not authorize a combination agreement if: (i) The association's charter is not changed; (ii) each share of stock outstanding immediately prior to the effective date of the combination is to be an identical outstanding share or a treasury share of the resulting association after such effective date; and (iii) either (A) no shares of voting stock of the resulting association and no securities convertible into such stock are to be issued or delivered under the plan of combination, or (B) the authorized unissued shares or the treasury shares of voting stock of the resulting association to be issued or delivered under the plan of combination, plus those initially issuable upon conversion of any securities to be issued or delivered under such plan, do not exceed 15% of the total shares of voting stock of such association outstanding immediately prior to the effective date of the combination.

(j) *Disclosure.* The Board may require, in connection with a combination under this section, such disclosure of information as it deems necessary or desirable for the protection of investors in any of the constituent associations.

(k) *Articles of combination.* (1) Following stockholder approval, articles of combination shall be executed in duplicate by each association, by its chief executive officer or executive vice president and by its secretary or an assistant secretary, and verified by one of the officers of each association signing such articles, and shall set forth: (i) The plan of combination; (ii) the number of shares outstanding in each association; and (iii) the number of shares in each association voted for and against such plan.

(2) Both sets of articles of combination shall be filed with the Office of the Secretary which shall, if it finds that such articles conform to the requirements of this regulation, endorse the articles and return one set to the resulting association.

(l) *Effective date.* No combination under this section shall be effective until approved by the Board. The effective date of a combination in which the resulting association is a Charter S association shall be the date of endorsement of the articles of combination by the Office of the Secretary. The effective date of a combination in which the resulting association is not a Federal association shall be a date subsequent to Board approval prescribed by the law of the state under which the resulting

association is chartered. If a disappearing association combining under this section is a Charter S association, its charter shall be deemed to be cancelled as of the effective date of the combination; such charter shall be surrendered to the Board at the time of filing of the articles of combination.

(m) *Mergers and consolidations: transfer of assets and liabilities to resulting association.* Upon the effective date of merger or consolidation under this section, if the resulting association is a Federal association, all assets and property (real, personal, and mixed, tangible and intangible, choses in action, rights, and credits) then owned by each constituent association or which would inure to any of them, shall immediately by operation of law and without any conveyance, transfer, or further action, become the property of the resulting association. The resulting association shall be deemed to be a continuation of the entity of each constituent association, the rights and obligations of which shall succeed to such rights and obligations and the duties and liabilities connected therewith.

§ 552.14 Dissenter and appraisal rights.

(a) *Right to demand payment of fair or appraised value.* Except as provided in paragraph (b) of this section, any stockholder of a Charter S association combining in accordance with § 552.13 of this Part shall have the right to demand payment of the fair or appraised value of his stock: *Provided*, that such stockholder has not voted in favor of the combination and complies with the provisions of paragraph (c) of this section.

(b) *Exceptions.* No stockholder required to accept only qualified consideration for his stock shall have the right under this section to demand payment of the stock's fair or appraised value, if (1) such stock was listed on a national securities exchange on the date of the meeting of stockholders at which the combination was acted upon; or (2) stockholder action is not required for a combination made pursuant to § 552.13(i)(3) of this Part. "Qualified consideration" means cash, shares of stock of any association or corporation which at the effective date of the combination will be listed on a national securities exchange, or any combination of shares of stock and cash described above.

(c) *Procedure—(1) Notice.* Each constituent Charter S association shall notify all stockholders entitled to rights under this section, not less than twenty days prior to the meeting at which the combination agreement is to be submitted for stockholder approval, of

the right to demand payment of appraised value of shares, and shall include in such notice a copy of this section. Such written notice shall be mailed to stockholders of record and may be part of management's proxy solicitation for such meeting.

(2) *Demand for appraisal and payment.* Each stockholder electing to make a demand under this section shall deliver to the Charter S association, before voting on the combination, a writing identifying himself and stating his intention thereby to demand appraisal of and payment for his shares. Such demand must be in addition to and separate from any proxy or vote against the combination by the stockholder.

(3) *Notification of effective date and written offer.* Within ten days after the effective date of the combination, the resulting association shall (i) give written notice by mail to stockholders of constituent Charter S associations who have complied with the provisions of paragraph (c)(2) of this section and have not voted in favor of the combination, of the effective date of the combination; (ii) make a written offer to each stockholder to pay for dissenting shares at a specified price deemed by the resulting association to be the fair value thereof; and (iii) inform them that, within sixty days of such date, the respective requirements of paragraphs (c) (5) and (8) of this section (set out in the notice) must be satisfied. *The notice and offer shall be accompanied by a balance sheet and statement of income of the association the shares of which the dissenting stockholder holds, for a fiscal year ending not more than sixteen months before the date of notice and offer, together with the latest available interim financial statements.*

(4) *Acceptance of offer.* If within sixty days of the effective date of the combination the fair value is agreed upon between the resulting association and any stockholder who has complied with the provisions of paragraph (c)(2) of this section, payment therefor shall be made within ninety days of the effective date of the combination.

(5) *Petition to be filed if offer not accepted.* If within sixty days of the effective date of the combination the resulting association and any stockholder who has complied with the provisions of paragraph (c)(2) of this section do not agree as to the fair value, then any such stockholder may file a petition with the Board, with a copy by registered or certified mail to the resulting association, demanding a determination of the fair market value of the stock of all such stockholders. A stockholder entitled to file a petition under this section who fails to file such

petition within sixty days of the effective date of the combination shall be deemed to have accepted the terms offered under the combination.

(6) *Stock certificates to be noted.* Within sixty days of the effective date of the combination, each stockholder demanding appraisal and payment under this section shall submit to the transfer agent his certificates of stock for notation thereon that an appraisal and payment have been demanded with respect to such stock and that appraisal proceedings are pending. Any stockholder who fails to submit his stock certificates for such notation shall no longer be entitled to appraisal rights under this section and shall be deemed to have accepted the terms offered under the combination.

(7) *Withdrawal of demand.* Notwithstanding the foregoing, at any time within sixty days after the effective date of the combination, any stockholder shall have the right to withdraw his demand for appraisal and to accept the terms offered upon the combination.

(8) *Valuation and payment.* The Board shall, as it may elect, either appoint one or more independent persons or direct an appropriate Office of the Board to appraise the shares to determine their fair market value, as of the effective date of the combination, exclusive of any element of value arising from the accomplishment or expectation of the combination. An appropriate Office of the Board shall review and provide an opinion on appraisals prepared by independent persons as to the suitability of the appraisal methodology and the adequacy of the analysis and supportive data. The Board after consideration of the appraisal report and the advice of the appropriate Office shall, if it concurs in the valuation of the shares, direct payment by the resulting association of the appraised fair market value of the shares, upon surrender of the certificates representing such stock. Payment shall be made, together with interest from the effective date of the combination, at a rate deemed equitable by the Board.

(9) *Costs and expenses.* The costs and expenses of any proceeding under this section may be apportioned and assessed by the Board as it may deem equitable against all or some of the parties. In making this determination the Board shall consider whether any party has acted arbitrarily, vexatiously, or not in good faith in respect to the rights provided by this section.

(10) *Voting and distribution.* Any stockholder who has demanded appraisal rights as provided in subparagraph (2) of this paragraph shall

thereafter neither be entitled to vote such stock for any purpose nor be entitled to the payment of dividends or other distributions on the stock (except dividends or other distribution payable to, or a vote to be taken by stockholders of record at a date which is on or prior to, the effective date of the combination): *Provided*, that if any stockholder becomes unentitled to appraisal and payment of appraised value with respect to such stock and accepts or is deemed to have accepted the terms offered upon the combination, such stockholder shall thereupon be entitled to vote and receive the distributions described above.

(11) *Status.* Shares of the resulting association into which shares of the stockholders demanding appraisal rights would have been converted or exchanged, had they assented to the combination, shall have the status of authorized and unissued shares of the resulting association.

§ 552.15 Supervisory combinations.

Notwithstanding the foregoing provisions of this Part, the Board may determine to waive or deem inapplicable any part of §§ 552.13 or 552.14 insofar as it is deemed necessary to avert insolvency or imminent failure of a Charter S association. For purposes of such action under subsection 5(d) of the Home Owners' Loan Act, the term "member" shall include stockholders of a Charter S association. The term "insolvency" shall mean that the assets of the association are less than its obligations to its creditors and others including its depositors.

(Sec. 5(d)(11), 48 Stat. 131, 12 U.S.C. 1464; Sec. 105, Pub. L. 93-495, October 28, 1974; Secs. 402, 403, 407, 48 Stat. 1256, 1257, 1260, as amended; 12 U.S.C. 1725, 1726, 1730; Sec. 5, 48 Stat. 132, as amended; 12 U.S.C. 1464; Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943-48 Comp., p. 1071)

By The Federal Home Loan Bank Board,
J. J. Finn,
Secretary.
[FR Doc. 79-25479 Filed 8-21-79; 8:45 am]
BILLING CODE 6720-01-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Parts 12 and 113

[T.D. 79-231]

Special Classes of Merchandise and Customs Bonds; Unfair Practices or Method of Competition

AGENCY: U.S. Customs Service,
Department of the Treasury.

ACTION: Final rule.

SUMMARY: This rule amends the procedures relating to the entry of merchandise involving, or believed to involve, unfair practices or methods of competition. This rule is necessary to conform the Customs Regulations to changes made in section 337, Tariff Act of 1930, as amended, by the Trade Act of 1974.

DATES: Effective date: August 22, 1979.

FOR FURTHER INFORMATION CONTACT: As to the exclusion of merchandise from entry: Darrell D. Kast, Entry Procedures and Penalties Division (202-566-5765); as to bond requirements: William G. Rosoff, Carriers, Drawback and Bonds Division (202-566-5856), U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229.

SUPPLEMENTARY INFORMATION:**Background***Expanded Authority of the International Trade Commission*

Section 341(a) of the Trade Act of 1974, Pub. L. 93-618, 88 Stat. 2053, amended section 337 of the Tariff Act of 1930 ("the Act") (19 U.S.C. 1337) to expand the decision-making powers of the United States International Trade Commission ("the Commission").

Prior to its amendment, section 337 of the Act authorized the Commission (then designated the United States Tariff Commission) to investigate alleged unfair methods of competition or unfair acts in the importation of articles into the United States in order to assist the President in making decisions under that section. The Commission determined whether unfair methods or acts were being practiced, and whether these methods or acts had the effect or tendency to destroy or substantially injure an efficiently and economically operated United States industry, to prevent the establishment of a United States industry, or to restrain or monopolize trade and commerce in the United States. The Commission reported its findings to the President, and when the existence of an unfair method or act was established to his satisfaction, he directed the Secretary of the Treasury to exclude from entry the articles involved. If the President believed that section 337 was being violated but did not have sufficient information for a final determination, he could order the exclusion of the articles, or permit their entry under bond while the matter was being investigated.

As amended, section 337 grants the Commission final authority, subject to limited review by the President, to determine whether section 337 has been

violated and, insofar as Customs is concerned, to order the exclusion from entry of articles involved in the violation. During the Presidential review of a final determination of the Commission, the excluded articles may enter under bond. The Commission also is empowered, pending its determination of whether section 337 is being violated, to order exclusion from entry of the articles involved if it has reason to believe a violation exists, unless the articles entered under bond. Before ordering exclusion, the Commission is required to consider the effect of its action on the public health and welfare, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, and United States consumers.

Under section 337 as amended, the President is permitted to intervene and disapprove for policy reasons any Commission determination of a violation of section 337, or its determination that reason exists for believing the section is being violated, within 60 days of receipt. In the event of Presidential disapproval, the Commission's order either to exclude the articles from entry or to require entry under bond will have no force or effect.

Applicable Customs Regulations

Section 12.39, Customs Regulations (19 CFR 12.39), relates to the exclusion from entry and the entry under bond of articles with respect to which, under section 337 of the Act, unfair methods of competition or unfair acts in the importation thereof have been found to exist. Footnote 26 to § 12.39 sets forth the relevant provisions of section 337. Amendments to § 12.39 are necessary to conform that section to the amended provisions of section 337. It also has been determined that footnote 26 to § 12.39 may be deleted because the substance of section 337 is being incorporated in amended § 12.39.

It also is necessary to amend § 113.14(z), Customs Regulations (19 CFR 113.14(z)), relating to the bond required for the entry of merchandise involving, or believed to involve, unfair procedures or unfair methods of competition, to reflect the new authority of the Commission, under the amended provisions of section 337 of the Tariff Act, to set the amount of that bond.

Determinations by the International Trade Commission

Section 12.39(a), Customs Regulations (19 CFR 12.39(a)), describes the former authority of the President to determine whether section 337 was violated, to order the exclusion of any merchandise

found in violation, and to require bond before entry of any merchandise under investigation by the Commission for an alleged violation of section 337. The purpose of this bond is to guarantee the exportation or destruction of merchandise found in violation.

Amended § 12.39(a) describes the present authority of the Commission and the President. The amended section also details the Commission's authority to investigate and determine whether a violation of section 337 has occurred and notes that the Commission must publish its determination in the Federal Register to make it effective and refer the determination to the President for review.

The President may disapprove a Commission determination for policy reasons within 60 days after receipt. Amended section 12.39(a) outlines the effect of Presidential action. When the President disapproves a determination and informs the Commission of that disapproval, the determination ceases to be effective. On the other hand, if the President approves a determination before the 60-day period expires, or if the President permits the 60-day period to expire without taking any action, the determination becomes final.

Exclusion From Entry and Entry Under Bond

Amended § 12.39(b) describes the authority of the Commission to exclude from entry merchandise found or believed to be in violation of section 337 and to require a special rider to existing entry bonds to guarantee the merchandise's exportation or destruction upon a final determination that a violation exists.

Present § 12.39(b) describes the special entry bond requirement under former section 337 and contains instructions for setting the bond amount. Because the Commission now is authorized to set the bond amount, these instructions no longer are valid. However, the Secretary of the Treasury continues to have the authority to establish all other terms of the bond, including the bond format.

The applicable provisions of current law, including the Commission's authority to fix the bond amount, are set out in amended § 113.14(z) which also includes a rider to be attached to existing entry bonds. The cross-reference to Treasury Decision 45474 is eliminated because the bond format set out there does not reflect the changes made in section 337 by the Trade Act of 1974.

Notification to Importer

Amended § 12.39(b)(3) establishes procedures for disposing of imported merchandise determined to violate section 337 substantially similar to the procedures in present § 12.39(c).

These procedures included a requirement for a district director to notify an importer of any determination that the merchandise violates section 337 and to request the importer to export or destroy the merchandise under Customs supervision within 30 days from the date of notification. The provision for liquidated damages if he fails to do so within the 30-day period is continued.

Importations by the United States

Section 12.39(c) is new. The section incorporates a limited statutory exception to the general requirement for excluding imported merchandise that violates section 337. A violation based on a United States patent right normally requires the merchandise to be excluded from the United States. However, under § 12.39(c), merchandise otherwise prohibited from entry because it violates section 337 under a patent right may be imported if the merchandise is for United States Government use and the Government authorizes or consents to the importation.

Deletion of Footnote 26

Footnote 26 to Part 12, Customs Regulations (19 CFR Part 12), contains the relevant provisions of former section 337 of the Tariff Act of 1930, as amended. Because the relevant provisions of present section 337 are incorporated into the body of amended § 12.39, there no longer is any need to include the text of these provisions in a footnote. Accordingly, footnote 26 has been deleted.

Drafting Information

The principal authors of this document were William G. Rosoff, and John E. Elkins, Regulations and Legal Publication Division, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

Inapplicability of Public Notice and Delayed Effective Date Requirements

Because these amendments merely conform the Customs Regulations to the current statutory language and require no public initiative, notice and public procedure thereon is found to be unnecessary, and good cause exists for dispensing with a delayed effective date under the provisions of 5 U.S.C. 553.

Amendments to the Regulations**PART 12—SPECIAL CLASSES OF MERCHANDISE**

Sections 12.39 and 113.14(z), Customs Regulations (19 CFR 12.39, 113.14(z)), are amended to read as follows:

1. Section 12.39 and its section heading are amended to read as follows:

§ 12.39 Imported articles involving unfair methods of competition or practices.

(a) *Determinations of the International Trade Commission.* Under section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), unfair methods of competition and unfair practices in the importation or sale of articles, the effect or tendency of which is to destroy, substantially injure, or prevent the establishment of an efficiently and economically operated United States industry, or to restrain or monopolize trade and commerce in the United States, are unlawful. After an investigation of an alleged violation of section 337, the United States International Trade Commission ("the Commission") may determine that section 337 has been violated. The Commission also may determine during the course of its investigation that there is reason to believe that a violation of section 337 exists. The Commission's determination in either case is effective on the date of its publication in the Federal Register and is referred to the President, who may disapprove the determination for policy reasons on or before the close of a 60-day period beginning on the day after the day he receives a copy of the determination. A Commission determination disapproved by the President shall have no force or effect as of the date the Commission is notified of his disapproval. If the Commission's determination is not disapproved by the President during the 60-day period, or if he notifies the Commission before the close of the period that he approves the determination, the determination becomes final on the day after the close of the period or the day of the notification, whichever is earlier.

(b) *Exclusion from entry; entry under bond.* (1) If the Commission finds a violation of section 337, or reason to believe that a violation exists, it may direct the Secretary of the Treasury to exclude from entry into the United States the articles concerned which are imported by the person violating or suspected of violating section 337. The Commission's exclusion order remains in effect until the Commission determines, and notifies the Secretary of the Treasury, that the conditions which

led to the exclusion no longer exist, or until the determination of the Commission on which the order is based is disapproved by the President.

(2) During the period the Commission's exclusion order remains in effect, excluded articles may be entered under a special rider to existing entry bonds, as described in section 113.14(z) of this chapter. However, on or after the date that the Commission's determination of a violation of section 337 becomes final, as set forth in paragraph (a) of this section, articles covered by the determination shall be refused entry.

(3) District directors shall notify each importer or consignee of articles released under bond pursuant to paragraph (b)(2) of this section when the Commission's determination of a violation of section 337 becomes final and that entry of the articles is refused. The importer or consignee shall export or destroy the released articles under customs supervision within 30 days after the date of notification. The district director who released the articles shall assess liquidated damages in the full amount of the bond rider if the importer or consignee fails to export or destroy the released articles under Customs supervision within the 30-day period.

(c) *Certain importations by or for the United States.* Any exclusion from entry under section 337 based on claims of United States letters patent shall not apply to articles imported by and for the use of the United States, or imported for, and to be used for, the United States with the authorization or consent of the Government.

2. Footnote 26 to Part 12 is deleted.

(R.S. 251, as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1624))

PART 113—CUSTOMS BONDS

Paragraph (z) of § 113.14 is amended to read:

§ 113.14 Bonds approved by the district director.

(z) *Special rider to existing entry bonds for entry of merchandise found or believed to involve unfair practices or methods of competition in violation of section 337, Tariff Act of 1930, as amended (19 U.S.C. 1337).* (1) A special rider to existing entry bonds for the entry of merchandise found or believed by the United States International Trade Commission ("the Commission") to involve unfair practices or methods of competition shall be taken under the provisions of section 337 (e) or (g)(3), Tariff Act of 1930, as amended (19

U.S.C. 1337 (e) or (g)(3)), in an amount determined by the Commission.

(2) The bond rider shall provide for the release of the merchandise pending a final determination of the question of its admissibility, and for its exportation or destruction under Customs supervision if it is determined finally that the merchandise shall be excluded from importation. The bond rider shall be in the following form:

Rider

Entry of merchandise believed to involve unfair practices or methods of competition in violation of section 337, Tariff Act of 1930, as amended (19 U.S.C. 1337)—To be added to Customs Forms 7551, 7553, 7595, 7601, and the General Bond for Smelting and Refining Warehouses.

In addition to any condition of the bond dated _____, in the amount of _____, executed

by _____, as principal, and _____, as surety, the principal and surety agree and stipulate the following condition also applies to that bond.

(1) The principal and surety recognize that the United States International Trade Commission prohibited entry into the United States of the following merchandise: _____, under the authority of section 337 of the Tariff Act of 1930, as amended.

(2) The principal and surety recognize that the Commission has prohibited entry of that merchandise until the investigation relating thereto is completed, or until its decision that there is a violation of section 337 has become final.

(3) The principal and surety recognize that certain merchandise prohibited from entry by the Commission was, or may be offered for entry into the United States while the Commission's prohibition is in effect.

(4) The principal and surety recognize that the principal desires to obtain a release of that merchandise pending a final determination of the merchandise's admissibility into the United States, as provided under section 337, and for that purpose, the principal and surety execute this stipulation:

If it is finally determined, as provided in section 337 of the Tariff Act of 1930, as amended, to exclude that merchandise from the United States then, on notification from the district director of Customs, the principal is obligated to export or destroy under Customs supervision the merchandise released under this stipulation within 30 days from the date of the district director's notification.

The principal and surety agree that if the principal defaults on that obligation, the principal and surety shall pay to the district director of Customs an amount as liquidated damages as may be demanded by him under the applicable law and regulations.

Witness our hands and seals
this _____ day of _____, 19____.

Principal _____

_____ [seal]

Surety _____

(R.S. 251, as amended, secs. 623, 624, 46 Stat. 759, as amended (19 U.S.C. 66, 1623, 1624))

Robert E. Chasen,
Commissioner of Customs.

Approved: August 7, 1979.

Richard J. Davis,

Assistant Secretary of the Treasury.

[FR Doc. 79-25972 Filed 8-21-79; 8:45 am]

BILLING CODE 4810-22-M

19 CFR Part 159

[TD 79-233]

Tomato Products From the European Community Final Countervailing Duty Determination

AGENCY: U.S. Customs Service, Treasury Department.

ACTION: Final Countervailing Duty Determination.

SUMMARY: This notice is to inform the public that a countervailing duty investigation has resulted in a final determination that the Commission of the European Community grants to producers and exporters of tomato products benefits which constitute bounties or grants within the meaning of the countervailing duty law. The deposit of countervailing duties in the amount of these benefits will be required at the time of entry in addition to duties normally collected on dutiable shipments of this merchandise.

EFFECTIVE DATE: August 22, 1979.

FOR FURTHER INFORMATION CONTACT: Edward Haley, Duty Assessment Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229, telephone (202) 566-5492.

SUPPLEMENTARY INFORMATION: On March 15, 1979, a notice of "Preliminary Countervailing Duty Determination" was published in the Federal Register (44 FR 15825). The notice stated that it had been preliminarily determined that benefits bestowed by the Commission of the European Community (EC) upon the manufacture, production, or exportation of tomato products constitute the payment of a bounty or grant within the meaning of section 303, Tariff Act of 1930, as amended (19 U.S.C. 1303) (referred to as the "Act").

For purposes of this notice, "tomato products" are canned tomatoes and tomato concentrates (paste and sauce,

including pulp), classified under item numbers 141.6520, 141.6540, and 141.6600 of the Tariff Schedules of the United States Annotated (TSUSA).

The preliminary determination stated that bounties or grants are paid under a program established by the EC which consists of production aid paid to processors of tomato products in order to support the price level of this merchandise and guarantee a remunerative income to tomato growers.

Interested parties were invited to submit relevant data, views or argument either orally or in writing with respect to the preliminary determination. After consideration of the available information, it is hereby determined that exports of tomato products from the EC benefit from bounties or grants within the meaning of section 303 of the Act.

Accordingly, notice is hereby given that tomato products which are imported directly from the EC, if entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the Federal Register, will be subject to the payment of countervailing duties equal to the net amount of any bounty or grant determined or estimated to have been paid or bestowed.

In accordance with section 303 of the Act and until further notice, the net amount of such bounties or grants has been ascertained and determined to be, in terms of the U.S. import value of the merchandise on a Customs valuation basis, 62.3 percent for goods imported under TSUSA item number 141.6520; 98.1 percent for goods imported under item number 141.6540; and 31.9 percent for goods imported under item number 141.6600.

Effective on or after the publication date of this notice, and until further notice, upon the entry, or withdrawal from warehouse, for consumption of such tomato products imported directly or indirectly from the EC, which benefit from these bounties or grants, there shall be collected, in addition to any other duties estimated or determined to be due, countervailing duties in the amount ascertained in accordance with the above declaration. To the extent that it can be established to the satisfaction of the Commissioner of Customs that imports of tomato products from the EC are benefiting from a bounty or grant smaller than the amount which otherwise would be applicable under the above declaration, the smaller amount so established shall be assessed and collected.

Any merchandise subject to the terms of this order shall be deemed to have benefited from a bounty or grant if such bounty or grant has been or will be credited or bestowed, directly or indirectly, upon the manufacture,

production or exportation of tomato products from the EC.

§ 159.49 [Amended]

The table in section 159.49(f), Customs Regulations (19 CFR 159.49(f)) is amended by inserting after the last entry for "European Community", the words "tomato products" in the column headed "Commodity"; the number of this Treasury Decision in the column headed "Treasury Decision"; and the words "Bounty Declared-Rate" in the column headed "Action".

(R.S. 251, as amended, secs. 303, as amended, 624, 46 Stat. 687, as amended, 759 (19 U.S.C. 66, 1303, 1624).)

This final determination is published pursuant to section 303(a), Tariff Act of 1930, as amended (19 U.S.C. 1303(a)).

Pursuant to Reorganization Plan No. 26 of 1950 and Treasury Department Order No. 101-5, May 16, 1979, the provisions of Treasury Department Order No. 165, Revised, November 2, 1954, and section 159.47 of the Customs Regulations (19 CFR 159.47), insofar as they pertain to the issuance of a final countervailing duty determination by the Commissioner of Customs, are hereby waived.

David R. Brennan,

Acting General Counsel of the Treasury.

[FR Doc. 79-25976 Filed 8-21-79; 8:45 am]

BILLING CODE 4810-22-M

ENVIRONMENTAL PROTECTION AGENCY

21 CFR Part 561

[FAP 7H5156/T50; FRL 1302-1]

Profenofos; Renewal of Feed Additive Regulations

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule renews a feed additive regulation related to the experimental use of the pesticide profenofos in or on cottonseed hulls and soapstock. The renewal was requested by Ciba-Geigy Corp. This rule will permit the marketing of cottonseed hulls and soapstock while further data is collected on the subject pesticide.

EFFECTIVE DATE: Effective on August 22, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. William Miller, Product Manager (PM) 16, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street, SW, Washington, DC 20460 (202/426-9458).

SUPPLEMENTARY INFORMATION: On July 31, 1978, the EPA announced (43 FR 33238) that in response to a petition (FAP 7H5156) submitted by Ciba-Geigy Corp., Agricultural Div., PO Box 11422, Greensboro, NC 27409, 21 CFR 561.53 was being established to permit residues of the insecticide profenofos (O-(4-bromo-2-chlorophenyl)-O-ethyl S-propyl phosphorothioate) and its metabolites converted to 4-bromo-2-chlorophenol (calculated as the parent compound) in cottonseed hulls at 6 parts per million (ppm) and soapstock at 15 ppm resulting from application of the insecticide to growing cotton in a proposed experimental program in accordance with an experimental use permit that was being issued concurrently under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136). This experimental program expired August 1, 1979.

Ciba-Geigy Corp. has requested a one-year renewal of these temporary tolerances both to permit continued testing to obtain additional data and to permit the marketing of food commodities affected by the application of the insecticide profenofos to cottonseed hulls and soapstock.

The scientific data reported and other material have been evaluated, and it has been determined that the pesticide may be safely used in accordance with the provisions of the experimental use permit which is being concurrently renewed under FIFRA. (A related document concerning the renewal of temporary tolerances for residues of the subject pesticide in or on the raw agricultural commodities cottonseed; eggs; and the meat, fat, and meat byproducts of cattle, goats, hogs, horses, poultry, and sheep appears elsewhere in today's Federal Register.) Accordingly, a feed additive regulation is renewed as set forth below.

Any person adversely affected by this regulation may, on or before September 21, 1979, file written objections with the Hearing Clerk, Environmental Protection Agency, Rm. M-3708 (A-110), 401 M St., SW, Washington, DC 20460. Such objections should be submitted in triplicate and specify the provisions of the regulation deemed to be objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or

whether it may follow other specialized development procedures. EPA labels these other regulations "specialized". This regulation has been reviewed, and it has been determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

Effective on August 22, 1979, 21 CFR 561.53 is amended as set forth below.

Dated: August 16, 1979.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

(Sec. 409(c)(1), Federal Food, Drug, and Cosmetic Act (21 U.S.C. 348(c)(1)))

21 CFR 561.53 is amended by revising the heading and paragraph (a) to read as follows:

§ 561.53 Profenofos.

(a) Tolerances are established for residues of the insecticide profenofos (O-(4-bromo-2-chlorophenyl)-O-ethyl S-propyl phosphorothioate) and its metabolites converted to 4-bromo-2-chlorophenol (calculated as the parent compound) in cottonseed hulls at 6 parts per million and soapstock at 15 parts per million resulting from application of the insecticide to growing cotton. Such residues may be present therein only as a result of application of the insecticide in accordance with the provisions of an experimental use permit that expires August 16, 1980.

[FR Doc. 79-25995 Filed 8-21-79; 8:45 am]
BILLING CODE 6560-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 5677

Alaska; Modification of Public Land Order Nos. 5653 and 5654

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This public land order modifies Public Land Order Nos. 5653 and 5654 so that the Arctic Slope Region may receive conveyance of certain lands in the Killik River area of Alaska.

EFFECTIVE DATE: August 22, 1979.

FOR FURTHER INFORMATION CONTACT: Beau McClure 202-343-6511 or Bob Arnold—Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

It is hereby determined that obligations and responsibilities of the Department of the Interior to assure an

expeditions settlement of Alaska Native Claims under the Alaska Native Claims Settlement Act of December 18, 1971 (hereinafter referred to as "ANCSA"), 43 U.S.C. Sec. 1601 *et seq.*, would be best discharged by modifying Public Land Order No. 5653 of November 16, 1978, as amended by Public Land Order No. 5654 of November 17, 1978, to permit the conveyance of certain lands in the Killik River area identified for selection by the Arctic Slope Regional Corporation under Section 17(d)(2)(E) of ANCSA, 43 U.S.C. Sec. 1616(d)(2)(E).

Therefore, by virtue of the authority vested in me by sections 204 and 701 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 and Sec. 1701 note, it is ordered as follows:

1. Public Land Order No. 5653 of November 16, 1978, 43 FR 59756, as amended by Public Land Order No. 5654 of November 17, 1978, 43 FR 59757, withdrawing lands from settlement, sale, location, entry, or selection under the operation of the public land laws to preserve values that would otherwise be lost by involuntary land dispositions is hereby modified to the extent necessary to permit the conveyance of the following lands to the Arctic Slope Regional Corporation pursuant to section 17(d)(2)(E) of ANCSA:

The mainstem of the Killik River upstream from the confluence with the Colville River and 2 miles outward from the ordinary high water mark of each river bank.

2. It is hereby determined that the promulgation of this Public Land Order is not a major Federal action significantly affecting the quality of the human environment and that no detailed statement pursuant to section 102(2)(C) of the National Environmental Policy

Act of 1969, 42 U.S.C. 4332(2)(C) is required.

Guy R. Martin,
Assistant Secretary of the Interior.
August 15, 1979.
[FR Doc. 79-25063 Filed 8-21-79; 9:45 am]
BILLING CODE 4310-84-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[Docket FI 5685] 44 CFR Part 64 List of Communities Eligible for the Sale of Insurance Under the National Flood Insurance Program

AGENCY: Federal Insurance
Administration, FEMA.

ACTION: Final rule.

SUMMARY: This rule lists communities participating in the National Flood Insurance Program (NFIP). These communities have applied to the program and have agreed to enact certain flood plain management measures. The communities' participation in the program authorizes the sale of flood insurance to owners of property located in the communities listed.

EFFECTIVE DATES: The date listed in the fourth column of the table.

ADDRESSES: Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Phone: (800) 638-6620.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood

Insurance Program, (202) 755-5581 or Toll Free Line 800-424-8872, Room 5270, 451 Seventh Street, SW., Washington, DC 20410.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local flood plain management measures aimed at protecting lives and new construction from future flooding. Since the communities on the attached list have recently entered the NFIP, subsidized flood insurance is now available for property in the community.

In addition, the Federal Insurance Administrator has identified the special flood hazard areas in some of these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the sixth column of the table. In the communities listed where a flood map has been published, Section 102 of the Flood Disaster Protection Act of 1973, as amended, requires the purchase of flood insurance as a condition of Federal or federally related financial assistance for acquisition or construction of buildings in the special flood hazard area shown on the map.

The Federal Insurance Administrator finds that delayed effective dates would be contrary to the public interest. The Administrator also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

In each entry, a complete chronology of effective dates appears for each listed community. The entry reads as follows: Section 64.6 is amended by adding in alphabetical sequence new entries to the table.

§ 64.6 List of eligible communities.

State	County	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard area identified
Louisiana	LaSalle	Olla, town of	220343	Aug. 8, 1979, emergency, Aug. 8, 1979, regular.	
Nebraska	Cass	Avoca, village	310247-A	Aug. 3, 1979, emergency, Aug. 3, 1979, regular.	May 1, 1978.
North Carolina	Haywood	Maggie Valley, town of	370389-A	Aug. 8, 1979 emergency.	July 8, 1977.
North Dakota	Richland	Fairmont, township of	380169	do	Feb. 7, 1975.
Pennsylvania	Elk	Benezette, township of	422812	do	Feb. 7, 1975.
Tennessee	Rutherford	Eagleview, town of	470166-A	do	Aug. 23, 1974 and July 2, 1978.
Texas	McLennan	Mart, city of	480929	Aug. 9, 1979 emergency.	July 16, 1979.
Pennsylvania	Clearfield	Greenwood, township of	421523	Aug. 9, 1979, regular.	Dec. 20, 1974.
Texas	Williamson	Granger, city of	481046	Aug. 10, 1979, emergency.	
Ohio	Vinton	Hamden, village of	390554-B	do	Feb. 7, 1975.
Texas	Chambers	Beach City, city of	480121-A	Aug. 13, 1979, emergency.	Feb. 1, 1974 and May 7, 1978.
Do	Brizoria	Iowa Colony, town of	481071	do	May 20, 1977.
Do	Nolan	Roscoe, city of	481558-New	Aug. 13, 1979, emergency.	July 2, 1978.

State	County	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard area identified
California	Los Angeles	Hawthorne, city of	060123-A	Aug. 13, 1979 emergency, Aug. 13, 1979, regular.	
Arkansas	Clark	Unincorporated Areas	050442-A	Aug. 15, 1979, emergency.	Oct. 25, 1977.
Florida	Okaloosa	Cinco Bayou, town of	120596	Aug. 14, 1979, emergency.	
Alabama	Tuscaloosa	Tuscaloosa, city of	010203-A	Aug. 1, 1979, suspension withdrawn.	Oct. 24, 1975.
California	Stanislaus	Patterson, city of	060390-B	do	May 3, 1975 and Sept. 26, 1975.
Colorado	Weid	Miliken, town of	080187-B	do	May 17, 1974 and March 12, 1976.
Do	Boulder	Nederland, town of	080255-A	do	Aug. 22, 1975.
Connecticut	Hartford	Canton, town of	090135-B	do	Aug. 2, 1974 and Dec. 10, 1976.
Georgia	Baldwin	Milledgeville, city of	130006-C	do	May 31, 1974 and April 30, 1976.
Idaho	Shoshone	Mullan, city of	160115-B	do	Dec. 28, 1973 and March 26, 1974.
Illinois	Macon	Decatur, city of	170429-C	do	May 24, 1974, Sept. 12, 1975, and Oct. 1, 1976.
Do	McHenry	Marengo, city of	170482-A	do	July 30, 1976.
Do	Cook	Midlothian, village of	170127-B	do	March 22, 1974 and April 2, 1976.
Do	Will	Mokena, village of	170705-B	do	Apr. 5, 1974 and June 1, 1976.
Do	Cook	Prospect Heights, city of	170919-C	do	May 12, 1978 and July 28, 1978.
Indiana	Elkhart	Goshen, city of	180058-B	do	Nov. 28, 1973 and June 4, 1976.
Do	Clark	Jeffersonville, city of	180027-B	do	June 14, 1978 and Dec. 26, 1975.
Kansas	Leavenworth	Linwood, city of	200191-B	do	Sept. 6, 1974 and June 4, 1976.
Massachusetts	Middlesex	Stow, town of	250216-B	do	Oct. 18, 1974 and Dec. 6, 1977.
Michigan	Macomb	Clinton, township of	260121-B	do	Oct. 12, 1973 and July 2, 1976.
Do	St. Clair	Marine City, city of	260200-B	do	May 3, 1974 and Mar. 5, 1976.
Do	Macomb	St. Clair Shores, city of	260127-B	do	June 28, 1974 and July 30, 1976.
Minnesota	Fillmore	Preston, city of	270129-C	do	May 10, 1974, June 11, 1976, and Jan. 21, 1977.
Do	Washington	St. Mary's Point, city of	275247-B	do	Feb. 26, 1972.
Do	do	Stillwater, city of	275249-A	do	Mar. 16, 1973.
Do	Hennepin	Woodland, city of	270189-B	do	May 31, 1974 and Oct. 24, 1975.
Mississippi	Washington	Greenville, city of	280179-B	do	Nov. 16, 1973 and May 21, 1976.
Do	Pike	McComb, city of	280132-A	do	Apr. 11, 1975.
Missouri	St. Louis	Berkeley, city of	290335-B	do	Dec. 24, 1978.
Do	Dart	Salem, city of	290120-B	do	Mar. 1, 1974 and Feb. 13, 1976.
Nebraska	Burt	Tekamah, city of	310024-C	do	Mar. 15, 1974, Dec. 12, 1975, and Feb. 4, 1977.
New Jersey	Monmouth	Bradley Beach, borough of	340289-B	do	Dec. 28, 1973 and Feb. 6, 1978.
Do	Essex	Milburn, township of	340187-B	do	Apr. 27, 1973 and Sept. 24, 1976.
Do	Burlington	Mount Holly, township of	340106-B	do	Apr. 20, 1973 and Nov. 19, 1978.
Do	Monmouth	Shrewsbury, borough of	340326-B	do	June 7, 1974 and Oct. 24, 1975.
New York	Erie	Tonawanda, city of	360259-A	do	Aug. 1, 1978.
Ohio	Franklin	Hilliard, city of	390175-B	do	June 7, 1974 and May 21, 1975.
Do	Ashtabula	Jefferson, village of	390014-A	do	Aug. 8, 1975.
Do	Lake	Mentor-on-the Lake, city of	390318-A	do	July 11, 1975.
Pennsylvania	Delaware	Chester, city of	420404-B	do	Mar. 2, 1973 and Aug. 8, 1976.
Do	Fayette	Everson, borough of	420462-B	do	July 26, 1974.
Do	Columbia	Franklin, township of	420343-B	do	Jan. 8, 1974 and Nov. 14, 1975.
Do	do	Hemlock, township of	420344-B	do	Sept. 13, 1974 and June 11, 1976.
Do	Northumberland	Hemdon, borough of	420735-B	do	Jan. 23, 1974 and May 21, 1978.
Do	do	Lower Augusta, township of	421017-B	do	May 17, 1974 and Jan. 1, 1976.
Do	Columbia	Montour, township of	421002-B	do	Apr. 5, 1974 and April 18, 1977.
Do	Allegheny	Monroeville, borough of	420054-B	do	July 28, 1974 and May 28, 1978.
Do	Columbia	Orangeville, borough of	420345-A	do	Jan. 24, 1975.
Do	Allegheny	South Versailles, township of	421281-B	do	Aug. 2, 1974 and July 2, 1978.

State	County	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard area identified
Do	Union	Union, township of	420834-B	do	Dec. 28, 1973 and June 24, 1977.
Do	Allegheny	Wilmerding, borough of	420081-B	do	May 3, 74 and May 21, 1978.
Tennessee	Hamilton	Unincorporated areas	470071-C	do	Aug. 1, 1979.
Vermont	Addison	Shoreham, town of	500171-A	do	Feb. 7, 1975.
Virginia	Fairfax	Hemdon, town of	510052-B	do	June 14, 1974 and Apr. 9, 1978.
Do	do	Norfolk, city of	510104-B	do	Oct. 18, 1974 and July 2, 1978.
Do	Fauquier	Warrenton, town of	510057-B	do	May 31, 1974 and Oct. 24, 1975.
Washington	Franklin	Kahlotus, town of	530045-A	do	Dec. 13, 1974.
Do	Pacific	Long Beach, town of	530128-C	do	May 24, 1974, Jan. 9, 1978, and May 25, 1978.
West Virginia	Monongalia	Morgantown, city of	540141-B	do	Aug. 2, 1974 and Dec. 31, 1978.
Do	Preston	Rowlesburg, town of	540163-B	do	Feb. 1, 1974 and Apr. 23, 1978.
Wisconsin	Sauk	Baraboo, city of	550392-B	do	Dec. 17, 1973 and Sept. 10, 1978.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963.)

Issued: August 13, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[FR Doc. 79-25819 Filed 8-21-79; 8:45 am]

BILLING CODE 4210-23-M

44 CFR Part 65

[Docket FEMA 5684]

List of Communities with Special Hazard Areas Under the National Flood Insurance Program

AGENCY: Federal Insurance Administration, FEMA

ACTION: Final rule

SUMMARY: This rule identifies communities with areas of special flood, mudslide, or erosion hazards as authorized by the National Flood Insurance Program. The identification of such areas is to provide guidance to communities on the reduction of property losses by the adoption of appropriate flood plain management or other measures to minimize damage. It will enable communities to guide future construction, where practicable, away from locations which are threatened by flood or other hazards.

EFFECTIVE DATES: The date listed in the eighth column of the table or September 21, 1979, whichever is later.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755-5581 or Toll Free Line 800-424-8872, Room 5270, 451 Seventh Street, SW., Washington, DC 20410.

SUPPLEMENTARY INFORMATION: The Flood Disaster Protection Act of 1973 (Pub. L. 93-234) requires the purchase of flood insurance on and after March 2,

1974, as a condition of receiving any form of Federal or federally related financial assistance for acquisition or construction purposes in an identified flood plain area having special flood hazards that is located within any community participating in the National Flood Insurance Program.

One year after the identification of the community as flood prone, the requirement applies to all identified special flood hazard areas within the United States, so that, after that date, no such financial assistance can legally be provided for acquisition and construction in these areas unless the community has entered the program. The prohibition, however, does not apply to loans by federally regulated, insured, supervised, or approved lending institutions (1) to finance the acquisition of a residential dwelling occupied as a residence prior to March 1, 1976, or one year following identification of the area within which such dwelling is located as an area containing special flood hazards, whichever is later, or made to extend, renew, or increase the financing or refinancing in connection with such a dwelling, (2) to finance the acquisition of a building or structure completed and occupied by a small business concern, as defined by the Director, prior to January 1, 1976, (3) any loan or loans, which in the aggregate do not exceed \$5,000, to finance improvements to or rehabilitation of a building or structure

occupied as a residence prior to January 1, 1976, or (4) any loan or loans, which in the aggregate do not exceed an amount prescribed by the Director, to finance nonresidential additions or improvements to be used solely for agricultural purposes on a farm.

This 30 day period does not supersede the statutory requirements that a community, whether or not participating in the program, be given the opportunity for a period of six months to establish that it is not seriously flood prone or that such flood hazards as may have existed have been corrected by floodworks or other flood control methods. The six months period shall be considered to begin 30 days after the date of publication in the Federal Register or the effective date of the Flood Hazard Boundary Map, whichever is later. Similarly, the one year period a community has to enter the program under section 201(d) of the Flood Disaster Protection Act of 1973 shall be considered to begin 30 days after publication in the Federal Register or the effective date of the Flood Hazard Boundary Map, whichever is later.

This identification is made in accordance with Part 64 of Title 44 of the Code of Federal Regulations as authorized by the National Flood Insurance Program (42 U.S.C. 4001-4128).

Section 65.3 is amended by adding in alphabetical sequence a new entry to the table:

§ 65.3 List of communities with special hazard areas (FHBMs in effect).

State, county, community name and number of panels	Community number and suffix	Program and change code	Inland or coastal	Hazard F/M/E	Identification date(s)	Effective date of this map action	Local map repository
Alabama, Jackson, City of Scottsboro, 0001-0011.	010112B	E-11, 12	I	F	June 10, 1977	Aug. 3, 1979	City Clerk, City of Scottsboro, 919 South Broad, Scottsboro, AL 35768, (205) 574-3100.
Ohio, Muskingum, City of Zanesville, 0001B-0002B.	390427	E-8, 11, 12, 14	I	F	May 3, 1974, Sept. 12, 1975.	Aug. 3, 1979	Walter Fries, Mayor, 401 Market Street, Zanesville, OH 43701, Phone: (614) 452-5441.
Arizona, Navajo, Town of Snowflake, 0001B...	040070B	E-8, 11	I	F	Apr. 5, 1974, Mar. 19, 1976.	Aug. 7, 1979	Honorable LaDell Hunt, Mayor, Town of Snowflake, P.O. Box "AE", Snowflake, AZ 85837, (602) 538-4412.
Georgia, Tattnall, City of Reidsville, 0001	130399B	E-8, 11, 12	I	F	Aug. 5, 1977	Aug. 10, 1979	W. S. Smith, Mayor, City Clerk's Office, City of Reidsville, Reidsville, GA 30453, (912) 557-3333.
Maine, York, Town of Limington, 0001-0004	230152B	E-11, 12	I	F	May 31, 1974, Oct. 22, 1976.	Aug. 10, 1979	Board of Selectmen, Town of Limington, Limington, ME 04048, (207) 637-2171.
Illinois, Iroquois, Village of Iroquois, 0001B	170793	E-8, 11, 12, 14	I	F	Oct. 18, 1974, Apr. 9, 1976.	Aug. 10, 1979	Leslie Regnier, Village Pres., Village Hall, Iroquois, IL 60945, Phone: (815) 429-3568.
Minnesota, Goodhue, City of Dennison, 01	270713A	E-5	I	F	Aug. 10, 1979	Aug. 10, 1979	Fred Reiver, Mayor, City Hall, Dennison, MN 55018, Phone: (507) 645-5030.
Pennsylvania, Bedford, Borough of Woodbury, 01.	421330C	E-12, 14	I	F	Mar. 25, 1977	Aug. 10, 1979	Gene Miller, Mayor, Borough Building, Woodbury, PA 16995, Phone: (814) 766-2278.
Nebraska, Knox, Village of Santee, 0001A	310489A	N-5	I	F	Aug. 14, 1979	Aug. 14, 1979	Mr. Theodore Robertson, Chairman, Village of Santee, Office of Chairman, Route #2, Niobrara, NE 68760, (402) 857-3302.
New Mexico, Catron, Village of Reserve, 0001A.	350141A	N-5	I	F	Aug. 14, 1979	Aug. 14, 1979	Honorable Harold E. Dykstra, Mayor, Office of Mayor, P.O. Box 527, Reserve, NM 87830, (505) 533-6276.
Illinois, Franklin, Franklin County, 0005B only	170899	N-11	I	F	Jan. 13, 1978	Aug. 17, 1979	Charles Dawson, Ch. Co. Bd., Courthouse, Benton, IL 62812, Phone: (815) 439-3751.
Illinois, Kendall, Kendall County, 0002B only	170341	E-11	I	F	Feb. 21, 1975, Jan. 13, 1978.	Aug. 17, 1979	Robert Cherry, Ch. Co. Bd., Rt. 2, Box 50, Oswego, IL 60549, Phone: (404) 768-5120.
Illinois, Morgan, Village of Meredosia, 01	170517B	E-11	I	F	Jan. 9, 1974, Apr. 30, 1976.	Aug. 17, 1979	James W. Boyd, Village President, P.O. Box 128, Meredosia, IL 62865, Phone: (219) 584-1351.
Illinois, Shelby, Christian, Village of Moweaqua, 01.	170611A	N-5	I	F	Aug. 17, 1979	Aug. 17, 1979	Lyle Ryot, Village President, 122 North Main Street, Moweaqua, IL 62550, Phone: (217) 768-3435.
Illinois, Williamson, Williamson County, 0001B and 0004B only.	170934	N-11, 12, 14	I	F	Mar. 31, 1978	Aug. 17, 1979	Curie Palmer, Ch. Co. Bd., Courthouse, Marion, IL 62958, Phone: (618) 993-3868.
Minnesota, Todd, Todd County, 0001B and 0002B only.	270551	E-10, 11, 12, 14	I	F	Nov. 25, 1977	Aug. 17, 1979	Ray Shultz, Ch. Co. Comm., Courthouse, Long Prairie, MN 56347, Phone: (612) 732-6181.
Pennsylvania, Huntingdon, Township of Union, 0001A-0003A.	421704	N-11, 12, 14	I	F	Dec. 6, 1974	Aug. 17, 1979	Lewis Lant, Sr., Ch., Mapleton Depot, PA 17052, Phone: (814) 542-2263.
Florida, Levy, City of Otter Creek, 0001	120592A	E-5	C	F	Aug. 17, 1979	Aug. 17, 1979	Mayor Russell Meeks, City of Otter Creek, P.O. Box 22, Otter Creek, Florida 32683, (904) 486-2436.
Maine, Aroostook, City of Caribou, 0001-0006.	230014B	E-11, 12	I	F	Apr. 12, 1974, Aug. 27, 1976.	Aug. 17, 1979	Northern Maine Regional Planning Commission, Town of Caribou, P.O. Box 778, 2 Main Street, Caribou, Maine 04736, (207) 498-8738.
Maine, York, Town of Waterboro, 0001-0008.	230199B	E-8, 11, 12	I	F	Feb. 21, 1975, Oct. 15, 1976.	Aug. 17, 1979	Mr. John Monteith, Board of Selectmen, P.O. Box 130, Waterboro, Maine 04087, (207) 247-5168.
New Hampshire, Rockingham, Town of Fremont, 0001.	330131B	E-12	I	F	Aug. 9, 1974, Oct. 29, 1976.	Aug. 17, 1979	Mr. Robert A. Wardell, Board of Selectment, Main Street, Fremont, NH 03044, (603) 895-2226.
Georgia, Tattnall, City of Glenville, 0001	130219B	E-8, 11, 12	I	F	June 28, 1974, Jan. 23, 1976.	Aug. 24, 1979	City Hall, City of Glenville, 134 S. Main Street, Glenville, GA 30427, 912-654-2461.
Florida, Lake, Town of Astatula, 0001	120581A	E-5	I	F	Aug. 24, 1979	Aug. 24, 1979	Luther E. Sutherland, Mayor, 143 Zinnia Lane, Astatula, FL 32705, 904-343-6569.

State, county, community name and number of panels	Community number and suffix	Program and change code	Inland or coastal	Hazard F/M/E	Identification date(s)	Effective date of this map action	Local map repository
New York, Rockland, Town of Clarkstown, 0001-0003.	380679C	E-11, 12	I	F	Apr. 12, 1974, Sept. 10, 1976, Dec. 18, 1977.	Aug. 24, 1979	Town Office, Town of Clarkstown, 10 Maple Avenue, New City, NY 10958.
Illinois, LaSalle, Village of North Utica, 01	170822B	E-11, 12, 14	I	F	Mar. 21, 1975, Jan. 23, 1978.	Aug. 24, 1979	Patrick Carrigan, Village President, 255 Mill Street, North Utica, IL 61373, Phone: (815) 667-4111.
Ohio, Montgomery, City of West Carrollton, 0001B.	39041B	E-11	I	F	Nov. 7, 1975	Aug. 24, 1979	Alfred Hintermeister, Mayor, 41 East Central Avenue, West Carrollton, OH 45449, Phone: (513) 859-5181.
Oregon, Umatilla, City of Helix, 01A	410208A	E-12	I	F	Dec. 20, 1974	Aug. 28, 1979	Honorable Dean L. Newton, Mayor, City of Helix, P.O. Box 308, Helix, OR 97835, (503) 457-2521.
Illinois, Woodford, City of Eureka, 0001B	17072B	E-8, 11, 12, 14	I	F	Mar. 1, 1974, June 4, 1976.	Aug. 31, 1979	G. Serangeli, Mayor, 128 North Main, Eureka, IL 61530, Phone: (309) 467-2113.
Ohio, Clermont, Village of Batavia, 0001C	39006B	E-8, 11, 12, 14	I	F	Nov. 30, 1973, May 7, 1976, Feb. 11, 1977.	Aug. 31, 1979	Edwin Parrott, Mayor, 389 East Main Street, Batavia, OH 45103, Phone: (513) 732-2020.
Ohio, Ross, City of Chillicothe, 0001B	39048B	E-8, 11, 12, 14	I	F	June 28, 1974, May 28, 1976.	Aug. 31, 1979	Clark S. Alexander, Mayor, 35 South Paint Street, Chillicothe, OH 45601, Phone: (614) 773-8980.
Ohio, Franklin, Village of Groveport, 0001B	39017A	E-8, 11, 12, 14	I	F	May 31, 1974, June 11, 1976.	Aug. 31, 1979	Robert Degenhart, Mayor, 805 Cherry Street, Groveport, OH 43125, Phone: (614) 836-5301.
Wisconsin, Columbia, Sauk, Juneau, City of Wisconsin Dells, 0001B	55006B	E-8, 11, 12, 14	I	F	Dec. 17, 1973, June 11, 1976.	Aug. 31, 1979	Bernard W. Olson, Mayor, 712 Oak Street, Wisconsin Dells, WI 53965, Phone: (608) 254-2012.
Maine, York, Town of Acton, 0001-0003	230190A	E-10, 11, 12	I	F	Feb. 31, 1975	Aug. 31, 1979	Selectman's Office, Town of Acton, Acton, Maine 04001, (207) 636-3839.
Vermont, Windsor, Town of Weston, 0001-0005.	500157B	E-12	I	F	Dec. 20, 1974, July 16, 1976.	Aug. 31, 1979	Board of Selectmen, Town Hall, Town of Weston, Weston, Vermont 05161.
Mississippi, Lamar, Town of Sunrall, 0001	280826A	E-5	I	F	Aug. 31, 1979	Aug. 31, 1979	Mr. Chester Moore, Mayor, Town of Sunrall, P.O. Box 247, Sunrall, MS 39482, (601) 758-4247.
Florida, Brevard, Town of Palm Shores 0001	120612A	E-5	C	F	Aug. 31, 1979	Aug. 31, 1979	Mr. Ben Haroldson, Councilman, Planning & Zoning Director, Route 1, Melbourne, FL 32925, (305) 783-1320.

¹Unincorporated area.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963.)

Issued: August 13, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-25618 Filed 8-21-79; 8:45 am]

BILLING CODE 4210-23-M

44 CFR Part 67

[Docket No. 5686]

National Flood Insurance Program; Final Flood Elevation Determinations

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the nation.

These base (100-year) flood elevations are the basis for the flood plain

management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the community.

ADDRESSES: See table below.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755-5581 or Toll Free Line (800) 424-8872 (In Alaska and Hawaii call Toll Free (800) 424-9080), Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of

flood elevations for each community listed.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 44 CFR Part 67.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 44 CFR Part 60.

The final base (100-year) flood elevations for selected locations are:

Final Base (100-Year) Flood Elevations				
State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
California	Albany (City), Alameda County (Docket No. FI-5161).	San Francisco Bay Cerrito Creek Codornices Creek	West of Interstate 80 Hoffman Boulevard—40 feet upstream from centerline San Pablo Avenue—at centerline	*6 12 #2
Maps available at City Hall, 1000 San Pablo Avenue, Albany, California.				
California	Barstow (City), San Bernardino County (Docket No. FI-5087).	East Barstow Channel Lenwood Creek Washes B, C, D Mojave River Southwest Barstow Channel A	Between Tenth Street and Muriel Drive on Eleventh Street Intersection of Church Avenue and Eighth Street Country Club Drive running into Gazana Street Old Landmark Drive meeting Gernymander Road West Main Street running into Sweeten Lane Sun Valley Drive running into Sweeten Lane Area 2,000 feet south of Rimrock Road and 3,200 feet west of Barstow Road Interstate 15-110 feet upstream from centerline First Street—30 feet upstream from centerline Atchison, Topeka and Santa Fe Railroad—60 feet upstream from centerline Atchison, Topeka and Santa Fe Railroad—30 feet upstream from centerline Main Street—60 feet downstream from centerline Main Street—20 feet upstream from centerline Sioux Street—50 feet downstream from centerline	#2 #2 #1 #1 #2 #1 #1 *2.61 *2.66 *2.06 *2.54 *2.71 *2.80 *2.59
Maps available at City Engineer's Office, City Hall, 200 East Mountain View Street, Barstow, California 92311.				
California	Culver City (City), Los Angeles County (Docket No. FI-5162).	Shallow Flooding	La Cienega Boulevard between Washington Boulevard and Fairfax Avenue.	#1
Maps available at City Hall, 9770 Culver Boulevard, Culver City, California.				
Idaho	Kendrick (City), Latah County (Docket No. FI-5170).	Pottlatch River Big Bear Creek	Millis Street—40 feet upstream from centerline Confluence with Big Bear Creek at centerline State Route 42—100 feet upstream from centerline	*1.93 *1.231 *1.238
Maps available at City Hall, Kendrick, Idaho.				
Illinois	Darien (City), DuPage County (Docket No. FI-5239).	Sawmill Creek East Branch Sawmill Creek West Branch Sawmill Creek	Downstream corporate limits Just upstream of Portsmouth Road Approximately 700 feet downstream of 79th Street Just upstream of 78th Street Upstream of corporate limits Downstream corporate limits Just upstream of 73rd Court Just upstream of Janet Road Just upstream of Plainfield Road Upstream corporate limits Downstream corporate limits Approximately 240 feet downstream Coachman Road Just downstream of Coachman Road Just upstream of Coachman Road Just upstream of golf course Culvert No. 2 Just upstream of golf course Culvert No. 3 Just upstream of golf course Culvert No. 5 Approximately 1,460 feet upstream of golf course Culvert No. 5 Approximately 920 feet downstream of upstream corporate limits Upstream corporate limits	*567 *590 *595 *701 *723 *715 *718 *722 *724 *724 *707 *715 *717 *726 *728 *730 *733 *737 *742 *760
Maps available at City Hall, 1702 Plainfield Road, Darien, Illinois 60559				
Illinois	City of Moline, Rock Island County (Docket No. FI-5342).	Mississippi River Sylvan Slough Shafter Creek Rock River Coal Creek	Just upstream of Interstate 74 Eastern corporate limits Confluence with Mississippi River Just downstream of Iowa Illinois Power Dam Just upstream of Iowa Illinois Power Dam Just downstream of Interstate 74 Downstream corporate limit Upstream corporate limit 1.75 mile downstream of U.S. Highway 150 East Corporate limit Confluence with Rock River Just upstream of U.S. Highway 6 Just downstream of 78th Avenue	*570 *572 *564 *564 *570 *570 *580 *598 *568 *573 *572 *573 *578
Maps available at City Hall, 619 16th Street, Moline, Illinois 61265.				

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Illinois	City of Peoria, Peoria County (Docket No. FI-5334).	Illinois River	Downstream County Boundary	*459
			Upstream County Boundary	*460
		Big Hollow Creek	At Chicago and North Western Railroad	*580
			About 660 feet upstream of Chicago and North Western Railroad	*588
			About 75 feet downstream of U.S. Route 150	*610
			About 100 feet upstream of U.S. Route 150	*617
			Just upstream of Northmoor Road	*636
			At confluence of North Fork Tributary Big Hollow Creek	*668
			About 150 feet downstream of University Street	*688
			About 100 feet upstream of University Street	*694
			About 1,600 feet upstream of University Street	*701
			About 260 feet downstream of Chicago Rock Island and Pacific Railroad	*724
			About 530 feet upstream of Chicago Rock Island and Pacific Railroad	*739
			About 100 feet downstream of Mount Hawley Road	*745
			About 150 feet upstream of Mount Hawley Road	*751
			Just upstream of Collingwood Circle (about 320 feet downstream of Hillrose Place)	*764
		North Fork Tributary, Big Hollow Creek	At corporate limits	*731
		Dry Run Creek	About 0.3 mile upstream of corporate limits	*752
			About 240 feet downstream of Park Road	*509
			About 100 feet downstream of Park Entrance Road	*514
			Just upstream of Park Entrance Road	*520
			Just downstream of Interstate 74	*533
			About 240 feet upstream of Interstate 74 (about 1,750 feet upstream of West Nebraska Avenue)	*539
			Just downstream of drop structure (about 0.28 mile downstream confluence of Dry Run Creek C)	*566
			Just upstream of drop structure	*581
			Downstream of confluence of Dry Run Creek C	*585
			Upstream of confluence of Dry Run Creek C	*590
			About 200 feet downstream of Interstate 74 (about 1,770 feet downstream of War Memorial Drive)	*603
			About 220 feet upstream of Interstate 74 (about 1,300 feet downstream of War Memorial Drive)	*616
			About 210 feet downstream of War Memorial Drive	*618
			About 350 feet upstream of War Memorial Drive	*632
			About 140 feet downstream of Glen Avenue	*643
			About 150 feet upstream of Glen Avenue	*655
			About 0.57 mile upstream of Glen Avenue	*872
			About 210 feet downstream of University Street	*707
			Just upstream of University Street	*727
		Poppet Hollow Creek	About 1,160 feet upstream of University Street	*732
			About 140 feet downstream of Briarwood Lane	*747
			Just upstream of Briarwood Lane	*761
			About 480 feet upstream of Briarwood Lane	*764
			At downstream corporate limits	*525
		Dry Run Creek A	At upstream corporate limits	*559
			At confluence with East Branch Dry Run	*543
			About 185 feet downstream of Interstate 74 Ramp (about 0.41 mile downstream of Nebraska Avenue)	*551
			Just upstream of Interstate 74 Ramp (about 0.37 mile downstream of Nebraska Avenue)	*556
			About 135 feet downstream of Interstate 74 Ramp (about 0.27 mile downstream of Nebraska Avenue)	*557
			Just upstream of Interstate 74 Ramp (about 0.24 mile downstream of Nebraska Avenue)	*565
			About 160 feet downstream of Nebraska Avenue	*570
			Just upstream of Nebraska Avenue	*579
			Just upstream of Gale Avenue	*585
			About 100 feet downstream of Nowland Avenue	*594
		Dry Run Creek C	Just upstream of Nowland Avenue	*599
			About 130 feet downstream of Parish Avenue	*623
			Just upstream of Parish Avenue	*623
			Just upstream of Hudson Street	*630
			At confluence with Dry Run	*636
			About 475 feet downstream of War Memorial Drive	*597
			About 160 feet upstream of War Memorial Drive	*609
			About 100 feet downstream of West Aire Avenue	*617
			About 185 feet upstream of West Aire Avenue	*630
			Just downstream of Kenwick Lane	*631

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Illinois	City of Peoria, Peoria County (Docket No. FI-5334).	East Branch Dry Run Creek	About 100 feet upstream of University Street	*651
			Just downstream of Glen Avenue	*687
			Just upstream of Sheridan Avenue	*698
			About 200 feet downstream of Hidden Lane	*711
			About 200 feet upstream of Hidden Lane	*720
			At confluence with Dry Run Creek	*720
			Just downstream of Wier in Stilling Basin	*726
			Just upstream of Wier in Stilling Basin	*734
			At confluence of Dry Run Creek A	*743
			About 105 feet downstream of Sheridan Road	*763
			About 50 feet upstream of Sheridan Road	*773
			About 75 feet upstream of Nebraska Avenue	*782
			About 80 feet downstream of McClure Avenue	*802
			About 80 feet upstream of McClure Avenue	*807
			About 70 feet downstream of Forrest Hill Avenue	*815
			About 75 feet upstream of Forrest Hill Avenue	*821
		Springdale Creek	Just downstream of Merle Lane	*833
			Just upstream of Merle Lane	*840
			Just downstream of Private Drive (about 0.22 mile downstream of Hines Avenue)	*847
			Just upstream of Private Drive (about 0.21 mile downstream of Hines Avenue)	*855
			Just downstream of Hines Avenue	*855
			Just upstream of Hines Avenue	*869
			Just upstream of Oak Cliff Court	*874
			Just upstream of Lynndale Road	*881
			About 100 feet downstream of Glen Avenue	*898
			About 100 feet upstream of Glen Avenue	*904
		Boyd's Hollow Creek	Just downstream of Northridge Lane	*907
			Just upstream of Northridge Lane	*914
			Just upstream of Frances Avenue	*937
			At mouth	*960
			Just downstream of Jefferson Avenue	*964
			Just upstream of Jefferson Avenue	*972
			About 110 feet downstream of Chicago Rock Island and Pacific Railroad	*974
			About 100 feet upstream of Chicago Rock Island and Pacific Railroad	*996
			About 600 feet downstream of Perry Avenue	*999
			About 800 feet upstream of Perry Avenue	*1023
		College Creek	About 0.33 mile downstream of War Memorial Drive	*973
			About 370 feet upstream of War Memorial Drive	*986
			About 0.84 mile upstream of War Memorial Drive	*982
			Just upstream of Single Track Road	*944
			About 0.36 mile upstream of Single Track Road	*960
			Just upstream of Southern corporate limits	*948
			450 feet downstream of Palmer Street	*952
			Just downstream of Palmer Street	*954
			Just upstream of Palmer Street	*957
			Just downstream of the Union Pacific Railroad	*959
			Northern corporate limits	*961
			At downstream corporate limits	*983
			Just downstream of Hiram Falls Dam	*991
			Just upstream of Hiram Falls Dam	*992
			Approximately 200 feet upstream of Main Central Railroad	*991
			At upstream corporate limits	*996
Kansas	City of St. Marys, Pottawatomie County (Docket No. FI-5344).	Willard Creek	1,275 feet downstream of Bertrand Street	*941
			500 feet downstream of Bertrand Street	*943
Maine	Hiram (Town), Oxford County (Docket No. FI-5451).	Saco River	Just upstream of Union Pacific Railroad	*957
			Just upstream of Mission Street	*959
Maine	Hiram (Town), Oxford County (Docket No. FI-5451).	Saco River	300 feet upstream of Mission Street	*961
			250 feet upstream of Durink Street	*968
Maine	Hiram (Town), Oxford County (Docket No. FI-5451).	Saco River	600 feet upstream of Durink Street	*970
			650 feet upstream of Durink Street (upstream corporate limits)	*973
Maine	Hiram (Town), Oxford County (Docket No. FI-5451).	Saco River	Just upstream of Southern corporate limits	*948
			450 feet downstream of Palmer Street	*952
Maine	Hiram (Town), Oxford County (Docket No. FI-5451).	Saco River	Just downstream of Palmer Street	*954
			Just upstream of Palmer Street	*957
Maine	Hiram (Town), Oxford County (Docket No. FI-5451).	Saco River	Just downstream of the Union Pacific Railroad	*959
			Northern corporate limits	*961
Maine	Hiram (Town), Oxford County (Docket No. FI-5451).	Saco River	At downstream corporate limits	*983
			Just downstream of Hiram Falls Dam	*991
Maine	Hiram (Town), Oxford County (Docket No. FI-5451).	Saco River	Just upstream of Hiram Falls Dam	*992
			Approximately 200 feet upstream of Main Central Railroad	*991
Maine	Hiram (Town), Oxford County (Docket No. FI-5451).	Saco River	At upstream corporate limits	*996
			At downstream corporate limits	*996

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)		
Maine		Ossipee River	At confluence with Saco River	*283		
			Approximately 400 feet upstream of South Hiram Road	*298		
			Approximately 1.6 miles upstream of South Hiram Road	*310		
			At upstream corporate limits	*344		
		Hancock Brook	Mouth at Saco River	*362		
			Just upstream Sawmill Road	*374		
			Just upstream Log Crib Dam	*379		
			Approximately 1,100 feet upstream of Log Crib Dam	*383		
		Ridlon Brook	At confluence with Ossipee River	*343		
			Just upstream Robbin Mill Road	*354		
			Just upstream Small Dam	*365		
			Just upstream of South Hiram Road	*369		
			At upstream corporate limits	*372		
		Maps available at the Town Planning Office, Hiram, Maine 04041. -				
		Massachusetts	Gill (Town) Franklin County (Docket No. FI-5308).	Connecticut River	At Greenfield corporate limits	*158
					Just downstream of Turners Falls Road	*160
					Just upstream of Turners Falls Road	*187
3.25 miles upstream of Turners Falls Road	*190					
Just downstream of Mohawk Trail (route 2)	*192					
1,800 feet upstream of Mohawk Trail (Route 2)	*202					
At confluence with Dry Brook	*205					
At Northfield corporate limits	*207					
Fall River	Confluence with Connecticut River				*158	
	250 feet upstream of South Cross Road				*170	
	1,050 feet upstream of South Cross Road				*180	
	500 feet downstream of Old Stone Dam				*190	
	Just upstream of Old Stone Dam				*205	
	1,600 feet upstream of Old Stone Dam				*210	
	3,850 feet upstream of Old Stone Dam				*220	
	5,400 feet upstream of Old Stone Dam				*230	
	1,600 feet downstream of Bascom Road				*240	
	250 feet upstream of Bascom Road				*250	
	3,000 feet downstream of a dam at Bernardston corporate limits				*260	
	1,700 feet downstream of a dam at Bernardston corporate limits				*270	
	Just downstream of Bernardston corporate limits				*280	
	Just upstream of Bernardston corporate limits				*290	
Dry Brook	Confluence with Connecticut River				*205	
	Just downstream of Stone Dam				*215	
	Just upstream of Stone Dam				*232	
	Just downstream of Main Road				*242	
	Just upstream of Main Road				*247	
	1,600 feet upstream of Boyle Road				*251	
	2,900 feet upstream of Boyle Road				*260	
	420 feet upstream of confluence of Otter Brook				*270	
	1,000 feet downstream of North Cross Road				*288	
	Just upstream of North Cross Road				*301	
	At corporate limits (Bernardston)				*306	
Otter Brook	Confluence with Dry Brook				*267	
	1,450 feet upstream of confluence with Dry Brook				*275	
	3,100 feet upstream of confluence with Dry Brook				*285	
	4,500 feet upstream of confluence with Dry Brook				*303	
	Just downstream of Ben Hale Road	*313				
	Just upstream of Ben Hale Road	*315				
	Just downstream of private driveway	*317				
	Just upstream of private driveway	*320				
	Just downstream of West Gill Road	*322				
	Just upstream of West Gill Road	*332				
Maps available at Town Hall, Gill Center, Massachusetts 01376.						

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)		
Massachusetts	Lynnfield (Town), Essex County (Docket No. FI-4796).	Saugus River	Salem Street—at centerline.....	*64		
			At confluence with Beaverdam Brook.....	*74		
			Boston and Maine Railroad—100 feet upstream from centerline.....	*76		
		Beaverdam Brook	Main Street—100 feet upstream from centerline.....	*79		
			Main Street (downstream crossing)—50 feet upstream from centerline.....	*75		
		Ipswich River	At downstream corporate limits.....	*60		
			At upstream corporate limits.....	*63		
		Bates Brook	Boston and Maine Railroad—20 feet upstream from centerline.....	*105		
			Essex Street—100 feet upstream from centerline.....	*114		
		Pillings Pond	At confluence with Bates Brook.....	*99		
		Maps available at Town Hall, Planning Board Office, Lynnfield, Massachusetts.				
Massachusetts	Natick (Town), Middlesex County (Docket No. FI-5055).	Charles River	South Natick Dam—75 feet upstream from centerline.....	*116		
			Upstream Corporate Limits.....	*122		
		Davis Brook	Flot Street—25 feet upstream from centerline.....	*122		
			Ernest Drive—25 feet upstream from centerline.....	*138		
		Beaver Dam Brook	State Route 135 (downstream crossing)—at centerline.....	*139		
			Tournament Road—20 feet upstream from centerline.....	*147		
			State Route 135 (upstream crossing)—25 feet upstream from centerline.....	*151		
		Bogle Brook	Oak Street—at centerline.....	*133		
			Maps available at Town Clerk's Office, Town Hall, 13 East Central Street, Natick, Massachusetts.			
		Massachusetts	Springfield, City, Hampden County (Docket No. FI-5101).	Connecticut River	Downstream Corporate Limits.....	*58
					South End Bridge (Upstream).....	*59
Memorial Bridge (Upstream).....	*61					
North End Bridge (Upstream).....	*62					
Upstream Corporate Limits.....	*63					
Chicopee River	Downstream Corporate Limits.....				*127	
	Veterans Memorial Bridge (Upstream).....				*142	
	Dam located 3,900' downstream of Pipe Line Bridge (Downstream).....				*150	
	Dam located 3,900' downstream of Pipe Line Bridge (Upstream).....				*168	
	Pipe Line Bridge (Upstream).....				*175	
North Branch Mill River	Upstream Corporate Limits.....			*194		
	Wilbraham Road Bridge (Upstream).....			*161		
	Beckwood Boulevard Bridge and Dam (Downstream).....			*164		
	Beckwood Boulevard Bridge and Dam (Upstream).....			*174		
	Sunrise Terrace Bridge (Upstream).....			*177		
	Fox Road Bridge (Upstream).....			*188		
	North Branch Parkway Bridge (Upstream).....			*207		
	Parker Street Bridge (Upstream).....			*210		
	Flint Street Bridge (Upstream).....			*212		
	Parkerview Street Culvert.....			*219		
South Branch Mill River	Upstream Corporate Limits.....			*223		
	Plumtree Road Bridge (Upstream).....			*167		
	Bradley Road Bridge (Upstream).....			*170		
	Parker Street Dam (Downstream).....			*196		
	Parker Street Dam (Upstream).....			*209		
	Parker Street Bridge (Upstream).....			*212		
	Upstream Corporate Limits.....			*221		
	North Brook			North Branch Parkway Culvert (Downstream).....	*177	
				North Branch Parkway Culvert (Upstream).....	*182	
				Earth Fill Dam (Upstream).....	*190	
Lumae Street Culvert (Downstream).....				*195		
Lumae Street Culvert (Upstream).....				*213		
Timothy Circle Culvert (Upstream).....				*216		
Bolton Street Culvert (Upstream).....		*217				
Parker Street Culvert (Upstream).....	*224					
Maps are available at the Office of the City Clerk, Springfield, Massachusetts.						
Michigan	Village of Douglas, Allegan County (Docket No. FI-5243).	Lake Michigan	Western corporate limits.....	*584		
			Entire reach within the Village of Douglas (Throughout community Lake Michigan backwater controls).	*584		
Maps available at the Office of the Village Manager, 329 Water Street, Saugatuck, Michigan 49453.						
Michigan	Farmington Hills (City of), Oakland County (Docket No. FI-5309).	Upper River Rouge	Upstream side of Eight Mile Road.....	*648		
			At Middlebelt Road.....	*652		
			Upstream side of Tuck Road.....	*660		
			Upstream side of Folsom Drive.....	*667		
			Downstream side of Orchard Lane Road.....	*671		
			Upstream side of Orchard Lane Road.....	*675		
			850 feet upstream of Nine Mile Road.....	*676		
			At northern corporate limits of the City of Farmington.....	*723		
			4,500 feet downstream of Brittany Drive.....	*730		
			1,300 feet downstream of Brittany Drive.....	*740		
			At downstream side of Brittany Drive.....	*745		
			1,700 feet upstream of Brittany Drive.....	*750		
			3,450 feet upstream of Brittany Drive.....	*761		
			Minnow Pond Drain	2,450 feet downstream of Quaker Valley Drive.....	*762	
				1,300 feet downstream of Quaker Valley Drive.....	*770	
		Downstream side of Quaker Valley Drive.....	*781			

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Upstream side of Quaker Valley Drive.....		*787
		2,500 feet upstream of Quaker Valley Drive.....		*800
		1,000 feet from the downstream side of Farmington Road.....		*810
		Downstream side of Farmington Road.....		*816
		Upstream side of Farmington Road.....		*823
		About 50 feet downstream of West Entrance to Oakland Community College.....		*826
		About 50 feet upstream of West Entrance to Oakland Community College.....		*831
		Downstream side of Interstate 696.....		*834
		Upstream side of Interstate 696.....		*839
		Upstream side of Twelve Mile Road.....		*843
		Upstream side of Kendallwood Road.....		*846
		Downstream side of Chesterbrook Road.....		*853
		Upstream side of Chesterbrook Road.....		*855
		Upstream side of Oak Point Drive.....		*862
		Downstream side of Thirteen Mile Road.....		*863
		Upstream side of Thirteen Mile Road.....		*867
		Upstream side of Drake Road.....		*871
		At Halstead Road.....		*876
		Upstream of Fourteen Mile Road.....		*882
	Seeley Drain	3,100 feet downstream of Drake Road.....		*762
		2,300 feet downstream of Drake Road.....		*770
		1,600 feet downstream of Drake Road.....		*780
		Upstream side of Concrete Footbridge (900 feet downstream of Drake Road).....		*790
		100 feet downstream of Drake Road.....		*796
		Upstream side of Drake Road.....		*803
		Upstream side of Driveway Bridge (1,000 feet upstream of Drake Road).....		*811
		Upstream side of Footbridge (2,800 feet upstream of Drake Road).....		*822
		Upstream side of Driveway Bridge (1,700 feet downstream of Halstead Road).....		*834
		Upstream side of Dam & Driveway Bridge (950 feet downstream of Halstead Road).....		*841
		Downstream side of Halstead Road.....		*846
		Upstream side of Halstead Road.....		*849
		About 200 feet upstream of Howard Road.....		*854
		Upstream side of Dam (1,300 feet upstream of Howard Road).....		*862
		Upstream side of Twelve Mile Road.....		*865
		3,700 feet upstream of Twelve Mile Road.....		*874
		1,000 feet downstream of Thirteen Mile Road.....		*880
		Downstream side of Thirteen Mile Road.....		*888
		Upstream side of Thirteen Mile Road.....		*893
		At Haggerty Road.....		*894
		At eastern corporate limits.....		*891
	Pebble Creek	Upstream side of Inkster Road.....		*695
		Downstream side of Forest Brook Road.....		*701
		50 feet upstream of Forest Brook Road.....		*707
		1,500 feet upstream of Forest Brook Road.....		*710
		Upstream side of Twelve Mile Road.....		*719
		Downstream side of Danvers Street.....		*723
		Upstream side of Danvers Street Dam.....		*729
		Downstream side of Footbridge (downstream of Danvers Court West).....		*738
		Upstream side of Danvers Court West.....		*744
		1,100 feet downstream of Wellington Road.....		*756
		Downstream side of Wellington Road.....		*769
		Upstream side of Wellington Road.....		*772
		1,900 feet upstream of Wellington Road.....		*790
		Downstream side of Middlebelt Road.....		*812
		Upstream side of Middlebelt Road.....		*815
		Downstream side of Thirteen Mile Road.....		*819
		Upstream side of Thirteen Mile Road.....		*825
		Downstream side of West Gate Road Bridge.....		*830
		Upstream side of West Gate Road Bridge.....		*834
		2,300 feet upstream of West Gate Road Bridge.....		*845
		Upstream side of Orchard Lake Road Bridge.....		*858
		Downstream side of Hunters Drive Bridge #1.....		*871
		Upstream side of Hunters Drive Bridge #2.....		*873
		500 feet upstream of Running Stream Drive (Bridge #2).....		*884
		At northern corporate limits.....		*893
	Tarabusi Creek	At southern corporate limits.....		*700
		Downstream side of Gill Road.....		*710
		Upstream side of Gill Road.....		*713

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Upstream side of Bridgeman Avenue.....		*716
		Downstream side of Nine Mile Road.....		*728
		Upstream of Drake Road.....		*730
		Downstream side of Interstate 96.....		*741
		500 feet upstream of Interstate 96.....		*748
		Maps available at City Hall, City Clerk Office, 31555 Eleven Mile Road, Farmington Hills, Michigan 48024.		
Michigan	Village of Saugatuck, Allegan County (Docket No. FI-5271).	Kalamazoo River.....	Downstream corporate limit.....	*584
		Lake Michigan.....	To upstream corporate limit.....	*584
			Shoreline.....	*584
		Maps available at the Office of the Village Manager, 329 Water Street, Saugatuck, Michigan 49453.		
Michigan	Saugatuck (TWN), Allegan County (Docket No. FI-5270).	Lake Michigan.....	Entire reach within Township of Saugatuck.....	*584
		Kalamazoo River.....	At mouth with Lake Michigan.....	*584
			Approximately 8,250 feet upstream from western corporate limits.....	*584
			11,300 feet upstream of Interstate-196 bridge.....	*585
			At eastern corporate limits.....	*586
		Silver Lake Creek.....	At the mouth with Kalamazoo River.....	*584
			Approximately 6,000 feet upstream from mouth with Kalamazoo River.....	*586
			Just downstream from Richmond Road.....	*588
			Just upstream of Richmond Road.....	*590
		Maps available at the Township Hall, 36 Center Street, Douglas, Michigan 49406.		
Minnesota	Duluth, St. Louis County (Docket No. FI-5298).	Mission Creek.....	At approximately 300 feet upstream from St. Louis River confluence.....	*607
			At Minnesota Highway 23.....	*613
			Approximately 1,500 feet upstream from Minnesota Highway 23.....	*620
			Approximately 2,940 feet upstream from Minnesota Highway 23.....	*639
		Stewart Creek.....	At Burlington Northern Railroad.....	*604
			Downstream at Duluth Mesabi and Iron Range Railroad.....	*608
			Upstream at Duluth Mesabi and Iron Range Railroad.....	*614
			Approximately 890 feet upstream from Duluth Mesabi and Iron Range Railroad.....	*620
			Downstream of Burlington Northern Railroad 610 feet upstream from 93rd Avenue.....	*696
			Upstream side of Burlington Northern Railroad 610 feet upstream from 93rd Avenue.....	*722
			At Duluth, Winne-Peg, and Pacific Railroad.....	*780
		62nd Avenue West Creek.....	At St. Louis River.....	*605
			Downstream at 63rd Avenue West.....	*606
			Upstream at 63rd Avenue West.....	*615
			Downstream at Burlington Northern Railroad.....	*615
			Upstream at Burlington Northern Railroad.....	*628
			At Grand Avenue.....	*640
		Keene Creek.....	Approximately 310 feet downstream of Burlington Northern Railroad.....	*604
			475 feet upstream from Raleigh Street.....	*612
			At 57th Avenue.....	*614
			Approximately 100 feet upstream Grand Avenue.....	*680
			At Bristol Street.....	*646
			Approximately 170 feet upstream Green Street.....	*678
			Approximately 120 feet upstream from Cody Street.....	*722
			West Gate Boulevard.....	*728
			Approximately 440 feet upstream West Gate Boulevard.....	*744
		49th Avenue West Creek.....	At St. Louis River.....	*604
			At Soo Line Railroad.....	*608
			Approximately 180 feet downstream from Grand Avenue.....	*619
			Upstream of Grand Avenue.....	*632
		Merritt Creek.....	Burlington Northern Railroad.....	*607
			Downstream of Grand Avenue.....	*620
			Upstream of Grand Avenue.....	*630
			Upstream of 6½ Street West.....	*652
			At 7th Street.....	*658
			At 8th Street.....	*686
			Just upstream of Duluth Mesabi and Iron Range Railroad Culvert.....	*722
			Just upstream of Patterson Street.....	*756
		Miller Creek.....	Approximately 4,640 feet upstream from U.S. Highway 53.....	*1,225
			Approximately 1,800 feet downstream of Anderson Road.....	*1,240
			At Anderson Road.....	*1,281
			Approximately 200 feet upstream from Chambersburg Avenue.....	*1,289
			At Decker Road.....	*1,316

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Downstream U.S. Highway 53 (Minnesota Highway 194).....		*1,320
		Upstream U.S. Highway 53 (Minnesota Highway 194).....		*1,324
		Approximately 1,500 feet upstream from Minnesota Highway 194.....		*1,334
		At Haines Road (Duluth corporate limits).....		*1,335
		At Airport Road.....		*1,374
		Approximately 200 feet upstream of downstream Airport Service Road Bridge.....		*1,380
	Coffee Creek.....	At Ridgeview Road (Corporate limits).....		*1,394
		At Piedmont Avenue.....		*955
		Tenth Street.....		*903
		Approximately 300 feet upstream from Tenth Street.....		*920
		At a private drive 570 feet upstream of 10th Street.....		*958
		Approximately 400 feet downstream from Skyline Parkway.....		*1,040
		Upstream Skyline Parkway.....		*1,068
		Approximately 200 feet upstream from Rock Dam.....		*1,112
		Downstream side Arlington Avenue.....		*1,125
		Upstream side Arlington Avenue.....		*1,132
		At a private driveway 690 feet upstream of Arlington Avenue.....		*1,149
		At Stop Log Dam.....		*1,162
		Approximately 1,800 feet upstream of Stop Log Dam.....		*1,180
		Approximately 2,770 feet downstream from Orange Street.....		*1,220
		At Orange Street.....		*1,267
		Approximately 110 feet upstream from Palm Street.....		*1,276
	Buckingham Creek.....	At U.S. Highway 53.....		*1,286
		At Superior Street.....		*773
		At downstream side of 2nd Street East Culvert.....		*794
		At 2nd Street East upstream side.....		*818
		Downstream side of 3rd Street East Culvert.....		*852
		Upstream side of 3rd Street East Culvert.....		*870
		Downstream side of 4th Street East Culvert.....		*915
		At upstream side of 4th Street East Culvert.....		*935
		At an alley 230 feet upstream of 4th Street East.....		*951
		At downstream side of 5th Street East Culvert.....		*960
		Approximately 60 feet upstream from 5th Street East.....		*988
		Approximately 60 feet downstream from Natural Waterfall.....		*1,040
		At upstream side of Natural Waterfall.....		*1,064
		Approximately 1,060 feet upstream from Skyline Parkway.....		*1,070
		Approximately 2,480 feet upstream from Skyline Parkway.....		*1,100
		Approximately 380 feet downstream from Observation Road.....		*1,140
		Downstream side of Observation Road.....		*1,147
		Upstream side of Observation Road.....		*1,154
		Approximately 630 feet upstream from Observation Road.....		*1,162
		Approximately 1,600 feet upstream from Observation Road.....		*1,202
		Approximately 880 feet downstream from Arlington Avenue.....		*1,240
		Approximately 50 feet downstream from Arlington Avenue.....		*1,296
		Approximately 45 feet upstream from the confluence with Buckingham Creek.....		*842
	North Branch of Buckingham Creek.....	Downstream side of 3rd Street East.....		*854
		Approximately 100 feet upstream from 3rd Street East.....		*873
		Approximately 110 feet downstream of 4th Street East Culvert.....		*904
		At upstream side of 4th Street East Culvert.....		*928
		Downstream side of 10th Avenue West.....		*935
		Approximately 40 feet upstream from 10th Avenue West.....		*951
		Downstream side of 5th Street Culvert.....		*951
		Upstream side of 5th Street Culvert.....		*972
		At downstream side of 6th Street Culvert.....		*1,001
		At upstream side of 6th Street Culvert.....		*1,016
	Brewery Creek.....	Upstream side of Central Entrance.....		*1,006
		Downstream side at Skyline Parkway Culvert.....		*1,037
		Upstream side at Skyline Parkway Culvert.....		*1,036
		Downstream side of Mesaba Avenue Culvert.....		*1,087
		Upstream side of Mesaba Avenue Culvert.....		*1,087
		At the confluence with North Branch of Brewery Creek.....		*1,117
		Upstream side of Pacon Street and Central Entrance Culvert.....		*1,193
		Downstream side of Blackman Avenue.....		*1,220
	North Branch of Brewery Creek.....	At Rice Lake Road.....		*1,186
		Downstream side of Baylis Street.....		*1,202
		40 feet upstream from Baylis Street.....		*1,210
		Approximately 1,340 feet upstream from Baylis Street.....		*1,233
	Chester Creek.....	At Chester Park Dam No. 2.....		*1,092
		Downstream side of Kenwood Avenue.....		*1,168
		Upstream side of Kenwood Avenue.....		*1,182
		Upstream side of St. Scholastica Drive.....		*1,187

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Approximately 120 feet upstream of Niagara Street.....		*1,202
		100 feet upstream from confluence with East Branch of Chester Creek.....		*1,224
		At Madison Avenue.....		*1,233
		Downstream side of Rice Lake Road.....		*1,263
		Approximately 100 feet upstream from Rice Lake Road.....		*1,272
		Downstream side of Arrowhead Road.....		*1,289
		Approximately 150 feet upstream from Arrowhead Road.....		*1,296
		At Rice Lake Road.....		*1,308
		Upstream side of Abandoned Road.....		*1,311
		Approximately 1,800 feet upstream from Abandoned Road.....		*1,320
		Approximately 4,000 feet upstream from Abandoned Road.....		*1,360
		Approximately 7,800 feet upstream of Rice Lake Road.....		*1,384
	East Branch of Chester Creek.....	Upstream side of Toledo Street.....		*1,226
		Approximately 25 feet upstream from Triggs Avenue.....		*1,232
		Approximately 200 feet upstream from McFarland Road.....		*1,296
		Upstream side of Norton Road.....		*1,329
	West Branch of Chester Creek.....	Confluence with Chester Creek.....		*1,234
		Downstream side of Rice Lake Road.....		*1,240
		Upstream side of Rice Lake Road.....		*1,249
		Downstream side of Arlington Avenue.....		*1,271
		Upstream side of Arlington Avenue.....		*1,278
		Approximately 400 feet upstream of Arlington Avenue.....		*1,280
		Downstream side of Basswood Avenue.....		*1,288
		Upstream side of Basswood Avenue.....		*1,298
		Downstream side of Stanford Avenue.....		*1,309
		Upstream side of Stanford Avenue.....		*1,321
		Upstream side of Swan Lake Road.....		*1,323
		Approximately 280 feet upstream from Ideal Street.....		*1,344
		Approximately 860 feet upstream from Ideal Street.....		*1,352
		Approximately 120 feet upstream from Farrell Road.....		*1,380
	Tischer Creek.....	Upstream side of Vermilion road.....		*1,022
		At Wallace Avenue.....		*1,050
		At Private Drive 640 feet upstream of Wallace Avenue.....		*1,060
		At Woodland Avenue.....		*1,069
		Approximately 50 feet upstream from Columbus Avenue.....		*1,082
		Approximately 120 feet upstream from Lewis Street.....		*1,098
		Approximately 50 feet upstream from Ford Avenue.....		*1,114
		50 Feet upstream of Fairmont Street.....		*1,143
		At Hartley Road.....		*1,190
	West Branch of Tischer Creek.....	At Norton Street.....		*1,069
		At Waverly Avenue.....		*1,073
		Approximately 150 feet upstream from St. Marie Street.....		*1,090
		Upstream side of Arrowhead Road.....		*1,128
	43rd Avenue East Creek.....	At Lake Superior.....		*605
		Approximately 60 feet upstream from London Road.....		*636
		Approximately 60 feet upstream from 43rd Avenue East.....		*646
		Approximately 40 feet upstream from Luvern Street.....		*672
		Upstream side of Duluth, Mesabi and Iron Range Railroad.....		*677
		At upstream side of Gilliat Street Culvert.....		*681
		Approximately 40 feet upstream from Superior Street.....		*694
		At the downstream side of Regent Street Culvert.....		*701
		Approximately 330 feet upstream from 41st Avenue East.....		*729
		Downstream side of 40th Avenue East.....		*734
		Approximately 60 feet upstream from Howard Mills Road.....		*1,040
		Downstream side of Glenwood Street.....		*1,068
		Approximately 60 feet upstream of Glenwood Street.....		*1,071
		Approximately 35 feet upstream from Jean Duluth Road.....		*1,096
		Approximately 750 feet upstream from Jean Duluth Road.....		*1,120
	50th Avenue East Creek.....	At Lake Superior.....		*605
		Approximately 130 feet upstream from Lake Superior.....		*611
		Downstream side of U.S. 81.....		*626
		Upstream side of U.S. 81.....		*650
		Approximately 50 feet upstream from Jay Street.....		*734
		Downstream side of 45th Avenue East.....		*783
		Upstream side of 45th Avenue East.....		*789
		Approximately 100 feet upstream of Colorado Street.....		*827
		Approximately 410 feet upstream from Colorado Street.....		*838
		Approximately 800 feet upstream from Colorado Street.....		*841
		570 feet downstream from Glenwood Street.....		*855
		Downstream side of Glenwood Street.....		*927

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. Elevation in feet (NGVD)
Minnesota		58th Avenue East Creek	90 feet upstream from U.S. Highway 61	*622
			Downstream side of Duluth, Mesabi and Iron Range Railroad	*640
			Approximately 70 feet upstream from Duluth, Mesabi and Iron Range Railroad	*650
			Downstream side of Minnesota Highway 23	*650
			Upstream side of Minnesota Highway 23	*662
			Downstream side of Tioga Street Culvert	*668
			Upstream side of 54th Avenue and Otsego Street Culvert	*668
			Approximately 20 feet upstream Glenwood Street	*724
			At the upstream side of 52nd Avenue Culvert	*776
			At downstream side of Crosey Avenue	*824
			At the upstream side of Oakley Street Culvert	*858
			Approximately 900 feet upstream from Oakley Street	*880
		Amity Creek	Approximately 100 feet upstream from the confluence with East Branch	*1,014
			Approximately 2,150 feet upstream from the confluence with East Branch	*1,040
			Approximately 100 feet upstream from Colby Avenue	*1,112
			Approximately 20 feet upstream from Jean Duluth Road	*1,128
			Approximately 100 feet upstream from Woodland Avenue	*1,282
			Approximately 1,500 feet upstream from Woodland Avenue	*1,308
			Approximately 100 feet upstream from Quarry Road	*1,320
			At Martin Road	*1,338
		St. Louis River	Approximately 2,800 feet upstream from Minnesota Highway 39	*604
			Approximately 8,000 feet upstream from Minnesota Highway 39	*605
			Approximately 12,000 feet upstream from Minnesota Highway 39	*606
			Approximately 16,400 feet upstream from Minnesota Highway 39	*607
		Clarkhouse Creek	Minnesota Highway 23	*609
			At the upstream side of 7th Street West Culvert	*944
			At the downstream side of 8th Street West	*977
			At the upstream side of 8th Street West	*998
			At the downstream side of 9th Street West	*1,003
			At upstream side of 9th Street West	*1,034
			Downstream side of Alley between Skyline and 9th Street West	*1,037
			At upstream side of Alley between Skyline and 9th Street West	*1,055
			Downstream side of Skyline Parkway	*1,058
			Upstream side of Skyline Parkway	*1,078
			Approximately 290 feet upstream Skyline Parkway	*1,104
			Approximately 600 feet upstream from Skyline Parkway	*1,130
			Approximately 270 feet downstream from 13th Street West	*1,180
			Downstream side of 13th Street West	*1,196
Mississippi	Unincorporated areas of Coahoma County (Docket No. FI-5455)	Mississippi River	Bolivar-Coahoma County Boundary	*174
			Coahoma-Tunica Corporate Limits	*197
		Big Sunflower River	Just upstream of Mississippi Highway 322	
		Little Sunflower River	Just upstream of Friars Point Road	*156
			Just upstream of Lee Drive	*157
New Jersey	Cedar Grove (Township) Essex County (Docket No. FI-5065)	Taylor Brook	Bowden Road—10 feet upstream from centerline	*293
			Spillway—60 feet upstream from centerline	*357
		Peckman River	Downstream crossing of Conrail—15 feet upstream from centerline	*193
			Little Falls Road—10 feet upstream from centerline	*216
		Peckman River Tributary	Pedestrian Crossing—40 feet upstream from centerline	*236
			Pompton Avenue—10 feet upstream from centerline	*279
		Peckman River Tributary	Bradford Avenue—30 feet upstream from centerline	*299
			Small Roadway—20 feet upstream from centerline (near confluence with Peckman River)	*220
		Peckman River Tributary	Old Orchard Court—15 feet upstream from centerline	*248
North Carolina	Town of Woodfin, Buncombe County (FI-5182)	French Broad River	Just downstream of Craggy Dam	*1,930
			Just upstream of Craggy Dam	*1,941
			Craggy Bridge	*1,948

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. Elevation in feet (NGVD)
		Beaverdam Creek	Approximately 375 feet upstream of NC Highway 191	*1,943
			Just upstream of US Highways 19 and 23	*2,042
		Unnamed Tributary to Beaverdam Creek	Approximately 150 feet downstream Exit Ramp of US Highways 19 and 23	*2,066
			Approximately 25 feet upstream Exit Ramp of US Highways 19 and 23	*2,070
			Just downstream of State Route 2086	*2,095
Maps available at: the Woodfin Town Hall, 90 Elk Mountain Road, Asheville, North Carolina.				
Ohio	City of Ashtabula, Ashtabula County (Docket No. FI-5371)	Lake Erie	Shoreline of community	*577
		Ashtabula River	Mouth at Lake Erie	*577
			Just upstream of East 24th Street	*580
			Just upstream of Main Road	*584
			Just upstream of East 48th Street	*601
			Just upstream of Conrail near 48th Street	*604
			Upstream corporate limits	*616
Maps available at: City Hall, 4400 Main Street, Ashtabula, Ohio 44004.				
Ohio	City of Geneva, Ashtabula County (Docket No. FI-5372)	Cowles Creek	Downstream corporate limit	*644
			Just upstream of North Avenue	*647
			Just downstream of Water Street	*651
			Just upstream of Water Street	*654
			Just upstream of East Main Street	*657
			Just downstream of Norfolk and Western Railway	*663
			About 150 feet upstream of Norfolk and Western Railway	*671
			Just downstream of South Ridge Road	*672
		Cowles Creek Tributary	Confluence with Cowles Creek	*659
			Just downstream of Grant Street	*659
			Just upstream of brick garage located about 150 feet upstream of Grant Street	*665
			Just upstream of Erie Street	*668
			Just upstream of Pine Street	*677
			Just downstream of Liberty Street	*678
			Just upstream of Norfolk and Western Railway	*687
			About 100 feet upstream of Tibbitts Street	*688
			Just upstream of Ruth Street	*690
			Just downstream of West Broadway	*709
			About 400 feet upstream of South Ridge Road	*712
Maps available at City Hall, 61 East Main Street, Geneva, Ohio 44041.				
Ohio	City of Kirtland, Lake County (Docket No. FI-5249)	Chagrin River	Downstream corporate limits	*851
			Upstream corporate limits	*854
		East Branch Chagrin River	Downstream corporate limits	*837
			Just upstream of State Route 306	*840
			Approximately 700 feet downstream Chillicothe Road	*848
			Just upstream of Chillicothe Road	*850
			At corporate limit approximately 4,000 feet upstream of Chillicothe Road	*859
			Downstream Lake County and Geauga County line	*868
			Approximately 3,170 feet downstream of U.S. Route 6	*889
			Approximately 150 feet upstream of U.S. Route 6	*900
			Upstream County Boundary	*914
Maps available at City Hall, Kirtland, Ohio 44094.				
Oregon	Talent (City), Jackson County (Docket No. FI-5079)	Bear Creek	Valley View Road—100 feet upstream from centerline	*1,568
		Wagner Creek	Valley View Road Bridge—30 feet upstream from centerline	*1,572
			Pacific Highway Bridge—40 feet upstream from centerline	*1,587
			Old Pacific Highway Bridge—50 feet upstream from centerline	*1,610
Maps available at City Hall, Talent, Oregon.				

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Pennsylvania	Alexandria, Borough, Huntingdon County (Docket No. FI-5432).	Frankstown Branch Juniata River.	Downstream Corporate Limits Bridge Street (T.R. 305) Upstream Corporate Limits	*703 *704 *708
Maps are available at the Borough Building, Scout House, Alexandria, Pennsylvania.				
Pennsylvania	Aliquippa, Borough, Beaver County (Docket No. FI-5348).	Ohio River	Rolle Street Extended Confluence of Logtown Run Upstream Corporate Limits	*707 *708 *710
		Logtown Run	Entrance to Logtown Run Culvert Burton Street Extended Sheffield Road Bridge Upstream Corporate Limit	*781 *804 *875 *915
Maps are available at the Borough Hall, 300 Franklin Avenue, Aliquippa, Pennsylvania.				
Pennsylvania	Ambridge, Borough, Beaver County (Docket No. FI-5349).	Ohio River	Downstream Corporate Limits Upstream Corporate Limits	*709 *711
		Big Sewickley Creek	Confluence with Ohio River Upstream Corporate Limits	*711 *716
Maps are available at the Borough Hall, Ambridge, Pennsylvania.				
Pennsylvania	Chartiers, Township, Washington County (Docket No. FI-5433).	Chartier's Creek	Downstream Corporate Limits Downstream side of Conrail Upstream side of Conrail Upstream side of Johnson Road Upstream crossing of Conrail Upstream side of Legislative Route 62092 Upstream side of State Route 802 Upstream side of Country Club Road Confluence of Tributary No. 5 Upstream side of Dirt Road Upstream Corporate Limits	*953 *955 *958 *961 *967 *975 *980 *985 *990 *993 *996
		George's Run	Downstream Corporate Limits Driveway (5,400 feet upstream of Corporate Limits) Farm Road (7,800 feet upstream of Corporate Limits) Farm Road (16,300 feet upstream of Corporate Limits) Private Road (17,400 feet upstream of Corporate Limits) Farm Road (19,600 feet upstream of Corporate Limits) Driveway (20,900 feet upstream of Corporate Limits)	*1,004 *1,022 *1,029 *1,080 *1,087 *1,103 *1,107
		Chartiers Run	Downstream Corporate Limits Washington Steel Corporation Driveway (9,100 feet upstream of the downstream Corporate Limits) McConnells Mills Farm Road Farm Road (16,300 feet upstream of the downstream Corporate Limits)	*954 *963 *972 *980 *981
Maps are available at the Chartiers Township Building.				
Pennsylvania	Exeter, Township, Wyoming County (Docket No. FI-5352).	Susquehanna River	Downstream Corporate Limits Upstream Corporate Limits	*575 *585
		White Lock Creek	At confluence with Susquehanna River At upstream side of Township Route 336	*579 *657
Maps are available at the Exeter Township Building.				
Pennsylvania	Forward, Township, Allegheny County (Docket No. FI-51434).	Monongahela River	Downstream Corporate Limits Lock and Dam No. 3 (Upstream) Upstream Corporate Limits	*749 *750 *756
		Fallen Timber Run	Downstream crossing of State Route 51 Downstream end of parking lot culvert Upstream Crossing of State Route 51 at downstream end of culvert	*777 *783 *787
Maps are available at the Forward Township Building.				
Pennsylvania	Freedom, Borough, Beaver County (Docket No. FI-5353).	Ohio River	Downstream Corporate Limits Upstream Corporate Limits	*704 *706
		Dutchman Run	Confluence with the Ohio River Corporate Limits at New Sewickley (Downstream) Corporate Limits at New Sewickley (Upstream) Upstream Corporate Limits	*705 *740 *762 *809
Maps are available at the Borough Hall, 354 8th Street, Freedom, Pennsylvania.				
Pennsylvania	Kilbuck, Township, Allegheny County (Docket No. FI-5022).	Lowries Run	At the Downstream Corporate Limits Private Road located approximately 200 feet above Corporate Limits (Upstream) Footbridge located approximately 3,000 feet above Corporate Limits (Upstream) Private Road located approximately 700 feet below the Upstream Corporate Limits (Upstream)	*752 *753 *773 *780

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Footbridge located approximately 500 feet below the Upstream Corporate Limits (Upstream).	781
		Ohio River	Upstream Corporate Limits At the Downstream Corporate Limits At the Upstream Corporate Limits	782 719 719
Maps are available at the Township Building, Kilbuck, Pennsylvania.				
Pennsylvania	Marietta, Borough, Lancaster County (Docket No. FI-5355).	Susquehanna River	Downstream Corporate Limits Confluence of Tributary No. 16 to Susquehanna River Upstream Corporate Limits	261 263 265
		Tributary No. 16 to the Susquehanna River.	Front Street State Route 23, M Street (Upstream) Waterford Street Corporate Limits Confluence with Susquehanna River Corporate Limits	263 267 273 275 260 260
		Chickies Creek		
Maps are available at the Borough Office, East Market Street, Marietta, Pennsylvania.				
Pennsylvania	Nescopeck, Borough, Luzerne County (Docket No. FI-4575).	Susquehanna River	State Route 93 Upstream Corporate Limits (Extended) Downstream Corporate Limits 10 feet downstream of Legislative Route 40017 Upstream Corporate Limits	500 503 500 501 502
		Nescopeck Creek		
Maps are available at the Nescopeck Zoning Office, 701 First Street, Nescopeck, Pennsylvania.				
Pennsylvania	Port Clinton, Borough, Schuylkill County (Docket No. FI-5357).	Schuylkill River	Downstream Corporate Limits State Route 61 Upstream Conrail Bridge 78/31 Upstream Corporate Limits Broad Street Upstream Corporate Limits	396 399 409 416 406 413
		Little Schuylkill River		
Maps are available at the Fire Hall, Penn and Broad Streets, Port Clinton, Pennsylvania.				
Pennsylvania	Rochester, Borough, Beaver County (Docket No. FI-5360).	Ohio River	Upstream Rochester Monaca Bridge Upstream Corporate Limits	704 704
		Beaver River	Upstream Conrail Bridge Upstream Rochester-West Bridgewater Bridge Upstream Rochester Beaver Bridge	703 703 704
Maps are available at the Borough Office, Rochester, Pennsylvania.				
Pennsylvania	Tullytown, Borough, Bucks County (Docket No. FI-5361).	Delaware River	Downstream Corporate Limits Upstream Corporate Limits Backwater flooding on Van Seiver Lake Backwater flooding on Manor Lake	*11 *11 *12 *12
Maps are available at the Municipal Hall, 500 Main Street, Tullytown, Pennsylvania.				
Pennsylvania	Vanport, Township, Beaver County (Docket No. FI-5362).	Ohio River	Downstream Corporate Limits Upstream Corporate Limits Confluence with Ohio River Beaver Valley Expressway Culvert (Downstream) Beaver Valley Expressway Culvert (Upstream) Upstream Corporate Limits	700 702 701 705 723 777
		Two Mile Run		
Maps are available at the Township Office, 477 State Street, Vanport, Pennsylvania.				
South Carolina	Town of Branchville, Orangeburg County (Docket No. FI-5363).	Pen Branch	Approximately 100 feet downstream of E. Railroad Avenue Approximately 150 feet upstream of U.S. 78 Approximately 250 feet upstream of North Street (extended)	120 127 128
Maps available at: The City Clerk's Office, Town Hall, Main Street, Branchville, South Carolina.				
South Carolina	City of Greenville, Greenville County (Docket No. FI-5442).	Richland Creek Tributary 1	Approximately 100 feet downstream of Hillside Drive	866
		Richland Creek Tributary 4	Approximately 160 feet upstream of U.S. Highway 29	885
		Richland Creek Tributary 5	Approximately 50 feet upstream of Summit Drive	905
		Richland Creek Tributary 5A	Approximately 100 feet downstream of North Main St	905
		Richland Creek Tributary 6	Approximately 200 feet downstream of Windsor Drive	918
		Laurel Creek	Approximately 30 feet upstream of Chick Springs Road Approximately 250 feet upstream of Interstate 85 Approximately 140 feet downstream of Woodruff Road (SC 46)	906 879 914

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Laurel Creek East	Just downstream of Rocky Slope Road	*902
		Laurel Creek Tributary	Approximately 50 feet upstream of corporate limits	*786
		Reedy River	Approximately 120 feet upstream of Southern Corporate limits	*822
			Mount Vista Avenue extended	*839
			Approximately 300 feet upstream of Farris Road extended	*845
			Just downstream of McDaniel Avenue	*852
			Just downstream of U.S. Highway 29	*877
			Just downstream of Camperdown Way	*907
			Just upstream of Greenville Northern R.R. Bridge (180 ft. upstream of S. Main Street)	*819
			Nassau Street extended	*929
			Approximately 70 feet downstream of Bramlette Road	*933
			Approximately 50 feet downstream of West Washington Road	*938
		Reedy River Tributary 1	Approximately 50 feet upstream of Parkins Mill Road	*828
		Reedy River Tributary 2	Approximately 120 feet upstream of Halidon Drive	*829
			Approximately 120 feet upstream of Parkins Mill Road	*839
			Just downstream of Cleveland Street	*844
		Reedy River Tributary 3	Approximately 550 feet upstream of Greenville Tech Street (Just upstream of Culvert Entrance)	*851
		Brushy Creek	Approximately 30 feet downstream of Chapman Road	*838
			Just upstream of West Farris Road	*868
		Richland Creek	Just downstream of Laurens Road	*855
	Approximately 150 feet upstream of East North Street	*861		
	Spartanburg Street	*864		
	Approximately 160 feet upstream of Chick Springs Road	*894		
Maps available at: The Department of Public Works, 206 North Main Street, Greenville, South Carolina.				
South Carolina	City of North Augusta, Aiken County (Docket No. FI-5364).	Savannah River	Just downstream of 13th Street Bridge	*147
		Tributary C	Confluence of Tributary C	
			Just upstream of Western corporate limits	*153
			Just downstream of West Martintown Road	*229
			Just upstream of West Martintown Road	*240
			Caretta Avenue Extended	*380
Maps available at: The File Room, City Hall, 400 East Buena Vista Avenue, North Augusta, South Carolina.				
Texas	City of Heath, Rockwall County (Docket No. FI-5470).	Buffalo Creek	Just downstream of FM 550 (Lawrence Drive)	*453
			Approximately 600 feet downstream of FM 549 (Hubbard Drive)	*462
			Just upstream of FM 549 (Hubbard Drive)	*471
Maps available at: City Hall, 217 Hubbard Drive, Heath, Texas 75087.				
Texas	Town of Sunnyvale, Dallas County (Docket No. FI-4826).	North Mesquite Creek	Just upstream of the Texas and Pacific Railroad	*440
		Stream 2M1	Just upstream of I-20	*420
		Long Creek	Approximately 200 feet upstream of Long Creek Road	*428
			Just upstream of Collins Rd.	*448
			Just upstream of Jobson Rd	*492
		Duck Creek	Just upstream of East Fork Road	*414
			Just upstream of Town East Boulevard	*425
Maps available at: Town Hall, Long Creek Road, Sunnyvale, Texas 75182.				
Vermont	Village of Stowe, Lamoille County (Docket No. FI-5417.	East Branch Little River	At mouth	
			At upstream corporate limits	
		Little River		*709
		At downstream corporate limits		*709
			1,500 feet downstream of State Route 108	*687
			Just downstream of State Route 108	*695
			Just upstream of State Route 108	*703
		West Branch, Little River	At confluence of East Branch Little River	*709
			At upstream corporate limits	*709
				*710
Maps available at the Village Office, Stowe, Vermont 05672.				

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator 44 FR 20963.)

Issued: August 9, 1979.
Gloria M. Jimenez,
Federal Insurance Administrator.

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BILLING CODE 4210-23-M

44 CFR Part 67

[Docket No. 5687]

National Flood Insurance Program;
Final Flood Elevation Determinations

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the nation.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required either to adopt or show evidence of being already in effect in order to qualify or remain qualified

for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the community.

ADDRESS: See table below.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755-5581 or Toll Free Line (800) 424-8872 (In Alaska and Hawaii Call Toll Free (800) 424-9080), Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determination of flood elevations for each community listed.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 44 CFR Part 67.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided, and the Administrator has resolved the appeals presented by the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 44 CFR Part 60.

The final base (100-year) flood elevations for selected locations are:

Final Base (100-year) Flood Elevations

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)		
California	Napa County, Unincorporated Areas (Docket No. FI-3975).	Napa River	Imola Avenue—600 feet upstream from centerline	*11		
			West Trancas Road—at centerline	*30		
			Oak Knoll Avenue—400 feet downstream from centerline	*55		
			Yountville Cross Road—750 feet upstream from centerline	*98		
			Oakville Cross Road—200 feet downstream from centerline	*125		
			U.S. Highway 128—200 feet upstream from centerline	*152		
			Zinfandel Avenue—at centerline	*181		
			Pratt Avenue—500 feet downstream from centerline	*226		
			Lodi Lane—100 feet upstream from centerline	*238		
			Bale Lane—300 feet downstream from centerline	*270		
		Tulucay Creek	Larkmead Lane—100 feet upstream from centerline	*288		
			Greenwood Avenue—750 feet upstream from centerline	*383		
			Shurtleff Avenue—100 feet upstream from centerline	*30		
			3rd Avenue—50 feet upstream from centerline	*96		
			Redwood Road—100 feet downstream from centerline	*118		
			Milliken Creek			
			Hedgeside Avenue—at centerline	*48		
			Atlas Peak Road—at centerline	*61		
			Vichey Avenue—at centerline	*79		
			Yountville Cross Road—1,000 feet upstream from centerline	*98		
Conn Creek	Oakville Cross Road—300 feet downstream from centerline	*125				
	Silverado Trail—at centerline	*182				
	State Highway 29—100 feet upstream from centerline	*44				
	Browns Valley Road—at centerline	*103				
	Maps available at County Offices, 1127 First Street, Napa County, California.					
	Indiana	Chesterton, Town, Porter County (Docket No. FI-4251).	East Arm Little Calumet River	Upstream Corporate Limits	*625	
				Calumet Road (Upstream)	*624	
				Downstream Corporate Limits	*621	
				County Road 1100 North (Upstream side)	*645	
			Coffee Creek	State Route 49 (Upstream)	*637	
Porter Avenue (Upstream)				*631		
Conrail (Upstream)				*628		
Calumet Road (Upstream)				*625		
Sand Creek			Downstream Corporate Limits	*622		
			Porter Avenue (Upstream)	*637		
			Downstream Corporate Limits	*629		
			Peterson Ditch			
Jackson Boulevard			23rd Street (Upstream side)	*639		
			Downstream Corporate Limits	*639		
			Maps are available at the Chesterton Town Hall, 726 Broadway Street, Chesterton, Indiana.			
			Indiana	Vanderburgh County, Unincorporated Areas (Docket No. FI-3054).	Ohio River	Louisville and Nashville Railroad Bridge—at centerline
Kentucky Avenue (U.S. 41)	*379					
Pigeon Creek	U.S. Highway 41	*380				
	North Green Road Bridge	*384				
Maps available at 305 Administration Building, Civic Center Complex, Evansville, Indiana.						
Montana	Miles City (City) Custer County (Docket No. FI-4353).	Yellowstone River	Intersection of Daly Avenue and Edgewood Street	*2,352		
			7th Street—between Levee and River Street	*2,355		
			State Highway 22—at centerline (west of Levee)	*2,358		
		Tongue River	Confluence with Tongue River	*2,359		
			Chicago, Milwaukee, St. Paul and Pacific Railroad—at centerline	*2,359		

Final Base (100-year) Flood Elevations—Continued				
State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Pacific Avenue—150 feet upstream from centerline.....		Balsam Drive, 1,600 feet west of intersection with Strevell Avenue.....		*2.363
		Area bounded by Front Street, Pleasant Street, Ninth Street, and Washington Street.		*2.364
Maps available at City Hall, 2nd and Custer, Miles City, Montana.				#1
(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator 44 FR 20963.)				
Issued: August 13, 1979.				
Gloria M. Jimenez, Federal Insurance Administrator.				
[FR Doc. 79-25815 Filed 8-21-79; 8:45 am]				
BILLING CODE 4210-23-M				

DEPARTMENT OF COMMERCE
Maritime Administration
46 CFR Part 282
Uniform System of Accounts for Maritime Carriers; Reference to Office of Management and Budget Approval of Recordkeeping Requirements
AGENCY: Maritime Administration, Department of Commerce.
ACTION: Final rule (clarification).

SUMMARY: In 39 FR 16445 (May 9, 1974), reference was made to OMB approval of reporting requirements contained therein. This statement was inadvertently omitted when the regulation was published in the *Code of Federal Regulations* (46 CFR Part 282).

To correct this omission, 46 CFR 282.1 is amended by the addition of a sentence clarifying this approval. A determination has been made that this clarification of Agency authority to establish recordkeeping requirements is not a significant regulation or one requiring a regulatory analysis under the criteria that have been established pursuant to E.O. 12044 (43 FR 12661) and implementing procedures contained in Department of Commerce Administrative Order 218-7 (44 FR 2082).
EFFECTIVE DATE: August 22, 1979.
FOR FURTHER INFORMATION CONTACT: Michael Feeney, Office of Financial Management, Maritime Administration, Washington, D.C. 20230, Telephone: (202) 377-5624.
Accordingly, 46 CFR 282.1(a) is

amended by adding a sentence at the end to read as follows:
§ 282.1 In general.
(a) *Purpose.* * * * The recordkeeping requirements contained herein have been approved by the Office of Management and Budget in accordance with the Federal Reports Act of 1942. (Sec. 204(b), Merchant Marine Act, 1936, as amended (46 U.S.C. 1114(b)), sec. 801 of Pub. L. 74-835, as amended (46 U.S.C. 1211).)
Dated: August 15, 1979.
By Order of the Acting Assistant Secretary of Commerce for Maritime Affairs.
Robert J. Patton, Jr.,
Acting Secretary, Maritime Administration.
[FR Doc. 79-25881 Filed 8-21-79; 8:45 am]
BILLING CODE 3510-15-M

Proposed Rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE
[7 CFR Part 14]
Implementing the Revenue Act of 1978; Determining the Primary Purpose of Certain Federal and State Payments
AGENCY: Department of Agriculture.
ACTION: Proposed rule.

SUMMARY: This action proposes criteria to be used by the Secretary of Agriculture in determining the primary purpose of certain Federal and State cost-sharing payments. When the criteria became final, the Secretary will apply them to Federal and State programs and propose determinations for public comment before making final determinations. After the final determinations of purpose are made, recipients may exclude cost-sharing payments from their gross income provided that the Secretary of the Treasury separately determines that these payments do not increase substantially their annual income.
DATE: Comments on the proposal must be received on or before September 21, 1979, in order to be assured of consideration in the final rule.
ADDRESS: Comments should be submitted to and are available for examination in the office of: Dr. Arnold Miller, Office of Budget, Planning and Evaluation, Office of the Secretary, Room 117-A Administration Building, U.S. Department of Agriculture, Washington, D.C. 20250. [(202) 447-3465].
FOR FURTHER INFORMATION CONTACT: Dr. Arnold Miller, (202) 447-3465.
SUPPLEMENTARY INFORMATION: (1) *General.* Section 543 of the Revenue Act of 1978 (Pub. L. 95-600, hereafter referred to as the "Act") amends the Internal Revenue Code of 1954 to provide that certain payments, or portions thereof, received through Federal or State programs can be excluded from gross income for Federal income tax purposes. The exclusions

apply to the extent that the Secretary of Agriculture determines that such payments, or portions thereof, are made primarily for the purposes of conserving soil and water resources, protecting or restoring the environment, improving forests, or providing wildlife habitat, and to the extent that the Secretary of the Treasury determines that such payments, or portions thereof, do not increase substantially the annual income derived from the property associated with the payments.
A deduction, depreciation, amortization, or investment credit may not be claimed with respect to amounts excluded from gross income by Section 543 of the Act. If associated property or improvements are disposed of within twenty years, some or all of any capital gain may be treated as ordinary income. Section 543 applies to payments made after September 30, 1979, and is incorporated into the Internal Revenue Code of 1954 as Section 126 (exclusion), and as Section 1255 (recapture).
The Department of Agriculture is working with the Department of the Treasury to implement Section 543 of the Act. This proposal, however, is limited to the responsibilities of the Secretary of Agriculture as prescribed in Section 543.
(2) *Form of Determinations.* After the proposed criteria have been promulgated as final rules, the Secretary of Agriculture will apply them to applicable Federal and State payments to determine the primary purpose for which the payments are made. Proposed determinations will be published in the *Federal Register* for public comment before final determinations are made. The determinations may be made on the basis of entire programs, categories of practices or measures within programs, or on the basis of individual payments.
(3) *Alternatives Considered.* The regulatory approach outlined in this proposal was selected from among three broad alternatives. Each broad alternative was composed of specific elements pertinent to eight areas of discretion.
The first broad alternative is embodied in the proposed rule. The specific elements of the proposal may be summarized as follows:
1. Invoke executive interpretation to extend applicability to payments received under State water conservation programs.

2. Limit soil conservation to the prevention of soil deterioration in the forms of erosion and chemical changes affecting the long-term productivity of the resource.
3. Define water conservation as actions which, for a given level of water supply, reduce the demand for or use of water by improving efficiency in use, reducing loss or waste, increasing recycling and reuse, and related land management practices.
4. Define environmental protection as those actions which will prevent man-caused or man-induced reductions in the natural complex of conditions in which people live.
5. Invoke executive interpretation to extend environmental restoration to include the reestablishment and enhancement of the quantity or quality of natural conditions which existed prior to man-caused or man-induced degradation.
6. Define forestry improvement to include the direct conservation or enhancement of the timber resource itself.
7. Include in wildlife habitat the physical and biological conditions in which non-domesticated and non-cultivated forms of animal and plant life, of value to the public apart from that which is realized as direct private economic gain, normally live in their natural state.
8. Define State payments as those received under programs authorized and funded, in whole or in part, by the legislative body of any of the 50 States or the District of Columbia.
The second broad alternative would involve the following specific elements:
1. Reject executive interpretation extending applicability to State payments for water conservation.
2. Restrict soil conservation to include only erosion reduction
3. Exclude related land management activities from the definition of water conservation.
4. Limit the recognized components of the environment to those involving immediate and direct threats to human health and safety.
5. Reject environmental enhancement from the definition of environmental restoration.
6. Constrain forestry improvement to the reestablishment of previously existing timber stands.

7. Limit wildlife habitat to only that of endangered or otherwise threatened species.

8. Restrict State programs to include only those authorized and funded, in total, by any of the 50 States and the District of Columbia.

The third broad alternative would involve the following specific elements.

1. Invoke executive interpretation extending applicability to State payments for water conservation.

2. Extend the definition of soil conservation to include land improvement.

3. Extend the definition of water conservation to include supply development.

4. Expand the definition of environmental protection to include not only prevention of man-caused or man-induced degradations in the natural environment but also damage to the physical environment brought about by natural occurrences.

5. Extend environmental restoration to include all forms of enhancement, including physical modifications, regardless of whether or not degradation has occurred.

6. Expand the definition of forestry improvement to include all aspects of timber production.

7. Expand the definition of wildlife habitat to include that of species husbanded for profit.

8. Extend the definition of State programs to include those of substate political entities.

(4) *State Programs.* In addition to Federal payments, payments received by persons under programs administered by State governments may qualify for exclusion from gross income for Federal tax purposes.

States that seek an exclusion from gross income with respect to payments made under their programs should notify the Secretary of Agriculture under the procedure specified in this proposal. States that have submitted materials in response to (1) the May 24, 1979 letter sent to all governors on this subject or, (2) to the advance notice of proposed rulemaking that appeared in the June 29, 1979 Federal Register (44 FR 37953) need not resubmit materials in response to this proposed rule.

Section 14.0(a) of the proposal defines State programs as those authorized directly by an act of the legislative body of any of the fifty States or the District of Columbia, and funded at least in part by appropriations made by the same legislative body. Generally, this definition would tend to exclude programs authorized and funded by substate entities. A number of comments, received in response to the

advance notice on this action (44 FR 37953-4, June 29, 1979), suggested that State programs be defined to include those of substate entities. The Department is considering these comments and remains open to further comment on this subject.

(5) *Pending Legislation.* This proposal reflects the pertinent amendments to the Internal Revenue Code of 1954 as contained in the Revenue Act of 1978. A current bill, H.R. 2797, would amend the Revenue Act of 1978 if enacted. As currently written, this bill would affect the proposed rule by making the provisions of Section 543 of the Act electable at the option of the taxpayer. Generally, this would not affect the responsibilities of the Secretary of Agriculture under Section 543 of the Act. However, reviewers of the proposal should be aware of the potential for further amendments to the authority on which the proposal is based.

Accordingly, it is proposed that 7 CFR, Subtitle A, Part 14 read as follows:

PART 14—DETERMINATION OF THE PRIMARY PURPOSE OF CERTAIN FEDERAL AND STATE COST-SHARING PAYMENTS FOR FEDERAL TAX PURPOSES

- Sec.
14.1 Purpose.
14.2 Applicability and scope.
14.3 Objective.
14.4 Policy.
14.5 Criteria for determining the primary purpose of Federal payments with respect to exclusion from gross income.
14.6 State payments.

Authority: Sec. 543, Pub. L. 95-600; 5 USC 301.

§ 14.1 Purpose.

(a) This part sets forth the Department's regulations for determining the primary purpose of certain Federal and State cost-sharing payments. Determining the primary purpose for which applicable cost-share payments are made is one step toward the exclusion of all or part of such payments from gross income for Federal income tax purposes.

(b) To be excluded from gross income, all or part of applicable cost-sharing payments must: (1) be determined by the Secretary of Agriculture to be made primarily for the purpose of conserving soil and water resources, protecting or restoring the environment, improving forests, or providing habitat for wildlife; and (2) be determined by the Secretary of the Treasury as not increasing substantially the annual income derived from the property associated with the payments.

(c) The regulations set forth in this part apply only to the determinations to be made by the Secretary of Agriculture.

§ 14.2 Applicability and scope.

(a) This part applies only to cost-sharing payments received under the Federal and State programs listed in paragraphs (1) through (10) below.

(1) The rural clean water program authorized by Section 208(j) of the Federal Water Pollution Control Act (33 U.S.C. 1288(j)).

(2) The rural abandoned mine program authorized by section 406 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1236).

(3) The water bank program authorized by the Water Bank Act (16 U.S.C. 1301 et seq.).

(4) The emergency conservation measures program authorized by title IV of the Agricultural Credit Act of 1978 (16 U.S.C. 2201 et seq.).

(5) The agricultural conservation program authorized by the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590a).

(6) The great plains conservation program authorized by Section 16 of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590p(b)).

(7) The resource conservation and development program authorized by the Bankhead Jones Farm Tenant Act and by the Soil Conservation and Domestic Allotment Act (7 U.S.C. 1010; 16 U.S.C. 590a et seq.).

(8) The forestry incentives program authorized by section 4 of the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2103).

(9) Any small watershed program administered by the Secretary of Agriculture which is determined by the Secretary of the Treasury to be substantially similar to the type of programs described in paragraphs (a)(1) through (8) of this section.

(10) Any State program under which payments are made to individuals primarily for the purpose of conserving soil and water resources, protecting or restoring the environment, improving forests, or providing a habitat for wildlife.

(b) Payments received under programs not listed in paragraphs (a)(1) through (10) of this section will not be considered as eligible for exclusion from gross income under this part.

(c) The criteria set forth in § 14.5 for determining the primary purpose of Federal cost-sharing payments shall also be used to determine the primary purpose of payments made under State programs with respect to the applicability of this part.

§ 14.3. Objective.

(a) The intent of determinations made pursuant to this part is to encourage participation in certain voluntary Federal and State cost-share programs yielding conservation and environmental benefits to the public beyond those which accrue to participating landowners and users by effectively helping to reduce the Federal income tax liability on all or part of cost-sharing payments commensurate with public benefits.

§ 14.4. Policy.

(a) Federal tax, conservation, natural resource, and environmental policies should complement rather than conflict with one another.

(b) The recipients of Federal and State cost-sharing payments for conserving soil and water resources, protecting or restoring the environment, improving forests, or providing habitat for wildlife, should be allowed to exclude them from gross income for Federal income tax purposes to the extent that such payments are determined not to increase substantially the annual income derived from the property associated with the payments.

§ 14.5. Criteria for determining the primary purpose of Federal payments with respect to exclusion from gross income.

(a) *Soil conservation.* (1) Payments shall be considered to be made primarily for the purpose of soil conservation if they are intended to finance activities, measures, or practices to reduce soil deterioration.

(2) Soil deterioration refers to those impairments of the physical or chemical properties of soil which are largely irreversible and which can be expected to result in a long-term or permanent reduction in the productive capacity of the resource regardless of the level of technology available or applied. Erosion by water and wind and those chemical changes which result in permanent or long-term reductions in the productive capacity of the soil are considered to be forms of soil deterioration.

(b) *Water conservation.* (1) Water conservation is defined to include those actions which, for a given level of water supply, will reduce the demand for or use of water by:

- (i) Improving efficiency in use;
- (ii) Reducing losses and waste;
- (iii) Increasing the recycling or reuse of water thereby making existing supplies available for alternative current or future uses;

(iv) Improving land management practices for the purpose of reducing water use, loss, waste, increasing the

efficiency of water use, or increasing the recycling or reuse of water.

(2) Payments shall be considered to be made primarily for the purpose of water conservation if they are intended to finance actions, measures, or practices that can be expected to result in impacts of the types listed in paragraphs (b)(1) (i) through (iv) of this section.

(c) *Protecting the Environment.* (1) Payments will be considered to be made primarily for the purpose of protecting the environment if they are intended to finance actions, measures, or practices undertaken to prevent man-caused or man-induced reductions or degradations in the quantity or quality of the natural external or extrinsic conditions directly or indirectly affecting people.

(2) External or extrinsic conditions refer to the complex of natural conditions or circumstances, including but not limited to, those affecting public health and safety, in which people reside or otherwise carry out their lives.

(d) *Restoring the Environment.* (1) Payments will be considered to be made primarily for the purpose of restoring the environment if they are intended to finance actions, measures, or practices undertaken to reestablish, return, or enhance the quantity or quality of the natural external or extrinsic conditions directly or indirectly affecting people which existed prior to man-caused or man-induced degradation.

(2) External or extrinsic conditions has the same meaning with respect to restoring the environment as it does for protecting the environment.

(e) *Improving Forests.* (1) Payments will be considered to be made primarily for the purpose of improving forests if they are intended to finance actions, measures, or practices undertaken for the direct conservation or enhancement of the quantity or quality of timber resources.

(2) Improving forests includes the generation and regeneration of timber stands as well as the silvicultural improvement of the condition of existing stands.

(f) *Providing Habitat for Wildlife.* (1) Payments will be considered to be made primarily for the purpose of providing habitat for wildlife if they are intended to finance actions, measures, or practices directly leading to the establishment of those physical and biological conditions or resources that can reasonably be expected to support primarily non-cultivated and non-domesticated animal and plant life of value to the public in their natural state apart from that which may be realized as private economic gain.

(2) Wildlife includes, but is not limited to, species of terrestrial or aquatic animals and plants.

(3) Habitat includes, but is not limited to, the food supply, water supply, nesting and escape cover necessary to support populations of wildlife species. Included in the definition of wildlife habitat are domestic crops raised for the primary purpose of providing food supply or cover for specific wildlife species.

§ 14.6 State payments.

(a) *Definition of State programs.* (1) State programs means those programs authorized directly by an act of the legislative body of any of the 50 States, and the District of Columbia, and funded at least in part by appropriations made by the same legislative body.

(b) *Applicability.* (1) Payments received through State programs under which payments are made to individuals primarily for the purpose of conserving soil and water resources, protecting or restoring the environment, improving forests, or providing a habitat for wildlife may be considered for exclusion from gross income.

(c) *Determining the purpose of payments.* (1) The determination of the primary purpose for which payments are made under State programs with respect to exclusion from gross income shall be made using the criteria as set forth in § 14.5.

(d) *Procedure for determining the primary purpose of payments made under State programs.* (1) to initiate consideration of the primary purpose of payments made under State programs, the Governor, or his delegate, should provide six copies of the following materials relating to such programs to the Secretary of Agriculture.

- (i) Authorizing legislation.
- (ii) Rules or regulations governing the programs.
- (iii) Current policies and procedures under which payments are made.
- (iv) A description of all practices or measures for which payments are made.

Determination

Note.—This proposal has been reviewed under the USDA criteria established to implement Executive Order 12044, "Improving Government Regulation," and has been classified "significant." An approved draft impact analysis is available from Dr. Arnold Miller at the address specified above. *Note.*—Executive Order 12044 provides that a minimum comment period of 60 days be provided whenever possible. This proposal is not expected to be controversial. Delaying implementation of the proposal may result in a delay in realization of benefits under applicable Federal and State programs. Accordingly, it is determined that a 30-day period for public comment is adequate.

Signed at Washington, D.C., August 17, 1979.

Bob Bergland,
Secretary.

[FR Doc. 79-25900 Filed 8-21-79; 8:45 am]
BILLING CODE 3410-01-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[14 CFR Part 1214]

Authority of the Space Transportation System (STS) Commander

AGENCY: National Aeronautics and Space Administration.

ACTION: Proposed rule.

SUMMARY: The proposed regulations would set forth the authority of the Space Transportation System commander. The commander is ultimately responsible for maintaining order and discipline and for the safety of all personnel aboard a Space Shuttle flight, as well as for the safety of the Space Shuttle itself, STS elements and payloads. Under this regulation, the commander's authority applies to all persons aboard the Space Shuttle, including those persons engaged in extravehicular activity (EVA), and it includes the right to use any reasonable and necessary means, including the use of physical force, to ensure that such responsibility is fulfilled.

DATE: Written comments should be received not later than 60 days following publication in the Federal Register.

ADDRESS: Office of Space Transportation Systems, Mail Code MSP-2, NASA Headquarters, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Robert T. O'Neil, 202/755-2424.

SUPPLEMENTARY INFORMATION: In the past, all persons who have launched into outer space aboard United States spacecraft have been both nationals of the United States and employees of the United States Government.

On STS flights it is expected that some persons will be flown who will be neither United States nationals nor employees of the United States Government. The purpose of the proposed regulation is to make clear the fact that all persons aboard the Space Shuttle, including those participating in extravehicular activities (EVA), will be subject to the authority of the STS commander or a flight crew member who succeeds to the commander's authority. These proposed regulations will affect persons outside of NASA and, because of this, public comment is being invited on this proposal.

14 CFR Part 1214 is amended by adding a new Subpart 1214.7 reading as follows:

Subpart 1214.7—The Authority of the Space Transportation System (STS) Commander

Sec.

1214.700 Scope.

1214.701 Definitions.

1214.702 Authority and responsibility of STS commander.

1214.703 Chain of command.

1214.704 Violations.

Authority: Pub. L. 95-568; 72 Stat. 426; 42 USC 2473, 2455; 18 USC 799; Art. VIII, TIAS 6347 (18 UST 2410).

Subpart 1214.7—The Authority of the Space Transportation System Commander

§ 1214.700 Scope.

This Subpart establishes the authority of the STS commander to enforce order and discipline during all flight phases of an STS flight to take whatever action in his/her judgment is necessary for the protection, safety, and well-being of all personnel and on-board equipment, including the STS elements and payloads. During the final launch countdown, following crew ingress, the STS commander has the authority to enforce order and discipline among all on-board personnel. During emergency situations prior to liftoff, the STS commander has the authority to take whatever action in his/her judgment is necessary for the protection or security, safety, and well-being of all personnel on board.

§ 1214.701 Definitions.

(a) *STS Elements* consists of the Orbiter, an External Tank, two Solid Rocket Boosters, Spacelab, Upper Stage Boosters (Solid Spinning Upper Stage and Interim Upper Stages) and others as specified in NASA Management Instruction 8040.3.

(b) The *Flight Crew* consists of the commander, pilot, and mission specialist(s).

(c) A *Flight* is the period from launch to landing of a Space Shuttle—a single round trip. (In the case of a forced landing the STS commander's authority continues until a competent authority takes over the responsibility for the Orbiter and for the persons and property aboard.)

(d) The *Flight-Phases* consist of launch, in orbit, deorbit, entry, landing, and postlanding.

(e) A *Payload* is a specific complement of instruments, space equipment, and support hardware/software carried into space to accomplish a scientific mission or discrete activity.

(f) *Personnel On Board* refers to those astronauts or other persons actually in the Orbiter or Spacelab during any flight phase of an STS flight (including any persons who may have transferred from another vehicle) and including any persons performing extra-vehicular activity associated with the mission.

§ 1214.702 Authority and responsibility of the STS commander.

(a) During all flight phases of an STS flight, the STS commander shall have the absolute authority to take whatever action is in his/her discretion necessary to (1) enforce order and discipline, (2) provide for the safety and well-being of all personnel on board, and (3) provide for the protection of the STS elements and any payload carried or serviced by the STS. The commander shall have authority throughout the flight to use any reasonable and necessary means, including the use of physical force, to achieve this end.

(b) The authority of the commander extends to any and all personnel on board the Orbiter including Federal officers and employees and all other persons whether or not they are U.S. nationals.

(c) The authority of the commander extends to all STS elements and payloads.

(d) The commander may, when he/she deems such action to be necessary for the safety of the STS elements and personnel on board, subject any of the personnel on board to such restraint as the circumstances require until such time as delivery of such individual or individuals to the proper authorities is possible.

§ 1214.703 Chain of command.

(a) The *Commander* is a career NASA astronaut who has been designated to serve as commander on a particular flight, and who shall have the authority and responsibility described in section 1214.702 of this Subpart. Under normal flight conditions (other than emergencies) the STS commander is responsible to the Flight Director, Johnson Space Center, Houston, TX.

(b) The *Pilot* is a career NASA astronaut who has been designated to serve as the pilot on a particular flight and is second in command of the flight. If the commander is unable to carry out the requirements of this Subpart, then the pilot shall succeed to the duties and authority of the commander.

(c) Before each flight, the other flight crew members (Mission Specialists) will be designated by the Director of Flight Operations, Johnson Space Center, Houston, TX, in the order in which they will assume the responsibilities and

authority of the commander under this Subpart in the event that the commander and pilot are both not able to carry out their duties.

§ 1214.704 Violations.

(a) All personnel on board an STS flight are subject to the authority of the commander and shall conform to his/her orders and direction as authorized by this Subpart.

(b) This regulation is a regulation within the meaning of 18 U.S.C. 799, and whoever willfully violates, attempts to violate, or conspires to violate any provision of this Subpart or any order or direction issued under this Subpart shall be fined not more than \$5,000 or imprisoned not more than 1 year, or both.

Robert A. Frosch,

Administrator.

August 13, 1979.

[FR Doc. 79-25900 Filed 8-21-79; 8:45 am]

BILLING CODE 7510-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Parts 1, 20, and 25]

(EE-53-79)

Income Tax; Exemption for Certain Amateur Athletic Organizations; Public Hearing on Proposed Regulations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Public hearing on proposed regulations.

SUMMARY: This document provides notice of a public hearing on proposed regulations relating to the exemption of certain amateur athletic organizations from tax and the deductibility of contributions to organizations that qualify for the exemption.

DATES: The public hearing will be held on October 9, 1979, beginning at 10:00 a.m. Outlines of oral comments must be delivered or mailed by September 24, 1979.

ADDRESS: The public hearing will be held in the I.R.S. Auditorium, Seventh Floor, 7400 Corridor, Internal Revenue Building, 1111 Constitution Avenue, N.W., Washington, D.C. The outlines should be submitted to the Commissioner of Internal Revenue, Attn: CC:LR:T (EE-53-79), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: George Bradley or Charles Hayden of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111

Constitution Avenue, N.W., Washington, D.C. 20224, 202-566-3935, not a toll-free call.

SUPPLEMENTARY INFORMATION: The subject of the public hearing is proposed regulations under sections 170 and 501 of the Internal Revenue Code of 1954. The proposed regulations appeared in the Federal Register for Thursday, May 10, 1979, at page 27446 (44 FR 27446).

The rules of § 601.601(a)(3) of the Statement of Procedural Rules (26 CFR Part 601) shall apply with respect to the public hearing. Persons who have submitted written comments within the time prescribed in the notice of proposed rulemaking and also desire to present oral comments at the hearing on the proposed regulations should submit an outline of the comments to be presented at the hearing and the time they wish to devote to each subject by September 24, 1979. Each speaker will be limited to 10 minutes for an oral presentation exclusive of time consumed by questions from the panel for the government and answers to these questions.

Because of controlled access restrictions, attendees cannot be admitted beyond the lobby of the Internal Revenue Building until 9:45 a.m.

An agenda showing the scheduling of the speakers will be made after outlines are received from the speakers. Copies of the agenda will be available free of charge at the hearing.

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the Treasury Directive appearing in the Federal Register for Wednesday, November 8, 1978.

By direction of the Commissioner of Internal Revenue.

George H. Jelly,

Director, Employee Plans and Exempt Organizations Division.

[FR Doc. 79-25900 Filed 8-21-79; 8:45 am]

BILLING CODE 4830-01-M

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 123]

[FRL 1301-3]

State Program Requirements; Public Participation in Enforcement

AGENCY: Environmental Protection Agency.

ACTION: Proposed Rule.

SUMMARY: EPA proposes a rule requiring that States wishing to receive or maintain authority to administer the Hazardous Waste Management Program

under the Resource Conservation and Recovery Act; the Underground Injection Control program under the Safe Drinking Water Act; or the National Pollutant Discharge Elimination System, or section 404 programs under the Clean Water Act allow citizens to intervene as of right in State enforcement actions.

DATE: Comments must be received by October 9, 1979.

ADDRESS: Comments should be submitted to David Schnapf, Permits Division (EN-336), Office of Water Enforcement, Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460, (202) 755-0750.

A copy of all comments received will be available for review during normal business hours at the Environmental Protection Agency, Public Information Reference Unit, Room 2922, 401 M Street, SW, Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: David Schnapf, Permits Division (EN-336), Office of Water Enforcement, Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460, (202) 755-0750.

SUPPLEMENTARY INFORMATION: On June 14, 1979, EPA proposed consolidated permit regulations which included, as 40 CFR Part 123, minimum requirements for States wishing to receive or maintain authority to administer the Hazardous Waste Management Program under the Resource Conservation and Recovery Act (RCRA); the Underground Injection Control (UIC) program under the Safe Drinking Water Act (SDWA); or the National Pollutant Discharge Elimination System (NPDES), or section 404 programs under the Clean Water Act. As part of these minimum requirements EPA specified a range of mechanisms to ensure that States have both adequate enforcement authority and allow adequate public participation in the administration of the program. In that proposal, however, EPA indicated that it did not believe it was necessary to provide a right of citizen intervention in State enforcement actions to satisfy these objectives.

EPA has reassessed the necessity for requiring the opportunity for citizen intervention in State enforcement in light of the opinion of the United States Court of Appeals for the Seventh Circuit in *Citizens for a Better Environment v. Environmental Protection Agency*, "CBE" (No. 78-1042, decided January 28, 1979; Petition for rehearing denied May 18, 1979; Stay of enforcement of order granted May 30, 1979). In that opinion, the Court, ruling on a challenge to the Administrator's approval of the Illinois NPDES program, held that the Agency

had not adequately implemented the requirements of public participation contained in section 101(e) of the Clean Water Act. That section provides that:

Public participation in the . . . enforcement of any regulation, standard, effluent limitation, plan or any program established by the Administrator or any State under this Act shall be provided for, encouraged, and assisted by the Administrator and the States. The Administrator, in cooperation with the States, shall develop and publish regulations specifying minimum guidelines for public participation in such processes.

The Court concluded that the Agency's existing regulations, which require among other things that States have provisions for receipt of citizen complaints and provide the public with access to NPDES permit data, do not ensure public participation in the enforcement process itself. The Court, however, did not specify what provisions might be required. Although the Court invalidated the Administrator's approval of the Illinois NPDES program, it has stayed the enforcement of its order until February 23, 1980, in order to provide EPA an opportunity to revise its regulations.

In response to the *CBE* decision, EPA is today proposing a rule which will require that States wishing to receive or maintain authority to administer the NPDES, section 404, UIC or hazardous waste programs allow citizens to intervene as of right in any civil action brought in State court to enforce elements of the program. Although *CBE* dealt with provisions of the Clean Water Act, similarity in statutory language and congressional intent may warrant extension of the Courts holding to RCRA and SDWA. This proposed revision of the proposed consolidated permit regulations would apply this requirement to programs under all three Acts. One purpose of the consolidated regulations is to establish consistent requirements for State programs.

Under this proposal, citizens would be allowed to intervene in actions brought in State court to recover civil penalties for violation(s) of any applicable permit term or condition, any notice or reporting requirement, any duty to allow inspection, entry or other monitoring requirement, or any rule, regulation or order issued by the State. This provision will give citizens a right of participation in State enforcement actions in most respects comparable to that which they now enjoy in Federal court pursuant to section 505(b) of the Clean Water Act, section 7002(c) of RCRA and section 1449(b) of SDWA. A similar right of intervention was recently enacted by

the State of Alabama in amendments to its water pollution control statute.

EPA is also evaluating a number of other mechanisms to ensure public participation in enforcement.

The alternatives under consideration by EPA include requirements that:

- (1) Citizens be allowed to directly initiate enforcement actions in State court;
- (2) States authorize the award of attorney's fees to citizen intervenors where appropriate;
- (3) Citizens be allowed to initiate or intervene as a right in any administrative proceeding brought to enforce elements of the program; and
- (4) States publish for public comment any proposed settlement of an action brought for violation of a State program.

Since approved NPDES States may not now satisfy the Agency's proposed regulation, they will be provided one year from the date of promulgation of these regulations to comply. This period will be extended to two years for those States in which statutory changes are required. The proposal would require all new programs, whether under NPDES, hazardous waste, UIC or section 404 to comply with this requirement upon approval. States seeking interim authorization to administer a hazardous waste program would not need to provide citizen intervention to show "substantial compliance" with § 123.10.

Congress, in addition to its concern for public participation, has expressed its intention to preserve the primary responsibilities and rights of the States to prevent, reduce and eliminate pollution within their borders. The Agency is seeking to balance these objectives by ensuring meaningful public participation in a manner consistent with the State's management of its governmental operations.

To assist the Agency in this task, public comment on the regulation and additional provisions proposed today are solicited. These comments will play an important role in arriving at a final regulation. The Agency specifically requests that States submit information on whether statutory changes would be required to implement these provisions and the alternatives being considered. Information on the effect of a State's rules of civil procedure or other specific intervention statutes on the right of citizens to intervene in State enforcement actions or administrative proceedings is solicited. Comments are also requested on the decision to extend this requirement to the 404 dredge or fill program under CWA and to programs under RCRA and SDWA. Finally, comments suggesting additional alternatives that would promote public

participation in enforcement are welcome. Comments should be submitted by October 9, 1979.

Note.—The Environmental Protection Agency has determined that this document does not constitute a major regulation requiring preparation of an economic impact statement under Executive Order 12044.

Dated: August 15, 1979.

Douglas Costle,
Administrator.

Subpart A—General Program Requirements

Proposed 40 CFR 123.10 [44 FR 34301-02 (June 14, 1979)] is proposed to be amended by adding a new paragraph (d) as follows:

§ 123.10 Enforcement authority.

(d)(1) Any State administering a program shall have authority which allows citizens to intervene as a right in any suit brought in State court to recover civil penalties for any of the violations specified in paragraph (a)(3) of this section.

(2) All new programs must comply with this paragraph upon approval. Any approved State NPDES program which requires modification to conform to this paragraph shall be so modified within one year of this date of promulgation of this paragraph, unless the State must amend or enact a statute in order to make the required modification in which case such modification shall take place within two years.

[FR Doc. 79-25989 Filed 8-21-79; 8:45 am]
BILLING CODE 6560-01-M

[40 CFR 180]

[PP8E2038/P117; FRL 1300-7]

Pesticide Programs; Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; Proposed Tolerances for the Pesticide Chemical Chlorpyrifos

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).
ACTION: Proposed rule.

SUMMARY: This notice proposes that tolerances be established for residues of the insecticide chlorpyrifos on radishes and rutabagas at 3 parts per million (ppm). The proposal was submitted by the Interregional Research Project No. 4. This regulation would establish maximum permissible levels for residues of chlorpyrifos on radishes and rutabagas.

DATE: Comments must be received on or before September 21, 1979.

ADDRESSES: SEND COMMENTS TO: Mrs. Patricia Critchlow, Office of Pesticide Programs, Registration Division (TS-767), EPA, 401 M Street, SW, Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Mrs. Patricia Critchlow (202/426-0223).

SUPPLEMENTARY INFORMATION: The Interregional Research Project No. 4 (IR-4), New Jersey Agricultural Experiment Station, PO Box 231, Rutgers University, New Brunswick, NJ 08903, on behalf of the IR-4 Technical Committee and the Agricultural Experiment Stations of Colorado, Hawaii, Idaho, Michigan, New York, Oregon, Utah, Washington and Wisconsin, has submitted a pesticide petition (PP 8E2038) to the EPA. This petition requests that the Administrator propose that 40 CFR 180.342 be amended by the establishment of tolerances for combined residues of the insecticide chlorpyrifos (*O,O*-diethyl *O*-(3,5,6-trichloro-2-pyridyl) phosphorothioate) and its metabolite 3,5,6-trichloro-2-pyridinol in or on the raw agricultural commodities radishes and rutabagas at 3 ppm.

The data submitted in the petition and all other relevant material have been evaluated. The toxicology data included in support of the proposed tolerances were a two-year rat feeding/oncogenicity study, which showed negative oncogenic potential with a no-observed-effect level (NOEL) of greater than 3 and 0.1 milligram (mg)/kilogram (kg) of body weight (bw)/day based on systemic and anticholinesterase effects, respectively; a two-year dog feeding/study with an NOEL of greater than 3 and 0.1 mg/kg bw/day based on systemic and anticholinesterase effects, respectively; a three-generation rat reproduction study (no maternal toxic signs up to 1 mg/kg bw/day); a hen neurotoxicity study, negative at 100 mg/kg; a rat acute oral lethal dose (LD₅₀) study; a rabbit acute dermal (LD₅₀) study; an acute inhalation lethal concentration (LC₅₀) study; and primary eye and skin irritation studies. Data lacking include a teratology study and an oncogenicity study in a second mammalian species. Both studies are currently in progress, and the results will be submitted to the Agency by late 1979.

The acceptable daily intake (ADI) of chlorpyrifos has been calculated to be 0.01 mg/kg bw/day based on the two-year rat feeding study and anticholinesterase effects using a 10-fold safety factor. The maximum permissible intake (MPI) is 0.8 mg/day for a 60-kg man. The human exposure to this compound from previously

established tolerances has been calculated to be 0.26 mg/person/day. Established tolerances result in a theoretical maximum residue contribution (TMRC) of 50.1 percent of the ADI. Establishment of the proposed tolerances will not exceed the ADI and will not contribute a significant amount (approximately 0.0027 mg/day) to the daily diet. The nature of the residue is adequately understood, and an adequate analytical method (gas chromatography equipped with a flame photometric detector) is available for enforcement purposes. Tolerances have previously been established on a variety of raw agricultural commodities at levels ranging from 0.05 ppm to 1.5 ppm.

The established tolerances for residues of chlorpyrifos will be adequate to cover secondary residues that could result in meat and milk from the use of rutabagas as an animal feed as delineated in 40 CFR 180.6(a)(2). There is no reasonable expectation of secondary residues in eggs and poultry since rutabagas are not a poultry feed item. In addition, the proposed label prohibits the use of rutabaga-treated tops for food or feed.

The pesticide is considered useful for the purpose for which tolerances are being sought, and it is concluded that the tolerances on radishes and rutabagas at 3 ppm established by amending 40 CFR 180.342 will protect the public health. It is proposed, therefore, that the tolerances be established as set forth below.

Any person who has registered, or submitted an application for the registration of a pesticide under the Federal Insecticide, Fungicide, and Rodenticide Act which contains any of the ingredients listed herein may request, within 30 days after publication of this proposal in the *Federal Register*, that this rulemaking proposal be referred to an advisory committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. The comments must bear a notation indicating both the subject and the petition/document control number, "PP 8E2038/P117". All written comments filed in response to this notice of proposed rulemaking will be available for public inspection in Room 107, East Tower, from 8:30 a.m. to 4 p.m. Monday through Friday.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized".

This proposed rule has been reviewed, and it has been determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

Dated: August 13, 1979.

Herbert Harrison,
Acting Director, Registration Division.
Statutory Authority: Section 408(e) of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 348a(e)].

It is proposed that Part 180, Subpart C, section 180.342 be amended by alphabetically inserting radishes and rutabagas at 3 ppm in the table to read as follows:

Section 180.342 Chlorpyrifos; tolerances for residues.

Commodity:	Parts per million
Radishes	3
Rutabagas	3

[FR Doc. 79-25984 Filed 8-21-79; 8:45 am]

BILLING CODE 6560-01-M

[40 CFR Part 250]

[FRL 1300-7]

Hazardous Waste and Hazardous Waste Management; Notice of Availability of Information

AGENCY: Environmental Protection Agency.

ACTION: Notice of availability of information on hazardous waste and hazardous waste management.

SUMMARY: The Environmental Protection Agency (EPA) is today making available to the public two final reports on hazardous waste and hazardous waste management which were completed after the close of the comment period on EPA's proposed regulations implementing Section 3001-3004 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act (43 FR 18506-18512, April 28, 1978 and 43 FR 58948-59022, December 18, 1978).

DATES: Comments on this additional information are due no later than October 9, 1979.

ADDRESSES: Copies of the reports are available for reading at the EPA Public Information Reference Unit (Room 2404) and the Subtitle C Docket Room (Room 2439K), both located at 401 M Street, S.W., Washington, D.C., and at all EPA Regional Office libraries during the hours of 9:00 a.m. to 4:30 p.m., Monday through Friday. Copies of the reports may also be ordered from Ed Cox, Solid

Waste Information, U.S. Environmental Protection Agency, 28 West St. Clair Street, Cincinnati, Ohio 45268, (513) 681-8491.

FOR FURTHER INFORMATION CONTACT: Elise Kaplan, Docket Clerk, Office of Solid Waste (WH-562), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, (202) 755-8985.

SUPPLEMENTARY INFORMATION: During the development of its proposed Section 3001-3004 regulations, EPA initiated several studies on hazardous waste to obtain additional information on and/or analyze major issues raised by those regulations. In a number of cases written reports of those studies have only recently been completed or are not scheduled to be completed until some time between now and the end of the year. The purpose of this notice is to announce the availability of two of those reports for public comment and EPA's intent to make available several additional reports on hazardous waste before December 31, 1979.

The two reports which EPA is making available to the public today are:

(1) "Background Study on the Development of a Standard Leaching Test."

This 249 page report describes a study conducted to develop leaching tests which could be used to assess the leaching characteristics of industrial wastes under a variety of disposal environments. Test procedures were designed to provide information regarding the materials likely to be released, an estimate of the maximum concentrations of these materials, and an estimate of the maximum amount of material likely to be released per unit of waste.

(2) "Comparison of Three Waste Leaching Tests, Executive Summary."

This report is the executive summary of a report to be released within the next few weeks. This report provides a comparison of three waste leaching tests, which were performed with 13 industrial wastes to evaluate the potential of each test for use in EPA's proposed Section 3001 regulations. This 24 page study was done in conjunction with the above referenced "Background Study on the Development of a Standard Leaching Test."

Comments on these reports should be submitted to EPA no later than forty-five (45) days after the date of publication of this notice (October 9, 1979). Because EPA is currently under a court order to promulgate final Section 3001-3004 regulations by December 31, 1979 (*State of Illinois v. Costle*, 12 ERC 1597 (D.D.C. 1979)), a shorter comment period

(probably thirty (30) days) will be provided on reports released later this year in order to give EPA adequate time to evaluate and respond to public comments on the reports before those regulations are finalized.

The purpose of making these reports available to the public is to obtain comment on the accuracy of the data contained in the reports and the conclusions reached, not to reopen the comment period on EPA's proposed Section 3001-3004 regulations. Commenters should limit the scope of their written submissions accordingly.

Dated: August 15, 1979.

Thomas C. Jorling,
Assistant Administrator for Water and Waste Management.

[FR Doc. 79-25859 Filed 8-21-79; 8:45 am]

BILLING CODE 6560-01-M

[40 CFR Part 250]

[FRL 1300-8]

Hazardous Waste Guidelines and Regulations; Availability of Information on Hazardous Waste and Hazardous Waste Management

AGENCY: Environmental Protection Agency.

ACTION: Notice of availability of information on hazardous waste and hazardous waste management.

SUMMARY: The Environmental Protection Agency (EPA) is today making available to the public additional information on hazardous waste and hazardous waste management which was obtained by EPA after the close of the comment period on its proposed regulations implementing Section 3001-3004 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act (RCRA).

DATES: Comments on this additional information are due no later than October 9, 1979.

ADDRESSES: Copies of these materials are available for reading at the Public Information Reference Unit in the EPA Library (Room 2404) and the Subtitle C Docket Room (Room 2439K), both located at 401 M Street, S.W., Washington, D.C., and at all EPA Regional Office Libraries from 9:00 a.m. to 4:30 p.m., Monday through Friday. Copies are available from Elise Kaplan, Docket Clerk, Office of Solid Waste (WH-562), Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Elise Kaplan, Docket Clerk, Office of Solid Waste (WH-562), U.S.

Environmental Protection Agency (202) 755-8985.

SUPPLEMENTARY INFORMATION: On April 28, 1978 (43 FR 18506-18512) and December 18, 1978 (43 FR 58948-59022), EPA proposed regulations implementing Section 3001-3004 of the Solid Waste Disposal Act, as amended by RCRA. As a result of its review of public comments on these proposed regulations, EPA identified a number of major issues which needed further documentation, study, or analysis, including, but not limited to: the composition of and hazards posed by various waste streams and the management of these wastes, particularly those generated by the petroleum, chemical and utility industries; establishing a hazardous waste management system based on degree of hazard; and the listing of specific wastes, waste streams and processes as hazardous.

To assist in resolving these issues, EPA made written requests for additional data to some of the commenters who raised these issues or indicated that they had data on these issues, and to other sources which EPA thought might have relevant data. To allow the public to have an opportunity to review the information received, EPA is today making available for a 45-day public inspection and comment period its requests for information and the information submitted in response to those requests.

The purpose of making this information available to the public is to obtain comment on the data received in response to EPA's requests for additional information, not to reopen the comment period on the proposed Section 3001-3004 regulations. Commenters should limit their written submissions accordingly.

Dated: August 15, 1979.

Thomas C. Jorling,
Assistant Administrator for Water and Waste Management.

[FR Doc. 79-25860 Filed 8-21-79; 8:45 am]

BILLING CODE 6560-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[44 CFR Part 67]

[Docket No. FI-5497]

Proposed Flood Elevation Determinations for The City of Valdez, Unorganized Borough, Alaska; Under the National Flood Insurance Program; Correction

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.

ACTION: Correction of proposed rule.

SUMMARY: This document corrects a proposed rule on base (100-year) flood elevations that appeared on page 33416 of the Federal Register of June 11, 1979.

EFFECTIVE DATE: June 11, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755-5581 or Toll Free Line (800) 424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

The following corrections are made:

Source of Flooding	Location	Depth in feet above ground
Valdez Glacier Stream	Intersection of Mineral Creek Road and Richardson Highway.	4
	Intersection of Valdez Airport Road and Richardson Highway.	4
	Northeast corner of northernmost runway at Valdez Airport.	6
	Approximately 13,000 feet northeast along new Valdez Glacier Road from its intersection with Richardson Highway.	11
Robe River	Approximately 2,000 feet southeast along Richardson Highway from its intersection with New Valdez Glacier Road.	2
	Southwest side of Richardson Highway—400 feet northwest of its intersection with Dayville Road.	3

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963.)

Issued: August 3, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[FR Doc. 79-25817 Filed 8-21-79; 8:45 am]

BILLING CODE 4210-23-M

INTERSTATE COMMERCE COMMISSION

[49 CFR Part 1090]

[Ex Parte No. 230; Sub-No. 5]

Practices of Carriers Involved in the Intermodal Movement of Containerized Freight; Improvement of TOFC/COFC Regulation¹

AGENCY: Interstate Commerce Commission.

¹This proceeding includes the issues raised in NO. 37032, Processed Beef Express, Inc. Petition for Declaratory Order—TOFC Use By Motor Contract Carriers.

ACTION: Advance Notice of Proposed Rules

SUMMARY: In the interest of eliminating any unnecessary regulatory impediments to the use of trailer on flatcar and container on flatcar (TOFC/COFC) service, the Commission is considering the institution of a rulemaking proceeding which would: (1) exempt from regulation (under 49 USC 10505) rail transportation of TOFC/COFC shipments, either in whole or in part; (2) provide expedited and simplified procedures for licensing new TOFC/COFC service by motor carriers, including those affiliated with railroads; (3) establish a "zone of reasonableness" within which motor carrier TOFC/COFC rates could be raised or lowered; (4) modify existing regulations which prohibit motor common carriers from exchanging TOFC/COFC shipments with railroads at other than authorized service points; and (5) clarify the circumstances under which motor contract carriers can substitute rail service for all-motor service.

DATES: Comments must be filed by October 22, 1979.

ADDRESSES: An original and 10 copies, if possible, of comments should be sent to: Office of the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT:

John Robinson (Rail Issues) (202) 275-7418, or
Jerald Muskin (Other Issues) (202) 275-7824.

This proceeding is to determine what the Commission can do, through modification of its regulations governing TOFC/COFC service, to improve the intermodal relationship between rail and motor transportation and to increase the amount of TOFC/COFC traffic. Increased use of TOFC/COFC services may contribute to conservation of energy, enhancement of the environment, and more efficient use of transportation resources. This proceeding is limited to rail-motor intermodal shipments and does not embrace TOFC or COFC shipments having a prior or subsequent movement by water.

There are five basic Commission-approved intermodal plans (see 322 ICC 301 (1964) and 49 CFR part 1090). Under Plan I a motor carrier may substitute rail for motor service between points which the motor carrier is authorized to serve. Under Plan II, a railroad may provide complete door-to-door service. (Plans II ¼ and II ½ are variations where the shipper performs the service to or from the rail terminal.) Under Plan III, the portion of the service performed by a railroad is limited to rail transportation

between TOFC ramps; the shipper must provide the trailers. The Commission's regulations require railroads offering Plan III or "open tariff" services to make it available to regulated motor carriers. Plan IV is comparable to Plan III, except that the shipper must also furnish the railroad car. Plan V involves coordinated through motor-rail or motor-rail-motor services at joint rates which may be originated by either mode on the originator's bill of lading. Unlike Plan I, the rail service need not be substituted service for the motor carrier haul. This plan facilitates coordination of rail and motor operations where the carriers serve different territories.

Data from the Commission's TOFC/COFC traffic reports show that more than 50 percent of TOFC/COFC traffic moves under Plan II (all rail) and that a significantly smaller share moves under Plans I and V (motor carrier participation). Plans III and IV are being used more often by shippers and freight forwarders, but they still constitute less than 15 percent of total TOFC/COFC traffic. We are not aware of any significant use Plan III service by regulated motor carriers.

The principal benefits ascribed to TOFC/COFC service are that it (1) combines the best characteristics of both rail and motor transportation by offering the long-haul cost and energy advantages of rail and the geographic operating flexibility of motor carriers; (2) offers containerized service as an alternative transportation service for shippers and adds a source of revenue for the financially ailing railroad industry; and (3) offers ecological and safety benefits primarily by reducing truck congestion on highways. In spite of these evident benefits, the growth of TOFC/COFC traffic has lagged far behind expectations.

Recent studies of intermodal coordination by the Federal Railroad Administration, the General Accounting Office, and the Commission suggest the following reasons for the sluggish pace of TOFC/COFC traffic growth:

(1) There has been poor coordination between regulated motor carriers and railroads because of many existing trucking labor agreements requiring a penalty payment when TOFC is substituted. Motor carriers claim that rail service is not as reliable as motor service; consequently they will not jeopardize their good relations with their shippers by using TOFC/COFC service. Some motor carriers have also admitted that they fear losing this traffic to all rail TOFC/COFC plans.

(2) TOFC/COFC represents a high capital investment risk to railroads because competitive low cost and

flexible unregulated motor carriage imposes a ceiling on rail TOFC/COFC profits. In addition, some railroads are concerned that TOFC/COFC growth may occur at the expense of boxcar traffic.

(3) Railroads have been reluctant to invade one another's territories.

(4) Restrictions imposed in certificates of motor carrier affiliates of railroads have restrained expansion of TOFC/COFC, especially Plan V.

(5) Significant operational changes are sometimes required for successful TOFC/COFC operations, such as use of dedicated "short trains" and modification of work rules. Rail management has been slow to implement these operational changes.

It has also been suggested that economic regulation has impeded TOFC/COFC growth. We hope to determine whether and how regulations should be adjusted to eliminate any impediments and, if possible to provide incentives. The success of our effort will depend in large measure on the active participation of the rail and motor carrier industry and of the shippers who have used TOFC/COFC service in the past or who would like to use it in the future.

The proposals in this notice are intended to stimulate thought and comment. We have attempted to indicate the direction which at this time seems the most logical to us, but we have in no way prejudged the issues involved. The decision to propose rules implementing the changes proposed in this advance notice will be based on the public response which we receive as well as staff research. Consequently, we encourage all parties who have an interest in this matter to study the proposals contained in this notice and to submit comments in support of or in opposition to them. Parties are also encouraged to address related issues not discussed in the notice and to suggest alternative proposals for stimulating the use of TOFC/COFC service.

General Proposals

Rail

Section 207 of the Railroad Revitalization and Regulatory Reform Act of 1976, Public Law 94-210, amended former section 12(1) ² of the Interstate Commerce Act by adding a new subdivision (b) which provides that the Commission, upon petition or on its own initiative, may exempt from regulation any person, class of person, services, or transactions relating to transportation by railroad if because of

² Now 49 USC 10505

its limited scope, it finds that regulation is not necessary to effectuate the national transportation policy, would be an undue burden on the persons or class of persons involved, or on interstate and foreign commerce, and would serve little or no useful public purpose. The Commission provided its interpretation of the new sub-section, particularly the circumstances under which it would exempt certain rail operations, in decisions in Ex Parte No. 346, *Rail General Exemption Authority*, served December 6, 1978, and in Ex Parte No. 346 (Sub-No. 1), *Rail General Exemption Authority—Fresh Fruits and Vegetables*, (Fresh Fruits and Vegetables), served December 6, 1978, March 22, 1979, and May 25, 1979. The fresh fruits and vegetables exemption was effective on May 28, 1979.

In this proceeding, we seek to determine whether some form of exemption for the rail portion of TOFC service is a feasible method of accomplishing our purpose of encouraging this intermodal service.

It is our initial impression that either a full or partial exemption could be helpful. To evaluate the scope of a possible exemption, we would like to receive comments on what aspects of regulation, if any, might be retained.

We must determine whether any exemption for TOFC/COFC traffic meets the statutory criteria cited above. It is our opinion at this time that an exemption along the lines described would meet the "limited scope" requirement. Containerized shipments in 1978 constituted approximately 7.9 percent of total rail carloadings. This represents a minor portion of total railroad operations which presumably could easily be absorbed by through rail or motor operations. It is also our impression that continued regulation of this class of traffic would not serve a useful public purpose, is not necessary to carry out the national transportation policy any may be a burden on interstate commerce. While it may be argued by some that regulation has not impeded TOFC/COFC growth, regulation does not appear to have stimulated or advanced it. Goals of energy conservation and transportation efficiency may well be better served in a less regulated environment. Comments on this issue are requested.

Motor

A limited amount of this traffic moves under the authority and on the billing of regulated motor common carriers in substituted rail-for-motor-service under Plan I and coordinated service under Plan V. In addition, motor common and contract carriers may substitute rail

service for line-haul motor service by using the rail open-tariff, Plan III service. To increase this energy and transportation efficient service, we must consider how these truly intermodal plans can be encouraged. One possibility is that the motor carrier portion of TOFC/COFC service might be exempted from regulation as service in "... a matter related to a rail carrier" under section 10505(c) (the rail exemption). We seek public comment on this approach. However, since it is by no means clear that the exemption can be construed to apply to "rail-related" motor services, we will explore the alternative approaches described below.

Entry

To use substituted rail service, the motor carrier must not only have authority to serve the ultimate origin and destination points between which its service is performed, it must also hold authority to perform service at the points at which it tenders traffic to, or receives it from the railroad. See 49 CFR 1090.3(e), governing open tariff (plan III) service, and 49 CFR 1090.4(d), governing joint intermodal (plans I and V) service. This requirement may be an impediment to motor carriers which would otherwise be able to substitute rail service for portions of their line haul movements. For motor carriers already participating in piggyback service, this means that new operating authority may be required should the railroad move or close the ramp which the motor carrier is authorized to serve. The substitution of rail for motor service could be fuel efficient, remove trucks from the highways in congested areas, and give the motor carrier added flexibility. We are considering applying the rationale of *Substituted Service—Water-for-Motor Service (Fishyback Service)—Alaskan Trade*, 361 I.C.C. 359 (1979). It was determined that carriers need not have authority to serve the interchange point if they wished to provide motor-water-motor service between Alaska and the continental U.S. Only authority from origin to ultimate destination was necessary. We proposed to make the same finding here. Additional support for this action is found in *National Auto. Transportation Assn.—Declaratory Order*, 91 M.C.C. 395 (1983).

For motor carriers which do not now have authority for TOFC/COFC service and those wishing to expand their operations, we are considering amendment of the existing public convenience and necessity/fit, willing and able test. This would involve a generalized, prospective nationwide finding of public convenience and necessity based on the foreseen benefits

of additional TOFC/COFC service and competition. Under this "master certificate" for TOFC/COFC, carriers would declare what areas they intended to serve. Should any geographical or other limitation be imposed upon applications for motor carrier authority to provide TOFC/COFC operations? At the time the carriers filed for inclusion within the master certificate, they would also have to demonstrate their compliance with minimum fitness standards governing such things as safety and insurance.

We are also considering actions which might encourage other motor carriers to participate in TOFC/COFC movements. 49 CFR Sections 1090.2 and 1090.3 permit regulated motor carriers, including contract motor carriers, to tender as shippers freight in trailers to a railroad for TOFC service. Section 1093.4 does not authorize contract carriers to enter into joint intermodal TOFC arrangements with railroads. Thus, some see a barrier to contract carrier participation. To resolve the matter, Processed Beef Express, Inc. filed a petition (No. 37032) seeking a declaratory order to allow it to enter into Plan I arrangements. Rather than resolve this controversy in the narrow confines of a declaratory order proceeding related only to Plan I, and because of the obvious relationship between the relief requested and this advance notice, we have, in a separate order in No. 37032 issued this date, declined to institute the requested proceeding. Instead, we will include here the broader question whether contract carriers can enter into substituted rail-for-motor TOFC service and participate in joint rates as necessary.

In Ex Parte No. 358, *Change of Policy, Railroad Contract Rates*, 361 I.C.C. 205 (1979), we set forth our position that contract rates between a railroad and a shipper should not be considered illegal, *per se*. This policy change, if reflected in appropriate TOFC/COFC regulations, may provide the contract motor carriers with all the flexibility they need to make effective use of substituted service. We seek comments on this issue. Are joint rail and truck rates necessary from an operating standpoint?

Another way to expand TOFC/COFC service geographically is to treat motor carrier affiliates of rail companies the same as independent motor carriers when granting operating authority for TOFC/COFC traffic having an immediate prior or subsequent move by rail or water. This would represent a departure from prior Commission and

court decisions ³ and assumes either that the Commission can properly depart from the longstanding administrative requirement that rail affiliated motor carriers must demonstrate "special circumstances" before they can be granted unrestricted operating rights or that the applicant's burden of meeting the test can be substantially eased. It is our tentative position that changed competitive conditions in the surface transportation industry, and the substantially reduced economic power of the nation's railroads, have rendered the special circumstances test—or at least its strict application—obsolete. We seek comment on this issue, and on the possible effects of allowing motor affiliates of rail carriers equal opportunity to compete (with or without the master certificate approach) with independent motor carriers.

Rates

It may be possible to encourage greater use of TOFC/COFC service by motor carriers by revising our rate regulation to complement or substitute for other ideas we have suggested here. Would greater rate flexibility convince carriers to institute these services? Should a zone of reasonableness for this traffic within which rates would not be subject to a test of reasonableness be adopted? If so, what would be the appropriate upward and downward changes to the existing rates? If ratemaking flexibility is allowed when rail service is substituted for motor service, it is possible that the same motor carrier might be offering the same service at two different rates. Would this be lawful or desirable? Is Plan V the only plan for which a zone of reasonableness should be considered? Are there other rate regulation changes that should be considered?

We do not now propose relaxation of our jurisdiction over motor carrier discrimination or predatory practices in offering TOFC service, as such practices could result in disruptions in service.

Conclusion

This proceeding represents an effort by the Commission to determine to what extent, if any, its regulations of rail and motor carriers can be improved to spur increased use of TOFC/COFC transportation. This advance notice presents many extremely complex and interrelated issues. We urge interested persons to participate and advise us as to the reasons they see for TOFC/

³ A number of these decisions are cited in *Pacific Motor Trucking Co. v. Interstate Commerce Commission*, 95 M.C.C. 53, 56, 57 (1964).

COFC's failure to meet expectations, and the possibilities for improvement using ideas suggested here. We welcome and will consider other alternatives presented by commentators and encourage presentation of any available relevant data.

1. Will any region of the United States, class of shippers, or commodities benefit by the expanded TOFC/COFC services to the detriment of another region, class of shippers, or commodities? Fully describe those instances, if any, and the nature of the injury.

2. Should the Commission prepare or recommend amendments to the Interstate Commerce Act which deal specifically with intermodal transportation?

3. What steps can be taken to increase freight forwarder and shipper association use of TOFC/COFC?

4. What are the jurisdictional effects of this proposal. For example, if one segment (rail) of a movement is deregulated and another segment (motor) is not, who will adjudicate rates and other similar problems that may arise.

5. If general licensing is approved, what will be the impact on smaller trucking companies who now will have to compete with the railroads' own trucking fleets? How could a small or medium size motor carrier bargain for a fair division on an equal basis with any of the Class I railroads?

6. How much of an increase in TOFC/COFC traffic could the railroads currently absorb without reducing other service? If the railroads do reduce some flat car service, which shippers and what kind of freight are most likely to suffer?

7. We have previously indicated that regulations does not appear to have impeded or stimulated the growth of TOFC/COFC. In view of the apparent railroad disfavor with this traffic (other than land bridge operations), is it not possible that this intermodal service will actually be reduced, not increased?

At this time it appears that the action under consideration in this proceeding may have beneficial effects on the human and natural environment. Should the action result in a shift of traffic from motor carriage to TOFC/COFC, we anticipate conservation of vital energy resources. Specific areas of concern which will enable us to measure the impacts to energy and environment include the extent to which the proposed action will: a) result in increasing use of TOFC/COFC; b) reduce empty backhauls; c) require expansion of existing terminal facilities; d) result in an increased need for flat cars,

locomotives, and specialized equipment which may be in short supply; and e) effect existing service.

We seek public comment on these matters and any other areas of environmental concern.

This advance notice is issued pursuant to the authority of 49 U.S.C. §§ 10321, 10505, 10701, 10702, 10705, 10921, 10922, 10923, 10927, 11101 (the Interstate Commerce Act) and § 5 U.S.C. §§ 553 and 559 (the Administrative Procedure Act).

Dated: August 8, 1979.

By the Commission. Chairman O'Neal, Commissioners Stafford, Gresham, Clapp, Christian, Trantum and Gaskins. Commissioner Stafford concurring. Commissioner Trantum not participating. Agatha L. Mergenovich, Secretary.

Commissioner Stafford (concurring)

Today's proposed rulemaking raises legitimate issues that need to be addressed. It seems to me, however, that anything worth doing is worth doing right. This rulemaking clearly has the potential for impact on the environment, yet there is no draft environmental impact statement, as required by our own rules, see 49 CFR 1108.14, and by the National Environmental Policy Act of 1969. This rulemaking was initially proposed to us as a way to save energy, yet there is no energy impact statement, as required by 49 CFR 11.06.6 and by the Energy Policy and Conservation Act, Pub. L. 94-163.

In *Chemical Leamon Tank Lines, Inc. v. United States*, 368 F. Supp. 925 (D. Del. 1973), the court ruled that the Commission is not relieved from the requirement of preparing a proper environmental impact statement, no matter how environmentally beneficial our action is. This principle applies doubly here, because both energy and environment are involved.

It is inappropriate to institute this proceeding until our own procedures have been followed. While attempting to cut corners and save the time for drafting proper impact statements, we may in the long run be jeopardizing the final result.

[FR Doc. 79-25969 Filed 8-21-79; 8:45 am]

BILLING CODE 7035-01-M

Notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Committee on Agency Decisional Processes; Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given of a meeting of the Committee on Agency Decisional Processes of the Administrative Conference of the United States, to be held at 10:00 a.m., Friday, September 14, 1979, at the office of Ginsburg, Feldman, & Bress, 1700 Pennsylvania Avenue, N.W., Suite 300, Washington, D.C.

The Committee will meet to discuss Professor Peter L. Strauss' study of the problem of disqualification of agency heads and other decision-makers in rule-making.

Attendance is open to the interested public, but limited to the space available. Persons wishing to attend should notify the Office of the Chairman of the Administrative Conference at least two days in advance. The Committee Chairman, if he deems it appropriate, may permit members of the public to present oral statements at the meeting. Any member of the public may file a written statement with the Committee before, during or after the meeting.

For further information concerning this meeting contact David M. Pritzker at the Office of the Chairman of the Administrative Conference at (202-254-7020). Minutes of the meeting will be available on request.

Richard K. Berg,

Executive Secretary.

[FR Doc. 79-25919 Filed 8-21-79; 8:45 am]

BILLING CODE 6110-01-M

DEPARTMENT OF AGRICULTURE

Federal Grain Inspection Service

Official Agency Geographical Area; Assignment of Geographic Area to the Guymon Grain Inspection, Inc., Guymon, Okla.

AGENCY: Federal Grain Inspection Service.

ACTION: Notice.

SUMMARY: This notice announces assignment of geographic area to the Guymon Grain Inspection, Inc., Guymon, Oklahoma, for the performance of official grain inspection functions under the authority of the United States Grain Standards Act, as amended.

EFFECTIVE DATE: August 22, 1979.

FOR FURTHER INFORMATION CONTACT: J. T. Abshier, Director, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, DC 20250, (202) 447-8262.

SUPPLEMENTARY INFORMATION: The Guymon Grain Inspection, Inc. (the "Agency"), Highway 54 East, P.O. Box Drawer E, Guymon, Oklahoma 73942, was designated as an official agency under the United States Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*) (the "Act"), for the performance of official grain inspection functions on October 15, 1978. The designation also included an assignment of geographic area, on an interim basis, within which this Agency would operate. Geographic areas are assigned to each official agency pursuant to Section 7(f)(2) of the Act.

The Act provides that not more than one official agency shall be operating at one time within an assigned geographic area.

The proposed geographic area assigned on an interim basis to the Agency was announced in the January 12, 1979, issue of the *Federal Register* (44 FR 2655). No comments were received. Accordingly, after due consideration of all information available to the United States Department of Agriculture, the geographic area shall remain as originally proposed.

The geographic area assigned to the Agency is as follows: Beaver County, Cimarron County, and Texas County.

A specified service point for the purpose of this notice is a city, town, or other location specified by an agency for

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the conduct of official inspections and where the agency or one or more of its licensed inspectors is located. In addition to the specified service point within the assigned geographic area, the Agency will provide official inspection services not requiring a licensed inspector to all other areas within its geographic area.

Interested persons may obtain a map of the assigned geographic area and a list of specified service points by contacting the Agency or the Delegation and Designation Branch, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, DC 20250, (202) 447-8525.

(Secs. 8, 9, Pub. L. 94-582, 90 Stat. 2870, 2875 (7 U.S.C. 79, 79a).)

Done in Washington, D.C. on: August 16, 1979.

L. E. Bartelt,
Administrator.

[FR Doc. 79-25926 Filed 8-21-79; 8:45 am]

BILLING CODE 3410-02-M

Official Agency Geographical Area; Assignment of Geographic Area to the Alva Grain Inspection Department, Alva, Okla.

AGENCY: Federal Grain Inspection Service.

ACTION: Notice.

SUMMARY: This notice announces assignment of geographic area to the Alva Grain Inspection Department, Alva, Oklahoma, for the performance of official grain inspection functions under the authority of the United States Grain Standards Act, as amended.

EFFECTIVE DATE: August 22, 1979.

FOR FURTHER INFORMATION CONTACT: J. T. Abshier, Director, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447-8262.

SUPPLEMENTARY INFORMATION: The Alva Grain Inspection Department (the "Agency"), 129 College, P.O. Box 541, Alva, Oklahoma 73717, was designated as an official agency under the United States Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*) (the "Act"), for the performance of official grain inspection functions on August 31, 1978. The designation also included an assignment of geographic area, on an interim basis,

within which this Agency would operate. Geographic areas are assigned to each official agency pursuant to Section 7(f)(2) of the Act.

The Act provides that not more than one official agency shall be operating at one time within an assigned geographic area.

The proposed geographic area assigned on an interim basis to the Agency was announced in the January 12, 1979, issue of the Federal Register (44 FR 2652). No comments were received. Accordingly, after due consideration of all information available to the United States Department of Agriculture, the geographic area shall remain as originally proposed. The geographic area assigned to the Agency is composed of the following counties: Alfalfa, Beckham, Caddo, Custer, Dewey, Ellis, Greer, Harper, Kiowa, Major, Roger Mills, Washita, Woods, and Woodward, all located in Oklahoma.

A specified service point for the purpose of this notice is a city, town, or other location specified by an agency for the conduct of official inspections and where the agency or one or more of its licensed inspectors is located. In addition to the specified service point within the assigned geographic area, the Agency will provide official inspection services not requiring a licensed inspector to all other areas within its geographic area.

Interested persons may obtain a map of the assigned geographic area and a list of specified service points by contacting the Agency or the Delegation and Designation Branch, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, DC 20250, (202) 447-8525.

(Secs. 8, 9, Pub. L. 94-582, 90 Stat. 2870, 2875 (7 U.S.C. 79, 79a)). Done in Washington, D.C. on: August 18, 1979.)

L. E. Bartelt,
Administrator.

[FR Doc. 79-25927 Filed 8-21-79; 8:45 am]
BILLING CODE 3410-02-M

Official Agency Geographic Area; Assignment of Geographic Area to the Enid Grain Inspection Co., Inc., Enid, Okla.

AGENCY: Federal Grain Inspection Service.

ACTION: Notice.

SUMMARY: This notice announces assignment of geographic area to the Enid Grain Inspection Co., Inc., Enid, Oklahoma, for the performance of

official grain inspection functions under the authority of the United States Grain Standards Act, as amended.

EFFECTIVE DATE: August 22, 1979.

FOR FURTHER INFORMATION CONTACT: J. T. Abshier, Director, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447-8262.

SUPPLEMENTARY INFORMATION: The Enid Grain Inspection Co., Inc. (the "Agency"), 2305 N. 10th Street P.O. Box 229, Enid, Oklahoma 73701, was designated as an official agency under the United States Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*) (the "Act"), for the performance of official grain inspection functions on October 5, 1978. The designation also included an assignment of geographic area, on an interim basis, within this Agency would operate. Geographic areas are assigned to each official agency pursuant to Section 7(f)(2) of the Act.

The Act provides that not more than one official agency shall be operating at one time within an assigned geographic area.

The proposed geographic area assigned on an interim basis to the Agency was announced in the January 12, 1979, issue of the Federal Register (44 FR 2654). No comments were received. Accordingly, after due consideration of all information available to the United States Department of Agriculture, the geographic area shall remain as originally proposed.

The geographic area assigned to the Agency is composed of the following counties: Grant, Kay, Osage, Washington, Nowata, Craig, Mayes, Wagoner, Okmulgee, Okfuskee, Hughes, Coal, Atoka, Bryan, Marshall, Love, Jefferson, Cotton, Tillman, Jackson, Harmon, Comanche, Grady, Canadian, Blaine, Kingfisher, and Garfield.

A specified service point for the purpose of this notice is a city, town, or other location specified by an agency for the conduct of official inspections and where the agency or one or more of its licensed inspectors is located. In addition to the specified service point within the assigned geographic area, the Agency will provide official inspection services not requiring a licensed inspector to all other areas within its geographic area.

Interested persons may obtain a map of the assigned geographic area and a list of specified service points by contacting the Agency or the Delegation and Designation Branch, Compliance Division, Federal Grain Inspection Service, United States Department of

Agriculture, Washington, DC 20250, (202) 447-8525.

(Secs. 8, 9, Pub. L. 94-582, 90 Stat. 2870, 2875 (7 U.S.C. 79, 79a)).

Done in Washington, D.C. on: August 16, 1979.

L. E. Bartelt,
Administrator.

[FR Doc. 79-25928 Filed 8-21-79; 8:45 am]
BILLING CODE 3410-02-M

Official Agency Geographic Area; Assignment of Geographic Area to the Ft. Smith-Van Buren Grain Inspection Service, Van Buren, Ark.

AGENCY: Federal Grain Inspection Service.

ACTION: Notice.

SUMMARY: This notice announces assignment of geographic area to the Ft. Smith-Van Buren Grain Inspection Service, Van Buren, Arkansas, for the performance of official grain inspection functions under the authority of the United States Grain Standards Act, as amended.

EFFECT DATE: August 22, 1979.

FOR FURTHER INFORMATION CONTACT: J. T. Abshier, Director, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, DC 20250, (202) 447-8262.

SUPPLEMENTARY INFORMATION: The Ft. Smith-Van Buren Grain Inspection Service (the "Agency"), Kibler Road, P.O. Box 498, Van Buren, Arkansas 72956, was designated as an official agency under the United States Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*) (the "Act"), for the performance of official grain inspection functions on September 30, 1978. The designation also included an assignment of geographic area, on an interim basis, within which this Agency would operate. Geographic areas are assigned to each official agency pursuant to Section 7(f)(2) of the Act.

The Act provides that not more than one official agency shall be operating at one time within an assigned geographic area.

The proposed geographic area assigned on an interim basis to the Agency was announced in the January 12, 1979, issue of the Federal Register (44 FR 2653). No comments were received. Accordingly, after due consideration of all information available to the United States Department of Agriculture, the geographic area shall remain as originally proposed.

The geographic area assigned to the Agency is composed of the following counties: In Arkansas: Benton, Boone,

Carroll, Crawford, Franklin, Johnson, Logan, Madison, Montgomery, Newton, Polk, Sebastian, Sevier, Scott, Washington, Yell. In Oklahoma: Adair, Cherokee, Choctaw, Delaware, Haskell, Latimer, Le Flore, McCurtain, McIntosh, Muskogee, Ottawa, Pittsburg, Pushmataha, and Sequoyah.

A specified service point for the purpose of this notice is a city, town, or other location specified by an agency for the conduct of official inspections and where the agency or one or more of its licensed inspectors is located. In addition to the specified service points within the assigned geographic area, the Agency will provide official inspection services not requiring a licensed inspector to all other area within its geographic area.

Interested persons may obtain a map of the assigned geographic area and a list of specified service points by contracting the Agency or the Delegation and Designation Branch, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, DC 20250, (202) 447-8525.

(Secs. 8, 9, Pub. L. 94-582, 90 Stat. 2870, 2875 (7 U.S.C. 79, 79a)). Done in Washington, D.C. on: August 16, 1979.

L. E. Bartelt,
Administrator.

[FR Doc. 79-25929 Filed 8-21-79; 8:45 am]
BILLING CODE 3410-02-M

Forest Service

Mapleton Planning Unit Land Management Plan; Siuslaw National Forest Douglas and Lane Counties, Oreg.; Intent to Discontinue an Environmental Impact Statement

Pursuant to the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture has been preparing an Environmental Impact Statement on the Land Management Plan for the Mapleton Planning Unit, Siuslaw National Forest, located in Douglas and Lane Counties, Oregon. That effort has been discontinued.

The primary factor that entered into the decision to discontinue the Environmental Impact Statement for the Mapleton Planning Unit was the expected completion date of the Plan. The Final Environmental Impact Statement would not have been available until late 1980. The Siuslaw is beginning a Forest Land and Resource Management Plan in early 1980. Since allocations made in unit planning must be reevaluated in the Forest Plan, the timing for completion of the Mapleton

Unit Plan would not allow a final allocation decision to be made before allocations would be reexamined through the Forest planning process. The effort the Forest would have spent on the Mapleton Unit Plan will be more efficiently spent on the Forest Plan. Therefore, I have decided to discontinue the Environmental Impact Statement for the Mapleton Unit.

The Siuslaw National Forest appreciates the participation, interest, and hard work the public put into helping to identify issues, develop management strategies, and consider alternatives for this planning unit. The public involvement and interdisciplinary team work on this plan will be valuable information for the Forest Plan. Much of this work will serve as the basis for data collection analysis and techniques.

Comments on the Notice of Intent about the Mapleton Unit should be sent to Larry A. Fellows, Forest Supervisor, P.O. Box 1148, Corvallis, Oregon 97330. August 13, 1979.

Frank J. Kopecky,
Deputy Regional Forester.

[FR Doc. 79-25957 Filed 8-21-79; 8:45 am]
BILLING CODE 3410-11-M

Vegetation Management Along Diamond Lake Highway; Rogue River National Forest; Environmental Assessment; Finding of No Significant Impact

An Environmental Assessment that discusses proposed roadside vegetation management by the Oregon State Highway Division on National Forest Land beginning at Mile 0.00 in Section 35, T. 30 S., R. 3 E., W.M., in Jackson County and ending at mile 23.89 in Section 21, T. 28 S., R. 5 1/2 E., W.M., in Douglas County, Oregon, a distance of 23.89 miles covering a treatment area of approximately 175 acres, is available for public review at the Umpqua National Forest, Federal Office, Roseburg, Oregon 97470 and the Rogue River National Forest, P.O. Box 520, Medford, Oregon 97501.

No flood plains or wet lands are involved in this project. The Environmental Assessment does not indicate that there is a major federal action significantly affecting the quality of the human environment. Therefore, it has been determined that an environment impact statement is not needed.

This determination was based upon consideration of the following factors, which are discussed in detail in the Environmental Assessment: (a) That the treatment of existing and encroaching conifer seedlings, stumps and brush on

100 acres of road cut and fill slopes with 2,4,D/2,4,D-P, such as Anchen Weedone 170, EPA-222-AA or equal; that the treatment of weeds, grasses, forbs and other vegetation on 35 acres of road shoulders and ditches with Simazine, such as CIBA-GEIGY Princep 80W, EPA 100-437 ZB or equal and Bromacil and Diuron, such as Karmex (EPA 352-247-AA) or KROVAR #1 (EPA 352-352-AA) or equal as needed; that the hand brushing and mechanical chipping of vegetation on cut and fill slopes on 38 acres coinciding and adjacent to other areas of treatment, as needed, over the next five years will have only a slight effect on the ecosystem adjacent to the road within the project area; (b) there are no irreversible resources commitments; (c) there are no apparent adverse cumulative or secondary effects; (d) the physical and biological effects are limited to the area of planned development and use; and (e) there are no known threatened or endangered plants or animal resources that will be adversely affected within the project area.

No public concern has been expressed about possible effects of the project. No action will be taken prior to 30 days from the date of this finding is published in the Federal Register.

The responsible officials are Richard Swartzlender, Forest Supervisor, Umpqua National Forest, Federal Office Building, Roseburg, Oregon 97470 and Donald H. Smith, Forest Supervisor, Rogue River National Forest, P.O. Box 520, Medford, Oregon 97501.

Dated: August 6, 1979.

Kent T. Churchill,
Deputy Forest Supervisor, Umpqua National Forest.

Dated: July 31, 1979.

Donald H. Smith,
Forest Supervisor, Rogue River National Forest.

[FR Doc. 79-25958 Filed 8-21-79; 8:45 am]
BILLING CODE 3410-11-M

Soil Conservation Service

Mulberry Creek Watershed, Miss.; Deauthorization of Federal Funding

Pursuant to the Watershed Protection and Flood Prevention Act, Pub. L. 83-566, and the Soil Conservation Service Guidelines (7 CFR Part 622), the Soil Conservation Service gives notice of the deauthorization of Federal funding for the Mulberry Creek Watershed project, Montgomery County, Mississippi, effective on August 1, 1979.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program, Pub. L. 83-566, 16 U.S.C. 1001-1006.)

Dated: August 14, 1979.
Victor H. Barry, Jr.,
Deputy Administrator for Programs, SCS.
 [FR Doc. 79-25891 Filed 8-21-79; 8:45 am]
BILLING CODE 3410-16-M

Roberson Creek Watershed, Miss.; Deauthorization of Federal Funding

Pursuant to the Watershed Protection and Flood Prevention Act, Pub. L. 83-566, and the Soil Conservation Service Guidelines (7 CFR Part 622), the Soil Conservation Service gives notice of the deauthorization of Federal funding for the Roberson Creek Watershed project, Benton County, Mississippi, effective on August 1, 1979.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program, Pub. L. 83-566, 16 U.S.C. 1001-1008.)

Dated: August 14, 1979.
Victor H. Barry, Jr.,
Deputy Administrator for Programs, SCS.
 [FR Doc. 79-25893 Filed 8-21-79; 8:45 am]
BILLING CODE 3410-16-M

Silver Creek Watershed, Miss.; Deauthorization of Federal Funding

Pursuant to the Watershed Protection and Flood Prevention Act, Pub. L. 83-566, and the Soil Conservation Service Guidelines (7 CFR Part 622), the Soil Conservation Service gives notice of the deauthorization of Federal funding for the Silver Creek Watershed project, Lawrence, Jefferson Davis and Simpson Counties, Mississippi, effective on August 1, 1979.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program, Pub. L. 83-566, 16 U.S.C. 1001-1008.)

Dated: August 14, 1979.
Victor H. Barry, Jr.,
Deputy Administrator for Programs, SCS.
 [FR Doc. 79-25892 Filed 8-21-79; 8:45 am]
BILLING CODE 3410-16-M

Soil and Water Resources; Distribution of Document

Pursuant to the Soil and Water Resources Conservation Act (RCA), Pub. L. 95-192, the U.S. Department of Agriculture (USDA) is appraising the Nation's soil, water, and related resources, developing a national soil and water conservation program, and preparing a statement of national policy concerning these resources during the 1979-1980 RCA process.

The formal 60-day RCA public review period of all RCA draft documents is tentatively scheduled to begin on

November 13, 1979. However, RCA Appraisal—Part I will be available for public review beginning September 4, 1979. Another Federal Register Notice will be published concurrent with the beginning of the official public review period. This notice will give exact dates of the public review period; dates and locations of public meetings; and the address to which written comments on the RCA draft documents should be sent.

Draft Appraisal—Part I is the first of four RCA draft documents being prepared for public review and comment. Part I of the Appraisal contains the status, condition, and trend of the Nation's soil, water and related resources.

Draft Appraisal—Part I will be available for public review in selected USDA field offices. Where USDA agencies are located together, the documents will be placed in the Soil Conservation Service (SCS) office. Where USDA agencies are not located together, the Appraisal—Part I will be located in the SCS and the Agricultural Stabilization and Conservation Service (ASCS) county office.

Comments on Draft Appraisal—Part I may be submitted at any time before the end of the official review period, tentatively scheduled for January 14, 1980. Comments are to be sent to the RCA Response Analysis Center, USDA Soil Conservation Service, Box 888, Athens, Georgia 30603.

For more information about this document, or to request a copy, contact Ernest V. Todd, RCA Manager, U.S. Department of Agriculture, Box 2890, Washington, DC 20013, phone (202) 447-2771.

Pub. L. 95-192, 91 Stat. 1407, 16 U.S.C. 2001 et seq. (November 18, 1977)

Dated: August 17, 1979.
David G. Unger,
Deputy Assistant Secretary for Conservation, Research, and Education.

[FR Doc. 79-25930 Filed 8-21-79; 8:45 am]
BILLING CODE 3410-16-M

Office of Equal Opportunity

Citizens' Advisory Committee on Equal Opportunity Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act, notice is hereby given of a public meeting of the USDA Citizens' Advisory Committee on Equal Opportunity, on September 5-7, 1979, in Room 218A, Administration Building, 14th and Independence Avenue, Washington, DC, commencing at 9 a.m.

The purpose of the meeting is to organize the Committee and plan its activities for the year.

The Committee was established by Secretary's Memorandum No. 1960, October 24, 1978, to review and advise the Secretary on ways to improve the Department's policies and procedures regarding equal opportunity.

The meeting is open to the public to observe Committee operations.

Interested persons may make written comments to and obtain further information regarding the Committee from: Jacqueline G. Sutton, Office of Equal Opportunity, Room 242E—Adm. Bldg., Washington, D.C. 20250, Phone: 202/447-7813.

Dated: August 17, 1979.
Joan S. Wallace,
Assistant Secretary for Administration.
 [FR Doc. 79-25988 Filed 8-21-79; 8:45 am]
BILLING CODE 3410-01-M

ARMS CONTROL AND DISARMAMENT AGENCY

General Advisory Committee; Meeting

Notice is hereby given in accordance with Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. I, (the Act) and paragraph 8b of Office of Management and Budget Circular No. A-63 (Revised March 27, 1974) (the OMB Circular), that a meeting of the General Advisory Committee (GAC) is scheduled to be held on September 13, 1979 from 9 a.m. to 8 p.m. and on September 14, 1979 from 9 a.m. to 6 p.m. at 2201 C Street, NW, Washington, D.C., in Room 7518.

The purpose of the meeting is for the GAC to receive briefings and hold discussions concerning arms control and related issues which will involve national security matters classified in accordance with Executive Order 12065, dated June 28, 1978.

The meeting will be closed to the public in accordance with the determination of August 14, 1979 made by the Director of the U.S. Arms Control and Disarmament Agency pursuant to Section 10(d) of the Act and paragraph 8d(2) of the OMB Circular that the meeting will be concerned with matters of the type described in 5 U.S.C. 552(b)(1). This determination was made pursuant to a delegation of authority from the Office of Management and Budget dated June 25, 1973, issued under the authority of Executive Order 11686 dated October 7, 1972 and continued by Executive Order 11769 dated February 21, 1974.

Dated: August 17, 1979.
Charles R. Oleszycki,
Advisory Committee Management Officer.
 [FR Doc. 79-25997 Filed 8-21-79; 8:45 am]
BILLING CODE 6420-32-M

CIVIL AERONAUTICS BOARD

[Docket 34226]

Eastern-National Acquisition Case

Notice to all parties: Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that oral argument in this proceeding is assigned to be held before the Board on September 12, 1979, at 10 a.m. (local time), in Room 1027, University Building, 1825 Connecticut Avenue, N.W., Washington, D.C.

Each party which wishes to participate in the oral argument shall so advise the Secretary, in writing, on or before August 30, 1979, together with the name of the person who will represent it at the argument.

Dated at Washington, D.C., August 16, 1979.

Phyllis T. Kaylor,
Secretary.

[FR Doc. 79-25975 Filed 8-21-79; 8:45 am]
BILLING CODE 6320-01-M

[Order 79-8-94; Docket 36408]

Investigation of Airline Reservations, Bumping and Compensation Practices During the Grounding of DC-10 Aircraft; Order Instituting Informal Nonpublic Investigation Under Part 305 of the Board's Procedural Regulations

Issued under delegated authority August 17, 1979.

The Bureau of Consumer Protection has received informal complaints concerning the alleged practices of certain air carriers during the recent grounding of the DC-10 aircraft. Apparently, after the DC-10 had been indefinitely grounded, certain carriers continued to accept reservations based upon DC-10 seating capacity. On flights where the carriers had to provide service with equipment of lesser capacity because the DC-10 was still out of service, this practice sometimes resulted in numbers of passengers who had confirmed reservations not being provided with seats for their flights. Complaints received by the Bureau have alleged that in such situations the carriers refused to pay denied boarding compensation under the Board's regulations for the protection of consumers on oversold flights, 14 C.F.R. Part 250, apparently in the belief that the

requirement to pay compensation was inapplicable in these circumstances.¹

We are especially interested in determining the extent of these practices and their effect on the traveling public. In this connection, the Board had decided that the public interest requires the institution of an informal nonpublic investigation, in accordance with Part 305 of the Board's Procedural Regulations, to obtain information about the carriers' compliance with Part 250 and Section 411 of the Federal Aviation Act.

Petitions for review of this order may be filed by any person who discloses a substantial interest that would be adversely affected by the initiation of this investigation. Such petitions shall conform to the requirements of § 385.51 of the Regulations and shall be filed on or before September 4, 1979.

Accordingly: 1. We institute an informal nonpublic investigation under Part 305 of the Board's Procedural Regulations, for the purpose of obtaining information to determine:

a. Whether any air carrier or foreign air carrier has failed to comply with the Board's denied boarding compensation regulations in connection with the grounding of the DC-10; and
 b. Whether formal enforcement action or any other appropriate course of action should be undertaken.

2. We designate Charles L. Reischel, Paul W. Wallig, and Eleanor Minsky, staff attorneys of the Bureau of Consumer Protection, as Investigation Attorneys for the purpose of conducting this investigation.

3. This order shall be published in the Federal Register as provided in § 305.10 of the Board's Regulations.

By Reuben B. Robertson, Director, Bureau of Consumer Protection.

Phyllis T. Kaylor,
Secretary.
 [FR Doc. 79-25976 Filed 8-21-79; 8:45 am]
BILLING CODE 6320-01-M

COMMISSION ON CIVIL RIGHTS

Connecticut Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Connecticut Advisory Committee (SAC)

¹Under § 250.6(b) of the regulations, a passenger involuntarily denied boarding is not entitled to compensation if "the flight for which he holds confirmed space is unable to accommodate him because of . . . (2) substitution of equipment of lesser capacity when required by operational or safety reasons."

of the Commission will convene at 9:00 a.m. and will end at 5:00 p.m., on September 8, 1979, at the Hartford Hilton Hotel, Hartford, Connecticut.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the New England Regional Office of the Commission, 55 Summer Street, 8th Floor, Boston, Massachusetts 02110.

The purpose of this meeting is for all day workshops on Community Development Block Grant and program planning for Community Development Block Grant project.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., August 17, 1979.
John I. Binkley,
Advisory Committee Management Officer.
 [FR Doc. 79-25984 Filed 8-21-79; 8:45 am]
BILLING CODE 6335-01-M

New Hampshire State Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the New Hampshire Advisory Committee (SAC) of the Commission will convene at 7:00 pm and will end at 10:00 pm, on September 11, 1979, at the Holiday Inn, Amoskeag Bridge Exit, Manchester, New Hampshire.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the New England Regional Office of the Commission, 55 Summer Street, 8th Floor, Boston, Massachusetts 02110.

The purpose of this meeting is for: a. Status of B.W. Report, b. Presentation of Puerto Rican Community and, c. Problems in Manchester.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., August 17, 1979.
John I. Binkley,
Advisory Committee Management Officer.
 [FR Doc. 79-25985 Filed 8-21-79; 8:45 am]
BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

Economic Development
AdministrationPetitions by Fifteen Producing Firms
for Determinations of Eligibility To
Apply for Trade Adjustment
Assistance

Petitions have been accepted for filing from fifteen firms: (1) Valley Nitrogen Producers, Inc., 12688 South Colorado, Helm, California 93623, a producer of fertilizer (accepted August 3, 1979); (2) Maryland Hampstead Company, Inc., 1024 Carroll Avenue, Hampstead, Maryland 21074, a producer of men's suits (accepted August 6, 1979); (3) Bedford Reinforced Plastics, Inc., R. D. #1 Box 657, Bedford, Pennsylvania 15522, a producer of fiberglass fence bars and posts (accepted August 8, 1979); (4) Billy The Kid, Inc., 4171 North Mesa, El Paso, Texas 79902, a producer of boys' pants (accepted August 7, 1979); (5) Scharf & Breit, Inc., 467 Troutman Street, Brooklyn, New York 11237, a producer of sweaters for men, boys and women (accepted August 7, 1979); (6) Robert Bruce, Inc., 'C' and Westmoreland Streets, Philadelphia, Pennsylvania 19134, a producer of boys' pants (accepted August 7, 1979); (7) Alpine Togs, Inc., 461 Frelinghuysen Avenue, Newark, New Jersey 07114, a producer of children's coats, jackets and snowsuits (accepted August 8, 1979); (8) Gotthelf Knitting Mills, Inc., 607 Myrtle Avenue, Boonton, New Jersey 07005, a producer of men's sweaters (accepted August 8, 1979); (9) Young Reflections Inc., 1375 Broadway, New York, New York 10018, a producer of women's dresses and pantsuits (accepted August 9, 1979); (10) Highlands Leather Company, Inc., P.O. Box 348, Sebring Air Terminal Building 902, Sebring, Florida 33870, a producer of leather (accepted August 9, 1979); (11) U & I Incorporated, 709 East South Temple, Salt Lake City, Utah, 84110, a processor of sugar (accepted August 9, 1979); (12) Charles H. Liebman & Bro., Inc., 1216-20 Arch Street, Philadelphia, Pennsylvania 19107, a producer of men's suits, sportcoats and slacks (accepted August 13, 1979); (13) Marble King, Inc., P.O. Box 195, Paden City, West Virginia 26159, a producer of glass marbles (accepted August 13, 1979); (14) Mark Industries, Inc., One University Drive, Arlington Heights, Illinois 60004, a producer of metal dies and stampings; and electronic components (accepted August 14, 1979); and (15) Southwest Footwear Corporation, 3151 East Drexel Road, Tucson, Arizona 85706, a producer of

children's sandals (accepted August 14, 1979).

The petitions were submitted pursuant to Section 251 of the Trade Act of 1974 (P.L. 93-618) and Section 315.23 of the Adjustment Assistance Regulations for Firms and Communities (13 CFR Part 315).

Consequently, the United States Department of Commerce has initiated separate investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each firm contributed importantly to total or partial separation of the firm's workers; or threat thereof, and to a decrease in sales or production of each petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by the Chief, Trade Act Certification Division, Economic Development Administration, U.S. Department of Commerce, Washington, D.C. 20230, no later than the close of business of the tenth calendar day following the publication of this notice.

Jack W. Osburn, Jr.,
Chief, Trade Act Certification Division, Office
of Eligibility and Industry Studies.

[FR Doc. 79-25907 Filed 8-21-79; 8:45 am]
BILLING CODE 3510-24-M

National Oceanic and Atmospheric
AdministrationGulf of Mexico Fishery
Management Council; Public Meeting

AGENCY: National Marine Fisheries
Service, NOAA.

SUMMARY: The Gulf of Mexico Fishery Management Council, established by Section 302 of the Fishery Conservation and Management Act of 1976 (Public Law 94-265), will meet to review status reports on development of fishery management plans; consider foreign fishing applications, if any; and conduct other Council-related business.

DATES: The meeting will convene on Wednesday, September 5, 1979, at 12 noon, and continue to approximately 5 p.m.; on Thursday, September 6, 1979, reconvene at 8:30 a.m., and continue to approximately 5 p.m.; and on Friday, September 7, 1979, reconvene at 8:30 a.m., and adjourn at approximately 12 noon. The meeting is open to the public.

ADDRESS: The meeting will take place in the Iberville Room of the Monteleone Hotel, 214 Royal Street, New Orleans, Louisiana.

FOR FURTHER INFORMATION CONTACT:
Gulf of Mexico Fishery Management
Council, Lincoln Center, Suite 881, 5401

West Kennedy Boulevard, Tampa,
Florida 33609, Telephone: (813) 228-2815.

Dated: August 16, 1979.
Winfred H. Meibohm,
Executive Director, National Marine
Fisheries Service.

[FR Doc. 79-25918 Filed 8-21-79; 8:45 am]
BILLING CODE 3510-22-M

CONSUMER PRODUCT SAFETY
COMMISSION

[CP 79-3]

Skateboards; Denial of Petition

AGENCY: Consumer Product Safety
Commission.

ACTION: Denial of petition.

SUMMARY: The Commission denies a petition to ban skateboards. The Commission denies the petition because it has insufficient information to conclude that a mandatory banning regulation is necessary at this time.

FOR FURTHER INFORMATION CONTACT:
Douglas Noble, Office of Program
Management, Consumer Product Safety
Commission, Washington, DC 20207,
301-492-6453.

SUPPLEMENTARY INFORMATION: Section 10 of the Consumer Product Safety Act (CPSA) (15 U.S.C. 2059) provides that any interested person may petition the Consumer Product Safety Commission to begin a proceeding to issue, amend, or revoke a consumer product safety standard or ban. Section 10 also provides that if the Commission denies such a petition, it shall publish its reasons for denial in the Federal Register.

On October 26, 1978 the Commission received a petition (CP 79-3) from the Consumer Affairs Committee of the Americans for Democratic Action requesting the issuance of a ban on skateboards. The petition contends that skateboards have been associated with many serious injuries, particularly to the head, internal organs, and joints and that the design of the skateboard itself cannot be improved in any way to make it safe.

Commission Evaluation of Petition

After considering the petitioner's request, the Commission staff analysis of the injury data, and Commission staff comments on the petition, the Commission has decided to deny this petition.

The Commission recognizes that skateboarding is the source of many injuries. However, the Commission believes, based on the injury information discussed below, that

injuries associated with skateboarding are primarily "use-related" rather than "product-related."

The 1978 *Hazard Analysis Report on Skateboards* prepared by Commission staff discusses the nature of the injuries that have been associated with skateboards.

The *Hazard Analysis* indicates that actual skateboard breakage, such as broken decks, fractured trucks, or wheels which fall off, were found to be causative factors in less than 2 percent of the skateboard-related injuries.¹ The main factors found to cause injuries were, in order of prominence: irregular riding surface, loss of balance, slipping from the board, jumping from the board, falling while turning, striking an obstacle, and the board slipping out from under the victim. The Commission concludes that the manner in which skateboards are used may be responsible for many skateboard-related injuries.

The *Hazard Analysis* also indicates that over one-half of skateboard-related injuries are sustained to the lower arm or leg. Fractures appear to be the most common type of injury, occurring in one-third of all injuries. In addition, a total of 25 deaths from skateboard-related accidents between 1975-77 have been reported through Commission files and newspaper articles. These accidents generally happened in one of two ways: victims either fell from the skateboards and struck their heads or victims were struck by automobiles while riding skateboards.

An analysis of injuries reported through the National Electronic Injury Surveillance System (NEISS) indicates that the incidence of skateboard associated injuries has decreased from an estimate of 140,000 in calendar year 1977 to an estimated 87,000 in calendar year 1978. The Commission notes that this is a reversal from the continuous rise in injuries from 1974 through 1977. While one of the reasons for the downward trend in injuries may be a decrease in the popularity of the sport, the Commission believes that an increased use of off-street skating sites and skate parks may have contributed to the decrease in injuries. In addition, while the Commission does not know how effective these items are in reducing injuries, there is an increased use of safety equipment such as helmets,

¹The Commission recognizes, however, that certain design or product features of skateboards (e.g., turning characteristics of boards, deck materials, truck width and placement, wheel diameter, etc.) are factors in skateboard associated accidents and that injuries might be reduced by improved product design in these areas.

knee pads, and elbow pads while skateboarding.

The Commission also believes that a ban is not necessary at this time because there appears to be an increased awareness of skateboarding safety on the part of state and local jurisdictions, which are promoting safety at the community level. As noted above, this awareness, along with an increased use of skateboard parks and safety equipment, may be partly responsible for the recent reduction in injuries.

Conclusion

In view of the foregoing, the Commission concludes that current information indicates that a mandatory banning regulation for skateboards is not needed at this time. The Commission, therefore, denies the petition.

The Commission notes, however, that it is concerned about the many serious injuries that have been associated with skateboarding. The Commission has instructed its staff to monitor any efforts to develop voluntary safety requirements for skateboards and to maintain continued liaison with national, state, and local organizations concerned with skateboard safety. The Commission also plans to continue its efforts in the area of consumer information and education relating to skateboarding.

Copies of the petition, the 1978 *Hazard Analysis Report on Skateboards*, and the Commission staff's briefing materials on the petition may be obtained from the Office of the Secretary, Consumer Product Safety Commission, 1111 18th St., N.W., Washington, D.C. 20207.

Dated: August 15, 1979.

Robert C. Bledsoe, Jr.,
Acting Secretary, Consumer Product Safety
Commission.

[FR Doc. 79-25961 Filed 8-21-79; 8:45 am]
BILLING CODE 6355-01-M

DEPARTMENT OF ENERGY

Proposed Contract Award

AGENCY: Department of Energy.

ACTION: Notice of Proposed Contract
Award.

SUMMARY: In accordance with the Department of Energy Procurement Regulations, DOE gives public notice that a contract is being awarded, after taking into account the existence of potential organizational conflicts of interest, because this procurement is

determined to be in the best interests of the United States.

FOR FURTHER INFORMATION CONTACT:
Mr. James Binkley, Office of
Conservation and Solar Applications,
Room 2254, 20 Massachusetts Avenue,
NW, Washington, DC 20585.

Determination and Findings

Upon the basis of the following findings and determination, the proposed contract described below is being awarded, after taking into account the existence of potential Organizational Conflicts of Interest, because this procurement is determined to be in the best interests of the United States, pursuant to the authority of Department of Energy Procurement Regulation 41 CFR 9-1.5409(a)(3).

Findings

(1) The Department of Energy (DOE), Office of Conservation and Solar Applications is currently developing performance standards for new commercial buildings pursuant to section 304 of the Energy Conservation and Production Act (the "Act") (Pub. L. 94-385, 42 U.S.C. 6833). The Act provides deadlines for publication of the proposed standards by August 14, 1979. Final standards are to be promulgated within six months thereafter.

(2) In connection with the publication of these standards, it is necessary for the Office of Conservation and Solar Applications to retain skilled and experienced professionals to conduct research, collect information and perform analysis to enable DOE to develop the performance standards. For the past two years, AIA Research Corporation (AIA/RC), in conjunction with a team of subcontractors has performed the research under the direction of the Department of Housing and Urban Development ("HUD"), who had responsibility for instigation of this program initially. The subcontractors are: Syska & Hennessy, Bickle/CM, T.L.A. Lighting Consultants, Inc., Hanscomb Associates, Heery & Heery and NAHB Research Corporation.

DOE found that a timely issuance of performance standards would necessitate a continuation of the use of AIA/RC and its subcontractors to complete the work originally initiated by HUD.

(3) In accordance with 41 CFR 9-1.5405, AIA/RC and its team of subcontractors have provided disclosure of information concerning their interests related to the contract work to be performed. Specifically DOE was furnished with information concerning whether possible organizational conflicts of interest exist with respect to:

(1) A contractor's ability to render impartial technically sound and objective assistance or advice, or (2) whether an unfair competitive advantage may be conferred on a contractor as a result of performing specific tasks.

(4) In order to comply with the 41 CFR 9-1.5404 disclosure requirement, telephone conversations were made to AIA/RC and its team of subcontractors to be followed up by confirmation letters from the contractors. Numerous questions were asked which would aid in making the judgment (1) whether based on the relationship of the specific contractors' clients and business activities to the scope of the work to be performed under the contract, as well as the impact of the BEPS standards, it would be impossible for him to render impartial, technically sound and objective assistance or advice; and (2) whether contract performance would give the contractor an unfair competitive advantage. Then, analysis of this information and comparison to the task to be performed under the contract was made. Because of the contractors' affiliations with the architectural construction and engineering sectors of industry, the potential for bias was found to exist. In the case of the following contractors, potential organizational conflicts of interest were recognized: AIA/RC, Bickle/CM, T.L.A. Lighting Consultants, Syska & Hennessy, Hanscomb Associates, Heery & Heery, and NAHB Research Foundation.

(5) Because AIA/RC, and its team of subcontractors has the unique capabilities and staffs to perform the work for the Office of Conservation and Solar Applications within the time constraints allowed, it is not feasible to disqualify these contractors from contract award, in accordance with 41 CFR 9-1.5409(c)(1). Furthermore, it is not possible to avoid the potential organizational conflicts of interest by the inclusion of appropriate conditions in the resulting contract, in accordance with 41 CFR 9-1.5409(a)(2).

(6) The enactment of these performance standards will have far-reaching benefits in terms of energy conservation to the general public. The work performed by these contractors is critical to the development of these standards. Mitigation, to the extent feasible, under 9-1.5409(a)(3), will be obtained by (1) independent staff review by DOE officials; (2) use of existing methodology to cross-check and verify the material developed by the AIA/RC team; and (3) administrative procedures through which public distribution and the reception of public comment allow

mitigation of potential conflicts in the data and analysis.

Determination

In light of the above findings, I hereby determine in accordance with 41 CFR 9-1.5409(a)(3) that award of this contract would be in the best interests of the United States.

Dated: August 10, 1979.

Omi Walden,

Assistant Secretary, Office of Conservation and Solar Applications.

[FR Doc. 79-25886 Filed 8-21-79; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

Application for Presidential Permit PP-70: Minnkota Power Cooperative, Inc.

AGENCY: Department of Energy, Economic Regulatory Administration.

ACTION: Notice of Application for Presidential Permit for a 12-kV International Transmission Line: Minnkota Power Cooperative, Inc.

SUMMARY: Minnkota Power Cooperative, Inc. filed an application for a Presidential Permit, PP-70, to construct, connect, operate and maintain a 75-foot, 12-kV international interconnection at the United States-Canadian boundary.

FOR FURTHER INFORMATION CONTACT:

James M. Brown, Jr., System Reliability and Emergency Response Branch, Department of Energy, Room 4110, 2000 M Street, N.W., Washington, D.C. 20461, (202) 254-8247. Lise Courtney Howe, Office of General Counsel, Department of Energy, Room 5113, Federal Building, 12th and Pennsylvania Avenue, N.W., Washington, D.C. 20461, (202) 633-9380.

SUPPLEMENTARY INFORMATION: On June 13, 1979 the Minnkota Power Cooperative, Inc. (Minnkota) filed an application with the Economic Regulatory Administration (ERA) for a presidential permit, pursuant to Executive Order No 10485, as amended. Minnkota requests authority to construct, connect, operate and maintain a 75-foot, 12-kilovolt interconnection at the United States-Canadian border. The 75-foot, 12-kV overhead transmission line will interconnect a 12-kV overhead line owned and operated by the Manitoba Hydro Electric Board with an underground cable to be laid by the Roseau Electric Cooperative in the Northwest Angle State Forest.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the System Reliability and Emergency Response Branch, Economic Regulatory

Administration, Room 4110, 2000 M Street, N.W., Washington, D.C. 20461, in accordance with sections 1.8 or 1.10 of the Rules of Practice and Procedure (18 C.F.R. 1.8, 1.10).

Any such petitions and protests should be filed on or before September 18, 1979. Protests will be considered by ERA in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with ERA and will, upon request, be made available for public inspection and copying at the ERA Docket Room, Room B-210, 2000 M Street, N.W., Washington, D.C., and at the System Reliability and Emergency Response Branch, Room 4110, 2000 M Street, N.W., Washington, D.C.

Dated: August 16, 1979.

Jerry L. Pfeffer,

Assistant Administrator for Utility Systems, Economic Regulatory Administration.

[FR Doc. 79-25937 Filed 8-21-79; 8:45 am]

BILLING CODE 6450-01-M

Issuance of Presidential Permit for 12.5 kV International Interconnection, PP-67: North Central Electric Cooperative, Inc.

AGENCY: Department of Energy, Economic Regulatory Administration.

ACTION: Notice of Issuance of Presidential Permit for 12.5 kV International Interconnection, PP-67; North Central Electric Cooperative, Inc.

SUMMARY: The Department of Energy gives notice of the issuance of a Presidential Permit, PP-67, to North Central Electric Cooperative, Inc. for a 12.5 kV International Interconnection at the United States-Canadian Border.

FOR FURTHER INFORMATION CONTACT:

James M. Brown, Jr., System Reliability and Emergency Response Branch, Department of Energy, Room 4110, 2000 M Street, N.W., Washington, D.C. 20461, (202) 254-8247. Lise Courtney Howe, Office of General Counsel, Department of Energy, Room 5113, Federal Building, 12th and Pennsylvania Avenue, N.W., Washington, D.C. 20461, (202) 633-9380.

SUPPLEMENTARY INFORMATION: On March 13, 1979, North Central Electric Cooperative, Inc. applied for authorization, pursuant to the Executive Order 10485, as amended by Executive Order 12038, to construct, connect, operate and maintain an underground international interconnection in the International Peace Gardens at the United States-Canadian border, near Dunseith, North Dakota.

The Department of Energy made a negative determination of environmental impacts resulting from this project. Accordingly, no environmental impact statement has been issued.

The Secretary of State by letter dated June 26, 1979 and the Secretary of Defense by letter dated June 25, 1979 favorably recommended that the Permit be granted.

Upon consideration of the matter, ERA found that issuance of the Permit was appropriate and consistent with the public interest. Accordingly, the Administrator of ERA issued the permit on June 27, 1979 authorizing North Central Electric Cooperative, Inc. to construct, connect, operate and maintain an electric transmission facility at the U.S.-Canadian border.

Copies of the order are on file with the Economic Regulatory Administration and will, upon request, be made available for public inspection and copying at the ERA Docket Room, Room B-210, 2000 M Street, N.W., Washington, D.C. and at the System Reliability and Emergency Response Branch, Room 4110, 2000 M Street, N.W., Washington, D.C.

Issued at Washington, D.C., August 16, 1979.

Jerry L. Pfeffer,

Assistant Administrator for Utility Systems, Economic Regulatory Administration.

[FR Doc. 79-25937 Filed 8-21-79; 8:45 am]

BILLING CODE 6450-01-M

Issuance of Presidential Permit for 120 kV International Interconnection, PP-66: Citizens Utilities Co.

AGENCY: Department of Energy, Economic Regulatory Administration.

ACTION: Notice of Issuance of Presidential Permit for 120 kV International Interconnection, PP-66: Citizens Utilities Company.

SUMMARY: The Department of Energy gives notice of the issuance of a Presidential Permit, PP-66, to Citizens Utilities Company for a 120 kV International Interconnection at the United States-Canadian Border.

FOR FURTHER INFORMATION CONTACT:

James M. Brown, Jr., System Reliability and Emergency Response Branch, Department of Energy, Room 4110, 2000 M Street, N.W., Washington, D.C. 20461, (202) 254-8247. Lise Courtney Howe, Office of General Counsel, Department of Energy, Room 5113-Federal Building, 12th & Pennsylvania Avenue, N.W., Washington, D.C. 20461, (202) 633-9380.

SUPPLEMENTARY INFORMATION: On March 8, 1979, Citizens Utilities Company (Citizens) applied for authorization, pursuant to the Executive

Order No. 10485, as amended by Executive Order No. 12038, to construct, connect, operate and maintain an international interconnection at the United States-Canadian border, near Derby Line, Vermont. The three-phase, 60 hertz, 120 kilovolt overhead transmission line, approximately 565 feet in length, would interconnect with a similar transmission line owned by Hydro Quebec and located in the province of Quebec.

The Department of Energy made a negative determination of environmental impacts resulting from this project. Accordingly, no environmental impact statement has been issued.

The Secretary of State by letter dated May 30, 1979 and the Secretary of Defense by letter dated June 5, 1979 favorably recommended that the Permit be granted.

Upon consideration of the matter, ERA found that issuance of the Permit was appropriate and consistent with the public interest. Accordingly, the Administrator of ERA issued the Permit on June 21, 1979 authorizing Citizens Utilities Company to construct, connect, operate and maintain an electric transmission facility at the U.S.-Canadian border.

Copies of the order are on file with the Economic Regulatory Administration and will, upon request, be made available for public inspection and copying at the ERA Docket Room, Room B-210, 2000 M Street, N.W., Washington, D.C. and at the System Reliability and Emergency Response Branch, Room 4110, 2000 M Street, N.W., Washington, D.C.

Issued in Washington, D.C., August 16, 1979.

Jerry L. Pfeffer,

Assistant Administrator for Utility Systems, Economic Regulatory Administration.

[FR Doc. 79-25938 Filed 8-21-79; 8:45 am]

BILLING CODE 6450-01-M

Lundell's, Inc.; Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of action taken and opportunity for comment on Consent Order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces action taken to execute a Consent Order and provides an opportunity for public comment on the Consent Order and on potential claims against the refunds deposited in an escrow account

established pursuant to the Consent Order.

DATES: Effective Date: August 7, 1979.

COMMENTS BY: September 21, 1979.

ADDRESS: Send comments to: Wayne I. Tucker, District Manager of Enforcement, Southwest District, Department of Energy, P.O. Box 35228, Dallas, Texas 75235.

FOR FURTHER INFORMATION CONTACT: Wayne I. Tucker, District Manager of Enforcement, Southwest District, Department of Energy, P.O. Box 35228, Dallas, Texas 75235, phone 214/767-7745.

SUPPLEMENTARY INFORMATION: On August 7, 1979, the Office of Enforcement of the ERA executed a Consent Order with Lundell's Inc. of Freer, Texas. Under 10 C.F.R. § 205.199(b), the Consent Order which involves a sum of less than \$500,000 in the aggregate, excluding penalties and interest, becomes effective upon its execution.

I. The Consent Order

Lundell's Inc., with its office located in Freer, Texas, is a firm engaged in crude oil production, and is subject to the Mandatory Petroleum Price and Allocation Regulations at 10 C.F.R. Parts 210, 211, 212. To resolve certain civil actions which could be brought by the Office of Enforcement of the Economic Regulatory Administration as a result of its audit of crude oil sales, the Office of Enforcement, ERA, and Lundell's Inc., entered into a Consent Order, the significant terms of which are as follows:

1. The period covered by the audit was September 1, 1973 through December 31, 1976, and it included all sales of crude oil which were made during that period.
2. Lundell's Inc. improperly applied the provisions of 6 C.F.R. Part 150, Subpart L, and 10 C.F.R. Part 212, Subpart D, when determining the prices to be charged for crude oil; and as a consequence, charged prices in excess of the maximum lawful sales prices resulting in overcharges to its customers.
3. In order to expedite resolution of the disputes involved, the DOE and Lundell's Inc. have agreed to a settlement in the amount of \$71,063.60. The negotiated settlement was determined to be in the public interest as well as the best interests of the DOE and Lundell's Inc.
4. Because the sales of crude oil were made to refiners and the ultimate consumers are not readily identifiable, the refund will be made through the DOE in accordance with C.F.R. Part 205, Subpart V as provided below.

5. The provisions of 10 C.F.R. § 205.199, including the publication of this Notice, are applicable to the Consent Order.

II. Disposition of Refunded Overcharges

In this Consent Order, Lundell's Inc. agrees to refund, in full settlement of any civil liability with respect to actions which might be brought by the Office of Enforcement, ERA, arising out of the transactions specified in I.1. above, the sum of \$71,083.60 on or before November 5, 1979. Refunded overcharges will be in the form of a certified check made payable to the United States Department of Energy and will be delivered to the Assistant Administrator for Enforcement, ERA. These funds will remain in a suitable account pending the determination of their proper disposition.

The DOE intends to distribute the refund amounts in a just and equitable manner in accordance with applicable laws and regulations. Accordingly, distribution of such refunded overcharges requires that only those "persons" (as defined at 10 C.F.R. § 205.2) who actually suffered a loss as a result of the transactions described in the Consent Order receive appropriate refunds. Because of the petroleum industry's complex marketing system, it is likely that overcharges have either been passed through as higher prices to subsequent purchasers or offset through devices such as the Old Oil Allocation (Entitlements) Program, 10 C.F.R. § 211.67. In fact, the adverse effects of the overcharges may have become so diffused that it is a practical impossibility to identify specific adversely affected persons, in which case disposition of the refunds will be made in the general public interest by an appropriate means such as payment to the Treasury of the United States pursuant to 10 C.F.R. § 205.199(a).

III. Submission of Written Comments

A. Potential Claimants: Interested persons who believe that they have a claim to all or a portion of the refund amount should provide written notification of the claim to the ERA at this time. Proof of claims is not now being required. Written notification to the ERA at this time is requested primarily for the purpose of identifying valid potential claims to the refund amount. After potential claims are identified, procedures for the making of proof of claims may be established. Failure by a person to provide written notification of a potential claim within the comment period for this Notice may result in the DOE irrevocably disbursing

the funds to other claimants or to the general public interest.

B. Other Comments: The ERA invites interested persons to comment on the terms, conditions, or procedural aspects of this Consent Order. You should send your comments or written notification of a claim to Wayne I. Tucker, District Manager of Enforcement, Southwest District, Department of Energy, P.O. Box 35228, Dallas, Texas 75235. You may obtain a free copy of this Consent Order by writing to the same address or by calling 214/787-7745.

You should identify your comments or written notification of a claim on the outside of your envelope and on the documents you submit with the designation, "Comments on Lundell's Inc., Consent Order." We will consider all comments we received by 4:30 p.m., local time, on September 21, 1979. You should identify any information or data which, in your opinion, is confidential and submit it in accordance with the procedures in 10 C.F.R. § 205.9(f).

Issued in Dallas, Texas on the 7th day of August, 1979.

Wayne I. Tucker,
District Manager, Southwest District
Enforcement, Economic Regulatory
Administration.

[FR Doc. 79-25938 Filed 8-21-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. EC79-1]

Town of Massena; Decision and Order Denying Petition, Complaint and Motion of Emergency Relief

Issued: August 15, 1979.

On August 7, 1979, the Town of Massena, New York (Petitioner or Massena) filed a petition, complaint, and motion for emergency relief pursuant to section 202(c) of the Federal Power Act. Massena requested an order (1) determining that pursuant to section 202(c) of the Act, an emergency exists; (2) authorizing and ordering that deliveries of Power Authority of the State of New York (PASNY) power and energy made to the Petitioner on or after August 9, 1979, may, during the existence of said emergency, be made, charged and accounted for pursuant to contract NS-1 between PASNY and Niagara Mohawk Power Corporation (Niagara); (3) ordering Niagara to cease interference with the delivery of PASNY power and energy to MASSENA during such emergency; (4) ordering PASNY to commence delivery of power of Petitioner pursuant to Petitioner's October 17, 1978, contract with PASNY at 12:01 p.m. on August 10, 1979, or at such time thereafter as all judicial restraints upon or affecting such

delivery are removed. This petition is closely related to proceedings before the Federal Energy Regulatory Commission in Docket No. E-9565, in which the Petitioner is seeking an order from the FERC confirming Niagara's legal obligation, pursuant to contract NS-1 with PASNY to transmit and transform PASNY power to Massena.

The Secretary of Energy has jurisdiction over this matter pursuant to section 402(a)(1)(B) of the Department of Energy Organization Act. On October 1, 1977, the Secretary issued DOE Delegation Order No. 0204-4 (42 FR 60726, November 29, 1977) which delegated to the Administrator, Economic Regulatory Administration, the authority to decide this matter. Authority has been further delegated to the Assistant Administrator for Utility Systems.

Section 202(c) of the Federal Power Act provides that whenever it is determined "that an emergency exists by reason of sudden increase in the demand for electric energy, or a shortage of electric energy or of facilities for the generation or transmission of electric energy, or of fuel or water for generating facilities, or other causes, [ERA] shall have authority . . . to require by order such temporary connections of facilities and such generation, delivery, interchange or transmission of electric energy as in its judgement will best meet the emergency and serve the public interest." Accordingly, the initial determination which must be made by ERA is that an emergency in fact exists.

In the instant proceeding, Niagara states, in its answer to the motion by Massena, that, "no emergency ever existed, *that no emergency exists now*, and that no emergency is foreseeable. Niagara Mohawk now provides the people of Massena with safe and reliable service and has no intention whatsoever of terminating that service." Answer of Respondent at 2, Town of Massena, New York v. Niagara Mohawk Power Corp., ERA Docket NO. EC79-1 (August 10, 1979).

ERA has reviewed the circumstances and technical factors associated with the electricity supply to the Town of Massena. Based on this review there is no information to support the contention of a current or pending emergency situation as defined under section 202(c) of the Federal Power Act.

Accordingly, ERA finds that no emergency, as required by section 202(c) of the Federal Powers Act, exists at this time. If the situation should change in the future, Massena may submit another petition.

Therefore, it is hereby ordered that the petition, complaint, and motion for emergency relief pursuant to section 202(c) of the Federal Power Act, filed by the Town of Massena, is denied without prejudice.

Issued in Washington, D.C., August 15, 1979.

Jerry L. Pfeffer,
Assistant Administrator for Utility Systems,
Economic Regulatory Administration.

[FR Doc. 79-25935 Filed 8-21-79; 8:45 am]

BILLING CODE 6450-01-M

Southeastern Power Administration

[Rate Order No. SEPA-6]

Jim Woodruff Project; Order Confirming and Approving Power Rates on an Interim Basis

AGENCY: Department of Energy, Southeastern Power Administration (SEPA).

ACTION: Notice of Approval on Interim Basis of Jim Woodruff Project Rates.

SUMMARY: On August 15, 1979, the Assistant Secretary for Resource Applications under Delegation Order No. 0204-33, 43 FR 60636 (December 28, 1978) confirmed and approved, on an interim basis, Wholesale Power Rate Schedules JW-1 (Revised) and JW-2-B applicable to Jim Woodruff Project Power. The rates will produce a decrease of \$308,000 in annual revenue, which is equivalent to approximately 13 percent less than the amount produced by rates previously in effect. The rates are subject to confirmation and approval by the Federal Energy Regulatory Commission on a final basis.

EFFECTIVE DATES: The rates are confirmed and approved on an interim basis effective October 20, 1979.

FOR FURTHER INFORMATION CONTACT:

Julian T. Brown, Jr., Chief, Division of Fiscal Operations, Southeastern power Administration, Department of Energy, Samuel Elbert Building, Elberton, Georgia 30635.

Marlene A. Moody, Office of Power Marketing Coordination, Department of Energy, 12th Street and Pennsylvania Avenue, NW., Washington, D.C. 20461.

SUPPLEMENTARY INFORMATION: Rate Schedule JW-1 (Revised), applicable to preference customers, is a continuation of rates and charges applicable to such customers approved by the Federal Power Commission on August 15, 1972. Rate Schedule JW-2-B, applicable to Florida Power Corporation, is a revision in previously approved rates and is reflected in a supplemental contract

between SEPA and the Company executed July 2, 1979. FPC approval of prior rate schedules expired August 20, 1977.

Issued in Washington, D.C. August 15, 1979.
George S. McIsaac,

Assistant Secretary, Resource Applications.

Assistant Secretary for Resource Applications

In the matter of Southeastern Power Administration, Jim Woodruff Project Power Rates; order confirming and approving power rates on an interim basis; August 15, 1979.

Pursuant to Sections 302(a) and 301(b) of the Department of Energy Organization Act, Pub. L. 95-91, the functions of the Secretary of the Interior and the Federal Power Commission under Section 5 of the Flood Control Act of 1944, 16 U.S.C. 825s, relating to the Southeastern Power Administration (SEPA) were transferred to and vested in the Secretary of Energy. By Delegation Order No. 0204-33, effective January 1, 1979, 43 FR 60636 (December 28, 1978) the Secretary of Energy delegated to the Assistant Secretary for Resource Applications the authority to develop power and transmission rates, acting by and through the Administrator, and to confirm, approve, and place in effect such rates on an interim basis and delegated to the Federal Energy Regulatory Commission (FERC) the authority to confirm and approve on a final basis or to disapprove rates developed by the Assistant Secretary under the delegation. This rate order is issued pursuant to the delegation to the Assistant Secretary.

Background

Contractual Arrangements and Existing Rates

Power from the Jim Woodruff Project is presently delivered into the Florida Power Corporation System. A wheeling contract with this utility enables SEPA to sell power from the Jim Woodruff Project to six preference customers, located within a radius of 150 miles of the project and to the Company. Since the Project is subject to floodout, it is partially supported by Federal projects in SEPA's Georgia-Alabama System and partially supported by power purchases from the Florida Power Corporation. Existing contracts, several times amended, were executed July 19, 1957, and terminate or may be terminated July 20, 1982. The Project has an installed generating capacity of 30,000 kilowatts and an estimated average annual energy production of 250,000,000 kilowatt-hours.

A total of 36,000 kilowatts of load factor power is sold to preference customers with remaining energy sold to the Company.

The power is presently sold under Rate Schedules JW-1 (Revised) and JW-2 (Revised). These rate schedules were previously confirmed and approved by the Federal Power Commission on August 15, 1972. Existing rates produce approximately \$2,338,000 annually.

On July 2, 1979, SEPA entered into a Supplemental Agreement with Florida Power Corporation in which, among other things, the revised rates to the Company which are the subject of this order were contractually agreed upon effective upon my approval thereof.

Public Notice and Comment

SEPA prepared a Power Repayment Study in May 1979 for the Jim Woodruff Project which showed that a decrease in existing rates would still allow the production of revenues sufficient to pay all power costs during the system repayment period as required to meet cost recovery criteria. Based on this Repayment Study, a decrease in average annual revenues of approximately \$300,000 was proposed for the period ending August 19, 1982, a decrease of approximately 13 percent.

Opportunities for public review and comments on the proposed decreased power rate to the Company (preference customers' rates remaining the same) was announced by Notice published in the Federal Register on June 8, 1979, 44 FR 33145, and all customers were notified by mail. A public comment forum was held in Tallahassee, Florida, on June 26, 1979, where an opportunity for oral presentation of views was afforded. Written comments were invited by the Notice through July 2, 1979. A transcript of the public comment forum was made. No oral presentations were offered at the well attended forum and no written comments were received.

Action by the Economic Regulatory Administration (ERA)

On July 11, 1977, the Department of the Interior, on behalf of SEPA, filed a request with the Federal Power Commission (FPC) for approval of an extension of the existing preference customer rate schedule and approval of a revised schedule (decrease) applicable to Florida Power Corporation based on a SEPA prepared April 1977 Repayment Study. Review of this matter passed to ERA on October 1, 1977, by the terms of the Secretary's Delegation Order No. 0204-4. On December 29, 1978, ERA in Docket No. SEPA 78-3 disapproved SEPA's proposed schedules on the ground that such rates were higher than

necessary to recover the cost of producing and transmitting the energy and power sold from the Jim Woodruff Project over the fifty-year repayment period. On December 28, 1978, the Secretary issued Delegation Order No. 0204-33, effective January 1, 1979, 43 FR 60636, transferring the authority to confirm and approve Federal rates to the undersigned and the Federal Energy Regulatory Commission.

Discussion

Project Repayment

In May 1979, SEPA prepared a revised Repayment Study which varies from the April 1977 Repayment Study in that it reflects subsequently announced capital additions to the project, an estimated two percent loss in energy generation due to welding the turbine blades in a fixed position in connection with removing the project from the Walter F. George Project and increases in costs of purchased energy.

The May 1979 Repayment Study indicates that the previously determined decreased revenue level was both proper and appropriate. A continuation of existing preference customer rates and the adjusted rate contained in SEPA's July 2, 1979, Supplemental Agreement with the Florida Power Corporation and reflected in Rate Schedule JW-2-B will produce revenues adequate but necessary to recover all proper system power costs. The rates here considered will decrease annual revenues by \$308,000, or a decrease of approximately 13 percent below revenues received under previous rates. Projected annual revenues will equal an estimated \$2,030,000 with the rate decrease.

Rate Design

The rate design here employed for preference customer rates is the same as has existed since 1967. The rate design applicable to monthly charges for energy sold the Florida Power Corporation has been revised in the following particulars: (1) different charges for on-peak and off-peak energy have been eliminated, (2) the application of a direct fuel adjustment provision has been eliminated, and (3) charges for energy have been set at 60 percent of the calculated savings in fuel costs to the Company. When applied to the available product, the rates will recover the total costs required to be recovered from power revenues as demonstrated by the May 1979 Repayment Study.

Environmental Impact

SEPA has reviewed the possible environmental impacts of the rate

adjustments under consideration and has concluded with Departmental concurrence that, because the decreased rates would not significantly affect the quality of the human environment within the meaning of the National Environmental Policy Act of 1969, the proposed action is not a major Federal action for which preparation of an Environmental Impact Statement is required.

Price Stability

The price standards of the President's Council on Wage and Price Stability are not applicable to the rate decrease approved herein.

Availability of Information

Information regarding these rates including studies, public comment forum transcript, and other supporting material are available for public review in the offices of Southeastern Power Administration, Samuel Elbert Building, Elberton, Georgia 30635, and in the Office of the Director of Power Marketing Coordination, 12th and Pennsylvania Avenue, NW., Washington, D.C. 20461.

Submission to the Federal Energy Regulatory Commission

The rates herein confirmed and approved on an interim basis, together with supporting documents, will be submitted promptly to the Federal Energy Regulatory Commission for confirmation and approval on a final basis for a period ending no later than August 19, 1982.

Order

In view of the foregoing and pursuant to the authority delegated to me by the Secretary of Energy, I hereby confirm and approve on an interim basis, effective October 20, 1979, attached Wholesale Power Rate Schedules JW-1 (Revised) and JW-2-B. The rate schedules shall remain in effect on an interim basis through October 19, 1980, unless such period is extended or until the FERC confirms and approves them or substitute rate schedules on a final basis.

Issued at Washington, D.C. this 15th day of August, 1979.

George S. McIsaac,

Assistant Secretary Resource Applications.

Department of the Interior Southeastern Power Administration

Wholesale Power Rate Schedule JW-1 (Revised)

Availability:

This rate schedule shall be available to public bodies and cooperatives served by the Florida Power Corporation and having points of delivery within 150 miles of Jim Woodruff Project (hereinafter called the Project).

Applicability:

This rate schedule shall be applicable to firm power and accompanying energy made available by the Government from the Project and sold in wholesale quantities.

Character of Service:

The electric capacity and energy supplied hereunder will be three-phase alternating current at a nominal frequency of 60 cycles per second delivered at the delivery points of the customer.

Monthly Rate:

The monthly rate for capacity and energy made available or delivered under this rate schedule shall be:

Demand Charge:

\$1.50 per kilowatt of monthly billing demand.

Energy Charge:

4.5 mills per kilowatt-hour.

Billing Demand:

The monthly billing demand for any billing month shall be the lower of (a) the Customer's contract demand or (b) the sum of the maximum 30-minute integrated demands for the month at each of the Customer's points of delivery provided, that, if an allocation of contract demand to delivery points has become effective, the 30-minute maximum integrated demand for any point of delivery shall not be considered to be greater than the portion of the Customer's contract demand allocated to that point of delivery.

Capacity Made Available:

The capacity which the Government will supply to meet the demand of the Customer in any billing month will be the maximum amount of capacity required for that purpose up to the contract demand. Such maximum amount of capacity required will be determined by adding the maximum 30-minute integrated measured demands at all points of delivery of the Customer

located within 150 miles of the Project power station. At such time as the demand of the Customer approximates the contract demand, the Government will allocate the contract demand among the Customer's then existing delivery points on the basis of the demands recorded as of that time at each such point of delivery adjusted to round each point's allocation to the nearest 10 kilowatts. The allocation of contract demand to delivery points shall become effective the billing month that the Customer's total demand at said delivery points exceeds its contract demand.

Energy Made Available:

During any billing month in which the Government supplies all the Customer's capacity requirements, the Government will make available such energy as the Customer may require to supply its load. In any billing month when both the Government and the Florida Power Corporation are supplying capacity to a delivery point, each kilowatt of capacity supplied to such point during such month will be considered to be accompanied by an equal quantity of energy.

Billing Month:

The billing month for power sold under this schedule shall end at 12:00 midnight on the 20th day of each calendar month.

Conditions of Service:

The Customer shall at its own expense provide, install, and maintain on its side of each delivery point the equipment necessary to protect and control its own system. In so doing, the installation, adjustment, and setting of all such control and protective equipment at or near the point of delivery shall be coordinated with that which is installed by and at the expense of the Florida Power Corporation on its side of the delivery point.

Service Interruption:

When energy delivered to the Customer's system for the account of the Government is reduced or interrupted for 1 hour or longer, and such reduction or interruption is not due to conditions on the Customer's system or has not been planned and agreed to in advance, the demand charge for the month shall be appropriately reduced.

August 19, 1967.

Wholesale Power Rate Schedule JW-2-B

Availability:

This rate schedule shall be available to the Florida Power Corporation (hereinafter called the Company).

Applicability:

This rate schedule shall be applicable to electric energy generated at the Jim Woodruff Project (hereinafter called the Project) and sold to the Company in wholesale quantities.

Points of Delivery:

Power sold to the Company by the Government will be delivered at the connection of the Company's transmission system with the Project bus.

Character of Service:

Electric power delivered to the Company will be three-phase alternating current at a nominal frequency of 60 cycles per second.

Monthly Rate:

The monthly rate for energy sold under this schedule shall be equal to 60 percent of the calculated saving in the cost of fuel per KWH to the Company determined as follows:

Energy Rate = $60\% \times Fm/Sm$ (Computed to the nearest \$0.00001 (1/100 mill) per KWH)

Where:

Fm = Company fuel cost in the current period as defined in Federal Power Commission Order 517 issued November 13, 1974, Docket No. R-479.

Sm = Company sales in the current period reflecting only losses associated with wholesale sales for resale. Sale shall be equated to the sum of (a) generation, (b) purchases, (c) interchange-in, less (d) intersystem sales, less estimated wholesale losses (based on average transmission loss percentage for preceding calendar year).

Method of Application: The energy rate applied during the current billing month will be based on costs and equated sales for the second month preceding the billing month.

Determination of Energy Sold:

Energy will be furnished by the Company to supply any excess of Project use over Project generation. Energy so supplied by the Company will be deducted from the actual deliveries to the Company's system to determine the net deliveries for energy accounting and billing purposes. Energy for Project use shall consist of energy used for station service, lock operation, Project yard, village lighting, and similar uses.

The on-peak hours shall be the hours between 7:00 a.m. and 11:00 p.m., Monday through Sunday, inclusive. Off-peak hours shall be all other hours.

All energy made available to the Company, exclusive of transfers to the Georgia Power Company for the account of the Government, shall to the extent required be classified as energy transmitted to the Government's preference customers served from the Company's system. All energy made available to the Company from the Project shall be separated on the basis of the metered deliveries to it at the Project during on-peak and off-peak hours, respectively. Such on-peak energy as is made available to the Company at the points of interconnection with Georgia Power Company shall be determined from schedules of deliveries. Deliveries to preference customers of the Government shall be divided on the basis (with allowance for losses) of 77 percent being considered as on-peak energy and 23 percent being off-peak energy. Such percentages may by mutual consent be changed from time to time as further studies show to be appropriate. Deliveries made to the Georgia Power Company shall be on the basis (with allowances for losses) of schedules of deliveries. In the event that in classifying energy there is more than enough on-peak energy available to supply on-peak requirements of the Government's preference customers but less than enough off-peak energy available to supply such customers off-peak requirements, such excess on-peak energy may be applied to the extent necessary to meet off-peak requirements of such customers in lieu of purchasing deficiency energy to meet such off-peak requirements.

Any on-peak and off-peak Project energy made available in any billing month over and above that required for transfers to the Georgia Power Company for the account of the Government and to meet the above requirements of preference customers shall be classified as energy sold under this rate schedule.

The energy requirements of the Government's preference customers shall be the total energy requirements of such customers so long as the Government is supplying the total capacity required. In any month when both the Government and the Company are supplying capacity to a preference customer, each kilowatt of capacity shall be considered to be accompanied by an equal quantity of energy. The energy supplied by the Government shall come from its own resources or

from purchases from the Company and shall be accounted for as transmitted for the account of the Government. Energy delivered to preference customers by the Company shall be increased by 7 percent to provide for losses in transmission.

Billing Month:

The billing month under this schedule shall end at 12:00 midnight on the 20th day of each calendar month.

Power Factor:

The purchaser and seller under this rate schedule agree that they will both so operate their respective systems that neither party will impose an undue reactive burden on the other.

October 20, 1979.

[FR Doc. 79-25934 Filed 8-21-79; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

Acceptable Fuel Sampling Analysis Methods for Demonstrating Compliance by Sulfur Dioxide Sources in Ohio; Amendment

United States Environmental Protection Agency (EPA) is amending its policy statement of February 15, 1978 (43 FR 6646) concerning an acceptable alternate method of demonstrating compliance with the federally-promulgated Ohio sulfur dioxide regulations. 40 CFR 52.1882(a)(5) and (b)(5). That notice specifically authorized coal analysis conducted in accordance with ASTM methods D3176 based on a twenty-four (24) hour period of fuel averaging as an alternate means of demonstrating compliance.

EPA is now amending that policy in order to recognize the inherent variability in the sulfur content in coal and the fact that random exceedances of the 24 hour fuel averaging may occur. EPA will accept, as a demonstration of compliance, coal analysis conducted according to the above-noted methods based on a 24 hour period taking into account two exceedances, as determined by fuel sampling, at any single source in any consecutive thirty (30) day period, with each day completing a new 30 day period.

However, as was stated in the February 15, 1978 notice, acceptance of certifications of compliance based on fuel analysis does not preclude the Administrator from requiring stack tests at a later time or initiating enforcement actions based upon the results of a subsequent stack test. 40 CFR § 52.1881(b)(2).

Dated: August 1, 1979.

John McGuire,
Regional Administrator.

[FR Doc. 79-28003 Filed 8-21-79; 9:45 am]

BILLING CODE 6560-01-M

[OPP-180348; FRL 1302-6]

Alabama, Florida, and New York; Issuance of Specific Exemptions To Use Permethrin in Poultry Houses To Control House Flies and Other Synanthropic Flies

AGENCY: Environmental Protection Agency (EPA), Office of Pesticide Programs.

ACTION: Issuance of specific exemptions.

SUMMARY: EPA has granted specific exemptions to the Alabama Department of Agriculture and Industries, the Florida Department of Agriculture and Consumer Services, and the New York State Department of Environmental Conservation (hereafter referred to as "Alabama," "Florida," "New York," or the "Applicants") to use permethrin to control the common house fly and other synanthropic flies in caged poultry houses. The specific exemptions expire on December 31, 1979.

FOR FURTHER INFORMATION CONTACT: Emergency Response Section, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street, SW., Room: E-124, Washington, D.C. 20460, Telephone: 202/426-0223. It is suggested that interested persons telephone before visiting EPA Headquarters, so that the appropriate files may be made conveniently available for review purposes.

SUPPLEMENTARY INFORMATION: The house fly and stable fly have short life cycles. House flies pass through the egg, larva, pupa, and adult stages in two weeks in summer. The stable fly requires 25 to 30 days for a life cycle. The larva of the house fly breeds in animal manure and other decaying organic vegetation such as hay, silage, and manure mixed with hay. A female house fly can lay approximately 800 eggs during her life. House fly adults feed on sweets for energy as well as manure, while stable flies are blood feeders. The adults of both species tend to rest on structures, vegetation, and fences surrounding breeding areas. House flies tend to remain in large numbers within ½ mile of the breeding site, whereas stable flies have been known to migrate more than 70 miles.

House flies and stable flies are prevalent from March through November. Peak populations of house flies occur from June through September,

although cold weather synchronizes emergence of large numbers of adults from October through March. Stable flies are present in peak populations in livestock farms in spring from February to June. From August to November winds blow stable flies in large numbers from agricultural areas to areas where they attack humans.

The Applicants report that the house fly, stable fly, and other manure breeding flies have become increasingly important pests of poultry farms in recent years. The problem has become critical during the past four years. The current situation is a result of: (1) increasing levels of resistance to currently available insecticides for poultry use, (2) cancellation of insecticide registrations in recent years, (3) lack of new insecticide registrations in recent years, (4) shortage of synergized pyrethrins due to crop failures in Africa, and (5) urbanization of rural areas. No insecticides are currently registered for stable fly control in or around poultry houses. A range of insecticides are currently registered for the control of house flies. According to the Applicants, fly populations are resistant to all recommended insecticides except pyrethrins, which are in short supply.

The abundance of flies varies with rainfall, temperature, and pest management techniques. Even with the incorporation of recommended cultural control practices, the Applicants claim that the manipulation of moderate to heavy populations of flies is not always possible, and health departments often require insecticide spraying to alleviate fly outbreaks. Inundative releases of parasites have reduced fly populations around poultry farms; however, the Applicants report that it has been too costly to release enough parasites to control flies in most farms. The Applicants state that residual spraying of structural surfaces would not affect manure-inhabiting parasite populations on farms using biological controls. Data indicate that permethrin will control the common house fly and other synanthropic flies, when used according to label directions.

The Applicants claim that without permethrin in complement with other available methods of control, there is a high probability of serious economic losses to poultry producers in their States. Alabama estimates losses ranging from \$134,000 to \$402,000; Florida estimates losses ranging from \$132,530 to \$397,590; and New York estimates losses ranging from \$100 to \$2,500 to individual poultry producers from ineffective fly control. In addition,

under each State's laws, poultry producers may be fined or forced to close operations when excessive numbers of flies are found to be breeding.

The Applicants propose to make applications of permethrin on premises where either three complaints have been received by the local health department, or knowledgeable experts have determined that an emergency exists. The Applicants propose to apply permethrin as a 0.1 percent dilute spray at a rate of one gallon per 750 square feet, or as a 5.0 percent low volume spray at 4 fluid ounces per 1,000 square feet.

EPA has determined that residues of permethrin in poultry and eggs will most likely not exceed 0.5 part per million (ppm) from the proposed use. This residue level has been judged adequate to protect the public health. No unreasonable adverse effect to the environment is anticipated from this use.

After reviewing the applications and other available information, EPA has determined that (a) pest outbreaks of house flies and other synanthropic flies have occurred or are likely to occur; (b) there is no effective pesticide presently registered and available for use to control these flies in Alabama, Florida, and New York; (c) there are no alternative means of control, taking into account the efficacy and hazard; (d) significant economic problems may result if these flies are not controlled; and (e) the time available for action to mitigate the problems posed is insufficient for a pesticide to be registered for this use. Accordingly, the Applicants have been granted specific exemptions to use the pesticide noted above until December 31, 1979, to the extent and in the manner set forth in the applications. The specific exemptions are also subject to the following conditions:

1. The pesticide Ectiban (permethrin) may be applied as a 0.1 percent dilute spray at a rate of one gallon per 750 square feet, or as a 5.0 percent low volume spray at 4 fluid ounces per 1,000 square feet;

2. A maximum of 15 applications may be made per caged poultry house;

3. The following maximum pounds of active ingredients are authorized: 135 pounds in Alabama, 1,566 pounds in Florida, and 12 pounds in New York;

4. Applications are to be made by farm proprietors, or employees who are State-certified pesticide applicators or under the direct supervision of State-certified pesticide applicators;

5. Application may take place only in caged poultry houses where:

a. Three complaints are received by the local health department, and/or
b. A knowledgeable expert determines that an emergency exists or is imminent as specified in Alabama Regulation Title 22 Section 75 in Alabama, under Florida Statute 388 in Florida, or in New York State Sanitary Code (Part 8) in New York, and proper use of registered insecticides is not providing adequate control. The methods used to make this determination will include direct counts, scudder grill, speck cards, or sticky tapes.

6. Poultry and eggs from treated caged poultry houses should not have permethrin residues in excess of 0.5 ppm. The Food and Drug Administration, U.S. Department of Health, Education, and Welfare, has been advised of this action. The Applicants are responsible for insuring that poultry and eggs from treated caged poultry houses are monitored for residues of permethrin. Poultry and eggs with residues of 0.5 ppm or less of permethrin may be shipped in interstate commerce;

7. All label restrictions and precautions for Ectiban 25 percent and 5.7 percent EC shall be observed;

8. The EPA shall be informed immediately of any adverse effects to man or the environment resulting from this program; and

9. A final report summarizing the results of this program in that State must be submitted to Alabama, Florida, and New York to EPA by April 30, 1980. The report must include residue data gathered during monitoring under the specific exemption.

(Statutory Authority: Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136.)

Dated: August 16, 1979.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 79-26001 Filed 8-21-79; 8:45 am]

BILLING CODE 6560-01-M

[OPP-180347; FRL 1302-5]

Clemson University; Issuance of Specific Exemption To Use Permethrin in Poultry Houses To Control Common House Fly

AGENCY: Environmental Protection Agency (EPA), Office of Pesticide Programs.

ACTION: Issuance of a specific exemption.

SUMMARY: EPA has granted a specific exemption to the College of Agricultural

Sciences, Division of Regulatory and Public Service Programs, Clemson University, South Carolina (hereafter referred to as the "Applicant"), to use a total of 500 pounds of permethrin on the housing for one million caged chickens to control the house fly (*Musca domestica*) in South Carolina. The specific exemption expires on December 31, 1979.

FOR FURTHER INFORMATION CONTACT: Emergency Response Section, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street, SW., Room: E-124, Washington, D.C. 20460, Telephone 202/426-0223. It is suggested that interested persons telephone before visiting EPA Headquarters, so that the appropriate files may be made conveniently available for review purposes.

SUPPLEMENTARY INFORMATION: The house fly is the principal fly pest to poultrymen. The fly problem begins when the adult fly emerges from the pupa. A day or two later adult flies mate and egg laying begins from two to three days from then. Each female fly can deposit 400 to 900 eggs within several weeks, usually in batches of 100 to 500 eggs each. The eggs hatch in 8 to 24 hours, into small worm-like maggots. The larvae grow rapidly, passing through three instars over a period of 3 to 4 days. The last stage of the larval skin forms into the pupa, inside which the maggot transforms into the fly. Within 3 to 5 days the adult emerges from the pupa, completing the cycle. Under the most favorable conditions the house fly may complete a generation in 7 to 8 days.

The fertility and rapid life cycle of the house fly are the principal reasons that outbreaks can explode. Normally, the house fly will remain close to its breeding site unless population numbers force natural dispersal. The house fly is strongly attracted to fresh wastes (poultry or other animal) which give off ammonia and to feed, especially silage. The house fly is also strongly attracted to houses, barns, and animal housing which they prefer to use as resting areas when not feeding.

According to the Applicant, the house fly became a serious health pest rather than a nuisance when housing poultry in cages became popular. The situation deteriorated until the South Carolina Department of Health and Environmental Control instituted regulations governing sanitation of caged poultry houses in 1972. The regulations require that caged poultry operations in South Carolina be registered and that poultrymen maintain house fly control or suffer heavy

penalties. The failure to control the house fly can put poultrymen out of business. Poultry is a \$5.4 million industry in South Carolina. Also of concern to the health authorities is the possible transmission of disease and threat of epidemics in the vicinity of house fly outbreaks.

According to the Applicant, most poultry producers have relied on pyrethrum over the years as their standard house fly control chemical. The Applicant reported that with pyrethrum adulticides and correct management of water and waste, the producer can control the house fly, but pyrethrum is in short supply. While organophosphate insecticides (dichlorovos, naled, and dimethoate) are registered for house fly control, results with these materials have been less than satisfactory, the Applicant stated. The recommended bait adulticides are useful only as a supplemental treatment, and must be combined with an effective adulticide spray program to be of value. Larvicide treatments are recommended only as spot treatments in order to minimize harmful effects on beneficial insects and mites which inhabit the waste; they are also expensive and have low efficiency, the Applicant claimed.

There are other methods of control. The water flush system, which washes the wastes into lagoons, is effective, and poultry houses built with the flush system have no fly problem. Some cage layer farms employ mechanized scraper systems which remove the waste daily. Even these systems can have fly breeding problems if adverse weather prohibits removal of the accumulated waste for several days. Under ideal conditions, poultry waste maintained in a dry state will not breed sufficient house flies to cause problems. Waste maintained in a dry state encourages the build-up of parasites and predators of house fly eggs, larvae, and pupae in the wastes. Under ideal management and physical conditions of the facility, little chemical control is needed since dryness and biological agents will suppress breeding; however, few producers have developed water control and waste management techniques to the point that biological agents can be relied on for control.

The Applicant proposed to apply permethrin as a residual treatment at a rate of four ounces of product (Ectiban 5.7 EC) per 1,000 square feet or a 0.1% dilute spray (½ ounce of Ectiban 25% WP) per gallon per 750 square feet. Permethrin would not be applied directly to poultry, eggs, or rooms where eggs are stored. Data indicate that permethrin will control the common

house fly when used in accordance with label directions.

EPA has determined that residues of permethrin in poultry and eggs are not likely to exceed 0.5 part per million (ppm) from this use. This residue level has been judged adequate to protect the public health. The proposed use should not present a hazard to the environment.

After reviewing the application and other available information, EPA has determined that (a) a pest outbreak of the house fly has occurred or is likely to occur; (b) there is no effective pesticide presently registered and available for use to control the house fly in South Carolina; (c) there are no alternative means of control, taking into account the efficacy and hazard; (d) significant economic problems may result if the house fly is not controlled; and (e) the time available for action to mitigate the problem posed is insufficient for a pesticide to be registered for this use. Accordingly, the Applicant has been granted a specific exemption to use the pesticide noted above until December 31, 1979, to the extent and in the manner set forth in the application. The specific exemption is also subject to the following conditions:

1. The pesticide Ectiban (permethrin) may be applied as a 0.1% dilute spray at a rate of one gallon per 750 square feet, or as a 5.0% low volume spray at 4 fluid ounces per 1,000 square feet;

2. A maximum of 15 applications may be made per caged poultry house;

3. A maximum of 500 pounds of active ingredient is authorized;

4. Applications are to be made by farm proprietors or employees who are State-certified pesticide applicators or under the direct supervision of State-certified pesticide applicators;

5. Application may take place only in caged poultry houses where:

a. Three complaints are received by the local health department, and/or

b. A knowledgeable expert determines that an emergency exists or is imminent and proper use of registered insecticides is not providing adequate control. The methods used to make this determination will include direct counts, scudder grill, speck cards, or sticky tapes;

6. Residues in poultry and eggs from treated caged poultry houses should not exceed 0.5 ppm of permethrin. The Food and Drug Administration, U.S. Department of Health, Education, and Welfare, has been advised of this action. College of Agricultural Science personnel, Clemson University, are

responsible for insuring that poultry and eggs from treated caged poultry houses are monitored for residues of permethrin. Poultry and eggs with residues of 0.5 ppm or less of permethrin may be shipped in interstate commerce;

7. All label restrictions and precautions for Ectiban 25% and 5.7% EC shall be observed;

8. The EPA shall be informed immediately of any adverse effects to man or the environment resulting from this program; and

9. A final report summarizing the results of this program shall be submitted to EPA by April 30, 1980. This must include residue data gathered during monitoring under the specific exemption.

Statutory Authority: Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136).

Dated: August 16, 1979.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 79-25996 Filed 8-21-79; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1301-8]

Kraft Pulp Mills; Final Guideline Document; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Correction of Emission Guideline in Notice of Availability.

SUMMARY: On May 22, 1979 (44 FR 29828), availability of a final guideline document for the control of total reduced sulfur (TRS) emissions from existing kraft pulp mills was announced. In the notice, the emission guideline for the smelt dissolving tank was inadvertently given as 0.084 gram of TRS per kilogram of black liquor solids (dry weight); this value should be corrected to read 0.0084 g/kg. The correct value appears in the final guideline document.

DATES: The dates given in the notice of availability remain unchanged.

FOR FURTHER INFORMATION CONTACT: Mr. Don R. Goodwin, Director, Emission Standards and Engineering Division (MD-13), Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541-5271.

Dated: August 16, 1979.

David G. Hawkins,

Assistant Administrator for Air, Noise, and Radiation.

[FR Doc. 79-28005 Filed 8-21-79; 8:45 am]

BILLING CODE 6560-08-M

[Opp-180328; FRL 1302-8]

Massachusetts Department of Food and Agriculture; Issuance of Specific Exemption To Use BAAM (Amitraz) To Control Pear Psylla

AGENCY: Environmental Protection Agency (EPA), Office of Pesticide Programs.

ACTION: Issuance of a specific exemption.

SUMMARY: EPA has issued a specific exemption to the Massachusetts Department of Food and Agriculture (hereafter referred to as the "Applicant") to use BAAM for the control of pear psylla on 210 acres of pears in Massachusetts. The specific exemption expires on September 30, 1979.

FOR FURTHER INFORMATION CONTACT: Emergency Response Section, Registration Division (TS-767), EPA 401 M Street, S.W., Room: E-124, Washington, D.C. 20460, Telephone: 202/426-2691. It is suggested that interested persons telephone before visiting the EPA Headquarters, so that the appropriate files may be made conveniently available for review purposes.

SUPPLEMENTARY INFORMATION: Pear Psylla (*Psylla pyricola*) appears to be one of the most serious and difficult to control pests on pears. The Applicant requested a specific exemption to use BAAM (contains 19.8% N'-[2,4-dimethylphenyl]-N-[[[2,4-dimethylphenyl]imino]methyl]-N-methylmethanimidamide, which has the common name amitraz) to control this pest. Pear psylla is an aphid-like insect which causes economic damage both because of the honeydew which it secretes on the fruit and because it can act as a vector of pear decline, a serious and debilitating disease of pears. In the former instance, certain fungi grow upon the secreted honeydew causing a blackish appearance, which lowers the grade of the harvested fruit and results in a loss of profit to the growers. In the latter case, the production capability of a given orchard can be seriously impaired.

Although there are registered pesticides for controlling this pest, they are currently ineffective either because of developed resistance, phytotoxicity,

or inability to control certain stages of the insect, such as the later or "hard-shell" nymphal stages. In 1978, the insecticide chlordimeform, a highly effective pesticide for psylla control, was voluntarily withdrawn from the market by its manufacturers, because of findings which indicated that it may cause formation of tumors in mice. It should also be noted that a rebuttable presumption against registration (RPAR) of pesticide products containing amitraz was issued on April 6, 1977 (42 FR 18299). On Friday, January 12, 1979 (44 FR 2678), the Administrator's decision on the amitraz RPAR was published. This decision included a proposal to register amitraz conditionally for use on pears; however, EPA is not likely to do so in time for the early part of the 1979 growing season.

The Applicant requested use of a total of 945 pounds active ingredient (A.I.) to treat about 210 acres. The Applicant claimed a significant loss could occur to the pear industry of Massachusetts which is valued at \$350,000, without an effective means of pear psylla control.

EPA has determined that residues of amitraz in or on pears should not exceed 3.0 parts per million (ppm) from this use. This level has been judged adequate to protect the public health. The use of amitraz is not expected to result in any greater hazard to wildlife over that presented by currently employed pesticides for pear psylla control.

After reviewing the application and other available information, EPA determined that (a) a pest outbreak of pear psylla has occurred or is likely to occur; (b) there is no pesticide presently registered and available for use to control the pear psylla effectively in Massachusetts; (c) significant economic problems may result if the pest is not controlled; and (d) the time available for action to mitigate the problems posed is insufficient for a pesticide to be registered for this use. Accordingly, the applicant has been granted a specific exemption to use the pesticide noted above until September 30, 1979, to the extent and in the manner set forth in the application. The specific exemption is also subject to the following conditions:

1. The Upjohn product BAAM, which contains 1.5 pounds amitraz per gallon, will be used;

2. The dosage rate will be three to four quarts of product (1.0 to 1.5 pounds a.i.) per acre;

3. Applications are to be made by ground equipment only (air blast sprayers or handgun);

4. Only State-certified commercial or private applicators or personnel directly under their supervision may apply this pesticide;

5. The use of BAAM is authorized only when an emergency condition is found to exist. The criteria which may be used in making this determination are as follows:

a. The judicious use of currently registered pesticides for pear psylla are not providing adequate control of this pest, and

b. In a particular orchard, a majority of the trees sampled have ten percent or more of the shoots in the scaffolding infested with nymphs of the pear psylla. For each orchard, a minimum of ten trees must be sampled;

6. Only State-licensed pest control consultants are authorized to determine when an emergency condition exists (using the criteria above). Determinations will be made on an orchard-by-orchard basis. Upon a determination that an emergency condition is present, as defined by fulfilling the criteria above, the consultant will sign a State-approved form which authorizes the grower to purchase BAAM. This form will include the name of the grower, number of acres to be treated, amount of BAAM authorized to be purchased, and the dosage rate to be applied (1.0 to 1.5 pounds a.i. per acre);

7. Up to 210 acres of pears may be treated. Two applications are authorized. However, if in the judgment of the State, an extreme circumstance is present which warrants an additional application, this may be made. If a third application is made, the State shall inform EPA of this along with a brief description of the circumstances.

8. Up to 945 pounds of amitraz are authorized;

9. Pesticide dealers will not be allowed to sell BAAM to any grower or applicator unless the signed authorization form is presented;

10. Pesticide distributors will be responsible for keeping accurate records of the amount of BAAM received from Upjohn and the amounts which are sold to dealers. Dealers will also maintain accurate records of the amounts of BAAM received and sold;

11. Agricultural workers shall not re-enter any orchard sprayed with BAAM until the foliage is completely dry and at least 24 hours have elapsed after treatment with BAAM;

12. The following protective clothing must be worn during mixing, loading, and clean-up operations involving BAAM: a long sleeved, fine weave shirt, long, fine weave pants, rubber gloves, and boots. When applying BAAM, the same protective clothing must be worn;

13. The following precautions and safeguards must be taken when using BAAM:

a. Care must be taken to avoid getting it in eyes, on skin, or on clothing;
 b. Care must be taken to avoid breathing vapors or spray mist;
 c. In case of contact with skin, the skin must be washed as soon as possible with soap and plenty of water;
 d. If amitraz gets on clothing, contaminated clothing must be removed, and affected parts of the body washed with soap and water. If the extent of contamination is unknown, the entire body must be washed thoroughly. The affected person must change to clean clothing;

e. At the end of the work day, the entire body must be bathed with soap and plenty of water; and

f. Clean clothes must be worn each day and laundered before reuse;

14. There will be a pre-harvest interval of not less than seven days;

15. Pears with a residue level of amitraz not exceeding 3.0 ppm may enter interstate commerce. The Food and Drug Administration, U.S. Department of Health, Education, and Welfare, has been advised of this action;

16. A final report will be submitted to the Emergency Response Section, EPA, by the end of 1979; this report will outline the acreage that was treated, the total amounts of BAAM applied, the results of the program, and any adverse effects (such as phytotoxicity);

17. All applicable label precautions, directions, and restrictions shall be followed;

18. All unused, unopened containers of BAAM will be returned to the manufacturer at the end of the growing season. If conditional registration of BAAM is granted, arrangements may be made by the manufacturer to reliable existing containers;

19. The EPA shall be immediately informed of any adverse effects resulting from the use of this pesticide in connection with this exemption; and

20. Extreme precautions must be taken to avoid contamination of lakes, streams, ponds, and rivers.

(Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136)).

Dated: August 16, 1979.

Edwin L. Johnson,
 Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 79-25090 Filed 8-21-79; 8:45 am]
 BILLING CODE 6560-01-M

[FRL 1301-5]

**Motor Vehicle Pollution Control;
 Waiver of Carbon Monoxide Emission
 Standards; Public Hearing**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of public hearing to consider applications for waiver of 1981 and 1982 model year light-duty vehicle emission standard for carbon monoxide (CO).

SUMMARY: Toyo Kogyo Company submitted an application on August 3, 1979, requesting the Administrator to waive the effective date of the 1981 and 1982 CO standard under section 202(b)(5) of the Clean Air Act, as amended.

DATES: This notice announces that EPA will hold a public hearing in Washington, D.C. beginning on September 12, 1979, and continuing through September 13, 1979, if necessary, to consider Toyo Kogyo's waiver application and any other manufacturers' applications received by September 4, 1979. Interested parties also may submit written comments to the public docket on the waiver applications until September 20, 1979.

ADDRESS: All public portions of CO waiver applications and other relevant information are available for public inspection between 8 a.m. and 4 p.m., Monday through Friday, at: U.S. Environmental Protection Agency, Central Docket Section (A-130), Room 2903B Waterside Mall, 401 M Street SW., Washington, D.C. 20460 (Docket Number EN-79-17).

FOR FURTHER INFORMATION CONTACT: Mr. Glenn Unterberger, Mobile Source Enforcement Division (EN-340), U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, (202) 472-9417.

SUPPLEMENTARY INFORMATION: Under section 202(b)(5)(A) of the Clean Air Act, as amended, 42 U.S.C. 7521(b)(5)(A) (1977) ("Act"), at any time after August 31, 1978, any manufacturer may file with the Administrator an application requesting the waiver of the effective date of the carbon monoxide (CO) emission standard applicable to any model of light-duty motor vehicles and engines manufactured by the applicant during model years 1981 and 1982. Section 202(b)(5)(C) requires the Administrator to issue a decision granting or denying such waiver within

60 days after receipt of the application and after public hearing. Guidelines for the submission of such waiver requests have been previously published in the Federal Register, 43 FR 47272, October 13, 1978.

Section 202(b)(1)(A) requires that emissions of CO from 1981 and later model year light-duty motor vehicles be reduced by 90% from 1970 CO emission standards. A CO emission standard of 3.4 grams per vehicle mile, determined to achieve such reduction and made applicable by regulation to 1981 and later year light-duty vehicles, has been published in the Federal Register, 43 FR 37972, August 24, 1978. If the Administrator determines that a waiver from the CO standard of 3.4 grams per vehicle mile (gpm) should be granted, he must simultaneously with such determination prescribed by regulation CO emission standards to apply to those model vehicles or engines to which the waiver applies. Under section 202(b)(5)(B), the maximum CO level for which a waiver may be granted is 7.0 gpm.

Under section 202(b)(5)(C), the Administrator may grant such a waiver only if he finds that protection of the public health does not require attainment of the statutory CO standard of 3.4 gpm for those model years and vehicles for which the waiver is sought. In addition, a waiver may be granted only if the Administrator determines that (1) such waiver is essential to the public interest or the public health and welfare of the United States, (2) all good faith efforts have been made to meet the established standards, (3) the applicant has established that effective control technology, processes, operating methods, or other alternatives are not available or have not been available with respect to the model in question for a sufficient period of time to achieve compliance prior to the effective date of such standards, taking into consideration costs, driveability, and fuel economy, and (4) studies and investigations of the National Academy of Sciences and other information available to him have not indicated that technology, processes, or other alternatives are available to meet such standards.

In order for a waiver to be granted, the Administrator must determine that the applicant has provided information sufficient to satisfy each of the waiver criteria set out above. However, the Administrator is not required to make his determination solely on the record of the hearing, and may consider any

additional information as well. All information considered by the Administrator will be included in the public docket.

EPA held four days of public hearings during the week of July 9, 1979, to consider CO waiver applications submitted by General Motors, Chrysler, American Motors, Volkswagen, Toyota, and British-Leyland. In addition to testimony provided by each waiver applicant, testimony was given by other automobile manufacturers, and by several emission control system part suppliers. The Clean Air Act requires the Administrator to decide on the General Motors application by August 24, 1979, and on the remaining five applications by September 4, 1979. Information considered for the decisions on these applications is contained in Public Docket EN-79-4 and will be considered by the EPA in all its subsequent application decisions. Accordingly, Public Docket EN-79-4 is incorporated by reference into EN-79-17.

Toyo Kogyo submitted a CO waiver application on August 3, 1979. The Act requires the Administrator to make a decision on Toyo Kogyo's application on or before October 3, 1979. A public hearing on this application and on applications received from any other motor vehicle manufacturers on or before September 4, 1979, will be held in the U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, Room M2126, commencing at 9 a.m. on September 12, 1979. EPA encourages all manufacturers still planning to request a CO waiver to file their applications by the deadline so that all of the outstanding waiver applications can be reviewed in one consolidated proceeding. Submitting applications at a reasonable time before the scheduled proceedings will greatly facilitate the Administrator in making a timely decision.

PROCEDURES: The public hearing is intended to provide an opportunity for interested persons to state their views or arguments, or to provide pertinent information concerning the action requested of the Administrator by the applicant. Any person desiring to make an oral statement at the hearing should file a notice of such intention and 10 copies of the proposed testimony and other relevant material in the Central Docket Section at the address listed above not later than September 4, 1979. If feasible at least 75 copies of such statement or material for the hearing record and for general circulation should be submitted to the Presiding Officer at the time of the hearing. In addition, any

person may submit written questions at any time during the hearing to be propounded to the witnesses by the hearing panel to the extent practicable. Relevant statements and information not specifically required by the hearing panel may be filed in the public docket until September 20, 1979.

Under the subpoena authority of section 307(a)(1), appropriate representatives of the applicants will be required to attend the hearing and respond to questions propounded by the hearing panel. Moreover, representatives from other groups, in particular other automobile manufacturers, may also be subpoenaed to produce relevant information and provide testimony before the hearing panel. Section 307(a)(1) also authorizes the administration of oaths to testifying parties.

The Presiding Officer will have the responsibility for maintaining order, excluding irrelevant or repetitious material, scheduling presentations, directing that corroborative material be submitted in writing and, to the extent possible, notifying participants of the time at which they may appear.

Presentations by the participants should be addressed exclusively to the following considerations:

1. Whether protection of the public health requires attainment of the established CO standard of 3.4 gpm for the model years to which the waiver would apply.

2. Whether the requested waiver is essential to the public interest or public health and welfare of the United States.

3. Whether the applicants have made all good faith efforts to meet the CO standard for those model years and vehicles for which the waiver is sought.

4. Whether effective control technology, processes, operating methods, or other alternatives are not available or have not been available with respect to the model in question for a sufficient period of time to achieve compliance prior to the effective date of such standards, taking into consideration costs, driveability, and fuel economy.

5. Whether studies and investigations of the National Academy of Sciences and other information indicate that alternatives are available to meet such standards.

6. The level of CO emissions, not to exceed 7.0 gpm, which could be met in each of the model years for which a waiver is requested and which would reflect the greatest degree of emission control achievable by use of available technology, giving appropriate consideration to the cost of applying

such technology within the available time period.

A verbatim record of the proceedings will be made and will be available for public inspection. A copy of the transcript may be requested from the reporter during the hearing and will be made at the expense of the person so requesting. Copies of other documents in the public record also may be obtained in 40 CFR Part 2.

Dated: August 16, 1979.

Marvin B. Durning,
 Assistant Administrator for Enforcement.
 [FR Doc. 79-25092 Filed 8-21-79; 8:45 am]
 BILLING CODE 6560-01-M

[180325A; FRL 1302-4]

**North Carolina Department of
 Agriculture; Issuance of Specific
 Exemption To Use Captafol To Control
 Anthracnose in Strawberries**

AGENCY: Environmental Protection Agency (EPA), Office of Pesticide Programs.

ACTION: Issuance of a specific exemption.

SUMMARY: EPA has granted a specific exemption to the North Carolina Department of Agriculture (hereafter referred to as the "Applicant") to use captafol to control anthracnose in 500 acres of strawberry transplant production fields in North Carolina. The specific exemption expires on October 1, 1979.

FOR FURTHER INFORMATION CONTACT: Emergency Response Section, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street, S.W., Room E-124, Washington, D.C. 20460, Telephone: 202/426-0223. It is suggested that interested persons telephone before visiting EPA Headquarters, so that the appropriate files may be made conveniently available for review purposes.

SUPPLEMENTARY INFORMATION: Anthracnose has been a destructive disease during the past three years for strawberry plant producers in North Carolina when high temperatures and rainfall favor disease development. Anthracnose (*Colletotrichum fragariae*) attacks the mature crown, runners, and runner plants. The fungus enters the crown at the soil line and causes reddish-brown discolored areas in the white tissues in the center of the crown. Infected mature plants wilt and die. The fungus is carried over from year to year in crowns that become infected in late summer. The fungus produces masses of spores on diseased plant tissues and

these spores are spread to nearby plants by splashing water or winds.

According to the Applicant, North Carolina produces more strawberry plants than any other state east of California. Plants grown in North Carolina are shipped to many states and foreign countries for fruit production. Approximately 75 percent of the strawberry transplants commercially produced in North Carolina are intended for export, 60 percent of which are shipped to Florida. The Applicant claims that this latter segment would be virtually lost if anthracnose is not controlled, since Florida would embargo shipments of plants that are not certified as being apparently free of anthracnose. Without an effective control program, the Applicant anticipates losses of approximately \$1.5 million.

Despite the use of repeated applications of benomyl, which is registered for control of anthracnose, the Applicant anticipates that emergency conditions will continue to exist in strawberry plant producing areas through September. No other fungicide registered for strawberry use will control anthracnose and there are no alternative control methods.

The Applicant availed itself of a crisis exemption for the use of Difolatan 4F (captan) on May 18, 1979, and so notified the Administrator. Notification of this crisis exemption was published in the *Federal Register* on July 30, 1979 (44 FR 44812). The Applicant had already requested a specific exemption.

The Applicant's treatment plan consists of using captan on up to 500 acres of strawberries being grown for plant production (no fruit will be harvested) at a rate of two pounds active ingredient per acre every 7 days, during periods of weather conditions favorable for pathogen dissemination, through September. The fungicide will be applied over the row with ground equipment. Data indicate that Difolatan should be effective in controlling anthracnose.

EPA has determined that residues of captan on strawberries should not exceed 5 parts per million (ppm) from the proposed use. This level has been judged adequate to protect the public health. Precautions on the Difolatan 4F label should be adequate to protect the environment.

After reviewing the application and other available information, EPA has determined that (a) a pest outbreak of anthracnose has occurred; (b) there is no effective pesticide presently registered and available for use to control anthracnose in North Carolina; (c) there are no alternative means of control, taking into account the efficacy and

hazard; (d) significant economic problems may result if anthracnose is not controlled; and (e) the time available for action to mitigate the problems posed is insufficient for a pesticide to be registered for this use. Accordingly, the Applicant has been granted a specific exemption to use the pesticide noted above until October 1, 1979, to the extent and in the manner set forth in the application. The specific exemption is also subject to the following conditions:

1. The product Difolatan 4F, EPA Reg. No. 239-2211, manufactured by Chevron Chemical Co., is authorized;
2. Difolatan will be applied at a rate of 2.0 pounds active ingredient per acre every 7 to 10 days through September;
3. A maximum of 500 acres may be treated;

4. All applications will be made over the row with ground equipment in sufficient water to obtain thorough coverage of all plant parts;
5. No applications will be made within 90 days of any harvest of fruit;

6. Applications may be made by either private or commercial applicators;
7. All applicable label directions, precautions, and restrictions of the product label must be followed;

8. Strawberries with residues of captan not exceeding 5 ppm may enter interstate commerce. The Food and Drug Administration, U.S. Department of Health, Education, and Welfare, has been advised of this action;
9. A full report summarizing the results of this program must be submitted to EPA by March 31, 1980;

10. The EPA shall be immediately informed of any adverse effects from the use of Difolatan in connection with this exemption; and
11. The Applicant shall be responsible for assuring that all of the provisions of this specific exemption are met.

(Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 138))

Dated: August 16, 1979.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

(FR Doc. 79-25991 Filed 8-21-79; 8:45 am)

BILLING CODE 5560-01-M

[PP 7G1888/T217; FRL 1302-2]

Renewal of Temporary Tolerances; Profenofos

On July 31, 1978, the Environmental Protection Agency (EPA) announced (43 FR 33315) the establishment of temporary tolerances for combined residues of the insecticide profenofos (O-(4-bromo-2-chlorophenyl)-O-ethyl S-

propyl phosphorothioate) and its metabolites converted to 4-bromo-2-chlorophenol and calculated as O-(4-bromo-2-chlorophenyl)-O-ethyl S-propyl phosphorothioate in or on the raw agricultural commodities cottonseed at 3 parts per million (ppm); eggs and the meat, fat, and meat byproducts of cattle, goats, hogs, horses, poultry, and sheep at 0.05 ppm; and milk at 0.01 ppm. These tolerances were established in response to a Pesticide Petition (PP 7G1888) submitted by Ciba-Geigy Corp., Agricultural Div., P.O. Box 11422, Greensboro, N.C. 27409. These temporary tolerances expired August 1, 1979.

Ciba-Geigy Corp. has requested a one-year renewal of these temporary tolerances both to permit continued testing to obtain additional data and to permit the marketing of the above raw agricultural commodities when treated in accordance with the provisions of the experimental use permit 100-EUP-55 that is being renewed concurrently under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 138). (A related document renewing feed additive tolerances for residues of profenofos in cottonseed hulls and soapstock appears elsewhere in today's *Federal Register*.)

The scientific data reported and all other relevant material have been evaluated, and it has been determined that renewal of the temporary tolerances will protect the public health. Therefore, the temporary tolerances are being renewed on condition that the pesticide be used in accordance with the experimental use permit and with the following provisions:

1. The total amount of the insecticide to be used will not exceed the quantity authorized by the experimental use permit.

2. Ciba-Geigy Corp. must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The firm will also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

These temporary tolerances expire August 16, 1980. Residues not in excess of 3 ppm remaining in or on cottonseed; 0.05 ppm remaining in eggs and the meat, fat, and meat byproducts of cattle, goats, hogs, horses, poultry, and sheep; and 0.01 ppm remaining in milk after this expiration date will not be considered actionable if the pesticide is legally applied during the term of and in accordance with the provisions of the experimental use permit and temporary

tolerances. These temporary tolerances may be revoked if the experimental use permit is revoked or if any scientific data or experience with this pesticide indicate such revocation is necessary to protect the public health. Inquiries concerning this notice may be directed to Mr. William Miller, Product Manager 16, Registration Division (TS-767), Office of Pesticide Programs, 401 M St. SW., Washington, D.C. 20460 (202/426-9458).

(Sec. 408(j), Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(j)).)

Dated: August 16, 1979.

Herbert Harrison,

Acting Director, Registration Division.

(FR Doc. 79-25996 Filed 8-21-79; 8:45 am)

BILLING CODE 5560-01-M

[FRL 1302-8]

Science Advisory Board: Environmental Health Committee; Open Meeting

Under Pub. L. 92-463, notice is hereby given that a meeting of the Environmental Health Committee of the Science Advisory Board will be held at 9 a.m. on September 12, 1979 in Room 3906-08, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C.

The principal purpose of the meeting will be to discuss health-related Agency and Science Advisory Board activities and Committee participation in these activities. This will include, in particular, (1) plans for periodic peer review of EPA's health effects research laboratories and programs; and (2) plans for review and evaluation, by a Subcommittee on Health Risk Assessment, of health risk assessment methodologies used or proposed by EPA for various health end points. The Agenda will also include briefings and discussions on other topics of current or future interest to the Committee.

The meeting will be open to the public. Any member of the public wishing to attend or submit a paper, or wishing further information should contact the Secretariat, Science Advisory Board (A-101), U.S. Environmental Protection Agency, Washington, D.C. 20460 by c.o.b. September 7, 1979. Please ask for Mr. Kenneth B. Goggin or Mrs. Ilene Stein. The telephone number is (202) 472-9444.

Richard M. Dowd,

Staff Director, Science Advisory Board.

(FR Doc. 79-26002 Filed 8-21-79; 8:45 am)

BILLING CODE 5560-01-M

[FRL 1278-7; OPP-30000/4c]

Endrin; Intent To Cancel Registrations and Denial of Applications for Registration of Pesticide Products Containing Endrin, and Statement of Reasons

Correction

In FR Doc. 79-22708, appearing at page 43632 in the issue of Wednesday, July 25, 1979, the following changes should be made:

1. On Page 43632, second column, the area code in the last line of the paragraph headed "For Further Information Contact" should read, "703".

2. On page 43652, first column, first complete paragraph, the second word in the second line should read, "proposed," the next to last word in the ninth line should read, "that," and the seventeenth line should read, "Agency has proposed that a distance restriction be imposed, the purpose was to reduce drift to".

BILLING CODE 1505-01-M

[FRL 1301-6]

Grants for Construction of Treatment Works; Class Deviations

Under authority of 40 CFR 30.1000, EPA has issued two class deviations from the provisions of 40 CFR Part 35, Subpart E, Grants for Construction of Treatment Works, funded under section 201 of the Clean Water Act of 1977.

The regulations in 40 CFR 35.928-4 and 35.935-15 relate to the industrial cost recovery (ICR) moratorium and systems. Because of the clear Congressional intent to enact some postponement of the date on which ICR charges must be collected, EPA has approved a deviation extending the date for collecting of ICR payments to December 1, 1979.

The regulations in 40 CFR 35.935-13(a)(2)(i) and 35.935-13(b) require that payments not be made after June 30, 1979, to certain grantees who do not have approved user charge systems. Because of the backlog created by the influx of user charge systems received to meet the June 30, 1979, deadline, EPA has approved a class deviation to allow release of payments through December 31, 1979, for any grantee who submitted its user charge system to EPA for approval prior to May 1, 1979.

Under our policy to publish class deviations in the *Federal Register*, EPA is publishing these deviations as part of this notice.

FOR FURTHER INFORMATION CONTACT:
Mr. Alexander J. Greene, Director, Grants Administration Division (PM-216), Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460 (Tel. No. 202 755-0850).

Dated: August 13, 1979.

C. William Carter,

Associate Assistant Administrator for Planning and Management (PM-208).

Dated: August 13, 1979.

Thomas C. Jorling,

Assistant Administrator for Water and Waste Management (WH-556).

U.S. Environmental Protection Agency

Date: August 13, 1979.

Subject: Class Deviation from 40 CFR 35.928-4 and 35.935-15, Industrial Cost Recovery Moratorium and Systems.

From: Harvey Phippen, Acting Director, Grants Administration Division (PM-216).
To: Regional Administrators.

The Congress is considering legislation to extend the industrial cost recovery (ICR) moratorium enacted in the 1977 Clean Water Act. The House bill extends the deadline by two years; the Senate bill is one year. We expect that the two bills will be reconciled in conference shortly. At this time, we cannot predict what conditions or requirements may attach to any such extension.

In light of the expressed intention of Congress to enact some postponement, I am approving a class deviation from 40 CFR 35.928-4 and 35.935-15 for all Step 3 grantees and applicants as follows:

1. 40 CFR 35.928-4(a) and (b). The moratorium period for ICR payments is extended to December 1, 1979. EPA does not require industrial users to pay ICR for charges incurred during the period after December 31, 1977, and before December 1, 1979. Under the moratorium, the collection of payments is suspended, but the requirement to develop a system is not.

2. 40 CFR 35.935-15(a)(2). Grantees awarded Step 3 grant assistance under regulations promulgated on February 11, 1974, are required to obtain approval of ICR systems by December 1, 1979.

3. 40 CFR 35.935-15(b). Grantees awarded Step 3 grant assistance after April 24, 1978, but before December 1, 1979, are required to obtain approval of ICR systems, except for ordinances and rates, by December 1, 1979.

4. 40 CFR 35.935-15(c). Grantees awarded Step 3 assistance after November 30, 1979, are required to have approved ICR systems, except for ordinances and rates, before grant award.

After November 30, 1979, no further payments will be made in any of the above cases until the ICR system is approved.

Dated: August 13, 1979.

Concur:

C. W. Carter,
Associate Assistant Administrator for
Planning and Management (PM-208).

Dated: August 13, 1979.

Concur:

Thomas C. Jorling,
Assistant Administrator for Water and Waste
Management (WH-568).

U.S. Environmental Protection Agency

Date: August 13, 1979.

Subject: Class Deviation from 40 CFR
35.935-13(a)(2)(i) and 35.935-13(b), Payment
Restrictions on Construction Grants.

From: Harvey Pippen, Acting Director,
Grants Administration Division (PM-216).
To: Regional Administrators.

Sections 35.935-13(a)(2)(i) and 35.935-13(b) of the construction grant regulations provide that payments may not be made after June 30, 1979, to certain grantees whose user charge systems have not been approved. These provisions apply to two categories of grantees: grantees who have been found to satisfy the initial requirements for a dedicated ad valorem tax system, but who had not obtained approval by June 30, and grantees who have received Step 3 grant assistance between April 25, 1978, and June 30, 1979, but had not obtained approval by June 30.

We recognize that some Regional Offices may not have had sufficient time and resources to effect a prompt review of the relatively large number of user charge systems that have been submitted in anticipation of the June 30 date. We do not wish to penalize grantees when the failure to have an approved user charge system is due to lack of EPA resources to timely review systems which had been submitted in time for the grantee to have expected a response prior to June 30, 1979.

I am, therefore, approving a class deviation from sections 35.935-13(a)(2)(i) and 35.935-13(b) to allow the release of payments through December 31, 1979, for any grantee who submitted its user charge system to EPA for approval prior to May 1, 1979.

After December 31, 1979, no further payments will be made until the user charge system is approved.

Dated: August 13, 1979.

Concur:

C. W. Carter,
Associate Assistant Administrator for
Planning and Management (PM-208).

Dated: August 13, 1979.

Concur:

Thomas C. Jorling,
Assistant Administrator for Water and Waste
Management (WH-547).

[FR Doc. 79-26004 Filed 8-21-79; 8:45 am]

BILLING CODE 6560-01-M

FEDERAL RESERVE SYSTEM

Bank Holding Companies; Proposed De Novo Nonbank Activities; Correction

This notice corrects a previous Federal Register document appearing in the center column at page 47610 of the issue for Tuesday, August 14, 1979.

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. § 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than September 17, 1979.

A. Federal Reserve Bank of New York, 33 Liberty Street, New York, New York, 10045:

CITICORP, New York, New York (financing and insurance activities; Kansas, Missouri): to engage, through its subsidiaries Citicorp Person-to-Person Financial Center, Inc. and Nationwide Financial Corporation of Missouri in operating a finance company, including the extension of direct loans for consumer and other purposes; purchasing and servicing for its own account consumer installment sales

finance contracts; making loans for the accounts of others, such as one-to-four family unit mortgage loans; making loans to individuals and businesses secured by real and personal property, the proceeds of which may be for purposes other than personal, family or household usage; and acting as agent for the sale of life, accident, and health, property and casualty insurance directly related to its extensions of credit. The service area of the sales finance activities of the Overland Park, Kansas, office would be expanded to include Kansas, Iowa, Nebraska, South Dakota, Minnesota and the western half of Missouri. With respect to the mobile home/land package financing activity, the service area will be expanded to include Minnesota. The service area of the direct lending activities of the Kansas City, Missouri, office and of the Overland Park, Kansas, office will be expanded to include an area with a radius of 175 miles in each direction.

B. Other Federal Reserve Banks: None.

Board of Governors of the Federal Reserve System, August 16, 1979.

Edward T. Mulrenin,
Assistant Secretary of the Board.

[FR Doc. 79-25897 Filed 8-21-79; 8:45 am]
BILLING CODE 6210-01-M

Bank Holding Companies; Proposed De Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. § 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the

evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than September 17, 1979.

A. Federal Reserve Bank of New York: 33 Liberty Street, New York, New York 10045:

Addendum to notice of Citicorp, New York, New York (financing and insurance; Florida) published August 14, 1979 (44 F.R. 47611): the areas to be served by the Orlando office of Citicorp Person-to-Person Financial Center of Florida, Inc., are Orange County and contiguous portions of Brevard, Osceola, Lake, Volusia and Seminole Counties.

B. Other Federal Reserve Banks: None.

Board of Governors of the Federal Reserve System, August 16, 1979.

Edward T. Mulrenin,
Assistant Secretary of the Board.

[FR Doc. 79-25898 Filed 8-21-79; 8:45 am]
BILLING CODE 6210-01-M

Citizens Holding Co.; Formation of Bank Holding Company

Citizens Holding Co., Sac City, Iowa, has applied for the Board's approval under § 1842(a)(1) to become a bank holding company by acquiring 86.5 per cent of the voting shares of Citizens Savings Bank, Sac City, Iowa. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than September 14, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, August 15, 1979.

Edward T. Mulrenin,
Assistant Secretary of the Board.

[FR Doc. 79-25899 Filed 8-21-79; 8:45 am]
BILLING CODE 6210-01-M

Colorado National Bankshares, Inc.; Acquisition of Bank

Colorado National Bankshares, Inc., Denver, Colorado, has applied for the Board's approval under § 3(a)(3) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(3)) to acquire 100 per cent of the voting shares of Colorado Bank-Tech Center, Denver, Colorado. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than September 14, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, August 15, 1979.

Edward T. Mulrenin,
Assistant Secretary of the Board.

[FR Doc. 79-25900 Filed 8-21-79; 8:45 am]
BILLING CODE 6210-01-M

First National Charter Corp.; Acquisition of Bank

First National Charter Corporation, Kansas City, Missouri, has applied for the Board's approval under § 3(a)(3) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(3)) to acquire 51 percent or more of the voting shares of Farmers Bank of Clinton, Clinton, Missouri. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than September 14, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing

the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, August 15, 1979.

Edward T. Mulrenin,
Assistant Secretary of the Board.

[FR Doc. 79-25901 Filed 8-21-79; 8:45 am]
BILLING CODE 6210-01-M

Mellon National Corp.; Proposed Acquisition of a branch of ITT Thorp Corp., New York, N.Y., located in Munster, Ind.

Mellon National Corporation, Pittsburgh, Pennsylvania, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. § 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR § 225.4(b)(2)), for permission to acquire, through its subsidiary, Freedom Financial Services Corporation, Oak Brook, Illinois, the assets of and assume the lease on the premises of a branch of ITT Thorp Corporation, New York, New York, located in Munster, Indiana.

Applicant states that the proposed subsidiary would engage in the activities of making consumer loans and acting as an agent in the sale of credit life; credit accident and health; and credit property insurance. These activities would be performed from offices of Applicant's subsidiary in Munster, Indiana, and the geographic area to be served is the northwest portion of Indiana, including Dyer, East Chicago, Gary, Hammond, Highland, Munster, Schererville, and Whiting, Indiana. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Cleveland.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than September 14, 1979.

Board of Governors of the Federal Reserve System, August 14, 1979.

Edward T. Mulrenin,
Assistant Secretary of the Board.

[FR Doc. 79-25902 Filed 8-21-79; 8:45 am]

BILLING CODE 6210-01-M

Mid-Missouri Bancshares, Inc.; Formation of Bank Holding Company

Mid-Missouri Bancshares, Inc., Melle, Missouri, has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding company by acquiring 95.6 per cent of the voting shares of Belle State Bank, Belle, Missouri. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of St. Louis. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received no later than September 14, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, August 15, 1979.

Edward T. Mulrenin,
Assistant Secretary of the Board.

[FR Doc. 79-25903 Filed 8-21-79; 8:45 am]

BILLING CODE 6210-01-M

Omaha Bancshares, Inc.; Formation of Bank Holding Company

Omaha Bancshares, Inc., Omaha, Texas, has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding company by acquiring 80 per cent of the voting shares of (less directors' qualifying shares) of The State Bank of Omaha, Texas, Omaha, Texas. The

factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received no later than September 14, 1979. Any comment on an application that requests a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, August 14, 1979.

Edward T. Mulrenin,
Assistant Secretary of the Board.

[FR Doc. 79-25904 Filed 8-21-79; 8:45 am]

BILLING CODE 6210-01-M

Pan American Bancshares, Inc.; Acquisition of Bank

Pan American Bancshares, Inc., Miami, Florida, has applied for the Board's approval under § 3(a)(3) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(3)) to acquire 80 percent or more of the voting shares of Central Bank of Palm Beach County, West Palm Beach, Florida. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received no later than September 14, 1979. Any comment on an application that request a hearing must include a statement on why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, August 14, 1979.

Edward T. Mulrenin,
Assistant Secretary of the Board.

[FR Doc. 79-25905 Filed 8-21-79; 8:45 am]

BILLING CODE 6210-01-M

GENERAL ACCOUNTING OFFICE

Regulatory Reports Review; Receipt of Report Proposal

The following request for clearance of a report intended for use in collecting information from the public was received by the Regulatory Reports Review Staff, GAO, on August 16, 1979. See 44 U.S.C. 3512(c) and (d). The purpose of publishing this notice in the Federal Register is to inform the public of such receipt.

The notice includes the title of the request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed CAB request are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed request, comments (in triplicate) must be received on or before September 10, 1979, and should be addressed to Mr. John M. Lovelady, Assistant Director, Regulatory Reports Review, United States General Accounting Office, Room 5106, 441 G Street, NW, Washington, DC 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202-275-3532.

Civil Aeronautics Board

The CAB requests an extension without change clearance of Form 41, Report of Financial and Operating Statistics for Certificated Air Carriers. This form contains the basic data which the Board uses in fulfilling its regulatory responsibilities under the Federal Aviation Act of 1958, as amended. Submission of CAB Form 41 by the certificated air carriers is mandatory under Section 407 of the Act. CAB estimates the reporting burden (which includes the burden for all monthly, quarterly, semiannual and annual filings of schedules in Form 41) to average 1,816 hours per respondent and that respondents will number approximately 55.

John M. Lovelady,
Assistant Director, Regulatory Reports
Review.

[FR Doc. 79-25998 Filed 8-21-79; 8:45 am]

BILLING CODE 1610-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Resources Administration

Advisory Council and Subcommittee; Meetings

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following National Advisory bodies scheduled to meet during the month of September 1979:

Name: National Guidelines, Goals, Priorities, and Standards Subcommittee of the National Council on Health Planning and Development.

Date and Time: September 13, 1979, 10:00 a.m.-12:00 Noon.

Place: Hubert H. Humphrey Building, Conference Rooms 703A-705A, 200 Independence Avenue, SW, Washington, DC 20201.

Open for entire meeting.

Purpose: The objectives of the National Guidelines, Goals, Priorities, and Standards Subcommittee are to study the experience nationwide in the public and private sectors with the adoption and/or adjustment of the National Guidelines for Health Planning and their impact and recommend changes as appropriate; study the experience of the Health Systems Agencies and State Health Planning and Development Agencies nationwide in implementation of high priority goals and sub-goals and their impact; advise the Council in identifying additional high priority goals and sub-goals; investigate and coordinate information on demonstrations underway by provider, reimbursement, regulatory, labor, industry, and community groups on sub-goals, such as those on alcoholism and prevention; study, investigate and identify research needs appropriate to the formulation, adjustment and refinement of the National Guidelines, and study and develop improved indicators to assess the impact of the Guidelines or the need for revisions; and recommend to the Council on the need for further development and/or revision of the National Guidelines.

Agenda: Review of CT Scanner guidelines; review of the National Health Planning Goals; and planning for the Los Angeles Meeting in November.

Name: Technology and Productivity Subcommittee of the National Council on Health Planning and Development.

Date and Time: September 13, 1979, 3:00 p.m.-5:00 p.m.

Place: Hubert H. Humphrey Building, Conference Rooms 703A-705A, 200 Independence Avenue, SW Washington, DC 20201.

Open for entire meeting.

Purpose: The objective of the Technology and Productivity Subcommittee is to advise the full Council on matters related to the productivity of the health care delivery system and to the implications of new medical technology for the organization, delivery and equitable distribution of

health care services. "Technology" includes the drugs, devices and medical and surgical procedures used in medical care and the organizational and supportive systems within which such care is delivered. "Productivity" is the efficiency with which health care is delivered.

The Subcommittee is to deliberate and to make recommendations to the full Council on matters chosen from among those brought to it by Council members, HEW staff and advisory committees, other Federal departments, congressional committees and staff, provider groups and the public at large. The Subcommittee in addition will study and investigate the current needs for assistance of HSAs and SHPDAs in the area of evaluating productivity improvement and new medical technology, help transmit concerns of HSAs and SHPDAs to appropriate Federal agencies, and review the current resources both within the Federal Government and among the educational, research and other developmental agencies for providing needed assistance to HSAs and SHPDAs. In addition, it will review technology assessment activities within the Department in order to assure they are relevant to the needs of the HSAs and are useful in the development and implementation of national standards, goals, and guidelines, and for the establishment of priorities with those goals.

Agenda: Discussion of the initial draft of the Productivity Study and planning for the Los Angeles Meeting in November.

Name: Implementation and Administration Subcommittee of the National Council on Health Planning and Development

Date and Time: September 13, 1979, 4:00 p.m.-6:00 p.m.

Place: Hubert H. Humphrey Building, Conference Room 729G, 200 Independence Ave, SW, Washington, DC 20201.

Open for entire meeting.

Purpose: The objective of the Implementation and Administration Subcommittee is to study and make recommendations on the implementation and administration of Titles XV and XVI of the Public Health Service Act. Specific areas for the Subcommittee's consideration are (1) the impact of HEW's implementation/administration on the effectiveness of Health Systems Agencies and State Health Planning and Development Agencies; (2) the effectiveness of the interrelationships between health planning agencies and HEW, Central and Regional Offices; (3) the timing and strategy of implementation and of the dissemination and distribution of regulatory and technical material; (4) how to better meet the needs of HSAs and SHPDAs; and (5) the review of the Council's responsibilities under section 1122 of the Social Security Act.

Agenda: Review of 1122 Cases; review of 1122 Program Analysis; review of Workplans on subcommittee priority topics; and planning for the Los Angeles Meeting in November.

Name: National Council on Health Planning and Development

Date and Time: September 14, 1979, 8:45 a.m.-3:30 p.m.

Place: Main Auditorium, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201.

Open for entire meeting.
Purpose: The National Council on Health Planning and Development is responsible for advising and making recommendations with respect to (1) the development of national guidelines under section 1501 of Pub. L. 93-641, (2) the implementation and administration of Title XV and XVI of Pub. L. 93-641, and (3) an evaluation of the implications of new medical technology for the organization, delivery and equitable distribution of health care services. In addition, the Council advises and assists the Secretary in the preparation of general regulations to carry out the purposes of section 1122 of the Social Security Act and on policy matters arising out of the implementation of it, including the coordination of activities under that section with those under other parts of the Social Security Act or under other Federal or federally assisted health programs. The Council considers and advises the Secretary on proposals submitted by the Secretary under the provisions of section 1122(d)(2) that health care facilities or health maintenance organizations be reimbursed for expenses related to capital expenditures notwithstanding that under section 1122(d)(1) there would otherwise be exclusion of reimbursement for such expenses.

Agenda: Agency and Bureau Status Reports; Subcommittee Reports; Legislative Update; and Surgeon General's Report on Health Promotion/Health Prevention.

Anyone requiring information regarding the subject Council should contact Mrs. S. Judy Silsbee, Executive Secretary, National Council on Health Planning and Development, Room 10-27, Center Building, 3700 East-West Highway, Hyattsville, Maryland, 20782, Telephone (301) 436-1715. Agenda items are subject to change as priorities dictate.

Dated: August 16, 1979.

James A. Walsh,
Associate Administrator for Operations and Management.

[FR Doc. 79-25886 Filed 8-21-79; 8:45 am]

BILLING CODE 4110-83-M

National Institutes of Health

Division of Research Services; Meeting

Notice is hereby given that the Division of Research Services, Biomedical Engineering and Instrumentation Branch, National Institutes of Health, will hold a consensus development conference October 17-19, 1979, at the Sheraton Silver Spring Motor Hotel, 8727 Colesville Road, Silver Spring, Maryland. Topic of the conference is the role of "intelligent" microprocessor-based machines in patient care. The meeting is open to interested individuals and groups.

Machines are being developed that can handle many facets of patient care. Attendees will have the opportunity to assess the state of the art of microprocessor-based machines in patient care as well as to consider related legal, social, and ethical issues. The format will include invited speakers presenting papers and panel discussions.

Preliminary approval has been obtained for physicians who attend to receive 5 hours of AMA Category I credit. There will be no registration fee, but the total number of participants will be limited. Interested persons are encouraged to write to Henry S. Eden, M.D., Assistant to the Chief, Biomedical Engineering and Instrumentation Branch, Division of Research Services, National Institutes of Health, Building 13, Room 3W-13, Bethesda, Maryland 20205, or call 301/496-5771 for further information, including a set of working papers and an advance registration form.

Dated: August 13, 1979.
Suzanne L. Freneau,
Committee Management Officer, NIH.
(FR Doc. 79-25916 Filed 8-21-79; 8:45 am)
BILLING CODE 4110-06-M

Meeting of National Advisory Environmental Health Sciences Council

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the National Advisory Environmental Health Sciences Council, National Institute of Environmental Health Sciences, October 12, 1979, in Building 18 conference room, National Institute of Environmental Health Sciences, Research Triangle Park, North Carolina.

This meeting will be open to the public on October 12, 1979, from 9 a.m. to approximately 9:30 a.m. for the report of the Director, NIEHS, and for discussion of the NIEHS budget and other items of interest. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on October 12, from 9:30 a.m. to adjournment on October 12, 1979, for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which

would constitute a clearly unwarranted invasion of personal privacy.

Leota B. Staff, Committee Management Officer, NIEHS, Building 31, Room 4B31, National Institutes of Health, Bethesda, Maryland 20205, (301) 496-3511, will provide summaries of the meeting and rosters of council members. Dr. Wilford L. Nusser, Associate Director for Extramural Program, National Institute of Environmental Health Sciences, P.O. Box 12233, Research Triangle Park, North Carolina 27709, (919) 755-4015, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Programs Nos. 13.892, 13.893, 13.894, National Institutes of Health)

Dated: August 13, 1979.
Suzanne L. Freneau,
Committee Management Officer, NIH.
(FR Doc. 79-25915 Filed 8-21-79; 8:45 am)
BILLING CODE 4110-06-M

Meeting of National Advisory Neurological and Communicative Disorders and Stroke Council

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the National Advisory Neurological and Communicative Disorders and Stroke Council, National Institutes of Health, October 11 and 12, 1979, at 9 a.m. in Building 31-C, Conference Room 6, Bethesda, Maryland 20205. The meeting will be open to the public from 9 a.m. until 11:30 a.m. on October 11, 1979, to discuss program planning and program accomplishments. Attendance by the public will be limited to space available. In accordance with the provisions set forth in Sections 552b(c)(4), and 552b(c)(6) of Title 5, U.S. Code and Section 10(d) of Pub. L. 92-463, the meeting will be closed to the public from 11:30 a.m. on October 11, 1979, until the conclusion of the meeting that day, and from 8:30 a.m. until 6 p.m. on October 12, 1979, for review, discussion and evaluation of Research Grant applications and applications for Teacher-Investigator Awards, Research Career Development Awards, and Institutional National Research Service Awards. These applications and the discussion could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

The Chief, Office of Scientific and Health Reports, Miss Sylvia Shaffer, Building 31, Room 8A06, NIH, NINCDS, Bethesda, Maryland, 20205, telephone

(301) 496-5751, will furnish summaries of the meeting and rosters of committee members.

Dr. John C. Dalton, Executive Secretary, Federal Building, Room 1018, Bethesda, Maryland 20205, telephone (301) 496-9248, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.851, 13.852, 13.853, 13.854, National Institutes of Health.)

Dated: August 13, 1979.
Suzanne L. Freneau,
Committee Management Officer, National Institutes of Health.

(FR Doc. 79-25914 Filed 8-21-79; 8:45 am)
BILLING CODE 4110-06-M

Meeting of National Advisory Neurological and Communicative Disorders and Stroke Council Planning Subcommittee

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the National Advisory Neurological and Communicative Disorders and Stroke Council Planning Subcommittee, October 10, 1979, at 1 p.m., in Building 31, Room 8A30, National Institutes of Health, Bethesda, Maryland 20205. The meeting will be open to the public from 1 p.m. to 3 p.m. on October 10, 1979, to discuss program planning and program accomplishments. Attendance by the public will be limited to space available. In accordance with the provisions set forth in Sections 552b(c)(4) and 552b(c)(6) of Title 5, U.S. Code and Section 10(d) of Pub. L. 92-463, the meeting will be closed to the public from 3 p.m. to adjournment on October 10, 1979, the portion of the meeting being closed involves the review, discussion, and evaluation of individual grant applications. These applications and the discussion could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

The Chief, Office of Scientific and Health Reports, Miss Sylvia Shaffer, Building 31, Room 8A06, NIH, NINCDS, Bethesda, Maryland, 20205, telephone: (301) 496-5751, will furnish summaries of the meeting and rosters of committee members.

Dr. O. Malcolm Ray, Executive Secretary of the Committee, Room 1020C, Federal Building, NIH, NINCDS, Bethesda, Maryland 20205 telephone: (301) 496-9234, will provide substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.851, 13.852, 13.853, 13.854, National Institutes of Health.)

Dated: August 13, 1979.

Suzanne L. Freneau,
Committee Management Officer, National Institutes of Health.

(FR Doc. 79-25913 Filed 8-21-79; 8:45 am)
BILLING CODE 4110-06-M

National Arthritis Advisory Board; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of a meeting of the National Arthritis Advisory Board on October 3, 1979, 9:00 a.m. to 5:00 p.m., at the Sheraton National Motor Hotel, Columbia Pike and Washington Boulevard, Arlington, Virginia, to discuss the Board's activities and to continue the evaluation of the implementation of the long-range plan to combat arthritis. Notice of the Meeting Room will be posted in the Hotel lobby. The meeting will be open to the public. Attendance is limited to space available.

In addition, the following Work Groups of the Board will meet the day before, October 2: Research; Education and Training; Public Policy and Chronic Disease Care; Community Programs and Rehabilitation; Multipurpose Arthritis Centers; Private Sector; Epidemiology; and Executive Work Group. The times and meeting locations may be obtained by contacting Mr. William Plunkett, Executive Director, National Arthritis Advisory Board, P.O. Box 30286, Bethesda, Maryland 20014, (301) 496-1991. Ms. Betty Singer, Office of Scientific and Technical Reports, NIAMDD, National Institutes of Health, Building 31, Room 9A-04, Bethesda, Maryland 20205, (301) 406-3583, will provide summaries of the meeting.

(Catalog of Federal Domestic Assistance Program No. 13.848, National Institutes of Health)

Dated: August 13, 1979.

Suzanne L. Freneau,
Committee Management Officer, NIH.
(FR Doc. 79-25912 Filed 8-21-79; 8:45 am)
BILLING CODE 4110-06-M

National Arthritis, Metabolism, and Digestive Diseases Advisory Council; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the National Arthritis, Metabolism, and Digestive Diseases Advisory Council and its subcommittees on September 28-29, 1979, in Conference Room 6, Building 31, National Institutes of Health, Bethesda, Maryland. The meeting of the

Subcommittees will be open to the public on September 28 from 10:00 a.m. to about mid-day and on September 27 the full Council meeting will be open to the public from 8:30 a.m. to 12:30 p.m. to discuss administration, management, and special reports. Attendance by the public will be limited to space available.

The first day will be devoted to meetings of the subcommittees as follows: Digestive Diseases; Arthritis, Bone and Skin Diseases, Diabetes, Endocrine, and Metabolic Diseases; and the Kidney, Urologic and Blood Diseases. The exact location of each subcommittee meeting will be announced later.

In accordance with provisions set forth in Section 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and Section 10(d) of Pub. L. 92-463, the closed portions of the subcommittees and the full Council will be on September 28 from 1:30 p.m. to closing, and on September 27 from 1:30 p.m. to adjournment on September 28, for the review, discussion and evaluation of individual grant applications. These applications and discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Further information concerning the Council meeting may be obtained from Dr. George T. Brooks, Executive Secretary, National Institute of Arthritis, Metabolism, and Digestive Diseases, Westwood Building, Room 637, Bethesda, Maryland 20205, (301) 496-7277.

Mr. James N. Fordham, Office of Scientific and Technical Reports, NIAMDD, National Institutes of Health, Building 31, Room 9A04, Bethesda, Maryland 20205, (301) 496-3583, will provide summaries of the meeting.

Dated: August 13, 1979.

Suzanne L. Freneau,
Committee Management Officer, NIH.
(Catalog of Federal Domestic Assistance Program No. 13.848-850, National Institutes of Health)
(FR Doc. 79-25910 Filed 8-21-79; 8:45 am)
BILLING CODE 4110-06-M

National Cancer Institute, Meetings for the Review of Grant Applications

Pursuant to Pub. L. 92-463, notice is hereby given of the meetings of committees advisory to the National Cancer Institute.

These meetings will be open to the public to discuss administrative details

or other issues relating to committee business as indicated in the notice. Attendance by the public will be limited to space available.

These meetings will be closed to the public as indicated below in accordance with the provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92-463, for the review, discussion and evaluation of individual grant applications, as indicated. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Marjorie F. Early, Committee Management Officer, NCI, Building 31, Room 4B43, National Institutes of Health, Bethesda, Maryland 20205, (301) 496-5708 will furnish summaries of the meetings and rosters of committee members, upon request. Other information pertaining to the meeting can be obtained from the Executive Secretary indicated. Meetings will be held at the National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20205, unless otherwise stated.

Name of committee: Large Bowel and Pancreatic Cancer Review Committee (Large Bowel Subcommittee).
Dates: September 6-7, 1979.
Place: Prudential Building, 1100 Holoway Blvd., Houston, Texas.
Times: Open: September 6, 7:30 p.m.-8 p.m.
Closed: September 6, 8 p.m.-adjournment.
Closed: September 7, 8:30 a.m.-adjournment.
Closure reason: To review research grant applications.
Executive secretary: Dr. Vincent J. Caroli.
Address: Westwood Building Room 855, National Institutes of Health, phone: 301/496-7194.

(Catalog of Federal Domestic Assistance Numbers 13.393; 13.394; 13.395, National Institutes of Health)
Name of committee: Bladder and Prostatic Cancer Review Committee (Bladder Subcommittee).
Dates: September 6-7, 1979.
Place: Logan Airport Hilton, Logan International Airport, Boston, Massachusetts.
Times: Open: September 6, 8:30 a.m.-9 a.m.
Closed: September 6, 9 a.m.-adjournment.
Closed: September 7, 8:30 a.m.-adjournment.
Closure reason: To review research grant applications.
Executive secretary: Dr. William Straffe.
Address: Westwood Building, Room 853, National Institutes of Health, phone: 301/496-7194.

(Catalog of Federal Domestic Assistance Numbers 13.393; 13.394; 13.395, National Institutes of Health.)

Name of committee: Bladder and Prostatic Cancer Review Committee (Prostatic Subcommittee).

Dates: September 19-20, 1979.
Place: Roswell Park Research Study Center, 666 Elm Street, Buffalo, New York.
Times: Open: September 19, 1 p.m.—adjournment. Agenda: Annual review of the Project. Closed: September 20, 8:30 a.m.—adjournment.

Closure reason: To review research grant applications.
Executive secretary: Dr. Andrew Chiarodo. Address: Westwood Building, Room 853, National Institutes of Health, phone: 301/496-7194.

(Catalog of Federal Domestic Assistance Numbers 13.393; 13.394; 13.395, National Institutes of Health.)

Name of committee: Cancer Research Manpower Review Committee, Subcommittee on Cancer Etiology and Prevention, Subcommittee on Treatment and Restorative Care, Detection and Diagnosis.

Dates: September 27-29, 1979.
Place: School of Health Sciences, Conference Room C, National Navy Medical Center, Bethesda, Maryland 20014.

Times: Closed: Subcommittee on Cancer Etiology and Prevention—September 27-28, 9 a.m.—adjournment. Closed: Subcommittee on Treatment and Restorative Care, Detection and Diagnosis—September 27-28, 9 a.m.—adjournment. Closed: Cancer Research Manpower Review Committee—September 29, 9:30 a.m.—adjournment.

Closure reason: To review research grant applications. Open: Cancer Research Manpower Review Committee—September 29, 9 a.m.—9:30 a.m.

Executive secretary: Dr. Leon J. Niemiec. Address: Westwood Building, Room 10A15, National Institutes of Health, phone: 301/496-7803.

(Catalog of Federal Domestic Assistance Number 13.398, National Institutes of Health.)

Dated: August 14, 1979.

Suzanne L. Freneau,
Committee Management Officer, NIH.

[FR Doc. 79-25909 Filed 8-21-79; 8:45 am]

BILLING CODE 4110-08-M

Meeting of the Cardiology Advisory Committee

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Cardiology Advisory Committee, National Heart, Lung, and Blood Institute, October 1 and 2, 1979, in Conference Room 9, Building 31C, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20205.

The entire meeting will be open to the public from 8:30 a.m. to 5 p.m. each day. Attendance by the public will be limited to space available. Topics for discussion will include a review of the programs in the Cardiology area and considerations of reports.

Mr. York Onnen, Chief, Public Inquiries and Reports Branch, National Heart, Lung, and Blood Institute, Building 31, Room 4A21, National Institutes of Health, Bethesda, Maryland 20205, phone (301) 496-4236, will provide summaries of the meeting and rosters of the Committee members.

Barbara Krames Packard, M.D., Ph.D., Associate Director for Cardiology, Division of Heart and Vascular Diseases, National Heart, Lung, and Blood Institute, Federal Building, Room 320, Bethesda, Maryland 20205, phone (301) 496-5421, will furnish substantive program information upon request.

Dated: August 13, 1979.

Suzanne L. Freneau,
Committee Management Officer, NIH.

[FR Doc. 79-25911 Filed 8-21-79; 8:45 am]

BILLING CODE 4110-08-M

Meeting of the Population Research Committee

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Population Research Committee, National Institute of Child Health and Human Development, on November 14-16, 1979 in the Landow Building, Conference Room "A," 7910 Woodmont Avenue, Bethesda, Maryland.

This meeting will be open to the public on November 14 from 9:00 a.m. to 10:30 a.m. to discuss the program status, new developments and projections for population research centers, program projects and institutional fellowships. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Title 5, U.S. Code 552b(c)(4) and 552(c)(6) and Section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on November 14 from 10:30 a.m. to adjournment on November 16 for review, discussion and evaluation of individual grant applications.

The applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Marjorie Neff, Committee Management Officer, NICHD, Building 31, room 2A-04, National Institutes of Health, Bethesda, Maryland, Area Code 301, 496-1848, will provide a summary of the meeting and a roster of committee members. Dr. William A. Sadler, Executive Secretary of the Population Research Committee, NICHD, Landow Building, Room 7C-33, National

Institutes of Health, Bethesda, Maryland, Area Code 301, 496-6515, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.864, National Institutes of Health.)

Dated: August 13, 1979.

Suzanne L. Freneau,
Committee Management Officer, NIH.

[FR Doc. 79-25917 Filed 8-21-79; 8:45 am]

BILLING CODE 4110-08-M

Office of the Secretary

National Advisory Committee on the White House Conference on Families; Meeting

The National Advisory Committee on the White House Conference on Families was established to advise the Secretary, the Chair of the Conference, and the Conference staff on matters pertaining to the Conference, including the development, implementation and execution of overall plans and procedures for the Conference.

In accordance with Pub. L. 92-463, notice is hereby given of a meeting to be held Friday, September 7, 1979, at 9:30 a.m., in Room 800 of the Hubert H. Humphrey Building, located at 200 Independence Avenue SW., in Washington, DC.

The agenda will include review of the Conference process and specific discussion of state activities, hearings, national organization participation, media efforts and national activities. The agenda will also include discussion of issue development and a framework for the identification and generation of issues to be addressed by the Conference.

All sessions will be open to the public; however, seating capacity will be limited.

Further information on the meeting may be obtained from the White House Conference on Families at 330 Independence Avenue SW, Washington, DC 20201; telephone number: 202/472-4393.

Dated: August 17, 1979.

John L. Carr,
Executive Director, White House Conference on Families.

[FR Doc. 79-25908 Filed 8-21-79; 8:45 am]

BILLING CODE 4110-12-M

Office of Public Affairs; Statement of Organizational Function and Delegation of Authority

This notice amends Part A of the Statement of Organizational Function

and Delegation of Authority of the Department of Health, Education, and Welfare by amending Chapter AP, "Office of Public Affairs," (43 FR 52602, 11/8/78) to transfer the functions of the Information Services Staff to the Editorial and Publications Management Division and delete the name of that office. This transfer requires the following changes in the functional statement:

Delete Paragraph AP.20 B1 pertaining to the Information Services Staff.
Add the following at the end of Paragraph AP.20 F, Editorial and Publications Management Division: "Manages the Public Affairs Resource Center which contains information on HEW programs and activities."

"Directs the preparation of the *Green Sheet*, a daily compilation of news concerning HEW programs and activities."

"Prepares analyses of current issues and programs."

Delete from Paragraph AP.20 F, Editorial and Publications Management Division, seventh item, the words, "such as *HEW Now*."

Dated: August 16, 1979.

Frederick M. Boben,
Assistant Secretary for Management and Budget.

[FR Doc. 79-25982 Filed 8-21-79; 8:45 am]

BILLING CODE 4110-12-M

Office of Education

National Advisory Council on Adult Education; Meeting

AGENCY: National Advisory Council on Adult Education.

ACTION: Notice of Meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the Executive Committee of the National Advisory Council on Adult Education. This notice also describes the functions of the Council. Notice of this meeting is required under the Federal Advisory Committee Act (Pub. L. 92-463, Sec. 10(a)(2)).

DATE: September 6, 1979, 7:00 p.m. to 10:00 p.m.; September 7, 1979, 8:00 a.m. to 3:00 p.m.

ADDRESS: Salt Lake City Hilton Hotel, 150 West 5th South, Salt Lake City, Utah.

FOR FURTHER INFORMATION CONTACT: Dr. Gary A. Eyre, Executive Director, National Advisory Council on Adult Education, 425 13th St., NW., Washington, D.C. 20004 (202/376-8892).

SUPPLEMENTARY INFORMATION: The National Advisory Council on Adult

Education is established under Section 313 of the Adult Education Act (20 U.S.C. 1201). The Council is directed to:

Advise the Commissioner in the preparation of general regulations and with respect to policy matters arising in the administration of this title, including policies and procedures governing the approval of State plans under section 308 and policies to eliminate duplication, and to effectuate the coordination of programs under this title and other programs offering adult education activities and services.

The Council shall review the administration and effectiveness of programs under this title, make recommendations with respect thereto, and make annual reports to the President of its findings and recommendations (including recommendations for changes in this title and other Federal laws relating to adult education activities and services). The President shall transmit each such report to the Congress together with his comments and recommendations.

The meeting of the Committee shall be open to the public.

The proposed agenda includes:

FY-79 Budget Adjustments.
Council and Committee Budgets, FY-80.
Urban Policy Strategies.
Orientation Procedures for New Members.

Records shall be kept of all Council proceedings, and shall be available for public inspection at the Office of the National Advisory Council on Adult Education, 425 13th St., NW., Suite 323, Washington, D.C. 20004.

Signed at Washington, D.C., on August 17, 1979.

Gary A. Eyre,
Executive Director, National Advisory Council on Adult Education.

[FR Doc. 79-28013 Filed 8-21-79; 8:45 am]

BILLING CODE 4110-02-M

Public Health Service

Alcohol, Drug Abuse, and Mental Health Administration; Statement of Organization, Functions, and Delegations of Authority; Correction

In the FR Document 79-19048, appearing on page 35297 in the Federal Register of June 19, 1979, make the following change in the third column:

Under National Institute on Alcohol Abuse and Alcoholism (NIAAA), Office of Extramural Policy and Project Review (HMC14), delete the phrase "except nonresearch and development contracts" from item (1) of the functional statement.

This phrase was inadvertently included in the functional statement for NIAAA.

Dated: August 13, 1979.

Wilford J. Forbush,
Acting Assistant Secretary for Management and Budget.

[FR Doc. 79-25961 Filed 8-21-79; 8:45 am]

BILLING CODE 4110-08-M

Social Security Administration

Advisory Council on Social Security; Public Meetings

AGENCY: Advisory Council on Social Security, HEW.

ACTION: Notice is hereby given, pursuant to Pub. L. 92-263, that the Advisory Council on Social Security, established pursuant to section 706 of the Social Security Act, as amended, will meet on September 7, 8, 21, 28, and 29, from 8:00 a.m. to 5:00 p.m. at the Marriott Twin Bridges Hotel, U.S. 1 and I-395, Washington, D.C. 20024. The meetings will be devoted to the review of the final report (benefits, financing, and all other issues).

These meetings are open to the public. Individuals and groups who wish to have their interest in the Social Security Program taken into account by the Council may submit written comments, views, or suggestions to Mr. Lawrence H. Thompson.

FOR FURTHER INFORMATION CONTACT: Mr. Lawrence H. Thompson, Executive Director, Advisory Council on Social Security, P.O. Box 17054, Baltimore, Maryland 21235.

Telephone inquiries should be directed to Mr. Edward F. Moore, (301) 597-1712.

(Catalog of Federal Domestic Assistance Program Numbers 13.800-13.807 Social Security Program)

Dated: August 16, 1979.

Lawrence H. Thompson,
Executive Director, Advisory Council on Social Security.

[FR Doc. 79-25966 Filed 8-21-79; 8:45 am]

BILLING CODE 4110-07-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Riverside District Grazing Advisory Board; Meeting

Notice is hereby given in accordance with Public Law 94-579, Title IV, Sec. 403, that a public meeting of the Riverside District Grazing Advisory Board will be held September 28, 1979.

The meeting will begin at 9:30 a.m. in the banquet room of Rosita's Restaurant, 540 West Main Street, Barstow, California.

The agenda for the meeting will include (1) rechartering requirements (2) summary report on use of range-betterment funds during fiscal year 1979 (3) proposed expenditure of range-betterment funds in fiscal year 1980 (4) clarification on the cooperative management/stewardship program mentioned in the Rangeland Improvement Act (5) open forum for public comment.

If time allows, the public may make oral statements to the Board. Written statements, to be entered into the minutes, may be submitted to the Board for consideration.

Summary minutes of the Board meeting will be maintained in the District Office and be available during regular business hours for public inspection within 30 days following the meeting.

Richard D. Freel,
Acting District Manager.

[FR Doc. 79-25960 Filed 8-21-79; 8:45 am]
BILLING CODE 4310-84-M

Pacific Outer Continental Shelf; Change of Address

AGENCY: Department of the Interior, Bureau of Land Management.

ACTION: Change of Address.

Notice is hereby given that, effective Tuesday, October 9, 1979, the Pacific Outer Continental Shelf Office will relocate its office in Los Angeles. The new address is: Pacific Outer Continental Shelf Office, Bureau of Land Management, 1340 West 6th Street, Room 200, Los Angeles, CA 90017.

The main telephone number for general inquiries remains the same: commercial, 213-688-7234; FTS, 798-7234.

The following extensions will apply as indicated:

688-4551 Manager.
688-4420 Assistant Manager.
688-6741 Chief, Environmental Assessment Division.
688-7109 Chief, Operations Division.
688-7120 Chief, Studies Staff.
688-4323 Chief, Management Services Division.
688-6740 Public Information Officer.
William E. Grant,
Manager, Pacific Outer Continental Shelf Office.

[FR Doc. 79-25994 Filed 8-21-79; 8:45 am]
BILLING CODE 4310-84-M

[U-43547 and U-43548]

Utah; Application

Notice is hereby given that pursuant to Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the

Northwest Pipeline Corporation has applied for two 4½-inch natural gas pipeline rights-of-way across the following lands:

Salt Lake Meridian, Utah
T. 20 S., R. 21 E.,
Sec. 10, W½SW¼.
T. 20 S., R. 22 E.,
Sec. 30, W½NE¼.

The needed right-of-way is a portion of applicant's gas gathering system located in Grand County, Utah.

The purpose of this notice is to inform the public that the Bureau will be proceeding with the preparation of environmental and other analyses necessary for determining whether the application should be approved, and if so, under what terms and conditions.

Interested persons should express their interest and views to the Moab District Manager, Bureau of Land Management, P.O. Box 970, Moab, Utah 84532.

Dell T. Waddoups,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79-25895 Filed 8-21-79; 8:45 am]
BILLING CODE 4310-84-M

Draft Interim Management Policy and Guidelines for Wilderness Study Areas

AGENCY: Bureau of Land Management; Interior.

ACTION: Notice of reopening of comment period.

SUMMARY: The comment period on the Draft Interim Management Policy and Guidelines for Wilderness Study Areas which was published in the Federal Register of January 12, 1979 (44 FR 29501), is reopened to allow the public to submit comments on a legal critique of the Solicitor's Opinion of September 5, 1978, construing section 603 of the Federal Land Policy and Management Act of 1976.

DATES: Comments by September 6, 1979.

ADDRESS: Comments should be sent to: Director (430), Bureau of Land Management, 1800 C Street, N.W., Washington, D.C. 20240.

Comments will be available for public review in Room 5615 of the above address from 7:45 a.m. to 4:15 p.m. during regular work days.

FOR FURTHER INFORMATION CONTACT: Terry Sopher, 202-343-6064.

SUPPLEMENTARY INFORMATION: This notice reopens the comment period on the Draft Interim Management Policy and Guidelines for Wilderness Study Areas to accept comments from the public on a legal critique of the Solicitor's Opinion of September 5, 1978

(86 I.D. 91 (1979)), interpreting section 603 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782), as it impacts the Draft Interim Policy and Guidelines for Wilderness Study Areas. The legal critique was received and considered by the Department of the Interior after the close of the comment period on the Draft Interim Management Policy and Guidelines for Wilderness Study Areas. In order to give the public an opportunity to study the critique and submit any comments it might have on the critique, the comment period is hereby reopened. Copies of the critique will be available to the public, upon request, at the following address:

Director (430), Bureau of Land Management,
1800 C Street, N.W., Washington, D.C.
20240, 202-343-6064.

Guy R. Martin,
Assistant Secretary of the Interior.
August 17, 1979.

[FR Doc. 79-25973 Filed 8-21-79; 8:45 am]
BILLING CODE 4310-84-M

Bureau of Reclamation

Draft Supplement to the Final Environmental Statement for the San Luis Unit, Central Valley Project, California; Public Hearing

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a draft supplement to the final environmental statement for the San Luis Unit of the Central Valley Project in Solano, Contra Costa, Alameda, San Joaquin, Stanislaus, Fresno, and Kings Counties in California. The statement (INT DES 79-50) was filed with the Environmental Protection Agency on July 30, 1979.

The proposed action is to seek reauthorization of the San Luis Unit to allow for the following actions: (1) Amend the existing water service contract with Westlands Water District (WWD) to increase the long-term commitment of San Luis water to WWD by 250,000 acre-feet per year, and (2) To complete the San Luis Drain from Kesterson to the drain's discharge location in the western Sacramento-San Joaquin Delta near Chipps Island.

Two public hearing dates have been scheduled to receive comments on the draft supplement from interested individuals and organizations.

The locations, dates, and times for the hearings are as follows:

1. In Fresno, California, in the North Ballroom of the Fresno Hilton Hotel, 1055 Van Ness, on September 26, 1979, starting at 7 p.m.

2. In Concord, California, in the Board Room of the Contra Costa County Water District, at 1331 Concord Avenue, on September 27, 1979, starting at 7 p.m.

Each hearing will continue until all persons desiring to comment have been heard.

Individuals and representatives of organizations desiring to present their views at the hearing should contact the Regional Environmental Quality Officer, Bureau of Reclamation, 2800 Cottage Way, Sacramento, California 95825 (telephone 916-484-4792).

Requests for scheduling of oral presentations will be accepted until 4 p.m., September 21, 1979. Requests to speak can also be made at the registration desk at the hearings. Insofar as practicable, speakers will be scheduled according to the time preferences indicated in their requests.

The time permitted for oral presentations at the hearing may be limited to 10 minutes per speaker, depending on the number of presentations scheduled. Speakers will not be permitted to trade or consolidate their scheduled times to make longer individual presentations. However, the person presiding at the hearing may allow additional oral comments by anyone after all scheduled speakers have been heard. Written statements by persons who desire to supplement their oral presentations and by those unable to attend the public hearing may be submitted to the Regional Environmental Quality Officer (address given above) through October 10, 1979, for inclusion in the hearing record. Please label comments submitted by mail as "Public Hearing" comments on the draft supplement.

Copies of the draft supplement are available for public examination at the Mid-Pacific Regional Office of the Bureau of Reclamation, 2800 Cottage Way, Sacramento, California 95828. Single copies of the statement may be obtained without charge by writing to the Regional Director, Bureau of Reclamation, at the address given above for the Mid-Pacific Regional Office.

Dated: August 16, 1979.

Orrin Ferris,
Acting Commissioner of Reclamation.
[FR Doc. 79-25984 Filed 8-21-79; 8:45 am]
BILLING CODE 4310-09-M

Office of Surface Mining—Reclamation and Enforcement

Receipt of Permanent Program Submission From the State of Wyoming

AGENCY: Office of Surface Mining—Reclamation and Enforcement ("OSM") U.S. Department of Interior.

ACTION: Notice of receipt of program submission from the State of Wyoming and procedures for public participation in review for determination of completeness of submission.

SUMMARY: On August 15, 1979, the State of Wyoming submitted to OSM its proposed permanent regulatory program under the Surface Mining Control and Reclamation Act of 1977 ("SMCRA"). OSM is seeking public comments on the completeness of the State program.

DATES: A public review meeting to discuss completeness of the submission will be held on September 20, 1979 from 9:00 a.m. to 2:00 p.m. or until all discussion has been completed. Written comments must be received on or before 5:00 p.m., September 20, 1979.

ADDRESSES: The public review meeting will be held at Hathaway Building, Cheyenne, Wyoming, in the Auditorium. Copies of the full text of the proposed Wyoming program are available for review during regular business hours at the following locations:

Office of Surface Mining—Reclamation & Enforcement, Region V, 1823 Stout Street, Denver, CO 80202.
Land Quality Division of the Wyoming Department of Environmental Quality, Hathaway Building, Cheyenne, Wyoming 82002.

and the district offices:

Land Quality Division, 30 East Grinnell Street, Sheridan, Wyoming 82801.
Land Quality Division, 933 Main Street, Lander, Wyoming 82520.

Written comments should be sent to: Mr. Donald A. Crane, Regional Director, Office of Surface Mining, 1823 Stout Street, Denver, CO 80202.

Written comments will be available for public review at the OSM Region V Office above, on Monday through Friday, 8:00 a.m.—4:30 p.m., excluding holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Donald A. Crane, Regional Director, or Ms. Mary Wright, Deputy Regional Director, Office of Surface Mining, 1823 Stout Street, Denver, CO 80202.

SUPPLEMENTARY INFORMATION: On August 15, 1979, OSM received a proposed permanent regulatory program from the State of Wyoming. The purpose of this submission is to demonstrate both the State's intent and its capability to assume responsibility for administering and enforcing the provisions of SMCRA and OSM's permanent regulatory program (30 CFR Chapter 7), as published in the Federal Register on March 13, 1979, (44 FR 15311-15463). This notice describes the nature of Wyoming's proposed program and sets forth information concerning public participation in the Regional Director's determination of whether or not the submission is complete. The public participation requirements for the consideration of a permanent State program are found in 30 CFR Sections 732.11 and 732.12 (44 FR 15326-15327). Additional information may be found under corresponding sections of the preamble to OSM's permanent program regulations (44 FR 14959-14960). The receipt of the Wyoming submission is the first step in a process which will result in the establishment of a comprehensive program for the regulation of surface coal mining and reclamation operations and coal exploration in Wyoming.

By submitting a proposed program, Wyoming has indicated that it wishes to be primarily responsible for this permanent program. If the submission, as hereafter modified, is approved by the Secretary of the Interior, the State of Wyoming will have primary jurisdiction for the regulation of coal mining and reclamation and coal exploration on non-Federal lands in Wyoming. If the program is disapproved, a Federal program will be implemented and OSM will have primary jurisdiction for the regulation of those activities.

Before OSM and the Secretary formally begin consideration of the substance of the program, the Regional Director must determine that the submission is complete. If the Regional Director determines the submission to be complete, consideration of the adequacy of the program will begin and the public will be informed of the decision and granted the opportunity to submit comments on the adequacy of the submission. If the submission is determined to be incomplete, the State will be given the opportunity to submit additional material. If the State fails to

provide the missing elements, or the submission is otherwise determined to be inadequate, the program will be initially disapproved. After initial disapproval the State may revise the program. If the resubmitted program is also found to be incomplete after opportunity for supplementing it has passed or is otherwise deficient, the State program will be given a final disapproval, and a Federal program will be implemented.

At this time, OSM is primarily concerned with whether the proposed program constitutes a complete submission. The decision on completeness will be made by Donald A. Crane, Regional Director, OSM Region V. To assist in obtaining information on the completeness of the Wyoming submission, the Regional Director is requesting written comments from the public and will hold a public review meeting on the issue of completeness.

The public review meeting on completeness will be conducted by the Regional Director and will be informal. This will provide members of the public, State and OSM opportunity to openly exchange thoughts concerning program completeness outside the more rigid structure of formal public hearing proceedings. Specific format procedures will be at the discretion of the Regional Director.

Written comments may supplement or be submitted in lieu of oral presentation at the public review meeting. All written comments must be mailed or handcarried to the Regional Director's Office above or may be handcarried to the public review meeting at the address above and submitted as exhibits to the proceeding. The comment period will close at the conclusion of the public review meeting or at 5:00 pm on September 20, 1979, whichever is later. Comments received after that time will not be considered in the Regional Director's completeness determination. Representatives of the Regional Director's Office will be available to meet between August 20, 1979 and September 19, 1979 at the request of members of the public to receive their advice and recommendations concerning the completeness of the proposed program.

Persons wishing to meet with representatives of the Regional Director's Office during this time period may place such request with Sylvia Sullivan, Public Information Office, telephone (303) 837-5966, at the Regional Director's Office above.

Meetings may be scheduled between 9:00 am and noon and 1:00 pm and 4:00

pm, Monday through Friday, excluding holidays at the Regional Director's Office.

No Environmental Impact Statement is being prepared in connection with the process leading to the approval or disapproval of the proposed Wyoming program. Under Section 1702(d) of SMCRA (30 USC Section 1292(d)), approval of State programs does not constitute a major action within the meaning of Section 102(2)(C) of the National Environmental Policy Act of 1969 (42 USC 4332).

The following constitutes a summary of the contents of the Wyoming submission:

The Wyoming Department of Environmental Quality has been designated by the Governor of Wyoming to implement and enforce the Wyoming Environmental Quality Act, as amended, in accordance with the Surface Mining and Reclamation Act of 1977 (P.L. 95-87). The Department has developed State regulations to carry out the State mandate.

Contents of the State Program Submission include:

1. Wyoming's existing State laws and regulations and proposed laws and regulations
2. Attorney General opinions as to adequacy of existing and proposed State laws and rules and regulations to meet the requirements of PL 95-87
3. Designation of Land Quality Division Department of Environmental Quality as the State Regulatory Authority
4. Descriptions and organization charts for agencies involved in the State program
5. Description of the systems for the proposed permanent program
6. Description of mining, reclamation and exploration statistics for 1979-1983
7. Description of Land Quality Division existing and proposed staff
8. Staff adequacy for implementation of the State program
9. Description of use of other agencies by the State Regulatory Authority for the State program
10. Land Quality Division budget
11. Land Quality Division Offices and Equipment
12. Special environmental protection performance standards
13. Other programs administered by Land Quality Division
14. Proposed Cooperative Agreement

between Department of Interior and State of Wyoming

Donald A. Crane,
Regional Director, Region V, Office of Surface Mining.

[FR Doc. 79-25953 Filed 8-21-79; 8:45 am]

BILLING CODE 4310-05-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-64]

Certain High-Voltage Circuit Interrupters and Components Thereof; Order and Notice Designating Investigation More Complicated

On August 7, 1979, the presiding officer in investigation No. 337-TA-64 certified to the Commission his recommendation that this investigation be designated more complicated. His recommendation arises from a motion filed on July 16, 1978, by respondents BBC Brown, Boveri and Co., Ltd., and Brown Boveri Corporation pursuant to § 210.15 of the Commission's rules of practice and procedure (19 CFR 210.15) (Motion Docket No. 64-29).

The Commission hereby accepts the recommendation of the presiding officer and, pursuant to section 337(b)(1) of the Tariff Act of 1930 (19 U.S.C. 1337(b)(1)), declares this investigation to be more complicated.

The reason for such a declaration is that the investigation is of an involved nature owing to the subject matter, the difficulty in obtaining information, and the large number of parties involved. The patent in question in this investigation requires analysis of an unusually high number of patent references. Extensive depositions and document production are required to examine its validity and alleged infringement. Much information is located abroad and more time is needed to complete discovery. These problems have been exacerbated by the large number of parties involved.

In addition, the Commission hereby denies the motion of Westinghouse Electric Corporation, Docket No. 64-49, filed August 10, 1979, for leave to file a memorandum in opposition to the order recommending that this investigation be designated more complicated.

Issued: August 17, 1979.

By order of the Commission.

Kenneth R. Mason,
Secretary.

[FR Doc. 79-26000 Filed 8-21-79; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-52]

Certain Apparatus for the Continuous Production of Copper Rod; Commission Hearing on the Presiding Officer's Recommendation and on Relief, Bonding, and the Public Interest, and of the Schedule for Filing Written Submissions

Recommendation of the presiding officer

In connection with the U.S. International Trade Commission's investigation under section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), of alleged unfair methods of competition and unfair acts in the importation and sale of certain apparatus for the continuous production of copper rod in the United States, the presiding officer filed her recommended determination on August 13, 1979, that the Commission determine that there is a violation of section 337. The presiding officer certified the evidentiary record to the Commission for its consideration. Interested persons may obtain copies of the presiding officer's recommendation (and all other public documents) by contacting the office of the Secretary to the Commission, 701 E Street NW., Washington, D.C. 20436, telephone (202) 523-0161.

Commission hearing scheduled

The Commission will hold a hearing beginning at 10:00 a.m., e.d.t., on September 25, 1979, in the Commission's Hearing Room (Room 331), 701 E Street NW., Washington, D.C. 20436, for two purposes. First, the Commission will hear oral arguments on the presiding officer's recommendation that there is a violation of section 337 of the Tariff Act of 1930, as amended. Second, the Commission will hear oral presentations concerning appropriate relief, bonding, and the public-interest factors for consideration in the event that the Commission determines that there is a violation of section 337. These matters are being heard on the same day in order to facilitate the completion of this investigation within time limits established under law and to minimize the burden of this hearing upon the parties to the investigation. The procedure for each portion of the hearing follows.

Oral argument concerning the presiding officer's recommendation

A party to the Commission's investigation or an interested agency wishing to present to the Commission an oral argument concerning the presiding officer's recommendation will be limited to no more than 30 minutes. A party or interested agency may reserve 10

minutes of its time for rebuttal. The oral arguments will be held in this order: complainants, respondents, interested agencies, and Commission investigative staff. Any rebuttals will be held in this order: respondents, complainants, interested agencies, and Commission investigative staff.

Oral presentations on relief, bonding, and the public interest

Following the oral arguments on the presiding officer's recommendation, a party to the investigation, an interested agency, a public-interest group, or any interested member of the public may make an oral presentation on relief, bonding, and the public interest.

1. *Relief.* If the Commission finds a violation of section 337, it may issue (1) an order which could result in the exclusion from entry of certain apparatus for the continuous production of copper rod into the United States or (2) an order which could result in requiring respondents to cease and desist from alleged unfair methods of competition or unfair acts in the importation and sale of such apparatus for the continuous production of copper rod. Accordingly, the Commission is interested in what relief should be ordered, if any.

2. *Bonding.* If the Commission finds a violation of section 337 and orders some form of relief, such relief would not become final for a 60-day period, during which the President would consider the Commission's report. During this period the certain apparatus for the continuous production of copper rod would be entitled to enter the United States under a bond determined by the Commission and prescribed by the Secretary of the Treasury. Accordingly, the Commission is interested in what bond should be determined, if any.

3. *The Public Interest.* If the Commission finds a violation of section 337 and orders some form of relief, it must consider the effect of that relief upon the public. Accordingly, the Commission is interested in the effect of any exclusion order or cease and desist order upon (1) the public health and welfare, (2) competitive conditions in the U.S. economy, (3) the production of like or directly competitive articles in the United States, and (4) U.S. consumers.

Those persons making an oral presentation on any or all of the above topics will be limited to 15 minutes, with an additional 5 minutes each for summation after all presentations have been made. Participants with similar interests may be required to share time. The order of oral presentations will be as follows: complainants, respondents,

interested agencies, public-interest groups, other interested members of the public, and Commission investigative staff. Summations will follow the same order.

How to participate in the hearing. Any person desiring to appear at the Commission's hearing must file a written request to appear with the Secretary to the U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, no later than the close of business (5:15 p.m., e.d.t.) on September 18, 1979. The written request must indicate whether such person wishes to present an oral argument concerning the presiding officer's recommendation and/or an oral presentation concerning relief, bonding, and the public interest. While only parties to the Commission's investigation, interested agencies, and the Commission investigative staff may present an oral argument concerning the presiding officer's recommended determination, public-interest groups and other interested members of the public are encouraged to make an oral presentation concerning the public interest.

Written submissions to the Commission

The Commission requests that written submissions of four types be filed in connection with these proceedings before the Commission.

1. *Briefs on the presiding officer's recommendation.* Parties to the Commission's investigation, interested agencies, and the Commission investigative staff are encouraged to file briefs concerning exceptions to the presiding officer's recommendation. Briefs must be served on all parties of record to the Commission's investigation on or before the date they are filed with the Secretary. Statements made in briefs should be supported by references to the record. Persons with the same positions on the issues are encouraged to consolidate their briefs, if possible. Briefs must be filed no later than the close of business on August 31, 1979. Parties are encouraged to consolidate the filing of exceptions to the presiding officer's recommended determination and alternative findings of fact and conclusions of law under section 210.54 of the rules with this briefing requirement in order to eliminate duplicative filings and to obtain the benefit of the August 31, 1979 filing date for such exceptions and alternative finding and conclusions.

2. *Reply briefs to briefs on the presiding officer's recommendation.* Parties to the Commission's investigation, interested agencies, and the Commission investigative staff are

encouraged to file reply briefs to the briefs of opposing parties concerning exceptions to the presiding officer's recommendation in order to give greater focus to the issues. Reply briefs must be filed no later than the close of business on September 7, 1979.

3. *Written comments and information concerning relief, bonding, and the public interest.* Parties to the Commission's investigation, interested agencies, public-interest groups, and any other interested members of the public are encouraged to file written comments and information concerning relief, bonding, and the public interest. These submissions should include a proposed remedy, a proposed determination of bonding, and a discussion of the effect of the proposals on the public health and welfare, competitive conditions in the U.S. economy, the production of like or directly competitive articles in the United States, and U.S. consumers. Such written comments and information must be filed no later than the close of business on September 7, 1979.

4. *Post-hearing briefs.* Parties to the Commission's investigation, interested agencies and the Commission investigative staff may be asked to respond to questions in writing or to brief particular issues in more detail during the September 25, 1979 hearing. Such responses and additional briefing should be incorporated in post-hearing briefs. Post-hearing briefs, must be filed no later than the close of business on October 9, 1979.

5. *Requests to participate in the hearing.* Written requests to appear at the Commission hearing must be filed by September 18, 1979, as described above.

Additional information

The original and 19 true copies of all briefs and written comments and any written request to participate must be filed with the Secretary to the Commission.

Any person desiring to discuss confidential information, or to submit a document (or a portion thereof) to the Commission in confidence, must request *in camera* treatment. Such request should be directed to the Chairman of the Commission and must include a full statement of the reasons why the Commission should grant such treatment. Documents or arguments reflecting confidential information approved by the Commission for *in camera* treatment will be treated accordingly. All nonconfidential written submissions will be open to public inspection at the Secretary's Office.

Notice of the Commission's investigation was published in the

Federal Register of May 22, 1978 (43 FR 21951-52).

By order of the Commission.

Issued: August 17, 1979.

Kenneth R. Mason,
Secretary.

[FR Doc. 79-26247 Filed 8-21-79; 8:45 am]

BILLING CODE 7020-02-M

LEGAL SERVICES CORPORATION

Grants and Contracts

August 17, 1979.

The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93-355a, 88 Stat. 378, 42 U.S.C. 2996-2996f, as amended, Pub. L. 95-222 (December 28, 1977). Section 1007(f) provides: "At least thirty days prior to the approval of any grant application or prior to entering into a contract or prior to the initiation of any other project, the Corporation shall announce publicly . . . such grant, contract or project. . . ."

The Legal Services Corporation hereby announces publicly that it is considering the grant applications submitted by:

1. Utah Legal Services in Salt Lake City, Utah to serve Carbon, Daggett, Duchesne, Emery, Grand, San Juan, Uintah, Beaver, Garfield, Iron, Kane, Millard, Piute, Sanpete, Sevier, Wayne and Washington Counties.

2. Northern New Mexico Legal Services in Taos, New Mexico to serve McKinley, Valencia and Torrance Counties.

3. Gulf Coast Legal Foundation in Houston, Texas to serve Wharton and Matagorda Counties.

Interested persons are hereby invited to submit written comments or recommendations concerning the above applications to the Regional Office of the Legal Services Corporation at: Legal Services Corporation, Denver Regional Office, 1726 Champa Street, Suite 500, Denver, Colorado 80202.

Dan J. Bradley,
President.

[FR Doc. 79-25896 Filed 8-21-79; 8:45 am]

BILLING CODE 6820-35-M

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

Museum Advisory Panel; Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Museum Advisory Panel to the National Council

on the Arts will be held September 5 and 6, 1979, from 9:00 a.m. to 5:30 p.m., in room 1125, Columbia Plaza Office Building, 2401 E Street, N.W., Washington, D.C.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the Federal Register of March 17, 1977, these sessions will be closed to the public pursuant to subsection (c)(4), (6) and 9(B) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-6070.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

August 16, 1979.

[FR Doc. 79-25831 Filed 8-21-79; 8:45 am]

BILLING CODE 7537-01-M

Museum Advisory Panel; Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Museum Advisory Panel to the National Council on the Arts will be held September 10, 1979, from 9:00 a.m. to 5:30 p.m., room 1125, Columbia Plaza, 2401 E Street, N.W., Washington, D.C.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the Federal Register of March 17, 1977, these sessions will be closed to the public pursuant to subsection (c)(4), (6) and 9(B) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National

Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-6070.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

August 16, 1979.

[FR Doc. 79-25832 Filed 8-21-79; 8:45 am]

BILLING CODE 7537-01-M

Museum Advisory Panel; Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Museum Advisory Panel to the National Council on the Arts will be held September 11, 1979, from 9:00 a.m. to 5:30 p.m., room 1125, Columbia Plaza, 2401 E Street, N.W., Washington, D.C.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applications. In accordance with the determination of the Chairman published in the Federal Register of March 17, 1977, these sessions will be closed to the public pursuant to subsection (c)(4), (6) and 9(B) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-6070.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 79-25933 Filed 8-21-79; 8:45 am]

BILLING CODE 7537-01-M

NUCLEAR REGULATORY COMMISSION

[Project No. M-4]

Availability of Final Generic Environmental Impact Statement on Handling and Storage of Spent Light Water Power Reactor Fuel

Pursuant to the National Environmental Policy Act of 1969 and the United States Nuclear Regulatory Commission's regulations in 10 CFR Part 51, notice is hereby given that a Final Generic Environmental Impact Statement on Handling and Storage of Spent Light Water Power Reactor Fuel prepared by the Commission's Office of Nuclear Material Safety and Safeguards is available for inspection by the public

in the Commission's Public Document Room at 1717 H Street, N.W., Washington, D.C. The Final Generic Environmental Impact Statement is also being made available at local Public Document Rooms and at State Clearinghouses.

The notice of availability of the Draft Generic Environmental Impact Statement and requests for comments from interested persons was published in the Federal Register on March 24, 1978 (43 FR 12402). The comments received from Federal agencies, State and local officials, and interested members of the public have been included in Volume 3 to the Final Statement.

Copies of the Final Statement (Document No. NUREG-0575) may be purchased on or about August 31, 1979 from the National Technical Information Service, Springfield, Virginia 22161, as follows: Volume 1—\$7.25—Executive Summary and Text; Volume 2—\$11.75—Appendices; Volume 3—\$12.00—Comments on the Draft Statement and Staff Responses; microfiche—\$3.00 per volume.

Dated at Silver Spring, Md., this 3rd day of August 1979.

For the Nuclear Regulatory Commission.

Leland C. Rouse,
Chief, Advanced Fuel and Spent Fuel Licensing Branch, Division of Fuel Cycle and Material Safety.

[FR Doc. 79-25947 Filed 8-21-79; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-293]

Boston Edison Co.; Granting of Relief From ASME Section XI Inservice Inspection (Testing) Requirements

The U.S. Nuclear Regulatory Commission (the Commission) has granted relief from certain requirements of the ASME Code, Section XI, "Rules for Inservice Inspection of Nuclear Power Plant Components" to Boston Edison Company. The relief relates to the inservice inspection (testing) program for the Pilgrim Nuclear Power Station (the facility) located near Plymouth, Massachusetts. The ASME Code requirements are incorporated by reference into the Commission's rules and regulations in 10 CFR Part 50. The relief is effective as of its date of issuance.

The relief consists of relief requested under the provisions of 10 CFR 50.55a(g)(5)(iii) for certain pumps and valves and specific ASME Section XI requirements that are considered to be impractical.

The request for relief complies with the standards and requirements of the

Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the letter granting relief. Prior public notice of this action was not required since the granting of this relief from ASME Code requirements does not involve a significant hazards consideration.

The Commission has determined that the granting of this relief will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with this action.

For further details with respect to this action, see (1) the requests for relief dated April 13 and July 24, 1979, and (2) the Commission's letter to the licensee dated August 15, 1979.

These items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Plymouth Public Library on North Street in Plymouth, Massachusetts 02360. A copy of item (2) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated At Bethesda, Md., this 15th day of August 1979.

For the Nuclear Regulatory Commission.

Thomas A. Ippolito,

Chief, Operating Reactors Branch No. 2, Division of Operating Reactors.

[FR Doc. 79-25940 Filed 8-21-79; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-10]

Commonwealth Edison Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 30 to Facility Operating License No. DPR-2 to Commonwealth Edison Company (the licensee), which amended the license for operation of the Dresden Nuclear Power Station, Unit No. 1 (the facility) located in Grundy County, Illinois. This amendment will become effective twenty days after issuance, unless a hearing has been requested.

This amendment adds license conditions relating to the completion of facility modifications for fire protection and the implementation of administrative controls.

The Commission has made appropriate findings as required by the Atomic Energy Act of 1954, as amended, and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with the issuance of this amendment.

For further details with respect to this action, see (1) the licensee's submittals dated October 8, 1976, November 30, 1976, December 28, 1976, March 17, 1977, March 29, 1977, July 19, 1977, March 20, 1979, May 30, 1979, and July 5, 1979, (2) Amendment No. 30 to License No. DPR-2, including the Commission's letter of transmittal, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Morris Public Library, 604 Liberty Street, Morris, Illinois 60451. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this August 9, 1979.
For the Nuclear Regulatory Commission.

Dennis L. Ziemann,
Chief, Operating Reactors Branch No. 2,
Division of Operating Reactors.

[FR Doc. 79-25941 Filed 8-21-79; 8:45 am]
BILLING CODE 7590-01-M

[Docket Nos. 50-329-OL and 50-330-OL]

Consumers Power Co. (Midland Plant, Units 1 and 2); Reconstitution of Board

Lester Kornblith, Jr., was a member of the Atomic Safety and Licensing Board for the above proceeding. Mr. Kornblith retired and is unable to continue his service on this Board.

Accordingly, Mr. Gustave A. Linenberger, whose address is Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, is appointed a member of this Board. Reconstitution of the Board in this manner is in accordance with § 2.721 of the Commission's rules of practice, as amended.

Dated at Bethesda, Md., this 15th day of August 1979.

Robert M. Lazo,
Acting Chairman, Atomic Safety and
Licensing Board Panel.

[FR Doc. 79-25942 Filed 8-21-79; 8:45 am]
BILLING CODE 7590-01-M

Draft Regulatory Guide; Issuance and Availability

The Nuclear Regulatory Commission has issued for public comment a draft of a new guide planned for its Regulatory Guide Series together with a draft of the associated value/impact statement. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

The draft guide, temporarily identified by its task number, SC 721-4, is entitled "Inservice Inspection Code Case Acceptability, ASME Section XI, Division 1," and is intended for Division 1, "Power Reactors." It lists those Section XI ASME Code Cases that are generally acceptable to the NRC staff for implementation in the inservice inspection of light-water-cooled nuclear power plants.

This draft guide and the associated value/impact statement are being issued to involve the public in the early stages of the development of a regulatory position in this area. They have not received complete staff review, have not been reviewed by the NRC Regulatory Requirements Review Committee, and do not represent an official NRC staff position.

Public comments are being solicited on both drafts, the guide (including any implementation schedule) and the draft value/impact statement. Comments on the draft value/impact statement should be accompanied by supporting data. Comments on both drafts should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, by October 10, 1979.

Although a time limit is given for comments on these drafts, comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Requests for single copies of draft guides or the latest revision of published guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future guides or draft guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Technical Information and Document Control. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a))

Dated at Rockville, Md., this 13th day of August 1979.

For the Nuclear Regulatory Commission,
Guy A. Arlotto,
Director, Division of Engineering Standards,
Office of Standards Development.

[FR Doc. 79-25949 Filed 8-21-79; 8:45 am]
BILLING CODE 7590-01-M

Draft Regulatory Guide; Issuance and Availability

The Nuclear Regulatory Commission has issued for public comment a draft of a proposed revision to a guide in its Regulatory Guide Series together with a draft of the associated value/impact statement. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

The draft, temporarily identified by its task number, RS 902-4, is proposed Revision 3 to Regulatory Guide 1.33 and is entitled "Quality Assurance Program Requirements (Operation)." It describes a method for complying with the Commission's regulations with regard to overall quality assurance program requirements for the operation phase of nuclear power plants. The proposed revision to this guide will endorse ANSI N18.7-1967/ANS-3.2, "Administrative Controls and Quality Assurance for the Operational Phase of Nuclear Power Plants." Work on the proposed Revision 3 to Regulatory Guide 1.33 was initiated prior to the accident at the Three Mile Island (TMI) Nuclear Station Unit 2. The

improved guidance it contains was developed as a result of feedback from the NRC Office of Inspection and Enforcement to the Office of Standards Development. When the evaluation of the TMI accident has been completed, additional guidance will be incorporated into this regulatory guide. In the interim, specific comments that would improve the recommendations of this regulatory guide in light of the TMI accident are requested in the following areas:

1. Equipment control during the operational phase, including procedural controls for conducting surveillance tests and inspections.

2. Procedures for shift and relief turnover at operating nuclear power plants.

3. Quality assurance for maintenance, repair, and modification activities at nuclear power plants.

4. Preparation of operating and emergency procedures.

5. Independence of operating plant personnel performing inspections of operating activities.

This draft guide and the associated value/impact statement are being issued to involve the public in the early stages of the development of a regulatory position in this area. They have not received complete staff review, have not been reviewed by the NRC Regulatory Requirements Review Committee, and do not represent an official NRC staff position.

Public comments are being solicited on both drafts, the guide (including any implementation schedule) and the draft value/impact statement. Comments on the draft value/impact statement should be accompanied by supporting data. Comments on both drafts should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, by October 12, 1979.

Although a time limit is given for comments on these drafts, comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Requests for single copies of draft guides or the latest revision of published guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future guides or draft guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of

Technical Information and Document Control. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a))

Dated at Rockville, Md., this 14th day of August 1979.

For the Nuclear Regulatory Commission.

Guy A. Arlotto,

Director, Division of Engineering Standards,
Office of Standards Development.

[FR Doc. 79-25950 Filed 8-21-79; 8:45 am]
BILLING CODE 7590-01-M

[NUREG-0430 Vol. 1, No. 3]

Fuel Cycle Facilities; Issuance and Availability

The U.S. Nuclear Regulatory Commission has issued another in the series of reports titled "Licensed Fuel Facility Status Report" NUREG-0430, dated July 1979. The report contains (a) general facility data such as plant location, type of operation and Special Nuclear Material (SNM) authorization limits; (b) plant operating status; (c) a summary of NRC inspection results; and (d) licensee reports involving plant effluent data, inventory difference data, and reportable events.

This issue will represent the fourth public release of inventory difference data at NRC licensed facilities. The publication contains data from those licensees possessing more than one effective kilogram of highly enriched uranium, low enriched uranium, plutonium and uranium-233. The inventory difference data in this report covers the time period from July 1, 1978 through December 31, 1978.

The issue also contains information on licensed uranium mills, and conversion facilities as well as fuel fabrication plants.

NUREG-0430 is available for inspection at the Commission's Public Document Room at 1717 H Street, NW., Washington, D.C. Copies may be purchased for \$5.25 per copy from the National Technical Information Service, Springfield, Virginia 22161.

Dated at Bethesda, Md., this 13th day of August 1979.

For the Nuclear Regulatory Commission.

Dudley Thompson,

Acting Deputy Director, Office of Inspection
and Enforcement.

[FR Doc. 79-25952 Filed 8-21-79; 8:45 am]
BILLING CODE 7590-01-M

[Docket No. 50-321]

Georgia Power Co., et al.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 70 to Facility Operating License No. DPR-57 issued to Georgia Power Company, Oglethorpe Electric Membership Corporation, Municipal Electric Association of Georgia, and City of Dalton, Georgia, which revised Technical Specifications for operation of the Edwin I. Hatch Nuclear Plant, Unit No. 1 (the facility) located in Appling County, Georgia. The amendment is effective as of the date of issuance.

The amendment consists of changes to the Technical Specifications which modify the Limiting Conditions for Operation and the Surveillance Requirements associated with the reactor Protection System Power Supply to reflect the addition of redundant, Class 1E breakers on the output of each power supply.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated May 22, 1979, as supplemented by letters dated June 4 and 25, 1979, (2) Amendment No. 70 to License No. DPR-57, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the

Appling County Library, Parker Street, Baxley, Georgia 31513. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 14th day of August 1979.

For the Nuclear Regulatory Commission.
Thomas A. Ippolito,
Chief, Operating Reactors Branch No. 3,
Division of Operating Reactors.
[FR Doc. 79-25943 Filed 8-21-79; 8:45 am]
BILLING CODE 7590-01-M

Proposed Revision to the Standard Review Plan (NUREG 75/087); Availability

As a part of the continual maintenance of the Standard Review Plan (SRP), the Nuclear Regulatory Commission's Division of System Safety, Office of Nuclear Reactor Regulation, proposes to revise SRP Section 3.9.3, "ASME Code Class 1, 2, and 3 Components, Component Supports, and Core Support Structures" and to add an Appendix A to SRP Section 3.9.3, "Stress Limits for ASME Class 1, 2, and 3 Components and Component Supports of Safety Related Systems and Class CS Core Support Structures Under Specified Service Loading Combinations." Value-impact statements have also been prepared in support of these proposed changes.

The Standard Review Plan is prepared for the guidance of staff reviewers in the Office of Nuclear Reactor Regulation in performing safety reviews of applications to construct or operate nuclear power plants. The principal purpose of the SRP is to assure the quality and uniformity of staff reviews, and to present a well-defined base from which to evaluate proposed changes in the scope and requirements of reviews. It is also a purpose of the SRP to make information about regulatory matters widely available and to improve communication and understanding of the staff review process by interested members of the public and the nuclear power industry.

This proposed revision of the Standard Review Plan and the supporting value/impact statements have not received a complete staff review and approval and do not represent an official NRC staff position. Public comments are being solicited on both the revision and the value/impact statements (including any implementation schedules) prior to a review by the Regulatory Requirements Review Committee and their

recommendation as to whether this revision should be approved. Comments should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch. All comments received by November 1, 1979, will be considered by the Regulatory Requirements Review Committee.

A summary of the meeting of the Committee at which this revision is considered, the Committee recommendations and all of the associated documents and comments considered by the Committee will be made publicly available prior to a decision by the Director, Office of Nuclear Reactor Regulation on whether to implement this revision.

Copies of this proposed revision and addition to the SRP and the supporting value-impact statements will be available for public inspection at the NRC Public Document Room at 1717 H Street NW., Washington, D.C. 20555. Requests for single copies of this material or for placement on an automatic distribution list for single copies of future proposed revisions to the SRP should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Technical Information and Document Control. Telephone requests cannot be accommodated. Standard Review Plans are not copyrighted, and Commission approval is not required to reproduce them.

Dated at Bethesda, Md. this 9th day of August 1979.

For the U.S. Nuclear Regulatory Commission.
Frank Schroeder,
Acting Director, Division of Systems Safety,
Office of Nuclear Reactor Regulation.

[FR Doc. 79-25951 Filed 8-21-79; 8:45 am]
BILLING CODE 7590-01-M

(Docket Nos. STN 50-546 and STN 50-547) Public Service Co. of Indiana (Marble Hill Nuclear Generating Station, Units 1 and 2)

Notice is hereby given that, by letters dated June 29, 1979, and July 27, 1979, the Sassafras Audubon Society, Nashville, Indiana, has requested that the Director of Nuclear Reactor Regulation suspend or revoke the construction permits for the Marble Hill Nuclear Generating Station, Units 1 & 2, on the basis of environmental, health and safety concerns relative to construction and operation of Marble Hill. An Order issued by the Director of

Inspection and Enforcement, dated August 15, 1979, had the effect of granting the Society's request as it related to alleged construction deficiencies at Marble Hill.

The remaining matters in the Society's request will be treated in accordance with 10 CFR § 2.206 of the Commission's regulations. Appropriate action will be taken on the request within a reasonable time.

Copies of the Society's letters are available for inspection in the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555, and at the Madison-Jefferson County Public Library, 420 West Main Street, Madison, Indiana 47250.

Dated at Bethesda, Md., this 15th day of August 1979.

For the Nuclear Regulatory Commission.
Edson G. Case,
Deputy Director, Office of Nuclear Reactor Regulation.

[FR Doc. 79-25944 Filed 8-21-79; 8:45 am]
BILLING CODE 7590-01-M

(Docket Nos. 50-361-OL and 50-362-OL)

Southern California Edison Co., San Diego Gas & Electric Co. (San Onofre Nuclear Generating Station, Units 2 and 3); Reconstitution of Board

Lester Kornblith, Jr., was a member of the Atomic Safety and Licensing Board for the above proceeding. Mr. Kornblith retired and is unable to continue his service on this Board.

Accordingly, Dr. Emmeth A. Luebke, whose address is Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, is appointed a member of this Board. Reconstitution of the Board in this manner is in accordance with § 2.721 of the Commission's rules of practice, as amended.

Dated at Bethesda, Md., this 15th day of August 1979.

Robert M. Lazo,
Acting Chairman, Atomic Safety and Licensing Board Panel.

[FR Doc. 79-25945 Filed 8-21-79; 8:45 am]
BILLING CODE 7590-01-M

(Dockets Nos. 50-259, 50-260 and 50-296)

Tennessee Valley Authority; Issuance of Amendments to Facility Operating Licenses and Negative Declaration

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 52 to Facility Operating License No. DPR-33, Amendment No. 47 to Facility Operating License No. DPR-52 and Amendment

No. 24 to Facility Operating License No. DPR-68, issued to Tennessee Valley Authority (the licensee), which revised Technical Specifications for operation of the Browns Ferry Nuclear Plant, Units Nos. 1, 2 and 3, located in Limestone County, Alabama. The amendments are effective as of date of issuance.

The amendments change the Technical Specifications and authorize the licensee to substitute a computational thermal model for in-situ temperature monitoring stations to determine compliance with the mixing zone temperature limits and the State of Alabama water temperature standards.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has prepared an environmental impact appraisal for these amendments and has concluded that an environmental impact statement for this particular action is not warranted because there will be no environmental impact attributable to the action other than that which has already been predicted and described in the Final Environmental Statement for the facility dated September 1, 1972.

For further details with respect to this action, see (1) the application for amendments dated January 5, 1979, (2) Amendment No. 52 to License No. DPR-33, Amendment No. 47 to License No. DPR-52, and Amendment No. 24 to License No. DPR-68, and (3) the Commission's related Environmental Impact Appraisal. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Athens Public Library, South and Forrest, Athens, Alabama 35611. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 15th day of August, 1979.

For the Nuclear Regulatory Commission.
Thomas A. Ippolito,
Chief, Operating Reactors Branch No. 3,
Division of Operating Reactors.

[FR Doc. 79-25946 Filed 8-21-79; 8:45 am]
BILLING CODE 7590-01-M

Regulatory Guide; Withdrawal of Regulatory Guide and Issuance of Technical Report

The Nuclear Regulatory Commission has withdrawn Regulatory Guide 1.104, "Overhead Crane Handling Systems for Nuclear Power Plants," which was issued for comment in February 1976. It was originally developed to describe the special features and safety devices that should be added to standard overhead crane systems to make them single-failure proof for use in reactor refueling and spent fuel handling operations. Since the guide was issued, there has been a change in the need for guidance on the single-failure-proof option for handling heavy loads over or near the spent fuel pool, and it was decided to withdraw the guide and publish the information it contained in a technical report. The report, NUREG-0554, "Single-Failure-Proof Cranes for Nuclear Power Plants," reflects the comments and suggestions received on the guide. NUREG-0554 is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., or may be purchased at current rates from the National Technical Information Service, Springfield, Virginia 22161. (Paper copy: \$4.00; Microfiche: \$3.00)

Regulatory guides may be withdrawn when they are superseded by the Commission's regulations, when equivalent recommendations have been incorporated in applicable approved codes and standards, or when changes in methods and techniques or in the need for specific guidance have made them obsolete.

(5 U.S.C. 552(a).)

Dated at Rockville, Md., this 16th day of August 1979.

For the Nuclear Regulatory Commission.
Robert B. Minogue,
Director, Office of Standards Development.
[FR Doc. 79-25948 Filed 8-21-79; 8:45 am]
BILLING CODE 7590-01-M

POSTAL RATE COMMISSION

Visits to Postal Facilities

August 17, 1979.

Notice is hereby given that Chairman A. Lee Fritschler of the Postal Rate Commission will be visiting Postal Service Facilities on the dates indicated for the purpose of acquiring general background knowledge of postal operations.

Place of Visit and Date of Visit

Sherwood, Tilghman and Easton, Md.—
August 20, 1979

Easton, Md.; and Largo, Md. BMC—August 21, 1979
Rockville, Md.; and Northern Virginia SCF—
August 22, 1979
Baltimore, Md.—August 23, 1979

A report of the visits will be on file in the Commission's Docket Room
Cyril J. Pittack,

Acting Secretary.

[FR Doc. 79-25962 Filed 8-21-79; 8:45 am]

BILLING CODE 7715-01-M

(Docket No. MC79-3)

Red-Tag Proceeding, 1979

August 16, 1979

Notice is hereby given that pursuant to the "Presiding Officer's Notice Rescheduling Procedural Date", dated August 16, 1979, the date set for commencement of hearings in this proceeding is rescheduled from September 10, 1979 to September 11, 1979, at 9:30 a.m., Hearing Room, Postal Rate Commission, 2000 L Street, N.W., Washington, D.C. The rest of the dates established in the Notice of July 13, 1979, will remain the same.

Cyril J. Pittack,

Acting Secretary.

[FR Doc. 79-25963 Filed 8-21-79; 8:45 am]

BILLING CODE 7715-01-M

DEPARTMENT OF STATE

(Public Notice CM-81216)

Advisory Committee on International Investment, Technology, and Development; Meeting

The Department of State will hold a meeting on September 26 of the Working Group on Transborder Data Flows of the Advisory Committee on International Investment, Technology, and Development. The Working Group will meet from 9:30-12:00. The meeting will be held in Room 1912 of the State Department, 2201 C Street, NW., Washington, D.C. 20520. The meeting will be open to the public.

The topic of discussion for the meeting will be the "OECD Guidelines on Personal Data Protection in International Data Flows". The Working Group on Protection of Personal Data and the transmittal memorandum conveying to the OECD Council the Experts Group recommendations for the implementation of the Guidelines.

Requests for further information on the meeting should be directed to Richard Kauzlarich, Department of State, Office of Investment Affairs, Bureau of Economic and Business Affairs, Washington, D.C. 20520. He may

be reached by telephone on (area code 202) 632-2728.

Members of the public wishing to attend the meeting must contact Mr. Kauzlarich's office in order to arrange entrance to the State Department building.

The Chairman of the working group, will as time permits, entertain oral comments from members of the public attending the meeting.

Dated: August 14, 1979.

Richard D. Kauzlarich,

Executive Secretary.

[FR Doc. 79-25955 Filed 8-21-79; 8:45 am]

BILLING CODE 4710-07-M

[Public Notice CM-8/215]

Advisory Committee on International Investment, Technology, and Development; Meeting

The Department of State Advisory Committee on International Investment, Technology, and Development will hold its twelfth meeting on Friday, September 14 from 9:30 a.m. until 3:30 p.m. in Room C of the Pan American Health Organization, 525 23rd Street, N.W., Washington, D.C. The meeting will be open to the public.

The purpose of the meeting will be to discuss: (a) Foreign investment in the U.S.; (b) international investment and labor issues relating to disinvestment and ongoing code of conduct activities in the OECD, U.N. and the ILO; (c) recent significant developments in technology and international investment related work in international fora; and (d) the activities of Advisory Committee working groups during the past year and possible areas for future work.

Requests for further information on the meeting should be directed to Richard Kauzlarich, Department of State, Office of Investment Affairs, Bureau of Economic and Business Affairs, Washington, D.C. 20520. He may be reached by telephone on (area code 202) 632-2728.

Members of the public wishing to attend the meeting must contract Mr. Kauzlarich's office in order to arrange entrance to the State Department building.

The Chairman of the working group, will as time permits, entertain oral comments from members of the public attending the meeting.

Dated: August 14, 1979.

Richard D. Kauzlarich,

Executive Secretary.

[FR Doc. 79-25956 Filed 8-21-79; 8:45 am]

BILLING CODE 4710-07-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

Antidumping: Marine Radar Systems From the United Kingdom; Determination of Sales at Less Than Fair Value

AGENCY: U.S. Treasury Department.

ACTION: Determination of Sales at Less Than Fair Value.

SUMMARY: This notice is to advise the public that an antidumping investigation has resulted in a determination that certain marine radar systems from the United Kingdom are being sold at less than fair value within the meaning of the Antidumping Act, 1921. The case is being referred to the United States International Trade Commission for a determination concerning possible injury to an industry in the United States.

EFFECTIVE DATE: August 22, 1979.

FOR FURTHER INFORMATION CONTACT:

Leon McNeill, Duty Assessment Division, U.S. Customs Service, 1301 Constitution Avenue, NW, Washington, DC 20229 (202) 566-5492.

SUPPLEMENTARY INFORMATION: On October 12, 1978, a petition in proper form was received pursuant to §§ 153.26 and 153.27, Customs Regulations (19 CFR 153.26, 153.27), from counsel on behalf of Raytheon Marine Company, Manchester, New Hampshire, alleging that certain marine radar systems from the United Kingdom are being, or are likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 *et seq.*) (referred to in this notice as the "Act"). On the basis of this information and subsequent preliminary investigation by the Customs Service, an "Antidumping Proceeding Notice" was published in the Federal Register of November 6, 1978 (43 FR 51744). A "Withholding of Appraisal Notice" was published in the Federal Register on May 17, 1979 (44 FR 28907).

For purposes of this notice "certain marine radar systems" means X-band radar systems provided for in item 685.60, Tariff Schedules of the United States Annotated, designed principally for boat or ship installation with direct current power supply from 6 to 60 volts, having a maximum viewable display dimension of less than 11 inches, and having an antenna assembly with transmitter-receiver permanently affixed, and parts thereof; all the foregoing, whether such radar system components are imported together as units or separately.

Determination of Sales at Less Than Fair Value

On the basis of the information developed in the Customs investigation and for the reasons noted below, I hereby determine that certain marine radar systems from the United Kingdom are being, or are likely to be, sold at less than fair value within the meaning of section 201(a) of the Act (19 U.S.C. 160(a)).

Statement of Reasons on Which This Determination Is Based

a. *Scope of Investigation.* Virtually all of the imports of the subject merchandise from the United Kingdom were exported to the United States by Decca Radar Limited and Electronic Laboratories Limited. Therefore, the investigation has been limited to these manufacturers.

Respondent Decca has made a claim that certain models of the subject merchandise it sells in both the U.K. and U.S. markets should be excluded from the investigation as there are no similar models manufactured by petitioner in the United States. On the basis of the data provided, Treasury has concluded that the disputed models are within the same class or kind of merchandise under consideration in this investigation and their sales should be used in calculating fair value.

b. *Basis of Comparison.* For the purpose of considering whether the merchandise in question is being, or is likely to be, sold at less than fair value within the meaning of the Act, the proper basis for comparison is between the exporter's sales price and the home market price on all sales by Decca Radar Limited. Exporter's sales price, as defined in section 204 of the Act (19 U.S.C. 163) was used since all export sales to the United States were made to a related importer who resold the merchandise subsequent to its importation. On all sales by Electronic Laboratories Limited, the proper basis of comparison is between the purchase price as defined in section 203 of the Act (19 U.S.C. 162) and the home market price since all export sales were made to an unrelated importer. Home market price, as defined in § 153.2, Customs Regulations (19 CFR 153.2), was used since such or similar merchandise was sold in the home market in sufficient quantities to provide an adequate basis for comparison.

In accordance with § 153.31(b), Customs Regulations (19 CFR 153.31(b)), pricing information was obtained concerning exports and home market sales during the period June 1, 1978 through November 30, 1978.

A claim was made by petitioner for an extension of the period of investigation to include earlier dates that would have been examined had an earlier petition been found adequate for the initiation of the investigation. However, because sufficient sales to form a basis of comparison were made during the period actually selected for investigation consistent with § 153.31(b) of the Customs Regulations (19 CFR 153.31(b)), this claim was not allowed.

c. *Exporter's Sales Price.* For the purpose of this determination, the exporter's sales price has been calculated on the basis of the resale prices to unrelated United States customers. Adjustments have been made for ocean freight, marine insurance, discounts where applicable, United States Customs duty, brokerage, United States inland freight, warranty charges, rebates where applicable, and selling and administrative expenses incurred in the United States.

Adjustments for ocean freight, marine insurance, duty, brokerage and inland freight were made pursuant to section 204(1) of the Act since these costs and charges are incident to bringing the merchandise from the place of shipment in the United Kingdom to the place of delivery in the United States. The selling and administrative expenses incurred in the United States were deducted as charges incurred in the resale of the merchandise, pursuant to section 204(3) of the Act.

d. *Purchase Price.* For purposes of this determination, purchase price has been calculated on the basis of an ex-works price in the United States. No adjustments were made to the purchase price.

e. *Home Market Price.* For the purposes of this determination, the home market price on all sales by Decca Radar Ltd. was calculated on the basis of the selling price to unrelated purchasers in the home market. Deductions were made for inland freight, discounts where applicable, warranty, and selling expenses.

The selling expenses claimed in the home market were deducted as an offset not to exceed the amount of the selling and administrative expenses incurred in the United States market. This is in accordance with § 153.10(b), Customs Regulations (19 CFR 153.10(b)).

The home market price on all sales by Electronic Laboratories Ltd. was calculated on the basis of the selling price to unrelated purchasers in the home market. Deductions were made for discounts, warranty expenses, carriage, insurance and freight charges. An adjustment was made for the difference in credit costs between the home market

and export market. A claim for an adjustment for differences in circumstances of sale for advertising and technical expenses has not been allowed because information allegedly showing that such expenses are directly related to the sales under consideration was not received in time to be analyzed and verified prior to this determination. To the extent that such an adjustment is subsequently determined to be appropriate and its size is adequately established and verified, an adjustment will be considered in the event of a "Finding of Dumping" in the assessment of dumping duties.

Petitioner has made a claim that rebates should be deducted on all eligible models of marine radar systems exported by Decca Radar in calculating exporter's sales price. Since rebates were not granted on all models, it was considered appropriate to deduct rebates only on the applicable models.

Respondent Decca has claimed that the foreign market value should be based upon sales to dealers, disregarding sales to users. This claim was denied because user sales were in the "usual wholesale quantities" as defined by section 212(4) of the Act, and sales in the home market were compared to the same levels of trade in the United States.

A claim also was made by respondent Decca that the fair value should be based upon list price less qualifying discounts. Since the requirements set forth in § 153.9(b)(1) of the Customs Regulations (19 CFR 153.9(b)(1)) were not met, the claim has not been allowed.

Respondent Decca claimed that a weighted-average price should be calculated for U.S. sales and compared to the foreign market value to determine the existence of margins. It has been a long-standing practice of the Department to compare individual sales in the United States to the weighted-average of home market prices. Respondent's claim, consequently, was disallowed.

Respondent Decca made a claim that the United States Customs duty should be based on the invoice price rather than the price to distributors in third countries. However, it is inappropriate to address the proper basis of assessment for Customs duties within the context of an antidumping investigation. Section 204(1) of the Act (19 U.S.C. 163(1)) requires the use of the actual amount of Customs duty and, therefore, it was that amount which was deducted.

A claim was made by respondent Electronic Laboratories Ltd. for an adjustment under § 153.15 of the Customs Regulations (19 CFR 153.15) for

differences in levels of trade. This claim was not allowed. Comparisons between the price to the United States and those in the United Kingdom being used in this determination are made at the same or nearest level of trade in each market. If there are no sales in the foreign market at a particular level of trade at which sales to the United States are made, an adjustment could be made if cost differences to the seller could be demonstrated to result from the differences in the two levels of trade involved. In this case, no actual quantification of such differences was presented. Accordingly, sales to the nearest comparable level of trade in the United Kingdom have been used without adjustments for sales to purchasers in the United States.

f. *Result of Fair Value Comparisons.* Using the above criteria, the purchase price or exporter's sales price was less than the adjusted home market price of such or similar merchandise. Comparisons were made on 100 percent of the subject marine radar systems sold in the United States by the two manufacturers during the period of investigation. Margins were found ranging from 3.2 to 25.8 percent for sales made by Decca Radar. A margin of 7.3 percent was found on 72 percent of the sales made by Electronic Laboratories. The weighted-average margins over the total sales compared for each firm were approximately 4.4 percent for Decca Radar and 5.2 percent for Electronic Laboratories.

The Secretary has provided an opportunity to known interested persons to present written and oral views pursuant to § 153.40 of the Customs Regulations (19 CFR 153.40).

The U.S. International Trade Commission is being advised of this determination.

This determination is being published pursuant to section 201(b) of the Act (19 U.S.C. 160(b)).

David R. Brennan,

Acting General Counsel of the Treasury.

August 16, 1979.

[FR Doc. 79-25971 Filed 8-21-79; 8:45 am]

BILLING CODE 4810-22-M

INTERSTATE COMMERCE COMMISSION

[Permanent Authority Decision Volume No. 31]

Decision-Notice

Correction

In FR Doc. 79-13183 appearing at page 25231 in the issue for Monday, April 30, 1979, on page 25329, in the third column,

in paragraph "MC 145940 (Sub-3F)", in the first line, after the letters "MC" insert "145950" in lieu of "145940".

BILLING CODE 7035-01-M

Motor Carrier Temporary Authority Applications; Notice

The following are notices of filing of applications for temporary authority under Section 210(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the Federal Register publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the Federal Register. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

Notice No. 129

MC 123993 (Sub-46TA), filed June 25, 1979. Applicant: FOGLEMAN TRUCK LINE, INC., P.O. BOX 1504, Crowley, LA 70526. Representative: Byron Fogleman (same address as applicant). *Glassware Group, viz: Bottles, Carboys, demijohns, or jars, not with or without their equipment of caps, covers, stoppers of tops, one gallon or less in capacity from Brockway Glass at or near Montgomery, AL, to points in LA, for 180 days.*

Applicant has filed an underlying ETA seeking 90 days. Supporting shipper(s): Brockway Glass Co., Inc., P.O. Box 8038, Montgomery, AL 36110. Send protests to: Robert J. Kirspe, DS, ICC, T-9038 Federal Bldg., 701 Loyola Ave., New Orleans, LA 70113.

MC 143032 (Sub-24TA), filed June 1, 1979. Applicant: THOMAS J. WALCZYNSKI d.b.a. WALCO TRANSPORT, 3112 Truck Center Drive, Duluth, MN 55806. Representative: William J. Gambucci, 414 Gate City Building, P.O. Box 1680, Fargo, ND 58102. *Epoxy coated rebar, angles, square stocks, rounds and tees from the facilities of Simcote, Inc. located at or near Newport, MN to points in IL, IN, IA, KS, KY, MI, MO and WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Simcote, Inc., 1645 Red Rock Road, P.O. Box 97, Newport, MN 55055. Send protests to: Delores A. Poe, TA, ICC, 414 Federal Building, 110 South 4th Street, Minneapolis, MN 55401.*

MC 143032 (Sub-26TA), filed May 24, 1979. Applicant: THOMAS J. WALCZYNSKI d.b.a. WALCO TRANSPORT, 3112 Truck Center Drive, Duluth, MN 55806. Representative: William J. Gambucci, 414 Gate City Building, P.O. Box 1680, Fargo, ND 58107. *Iron and steel and iron and steel articles from the facilities of United States Steel Corporation at or near Gary, IN, South Chicago and Joliet, IL to the states of MN and WI (except Milwaukee, Kenosha and Racine Counties), for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): United States Steel Corporation, 1000 East 80th Place, Merrillville, IN 46410. Send protests to: Delores A. Poe, TA, ICC, 414 Federal Building, 110 South 4th Street, Minneapolis, MN 55401.*

MC 143183 (Sub-10TA), filed June 23, 1979. Applicant: L. M. ROACH, d.b.a. D & L TRUCKING COMPANY, P.O. Box 1741, Wilmington, NC 28401. Representative: Ralph McDonald, P.O. Box 2246, Raleigh, NC 27602. *Urea (except in pneumatic tanks) from Wilmington, NC to points in SC and VA, for 180 days. Supporting shipper(s): W. R. Grace & Co., P.O. Box 368, Wilmington, NC 28402. Send protests to: District Supervisor Price, 800 Briar Creek Rd., Rm. CC516, Charlotte, NC 28205.*

MC 143402 (Sub-1TA), filed June 25, 1979. Applicant: JOHN HENSAL TRUCKING, INC., 1709 14th Street, Woodward, OK 73801. Representative: John Hensal (same address as applicant). *Oilfield equipment, materials and supplies, between points in the states of*

OK, KS, and TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Triad Drilling Company, 1100 Bitting Bldg., Wichita, KS, 67202; Rine Drilling Company, Box 1226, Woodward, OK 73801; Hickman Drilling Co., Box 1467, Woodward, OK 73801; Northwest Service and Equipment, Inc., Box 593, Woodward, OK 73801. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 143713 (Sub-3TA), filed April 16, 1979. Applicant: AGRICULTURAL TRANSPORTATION ASSOCIATION OF ILLINOIS, R.F.D., Forest Ridge, Springfield, IL 62707. Representative: Marshall D. Becker, Suite 610, 7171 Mercy Road, Omaha, NE 68106. (1) *Cheese, dairy products, powdered milk, starch, cheese casings, barrels and cartons, from Wapakoneta, OH to points in AZ, FL, ID, IN, KS, KY, MT, NV, OK, OR and WA; (2) empty barrels, from Wapakoneta, OH to points in IL, WI, IA, MN, SD and ND; (3) dairy products, powdered milk, milk cartons and materials used in the manufacture of dairy products, from Forest, IL to points in MI, WI, IN, IA, RI, and PA, from points in KS, MI, WI, IN, OH, MN and IA to Forest, IL; (4) food seasoning, flour, meat binders, and food processing ingredients, from Fargo, ND; Minneapolis, MN; Kansas City, MO; New Orleans, LA; Portsmouth, VA; and Charlotte, NC to the facilities of B. Heller & Co. at Chicago, IL, for 180 days. An underlying ETA seeks 90 days of authority. Supporting shipper(s): Fisher Cheese Co., 409 Krien Ave, Forest, IL 61739; Forest Milk, P.O. Box 427, Forest, IL 61739; B. Heller, 6363 W. 73rd St., Bedford Park, IL 60638. Send protest to: Charles D. Little, DS, ICC, Rm. 414, Leland Office Bldg., 527 East Capitol Avenue, Springfield, IL 62701.*

MC 143713 (Sub-4TA), filed April 16, 1979. Applicant: AGRICULTURAL TRANSPORTATION ASSOCIATION OF ILLINOIS, R.F.D., Forest Ridge, Springfield, IL 62707. Representative: Marshall D. Becker, Suite 610, 7171 Mercy Road, Omaha, NE 68106. (1) *Animal and poultry feed ingredients, from Rhinelander, WI to points in IL, IN, KY, MI, OH and PA; (2) feed and feed ingredients, bags, and equipment and supplies used in the manufacture of feed and feed ingredients, from Fairbury, IL to points in MI, TX, MN, IN and KY; from KY, NM, TX, MN, IN to Fairbury, IL; (3) feed and feed ingredients (except in bulk in tank vehicles), from the facilities of Kane Molasses Labs at Mt. Pulaski, IL to points in MN, MO, TN, MI, and NE; (4) feed and feed ingredients (except in bulk in tank vehicles), from*

the facilities of Wells at Monmouth, IL to points in KY and SD; (5) *liquid fertilizer, from points IA to Aledo, IL; (6) feed ingredients, animal and poultry health products, and equipment, materials and supplies used in the manufacture and distribution thereof, between the facilities of Diamond Shamrock Corporation located at Van Buren, AR; Fresno, CA; Cherry Hills and Harrison, NJ; Louisville, KY and Franklin Park, IL, on the one hand, and on the other, all points in the U.S. (except AK and HI); (7) chemical fertilizer, from Ashkum, IL to West Des Moines, IA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Cargill, Inc., Box 9300, Minneapolis, MN 55440; Honeggers & Co., Inc., 201 West Locust St., Fairbury, IL 61739; Kane Molasses Labs, Mt. Pulaski, IL 62548. Send protests to: Charles D. Little, DS, ICC, Rm. 414, Leland Office Bldg., 527 East Capitol Avenue, Springfield, IL 62701.*

MC 143713 (Sub-5TA), filed April 16, 1979. Applicant: AGRICULTURAL TRANSPORTATION ASSOCIATION OF ILLINOIS, R.F.D., Forest Ridge, Springfield, IL 62707. Representative: Marshall D. Becker, Suite 610, 7171 Mercy Road, Omaha, NE 68106. (1) *Farm buildings, farm machinery and farm supplies, from points in NC, IN, MS, AL, GA, OH, IA, NE, WI, and MI to Gridley, IL and from Gridley, IL to IN, IA, WI, KY, OH, and MS; (2) materials and supplies used in the manufacture of irrigation systems, from all points in the United States (except AK, HI, FL, GA, IN, MI, TX, and WI) to the plantsite and storage facilities of Ag-Rain, Inc. at Havana, IL; (3) irrigation systems, parts and attachments, from the plant site and storage facilities of Ag-Rain, Inc. at Havana, IL to points in WA, NV, ID, VT, AZ, NM, WY, AR, LA, MS, TN, SC, NY, PA, WV, UT, NH, MA, ME, CT, MD, and DE, and between points in AL, GA, and SC, and between points in MN and MI; (4) materials and supplies used in the manufacture of stoneware products, from points in IN, KY and TN to the facilities of Haeger Potteries in Macomb in Dundee, IL; (5) *cheese containers, bean pots and stoneware, from Monmouth, IL to points in TN; (6) agricultural equipment, parts and accessories, from points in MI to Monmouth, IL; (7) metal buildings, knocked down, from Broadview, IL and Des Moines, IA to points in MT, ID, WY, UT, CO, ND, SD, NE, KS, MN, IA, MO, and OK; (8) agricultural equipment and supplies, from IL to IN and KY, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Ag-Rain, Havana, IL 62644; Haeger**

Potteries, P.O. Box 558, Macomb, IL 61445; Western Stoneware, P.O. Box 288, Monmouth, IL 61462. Send protests to: Charles D. Little, DS, ICC, Rm. 414, Leland Office Bldg., 527 East Capitol Avenue, Springfield, IL 62701.

MC 143713 (Sub-11TA), filed June 13, 1979. Applicant: AGRICULTURAL TRANSPORTATION ASSOCIATION, RFD 8, 37 Forest Ridge, Springfield, IL 62707. Representative: Marshall D. Becker, Suite 610, 7171 Mercy Rd., Omaha, NE 68106. *Stoneware products, materials and supplies used in the manufacturing of stoneware and display racks between Dundee and Macomb, IL on the one hand and points in OK on the other for 180 days. An underlying ETA was submitted seeking 90 days authority. Supporting shipper(s): Macomb Pottery Company, 411 West Calhoun Street, Macomb, IL 61455. Send protests to: Annie Booker, TA, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.*

MC 144082 (Sub-6TA), filed May 24, 1979. Applicant: DIST/TRANS MULTI-SERVICES, INC., d.b.a. TAHWHEELALEN EXPRESS, INC., P.O. Box 7191, Charlotte, NC 28217. Representative: William P. Jackson, Jr., P.O. Box 1240, Arlington, VA 22210. *Contract carrier-irregular routes: Such commodities as are manufactured or distributed by electrical equipment and supply manufacturers from Anoka, MN to Elizabeth, NJ and from Milwaukee, WI to Anoka, MN, for 180 days. Supporting shipper(s): Hoffman Engineering Company, Tyler St., Anoka, MN 55303. Send protests to: Terrell Price, 800 Briar Creek Rd., Rm. CC516, Mart Office Building, Charlotte, NC 28205.*

MC 144082 (Sub-7TA), filed June 14, 1979. Applicant: DIST/TRANS MULTI-SERVICES, INC., d.b.a. TAHWHEELALEN EXPRESS, INC., 1333 Nevada Blvd., Charlotte, NC 28217. Representative: William P. Jackson, Jr., P.O. Box 1240, Arlington, VA 22210. *Contract carrier-irregular routes: Such commodities as are dealt in or distributed by department stores or mail order houses, (1) from points in Chattooga, Gordon, Walker, Dade, Catoosa, Murray, Fannin, Pickens, Cherokee, Floyd, Whitfield, Bartow, Polk and Gilmer Counties, GA to Dalton, GA and (2) from points in Chattooga, Gordon, Walker, Dade, Catoosa, Murray, Fannin, Pickens, Cherokee, Floyd, Whitfield, Bartow, Polk and Gilmer Counties, GA to the facilities of Montgomery Ward and Company located in and east of WI, IL, MO, KS, KY, TN and MS, for 180 days. An underlying ETA seeks 90 days authority.*

Restriction: Restricted to the transportation of shipments under a continuing contract or contracts with Montgomery Ward and Company. Supporting shipper(s): Montgomery Ward and Company, Montgomery Ward Plaza, Chicago, IL 60671. Send protests to: District Supervisor Terrell Price, 800 Briar Creek Rd., Rm. CC516, Mart Office Building, Charlotte, NC 28205.

MC 144082 (Sub-8TA), filed June 20, 1979. Applicant: DIST/TRANS MULTI-SERVICES, INC., d.b.a. TAHWHEELALEN EXPRESS, INC., P.O. Box 7191, Charlotte, NC 28217. Representative: William P. Jackson, Jr., P.O. Box 1240, Arlington, VA 22210. *Contract carrier-irregular routes: Such commodities as are dealt in or distributed by automobile supply and appliance stores from Kansas City, KS to Gastonia, NC, for 180 days. Restriction: Restricted to the transportation of shipments moving under a continuing contract or contracts with Western Auto Supply Company. Supporting shipper(s): Western Auto Supply Company, 2107 Grand Avenue, Kansas City, MO 64108. Send protests to: Terrell Price, 800 Briar Creek Rd., Rm. CC516, Mart Office Building, Charlotte, NC 28205.*

MC 144122 (Sub-53TA), filed June 27, 1979. Applicant: CARRETTA TRUCKING, INC., South 160, Route 17 North, Paramus, NJ 07652. Representative: Charles J. Williams, 1815 Front St., Scotch Plains, NJ 07076. *General commodities (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment) from the facilities of West Coast Shippers Association, Inc., at Hoboken, NJ to points in CA, GA, IL, IN, MO, OR, TX, WA and WI, restricted to traffic moving on bills of lading of shippers associations, for 180 days. Supporting shipper(s): West Coast Shippers Association, Inc., 2000 South 71st Street, Philadelphia, PA 19142. Send protests to: Joel Morris, D/S, ICC, 744 Broad St., Room 522, Newark, NJ 07102.*

MC 144122 (Sub-54TA), filed June 28, 1979. Applicant: CARRETTA TRUCKING, INC., South 160, Route 17 North, Paramus, NJ 07652. Representative: Charles J. Williams, 1815 Front Street, Scotch Plains, NJ 07076. *General commodities (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment,) from the facilities of East West Shippers Association at Chicago, IL to points in CT, DE, MA, NJ, NY, PA and RI,*

restricted to traffic moving on bills of lading of shippers associations, for 180 days. Supporting shipper(s): East West Shippers Association, 414 Plaza Drive, Suite 307, Westmont, IL 60559. Send protests to: Joel Morrows, D/S, ICC, 744 Broad St., Room 522, Newark, NJ 07102.

MC 144442 (Sub-4TA), filed June 27, 1979. Applicant: ESSEX EXPRESS, INC., 1200 Hammondville Rd., Pompano Beach, FL 33060. Representative: Don A. Allen, 2550 M St., N.W., Washington, DC 20037. Contract carrier—Irrregular route: Residential heating units and air conditioners, and parts therefor, in containers, between the General Electric Plant in Trenton, NJ and the General Electric warehouses and dealers in Jacksonville, Miami, Orlando, Bradenton, Chattahoochee, Daytona Beach, DeLand, Eustis, Fort Myers, Fort Pierce, Fort Walton Beach, Naples, Micanopy, Palm Beach, Pensacola, Plantation Key, Port Charlotte, Sarasota, Stuart, Tallahassee, Tampa, Venice, and Vero Beach, FL for 180 days. Supporting shipper(s): General Electric Company, 2231 East State St., Trenton, NJ 08619. Send protests to: Donna M. Jones, T/A, ICC, BOP, Monterey Bldg., Suite 101, 8410 N.W. 53rd Ter., Miami, FL 33166.

MC 144463 (Sub-3TA), filed June 29, 1979. Applicant: PIERSON TRUCKING CO., 7355 S.E. Johnson Creek Blvd., P.O. Box 22141, Milwaukie, OR 97222. Representative: Lawrence V. Smart, Jr., 419 N.W. 23rd Avenue (503-226-3755), Portland, OR 97210. Contract, Irregular, metal gates from the facilities of Life-Time Co., Tualatin, OR to points in the State of Washington for 180 days. Supporting shipper(s): Life-Time Gate Co., 10535 S.W. Avery, Tualatin, OR; Western Farmers Association, 201 Elliott Ave. W., Seattle, WA. Send protests to: A. E. Odoms, DS, ICC, 114 Pioneer Courthouse, 555 S.W. Yamhill St., Portland, OR 97204.

MC 144513 (Sub-12TA), filed May 21, 1979. Applicant: CONDOR CONTRACT CARRIERS, INC., 656 Wooster Street, Lodi, OH 44254. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, Nebraska 68501. *New furniture* from the facilities of T.O.E. Industries located at or near Newscomertown, OH, to points in CA, FL, GA, KA, KY, OK, TN, and TX, for 180 days. Supporting shipper(s): T.O.E. Industries, P.O. Box 293, Newscomertown, OH 43832. Send protests to: ICC, Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 144672 (Sub-13TA), filed May 29, 1979. Applicant: VICTORY EXPRESS, INC., 2600 Willowburn Ave., Trotwood, OH 45426. Representative: Richard H. Schaefer, P.O. Box 26189, Trotwood, OH 45426. *Ground clay and absorbents*,

(except in bulk), from Thomas County, GA to points in the U.S. Restricted to the transportation of traffic originating at the facilities of Waverly Mineral Products Co., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Waverly Mineral Products, Co., 3018 Market St., Phila., PA 19104. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 144672 (Sub-14TA), filed June 18, 1979. Applicant: VICTORY EXPRESS, INC., 2600 Willowburn Ave., Trotwood, OH 45426. Representative: Richard H. Schaefer, Victory Express, Inc., P.O. Box 26189, Trotwood, OH 45426. *Scrap or waste paper*, from Chicago, IL to Menasha, WI and Merrill, WI, for 180 days. An underlying ETA seeks 90 days authority. Applicant holds contract authority in MC 55822 and subnumbers therefore dual operations may be involved. Supporting shipper(s): Continental Paper Grading Co., 1623 S. Lumber St., Chicago, IL 60616. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 144682 (Sub-15TA), filed June 1, 1979. Applicant: R. R. STANLEY, P.O. Box 95, Mesquite, TX 75149. Representative: D. Paul Stafford, Winkle and Wells, Suite 1125, Exchange Park, Dallas, TX 75245. *Van seats with bases, van seats w/o bases, steel bases, and van beds*, from Arlington, TX to Edison, NJ; Boston, MA; Alton, MA; Hyattsville, MD; Baltimore, MD; Morningside, MD; Norfolk, VA; Ashland, VA; Detroit, MI; Hartford, CT, and Creston, IA for 180 days. Underlying ETA for 90 days filed. Supporting shipper(s): Qualitex Manufacturing Company, 840 Southwest Parkway, Arlington, TX. Send protests to: Opal M. Jones, 9A27 Federal Building, 819 Taylor Street, Fort Worth, TX 76102.

MC 144682 (Sub-19TA), filed June 25, 1979. Applicant: R. R. STANLEY, 1738 Empire Central, Dallas, TX 75235. Representative: D. Paul Stafford, P.O. Box 45538, Dallas, TX 75245. (1) *Onion rings, frozen*, from Gilroy, CA, to Seattle, WA, Denver, CO, and Houston and Dallas, TX. (2) *Meat, meat by-products, and articles distributed by meat packinghouses as described in Sections A & C to Appendix I to the report in Descriptions in Motor Carrier Certificates 61 M.C.C. 209 and 766 (except commodities in bulk)*, frozen or unfrozen, from Miami, FL, Mansfield, TX, and Greeley, CO, to points in the states of AZ, CA, CO, FL, GA, ID, OR, TX, UT, and WA. (3) *Boxes, paperboard*, from Irvine, CA, to Dallas and Houston, TX, Denver, CO, and Seattle, WA for 180 days. An underlying ETA for 90 days

authority filed. Supporting shipper(s): Two supporting shippers. Send protests to: Opal M. Jones, Trans. Asst., I.C.C., Room 9A27, Fed. Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 144953 (Sub-3TA), filed July 2, 1979. Applicant: MULLEN TRUCKING, LTD., 6204-A Burbank Road, S.E., Calgary, Alberta, Canada T2H 2C2. Representative: John T. Wirth, 717 17th Street, Suite 2600, Denver, CO 80202. *Lumber and wood products* from points in ID, MT, and WA to points on the International Boundary line between the U.S. and Canada in ID, MT and WA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Tiaga Wood Products, Ltd., Box 80329, S. Burnaby, B.C., and Rowles Westrum Lumber Co., Ltd., No. 4, 966 Main St., Penticton B.C. Send protests to: Paul J. Labane, D/S, ICC, 2602 First Ave. North, Billings, MT 59101.

MC 145623 (Sub-2TA), filed June 25, 1979. Applicant: O. K. MESSENGER SERVICE, INC., 9107 South Telegraph Road, Taylor, MI 48180. Representative: Edwin M. Snyder, 227375 Haggerty Road, P.O. Box 400, Northville, MI 48167. *Contract carrier: irregular routes. Over-length structural steel beams, angles and channels*, in excess of 40 feet in length, transported with trailers extendable to at least 60 feet in length; from the facilities of Federal Pipe and Steel Corporation, at or near Plymouth, MI to points in TN, under a continuing contract with Federal Pipe and Steel Corp. For 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Federal Pipe and Steel Corporation, 41600 Joy Road, Plymouth. Send protests to: C. R. Flemming, D/S, I.C.C., 225 Federal Building, Lansing, MI 48933.

MC 145663 (Sub-3TA), filed June 14, 1979. Applicant: TRANS-POLAR XPRESS, INC., 6511 N.W. Oakridge Ct., Kansas City, MO 64151. Representative: Larry D. Knox, 600 Hubbell Bldg., Des Moines, IA 50309. *Frozen foodstuffs*, between Indianapolis, IN, on the one hand, and, on the other, points in AR, KS, MO, OK, and TX, restricted to shipments originating at or destined to the facilities of Monument Distribution Warehouse, Inc., Indianapolis, IN, for 180 days. Supporting shipper(s): Monument Distribution Warehouse, Inc., 3320 S. Arlington Ave., Indianapolis, IN, 46203. Send protests to: Vernon Coble, DS, ICC, 600 Federal Bldg., 911 Walnut St., Kansas City, MO 64106.

MC 145672 (Sub-3TA), filed June 28, 1979. Applicant: TREVIS BERRY TRANSPORTATION, P.O. Box 1802, Gilroy, CA 95020. Representative: Trevis L. Berry (same address as above).

Contract carrier; irregular routes: *Fibreboard, Paper, or Pulpboard Products*, including materials and supplies used in the manufacture and distribution of Fibreboard, Paper or Pulpboard Products, from the facilities of Champion International Corp., at or near San Jose, California to Reno and Sparks, NV, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Champion International Corp., Knightsbridge Drive, Hamilton, Ohio 45020. Send protests to: D/S N. C. Foster, 211 Main, Suite 500, San Francisco, CA 94105.

MC 146052 (Sub-2TA), filed June 22, 1979. Applicant: QUESNEL BUS LINE, LIMITED, 367 Chamberlain, Hawkesbury, Ontario. Representative: William H. Shawn, 1730 M Street, N.W., Washington, DC 20036. *Passengers and their baggage in round-trip charter operations*, beginning and ending at ports of entry on the International Boundary line between the United States and Canada in NY and extending to points in NY and NJ, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Yoyages Maurice Rozon Travel, Inc., 856 Aberdeen Street, Hawkesbury, Ontario K6A 2R4; Dames Auxiliaires, 321 Front Road, Hawkesbury, Ontario K6A 2T1. Send protests to: Richard H. Cattadoris, DS, ICC, 910 Federal Bldg., 111 W. Huron St., Buffalo NY 14202.

MC 146133 (Sub-1TA), filed March 6, 1979. Applicant: HALVOR LINES, INC., 4609 West First Street, Duluth, MN 55806. Representative: Andrew R. Clark, 1000 First National Bank Building, Minneapolis, MN 55402. *Foodstuff*, from Duluth, MN to Phoenix, AZ and points in CA, for 180 days. An underlying ETA seeks 90 days. Supporting shipper(s): Jenos, Inc., 525 Lake Avenue South, Duluth, MN 55802. Send protest to: Delores A. Poe, 414 Federal Building and U.S. Courthouse, 110 South Fourth Street, Minneapolis, MN 55401.

MC 146362 (Sub-1TA), filed May 24, 1979. Applicant: HERDER BROS. INC., 905 Center Road, Frankfort, IL 60423. Representative: James C. Kamin, 4242 West 45th Street, Chicago, IL 60632. *Contract Carrier: Irregular routes; Plastic Articles*, except in bulk, from the facilities of Mobil Chemical Co., Plastic Division, at Frankfort, IL to points in the states of MI, IN, MO, IA, KY and WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Mobil Chemical Co., 437 Center Road, Frankfort, IL 60423. Send protests to: Annie Booker, TA, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 146463 (Sub-1TA), filed June 28, 1979. Applicant: SLACK TRANSPORT

LIMITED, Box 579, Caledonia, Ontario NOA 1A0. Representative: William J. Hirsch, Atty., Suite 1125, 43 Court Street, Buffalo, NY 14202. *Lumber*, between ports of entry on the International Boundary line between the United States and Canada in MI and NY, and points in the states of AL, AR, CT, DE, FL, GA, IL, IN, IA, KY, LA, ME, MD, MA, MI, MN, MS, MO, NH, NJ, NY, NC, OH, PA, SC, TN, VT, VA, WV and WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): There are 5 shippers. Their statements may be examined at the office listed below and headquarters. Send protests to: Richard H. Cattadoris, DS, ICC, 910 Federal Bldg., 111 W. Huron St., Buffalo, NY 14202.

MC 146602 (Sub-3TA), Filed June 4, 1979. Applicant: ODEAN DUANE BAKKEN, 304 11th St., S., Northwood, IA 50459. Representative: Odean Duane Bakken (same as applicant). *Meats, meat products, meat by-products, and articles distributed by meat packinghouses*, as described in Sections A, C and D of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), between Britt and Mason City, IA, on the one hand, and, on the other, points in and east of ND, SD, NE, KS and in and north of MO, IL, IN, OH, WV and VA, restricted to shipments originating at or destined to the facilities utilized by Lauridsen Foods, Inc. at or near Britt, IA and Armour and Co. at Mason City, IA, for 180 days. Supporting shipper(s): Armour and Co., Greyhound Tower, Phoenix, AZ 85077. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 146623 (Sub-TA), filed May 22, 1979. Applicant: STAMEY ENTERPRISES, INC., 7350 102nd Place, South, Boynton Beach, FL 33435. Representative: Richard B. Austin, 5255 N.W. 87th Ave., Miami, FL 33178. *Materials use and useful in the propagation, production, transportation, and sale of horticultural products* between FL and points in the U.S. (except AK and HI) for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Shade Corp. of America, 8232 N.W. 56 St., Miami, FL 33166. Carcon, Inc., 781 W. 18th St., Hialeah, FL 33010. Wendell Butler's Supply Corp., 151 N.W. 25th Terr., Ft. Lauderdale, FL 3331. Send protests to: Donna M. Jones, T/A, ICC-BOP, Monterey Bldg., Suite 101, 8410 N.W. 53rd Terr., Miami, FL 33166.

MC 146643 (Sub-TA), filed June 21, 1979. Applicant: CREECH TRANSPORTATION SYSTEMS, INC.,

3202 South State Street, South Chicago Heights, IL 60411. Representative: Marc Blumenthal, 39 South LaSalle Street, Chicago, IL 60603. *Contract carrier: Irregular routes; Iron, steel and plastic containers, drums, pails, covers, caps, and handles*; from the facilities and for the account of Bennett Industries, Division of Growth International Industries at/near Peotone, IL to points in IN, IA, OH, KY, WI, MO, MI and MN for 180 days. An underlying ETA was granted for 90 days authority. Supporting shipper(s): Bennett Industries, 515 North First Street, Peotone, IL 60468. Send protests to: Annie Booker, TA, Interstate Commerce Commission, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 146702 (Sub-1TA), filed April 16, 1979. Applicant: TOLER CARTAGE, INC., 520 Lincoln Boulevard, Marion, IN 46952. Representative: Stephen M. Gentry, 1500 Main Street, Speedway, IN 46224. *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment) between points in Adams, Allen, Blackford, Cass, Clinton, Delaware, Elkhart, Grant, Hendricks, Henry, Howard, Huntington, Jay, Kosciusko Madison, Miami, Randolph, Tippecanoe, Tipton, Wabash, Wayne, Welsh and Whitley Counties, IN for 180 days. Restriction: Restricted to shipments having a prior or subsequent movement by rail. Send protests to: Beverly J. Williams, Transportation Assistant, ICC, 46 E. Ohio St., Rm. 429, Indianapolis, IN 46204. An underlying ETA seeks 90 days.

MC 146782 (Sub-5TA), filed June 14, 1979. Applicant: ROBERTS CONTRACT CARRIER CORPORATION, 300 1st Avenue, South, Nashville, TN 37201. Representative: Stephen L. Edwards, 806 Nashville Bank & Trust Bldg., Nashville, TN 37201. *Zinc, zinc alloy and zinc products* from the facilities of Jersey Miniere Zinc Company in Montgomery County, TN, to points in and east of ND, SD, NE, KS, OK, & TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): G & W Natural Resources Group, Jersey Miniere Zinc Co., 2200 First American Center, Nashville, TN 37238. Send protests to: Glenda Kuss, TA, ICC, Suite A-422, U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 146782 (Sub-6TA), filed June 13, 1979. Applicant: ROBERTS CONTRACT CARRIER CORPORATION, 300 First Avenue, South, Nashville, TN 37201. Representative: Stephen L. Edwards, 806 Nashville Bank & Trust Bldg., Nashville,

TN 37201. *Iron and steel articles* between the facilities of Tennessee Forging Steel Corporation at or near Newport, AR and Harriman, TN on the one hand, and, on the other, points in AL, AR, FL, GA, IL, IN, KY, LA, MD, lower peninsula of MI, MS, NC, NJ, OH, PA, SC, TN, VA, and WV for 180 days. Supporting shipper: Tennessee Forging Steel Corp., Highway 67, Van Dyke R., P.O. Box 310, Newport, AR 72112. Send protests to: Glenda Kuss, TA, ICC, Suite A-422, U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 146843 (Sub-1TA) filed May 3, 1979. Applicant: F & H EXPRESS, 4612 Pogue Drive, House Springs, MO 63051. Representative: Frances Thompson (same as applicant). *General commodities*, except articles of unusual value, classes A & B explosives, household goods as defined by the Commission, commodities in bulk, and articles requiring special equipment, between St. Louis, MO and its commercial zone on the one hand, and, on the other, Jefferson City, Columbia, Washington, Union, Fulton, Warrensburg, Sedalia, Tipton, California, Herman, New Haven, and Kansas, City, MO and its commercial zone, restricted to traffic with prior or subsequent movement by air, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Bor Air Freight, 156 Weldon Parkway, Maryland Heights, MO 63043. Air Express International, 4739 LeBourget, St. Louis, MO 63145, WTC Air Freight, 4516 Woodson Rd., St. Louis, MO 63134. Send protests to: P. E. Binder, DS, ICC, Rm. 1465, 210 N. 12th St., St. Louis, MO 63101.

MC 146882 (Sub-2TA) filed June 22, 1979. Applicant: CREECH BROTHERS TRUCK LINES, INC., 100 Industrial Dr., Troy, MO 63379. Representative: Richard A. Mehley, 1000-16th St. N.W., Washington, D.C. 20036. *Contract carrier*, irregular routes, (1) *Deodorants, disinfectants, breath fresheners, cleaning compounds, swimming pool treatment compounds, and insecticides*, except commodities in bulk, in tank vehicles, and (2) materials, supplies and equipment used by deodorant and cleaning compound manufacturers, except commodities in bulk, in tank vehicles, (1) from St. Peters, MO, Barborton and Canton, OH, and Secaucus and Carlstadt, NJ, and points in their commercial zones, to points in CA, CO, FL, MA, NC, TX and WA; (2) from Memphis, TN and Kansas City, KS, to St. Peters, MO, Canton and Barborton, OH, and Riverdale, NJ, and points in their commercial zones, under a continuing contract or contracts with

Airwick Industries, Inc., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Airwick Industries, Inc., 111 Commerce Rd., Carlstadt, NJ 07072. Send protests to: P. E. Binder, DS, ICC, Rm. 1465, 210 N. 12th St., St. Louis, MO 63101.

MC 146992 (Sub-5TA) filed May 18, 1979. Applicant: PHIL-MART TRANSPORTATION, INC., P.O. Box 126, Braselton, GA 30517. Representative: William J. Boyd, 600 Enterprise Dr., Suite 222, Oak Brook, IL 60521. *Foodstuffs and cleaning, scouring or washing compounds, napkins, table cloths, dishes, cups, plates, trays, forks, knives and spoons, when transported in mixed loads with foodstuffs* from the facilities of Prime Packing Co., at or near Chicago, IL to points in AL, AR, FL, GA, IN, KY, LA, MS, OH, TN, TX and WV restricted to the transportation of traffic originating at the facilities of Prime Packing Co. at or near Chicago, IL for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Prime Packing Co., 4551 South Racine, Chicago, IL 60609. Send protests to: Sara K. Davis, T/A, ICC, 1252 W. Peachtree St., N.W., Rm. 300, Atlanta, GA 30309.

MC 147003 (Sub-1TA), filed June 13, 1979. Applicant: RAWHIDE CARRIERS, INC., 716 South Elm, Grand Island, NE 68801. Representative: Darryl Pauly, P.O. Box 1171, Grand Island, NE 68801. *Metal pipe and tubing*, from the facilities of Titan Tube & Metal, Inc., at or near Mt. Olive, IL to points in NE, IA, CO, and KS, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Titan Tube & Metal, Inc., P.O. Box 289, Mt. Olive, IL 62029. Send protests to: Carroll Russell, ICC, Suite 620, 110 No. 14th St., Omaha, NE 68102.

MC 147053 (Sub-2TA), filed June 4, 1979. Applicant: LEVIS W. MINFORD IV, d.b.a. ACE TRUCKING CO., Rt. 70 East, Marion, NC 28752. Representative: Levis W. Minford IV (same as applicant). *Contract carrier*-irregular routes; *Liquid sweeteners, in bulk, tank vehicles*, from Marion, NC to points in GA, KY, NC, SC, TN, VA and WV, for 180 days. An underlying ETA seeks 90 days authority. Applicant intends to tack the authority herein with MC-174053, R. Supporting shipper: A. E. Staley Manufacturing Co., 2200 East Eldorado St., Decatur, IL 62521. Send protests to: D/S Terrell Price, 800 Briar Creek Rd-Rm CC516, Mart Office Building, Charlotte, NC 28205.

MC 147062 (Sub-4TA), filed June 25, 1979. Applicant: EXPRESS TRANSPORTATION COMPANY, P.O. Box 789, Chattanooga, TN 37401. Representative: Ralph B. Matthews, P.O. Box 56387, Atlanta, GA 30343. *General*

commodities, except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring the use of special equipment (1) between Chicago, IL and Indianapolis, IN and points in their commercial zones on the one hand, and, on the other, Atlanta and Conyers, GA; Chattanooga, TN and Birmingham, AL; and (2) between Conyers, GA, on the one hand, and on the other Los Angeles, San Diego, and San Francisco, CA restricted to the transportation of traffic moving on bills of lading of Shipper's Associations operating pursuant to 10582(3) of the Interstate Commerce Act (formerly 402(c)), for 180 days. Supporting shipper: Action Shippers Association, Inc., P.O. Box 224, Chattanooga, TN 37401. Send protests to: Glenda Kuss, TA, ICC, Suite A-422, U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 147082 (Sub-1TA), filed June 1, 1979. Applicant: FOSTER TRANSFER, INC., P.O. Box 501, Rockford, IL 61105. Representative: Phillip A. Lee, 120 W. Madison, Chicago, IL 60602. *Liquid nitrogen, fertilizer solutions*, from Fulton, Amboy, Pekin, and Lemont, IL to points in IA and WI; from Burlington, IA, to points in IL and WI; from E. Dubuque, IL, to Cascade, Winthrop, Marshalltown, Bernard, Masonville, Oelwein, Keystone, Waukin, Waucoma, Calmar, IA, and to Eitzen, Caledonia, Plainview, Kenyon, Wiconia, MN, and to Darlington, Plateville, Cottage Grove, Millard, Brownsville, Belgium, Elkhorn, Jackson, Randolph, and Watertown, WI; from Clinton, IA, and Dubuque, IA, to points in WI and IL; from Amboy, IL to Burlington, Whitewater, E. Troy, Genoa City, and Union Grove, WI for 180 days. An E.T.A. has been granted for 90 days. Supporting shipper: 5—Supporting Shippers. Send protests to: Dave Hunt, T/A, 219 S. Dearborn St., Room 1386, Chicago, IL, 60604.

MC 147083 (Sub-1TA), filed June 25, 1979. Applicant: TANKS, INC., P.O. Drawer 1179, Gillette, WY 82716. Representative: Leon L. Brady, Secty-Treasurer (same address as applicant). *Petroleum and petroleum products*, between points in Campbell Company, WY and Denver, CO Commercial Zone for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Black Thunder Marketing, Inc., 1321 South Payne, Casper, WY 82601. Send protests to: District Supervisor Paul A. Naughton, Interstate Commerce Commission, Rm 105 Federal Bldg & Crt House, 111 South Wolcott, Casper, WY 82601.

MC 147203 (Sub-1TA), filed May 31, 1979. Applicant: HUDSON PRODUCTS, INC., P.O. Box 142, Hudson, WI 54016. Representative: Grant J. Merritt, 4444 IDS Center, Minneapolis, MN 55402. *Plastic resin (except in bulk)* from Akron, OH to points in MN, WI, IL and Des Moines, IA, for 180 days. Supporting shipper: Disco, Inc., 5100 Edina Industrial Boulevard, Edina, MN 55435. E. Helman Co., Inc., Box 5129, Akron, OH 44313. Polysar Inc., 1122 Jacoby Road, Copley, OH. Send protests to: Delores A. Poe, TA, ICC, 414 Federal Building, 110 South 4th Street, Minneapolis, MN 55401.

MC 147203 (Sub-2TA), filed June 7, 1979. Applicant: HUDSON PRODUCTS, INC., P.O. Box 142, Hudson, WI 54016. Representative: Grant J. Merritt, 4444 IDS Center, Minneapolis, MN 55402. *Gummed paper, except clothlined or printed, plastic film, and aluminum foil* from points in OH on, north and east of a line beginning at the PA-OH state line and extending along U.S. Hwy 76 to its junction with U.S. Hwy 77, then north along U.S. Hwy 77 to its junction with U.S. Hwy 90, then east along U.S. Hwy 90 to its junction with U.S. Hwy 20, then east along U.S. Hwy 20 to the OH-PA state line to points in MN, WI and Sioux Falls, SD, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Morgan Adhesives, Inc., 4560 Darrow Road, Stow, OH 44224. Chemtrol Adhesives Inc., 180 Lena Drive, Aurora, OH 44202. Send protests to: Delores A. Poe, TA, ICC, 414 Federal Building & U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 147243 (Sub-1TA), filed June 1, 1979. Applicant: DAVID G. PEOTTER, d.b.a. DAVID G. PEOTTER TRUCKING, Rt. 2, Box 267, Seymour, WI 53165. Representative: James A. Spiegel, 6425 Odana Rd., Madison, WI 53719. *Contract carrier*; irregular routes; *Scrap paper, in bales*, from points in the Chicago, IL Commercial Zone to Milwaukee, WI, restricted to transportation performed under a continuing contract(s) with Donco Paper Supply Co., Chicago, IL, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Donco Paper Supply Co., 919 N. Michigan Ave., Chicago, IL. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 147252 (Sub-1TA), filed April 16, 1979. Applicant: FCT CORP., 9000 East Jefferson Avenue, Room 2117, Detroit, MI 48214. Representative: Edwin M. Snyder, 22375 Haggerty Road, P.O. Box 400, Northville, MI 48167. *Contract carrier*; irregular routes; *Floor covering and materials* used in the installation of

floor covering; between the facilities of New York Carpet World, Inc., at or near Southfield and Detroit, MI, on the one hand, and, on the other, points in TN, NC, SC, VA, OH and GA under a continuing contract with New York Carpet World, Inc., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: New York Carpet World, Inc., 23840 West 8 Mile Road, Southfield, MI 48034. Send protests to: C. R. Flemming, D/S., I.C.C., 225 Federal Building, Lansing, MI 48933.

MC 147272 (Sub-2TA), filed May 14, 1979. Applicant: GERALD L. ADDY, d.b.a. ADDY TRUCKING, Route 3, Newcomerstown, OH 43832. Representative: James Duval, 220 W. Bridge St., Dublin, OH 43017. *Aluminum dross*, in dump vehicles, from Gnadenhutten, OH to facilities of Apex International Alloys Corp. at or near Bicknell, IN, and *aluminum sows*, in dump vehicles, from facilities of Apex International Alloys Corp. at or near Bicknell, IN to Gnadenhutten, OH, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: The Anaconda Co. Alum. Div., Alcoa Anaconda, 1 Cascade Plaza, Akron, OH 44398. Send protests to: ICC, Fed. Res. Bank Bldg., 101 N. 7th St., Room 620, Phila., PA 19106.

MC 147273 (Sub-1TA), filed May 21, 1979. Applicant: K & T HOT SHOT SERVICE, P.O. Box 558, Proctorville, OH 45669. Representative: John M. Friedman, 2930 Putnam Ave., Hurricane, WV 25526. *General commodities (except as commodities as bulk, those needing special equipment, household goods as defined by the Commission and Class A and B explosives)*, requiring expedited service, between Huntington, WV and points in the Huntington, WV commercial zones on the one hand, and, on the other, points in the U.S. in and east of MN, IA, AR and TX for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): There are five supporting shipper statements in support attached to this application which may be examined at the ICC in Washington, D.C. or copies of which may be examined in the field office named below. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 147282 (Sub-1TA), filed May 30, 1979. Applicant: SCOTT WEBSTER TRUCKING COMPANY, 209 Valley Park Drive, Pittsburgh, PA 15216. Representative: Scott T. Webster (same as applicant). *Contract*, irregular: *General commodities (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in*

bulk, and those requiring special equipment) from the facilities of Commonwealth Warehouse & Storage, Inc., located at Pittsburgh, PA to points in that part of PA on and west of U.S. Hwy. 15, and to points in those portions of OH and West Virginia on and east of a line beginning at Cleveland, OH and extending along OH Hwy. 21 to its intersection with Interstate Hwy. 77, and thence along Interstate Hwy. 77 to the WV-VA state line, and returned shipments from these points on return to Pittsburgh; under a continuing contract with Commonwealth Warehouse & Storage, Inc. for 180 days. An underlying ETA seeks 90 days operating authority. Supporting shipper: Commonwealth Warehouse & Storage, Inc., 123 36th Street, Pittsburgh, PA 15201. Send protests to: J. J. England, DS, ICC, 2111 Federal Bldg., Pittsburgh, PA 15222.

MC 147283 (Sub-1TA), filed May 25, 1979. Applicant: JACK J. BLASER TRUCKING, INC., 470 Cottage Grove, Green Bay, WI 54304. Representative: Richard D. Howe, 600 Hubbell Bldg., Des Moines, IA 50309. *Paper, paper articles, and plastic film and sheeting*, from facilities of Tufco Industries at or near Green Bay, WI to points in CA, OH, UT, and WA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Tufco Industries, 910 N. Broadway, Green Bay, WI 54305. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 147293 (Sub-2TA), filed June 14, 1979. Applicant: JAMES LEWIS d.b.a. AJ TRUCKING CO., 11800 Brookpark Road, Cleveland, OH 44130. Representative: Richard A. Zeller, 800 National City-E. 6th Building, Cleveland, OH 44114. *Contract carrier*; irregular routes: (1) *conveyor belt systems and parts and components thereof* and (2) *materials, equipment and supplies (except commodities in bulk) used in the manufacture of the commodities named in (1) above*, (a) between the facilities of Mayfran Conveyor, Division of Fischer Industries, Inc., located at Plant City, FL and at Mayfield Village, OH; and (b) from points in Cuyahoga County, OH; McDonald and Massillon, OH; Newport, KY; Alabama City, AL; and Pittsburgh and Irvin, PA to the facilities at Mayfran Conveyor, Division of Fischer Industries, Inc., at Plant City, FL, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Mayfran Conveyor, 6650 Beta Drive, Mayfield Village, OH 44143. Send protests to: D/S, I.C.C., 101 North 7th Street, Room 620, Philadelphia, PA 19106.

MC 147302 (Sub-1TA), filed July 2, 1979. Applicant: J. G. EXEC, INC., P.O.

Box 593, Dover, DE 19901.

Representative: Marshall Kragen, 1835 K St., NW, Suite 600, Washington, DC 20006. *Contract carrier, irregular routes: Passengers and their baggage, consisting of train crews, limited to transportation of not more than twelve passengers in any one vehicle* (1) between Edgmoor, DE, on the one hand, and on the other, Baltimore and Perryville, MD, Alexandria, VA, Harrisburg and Philadelphia, PA; (2) between Perryville, MD, on the one hand, and on the other, Harrisburg, PA; (3) Between Harrington, DE, on the one hand, and on the other, Snow Hill, MD; (4) Between Delmar, DE, on the one hand, and on the other, Pocomoke City, Berlin, and Snow Hill, MD, under a continuing contract or contracts with Consolidated Rail Corporation, of Philadelphia, PA., for 180 days. Supporting shipper: G. M. Womer, Terminal Superintendent, Consolidated Rail Corporation, Edgmoor, DE 19801. Send protests to: W. L. Hughes, DS, ICC, 1025 Federal Bldg., Baltimore, MD 21201.

MC 147303 (Sub-1TA), filed June 12, 1979. Applicant: KARL R. WILLIAMS, P.O. Box 528, Belen, NM 87002. Representative: Roger V. Eaton, P.O. Drawer 965, Albuquerque, NM 87103. *Contract carrier, irregular routes: Doors, component parts thereof and machinery used in their manufacture*, (1) from the facilities of Dependable Door Co., Inc., in Belen, NM, to points in AZ, CA, CO, ID, IA, KS, MO, MT, NE, NV, SD, TX, UT, OK, and WY for the account of Dependable Door Co., Inc., and (2) from Houston and Galveston, TX, Los Angeles, CA, Phoenix and Gila Bend, AZ and Denver, CO to Belen, NM, under a continuing contract or contracts with Dependable Door Co., Inc., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Dependable Door Co., Inc., P.O. Drawer 29, Belen, NM 87002. Send protests to: DS, ICC, 1106 Federal Office Building, 517 Gold Avenue SW, Albuquerque, NM 87101.

MC 147312 (Sub-1TA), filed June 21, 1979. Applicant: DALOR TRANSIT, INC., 7520 Ryan Rd., Franklin, WI 53132. Representative: Albert Andrin, 180 N. LaSalle St., Chicago, IL 60601. *Contract carrier, irregular routes: Canned goods* from facilities of Campbell Soup at Chicago, IL to points in WI on and south of Rt. 64, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Campbell Soup, 2550 W. 35th St., Chicago, IL 60632. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 147313 (Sub-1TA) filed May 2, 1979. Applicant: JOHN PFROMMER, INC., P.O. Box 307, Douglassville, PA 19518. Representative: Theodore Polydoroff, Suite 301, 1307 Dolley Madison Blvd., McLean, VA 22101. *Agricultural limestone and roasted dolomite*, in bulk, from facilities of J. E. Baker Co., York, PA, to Cranbury, Old Bridge and Sayreville, NJ, for 180 days. An underlying ETA was seeking 90 days authority. Supporting shipper: J. E. Baker Co., P.O. Box 1189, York, PA 17405. Send protests to: ICC, Room 620, 101 N. 7th St., Phila., PA 19106.

MC 147323 (Sub-1TA) filed May 3, 1979. Applicant: HADDAD TRANSPORTATION, INC., 5000 Wyoming, Dearborn, MI 48126. Representative: J. F. Schouman, Attorney, 21925 Garrison, Dearborn, MI 48124. *Iron and steel articles, castings, machinery, aluminum, plastics N.O.I., auto trim paint, compounds N.O.I.*; (1) from Michigan's lower peninsula to points in the 48 contiguous states; (2) from points in the 48 contiguous states to Michigan's lower peninsula. For 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Merritt International Corp., 26555 Evergreen, Southfield, MI 48078; Downriver Plate Company, 18501 Krause, Riverview, MI 48192; Warfield Corporation 23235 Telegraph Road, Southfield, MI 48034; Michigan Steel Service Company, 6666 Tireman Avenue, Detroit, MI 48204. Send protests to: C. R. Flemming, D/S, I.C.C., 225 Federal Building, Lansing, MI 48933.

MC 147352 (Sub-1TA) filed June 5, 1979. Applicant: JAMES MERFELD, Dougherty, IA 50433. Representative: Richard D. Howe, 600 Hubbell Bldg., Des Moines, IA 50309. *Animal feed and animal feed ingredients, in bags*, from the facilities of Fermented Products, Inc. at or near Mason City, IA to points in IN, MN, and WI for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Fermented Products, Inc., P.O. Box 1483, Mason City, IA 50401. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 147372 (Sub-1TA), filed June 8, 1979. Applicant: WILLIAM A. NISKANEN, d.b.a. BURNS-JOHN DAY BUS SERVICE, 1068 N.W. Bond St., Bend, OR 97701. Representative: Earle V. White, 2400 S.W. Fourth Ave., Portland, OR 97201. *Common, regular, passengers and their baggage, and express and newspapers in the same vehicle with passengers between Burns and John Day, OR serving the intermediate point of Seneca, OR; from Burns via US Hwy 20 to its junction with*

US Hwy 395, then via US Hwy 395 to John Day, and return via the same route for 180 days. A corresponding ETA was granted for 30 + 2 effective June 8, 1979 and a permanent will be filed. Supporting shipper: Oregon Public Utility Commissioner, Salem, Oregon. Send protests to: R. V. Dubay, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 114 Pioneer Courthouse, Portland, Oregon 97204.

MC 147382 (Sub-1TA), filed June 7, 1979. Applicant: E.A.D. ENTERPRISES, INC., d.b.a. GARDENSTATE MOTOR FREIGHT, P.O. Box 709, Bordentown, NJ 08505. Representative: William J. Augello, 120 Main St., PO Box Z, Huntington, NY 11743. *Contract irregular. Fruit drinks, non-carbonated, liquid, powder & crystal (except in bulk, in tank vehicles) and Chilled Juice, in vehicles equipped with mechanical refrigeration (except in bulk, in tank vehicles)*. From Florence, Hightstown & Vincentown, NJ to points in OH, KY, TN, VA & WV. Supporting shipper: Coca-Cola Co., Foods Division, 480 Mercer St., Hightstown, NJ 08520. Send protests to: Robert J. Latarewicz, TR & TS, ICC, 744 Broad St., Room 522, Newark, NJ 07102.

MC 147392 (Sub-1TA), filed June 8, 1979. Applicant: NOTTINGHAM COMPANY, 1303 Boyd Avenue, N.W., Atlanta, GA 30318. Representative: Clyde W. Carver, P.O. Box 720434, Atlanta, GA 30328. *Contract carrier: Irregular routes: Boiler cleaning compounds, latex thickener, rubber accelerator and rubber preservatives, in bulk, in tank vehicles* from Chattanooga, TN to Houston and Borger, TX and Westlake and Baton Rouge, LA for 180 days. Conditions: (1) that applicant shall maintain completely separate accounting systems for its private and for-hire operations and (2) that applicant shall not at the same time and in the same vehicle transport property as a private and as a for-hire carrier. An underlying ETA seeks 90 days authority. Supporting shipper: Alco Chemical Corporation, P.O. Box 5141, Chattanooga, TN. Send protests to: Sara K. Davis, T/A, ICC, 1252 W. Peachtree St., NW, Rm. 300, Atlanta, GA 30309.

MC 147402 (Sub-1TA), filed June 13, 1979. Applicant: WACO DRIVERS, SERVICE, INC., 138 Atando Ave., Charlotte, NC 28206. Representative: Archie B. Culbreth, Suite 202, 2200 Century Parkway, Atlanta, GA 30345. *Contract Carrier—Irregular routes: Such commodities as are dealt in by retail department stores (except commodities in bulk)* from Charlotte, NC to points in NC, SC and points in TN on and east of

the western traversal of the Tennessee River, VA and WV, under a continuing contract(s) with Spiegel, Inc., Chicago, IL, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Spiegel, Inc., 1515 West 22nd St., Oak Brook, IL 60521. Send protests to: District Supervisor Terrell Price, 800 Briar Creek Rd—Rm CC516, Mart Office Building, Charlotte, NC 28205.

MC 147403 (Sub-1TA), filed June 28, 1979. Applicant: B & H TRUCKING COMPANY, INC., 2213 North Main Street, P.O. Box 1821, Suffolk, VA 23434. Representative: Blair P. Wakefield, Attorney at Law, Suite 1001 First & Merchants Bank Building, Norfolk, VA 23510. *Bananas* from Norfolk, VA and its commercial zone, to points in AL, AR, CT, DE, FL, GA, IL, IN, IA, KS, KY, MD, MA, MI, MO, NE, NJ, NY, NC, OH, OK, PA, RI, SC, TN, VA, WI, WV, and the DC, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Best Banana Co., Inc., 3616 East Virginia Beach Boulevard, Norfolk, VA 23502. Send protests to: Paul D. Collins, DS, ICC, Room 10-502 Federal Bldg., 400 North 8th St., Richmond, VA 23240.

MC 147412 (Sub-1TA), filed June 28, 1979. Applicant: DELTA REFINING COMPANY, 543 West Mallory Ave., Memphis, TN 38109. Representative: John L. LeMay (same as applicant). *Jet fuel in bulk, in tank vehicles* from Blytheville River Rail Terminal near Blytheville, AR to Little Rock Air force Base at Jacksonville, AR, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): USALA, Regulatory Law Office, Room 422 Nassif Building, 5611 Columbia Pike, Falls Church, VA 22041. Send protests to: Floyd A. Johnson, District Supervisor, Interstate Commerce Commission, 100 North Main Building—Suite 2006, 100 North Main Street, Memphis, TN 38103.

MC 147442 (Sub-1TA), filed May 22, 1979. Applicant: LAVIERO TRUCKING, INC., 70 Maureen Drive, Bristol, CT 06010. Representative: Thomas W. Murrett, 342 North Main Street, West Hartford, CT 06117. *Glass and plastic containers; carbonated beverages, in containers; fiberboard shipping containers, knocked down; bottle tops; labels; syrups; mixes; and liquid sugar, in bulk, in shipper-owned tank vehicles*, from points in NY, NJ, MA, and RI to Bristol, CT, limited at Bristol, CT to the facilities of Elco Beverage Company, for 180 days. Supporting shipper: Elco Beverage Company, 201 Terryville Road, Bristol, CT 06010. Send protests to: J. D. Perry, Jr., DS/ICC, 135 High Street, Hartford, CT 06101.

MC 147463 (Sub-1TA), filed June 4, 1979. Applicant: R. M. GUINThER, INC.,

R.D. #3, Box 81, Boyertown, PA 19512. Representative: John W. Dry, 541 Penn St., Reading, PA 19601. *Specialty chemicals and metals*, from the plant of Kawecki-Berylco Industries, a division of Cabot Corp., located in Colebrookdale Twp., Berks County, and Douglas Twp., Montgomery County, PA, to CT, DE, IN, MD, NJ, NY and OH, for 180 days. Supporting shipper: Kawecki-Berylco Industries, County Line Road, Boyertown, PA 19512. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Philadelphia, PA 19106.

MC 147492 (Sub-1TA), filed June 7, 1979. Applicant: MEL MOTOR EXPRESS, INC., P.O. Box 29058, New Orleans, LA 70189. Representative: James T. Harmon III (same address as applicant). Applicant is seeking authority to operate as a common carrier over irregular routes transporting (1) *paper and paper products, materials and supplies used in the manufacture and distribution of paper and paper products* from the plantsite of Union Camp Corporation at Lafayette, LA to points in TX, OK, AR, MS, AL, MO, IL, and KS; and (2) *the return of materials and supplies* from the states named in (1) above to the plantsite of Union Camp Corporation at Lafayette, LA, for 180 days. Applicant has filed an underlying ETA seeking 90 days. Supporting shipper: Union Camp Corporation, 1600 Valley Road, Wayne, NJ 07470. Send protests to: Robert J. Kirspe, DS, ICC, T-9038 Federal Bldg., 701 Loyola Ave., New Orleans, LA 70113.

MC 147493 (Sub-1TA), filed June 18, 1979. Applicant: NO LIMITATION TRUCKING SERVICES, INC., 7430 Alabama Street, New Orleans, LA 70126. Representative: Nolan J. Lockett, 2059 Mirabeau St., New Orleans, LA 70126. Applicant is seeking authority to operate as a contract carrier over irregular routes transporting *iron and steel articles, galvanized steel in coil and flat sheets* from New Orleans, LA to Crowley, LA carrying goods originating in interstate movement; and from New Orleans, LA to Jackson, MS and points in the states of IL, OH, NJ, MO, and MI, for 180 days. This will be under a continuing contract or contracts with Bayou Culvert Mfg., Inc. Applicant has filed an underlying ETA seeking 90 days. Supporting Shipper(s): Bayou Culvert Mfg., Inc., P.O. Box 202, Crowley, LA 70113. Send protests to: Robert J. Kirspe, DS, ICC, T-9038 Federal Bldg., 701 Loyola Ave., New Orleans, LA 70526.

MC 147512 (Sub-1TA), filed June 29, 1979. Applicant: HUDSON EXPRESS, INC., P.O. Box 142, Hudson, WI 54018. Representative: Grant J. Merriitt, 4444

IDS Center, Minneapolis, MN 55402. *Tool joint steel forgings*, from (1) Detroit, MI to Milwaukee, WI, Waconia, MN, Mars, PA, and points in TX; and from (2) Milwaukee, WI and Waconia, MN to points in TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): U.S. Forge, Inc., 105 Clark Avenue, Detroit, MI 48209. Send protests to: District Supervisor, ICC, 414 Federal Building & U.S. Courthouse, 110 South 4th Street, Minneapolis, MN 55401.

MC 147532 (Sub-1TA), filed July 3, 1979. Applicant: CAPITOL CITY WRECKER SERVICE, 539 West Monument St., Jackson, MS 39203. Representative: Donald B. Morrison, P.O. Box 22628, Jackson, MS 39205. (1) *Wrecked, disabled or repossessed motor vehicles and cargo trailers, with or without cargo, and (2) replacement motor vehicles and cargo trailers, by use of wrecker equipment only*, between Jackson, MS, and its commercial zone, one the one hand, and, on the other, points in AL, AR, LA, TN, and TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): There are five supporting shipper statements attached to this application. Send protests to: Alan C. Tarrant, D/S, ICC, Rm. 212, 145 E. Amite Bldg., Jackson, MS 39201.

MC 147542 (Sub-1TA), filed June 22, 1979. Applicant: JDS DELIVERY SERVICE, INC., 1007 South 8th Avenue, LaGrange, IL 60525. Representative: Patrick H. Smyth, Suite 521, 19 South LaSalle Street, Chicago, IL 60603. *Such commodities as are dealt in by manufacturers and distributors of electronic supplies, equipment, fittings, fixtures and accessories (except commodities in bulk)*, from McHenry Shores, IL to Chicago, IL and its commercial zone. *Restriction:* Transportation authorized above is restricted to shipments having a prior or subsequent movement by rail. This authority is sought for 180 days. An underlying ETA was granted for 90 days' authority. Supporting shipper: Lenco Electronics Inc., 1330 Belden, McHenry, IL. Send protests to: Annie Booker, TA, Interstate Commerce Commission, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 147543 (Sub-1TA), filed June 25, 1979. Applicant: L & M TRUCKING, INC., 28 12th Street, Lakewood, NJ 08701. Representative: Harold L. Reckson, 33-28 Halsey Road, Fair Lawn, NJ 07410. *Contract, irregular. Rough iron forgings or castings*, from Easton and Forks Twp., PA to Littleton, MA, under a continuing contract or contracts with Victaulic Company of America, for 180

days. Supporting shipper: Victaulic Company of America, 3100 Hamilton Blvd., South Plainfield, NJ 07080. Send protests to: Robert J. Latarewicz, TR&TS, ICC, 744 Broad St., Room 522, Newark, NJ 07102.

MC 147562 (Sub-1TA), filed June 13, 1979. Applicant: BOLDEMANN CHOCOLATE CO., INC., 1515 Pacific Street, Union City, CA 94587. Representative: Walter H. Walker, III, 133 Pine Street, San Francisco, CA 94111. *Contract carrier*, irregular routes: *Liquid sweetener* from facilities of, Amstar Corporation, Spreckels Sugar Division at Dimmitt, TX to facilities of Amstar Corporation, Spreckels Sugar Division at Los Angeles and Manteca, CA, for 180 days. Supporting shipper: Amstar Corp., Spreckels Sugar Division, 50 California Street, San Francisco, CA 94111. Send protests to: A. J. Rodriguez, 211 Main Street, Suite 500, San Francisco, CA 94105.

MC 147563 (Sub-1TA), filed June 28, 1979. Applicant: TRANSPORTATION SPECIALISTS, LTD., 3114 Hubbell Ave., Des Moines, IA 50317. Representative: Kenneth F. Dudley Box 279, Ottumwa, IA 52501. *Iron and steel articles and tin mill products* from the Chicago, IL commercial zone to points in IA, MO, MN, NE and SD for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Nortown Steel Corporation, 4450 Euclid, East Chicago, Indiana 46312; Midwest Steel Division, National Steel Corp., Box #1, Portage, IN 46368; Intertrade Steel Corporation, 5115 Mt. Vernon Rd. S.E.—Box 1129, Cedar Rapids, IA 52406. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC-147572-TA, filed June 4, 1979. Applicant: COUNTRY LEASING, INC., 8206 Park Avenue, Allen Park, MI 48101. Representative: John Graham, 1520 N. Woodward Ave., Ste 106 Bloomfield Hills, MI 48313. *Contract Carrier*, by Motor Vehicle over regular routes, transporting: *Cake, donut frosting and other prepared mixes and ingredients used therein*. (Except in bulk); between (1) Monroe, MI and Battle Creek, MI, from Monroe, west over M-50 to US-23, North on US-23 to I-94, West on I-94 to Battle Creek and return; (2) Battle Creek, MI to Burlington, IO; from Battle Creek, West on I-94 to I-80, I-80 West to I-74 South on I-74 to US-34, West on US-34 to Burlington; (3) Burlington, IO to Chicago, IL; from Burlington, East on US-34 to I-74, North on I-74 to I-80, East on I-80, to Chicago, IL and its commercial zone; (4) Chicago, IL (and commercial zone) and Joliet, IL, to Monroe, MI; East on I-94 to I-80, East on I-80 to I-475, North on I-475 to I-75,

North on I-75 to M-50, West on M-50 to Monroe; (5) Decatur, IL to Monroe, MI; West on I-72 to I-57, North on I-57 to I-80, East on I-80 to I-475, North on I-475 to I-75, North on I-75 to M-50, west on M-50 to Monroe; (6) Between Burlington, IO and Decatur, IL; from Burlington, East on US-34 to I-74, South on I-74 to US-51, South on US-51 to Decatur and return. For 180 days. Supporting shipper(s): Amendt Milling Company, 317 W. Front St., Monroe, MI 48161. Send protests to: C. R. Flemming D/S, I.C.C., 225 Federal Building, Lansing, MI 48933, for 180 days.

MC-147592-TA, filed March 6, 1979. Applicant: MANUEL AND AMY VEGA d.b.a. VEGA CONSTRUCTION AND TRUCKING, P.O. Box 1630, Elko, NV 89801. Representative: John R. Ross II, Esq., P.O. Box 635, Carson City, NV 89701. *Ore and General Commodities*, between points and places situated within the counties of Elko, Eureka and Lander, State of NV, for 180 days. Supporting shipper(s): Chromalloy American Corp., P.O. Box 1003 Elko, NV 89801. Send protests to: W. J. Huetig, DS, ICC, 203 Federal Building, 705 North Plaza St., Carson City, NV 89701.

MC 147603 (Sub-1TA), filed June 7, 1979. Applicant: FROZEN XPRESS, INC., 18770 N.E. 6th Ave., Miami, FL 33179. Representative: Richard B. Austin, 5235 N.W. 87th Ave., Miami, FL 33164. *Contract carrier*—irregular route: Frozen foods (except in bulk) in temperature controlled motor vehicles between all points in the U.S. in and east of the States of MN, IA, MO, AR, and LA under contract with Florida Frozen Foods, Inc., and Southeast Frozen Foods, Inc. for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Florida Frozen Foods, Inc., 18770 N.E. 6th Ave., Miami, FL 33179; Southeast Frozen Foods, Inc., 18770 N.E. 6th Ave., Miami, FL 33179. Send protests to: Donna M. Jones, T/A, ICC-BOP, Monterey Bldg., Suite 101, 8410 N.W. 53rd Ter., Miami, FL 33166.

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MC 2505 (Sub-6TA), filed May 14, 1979. Applicant: COMMERCIAL TRANSPORTATION, INC., 2360 Adams Ave., Philadelphia, PA 19124. Representative: Robert B. Einhorn, 3220 P.S.F.S. Bldg., 12 South 12th St., Phila., PA 19107. Authority sought to operate as a *common carrier*, by motor vehicle, over *irregular routes*, transporting: *General commodities, with the usual exceptions, in containers, having an immediate prior or subsequent movement in interstate or foreign commerce by water*, between Norfolk,

VA; Baltimore, MD; Wilmington, DE; Philadelphia, PA; New York, NY, on the one hand and, on the other, New Cumberland, PA, Mechanicsburg, PA, and Chambersburg, PA for 180 days. Authority sought to operate as a *common carrier*, by motor vehicle, over *regular routes*, transporting: *General commodities, with the usual exceptions, in containers, having an immediate prior or subsequent movement in interstate or foreign commerce by water*, between Baltimore, MD and Norfolk, VA, over Maryland Route 2, to Junction with U.S. Route 50, thence on U.S. Route 50 to Salisbury, MD, thence on U.S. Route 13 to Norfolk, VA; and between Wilmington, DE and Norfolk, VA on U.S. Route 13 for 180 days. Supporting shipper: Sealand Service, Inc., 4901 Holabird Ave., Baltimore, MD 21224. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

Note.—Applicant does intend to tack this authority with authority it presently holds in MC-2605.

MC 8515 (Sub-21TA), filed June 25, 1979. Applicant: TOBLER TRANSFER, INC., Junction Interstate 80 and IL 89, Spring Valley, IL 61362. Representative: Leonafid R. Kofkin, 39 S. LaSalle St., Chicago, IL 60603. *Iron and steel articles and materials, equipment and supplies used in the manufacture, sale, or distribution of iron and steel articles*, between Peru, IL and points in IN, IA, MN, MO, OH, PA and WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: American Nickeloid Co., W. Main St., Peru, IL 61354. Send protests to: David Hunt, TA, Rm. 1386, 219 S. Dearborn St., Chicago, IL 60604.

MC 13095 (Sub-13TA) filed July 9, 1979. Applicant: WUNNICKE TRANSFER LINES, INC., 101 Buchanan St., Boscobel, WI 53605. Representative: Rolfe Hanson, 121 W. Doty St., Madison, WI 53703. *Contract carrier*, irregular routes: *Cheese* in refrigerated vehicles from Warsaw, IN to points in WI and return of materials and supplies from points in WI to Warsaw, IN under continuing contract with Bordon, Inc. for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Bordon Foods, 302 South St., Plymouth, WI 53073. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 15975 (Sub-19TA), filed July 3, 1979. Applicant: BUSKE LINES, INC., 123 W. Tyler Ave., Litchfield, IL 62058. Representative: Howard Buske (same as applicant). *Malt beverages, in containers*, from Detroit, MI and Ft. Wayne, IN, to St. Louis, MO, for 180

days. An underlying ETA seeks 90 days authority. Supporting shipper: Mid America Beer Distributors, Inc., 4400 Gustine, St. Louis, MO 63116. Send protests to: David Hunt, TA, Rm. 1386, 219 S. Dearborn, Chicago, IL 60604.

MC 19105 (Sub-60TA), filed July 9, 1979. Applicant: FORBES TRANSFER COMPANY, INC., P.O. Box 3544, Wilson, NC 27893. Representative: Vance T. Forbes (same as above). *Gypsum, gypsum products, and plasterboard joint treatment products* from the facilities of United States Gypsum Company at Plasterco, VA to points in AL, GA, NC, SC, and TN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: United States Gypsum Company, 53 Perimeter Center East, Atlanta, GA 30346. Send protests to: Terrell Price, 800 Briar Creek Rd., Rm. CC518, Mart Office Building, Charlotte, NC 28205.

MC 19105 (Sub-61TA), filed July 10, 1979. Applicant: FORBES TRANSFER COMPANY, INC., P.O. Box 3544, Wilson, NC 27893. Representative: William P. Jackson, Jr., P.O. Box 1240, Arlington, VA 22210. *Pipe, pipe fittings, and related articles* from the facilities of Charlotte Pipe and Foundry Company at Charlotte and Bakers, NC to points in GA on, north and west of a line commencing at the GA-SC border, thence south on US Highway 29 to Athens, GA, thence south over US Highway 129/441 to US Highway 80, thence west on US Highway 80 to the AL-GA state line, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Charlotte Pipe and Foundry Company, P.O. Box 4430, Charlotte, NC 28204. Send protests to: Terrell Price, 800 Briar Creek Rd., Rm. CC516, Charlotte, NC 28205.

MC 39395 (Sub-7TA), filed July 8, 1979. Applicant: NEHALEM VALLEY MOTOR FREIGHT, INC., 3641 N.W. St. Helens Rd., Portland, OR 97210. Representative: Curtis E. McCracken, 3641 N.W. St. Helens Rd., Portland, OR 97210. *General commodities, except those of unusual value, Class A and B explosives, commodities in bulk, and commodities requiring special equipment* between Astoria, OR on the one hand and Oysterville, WA on the other hand, serving all intermediate points and points within five miles of Hwy 101 and Hwy 103. From Astoria, OR over U.S. 101 to junction Washington Hwy 103, over WA Hwy 103 to Oysterville and return over the same route for 180 days. A corresponding ETA MC 39395 R-1 was granted for 30 + 27/6/79, Expires 10/3/79. A permanent will be filed. Supporting shipper(s): There are 21 supporting shippers. Send protests to: R.

V. Dubay, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 114 Pioneer Courthouse, Portland, OR 97204.

Note.—Applicant request authority to interline at Astoria, Portland, OR and Longview, WA and to tack this authority with authority it presently holds in No. MC-39395.

MC 106074 (Sub-121TA), filed July 10, 1979. Applicant: B AND P MOTOR LINES, INC., Shiloh Rd. and US Highway 221, South, Forest City, NC 28043. Representative: Clyde W. Carver, P.O. Box 720434, Atlanta, GA 30328. *New furniture and furniture parts* from all points in NC and VA to all points in AZ, CA and NV, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: John Breuner Company, 3201 Fostoria Way, San Ramon, CA 94583. Send protests to: Terrell Price, 800 Briar Creek Rd-Rm CC516, Charlotte, NC 28205.

MC 106074 (Sub-122TA), filed July 10, 1979. Applicant: B AND P MOTOR LINES, INC., Shiloh Rd and US Highway 221 South, Forest City, NC 28043. Representative: John J. Capo, P.O. Box 720434, Atlanta, GA 30328. *Such merchandise as is dealt in by wholesale, retail, chain grocery and food business houses (except in bulk, in tank vehicles)* from the facilities of A. E. Staley Manufacturing Co. (1) at Cicero and Broadview, IL to Atlanta, GA and (2) at Chattanooga, TN to points in NC and SC, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: A. E. Staley Manufacturing Co., 2222 Kensington Court, Oakbrook, IL 60521. Send protests to: Terrell Price, 800 Briar Creek Rd-Rm CC516, Charlotte, NC 28205.

MC 106074 (Sub-123TA), filed July 10, 1979. Applicant: B AND P MOTOR LINES, INC., Shiloh Road and U.S. Highway 221 South, Forest City, NC 28043. Representative: Clyde W. Carver, P.O. Box 720434, Atlanta, GA 30328. (1) *Foodstuffs (except in bulk)*; and (2) *confectionery (except in bulk)* (1) from the facilities of Sunmark, Inc., at St. Louis, MO, to all points in TN; and (2) from the facilities of Breaker Confections, division of Sunmark, Inc., at Itasca, IL to St. Louis, MO and all points in AL, FL, GA, NC, SC and TN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Sunmark, Inc., 10795 Watson Rd., St. Louis, MO 63127. Send protests to: Terrell Price, 800 Briar Creek Rd—Rm CC516, Charlotte, NC 28205.

MC 109124 (Sub-88TA), filed June 20, 1979. Applicant: SENTLE TRUCKING CORPORATION, P.O. Box 7850, Toledo, OH 43619. Representative: James M. Burtch, 100 East Broad St., Columbus,

OH 43215. *Lime and limestone, in bulk*, from Carey, Wyandot County, OH, to Fairburn, GA, Anderson, SC, Service and Cleburne, TX, Kansas City, KS, and Ashton, RI, for 180 days. And underlying ETA seeks 30 days authority. Supporting shipper: The National Lime & Stone Co., P.O. Box 120, Findlay, OH 45840. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Philadelphia, PA 19106.

MC 110325 (Sub-107TA), filed July 3, 1979. Applicant: TRANSCON LINES, P.O. Box 92220, Los Angeles, CA 90009. Representative: Wentworth E. Griffin, Esq., Midland Building, 1221 Baltimore Avenue, Kansas City, MO 64105. *General commodities, (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment)*, serving Muscatine, IA as an off-route points in connection with carrier's otherwise authorized regular-route operations, for 180 days. Supporting shipper(s): There are eight supporting shippers. Their statements may be examined at the office listed below and at Headquarters. Send protests to: Irene Carlos, TA, ICC, P.O. Box 1551, Los Angeles, CA 90053.

Note.—Applicant proposes to tack the authority sought with its authority in MC 110325 and Subs thereto, and proposes to interline with other motor carriers. An underlying ETA seeks up to 90 days operating authority.

MC 111274 (Sub-46TA), filed June 26, 1979. Applicant: SCHMIDGALL TRANSFER INC., P.O. Box 356, Morton, IL 61550. Representative: Richard Bartlow (same address as applicant). *Contract carrier*, irregular routes. *Grain drying, handling and storage equipment and steel buildings*, between the facilities of the supporting shipper in IL and KS and MO and all points in the United States (except Alaska and Hawaii), for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Bantam Systems, Inc., 645 W. 58th St., Chicago, IL 60621. Send protests to: David Hunt, TA, Rm. 1386, 219 S. Dearborn St., Chicago, IL 60604.

MC 111274 (Sub-47TA), filed June 26, 1979. Applicant: SCHMIDGALL TRANSFER INC., P.O. Box 356, Morton, IL 61550. Representative: Richard Bartlow (same address as applicant). *Contract carrier*, irregular routes. *Fiberglass laminated or plywood or particle board and materials used or useful in the manufacture of same*, between Springfield, IL on the one hand, and all points in the states WI, IA, MN, SD, TN, and MT, on the other, for 180 days. An underlying ETA seeks 90 days

authority. Supporting shipper: Economy Awning Manufacturing Co., 2508 S. Grand E., Springfield, IL 62707. Send protests to: David Hunt, TA, Rm. 1386, 219 S. Dearborn St., Chicago, IL 60604.

MC 111375 (Sub-113TA), filed July 12, 1979. Applicant: PIRKLE REFRIGERATED FREIGHT LINES, INC., P.O. Box 3358, Madison, WI 53704. Representative: Elaine Conway, 10 S. LaSalle St., Chicago, IL 60603. Dairy products from Kiel, WI to points in TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Lake to Lake Dairy Cooperative, 927 8th St., Kiel, WI 53042. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 113855 (Sub-493TA), filed July 12, 1979. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Road, Southeast, Rochester, MN 55901. Representative: Thomas J. Van Osdel, 502 First National Bank Building, Fargo, ND 58126. Compressors and parts and attachments for compressors from Wilson, NC to points in the United States (including AK but excluding HI), for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Joy Manufacturing Company, H. W. Oliver Building, Pittsburgh, PA. Send protests to: Judith L. Olson, TA, ICC, 414 Federal Building & U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 115654 (Sub-155TA), filed July 10, 1979. Applicant: TENNESSEE CARTAGE CO., INC., P.O. Box 23193, Nashville, TN 37202. Representative: Henry E. Seaton, 929 Pennsylvania Bldg., 425 Thirteenth St. N.W., Washington, DC 20004. Salad and salad dressings, in vehicles equipped with mechanical refrigeration from Memphis, TN to points in TN, for 180 days. NOTE: Applicant proposes to interline at Memphis, TN. An underlying ETA seeks 90 days authority. Supporting shipper: Robert Orr & Company, P.O. Box 1087, Nashville, TN 37202. Send protests to: Glenda Kuss, TA, ICC, Suite A-422, U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 116234 (Sub-276TA), filed July 5, 1979. Applicant: CHEM-HAULERS, INC., 118 East Mobile Plaza, Florence, AL 35630. Representative: Mr. M. D. Miller (same address as applicant). Chemicals, in bulk, in tank vehicles, from the facilities of Stauffer Chemical Company and Montrose Chemical Company, Henderson, NV to points in AL, AR, CT, FL, LA, NE, NJ, PA, TN, TX, WV, for 180 days. Supporting shipper: Stauffer Chemical Company, Westport, CT 06880. Send protests to: Mabel E. Holston, T/A,

ICC, Room 1616-2121 Building, Birmingham, AL 35203.

MC 117304 (Sub-39TA), filed May 23, 1979. Applicant: DON PAFFILE, d.b.a. Paffile Truck Lines, 5835 N. and S. Hiway, Lewiston, ID 83501. Representative: George R. LaBissoniere, 110 Norton Bldg., Seattle, WA 98104. Paper and paper products, from Yakima, WA to points in WA, ID, OR and MT, for 180 days. Supporting shipper: Longview Fibre Company, P.O. Box 639, Longview, WA 98632. Send protests to: Shirley M. Holmes, T/A, ICC, 858 Federal Bldg., Seattle, WA 98174.

MC 117815 (Sub-325TA), filed July 9, 1979. Applicant: PULLEY FREIGHT LINES, INC., 405 S. E. 20th St., Des Moines, IA 50317. Representative: Jack H. Blansham, Suite 200, 205 West Touhy Ave., Park Ridge, IL 60068. Such commodities as are dealt in by wholesale and retail food and drug outlets (except commodities in bulk) from the facilities of The Procter & Gamble Distributing Company at or near St. Louis, MO, to points in IA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: The Procter & Gamble Distributing Company, P.O. Box 599, Cincinnati, OH 45201. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg, Des Moines, IA 50309.

MC 119315 (Sub-29TA), filed July 2, 1979. Applicant: FREIGHTWAY CORPORATION, 131 Matzinger Rd., Toledo, OH 43612. Representative: Paul F. Beery, 275 E. State St., Columbus, OH 43215. Pentaerythritol and sodium formate, and equipment, materials, and supplies used in the manufacture thereof (except commodities in bulk), between Toledo, OH, on the one hand, and, on the other, points in and east of the states of ND, SD, NE, OK, KS, and TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Perstorp, Inc., 600 Matzinger Rd., Toledo, OH 43612. Send protests to: D/S, ICC, 101 N. 7th St., Philadelphia, PA 19103.

MC 119634 (Sub-38TA), filed July 9, 1979. Applicant: DICK IRVIN, INC., P.O. Box F, Shelby, MT 59474. Representative: Mark A. Cole (same address as applicant). Lime and limestone, in bulk and bags, from ports of entry on the International Boundary line between the U.S. and Canada to Spokane, Bellingham and Everett, WA, Kellogg, ID, Missoula, Butte, East Helena and Great Falls, MT and Salt Lake City, UT, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Steel Brothers Canada Ltd., 4836-8th St. NE, Calgary, AB, Canada T2E 3Z9. Send protests to: Paul J.

Labane, DS, ICC, 2602 First Avenue North, Billings, MT 59101.

MC 119634 (Sub-39TA), filed July 9, 1979. Applicant: DICK IRVIN, INC., P.O. Box F, Shelby, MT 59474. Representative: Mark A. Cole (same address as applicant). Aluminum truck bodies and extrusions and steel truck bodies, hoists and suspensions between the plantsite of Intercontinental Truck Body Montana, Inc., Conrad, MT, on the one hand, and, on the other, Paris, IL, Dolton, IL, Mankato, MN and Orange City, IA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Intercontinental Truck Body Montana, Inc., P.O. Box 666, Conrad, MT 59425. Send protests to: Paul J. Labane, DS, ICC, 2602 First Avenue North, Billings, MT 59101.

MC 119634 (Sub-40TA), filed July 9, 1979. Applicant: DICK IRVIN, INC., P.O. Box F, Shelby, MT 59474. Representative: Mark A. Cole (same address as applicant). Cement, in bulk and bags, from Trident and Montana City, MT to points in WY and ND, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Robinson Insulation Company, Box 1419, Great Falls, MT 59403. Ideal Basic Industries, P.O. Box 2095, Billings, MT 59103. Kaiser Cement Corporation, 5975 E. Marginal Way So., Seattle, WA 98134. Send protests to: Paul J. Labane, DS, ICC, 2602 First Avenue North, Billings, MT 59101.

MC 119654 (Sub-75TA), filed June 27, 1979. Applicant: HI-WAY DISPATCH, INC., 1401 West 26th Street, Marion, IN 46952. Representative: Norman R. Garvin, 1301 Merchants Plaza, Indianapolis, IN 46204. Glass containers and accessories, from Gurnee, IL, to Frankfort and Tipton, IN and Leipsic, OH, for 180 days. Supporting shipper: Anchor Hocking Corporation, 109 North Broad Street, Lancaster, OH 43130. Send protests to: Beverly J. Williams, Transportation Assistant, ICC, 46 E. Ohio St., Rm 429, Indianapolis, IN 46204. An underlying ETA seeks 90 days authority.

MC 126904 (Sub-30TA), filed June 26, 1979. Applicant: H. C. PARRISH TRUCK SERVICE, INC., R.R. 2, P.O. Box 264, Freeburg, IL 62243. Representative: James W. Patterson, 1200 Western Savings Bank Building, Philadelphia, PA 19107. Malt beverages, from Evansville, IN, to points in AL, IL, LA, MS and MO, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): G. Heilman Brewing Co., 925 S. Third St., LaCrosse, WI 54601. Send protests to: David Hunt, TA, Rm. 1386, 219 S. Dearborn St., Chicago, IL 60604.

MC 126555 (Sub-69TA), filed July 9, 1979. Applicant: UNIVERSAL TRANSPORT, INC., P.O. Box 3000, Rapid City, SD 57709. Representative: Philip A. Nagel (same address as applicant's). Lumber from Custer, SD to all points in IA for 180 days. Supporting shipper(s): Custer Lumber, Custer, SD 57730. Send protests to: J. L. Hammond, DS, ICC, Room 455, Federal Bldg., Pierre, SD 57501.

MC 128964 (Sub-12TA), filed July 13, 1979. Applicant: REES TRUCKING COMPANY, INC., P.O. Box G, Houston, MO 65483. Representative: Herman W. Huber, 101 East High Street, Jefferson City, MO 65101. Iron and steel articles, from the plant site of Jones & Laughlin Steel Corporation in Putnam County, IL to points in AR and OK, for 90 days. Supporting shipper(s): Jones & Laughlin Steel Corporation, Hennepin, IL 61327. Send protests to: John V. Barry, D/S, ICC, Room 600, Federal Bldg., 911 Walnut Street, Kansas City, MO 64106.

MC 133684 (Sub-35TA), filed May 29, 1979. Applicant: GORDON FAST FREIGHT, INC., 2205 Pacific Hwy E., Tacoma, WA 98422. Representative: Michael D. Duppenhaler, 211 S. Washington St., Seattle, WA 98104. Fuel wood logs, consisting of sawdust and wood shavings compressed, with or without additives, from Grants Pass, OR to points in AZ, CA, CO, ID, MT, NV, NM, UT, WA and WY, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Agnew Environmental Products, Inc., P.O. Box 1168, Grants Pass, OR 97526. Send protests to: Shirley M. Holmes, T/A, ICC, 858 Federal Bldg., Seattle, WA 98174.

MC 133684 (Sub-3TA), filed May 24, 1979. Applicant: GORDON FAST FREIGHT, INC., 2205 Pacific Hwy E., Tacoma, WA 98422. Representative: Michael D. Duppenhaler, 211 S. Washington St., Seattle, WA 98104. Malt beverages and materials and supplies for the brewing and packaging of malt beverages, (1) between Seattle, WA, on the one hand, and, on the other, points in OR, CA, NV and AZ; (2) between Phoenix, AZ, on the one hand, and, on the other, points in WA, OR, CA and NV, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): G. Heileman Brewing Co., Inc., 3100 Airport Way South, Seattle, WA 98134. Send protests to: Shirley M. Holmes, T/A, ICC, 858 Federal Bldg., Seattle, WA 98174.

MC 133684 (Sub-33TA), filed May 24, 1979. Applicant: GORDON FAST FREIGHT, INC., 2205 Pacific Highway E., Tacoma, WA 98422. Representative: Michel D. Duppenhaler, 211 S.

Washington, St., Seattle, WA 98104. Malt beverages and materials and supplies for the brewing and packaging of malt beverages between Portland, OR, on the one hand, and, on the other, points in WA, ID, WY, UT, CO, AZ and NM, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Blitz Weinhard Co., 1133 West Burnside St., Portland, OR 97209. Send protests to: Shirley M. Holmes, T/A, ICC, 858 Federal Bldg., Seattle, WA 98174.

MC 134405 (Sub-82TA), filed July 5, 1979. Applicant: BACON TRANSPORT COMPANY, P.O. Box 1134, Ardmore, OK 73401. Representative: Wilburn L. Williamson, Suite 615-East, The Oil Center, 2601 Northwest Expressway, Oklahoma City, OK 73112. Asphalt and fuel oil, in bulk, in tank vehicles, from Tulsa, OK, to points in AR and MO, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Riffe Petroleum Company, 1111 Philtower Bldg., Tulsa, OK 74103. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 134405 (Sub-83TA), filed July 5, 1979. Applicant: BACON TRANSPORT COMPANY, P.O. Box 1134, Ardmore, OK 73401. Representative: Wilburn L. Williamson, Suite 615-East, The Oil Center, 2601 Northwest Expressway, Oklahoma City, OK 73112. Gasoline, in bulk, in tank vehicles, from Fort Smith, AR, to points in OK, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Purity Oil Company, 11306 E. 22nd, Tulsa, OK 74129. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 140484 (Sub-48TA), filed July 11, 1979. Applicant: LESTER COGGINS TRUCKING, INC., 2671 E. Edison Ave., P.O. Box 69, Fort Myers, FL 33902. Representative: Frank T. Day (Same address as applicant). Wheat flour, flour-prepared, flour-edible, and donut sugar topping (other than in bulk) from the facilities of the Pillsbury Company at or near Martel, OH to Fort Lauderdale, Hollywood, Miami and Orlando, FL for 180 days. Supporting Shipper(s): Pillsbury Company, 608 2nd Avenue, South, Minneapolis, MN 55402. Send protests to: Donna M. Jones, T/A, ICC-BOP, Monterey Bldg., Room 101, 8410 N.W. 53rd Ter., Miami, FL 33166.

MC 141804 (Sub-246TA), filed July 11, 1979. Applicant: WESTERN EXPRESS, DIVISION OF INTERSTATE RENTAL, INC., P.O. Box 3488, Ontario, CA 91761. Representative: Frederick J. Coffman (Same address as applicant). Foam, cellular expanded or sponge, from

Jessup and Baltimore, MD and their commercial zones to the facilities utilized by Wilshire Foam Products, Inc., at or near Torrance and Carson, CA, for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting Shipper(s): William T. Burnett, Inc., 1500 Bush Street, Baltimore, MD 21230. Send protests to: Irene Carlos, TA, ICC, P.O. Box 1551, Los Angeles, CA 90053.

MC 141804 (Sub-247TA), filed July 6, 1979. Applicant: WESTERN EXPRESS, DIVISION OF INTERSTATE RENTAL, INC., P.O. Box 3488, Ontario, CA 91761. Representative: Frederick J. Coffman, P.O. Box 3488, Ontario, CA 91761. Foodstuffs, from points in CA to Cambridge, MA, for 180 days. Supporting Shipper(s): Erehwon, Inc., 3 East Street, Cambridge, MA 02141. Send protests to: Irene Carlos, TA, ICC, P.O. Box 1551, Los Angeles, CA 90053.

MC 141804 (Sub-248TA), filed July 9, 1979. Applicant: WESTERN EXPRESS, DIVISION OF INTERSTATE RENTAL, INC., P.O. Box 3488, Ontario, CA 91761. Representative: Frederick J. Coffman (same address as applicant). Lighting fixtures and/or parts thereof, from the facilities of Lithonia Lighting, Inc., Division of National Service Industries, Inc., at or near Cochran and Conyers, GA to all points in ID, OR, WA, NV, UT, WY, AZ, NM, CA, CO, and MT, for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting shipper(s): Lithonia Lighting, Division of National Service Industries, Inc., P.O. Box H-1400 Lester Road, Conyers, CA 30207. Send protests to: Irene Carlos, TA, ICC, P.O. Box 1551, Los Angeles, CA 90053.

MC 142364 (Sub-19TA), filed July 6, 1979. Applicant: SAGELY PRODUCE COMPANY, P.O. Box 368, Van Buren, AR 72956. Representative: Don Garrison, P.O. Box 159, Rogers, AR 72756. Petroleum and petroleum products (except in bulk) from Emlenton, Farmers Valley, North Warren, New Kensington and Kimberton, PA; Buffalo and North Tonawanda, NY; and Congo and St. Marys, WV, to points in AR, IL, IN, KY, LA, MO, MS, OK, TN and TX for 180 days. Underlying ETA sought corresponding authority for 90 days. Supporting shipper(s): Quaker State Refinery Corporation, P.O. Box 989, Oil City, PA 16301. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.

By the Commission.
 Agatha L. Mergenovich,
 Secretary.

Notice No. 140

July 31, 1979.

MC 8973 (Sub-60TA), filed July 9, 1979.

Applicant: METROPOLITAN TRUCKING, INC., 2424—95th Street, North Bergen, NJ 07047. Representative: Morton E. Kiel, Suite 1832, 2 World Trade Center, New York, NY 10048. Paper and paper products, plastic and plastic products, and products manufactured and distributed by manufacturers and converters of paper and paper products, plastic and plastic products, and materials, equipment, and supplies used in the manufacture and distribution of the above named commodities (except in bulk) between Shelbyville and Chicago, IL and Louisville, KY, on the one hand, and, on the other points in the United States in and east of WI, IA, MO, KS, OK and TX, for 180 days. Supporting shipper(s): Continental Bondware, Division of Continental Group, Inc., 800 E. N.W. Highway, Palatine, IL 60067. Send protests to: Robert E. Johnston, DS, ICC, 744 Broad Street, Room 522, Newark, NJ 07102.

MC 12822 (Sub-61 TA), filed July 13, 1979. Applicant: WESTPORT TRUCKING COMPANY, 15580 South 169 Highway, Olathe, KS 66061. Representative: Kenneth E. Smith (same as above). (a) Welders, welder parts and systems, and welding compounds; (b) materials and supplies used in the manufacture and distribution of the commodities in (a) above (except commodities in bulk and those articles because of size and weight require special equipment), between the facilities of Stoddy Company and Stoddy International Company, at or near Pittsburgh, PA on the one hand, and, on the other, points in the U.S. (except PA, AK and HI), for 180 days. Supporting shipper(s): Stoddy Company, 16425 Gale Ave., City of Industry, CA 91749. Send protests to: John V. Barry, D/S, ICC, Room 600, Federal Bldg., 911 Walnut Street, Kansas City, MO 64106.

MC 41432 (Sub-162TA), filed June 1, 1979. Applicant: EAST TEXAS MOTOR FREIGHT LINES, INC., P.O. Box 10125, Dallas, TX 75207. Representative: Eldon E. Bresee (address same as above). Common carrier, over regular routes, transporting General Commodities, except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, serving all points within the commercial zones of

the service points in Routes 1 through 88 below. Applicant requests authority to operate from to or between the following points: (1) Between Dallas, TX and Muskogee, OK, serving the intermediate points of McKinney, Sherman and Denison, TX and McAlester, OK: From Dallas over U.S. Hwy 75 to junction U.S. Hwy 69, then over U.S. Hwy 69 to Muskogee, OK and return over the same route. (2) Between Dallas, TX and Oklahoma City, OK, serving the intermediate points of Gainesville, TX and Ardmore, OK: From Dallas over Interstate Hwy 35E to junction U.S. Hwy 77, then over U.S. Hwy 77 to Oklahoma City and return over the same route. (3) Between Fort Worth, TX and junction Interstate Hwy 35E and Interstate Hwy 35W serving no intermediate points and serving junction Interstate Hwy 35E and Interstate Hwy 35W for purposes of joinder only: From Fort Worth over Interstate Hwy 35W to junction Interstate Hwy 35E and return over the same route. (4) Between Fort Worth, TX and Wichita Falls, TX serving no intermediate points and serving junction U.S. Hwy 287 and U.S. Hwy 81 for purposes of joinder only: From Fort Worth over U.S. Hwy 287 to Wichita Falls and return over the same route. (5) Between Bowie, TX and junction U.S. Hwy 81 and H. E. Bailey Turnpike serving the intermediate point of Duncan, OK, and serving junction U.S. Hwy 81 and H. E. Bailey Turnpike for purposes of joinder only: From Bowie over U.S. Hwy 81 to junction H. E. Bailey Turnpike and return over the same route. (6) Between Wichita Falls, TX and Oklahoma City, OK serving the intermediate and off-route points of Lawton, Chickasha and Anadarko, OK: From Wichita Falls over U.S. Hwy 281 to junction H. E. Bailey Turnpike, then over H. E. Bailey Turnpike to Oklahoma City and return over the same route. (7) Between Amarillo, TX and Oklahoma City, OK, serving no intermediate points: From Amarillo over Interstate Hwy 40 to Oklahoma City and return over the same route.

(8) Between junction U.S. Hwy 287 and U.S. Hwy 82 and junction U.S. Hwy 82 and U.S. Hwy 75 serving no intermediate points and serving the junction U.S. Hwy 82 and U.S. Hwy 81 and junction U.S. Hwy 82 and U.S. Hwy 77 for purposes of joinder only: From junction U.S. Hwy 287 and U.S. Hwy 82 over U.S. Hwy 82 to junction U.S. Hwy 82 and U.S. Hwy 75 and return over the same route. (9) Between junction U.S. Hwy 75 and U.S. Hwy 69 and Oklahoma City, OK serving the intermediate point of Ada, OK: From junction U.S. Hwy 75 and U.S. Hwy 69 over U.S. Hwy 75 to

junction OK Hwy 3, then over OK Hwy 3 to junction OK Hwy 13, then over OK Hwy 13 to junction OK Hwy 39, then over OK Hwy 39 to junction U.S. Hwy 77, then over U.S. Hwy 77 to Oklahoma City and return over the same route (also from junction OK Hwy 13 and U.S. Hwy 177 over U.S. Hwy 177 to junction U.S. Hwy 177 and Interstate Hwy 40, then over Interstate Hwy 40 to Oklahoma City) and return over the same route. (10) Between Ada, OK and McAlester, OK, serving no intermediate points, serving junction U.S. Hwy 270 and U.S. Hwy 75 for purposes of joinder only: From Ada over OK Hwy 1 to junction U.S. Hwy 270, then over U.S. Hwy 270 to McAlester and return over the same route. (11) Between junction U.S. Hwy 69 and Indian Nation Turnpike and Tulsa, OK serving the intermediate and off-route points of Henryetta and Okmulgee, OK: From junction U.S. Hwy 69 and Indian Nation Turnpike over Indian Nation Turnpike to junction U.S. Hwy 75, then over U.S. Hwy 75 to Tulsa and return over the same route. (12) Between junction U.S. Hwy 82 and U.S. Hwy 75 and junction U.S. Hwy 82 and U.S. Hwy 271 serving no intermediate points: From junction U.S. Hwy 82 and U.S. Hwy 75 over U.S. Hwy 82 to junction U.S. Hwy 271 and return over the same route. (13) Between junction U.S. Hwy 69 and Indian Nation Turnpike and junction U.S. Hwy 271 and U.S. Hwy 82 at or near Paris, TX serving no intermediate points and serving junction U.S. Hwy 271 and U.S. Hwy 82 for purposes of joinder only: From junction U.S. Hwy 69 and Indian Nation Turnpike, over Indian Nation Turnpike to junction U.S. Hwy 271 at or near Hugo, OK, then over U.S. Hwy 271 to junction U.S. Hwy 82 and return over the same route. (14) Between Ardmore, OK and junction U.S. Hwy 70 and Indian Nation Turnpike serving no intermediate points, and serving the junction of U.S. Hwy 70 and U.S. Hwy 75 and junction U.S. Hwy 70 and Indian Nation Turnpike for purposes of joinder only: From Ardmore over U.S. Hwy 70 to junction Indian Nation Turnpike and return over the same route. (15) Between junction Interstate Hwy 35 and U.S. Hwy 60 and junction U.S. Hwy 60 and U.S. Hwy 66 serving the intermediate and off-route points of Ponca City, Tonkawa and Bartlesville, OK: From junction Interstate Hwy 35 and U.S. Hwy 60 over U.S. Hwy 60 to junction U.S. Hwy 66 and return over the same route. (16) Between Tulsa, OK and junction Muskogee Turnpike and Interstate Hwy 40, serving the intermediate point of Muskogee, OK: From Tulsa over OK Hwy 51 to junction Muskogee Turnpike, then over Turnpike

to junction Interstate Hwy 40 and return over the same route. (17) Between junction OK Hwy 3 and Interstate Hwy 40 and Fort Smith, AR, serving the intermediate and off-route points of Shawnee and Seminole, OK, and serving junction of U.S. Hwy 75 and Interstate Hwy 40 for purposes of joinder only: From junction OK Hwy 3 and Interstate Hwy 40 over Interstate Hwy 40 to Fort Smith, AR and return over the same route. (18) Between Fort Smith, AR and Little Rock, AR serving the intermediate and off-route points of Conway, AR and Morrilton, AR: From Fort Smith over Interstate Hwy 40 to Little Rock and return over the same route. (19) Between Little Rock, AR and junction U.S. Hwy 65 and U.S. Hwy 60 serving no intermediate points, serving junction for purposes of joinder only: From Little Rock over U.S. Hwy 65 to junction U.S. Hwy 65 and U.S. Hwy 60 and return over the same route. (20) Between Texarkana, AR and junction U.S. Hwy 62 and U.S. Hwy 271 serving no intermediate points, serving junction for purposes of joinder only: From Texarkana over U.S. Hwy 62 to junction U.S. Hwy 62 and U.S. Hwy 271 and return over the same route. (21) Between Fort Smith, AR and Joplin, MO serving the intermediate and off-route points of Fayetteville, Springdale, Rogers, Siloam Springs, and Bentonville, AR; and Neosho, MO: From Fort Smith over U.S. Hwy 71 to Joplin and return over the same route. (22) Between Oklahoma City, OK and Springfield, MO serving all intermediate points between Tulsa, OK and the off-route point of Neosho, MO: From Oklahoma City over U.S. Hwy 66 to Springfield, and return over the same route. (23) Between Joplin, MO and junction U.S. Hwy 71 and MO Hwy 7, serving the off-route point of Pittsburg, KS and the junction U.S. Hwy 71 and MO Hwy 7 for purposes of joinder only: From Joplin over U.S. Hwy 71 to junction MO Hwy 7 and return over the same route. (24) Between Springfield, MO and St. Louis, MO serving no intermediate points: From Springfield over Interstate Hwy 44 to St. Louis and return over the same route.

(25) Between Kansas City, MO and St. Louis, MO serving the intermediate and off-route points of Sedalia, Boonville, Jefferson City, Columbia and Mexico, MO: (a) From Kansas City over U.S. Hwy 40 to St. Louis and return over the same route; and (b) From Kansas City over U.S. Hwy 50 to junction U.S. Hwy 54, then over U.S. Hwy 54 to junction U.S. Hwy 40, then over U.S. Hwy 40 to St. Louis and return over the same route. (Also from junction U.S. Hwy 40 and

Interstate Hwy 70 over Interstate Hwy 70 to St. Louis) and return over the same route. (26) Between Kansas City, MO and Hannibal, MO serving the intermediate points of Moberly, MO and Monroe City, MO: From Kansas City over U.S. Hwy 24 to junction U.S. Hwy 36, then over U.S. Hwy 36 to Hannibal and return over the same route. (27) Between Jefferson City, MO and El Dorado, KS serving no intermediate points and serving junction U.S. Hwy 54 and U.S. Hwy 71 for purposes of joinder only: From Jefferson City over U.S. Hwy 54 to El Dorado and return over the same route. (28) Between Oklahoma City, OK and Salina, KS serving the intermediate and off-route points of Enid, OK; Wichita, Newton and McPherson, KS: From Oklahoma City over Interstate Hwy 35 to junction Interstate Hwy 155, then over Interstate Hwy 155 to junction U.S. Hwy Alt. 61, then over U.S. Hwy Alt. 81 to Salina and return over the same route. (29) Between Ponca City, OK and Kansas City, MO serving the intermediate and off-route points of Arkansas City, Winfield, El Dorado, Topeka, Lawrence and Kansas City, KS: From Ponca City over U.S. Hwy 77 to junction Interstate Hwy 35, then over Interstate Hwy 35 to junction U.S. Hwy 40, then over U.S. Hwy 40 to Kansas City and return over the same route. (Also from junction U.S. Hwy 77 and Kansas Turnpike, over Kansas Turnpike to Kansas City) and return over the same route. (30) Between Kansas City, KS and junction U.S. Hwy 73 and U.S. Hwy 75 serving the intermediate point of Leavenworth, KS and serving junction for purposes of joinder only: From Kansas City over U.S. Hwy 73 to junction U.S. Hwy 75 and return over the same route. (31) Between junction U.S. Hwy 77 and U.S. Hwy 40 over U.S. Hwy 77 to junction U.S. Hwy 6, then over U.S. Hwy 6 to Omaha and return over the same route (also from junction U.S. Hwy 77 and Interstate Hwy 80 over Interstate Hwy 80 to Omaha) and return over the same route. (32) Between Kansas City, MO and junction Interstate Hwy 80 and Interstate Hwy 35 serving no intermediate points: From Kansas City over Interstate Hwy 35 to junction Interstate Hwy 80 and return over the same route. (33) Between Wichita, KS and McPherson, KS serving the intermediate point of Hutchinson, KS: From Wichita over KS Hwy 96 to junction KS Hwy 61, then over KS Hwy 61 to McPherson and return over the same route. (34) Between Salina, KS and Topeka, KS serving junction U.S. Hwy

40 and U.S. Hwy 77 for purposes of joinder only: From Salina over U.S. Hwy 40 to Topeka, and return over the same route. (35) Between El Dorado, KS and junction U.S. Hwy 77 and U.S. Hwy 40 serving no intermediate points: From El Dorado over U.S. Hwy 77 to junction U.S. Hwy 40 and return over the same route. (36) Between Memphis, TN and Kansas City, MO serving the intermediate points of Jonesboro, AR and Springfield, MO, and serving junction U.S. Hwy 71 and MO Hwy 7 for purposes of joinder only: From Memphis over Interstate Hwy 40 to junction Interstate Hwy 55, then over Interstate Hwy 55 to junction U.S. Hwy 63, then over U.S. Hwy 63 to junction U.S. Hwy 60 at or near Willow Springs, MO, then over U.S. Hwy 60 to Springfield, then over MO Hwy 13 to junction MO Hwy 7 at or near Clinton, MO then over MO Hwy 7 to junction U.S. Hwy 71, then over U.S. Hwy 71 to Kansas City and return over the same route. (37) Between St. Louis, MO and Muscatine, IA serving the intermediate and off-route points of Hannibal, Palmyra, MO; Quincy, IL; and Keokuk, Fort Madison and Burlington, IA: From St. Louis over Interstate Hwy 70 to junction U.S. Hwy 61 (also from St. Louis over U.S. Hwy 40 to junction U.S. Hwy 61 at or near Wentzville, MO) then over U.S. Hwy 61 to Muscatine and return over the same route. (38) Between Kansas City, MO and Council Bluffs, IA serving the intermediate and off-route points of St. Joseph, MO and Leavenworth, KS: From Kansas City over Interstate Hwy 29 to Council Bluffs and return over the same route. (39) Between Omaha, NE and Davenport, IA serving the intermediate and off-route points of Ames, Marshalltown, Des Moines, Tama, Council Bluffs, Amana, Cedar Rapids, Marion and Iowa City, IA: (a) From Omaha over Interstate Hwy 80 to junction U.S. Hwy 6, then over U.S. Hwy 6 to Davenport and return over the same route. (Also from Omaha over U.S. Hwy 6 to Davenport) and return over the same route; and (b) From Omaha over U.S. Hwy 6 to junction U.S. Hwy 75, then over U.S. Hwy 75 to junction U.S. Hwy 30, then over U.S. Hwy 30 to junction IA Hwy 38, then over IA Hwy 38 to junction IA Hwy 130, then over IA Hwy 130 to Davenport and return over the same route. (40) Between Marshalltown, IA and Dubuque, IA serving the intermediate and off-route points of Waterloo, Independence, Oelwein, and Dyersville, IA: From Marshalltown over IA Hwy 14 to junction IA Hwy 57 near Fern, IA, then over IA Hwy 57 to Waterloo, then over U.S. Hwy 20 to Dubuque and return over

the same route. (41) Between Stanwood, IA and Aurora, IL serving the intermediate points of Sterling and Rock Falls, IL and Clinton, IA: From Stanwood over U.S. Hwy 30 to Aurora and return over the same route. (42) Between Moline, IL and Rochelle, IL serving the intermediate and off-route points of Cordova, Sterling and Dixon, IL: From Moline over IL Hwy 92 to junction IL Hwy 5, then over IL Hwy 5 to junction IL Hwy 2, then over IL Hwy 2 to junction IL Hwy 38, then over IL Hwy 38 to Rochelle and return over the same route. (43) Between Moline, IL and junction Interstate Hwy 80 and Interstate Hwy 55 serving no intermediate points, and serving junction for the purpose of joinder only: From Moline over Interstate Hwy 80 to junction Interstate Hwy 80 and Interstate Hwy 55 and return over the same route. (44) Between Dubuque, IA and Freeport, IL serving no intermediate points: From Dubuque over U.S. Hwy 20 to Freeport and return over the same route. (45) Between Des Moines, IA and Minneapolis, MN serving the intermediate and off-route points of Ames, IA; Albert Lee, Owatonna and Faribault, MN: From Des Moines over Interstate Hwy 35 to junction Interstate Hwy 35W, then over Interstate Hwy 35W to Minneapolis and return over the same route. (46) Between Chicago, IL and Milwaukee, WI serving no intermediate points: From Chicago over U.S. Hwy 41 to Milwaukee and return over the same route. (47) Between Council Bluffs, IA and Minneapolis, MN serving the intermediate points of Sioux City and Le Mars, IA and Mankato, MN and serving junction U.S. Hwy 16 and MN Hwy 60 for purposes of joinder only: From Council Bluffs over Interstate Hwy 29 to junction U.S. Hwy 75 at or near Sioux City, IA then over U.S. Hwy 75 to junction IA Hwy 60, then over IA Hwy 60 to IA-MN State Line, then over MN Hwy 60 to junction U.S. Hwy 169, then over U.S. Hwy 169 to MN Hwy 101, then over MN Hwy 101 to junction MN Hwy 13, then over MN Hwy 13 to junction Interstate Hwy 35, then over Interstate Hwy 35 to junction Interstate Hwy 35W, then over Interstate Hwy 35W to Minneapolis and return over the same route.

(48) Between Burlington, IA and Monmouth, IL serving no intermediate points: From Burlington over U.S. Hwy 34 to Monmouth and return over the same route. (49) Between junction U.S. Hwy 61 and U.S. Hwy 218 near Summitville, IA and Owatonna, MN serving the intermediate and off-route points of Mt. Pleasant, Iowa City, Cedar Rapids, Cedar Falls, Waterloo, IA and

Austin, MN: From junction U.S. Hwy 61 and U.S. Hwy 218, over U.S. Hwy 218 to Owatonna and return over the same route. (50) Between Dubuque, IA and St. Paul, MN serving the intermediate point of Rochester, MN: From Dubuque over U.S. Hwy 52 to St. Paul and return over the same route. (51) Between Dubuque, IA and junction U.S. Hwy 61 and U.S. Hwy 14 serving no intermediate points: From Dubuque over U.S. Hwy 61 to junction U.S. Hwy 14 and return over the same route. (52) Between Rochester, MN and Janesville, WI serving no intermediate points: From Rochester over U.S. Hwy 14 to Janesville and return over the same route. (53) Between Dubuque, IA and Green Bay, WI serving no intermediate points: From Dubuque over U.S. Hwy 151 to junction U.S. Hwy 41, then over U.S. Hwy 41 to Green Bay and return over the same route. (54) Between St. Paul, MN and junction U.S. Hwy 14 and Interstate Hwy 90 serving no intermediate points: From St. Paul over U.S. Hwy 12 to junction Interstate Hwy 94, then over Interstate Hwy 94 to junction Interstate Hwy 90, then over Interstate Hwy 90 to junction U.S. Hwy 14 and return over the same route. (55) Between St. Paul, MN and Stevens Point, WI, serving no intermediate points and serving junction U.S. Hwy 10 and Interstate Hwy 94 for purposes of joinder only: From St. Paul over U.S. Hwy 10 to Stevens Point and return over the same route. (56) Between Milwaukee, WI and Green Bay, WI serving no intermediate points: From Milwaukee over U.S. Hwy 41 to junction U.S. Hwy 151, then over U.S. Hwy 151 to junction WI Hwy 55, then over WI Hwy 55 to junction U.S. Hwy 41, then over U.S. Hwy 41 to Green Bay and return over the same route. (57) Between Stevens Point, WI and Appleton, WI serving no intermediate points: From Stevens Point over U.S. Hwy 10 to Appleton and return over the same route. (58) Between Madison, WI and Stevens Point, WI serving no intermediate points: From Madison over U.S. Hwy 51 to Stevens Point and return over the same route. (59) Between Green Bay, WI and junction WI Hwy 29 and Interstate Hwy 94 serving the intermediate points of Wausau, WI and Chippewa Falls, WI: From Green Bay over WI Hwy 29 to junction WI Hwy 29 and Interstate Hwy 94 and return over the same route. (60) Between Milwaukee, WI and Beloit, WI serving no intermediate points: From Milwaukee over WI Hwy 15 to Beloit and return over the same route. (61) Between Milwaukee, WI and Madison, WI serving no intermediate points: From Milwaukee over Interstate Hwy 94 to

Madison and return over the same route. (62) Between junction U.S. Hwy 16 and MN Hwy 60 and junction U.S. Hwy 16 and U.S. Hwy 218 serving no intermediate points and serving junction U.S. Hwy 16 and Interstate Hwy 35 for purposes of joinder only: From junction U.S. Hwy 16 and MN Hwy 60 over U.S. Hwy 18 to junction U.S. Hwy 16 and U.S. Hwy 218 and return over the same route. (63) Between junction U.S. Hwy 18 and U.S. Hwy 218 and junction U.S. Hwy 63 and U.S. Hwy 52 serving no intermediate points: From junction U.S. Hwy 18 and U.S. Hwy 218 over U.S. Hwy 18 to junction U.S. Hwy 63, then over U.S. Hwy 63 to junction U.S. Hwy 52 and return over the same route. (64) Between Wichita Falls, TX and Ardmore, OK, serving no intermediate points and serving junction OK Hwy 79 and U.S. Hwy 81 at or near Waurika, OK for purposes of joinder only: From Wichita Falls over TX Hwy 79 to TX-OK State line, then over OK Hwy 79 to junction U.S. Hwy 70, then over U.S. Hwy 70 to Ardmore and return over the same route. (65) Between Dallas, TX and junction TX Hwy 24 and U.S. Hwy 82 at or near Paris, TX, serving no intermediate points and serving junction TX Hwy 24 and U.S. Hwy 82 for purposes of joinder only: From Dallas over Interstate Hwy 30 to junction TX Hwy 34, then over TX Hwy 34 to junction TX Hwy 24, then over TX Hwy 24 to junction U.S. Hwy 82 and return over the same route. (66) Between Fort Smith, AR and Texarkana, TX serving no intermediate points as an alternate route for operating convenience only: From Fort Smith over U.S. Hwy 71 to Texarkana and return over the same route. (67) Between junction U.S. Hwy 70 and Indian Nation Turnpike and Fort Smith, AR serving no intermediate points as an alternate route for operating convenience only: From junction U.S. Hwy 70 and Indian Nation Turnpike over Turnpike to junction U.S. Hwy 271, then over U.S. Hwy 271 to junction U.S. Hwy 71, then over U.S. Hwy 71 to Fort Smith and return over the same route. (68) Between Tulsa, OK and junction Interstate Hwy 35 and Cimarron Turnpike serving no intermediate points as an alternate route for operating convenience only: From Tulsa over the Cimarron Turnpike to junction Interstate Hwy 35 and return over the same route. (69) Between Wichita, KS and junction Interstate Hwy 35 and U.S. Hwy 77, serving no intermediate points, and serving junction Interstate Hwy 35 and U.S. Hwy 77, for purposes of joinder only: From Wichita over Interstate Hwy 35 to junction U.S. Hwy 77 and return over the

same route. (70) Between Newton KS and Hutchinson, KS serving no intermediate points as an alternate route for operating convenience only: From Newton over U.S. Hwy 50 to Hutchinson and return over the same route. (71) Between Hutchinson, KS and Kansas City, KS serving no intermediate points, serving junction U.S. Hwy 50 and Interstate Hwy 35 for purposes of joinder only: From Hutchinson over U.S. Hwy 50 to Kansas City and return over the same route. (Also from junction U.S. Hwy 50 and Interstate Hwy 35 over Interstate Hwy 35 to Kansas City) and return over the same route. (72) Between Kansas City, MO and junction MO Hwy 10 and U.S. Hwy 24, serving no intermediate points, and serving junction for purposes of joinder only: From Kansas City over U.S. Hwy 69 to junction MO Hwy 10, then over MO Hwy 10 to junction U.S. Hwy 24 and return over the same route. (73) Between Topeka, KS and Omaha, NE serving no intermediate points as an alternate route for operating convenience only: From Topeka over U.S. Hwy 75 to Omaha and return over the same route. (74) Between Des Moines, IA and junction U.S. Hwy 30 and IA Hwy 330, serving no intermediate points as an alternate route for operating convenience only: From Des Moines over U.S. Hwy 65 to junction IA Hwy 330, then over IA Hwy 330 to junction U.S. Hwy 30 and return over the same route. (75) Between Cedar Rapids, IA and Dubuque, IA serving no intermediate points as an alternate route for operating convenience only: From Cedar Rapids over U.S. Hwy 151 to Dubuque and return over the same route. (76) Between Davenport, IA and Dubuque, IA serving no intermediate points, and serving the junction U.S. Hwy 61 and U.S. Hwy 30 for purposes of joinder only: From Davenport over U.S. Hwy 61 to Dubuque and return over the same route. (77) Between Dixon, IL and Rockford, IL serving no intermediate points: From Dixon over IL Hwy 2 to Rockford, IL and return over the same route. (78) Between Hannibal, MO and Jacksonville, IL serving no intermediate points: From Hannibal over U.S. Hwy 36 to Jacksonville and return over the same route. (79) Between Portland, OR and Ogden, UT serving no intermediate points: From Portland over Interstate Hwy 80N to junction Interstate Hwy 15, then over Interstate Hwy 15 to Ogden and return over the same route. (80) Between Ogden, UT and Omaha, NE serving no intermediate points, serving junction Interstate Hwy 80N and Interstate Hwy 80 near Coalville, UT for purposes of joinder only: From Ogden over Interstate Hwy 80N to junction

Interstate Hwy 80, then over Interstate Hwy 80 to Omaha and return over the same route. (81) Between Sacramento, CA and junction Interstate Hwy 80N and Interstate Hwy 80, serving no intermediate points and serving junction Interstate Hwy 80 and Interstate Hwy 15, and junction Interstate Hwy 80 and Interstate Hwy 80N for purposes of joinder only: From Sacramento over Interstate Hwy 80 to junction Interstate Hwy 80N and return over the same route. (82) Between San Bernardino, CA and junction Interstate Hwy 60 and Interstate Hwy 15, serving no intermediate points and serving junction for purposes of joinder only: From San Bernardino over Interstate Hwy 15 to junction Interstate Hwy 80 and return over the same route. (83) Between San Bernardino, CA and junction U.S. Hwy 60 and U.S. Hwy 287 serving no intermediate points, serving junction Interstate Hwy 40 and U.S. Hwy 54 for purposes of joinder only: From San Bernardino over Interstate Hwy 15 to junction Interstate Hwy 40, then over Interstate Hwy 40 to junction U.S. Hwy 287 and U.S. Hwy 60 and return over the same route. (84) Between San Bernardino, CA and junction Interstate Hwy 76 and Interstate Hwy 80 serving no intermediate points, and serving junction for purposes of joinder only: From San Bernardino over Interstate Hwy 15 to junction UT Hwy 4, then over UT Hwy 4 to junction Interstate Hwy 70, then over Interstate Hwy 70 to junction U.S. Hwy 6, then over U.S. Hwy 6 to junction Interstate Hwy 76, then over Interstate Hwy 76 to junction Interstate Hwy 80 and return over the same route. (85) Between junction Interstate Hwy 40 and U.S. Hwy 54 and Wichita, KS, serving no intermediate points: From junction Interstate Hwy 40 and U.S. Hwy 54, over U.S. Hwy 54 to Wichita and return over the same route. (86) Between El Paso, TX and Wichita Falls, TX serving no intermediate points, serving junction U.S. Hwy 87 and U.S. Hwy 180 for purposes of joinder only: From El Paso over U.S. Hwy 180 to junction U.S. Hwy 277, then over U.S. Hwy 277 to Wichita Falls and return over the same route. (87) Serving: (a) All points in Collins, Cook, Fannin, Grayson, Lamar Counties, TX; Bryant, Caddo, Carter, Cleveland, Comanche, Creek, Garfield, Grady, Kay, Muskogee, Oklahoma, Okmulgee, Pittsburg, Pontotoc, Pottawatomie, Stephens, Seminole, Tulsa, Washington Counties, OK; as intermediate and off-route points in connection with routes (1) through (17) above, inclusive, and; (b) All points in Benton, Sebastian, Washington Counties, AR; as intermediate and off-

route points in connection with route (21) above, and; (c) All points in Ottawa County, OK; Bourbon, Crawford Counties, KS; Audrain, Boone, Buchanan, Cole, Cooper, Greene, Jackson, Jasper, Lawrence, Marion, Monroe, Newton, Pettis, Randolph Counties, MO; as intermediate and off-route points in connection with routes (22) through (26) above, inclusive, and; (d) All points in Butler, Cherokee, Cowley, Douglas, Harvey, McPherson, Reno, Sedgwick, Saline, Shawnee, Wyandotte Counties, KS; Dodge, Douglas, Sarpy, Washington Counties, NE; as intermediate and off-route points in connection with routes (28) through (35) above, inclusive, and; (e) All points in Marion County, MO; Adams County, IL; Des Moines and Lee Counties, IA; as intermediate and off-route points in connection with route (37) above, and; (f) All points in Buchanan County, MO; and Leavenworth County, KS; as intermediate and off-route points in connection with route (38) above, and; (g) All points in Buchanan, Clinton, Dubuque, Fayette, Humboldt, Iowa, Johnson, Linn, Marshall, Polk, Pottawatomie, Story, Tama, Webster Counties, IA; Lee, Rock Island and Whiteside Counties, IL; as intermediate and off-route points in connection with routes (39) through (42) above, inclusive, and; (h) All points in Black Hawk, Henry, Plymouth, Woodbury Counties, IA; Blue Earth, Brown, Dakota, Dodge, Freeborn, Fillmore, Houston, Hennepin, Le Sueur, Mower, Nicolett, Olmsted, Ramsey, Rice, Scott, Steele, Winona and Waseca Counties, MN; as intermediate and off-route points in connection with routes (44) through (50) above, inclusive. (88) Serving all points in Wisconsin on Interstate Hwy 94 and WI Hwys 29 and 22, and serving Antigo, Merrill, Rhinelander, WI and points in Wisconsin south of Interstate Hwy 94 and WI Hwys 29 and 22 as intermediate and off-route points in connection with routes (51) through (81), inclusive. Applicant intends to tack with MC-41432 and subs thereto and to interline. For 180 days. Underlying ETA for 90 days filed. Supporting shipper(s). There are 789 supporting shippers which can be examined in Headquarters or field office listed below. Send protests to: Opal M. Jones, Room 9A27 Federal Building, 819 Taylor Street Fort Worth, TX 76102.

MC 64932 (Sub-603TA), filed June 29, 1979. Applicant: ROGERS CARTAGE COMPANY, 10735 S. Cicero Ave., Oak Lawn, IL 60453. Representative: William F. Farrell (same address as above). *Crude soybean oil, in bulk, in tank vehicles*, from Frankfort, IN to

Champaign and Decatur, IL, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): A. E. Staley Manufacturing Co., 2200 E. Eldorado St., Decatur, IL 62521. Send protests to: David Hunt, TA, Rm. 1386, 219 S. Dearborn, Chicago, IL 60604.

MC 66143 (Sub-2TA), filed July 12, 1979. Applicant: JIL DISTRIBUTION SYSTEMS, INC., 3341 Beltagh Avenue, Wantagh, NY 11793. Representative: Arthur J. Piken, One Lefrak City Plaza, Flushing, NY 11368. *Sound recordings, disc and tape*, from Mt. Laurel, NJ, to New York, NY, and points in its commercial zone, and points in Suffolk County, NY, for 180 days; an underlying ETA seeks 90 days authority. Supporting shipper(s): Warner Elektra Atlantic Corp., 106 Gaither Dr., Mt. Laurel, NJ 08057. Send protests to: Maria B. Keiss, Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, NY 10007.

MC 105733 (Sub-74TA), filed July 9, 1979. Applicant: RITTER TRANSPORTATION, INC., 928 East Hazlewood Avenue, P.O. Box 1064A, Rahway, NJ 07065. Representative: Andrew R. Jelles, 928 East Hazlewood Avenue, Rahway, NJ 07065. Molten benzoic acid in bulk, in insulated tank vehicles from Chattanooga, TN to Chestertown, MD, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Tenneco Chemicals, Inc., Box 367 Knights Brodge Road, Piscataway, NJ 08854. Send protests to: Robert E. Johnston, DS, ICC, 744 Broad Street, Room 522, Newark, NJ 07102.

MC 107162 (Sub-53TA), filed May 29, 1979. Applicant: NOBLE GRAHAM TRANSPORT, INC., Rural Route 1, Brimley, MI 49715. Representative: John Duncan Varda, 121 South Pinckney Street, Madison, WI 53703. *Lumber* from Camden, NJ, Norfolk, VA, Charleston, SC and New Orleans, LA to IO, IL, IN, MI, MN, OH and WI. For 180 days. Supporting shipper(s): E. M. Andrews Sales, Inc., 3192 Doolittle Drive, Northbrook, IL 60062. Send protests to: C. R. Flemming, D/S, I.C.C., 225 Federal Building, Lansing, MI 48933.

MC 107162 (Sub-54TA), filed June 1, 1979. Applicant: NOBLE GRAHAM TRANSPORT, INC., Rural Route 1, Brimley, MI 49715. Representative: John Duncan Varda, 121 South Pinckney Street, Madison, WI 53703. *Lumber*, from the port of entry on the International Boundary Line between the United States and Canada at or near Grand Portage, MN to points in the United States in and East of NC, SD, NE, KS, OK and TX. For 180 days. Supporting shipper(s): North Star Forest Materials

Co., Inc., P.O. Box 53, 633 S. Concord Ave., St. Paul, MN 55075; Louisiana-Pacific Corporation, 6950 Frances Avenue South, Minneapolis, MN 55435. Send protests to: C. R. Flemming, D/S, I.C.C., 225 Federal Building, Lansing, MI 48933.

MC 107403 (Sub-1229TA), filed June 6, 1979. Applicant: MATLACK, INC., 10 W. Baltimore Ave., Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same as applicant). *Methylene Diphenyl Diisocyanates, in bulk in tank vehicles*, from Commerce, CA to Coolidge, AZ, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Rubicon Chemicals, Inc., P.O. Box 517, River Road, Geismar, LA 70734. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 110563 (Sub-291TA), filed July 5, 1979. Applicant: COLDWAY FOOD EXPRESS, INC., P.O. Box 747, State Route 29 North, Sidney, OH 45365. Representative: John L. Maurer (same address as applicant) *Foodstuffs, (except in bulk)* from the facilities of Doric Foods Corp., located at or near Findlay, OH to points in CO, CT, DE, IL, IN, IA, KS, KY, ME, MD, MA, MI, MN, MO, NE, NH, NJ, NY, ND, PA, RI, SD, VA, WV and WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Doric Foods Corp., P.O. Box 966, Mt Dora, FL 32757. Send protests to: D/S, I.C.C. 101 N. 7th St. Philadelphia, PA 19106.

MC 111812 (Sub-659TA), filed June 21, 1979. Applicant: MIDWEST COAST TRANSPORT, INC., P.O. Box 1233, Sioux Falls, SD 57101. Representative: Lamoyne Brandsma (same address as applicant's). *Floor coverings, materials and supplies used in the distribution and installation of floor coverings* from the facilities of Congoleum Corp. located at or near Cornwells Heights, PA to points in ID, IA, MN, MT, NE, ND, OR, SD, UT, WA and WY for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Congoleum Corp., 195 Belgrave Drive, Kearny, NJ 07032. Send protests to: J. L. Hammond, DS, ICC, Room 455, Federal Bldg., Pierre, SD 57501.

MC 111812 (Sub-660TA), filed July 9, 1979. Applicant: MIDWEST COAST TRANSPORT, INC., P.O. Box 1233, Sioux Falls, SD 57101. Representative: R. H. Jinks (same address as applicant's). *General commodities (except those of unusual value, Classes A and B explosive, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment)* from points in MA, NH, NY, VT and PA to points in the U.S. (except

AK, HI, MA, RI, VT, NH, ME, CT, NY, PA, NJ, DE, MD, VA and WV, restricted to the transportation of traffic originating at the facilities of New England Shipping Association Co-operative or at the facilities of its members, originating at the named origins and destined to the named destinations for 180 days. Supporting shipper(s): New England Shipping Association Co-operative, 1029 Pearl St., Brockton, MA 02401. Send protests to: J. L. Hammond, DS, ICC, Room 455, Federal Bldg., Pierre, SD 57501.

MC 111812 (Sub-661TA), filed July 12, 1979. Applicant: MIDWEST COAST TRANSPORT, INC., P.O. Box 1233 Sioux Falls, SD 57101. Representative: Lamoyne Brandsma (same address as applicant's). *Bakery products and packaging supplies; NOI* from the facilities of McGlynn Bakeries, Inc. located at or near Eden Prairie, MN to St. Louis, MO for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): McGlynn Bakeries, Inc., 7752 Mitchell Road, Eden Prairie, MN 55344. Send protests to: J. L. Hammond, DS, ICC, Room 455, Federal Bldg., Pierre, SD 57501.

MC 112822 (Sub-472TA), filed July 11, 1979. Applicant: BRAY LINES INCORPORATED, 1401 N. Little Street, Cushing, OK 74023. Representative: Dudley G. Sherrill (same address as applicant). *Petroleum products, automotive aftermarket chemicals and products, in packages and containers, between (1) Chicago, Wheeling and Lake Bluff, IL, Dallas and Lubbock, TX, Denver, CO, Kansas City, KS, Kansas City, MO, Los Angeles, CA, Minneapolis, MN, Milwaukee, WI, Tulsa, OK, and Jackson, MS; and (2) from Evansville, IN, to points in and west of the states of IN, IL, MO, AR, LA, & WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): STP Corporation, 1400 W. Commercial Blvd., Ft. Lauderdale, FL 33310. Send protests to: Connie Stanley, ICC, Rm 240, 215 N.W. 3rd, Oklahoma City, OK 73101.*

MC 113362 (Sub-360TA), filed June 11, 1979. Applicant: ELLSWORTH FREIGHT LINES, INC., 310 E. Broadway, Eagle Grove, IA 50533. Representative: Milton D. Adams, P.O. Box 429, Austin, MN 55912. *Frozen Foodstuffs, (except commodities in bulk), between Indianapolis, IN, on the one hand, and on the other, points in AL, AR, CO, CT, DE, FL, GA, IL, IA, KS, LA, ME, MD, MA, MI, MN, MS, MO, NE, NH, NJ, NY, NC, ND, OH, OK, PA, RI, SC, SD, TN, TX, VT, VA, WV, WI, DC. Restriction: Restricted to shipments originating at or destined to the facilities of Monument*

Distribution Warehouse, Inc., Indianapolis, IN for 180 days. Supporting shipper(s): Monument Distribution Warehouse, Inc., 3320 S. Arlington, Ave., Indianapolis, IN 46203. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 113843 (Sub-263TA), filed July 6, 1979. Applicant: REFRIGERATED FOOD EXPRESS, INC., 318 Summer Street, Boston, MA 02210. Representative: Lawrence T. Sheils (same address as applicant). *Foodstuffs (except commodities in bulk)* (1) From the facilities of Deran Confectionery Co., at or near, (a) Boston, MA (b) North Grosvenordale, CT. To: points in CO, IL, IN, IA, KS, KY, MI, MN, MO, NE, NY, OH, OK, PA, TX, WI, WV, (2) From the facilities of Schrafft Candy Co., at or near Boston and Woburn, MA. To: points in AZ, AR, CA, CO, FL, GA, KY, KS, IL, IN, IA, MI, MN, MO, OH, OK, OR, PA, TN, TX, UT, WA, WI. (3) From the facilities of Olympic Gelatine Co., at or near Norwood, MA To: points in IL, IN, OH, NY, NJ, PA, MI for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Deran Confectionery Co., Borden, Inc., 16 New St. E. Boston, MA 02128—Schrafft Candy Company, 525 Main St., Boston, MA 02129—Olympic Gelatine Co. 670 Canton St., Norwood, MA 02062. Send protests to: John B. Thomas, District Supervisor, Interstate Commerce Commission, 150 Causeway Street, Boston, MA 02114.

MC 114273 (Sub-615TA), filed June 21, 1979. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core, (same as applicant). *Plastic articles* from Louisiana Plastics, Inc. at Louisiana, MO to Chambersburg, PA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Bemis Co., Inc., 20 N. Wacker Dr., Suite 730, Chicago, IL 60606. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 114273 (Sub-616TA), filed June 4, 1979. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core, (same as applicant). *Belting, shafting pulleys or sheaves, bearings, bushings, shaft collars, pillow blocks, presses, hand tools, roller chains, and/or conveyor idlers and rolls*, from Muscatine, IA to all points in OH, PA, NY, MD, NJ, VA, WV, DE, and MA for 180 days. Supporting shipper(s): R. J. Dick, Inc., 912 E. Fifth St., Muscatine, IA 52761. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg. Des Moines, IA 50309.

MC 114273 (Sub-617TA), filed June 4, 1979. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core. *Shafting, pulleys, or sheaves* from Muscatine, IA to Cornwell Heights, PA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: R. J. Dick, Inc., 912 E. Fifth St., Muscatine, IA 52761. Send protest to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 114273 (Sub-618TA), filed June 5, 1979. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core, Commerce Attorney (same as applicant). *Lawn care equipment, snow throwers, and tools, and materials, equipment and supplies used in the distribution, assembly, and sale of "powered turf equipment"* from the plantside and/or storage facilities of OMC, Galesburg located at or near Galesburg, IL and Peoria, IL to points in CT, IN, IA, KS, ME, MI, MD, MA, MN, MO, NJ, NY, NC, OH, OK, PA, TX, VA, and WI (except Racine, Kenosha, and Milwaukee and points in commercial zone) and Denver, CO; Omaha, NE; Fargo, ND; Sioux Falls, SD; and Washington, DC for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: OMC, GALESBURG, Monmouth Blvd. Dalesburg, IL 61401. Send protest to: Herbert W. Allen, DS, ICC, 518 Federal Bldg. Des Moines, IA 50309.

MC 114273 (Sub-NC 619TA), filed June 21, 1979. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core (same address as applicant). (1) *Such commodities as are dealt in by wholesale, retail, or chain grocery stores (except in bulk, in tank vehicles) between points in IN and Louisville, KY, on the one hand, and, on the other, points in MN; Fargo, ND: points in MO on and north of U.S. Hwy 50 and on and west of U.S. Hwy 63 and Aurora, Bolivar, Carthage, Clinton, Joplin, Neosho, St. Louis, Springfield, and Webb City, MO; and points in KS on and east of U.S. Hwy 81; (2) General commodities (except those of unusual value, Class A and B explosives, household goods, commodities in bulk, in tank vehicles, and commodities which because of size or weight require special equipment) between points in IN and Louisville, KY, on the one hand, and, on the other, Ashton, Aurora, Berger, Bernice, Chicago, Comp. Corland, Creston, Dekalb, Dixon, Elburn, Franklin Grove, Fulton, Globe, Kaneville, Malta, Maple Lake, Morrison, N. Aurora, Rochelle, Rock Falls, St. Charles,*

Sterling, Union Grove, Unionville, IL; Adair, Adel, Altoona, Ames Ankeny, Arcadia, Aspinwall, Atlantic, Avon, Bagley, Bayard, Beaver, Belle Plaine, Benson, Berwick, Bondurant, Boone, Cambridge, Carlisle, Carroll, Casey, Cedar Falls, Cedar Rapids, Clinton, Collins, Colo, Coon Rapids, Council Bluffs, Dawson, Dedham, Denison, Des Moines, De Witt, Dewar, Dexter, Dow City, Dunlap, Eagle Center, Evansdale, Ferguson, Gardiner, Gilbertville, Gladstone, Glidden, Grand Junction, Grimes, Harverhill, Hudson, Huxley, Jamaica, Jefferson, Johnston, Kellogg, Le Grand, Lewis, Lisbon, Logan, Lowden, Madrid, Manning, Marion, Marshalltown, Maxwell, Mechanicville, Melbourne, Menlo, Missouri Valley, Mitchellville, Mt. Vernon, Nevada, Norwalk, Norwood, Oakland, Ogden, Orilla, Ortonville, Perry, Quick, Redfield, Rhodes, Scotch Ridge, Scranton, Slater, Stanwood, State Center, Stuart, Tampa, Templeton, Toledo, Underwood, Urbandale, Vail, Van Clevel, Washburn, Waterloo, Waukeg, West Branch, West Des Moines, West Side, Woodbine, Woodward, IA; Alda, Ames, Arlington, Ashland, Blair, Central City, Chapman, Clarks, Columbus, Duncan, Emerald, Exeter, Fairmont, Fremont, Friend, Gibbon, Grafton, Grand Island, Cretna, Hanson, Hastings, Kearney, Kennard, Lincoln, Milford, North Bend, Omaha, Richland, Rogers, Shuyler, Shelton, Silver Creek, Sutton, Valley, Waverly, Wood River, NE; (3) *General commodities (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities requiring special equipment, and commodities injurious or contaminating to other lading) from points in IN and Louisville, KY to points in IA within 100 miles of Cedar Rapids, IA. The purpose of this application is to obtain emergency temporary authority for CRST to continue to provide service into and out of Indiana. On May 24, 1979 an Order was served by the Commission denying CRST's purchase of Chi-Fli, Inc., Docket No. MC-F-12929. The Order became effective June 23, 1979. The instant application is merely an attempt by CRST to enable it to continue to provide service to the shipper and consignees in Indiana that CRST has served over at least the past two and one-half (2½) years. CRST filed a permanent application in this regard in Docket No. MC 114273 (Sub-No. 495F). The application was initially filed on or about December 13, 1978, yet it still has not been assigned for modified procedure or oral hearing and it is*

inconceivable that it will be resolved by the June 23, 1979 cease and desist date. Supporting shipper(s): There are 17 supporting shippers on file at headquarters or the office listed below. Send protest to: Herbert W. Allen, DS/ICC 518 Federal Bldg., Des Moines, IA 50309.

MC 114273 (Sub-620TA), filed July 2, 1979. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core (same address as applicant). *Plastic material used in the manufacture of lawn mowers* from Richmond, MO, to Galesburg, IL, for 180 days. Supporting shipper: OMC, Galesburg, Monmouth Blvd., Galesburg, IL 61401. Send protest to: Herbert W. Allen, DS ICC, 518 Federal Building, Des Moines, IA 50309.

MC 114273 (Sub-624TA), filed June 18, 1979. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core, P.O. Box 68, Cedar Rapids, IA 52406. *Paper and paper products and material, equipment and supplies used and useful in the manufacture and shipping of paper and paper products, liquid soaps dispensers, soap, and metal towel dispensers*, from Gary, IN to VA, MD, PA, NY, and NJ for 180 days. Supporting shipper: Georgia-Pacific Corporation, 800 Summer St., Stamford, CT 06902. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 114362 (Sub-18TA), filed May 31, 1979. Applicant: ROBERT J. ECKLUND, d.b.a. Ecklund Trucking, P.O. Box 151, Kiester, MN 56051. Representative: John B. Van de North, Jr., 2200 First National Bank Building, St. Paul, MN 55101. *Feed and feed ingredients, grain, soybean and feed products and by-products (except commodities in bulk, in tank vehicles)* from the facilities of Archer Daniels Midland Company located at Red Wing, MN to points in CO, IL, IA, WI, KS, MO, NE, ND and SD, for 180 days. Supporting shipper: Archer Daniels Midland Company, 118 Main Street, Red Wing, MN 55066. Send protests to: Delores A. Poe, TA, ICC, 414 Federal Building, 110 South 4th Street, Minneapolis, MN 55401.

MC 114632 (Sub-245TA), filed July 10, 1979. Applicant: APPLE LINES, INC., 212 S. W. Second Street, Madison, SD 57042. Representative: David E. Peterson (same address as applicant). *Iron and steel articles* from the plantsites of Wheeling-Pittsburgh Steel Corp. located at Martins Ferry, OH and Beech Bottom, WV to points in the states of MN and WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Wheeling-Pittsburgh Steel Corp., P.O.

Box 118, Pittsburgh, PA 15230. Send protests to: J. L. Hammond, DS, ICC, Room 455, Federal Bldg., Pierre, SD 57501.

MC 114632 (Sub-246TA), filed July 12, 1979. Applicant: APPLE LINES, INC., 212 S. W. Second Street, Madison, SD 57042. Representative: David E. Peterson (same address as applicant). *Iron and steel articles and materials used in the manufacture of iron and steel articles* between the facilities of U.S. Steel Corp. located at or near Clairton, Duquesne, Homestead, Dravosburg, Johnstown, McKeesport, McKees Rocks and Vandergrift, PA; Cleveland, Lorain and Youngstown, OH, on the one hand, and on the other points in ND, SD, NE, CO, KS, MN, IA, MO, WI, IL and points in MI on and north of Michigan Hwy. 21 for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: U.S. Steel Corp., Room 568—600 Grant St., Pittsburgh, PA 15230. Send protests to: J. L. Hammond, DS, ICC, Room 455, Federal Bldg., Pierre, SD 57501.

MC 116763 (Sub-543TA), filed June 28, 1979. Applicant: CARL SUBLER TRUCKING, INC., North West St., Versailles, OH 45380. Representative: Gary J. Jira (same address as applicant). *Scrap and waste paper* from Tullahoma, TN to the facilities of Beveridge Paper Co., a subsidiary of Simkins Industries, Inc., located at or near Indianapolis, IN, restricted to traffic originating at the named origin and destined to the indicated destination, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Beveridge Paper Co., Inc., a subsidiary of Simkins Industries, Inc., 717 W. Washington St., Indianapolis, IN 46204. Send protests to: D/S, ICC, 101 N. 7 St., Philadelphia, PA 19106.

MC 119422 (Sub-69TA), filed May 16, 1979. Applicant: Ee-JAY MOTOR TRANSPORTS, INC., 15th & Lincoln, East St. Louis, IL 62204. Representative: Donald M. Stahlheber (same address as applicant). (1) *Sweeteners* in bulk, in tank, from the facilities of Industrial Sugars, Inc., a subsidiary of Borden, Inc. at St. Louis, MO to points in KY, TN, AR, OH, KS and MS (2) *materials and supplies* used in the production and distribution of sweeteners in bulk, in tank, from points in MO, IN, KY, AR, IA, IL, OH, TN, and KS to the facilities of Industrial Sugars, Inc., a subsidiary of Borden, Inc. at St. Louis, MO., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Industrial Sugars, Inc., Borden, Inc., 180 East Broad St., Columbus, OH, 43215. Send protests to: Charles D. Little, DS, ICC, Rm 1388 219 South Dearborn St., Chicago, IL 60604.

MC 119493 (Sub-311TA), filed July 11, 1979. Applicant: MONKEM COMPANY, INC., P.O. Box 1186, Joplin, MO 64801. Representative: Thomas D. Boone (same as above). *Clay and clay products (except in bulk) and materials and supplies used in the manufacture and distribution thereof (except in bulk)*, between Middleton, TN, on the one hand, and, on the other, AR, FL, GA, IL, IN, LA, MI, NC, OH, TX and VA, for 180 days. Supporting shipper(s): Maltan, Inc., Highway 125 South, Middleton, TN 38052. Send protests to: John V. Barry, D/S, ICC, Room 600 Federal Bldg., 911 Walnut Street, Kansas City, MO 64106.

MC 119632 (Sub-102TA), filed July 11, 1979. Applicant: REED LINES, INC., 634 Ralston Ave., Defiance, OH 43512. Representative: Wayne C. Pence (same as applicant). (1) *Animal and poultry feed, ingredients, health and sanitation products (except frozen or in bulk) and (2) materials, supplies, and advertising material used in the manufacture, processing, sale and distribution of commodities in (1) above*, between Portland, IN and all pts. in and east of MN, IA, MO, AR, and LA. Restricted to shipments originating at or destined to facilities used by International Multifoods Corp. at Portland, IN, for 180 days. Supporting shipper(s): International Multifoods, 1200 Multifoods Bldg., Minneapolis, MN 55402. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 121223 (Sub-7TA), filed July 6, 1979. Applicant: GEORGE HALLDEN SONS CO., P.O. Box 2271, Youngstown, OH 44504. Representative: Paul B. Sonoski, Jr., 2310 Grant Bldg., Pittsburgh, PA 15219. *Railway car parts*, from the facilities of Youngstown Steel Door Co., Division of Lamson Sessions Company, at Youngstown, OH, to Atlanta, Cartersville, Deluth and Decatur, GA; Bessemer, AL; St. Louis, MO, and Green Cove Springs, FL, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Youngstown Steel Door Company, Division of Lamson Sessions Company, P.O. Box 1379, Youngstown, OH 44501. Send protests to: D/S, I.C.C., 101 N. 7th St., Philadelphia, PA 19106.

MC 121712 (Sub-6TA), filed July 5, 1979. Applicant: MORRIS TRANSPORTATION, INC., 8300 Baldwin Street, Oakland, CA 94621. Representative: Walter H. Walker, III, 100 Pine Street, Suite 2550, San Francisco, CA 94111. (1) *Petroleum oils, greases and related products in packages as described in NMF classification Item 155250; and (2) Oil filters in boxes as described in NMF*

classification Item 119385 Sub 8. From the facilities of Pennzoil Company in Alameda, CA to points in NV & OR, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Pennzoil Company, 2015 Grand Street, Alameda, CA 94501. Send protests to: A. J. Rodríguez, 211 Main Street, Suite 500, San Francisco, CA 94105.

MC 123023 (Sub-12TA), filed May 23, 1979. Applicant: DI PIETRO TRUCKING CO., 2201 6th Ave. South, Seattle, WA 98134. Representative: George H. Hart, 1100 IBM Bldg., Seattle, WA 98101. *Malt beverages*, from Portland, OR to Bellingham, Mount Vernon, Burlington, and Everett, WA, for 180 days. Supporting shipper(s): Bell Rainier Dist. Inc., P.O. Box 459, Bellingham, WA 98225. Friendly Distributors, Inc., 2202 Wall Street, Everett, WA 98201. Tri Counties Distributing Co., 1026 Riverside Dr., Mt. Vernon, WA 98273. Send protests to: Shirley M. Holmes, T/A, ICC, 858 Federal Bldg., Seattle, WA 98174.

MC 124692 (Sub-296TA), filed July 10, 1979. Applicant: SAMMONS TRUCKING, P.O. Box 4347, Missoula, MT 59801. Representative: James B. Hovland, P.O. Box 1680, Fargo, ND 58107. *Lead ingots* from the Forest City, MO commercial zone to the commercial zones of Redland and Pomona, CA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Commercial Metals Co., Box 1046, Dallas, TX 75221. Send protests to: Paul J. Labane, DS, ICC, 2602 First Avenue North, Billings, MT 59101.

MC 124692 (Sub-297TA), filed July 10, 1979. Applicant: SAMMONS TRUCKING, P.O. Box 4347, Missoula, MT 59801. Representative: Donald W. Smith, Suite 945, 9000 Keystone Crossing, Indianapolis, IN 46240. *Iron and steel articles* from the facilities of United States Steel at or near Lorain, Cleveland and McDonald, OH to points in UT, ID and CA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): United States Steel Corp., Room 568, 600 Grant St., Pittsburgh, PA 15230. Send protests to: Paul J. Labane, DS, ICC, 2602 First Avenue North, Billings, MT 59101.

MC 124813 (Sub-211TA), filed June 28, 1979. Applicant: UMTHUN TRUCKING CO., 910 South Jackson Street, Eagle Grove, IA 50533. Representative: Wm. L. Fairbank, 1980 Financial Center, Des Moines, IA 50309. *Railroad ties* from points in IA to points in IL and WI for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): United Brokerage Corp., P.O. Box 1201, Marshalltown, IA 50158. Send protests

to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 125353 (Sub-2TA), filed July 6, 1979. Applicant: ROCHESTER AIR FREIGHT SERVICE CORPORATION, 73 Deep Rock Road, Rochester, NY 14624. Representative: Robert D. Gunderman, 710 Statler Bldg., Buffalo, NY 14202. *General Commodities, except those of unusual value, classes A & B explosives, livestock, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, restricted to traffic having a prior or subsequent movement by aircraft*, between points in Onondaga County, NY, on the one hand, and, on the other, LaGuardia Airport and John F. Kennedy International Airport (Queens County), NY; Newark Airport (Essex County), NJ; and points in Nassau and Suffolk Counties, NY, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Imperial Air Freight, 6717 Pickard Dr., Syracuse NY 13211. Bossong's Commercial Delivery, Inc., 6717 Pickard Dr., Syracuse NY 13211. Air Express International, 6717 Pickard Dr., Syracuse NY 13211. Burlington Northern Air Freight Inc., Townline Rd., Syracuse NY 13211. Send protests to: Richard H. Cattadoris, DS, ICC, 910 Federal Bldg., 111 West Huron St., Buffalo, NY 14202.

MC 126922 (Sub-60TA), filed May 16, 1979. Applicant: WESTPORT TRUCKING COMPANY, 15580 South 169 Highway, Olathe, KS 66061. Representative: Kenneth E. Smith, 15580 South 169 Highway, Olathe, KS 66061. *Canned Fruit and canned vegetable juices*, from the facilities of the Texsun Corporation, at or near Weslaco, Texas, to points in AR, CO, IL, IN, IA, KS, MN, MS, MO, NE, NM, OK, TN, and WI. For 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Texsun Corp., 522 South Texas Blvd., P.O. Box 327, Weslaco, TX 78596. Send protests to: John V. Barry, DS, ICC, 600 Federal Bldg., 911 Walnut St., Kansas City, MO 64106.

MC 128273 (Sub-360TA), filed July 12, 1979. Applicant: MIDWESTERN DISTRIBUTION, INC., P.O. Box 189, Fort Scott, KS 66701. Representative: Elden Corban (same as above). *Such commodities as are used, manufactured, or dealt in, by manufacturers and distributors of furniture and bedding products*, (1) from facilities of Leggett & Platt, Inc., at or near Mason, OH to points in the U. S. which are in and east of MN, IA, MO, OK & TX (except ME, NH, OH & VT), and (2) from the facilities of Adcom Manufacturing Co. (an affiliate of Leggett & Platt, Inc.) at or near Jacksonville, FL and Nicholasville,

KY to points in the states of AL, AR, AZ, CA, CO, CT, DE, FL, GA, IL, IN, IA, KS, KY, LA, MA, MD, MI, MN, MS, MO, NE, NJ, NY, NC, OH, OK, OR, PA, RI, SC, TN, TX, VA, WV, WI & DC. RESTRICTED against the transportation of commodities in bulk in tank vehicles and commodities which, because of size or weight, require the use of special equipment. Further restricted to traffic which originates at the above-named facilities and is destined to the indicated destination territory, for 180 days. common, irregular. Supporting shipper(s): Adcom Manufacturing Company, Carthage, MO 64836. Send protests to: M. E. Taylor, DS, ICC, 101 Litwin Bldg., Wichita, KS 67202.

MC 129032 (Sub-93TA), filed July 9, 1979. Applicant: TOM INMAN TRUCKING, INC., 6015 South 49th West Avenue, Tulsa, OK 74107. Representative: David R. Worthington (same address as applicant). *Auto parts*, (except in bulk), from the facilities of Geauga Plastics Company, at or near Canton, OH, to the Ford Motor Assembly plant, at Claycomo, MO, restricted to traffic originating at the above named origin and destined to the above named destinations. Supporting shipper(s): Ford Motor Company, Parklane Towers East, Suite 200, One Parkland Blvd., Dearborn, MI 48126. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 129282 (Sub-48TA), filed June 15, 1979. Applicant: BERRY TRANSPORTATION, INC., P.O. Box 2147, Longview, TX 75601. Representative: Fred S. Berry (same as applicant). (1) *malt beverages, mineral water and (2) materials and supplies used in the manufacture and distribution of commodities in (1) (except commodities in bulk)* between Longview, TX and El Dorado, AR for 180 days. An underlying ETA seeking 90 days authority filed. Supporting shipper(s): R. C. Edwards Distributing Co., 621 So. Washington, El Dorado, AR 71730. Send protests to: Opal M. Jones, Transportation Assistant, I.C.C., Room 9A27 Federal Building, 819 Taylor St., Fort Worth, TX 76102.

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MC 134592 (Sub-22TA), filed May 31, 1979. Applicant: Herb Moore and Hazel Moore, d.b.a. H & H TRUCKING CO., 10360 N. Vancouver Way, Portland, OR 97211. Representative: Philip G. Skofstad, P.O. Box 594, Gresham, OR 97030. *Furniture, KD or KDF, in boxes*, from the facilities of Sageland Manufacturing Inc., in Bend, OR to

points in the states of WA, CA, ID, NV, CO, UT, MT, AZ, TX, WY, FL, KS, LA, MI, MO, NE, NM, NC, OH, OK, PA, SD, TN, WI for 180 days. A corresponding permanent application will be filed. Supporting shipper(s): Sageland Mfg. Inc., 83270 Lyman Place, Bend, OR 97701. Send protests to: R. V. Dubay, D/S, 114 Pioneer Courthouse, I.C.C., Portland, OR 97204.

MC 134922 (Sub-313TA), filed July 9, 1979. Applicant: B. J. McADAMS INC., Route 6, Box 15, North Little Rock, AR 72118. Representative: Bob McAdams (same address as applicant). *Small arms ammunition* (except Classes A and B explosives) and related parts and components and materials and supplies used in the manufacture thereof, from Lonoke, AR to points in AL, CT, GA, IL, IN, IA, KY, MA, MI, MN, MO, NJ, NC, ND, NY, OH, PA, SC, SD, TN, VA, WV and WI (except Bridgeport CT) for 180 days. Underlying ETA sought corresponding authority for 90 days. Supporting shipper(s): Remington Arms Company, Inc., 939 Barnum Avenue, Bridgeport, CT 06602. Send protests to: William H. Land DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 134922 (Sub-314TA), filed July 9, 1979. Applicant: B. J. McADAMS INC., Route 6, Box 15, North Little Rock, AR 72118. Representative: Bob McAdams (same address as applicant). *Plastic material* from the facilities of Allied Chemical Corporation's plant in Orange, TX to all points in the continental United States (except AK and HI) for 180 days. Underlying ETA sought corresponding authority for 90 days. Supporting shipper(s): Allied Chemical Corporation, P.O. Box 1087-R, Morristown, NJ 07960. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 135633 (Sub-17TA), filed July 9, 1979. Applicant: NATIONWIDE AUTO TRANSPORTERS, INC., 140 Sylvan Avenue, Englewood Cliffs, NJ 07632. Representative: Allen F. Herman (same address as above). *Trucks, in secondary movements, in driveway service*. Between Baltimore, MD on the one hand, and Delaware, NJ, NY, NC, VA, PA and Washington, DC on the other, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): General Motor Truck & Coach Division, 7667 Pulaski Hwy, Baltimore, MD 21237. Send protests to: Joel Morrows, D/S, ICC, 744 Broad St., Rm. 522, Newark, NJ 07102.

MC 136553 (Sub-77TA), filed June 21, 1979. Applicant: ART PAPE TRANSFER, INC., 1080 E. 12th St., Dubuque, IA 52001. Representative: Wm. L. Fairbank, 1980 Financial Center, Des Moines, IA

50309. *Tanks and pressure vessels, and parts and accessories for tanks and pressure vessels*, from Dubuque, IA to points in the US except AK and HI for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Watubo-Tek, Inc., P.O. Box 794, Dubuque, IA 52001. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 136782 (Sub-19TA), filed May 24, 1979. Applicant: R.A.N. TRUCKING COMPANY, P.O. Box 128, Eau Claire, PA 16030. Representative: Warren W. Wallin, 10 S. LaSalle St., Suite 1600, Chicago, IL 60603. *Meat, meat products, meat-by-products, dairy products and articles distributed by meat packinghouses as defined in Appendix I to the Report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 & 766*, between the facilities of Northside Packing Company located at Pittsburgh, PA on the one hand, and points in IL, IN, OH, MI, WV, VA, DC, MD, DE, NJ, NY, CT, MA and RI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Northside Packing Company, 2200 Spring Garden Ave., Pittsburgh, PA 15320. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila, PA 19106.

MC 136102 (Sub-4TA), filed June 22, 1979. Applicant: CARSON D. BOUTWELL, d.b.a. BOUTWELL TRUCK LINES, Route 3, Box 391, Jay, FL 32565. Representative: David B. Erwin, 1030 E. Lafayette Street, Suite 112, Tallahassee, FL 32301. *Dry bulk and bagged fertilizer* from points in Escambia and Santa Rosa Counties, FL to points in AL, GA, MS, and LA, for 180 days. Supporting shipper: Air Products & Chem Inc., P.O. Box 467, Pensacola, FL 35292. Send protests to: Mabel E. Holston, T/A, ICC, Room 1616—2121 Building, Birmingham, AL 35203.

MC 136322 (Sub-10TA) filed June 25, 1979. Applicant: TRUCKING, INC., 9231 Whitmore, El Monte, CA 91734. Representative: Robert Fuller, 13215 E. Penn St., Suite 310, Whittier, CA 90602. *COMMON: Irregular: Knocked down metal buildings, and flat sheet and coil steel and other materials and supplies for the manufacture of metal buildings in knocked down form, and damaged or rejected buildings and parts therefor*, between the facilities of Varco-Pruden division of AMCA INTERNATIONAL in Stanislaus County, CA, on the one hand, and, on the other hand, points and places in AZ, CO, ID, MT, NM, NV, OR, TX, UT, WA and WY, for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting shipper: Varco-Pruden, Division of AMCA International, 530 S. Tegner Rd. (P.O.

Box 1824), Turlock (Stanislaus County), CA 95380. Send protests to: Irene Carlos, T/A, I.C.C., P.O. Box 1551, Los Angeles, CA 90053.

MC 138772 (Sub-7TA), filed June 27, 1979. Applicant: ALL WAYS FREIGHT LINES, INC., 215 North 18, Leavenworth, KS 66048. Representative: William B. Baker, 641 Harrison, Topeka, KS 66603. *General Commodities*, (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), between Marysville, KS and Beatrice, NE and its commercial zone; from Marysville, KS over US Hwy 77 to Beatrice, NE and return over the same route, serving all intermediate points, for 180 days, common, irregular. (Note: Applicant intends to interline with other carriers and tack with its existing regular route authority in MC-138772.) An underlying ETA seeks 90 days authority. Supporting shipper(s): Kaiser Aluminum & Chemical Sales, Inc., 3110 Brinkerhoff, Kansas City, KS 66115. Westfall GMC, Inc., 9th & Burlington, No. K.C., MO 64116. Leavenworth Steel, 2nd & Cherokee, Leavenworth, KS. J. C. Penney Co., Inc., 10500 Lackman Rd., Lenexa, KS. Send protests to: M. E. Taylor, DS, ICC, 101 Litwin Bldg., Wichita, KS 67202.

MC 139482 (Sub-134TA), filed July 9, 1979. Applicant: NEW ULM FREIGHT LINES, INC., P.O. Box 877, New Ulm, MN 56073. Representative: James E. Ballenthin, 630 Osborn Building, St. Paul, MN 55102. *Foodstuffs (in vehicles equipped with mechanical refrigeration)*, from the facilities of Hershey Chocolate Company and H. B. Reese Company located in Derry Township, Dauphin County, PA, Y & S Candies, Inc. located in East Hempfield Township, Lancaster County, PA, and Dauphin Distributors Service located in Hampden Township, Cumberland County, PA, to points in IA, IL, IN, MN, and WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Hershey Chocolate Company; H. B. Reese Company; and Dauphin Dist. Service; General Traffic Manager, 19 East Chocolate Avenue, Hershey, PA 17133. Send protests to: Judith L. Olson, T/A, ICC, 414 Federal Building and U.S. Courthouse, 110 South 4th Street, Minneapolis, MN 55401.

MC 140612 (Sub-70TA), filed July 2, 1979. Applicant: ROBERT F. KAZIMOUR, P.O. Box 2207, Cedar Rapids, IA 52406. Representative: J. L. Kazimour (same address as applicant). *Floor coverings and materials, equipment, and supplies used in the installation, manufacture, packaging,*

and sales of floor coverings (except commodities in bulk, in tank vehicles) from Landrum and Greenville, SC, and Lyrly, GA, to points in and west of MI, OH, KY, TN, NC, SC, GA, and FL, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Bigelow-Sanford, Inc., P.O. Box 3089, Greenville, SC 29602. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Building, Des Moines, IA 50309.

MC 142082 (Sub-5TA), filed June 25, 1979. Applicant: OLIVER BROWN TRUCKING CO., INC., 700 South Avenue, Middlesex, NJ 08846. Representative: Eugene M. Malkin, Suite 1832, Two World Trade Center, New York, NY 10048. *Contract carrier, irregular routes. Automotive parts and supplies* from the facilities of Walker Manufacturing Company located at or near Arden, NC and Harrisonburg, VA to points in DC, NJ, GA, OH, MD, DE, PA, NY, MA, CT and RI and from Elizabeth, NJ to points in CT, RI, MA, NY, PA, DE, MD, ME, VT and NH under a continuing contract with Walker Manufacturing Company of Racine, WI. An underlying ETA seeks 90 days authority. Supporting shipper: Walker Manufacturing Company, 1201 Michigan Boulevard, Racine, WI 53402. Send protests to: Irwin Rosen, TS, ICC, 744 Broad Street, Room 522, Newark, NJ 07102.

MC 142603 (Sub-15TA), filed June 19, 1979. Applicant: CONTRACT CARRIERS OF AMERICA, INC., P.O. Box 1968, Springfield, Massachusetts 01101. Representative: S. Michael Richards, 44 North Avenue, P.O. Box 225, Webster, NY 14580. *Contract carrier, irregular routes. Rubber compounds, chemicals, adhesives, resins, oils, and plastic materials* (except in bulk), from Midland and Hemlock, MI to all points in CT and NJ, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Dow Corning Corp., 5901 S. Saginaw Road, Midland, MI 48640. Send protests to: David M. Miller, DS, ICC, 436 Dwight Street, Springfield, MA 01103.

MC 143753 (Sub-5TA), filed May 16, 1979. Applicant: BOLES & FRANKLIN, INC., Route 2, Box 169, Weaverville, NC 28787. Representative: George W. Clapp, P.O. Box 836, Taylors, SC 29687. *Coal, in bulk, in dump vehicles*. From points in Clay County, IN, to points in Roane County, TN, for 180 days. Supporting shipper: Rockwood Direct Reduction, P.O. Box 510, Rockwood, TN 37854. Send protests to: Terrell Price, Room CC-516 Mart Office Building, 800 Briar Creek Road, Charlotte, NC 28205.

MC 144022 (Sub-1TA), filed April 10, 1979. Applicant: BLACK ARROW

TRANSPORT, INC., 107 Abbott Street, Springfield, MA 01118. Representative: James M. Burns, 1383 Main Street—Suite 413, Springfield, MA 01103. *Contract carrier, irregular routes. Bouts, parts and accessories and materials, equipment and supplies*, used in the manufacture of boats, from the facilities of AMF-Alcort/Paceship Division located at Waterbury, CT to points in AL, AZ, AR, CA, CO, CT, DE, DC, FL, GA, IL, IN, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, NH, NJ, NM, NY, NC, OH, OK, PA, RI, SC, TN, TX, VT, VA, WV and WI, under a continuing contract(s) with AMF-Alcort/Paceship Division, Waterbury, CT, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: AMF-Alcort/Paceship, South Leonard Street, Waterbury, CT 06720. Send protests to: David M. Miller, DS, ICC, 436 Dwight Street, Springfield, MA 01103.

MC 144293 (Sub-10TA), filed June 28, 1979. Applicant: DUANE McFARLAND, Operator of GEORGE McFARLAND, Sr., P.O. Box 1006, Austin, MN 55912. Representative: John P. Rhodes, P.O. Box 5000, Waterloo, IA 50704. *Foodstuffs* between Indianapolis, IN, on the one hand, and, on the other, points in IA, MI, MN, NE, ND, OH, SD and WI, restricted to shipments originating at or destined to the facilities of Monument Distribution Warehouse, Inc., Indianapolis, IN, for 180 days. Supporting shipper(s): Monument Distribution Warehouse, Inc., 3320 South Arlington Avenue, Indianapolis, IN 46203. Send protests to: District Supervisor, ICC, 414 Federal Building and U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 144622 (Sub-78TA), filed June 11, 1979. Applicant: GLENN BROS. TRUCKING, INC., P.O. Box 9343, Little Rock, AR 72206. Representative: Robert D. Gisvold, 1000 First National Bank Bldg., Minneapolis, MN 55402. *Charcoal, carbon, and equipment, material and supplies* used in the distribution or manufacturing of charcoal and charcoal briquettes from the plant sites of Husky, Inc. at Branson, MO, Pachuta, MS and Dickinson, ND, to points in AL, AZ, CA, CO, GA, IA, IL, IN, KY, LA, MT, NC, OH, OK, SC, SD, TN and TX, for 180 days as a common carrier over irregular routes. An underlying ETA seeks 90 days authority. Supporting shipper(s): Husky Industries, Inc., 62 Perimeter Center East, Atlanta, GA. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 144622 (Sub-79TA), filed July 11, 1979. Applicant: GLENN BROS. TRUCKING, INC., P.O. Box 9343, Little

Rock, AR 72219. Representative: Robert D. Gisvold, 1000 First National Bank Bldg., Minneapolis, MN 55402. *Meat, meat products, meat by-products and articles* distributed by meat packing houses (except hides and commodities in bulk) from the facilities of Wilson Foods Corp. at Marshall, MO to all points in WA and OR for 180 days. Underlying ETA sought corresponding authority for 90 days. Supporting shipper(s): Wilson Foods Corporation, 4545 Lincoln Blvd., Oklahoma City, OK 73105. Send protests to: William H. Land, DS, 3108 Federal Building, Little Rock, AR 72201.

MC 144622 (Sub-80TA), filed July 11, 1979. Applicant: GLENN BROS. TRUCKING, INC., P.O. Box 9343, Little Rock, AR 72219. Representative: Robert D. Gisvold, 1000 First National Bank Bldg., Minneapolis, MN 55402. *Meat, meat products, meat by-products and articles* distributed by meat packing houses (except hides and commodities in bulk) from Louisville, KY to New York and MA for 180 days. Underlying ETA sought corresponding authority for 90 days. Supporting shipper(s): Armour Fresh Meat Company, Greyhound Tower, 111 W. Clarendon, Phoenix, AZ 85077. Send protests to: William H. Land, Jr., DS, 3108 Federal Building, Little Rock, AR 72201.

MC 144622 (Sub-61TA), filed July 12, 1979. Applicant: GLENN BROS. TRUCKING, INC., P.O. Box 9343, Little Rock, AR 72219. Representative: Robert D. Gisvold, 1000 First National Bank Bldg., Minneapolis, MN 55402. *Meat, meat products, meat by-products and articles* distributed by meat packing houses (except commodities in bulk and hides) from the facilities of Wilson Foods Corp. at Cherokee, IA, to all points in PA, NY, NJ and MA for 180 days. Underlying ETA sought corresponding authority for 90 days. Supporting shipper(s): Wilson Foods Corporation, 4545 Lincoln Blvd., Oklahoma City, OK 73105. Send protests to: William H. Land, DS, 3108 Federal Building, Little Rock, AR 72201.

MC 145072 (Sub-19TA), filed February 5, 1979. Applicant: M.S. CARRIERS, INC., 7372 Eastern Ave., Germantown, TN 38139. Representative: A. Doyle Cloud, Jr., 2006 Clark Tower, 5100 Poplar Ave., Memphis, TN 38137. *Synthetic rubber*, from the facilities of Co-Polymer Products Company located at or near Baton Rouge, LA, the facilities of Pennsylvania Tire & Rubber Company located at or near Tupelo, MS for 180 days. Supporting shipper(s): Pennsylvania Tire & Rubber Co. of Mississippi, Inc., 515 Newman Street, Mansfield, OH 44901. Send protests to:

Floyd A. Johnson, 100 North Main Street, Suite 2006, Memphis, TN 38103.

MC 145072 (Sub-20TA), filed June 19, 1979. Applicant: M.S. CARRIERS, INC., 7372 Eastern Avenue, Germantown, TN 38138. Representative: A. Doyle Cloud, Jr., 2008 Clark Tower, 5100 Poplar Avenue, Memphis, TN 38137. *Pipe fittings*, from the plantsite of Taylor Forge, Division of Gulf & Western Manufacturing Co. at or near Ackerman, MS to all points in AL, GA, OH, IL, MI, TX, PA, NJ, WV, VA, LA, NY, KY, AR, MD, IN and MO, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Gulf & Western Manufacturing Co., P.O. Box R, Ackerman, MS 39735. Send protests to: Floyd A. Johnson, District Supervisor, Interstate Commerce Commission, 100 North Main Building—Suite 2006, 100 North Main Street, Memphis, TN 38103.

MC 145152 (Sub-92TA), filed June 12, 1979. Applicant: BIG THREE TRANSPORTATION, INC., P.O. Box 706, Springdale, AR 72764. Representative: John Duncan Varda, 121 South Pinckney St., Madison, WI 53703. *Paper and paper products* (except in bulk), and *products* (except in bulk) produced or distributed by manufacturers and converters of paper and paper products, from the plantsite and facilities used by Nekoosa Papers, Inc. in Little River County, AR, to points in CA, CO, DE, FL, GA, IL, IN, IA, KY, MD, MI, MO, NC, NJ, NY, OH, PA, SC, TN, TX, VA, WV and WI, for 180 days. Supporting shipper(s): Nekoosa Papers, Inc., 100 Wisconsin River Dr., Port Edwards, WI 54469. Send protests to: William H. Land, Jr., DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 145152 (Sub-93TA), filed June 13, 1979. Applicant: BIG THREE TRANSPORTATION, INC., P.O. Box 706, Springdale, AR 72764. Representative: Don Garrison, P.O. Box 159, Rogers, AR 72756. (1) Rolled mesh, cage wire; and (2) outer cartons and styrofoam liners, from Blue Isle and Chicago, IL; and Kansas City, MO to Rogers, AR, for 180 days as a common carrier over irregular routes. Supporting shipper(s): Pel-Freez, Inc., P.O. Box 68, Rogers, AR 72756. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 145152 (Sub-94TA), filed June 19, 1979. Applicant: BIG THREE TRANSPORTATION, INC., P.O. Box 706, Springdale, AR 72764. Representative: Don Garrison, P.O. Box 159, Rogers, AR 72756. Underlying ETA seeks corresponding authority for 90 days (1) *Frozen citrus and frozen citrus concentrates*, and (2) *frozen berries*,

fruits and vegetables, when moving in mixed shipments with the commodities named in (1) above, from Monte Alto, TX to points in AL, AR, FL, GA, IL, KS, KY, LA, MD, MI, MO, MS, NC, NJ, NY, OK, PA, SC, TN and VA, restricted to the transportation of traffic originating at the facilities of Monte Alto Foods, Inc. at or near Monte Alto, TX for 180 days. Supporting shipper(s): Monte Alto Foods, Inc., P.O. Box 320, Route 1, Monte Alto, TX 78538. Send protests to: William H. Land, Jr., DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 145152 (Sub-95TA), filed June 20, 1979. Applicant: BIG THREE TRANSPORTATION, INC., P.O. Box 706, Springdale, AR 72764. Representative: Don Garrison, P.O. Box 159, Rogers, AR 72756. *Glass, glass containers, caps, covers, stoppers and tops* from the facilities of Libbey-Glass, division of Libbey-Illinois, at or near Toledo, OH to points in the United States (except AK, HI and OH) for 180 days. Underlying ETA seek 90 days authority. Supporting shipper(s): Libbey Glass, Div. of Owens-Illinois, 940 Ash St., P.O. Box 919, Toledo, OH 43693. Send protests to: William H. Land, Jr., DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 145152 (Sub-96TA), filed June 20, 1979. Applicant: BIG THREE TRANSPORTATION, INC., P.O. Box 706, Springdale, AR 72764. Representative: Don Garrison, P.O. Box 159, Rogers, AR 72756. Underlying ETA seeks corresponding authority for 90 days. *Empty plastic and/or tin containers* from the facilities of or used by C. L. Smith Company, at or near Piedmont and St. Louis, MO to points in MN; and from points in NJ, NY, OK, TN and WI to the facilities of C. L. Smith Company, at or near St. Louis, MO for 180 days. Supporting shipper(s): C. L. Smith Company, 1311 South 39th St., St. Louis, MO 63110. Send protests to: William H. Land, Jr., DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 145152 (Sub-97TA), filed June 19, 1979. Applicant: BIG THREE TRANSPORTATION, INC., P.O. Box 706, Springdale, AR 72764. Representative: Don Garrison, P.O. Box 159, Rogers, AR 72756. Underlying ETA seeks corresponding authority for 90 days. *Bicycles NOI, engine powered lawnmowers, garden and lawn tractor and self-propelled rotary tillers* between Lawrenceburg, TN, on the one hand, and on the other, points in AR, IL, MA, MI, NC, NY, OH and PA, restricted to the transportation of traffic originating at or destined to the facilities of Murray Ohio Manufacturing Company at or near Lawrenceburg, TN, for 180 days.

Supporting shipper(s): Murray Ohio Manufacturing Company, Hannon Drive, Lawrenceburg, TN 38464. Send protests to: William H. Land, Jr., DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 145623 (Sub-3TA), filed July 9, 1979. Applicant: O. K. MESSENGER SERVICE, INC., 9107 South Telegraph Road, Taylor, MI 48180. Representative: Edwin M. Snyder, 22375 Haggerty Road, P.O. Box 400, Northville, MI 48167. *Contract Carrier, Irregular Routes. (I) Iron and Steel Articles* from the facilities of the Bethlehem Steel Corporation at or near Redford, MI to points in OH, IN and IL under continuing contract with Bethlehem Steel Corporation (II) Steel reinforcing bars from Strongsville, OH, Bedford Park, IL, Lement, IL and Indiana Harbor, IN to the facilities of Bethlehem Steel Corporation at or near Redford Michigan. Under continuing contract with Bethlehem Steel Corporation. For 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Bethlehem Steel Corporation, 3800 Prudential Plaza, Chicago, IL 60601. Send protests to: C. R. Flemming, D/S, I.C.C. 225 Federal Building, Lansing, MI 48933.

MC 146422 (Sub-5TA), filed March 5, 1979. Applicant: DELBERT F. JOHNSTON, 2601 Gore Road, Pueblo, CO 81006. Representative: Jack B. Wolfe, 350 Capitol Life Center, 1600 Sherman Street, Denver, CO 80203. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Brick and building materials*; from the facilities of Summit Pressed Brick and Tile Co., at or near Pueblo and Trinidad, CO, to points in ID, IL, KS, NE, NM, OK, TX, UT, WI, and WY; and (2) *Refractory products*, (a) from the facilities of A. P. Green Refractories Company, at or near Pueblo, CO, to points in WA, OR, CA, AZ, UT, ID, IL, IA, MT, WY, CO, NM, TX, KS, NE, and MO; (b) from the facilities of A. P. Green Refractories Company at or near Mexico and Fulton, MO; Sulphur Springs, TX; and Goose Lake, IL, to the facilities of A. P. Green Refractories Company at or near Pueblo, CO. Part (1) is restricted to a transportation service to be performed under a continuing contract or contracts with Summit Pressed Brick and Tile Co. Part (2) is restricted to a transportation service to be performed under a continuing contract or contracts with A. P. Green Refractories Company. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): A. P. Green Refractories Company, Green Blvd., Mexico, MO and Summit Pressed

Brick and Tile Co., P.O. Box 533, Pueblo, CO. Send protests to: Roger Buchanan, District Supervisor, Interstate Commerce Commission, 492 U.S. Customs House, 721 19th Street, Denver, CO 80202.

MC 146522 (Sub-6TA), filed July 5, 1979. Applicant: ADRIAN CARRIERS, INC., 1826 Rockingham Road, Davenport, IA 52808. Representative: James M. Hodge, 1980 Financial Center, Des Moines, IA 50309. *Contract carrier, irregular routes. Such commodities as are dealt in or used by agricultural equipment, industrial equipment, and lawn and leisure product manufacturers and dealers* (except commodities in bulk) from the facilities of the John Deere Company of Minneapolis at Bloomington, MN, to points in IA and WI, under continuing contract(s) with Deere & Company, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): John Deere Company of Minneapolis, 2001 W. 94th St., Bloomington, MN 55440. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Building, Des Moines, IA 50309.

MC 146563 (Sub-1TA), filed March 22, 1979. Applicant: DAV-EL SERVICES, INC., d.b.a. DAV-EL LIVERY, 219 West 77th Street, New York, NY 10024. Representative: Sidney J. Leshin, 575 Madison Avenue, New York, NY 10022. *Contract carrier, irregular routes. Passengers and their baggage having an immediately prior or subsequent movement by steamship, in door-to-door transportation of no more than 6 passengers in any vehicle*, between the Counties of Bergen, Morris, Essex, Hudson, Union, Passaic, Somerset and Middlesex, NJ; County of Rockland, NY, and County of Fairfield, CT, on the one hand, and, on the other, piers in New York, NY. An underlying ETA seeks 90 days authority, for 180 days. Supporting shipper(s): Holland America Cruises, 2 Pennsylvania Plaza, New York, NY 10001. Send protests to: Maria B. Kejss, Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, NY 10007.

MC 147612 (Sub-1TA), filed June 29, 1979. Applicant: WILLARD D. VAN ZUIDEN, Box 333, Albany, IL 61230. Representative: Joseph Winter, 29 S. LaSalle St., Chicago, IL 60603. *Contract carrier, irregular routes. Steel articles*, between the facilities of Central Steel Tube Company, at Clinton, IA, on the one hand, and on the other, points in CO, IL, IN, IA, KY, MI, MN, MO, NE, OH, TN, TX, and WI, under continuing contracts with Central Steel Tube Company, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Central Steel Tube

Company, P.O. Box 511, Clinton, IA 52732. Send protests to: David Hunt, TA, Rm. 1386, 219 S. Dearborn St., Chicago, IL 60604.

MC 146782 (Sub-7TA), filed July 11, 1979. Applicant: ROBERTS CONTRACT CARRIER CORPORATION, 300 1st Avenue South, Nashville, TN 37201. Representative: Stephen L. Edwards, 806 Nashville Bank & Trust Bldg., Nashville, TN 37201. (1) *Iron and steel, and iron and steel articles*, and (2) *equipment, materials and supplies used in the manufacture of the commodities stated in (1) above (except commodities in bulk)*, between the facilities of Babcock & Wilcox Co., Tubular Products Division, located at or near Beaver Falls, PA, Koppel, PA, Ambridge, PA, and Alliance, OH, on the one hand and on the other, points in AL, GA, KY, NC, SC, TN and VA, for 180 days. RESTRICTION: Restricted to traffic originating at or destined to the above named facilities. Supporting shipper(s): Babcock & Wilcox Co., P.O. Box 401, Beaver Falls, PA 15010. Send protests to: Glenda Kuss, TA, ICC, Suite A-422, U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 146782 (Sub-8TA), filed July 12, 1979. Applicant: ROBERTS CONTRACT CARRIER CORP., 300 1st Avenue, South, Nashville, TN 37201. Representative: Stephen L. Edwards, 806 Nashville Bank & Trust Bldg., Nashville, TN 37201. *Aluminum sheet and foil in coils and aluminum ingots, sow and pig*, from the facilities of Norandal U.S.A., Inc. at or near Huntington, TN, on the one hand, and, on the other, points in AL, AR, FL, GA, IL, IN, KY, MD, MI, MS, NC, NE, NJ, NY, OH, PA, SC, TX, VA, WI and WV, for 180 days. Supporting shipper(s): Norandal U.S.A., Inc., Northwood Drive, Huntingdon, TN 38344. Send protests to: Glenda Kuss, TA, ICC, Suite A-422 U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 147083 (Sub-2 TA), filed June 15, 1979. Applicant: TANK'S, INC., P.O. Drawer 1179, Gillette, WY 82718. Representative: Leon L. Brady, (same address as applicant). *Mining equipment, materials and supplies*, between points in WY. Restricted to shipments having an immediate prior or subsequent movement in interstate commerce, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Fluor Mining & Metals, Inc., P.O. Box 1899, Gillette, WY 82716. Send protests to: District Supervisor Paul A. Naughton, Interstate Commerce Commission, Room 105 Federal Bldg. & Crt House, 111 South Wolcott, Casper, WY 82601.

MC 147242 (Sub-2 TA), filed May 22nd, 1979. Applicant: 12-90 PLAZA CORP. T/A PLAZA FREIGHT TRANSPORT, 12-90 Plaza Road, Fairlawn, NJ 07410. Representative: Arthur Liberstein, 888 Seventh Avenue, New York, NY 10019. *Contract, irregular. Drugs and medicines* between Rockville Centre, NY, on the one hand, and, on the other Fort Lauderdale, FL, Atlanta, GA, Chicago, IL, and Los Angeles, CA, and the Commercial Zones, thereof, under continuing contract with Darby Drug Co., Inc. An underlying ETA has been filed seeking 90 days authority. Supporting shipper(s): Darby Drug Co., Inc., 100 Banks Avenue, Rockville Centre, NY. Send protests to: Joel Morrows, DS ICC, 744 Broad Street—Room 522, Newark, NJ 07102.

MC 147383 (Sub-1 TA), filed June 25, 1979. Applicant: WARREN E. JACKSON & ROCCI J. STEWART, d.b.a. R & G CARRIERS, P.O. Box 1154, Glendale Heights, IL 60137. Representative: Anthony Thomas, 6017 Cermak Road, Cicero, IL 60650. *Contract carrier, irregular routes. Building erection, braces, scaffolds and scaffolding, Trestles, Trusses, shores and shoring and accessories, supplies, materials and equipment (including winches) uses or useful in the construction and erection thereof*, between Phoenix AZ; Duarte, Long Beach and San Leandro, CA; Miami and Tampa, FL; Addison, IL; Fort Wayne and Indianapolis, IN; West Burlington, IA; Louisville, KY; Beltsville, MD; Minneapolis, MN; Detroit, MI; Kansas City, MO; Cincinnati and Cleveland, OH; Philadelphia, PA; Dallas, TX; and New Berlin, WI on the one hand, and on the other, points in the United States (except Alaska and Hawaii). Supporting shipper(s): Chicago Stage Contractors, Inc., 225 South Fairbank St., Addison, IL 60101. Send protests to: David Hunt, TA, Rm. 1386, 219 S. Dearborn, Chicago, IL 60604.

MC 147393 (Sub-2 TA), filed June 12, 1979. Applicant: KENNETH L. WHEELER d.b.a. WHEELER ASSOCIATES, 5920 Fairway Dr., Hope Mills, NC 28348. Representative: William Eugene Anderson, P.O. Box 1286, Raleigh, NC 27602. *General commodities with the usual exceptions (A) having prior or subsequent movement by air, between airports at Wilmington, Fayetteville, and Charlotte NC (B) between Fayetteville, NC; Arab, AL; and Baltimore, MD for the account of Black & Decker, Inc., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): There are 6 supporting shippers. Their statements may be examined at the office listed below or Headquarters. Send protests*

to: District Supervisor Terrell Price, 800 Briar Creek Rd.-Rm CC516, Mart Office Building, Charlotte, NC 28205.

MC 147442 (Sub-3 TA), filed May 22, 1979. Applicant: LAVIERO TRUCKING, INC., 70 Maureen Drive, Bristol, CT 06010. Representative: Thomas W. Murrett, 342 North Main Street, West Hartford, CT 06117. *Banded steel* from Bristol, CT to points in NY, NJ, MA, and RI, limited at Bristol, CT to the facilities of Wallace Barnes Steel Division, The Barnes Group, for 180 days. Supporting shipper(s): Wallace Barnes Steel Division, The Barnes Group, 300 Broad Street, Forestville (Bristol), CT 06010. Send protests to: J. D. Perry, Jr., DS, ICC, 135 High Street, Hartford, CT 06101.

MC 147462 TA, filed June 19, 1979. Applicant: CLAYTON H. TEN PAS d.b.a. C. H. TEN PAS TRANSPORT, Route 1, Plymouth, WI 53073. Representative: Richard Alexander, 710 N. Plankinton Ave., Milwaukee, WI 53203. *Contract carrier, irregular routes. Liquid concrete additives*, in bulk, in tank vehicles, from Port Washington, WI to points in CO, IL, IN, IA, KS, KY, MI, MN, MO, NE, ND, OH, OK, SD & TX, for 180 days. Supporting shipper(s): Sika Chemical Corp., 875 Valley Brook Ave., Lyndhurst, NJ 07071. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 147472 TA, filed May 23, 1979. Applicant: BUTLER COAST EXPRESS, INC., 629 N.W. Hubert Street, No. 1, Newport, OR 97365. Representative: Michael M. Butler, 629 N.W. Hubert Street, No. 1, Newport Oregon 97365. *Common, Regular General Commodities*; except those of unusual value. Class A & B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment between Portland, OR and South Beach, OR, serving the intermediate points of Newport, Depoe Bay, and Lincoln City, and the off route point of Toledo, OR, and their commercial zones.

From Portland over U.S. Hwy 99W to junction Oregon Hwy 18, then over Oregon Hwy 18 to junction U.S. Hwy 101, then over U.S. Hwy 101 to South Beach and return same route, serving the off route point of Toledo, OR for 180 days. Supporting shipper(s): There are approximately ten (10) support statements which can be reviewed at Headquarters in Washington, DC or at the field office listed below. For others see attachment. Send protests to: A. E. Odums, DS, ICC, 114 Pioneer Courthouse 555 S.W. Yamhill Street, Portland, OR 97204.

MC 147473 TA, filed May 29, 1979. Applicant: LEE C. SMITH (an individual) d.b.a. LEMAY DELIVERY, 1426 West 72nd Place, Chicago, IL 60636. Representative: Robert J. Gill, 29 South LaSalle Street, Suite 740, Chicago, IL 60603. *Contract carrier, irregular routes. (a) foodstuffs, except frozen or in bulk and (b) cheese*, (a) from the facilities of Fould's Inc. at Libertyville, IL to MI and WI and (b) from Beloit, WI to the facilities of Fould's Inc. at Libertyville, IL, for 180 days for the account of Fould's Inc. Supporting shipper(s): Fould's Inc., 520 E. Church Street, Libertyville, IL 60048. Send protests to: Annie Booker, TA, Interstate Commerce Commission, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 147482 TA, filed June 29, 1979. Applicant: CANNELLA SALES, INC., 820 South Pennsylvania Avenue, Mason City, IA 50401. Representative: L. Wm. L. Fairbank, 1980 Financial Center, Des Moines, IA 50309. (1) *Beverages*, from Milwaukee and La Crosse, WI and St. Paul, MN to Mason City, IA; (2) *empty beverage containers* from Mason City, IA to Milwaukee and La Crosse, WI and St. Paul, MN; and (3) *crushed glass, used cans and cardboard* from Mason City, IA to points in IL, MN, and WI for 180 days. Supporting shipper(s): Cannella Wholesale, Inc., 820 S. Pennsylvania Ave., Mason City, IA 50401. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 147483 TA, filed June 2, 1979. Applicant: YELLOWAY COURIERS LTD., 5740 Cedarbridge Way, Richmond, B.C. V6X 2A7. Representative: R. S. Henderson, 211-4000 No. 3 Road, Richmond, B.C. V6X 3A6. *Correspondence and small packages*, between the Port of Entry on the International Boundary between the U.S. and Canada located at Blaine, WA and Seattle, WA for 180 days. Supporting shipper(s): Eram Development Co. Ltd., 5811 B Cedarbridge Way, Richmond, B.C. Grayshow Electric (1979) Ltd., 5811 E. Cedarbridge Way, Richmond, B.C. Pacific Western Jewellers, Ste. 106 6888 No. 3 Road, Richmond, B.C. V6Y 2C4. R. Pengelly Antiques, 1202-6611 Minonn Blvd., Richmond, B.C., Canada. Send protests to: Shirley M. Holmes, T/A, ICC, 858 Federal Bldg., Seattle, WA 98174.

MC 147563 (Sub-2TA), filed July 2, 1979. Applicant: TRANSPORTATION SPECIALISTS, LTD., 3114 Hubbell Ave., Des Moines, IA 50317. Representative: Kenneth F. Dudley, P.O. Box 279, Ottumwa, IA 52501. *Hides* from Spencer, IA, and Schuyler, NE, to Chicago, IL; Adams, MA; and Fond du Lac and

Milwaukee, WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Spencer Foods, Inc., Box 544, Schuyler, NE. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 147603 (Sub-2TA), filed May 9, 1979. Applicant: A & J TRANS PLUS, INC., 865 South 18th Street, Newark, NJ 07108. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. *Contract carrier, irregular routes* for 180 days. Scrap Paper and Woodpulp, (1) From points in New York Harbor, NY, to points on Long Island, NY; Union, NJ; and Brewer Junction, ME; (2) From Versailles, CT, to Chester, PA; and Hightsville and Milford, NJ; (3) From New York, NY, to Buffalo, NY; (4) From Harrison, NJ, to Rochester, NH; (5) From Camden, NJ, to Boston, MA; (6) From Albany, NY, to Versailles, CT; Brooklyn, NY; Fitchburg, MA; and Brattleboro and Sheldon Springs, VT; (7) From Boston, MA piers, to Lawrence, Springfield, and Otter River, MA; and (8) From Philadelphia, PA piers, to Brooklyn, NY; Newark, NJ; and Wilmington, DE. Under a continuing contract or contracts with Perry H. Koplik & Sons, New York, NY. An underlying ETA seeks 90 days authority. Supporting shipper(s): Perry H. Koplik & Sons, Inc., 654 Madison Avenue, New York, NY 10021. Send protests to: Irwin Rosen, TS, ICC, 9 Clinton Street, Room 618, Newark, NJ 07102.

MC 147653 (Sub-1TA), filed July 9, 1979. Applicant: RAFELINA F. LA MAR d.b.a. STATEN SHUTTLE SERVICE, P.O. Box 264, Staten Island, NY 10308. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. *Contract carrier, irregular routes: passengers and their baggage, in the same vehicle with passengers*, between points in Brooklyn and Staten Island, NY, on the one hand, and, on the other, the facilities of the U.S. Lines, Cranford, NJ; for 180 days; an underlying ETA seeks 90 days authority. Supporting shipper(s): There are 20 (twenty) employees of the U.S. Lines, Inc., supporting this application. Their statements may be examined at the office listed below and headquarters. Send protests to: Maria B. Keiss, Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, N.Y. 10007.

MC 2229 (Sub-206TA), filed April 16, 1979, and published in the Federal Register issue of May 18, 1979, and republished as corrected this issue. Applicant: RED BALL MOTOR FREIGHT, INC., 3177 Irving Boulevard, Dallas, TX 75247. Representative: Jackie Hill (Address same as applicant). *Common carrier, regular routes, general*

commodities (except Classes A and B explosives, articles of unusual value, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Winslow, AZ and Nogales, AZ: From Winslow over I. S. Hwy 40 to its junction with I. S. Hwy 17, then over I. S. Hwy 17 to its junction with I. S. Hwy 10, then over I. S. Hwy 10 to its junction with I. S. Hwy 19, then over I. S. Hwy 19 to Nogales, and return over the same route, serving the intermediate points of Phoenix and Tucson, AZ, restricted against the transportation of traffic between Phoenix, Tucson and Nogales, AZ, for 180 days. An underlying ETA seeks 90 days authority. Applicant seeks to tack this authority with that issued in MC-2229 and subs thereto and to interline. Common control may be involved. Supporting shipper(s): There are approximately 75 statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, DC, or copies thereof which may be examined at the field office named below. Send protests to: Opal M. Jones, ICC, 1100 Commerce Street, Room 13C12, Dallas, TX 75242. The purpose of this republication is to show intent to tack and interline as previously omitted.

MC 22278 (Sub-54TA), filed April 19, 1979, and published in the Federal Register issue of July 26, 1979, and republished as corrected this issue. Applicant: TAKIN BROS. FREIGHT LINE, INC., 2125 Commercial Street, Waterloo, IA 50702. Representative: John P. Rhodes, P.O. Box 5000, Waterloo, IA 50704. *General commodities*, except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, by regular route. Between Chicago, IL, and Milwaukee, WI, serving all intermediate points in WI: From Chicago over IL Hwy 42A to jct U.S. Hwy 41, then over U.S. Hwy 41 to jct U.S. Hwy 41, then over U.S. Hwy 41 to jct IL Hwy 173, then over IL Hwy 173 to jct IL Hwy 42, then over IL Hwy 42 to the IL-WI State line, then over WI Hwy 32 to jct WI Hwy 100, then over WI Hwy 100 to jct WI Hwy 59, then over WI Hwy 59 to Milwaukee, and return over the same route. Between the jct U.S. Hwy 41 and IL Hwy 173 and Milwaukee, WI, serving no intermediate points: From the jct U.S. Hwy 41 and IL Hwy 173, U.S. Hwy 41 to Milwaukee, and return over the same route. Restriction: The service authorized in the two paragraphs next above to and from Milwaukee and intermediate points in WI is restricted to

traffic moving to and from points on said carrier's authorized routes other than points in the Chicago, IL, Commercial Zone, as defined by the Commission. Between Chicago, IL and Elkhart, IN, serving all intermediate points: From Chicago over U.S. Hwy 12 to Michigan City, IN, then over U.S. Hwy 35 to jct U.S. Hwy 20, then U.S. Hwy 20 to jct IN Hwy 2, then over IN Hwy 2 to South Bend, IN, and then over U.S. Hwy 33 to Elkhart, and return over the same route. Between Chicago, IL and Cleveland, OH, serving all intermediate points, and the off-route points of LaPorte, IN, and Painesville, OH: From Chicago over U.S. Hwy 20 to jct OH Hwy 120 (formerly OH Hwy 102), then over OH Hwy 120 to Toledo, OH, then over OH Hwy 2 to Port Clinton, OH (also from Toledo over OH Hwy 120 to jct OH Hwy 163, then over OH Hwy 163 to Port Clinton), then over OH Hwy 2 to Lorain, OH, then over OH Hwy 57 to jct OH Hwy 254, and then over OH Hwy 254 to Cleveland, and return over the same route. Between South Bend, IN, and Detroit, MI, serving all intermediate points: From South Bend over U.S. Hwy 20 to Elkhart, IN, then over IN Hwy 120 to Bristol, IN (also from South Bend over Hwy 20 to jct IN Hwy 112, then over IN Hwy 120 to jct U.S. Hwy 131, then over U.S. Hwy 131 to Mottville, MI, and then over U.S. Hwy 112 to Detroit, and return over the same route. Between Detroit, MI, and Toledo, OH, serving all intermediate points and the off-route point of Ecorse, MI: From Detroit over U.S. Hwy 25 to Toledo, and return over the same route. Between South Bend, IN, and Cleveland, OH, serving all intermediate points: From South Bend over U.S. Hwy 20 to jct OH Hwy 49, then over OH Hwy 49 to Edon, OH, then over OH Hwy 34 to Bryan, OH, then over OH Hwy 34 to jct U.S. Hwy 6, then over U.S. Hwy 6 to Sandusky, OH, then over U.S. Hwy 250 to Milan, OH, then over OH Hwy 113 to Elyria, OH, then over OH Hwy 57 to jct OH Hwy 254, and then over OH Hwy 254 to Cleveland, and return over the same route. Between Pittsburgh, PA, and Mansfield, OH, serving all intermediate points, and the off-route points of East Pittsburgh, Trafford, Carnegie and Derry, PA, Galion and Plymouth, OH: From Pittsburgh over PA Hwy 51 to Beaver, PA (also from Pittsburgh over PA Hwy 65 (formerly PA Hwy 88), to Rochester, PA, and then across the Beaver River to Beaver, PA), then over PA Hwy 51 to the PA-OH State line, then OH Hwy 14, via Unity, OH, to jct OH Hwy 14A, then over OH Hwy 14A to Salem, OH, then over U.S. Hwy 62 to Canton, OH, then over U.S. Hwy 30 to

Mansfield (also from Canton over U.S. Hwy 62 to jct unnumbered Hwy, then over unnumbered Hwy to Massillon, OH, then over U.S. Hwy 30 to Mansfield), and return over the same routes. From Pittsburgh to Salem, OH, as specified above, then over OH Hwy 14A to Deerfield, OH, then over OH Hwy 14 via Edinburg, OH, to Cleveland, OH, then over U.S. Hwy 42 to Mansfield, and return over the same route. From Pittsburgh as specified above to Unity, OH, then over OH Hwy 14 to jct OH Hwy 7, then over OH Hwy 7 to Youngstown, OH, then over OH Hwy 18 to Edinburg, OH, and then as specified above to Mansfield, and return over the same route. Between Pittsburgh, PA, and Baltimore, MD, serving all intermediate points, and the off-route points of Alexandria and Rosslyn, VA, points in Allegheny, Beaver, Fayette, Washington, and Westmoreland Counties, PA, and points in MD within 20 miles of Baltimore: From Pittsburgh over U.S. Hwy 30 via Bedford, PA, to Breezewood, PA, then over PA Hwy 126 to Warfordsburg, PA, then over U.S. Hwy 522 to Hancock, MD, then over U.S. Hwy 40 to Baltimore and return over the same route. From Pittsburgh over U.S. Hwy 22 to Armagh, PA, then over PA Hwy 36 to jct U.S. Hwy 220, then over U.S. Hwy 220 to Bedford, PA, then to Baltimore as specified above, and return over the same route. From Pittsburgh over PA Hwy 51 to Uniontown, PA, then over U.S. Hwy 40 to Baltimore, and return over the same route. Between Baltimore, MD, and Washington, DC, serving all intermediate points: From Baltimore over U.S. Hwy 1 to Washington, and return over the same route. Between Philadelphia, PA, and Washington, DC, serving all intermediate points, and off-route points in the Philadelphia, PA, Commercial Zone, as defined by the Commission 17 M.C.C. 533, and the Washington, DC, Commercial Zone, as defined by the Commission in 3 M.C.C. 243, and those within five miles of Baltimore, MD: From Philadelphia over U.S. Hwy 1 to Washington, and return over the same route. From Philadelphia over U.S. Hwy 13 to jct U.S. Hwy 40, then over U.S. Hwy 40 to Baltimore, MD, and then to Washington as specified above, and return over the same route. Between New York, NY, and Philadelphia, PA, serving all intermediate points on the specified routes, and the off-route points within 10 miles of the specified routes, those in NY within 30 miles of NY, NY, those in PA within 30 miles of City Hall, PA, those in NJ within 30 miles of Newark, and those in NJ within 15 miles of City Hall, Camden, as follows: From New

York over U.S. Hwy 1 to Philadelphia and return over the same route. From New York over U.S. Hwy 1 to Morrisville, PA, then over U.S. Hwy 13 to Philadelphia, and return over the same route. From New York over U.S. Hwy 1 to Elizabeth, NJ, then over NJ Hwy 27 to Princeton, NJ, then over U.S. Hwy 206 to Trenton, NJ, and then over U.S. Hwy 1 to Philadelphia, and return over the same route. From New York over U.S. Hwy 1 to jct U.S. Hwy 130 (formerly NJ Hwy 25), then over U.S. Hwy 130 to Camden, NJ, and then across the Delaware River to Philadelphia, and return over the same route. Irregular routes: Between Chicago, IL, on the one hand, and, on the other, points in Lake, McHenry, Kane, DuPage, and Will Counties, IL, points in the portion of DeKalb County, IL, east of IL Hwy 23, and points in that portion of Kankakee County, IL, north of a line beginning at the jct of the western boundary of Kankakee County and IL Hwy 17, then east on IL Hwy 17 to the jct of IL Hwy 114, then east on IL Hwy 114 to the IL-IN border, for 180 days. An underlying ETA seeks 90 days authority. Applicant intends to tack this authority with its existing authority in MC-87909 and MC-22278, and they intend to interline with other carriers. Supporting Shipper(s): There are approximately 121 statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, DC, or copies thereof which may be examined at the field office named below. Send protests to: Johnnie Ratcliffe, 518 Federal Building, 210 Walnut Street, Des Moines, IA 50309. The purpose of this republication is to indicate 121 supporting shippers and where to send protests, as previously omitted.

Note.—Common control may be involved.

MC 84268 (Sub-2TA), filed May 10, 1979, and published in the Federal Register issue of June 26, 1979, and republished as corrected this issue. Applicant: JOHN S. HUGHES CARTAGE CO., 4751 West Lake Street, Chicago, IL 60644. Representative: Daniel O. Hands, Suite 200, 205 West Touhy Avenue, Park Ridge, IL 60068. Contract carrier, irregular routes, Candy (except in bulk), in vehicles equipped with mechanical refrigeration, from Chicago, IL to points in the states of IN, MI, OH and WI, for 180 days for the account of E. J. Brach & Sons. An underlying ETA seeks 90 days authority. Supporting Shipper(s): E. J. Brach & Sons, P.O. Box 802, Chicago, IL 60690. Send protests to: Annie Booker, ICC, 219 South Dearborn Street, Room 1386, Chicago, IL 60604. The purpose of this republication is to show origin and destination points as previously omitted.

MC 121658 (Sub-19TA), filed June 11, 1979, and published in the Federal Register issue of August 6, 1979, and republished as corrected this issue. Applicant: STEVE D. THOMPSON TRUCKING, INC., 1205 Percy Street, (P.O. Drawer 149), Winnsboro, LA 71295. Representative: Donald B. Morrison, 1500 Deposit Guaranty Plaza, (P.O. Box 22628), Jackson, MS 39205. Common carrier, regular routes. General Commodities (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment): (1) Between Memphis, Tenn. and Mer Rouge, La.; From Memphis, Tenn. over U.S. Highway 61 to its junction with U.S. Highway 82 at or near Leland, Miss.; thence over U.S. Highway 82 to its junction with U.S. highway 165 at or near Montrose, Ark.; thence over U.S. Highway 165 to Mer Rouge, La., and return over the same routes, serving no intermediate points except those in Louisiana lying on U.S. Highway 165 between the Arkansas-Louisiana State Line and Mer Rouge, La.; (2) between the junction of U.S. Highway 82 with U.S. Highway 65 south of Lake Village, Ark. and Lake Providence, La.; From the junction of U.S. Highway 82 with U.S. Highway 65; thence over U.S. Highway 65 to Lake Providence, La., and return over the same route, serving no intermediate points except those in Louisiana lying on U.S. Highway 65 between the Arkansas-Louisiana State Line and Lake Providence, La.; (3) between the junction of U.S. Highway 82 with U.S. Highway 65 south of Lake Village, Ark. and Oak Grove, La.; From the junction of U.S. Highway 82 with U.S. Highway 65; thence over U.S. Highway 65 to its junction with Arkansas Highway 159 at Eudora, Ark.; thence over Arkansas Highway 159 and Louisiana Highway 17 to Oak Grove, La. and return over the same route, serving no intermediate points except those in Louisiana lying on Louisiana Highway 17 between the Arkansas-Louisiana State line and Oak Grove, La.; (4) between Winnfield, La. and Natchitoches, La.; From Winnfield, La. over U.S. Highway 84 to Clarence, La., thence over Louisiana Highway 6 to Natchitoches, La. and return over the same route, serving all intermediate points; and (5) between Memphis, Tenn. and Jackson, Miss. over Interstate 55 as an alternate route for operating convenience only, serving no intermediate points and serving Jackson, Miss. as a point of joinder only, restricted against the transportation of shipments moving from, to or through Memphis, Tenn. and its commercial

zone which originates at or are destined to points in Mississippi, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): There are approximately 141 statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, DC, or copies thereof which may be examined at the field office named below. Send protests to: William H. Land, Jr., 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201. The purpose of this republication is to include the territorial description, as previously omitted.

Note.—Applicant intends to tack the authority sought herein with authority in MC-121658 at all common points of joinder. Applicant intends to interline with other carriers at all common points, including Memphis, TN; Monroe and Shreveport, LA and Jackson, MS. Applicant seeks to serve the commercial zones of all cities and towns lying on the above described routes.

MC 135009 (Sub-6TA), filed June 4, 1979, and published in the Federal Register issue of August 6, 1979, and republished as corrected this issue. Applicant: PEAK TRANSFER CO., INC., 57 Hathaway Street, Wallington, N.J. 07866. Representative: Ronald I. Shapss, Esq., 450 Seventh Avenue, New York, N.Y. 10001. Contract carrier, irregular routes. Such commodities as are used, manufactured or dealt in by manufacturers and distributors of sound recordings (except in bulk): From Danbury, CT, New York, NY, and points in their commercial zones, and points in NJ, to Terre Haute, IN, and points in its commercial zone, Carrollton, GA, and to points in CA; From Terre Haute, IN, and points in its commercial zone to points in NJ, Danbury, CT, New York, NY, and points in their commercial zones, Carrollton, GA, and to points in CA; From points in CA, to Terre Haute, IN, and New York, NY, and points in their commercial zones, Carrollton, GA, and points on NJ; From Carrollton, GA, to Danbury, CT, Terre Haute, IN, and points in their commercial zones and to points in CA, and NJ, for 180 days. Restricted to the transportation of traffic originating or terminating at the facilities of CBS, Inc. under a continuing contract or contracts with CBS Records, a Division of CBS, Inc. Supporting shipper(s): CBS Records, A Division of CBS, Inc., 51 West 52nd Street, New York, NY 10019. Send protests to: Joel Morrows, ICC, 744 Broad Street, Room 522, Newark, NJ 07102. The purpose of this republication is to show the complete scope of the application as previously omitted.

MC 141489 (Sub-4TA), filed April 3, 1979. Applicant: HUNTER TRUCKING,

INC., 805 32nd Ave., Council Bluffs, IA 51501. Representative: Donald L. Stern, Suite 610, 7171 Mercy Rd., Omaha, NE 68106. Metal drywall products and products used in the manufacture of metal drywall products, between the plantsite of Phillips Manufacturing Co. at Omaha, NE, on the one hand, and, on the other, points in NC, SC, TN, GA, FL, AL, MS, LA, AR, TX, OK, KS, ND, SD, MN, MT, WY, CO, NM, AZ, UT, WA, OR, NV, and CA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Phil Sokolof, Phillips Manufacturing Co., 4601 S. 76th St., Omaha, NE. Send protests to: Carroll Russell, ICC, Suite 620, 110 No. 14th St., Omaha, NE 68102.

MC 144069 (Sub-6TA), filed March 1, 1979, and published in the Federal Register issue of May 4, 1979, and republished as corrected this issue. Applicant: FREIGHTWAYS, INC., P.O. Box 5204, Charlotte, NC 28225. Representative: Thomas A. McNeely, 2460 First Union Plaza, Charlotte, NC 28282. Iron and steel articles between points in NC, SC, GA, FL, AL, TN, KY, WV, OH, VA, MD, and the District of Columbia, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): DuBose Steel, Inc., P.O. Box 1098, Roseboro, NC 28382. Send protests to: Terrell Price, 800 Briar Creek Road, Room CC516, Mart Office Building, Charlotte, NC 28205. The purpose of this republication is to show the correct scope of application as previously published.

MC 147118 (Sub-1TA), filed May 16, 1979, and published in the Federal Register issue of August 6, 1979, and republished as corrected this issue. Applicant: TRACY TRANSPORT, INC., 348 West 162nd Street, South Holland, Ill. 60473. Applicant's Representative: William H. Shawn, Suite 501, 1730 M Street, NW, Washington, DC 20036. Salt: between points in Illinois, Indiana, Michigan, and Wisconsin, for 180 days. An underlying ETA seeks 90 days authority. Supporting shippers: Cargill, Inc., Domtar Industries, Inc., Sifto Salt Division, and Hardy Salt Company. Send protests to: Annie Booker, 219 South Dearborn Street, Room 1386, Chicago, IL 60604. The purpose of this republication is to show the correct scope of the application as previously published.

MC 148049 (Sub-?TA), filed March 2, 1979. Applicant: MIDWEST CAL EXPRESS, DIVISION OF CDS ENTERPRISE, INC., 1304 Whittier Blvd.,

Montebello, CA 90640. Representative: Autry Williams (same address as applicant). Contract, irregular. Pre-bent steel exhaust tubing and related items, from Culver City, CA to AZ, NM, TX, LA, MS, GA, AL, FL, SC, NC, TN, OK, KS, NE, MN, IA, MO, IL, KY, IN, OH, MI, WV, VA, MD, NJ, PA, NY, MA, OR and WA, with no return, for 180 days. Supporting shipper(s): Medman Corporation, 9599 W. Jefferson Blvd., Culver City, CA 90230. Send protests to: Irene Carlos, Transportation Assistant, Interstate Commerce Commission, Room 1321, Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

MC 147088 (Sub-1TA), filed May 11, 1979. Applicant: DERBY CITY EXPRESS, INC., 728 Upslinder Road, Louisville, KY 40299. Representative: William P. Whitney, Jr., 708 McClure Bldg., Frankfort, KY 40601. Meat, meat products, and meat by-products and daily products in vehicles equipped with mechanical refrigeration, from the facilities of Armour Processed Meats Company at Louisville, KY, to points in TN, AL, and MS. Supporting shipper(s): Jack M. Ingram, Delivery Service Mgr., Armour Processed Meats Co., 1200 Story Ave., Louisville, KY 40206. Send protests to: Linda H. Sypher, D/S, ICC, 426 Post Office Bldg., Louisville KY 40202.

MC 148049 (Sub-1TA), filed March 2, 1979. Applicant: MIDWEST CAL EXPRESS, DIVISION OF CDS ENTERPRISE, INC., 1304 West Whittier Blvd., Montebello, CA 90640. Representative: Autry Williams (same address as applicant). Contract: irregular. New and used auto parts and related items for the account of Superior Industries, Inc., from the plantsite of Superior Industries, Inc., at Dallas, TX to Elk Grove, IL; Orleans, IN; Indianapolis, IN; Carey, OH; Columbus, OH; Exeter, PA; North Brunswick, NJ; Pineville, NC; Atlanta, GA; and La Mirada, CA and return to Dallas, TX, for 180 days. Supporting shipper(s): Superior Industries, Inc., 10797 Harry Hines Blvd., Dallas, TX 75220. Send protests to: Irene Carlos, Transportation Assistant, Interstate Commerce Commission, Room 1321, Federal Building, 300 North Los Angeles Street, Los Angeles, California 90012.

By the Commission.
Agatha L. Mergenovich,
Secretary.

(JTR Dec. 79-25920 Filed 8-21-79; 8:45 am)
BILLING CODE 7035-01-M

[Notice No. 122]

Assignment of Hearings

August 16, 1979.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 136511 (Sub-26F), Virginia Appalachian Lumber Corporation, now assigned for hearing on September 11, 1979 at Greensboro, N.C., and will be held at the Superior Court, State Court House, 201 South Eugene Street.

MC 121569 (Sub-3F), Gator Freightways, Inc., now assigned for hearing on September 24, 1979 at Orlando, FL, and will be held in Room No. 455, Federal Building, 80 North Hughey Avenue.

MC 119789 (Sub-524F), Caravan Refrigerated Cargo, Inc., now assigned for hearing on September 5, 1979 in Room 511, Federal Court House, 500 Zack Street.

MC-F-13679, Suddath Van Lines, Inc.—Purchase—(Portion)—Plymouth Van Lines, Inc., No. MC 29904 (Sub-3F), Suddath Van Lines, Inc., now assigned for hearing on September 10, 1979 at Jacksonville, FL, and will be held in Room No. 801, Federal Building, 400 West Bay.

MC 95540 (Sub-1052F), Watkins Motor Lines, Inc., now assigned for hearing on September 17, 1979, at San Francisco, CA is postponed indefinitely.

MC 115841 (Sub-653F), Colonial Refrigerated Transportation, Inc., now assigned for hearing on September 11, 1979 at Chicago, IL will be held in Room 1319-Dirksen Bldg., 219 South Dearborn St., Chicago, IL.

AB 7 (Sub-78F), Stanley E. G. Hillman—Trustee of the property of Chicago, Milwaukee, St. Paul and Pacific Railroad Company—Abandonment—Fairfield to Agawam in Teton County, Montana, now assigned for hearing on August 14, 1979 at Chouteau, MT is postponed indefinitely.

MC 142743 (Sub-7F), Fast Freight Systems, Inc., transferred to Modified Procedure.
MC 145906 (Sub-1F), General Trucking Co., Inc., transferred to Modified Procedure.
MC 116763 (Sub-475F), Carl Subler Trucking, Inc., transferred to Modified Procedure.

MC 129150 (Sub-8F), Ciaccia Trucking Company, Inc., transferred to Modified Procedure.

MC 111496 (Sub-26F), Twin City Freight, Inc., transferred to Modified Procedure.

MC 121777 (Sub-2F), Packard Truck Lines, Inc., now assigned for hearing on September 24, 1979, at Baton Rouge, LA is cancelled and Application Dismissed.

MC 143328 (Sub-15F), Eugene Tripp Trucking, now assigned for hearing on September 11, 1979, at San Francisco, CA will be held in Room 510, 211 Main Street, San Francisco, CA.

MC 120761 (Sub-47F), Newman Bros. Trucking Company, now assigned for hearing on September 24, 1979 at Dallas, TX, will be held in Room 5A15-17, Federal Bldg., 1100 Commerce Street, Dallas, TX.

MC 119700 (Sub-49F), Steel Hauler, Inc., now assigned for hearing on September 19, 1979, at Dallas, TX, will be held in Room 5A15-17, Federal Bldg., 1100 Commerce Street, Dallas, TX.

MC 11207 (Sub-464F), Deaton, Inc., now assigned for hearing on September 18, 1979, at Dallas, TX, will be held in Room 5A15-17, Federal Bldg., 1100 Commerce Street, Dallas, TX.

MC-F-13840, Associated Truck Lines, Inc. Control and Merger the Depenthal Truck & Storage Co., and MC 89833 139F, Associated Truck Lines, Inc., now assigned for hearing on September 24, 1979 at Columbus, Ohio will be held in Neil House, 41 South High Street.

MC 139934 (Sub-4F), All Southern Trucking, Inc., now assigned for hearing on September 17, 1979 at Tampa, FL, will be held in Room 901, Park Trammell Bldg., 1313 Tampa Street, Tampa, FL.

MC 145794 (Sub-1F), ARDS Trucking Company, Inc., now assigned for hearing on October 15, 1979 at Atlanta, GA is cancelled and transferred to Modified Procedure.

MC 113855 (Sub-464F), International Transport, Inc., now assigned for hearing on August 9, 1979, at Washington, DC is transferred to Modified Procedure.

MC 145426 F, Odell Ritter, Inc., now being assigned for hearing on October 31, 1979 (3 Days), at Portland, OR in a hearing room to be designated later.

MC 115904 (Sub-118F), Grover Trucking Company, now being assigned for hearing on November 5, 1979 (1 Week), at Portland, OR in a hearing room to be designated later.

37229, Rates on Coal, Wyoming to Welsh, TX, BN, ET AL., July 1979, now being assigned for Prehearing Conference at the Offices of the Interstate Commerce Commission, Washington, DC.

MC 93186 (Sub-6F), Eudell Watts, III d/b/a Watts Transfer Company, now being assigned for hearing on October 30, 1979 (3 Days), at Chicago, IL in a hearing room to be designated later.

MC 82492 (Sub-221F), Michigan & Nebraska Transit Co., Inc., now being assigned for hearing on November 2, 1979 (1 Day), at Chicago, IL in a hearing room to be designated later.

MC 143088 (Sub-4F), Robert Tarbox DBA Tarbox Trucking, now assigned for hearing

on September 17, 1979 at Philadelphia, PA, and will be held at the New U.S. Courthouse, 601 Market Street.

MC 31389 (Sub-269F), McLean Trucking Company, now assigned for hearing on September 18, 1979 at Atlanta, GA, and will be held at the Radisson Inn, 1-285 at Chamble-Dunwoody Rd. Exit, 1850 Cotillion Drive, N.E.

MC 113158 (Sub-33F), Todd Transport Company, Inc., now assigned for hearing on September 19, 1979 at Philadelphia, PA and will be held at the New U.S. Courthouse, 601 Market Street.

MC-F-13723, Denver-Midwest Motor Freight, Inc.—Control and Merger—Load & Co Truck Line, No. MC 127602 (Sub-17F), Denver-Midwest Motor Freight, Inc., now assigned for hearing on September 10, 1979 at Phoenix, AR, and will be held at the Maricopa County Superior Court Building, 201 West Jefferson.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 79-25923 Filed 8-21-79; 8:45 am]
BILLING CODE 7035-01-M

[Decision No. 37179]

Colorado Intrastate Freight Rates and Charges on the Transportation of Coal—1979

Decided: August 8, 1979.

By petition filed May 4, 1979, The Denver and Rio Grande Western Railroad Company (petitioner), operating in intrastate commerce in Colorado requests that this Commission institute an investigation of its freight rates and charges under 49 U.S.C. 11501. Petitioner seeks an order prescribing rates and charges for the transportation of bituminous slack coal from Empire Junction and Empire, Colorado, through Craig, Colorado to points beyond, in intrastate commerce, the same as that presently in effect for the identical movement in interstate commerce. The Commission declined to suspend or investigate the interstate proportional rate on coal applicable from Empire and Empire Junction, Colorado to Craig, Colorado when the through movement is to a destination in interstate commerce. (Suspension and Fourth Section Board Case No. 88322.)

Petitioner has stated grounds sufficient to warrant instituting an investigation.

It is ordered: The petition is granted. An investigation, under 49 U.S.C. 11501 is instituted to determine whether the Colorado state rail freight rate on the transportation of bituminous slack coal in any respect causes any unjust discrimination against or any burden on interstate or foreign commerce, or causes undue or unreasonable advantage, preference or prejudice as between persons or localities in

intrastate commerce and persons or localities in interstate or foreign commerce, or are otherwise unlawful, by reason of the failure of such rates and charges to include the full increase which are effective for interstate application.

In the investigation we shall also determine if any rates or charges, or maximum or minimum charges or both should be prescribed to remove any unlawful advantage, preference, discrimination, undue burden, or other violation of law found to exist.

All persons who wish to participate in this proceeding and to file and receive copies of pleadings shall make known that fact by notifying the Office of Proceedings, Room 5356, Interstate Commerce Commission, Washington, DC 20423, on or before 15 days from the Federal Register publication date. Although individual participation is not precluded, to conserve time and to avoid unnecessary expense, persons having common interests should endeavor to consolidate their presentations to the greatest extent possible. This Commission desires participation of only those who intend to take an active part in this proceeding.

As soon as possible after the last day possible for indicating a desire to participate in the proceeding, this Commission will serve a list of names and addresses upon all persons upon whom service of all proceedings must be made. Thereafter, this proceeding will be assigned for oral hearing or handling under modified procedure.

A copy of this order shall be served upon the petitioner. Colorado shall be notified of the proceeding by sending copies of this decision by certified mail to the Governor of Colorado and the Colorado Public Utilities Commission. Further notice of this proceeding shall be given to the public by depositing a copy of this decision in the office of the Secretary of the Interstate Commerce Commission at Washington, D.C. and by filing a copy with the Director, Office of the Federal Register, for publication in the Federal Register.

This is not a major regulatory action under the Energy Policy and Conservation Act of 1975. Furthermore, this is not a major Federal action significantly affecting the quality of the human environment.

By the Commission, Alan Fitzwater,
Director, Office of Proceedings.
Agatha L. Mergenovich,
Secretary.

[FR Doc. 79-25921 Filed 8-21-79; 8:45 am]
BILLING CODE 7035-01-M

Fourth Section Application for Relief

August 16, 1979.

This application for long-and-short-haul relief has been filed with the I.C.C.

Protests are due at the I.C.C. on or before September 6, 1979.

FSA No. 43735, Portuguese Line No. 4, joint rail/water rates on general commodities, in containers, between Ports in Europe and U.S. Atlantic and Pacific Coast Ports of Baltimore, Md., Seattle, Wash. and Portland, Oreg., in its Tariffs ICC CPTU 300 and 301, published to become effective September 10, 1979. Grounds for relief—water competition.

By the Commission.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 79-25925 Filed 8-21-79; 8:45 am]
BILLING CODE 7035-01-M

[Finance Docket No. 29082]

Green Bay & Western Railroad, Co.—Control—Ahnapee & Western Railway Co.—Exemption Under 49 U.S.C. 10505 From 49 U.S.C. 11343-11347

AGENCY: Interstate Commerce Commission.

SUMMARY: Green Bay and Western Railroad Company (Green Bay), a subsidiary of Itel Corporation (Itel), intends to acquire the stock of the Ahnapee and Western Railway Company (Ahnapee), from the McCloud River Railroad Company (McCloud). Ahnapee's parent Company, McCloud is also a subsidiary of Itel. A petition was filed on June 1, 1979 for exemption, from 49 U.S.C. 11343-11347, which requires prior consideration and approval of the transaction by the Interstate Commerce Commission. Green Bay, Ahnapee and McCloud are seeking exemption from these sections under 49 U.S.C. 10505, on the basis that prior review of the transaction is necessary.

DATES: Comments must be received on or before: September 21, 1979.

ADDRESS: Send comments to: Interstate Commerce Commission, 12th St. and Constitution Ave., NW., Washington, D.C. 20423. All written statements will be available for public inspection during regular business hours at the same address. Comments should make reference to the docket number (F.D. 29082).

FOR FURTHER INFORMATION CONTACT: Michael Erenberg, 202-275-7245.

SUPPLEMENTARY INFORMATION: By letter-petition filed June 1, 1979, Green Bay requests exemption pursuant to 49 U.S.C. 10505 from the provisions of 49 U.S.C. 11343 with respect to the

acquisition of stock of the Ahnapee from McCloud, Ahnapee's parent company.

The Ahnapee is a Wisconsin corporation, and constitutes a small 13.75 mile line of railroad which has been operated as a division of McCloud. Control of McCloud is, in turn, exercised by Itel, pursuant to authority granted by the Commission in Finance Docket No. 28371, *SSI Rail Corporation and Itel Corporation—Control—McCloud River Railroad Company*, (not printed, decided April 1, 1977). McCloud and its division, the Ahnapee, were acquired from U.S. Plywood, Champion Papers, Inc., which in turn, has acquired the Ahnapee a number of years ago pursuant to authorization of the Commission in Finance Docket No. 26329, *U.S. Plywood, Champion Papers, Inc. and McCloud River Railroad Company—Purchase—The Ahnapee & W Ry. Company*, (not printed, decided November 2, 1970). The Ahnapee at all times has operated and has been treated by the Commission, the courts, and other railroads as a common carrier in a distinct and identifiable sense both prior to its 1978 incorporation and subsequent thereto.

By order served January 5, 1979, in Finance Docket No. 28813, *The Ahnapee and Western Railway Company Stock*, the Ahnapee, as newly incorporated in Wisconsin, was authorized by Review Board Number 5 to issue 1000 shares of common stock of \$1 par value. As a stock application indicated, the McCloud owns all of the capital stock of Ahnapee except for five shares which are held by named directors. The Ahnapee is shown for purposes of rates as a separate carrier and it is regarded as such by the appropriate legal authorities. None of these factors will change as a result of the stock purchases.

By decision served October 12, 1978, in Finance Docket No. 28654 (Sub-No. 1), *Itel Corporation—Control—Green Bay and Western Railroad Company*, the Commission approved the application of Itel under 49 U.S.C. 11343 to acquire control of the Green Bay. That decision recognized the control by Itel of the McCloud, the Ahnapee, and the Hartford and Slocumb Railroad Company (which operates in Alabama).

The Exemption

The acquisition of control of a carrier by another carrier, requires the approval and authority of the Commission under 49 U.S.C. 11343. To seek Commission approval, an application must be filed in compliance with the ICC *Railroad Acquisition, Control, Merger, Consolidation, Coordination Project, Trackage Rights and Lease Procedures*.

49 C.F.R. Part 1111 (1978) (Consolidation Procedures). Ahnapee, McCloud and Green Bay have requested an exemption from 49 U.S.C. 11343 to avoid the procedural steps required by 49 U.S.C. 11345, in order to expedite consummation of the transaction. They state that the proposed transaction is the type Congress intended the Commission to exempt from detailed regulation when it enacted 49 U.S.C. 10505 in 1976.

We can exempt a matter related to a rail carriers under 49 U.S.C. 10505. This section provides:

(a) In a manner related to a rail carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under this subchapter, the Commission shall exempt a person, class of persons, or a transaction or service because of the limited scope of the transaction or service, when the Commission finds that the application of a provision of this subtitle—

(1) is not necessary to carry out the transportation policy of section 10101 of this title;

(2) would be an unreasonable burden on a person, class of persons, or interstate and foreign commerce; and

(3) would serve little or no useful public purpose.

(b) The Commission may begin a proceeding under this section on its own initiative or on application by the Secretary of Transportation or an interested party. The Commission may specify the period of time during which the exemption is effective.

(c) The Commission may revoke an exemption, to the extent it specifies, when it finds that application of a provision of this subtitle to the person, class, or transportation is necessary—

(1) to carry out the transportation policy of section 10101 of this title;

(2) to achieve effective regulation by the Commission; and

(3) to serve a useful public purpose.

(d) The Commission may act under this section only after an opportunity for a proceeding.

The parties state that this transaction involves only a legal change in corporate structure and operation. In view of the fact that the Commission has already approved the control by Itel of all of the entities involved, the parties petition that exemption from the above statutes is required.

They point out that the legislative history of the Railroad Revitalization and Regulatory Reform Act of 1976, reflects the purpose of the provision to exempt from regulation those transactions in which regulation would serve little or no useful public purpose, and where expenditure of the

Commission's scarce resources would not be necessary to promote the national transportation policy. H.R. Rep. No. 94-781, 94th Cong., 2d Sess., p. 135 (January 23, 1976). Petitioners believe no useful public purpose will be served by subjecting this proposed transaction to protracted proceedings.

Any exemption, were it granted in this proceeding, would be limited solely to this proceeding; after consummation of control, the Commission would retain full jurisdiction over the carriers involved.

Before granting an exemption, we are required to provide the opportunity for a proceeding. This request for comments on the requested exemption of the proposed transaction is that opportunity. All comments filed in response to this notice, along with the petition of Ahnapee, McCloud and Green Bay will be used to determine whether or not the exemption under 49 U.S.C. 10505 should be granted.

Green Bay's petition for waiver of certain provisions of the Consolidation Procedures, also filed June 1, 1979, will be held in abeyance pending receipt of comments on exemption. The waiver petition will be decided concurrently with the decision on the proposed exemption.

This proceeding is instituted under the authority of 49 U.S.C. 10505 and pursuant to 5 U.S.C. 553, 559.

This proceeding is not a major Federal action significantly affecting energy consumption or the quality of the human environment.

Dated: August 15, 1979.

By the Commission, Chairman O'Neal, Vice Chairman Stafford, Commissioners Gresham, Clapp, Christian, Trantum, and Gaskins.
Agatha L. Mergenovich,
Secretary.

[FR Doc. 79-25924 Filed 8-21-79; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. 37165]

Southern Pacific Transportation Co.— Rates and Classification of Iron Ore Within Texas; Decision

August 10, 1979.

Southern Pacific Transportation Company has requested this Commission to institute an intrastate rate investigation under 49 U.S.C. 11501. The movements in dispute are made for Tex-Iron, Inc., from Cushing and LaRue, TX, to various destinations. Petitioners seek a determination of the proper commodity classification, stating that it believes the proper classification is "iron ore, containing not to exceed 73 percent natural iron content, having no

value for further extraction of any metallic content." Petitioner also seeks to publish the same level of rates for this commodity as charged Tex-Iron for interstate shipments.¹

On May 4, 1978, petitioner filed an application with the Railroad Commission of Texas seeking the establishment of iron ore rates for these movements. The Railroad Commission did not issue a final administrative decision within the statutory 120-day period.

Motions to dismiss have been separately filed by the Railroad Commission of Texas and Tex-Iron, Inc. Both assert that this Commission lacks jurisdiction, or that in the alternative, SP's prosecution of its case before the Railroad Commission of Texas should estop SP from employing the jurisdiction of the Interstate Commerce Commission until the Railroad Commission issues an administratively final decision.

Tex-Iron Inc. argues that no authority is vested in this Commission by Section 11501(b) to make any determination as to the identity of a commodity moving in Texas intrastate commerce or as to which commodity description in the intrastate tariff is applicable to such commodity. Consequently it submits that the main issue the SP seeks to have this Commission rule on does not fall within the terms of Section 11501(b).

The arguments are without merit. Section 11501(b)(1) applies to intrastate rates, or changes in classification, rules, or practices. If State Commissions could independently identify materials differently from interstate classifications, this would in effect nullify section 11501(b). Furthermore, since the 120 day period has elapsed, this Commission has exclusive authority to prescribe intrastate rates.

A legitimate dispute exists as there are different rates now applicable to the intra-versus interstate movement of this commodity.

Petitioner has presented grounds under section 11501 which justify an investigation.

It is ordered: The petitioner to institute an investigation is granted. The Commission shall determine (1) if the existing rate levels are unreasonably discriminatory against or pose an undue burden on interstate or foreign commerce, (2) the proper classification for the commodity, and, if appropriate, (3) prescribe rates.

All persons who wish to participate in this proceeding and file and receive

¹ The dispute concerning the interstate rates is currently being litigated in docket No. 37064, OKC Corporation v. Missouri-Kansas-Texas Railroad Company, et al. (initial decision not yet served).

copies of pleadings shall notify the Office of Proceedings, Room 5356, Interstate Commerce Commission, Washington, D.C. 20423, on or before 15 days from the Federal Register publication date. Persons having common interests should consolidate their presentations to the greatest extent possible. The Commission will take official notice of the record in No. 37064, *supra*, and urges parties to avoid duplication of these two records by adopting evidence in that proceeding.

The Commission will serve a list of names and addresses of all persons upon whom service of pleadings must be made. Thereafter, this proceeding will be assigned for oral hearing or modified procedure. The modified procedure appears more appropriate in view of the Railroad Commission's proffer to submit its dockets as part of this proceeding and the availability of the record in No. 37064. However, we note that there are requests for oral hearing. Comments on this request should be filed not later than 20 days from the publication of this decision in the Federal Register by the parties who wish to participate in this proceeding.

A copy of this order shall be served on respondent, and copies shall be sent by certified mail to the Railroad Commission of Texas and the Governor of Texas. Copies shall also be deposited in the Office of the Secretary of the Commission in Washington, D.C. and filed with the Director, Office of the Federal Register, for publication in the Federal Register.

This is not a major Federal action affecting the quality of the human environment and is not a major regulatory action under the Energy Policy and Conservation Act of 1975.

By the Commission, Alan M. Fitzwater,
Director, Office of Proceedings.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 79-25922 Filed 8-21-79; 8:45 am]

BILLING CODE 7035-01-M

[Permanent Authority Decision Volume No. 22]

Permanent Authority Decisions, Decision-Notice

Correction

In FR Doc. 79-10000 appearing at page 19577 in the issue for Tuesday, April 3, 1979, on page 19592, in the third column, in the paragraph for "MC 146353F", in

the first line, after "MC" insert 146351 in lieu of 146353.

BILLING CODE 1505-01-M

[Volume No. 12]

Permanent Authority Decision; Decision-Notice

Correction

In FR Doc. 79-5542 appearing at page 19327 in the issue for Friday, February 23, 1979, on page 10833, in the third column, in paragraph "MC 117940 (Sub-303F)", in the 18th line, between the states "LA" and "OR" insert "MN" in lieu of NM.

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Sunshine Act Meetings

Federal Register
Vol. 44, No. 164
Wednesday, August 22, 1979

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

Note.—There were no items received at the Office of the Federal Register for inclusion in today's "Sunshine Act Meetings" section.

federal register

Wednesday
August 22, 1979

Part II

**Environmental
Protection Agency**

**Hazardous Waste Guidelines and
Regulations**

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 250]

(FRL 1299-8)

Hazardous Waste Guidelines and Regulations

AGENCY: Environmental Protection Agency.

ACTION: Supplemental proposed rule.

SUMMARY: Under the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, (RCRA) the Environmental Protection Agency is required among other things, to publish criteria for listing hazardous waste and a list of hazardous wastes. Hazardous wastes are subject to the requirements of the Solid Waste Disposal Act, as amended by RCRA, which directed the management and control of such wastes from generation to final disposal. EPA today proposes to add approximately forty-five wastes to the proposed list of hazardous waste which the Agency published on December 18, 1978 (43 FR 58943, 58957-58959). The amendments are necessary to respond to comments received during the initial comment period which indicated that certain additional wastes be included on the list and also result from EPA's own continuing review of information on hazardous wastes.

DATES: Comments are due October 12, 1979. A public hearing to receive comments on this supplemental proposal will be held on October 9, 1979, in Washington, D.C.

ADDRESSES: Comments should be addressed to John P. Lehman, Director, Hazardous and Industrial Waste Division, Office of Solid Waste (WH-565), U.S. Environmental Protection Agency, Washington, D.C. 20460. Communications should identify the regulatory docket number "Section 3001".

The official record for this supplemental rulemaking and EPA's other hazardous waste regulations is available at Room 2439K, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460 and is available for viewing from 9:00 a.m. to 4:00 p.m. Monday through Friday, excluding holidays.

A public hearing on this supplemental proposal has been scheduled at the following location: October 9, 1979—HEW Auditorium, 330 Independence Avenue, SW., Washington, D.C., 9:00

a.m.—5:00 p.m. Registration is from 8:30-9:00 a.m.

Anyone wishing to make an oral statement at the hearing should notify, in writing: Mrs. Geraldine Wyer, Public Participation Officer, Office of Solid Waste, (WH-562), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460.

Oral and written comments may be submitted at the public hearing. Persons who wish to make oral presentations must restrict their presentations to ten minutes, and are encouraged to have written copies of their complete comments for inclusion in the official record.

FOR FURTHER INFORMATION CONTACT: Technical Information—Mr. Alan S. Corson, 202/755-9187, Office of Solid Waste (WH-565), U.S. Environmental Protection Agency, Washington, D.C. 20460.

Economic, Environmental and Regulatory Impacts—Mr. Michael J. Shannon, 202/755-9190, Office of Solid Waste (WH-565), U.S. Environmental Protection Agency, Washington, D.C. 20460.

Supplementary Information

Section 3001 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, (RCRA), requires EPA among other things, to publish criteria for listing hazardous waste and a list of hazardous wastes. Wastes which are included on the list are then subject to the hazardous waste management requirements of Sections 3002 through 3010 of the Solid Waste Disposal Act, as amended by RCRA.¹

On December 18, 1978, as part of proposed regulations implementing Section 3001, EPA published two proposed criteria for listing hazardous waste and an initial list of hazardous wastes (40 CFR § 250.12 (b) and 250.14, 43 FR 58946, 58955, 58957-58959). The agency is now proposing to expand that list for three reasons:

(1) During the public comment period on EPA's proposed Section 3001 regulations, commenters identified

¹ Hazardous waste management requirements for hazardous waste generators and owners/operators of hazardous waste treatment, storage or disposal facilities were proposed by EPA on December 18, 1978 (43 FR 58944, 58959-59022). Standards for hazardous waste transporters were proposed by EPA on April 28, 1978 (43 FR 18506-18512) and the Department of Transportation on May 25, 1978 (43 FR 22626-22634). Notification requirements for generators, transporters, treaters, storers and disposers of hazardous waste were proposed by EPA on July 11, 1978 (43 FR 29908-29916). Regulations governing the permitting of hazardous waste treatment, storage and disposal facilities and EPA approval of State hazardous waste programs were proposed on June 14, 1979 (43 FR 34214-34392).

approximately 150 additional wastes which they contended met EPA's proposed listing criteria and therefore should be added to the list. After reviewing both the data supplied by commenters to support these additional listings and other information on the potential hazards posed by such wastes, EPA has determined that a number of these wastes meet its proposed listing criteria and therefore should be listed as hazardous. The remaining wastes are not being proposed for listing at this time because they are no longer generated, or because the data supplied by the commenter (and other data currently available to EPA) do not demonstrate that the wastes meet EPA's proposed listing criteria. EPA's reasons for not proposing to list these wastes as hazardous will be discussed in more detail in the preamble (or background documents) to its final Section 3001 regulations, if they are not proposed for listing prior to that time.

(2) During the public comment period for the proposed regulations, a number of commenters also pointed out that EPA had failed to list a number of known carcinogenic chemicals as hazardous if those materials were disposed of as wastes. In response to these comments, EPA is proposing to add to its existing list of hazardous waste those chemicals which are included in the International Agency for Research on Cancer (IARC) list of human carcinogens and potential human carcinogens but which are not already listed in the proposed regulation in Appendices III, IV, and V, if such materials are disposed of as pure materials, spill clean-up residues, off-specification materials or container residues.

(3) Finally, as a result of its own continuing review of available information on hazardous wastes, EPA has identified a number of wastes which it has determined meet its proposed listing criteria and should be added to its December 18, 1978, proposed initial listing. EPA solicits comments on this supplemental listing as well as additional data that may defend or refute the listed wastes.

Included in this proposed supplemental listing are sixteen (16) waste streams generated in the production of chlorinated organic chemicals. These listings do not refer to specific process wastes, but to waste streams generated in the production of chlorinated aliphatic, chlorinated aromatic and chlorinated cyclic aliphatic hydrocarbons (from the chlorination step to final product generation). EPA has listed the waste

streams produced in the production of these chlorinated organic chemicals generically for several reasons: similarities in the composition of the waste streams within each group; the presence of chlorinated organic chemical contaminants in waste generated in the production of each group; the toxicity of chlorinated organic chemicals as a class; and evidence of damage to human health and the environment arising from the improper management of these wastes. Because EPA is considering using a generic format for listing other types of organic production waste, including brominated organics, phenols and aromatic amines and derivatives, the Agency expressly solicits public comment on using this listing approach as well as suggestions as to other generic waste categories that should be investigated.

For further information on the hazardous waste criteria and listing, the reader is referred to EPA's proposed Section 3001 regulation and preamble (43 FR 58949-58968).

Background Document

A background document has been developed in support of this supplemental proposed rule. Copies are available for review in all EPA Regional office libraries and in the EPA headquarters library (Public Information Reference Unit) Room 2404, Waterside Mall, 401 M Street, S.W., Washington, D.C.

Economic, Environmental, and Regulatory Impacts

In accordance with Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107, EPA policy as stipulated in 39 FR 37419, October 21, 1974, and Executive Order 12044, analyses of the economic, environmental, and regulatory impacts are being performed for the entirety of Subtitle C, Hazardous Waste Management. EPA does not believe that this supplemental proposed rule is a major action for the purposes of Executive Order 12044, in part because much of the costs to generators of management of the wastes covered in this supplement have previously been accounted for in the draft Regulatory Analysis prepared for the entirety of Subtitle C, Hazardous Waste Management, and made available for public review on January 8, 1979. However, the cost and economic impact analysis included in the Regulatory Analysis is being revised and expanded to include the waste covered by this supplement, and that revised analysis will be completed and available to the public for review at the time of final

promulgation of the entire Subtitle C regulatory package. EPA requests that any data commenters have on the generation rates of the wastes listed in the proposal, current management costs and practices for these wastes or on the cost or economic impacts of the proposed regulations be addressed, as noted previously, to John P. Lehman.

Dated: August 15, 1979.

Douglas M. Costle,
Administrator.

It is proposed to further amend Title 40 CFR, Part 250, Subpart A, which has been proposed at 43 FR 58946-58968 (December 18, 1978) as follows:

1(a) In § 250.14(a) the material appearing on p. 58958 in the first column, in the second through the fifth paragraphs (Material . . . Spill . . . ; Off-specification . . . ; Containers . . .) is deleted. The following hazardous wastes are added to the list in the order shown below.

(b) In § 250.14(b)(2) add the following waste streams:

§ 250.14 Hazardous waste lists.

* * * * *

(a) *Hazardous waste.*

* * * * *

Reactor clean up wastes from the chlorination, dehydrochlorination or oxychlorination of aliphatic hydrocarbons (O.M.).

Fractionation bottoms from the separation of chlorinated aliphatic hydrocarbons (O.M.).

Distillation bottoms from the separation of chlorinated aliphatic hydrocarbons (O.M.).

Washer wastes from the production of chlorinated aliphatic hydrocarbons (O.M.).

Spent catalyst from the production of chlorinated aliphatic hydrocarbons (O.M.).

Reactor clean up wastes from the chlorination or oxychlorination of cyclic aliphatic hydrocarbons (O.M.).

Fractionation bottoms from the separation of chlorinated cyclic aliphatic hydrocarbons (O.M.).

Distillation bottoms from the separation of chlorinated cyclic aliphatic hydrocarbons (O.M.).

Washer wastes from the production of chlorinated cyclic aliphatic hydrocarbons (O.M.).

Spent catalyst from the production of chlorinated cyclic aliphatic hydrocarbons (O.M.).

Batch residues from the batch production of chlorinated polymers (O.M.).

Solution residues from the production of chlorinated polymers (O.M.).

Reactor clean up wastes from the chlorination of aromatic hydrocarbons (O.M.).

Fractionation bottoms from the separation of chlorinated aromatic hydrocarbons (O.M.).

Distillation bottoms from the separation of chlorinated aromatic hydrocarbons (O.M.).

Washer wastes from the production of chlorinated aromatic hydrocarbons (O.M.).

Washer wastes from the production of chlorinated aromatic hydrocarbons (O.M.).

Washer wastes from the production of chlorinated aromatic hydrocarbons (O.M.).

Material which is within the scope of Section 250.10(b) and is normally shipped using a name listed in Appendix III (Pesticides), Appendix IV (DOT Poison A, Poison B, ORM-A Materials), Appendix V (Priority Pollutants), or Appendix XII, (IARC carcinogens) (T.O.M.).

Spill clean-up residues and debris from spills of materials which appear in Appendix III, IV, V, or XII (T.O.M.).

Off-specification material which is within the scope of Section 250.10(b) and, if met specification would be shipped using a name listed in Appendix III, IV, V, or XII (T.O.M.).

Containers, unless triple rinsed, which have contained materials normally shipped using a name listed in Appendix III, IV, V, or XII (T.O.M.).

(b) *Hazardous waste sources and processes.* (1) * * *

(2) *Processes generating hazardous waste:*

SIC and Process Description

- * * * * *
- 2295—Waste polyvinyl chloride (PVC) from the manufacture of coated fabrics (T.).
- 2491—Bottom sediment sludge from wood-treating process (O.M.B.).
- 2653—Waste from equipment cleaning from flexoprinting in the manufacture of paperboard boxes (T.O.M.B.I.).
- 2711—Waste from press clean-up in newspaper printing (T.O.I.).
- 2822—Polyvinyl chloride sludge from the manufacture of polyvinyl chloride (O.M.).
- 2869—Wastewater treatment sludges from the production of aldrin (O.M.B.).
- 2869—Still bottoms from the production of pentachloronitrobenzene (T.O.M.B.).
- 2869—Waste from the manufacture of dibromochloropropane (DBCP)(O.).
- 2869—Spent catalyst from hydrochlorinator reactor in the production of 1,1,1-trichloroethane (O.M.).
- 2869—Waste from the product steam stripper in the production of 1,1,1-trichloroethane (O.M.).
- 2869—Process clean out sludges from the production of 1,1,1-trichloroethane (O.M.).
- 2869—Waste from the neutralization of spent hydrogen fluoride in the production of fluoromethanes (O.M.).
- 2869—Spent catalyst from the fluorination reactor in the production of fluoromethanes (R.O.M.).
- 2869—Still bottoms from the purification of fluoromethanes in the production of fluoromethanes (O.M.).
- 2869—Waste from caustic scrubbing of fluorocarbon in the production of fluoromethanes (O.M.).
- 2869—Heavy ends and light ends from the production of methyl acrylate (O.).
- 2869—Heavy ends and light ends from the production of ethyl acrylate (O.).
- 2869—Distillation bottoms from the production of acetaldehyde from ethylene (O.).
- 2869—Heavy tars from the production of phenol/acetone from cumene (O.).
- 2869—Distillation residues from the production of phthalic anhydride from naphthalene (O.).
- 2869—Heavy ends from the production of glycerine from allyl chloride (O.M.).

- 2869—Light ends from the distillation of acetaldehyde in the production of acetic anhydride (I)
- 2869—Heavy ends from the distillation of acetic anhydride in the production of acetic anhydride (I)
- 2893—Wash water from printing ink equipment cleaning (T.O.M.B)
- 3322—Lead/phenolic sand-casting waste from malleable iron foundries (T.O)
- 3344—Spent potliners (cathodes) from primary aluminum smelting (R)
- 3573—Waste acid solution from manufacture of electronic computing equipment (T.C)
- 3674-3679—Cleaning, etching and plating waste, tank bottom sediments and metal treatment sludges from the manufacturer of printed circuits (C.T.O)
- 7395—Waste ferricyanide bleach, dichromate bleach, color developer (Agfa), bleach fix (Agfa) and acid solution from photographic processing (C.R.T).

2. By adding at the end of proposed Subpart A the following:

Appendix XII

International Agency for Research on Cancer (IARC)-Reviewed Substances Evaluated as Human Carcinogens Not Included in Appendices III, IV, and V

aflatoxins
4-aminobiphenyl
auramine
chloromethyl methyl ether
cyclophosphamide
diethylstilbestrol
melphalan
2-naphthylamine
N,N-Bis(2-Chloroethyl)-2-naphthylamine
oxymethenolone
phenacetin
phenytoin

IARC Reviewed Substances Evaluated as Potential Human Carcinogens Not Included in Appendices III, IV, and V

benz(c)acridine
benzo(j)fluoranthene
benzo(e)pyrene
dibenz(a,h)acridine
dibenz(a,j)acridine
7H-dibenzo(c,g)carbazole
dibenzo(a,h)pyrene
dibenzo(a,i)pyrene
N-nitrosodi-n-butylamine
N-nitrosodiethanolamine
N-nitrosodiethylamine
N-nitroso-n-ethylurea
N-nitroso-n-methylurea
N-nitrosomethylvinylamine
N-nitrosomorpholine
N-nitrosornicotine
N-nitrosopiperidine
N-nitrososarcosine
polyvinyl pyrrolidone
streptozotocin
N-nitrosopyrrolidine

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Wednesday
August 22, 1979

Part III

**Securities and
Exchange
Commission**

**Tender and Exchange Offers by Issuers
Of Their Own Securities**

federal register

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 240

(Release Nos. 33-6106; 34-16112; IC-10842)

Tender Offers By Issuers

AGENCY: Securities and Exchange Commission.

ACTION: Final rule and schedule.

SUMMARY: The Commission announces the adoption of a new Rule and schedule relating to tender and exchange offers by certain issuers for their own securities. The rule defines certain fraudulent, deceptive and manipulative acts or practices in connection with such offers, and prescribes filing, disclosure, dissemination and other requirements as means reasonably designed to prevent such acts and practices.

EFFECTIVE DATE: September 21, 1979.

FOR FURTHER INFORMATION CONTACT: John B. Manning (202-755-1388) or Mary E. Chamberlin (202-755-8747), Division of Market Regulation, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission has announced the adoption of Rule 13e-4 and related Schedule 13E-4 [17 CFR § 240.13e-4 and § 240.13E-101] under the Securities Exchange Act of 1934 (the "Act") [15 U.S.C. 78a et seq., as amended by Pub. L. No. 94-29 (June 4, 1975)], to regulate certain issuer cash tender and exchange offers ("tender offers"). The Rule requires that, in connection with tender offers for their own equity securities, issuers with a class of equity securities registered under Section 12 of the Act or required to file periodic reports with the Commission pursuant to Section 15(d) of the Act and closed-end investment companies registered under the Investment Company Act of 1940 must comply with disclosure and other provisions governing the manner in which such offers may be made. The Rule defines, and prescribes means reasonably designed to prevent, fraudulent, deceptive or manipulative acts or practices in connection with issuer tender offers.

In addition, the Commission concurrently is adopting Rule 13e-3 and related Schedule 13E-3 which contain disclosure requirements applicable to going private transactions by public companies or their affiliates.¹ Since

¹ Securities Exchange Act Release No. 34-16075 (August 2, 1979), 44 FR 46736.

tender offers subject to Rule 13e-4 may also involve going private transactions, attention is directed to the provisions of that rule and schedule. The requirements of both Rules 13e-3 and 13e-4 are applicable to tender offers which involve going private transactions.²

I. Introduction

Rule 13e-4 ("Rule") and Schedule 13E-4 ("Schedule") were proposed for public comment on December 14, 1977.³ In response to the proposal, the Commission received eighteen letters of comment from interested persons. The Commission has considered these comments, and, where appropriate, has made certain modifications in the Rule and Schedule as proposed. The regulatory approach taken in the Rule, however, is unchanged. As noted in the 1977 Release,⁴ the requirements of the Rule are patterned substantially on the regulatory scheme established by Section 14(d) of the Act and existing rules thereunder which are applicable in the context of third party tender offers. The requirements of the Rule reflect, where appropriate, proposed revisions in the rules under Section 14(d) which the Commission published for comment in 1976 and republished in revised form in February 1979.⁵ The information required to be disclosed in Schedule 13E-4 is substantially the same type of information which is required by Schedule 14D-1.⁶

As noted in the 1977 Release, prior to this time, the Commission has not exercised its rulemaking authority under Sections 13(e) and 14(e) of the Act to regulate directly the manner in which issuer tender offers must be made, although such offers have been and

² It should be noted that General Instruction B to Schedule 13E-4 provides that information required to be disclosed in Schedule 13e-4 may incorporate by reference information disclosed in other filings by the issuer.

³ Securities Exchange Act Release No. 34-14234 (December 14, 1977), 42 FR 63066 ("1977 Release").

⁴ See 1977 Release, 42 FR at 63066.

⁵ Securities Exchange Act Release Nos. 34-12676 (August 2, 1976), 41 FR 33004; 34-15548 (February 5, 1979), 44 FR 9956 (the "February Proposals"). To the extent that certain of the provisions of Rule 13e-4 differ from the requirements of any of the February Proposals which are adopted, the Commission may consider whether to amend Rule 13e-4 or the February Proposals to conform the requirements of both rules.

⁶ Schedule 14D-1 was adopted by the Commission in July 1977. Securities Exchange Act Release No. 34-13787 (July 21, 1977). The Division of Corporation Finance will be responsible for reviewing the filings on Schedule 13E-4 by persons subject to the Rule. Accordingly, inquiries with respect to the disclosure obligations imposed by specific items of Schedule 13e-4 should be directed to that Division. All other interpretative questions with respect to the Rule should be directed to the Division of Market Regulation.

remain subject to the general antifraud and antimanipulative provisions of the Act, such as Section 10(b) and Rule 10b-5 thereunder, and Section 14(e).⁷

II. Statutory Background

The Commission has adopted Rule 13e-4 under seven sections of the Act, including Sections 13(e) and 14(e).⁸ Sections 13(e) and 14(e) expressly grant the Commission authority to adopt rules which define, and prescribe means reasonably designed to prevent, fraudulent, deceptive or manipulative activity in connection with purchases by an issuer of its own securities, and in connection with any tender offer, respectively.

Some commentators raised questions regarding the Commission's authority to adopt a rule which would regulate the manner in which tender offers by issuers must be made. Those commentators suggested that, based upon the legislative history of the sections of the Act under which the Rule has been adopted, particularly Section 13(e), the Commission's authority is limited to promulgating disclosure requirements in connection with such offers. The Commission does not agree.

Sections 13(e) and 14(e) were added to the Act by the Williams Act amendments of 1968.⁹ A primary purpose of the Williams Act was to extend existing federal regulation of contests for corporate control, which

⁷ See 1977 Release, 42 FR at 63066. Rule 10b-13 under the Act [§ 240.10b-13] prohibits any offeror engaged in a tender offer for equity securities from making purchases of such securities, otherwise than pursuant to the tender offer, during the offering period defined by that rule. Rule 10b-6 under the Act [§ 240.10b-6] prohibits purchases by an issuer of its own securities pursuant to a tender offer (or otherwise) if the issuer is engaged in a distribution of securities of the same class as those for which the tender offer is to be made, or if the tender offer is for securities which constitute "rights to purchase" such securities. In appropriate cases, the Commission has granted exemptions from Rule 10b-6 to permit purchases by an issuer of such securities pursuant to a tender offer, conditioned on compliance with requirements substantially similar to Sections 14(d)(5)-(7) of the Act. As a result of the adoption of Rule 13e-4, it will no longer be necessary to secure undertakings to abide by these requirements in the context of grants of exemptive relief under Rule 10b-6. The Commission intends to amend Rule 10b-6 in the near future to provide that if the provisions of that rule would apply to bids for or purchases of a security by the issuer pursuant to a tender offer solely because the issuer has outstanding securities convertible into or exchangeable for such security, such provisions shall not apply to such bids or purchases if made in accordance with the requirements of Rule 13e-4. Pending the amendment to Rule 10b-6, however, an issuer still will have to seek relief from that rule if it is engaged in a distribution of the securities for which the tender offer is to be made.

⁸ In addition to Sections 13(e) and 14(e), the Rule has been adopted under Sections 3(b), 9(a)(6), 10(b), 15(c)(1) and 23(a) of the Act.

⁹ P.L. No. 90-439, 82 Stat. 454 (July 29, 1968).

was generally limited to proxy contests, in order to protect investors in the context of tender offers.¹⁰ As originally proposed and adopted, Section 14(d) excepts issuer tender offers from the substantive and disclosure requirements contained therein.¹¹ Section 13(e) of the Act, however, empowers the Commission to define manipulative, deceptive and fraudulent acts and practices with respect to issuers' repurchases of their own securities, whether by tender offer or otherwise, and to adopt means reasonably designed to prevent such acts and practices.¹² The Section applies to any issuer which has a class of equity securities registered under Section 12 of the Act, or which is a closed-end investment company registered under the Investment Company Act of 1940. Such issuers may not make purchases of any of their equity securities in contravention of rules adopted by the Commission under Section 13(e). In addition, Section 14(e) broadly prohibits any person from engaging in any fraudulent, deceptive or manipulative act or practice in connection with any tender offer, and grants the Commission rulemaking authority, similar to its rulemaking authority under Section 13(e), to define and prescribe means reasonably designed to prevent such activity.¹³

Thus, although the legislative history of the Williams Act indicates that the Commission's rulemaking authority

¹⁰ See Report of the Senate Committee on Banking and Currency to Accompany S. 510, 90th Cong., 1st Sess., at 1-4 (1967) ("Senate Report"); Hearings on S. 510 Before the Subcommittee on Securities of the Senate Comm. on Banking and Currency, 90th Cong., 1st Sess., at 115-18 (1967) ("Senate Hearings").

¹¹ See Section 14(d)(8)(B).

¹² Section 13(e)(1) states in pertinent part that: It shall be unlawful for an issuer which has a class of equity securities registered pursuant to Section 12 of this title, or which is a closed-end investment company registered under the Investment Company Act of 1940, to purchase any equity security issued by it if such purchase is in contravention of such rules and regulations as the Commission, in the public interest or for the protection of investors, may adopt (A) to define acts and practices which are fraudulent, deceptive, or manipulative, and (B) to prescribe means reasonably designed to prevent such acts and practices.

¹³ Section 14(e) states that: It shall be unlawful for any person to make any untrue statement of a material fact or omit to state any material fact necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading, or to engage in any fraudulent, deceptive, or manipulative acts or practices, in connection with any tender offer or request or invitation for tenders, or any solicitation of security holders in opposition to or in favor of any such offer, request, or invitation. The Commission shall, for the purposes of this subsection, by rules and regulations define, and prescribe means reasonably designed to prevent, such acts and practices as are fraudulent, deceptive or manipulative.

under Section 13(e) is not unlimited, the Commission is not restricted to adopting exclusively disclosure requirements in connection with purchases by an issuer of its own securities. As the Commission stated in proposing Rule 13e-3 for comment:

Neither the language [Section 13(e)] nor its legislative history limits the rulemaking authority of the Commission to disclosure requirements. Consequently, in adopting rules for the protection of investors and in the public interest to prescribe means reasonably designed to prevent fraudulent, deceptive or manipulative acts or practices, Commission rulemaking under Section 13(e) may include substantive provisions as well as disclosure requirements.¹⁴

In response to the suggestion of one person who testified during the hearings on the Williams Act that issuers should be subject to Section 14(d),¹⁵ the Commission emphasized that the concerns raised by issuer tender offers may vary from those raised by tender offers made by third parties in an attempt to gain control of the issuer.¹⁶ The Commission informed Congress that:

[I]f the Commission is given rulemaking power with respect to issuers' purchases as provided in the bill, it could, and presumably would, provide separately for tender offers by issuers following the provisions of [Section 14(d)] to the extent appropriate.¹⁷

The Commission has determined that regulation of issuer tender offers under Rule 13e-4 is appropriate to ensure that issuer tender offers are conducted in a manner free of the deceptive, manipulative and fraudulent acts and practices set forth in paragraph (b) of the Rule. By providing a regulatory framework governing issuer tender offers, Rule 13e-4 responds to a major Congressional concern underlying the Williams Act to ensure that tender offers are conducted on appropriate

¹⁴ Securities Exchange Act Release No. 34-14185 (November 23, 1977), 42 FR 60090.

¹⁵ See letter dated March 24, 1967 to Senator Harrison A. Williams, Jr. from Milton Cohen, Esq., reprinted in Senate Hearings, at 248.

¹⁶ Supplemental Memorandum of the Securities and Exchange Commission With Respect to Certain Comments on S. 510, Senate Hearings at 202. In addition, during consideration of the Williams Act, the Commission submitted to Congress a draft of Rule 10b-10 under the Act, which would have regulated most forms of issuer repurchases, including repurchases by means of tender offers. The draft rule, which was made a part of the record during the hearings on the Williams Act, was intended to indicate to Congress the manner in which the Commission might exercise its rulemaking authority under Section 13(e). The provisions of the draft rule relating to tender offers by issuers would have prohibited issuers from engaging in certain of the practices Congress was concerned with in the context of third party tender offers.

¹⁷ *Id.*

terms and conditions in light of the special market and investment decision problems which attend such offers.¹⁸

III. Coverage of the Rule

A. Tender Offers by Persons in a Control Relationship with the Issuer

As proposed, the Rule would have included within its scope tender offers for an issuer's securities made by a person in a control relationship with the issuer by operation of Section 13(c)(2) of the Act.¹⁹ In response to the Commission's request for comment on whether control persons should be exempted from some or all of the provisions of the Rule,²⁰ most commentators suggested that such an exemption was appropriate inasmuch as tender offers by control persons currently are subject to Section 14(d) of the Act and the rules thereunder. The Commission has determined that additional regulation of such tender offers at this time by application of Rule 13e-4 is unnecessary. Accordingly, paragraph (g)(4) of the Rule excludes any tender offer already subject to Section 14(d).²¹

B. Issuers Subject to the Reporting Requirements of Section 15(d) of the Act

As proposed and adopted, the Rule applies to issuers required to file periodic reports under Section 15(d) of the Act as well as to issuers with a class of equity securities registered under Section 12 of the Act and closed-end investment companies registered under the Investment Company Act of 1940.²² The Commission believes that tender offers by issuers subject to the requirements of Section 15(d) represent the same potential for abuse as other issuer tender offers covered by the Rule, and the commentators set forth no persuasive justification for excluding such issuers.

¹⁸ As discussed in the releases proposing and adopting Rule 13e-3 under the Act [§ 240.13e-3], the Commission believes that it would be appropriate to imply a private right of action under Section 13(e). See Securities Exchange Act Release Nos. 34-14185 (November 23, 1977), 42 FR 60099-60100; 34-16075 (August 2, 1979), 44 FR 46736. The Commission adheres to this view in the context of Rule 13e-4.

¹⁹ Section 13(c)(2) provides that purchases of an issuer's securities by persons in a control relationship with the issuer are deemed to be purchases by the issuer.

²⁰ See 1977 Release, 42 FR at 63068.

²¹ However, persons in a control relationship with any issuer covered by the Rule are subject to the restrictions of Rule 13e-4(f)(6), which apply to purchases of securities for which the offer is made after the termination of the offer.

²² Certain of the commentators questioned the Commission's authority to include issuers subject to Section 15(d) within the scope of the Rule. However, the Rule also has been adopted under Section 14(e), which gives the Commission rulemaking authority to regulate any tender offer.

C. Special Bids

As noted in the 1977 Release, the requirements of the Rule will make virtually impossible an issuer's use of the "special bid" technique of acquiring its equity securities through the facilities of a national securities exchange.²³ The Commission has taken the position that a special bid constitutes a tender offer for purposes of Sections 14(d) and 14(e) of the Act.²⁴ and, as a practical matter, an issuer would not be able to comply, in the context of a special bid, with most of the requirements of the Rule, including those requirements which relate to the withdrawal rights of security holders and pro rata acceptance of tendered securities.

IV. Summary of Rule 13e-4*A. Rule 13e-4(a)*

Paragraph (a) of the Rule defines certain terms used throughout the Rule and Schedule. Although in most instances the meaning of those terms is relatively clear, the terms have been defined in order to minimize unnecessary interpretive questions. The meaning of those terms, however, may vary for purposes of other provisions of the federal securities laws.²⁵

B. Rule 13e-4(b)

As proposed, the Rule defined certain fraudulent, deceptive or manipulative acts or practices intended to be prevented by other specific requirements of the Rule. Certain commentators were unclear as to what requirements that section of the Rule was intended to impose, and whether those requirements were in addition to the obligations imposed by other provisions of the Rule. To obviate concern as to whether the Commission intended to introduce unfamiliar concepts of fraud, deceit and manipulation in this context, paragraph (b), as revised, defines fraudulent, deceptive or manipulative acts or practices in more general, traditional terms (as, for example in Rules 10b-5 and 13e-3 under the Act). Issuers and affiliates subject to the Rule are required

²³ 42 FR at 63066.

²⁴ See Securities Exchange Act Release No. 8392 (August 30, 1968), 33 FR 14109.

²⁵ For example, a tender offer may be "publicly announced or otherwise made known" to security holders, thereby triggering the restrictions of Rule 10b-13, prior to the commencement date of the offer as defined by Rule 13e-4. Further, an issuer tender offer will be deemed to have terminated, for purposes of Rule 13e-4, at the time after which securities may not be tendered pursuant to the offer. In contrast, in the case of a tender offer for less than all securities of a class, Rule 10b-13 would continue to apply until the offeror announces a definitive acceptance rate with respect to securities tendered pursuant to the offer.

to comply with this antifraud provision, as well as with the requirements set forth in paragraphs (c), (d), (e) and (f) of the Rule.²⁶

C. Filing Requirements

Paragraph (c) of Rule 13e-4 imposes three filing obligations on the issuer or affiliate subject to the Rule. First, the person subject to the Rule must file with the Commission ten copies of Schedule 13E-4 [17 CFR § 240.13E-101] prior to or as soon as practicable on the date of commencement of the issuer tender offer.²⁷ Second, such person must report any material change in the information set forth in the Schedule by filing with the Commission ten copies of an amendment to the Schedule. Finally, the issuer or affiliate making the tender offer must report the results of the tender offer by filing with the Commission ten copies of a final amendment to the Schedule no later than ten business days after termination of the tender offer.

D. Disclosure and Dissemination Requirements

Rule 13e-4(d) sets forth specifically those terms of the tender offer which the issuer or affiliate is required to disclose to security holders in its offering materials. The offering materials must be disseminated to security holders pursuant to the requirements contained in paragraph (e) of the Rule. The issuer or affiliate will be deemed to have published, sent or given the tender offer to security holders upon compliance with the provisions relating to long-form publication, use of shareholder and other lists or summary publication.²⁸ If any material change occurs in the information published, sent or given to security holders, the offeror is required by Rule 13e-4(e)(2) to disseminate promptly disclosure of such change in a manner reasonably calculated to inform security holders.

*E. Manner of Making the Tender Offer***1. Duration of the Tender Offer**

Rule 13e-4(f)(1) requires that an issuer tender offer remain open for at least

²⁶ In this regard, of course, tender offers covered by Rule 13e-4 continue to be subject to other applicable provisions of the federal securities laws (e.g., Section 10(b) and Rule 10b-5 thereunder and Section 14(e)).

²⁷ The term "commencement" is defined in the Rule to mean the time the issuer tender offer is first published, sent or given to security holders. An issuer or affiliate subject to the Rule will be deemed to have published, sent or given the tender offer to security holders upon compliance with the dissemination requirements of Rule 13e-4(e).

²⁸ If the tender offer is subject to Rule 13e-3, however, summary publication is not permissible. See Rule 13e-3(e)-(f).

fifteen business days from the date of commencement of the offer.²⁹ The Commission believes that the fifteen business day period will provide holders of the securities for which the offer is made with a reasonable opportunity to consider an issuer tender offer, and to make an informed investment decision with respect to the tender offer.

2. Subjects of the Tender Offer and Consideration

As proposed, the Rule would have required that, except in the case of odd lot tender offers, persons subject to the Rule must extend the tender offer to all holders of the class of securities for which the offer is made. Several commentators suggested that, in a few limited contexts, an issuer may have valid business reasons for excluding certain security holders from its tender offer. The Commission has determined not to adopt the explicit requirement proposed at this time. The Commission has also determined not to adopt the provision of the Rule which, as proposed, would have required that issuers expressly offer the same consideration to all security holders to whom a tender offer subject to the Rule is made.³⁰ However, in light of the Commission's continuing concerns with respect to tender offer practices generally, the Commission has directed the staff to consider in more detail, with a view toward the possibility of further rulemaking, the issues raised by an express requirement that all persons making tender offers must offer the same consideration to all holders of the security for which the tender offer is made.

3. Withdrawal Rights

The periods during which tendering security holders must be afforded the right to withdraw their securities under the Rule are set forth in paragraph (f)(2)³¹ and do not differ in length from the withdrawal rights of the Rule as proposed. Security holders have the

²⁹ The Commission, in the near future, will publish for comment a proposed amendment to Rule 13e-4 which would require that the issuer extend the period of the tender offer following the date that notice of a material change in the terms of the offer is disseminated to security holders.

³⁰ Pending further study, the Commission believes that existing interpretations of Rules 10b-6 and 10b-13 under the Act [§ 240.10b-6, § 240.10b-13] by the Division of Market Regulation will adequately protect the public from abusive practices.

³¹ In addition to publishing for comment an amendment to the Rule which would require that the issuer extend the duration of the tender offer under certain circumstances, the Commission also will publish for comment a proposed amendment to Rule 13e-4 which would require that an issuer afford additional withdrawal rights following the date that notice of a material change in the terms of the tender offer is disseminated to security holders.

right to withdraw tendered securities at any time until the expiration of at least ten business days after the time the tender offer is commenced. This period of time is designed to give security holders who tender their securities soon after commencement of the offer an opportunity to reconsider their investment decision, and to protect such holders from being pressured into accepting the tender offer prior to the time all material facts relating to the tender offer are fully disclosed and disseminated.³²

In the event tendered securities have not been accepted for payment by the issuer, security holders have the right to withdraw their securities at any time after forty business days from the time the offer has commenced. This requirement of the Rule is intended to assure that security holders do not have their shares "locked in" for an unreasonable period of time.³³ In addition, if tendered securities have not been accepted for payment, security holders must be afforded the right to withdraw their securities during the seven business days following the date a Schedule 14D-1 is filed with the Commission relating to a competing tender offer by a subsequent bidder or such tender offer is otherwise commenced.³⁴ These additional withdrawal rights are intended to permit security holders to respond to a competing tender offer.

4. Pro Rata Acceptance

The requirements of the Rule relating to pro rata acceptance of tendered securities have been adopted substantially as proposed. Paragraph (f)(3) of the Rule requires that where a greater number of securities is tendered than the issuer will accept within at least ten business days of an offer, or within at least ten business days after notice of an increase in consideration is disseminated to security holders, the issuer or affiliate making the tender offer shall accept all such securities on a pro rata basis. The pro rata acceptance requirements of the Rule are based on the policy underlying Section 14(d)(6) of the Act, which was designed to allow all security holders an opportunity to participate in the offer.³⁵ Moreover, as a means reasonably designed to prevent

³² See 1977 Release, 42 FR at 63067; Senate Report at 10.

³³ *Id.*

³⁴ The addition of the clause "or such tender offer is otherwise commenced" is designed to assure that withdrawal rights are afforded in the context of an issuer tender offer by an issuer required to file reports with the Commission under Section 15(d), since a competing offeror would not be required to file a Schedule 14D-1.

³⁵ See Senate Report at 10.

fraudulent or deceptive conduct, the pro rata acceptance requirements are intended to prevent an issuer from pressuring security holders, who might otherwise assume that all tendered securities will be accepted on a first come, first served basis, into making hasty, uninformed investment decisions. The ten day pro ration requirements are intended to establish minimum pro rata acceptance periods and do not address the acceptance procedure employed by an offeror beyond those minimum periods.³⁶

The Rule allows an offeror to permit security holders to tender their securities upon the condition that all, or a specified minimum number, or none of such securities be accepted. In recognition of the conflict between pro rationing and the elimination of odd lots, the Rule permits the offeror to accept odd lots in full prior to accepting other securities on a pro rata basis. Certain commentators questioned whether, in the context of an offer limited to odd lots, pro rata acceptance would be required. Accordingly, a clause has been added to the proviso expressly permitting acceptance by lot in such offers.

5. Increase in Consideration and Payment for Securities

Paragraph (f)(4) of the Rule requires that, if the issuer or affiliate subject to the Rule increases the consideration offered after the tender offer is commenced, the issuer or affiliate must pay the increased consideration to all security holders whose tendered securities are accepted for payment. This requirement is patterned after an analogous provision contained in Section 14(d)(7) of the Act. The so-called "best price" provision was designed to "assure fair treatment of those persons who tender their shares at the beginning of the tender period, and to assure equality of treatment among all shareholders who tender their shares."³⁷ The Commission believes that the principle embodied in Section 14(d)(7) should be equally applicable in the context of an issuer tender offer. In addition, as a means reasonably designed to prevent fraudulent or deceptive conduct, Rule 13e-4(f)(4) is intended to prevent an issuer from misleading security holders with respect

³⁶ As proposed, the Rule expressly would have permitted the issuer to accept all securities tendered during the term of the tender offer on a pro rata basis. An incorrect inference may have been drawn that the Rule would prohibit pro rationing from some specified period beyond the first ten business days but short of the full term of the offer. The Rule has been modified to eliminate this ambiguity.

³⁷ See Senate Report at 10.

to the price it is willing to pay for the securities which are the subject of the tender offer.

Paragraph (f)(5) of the Rule requires that the person making the issuer tender offer must either pay the consideration offered, or return tendered securities, promptly after termination of the tender offer.

6. Post-Tender Offer Restrictions

As proposed, the Rule would have prohibited, for the ten business days after termination of the offer, any purchases by the issuer of the securities which are the subject of the tender offer. This provision is essentially an antimanipulation restriction. A tender offer tends to peg the market price of the security which is the subject of the tender offer at or near the offering price, and the purpose of the prohibition on post-offer purchasing activity is to prevent the issuer from supporting the market at that artificial price after termination of the tender offer.³⁸

Certain commentators argued that this prohibition is unnecessary, since market conditions are not as unsettled following an issuer tender offer as in the case of a third party tender offer. Those commentators also noted that, although Rule 10b-13 under the Act prohibits certain purchases of securities which are the subject of a tender offer, it does, unlike Rule 13e-4, except purchases made on behalf of certain employee plans.³⁹ The Commission continues to believe that this short "cooling-off" period constitutes a reasonable means to ensure that the market impact of the tender offer on the issuer's securities is dissipated by market activity unaffected by additional purchases by the issuer.⁴⁰

As adopted, the Rule also prohibits, for the ten business days subsequent to the termination of the tender offer, purchases of securities of the same class and series as, or any "right to

³⁸ In light of this potential effect on the market of an issuer's post-offer purchasing activity, the Commission has adopted the Rule, among other provisions, under Section 9(a)(6) and 15(c)(1) of the Act.

³⁹ The Commission does not believe that the short term of the ten-day prohibition presents any significant operational impediment to issuer purchases on behalf of employee plans, particularly in view of the potential for manipulative activity during that period.

⁴⁰ As an alternative to the ten-day prohibition on purchases, the Commission solicited comment on whether it would be preferable to provide that any post-tender offer purchases by the issuer for forty business days be made at the highest price paid in the tender offer. The commentators generally preferred the approach taken in the Rule, and the Commission believes that this approach is appropriate in the context of issuer tender offers.

purchase." ⁴¹ the securities which are the subject of the tender offer. Similarly, in the context of exchange offers, the Rule prohibits purchases by the issuer or any person in a control relationship with the issuer of any security being offered pursuant to the exchange offer, or any security of the same class and series as, or any right to purchase, any such security. Market activity in these securities may affect the market price for the security which is the subject of the tender offer, or the security offered pursuant to an exchange offer. Accordingly, issuer purchases of those classes of securities may tend to peg the price of the security which is the subject of the tender offer at or near the tender offer price or distort the market for the offered security in an exchange offer.

Although Rule 13E-4 specifically excepts any tender offer subject to Section 14(d) of the Act, which includes tender offers by affiliates of most issuers covered by the Rule, the Commission believes that purchases of the securities covered by paragraph (f)(6) of the Rule by persons in a control relationship with the issuer during the ten day period following termination of the offer may have the same adverse market effects as purchases by the issuer. Accordingly, for purposes of paragraph (f)(6), post-offer purchases by control persons of the issuer shall be deemed to be purchases by the issuer.

V. Disclosure Requirements—Schedule 13E-4

Schedule 13E-4 has been adopted substantially as proposed. The substantive changes to the Schedule are discussed in this section.

As proposed, General Instruction D required that the issuer or affiliate making the tender offer must promptly file a final amendment to the Schedule setting forth the results of the tender offer. The term "promptly," in the context of this instruction, has been clarified to mean within ten business days of termination of the offer.

Item 1 of the Schedule as proposed would require disclosure of certain information regarding the issuer and the securities which are the subject of the tender offer. In response to comments, certain changes have been made. The text of Item 1(b) has been amended by requiring disclosure of the "amount of securities" outstanding "as of the most recent practicable date," rather than the "number of shares outstanding of the class of securities being sought." These

⁴¹ The terms "same class and series" and "right to purchase" as used in the Rule generally should be interpreted as those terms are used in the context of Rule 10b-6 under the Act [§ 240.10b-6].

changes were made because the Rule will apply to tender offers for equity securities other than "shares" of stock, and because compliance with this requirement would be unnecessarily burdensome if the disclosure of the amount of securities outstanding was required to be as of the date of the filing of the Schedule 13E-4.

Item 4 of the Schedule requires disclosure of recent transactions in an issuer's securities by certain persons affiliated with the issuer. Several commentators suggested that, in light of the number of persons as to whom such information must be obtained, the two business day period provided in Instruction 2 of the Item would be inadequate for the gathering and filing of such information. Accordingly, the Commission has expanded this period to ten business days, which should be adequate to achieve the purpose of the provision, yet preserve the confidentiality of the tender offer. The Commission believes that the ten business day period obviates the need, suggested by certain commentators, to restrict the size of the class of persons with respect to whom such information must be filed. Finally, the Commission does not believe that the expanded period will preclude dissemination to security holders of any material information obtained and filed within such period prior to termination of the offer.

As published for comment, Item 5 of the Schedule would have required the disclosure of any contract, arrangement, understanding or relationship between the issuer and any person with respect to any securities of the issuer. The Commission agrees with the commentators that the requirement is unnecessarily broad, and, accordingly, Item 5 has been revised to provide for disclosure only of such contracts, arrangements, understandings or relationships which relate, directly or indirectly, to the tender offer.

As published for comment, Schedule 13E-4 did not contain an item specifically requiring disclosure of material financial information concerning the issuer. In the case of a registered exchange offer, of course, the Commission's registration forms under the Securities Act of 1933 require disclosure of a registrant's financial operations and conditions. To make it clear that there is a corresponding disclosure requirement for cash tender offers, the Commission has added to Schedule 13E-4 a specific item which requires disclosure of certain financial information, if material. In addition the person making the issuer tender offer

may be required under Item 7(b) to disclose, if material, pro forma data with respect to the effect of the tender offer on, for example, the issuer's most recent balance sheet.

VI. Certain Findings, Operation of Rule Adopted, Effective Date

As required by Section 23(a)(2) of the Act, the Commission has specifically considered the impact which Rule 13E-4 and Schedule 13E-4 as adopted herein will have on competition. The Commission finds that compliance with the Rule by persons subject thereto will not impose any significant burden on competition.

Rule 13E-4 and Schedule 13E-4 will become effective 30 days after publication in the Federal Register. The Rule and Schedule are not applicable to tender offers which have commenced within the meaning of Rule 13E-4(a)(4) prior to the effective date.

Text of Adopted Rule and Schedule

The following actions are taken:
17 CFR Part 240 is amended by adding § 240.13E-4 and § 240.13E-101 as follows:

§ 240.13E-4 Tender offers by issuers.

(a) *Definitions.* Unless the context otherwise requires, all terms used in this section and in Schedule 13E-4 [§ 240.13E-101] shall have the same meaning as in the Act or elsewhere in the General Rules and Regulations thereunder. In addition, the following definitions shall apply:

(1) The term "issuer" means any issuer which has a class of equity security registered pursuant to section 12 of the Act, or which is required to file periodic reports pursuant to section 15(d) of the Act, or which is a closed-end investment company registered under the Investment Company Act of 1940.

(2) The term "issuer tender offer" refers to a tender offer for, or a request or invitation for tenders of, any class of equity security, made by the issuer of such class of equity security or by an affiliate of such issuer.

(3) The term "business day" means any day, other than Saturday, Sunday or a federal holiday, on which the principal office of the Commission at Washington, D.C. is scheduled to be open for business. In computing any time period under this section, the date of commencement of the issuer tender offer shall be included.

(4) The term "commencement" means the date an issuer tender offer is first published, sent or given to security holders.

(5) The term "termination" means the date after which securities may not be tendered pursuant to an issuer tender offer.

(6) The term "security holders" means holders of record and beneficial owners of securities of the class of equity security which is the subject of an issuer tender offer.

(7) The term "executive officer" means the president, secretary, treasurer, any vice president in charge of a principal business function (such as sales, administration or finance) or any other person who performs similar policy making functions for a corporation.

(8) The term "security position listing" means, with respect to the securities of any issuer held by a registered clearing agency in the name of the clearing agency or its nominee, a list of those participants in the clearing agency on whose behalf the clearing agency holds the issuer's securities and of the participants' respective positions in such securities as of a specified date.

(b)(1) It shall be a fraudulent, deceptive or manipulative act or practice, in connection with an issuer tender offer, for an issuer or an affiliate of such issuer, in connection with an issuer tender offer:

- (i) To employ any device, scheme or artifice to defraud any person;
- (ii) To make any untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; or
- (iii) To engage in any act, practice or course of business which operates or would operate as a fraud or deceit upon any person.

(2) As a means reasonably designed to prevent fraudulent, deceptive or manipulative acts or practices in connection with any issuer tender offer, it shall be unlawful for an issuer or an affiliate of such issuer to make an issuer tender offer unless:

- (i) Such issuer or affiliate complies with the requirements of paragraphs (c), (d), (e) and (f) of this section; and
- (ii) The issuer tender offer is not in violation of paragraph (b)(1) of this section.

(c) *Material required to be filed.* The issuer or affiliate making the issuer tender offer shall, in accordance with the General Instructions to the Issuer Tender Offer Statement on Schedule 13E-4 (§ 240.13E-101):

- (1) File with the Commission ten copies of such schedule, including all exhibits thereto, prior to or as soon as practicable on the date of

commencement of the issuer tender offer;

(2) Report any material change in the information set forth in such schedule by promptly filing with the Commission ten copies of an amendment on such schedule;

(3) Report the results of the issuer tender offer by filing with the Commission no later than ten business days after the termination of the issuer tender offer ten copies of a final amendment to such schedule.

(d) *Disclosure of certain information.* (1) The issuer or affiliate making the issuer tender offer shall publish, send or give to security holders in the manner prescribed in paragraph (e)(1) of this section a statement containing the following information:

(i) The scheduled termination date of the issuer tender offer and whether it may be extended;

(ii) The specified dates prior to which, and after which, persons who tender securities pursuant to the issuer tender offer may withdraw their securities pursuant to paragraph (f)(2) of this section;

(iii) If the issuer tender offer is for less than all the securities of a class, the exact dates of the period during which securities will be accepted on a pro rata basis pursuant to paragraph (f)(3) of this section and the manner in which securities will be accepted for payment and in which securities may be withdrawn; and

(iv) the information required by Items 1 through 8 of Schedule 13E-4 [§ 240.13E-101] or a fair and adequate summary thereof.

provided, however, That if the issuer tender offer involves the registration of securities pursuant to the Securities Act of 1933 and the General Rules and Regulations promulgated thereunder, any prospectus relating to such securities shall include all of the information, not otherwise required to be included therein, required by this paragraph.

(2) If any material change occurs in the information previously disclosed to security holders, the issuer or affiliate shall disclose promptly such change in the manner prescribed by paragraph (e)(2) of this section.

Instruction:

A. Negative responses to any item of Schedule 13E-4 need not be included in the statement published, sent or given to security holders.

B. Although the financial information necessary to present a fair and adequate summary of Item 7 of Schedule 13E-4 may vary depending on the facts and circumstances involved, the following historical and pro forma summary financial

information normally will be sufficient for purposes of paragraph (d)(1)(iv) of this section:

(1) Summary financial information equivalent to that required by paragraph (e) of Guide 59 of the Guides for Preparation and Filing of Registration Statements for (i) the two most recent fiscal years, and (ii) the latest year-to-date interim period and corresponding interim period of the preceding year;

(2) Ratio of earnings to fixed charges for the same periods required by B(1) above;

(3) Book value per share as of the most recent fiscal year end and as of the date of the latest interim balance sheet; and

(4) If material, pro forma data for the summarized financial information described in B(1), (2) and (3) above, disclosing the effect of the tender offer, should be provided for the most recent fiscal year and latest year-to-date interim period.

If the information required by Item 7 is summarized, appropriate instructions should be included stating how more complete financial information can be obtained.

(3) If an issuer or an affiliate publishes, sends or gives the issuer tender offer to security holders by means of a summary publication in the manner prescribed in paragraph (e)(1)(iii) of this section, the summary advertisement shall not contain a transmittal letter pursuant to which securities which are sought in the issuer tender offer may be tendered, and shall disclose only the following information:

- (i) The identity of the issuer or affiliate making the issuer tender offer;
- (ii) The amount and class of securities being sought and the price being offered;
- (iii) The information required by paragraphs (d)(1)(i)-(iii) of this section;
- (iv) A statement of the purpose of the issuer tender offer;
- (v) Appropriate instructions for security holders regarding how to obtain promptly, at the expense of the issuer or affiliate making the issuer tender offer, the statement required by paragraph (d)(1) of this section; and
- (vi) A statement that the information contained in the statement required by paragraph (d)(1) of this section is incorporated by reference.

(e) *Dissemination of tender offers.* (1) The issuer or affiliate making the issuer tender offer will be deemed to have published, sent or given the issuer tender offer to security holders if such issuer or affiliate complies fully with one or more of the following methods of dissemination. Depending on the facts and circumstances involved, and for purposes of paragraphs (e)(1)(i) and (e)(1)(iii) of this section, adequate publication of the issuer tender offer may require publication in a newspaper with a national circulation or may

require only publication in newspaper with metropolitan or regional circulation or may require publication in a combination thereof.

(i) *Dissemination of cash issuer tender offers by long-form publication:* By making adequate publication in a newspaper or newspapers, on the date of commencement of the issuer tender offer, of the statement required by paragraph (d)(1) of this section.

(ii) *Dissemination of any issuer tender offer by use of shareholder and other lists:* (A) By mailing the statement required by paragraph (d)(1) of this section to each security holder whose name appears on the most recent shareholder list of the issuer;

(B) By contacting each participant named on the most recent security position listing of any clearing agency within the possession or access of the issuer or affiliate making the tender offer, and making inquiry of each such participant as to the approximate number of beneficial owners of the securities for which the issuer tender offer is made which are held by such participant;

(C) By furnishing to each such participant a sufficient number of copies of the statement required by paragraph (d)(1) of this section for transmittal to the beneficial owners; and

(D) By agreeing to reimburse promptly each such participant for reasonable expenses incurred by it in forwarding such statement to the beneficial owners.

(iii) *Dissemination of certain cash issuer tender offers by summary publication:* (A) If the issuer tender offer is not subject to Rule 13e-3 (§ 240.13e-3), by making adequate publication in a newspaper or newspapers, on the date of commencement of the issuer tender offer, of a summary advertisement containing the information required by paragraph (d)(3) of this section; and

(B) By mailing or otherwise furnishing promptly the statement required by paragraph (d)(1) of this section and a transmittal letter to any security holder who requests either a copy of such statement or a transmittal letter.

(2) If a material change occurs in the information published, sent or given to security holders, the issuer or affiliate shall disseminate promptly disclosure of such change in a manner reasonably calculated to inform security holder of such change.

(f) *Manner of making tender offer.* (1) The issuer tender offer, unless withdrawn, shall remain open until the expiration of at least fifteen business days from its commencement.

(2) The issuer or affiliate making the issuer tender offer shall permit

securities tendered pursuant to the issuer tender offer to be withdrawn.

(i) At any time until the expiration of ten business days from the commencement of the issuer tender offer;

(ii) If not yet accepted for payment, at any time until the expiration of seven business days from the date another tender offer for securities of the same class is first published, sent or given to security holders, pursuant to Section 14(d)(1) of the Act or otherwise; and

(iii) If not yet accepted for payment, after the expiration of forty business days from the commencement of the issuer tender offer.

(3) The issuer or affiliate making the issuer tender offer shall accept tendered securities as nearly as practicable on a pro rata basis (disregarding fractions) according to the amount of securities tendered by each security holder if the amount of securities tendered within ten business days (or such longer period as may be specified) from the commencement of the issuer tender offer exceeds the amount of securities that will be accepted. The provisions of this paragraph shall also apply to securities tendered within ten business days (or such longer period as may be specified) from the date notice of an increase in the consideration offered to security holders, as described in paragraph (f)(4) of this section, is first published, sent or given to security holders; *Provided, however,* That this provision shall not prohibit the issuer or affiliate making the issuer tender offer from

(i) Accepting all securities tendered by persons who own, beneficially or of record, an aggregate of not more than a specified number which is less than one hundred shares of such security and who tender all their securities, before pro rating securities tendered by others, or, in the case of a tender offer limited to such persons, accepting tendered securities by lot; or

(ii) Accepting by lot securities tendered by security holders who tender all securities held by them and who, when tendering their securities, elect to have either all or none or at least a minimum amount or none accepted, if the issuer or affiliate first accepts all securities tendered by security holders who do not so elect;

(4) In the event the issuer or affiliate making the issuer tender increases the consideration offered after the issuer tender offer has commenced, such issuer or affiliate shall pay such increased consideration to all security holders whose tendered securities are accepted for payment by such issuer or affiliate.

(5) The issuer or affiliate making the tender offer shall either pay the

consideration offered, or return the tendered securities, promptly after the termination or withdrawal of the tender offer.

(6) Until the expiration of at least ten business days after the date of termination of the issuer tender offer, neither the issuer nor any affiliate shall make any purchases, otherwise than pursuant to the tender offer, of:

(i) Any security which is the subject of the issuer tender offer, or any security of the same class and series, or any right to purchase any such securities; and

(ii) In the case of an issuer tender offer which is an exchange offer, any security being offered pursuant to such exchange offer, or any security of the same class and series, or any right to purchase any such security.

(g) This section shall not apply to: (1) Calls or redemptions of any security in accordance with the terms and conditions of its governing instruments;

(2) Offers to purchase securities evidenced by a scrip certificate, order form or similar document which represents a fractional interest in a share of stock or similar security;

(3) Offers to purchase securities pursuant to a statutory procedure for the purchase of dissenting security holders' securities;

(4) Any tender offer which is subject to section 14(d) of the Act; or

(5) Any other transaction or transactions, if the Commission, upon written request or upon its own motion, exempts such transaction or transactions, either unconditionally, or on specified terms and conditions, as not constituting a fraudulent, deceptive or manipulative act or practice comprehended within the purpose of this section.

§ 240.13e-101 Schedule 13E-4. Tender offer statement pursuant to section 13(e)(1) of the Securities Exchange Act of 1934 and § 240.13e-4 thereunder.

Securities and Exchange Commission

Washington, D.C.

Issuer Tender Offer Statement

Pursuant to Section 13(e)(1) of the Securities Exchange Act of 1934

(Amendment No. _____)

Name of Issuer _____

Name of person(s) filing statement _____

Title of class of securities _____

CUSIP number of class of securities _____

Name, address and telephone number of person authorized to receive notices and communications on behalf of the person(s) filing statement _____

Date tender offer first published, sent or given to security holders _____

Instruction. Ten copies of this statement, including all exhibits, shall be filed with the Commission.

General Instructions. A. The item numbers and captions of the items shall be included but the text of the items is to be omitted. The answers to the items shall be so prepared as to indicate clearly the coverage of the items without referring to the text of the items. Answer every item. If an item is inapplicable or the answer is in the negative, so state.

B. Information contained in exhibits to the statement or in a filing by the issuer may be incorporated by reference in answer or partial answer to any item or subitem of the statement unless it would render such answer incomplete, unclear or confusing. Matter incorporated by reference shall be clearly identified in the reference by page, paragraph, caption or otherwise. An express statement that the specified matter is incorporated by reference shall be made at the particular place in the statement where the information is required. A copy of any information or a copy of the pertinent pages of a document containing such information which is incorporated by reference shall be submitted with this statement as an exhibit and shall be deemed to be filed with the Commission for all purposes of the Act.

C. If the statement is filed by general or limited partnership, syndicate or other group, the information called for by Items 2-5, inclusive, shall be given with respect to (i) each partner of such general partnership; (ii) each partner who is designated as a general partner or who functions as a general partner of such limited partnership; (iii) each member of such syndicate or group; and (iv) each person controlling such partner or member. If the statement is filed by a corporation, or if a person referred to in (i), (ii), (iii) or (iv) of this instruction is a corporation, the information called for by Items 2-5, inclusive, shall be given with respect to (a) each executive officer and director of such corporation; (b) each person controlling such corporation; and (c) each executive officer and director of any corporation ultimately in control of such corporation.

D. Upon termination of the tender offer, the person filing this statement shall promptly, but in no event later than ten business days after termination of the tender offer, file a final amendment to Schedule 13E-4 (§ 240.13E-100) disclosing all material changes in the information set forth in such statement and stating that the tender offer has terminated, the date of such termination and the results of such tender offer.

E. Amendments disclosing a material change in the information set forth in this statement may omit information previously disclosed in this statement.

Item 1. *Security and Issuer.* (a) State the name of the issuer and the address of its principal executive office;

(b) State the exact title and the amount of securities outstanding of the class of security being sought as of the most recent practicable date; the exact amount of such securities being sought and the consideration being offered therefor; whether any such securities are to be purchased from any officer, director or affiliate of the issuer, and the details of each such transaction; and

(c) Identify the principal market in which such securities are being traded and, if the

principal market is an exchange, state the high and low sales prices for such securities as reported in the consolidated transaction reporting system or, if not so reported, on such principal exchange for each quarterly period during the past two years. If the principal market is not an exchange, state the range of high and low bid quotations for each quarterly period during the past two years, the source of such quotations, and if there is currently no established trading market for such securities (excluding limited or sporadic) furnish a statement to that effect.

(d) State the name and address of the person filing this statement, if other than the issuer, and the nature of the affiliation between such person and the issuer.

Item 2. *Source and Amount of Funds or Other Consideration.* (a) State the source and total amount of funds or other consideration for the purchase of the maximum amount of securities for which the tender offer is being made.

(b) If all or any part of such funds or other consideration is, or is expected to be borrowed, directly or indirectly, for the purpose of the tender offer:

(1) Provide a summary of each such loan agreement or arrangement containing the identity of the parties, the term, the collateral, the stated and effective interest rates, and other material terms or conditions relative to such loan agreement; and

(2) Briefly describe any plans or arrangements to finance or repay such borrowings, or if no such plans or arrangements have been made, make a statement to that effect.

Item 3. *Purpose of the Tender Offer and Plans or Proposals of the Issuer or Affiliate.* State the purpose or purposes of the tender offer, and whether the securities are to be retired, held in the treasury of the issuer, or otherwise disposed of, indicating such disposition, and any plans or proposals which relate to or would result in:

(a) The acquisition by any person of additional securities of the issuer, or the disposition of securities of the issuer;

(b) An extraordinary corporate transaction, such as a merger, reorganization or liquidation, involving the issuer or any of its subsidiaries;

(c) A sale or transfer of a material amount of assets of the issuer or any of its subsidiaries;

(d) Any change in the present board of directors or management of the issuer including, but not limited to, any plans or proposals to change the number or the term of directors, to fill any existing vacancy on the board or to change any material term of the employment contract of any executive officer;

(e) Any material change in the present dividend rate or policy, or indebtedness or capitalization of the issuer;

(f) Any other material change in the issuer's corporate structure or business, including if the issuer is a registered closed-end investment company, any plans or proposals to make any changes in its investment policy for which a vote would be required by Section 13 of the Investment Company Act of 1940;

(g) Changes in the issuer's charter, bylaws or instruments corresponding thereto or other

actions which may impede the acquisition of control of the issuer by any person;

(h) Causing a class of equity security of the issuer to be delisted from a national securities exchange or to cease to be authorized to be quoted in an inter-dealer quotation system of a registered national securities association;

(i) A class of equity security of the issuer becoming eligible for termination of registration pursuant to Section 12(g)(4) of the Act; or

(j) The suspension of the issuer's obligation to file reports pursuant to Section 15(d) of the Act.

Item 4. *Interest in Securities of the Issuer.* Describe any transaction in the class of subject security that was effected during the past 40 business days by the issuer or the person filing this statement, by any person referred to in Instruction C of this schedule or by any associate or subsidiary of any such person, including any executive officer or director of any such subsidiary.

Instructions. 1. The description of a transaction required by this Item shall include, but not necessarily be limited to: (1) the identity of the person covered by this Item who effected the transaction; (2) the date of the transaction; (3) the amount of securities involved; (4) the price per security; and (5) where and how the transaction was effected.

2. If the information required by this Item is available to the person filing this statement at the time this statement is initially filed with the Commission, the information should be included in the initial filing. However, if the information is not available to such person at the time of such initial filing, it shall be filed with the Commission promptly but in no event later than ten business days after such date of the filing and, if material, should be disclosed to security holders of the issuer in a manner reasonably calculated to inform security holders.

Item 5. *Contracts, Arrangements, Understandings or Relationships With Respect to the Issuer's Securities.* Describe any contract, arrangement, understanding or relationship relating, directly or indirectly, to the tender offer (whether or not legally enforceable) between the person filing this statement (including any person enumerated in Instruction C of this schedule) and any person with respect to any securities of the issuer (including, but not limited to, any contract, arrangement, understanding or relationship concerning the transfer or the voting of any such securities, joint ventures, loan or option arrangements, puts or calls, guarantees of loans, guarantees against loss, or the giving or withholding of proxies, consents or authorizations) naming the persons with whom such contracts, arrangements, understandings or relationships have been entered into and giving the material provisions thereof, include such information for any of such securities that are pledged or otherwise subject to a contingency, the occurrence of which would give another person the power to direct the voting or disposition of such securities, except that disclosure of standard default and similar provisions contained in loan agreements need not be included.

Item 6. *Persons Retained, Employed or to be Compensated.* Identify all persons and classes of persons employed, retained or to be compensated by the person filing this statement, or by any person on behalf of the person filing this statement, to make solicitations or recommendations in connection with the tender offer, and provide a summary of the material terms of such employment, retainer or arrangement for compensation.

Item 7. *Financial Information.* (a) If material, furnish the following financial data of the issuer:

(1) Audited financial statements for the two fiscal years required to be filed with the issuer's most recent annual report under Sections 13 and 15(d) of the Act;

(2) Unaudited balance sheets and comparative year-to-date income statements and statements of changes in financial position and related earnings per share amounts required to be included in the issuer's most recent quarterly report filed pursuant to the Act;

(3) Ratio of earnings to fixed charges for the two most recent fiscal years and the interim periods provided under Item 7(a)(2); and

(4) Book value per share as of the most recent fiscal year end and as of the date of the latest interim balance sheet provided under Item 7(a)(2).

(b) If material, provide pro forma data disclosing the effect of the tender offer on:

(1) The issuer's balance sheet as of the most recent fiscal year end and the latest interim balance sheet provided under Item 7(a)(2);

(2) The issuer's statement of income, earnings per share amounts, and ratio of earnings to fixed charges for the most recent fiscal year and the latest interim period provided under Item 7(a)(2); and

(3) The issuer's book value per share as of the most recent fiscal year end and as of the latest interim balance sheet date provided under Item 7(a)(2).

Item 8. *Additional information.* If material to a decision by a security holder whether to sell, tender or hold securities being sought in the tender offer, furnish information including, but not limited to, the following:

(a) Any present or proposed contracts, arrangements, understandings or relationships between the issuer and its executive officers, directors or affiliates (other than any contract, arrangement or understanding required to be disclosed pursuant to Item 5 of this schedule);

(b) Any applicable regulatory requirements which must be complied with or approvals which must be obtained in connection with the tender offer;

(c) The applicability of the margin requirements of Section 7 of the Act and the regulations promulgated thereunder;

(d) Any material pending legal proceedings relating to the tender offer, including the name and location of the court or agency in which the proceedings are pending, the date instituted, the principal parties thereto and a brief summary of the proceedings and the relief sought; and

Instruction. In connection with sub-item (d), a copy of any document relating to a

major development (such as pleadings, an answer, complaint, temporary restraining order, injunction, opinion, judgment or order) in a material pending legal proceeding should be furnished promptly to the Commission on a supplemental basis.

(e) Such additional material information, if any, as may be necessary to make the required statements, in light of the circumstances under which they are made, not materially misleading.

Item 9. *Material to be filed as exhibits.* Furnish a copy of:

(a) Tender offer material which is published, sent or given to security holders by or on behalf of the person filing this statement in connection with the tender offer;

(b) Any loan agreement referred to in Item 2 of this schedule;

(c) Any document setting forth the terms of any contract, arrangements, understandings or relationships referred to in Items 5 or 8(a) of this Schedule;

(d) Any written opinion prepared by legal counsel at the request of the person filing this statement and communicated to such person pertaining to the tax consequences of the tender offer;

(e) In the exchange offer where securities of the issuer have been or are to be registered under the Securities Act of 1933, any prospectus filed with the Commission in connection with the registration statement; and

(f) If any oral solicitation of security holders is to be made by or on behalf of the person filing this statement, any written instruction, form or other material which is furnished to the persons making the actual oral solicitation for their use, directly or indirectly, in connection with the tender offer.

Signature

After due inquiry and to the best of my knowledge and belief, I certify that the information set forth in this statement is true, complete and correct.

Date _____

Signature _____

Name and title _____

The original statement shall be signed by each person on whose behalf the statement is filed or his authorized representative. If the statement is signed on behalf of a person by his authorized representative (other than an executive officer or general partner of the person filing this statement) evidence of the representative's authority to sign on behalf of such person shall be filed with the statement. The name and any title of each person who signs the statement shall be typed or printed beneath his signature.

Authority

The Commission hereby adopts Rule 13e-4 and Schedule 13E-4 pursuant to Sections 3(b), 9(a)(8), 10(b), 13(e), 14(e), 15(c)(1) and 23(a) of the Securities Exchange Act of 1934.

(Secs. 3(b), 9(a)(8), 10(b), 13(e), 14(e), 15(c)(1), 23(a), 48 Stat. 882, 889, 891, 894, 895, 901, Sec. 8, 49 Stat. 1379, Sec. 5, 78 Stat. 569, 570, Secs. 2, 3, 82 Stat. 454, 455, Secs. 1, 2, 3-5, 84 Stat. 1497, Secs. 3, 18, 89 Stat. 97, 155 (15 U.S.C. 78c(b), 78i(a), 78j(b), 78m(e), 78n(e), 78o(c), 78w(a)))

By the Commission,
George A. Fitzsimmons,
Secretary.

August 16, 1979.

[FR Doc. 79-25974 Filed 8-21-79; 8:45 am]

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Reader Aids

Federal Register

Vol. 44, No. 164

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY*	USDA/ASCS		DOT/SECRETARY*	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/FHWA	USDA/FSQS		DOT/FHWA	USDA/FSQS
DOT/FRA	USDA/REA		DOT/FRA	USDA/REA
DOT/NHTSA	MSPB/OPM		DOT/NHTSA	MSPB/OPM
DOT/RSPA	LABOR		DOT/RSPA	LABOR
DOT/SLS	HEW/FDA		DOT/SLS	HEW/FDA
DOT/UMTA			DOT/UMTA	
CSA			CSA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

*NOTE: As of July 2, 1979, all agencies in the Department of Transportation, will publish on the Monday/Thursday schedule.

REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.

Rules Going Into Effect Today

	FEDERAL COMMUNICATIONS COMMISSION
42694	7-20-79 / Cleveland, Clinton, LaFollette, Oneida and Sweetwater, Tenn.: changes in FM table of assignments
42692	7-20-79 / Clinton, La.: changes in FM table of assignments
42691	7-20-79 / Reform, Ala.: changes in FM table of assignments
42693	7-20-79 / St. Louis, Mo.: changes in television table of assignments
42693	7-20-79 / Warm Springs, Ga.: changes in television table of assignments

Next Week's Deadlines for Comments On Proposed Rules

	AGRICULTURE DEPARTMENT
	Agricultural Marketing Service—
47774	8-15-79 / Milk in the Southern Michigan marketing area: proposed suspension of certain provisions of the order; comments by 8-30-79
	Commodity Credit Corporation—
44543	7-30-79 / Tobacco Loan Program: Proposed 1979 Crop Grade Loan Rates—Fire-Cured (Type 21); comments by 8-29-79
	Food and Nutrition Service—
44857	7-31-79 / Child care food program: comments extended to 9-1-79. [Originally published at 44 FR 39076, July 3, 1979]
	Food Safety and Quality Service—
37954	6-29-79 / Federal meat inspection and humane slaughter; comments by 8-28-79
	Rural Electrification Administration—
37233	6-26-79 / Revision of telephone carrier system specification; comments by 8-27-79

CIVIL AERONAUTICS BOARD

44549	7-30-79 / Statutory notice requirements for tariff filings and considering requests to file tariffs on less than statutory notice; comments by 8-29-79
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COMMERCE DEPARTMENT

	National Oceanic and Atmospheric Administration—
37252	6-26-79 / Atlantic squid fishery provisions; comments by 8-27-79
42738	7-20-79 / Gulf of Alaska; fishery management plan; comments by 8-31-79

COST ACCOUNTING STANDARDS BOARD

31655	6-1-79 / Contract coverage and disclosure statement; comments by 8-31-79
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DEFENSE DEPARTMENT

	Air Force Department—
44118	7-26-79 / Environmental Impact Analysis Process; comments by 8-27-79
45193	8-1-79 / Fraud and violations of public trust in contract, acquisition, and other matters; comments by 8-31-79
	Office of the Secretary—
40221	7-9-79 / Industrial fund billings to non-DoD federal agencies; comments by 9-1-79

ENERGY DEPARTMENT

	Economic Regulatory Administration—
43761	7-26-79 / Analysis of refiners, No. 2 distillate costs and revenues; comments by 8-31-79
42545	7-19-79 / Motor gasoline allocation level provisions; amendments; comments by 8-31-79
45375	8-2-79 / Motor gasoline allocation level provisions; comments by 8-31-79
	Federal Energy Regulatory Commission—
40898	7-13-79 / Incremental pricing: State-wide exemptions; comments by 9-1-79
47348	8-13-79 / Inquiry on fees applicable to natural gas pipeline construction; comments by 8-31-79
	Office of the Secretary—
41206	7-18-79 / Residential conservation service program; comments by 8-30-79

- ENVIRONMENTAL PROTECTION AGENCY**
- 45194 8-1-79 / Air pollution; state implementation plans; Georgia; comments by 8-31-79
- 45210 8-1-79 / Air pollution; state implementation plans; Maine; comments by 8-31-79
- 45194 8-1-79 / Air pollution; state implementation plans; Maryland; comments by 8-31-79
- 38581 7-2-79 / Air pollution; state implementation plans; Minnesota; comments by 8-31-79
- 43756 7-26-79 / Air pollution; state implementation plans; Oregon; comments by 8-27-79
- 45204 8-1-79 / Air pollution; state implementation plans; Texas; comments by 8-30-79
- 44564 7-30-79 / Air pollution; state implementation plans; Virginia; comments by 8-29-79
- 37515 6-27-79 / Air quality control regions; attainment of status designation; Fla., Ky., and Tenn.; comments by 8-27-79
- 38587 7-2-79 / Approval and promulgation of nonattainment plan for Illinois; comments by 8-31-79
- 38585 7-2-79 / Commonwealth of Pennsylvania; Section 107 attainment status designations; comments by 8-31-79
- 37632 6-28-79 / Fossil-fuel-fired industrial steam generators; standards of performance; comments by 8-27-79
- 44572 7-30-79 / Proposed disapproval of an administrative order issued by the Pennsylvania Department of Environmental Resources to the Bethlehem Steel Corp.; comments by 8-29-79
- FEDERAL COMMUNICATIONS COMMISSION**
- 44184 7-27-79 / Domestic public message services by entities other than Western Union; regulatory policies; comments by 8-27-79
- 34980 6-18-79 / FM broadcast stations; table of assignments in Moriah, N.Y.; reply comments by 8-27-79
- 34981 6-18-79 / FM broadcast stations; table of assignments; Murfreesboro, Ark.; reply comments by 8-27-79
- 42734 7-20-79 / FM broadcast stations; table of assignments; North Platte, Nebr.; reply comments by 8-29-79
- 34979 6-18-79 / FM broadcast stations; table of assignments; St. Simon's Island, Ga.; reply comments by 8-27-79
- 3661 Inquiry into television receiver performance standards; reply comments by 9-1-79
- 24004 4-23-79 / Simplification of rules for recreational boaters; reply comments by 8-27-79
- 32420 6-6-79 / Type acceptance for transmitting equipment used in branch A, B and D and standards to govern radiation characteristics on antennas; reply comments by 8-31-79
- FEDERAL HOME LOAN BANK BOARD**
- 45175 8-1-79 / General regulations; provisions on supervisory authority; comments by 8-31-79
- HEALTH, EDUCATION, AND WELFARE DEPARTMENT**
- Education Office—
- 38416 6-29-79 / Bilingual education; comments by 8-28-79
- 38366 6-29-79 / Community Schools and Comprehensive Community Education Act; comments by 8-28-79
- 38364 6-29-79 / Emergency School Aid; comments by 8-28-79
- 38154 6-29-79 / Indian Education Act; comments by 8-29-79
- 38142 6-29-79 / Law-Related Education Program; comments by 8-28-79
- 38184 6-29-79 / School assistance in areas affected by Federal activity and cases of certain disasters; comments by 8-28-79

- 37234 6-26-79 / Requirements for designating the manufacturer's name on a drug or drug product label; comments period reopened thru 8-27-79 [Originally published at 43 FR 45614, Oct. 3, 1978]
- SOCIAL SECURITY ADMINISTRATION**
- 31669 6-1-79 / Freedom of Information; comments by 8-31-79
- HOUSING AND URBAN DEVELOPMENT DEPARTMENT**
- Community Planning and Development, Office of Assistant Secretary
- 45110 7-31-79 / Community development block grants, program requirements for administration of block grant funds by subrecipients and program requirements for disposition of real property under the block grant program; comments by 9-1-79
- 37826 Federal Housing Commissioner—Assistant Secretary for Housing—
- 6-28-79 / Tax exemption of obligations of public housing agencies and related amendments; comments by 8-27-79
- INTERIOR DEPARTMENT**
- Surface-Mining Reclamation and Enforcement Office
- 38318 6-29-79 / Training programs for blasters and blasting crew members and certification program; comments by 8-28-79
- INTERSTATE COMMERCE COMMISSION**
- 38918 7-3-79 / Household goods; transportation in interstate or foreign commerce; comments period extended from 7-18-79 to 8-27-79 [Originally published at 44 FR 34994, June 18, 1979]
- JUSTICE DEPARTMENT**
- 43751 7-26-79 / Procedures for implementing the National Environmental Policy Act; comments by 8-27-79
- MARINE MAMMAL COMMISSION**
- 44916 7-31-79 / Procedures supplementing the National Environmental Policy Act regulations; comments by 8-30-79
- NATIONAL AERONAUTICS AND SPACE ADMINISTRATION**
- 37511 6-27-79 / Delta launch vehicle class; transition to the space transportation system; comments by 8-27-79
- NATIONAL CREDIT UNION ADMINISTRATION**
- 44545 7-30-79 / Corporate Central Federal Credit Union; comments by 8-29-79
- NUCLEAR REGULATORY COMMISSION**
- 41483 7-17-79 / Adequacy and acceptance of emergency planning around nuclear facilities; comments by 8-31-79
- 38533 7-2-79 / Access to and protection of National Security Information and restricted data; comments by 8-31-79
- 41468 7-17-79 / Safeguards on nuclear material; implementation of US/IAEA agreement; comments by 8-31-79
- PERSONNEL MANAGEMENT OFFICE**
- 37888 6-29-79 / Retirement; Federal Employees Group Life Insurance; Federal Employees Health Benefits Program; Retired Federal Employees Health Benefits Program; Reconsideration Procedures; comments by 8-28-79
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- 49488 **Minority Businesses** Commerce/MBEO solicits applications for two grant projects
- 49451 **Income Tax** Treasury/IRS issues rules concerning reporting requirements for income tax return preparers
- 49446 **Income Tax** Treasury/IRS issues rule concerning depreciation of property attributable to rehabilitation expenditures incurred with respect to low-income rental housing
- 49445 **Income Tax** Treasury/IRS issues rules concerning distribution of electing small business corporations
- 49479 **Improving Government Regulations** CSA publishes supplement to semi-annual agenda
- 49490 **Oil** DOE/ERA solicits comments by 9-12-79 concerning the deregulation of heavy crude oil pursuant to E.O. No. 12153; hearing, 9-6 and 9-7-79
- 49538 **Railroad Retirement Supplemental Annuity Program** RRB makes determination of quarterly rate of excise tax

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- 49550 Certain Valves and Parts From Japan** Treasury/Customs makes preliminary countervailing duty determination; effective 8-23-79
- 49549 Certain Scales and Weighing Machinery From Japan** Treasury/Customs issues preliminary countervailing duty determination; effective 8-23-79
- 49431 Credit Unions** NCUA issues rules to establish membership requirements, lending policies and procedures of the National Credit Union Administration Central Liquidity Facility; effective 8-23-79
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- 49453 Federal Property Management** GSA establishes procedures regarding the protection of employees and property; effective 8-23-79
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- 49478 Book-Entry Treasury Bills** Treasury/FS proposes to amend rules; comments by 10-19-79
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Federal Register

Vol. 44, No. 165

Thursday, August 23, 1979

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 908

[Valencia Orange Reg. 626 and Valencia Orange Reg. 625, Amdt. 1]

Valencia Oranges Grown in Arizona and Designated Part of California; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action establishes the quantity of fresh California-Arizona Valencia oranges that may be shipped to market during the period August 24-30, 1979, and increases the quantity of such oranges that may be so shipped during the period August 17-23, 1979. Such action is needed to provide for orderly marketing of fresh Valencia oranges for the periods specified due to the marketing situation confronting the orange industry.

DATES: The regulation becomes effective August 24, 1979, and the amendment is effective for the period August 17-23, 1979.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, 202-447-5975.

SUPPLEMENTARY INFORMATION: *Findings.* This regulation and amendment are issued under the marketing agreement, as amended, and Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The action is based upon the recommendations and information submitted by the Valencia Orange Administrative Committee and upon other available information. It is

hereby found that the action will tend to effectuate the declared policy of the act by tending to establish and maintain, in the interests of producers and consumers, an orderly flow of oranges to market and avoid unreasonable fluctuations in supplies and prices. The action is not for the purpose of maintaining prices to farmers above the level which is declared to be the policy of Congress under the act.

The committee met on August 21, 1979, to consider supply and market conditions and other factors affecting the need for regulation, and recommended quantities of Valencia oranges deemed advisable to be handled during the specified weeks. The committee reports the demand for Valencia oranges has shown some slight improvement.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the Federal Register (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation and amendment are based and the effective date necessary to effectuate the declared policy of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting, and the amendment relieves restrictions on the handling of Valencia oranges. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

Further, the emergency nature of this regulation warrants publication without opportunity for further public comment, in accord with emergency procedures in Executive Order 12044. The regulation has not been classified significant under USDA criteria for implementing the Executive Order. An impact analysis is available from Malvin E. McGaha, (202) 447-5975.

1. § 908.926 Valencia Orange Regulation 626.

Order. (a) The quantities of Valencia oranges grown in Arizona and California which may be handled during the period August 24, 1979, through August 30, 1979, are established as follows:

(1) District 1: 297,000 cartons;
(2) District 2: 253,000 cartons;
(3) District 3: Unlimited.
(b) As used in this section, "handled", "District 1", "District 2", "District 3", and "carton" mean the same as defined in the marketing order.

2. Paragraph (a)(1) and (2) in § 908.925 Valencia Orange Regulation 625 (44 FR 47917), is hereby amended to read:

(1) District 1: 292,000 cartons;
(2) District 2: 258,000 cartons.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: August 22, 1979

D. S. Kuryloski,

Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 79-28505 Filed 8-22-79; 11:09 am]

BILLING CODE 3410-02-M

7 CFR Part 924

Fresh Prunes Grown in Designated Counties in Washington and in Umatilla County, Oregon; Issuance of Rules and Regulations

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule exempts designated handlers from inspection and certification requirements of this order under a waiver of inspection procedure. This is designed to provide for orderly marketing in the interests of producers and consumers.

EFFECTIVE DATE: August 20, 1979.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, (202) 447-5975.

SUPPLEMENTARY INFORMATION: On July 29, 1979, notice of proposed rulemaking was published in the Federal Register (44 FR 43286), regarding a proposed waiver of inspection rule to be made effective under the marketing agreement, as amended, and Order No. 924, as amended (7 CFR Part 924), regulating the handling of prunes grown in designated counties in Washington and in Umatilla County, Oregon. This notice allowed interested persons until August 8, 1979, to file written comments pertaining to this proposed rule. None was submitted. The rule was recommended by the Washington-Oregon Fresh Prune Marketing Committee established pursuant to the said marketing agreement and order.

This program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674).

The recommendations of the Washington-Oregon Fresh Prune Marketing Committee reflect its appraisal of the need to grant certain handlers waivers of inspection and certification. Some handlers are located in areas remote from inspection offices. They would be eligible for a waiver if an inspector is not readily available. Fresh prunes are perishable, with the waiver needed to facilitate prompt marketing.

After consideration of all relevant matters presented, including the proposal set forth in the aforesaid notice, the recommendation and information submitted by the Washington-Oregon Fresh Prune Marketing Committee, and other available information, it is hereby found and determined that the rule, as hereinafter set forth, is in accordance with the provisions of the said amended marketing agreement and order and will tend to effectuate the declared policy of the act.

It is hereby further found that good cause exists for not postponing the effective date of this rule until 30 days after publication in the *Federal Register* (5 U.S.C. 553) in that (1) notice of proposed rulemaking concerning this rule was published in the *Federal Register* (44 FR 43286), and no objection to this rule was received; and (2) compliance with the rule will not require any special preparation on the part of the person subject thereto which cannot be completed by the effective time hereof.

This final rule has been reviewed under the USDA criteria established to implement Executive Order 12044. A determination has been made that this action should not be classified "significant". An Impact Statement has been prepared and is available from Malvin E. McGaha, (202) 447-5975.

Accordingly, a new § 924.110 is added to read as follows:

§ 924.110 Waiver of Inspection and Certification.

(a) *Application.* Any handler (including a grower-handler packing and handling prunes of such handler's own production), whose packing facilities are located in an area where either a Washington State Plant Industry Division Inspection Office or Oregon State Plant Industry Inspection Office or Federal-State Inspector is not readily available to perform the required inspection may, prior to shipment, apply to the Committee for a permit authorizing a waiver of inspection. Applications shall be made on forms

furnished by the Committee and shall contain such information as the Committee may require including: Name and address of applicant, location of packing facility, distance of packing facility from the nearest inspection office, period (approximate beginning and ending dates) during which the applicant expects to ship to fresh market during the period, manner in which the majority of applicant's fruit will be marketed (i.e., transported by applicant to market, sold at orchard to truckers, etc.), areas or markets to which the applicant expects to ship the majority of the prunes. The application shall also contain an agreement by applicant

(1) not to ship or handle any prunes unless such prunes meet the grade, size, maturity, container, and all other requirements of the marketing agreement and order in effect at time of handling;

(2) to report periodically to the Committee on reporting forms furnished by the Committee, the following information on each shipment: quantity, variety, grade, minimum size, container, date of shipment, destination, name and address of buyer or receiver, and such other information as the Committee may specify;

(3) to pay applicable assessments on each shipment;

(4) to have or cause to have each shipment of prunes inspected when such shipment is transported to a market or through a location enroute to market where an inspector is available; and

(5) to comply with such other safeguards as the Committee may prescribe.

(b) *Issuance of Permit.* Whenever the Committee finds and determines from the information contained in the application or from other proof satisfactory to the Committee that the applicant is entitled to a waiver from the inspection requirements of the marketing agreement and order at time of shipment, the Committee shall issue a permit authorizing the applicant to ship prunes in accordance with these administrative regulations and the terms and conditions of such permit.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: August 20, 1979.

D. S. Kuryloski,

Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 79-26229 Filed 8-22-79; 8:45 am]

BILLING CODE 3410-02-M

7 CFR Part 1099

[Milk Order No. 99; Docket No. AO-183-A36]

Milk in the Paducah, Ky., Marketing Area; Order Amending Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action amends the present order provisions based on proposals considered at a public hearing held June 22, 1979. The amended order will allow more milk to move directly from farms to manufacturing plants when not needed for fluid milk (bottling) uses. These changes are needed to reflect current marketing conditions and to permit added efficiencies in disposing of the market's reserve milk supplies.

EFFECTIVE DATE: September 1, 1979.

FOR FURTHER INFORMATION CONTACT: Richard A. Glandt, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, DC 20250, 202-447-4829.

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding:

Notice of Hearing—Issued June 4, 1979; published June 7, 1979 (44 FR 32708).

Recommended Decision—Issued July 20, 1979; published July 25, 1979 (44 FR 43477).

Final Decision—Issued August 14, 1979; published August 20, 1979.

Findings and Determinations

The findings and determinations hereinafter set forth supplement those that were made when the order was first issued and when it was amended. The previous findings and determinations are hereby ratified and confirmed, except where they may conflict with those set forth below.

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Paducah/Kentucky, marketing area.

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions

thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said order as hereby amended, regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

(b) *Additional findings.* It is necessary in the public interest to make this order amending the order effective not later than September 1, 1979. Any delay beyond that date would tend to disrupt the orderly marketing of milk in the marketing area.

The provisions of this order are known to handlers. The recommended decision of the Acting Deputy Administrator, Marketing Program Operations, was issued July 20, 1979, and the decision of the Assistant Secretary containing all amendment provisions of this order was issued August 14, 1979. The changes affected by this order will not require extensive preparation or substantial alteration in method of operation for handlers. In view of the foregoing, it is hereby found and determined that good cause exists for making this order amending the order effective September 1, 1979, and that it would be contrary to the public interest to delay the effective date of this amendment for 30 days after its publication in the *Federal Register*. (Sec. 553(d), Administrative Procedure Act, 5 U.S.C. 551-559.)

(c) *Determinations.* It is hereby determined that:

(1) The refusal or failure of handlers (excluding cooperative associations specified in Sec. 8c(9) of the Act) of more than 50 percent of the milk, which is marketed within the marketing area, to sign a proposed marketing agreement, tends to prevent the effectuation of the declared policy of the Act;

(2) The issuance of this order, amending the order, is the only practical means pursuant to the declared policy of the Act of advancing the interests of producers as defined in the order as hereby amended; and

(3) The issuance of the order amending the order is approved or favored by at least two-thirds of the producers who during the determined representative period were engaged in the production of milk for sale in the marketing area.

Order Relative to Handling

It is therefore ordered, That on and after the effective date hereof, the handling of milk in the Paducah, Kentucky, marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as amended, and as hereby further amended, as follows:

1. In § 1099.13, paragraphs (c)(2) and (c)(3) are revised to read as follows:

§ 1099.13 Producer milk.

(c) * * *

(2) If diverted by a cooperative association for its account as milk of its members to nonpool plants which does not exceed 33 percent of the milk physically received from member producers of such cooperative association at pool plants during the month in any of the months of April through August and December and 25 percent in other months, except that if milk of members is diverted by the cooperative association in excess of the specified percentages, no milk diverted by the cooperative association during the month shall be producer milk unless the cooperative association designates the dairy farmers whose milk is not producer milk;

(3) If diverted by a handler in his capacity as the operator of a pool plant, as milk of a producer who is not a member of a cooperative association diverting milk pursuant to paragraph (c)(2) of this section, which does not exceed 33 percent of the aggregate quantity of milk received at such plant from such nonmember producers during the month in any of the months of April through August and December and 25 percent in other months, except that if milk of nonmember producers is diverted by the handler in excess of the specified percentages, no milk diverted by the handler during the month shall be producer milk unless the handler designates the dairy farmers whose milk is not producer milk; and

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Effective date: September 1, 1979.

Signed at Washington, D.C., on: August 20, 1979.

P. R. "Bobby" Smith,
Assistant Secretary for Marketing and Transportation Services.

[FR Doc. 79-26227 Filed 8-22-79; 8:45 am]

BILLING CODE 3410-02-M

Commodity Credit Corporation

7 CFR 1435

Price Support for 1979 Crop Sugarbeets and Sugarcane

Correction

In FR Doc. 79-23721, published at page 45596, on Friday, August 3, 1979, the following correction should be made:

On page 45596, in the first column, "EFFECTIVE DATE: August 31, 1979," should be corrected to read "EFFECTIVE DATE: August 3, 1979."

BILLING CODE 1505-01-M

7 CFR Part 1491

Intermediate Credit Export Sales Program for Breeding Animals; Financing Export Sales of Breeding Animals (GSM-201)

AGENCY: Commodity Credit Corporation, Department of Agriculture.

ACTION: Final rule.

SUMMARY: This rule sets forth the terms and conditions of Commodity Credit Corporation (CCC) Intermediate Credit Export Sales Program (GSM-201) to finance export sales of breeding animals, including the cost of freight, from the United States to importing countries.

The rule authorizes CCC to enter into financing agreements with U.S. exporters of breeding animals who sell on credit terms for periods in excess of three years but not more than ten years. More specifically, CCC will purchase the U.S. exporter's account receivable, after the breeding animals have been delivered and an irrevocable letter of credit has been established in favor of CCC by the foreign buyer, for the export value of the animals to be financed.

The rule is intended to develop, expand or maintain the importing country as a foreign market, on a long term basis, for the commercial sale and export of U.S. agricultural commodities without displacing normal U.S. commercial sales or to improve the capability of the importing nation to purchase and use, on a long-term basis, U.S. agricultural commodities.

EFFECTIVE DATE: August 23, 1979.

FOR FURTHER INFORMATION CONTACT: L. T. McElvain, Commercial Export Programs, Office of the General Sales Manager, U.S. Department of Agriculture, 14th Street and Independence Avenue, SW, Washington, DC 20250, telephone (202) 447-3224.

SUPPLEMENTARY INFORMATION: On April 4, 1979, there was published in the Federal Register (44 FR 20164), and corrected on April 17, 1979 (44 FR 22746), a notice of proposed rulemaking setting forth the proposed Intermediate Credit Export Sales Program regulations for breeding animals. Written comments were received from 16 commentators. A general discussion of these comments follows:

General Comments

1. Eight commentators raised no objections to the proposal and recognized the proposal as an important instrument in facilitating the export of breeding animals. One of these commentators represented six purebred dairy cattle associations and 17 beef cattle breed registry organizations.

2. Two commentators suggested that financing in excess of three years could have the effect of encouraging credit competition since the proposed credit terms would exceed those called for by the Berne Union Sector Agreement On Breeding Cattle.

CCC is aware that the Berne Union Sector Agreement obligates adherents not to extend credit terms in excess of three years. Since neither CCC nor the Department of Agriculture is a party to the Berne Union Sector Agreement, neither has a legal obligation to follow its terms. It is the opinion of CCC that intermediate credit can be used to effectively develop and expand foreign markets on a long-term basis for U.S. agricultural commodities without encouraging credit competition.

3. One commentator implied that the proposal would permit the cattle credit terms to be applied to all animals even though conditions would not warrant extension of such credit terms to other animals.

The proposal is not intended to provide all animals with the same credit terms. Before granting any extension of credit under the proposal, careful consideration would be given to the type of animal to be financed and the country of destination in order to determine if financing will help facilitate the exportation of such breeding animals. However, since the credit terms could vary depending on the circumstances that might be involved, it would not be practical to include in the rule the specific credit terms that would apply to

each type of breeding animal to be financed.

4. Three commentators recommended that specifications and criteria for exporting horses be included as a supplement to the proposal. The proposed rule now includes supplements for beef breeding cattle, dairy breeding cattle, and breeding swine. The commentators' suggestion is now under review by the Department.

5. One commentator suggested that freight cost should not be financed under the program since such cost can represent a disproportionate amount of the total contract value. Further, this commentator suggested that if freight is financed, such financing should be limited to not more than 20 percent of the total contract price.

Freight can represent a large part of the total contract price in the export sale of breeding animals. For this very reason, CCC feels that the financing of freight will help expand U.S. exports of cattle and thereby strengthen markets for other agricultural commodities abroad. CCC further believes that the financing of freight should not be limited to 20 percent of the freight cost but that CCC should be allowed to make a determination on a case by case basis as to the amount of freight to finance depending on the circumstances of each case.

6. One commentator suggested that the proposed definition of "eligible exporter" or "exporter" included only commodity brokers or agents and did not apply to registered cattle breeders.

It was not clear as to why this commentator felt that registered cattle breeders could not qualify as eligible exporters. In any event, the proposed definition is not intended to exclude registered cattle breeders as exporters under the program.

7. One commentator stated that the definition of "export value" expressly prevented consideration of transportation costs. It is the opinion of CCC that the proposed definition of "export value" does provide that CCC may finance freight and this point is made explicitly clear in the revision of § 1491.2(k) of the final rule.

Specific Comments Applicable to Supplement I

8. One commentator suggested that the maximum port value to be considered for financing reflect the prevailing purebred domestic cattle market, even to the extent of a specific breed.

The reason the maximum port value to be considered for financing was not published in the proposed rule was because CCC recognized that breeding

cattle markets were subject to change. It was thought, therefore, that reasonable port values could be established on the basis of current market values of the animals which would be set forth in USDA announcements. CCC feels this can be accomplished without applying separate port values according to specific beef breeds.

9. One commentator recommended that the beef breed "Charbray" and another commentator recommended that the beef breed "Beefalo" be added to the list of eligible registered breeds under Supplement I to the proposed rule.

CCC has accepted these comments since both breeds have registry associations in the United States. Accordingly, Exhibits I and II to Supplement I have been amended to include the beef breeds "Charbray" and "Beefalo".

10. One comment was received urging that the minimum conformation requirements be dropped from the proposal for beef breeding cattle and not equated to feeder cattle standards since the appearance and condition of the animals should be acceptable to the purchaser and suited for his needs.

This suggestion was not accepted since the official USDA feeder cattle standards conformation is determined by appraising the development of the muscular system in relation to the development of the skeletal system. Breeding cattle do vary in this respect and it is an important factor affecting the ultimate yield of lean meat in a beef carcass. Also, most performance testing programs, where conformation is evaluated, are based on the official United States Standards for Grades of Feeder Cattle. For these reasons, CCC feels that minimum conformation requirements should be included in Supplement I for beef breeding cattle.

11. One comment was received suggesting the minimum performance standards contained in the proposal were too low and such standards should be based upon recommendations from the Beef Improvement Federation.

CCC acknowledges that the minimum performance requirements are low for large frame, late maturing breeds of cattle. However, its inclusion in export specifications appraises buyers of the fact that performance records are available on breeding cattle in the U.S. and, therefore, allows them to purchase cattle with superior performance if desired. Also, as indicated in Supplement I, higher port values may be allowed for cattle if performance has exceeded the performance records specified in Exhibits I and II. Finally, the Beef Improvement Federation has not established minimum performance

standards. In view of the foregoing, CCC does not feel that a change in the minimum performance standards is warranted at this time.

Specific Comments Applicable To Supplement III

12. It was suggested that identification numbers not be required for each parent and grandparent of nonpurebred swine in order for the animal to be exported since some crossbreeding programs are identified by pedigree lineage and not individual animal ancestry.

This suggestion was not accepted by CCC since other non-pure-bred breeders have indicated they can meet the proposed requirements. CCC also feels that since the purpose of the program is to export a breeding type animal that can be used to build herds in the importing country, an animal should not be exported as breeding swine unless the litter in which the pig was born, as well as the dam and sire, are identified. To accomplish this objective, CCC feels it would be important to identify the individual animal ancestry of the animal to be exported.

13. It was suggested that the provisions covering non-purebred animals should be changed since such animals are not necessarily owned by the exporter at the time the animal is born or bred because some breeding programs conducted by the swine industry utilize contractual arrangements giving the exporter control and rights to such animal but not necessarily ownership.

CCC has concluded that this suggestion should be accepted since this type of breeding program is considered a legitimate practice within the non-purebred swine industry. Therefore, the definition of "Breeder" in paragraph A 3 of Supplement III, has been changed to read as follows: "Breeder means the person holding legal title to the registered or nonpurebred female animal or having contractual rights to a non-purebred female at the time she was bred to qualify such animal hereunder as a bred female." Also, paragraph A 5(a) of Supplement III has been changed to read as follows: "The exporter must have been the producer of the animal or had contractual rights to the animal; or the parents or grandparents of the animal must have been owned by the exporter at the time the animal was born."

14. Finally, it was suggested that requirements of minimum age, weight, and litter size of non-purebred animals should be left to the discretion of the breeder and the foreign customer and, therefore, should be deleted from the Supplement.

CCC disagrees with this comment since it is important that an animal has been weaned and is able to withstand the stresses of shipment and a new environment. However, CCC does feel that the minimum age and weight requirement as proposed could be lowered for unbred females and boar pigs. Accordingly, the minimum age requirement for an unbred female under Option B of Exhibit I to Supplement III has been changed from "10 weeks to 7 months" to "8 weeks to 8 months" for unbred females and the minimum age for boar pigs under Option B of Exhibit II has been changed from "10-16 weeks" to "8-16 weeks". The minimum weights under footnotes 4 and 7 for female and boar pigs respectively, have been reduced from 60 pounds to 40 pounds. With respect to the litter size as required by paragraph C of Exhibits I and II of Supplement III, CCC feels that an eligible female or boar, whether registered or non-purebred, should be from a minimum litter size of at least seven pigs. This is not a difficult requirement to meet and should be maintained to assure productive and sound breeding animals to be sold abroad.

Accordingly, 7 CFR, Chapter XIV, Commodity Credit Corporation, Subchapter C—Export Programs, is amended by adding a new part 1491—CCC Intermediate Credit Export Program for Breeding Animals—as set forth below.

It is hereby certified that the economic and inflationary impacts of this regulation have been carefully evaluated in accordance with Executive Order 11821.

Note.—This final rule has been reviewed under the USDA criteria established to implement Executive Order 12044, "Improving Government Regulations," and has been classified "significant." An approved Final Impact Statement is available from L. T. McElvain, Commercial Export Programs, Office of the General Sales Manager, U.S. Department of Agriculture, 14th Street and Independence Avenue SW., Washington, DC 20250, telephone (202) 447-3224.

Issued at Washington, D.C. this August 13th 1979.

Kelly Harrison,

Vice President, Commodity Credit Corporation, and General Sales Manager, Office of the General Sales Manager.

PART 1491—CCC INTERMEDIATE CREDIT EXPORT SALES PROGRAM FOR BREEDING ANIMALS

Subpart—Financing Export Sales of Breeding Animals Under CCC (GSM-201)

General

- Sec.
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1491.2 Definition of terms.

Financing Export Sales

- 1491.3 General.
1491.4 Submission of requests for sale registrations.
1491.5 Acceptance of sale registrations.
1491.6 Amendments to financing agreements.
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- 1491.8 Documents required after delivery.
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- 1491.10 Failure to enter.
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- 1491.12 Coverage of bank obligations.
1491.13 CCC drafts.
1491.14 Interest charges.
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Miscellaneous Provisions

- 1491.17 Assignment.
1491.18 Covenant against contingent fees.
1491.19 Officials not to benefit.
1491.20 Exporters records and accounts.
1491.21 Communications.
Supplement I—Beef Breeding Cattle.
Supplement II—Dairy Breeding Cattle.
Supplement III—Breeding Swine.

Authority.—Sec. 4(b), 80 Stat. 1537, as added by Sec. 101, 92 Stat. 1685 (7 U.S.C. 1707a(b)); Sec. 5(f), 62 Stat. 1070, as amended (15 U.S.C. 714c)

Subpart A—Financing of Export Sales of Breeding Animals (GSM-201)

General

§ 1491.1 General statement.

(a) This subpart contains the regulations governing the Commodity Credit Corporation's Intermediate Credit Program for financing the export sales of breeding animals (GSM-201).

(b) The financing period shall be in excess of three years but not more than ten years.

(c) Subject to the terms and conditions set forth in this Subpart A, CCC will purchase for cash the exporter's account

receivable arising from the export sale, after delivery of the breeding animals.

(d) GSM-201 will be administered by the Office of the General Sales Manager, U.S. Department of Agriculture.

(e) The provisions of Public Law 83-664 (Cargo Preference Act) are not applicable to shipments of breeding animals financed under GSM-201.

(f) CCC may require an initial payment from the foreign importer prior to delivery of the breeding animals.

(g) Payment to CCC shall be in dollars with interest equal, as nearly as practicable, to the rate charged by CCC for financing under CCC's short-term Export Credit Sales Program.

§ 1491.2 Definition of terms.

As used in this Subpart A and in the forms and documents related thereto, the following terms shall have the meanings assigned to them in this section:

(a) "Account receivable" means the contractual obligation of the foreign importer to the exporter for the export value of the breeding animals delivered for which the exporter is extending credit to the importer. The account receivable shall be evidenced by documents, in form and substance satisfactory to CCC, establishing the contractual obligation between the exporter and the foreign importer. The account receivable shall provide for (1) payment of principal and interest in U.S. dollars in the United States, (2) interest in accordance with § 1491.14 and (3) acceleration of payment thereunder in accordance with these regulations.

(b) "Agency or branch bank" means an agency or branch of a foreign bank, supervised by New York State banking authorities or the banking authorities of any other State providing similar supervision, and approved by the Controller, CCC.

(c) "Assistant Sales Manager" means the Assistant Sales Manager, Commercial Export Programs, Office of the General Sales Manager, U.S.D.A., or his designee.

(d) "Bank obligation" means an obligation, in accordance with § 1491.12, and acceptable to CCC, of a U.S. bank, a branch bank, or a foreign bank, to pay to CCC in U.S. dollars the amount of the account receivable, plus interest in accordance with § 1491.14.

(e) "Breeding animals" means U.S. breeding animals, including, but not limited to, cattle, swine, sheep, and poultry.

(f) "CCC" means the Commodity Credit Corporation, U.S. Department of Agriculture.

(g) "Date of delivery" means the onboard date of an ocean bill of lading,

or the date of an airway bill, or if exported by rail or truck, the date of entry shown on an authenticated landing certificate or similar document issued by an official of the government of the importing country.

(h) "Date of sale" means the earliest date the exporter has knowledge that a contractual obligation exists with the foreign buyer under which a firm dollar and cent price has been established or a mechanism to establish the price has been agreed upon.

(i) "Eligible destination" means the country which is named in the financing agreement and which meets the licensing requirements of the U.S. Department of Commerce.

(j) "Eligible exporter" or "exporter" means a person (1) who is engaged in the business of buying or selling breeding animals and for this purpose maintains a bona fide business office in the United States, its territories or possessions, and has someone on whom service of judicial process may be had within the United States, (2) who is financially responsible, and (3) who is not suspended or debarred from contracting or participating in any program financed by CCC on the date of issuance of the financing agreement.

(k) "Export value" means the net amount of the exporter's sale price to be financed under the financing under the financing agreement basis f.o.b. export carrier U.S. ports, at U.S. border points of exit, or at U.S. airports if shipped by air, less any payments made to the exporter, and less any discounts, credits or allowances by the exporter. Export value may include freight cost. The export value shall not include marine and war risk insurance for c.i.f. sales.

(l) "Financing agreement" means the exporter's request for a sale registration as approved by the Assistant Sales Manager, and the terms and conditions of the regulations in this Subpart in effect on the date of approval.

(m) "Financing period" means the number of years and months over which payment is to be made which shall be in excess of three years but not more than ten years. Such period shall start on the date of delivery or the weighted average delivery date of the breeding animals to be exported under the financing agreement and shall expire on the expiration of the bank obligation or the specified period over which payment is to be made, whichever occurs first.

(n) "Foreign bank" means a bank which is not a U.S. bank or agency or branch bank, but includes a foreign branch of a U.S. bank.

(o) "Foreign importer" or "importer" means the buyer who purchases the

breeding animals to be exported under a financing agreement.

(p) "Freight cost" means the cost of freight from United States points of export to designated points of entry in the country shown in the financing agreement.

(q) "GSM-201" means the regulations contained in this Subpart A, and supplements thereto, setting forth the terms and conditions governing the CCC Intermediate Credit Export Sales Program For Breeding Animals.

(r) "OGSM" means the Office of the General Sales Manager, U.S. Department of Agriculture.

(s) "Point of export" means the U.S. port, U.S. airport, or U.S. border point where the breeding animals are inspected by the Animal and Plant Health Inspection Service (APHIS), U.S. Department of Agriculture and exported from the United States.

(t) "Port value" means the net amount of the exporter's sale price of the breeding animals, basis f.o.b. export carrier at U.S. ports, at U.S. border points of exit, or at U.S. airports, if shipped by air.

(u) "Producer" means the person holding legal title to the breeding animal at time of birth and who has had continuous ownership of such animal until sold for export under an approved financing agreement.

(v) "Sale" means a contract to sell on credit breeding animals to be financed under GSM-201.

(w) "United States" means the 50 States, the District of Columbia, and Puerto Rico.

(x) "U.S. bank" means a bank organized under the laws of the United States, a State, or the District of Columbia.

(y) "USDA announcement" means an announcement published by the U.S. Department of Agriculture (USDA).

(z) "Vice President, CCC" means the Vice President who is the General Sales Manager, Office of the General Sales Manager.

Financing Export Sales

§ 1491.3 General.

(a) No export sale may be financed under this Subpart unless the Assistant Sales Manager determines that the sale will: develop, expand, or maintain the importing nation as a foreign market, on a long-term basis, for the commercial sale and export of U.S. agricultural commodities without displacing normal U.S. commercial sales or improve the capability of the importing nation to purchase and use, on a long-term basis, U.S. agricultural commodities.

(b) Financing under this Subpart may not be used to encourage credit competition or for the purpose of foreign aid or debt rescheduling.

§ 1491.4 Submission of requests for sale registrations.

(a) An eligible exporter shall submit a request for a sale registration for financing to the office specified in § 1491.21.

(b) Requests for sale registrations shall be in writing. If such a request is made by telephone, it must be confirmed by letter or wire.

(c) The total amount requested to be registered under a sale shall not exceed the export value of the sale.

(d) Requests for sale registration shall incorporate by reference all terms and conditions of GSM-201.

(e) The following information shall be included in the exporter's request for a sale registration:

(1) The name, class, grade, or quality of the breeding animals as required by the applicable supplements to these regulations, and the number of breeding animals to be exported.

(2) The country of destination.

(3) The port value of the breeding animals to be exported.

(4) The freight cost if sale is made c&f or c.i.f. basis.

(5) The export value.

(6) The date of sale and exporter's sale number.

(7) The date of delivery or period for delivery.

(8) The financing period.

(9) Whether the bank obligation assuring payment of the account receivable will be issued by a U.S. bank, branch bank, or foreign bank. If it will be issued by a foreign bank, its name and address.

(10) The name and address of the foreign importer.

(11) Any additional information required by the applicable supplements to these regulations and as determined by CCC.

§ 1491.5 Acceptance of sale registrations.

(a) Upon receiving a request for a sale registration complying with the applicable provisions of this Subpart, the Assistant Sales Manager shall determine whether the request for registration of the sale shall be approved. If approved, the exporter will be notified in writing of the financing agreement number which will constitute notice that the sale is registered and eligible for financing.

(b) CCC reserves the right to reject any and all requests for sale registration.

(c) The approved registration of a sale shall create a financing agreement between the exporter and CCC which shall consist of the exporter's request for the sale registration, the approved sale registration, and the applicable terms and conditions of this Subpart, including amendments and supplemental announcements and supplements hereunder, which are in effect on the date of approval of the sale registration.

(d) The financing agreement may contain such terms and conditions not inconsistent with this Subpart, as are deemed necessary in the interest of CCC and shall be subject only to review by the National Advisory Council on International Monetary and Financial Policies.

(e) An exporter shall promptly notify the Assistant Sales Manager when he is unable to fulfill his obligations under any sale registered with CCC.

§ 1491.6 Amendments to financing agreement.

The financing agreement may be amended provided such amendment is in conformity with GSM-201 at the time of amendment and is determined to be in the interest of CCC. Amendments may include extension of the period for delivery and change in the interest rate.

§ 1491.7 Expiration of period(s) for delivery.

(a) Unless delivery by the exporter to the importer is made within such period as may be provided in the financing agreement or any amendment thereof, or under paragraph (b) of this section, the financing agreement will no longer be valid.

(b) If the Assistant Sales Manager determines that delay in delivery was due solely to causes without the fault or negligence of the exporter, the period for delivery may be extended by the Assistant Sales Manager by the period of such delay.

Documents Required for Financing

§ 1491.8 Documents required after delivery.

(a) CCC will purchase an exporter's account receivable only if the documents specified in paragraphs (b) through (e) of this section and any documentation and certifications required by any supplements to these regulations are received by CCC at the office specified in § 1491.21 (b) within forty-five days, or any extension thereof granted by the Treasurer or Assistant Treasurer, CCC, after date of delivery of the breeding animals.

(b) The exporter shall submit a "Combined Application for Disbursement, Assignment of Account

Receivable and Certification" which shall include:

(1) A written application for disbursement, showing with respect to breeding animals delivered (i) the financing agreement number, (ii) the port value to be financed, and (iii) the freight cost if sale is made c&f or c.i.f. basis.

(2) An assignment of the account receivable arising from the export sale, in form and substance acceptable to CCC.

(3) The exporter's certification that (i) he has entered into a contract to sell breeding animals; (ii) the date of sale, the agreed upon price, the class, grade, quality, quantity of the breeding animals, and the payment terms and interest are in accordance with the financing agreement; (iii) he has in his files documents evidencing the export sale contract and the obligation of the importer to him for the financed portion of the export sale and will retain and furnish them to CCC on demand until 3 years after the end of the financing period; (iv) breeding animals of the class, grade, quality, and quantity called for in the exporter's sale as registered with CCC have been delivered to the foreign importer; and (v) he knows of no defenses to the account receivable assigned to CCC.

(c) A copy of the sales invoice to the foreign importer showing (1) the port value of the breeding animals and (2) freight cost if sale is made c&f or c.i.f. basis.

(d) A copy of the document evidencing export provided for in § 1491.9 and, if the consignee is other than the foreign importer named in the financing agreement, such additional information as CCC may request to show that export was made in accordance with the instructions of, or the export sale contract with, the foreign importer.

(e) A bank obligation or bank obligations in accordance with § 1491.12 and paragraph (h) of this section, naming CCC as beneficiary, in form and substance acceptable to CCC, covering the amount of the application for disbursement, citing the financing agreement number, and providing for the payment of interest in accordance with § 1491.14.

(f) On receipt of the documents described in paragraphs (b) through (e) of this section and any documentation and certifications required by any supplements to these regulations, CCC will pay promptly to the exporter the amount of the account receivable or the dollar amount of sales registered in accordance with § 1491.5, whichever is the lesser.

(g) If an acceptable application for disbursement and the supporting documents described in paragraphs (b) through (e) of this section have not been received by CCC within 45 days from the date of the delivery, or any extension thereof granted by the Treasurer or Assistant Treasurer, CCC, the financing agreement shall be void.

(h) If for any reason a draft drawn under a foreign bank obligation is dishonored or if the issuing bank is insolvent, in bankruptcy, in receivership or in liquidation, or has made an assignment for the benefit of creditors, or for any other reason discontinues or suspends payments to depositors or creditors, or otherwise ceases to operate on an unrestricted basis, any balance due on the account receivable assured by the obligation issued by such bank shall, at the option of CCC, become immediately due and payable. CCC may permit the substitution of another acceptable foreign bank obligation covering such balance due if advised in accordance with § 1491.12.

§ 1491.9 Evidence of export.

(a) If the breeding animals are exported by rail or truck, the exporter shall furnish to CCC one copy of the bill of lading covering the breeding animals exported, certified by the exporter as being a true copy, and an authenticated landing certificate or similar document issued by an official of the government of the country to which the breeding animals are exported, showing the quantity, the place and date of entry, and the name and address of both the exporter and the importer.

(b) If the breeding animals are exported by ocean carrier, the exporter shall furnish to CCC one non-negotiable copy or photo copy or other duplicate copy of either (1) an on-board ocean bill of lading or (2) an ocean bill of lading with an onboard endorsement, dated and signed or initialed on behalf of the carrier. The bill of lading must be certified by the exporter as being a true copy and must show the quantity, the date and place of loading of the breeding animals, the name of the vessel, the destination of the breeding animals and the name and address of both the exporter and the importer.

(c) If the breeding animals are exported by aircraft, the exporter shall furnish to CCC one non-negotiable copy of an airway bill, dated and signed or initialed on behalf of the carrier. The airway bill must be certified by the exporter as being a true copy and must show the quantity, date and place of loading of the breeding animals, the name of the airline, the destination of the breeding animals and the name and

address of both the exporter and the importer.

(d) If the exporter is unable to supply documentary evidence of export as specified in this section, he shall submit such other documentary evidence as may be acceptable to CCC.

Entry Into Country of Destination

§ 1491.10 Failure to enter.

If the exporter fails to enter or cause the entry of the breeding animals into the country of destination, the financing agreement may be terminated by the Assistant Sales Manager, and if full payment under the bank obligation or account receivable has not yet been received, the bank obligation and the account receivable shall, at the option of CCC, become due and payable and liquidated damages shall be payable in accordance with § 1491.11. The remedy herein provided shall not be exclusive of other rights available to the Federal Government.

§ 1491.11 Liquidated damages.

Failure of the exporter to enter or cause the entry of breeding animals financed under GSM-201 into the country of destination shall constitute a breach of the financing agreement which will result in serious and substantial damage to CCC and to its program. Since it will be difficult, if not impossible, to prove the exact amount of such damage, the exporter shall pay to CCC promptly on demand, as reasonable compensation and not as a penalty, liquidated damages in lieu of probable actual damages for failure to enter or cause the entry of the breeding animals into the country of destination, 5 percent of the amount financed for the breeding animals not entered into the country of the destination. Liquidated damages shall not be assessed if the Assistant Sales Manager determines that failure to enter or cause the entry of the breeding animals into the country of destination was due to loss or injury of the breeding animals without fault or negligence on the part of the exporter, or due to act of God or government or public enemy.

Bank Obligations and Payment

§ 1491.12 Coverage of bank obligations.

(a) The bank obligation shall be in the form of an irrevocable letter of credit issued by a U.S. bank, a branch bank, or a foreign bank. CCC will not accept any bank obligation issued by an agency bank. If the bank obligation is issued by a foreign bank, the bank obligation must be advised by a U.S. bank, a branch bank, or an agency bank.

(b) The bank obligation shall provide for payment under the terms and conditions of the financing agreement.

(c) Any bank obligation which provides for a bank acceptance of a time draft by CCC (banker's acceptance) shall not be acceptable to CCC.

(d) CCC will consent to cancellation or reduction of a bank obligation to the extent of any payment it receives from other sources of amounts otherwise payable under such bank obligation.

(e) Collection of purchased accounts receivable will be effected through the issuance by CCC of sight drafts against the bank obligations, but this method of collection shall not be exclusive of any other collection procedures or rights available to CCC.

§ 1491.13 CCC drafts.

CCC will draw one draft for each payment due under bank obligations. If the draft is dishonored, the U.S. bank, branch bank, or agency bank shall return the dishonored draft together with its statement of the reason for nonpayment.

§ 1491.14 Interest charges.

The account receivable purchased by CCC and the related bank obligation(s) shall bear interest as specified in this section. Rates of interest applicable to financing agreements shall be set forth in a USDA announcement. The interest rate applicable for an account receivable covered by a bank obligation issued by a U.S. bank or branch bank shall be lower than the interest rate for an account receivable covered by a foreign bank obligation. The interest rate applicable will be the rate in effect on the date CCC receives the sale registration request under § 1491.4. Interest shall accrue on the account receivable from the date of delivery or the weighted average delivery date of the breeding animals delivered under the financing agreement to the date of payment, or to the date of expiration of the financing period, or to the date of expiration of the bank obligation, whichever occurs first, and shall be payable as specified in the financing agreement. Thereafter, interest shall accrue on any unpaid part of both the principal and interest due as of such expiration date.

§ 1491.15 Advance payment.

If, before expiration of the financing period, the exporter or the U.S. bank or the agency or branch bank accepts payment from or on behalf of the foreign importer of any part of the account receivable, it shall be remitted promptly to CCC. Such prepayment shall be applied first to interest on the unpaid

balance of the account receivable to the date CCC receives such prepayment and then to the principal.

§ 1491.16 Liability for payment.

If the exporter has fulfilled all his obligations under the sales contract within the coverage of the bank obligation(s) submitted in accordance with § 1491.8, CCC will look to the obligating bank or banks and the foreign importer, rather than to the exporter for payment of all amounts due at maturity of the account receivable and of the bank obligation(s) but the exporter shall remain liable for any loss arising from breach of any contractual obligation, certification or warranty made by it pursuant to the financing agreement, any amounts not covered by the bank obligation which are owing to CCC, and any remittance or refund required by § 1491.15 and § 1491.18, together with interest thereon at the rate specified in the documents evidencing the account receivable, as well as for any liquidated damages provided for in § 1491.11. The liability of the bank and the importer under their respective obligations shall be several.

Miscellaneous Provisions

§ 1491.17 Assignment.

The exporter shall not assign any claim or rights or any amounts payable under the financing agreement, in whole or in part, without written approval of the Vice President, CCC, or the Controller, CCC.

§ 1491.18 Covenant against contingent fees.

The exporter warrants that no person or selling agency has been employed or retained to solicit or secure the financing agreement on an agreement or understanding for a commission, percentage, brokerage, or contingent fee, except bona fide employees or bona fide established commercial or selling agencies maintained by the exporter for the purpose of securing business. For breach or violation of this warranty, CCC shall have the right, without limitation on any other rights it may have, to cancel the financing agreement without liability to CCC. Should the financing agreement be cancelled, CCC will promptly consent to the reduction or cancellation of related bank obligations except for amounts outstanding under such financing agreement. Such amounts shall, on demand, be refunded to CCC by the exporter.

§ 1491.19 Officials not to benefit.

No member of or delegate to Congress, or Resident Commissioner,

shall be admitted to any share or part of the financing agreement or to any benefit that may arise therefrom, but this provision shall not be construed to extend to the financing agreement if made with a corporation for its general benefit.

§ 1491.20 Exporter's records and accounts.

CCC shall have access to and the right to examine any directly pertinent books, documents, papers and records of the exporter involving transactions related to the financed export credit sale until the expiration of three years after the end of the financing period.

§ 1491.21 Communications.

(a) Unless otherwise provided, written requests, notifications, or communications by the applicant pertaining to the financing agreement shall be addressed to the Assistant Sales Manager, Commercial Export Programs, Office of the General Sales Manager, U.S. Department of Agriculture, Washington, D.C. 20250.

(b) Forward documents for financing to: United States Department of Agriculture, Commodity Credit Corporation, P.O. Box 2415, Washington, D.C. 20013.

Note.—The recordkeeping and reporting requirements contained herein have been approved by the Office of Management and Budget in accordance with the Federal Reports Act of 1942.

Supplement I—Beef Breeding Cattle

- A. Additional definitions.
- B. Additional information for sale registrations.
- C. Additional documents required after delivery.
- D. Miscellaneous (identification, quality, certification).
- E. Dual purpose breeds (standards applicable).
- Exhibit I—Females (general breed and health requirements).
- Exhibit II—Bulls (general breed and health requirements).
- Appendix I—Performance Testing.
- Appendix II—Specification for Official U.S. Standards for Grades.
- F. Footnotes to Supplement I.

A. Additional Definitions

1. "Port Value" of beef breeding cattle to be exported under the financing agreement, shall not exceed, unless otherwise approved by the Assistant Sales Manager, the amounts as specified by OGSM which are set forth in a USDA announcement and are in effect at the time of the sale registration. Higher port values may be allowed (a) for registered bulls if performance has been superior to the performance records specified in Exhibit II to this supplement and (b) for registered and nonregistered females if performance has

been superior to the performance records specified in Exhibit I to this supplement.

2. "Bred female" means either a bred heifer or bred cow as set forth in Exhibit I, Option B, which has been certified to as pregnant at the time of inspection.

3. "Breeder" means the person holding legal title to the female animal at the time she was bred to qualify such animal hereunder as a bred female.

4. "Eligible animal" means an animal which meets all the following requirements:

(a) The animal must be the progeny of a nationally recognized beef cattle breed (Exhibits I and II);

(b) The animal must have been owned by a person who had continuous title to such animal for a period of at least 90 days immediately before acquisition by the exporter, unless the exporter is the producer of the animal.

(c) The animal must, at the time of export, be individually identified by an ear tag, a legible ear tattoo, or a firebrand and ranch holding brand acceptable to USDA testing authority as an authentic identification symbol for such animal. The term "identification number" as used herein shall also include ear tattoo and firebrand and ranch holding brand symbol.

(d) The animal must qualify under the specifications of Exhibit I for females or Exhibit II for bulls.

5. "Registered animal" means an eligible animal which the appropriate national breed association has officially registered or otherwise classified as a purebred animal of that breed. Such animal must be marked with a legible tattoo or brand which corresponds with the number shown in the certificate of registration or other official document issued by the appropriate national breed association.

6. "Nonregistered animal" means an eligible animal, whether or not purebred, which is predominately of the color characteristics and body conformation of the beef breed stated in the contract between the exporter and the importer. (See Exhibits I and II.)

7. "Dual Purpose Breeds" means milking shorthorns or red polls.

B. Additional Information for Sale Registrations

In addition to the information required by Section 1491.4 (e) (1) through (11), the request for a sale registration for financing export credit sales of beef breeding cattle shall include the following:

1. A general description by breed of the animals to be exported, separately describing the animals under the following classes:
 - (a) Registered bulls;
 - (b) Registered bred females;
 - (c) Registered unbred females;
 - (d) Nonregistered bred females; and
 - (e) Nonregistered unbred females.
2. A statement that such animals will conform to the general specification requirements set forth in Exhibits I or II, as applicable to the class of animals to be exported.

C. Additional Documents Required After Delivery

In addition to the documents specified in Section 1491.8 (b) through (e), the exporter shall submit the following documents to the Treasurer, Commodity Credit Corporation:

1. Separate animal identification lists for registered animals and for nonregistered animals, containing the following information:

(a) Identification number;
(b) For each registered animal, shown separately opposite the identification number, the port value and freight cost as specified in the sales invoice;

(c) For nonregistered animals, shown for each lot group by identification number, the average port value and freight cost per animal based on the sales invoice for such nonregistered animals.

2. Performance records for animals for which a higher maximum port value has been approved by the Assistant Sales Manager for Commercial Export Programs as provided in paragraph A.1.

3. A certification by the exporter that the documents specified in paragraph D. of this Supplement have been furnished to the importer.

D. Miscellaneous

The following documents or certifications, as applicable, shall be furnished to the importer by the exporter:

1. The certificates issued by an agent of the Agricultural Marketing Service (AMS), U.S. Department of Agriculture, as to official registration of the animal(s) and listing the identification number(s) and corresponding registration certificate number(s) for each registered animal showing that such numbers have been verified as legible and accurate for such animal, and that the person holding legal title to the animal at the time of export sale has appropriately executed such certificate for transfer to the party designated by the importer. (See Exhibit I or II.)

2. A certification by the breeder of females sold as "bred females" showing the identification numbers and stating that the service bull was a registered bull of the same beef cattle breed as the female to which bred. (See Exhibit I.)

3. The certificate issued or endorsed by Veterinary Services, Animal and Plant Health Inspection Service, listing the identification number(s) and showing that such animal has been inspected for compliance with "Health" requirements. (See Exhibit I or II.)

4. The certificates issued by the Agricultural Marketing Service listing the identification number(s) for each animal showing for such animal compliance with breed, age, weight, and conformation grade, for the class, as shown in Exhibit I or II, as applicable.

5. Certificates issued by a veterinarian accredited by the Animal and Plant Health Inspection Service, showing that bred females, sold as such, were examined and found to be with calf at time of inspection.

6. A semen certification by a veterinarian accredited by the Animal and Plant Health Inspection Service, for bulls over one year of age, except that for Santa Gertrudis and Brahman cattle the certification shall be for bulls over 18 months of age.

E. Dual Purpose Breeds

When dual purpose breeds are eligible for financing under the provisions of both Supplement I and Supplement II to GSM-201, the exporter has the option of qualifying such animals under the provisions of either supplement. Such option must be stated in the request for a sale registration filed pursuant to § 1491.4 of this Subpart and in accordance with paragraph B of this Supplement I. In the event such dual purpose breeds are approved for export hereunder, the provisions of this Supplement I shall apply.

Exhibit I to Supplement I

USDA Approved Beef Breeding Cattle Export Specifications—Females, Option A (to be specified by purchaser):

1. Registered. (1)**Breed**

- a. Angus.
- b. Hereford.
- c. Polled Hereford.
- d. Charolais.
- e. Santa Gertrudis.
- f. Shorthorn.
- g. Polled Shorthorn.
- b. Brahman.
- i. Milking Shorthorn. (2)
- j. Red Poll. (2)
- k. Brangus.
- l. Maine-Anjou.
- m. Chianina.
- n. Limousin.
- o. Red Angus.
- p. Murray Grey.
- q. Scotch Highland.
- r. Simmental.
- s. Beefmaster.
- t. Devon.
- u. Beefalo.
- v. Charbray.
- w. Other beef cattle breeds having a registry Association in the U.S.

2. Nonregistered. (3) Specify predominant breed from above. Option B (to be specified by purchaser):

Age 4

1. Calf—(7 to 12 months).
2. Yearling Open—(12 to 18 months).
3. Heifer Open—(18 to 24 months).
4. Bred Heifer—(18 to 36 months).
5. Bred Cow—(24 to 48 months).
6. Mature Cow—(24 to 48 months). (5)

General Requirements

- A. Health. (6) 1. Tested negative for tuberculosis within 30 days of loading aboard export carrier.
2. Tested negative for brucellosis within 30 days of loading aboard export carrier, or is an official vaccinee under 30 months of age.
3. Certified that the United States is a country where foot-and-mouth disease has not existed since 1929, contagious bovine pleuropneumonia has not existed since 1892, and rinderpest has never occurred.
4. Animals come from farms that have not been under State or Federal quarantine for any communicable disease during the past year.
5. Animals have been inspected, and found sound (including freedom from blindness, structural defects, etc.), free of evidence of

communicable disease and exposure thereto, and free of mites, ticks and ringworm or freed from the same.

B. Minimum weight. (7) 1. Calf—(7 to 12 months). 400 pounds.

2. Yearling Open—(12 to 18 months). 500 pounds.

3. Heifer Open—(18 to 24 months). 600 pounds.

4. Bred Heifer—(18 to 24 months). 700 pounds: (24 to 36 months). 800 pounds.

5. Bred Cow—(24 to 36 months). 800 pounds: (36 to 48 months). 950 pounds.

6. Mature Cow—(24 to 36 months). 800 pounds: (36 to 48 months). 950 pounds. (5)

C. Minimum Conformation: Choice. (7) All nonregistered females must be dehorned or naturally polled unless otherwise specified in the request for a sale registration. Horn stubs in excess of one inch will not be acceptable on dehorned cattle.

D. Performance Records. (8) (Optional, unless specified.) (See attached Appendix I to Exhibits I and II.)

1. Minimum adjusted daily gain to weaning 1.6 pounds/day.

2. Minimum adjusted daily gain to weaning of offspring 1.6 pounds/day (if appropriate).

E. Statement of Service or Other Requirement. 1. Bred females must have been bred to a registered bull of the same breed and the calf from a registered bred female must be eligible for registration. (9)

2. Bred females must be at least two months but no more than six months pregnant at time of inspection when being shipped by vessel. If shipped by air, bred females must be at least two months pregnant but may be up to eight months pregnant with veterinarian approval. (10)

3. Mature cows not qualifying as "bred cows", to be eligible for financing hereunder, must be lactating and have their offspring not in excess of approximately five months of age at side at time of inspection by AMS. Such calves, though not eligible for financing, may be supplied along with the parent cow if facilities for their care and safe transportation to destination point are adequate.

Exhibit II to Supplement I

USDA Approved Beef Breeding Cattle Export Specifications—Bulls, Option A (to be specified by purchaser):

Breed (1)

1. Angus.
2. Hereford.
3. Polled Hereford.
4. Charolais.
5. Santa Gertrudis.
6. Shorthorn.
7. Polled Shorthorn.
8. Brahman.
9. Milking Shorthorn. (2)
10. Red Poll. (2)
11. Brangus.
12. Maine-Anjou.
13. Chianina.
14. Limousin.
15. Red Angus.
16. Murray Grey.
17. Scotch Highland.
18. Simmental.
19. Beefmaster.

20. Devon.
21. Beefalo.
22. Charbray.
23. Other beef cattle breeds having a registry Association in the U.S. Option B (to be specified by purchaser):

Age (4)

1. Bull Calf—(7 to 12 months).
2. Yearling Bull—(12 to 18 months).
3. Bull—(18 to 24 months).
4. Mature Bull—(24 to 48 months).

General Requirements**A. Health. (6)**

1. Tested negative for tuberculosis within 30 days of loading aboard export carrier.

2. Tested negative for brucellosis within 30 days of loading aboard export carrier.

3. Certified that the United States is a country where foot-and-mouth disease has not existed since 1929, contagious bovine pleuropneumonia has not existed since 1892, and rinderpest has never occurred.

4. Animals come from farms that have not been under State or Federal quarantine for any communicable disease during the past year.

5. Animals have been inspected, and found sound (including freedom from blindness, structural defects, etc.), free of evidence of communicable disease and exposure thereto, and free of mites, ticks, and ringworm or freed from the same.

B. Minimum Weight. (7) 1. 7 to 12 months. 470 pounds.

2. 12 to 18 months. 790 pounds.

3. 18 to 24 months. 1100 pounds.

4. Over 24 months. 1350 pounds.

C. Minimum Conformation: Prime. (7) D. Performance Records. (8) (optional, unless specified.) (See attached Appendix I to Exhibits I and II.) 1. Minimum adjusted daily gain to weaning, 1.9 pounds per day. E. A semen check indicating at least 60 percent sperm motility must be supplied for bulls over one year of age. (11) except that for Santa Gertrudis and Brahman cattle the certification shall be for bulls over 18 months of age.

Appendix I to Exhibits I and II—Performance Testing

Performance testing is known by several names in the United States, but practically all organizations evaluate similar characteristics in beef cattle. The principal factors used in evaluating performance are growth rate and conformation, but not necessarily both. Animals which are tested are weighed at birth and again at weaning. The weaning weight is adjusted to an equivalent of 205 days of age and is also adjusted depending on the age of the dam. This is done to make weights of calves from first-calf heifers comparable to weights of calves from older cows.

The adjusted daily gain from birth to weaning is indicative not only of inherited gaining ability but also of the milking ability of the dam.

Appendix II to Exhibits I and II—Specifications for Official United States Standards for Grades of Feeder Cattle (12)**Prime**

Cattle which possess typical minimum qualifications for the Prime grade are very thickly muscled throughout. They are wide through the chest with well sprung ribs and are moderately wide and thick through the crops, back and loin. The rounds tend to be thick and the twist is moderately deep.

Choice

Cattle which possess typical minimum qualifications for the Choice grade are thickly muscled throughout. They are moderately wide through the chest with a moderate spring of ribs and are slightly wide and thick through the crops, back and loin. The rounds are slightly thick and the twist is slightly deep.

F. Footnotes to Supplement I

1. Animals must be officially registered with the appropriate national breed association and be so certified by AMS agent.

2. Dual purpose breeds (see paragraph E. Supplement I).

3. Nonregistered animals will be certified for breed by the AMS agent.

4. Certification by AMS agent.

5. See paragraph E3 of Exhibit I.

6. Certification or endorsement furnished by Veterinary Services, Animal and Plant Health Inspection Service, USDA.

7. Certification furnished by Livestock, Poultry, Grain and Seed Division, AMS, USDA. Conformation grade to be based on the muscling requirements of the official USDA Feeder Cattle Standards. (See Appendix II attached.)

8. Official State records or National Breed Association records, or Performance Registry international records.

9. Must be certified to by the breeder of the female at time of sale to exporter.

10. Certification of pregnancy shall be issued by an accredited veterinarian.

11. Certification must be issued by an accredited veterinarian.

12. Adapted from Service and Regulatory Announcement AMS 163, issued March 1965. A copy of this publication and charts picturing the grades of feeder cattle may be obtained upon request from the Livestock, Poultry, Grain and Seed Division, AMS, USDA, Washington, D.C. 20250.

Supplement II—Dairy Breeding Cattle**Section**

- A. Additional definitions.
- B. Additional information for sale registrations.
- C. Additional documents required after delivery.
- D. Miscellaneous (identification, quality, certification).
- E. Dual purpose breeds (standards applicable).
- Exhibit I—Females (general breed and health requirements). Appendix to Exhibit I.
- Exhibit II—Bulls (general breed and health requirements). Appendix to Exhibit II.
- F. Footnotes to Supplement II.

A. Additional Definitions

1. "Port value" of dairy breeding cattle to be exported under the financing agreement, shall not exceed, unless otherwise approved by the Assistant Sales Manager, the amount as specified by OCSM which is published in a USDA announcement and is in effect at the time of the sale registration. Higher port values may be allowed (a) for registered bulls if such animal has a superior performance index as set out in paragraph D.2 of Exhibit II to this supplement and (b) for registered and nonregistered females if such animal has a superior performance index as set out in paragraph D.3 of Exhibit I to this supplement.

2. "Bred female" means either a bred heifer or bred cow as set forth in Exhibit I, Option B, which has been certified to as pregnant at the time of inspection.

3. "Breeder" means the person holding legal title to the female animal at the time she was bred to qualify such animal hereunder as a bred female.

4. "Eligible animal" means an animal which meets all the following requirements:

(a) The animal must be the progeny of a nationally recognized dairy cattle breed (Exhibits I and II);

(b) The animal must have been owned by a person who had continuous title to such animal for a period of at least 90 days immediately before acquisition by the exporter, unless the exporter is the producer of the animal;

(c) The animal must, at the time of export, be individually identified by an ear tag, a legible ear tattoo, or a firebrand and ranch holding brand symbol acceptable to USDA testing authority as an authentic identification symbol for such animal. The term "identification number(s)" as used herein shall also include ear tattoo and firebrand and ranch holding brand symbol.

(d) The animal must qualify under the specifications of Exhibit I for females or Exhibit II for bulls.

5. "Registered animal" means an eligible animal which the appropriate national breed association has officially registered or otherwise classified as a purebred animal of that breed. Such animal must be marked with a legible tattoo or brand which corresponds with the number shown in the certificate of registration of other official document issued by the appropriate national breed association.

6. "Nonregistered animal" means an eligible animal, whether or not purebred, which is predominately of the color characteristics and body conformation of the dairy breed stated in the contract between the exporter and the importer. (See Exhibits I and II.)

7. "Dual purpose breeds" means, for dairy breeding cattle, milking shorthorns, or red polls.

B. Additional Information for Sale Registrations

In addition to the information required by Section 1491.4(d) (1) through (11), the request for a sale registration for financing export credit sales of dairy breeding cattle shall include the following:

1. A general description by breed of the animals to be exported, separately describing the animals under the following classes:

- (a) Registered bulls;
 (b) Registered bred females;
 (c) Registered unbred females;
 (d) Nonregistered bred females; and
 (e) Nonregistered unbred females.
 2. A statement that such animals will conform to the general specification requirements set forth in Exhibits I or II, as applicable to the class of animals to be exported.

C. Additional Documents Required After Delivery

In addition to the documents specified in Section 1491.8 (b) through (e) the exporter shall submit the following documents to the Treasurer, Commodity Credit Corporation:

1. Separate identification lists for each group of animals described in paragraphs A.1. (a), (b), (c), (d), and (e) of this supplement, containing the following information:

- (a) Identification number;
 (b) For each registered animal or nonregistered mature cow with a Superior performance index, shown separately opposite the identification number, the port value and freight cost as specified in the sales invoice;
 (c) For nonregistered females other than mature cows with a Superior performance index, shown for each lot group by identification list, the average port value and freight cost per animal based on the sales invoice for such nonregistered animals.

2. Production Performance Index records as follows:

- (a) For registered bulls the applicable Acceptable or Superior performance index records of Sire and Dam as described in paragraph D.1. or D.2. of Exhibit II;
 (b) For registered females if applicable, the Superior performance index records of Sire and Dam as described in paragraph D.2. of Exhibit I;

- (c) For registered or nonregistered mature cows if applicable, the Superior performance index records of Sire and Dam as described in paragraph D.3. of Exhibit I.
 3. A certification by the exporter that the documents specified in paragraph D. of this Supplement have been furnished to the importer.

D. Miscellaneous

The following documents or certifications, as applicable, shall be furnished to the importer by the exporter.

1. The certificates issued by an agent of the Agricultural Marketing Service, U.S. Department of Agriculture, as to official registration of the animal(s) and listing the identification number(s) and corresponding registration certificate number(s) for each registered animal showing that such numbers have been verified as legible and accurate for such animal, and that the person holding legal title to the animal at the time of export sale has appropriately executed such certificate for transfer to the party designated by the importer. (See Exhibit I or II.)

2. A certification by the breeder of females sold as "bred females" showing the identification number and stating that the service bull was a registered bull of the same dairy cattle breed as the female to which bred. (See Exhibit I.)

3. The certificates issued or endorsed by Veterinary Service, Animal and Plant Health

Inspection Service, listing the identification number(s) and showing that such animal has been inspected for compliance with "Health" requirements. (See Exhibit I or II.)

4. The certificates issued by the Agricultural Marketing Service listing the identification number(s) for each animal showing for such animal compliance with breed, age, weight, and conformation specifications, for the class, as shown in Exhibit I or II, as applicable.

5. Certificates issued by a veterinarian accredited by the Animal and Plant Health Inspection Service, showing that bred females, sold as such, were examined and found to be with calf at time of inspection.

6. A semen certification by a veterinarian accredited by the Animal and Plant Health Inspection Service, for bulls over one year of age.

E. Dual Purpose Breeds

When dual purpose breeds are eligible for financing under the provisions of both Supplement I and Supplement II to GSM-201, as revised, the exporter has the option of qualifying such animals under the provisions of either supplement. Such option must be stated in the request for a sale registration filed pursuant to Section 1491.4 of this Subpart and in accordance with paragraph B of this Supplement II. In the event such dual purpose breeds are approved for export hereunder, the provisions of this Supplement II shall apply with the exception that the Assistant Sales Manager is authorized, at the request of the applicant, to establish a minimum weight schedule and DHIR Milk Production Breed Average.

Exhibit I to Supplement II

USDA Approved Dairy Cattle Export Specifications—Females. Option A (to be specified by purchaser).

1. Registered. (1)

Breed

- a. Ayrshire.
 b. Brown Swiss.

Age* (in months)	Holstein and Brown Swiss	Guernsey and Ayrshire	Jersey
a. 6	360	295	260
b. 8	470	385	340
c. 10	565	455	410
d. 12	640	525	470
e. 14	710	585	520
f. 16	775	635	555
g. 18	835	685	600
h. 20	900	745	645
i. 22	970	790	695
j. 24	1,015	845	735
k. 26	1,045	870	760
l. 28	1,070	895	780
m. 30	1,090	910	790
n. 36 and over	1,180	990	865

*Minimum weights for ages between the ages shown shall be determined proportionately.

2. Nonregistered Animals.

Class	Holstein and Brown Swiss	Guernsey and Ayrshire	Jersey
a. Calf	360	295	260
b. Yearling Open	640	525	470
c. Heifer Open	835	685	600
d. Heifer Bred	835	685	600
e. Mature Cow	1,015	845	735

C. Minimum Conformation.(6) All animals must meet the minimum body conformation specifications as described in Appendix to this Exhibit I.

- c. Guernsey.
 d. Holstein.
 e. Jersey.
 f. Milking Shorthorn. (2)
 g. Red Poll. (2)

2. Nonregistered. (3) Specify predominant breed from above. Option B (to be specified by purchaser).

Age (4)

1. Calf—(6 to 12 months).
 2. Yearling Open—(12 to 18 months).
 3. Heifer Open—(18 to 30 months).
 4. Bred Heifer—(18 to 30 months).
 5. Mature Cow—(24 to 48 months).

General Requirements

- A. Health. (5) 1. Tested negative for tuberculosis within 30 days of loading aboard export carrier.

2. Tested negative for brucellosis within 30 days of loading aboard export carrier, or is an official vaccinee under 24 months of age.

3. Certified that the United States is a country where foot-and-mouth disease has not existed since 1929, contagious bovine pleuropneumonia has not existed since 1892, and rinderpest has never occurred.

4. Animals come from farms that have not been under State or Federal quarantine for any communicable disease during the past year.

5. Animals have been inspected, and found sound (including freedom from blindness, structural defects, etc.), free of evidence of communicable disease and exposure thereto, and free of mites, ticks and ringworm or freed from the same.

6. Mature cows must be physically examined at time of inspection for the presence of mastitis by manipulating and stripping the udder and found not to have evidence of such infection. The exporter, at his option, may require the person from whom he purchases a mature cow to supply additional evidence of non-mastitis infection as he sees fit.

- B. Minimum Weights.(6) 1. Registered Animals.

- D. Production Performance Index. (7) 1. Acceptable. An acceptable performance index for Registered or Nonregistered Females will be considered to exist if such animals meet the minimum conformation of item C above.

2. Superior. A Superior performance index for a Registered Female will be considered to exist if:

- (a) Sire has a Plus (+) USDA Predicted Difference (8) equal to two percent of DHI breed average as shown in Item E below, or in the event the Sire does not have a summary, his Sire has a predicted difference (+ 500 pounds) (8) and

- (b) Dam has a DHI or DHIR record (9) equal to 10 percent above the DHI breed average as shown in Item E below.

3. Superior. A superior performance index for a Registered or Nonregistered Mature Cow will be considered to exist if such animal has a DHI production record (9) 15 percent above the DHI breed average as shown in Item E below.

- E. DHI Milk Production Breed Average (Mature Equivalent). The following breed averages are applicable to these specifications.

(In pounds)

Breed	Average			
	Breed	2 pct of breed	10 pct of breed	15 pct of breed
Ayrshire	12,051	241	1,205	1,808
Brown Swiss	13,500	270	1,350	2,025
Guernsey	10,932	219	1,093	1,640
Holstein	16,174	323	1,617	2,426
Jersey	10,426	209	1,042	1,564

F. Statement of Service

1. Bred females must have been bred to a registered bull of the same breed.(10)

2. Bred females must be at least two months pregnant but no more than six months pregnant at time of inspection when being shipped by vessel. If shipped by air, bred females must be at least two months pregnant but may be up to eight months pregnant with veterinarian approval.(11)

Appendix to Exhibit I—Minimum Body Conformation Specification for Females

In addition to meeting the minimum weight for the breed as specified in Exhibit I, the animal shall possess femininity, normal breed conformation, quality and body capacity. She shall have the general appearance of thrift and vitality with eyes bright and ears alert. The feet and legs shall be well formed with the legs straight, strong and well set. The mammary system, if sufficiently developed, shall be strongly attached, well balanced and of fine texture. The teats shall be of acceptable size. There shall be no evidence of lameness or other serious body defects. She shall possess normal dairy character by showing a lack of obvious excess fatty condition for the age class. Females officially classified by the respective breed association as "Good Plus" (or equivalent) or higher shall be acceptable if found at time of inspection not to have developed a physical defect in conflict with the above-stated conditions.

Exhibit II

USDA Approved Dairy Cattle Export Specifications—Bulls. Option A (to be specified by purchaser)

Breed(1)

- a. Ayrshire.
 b. Brown Swiss.
 c. Guernsey.
 d. Holstein.

- e. Jersey.
 f. Milking Shorthorn.(2)
 g. Red Poll.(2)
 Option B (to be specified by purchaser):

Age(4)

- a. Calf—(6 to 12 months).
 b. Yearling—(12 to 18 months).
 c. Young Bull—(18 to 24 months).
 d. Mature Bull—(24 to 48 months).

General Requirements:

- A. Health.(5) 1. Tested negative for tuberculosis and brucellosis within 30 days of loading aboard export carrier.

2. Animals come from farms that have not been under quarantine for any communicable disease during the past year.

3. Certified that the United States is a country where foot-and-mouth disease has not existed since 1929, contagious bovine pleuropneumonia has not existed since 1892, and rinderpest has never occurred.

4. Animals have been inspected, and found sound (including freedom from blindness, structural defects, etc.), free of evidence of communicable disease and exposure thereto, and free of mites, ticks and ringworm or freed from the same.

- B. Minimum Weight.(6)

Age* (in months)	Holstein and Brown Swiss	Guernsey and Ayrshire	Jersey
a. 6	450	370	315
b. 8	585	480	410
c. 10	710	555	490
d. 12	820	655	565
e. 14	930	755	645
f. 16	1,040	840	745
g. 18	1,155	920	815
h. 21	1,320	1,065	950
i. 24	1,455	1,210	1,050
j. 27	1,570	1,310	1,140
k. 30	1,670	1,395	1,215
l. 36 and over	1,840	1,545	1,350

* Minimum weights for ages between the ages shown shall be determined proportionately.

C. Minimum Conformation.(6)

All animals must meet the minimum body conformation as described in Appendix to Exhibit II.

D. Production Performance Index. (7)

1. Acceptable. An Acceptable performance index for a Registered Bull will be considered to exist if:

- (a) Sire has a Plus (+) USDA Predicted Difference, (8) and
- (b) Dam has a DHI or DHIR record (9) 10 percent above the DHIR breed average as shown in Item E below.

2. Superior. A Superior performance index for a Registered Bull will be considered to exist if:

- (a) Sire has a Plus (+) USDA Predicted Difference (8) equal to two percent of DHIR breed average as shown in Item E below, and
- (b) Dam has a DHI or DHIR record (9) 20 percent above the DHIR breed average as shown in Item E below.

E. DHIR Milk Production Breed Averages (Mature Equivalent).

The following breed averages are applicable to these specifications:

(In pounds)

Breed	Average			
	Breed	2 pct of breed	10 pct of breed	20 pct of breed
Ayrshire	14,963	293	1,496	2,992
Brown Swiss	14,836	297	1,483	2,967
Guernsey	11,902	238	1,190	2,380
Holstein	16,861	337	1,686	3,372
Jersey	11,215	224	1,121	2,243

F. A semen check indicating at least 60 percent sperm motility must be supplied for bulls over one year of age. (12)

Appendix to Exhibit II—Minimum Body Conformation Specifications for Bulls

In addition to meeting the minimum weight for the breed as specified in Exhibit II, the animal shall possess masculinity, normal breed conformation, quality and body capacity. He shall have the general appearance of thrift and vitality with eyes bright and ears alert. The feet and legs shall be well formed with the legs straight, strong, and well set. There shall be no evidence of lameness or other serious body defects. He shall possess normal dairy character by showing a lack of obvious excess fatty condition for the age class. Bulls officially classified by the respective breed association as "Good Plus" (or equivalent) or higher shall be acceptable if found at time of inspection not to have developed a physical defect in conflict with the above-stated conditions.

F. Footnotes to Supplement II

1. Animals must be officially registered with the appropriate national breed association and be so certified by AMS agent.

2. Dual purpose breeds (see paragraph E, Supplement II).

3. Nonregistered animals will be certified for breed by the AMS agent.

4. Certification by AMS agent.

5. Certification or endorsement furnished by Veterinary Services, Animal and Plant Health Inspection Service, USDA.

6. Certification or endorsement furnished by Livestock, Poultry, Grain and Seed Division, AMS, USDA. Conformation specifications to be based on standards as set out in Appendix to Exhibit I or II attached. Weights may be determined by weighing or be estimates using a girth measurement tape.

7. DHI or DHIR milk production records mature equivalent based on 305-day, two times day milking.

8. Source: USDA-DHI Sire Summary Records—Animal and Plant Health Inspection Service.

9. Source: Breed Association or Dairy Records Processing Center Serving the DHI Association where tested.

10. Must be certified to by the breeder of the female at time of sale to exporter.

11. Certification of pregnancy shall be issued by an accredited veterinarian.

12. Certification must be issued by an accredited veterinarian.

Supplement III—Breeding Swine**Section**

A. Additional definitions.

B. Additional information for sale registrations.

C. Additional documents required after delivery.

D. Miscellaneous.

Exhibit I—Females.

Exhibit II—Boars.

Appendix I—Health Requirements.

Appendix II—Specifications for Official U.S. Standards for Grades.

F. Footnotes to Supplement III.

A. Additional Definitions

1. "Port value" of breeding swine to be exported under the financing agreement, shall not exceed, unless otherwise approved by the Assistant Sales Manager, the amount as specified by OCSM which is published in a USDA announcement and is in effect at the time of the sale registration.

2. "Bred female" means a bred gilt as set forth in Exhibit I, Option B, and must be accompanied by a breeding certificate provided by the breeder.

3. "Breeder" means the person holding legal title to the registered or non-purebred female animal or having contractual rights to a non-purebred female animal at the time she was bred to qualify such animal hereunder as a bred female.

4. "Registered animal" means an eligible animal which the appropriate national breed association has officially registered, declared eligible for registry or otherwise classified as a purebred animal of that breed and meets the following requirements:

(a) The animal must have been owned by a person who had continuous title to such animal for a period of at least 60 days immediately before acquisition by the exporter, unless the exporter is the producer of the animal;

(b) The animal must, at the time of export, have at least one eartag acceptable to USDA as an authentic identifying symbol for such animal and must be marked with a legible ear notch which corresponds with the number shown in the certificate of registration or other official document issued by the appropriate national breed association;

(c) The animal must qualify under the specifications of Exhibit I for females or Exhibit II for boars.

5. "Non-purebred animal" means a hybrid animal or an animal from a new breed produced in herds where the parents and paternal and maternal grandparents are recorded on an appropriate certificate and certified to by the producer. Each such ancestor must have an identification number and the parent or grandparent of the animal to be exported cannot be an animal registered with a national breed association. In addition, a non-purebred animal must meet the following requirements:

(a) The exporter must have been the producer of the animal or had contractual rights to the animal or the parents or grandparents of the animal must have been owned by the exporter at the time the animal was born.

(b) The animal, at time of export, must have at least one eartag acceptable to USDA as an authentic identifying symbol for such animal and must be marked with legible ear notches which correspond with the number shown on the official certificate recorded by the producer for such animal.

(c) The animal must qualify under the specifications of Exhibit I for females or Exhibit II for boars.

B. Additional Information for Sale Registrations

In addition to the information required by Section 1491.4(d) (1) through (11), the request for a sale registration for financing export credit sales of breeding swine shall include the following:

1. A list of the animals to be exported including the identification number, breed, and price under the following classes:

- (a) Boars.
- (b) Bred females.
- (c) Unbred females.

2. If applicable, a statement of justification for prices over the maximum limits specified in a USDA announcement.

3. A statement that such animals will conform to the general specification requirements set forth in Exhibit I or II, as applicable to the class of animals to be exported.

C. Additional Documents Required After Delivery

In addition to the documents specified in Section 1491.8(b) through (e), the exporter shall submit the following documents to the Treasurer, Commodity Credit Corporation:

An animal identification list containing the following information:

- 1. Identification number.
- 2. For each animal, shown separately opposite the identification number, the port value and freight cost as specified in the sales invoice.

D. Miscellaneous

The following documents or certifications, as applicable, shall be furnished to the importer by the exporter:

1. For registered animals, the certificates issued by an agent of the Agricultural Marketing Service (AMS), U.S. Department of Agriculture, as to official registration of the animal(s) and listing the identification number(s) and corresponding registration certificate number(s) for each registered animal showing that such numbers have been verified as legible and accurate for such animal, and that the person holding legal title to the animal at the time of export sale has appropriately executed such certificate for transfer to the party designated by the importer. (See Exhibit I or II.)

2. For non-purebred animals, the certificate issued by an agent of AMS, USDA will include the producer's official certification of the animal(s) to be exported, a list of the identification number(s) for each animal showing that such numbers have been verified as legible and accurate for such animal, and that the person holding legal title to the animal at the time of export sale has appropriately executed such certificate for transfer to the party designated by the importer. (See Exhibit I or II.)

3. For registered animals, a certification by the breeder of females sold as "bred females" showing the identification number of both the female and boar and stating that the service boar was a registered boar of the same breed. In addition the breeder will certify that the bred female has missed at least one heat period since last service. It will also be certified by the breeder that the bred females will not be more than three months pregnant at time of departure from point of exit.

4. For non-purebred animals, a certification by the breeder of females sold as "bred female" showing the identification numbers of both the female and boar and stating that the service boar was a duly certified boar of a hybrid or new breed group. In addition the breeder will certify that the bred female has missed at least one heat period since last service. It will also be certified by the breeder that the bred females will not be more than three months pregnant at time of departure from point of exit.

5. The certificate issued or endorsed by Veterinary Services, Animal and Plant Health Inspection Service, listing the identification number and showing that such animal has been inspected for compliance with "Health" requirements. (See Appendix I to Exhibits I and II.)

6. For registered animals, the certificates issued by the Agricultural Marketing Service listing the identification number for each animal and showing for such animal compliance with breed registration, number of teats, and USDA grade, for the class, as shown in Exhibit I or II, as applicable.

7. For non-purebred animals, the certificates issued by AMS listing the identification number for each animal and showing for such animal compliance with ancestry specifications, number of teats and USDA grade, for the class, as shown in Exhibit I or II, as applicable.

8. The certificates signed by the breeder listing, for each animal, the individual identification number, breed, and age and a statement that the animal was from a litter of at least seven pigs.

Exhibit I to Supplement III

USDA Approved Breeding Swine Export Specifications—Females, Option A (to be specified by purchaser):

1. Registered Females. (1)

Breed

- a. Poland China.
- b. Chester White.
- c. Yorkshire.
- d. Hampshire.
- e. Berkshire.
- f. Duroc.
- g. Tamworth.
- h. Landrace.
- i. Hereford.
- j. Spotted Swine.

2. Non-Purebred Females (2)

Option B (to be specified by purchaser):

Age (3)

1. Unbred female—8 weeks—8 months. (4)

2. Bred female—7—14 months.

General Requirements:

A. Health. (See Appendix I)

B. Minimum USDA Grade—U.S. No. 2. (5)

C. Eligible females must be out of a litter of at least seven pigs. Also, they must have at least six functional teats on each side of the underline with no inverted nipples. (5)

D. Statement of Service or Other Requirements. Registered bred females must have been bred to a registered boar of the same breed and non-purebred females must have been bred to a duly certified boar of a hybrid or new breed group. All bred females shall have missed at least one heat period since last service and be not more than three months pregnant at time of departure from point of exits. (3)

Exhibit II to Supplement III

USDA Approved Breeding Swine Export Specifications—Boars, Option A (to be specified by purchaser):

1. Registered Boars. (1)

Breed

- (a) Poland China.

(b) Chester White.

(c) Yorkshire.

(d) Hampshire.

(e) Berkshire.

(f) Duroc.

(g) Tamworth.

(h) Landrace.

(i) Hereford.

(j) Spotted Swine.

2. Non-Purebred Boars. (2)

Option B (to be specified by purchaser).

Age (3)

1. Boar pigs—8—16 weeks. (7)

2. Boars—4—8 months.

3. Boars—8—12 months.

General Requirements:

A. Health. (See Appendix I).

B. Minimum USDA grade—U.S. No. 1. (5)

C. Eligible boars must be from a litter of at least seven pigs. (3)

Appendix I to Exhibits I and II**Health Requirements (8)**

Swine financed for export under the CCC Export Credit/Sales Program shall be certified by the appropriate USDA inspectors as follows:

1. U.S. is free of foot-and-mouth disease, African swine fever, Teschen disease and vesicular exanthema.

2. The swine originate from a free area (9) where hog cholera is not known to exist according to Title 9, Part 76 of U.S. Department of Agriculture regulations.

3. Animals have been inspected and found sound (including freedom from blindness, structural defects, etc.), free of evidence of communicable disease and exposure thereto, and free of mites, lice, and ticks or freed from the same.

Export inspection and certification requirements of the U.S. Department of Agriculture must be met.

Appendix II to Exhibits I and II**Specifications for Official United States Standards for Grades of Feeder Pigs**

U.S. No. 1. Feeder pigs in this grade near the borderline of the U.S. No. 2 grade are long and have thick muscling throughout. Thickness of muscling is particularly evident in thick and full hams and shoulders. The hams and shoulders are thicker than the back, which is well-rounded. They usually present a well-balanced appearance.

U.S. No. 2. Feeder pigs in this grade near the borderline of the U.S. No. 3 grade are moderately long and have moderately thick muscling throughout. Thickness of muscling is particularly evident in moderately thick and full hams and shoulders. The back usually appears slightly full and well-rounded. They usually present a well-balanced appearance.

F. Footnotes to Supplement III

1. All animals for delivery under these specifications must be certified by AMS agent as officially registered with the appropriate national breed association.

2. All animals for delivery under these specifications must be certified by the producer as produced in herds where the parents and maternal and paternal grandparents are recorded on an appropriate certificate by the producer.

3. Certification by breeder.
4. Female pigs in this class must weigh at least 40 pounds. Certification furnished by Livestock, Poultry, Grain and Seed Division, AMS, USDA.

5. Certification furnished by Livestock, Poultry, Grain and Seed Division, AMS, USDA, grade to be based on the official U.S. standards for grades of feeder pigs (See Appendix II).

6. Certification by Livestock, Poultry, Grain and Seed Division, AMS, USDA.

7. Boar pigs must weigh at least 40 pounds. Certification furnished by Livestock, Poultry, Grain and Seed Division, AMS, USDA.

8. Certification or endorsement furnished by Veterinary Services, Animal and Plant Health Inspection Service, USDA.

9. Free area means a radius of five miles within which no cholera has occurred within 3 months.

[FR Doc. 79-26225 Filed 8-22-79; 8:45 am]

BILLING CODE 3410-05-M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 204

Petition To Classify Alien as Immediate Relative of a U.S. Citizen or as a Preference Immigrant; New Procedures for Requesting Advance Processing in Orphan Visa Petition Cases

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final Rule.

SUMMARY: This final rule amends the regulations of the Immigration and Naturalization Service concerning submission of requests for advance processing of orphan visa petitions. The rule will require a request for advance processing of an orphan petition to be accompanied by the petition Form I-600, the required fee, and the fingerprints of the prospective adoptive parent(s). Under the revised rules for advance processing, the child must be identified to the Service within one year or the petition will be considered abandoned and the fee will not be refunded. This amendment is needed and intended to facilitate the processing of orphan petitions and expedite the immigration of those children; encourage the filing of serious petitions; and enable the Service to recover some of its processing costs in instances where the petitions are not completed.

EFFECTIVE DATE: August 23, 1979.

FOR FURTHER INFORMATION CONTACT: James G. Hoofnagle, Jr., Instructions Officer, Immigration and Naturalization Service, Washington, DC 20536. Telephone: (202) 635-3048

SUPPLEMENTARY INFORMATION: On May 25, 1979, at 44 FR 30354, the Service published a Notice of Proposed Rulemaking in the Federal Register setting forth new procedures for the advance processing of orphan visa petitions (Form I-600), prior to the time the child has been located and identified.

The proposed rule amending 8 CFR 204.1(b), provided that a request for advance processing must be accompanied by the Form I-600 application, the appropriate fee (prescribed in 8 CFR 103.7(b)(1), and the fingerprints of the prospective adoptive parent(s). The Service will commence preliminary processing, but the petition will not be considered properly filed until the orphan has been identified, the biographical information concerning the child is furnished to this Service and the necessary supporting documents have been submitted. In a petition involving advance processing the child must be identified to the Service and the petition must be completed within one year.

In response to our notice of proposed rulemaking, we received 42 responses from organizations and individuals, supporting the proposed amendments and urging that they be made effective as soon as possible.

Since there were no objections, the proposed rule will be adopted substantially as published. The CFR citation to the Service fee schedule has been substituted for the reference to "appropriate fee".

In addition, the Service will waive the 30 day delayed effective date provision of 5 U.S.C. 553(d) because observance of this 30 day period would only delay the conferral of the benefits and simplification of the processing intended by these proposed amendments.

In the light of the foregoing, Chapter I of Title 8 of the Code of Federal Regulations is hereby amended as set forth below.

PART 204—PETITION TO CLASSIFY ALIEN AS IMMEDIATE RELATIVE OF A UNITED STATES CITIZEN OR AS A PREFERENCE IMMIGRANT

§ 204.1(b) is hereby revised by designating the existing material as subparagraph (1) *General*, and deleting the last sentence, and by adding a new subparagraph (2) *Advance processing*. As revised § 204.1(b) reads as follows:

§ 204.1 Petition.

(b) *Orphan*—(1) *General*. A petition in behalf of a child defined in section 101(b)(1)(F) of the Act shall be filed on Form I-600 by a United States citizen

with the office of the Service having jurisdiction over the place where the petitioner is residing, shall identify the child, and shall be accompanied by the fee required under § 103.7(b) of this chapter. If the petitioner is married, the Form I-600 shall be signed also by the petitioner's spouse. If unmarried, the petitioner must be at least twenty-five years of age at the time of the adoption and when the petition is filed. If the petitioner resides outside of the United States, the petition shall be filed with the foreign office of the Service designated to act on the petition, which can be ascertained by consulting an American consul. However, since no Service office in Canada has been so designated, a petitioner residing in that country shall file the petition with the office of the Service having jurisdiction over the place of the child's intended residence in the United States. The petitioner shall be notified of the decision and, if the petition is denied, of the reasons therefor and of the right to appeal in accordance with the provisions of Part 103 of this chapter.

(2) *Advance processing*. A prospective petitioner may request advance processing when a prospective orphan has not been located and identified or where the prospective petitioner or spouse is going abroad to adopt or locate a child. The request for advance processing must be in writing and must be accompanied by a Petition to Classify Orphan as an Immediate Relative (Form I-600), the fee specified in § 103.7(b) of this chapter, and the fingerprints of the petitioner and spouse if married. The request will be submitted to the district director in whose jurisdiction the prospective petitioner is residing. Such petition will not be regarded as properly filed until the orphan has been identified, the biographical information concerning the child is furnished to this Service and the necessary supporting documents have been submitted. The petitioner will be informed that the petition will be retained for one year and that if a child has not been identified to this Service within that year the petition will be considered abandoned and that any further proceedings will require the filing of a new petition. If the petition is denied or considered abandoned, the fee will not be refunded.

(Sec. 103, 8 U.S.C. 1103; Interpret or apply sec. 101(b)(1)(F) and sec. 201(b) (8 U.S.C. 1101(b)(1)(F) and 1151(b))

Effective date: These amendments become effective on August 23, 1979.

Dated: August 18, 1979.

Leonel J. Castillo,
Commissioner of Immigration and Naturalization.

August 20, 1979.

[FR Doc. 79-26222 Filed 8-22-79; 8:45 am]

BILLING CODE 4410-10-M

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 725

National Credit Union Administration Central Liquidity Facility; Membership and Lending

AGENCY: National Credit Union Administration.

ACTION: Final rule.

SUMMARY: These regulations establish the membership requirements and lending policies and procedures of the National Credit Union Administration Central Liquidity Facility ("Facility"). The Facility was created by Title XVIII of Pub. L. 95-630 as a corporation within the National Credit Union Administration ("NCUA") to provide credit unions with a source of funds to meet their liquidity needs.

EFFECTIVE DATE: August 23, 1979.

ADDRESS: National Credit Union Administration Central Liquidity Facility, Washington, DC 20456.

FOR FURTHER INFORMATION CONTACT: David Serlo, Treasurer, or Mark Medvin, Attorney-Advisor, National Credit Union Administration Central Liquidity Facility, Washington, DC 20456. Telephone: (800) 424-3205 (Mr. Serlo) or (202) 632-4870 (Mr. Medvin).

SUPPLEMENTARY INFORMATION: The National Credit Union Administration Central Liquidity Facility ("Facility") was created by the National Credit Union Administration Central Liquidity Facility Act ("Act"), Title XVIII of Pub. L. 95-630. The Facility is a "mixed ownership Government corporation" within the National Credit Union Administration ("NCUA"). It is an instrumentality of the Federal Government owned by its member credit unions and managed by the NCUA Board.

The purpose of the Facility is to improve the general financial stability by providing credit unions with a source of loans to meet their liquidity needs.

and thereby encourage savings, support consumer and mortgage lending, and provide basic financial resources to all segments of the economy. Banks and savings and loan associations have long had access to loans from the Federal Reserve System "discount window" and the Federal Home Loan Banks, respectively, to meet their liquidity needs, but there has been no similar Government-sponsored source of funds available to credit unions. The Central Liquidity Facility was established by Congress to fill this void. The Facility will begin operation on October 1, 1979, and will begin accepting applications for membership on August 23, 1979. These regulations address membership in and loans from the Facility. A regulatory analysis has been prepared and is available upon request.

ANALYSIS OF COMMENTS AND CHANGES:

On May 4, 1979, NCUA requested public comment on proposed regulations on membership and lending policies of the Facility (44 FR 26115). Approximately 25 written comments were received. Of these, eight comments were from natural person credit unions, with the remainder primarily from trade associations, credit union leagues and central credit unions. Following is a discussion of the comments and of the substantive changes made, as well as an explanation of the final regulation.

1. Agent Member Stock Subscription

The single issue receiving the most comments was the requirement that central credit unions subscribe to Facility capital stock based on the paid-in and unimpaired capital and surplus of all their member natural person credit unions (Section 725.4(a)(2)). Eleven commenters raised this issue and most suggested that this requirement is contrary to the concept of voluntary Facility membership and should be modified to permit central credit unions to join the Facility by subscribing to stock based on the capital and surplus of only those member natural person credit unions which desire access to the Facility. The problem most often cited was the inability of a central credit union to require its members to "reimburse" it for the stock purchased on their behalf. Commenters pointed out that if a large member of a central credit union refuses to reimburse the central for its portion of the stock subscription, the central might not have enough funds to pay the required stock subscription.

or might be able to do so only at the cost of using a substantial portion of its assets and crippling its non-Facility lending operations.

The requirement that central credit unions subscribe to stock based on the capital and surplus of all their members is a statutory requirement. Section 12 U.S.C. 1795c(b) provides for a stock subscription for Agents of:

"one-half of 1 per centum of the paid-in and unimpaired capital and surplus of all those credit unions which primarily serve natural persons, which are members of such credit union or of any credit union comprising such credit union group, and which are not regular members" (emphasis added).

This provision is unambiguous in its requirement and NCUA will follow the statutory mandate in this matter.

However, NCUA will permit Federal central credit unions acting as Agents to set membership requirements which require their members to maintain shares in their central credit unions to "reimburse" it for their portion of the Facility stock subscription. NCUA will propose a regulation that will specifically permit federally chartered central credit unions to establish such membership requirements.

Related to the requirement that Agent members subscribe to capital stock for all their member natural person credit unions is an issue raised by a number of commenters who pointed out that the proposed regulation required Agents to have the Facility's repayment, security and credit reporting agreements signed by all their members, and that failure to do so place the Agent in violation of the regulation. The comments pointed out that the Agent cannot force a credit union which does not want access to the Facility to sign the agreement if the credit union management refuses, and suggested that the regulation should be drafted so that the Agent will not be placed in violation of the regulation for something beyond its control. Accordingly, NCUA has deleted this provision from the final regulation and has substituted a provision which prohibits an Agent from basing a loan application to the Facility upon the liquidity needs of any member natural person credit union which has not agreed to the required repayment terms (Section 725.17(b)(3)).

2. On-Call Portion of the Stock Subscription

The second most often raised issue in the comments concerned the "on-call" portion of the stock subscription. The proposed regulation stated that the on-call portion of the stock subscription could be held in "demand deposits or invested in such other assets as the NCUA Board may from time to time prescribe."

Seven commenters addressed this issue. The general thrust of the comments was that demand deposits are undesirable because there is normally no return on such deposits. Commenters requested more specificity as to the other types of investments that will be permitted and suggested that investments that will pay a reasonable return and keep the funds in the credit union movement are most desirable.

In accordance with these suggestions, the final regulation specifies a number of permissible investments for the on-call portion of the stock subscription (Section 725.5(c)). These include additional shares of Facility stock, share or deposit accounts in central credit unions or noncredit union federally insured financial institutions, securities of or backed by the United States and certain Agency securities, and certain common trust fund or similar "fund" investments. It is NCUA's intent that any investments that will qualify as "liquid assets" under NCUA's Liquidity Reserve regulation (proposed 12 CFR Part 742, June 8, 1979, 44 FR 33094) will constitute permissible investments for the on-call portion of the stock subscription (assuming a final regulation on this matter is promulgated).

3. Return on Investment in Capital Stock: Timing and Amount

A significant number of commenters felt that more specificity was needed as to the dividends that will be paid by the Facility on capital stock in order to enable credit unions to make an informed decision on whether to join the Facility.

NCUA feels that it is neither required nor appropriate to provide specific information on the amount or timing of dividends in the regulation, and that to commit the Facility to specific dividend terms by regulation before the Facility has any earning history would be imprudent. The regulation has been adjusted in § 725.5(e) to specify that dividends will be declared at least annually and to indicate that dividends will be paid in capital stock of the Facility (which is redeemable as long as stock in the minimum amount required for membership is maintained). When

the Facility solicits stock subscriptions, it will provide potential members with a prospectus-like informational circular which will discuss the Facility's operations and policies and will include a projection of return on investment based on specific assumptions. NCUA feels that this is consistent with standard business practice and will provide prospective members with the information necessary to make an informed decision on membership.

4. Reimbursement of Agent Members

A number of commenters expressed the opinion that the regulation should provide specific information on how Agent members will be reimbursed for the services which they perform for the Facility. The proposed regulation merely indicated that Agents would be reimbursed in a manner to be determined by the NCUA Board.

As is the case with dividends, NCUA feels that specificity in the regulation as to how Agents will be reimbursed is neither required nor appropriate. Flexibility will be needed as experience shows the costs involved and what the most desirable means of reimbursement are. It is likely that the method of reimbursement will be adjusted from time to time as operational information and experience are gained, and to unnecessarily commit the Facility to specific reimbursement methods or formulas without such information and experience would be unwise. Consequently, the final regulation does not reflect any change in the provision regarding Agent reimbursement (Section 725.4(g)).

5. Publication of Repayment, Security and Credit Reporting Agreements

The proposed regulation indicated that the repayment, security and credit reporting agreements would be published as part of the final regulation. These agreements are contracts pertaining to loans, and, as such, are exempt from the provisions of the Administrative Procedures Act pertaining to solicitation of public comment (5 U.S.C. 553(a)(2)).

Commenters indicated that it was difficult to comment on the regulations or to make any informed decision on joining the Facility without first seeing these agreements. Accordingly, the Facility published copies of the proposed agreements in the Federal Register on July 24, 1979 (44 FR 43365), and requested comments from interested parties.

It should be noted that NCUA has decided not to include these agreements as part of the final regulation. The NCUA Board will retain the right to

modify these agreements by publication of any changes in the Federal Register, and any such changes will apply to Facility advances made after the effective date of the changes (Section 725.21).

6. Agent Groups

The comments raised two specific issues concerning Agent groups. Commenters felt that the regulation should provide specific guidance as to how an Agent group should be structured. The proposed regulation was purposely general on this matter so as not to foreclose any group or prospective group from participating as an Agent member. However, the final regulation has been modified to provide minimal requirements for Agent groups which are essential to the Facility from an operational standpoint.

The regulation defines an "Agent group representative" as a central credit union in the group designated to transact business with the Facility on behalf of the group or any member of the group (Section 725.2(b)). Essentially, the Agent group representative is the group's "interface" with the Facility. The regulation provides that the required stock subscription for the entire group shall be subscribed to by the Agent group representative (Section 725.4(a)), and the repayment agreements are set up in such a way that the Facility will make advances of funds to the Agent group representative for disbursement to the other group members (based on the liquidity needs of their member natural person credit unions). The Agent group representative will be designated in the applications of the group members for "Agent group" membership.

A second issue related to Agent groups which was raised by several commenters concerned the proposed regulation's provision making each central credit union in an Agent group "jointly and severally liable" for all Facility advances to the group. This provision was originally proposed to indicate that Facility advances to Agent groups would be viewed as an advance to the group as a whole rather than to any particular central credit union in the group. The comments suggested that this requirement creates an incentive to join as an individual Agent instead of as part of a group. They also pointed out that each group member would have to reflect the total of all Facility loans to the group as a contingent liability on its financial statement. This would make it difficult for any central credit union in the group to find other sources of loans, and since the Facility is intended primarily as a lender of last resort, this requirement would work contrary to the

Facility's purpose. Therefore, the provision imposing joint and several liability on each member of an Agent group has been deleted, and the repayment, security and credit reporting agreements have been structured so that each member of an Agent group will be liable only for those Facility advances which it has applied for.

7. Role of Agents

Several commenters expressed dissatisfaction with the role provided for Agents under the proposed regulation. They felt that Agents serve little purpose other than as a conduit of funds, and that the restrictiveness of this function will prevent the Facility from taking advantage of the benefits and efficiencies which would be possible if the private system were given a greater role.

Much of the restrictiveness arose from the direct "pass-through" concept embodied in the proposed regulation, under which the Agent would receive a loan application and, if approved, would request funds in the same amount from the Facility to make the loan. The funds would be disbursed to the Agent and would be "passed through" to the natural person credit union on exactly the same terms as the Facility made the loan to the Agent.

Some commenters suggested that it would be more efficient for the Facility to supply funds to Agents based on forecasted liquidity needs than on an item-by-item basis, and permit the Agents to use the funds as they would any other funds. The Facility could monitor funds usage to insure that Facility-supplied funds did not exceed forecasted liquidity demand so that Facility funds would not be used to expand portfolios.

NCUA recognizes the efficiencies and benefits which could be gained from this "aggregate liquidity demand" approach, but feels that it does not provide the Facility with sufficient control over the use of its funds to insure that such funds are used only for liquidity needs. However, NCUA does agree that the role provided to Agents under the proposed regulation was too limited, and the final regulation attempts to balance the control factor against the efficiency factor by providing a role for Agents between these approaches. The requirement of a direct "pass-through" of loans has been eliminated, but Agents will still be required to base their applications to the Facility on specific, demonstrable liquidity needs of natural person credit unions. An Agent's applications to the Facility can be based on pending applications to the Agent for loans to meet liquidity needs, as well as

on existing loans in the Agent's portfolio which were made to meet liquidity needs (Section 725.17(b)(2)). Agents will also be permitted to set the rates on loans to meet liquidity needs on which applications to the Facility are based.

This mode of operation provides much greater flexibility for Agents, and will permit them to handle Facility activity in much the same manner as their other loan activity is handled. A more detailed discussion of how Agents will handle Facility activity is provided in section 11 of the "Analysis of the Regulation" in this Preamble.

The final regulation also includes a provision which permits the NCUA Board to specify other indicia of liquidity needs on which applications to the Facility can be based, thereby providing greater flexibility for future operations if conditions warrant it (Section 725.17(b)(2)(iii)).

8. Other Changes

(a) In order to avoid a double stock subscription when a natural person credit union is a member of more than one Agent member, the stock subscription for Agents has been modified to exclude the assets of any credit union whose capital and surplus have been included in calculating the stock subscription of another Agent (Section 725.4(a)(2)). A credit union in this category will have to choose one Agent through which it will access the Facility, and that Agent will be responsible for subscribing to stock based on that credit union's assets (see footnote 2 to the regulation). This is authorized because the statute exhibits an intent to prevent double stock subscriptions.

(b) The provisions on voluntary termination of membership (Section 725.6 (a), (b)) have been changed to require written notice to the NCUA Board of the decision to terminate membership. This change is made to avoid the possibility of disagreement over the date when notice to terminate was given for purposes of beginning the waiting period.

(c) Credit unions which apply for membership prior to October 1, 1979, and central credit unions approved as Agents prior to October 1, 1979, do not have to forward the required portion of the stock subscription until October 1, 1979 (footnotes 1 and 3 to §§ 725.3 and 725.4).

(d) Agent members will be required to submit a list of all their member natural person credit unions as a condition of membership (Section 725.4(a)(3)(iii)).

(e) Greater detail has been provided regarding adjustments to Agents' stock subscriptions when a member natural

person credit union joins the Agent (Section 725.4(e)) or withdraws from the Agent (Section 725.6(d)(2)).

(f) The definition of "central credit union" (Section 725.2(d)) has been modified so that the "50% of activity" test is based on total activity with other credit unions as a percentage of total activity, rather than as a percentage of total member activity.

(g) An additional criterion to be considered by the NCUA Board before approving an application for Agent membership has been added as § 725.4(b)(6). The NCUA Board must be satisfied that Agents will deal with all natural person credit unions evenhandedly and will not discriminate against certain members because of political or other factors not relevant to creditworthiness. As an example, NCUA will consider whether any subsidy received by a prospective Agent member will interfere with the ability of the prospective Agent to act fairly and independently when representing the Facility in dealing with natural person credit unions. This criterion has been added in response to concerns expressed to NCUA that "political considerations" have, in the past, played a significant role in the operations of central credit unions.

(h) A number of changes were required to conform sections of the regulation to the change permitting Agents to base applications to the Facility on existing loans to meet liquidity needs in addition to pending applications for such loans (See § 725.17(b)(2) of the regulation and Section 11 of the Analysis of the Regulation in this Preamble). The term "Agent loan" has been defined (Section 725.2(c)), and the loan application (Section 725.17(b)(2), (4)), creditworthiness (Section 725.18(b)), collateral (Section 725.19(b)), and loan terms (Section 725.20(b)) provisions have been adjusted to conform to the change.

(i) Language has been added to clarify that (1) the waiting period for voluntary withdrawal of membership will be based only on the required membership stock subscription and not on any elective purchases of shares of Facility stock (Sections 725.2(p) and 725.6 (a), (b)); (2) any shares of stock in the Facility in excess of those required can be redeemed at any time (Section 725.5(d)); and (3) upon involuntary termination of membership in the Facility, the member's stock will be redeemed without any waiting period (Section 725.6(d)(1)).

(j) A number of non-substantive changes have been made in the organization of the regulation.

Analysis of the Regulation**Membership****1. Types of Membership.**

Membership in the Facility is available to both Federal and state-chartered credit unions. Two types of membership in the Facility are provided for in the Act and the regulation: *Regular membership* and *Agent membership*. Regular membership (Section 725.3) is available only to the traditional type of credit unions which primarily serve natural persons. Agent membership (Section 725.4), on the other hand, is open only to credit unions or groups of credit unions which primarily serve other credit unions. For purposes of distinguishing these two types of credit unions, the Facility will use a "50 percent of activity test"—that is, a credit union with more than 50 percent of its activity (basically, the sum of shares and loans) devoted to natural persons will be classified as a "natural person credit union" (Section 725.2(1)), while a credit union with more than 50 percent of its activity devoted to other credit unions will be considered to be a "central credit union" (Section 725.2(d)).

2. Regular Membership

"Regular" membership is, by statute, available only to natural person credit unions and this is reflected in Section 725.3. In order to become a Regular member of the Facility, a natural person credit union must submit an application, copies of its charter and bylaws (unless these are already on file with NCUA), and its most recent month-end financial and statistical report, and must also subscribe to the capital stock of the Facility.

The amount of the required stock subscription is one-half of 1 percent of the credit union's "paid-in and unimpaired capital and surplus," a term defined in Section 725.2(n) of the regulation. Only one-half of the required stock subscription—in other words, one-quarter of 1 percent of paid-in and unimpaired capital and surplus—must be paid to the Facility (Section 725.3(a)(2)), while the other one-half of the stock subscription must be held by the member on call of the NCUA Board and invested in specified assets (Section 725.5(c)). Section 725.3(a)(2) requires that an applicant for Regular membership forward the portion of its stock subscription that must be paid to the Facility with its application (except that credit unions applying prior to October 1, 1979, are not required to forward these funds until October 1, 1979). The stock subscription will be adjusted annually to reflect changes in the member's paid-in and unimpaired capital and surplus (Section 725.5(b)(2)).

3. Agent Membership

"Agent" membership is, by statute, available only to "a credit union or group of credit unions primarily serving other credit unions" (12 U.S.C. 1795c(b)), and this is reflected in Section 725.4. Thus, a single central credit union or a group of central credit unions can apply to become an Agent member of the Facility.

Section 725.4 of the regulation sets out the steps which must be taken by a central credit union or group of central credit unions desiring Agent membership. As in the case of Regular members, a prospective Agent member must submit an application, copies of its charter and bylaws (unless already on file at NCUA), its most recent month-end financial and statistical report, and a list of all its member natural person credit unions. When a group of central credit unions applies for Agent membership, these documents and reports must be submitted by each central credit union in the group.

Agent members must also subscribe to capital stock of the Facility. Section 725.4(a)(2) provides that the amount of the stock subscription is one-half of 1 percent of the paid-in and unimpaired capital and surplus of all the natural person credit unions which are members of the applicant central credit union or, in the case of a group of central credit unions, which are members of any central credit union in the group. When a group of central credit unions applies for Agent membership, one central credit union in the group must be designated in the membership application as the "Agent group representative," and the Agent group representative must subscribe to the capital stock of the Facility (Section 725.4(a)).

In order to prevent double stock subscriptions, Agent members do not have to consider the paid-in and unimpaired capital and surplus of any of their members which choose to join the Facility as Regular members. Also, any natural person credit union which is a member of more than one Agent member will designate through which Agent it desires to access the Facility, and only the designated Agent will have to subscribe to capital stock based on the capital and surplus of the natural person credit union (Section 725.4(a)(2); footnote 2).

As in the case of Regular members, only one-half of the required stock subscription must be paid to the Facility (Section 725.4(a)(2)), while the remainder will be on call of the NCUA Board and must be invested in any of the assets specified in § 725.5(c). Since Agent applicants must receive approval

of the NCUA Board in order to become an Agent member, § 725.4(a)(2) does not require Agent applicants to forward the amount representing one-half of their required stock subscription until the NCUA Board approves them (or until October 1, 1979, whichever is later).

Prospective Agent members should note that the Facility will look to the Agent applicant, and not to its individual credit union members, for the required stock subscription. Federally chartered central credit unions can establish membership requirements which enable them to pass the cost of the stock subscription through to its members (NCUA will confirm by regulation that federally chartered central credit unions can set such requirements). Applicable State law will govern whether State chartered central credit unions can set similar membership requirements.

As is the case with Regular members, an Agent member's stock subscription will be adjusted annually to reflect changes in the paid-in and unimpaired capital and surplus of the Agent's member natural person credit unions (Section 725.5(b)). In addition, within 30 days after a natural person credit union becomes a new member of an Agent, the Agent will be required to subscribe to the appropriate amount of capital stock for that credit union and forward one-half of the subscription to the Facility (Section 725.4(e)).

Section 725.4(a) requires that applicants for Agent membership receive the approval of, and agree to supervision by, the NCUA Board in order to become an Agent member. These requirements are imposed because they are required by the Act (12 U.S.C. 1795c(b)), and because Agent members will be operating essentially as an arm of the Facility. It is necessary that the Facility be assured that the management, operations, and financial condition of its Agent members are sound. Criteria which will be considered by the NCUA Board in determining whether to approve an applicant to become an Agent member are specified in § 725.4(b). In the case of a group of central credit unions, each central credit union in the group must meet these criteria.

In addition, to insure the continued integrity of Facility operations, Agents must agree to comply with all regulations and reporting requirements that may be imposed by the Facility on Agent members (Section 725.4(a)(4)), and to submit to unrestricted examination by the NCUA Board or its designee (Section 725.4(a)(5)).

4. Access to Facility Funds

Although central credit unions are eligible for Agent membership in the Facility, the Facility is authorized to lend only to meet the liquidity needs (Section 725.2(g)) of *natural person credit unions*. This means that Agent members' borrowings from the Facility must be based on documentable liquidity needs of the natural person credit unions which they serve.

Thus, natural person credit unions desiring access to the Facility have a choice as to how to deal with the Facility. A natural person credit union can join the Facility directly as a Regular member, in which case the credit union will submit its loan applications directly to, receive its loans directly from, and, in general, communicate and carry on its dealings directly with, the Facility.

In the alternative, a natural person credit union can gain access to the Facility as a member of a central credit union which is an Agent member of the Facility. In this case, the natural person credit union would not itself be a member of the Facility, but would have indirect access to Facility funds "through" the Agent member. Credit unions choosing to gain access to Facility funds in this manner will deal only with the Agent member and not directly with the Facility. Applications for loans to meet liquidity needs will be submitted to the Agent, and the loans will be made by the Agent. The Agent will be able to access the Facility for funds based on these liquidity needs.

The fact that a credit union is a member of a central credit union which is an Agent does not prevent that credit union from choosing Regular membership and dealing directly with the Facility.

5. Capital Stock

The Central Liquidity Facility is a corporation and, as such, will issue capital stock. Members must subscribe to Facility capital stock in specified amounts (Sections 725.3(a), 725.4(a)) and are actually the owners of the Facility, although the shares are nonvoting and carry no control over management of the Facility.

Shares of stock in the Facility will have a par value of \$50 each, and the Facility will issue whole and fractional shares. Ownership of shares will be entered solely on the records of the Facility in share accounts similar to credit union share accounts, and no certificates or other evidences of ownership will be issued. Shares cannot be transferred or hypothecated except to the Facility (Section 725.5(a)).

The payment of dividends is provided for in § 725.5(e). Dividends will be paid on capital stock (including fractional

shares) no less frequently than annually by crediting the member's capital stock account. The rates and time for payment of dividends will be determined by the NCUA Board. Dividends will be paid only on capital stock that has been issued (paid for) and will not be paid on the on-call portion of the stock subscription (unless it is invested in shares of Facility stock).

6. On-call Portion of the Stock Subscription

The "on-call" portion of a member's (Regular and Agent) stock subscription must be invested in specific types of liquid assets which are specified in § 725.5(c). These investments are intended to correspond to the investments which will qualify as "liquid assets" under NCUA's recently proposed "Liquidity Reserve" regulation (44 FR 33094, June 8, 1979), so that the on-call portion (as well as the paid-in portion) of the member's stock subscription will count towards any liquidity reserve that may be required by NCUA (note that since NCUA's Liquidity Reserve regulation is not final, the permissible investments specified in § 725.5(c) for the on-call portion of the stock subscription are subject to change if and when that regulation becomes final). Briefly, the permissible investments for the "on-call" portion are as follows:

- Additional shares of Facility stock;
- Shares or deposits in central credit unions or in non-credit union federally insured financial institutions (1 year maximum maturity);
- U.S. Government, U.S. Government-guaranteed, and certain Agency securities (1 year maximum maturity); and
- Investments in common trust funds or similar funds of securities authorized for investment by Federal credit unions. Investments in such funds will be valued net of deferred losses, and only funds providing daily liquidity will qualify.

The NCUA Board may prescribe additional investments which will qualify for the on-call portion of the stock subscription, as well as change the types of investments already prescribed.

In the event that the NCUA Board finds it necessary to make a "call" against the "on-call" portion of the stock subscription, the call will be issued against all members in proportion to their capital stock subscriptions, and will not single out individual credit unions or groups of credit unions.

7. Purchases of Additional Facility Stock

Any member of the Facility may, at any time, purchase additional Facility stock over and above the amount of the required stock subscription (Section

725.5(d)). Such stock will earn dividends, and can be withdrawn by the member as long as the member's required paid-in portion of its stock subscription is maintained and the member holds other qualifying investments in the amount of the required "on-call" portion of the stock subscription.

8. Termination of Membership

The regulations provide for both voluntary and involuntary termination of membership. As provided in the Act, the provisions on voluntary withdrawal from membership (Section 725.6 (a), (b) and (d)) provide for the redemption of stock at the purchase price after a waiting period of 24 months for large members (5 percent or more of total subscribed Facility stock) and 6 months for all other members. When a member natural person credit union withdraws from membership in an Agent, the Agent's stock subscription will be adjusted after the waiting period that would apply if the natural person credit union were withdrawing from membership in the Facility (Section 725.6(d)(2)). Note that, for purposes of determining the applicable waiting period for withdrawal from membership, only the amount of the required stock subscription (including the on-call portion) is relevant; any elective purchases of shares will not in any case cause a credit union whose required stock subscription is less than 5 percent of total subscribed Facility stock to have to wait more than 6 months to withdraw from membership (Sections 725.2(p) and 725.6 (a), (b)).

Section 725.6 (c) and (d) provides for involuntary termination of membership in the Facility. The regulation gives a member the right to a hearing before having its membership terminated. A credit union whose membership is terminated involuntarily will have its stock redeemed upon termination (no waiting period) at the purchase price, and will not be permitted to rejoin the Facility until the NCUA Board is satisfied that the credit union will comply with all applicable laws and regulations.

Lending**9. Liquidity Needs**

The Central Liquidity Facility was established to provide a source of funds to meet "Liquidity needs" of natural person credit unions. "Liquidity needs" is defined at § 725.2(g), which tracks the Act's definition and indicates the three types of loans which the Facility is authorized to make. These are:

- Short-term adjustment credit*—for example, credit to meet a temporary shortage of funds due to a large withdrawal or a delay

in receiving payroll deduction funds from a sponsor;

(b) *Seasonal credit*—for example, credit to meet a shortage of funds due to summer share withdrawals from a teachers' credit union; and

(c) *Protracted adjustment credit*—for example, a long term funds shortage due to the closing of a factory and the resulting unemployment of members.

The Facility is authorized only to make loans to meet liquidity needs, and is specifically prohibited by statute from making any loan "the intent of which is to expand credit union portfolios" (12 U.S.C. 1795e(a)(1)).

10. Extensions of credit to Regular members

Natural person credit unions which choose to become Regular members will deal directly with the Facility. Regular members will submit their applications for credit to a Facility lending officer (Section 725.17(d)) either at the Washington office, a Regional office, or at some other designated location. The application will be reviewed and the creditworthiness of the applicant will be considered (Section 725.18(a)) as required by the Act. Section 725.17(d) provides that applications for advances will be approved or denied within five working days after they are received.

Normally, applications for extensions of credit must be in writing, although other forms of application may be developed later. In emergency circumstances, § 725.17(c) permits verbal applications with confirmation in writing.

11. Extensions of Credit to Agent members

Agent members will, like Regular members, deal directly with the Facility, but their applications for extensions of credit must be based on the documentable liquidity needs of their member natural person credit unions (Section 725.17(b)(2)).

When an Agent member receives an application from one of its member natural person credit unions for an advance of funds to meet liquidity needs, the Agent will review the application, consider the applicant's creditworthiness (Section 725.18(b)), and approve or deny the loan. The Facility will provide Agents with criteria and guidelines for approving loans eligible for Facility funds. Applications which fall outside the guidelines can be referred to the Facility for final action.

If the Agent approves the application, the Agent can immediately apply to the Facility for funds to make the loan (Section 725.17(b)(2)(i)), or can make the loan out of its own funds. If the Agent makes the loan out of its own funds, the Agent can apply to the Facility for funds

at some subsequent time using the liquidity needs met by that loan as the basis for the application (Section 725.17(b)(2)(ii)). In either case, any loan by the Agent to meet liquidity needs which serve as the basis for an Agent's application to the Facility must:

a. Have been applied for in accordance with Facility application requirements (Section 725.17(b)(4));

b. Meet the purpose and creditworthiness criteria set by the Facility (Sections 725.17(b)(2) and 725.18(b)); and

c. Be granted subject to the repayment, security and credit reporting terms prescribed by the Facility (Section 725.20(b)).

The Agent will set the interest rate on such loans.

Agents may base applications to the Facility on an individual application or loan, or on a package of applications and/or loans. Any loan which meets liquidity needs which serve as the basis for an application to the Facility is considered an "Agent loan" under the regulation (Section 725.2(c)). It should be noted that a loan by an Agent might not be an "Agent loan" when made, but would become an "Agent loan" if an application to the Facility is subsequently based on it. Thus, it is anticipated that Agents will handle all requests for loans to meet liquidity needs as though they will serve as a basis for an application to the Facility to preserve the option to use them for that purpose.

Agent members will be compensated for the services they perform for the Facility in such manner as may be specified by the NCUA Board (Section 725.4(g)) from time to time. The amount of compensation will be such that an Agent does not lose money in performing the services of an Agent member of the Facility.

12. Creditworthiness

Prior to any advance of Facility funds, the Act requires that the creditworthiness of the Regular member receiving the advance, or of the natural person credit union on whose liquidity needs the Agent's application is based, must be considered (12 U.S.C. 1795e). This creditworthiness assessment will be done by the Facility for Regular members (Section 725.18(a)), and by the Agent for credit unions with access to the Facility through the Agent (Section 725.18(b)). Sources of information pertaining to an applicant's creditworthiness include Federal and State supervisory and/or insurance agencies and lenders associated with the applicant. Section 725.18(c) lists some of the factors which will be considered in assessing

creditworthiness, and § 725.18(d) indicates that natural person credit unions that do not meet the creditworthiness standards will either be limited in or denied advances for liquidity needs.

13. Collateral Requirements

Advances by the Facility to Regular members will be secured by all the assets of the Regular member (Section 725.19(a)). Loans by an Agent member on which an application to the Facility is based (Agent loans) must be secured by all the assets of the natural person credit union to which the loan was made (Section 725.19(b)). Advances by the Facility to Agent members (Section 725.19(c)) will be secured by all the Agent's "Agent loans" as well as by the collateral securing such loans (i.e., all the assets of the natural person credit unions receiving "Agent loans").

The Facility and the Agent will have the right to perfect the security interest held by them at any time by filing or taking possession of the collateral, but it is intended that, under normal circumstances, the security interest will not be perfected and the collateral will remain in the possession of the natural person credit union so as not to interfere with its normal operations.

14. Repayment, Security and Credit Reporting Agreement

In order to eliminate the need to sign documents each time an advance is made, the Facility will require all its members, both Regular and Agent, to sign a repayment, security and credit reporting agreement governing all advances made by the Facility (Section 725.20(a)). Additionally, the Facility will require that any "Agent loan" be made subject to the repayment, security and credit reporting terms prescribed by the Facility (Section 725.20(b)), which terms will be essentially the same as those of the agreement between the Facility and its Regular members.

The agreements will include a promise to repay all advances, the security agreement, and such other loan terms as can be known in advance. Other more specific terms, such as the amount, maturity, and interest rate, will be disclosed in a confirmation that will be sent out at the time each advance is made, and/or in operating circulars of the Facility (Section 725.20(c)). The agreements will also include a credit reporting agreement which will set reporting requirements to enable the Facility to obtain information bearing on the status of the Facility advances and of "Agent loans."

Section 725.21 provides that the agreements governing Facility advances and "Agent loans" are subject to modification from time to time by the

NCUA Board. Changes will be made by publishing notice of the change in the Federal Register. Any such change will apply to advances made after the effective date of the change. This provides a means of updating all existing agreements without necessitating the signing of new agreements by all credit unions with access to Facility funds each time a change is made in the agreement terms.

15. Other Facility Advances

Section 725.22 implements Section 1795f(16) of the Act and provides for advances to State insurance funds. The terms governing Facility advances to State insurance funds are set by the Act, and § 725.22 reflects the statutory provisions.

State insurance funds have access to the Facility, but they are not "members" of the Facility and have no stock subscription requirements. Advances to State insurance funds are not intended to provide credit unions which do not otherwise have access to the Facility a means of circumventing the Facility's membership requirements. Therefore, a credit union which receives Facility funds through a State insurance fund will receive them subject to stringent conditions.

The provisions of § 725.23 provide for expanded Facility lending authority when in the national interest. The authority for lending under this section is based on the following remarks of Congressman St Germain on this aspect of Public Law 96-630:

"Additionally, the committee believes the Facility should be available to enhance the Federal Government's ability to improve economic well-being and expects the Facility to be operated in close consultation with the Federal Reserve Board and Department of Treasury. At present, recession avoidance depends on appropriate fiscal and monetary policies and credit extensions supportive of the mortgage market by the Federal Home Loan Bank System.

"To assure the Facility is able to contribute to national economic well-being by stimulating consumer lending when it is in the national interest, your committee expects the non-expansionary provision not to apply if a determination is made by the Federal Reserve Board, Department of the Treasury, and National Credit Union Administration, that the national economic interest would be served by stimulating consumer buying by expanding the loan base of credit unions through expansionary Facility lending. In this way, the availability of the Facility to enhance economic well-being would be preserved while at the same time assuring that this capability would be exercised only with the concurrence of the Department of Treasury and the Federal Reserve Board.

"Your committee expects the Administrator to promulgate regulations as necessary to give effect to the full range of lending

activities that are appropriate for the Facility (124 Cong. Rec. E5953 (11/9/78))."

16. Effective Date

NCUA, for good cause, finds that it is necessary for this regulation to go into effect upon publication in the Federal Register (August 23, 1979) rather than 30 days after publication as is NCUA's normal practice. The Act directs the NCUA Board to open the books of the Facility for capital stock subscriptions "as soon as practicable" (12 U.S.C. 1795d(a)), and provides a target date of October 1, 1979, for beginning Facility operations. NCUA believes that, in view of economic forecasts of tight money in the last quarter of 1979 and other factors such as the uncertainty over the future of share drafts, the potential for liquidity problems is very real and that it is essential to begin operations on October 1. Thus, the Facility must begin accepting and acting upon applications for membership, particularly those for Agent membership, as soon as possible. Since prospective members have six months to submit membership applications in order to gain full membership rights without any waiting period, NCUA believes that making this regulation effective upon publication will not result in injury to any party. The official responsible for this determination is James L. Skiles, Deputy General Counsel.

Accordingly, new Part 725, as set forth below, is added to the National Credit Union Rules and Regulations.

Lawrence Connell,
Chairman.

August 20, 1979.

New Part 725, as follows, is added to Chapter VII of Title 12 of the Code of Federal Regulations:

PART 725: NATIONAL CREDIT UNION ADMINISTRATION CENTRAL LIQUIDITY FACILITY

725.1 Scope.

725.2 Definitions.

725.3 Regular membership.

725.4 Agent membership.

725.5 Capital stock.

725.6 Termination of membership.

725.7—725.16 Reserved.

725.17 Applications for extensions of credit.

725.18 Creditworthiness.

725.19 Collateral requirements.

725.20 Repayment, security and credit reporting agreements; other terms and conditions.

725.21 Modification of agreements.

725.22 Advances to insurance organizations.

725.23 Other advances.

Authority: Sections 301–307 of the Federal Credit Union Act, 92 Stat. 3719–3722 (12 U.S.C. 1795–1795f).

§ 725.1 Scope.

This Part contains the regulations implementing the National Credit Union Central Liquidity Facility Act, Subchapter III of the Federal Credit Union Act. The National Credit Union Administration Central Liquidity Facility is a mixed-ownership Government corporation within the National Credit Union Administration. It is managed by the National Credit Union Administration Board and is owned by its member credit unions. The purpose of the Facility is to improve the general financial stability of credit unions by meeting their liquidity needs and thereby encourage savings, support consumer and mortgage lending and provide basic financial resources to all segments of the economy.

§ 725.2 Definitions.

As used in this Part:

(a) "Agent" means an Agent member of the Facility.

(b) "Agent group" means an Agent member of the Facility consisting of a group of central credit unions, one of which is designated as the group's "Agent group representative" and authorized to transact business with the Facility on behalf of the group or any member of the group.

(c) "Agent loan" means an advance of funds by an Agent to a member natural person credit union to meet liquidity needs which have been the basis for a Facility advance.

(d) "Central credit union" means a Federal or state-chartered credit union primarily serving other credit unions. A credit union is primarily serving other credit unions when the total dollar amount of the shares and deposits received from other credit unions plus loans to other credit unions exceeds 50 percent of the total dollar amount of all shares and deposits plus loans during the qualifying period, as defined in paragraph (e) of this section.

(e) "Facility" or "Central Liquidity Facility" means the National Credit Union Administration Central Liquidity Facility.

(f) "Facility advance" means an advance of funds by the Facility to a Regular or Agent member.

(g) "Facility lending officer" means any employee of the Facility or the National Credit Union Administration who has been designated by the NCUA Board as a Facility lending officer.

(h) "Liquidity needs" means the needs of credit unions primarily serving natural persons for:

(1) Short-term adjustment credit available to assist in meeting temporary requirements for funds or to cushion more persistent outflows of funds

pending an orderly adjustment of credit union assets and liabilities;

(2) Seasonal credit available for longer periods to assist in meeting seasonal needs for funds arising from a combination of expected patterns of movement in share and deposit accounts and loans; and

(3) Protracted adjustment credit available in the event of unusual or emergency circumstances of a longer term nature resulting from national, regional or local difficulties.

(i) "Management policies" means policies of a credit union with respect to membership, shares, deposits, dividends, interest rates, lending, investing, borrowing, safeguarding of assets, hiring, training and supervision of employees, and general operating and control practices and procedures.

(j) "Member" means a Regular or Agent member of the Facility, unless the context indicates otherwise.

(k) "Member natural person credit union" means a natural person credit union which is a member of an Agent or of any central credit union in an Agent group. Member natural person credit unions are not members of the Facility unless they are also Regular members of the Facility.

(l) "Natural person credit union" means a Federal or state-chartered credit union primarily serving natural persons. A credit union is primarily serving natural persons if it is not a central credit union as defined in paragraph (d) of this section.

(m) "NCUA Board" or "Board" means the National Credit Union Administration Board.

(n) "Paid-in and unimpaired capital and surplus" means the balance of the paid-in share accounts and deposits as of a given date, less any loss that may have been incurred for which there is no reserve or which has not been charged against undivided earnings, plus the credit balance (or less the debit balance) of the undivided earnings account as of a given date, after all losses have been provided for and net earnings or net losses have been added thereto or deducted therefrom. Statutory reserves or special reserves required by regulation or special agreement between the credit union and its regulatory authority or between the credit union and its member account insurer shall not be considered as part of surplus.

(o) "Qualifying Period" means:

(1) For initial qualification, any 7 months out of the 12 months immediately preceding the month in which application is made to become a member of the Facility; and

(2) For qualification during each subsequent calendar year, any 7 months out of the previous calendar year.

(p) "Stock subscription" means the stock subscription required for membership in the Facility. "Total subscribed Facility stock" is the sum of all members' stock subscriptions.

§ 725.3 Regular membership.

(a) A natural person credit union may become a Regular member of the Facility by:

(1) Making application on a form approved by the Facility;

(2) Subscribing to capital stock of the Facility in an amount equal to one-half of 1 percent of the credit union's paid-in and unimpaired capital and surplus, as determined in accordance with § 725.5(b) of this Part, and forwarding with its completed application funds equal to one-half of this stock subscription; and

(3) Furnishing the following reports and documents with the completed membership application:

(i) A copy of the credit union's financial and statistical report for the most recent calendar month; and

(ii) Copies of the credit union's charter and bylaws, unless the credit union is federally chartered.

(b) A credit union which becomes a Regular member of the Facility after February 23, 1980, may not receive Facility advances without approval of the NCUA Board for a period of six months after becoming a member. This subsection shall not apply to any credit union which becomes a Regular member of the Facility within six months after such credit union is chartered, or which has had access to Facility funds through an Agent member of the Facility at any time within six months prior to becoming a Regular member of the Facility.

§ 725.4 Agent membership.

(a) A central credit union or a group of central credit unions may become an Agent member of the Facility by (in the case of a group of central credit unions, each central credit union in the group must do each of the following except for paragraph (a)(2) of this section, which shall be done by the Agent group representative):

(1) Making application on a form approved by the Facility;

(2) Subscribing to the capital stock of the Facility in an amount equal to one-half of 1 percent of the paid-in and unimpaired capital and surplus (as

determined in accordance with § 725.5(b) of this Part) of all the central credit union's or central credit union group's member natural person credit unions, except those which are Regular members of the Facility or which have access to the Facility through, and are included in the stock subscription of, another Agent.² Upon approval of the application, the Agent shall forward funds equal to one-half of this initial stock subscription to the Facility.³

(3) Furnishing the following reports and documents with the completed membership application:

(i) A copy of the central credit union's financial and statistical report for the most recent calendar month;

(ii) Copies of the central credit union's charter and bylaws, unless such credit union is federally chartered; and

(iii) A list of all the central credit union's member natural person credit unions.

(4) Agreeing to submit to the supervision of the NCUA Board and to comply with all regulations and reporting requirements which the NCUA Board shall prescribe for Agent members;

(5) Agreeing to submit to periodic unrestricted examinations by the NCUA Board or its designee; and

(6) Obtaining the written approval of the NCUA Board.

(b) The NCUA Board may approve a central credit union or group of central credit unions as an Agent member of the Facility, provided the NCUA Board is satisfied that such credit union or credit union group meets certain criteria, including but not limited to the following (in the case of a group of central credit unions, each central credit union in the group must meet these criteria):

(1) The management policies are in writing, approved by the central credit union's board of directors, and reviewed annually by such board;

(2) Adequate internal controls are in place to assure accurate and timely reporting of transactions and the safeguarding of assets;

(3) The financial condition of the central credit union is sound with adequate reserves for losses;

(4) Surety bond coverage provides protection for the central credit union while the central credit union is

² A natural person credit union which is a member of more than one Agent member of the Facility must designate through which Agent it will deal with the Facility, and the designated Agent will be responsible for including the capital and surplus of such credit union in the calculation of its stock subscription.

³ If the application is approved prior to October 1, 1979, these funds are not required to be forwarded to the Facility until October 1, 1979.

performing the duties of an Agent member of Facility;

(5) Management has demonstrated its ability to use such techniques as cash flow analysis, budgeting, and projections of sources and uses of funds to manage the affairs of the central credit union efficiently and in conformity with sound business practices; and

(6) There are no practices, procedures, policies, or other factors that would result in discrimination by the central credit union among natural person credit unions or inhibit its ability to act independently in its role as an Agent member of the Facility.

(c) Each Agent, or in the case of an Agent group, each central credit union in the group, must:

(1) Maintain records related to Facility activity in conformity with requirements prescribed by the NCUA Board from time to time; and

(2) Submit such reports as may be required by the Facility to determine financial soundness, quality and level of service, and conformity with established guidelines and procedures.

(d) Each Agent, or in the case of an Agent group, each central credit union in the group, must have on an annual basis a third party independent audit of its books and records and provide the Facility with copies of the report of such audit. The auditor selected must be recognized by a State or territorial licensing authority as possessing the requisite knowledge and experience to perform audits.

(e) Within 30 days after a natural person credit union becomes a member of a central credit union which is an Agent or a member of an Agent group, the agent, or in the case of an Agent group, the Agent group representative, shall subscribe to additional capital stock of the Facility in an amount equal to one-half of 1 percent of such credit union's paid-in and unimpaired capital and surplus, and shall forward funds equal to one-half of this stock subscription to the Facility. This subsection shall not apply if the natural person credit union is a Regular member of the Facility or has access to the Facility through, and is included in the stock subscription of, another Agent.

(f) A central credit union or group of central credit unions which becomes an Agent member of the Facility after February 23, 1980, may not receive a Facility advance without approval of the NCUA Board for a period of six months after becoming a member. This subsection shall not apply to any credit union which becomes an Agent member or a member of an Agent group within six months after such credit union is

chartered within six months after such credit union has been an Agent or a member of another Agent group.

(g) Agent members will be compensated for the services they perform for the Facility in a manner to be specified by the NCUA Board.

§ 725.5 Capital stock.

(a) The capital stock of the Facility is divided into nonvoting shares having a par value of \$50 each. The Facility issues whole and fractional shares. Shares are issued in book entry form upon receipt of payment for such shares, and cannot be transferred or hypothecated except to the Facility.

(b) The capital stock subscriptions provided for in §§ 725.3 and 725.4 shall be:

(1) Based on an arithmetic average of paid-in and unimpaired capital and surplus over the six months preceding application for membership, and

(2) Adjusted at the close of each calendar year in accordance with an arithmetic average of paid-in and unimpaired capital and surplus over the twelve months in such calendar year. Payments for adjustments to the capital stock subscription must be received by the Facility no later than March 31 of the following year.

(c) That part of a member's stock subscription which is not paid-in shall be held by the member on call of the NCUA Board and shall be invested in:

(1) Additional shares of Facility stock;

(2) Share or deposit accounts with remaining maturities of 1 year or less maintained in central credit unions or institutions insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation;

(3) Investments in obligations of the United States or an Agency thereof, or securities fully guaranteed as to principal and interest thereby, which are authorized under 12 U.S.C. 1757(7) and which have a remaining maturity of 1 year or less;

(4) Investments in common trust funds (net of deferred losses) or similar funds of securities authorized for investment by Federal credit unions, that provide daily liquidity; or

(5) Such other assets as the NCUA Board may prescribe from time to time.

(d) Any member may at any time purchase additional shares of capital stock in the Facility. Any shares in excess of the member's required paid-in portion of its stock subscription can be redeemed by the member as long as the member maintains investments in other assets sufficient to meet the requirement of paragraph (c) of this section. The member's required paid-in portion of its

stock subscription includes one-half of its stock subscription plus any "calls" that may have been issued by the NCUA Board against the "on-call" portion of such stock subscription.

(e) Dividends will be paid on capital stock at such times and rates as are determined by the NCUA Board. The NCUA Board shall declare such dividends no less frequently than annually. All issued (paid for) capital stock shall share in dividend distributions without preference. Payment of dividends will be made by the issuance of capital stock to the member in the amount of the dividend.

§ 725.6 Termination of membership.

(a) A member of the Facility whose stock subscription constitutes less than 5 percent of total subscribed Facility stock may withdraw from membership in the Facility six months after notifying the NCUA Board in writing of its intention to do so.

(b) A member of the Facility whose stock subscription constitutes 5 percent or more of total subscribed Facility stock may withdraw from membership in the Facility twenty-four months after notifying the NCUA Board in writing of its intention to do so.

(c) The NCUA Board may terminate membership in the Facility if, after the opportunity for a hearing, the NCUA Board determines the member has failed to comply with any provision of the National Credit Union Central Liquidity Facility Act or any regulation issued pursuant thereto. If membership is terminated under this subsection, the credit union will be required to obtain the approval of the NCUA Board before becoming a member of the Facility again. Such approval will be granted only if the NCUA Board is satisfied that the credit union will comply with such Act and regulations.

(d) (1) If membership is terminated under any provision of this section, the terminated member's stock shall be redeemed upon termination. In such event, the Facility may retain any amount owed to the Facility by the member.

(2) When a member natural person credit union withdraws from membership in a central credit union which is an Agent or a member of an Agent group, the stock subscription of the Agent, or in the case of an Agent group, the stock subscription of the Agent group representative, will be adjusted after the waiting period which would apply under paragraph (a) or (b) of this section if the withdrawing credit union were a member of the Facility.

§ 725.7-§ 725.16 [Reserved]**§ 725.17 Applications for extensions of credit.**

(a) A Regular member may apply for a Facility advance to meet its liquidity needs by filing an application on a Facility-approved form, or by any other method approved by the Facility.

(b)(1) An Agent member may apply for a Facility advance by filing an application on a Facility-approved form, or by any other method approved by the Facility.

(2) The Agent's application shall be based on the following:

(i) Approved applications to the Agent by its member natural person credit unions for pending loans to meet liquidity needs; or

(ii) Outstanding loans previously made by the Agent to meet liquidity needs of its member natural person credit unions; or

(iii) Such other demonstrable liquidity needs as the NCUA Board may specify.

(3) An Agent shall not submit an application to the Facility based on the liquidity needs of any member natural person credit union which has not agreed to the repayment, security and credit reporting terms prescribed by the Facility for Agent loans;

(4) Any loan to meet liquidity needs which have been or will be the basis for an application by the Agent for a Facility advance must be applied for on an application form approved by the Facility.

(5) Unless approved by the Facility, an Agent shall not submit an application to the Facility based on the liquidity needs of any credit union which became a member natural person credit union of the Agent after February 2, 1980, unless such credit union has been a member natural person credit union of the Agent for six months, was chartered within six months before becoming a member natural person credit union of the Agent, or had access to the Facility either as a Regular member or through another Agent within six months before becoming a member natural person credit union of the Agent.

(c) In emergency circumstances, the applications for extensions of credit required under paragraph (a) and paragraphs (b)(1) and (b)(4) of this section may be verbal, but must be confirmed within five working days by an application as required by such subsection or paragraphs.

(d) Applications of Regular and Agent members shall be filed with a Facility

lending officer. Each application for credit which is completed and properly filed will be approved or denied within five working days after the day of receipt.

§ 725.18 Creditworthiness.

(a) Prior to Facility approval of each application of a Regular member for a Facility advance, the Facility shall consider the creditworthiness of such member.

(b) Prior to an Agent's approval of each application of a member natural person credit union for an extension of credit on which an application by the Agent to the Facility will be based, an Agent shall consider the creditworthiness of such member natural person credit union.

(c) Specific characteristics of an uncreditworthy credit union include, but are not limited to, insolvency as defined by § 700.1(k) of this Chapter, unsatisfactory practices in extending credit, lower than desirable reserve levels, high expense ratio, failure to repay previous Facility advances as agreed, excessive dependence on borrowed funds, inadequate cash management policies and planning, or any other relevant characteristics creating a less than satisfactory condition. The presence of one or more of these characteristics will not necessarily mean that a credit union will be considered uncreditworthy.

(d) A natural person credit union (whether a Regular member of the Facility or a member natural person credit union) which does not meet the Facility's creditworthiness standards may be limited in or denied the use of advances for its liquidity needs.

§ 725.19 Collateral requirements.

(a) Each Facility advance to a Regular member shall be secured by a security interest in all the assets of the Regular member.

(b) Each Agent loan shall be secured by a security interest in all the assets of the member natural person credit union which receives the loan.

(c) Each Facility advance to an Agent member shall be secured, directly or indirectly, by all the Agent loans made by the Agent member, and by the collateral securing such loans.

§ 725.20 Repayment, security and credit reporting agreements; other terms and conditions.

(a) Regular and Agent members, or in the case of an Agent group, the Agent group representative, shall sign the repayment, security and credit reporting agreements prescribed by the Facility, and all Facility advances to Regular and

Agent members shall be governed by the terms and conditions of such agreements.

(b) All Agent loans shall be made subject to the repayment, security and credit reporting terms prescribed by the Facility for Agent loans.

(c) Other terms and conditions applicable to Facility advances and Agent loans will be specified in confirmations of credit provided in connection with such advances and loans, and/or in operating circulars of the Facility.

§ 725.21 Modification of agreements.

The repayment, security, and credit reporting terms under which Facility advances and Agent loans will be made, as provided in § 725.20 of this Part, shall be subject to modification from time to time as the NCUA Board may determine. Any change in such terms shall be published in the Federal Register and shall apply to all advances disbursed by the Facility after the effective date of the change.

§ 725.22 Advances to insurance organizations.

(a) In accordance with policies established by the NCUA Board, the Facility may advance funds to a State credit union share or deposit insurance corporation, guaranty credit union, guaranty association, or similar organization. Requests for such advances shall be supported by an application which sets forth and supports the need for the advance.

(b) Advances under paragraph (a) shall be subject to the approval of the NCUA Board and shall be made subject to the following terms:

(1) The advance shall be fully secured.

(2) The maturity of the advance shall not exceed 12 months.

(3) The advance shall not be renewable at maturity, and

(4) The funds advanced shall not be relent at an interest rate exceeding that imposed by the Facility.

§ 725.23 Other advances.

(a) The NCUA Board may authorize extensions of credit to members of the Facility for purposes other than liquidity needs if the NCUA Board, the Board of Governors of the Federal Reserve System, and the Secretary of the Treasury concur in a determination that such extensions of credit are in the national economic interest.

(b) Extensions of credit approved under the conditions of paragraph (a) of this section shall be subject to such

terms and conditions as shall be established by the NCUA Board.

[FR Doc. 79-26200 Filed 8-22-79; 8:45 am]

BILLING CODE 7535-01-M

12 CFR Parts 740 and 745**Advertisement of Insured Status; Clarification and Definition of Account Insurance Coverage**

AGENCY: National Credit Union Administration.

ACTION: Final rule.

SUMMARY: This rule amends Sections 740 and 745 of the National Credit Union Administration Rules and Regulations to state that federally insured credit unions need not display the official "Advertisement of Insured Status" sign, or make available a brochure of questions and answers on insurance of member share accounts or deposits at locations where members conduct business with the credit union through the use of shared or unshared automated teller machines or point of sale terminals.

EFFECTIVE DATE: August 23, 1979.

ADDRESS: National Credit Union Administration, 2025 M Street N.W., Washington, D.C. 20456.

FOR FURTHER INFORMATION CONTACT: Either Layne L. Bungardner, Office of Examination and Insurance, or Robert S. Monheit, Office of General Counsel, at the above address. Telephone (202) 254-8760 (Mr. Bungardner) or (202) 632-4870 (Mr. Monheit).

SUPPLEMENTAL INFORMATION: On March 14, 1979, the National Credit Union Administration published the proposed rule (44 FR 15512) to eliminate the requirement that the "Advertisement of Insured Status" sign be displayed and certain brochures be made available at automated teller machines and point of sale terminals. Public comment was invited to be received on or before May 7, 1979. All comments received favored the proposed rule. Accordingly, the final rule is as originally published.

Lawrence Connell,

Chairman.

August 20, 1979.

(Section 120, 73 Stat. 635 [12 U.S.C. 1766] and

Sec. 209, 84 Stat. 1104 [12 U.S.C. 1789])

§ 740.3 [Amended]

Accordingly, 12 CFR Part 740 is amended by adding the following paragraph after the end of § 740.3:

(e) Automated teller machine and point of sale terminal exception. For purposes of this section the terms "branch," "station," "teller station," and

"window" do not include automated teller machines or point of sale terminals.

§ 745.13 [Amended]

Accordingly, 12 CFR Part 745 is amended by adding the following sentence at the end of § 745.13:

For purposes of this section the terms "teller station" and "window" do not include automated teller machines or point of sale terminals.

[FR Doc. 79-26241 Filed 8-22-79; 8:45 am]

BILLING CODE 7535-01-M

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****14 CFR Part 39**

[Docket No. 79-CE-14-AD; Amendment 39-3532]

Airworthiness Directive; Beech Model 76

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD), applicable to certain Beech Model 76 airplanes. The AD requires installation of larger diameter clevis pins at two locations in the main landing gear system. This action is necessary to assure structural integrity of the main landing gear housing to the fork attachment joint to prevent possible collapse of the main landing gear.

EFFECTIVE DATE: August 27, 1979.

COMPLIANCE SCHEDULE: As prescribed in the body of the AD.

ADDRESSES: Class I Beechcraft Service Instructions No. 1073 applicable to this AD, may be obtained from local Beechcraft Aviation and Aero Centers or Beech Aircraft Corporation, Commercial Service Department, 9709 East Central, Wichita, Kansas 67201. Copies of these service instructions are contained in the Rules Docket, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106 and Room 916, 800 Independence Avenue, S.W., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: William L. (Bud) Schroeder, Aerospace Engineer, Engineering and Manufacturing Branch, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106; telephone (816) 374-3446.

SUPPLEMENTARY INFORMATION: There have been six (6) reported occurrences

involving Beech Model 76 airplanes wherein the MS20392-1C61 or MS20392-1C67 clevis pin which retains the Part Number 169-810031-11 main landing gear fork pin has sheared allowing the fork pin to gradually withdraw. Two of the occurrences resulted in collapse of the main landing gear while in the four other incidents, the discrepancy was discovered prior to the fork pin withdrawing far enough to cause collapse of the landing gear. In order to correct this problem the manufacturer has issued Beechcraft Service Instructions Number 1073 which provides instructions for installation of a larger diameter clevis pin having Part Number MS20392-2C67. The manufacturer recommends accomplishment within 10 hours time-in-service after the service instructions are received.

Accordingly, since the condition described herein is likely to exist or develop on other airplanes of the same type design, the FAA is issuing an AD applicable to certain Beech Model 76 airplanes making installation of the larger diameter clevis pins, in accordance with Beechcraft Service Instructions Number 1073, mandatory. The AD compliance time has been set at twenty-five (25) hours in order to allow sufficient time for maintenance personnel to obtain the new larger clevis pins and tools that are required to perform the modification. This extended compliance time will reduce the hardship on owners/operators without unduly compromising safety.

Since a situation exists that requires the expeditious adoption of this regulation, it is found that notice and public procedure hereon are impracticable, and good cause exists for making this amendment effective in less than 30 days.

Adoption of the Amendment

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator, Section 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new Airworthiness Directive:

Beech: Applies to Model 76 (Serial Numbers ME-1 through ME-228) Airplanes certificated in all categories.

Compliance: Required as indicated unless already accomplished.

To prevent possible collapse of the main landing gear, accomplish the following:

(A) Within the next twenty-five (25) hours time-in-service after the effective date of this AD, install a new part number MS20392-2C67 clevis pin, common to the main landing gear fork

* If the Agent is an Agent group, the application must be filed by the Agent group representative, and any Facility advance will be made to the Agent group representative.

and the fork pin, in the left and right main landing gear in accordance with procedures in Beechcraft Service Instructions Number 1973.

Note.—Installation of the new larger clevis pins requires a $\frac{3}{16}$ (1875) inch diameter carbide tip drill bit, drill press and a suitable drill press vise or "V" blocks and clamps to hold the fork pin while enlarging the clevis pin hole.

(B) Aircraft may be flown in accordance with Federal Aviation Regulation 21.197 to a location where this AD can be accomplished.

(C) Any equivalent method of compliance with this AD must be approved by the Chief, Engineering and Manufacturing Branch, FAA, Central Region.

This Amendment becomes effective August 27, 1979.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and Sec. 11.89 of the Federal Aviation Regulations (14 CFR 11.89).)

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the final evaluation prepared for this document is contained in the docket. A copy of it may be obtained by writing to FAA, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

Issued in Kansas City, Missouri on August 10, 1979.

John E. Shaw,
Acting Director, Central Region.

[FR Doc 79-25967 Filed 8-22-79; 8:45 am]
BILLING CODE 4910-13

14 CFR Part 97

[Docket No. 19465; Amdt. No. 1145]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements.

These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, D.C. 20591;
2. The FAA Regional Office of the region in which the affected airport is located; or
3. The Flight Inspection Field Office which originated the SIAP.

For Purchase—

Individual SIAP copies may be obtained from:

1. FAA Public Information Center (APA-430), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, D.C. 20591; or
2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—

Copies of all SIAPs, mailed once every 2 weeks, may be ordered from Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. The annual subscription price is \$135.00.

FOR FURTHER INFORMATION CONTACT: Lewis O. Ola, Flight Procedures and Airspace Branch (AFS-730), Aircraft Programs Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426-8277.

SUPPLEMENTARY INFORMATION: This amendment to Part 97 of the Federal Aviation Regulations (14 CFR Part 97) prescribes new, amended, suspended, or revoked Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. § 552(a), 1 CFR Part 51, and § 97.20 of the Federal Aviation Regulations (FARs). The applicable FAA Forms are identified as FAA Forms 8260-3, 8260-4 and 8260-5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the Federal Register expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs but refer to their graphic depiction on charts printed by

publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form document is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

This amendment to Part 97 is effective on the date of publication and contains separate SIAPs which have compliance dates stated as effective dates based on related changes in the National Airspace System or the application of new or revised criteria. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPs). In developing these SIAPs, the TERPs criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs is unnecessary, impracticable, or contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Part 97 of the Federal Aviation Regulations (14 CFR Part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 G.m.t. on the dates specified, as follows:

1. By amending § 97.23 VOR-VOR/DME SIAPs identified as follows:

... Effective October 4, 1979

Delta Junction/Ft. Greely, AK—Allen AAF, VOR/DME or TACAN Rwy 18, Original
Delta Junction/Ft. Greely, AK—Allen AAF, VOR Rwy 18, Amdt. 6
Gustavus, AK—Gustavus, VOR/DME-B, Amdt. 2

Pine Bluff, AR—Grider Field, VOR/DME Rwy 35, Amdt. 8
Chino, CA—Chino, VOR-A, Amdt. 1
Corona, CA—Corona Muni, VOR-A, Amdt. 1
El Monte, CA—El Monte, VOR-A, Amdt. 4
El Monte, CA—El Monte, VOR/DME-B, Amdt. 1

Gainesville, FL—Gainesville Regional, VOR-A, Amdt. 8
Miami, FL—Miami International, VOR Rwy 12, Amdt. 24
Sarasota (Bradenton), FL—Sarasota-Bradenton, VOR Rwy 22, Amdt. 7
Moultrie, GA—Moultrie Municipal, VOR Rwy 22, Amdt. 8

Decatur, IL—Decatur, VOR Rwy 36, Amdt. 12
Sault Ste Marie, MI—Chippewa County International, VOR-A, Amdt. 1
Columbia, MO—Columbia Regional, VOR Rwy 20, Amdt. 7
Cleveland, OH—Cuyahoga County, VOR Rwy 23, Amdt. 1

Millersburg, OH—Holmes County, VOR-A, Amdt. 2
Newport, OR—Newport Muni, VOR/DME Rwy 16, Amdt. 5

Charlotte, NC—Douglas Municipal, VOR Rwy 36L, Original
Charlotte, NC—Douglas Municipal, VOR/DME Rwy 18R, Original
Smyrna, TN—Smyrna, VOR/DME Rwy 14, Original

Sinton, TX—Sinton, VOR Rwy 32, Amdt. 5
Yakima, WA—Yakima Air Terminal, VOR/DME Rwy 27, Amdt. 4
Yakima, WA—Yakima Air Terminal, VOR-A, Amdt. 4

LaCrosse, WI—LaCrosse Muni, VOR Rwy 36, Amdt. 22

... Effective September 20, 1979

North Bend, OR—North Bend Muni, VOR/DME Rwy 4, Amdt. 6

... Effective August 10, 1979

Beaumont-Port Arthur, TX—Jefferson County, VOR Rwy 12, Amdt. 6

... Effective August 8, 1979

Jackson, MI—Jackson County-Reynolds Field, VOR Rwy 31, Amdt. 10

2. By amending § 97.25 SDF-LOC-LDA SIAPs identified as follows:

... Effective October 4, 1979

Decatur, IL—Decatur, LOC BC Rwy 24, Amdt. 5

Cleveland, OH—Cuyahoga County, LOC BC Rwy 5, Amdt. 3

Detroit, MI—Willow Run, LOC BC Rwy 23L, Amdt. 6

Columbia, MO—Columbia Regional, LOC BC Rwy 20, Amdt. 5

Yakima, WA—Yakima Air Terminal, LOC/DME BC Rwy 9, Amdt. 5, cancelled
Yakima, WA—Yakima Air Terminal, LOC/DME BC-B, Original

LaCrosse, WI—LaCrosse Muni, LOC BC Rwy 36, Amdt. 7

... Effective September 6, 1979

St. Louis, MO—Lambert-St. Louis Intl., LOC BC Rwy 6, Amdt. 23

... Effective August 10, 1979

Moline, IL—Quad-City, LOC Rwy 27, Amdt. 1
Beaumont-Port Arthur, TX—Jefferson County, LOC BC Rwy 30, Amdt. 15

3. By amending § 97.27 NDB/ADF SIAPs identified as follows:

... Effective November 1, 1979

New Ulm, MN—New Ulm Muni, NDB Rwy 13, Amdt. 2
Windom, MN—Windom Muni, NDB Rwy 17, Amdt. 3

... Effective October 4, 1979

Greenville, AL—Greenville Muni, NDB Rwy 33, Amdt. 2

Seima, AL—Craig Field, NDB Rwy 32, Original

Delta Junction/Ft. Greely, AK—Allen AAF, NDB-A, Amdt. 2

Gustavus, AK—Gustavus, NDB-A, Amdt. 3
Miami, FL—Tamiami, NDB Rwy 9R, Amdt. 2

Decatur, IL—Decatur, NDB Rwy 6, Amdt. 1
West Union, IA—George L. Scott Muni, NDB Rwy 35, Original

Provincetown, MA—Provincetown Muni, NDB Rwy 25, Original

Lansing, MI—Capital City, NDB Rwy 27L, Amdt. 17

Sault Ste Marie, MI—Chippewa County International, NDB Rwy 15, Amdt. 1

Columbia, MO—Columbia Regional, NDB Rwy 2, Amdt. 5

Sedalia, MO—Sedalia Memorial, NDB Rwy 18, Amdt. 3

Sedalia, MO—Sedalia Memorial, NDB Rwy 36, Amdt. 4

Wolf Point, MT—Wolf Point Intl., NDB Rwy 28, Original

Wolf Point, MT—Wolf Point Intl., NDB-A, Amdt. 2

Elkin, NC—Elkin Muni, NDB Rwy 25, Amdt. 1

Lexington, NC—Lexington Muni, NDB Rwy 8, Amdt. 1

Southport, NC—Brunswick County, NDB-A, Original

Batavia, OH—Clermont County, NDB-A, Amdt. 1

Cleveland, OH—Cuyahoga County, NDB Rwy 23, Amdt. 1

Millersburg, OH—Holmes County, NDB Rwy 27, Amdt. 1

Norman, OK—Max Westheimer, NDB Rwy 3, Amdt. 2

LaCrosse, WI—LaCrosse Muni, NDB Rwy 18, Amdt. 8

... Effective September 20, 1979

North Bend, OR—North Bend Muni, NDB Rwy 4, Amdt. 1

... Effective August 10, 1979

Beaumont-Port Arthur, TX—Jefferson County, NDB Rwy 12, Amdt. 14

4. By amending § 97.29 ILS-MLS SIAPs identified as follows:

... Effective October 4, 1979

Cordova, AK—Cordova Mile 13, ILS/DME Rwy 27, Amdt. 3

Ft. Lauderdale, FL—Ft. Lauderdale-Hollywood Intl., ILS Rwy 9L, Amdt. 9

Honolulu, HI—Honolulu Intl., ILS Rwy 4R, Amdt. 6

Decatur, IL—Decatur, ILS Rwy 6, Amdt. 8

Lansing, MI—Capital City, ILS Rwy 9R, Amdt. 3

Lansing, MI—Capital City, ILS Rwy 27L, Amdt. 18

Sault Ste. Marie, MI—Chippewa County International, ILS Rwy 15, Amdt. 1

Columbia, MO—Columbia Regional, ILS Rwy 2, Amdt. 6

Charlotte, NC—Douglas Municipal, ILS Rwy 36L, Amdt. 1

Cleveland, OH—Cuyahoga County, ILS Rwy 23, Amdt. 5

Richmond, VA—Richard Evelyn Byrd Intl., ILS Rwy 33, Amdt. 6

Yakima, WA—Yakima Air Terminal, ILS Rwy 27, Amdt. 23

LaCrosse, WI—LaCrosse Muni, ILS Rwy 18, Amdt. 8

... Effective September 20, 1979

North Bend, OR—North Bend Muni, ILS Rwy 4, Amdt. 2

... Effective September 6, 1979

St. Louis, MO—Lambert St. Louis Intl., ILS Rwy 24, Amdt. 36

... Effective August 10, 1979

Beaumont-Port Arthur, TX—Jefferson County, ILS Rwy 12, Amdt. 18

5. By amending § 97.31 RADAR SIAPs identified as follows:

... Effective October 4, 1979

Lansing, MI—Capital City, RADAR-1, Amdt. 6

... Effective October 4, 1979

Columbia, MO—Columbia Regional, RNAV Rwy 20, Amdt. 2

Cleveland, OH—Cuyahoga County, RNAV Rwy 23, Amdt. 6

Norman, OK—Max Westheimer, RNAV Rwy 3, Amdt. 1

Brownsville, TX—Brownsville Intl., RNAV Rwy 17R, Original

Brownsville, TX—Brownsville Intl., RNAV Rwy 35L, Original

[Secs. 307, 313(a), 601, and 1110, Federal Aviation Act of 1958 (49 U.S.C. §§ 1348, 1354(a), 1421, and 1510); Sec. 6(c), Department of Transportation Act (49 U.S.C. § 1655(c)); and 14 CFR 11.49(b)(3).]

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Note.—The incorporation by reference in the preceding document was approved by the

Director of the Federal Register on May 12, 1979.

Issued in Washington, D.C. on August 16, 1979.

John S. Kern,

Acting Chief, Aircraft Programs Division

(FR Doc. 79-26153 Filed 8-22-79; 8:45 am)

BILLING CODE 4910-13-M

CIVIL AERONAUTICS BOARD

14 CFR Part 298

(Regulation ER-1140; Amendment 11; Docket 33001)

Classification and Exemption of Air Taxi Operators

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., August 20, 1979.

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: The Civil Aeronautics Board is amending its rules so that Public Charters may be flown by air taxis without the need for an exemption.

DATES:

Adopted: August 20, 1979.

Effective: August 23, 1979.

FOR FURTHER INFORMATION CONTACT:

Richard B. Dyson, Associate General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428; 202-673-5442.

SUPPLEMENTARY INFORMATION:

By notice of proposed rulemaking SPDR-65 (43 FR 30295; July 14, 1978), the CAB proposed to permit air taxis to provide air transportation for Public Charters without anyone having to apply for a special exemption. Air taxis can and do run charters now, but in order for a tour operator to use them it must obtain an exemption from the Board, since the Public Charter rule applies only to charters on certificated carriers and their foreign counterparts. The proposal was that air taxis meet the same consumer protection requirements as certificated carriers for baggage liability, and for bonds or escrow accounts to protect participants' funds. The action was initiated to remove a restriction that appears unjustified in a more freely competitive market. With the minimum contract size requirement reduced to 20 participants for charters, the smaller aircraft of these carriers may be more suitable for many small-scale charters than those of the certificated carriers.

The comments that were received were in favor of removing the restrictions, but the air taxi commenters opposed imposing the consumer protection provisions on the smaller

carriers. The Commuter Airlines Association of America asserted that the imposition of bonding-escrow and baggage liability requirements would be unduly burdensome on these small carriers. Ryan Aviation argued that the consumer protection provisions were unnecessary because there was no history of consumer problems in the industry. Southwest Safaris stated that the cost of compliance with the consumer protective provisions would be prohibitive to a small operation. The National Air Carriers Association and Air BVI took no position on the inclusion of air taxi operators and commuter air carriers as carriers for Public Charters, but argued that if air taxis flying Public Charters are exempted from tariff filing, bonding and escrow accounts, and baggage liability requirements, certificated carriers operating small aircraft should also be exempted. Air BVI stated further that it has difficulty finding a bank with which to set up an escrow account for its small charter operations.

The Board concludes that air taxis should be allowed to provide air transportation for Public Charters without a special exemption, in the interest of stimulating and maintaining competition within the airline industry. Many air taxis are well suited to provide service for smaller charter groups, and the change should aid them in their important role of providing air service to small communities, along with service for smaller, specialized, or short-distance charters. Easing the restriction for air taxis might encourage their use for charters originating from communities not normally served by charters, and for connecting service from small communities to major cities from which other charter service departs.

The issue of baggage liability was decided in another rulemaking (ER-1123; 44 FR 30080; May 24, 1979) which raised the size of aircraft that can be used by air taxis from 30 to 60 seats. In that proceeding it was decided not to extend the minimum baggage liability rules to air taxis, at least until the Board has investigated the economic impact of such rules on small enterprises and on operations with small aircraft.

As pointed out in the comments, some air taxis might have difficulty in arranging the bond or escrow accounts required of certificated carriers who fly Public Charters. Upon consideration of both the comments and the need for protection of charter participants' advance payments, the Board has decided on its own initiative to allow air taxis to avoid using these financial

protection devices if they will leave the participants' payments in the hands of the tour operators (protect by their bonds and escrow accounts) until the charter flights are completed. This will in effect create two options for an air taxi flying a Public Charter: it can establish a bond or an escrow account just as certificated carriers do, or it can provide, in its contract with the tour operator, that the funds will remain in the tour operator's possession (in the operator's escrow account if there is one) until the flight is performed. This will satisfy the need to protect participant's money and keep it available for refunds should the need arise. The provision is in a new § 298.38 in 14 CFR Part 298.

The Board recently abolished the tariff-filing requirement for charter flights (ER-1125; 44 FR 33056; June 8, 1979), and therefore air taxis serving Public Charters will not be required to file tariffs.

This issuance amends 14 CFR Part 298, *Classification and Exemption of Air Taxi Operators*. A corresponding amendment of Part 380, *Public Charters*, is being adopted simultaneously.

Because these amendments relieve a restriction and create no additional burden, the Board finds that an immediate effective date is in the public interest.

Accordingly, 14 CFR Part 298 is amended as follows:

1. The Table of Contents is amended by adding a new § 298.38 to Subpart D, to read:

Subpart D—Limitations and Conditions on Exemption and Operations.

Sec.
298.38 Security arrangements for operating Public Charters.

2. A new § 298.38 is added, to read:

§ 298.38 Security arrangements for operating Public Charters

When an air taxi operator performs a Public Charter under Part 380 of this chapter, either—

(a) The air taxi operator shall meet the bonding or escrow requirements applicable to certificated carriers as set forth in § 207.17 of this chapter; or

(b) The air taxi operator shall ensure that it does not receive any payments for the charter until after the charter has been completed. In this case, its contracts with the charter operator and the charter operator's depository bank, if any, shall state that the charter operator or bank, as applicable, shall

retain control of and responsibility for all participant funds intended for payment for air transportation until after the charter has been completed, notwithstanding any provision of Part 380.

(Sections 101(3), 204, 401, and 416 of the Federal Aviation Act of 1958, as amended, 72 Stat. 737, 743, 754, 771; 49 U.S.C. 1301, 1324, 1371, 1386)

By the Civil Aeronautics Board:

Phyllis T. Kaylor,

Secretary.

(FR Doc. 79-26216 Filed 8-22-79; 8:45 am)

BILLING CODE 6320-01-M

14 CFR Part 380

(Regulation SPR-164; Amendment 6; Docket 33001)

Public Charters

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., August 20, 1979.

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: The CAB amends its rules to allow air taxis to carry Public Charters. Air taxis will be subject to the same financial protection requirements as certificated air carriers, except when they agree to have tour operators hold payments until after the charter is completed. Supplementary information about this amendment appears in ER-1140, also adopted today.

DATES:

Adopted: August 20, 1979.

Effective: August 23, 1979.

FOR FURTHER INFORMATION: Richard B. Dyson, Associate General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428; 202-673-5442.

The Board amends 14 CFR Part 380, *Public Charters*, as follows:

1. The definition of "direct air carrier" in § 380.2 is amended to read:

§ 380.2 Definitions.

As used in this part, unless the context otherwise requires—

"Direct air carrier" means (1) an air carrier holding a certificate of public convenience and necessity issued pursuant to section 401 of the Act, (2) an air taxi operator registered under part 298 of this chapter, or (3) a foreign air carrier which holds a permit issued under section 402 of the Act authorizing direct air transportation.

2. Section 380.10(d) is amended to read:

§ 380.10 Public Charter general requirements.

Public Charters under this part shall meet the following requirements:

(d) The air transportation portion of the charter must be performed by direct air carriers that hold a certificate of public convenience and necessity under section 401 of the Act or a permit under section 402, or are operating under Part 298 of this chapter.

3. Section 380.11 is amended to read:

§ 380.11 Payment to direct air carrier(s).

Except for air taxis, which are governed by § 298.38 of this chapter, the direct air carrier(s) shall be paid in full for the cost of the charter transportation (for both legs, if a round-trip charter) prior to the scheduled date of flight departure, as provided in the basic charter regulations applicable to the direct air carrier(s) under Parts 207, 208, 212, and 214 of this chapter, as the case may be.

4. In § 380.42, the introductory sentence is amended to read:

§ 380.42 Public Charters operated for foreign charter operators.

At least 45 days before the departure date of a foreign-originating charter or series of charters to be operated by a direct air carrier for a foreign charter operator, the carrier shall file with the Board (Special Authorities Division, Bureau of Domestic Aviation) a charter prospectus containing the following information:

(Sections 101(3), 204, 401, 402, and 416 of the Federal Aviation Act of 1958, as amended, 72 Stat. 737, 743, 754, 757, 771; 49 U.S.C. 1301, 1324, 1371, 1372, 1386)

By the Civil Aeronautics Board:

Phyllis T. Kaylor,

Secretary.

(FR Doc. 79-26215 Filed 8-22-79; 8:45 am)

BILLING CODE 6320-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

(T.D. 7641)

Income Tax; Taxable Years Beginning After December 31, 1953; Distributions of Electing Small Business Corporations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document provides final regulations relating to distributions of undistributed taxable income previously taxed to shareholders of small business corporations. Changes to the applicable tax law were made by the Tax Reform Act of 1976. These regulations provide the public with the guidance needed to comply with certain of the changes to the law relating to small business corporations made by the Act.

DATE: The amendments apply to taxable years beginning after December 31, 1975.

FOR FURTHER INFORMATION CONTACT:

Walter H. Woo of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224 (Attention: CC:LR:T) (202-566-3734).

SUPPLEMENTARY INFORMATION:

Background

On January 12, 1979, the Federal Register published proposed amendments to the regulations under section 1377(d) of the Internal Revenue Code of 1954. The amendments were proposed to conform the regulations to sections 902(b) and 1901(b)(32)(iv) of the Tax Reform Act of 1976 (90 Stat. 1808, 1800). A public hearing was not requested or held. After consideration of all comments regarding the proposed amendments, this Treasury decision is adopted.

These regulations will be reexamined as necessary on the basis of comments received from offices within the Treasury Department and Internal Revenue Service or from the public.

Explanation of Provisions

The Tax Reform Act amended section 1377 (relating to special rules applicable to earnings and profits of electing small business corporations) by adding a new subsection (d). Section 1.1377-4 (relating to distributions of undistributed taxable income previously taxed to shareholders) states the rule under section 1377(d) that current year earnings and profits are computed without regard to section 312(k) (relating to effect of depreciation on earnings and profits), but only for purposes of determining whether a distribution by an electing small business corporation is considered to be a distribution of previously taxed income. This section also provides an example illustrating the application of the rule.

On the basis of certain comments received, the language of these regulations as adopted has been clarified.

Drafting Information

The principal author of these regulations is Walter H. Woo of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

Adoption of amendments to the regulations

Accordingly, 26 CFR Part 1 is amended as follows:

Paragraph 1. Section 1.1377 is deleted.

Par. 2. There is added immediately after § 1.1377-3 the following new section:

§ 1.1377-4 Distributions of undistributed taxable income previously taxed to shareholders.

(a) *Undistributed taxable income previously taxed.* Under section 1377(d) the current year earnings and profits of an electing small business corporation are computed without regard to section 312(k) (formerly designated as section 312(m) for taxable years beginning before 1977). This rule applies solely for purposes of determining whether a distribution to a shareholder constitutes a distribution of all or any portion of the shareholder's net share of previously taxed income under section 1375(d) and § 1.1375-4. Section 1377(d) and this section apply to taxable years of an electing small business corporation beginning after December 31, 1975.

(b) *Example.* The application of this section may be illustrated by the following example:

Example. Corporation M, an electing small business corporation which uses the calendar year as its taxable year, in 1977 has \$100 of taxable income, \$120 of current earnings and profits (the \$20 difference between taxable income and current earnings and profits representing the accelerated portion of depreciation which is not deducted for purposes of determining current earnings and profits as a result of section 312(k)). On August 12, 1977, the corporation makes a cash distribution of \$120 to A, its sole shareholder. At the time of the distribution, A's net share of previously taxed income is \$10. Solely for purposes of determining whether the corporation has made a distribution of previously taxed income to A, the corporation's current earnings and profits for 1977 are considered to be \$100. Accordingly, \$10 of the amount distributed to A is treated as a distribution of previously taxed income (see § 1.1375-4), and \$110 of the amount distributed is treated as a distribution of current earnings and profits (determined with regard to section 312(k)) and is taxable as a dividend. The remaining \$10 of undistributed current earnings and profits increases accumulated earnings and profits.

(This Treasury decision is issued under the authority contained in section 7805 of the

Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).)

Jerome Kurtz,

Commissioner of Internal Revenue.

August 10, 1979.

Approved:

Donald C. Lubick,

Assistant Secretary of the Treasury.

§ 1.1377 [Deleted]

Paragraph 1. Section 1.1377 is deleted.

Par. 2. There is added immediately after § 1.1377-3 the following new section:

§ 1.1377-4 Distributions of undistributed taxable income previously taxed to shareholders.

(a) *Undistributed taxable income previously taxed.* Under section 1377(d) the current year earnings and profits of an electing small business corporation are computed without regard to section 312(k) (formerly designated as section 312(m) for taxable years beginning before 1977). This rule applies solely for purposes of determining whether a distribution to a shareholder constitutes a distribution of all or any portion of the shareholder's net share of previously taxed income under section 1375 (d) and § 1.1375-4. Section 1377(d) and this section apply to taxable years of an electing small business corporation beginning after December 31, 1975.

(b) *Example.* The application of this section may be illustrated by the following example:

Example. Corporation M, an electing small business corporation which uses the calendar year as its taxable year, in 1977 has \$100 of taxable income, \$120 of current earnings and profits (the \$20 difference between taxable income and current earnings and profits representing the accelerated portion of depreciation which is not deducted for purposes of determining current earnings and profits as a result of section 312(k)). On August 12, 1977, the corporation makes a cash distribution of \$120 to A, its sole shareholder. At the time of the distribution, A's net share of previously taxed income is \$10. Solely for purposes of determining whether the corporation has made a distribution of previously taxed income to A, the corporation's current earnings and profits for 1977 are considered to be \$100. Accordingly, \$10 of the amount distributed to A is treated as a distribution of previously taxed income (see § 1.1375-4), and \$110 of the amount distributed is treated as a distribution of current earnings and profits (determined with regard to section 312(k)) and is taxable as a dividend. The remaining \$10 of undistributed current earnings and profits increases accumulated earnings and profits.

[FR Doc. 79-26230 Filed 8-22-79; 8:45 am]

BILLING CODE 4830-01-M

26 CFR Part 1

[T.D. 7642; LR-141-76]

Income Tax; Depreciation of Property Attributable to Rehabilitation Expenditures Incurred with Respect to Low-income Rental Housing

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations amending existing regulations under section 167(k) of the Internal Revenue Code of 1954, relating to 60-month depreciation of property attributable to expenditures incurred to rehabilitate low-income rental housing. These regulations reflect amendments made to section 167(k) of the Code by the Tax Reform Act of 1976, the Act of November 12, 1977, and the Revenue Act of 1978.

DATES: The amendments generally apply to property attributable to rehabilitation expenditures paid or incurred after December 31, 1975. In addition, the amendments extend the time for making an election with respect to property attributable to expenditures paid or incurred after December 31, 1975, until November 21, 1979.

FOR FURTHER INFORMATION CONTACT: Charles M. Whedbee of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW, Washington, D.C. 20224. Attention: CG:LR:T (202-565-3487, not a toll-free call).

SUPPLEMENTARY INFORMATION:**Background**

On May 8, 1978, the Federal Register published proposed amendments to the income tax regulations (26 CFR Part 1) under section 167(k) of the Internal Revenue Code of 1954 (43 FR 19679). The amendments were proposed to conform the regulations to section 203 of the Tax Reform Act of 1976 (90 Stat. 1530) and section 4(a) of the Act of November 12, 1977 (Pub. L. 95-171, 91 Stat. 1355). A correction notice correcting three typographical errors was published in the Federal Register on May 23, 1978 (43 FR 22059). A public hearing was held on September 21, 1978. After consideration of all comments regarding the proposed amendments, those amendments are adopted as revised by this Treasury decision.

Description of Amendments

Section 167(k) of the Code permits election of a 60-month depreciation period for certain property attributable

to expenditures to rehabilitate low-income rental housing. The Tax Reform Act of 1976 extended the general cut-off date for qualifying expenditures from January 1, 1976, to January 1, 1978. Also, the Tax Reform Act of 1976 added section 167(k)(3)(D), which provides that certain expenditures incurred pursuant to a binding contract entered into before January 1, 1978, or with respect to low-income rental housing the rehabilitation of which has begun before January 1, 1978, are deemed to be incurred before January 1, 1978. Section 4 of the Act of November 12, 1977, and section 367 of the Revenue Act of 1978 (Pub. L. 95-600), enacted on November 6, 1978, further extended to January 1, 1982, the general cut-off date for qualifying expenditures (including the cut-off dates in section 167(k)(3)(D)). The regulations adopted by the Treasury decision reflect these amendments to section 167(k) of the Code. Because the amendments to section 167(k) clearly indicate a congressional policy to stimulate rehabilitation of low-income housing, the amendments to the regulations utilize a somewhat broader approach to the determination of a binding contract entered into before January 1, 1982, than may be found in regulations under other sections of the Code where different congressional objectives are apparent.

The 1976 Act also increased to \$20,000 the per-dwelling-unit ceiling on qualifying expenditures, effective with respect to expenditures incurred after December 31, 1975. The 1976 Act also requires that the Secretary of the Treasury (or his delegate) define, by regulations, families and individuals of low or moderate income in a manner consistent with the leased housing program under section 8 of the United States Housing Act of 1937. The amendments to the regulations reflect these amendments to section 167(k) of the Code.

The amendments also make clear that a dwelling unit held for occupancy by individuals or families of low or moderate income may qualify as low-income rental housing even though other dwelling units in the same building are held for occupancy by persons not of low or moderate income.

Significant Changes From the Notice of Proposed Rulemaking

The principal change adopted by these regulations relates to the method of verifying the tenant's income certification (i.e., the statement of family income, etc., which the taxpayer must obtain from tenants). Prior to the amendment made by this Treasury decision, the regulations required that the income certification be sworn to

before an officer authorized to administer oaths (such as a notary public). The regulations, as now amended, provide that the income certification must be either sworn to before an officer authorized to administer oaths (such as a notary public) or be on a form containing a warning that it is a criminal offense to make a willfully false statement or misrepresentation to any department or agency of the United States as to any matter within its jurisdiction. If the form containing the warning with respect to a false statement, etc., is used, it must be signed by the tenant (or subtenant) in connection with an application (or other requirement) for a subsidy, rent supplement, mortgage insurance, or other form of assistance to either the taxpayer or the tenant (or subtenant) from a department or agency of the United States. This change is retroactive to pre-1976 taxable years.

The regulations, as adopted, also delete the requirement that the tenant's income certification contain a description of any payments expected to be received during the "certification year" that are not considered to be income under the new criteria prescribed for determining whether a family is of low or moderate income.

The regulation (both as proposed and as adopted) provide that certain rehabilitation expenditures that are incurred pursuant to a binding contract entered into by another person before the general cut-off date are deemed to be incurred by the taxpayer before the cut-off date if the taxpayer acquires the rehabilitated property from such other person before it is placed in service. The final regulations make clear that the binding contract pursuant to which the rehabilitation expenditures are incurred (but not the contract pursuant to which the rehabilitated property is acquired by the taxpayer) must be entered into before January 1, 1982.

Moreover, in the case of low-income housing the rehabilitation of which is begun before January 1, 1982, the final regulations make clear that to qualify the rehabilitation expenditures must be incurred pursuant to a particular undertaking begun before that date.

Grace Periods for Certain Acts

The regulations, as proposed and adopted, revise both the method of computing the tenant's "adjusted income" and the maximum permissible income level to conform to the "section 8" rent supplement program. Moreover, the definition of the tenant's "certification year" is changed, so that tenants now are required to certify their anticipated income for the next year

rather than their actual income for the year just past. The proposed and final regulations make these changes generally applicable for rehabilitation expenditures paid or incurred after December 31, 1975.

One commentator suggests that this retroactive feature could make it necessary to secure new income certifications from past tenants, many of whom may have moved in the interim or otherwise may no longer be available. There also may be tenants who qualified under the old rules who do not satisfy the new ones, but hold leases on their dwelling units entitling them to remain in possession. To avoid these problems, the commentator suggests that the effective date be revised to make the new rules applicable only to rehabilitation expenditures paid or incurred after the date of publication of the final regulations, and then only as to subsequent occupancies either by a new tenant or by an existing tenant upon the expiration of this current lease term.

The effective date for the changes in the manner of computing a tenant's income and the determination of the maximum permissible income level which was proposed, and which is adopted in the final regulations, reflects the effective date contained in the amendments made to section 167(k) by the Tax Reform Act of 1976. However, the final regulations, in recognition of the problems posed by the commentator, contain two relief provisions for taxpayers. Under the first, the taxpayer may determine whether the occupants (including a subtenant) of any dwelling unit are families or individuals of low or moderate income by using the regulations in effect before revision by this Treasury decision that apply both to the maximum permissible income level and the method of computing the tenant's "adjusted income" (including rules relating to the certification year). This first relief provision applies only if the income certification is signed by the tenant on or before June 7, 1978. That date is 30 days after the date the proposed amendments were published in the Federal Register.

Under the second relief provision, the regulations, as proposed and adopted, give taxpayers a grace period in which to obtain the necessary income certifications and make the election. The grace period expires November 21, 1979.

Revenue Act of 1978

Section 367 of the Revenue Act of 1978, which was enacted after the publication of the notice of proposed rulemaking, extended the cut-off date for qualifying expenditures from January 1, 1979, to January 1, 1982. Accordingly, the

date "January 1, 1982" (or "December 31, 1981") has been substituted for "January 1, 1979" (or "December 31, 1978") each place it appears. Because these amendments merely reflect the 3-year extension of the cut-off date for qualifying expenditures, it is unnecessary to issue them with notice and public procedure under subsection (b) of section 553 of Title 5, United States Code or subject to the effective date limitation of subsection (d) of that section.

Drafting Information

The principal author of these regulations is Charles M. Whedbee of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

Adoption of amendments to the regulations

Accordingly, 26 CFR Part 1 is amended as follows:

§ 1.167(k) [Deleted]

Paragraph 1. Section 1.167(k) is deleted.

Par. 2. Section 1.167(k)-1 is amended as follows:

1. Paragraph (a)(1) is amended by striking out "January 1, 1975" in the first sentence and inserting in lieu thereof "January 1, 1982".

2. The first sentence of paragraph (a)(2) is amended by striking out "December 31, 1974" and inserting in lieu thereof "December 31, 1981".

3. The second sentence of paragraph (a)(2) is amended by striking out "January 1, 1975" and inserting in lieu thereof "January 1, 1982".

4. The third sentence of paragraph (a)(2) is amended by striking out "expenditures" and inserting in lieu thereof "expenditure".

5. Paragraph (b)(1) is amended by inserting a comma between "expenditures" and "and" in the second sentence.

6. The last sentence of paragraph (b)(2) is amended by striking out the comma after "possession".

7. A new paragraph (d) is added at the end to read as set forth below.

§ 1.167(k)-1 Depreciation of property attributable to rehabilitation expenditures.

(d) Expenditures deemed incurred before January 1, 1982. For purposes of paragraph (a) of this section—

(1) Rehabilitation expenditures that are incurred pursuant to a binding contract entered into before January 1, 1982, are deemed to be incurred before January 1, 1982. The contract must require (i) the rehabilitation to be performed for the taxpayer in accordance with his specifications, or (ii) the taxpayer to perform the rehabilitation himself (or to have another person perform the work for him in accordance with his specifications). The contract, as of December 31, 1981, must also specifically identify the existing building (or buildings) in connection with which the rehabilitation expenditures are to be incurred, and the expenditures must be incurred in connection with that building (or buildings). A contract may be binding for purposes of section 167(k)(3)(D) and this section, even if it is subject to the happening of certain contingencies (such as the obtaining of financing from a third party) which have not occurred by January 1, 1982. The happening of the contingencies, however, must not be within the unrestricted control of the taxpayer and the contingencies must in fact occur. In any event, a contract that does not represent a bona fide agreement negotiated at arms-length shall not be considered a binding contract for purposes of section 167(k)(3)(D). For purposes of section 167(k)(3)(D), a binding contract includes an agreement, entered into pursuant to section 8 of the United States Housing Act of 1937, between the taxpayer and the Department of Housing and Urban Development ("HUD") or a public housing agency ("PHA") providing that upon completion of rehabilitation in accordance with the taxpayer's final proposal, HUD or the PHA will enter into a housing assistance payments contract with the taxpayer. For purposes of the preceding sentence, "agreement", "final proposal", "public housing agency", and "housing assistance payments contract" have the same meaning as those terms have in 24 CFR Part 881 (regulations of the Department of Housing and Urban Development relating to substantial rehabilitation under the section 8 housing assistance payments program).

(2) Rehabilitation expenditures incurred with respect to a particular undertaking to rehabilitate low-income rental housing are deemed to be incurred before January 1, 1982, if the rehabilitation begins before that date. For purposes of determining whether rehabilitation has begun before January 1, 1982, each dwelling unit (see § 1.167(k)-3(c)) shall be considered separately. Rehabilitation begins upon

the commencement of physical work at the dwelling unit, as distinguished from the beginning of, or engaging in, other preliminary activities, such as the preparation of architect's sketches. The determination of whether physical work has begun shall be based upon all the facts and circumstances of a particular case. In general, where physical work which has commenced at the site of the dwelling units before January 1, 1982, represents rehabilitation expenditures which are allocable under § 1.167(k)-2(d) to more than one dwelling unit (such as the cost of replacing the roof of an existing structure), such work may be treated as having been done on units to which the expenditures are allocable.

(3) For purposes of paragraph (d) (1) and (2) of this section, "rehabilitation expenditures" include those treated as paid or incurred by the taxpayer by reason of paragraph (b)(1) of this section and the "taxpayer" includes the person or persons described in such paragraph (b)(1) who paid or incurred the expenditures. If paragraph (b)(1) of this section applies to property acquired from another person, the binding contract to incur the rehabilitation expenditures (but not the contract for the taxpayer to acquire the rehabilitated property) must be entered into before January 1, 1982.

Par. 3. Section 1.167(k)-2 is amended as follows:

1. The third sentence of paragraph (a) is amended by striking out "1974" and inserting in lieu thereof "1981".

2. The first two sentences of paragraph (c)(1) are deleted and four new sentences are inserted in lieu thereof to read as set forth below.

3. The last sentence of paragraph (c)(1) is amended by striking out "limitation" and inserting in lieu thereof "limitations".

4. Paragraph (c)(2) is amended by striking out "following example:" and "Example." and inserting in lieu thereof "following examples:" and "Example (1).", respectively.

5. A new example (2) is inserted after example (1) in paragraph (c)(2), to read as set forth below.

6. Paragraph (c) is amended as follows:

(a) Subparagraph (1) is amended by striking out "For purposes of" in the first sentence and inserting in lieu thereof "Except as provided in paragraph (e)(2) of this section, for purposes of".

(b) Subparagraph (2) is redesignated as subparagraph (3).

(c) A new subparagraph (2) is added after subparagraph (1), to read as set forth below.

§ 1.167(k)-2 Limitations.

(c) *Maximum amount.* (1) In general, the maximum amount of rehabilitation expenditures paid or incurred by the taxpayer with respect to any dwelling unit which may be taken into account under section 167 (k) is \$20,000. However, in the case of rehabilitation expenditures incurred before January 1, 1976, the amount of such expenditures paid or incurred by the taxpayer with respect to any dwelling unit which may be taken into account under section 167 (k) is limited to \$15,000. The rules in § 1.167(k)-1 (a) (2) shall apply in determining whether an expenditure is incurred before January 1, 1976. Property attributable to amounts in excess of \$20,000 (or, if applicable, \$15,000) may qualify for the reasonable allowance provided by section 167 (a).

(2) * * *

Example (2). X, a calendar year taxpayer on the cash receipts and disbursements method of accounting, spends a total of \$22,000 for rehabilitation of one dwelling unit in an existing building held for low-income rental housing. X would be considered, under the accrual method of accounting, to have incurred \$19,000 of the expenditures in 1975 and \$3,000 in 1976. The expenditures qualify as rehabilitation expenditures under § 1.167(k)-3. Because of the \$15,000 limitation with respect to rehabilitation expenditures incurred before January 1, 1976, property attributable to only \$15,000 of the \$19,000 of expenditures incurred in 1975 qualifies for an election under section 167(k). The \$4,000 of expenditures incurred in 1975 with respect to which X cannot make a valid election is not taken into account in applying the \$20,000 limitation. Therefore, property attributable to the entire \$3,000 of expenditures incurred in 1976 qualifies for an election under section 167(k).

(c) *Special rule.* * * *

(2) In determining, for purposes of the \$15,000 limitation described in the second sentence of paragraph (c)(1) of this section, whether a rehabilitation expenditure is incurred before January 1, 1976, a rehabilitation expenditure treated as having been paid or incurred by the taxpayer by reason of § 1.167(k)-1(b)(1) shall be deemed to have been incurred on the date the expenditure would be considered incurred under the accrual method of accounting by the person or persons who actually incurred the expenditure, regardless of the method of accounting used by that person or persons.

Par. 4. Section 1.167(k)-3 is amended as follows:

1. Paragraph (a)(2) is amended by striking out "include: The amount" and

inserting in lieu thereof "include the amount" in the last sentence.

2. Paragraph (b)(1)(i) is amended by inserting two new sentences after the first sentence to read as set forth below.

3. Paragraphs (b)(2), (b)(3) and (b)(4) are revised as set forth below.

4. Paragraph (b)(5) is redesignated as paragraph (b)(7), and new paragraphs (b)(5) and (b)(6) are added to read as set forth below.

5. Example (1) and Example (2) in paragraph (b)(7), as redesignated, are revised as set forth below.

6. A new paragraph (d) is added at the end thereof, to read as set forth below.

§ 1.167(k)-3 Definitions.

(b) *Low-income rental housing.*—(1) *In general.* (i) * * * A dwelling unit held for occupancy by families and individuals of low or moderate income may qualify as low-income rental housing even though other dwelling units in the same building are held for occupancy by persons who are not of low or moderate income. On the other hand, a dwelling unit held for occupancy by persons who are not of low or moderate income does not qualify as low-income rental housing, even though other dwelling units in the same building are held for occupancy by families and individuals of low or moderate income. * * *

(2) *Definition of low or moderate income.* The occupants of a dwelling unit are considered families and individuals of low or moderate income for purposes of section 167(k) only if their adjusted income (computed in the manner prescribed in paragraph (b)(3) of this section) does not exceed 80 percent of the median income for the area, as determined with adjustments for smaller and larger families by the Secretary of Housing and Urban Development for the purposes of applying section 8(f)(1) of the United States Housing Act of 1937, as amended (42 U.S.C. 1437f(f)(1)), except that if, for purposes of applying such section, the Secretary of Housing and Urban Development establishes an income ceiling higher or lower than 80 percent of the median for the area, the higher or lower income ceiling shall apply. Notwithstanding the preceding sentence, the occupants of a dwelling unit shall not be considered as individuals and families of low or moderate income if all the occupants are students (as defined in section 151(a)(4)), no one of whom is entitled to file a joint return under section 6013. All determinations under this subparagraph shall be made as of the first day of the

certification year (as defined in paragraph (b)(3) of this section).

(3) *Adjusted income.* (i) The adjusted income of a family or individual is the anticipated total annual income of the family or individual for the certification year, determined in accordance with the criteria prescribed by the Secretary of Housing and Urban Development under section 8(f)(3) of the United States Housing Act of 1937, as amended (42 U.S.C. 1437f(f)(3)), for purposes of determining whether a family is a low-income family within the meaning of section 8(f)(1) of the Act. The adjusted income of a family or individual shall be computed solely from the income certification required by paragraph (b)(4) of this section and shall be computed within respect to the "certification year" of the person. Adjusted income is not affected by income earned or received during the certification year that is not included in the income certification. The "certification year" for any person is the 12-month period which begins on the later of (A) the date on which the property attributable to the expenditures allocated to the dwelling unit occupied by the person is placed in service (see § 1.167(k)-1(b)(3)), or (B) the date on which the person first occupies the unit on a rental basis, or signs a lease within respect to the unit, whichever occurs first. Adjusted income must be determined with respect to the actual occupants of the dwelling unit. For purposes of the preceding sentence, if any income of a family member who is not living in the dwelling unit would be taken into account under the criteria prescribed by the Secretary of Housing and Urban Development referred to in the first sentence of this subparagraph, that person shall be considered to be an occupant of the dwelling unit. The term "family", for purposes of section 167(k), means two or more persons related by blood, marriage, or operation of law.

(ii) The principles of this subparagraph may be illustrated by the following example:

Example. Family X first signs a lease on a rehabilitated dwelling unit on January 1, 1977, which the family first occupies on January 25, 1977. All expenditures with respect to the rehabilitation of the dwelling unit were paid or incurred by the taxpayer after December 31, 1975. The certification year for members of family X is the 12-month period beginning on January 1, 1977. All income earned by family X in 1976 is disregarded. Instead, the determination of adjusted income shall be made with respect to the total anticipated annual income of the family for the calendar year 1977, computed in accordance with the criteria prescribed by the Secretary of Housing and Urban Development referred to in the first sentence of this subparagraph

(4) *Income certification requirement.* A taxpayer electing to compute depreciation under section 167(k) with respect to any property contained in a dwelling unit shall secure an income certification from the tenant covering each person who proposes to live in such unit after the beginning of the certification year. If a dwelling unit is subleased during the taxable year and the taxpayer elects to compute depreciation under section 167(k) with respect to any property contained in such unit, the taxpayer shall secure an income certification from the subtenant covering each person who proposes to live in the dwelling unit after the beginning of the certification year. If the dwelling unit is rented to a new tenant or subtenant during the 60-month election period, the taxpayer shall secure an income certification from the new tenant (or subtenant) covering each person who proposed to live in the unit after the beginning of the certification year. The income certification shall contain a statement of the anticipated total annual income for the certification year of each person who proposes to live in the dwelling unit during the certification year, the number of minors who propose to live in the dwelling unit during the certification year, and the anticipated total annual income of such minors, all determined in accordance with the criteria prescribed by the Secretary of Housing and Urban Development referred to in paragraph (b)(3) of this section. The income certification must be maintained by the taxpayer as part of its books and records.

(5) *Verification of income certification.* In the case of property attributable to expenditures paid or incurred after July 24, 1969, the income certification must be either—

(i) Sworn to before an officer authorized to administer oaths (such as a notary public) or

(ii) On a form which meets the following two requirements: (A) The form contains a warning that it is a criminal offense to make a willfully false statement or misrepresentation to any department or agency of the United States as to any matter within its jurisdiction. (B) The form is signed by the tenant (or subtenant) in connection with an application (or other requirement) for a subsidy, rent supplement, mortgage insurance, or other form of assistance to either the taxpayer or the tenant (or subtenant) from a department or agency of the United States.

(6) *Effective date—(i) In general.* Paragraph (b) (2), (3), (4), and (5) of this section applies to property attributable

to expenditures which are paid or incurred after December 31, 1975. Except to the extent paragraph (b)(5) of this section applies, in the case of property attributable to expenditures paid or incurred before January 1, 1976, the rules in 26 CFR 1.167(k)-3(b) (2), (3), and (4), revised as of April 1, 1978, continue to apply.

(ii) *Transitional rule for change in certification year.* In the case of property attributable to expenditures paid or incurred after December 31, 1975, the taxpayer may determine whether the occupants (including a subtenant) of any dwelling unit are families and individuals of low or moderate income by applying all of the rules in paragraph (b) (2), (3), and (4) of this section, as in effect before being revised by T.D. 7642. However, the rules in paragraph (b)(5) of this section (as revised by T.D. 7642), relating to the verification of income certifications, shall apply. This subdivision (ii) applies only if the income certification is signed by the tenant (or subtenant) on or before June 7, 1978.

(iii) *Expenditures treated as paid or incurred by the taxpayer.* For purposes of applying this subparagraph (6), rehabilitation expenditures treated as having been paid or incurred by the taxpayer by reason of § 1.167(k)-1(b) shall be deemed to have been paid or incurred on the date on which the expenditures were actually paid or incurred, determined in accordance with the method of accounting used by the person that actually paid or incurred the expenditures.

(7) *Examples.* * * *

Example (1). The median family income in a particular area for a family of four, as established for the purposes of applying section 8(f)(1) of the United States Housing Act of 1937, is \$12,000. During 1976, the taxpayer spends in excess of \$3,000 per unit in rehabilitating three two-bedroom dwelling units, X, Y, and Z. All the units are placed in service on January 1, 1977, and are advertised for rental at \$200 per month. Unit X is rented at this price to tenant A and unit Y is rented to tenant B. A and B are both married and each has two children. At the time of the signing of the lease, tenant A certifies that the A family's adjusted income for the certification year (the 12-month period beginning on the date the lease is signed), computed under paragraph (b)(3) of this section, is \$9,000. Tenant B, at the time of signing the lease, certifies that the B family's adjusted income is \$10,000 for the certification year. Assuming that the Secretary of Housing and Urban Development has not established an income ceiling higher or lower than 80 percent of median for the area for purposes of applying section 8(f)(1) of the United States Housing Act of 1937, the low or moderate income level for the purpose of this paragraph is \$9,600 (80

percent of the \$12,000 median income for the area). Since tenant A's adjusted family income of \$9,000 does not exceed this amount, rehabilitation expenditures allocated to the dwelling unit rented to tenant A could qualify under section 167(k). However, the rehabilitation expenditures allocated to the dwelling unit rented to tenant B could not qualify, since tenant B's adjusted family income (\$10,000) is in excess of the low or moderate income level for the area.

Example (2). The facts are the same as in Example (1). Eight months after signing the lease, tenant A receives a promotion that was not anticipated when the lease was signed. Because of the unanticipated promotion, tenant A's actual income for the certification year is \$9,800, which is more than the income ceiling (\$9,600). Even though A's adjusted income would not have qualified if the promotion had been anticipated when the lease was signed, the original election with respect to property contained in unit X will remain valid as long as tenant A occupies the unit. Unit Z, even though vacant throughout 1977, will be considered low-income rental housing because the rental at which the unit is offered (\$2,400 per year) does not exceed \$2,880, i.e., 30 percent of \$9,600, the low or moderate income level for a family of four.

(d) *Paid or incurred.* For the definition of "paid or incurred", see section 7701(a)(25).

Par. 5. Section 1.167(k)-4 is amended by adding a new paragraph (f) at the end thereof, to read as set forth below.

§ 1.167(k)-4 Time and manner of making election.

(f) *Extension of time for election.* In the case of property attributable to expenditures paid or incurred after December 31, 1975, a taxpayer will be permitted to make an election under section 167(k) (and file the statement required for subsequent taxable years by paragraph (b)(2) of this section) on or before November 21, 1979, notwithstanding the fact that the period prescribed by paragraph (c) of this section for filing an election for the taxable year (or for filing the statement required for a subsequent year) has expired. For purposes of applying this paragraph (f), rehabilitation expenditures treated as having been paid or incurred by the taxpayer by reason of § 1.167(k)-1(b) shall be deemed to have been paid or incurred on the date on which the expenditures were actually paid or incurred, determined in accordance with the method of accounting used by the person that actually paid or incurred the expenditures.

(Sec. 167(k)(3)(B), Internal Revenue Code of 1954 (83 Stat. 851, 90 Stat. 1530; 26 U.S.C.

167(k)(3)(B)); sec. 7805, Internal Revenue Code of 1954 (68 Stat. 917; (26 U.S.C. 7805)).)

Jerome Kurtz,

Commissioner of Internal Revenue.

Approved: August 2, 1979.

Donald C. Lubick,

Assistant Secretary of the Treasury.

FR Doc. 79-26242 Filed 8-22-79; 8:45 am]

BILLING CODE 4830-01-M

26 CFR Part 1

(T.D. 7640)

Income Tax, Reporting Requirements for Income Tax Return Preparers

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document provides final regulations relating to certain reporting requirements applicable to income tax return preparers. These regulations amend existing regulations as a result of a reexamination of those existing provisions. These regulations affect all preparers and provide guidance needed to comply with the law.

DATE: Generally, the regulations apply immediately upon publication. However, as announced in Information Release 2138, dated June 18, 1979, a preparer will not be penalized for having failed to file timely Form 5717 before the effective date of these regulations. As announced in that information release, all assessments made against preparers for failure to file timely Form 5717 will be abated and all penalties collected will be automatically refunded.

FOR FURTHER INFORMATION CONTACT: Mark L. Yecies of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224, Attention CC:LR:T (202-566-3464, not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

This document contains an amendment to the Income Tax Regulations (26 CFR Part 1) under sections 6060 and 6695(e) of the Internal Revenue Code of 1954. Section 6060(a) of the Code requires an employer of income tax return preparers to file an information return annually with the Internal Revenue Service listing the name, identification number, and place of work of each preparer employed during the year. Section 6060(b) of the Code permits the Secretary of the Treasury to approve a reporting method other than the filing of this information return if the Secretary determines that the information is available from other

sources. Section 6695(e) of the Code imposes penalties on preparers for failure to comply with the reporting requirements of section 6060.

On November 23, 1977, the Federal Register published regulations relating to income tax return preparers (42 FR 59961). Section 1.6060-1 of those regulations provided that a preparer must satisfy the reporting requirements of section 6060 either by filing an information return (Form 5717) with the Internal Revenue Service, or by a different method, approved by the Service, which provided for the annual filing of all required information. Section 1.6695-1(e) of the regulations provided penalties for failure to satisfy the reporting requirements in the manner prescribed in § 1.6060-1.

The Internal Revenue Service has reexamined the reporting procedure prescribed in § 1.6060-1 and has concluded that this procedure has created an unnecessary paperwork burden. Accordingly, pursuant to the authority granted in section 6060(b) of the Code, this regulation revises § 1.6060-1 to provide that a preparer shall satisfy the reporting requirements of section 6060 by means of retention of records rather than by filing Form 5717 (or by any other filing method). This regulation is described more fully below. As a result of this regulation, preparers are relieved of the burden of completing and filing Form 5717 (or filing by any other means).

This regulation does not meet the Treasury criteria for a significant regulation under paragraph 8 of the final Treasury directive for improving government regulations appearing in the Federal Register for Wednesday, November 8, 1978 (43 FR 52120).

Description of Regulation

This regulation revises § 1.6060-1 of the income tax return preparer regulations. New § 1.6060-1(a)(1) provides generally that a person shall satisfy the requirements of section 6060 of the Code by retaining, for a 3-year period, a record of each preparer employed (or engaged) during the return period, and by making that record available for inspection upon request by the district director. Section 1.6060(a)(2) indicates that a person may choose the documents to be used to satisfy the provisions of § 1.6060-1, but emphasizes that any documents used must disclose on their face which individuals were employed (or engaged) as preparers. Section 1.6060-1(a)(4) makes the new procedure applicable to sole proprietors and to partnerships, establishing reporting requirements parallel to those of the prior regulations.

The regulation also revises § 1.6695-1(e) of the income tax return preparer regulations to conform this penalty provision to the new reporting requirements of § 1.6060-1. Thus, new § 1.6695-1(e)(1) imposes a penalty of \$100 for the failure to retain and make available a record of preparers employed (or engaged) during a return period as required in § 1.6060-1. Similarly, § 1.6695-1(e)(2) imposes a penalty of \$5 for each failure to include a required item in that record. Finally, § 1.6695-1(e)(3) clarifies the period of limitation applicable to the assessment of a penalty under section 6695(e) for the failure to comply with the reporting procedures prescribed in § 1.6060-1.

Drafting Information

The principal author of this regulation is Mark L. Yecies of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR Part 1 is amended as follows:

Paragraph 1. Section 1.6060-1 is revised to read as follows:

§ 1.6060-1 Reporting requirements for income tax return preparers.

(a) *In general.* (1) Each person who employs (or engages) one or more income tax return preparers to prepare any return of tax under subtitle A of the Internal Revenue Code of 1954 or claim for refund of tax under subtitle A of the Internal Revenue Code of 1954, other than for the person, at any time during a return period shall satisfy the requirements of section 6060 of the Code by—

(i) Retaining a record of the name, taxpayer identification number, and principal place of work during the return period of each income tax return preparer employed (or engaged) by the person at any time during that period; and

(ii) Making that record available for inspection upon request by the district director.

The record described in this paragraph (a) must be retained and kept available for inspection for the 3-year period following the close of the return period to which that record relates.

(2) The person may choose any form of documentation to be used under this section as a record of the preparers employed (or engaged) during a return

period. However, the record must disclose on its face which individuals were employed (or engaged) as income tax return preparers during that period.

(3) For the definition of the term "income tax return preparer" (or "preparer"), see section 7701(a)(36) and § 301.7701-15. For the definition of the term "return period", see paragraph (b) of this section.

(4)(i) For purposes of this section, any individual who, in acting as an income tax return preparer, is not employed by another income tax return preparer shall be treated as his (or her) own employer. Thus, a sole proprietor shall retain and make available a record with respect to himself (or herself) as provided in this section.

(ii) A partnership shall, for purposes of this section, be treated as the employer of the partners of the partnership and shall retain and make available a record with respect to the partners and others employed (or engaged) by the partnership as provided in this section.

(b) *Return period defined.* For purposes of this section, the term "return period" means the 12-month period beginning on July 1 of each year.

(c) *Penalty.* For the civil penalty for failure to retain and make available a record of the preparers employed (or engaged) during a return period as required under this section, or for failure to include an item in the record required to be retained and made available under this section, see § 1.6695-1(e).

§ 1.6107-1 [Amended]

Par. 2. Section 1.6107-1(b) is amended by deleting the phrase "and § 1.6060-1(c)" from the last sentence thereof.

Par. 3. Section 1.6695-1(e) is revised to read as follows:

§ 1.6695-1 Other assessable penalties with respect to the preparation of income tax returns for other persons.

(e) *Failure to comply with reporting requirements.* A person who is subject to the reporting requirements of section 6090 and § 1.6060-1 and who fails to satisfy these requirements shall be subject to the following penalties, unless it is shown that the failure is due to reasonable cause and not due to willful neglect.

(1) \$100, for failure to retain and make available a record of the preparers employed (or engaged) during a return period as required under § 1.6060-1, plus

(2) \$5, for each failure to include a required item in the record required to be retained and made available under § 1.6060-1.

A person may not, for failure to satisfy the reporting requirements with respect to any single return period, be subject to more than \$20,000 in penalties under section 6695(e) and this section.

(3) The amount of any penalty under section 6695(e) and this section for failure to retain and make available a record of the preparers employed (or engaged) during a return period or for failure to include a required item in that record must be assessed within 3 years after the close of the return period to which the record relates, and no proceeding in court without assessment for the collection of that penalty may be begun after the expiration of this period.

This Treasury decision discontinues the required filing of certain information annually on Form 5717 with the Internal Revenue Service. For this reason, it is found unnecessary to issue this Treasury decision with notice and public procedure under subsection (b) of section 553 of Title 5 of the United States Code or subject to the effective date limitation of subsection (d) of that section.

(Sec. 6090(b), Internal Revenue Code of 1954 (90 Stat. 1691, (26 U.S.C. 6060 (b))); sec. 7805, Internal Revenue Code of 1954 (68A Stat. 917, (26 U.S.C. 7805)).

Jerome Kurtz,
Commissioner of Internal Revenue.

Approved: August 14, 1979.

Donald C. Lubick,

Assistant Secretary of the Treasury.

(FR Doc. 79-26240 Filed 8-22-79; 8:45 am)

BILLING CODE 4830-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 147

[CCGD 11-79-05]

Establishment of Safety Zones Around Structures Being Constructed on the Outer Continental Shelf (OCS); Final Rule

AGENCY: Coast Guard, Department of Transportation.

ACTION: Final rule.

SUMMARY: This document implements emergency OCS safety zones and related regulations under the provisions of 33 CFR 147.03-3(b). These safety zones are around structures being constructed on the OCS off of Southern California. The Commander, Eleventh Coast Guard District has made an inquiry and determined that these safety zones are necessary to promote safety

of life and property on the structure, their appurtenances and attending vessels and on the adjacent waters during installation and construction periods.

EFFECTIVE DATE: The safety zones described herein are effective upon commencement of installation operations for each structure. The dates for the affected structures are:

a. Platform Grace, operated by Chevron U.S.A. Inc., is to be a fixed structure on the OCS which will be installed on 27 July 1979 with the safety zone effective immediately.

b. Platform Henry, operated by Sun Oil Co. is to be a fixed structure on the OCS which will be installed on 1 August 1979 with the safety zone effective immediately.

FOR FURTHER INFORMATION CONTACT: Lieutenant Robin A. Wendt, Commander (dj), Eleventh Coast Guard District, 400 Oceangate, Long Beach, CA 90822. (213) 590-2386.

SUPPLEMENTARY INFORMATION:

Discussion. On February 20, 1979 the Commander, Eleventh Coast Guard District published an advance notice of proposed rulemaking on safety zones around fixed structures (44 FR 10399). This was the first of a three stage formal rulemaking designed to implement

safety zones around structures on the OCS and in navigable waters of the U.S. Since that time, it has become obvious that Platforms Grace and Henry will be installed prior to the completion of that rulemaking and the need for a safety zone requires temporary measures in the promotion of safety. The Commander, Eleventh Coast Guard District has determined that the establishment of safety zones and regulations is necessary to promote safety of life and property on the structures, their appurtenances and attending vessels and on the adjacent waters during the installation and construction periods.

Further, he has determined that without the establishment of Emergency Safety Zones, an imminent danger will exist. Platform Grace is within 2 nautical miles of the Santa Barbara Channel (SBC) Traffic Separation Scheme (TSS) and is between the SBC TSS and the Carpenteria Offshore Tanker Mooring. Thus it is in close proximity to significant marine traffic. As such, a maximum size safety zone of 500 meters is being established around it. All vessels will be prohibited within the safety zone other than those which are directly involved in the installation and are authorized by the structure operator, or any other vessel authorized by Commander, Eleventh Coast Guard District. The installation process is

critical and requires great precision and coordination. This process also presents a safety hazard if vessels were allowed to navigate near the structure.

Platform Henry is to be located on the OCS in the Dos Cuadras field and will be in a string of eight other platforms.

An emergency safety zone of 500 meter radius around Henry is also considered necessary during installation. The installation process is critical and will require a safety zone for this structure also. No vessels may enter the safety zone except those which are directly involved in the installation and are authorized by the structure operator, or any other vessel authorized by Commander, Eleventh Coast Guard District.

The safety zones will be effective as of the anticipated dates of installation. Installation schedules are, however, subject to a great deal of variance. Therefore, updated information will be regularly published in Local and Broadcast Notice to Mariners, and Defense Mapping Agency Notice to Mariners.

It is anticipated that after completion of the installation of Platform Grace, a modification to the safety zone will be made. This will be done by a separate rulemaking. The modification will allow small vessels within the safety zone. The Platform Henry safety zone will be disestablished after the structure installation. This will also be done in a separate rulemaking.

These regulations are issued under the authority of the Outer Continental Shelf Lands Act, 83 Pub. L. 212, 43 USC 1331 et seq. and 33 CFR Subpart 147.01, Safety Zones, which delegated the authority for the establishment of safety zones to the District Commanders.

In consideration of the foregoing, Title 33, Code of Federal Regulations is hereby amended by establishing a new subpart 147.05 as follows:

Subpart 147.05—OCS Safety Zones

§ 147.05-11.01 Platform GRACE Safety Zone, Santa Barbara Channel.

(a) *Description.* A circle 500 meters in radius around the installation site and then after installation, 500 meters from each point on the structure's outer edge. The position of the site and center of the structure is 34°10'47"N, 119°28'05"W.

(b) *Regulations.* (1) Platform installation—During installation, no vessel other than one directly involved in the installation of the structure and authorized by the structure operator, or any other vessel authorized by Commander, Eleventh Coast Guard District may be within the safety zone.

(c) *Effective date.* This safety zone and its related regulations are effective from 27 July 1979.

§ 147.05-11.02 Platform HENRY Safety Zone, Santa Barbara Channel.

(a) *Description.* A circle 500 meters in radius around the installation site. The position of the site is 34°20'00"N, 119°33'38"W.

(b) *Regulations.* (1) Platform installation—During the installation, no vessel other than one directly involved in the installation of the structure and authorized by the structure operator, or any other vessel authorized by Commander, Eleventh Coast Guard District may be within the safety zone.

(c) The safety zone and regulations will be effective from 1 August 1979.

Drafting Information: The principal persons involved in drafting this rule are Lieutenant Robin A. Wendt, Project Manager, Eleventh Coast Guard District Hearing Office, and Lieutenant Commander Ronald S. Matthew, Project Counsel, Eleventh Coast Guard District Legal Office.

Authority: Sec 633, 63 Stat 545, Sec 4(e)(1), 67 Stat 463, Sec 6(b)(1), 80 Stat 938; 14 USC 1655(b)(1); 49 CFR 1.46(b); 33 CFR 147.01; in conformance with paragraphs 2, 3, 6, and 7 of Article 5, Convention on the Continental Shelf (TIAS 5578) and Article 2, Convention on the High Seas (TIAS 5200).

H. W. Parker,

Rear Admiral, U.S. Coast Guard Commander, Eleventh Coast Guard District.

August 26, 1979.

(FR Doc. 79-26259 Filed 8-22-79; 8:45 am)

BILLING CODE 4910-14-M

GENERAL SERVICES ADMINISTRATION

41 CFR Part 101-20

[FPMR Amdt. D-73]

Management of Buildings and Grounds; Physical Protection

AGENCY: General Services Administration.

ACTION: Final rule.

SUMMARY: This regulation establishes procedures regarding the protection of employees and property by streamlining the reporting of criminal acts and other incidents to the Federal Protective Service (FPS); establishes the FPS as the General Services Administration's sole collector and reporter of criminal offense and data concerning other reported incidents for GSA-controlled and leased space; and establishes a Crime Prevention Program. The intent of this regulation is to provide a more

complete and efficient police, security, and crime prevention service to Federal agencies.

EFFECTIVE DATE: August 23, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. John DeMarco, Chief, Crime Prevention Branch (202-566-1429).

SUPPLEMENTARY INFORMATION: The General Services Administration has determined that this regulation will not impose unnecessary burdens on the economy or on individuals and, therefore, is not significant for the purposes of Executive Order 12044.

DISCUSSION OF MAJOR COMMENTS

a. Comments on the summary paragraph for the proposed rule published on April 3, 1979 (44 FR 19443) were concerned with the possible prohibition of other agencies from maintaining internal records and data about criminal activities. The paragraph has been changed to show that this is not the intent of the regulation.

b. Comments on § 101-20.501 concerned FPS's protection of Federal employees and visitors to the occupant agencies. The section was revised.

c. External agency comments on §§ 101-20.501, 101-20.502, and 101-20.503-1 requested information not of an instructive nature. The information will be presented in an FPMR bulletin.

d. Comments on § 101-20.503-3 requested that GSA be required to make periodic reports to external agencies. The section has been changed.

The table of contents for Part 101-20 is amended to add the following entry: 101-20.503-3 Crime prevention.

Subpart 101-20.5—Physical Protection

1. Section 101-20.500 is revised to read as follows:

§ 101-20.500 Scope of subpart.

This subpart prescribes policies and methods for the physical protection of persons, buildings, grounds, and equipment under the charge and control of GSA; requires active participation of occupant and user agencies in accomplishing certain aspects of crime prevention; requires that occupant and user agencies report any crime on GSA property to the nearest Federal Protective Service Office; and requires the establishment of self-protection plans and organizations to meet all emergencies except enemy attack.

2. Section 101-20.501 is revised to read as follows:

§ 101-20.501 Basic policy.

For buildings and grounds for which GSA has space assignment responsibility, GSA will furnish as normal protection not less than the

degree of protection provided by commercial building operators of similar space for normal risk occupants, as determined by the Federal Protective Service. This protection may include control of building entry and inspection of packages when the Federal Protective Service determines the control is warranted for general Government occupancy and not necessitated by special activities or specific agencies. Special protection required due to the nature of the business conducted within the space or unusual public reaction to an agency's program and missions, whether or not of a continuing nature, will be determined jointly by the Federal Protective Service and the occupant agency or agencies and will be provided on a reimbursable basis in accordance with Subpart 101-21.4.

3. Section 101-20.502 is revised to read as follows:

§ 101-20.502 Protection criteria.

Determination of the level of normal protective service will be made by the Federal Protective Service on a case-by-case basis and will consider the facility's location; size and configuration; history of criminal or disruptive incidents in the surrounding neighborhood not primarily directed toward the occupant agency's mission; extent of exterior lighting; presence of physical barriers; and other factors as may be deemed pertinent.

4. Section 101-20.503-1 is revised to read as follows:

§ 101-20.503-1 Physical protection.

GSA provides normal and special protection through mobile patrol or fixed posts manned by: Federal Protective Officers or contract uniformed personnel; security systems and devices; locking building entrances and gates during other than normal hours of occupancy; cooperation of local law enforcement agencies; or any combination thereof depending upon the facility and the degree of risk involved. The degree of normal and special protection shall be determined in accordance with § 101-20.501 after completion of a physical security survey and/or crime prevention assessment.

5. Section 101-20.503-3 is added to read as follows:

§ 101-20.503 Crime prevention.

The Federal Protective Service collects and disseminates information about criminal activity on or against property under the charge and control of GSA, provides crime prevention information programs to occupant agencies upon request, and conducts crime prevention assessments in cooperation with occupant agencies.

The Federal Protective Service will, periodically, report to heads of agencies information on criminal activity in their space and the crime prevention measures taken to reduce criminal activity.

6. Section 101-20.504-1 is revised to read as follows:

§ 20.504 General.

Occupants of GSA assigned space shall: (a) Cooperate to the fullest extent possible with all pertinent facility regulations and procedures; (b) make suggestions for improving protection; (c) report promptly unlawful acts committed on or against property under the charge and control of GSA to the nearest Office of the Federal Protective Service, except where other appropriate reporting channels have been established for national security reasons; and (d) provide an informative program to all employees on protection and related matters.

(Sec. 205 (c), 63 Stat. 390; 40 U.S.C. 486(c))
Dated: August 16, 1979.

R. G. Freeman III,
Administrator of General Services.
(FR Doc. 79-26027 Filed 8-22-79; 8:45 am)
BILLING CODE 6820-27-M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

41 CFR Part 114-35

Public Contracts and Property Management; Deletion of Telecommunications Provisions

AGENCY: Department of the Interior.
ACTION: Deletion of regulations.

SUMMARY: The Department's Office of ADP and Telecommunications Management has converted the material contained in 41 CFR in Part 114-35 to Part 312 Chapter 4 of the Department of the Interior Manual. Since this material has been converted to the Departmental directives system, publication in the Code of Federal Regulations is no longer considered necessary, and Part 114-35 is deleted.

EFFECTIVE DATE: August 23, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Charles E. Snyder, Chief, Division of Wire Communications Management, Office of ADP and Telecommunications Management, Department of the Interior, Washington, D.C. 20240, telephone (202) 343-2160.

SUPPLEMENTARY INFORMATION: This amendment relates only to matters of internal Department procedure and practice. It is, therefore, determined that

the Department's proposed rulemaking procedures are not applicable, and this amendment will become effective on the date of publication in the Federal Register.

Note.—The Department of the Interior has determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 12044 and 43 CFR 114.

The primary author of this document is James O. Wyatt, Chief, Division of Property Management, Office of Administrative and Management Policy, telephone (202) 343-3185.

PART 114-35 [Deleted].

Pursuant to the authority of the Secretary of the Interior contained in 5 U.S.C. 301 and 40 U.S.C. 486(c) Part 114-35 of Chapter 114, Title 41 of the Code of Federal Regulations, is deleted.

Larry E. Meierotto,
Assistant Secretary of the Interior.
August 16, 1979.
(FR Doc. 79-26026 Filed 8-22-79; 8:45 am)
BILLING CODE 4310-10-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Public Health Service

42 CFR Part 122

Health Systems Agency Reviews of Certain Proposed Uses of Federal Health Funds

AGENCY: Public Health Service, HEW.
ACTION: Correction Notice.

SUMMARY: The Department of Health, Education, and Welfare published final regulations for Health Systems Agency Reviews of Proposed Uses of Federal Health Funds in the Federal Register for Friday, August 10, 1979 (FR Doc. 79-24659). This notice deletes printing instructions which were inadvertently published in the text of the regulations and makes other minor editorial corrections.

EFFECTIVE DATE: This notice is effective immediately. Note, however, that the effective date for the regulations remains November 8. For further information contact: Colin C. Rorrie, Jr., Ph.D., Director, Bureau of Health Planning, Center Building, Room 6-22, 3700 East-West Highway, Hyattsville Maryland 20782. Telephone: 301-436-6850.

§ 122.402 Definitions.

1. As published, a bracketed deletion notation appears before each definition. These notations are hereby removed, as

are the bracketed notations within the definition of "health services."

§ 122.408 Procedures for submission of applicants.

2. Is hereby changed to:

§ 122.408 Procedures for submission of applications.

§ 122.408(b):

(a) "[Delete "(1)"]" at the beginning of the first sentence is removed.

(b) "[Delete "(2)"]" twelve lines from the bottom of page 47085 is removed.

(c) "[add ", "]" six lines from the bottom of the same page is replaced by a comma. This line should now read: "agency, or when the applicant".

(d) "(1)" is replaced with "(i)" in line 8 of (b)(3) on page 47086.

§ 122.409 Adoption and public notice of health systems agency review procedures and criteria.

4. (a) "Coordination" is replaced by "Coordinating" in line 14 of (b)(1). This line now reads: "Statewide Health Coordinating Council".

(b) "person" is replaced with "persons" in the second line from the end of (b)(2). This line now reads: "substantially affect the rights of persons".

§ 122.412 Criteria for health systems agency review.

5. (a) "providers." is removed from line nine of (a)(10)(ii).

(b) "a" is replaced by "of" at the end of line thirteen of (a)(12).

§ 122.413 Period for health systems agency review.

6. "Systems" is added to the end of line seven of (a). This line now reads: "by this subpart, the period for health systems."

Dated: August 21, 1979.

Henry A. Foley,
Administrator, Health Resources Administration.
(FR Doc. 79-26389 Filed 8-22-79; 8:45 am)
BILLING CODE 4110-83-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 5678

[OR 11297]

Oregon; Public Land Order No. 5446, Correction

AGENCY: Bureau of Land Management, Interior

ACTION: Public Land Order.

SUMMARY: This document will correct Public Land Order No. 5446 of November 15, 1974, which contained a typographical error in describing a lot number.

EFFECTIVE DATE: August 23, 1979.

FOR FURTHER INFORMATION CONTACT: Evelyn Tauber, 202-343-6486.

By virtue of the authority contained in section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

Public Land Order No. 5446 of November 15, 1974, appearing at page 40952 in the Federal Register of November 22, 1974, is hereby corrected by deleting lot 7, which was a typographical error and is nonexistent, and adding lot 6 which was inadvertently omitted.

Guy R. Martin,
Assistant Secretary of the Interior.
August 16, 1979.
(FR Doc. 79-26024 Filed 8-22-79; 8:45 am)
BILLING CODE 4310-84-M

DEPARTMENT OF TRANSPORTATION

Materials Transportation Bureau

49 CFR Parts 171, 172, 173, 176, 178

[Docket No. HM-166A; Amdt. Nos. 171-49, 172-54, 173-131, 176-9, 178-56]

Research and Special Programs Administration; Miscellaneous Amendments

AGENCY: Materials Transportation Bureau, Research and Special Programs Administration, Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: This action is being taken to incorporate into the Department's Hazardous Materials Regulations a number of changes based on rulemaking petitions from industry and from petitions within the Department. This action is necessary to update the regulations and to reduce MTB's backlog of rulemaking petitions.

EFFECTIVE DATE: August 23, 1979.

FOR FURTHER INFORMATION CONTACT: Darrell L. Raines, Office of Hazardous Materials Regulation, Materials Transportation Bureau, Research and Special Programs Administration, 400 7th Street, SW Washington, DC 20590, (202-426-2075).

SUPPLEMENTARY INFORMATION: On May 3, 1979, the Materials Transportation Bureau published a Notice of Proposed Rulemaking, Docket HM-166A, Notice No. 79-6 (44 FR 25886), which proposed

a number of miscellaneous amendments to the hazardous materials regulations. Notice No. 79-6 included a brief statement regarding each proposal and invited public comment prior to the closing date of June 15, 1979. Based on comments received on this notice, these proposals are being incorporated as final amendments to the Hazardous Materials Regulations.

A total of seven comments were received on Notice No. 79-6. One commenter expressed approval of the new format which was used for the notice and his desire to see more of the proposals and final rules prepared in that same style. Two commenters requested that the word "opened" be deleted from the wording in § 173.7(a)(2) because some of the DOD packages must be opened for general inspection, condition of desiccant, electrical check test and various other reasons. In view of the above, MTB agrees that the word "opened" should be deleted in the amendment. One commenter supported the deletion of "Empty cartridge case, primed" from § 172.101 and the deletion of the requirement for a Class C label for "Cannon primers; Cartridge cases, empty, primed; Combination primer; Grenade, empty primed; Percussion cap; Small arms primer." The Air Transport Association (ATA) of America commented on three separate items. First, they questioned the proposal to delete "Diisopropylethanolamine" from § 172.101. The ATA suggested that, prior to issuance of final rulemaking, corrosive testing be performed by an impartial testing laboratory to verify the results produced by the Pennwalt Corporation. Corrosion tests were conducted by an independent testing laboratory and the test results on file with MTB indicate that diisopropylethanolamine is not corrosive when tested in accordance with Appendix A of Part 173.

The second comment by ATA was in reference to the labeling requirements in § 172.101 for the commodities named in § 173.107(h). Their main concern appeared to be that the proposed action would establish international dual standards, by the difference to ICAO and IATA. The MTB believes that this change will cause less confusion because it will now clearly state that a Class C label is not required by 49 CFR. On the other hand, if a shipper feels that the Class C explosives in question may be offered for export, the Class C label can be applied (See 49 CFR 172.401(c).) This change will eliminate one of the ambiguities in 49 CFR. The third comment was in reference to the marking or tagging of the small samples

of explosives being proposed under § 173.7(c). The marking or tagging will be on one of the inside "pouches" and is intended only as a warning to the individual opening the package.

The Union Carbide Corporation and the Hazardous Materials Advisory Council objected to the proposed change in § 171.8 that would revise the definition of "Hazardous Material" to read the same as in the Hazardous Materials Transportation Act. At the time the notice of proposed rulemaking was being prepared, it was believed that the proposed amendment was not controversial. Based upon Union Carbide Corporation's comments, and upon further considerations, the Bureau agrees that it is a controversial issue; therefore, the proposed change to § 171.8 has been withdrawn from this rulemaking.

Primary drafters of these amendments are Darrell L. Raines, Office of Hazardous Materials Regulation, Exemption and Regulations Termination Branch, and Evan C. Braude of the Office of the Chief Counsel, Research and Special Programs Administration.

In consideration of the foregoing, 49 CFR Parts 171, 172, 173, 176 and 178 are amended to read as follows:

PART 171—GENERAL INFORMATION, REGULATIONS, AND DEFINITIONS

1. In § 171.7 paragraph (c)(16) and (d)(16)(i) are revised to read:

§ 171.7 Matter incorporated by reference.

(c) * * *
(16) USDOE: United States Department of Energy, Washington, D.C. 20545. Regulations of the USDOE are available from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. Other publications by the USDOE may be obtained from the National Technical Information Center, U.S. Department of Commerce, Springfield, Virginia 22151.

(d) * * *
(16) * * *
(i) USDC, USDOE Material and Equipment Specification No. SP-9, Rev. 1, and Supplement, is titled "Fire Resistant Phenolic Foam."

2. In § 171.15 the first sentence of the introductory text of paragraph (b) is amended to read:

§ 171.15 Immediate notice of certain hazardous materials incidents.

(b) Each notice required by paragraph (a) of this section shall be given to the

Department by telephone (toll-free) on 800-424-8802. * * *

PART 172—HAZARDOUS MATERIALS TABLE AND HAZARDOUS MATERIALS COMMUNICATIONS REGULATIONS

3. § 172.101 is amended by deleting the entries "Diisopropylethanolamine," and "Empty cartridge case, primed." The Table is further amended by revising the following entries:

§ 172.101 Hazardous materials table.

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§ 172.101 Hazardous Materials Table

(1)	(2)	(3)	(4)	(5)		(6)		(7)		
				(a)	(b)	(a)	(b)	(a)	(b)	(c)
Hazardous materials descriptions and proper shipping names		Hazard class	Labels(s) required (if not excepted)	Exception	Specific requirements	Maximum net quantity in one package		Cargo vessel	Passenger vessel	Other requirement
(change)										
Cannon primers		Class C explosives	None	None	173.107	50 pounds	150 pounds	1,3	5	
Cartridge cases, empty, primed		Class C explosives	None	None	173.107	50 pounds	150 pounds	1,3	1,3	
Combination primer		Class C explosives	None	None	173.107	50 pounds	150 pounds	1,3	5	
Grenade, empty, primed		Class C explosives	None	None	173.107	50 pounds	150 pounds	1,3	1,3	
Percussion cap		Class C explosives	None	None	173.107	50 pounds	150 pounds	1,3	1,3	
Small arms primer		Class C explosives	None	None	173.107	50 pounds	150 pounds	1,3	1,3	

BILLING CODE 4910-60-C

PART 173—SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS

4. In § 173.7 the introductory text of paragraph (a) is amended by adding the following sentence at the end of the paragraph; paragraph (c) is added to read:

§ 173.7 U.S. Government material.

(a) * * * Hazardous materials shipped by DOD under this provision may be reshipped by any shipper to any consignee provided the original packaging has not been damaged or altered in any manner.

(c) Shipments of explosive samples, not exceeding one gram net weight, offered by and consigned to the Bureau of Alcohol, Tobacco and Firearms (ATF) of the Department of the Treasury are not otherwise subject to the regulations in Parts 110-189 of this subchapter when placed in a specifically designed multi-unit assembly packed in a strong outside packaging. The packaging must be of a type accepted by ATF as capable of precluding a propagation of any explosion outside the packaging. The second component from the outside of the packaging must be marked or tagged to indicate the presence of an explosive.

5. In § 173.135 paragraph (a)(9) is revised to read:

§ 173.135 Diethyl dichlorosilane, dimethyl dichlorosilane, ethyl dichlorosilane, methyl trichlorosilane, methyl trichlorosilane, trimethyl chlorosilane, and vinyl trichlorosilane.

(a) * * *
(9) Specification MC 300, MC 303, MC 304, MC 306, MC 307, MC 330 or MC 331 (§§ 178.340, 178.341, 178.342, 178.337 of this subchapter). Tank motor vehicles having cargo tanks of steel or stainless steel construction. Bottom outlets, if any, must be equipped with valves conforming with § 178.342-5(a) of this subchapter.

6. In § 173.245b paragraph (a)(6) is revised to read:

§ 173.245b Corrosive solids not specifically provided for.

(a) * * *
(6) Plastic drum or pail not exceeding 95 pounds net weight and not over 7-gallon capacity.

7. In § 173.247 paragraph (a)(12) is revised to read:

§ 173.247 Acetyl bromide; acetyl chloride; acetyl iodide; antimony pentachloride; benzoyl chloride; boron trifluoride acetic acid complex; chromyl chloride; dichloroacetyl chloride; diphenylmethyl bromide solutions; pyrosulfuryl chloride; silicon chloride; sulfur chloride (mono and di); sulfuryl chloride; thionyl chloride; tin tetrachloride (anhydrous); titanium tetrachloride; trimethyl acetyl chloride.

(a) * * *
(12) Specification MC 310, MC 311, MC 312, MC 330 or MC 331 (§§ 178.343, 178.337 of this subchapter). Tank motor vehicles.

8. In § 173.1080 paragraphs (a)(5) and (a)(6) are revised; paragraph (a)(7) is added to read:

§ 173.1080 Sulfur.

(a) * * *
(5) Sift-proof paper-lined burlap bag;
(6) Sift-proof rail car; or
(7) Sift-proof or lined freight container.

PART 176—CARRIAGE BY VESSEL

9. In § 176.30 the first sentence of the introductory text of paragraph (a) is amended; paragraph (c) is revised to read:

§ 176.30 Dangerous cargo manifest.

(a) The carrier, its agents, and any person designated for this purpose by the carrier or agents shall prepare a dangerous cargo manifest, list, or stowage plan.

(c) The carrier and its agents shall insure that the master, or a licensed deck officer designated by the master and attached to the vessel, or in the case of a barge, the person in charge of the barge, acknowledges the correctness of the dangerous cargo manifest, list or stowage plan by his signature.

10. In § 176.39 the first and last sentence of paragraph (a) are amended; paragraph (c) is revised to read:

§ 176.39 Inspection of cargo.

(a) *Manned vessels.* The carrier, its agents, and any person designated for this purpose by the carrier or agents shall cause an inspection of each hold or compartment containing hazardous materials to be made after stowage is complete, and at least once every 24 hours thereafter, weather permitting, in order to ensure that the cargo is in a safe condition and that no damage caused by shifting, spontaneous heating, leaking, sifting, wetting, or other cause has been sustained by the vessel or its cargo since loading and stowage. * * * The carrier, its agents, and any person designated for this purpose by the

carrier or agents shall cause an entry to be made in the vessel's deck log book for each inspection of the stowage of hazardous materials performed.

(c) The carrier, its agents, and any person designated for this purpose by the carrier or agents of each ocean-going vessel carrying hazardous material shall, immediately prior to entering a port in the United States, cause an inspection of that cargo to be made.

PART 178—SHIPPING CONTAINER SPECIFICATIONS

11. In § 178.83, § 178.83-11 paragraph (a)(4) is added to read:

§ 178.83 Specification 5C; steel barrels or drums.

§ 178.83-11 Marking.

(a) * * *
(4) Tare weight in pounds preceded by the letters "TW" (for example TW121), except marking may be either embossed or stamped.

12. In § 178.120, the introductory text of paragraph (a) and paragraph (f) in § 178.120-2 are revised to read:

§ 178.120 Specification 20PF phenolic-foam insulated, metal overpack.

§ 178.120-2 Materials of construction and other requirements.

(a) Phenolic foam insulation must be fire-resistant and fabricated in accordance with USDOE Material and Equipment Specification SP-9, Rev. 1 and Supplement, which is a part of this specification. (Note: Packagings manufactured under USAEC Specification SP-9 and Rev. 1 thereto are authorized for continued manufacture and use.) A 5.4-inch (13.7 centimeter) minimum thickness of foam must be provided over the entire liner except:

(f) *Waterproofing.* Each screw hole in the outer shell must be sealed with appropriate resin-type sealing material, or equivalent, during installation of the screw. All exposed foam surfaces, including any vent hole, must be sealed with waterproofing material as prescribed in USDOE Material and Equipment Specification SP-9, Rev. 1 and Supplement, or equivalent.

13. In § 178.121 the introductory text of paragraph (a) and paragraph (g) in § 178.121-2 are revised to read:

§ 178.121 Specification 21PF fire and shock resistant, phenolic-foam insulated, metal overpack.

§ 178.121-2 Materials of construction and other requirements.

(a) Phenolic foam insulation must be fire resistant and fabricated in accordance with USDOE Material and Equipment Specification SP-9, Rev. 1 and Supplement, which is a part of this specification. (Note: Packagings manufactured under USAEC Specification SP-9, and Rev. 1 thereto are authorized for continued manufacture and use.) A 5.5-inch (14 centimeter) minimum thickness of foam must be provided over the entire liner except where:

(g) *Waterproofing.* Each screw hole in the outer shell must be sealed with appropriate resin-type sealing material, or equivalent, during installation of the screw. All exposed foam surfaces, including any vent hole, must be sealed with waterproofing material as prescribed in USDOE Material and Equipment Specification SP-9, Rev. 1 and Supplement, or equivalent.

(49 U.S.C. 1803, 1804, 1808; 49 CFR 1.53 and App. A to Part 1.)

Note.—The Materials Transportation Bureau has determined that this document will not have a major impact under Executive Order 12044 and DOT implementing procedures (43 FR 9582). A regulatory evaluation is available for review in the docket.

Issued in Washington, D.C., on August 17, 1979.

L. D. Santman,
Director, Materials Transportation Bureau.
[FR Doc. 79-26345 Filed 8-22-79; 8:45 am]
BILLING CODE 4910-60-M

Federal Highway Administration**49 CFR Subchapter B**

[Notice No. 79-6]

Interpretations of the Federal Motor Carrier Safety Regulations; Correction and Deletion

AGENCY: Federal Highway Administration (FHWA), DOT.
ACTION: Interpretation of rules.

SUMMARY: This correction and deletion is notification that the interpretations published in the Federal Register on November 23, 1977, supersede those now contained in 49 CFR 200 to 999, revised as of October 1, 1978.

EFFECTIVE DATE: November 23, 1977.

FOR FURTHER INFORMATION CONTACT: Mr. Gerald J. Davis, Chief, Regulations Development Branch, Regulations Division, Bureau of Motor Carrier Safety (202-426-9767), or Mr. Gerald M. Tierney, Attorney, Motor Carrier and Highway Safety Law Division, (202-426-0346), Federal Highway Administration, Department of Transportation, 400 Seventh Street SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m., Monday through Friday.

SUPPLEMENTARY INFORMATION: The recently published 49 CFR Part 200 to Part 999, revised as of October 1, 1978, included a set of interpretations to Subchapter B of Chapter III. These interpretations should not have been included in the publication because they are old interpretations that had been superseded by new interpretations that were published in the Federal Register on November 23, 1977, (49 FR 60078).

This deletion and correction is being published to eliminate confusion about which interpretations are followed by the Federal Highway Administration. The Federal Highway Administration has followed and continues to follow the interpretations published at 49 FR 60078. All other interpretations are ineffective.

In consideration of the foregoing the Interpretations to Subchapter B, Chapter III of 49 CFR Part 200 to Part 999, revised as of October 1, 1978 are deleted, and the Interpretations published at 42 FR 60078 are still in effect.

Note.—The Federal Highway Administration has determined that this document does not contain a significant proposal according to the criteria established by the Department of Transportation pursuant to Executive Order 12044.

Issued on: August 10, 1979.

Robert A. Kaye,
Director, Bureau of Motor Carrier Safety.
[FR Doc. 79-25831 Filed 8-22-79; 8:45 am]
BILLING CODE 4910-22-M

DEPARTMENT OF THE INTERIOR**Fish and Wildlife Service****50 CFR Part 32****Sport Hunting: National Wildlife Refuges in Iowa, Kansas, Missouri, and portions of Nebraska**

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special Regulations.

SUMMARY: The Director has determined that the opening to sport hunting of certain National Wildlife Refuges is compatible with the objectives for which the areas were established, will utilize a renewable natural resource, and will

provide additional recreational opportunities to the public. These special regulations describe the condition under which sport hunting will be permitted on portions of certain National Wildlife Refuges in Iowa, Kansas, Missouri and portions of Nebraska.

DATES: As determined by applicable State and Federal laws.

FOR FURTHER INFORMATION CONTACT: Tom A. Saunders, Area Manager, U.S. Fish and Wildlife Service, 2701 Rock Creek Parkway, Suite 106, North Kansas City, Missouri 64118, Telephone: 816-374-6166.

George Gage, Refuge Manager, DeSoto National Wildlife Refuge, RR#1, Box 114, Missouri Valley, Iowa 51555, Telephone: 712-642-4121.

Michael J. Long, Refuge Manager, Flinn Hills National Wildlife Refuge, P.O. Box 128, Hartford, Kansas 66854, Telephone: 316-392-5553.

Keith Hansen, Refuge Manager, Kirwin National Wildlife Refuge, Kirwin, Kansas 67644, Telephone: 913-646-2373.

Gerry Clawson, Refuge Manager, Mingo National Wildlife Refuge, RR#1, Box 8, Puxico, Missouri 63960, Telephone: 314-222-3589.

Charles Darling, Refuge Manager, Quivira National Wildlife Refuge, P.O. Box "G", Stafford, Kansas 67578, Telephone: 816-486-2393.

Berlin Heck, Refuge Manager, Squaw Creek National Wildlife Refuge, P.O. Box 101, Mound City, Missouri 64470, Telephone: 816-442-3570.

Al Manke, Refuge Manager, Swan Lake National Wildlife Refuge, P.O. Box 48, Sumner, Missouri 64681, Telephone: 816-856-3323.

SUPPLEMENTARY INFORMATION:**General**

Sport hunting on portions of the following refuges shall be in accordance with applicable State and Federal regulations subject to additional special regulations and conditions as indicated. Portions of refuges which are open to sport hunting are designated by signs and/or delineated on maps. Special conditions applying to individual refuges and maps are available at refuge headquarters or from the Office of the Area Manager (addresses listed above).

The Refuge Recreation Act of 1962 (16 U.S.C. 460k) authorizes the Secretary of the Interior to administer such areas for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary objectives for which the area was established. In addition, the Refuge Recreation Act requires (1) that any recreational use permitted will not interfere with the primary purpose for which the area was established; and (2) that funds are

available for the development, operation, and maintenance of the permitted forms of recreation.

The recreational use authorized by these regulations will not interfere with the primary purposes for which these National Wildlife Refuges were established. This determination is based upon consideration of, among other things, the Service's Final Environmental Statement on the Operation of the National Wildlife Refuge System published in November 1976. Funds are available for the administration of the recreational activities permitted by these regulations.

§ 32.12 Special regulations; migratory game bird hunting for individual wildlife refuge areas.

Iowa

DeSoto National Wildlife Refuge

Migratory game bird hunting is permitted only on an area comprising 174 acres located adjacent to U.S. Highway 30 on the north side of the refuge.

Only waterfowl species (ducks, geese, coots) may be taken.

Shooting hours shall be consistent with state regulations regarding opening hours and shall continue until 12 noon, daily.

All hunting will be by refuge permit only. Advance reservations for a specific date will be accepted, by mail, or in person, at refuge headquarters between the hours of 8:00 a.m.-5:00 p.m., Monday through Friday, from September 1 through September 30, 1979. A drawing to determine successful applicants will be held on Monday, October 1, 1979. Should openings remain following the drawing, reservation will be accepted on a first-come, first-serve basis on and after October 8, 1979. Reservations will not be accepted by telephone. Individuals will be allowed only one reservation at any one time. When this reservation is used, the individual may apply for an unfilled date. Applicants for reservations must be at least 16 years of age or older. A \$3.00 fee must accompany each request for a reservation and this must be in the form of a check or money order made payable to "U.S. Fish and Wildlife Service." Each reservation holder will be entitled to bring two additional hunters with him in order to utilize the 3-man blinds. Each person will be charged a \$1.00 blind-use fee when he registers to hunt.

Reservations are non-transferable and fees will not be refunded. No provision shall be made for "standby" hunters.

All hunters must hunt from refuge-constructed 3-man blinds only.

Blinds will be assigned on a drawing basis each day of the hunt.

All hunting will be from assigned blinds only with the exception that wounded birds may be pursued and shot within the shooting zone (within 40 yards of blind, as posted). Wounded birds may be pursued beyond this point up to the retrieval zone line (within 100 yards of blind, as posted), but guns must remain within the shooting zone.

Hunters will be required to check in and out at the refuge check station on each hunting day.

Permit holders must park in assigned parking lots within the hunting area. Non-refuge hunters may not use the refuge parking areas as access to private lands.

Hunters are allowed the use of decoys (personal or rented at check station) and retrieving dogs (one per hunter). Goose decoys, up to 3 dozen may be rented at the refuge check station at a charge of \$1.00 per dozen. Hunters will be responsible for rented decoys and will be charged for any decoys lost or damaged.

Only shotguns capable of holding three shells or less will be permitted.

Only steel shot loads will be allowed in the hunting area.

A maximum of 25 shells per hunter will be allowed per day.

Camping is not allowed on the refuge. All litter, including empty shotgun shells, is to be picked up before leaving the blind site.

Kansas

Flint Hills National Wildlife Refuge

Public hunting of mourning doves, rails, woodcock, Wilson's snipe, ducks, geese, coots and mergansers is permitted, but only on the area designated by signs as open to hunting.

Refuge hunting shall be subject to the following special conditions:

1. Vehicle access shall be restricted to designated parking areas and to existing roads.

2. Blind construction by the public is permitted but limited to temporary above ground construction. Constructed blinds become the property of the government. Blind construction does not constitute a reservation of hunting space. Daily occupancy of blinds erected on refuge hunting units will be determined on a first-come-first-serve basis.

3. The transportation or possession of firearms is not permitted on the Neosho River from the northern refuge boundary to and including the point where the river empties into John Redmond Reservoir, and extending to the southern refuge boundary, as marked by buoys.

Kirwin National Wildlife Refuge

Public hunting of mourning doves, ducks, geese, and coots is permitted only on the areas designated by signs as being open to hunting.

Refuge hunting shall be subject to the following special condition:

1. Blinds—Temporary blinds constructed above ground from natural vegetation are permitted. Digging of holes or pits to serve as blinds is prohibited.

Quivira National Wildlife Refuge

Public hunting of ducks, geese, coots, mourning doves, snipe, rails and woodcock is permitted only on the areas designated by signs as being open to hunting subject to the following conditions:

1. Blinds—only temporary blinds constructed above ground of natural vegetation are permitted.

2. Dogs—not to exceed two per hunter may be used only for retrieving.

Missouri

Mingo National Wildlife Refuge

Waterfowl hunting is permitted only on the areas designated by signs as being open to hunting, subject to the following conditions:

1. Dogs may be used to retrieve downed waterfowl with the hunting area.

2. Hunting in or entering any cultivated field, pasture or diked area is prohibited.

Swan Lake National Wildlife Refuge

Public hunting for geese only is permitted only on designated areas comprising 2,500 acres, subject to the following conditions:

1. Each hunter must obtain a State permit prior to hunting, hunt only from an assigned blind, and fire not more than ten (10) shells.

2. Daily bag is determined by applicable State and Federal laws.

3. Use or possession of 12-gauge shells loaded with any material other than steel shot is prohibited. This steel shot provision does not apply to other gauges.

4. Authorized officials may retrieve legally shot geese falling inside the refuge boundary for the hunters who shot them.

§ 32.22 Special regulations; upland game; for individual wildlife refuge areas.

Kansas

Flint Hills National Wildlife Refuge

The public hunting of small game animals, upland game birds, fur bearing animals and non-game animals is

permitted, but only on the area designated by signs as open to hunting subject to the following special conditions:

1. The use of rifles or pistols are prohibited on the refuge.

2. Vehicle access shall be restricted to designated parking areas and existing roads.

3. Dogs may be used only for hunting and retrieving small game animals and game birds. Dogs may not be used for hunting fur bearing animals and non-game animals, either by sight or trailing by scent.

Kirwin National Wildlife Refuge

The public hunting of pheasant, quail, rabbits and squirrels is permitted but only on the area designated by signs as open to hunting.

Quivira National Wildlife Refuge

Hunting of ring-necked pheasants, bobwhite quail, squirrel and rabbits is permitted but only on the area designated by signs as open to hunting subject to the following conditions:

1. The use of rifles is prohibited for taking squirrel and rabbits.

2. The hunting of any species after sunset is prohibited.

3. The hunting of all upland game will close at the end of the ring-necked pheasant and/or bobwhite quail seasons.

4. Dogs—not more than 2 per hunter.

Missouri

Mingo National Wildlife Refuge

Squirrel hunting is permitted on the areas designated by signs as being open to hunting subject to the following conditions:

1. The open season for hunting squirrels on the refuge extends from opening date of Statewide season, August 1, 1979 through September 30, 1979.

2. Hunters must register when entering the refuge and record kill when leaving.

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

Iowa

DeSoto National Wildlife Refuge

Archery Deer Hunting (Iowa) will be permitted October 6, 1979 through November 30, 1979, both dates inclusive.

Archery hunting of deer on the Iowa side is permitted only on an area comprising 600 acres located on the southeast portion of the refuge.

Portable blinds and ladders are permitted. No permanent tree blinds or stands may be built, or may any nails, wire, or other foreign material be used in any manner. All portable blinds must

be removed by the close of the season. No firearms are permitted on the areas.

Vehicles shall be confined only to designated parking lots. Overnight camping is not allowed on the area.

Only those persons possessing a valid state permit will be allowed to enter the area.

Nebraska

DeSoto National Wildlife Refuge

Archery Deer Hunting (Nebraska) will be permitted September 15, 1979 through November 9, 1979 and November 19, 1979 through December 31, 1979, all dates inclusive.

Archery hunting of deer on the DeSoto NWR, Nebraska, is permitted only on an area comprising 1,000 acres located on the west side of the Missouri River.

Portable blinds and ladders are permitted. No permanent tree blinds or stands may be built, or may any nails, wire, or other foreign material be used in any manner. All portable blinds must be removed by the close of the season. No firearms are permitted on the areas.

Vehicles shall be confined only to designated parking lots. Overnight camping is not allowed on the area.

Only those persons possessing a valid state permit will be allowed to enter the area.

Muzzleloader Hunting of deer on DeSoto NWR, Nebraska, is permitted on an area comprising approximately 3,350 acres located in the central portion of the refuge. The following special regulations apply to this hunt: A total of 100 special permits will be issued for the hunt by the Nebraska Game and Parks Commission. Only those persons possessing a valid state permit will be allowed to enter the area. Muzzleloader rifles are the only weapons allowed and deer of either sex are the only legal wildlife species that may be taken during the hunt. Discharging firearms from or across all roads open to vehicle traffic, including adjacent rights-of-way is prohibited. Camping and pets are not permitted on the refuge.

Entry to the open area will be permitted one hour before shooting hours. Shooting hours will be ½ hour before sunrise to ½ hour after sunset. All permit holders and vehicles must be out of the designated hunting area no later than one hour after sunset.

Vehicles shall be confined to designated roads, parking areas, and field access approaches. Parking is not permitted on asphalt roads.

Parking is permitted along graveled roads.

Portable blinds and ladders are permitted. No permanent blinds or

stands may be built, or may any nails, wire, or other foreign materials be used.

Kansas

Flint Hills National Wildlife Refuge

Public hunting of deer, with bow and arrow is permitted but only on the area designated by signs as open to hunting subject to the following special conditions:

1. The area is open to big game hunting for white-tailed deer only.

2. Any use of rifles or pistols are prohibited on the refuge.

Kirwin National Wildlife Refuge

Public hunting of deer with bow and arrow is permitted but only on areas designated by signs as open to hunting.

Missouri

Mingo National Wildlife Refuge

Public hunting of deer is permitted but only on areas designated by signs as open to hunting subject to the following conditions:

1. Hunting with bows and arrows only is permitted.

2. Hunters must register when entering and leaving the area.

3. Hunting from permanent tree stands (one that is connected to the tree by nails, screws, etc.) is prohibited.

Public hunting of turkey is permitted but only on areas designated by signs as open to hunting subject to the following conditions:

1. Hunting with bows and arrows only is permitted.

2. Hunters must register when entering and leaving the area.

3. Hunting from permanent tree stands (one that is connected to the tree by nails, screws, etc.) is prohibited.

Dated: August 17, 1979.

Tom A. Saunders,

Area Manager.

[FR Doc. 79-26025 Filed 8-22-79; 8:45 am]

BILLING CODE 4310-55-M

Proposed Rules

Federal Register

Vol. 44, No. 165

Thursday, August 23, 1979

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 926]

Tokay Grapes Grown in San Joaquin County, Calif.; Proposed Extension of Grade and Container Marking Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed Rule.

SUMMARY: This notice proposes to continue through November 30, 1979, the currently effective minimum grade and container marking requirements for fresh shipments of Tokay grapes grown in San Joaquin County, California. The current regulation, which will expire on September 30, 1979, unless extended, provides that (1) fresh shipments of Tokay grapes must meet grade and size specifications of U.S. No. 1 Table Grapes, and in addition, at least 30 percent of the berries in the lower quarter of each bunch shall show characteristic color, and (2) containers shall show a Federal-State Inspection Service lot stamp number showing that such grapes have been inspected. These requirements are designed to assure that the grapes shipped will be of suitable quality in the interest of consumers and producers.

DATES: Written comments must be received on or before September 17, 1979. Proposed effective date: October 1, 1979.

ADDRESS: Send comments to the Hearing Clerk, United States Department of Agriculture, Room 1077 South Building, Washington, DC 20250, where they will be made available for public inspection during regular business hours (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, (202) 447-5975.

SUPPLEMENTARY INFORMATION: Findings. Tokay Grape Regulation 15 (§ 926.316; 44 FR 46427) which sets forth the currently effective grade and container

marking requirements, will expire September 30, 1979, unless extended. This proposal would continue the requirements through November 30, 1979.

The proposed action was recommended by the Industry Committee, established under the marketing agreement, as amended, and Order No. 926, as amended (7 CFR Part 926). The marketing agreement and order regulate the handling of Tokay grapes grown in San Joaquin County, California, and are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674).

Production of Tokay grapes for the 1979 season has been estimated by the Tokay grape Industry Committee as 104,525 tons, compared with a 1978 crop of 100,277 tons. The committee estimates fresh shipments for 1979 at 1 million 23-pound lugs as compared to actual shipments in 1978 of 946,334 lugs.

The grade and container requirements are designed to prevent the shipment of fresh Tokay grapes of lesser quality than specified and to provide ample supplies of good quality fruit in the interest of producers and consumers pursuant to the declared policy of the act.

The proposal has been reviewed under USDA criteria for implementing Executive Order 12044. It is being published with less than a 60-day comment period because of insufficient time between the date when information upon which this proposal is based became available and the effective date necessary to effectuate the declared policy of the act. A determination has been made that this action should not be classified significant. A draft Impact Analysis is available from Malvin E. McGaha, Chief, Fruit Branch, Fruit and Vegetable Division, AMS, U.S. Department of Agriculture, Washington, DC 20250; Phone (202) 447-5975.

Under the proposal, Tokay Grape Regulation 15 (§ 926.316; 44 FR 46427) would be amended to read as follows:

§ 926.316 Tokay Grape Regulation 15.

(a) During the period October 1, 1979, through November 30, 1979, no handler shall ship:

(1) Any Tokay grapes grown in the production area which do not meet the grade and size specifications of U.S. No. 1 Table Grapes and the following additional requirement: Of the 25 percent, by count, of the berries of each bunch which are attached to the lower

part of the main stem, including laterals; at least 30 percent, by count, shall show characteristic color; and

(2) Any container of Tokay grapes grown in the production area, unless such container bears, in plain letters and figures on one outside end, a Federal-State Inspection Service lot stamp number showing that such grapes have been inspected in accordance with the established grade set forth in this section.

(b) *Definition.* As used herein, the terms "handler," "ship," and "production area" shall have the same meaning as when used in the amended marketing agreement and order; "U.S. No. 1 Table Grapes" and "characteristic color" shall have the same meaning as when used in the United States Standards for Table Grapes (7 CFR 2851 880-912).

Dated: August 20, 1979.

D. S. Kuryloski,

Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

(FR Doc. 79-28226 Filed 8-22-79; 8:45 am)
BILLING CODE 3410-02-M

[7 CFR Part 1125]

Milk in the Puget Sound, Wash., Marketing Area; Proposed Suspension of Certain Provisions of the Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed suspension of rule.

SUMMARY: This notice invites written comments on a proposal to suspend certain order provisions relating to how much milk that is not needed for fluid (bottling) use may be moved directly from farms to manufacturing plants and still be priced under the order. The proposed suspension would remove the limit on such movements of milk during the months of September 1979 through January 1980. Two cooperative associations requested the suspension so that they can continue the efficient disposition of milk not needed for fluid use while still maintaining producer status under the order for their dairy farmer members regularly associated with the market.

DATE: Comments are due on or before September 7, 1979.

ADDRESS: Comments (two copies) should be filed with the Hearing Clerk, Room 1077, South Building, U.S.

Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT:

Maurice M. Martin, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250 (202-447-7183).

SUPPLEMENTARY INFORMATION: Notice is hereby given that, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), the suspension of certain provisions of the order regulating the handling of milk in the Puget Sound, Washington, marketing area is being considered for the period September 1979 through January 1980. The provisions proposed to be suspended are as follows:

1. In § 1125.18(c) (1) and (3), the words "70 percent during the months of September through January, and".

All persons who want to comment on the proposed suspension should send two copies of them to the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250, on or before the 15th day after Federal Register publication. The comments that are sent will be made available for public inspection in the Hearing Clerk's office during normal business hours (CFR 1.27(b)).

Statement of Consideration

The proposed action would remove the limit on the amount of producer milk that a cooperative association or other handlers may divert from pool distributing plants to nonpool plants or to commercial food processing establishments in Pacific County, Washington, during the months of September 1979 through January 1980. The order now provides that a cooperative association may divert during the months of September-January not more than 70 percent of its total producer milk which it causes to be delivered to pool distributing plants or diverted from such plants. In the case of a pool distributing plant, the 70 percent limit applies to the milk of producers (for which the operator of such plant is the handler during the month) received at or diverted from such plant.

Jersey-Dari, Inc., and Northwest Guernsey Association (through their marketing agent, Dari-Marketing Services) who represent some of the producers on the market requested the suspension. The basis for the request is that recently the associations lost a substantial part of their fluid milk sales in the market because one distributing plant stopped purchasing milk from them and another distributing plant

discontinued operations. They state that since other fluid outlets are not immediately available the two cooperatives now must move to nonpool manufacturing plants the milk formerly moved to these distributing plants. This situation, according to the proponent cooperatives, is aggravated by the fact that this year milk production of their member producers is substantially higher than year-ago levels.

In view of these changes in marketing conditions, the cooperatives expect their reserve milk supplies during September 1979 through January 1980 to exceed the quantity of producer milk that may be diverted under the order's diversion limitations. The cooperatives indicated that without the suspension a substantial part of the milk of their member producers who have regularly supplied the fluid market would have to be moved uneconomically if such milk is not to be excluded from the pool beginning in September 1979. The cooperative also indicated that the suspension for the period September 1979 through January 1980 would provide the necessary time to adjust their marketing operations and reorganize the cooperatives to meet the order's present diversion requirements.

Signed at Washington, D.C., on August 17, 1979.

Irving W. Thomas,

Acting Deputy Administrator, Marketing Program Operations.

(FR Doc. 79-28143 Filed 8-22-79; 8:45 am)

BILLING CODE 3410-02-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Chapter I]

Proposed San Juan, Puerto Rico, Terminal Control Area; Informal Airspace Meeting

AGENCY: Federal Aviation Administration/DOJ.

ACTION: Notice of informal airspace meeting, proposed San Juan, Puerto Rico, terminal control area.

SUBJECT: The Federal Aviation Administration (FAA) will hold an Informal Airspace Meeting in San Juan, Puerto Rico, for the purpose of discussing a plan by the FAA to establish a Group II Terminal Control Area (TCA) for the Puerto Rico International Airport.

DATE: October 9, 1979, 7 p.m. (local time).

ADDRESS: Puerto Rico Ports Authority Meeting Area, Pier #1, San Juan, Puerto Rico.

FOR FURTHER INFORMATION, CALL: Mr. Clifford C. Monteau, FAA Southern Region, telephone: (A/C 404) 763-7866, or Jose Rodriguez, San Juan CERAP, telephone: (A/C 809) 791-4830.

SUPPLEMENTARY INFORMATION: The purpose of this Informal Airspace Meeting is to offer all persons likely to be affected by the proposed TCA the opportunity to present their views, and to assist the FAA in the preparation of an airspace docket that will accomplish the improved safety objectives with the least possible impact on the airspace users.

No formal minutes or transcripts will be taken; however, anyone may submit written comments before or during the meeting which will be made a matter of record if they so desire. This action will not prevent interested persons from submitting comments later in response to a Notice of Proposed Rulemaking (NPRM) in the event the item is formally proposed.

Issued in Atlanta, Georgia, on August 6, 1979.

Lonnie D. Parrish,

Chief, Air Traffic Division, Southern Region.

(FR Doc. 79-26155 Filed 8-22-79; 8:45 am)

BILLING CODE 4910-13M

[14 CFR Part 71]

[Airspace Docket No. 79-SO-52]

Designation of Federal Airways, Area Low Routes, Controlled Airspace, and Reporting Points; Proposed Alteration of Control Zone, Troy, Alabama

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: This notice propose to alter the Troy, Alabama, Control Zone by designating additional controlled airspace and revoking an unnecessary portion. A new public use instrument approach procedure has been developed for the Troy Municipal Airport which will replace a less effective procedure. These changes are necessary to provide required airspace protection for instrument flight operations.

DATES: Comments must be received on or before: October 1, 1979.

ADDRESS: Send comments on the proposal to: Federal Aviation Administration, Chief, Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320.

FOR FURTHER INFORMATION CONTACT: Carl F. Stokoe, Airspace and Procedures Branch, Federal Aviation

Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone: 404-763-7646.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Southern Region, Federal Aviation Administration, Attention: Chief, Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320. All communications received on or before October 1, 1979, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each public contact with FAA personnel concerned with this rulemaking will be filed in the public, regulatory docket.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

The Proposal

The FAA is considering an amendment to Subpart F of Part 71 of the Federal Aviation Regulations (14 CFR 71) to designate a control zone extension which is required to protect aircraft executing the new VOR RWY 7 standard instrument approach procedure to the Troy Municipal Airport. Revocation of the control zone extension associated with the VOR-A procedure is necessary because this procedure will be canceled when the new one becomes effective. These changes are necessary due to the VOR-site relocation on the airport and aviation needs.

The Proposed Amendment

Accordingly, the Federal Aviation Administration proposes to amend Subpart F, § 71.171 (44 FR 353), of Part

71 of the Federal Aviation Regulations (14 CFR 71) as follows:

Troy, Alabama

"... within 2 miles each side of the ILS localizer west course, extending from the 5-mile radius zone to the OM; within 3 miles each side of the 197° radial of the Troy VOR, extending from 5-mile radius zone to 8.5 miles south of the VOR..." is deleted and "... within 3 miles each side of the 245° radial of the Troy VOR, extending from the 5-mile radius zone to 8.5 miles southwest of the VOR..." is substituted therefor.

(Sec. 307(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)) and Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(a)).

Note—The Federal Aviation Administration has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in East Point, Georgia on August 8, 1979.

George R. LaCaille,
Acting Director, Southern Region.

[FR Doc. 79-25908 Filed 8-22-79; 8:45 am]

BILLING CODE 4910-13-M

[14 CFR Part 73]

[Airspace Docket No. 78-EA-87]

Proposed Designation of VOR Federal Airway

Correction

In FR Doc. 79-24277, appearing on page 46856 the heading should have appeared as set forth above.

CIVIL AERONAUTICS BOARD

[14 CFR Part 374a]

[SPDR-72; Docket No. 35042; Dated: August 20, 1979]

Extension of Credit by Air Carriers to Political Candidates

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: This notice proposes that the time within which a political candidate must pay an air carrier's monthly bills be extended from 14 to 25 days. The action is taken in response to a petition for rulemaking filed by United Air Lines.

DATES: Comments by: October 22, 1979. Reply comments by: November 13, 1979.

Comments and other relevant information received after these dates will be considered by the Board only to the extent practicable.

Requests to be put on the Service List by: September 4, 1979. Docket Section prepares the Service List and sends it to each person listed, who then serves comments on others on the list.

ADDRESSES: Twenty copies of comments should be sent to Docket 35042, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. Individuals may submit their views as consumers without filing multiple copies. Comments may be examined in Room 711, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. as soon as they are received.

FOR FURTHER INFORMATION CONTACT: Richard B. Dyson, Associate General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428, 202-673-5442.

SUPPLEMENTARY INFORMATION: By petition filed March 13, 1979, United Air Lines requested that a rulemaking proceeding be instituted to amend Part 374a of the Board's Special Regulations (14 CFR Part 374a) to allow political candidates, and persons campaigning on their behalf, 25 days to pay their monthly (semi-monthly during the two months before the election) bills from air carriers. Presently payment is required (§ 374a.4(a)(3)) within 14 days, and the change would bring the payment period for political candidates into line with the period normally used in dealing with the general public. Another provision of Part 374a, § 374a.4(a)(5)(ii), requires that travel bills of persons acting on a candidate's behalf be billed to the candidate within 7 days after they become overdue, with the candidate then given 14 days to pay, after which they will be considered overdue bills of the candidate. The petition asked that this period also be extended to 25 days. Further extensions of credit are barred until overdue bills are paid in full. The part also contains reporting and record-retention requirements.

The basis for the Board's requirements concerning air transportation debts of political candidates in Section 401 of the Federal Election Campaign Act of 1971 (FECA) (Pub. L. 92-225, 86 Stat. 19, 2 U.S.C. 451), which requires the Civil Aeronautics Board, the Federal Communications Commission and the Interstate Commerce Commission to promulgate regulations for the extension of credit, without security, to candidates for Federal office or persons acting on their

behalf, for services rendered in connection with the campaign. Congress' concern in enacting this legislation was to prevent regulated industries from extending large amounts of unsecured credit to political candidates, which to a great extent remained unpaid after the election.

United's petition, supported by American, Delta, Braniff and TWA, stated that the present system is unnecessary and inconvenient, and that compliance causes suspension of credit to persons for reasons not connected with their creditworthiness. It said that many aspiring and present federal legislators maintain personal accounts with the normal 25-day payment period, which must be changed to a 14-day period when they announce their candidacy for election (or reelection) for federal office. This subjects all parties to the likelihood of errors and misunderstanding.

Delta argued that allowing the air carriers to maintain the same billing procedures for political candidates as for all other accounts, would result in more efficient and less burdensome accounting procedures, and the cost savings could be passed on to the consumers. Delta also stated that, with the Board's present stringent reporting requirements and credit limitations for political candidates, the potential for abuse is minimal.

The Board tentatively concludes that there is no compelling reason to require payment within the short 14-day period. Retaining the other provisions in this part would be sufficient to carry out the intent of Congress in enacting FECA. This amendment would increase the amount of time the air carrier could extend credit by 11 days, but would still require that if the debt remained unpaid at the end of the prescribed period, further credit be refused. The requirements that air carriers file statements with the Board disclosing all candidates carrying balances of over \$3,000 on the last day of each month, and separate statements for aggregate staff debts of over \$5,000, would satisfy the public disclosure requirement of FECA and ensure prompt payment and effective collection. The air carriers would still be required to submit monthly statements to each candidate (until September and October of the election year when the statements must be submitted on at least a semi-monthly basis), with the records retained for 2 years.

The arguments that the proposed amendment would ease administrative costs are persuasive, and we agree that the carriers are in the best position to establish practical and efficient of

alternative billing practices. If any air carrier wanted to require payment within a shorter period, it would of course be free to do so.

Accordingly, the Civil Aeronautics Board proposes to amend § 374a.4 (a)(3) and (a)(5)(ii) of 14 CFR Part 374a, *Regulations Pursuant to Section 401 of the Federal Election Campaign Act of 1971 With Respect to Extension of Credit by Air Carriers to Political Candidates*, to read:

§ 374a.4 Conditions governing extension of unsecured credit.

(a) ...
(3) The amount of indebtedness shown on each such statement shall be payable in full no later than 25 days after the last day of the billing period, after which time the indebtedness shall be overdue.

(5)(i) ...
(ii) Within 7 days after indebtedness becomes overdue for any unsecured credit extended by an air carrier to a person acting on behalf of a candidate in accordance with paragraph (a)(5)(i) of this section, the carrier shall notify such candidate in writing of the amount of such overdue indebtedness, and, unless paid in full within 25 days after the day of such notice, such overdue indebtedness shall be deemed to be the overdue indebtedness of such candidate, for the purposes of paragraph (a)(4)(i) of this section.

(Sec. 204, 407 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 766; 49 U.S.C. 1324, 1377).

By the Civil Aeronautics Board
Phyllis T. Kaylor,

Secretary.

[FR Doc. 79-26217 Filed 8-22-79; 8:45 am]

BILLING CODE 6320-01-M

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Part 240]

[Release No. 34-16107, File No. S7-787]

Extension of Comment Period on Proposed Rule 11Aa2-1 Under the Securities Exchange Act of 1934

AGENCY: Securities and Exchange Commission.

ACTION: Extension of comment period.

SUMMARY: On June 15, 1979, the Commission published for comment Proposed Rule 11Aa2-1 under the Securities and Exchange Act of 1934 which, if adopted, would provide procedures by which securities would

be designated as qualified for trading in a national market system. The time for submitting comments would have expired August 15, 1979, however, the Commission has extended the period to September 30, 1979.

DATES: Comments should be submitted on or before September 30, 1979.

ADDRESS: Persons wishing to submit written comments should file ten copies thereof with George A. Fitzsimmons, Secretary, Securities and Exchange Commission, Room 892, 500 North Capitol Street, Washington, D.C. 20549. All submissions should refer to File No. S7-787 and will be available for public inspection at the Commission's Public Reference Room, Room 6101, 1100 L Street, NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Richard Ketchum, Branch Chief, Division of Market Regulation, Securities and Exchange Commission, Room 387, 500 North Capitol Street, Washington, D.C. 20549 (202) 755-8916.

SUPPLEMENTARY INFORMATION: On June 15, 1979, the Commission published for comment Proposed Rule 11Aa2-1 under the Securities Exchange Act of 1934 which, if adopted, would provide procedures by which securities would be designated as qualified for trading in a national market system. In addition, the Commission invited public comment on certain proposed rule amendments which would require the dissemination of transaction and quotation information with respect to certain securities currently traded solely over-the-counter within two months after the date the Commission approves a designation plan submitted by the self-regulatory organizations pursuant to Proposed Rule 11Aa2-1.

Notice of the request for comments was given by Securities Exchange Act Release No. 34-15926 (June 15, 1979) and by publication in the *Federal Register* (44 FR 36912 (June 22, 1979)). Interested persons were invited to submit written data, views and arguments prior to August 15, 1979. The Commission has received written requests for an extension of the comment period deadline from the Philadelphia Stock Exchange, Inc. and the National Security Traders Association. Other interested persons have also indicated that an extension of the comment period would be in the public interest. Accordingly, the Commission today has extended the period for the submission of written data, views and arguments concerning the foregoing proposed regulatory initiatives until September 30, 1979. However, no further extension of time will be granted with respect to this matter.

By the Commission.
George A. Fitzsimmons,
Secretary.
August 14, 1979.
[FR Doc. 79-26197 Filed 8-22-79; 8:45 am]
BILLING CODE 8010-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory
Commission

[18 CFR Parts 2, 131, 156, 157]

[Docket No. RM 79-70]

Floodplain Management and
Protection of Wetlands

Issued: August 20, 1979.

AGENCY: Federal Energy Regulatory
Commission.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Commission is amending its regulations to implement Executive Order Nos. 11988 and 11990, respectively entitled Floodplain Management and Protection of Wetlands. The proposed amendments would operate in conjunction with the Commission's proposed regulations implementing the National Environmental Policy Act. The proposal in this docket would guide applicants under the Natural Gas Act and the Federal Power Act in evaluating the impact of the proposed projects on floodplains and wetlands and in supplying information on those projects to the Commission and the public. The proposal also directs applicants to avoid new construction in these environmentally sensitive areas, were applicable. In complying with the spirit of the Executive Orders, the proposed amendment would help minimize health hazards and environmental damage in wetland areas or where there exists a substantial risk of flood loss.

DATE: Written comments by September 17, 1979.

ADDRESS: Office of the Secretary,
Federal Energy Regulatory Commission,
825 North Capitol Street, NE.,
Washington, DC. 20426. Reference
Docket No. RM79-70.

FOR FURTHER INFORMATION CONTACT:
James Hoecker, Office of the General
Counsel, Federal Energy Regulatory
Commission, Room 8106, 825 North
Capitol Street, NE., Washington, DC.
20426. Phone (202) 275-0422.

SUPPLEMENTARY INFORMATION: The
Federal Energy Regulatory Commission
(Commission) gives notice that it
proposes to amend its Regulations to
implement Executive Order Nos. 11988
and 11990 respectively entitled

Floodplain Management and Protection
of Wetlands. The proposed amendments
would operate in conjunction with the
Commission's proposed regulations
implementing the National
Environmental Policy Act to guide
applicants in evaluating the impact of
proposed projects on floodplains and
wetlands and in supplying information
on those projects to the Commission and
the public.

Background

The proposed regulations would
implement the provisions of Executive
Order No. 11988—Floodplain
Management and Executive Order No.
11990—Protection of Wetlands. Both
executive orders concern actions of
Federal agencies taken to protect
wetlands and floodplains. Although the
Commission, as an independent
regulatory agency, is not bound by the
executive orders, it has for many years
taken into account in its decisionmaking
processes, the potential impact on
floodplains and wetlands. It has also
determined that implementing
procedures which reflect the provisions
and policies of those orders, consistent
with its independent regulatory
functions, is in the public interest.

Section 1 of E.O. 11990, Protection of
Wetlands, provides, in pertinent part:

Each agency shall provide leadership and
shall take action to minimize the destruction,
loss or degradation of wetlands, and to
preserve and enhance the natural and
beneficial values of wetlands in carrying out
the agency's responsibilities for . . .
conducting Federal activities and programs
affecting land use, including but not limited
to water and related land resources planning,
regulating, and licensing activities.

Section 5 of E.O. 11990 provides:

In carrying out the activities described in
Section 1 of this Order, each agency shall
consider factors relevant to a proposal's
effect on the survival and quality of the
wetlands. Among these factors are: (a) public
health, safety, and welfare, including water
supply, quality, recharge and discharge;
pollution; flood and storm hazards; and,
sediment and erosion;

(b) maintenance of natural systems,
including conservation and long term
productivity of existing flora and fauna,
species and habitat diversity and stability,
hydrologic utility, fish, wildlife, timber, and
food and fiber resources; and

(c) other uses of wetlands in the public
interest, including recreational, scientific, and
cultural uses.

Although E.O. 11990, by the terms of
Section 1(b), does not apply to the
issuance of permits, licenses, or
allocations to private parties for
activities involving wetlands on non-
Federal property, the Commission
proposes, pursuant to its general

responsibilities under the National
Environmental Policy Act, to apply
certain environmental review
requirements to applications involving
new construction on non-Federal, as
well as Federal, wetlands. Existing
environmental regulations require some
wetlands information, and the
Commission has long sought that
information in its proceedings. However,
the proposed regulations would serve to
underscore explicitly the additional data
requirements necessary to identify and
protect these environmentally sensitive
areas within the NEPA processes
described in Docket No. RM79-69.

Section 1 of E.O. 11988, Floodplain
Management, provides, in pertinent part:

Each agency shall provide leadership and
shall take action to reduce the risk of flood
loss, to minimize the impact of floods on
human safety, health and welfare, and to
restore and preserve the natural and
beneficial values served by floodplains in
carrying out its responsibilities for . . . (3)
conducting Federal activities and programs
affecting land use, including but not limited
to water and related land resources planning,
regulating, and licensing activities.

Section 2(c) of E.O. 11988 specifically
addresses the responsibilities of
licensing agencies:

(c) Each agency shall take floodplain
management into account when formulating
or evaluating any water and land use plans
and shall require land and water resources
use appropriate to the degree of hazard
involved. Agencies shall include adequate
provision for the evaluation and
consideration of flood hazards in the
regulations and operating procedures for the
programs . . . that they administer. Agencies
shall also encourage and provide appropriate
guidance to applicants to evaluate the effects
of their proposals in floodplains prior to
submitting applications for Federal licenses,
permits, loans or grants.

In keeping with the spirit of E.O.
11988, this Notice of Proposed
Rulemaking will be transmitted to the
Water Resources Council, the Federal
Insurance Administration, and the
Council on Environmental Quality with
a specific request for their comments on
these proposed regulations.

The Floodplain Management
Guidelines for Implementing E.O. 11988
issued by the U.S. Water Resources
Council recognize "the responsibility for
individual agencies to tailor their
procedures to meet both their
legislatively prescribed missions and the
requirements of the Order." Accordingly,
the Commission is proposing these regulations in a form
applicable to its independent regulatory
decisionmaking procedures.

Discussion of the Proposed Regulations

The purpose of the proposed rule is to
provide applicants with guidance to
evaluate the effects of their proposed
actions on floodplains and wetlands
prior to the submission of applications
for Commission approval. Furthermore,
proposed amendments would require
applicants to provide the Commission
with sufficient information to evaluate
any impact that would result from siting
a proposed action in a floodplain or
wetland, any flood hazard that might
result, and siting alternatives that
should be considered. The proposed
amendments would require early public
notice in the local area likely to be
affected by a proposed action under
section 7 of the Natural Gas Act which
would affect a floodplain or wetland.

The proposed amendments reflect an
expansion of the requests for
environmental data explicitly required
for an applicant's Environmental Report
to the Commission, in compliance with
the National Environmental Policy Act,
to include information on any
floodplains and wetlands affected. The
key provisions proposed are those
included under Part 2, Appendices A
and B, "Components of an
Environmental Report." Under the
proposed amendment, floodplains and
wetlands information would have to be
provided in all applications for which an
Environmental Report is required.²

A number of provisions in existing
and proposed regulations currently
require environmental information that
include much of the information
required under both the Floodplain
Management and the Protection of
Wetlands executive orders. Numerous
provisions require an assessment of the
impact on ecosystems and habitats
including floodplains and wetlands, in
the area of the proposed action.
Applicants must set forth possible
natural catastrophes as well as
implications of a proposed action for
human health and safety. The several
revisions proposed by this rulemaking
make explicit that the more general
terminology used throughout the

²Under Docket No. RM79-69, Appendices A and
B will be transferred to proposed Part 3d,
Regulations Implementing the National
Environmental Policy Act. Appendix B will continue
to apply to all applications under the Natural Gas
Act, but Appendix A is being replaced by
Environmental Report sections in new water power
project licensing provisions and will apply only to
major unconstructed water power projects until
§§ 4.40 through 4.42 are revised and Appendix A is
eliminated. Environmental Reports will be required
for projects under Part 1 of the Federal Power Act,
and under § 7(c) of the Natural Gas Act, according
to § 3d.12 of the proposed NEPA regulations.
Therefore, the "abbreviated application" permitted
by the appendices will not be permitted, and is
proposed to be eliminated in Docket No. RM79-69.

Components of an Environmental Report
and other regulations ought to include
the floodplains and wetlands
considerations enunciated in E.O. 11988
and E.O. 11990. Section 2.13 is amended
to include avoidance of floodplains and
wetlands in the design and construction
of projects under the Federal Power Act
as a policy to be followed where
practical. Likewise, these areas are to be
avoided by gas pipeline construction
and operation, where practical, under
amendments to § 2.69.

Executive Orders 11988 and 11990 call
for public notice and an opportunity for
early public review of proposed actions
in floodplains and wetlands. Current
Commission procedures under Sections
4 and 6 of the Federal Power Act (16
U.S.C. 797 and 799) require public notice
upon the filing of relevant water power
project applications (§§ 3.113-114). In
addition to the required notice in a
newspaper in the county or counties
affected, the Commission also publishes
notice in the Federal Register and gives
specific notice to any State or
municipality likely to be interested.
However, under the proposed
amendments, the notice would be
expanded to mention specifically
floodplain and wetlands considerations
in the description of the proposed
action. Thus, there is no need for a
revision of publication procedures
which currently apply to applications
made under the Federal Power Act.

With respect to applications under the
Natural Gas Act, current notice
requirements are embodied in §§ 156.8
and 157.9 of the Commission regulations.
These requirements provide for
notification of affected states and
publication in the Federal Register. The
present rulemaking proposes to expand
those provisions in cases where a
floodplain or wetland is involved to
include notice to affected municipalities
and publication of notice in the affected
local area. Similar to the proposed
treatment of applications under the
Federal Power Act, the content of the
notice would be expanded to reflect
floodplains and wetlands considerations
based on the information required in
environmental reports filed as part of
the application under the Natural Gas
Act.

Related Rulemaking Proceedings

The Commission has proposed
regulations to in Docket No. RM79-36,
reform the license application for major
water power projects [more than 1.5
MW or 2,000 horsepower] at existing
dams. As in Phase I of the Commission's

reform of water power project licensing,¹
an environmental report commensurate
with the scope of the project is
prescribed in the regulations in Docket
No. RM79-36. While the proposed rule
set forth below would amend the
Environmental Report in § 131.6 to alert
the applicant for a license for a minor
water power project to the policy of
protecting floodplains and wetlands, the
Commission also gives notice that it will
include similar language in the
Environmental Report requirements
which will be adopted in Docket No.
RM79-36. Proposed Exhibit E in § 4.51(f)
will be revised in subparagraphs (1) and
(6) to reflect the concerns of this
rulemaking as follows:

(f) . . .
(1) *General description of locale.* The
applicant must provide a general description
of the environment of the project and its
immediate vicinity. The description must
include general information concerning
climate, topography, wetlands, vegetative
cover, land development, population size and
density, the presence of any floodplains and
the occurrence of flood events in the vicinity
of the project, and any other subjects helpful
to an understanding of the setting.

(6) *Report on land management and
aesthetics.* The applicant must provide a
report on the management of land
within the proposed project boundary,
including wetlands and floodplains, and
the protection of the scenic values of the
project. . . . The report must contain:

(vi) *a description of wetlands or
floodplains within or adjacent to the
project boundary, any short- or long-
term impact from the project on those
wetlands or floodplains, and any
alternatives to the project or mitigative
and restorative measures considered by
the applicant, including flood
minimization measures. (Underlining for
emphasis only.)*

The Commission will also insert
language in its final Regulations
Prescribing General Provisions for
Preliminary Permit and License
Applications, Docket No. RM79-23, to
reflect the concerns of this rulemaking.
Proposed § 4.81(c)(2)(i) of that docket
will be amended to read:

(i) *a description, including the approximate
location, of any activity that would alter
or disturb lands or waters in the vicinity of the
proposed project, including floodplains or
wetlands, and measures that would be taken
to minimize any such disturbance and
measures to restore altered or disturbed
areas.*

¹Simplified Procedures for Certain Water Power
Licenses, Order No. 11, September 5, 1978 [Docket
No. RM78-8].

Appendix A of Part 2, which is amended by this rulemaking, will constitute the Environmental Report for major unconstructed water power projects after Docket No. RM79-36 is issued as a final rule by the Commission. As stated in footnote 2, Appendices A and B will be transferred to Part 3d of the regulations by the NEPA rulemaking, Docket No. RM79-69. However, Appendix A will be eliminated when the licensing procedures for major unconstructed water power projects are revised, because at that time a separate Environmental Report requirement will be included in the regulations applicable to such projects.

Comment Procedure

Interested persons are invited to submit written comments, data, views, suggestions, or arguments with respect to this proposal. Comments should be submitted to the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, DC, 20426, and should reference Docket No. RM79-70. An original and 14 copies should be filed. All comments received by September 17, 1979, will be considered by the Commission prior to promulgation of final regulations. All written submissions will be placed in the public file which has been established in this docket and which is available for public inspection in the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, DC., during regular business hours.

(National Environmental Policy Act of 1969, 42 U.S.C. §§ 4321-4347; Federal Power Act, 16 U.S.C. 792-828c; Natural Gas Act, 15 U.S.C. 717-717w; Department of Energy Organization Act, 42 U.S.C. §§ 7101-7352; Executive Order 12099, 42 FR 46267.)

In consideration of the foregoing, the Commission proposes to amend Parts 2, 131, 156, and 157 of Chapter I, Title 18, Code of Federal Regulations as set forth below.

By direction of the Commission,
Kenneth F. Plumb,
Secretary.

1. Section 2.13 is amended by adding a paragraph (d) to read as follows:

§ 2.13 Design and construction.

(d) Where practical, proposed actions should avoid locations involving wetlands or floodplains.

2. Section 2.69 is amended by revising paragraph (a)(1)(iii) and by adding clause (x) to paragraph (a)(3) to read as follows:

§ 2.69 Guidelines to be followed by natural gas companies in the planning, locating, clearing, and maintenance of right-of-way and the construction of aboveground facilities.

(a) * * *

(1) Pipeline construction. * * *

(iii) Rights-of-way should avoid heavily timbered areas, steep slopes, wetlands, and floodplains, where practical.

(3) Construction of aboveground appurtenant facilities.

(x) Where practical, aboveground facilities should not be sited in wetland or floodplain areas.

3. Appendices A and B of Part 2 are amended in paragraph 1.2 of the "Components of an Environmental Report" of each by adding the following at the end thereof:

State specifically whether the proposed action would involve new construction within a floodplain as defined in Executive Order No. 11988 (42 FR 26951, May 25, 1977) or a wetland as defined in Executive Order No. 11990 (42 FR 26961, May 25, 1977). Provide U.S. Department of Housing and Urban Development floodplain maps or other "best available" information to indicate which portions of the proposed action would involve new construction within a floodplain or wetland as defined above.

4. Appendices A and B of Part 2 are amended in paragraph 2.4.2 of the "Components of an Environmental Report" of each by adding the following at the end thereof:

Describe flood events and other pertinent environmental factors in sufficient detail to support an analysis of the proposed action's impact on the floodplain and any hazards created by its location in the floodplain.

5. Appendices A and B of Part 2 are amended in paragraph 4 of the "Components of an Environmental Report" of each by inserting the words "flood hazard minimization," after the word "including".

6. Appendices A and B of Part 2 are amended in paragraph 8.3 of the "Components of an Environmental Report" of each by revising the first sentence to read as follows:

8.3 Sites and locations—Discuss considerations given to alternative sites and locations, including those sites and locations that would avoid or minimize impacts on floodplains or wetlands.

7. Section 131.6 is revised in paragraph (3) of the Environmental Report to read as follows:

§ 131.6 Application for short-form license (minor).

Environmental Report. (1) * * *

(2) * * *

(3) A description of the expected environmental impact resulting from the continued operation of an existing project, or from the construction and operation of a new project or a project using an existing dam or other existing facility, including attention to the consequences of project construction and operations for any floodplains or wetland areas. Include a discussion of specific measures (including the cost of those measures and the party undertaking to implement those measures if other than the applicant) proposed by the applicant and others which would: (i) protect and enhance environmental resources; (ii) mitigate adverse impacts on environmental resources and values; and (iii) minimize any flood hazards.

§§ 156.8, 157.9 [Amended]

8. Section 156.8 and § 157.9 are amended by adding a sentence at the end of each to read:

When an application proposes an action within a floodplain or wetland area, appropriate notice will be published in a newspaper of general circulation in the county or counties that would be affected by the proposed action.

[FR Doc. 79-20198 Filed 8-22-79; 8:45 am]

BILLING CODE 6450-01-M

[18 CFR Parts 2 and 271]

[Docket No. RM79-67]

Procedures Governing Applications for Special Relief Under Sections 104, 106 and 109 of the Natural Gas Policy Act of 1978

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: Because the Natural Gas Policy Act of 1978 (NGPA) has superseded the special relief and optional certificate procedures formulated under the Natural Gas Act (NGA), the Commission is considering promulgating regulations for special relief under sections 104, 106, and 109 of the NGPA and deleting its special relief regulations formulated under the NGA.

DATES: Comments are due on or before September 14, 1979.

ADDRESS: Send comments to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. Comments should reference

Docket No. RM79-67 on the outside of the envelope and on all documents submitted to the Commission.

FOR FURTHER INFORMATION CONTACT:

Jane Phillips, Office of the General Counsel, Federal Energy Regulatory Commission, Room 8104-B, 825 North Capitol Street, N.E., Washington, D.C. 20426, (202)275-0422.

Louis Engel, Division of Producer Rates and Certificates, Federal Energy Regulatory Commission, Room 6300, 825 North Capitol Street, N.E., Washington, D.C. 20426, (202)275-4539.

Issued August 14, 1979.

Background

On the effective date of Title I of the Natural Gas Policy Act of 1978 (NGPA), P.L. 95-621, the Federal Energy Regulatory Commission (Commission) issued an Order With Respect To Optional Procedure Cases.¹ The order notified producers that the NGPA had superseded the special relief and optional certificate procedures formulated under the Natural Gas Act (NGA) and that the Commission intended to issue a transitional rule with respect to pending optional procedure cases. The regulations here proposed govern the granting of special relief under the NGPA for new applications and pending special relief and optional procedure applications filed under the NGA.

The proposed regulations, Subpart J of Part 271, would implement sections 104(b)(2), 106(c), and 109(b)(2) of the NGPA which provide that the Commission may, by rule or order, prescribe a maximum lawful price in excess of that prescribed by the respective sections if such price would be just and reasonable within the meaning of the NGA. The Commission's authority under these sections of the NGPA to grant such special relief is limited to gas committed or dedicated to interstate commerce on November 8, 1978, (section 104), gas sold under rollover contracts (section 106) and gas not covered by any other maximum lawful price under Title I of the NGPA (section 109). Gas qualifying under these sections would be eligible for special relief whether or not such gas also qualifies under other sections of the NGPA.

While the applicability of the proposed rulemaking is limited to gas qualifying under sections 104, 106 and 109 of the NGPA, the Commission specifically solicits comments on whether the scope of the regulations

could or should be extended, through the authority granted to the Commission in section 107, to apply to gas subject to sections 102, 103, 105, and 108 of the NGPA. Section 107 of the NGPA authorizes the Commission to prescribe maximum lawful prices to the extent necessary to provide reasonable incentives for the production of "high cost natural gas" and to determine under subsection (c)(5) of that section what gas shall be considered to be high cost natural gas because "produced under such * * * conditions as the Commission determines * * * present extraordinary risks or costs."

Presumably, an extension of special relief to gas qualifying only under sections 102, 103, 105, and 108, if deemed permissible or advisable, would be accomplished through use of the Commission's authority under section 107. In addition, the Commission solicits comments as to whether it has authority under section 110 of the NGPA to allow the equivalent of a special relief rate as a production-related cost for gas subject to sections 102, 103, 105, and 108.

As proposed, the regulations prescribe the circumstances under which a first seller of natural gas may seek a special relief rate, the manner in which the application is to be made, the cost standards which will be used in determining the special relief rate, and the procedures by which the application will be reviewed and decided.

The Federal Power Commission (FPC) considered special relief initially in the first area rate proceeding, *Permian Basin Area Rate Proceeding (Permian I)*.² It was to act as a "safety valve" for producers for which gas sales at the applicable area rates would amount to an unconstitutional taking of private property without due process.³

In 1974 the FPC issued Opinion No. 699,⁴ which established nationwide rather than areawide rates. Neither in the area rate opinions nor in Opinion No. 699, did the FPC indicate what special circumstances, other than the "out-of-pocket" expense test, would qualify gas sales for special relief. The rules governing special relief were codified at 18 C.F.R. § 2.56a(g).

Opinion No. 749, issued in 1975,⁵ authorized special relief for older vintage "flowing gas." This rule was codified at 18 CFR § 2.56b(h) and used the "out-of-pocket" expense standard. In 1976, the FPC issued Opinion No. 770-A

² 34 F.P.C. 159 (1965), *aff'd sub nom.*, *Permian Basin Area Rate Cases*, 390 U.S. 747 (1968).

³ *Id.* at 180, 226.

⁴ 51 F.P.C. 2212, *aff'd sub nom.*, *Shell Oil Co. v. FPC*, 520 F.2d 1061.

⁵ *Aff'd sub nom.*, *Tenneco Oil Co. v. FERC*, 571 F.2d 834.

establishing the second biennial national rate. The concept of special relief was upheld judicially⁶ and was codified at 18 C.F.R. §§ 2.56a(g).

During the early 1970's the FPC established three other broad categories of "special relief." Order No. 481⁷ adopted a special relief procedure as an alternative to abandonment for wells nearing their economic limit. This procedure, codified at 18 CFR § 2.76, allowed recovery of added investment necessary to keep the well in production. This standard was less stringent than the "out-of-pocket" test used in the national rate opinions which allowed only recovery of operating costs. In 1973 the FPC issued Order No. 482⁸ establishing a special relief provision, codified at 18 CFR § 2.77, to induce sales of gas which would otherwise be flared. No applications have been made to date under this procedure. The FPC promulgated the optional certificate procedure, codified at 18 CFR § 2.75, in 1972 as an alternative to area ratemaking. Its purpose was to bring new, long-term dedications of gas into the interstate market by providing the incentives of higher rates and price certainty. As applied, this procedure allowed recovery of full costs of a gas supply project plus a 15 percent return.⁹

In conjunction with the regulations here proposed, the Commission proposes to delete from its current regulations §§ 2.56a(g), 2.56b(h), 2.75, 2.76, and 2.77. A pending application filed under any of these sections would be deemed to have been withdrawn for failure to go forward unless the applicant filed, within 30 days of issuance of the this proposed rule in final form, a notice of intent to proceed with its application under Subpart J. The applicant would also be required to conform the original application to the requirements of Subpart J.

Nature of the Proposed Regulations

The proposed regulations establish standards and procedures for the granting of special relief for gas subject to the maximum lawful prices

⁶ *Tenneco Oil Co. v. FPC*, (5th Cir., April 18, 1978.)

⁷ 49 F.P.C. 992 (1973).

⁸ 49 F.P.C. 996 (1973).

⁹ See, e.g., *American Natural Gas Production Co., Order Granting Certificate of Public Convenience and Necessity* (Docket No. C177-657) (Dec. 3, 1978). Although the optional procedure was affirmed,

Moss v. FPC 424 U.S. 494 (1976), no application has yet withstood judicial scrutiny. See, *Consumers Union of U.S., Inc. v. FPC*, 510 F.2d 656 (1974), *reversing Belco Petroleum Corp.*, Opinion No. 659, 49 F.P.C. 1154 (1973) and *Public Service Commission of New York v. FERC*, No. 76-1352, (D.C. Cir., Sept. 23, 1978), *reversing Pennzoil Producing Co.*, Opinion No. 752, 12 F.P.S. 5-385 (1976).

prescribed in sections 104, 106, and 109 of the NGPA. These sections apply respectively to gas committed or dedicated to interstate commerce on November 8, 1978; gas sold under rollover contracts; and gas not covered by any other maximum lawful price under Title I of the NGPA.¹⁰ In accordance with section 101(b)(5) of the NGPA (which provides that gas qualifying for more than one maximum lawful price or "any exemption from such a price" shall qualify for the highest applicable price), even if natural gas is also determined under Part 274 to be new natural gas (section 102), gas produced from new onshore production wells (section 103), high-cost natural gas (section 107) or stripper well gas (section 108), or if it is gas sold under an existing intrastate contract (section 105), it could still be eligible for a special relief rate.

Eligibility

In order to apply for special relief for a sale of natural gas, an applicant must be a first seller of the gas (rather than a reseller) and must have contractual authorization for the rate sought at the time the initial application is filed under Subpart J. Section 271.1004(b)(2) permits an applicant who originally filed an application under §§ 2.56a(g), 2.56b(h), 2.75, 2.76 and 2.77 (old procedures) to continue the application under Subpart J. To do so, the applicant must file a notice of intent to proceed with the application under Subpart J and then file a conforming application or applications. The applicant may request a different rate than that initially requested so long as it has contractual authorization for the rate sought at the time the conforming application is filed.

By limiting applicants to "first sellers" the Commission intends to limit special relief under the proposed rules to producer costs. Resellers must seek relief under the Commission's adjustment procedures which implement section 502(c) of the NGPA and which are codified at 18 CFR § 1.41.

Section 271.1002(a) defines the production units for which a special relief application may be made and for which costs and reserves must be separately established in computing a special relief rate. They are:

- A planned onshore well and related production facilities;
- A planned offshore development well and related production facilities;

¹⁰ The proposed regulations do not apply to gas under section 109(a)(4)—gas produced from the Prudhoe Bay Unit of Alaska and transported through the natural gas transportation system approved under the Alaskan Natural Gas Transportation Act of 1978.

A planned offshore platform, wells drilled thereon and related production facilities; Planned production enhancement work on a previously producing well; and A well for which there is no planned investment.

Section 271.1003(a)(2)(ii), which limits the recovery of previously incurred (sunk) investment and operating expenses, indicates that a production unit would be characterized as involving or not involving planned investment based on its status at the time the application is accepted under Subpart J.¹¹

Under the regulations as proposed, a first seller would make a separate special relief application for each planned investment project or each well for which there is no planned investment. The Commission believes that a separate rate should be established for each such project or well, rather than for an aggregate of projects or wells. This procedure would enable the Commission to focus more clearly and easily on the specific costs of producing the particular gas for which the special relief rate is sought and in estimating the available reserves of such gas. The Commission does not believe that this policy would place an undue burden on the applicant, because the cost and reserve information should be available and reportable on a project-by-project or well-by-well basis.

Standards for Special Relief Rate

Congress stated in sections 104, 106, and 109 of the NGPA that the Commission may increase the applicable maximum lawful prices so long as the higher price is "just and reasonable within the meaning of the Natural Gas Act."¹² The Commission believes that the method for calculating a special relief rate proposed in § 271.1003 adheres to this Congressional mandate.

Paragraph (a) of § 271.1003 establishes standards for determining the special relief rate for planned investment projects; paragraph (b) establishes standards where there is no planned investment. Both stipulate that only prudent expenditures shall be considered. Under the regulations, the special relief rate would consist of an amount computed in accordance with

¹¹ For applications filed under §§ 2.56(a)(g), 2.56(b)(h), 2.75, 2.76, or 2.77 and continued under this subpart, the production unit is to be characterized as of the date of that original filing.

¹² The enactment of the NGA in 1938 gave the Commission the authority to determine and fix "just and reasonable rates." § 5(a), 15 U.S.C. § 717d(a), for the "sale in interstate commerce of natural gas for resale for ultimate public consumption for domestic, commercial, industrial, or any other use. . . ." § 1(b), 15 U.S.C. § 717(b).

the standards provided in paragraphs (a) and (b), to which would be added the amount of taxes actually paid (exclusive of those adjustments allowed under Subpart K and section 110 of the NGPA and, in the case of planned investment projects, Federal income tax). The Commission has excluded adjustments allowed under Subpart K from consideration in the special relief rate because such adjustments are automatically allowed under § 271.1102.

The methodologies for computing the special relief rate with and without planned investment are different; this dichotomy reflects prior Commission practice. The rate for planned investment projects is to be computed using the discounted cash flow (DCF) method; the rate where there is no planned investment is not. However, the Commission is considering use of a DCF-type analysis in computing a special relief rate where there is no planned investment, as an alternative to employing the average-cost technique embodied in the regulations proposed in this rulemaking. Comments on the advantages and disadvantages of the approach contained in the proposal and on using the DCF method as an alternative are specifically requested.

Section 271.1003(a)(1) states that the special relief rate for gas sold from a planned investment project other than a small project shall allow the applicant to earn a 15 percent true yield on its expenditures related to the project. In Opinion No. 770-A, the FPC allowed a 15 percent overall rate of return which represented a 17.73 percent return on common equity.¹³ The 15 percent rate was in line with returns for other extractive industries. It is the Commission's belief that this 15 percent rate of return continues to reflect the current financial requirements for special relief projects.

Section 271.1003(a)(1) also requires that the rate be determined using the DCF method. Historically, the

¹³ Opinion No. 770, as amended, was affirmed in The Second National Natural Gas Rate Cases, American Public Gas Rate Cases, American Public Gas Association, et al. v. F.P.C., (D.C. Cir. 1977), 555 F.2d 852. The 15 percent rate of return, also used by the Commission in Opinion No. 749, as amended, was upheld in Tenneco Oil Co. v. FERC, 571 F.2d 834, (Cir. 19—), where the court concluded that the Commission's choice of rate was "reasonable." The 15 percent rate of return was previously used in Opinion No. 699-H and upheld by the court in Shell Oil Co. v. FPC, 520 F.2d 1061, (5th Cir., 1975) where the court found "that the Commission carefully evaluated average rates of return on capital invested in other industries and concluded that a zone of reasonableness spanned from 12 percent to 15 percent." The selection of the highest rate of return within the zone was based on the desire to provide the extra incentive which the Commission felt was needed to encourage increased exploration and development.

Commission has relied upon the DCF cost analysis to assure that the rate allowed for gas supplies adequately reflects the true cost of those supplies.¹⁴ The DCF methodology is predictive and focuses on anticipated cash flows over the life of the well rather than on revenues and costs for any one year. The commission continues to believe that the DCF cost method is a reliable basis for determining a just and reasonable rate where there is planned investment and intends to place a descriptive of the DCF method to be used by Staff in the public file for this proceeding.

Section 271.1003(a)(2)(ii) deals with previously incurred (sunk) investment and operating expenses and requires that sunk expenditures be excluded from consideration in determining a special relief rate. For pending applications, an applicant may not recover expenditures made prior to the time the application was filed under the old procedures. In the case of new applications the applicant may not recover expenditures made prior to the acceptance of the application. It is the Commission's belief that recovery of sunk exploration and development expenditures is not necessary to permit continued production from wells already explored and developed and could have adverse consequences. Mindful of the directive of the court to provide a "demonstrable connection between the funding in the (special relief) program under scrutiny and the increased gas supply which it will allegedly produce," (emphasis added), *Public Service Commission of the State of New York v. FERC*, No. 76-1352, Slip Op. at 15 (D.C. Cir., Sept 28, 1978), the Commission will look at the project prospectively and will so limit acceptable expenditures. The Commission specifically solicits comments on the portion of the regulations relating to sunk expenditures.

Section 271.1003(a)(2)(iii) limits the time lapse between commencement of the planned project and the earliest date of deliveries attributable to the project. To one year unless adequate justification is shown for a longer period. Based on past experience with the types of projects usually undertaken, the Commission believes that such projects should be completed within one year. By placing a one year restriction on special relief projects, the Commission is recognizing the time value of money, and is attempting to avoid unnecessary increases in expenses due to

¹⁴ The DCF cost analysis methodology was applied and upheld, *inter alia*, in Opinion Nos. 699-H and 770-A.

unnecessary time delays in completing a project.

Section 271.1003(a)(2)(iv) provides for the recovery of Federal income taxes (FIT). FIT is a component of the DCF cost analysis and as such is included in establishing the special relief rate. Recovery of FIT is based on the marginal effective tax rate attributable to income from the project. In most cases, this will be the statutory tax rate; in some cases, however, this tax rate would be decreased by the impact of percentage depletion allowances and investment tax credits. The Commission has selected the marginal effective tax rate in calculating the tax component in the DCF cost analysis because it believes that an applicant, when evaluating whether to undertake a given project, will include in its analysis the effect of projected income on the applicant's tax cost. This tax cost effect is measured by applying the marginal effective tax rate to the expected taxable income from the project. The Commission is specifically soliciting comments on this portion of the regulations and also seeks comments on what tax treatment should be accorded under this method to individuals and partnerships.

Section 271.1003(a)(2)(v) determines the manner in which operating expenses will be determined for the life of the project. The rule requires an applicant to estimate such expenses over the life of the project and provides an alternative methodology for applicants unable to make such an estimate. Under that alternative, an applicant would estimate its operating expenses for the first year in which deliveries would be made under the special relief rate, subtract production, *ad valorem*, income taxes and any other Subpart K adjustments from that amount, and escalate the resulting amount by seven percent compounded yearly for each year subsequent to the first year. Historically, the Commission has adjusted operating expenses by five percent for a five-year period. However, it is the Commission's judgment that a seven percent rather than a five percent escalation for the life of the project is now reasonable because of recent increases in inflation.

Section 271.003(a)(2)(vi) establishes the appropriate formula for determining regulatory expense. The formula is based on prior Commission practice

¹⁵ In Opinions 770 and 770-A, the Commission used the statutory tax rate of 48 percent in arriving at the national rate. (The statutory tax rate for corporations is now 46 percent.) In *Columbia Gulf Transmission Co., et al.*, Docket Nos. RP75-105, et al., Opinion No. 47, the Commission approved the "stand-alone" basis for each pipeline in preference to the consolidated approach.

which, in the judgment of the Commission, should be continued.

Section 271.1003(a)(vii) permits a working capital allowance of 12.5 percent of operating expenses (excluding production, *ad valorem*, income taxes and any other Subpart K adjustments). This provision is likewise based on prior Commission practice which the Commission believes should be continued with respect to gas sales.

Paragraph (b) of § 271.1003 specifies that the special relief rate for a well for which there is no planned investment shall be the rate under which it is predicted that the applicant will recover those normal, recurring operating and maintenance expenses which reasonably can be assigned to gas production, other than those adjustments permitted under Subpart K.

The Commission is considering some alternative ways of calculating the special relief rate and invites comments on those alternatives. For wells without planned investment and where out-of-pocket costs cannot be estimated for the life of the project, the proposed regulations contemplate a single average price to be calculated by inflating out-of-pocket costs for the first year by a given rate of inflation and dividing total costs by the total expected future output of the well. As an alternative, the Commission is considering a procedure whereby the Commission would approve a schedule of monthly prices for each year of the estimated remaining production life of the well. The schedule would be determined by estimating for the first year of deliveries the normal, recurring out-of-pocket expenses, on a per unit of current output basis. The price for each successive year's production would then be calculated by applying the rate of expected depletion of the well to the base price. Applicants could determine the maximum lawful price for gas from the well for each month by applying to the price schedule the monthly inflation rate specified in Title I of the NGPA and published by the Commission. This methodology would insure a price each year that would cover current out-of-pocket costs plus inflation.

A similar price schedule, or "glt," would be applied to gas from a planned investment project, the average price for which is to be calculated under the proposed rule using the DCF method. The Commission invites comments from all parties regarding the use of these alternative methodologies.

Application Procedure

Sections 271.1004 and 271.1010 establish when and in what manner an applicant must file for special relief.

Sections 271.1005 through 271.1008 describe Commission procedures for reviewing the application and provide for intervention in the proceeding. Section 271.1009 provides for retroactive collection of the special relief rate.

Under the proposed rules applicants having planned investment projects (except those qualifying as small projects) would be required to make two applications. The first would be made prior to commencing the project. The information required to be filed is specified in § 271.1010 (a) and (b). The initial application would be reviewed by Staff (which by definition excludes the Director of the Commission's Office of Pipeline and Producer Regulation (Director)). Staff action (other than notification of deficiencies or requests for additional information) could be appealed to the Commission. Acceptance of the application would authorize the applicant to include all future expenditures for the project in its supplemental application which must be filed within 60 days of completing the project.

The Commission has provided special provisions for planned investment projects qualifying as small projects under § 271.1006(d)(1)(ii). Applicants for such projects are required to file only the initial application, approval of which by the Director (or the Commission in the case of an appeal) would authorize the applicant to begin charging the approved rate upon completion of the project. This abbreviated procedure for small projects is consistent with the Commission's policy of promoting administrative efficiency by not examining in as great detail those actions the impact of which is so minimal as to require a correspondingly lesser degree of Commission scrutiny. However, the Commission emphasizes that Staff may perform such audits on small projects as it deems appropriate under § 271.1006(f). The criteria for a small project are essentially the same as those used in § 2.76, adjusted for inflation. The project must result in additional revenues of less than \$60,000; the proposed investment must exceed 25 percent of the estimated additional revenues to be generated under the special relief rate; and the total proposed rate must be no more than 60 cents per MMBtu, exclusive of State severance taxes as defined in § 271.1101(a).

The procedures for reviewing a supplemental application for a planned investment project and initial applications for small projects and wells for which there is no planned investment are the same because, in all

three cases, the procedure results in a determination of a special relief rate. Under those procedures, set forth in § 271.1006(d), the Staff could reject the application for failure to conform to the regulations or issue a Staff report to the Director recommending a special relief rate and stating the basis for its recommendation. Paragraph (f) of § 271.1006 specifies what powers the Staff may exercise in gathering the information necessary to evaluating the application and recommending a special relief rate. The Staff is given the power to conduct field audits, to solicit information from the applicant and other sources and to conduct conferences. Use of such powers will be necessary, in many instances, to permit a determination of whether expenditures are prudent.

The applicant, any intervenors, and certain other parties may submit comments on the Staff report. These comments will be reviewed by the Director, together with the Staff report, prior to the Director's issuing a determination on the application. Under § 271.1007(b), the Director's determination will become final 30 days after notice of it is published in the Federal Register unless the Commission directs or a petition is received requesting Commission review of the Director's determination.

Under § 271.1008 the Commission will normally review the case based on the record compiled by the Staff and the Director. Although the NGPA does not require an evidentiary hearing for special relief applications, the Commission anticipates that in some cases it will require additional information in order to act on an application and that it may wish to provide for a hearing for such purpose. This hearing will not necessarily be the kind required for adjudications under sections 554, 556, and 557 of the Administrative Procedure Act.

Because the Commission considers special relief to have a great impact on consumers and pipelines as well as producers, it has provided for public notice and participation at each stage of the proceeding. Under § 271.1004(d), notice of any application must be published in the Federal Register and a copy of the application must be served on each purchaser. The Commission has also provided an opportunity for intervention under § 271.1005. Section 271.1006(b) (regarding Staff decisions) and § 271.1007(c) (regarding the Director's determination) require that notice of Staff and Director actions be served on all persons entitled to service of an application and on all intervenors.

All such persons may attend any conference conducted by the Staff under § 271.1006(f), may submit comments on the Staff report issued under § 271.1006(d)(2)(iii) and may appeal Staff and Director actions to the Commission under § 271.1008.

The information to be filed in an initial application for a planned investment project other than a small project is specified in paragraphs (a) and (b) of § 271.1010; information required for the supplemental application is specified in paragraph (e) of that section. Information required for small projects is specified in paragraph (d) of that section, for wells for which there is no planned investment, in paragraph (c) of that section. In general, initial applications must include the proposed price; evidence of contractual authorization to collect such price; estimated reserves and annual production, geological data and a financial justification for the proposed price; and, in the case of a planned project, detailed plans for the project including targeted commencement and completion dates; and the allocation of estimated investment and expenses. Supplemental applications must contain similar information except that a detailed description of the completed rather than the proposed project is required.

Applications filed under §§ 2.56a(g), 2.56b(h), 2.75, 2.76, and 2.77 prior to the effective date of Subpart J will be processed in accordance with the requirements in Subpart J. Section 271.1004(d)(1) requires an applicant who wishes to proceed with such application under Subpart J to file a notice of such intent within 30 days of the issuance of the proposed rule in final form or its application shall be deemed withdrawn. This procedure will enable the Commission to assess which and how many applications it must process. Automatic withdrawal of an application would require an applicant to file a new application and would preclude recovery of costs incurred between the time the old application was originally filed and the time the new one was accepted. It would also affect adversely the applicant's rights to retroactive collection of the special relief rate under § 271.1009. Under subparagraph (3) of § 271.1004(d), the applicant must either conform its old application to the requirements of Subpart J where necessary or file a statement indicating that it believes the old application conforms to the requirements of Subpart J and that it wishes the application to be evaluated as originally submitted. Subparagraph (5) of § 271.1004(d)

specifies the filing requirements for planned investment projects for which application was made under the old procedures and which were completed prior to the issuance of this proposed rule in final form.

Interim and Retroactive Collections

Section 271.1002(d) provides that neither the filing nor the pendency of an application for special relief under Subpart J shall prohibit the applicant from collecting the otherwise applicable maximum lawful price under the NGPA for sales made from the planned investment project or from the well for which there is no planned investment.

Section 271.1009 provides for retroactive collection of the approved special relief rate. For all applications filed under § 2.75, collection of the approved special relief rate would be permitted retroactive to the date nine months following commencement of deliveries under the contract to which the rate applies. This provision parallels collection rights under § 2.75 as it was in effect on December 1, 1978. However, because an applicant who filed under §§ 2.56a(g), 2.56b(h), 2.76 or 2.77 had no right to retroactive collection or collection during the pendency of the proceeding, it will only be able to collect the approved rate for a well without planned investment retroactive to the date of filing the notice of intent and, in the case of a planned investment project, retroactive to the later of the date of the notice filing or commencement of deliveries. Where there is no planned investment, a new applicant would be permitted to collect the approved rate retroactive to the date the initial application was filed under Subpart J. New applicants with planned investment projects would be able to collect the approved special relief rate beginning on the date deliveries were initiated. The Commission believes that it is necessary to provide for retroactive collection so that a producer who is losing or may lose money on a well and who is entitled to special relief will not be encouraged to refrain from producing from the well until the special relief rate is approved and made effective.

Written Comments

Interested persons are invited to submit written comments on the proposed regulations to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20428. Comments should reference Docket No. RM79-67 on the outside of the envelope and on all documents submitted to the Commission. The Commission requests that persons submitting comments

identify specifically the section addressed, particularly for those issues on which the Commission has specifically solicited comments.

Fifteen (15) copies should be submitted. All comments and related information received by the Commission on or before September 14, 1979, will be considered prior to the promulgation of final regulations.

(Natural Gas Act, as amended, 15 U.S.C. § 717 *et seq.*; Natural Gas Policy Act of 1978, Pub. L. 95-621, 92 Stat. 3350; Department of Energy Organization Act, 42 U.S.C. § 7107 *et seq.*; E.O. 12009, 42 FR 46267)

In consideration of the foregoing, it is proposed to amend Parts 2 and 271 of Chapter I, Title 18, Code of Federal Regulations, as set forth below.

By direction of the Commission.

Kenneth F. Plumb,
Secretary.

1. Part 2 is amended in the Table of Contents where appropriate and in the text of the regulations by deleting §§ 2.56a(g), 2.56b(h), 2.75, 2.76, and 2.77. Paragraphs (h) through (p) of § 2.56a are redesignated as paragraphs (g) through (o). Paragraphs (i) through (n) of § 2.56b are redesignated as paragraphs (h) through (m).

2. Part 271 is amended in the Table of Contents by deleting "Subpart J—[Reserved]" and substituting the following in lieu thereof:

Subpart J—Special Relief

Sec.	
271.1001	Applicability.
271.1002	Eligibility.
271.1003	Special relief rate.
271.1004	Application.
271.1005	Intervention.
271.1006	Review by Staff.
271.1007	Determination by the Director of the Office of Pipeline and Producer Regulation.
271.1008	Appeals to the Commission.
271.1009	Retroactive collection.
271.1010	Filing requirements.

Authority: Natural Gas Act, as amended, 15 USC § 717 *et seq.*; Natural Gas Policy Act of 1978, P. L. 95-621, 92 Stat. 3350; Department of Energy Organization Act, 42 U.S.C. § 7107 *et seq.*; E.O. 12009, 42 Fed. Reg. 46267.

3. Part 271 is further amended in the text of the regulations by deleting "Subpart J—[Reserved]" and substituting the following in lieu thereof:

Subpart J—Special Relief

§ 271.1001 Applicability.

This subpart sets forth the conditions under which special relief may be obtained for any natural gas which is subject to a maximum lawful price under section 104, 106, or 109 of the NGPA (whether or not such gas qualifies

under any other section of the NGPA), except that this subpart does not apply to natural gas produced from the Prudhoe Bay unit of Alaska.

§ 271.1002 Eligibility

(a) *Eligibility.* A first seller may apply for a special relief rate under this subpart for natural gas produced from any of the following:

(1) A planned investment project as defined in paragraph (c) of this section; or

(2) A well for which there is no planned investment.

(b) *Contractual authorization.* In order to apply for a special relief rate under this subpart, a first seller must have contractual authorization to charge and collect the specific special relief rate (in cents/MMBtu) proposed in its application at the time a filing is made under § 271.1004 (b)(1) or (d)(3) with the Commission.

(c) *Definitions.* For purposes of this subpart:

(1) "Planned investment project" means:

- (i) A planned onshore well and related production facilities;
- (ii) A planned offshore development well and related production facilities;
- (iii) A planned offshore platform, wells drilled thereon and related production facilities; or
- (iv) Planned production enhancement work on a previously producing well.

(2) "Related production facilities" means the equipment and facilities of the first seller which connect the wellhead to the purchaser's facilities.

(3) "Production enhancement work" means work in the nature of reconditioning, workover, deeper drilling, replacing or adding major equipment or related production facilities, or any other additional work necessary to prevent the loss of gas production or reserves.

(4) "First seller," for purposes of this subpart, shall exclude a reseller as defined in § 270.202(e)(2) of this chapter.

(d) *Rates for sales during pendency of special relief application.* Neither the filing nor the pendency of an application for special relief under this subpart shall prohibit the applicant from collecting the applicable maximum lawful price under the NGPA for sales of gas from the subject planned investment project or well for which there is no planned investment.

§ 271.1003 Special relief rate.

(a) *For a planned investment project.*

(1) Except for a small project as defined in § 271.1006(d)(1)(ii), the special relief rate for gas sold from a planned investment project shall be the rate

under which it is predicted that the applicant will earn a 15 percent true yield on its expenditures incurred in the project. Such rate shall be determined using the discounted cash flow method and shall be effective over the life of the project. Taxes actually paid (other than State severance taxes as defined in § 271.1101(a) and Federal income taxes) may be added to the rate.

(2) The following standards shall apply in the determination of the special relief rate:

(i) Only those expenditures shall be considered which are prudently incurred and which are in line with comparable industry expenditures for such equipment, services and expenses for similar projects.

(ii) Investment and operating expenses shall not be considered if incurred:

(A) Prior to the date an application was filed under §§ 2.56a(g), 2.56b(h), 2.75, 2.76 or 2.77 of this chapter, provided that a notice has been filed under § 271.1004(d)(1);

(B) Prior to the date an application was accepted under § 271.1006(a)(3) in the case of applications to which subclause (A) of this clause does not apply.

(iii) The time between the commencement of investment and the earliest date of deliveries attributable to the project shall not exceed 1 year, absent reasonable justification for a longer period.

(iv) Recovery of Federal income tax shall be based on the marginal effective tax rate attributable to income from the project. The rate shall be the statutory rate applicable to additional taxable income of the investor after considering percentage depletion allowances and any applicable investment tax credits.

(v) Where operating expenses cannot be estimated over the estimated life of the project, operating expenses shall be determined for all years in the life of the project by estimating the operating expense for the first year in which deliveries are made under the special relief rate (exclusive of production, *ad valorem* and income taxes and any other adjustments allowed under Subpart K of this part) and escalating such expense at 7 percent compounded for each subsequent year;

(vi) Regulatory expense shall be determined by multiplying the net working interest production (in MMBtu's) by \$.001;

(vii) Working capital allowance shall be determined by multiplying operating expenses (exclusive of production, *ad valorem* and income taxes and any other adjustments allowed under Subpart K of this part) by 0.125.

(b) For a well for which there is no planned investment.

(1) The special relief rate for gas sold from a well for which there is no planned investment shall be the rate under which it is predicted that the applicant will recover those out-of-pocket expenses which are reasonably assigned or allocated to gas production from the well. Taxes actually paid (other than State severance taxes as defined in § 271.1101(a)) may be added to the rate.

(2) The following shall apply in the determination of the special relief rate:

(i) The out-of-pocket expenses of the well shall be developed from the normal, recurring operating and maintenance expenses incurred and charged on the books and records of the producer for the production of hydrocarbons from the well and may include regulatory expense as provided in paragraph (a)(2)(vi) of this section.

(ii) Only those out-of-pocket expenses shall be considered which are to be prudently incurred and which are in line with comparable industry expenditures for such operation and maintenance for similar wells.

(iii) Where annual out-of-pocket expenses cannot be estimated over the estimated life of the project, out-of-pocket expenses shall be determined for all years in the life of the well by estimating the out-of-pocket expenses for the first year in which deliveries are made under the special relief rate (exclusive of production and *ad valorem* taxes and any other adjustments allowed under Subpart K of this part) and escalating such expense at 7 percent compounded for each subsequent year.

(iv) Out-of-pocket expenses shall not include capital investment, depreciation, depletion, amortization, return on investment (profit), amounts repaid on borrowed funds, Federal or State income taxes, any overhead which is not directly related and charged to the well and any other adjustments allowed under Subpart K of this part.

§ 271.1004 Application.

(a) *Scope of application.* A first seller shall make a separate application for each planned investment project or well for which there is no planned investment (as defined in § 271.1002) for which authority to charge and collect a special relief rate is sought.

(b) *Commencement of proceedings.*

(1) Except as provided in subparagraph (2) of this paragraph, a first seller shall commence a proceeding under this subpart by filing an initial application containing the applicable information required in § 271.1010(a) through (d).

(2) Applicants who have filed applications under §§ 2.56a(g), 2.56b(h), 2.75, 2.76 or 2.77 of this chapter before the effective date of this subpart shall be deemed to have commenced proceedings under this subpart, subject to the notice provisions of paragraph (d)(1) of this section.

(c) *Supplemental applications for certain planned investment projects.* In the case of the planned investment project which does not qualify as either a small project under § 271.1006(d)(1)(ii) or a project subject to the provisions of paragraph (d)(5) of this section, the first seller shall file a supplemental application containing the applicable information required in § 271.1010(e) within 60 days of completing the planned investment project.

(d) *Pending applications.* The following provisions shall apply to pending applications filed before the effective date of this subpart under §§ 2.56a(g), 2.56b(h), 2.75, 2.76 or 2.77 of this chapter:

(1) The application shall be deemed withdrawn for failure to go forward unless the applicant files within 30 days of the issuance of this subpart in final form a notice of intent to proceed with the application under the requirements of this subpart.

(2) Compliance with the notice requirement in subparagraph (1) of this paragraph shall:

(i) Authorize the applicant to collect retroactively, any special relief rate or rates approved under this subpart to the extent provided for in § 271.1009(c); and

(ii) Authorize the applicant to include expenditures in its application or applications made under this subpart to the extent provided for in § 271.1003(a)(2)(ii).

(3) Subsequent to or concurrent with the filing of the notice required in subparagraph (1) of this paragraph the applicant shall:

(i) Make a filing or filings conforming the application to the requirements in this subpart; or

(ii) File a statement that it believes the application conforms to the requirements of this subpart, that it does not intend to make a conforming filing and that it wishes to have the application reviewed under the requirements of this subpart, as filed.

(4) Except as provided in subparagraph (5) of this paragraph, an application shall not be considered as conforming to the requirements of this subpart unless:

(A) In the case of a planned investment project subject to the provisions of paragraph (c) of this section, which does not qualify as a small project under § 271.1006(d)(1)(ii).

the application contains the applicable information required in § 271.1010(e);

(B) In all other cases, the application contains the applicable information required in § 271.1010 (a) through (d).

(5) In the case of a planned investment project (other than a small project) completed prior to the date of issuance of this subpart in final form, the application shall be deemed to conform to the requirements of this subpart if it contains the information required in § 271.1010(e).

(e) *Form of submission.* Each application, supplemental application or conforming application filed under this subpart shall be submitted in an original and 3 copies and shall be subscribed under oath by at least 1 working interest owner seeking special relief in the application.

(f) *Notice.*

(1) Each initial application, supplemental application or conforming application filed under this subpart shall include a proposed notice which shall state the applicant's name, the date the application was filed under this subpart and the special relief rate requested. The proposed notice shall conform to the following form:

United States of America—Federal Energy
Regulatory Commission

(Name of Applicant)

Notice of Application for Special Relief

On (date application was filed), (name of applicant) filed with the Federal Energy Regulatory Commission an application for special relief under Subpart J of Part 271 wherein (name of applicant) sought (special relief rate requested) for sales of natural gas to (name of purchaser).

The procedures applicable to the processing of this special relief application are found in 18 C.F.R. §§ 271.1001–271.1010.

Any person desiring to participate in this proceeding shall file a petition to intervene in accordance with the provisions of 18 CFR § 271.1005. Except as otherwise provided in § 271.1005, all petitions to intervene shall be filed within 15 days after publication of this notice in the Federal Register.

(2) The applicant shall serve a copy of any initial application, supplemental application or conforming application on each purchaser to whom sales of the natural gas for which the special relief rate is sought are made.

(3) Staff may require the applicant to provide additional service and shall cause notice of any initial application, supplemental application or conforming application to be published in the Federal Register.

(4) The certificate of service required under § 1.7 of this chapter shall indicate the names and addresses of all persons served.

§ 271.1005 Intervention.

(a) *Petition.* A petition to intervene under § 1.8 of this chapter shall be filed within 15 days after service of any application. If a person has not been served with an application, a petition to intervene under § 1.8 shall be filed within 15 days after publication of notice of the application in the Federal Register.

(b) *Action by Staff.* Staff shall act on all petitions filed under this section.

§ 271.1006 Review by Staff.

(a) *Procedures for certain initial applications.* In acting on an initial application filed under § 271.1004(b), or a filing made under § 271.1004(d)(3), for a planned investment project other than a small project as defined in paragraph (d)(1)(ii) of this section, the Staff may:

(1) Notify the applicant within 60 days of such filing of filing deficiencies in the application or request that the applicant provide additional information under paragraph (f)(2) of this section;

(2) Reject the application;

(i) For filing deficiencies if the applicant has not submitted the information required under § 271.1004 within 30 days after issuance of a letter notifying the applicant of filing deficiencies in the application;

(ii) For failure to provide additional information as required in paragraph (f)(2) of this section within a reasonable time after it is requested;

(iii) Upon determining that the application fails on its face to meet all of the following criteria for special relief established in this subpart:

(A) The gas covered by the application must qualify for special relief under §§ 271.1001 and 271.1002;

(B) There must be evidence of contractual authorization, as required under § 271.1002(b), to charge and collect the proposed special relief rate; and

(C) The proposed special relief rate must have been computed in accordance with the requirements of § 271.1003.

(3) Accept the application upon determining that:

(i) The applicant has complied fully with the filing requirements of § 271.1004 and has supplied all additional information requested under paragraph (f)(2) of this section; and

(ii) The application on its face meets all criteria for special relief specified in subparagraph (2)(iii) (A) through (C) of this paragraph.

(b) *Notice of Staff action.* Notice of all Staff actions specified in paragraphs (a) and (d) of this section, except issuances of deficiency letters or requests for additional information, shall be served upon all persons entitled to service

under § 271.1004(f) and all persons granted the right to intervene under § 271.1005.

(c) *Effect of acceptance of certain initial applications.* Except as provided in § 271.1003(a)(2)(ii)(A) for pending applications, acceptance of an initial application for a planned investment project, other than a small project as defined in paragraph (d)(1)(ii) of this section, shall authorize the applicant to include in its supplemental application filed under § 271.1004(c) those investments and expenses permitted under § 271.1003 which were made or incurred for the project subsequent to such acceptance, but shall not imply approval of any expenditures included in the application.

(d) *Procedures for other initial applications and for supplemental applications.*

(1) The procedures of this paragraph shall apply to the following:

(i) An initial filing made under § 271.1004 (b) or (d)(3) for a well for which there is no planned investment;

(ii) An initial filing made under § 271.1004 (b) or (d)(3) for a "small project," which is defined as a planned investment project which meets the following criteria at the time such filing is made:

(A) Planned development or production enhancement will result in additional revenues to the applicant of less than \$60,000;

(B) The proposed investment in the project exceeds 25 percent of the estimated additional revenues to be generated by the projects; and

(C) The total rate proposed for the sale of gas is no more than 60 cents per MMBTU (exclusive of State severance taxes as defined in § 271.1101(a)).

(iii) A supplemental application filed under § 271.1004 (c) or (d)(5) for a planned investment project.

(2) In acting on any application described in subparagraph (1) of this paragraph, the Staff may:

(i) Notify the applicant within 60 days of such filing of filing deficiencies in the application or request that the applicant provide additional information under paragraph (f)(2) of this section;

(ii) Reject the application as provided in § 271.1006(a)(2);

(iii) Issue a Staff report which shall:

(A) Recommend approval of a specified special relief rate, and state the basis for recommending such rate and any dispute with factual assertions made by the applicant;

(B) Be served on all persons specified in paragraph (b) of this section.

(e) *Effect of issuing Staff report.* Issuance of a Staff report shall entitle all persons entitled to service of such report

under paragraph (d) of this section to submit comments on the report and shall place the application before the Director of the Office of Pipeline and Producer Regulation (Director) for determination under § 271.1007.

(f) *Investigation and evaluation.*

(1) All filings made in connection with the application for special relief shall be considered in evaluating the application.

(2) The Staff may request additional information relevant to the application, and the applicant shall supply such information.

(3) The Staff may investigate the basis for any statement in the application, may conduct an audit, and may use in its evaluation any relevant fact obtained in such an investigation or audit.

(4) The Staff may solicit and accept submissions from intervenors or third persons relevant to the application.

(5) If the Staff obtains information under subparagraph (3) or (4) of this paragraph and relies upon such information in making a decision under this section, the applicant shall be advised of such information and shall be given 5 days to respond to such information.

(6) The Staff may conduct a conference on the application in accordance with procedures it determines will most expeditiously further the purpose of such conference. A conference shall be convened only after actual notice of the time, place, and nature of the conference has been served upon all persons entitled to service under paragraph (b) of this section. All persons served may attend the conference, and the Staff may use in its evaluation any relevant information obtained through such conference.

(g) *Definition of "Staff".* For purpose of this subpart, "Staff" means an employee of the Commission who has been appointed by the Director, but shall not include the Director.

§ 271.1007 *Determination by the Director of the Office of Pipeline and Producer Regulation.*

(a) *Determination.* The Director (or his designee) shall review the Staff report issued under § 271.1006(d)(2)(iii) and all comments filed under § 271.1006(e) and shall determine the special relief rate or recommend other appropriate action to the Commission on the application.

(b) *Finality.* Any determination of a special relief rate made by the Director under this section shall become final 30 days after notice is published in the Federal Register unless, during such period:

(1) A petition appealing the determination is filed under § 271.1008; or

(2) The Commission directs that the determination order be submitted to it for review under § 271.1008.

(c) *Notice of Director's determination.* Notice of the determination or recommendation made by the Director under this section shall be served upon the Commission and upon all persons specified in § 271.1006(b) and shall be published in the Federal Register.

§ 271.1008 *Appeals to the Commission.*

(a) *Petition for review.* A petition appealing any of the following actions shall be filed within 30 days of such action:

(1) A determination of a special relief rate made by the Director under § 271.1007;

(2) Staff acceptance or rejection under § 271.1006 of an initial or supplemental application;

(3) Staff rejection under § 271.1005 of a petition to intervene.

(b) *Who may petition.* A person may file a petition under paragraph (a) of this section if the person:

(1) Is adversely affected by the action appealed; and

(2) Except in the case of appeals regarding denials of intervention under § 271.1005, is specified in § 271.1006(b).

(c) *Contents of petition.* The petition shall include a copy of the order contested and a complete statement of the petitioner's factual or legal objections to the action taken.

(d) *On motion of the Commission.* The Commission may, on its own motion, direct that the action by Staff or the Director be submitted to it for review.

(e) *Action by the Commission.* Review of actions by the Staff and the Director shall be based on the record and shall provide such opportunity for additional submissions, including hearings, as the Commission deems appropriate.

§ 271.1009 *Retroactive collection.*

(a) *No planned investment.* Except as provided in paragraph (c) of this section, upon final approval of a special relief rate for a well for which there is no planned investment, the applicant may charge and collect that rate retroactively for sales of gas from the well beginning on the date the application was filed under § 271.1004(b).

(b) *Planned investment project.* Except as provided in paragraph (c) of this section, upon final approval of a special relief rate for a planned investment project, including a small project as defined in § 271.1006(d)(1)(ii), the applicant may charge and collect that rate retroactively for sales of gas from the project beginning on the date deliveries from the project were commenced.

(c) *Pending applications.* Upon final approval of a special relief rate for a pending application filed under §§ 2.56a(g), 2.56b(h), 2.75, 2.76 or 2.77, for which a notice was filed under § 271.1004(d)(1), the applicant may charge and collect that rate retroactively for sales of gas from the project:

(1) Beginning on the date 9 months following commencement of deliveries under the contract to which such special relief rate applies, if such application was filed under § 2.75 of this chapter;

(2) Beginning on the date such notice was filed under § 271.1004(d)(1), if such application was filed under §§ 2.56a(g), 2.56b(h), 2.76, or 2.77 for a well for which there is no planned investment;

(3) Beginning on the later of the following, if such application was filed under §§ 2.56a(g), 2.56b(h), 2.76 or 2.77 for a planned investment project:

(i) The date notice was filed under § 271.1004(d)(1); or

(ii) The date on which deliveries from the project were commenced.

(d) *Verification by first purchaser.* In order to make retroactive collections contingent on commencement of deliveries, the applicant shall cause the first purchaser to submit to the Commission verification of such commencement.

§ 271.1010 *Filing requirements.*

(a) *For all planned investment projects.* Except as provided in paragraph (d) of this section for small projects, a filing made under § 271.1004(b) or (d)(3) for a planned investment project shall include the following information:

(1) The name of the applicant;

(2) The applicant's principal place of business;

(3) The name and title, mailing address, and telephone number of the person responsible for the application;

(4) The working interest owners who are covered by the application and their respective percentages in the project and identification of any interest owners not covered by the application (including full details where the working interest varies for investment, operating expense, revenue, or any other reason);

(5) The royalty, overriding royalty, and non-operating interest owners associated with the project, according to category, including their respective percentages of the project and including a statement of any relationship to the project through ownership or employment or any other relationship;

(6) For each working interest owner covered by the application, the FERC certificate docket number and the FERC gas rate schedule number under which the gas has been or will be sold

(applicable only to gas qualifying under section 104 or 106(a) of the NGPA);

(7) The name and address of the first purchaser;

(8) The maximum lawful price (in cents/MMBtu) each working interest owner covered by the application would be entitled to collect under the NGPA without reference to whether a contractual right exists to charge such price;

(9) The proposed special relief rate (in cents/MMBtu) computed in accordance with § 271.1003;

(10) An executed copy of each document to which the purchaser is a party which provides for the payment of the proposed special relief rate, as required in § 271.1002(b);

(11) The location of all facilities associated with the proposed project (including the State, county or parish, and field and well designations);

(12) The estimated recoverable reserves of gas (in Mcf's) and liquids (in bbls.) for the project, including a schedule of the project's anticipated annual production for each type of reserve (in Mcf's or bbls.);

(13) An estimate of future revenues, on a 100 percent working interest basis, by year, for the estimated remaining life of the project, which are to be generated by sales of liquids produced from the project or from any other project sources;

(14) An estimate of future operating expenses, on a 100 percent working interest basis, by year, for the estimated remaining life of the project involved;

(15) If Federal income tax expenses have been claimed under § 271.1003(a)(2)(iv), the calculation establishing the amount of taxes claimed;

(16) A detailed description of the project on a well-by-well or platform-by-platform basis and an estimate of the attendant costs segregated by major category, a proposed timetable for work and expenditures, and a discounted cash flow analysis showing the derivation of the special relief rate sought, consistent with § 271.1003; and

(17) At the option of the applicant, the data relating to the determination of reserves and gas deliverability required under paragraph (e)(5) of this section for supplemental applications.

(b) *Additional information for certain planned investment projects.* A filing made under § 271.1004(b) or (d)(3) for a planned investment project consisting of planned production enhancement work on a previously producing well shall include the following information in addition to that required in paragraph (a) of this section:

(1) An explanation of why the work is necessary;

(2) The price currently collected (in cents/MMBtu);

(3) The average unit Btu content (as determined in accordance with § 270.204) of the gas at the point of measurement for payment and the location of the point of delivery of the gas to the purchaser;

(4) Engineering and economic studies, equipment and service contracts and bids, and any other related documents necessary to substantiate the proposed expenditures and special relief rate;

(5) A schedule of operating expenses for the project on a 100 percent working interest basis detailed by cost item for the 2 most recent 12-month periods prior to the date of filing under § 271.1004(b) or (d)(1), including a description of the method or basis for assigning or allocating indirect costs or overheads to the lease and well; and

(6) A schedule of revenues and production volumes of gas (in Mcf's at 14.73 psia) and liquids (in bbls.) produced and sold at the lease level or credited back to the lease for the most recent 12-month period prior to the date of filing under § 271.1004(b) or (d)(1) on a 100 percent working interest basis, indicating whether the liquids are oil, lease condensate, or plant liquids, providing the current unit price and average Btu content of the liquids and reporting and describing any miscellaneous revenue received.

(c) *For wells for which there is no planned investment.* A filing made under § 271.1004(b) or (d)(3) for a well for which there is no planned investment shall include the information required under paragraphs (a)(1) through (14) and (b)(2) through (6) of this section as well as the following information pertaining to the determination of reserves and deliverability of the gas to which the application applies:

(1) A map delineating the exact acreage in the subject well area and showing the location of each completed, abandoned or proposed well and other facilities associated with the well;

(2) All electrical, acoustical, radioactive or other logs run on any well on the subject well acreage;

(3) All core analyses, conventional or sidewall, from any cores taken from any well on the subject well acreage;

(4) All tests, including open hole drill stem tests, wire line formation tests, initial production tests, single or multiple point backpressure tests, build-up or drawn-down tests and subsurface pressure surveys run on any well drilled on the subject well acreage;

(5) Tabulated production by year and month, separately by products, including

oil, gas, condensate and water for all well completions on the subject well acreage;

(6) All well completion reports filed with the oil and gas regulatory authority having jurisdiction for wells drilled on the subject well acreage;

(7) All analyses made on separator or well stream gas or separator liquids produced from the subject well acreage;

(8) Tabulation by month and year of any plant liquids credited back to the leases in the subject well acreage from any processing plant;

(9) Tabulated reservoir parameters, by reservoir, for all reservoirs that are on the subject well acreage or that can be reasonably demonstrated to underlie the subject well acreage;

(10) Top of structure maps and isopach maps for all reservoirs that are actually productive or that have been proven productive by actual formation tests on the subject well acreage or that can be reasonably demonstrated to underlie the subject well acreage;

(11) The current average pipeline pressure of the purchaser at each point of sale for all gas sold from the subject well acreage; and

(12) In lieu of any of the information specified in subparagraphs (1) through (11) of this paragraph, citation to the application for certificate authority to sell the gas or the FERC Gas Rate Schedule in which such information is filed.

(d) *For small projects.* A filing made under § 271.1004(b) or (d)(3) for a project which qualifies as a small project under § 271.1006(d)(1)(ii) shall include the information required under paragraphs (a)(1) through (12), (b)(1) through (4) and (c)(1) through (12) of this section.

(e) *Supplemental applications.* A supplemental application for a planned investment project made under § 271.1004(c) or (d)(5) shall include:

(1) An estimate of the salvage value of the equipment involved in the project at the end of its useful life in the project on an item-by-item basis;

(2) A list, segregated by major category, of equipment and service contracts, invoices, and any other related documents necessary to substantiate the expenditures claimed in subparagraph (6) of this paragraph;

(3) The average unit Btu content (as determined in accordance with § 270.204) of the gas at the point of measurement for payment and the location of the point of delivery of the gas to the purchaser;

(4) The following data relating to the determination of reserves and deliverability of the gas to which the application applies:

(i) A map delineating the exact acreage in the project area and showing the location of each completed, abandoned or proposed well and other facilities associated with the project;

(ii) All electrical, acoustical, radioactive or other logs run on any well on the project acreage;

(iii) All core analyses, conventional or sidewall, from any cores taken from any well on the project acreage;

(iv) All tests, including open hole drill stem tests, wire line formation tests, initial production tests, single or multiple point backpressure tests, build-up or draw-down tests and subsurface pressure surveys run on any well drilled on the project acreage;

(v) Tabulated production, by year and month, separately by products, including oil, gas, condensate and water for all well completions on the project acreage;

(vi) All well completion reports filed with the oil and gas regulatory authority having jurisdiction for wells drilled on the project acreage;

(vii) All analyses made on separator or well stream gas or separator liquids produced from the project acreage;

(viii) Tabulation, by month and year, of any plant liquids credited back to the leases in the project acreage from any processing plant;

(ix) Tabulated reservoir parameters by reservoir for all reservoirs that are actually producing or that have proven productive by actual formation tests on the project acreage of that can be reasonably demonstrated to underlie the project acreage;

(x) Top of structure maps and isopach maps for all reservoirs that are actually productive or that have been proven productive by actual formation tests on the project acreage or that can be reasonably demonstrated to underlie the project acreage; and

(xi) The current average pipeline pressure of the purchaser at each point of sale for all gas sold from the project acreage;

(5) In lieu of the information specified in subparagraph (4) of this paragraph, citation to the application for certificate authority to sell the gas or the FERC Gas Rate Schedule in which such information is filed;

(6) A detailed description of the completed project along with the actual costs incurred, segregated by major category, and a discounted cash flow study reflecting actual costs computed in accordance with § 271.1003; and

(7) Any additional information which the applicant wishes to have considered.

[FR Doc. 79-28174 Filed 8-22-79; 8:45 am]

BILLING CODE 6450-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[24 CFR Part 1917]

Proposed Flood Elevation Determinations for the City of Heath, Rockwall County, Tex., Under the National Flood Insurance Program

Correction

In FR Doc. 79-14068 appearing on page 28925 in the issue of Tuesday, May 8, 1979, the docket number "FI-5470" was omitted after the signature.

BILLING CODE 1505-01-M

DEPARTMENT OF THE TREASURY

Fiscal Service

[31 CFR Part 350]

Regulations Governing Book-Entry Treasury Bills

AGENCY: Fiscal Service, Department of the Treasury.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: This is to announce that the Department of the Treasury is considering the adoption of an amendment of the regulations governing book-entry Treasury bills (31 CFR, Part 350).

The proposed change, which is set out at the end of this notice, would increase the period prior to maturity during which requests for transactions affecting book-entry accounts maintained by the Bureau of the Public Debt would not be accepted by the Treasury. The present regulations provide for a ten (10) day closed period. The proposal would extend this period to twenty (20) days. The change, to be effected under authority of 31 U.S.C. 754, 754b, and 5 U.S.C. 301, affects Sections 350.8, 350.14 and 350.16 of Department of the Treasury Circular, Public Debt Series No. 28-76, dated December 2, 1976, as amended.

DATES: Written comments must be received on or before October 19, 1979. Date of hearing, if any: November 5, 1979. Proposed effective date: November 20, 1979.

ADDRESS: Send comments to Mr. Calvin Ninomiya, Chief Counsel, Bureau of the Public Debt, Room 309, Washington Building, N.W., Washington, D.C. 20226.

FOR FURTHER INFORMATION CONTACT: Mr. Calvin Ninomiya, Chief Counsel, Bureau of the Public Debt, 202-376-0244.

Dated: August 17, 1979.

Gerald Murphy,
Deputy Fiscal Assistant Secretary.

As proposed, 31 CFR, Part 350, would be amended as follows:

1. Section 350.8 is proposed to read as set forth below:

§ 350.8 Transfer.

Book-entry Treasury bills maintained under this subpart may not be transferred from one account maintained by the Treasury to another such account, except in cases of lawful succession, as provided in this subpart. They may be withdrawn from an account maintained by the Treasury hereunder and transferred through the Federal Reserve Bank communication system to an account maintained by or through a member bank under Subpart B, which transfer shall be made in the name or names appearing in the account recorded on the books of the Treasury. Such withdrawal may be effected by a certified request therefor by, or on behalf of, the depositor, provided the request therefor is received no earlier than twenty (20) business days after the issue date or the date the securities are transferred to the Treasury, whichever is later. The request must: (a) identify the book-entry account by the name of the depositor and title, if any, the address, and the taxpayer identifying number; (b) specify by amount, maturity date and CUSIP number the book-entry Treasury bills to be withdrawn and transferred; and (c) specify the name of the member bank to or through which the transfer is to be effected and, where appropriate, the name of the institution or entity which is to maintain the book-entry account. In the case of book-entry Treasury bills held in the names of two individuals, a certified request by either will be accepted, but the transfer shall be made in the names of both. A transfer after original issue of book-entry Treasury bills from an account maintained by or through a member bank to one maintained by the Treasury may be made through the Federal Reserve Bank communication system, provided the account is to be held in a form authorized by this subpart, and provided the transfer is made no later than one month prior to the maturity date of the bills.

2. Section 350.14 is proposed to be amended by revising paragraph (a) as set forth below:

§ 350.14 Reinvestment or payment at maturity.

(a) *Request for reinvestment.* Upon the request of the depositor in whose name the account is maintained, book-

entry Treasury bills held therein will be reinvested at maturity, i.e., their proceeds at maturity will be applied to the purchase of new Treasury bills at the average price (in three decimals) of accepted competitive bids for such Treasury bills then being offered. The request for a reinvestment may be made on the tender form at the time of purchase; subsequent requests for reinvestment will be accepted if received by the Bureau no later than ten business days prior to the maturity of the bills. The difference between the par value of the maturing bills and the issue price of the new bills will be remitted to the subscriber in the form of a Treasury check. Requests for the revocation of the reinvestment of bills will also be accepted if received no later than twenty (20) business days prior to the maturity date.

3. Section 350.16 is proposed to be amended by revising paragraph (a) as set forth below:

§ 350.16 Transactions in regular course—Notices not effective—Unacceptable notices.

(a) *Transactions in regular course—Notices not effective.* Transfers of book-entry Treasury bills, payments thereof or reinvestment at maturity or any other transaction therein will be conducted in the regular course of business in accordance with this subpart, notwithstanding notice of the appointment of an attorney-in-fact, or a legal guardian or similar representative, or notice of succession, the termination of an estate, the dissolution of an entity, or the death of an individual, unless the requisite request, proof, and the evidence necessary to establish entitlement under this subpart is received by the Bureau no later than twenty (20) business days prior to the maturity date of the bills.

[FR Doc. 79-28220 Filed 8-22-79; 8:45 am]

BILLING CODE 4810-40-M

DEPARTMENT OF AGRICULTURE

Forest Service

[36 CFR Part 222]

Grazing Fee System, Southern Region; Correction

AGENCY: Forest Service, USDA.

ACTION: Proposed rule.

SUMMARY: Federal Register/Vol. 44, No. 154/Wednesday, August 8, 1979/Proposed Rules, pages 46480 and 46481 contained this proposed rule, however, the leading CFR citation of 36 CFR Part

231 was incorrect. It should read 36 CFR Part 222.

COMMENT PERIOD: Comments must be received within 60 days from the date of the August 8 publication (October 9, 1979).

ADDRESS: Send comments to: Regional Forester, USDA Forest Service, 1710 Peachtree Road, NW., Atlanta, Georgia 30309.

Comments received will be available for public inspection in Room 828, 1720 Peachtree Road, NW., Atlanta, Georgia, 8 a.m. to 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Sam D. Halverson, USDA Forest Service, 1720 Peachtree Road, NW., Atlanta, Georgia 30309, telephone, (404) 881-4569.

Robert N. Gashwiler,
Group Leader, Wildlife and Range.

[FR Doc. 79-28208 Filed 8-22-79; 8:45 am]

BILLING CODE 3410-11-M

COMMUNITY SERVICES ADMINISTRATION

[45 CFR Ch. X]

Improving Government Regulations; Supplement to Semi-Annual Agenda

AGENCY: Community Services Administration.

ACTION: Supplemental to CSA's Semi-Annual Publication of Significant Regulations Under Review or Development.

SUMMARY: The Community Services Administration is publishing a supplement to its semi-annual agenda which appeared in the Federal Register on May 14, 1979 (44 FR 28016).

This supplement to CSA's semi-annual agenda provides notification regarding the development of a rule governing the FY 80 Energy Crisis Assistance Program. Since CSA did not anticipate an appropriation for this program, the need for a rule could not be foreseen. It now appears that such an appropriation might be forthcoming; therefore CSA is proceeding to develop a rule to govern such a program should the funds be appropriated.

FOR FURTHER INFORMATION CONTACT: Jack Stoehr, 202-254-5300.

Authority: Sec. 602, 78 Stat. 5301; 42 U.S.C. 2942.

Frank N. Jones,
Acting Director.

BILLING CODE 6315-01-M

SUPPLEMENT TO SEMI-ANNUAL AGENDA

FOR

COMMUNITY SERVICES ADMINISTRATION

TYPE OF REGULATION	SUBJECT & DESCRIPTION	REASON FOR DEVELOPMENT	STATES OF PROPOSED REGULATION			FOR FURTHER INFORMATION CONTACT
			INITIAL ANNOUNCEMENT	PREVIOUSLY ANNOUNCED WHEN	CURRENT STATUS	
New	Energy Crisis Assistance Program	To provide details on how funds will be allocated for this program and the application procedures and post-grant requirements.	LEGAL BASIS Title II, EOA	X	Under development.	Edward J. Freel, 202-254-6110 Wallace Lumpkin, 202-632-6503

[FR Doc. 79-28344 Filed 8-22-79; 8:45 am]

BILLING CODE 8316-01-C

Notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

Agreement Regarding the Federal Coal Leasing Program of the Department of the Interior

AGENCY: Advisory Council on Historic Preservation.

ACTION: Notice.

SUMMARY: The Advisory Council on Historic Preservation proposes to execute a Programmatic Memorandum of Agreement pursuant to Section 800.8 of the regulations for the "Protection of Historic and Cultural Resources" (36 CFR Part 800) with the Department of the Interior, Bureau of Land Management, the Office of Surface Mining Reclamation and Enforcement, and the U.S. Geological Survey, and the National Conference of State Historic Preservation Officers concerning the Federal coal management program. The agreement provides a system that will insure that adequate consideration is given to historic and cultural properties in the Federal coal management program in order to meet the requirements of Section 106 of the National Historic Preservation Act (16 U.S.C. 470f).

COMMENTS DUE: September 24, 1979.

ADDRESS: Comments should be addressed to Executive Director, Advisory Council on Historic Preservation, 1522 K Street, NW., Suite 510, Washington, D.C. 20005.

FOR FURTHER INFORMATION CONTACT: Peter H. Smith, Chief, Division of Federal Program Review, Advisory Council on Historic Preservation, 1522 K Street, NW., Washington, D.C. 20005, Telephone: 202-254-3495. Herrick E. Hanks, Cultural Resource Program Leader, Bureau of Land Management, Department of the Interior, 18th and C Streets, NW., Washington, D.C. 20240, Telephone: 202-343-9353.

SUPPLEMENTARY INFORMATION: This notice of the proposed agreement invites comments from interested parties. Copies of the proposed agreement are available from either the Bureau of Land Management or the Council. The proposed agreement concerns the manner in which the Bureau of Land Management, the Office of Surface Mining, and the U.S. Geological Survey would meet their responsibilities under Section 106 of the National Historic Preservation Act and the Council's implementing regulations (36 CFR Part 800). Section 106 requires that the head of any Federal agency having indirect or direct jurisdiction over a proposed Federal or federally assisted or licensed undertaking affecting properties included in or eligible for inclusion in the National Register of Historic Places shall afford the Council a reasonable opportunity for review and comment. The proposed agreement provides that the Bureau of Land Management will conduct or have conducted Class I (existing data) and Class II (sampling field) cultural resource inventories prior to preparation of land use plans for areas of potential Federal coal leasing. Special project Class II or Class III (intensive field) inventories will be conducted as deemed necessary on a case-by-case basis prior to completion of the regional coal leasing final environmental impact statement. Prior to approval of a mining plan, a Class III inventory will be conducted on all areas not previously inventoried at this level of intensity by a qualified professional archeologist determined in accordance with 36 CFR 61.5. As part of the mine plan submittal, a cultural resource management program will be developed that will provide for appropriate levels of avoidance and/or mitigation of adverse effects on specific properties identified as included or eligible for inclusion in the National Register of Historic Places. Programs will be reviewed by the State Historic Preservation Officer, and appropriate avoidance and/or mitigation measures included as part of the mine plan. Where agreement cannot be reached between the State Historic Preservation Officer and the Bureau of Land Management or where a National Historic Landmark or a National Historic Site will be affected, the matter will be referred to the Council. The Bureau of Land Management, U.S. Geological Survey,

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and the Office of Surface Mining will enforce similar requirements for approval of coal exploration permits.

The proposed agreement would be reviewed in 1982 and biennially thereafter to determine whether it should be continued or modified.

Robert R. Garvey, Jr.

[FR Doc. 79-28154 Filed 8-22-79; 8:45 am]

BILLING CODE 4310-10-M

DEPARTMENT OF AGRICULTURE
Forest Service

Los Padres National Forest Grazing Advisory Board; Meeting

The Los Padres National Forest Grazing Advisory Board will meet at 9:30 a.m. on September 14, 1979, at the City Council Chambers, 110 East Cook Street, Santa Maria, California. The purpose of this meeting is to consider (1) priorities for use of range betterment funds, (2) allotment management plans, and (3) establishment of any necessary bylaws. This is the Board's first annual meeting.

The meeting will be open to the public. Persons who wish to attend should notify me at 42 Aero Camino, Goleta, California 93017 (805-964-1578). Written statements may be filed with the committee before or after the meeting.

The committee has not established rules for public participation. Public members will be given an opportunity to speak on each subject.

Dated: August 16, 1979.

Frederik G. deHoll,
Forest Supervisor.

[FR Doc. 79-26203 Filed 8-22-79; 8:45 am]

BILLING CODE 3410-11-M

Thompson Creek Molybdenum Project, Custer County, Idaho; Intent to Prepare an Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of Agriculture, Forest Service, will prepare an Environmental Impact Statement for the proposed Thompson Creek Molybdenum Project in Custer County, Idaho.

The Challis National Forest Management Plan has not been completed. The Thompson Creek area is being managed under the Yankee Fork Ranger District Multiple Use Plan amended on May 5, 1975, and the

current existing laws and regulations governing the Forest Service.

The project is located on lands administered by the Forest Service and contiguous properties administered by USDI, Bureau of Land Management. The proposal involves the development of a new surface mining operation for the extraction of molybdenum-bearing ore, and construction of a 20,000 ton per day mill and ancillary facilities in the Challis National Forest. If the proposal is approved, preproduction activities would begin in the fall of 1980, and the first production of molybdenum concentrates would occur in mid-1983. Construction of the mill and related facilities would take approximately two years and would occur in conjunction with a two to two-and-one-half year period of preproduction mining.

Early in the environmental analysis, Federal, State, and local agencies, and other individuals or organizations who may be interested or affected by the decision will be invited to participate in the scoping process, which includes: (a) identification of those issues to be addressed; (b) identification of those issues to be analyzed in depth; and (c) elimination from detailed study the issues which are not significant, or which have been covered by prior environmental review.

A preliminary scoping document which identified environmental concerns has been developed by the Challis National Forest with input from the Bureau of Land Management and relevant State of Idaho agencies. A workshop to involve local government officials, selected community leaders, and representatives of interested organizations to tentatively identify some public issues was held in Challis, Idaho, on August 13. A public involvement meeting will be held on Monday, August 27, at 8 p.m., in the Challis Legion Hall. The basic approach in public involvement has been to contact all groups, organizations, agencies, and individuals that might have an interest in the proposal and to solicit their involvement in the scoping process.

A range of alternatives will be considered, one of which will be to not develop the mine. Other alternatives will be aspects of size of development and alternate methods of mining the ore, and alternative location and size of dumps and tailing ponds.

It is anticipated that the process will take approximately 11 months. A draft Environmental Impact Statement is scheduled for completion in February 1980. A final Environmental Impact Statement is scheduled for August 1980. Vern Hamre, Regional Forester, is the

responsible official, and Gordon V. Reid, Forest Planner, Challis National Forest, can be contacted for further information on the Environmental Impact Statement. Written comments and suggestions concerning the project are encouraged. Comments should be sent to Jack E. Bills, Forest Supervisor, Challis National Forest, P.O. Box 404, Challis, Idaho 83228.

Dated: August 17, 1979.

Vern Hamre,
Regional Forester.

[FR Doc. 79-28202 Filed 8-22-79; 8:45 am]

BILLING CODE 3410-11-M

Federal Grain Inspection Service

Official Designation of the Washington Department of Agriculture, Olympia, Wash., and Proposal of Geographic Area

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Notice and Request for Comments.

SUMMARY: This notice announces the designation of the Washington Department of Agriculture, Olympia, Washington, as an official agency to perform official inspection and official weighing services under the authority of the United States Grain Standards Act, as amended. This notice also proposes a geographic area within which that agency will operate.

DATE: Comments by October 9, 1979. This agency has been performing official inspection and official weighing services within the proposed geographic area at least since November 1978. The boundaries thereof are known by persons affected, do not impose significant new restrictions or obligations, and have limited public affect. Therefore, the comment period shall be limited to 45 days.

FOR FURTHER INFORMATION CONTACT: J. T. Abshier, Director, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447-8262.

SUPPLEMENTARY INFORMATION: The United States Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*) (the "Act"), has been amended to extensively modify the official grain inspection system. Pursuant to Sections 7 and 7A of the Act, the Administrator of the Federal Grain Inspection Service (FGIS) has the authority to designate any State or local governmental agency, or any person, as an official agency for

the conduct of all or specified functions involved in official inspection (other than appeal inspection), weighing, and supervision of weighing of grain at locations where the Administrator determines there is a need for such services. Such a designation shall terminate no later than triennially.

Note.—Section 7(f)(2) of the Act generally provides that not more than one official agency shall be operative at one time for any geographic area as determined by the Administrator.

Washington Department of Agriculture (the "Agency"), 406 General Administration Building, Olympia, Washington 98504, an existing official agency, made application to be officially designated under the Act, as amended, to perform official inspection and official weighing services.

The FGIS has conducted the required investigation of the Agency which included onsite reviews of its inspection points (hereinafter "specified service points") and the Agency was deemed eligible for designation to perform official inspection and official weighing services. A document designating the Agency as an official agency was signed on November 20, 1978.

Said designation also included an interim assignment of geographic area within which the official Agency will provide official inspection and official weighing services. The geographic area assigned on an interim basis pending final determination in this matter is:

The entire State of Washington at other than export port locations.

A specified service point for the purpose of this notice is a city, town, or other location specified by an agency for the conduct of official inspections or official weighing functions and where the agency or one or more of its licensed inspectors or licensed weighers is located.

In addition to the specified service points within the geographic area, the Agency will provide official inspection services not requiring a licensed inspector to all other areas within its geographic area.

Interested persons may obtain a map of the proposed geographic area and a list of specified service points for the Agency from the Delegation and Designation Branch, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447-8525.

Publication of this notice does not preclude future amendment of this designation consistent with the provisions and objectives of the Act.

Interested persons are hereby given opportunity to submit written views or comments with respect to the geographic area proposed for assignment to this Agency. All views and comments should be submitted in writing to the Office of the Director, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250. All materials should be received by the Director not later than October 9, 1979. All materials submitted pursuant to this notice will be made available for public inspection at the Office of the Director during regular business hours (7 CFR 1.27(b)). Consideration will be given to the views and comments so filed with the Director and to all other information available to the U.S. Department of Agriculture before final determination of the assignment of geographic area is made.

(Secs. 8, 9, 27, Pub. L. 94-582, 90 Stat. 2870, 2875, 2889 (7 U.S.C. 79, 79a, 74 note))

Done in Washington, D.C., on August 17, 1979.

L. E. Bartelt,
Administrator.

[FR Doc. 79-26146 Filed 8-22-79; 8:45 am]

BILLING CODE 3410-02-M

Official Designation of the Minnesota Department of Agriculture, Minneapolis, Minn., and Proposal of Geographic Area

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Notice and Request for Comments.

SUMMARY: This notice announces the designation of the Minnesota Department of Agriculture, Minneapolis, Minnesota, as an official agency to perform official inspection and official weighing services under the authority of the United States Grain Standards Act, as amended. This notice also proposes a geographic area within which that agency will operate.

DATE: Comments by October 9, 1979.

This agency has been performing official inspection services at least since July 1978 and official weighing services at least since November 1978 within the proposed geographic area. The boundaries thereof are known by persons affected, do not impose significant new restrictions or obligations, and have limited public affect. Therefore, the comment period shall be limited to 45 days.

FOR FURTHER INFORMATION CONTACT: J. T. Abshier, Director, Compliance Division, Federal Grain Inspection Service, United States Department of

Agriculture, Washington, D.C. 20250, (202) 447-8262.

SUPPLEMENTARY INFORMATION: The United States Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*) (the "Act"), has been amended to extensively modify the official grain inspection system. Pursuant to Sections 7 and 7A of the Act, the Administrator of the Federal Grain Inspection Service (FGIS) has the authority to designate any State or local governmental agency, or any person, as an official agency for the conduct of all or specified functions involved in official inspection (other than appeal inspection), weighing, and supervision of weighing of grain at locations where the Administrator determines there is a need for such services. Such a designation shall terminate no later than triennially.

Note.—Section 7(f)(2) of the Act generally provides that not more than one official agency shall be operative at one time for any geographic area as determined by the Administrator.

Minnesota Department of Agriculture (the "Agency"), 316 Grain Exchange Building, Minneapolis, Minnesota 55415, an existing official agency, made application to be officially designated under the Act, as amended, to perform official inspection and official weighing services.

The FGIS has conducted the required investigation of the Agency which included onsite reviews of its inspection points (hereinafter "specified service points") and the Agency was deemed eligible for designation to perform official inspection and official weighing services. A document designating the Agency as an official agency for the performance of official inspection functions was signed on July 24, 1978, and on November 20, 1978, for the performance of official weighing functions.

Said designation also included an interim assignment of geographic area within which the official Agency will provide official inspection and official weighing services. The geographic area assigned on an interim basis pending final determination in this matter is:

The entire State of Minnesota at other than export port locations. A specified service point for the purpose of this notice is a city, town, or other location specified by an agency for the conduct of official inspections or official weighing functions and where the agency or one or more of its licensed inspectors or licensed weighers is located.

In addition to the specified service points within the geographic area, the Agency will provide official inspection

services not requiring a licensed inspector to all other areas within its geographic area.

Interested persons may obtain a map of the proposed geographic area and a list of specified service points for the Agency from the Delegation and Designation Branch, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447-8525.

Publication of this notice does not preclude future amendment of this designation consistent with the provisions and objectives of the Act.

Interested persons are hereby given opportunity to submit written views or comments with respect to the geographic area proposed for assignment to this Agency. All views and comments should be submitted in writing to the Office of the Director, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250. All materials should be received by the Director not later than October 9, 1979. All materials submitted pursuant to this notice will be made available for public inspection at the Office of the Director during regular business hours (7 CFR 1.27(b)). Consideration will be given to the views and comments so filed with the Director and to all other information available to the U.S. Department of Agriculture before final determination of the assignment of geographic area is made.

(Secs. 8, 9, 27, Pub. L. 94-582, 90 Stat. 2870, 2875, 2889 (7 U.S.C. 79, 79a, 74 note))

Done in Washington, D.C. on August 17, 1979.

L. E. Bartelt,
Administrator.

[FR Doc. 79-26147 Filed 8-22-79; 8:45 am]

BILLING CODE 3410-02-M

Official Designation of the Mississippi Department of Agriculture and Commerce, Pascagoula, Miss., and Proposal of Geographic Area

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Notice and Request for Comments.

SUMMARY: This notice announces the designation of the Mississippi Department of Agriculture and Commerce, Pascagoula, Mississippi, as an official agency to perform official inspection and official weighing services under the authority of the United States Grain Standards Act, as amended. This notice also proposes a geographic area within which that agency will operate.

DATE: Comments by October 9, 1979.

This agency has been performing official inspection services at least since July 1978 and official weighing services at least since November 1978 within the proposed geographic area. The boundaries thereof are known by persons affected, do not impose significant new restrictions or obligations, and have limited public affect. Therefore, the comment period shall be limited to 45 days.

FOR FURTHER INFORMATION: J. T. Abshier, Director, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447-8262.

SUPPLEMENTARY INFORMATION: The United States Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*) (the "Act"), has been amended to extensively modify the official grain inspection system. Pursuant to Sections 7 and 7A of the Act, the Administrator of the Federal Grain Inspection Service (FGIS) has the authority to designate any State or local governmental agency, or any person, as an official agency for the conduct of all or specified functions involved in official inspection (other than appeal inspection), weighing, and supervision of weighing of grain at locations where the Administrator determines there is a need for such services. Such a designation shall terminate no later than triennially.

Note.—Section 7(f)(2) of the Act generally provides that not more than one official agency shall be operative at one time for any geographic area as determined by the Administrator.

Mississippi Department of Agriculture and Commerce (the "Agency"), P.O. Box 670, Pascagoula, Mississippi 39567, an existing official agency, made application to be officially designated under the Act, as amended, to perform official inspection and official weighing services.

The FGIS has conducted the required investigation of the Agency which included onsite reviews of its inspection points (hereinafter "specified service points") and the Agency was deemed eligible for designation to perform official inspection and official weighing services. A document designating the Agency as an official agency for the performance of official inspection functions was signed on July 1, 1978, and on November 20, 1978, for the performance of official weighing functions.

Said designation also included an interim assignment of geographic area within which the official Agency will provide official inspection and official weighing services. The geographic area

assigned on an interim basis pending final determination in this matter is:

The entire State of Mississippi at other than export port locations.

A specified service point for the purpose of this notice is a city, town, or other location specified by an agency for the conduct of official inspections or official weighing functions and where the agency or one or more of its licensed inspectors or licensed weighers is located.

In addition to the specified service points within the geographic area, the Agency will provide official inspection services not requiring a licensed inspector to all other areas within its geographic area.

Interested persons may obtain a map of the proposed geographic area and a list of specified service points for the Agency from the Delegation and Designation Branch, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447-8525.

Publication of this notice does not preclude future amendment of this designation consistent with the provisions and objectives of the Act.

Interested persons are hereby given opportunity to submit written views of comments with respect to the geographic area proposed for assignment to this Agency. All views and comments should be submitted in writing to the Office of the Director, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250. All materials should be received by the Director not later than October 9, 1979. All materials submitted pursuant to this notice will be made available for public inspection at the Office of the Director during regular business hours (7 CFR 1.27(b)). Consideration will be given to the views and comments so filed with the Director and to all other information available to the U.S. Department of Agriculture before final determination of the assignment of geographic area is made.

(Secs. 8, 9, 27, Pub. L. 94-582, 90 Stat. 2870, 2875, 2889 (7 U.S.C. 79, 79a, 74 note))

Done in Washington, D.C., on August 17, 1979.

L. E. Bartelt,
Administrator.

[FR Doc. 79-26148 Filed 8-22-79; 8:45 am]

BILLING CODE 3410-02-M

Official Designation of the Virginia Department of Agriculture and Consumer Services, Richmond, Va., and Proposal of Geographic Area

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Notice and Request for Comments.

SUMMARY: This notice announces the designation of the Virginia Department of Agriculture and Consumer Services, Richmond, Virginia, as an official agency to perform official inspection and official weighing services under the authority of the United States Grain Standards Act, as amended. This notice also proposes a geographic area within which that agency will operate.

DATE: Comments by October 9, 1979.

This agency has been performing official inspection services at least since July 1978 and official weighing services at least since November 1978 within the proposed geographic area. The boundaries thereof are known by persons affected, do not impose significant new restrictions or obligations, and have limited public affect. Therefore, the comment period shall be limited to 45 days.

FOR FURTHER INFORMATION CONTACT: J. T. Abshier, Director, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447-8262.

SUPPLEMENTARY INFORMATION: The United States Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*) (the "Act"), has been amended to extensively modify the official grain inspection system. Pursuant to Sections 7 and 7A of the Act, the Administrator of the Federal Grain Inspection Service (FGIS) has the authority to designate any State or local governmental agency, or any person, as an official agency for the conduct of all or specified functions involved in official inspection (other than appeal inspection), weighing, and supervision of weighing of grain at locations where the Administrator determines there is a need for such services. Such a designation shall terminate no later than triennially.

Note.—Section 7(f)(2) of the Act generally provides that not more than one official agency shall be operative at one time for any geographic area as determined by the Administrator.

Virginia Department of Agriculture and Consumer Services (the "Agency"), Division of Markets, 203 North Governor Street, Richmond, Virginia 23219, an existing official agency, made application to be officially designated under the Act, as amended, to perform

official inspection and official weighing services.

The FGIS has conducted the required investigation of the Agency which included onsite reviews of its inspection points (hereinafter "specified service points") and the Agency was deemed eligible for designation to perform official inspection and official weighing services. A document designating the Agency as an official agency for the performance of official inspection functions was signed on July 24, 1978, and on November 20, 1978, for the performance of official weighing functions.

Said designation also included an interim assignment of geographic area within which the official Agency will provide official inspection and official weighing services. The geographic area assigned on an interim basis pending final determination in this matter is:

The entire State of Virginia at other than export port locations.

A specified service point for the purpose of this notice is a city, town, or other location specified by an agency for the conduct of official inspections or official weighing functions and where the agency or one or more of its licensed inspectors or licensed weighers is located.

In addition to the specified service points within the geographic area, the Agency will provide official inspection services not requiring a licensed inspector to all other areas within its geographic area.

Interested persons may obtain a map of the proposed geographic area and a list of specified service points for the Agency from the Delegation and Designation Branch, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447-8525.

Publication of this notice does not preclude future amendment of this designation consistent with the provisions and objectives of the Act.

Interested persons are hereby given opportunity to submit written views or comments with respect to the geographic area proposed for assignment to this Agency. All views and comments should be submitted in writing to the Office of the Director, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250. All materials should be received by the Director not later than October 9, 1979. All materials submitted pursuant to this notice will be made available for public inspection at the Office of the Director during regular business hours (7 CFR 1.27(b)).

Consideration will be given to the views and comments so filed with the Director and to all other information available to the U.S. Department of Agriculture before final determination of the assignment of geographic area is made.

(Secs. 8, 9, 27, Pub. L. 94-582, 90 Stat. 2870, 2875, 2889 (7 U.S.C. 79, 79a, 74 note))

Done in Washington, D.C., on August 17, 1979.

L. E. Bartelt,
Administrator.

[FR Doc. 79-26149 Filed 8-22-79; 8:45 am]

BILLING CODE 3410-02-M

Official Designation of the Wisconsin Department of Agriculture, Trade & Consumer Protection, Madison Wis., and Proposal of Geographic Area

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Notice and Request for Comments.

SUMMARY: This notice announces the designation of the Wisconsin Department of Agriculture, Trade & Consumer Protection, Madison, Wisconsin, as an official agency to perform official inspection and official weighing services under the authority of the United States Grain Standards Act, as amended. This notice also proposes a geographic area within which that agency will operate.

DATE: Comments by October 9, 1979.

This agency has been performing official inspection services at least since July 1978 and official weighing services at least since November 1978 within the proposed geographic area. The boundaries thereof are known by persons affected, do not impose significant new restrictions or obligations, and have limited public affect. Therefore, the comment period shall be limited to 45 days.

FOR FURTHER INFORMATION CONTACT: J. T. Abshier, Director, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447-8262.

SUPPLEMENTARY INFORMATION: The United States Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*) (the "Act"), has been amended to extensively modify the official grain inspection system. Pursuant to Sections 7 and 7A of the Act, the Administrator of the Federal Grain Inspection Service (FGIS) has the authority to designate any State or local governmental agency, or any person, as an official agency for the conduct of all or specified functions involved in official inspection (other

than appeal inspection), weighing, and supervision of weighing of grain at locations where the Administrator determines there is a need for such services. Such a designation shall terminate no later than triennially.

Note.—Section 7(f)(2) of the Act generally provides that not more than one official agency shall be operative at one time for any geographic area as determined by the Administrator.

Wisconsin Department of Agriculture, Trade & Consumer Protection (the "Agency"), 801 West Badger Road, Madison, Wisconsin 53713, an existing official agency, made application to be officially designated under the Act, as amended, to perform official inspection and official weighing services.

The FGIS has conducted the required investigation of the Agency which included onsite reviews of its inspection points (hereinafter "specified service points") and the Agency was deemed eligible for designation to perform official inspection and official weighing services. A document designating the Agency as an official agency for the performance of official inspection functions was signed on July 1, 1978, and on November 20, 1978, for the performance of official weighing functions.

Said designation also included an interim assignment of geographic area within which the official Agency will provide official inspection and official weighing services. The geographic area assigned on an interim basis pending final determination in this matter is:

The entire State of Wisconsin at other than export port locations.

A specified service point for the purpose of this notice is a city, town, or other location specified by an agency for the conduct of official inspections or official weighing functions and where the agency or one or more of its licensed inspectors or licensed weighers is located.

In addition to the specified service points within the geographic area, the Agency will provide official inspection services not requiring a licensed inspector to all other areas within its geographic area.

Interested persons may obtain a map of the proposed geographic area and a list of specified service points for the Agency from the Delegation and Designation Branch, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447-8525.

Publication of this notice does not preclude future amendment of this

designation consistent with the provisions and objectives of the Act.

Interested persons are hereby given opportunity to submit written views or comments with respect to the geographic area proposed for assignment to this Agency. All views and comments should be submitted in writing to the Office of the Director, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250. All materials should be received by the Director not later than October 9, 1979. All materials submitted pursuant to this notice will be made available for public inspection at the Office of the Director during regular business hours (7 CFR 1.27(b)). Consideration will be given to the views and comments so filed with the Director and to all other information available to the U.S. Department of Agriculture before final determination of the assignment of geographic area is made.

(Secs. 8, 9, 27, Pub. L. 94-582, 90 Stat. 2870, 2875, 2889 (7 U.S.C. 79, 79a, 74 note))

Done in Washington, D.C., on August 17, 1979.

L. E. Bartelt,
Administrator.

[FR Doc. 79-28150 Filed 8-22-79; 8:45 am]

BILLING CODE 3410-02-M

Official Designation of the Alabama Department of Agriculture and Industries, Mobile, Alabama, and Proposal of Geographic Area

AGENCY: Federal Grain Inspection Service.

ACTION: Notice and Request for Comments.

SUMMARY: This notice announces the designation of the Alabama Department of Agriculture and Industries, Mobile, Alabama, as an official agency to perform official inspection and official weighing services under the authority of the United States Grain Standards Act, as amended. This notice also proposes a geographic area within which that agency will operate.

DATE: Comments by October 9, 1979.

This agency has been performing official inspection and official weighing services within the proposed geographic area at least since November 1978. The boundaries thereof are known by persons affected, do not impose significant new restrictions or obligations, and have limited public affect. Therefore, the comment period shall be limited to 45 days.

FOR FURTHER INFORMATION CONTACT: J. T. Abshier, Director, Compliance Division, Federal Grain Inspection

Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447-8262.

SUPPLEMENTARY INFORMATION: The United States Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*) (the "Act"), has been amended to extensively modify the official grain inspection system. Pursuant to Sections 7 and 7A of the Act, the Administrator of the Federal Grain Inspection Service (FGIS) has the authority to designate any State or local governmental agency, or any person, as an official agency for the conduct of all or specified functions involved in official inspection (other than appeal inspection), weighing, and supervision of weighing of grain at locations where the Administrator determines there is a need for such services. Such a designation shall terminate no later than triennially.

Note.—Section 7(f)(2) of the Act generally provides that not more than one official agency shall be operative at one time for any geographic area as determined by the Administrator.

Alabama Department of Agriculture and Industries (the "Agency"), State Docks, Pier D, South, P.O. Box 244, Mobile, Alabama 36601, an existing official agency, made application to be officially designated under the Act, as amended, to perform official inspection and official weighing services.

The FGIS has conducted the required investigation of the Agency which included onsite reviews of its inspection points (hereinafter "specified service points") and the Agency was deemed eligible for designation to perform official inspection and official weighing services. A document designating the Agency as an official agency was signed on November 20, 1978.

Said designation also included an interim assignment of geographic area within which the official Agency will provide official inspection and official weighing services. The geographic area assigned on an interim basis pending final determination in this matter is:

The entire State of Alabama at other than export port locations.

A specified service point for the purpose of this notice is a city, town, or other location specified by an agency for the conduct of official inspections or official weighing functions and where the agency or one or more of its licensed inspectors or licensed weighers is located.

In addition to the specified service points within the geographic area, the Agency will provide official inspection services not requiring a licensed inspector to all other areas within its geographic area.

Interested persons may obtain a map of the proposed geographic area and a list of specified service points for the Agency from the Delegation and Designation Branch, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447-8525.

Publication of this notice does not preclude future amendment of this designation consistent with the provisions and objectives of the Act.

Interested persons are hereby given opportunity to submit written views or comments with respect to the geographic area proposed for assignment to this Agency. All views and comments should be submitted in writing to the Office of the Director, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250. All materials should be received by the Director not later than October 9, 1979. All materials submitted pursuant to this notice will be made available for public inspection at the Office of the Director during regular business hours (7 CFR 1.27(b)). Consideration will be given to the views and comments so filed with the Director and to all other information available to the U.S. Department of Agriculture before final determination of the assignment of geographic area is made.

(Secs. 8, 9, 27, Pub. L. 94-582, 90 Stat. 2870, 2875, 2889 (7 U.S.C. 79, 79a, 74 note)).

Done in Washington, D.C. on: August 17, 1979.

L. E. Bartelt,
Administrator.

[FR Doc. 79-28145 Filed 8-22-79; 8:45 am]

BILLING CODE 3410-02-M

Official Designation of the California Department of Food and Agriculture, Sacramento, California, and Proposal of Geographic Area

AGENCY: Federal Grain Inspection Service.

ACTION: Notice and Request for Comments.

SUMMARY: This notice announces the designation of the California Department of Food and Agriculture, Sacramento, California, as an official agency to perform official inspection and official weighing services under the authority of the United States Grain Standards Act, as amended. This notice also proposes a geographic area within which that agency will operate.

DATE: Comments by October 9, 1979.

This agency has been performing official inspection and official weighing services within the proposed geographic

area at least since November 1978. The boundaries thereof are known by persons affected, do not impose significant new restrictions or obligations, and have limited public affect. Therefore, the comment period shall be limited to 45 days.

FOR FURTHER INFORMATION CONTACT:

J. T. Abshier, Director, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447-8262.

SUPPLEMENTARY INFORMATION: The United States Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*) (the "Act"), has been amended to extensively modify the official grain inspection system. Pursuant to Sections 7 and 7A of the Act, the Administrator of the Federal Grain Inspection Service (FGIS) has the authority to designate any State or local governmental agency, or any person, as an official agency for the conduct of all or specified functions involved in official inspection (other than appeal inspection), weighing, and supervision of weighing of grain at locations where the Administrator determines there is a need for such services. Such a designation shall terminate no later than triennially.

Note.—Section 7(f)(2) of the Act generally provides that not more than one official agency shall be operative at one time for any geographic area as determined by the Administrator.

California Department of Food and Agriculture (the "Agency"), 1220 N. Street, Sacramento, California 95814, and existing official agency, made application to be officially designated under the Act, as amended, to perform official inspection and official weighing services.

The FGIS has conducted the required investigation of the Agency which included onsite reviews of its inspection points (Hereinafter "specified service points") and the Agency was deemed eligible for designation to perform official inspection and official weighing services. A document designating the Agency as an official agency was signed on November 20, 1978.

Said designation also included an interim assignment of geographic area within the official Agency will provide official inspection and official weighing services. The geographic area assigned on an interim basis pending final determination in this matter is:

The entire State of California at other than export port locations not including the area within the following boundaries which is serviced by another official agency:

Bounded: on the North by the southern Angeles National Forest boundary from State Route 2 east; the southern San Bernardino National Forest boundary east to State Route 79;

Bounded: on the East by State Route 79 south to State Route 74;

Bounded: on the South by State Route 74 west-southwest to Interstate 5; Interstate 5 northwest to State Route 91; State Route 91 west to State Route 11; and

Bounded: on the West by State Route 11 north to U.S. Route 66; U.S. Route 66 west to Interstate 210; Interstate 210 northwest to State Route 2; State Route 2 north to the southern Angeles National Forest boundary.

A specified service point for the purpose of this notice is a city, town, or other location specified by an agency for the conduct of official inspections or official weighing functions and where the agency or one or more of its licensed inspectors or licensed weighers is located.

In addition to the specified service points within the geographic area, the Agency will provide official inspection services not requiring a licensed inspector to all other areas within its geographic area.

Interested persons may obtain a map of the proposed geographic area and a list of specified service points for the Agency from the Delegation and Designation Branch, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447-8525.

Publication of this notice does not preclude future amendment of this designation consistent with the provisions and objectives of the Act.

Interested persons are hereby given opportunity to submit written views or comments with respect to the geographic area proposed for assignment to this Agency. All views and comments should be submitted in writing to the Office of the Director, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250. All materials should be received by the Director not later than October 9, 1979. All materials submitted pursuant to this notice will be made available for public inspection at the Office of the Director during regular business hours (7 CFR 1.27(b)). Consideration will be given to the views and comments so filed with the Director and to all other information available to the U.S. Department of Agriculture before final determination of the assignment of geographic area is made.

(Secs. 8, 9, 27, Pub. L. 94-582, 90 Stat. 2870, 2875, 2889 (7 U.S.C. 79, 79a, 74 note)).

Done in Washington, D.C. on: August 17, 1979.

L. E. Bartelt,
Administrator.

[FR Doc. 79-28144 Filed 8-22-79; 8:45 am]

BILLING CODE 3410-02-M

CIVIL AERONAUTICS BOARD

[Docket No. 33683]

Altair Airlines, Inc. Fitness Investigation; Hearing

Notice is hereby given that a hearing in the above-entitled matter will be held on August 27, 1979, at 9:30 a.m. (local time) in Room 1003, Hearing Room C, Universal North Building, 1875 Connecticut Avenue, N.W. Washington, D.C., before the undersigned Administrative Law Judge.

Dated at Washington, D.C. August 16, 1979.

Elias C. Rodriguez,
Administrative Law Judge.

[FR Doc. 79-28211 Filed 8-22-79; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

Bureau of the Census

Census Advisory Committee of the American Statistical Association; Public Meeting

Pursuant to the Federal Advisory Committee Act, as amended, 5 U.S.C. APP. (1976), notice is hereby given that the Census Advisory Committee of the American Statistical Association will convene on September 13 and 14, 1979, at 9:00 a.m. The Committee will meet in Room 2424, Federal Building 3, at the Bureau of the Census in Suitland, Maryland.

The Census Advisory Committee of the American Statistical Association was established in 1919. It advises the Director, Bureau of the Census, on the Bureau's programs as a whole and on their various parts, considers priority issues in the planning of censuses and surveys, examines guiding principles, advises on questions of policy and procedures, and responds to Bureau requests for opinions concerning its operations.

The Committee is composed of 15 members appointed by the President of the American Statistical Association.

The agenda for the September 13 meeting, which will adjourn at 6:00 p.m., is: (1) Topics of current interest at the Bureau of the Census, including staff changes and Bureau organization, and

major budget and program developments; (2) status of adjustment of 1980 census counts; (3) redesign of the Current Population Survey; (4) Group Value Measurement Technique; (5) Survey of Income and Program Participation; and (6) Committee meeting to develop recommendations.

The agenda for the September 14 meeting, which will adjourn at 12:30 p.m., is: (1) Legal and statistical defenses against overcounting; (2) 1980 Census Experimental Program; (3) Committee discussion of recommendations; (4) report on the American Statistical Association/National Science Foundation/Census Bureau Fellowship Program—Time Series Research; (5) discussion on (a) Bureau responses to prior Committee recommendations, (b) status of specific Bureau activities, and (c) Bureau activities described at earlier Committee meetings; and (6) recommendations, plans, and agenda items for the next meeting.

The meeting will be open to the public, and a brief period will be set aside on September 14 for public comment and questions. Extensive questions or statements must be submitted in writing to the Committee Control Officer at least 3 days prior to the meeting.

Persons wishing additional information concerning this meeting or who wish to submit written statements may contact the Committee Control Officer, Mr. James L. O'Brien, Acting Chief, Statistical Research Division, Bureau of the Census, Room 3573, Federal Building 3, Suitland, Maryland. (Mail address: Washington, D.C. 20233). Telephone (301) 763-5350.

Dated August 20, 1979.
Daniel B. Levine,
Acting Director, Bureau of the Census.
[FR Doc. 79-26015 Filed 8-22-79; 8:45 am]
BILLING CODE 3510-07-M

Office of Minority Business Enterprise Financial Assistance Application Announcement

The Office of Minority Business Enterprise (OMBE) announces that it is seeking applications for two separate awards. Both of the grants will provide, direct general business information, counseling, financial packaging assistance and assistance in identifying and exploiting business opportunities in new and/or expanded markets without charge to eligible clients.

Project Information: The specifics for the two projects are as follows: 1. A project which is designed to operate in

the vicinity of Boise, Idaho for a 12-month period beginning October 1, 1979 with a minimum professional staff effort of 3 individuals and a maximum funding level of \$75,000. The number for this project is 10-10-50230-00.

2. A project which is designed to operate in the vicinity of Portland, Oregon for a 12-month period beginning October 1, 1979 with a minimum professional staff effort of 4 individuals and a maximum funding level of \$130,000. The number for this project is 10-10-50600-00.

Funding Instrument: It is anticipated that the funding instrument, as defined by the Federal Grant and Cooperative Agreement Act of 1977, will be a grant.
Eligibility Requirements: Any for-profit or not-for-profit institution is eligible to submit an application.

Application Materials: An application kit for each of the projects may be requested by phone by calling (202) 377-1714 or it may be obtained at the following address: U.S. Department of Commerce, Office of Minority Business Enterprise, Program Support Staff, Room 5713, Box FR-6, 14th & Constitution Avenue, N.W. Washington, D.C. 20230.

In requesting an application kit, specify the project number, the city or State the project will serve and if the applicant is either a State or Local Government, Federally recognized Indian Tribal Unit, Educational Institution, Hospital, other type of nonprofit organization, or if the applicant is a for-profit firm. This information is necessary to enable OMBE to include the appropriate cost principles in the application kit.

Award Process: All applications that are submitted in accordance with the instructions in the application kit will be submitted to a panel for review and ranking. The applications will be ranked as to their understanding of minority business problems, approach and program methodology, responsiveness to questions, organizational structure, quality of personnel, experience, capacity, and cost. Specific criteria will be included in the application kit. If an application is approved, an initial award will be made for a period specified for that award. Continuation awards may be made on a noncompetitive basis when determined by the Awards Officer to be in the best interest of the Government.

Closing Date: Applicants are encouraged to obtain an application kit as soon as possible in order to allow sufficient time to prepare and submit an application before the closing date of September 14, 1979. Detailed submission procedures are outlined in each application kit.

11.800 Minority Business Development (Catalog of Federal Domestic Assistance).

Dated: August 16, 1979.
Allan A. Stephenson,
Acting Director.
[FR Doc. 79-26014 Filed 8-22-79; 8:45 am]
BILLING CODE 3510-21-M

DEPARTMENT OF DEFENSE

Defense Nuclear Agency

Privacy Act of 1974; Amendment of System of Records

AGENCY: Defense Nuclear Agency.

ACTION: Notice of amendment to system of records.

SUMMARY: The Defense Nuclear Agency proposes to amend a system of records subject to the Privacy Act of 1974. The system is identified as HDNA 609-02, entitled: Personnel Radiation Exposure Records. The specific changes to the system being amended are set forth below followed by the system published in its entirety as amended.

DATES: This system shall be amended as proposed without further notice on September 24, 1979 unless comments are received on or before September 24, 1979, which would result in a contrary determination and require republication for further comments.

ADDRESS: Any public comments, including written data, views or arguments concerning the amendment should be addressed to the System Manager identified in the particular record system concerned.

FOR FURTHER INFORMATION: Rosemary L. Harris, General Counsel, Defense Nuclear Agency, Washington, D.C. 20305, Telephone: 202-325-7681.

SUPPLEMENTARY INFORMATION: The Defense Nuclear Agency record system notices as prescribed by the Privacy Act of 1974, Public Law 93-579 (5 U.S.C. 552a) have been published in the Federal Register as follows:

FR Doc 77-28255 (42FR51073), September 28, 1977.
FR Doc 78-25819 (43FR42374), September 20, 1978.
FR Doc 79-15270 (44FR28704), May 16, 1979.

The proposed amendments are not within the purview of the provisions of 5 U.S.C. 552a(o) which requires the

submission of a new or altered system report.

H. E. Lofdahl,
Director, Correspondence and Directives,
Washington Headquarters Services,
Department of Defense.
August 17, 1979.

HDNA 609-02

System name:

Personnel Radiation Exposure
Records (43 FR 42472) September 20,
1978.

Changes:

System Location:

In line 1, delete: "Radiological".

Categories of records in the system:

Add at end: "At AFRRI, for current employees, information on date-on-board, assigned department, sex, date of departure, bio-assay, grade/rank, work phone and room number."

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Add at end: "At AFRRI, name grade/rank, department, room number and work phone will be used to print a current roster of personnel, for internal use in contacting personnel for official purposes."

Storage:

Add, in line 2, after "1422.":
"Automated records are stored on magnetic tapes (for backup), disks in room 2438 and computer printouts in room 1422."

Retrievability:

Add at end: "At AFRRI, card and paper forms are alphabetical by last name of individual. Automated records are selectable retrievable on all fields within the record."

Safeguards:

Add at end of line 2: "Card, paper forms and printouts are further secured in a locked cabinet. These files, when placed on a computer system, are protected by a user identification code (UIC) and password. Access is restricted to only those persons appointed by the SYSMANAGER to whom he has given the "Uic-password" combination. The password is changed periodically by the SYSMANAGER."

System manager(s) and address:

In line 1, delete "Radiation"

HDNA 609-02

SYSTEM NAME:

609-02 Personnel Radiation Exposure
Records

SYSTEM LOCATION:

Decentralized system. Primary location: Safety Department, Bldg. 42, Rooms 1420 and 1422, Armed Forces Radiobiology Research Institute (AFRRI), Defense Nuclear Agency, Bethesda, Maryland, 20014, on the grounds of the National Naval Medical Center. Other locations are rooms 3113 and 2147 of the AFRRI; and room 1418, Bldg. 364, Field Command, Defense Nuclear Agency (FCDNA), Kirtland Air Force Base, Albuquerque, New Mexico 87115; and Office of the Commander, Enewetak Atoll, Marshall Islands.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All employees, contractors, visitors or anyone else who is known to enter the AFRRI building. At FCDNA, all DNA employees who work in a position, the duties of which might result in exposure to radiation. At Enewetak, all individuals who work or visit the Atoll other than transient air crews and air passengers who do not leave the aircraft. Uniformed Services University of the Health Sciences, all employees, students, visitors, contractors or anyone else known to enter a radiation environment at Uniform Services University of the Health Sciences (USUHS).

CATEGORIES OF RECORDS IN THE SYSTEM:

For employees at AFRRI, FCDNA, and USUHS file contains personal information consisting of name, social security number, date of birth, current and previous radiation exposure, history and places of employment and when exposures occurred. For others, at AFRRI, FCDNA and USUHS file contains name, social security number, date of birth, current employer, citizenship, and current exposure history. For all, at AFRRI, FCDNA and USUHS information on pregnancy and pacemaker. Enewetak files will contain person information consisting of name, social security number, date of birth, current and previous radiation exposure history, areas visited or worked, dates of arrival and departure, and citizenship. At AFRRI, for current employees, information on date-on-board, assigned department, sex, date of departure, bio-assay, grade/rank, work phone and room number.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Atomic Energy Act of 1954, 42 U.S.C. 2013, Military Construction Appropriation Act of 1977 (Pub. L. 94-367) and DNA OPLAN 600-77. "Cleanup of Enewetak Atoll".

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To document the degree of exposure to radiation experienced by an individual; to support legal or medical claims for or against the government; to measure quality of the radiation protection program; to provide exposure history to subsequent employers; to provide history to requesting individuals. At AFRRI, name, grade/rank, department, room number and work phone will be used to print a current roster of personnel, for internal use in contacting personnel for official purposes.

POLICIES AND PRACTICES FOR STORAGE, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:
At AFRRI: 5" by 7" cards filed at reception desk, room 3113, 8" by 10 1/2" paper filed in rooms 1420 and 1422. Automated records are stored on magnetic tapes (for backup), and disks in room 2436 and computer printouts in room 1422. At FCDNA, 8" by 10 1/2" papers are filed in a metal file cabinet in Bldg. 364. At Enewetak: 5" by 7" cards filed in a metal file cabinet in the Enewetak Commander's office.

RETRIEVABILITY:

Alphabetical by last name of individual. At AFRRI, card and paper forms are alphabetical by last name of individual. Automated records are selectable retrievable on all fields within the record.

SAFEGUARDS:

AFRRI—Kept in a controlled access building which is protected by an intrusion alarm system. Card, paper forms and printouts are further secured in a locked cabinet. These files, when placed on a computer system, are protected by a user identification code (UIC) and password. Access is restricted to only those persons appointed by the SYSMANAGER to whom he has given the "UIC-Password" combination. The password is changed periodically by the SYSMANAGER.

FCDNA—Controlled access building which is protected by an intrusion alarm system.

Enewetak—Locked and secured in Enewetak Commander's office.

RETENTION AND DISPOSAL:

For employees—permanently. For visitors—retired after 2 years to record holding area for permanent retention. For foreign visitors, records are sent to State Department for retention. all Enewetak records will be maintained permanently.

SYSTEM MANAGER(S) AND ADDRESS:

AFRRI and USUHS—Chairman, Safety Department, Armed Forces Radiobiology Research Institute, Bethesda, MD 20014.

Field Command, DNA and Enewetak Atoll, MI—Health Physicist, Logistics Directorate, Field Command, Defense Nuclear Agency, Albuquerque, NM 87115.

NOTIFICATION PROCEDURE:

Requests should be addressed to the SYSMANAGER.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the SYSMANAGER.

CONTESTING RECORD PROCEDURES:

The Agency's rules for contesting contents and appealing initial determinations may be obtained from SYSMANAGER.

RECORD SOURCE CATEGORIES:

AFRRI, FCDNA, and USUHS information voluntarily submitted by individual. Enewetak information as required to be submitted by individual. Additional information added as data is collected.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 79-26258 Filed 8-22-79; 8:15 am]
BILLING CODE 3810-70-M

DEPARTMENT OF ENERGY**Economic Regulatory Administration**

[Docket No. ERA-R-79-39]

Inquiry Concerning the Deregulation of Heavy Crude Oil Pursuant to Executive Order No. 12153

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of Inquiry and Public Hearing.

SUMMARY: On August 17, 1979, the President issued Executive Order No. 12153, which exempts first sales of heavy crude oil, as defined in the Executive Order, from the Mandatory Petroleum Price Regulations. Pursuant to

the requirements of section 1-102 of the Order, the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) is conducting a public inquiry to determine whether the Secretary of Energy should recommend to the President the exemption any heavy crude oil in addition to that included within the definition set forth in the Order.

DATES: Written comments by September 12, 1979, 4:30 p.m. Requests to speak by August 30, 1979, 4:30 p.m. Hearing dates: September 6-7, 1979, 9:30 a.m.

ADDRESSES: All written comments to Department of Energy, Office of Public Hearings Management, Docket No. ERA-R-79-39, Room 2313, 2000 M Street, N.W., Washington, D.C. 20461. Requests to speak to Department of Energy, Third Floor, 111 Pine Street, San Francisco, California 94111. ATTN: Robert Laffel. Hearing Location: City Council Chambers, City Hall, 333 West Ocean Boulevard, Long Beach, California 90802.

FOR FURTHER INFORMATION CONTACT:

Robert Gillette (Office of Public Hearings Management), Economic Regulatory Administration, Room 2214 B, 2000 M Street, N.W., Washington, D.C. 20461. (202) 254-5201.

William Webb (Office of Public Information), Economic Regulatory Administration, Room B 110, 2000 M Street, N.W., Washington, D.C. 20461. (202) 634-2170.

William Carson or Douglas Harnish (Office of Regulations and Emergency Planning), Economic Regulatory Administration, Room 2314, 2000 M Street, N.W., Washington, D.C. 20461. (202) 254-7477.

Eugene Glass (Office of Petroleum Operations), Economic Regulatory Administration, Room 6128, 2000 M Street, N.W., Washington, D.C. 20461. (202) 254-7183.

Ben McRae or Jack Kendall (Office of General Counsel), Department of Energy, Room 6A-127, 1000 Independence Avenue, S.W., Washington, D.C. 20585. (202) 252-6739.

SUPPLEMENTARY INFORMATION:

- I. Background.
- II. Comments Requested.
- III. Written Comment and Public Hearing Procedures.

I. Background

On August 17, 1979, the President issued Executive Order No. 12153 (the Order), which exempts first sales of heavy crude oil made from price regulations adopted pursuant to the Emergency Petroleum Allocation Act of 1973 (EPAA, 15 U.S.C. § 751 *et seq.*, Pub. L. 93-159, as amended). The term "heavy crude oil" is defined in section 1-101 of the Order as crude oil produced from a property from which the total production during the last month prior to July 1979

in which crude oil was produced and sold from that property had a weighted average gravity of 16.0° API or less.¹

In section 1-102 of the Order the President directed the Secretary, or his delegate, to conduct a public inquiry as to what other types of crude oil, in addition to those included in the definition of that term in section 1-101 of the Order, should be exempted from price regulation in order to maintain or increase production of such crude oil. Section 1-102 further provides that the Secretary shall submit to the President his recommendations as to the exemption of any additional types of crude oil. The President also provided in section 1-103 of the Order that the Secretary may adopt any regulations as he deems necessary to implement the Order. Pursuant to these directives, we are issuing this Notice of Inquiry in order to obtain public comment.

II. Comments Requested

We are generally requesting comments as to whether any heavy crude oils in addition to those covered by the definition in the Order should be exempted from price regulation as a means of increasing domestic crude oil production. Comments are also requested generally as to any modifications to the crude oil entitlements program (10 CFR Section 211.67) or to any other provisions of the petroleum regulations which may be necessary or appropriate in view of the President's action to exempt heavy crude oil from price regulation. We are also requesting comments as to the following specific issues.

We request comments concerning any modifications to the term "heavy crude oil" as defined in section 1-101 of the Order which would be necessary to provide for the exemption of any crude oil which could be appropriately categorized as heavy crude oil for exemption purposes. In this regard, we request your views as to whether it would be appropriate to modify the definition of heavy crude oil by changing 16.0° API to a higher gravity number.

In most instances, the costs associated with producing low gravity crude oils are relatively higher than those associated with the production of other crude oils. Since the exemption of heavy crude oil from price regulation is intended to provide a producer with an economic incentive to maintain or increase production levels, we invite

¹ API gravity numbers are based on the ratio of the weight of a given volume of oil at 60° Fahrenheit to the weight of the same volume of water at 60° Fahrenheit.

your comments as to whether it would be appropriate to establish a definition of heavy crude oil which would provide for the exemption of a specified

percentage of the crude oil production from a property for which the weighted average gravity of crude oil produced was above 16.0° API. The percentage of crude oil production to be exempted would decrease as the weighted average gravity increased. We request that your comments on this issue include a discussion as to the appropriate relationship between the exempted percentage of production and the weighted average gravity of production.

In many instances, the relatively greater cost to produce heavy crude oil is attributable to the use of enhanced oil recovery (EOR) techniques. In view of this consideration, we solicit comments as to whether it might be more appropriate to determine the exemption status for crude oil with weighted average gravity levels in excess of 16.0° API on the basis of whether the production of such crude oil resulted from the use of an EOR technique, rather than on a gravity basis. If you believe this approach would be more appropriate, we request your views as to how heavy crude oil should be defined with reference to the employment of EOR techniques. In this regard, we are especially interested in your views as to how a producer would distinguish crude oil produced from an EOR project from other crude oil production from the property on which the project is located.

While the weighted average gravity of crude oil produced from a property in June 1979 may have been higher than 16.0° API, we recognize that gravity levels for that property may decline at some future time. Since the Order does not provide for exempt status in such instances, we are requesting comments as to whether the definition of heavy crude oil should contain a provision taking into account declining gravity levels so as to permit the qualification of exempt status at some later time. If such a provision were provided, over what period of time should the average gravity be measured in order to ensure that exempt status would be available only with respect to properties consistently producing heavy crude oil? What safeguards should be employed to assure that lighter crude oil production is not shut in in order to qualify the property for heavy oil status?

We also request comments concerning the appropriate categorization of crude oil production which might be eligible for exemption from price regulation pursuant both to the heavy crude oil exemption and to a DOE regulation.

ruling or order, such as the Newly Discovered Crude Oil rule or the property definition.

We recognize that an increase in heavy oil production can have a significant impact on refinery operations and/or its marketability. In order to evaluate these effects, we request comments concerning the nature and magnitude of any refining or crude oil marketing effects arising from the exemption of heavy crude oil and whether changes should be made in the entitlements program or the refiner pricing regulations in order to provide incentives for increased utilization of heavy crude oil.

Finally, we are especially concerned that the environmental standards applicable to emissions from steam generators used in recovering heavy crude oil may impose significant increased costs on current and future production. Substitution of natural gas for indigenous heavy crude oil used as fuel in steam generators is one potential means for overcoming pollution emission problems. We request comments on the availability of natural gas for on-site steam generation, the source(s) from which the natural gas might be made available, the energy and economic efficiency of using natural gas as a substitute for heavy crude oil, and whether there are any legal or regulatory impediments, federal or otherwise, regarding natural gas availability and use which should be removed.

III. Written Comment and Public Hearing Procedures**A. Written Comments**

You are invited to participate in this rulemaking by submitting data, views or arguments with respect to the issues set forth in this Notice. Comments should be identified on the outside envelope and on documents submitted with the docket number and the designation "Inquiry Concerning the Deregulation of Heavy Crude Oil." Ten copies should be submitted. All comments received will be available for public inspection in the DOE Freedom of Information Office, Room GA-152, James Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. Comments should be received by September 12, 1979, 4:30 p.m. in order to be considered.

B. Public Hearing

1. *Procedure for Requesting Participation.* The time and place for the hearing are indicated in the "DATES" and "ADDRESSES" section of this

Notice. If necessary to present all testimony, the hearing will be continued at 9:30 a.m. on the next business day following the first day of the hearing.

You may make a written request for an opportunity to make an oral presentation at the hearing. Such request should provide a phone number where you may be contacted through the day before the hearing.

We will notify each person selected to be heard at the hearing before 4:30 p.m., August 31, 1979. Persons scheduled to speak at the hearing must bring 100 copies of their statement to the hearing location by 9:00 a.m. on the day of the hearing.

2. *Conduct of the Hearing.* We reserve the right to select the persons to be heard at the hearing, to schedule their respective presentations, and to establish the procedures governing the conduct of the hearing. The length of each presentation may be limited, based on the number of persons requesting to be heard.

A DOE official will be designated to preside at the hearing, which will not be judicial in nature. Questions may be asked only by those conducting the hearing. At the conclusion of all initial oral statements, each person who has made an oral statement will be given the opportunity to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

You may submit questions to be asked by the presiding officer of any person making a statement at the hearing. Such questions must be submitted in writing. The presiding officer will determine whether time limitations permit it to be presented for a response.

Any further procedural rules needed for the proper conduct of the hearing will be announced by the presiding officer.

A transcript of the hearing will be made, and the entire record of the hearing, including the transcript, will be retained by the DOE and made available for inspection at the Freedom of Information Office, Room GA-152, James Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. Any person may purchase a copy of the transcript from the reporter.

Issued in Washington, D.C., August 17, 1979.

David J. Bardin,
Administrator, Economic Regulatory
Administration.

(FR Doc 79-28230 Filed 8-22-79; 8:45 am)
BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

August 10, 1979.

The Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

New Mexico Department of Energy and Minerals

Oil Conservation Division

1. Control number (F.E.R.C./State)
2. API Well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or Block No.
8. Estimate annual volume
9. Date received at FERC
10. Purchaser(s)

1. 79-13499
2. 30-025-00000
3. 108
4. Casing Pullers Inc.
5. Yates A No. 4
6. North San Simon Yates
7. Lea, NM
8. 20.1 million cubic feet
9. July 26, 1979
10. Phillips Petroleum Company

1. 79-13500
2. 30-025-00000
3. 108
4. Casing Pullers Inc.
5. Yates A No. 1
6. North San Simon Yates
7. Lea, NM
8. 20.1 million cubic feet
9. July 26, 1979
10. Phillips Petroleum Company

1. 79-13501
2. 30-025-00000
3. 108
4. Casing Pullers Inc.
5. Yates A No. 3
6. North San Simon Yates
7. Lea, NM
8. 20.1 million cubic feet
9. July 26, 1979
10. Phillips Petroleum Company

1. 79-13502
2. 30-045-08042
3. 108
4. Helen Loraine Harvey
5. Gale #1

8. Aztec Fruitland
7. San Juan, NM
8. 4.9 million cubic feet
9. July 26, 1979
10. El Paso Natural Gas Company
1. 79-13503
2. 30-045-07784
3. 108

4. Helen Loraine Harvey
5. G F Bruington #1
6. Aztec Pictured Cliffs
7. San Juan, NM
8. 12.4 million cubic feet
9. July 26, 1979
10. El Paso Natural Gas Company
1. 79-13504
2. 30-045-00000
3. 108

4. Koch Industries Inc
5. Koch Wright No 1
6. Aztec/Pictured Cliffs
7. San Juan, NM
8. 14.2 million cubic feet
9. July 26, 1979
10. El Paso Natural Gas Company
1. 79-13505
2. 30-045-00000
3. 108

4. Lynco Oil Corporation
5. Schumacher #2
6. Aztec, PC
7. San Juan NM
8. 16.0 million cubic feet
9. July 26, 1979
10. El Paso Natural Gas Co
1. 79-13506
2. 30-045-00000
3. 108

4. Lively Exploration Company
5. Lively Com 14
6. San Juan
7. San Juan, NM
8. 19.6 million cubic feet
9. July 26, 1979
10. El Paso Natural Gas Company
1. 79-13507
2. 30-045-12173
3. 108

4. Helen Loraine Harvey
5. Black & Taylor #1
6. Aztec Pictured Cliffs
7. San Juan, NM
8. 6.2 million cubic feet
9. July 26, 1979
10. El Paso Natural Gas Company
1. 79-13508
2. 30-045-12173
3. 108

U. S. Geological Survey, Albuquerque, N. Mex.

1. Control number (F.E.R.C./State)
2. API Well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated Annual Volume
9. Date received at FERC
10. Purchaser(s)

1. 79-13418/NM482-79
2. 30-025-25759-0000-0
3. 103
4. Adobe Oil & Gas Corporation
5. Linda Federal #3 NM-23777
6. Blinberry Oil & Gas
7. Lea, NM

8. 18.0 million cubic feet
9. July 26, 1979
10. El Paso Natural Gas Co
1. 79-13419/NM483-79
2. 30-025-25760-0000-0
3. 103
4. Adobe Oil & Gas Corporation
5. Linda Federal #4 NM-23777
6. Blinberry Oil
7. Lea, NM
8. 18.0 million cubic feet
9. July 26, 1979
10. El Paso Natural Gas Co

1. 79-13420/NM484-79
2. 30-025-26043-0000-0
3. 103
4. Adobe Oil & Gas Corporation
5. Linda Federal #5 NM-23777
6. Warren-Tubb
7. Lea, NM
8. 48.0 million cubic feet
9. July 26, 1979
10. El Paso Natural Gas Co
1. 79-13421/NM486-79
2. 30-039-06171-0000-0
3. 108

4. Western Oil and Minerals Limited
5. Jillson No. 1
6. Gavilan Pictured Cliffs
7. Rio Arriba, NM
8. 6.0 million cubic feet
9. July 26, 1979
10. El Paso Natural Gas Co
1. 79-13422/NM487-79
2. 30-045-06248-0000-0
3. 108

4. Western Oil and Minerals Limited
5. Marron No. 2
6. South Blanco Pictured Cliffs
7. San Juan, NM
8. 16.0 million cubic feet
9. July 26, 1979
10. El Paso Natural Gas Co
1. 79-13423/NM488-79
2. 30-045-06253-0000-0
3. 108

4. Western Oil and Minerals Limited
5. Hammond No. 5
6. South Blanco Pictured Cliffs
7. San Juan, NM
8. 16.0 million cubic feet
9. July 26, 1979
10. El Paso Natural Gas Co
1. 79-13424/NM490-79
2. 30-039-20034-0000-0
3. 108

4. Western Oil and Minerals Limited
5. Apache No. 1
6. South Blanco Pictured Cliffs
7. Rio Arriba, NM
8. 12.0 million cubic feet
9. July 26, 1979
10. El Paso Natural Gas Co
1. 79-13425/NM493-79
2. 30-039-82334-0000-0
3. 108

4. Western Oil and Minerals Limited
5. Hurt No. 1
6. Tapacito Pictured Cliffs
7. Rio Arriba, NM
8. 12.0 million cubic feet
9. July 26, 1979
10. El Paso Natural Gas Co
1. 79-13426/NM1272-79

8. 18.0 million cubic feet
9. July 26, 1979
10. El Paso Natural Gas Co
1. 79-13427/NM-1294-79
2. 30-039-20977-0000-0
3. 108
4. El Paso Natural Gas Company
5. Canyon Largo Unit 260
6. Ballard-Pictured Cliffs Gas
7. Rio Arriba, NM
8. 20.4 million cubic feet
9. July 26, 1979
10. El Paso Natural Gas Company

1. 79-13428/NM-1333-79
2. 30-045-21450-0000-0
3. 108
4. El Paso Natural Gas Company
5. Hubbell #15
6. Bloomfield-Chacra Gas
7. San Juan, NM
8. 20.0 million cubic feet
9. July 26, 1979
10. El Paso Natural Gas Company
1. 79-13429/NM-1489-79
2. 30-039-20989-0000-9
3. 108

4. El Paso Natural Gas Company
5. SJ 28-6 Unit 201
6. Blanco South-Pictured Cliffs Gas
7. Rio Arriba, NM
8. 19.3 million cubic feet
9. July 26, 1979
10. El Paso Natural Gas Company
1. 79-13430/MN-1545-79
2. 30-045-07461-0000-0
3. 108

4. El Paso Natural Gas Company
5. Tapp 2
6. Blanco-Mesaverde Gas
7. San Juan, NM
8. 20.0 million cubic feet
9. July 26, 1979
10. El Paso Natural Gas Company
1. 79-13431/NM1552-79
2. 30-045-21284-0000-0
3. 108

4. El Paso Natural Gas Company
5. Huerfano Unit 247
6. Angels Peak-Gallup Gas
7. San Juan, NM
8. 20.0 million cubic feet
9. July 26, 1979
10. El Paso Natural Gas Company
1. 79-13432/NM413-79
2. 30-045-07887-0000-0
3. 108

4. Tenneco Oil Company
5. Callow 11
6. Basin Dakota
7. San Juan, NM
8. 13.0 million cubic feet
9. July 26, 1979
10. El Paso Natural Gas Company
1. 79-13433/NM-418-79
2. 30-045-11612-0000-0
3. 108

4. Tenneco Oil Company
5. Warren 1
6. Basin Dakota
7. San Juan, NM
8. 17.2 million cubic feet
9. July 26, 1979
10. El Paso Natural Gas Co
1. 79-13434/NM-419-79
2. 30-045-06713-0000-0
3. 108

4. Tenneco Oil Company
5. Storey D 1
6. Basin Dakota
7. San Juan, NM
8. 15.0 million cubic feet
9. July 26, 1979
10. Northwest Pipeline Corp
1. 79-13435/NM-420-79
2. 30-045-11880-0000-0
3. 108

4. Tenneco Oil Company
5. Storey D 1
6. Basin Dakota
7. San Juan, NM
8. 15.0 million cubic feet
9. July 26, 1979
10. Northwest Pipeline Corp
1. 79-13436/NM-421-79
2. 30-045-06622-0000-0
3. 108

4. Tenneco Oil Company
5. Hargrave #A-2
6. Fulcher Kutz Pictured Cliffs
7. San Juan, NM
8. 6.0 million cubic feet
9. July 26, 1979
10. Southern Union Gathering Co
1. 79-13437/NM-422-79
2. 30-045-11613-0000-0
3. 108

4. El Paso Natural Gas Company
5. Hubbell #15
6. Bloomfield-Chacra Gas
7. San Juan, NM
8. 20.0 million cubic feet
9. July 26, 1979
10. El Paso Natural Gas Company
1. 79-13438/NM-0096-79
2. 30-039-20798-0000-0
3. 108

4. Arapahoe Drilling Co
5. Schalk 52-2
6. Gobernador Pictured Cliffs
7. Rio Arriba County, NM
8. 0 million cubic feet
9. July 26, 1979
10. Northwest Pipeline
1. 79-13439/NM-265-79
2. 30-045-22850-0000-0
3. 103

4. Southland Royalty Co
5. Harper #1A
6. Blanco Mesa Verde
7. San Juan, NM
8. 182.0 million cubic feet
9. July 26, 1979
10. Southern Union Gathering Co
1. 79-13440/NM-0350-79
2. 30-039-21835-0000-0
3. 103

4. Southland Royalty Co
5. Carson #2
6. Blanco Mesa Verde
7. Rio Arriba, NM
8. 180.0 million cubic feet
9. July 26, 1979
10. Northwest Pipeline Corp
1. 79-13441/NM-0377-79

2. 30-045-21800-0000-0
3. 103
4. Southland Royalty Co
5. Cain #21
6. Aztec Pictured Cliffs
7. San Juan, NM
8. 0 million cubic feet
9. July 26, 1979
10. Southern Union Gathering Co
1. 79-13442/NM-0378-79
2. 30-045-23111-0000-0
3. 103

4. Southland Royalty Co
5. Cain #3R
6. Blanco Mesa Verde
7. San Juan, NM
8. 0 million cubic feet
9. July 26, 1979
10. Southern Union Gathering CO
1. 79-13443/NM-298-79
2. 30-045-21747-0000-0
3. 108

4. Lively Exploration Company
5. Lively Well No 26
6. San Juan
7. San Juan, NM
8. 12.2 million cubic feet
9. July 26, 1979
10. El Paso Natural Gas Company
1. 79-13444/NM-0319-79
2. 30-045-00607-0000-0
3. 108

4. Mobil Oil Corporation
5. H K Riddle #1
6. Basin Dakota
7. San Juan, NM
8. 17.0 million cubic feet
9. July 26, 1979
10. El Paso Natural Gas Company
1. 79-13445/NM-0320-79
2. 30-039-06513-0000-0
3. 108

4. Mobil Oil Corporation
5. Cheney Federal #3
6. Blanco Mesa Verde
7. Rio Arriba, NM
8. 10.0 million cubic feet
9. July 26, 1979
10. Northwest Pipeline Corporation
1. 79-13446/NM-322-79
2. 30-039-06347-0000-0
3. 108

4. Mobil Oil Corporation
5. Jicarilla B #1
6. Tapacito Pictured Cliffs
7. Rio Arriba, NM
8. 3.0 million cubic feet
9. July 26, 1979
10. Northwest Pipeline Corporation
1. 79-13447/NM-323-79
2. 30-039-06346-0000-0
3. 108

4. Mobil Oil Corporation
5. Jicarilla B #4
6. Blanco Mesa Verde
7. Rio Arriba, NM
8. 1.0 million cubic feet
9. July 26, 1979
10. Northwest Pipeline Corporation
1. 79-13448/NM-325-79
2. 30-039-06352-0000-0
3. 108

4. Mobil Oil Corporation
5. Jicarilla D #1
6. Gavilan Pictured Cliffs Blanco Mesa

2. 30-045-21800-0000-0
3. 103
4. Southland Royalty Co
5. Cain #21
6. Aztec Pictured Cliffs
7. San Juan, NM
8. 0 million cubic feet
9. July 26, 1979
10. Southern Union Gathering Co
1. 79-13442/NM-0378-79
2. 30-045-23111-0000-0
3. 103

4. Southland Royalty Co
5. Cain #3R
6. Blanco Mesa Verde
7. San Juan, NM
8. 0 million cubic feet
9. July 26, 1979
10. Southern Union Gathering CO
1. 79-13443/NM-298-79
2. 30-045-21747-0000-0
3. 108

4. Lively Exploration Company
5. Lively Well No 26
6. San Juan
7. San Juan, NM
8. 12.2 million cubic feet
9. July 26, 1979
10. El Paso Natural Gas Company
1. 79-13444/NM-0319-79
2. 30-045-00607-0000-0
3. 108

4. Mobil Oil Corporation
5. H K Riddle #1
6. Basin Dakota
7. San Juan, NM
8. 17.0 million cubic feet
9. July 26, 1979
10. El Paso Natural Gas Company
1. 79-13445/NM-0320-79
2. 30-039-06513-0000-0
3. 108

4. Mobil Oil Corporation
5. Cheney Federal #3
6. Blanco Mesa Verde
7. Rio Arriba, NM
8. 10.0 million cubic feet
9. July 26, 1979
10. Northwest Pipeline Corporation
1. 79-13446/NM-322-79
2. 30-039-06347-0000-0
3. 108

4. Mobil Oil Corporation
5. Jicarilla D #1
6. Gavilan Pictured Cliffs Blanco Mesa

7. Rio Arriba, NM
 8. 3.0 million cubic feet
 9. July 26, 1979
 10. Northwest Pipeline Corporation
 1. 79-13449/NM-326-79
 2. 30-039-06398-0000-0
 3. 108
 4. Mobil Oil Corporation
 5. Jicarilla D #8
 6. Gavilan Pictured Cliffs
 7. Rio Arriba, NM
 8. 8.0 million cubic feet
 9. July 26, 1979
 10. Northwest Pipeline Corporation
 1. 79-13450/NM-328-79
 2. 30-039-06395-0000-0
 3. 108
 4. Mobil Oil Corporation
 5. Jicarilla D #8
 6. Gavilan Pictured Cliffs Blanco Mesa
 7. Rio Arriba, NM
 8. 2.0 million cubic feet
 9. July 26, 1979
 10. Northwest Pipeline Corporation
 1. 79-13451/NM-0347-79
 2. 30-039-05593-0000-0
 3. 108
 4. Mobil Oil Corporation
 5. Jillson Federal #1
 6. Blanco Pictured Cliffs South
 7. Rio Arriba, NM
 8. 8.0 million cubic feet
 9. July 26, 1979
 10. Northwest Pipeline Corporation
 1. 79-13452/NM-0348-79
 2. 30-039-05594-0000-0
 3. 108
 4. Mobil Oil Corporation
 5. Jillson Federal #2
 6. Blanco Pictured Cliffs South
 7. Rio Arriba, NM
 8. 9.0 million cubic feet
 9. July 26, 1979
 10. Northwest Pipeline Corporation
 1. 79-13453/NM-0349-79
 2. 30-039-06400-0000-0
 3. 108
 4. Mobil Oil Corporation
 5. Featherstone Federal #1
 6. Gavilan Pictured Cliffs Blanco Mesa
 7. Rio Arriba, NM
 8. 17.0 million cubic feet
 9. July 26, 1979
 10. Northwest Pipeline Corporation
 1. 79-13454/NM-0355-79
 2. 30-015-22511-0000-0
 3. 103
 4. Yates Petroleum Corporation
 5. Harvey JI Federal #1
 6. Eddy, NM
 8. .0 million cubic feet
 9. July 26, 1979
 - 10.
 1. 79-13455/NM-0357-79
 2. 30-015-22610-0000-0
 3. 103
 4. Yates Petroleum Corporation
 5. Reddy-Trigg JV Federal #1
 6. Eddy, NM
 8. .0 million cubic feet
 9. July 26, 1979
 - 10.
 1. 79-13456/NM-0358-79
2. 30-015-22128-0000-0
 3. 103
 4. Yates Petroleum Corporation
 5. Federal CX #2
 6. Eddy, NM
 8. .0 million cubic feet
 9. July 26, 1979
 - 10.
 1. 79-13457/NM-0359-79
 2. 30-015-22423-0000-0
 3. 103
 4. Yates Petroleum Corporation
 5. Federal AB #5
 6. Undesignated
 7. Eddy, NM
 8. .0 million cubic feet
 9. July 26, 1979
 - 10.
 1. 79-13458/NM-362-79
 2. 30-045-23041-0000-0
 3. 103
 4. Hixon Development Company
 5. Ka Gee Tah No 2
 6. Farmington Sand
 7. San Juan, NM
 8. 18.0 million cubic feet
 9. July 26, 1979
 10. Southern Union Gathering Company
 1. 79-13459/NM-363-79
 2. 30-045-22580-0000-0
 3. 103
 4. Hixon Development Company
 5. Ka Gee Tah No 1
 6. Waw-Fruitland-PC
 7. San Juan, NM
 8. 64.0 million cubic feet
 9. July 26, 1979
 10. Southern Union Gathering Company
 1. 79-13460/NM-364-79
 2. 30-045-22708-0000-0
 3. 103
 4. Hixon Development Company
 5. Ka Da Pah No 2
 6. Waw-Fruitland-PC
 7. San Juan, NM
 8. 91.0 million cubic feet
 9. July 26, 1979
 10. El Paso Natural Gas Company
 1. 79-13461/NM-365-79
 2. 30-045-22709-0000-0
 3. 103
 4. Hixon Development Company
 5. Gle Na Nup Pah No 1
 6. Waw-Fruitland-PC
 7. San Juan, NM
 8. 36.5 million cubic feet
 9. July 26, 1979
 10. El Paso Natural Gas Company
 1. 79-13462/NM-0366-79
 2. 30-045-22172-0000-0
 3. 103
 4. Supron Energy Corporation
 5. Payne 1-A
 6. Blanco Mesaverde
 7. San Juan, NM
 8. .0 million cubic feet
 9. July 26, 1979
 10. Southern Union Gathering Company
 1. 79-13463/NM-0369-79
 2. 30-045-00000-0000-0
 3. 108
 4. Producing Royalties Inc
 5. Carroll-Cornell #6
 6. Fulcher Kutz Pictured Cliffs

7. San Juan County, NM
8. 13.0 million cubic feet
9. July 26, 1979
10. Southern Union Gathering Company
1. 79-13464/NM-0379-79
2. 30-015-22118-0000-0
3. 103
4. Gulf Oil Corporation
5. Estill Ad Federal Well No 1
6. White City Penn
7. Eddy, NM
8. 1005.0 million cubic feet
9. July 26, 1979
10. Transwestern Pipe Line Company
1. 79-13465/NM-386-79
2. 30-015-22480-0000-0
3. 103
4. Gulf Oil Corporation
5. Pacheco Federal Well No 2
6. Angell Ranch Morrow
7. Eddy, NM
8. 78.0 million cubic feet
9. July 26, 1979
10. El Paso Natural Gas Company
1. 79-13466/NM-387-79
2. 30-015-22198-0000-0
3. 103
4. Gulf Oil Corporation
5. Potts Federal Well No 1
6. Burton Flat Morrow
7. Eddy, NM
8. 170.0 million cubic feet
9. July 26, 1979
10. El Paso Natural Gas Company
1. 79-13467/NM-388-79
2. 30-015-21932-0000-0
3. 103
4. Gulf Oil Corporation
5. Franklin et al Federal well no 2
6. Crooked Creek Morrow
7. Eddy, NM
8. 79.0 million cubic feet
9. July 26, 1979
10. El Paso Natural Gas Co
1. 79-13468/NM-408-79
2. 30-025-26066-0000-0
3. 103
4. Gulf Oil Corporation
5. C E Lamunyon well no 46
6. North Teague Devonian
7. Lea, NM
8. 62.0 million cubic feet
9. July 26, 1979
10. El Paso Natural Gas Company
1. 79-13469/NM-409-79
2. 30-025-26067-0000-0
3. 103
4. Gulf Oil Corporation
5. C E Lamunyon well no 47
6. North Teague Devonian
7. Lea, NM
8. 113.0 million cubic feet
9. July 26, 1979
10. El Paso Natural Gas Company
1. 79-13470/NM-410-79
2. 30-015-22406-0000-0
3. 103
4. Gulf Oil Corporation
5. Cardenas Federal well no 1
6. Burton Flat Morrow
7. Eddy, NM
8. 10.0 million cubic feet
9. July 26, 1979
10. El Paso Natural Gas Company
1. 79-13471/NM-411-79

2. 30-025-25919-0000-0
 3. 103
 4. Gulf Oil Corporation
 5. C E Lamunyon well no 45
 6. North Teague Devonian
 7. Lea, NM
 8. 23.0 million cubic feet
 9. July 26, 1979
 10. El Paso Natural Gas Company
 1. 79-13472/NM-412-79
 2. 30-015-22430-0000-0
 3. 103
 4. Gulf Oil Corporation
 5. Shearn D Federal com well no 1
 6. Undesignated Penn
 7. Eddy, NM
 8. 10.0 million cubic feet
 9. July 26, 1979
 10. El Paso Natural Gas Company
 1. 79-13473/NM-0407-79
 2. 30-015-22232-0000-0
 3. 103
 4. Depco Inc
 5. Shell Federal #1
 6. Cemetery (Morrow)
 7. Eddy, NM
 8. 68.0 million cubic feet
 9. July 26, 1979
 10. Natural Gas Pipeline Co of America
 1. 79-13474/NM-397-79
 2. 30-039-00000-0000-0
 3. 108
 4. Kimbell Oil Co
 5. Salazar Federal No 2
 6. Ballard Pictured Cliffs
 7. Rio Arriba, NM
 8. 8.3 million cubic feet
 9. July 26, 1979
 10. El Paso Natural Gas Co
 1. 79-13475/NM-398-79
 2. 30-039-00000-0000-0
 3. 108
 4. Kimbell Oil Co
 5. Salazar Federal No 3
 6. Basin Dakota
 7. Rio Arriba, NM
 8. 8.0 million cubic feet
 9. July 26, 1979
 10. El Paso Natural Gas Co
 1. 79-13476/NM-399-79
 2. 30-039-00000-0000-0
 3. 108
 4. Kimbell Oil Co
 5. Warren Federal No 1
 6. Blanco Pictured Cliffs
 7. Rio Arriba, NM
 8. 5.1 million cubic feet
 9. July 26, 1979
 10. El Paso Natural Gas Co
 1. 79-13477/NM-400-79
 2. 30-039-05800-0000-0
 3. 108
 4. Kimbell Oil Co
 5. Warren Federal No 3
 6. Basin Dakota
 7. Rio Arriba, NM
 8. 8.3 million cubic feet
 9. July 26, 1979
 10. El Paso Natural Gas Co
 1. 79-13478/NM-401-79
 2. 30-039-05714-0000-0
 3. 108
 4. Kimbell Oil Co
 5. Warren Federal No 2
 6. Basin Dakota
7. Rio Arriba, NM
 8. 9.2 million cubic feet
 9. July 26, 1979
 10. El Paso Natural Gas Co
 1. 79-13479/NM-402-79
 2. 30-039-00000-0000-0
 3. 108
 4. Kimbell Oil Co
 5. Liberman Federal No 4
 6. Ballard Pictured Cliffs
 7. Rio Arriba, NM
 8. 3.2 million cubic feet
 9. July 26, 1979
 10. El Paso Natural Gas Co
 1. 79-13480/NM-439-79
 2. 30-045-22521-0000-0
 3. 103
 4. Tenneco Oil Company
 5. Florance #11A
 6. Blanco Mesaverde
 7. San Juan, NM
 8. 234.0 million cubic feet
 9. July 26, 1979
 10. Southern Union Gathering Co, El Paso Natural Gas Co
 1. 79-13481/NM-440-79
 2. 30-045-22349-0000-0
 3. 103
 4. Tenneco Oil Company
 5. Florance A27-A
 6. Blanco Mesaverde
 7. San Juan, NM
 8. 91.0 million cubic feet
 9. July 26, 1979
 10. Southern Union Gathering Co
 1. 79-13482/NM-441-79
 2. 30-045-22567-0000-0
 3. 103
 4. Tenneco Oil Company
 5. Archuleta #1A
 6. Blanco Mesaverde
 7. San Juan, NM
 8. 53.0 million cubic feet
 9. July 26, 1979
 10. Southern Union Gathering Co
 1. 79-13490/NM-456-79
 2. 30-039-08097-0000-0
 3. 108
 4. Tenneco Oil Company
 5. Jicarilla A7
 6. Basin Dakota
 7. San Juan, NM
 8. 16.0 million cubic feet
 9. July 26, 1979
 10. Northwest Pipeline Corp
 1. 79-13491/NM-457-79
 2. 30-045-11822-0000-0
 3. 108
 4. Tenneco Oil Company
 5. Florance 67
 6. Basin Dakota
 7. San Juan, NM
 8. 13.0 million cubic feet
 9. July 26, 1979
 10. Northwest Pipeline Corp
 1. 79-13492/NM-458-79
 2. 30-045-22250-0000-0
 3. 103
 4. Tenneco Oil Company
 5. Jacques #1A
 6. Blanco Mesaverde
 7. San Juan, NM
 8. 98.0 million cubic feet
 9. July 26, 1979
 10. Southern Union Gathering Co
 1. 79-13493/NM-459-79
 2. 30-045-22278-0000-0
 3. 103

4. Tenneco Oil Company
5. Florance #10A
6. Blanco Mesaverde
7. San Juan, NM
8. 74.0 million cubic feet
9. July 26, 1979
10. Southern Union Gathering Co
1. 79-13494/NM-480-79
2. 30-045-22892-0000-0
3. 103
4. Tenneco Oil Company
5. Florance #3B
6. Blanco Mesaverde
7. San Juan, NM
8. 48.0 million cubic feet
9. July 26, 1979
10. Southern Union Gathering Co
1. 79-13495/NM-481-79
2. 30-045-22346-0000-0
3. 103
4. Tenneco Oil Company
5. Florance #24A
6. Blanco Mesaverde
7. San Juan, NM
8. 86.0 million cubic feet
9. July 26, 1979
10. Southern Union Gathering Co
1. 79-13496/NM-482-79
2. 30-045-11797-0000-0
3. 108
4. Tenneco Oil Company
5. Moore C 1
6. Basin Dakota
7. San Juan, NM
8. 12.0 million cubic feet
9. July 26, 1979
10. Northwest Pipeline Corp
1. 79-13497/NM-483-79
2. 30-045-11918-0000-0
3. 108
4. Tenneco Oil Company
5. Graham Com 1
6. Basin Dakota
7. San Juan, NM
8. 9.0 million cubic feet
9. July 26, 1979
10. El Paso Natural Gas Co
1. 79-13498/NM-484-79
2. 30-045-11601-0000-0
3. 108
4. Tenneco Oil Company
5. Moore B 1
6. Basin Dakota
7. San Juan, NM
8. 14.0 million cubic feet
9. July 26, 1979
10. Northwest Pipeline Corp
1. 79-13506/NM-247-79B
2. 30-045-22696-0000-0
3. 103
4. Southland Royalty Co
5. NYE #3A
6. Blanco Mesaverde
7. San Juan, NM
8. 50.0 million cubic feet
9. July 26, 1979
10. Southern Union Gathering Co
1. 79-13508/NM-546-79A
2. 30-039-21832-0000-1
3. 103
4. Southland Royalty Co
5. Jicarilla 101 #7
6. Blanco Mesa Verde
7. Rio Arriba, NM
8. 175.0 million cubic feet
9. July 26, 1979
10. Gas Company of New Mexico
1. 79-13510/NM-548-79B
2. 30-039-21832-0000-2
3. 103
4. Southland Royalty Co
5. Jicarilla 101 #7
6. Basin Dakota
7. Rio Arriba, NM
8. 75.0 million cubic feet
9. July 26, 1979
10. Gas Company of New Mexico
1. 79-13511/NM-550-79A
2. 30-039-21823-0000-1
3. 103
4. Southland Royalty Co
5. Arizona Jicarilla A #5
6. Blanco Mesa Verde
7. Rio Arriba, NM
8. 182.0 million cubic feet
9. July 26, 1979
10. Gas Company of New Mexico
1. 79-13512/NM-550-79B
2. 30-039-21823-0000-2
3. 103
4. Southland Royalty Company
5. Arizona Jicarilla A #5
6. Blanco Pictured Cliffs
7. Rio Arriba, NM
8. 75.0 million cubic feet
9. July 26, 1979
10. Gas Company of New Mexico
1. 79-13513/NM-1002-79
2. 30-045-00000-0000-0
3. 103
4. Northwest Pipeline Corporation
5. Cox Canyon Unit #25
6. Blanco PC
7. San Juan, NM
8. 270.0 million cubic feet
9. July 26, 1979
10. Northwest Pipeline Corporation, El Paso Natural Gas Co
1. 79-13514/NM-1031-79
2. 30-039-21464-0000-0
3. 103
4. Northwest Pipeline Corporation
5. Jicarilla 92 #12
6. Tapacito PC
7. Rio Arriba, NM
8. 51.0 million cubic feet
9. July 26, 1979
10. Northwest Pipeline Corporation
1. 79-13515/NM-1035-79
2. 30-039-21571-0000-0
3. 103
4. Northwest Pipeline Corporation
5. S/J 29-6 #36A
6. Blanco MV
7. Rio Arriba, NM
8. 67.0 million cubic feet
9. July 26, 1979
10. Northwest Pipeline Corporation, El Paso Natural Gas Co
1. 79-13516/NM-1039-79
2. 30-045-22535-0000-0
3. 103
4. Northwest Pipeline Corporation
5. Cox Canyon Unit #27
6. Blanco PC
7. San Juan, NM
8. 137.0 million cubic feet
9. July 26, 1979
10. Northwest Pipeline Corporation, El Paso Natural Gas Co

1. 79-13517/NM-1040-79
2. 30-039-21437-0000-0
3. 103
4. Northwest Pipeline Corporation
5. San Juan 29-5 #78
6. Blanco Pictured Cliffs
7. Rio Arriba, NM
8. 57.0 million cubic feet
9. July 26, 1979
10. Northwest Pipeline Corporation
1. 79-13518/NM-1041-79
2. 30-039-21561-0000-0
3. 103
4. Northwest Pipeline Corporation
5. S/J 29-6 Unit #18A
6. Blanco MV
7. Rio Arriba, NM
8. 266.0 million cubic feet
9. July 26, 1979
10. Northwest Pipeline Corporation
1. 79-13519/NM-1042-79
2. 30-039-21564-0000-0
3. 103
4. Northwest Pipeline Corporation
5. San Juan 29-6 Unit #14A
6. Blanco MV
7. Rio Arriba, NM
8. 292.0 million cubic feet
9. July 26, 1979
10. Northwest Pipeline Corporation, El Paso Natural Gas Co
1. 79-13520/NM-1043-79
2. 30-045-22539-0000-0
3. 103
4. Northwest Pipeline Corporation
5. Cox Canyon Unit #22
6. Blanco PC
7. San Juan, NM
8. 118.0 million cubic feet
9. July 26, 1979
10. Northwest Pipeline Corporation, El Paso Natural Gas Co
1. 79-13521/NM-1045-79
2. 30-039-00000-0000-0
3. 103
4. Northwest Pipeline Corporation
5. Rosa Unit #82
6. Basin Dakota
7. Rio Arriba, NM
8. 115.0 million cubic feet
9. July 26, 1979
10. Northwest Pipeline Corporation
1. 79-13522/NM-1047-79
2. 30-045-23141-0000-0
3. 103
4. Northwest Pipeline Corporation
5. S/J 32-8 Unit #39
6. Blanco Mesa Verde
7. San Juan, NM
8. 107.0 million cubic feet
9. July 26, 1979
10. Northwest Pipeline Corporation, El Paso Natural Gas Co
1. 79-13523/NM-1056-79
2. 30-039-21563-0000-0
3. 103
4. Northwest Pipeline Corporation
5. San Juan 29-6 Unit #12A
6. Blanco MV
7. Rio Arriba, NM
8. 299.0 million cubic feet
9. July 26, 1979
10. Northwest Pipeline Corporation, El Paso Natural Gas Co
1. 79-13524/NM-1423-79

2. 30-045-20875-0000-0
3. 108
4. El Paso Natural Gas Company
5. Nye #4
6. Aztec-Pictured Cliffs Gas
7. San Juan, NM
8. 20.8 million cubic feet
9. July 26, 1979
10. El Paso Natural Gas Company
1. 79-13525/NM-1424-79
2. 30-039-60047-0000-0
3. 108
4. El Paso Natural Gas Company
5. Canyon Large Unit NP #63
6. Ballard-Pictured Cliffs Gas
7. Rio Arriba, NM
8. 2.2 million cubic feet
9. July 26, 1979
10. El Paso Natural Gas Company
1. 79-13526/NM-1425-79
2. 30-039-05713-0000-0
3. 108
4. El Paso Natural Gas Company
5. Jicarilla B #15
6. Blanco South-Pictured Cliffs Gas
7. Rio Arriba, NM
8. 1.1 million cubic feet
9. July 26, 1979
10. El Paso Natural Gas Company
1. 79-13527/NM-1486-79
2. 30-045-05606-0000-0
3. 108
4. El Paso Natural Gas Company
5. McManus 3
6. Ballard-Pictured Cliffs Gas
7. San Juan, NM
8. 9.1 million cubic feet
9. July 26, 1979
10. El Paso Natural Gas Company
1. 79-13528/NM-1487-79
2. 30-039-06489-0000-0
3. 108
4. El Paso Natural Gas Company
5. Jicarilla J #9
6. Blanco South-Pictured Cliffs Gas
7. Rio Arriba, NM
8. 12.0 million cubic feet
9. July 26, 1979
10. El Paso Natural Gas Company, Northwest Pipeline Corp
1. 79-13529/NM-1488-79
2. 30-039-06483-0000-0
3. 108
4. El Paso Natural Gas Company
5. Jicarilla J #10
6. Blanco South-Pictured Cliffs Gas
7. Rio Arriba County, NM
8. 6.2 million cubic feet
9. July 26, 1979
10. El Paso Natural Gas Company, Northwest Pipeline Corp
1. 79-13530/NM-1490-79
2. 30-039-20680-0000-0
3. 108
4. El Paso Natural Gas Company
5. Rincon Unit 148
6. Blanco South-Pictured Cliffs Gas
7. Rio Arriba, NM
8. 9.5 million cubic feet
9. July 26, 1979
10. El Paso Natural Gas Company
1. 79-13531/NM-1491-79
2. 30-039-20837-0000-0
3. 108
4. El Paso Natural Gas Company
5. Lindrith Unit #74
6. Blanco South-Pictured Cliffs Gas
7. Rio Arriba, NM
8. 12.0 million cubic feet
9. July 26, 1979
10. El Paso Natural Gas Company
1. 79-13532/NM-1492-79
2. 30-039-20646-0000-0
3. 108
4. El Paso Natural Gas Company
5. SJ 27-5 Unit 160
6. Blanco South-Pictured Cliffs Gas
7. Rio Arriba, NM
8. 18.1 million cubic feet
9. July 26, 1979
10. El Paso Natural Gas Company, Northwest Pipeline Corp
1. 79-13533/NM-1493-79
2. 30-045-09120-0000-0
3. 108
4. El Paso Natural Gas Company
5. Ludwick 3
6. Aztec-Pictured Cliffs Gas
7. San Juan, NM
8. 15.0 million cubic feet
9. July 26, 1979
10. El Paso Natural Gas Company
1. 79-13534/NM-1494-79
2. 30-039-20672-0000-0
3. 108
4. El Paso Natural Gas Company
5. San Juan 27-5 Unit #158
6. Tapacito-Pictured Cliffs Gas
7. Rio Arriba, NM
8. 18.4 million cubic feet
9. July 26, 1979
10. El Paso Natural Gas Company, Northwest Pipeline Corp
1. 79-13535/NM-1495-79
2. 30-045-05356-0000-0
3. 108
4. El Paso Natural Gas Company
5. Payne #3 X
6. Ballard-Pictured Cliffs Gas
7. San Juan, NM
8. 3.0 million cubic feet
9. July 26, 1979
10. El Paso Natural Gas Company, Northwest Pipeline Corp
1. 79-13536/NM-1496-79
2. 30-045-05418-0000-0
3. 108
4. El Paso Natural Gas Company
5. Payne #6
6. Ballard-Pictured Cliffs Gas
7. San Juan, NM
8. 2.0 million cubic feet
9. July 26, 1979
10. El Paso Natural Gas Company, Northwest Pipeline Corp
1. 79-13537/NM-1497-79
2. 30-039-05663-0000-0
3. 108
4. El Paso Natural Gas Company
5. Jicarilla H #5
6. Blanco South-Pictured Cliffs Gas
7. Rio Arriba, NM
8. 3.7 million cubic feet
9. July 26, 1979
10. El Paso Natural Gas Company, Northwest Pipeline Corp
1. 79-13538/NM-1498-79
2. 30-039-05619-0000-0
3. 108
4. El Paso Natural Gas Company
5. Jicarilla H #6
6. Blanco South-Pictured Cliffs Gas
7. Rio Arriba, NM
8. 1.0 million cubic feet
9. July 26, 1979
10. El Paso Natural Gas Company, Northwest Pipeline Corp
1. 79-13539/NM-1499-79
2. 30-039-06380-0000-0
3. 108
4. El Paso Natural Gas Company
5. Jicarilla F #4
6. Blanco South-Pictured Cliffs Gas
7. Rio Arriba, NM
8. 12.4 million cubic feet
9. July 26, 1979
10. El Paso Natural Gas Company, Northwest Pipeline Corp
1. 79-13540/NM-1500-79
2. 30-039-06425-0000-0
3. 108
4. El Paso Natural Gas Company
5. Jicarilla F #5
6. Blanco South-Pictured Cliffs Gas
7. Rio Arriba, NM
8. 11.0 million cubic feet
9. July 26, 1979
10. El Paso Natural Gas Company, Northwest Pipeline Corp
1. 79-13541/NM-1501-79
2. 30-039-06955-0000-0
3. 108
4. El Paso Natural Gas Company
5. SJ 27-5 Unit #74
6. Tapacito-Pictured Cliffs Gas
7. Rio Arriba, NM
8. 10.0 million cubic feet
9. July 26, 1979
10. El Paso Natural Gas Company, Northwest Pipeline Corp

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of these final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before September 7, 1979.

Please reference the FERC control number in all correspondence related to these determinations.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-26184 Filed 8-22-79; 8:45 am]

BILLING CODE 6450-91-M

[Docket No. RP78-49, et al.]

Alabama Tennessee Natural Gas Company, et al.; Notice of Filing of Pipeline Refund Reports and Refund Plans

August 16, 1979

Take notice that the pipelines listed in the Appendix hereto have submitted to the Commission for filing proposed refund reports or refund plans. The date of filing, docket number, and type of filing are also shown on the Appendix.

Appendix

Filing date	Company	Docket No.	Type filing
6/24/79	Alabama-Tennessee	RP78-49	Report
6/30/79	Southern Natural	RP77-31	Report
7/2/79	Southern Natural	RP77-31	Report
8/2/79	Colorado Interstate	RP75-86, et al.	Report

[FR Doc. 79-26158 Filed 8-22-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER79-583]

Boston Edison Co.; Notice of Filing

August 16, 1979.

Take notice that Boston Edison Company on August 6, 1979, tendered for filing an executed service agreement for the Town of Reading under the Company's FERC Electric Tariff, Original Volume No. III.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before September 6, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-26159 Filed 8-22-79; 8:45 am]

BILLING CODE 6450-01-M

Any person wishing to do so may submit comments in writing concerning the subject refund reports and plans. All such comments should be filed with or mailed to the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before September 4, 1979. Copies of the respective filings are on file with the Commission and available for public inspection.

Kenneth F. Plumb,
Secretary.

[Docket No. RP72-122(PGA79-2)]

Colorado Interstate Gas Co.; Notice of Proposed Change in Rates Under Purchased Gas Adjustment Clause Provisions

August 17, 1979.

Take notice that Colorado Interstate Gas Company (CIG) on August 15, 1979, tendered for filing proposed changes in its FERC Gas Tariff, Original Volume No. 1, to be effective October 1, 1979. The increased jurisdictional cost of purchased gas proposed to be recovered by the filing amounts to approximately \$158.3 million. Such amount reflects the increased jurisdictional cost of gas in this application over the amount contained in CIG's general rate filing in Docket No. RP79-59, which is likewise to be effective October 1, 1979.

Copies of CIG's filing have been served upon the Company's jurisdictional customers and other interested persons, including public bodies.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before Sept. 4, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to

intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-26175 Filed 8-22-79; 8:45 am]

BILLING CODE 6450-01-M

[Project No. 2385]

Finch, Pruyn & Co., Inc.; Notice of Application for Amendment of License

August 14, 1979.

Take notice that on July 10, 1979 Finch, Pruyn & Company (Applicant) filed an application for amendment of its license for its Finch, Pruyn Hydro-Electric Project, FERC No. 2385, located on the Hudson River in the City of Glens Falls, New York. Correspondence with the Applicant should be directed to Roger S. Hague, Secretary, Finch, Pruyn & Company, 1 Glen Street, Glens Falls, New York 12801.

Under the proposed amendment, the Applicant would replace an obsolete 2600 hp water wheel with an identically rated new wheel. A 2250 kV generator would be fitted to the water wheel and would incorporate the necessary electrical control equipment to connect its output to the existing generator bus. In addition, the existing manually operated wooden stop gates at the flume entrance would be replaced by electrically operated steel gates.

The Applicant states that no modifications to the flume, headwall, or tailrace would be required. The electric energy generated by the new unit would be used by the Applicant in its paper and pulp manufacturing plant.

Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR § 1.8 or § 1.10 (1978). In determining the appropriate action to take, the Commission will consider all protests filed, but a person who merely files a protest does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any protest or petition to intervene must be filed on or before September 24, 1979. The Commission's address is: 825 N. Capitol Street, N.E., Washington, D.C. 20426. The application

is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-26176 Filed 8-22-79; 8:45 am]

BILLING CODE 6450-01-M

[Project No. 2177]

Georgia Power Co.; Notice of Application for Amendment of License and Withdrawal of Exhibit R

August 7, 1979.

Take notice that an application for amendment of license and a request to withdraw a revised Exhibit R were filed on March 28, 1979, under the Federal Power Act (16 U.S.C. §§ 791a-825r), by Georgia Power Company (Applicant) for the Middle Chattahoochee River Project No. 2177. The project is located on the Chattahoochee River in Harris and Muscogee Counties, Georgia and in Chambers, Lee, and Russell Counties, Alabama. Copies of correspondence regarding the applications should be sent to: Mr. I. S. Mitchell, III, Vice President and Secretary, Georgia Power Company, P.O. Box 4545, Atlanta, Georgia 30302.

Applicant seeks an amendment to the license for Project No. 2177 which would allow Georgia Power Company to grant, without prior Commission approval, permits for the construction of bulkheads and retaining walls to prevent erosion of waterfront property, and for the construction of piers, boat docks, boat ramps, and similar structures within the project boundary.

Applicant also seeks permission to withdraw its application for approval of a revised Exhibit R. The revised Exhibit R is Applicant's proposed plan for public utilization of project waters and adjacent lands for recreational purposes. As the basis for its request to withdraw the exhibit, Applicant states that it intends to redevelop the Goat Rock Dam, one of the three developments included in Project No. 2177, and that redevelopment of Goat Rock Dam may affect the revised Exhibit R.

Anyone desiring to be heard or to make any protest about this application should file a protest or a petition to intervene with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure ("Rules"), 18 CFR § 1.10 or § 1.8 (1977). In determining the appropriate action to take, the Commission will consider all protests filed, but a person who merely files a protest does not become a party to the

proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any protest or petition to intervene must be filed on or before September 17, 1979. The Commission's address is: 825 N. Capitol Street, N.E., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-26177 Filed 8-22-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. RP79-10]

Great Lakes Gas Transmission Co.; Notice of Informal Settlement Conference

August 16, 1979.

Take notice that on August 29 and 30, 1979, at 10:00 A.M. an informal conference of all interested persons will be convened for the purpose of continued settlement discussions in this proceeding. The conference will be held at a meeting room of the Federal Energy Regulatory Commission at 825 North Capitol Street, N.E., Washington, D.C. 20426.

Customers and other interested persons will be permitted to attend, but if such persons have not previously been permitted to intervene by order of the Commission, attendance will not be deemed to authorize intervention as a party in this proceeding.

All parties will be expected to come fully prepared to discuss the merits of the issues arising in this proceeding and to make commitments with respect to such issues and any offers of settlement or stipulation discussed at the conference.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-26180 Filed 8-22-79; 8:45 am]

BILLING CODE 6450-01-M

[Project No. 2631]

Hammermill Paper Co.; Notice of Application for Major License

August 14, 1979.

Take notice that on December 7, 1966, Hammermill Paper Company (Applicant) filed an application for major license (pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)-825(r)) for the constructed Woronoco Project, FERC No. 2831, located on the Westfield River in Hampden County, Massachusetts. The application was amended on June 11, 1979.

Correspondence with the Applicant should be sent to: R. J. Kilgore, Vice President and Secretary, Hammermill Paper Company, East Lake Road, Erie, Pennsylvania 16512.

The Woronoco Project consists of: (1) North Dam, a composite structure about 985 feet long, comprised of an earthfill dike 685 feet long and a concrete gravity spillway section about 320 feet long (maximum height about 30 feet) surmounted by 2½-foot-high flashboards; (2) South Dam, a concrete gravity structure about 350 feet long (maximum height 53 feet) with overflow spillway surmounted by 2½-foot-high flashboards; (3) a reservoir having a surface area of approximately 45 acres at normal pool elevation 231.5 (m.s.l.); (4) one steel sluice gate 6 by 6 feet at each dam; (5) a headgate house containing a trash rack with power rake and a timber gate; (6) a steel penstock 11 feet in diameter and 550 feet long; (7) a powerhouse containing three units with total capacity of 2,690 kW; (8) a switching station; and (9) all other facilities appurtenant to operation of the project.

Applicant uses the energy output of the project for its industrial plants.

Anyone desiring to be heard or to make any protests about this application should file a protest or a petition to intervene with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure ("Rules"), 18 CFR § 1.10 or § 1.8 (1977). In determining the appropriate action to take, the Commission will consider all protests filed, but a person who merely files a protest does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any protest or petition to intervene must be filed on or before October 15, 1979. The Commission's address is: 825 N. Capitol Street, N.E., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-26181 Filed 8-22-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER79-586]

Kansas Power and Light Co.; Notice of Proposed Changes in Rates

August 14, 1979

The filing company submits the following:

Take notice that on August 9, 1979, The Kansas Power and Light Company (Kansas) tendered for filing an amendment dated July 6, 1979, to that Certain Contract dated September 21, 1973, with Kaw Valley Electric Cooperative Company, Inc. for wholesale service to that Cooperative. Kansas states that this is a supplement to a contract dated September 21, 1973, and designated KPL Rate Schedule FPC No. 156. This amendment will provide for a change in maximum capacity for six delivery points. The proposed effective date is July 1, 1979 and Kansas requests that the Commission waive the Notice requirements as allowed in Section 35.11 of its regulations. According to Kansas, the net billing for the twelve preceding months the proposed change in agreements was \$1,546,152.47. In addition, Kansas states that copies of the agreement have been mailed to Kaw Valley Electric Cooperative Company, Inc. and the State Corporation Commission of Kansas.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, Washington, D.C. 20426, in accordance with Section 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 5, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-26162 Filed 8-22-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. ER79-587]

The Kansas Power and Light Co.; Notice of Proposed Changes in Rates

August 14, 1979.

The filing company submits the following:

Take notice that on August 9, 1979, The Kansas Power and Light Company (Kansas) tendered for filing an amendment dated May 30, 1979, to that Certain Contract dated September 21, 1973, with Lyon County Electric Cooperative Association, Inc. for wholesale service to that Cooperative. Kansas states that this is a supplement

to a contract dated September 21, 1973, and designated KPL Rate Schedule FPC No. 158. This amendment will provide for an increase in the maximum capacity available to the Cooperative at two delivery points. The proposed effective date is July 1, 1979, and Kansas requests that the Commission waive the notice requirements as allowed in Section 35.11 of its regulations. According to Kansas, the net billing for the twelve preceding months the proposed change in agreements was \$633,337.59. In addition, Kansas states that copies of the agreement have been mailed to Lyon County Electric Cooperative Association, Inc., and the State Corporation Commission of Kansas.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 5, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-26163 Filed 8-22-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. ER79-591]

Massachusetts Electric Co.; Notice of Filing

August 16, 1979

The filing Company submits the following:

Take notice that Massachusetts Electric Company ("MASSELEC") on August 13, 1979 tendered for filing an Agreement with the Narragansett Electric Company ("NARRAGANSETT") revising the monthly facilities charge contained in its Agreement of February 20, 1963 under which MASSELEC makes available to NARRAGANSETT use of capacity in its facilities at Mink Street in Seekonk, Massachusetts. The proposed changes would increase the charges to NARRAGANSETT in the amount of \$25,884 annually based on the 12 month period ending October 31, 1979.

The instant revision is primarily due to material changes in investment and

proportion of use in these facilities since initiation of the February 20, 1963 Agreement.

Copies of the filing were served upon NARRAGANSETT and the Regulatory Commissions of Massachusetts and Rhode Island.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 7, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-26164 Filed 8-22-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. ER79-592]

Minnesota Power & Light Co.; Notice of Filing

August 16, 1979

The filing Company submits the following:

Take notice that on August 14, 1979, the Minnesota Power & Light Company, pursuant to Section 35 of the Federal Power Act, tendered for filing Revised Supplement A dated July 30, 1979 which supersedes the Supplement A dated February 28, 1978 to the Electric Service Agreement between the City of Brainerd, and Minnesota Power & Light Company dated February 28, 1978. The Electric Service Agreement was tendered for filing with the FERC on June 27, 1979.

The Revised Schedule A will change the number of delivery points from 5 as indicated on the present Schedule A to the Electric Service Agreement, to one delivery point as indicated on the Revised Schedule A.

MP&L requests a retroactive effective date of the Electric Service Agreement and the Revised Schedule A to July 19, 1979, and therefore requests the Commission to waive the notice requirements of Section 35.11 of its Rules of Practice and Procedure.

Any person desiring to be heard or to make any protest with reference to said

filing should, on or before September 7, 1979, file with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, petitions to intervene or protests in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-26165 Filed 8-22-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. ER79-593]

Montana-Dakota Utilities Co.; Notice of Application

August 17, 1979

The filing Company submits the following:

Take notice, that on August 15, 1979, Montana-Dakota Utilities Co. (Applicant), a corporation organized under the laws of the State of Delaware and qualified to do business in the States of Minnesota, Montana, North Dakota, South Dakota, and Wyoming, with its principal business office at Bismarck, North Dakota, filed an application with the Federal Energy Regulatory Commission, pursuant to section 204 of the Federal Power Act, seeking an order for authority to issue 850,000 shares of Common Stock, par value \$10. The Company presently has issued and outstanding 5,459,476 shares of Common Stock with the par value of \$10 per share.

If approved by the appropriate regulatory agencies, the Common Stock will be offered at competitive bidding on October 10, 1979. The price per share to be paid to the Company for the Common Stock will be determined by competitive bidding. The net proceeds from the issuance and sale of the Common Stock are to be used for the Applicant's 1979 construction program including the repayment of short-term borrowings incurred for that purpose.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 10, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with

the requirements of the Commission's Rule of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules. The application is on file with the Commission and available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-26178 Filed 8-22-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. ER79-593]

Montaup Electric Co.; Notice of Filing

August 16, 1979.

The filing Company submits the following: Take notice that on August 14, 1979 Montaup Electric Company tendered for filing an executed agreement under which the Town of Braintree, Massachusetts will purchase capacity and energy from Montaup's 50% ownership share of the Canal No. 2 generating unit. The agreement provides that Braintree will purchase 5.9932% of the capacity and associated energy of Canal No. 2 for the period November 1, 1979 through October 31, 1981 and 5.1370% for the period November 1, 1981 through October 31, 1985. The capacity purchases for these periods are equivalent to 35 MW and 30 MW, respectively. Montaup states that the demand charge for the Braintree unit sale is \$2.666 per kilowatt-month.

The agreement provides that Montaup will provide transmission over its system and that Braintree will be responsible for providing its own transmission service beyond Montaup's system border. The agreement provides that Montaup's transmission service to Braintree will be provided under the NEPOOL EHV PTF rate schedule. Montaup requests that the agreement be made effective in accordance with its terms on November 1, 1979.

Any person desiring to be heard or to make any protest with reference to said filing should, on or before September 7, 1979, file with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 C.F.R. 1.8 or 1.10).

All protests filed with the Commission

will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules. The documents filed by Montaup Electric Company are on file with the Commission and available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-26166 Filed 8-22-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. EL79-25]

New England Power Co.; Notice of Petition for Declaratory Order

August 16, 1979.

Please take notice that the New England Power Company (NEPCO) on August 3, 1979, filed a petition for declaratory order, pursuant to 18 C.F.R. § 1.7(c), seeking clarification of its rights under the unexecuted power contract with the Town of Hudson, Massachusetts (Hudson) accepted for filing by this Commission on November 22, 1978 in Docket No. ER78-44. According to NEPCO, the sole issue in controversy concerns the validity of the interest charges authorized in Article VI of the filing.

Any person desiring to be heard or to make any protest with reference to said petition should, on or before September 10, 1979, file with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, petitions or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The petition is on file with the Commission and available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-26167 Filed 8-22-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. RP71-107; PGA79-1]**Northern Natural Gas Co.; Notice of Settlement Conference**

August 16, 1979.

Take notice that an informal settlement conference in the subject proceeding will be convened on August 22, 1979 at 10:00 A.M. in a conference room of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Customers and other interested persons will be permitted to attend, but if such persons have not previously been permitted to intervene by order of the Commission, attendance at the conference will not be deemed to authorize intervention as a party in the proceeding.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-26168 Filed 8-22-79; 8:45 am]

BILLING CODE 6450-01-M

[Project No. 108]**Northern States Power Co.; Notice of Application for Approval of a Change in Land Rights**

August 14, 1979.

Take notice that on May 1, 1979, the Northern States Power Company ("Northern States") filed an application under the Federal Power Act, 16 U.S.C. §§ 791a-825r, for authority to grant an easement over lands of the Chippewa Reservoir Hydroelectric Project No. 108 in Sawyer County, Wisconsin. Correspondence with Northern States concerning this matter should be addressed to: Mr. John L. Carroll, President, Northern States Power Company, 100 North Barstow Street, Eau Claire, Wisconsin 54701.

The easement would be granted to Messrs. Kenneth Neumann and Dean H. Hesselberg ("Grantees") who own property located in U.S. Government survey lot 1, T.29 N., R.6W., Section 12, 4th Principal Meridian, Sawyer County. The Grantees propose to construct an access road through project lands to their property. There is presently no means of access to the property from a public road.

The access road would lead from Sawyer County Highway "C" to the Grantees' property. The right-of-way for the road would be 66 feet wide and approximately 1,250 feet long. The application states that the Grantees intend to use their property for camping and for access to the Chippewa River.

Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR § 1.8 or § 1.10 (1978). In determining the appropriate action to take, the Commission will consider all protests filed, but a person who merely files a protest does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any protest or petition to intervene must be filed on or before September 28, 1979. The Commission's address is: 825 N. Capitol Street, N.E., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-26179 Filed 8-22-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP79-417]**Northwest Pipeline Corp.; Notice of Application**

August 15, 1979.

Take notice that on July 24, 1979, Northwest Pipeline Corporation (Applicant), P.O. Box 1526, Salt Lake City, Utah, 84110, filed in Docket No. CP79-417 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale and delivery of volumes of natural gas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant requests authorization to sell and deliver volumes of gas to certain of its existing customers pursuant to Applicant's presently effective FERC Rate Schedule SGS-1, for the 1979-80 heating season through the 1981-82 heating season. Two alternative proposals for such authorization have been tendered for the sale of daily volumes dependent upon the disposition of authorization for the winter service pending before the Commission in Docket No. CP79-277. The two proposals for daily quantities are as follows:

	Therms	1,000 ft ³
Without Winter Service as Proposed in Docket No. CP79-277		
Daily quantity	3,144,000	300,000
Firm	752,464	71,800
Best efforts total daily	3,896,464	371,800
Seasonal quantity, firm	113,184,000	10,800,000
With Winter Service as Proposed in Docket No. CP79-277		
Daily quantity	2,620,000	250,000
Firm	752,464	71,800
Best efforts total daily	3,372,464	321,800
Seasonal quantity, firm	113,184,000	10,800,000

The difference between daily volumes with or without the Winter Service is 50,000 Mcf (524,000 therms) which, upon Commission approval in Docket No. CP79-277, would be released to Applicant by The Washington Water Power Company (Water Power) from daily volumes otherwise available to Water Power as a one third owner of the Jackson Prairie Storage Project (Jackson Prairie), it is stated.

It is stated that Applicant filed its application on April 18, 1979, in Docket No. CP79-277 requesting to provide Winter Service to three of its existing customers by proposing to convert 75,000 Mcf of daily capacity and 7,500,000 Mcf of seasonal capacity available from base load storage at Clay Basin to Winter Service. In order to protect Applicant's present contract demand, Applicant arranged to acquire 2,000,000 Mcf of Jackson Prairie storage capacity together with 75,000 Mcf of daily deliverability. As a part of such arrangement Applicant and Water Power entered into a Letter Agreement dated May 19, 1979, whereby Water Power assigned to Applicant 50,000 Mcf of daily withdrawal capacity from Jackson Prairie.

It is further stated that in a separate but related matter currently pending before the Commission, Applicant has filed on July 3, 1979 to amend further orders issued in Docket No. CP75-287 to increase the seasonal capability of Jackson Prairie from 10,800,000 Mcf to 11,400,000 Mcf and to reallocate the seasonal, best efforts and peak day quantities as between existing customers. In a companion application at Docket No. CP75-110, Washington Natural Gas Company (Washington Natural) filed on June 5, 1978 to amend orders to increase the seasonal quantity that Washington Natural is authorized to deliver to Applicant in support of

Applicant's sale and delivery of Jackson Prairie storage volumes. In the event the Commission issues a final order in Docket Nos. CP75-287 and CP75-110, increasing the seasonal quantity available for withdrawal, Applicant

would amend the herein requested authorizations to conform to such approvals.

The present and proposed use of storage capacity, as shown in the application are as follows:

	Daily quantity (in therms)		
	Firm	Best efforts	Total
Presently authorized daily allocation:			
CP National Corp.	26,749	7,525	34,274
Cascade Natural Gas Corp.	169,177	40,466	209,643
Intermountain Gas Co.	239,204	42,187	281,391
Northwest Natural Gas Co.	234,852	70,097	304,949
Peoples Natural Gas, division of Northern Natural Gas Co.	4,591	1,254	5,845
Southwest Gas Corp.	121,568	29,095	150,663
Washington Natural Gas Co. and the Washington Water Power Co.—jointly ...	2,347,859	561,840	2,909,699
Total therms	3,144,000	752,464	3,896,464
Total 1,000 ft ³	300,000	71,800	371,800
The proposed daily allocations without winter service for the 1979-80 through 1981-82 heating seasons are identical to those set forth above.			
Daily allocation with winter service:			
CP National Corp.	26,749	7,525	34,274
Cascade Natural Gas Corp.	169,177	40,466	209,643
Intermountain Gas Co.	239,204	42,187	281,391
Northwest Natural Gas Co.	234,852	70,097	304,949
Peoples Natural Gas, division of Northern Natural Gas Co.	4,591	1,254	5,845
Southwest Gas Corp.	121,568	29,095	150,663
Washington Natural Gas Co. and the Washington Water Power Co.—jointly ...	1,823,859	561,840	2,385,699
Total therms	2,620,000	752,464	3,372,464
Total 1,000 ft ³	250,000	71,800	321,800

The seasonal allocation for the 1979-80 through 1981-82 heating season is as follows:

Company	Seasonal quantity (therms)
CP National Corporation	963,000
Cascade Natural Gas Corporation	6,090,000
Intermountain Gas Company	8,611,000
Northwest Natural Gas Company	8,455,000
Peoples Natural Gas Company, Division of Northern Natural Gas Company	165,000
Southwest Gas Corporation	4,377,000
Washington Natural Gas Company and The Washington Water Power Company—Jointly	84,623,000
Total Therms	113,184,000
Total 1,000 ft ³	10,800,000

The application further states that no new facilities are required to effectuate the proposal therein and that volumes of natural gas delivered to Jackson Prairie for storage can be made from Applicant's presently owned and contracted gas supply. No curtailment of Applicant's customers' firm requirements are therefore contemplated.

It is said that Applicant would file pursuant to Section 154 of the Commission's Regulations, upon approval of the proposal in Docket No. CP79-277, a revised service agreement with Water Power reflecting release of 50,000 Mcf of daily storage deliverability to Applicant.

Any person desiring to be heard or to make any protest with reference to said

application should on or before September 8, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is

required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-26169 Filed 8-22-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. RP73-36]**Panhandle Eastern Pipe Line Co.; Notice of Change in Tariff**

August 16, 1979.

Take notice that Panhandle Eastern Pipe Line Company (Panhandle) on August 10, 1979 tendered for filing Substitute Thirtieth Revised Sheet No. 3-A and Substitute Seventh Revised Sheet No. 3-B to its FERC Gas Tariff, Original Volume No. 1. An effective date of September 1, 1979 is proposed.

On July 18, 1979 Panhandle Eastern Pipe Line Company (Panhandle) tendered for filing with the Commission revised tariff sheets reflecting its semi-annual PGA adjustment effective September 1, 1979. Such revised tariff sheets were filed in accordance with the Stipulation and Agreement dated March 5, 1979 in Docket No. RP78-62 approved by Commission Order dated July 3, 1979 and pursuant to the General Terms and Conditions of Panhandle's FERC Gas Tariff, Original Volume No. 1.

Concurrent with this submittal, Panhandle states it has filed with the Commission revised tariff sheets effective August 1, 1979 reflecting settlement rates in compliance with the conditions contained in the July 3, 1979 order and pursuant to the Stipulation and Agreement in Docket No. RP78-62. Therefore, Panhandle states it submits this filing in order to reflect such settlement in its September PGA submittal.

Panhandle states that copies of its filing have been served on all jurisdictional customers and applicable state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Section 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 31, 1979. Protests will be considered by the Commission in determining the

appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-26170 Filed 8-22-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. RP78-62]

**Panhandle Eastern Pipe Line Co.;
Notice of Change in Tariff**

August 16, 1979.

Take notice that Panhandle Eastern Pipe Line Company (Panhandle) on August 10, 1979 tendered for filing the following revised tariff sheets:

FERC Gas Tariff, Original Volume No. 1

Thirty-First Revised Sheet No. 3-A
Eighth Revised Sheet No. 3-B
Fourth Revised Sheet No. 43-1
Sixth Revised Sheet No. 43-2
Seventh Revised Sheet No. 43-3
Eighth Revised Sheet No. 43-4
First Revised Sheet No. 43-4.1

FERC Gas Tariff, Original Volume No. 2

Third Revised Sheet No. 93
Third Revised Sheet No. 135
Third Revised Sheet No. 211
Second Revised Sheet No. 439
Second Revised Sheet No. 462
Second Revised Sheet No. 463
Second Revised Sheet No. 484
Second Revised Sheet No. 556
Second Revised Sheet No. 611
Second Revised Sheet No. 640
Second Revised Sheet No. 641
Third Revised Sheet No. 694
Third Revised Sheet No. 695
Second Revised Sheet No. 724
Second Revised Sheet No. 725
Third Revised Sheet No. 784
Third Revised Sheet No. 801
Second Revised Sheet No. 811
Second Revised Sheet No. 812
Third Revised Sheet No. 848
Third Revised Sheet No. 849
Third Revised Sheet No. 875
Third Revised Sheet No. 876
Second Revised Sheet No. 963
Second Revised Sheet No. 964
First Revised Sheet No. 1262
First Revised Sheet No. 1263

The proposed effective date of these revised tariff sheets is August 1, 1979.

On July 3, 1979 the Commission issued a letter order accepting and approving a Stipulation and Agreement proposing settlement of most of the issues in subject docket. In compliance with the conditions contained in the July 3, 1979

order, Panhandle states that such revised tariff sheets reflect rates based upon the Cost of Services contained in the Stipulation and Agreement as set forth in its Appendix A. These tariff sheets also reflect revised PGA provisions that were approved under this Stipulation and Agreement. Panhandle also states that supporting details of the cost classification, cost allocation and rate design are enclosed.

Panhandle states that copies of its filing have been served on all jurisdictional customers, applicable State regulatory agencies and all parties to this proceeding.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Section 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 31, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-26171 Filed 8-22-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. CP79-420]

**Peoples Natural Gas, Division of
Northern Natural Gas Co.; Notice of
Application**

August 15, 1979.

Take notice that on July 26, 1979, Peoples Natural Gas, Division of Northern Natural Gas Company (Peoples), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP79-420 an application pursuant to Section 7(a) of the Natural Gas Act for an order directing Cities Service Gas Company (Cities) to construct an additional delivery point and necessary related measuring facilities for the benefit of Peoples, all as more fully set forth in the application which is on file with the Commission and open for public inspection.

The application asserts that during the past two heating seasons, Peoples has experienced low pressure problems in its Dodge City, Kansas distribution system especially in the northeast segment where indications are that the

growth trend of Dodge City will be towards that area. Further, it is stated that deliverability studies based on the 1978-79 winter period distribution system operation indicate that pressure in the northeast part of the distribution system could drop to the extent that, as early as the 1979-80 winter period, some high priority customers could be without natural gas service during extremely cold periods. To alleviate the problem, Peoples submits that Cities has a 12-inch branch line terminating near the southeast corner of Ford County, Kansas where Cities sells gas directly to an anhydrous ammonia plant of Farmland Industries, Inc. and the proposed delivery point would be located on the branch line at or near the ammonia plant. Peoples would install approximately five miles of 6-inch distribution line from the new delivery point in a westerly direction and tie-in to the northeast segment of the present distribution system, thereby alleviating the pressure problems currently being experienced in the Dodge City distribution system and assuring continued reliable service for Peoples' high priority market.

The total cost of this proposed project to Peoples and its rate payers, including the cost of the measuring facilities, is estimated to be approximately \$100,000 less than the cost of installing loop lines from Cities' existing delivery point to Peoples, which would have to be done if the proposed facilities were not constructed.

The total cost of the facilities would be paid by Peoples and is estimated at \$50,000.

Peoples asserts that construction of the proposed delivery point would eliminate the pressure drop problem experienced over the past two winters and is the most economic solution to such a problem for both Peoples and its Dodge City rate payers.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 6, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a

petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-26180 Filed 8-22-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. RP77-62]

**Tennessee Gas Pipeline Co., a Division
of Tenneco, Inc.; Notice of Tariff Filing
in Compliance With Stipulation and
Agreement**

August 17, 1979.

Take notice that on August 15, 1979, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), tendered for filing proposed tariff sheets to its FERC Gas Tariff, Ninth Revised Volume No. 1, consisting of the following:

Second Revised Sheet No. 213B.
Fourth Revised Sheet No. 213C.
Third Revised Sheet No. 213D.

Tennessee states that these tariff sheets revise its PGA provision in accord with Article II of the Stipulation and Agreement (February 23, 1979) in Docket No. RP77-62, which was approved by letter order dated July 3, 1979.

Tennessee also states that copies of the filing were served on all jurisdictional customers, affected state agencies and parties to Docket No. RP77-62.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with the Section 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protest should be filed on or before September 4, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene, provided, however, that persons who have previously intervened need not file an additional petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-26181 Filed 8-22-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. RP74-41 (PGA79-3) (DCA79-2)]

**Texas Eastern Transmission Corp.;
Notice of Proposed Changes in FERC
Gas Tariff**

August 17, 1979.

Take notice that Texas Eastern Transmission Corporation on August 15, 1979 tendered for filing proposed changes in its FERC Gas Tariff, Fourth Revised Volume No. 1, the following tariff sheets:

Substitute Forty-ninth Revised Sheet No. 14.
Substitute Forty-ninth Revised Sheet No. 14A.
Substitute Forty-ninth Revised Sheet No. 14B.
Substitute Forty-ninth Revised Sheet No. 14C.
Substitute Forty-ninth Revised Sheet No. 14D.

These sheets are issued pursuant to Ordering Paragraph (C) of the Commission's ORDER ACCEPTING FOR FILING AND SUSPENDING PROPOSED TARIFF SHEETS, SUBJECT TO CONDITIONS AND ESTABLISHING PROCEDURES, issued July 31, 1979 in Docket No. RP74-41 (PGA No. 79-3 and DCA No. 79-2). These sheets are filed in substitution for sheets filed by Texas Eastern on June 18, 1979 and Texas Eastern states that the filing is in full compliance with the Commission's Order issued July 31, 1979.

The proposed effective date of the above tariff sheets is August 1, 1979.

Copies of the filing were served upon the company's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, DC 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before Sept. 4, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-26182 Filed 8-22-79; 8:45 am]
BILLING CODE 6450-01-M

[Project No. 2920]

**Truckee-Donner Public Utility District;
Notice of Application for Preliminary
Permit**

August 7, 1979.

Take notice that the Truckee-Donner Public Utility District filed on March 27, 1979, and supplemented June 16, 1979, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C., Section 791(a) 825(r)] for a proposed water power project to be known as the Boca and Prosser Creek Project, FERC No. 2920, located on Prosser Creek and the Little Truckee River, which are tributaries to the Truckee River in Nevada County, California. The proposed project would affect lands of the United States under the jurisdiction of the U.S. Bureau of Reclamation (BOR) and would utilize water released from BOR's Boca and Prosser Creek Reservoirs.

Correspondence with the Applicant should be directed to: Mr. Milton Seymour, General Manager, Truckee-Donner Public Utility District, P.O. Box 309, Truckee, California 95734, and Mr. Steven Grumer, District Counsel, Truckee-Donner Public Utility District, P.O. Box 309, Truckee, California, 95734.

Projection Description—The Boca and Prosser Creek Project would utilize water releases from two existing BOR reservoirs through existing outlet works to the proposed project works consisting of: (1) two penstocks; and (2) two powerhouses.

Water is currently released from Boca Reservoir through existing outlet works under the right abutment into a 12-foot-diameter, concrete-lined tunnel, and is subsequently conveyed through a pair of 50-inch steel pipes which connect to two 42-inch needle valves. A bifurcation would be installed on one of the 50-inch pipes and would divert the flow through a 40-foot-long steel penstock to a powerhouse, to be constructed at the base of BOR's existing Boca Dam, housing a 2000-kW Francis turbine and generator. The estimated average annual energy generation of the Boca powerplant would be 7 million kWh.

Water is currently released from Prosser Creek Reservoir through existing outlet works into an 8-foot-diameter, steel conduit and is subsequently conveyed through an unpressurized, concrete conduit to a stilling basin. A steel conduit would be installed within the existing concrete conduit and would be connected to the existing gate structure. Water would be conveyed through the new conduit, a bifurcation, and a steel penstock to a powerhouse, to be constructed at the base of BOR's

existing Prosser Creek Dam, housing a 1000-kW Francis turbine and generator. Water not diverted would be passed through a proposed energy dissipation device. The estimated average annual energy generation of the Prosser Creek powerplant would be 3.5 million kWh.

Proposed Scope and Cost of Studies Under Permit—The Applicant seeks issuance of a preliminary permit for a period of 3 years (36 months), during which it would prepare a definitive project report, including preliminary designs, geological explorations, and collect environmental data. The cost of these activities, together with the preparation of an environmental report, obtaining agreements with various Federal, State, and local agencies, preparing a FERC license application and final designs, and conducting final geologic explorations and field surveys, is estimated by the Applicant to be about \$250,000.

Purpose of the Project—The Truckee-Conner Public Utility District would distribute the power generated at the project to local residents, businesses, industries, and other government agencies in the vicinity. Applicant uses 2.5 million kilowatt-hours per year for District uses, such as lighting and pumping. The energy from the Boca and Prosser Creek Project would reduce the Applicant's need to purchase energy.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the permittee, during the term of the permit, the right of priority of application for license while the permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for the power, and all other necessary information for inclusion in an application for a license. In this instance, Applicant seeks a 36-month permit.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file

comments within the time set below, it will be presumed to have no comments.

Protests and Petitions to Intervene—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR, Section 1.8 or Section 1.10 (1978).

In determining the appropriate action to take, the Commission will consider all protests filed, but a person who merely files a protest does not become a party to the proceeding. To become a party or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules.

Any protest, petition to intervene, or agency comments must be filed on or before October 9, 1979. The Commission's address is: 825 North Capitol Street NE., Washington, D.C. 20426.

The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-26173 Filed 8-22-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. ER79-590]

Virginia Electric & Power Co.; Notice of Filing

August 16, 1979.

Take notice that the Virginia Electric and Power Company (VEPCO) on August 13, 1979, submitted for filing an attachment to its contract with Prince George Electric Cooperative. The attachment specifies a new delivery point in Sussex County, Virginia, Booker Delivery Point.

The transmittal letter indicates that copies of the filing were sent to the Cooperative, to the State Corporation Commission, and to the Southeastern Power Administration.

VEPCO requests a retroactive effective date for the filing of July 31, 1979 and a waiver of the filing of billing data under Section 35 of the Commission's regulations.

Any person desiring to be heard or to make any protest with reference to said filing should, on or before September 10, 1979, file with the Federal Energy Regulatory Commission, 825 North

Capitol Street, N.E., Washington, D.C. 20426, petitions or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding must file a petition to intervene in accordance with the Commission's rules. The filing is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-26172 Filed 8-22-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. ER79-589]

West Texas Utilities Co.; Notice of Filing

August 16, 1979.

The filing Company submits the following:

Take notice that West Texas Utilities Company ("WTU") on August 13, 1979, tendered for filing an Initial Electric Rate to the City of Baird, a municipal corporation of the State of Texas. Under the wholesale contract submitted for filing, WTU provides all the power and energy required by the City for the operation of that portion of its electric distribution system connected to the point of delivery provided for in the contract, with a maximum contract load of 900 kilowatts per month and a minimum contract load of 450 kilowatts per month. The estimated revenue for the duration of the contract, from July 25, 1979, through December 31, 1979, is \$48,074.02.

WTU states that it began service to the City of Baird on July 25, 1979, on an emergency basis because the City estimated it would be unable to meet its 1979 summer peak demand from the City's own generation facilities.

WTU also states that a copy of the complete filing was served upon the City of Baird, Baird, Texas, and the Public Utility Commission of Texas, Austin, Texas.

Any person desiring to be heard or to protest that application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance

with paragraphs 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 7, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants party to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-26173 Filed 8-22-79; 8:45 am]
BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPP-50439; FRL 1303-7]

Issuance of Experimental Use Permits

The Environmental Protection Agency (EPA) has issued experimental use permits to the following applicants. Such permits are in accordance with, and subject to, the provisions of 40 CFR Part 172, which defines EPA procedures with respect to the use of pesticides for experimental purposes.

No. 279-EUP-69. FMC Corp., Philadelphia, PA 19103. This experimental use permit allows the use of the remaining supply of 1,040 pounds of the insecticide permethrin on lettuce, tomatoes, and soybeans to evaluate control of insects. A total of 2,320 acres are involved; the program is authorized only in the States of Alabama, Arizona, Arkansas, California, Colorado, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Jersey, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, Texas, Washington, and Wisconsin. This program was authorized in a previous experimental use permit which was effective from July 17, 1978 to July 17, 1979. It is now authorized until July 12, 1980. This permit is being issued with the limitation that all treated crops will be destroyed or used for research purposes only. (PM-17, Franklin Gee, Room: E-343, Telephone: 202/426-9417)

No. 20954-EUP-12. Zoecon Corp., Palo Alto, CA 94304. This experimental use permit allows the use of 0.132 pound of permethrin for household use to evaluate control of cockroaches. A total of 6 homes are involved; the program is

authorized only in the States of Arizona, California, Mississippi, and Texas. The experimental use permit is effective from July 18, 1979 to July 18, 1980. This experimental use permit is being issued with the limitation that no part(s) or chemical of treated area(s) will enter into the food-chain. (PM-17, Franklin Gee, Room: E-343, Telephone: 202/426-9417)

No. 10772-EUP-1. Church and Dwight Co., Inc., Piscataway, NJ 08854. This experimental use permit allows the use of 198 pounds of sodium bicarbonate in apartments to evaluate control of German cockroaches. A total of 25 buildings are involved; the program is authorized only in the State of Indiana. The experimental use permit is effective from July 18, 1979 to July 18, 1980. (PM-15, Jay Ellenberger, Room: E-329, Telephone: 202/426-9490)

Interested parties wishing to review the experimental use permits are referred to the designated Product Manager (PM), Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street, S.W., Washington, D.C. 20460. The descriptive paragraph for each permit contains a telephone number and room number for information purposes. It is suggested that interested persons call before visiting the EPA Headquarters Office, so that the appropriate permit may be made conveniently available for review purposes. The files will be available for inspection from 8:30 a.m. to 4:00 p.m. Monday through Friday.

Statutory Authority: Section 5 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136).

Dated: August 20, 1979.

Herbert S. Harrison,
Acting Director, Registration Division.

[FR Doc. 79-26213 Filed 8-22-79; 8:45 am]
BILLING CODE 6550-01-M

Minnesota Pretreatment Program Approval

AGENCY: Environmental Protection Agency.

ACTION: Notice of approval of the National Pollutant Discharge Elimination System Pretreatment Program for the State of Minnesota.

SUMMARY: On July 16, 1979, the Environmental Protection Agency

approved the State of Minnesota's National Pollutant Discharge Elimination System State Pretreatment Program. Minnesota is the first State in the nation to receive this approval.

FOR FURTHER INFORMATION CONTACT: William R. Diamond, Permits Division (EN-336), U.S. Environmental Protection Agency, 401 M Street S.W., Washington, D.C. 20460, 202-755-0750.

SUPPLEMENTARY INFORMATION:
Background

The pretreatment program, required by the Clean Water Act of 1977, governs the control of industrial wastes introduced into Publicly Owned Treatment Works (POTWs). The objectives of the pretreatment program are to: (1) prevent introduction of pollutants into POTWs which will interfere with the operation of the POTW or contaminate the sewage sludge; (2) prevent introduction of pollutants into POTWs which will pass through treatment works into receiving waters or the atmosphere or otherwise be incompatible with the works; (3) improve opportunities to recycle and reclaim wastewaters and the sludges resulting from wastewater treatment. Local pretreatment programs will be the primary vehicle for administering, applying and enforcing pretreatment standards for industrial users of POTWs. The EPA and States approved to administer the National Pollutant Discharge Elimination System (NPDES) Pretreatment Program will enforce the national standards where local governments do not develop a pretreatment program. To receive pretreatment program approval a State must submit to the EPA a modification to its NPDES program pursuant to the requirements and procedures of the General Pretreatment Regulation (40 CFR Part 403).

Federal Register Notice of Approval of State NPDES Programs or Modifications

Under the recently revised NPDES regulations (44 FR 32854, June 7, 1979), EPA will provide Federal Register notice of any action by the Agency approving or modifying a State NPDES program. Each notice will include a table similar to the following one, setting forth the current status of program approval. This table will provide the public with an up to date list of the status of NPDES permitting authority throughout the country.

	Approved State NPDES permit program	Approved to regulate Federal facilities	Approved State pretreatment program
California	5/14/73	5/5/78	
Colorado	3/27/75		
Connecticut	9/26/73		
Delaware	4/1/74		
Georgia	6/28/74		
Hawaii	11/28/74	6/1/79	
Illinois*	10/23/77		
Indiana	1/1/75	12/9/78	
Iowa	8/10/78	8/10/78	
Kansas	6/28/74		
Maryland	9/5/74		
Michigan	10/17/73	12/9/78	
Minnesota	6/30/74	12/9/78	7/16/79
Mississippi	5/1/74		
Missouri	10/30/74	6/26/79	
Montana	6/10/74		
Nebraska	6/12/74		
Nevada	9/19/75	6/31/78	
New York	10/28/75		
North Carolina	10/18/75		
North Dakota	6/13/75		
Ohio	3/11/74		
Oregon	9/26/73	3/2/79	
Pennsylvania	6/30/78	6/30/78	
South Carolina	6/10/75		
Tennessee	12/28/77		
Vermont	3/11/74		
Virgin Islands	6/30/76		
Virginia	3/31/75		
Washington	11/14/73		
Wisconsin	2/4/74		
Wyoming	1/30/75		

*On January 26, 1979, the United States Court of Appeals for the Seventh Circuit invalidated the Agency's approval of the Illinois NPDES program in *Citizens for a Better Environment v. Environmental Protection Agency* (No. 78-1042). Petition for rehearing denied May 16, 1979. However, on May 30, 1979, the Court stayed the enforcement of its order until February 23, 1980, in order to provide EPA an opportunity to revise its regulations governing public participation in enforcement. In the interim, the State of Illinois is operating an approved program.

For further information on the *Citizens for a Better Environment* case and the Agency's response thereto, see the public participation in enforcement regulations that were recently promulgated in the **Federal Register**.

Dated: August 16, 1979.
Marvin B. Durning,
Assistant Administrator for Enforcement.

[FR Doc. 79-26292 Filed 8-22-79; 8:45 am]
 BILLING CODE 6560-01-M

[FRL 1303-4]

Approval of State Application for Missouri Drinking Water; Primary Enforcement Responsibility

In accordance with the provisions of Section 1413 of the Safe Drinking Water Act (SDWA), (88 Stat. 1661; 42 U.S.C. 300f et seq.) and 40 CFR 142 (41 FR 2918; January 20, 1976), Mr. Fred A. Lafser, Director, Missouri Department of Natural Resources, has submitted to the Environmental Protection Agency (EPA)

an application to assume primary enforcement responsibility over public water supply systems in the State of Missouri.

Notice is hereby given that the Regional Administrator, EPA, Region VII, has approved this application for primary enforcement authority, to become effective September 24, 1979. This action is based on a thorough evaluation of the state's public water supply supervision program in relation to the requirements of 40 CFR 142.10, including the adoption and implementation of:

1. State primary drinking water regulations;
2. An inventory of public water supply systems;
3. A systematic program of sanitary surveys;
4. A state program for certification of laboratories;
5. State laboratory facilities certified by EPA;
6. A public water supply system plan review program;
7. Adequate statutory or regulatory enforcement authority;
8. Record-keeping and reporting procedures;
9. A program for issuing variances and exemptions; and
10. A plan for providing safe drinking water under emergency circumstances.

This evaluation has shown that the Missouri program fulfills all requirements for obtaining primary enforcement authority.

Any interested person may request a public hearing to consider the Regional Administrator's determination within 30 days of the publication of this notice. If a public hearing is requested and granted, this determination shall not become effective until such time, following the hearing, as the Regional Administrator issues an order affirming or rescinding the determination. Requests for hearing shall be addressed to: Kathleen Q. Camin, Ph.D., Regional Administrator, U.S. Environmental Protection Agency, 324 East 11th Street, Kansas City, Missouri 64106.

and shall include the following information:

1. The name, address, and telephone number of the individual, organization, or other entity requesting a hearing.
2. A brief statement of the requesting person's interest in the Regional Administrator's determination and of information that the requesting person intends to submit at such hearing.
3. The signature of the individual making the request; or, if the request is made on behalf of an organization or other entity, the signature of a

responsible official of the organization or other entity.

A complete copy of the Missouri application for primary enforcement responsibility is available for public inspection during normal business hours at the Office of the Regional Administrator and at the following location in Missouri: The Missouri Department of Natural Resources, 2019 Missouri Boulevard, Jefferson City, Missouri 65101.

Dated: August 17, 1979.

Kathleen Q. Camin,
Regional Administrator, Region VII.

[FR Doc. 79-26238 Filed 8-22-79; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1230-6]

Science Advisory Board; Technology Assessment and Pollution Control Committee; Open Meeting

Under Public Law 92-463, notice is hereby given that a meeting of the Technology Assessment and Pollution Control Committee of the Science Advisory Board will be held at the U.S. Environmental Protection Agency's Research Triangle Park Laboratory Facilities, Research Triangle Park, North Carolina on September 10, 11, 12, 1979, beginning each day at 9:30 a.m. The address is the Environmental Research Center, Class Room No. 3, Research Triangle Park, North Carolina.

The purpose of the meeting will be to obtain information from EPA research personnel on the programs and research activities designed to assess and assure adequate technology for the treatment of toxic and hazardous material in various kinds of emissions. This information is part of a review and analysis activity of the Committee to assure that appropriate (engineering efficient and cost-effective) technological systems exist and are implementable to respond to regulatory needs for the control of various kinds of toxic and hazardous materials.

Persons desiring to attend the meeting should contact the Acting Executive Secretary for this group, Dr. Joel L. Fisher at (202) 472-9444 by close of business on September 6, 1979.

Dated: August 20, 1979.

J. Frances Allen,
Acting Staff Director, Science Advisory Board.

[FR Doc. 79-26234 Filed 8-22-79; 8:45 am]

BILLING CODE 6560-01-M

[OTS-53004; FRL 1303-2]

Office of Toxic Substances, Premanufacture Notices; Status Report for July 1979

AGENCY: Environmental Protection Agency (EPA or the Agency).
ACTION: Monthly Summary of Premanufacture Notices.

SUMMARY: Section 5(d)(3) of the Toxic Substances Control Act (TSCA) requires EPA to publish a list in the **Federal Register** at the beginning of each month reporting the premanufacture notices (PMN's) pending before the Agency and the PMN's for which the review period has expired since publication of the last monthly summary. This is the report for July 1979.

DATE: Interested parties wishing to file written comments on a specific chemical substance should submit those comments no later than 30 days before the expiration of the applicable review period.

ADDRESS: Written comments should bear the PMN number of the particular substance and should be addressed to the Document Control Officer (TS-793), Office of Toxic Substances, EPA, 401 M St., SW, Washington, DC 20460.

Nonconfidential portions of the PMN's and other documents in the public record are available for public inspection from 9:00 a.m. to 4:00 p.m., Monday through Friday (excluding holidays), in Room E-447 at the address above.

FOR FURTHER INFORMATION CONTACT: Yvonne Adams, Premanufacturing Review Division (TS-794), Office of Toxic Substances, EPA, Washington, DC 20460, 202/426-8816.

SUPPLEMENTARY INFORMATION: Under section 5 of TSCA, any person who intends to manufacture or import a new

chemical substance for commercial purposes in the United States must submit a notice to EPA at least 90 days before he begins manufacture or import. A new chemical substance is any chemical substance that is not on the inventory of existing chemical substances compiled by EPA under section 8(b) of TSCA. On May 15, 1979, the Agency announced the availability of this inventory in the **Federal Register** (44 FR 28558), and set June 1, 1979 as the publication date of this inventory. Therefore, the section 5 requirements are effective for all new chemical substances manufactured or imported for a commercial purpose after July 1, 1979. Once EPA receives a PMN, the Agency normally has 90 days to review it. However, under section 5(c) of TSCA, EPA may, for good cause, extend the review period for up to an additional 90 days. If EPA determines that such an extension is necessary, the Agency will publish the reasons for the extension in the **Federal Register**.

The monthly status report required under section 5(d)(3) will identify: (a) each chemical substance for which a PMN has been received and for which the review period has not expired; (b) each chemical substance for which the premanufacture review has expired since publication of the last monthly summary; and (c) each "new" chemical substance which has been in the review process for less than 30 days. Eventually the report will also identify each chemical substance which has been added to the inventory since the last monthly report.

statutory authority: Section 5 of the Toxic Substances Control Act (90 Stat. 2012; 15 U.S.C. 2604).

Dated: August 17, 1979.

Steven D. Jellinek,
Assistant Administrator for Toxic Substances.

Premanufacture Notices; Status Report for July 1979

1. Premanufacture notices received during month:

PMN No.	Identity/generic name	FR citation	Expiration date
5AHQ-0779-0004	Amine salts of dicarboxylic acids	44 FR 44831 (July 31, 1979)	Oct. 17, 1979

II. Premanufacture notices for which the review period has expired since publication of the last monthly summary: None.

III. Premanufacture notices still under review at the beginning of the month for which period has not expired:

PMN No.	Identity/generic name	FR citation	Expiration date
5AHQ0479-0002-1	Isobutyric acid carbomono-cyclic ester	44 FR 26310 (Apr. 18, 1979)	Sept. 2, 1979.
5AHQ0479-0002-2	Propiophenone, ring substituted-2-methyl	do	Do.
5AHQ0479-0002-3	Butyronitrile, 2-(substituted phenyl)-3-methyl	do	Do.
5AHQ0479-0002-4	Benzyl alcohol, ring substituted-alpha-iso-propyl	do	Do.

* Per section 5(c), TSCA extension of 60 days.

IV. Premanufacture notices completing review during the month: None.

(FR Doc. 79-28235 Filed 8-22-79; 8:45 am)

BILLING CODE 6560-01-M

[FRL 1303-5]

Water Programs; Determination of Primary Enforcement Responsibility; Virgin Islands

This public notice is issued under section 1413 of the Safe Drinking Water Act of 1977, Pub. L. 95-190, (Amending 42 U.S.C. 300f et seq.), and 40 CFR 142.10, National Interim Primary Drinking Water Regulations, published at 41 FR 2918 (January 20, 1976).

An application, dated August 2, 1979, has been received from Mr. Darlan Brinn, Commissioner of the Virgin Islands Department of Conservation and Cultural Affairs requesting that the Department of Conservation and Cultural Affairs be granted primary enforcement responsibility for public water systems in the Virgin Islands, in accordance with the provisions of the Safe Drinking Water Act.

In response, I have determined, as Regional Administrator of the U.S. Environmental Protection Agency, Region II, that the Virgin Islands Department of Conservation and Cultural Affairs has met all conditions of the Safe Drinking Water Act and subsequent regulations for the assumption of primary enforcement responsibility for public water systems in the Virgin Islands.

The Virgin Islands—

(1) Has adopted drinking water regulations which are no less stringent than the National Interim Primary Drinking Water Regulations;

(2) Has adopted and will implement adequate procedures for the enforcement of such regulations, including:

a. Maintenance of an inventory of public water systems.

b. A systematic program for conducting sanitary surveys of public water systems.

c. Availability to the Virgin Islands of laboratory facilities certified by EPA and capable of performing analytical measurements of all contaminants specified in the regulations.

d. Establishment and maintenance of an activity to assure that the design and

construction of new or substantially modified facilities will be capable of compliance with the regulations;

(3) Has adopted statutory or regulatory enforcement authority to compel compliance with the regulations;

(4) Will keep such records and make such reports as required;

(5) Will issue variances and exemptions in accordance with the provisions of the National Interim Primary Drinking Water Regulations; and

(6) Has adopted and can implement an adequate plan for the provision of safe drinking water under emergency circumstances.

All documents relating to this determination are available for public inspection during normal business hours, Monday through Friday, at the following offices:

Division of Natural Resource Management, Department of Conservation & Cultural Affairs, Government of Virgin Islands, St. Thomas, V.I. 00801.

Water Supply Branch, U.S. Environmental Protection Agency, Region II, 26 Federal Plaza, New York, N.Y. 10007.

All interested parties are invited to submit written comments on this determination. Written comments must be received on or before September 24, 1979.

Further information may be obtained by writing the Water Supply Branch of the U.S. Environmental Protection Agency, Region II, or the Division of Natural Resources Management, Department of Conservation and Cultural Affairs or by calling Harry F. Smith Jr. at (212) 264-1800 or Pedrito Francois at (809) 774-6420.

A public hearing may be requested by any interested person. Frivolous or insubstantial requests for a public hearing may be denied; however, if a substantial request is received on or before September 24, 1979, a public hearing will be held and notice given in the Federal Register and newspapers of general circulation. Such requests shall be addressed to: Eckardt C. Beck, Regional Administrator, U.S. Environmental Protection Agency, Region II, 26 Federal Plaza, New York,

N.Y. 10007 and shall include the following information:

(1) The name, address, and telephone number of the individual, organization, or other entity requesting a hearing.

(2) A brief statement of the requesting person's interest in the Regional Administrator's determination and of information that the requesting person intends to submit at such hearing.

(3) The signature of the individual making the request; or, if the request is made on behalf of an organization or other entity, the signature of a responsible official of the organization or other entity.

If no timely request for a hearing is received, my determination shall become effective 30 days after the date of this publication.

Please bring this notice to the attention of any persons known by you to have an interest in this determination.

Dated: August 17, 1979.

Eckardt C. Beck,

Regional Administrator, U.S. Environmental Protection Agency, Region II.

(FR Doc. 79-28237 Filed 8-22-79; 8:45 am)

BILLING CODE 6560-01-M

FEDERAL COMMUNICATIONS COMMISSION

[Report No. A-4a]

FM Broadcast Applications Accepted for Filing and Notification of Cut-Off Date; Correction

Released: August 16, 1979.

The FM Applications listed below were inadvertently included on the acceptance/cut-off notice, Report No. A-4, BC Memo No. 20206, released on August 13, 1979.

BPED-790214AE NEW Owensboro, Kentucky, Western Kentucky University, Req: 89.5 MHz; Channel No. 208C, ERP: 100 kW; HAAT: 300 ft.

BPED-790305AL NEW Cumming, Georgia Curriculum Development Foundation, Inc. Req: 89.5 MHz; Channel No. 208C, ERP: 400 kW; HAAT: 912 ft.

Accordingly, the applications are removed from the acceptance/cutoff-list and the September 24, 1979 cutoff date is deleted.

Federal Communications Commission.

William J. Tricarico,

Secretary.

(FR Doc. 79-28141 Filed 8-22-79; 8:45 am)

BILLING CODE 6712-01-M

National Industry Advisory Committee, Broadcast Services Subcommittee; Meeting and Change in Meeting Date

Pursuant to the provisions of Public Law 92-483, announcement is made of a public meeting of the Broadcast Services Subcommittee of the National Industry Advisory Committee to be held Friday, September 7, 1979. The Subcommittee will meet at the National Association of Broadcasters in the Board Room, located at 1771 N Street N.W., Washington, D.C. at 10:00 A.M. (This meeting was previously scheduled to take place Thursday, September 8, 1979 as announced in Federal Register/Vol. 44, No. 156/Friday, August 10, 1979/Notices/Page 47160.)

Federal Communications Commission.

William J. Tricarico,

Secretary.

(FR Doc. 79-28376 Filed 8-22-79; 8:45 am)

BILLING CODE 6712-01-M

FEDERAL HOME LOAN BANK BOARD

[No. AC-63]

East-West Federal Savings and Loan Association, Los Angeles, Calif., Approval of Conversion Application; Final Action

Notice is hereby given that on August 16, 1979, the Federal Home Loan Bank Board, as operating head of the Federal Savings and Loan Insurance Corporation ("Corporation"), by Resolution No. 79-441 approved the application of East-West Federal Savings and Loan Association, Los Angeles, California for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street NW., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Loan Bank of San Francisco, 600 California Street, San Francisco, California 94120.

Dated: August 20, 1979.

By the Federal Home Loan Bank Board.

James J. McCarthy,

Assistant Secretary.

(FR Doc. 79-28212 Filed 8-22-79; 8:45 am)

BILLING CODE 6720-01-M

[No. AC-62]

Haven Federal Savings and Loan Association, Winter Haven, Fla., Approval of Conversion Application; Final Action

Notice is hereby given that on August 16, 1979, the Federal Home Loan Bank

Board, as operating head of the Federal Savings and Loan Insurance Corporation ("Corporation"), by Resolution No. 79-440 approved the application of Haven Federal Savings and Loan Association, Winter Haven, Florida for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street NW., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Atlanta, Coastal States Building, 250 Peachtree Center NW., Atlanta, Georgia 30343.

Dated: August 20, 1979.

By the Federal Home Loan Bank Board.

James J. McCarthy,

Assistant Secretary.

(FR Doc. 79-28213 Filed 8-22-79; 8:45 am)

BILLING CODE 6720-01-M

[No. AC-64]

Valley First Federal Savings and Loan Association, El Centro, Calif., Approval of Conversion Application; Final Action

Notice is hereby given that on August 16, 1979, the Federal Home Loan Bank Board, as operating head of the Federal Savings and Loan Insurance Corporation ("Corporation"), by Resolution No. 79-442 approved the application of Valley First Federal Savings and Loan Association, El Centro, California for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street NW., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Loan Bank of San Francisco, 600 California Street, San Francisco, California 94120.

Dated: August 20, 1979.

By the Federal Home Loan Bank Board.

James J. McCarthy,

Assistant Secretary.

(FR Doc. 79-28214 Filed 8-22-79; 8:45 am)

BILLING CODE 6720-01-M

FEDERAL MARITIME COMMISSION

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for review and approval, if required, pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10423; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California, and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before September 4, 1979. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Agreements Nos. T-3567-A-1 & T-3565-A-2.

Filing party: Morris R. Garfinkle, Esq., Galland, Kharasch, Calkins & Short, 1054 Thirty-first Street, N.W., Washington, D.C. 20007.

Summary: Agreements Nos. T-3567-A-1 and T-3565-A-2, among the Puerto Rico Ports Authority (Port), the Puerto Rico Maritime Shipping Authority (PRMSA), and Sea-Land Service, Inc. (Sea-Land), comprise the same agreement, modifying the parties' basic agreements providing for Sea-Land's and PRMSA's lease and exclusive use of certain areas adjacent to the areas preferentially assigned to them at Puerto Nuevo, San Juan, Puerto Rico. The purpose of the modifications is to (1) relieve Sea-Land of its right to exclusive use of Area B and the monthly payment therefor of \$13,842.77; (2) restore to PRMSA the exclusive use of Area B and the rental obligation to the Port; (3) provide for PRMSA's payment to Sea-Land of \$200,000; (4) provide for the Port's having title to the improvements on Area B after October 31, 1983; and (5) amend T-3567-A by including Area B in Article VII A, whereby the Port can increase the ground rental for the areas subject to the lease after the first ten years of the lease.

By Order of the Federal Maritime Commission.

Dated: August 20, 1979.

Francis C. Hurney,
Secretary.

[FR Doc. 79-26219 Filed 8-22-79; 8:45 am]

BILLING CODE 4730-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of the Secretary

President's Committee on Mental Retardation; Meeting

The President's Committee on Mental Retardation was established by Executive Order to provide advice and assistance in the area of mental retardation to the President including evaluation of the adequacy of the national effort to combat mental retardation; coordination of activities of Federal agencies; provision of adequate liaison between foundations and other private organizations; and development of information designed for dissemination to the general public.

The Committee will meet on Wednesday, September 26, 1979, and Thursday, September 27, 1979, from 8:30 a.m. to 5:00 p.m., in the Carlyle I Room of the Old Town Holiday Inn, 480 King Street, Alexandria, Virginia. At the meeting the Committee will discuss full citizenship rights, humane service systems, trends in residential facilities, public awareness, and prevention of mental retardation.

These meetings are open to the public. A translator for the Deaf will be available upon advanced request. The Hotel is barrier free.

Further information on the President's Committee on Mental Retardation may be obtained from Mr. Fred J. Krause, Executive Director, Room 2614, ROB #3, 7th & D Streets, S.W., Washington, D.C., telephone: (202) 245-7634.

Dated: August 16, 1979.

Fred J. Krause,

Executive Director, President's Committee on Mental Retardation.

[FR Doc. 79-26152 Filed 8-22-79; 8:45 am]

BILLING CODE 4110-12-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Outer Continental Shelf; Beaufort Sea, Proposed Oil and Gas Lease Sale

In connection with oil and gas leasing on the Outer Continental Shelf, the Secretary of the Interior has established a policy relating to sale notices to further and enhance consultation with the affected coastal States. That policy

includes providing the affected States with the opportunity to review the draft proposed sale notice prior to its final publication in the Federal Register. The following is a draft sale notice for proposed joint Federal/State Beaufort Sea Lease Sale in the offshore waters of the Beaufort Sea off northern Alaska. This notice applies only to those tracts (leasing units) under Federal jurisdiction and those tracts the jurisdictional status of which is in dispute. The disputed tracts, with the exception of the area surrounding the feature shown on navigation charts as Dinkum Sands*, will be leased and managed by the Federal Government until the jurisdictional status is determined by the Supreme Court.

The State of Alaska will publish its own Notice of Sale for State-owned tracts and disputed tracts, including the area of Dinkum Sands. The final sale notice containing all the tracts will be issued jointly by the Governor and the Secretary of the Interior should they decide to proceed with the joint sale. The terms and conditions of the final sale notice which will be applicable to the disputed tracts must be agreed to by the State of Alaska. The State of Alaska to date has expressed specific concerns regarding certain terms and conditions contained in this proposed notice, and those concerns are noted where appropriate.

This notice is hereby published as a matter of information to the public. The sale date published in this notice is tentative and subject to change.

Dated: August 16, 1979.

Ed Hartey,

Associate Director, Bureau of Land Management.

Proposed Notice of Sale

1. *Authority.* This notice is published pursuant to the Outer Continental Shelf Lands Act (43 U.S.C. 1331-1343), as amended, and the regulations issued thereunder (43 CFR Part 3300).

2. *Filing of Bids.* Sealed bids will be received by the Manager, Alaska Outer Continental Shelf (OCS) Office, Bureau of Land Management, P.O. Box 1159, Anchorage, Alaska 99510. The street address is 800 A Street, Anchorage, Alaska. Bids may be delivered either

*This area includes those tracts within a 3 geographical mile radius of a geographic point at latitude 70°25'26" and longitude 147°47'47" but outside the 3 mile boundaries of Narwhal to the east and Cross Island to the west. The jurisdictional status of this area depends upon the existence of small island known as Dinkum Sands. A joint Federal/State effort is being started to determine whether the feature is permanently above high tide. Until such a determination is made, the area will remain part of the disputed area, but will be leased and managed by the State.

mail or in person, to the above address until noon, Alaska Standard Time, December 10, 1979; or by personal delivery to (sale site in Fairbanks, Alaska, to be announced) between 1:00 p.m. and 4:00 p.m. on December 10, 1979 or between the hours of 8:30 a.m., and 9:30 a.m., December 11, 1979. Bids received by the Manager later than the times and dates specified above will be returned unopened to the bidders. Bids may not be modified or withdrawn unless written modification or withdrawal is received by the Manager prior to 9:30 a.m., December 11, 1979. All bids must be submitted and will be considered in accordance with applicable regulations, including 43 CFR Part 3300. The list of restricted joint bidders which applies to this sale was published in — FR —, 1979.

3. *Method of Bidding.* A separate bid in a sealed envelope, labeled "Sealed Bid for Oil and Gas Leasing (insert number of tract), not to be open until 10 a.m., December 11, 1979," must be submitted for each tract. A suggested form appears in 43 CFR Part 3300, (44 FR 38289, June 29, 1979) Appendix A. Bidders are advised that tract (leasing unit) numbers are assigned solely for administrative purposes and are not the same as block numbers found on official leasing maps. All bids received shall be deemed submitted for a numbered tract. Bidders must submit with each bid one-fifth of the cash bonus in cash or by cashier's check, bank draft, or certified check, payable to the order of the Bureau of Land Management. No bid for less than a full tract as described in paragraph 12 will be considered. Bidders submitting joint bids must state on the bid form the proportionate interest of each participating bidder, in percent to a maximum of five decimal places, as well as submit a sworn statement that the bidder is qualified under 43 CFR Part 3316. The suggested form for this statement to be used in joint bids appears in 43 CFR Part 3300, (44 FR 38289, June 29, 1979) Appendix B. Other documents may be required of bidders under 43 CFR 3316. 4. Bidders are warned against violation of 18 U.S.C. 1860, prohibiting unlawful combination or intimidation of bidders.

4. *Bidding Method.* The bidding method on all Federal tracts will be bonus bidding with a fixed sliding scale royalty. Bids on all Federal tracts must be submitted on a cash bonus bid basis with the percent royalty due in amount or value of production saved, removed or sold fixed according to the sliding scale formula described below. This formula fixes the percent royalty at a level determined by the value of lease

production during each calendar quarter. For purposes of determining the percent royalty due on production during a quarter, the value of production during the quarter will be adjusted for inflation as described below. The determination of the value of the production on which royalty is due will be made pursuant to 30 CFR 250.64 and Sec. 6(b) of the lease form.

It is the Department of Interior's proposal that this bidding method also be used for the disputed tracts. The State of Alaska has not concurred in this proposal and final decision on the bidding method for disputed tracts will require concurrence of the state of Alaska.

The fixed sliding scale formula operates in the following way: when the quarterly value of production, adjusted for inflation, is less than \$20.077988 million, a royalty of 16.66667 percent in amount or value of production saved, removed or sold will be due on the unadjusted value or amount of production. When the adjusted quarterly value of production is equal to or greater than \$20.077988 million, but less than or equal to \$8444.669829 million, the royalty percent due on the unadjusted value or amount of production is given by

$$R_j = b[\ln(V_j/S)]$$

where

R_j = the percent royalty that is due and payable on the unadjusted amount or value of all production saved, removed or sold in quarter j

$b = 8.0$

$\ln$ = natural logarithm

V_j = the value of production in quarter j, adjusted for inflation, in millions of dollars

$S = 2.5$

When the adjusted quarterly value of production is greater than \$8444.669829 million, a royalty of 65.00000 percent in amount or value of production saved, removed or sold will be due on the unadjusted quarterly value of production. Thus, in no instance will the quarterly royalty due exceed 65.00000 percent in amount or value of quarterly production saved, removed, or sold.

In determining the quarterly percent royalty due, R_j , the calculation will be rounded to five decimal places (for example, 22.52109 percent). This calculation will incorporate the adjusted quarterly value of production, V_j , in millions of dollars, rounded to the sixth digit, i.e., to the nearest dollar (for example, 41.738629 millions of dollars).

The form of sliding scale royalty schedule is illustrated in Figure 1. Note that the effective quarterly royalty rate depends upon the inflation adjusted quarterly value of production. However, this rate is applied to the unadjusted

quarterly value of production to determine the royalty due.

In adjusting the quarterly value of production for use in calculating the percent royalty due on production during the quarter, the actual value of production will be adjusted to account for the effects of inflation by dividing the actual value of production by the following inflation adjustment factor. The inflation adjustment factor used will be the ratio of the GNP fixed weighted price index for the calendar quarter preceding the quarter of production to the value of that index for the quarter preceding the issuance of the lease. The GNP fixed weighted price index is published monthly in the Survey of Current Business by the Bureau of Economic Analysis, U.S. Department of Commerce. The percent royalty will be due and payable on the actual amount or value of production saved, removed or sold as determined pursuant to 30 CFR 250.64 and Sec. 6(b) of the lease form. The timing of procedures for inflation adjustments and determinations of the royalty due will be specified at a later date. Table 1 provides hypothetical examples of quarterly royalty calculations using the sliding scale formula just described under two different values for the quarterly price index.

BILLING CODE 4310-84-M

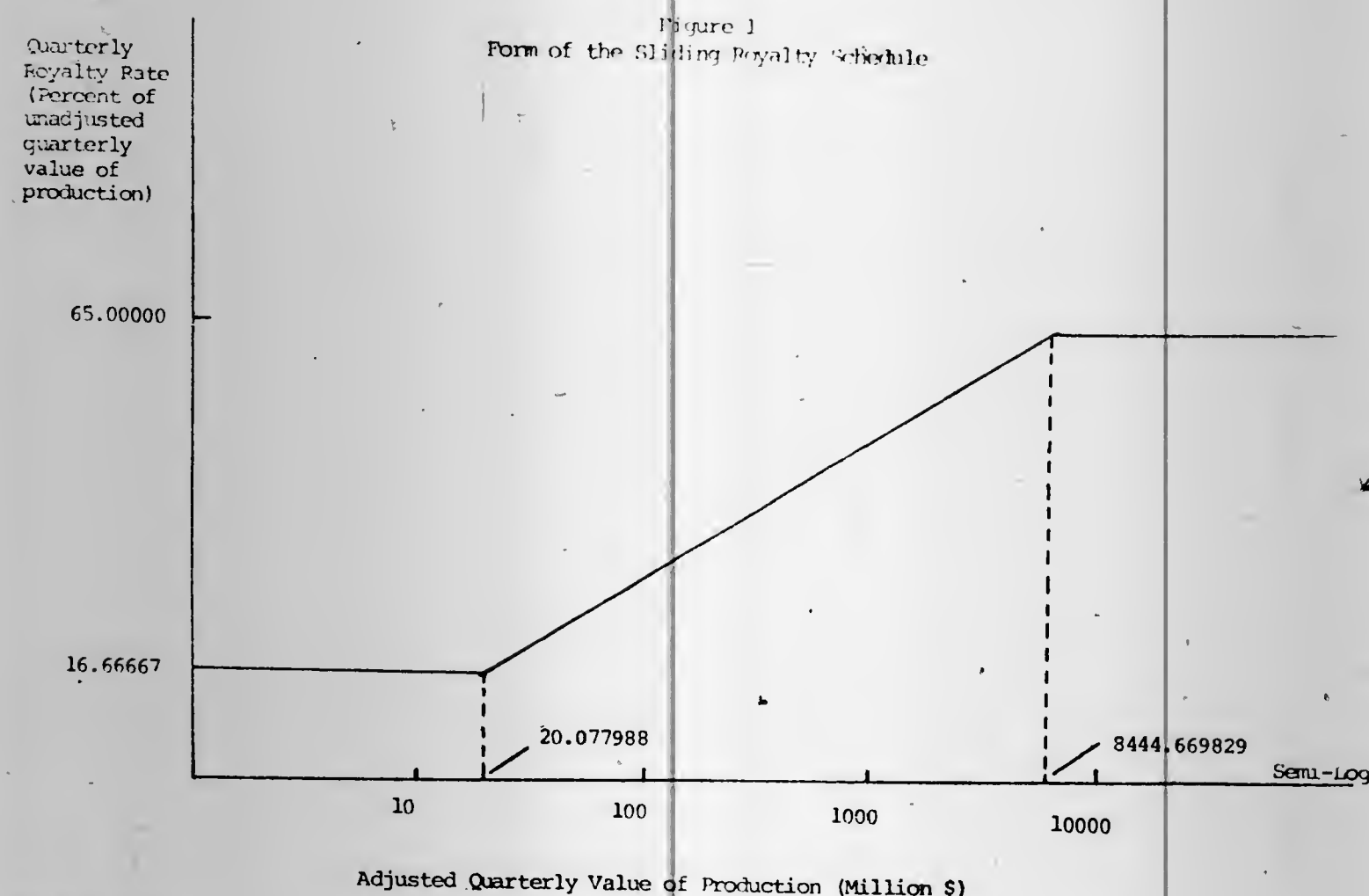
TABLE 1. HYPOTHETICAL QUARTERLY ROYALTY CALCULATIONS

(A) Actual Value of Quarterly Production (Millions of Dollars)	(B) GNP Fixed Weighted Price Index	(C) Inflation Factor ¹	(D) Adjusted Value of Quarterly Production ² (V _q , Millions of \$)	(E) Percent Royalty Rate (R _q)	(F) Royalty Payment ³ (Millions of Dollars)
10.000000	200.0	4/3	7.500000	16.66667	1.666667
30.000000	200.0	4/3	22.500000	17.57780	5.273339
90.000000	200.0	4/3	67.500000	26.36670	23.730025
270.000000	200.0	4/3	202.500000	35.15559	94.920102
810.000000	200.0	4/3	607.500000	43.94449	355.950382
10.000000	250.0	5/3	6.000000	16.66667	1.666667
30.000000	250.0	5/3	18.000000	16.66667	5.000000
90.000000	250.0	5/3	54.000000	24.58155	22.123392
270.000000	250.0	5/3	162.000000	33.37045	90.180201
810.000000	250.0	5/3	486.000000	42.15934	341.490679

1 Column (B) divided by 150.0 (assumed value of GNP fixed weighted price index at time leases are issued).

2 Column (A) divided by Inflation Factor.

3 Column (A) times Column (E) divided by 100.



BILLING CODE 4310-84-C

Leases awarded on the basis of cash bonus bid with fixed sliding scale royalty will provide for a yearly rental or minimum royalty payment of \$8 per hectare or fraction thereof.

Bidders for tracts covered by this notice should recognize that the Department of Energy is authorized, under Section 302 (b) and (c) of the Department of Energy Organization Act, to establish production rates for all Federal Oil and Gas leases.

5. *Equal Opportunity.* Each bidder must have submitted by 9:30 a.m., December 11, 1979, the certification required by 41 CFR 60-1.7(b) and Executive Order No. 11375 of October 13, 1967, on the Compliance Report Certification Form, Form 1140-8 (November 1973), and the Affirmative Action Representation Form, Form 1140-7 (December 1971).

6. *Bid Opening.* Bids will be opened December 11, 1979, beginning at 10:00 a.m., Alaska standard time, at (sale site in Fairbanks, Alaska, to be announced). The opening of the bids is for the sole purpose of publicly announcing and recording bids received and no bids will be accepted or rejected at that time. If the Department is prohibited for any reason from opening any bid before midnight, December 11, 1979, that bid will be returned unopened to the bidder, as soon thereafter as possible.

7. *Deposit of Payment.* Any cash, cashier's checks, certified checks, or Bank drafts submitted with a bid may be deposited in a suspense account in the Treasury during the period the bids are being considered. Such a deposit does not constitute and shall not be construed as acceptance of any bid on behalf of the United States.

8. *Withdrawal of Tracts.* The United States reserves the right to withdraw any tract covered by this notice from this sale prior to issuance of a written acceptance of a bid for that tract.

9. *Acceptance or Rejection of Bids.* The United States reserves the right to reject any all bids for any tract. In any case, no bid for any and tract will be accepted and no lease for any tract will be awarded to any bidder unless:

(a) The bidder has complied with all requirements of this notice and applicable regulations;

(b) The bid is the highest valid cash bonus bid; and

(c) The amount of the bid has been determined to be adequate by the Secretary of the Interior. This determination for all disputed tracts (leasing units) requires the concurrence of the State of Alaska.

No bid will be considered for acceptance unless it offers a cash bonus

in the amount of \$62 or more per hectare or fraction thereof.

10. *Successful Bidders.* Each person who has submitted a bid accepted by the Secretary of the Interior, and concurred in by the State of Alaska for disputed tracts, will be required to execute copies of the lease specified below, pay the balance of the cash bonus bid together with the first year's annual rental, and satisfy the bonding requirements of 43 CFR 3318.1 within the time provided in 43 CFR 3318.5.

11. *Leasing Map.* The Federal/State Beaufort Sea Oil and Gas Lease Sale Leasing and Nomination map, dated January 30, 1979, is available for \$2.50 from the Manager, Alaska Outer Continental Shelf Office at the address stated in paragraph 2. An overlay depicting the tracts (leasing units) is available at the same address. Information on the current jurisdictional status of leasing units is provided below.

The western boundary of the sale area was originally defined on the State of Alaska protraction system on map dated November 21, 1977. However the new leasing and nomination map dated January 30, 1979, on which this Notice of Sale is based, redefines the western boundary on the Federal protraction system using geographic and UTM coordinates. The boundary starts on the northern edge of block 470 and proceeds south and east through leasing blocks 470, 514 and 558.

12. *Leasing Unit Descriptions.* A list of the tentative federal and disputed tracts offered for bid are as follows:

Note.—There may be gaps in the numbers of the tracts listed. Some of the blocks identified in the final environmental statement may not be included in this notice.

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LEASING AND NOMINATION MAP
FEDERAL/STATE
BEAUFORT SEA OIL AND GAS LEASE SALE
(Approved January 30, 1979)

Tract	Block	Description	Est. Block Hectares	Est. Tract Hectares
BF-1	470	Federal Portion	914.59	914.59
BF-2	471	"	1420.31	1420.31
BF-3	472	"	1389.98	1389.98
BF-4	473	"	1354.58	1354.58
BF-5	474	"	1297.72	
	475	"	1161.96	2459.68
BF-6	476	"	1012.50	
	477	"	906.43	1918.93
BF-7	478	"	1731.54	1731.54
BF-8	522	"	12.25	
	523	"	952.96	965.21
BF-9	524	"	2188.12	2188.12
BF-10	568	"	279.82	
	569	"	1665.97	1945.79
BF-11	613	"	2.34	
	614	"	740.29	742.63
BF-12	615	"	1957.14	1957.14
BF-13	659	"	44.20	
	660	"	972.04	1016.24
BF-14	617	"	2112.45	2112.45
BF-15	618	All	2304.00	2304.00
BF-16	661	Federal Portion	127.93	
	662	"	990.45	1118.38
BF-17	663	"	1747.74	1747.74
BF-18	664	"	2282.30	2282.30
BF-19	708	"	215.48	
	709	"	938.48	1153.96
BF-20	710	"	1657.21	1657.21
BF-21	711	"	2233.32	2233.32
BF-22	755	"	98.13	
	756	"	561.00	659.13
BF-23	470	Disputed Portion	109.57	
	471	"	611.95	
	515	"	189.83	911.35
BF-24	472	"	914.11	
	473	"	689.95	
	474(West side)	"	19.04	1623.10
BF-25	516	"	2076.98	
	560	"	44.64	2121.62
BF-26	517	"	760.40	
	561(NW corner)	"	114.81	875.21
BF-27	474(East side)	"	60.67	
	475	"	777.22	
	476	"	937.01	
	477	"	35.55	
	519	"	36.00	
	520	"	182.89	2029.34
BF-28	478	"	76.81	
	522	"	244.68	
	523	"	1351.04	
	566	"	3.36	
	567	"	516.91	2192.80
BF-29	524	"	115.88	
	568	"	1527.63	
	569	"	224.75	1868.26

Tract	Block	Description	Est. Block Hectares	Est. Tract Hectares
BF-30	617	Disputed Portion	88.55	
	659	"	1115.39	
	660	"	957.07	2161.01
BF-31	661	"	21.53	
	662	"	427.39	
	663	"	556.26	
	706	"	78.48	
	707	"	1101.76	2161.01
BF-32	664	"	21.70	
	708	"	973.11	
	709	"	386.45	1381.26
BF-33	710	"	85.49	
	711	"	70.47	
	755	"	349.07	
	756	"	64.60	569.63
BF-34	561(SE corner)	"	88.36	
	562	"	47.87	
	605	"	104.29	
	606	"	335.51	
	607	"	679.09	1255.12
BF-35	564	"	260.41	
	608	"	1825.52	
	652	"	13.41	2099.34
BF-36	609	"	1240.62	
	653	"	474.58	1715.20
BF-37	610	"	25.56	
	654	"	1442.64	
	698	"	30.61	1498.81
BF-38	655	"	2088.64	
	656	"	133.44	2222.08
BF-39	699	"	1043.90	
	743	"	4.87	1048.77
BF-40	700	"	1911.66	
	701	"	300.10	2211.76
BF-41	744	"	1964.79	1964.79
	745	"	1991.41	
	746	"	1.29	1692.70
BF-43	788	"	163.37	
	789	"	546.48	709.85
BF-44	792	"	172.86	
	793	"	37.43	
	836	"	148.04	358.33
BF-45	613	"	2.64	
	614	"	557.96	
	615	"	332.89	893.49

BILLING CODE 4310-84-C

13. *Lease Terms and Stipulations.* All leases on federal tracts will be for an initial term of 8 years. It is the Department of Interior's proposal that the 8 year term also be used for the disputed tracts. The State of Alaska has not yet concurred in this proposal and a final decision on this lease term for disputed tracts will require the concurrence of the State of Alaska. Leases issued as a result of this sale will be on Form 3300-1 (September, 1978), available from the Manager, Alaska Outer Continental Shelf Office, at the address listed in paragraph 2. Section 6 of the lease form will be amended as follows:

Sec. 6 *Royalty on Production.* (a) To pay the lessor a royalty of that percent in amount or value of production saved, removed or sold from the leased area as determined by the sliding scale royalty formula as follows: When the quarterly value of production, adjusted for inflation is less than \$20.077988 million, a royalty of 16.66667 percent is amount of value of production saved, removed or sold will be due on the unadjusted value or amount of production. When the adjusted quarterly value of production is equal to or greater than \$20.077988 million, but less than or equal to \$8444.669829 million, the royalty percent due on the unadjusted value or amount of production is given by

$$R_j = b[\ln(V_j/S)]$$

where

R_j = the percent royalty that is due and payable on the unadjusted amount or value or all production saved, removed or sold in quarter j

$b = 8.0$

$\ln$ = natural logarithm

V_j = the value of production is quarter j , adjusted for inflation, in millions of dollars

$S = 2.5$

When the adjusted quarterly value of production is greater than \$8444.669829 million, a royalty of 65.00000 percent in amount or value of production saved, removed or sold will be due on the unadjusted quarterly value of production. Thus in no instance will the quarterly royalty due exceed 65.00000 percent in amount or value of quarterly production saved, removed or sold.

In determining the quarterly percent royalty due, R_j , the calculation will be rounded to five decimal places (for example, 22.52109 percent). This calculation will incorporate the adjusted quarterly value of production, V_j , in millions of dollars, rounded to the sixth digit, i.e., to the nearest dollar (for example, 41.738629 millions of dollars). Gas of all kinds (except Helium) is subject to royalty. The lessor shall

determine whether production royalty shall be paid in amount or value.

Except as otherwise noted, the following stipulations will be included in each lease. In the following stipulations the term Supervisor refers to the Alaska Area Oil and Gas Supervisor of the Geological Survey and the term Manager refers to the Manager of the Alaska OCS Office of the Bureau of Land Management. These stipulations apply only to Federal tracts and disputed tracts.

Stipulation No. 1

In the event any site, structure, or object of historic or archeological significance should be discovered during the conduct of any operations on the leased area, the lessee shall report immediately such findings to the Supervisor, and make every reasonable effort to preserve and protect such site, structure, or object from damage until the Supervisor has given directions as to its preservation.

Upon abandonment of the drilling platform or related facilities, such facilities will be removed to the extent that they no longer intrude on the historical or cultural scene or could otherwise adversely affect an archaeological, or historical, site or area included in or eligible for inclusion in the National Register of Historic Places.

Stipulation No. 2

The lessee shall include in any exploration and/or development plans proposed training program for all personnel involved in exploration or development activities (including personnel of the lessee's contractors and subcontractors) for review and approval by the Supervisor. The program shall be designed to inform each person working on the project of specific types of environmental, social, and cultural concerns which relate to the individual's job. The program shall be formulated and implemented by qualified instructors experienced in each pertinent field of study and shall employ effective methods to insure that personnel understand and use techniques necessary to preserve archaeological, geological, and biological resources. The program shall also be designed to increase the sensitivity and understanding of personnel to community values, customs, and lifestyles in areas in which such personnel will be operating.

The lease shall also submit for review and approval a continuing technical environmental briefing program for supervisor and managerial personnel of the lessee and its agents, contractors, and subcontractors.

Stipulation No. 3

(To be included only in the leases resulting from this sale for tracts BF-5, BF-8, BF-10, BF-13, BF-16, BF-22, BF-23, BF-25, BF-26, BF-27, BF-28, BF-29, BF-30, BF-31, BF-33, BF-34, BF-35, BF-37, BF-38, BF-39, BF-40, BF-41, BF-42, BF-43, BF-44, and BF-45).

In areas of less than 10 meters of water, after completion of the exploratory drilling phase, all structures will be removed from the lease area and the lessee will restore the site to a condition approved by the Supervisor unless said structure or site will be used in the production phase or for additional exploratory drilling or unless it is not in the best interest of the public or the environment to require removal or restoration. Authorization to leave said structure in place must be obtained from the Supervisor.

Stipulation No. 4

Solid waste disposal on artificial islands or in marine waters within the lease area is prohibited.

Stipulation No. 5

1. Pipelines will be required (a) if pipeline rights-of-way can be determined and obtained; (b) if laying such pipelines is technically feasible and environmentally preferable; and (c) if, in the opinion of the lessor, pipelines can be laid without net social loss, taking into account any incremental costs of pipelines over alternative methods of transportation and any incremental benefits in the form of increased environmental protection or reduced multiple use conflicts. The lessor specifically reserves the right to require that any pipeline used for transporting production to shore be placed in certain designed management areas. In selecting the means of transportation, consideration will be given to any recommendation of any intergovernmental coordinating committee. All pipelines, including both flow lines and gathering lines for oil and gas, shall be designed and constructed to provide for adequate protection from water currents, storm and ice scouring, subfreezing conditions, and other hazards as determined on a case-by-case basis.

Following the development of sufficient pipeline capacity, no crude oil will be transported by surface vessel from offshore production sites, except in the case of emergency. Determinations as to emergency conditions and appropriate responses to these conditions will be made by the Supervisor.

3. Where the three criteria set forth in the first sentence of this stipulation are not met and surface transportation must be employed, all vessels used for carrying hydrocarbons to shore from the leased area will conform with all standards established for such vessels, pursuant to the Ports and Waterways Safety Act of 1972 (46 U.S.C. 391 A), as amended.

Stipulation No. 6

Discharge of drilling muds, cuttings, and produced waters into the marine waters is prohibited, except that the Supervisor may approve discharges in tracts (a) greater than 10 meters of water on a case-by-case basis and (b) in tracts of less than 10 meters of water if effluents are non-toxic. This evaluation will be made on a case-by-case basis.

Stipulation No. 7

If biological populations or habitats which may require additional protection are identified by the Supervisor in the leasing area, the Supervisor will require the lessee to conduct environmental surveys, as approved by the Supervisor, to determine the extent and composition of biological populations or habitats, and the effects of proposed or existing operations on the populations or habitats which might require additional protective measures. The Supervisor shall provide written notice to the lessee of his decision to require such surveys. The nature and extent of any surveys will be determined by the Supervisor on a case-by-case basis.

Based on any surveys which the Supervisor may require of the lessee, or other information available to the Supervisor on special biological resources, the Supervisor may require the lessee to: (1) locate the site of such operation so as not to adversely affect the resource identified; (2) establish to the satisfaction of the Supervisor, on the basis of a site-specific survey, either that such operation will not have a significant adverse effect upon the resource identified or that a special biological resource does not exist; (3) operate during those periods of time that do not adversely affect the biological resources as established by the Supervisor; and (4) modify operations in such a way as not to affect adversely the significant biological populations or habitats deserving protection.

The lessee agrees that, if any area of biological significance should be discovered during the conduct of any operations on the leased area, he shall immediately report such findings to the Supervisor, and make every reasonable effort to preserve and protect the biological resource from damage until

the Supervisor has given the lessee directions with respect to its protection.

The lessee shall submit all data obtained in the course of such surveys to the Supervisor, with the locational information for drilling or other activity. The lessee may take no action that might result in any adverse effect on the biological populations or habitats surveyed, until the Supervisor provides written directions to the lessee, with regard to permissible actions.

Known special biological resources and their habitats include hard and rocky bottoms with kelp, bryozoans, sponges, coral, or other epibenthic communities. This stipulation will be invoked for the area known as the boulder patch and will apply to the following tracts: BF-36, BF-37, BF-38, BF-39, BF-40 and BF-41.

Stipulation No. 8

(Applies to disputed tracts only if the state of Alaska concurs).

The royalty rate on production saved, removed or sold from this lease is subject to consideration for reduction under the same authority that applies to all other oil and gas leases on the Outer Continental Shelf (30 CFR 250.12(e)). The Director, Geological Survey, may grant a reduction for only one year at a time. Reduction of royalty rates will not be approved unless production has been underway for one year or more.

Although the royalty rate specified in Sec. 6(a) of this lease or as subsequently modified in accordance with applicable regulations and stipulations is applicable to all production under this lease, not more than 16% percent of the production saved, removed or sold from the lease area may be taken as royalty in amount (in kind), except as provided in Sec. 15(d) of this lease: the royalty on any portion of the production saved, removed or sold from the lease in excess of 16% percent may only be taken in value of the production saved, removed or sold from the lease area.

Stipulation No. 9

Drilling and related activities will be limited during the exploratory phase to the period November 1 through March 31. This stipulation shall remain in effect for 2 years from issuance of the lease.

(The State of Alaska has not concurred with the application of this proposed stipulation to the disputed tracts. The State proposes that drilling and related activities be restricted through either a stipulation or operating order, to the period of November 1 through May 31, with an earlier shutdown upon two weeks notice if conditions warrant.

Stipulation No. 10

(To be included only in the lease resulting from this sale for tract BF-40.)

Exploratory drilling operations, emplacement of structures (platforms) or seafloor wellheads for production or storage of oil or gas, and the emplacement of pipelines will not be allowed on the disputed portion of lease block 700. This will necessitate that all exploration for and development of oil or gas be performed from locations outside of the disputed portion of lease block 700.

14. *Information to Lessees.* Bidders are advised that all tracts will be leased subject to an "interim agreement" between the State of Alaska and the United States, entered into under the authority of Section 7 of the Outer Continental Shelf Lands Act, 43 U.S.C. 1336, and Section 38.05.137 of the Alaska Statutes. The agreement will provide, among other things, that all sums payable to the Federal Government on account of a lease in the disputed area shall be paid into an interest-bearing escrow account until the jurisdictional dispute is resolved. It is also contemplated that the agreement provide for a stipulation in each lease in the disputed area which would require the lessee to pay an amount equal to accrued state taxes, plus interest, in the event that the area is later determined to belong to the State.

Bidders are advised that the Federal and the State governments are considering an agreement requiring a stipulation for use in each lease which will provide that pools or reservoirs underlying more than one lease can be developed only under an approved cooperative or unit agreement which includes all other leases which lie over the common reservoir. If such an agreement is reached, the details of the agreement will be provided in the final notice of sale.

Corps of Engineers permits are required for construction of any artificial islands, installations and other devices permanently or temporarily attached to the seabed located on the Outer Continental Shelf in accordance with Section 4(e) of the Outer Continental Shelf Lands Act, as amended 43 U.S.C. 1333(e).

Bidders are advised that the Departments of the Interior and Transportation have entered into a Memorandum of Understanding dated May 6, 1976, concerning the design, installation, operation, and maintenance of offshore pipelines. Bidders should consult both Departments for regulations applicable to offshore pipelines.

Bidders are advised that for all onshore off-lease areas under State jurisdiction the following will be required by State or Federal laws and regulations:

Prior to the construction or placement of any onshore structure, road, or facility resulting from exploration, development, and/or production activities, an inventory shall be conducted of archaeological or historical sites within the area affected by a proposed activity.

Such inventory shall consider literature provided by the North Slope Borough and local residents; documentation of oral history regarding historic and prehistoric uses of such sites, evidence consultation with the Alaska Heritage Resources Survey and the National Register of Historic Places, and site surveys. The inventory shall also include a detailed analysis of the potential effects estimated to result from the proposed activity. The inventory shall be submitted to the Director, Division of Minerals and Energy Management, for distribution to the Director of the Division of Parks, and the North Slope Borough for purposes of review and comment. The Director of the Division of Parks and the North Slope Borough may request that the Director require salvage of archaeological and historical sites or relocation of proposed facilities.

In the event that an archaeological or historical site or area is adversely affected by an activity, documentation of such effects shall be submitted to the Director. The Director shall, after consultation with the Director of the Division of Parks and the North Slope Borough, direct the operator as to what course of action will be necessary to mitigate the adverse effect.

Bidders are advised that all lease activities and structures shall be scheduled and/or designed to allow free movement and safe passage to fish and mammals.

Bidders are advised that continuous fill causeways will be prohibited. Non-continuous fill causeways may be permitted when demonstrated to the satisfaction of the Supervisor and the Director, Division of Minerals and Energy Management, that the causeway is necessary for the development of the field and no other feasible and prudent alternative exists.

Bidders are advised that winter removal of fresh water or snow cover from rivers and natural lakes which support overwintering fish is prohibited by State laws, regulations, and policies. Therefore, the lessee will be responsible for ensuring that an adequate supply of water is available for winter use through

development of such means as storage reservoirs and snow melting.

Bidders are advised that surface use will be controlled, as necessary, to prevent unreasonable conflicts with local subsistence harvests.

Bidders are advised that the State requires a 1,500-foot buffer zone to separate fresh water supplies or fish-producing streams, lakes, and marine areas from adjacent onshore sewage ponds or oil storage facilities. In cases where it can be demonstrated that a 1,500-foot buffer is not physically feasible or prudent, or that no alternative sites are available, exceptions may be granted by the appropriate State official. In all cases, the maximum possible separation will be required, but will not be greater than 1,500 feet.

Bidders are advised that borrow extraction from barrier islands is prohibited by the State. Borrow extraction from lagoons and nearshore areas will also be prohibited by the State unless substantial evidence is provided indicating that borrow excavation in these areas will not adversely affect the environment, particularly the maintenance of the lagoon/barrier island complex, and that no alternative sources exist.

Bidders are advised that the polar bear is protected under an International Treaty and the Marine Mammal Protection Act of 1972, and therefore, the lessee should contact the U.S. Fish and Wildlife Service regarding potential impacts of lease activities and possible mitigating measures to these impacts.

Bidders are advised that in the enforcement of Stipulations #3, #6, and #7, the Supervisor will receive recommendations from a biological task force composed of designated representatives of the Bureau of Land Management, U.S. Fish and Wildlife Service, U.S. Geological Survey, the National Marine Fisheries Service, the Environmental Protection Agency, and the State of Alaska. It is intended that this task force will remain in existence throughout the operating life of the field. The Supervisor will consult with the task force on the conduct of the biological surveys by lessees, the appropriate course of action after the surveys have been conducted, and on the administration of the biological/environmental aspects of the above-mentioned Stipulations.

Bidders are advised that all structures erected on federal or disputed lands for the purpose of oil and gas exploration and production will be subject to the requirements of the platform verification program as specified in OCS Order No. 8. Because technology for structures in

the transition (ice) zone has not been demonstrated in U.S. waters, particular attention will be given to structures proposed for water depths of 13 meters or more.

15. **OCS Orders.** Operations on all leases covered by this notice will be conducted in accordance with the provisions of applicable Arctic Area OCS Orders, as of their effective date, and any other applicable OCS Order as it becomes effective.

[FR Doc. 79-28006 Filed 8-22-79; 8:45 am]
BILLING CODE 4310-84-M

Pending Receipt of Coral Application

Notice is hereby given that the Bureau of Land Management has advertised for a competitive procurement under Requests for Proposals Number AA51-RP9-10 covering collection operations leading to a study to assist in describing the biota of hard bottom communities. These operations will be conducted on the Georgia Embayment which is situated on the Outer Continental Shelf in the South Atlantic Area off the coasts of North Carolina, South Carolina, Georgia and Northern Florida.

It is not the purpose of this proposed scientific research program to collect coral. However, it is anticipated that coral specimens will inadvertently be damaged or taken during dredging and trawling operations. A rock dredge will be used. In view of the above, the party awarded the contract will be required to make application for a permit under 43 CFR 6224, Viable Coral Communities located on the Outer Continental Shelf.

A contract is expected to be awarded about September, 1979 and the sampling will be completed about September, 1980. Additional information regarding this proposed operation and pending application may be obtained during normal business hours at the New Orleans Outer Continental Shelf Office, 500 Camp Street, Suite 841, New Orleans, Louisiana 70130. However, any information designated as proprietary, and not subject to public inspection, may be excluded.

Notice is hereby given of this proposed dredging operation and interested persons may comment thereon by submitting written data, views or arguments to the Manager, New Orleans, OCS Office at the above address. All relevant comments received on or before September 24, 1979.

Dated: August 17, 1979.

John L. Rankin,
Manager, New Orleans Outer Continental Shelf Office.

[FR Doc. 79-28016 Filed 8-22-79; 8:45 am]
BILLING CODE 4310-84-M

Special Project Wilderness Inventory on 62,720 Acres of Public Land in Elko County, Nev.

The Bureau of Land Management's Elko, Nevada District Office has completed a special project wilderness inventory on about 62,720 acres of public land in southeastern Elko County and is recommending that the areas be released from further wilderness consideration because they lack wilderness characteristics specified by Congress.

The areas involved include wilderness units NV-010-040 (called the Dolly Varden unit) and NV-010-043 (called the Victoria unit). Both are located about 14 miles northeast of Currie, Nevada.

Public comments on the Bureau's recommendation will be accepted until Sept. 28, 1979. An open house to acquaint the public with the Bureau's findings and recommendations is scheduled for Sept. 7, between 1 and 3 p.m. at the BLM's Elko District Office, 2002 Idaho St., Elko, NV 89801.

A summary of the Bureau's findings on the two units follows: 1. NV-010-040 (Dolly Varden)—The Dolly Varden Unit contains about 26,880 acres of public lands. Only about 8,000 acres of the unit are in a natural condition. The other 18,880 acres contain roads, mining pits, shafts, and mining scrapes as well as powerlines and grazing improvements that are substantially noticeable. Although some portions of the unit could provide a high degree of solitude, the unit as a whole does not qualify as outstanding. Opportunities for primitive recreation are also not considered to be outstanding because they are affected by the large amount of man-made structures and disturbances.

2. NV-010-043 (Victoria)—The Victoria unit contains about 35,840 acres of public lands. Only about 11,000 acres of the unit are in a natural condition. The other 24,840 acres contain prospecting pits and other evidence of mining activities, roads, ways, communication equipment, and power lines that are substantially noticeable and detract from the natural character of the unit. The unit does not provide an outstanding opportunity for solitude due to the significant amount of noticeable man-made structures and disturbances in combination with the moderate level

of topographic and vegetative screening. Primitive recreation opportunities are also not considered to be outstanding for the same reasons.

The special accelerated inventory was made at the request of Day Mines, Inc., which wants to expand a copper mine in the area.

Further information on the units involved and the Bureau's recommendations can be obtained from the BLM's Elko District Office (address noted earlier) or the Nevada State Office, 300 Booth St., Room 3008, Reno, NV 89509.

Dated: August 17, 1979.

Roger J. McCormack,
Acting State Director, Nevada.

[FR Doc. 79-28205 Filed 8-22-79; 8:45 am]
BILLING CODE 4310-84-M

[NM 37981]

New Mexico; Application

August 15, 1979.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 18, 1973 (87 Stat. 576), Phillips Petroleum Company has applied for one 4½-inch natural gas pipeline right-of-way across the following land:

New Mexico Principal Meridian, New Mexico
T. 14 S., R. 28 E.,
Sec. 11, SW¼NE¼ and NW¼SE¼.

This pipeline will convey natural gas across 0.311 of a mile of public land in Chaves County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, New Mexico 88201.

Fred E. Padilla,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79-28206 Filed 8-22-79; 8:45 am]
BILLING CODE 4310-84-M

[Colorado 28020]

Pipeline Application; Northwest Pipeline Corp.

August 16, 1979.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (41 Stat. 449), as amended (30

U.S.C. 185), Northwest Pipeline Corporation, P.O. Box 1528, Salt Lake City, Utah 84110, has applied for a right-of-way for a 4½" o.d. natural gas pipeline, approximately 1.24 miles long, across the following public lands in Garfield County:

Sixth Principal Meridian, Colorado

T. 7 S., R. 104 W.,

Sec. 34: SE¼NW¼, W¼NE¼, N¼SE¼.
Sec. 35: NW¼SW¼.

The proposed lateral pipelines will enable the applicant to convey natural gas from the Mitchell Energy Federal #1-34 and the Mitchell Energy Federal #1-35 wellheads to an existing Rocky Mountain Natural Gas Gathering System.

The purposes of this notice are to inform the public that the Bureau of Land Management will be proceeding with the preparation of environmental and other analyses necessary for determining whether the application should be approved and, if so, under what terms and conditions; to allow interested parties to comment on the application, and to allow any persons asserting a claim to the lands or having bona fide objections to the proposed natural gas pipeline right-of-way to file their objections in this office. Any person asserting a claim to the lands or having bona fide objections must include evidence that a copy thereof has been served on the applicant.

Any comment, claim, or objection must be filed with the Team Leader, Canon City-Grand Junction Team, Branch of Adjudication, Bureau of Land Management, Colorado State Office, Room 700, Colorado State Bank Building, 1600 Broadway, Denver, Colorado 80202, as promptly as possible after publication of this notice.

Edward Koeteuw,
Acting Leader, Canon City-Grand Junction Team, Branch of Adjudication.

[FR Doc. 79-28204 Filed 8-22-79; 8:45 am]
BILLING CODE 4310-84-M

Utah; Call for Expression of Leasing Interest in Coal

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Call for Expression of Leasing Interest in Coal.

DATE: Responses to this notice may be received until October 26, 1979.

ADDRESS: Response should be sent to William G. Leavell, Acting State Director, Utah, University Club Building,

136 East South Temple, Salt Lake City, Utah 84111 Telephone (801) 524-5311.

FOR FURTHER INFORMATION CONTACT:

R. Max Nielson, Chief, Branch of Lands, Minerals & Recreation, Utah State Office, 138 East South Temple, Salt Lake City, UT 84111, Telephone (801) 524-5326.

S. Gene Day, District Manager, Moab, 125 West Second South Main, Moab, Utah 84532, Telephone (801) 259-6111.

Reed C. Christensen, Forest Supervisor, Manti-LaSal National Forest, 350 East Main Street, Price, UT 84501, Telephone (801) 637-2817.

In 44 FR 33976 published June 13, 1979, an advance notice of intent to call for expressions of interest in coal leasing was published. This notice is to advise you that the official call for expressions of leasing interest for the area acceptable for further consideration for coal leasing on the BLM San Rafael Planning Area and Watis Planning Unit, and the Ferron-Price, National Forest Planning Unit is now in effect.

Expressions of interest under this call may be submitted until October 26, 1979, to the Utah State Director, Bureau of Land Management at the above address.

Certain lands in the Manti-LaSal National Forest and the San Rafael BLM planning area included in this "Call for Expressions of Leasing Interest" are being studied for possible leasing by exchange to Utah Power and Light Company. This proposed exchange is authorized by Public Law 95-554. Although "Expressions of Leasing Interest" may be submitted for this land, the land will not be available for competitive leasing if the proposed exchange is approved. Information on the location of the land being studied for possible exchange is included in the detailed information available upon request from the Utah State Office and the Manti-LaSal National Forest offices at the address given above.

This call for expressions of interest is the first step in activity planning under the new coal management program. It is being made before any tract boundaries are delineated within an area found suitable for further consideration for coal leasing through the application of the final unsuitability criteria. The results of this call will provide significant information that will be employed in delineating tracts that might be put up for lease sale after they have been through the tract ranking, selection, scheduling and analysis processes that are integral parts of the new coal management program.

Accordingly a major purpose of this call for expressions of interest is to integrate potential lessees' data and needs with the process of delineating the logical mining units which will be considered

prior to a lease sale. BLM hopes to gain sufficient information from this call, as well as from its own site specific analyses, to identify areas in which data are of sufficient detail to ultimately make a fair market value determination on specific tracts.

An expression of interest is not an application. The size and/or location of a proposed tract as indicated by an expression of interest may be modified or changed if there is sufficient reason to do so and the coal included in the modified or relocated tract is of approximately equal quality and tonnage to that shown in the expression of interest. Examples of the types of concerns that may make such action necessary include: the competitive nature of the tract, access needs, mining efficiency, future coal development potential, resource conservation and State preferences and priorities.

The proposed tracts delineated as a result of this call will proceed into the ranking and selection process in accordance with the provisions of the 43 CFR 3400 Final Rulemaking, Coal Management.

These expressions of leasing interest should include the following data where applicable:

1. Quantity needs (total tonnage, average tons per year, and year during which production should commence) for both coal producers and users.

2. Quality needs (types and grades of coal) for both producers and users.

3. Location. a. Tracts desired by mining companies (narrative description with delineation on a surface minerals management quad map, available for purchase from the BLM State Office). b. Public and private industry user facilities in region.

c. If no location is indicated, but other specified data are provided, the expression will be considered. In such cases the joint BLM/GS delineation team will locate the tract.

4. Type of Mine. a. Surface or underground. b. Technique of mining (i.e., longwall, room and pillar, strip mining, etc.).

5. Proposed Uses of Coal. a. By mining companies.

b. By public and private industries.

6. Where coal is consumed (include extra-regional markets).

7. Transportation Needs (i.e., railroads, pipelines, etc.). a. Existing facilities.

b. Proposed facilities and development timing.

8. Available Sources of Coal. a. Presently operative.

b. Contingency or other sources.

9. Information Relating to Mineral Ownership. a. Information on surface owner

consents previously granted, e.g., a description of the location of the property, whether consents are transferable, etc.

b. Commitments from fee owners of associated non-Federal coal.

Data which are considered proprietary should not be submitted as part of this expression of leasing interest.

An individual, business entity, governmental entity, or public body may participate and submit expressions of leasing interest under this call.

Maps and other detailed information on the area open for "Expression of Interest" and acceptable for further consideration for coal leasing may be obtained from the BLM or the Forest Service offices also listed above.

An informational open house will be held to discuss the submission requirements of this call on Thursday, September 6, 1979, from 1-4 p.m., at the BLM Price Area Office, 900 North 7 East Street, Price, Utah.

Dated: August 16, 1979.

William G. Leavell,

Associate State Director.

(FR Doc. 79-28017 Filed 8-23-79; 8:45 am)

BILLING CODE 4310-84-M

Geological Survey

[Int FES 79-34]

Environmental Impact Statement; Availability of Final Statement Caballo Mine, Campbell County, Wyo.

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a final environmental impact statement on the proposed Caballo surface coal mining operation by the Carter Mining Company in Campbell County, Wyoming. The final statement assesses the environmental impacts of the lessee's plan for the surface mining of federally owned coal and the concurrent reclamation and revegetation of surface lands. The proposed action is on Federal coal leases W-3397 and W-49644, located 10 miles (15 km) southeast of Gillette, Wyoming, in Campbell County.

The mining and reclamation plan contained in this statement was submitted for review prior to the revision of the 30 CFR Part 211 regulations (43 FR 37181 et seq., August 22, 1978), which incorporated the initial regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). This plan was also submitted prior to the April 12, 1979, effective date of the permanent regulatory program on Federal lands under SMCRA, 30 CFR Subchapter D, 44 FR 15332, March 13, 1979. Thus, the mine plan has not been reviewed for compliance with the applicable requirements of SMCRA and

implementing regulations. Prior to making any decision on approval of the mining and reclamation plan, the Office of Surface Mining Reclamation and Enforcement (OSM) will perform a technical review for compliance with SMCRA and the applicable regulations. Once the mine plan conforms to the applicable requirements of those authorities, OSM will evaluate whether this final environmental impact statement is adequate for mine plan approval action or whether a supplement or other environmental documents need to be prepared and distributed.

Comments received on the draft environmental statement during the comment period were considered in the preparation of the final environmental statement and are reproduced in the appendix.

The proposed mining and reclamation plan assessed in this statement was one of the mining proposals identified in the preparation of the regional analysis (Part I) of the Department's final environmental statement, FES 74-55, entitled "Proposed Development of Coal Resources in the Eastern Powder River Coal Basin in Wyoming," which was filed with the Council on Environmental Quality on October 18, 1974. Public hearings on the draft of the FES 74-55 statement were held as follows: June 24-25, 1974, at Cheyenne, Wyo.; June 26, 1974, at Casper, Wyo.; and June 27-28, 1974, at Gillette, Wyo.

The final environmental impact statement is available for public review in the U.S. Geological Survey Library, 1526 Cole Blvd., Golden Colo.; the U.S. Geological Survey Library, Room 4A100, National Center, Reston, Va.; the Converse County Library, 300 Walnut St., Douglas, Wyo.; the George Amos Memorial Library, 412 South Gillette Ave., Gillette, Wyo.; the Library of Natrona County, 307 East Second, Casper, Wyo.; and the State Library, State of Wyoming, Supreme Court Bldg., Cheyenne, Wyo.

A limited number of copies are available on request from the U.S. Geological Survey, Land Information and Analysis Office, Federal Center, Stop 701, Denver, Colo. 80225.

Dated: August 20, 1979.

Larry E. Meierotto,

Assistant Secretary of the Interior.

(FR Doc. 79-28157 Filed 8-22-79; 8:45 am)

BILLING CODE 4310-31-M

National Park Service

Golden Gate National Recreation Area; Notice of Intent

AGENCY: Department of the Interior, National Park Service, Golden Gate National Recreation Area.

ACTION: Notice of Intent.

SUMMARY: Notice is hereby given in accordance with the Federal Advisory Committee Act that five meetings of the Golden Gate National Recreation Area Advisory Commission will be held during Sept.-Oct., 1979. The major item on the agenda is to receive public comment to the General Management Plan for Golden Gate National Recreation Area and Point Reyes National Seashore.

Prior to and concurrent with these public meetings will be a series of consultations between members of the National Park Service and appropriate Federal, State and local government officials, organizations and individuals. These meetings and consultations will allow the Advisory Commission and the National Park Service to hear comments from individuals and organizations on the General Management Plan for Golden Gate National Recreation Area and Point Reyes National Seashore. This involvement of the public is an important step toward the arrival at a General Management Plan that will guide the preservation and use of these two national park areas.

DATES AND ADDRESSES:

September 25, 1979, 7:30 p.m., Fort Mason, Tuesday Evening, at Golden Gate National Recreation Area Headquarters, Building 201, Fort Mason, San Francisco, CA. September 29, 1979, 9:30 a.m., Saturday Morning, at Golden Gate National Recreation Area Headquarters, Building 201, Fort Mason, San Francisco, CA. October 4, 1979, 7:30 p.m., St. John's Presbyterian Church, Berkeley, Thursday Evening, (2727 College Ave., Berkeley). October 9, 1979, 7:30 p.m., Tamalpais High School, Tuesday Evening, Tam High School Student Center, Miller Ave. and Camino Alto Road, Mill Valley, CA. October 13, 1979, 9:30 a.m., West Marin School, Hwy. 1, Point Reyes Station, CA.

National Park Service staff will be available to answer questions for one hour immediately preceding each of the workshops.

FOR FURTHER INFORMATION CONTACT: Lynn H. Thompson, General Superintendent, Golden Gate National Recreation Area, Fort Mason, San Francisco, CA 94123, telephone 415 556-2920.

SUPPLEMENTARY INFORMATION: The meetings will be open to the public. Any member of the public may file with the

Commission a written statement concerning the matters to be discussed. Minutes of the meeting will be available for public inspection within 45 days of each meeting in the Office of the General Superintendent, Golden Gate National Recreation Area, Fort Mason, San Francisco, CA.

The advisory Commission established by Public Law 92-589 to provide for the free exchange of ideas between the National Park Service and the public and to facilitate the solicitation of advice or other counsel from members of the public on problems pertinent to the National Park system in Marin and San Francisco counties. Members of the Advisory Commission are as follows:

Mr. Ernest Ayala
Mr. Richard Bartke
Mr. Fred Blumberg
Mr. Frank Boerger
Ms. Daphne Greene
Mr. Peter Haas, Sr.
Mr. Burr Heneman
Mr. John Jacobs
Ms. Gimmy Park Li
Mr. Josephn Mendoza
Ms. Amy Meyer
Mr. John Mitchell
Mr. Merritt Robinson
Mr. Jack Spring
Dr. Edgar Wayburn
Mr. Joseph Williams

Dated: August 15, 1979.

Howard H. Chapman,

Regional Director, Western Region.

(FR Doc. 79-26224 Filed 8-22-79; 8:45 am)

BILLING CODE 4310-70-M

Office of the Secretary

[516 DM 1-6]

National Environmental Policy Act Revised Implementing Procedures

AGENCY: Department of the Interior.

ACTION: Notice of proposed revised procedures for the Heritage Conservation and Recreation Service.

SUMMARY: This notice proposes a Bureau appendix to the Department's NEPA procedures for the Heritage Conservation and Recreation Service. The proposed Departmental procedures were published in the Federal Register on July 10, 1979 (44 FR 40436).

DATE: Comments due September 17, 1979

ADDRESS: Comments to: Larry E. Meierotto, Assistant Secretary—Policy, Budget and Administration, Department of the Interior, Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Bruce Blanchard, Director, Office of Environmental Project Review, Office of the Secretary, Department of the Interior, Washington, DC 20240, Telephone: (202) 343-3891.

For Heritage Conservation and Recreation Service, contact Harold Green, Telephone (202) 343-7962.

SUPPLEMENTARY INFORMATION: This proposed Appendix to the Departmental Manual (516 DM 6) provides more specific NEPA compliance guidance to the Heritage Conservation and Recreation Service (Appendix 4). In particular it provides information about Service organizational responsibilities for NEPA compliance, advice to applicants, actions normally requiring the preparation of an environmental statement, and categorical exclusions. The appendix should be taken in conjunction with the proposed Departmental procedures (516 DM 1-6) which were published in the Federal Register on July 10, 1979 (44 FR 40403). In addition, the Service will prepare a handbook(s) or other technical guidance on how to apply these procedures to its principal programs.

Other bureau appendices will be published as notices during the next few weeks for 30-day public comment.

Comments on this proposed appendix (516 DM 6, Appendix 4) are invited. To be considered in the preparation of the final appendix, comments must be received by September 17, 1979.

Dated: August 17, 1979.

Larry E. Meierotto,

Assistant Secretary of the Interior.

Heritage Conservation and Recreation Service

4.1 Responsibilities for Environmental Matters.

A. *Washington Office.* The Director is responsible for the overall management and guidance of HCRS environmental involvement. The Associate Director, the Deputy Director for Planning, and the Deputy Director for Programming are responsible for general environmental guidance and compliance in their areas of responsibility. In addition, the Deputy Director for Programming is responsible for overall environmental planning, environmental policy guidelines, and instructions. The Division of Environmental and Compliance Review, which reports to the Deputy Director for Programming, is responsible for internal control of both environmental reviews and environmental statements and assessments prepared by various units of HCRS. The Division also is responsible for (1) preparing appropriate HCRS environmental procedures, guidelines, and instructions and (2) furnishing technical assistance in environmental matters to other HCRS units.

B. *Regional and Area Offices.* Regional and Area Directors are responsible for overall management and guidance of HCRS environmental compliance procedures within their areas of jurisdiction.

C. *NEPA Contacts.* Information needed by applicants and others, including the status of an EIS or other element of the NEPA process on HCRS actions, can be obtained by

contracting the Chief, Division of Environmental and Compliance Review, Room 338, Heritage Conservation and Recreation Service, 440 G Street, NW, Washington, DC 20243, telephone number 202-343-7962, FTS 8-343-7962.

Or

Regional Environmental Officer—Heritage Conservation and Recreation Service

Northeast: William J. Green Federal Office Building, Room 8310, 600 Arch Street, Philadelphia, Pennsylvania 19106. Phone: 215-597-799, FTS 8-597-7990.

Southeast: Richard B. Russell Federal Building, 75 Spring Street, Atlanta, Georgia 30303. Phone: 404-221-4405, FTS 8-242-4405.

Lake Central: Federal Building, Ann Arbor, Michigan 48107. Phone: 313-668-2023, FTS 8-378-2023.

Midcontinent: Denver Federal Center, P.O. Box 25387, Denver, Colorado 80225. Phone: 303-234-6462, FTS 8-234-6462.

South Central: 5000 Marble, N.E., Room 211, Albuquerque, New Mexico 87110. Phone: 505-766-3515, FTS 8-474-3515.

Northwest: Federal Building, Room 990, 915 Second Avenue, Seattle, Washington 98174. Phone: 206-442-4706, FTS 8-399-4706.

Pacific Southwest: 450 Golden Gate Avenue, San Francisco, California 94102. Phone: 415-556-0182, FTS 8-556-0182.

Alaska Area Office: 1011 E. Tudor, Suite 297, Anchorage, Alaska 99503. Phone: 907-277-1666, FTS 8-399-0150. (Call FTS number and ask operator for commercial number.)

4.2 Guidance to Applicants.

A. HCRS can allow agencies of statewide jurisdiction which are seeking HCRS funding or other assistance to prepare related environmental impact statements or assessments pursuant to the provisions of NEPA Sec. 102(2)(D).

B. The following program guidelines and regulations list environmental requirements which applicants must meet: Part 650 Land and Water Conservation Fund grants manual; 36 CFR Part 1207, "The Secretary of the Interior's Standards for Historic Preservation Projects"; 36 CFR Part 1228, "Rules and Regulations, Urban Park and Recreation Recovery Program".

4.3 Major Decision Points Normally Requiring an EIS. None.

4.4 *Categorical Exclusions.* In addition to the actions listed in the Departmental Categorical Exclusions outlined in Appendix 1 of 516 DM 2, many of which the Heritage Conservation and Recreation Service also performs, the following HCRS actions are designated as categorical exclusions when they meet the criteria outlined in 516 DM 2.3A:

A. Routine annual budget preparation and submission, personnel actions, and other internal management functions, together with preparation of routine internal surveys, studies, reports, and similar documents used in evaluating effectiveness or extent of HCRS activities. Examples: Preparing regular Regional reports to the Director; maintaining grants-in-aid status reports; listing progress in the HCRS program promoting cooperative recreation management of areas under the

under the jurisdiction of the Department of Defense.

B. Funding of proposed non-Federal actions which replaces, or renovates, facilities at their same location without altering the existing setting or the kind and amount of recreation or cultural opportunities. These actions use moneys from the Land and Water Conservation Fund, the Historic Preservation Fund, or the Urban Park and Recreation Recovery Fund. Examples: Resurfacing tennis courts; restoring the interior of a historic home; removing an architecturally incompatible addition to a historic structure; replacing and upgrading playground equipment; improving the lighting system of an indoor recreation structure.

C. Funding for construction or rehabilitation work on existing non-Federal properties which is required to meet health, safety, and handicapped regulations if the work will not increase overall volume of public use of the properties. Examples: Improving sanitary systems or bathhouses; adding ramps to provide wheelchair access.

D. Funding for construction of new facilities within an existing recreation, historic, archeological, or natural area if the new facilities will not increase public use of the area; introduce motorized recreation vehicles; introduce active recreation pursuits into a passive recreation area; or cause a nuisance to adjacent property owners or occupants. Examples: Installing paths to public facilities; installing picnic shelters designed for single family use; planting hedgerows to screen out unsightly adjacent areas; installing underground lawn sprinkling systems; installing fencing to guide or redirect foot or vehicular traffic or to provide security.

E. Providing technical assistance in historic and archeological preservation, recreation, or natural area preservation to other Federal, State, and local agencies and to the general public.

F. Preparing routine reports required by law or regulation. Examples: Report on the Golden Eagle recreation permit system to the Congress; report on the status of properties disposed of for park and recreation purposes pursuant to the provisions of Federal Surplus Properties legislation.

G. Preparation of surveys, studies, reports, and similar documents which do not recommend, propose, prescribe, or proscribe future actions of uses of financial or personnel resource. Examples are statistical reports such as those listing income variations of professional personnel engaged in heritage conservation work; surveys to gather data on existing conditions, such as determining the number, acreage, and visitor volume at recreation or historic areas; and analytical studies, such as those which try to develop rule-of-thumb formulas for estimating visitor carrying capacity of public areas.

H. Preparation of reports, plans, studies, and other documents containing recommendations for action which HCRS develops preliminary to the process of preparing a specific proposal or set of alternatives for decision [See 40 CFR 1508.23]. Example: An internal Task Force recommended a number of criteria for HCRS to follow in determining eligibility for Urban

Park and Recreation Recovery Program grants-in-aid. Subsequently, Urban Program officials discarded several of the recommendations and forwarded the remainder to the HCRS Directorate, which accepted some and rejected others. The first part of this section, the part involving the work group, meets the requirements for categorical exclusion from environmental documentation because it took place prior to development of a proposal within the meaning of 40 CFR 1508.3.

1. Identifying, nominating, or listing properties on the National Register of Historic Places if the action does not result in one or more of the following: (1) Changes in the existing setting; (2) increases in visitation which might compromise the nature and character of the property or cause physical damage to it; (3) institution of noncompatible uses which might compromise the nature and characteristics of the property, or cause physical damage to it; and (4) effects on adjacent properties which would be environmentally adverse.

[FR Doc 79-26021 Filed 8-22-79; 8:45 am]

BILLING CODE 4310-10-M

LEGAL SERVICES CORPORATION.

Grants and Contracts

August 21, 1979.

The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93-355a, 88 Stat. 378, 42 U.S.C. 2996-2996f, as amended, Pub. L. 95-222 (December 28, 1977). Section 1007 (f) provides: "At least thirty days prior to the approval of any grant application or prior to entering into a contract or prior to the initiation of any other project, the Corporation shall announce publicly . . . such grant, contract or project . . ."

The Legal Services Corporation hereby announces publicly that it is considering the grant application submitted by: Greater Boston Legal Services in Boston, Massachusetts to serve Winthrop, Massachusetts.

Interested persons are hereby invited to submit written comments or recommendations concerning the above application to the Regional Office of the Legal Services Corporation at: Legal Services Corporation, Boston Regional Office, 84 State Street, Room 520, Boston, Massachusetts 02101.

Dan J. Bradley,

President.

[FR Doc. 79-26248 Filed 8-22-79; 8:45 am]

BILLING CODE 6820-35-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Humanities Panel Advisory Committee; Meeting

August 20, 1979.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, as amended), notice is hereby given that the following meetings of the Humanities Panel will be held at 806 15th Street NW., Washington, DC 20506:

1. Date: September 7, 1979.

Time: 9 a.m. to 5:30 p.m.

Room: 500.

Purpose: To review Summer Seminar applications in English and American Literature submitted to the National Endowment for the Humanities for projects beginning after January 1, 1980.

2. Date: September 10, 1979.

Time: 9 a.m. to 5:30 p.m.

Room: 314.

Purpose: To review Summer Seminar applications in American History submitted to the National Endowment for the Humanities for projects beginning after January 1, 1980.

3. Date: September 14, 1979.

Time: 9 a.m. to 5:30 p.m.

Room: 314.

Purpose: To review Summer Seminar applications in Music submitted to the National Endowment for the Humanities for projects beginning after January 1, 1980.

4. Date: September 14, 1979.

Time: 9 a.m. to 5:30 p.m.

Room: 500.

Purpose: To review Summer Seminar applications in Comparative Literature, Drama, Theory submitted to the National Endowment for the Humanities for projects beginning after January 1, 1980.

5. Date: September 15, 1979.

Time: 9 a.m. to 5:30 p.m.

Room: 314.

Purpose: To review Summer Seminar applications in Philosophy & Linguistics submitted to the National Endowment for the Humanities for projects beginning after January 1, 1980.

6. Date: September 17, 1979.

Time: 9 a.m. to 5:30 p.m.

Room: 314.

Purpose: To review Summer Seminar applications in Anthropology & Sociology submitted to the National Endowment for the Humanities for projects beginning after January 1, 1980.

7. Date: September 17, 1979.

Time: 9 a.m. to 5:30 p.m.

Room: 500.

Purpose: To review Summer Seminar applications in German & Slavic submitted to the National Endowment for the Humanities for projects beginning after January 1, 1980.

8. Date: September 20, 1979.

Time: 9 a.m. to 5:30 p.m.

Room: 314.

Purpose: To review Summer Seminar applications in Classics submitted to the

National Endowment for the Humanities for projects beginning after January 1, 1980.

9. Date: September 21, 1979.

Time: 9 a.m. to 5:30 p.m.

Room: 314.

Purpose: To review Summer Seminar applications in Romance Languages submitted to the National Endowment for the Humanities for projects beginning after January 1, 1980.

10. Date: September 21, 1979.

Time: 9 a.m. to 5:30 p.m.

Room: 500.

Purpose: To review Summer Seminar applications in Film, Composition and Rhetoric, American Studies submitted to the National Endowment for the Humanities for projects beginning after January 1, 1980.

11. Date: September 22, 1979.

Time: 9 a.m. to 5:30 p.m.

Room: 314.

Purpose: To review Summer Seminar applications in Religion & Science, Technology & Human Values submitted to the National Endowment for the Humanities for projects beginning after January 1, 1980.

12. Date: September 24, 1979.

Time: 9 a.m. to 5:30 p.m.

Room: 314.

Purpose: To review Summer Seminar applications in Political Science submitted to the National Endowment for the Humanities for projects beginning after January 1, 1980.

13. Date: September 28, 1979.

Time: 9 a.m. to 5:30 p.m.

Room: 314.

Purpose: To review Summer Seminar applications in Art History submitted to the National Endowment for the Humanities for projects beginning after January 1, 1980.

14. Date: September 29, 1979.

Time: 9 a.m. to 5:30 p.m.

Room: 314.

Purpose: To review Summer Seminar applications in European History & Area Studies submitted to the National Endowment for the Humanities for projects beginning after January 1, 1980.

Because the proposed meetings will consider financial information and disclose information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated January 15, 1978, I have determined that the meetings would fall within exemptions (4) and (6) of 5 U.S.C. 552b(c) and that it is essential to close these meetings to protect the free exchange of internal views and to avoid interference with operation of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. Stephen J. McCleary, 806

15th Street NW., Washington, DC 20506,
or call 202-724-0387.

Stephen J. McCleary,
Advisory Committee.

[FR Doc. 79-26231 Filed 8-22-79; 8:45 am]
BILLING CODE 7530-01-M

NATIONAL COMMISSION ON AIR QUALITY

Establishment of Panel To Review Benefit Estimation Methodology

The National Commission on Air Quality (NCAQ), a legislative Commission established to examine the Clean Air Act and make recommendations to Congress regarding the law, invites nominations of individuals to prepare papers and/or participate in a benefit estimation conference established as part of the Commission's studies. A number of papers will be prepared to critique the data bases and econometric techniques used in major studies of the benefits from improvements in air quality.

The conference will review and evaluate key contributions to the field of benefits estimation of environmental quality programs dealing with air pollution. Although most existing studies focus on air and water pollution, the participants should also consider relevant information from studies of toxic substances, noise control, solid waste disposal, and the control of radiation. In the analysis the participants should:

A. Develop a set of categories which describe the principal methodological differences among the studies. In particular, describe how the studies differ with respect to:

1. the time period being considered;
2. the assumed level or levels of control;
3. the data bases, e.g., the techniques and assumptions used, sample selection techniques, treatment of migration, occupational exposure;
4. the methods of valuation of benefits;
5. the assumptions concerning marginal damage functions, e.g., estimation of damages away from sample mean, linearity, dose response, functions;
6. the extent to which non-air pollution variables are considered;
7. how the method handles the synergistic relationships between:
 - a. different pollutants;
 - b. different source types (mobile versus stationary);
8. the accuracy of estimates and the reasons for those differences.

B. Estimate the most likely range of current total national annual benefits from achieving NAAQS.

1. a detailed description of how these figures were determined;

2. a "best" estimate within this range;
3. a discussion of the reasons supporting the "best" estimate.

C. Identify new areas of methodological problems in benefit estimation.

1. extension or improvement of existing studies—in particular, what improvements are possible in handling latency and stochastic problems;
2. extrapolation of local estimates;
3. major unexplored areas, e.g., psychological benefits, benefits from the control of toxics.

D. Develop a methodology for incorporating benefit estimation in the NCAQ analyses in the Plan of Study including those relating to:

1. NAAQS;
2. Nonattainment areas;
3. PSD areas;
4. Alternative institutional approaches for air pollution control;
5. Macroeconomic studies;
6. Other areas.

E. Consider other relevant factors decided upon by the participants and the Project Officer.

Nominations for the Conference

Nominations for the Benefit Estimation Conference should be submitted within 20 days of this notice to: Gordon L. Brady, National Commission on Air Quality, 499 South Capitol Street, S.W., Second Floor, Washington, D.C. 20003.

Professional qualifications preferably including a list of publications and work performed under contract, should accompany all nominations. Qualified nominees should have a demonstrated expertise in health effects studies and/or econometric estimation techniques.

Participants will be expected to attend at least one 2-day meeting (probably in mid-December). One or more participants may be called upon to report on the conclusions of the panel to the full Commission or the Commission's Research Committee.

Comments on Issues

NCAQ recognizes that many individuals and groups have particular issues and perspectives that should be considered at the Benefit Estimation Conference. To accommodate these issues and perspectives, NCAQ solicits written position and/or background statements from interested individuals or groups. Three copies of these statements should be sent to the address listed above on or before September 24, 1979.

National Commission on Air Quality.
Morris A. Ward,
Assistant Director, Public Affairs and Administration.

[FR Doc. 79-26022 Filed 8-22-79; 8:45 am]
BILLING CODE 6820-98-M

Establishment of Panel To Review Cost Estimation Methodology

The National Commission on Air Quality (NCAQ), a legislative Commission established to examine the Clean Air Act and make recommendations to Congress regarding that law, invites nominations of individuals to prepare papers and/or participate in a cost estimation conference established as part of the Commission's studies. A number of papers will be prepared to critique the data bases and estimation techniques used in major studies of the costs of pollution abatement activities.

The conference will review and evaluate key contributions to the field of costs estimation of environmental quality programs dealing with air pollution. Although most existing studies focus on air and water pollution, the participants may also consider relevant information from studies of toxic substances, noise control, solid waste disposal, and the control of radiation. In the analysis the participants should:

A. Develop a set of categories which describe the principal methodological differences among the studies, and in particular, describe how the studies differ with respect to:

1. the time period being considered;
2. the assumed level or levels of discharge reduction;
3. the data bases, e.g., the techniques and assumptions used, sample techniques;
4. the methods of determining the incremental cost of abatement;
5. the assumptions concerning the incremental capital cost of abatement. This category considers technology, capital- or labor-intensity, spatial distribution of production, size relative to optimal size for achieving minimum unit costs in production, and capacity utilization rates;
6. the assumptions made about the prices of various relevant factor inputs;
7. the assumptions made about water pollution controls;
8. the methodology for assessing the effect on net resource costs to the firm from the market structure of demand, i.e., the spatial dimension of the market and substitutes for the product;
9. the methodology for assessing the effect on net resource costs to the firm from the competitive structure, i.e., whether the industry has a competitive, oligopolistic, or monopolistic structure;
10. the extent to which international or interregional trade impacts were considered;

B. Estimate the most likely range of current total national annual benefits from achieving NAAQS.

1. a detailed description of how these figures were determined;

11. the extent to which differences in dependence on public sector policies were considered in determining net resource cost;
12. the methodologies used to account for difference in taxation, regulatory policies, tariff or import policy, research and development, land-use controls, land-leasing policy, resource development, and government contracting;
13. the methodologies used to determine the cost of:
 - administrative, monitoring, and enforcement costs of local, state, and Federal air pollution control agencies;
 - litigation expenses by sources and control agencies at the local, state, and national level.

In addition, each panel member will be asked to discuss the strengths and weaknesses of the methodologies used and estimate the accuracy of the conclusions reached in the study(ies) reviewed.

B. Propose recommendations for improvements which may be made to the methodologies used in the study(ies) reviewed.

Prior to the workshop, each of the reviews will be supplied to other panel members. Each of these members will be asked to critique the papers prepared by the major reviewers. At the workshop the major emphasis will be placed on attempting to develop consensus on an acceptable approach or methodology for assessing costs to sources or costs of regulatory programs. To the extent the major conceptual approaches are agreed upon, details to implement these approaches will be developed by the NCAQ staff. During this process key panel members will be consulted to assure consistency with the agreed concepts.

Nominations for the Conference

Nominations for the Cost Estimation Conference should be submitted within 20 days of this notice to: Gordon L. Brady, National Commission on Air Quality, 499 South Capitol Street, S.W., Second Floor, Washington, D.C. 20003.

Professional qualifications, preferably including a list of publications and work performed under contract, should accompany all nominations. Qualified nominees should have a demonstrated expertise in health effects studies and/or econometric estimation techniques.

Participants will be expected to attend at least one two-day meeting (probably in mid-December). One or more participants may be called upon to report on the conclusions of the panel to the full Commission or the Commission's Research Committee.

Comments on Issues

NCAQ recognizes that many individuals and groups have particular

issues and perspectives that should be considered at the Cost Estimation Conference. To accommodate these issues and perspectives, NCAQ solicits written position and/or background statements from interested individuals or groups. Three copies of these statements should be sent to the address listed above on or before September 24, 1979.

National Commission on Air Quality.
Morris A. Ward,
Assistant Director, Public Affairs and Administration.

[FR Doc. 79-26023 Filed 8-22-79; 8:45 am]
BILLING CODE 6820-98-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 70-2623]

Duke Power Co. (Amendment to Materials License SNM-1773 for Oconee Nuclear Station Spent Fuel Transportation and Storage at McGuire Nuclear Station); Notice of Further Resumption of Evidentiary Hearing

August 17, 1979.

Please take notice that the evidentiary hearing in the above-captioned case (originally announced at 44 FR 23136, April 18, 1979) will resume again on Monday, September 10-14, 1979 at the Nuclear Regulatory Commission Hearing Room, located at 4350 East-West Highway, 5th Floor, Bethesda, Maryland 20014, commencing at 8:30 a.m., local time.

It is so ordered.

Dated at Bethesda, Maryland this 17th day of August 1979.

For the Atomic Safety and Licensing Board,
Marshall E. Miller,
Chairman.

[FR Doc. 79-26193 Filed 8-22-79; 8:45 am]
BILLING CODE 7590-01-M

[Docket Nos. 50-522, 50-523]

Puget Sound Power & Light Co., et al., (Skagit Nuclear Power Project Units 1 and 2); Resumption of Hearing

This confirms the Board's determination at the previous hearing session (originally announced at 44 FR 40739, July 12, 1979) that further hearings are scheduled to begin on Monday, August 27, 1979, at 9 a.m., in Room 3088, New Federal Building, 815 Second Avenue, Seattle, Washington.

Done on this 17th day of August 1979 at Washington, D.C.

Atomic Safety and Licensing Board,
Valentine B. Deale,
Chairman.

[FR Doc. 79-26195 Filed 8-22-79; 8:45 am]
BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards; Meeting

In accordance with the purposes of Sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232 b.), the Advisory Committee on Reactor Safeguards will hold a meeting on September 6-8, 1979, in Room 1046, 1717 H Street, NW, Washington, DC. Notice of this meeting was published on July 26, 1979 (44 FR 43822).

The agenda for the subject meeting, will be as follows:

Thursday, September 6, 1979—8:30 A.M.—12:00 Noon: Executive Session (Open)

The Committee will hear and discuss the report of the ACRS Chairman regarding miscellaneous matters relating to ACRS activities.

The Committee will hear and discuss the report of its Subcommittee on the review of Licensee Event Reports submitted by the operators of commercially licensed nuclear power plants during the period of 1976-78.

The Committee will discuss the status of action being taken to evaluate systems interactions at the Zion Nuclear Station and Indian Point Nuclear Plant Unit 3.

1:00 P.M.—2:00 P.M.: Meeting with Stone and Webster Engineering Corporation (Open)

The Committee will hear and discuss comments from representatives of the Stone and Webster Engineering Corporation regarding the seismic design of nuclear power plant systems.

Portions of this session will be closed as necessary to discuss Proprietary Information.

2:00 P.M.—3:00 P.M.: Meeting on Nuclear Operations Institute (Open)

Representatives of the Atomic Industrial Forum Policy Committee on Follow-up to the Three Mile Island Accident will brief the Committee regarding the proposed activities of the Nuclear Operations Institute.

3:00 P.M.—6:00 P.M.: Executive Session (Open)

The Committee will hear and discuss the report of its Subcommittee Chairman and consultants who may be present regarding a proposed plan of action to review and evaluate the status of generic items applicable to light-water, nuclear reactors which were listed in ACRS Report No. 7 dated March 21, 1979.

Friday, September 7, 1979—8:30 A.M.—12:30 P.M.: Three Mile Island Unit 2 Accident Implications (Open)

The Committee will discuss underlying causes which may have contributed to the accident which occurred at the Three Mile Island Nuclear Station Unit 2.

1:30 P.M.-6:30 P.M.: Executive Session (Open)

The Committee will hear and discuss a report by the NRC Staff regarding the implications of the accident which occurred at the Three Mile Island Nuclear Plant Unit 2. Proposed ACRS recommendations to the Nuclear Regulatory Commission regarding implications of the accident which occurred at the Three Mile Island Nuclear Station, Unit 2 will also be discussed.

The Committee will discuss the proposed scope and organization of its annual report to Congress on the NRC Safety Research Program.

Saturday, September 8, 1979—8:30 A.M.—3:30 P.M.: Executive Session (Open)

The Committee will discuss proposed ACRS comments and recommendations regarding the implications of the accident which occurred at Three Mile Island 2 on March 28, 1979, and its proposed report to the NRC regarding evaluation of Licensee Event Reports.

The Committee will discuss proposed activities related to the development of quantitative risk criteria for nuclear facilities.

The Committee will discuss proposed resolution of Anticipated Transients Without Scram for Boiling Water Reactors.

The Committee will discuss its schedule for future activities and the activities of individual members.

Portions of this session will be closed as necessary to discuss Proprietary Information and to protect information the release of which would represent an unwarranted invasion of personal privacy.

Procedures for the conduct of and participation in ACRS meetings were published in the Federal Register on October 4, 1978 (44 FR 45926). In accordance with these procedures, oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Committee, its consultants, and Staff. Persons desiring to make oral statements should notify the ACRS Executive Director as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements. Use of still, motion picture and television cameras during this meeting may be limited to selected portions of the meeting as determined by the Chairman. Information regarding the time to be set aside for this purpose may be obtained by a telephone call to the ACRS Executive Director (R. F. Fraley) prior to the meeting.

I have determined in accordance with Subsection 10(d) P.L. 92-463 that it is necessary to close portions of this meeting as noted above to protect Proprietary Information (5 U.S.C. 552b(c)(4)) and to protect information the release of which would represent an

unwarranted invasion of personal privacy (5 U.S.C. 552b(c)(6)).

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the ACRS Executive Director, Mr. Raymond F. Fraley (telephone 202/634-1371), between 8:15 A.M. and 5:00 P.M. EDT.

Dated: August 20, 1979.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 79-26191 Filed 8-22-79; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards; Meetings

In order to provide advance information regarding proposed meetings of the ACRS Subcommittees and Working Groups, and of the full Committee, the following preliminary schedule reflects the current situation, taking into account additional meetings which have been scheduled and meetings which have been postponed or cancelled since the last list of proposed meetings published July 26, 1979 (44 FR 43822). Those meetings which are definitely scheduled have had, or will have, an individual notice published in the Federal Register approximately 15 days (or more) prior to the meeting. Those Subcommittee and Working Group meetings for which it is anticipated that there will be a portion or all of the meeting open to the public are indicated by an asterisk (*). It is expected that the sessions of the full Committee meeting designated by an asterisk (*) will be open in whole or in part to the public. ACRS full Committee meetings begin at 8:30 a.m. and Subcommittee and Working Group meetings usually begin at 8:30 a.m. The exact time when items listed on the agenda will be discussed during full Committee meetings and when Subcommittee and Working Group meetings will start will be published prior to each meeting. Information as to whether a meeting has been firmly scheduled, cancelled, or rescheduled, or whether changes have been made in the agenda for the September 1979 ACRS full Committee meeting can be obtained by a prepaid telephone call to the Office of the Executive Director of the Committee (telephone 202/634-3267, ATTN: Mary E. Vanderholt) between 8:15 a.m. and 5:00 p.m., EDT.

Subcommittee and Working Group Meetings

***Emergency Core Cooling System**, August 27-28, 1979, Idaho Falls, ID. The Subcommittee will review NRC Research Programs on LOFT, Semiscale, BEACON, and RELAP. Notice of this meeting was published August 10, 1979 (44 FR 47191).

***Waste Management**, August 28-29, 1979. Rescheduled for September 18-19, 1979, Washington, DC. Notice of this meeting was published July 26, 1979 (44 FR 43822).

***Three Mile Island, Unit 2 Accident—Implications Re Nuclear Power Plant Design**, September 5, 1979, Washington, DC. The Ad Hoc Subcommittee will discuss implications of the accident including the long-term recommendations of the Lessons Learned Task Force. Notice of this meeting was published August 21, 1979.

***Reliability and Probabilistic Assessment**, September 11-12, 1979, Los Angeles, CA. The Subcommittee will discuss the concept of establishing quantitative safety goals for nuclear power reactors, the development of a status report concerning nuclear power plant component failure rates, and a review of the NRC Probabilistic Analysis Staff's research program to develop information for the ACRS Annual Report to Congress on the NRC Safety Research Program.

***Fluid Dynamics**, September 13-14, 1979, Los Angeles, CA. The Subcommittee will discuss with representatives of the NRC Staff and their consultants, General Electric, and the Mark I and II BWR Owners Group, NRC's acceptance criteria for the long-term operation of Mark I containments and the resolution of items related to the Mark II containment.

***Waste Management**, September 18-19, 1979, Washington, DC. The Subcommittee will review NRC Waste Management Research Programs in terms of their goals, budgets, and priorities.

***Three Mile Island, Unit 2 Accident Bulletins and Orders**, October 2, 1979, tentative, Washington, DC. Agenda to be announced.

***Three Mile Island, Unit 2—Implications Re Nuclear Power Plant Design**, October 2-3, 1979, Washington, DC. Ad Hoc Subcommittees will discuss the implications of this accident as they relate to: 1) The Diablo Canyon Nuclear Generating Station and boiling-water reactors that are expected to receive operating licenses in the near-term (Zimmer and La Salle), and 2) Westinghouse Ice Condenser/Upper Head Injection (UHI) Plants that are

expected to receive operating licenses in the near-term (Sequoyah and McGuire).

***Regulatory Activities**, October 3, 1979, Washington, DC. The Subcommittee will review regulatory guides and revisions to existing regulatory guides; also, it may discuss pertinent activities which affect the current licensing process and/or reactor operation.

***Three Mile Island, Unit 2**, October, 1979, precise date to be announced, Washington, DC. The Subcommittee will review the NRC Inspection and Enforcement Report (NUREG 0600) pertaining to the Three Mile Island, Unit 2 Accident.

***Emergency Core Cooling Systems (ECCS)**, October, 1979, precise date to be announced, Washington, DC. The Subcommittee will review material submitted by Westinghouse on a spectrum of small break ECCS calculations, and the Three Mile Island, Unit 2 Accident implications regarding the Westinghouse small break model.

***Reactor Safety Research**, November 6, 1979, Washington, DC. The Subcommittee will discuss the preparation of the ACRS Annual Report to Congress on the NRC Reactor Safety Research Program.

***Regulatory Activities**, November 7, 1979, Washington, DC. The Subcommittee will review regulatory guides and revisions to existing regulatory guides; also, it may discuss pertinent activities which affect the current licensing process and/or reactor operation.

***Three Mile Island, Unit 2 Accident—Implications Re Nuclear Power Plant Design**, November 7, 1979, Washington, DC, tentative. Agenda to be announced.

***Extreme External Phenomena**, November 15-16, 1979, Los Angeles, CA. The Subcommittee will discuss the NRC-sponsored Seismic Safety Margins Research Program.

***Advanced Reactors**, November 29-30, 1979, Albuquerque, NM. The Subcommittee will discuss the NRC-sponsored research at Sandia and LASL on the safety of advanced reactors.

***Reactor Safety Research**, December 4, 1979, Washington, DC. The Subcommittee will continue its discussion regarding the preparation of the ACRS Annual Report to Congress on the NRC Reactor Safety Research Program.

ACRS Full Committee Meetings

September 6-8, 1979

A. ***Three Mile Island Nuclear Station, Unit 2 Accident—Review of underlying causes and implications.**

B. ***Licensee Event Reports—Review of LERs for the period 1976-1978.**

C. ***Resolution of generic matters applicable to light-water reactors.**

D. ***Reactor Safety Research Program—ACRS Annual Report to Congress.**

E. ***Zion Nuclear Station—Evaluation of LERs.**

F. ***Seismic design of nuclear power plant piping—combination of loads.**

G. ***Nuclear Safety Criteria—Quantitative Safety Criteria.**

H. ***Anticipated Transients Without Scram—resolution for boiling-water reactors.**

I. ***Nuclear power plant operations—proposed Nuclear Operations Institute.**

October 4-6, 1979

Agenda to be announced.

November 8-10, 1979

Agenda to be announced.

Dated: August 20, 1979.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 79-26192 Filed 8-22-79; 8:45 am]

BILLING CODE 7590-01-M

Memorandum of Understanding Between the Nebraska Department of Environmental Control and the United States Nuclear Regulatory Commission

The Commission, in mid-January 1976 adopted the policy of entering into agreement with States that have been delegated responsibility by EPA for issuance of National Pollutant Discharge Elimination System (NPDES) permits under section 402 of the Federal Water Pollution Control Act.

Although considerable latitude is provided, generally such agreements embody the principles of the Second Nuclear Regulatory Commission-Environmental Protection Agency Memorandum of Understanding (NRC/EPA) (FR Vol. 40, No. 251, p 60115 ff, December 31, 1979) for cooperation in the licensing of nuclear power plants.

To date, six such agreements have been consummated. Three, those with Virginia, New York, and South Carolina were published in the Federal Register, Vol. 43, No. 88, p 19485 ff, on May 5, 1978. The fourth, with the State of Washington, was published in the Federal Register, Vol. 43, No. 188, p 43774 ff, on September 27, 1978. The fifth, with the State of Indiana, was published in the Federal Register, Vol. 43, No. 251, p 61053 ff, on December 29, 1978. The sixth is entitled "Memorandum of Understanding between the Nebraska Department of

Environmental Control and the U.S. Nuclear Regulatory Commission pursuant to the Federal Water Pollution Control Act, as amended (FWPCA)." It calls for the State and the NRC to cooperate and share information as each moves forward in its decisionmaking process for a nuclear facility. The new procedures are intended to ensure that water quality and biota impacts are considered early and will be less likely to result in significant changes in plant design, or costs and benefits of operation, following the NRC staff's environmental review. The Memorandum became effective on August 2, 1979; the text is published below.

In order to avoid confusion in terminology between general and water quality agreements with States and those agreements under section 274b of the Atomic Energy Act wherein the State assumes certain materials licensing responsibility, and new general or water quality instrument will hereafter be called a Memorandum of Understanding as is the NRC/EPA instrument.

FOR FURTHER INFORMATION CONTACT:

Frank W. Young, Office of State Programs, telephone 301-492-7794, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

Dated at Bethesda, Maryland this 16th day of August, 1979.

For the Nuclear Regulatory Commission.

Robert T. Jaska,

Acting Director, Office of State Programs.

Memorandum of Understanding Between the Nebraska Department of Environmental Control and the U.S. Nuclear Regulatory Commission Pursuant to the Federal Water Pollution Control Act as Amended (FWPCA)

The State of Nebraska (hereafter the "State") is a permit issuing State under Section 402 of the Federal Water Pollution Control Act, as amended (FWPCA). As such the State is not directly affected by the "Second Memorandum of Understanding Regarding Implementation of Certain Nuclear Regulatory Commission and Environmental Protection Agency Responsibilities Under the Federal Water Pollution Control Act as amended (FWPCA) and the National Environmental Policy Act of 1969." However, the State agrees with the principles embodied in that Memorandum and wishes to cooperate with the U.S. Nuclear Regulatory Commission (hereafter "NRC") in implementing those principles.

Specifically, these cooperative efforts will extend to requirements for the control and consideration of impacts on water quality and biota associated with the licensing and regulation including early site approval of the following facilities within the State:

¹ See 10 CFR Part 2, Subpart F and Appendix A, Paragraph I(c).

- a. nuclear power and test facilities,
- b. nuclear fuel reprocessing facilities,
- c. uranium isotope enrichment facilities,
- d. nuclear fuel fabrication plants, and
- e. nuclear waste treatment, storage and disposal facilities.

1. Without relinquishing existing statutory authority, the State and NRC will cooperate to identify and consolidate the environmental information needed for early evaluation related to impacts on water quality and biota under the FWPCA. The objective should be that the scope, form and timeliness of the information to be submitted by the applicant will satisfy the requirements of both the State and NRC, recognizing the final responsibility of the State for the same under FWPCA. This information will include that needed for issuance of State water quality certifications pursuant to Section 401 and NPDES permits pursuant to Section 402. It shall also include, where applicable, Section 316(b) considerations regarding best available technology as applied to cooling water intake structures and Section 316(a) determinations regarding the granting of alternative effluent limitations for the thermal component of discharges, as well as information needed to evaluate the environmental impact of the facility based on compliance with FWPCA requirements.

2. The State and NRC will meet, as appropriate, at an early time prior to and/or during the environmental review process for each facility or plant subject to this Memorandum to discuss potential impacts on water quality and biota.

3. (a) The State will exercise its best efforts to evaluate the levels of discharges and impacts on water quality and biota pursuant to Section 402 and 316 (a), as appropriate, and complete cooling water intake structure evaluations pursuant to Section 316(b) as far as possible in advance of the planned date of issuance by NRC of the final environmental impact statement for the construction permit for any nuclear power reactor. The State will also exercise its best efforts to make such evaluations as far as possible in advance of the planned date of issuance of the final environmental impact statement for any other plant or facility subject to this Agreement or issuance of early site approvals associated with nuclear power and other facilities.

(b) Where possible, the State's comments on NRC's draft environmental impact statement for each such facility will reflect such evaluations. The State will undertake the issue a complete Section 402 permit as soon as possible prior to the planned date of authorization by NRC of any commencement of construction² or issuance by NRC of any license, or early site approval, whichever is applicable.

(c) Such permits will contain appropriate terms and conditions for all discharges of pollutants expected during the life of the permit and, to the extent possible, terms and conditions with regard to cooling water intake structures and Section 316(a) determinations concerning thermal discharges. Additional permit terms and

conditions for discharges not contemplated during the life of the permit (such as certain chemical and other releases not expected until operation startup) may be derived from applicable State water quality standards and applicable new source performance standards contained in 40 CFR, Chapter 1, Subchapter N. Permits may be reissued, or modified as appropriate, and any reissued or modified permit, to be effective at the commencement of actual discharge as provided above, may require additional limitations and controls based on data gathered during the initial permit or may require additional Section 316 (a) and (b) studies for the purpose of confirming conclusions reached from previous predictive studies. Applications for permit reissuance as provided above will be evaluated by the State, so far as allowed by FWPCA, in light of the policy to assure to the maximum extent possible that subsequent considerations regarding impacts on water quality and biota will not result in the need for significant changes in plant design or in costs and benefits of the operation of the facility subsequent to the completion of NRC's environmental review.

4. The State will work closely with NRC to assure, so far as possible, that water quality certifications pursuant to Section 401 for the facilities subject to this Memorandum that require such certification are issued in advance of the planned date of issuance of NRC staff's final environmental impact statement for the facility.

5. The State and NRC will maintain close contact on water quality and related matters during the entire environmental review, including:

(a) Open interagency communications, and mutual cooperation on all relevant water quality matters;

(b) A status meeting, where appropriate, after completion of the environmental review or subsequent thereto, on any significant new considerations that develop; e.g., a major change in plant design or the identification of significant considerations regarding impacts on water quality or biota that were not previously evaluated as may result from a major change in plant design.

6. The State and NRC will consider the feasibility of holding combined or concurrent hearings on the State's Section 402 permits and NRC's construction permits, or other actions, on a case-by-case basis. If there are areas involving impact on water quality or biota where there are significant differences of opinion between the State and NRC, every reasonable attempt will be made to identify and resolve these differences prior to the planned date of issuance of NRC's final environmental statement. In the event that agreement cannot be reached, the NRC shall assume responsibility for insuring that the differences are addressed in the environmental statement.

7. Nothing in this Memorandum is intended to restrict or extend the statutory authority of either NRC or the State or to affect or vary the terms of the present agreement between the State and NRC under Section 274b of the Atomic Energy Act of 1954, as amended.

8. The principal NRC contact under this Memorandum shall be the Assistant Director

for Environmental Projects. The principal State contact under this Memorandum shall be the Director of the Department of Environmental Control.

9. This Memorandum of Understanding shall take effect immediately upon signing by the State and the Nuclear Regulatory Commission, and may be terminated upon 30 days written notice by either party.

For the United States Nuclear Regulatory Commission:

Lee V. Gossick,

Executive Director for Operations.

Dated at Washington, D.C., this 2nd day of August, 1979.

For the Nebraska Department of Environmental Control:

Dan T. Drain, Director.

Dated at Lincoln, Nebraska, this 12th day of July, 1979.

[FR Doc. 79-26196 Filed 8-22-79; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-333]

Power Authority of State of New York

In the matter of The Power Authority of the State of New York [James A. FitzPatrick Nuclear Power Plant]

Order

The Power Authority of the State of New York (the licensee) is the holder of Facility Operating License No. DPR-59 which authorizes operation of the James A. FitzPatrick Nuclear Power Plant at power levels up to 2436 megawatts thermal (rated power). The facility, which is located at the Licensee's site in Oswego County, New York, is a boiling water reactor (BWR) used for the commercial generation of electricity.

II

Because certain safety related piping systems at the facility had been designed and analyzed with a computer code which summed earthquake loads algebraically, the potential existed for compromising the basic defense-in-depth provided by redundant safety systems in the event of an earthquake. This potential compromising resulted from the possibility that an earthquake of the type for which the plant must be designed could cause a pipe rupture as well as degrade the emergency cooling system designed to mitigate such an accident. Therefore, by Order of the Director of Nuclear Reactor Regulation (the Director) for the Nuclear Regulatory Commission (NRC), dated March 13, 1979 (44 FR 16511, March 19, 1979), the licensee was ordered to show cause:

(1) Why the licensee should not reanalyze the facility piping systems for seismic loads on all potentially affected safety systems using an appropriate piping analysis

computer code which does not combine loads algebraically;

(2) Why the licensee should not make any modifications to the facility piping systems indicated by such reanalysis to be necessary; and

(3) Why facility operation should not be suspended pending such reanalysis and completion of any required modifications.

In view of the importance of safety of this matter, the Order was made immediately effective and the facility was required to be placed in the cold shutdown condition and remain in that mode until further Order of the Commission.

III

The facility is currently in the cold shutdown condition. Pursuant to the March 13, 1979 Order, the licensee filed a written answer to the Order by letter dated March 30, 1979 (date of receipt). In this response the licensee stated that it is reanalyzing all potentially affected safety systems for seismic loads using an appropriate method which does not sum loads algebraically.

By letter dated August 2, 1979, the licensee requested the startup of the James A. FitzPatrick Nuclear Power Plant. This request is based on: (1) the completion of the analysis for all piping, equipment nozzles, and containment penetrations for both the Design Basis Earthquake (DBE) and Operating Basis Earthquake (OBE), (2) the completion of all analyses and modifications for those pipe supports in areas inaccessible during normal plant operation, (3) the completion of modifications identified to date to those pipe supports in areas accessible during normal plant operation, and (4) a commitment to complete the analysis of the remaining pipe supports in accessible areas within 60 days from the date of plant startup. Technical Support for these conclusions is provided in letters from the licensee dated March 30, (date of receipt), June 8, 28, and August 2, 7, 10, 14, 1979, and letters from Stone and Webster dated March 22, 30, April 3, 6, 11, 13, 18, 27 and May 11, 14, 18, 1979. The licensee has committed: (1) to shutdown the facility if a seismic event occurs, which results in accelerations greater than an acceleration level of 0.01 g, the setpoint of the facility's accelerometers, and (2) in the event of a 0.01 g seismic event to inspect those piping systems and supports which have not been shown to be fully acceptable for the Operating Basis Earthquake (OBE) case (ground acceleration of 0.07 g). This commitment is required only until such time that the reanalysis for the OBE loading condition, and any necessary modifications, is completed. In addition,

the licensee has committed to notify the NRC within twenty four (24) hours if it is determined that any of the remaining support analyses result in declaring a support inoperable. Based on the above, the licensee contends that good cause has been shown why the suspension of facility operation should not be continued in effect while the reanalyses of the remaining pipe supports are completed.

The licensee's analyses were performed using the PSTRESS SHOCK 3 computer code which combines stresses in a manner acceptable to the NRC staff. The reanalyses resulted in the calculations of some stresses above allowable. In these cases when the calculated stresses on piping indicated that support loadings were above original design values, the licensee was required to reanalyze the support.

The licensee reanalyzed 96 pipe stress problems as a result of the March 13, 1979 Show Cause Order. Five problems required hardware modifications. Of these 5 problems, one required modifications to supports as a result of seismic overstresses. The other four modifications were required because of verification of "as-built" conditions, thermal stresses, and modeling differences. Of a total of 989 supports the licensee has evaluated all 335 pipe supports in areas inaccessible during normal plant operation as well as 273 supports in areas accessible during plant operation. Of these 608 analyzed existing supports, 29 required modifications, with a few of these modifications due to significant load increases. Nine other modifications in the form of installation of new additional supports resulted from "as-built" conditions.

The NRC staff has reviewed licensee's submittals. This review included, among other things, an evaluation of the codes which compute pipe stresses resulting from the facility's response to an earthquake. The means by which piping responses are combined in the codes that are currently a basis for the facility design are summarized below:

PSTRESS/SHOCK 3

This code combines intramodal responses by a modified the square root of the sum of the squares (SRSS) and combines intermodal responses by SRSS or absolute sum for closely spaced modes.

The NRC staff has determined that an algebraic summation of responses was not incorporated into the PSTRESS/

²Modes are defined as dynamic piping deflections at a given frequency. Intramodal responses are the components of force, moment and deflection within a mode. Intermodal responses are the components of force, moment and deflection of all modes.

SHOCK 3 code. The NRC staff has further concluded that this code provides an acceptable basis for analyzing the facility piping design.

Based on the NRC Staff's Safety Evaluation dated August 14, 1979, the staff finds that all piping, equipment nozzles, and containment penetrations affected by the March 13, 1979 Show Cause Order and all piping supports located in areas inaccessible during normal plant operation and approximately one half of those located in accessible areas have been acceptably reanalyzed and modified and/or repaired as necessary.

The remaining 381 pipe supports in areas accessible during normal plant operation will be analyzed within sixty (60) days of plant startup. Based on the results of the analysis of supports in areas inaccessible during normal plant operation (i.e., of August 6, 1979, 1 of 335 have a safety factor of less than 2 with respect to ultimate capacity as described in the safety evaluation), it is expected that very few, if any, supports in accessible areas have a safety factor of less than 2 with respect to ultimate capacity.

The remaining supports in accessible areas are on systems which are less critical to safe shutdown than those in inaccessible areas. There is no increased potential for a loss-of-coolant accident because the reactor coolant pressure boundary is in an inaccessible area and has been reanalysed. In addition, the analysis of the remaining accessible supports, and modifications to insure system operability if necessary will be completed within sixty (60) days of startup and an earthquake approaching the DBE in this time period is very unlikely. The licensee has provided a schedule for completion of remaining support analyses. This schedule results in completion of at least one train of all redundant safety systems within 30 days. In the event a support is found to be above design load, a determination will be made of the significance of the load, and modifications will be made. Those supports that fall in this category may, depending on the load level, declared inoperable as defined in the Technical Specifications.

The licensee to date has not completed the actions identified in paragraph number 2 of the Order to Show Cause dated March 13, 1979 and this Order does not affect that portion of the March 13, 1979 Order. The licensee has, pursuant to paragraph 3 of the Order, shown cause why operation of the facility should not remain suspended pending the completion of reanalyses

and completion of any further required modifications.

The licensee's answer to the Order did not request a hearing nor did any person request a hearing.

IV

Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, and the Commission's Rules and Regulations in 10 CFR Parts 2 and 50, it is determined that: The public health, interest or safety does not require the continued shutdown of the facility, and it is hereby ordered that:

1. Effective this date the suspension of facility operation required by the Order to Show Cause of March 13, 1979 is lifted.
2. All modifications to correct all piping systems, equipment nozzles and containment penetrations and all modifications to supports located in areas inaccessible during normal plant operation shall be completed prior to plant startup.
3. The licensee shall both complete reanalyses of the remaining pipe supports in areas accessible during normal plant operation and propose a schedule for implementation of any necessary modification within sixty (60) days of plant startup.
4. For each modification identified as a result of reanalysis of the remaining supports in accessible areas after resumption of facility operation, when a support is deemed inoperable (a support will be considered inoperable if the loads exceed a factor of safety of 2 to ultimate and exceed the limits of ASME B&PV Code, Section III, Subsection NF) the NRC shall be notified within 24 hours after making each such determination. The affected system shall be considered inoperable until the necessary modifications are implemented within seven days or the time frame allowed by the facility Technical Specifications, whichever is less, unless a reanalysis of the affected piping systems is performed which: (1) demonstrates that the overstressed support remains operable, or (2) demonstrates, with the overstressed support removed from the system, that the system remains operable.
5. The James A. FitzPatrick Nuclear Power Plant shall be shutdown if an earthquake with an acceleration greater than .01 occurs (site accelerometers are set of 0.01 g) and the licensee shall inspect all safety-related piping systems which have not been reanalyzed and shown to be acceptable at the 0.07 g level of the OBE. Prior to resuming operations following an earthquake, the licensee shall demonstrate to the Commission that no functional damage has occurred to those features necessary for continued operation without undue risk to the health and safety of the public.

For The Nuclear Regulatory Commission.

Dated at Bethesda, Maryland this 14th day of August 1979.

Edson G. Case,
Acting Director, Office of Nuclear Reactor Regulation.

[FR Doc 79-26194 Filed 8-22-79; 8:45 am]

BILLING CODE 7590-01-M

NATIONAL TRANSPORTATION SAFETY BOARD

(N-AR 79-34)

Accident Reports, Safety Recommendations and Responses; Availability

Aircraft Accident Report

Rocky Mountain Airways, Inc., DeHavilland DHC-6-300, N24RM, Cheyenne, Wyoming, February 27, 1979 (NTSB-AAR-79-10).—In its formal investigation report released August 14, the National Transportation Safety Board cited flightcrew and maintenance personnel in the probable cause of a nonfatal crash involving Rocky Mountain Airways Flight 801 which occurred on takeoff from Cheyenne Municipal Airport. Shortly after the DHC-6 Twin Otter aircraft took off for Denver, Colo., the right engine failed with a "loud bang." Subsequently, the first officer, who was flying the airplane from the right seat, began a turn to the right away from a populated area north of the runway to an uninhabited area northeast of the airport. The crew stated that they were forced to sacrifice altitude to maintain flying speed.

When a forced landing appeared inevitable the aircraft was turned toward open rolling terrain. The first touchdown, approximately 61 seconds after takeoff, was on the upslope of a grassy knoll. The aircraft continued bouncing across the uneven ground and ripped through a chainlink fence before stopping. There were no fatalities; two of the 16 occupants received minor injuries. The aircraft was damaged substantially.

The Safety Board determined that the probable cause of this accident was the flightcrew's erroneous determination that the aircraft was not capable of single-engine flight and their actions which precluded obtaining maximum available performance from the aircraft. The cause of the engine failure was an erroneous assessment by company maintenance personnel of damage sustained by the right engine during an overtemperature condition and their poor judgement in deciding to repair and release the engine for flight without replacing the engine's power turbine section.

The Board noted that flight safety relies on correct decisions for which there are often no specific guidelines. Therefore, it is imperative that both pilots and maintenance personnel make every effort to know their aircraft and their procedures to insure safety of flight. In its report, the Safety Board repeated its concern about the degree of surveillance which can be achieved by Federal Aviation Administration personnel. The heavy workload of the FAA inspectors assigned to this company is such that they would be hard pressed to keep their inspections up to the high standards expected. The Board predicted that the new regulations under Part 135 will increase this workload.

Railroad Accident Report

Bay Area Rapid Transit District (BART) Fire on Train No. 117 and Evacuation of Passengers while in the Transbay Tube, San Francisco, California, January 17, 1979 (NTSB-RAR-79-5).—Also now available are copies of the Safety Board's formal investigation report on this accident, which occurred about 6:06 p.m. last January 17 when the fifth and sixth cars of the seven-car westbound BART train No. 117 caught fire while moving through the tunnel under the San Francisco Bay between Oakland and San Francisco. Forty passengers and two BART employees were evacuated from the burning train through emergency doors into a gallery walkway located between the two single track tunnels and then into a waiting train in the adjacent tunnel. One fireman died when the gallery suddenly filled with heavy black toxic smoke. Twenty-four firemen, seventeen passengers, three emergency personnel, and twelve BART employees were treated for smoke inhalation. Property damage was estimated to be \$2,450,000.

The Safety Board determined that the probable cause of this accident was the breaking of collector shoe assemblies on train No. 117 when it struck a line switchbox cover which had fallen from an earlier train, resulting in a short circuit and fire. Contributing to the severity of the damage was the failure of BART to quickly and properly coordinate the Oakland and San Francisco fire departments' rescue and firefighting efforts, which did not conform with the emergency plan. The cause of the fatality and injuries was inhalation of smoke and toxic fumes emitted from burning plastic materials used in construction of the transit cars.

Following investigation of this accident, the Safety Board on August 2 recommended that the Urban Mass

Transportation Administration set minimum fire safety standards for the design and construction of rapid transit vehicles (R-79-54) and that the American Public Transit Association review the car inspection procedures and emergency evacuation guidelines of its member transit authorities to correct deficiencies noted in this investigation (R-79-53). During the course of its investigation of this accident the Board last March 8 recommended that BART tighten predispatch inspection and the security of under-the-car equipment such as switch box covers. (R-79-12 and 13). Eleven other recommendations to BART, also issued August 2, seek review or revision of BART emergency procedures and improved equipment which would permit uncoupling of cars from within a train in an emergency (R-79-42 through 52). The full text of these recommendations is included in the investigation report; see also 44 FR 15817, March 15, 1979, and 44 FR 46964, August 9, 1979.

Intermodal Safety Recommendations

I-79-1 through 4.—The Safety Board has investigated eight serious transportation accidents since 1972 which involved hazardous materials in transit. These accidents which occurred in rail, air, and highway carrier operations resulted in many injuries and fatalities as well as extensive property losses because of the release of hazardous materials. In nearly every one of these accidents an instance of noncompliance with the hazardous material safety regulations was noted in the areas of packaging, labeling, recordkeeping/documentation, or quantity limits. Since regulations governing the shipment of hazardous materials, currently published in Titles 46 and 49 of the Code of Federal Regulations, have been in effect since 1900, the Safety Board has undertaken a special study to determine the reasons for noncompliance.

In completing this study, the Safety Board learned that there is agreement between the Government and industry about perceived reasons for noncompliance with the hazardous materials safety regulations in six areas. These reasons are:

1. The regulations are complex and difficult to understand.
2. Industry interrelationship complexities.
3. Economic pressures.
4. Industry personnel often are unaware of the regulations.
5. Lack of available training for inexperienced personnel.
6. Indifference.

The study revealed that although there is a broad overlapping of these

reasons, each reason focuses on a problem area which requires a solution that is somewhat different from the others. Another significant finding is that the number of hazardous materials shipments that are not in compliance is unknown. This means that it is impossible to measure just how effectively DOT's compliance program is working.

As a result of this special study, "Noncompliance with Hazardous Materials Regulations," copies of which will soon be made available to the public, the Safety Board on August 14 recommended that the U.S. Department of Transportation:

Expedite the ongoing DOT program of evaluating every hazardous materials safety regulation with the objective of revising each regulation so that the persons who need to use them can understand them. (I-79-1)

Publish all nonemergency amendments to the regulations, simultaneously and at regular intervals such as semiannually, with a cross-reference index, that also includes all previously released emergency amendments. (I-79-2)

Expand the Materials Transportation Bureau compliance program to work through the executives of shipping companies as a means of improving compliance with regulations through increased industry awareness and as a means of eliciting from these executives information on the effectiveness of the regulations. (I-79-3)

Expand the hazardous materials regulations compliance assurance program by formalizing compliance policies and management systems that will serve as a model for other departments with regulatory responsibility, and that ultimately will lead to the ability to measure the effectiveness of the program. (I-79-4)

The first three recommendations above are designated "Class II, Priority Action." Longer term action is provided for the fourth recommendation, which is designated "Class III."

Responses to Safety Recommendations Highway

H-79-19.—The Federal Highway Administration on August 13 responded to one of several recommendations issued April 5 following investigation of the accident which occurred September 25, 1977, in St. Louis, Mo., when the driver of a tractor-semitrailer lost control of his vehicle after skidding on wet concrete pavement and collided with an automobile, killing all three occupants of the car. The recommendation asked FHWA to examine alternatives to improve existing concrete barrier systems. (See 44 FR 21907, April 12, 1979.)

FHWA reports that it has reviewed both practice and existing guidelines on reinforcement and other design features

of concrete median barriers. In 1976, the Southwest Research Institute completed an indepth study for FHWA (FHWA RD-77-4) which included full-scale testing of concrete median barriers. Recommendations were made for the shape of the barrier, pattern or reinforcement, height, warrants for use, and many other related items. FHWA states that the review indicates that it is now timely to issue a technical advisory on reinforcement, treatment of joints, and other critical design features. FHWA believes that retrofitting entire existing concrete barrier systems in the field would be highly impractical and very uneconomical. However, in view of the St. Louis accident, FHWA will investigate a possible design for retrofitting at joints.

Marine

M-78-56 through 61.—The U.S. Coast Guard on July 28 responded to the Safety Board's letter of March 23 commenting on Coast Guard's initial response of January 26 to recommendations issued following investigation of the explosion of the SS SANSINENA in Los Angeles (Calif.) Harbor, December 17, 1976. (See 44 FR 18751, March 29, 1979.)

With reference to recommendations M-78-56, 57, 58, and 60, the Safety Board on March 23 noted that Coast Guard was studying more efficient design and placement of cargo tank vents and was developing regulations to provide for segregated ballast tanks and inert gas systems. The board believes that these design changes may indeed provide for a lessening of vapor concentrations, control of vapor emission during ballasting operations, more efficient design and arrangement of vents, and closed cargo gauging systems. The Board was concerned, however, as to the time frame for implementing this activity, and asked to be furnished with a timetable. The Board noted that Coast Guard published on February 12, 1979, proposed rules for segregated ballast tanks and inert gas systems; comments on these proposals were furnished by the Safety Board on April 2 and April 9.

On August 24, 1977, the Safety Board provided comments to docket CD-77-057 on proposed revisions to 46 CFR Parts 30 and 32 ("Inert Gas and Deck Foam Systems"). The Board was then concerned over the size limitations for application of the proposed rules and for the vessel types which would be covered, stating in its comments:

Regarding Subpart 46 CFR 32.53-1, figures cited in the preamble for these proposed rules indicate that 47 percent of the in-tank fires and explosions occurred on tank vessels of less than 20,000 dwt between 1950 and 1973.

This high incidence of fire and explosion coupled with the significant number of tank vessels under 20,000 dwt trading in U.S. ports, indicates that these vessels need the protection that an inert gas system will afford. Also, due to the increasing size and number of ocean-going tank barges and integrated tub-tank barge combinations, these vessels should be covered by the proposed rules. Such tank vessels often have as great a potential for catastrophic accidents as tankships and cannot be ignored. We suggest therefore that the proposed rules be revised to require an inert gas system on all ocean-going tank vessels of more than 1,600 gross tons.

The Board in its March 23 letter expressed concern that all *tank vessels* are not protected but only tankships; The SANSINENA recommendations were developed using "tank vessel" in order to stress this need. Further, the Board believes that smaller vessels posing a potential for catastrophic fire and explosion should be protected and expressed an interest in Coast Guard's rationale in placing the size threshold for application of the proposed rules for inert gas systems and segregated ballast tanks. The Board also asked for information concerning plans for the protection of smaller vessels. The Board strongly encouraged the Coast Guard to consider providing interim operational requirements, believing that such a step would provide a higher level of protection than now exists and would greatly reduce the possibility of hazardous vapor concentrations collecting on the decks of the tank vessels.

Coast Guard's July 18 response to Board comments on these recommendations states, with reference to M-78-56, that a study entitled "Investigation of Hazards Posed by Chemical Vapors Released in Marine Operations" is being conducted in two phases. A final report on Phase I, involving analytical modeling of the vapor dispersion phenomena and two full scale experimental tests, is anticipated about August 1, 1979. Phase II of the study begins in September 1979 and is scheduled to continue for 30 months. This phase will include 15 full scale experimental tests and will be used to validate the analytical model; a final report for the Phase II task will be published about February 1982. Coast Guard notes that comments from the Safety Board, as well as others, have been received with reference to its February 12 proposals and will be reconciled in accordance with the Administrative Procedures Act in the final rulemaking. The specific question of scope of application of the inert gas regulations will be addressed in the preamble of the final rule.

With reference to recommendation M-78-58, calling for requirements for more efficient design and arrangement of vents and closed cargo gauging systems, Coast Guard said it will, in accordance with the Office of the Secretary policy, develop a regulatory work plan which addresses the timetable questions. The overall work plan, available November 1, 1979, will establish key events with respect to collection of data, information, and regulatory development. This information is also pertinent to recommendation M-78-60.

With reference to M-78-59, the Safety Board's March 23 letter asked for notification as to the status of the ratification of the Inter-Government Maritime Consultative Organization (IMCO), "International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978" (1978 STCW). The Board said it will review the new proposed rule for tankermen qualifications and expressed concern about the time requirements for both the IMCO ratification process and the regulatory action proposed. The Board urged Coast Guard to expedite publication of the final rules.

In response to these comments on M-78-59, Coast Guard notes that the United States has supported the creation of 1978 STCW since establishment of the Subcommittee on Standards of Training and Watchkeeping in October 1971. Coast Guard said that the 1978 STCW Convention was opened for signature last December 1 and will remain open until November 30, 1979; it was signed, subject to ratification, in behalf of the United States on January 25, 1979. The United States will encourage ratification of the 1978 STCW Convention by all nations, and the Department of Transportation has requested that the Department of State initiate the necessary action to obtain the advice and consent of the U.S. Senate in ratifying the Convention. This was requested to be done on a high priority basis in keeping with the sense of urgency advocated by the U.S. delegations at IMCO. Coast Guard is now reviewing the proposed tankerman regulations which should be published in the Federal Register in September 1979.

Concerning recommendation M-78-61, the Safety Board on March 23 requested a copy of the final reports or executive summaries of studies referred to in Coast Guard's January 26 response. On July 18 Coast Guard provided a copy of the final report entitled "Experimental Study of Flame Control Devices for Cargo Venting Systems" and noted that

additional copies can be obtained from the National Technical Information Service. The NTIS number for this report is AD A063008. A second study discussed in Coast Guard's original comments on recommendation M-78-61, "Experimental Evaluation of Screen Type Flame Arresters with Fuel/Air Mixtures under Atmospheric Flash-Back Conditions," is just beginning and Coast Guard said that the project should be completed in 1981.

Pipeline

P-73-38.—The Materials Transportation Bureau on August 1 transmitted data on enforcement actions related to 49 CFR 192.615, as requested by the Safety Board's letter of April 26. The Board in that letter advised that this recommendation seeking to identify the need for increased surveillance and enforcement action regarding written emergency plan requirements, had been classified as "Closed—Acceptable Action," predicated on implementation activities reported in MTB's September 14, 1978, response. (See 44 FR 30181, May 24, 1979.) The recommendation resulted from investigation of a gas pipeline accident that occurred in Atlanta, Ga., August 31, 1972.

MTB defines an enforcement action as a series of possible events arising from a determination that an operator or an owner is probably in noncompliance with a regulation. Depending on the seriousness of the noncompliance and other factors, MTB issues a warning letter or preliminarily assesses a civil penalty. If a civil penalty is assessed, the outcome can range from the case being forwarded to the U.S. Attorney General or being dismissed in its entirety by Department of Transportation representatives.

The tabulated data provided shows that, in general, there has been an increase in enforcement activity since the last quarter of CY 1976. There were 106 enforcement actions during the period; 27 resulted in the issuance of a warning letter; 43 actions were completed without a civil penalty; 6 were completed with a civil penalty; 30 actions are pending; and \$8,000 was collected in penalties. MTB says it is continuing to exercise close surveillance over gas operators to insure that emergency plans are effectively maintained and updated.

Railroad

R-78-13.—The Federal Railroad Administration on July 30 responded to the Safety Board's letter of March 2 commenting on FRA's response dated January 23 (44 FR 11628, March 1, 1979). The recommendation was issued March

9, 1978, after the Safety Board determined that several recent derailments were probably caused by the breaking of wheels due to overheating.

The Board's March 2 letter recognizes that the Hazard Analysis and Priority Determination System (HAPDS) is a logical approach to early recognition of patterns of component failures and that when it becomes operative, such a system should provide railroad management and manufacturers with timely accident-prevention information. The Board had been informally advised that HAPDS is about 2 years from becoming operative and expressed concern about critical component failures that do not prompt expeditious replacement or repair until after repetitive accidents. The Board asked to be apprised of any other means under consideration which would afford the railroad industry early warning advisories should similar wheel problems again occur.

FRA's July 30 letter notes that HAPDS will provide on an annual basis a quantitative assessment of the hazards faced by the U.S. railroad industry. The annual report will provide a comprehensive assessment of the size of the problem for each identifiable hazard, the cost of reducing it and the benefits to be derived. These hazards will be analyzed through a risk assessment approach including the development of supporting historical statistics to permit early recognition of failure trends. FRA believes that HAPDS is the proper vehicle to utilize in the promulgation of regulations to establish adequate service records and is the best means of furnishing the railroad industry early warning advisories; FRA has no other under consideration. FRA states, "The industry's AAR early warning system together with FRA's accident analysis work, however, currently provide us with valuable failure trend information which should suffice during this interim period."

R-78-34 through 36.—FRA's July 27 letter responds to the Safety Board's comments of March 1 concerning FRA's January 5 response (44 FR 6538, February 1, 1979). The recommendations related to transportation of hazardous materials.

With reference to recommendation R-78-34, the Board's March 1 letter notes that FRA's response does not offer a proposed timetable of the causal factor study completion, as outlined in sections 307(1) and (2) of the Independent Safety Board Act of 1974; the Board asks to be advised of what additional statistical information FRA hopes to obtain from such a study. The Board's concern is

two-fold: first, FRA presently publishes an Annual Accident/Incident Bulletin which appears to offer a wealth of statistical information based on the FRA Guide for Preparing Accident/Incident Reports; second, the proposed causal factor study is apparently a long-term program on a subject which begs for expeditious action. The Safety Board believes that existing accident data should enable FRA to offer leadership and assistance to the entire railroad industry in eliminating major accident causal factors and urges that this be provided in a direct manner.

Concerning R-78-35, the Board asked if HAPDS has been placed in an operational status. If the system is in effect, the Board asked for examples of instances where trends in component failures have been communicated to the industry through the facilities of the Association of American Railroads (AAR) and whether FRA plans to utilize the AAR Mechanical Division "Early Warning" System in conjunction with HAPDS.

In commenting on FRA's response to R-78-36, the Safety Board expressed regret that FRA concludes that this recommendation is neither valid nor necessary. The Board firmly believes that State participation can greatly assist FRA in inspection and enforcement activities, provided that the various States are given added impetus and guidance by FRA. As noted in the Safety Board's 1978 report, "Analysis of Proceedings of the NTSB into Derailments and Hazardous Materials," eight years of the State Participation Program has resulted in only 23 States and 57 inspectors and trainees actively pursuing railroad safety. While the Board is aware that the program has not been problem-free (particularly in such areas as funding, recruiting, training, and communications), the Board strongly believes that there is a potential source of monitoring assistance available in State participation, a source that can be effective not only in the ongoing fields of track and equipment inspection, but in other areas such as signals, hazardous materials, and operating practices. The Board urged FRA to evaluate and expand the State Participation Program so as to broadly increase its inspection and enforcement activities.

In response, FRA on July 27 stated that the objective of the causal factor study is to develop quantitative information concerning the accident reduction potential of specific safety programs and activities. This effort encompasses all aspects of rail safety. The work will be accomplished by

performing an intensive analysis of narrowly defined classes of rail accidents. FRA notes that in the study of a single type of rail accident, it is possible to define the accident process, understand underlying causes, and estimate the potential accident reduction benefits from specific countermeasures. In the initial step, various statistical techniques will be used in analyzing current FRA accident data. Also, NTSB accident data and MTB Hazardous Materials data will be analyzed. Further with reference to recommendation R-78-34, FRA states that safety programs of individual railroads will be studied to render intelligible differences in their accident frequency rates, and discussions with individuals familiar with railroad operations will be accomplished. The causal factor study is expected to be completed by the end of FY 1980.

Regarding R-78-35, FRA reports that HAPDS is currently being developed (by the Transportation System Center under a contractual arrangement with the Office of Safety) and therefore has not been placed in an operational status. Completion of the development effort is expected by the end of FY 1980, and implementation of HAPDS will begin in FY 1981. FRA is cognizant of the many benefits of AAR's "Early Warning" System and says that "it will most certainly be used in conjunction with the HAPDS as the need arises."

In answer to the Board's March 1 comments with respect to recommendation R-78-36, FRA says that States have the opportunity to increase their activity in the enforcement of track standards and freight car safety regulations to achieve a greater degree of compliance and safety by the railroads. Since the State Participation Program, as legislated by Congress, does not provide for funding for State participation in the enforcement of the hazardous materials regulations, FRA strongly suggests this recommendation be closed.

R-79-41.—The Union Pacific Railroad Company on July 19 responded to a recommendation issued July 5 following investigation of a rear-end collision on the Union Pacific tracks at Ramsey, Wyo., last March 29. The recommendation asked Union Pacific to modify its locomotive cab signal apparatus to provide for an automatic airbrake system whenever the engineer fails to acknowledge a more restrictive signal indication within the specified time. (See 44 FR 40742, July 12, 1979.)

Union Pacific reports that it has commenced not only a program to modify its cab signal apparatus to provide for an automatic penalty

application of the automatic air brake system, as recommended, but electronic whistles on the cab signal equipment which will not be susceptible of muffling are also being installed. Plans call for both of these programs to be completed before January 1, 1981.

Note.—Single copies of the Safety Board's accident reports are available without charge, as long as limited supplies last. Copies of recommendation letters issued by the Board, response letters and related correspondence are also available free of charge. All requests for copies must be in writing, identified by report or recommendation number. Address inquiries to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594.

Multiple copies of accident reports may be purchased by mail from the National Technical Information Service, U.S. Department of Commerce, Springfield, Va. 22151.

(Secs. 304(a)(2) and 307 of the Independent Safety Board Act of 1974 (Pub. L. 93-633, 88 Stat. 2169, 2172 (49 U.S.C. 1903, 1907)).)

Margaret L. Fisher,
Federal Register Liaison Officer.
August 20, 1979.
[FR Doc. 79-26218 Filed 8-22-79; 8:45 am]
BILLING CODE 4910-58-M

OFFICE OF MANAGEMENT AND BUDGET

Agency Forms Under Review

Background

August 20, 1979.

When executive departments and agencies propose public use forms, reporting, or recordkeeping requirements, the Office of Management and Budget (OMB) reviews and acts on those requirements under the Federal Reports Act (44 USC, Chapter 35). Departments and agencies use a number of techniques including public hearings to consult with the public on significant reporting requirements before seeking OMB approval. OMB in carrying out its responsibility under the Act also considers comments on the forms and recordkeeping requirements that will affect the public.

List of Forms Under Review

Every Monday and Thursday OMB publishes a list of the agency forms received for review since the last list was published. The list has all the entries for one agency together and grouped into new forms, revisions, extensions, or reinstatements. Each entry contains the following information:

The name and telephone number of the agency clearance officer;

The office of the agency issuing this form;

The title of the form;

The agency form number, if applicable;

How often the form must be filled out; Who will be required or asked to report;

An estimate of the number of forms that will be filled out;

An estimate of the total number of hours needed to fill out the form; and

The name and telephone number of the person or office responsible for OMB review.

Reporting or recordkeeping requirements that appear to raise no significant issues are approved promptly. In addition, most repetitive reporting requirements or forms that require one half hour or less to complete and a total of 20,000 hours or less, annually will be approved ten business days after this notice is published unless specific issues are raised; such forms are identified in the list by an asterisk (*).

Comments and Questions

Copies of the proposed forms and supporting documents may be obtained from the agency clearance officer whose name and telephone number appear under the agency name. Comments and questions about the items on this list should be directed to the OMB reviewer or office listed at the end of each entry.

If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the reviewer of your intent as early as possible.

The timing and format of this notice have been changed to make the publication of the notice predictable and to give a clearer explanation of this process to the public. If you have comments and suggestions for further improvements to this notice, please send them to Stanley E. Morris, Deputy Associate Director for Regulatory Policy and Reports Management, Office of Management and Budget, 726 Jackson Place, Northwest, Washington, D.C. 20503.

DEPARTMENT OF AGRICULTURE

Agency Clearance Officer—Richard J. Schrimper—447-6201

Revisions

Agricultural Stabilization and Conservation Service
Application for Emergency Feed and Part 1475 Emergency
Feed Program Regulations
ASCS-645 and Regs
On occasion

Livestock producers, 65,000 responses; 32,500 hours
Charles A. Ellett, 395-5080

Extensions

Agricultural Stabilization and Conservation Service
*Summary of Buyers Corrections Account
MQ-71

Weekly
Tobacco warehouse operators, 6,800 responses; 3,400 hours
Charles A. Ellett, 395-5080

DEPARTMENT OF COMMERCE

Agency Clearance Officer—Edward Michaels—377-4217

New Forms

Bureau of the Census
Survey of Property Assessment, Ratio Studies, and Transfer Taxes
GP-37

Single time
State and local officials in assessment administration, 150 responses; 150 hours

Economic Development Administration
Preliminary Plans For Data Collection Forms for University Center
Evaluation

Single time
Business firms and university center staff
Richard Sheppard, 395-3211

Reinstatements

Departmental and Other
*Request for: Name check—
Identification Record Check
CD-346

On occasion
Applicants for financial assistance, 1,500 responses; 375 hours
Richard Sheppard, 395-3211

DEPARTMENT OF ENERGY

Agency Clearance Officer—John Gross—252-5214

New Forms

Permanent Exemption for Intermediate Load Powerplants
ERA-314

Single time
Electric utilities, 5 responses; 5,000 hours
Jefferson B. Hill, 395-5867

Permanent Exemption for Peakload Powerplant
ERA-313

Single time
Electric utilities, 40 responses; 1,200 hours
Jefferson B. Hill, 395-5867

Permanent Exemption for Inability To Obtain Adequate Capital—New Installations

ERA-307-B
Single time
Major fuel burning installations, 10 responses; 10,000 hours
Jefferson B. Hill, 395-5867

Permanent Exemption for New Powerplant Based on Inability To Obtain Adequate Capital
ERA-307-A

Single time
Electric utilities, 10 responses; 10,000 hours
Jefferson B. Hill, 395-5867

Exemption Due to an Inability To Comply With Applicable Environmental Requirements
ERA-306

Single time
Powerplants and major fuel burning installations, 10 responses; 10,000 hours
Jefferson B. Hill, 395-5867

Revisions

Domestic Crude Oil First Purchasers Report
ERA-182
Monthly

First purchasers of crude oil, 4,550 responses; 70,000 hours
Edward H. Clarke, 395-5867

Reinstatements

Commercial Nonresidential Buildings Interim Energy Survey
ELA-143
Single time

Commercial establishments, 6,000 responses; 3,000 hours
Jefferson B. Hill, 395-5867

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Agency Clearance Officer—Peter Gness—245-7488

New Forms

Food and Drug Administration
Fill Weight Information Request
Single time

Food chains with private labels, 14 responses; 28 hours
Richard Eisinger, 395-3214

Health Resources Administration
1979-80 Inventory and Analysis of Allied Health Collegiate Education Programs
Single time

Colleges and universities having allied health programs, 10,160 responses; 3,983 hours

Off. of Federal Statistical Policy and Standard, 673-7974

National Institutes of Health
Consequences of Childlessness for Older Men
Single time

Men over 60 in Los Angeles SMSA, 300 responses; 180 hours

Off. of Federal Statistical Policy and Standard, 673-7974

National Institutes of Health
The Consequences of Being and Having an Only Child on Intelligence, Interpersonal Orientation, Attitudes and Time Use
Single time

Parents and children in Austin, Texas SMSA, 528 responses; 600 hours
Off. of Federal Statistical Policy and Standard, 673-7974

Office of Human Development
State Agency Quarterly Statement of Financial Plan, Social Services and Training—Title XX
HDS-APS-25

Quarterly
State social services (title XX) agencies, 220 responses; 220 hours
Budget Review Division, 395-4775

Public Health Service
Demonstration of Incentive Reimbursement System for Nursing Homes
Single time

Description not furnished by agency
Richard Eisinger, 395-3214

Social Security Administration
Workshop for Integrated Quality Control Reviews
SSA-4340

Semiannually
Welfare recipients, 13,500 responses; 175,500 hours
Barbara F. Young, 395-6132

Revisions

Food and Drug Administration
Next Image Receptor Module
FD 2578A

Single time
X-ray equipment operators, 500 responses; 125 hours
Richard Eisinger, 395-3214

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Agency Clearance Officer—Robert G. Masarsky—755-5184

Revisions

Housing Production and Mortgage Credit
*Cooperative Membership Exhibit Section 213

FHA 3203
On occasion
Coop-Organization, 5,000 responses; 2,500 hours
Arnold Strasser, 395-5080

Extensions

Housing Management
Monthly Report of Excess Income—Section 236
HUD-93104 and 93104A
Monthly

Own. of sec. 236 multi-fam. proj. both insur and noninsur, 54,276 responses; 27,138 hours
Arnold Strasser, 395-5080

ENVIRONMENTAL PROTECTION AGENCY

Agency Clearance Officer—John J. Stanton—245-3064

New Forms

Training Survey of Hazardous Waste Facility
Single time
Owners/operators hazardous waste mgt. facili., 200 responses; 100 hours
Edward H. Clarke, 395-5867

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Agency Clearance Officer—Sally E. Crocker—634-6983

New Forms

Recordkeeping Requirements Under the Equal Pay Act
On occasion

Description not furnished by agency
Laverne V. Collins, 395-3214

Recordkeeping Requirements Under the Age Discrimination in Enforcement Act
On occasion

Description not furnished by Agency
Laverne V. Collins, 395-3214

EXECUTIVE OFFICE OF THE PRESIDENT, OTHER

Agency Clearance Officer—Roy A. Nierenberg—456-6286

Revisions

Council on Wage and Price Stability
Report on Prices, Sales, and Profits
PM-1
Quarterly
Largest nonfinancial corporations, 12,000 responses; 24,000 hours
Arnold Strasser, 395-5080

FEDERAL RESERVE SYSTEM

Agency Clearance Officer—Carolyn B. Doying—452-3512

Revisions

Commercial Paper Reports
FR 2957A, B, and C
Weekly
Direct issuers of and broker/dealers in comm. paper, 6,252 responses; 6,139 hours
Off. of Federal Statistical Policy and Standard; 673-7974

RAILROAD RETIREMENT BOARD

Agency Clearance Officer—Pauline Lohens—312-751-4693

Revisions

*Report of Payments to Employee Claiming Sickness Benefits Under the Railroad Unemployment Insurance Act

SI-5

On occasion

Employers, 5,000 responses, 415 hours
Barbara F. Young, 395-6132

*Character Statement for Person Being Recommended to Act in Behalf of Railroad Retirement Annuitant

G-381

On occasion

Deponents, 6,000 responses; 498 hours
Barbara F. Young, 395-6132

VETERANS ADMINISTRATION

Agency Clearance Officer—R. C. White—389-2282

Revisions

*Application for Annual Clothing Allowance (under 38 U.S.C. 362)

21-8678

On occasion

Veterans, 8,000 responses; 1,333 hours
C. Louis Kincannon, 395-3772

David R. Leuthold

Deputy Associate Director for Regulatory Policy and Reports Management.

[FR Doc. 79-26248 Filed 8-22-79; 8:45 am]

BILLING CODE 3110-01-M

RAILROAD RETIREMENT BOARD

Determination of Quarterly Rate of Excise Tax for Railroad Retirement Supplemental Annuity Program

In accordance with directions in Section 3221(c) of the Railroad Retirement Tax Act (26 U.S.C. § 3221(c)), the Railroad Retirement Board has determined that the excise tax imposed by such Section 3221(c) on every employer, with respect to having individuals in his employ, for each man-hour for which compensation is paid by such employer for services rendered to him during the quarter beginning October 1, 1979, shall be at the rate of twelve and one-half cents.

In accordance with directions in Section 15(a) of the Railroad Retirement Act of 1974, the Railroad Retirement Board has determined that for the quarter beginning October 1, 1979, 18.7 percent of the taxes collected under Sections 3211(b) and 3221(c) of the Railroad Retirement Tax Act shall be credited to the Railroad Retirement Account and 81.3 percent of the taxes collected under such Sections 3211(b)

and 3221(c) plus one hundred percent of the taxes collected under Section 3221(d) of the Railroad Retirement Tax Act shall be credited to the Railroad Retirement Supplemental Account.

Dated: August 16, 1979.

By Authority of the Board.

R. F. Butler,

Secretary of the Board.

[FR Doc. 79-26018 Filed 8-22-79; 8:45 am]

BILLING CODE 7905-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-16114; File No. SR-CBOE-1979-8]

Chicago Board Options Exchange, Inc.; Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1) as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on August 6, 1979 the above mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

Chicago Board Options Exchange's Statement of the Terms of Substance of the Proposed Rule Change

Brackets indicate words to be deleted; *italics* indicate words to be added.

Rule 6.45 Priority of Bids and Offers

- (a) (No change.)
- (b) (No change.)
- (c) (No change.)

(d) Notwithstanding anything in paragraphs (a) and (b) to the contrary, when a member holding a spread order, [or] a straddle order, *or a combination order* and bidding or offering on the basis of a total credit or debit for the order has determined that the order may not be executed by a combination of transactions with or within the bids and offers displayed by the Board Broker or Order Book Official, then the order may be executed as a spread, [or] straddle, *or combination* at the total credit or debit with one other member without giving priority to bids or offers of the Board Broker or Order Book Official that are no better than the bids or offers comprising such total credit or debit.

6.53 Certain Types of Order Defined

- (a) (No change.)
- (b) (No change.)
- (c) (No change.)
- (d) (No change.)

(e) *Combination Order. A combination order is an order to buy a number of call option contracts and the same number of put option contracts an*

the same underlying security, which contracts do not have both the same exercise price and expiration date; or an order to sell a number of call option contracts and the same number of put option contracts on the same underlying security, which contracts do not have both the same exercise price and expiration date. (E.g., an order to buy two XYZ April 50 calls and to buy two XYZ July 40 puts is a combination order.) In the case of adjusted option contracts, a combination order need not consist of the same number of put and call contracts if such contracts both represent the same number of shares at option.

[[g]] (f) Straddle Order. A straddle order is an order to buy [or to sell the same] a number of call option[s] contracts [of each type with respect to] and the same number of put option contracts on the same underlying security [and having] which contracts have the same exercise price and expiration date; *or an order to sell a number of call option contracts and the same number of put option contracts on the same underlying security which contracts have the same exercise price and expiration date. (E.g., an order to buy two XYZ July 50 calls and to buy two July 50 XYZ puts is a straddle order.) In the case of adjusted option contracts, a straddle order need not consist of the same number of put and call contracts if such contracts both represent the same number of shares at option.*

CBOE's Statement of Basis and Purpose Under the Act for the Proposed Rules Change

The purpose of the proposed rule change is to define combination orders and to accord to combination orders the same limited exception to book priority which is presently enjoyed by spread and straddle orders. In addition, the definition of straddle order is being reworded to render it parallel to the proposed definition of combination order.

At present, a limited exception to book priority exists to facilitate the execution of spread and straddle orders. Since spread, straddle and combination orders all contribute to overall liquidity in an options class, the limited exception to book priority accorded spread and straddle orders should also be accorded to combination orders. Straddle and combination orders both involve the purchase or sale of a particular number of call options combined with the sale or purchase of an identical number of put options. In fact, a straddle is only a particular kind of combination, one involving options

with identical strike prices and expiration dates.

The operation and effect of the limited exception to book priority afforded by Rule 6.45(d) was explained at length in connection with a previous amendment to that provision, SR-CBOE-1977-11. That explanation, contained in a CBOE letter to Sheldon Rappaport, dated October 4, 1977 (available for inspection and copying in the Public Reference Room), was in relation to spread transactions. However, the discussion of trading practices involving spreads is equally applicable to combination transactions. Spread order, straddle orders and combination orders all are orders for transactions in more than one option series and are usually effected by bidding at a net or aggregate debit or offering at a net or aggregate credit. The net debit or credit for a spread order represents the differential between the premiums for the two series which comprise the spread; the aggregate debit or credit for a straddle or combination order represents the sum of the premium for the two series which comprise the straddle or combination.

It is important to note that the Rule 6.45(d) combination exception to the book priority rule only operates in those instances where neither leg of a spread, straddle or combination order can be done with the book, and one leg of that order touches the book. Were this exception to book priority non-existent, the spread, straddle or combination order would go unexecuted, and the book's bids and offers would remain exactly as though that order were not in the marketplace. Thus, book orders do not forego an opportunity for execution by reason of the Rule 6.45(d) exception, and neither would the elimination of the exception assure a quicker or surer execution of any order on the book.

The basis under the Act for the proposed rule change is Sections 6(b)(5) and 11A(a)(1)(D) since such rules changes are designed to facilitate transactions in securities involving more than one option series and to contribute to best execution of such orders.

No Comments on this proposed rule change have been solicited or received from members.

The Exchange does not believe that the proposed rule change will impose any burden on competition.

On or before October 1, 1979, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) by order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, NW, Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before September 13, 1979.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

August 16, 1979.

[FR Doc. 79-26189 Filed 8-22-79; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-16115; File No. SR-CBOE-1979-7]

Chicago Board Options Exchange, Inc.; Proposed Rule Change

August 16, 1979.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1) as amended by Pub. L. NO. 94-29, 16 (June 4, 1975), notice is hereby given that on August 6, 1979 the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

Chicago Board Options Exchange's Statement of the Terms of Substance of the Proposed Rule Change

Brackets indicate words to be deleted; *italics* indicate words to be added.

Rule 6.24 Orders Required To Be in Written Form

- (a) No Change.
- (b) No Change.
- (c) No Change.

* * * Interpretations and Policies:

.01 No Change.

.02 [Without limiting the applicability of the foregoing, the use of hand signal communications on the floor of the Exchange is appropriate provided that they satisfy the following requirements:

1. The executing broker must have in his possession an order in written form.

2. The order ticket must include all of the information relating to underlying security ticker symbol, expiration month, striking price and volume.

3. Hand signals may be used to relay only information relating to the changing of limits, decrease in the size of orders, and activation of market orders.

4. Hand signals shall not be used to increase the size of orders.

5. All cancellations and changes of orders held by the Board Broker or Order Book Official must be provided in written form.

6. All cancellations and changes of orders held by floor brokers in the crowd and relayed to these members through the use of hand signals must also be relayed to these members in written form, time stamped, immediately thereafter.]

Without limiting the applicability of the foregoing, the use of hand signal communications on the floor of the Exchange may be used to initiate an order, to increase or decrease the size of an order, to change an order's limit, to cancel an order, or to activate a market order. Any initiation, cancellation, or change of an order relayed to a floor broker through the use of hand signals also must be related to the floor broker in written form, time-stamped, immediately thereafter. All cancellations and changes of orders held by the Board Broker or Order Book Official must be provided in written form.

.03 No Change.

CBOE's Statement of Basis and Purpose under the Act for the Proposed Rules Change

The proposed rule change would broaden the permissible uses of hand signals to an executing floor broker so that hand signals may be used to initiate an order or to increase its size. Under the present CBOE Rule 6.24.02, hand signals may be used only to change the limit price of an order, decrease the size of an order, cancel an order, or activate a market order. All hand-signal instructions to an executing floor broker respecting the initiation, change or cancellation of an order must be followed up immediately thereafter with a written, time-stamped form confirming the instructions given by hand signals. This broadening of the use of hand signals will expedite the transmission of new orders and increases in the size of existing orders to executing brokers on the floor.

The basis under the Act for the proposed change to Rule 6.24.02 is Section 6(b)(5) and Section 11A (a) (1)

since such rules change will facilitate the execution of transactions in securities, foster efficiency and contribute to the best execution of orders.

No comments have been solicited or received on the proposed rules change.

The Exchange does not believe that the proposed rule change will impose any burden on competition.

On or before October 1, 1979, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) by order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Washington, DC 20549. Copies of the filing with respect to the foregoing and all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, NW, Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before September 13, 1979.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

August 16, 1979.
[FR Doc. 79-26190 Filed 8-22-79; 8:45 am]
BILLING CODE 8010-01-M

[Release No. 10844; (812-4510)]

Jefferson Standard Life Insurance Co.; Filing of Application Pursuant to Section 11 of the Act Approving Certain Offers of Exchange and Pursuant to Section 6(c) of the Act for an Order of Exemption From Section 12(d)(1)

In the matter of Jefferson Standard Life Insurance Co., Jefferson Standard Separate Account A, Pilot Life Insurance Company, Pilot Separate Account A, Jefferson-Pilot Equity Sales, Inc., JP Growth Fund, Inc. and JP Income Fund,

Inc., P.O. Box 21008, Greensboro, NC 27420 (812-4510).

Notice is hereby given that Jefferson Standard Life Insurance Company ("Jefferson Standard"), a stock life insurance company organized in 1907 under the laws of the state of North Carolina, Jefferson Standard Separate Account A ("Jefferson Account A"), a separate account of Jefferson Standard registered under the Investment Company Act of 1940 ("Act") as a unit investment trust, Pilot Life Insurance Company ("Pilot Life"), a stock life insurance company organized in 1890 under the laws of the state of North Carolina, Pilot Separate Account A ("Pilot Account A"), a separate account of Pilot Life registered under the Act as a unit investment trust, JP Growth Fund, Inc. ("Growth Fund"), registered under the Act as an open-end management investment company, JP Income Fund, Inc. ("Income Fund"), registered under the Act as an open-end management investment company, and Jefferson-Pilot Equity Sales, Inc. ("JP Equity Sales"), a broker-dealer registered under the Securities Exchange Act of 1934, (collectively "Applicants") filed an application on July 30, 1979, for an order pursuant to Section 11 of the Act approving certain offers of exchange, and pursuant to Section 6(c) of the Act, for an order exempting from Section 12(d)(1), to the extent necessary, the proposed offers of exchange. All interested persons are referred to the application on file with the Commission for a statement of the representations therein which are summarized below.

Jefferson Account A and Pilot Account A are separate accounts of Jefferson Standard and Pilot Life, respectively, which were established by each insurance company as the facility for the issuance by each of certain variable annuity contracts (the "Contracts"). The assets of Jefferson Account A and Pilot Account A have heretofore been invested entirely in shares of the Growth Fund, which invests primarily in equity securities. Applicants propose to offer revised Contracts which will permit the purchasers of the Contracts to direct the apportionment of their net purchase payments between the Growth Fund and the Income Fund, which invests primarily in fixed income securities and dividend paying common stocks. The contract owner will be entitled to transfer accumulated funds from one Fund to the other Fund on an ongoing basis subject to such limitations as are set forth in the Contracts relating to the frequency of transfers, minimum amounts to be transferred, and minimum

amounts remaining in a Fund after a transfer. The charge for each transfer will be \$5.00, except that no charge will be assessed for a transfer made in connection with an election of the basis on which annuity payments will be made which is received at the insurance company's home office at least 45 days prior to the commencement of annuity payments. Initially, the limitations contained in the Contracts will be as follows: The minimum amount which may be transferred will be the lesser of \$200 or the entire amount in the Fund from which the transfer is being made, and a transfer of less than the full amount in a Fund will not be permitted if the value of either Fund after the transfer would be less than \$500 unless the contract owner indicates he intends to continue making periodic payments to that Fund, in which event the \$500 minimum can be waived by JP Equity Sales. Transfers during the payout period of the Contracts will be permitted only if annuity payments are being made under an option not involving a life contingency. Moreover, no transfer made in connection with an election of the basis, on which annuity payments will be made will be allowed if the initial annuity payment based upon either Fund would be less than \$20. The transfer privileges to be included in the revised Contracts will also be extended to owners and payees under existing Contracts which are outstanding when the revised Contracts become available.

Section 11

Section 11(a) of the Act provides that it shall be unlawful for any registered open-end company, or any principal underwriter for such a company, to make, or cause to be made, an offer to the holder of a security of such company, or of any other open-end investment company, to exchange his security for a security in the same or another such company on any basis other than the relative net asset values of the respective securities to be exchanged unless the terms of the offer have been first submitted to and approved by the Commission. Section 11(c) provides that, irrespective of the basis of exchange, the provisions of Section 11(a) shall be applicable to any type of offer of exchange of the securities of registered unit investment trusts for the securities of any other investment company.

Applicants state that the prohibitions of Sections 11(a) and 11(c) of the Act should not apply to the Contracts as proposed to be revised. Applicants state that the apparent purpose of Section 11 is to protect investors against unfair exchange offers. Applicants further state

that since the transfer privilege to be included in the revised Contracts will be based on the respective net asset values of the underlying mutual fund shares, and the \$5.00 charge on each transfer will not exceed actual expenses incurred by JP Equity Sales, the investor is assured that the arrangement is fair. Applicants maintain that JP Equity Sales stands to gain nothing from these transactions, except that the attractiveness of the Contracts for its customers and prospective customers will be enhanced by the exchange privileges.

Applicants submit that a variable annuity contract is normally purchased as a long-term investment and that it is appropriate to allow investors to reevaluate their investment objectives from time to time and change from one Fund to the other when they conclude that the alternative investment is more suitable in their present circumstances.

However, in order to avoid any question regarding the applicability of Section 11 to the proposed offers of exchange, Applicants have requested an order pursuant to Section 11, to the extent necessary, approving the proposed provision for offers of exchange in the Contracts.

Section 12(d)(1)

Section 12(d)(1)(A) of the Act provides that it shall be unlawful for a registered investment company (the "Acquiring company") to purchase or otherwise acquire any security of another investment company (the "acquired company") if, after such acquisition, (i) the acquiring company, alone or together with other companies controlled by it, owns more than three percent of the total outstanding voting stock of the acquired company; (ii) more than five percent of the value of the acquiring company's total assets consists of securities of the acquired company; or (iii) in the aggregate, more than ten percent of the value of the acquiring company's assets consists of securities issued by the acquired company and other investment companies.

Section 12(d)(1)(B) of the Act provides that it shall be unlawful for any registered open-end investment company (the "acquired company") or its principal underwriter knowingly to sell or otherwise dispose of any security issued by the acquired company to any other investment company (the "acquiring company") if, immediately after such disposition, (i) more than three percent of the total outstanding voting stock of the acquired company is owned by the acquiring company and any companies controlled by it; or (ii)

more than ten percent of the total outstanding voting stock of the acquired company is owned by the acquiring company and other investment companies or companies controlled by them.

Applicants state that while shares of the Growth Fund and Income Fund are and will continue to be offered directly to the public, they anticipate that the Fund shares held by Jefferson Account A and Pilot Account A will be in excess of the percentage limitations of Sections 12(d)(1) (A) and (B). According to Applicants, as of June 30, 1979, the Growth Fund had outstanding 1,571,321 shares of its common stock, of which 664,201 (42.27%) were owned by the two separate accounts. Applicants suggest that subsection (E) of Section 12(d)(1) may make it unnecessary for them to seek an exemption from Section 12(d)(1) of the Act since subsection (E) provides that the provisions of Section 12(d)(1) do not apply if (i) the depositor of or the principal underwriter for such registered unit investment trust is a broker or dealer registered under the Securities Exchange Act of 1934; and (ii) the securities are the only investment securities held by such registered unit investment trust or the securities are the only investment security held by such registered unit investment trust that issues two or more classes or series of securities, each of which provides for the accumulation of shares of a different investment company.

Applicants contend that the proposed arrangement does not present the type of abuse or danger which Section 12(d)(1) was intended to guard against. Applicants state that Section 12(d)(1) was apparently intended to prevent the "pyramiding" of investment companies and that it is not their intent to "pyramid" but to merely grant to their customers and prospective customers additional flexibility.

Applicants state that they may satisfy the conditions of Section 12(d)(1)(E), however, in order to avoid any question concerning the scope of relief afforded by that Section of the Act, Applicants request an exemption from the provisions of Section 12(d)(1) to the extent necessary to permit Jefferson Account A and Pilot Account A to invest in both Growth Fund and Income Fund shares without regard to the limitations of Sections 12(d)(1) (A) and (B).

Section 6(c)

Section 6(c) authorizes the Commission to exempt any person, security or transaction or any class or classes or persons, securities or transactions, from the provisions of the

Act and Rules promulgated thereunder if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than September 10, 1979, at 5:30 p.m. submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit, or in the case of an attorney at law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following September 10, 1979, unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc. 79-26196 Filed 8-22-79; 8:45 am]
BILLING CODE 8010-01-M

[Release No. 10846; (812-4472)]

Mutual of Omaha Money Market Account, Inc.; Filing of Application Pursuant to Section 6(c) of the Act for an Order of Exemption From Rules 2a-4 and 22c-1 Thereunder

August 16, 1979.

In the matter of Mutual of Omaha Money Market Account, Inc., 3102 Farnam Street, Omaha, Nebraska 68131, (812-4472).

Notice is hereby given that Mutual of Omaha Money Market Account, Inc. ("Applicant"), registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified

management investment company, filed an application on May 7, 1979, and an amendment thereto on August 6, 1979, for an order pursuant to Section 6(c) of the Act, exempting Applicant from the provisions of Rules 2a-4 and 22c-1 under the Act to the extent necessary to permit Applicant to calculate its net asset value per share using the amortized cost method of valuing portfolio securities.

Applicant represents that its investment objective is to seek as high a level of current income as is consistent with preservation with preservation of capital and maintenance of liquidity by investing in a variety of money market instruments. All investments by Applicant must consist of obligations maturing within one year from the date of acquisition.

Rule 2a-4 adopted under the Act provides, as here relevant, that the "current net asset value" of a redeemable security issued by a registered investment company used in computing its price for the purposes of distribution and redemption shall be an amount which reflects calculations made substantially in accordance with the provisions of that rule, with estimates used where necessary or appropriate. Rule 2a-4 further states that portfolio securities with respect to which market quotations are readily available shall be valued at current market value, and that other securities and assets shall be valued at fair value as determined in good faith by the board of directors of the registered company. Prior to the filing of the application, the Commission expressed its view that, among other things, (1) Rule 2a-4 under the Act requires that portfolio instruments of "money market" funds be valued with reference to market factors, and (2) it would be inconsistent, generally, with the provisions of Rule 2a-4 for a "money market" fund to value its portfolio instruments on an amortized cost basis (Investment Company Act Release No. 9789, May 31, 1977).

Rule 22c-1 adopted under the Act provides, in part, that no registered investment company or principal underwriter therefor issuing any redeemable security shall sell, redeem or repurchase any such security except at a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption or of an order to purchase or sell such security.

Section 6(c) of the Act provides, in part, that the Commission, upon application, may conditionally or unconditionally exempt any person, security or transaction or any class or classes of persons, securities or

transactions, from any provision or provisions of the Act or of the rules thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant asserts that the requested exemption is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicant represents that its directors have determined that, absent unusual circumstances, amortized cost value represents the fair value of its portfolio securities. Applicant's board of directors believes that this proposal will benefit both Applicant and its shareholders. Applicant asserts that, under an amortized cost valuation method, its shareholders would have the convenience of being able to determine the value of their holdings, simply by knowing the number of shares they own, and that their task of maintaining an investment record would also be made easier. Applicant further asserts that its proposal is expected to avoid the periodic \$.01 changes in its net asset value per share as a result of which investors may realize nominal capital gains and losses upon redemption.

Applicant consents to the following conditions to any order granting the relief requested in the application:

1. In supervising the Applicant's operations and delegating special responsibilities involving portfolio management to the Applicant's investment adviser, the Applicant's board of directors undertakes—as a particular responsibility within the overall duty of care owed to its shareholders—to establish procedures reasonably designed, taking into account current market conditions and the Applicant's investment objective, to stabilize the Applicant's net asset value per share, as computed for the purpose of distribution, redemption and repurchase, at \$1.00 per share.

2. Included within the procedures to be adopted by the board of directors shall be the following:

(a) Review by the board of directors, as it deems appropriate and at such intervals as are reasonable in light of current market conditions, to determine the extent of deviation, if any, of the net asset value per share as determined by using available market quotations from the Applicant's \$1.00 amortized cost, price per share and the maintenance of records of such review.

(b) In the event such deviation from the Applicant's \$1.00 amortized cost

price per share exceed ½ of 1 percent, a requirement that the board of directors will promptly consider what action, if any, should be initiated by the board of directors.

(c) Where the board of directors believes the extent of any deviation from the Applicant's \$1.00 amortized cost price per share may result in material dilution or other unfair results to investors or existing shareholders, it shall take such action as it deems appropriate to eliminate or reduce to the extent reasonably practicable such dilution or unfair results, which may include: redemption of shares in kind; selling portfolio instruments prior to maturity to realize capital gains or losses, or to shorten the average portfolio maturity of the Applicant; withholding dividends; or utilizing a net asset value per share as determined by using available market quotations.

3. The Applicant will maintain a dollar-weighted average portfolio maturity appropriate to its objective of maintaining a stable net asset value per share; provided, however, that the Applicant will not (a) purchase any instrument with a remaining maturity of greater than one year, or (b) maintain a dollar-weighted average portfolio maturity which exceeds 120 days. In fulfilling this condition, the Applicant undertakes that if the disposition of a portfolio security results in a dollar-weighted portfolio maturity in excess of 120 days, the Applicant will invest its available assets in such a manner as to reduce its dollar-weighted average portfolio maturity to 120 days or less as soon as reasonably practicable.

4. The Applicant will record, maintain, and preserve permanently in an easily accessible place a written copy of the procedures (and any modifications thereto) described in paragraph 1. above; and, the Applicant will record, maintain, and preserve for a period not less than six years (the first two years in an easily accessible place) a written record of the board of directors' considerations and actions taken in connection with the discharge of its responsibilities, as set forth above, to be included in the minutes of the board of directors' meetings. The documents preserved pursuant to this condition shall be subject to inspection by the Commission in accordance with Section 31(b) of the Act, as if such documents were records required to be maintained pursuant to rules adopted under Section 31(a) of the Act.

5. Applicant will limit its portfolio investments, including repurchase agreements, to those instruments which the board of directors determines present minimal credit risks, and which

are of "high quality" as determined by any major rating service or in the case of any instrument that is not so rated, of comparable quality, as determined by Applicant's board of directors.

6. Applicant will include in each quarterly report, as an attachment to Form N-1Q, a statement as to whether any action pursuant to condition 2(c) was taken during the preceding fiscal quarter, and, of any action was taken, will describe the nature and circumstances of such action.

Notice is further given That any interested person may, not later than September 10, 1979, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

(FR Doc. 26187 Filed 8-22-79; 8:45 am)
BILLING CODE 8010-01-M

New York Stock Exchange, Inc.; Order Approving Proposed Rule Change

[Release No. 16113]

August 16, 1979

In the Matter of New York Stock Exchange, Inc., 55 Wall Street, New York, New York 10041. (SR-NYSE-79-15).

On April 2, 1979, the New York Stock Exchange, Inc. ("NYSE") filed with the Commission, pursuant to Section

19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78(b)(1) (the "Act") and Rule 19b-4 to amend NYSE Rules 326(a) and 326(b) dealing with growth capital and business reduction capital requirements. The amendment would allow five additional business days to members under certain unusual circumstances before instituting restrictions.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission Release (Securities Exchange Act Release No. 34-15815, May 14, 1979) and by publication in the Federal Register (44 FR 28903, May 17, 1979). No comments were received with respect to the proposed rule filing.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a securities exchange and in particular, the requirements of Section 6 of the Act and the rules and regulations thereunder.

It is therefore ordered, Pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

(FR Doc. 79-26188 Filed 8-22-79; 8:45 am)
BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[Proposed License No. 09/09-5238]

BJW Capital Corp.; Application for License To Operate as a Small Business Investment Company

An application for a license to operate as a small business investment company under the provisions of Section 301(d) of the Small Business Investment Act of 1958, as amended (15 U.S.C. 661 *et seq.*), has been filed by BJW Capital Corporation (applicant), with the Small Business Administration (SBA), pursuant to 13 CFR 107.102 (1979).

The officers and director of the applicant are as follows:

Robert B. Boyd, President, 4021 Stevely Avenue, Los Angeles, California 90005.
Ray A. Johnson, Secretary, 813 Pauline Court, Santa Maria, California 93454.
George Whitaker, Director, 3508 Scadlock Lane, Sherman Oaks, California 91423.

The applicant will maintain its principal place of business at 2040

Avenue of the Stars, Suite 400, Los Angeles, California 90067.

It will begin operations with private capital of \$2,051,000, of which \$51,000 of common stock will be purchased equally by the officers and director shown above. King Bridge International Fiduciary Trust, 2475 South El Paseo Circle, Las Vegas, Nevada 89121 will purchase \$2,000,000 of the applicant's nonvoting, noncumulative and partially participating preferred stock.

The applicant will operate principally in the State of California.

As a small business investment company under Section 301(d) of the Act, the applicant has been organized and chartered solely for the purpose of performing the functions and conducting the activities contemplated under the Small Business Investment Act of 1958, as amended, from time to time, and will provide assistance solely to small business concerns which will contribute to a well-balanced national economy by facilitating ownership in such concerns by persons whose participation in the free enterprise system is hampered because of social or economic disadvantages.

Matters involved in SBA's consideration of the applicant include the general business reputation and character of the proposed owners and management, and the probability of successful operation of the applicant under their management, including adequate profitability and financial soundness, in accordance with the Small Business Investment Act and the SBA Rules and Regulations.

Notice is hereby given that any person may, on or before September 7, 1979, submit to SBA written comments on the proposed applicant. Any such communication should be addressed to the Acting Associate Administrator for Finance and Investment, Small Business Administration, 1441 L Street, NW., Washington, D.C. 20416.

A copy of this notice shall be published in a newspaper of general circulation in Los Angeles, California.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: August 16, 1979.

Peter F. McNeish,

Acting Associate Administrator for Finance and Investment.

(FR Doc. 79-28012 Filed 8-22-79; 8:45 am)
BILLING CODE 8035-01-M

[Proposed License No. 09/09-0232]**California Partners; Application for a License to Operate as a Small Business Investment Company**

Notice is hereby given of the filing of an application with the Small Business Administration pursuant to § 107.102 of the Regulations governing small business investment companies (CFR 107.102 (1979)) by California Partners, a limited partnership, Two Palo Alto Square, Suite 700, Palo Alto, California 94304, for a license to operate as a small business investment company (SBIC) under the provisions of the Small Business Investment Act of 1958, as amended (Act), (15 U.S.C. et seq.).

The Applicant has changed its structure from that of a corporation (formerly Draper Associates, Inc. (FR, Vol. 44, No. 49)) to a limited partnership.

The Proposed General Partner and Limited Partners Owning 10 or More Percent of the Partnership Capital**General Partners**

Draper Associates, Inc., Two Palo Alto Square, Suite 700, Palo Alto, California 94304, 1 percent ownership interest in the Partnership.

William H. Draper III, 91 Tallwood Court, Atherton, California 94025, President, Director 100 percent.

Phyllis C. Draper, 91 Tallwood Court, Atherton, California 94025, Vice President, Chief Financial Officer and Director.

James C. Gaither, 37 Southwood Avenue, Ross, California 94957, Secretary, Director.

Limited Partners

Polly C. Draper, 91 Tallwood Court, Atherton, California 94025, 33 percent.

Rebecca S. Draper, 2548 Hyde Street, San Francisco, California 94109, 33 percent.

Timothy C. Draper, 91 Tallwood Court, Atherton, California 94025, 33 percent.

The Applicant will begin operations with initial private capital of \$500,000. The Applicant recognizes the need for both equities and loans. However, the Applicant will, as much as it is practical, emphasize equity investments with particular attention to growth potentials. The President of the Applicant's General Partner was formerly President of Sutter Hill Capital Corporation, an SBIC which surrendered its license on September 4, 1975.

Matters involved in SBA's consideration of the application include (1) the general business reputation and character of the proposed owners and management, (2) the reasonable prospects for successful operation of the new SBIC under such management (including adequate profitability and financial soundness, in accordance with the Act and Regulations), and (3)

whether the proposed licensing would be in the furtherance of the Act.

Notice is hereby given that any person may not later than (10 days of publication of this Notice) submit written comments to the Acting Associate Administrator for Finance and Investment, 1441 L Street, NW., Washington, D.C. 20416.

A copy of this notice will be published in a newspaper of general circulation in Palo Alto, California.

(Catalog of Federal Domestic Program No. 59.011, Small Business Investment Companies).

Dated: August 16, 1979.

Peter F. McNelsh,

Acting Associate Administrator for Finance and Investment.

(FR Doc. 79-26011 Filed 8-22-79; 8:45 am)

BILLING CODE 8025-01-M

Region VI Advisory Council Meeting; Public Meeting

The Small Business Administration Region VI Advisory Council, located in the geographical area of Lower Rio Grande Valley, Texas, will hold a public meeting at 9:30 a.m., Tuesday, September 11, 1979, at the First National Bank in the Community Room, 222 E. Van Buren, Harlingen, Texas, to discuss such business as may be presented by members, the staff of the U.S. Small Business Administration, and others attending.

For further information, write or call James R. Woodall, District Director, U.S. Small Business Administration, 222 E. Van Buren, Harlingen, Texas 78550—(512) 734-4533.

Dated: August 17, 1979.

K. Drew,

Deputy Advocate for Advisory Councils.

(FR Doc. 79-26008 Filed 8-22-79; 8:45 am)

BILLING CODE 8025-01-M

Region VIII Advisory Council Meeting; Public Meeting

The Small Business Administration Region VIII Advisory Council, located in the geographical area of Salt Lake City, Utah, will hold a public meeting at 9:00 a.m., on Friday, September 14, 1979, at the Riverside Country Club, 2701 N. University Avenue, Provo, Utah, to discuss such matters as may be presented by members, staff of the Small Business Administration, or others attending.

For further information, write or call W. Grant Evans, Assistant District Director for Finance & Investment, U.S.

Small Business Administration, 2237 Federal Building, 125 South State Street, Salt Lake City, Utah 84138—(801) 524-5804.

Dated: August 17, 1979.

K. Drew,

Deputy Advocate for Advisory Councils.

(FR Doc. 79-26009 Filed 8-22-79; 8:45 am)

BILLING CODE 8025-01-M

Region IX Advisory Council Meeting; Public Meeting

The Small Business Administration Region IX Advisory Council, located in the geographical area of Los Angeles, California, will hold a public meeting at 12:00 noon, Wednesday, September 26, 1979, at the Taix Les Freres French Restaurant, 1911 West Sunset Boulevard, Los Angeles, California, to discuss such business as may be presented by members, the staff of the U.S. Small Business Administration, and others attending.

For luncheon reservations and further information, write or call Stewart L. Rollins, District Director, U.S. Small Business Administration, 350 South Figueroa Street, Suite 600, Los Angeles, California 90071—(213) 688-2977.

Dated: August 17, 1979.

K. Drew,

Deputy Advocate for Advisory Councils.

(FR Doc. 79-26010 Filed 8-22-79; 8:45 am)

BILLING CODE 8025-01-M

White House Conference on Small Business

In accordance with Section 10(a) of the Federal Advisory Committee Act (5 U.S.C. appendix I), announcement is made of the following national commission meeting.

Small Business Conference Commission; Meeting

September 13, 1979—2:00 p.m.—3:30 p.m., Room 2010, New Executive Office Building, 726 Jackson Place, Northwest, Washington, D.C.

Open Meeting

Purpose: The Small Business Conference Commission was established by Executive Order to provide advice with respect to the holding of a White House Conference on Small Business in early 1980. In pursuit of the goal of a strong small business community, the Commission shall recommend issues to be considered by the Conference including those related

to fostering of small business and the expansion of opportunities for entry into small business enterprises. The Commission shall make recommendations for legislative and policy changes primarily based upon the findings of the White House Conference on Small Business.

Agenda: The Commission shall address the above issues and review the progress of research task forces in addition to other Commission business.

Contact: Heidi Hanson, Executive Assistant to the Director, White House Conference on Small Business, 730 Jackson Place, NW, Washington, DC 20006.

Please write before September 13, 1979, if you wish to attend this meeting. Attendance by the public will be limited to space available.

Summaries of the transcript of the meeting will be made available to the public upon request at cost.

Dated: August 17, 1979.

K. Drew,

Deputy Advocate for Advisory Councils, U.S. Small Business Administration.

(FR Doc. 79-26007 Filed 8-22-79; 8:45 am)

BILLING CODE 8025-01-M

DEPARTMENT OF STATE**Agency for International Development****Joint Research Committee of the Board for International Food and Agricultural Development; Meeting**

Pursuant to Executive Order 11769 and the provisions of Section 10(a), (2), Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given of the twenty-seventh meeting of the Joint Research Committee (JRC) of the Board for International Food and Agricultural Development (BIFAD) on September 11 and 12, 1979.

The purpose of the meeting is to review progress in planning the Collaborative Research Support Programs (CRSPs) for Nutrition (Functional Implications of Marginal Deficiencies in Diets), for Bean/Cow Pea, for Integrated Crop Protection, for Peanuts, and for Soil Management; to review priorities and projections for CRSPs; and to consider changes in composition and roles of JRC to relate to the Institute for Scientific and Technological Cooperation.

The meeting will convene at 9:00 a.m. and adjourn at 5:00 p.m. on September 11 and 12, 1979. The meeting will be held in the Dynasty Room of the Holiday Inn, 1850 N. Ft. Myer Drive, Arlington, Virginia, 22209. The meeting is open to the public. Any interested person may

attend, may file written statements with the Committee before or after the meeting, or may present oral statements in accordance with procedures established by the Committee, and to the extent the time available for the meeting permits.

Dr. Erven J. Long, Office of Title XII Coordination and University Relations, Development Support Bureau, is designated A.I.D. Advisory Committee Representative at the meeting. It is suggested that those desiring further information write to him in care of the Agency for International Development, State Department, Washington, D.C. 20523, or telephone him at (703) 235-8929.

Dated: August 16, 1979.

Erven J. Long

A.I.D. Advisory Committee Representative, Joint Research Committee, Board for International Food and Agricultural Development.

(FR Doc. 79-26151 Filed 8-22-79; 8:45 am)

BILLING CODE 4710-02-M

[CM-8/217]**Shipping Coordinating Committee; Subcommittee on Safety of Life at Sea; Meeting**

The working group on subdivision and stability of the Subcommittee on Safety of Life at Sea (SOLAS), a subcommittee of the Shipping Coordinating Committee, will hold an open meeting at 10:00 a.m. on Tuesday, September 11, 1979 in Room 8332 of the Department of Transportation, 400 Seventh Street, SW, Washington, DC.

The purpose of the meeting will be to review the report of the 23rd Session and discuss the preparation of the agenda for the 24th Session of the IMCO Subcommittee on Subdivision, Stability and Load Lines.

Requests for further information should be directed to Mr. Edward H. Middleton, U.S. Coast Guard (G-MM/TP24), Washington, DC, telephone (202) 426-2170, or Mr. William Cleary, Jr., U.S. Coast Guard (G-MMT-5/82), telephone (202) 426-2188.

The Chairman will entertain comments from the public as time permits.

John Lloyd III,

Acting Director, Office of Maritime Affairs, Department of State.

August 16, 1979.

(FR Doc. 79-26019 Filed 8-22-79; 8:45 am)

BILLING CODE 4710-07-M

[CM-8/218]**Shipping Coordinating Committee; Subcommittee on Safety of Life at Sea; Meeting**

The working group on radio communications of the Subcommittee on Safety of Life at Sea (SOLAS), a subcommittee of the Shipping Coordinating Committee, will hold an open meeting at 1:30 p.m. on September 20, 1979 in Room 8442 of the Department of Transportation, 400 Seventh Street, SW, Washington, DC.

The purpose of the meeting is to prepare position documents for the Twenty-first Session of the Subcommittee on Radio Communications of the Intergovernmental Maritime Consultative Organization (IMCO) to be held in London, January, 1980. In particular, the working group will discuss the following topics: Survival craft radio equipment; operational requirements for future EPIRBs; operational standards for shipboard radio equipment; and maritime distress system.

Requests for further information should be directed to Lt. R. F. Carlson, U.S. Coast Guard (G-OTM/74), Washington, DC 20590, telephone (202) 426-1345.

The Chairman will entertain comments from the public as time permits.

John Lloyd III,

Acting Director, Office of Maritime Affairs, Department of State.

August 15, 1979.

(FR Doc. 79-26020 Filed 8-22-79; 8:45 am)

BILLING CODE 4710-07-M

[Public Notice 683]**Bureau of Oceans and International Environmental and Scientific Affairs; Extension of Comment Period on Draft Environmental Impact Statement**

The Department of State has extended the comment period on its Draft Environmental Impact Statement on the Convention on the Conservation of Migratory Species of Wild Animals until September 15, 1979. The initial comment period closed on July 13, 1979.

The extension has been granted to enable recipients of a second printing of the draft statement to comment on it. The draft statement considers the potential environmental effects of a proposed international Convention for conservation of migratory species of wild animals which was negotiated at Bonn in June, 1979.

Copies of the Draft EIS may be obtained by contacting William H. Mansfield, Office of Environment and Health, Department of State, Room 7820, Washington, D.C. 20520 (telephone: 202/632-2418).

August 10, 1979.

Donald R. King,

Acting Deputy Assistant Secretary for Environment, Health and Natural Resources.

[FR Doc. 79-28207 Filed 8-22-79; 8:45 am]

BILLING CODE 4710-09-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 79-112]

Temporary Exemption for CGC Decisive (WMEC-629) From Navigation Light Requirements

AGENCY: Coast Guard, DOT.

ACTION: Notice of Exemption.

SUMMARY: This is to give notice that the Coast Guard finds that the Coast Guard Cutter *Decisive* (WMEC-629), because of special construction, is exempted from complying with Rule 3(e) of the Navigation Rules for Great Lakes and their Connecting and Tributary Waters during its port call at Massena, New York on September 6-8, 1979. Rule 3(e) requires that power-driven vessels of over one hundred feet registered length, when operating on the Great Lakes, carry a white masthead light forward and an additional white light more than fifty feet abaft the forward light. The exemption published in this document will allow the Coast Guard Cutter *Decisive* to comply with this requirement as closely as is feasible.

FOR FURTHER INFORMATION CONTACT: Mr. Timothy E. Foley, Office of Marine Environment and Systems (G-WLE-4/73), Room 7315, Department of Transportation, Nassif Building, 400 Seventh Street, SW, Washington, DC 20590, (202) 426-4958.

SUPPLEMENTARY INFORMATION: The Coast Guard Cutter *Decisive* (WMEC-629) is scheduled to visit Massena, New York, September 6-8, 1979 in conjunction with celebrations of the 20th anniversary of the opening of the St. Lawrence Seaway. The Coast Guard Cutter *Decisive* is designed with a

helicopter landing platform on the after part of the vessel. As a result of this special construction, the closest feasible compliance with Rule 3(e) (33 U.S.C. 252(e)) that can be achieved is a horizontal separation between the forward masthead light and after range light of 29 feet (8.8 meters).

33 U.S.C. 360 allows the Commandant to exempt Coast Guard vessels from certain statutory provisions, including the position of lights under Rule 3(e), if he finds that vessel to be of special construction, provided the exempted vessel complies with the requirement as closely as feasible. This document finds the Coast Guard Cutter *Decisive* to be of special construction and the horizontal separation between the forward masthead light and after range light of 29 feet (8.8 meters) complies as closely as feasible with Rule 3(e).

In accordance with the preceding, the Coast Guard Cutter *Decisive* is exempted from Rule 3(e) as discussed above during the port call at Massena, New York on September 6-8, 1979, (during transit to and from that port, and during the period of any special operation to which the vessel is assigned during that time) provided, that the masthead light and range light are carried at a minimum horizontal separation of 29 feet (8.8 meters). August 13, 1979

K. G. Wiman,

Captain, U.S. Coast Guard, Acting Chief, Office of Marine Environment and Systems.

[FR Doc. 79-28248 Filed 8-22-79; 8:45 am]

BILLING CODE 4910-14-M

Federal Aviation Administration

Radio Technical Commission for Aeronautics (RTCA); Special Committee 134—Electronic Test Equipment for General Application; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I) notice is hereby given of a meeting of RTCA Special Committee 134 on Electronic Test Equipment for General Application to be held September 13-14, 1979, in Conference Room 8 A-B, DOT/Federal Aviation Administration Building, 800 Independence Avenue, S.W.,

Washington, D.C. commencing at 9:00 a.m.

The Agenda for this meeting is as follows: (1) Chairman's Introductory Remarks; (2) Approval of Minutes of the Ninth Meeting held June 28-29, 1970; (3) Consideration of Department of Defense Comments on "Recommendations on Bid Samples"; (4) Review and approval of Issue Paper on Effects of Technological Advances on Electronic Test Equipment; (5) Discussion of other Issue Papers presented by Working Groups; and (6) Other Business.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present oral statements or obtain information should contact the RTCA Secretariat, 1717 H Street, N.W., Washington, D.C. 20006; (202) 296-0484. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, D.C. on August 13, 1979.

Karl F. Bierach,
Designated Officer.

[FR Doc. 75-28156 Filed 8-22-79; 8:45 am]

BILLING CODE 4910-13-M

Materials Transportation Bureau

Grants and Denials of Applications for Exemptions

AGENCY: Materials Transportation Bureau, DOT.

ACTION: Notice of Grants and Denials of Applications for exemptions.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given of the exemptions granted June 1979. The modes of transportation involved are identified by a number in the "Nature of Exemption Thereof" portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo-vessel, 4—Cargo-only aircraft, 5—Passenger-carrying aircraft.

Application numbers prefixed by the letters EE represent applications for Emergency Exemptions.

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
Renewals				
1479-X	DOT-E 1479	Rockwell International Corp., Canoga Park, Calif.	49 CFR 173.315(a)(1)	To ship a nonflammable compressed gas in non-DOT specification cargo tanks. (Mode 1.)
4717-P	DOT-E 4717	Chemplex Co., Rolling Meadows, Ill.	49 CFR 172.101, 173.314(c)	To become a party to Exemption 4717. (See Application No. 4717-P). (Mode 2.)
5749-X	DOT-E 5749	E. I. du Pont de Nemours & Co., Inc., Wilmington, Del.	49 CFR 173.315(a)	To ship a certain flammable gas in an insulated nickelsteel DOT Specification MC-331 cargo tank. (Mode 1.)
5923-X	DOT-E 5923	Union Carbide Corp., Tarrytown, N.Y.	49 CFR 173.314	To ship certain flammable and nonflammable gases in DOT Specification 106A500X and 110A500-W multi-unit tank car tanks. (Modes 1, 2.)
6016-X	DOT-E 6016	Strate Welding Supply Co., Inc., Buffalo, N.Y.; S. J. Smith Co., Davenport, Iowa; Southern Welding Supply Co., Inc., Bowling Green, Ky.; Huber Supply Co., Mason City, Iowa; Livingston Medical Products Co., Modesto, Calif.; Welding & Cutting Supply Co., Cleveland, Ohio.	49 CFR 173.315(a)	To ship certain nonflammable gases in a non-DOT specification portable tank designed and constructed in accordance with Section VIII of the ASME Code. (Mode 1.)
6113-X	DOT-E 6113	Chemplex Co., Rolling Meadows, Ill.	49 CFR 172.101, 173.315(a)	To ship certain flammable gases in a non-DOT specification cargo tank designed and constructed in accordance with Section VIII of the ASME Code. (Mode 1.)
6215-X	DOT-E 6215	E. I. du Pont de Nemours & Co., Wilmington, Del.	49 CFR 172.101, 173.315(a)	To ship a nonflammable gas in a non-DOT specification cargo tank designed and constructed in accordance with Section VIII of the ASME Code. (Mode 1.)
6296-X	DOT-E 6296	Platte Chemical Co., Fremont, Neb.	49 CFR 173.377(g)	To ship certain Class B poisons in DOT Specification 44D multiwall paper bag. (Modes 1, 2.)
6571-X	DOT-E 6571	American LNG Co., Oak Brook, Ill.; Chemplex Co., Rolling Meadows, Ill.	49 CFR 172.101, 173.315(a)	To ship certain flammable gases in a non-DOT specification insulated cargo tank designed and constructed in accordance with Section VIII of the ASME Code. (Mode 1.)
6618-X	DOT-E 6618	Monsanto Co., St. Louis, Mo.	49 CFR 173.374(a) 173.365(a)	To ship certain Class B poison in an insulated DOT Specification MC-312 cargo tank. (Mode 1.)
6793-X	DOT-E 6793	Hickson & Welch Ltd., London, England.	49 CFR Parts 173, 46 CFR 80.05-35, 98.35-3.	To ship certain hazardous materials in non-DOT specification portable tanks. (Modes 1, 2, 3.)
6793-P	DOT-E 6793	Associated Container Transportation (Australia) Ltd., Sydney, Australia.	49 CFR Parts 173, 46 CFR 80.05-35, 98.35-3.	To become a party to Exemption 6793. (See Application No. 6793-P). (Mode 1.)
6826-X	DOT-E 6826	McDonnell Douglas Astronautics Co., Huntington Beach, Calif.	49 CFR 172.92(b), 175.3	To ship a Class B explosive in DOT Specification 15A wooden boxes. (Modes 1, 4.)
6898-P	DOT-E 6898	J. T. Baker Chemical Co., Phillipsburg, N. J.	49 CFR 178.150-4 (a)(1)	To become a party to Exemption 6898. (See Application No. 6898-P). (Modes 1, 2, 3.)
6919-X	DOT-E 6919	Chemplex Co., Rolling Meadows, Ill.	49 CFR 172.101, 173.315(a)	To ship certain flammable gases in a non-DOT Specification insulated cargo tank designed and constructed in accordance with Section VIII of the ASME Code. (Mode 1.)
6927-X	DOT-E 6927	Dow Chemical Co., Midland, Mich.	49 CFR 173.353	To ship certain Class B poisonous liquids in a non-DOT specification portable tank. (Modes 1, 3.)
7010-X	DOT-E 7010	Dow Chemical Co., Midland, Mich. Amerbrom, Inc., New York, N.Y. Great Lakes Chemical Corp., El Dorado, Ark.	49 CFR 173.252(a)	To ship a certain corrosive liquid in non-DOT specification lead lined portable tanks, designed and constructed in accordance with DOT Specification MC-312 with certain exceptions. (Modes 1, 2, 3.)
7052-P	DOT-E 7052	Sangamo Weston, Inc., Atlanta, Ga.; Matsushita Battery Industrial Co., Ltd., Osaka, Japan.	49 CFR 172.101, 173.206(e)(1), 175.3.	To become a party to Exemption 7052. (See Application No. 7052-P). (Modes 1, 2, 3, 4.)
7201-X	DOT-E 7201	Delta Airlines, Inc., Atlanta, Ga.	49 CFR 173.24(a), 175.3, 175.85(a).	To carry certain modules or units containing certain nonflammable compressed gases in the cabin of passenger-carrying aircraft. (Mode 5.)
7261-X	DOT-E 7261	Monsanto Co., St. Louis, Mo.	49 CFR 173.190(d)	To ship a certain flammable solid in non-DOT specification storage tanks. (Mode 2.)
7603-X	DOT-E 7603	Air Products and Chemicals, Inc., Allentown, Pa.	49 CFR 172.101, 173.315, 176.76(b).	To ship certain nonflammable gases in non-DOT specification vacuum insulated cargo tank, designed and constructed in accordance with Section VIII of the ASME Code. (Mode 3.)
7616-X	DOT-E 7616	The Kansas City Southern Railway, Co., Kansas City, Mo.	49 CFR 172.204(a), (d)	To allow the use of a statement to aver certification on behalf of shipper to be substituted for the actual certification on shipping papers. (Mode 2.)
7721-X	DOT-E 7721	Applied Equipment Co., Van Nuys, Calif.	49 CFR 173.302(a) (4), 175.3	To manufacture, mark and sell non-DOT specification steel cylinders for shipment of nonflammable nonliquefied compressed gases. (Modes 1, 2, 4.)
7735-X	DOT-E 7735	Rheem Manufacturing Co., Linden, N.J.	49 CFR 173.119	To manufacture, mark and sell certain DOT Specification 34 containers for shipment of flammable liquids. (Modes 1, 2, 3.)
7753-P	DOT-E 7753	FMC Corp., Philadelphia, Pa.; Monsanto Co., St. Louis, Mo.	49 CFR 173.190(b)(2)	To become a party to Exemption 7753. (See Application No. 7753-P). (Modes 1, 2, 3.)
7840-P	DOT-E 7840	General Dynamics, Fort Worth, Tex.	49 CFR 173.87, 175.3, 178.83	To become a party to Exemption 7840. (See Application No. 7840-P). (Modes 1, 2, 3, 4, 5.)
7846-P	DOT-E 7846	Air Products & Chemicals, Inc., Allentown, Pa.	49 CFR 173.314(c)	To become a party to Exemption 7846. (See Application No. 7846-P). (Modes 1, 3.)
7853-P	DOT-E 7853	Roymal Coating and Chemical Co., Inc., Newport, N. H.	49 CFR 173.127, 173.184, 178.224.	To become a party to Exemption 7853. (See Application No. 7853-S). (Modes 1, 2, 3.)

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
Renewals—Continued				
7876-X	DOT-E 7876	Alked Chemical Corp., Monticello, N.J.	49 CFR 173.299(a), 175.3	To ship corrosive materials described as etching acid, liquid. (Modes 1, 2, 3, 4.)
7924-P	DOT-E 7924	Panasonic Co., Secaucus, N.J.; Matsushita Battery Industrial Co., Ltd., Osaka, Japan.	49 CFR 173.206, 175.3	To become a party to Exemption 7924. (See Application No. 7924-P). (Modes 1, 2, 3, 4, 5.)
7950-X	DOT-E 7950	Martin Marietta Corp., Charlotte, N.C.	49 CFR 173.154(a)(9)	To transport dinitrophenol wet with 10 percent water in fiber drums. (Modes 1, 2.)
7983-P	DOT-E 7983	Sanyo Electric Inc., Little Ferry, N.J.; Sharp Electronics, Corps., Paramus, N.J.; Panasonic Co., Secaucus, N.J.; Matsushita Battery Industrial Co., Ltd., Osaka, Japan.	49 CFR Part 107, Appendix B; Parts 171-178.	To become a party to Exemption 7983. (See Application No. 7983-P). (Modes 1, 2, 3, 4, 5.)
8005-P	DOT-E 8005	Container Luzern, Mannheim, West Germany.	49 CFR 173.266	To become a party to Exemption 8005. (See Application No. 8005-P). (Modes 1, 2, 3.)
8189-X	DOT-E 8189	Shell Oil Co., Houston, Tex.	49 CFR 173.358(a)(12), (14)	To ship a Class B poison in DOT Specification MC-311 tank motor vehicles; and 60/2SL packaging. (Mode 1.)
7620-X	DOT-E 8203	W. P. Butterfield (Engineers) Ltd., Shipley, West Yorkshire, England.	49 CFR 173.119, 173.154, 173.245, 173.247, 173.268, 173.346; 46 CFR 90.05-35.	To ship certain hazardous materials in certain non-DOT specification portable tanks. (Modes 1, 3.)
7620-P	DOT-E 8203	Eastern Mediterranean (Containers) Co., Ltd., London, England; Pennwalt Corp., Philadelphia, Pa.	49 CFR 173.119, 173.154, 173.245, 173.247, 173.268, 173.346; 46 CFR 90.05-35.	To become a party to Exemption 8203. (See Application No. 8203-P). (Modes 1, 3.)
New Exemptions				
8086-N	DOT-E 8086	Boeing Aerospace Co.	49 CFR 172.101, 173.87, 173.102, 173.119.	To transport an air launched cruise missile containing various hazardous materials—classified as flammable liquid. (Mode 1.)
8092-N	DOT-E 8092	Dow Chemical Co., Midland, Mich.	49 CFR 172.101, 173.154(a)(9)	To authorize a one-time shipment of ammonium persulfate in non-DOT specification fiber drums. (Mode 1.)
8129-N	DOT-E 8129	RAO Service, Inc., Laurel, Md.	49 CFR Part 173, Subpart F	To ship certain corrosive liquids in DOT Specification 17H or 6J removable head drums. (Mode 1.)
8134-N	DOT-E 8134	J. T. Baker Chemical Co., Phillipsburg, N.J.	49 CFR 173.268(g)(1); 173.269(d)(2).	To ship nitric acid and perchloric acid in DOT 12R boxes having inside glass bottles closed with liner-less polypropylene caps. (Mode 1.)
8140-N	DOT-E 8140	CNG Services, Inc., Pittsburgh, Pa.	49 CFR 172.101, 173.301(d)(2), 173.302(a)(3).	To ship compressed natural gas in DOT Specification 3AA x 2400 cylinders made of 4130 x steel. (Mode 1.)
8184-N	DOT-E 8184	C.I.L. Chemicals Inc., Southfield, Mich.	49 CFR 173.65	To ship flake TNT in a non-DOT specification composite paper/polyethylene/jute bag. (Mode 1, 2.)
8200-N	DOT-E 8200	Fleming International Airways, Inc., Miami, Fla.	49 CFR 172.101, 175.30, 175.320(a).	To transport one shipment of Class A and Class C explosives loaded aboard the same aircraft. (Mode 4.)

Denials

- 6793-X—Request by Superintendence Company Inc., New York, N.Y.—To ship certain hazardous materials in non-DOT specification portable tanks; denied June 11, 1979.
- 7014-X—Request by Eurotainer, Paris, France—To ship vinylpyridine in non-DOT specification stainless steel portable tanks, denied June 25, 1979.
- 7060-P—Request by Megair, Inc., Bowie, Md.—To become a party to Exemption 7060 to transport radioactive materials aboard cargo-only aircraft when the combined transport index exceeds 50 and/or the separation criteria can not be met, denied June 27, 1979.
- 7958-N—Request by Israel Aircraft Industries, Ltd., Beer Sheva, Israel—To ship liquid methyl bromide in non-DOT specification portable tanks by cargo vessel, motor vehicle and rail freight, denied June 29, 1979.
- 8114-N—Request by Federal Express Corp., Memphis, Tenn.—To eliminate the words "limited quantities" and "cargo-only aircraft" following the basic description on the shipping papers, and in written notification to pilot-in command for loading of hazardous materials, denied June 11, 1979.

Withdrawals

- 8176-N—Request by Kawecki Berylco Industries, Inc., Boyertown, Pa.—To manufacture, mark and sell non-DOT specification metal lined polypropylene container overpacked in a DOT Specification 21C fiber drum or 17C steel drums for the shipment of germanium tetrachloride, corrosive liquid, n.o.s., withdrawn June 20, 1979.

J. R. Grothe, Chief,

Exemptions Branch, Office of Hazardous Materials Regulation, Materials Transportation Bureau.

[FR Doc. 79-25777 Filed 8-22-79; 8:45 am]
BILLING CODE 4910-40-M

National Highway Traffic Safety Administration

Collision Avoidance Radar Braking System; Notice of Public Briefing

AGENCY: National Highway Traffic Safety Administration (NHTSA).

ACTION: Notice of public briefing.

SUMMARY: The notice invites the public to attend a briefing on and demonstration of radar braking systems. The National Highway Traffic Safety Administration has contracted with the Bendix Research Laboratories to explore the feasibility of an automatic radar braking system for passenger vehicles. The agency will be briefed by the

contractor on the results of its research on Wednesday, August 29, 1979, at 1:30 p.m. in Room 1307, Transpoint Building, 2100 2nd Street, S.W., Washington, D.C. The briefing will be followed by a short demonstration.

FOR FURTHER INFORMATION CONTACT: Yung Wu, Office of Passenger Vehicle Research National Highway Traffic Safety Administration, Washington, D.C. 20590 (202-426-4881).

Issued on August 21, 1979.

W. H. Close,

Acting Associate Administrator for Research and Development.

[FR Doc. 79-26351 Filed 8-21-79; 11:07 am]

BILLING CODE 4910-59-M

DEPARTMENT OF THE TREASURY

Customs Service

Certain Scales and Weighing Machinery From Japan Preliminary Countervailing Duty Determination

AGENCY: U.S. Customs Service, Treasury Department.

ACTION: Preliminary Countervailing Duty Determination.

SUMMARY: This notice is to inform the public that a countervailing duty investigation has resulted in a preliminary determination that the Government of Japan has given benefits which may constitute bounties or grants on the manufacture, production, or exportation of certain scales and weighing machinery. If a final determination is not reached prior to December 31, 1979, then in accordance with section 102(a)(2) of the Trade Agreements Act of 1979, it will be made no later than March 17, 1980. Interested persons are invited to comment on this action.

EFFECTIVE DATE: August 23, 1979.

FOR FURTHER INFORMATION CONTACT: David R. Chapman, Duty Assessment Division, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20220 telephone (202) 566-5492.

SUPPLEMENTARY INFORMATION: On March 29, 1979 a notice of "Receipt of Countervailing Duty Petition and Initiation of Investigation" was published in the *Federal Register* (44 FR 18781). The notice stated that a petition had been received alleging that payments or bestowals conferred by the Government of Japan upon the manufacture, production or exportation of certain scales and weighing machinery from Japan constitute the payment or bestowal of a bounty or grant within the meaning of section 303 of the Tariff Act of 1930 as amended (19 U.S.C. 1303) (referred to in this notice as the "Act"). The scales or weighing machinery referred to in that notice enter the United States under item numbers 662.28 and 662.30 of the Tariff Schedules of the United States (TSUS).

On the basis of an investigation conducted pursuant to § 159.47(c) of the Customs Regulations (19 CFR 159.47(c)), it has preliminarily been determined that certain programs of the Government of Japan provide benefits to

manufacturers and/or exporters of the subject merchandise which may constitute bounties or grants within the meaning of section 303 of the Act. These benefits have been conferred under the following programs:

(1) A five year deferral of income taxes to be paid on export earnings through the operation of the Overseas Market Development Reserve (OMDR). Additional information is required in order to determine the benefits derived from this program.

(2) Export promotional assistance from the Japan External Trade Organization (JETRO). This assistance is general in nature and not oriented to the export promotion of specific products. Treasury has, in past determinations, determined that this program results in the payment or bestowal of a bounty or grant on the grounds that these activities, at least indirectly, defray costs which would otherwise be incurred by the exporters involved and to that extent may subsidize the industry under consideration. However, information has been presented indicating that JETRO has altered its activities to include the promotion of imports into Japan. The changed nature of JETRO's overall mission, particularly its activities relating to import assistance and promotion, has led Treasury to reconsider whether JETRO expenditures are countervailable. While this form of assistance is preliminary regarded as a bounty or grant, the Treasury invites public comment as to the appropriate resolution of this issue.

It has also been preliminarily determined that certain programs of the Government of Japan do not constitute bounties or grants because the programs are not utilized by members of the industry under investigation. These programs are established under "the Temporary Measures Act for Small and Midsize Businesses with Regard to the High Yen Exchange Market" (High Yen Act). The High Yen Act includes provisions relating to:

(a) Financing at interest rates lower than those commercially available, from the Small Business Finance Corporation, the Central Bank for Commercial and Industrial Cooperatives, and the Peoples Finance Corporation.

(b) Deferred repayment of loans for up to three years for firms which had previously been granted loans under the "Medium and Small Enterprises Modernization Financing Assistance Law".

(c) Various government credit guarantees which liberalize coverage limits and reduce premiums for eligible firms.

(d) Provision for carryback of current losses over a three year period, in respect of income, corporate and local taxes.

It has also been preliminarily determined that incentives, such as preferential financing, made by the People's Finance Corporation, the Bank for Commerce and Industrial Cooperatives, and the Small Business Finance Corporation, to small and midsize businesses, do not constitute a bounty or grant, in view of the absence of criteria establishing export performance as a precondition to obtaining such loans combined with the fact that no more than 15 percent of Japanese scales and weighing machinery is exported.

Accordingly, it is preliminarily determined that bounties or grants, within the meaning of section 303 of the Act, are being paid or bestowed, directly or indirectly, upon the manufacture, production or exportation of certain scales and weighing machinery from Japan. If the final determination is not made by December 31, 1979, then in accordance with section 102(a)(2) of the Trade Agreements Act of 1979, a final determination will be made no later than March 17, 1980.

Before a final determination is made consideration will be given any relevant data, views or arguments submitted in writing with respect to this preliminary determination. Submissions should be addressed to the Commissioner of Customs, 1301 Constitution Avenue, N.W. Washington, D.C. 20229, in time to be received by his office no later than September 24, 1979. Any request for an opportunity to present views orally should accompany such submission and a copy of all submissions should be delivered to any counsel that has heretofore represented any party to these proceedings.

This preliminary determination is published pursuant to section 303(a) of the Tariff Act of 1930, as amended (19 U.S.C. 1303(a)).

Pursuant to Reorganization Plan number 28 of 1950 and Treasury Department Order no 101-5, May 16, 1979, the provisions of Treasury Department Order no. 165, revised, November 2, 1954 and § 159.47 of the Customs Regulations (19 CFR 159.47), insofar as they pertain to the issuance of a preliminary countervailing duty

determination by the Commissioner of Customs, are hereby waived.

David R. Brennan,

Acting General Counsel of the Treasury.

August 16, 1979.

[FR Doc. 79-26210 Filed 8-22-79; 8:45 am]

BILLING CODE 4810-22-M

Certain Valves and Parts Thereof From Japan; Preliminary Countervailing Duty Determination

AGENCY: U.S. Customs Service, Treasury Department.

ACTION: Preliminary Countervailing Duty Determination.

SUMMARY: This notice is to inform the public that a countervailing duty investigation has resulted in a preliminary determination that the Government of Japan has given benefits which may constitute bounties or grants on the manufacture, production, or exportation of certain valves and parts thereof. If a final determination is not reached prior to December 31, 1979, then in accordance with section 102(a)(2) of the Trade Agreements Act of 1979, it will be made no later than March 17, 1980. Interested persons are invited to comment on this action.

EFFECTIVE DATE: August 23, 1979.

FOR FURTHER INFORMATION CONTACT: Stephen Nyschot, Duty Assessment Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229, telephone (202) 566-5492.

SUPPLEMENTARY INFORMATION: On March 29, 1979, a notice of "Receipt of Countervailing Duty Petition and Initiation of Investigation" was published in the Federal Register (44 FR 18780). The notice stated that a petition had been received alleging that payments or bestowals conferred by the Government of Japan upon the manufacture, production or exportation of valves and parts thereof from Japan constitute the payment or bestowal of a bounty or grant within the meaning of section 303 of the Tariff Act of 1930, as amended (19 U.S.C. 1303) (referred to in this notice as the "Act").

For purposes of this notice, "valves and parts thereof" include taps, cocks, valves, and similar devices, however operated, used to control the flow of liquids, gases, or solids, all the foregoing and parts thereof. The imports of valves from Japan subject to this investigation are classified in the Tariff Schedules of the United States Annotated under item numbers 680.20, 680.22, 680.25, and 680.27.

On the basis of an investigation conducted pursuant to § 159.47(c) of the Customs Regulations (19 CFR 159.47(c)),

it has been preliminarily determined that certain programs of the Government of Japan provide benefits to manufacturers and/or exporters of the subject merchandise which may constitute bounties or grants within the meaning of section 303 of the Act. These benefits have been conferred under the following programs:

(1) "The Temporary Measures Act for Small and Midsize Businesses with Regard to the High Yen Exchange Market" (High Yen Act) establishes a number of methods by which the Government of Japan provides assistance to small and medium-sized businesses producing the merchandise under investigation:

(a) Preferential financing at rates lower than those commercially available from the Small Business Finance Corporation, the Central Bank for Commercial and Industrial Cooperatives, and the People's Finance Corporation.

(b) Deferred repayment of loans for up to 3 years for firms which had previously been granted loans under the "Medium and Small Enterprises Modernization Financing Assistance Law".

(c) Various government credit guarantees which liberalize the coverage limitations and reduce premiums for eligible firms.

(d) Revision of an existing law to allow eligible firms to carry back losses incurred currently to 3 preceding fiscal years. Furthermore, in order to lessen the burden of local taxes, an eligible firm can carry forward losses to succeeding fiscal periods.

Treasury has reason to believe that due to the nature of the High Yen Act, several large companies exporting the subject merchandise to the United States have not benefited from its provisions. Before making a final determination in this case, further information regarding its use by the companies under investigation will be requested. In addition, information will be sought on the extent of utilization of the program by individual, smaller companies that export these products to the United States.

(2) A 5-year deferral of income taxes to be paid on export earnings through the operation of the Overseas Market Development Reserve (OMDR). Additional information will be required in order to determine the benefits derived from this program.

(3) Export promotional assistance from the Japan External Trade Organization (JETRO). This assistance is general in nature and not oriented to the export promotion of specific products. Treasury has, in past

determinations, determined that this program results in the payment or bestowal of a bounty or grant on the grounds that these activities, at least indirectly, defray costs which would otherwise be incurred by the exporters involved and to that extent may subsidize the industry under consideration. However, information has been presented indicating that JETRO has altered its activities to include the promotion of imports into Japan. The changed nature of JETRO's overall mission, particularly its activities relating to import assistance and promotion, has led Treasury to reconsider whether JETRO expenditures are countervailable. While this form of assistance is preliminarily required as a bounty or grant, the Treasury invites public comment as to the appropriate resolution of this issue.

It has also been preliminarily determined that certain programs of the Government of Japan do not constitute bounties or grants because they are not used by the companies under investigation. These are:

(1) An aspect of the High Yen Act which provides preferential financing from various sources for the building of facilities necessary for conversion of manufacturing operations.

(2) The "Specific Depressed Industries Stabilizing Temporary Measures Law," a special credit fund which guarantees repayment of loans obtained by depressed industries to assist in disposition of idle facilities.

(3) Preferential financing by the Japan Development Bank (JDB).

Accordingly, it is preliminarily determined that bounties or grants, within the meaning of section 303 of the Act, are being paid or bestowed, directly or indirectly, upon the manufacture, production, or exportation of valves and parts thereof from Japan. If the final determination in this case is not made by December 31, 1979, then in accordance with section 102(a)(2) of the Trade Agreements Act of 1979, a final determination will be made no later than March 17, 1980.

Before a final determination is made, consideration will be given to any relevant data, views, or arguments submitted in writing with respect to this preliminary determination. Submissions should be addressed to the Commissioner of Customs, 1301 Constitution Avenue, NW., Washington, D.C. 20229, in time to be received by his office no later than September 24, 1979. Any request for an opportunity to present views orally should accompany such submission and a copy of all submissions should be delivered to any

counsel who has heretofore represented any party to these proceedings.

This preliminary determination is published pursuant to section 303(a) of the Tariff Act of 1930, as amended (19 U.S.C. 1303(a)).

Pursuant to Reorganization Plan No. 26 of 1950 and Treasury Department Order No. 101-5, May 16, 1979, the provisions of Treasury Department Order No. 165, Revised, November 2, 1954, and § 159.47 of the Customs Regulations (19 CFR 159.47), insofar as they pertain to the issuance of a preliminary countervailing duty determination by the Commissioner of Customs, are hereby waived.

David R. Brennan,

Acting General Counsel of the Treasury.

August 14, 1979.

[FR Doc. 79-26209 Filed 8-22-79; 8:45 am]

BILLING CODE 4810-22-M

VETERANS ADMINISTRATION

Clinical Addition, Medical Center, Oklahoma City, Okla.; Availability of Final Environmental Impact Statement

Notice is hereby given that a document entitled "Final Environmental Impact Statement for the Veterans Administration, Clinical Addition, Medical Center, Oklahoma City, Oklahoma" dated July 1979, has been prepared as required by the National Environmental Policy Act of 1969.

The preferred location of the Clinical Addition is on the existing Veterans Administration Medical Center near the University of Oklahoma Medical School. The Clinical Addition will have new construction and renovated space. The facility will provide the much needed expansion space at the Medical Center for ambulatory care, radiology, cardiac catheterization, multipurpose and nursery education, specialty clinics and pharmacy.

The Final Statement contains the comments received on the draft and responses to those comments, and a summary of expected impacts. The document is being placed for public examination in the Veterans Administration office in Washington, D.C. Persons wishing to examine a copy of the document may do so at the following office: Mr. Willard Sitler, Director, Office of Environmental Affairs (004A), Room 1018, Veterans Administration, 810 Vermont Avenue, NW., Washington, D.C. 20420. Single copies of the draft or final statement are available by request to the above office.

Dated: August 17, 1979.

By direction of the Administrator.

Robert D. Vaughn,

Assistant Deputy Administrator for Administration and Logistics.

[FR Doc. 79-26201 Filed 8-22-79; 8:45 am]

BILLING CODE 8320-01-M

INTERSTATE COMMERCE COMMISSION

[Permanent Authority Decisions Volume No. 134]

Decision-Notice

Decided: August 2, 1979.

The following applications are governed by Special Rule 247 of the Commission's Rules of Practice (49 CFR § 1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission on or before September 24, 1979. Failure to file a protest, within 30 days, will be considered as a waiver of opposition to the application. A protest under these rules should comply with Rule 247(e)(3) of the Rules of Practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding, (as specifically noted below), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. A protestant should include a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describe in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named. If the protest includes a request for oral hearing, such request shall meet the requirements of section 247(e)(4) of the special rules and shall include the certification required in that section.

On cases filed on or after March 1, 1979, petitions for intervention either with or without leave are appropriate.

Section 247(f) provides, in part, that an applicant which does not intend timely to prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an

application under the procedures of the Commission will result in its dismissal.

If applicant has introduced rates as an issue it is noted. Upon request an applicant must provide a copy of the tentative rate schedule to any protestant.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. Broadening amendments will not be accepted after the date of this publication.

Any authority granted may reflect administratively acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

We Find:

With the exceptions of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each common carrier applicant has demonstrated that its proposed service is required by the public convenience and necessity, and that each contract carrier applicant qualifies as a contract carrier and its proposed contract carrier service will be consistent with the public interest and the transportation policy of 49 U.S.C. 10101. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a protestant, that the proposed dual operations are consistent with the public interest and the transportation policy of 49 U.S.C. 10101 subject to the right of the Commission, which is expressly reserved, to impose such conditions as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. 10930(a) (formerly section 210 of the Interstate Commerce Act).

In the absence of legally sufficient protests, filed within 30 days of publication of this decision-notice (or, if the application later becomes unopposed), appropriate authority will

be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, such duplication shall not be construed as conferring more than a single operating right.

Applicants must comply with all specific conditions set forth in the grant or grants of authority within 90 days after the service of the notification of the effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

By the Commission, Review Board Number 1, Members, Carleton, Jones, and Joyce.
Agatha L. Mergenovich,
Secretary.

MC 105902 (Sub-22F), filed January 29, 1979. Applicant: PENN YAN EXPRESS, INC., 100 West Lake Road, Penn Yan, NY 14527. Representative: Russell R. Sage, Suite 400, Overlook Bldg., 6121 Lincolnia Road, P.O. Box 11278, Alexandria, VA 22312. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Elmira, NY, on the one hand, and, on the other, those points in PA on, east, and north of a line beginning at the NY-PA State line and extending along U.S. Hwy 15 to Harrisburg, PA, then along U.S. Hwy 322 to Downingtown, PA, then along U.S. Hwy 30 to the PA-NJ State line. (Hearing site: Washington, DC.)

Note.—The purpose of this application is to establish Elmira, NY, as an alternate gateway.

MC 140612 (Sub-57F), filed October 16, 1978, and published in the FR issue of December 21, 1978, and republished as corrected. Applicant: ROBERT F. KAZIMOUR, P.O. Box 2207, Cedar Rapids, IA 52406. Representative: J. L. Kazimour (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *such commodities* as are dealt in by grocery and feed business houses (except commodities in bulk), between Clinton and Davenport, IA, on the one hand, and, on the other, points in IN, MI, KY, and OH. (Hearing site: St. Louis, MO.)

The purpose of this republication is to clearly show a radial movement.

Note.—Dual operations are at issue in this proceeding.

MC 141914 (Sub-48F), filed December 22, 1978. Applicant: FRANKS AND SON, INC., Route 1, Box 108-A, Big Cabin, OK 74332. Representative: Kathrena J. Franks (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *molded paper and expanded plastic products*, from the facilities of Keyes Fibre Company at or near (1) Waterville, ME, to points in MI, IN, IL, WI, MO, KY, and CA; (2) Hammond and Gary, IN, to points in VT, CT, RI, NJ, DE, MD, VA, NC, SC, and FL; and (3) Albertville, AL, to points in AR, CA, CO, CT, DE, ID, ME, MD, MA, MI, MT, NE, NV, NH, NJ, NM, NY, OR, PA, RI, SD, UT, VT, WA, WV, WI, and WY. (Hearing site: Portland, ME.)

[FR Doc. 79-26139 Filed 8-22-79; 8:45 am]
BILLING CODE 7035-01-M

[No. MC-119988 (Sub-No. 165) F]

Great Western Trucking Co., Inc., Common Carrier Application (Lufkin, TX); Decision

Decided: July 26, 1979.
Applicant seeks a certificate of public convenience and necessity authorizing, as presented in the Federal Register publication, the transportation of such commodities as are dealt in or used by nursery and horticultural stores (except commodities in bulk) from Pine Bluff, AR, and DeKalb, IL, to points the United States (except Alaska and Hawaii). The evidence has been considered under the modified procedure. The application is opposed by Schneider Transport, Inc., and Tran-National Truck, Inc., both motor common carriers. Applicant filed a rebuttal argument.

Pertinent Facts

Strong-lite Products Corporation of Pine Bluff, AR, the supporting shipper, is a manufacturer and distributor of plant media mix (a potting soil consisting of vermiculite, peat moss, and bark), vermiculite, vermiculite products, and mine sealant (a combination of vermiculite and other compounds). The commodities are shipped in bags and on pallets from shipper's facilities at Pine Bluff, AR, and DeKalb, IL, to points throughout the contiguous 48 States. Shipper listed 86 cities in 26 different States as representative customer locations.

Shipper has been tendering five truckloads of traffic each week from Pine Bluff and one each week from DeKalb. Its facilities have not been operating to full capacity because of

inadequate carrier service. A 50 percent increase in volume of traffic is expected as the result of the expanding needs of existing customers and the addition of a substantial new customer. If the application is granted, the shipper anticipates tendering the applicant a minimum of four to five truckloads a week.

Shipper has been using the services of Midwestern Distribution, Inc., a non-party motor common carrier. Midwestern has been unable to provide Strong-lite with adequate equipment; shipments have been delayed and sales lost due to the unavailability of service.

Protestants Schneider and Trans-National filed a joint statement in opposition. Neither protestant has been serving the supporting shipper and neither claims the pertinent authority to serve the shipper. Protestants argue that the authority sought is more expensive than required by the shipper, will allow for diversion of protestants' overhead traffic, and will imbalance their operations. Protestants propose limiting the authority to generally plant media mix (potting soil), vermiculite, vermiculite products, and mine sealant from Pine Bluff, AR, and DeKalb, IL, to points in the United States, restricted to traffic originating at the facilities of shipper and destined to the named points.

Discussion and Conclusions

We conclude that the application should be granted to the extent set forth in the appendix. Shipper has adequately demonstrated a need for the transportation of its products, plant media mix, vermiculite, vermiculite products, and mine sealant, from its two facilities to points located generally throughout the named destination area. At this juncture, we are compelled to note that the regulatory jurisdiction of this Commission with respect to authorizing motor carrier operations, extends only to operations in interstate or foreign commerce. The evidence of record fails to disclose that movements of the involved shipper's commodities from Pine Bluff to points in Arkansas or from DeKalb to points in Illinois are other than intrastate commerce. Therefore, authority will not be granted from Pine Bluff to points in Arkansas or from DeKalb to points in Illinois. Additionally, a need has not been shown for the transportation of the myriad products dealt in or used by nursery and horticultural stores, the commodity description used in the Federal Register publication.

Shipper requires the additional service of an irregular-route carrier capable of providing timed deliveries

and single-line multiple stopoff delivery service. Shipper has experienced service failures at its present depressed level of production, and production is expected to increase by 50 percent. Applicant has the necessary equipment and is otherwise prepared to meet this need.

Protestants have not and will not be participating in the traffic of shipper. They fear the broad scope of the authority sought will lead to diversion of their overhead traffic. However, the commodity description employed in the authority to be granted is more specific than that used in the Federal Register publication. The authority granted does not conflict with the authority underlying protestants' summary of representative shipments which they fear will be diverted. Accordingly, the failure to impose the originating at restriction proposed by protestants will not materially adversely affect their interests.

Inasmuch as the commodities for which a need has been shown include commodities not embraced by the original Federal Register publication, the authority we grant will be conditioned on the republication of the authority granted in this application. Any interested persons prejudiced by the authority granted may file a petition to intervene in this proceeding during the 30 days following the new publication and no certificate will be issued until the expiration of the 30 day period and disposition of any petitions filed within that time.

We find: The present and future public convenience and necessity require operation by applicant, performing the service described in the appendix, subject to any conditions or restrictions which may be included in the appendix. Applicant is fit, willing, and able properly to perform the granted service and to conform to the requirements of Title 49, Subtitle IV, U.S. Code, and the Commission's regulations. An appropriate certificate should be granted. This decision does not significantly affect the quality of the human environment.

It is ordered: The application is granted to the extent set forth in the appendix. Operations may begin only following the service of a *certificate* which will be issued if applicant complies with the following requirements set forth in the Code of Federal Regulations: insurance (49 CFR 1043), designation of process agent (49 CFR 1044), and tariffs (49 CFR 1310), and any additional conditions which may be contained in the appendix.

Compliance with these requirements must be made within 90 days after the

date of service of this decision or the grant of authority shall be void.

By the Commission Review Board Number 3, Members Parker, Fortier, and Hill.

Agatha L. Mergenovich,
Secretary.

Appendix

Authority to conduct the following operations will be issued in an appropriate document. This decision does not constitute authority to operate.

To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *plant media mix, vermiculite, vermiculite products, and mine sealant* (except commodities in bulk) (1) from Pine Bluff, AR to points in the United States (except Alaska, Arkansas, and Hawaii), and (2) from DeKalb, IL, to points in the United States (except Alaska, Hawaii, and Illinois).

Special condition: Issuance of a certificate in this proceeding is conditional on prior publication in the Federal Register of a notice of the authority actually granted. Issuance of a license will be delayed until 30 days after such publication and the disposition of any petitions for leave to intervene filed within that time period.

[FR Doc. 79-26138 Filed 8-22-79; 8:45 am]
BILLING CODE 7035-01-M

[No. MC-78276 (Sub-No. 9); No. MC-78276 (Sub-No. 11)]

Mazzeo & Sons Express, Extension— Baltimore, Md. and Atlanta, Ga.; Wearing Apparel (Hackensack, NJ); Decision

Decided: August 6, 1979.

We have considered the applications and the consolidated record in these proceedings, including: the initial decision of the Administrative Law Judge, the exceptions filed by applicant in both proceedings and by protestant L&M Express Co., Inc., in the Sub-No. 9 proceeding, and applicant's reply to the exceptions of protestant.

The Administrative Law Judge recommended issuance to applicant of certificates authorizing operations substantially as set forth in the appendix to this decision.

Applicant, apparently by mistake, seeks authority to transport wearing apparel, loose, on hangers, when moving with wearing apparel in cartons, in mixed shipments. However, Mazzeo lacks the concurrent authority to transport wearing apparel in cartons. Moreover, the evidence supports a grant of wearing apparel without any

restrictions or qualifications. Therefore, the grant of authority will be modified accordingly.

The recommended grants of authority will also be rephrased to take notice of the fact that authority to serve a city authorizes service in its commercial zone and express reference to the commercial zone is not necessary.

Applicant seeks authority to tack the two authorities sought in these proceedings to provide a through service. Inasmuch as such a joining would be beneficial to the public and is supported by the evidence presented, it will be authorized.

Otherwise, the pleadings raise no new or material matters of fact or law not adequately considered and properly disposed of by the Administrative Law Judge in the initial decision.

In order to provide proper notice and thereby protect the interest of parties who relied upon the notice of the applications as published without the changes indicated, a notice of the authority actually granted will be published in the Federal Register and issuance of certificates in these proceedings will be withheld for a period of 30 days from the date of publication. During that period, any proper party in interest may file an appropriate petition for leave to intervene in these proceedings, setting forth in detail the precise manner in which it has been so prejudiced.

We find: The evidence considered in the light of the pleadings does not warrant a result different from that reached by the Administrative Law Judge, except for the modifications described above. The statement of facts, the conclusions, and the findings of the Administrative Law Judge as modified, are proper and correct in all material respects and are affirmed and adopted as our own. Appropriate certificates should be issued after the lapse of 30 days from the date of publication in the Federal Register of a statement of the authority herein granted, and providing that no petitions to reopen or for other appropriate relief are received during such period.

It is ordered: The authority actually granted by this decision shall be subject to prior publication in the Federal Register. Each application is granted to the extent set forth in the appendix, and certificates will be issued if applicant complies with the appropriate requirements set forth in the Code of Federal Regulations (49 CFR 1043, 1044, and 1310). Application must comply within 90 days after the date of service of this decision, or the grant of authority in the noncomplying application will be void.

By the Commission, Division 1,
Commissioners Stafford, Clapp, and
Trantum.
Agatha L. Mergenovich,
Secretary.

Appendix

Authority to conduct the following operations will be issued in appropriate documents. This decision does not constitute authority to operate.

In No. MC-78276 (Sub-No. 9):

To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *wearing apparel*, and (2) *materials, supplies and equipment, used in the manufacture and sale of wearing apparel*, when moving with the commodities in (1) above, between Baltimore, MD, Philadelphia, PA, Wilmington, DE, New York, NY, those points in Rockland and Suffolk Counties, NY, not within the New York, NY, commercial zone, and points in New Jersey, on the one hand, and on the other, points in Georgia, North Carolina and South Carolina.

In No. MC-78276 (Sub-No. 11): To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *wearing apparel*, between Atlanta, GA, Charlotte, NC, Hialeah and Orlando, FL, Memphis, TN, and Spartanburg, SC, on the one hand, and, on the other points in AL, AK, FL, GA, KY, MI, NC, SC, and TN.

[FR Doc. 79-26137 Filed 8-22-79; 8:45 am]

BILLING CODE 7035-01-M

[I.C.C. Order No. 11-A Under Service Order No. 1344]

Rerouting Traffic

To: All Railroads

Upon further consideration of I.C.C. Order No. 11, and good cause appearing therefor:

It is ordered: I.C.C. Order No. 11 is vacated.

This order shall become effective August 15, 1979, and shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. A copy shall be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., August 10, 1979

Interstate Commerce Commission.
Joel E. Burns,
Agent.

[FR Doc. 79-26140 Filed 8-22-79; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-26 (Sub-No. 19F)]

Southern Railway Company- Discontinuance of Operations—Near Parrish and High Level In (Walker County), Ala.; Findings

Notice is hereby given pursuant to 49 U.S.C. § 10903 that by a Certificate and Decision decided August 8, 1979, a finding, which is administratively final, was made by the Commission. Review Board Number 5, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in AB-36 (Sub-No. 2), *Oregon Short Line R. Co.—Abandonment Goshen*, 360 I.C.C. 91 (1979), the present and future public convenience and necessity permits the discontinuance of operations by the Southern Railway Company (Southern) on a line of railroad extending from railroad milepost 1.6-ES near Parrish to railroad milepost 6.4-ES at High Level, a distance of approximately 4.8 miles, in Walker county, AL. A certificate of public convenience and necessity permitting discontinuance of operations was issued to the Southern Railway Company. Since no investigation was instituted, the requirement of § 1121.38(a) of the Regulations that publication of notice of abandonment decisions in the *Federal Register* be made only after such a decision becomes administratively final was waived.

Upon receipt by the carrier of actual offer of financial assistance, the carrier shall make available to the offeror the records, accounts, appraisals, working papers, and other documents used in preparing Exhibit I § 1121.45 of the Regulations. Such documents shall be made available during regular business hours at a time and place mutually agreeable to the parties.

The offer must be filed and served on or before September 7, 1979. The offer, as filed, shall contain information required pursuant to § 1121.38(b)(2) and (3) of the Regulations. If no such offer is received, the certificate of public convenience and necessity authorizing abandonment shall become effective October 9, 1979.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 79-26135 Filed 8-22-79; 8:45 am]

BILLING CODE 7035-01-M

Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after March 1, 1979, are governed by Special Rule 247 of the Commission's *Rules of Practice* (49 CFR § 1100.247). These rules provide, among other things, that a petition for intervention, either in support of or in opposition to the granting of an application, must be filed with the Commission with 30 days after the date notice of the application is published in the *Federal Register*. Protests (such as were allowed to filings prior to March 1, 1979) will be rejected. A petition for intervention without leave must comply with Rule 247(k) which requires petitioner to demonstrate that it (1) holds operating authority permitting performance of any of the service which the applicant seeks authority to perform, (2) has the necessary equipment and facilities for performing that service, and (3) has performed service within the scope of the application either (a) for those supporting the application, or, (b) where the service is not limited to the facilities of particular shippers, from and to, or between, any of the involved points.

Permanent Authority Decisions

Persons unable to intervene under Rule 247(k) may file a petition for leave to intervene under Rule 247(l) setting forth the specific grounds upon which it is made, including a detailed statement of petitioner's interest, the particular facts, matters, and things relied upon, including the extent, if any, to which petitioner (a) has solicited the traffic or business of those supporting the application, or, (b) where the identity of those supporting the application is not included in the published application notice, has solicited traffic or business identical to any part of that sought by applicant within the affected marketplace the extent to which petitioner's interest will be represented by other parties, the extent to which petitioner's participation may reasonably be expected to assist in the development of a sound record, and the extent to which participation by the petitioner would broaden the issues or delay the proceeding.

Petitions not in reasonable compliance with the requirements of the rules may be rejected. An original and one copy of the petition to intervene shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named.

Section 247(f) provides, in part, that an applicant which does not intend to timely prosecute its application shall

promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

If an applicant has introduced rates as an issue it is noted. Upon request, an applicant must provide a copy of the tentative rate schedule to any protestant.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication.*

Any authority granted may reflect administrative acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each common carrier applicant has demonstrated that its proposed service is required by the present and future public convenience and necessity, and that each contract carrier applicant qualifies as a contract carrier and its proposed contract carrier service will be consistent with the public interest and the transportation policy of 49 U.S.C. § 10101. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where specifically noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a petitioner, that the proposed dual operations are consistent with the public interest and the transportation policy of 49 U.S.C. § 10101 subject to the right of the Commission, which is expressly reserved, to impose such terms, conditions or limitations as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. § 10930(a) [formerly section 210 of the Interstate Commerce Act].

In the absence of legally sufficient petitions for intervention, filed within 30

days of publication of this decision-notice (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of the decision-notice. To the extent that the authority sought below may duplicate an applicant's other authority, such duplication shall be construed as conferring only a single operating right.

Applicants must comply with all specific conditions set forth in the grant or grants of authority within 90 days after the service of the notification of the effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

Volume No. 132

Decided: July 27, 1979

By the Commission, Review Board Number 1, Members Carleton, Joyce, and Jones.

MC 25798 (Sub-373F), filed April 13, 1979. Applicant: CLAY HYDER TRUCKING LINES, INC., P.O. Box 1186, Auburndale, FL 33823. Representative: Tony C. Russell (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *animal and poultry feed, fish feed, and corn products*, (a) from Birmingham and Decatur, AL, to points in AR, FL, GA, LA, MS, OK, SC, TN, and TX, and (b) from Springfield, TN, to points in AL, AR, FL, GA, LA, MS, OK, SC, and TX; and (2) *materials and supplies* used in the manufacture, sale, and distribution of the commodities in (1) above, in the reverse direction in (1)(a) and (1)(b), respectively. (Hearing site: Birmingham, AL, or Tampa, FL.)

MC 29079 (Sub-98F), filed March 18, 1979. Applicant: BRADA MILLER FREIGHT SYSTEM, INC., 1210 South Union, Kokomo, IN 46901. Representative: Richard H. Streeter, 1729 H St., NW., Washington, D.C. 20006. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *iron and steel articles*, from the facilities of (a) Roper Outdoor Products, at or near Bradley, IL, and (b) Illinois Birmingham Bolt Co., at or near Kankakee, IL, to points in IN, KY, VA, and WV; and (2) *materials, equipment, and supplies used in the manufacture or distribution of iron and steel articles*, in the reverse direction. (Hearing site: Washington, D.C.)

MC 29079 (Sub-103F), filed April 16, 1979. Applicant: BRADA MILLER FREIGHT SYSTEM, INC., P.O. Box 935, Kokomo, IN 46901. Representative:

Chandler L. Van Orman, 1729 H Street, NW., Washington, D.C. 20006. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *aluminum wire*, from the facilities of The Essex Group, Inc., at or near Paducah, KY, to Three Rivers, MI.

MC 30089 (Sub-7F), filed April 11, 1979. Applicant: FRANK W. LILLY, INC., P.O. Box 111, Turtle Creek, PA 15145. Representative: Christian V. Graf, 407 North Front Street, Harrisburg, PA 17101. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *dry sweetener and bouillon*, from the facilities of Foodways National, Inc., at or near New Paltz, NY, to the facilities of Heinz USA, Division of H. J. Heinz Company, at or near Mechanicsburg and Pittsburgh, PA, under continuing contract(s) with Heinz USA, Division of H. J. Heinz Co., of Pittsburgh, PA. (Hearing site: Washington, DC or Harrisburg, PA.)

MC 48958 (Sub-178F), filed April 9, 1979. Applicant: ILLINOIS-CALIFORNIA EXPRESS, INC., 510 East 51st Avenue, P.O. Box 16404, Denver, CO 80216. Representative: Lee E. Lucero (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), from points in Dallas, Tarrant, Wise, Denton, Grayson, Collin, Rockwall, Parker, Kaufman, Johnson, and Ellis Counties, TX, to points in CO. (Hearing site: Dallas, TX.)

MC 50069 (Sub-543F), filed April 13, 1979. Applicant: REFINERS TRANSPORT & TERMINAL CORPORATION, 445 Earlwood Avenue, Oregon, OH 43616. Representative: J. A. Kundtz, 1100 National City Bank Building, Cleveland, OH 44114. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *petroleum, petroleum products, and chemicals*, in bulk, between the facilities of Ashland Oil, Inc., at points in (a) Boyd County, KY, (b) Lawrence County, OH, and (c) Wayne County, WV, on the one hand, and, on the other, those points in the United States in and east of MN, IA, MO, AR, and LA. (Hearing site: Washington, DC.)

Note.—Dual operations may be involved.

MC 52669 (Sub-11F), filed March 19, 1979. Applicant: CARGOCARE

TRANSPORTATION CO., INC., P.O. Box 4433, Rocky Mount, NC 27801. Representative: Louis J. Amato, P.O. Box E, Bowling Green, KY 42101. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *materials, equipment, and supplies* used in the manufacture and distribution of unmanufactured tobacco (except cellulose, paper products, and commodities in bulk, in tank vehicles), and (2) *unmanufactured tobacco* when moving in mixed loads with the commodities in (1) above, between points in FL, GA, KY, NC, OH, SC, TN, and VA. (Hearing site: Raleigh, NC.)

MC 56409 (Sub-15F), filed April 18, 1979. Applicant: MAJOR TRANSPORT, INC., Box 204, Highway 135 and Airport Road, Palmyra, WI 53156. Representative: David V. Purcell, 111 East Wisconsin Avenue, Milwaukee, WI 53202. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *building, insulating, and paving materials*, and (2) *materials and supplies* used in the installation of the commodities in (1) above (except commodities in bulk), from Chicago, Joliet, Waukegan, and Wilmington, IL, to points in WI, restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Chicago, IL, or Milwaukee, WI.)

MC 57778 (Sub-27F), filed April 16, 1979. Applicant: MICHIGAN REFRIGERATED TRUCKING SERVICE, INC., 6134 West Jefferson Ave., Detroit, MI 48209. Representative: William B. Elmer, 21635 East Nine Mile Road, St. Clair Shores, MI 48080. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs* (except frozen), (a) from the facilities of Vlastic Foods, Inc., at Memphis, Bridgeport, and Imlay City, MI, to points in IL, IN, IA, KY, MN, KS, MO, NE, NY, ND, OH, PA, SD, WI, and WV, and (b) between the facilities of Vlastic Foods, Inc., at (1) Memphis, Bridgeport, and Imlay City, MI, (2) Millsboro, DE, and (3) Greenville, MS. (Hearing site: Detroit, MI.)

MC 107478 (Sub-45F), filed April 13, 1979. Applicant: OLD DOMINION FREIGHT LINE, INC., P.O. Box 2006, High Point, NC 27261. Representative: Harry J. Jordan, 1000 16th Street NW, Washington, DC 20038. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1)(a) *fiberboard and fiberboard products*, (b) *accessories and supplies* used in the

installation of fiberboard products, and (c) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) (a) and (b) above, (except commodities in bulk), between points in Nash County, NC, on the one hand, and, on the other, points in IN, ME, NH, and VT; (2)(a) *fiberboard, particleboard, and plywood*, and (b) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (2)(a) above, (except commodities in bulk), between points in Sussex County, VA, on the one hand, and, on the other, points in IL, IN, KY, MI, MS, OH, TN, and WI; (3) *lumber and particleboard*, between points in Patrick County, VA, on the one hand, and, on the other, those points in the United States in and east of MN, IA, MO, AR, LA, and TX; (4) *particleboard, fiberboard, and plywood*, between points in Granville County, NC, on the one hand, and, on the other, points in those points in the United States in and east of MN, IA, MO, AR, and TX; and (5) *particleboard, fiberboard, and plywood*, from Towanda, PA, to points in DE, GA, KY, MD, MS, NJ, NC, OH, SC, TN, VA, WV, and DC. (Hearing site: Washington, DC, or Raleigh, NC.)

MC 108119 (Sub-141F), filed April 13, 1979. Applicant: E. L. MURPHY TRUCKING COMPANY, a corporation, P.O. Box 43010, St. Paul, MN 55164. Representative: Andrew R. Clark, 1000 First National Bank Building, Minneapolis, MN 55402. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *dry hydro-desulfurization catalyst*, in drums, from Pasadena, TX, to points in the United States (except AK and HI). (Hearing site: Houston or San Antonio, TX.)

MC 108119 (Sub-142F), filed April 16, 1979. Applicant: E. L. MURPHY TRUCKING COMPANY, a corporation, P.O. Box 43010, St. Paul, MN 55164. Representative: Andrew R. Clark, 1000 First National Bank Building, Minneapolis, MN 55402. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *lift trucks, platforms, and hydraulic working lifts*, and (2) *parts* for the commodities in (1) above, from Santa Fe Springs, CA, to points in WA, OR, ID, MT, ND, SD, and those points in the United States in and east of MN, IA, MO, AR, and LA. (Hearing site: Los Angeles or San Francisco, CA.)

MC 110328 (Sub-16F), filed April 11, 1979. Applicant: ROY A. LEIPHART TRUCKING, INC., 1298 Toronita Street, York, PA 17402. Representative: Edward

N. Button, 1329 Pennsylvania Avenue, P.O. Box 1417, Hagerstown, MD 21740. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs*, between the facilities of Knouse Foods, Inc., at or near Peach Glen and Orrtanna, PA, on the one hand, and, on the other, Baltimore, MD, restricted to the transportation of traffic having a prior or subsequent movement by water or rail. (Hearing site: Harrisburg, PA.)

MC 112989 (Sub-103F), filed April 18, 1979. Applicant: WEST COAST TRUCK LINE, INC., 85647 Highway 99 South, Eugene, OR 97405. Representative: John W. White, Jr. (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *salt, salt products, and animal feed*, (1) from Salt Lake City and Lake Point, UT, to points in ID, OR, and WA, and (2) from Newark and Union City, CA, to points in AZ, ID, NV, and UT. (Hearing site: San Francisco, CA.)

Note.—Dual operations may be involved. MC 113528 (Sub-40F), filed April 18, 1979. Applicant: MERCURY FREIGHT LINES, INC., P.O. Box 1247, Mobile, AL 36601. Representative: Joy Stephenson (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *pipe and pipe fittings*, (except those which because of size or weight require the use of special equipment), from the facilities of Charlotte Pipe & Foundry Company, at Charlotte and Bakers, NC, to points in GA, FL, LA, MS, TX, and those in AL on and north of U.S. Hwy 278. (Hearing site: Charlotte, NC, or Birmingham, AL.)

MC 114028 (Sub-26F), filed April 18, 1979. Applicant: ROWLEY INTERSTATE TRANSPORTATION COMPANY, INC., 2010 Kerper Boulevard, Dubuque, IA 52001. Representative: Carl L. Steiner, 39 South LaSalle Street, Chicago, IL 60603. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *petroleum and petroleum products*, in packages, from Reno and Rouseville, PA, to points in IL, IN, and WI. (Hearing site: Chicago, IL.)

MC 117119 (Sub-733F), filed April 16, 1979. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, AR 72728. Representative: L. M. McLean (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs* (except in bulk), from the facilities of Ralston Purina

Company, at (a) Battle Creek, MI, and (b) Lancaster and Sharonville, OH, to Clearfield, UT, restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: St. Louis, MO, or Washington, DC.)

MC 117119 (Sub-734F), filed April 16, 1979. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, AR 72728. Representative: L. M. McLean (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *heating and air conditioning units*, (except those which because of size or weight require the use of special equipment), and (2) *parts and accessories* for the commodities in (1) above (except commodities which because of size or weight require the use of special equipment), from the facilities of Rheem Manufacturing Company, at Ft. Smith, AR, to points in CO, ID, NV, and UT. (Hearing site: Little Rock, AR, or Washington, DC.)

MC 117878 (Sub-15F), filed April 5, 1979. Applicant: DWIGHT CHEEK d.b.a. DWIGHT CHEEK TRUCKING, 4831 East 25th Street, Amarillo, TX 79103. Representative: Thomas F. Sedberry, 801 Vaughn Building, Austin, TX 78701. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products and meat byproducts, and articles distributed by meat-packing houses*, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk, in tank vehicles), from the facilities of Swift and Company, at or near (a) Clovis, NM, and (b) Guymon, OK, to points in AL, FL, GA, MS, NC, SC, and TN. (Hearing site: Amarillo, TX.)

MC 118089 (Sub-35F), filed April 9, 1979. Applicant: ROBERT HEATH TRUCKING, INC., 2909 Avenue C, P.O. Box 2501, Lubbock, TX 79408. Representative: Charles M. Williams, 350 Capitol Street, 1600 Sherman Street, Denver, CO 80203. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products and meat byproducts, and articles distributed by meat-packing houses*, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides), from the facilities of Consolidated Pet Foods, Inc., at or near Amarillo, TX, to the facilities of Kal Kan

Foods, Inc., at or near Vernon, CA. (Hearing site: Los Angeles, CA, or Lubbock, TX.)

Note.—Dual operations may be involved.

MC 118959 (Sub-211F), filed April 9, 1979. Applicant: JERRY LIPPS, INC., 130 South Frederick Street, Cape Girardeau, MO 63701. Representative: Marc J. Blumenthal, 39 South LaSalle Street, Chicago, IL 60603. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *silica and silica products*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, between points in Alexander County, IL, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Chicago, IL.)

MC 118959 (Sub-212F), filed April 13, 1979. Applicant: JERRY LIPPS, INC., 130 South Frederick Street, Cape Girardeau, MO 63701. Representative: Donald B. Levine, 39 South LaSalle Street, Chicago, IL 60603. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *paper and paper products*, (1) from Cairo, IL, to points in the United States (except AK and HI), and (2) from Middletown, OH, to Cairo, IL. (Hearing site: St. Louis, MO, or Chicago, IL.)

MC 119019 (Sub-4F), filed April 16, 1979. Applicant: B. N. M. FERTILIZER TRANSPORT, INC., 6414 E. Houston Road, Houston, TX 77028. Representative: Joe G. Fender, 711 Louisiana, Suite 1150, Houston, TX 77002. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *fertilizer, and fertilizer ingredients*, between points in TX, on the one hand, and, on the other, points in NM, OK, AR, CO, and AZ. (Hearing site: Houston or Dallas, TX.)

MC 119988 (Sub-198F), filed April 11, 1979. Applicant: GREAT WESTERN TRUCKING CO., INC., P.O. Box 1384, Lufkin, TX 75901. Representative: Clayte Binion, 1108 Continental Life Building, Fort Worth, TX 76102. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *canned and preserved foodstuffs*, from the facilities of Heinz USA, at or near Iowa City and Muscatine, IA, to points in AR, LA, MS, and TX, restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Pittsburgh, PA, or Washington, DC)

MC 123048 (Sub-436F), filed April 9, 1979. Applicant: DIAMOND

TRANSPORTATION SYSTEM, INC., 5021—21st Street, Racine, WI 53406. Representative: John L. Bruemmer, 121 West Doty Street, Madison, WI 53703. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *irrigation systems*, from Denver, CO, to points in the United States (except AK and HI), and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, (except commodities in bulk), in the reverse direction. (Hearing site: Denver, CO, or Chicago, IL.)

MC 124078 (Sub-957F), filed April 13, 1979. Applicant: SCHWERMANN TRUCKING CO., a corporation, 611 South 28th Street, Milwaukee, WI 53215. Representative: Richard H. Prevette, P.O. Box 1601, Milwaukee, WI 53201. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *fertilizer*, in bulk, from Pine Bend and St. Paul, MN, to points in WI. (Hearing site: Des Moines, IA.)

MC 124408 (Sub-13F), filed April 16, 1979. Applicant: THOMPSON BROS., INC., 3604 Hoveland Drive, Sioux Falls, SD 57101. Representative: Richard P. Anderson, 502 First National Bank Bldg., Fargo, ND 58126. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *plastic pipe and plastic pipe fittings*, and (2) *materials and supplies* used in the manufacture and installation of the commodities in (1) above, (except liquid commodities in bulk, in tank vehicles), between Fargo, ND, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: St. Paul, MN.)

Note.—Dual operations may be involved.

MC 125708 (Sub-161F), filed April 10, 1979. Applicant: THUNDERBIRD MOTOR FREIGHT LINES, INC., 425 W. 152nd Street, East Chicago, IN 46312. Representative: Anthony C. Vance, 1307 Dolley Madison Blvd. McLean, VA 22102. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *non-ferrous metals and non-ferrous metal products*, (1) from East Point, GA, to points in AL, FL, TX, NC, SC, OH, OK, and LA, and (2) between points in TX, on the one hand, and, on the other, points in VA, WV, OK, KS, MO, AR, LA, MS, AL, GA, FL, NC, SC, TN, KY, PA, IL, IN, OH, MI, IA, NE, and CO. (Hearing site: St. Louis, MO.)

MC 127478 (Sub-17F), filed April 13, 1979. Applicant: WILLIAM M. HAYES

d.b.a. HAYES TRUCKING CO., P.O. Box 31, Winterville, GA 30683. Representative: Virgil H. Smith, Suite 12, 1587 Phoenix Boulevard, Atlanta, GA 30349. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products and meat byproducts, and articles distributed by meat-packing houses*, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 81 M.C.C. 209 and 766, (except hides and commodities in bulk), from Cape Canaveral, Plymouth, Miami, and Tampa, FL, to points in IL, IN, MI, OH, and WI. (Hearing site: Atlanta, GA.)

MC 129189 (Sub-2F), filed April 10, 1979. Applicant: WING CARTAGE COMPANY, a corporation, 130 4141 George Place, Schiller Park, IL 60176. Representative: Arnold L. Burke, 180 North LaSalle St., Chicago, IL 60601. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *prestressed concrete building materials*, from Hodgkins, IL, to points in WI. (Hearing site: Chicago, IL.)

MC 133689 (Sub-261F), filed March 5, 1979, previously noticed in *Federal Register* issue of May 11, 1979. Applicant: OVERLAND EXPRESS, INC., 719 First Street SW, New Brighton, MN 55112. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *foodstuffs and pet food*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, (except commodities in bulk), between the facilities of Nabisco, Inc., at or near (a) Chicago, Danville, and Marseilles, IL, (b) Geneva, Beacon, Buffalo, and Niagara Falls, NY, (c) Charlotte, NC, (d) Wrightstown, WI, (e) Columbus, Dayton, and Toledo, OH, (f) Minneapolis, MN, (g) Morristown, IN, (h) Mechanicsburg, Philadelphia, and Pittsburgh, PA, (i) Richmond, VA, (j) Carthage and St. Louis, MO, (k) Mansfield and Cambridge, MA, (l) Fair Lawn and Moonachie, NJ, (m) Morrow and Woburn, GA, and (n) Jacksonville, FL, on the one hand, and, on the other, those points in the United States in and east of ND, SD, NE, KS, OK, AR, and LA. (Hearing site: St. Paul, MN.)

Note.—This republication adds Dayton, OH, to the territorial description.

MC 133689 (Sub-263F), filed April 10, 1979. Applicant: OVERLAND EXPRESS, INC., 719 First Street, SW., New

Brighton, MN 55112. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *vehicle ramps and vehicle stands*, (2) *parts and accessories* for the commodities in (1) above, and (3) *materials equipment, and supplies* used in the manufacture, sale, and service of the commodities in (1) and (2) above (except commodities in bulk), between the facilities of Mark Fore, Watco Ind., at or near (a) Boston, MA, and (b) Waterville, MN, on the one hand, and, on the other, those points in the United States in and east of ND, SD, NE, KS, OK, and TX. (Hearing site: St. Paul, MN.)

MC 133689 (Sub-264F), filed April 10, 1979. Applicant: OVERLAND EXPRESS, INC., 719 First Street, SW., New Brighton, MN 55112. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *parts and accessories* for vehicles, and (2) *materials, equipment, and supplies* used in the manufacture and service of the commodities in (1) above (except commodities in bulk), between the facilities of the Ford Motor Company, at or near (a) Jacksonville, TN, (b) Atlanta, GA, (c) Chicago, IL, (d) Louisville, KY, (e) Boston and Springfield, MA, (f) Detroit, Milan, Rawsonville, and Saline, MI, (g) Minneapolis, MN, (h) Kansas City and St. Louis, MO, (i) Mahwah, Metuchen, Pennsauken, Roselle, and Teterboro, NJ, (j) Buffalo and Syracuse, NY, (k) Charlotte, NC, (l) Memphis and Nashville, TN, and (m) Cincinnati, Cleveland, Mansfield, Lorain, and Lima, OH, and (n) Norfolk and Richmond, VA, on the one hand, and, on the other, points in the United States in and east of ND, SD, NE, KS, OK, AR, and LA. (Hearing site: St. Paul, MN.)

MC 136828 (Sub-29F), filed April 18, 1979. Applicant: COOK TRANSPORTS, INC., 214 South Tenth Street, Birmingham, AL 35233. Representative: Ocie Cook, Jr. (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, and commodities in bulk), between those points on the Mississippi and Tennessee Rivers on and south of the KY-TN State line, points on the Tombigbee River in MS, and points in AL, on the one hand, and on the other, points in AL, AR, LA,

MS, FL, GA, TN, and TX. (Hearing site: Birmingham or Montgomery, AL.)

MC 138258 (Sub-5F), filed April 10, 1979. Applicant: JAMES D. WILCOX, P.O. Box 128, Boone, NC 28607. Representative: Douglas W. Greene, P.O. Box 629, Boone, NC 28607. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Johnson City, Kingsport, and Bristol, TN on the one hand, and, on the other, points in Johnson County, TN, and Ashe, Avery, and Watauga Counties, NC. (Hearing site: Boone or Charlotte, NC.)

MC 138328 (Sub-88F), filed April 18, 1979. Applicant: CLARENCE L. WERNER d.b.a. WERNER ENTERPRISES, P.O. Box 37308, Omaha, NE 68137. Representative: James F. Crosby, P.O. Box 37205, Omaha, NE 68137. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *tires and tubes*, (a) from Des Moines, IA, to points in AZ and CA, and (b) from Hanford, CA, to Des Moines, IA. (Hearing site: Washington, DC, or Omaha, NE.)

Note.—Dual operations may be involved.

MC 138328 (Sub-98F), filed April 18, 1979. Applicant: CLARENCE L. WERNER, d.b.a. Warner Enterprises, P.O. Box 37308, Omaha, NE 68137. Representative: James F. Crosby, P.O. Box 37205, Omaha, NE 68137. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in or used by automotive supply and household appliance stores, between points in KS, MO, IL, OK, TX, LA, MS, AL, GA, FL, TN, and AR, restricted to the transportation of traffic originating at or destined to the facilities of Western Auto Supply Company. (Hearing site: Kansas City, MO.)

Note.—Dual operations may be involved.

MC 138469 (Sub-138F), filed April 18, 1979. Applicant: DONCO CARRIERS, INC., P.O. Box 75354, Oklahoma City, OK 73107. Representative: William J. Green (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *petroleum, petroleum products, vehicle body sealer, and sound deadener compounds* (except commodities in bulk, in tank vehicles,

and filters), from points in Warren County, MS, to points in AR, CA, IL, IN, IA, KS, KY, MI, MN, MO, NE, OH, OK, SD, TX, and WI, and (2) (a) *petroleum, petroleum products, vehicle body sealer and sound deadener compounds, filters, and (b) materials equipment, and supplies used in the manufacture, sale, and distribution of the commodities in (1) above*, (except commodities in bulk, in tank vehicles), from points in IL, IN, KY, and OH, to points in Warren County, MS, restricted in (1) and (2) above to the transportation of traffic originating at or destined to the facilities of Quaker State Oil Refining Corporation, in Warren County, MS. (Hearing site: Pittsburgh or Philadelphia, PA.)

MC 140829 (Sub-214F), filed April 9, 1979. Applicant: CARGO, INC., P.O. Box 206, Sioux City, IA 51102. Representative: David King (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *soap, cleaning compounds, and toilet preparations* (except commodities in bulk, in tank vehicles), from Kansas City, KS, to points in IL, IN, MN, and WI, restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Washington, DC.)

Note.—Dual operations may be involved.

MC 140829 (Sub-218F), filed April 10, 1979. Applicant: CARGO, INC., P.O. Box 206, Sioux City, IA 51102. Representative: William J. Hanlon, 55 Madison Avenue, Morristown, NJ 07960. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *confectionery products and cough drops*, from the facilities of Luden's, Inc., at or near Reading, PA, to points in AR, CO, IL, IN, KS, LA, OH, OK, TN, and TX, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations. (Hearing site: Washington, DC.)

Note.—Dual operations may be involved.

MC 140829 (Sub-219F), filed April 10, 1979. Applicant: CARGO, INC., P.O. Box 206, Sioux City, IA 51102. Representative: William J. Hanlon, 55 Madison Avenue, Morristown, NJ 07960. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *paper*, from Columbus, OH, to points in MN, MO, and TX, restricted to the transportation of traffic originating at the named origin and

destined to the indicated destinations. (Hearing site: Washington, DC.)

Note.—Dual operations may be involved.

MC 141108 (Sub-5F), filed April 13, 1979. Applicant: D & C EXPRESS, INC., P.O. Box 748, Wilton, IA 52778. Representative: Kenneth F. Dudley, 611 Church Street, P.O. Box 279, Ottumwa, IA 52501. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *iron and steel articles*, from the facilities of North Star Steel Company, at or near Wilton, IA, to points in OH and PA; and (2) *materials, equipment, and supplies* used in the manufacture and distribution of iron and steel articles (except commodities in bulk), in the reverse direction. (Hearing site: Chicago, IL, or Kansas City, MO.)

MC 141489 (Sub-3F), filed April 9, 1979. Applicant: HUNTER TRUCKING, INC., 805 32nd Avenue, Council Bluffs, IA 51501. Representative: Donald L. Stern, Suite 610, 7171 Mercy Road, Omaha, NE 68106. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *metal drywall products, and materials, equipment, and supplies* used in the manufacture and distribution of metal drywall products, between the facilities of Phillips Manufacturing Co., at Omaha, NE, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Omaha, NE.)

Note.—Dual operations may be involved.

MC 142288 (Sub-7F), filed April 13, 1979. Applicant: HAMILTON TRUCKING OF OKLAHOMA, INC., 12612 E. Admiral Place, Tulsa, OK 74115. Representative: J. David Geiger (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *silica sand and limestone*, in bulk, in dump vehicles, from points in AR, MO, and TX, to the facilities of Ford Motor Company, Tulsa Glass Plant, at or near Tulsa, OK. (Hearing site: Tulsa or Oklahoma City, OK.)

MC 142368 (Sub-21F), filed April 16, 1979. Applicant: DANNY HERMAN TRUCKING, INC., 1415 East Ninth Avenue, Pomona, CA 91766. Representative: William J. Monheim, P.O. Box 1756, Whittier, CA 90609. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *doors, door frames, shelving, and building woodwork*, from Goleta, CA, to points in the United States (except AK, HI, and CA); (2) *doors and door frames*, from Los

Angeles, CA, to points in TX; and (3) *closets* for mobile homes and prefabricated buildings, from San Jacinto, CA, to Waco, TX. (Hearing site: Los Angeles, CA.)

Note.—The person or persons who appear to be engaged in common control must either file an application under 49 U.S.C. 11341(a) [formerly Section 5(2) of the Interstate Commerce Act], or submit an affidavit indicating why such approval is unnecessary. Affidavits are due 20 days from the date of publication.

MC 142848 (Sub-9F), filed April 9, 1979. Applicant: JAMES R. POSHARD AND SON, INC., P.O. Box 69, Mt. Vernon, IN 47620. Representative: Norman R. Garvin, 1301 Merchants Plaza, Indianapolis, IN 46204. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *sand*, in bulk, in dump vehicles, from points in IL, to points in IN, KY, MI, NY, OH, PA, WY, TN, and WV. (Hearing site: Indianapolis, IN, or Chicago, IL.)

MC 143059 (Sub-74F), filed April 13, 1979. Applicant: MERCER TRANSPORTATION CO., a Corporation, 12th and Main Streets, P.O. Box 35610, Louisville, KY 40232. Representative: Robert E. Tate, P.O. Box 517, Evergreen, AL 36601. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except commodities in bulk, in tank vehicles), between the Henderson County Riverport Authority Facility, in Henderson County, KY, on the one hand, and, on the other, those points in the United States in and east of ND, SD, NE, KS, OK, and TX. Condition: To the extent any certificate issued in this proceeding authorizes the transportation of classes A and B explosives, it shall be limited in point of time to a period expiring 5 years from the date of issuance of the certificate. (Hearing site: Louisville, KY, or Evansville, IN.)

MC 143059 (Sub-75F), filed April 18, 1979. Applicant: MERCER TRANSPORTATION CO., a Corporation, 12th & Main Streets, P.O. Box 35610, Louisville, KY 40232. Representative: James L. Stone (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *steel sheets and steel coils*, from the facilities of Feralloy Corporation, at or near Birmingham, AL, to points in AR, KY, LA, MS, TN, and TX, restricted to the transportation of traffic originating at the named origin. (Hearing site: Louisville, KY, or Washington, DC.)

MC 143188 (Sub-1F), filed April 16, 1979. Applicant: THE G & K HAULING COMPANY, a Corporation, P.O. Box 7, Mongo, IN 46771. Representative: James R. Stivers, 1396 West Fifth Avenue, Columbus, OH 43212. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *composition board and plywood*, and (2) *accessories and materials* used in the installation, and sale of the commodities in (1) above, from the facilities of Abitibi Corporation, in Lucas County, OH, to points in KY, IL, IN, MI, PA, WI, and WV. (Hearing site: Columbus, OH, or Washington, DC.)

MC 143819 (Sub-7F), filed April 10, 1979. Applicant: PALS BROS. TRUCKING, INC., R.F.D., Alexander, IA 50420. Representative: James M. Hodge, 1980 Financial Center, Des Moines, IA 50309. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *dry feed grade urea*, from the Port Neal Industrial Complex, in Woodbury County, IA, to Ft. Worth and Giddings, TX, under continuing contract(s) with Cargill Incorporated, of Minneapolis, MN. (Hearing site: St. Paul, MN.)

MC 1441188 (Sub-3F), filed April 10, 1979. Applicant: P. L. LAWTON, INC., P.O. Box 325, Berwick, PA 18603. Representative: John M. Musselman, P.O. Box 1146, 410 North Third Street, Harrisburg, PA 17108. To operate as a *common carrier*, by motor vehicle, interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in or used by grocery and food business houses, (except commodities in bulk and frozen foods), from Chicago IL, to points in CT, DE, MA, MD, ME, NH, NJ, NY, OH, PA, RI, VA, VT, WV, and DC. (Hearing site: Harrisburg, PA, or Washington, DC.)

Note.—Dual operations may be involved.

MC 144189 (Sub-1F), filed April 16, 1979. Applicant: CORPORATE TRANSPORT, INC., 107 7th North Street, Liverpool, NY 13088. Representative: Edward M. Alfano, 550 Mamaroneck Avenue, Harrison, NY 10528. To operate as a *common carrier*, by motor vehicle, interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in or used by manufacturers of paper and paper products, from Brownville, NY, to Holyoke and West Springfield, MA, Berlin, NH, and Cranston, RI, under continuing contract(s) with Premoid Corporation, of Brownville, NY. (Hearing site: New York, NY.)

MC 145018 (Sub-4F), filed April 13, 1979. Applicant: NORTHEAST DELIVERY, INC., P.O. Box 127, Taylor, PA 18517. Representative: John W. Frame, Box 626, 2207 Old Gettysburg Road, Camp Hill, PA 17011. To operate as a *common carrier*, by motor vehicle, interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in or used by food processing houses, (except commodities in bulk), from the facilities of Welch Foods, Inc., at (a) North East, PA, and (b) Westfield, NY, to points in TX, LA, AR, OK, KS, MS, MO, and NM. (Hearing site: Harrisburg, PA.)

MC 145828 (Sub-1F), filed March 15, 1979. Applicant: RONALD JONES, d.b.a., ALGOMA FARMS, 1762 Leonard Road North, Route 4, Oshkosh, WI 54901. Representative: James A. Spiegel, Olde Towne Office Park, 6425 Odana Rd., Madison, WI 53719. To operate as a *common carrier*, by motor vehicle, interstate or foreign commerce, over irregular routes, transporting *precast concrete beams, roof decks, joists, double-T's, crypts, and panels*, from Oshkosh and Omro, WI, to points in IL, IA, IN, MI, MN, ND, NE, and SD, under continuing contract with Duwe Precast Concrete Products, Inc., of Oshkosh, WI. (Hearing site: Madison, WI)

MC 146619F, filed April 16, 1979. Applicant: RICHARD E. ARNOLD, 3730 SW 47th Court, Fort Lauderdale, FL 33312. Representative: Eric J. Bergknoff, 511 Biscayne Building, 19 West Flagler Street, Miami, FL 33130. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *boats*, between points in AL, FL, GA, IN, LA, KY, MS, OH, TN, and TX. (Hearing site: Miami, FL, or Washington, DC.)

MC 146759 (Sub-1F), filed April 13, 1979. Applicant: RASK TRANSPORTATION, INC., 210 South Street, Victoria, IL 61485. Representative: Robert W. Loser II, 1009 Chamber of Commerce Bldg., Indianapolis, IN 46204. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *petroleum and petroleum products*, from Bettendorf, IA, to points in Knox, Peoria, Stark, Mercer, and Henry Counties, IL. (Hearing site: Chicago, IL, or Indianapolis, IN.)

MC 146969F, filed April 9, 1979. Applicant: STAN KOCH & SONS TRUCKING, INC., 4901 Excelsior Boulevard, St. Louis Park, MN 55416. Representative: Stanley C. Olsen Jr., Suite 329, 4601 Excelsior Blvd., Minneapolis, MN 55416. To operate as a *common carrier*, by motor vehicle, in

interstate or foreign commerce, over irregular routes, transporting (1) *chain*, from Baltimore, MD, Chicago, IL, Houston, TX, and Milwaukee, WI, to Cosmos, MN, (2) *rope*, from Chicago, IL, Madison, GA, Milwaukee, WI, and New York, NY, to Cosmos, MN, (3) *wire rope*, from Boston, MA, Chicago, IL, Hoboken, NJ, Houston, TX, and New York, NY, to Cosmos, MN, (4) *fan belts*, from New York, NY to Cosmos, MN, (5) *hooks*, from Cedar Rapids, IA, Chattanooga, TN, Columbus, IN, Cortland, NY, Ewart, MI, St. Louis, MO, and Worcester, MA, to Cosmos, MN, (6) *stock tank heaters*, from Geneva, IL, to Cosmos, MN, (7) *salt*, from Hutchinson, KS, to Cosmos, MN, (8) (a) *tow rope, chain, rope, wire rope, fan belts, salt, stock tank heaters, and dog food*, from Cosmos, MN, and (b) *dog food*, from Minneapolis, MN, to points in AR, CT, IL, IN, IA, KS, KY, MA, MI, MO, NE, NJ, NY, ND, OH, OK, PA, SD, TN, TX, and WI. (Hearing site: Minneapolis, MN.)

MC 147068F, filed April 18, 1979. Applicant: ENERGY TRANSPORTERS, INC., 5119 N. 19th Avenue, Phoenix, AZ 85015. Representative: A. Michael Bernstein, 1441 E. Thomas Rd., Phoenix, AZ 85014. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *petroleum products*, in bulk, in tank vehicles, from points in Contra Costa, Kern, Kings, Los Angeles, San Francisco, Santa Barbara, Solano, and Ventura Counties, CA Denver and Mesa Counties CO, Eddy, Lea, McKinley, and San Juan Counties, NM, Bexar, Brazoria, Chambers, Dimmit, El Paso, Ector, Galveston, Gregg, Harris, Howard, Hutchinson, Jefferson, Live Oak, Moore, Nueces, Potter, Smith, Taylor, Tarrant, Titus, and Ward Counties, TX, and Davis and Salt Lake Counties, UT, to points in AZ, under continuing contract(s) with B. S. & W. Energy Corp., of Phoenix, AZ. (Hearing site: Phoenix, AZ.)

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Decided: August 2, 1979.

By the Commission, Review Board Number 1. Members Carleton Jones and Joyce.

MC 2052 (Sub-20F), filed April 26, 1979. Applicant: BLAIR TRANSFER, INC., 203 South Ninth, Blair, NE 68008. Representative: Arlyn L. Westergren, Suite 106, 7101 Mercy Road, Omaha, NE 68106. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products, meat byproducts, and articles distributed by meat-packing houses*, as described in Sections A and C of Appendix I to the Report in *Descriptions in Motor Carrier*

Certificates, 61 M.C.C. 209 and 766, from the facilities of Spencer Foods, Inc., at or near Fremont and Schuyler, NE, to points in IN and OH. (Hearing site: Omaha, NE.)

MC 32882 (Sub-113F), filed April 26, 1979. Applicant: MITCHELL BROS. TRUCK LINES, 3841 North Columbia Boulevard, P.O. Box 17039, Portland, OR 97217. Representative: David J. Lister (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *steel wire rope*, on reels, and fittings for steel wire rope, from the facilities of Macwhyte Wire Rope Company, at or near Kenosha, WI, to points in WA, OR, CA, NV, AZ, UT, NM, CO, ID, MT, and WY, restricted to the transportation of traffic originating at the named origin. (Hearing site: Milwaukee, WI, or Chicago, IL.)

MC 71593 (Sub-25F), filed April 25, 1979. Applicant: FORWARDERS TRANSPORT, INC., 1608 E. Second Street, Scotch Plains, NJ 07076. Representative: Charles J. Williams, 1815 Front Street, Scotch Plains, NJ 07076. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) from the facilities of Import-Export Shippers Cooperative, Inc., at or near Los Angeles, CA, to those points in the United States in and east of ND, SD, NE, KS, OK, and TX, and (2) from the facilities of Import-Export Shippers Cooperative, Inc., at Chicago, IL, to points in CT, DE, MD, MA, NJ, NY, PA, and RI. (Hearing site: New York, NY.)

MC 82063 (Sub-106F), filed April 25, 1979. Applicant: KLIPSCH HAULING CO., a Corporation, 10795 Watson Road, Sunset Hills, MO 63127. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh Street, NW., Washington, DC 20001. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *liquid chemicals*, in bulk, in tank vehicles, from Brownville, TN, to points in the United States (except AK and HI). (Hearing site: Washington, DC or Memphis, TN.)

MC 103993 (Sub-956F), filed April 11, 1979. Applicant: MORGAN DRIVE-AWAY, INC., 28651 U.S. Hwy 20 West, Elkhart, IN 46515. Representative: Paul D. Borghesani (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or

foreign commerce, over irregular routes, transporting (1) *hardwood flooring systems and hardwood flooring*, (2) *materials and supplies used in the installation of the commodities named in (1) above*, and (3) *lumber, wood products, and millwork*, (except those commodities described in (1) and (2) above), from points in Iron County, MI, to those points in the United States in and east of ND, SD, NE, KS, OK, and TX. (Hearing site: Green Bay, WI.)

MC 108053 (Sub-160F), filed April 24, 1979. Applicant: LITTLE AUDREY'S TRANSPORTATION CO., INC., P.O. Box 129, Fremont, NE 68025. Representative: Arnold L. Burke, 180 N. LaSalle Street, Chicago, IL 60601. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, packinghouse products*, and commodities used by packing houses as described in Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except dairy products, hides, and commodities in bulk), between the facilities of (1) Lauridsen Foods, Inc., at or near Britt, IA, and (2) Armour and Company, at or near Mason City, IA, on the one hand, and, on the other, those points in the United States in and west of MT, WY, CO, and AZ, (except AK and HI) restricted to the transportation of traffic originating at or destined to the named facilities. (Hearing site: Omaha, NE.)

MC 111812 (Sub-633F), filed April 25, 1979. Applicant: MIDWEST COAST TRANSPORT, INC., P.O. Box 1233, Sioux Falls, SD 57101. Representative: Lamoyne Brandsma (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *canned and frozen foods*, from Omaha, NE, and Council Bluffs, IA, to points in AZ, CA, ID, MT, OR, UT, WA, and those in the United States in and east of MI, IN, KY, TN, and MS. (Hearing site: Omaha, NE.)

MC 114273 (Sub-591F), filed April 26, 1979. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *bricks*, from Fairbury, NE, to Chicago, IL. (Hearing site: Chicago, IL or Washington, DC.)

MC 114273 (Sub-592F), filed April 26, 1979. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core (same address as applicant). To operate as a

common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *chemicals* (except in bulk, in tank vehicles), from Franklinton, NC, to points in IL, IA, and IN. (Hearing site: Chicago, IL or Washington, DC.)

MC 115322 (Sub-172F), filed April 26, 1979. Applicant: REDWING REFRIGERATED, INC., P.O. Box 10177, Taft, FL 32809. Representative: Lawrence E. Lindeman 425 13th St. N.W., Washington, DC 20004. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs*, from Queen Anne, MD, and Cheriton, VA, to points in AL, CT, DE, FL, GA, KY, LA, ME, MD, MA, MS, NH, NJ, NY, NC, PA, RI, SC, TN, VT, VA, and DC. (Hearing site: Washington, DC.)

MC 115322 (Sub-174F), filed April 26, 1979. Applicant: REDWING REFRIGERATED, INC., P.O. Box 10177, Taft, FL 32809. Representative: Lawrence E. Lindeman, 425 13th St. N.W. Suite 1032, Washington, DC 20004. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *materials and supplies* used in the manufacture and distribution of foodstuffs, from points in NJ, PA, and NY, to points in Frederick and Rockingham Counties, VA, and Berkeley and Jefferson Counties, WV. (Hearing site: Washington, DC.)

MC 116763 (Sub-504F), filed April 25, 1979. Applicant: CARL SUBLER TRUCKING, INC., North West Street, Versailles, OH 45380. Representative: H. M. Richter (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such materials, equipment and supplies* as are used in the manufacturing, processing and distribution of paper and paper products (except commodities in bulk, in tank vehicles), from points in the United States (except AK and HI), to the facilities of Bergstrom Paper Co., a Division of P. H. Glatfelter Co., at or near Neenah, WI, and West Carrollton, OH, restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Milwaukee, WI.)

MC 117883 (Sub-245F), filed April 24, 1979. Applicant: SUBLER TRANSFER, INC., One Vista Drive, P.O. Box 62, Versailles, OH 45380. Representative: Neil E. Hannan (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes,

transporting *such commodities* as are dealt in or used by manufacturers, distributors, and millers of grain and soybean products (except commodities in bulk), between points in CT, DE, IL, IN, IA, KS, KY, MD, MA, ME, MI, MN, MO, NE, NH, NJ, NY, OH, PA, RI, VT, VA, WV, WI, and DC, restricted to the transportation of traffic originating at or destined to the facilities of Central Soya Company, Inc. (Hearing site: Dayton, OH, or Washington, DC.)

MC 118142 (Sub-220F), filed April 25, 1979. Applicant: M. BRUENGER & CO., INC., 6250 North Broadway, Wichita, KS 67219. Representative: Lester C. Arvin, 814 Century Plaza Building, Wichita, KS 67202. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *Bananas*, and agricultural commodities otherwise exempt from regulation when moving in mixed loads with bananas, from Tampa, FL, to points in GA, IL, IN, IA, KS, KY, MI, MN, MO, NE, NC, OH, SC, TN, and WI. (Hearing site: Tampa, FL or Washington, DC.)

MC 124692 (Sub-279F), filed April 24, 1979. Applicant: SAMMONS TRUCKING, a corporation, P.O. Box 4347, Missoula, MT 59806. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. To operate as a *common carrier*, by motor vehicle, in foreign commerce only, over irregular routes, transporting *general commodities*, (except those of unusual value, commodities in bulk, household goods as defined by the Commission, classes A & B explosives, and those requiring special equipment), between points in the United States, on the one hand, and on the other, ports of entry in AZ, CA, NM, and TX, on the international boundary line between United States and Mexico. (Hearing site: Dallas, TX.)

MC 124692 (Sub-280F), filed April 25, 1979. Applicant: SAMMONS TRUCKING, a corporation, P.O. Box 4347, Missoula, MT 59806. Representative: J. David Douglas (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) (a) *industrial cabs, roll bars and roll over structures*, and (b) *parts and supplies* used in the manufacture and installation of the commodities in (1) (a) above, and (2) *iron and steel articles* (a) from Gurley, NE, and Greeley, CO, to points in IL, and (b) from Gary, IN, to Gurley, NE, restricted to the transportation of traffic originating at or destined to the facilities of the Egging Company, at the named origins in (2)(a) and (b) above. (Hearing site: Denver, CO.)

MC 125433 (Sub-252F), filed April 25, 1979. Applicant: F-B TRUCK LINE COMPANY, a corporation, 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: John B. Anderson (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *sinks, counter tops, cabinets, and vanities*, and (2) *accessories* for the commodities in (1) above, from the facilities of General Marble Corporation, at or near Cucamonga, CA, to those points in the United States in and east of ND, SD, NE, KS, OK, and TX. (Hearing site: Los Angeles, CA, or Salt Lake City, UT.)

MC 126893 (Sub-4F), filed April 25, 1979. Applicant: BALTIMORE-WASHINGTON EXPRESS SERVICE, INC., P.O. Box 4383, Baltimore, MD 21223. Representative: Charles E. Creager, 1329 Pennsylvania Ave., P.O. Box 1417, Hagerstown, MD 21740. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities*, in vehicles equipped with mechanical refrigeration (except those of unusual value, commodities in bulk, classes A and B explosives, household goods as defined by the Commission, and commodities requiring special equipment), between the facilities of Baltimore Shippers and Receivers Association, Inc., at Baltimore, MD, on the one hand, and, on the other, those points in the United States in and west of MI, IN, KY, TN, and MS. (Hearing site: Baltimore, MD.)

MC 128273 (Sub-359F), filed April 26, 1979. Applicant: MIDWESTERN DISTRIBUTION, INC., P.O. Box 189, Fort Scott, KS 66701. Representative: Elden Corban (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in or used by manufacturers, converters, printers and distributors of paper and paper products, and plastic products (except commodities in bulk, in tank vehicles), between the facilities of Brown Company at or near Edgely, PA, on the one hand, and, on the other, points in the United States (except AK, HI, and PA), restricted to the transportation of traffic originating at or destined to the facilities of Brown Company. (Hearing site: Chicago, IL, or Washington, DC.)

MC 134112 (Sub-8F), filed April 23, 1979. Applicant: NATIONAL FREIGHTWAYS, INC., 1923 S. 111th St., Omaha, NE 68144. Representative: Scott T. Robertson, 521 S. 14th St., Suite 500,

P.O. Box 81849, Lincoln, NE 68501. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *hides*, from points in Colfax, Douglas, Dakota, and Sarpy Counties, NE, and Woodbury and Pottawattamie Counties, IA, to points in CA, CT, FL, GA, IL, IN, KY, ME, MA, MD, MI, MN, MO, NH, NJ, NY, NC, OH, PA, SC, TN, TX, VA, WV, and WI. (Hearing site: Omaha, NE.)

Note.—Dual operations may be involved.

MC 134783 (Sub-51F), filed April 25, 1979. Applicant: DIRECT SERVICE, INC., 940 East 66th Street, P.O. Box 2491, Lubbock, TX 79408. Representative: Charles M. Williams, 350 Capitol Life Center, 1600 Sherman Street, Denver, CO 80203. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs* (except in bulk), from the facilities of Fisher Cheese Company, at or near Wapakoneta, OH, to points in AL, AR, DE, FL, GA, KY, LA, MC, MS, NJ, NY, NC, OK, PA, SC, TN, TX, VA, WV, and DC. (Hearing site: Columbus, OH, or Dallas, TX.)

Note.—The person or persons who it appears may be engaged in common control with another carrier must either file an application under Section 5(2) of the Interstate Commerce Act, or submit an affidavit indicating why such approval is unnecessary.

MC 140452 (Sub-18F), filed April 13, 1979. Applicant: ROSE BROTHERS TRUCKING, INC., 2425 U.S. Business Hwy 41 North, Suite 204, Evansville, IN 47711. Representative: Robert E. Tate, P.O. Box 517, Evergreen, AL 36401. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, and those requiring special equipment), in bulk, in dump vehicles, between the Henderson County Riverport Authority Facility, in Henderson County, KY, on the one hand, and, on the other, points in AR, IL, OH, IN, TN, KY, and MO. (Hearing site: Louisville, KY, or Evansville, IN.)

MC 145102 (Sub-25F), filed April 25, 1979. Applicant: FREYMILLER TRUCKING, INC., P.O. Box 188, Shullsburg, WI 53586. Representative: Michael J. Wyngaard, 150 East Gilman Street, Madison, WI 53703. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in by manufacturers, converters, printers, and distributors of paper and paper products

(except commodities in bulk), from Riverside Paper Corporation, at or near Appleton, WI, to points in AZ, CA, CO, ID, MT, NM, NV, OR, UT, WA, and WY. (Hearing site: Madison, WI, or Milwaukee, WI.)

MC 146352 (Sub-2F), filed April 17, 1979. Applicant: AVERY TRUCKING CO., INC., P.O. Box 428, Dahlonga, GA 30533. Representative: Tom Rainey, 206 Moores Drive, Dahlonga, GA 30533. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *molded pulp products*, and *materials and supplies* used in the manufacture, packaging, and distribution of molded pulp products, between the facilities of Packaging Corporation of America, at or near (a) Macon, GA, and (b) Griffith, IN, on the one hand, and, on the other, points in the United States (except AK and HI); and (2) *molded pulp paper products, plastic bags, egg cartons, meat trays, corrugated boxes, gummed tape, poultry equipment, poultry supplies, and poultry chemicals, and peat-moss pots*, between the facilities of (a) Packaging Corporation of America, at or near (I) Macon, GA, (II) Griffith, IN, and (III) Latta, SC, (b) Union Camp Corporation, at or near (I) Savannah, GA, and (II) Morristown, TN, (c) St. Regis Container Division of St. Regis Paper Company, at or near (I) Doraville, GA, and (II) Jacksonville, FL, (d) Mobile Chemical Company, at or near Covington and Conyers, GA, (e) International Paper Company, at or near (I) Statesville, NC, (II) Georgetown, SC, (III) Auburndale, FL, and (IV) Murfreesboro, TN, (f) Diamond International Corporation, at or near (I) Atlanta, GA, and (II) Natchez, MS, (g) Summit Container Corporation, at or near Lexington, SC, (h) Container Corporation of America, at or near Chattanooga, TN, (i) Keyes Fiber Company, at or near (I) Memphis, TN, (II) Hammond, IN, (III) New Iberia, LA, (IV) Waterville, ME, and (V) Troy, OH, and (j) Kuhl Corporation, at or near Flemington, NJ, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Atlanta, GA, or Charlotte, NC.)

MC 146622 (Sub-1F), filed April 16, 1979. Applicant: R. LEON PETERSON TRUCKING, INC., 835 North 600 West Spanish Fork, UT 84660. Representative: Bruce W. Shand, 430 Judge Bldg., Salt Lake City, UT 84111. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *resin coated sands and chemicals* and (2) *such commodities as are used by foundries*, (except those described in (1)

above and commodities in bulk), (1) from points in OH, PA, WV, IN, MI, IL, WI, IA, MO, KS, WY, SD, and NV, to points in CO, UT, and AZ, and (2) between points in AZ, CO, and UT, under continuing contract with Waterton Sand and Clay, Inc., of Lindon, UT. (Hearing site: Salt Lake City, UT.)

MC 146962F, filed March 8, 1979. Applicant: MULDER TRUCKING COMPANY, a Corporation, Prinsburg, MN 56281. Representative: Samuel Rubenstein, 301 North Fifth Street, Minneapolis, MN 55403. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *cement*, from points in IA, NE, ND, SD, and WI, and the ports of entry on the international boundary line between the United States and Canada, to points in MN; and (2) *fly ash*, from Big Stone City, SD, to points in MN; and (3) *contractors' machinery, equipment and supplies*, between points in IA, IL, MN, MT, NE, ND, SD, WI, and WY. (Hearing site: Minneapolis or St. Paul, MN.)

MC 146972F, filed April 25, 1979. Applicant: BLUE STAR TRUCKING, INC., 140 Jackson Ave., Edison, NJ 08817. Representative: Edward F. Bowes, 167 Fairfield Road, P.O. Box 1409, Fairfield, NJ 07006. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities*, (except those of unusual value, commodities in bulk, household goods, as defined by the Commission classes A and B explosives, and those requiring special equipment), between (1) New York, NY and (2) the facilities of Tri-Corp. Industries, Inc., at or near Edison, NJ, on the one hand, and, on the other, points in DE, NJ, DC, and those points in CT on and west of Interstate Hwy 91, those in NY on, south and east of a line beginning at the NY-MA state line and extending over Interstate Hwy 90 to its junction with U.S. Hwy 15, and then over U.S. Hwy 15 to NY-PA state line, those in PA on and east of a line beginning at the PA-NY state line and extending along U.S. Hwy 15 to junction U.S. Hwy 11, then over U.S. Hwy 11 to the PA-MD state line and those in MD on and east of Interstate Hwy 81, restricted in (1) above to shipments having a prior or subsequent movement by water. (Hearing site: New York, NY.)

MC 111422 (Sub-10F), filed April 10, 1979. Applicant: O. D. ANDERSON, INC., Conneaut Lake Rd., Greenville, PA 16125. Representative: S. Harrison Kahn, Suite 733 Investment Bldg., Washington, DC 20005. To operate as a *common carrier*, by motor vehicle, in interstate or

foreign commerce, over irregular routes, transporting *passengers and their baggage*, in the same vehicle with passengers in one-way and round trip charter operations, and in special operations, in one-way and round trip sightseeing and pleasure tours, beginning and ending at points in Lorain, Ashland, Wayne, Stark, and Columbiana Counties, OH, and extending to points in the United States (except HI), restricted, in one-way operations only, to the transportation of passengers and their baggage (1) having a subsequent movement by air to the indicated points in OH, or (2) having a prior movement by air from the indicated points in OH. (Hearing site: Cleveland, OH.)

Broker Application

MC 12672 (Sub-2F), filed March 20, 1979. Applicant: BIXLER TOURS, INC., 6812 Wakefield Road, Hiram, OH 44234. Representative: James O. Spender (Same address as applicant). Authority granted to engage in operation, in interstate or foreign commerce, as a *broker* at Hiram, OH, in arranging for the transportation by motor vehicle, of *passengers and their baggage*, in special or charter operations, between points in the United States (including AK but excluding HI). Condition: Issuance of this license is subject to prior or coincidental cancellation of applicant's written request of License Nos. MC-12672 and MC-12672 (Sub-No. 1), issued May 26, 1958, and February 19, 1964, respectively. (Hearing site: Cleveland, OH.)

MC 130582F, filed June 25, 1979. Applicant: VIRGINIA ADKINS, d.b.a. ADKINS TRAVEL SERVICE, 323 Withers Circle, Danville, VA 24541. Representative: Brian S. Stern, 2425 Wilson Blvd., Suite 327, Arlington, VA 22201. To engage in operations, in interstate or foreign commerce, as a *broker*, at Danville, VA, in arranging for the transportation, by motor vehicle, of *passengers and their baggage*, in round-trip special and charter operations, beginning and ending at Danville and Lynchburg, VA, points in Pittsylvania, Henry, Halifax, and Campbell Counties, VA, and points in Caswell, Rockingham, Guilford, and Alamance Counties, NC, and extending to points in the United States (including AK and HI). (Hearing site: Danville, VA, or Greensboro, NC.)

Note.—Applicant is cautioned that arrangements for charter parties or groups should be made in conformity with the requirements set forth in *Touck Tours, Inc., Extension—New York, NY*, 54 M.C.C. 291 (1952).

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Decided: August 2, 1979.
By the Commission, Review Board Number 2, Members Boyle, Eaton, and Liberman.

MC 682 (Sub-12F), filed April 30, 1979. Applicant: BURNHAM VAN SERVICE, INC., P.O. Box 7966, Columbus, GA 31908. Representative: Paul F. Sullivan, 711 Washington Bldg., Washington, DC 20005. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *new furniture*, from Athens, TN, to points in the United States (except AK and HI). (Hearing site: Atlanta, GA.)

MC 4963 (Sub-67F), filed April 26, 1979. Applicant: JONES MOTOR CO., INC., Bridge Street & Schuylkill Road, Spring City, PA 19475. Representative: Roland Rice, Suite 501, Perpetual Building, 1111 E St., N.W., Washington, DC 20004. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *metal articles* and (2) *commodities*, the transportation of which, because of their size or weight, require the use of special equipment, (except metal articles), between points in PA, NY, OH, VA, WV, KY, IN, IL, MI, WI, and MD. (Hearing site: Pittsburgh, PA, or Washington, DC.)

MC 16903 (Sub-89F), filed April 30, 1979. Applicant: MOON FREIGHT LINES, INC., P.O. Box 1275, Bloomington, IN 47401. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *iron and steel articles*, from the facilities of Jones & Laughlin Steel Corporation, at (a) Youngstown, OH, and (b) Aliquippa and Pittsburgh, PA, to points in CT, MA, ME, NH, RI, VT, those in Dutchess, Orange, Putnam, and Ulster Counties, NY, and those in IN on and south of IN-Hwy 28. (Hearing site: Washington, DC, or Pittsburgh, PA.)

MC 25823 (Sub-8F), filed April 27, 1979. Applicant: WERCH TRUCKING COMPANY, INC., Route 2, Box 113, Berlin, WI 54923. Representative: Michael J. Wyngaard, 150 East Gilman Street, Madison, WI 53703. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *boundary products and metal products*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above between Berlin, WI, on the one hand, and, on the other, points in AL, AR, CT, DE, FL, GA, IL, IN, IA, KY, ME, MD, MA, MI, MN, MS, NH, NJ, NY, NC,

OH, PA, RI, SC, TN, VT, VA, WV, and DC. (Hearing site: Madison or Milwaukee, WI.)

MC 58923 (Sub-54F), filed March 13, 1979, and previously published in the *Federal Register* on July 3, 1979. Applicant: GEORGIA HIGHWAY EXPRESS, INC., 2090 Jonesboro Road, SE, P.O. Box 6944, Atlanta, GA 30315. Representative: William W. West (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, transporting (A) over regular routes *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Mobile, AL, and Gretna, LA: from Mobile over U.S. Hwy 90 to junction LA Hwy 18, then over LA Hwy 18 to Gretna, and return over the same route; (2) between Jacksonville, FL, and Natchez, MS: from Jacksonville over U.S. Hwy 90 to junction U.S. Hwy 98, then over U.S. Hwy 98 to Natchez, and return over the same route; (3) between Mobile, AL, and Tupelo, MS: from Mobile over U.S. Hwy 45 (also U.S. Hwy 45 Alt.) to Tupelo, and return over the same route; (4) between Columbus, GA, and Vicksburg, MS, over U.S. Hwy 80; (5) between Brunswick, GA, and Natchez, MS, over U.S. Hwy 84; (6) between Savannah, GA, and Greenville, MS: from Savannah over U.S. Hwy 17 to junction U.S. Hwy 82, then over U.S. Hwy 82 to Greenville, and return over the same route; (7) between New Orleans, LA, and Memphis, TN, over U.S. Hwy 61; (8) between LaPlace, LA, and Fulton, KY: from LaPlace over U.S. Hwy 51 to junction U.S. Hwy 45, then over U.S. Hwy 45 to Fulton, and return over the same route; (9) between New Orleans, LA, and Chattanooga, TN, over U.S. Hwy 11; (10) between Gulfport, MS, and Helena, AR: from Gulfport over U.S. Hwy 49 (also U.S. Hwy 49E and U.S. Hwy 49W) to Helena, and return over the same route; (11) between Bay St. Louis, MS, and Baton Rouge, LA: from Bay St. Louis over U.S. Hwy 90 to junction U.S. Hwy 190, then over U.S. Hwy 190 to Baton Rouge, and return over the same route; (12) between Gadsden, AL, and Clarksdale, MS: from Gadsden over U.S. Hwy 278 to junction MS Hwy 6 (also over U.S. Hwy 278 to junction U.S. Hwy 78, then over U.S. Hwy 78 to junction MS Hwy 6), then over MS Hwy 6 to Clarksdale, and return over the same route. (13) between Chattanooga, TN, and junction U.S. Hwy 70 and U.S. Hwy 27 at or near Rockwood, TN, over U.S. Hwy 27; (14) between Knoxville and Nashville, TN:

from Knoxville over U.S. Hwy 70 (also U.S. Hwy 70N and U.S. Hwy 70S) to Nashville, and return over the same route; (15) between McMinnville and Chattanooga, TN, over TN Hwy 8; (16) between McMinnville and Dayton, TN: from McMinnville over U.S. Hwy 70S to junction TN Hwy 30, then over TN Hwy 30 to Dayton, and return over the same route; (17) between Livingston, TN, and junction TN Hwy 42 and U.S. Hwy 70 at or near Sparta, TN, over TN Hwy 42; (18) between Jamestown and Crossville, TN, over U.S. Hwy 127; (19) between Jamestown and Livingston, TN, over TN Hwy 52; (20) between McMinnville and Morrison, TN, over TN Hwy 55; (a) serving all intermediate points in connection with (1) through (20) above; (b) serving as off-route points, in connection with (13) through (20) above, points in Cumberland, DeKalb, Putnam, Van Buren and White Counties, TN; and (c) serving as off-route points, in connection with (1) through (12) above, points in AL and MS; those in FL in and west of Hamilton, Suwannee, Gilchrist, and Levy Counties, and those in LA on, east, and north of a line beginning at the LA-MS State line and extending along the Mississippi River to Poydras, LA, then over LA Hwy 46 to Shell Beach, LA; and (B) over irregular routes, *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between points in the commercial zone of New Orleans, LA, (2) between points in the commercial zone of Jackson, MS, (3) between points in the commercial zone of Hattiesburg, MS, (4) between points in the commercial zone of Meridian, MS, (5) between points in the commercial zone of Columbus, MS, (6) between points in the commercial zone of Baton Rouge, LA, (7) between points in the commercial zone of Brunswick, GA, (8) between points in the commercial zone of Savannah, GA, (9) between points in the commercial zone of Jacksonville, FL, and (10) between points in the commercial zone of Nashville, TN. (Hearing site: Atlanta, GA, or New Orleans, LA.)

Note.—(1) Applicant intends to tack the authority sought above with existing regular route authority now held by applicant. (2) The purpose of this republication is to correctly identify the irregular-route portion of the application.

MC 82492 (Sub-237F), filed April 25, 1979. Applicant: MICHIGAN & NEBRASKA TRANSIT CO., INC., 2109 Olmstead Road, P.O. Box 2853, Kalamazoo, MI 49003. Representative: Dewey R. Marselle (same address as applicant). To operate as a *common*

carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *confectionery*, in vehicles equipped with mechanical refrigeration, from the facilities of M&M/Mars, Incorporated, at Chicago, IL, to points in IA, KS, KY, MI, MO, NE, OH, and TN, those points in PA on and west of U.S. Hwy 219, and those in NY in and west of Oswego, Onondaga, Cortland, and Broome Counties, restricted to the transportation of traffic originating at the named origin facilities and destined to the indicated destinations. (Hearing site: Chicago, IL, or Washington, DC.)

MC 107012 (Sub-354F), filed April 27, 1979. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: Stephen C. Clifford (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *plastic plumbing fixtures, accessories* for plastic plumbing fixtures, and *supplies and equipment* used in the manufacture and distribution of plastic plumbing fixtures, from Walden, GA, to points in IA, KS, MN, NC, ND, SD, VA, and WV. (Hearing site: New York, NY, or Washington, DC.)

MC 107403 (Sub-1190F), filed April 26, 1979. Applicant: MATLACK, INC., Ten West Baltimore Avenue, Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *industrial lubricants, and metal drawing oils and compounds*, in bulk, in tank vehicles, from Detroit, MI to points in IN, OH, and PA. (Hearing site: Washington, DC.)

MC 107403 (Sub-1191F), filed April 26, 1979. Applicant: MATLACK, INC., Ten West Baltimore Avenue, Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *cement* from the facilities of Copley Cement Mfg Co., at or near Nazareth, PA, to points in CT, DE, MD, NJ, PA, VA, NY, OH, MA, RI and DC. (Hearing site: Washington, DC.)

MC 107403 (Sub-1201F), filed April 26, 1979. Applicant: MATLACK, INC., Ten West Baltimore Avenue, Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *liquid chemicals*, in bulk, in tank vehicles, from the facilities of

Union Carbide Corporation, at or near Charleston, WV, to points in AL, AR, CT, DE, FL, GA, KS, KY, LA, MS, NJ, NC, ND, OH, OK, PA, RI, SC, SD, TN, TX, and VA. (Hearing site: Washington, DC.)

MC 108382 (Sub-40F), filed April 26, 1979. Applicant: SHORT FREIGHT LINES, INC., 459 South River Road, Bay City, MI 48706. Representative: Rex Eames, 900 Guardian Building, Detroit, MI 48226. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *iron and steel articles*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, between ports of entry on the international boundary line between the United States and Canada at or near Sault Ste. Marie, MI, on the one hand, and, on the other, points in MI, OH, PA, IN, IL, and WI. (Hearing site: Detroit, MI.)

MC 110563 (Sub-268F), filed April 26, 1979. Applicant: COLDWAY FOOD EXPRESS, INC., P.O. Box 747, State Route 29 N, Sidney, OH 45365. Representative: Joseph M. Scanlan, 111 West Washington Street, Chicago, IL 60602. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *frozen bakery products*, from (1) Norfolk and Portsmouth, VA, to Saugatuck and Holland, MI, and (2) from Saugatuck and Holland, MI, to points in CO, KS, NE, IA, MN, WI, MO, IL, IN, OH, KY, VA, PA, NY, NJ, DE, MD, CT, MA, ME, VT, NH, RI, NC, SC, and TN. (Hearing site: Detroit, MI or Washington, DC.)

MC 110563 (Sub-274F), filed April 26, 1979. Applicant: COLDWAY FOOD EXPRESS, INC., P.O. Box 747, State Route 29 N, Sidney, OH 45365. Representative: Joseph M. Scanlan, 111 West Washington Street, Chicago, IL 60602. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products, meat byproducts, and articles distributed by meat-packing houses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from Buffalo, NY, to points in AL, AR, FL, GA, KY, LA, MS, NC, OK, SC, TN, and TX. (Hearing site: Buffalo, NY or Washington, DC.)

MC 112713 (Sub-265F), filed April 26, 1979. Applicant: YELLOW FREIGHT SYSTEM, INC., P.O. Box 7270, Shawnee Mission, KS 66207. Representative: John M. Records (same address as applicant).

To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, commodities in bulk, household goods as defined by the Commission, and those requiring special equipment), serving Cedar Rapids, IA as an off-route point in connection with the carrier's otherwise authorized operations. (Hearing site: Cedar Rapids, IA, or Des Moines, IA.)

Note.—The person or persons who appears may be engaged in common control with other carriers must either file an application under 49 U.S.C. § 11343 (formerly Section 5(2) of the Interstate Commerce Act), or submit an affidavit indicating why such approval is unnecessary.

MC 115322 (Sub-173F), filed April 26, 1979. Applicant: REDWING REFRIGERATED, INC., P.O. Box 10177, Taft, FL 32809. Representative: Lawrence E. Lindeman, 425 13th St., NW., Suite 1032, Washington, DC 20004. To operate as a *common carrier* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *malt beverages*, in containers, from points in Baltimore County, MD, to points in NC, SC, GA, and FL. (Hearing site: Washington, DC.)

MC 118263 (Sub-83F), filed April 27, 1979. Applicant: COLDWAY CARRIERS, INC., P.O. Box 2038, Clarksville, IN 47130. Representative: William P. Whitney, Jr., 708 McClure Bldg., Frankfort, KY 40601. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in by chain grocery and food business houses (except commodities in bulk, in tank vehicles), in vehicles equipped with mechanical refrigeration, between points in AL, AR, GA, IA, IL, IN, KY, MD, MI, MN, MS, MO, NC, NY, NJ, OH, PA, TN, TX, VA, and WI, restricted to the transportation of traffic originating at or destined to the facilities of Kraft, Inc. (Hearing site: Washington, DC, or Chicago, IL.)

MC 123872 (Sub-104F), filed April 26, 1979. Applicant: W & L MOTOR LINES, INC., P.O. Box 3467, Hickory, NC 28601. Representative: Allen E. Bowman (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in by chain grocery and food business houses, (except commodities in bulk, in tank vehicles), in vehicles equipped with mechanical refrigeration, between points in AZ, CT, FL, GA, IA, IL, ID, KS,

MC 147152 (Sub-1F), filed April 27, 1979. Applicant: GENERAL CARRIERS CORPORATION, 12425 East Florence Avenue, Santa Fe Springs, CA 90670. Representative: Miles L. Kavalier, 315 South Beverly Drive, Suite 315, Beverly Hills, CA 90212. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *materials and supplies* used in the installation and operation of bowling alleys (except commodities in bulk), from the facilities of Brunswick Division, Brunswick Corporation, at Muskegon, MI, to the

facilities of Brunswick Division, Brunswick Corporation, at Anaheim, CA. (Hearing site: Chicago, IL.)

MC 147152 (Sub-2F), filed April 27, 1979. Applicant: GENERAL CARRIERS CORPORATION, 12425 East Florence Avenue, Santa Fe Springs, CA 90670. Representative: Miles L. Kavaller, 315 South Beverly Drive, Suite 315, Beverly Hills, CA 90212. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *materials and supplies* used in the installation and operation of bowling alleys (except commodities in bulk), from the facilities of Brunswick Division, Brunswick Corporation, at Muskegon, MI, to Oakland, CA, and points in AZ, ID, NV, NM, OK, OR, TX, UT, and WA. (Hearing site: Chicago, IL.)

MC 147152 (Sub-3F), filed April 27, 1979. Applicant: GENERAL CARRIERS CORPORATION, 12425 East Florence Avenue, Santa Fe Springs, CA 90670. Representative: Miles L. Kavaller, 315 South Beverly Drive, Suite 315, Beverly Hills, CA 90212. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *new pinball machines and new pool, billiard, and game tables*, in containers, from the facilities of Consumer Division, Brunswick Corporation, at Abingdon and Marion, VA, to points in CA, OR, TX, and WA. (Hearing site: Chicago, IL.)

MC 147153F, filed April 26, 1979. Applicant: KETH H. POLLEY, 136 East, Bethany, MO 64424. Representative: James M. Hodge, 1980 Financial Center, Des Moines, IA 50309. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *anhydrous ammonia*, in bulk, from Creston, IA, to those points in MO on and north of Interstate Hwy 70, under continuing contract(s) with the Olin Corporation of Little Rock, AR. (Hearing site: Kansas City, MO or St. Louis, MO.)

Passenger Authority

MC 147162F, filed April 25, 1979. Applicant: S. HOWARD BUS COMPANY, 399 Bank Street, Fall River, MA 02720. Representative: Arthur M. White, 281 Pleasant Street, Framingham, MA 01701. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *passengers and their baggage*, in the same vehicle with passengers, in charter operations, beginning and ending at Fall River, MA, and extending to points in RI. (Hearing site: Providence, RI, or Boston, MA.)

Passenger Authority

MC 147163F, filed April 25, 1979. Applicant: JOHN BREJACK, d.b.a. MID-FLORIDA COACHES, 330 N.E. 54th Court, Ocala, FL 32670. Representative: Richard McD. Davis, Suite 530, Barnett Bank Bldg., Tallahassee, FL 32301. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *passengers and their baggage*, in the same vehicle with passengers, in charter and special operations, beginning and ending at points in Citrus, Marion, and Hernando Counties, FL, and extending to points in DE, GA, MD, NJ, NY, NC, PA, SC, TN, VA, and DC. (Hearing site: Tampa or Miami, FL.)

Agatha L. Mergenovich,
Secretary.

[FR Doc. 79-26136 Filed 8-22-79; 8:45 am]

BILLING CODE 7035-01-M

Sunshine Act Meetings

Federal Register

Vol. 44, No. 165

Thursday, August 23, 1979

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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[M-238, Amdt. 1; Aug. 16, 1979]

CIVIL AERONAUTICS BOARD.

Notice of deletion of item from the August 20, 1979 meeting agenda.

TIME AND DATE: 10 a.m., August 20, 1979.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: 5. Docket 34965—Direct marketing of charters by air carriers (OGC, BDA).

STATUS: Open.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary (202) 673-5068.

SUPPLEMENTARY INFORMATION: Item 5 is being deleted from the August 20, 1979 calendar in order to allow the staff additional time for coordination. Accordingly, the following Members have voted that agency business requires the deletion of this item from the August 20, 1979 meeting and that no earlier announcement of this deletion was possible:

Chairman Marvin W. Cohen
Member Richard J. O'Melia
Member Elizabeth E. Bailey
Member Gloria Schaffer

[S-1661-79 Filed 8-21-79; 3:21 pm]

BILLING CODE 6320-01-M

2

[M-238, Amdt 2; Aug. 16, 1979]

CIVIL AERONAUTICS BOARD.

Notice of deletion of item from the August 20, 1979 meeting agenda.

TIME AND DATE: 10 a.m., August 20, 1979.

PLACE: Room 1027, 1825 Connecticut Avenue, NW., Washington, D.C. 20428.

SUBJECT: 4. Docket 31788—Split all-cargo and split passenger/cargo charters (OGC, BDA, BIA).

STATUS: Open.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary (202) 673-5068.

SUPPLEMENTARY INFORMATION: Item 4 is being deleted from the August 20, 1979 meeting because Member Schaffer needs additional time to review the case. Accordingly, the following Members have voted that Item 4 be deleted from the August 20, 1979 meeting and that no earlier announcement of this deletion was possible.

Chairman Marvin S. Cohen
Member Richard J. O'Melia
Member Elizabeth E. Bailey
Member Gloria Schaffer

[S-1662-79 Filed 8-21-79; 3:21 pm]

BILLING CODE 6320-01-M

3

[M-238, Amdt 3; Aug. 20, 1979]

CIVIL AERONAUTICS BOARD.

Notice of addition of item to the August 20, 1979 meeting agenda.

TIME AND DATE: 10 a.m., August 20, 1979.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: A. Acquisition of Control of Wien Air Alaska by Alaska Airlines, Alaska Northwest Properties, Inc., Ronald F. Cosgrave, Bruce Kennedy, and Keith J. Kennedy (unnumbered notation, BCP).

STATUS: Open.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary, (202) 673-5068.

SUPPLEMENTARY INFORMATION: Because developments in the Alaska Airlines-Wien Air Alaska Acquisition matter occurred on August 17, and came to the Bureau's attention on that date, it was impossible for an Information Memo and accompanying order to be prepared for Board action earlier than last Friday. Additionally, Coordination with BDA, OGC and the Chairman's office made earlier notification impossible. It is necessary that the Board act immediately so that the matter can be investigated before the acquisition gets completed. Accordingly, the following Members have voted that agency business requires the addition of Item A. to the August 20, 1979 agenda and that no earlier announcement of this addition was possible:

Chairman Marvin S. Cohen
Member Richard J. O'Melia
Member Elizabeth E. Bailey

[S-1663-79 Filed 8-21-79; 8:45 am]

BILLING CODE 6320-01-M

4

[M-239, amdt 1; Aug. 20, 1979]

CIVIL AERONAUTICS BOARD.

Notice of addition and closure of item to the August 23, 1979 meeting agenda.

TIME AND DATE: 10 a.m., August 23, 1979.

PLACE: Room 1011, 1825 Connecticut Avenue, NW., Washington, D.C. 20428.

SUBJECT: 22a. Dockets 30332, Agreements CAB 27769-R5 and -R6; Docket 30777, Agreements CAB 27770-R10 and -R11; Agreements among members of IATA setting interline service charges (memo 9048, BDA, OGC, BIA, BCP).

STATUS: Closed.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary (202) 673-5068.

SUPPLEMENTARY INFORMATION: At its Sunshine Meeting on August 20, 1979, the Board decided that Item 22a could most effectively be discussed in conjunction with the IATA Show Cause Proceeding scheduled for discussion at the August 23, 1979 meeting and voted to postpone consideration of this item until that time. Accordingly, the following Board Members have voted that agency business requires that the Board meet on this item on less than seven days' notice and that no earlier announcement of the meeting was possible:

Chairman Marvin S. Cohen
Member Richard J. O'Melia
Member Elizabeth E. Bailey

Public disclosures, particularly to foreign governments, of opinions, evaluations, and strategies relating to the issues could seriously compromise the ability of the United States Delegation to achieve agreements which would be in the best interests of the United States. Accordingly, the following Members have voted that the meeting on this subject would involve matters the premature disclosure of which would be likely to significantly frustrate implementation of proposed agency action within the meaning of the exemption provided under 5 U.S.C. 552(c)(9)(B) and 14 CFR Section 310b.5(9)(B) and that the meeting will be closed:

Chairman Marvin S. Cohen
Member Richard J. O'Melia
Member Elizabeth E. Bailey

Persons Expected To Attend

Board Members: Chairman Marvin S. Cohen;
Member Richard J. O'Melia; Member
Elizabeth E. Bailey; and Member Gloria
Schaffer.

Assistant To Board Members: Mr. David
Kirstein; Mr. James L. Deegan; Mr. Daniel
M. Kasper; and Mr. Stephen H. Lachter.
Managing Director: Mr. Cressworth Lander.
Executive Assistant To the Managing
Director: Mr. John R. Hancock.
Office of the General Counsel: Mr. Philip J.
Bakes, Jr.; Mr. Gary J. Edles; and Mr. Daniel
D. Campbell.

Bureau of International Aviation: Mr. Sanford
Rederer; Mr. Rosario J. Scibilia; Mr. Jerry
Nelson; Mr. Ivars V. Mellups; Mr. Richard
M. Loughlin; Mr. Regis P. Milan; Ms.
Patricia A. Depuy; Mr. Herbert P. Aswall;
Mr. Donald Litton; Mr. Francis S. Murphy;
and Ms. Mary I. Pett.

Office of the General Director: Mr. Michael E.
Levine.

Bureau of Domestic Aviation: Ms. Patricia T.
Szrom; Mr. Curtis B. Maloy; and Mr. Kevin
J. Kennedy.

Office of Economic Analysis: Mr. Robert H.
Frank and Mr. Larry Manheim.

Bureau of Consumer Protection: Mr. Reuben
B. Robertson and Mr. William Wentz.

Office of the Secretary: Mrs. Phyllis T.
Kaylor; Ms. Deborah A. Lee; and Ms.
Louise Patrick.

General Counsel Certification

I certify that this meeting may be
closed to the public under 5 U.S.C.
552(c)(9)(B) and 14 CFR Section
310b.5(9)(B) and that the meeting may be
closed to public observation.

[S-1864-79 Filed 8-21-79; 3:21 pm]

BILLING CODE 6320-01-M

5

[M-239, Amdt 2; Aug. 20, 1979]

CIVIL AERONAUTICS BOARD.

Notice of addition of items to the
August 23, 1979 meeting agenda.

TIME AND DATE: 10 a.m., August 23, 1979.

PLACE: Room 1027, 1825 Connecticut
Avenue NW., Washington, D.C. 20428.

SUBJECT:

3a. Docket 35139. Proposed amendments to
Part 221a. Fare Summaries (memo 9060, OGC,
BDA, BCP).

6c. Dockets 32546, 32547, and 33362;
Applications of Rich International Airways,
Inc. in the Former Large Irregular Air Service
Investigation (memo 9044, OGC).

STATUS: Open.

PERSON TO CONTACT: Phyllis T. Kaylor,
the Secretary (202) 673-5068.

SUPPLEMENTARY INFORMATION: Item 3a
was discussed at the August 20 Board
Meeting and the board gave instructions
to the staff on the case. It is necessary

that this Item be included on the agenda
for August 23, 1979 because the 120-day
period for action on the petition expires
August 22, 1979. At the August 20 Board
Meeting the Board considered Item 6c
and concluded that it desired the staff to
contact the Federal Aviation
Administration for a safety evaluation
of Rich and to revise the draft order to
include a requirement that Rich submit
to the Board an illustrative service
proposal. So that the Board may
complete its consideration of this matter
as soon as possible, it voted to
reschedule this item for the next
Sunshine meeting. Accordingly, the
following Members have voted that
agency business requires that Items 3a
and 6c be placed on the August 23
agenda and that no earlier
announcement of these additions was
possible:

Chairman Marvin S. Cohen
Member Richard J. O'Melia
Member Elizabeth E. Bailey

[S-1865-79 Filed 8-21-79; 3:21 pm]

BILLING CODE 6320-01-M

6

[M-239, Amdt. 3; Aug. 21, 1979]

CIVIL AERONAUTICS BOARD.

Notice of change of time for the
August 23, 1979 meeting.

TIME AND DATE: 9 a.m., August 23, 1979.

PLACE: Room 1027 (open), room 1011
(closed), 1825 Connecticut Avenue NW.,
Washington, D.C. 20428.

PERSON TO CONTACT: Phyllis T. Kaylor,
the Secretary (202) 673-5068.

SUPPLEMENTARY INFORMATION: Board
Meeting will be at 9 a.m. instead of 10
a.m. on August 23, 1979.

[S-1866-79 Filed 8-21-79; 3:21 pm]

BILLING CODE 6320-01-M

7

FEDERAL DEPOSIT INSURANCE CORPORATION.

Notice of Changes in Subject Matter of
Agency Meeting

Pursuant to the provisions of
subsection (e)(2) of the "Government in
the Sunshine Act" (5 U.S.C. 552b(e)(2)),
notice is hereby given that at its closed
meeting held at 2:30 p.m. on Monday,
August 20, 1979, the Corporation's Board
of Directors determined, on motion of
Chairman Irvine H. Sprague, seconded
by Director John G. Heimann
(Comptroller of the Currency), that
Corporation business required the
withdrawal from the agenda for
consideration at the meeting, on less
than 7 days notice to the public of:

Item No. II. 2. Application of Global Union
Bank, New York (Manhattan), New York,
for Federal deposit insurance.

Item No. VII. 1. Recommendation regarding
the liquidation of assets by the Corporation
from Franklin National Bank, New York,
N.Y.; the Hamilton National Bank of
Chattanooga, Chattanooga, Tenn.;
American Bank & Trust Company, New
York, N.Y.; and Farmers Bank of the State
of Delaware, Dover, Del. (Case No. 43,921-
L).

Item No. VII. 6. Legal Division memorandum
dated August 1, 1979, in connection with
the liquidation of Bank of Woodmoor,
Woodmoor (P.O. Monument), Colorado.

Item No. VII. 8. Legal Division memorandum
dated August 3, 1979, in connection with
the liquidation of United States National
Bank, San Diego, Calif.

The Board then determined, on motion
of Chairman Sprague, seconded by
Director Heimann, that Corporation
business required the addition of the
following matters to the agenda for
consideration at the meeting, on less
than 7 days notice to the public:

Application of Community Bank & Trust,
Rockdale, Tex., for Federal deposit
insurance.

Application of First American Bank of Dade
County, North Miami, Florida, for consent
to merge with First American Bank of
Homestead, Homestead, Florida, and to
establish one branch.

Legal Division memorandum dated August 14,
1979, in connection with an appeal from an
initial partial denial under the Freedom of
Information Act.

The Board further determined, by the
same majority vote, that the public
interest did not require consideration of
the matters added to the agenda in a
meeting open to public observation; that
the matters could be considered in a
closed meeting by authority of
subsections (c)(6), (c)(8), (c)(9)(A)(ii),
(c)(9)(B), and (c)(10) of the "Government
in Sunshine Act" (5 U.S.C. 552b(c)(6),
(c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10)),
and that no earlier notice of the changes
in the subject matter of the meeting was
practicable.

Dated: August 20, 1979.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson

Executive Secretary.

[S-1865-79 Filed 8-21-79; 11:01 am]

BILLING CODE 6714-01-M

8

FEDERAL DEPOSIT INSURANCE CORPORATION.

TIME AND DATE: 2 p.m., Monday, August
27, 1979.

PLACE: Board Room, Sixth floor, FDIC
Building, 550 17th Street NW.,
Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Disposition of minutes of previous meetings.
Requests by the Comptroller of the Currency
for reports on the competitive factors
involved in proposed mergers, purchase
and assumption transactions, or
consolidations: The Lake County National
Bank of Painesville, Painesville, Ohio, and
the Commercial Bank, Ashtabula, Ohio.
Recommendations with respect to payment
for legal services rendered and expenses
incurred in connection with receivership
and liquidation activities:

Bronson, Bronson & McKinnon, San
Francisco, California, in connection with the
receivership of United States National Bank,
San Diego, California.

Kaye, Scholer, Fierman, Hays & Handler,
New York, New York, in connection with the
receivership of American Bank & Trust
Company, New York, New York.

Kaye, Scholer, Fierman, Hays & Handler,
New York, New York, in connection with the
liquidation of Franklin National Bank, New
York, New York.

Ira L. Hyams, P. C., Jericho, New York, in
connection with the liquidation of Franklin
National Bank, New York, New York.

Morgan, Lewis & Bockius, Philadelphia,
Pennsylvania, in connection with the
liquidation of Centennial Bank, Philadelphia,
Pennsylvania.

J. Randolph Pelter, P. A., North Charleston,
South Carolina, in connection with the
liquidation of American Bank & Trust,
Orangeburg, South Carolina (two
memoranda).

Strasburger & Price, Dallas, Texas, in
connection with the receivership of Citizens
State Bank, Carrizo Springs, Texas.

Memorandum proposing new regional office
quarters for the San Francisco Region.
Reports of committees and officers:

Audit Report: FDIC Financial Statement
Presentation (Audit Report dated May 30,
1979).

Minutes of the actions approved by the
Committee on Liquidation, Loans and
Purchases of Assets pursuant to authority
delegated by the Board of Directors.

Reports of the Director of the Division of
Bank Supervision with respect to applications
or requests approved by him and the various
Regional Directors pursuant to authority
delegated by the Board of Directors.

**CONTACT PERSON FOR MORE
INFORMATION:** Mr. Hoyle L. Robinson,
Executive Secretary (202) 389-4425.

[S-1859-79 Filed 8-21-79; 3:21 pm]

BILLING CODE 6714-01-M

9

FEDERAL DEPOSIT INSURANCE CORPORATION.

TIME AND DATE: 2:30 p.m., Monday,
August 27, 1979.

PLACE: Board room, sixth floor, FDIC
Building, 550 17th Street, NW.,
Washington, D.C.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Applications for Federal deposit insurance:
Bank of Sidney, Sidney, Arkansas, an
operating noninsured bank, for Federal
deposit insurance.

Citrus State Bank, a proposed new bank to be
located at 919-939 West Badillo Street,
Covina, Calif., for Federal deposit
insurance.

Andalusia Community Bank, a proposed new
bank to be located at 800 6th Avenue East,
Andalusia, Illinois, for Federal deposit
insurance.

Vista Hills Bank, a proposed new bank to be
located at 1790 Lee Trevino Boulevard, El
Paso, Tex., for Federal deposit insurance.

*Applications for consent to establish a
branch:*

Imperial Bank of Lakeland, Lakeland, Fla., for
consent to establish a branch at the
intersection of South Combee Road and
Skyview Drive, Unincorporated Polk
County (P.O. Lakeland), Florida.

Central Plaza Bank & Trust Co., St.
Petersburg, Fla., for consent to establish a
branch at 1001 West Bay Drive, Largo, Fla.

*Application for consent to acquire assets and
assume liabilities and establish branches:*

First Bank, New Haven, Conn., for consent to
acquire the assets and assume the liability
to pay deposits made in the Guaranty Bank
& Trust Co., Hartford, Conn., and to
establish the five offices of the Guaranty
Bank & Trust Co. as branches of First Bank.

*Recommendations regarding the liquidation
of a bank's assets acquired by the
corporation in its capacity as receiver,
liquidator, or liquidating agent of those
assets:*

Case No. 44,005-L—American Bank & Trust,
Orangeburg, S.C.

Case No. 44,018-SR—American Bank & Trust
Co., New York, N.Y.

Case No. 44,019-L—The Hamilton Bank &
Trust Co., Atlanta, Ga.

Case No. 44,022-L—Reserve for losses and
allotments for insurance expenses—81
open liquidation cases.

Case No. 44,024-L—The Drovers National
Bank of Chicago, Chicago, Ill.

Case No. 44,025-SR—American Bank & Trust
Co., New York, N.Y.

Case No. 44,029-L—Southern National Bank,
Birmingham, Ala.

Case No. 44,033—Farmers Bank of the State
of Delaware, Dover, Del.

Case No. 44,035-L—Banco Credito y Ahorro
Ponceno, Ponce, Puerto Rico.

*Recommendations with respect to the
initiation or termination of cease-and-
desist proceedings, termination-of-
insurance proceedings, or suspension or
removal proceedings against certain
insured banks or officers or directors
thereof:*

Names of persons and names and locations
of banks authorized to be exempt from
disclosure pursuant to the provisions of
subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of
the "Government in the Sunshine Act" (5
U.S.C. 552b(c)(6), (c)(8), and (c)(9)(A)(ii)).

*Appeal, pursuant to the Freedom of
Information Act, from the Corporation's
earlier partial denial of a request for
records.*

*Personnel actions regarding appointments,
promotions, administrative pay increases,
reassignments, retirements, separations,
removals, etc.:*

Names of employees authorized to be exempt
from disclosure pursuant to the provisions
of subsections (c)(2) and (c)(6) of the
"Government in the Sunshine Act" (5
U.S.C. 552b(c)(2) and (c)(6)).

CONTACT PERSON FOR MORE

INFORMATION: Mr. Hoyle L. Robinson.

[S-1860-79 Filed 8-21-79; 3:21 pm]

BILLING CODE 6714-01-M

10

NATIONAL LABOR RELATIONS BOARD.

TIME AND DATE: 10 a.m., Friday, August
31, 1979.

PLACE: Board conference room, sixth
floor, 1717 Pennsylvania Avenue NW.,
Washington, D.C. 20570.

STATUS: Closed to public observation.

MATTERS TO BE CONSIDERED:

Consideration of applicants qualified for
appointment to Administrative Law
Judge.

CONTACT PERSON FOR MORE

INFORMATION: William A. Lubbers,
Executive Secretary, Washington, D.C.
20570, telephone: (202) 254-9430.

Dated: Washington, D.C., August 21, 1979.

National Labor Relations Board.

George A. Leet,

Associate Executive Secretary.

[S-1858-79 Filed 8-21-79; 3:21 pm]

BILLING CODE 7545-01-M

11

OVERSEAS PRIVATE INVESTMENT CORPORATION.

DATE AND TIME: Meeting of the OPIC
Board of Directors: Tuesday August 28,
1978 at 9 a.m. (closed portion); 10:30 a.m.
(open portion).

PLACE: Offices of the Corporation,
seventh floor board room; 1129, 20th
Street NW., Washington, D.C.

STATUS: The first part of the meeting
from 9 a.m. to 10:30 a.m. will be closed
to the public. The open portion of the
meeting will start at 10:30 a.m.

MATTERS TO BE CONSIDERED: Closed to
the public; 9 a.m. to 10:30 a.m.

1. Determination of a Country as an eligible
Developing Country for OPIC Programs.
2. Finance Project in African Country.
3. Finance Project in South Asian Country.
4. Finance Project in Latin American
Country.
5. Insurance Project in European Country.
6. Insurance Project in East Asia Country.
7. Insurance Project in African Country.
8. Insurance Project in African Country.
9. Insurance Project in Near East Country.
10. Claims Report.

11. Information Reports.

FURTHER MATTERS TO BE CONSIDERED:
Open to the public; 10:30 a.m.

1. Approval of Minutes of Previous Board Meeting.
2. Confirmation of Scheduled Board Meetings.
3. Approval of the OPIC Budget.
4. Allocation of Reserves.
5. Financial Statements.
6. Information Reports.

CONTACT PERSON FOR INFORMATION:

Information with regard to this meeting may be obtained from the Secretary of the Corporation at (202) 632-1839.

Elizabeth A. Burton,
Corporate Secretary.

August 21, 1979.

[S-1656-79 Filed 8-21-79; 1:28 pm]

BILLING CODE 3210-01-M

12

SECURITIES AND EXCHANGE COMMISSION.

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following meetings during the week of August 27, 1979, in Room 825, 500 North Capitol Street, Washington, D.C.

A closed meeting will be held on Tuesday, August 28, 1979, at 10 a.m. An open meeting will be held on Thursday, August 30, 1979, at 10 a.m.

The Commissioners, their legal assistants, the Secretary of the Commission, and recording secretaries will attend the closed meeting. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meeting may be considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4)(8)(9)(A) and (10) and 17 CFR 200.402(a)(8)(9)(i) and (10).

Chairman Williams and Commissioners Loomis and Pollack determined to hold the aforesaid meeting in closed session.

The subject matter of the closed meeting scheduled for Tuesday, August 28, 1979, will be:

- Formal orders of investigation.
- Other litigation matters.
- Access to investigative files by Federal, State, or Self-Regulatory Authorities.
- Regulatory matter regarding financial institutions.
- Institution of injunctive actions.
- Settlement of administrative proceedings of an enforcement nature.
- Settlement of injunctive action.
- Subpoena enforcement action.
- Consideration of amicus participation.

Plan of reorganization.
Chapter X proceeding.
Regulatory matter bearing enforcement implications.

The subject matter of the open meeting scheduled for Thursday, August 30, 1979, at 10 a.m., will be:

1. Consideration of whether the Commission should issue an interpretative release, explaining that Rule 10a-1 under the Securities Exchange Act of 1934 applies to all transactions in reported securities, including transactions executed in the over-the-counter market, reminding persons potentially executing transactions in the over-the-counter market of the necessity of compliance with Rule 10a-1, and emphasizing the responsibility of self-regulatory organizations to assure compliance by their members with Rule 10a-1. For further information, please contact Stephen L. Parker at (202) 755-8949.

2. Consideration of whether the Commission should (1) adopt proposed Rule 434d under the Securities Act of 1933 to permit a new type of investment company advertisement in the form of an abbreviated prospectus, (2) amend Rule 134 under the Securities Act of 1933 to remove an existing provision which limits the use of certain tombstone advertisements to investment companies whose registration statements have become effective, and (3) amend Rule 424 under the Securities Act of 1933 to provide that advertisements under new Rule 434d need not be filed as part of the company's registration statement. For further information, please contact W. Randolph Thompson at (202) 755-1579.

3. Consideration of a rulemaking petition filed by Mr. Edward W. Lane, Jr., pursuant to Rule 4(a) of the Commission's Rules of Practice, to amend Rule 16b-6 under the Securities Exchange Act of 1934 by adding a partial exemption from the liability provisions of Section 16(b) of that Act for transactions involving options to sell the equity securities of an issuer. For further information, please contact Mark J. Bryn at (202) 376-3442.

4. Consideration of whether to issue a release requesting public comments on the quality and desirability of the disclosure made under the existing Guides 61 and 3, "Statistical Disclosure by Bank Holding Companies." For further information, please contact William H. Carter at (202) 376-8090.

5. Consideration of what response to make to the request of the Senate Committee on the Judiciary for the Commission's comments concerning S. 1291, the "Administrative Practice and Regulatory Control Act of 1979," S. 262, the "Reform of Federal Regulation Act of 1979," S. 755, the "Regulatory Reform Act of 1979," and S. 104, the "Regulatory Reduction and Congressional Control Act." These Bills are designed to improve regulatory procedure and would provide for, among other things, regulatory agendas and analyses of proposed rules, procompetitive standards for proposed rules, expedited on-the-record proceedings, periodic rule review, changes in the appointment and tenure of administrative law judges, restructuring of the Administrative Conference, continuing

regulatory review, and legislative veto. For further information, please contact Stephen E. Cavan at (202) 376-3561.

At times changes in commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Mike Rogan at (202) 755-1638. August 21, 1979.

[S-1657-79 Filed 8-21-79; 1:28 pm]

BILLING CODE 8010-01-M

federal register

Thursday
August 23, 1979

Part II

Department of Health, Education, and Welfare

Office of Education

Direct Grant Programs: Application
Notices for Fiscal Year 1980

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

Direct Grant Programs: Application Notices for Fiscal Year 1980

General

The purpose of the application notices in this document is to inform potential applicants of closing dates for transmittal of applications for grants awarded by the U.S. Office of Education, and to provide other information concerning those applications and grants. This notice covers most programs for which grant applications are filed with the Office of Education.

Application Notices Already Published

Application notices that set closing dates for some programs listed in this notice have been published previously. These dates are republished without change so that potential applicants will be provided a single, comprehensive listing of as many program closing dates as possible.

Organization of Notice

This notice contains two parts. Part I includes, in chronological order, the list of all closing dates covered by this notice. Programs that have previously published their closing dates are designated by an asterisk (*). Part II provides the individual application notice for each program. These application notices are in the same order as the closing dates listed in Part I.

A number of direct grant programs are omitted from this notice. These include but are not limited to those programs for which no funds were requested in the President's budget or which are otherwise uncertain of funding in FY 1980.

Instructions in Each Application Notice

Applicants who decide to apply under one or more programs covered by this document should take care to follow the instructions set forth in the application notices for those programs under Part II below. Closing dates and specific procedures vary from program to program. The instructions in each application notice inform potential applicants of (1) closing date for the transmittal of applications; (2) how to obtain application forms; (3) timely mailing of applications; (4) proof of timely mailing; (5) the regulations that govern the program; and (6) other procedures and information.

Timely Mailing of Applications

Applicants should also note that in each case the closing date applies to the date the application is *mailed or hand-delivered*. Prior to FY 1979, the Office of Education's practice was to accept mailed applications for new awards only if they were received by the Office of Education on or before the closing date. *However, under the new procedure, a mailed application meets the requirement if it is mailed on or before the pertinent closing date and the required proof of mailing is provided.*

Proof of Timely Mailing

A new change in policy contained in this notice expands the methods of proof of mailing acceptable to the Commissioner. With respect to applications delivered by mail, an applicant must show proof of mailing consisting of one of the following:

- (a) A legibly dated U.S. Postal Service postmark;
- (b) A legible receipt with the date of mailing stamped by the U.S. Postal Service;
- (c) A dated shipping label, invoice, or receipt from a commercial carrier; or
- (d) Any other proof of mailing acceptable to the U.S. Commissioner of Education.

If an application is sent through the U.S. Postal Service, the Commissioner does not accept either of the following as proof of mailing: (1) a private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

The prior OE policy with respect to applications delivered by mail was to accept as proof of timely mailing only a legibly dated U.S. Postal Service postmark or a legible mail receipt with the date of mailing stamped by the U.S. Postal Service. The new policy specifically provides for acceptance of applications sent by commercial carrier, and permits the Commissioner to accept other forms of proof of mailing, at his or her discretion.

EDGAR Criteria

The Education Division General Administrative Regulations (EDGAR) were published in proposed form in the Federal Register on May 4, 1979 (44 FR 26298). When EDGAR is published as final regulations, it will supersede the General Provisions Regulations for Office of Education Programs (the current 45 CFR Parts 100a through 100d).

The post-award conditions in EDGAR will govern all awards made after its effective date under all direct, discretionary grant programs of the Office of Education. In addition, Subpart C (How to Apply for a Grant) and

Subpart D (How Grants are Made) of EDGAR will apply to FY 1980 applications under many programs in this notice.

The instructions under each program's closing date indicate how EDGAR will apply.

For the convenience of applicants for programs that will be subject to the selection criteria in EDGAR, the proposed EDGAR selection criteria are repeated as follows:

Proposed Edgar Selection Criteria

§ 100a.200 How new projects are selected.

(b) *Discretionary grant programs.* (1) A discretionary grant program is one that permits the appropriate official of the Education Division to select new projects on the basis of the quality of competing applications. To receive a grant under this kind of program, an applicant usually must compete with other applicants.

(2) The appropriate official of the Education Division uses the selection criteria in EDGAR and the specific selection criteria for a program to evaluate each application submitted for a new project under a discretionary grant program.

(3) Sections 100a.202-100a.206 contain the EDGAR selection criteria.

(4) The specific selection criteria for a program are in the implementing regulations for that program. However, if a discretionary grant program does not have specific selection criteria, the program uses the EDGAR criteria alone to evaluate applications. If used alone, the EDGAR criteria are not weighted.

(5) If a discretionary grant program has criteria that are inconsistent with one or more of the EDGAR selection criteria, the implementing regulations for that program identify the EDGAR selection criteria that do not apply.

(20 U.S.C. 1221e-3(a)(1))

§ 100a.201 How to use the selection criteria.

(a) If the selection criteria for a program are not weighted, the appropriate official of the Education Division evaluates each criterion equally.

(b) If the selection criteria for a program are weighted—

(1) The appropriate official of the Education Division assigns in the program regulations a total number of points that an applicant may receive under all of the criteria;

(2) The specific program selection criteria use 70 percent of the total points assigned to the program; and

(3) The EDGAR selection criteria use the remaining 30 percent of the total points assigned to the program.

(c) The last paragraph under each EDGAR selection criterion gives the weight assigned to that criterion under EDGAR. This weight is expressed as a percentage of the total points assigned to the program. To find the number of points assigned to an EDGAR selection criterion under a particular program, use the following steps:

(1) Find the percentage given in the last paragraph of the EDGAR selection criterion in which you are interested.

(2) Find the total number of points assigned to the program in which you are interested.

(3) Multiply the percentage you found under step (1) by the number you found under step (2).

Example: You are interested in finding out how many points the EDGAR selection criterion "Evaluation plan" gets under the bilingual vocational training program. The EDGAR criterion "Evaluation plan" is in § 100.205. Paragraph (c) of that section indicates that the criterion gets 5% of the total number of points used by a program. The bilingual vocational training program is in Subpart 5 of Part 105 of this title. Section 105.606 gives the selection criteria for this program. Section 105.606 indicates that the program has a maximum of 100 points for selection criteria. Multiply 100 by 5% (.05)—the answer is 5 points. This is the number of points that § 100a.205 assigns to "Evaluation plan" under the bilingual vocational training program.

(d) If the selection criteria for a program are weighted the program regulations may increase, but may not decrease, the weight of an EDGAR criterion. This is done by adding points to the EDGAR selection criterion. The appropriate official of the Education Division uses part of the 70% weight devoted to specific program selection criteria to add weight to an EDGAR criterion.

(20 U.S.C. 1221e-3(a)(1))

§ 100a.202 Selection criterion—plan of operation.

(a) The appropriate official of the Education Division reviews each application for information that shows the quality of the plan of operation for the project.

(b) The official looks for information that shows:

(1) High quality in the design of the project;

(2) An effective plan of management that insures proper and efficient administration of the project;

(3) A clear description of how the objectives of the project relate to the purpose of the program; and

(4) The way the applicant plans to use its resources and personnel to achieve each objective.

(c) Under a program using weighted selection criteria, this criterion is assigned 10 percent of the total number of points assigned to the program.

(20 U.S.C. 1221e-3(a)(1))

§ 100a.203 Selection criterion—quality of key personnel.

(a) The appropriate official of the Education Division reviews each application for information that shows the quality of the key personnel the applicant plans to use on the project.

(b) The official looks for information that shows—

(1) The qualifications of the project director (if any);

(2) The qualifications of each of the other key personnel used in the project;

(3) The qualifications of any of the following persons who are hired for the project—

(i) Any member of the immediate family of a person on the project staff;

(ii) Any member of the governing body of the grantee; or

(iii) Any member of the immediate family of a person on that governing body.

(4) The time that each person referred to in paragraphs (b) (1)–(3) of this section plans to commit to the project; and

(5) The extent to which the applicant, as part of its nondiscriminatory employment practices, encourages applications for employment from persons who are members of groups that have been traditionally underrepresented, such as members of racial or ethnic minority groups, women, handicapped persons, and the elderly.

(c) To determine the qualifications of a person, the official considers evidence of past experience in fields related to the objectives of the project, as well as other information that the applicant provides.

(d) Under a program using weighted selection criteria, this criterion is assigned 7 percent of the total number of points assigned to the program.

(20 U.S.C. 1221e-3(a)(1))

§ 100a.204 Selection criterion—budget and cost effectiveness.

(a) The appropriate official of the Education Division reviews each application for information that shows that the project has an adequate budget and is cost effective.

(b) The official looks for information that shows:

(1) The budget for the project is adequate to support the project activities; and

(2) Costs are reasonable in relation to the objectives of the project.

(c) Under a program using weighted selection criteria, this criterion is assigned 5 percent of the total number of points assigned to the program.

(20 U.S.C. 1221e-3(a)(1))

§ 100a.205 Selection criterion—evaluation plan.

(a) The appropriate official of the Education Division reviews each application for information that shows the quality of the evaluation plan for the project.

(b) The official looks for information that shows an objective, quantifiable method of evaluation under § 100a.590.

(c) Under a program using weighted selection criteria, this criterion is assigned 5 percent of the total number of points assigned to the program.

(20 U.S.C. 1221e-3(a)(1))

§ 100a.206 Selection criterion—adequacy of resources.

(a) The appropriate official of the Education Division reviews each application for information that shows that the applicant plans to devote adequate resources to the project, including resources to meet the needs of persons to be served by the project who are members of groups that have been traditionally underrepresented, such as

(1) Members of racial or ethnic minority groups;

(2) Women;

(3) Handicapped persons; and

(4) The elderly.

(b) The official looks for information that shows:

(1) The facilities that the applicant plans to use are adequate; and

(2) The equipment and supplies that the applicant plans to use are adequate.

(c) Under a program using weighted selection criteria, this criterion is assigned 3 percent of the total number of points to the program.

(20 U.S.C. 1221e-3(a)(1))

Part I.—New Closing Dates and Closing Dates Announced Previously

CFDA No.	Program title	Closing date
*13.451.....	Handicapped Personnel Preparation Noncompeting Continuation Projects.....	September 17, 1979
13.444B.....	New Projects.....	October 15, 1979
13.444B.....	Handicapped Children's Early Education Program—Outreach Projects—Noncompeting Continuation Projects.....	October 5, 1979
*13.443A.....	Student Research—First Cycle.....	October 12, 1979
13.492.....	Second Cycle.....	March 17, 1980
13.586.....	Upward Bound—New Projects.....	October 12, 1979
13.444A.....	Bilingual Vocational Instructor Training Program—New Projects.....	October 15, 1979
13.444A.....	Handicapped Children's Early Education Program—New Demonstration Projects.....	October 18, 1979
*13.482.....	Special Services for Disadvantaged Students—New Projects.....	October 22, 1979
*13.486.....	Talent Search—New Projects.....	October 31, 1979
*13.543.....	Education Opportunity Centers—New Projects.....	October 31, 1979
*13.443C.....	Field Initiated Research—New Projects.....	October 31, 1979
13.443C.....	Field Initiated Research—Noncompeting Continuation Projects.....	Variable
13.438, 439, 440, 441.....	Fulbright-Hays Training Grant Program—New Projects.....	November 2, 1979
13.558.....	Bilingual Vocational Training Program—New Projects.....	November 5, 1979
13.561.....	Metric Education Program—New Projects.....	November 14, 1979
13.443D.....	Handicapped Children's Model Program—New Demonstration Projects.....	December 3, 1979
13.588.....	Contract Program for Indian Tribes and Indian Organizations—New Projects.....	December 3, 1979
13.525, 529, 589, 689, 690.....	Emergency School Aid—New Projects.....	December 7, 1979
13.566.....	Arts Education Program—New Projects.....	December 14, 1979
13.588.....	Contract Program for Indian Tribes and Indian Organizations—Noncompeting Continuation Projects.....	December 17, 1979
13.564.....	Consumers' Education Program—New Projects.....	December 19, 1979
13.552.....	National Diffusion Network Program—New Projects.....	January 3, 1980
13.436.....	Foreign Language and Area Studies Research Program—New and/or Noncompeting Continuation Projects.....	January 4, 1980
13.444A.....	Handicapped Children's Early Education Program—Noncompeting Continuation Demonstration Projects.....	January 10, 1980
13.405.....	Desegregation of Public Education—New Projects.....	January 15, 1980
13.510.....	Cooperative Education Program—New Projects.....	January 16, 1980
13.565A, 13.565B.....	Women's Educational Equity Act Program—New Projects.....	January 21, 1980
13.562.....	Gifted and Talented Children's Education Program—Professional Development New Projects.....	January 25, 1980
13.562.....	Gifted and Talented Children's Education Program for Statewide Planning—New Projects.....	January 25, 1980
13.562.....	Gifted and Talented Children's Education State Administered Program—New Projects.....	January 25, 1980
13.416.....	Teacher Centers Program.....	January 31, 1980
13.416.....	New Projects.....	March 3, 1980
13.416.....	Teacher Centers Program.....	January 31, 1980
13.576.....	Noncompeting Continuation Projects.....	March 3, 1980
13.576.....	Strengthening Research Library Resources—New Projects.....	February 15, 1980
13.576.....	Strengthening Research Library Resources—Noncompeting Continuation Projects.....	February 15, 1980
13.446.....	Media Research, Production, Distribution, and Training Grant Program—New Projects.....	February 18, 1980
13.446.....	Media Research, Production, Distribution, and Training Grant Program—Noncompeting Continuation Projects.....	February 18, 1980
13.599A.....	Basic Skills Improvement—Basic Skills in the Schools Program—New Projects.....	February 29, 1980
13.599B.....	Basic Skills Improvement—Parent Participation—New Projects.....	February 29, 1980
13.599C.....	Basic Skills Improvement—Out-of-School Program—New Projects.....	February 29, 1980
13.489D.....	Teacher Corps Program (2nd Year)—Noncompeting Continuation Projects.....	March 3, 1980
13.563.....	Community Education Program—New Projects.....	March 10, 1980
13.443D.....	Handicapped Children's Model Program—Noncompeting Continuation Projects.....	March 13, 1980
13.565A.....	Women's Educational Equity Act Program—Noncompeting Continuation Projects.....	March 13, 1980
13.489C.....	Teacher Corps Program 1978 (3rd year)—Noncompeting Continuation Projects.....	March 25, 1980
Not assigned.....	Biomedical Sciences Program—New Projects.....	March 28, 1980
13.444C.....	Handicapped Children's Early Education Program—State Implementation Grants—Noncompeting Continuation Projects.....	April 2, 1980
13.444C.....	Handicapped Children's Early Education Program—State Implementation Grants—New Projects.....	April 2, 1980

Part II—Application Notices for Each Program

13.451—Handicapped Personnel Preparation

Closing date: September 17, 1979—Noncompeting Projects; October 15, 1979—New Projects.

Applications are invited for noncompeting continuation projects and new projects under the Handicapped Personnel Preparation Program.

Closing date for transmittal of applications: Applications for noncompeting awards must be mailed or hand delivered by September 17, 1979.

Applications for new awards must be mailed or hand delivered by October 15, 1979.

Applications delivered by mail: An application sent by mail must be addressed to the U.S. Office of Education, Application Control Center, Washington, D.C. 20202. Attention: 13.451.

Proof of mailing must consist of:
(1) A legible U.S. Postal Service postmark;

A legible mail receipt with the date of mailing stamped by the U.S. Postal Service; or

(3) Any other evidence acceptable to the Commissioner, such as dated shipping labels, invoices, or receipts from a commercial carrier.

Private metered postmarks or mail receipts will not be accepted without a legible date stamped by the U.S. Postal Service. Applicants are encouraged to use registered or at least first-class mail.

Note.—The U.S. Postal Service does not uniformly provide a dated postmark. Applicants should check with their local post office before relying on this method.

Each late applicant will be notified that its application will not be considered.

Applications delivered by hand: An application that is hand-delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building 3, Seventh and D Streets, S.W., Washington, D.C.

The Application Control Center will accept hand-delivered applications between the hours of 8:00 a.m. and 4:30 p.m. (Washington, D.C. time), daily, except Saturdays, Sundays, or Federal holidays.

Applications that are hand delivered will not be accepted after 4:30 p.m. on the closing date.

Program information: Authority for this program is contained in sections 631, 632, and 634 of Part D of the Education of the Handicapped Act. (20 U.S.C. 1431, 1432, and 1434)

This program issues awards to institutions of higher education, private and other nonprofit training agencies, State education agencies and local education agencies.

The purpose of the awards is to improve the quality and increase the supply of special educators and support personnel at both the preservice and inservice levels.

Available funds: The estimated total amount of funds available under this grant program for Fiscal Year 1980 is

\$55,375,000 (\$42,201,675 for non-competing continuation applications and \$13,173,325 for new applications). An estimated 1,000 grants (both non-competing continuation and new) will be awarded with an average grant totaling \$55,000.

The funding level and distribution of funds are predicated upon the allotment of funds and may vary according to the final appropriation made available during the year.

Application forms: Application forms and program information packages are available and may be obtained by writing to the Division of Personnel Preparation, U.S. Office of Education, 400 Maryland Avenue, S.W., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages. The Commissioner strongly urges that the narrative portion of the application not exceed 75 pages in length. The Commissioner further urges that only the information required by the application form be submitted.

Applicable regulations: The following regulations apply under this program:

(a) Regulations governing Training Personnel for the Education of the Handicapped (45 CFR Part 121f). Amendments to Part 121f were published in the **Federal Register** on April 19, 1977, 42 FR 20298-20300; and

(b) Office of Education General Provisions Regulations (45 CFR Parts 100 and 100a).

However, it is expected that the grant awards made under this program will be subject to the post award provisions of the Education Division General Administrative Regulations (EDGAR). EDGAR was published in proposed form in the **Federal Register** on May 4, 1979 (44 FR 26298). When published in final, EDGAR will supersede the Office of Education General Provisions Regulations.

Further information: For further information contact Dr. Jasper Harvey, Director, Division of Personnel Preparation, BEH, U.S. Office of Education, 400 Maryland Avenue, S.W., Washington, D.C. 20202, telephone: (202) 245-9886.

(20 U.S.C. 1431, 1432, 1434)

13.444B—Handicapped Children's Early Education Program—Outreach Projects

Closing date: October 5, 1979. Noncompeting Continuation Projects.

Applications are invited for noncompeting continuation projects under the Handicapped Children's Early Education Program—Outreach.

Authority for this program is contained in sections 623 and 624 of the Education of the Handicapped Act (20 U.S.C. 1423, 1424).

The purpose of this program is to assist other agencies in meeting the early educational needs of handicapped children.

Closing date for transmittal of applications: To be assured of consideration for funding, an application for a noncompeting continuation award should be mailed or hand delivered by October 5, 1979.

If the application is late, the Office of Education may lack sufficient time to review it with other noncompeting continuation applications and may decline to accept it.

Applications delivered by mail: An application sent by mail should be addressed to the U.S. Office of Education, Application Control Center, Attention: 13.444B, Washington, D.C. 20202.

An applicant should show proof of mailing consisting of one of the following:

- (1) A legibly dated U.S. Postal Service postmark.
- (2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.
- (3) A dated shipping label, invoice, or receipt from a commercial carrier.
- (4) Any other evidence acceptable to the U.S. Commissioner of Education.

If an application is sent through the U.S. Postal Service, the Commissioner does not accept either of the following as proof of mailing: (1) a private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail.

Applications delivered by hand: An application that is hand delivered should be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, S.W., Washington, D.C.

The Application Control Center will accept a hand-delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C., time) daily, except Saturdays, Sundays, and Federal holidays.

Available funds: The funding level for the Handicapped Children's Early

Education Program is expected to be approximately \$20 million for Fiscal Year 1980. During previous years of the program, funding for Outreach projects has averaged \$80,000 per project.

Application forms: Application forms and program information packages are expected to be ready for mailing by August 6, 1980. They may be obtained by writing to the Division of Innovation and Development, Bureau of Education for the Handicapped, U.S. Office of Education, 400 Maryland Avenue, S.W., (Donohoe Building, Room 3100), Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages. The Commissioner strongly urges that applicants not submit information that is not requested.

Applicable regulations: Regulations applicable to this program include the following:

- (a) Regulations governing the Handicapped Children's Early Education Program (45 CFR Part 121d), and
- (b) General Provisions Regulations for Office of Education Programs (45 CFR, Parts 100 and 100a).

Note.—The proposed Education Division General Administrative Regulations (EDGAR) were published in the Federal Register on May 4, 1979 (44 FR 26298). When EDGAR becomes effective, it will supersede the General Provisions Regulations for Office of Education Programs.

If EDGAR takes effect before grants are made under this program, those grants will be subject to the following provisions of EDGAR: Subpart A (General); Subpart E (What Conditions Must Be Met by a Grantee?); Subpart F (What Are the Administrative Responsibilities of a Grantee?); and Subpart G (What Procedures Does the Education Division use to Get Compliance?).

Further information: For further information contact Dr. William Swan, Acting Chief, Early Childhood Program, Bureau of Education for the Handicapped, U.S. Office of Education, 400 Maryland Avenue, S.W., (Donohoe Building, Room 3100), Washington, D.C. 20202. Telephone (202) 245-9722.

(20 U.S.C. 1423, 1424)

13.443A—Student Research

First cycle: October 12, 1979.

Second cycle: March 17, 1980.

Applications are invited for new projects for support of research related to education of the handicapped.

Authority for this program is contained in sections 641 and 642 of part

E of Education of the Handicapped Act (20 U.S.C. 1441, 1442).

The purpose of this program is to support a broad range of research and research-related projects focusing on the education of handicapped children.

For further information contact: Max W. Mueller, Research Projects Branch, BEH, 400 Maryland Avenue, SW, Washington, DC, 20202, phone (202) 245-2275.

Closing date for transmittal of applications: Applications for the first cycle awards must be mailed or hand delivered by October 12, 1979.

Applications for the second cycle must be mailed or hand delivered by March 17, 1980.

Applications delivered by mail: An application sent by mail must be addressed to the U.S. Office of Education, Application Control Center, Attention: 13.443A, Washington, D.C. 20202.

An applicant must show proof of mailing consisting of one of the following:

- (1) A legibly dated U.S. Postal Service postmark.
- (2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.
- (3) A dated shipping label, invoice, or receipt from a commercial carrier.
- (4) Any other proof of mailing acceptable to the U.S. Commissioner of Education.

If an application is sent through the U.S. Postal Service, the Commissioner does not accept a private metered postmark or a private mail receipt as proof of mailing. An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail. Each late applicant will be notified that its application will not be considered.

Applications delivered by hand: An application that is hand delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, S.W., Washington, D.C. The Application Control Center will accept hand-delivered applications between 8:00 a.m. and 4:30 p.m. (Washington, D.C., time) daily except Saturdays, Sundays, and Federal holidays.

Applications that are hand-delivered will not be accepted after 4:30 p.m. on the closing date.

Available funds: Approximately \$250,000 is available for support of new Student Research projects. Based on a mean grant amount in recent years of

approximately \$8,000 we expect that about 30 new grants will be awarded. Most awards have been under \$10,000 per year.

Application forms: Further information and application forms are available and may be obtained by writing to the Research Projects Branch, Bureau of Education for the Handicapped, U.S. Office of Education, 400 Maryland Avenue, S.W. (Donohoe, 3165), Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages. The Commissioner strongly urges that the narrative portion of the application not exceed twenty (20) pages in length. The Commissioner further urges that only the information required by the application form instructions should be submitted.

Applicable regulations: The following regulations are applicable to this program:

- (a) Regulations governing the handicapped education program (45 CFR Parts 121 and 121h). Final regulations for part 121h were published in the Federal Register on August 18, 1978.
- (b) Office of Education General Provisions Regulation (45 CFR 100 and 100a).

However, it is expected that grant awards made under this program will be subject to the post award provisions of the Education Division General Administrative Regulations (EDGAR) when they become effective. EDGAR was published in proposed form in the Federal Register on May 4, 1979 (44 FR 26298). When published in final, EDGAR will supersede the Office of Education General Provisions Regulations.

(20 U.S.C. 1441, 1442)

13.492—Upward Bound

Closing Date: October 12, 1979.

Applications are invited for new projects under the Upward Bound Program. Applications for National Demonstration projects will not be accepted at this time. A separate Notice of Closing Date will be published at a later date.

Authority for this program is contained in section 417B of the Higher Education Act of 1965, as amended.

(20 U.S.C. 1070-1)

This program issues awards to institutions of higher education, combinations of institutions of higher education, and public and private agencies and organizations, and in exceptional cases, to secondary schools and secondary vocational schools.

The purpose of the awards is to assist applicants to carry out projects designed to identify youths, from low-income backgrounds, with inadequate secondary school preparation, and to generate the skills and motivation necessary for eligible enrollees to complete secondary school and successfully pursue postsecondary educational programs.

Closing date for transmittal of applications: Applications for new awards must be mailed or hand delivered by October 12, 1979.

Applications delivered by mail: An application sent by mail must be addressed to the U.S. Office of Education, Application Control Center, Attention: 13.492, Washington, D.C. 20202.

Proof of mailing must consist of:

- (1) Legible U.S. Postal Service dated postmark;
- (2) Legible mail receipt with the date of mailing stamped by the U.S. Postal Service; or
- (3) Any other evidence acceptable to the Commissioner, such as dated shipping label, invoice, or receipt from a commercial carrier.

Private metered postmarks or mail receipts will not be accepted without a legible date stamped by the U.S. Postal Service. Applicants are encouraged to use registered or at least first class mail.

Note.—The U.S. Postal Service does not uniformly provide a dated postmark. Applicants should check with their local post office before relying on this method.

Each late applicant will be notified that its application will not be considered.

Applications delivered by hand: An application that is hand delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, S.W., Washington, D.C.

The Application Control Center will accept hand-delivered applications between 8:00 a.m. and 4:30 p.m. (Washington, D.C., time) daily, except Saturdays, Sundays, and Federal holidays.

Applications that are hand delivered will not be accepted after 4:30 p.m. on the closing date.

Program information: The applications for new grants will be evaluated competitively under the published funding criteria for new awards—45 CFR 155.8(c). All applications for FY 1980 funds will be treated as new applications. Successful applicants will receive up to three (3) year project period grants.

The Office of Education may not fund an applicant for a period of time longer

than is requested by the applicant in the application. Applicants requesting more than one year of funding must submit a detailed work program and budget for the first year and an outline of the work program and a budget summary for each of the additional years.

The Commissioner approves requests for the subsequent years if:

1. The need continues to exist for the services provided by the projects;
2. Satisfactory progress has been made in implementing the approved work plan and in achieving the project's goals and objectives;
3. The project continues to offer promise of success;
4. All required reports have been received and accepted by the Commissioner; and
5. Funds are available to continue the project.

An Application Preparation Workshop(s) will be conducted this Fall. For the time and location of this workshop(s) contact the Program Development Branch (see address in section of Further Information). Date(s) and location(s) will also be published in the Notices section of the Federal Register.

Available funds: Approximately \$130,000,000 is anticipated to be available for the Special Programs for Students from Disadvantaged Backgrounds in FY 1980. The breakdown for new awards is estimated to be \$51,000,000 for Upward Bound, with approximately 390 grants averaging \$137,000; \$15,300,000 for Talent Search, with approximately 160 grants averaging \$95,600; and \$45,000,000 for Special Services, with approximately 484 grants averaging \$93,000. The Educational Opportunity Centers program will be allocated \$6,300,000 to fund approximately 27 grants averaging \$233,000.

The processing of applications for new projects will be subject to the availability of funds. These estimates do not bind the U.S. Office of Education except as may be required by the applicable statute and regulations.

Application forms: Application forms and program information packages are expected to be ready for mailing by August 13, 1979. They may be obtained by writing to the Division of Student Services and Veterans Programs, Information Systems and Program Support Branch, U.S. Office of Education (Room 3514, Regional Office Building 3), 400 Maryland Avenue, SW., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information

packages. The Commissioner suggests that the narrative portion of the application not exceed fifty (50) pages in length. The Commissioner further suggests that only the information required by the application form be submitted.

Applicable regulations: The regulations applicable to this program are:

- (a) regulations governing the Upward Bound Program (45 CFR Part 155); and
- (b) Office of Education General Provisions Regulations.

(45 CFR 100 and 100a)

However, it is expected that the grant awards made under this program will be subject to the post award provisions of the Education Division General Administrative Regulations (EDGAR). EDGAR was published in proposed form in the *Federal Register* on May 4, 1979 (44 FR 26298). When published in final, EDGAR will supersede the Office of Education General Provisions Regulations.

Further information: For further information contact the Program Development Branch, Division of Student Services and Veterans Programs, U.S. Office of Education (Room 3514, Regional Office Building 3), 400 Maryland Avenue, S.W., Washington, D.C. 20202, Telephone: (202) 245-2511.

(20 U.S.C. 1070d-1070d-1)

13.586—Bilingual Vocational Instructor Training Program

Closing Date: October 15, 1979.

Applications are invited for new projects under the Bilingual Vocational Instructor Training Program.

Authority for this program is contained in Sections 181 through 187 of the Vocational Education Act of 1963, as amended by the Education Amendments of 1976.

This program issues awards to State agencies, public and private nonprofit educational institutions, and private for profit educational institutions.

The purpose of the awards is to provide training programs for instructors who possess both the job knowledge and skills and the dual language capabilities required for instruction in vocational education programs for persons of limited English-speaking ability.

Closing date for transmittal of applications: An application for a grant must be mailed or hand-delivered by October 15, 1979.

Applications delivered by mail: An application sent by mail must be addressed to the U.S. Office of Education, Application Control Center,

Attention: 13.586, Washington, D.C. 20202.

An applicant must show proof of mailing consisting of one of the following:

- (1) A legibly dated U.S. Postal Service postmark.
- (2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.
- (3) A dated shipping label, invoice, or receipt from a commercial carrier.
- (4) Any other proof of mailing acceptable to the U.S. Commissioner of Education.

If an application is sent through the U.S. Postal Service, the Commissioner does not accept either of the following as proof of mailing: (1) a private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail. Each late applicant will be notified that its application will not be considered.

Applications delivered by hand: An application that is hand delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, S.W., Washington, D.C.

The Application Control Center will accept a hand-delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C., time) daily, except Saturdays, Sundays, and Federal holidays.

An application that is hand delivered will not be accepted after 4:30 p.m. on the closing date.

Program information: Applications are accepted from:

- (1) State agencies;
- (2) Public and private nonprofit educational institutions; and
- (3) Private for profit educational institutions.

Twenty-five percent of the funds available under Section 183 of the Act may be used by the Commissioner to award grants or contracts for the cost of operating programs designed to carry out the purposes set forth in Section 186 of the Act.

All awards will be new; no funds are reserved for continuation awards. A request for funding by an applicant who has had a prior award should include an evaluation of the prior award.

Awards are for a one year duration.

Available funds: It is expected that approximately \$700,000 will be available for the Bilingual Vocational Instructor Training Program in FY 1980.

It is estimated that these funds could support 3 new projects.

The anticipated award for each new project will be \$233,000.

However, these estimates do not bind the U.S. Office of Education to a specific number of grants or to the amount of any grant unless that amount is otherwise specified by statute or regulations.

Application forms: Application forms and program information packages are expected to be ready for mailing by August 9, 1979. They may be obtained by writing to the Demonstration Branch, U.S. Office of Education (Room 5026, Regional Office Building 3), 400 Maryland Avenue, S.W., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. The Commissioner strongly urges that the narrative portion of the application not exceed 25 pages in length. The Commissioner further urges that applicants not submit information that is not required.

Applicable regulations: Regulations applicable to this program include the following:

- (a) Regulations governing the Bilingual Vocational Instructor Training Program (45 CFR Part 105, Sections 611-617); and
- (b) General Provisions Regulations for Office of Education Programs (45 CFR Parts 100 and 100a).

Note.—The proposed Education Division General Administrative Regulations (EDGAR) were published in the *Federal Register* on May 4, 1979 (44 FR 26298). When EDGAR becomes effective, it will supersede the General Provisions Regulations for Office of Education Programs.

If EDGAR takes effect before grants are made under this program, those grants will be subject to the following provisions of EDGAR:

Subpart A (General); Subpart E (What Conditions Must Be Met by a Grantee?);

Subpart F (What Are the Administrative Responsibilities of a Grantee?);

and Subpart G (What Procedures Does the Education Division Use to Get Compliance?).

Further information: For further information contact Dr. Doris V. Gunderson, Chief, Demonstration Branch, Bilingual Vocational Training Program, U.S. Office of Education (Room 5026, Regional Office Building 3), 400 Maryland Avenue, S.W., Washington, D.C. 20202, Telephone: (202) 245-2614.

(20 U.S.C. 2414; 45 CFR Part 105)

13.444A—Handicapped Children's Early Education Program—Demonstration Projects

Closing date: October 18, 1979.

Applications are invited for new demonstration projects under the Handicapped Children's Early Education Program.

Authority for this program is contained in Section 623 and 624 of the Education of the Handicapped Act (20 U.S.C. 1423, 1424).

The purpose of this program is to support experimental demonstration activities which can provide innovative and effective means of serving preschool handicapped children and their families and to develop models which others can use.

Closing date for transmittal of applications: An application for a grant must be mailed or hand delivered by October 18, 1979.

Applications delivered by mail: An application sent by mail must be addressed to the U.S. Office of Education, Application Control Center, Attention: 13.444A, Washington, D.C. 20202.

An applicant must show proof of mailing consisting of one of the following:

- (1) A legibly dated U.S. Postal Service postmark.
- (2) A legible mail receipt with the date of mailing stamped by the U.S. Post Service.
- (3) A dated shipping label, invoice, or receipt from a commercial carrier.
- (4) Any other proof of mailing acceptable to the U.S. Commissioner of Education.

If an application is sent through the U.S. Postal Service, the Commissioner does not accept either of the following as proof of mailing: (1) a private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail. Each late applicant will be notified that its application will not be considered.

Applications delivered by hand: An application that is hand delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, S.W., Washington, D.C.

The Application Control Center will accept a hand delivered application between 8:00 a.m. and 4:30 p.m., (Washington, D.C. time) daily, except

Satu rdays, Sundays and Federal holidays.

An application that is hand delivered will not be accepted after 4:30 p.m. on the closing date.

Available funds: Approximately \$2,600,000 is available for support of new demonstration projects. The approximate number of new demonstration awards is 40. Funding for new demonstration projects has averaged between \$60,000 and \$70,000. However, these estimates do not bind the U.S. Office of Education to a specific number of grants or to the amount of any grant unless that amount is otherwise specified by statute or regulations.

Application forms: Application forms and program information packages are expected to be ready for mailing by August 17, 1979. They may be obtained by writing to the Division of Innovation and Development, Bureau of Education for the Handicapped, U.S. Office of Education, 400 Maryland Avenue, S.W., (Donohoe, Room 3100), Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages. The Commissioner strongly urges that the narrative portion of the application not exceed fifty (50) pages in length. The Commissioner further urges that applicants not submit information that is not requested.

Applicable regulations: Regulations applicable to this program include the following:

- (a) Regulations governing the Handicapped Children's Early Education Program (45 CFR, Part 121d); and
- (b) General Provisions Regulations for Office of Education Programs (45 CFR, Parts 100 and 100a).

Note.—The proposed Education Division General Administrative Regulations (EDGAR) were published in the *Federal Register* on May 4, 1979 (44 FR 26298). When EDGAR becomes effective, it will supersede the General Provisions Regulations for Office of Education Programs.

If EDGAR takes effect before grants are made under this program, those grants will be subject to the following provisions of EDGAR: Subpart A (General); Subpart E (What Conditions Must Be Met by a Grantee?); Subpart F (What Are The Administrative Responsibilities of a Grantee?); and Subpart G (What Procedure Does the Education Division Use to Get Compliance?).

Further information: For further information contact the Handicapped Children's Early Education Program,

U.S. Office of Education, (Donohoe, Room 3100), 400 Maryland Avenue, S.W., Washington, 20202, Telephone: (202) 245-9722.

(20 U.S.C. 1423, 1424)

13.482—Special Services for Disadvantaged Students

Closing date: October 22, 1979.

Applications are invited for new projects under the Special Services for Disadvantaged Students Program. Applications for National Demonstration projects will not be accepted at this time. A separate Notice of Closing Date will be published at a later date.

Authority for this program is contained in section 417B of the Higher Education Act of 1965, as amended. (20 U.S.C. 1070d-1)

This program issues awards to institutions of higher education and combinations of institutions of higher education.

The purpose of the awards is to assist applicants to carry out projects designed to provide remedial and other special services for students with academic potential who are enrolled or accepted for enrollment at an institution which is a beneficiary of a Special Services grant and who by reason of deprived educational, cultural, or economic background, or physical handicap, or limited English-speaking ability, are in need of such services to assist them to initiate, continue, or resume their postsecondary education.

Closing date for transmittal of applications: Applications for new awards must be mailed or hand delivered by October 22, 1979.

Applications delivered by mail: An application sent by mail must be addressed to the U.S. Office of Education, Application Control Center, Attention: 13.482, Washington, D.C. 20202.

Proof of mailing must consist of:

- (1) Legible U.S. Postal Service dated postmark;
- (2) Legible mail receipt with the date of mailing stamped by the U.S. Postal Service; or
- (3) Any other evidence acceptable to the Commissioner, such as dated shipping label, invoice, or receipt from a commercial carrier.

Private metered postmarks or mail receipts will not be accepted without a legible date stamped by the U.S. Postal Service. (NOTE: The U.S. Postal Service does not uniformly provide a dated postmark. Applicants should check with their local post office before relying on this method.) Applicants are encouraged

to use registered or at least first class mail.

Each late applicant will be notified that its application will not be considered.

Applications delivered by hand: An application that is hand delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, S.W., Washington, D.C.

The Application Control Center will accept hand-delivered applications between 8:00 a.m. and 4:30 p.m. (Washington, D.C., time) daily, except Saturdays, Sundays, and Federal holidays.

Applications that are hand delivered will not be accepted after 4:30 p.m. on the closing date.

Program information: The applications for new grants will be evaluated competitively under the published funding criteria for new awards—45 CFR 157.6(c). All applications for FY 1980 funds will be treated as new applications. Successful applicants will receive up to four (4) year project period grants.

The Office of Education may not fund an applicant for a period of time longer than is requested by the applicant in the application. Applicants requesting more than one year of funding must submit a detailed work program and budget for the first year and an outline of the work program and a budgetary summary for each of the additional years.

The Commissioner approves requests for subsequent years if:

- (1) The need continues to exist for the services provided by the project;
- (2) Satisfactory progress has been made in implementing the approved work plan and in achieving the project's goals and objectives;
- (3) The project continues to offer promise of success;
- (4) All required reports have been received and accepted by the Commissioner; and
- (5) Funds are available to continue the project.

An Application Preparation Workshop(s) will be conducted this Fall. For the time and location of this workshop(s) contact the Program Development Branch (see address in section of Further Information). Date(s) and location(s) will also be published in the Notices section of the Federal Register.

Available funds: Approximately \$130,000,000 is anticipated to be available for the Special Programs for Students from Disadvantaged Backgrounds in FY 1980. The breakdown for new awards is estimated to be \$51,000,000 for Upward Bound, with

approximately 390 grants averaging \$130,700; \$15,300,000 for Talent Search, with approximately 160 grants averaging \$95,000; and \$45,000,000 for Special Services, with approximately 484 grants averaging \$93,000. The Educational Opportunity Centers program will be allocated \$6,300,000 to fund approximately 27 grants averaging \$233,000.

The processing of applications for new projects will be subject to the availability of funds. These estimates do not bind the U.S. Office of Education except as may be required by the applicable statute and regulations.

Application forms: Application forms and program information packages are expected to be ready for mailing by August 13, 1979. They may be obtained by writing to the Division of Student Services and Veterans Programs, Information Systems and Program Support Branch, U.S. Office of Education (Room 3514, Regional Office Building 3), 400 Maryland Avenue, S.W., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages. The Commissioner suggests that the narrative portion of the application not exceed fifty (50) pages in length. The Commissioner further suggests that only the information required by the application form be submitted.

Applicable Regulations: The regulations applicable to this program are:

- (a) regulations governing the Special Services Program (45 CFR Part 157); and
- (b) Office of Education General Provisions Regulations (45 CFR Parts 100 and 100a).

However, it is expected that the grant awards made under this program will be subject to the post award provisions of the Education Division General Administrative Regulations (EDGAR). EDGAR was published in proposed form in the Federal Register on May 4, 1979 (44 FR 26298). When published in final, EDGAR will supersede the Office of Education General Provisions Regulations.

Further information: For further information contact the Program Development Branch, Division of Student Services and Veterans Programs, U.S. Office of Education (Room 3514, Regional Office Building 3), 400 Maryland Avenue, S.W., Washington, D.C. 20202, Telephone (202) 245-2511.

(20 U.S.C. 1070d-1070d-1)

13.488—Talent Search

Closing date: October 31, 1979.

Applications are invited for new projects under the Talent Search Program. Applications for National Demonstration projects will not be accepted during this funding cycle.

Authority for this program is contained in section 417B of the Higher Education Act of 1965, as amended. (20 U.S.C. 1070d-1)

This program issues awards to institutions of higher education, combinations of institutions of higher education, public and private agencies and organizations, and in exceptional cases, secondary schools and secondary vocational schools.

The purpose of the awards is to assist applicants to carry out projects designed to identify qualified youths of financial or cultural need with an exceptional potential for postsecondary educational training and encourage them to complete secondary school and undertake postsecondary educational training. Projects also publicize existing forms of student financial aid and encourage qualified secondary school and college dropouts of demonstrated aptitude to reenter educational programs.

Closing date for transmittal of applications: Applications for new awards must be mailed or hand delivered by October 31, 1979.

Applications delivered by mail: An application sent by mail must be addressed to the U.S. Office of Education, Application Control Center, Attention: 13.488, Washington, D.C. 20202.

- Proof of mailing must consist of:
- (1) Legible U.S. Postal Service dated postmark;
 - (2) Legible mail receipt with the date of mailing stamped by the U.S. Postal Service; or
 - (3) Any other evidence acceptable to the Commissioner, such as dated shipping label, invoice, or receipt from a commercial carrier.

Private metered postmarks or mail receipts will not be accepted without a legible date stamped by the U.S. Postal Service. (NOTE: The U.S. Postal Service does not uniformly provide a dated postmark. Applicants should check with their local post office before relying on this.) Applicants are encouraged to use registered or at least first class mail.

Each late applicant will be notified that its application will not be considered.

Applications delivered by hand: An application that is hand delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673,

Regional Office Building 3, 7th and D Streets, S.W., Washington, D.C.

The Application Control Center will accept hand-delivered applications between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

Applications that are hand delivered will not be accepted after 4:30 p.m. on the closing date.

Program information: The applications for new grants will be evaluated competitively under the published funding criteria for new awards—45 CFR 159.7(c). All applications for FY 1980 funds will be treated as new applications. Successful applicants will receive up to two (2) year project period grants.

The Office of Education may not fund an applicant for a period of time longer than is requested by the applicant in the application. Applicants requesting two years of funding must submit a detailed work program and budget for the first year and an outline of the work program and a budget summary for the second year.

The Commissioner approves requests for the second year if:

1. The need continues to exist for the services provided by the project;
2. Satisfactory progress has been made in implementing the approved work plan and in achieving the project's goals and objectives;
3. The project continues to offer promise of success;
4. All required reports have been received and accepted by the Commissioner; and
5. Funds are available to continue the project.

An Application Preparation Workshop(s) will be conducted this Fall. For the time and location of this workshop(s) contact the Program Development Branch (see address in section on Further Information). Date(s) and location(s) will also be published in the Notices section of the Federal Register.

Available funds: Approximately \$130,000,000 is anticipated to be available for the Special Programs for Students from Disadvantaged Backgrounds in FY 1980. The breakdown for new awards is estimated to be \$51,000,000 for Upward Bound, with approximately 390 grants averaging \$130,700; \$15,300,000 for Talent Search, with approximately 160 grants averaging \$95,000; and \$45,000,000 for Special Services, with approximately 484 grants averaging \$93,000. The Education Opportunity Centers program will be allocated \$6,300,000 to fund

approximately 27 grants averaging \$233,000.

The processing of applications for new projects will be subject to the availability of funds. These estimates do not bind the U.S. Office of Education except as may be required by the applicable statute and regulations.

Application forms: Application forms and program information packages are expected to be ready for mailing by August 13, 1979.

They may be obtained by writing to the Division of Student Services and Veterans Programs, Information Systems and Program Support Branch, U.S. Office of Education (Room 3514, Regional Office Building 3), 400 Maryland Avenue, S.W., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages. The Commissioner suggests that the narrative portion of the application not exceed fifty (50) pages in length. The Commissioner further suggests that only the information required by the application form be submitted.

Applicable regulations: The regulations applicable to this program are:

- (a) regulations governing the Talent Search Program (45 CFR Part 159), and
- (b) Office of Education General Provisions Regulations (45 CFR Parts 100 and 100a).

However, it is expected that the grant awards made under this program will be subject to the post award provisions of the Education Division General Administrative Regulations (EDGAR). EDGAR was published in proposed form in the Federal Register on May 4, 1979 (44 FR 26298). When published in final, EDGAR will supersede the Office of Education General Provisions Regulations.

Further information: For further information contact the Program Development Branch, Division of Student Services and Veterans Programs, U.S. Office of Education (Room 3514 Regional Office Building 3), 400 Maryland Avenue, S.W., Washington, D.C. 20202, Telephone: (202) 245-2511.

(20 U.S.C. 1070d-1070d-1)

13.543—Education Opportunity Centers

Closing date: October 31, 1979.

Applications are invited for new projects under the Educational Opportunity Centers Program.

Authority for this program is contained in section 417B of the Higher Education Act of 1965, as amended. (20 U.S.C. 1070d-1)

This program issues awards to institutions of higher education, combinations of institutions of higher education, public and private agencies and organizations, and, in exceptional cases, secondary schools and secondary vocational schools.

The purpose of the awards is to assist applications to carry out projects that serve areas with major concentrations of low-income populations by providing, in coordination with other applicable programs and services: information concerning financial and academic support for persons living in the area who desire to pursue a program of postsecondary education; counseling, tutorial and other necessary services to such persons while attending postsecondary institutions; and, assistance in applying for admission to postsecondary institutions, including assistance in preparing necessary applications for use by admission and financial aid officers.

Closing date for transmittal of applications: Applications for new awards must be mailed or hand delivered by October 31, 1979.

Applications delivered by mail: An application sent by mail must be addressed to the U.S. Office of Education, Application Control Center, Attention: 13.543, Washington, D.C. 20202.

- Proof of mailing must consist of:
- (1) Legible U.S. Postal Service dated postmark;
 - (2) Legible mail receipt with the date of mailing stamped by the U.S. Postal Service; or
 - (3) Any other evidence acceptable to the Commissioner, such as dated shipping label, invoice, or receipt from a commercial carrier.
- Private metered postmarks or mail receipts will not be accepted without a legible date stamped by the U.S. Postal Service.

Note—The U.S. Postal Service does not uniformly provide a dated postmark. Applications should check with their local post office before relying on this method.

Applications are encouraged to use registered or at least first class mail. Each late applicant will be notified that its application will not be considered.

Applications delivered by hand: An application that is hand delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, S.W., Washington, D.C.

The Application Control Center will accept hand-delivered applications between 8:00 a.m. and 4:30 p.m. (Washington, D.C., time) daily, except Saturdays, Sundays, and Federal holidays.

Applications that are hand delivered will not be accepted after 4:30 p.m. on the closing date.

Program information: The applications for new grants will be evaluated competitively under the published funding criteria for new awards—45 CFR 154.5(c). All applications for FY 1980 funds will be treated as new applications. Successful applicants will receive up to two (2) year project period grants.

The Office of Education may not fund an applicant for a period of time longer than is requested by the applicant in the application. Applicants requesting two years of funding must submit a detailed work program and budget for the first year and an outline of the work program and a budget summary for the second year.

The Commissioner approves requests for the second year if:

1. The need continued to exist for the services provided by the project;
2. Satisfactory progress has been made in implementing the approved work plan and in achieving the project's goals and objectives.
3. The project continues to offer promise of success;
4. All required reports have been received and accepted by the Commissioner; and
5. Funds are available to continue the project.

An Application Preparation Workshop(s) will be conducted this Fall. For the time and location of this workshop(s), contact the Program Development Branch (see address in section on Further Information). Date(s) and location(s) will also be published in the Notices section of the Federal Register.

Available funds: Approximately \$130,000,000 is anticipated to be available for the Special Programs for Students from Disadvantaged Backgrounds in fiscal year 1980. Of this amount it is estimated that \$6,300,000 will be available for the Educational Opportunity Centers program, to fund approximately 27 grants averaging \$233,000. The breakdown for new awards in the other Special Programs is estimated to be \$51,000,000 for Upward Bound, with approximately 390 grants averaging \$130,700; \$15,300,000 for Talent Search, with approximately 160 grants averaging \$95,600; and \$45,000,000 for Special Services, with approximately 484 grants averaging \$93,000.

The processing of applications for these new projects will be subject to the availability of funds. These estimates do not bind the U.S. Office of Education except as may be required by the applicable statute and regulations.

Application forms: Application forms and program information packages are expected to be ready for mailing August 13, 1979. They may be obtained by writing to the Division of Student Services and Veterans Programs, Information Systems and Program Support Branch, U.S. Office of Education, (Room 3514, Regional Office Building 3), 400 Maryland Avenue, S.W., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages. The Commissioner suggests that the narrative portion of the application not exceed fifty (50) pages in length. The Commissioner further suggests that only the information required by the application form be submitted.

Applicable regulations: The regulations applicable to this program are:

- (a) regulations governing the Educational Opportunity Centers Program (45 CFR Part 154), and
- (b) Office of Education General Provisions Regulations (45 CFR Parts 100 and 100a).

However, it is expected that the grant awards made under this program will be subject to the post award provisions of the Education Division General Administrative Regulations (EDGAR). EDGAR was published in proposed form in the Federal Register on May 4, 1979 (44 FR 26298). When published in final, EDGAR will supersede the Office of Education General Provisions Regulations.

Further information: For further information contact the Program Development Branch, Division of Student Services and Veterans Programs, U.S. Office of Education (Room 3514, Regional Office Building 3) 400 Maryland Avenue, S.W., Washington, D.C. 20202. Telephone: (202) 245-2511.

(20 U.S.C. 1070d-1070d-1)

13.443C—Field Initiated Research

Closing Date: October 31, 1979.

Applications are invited for new projects for support of research related to education of the handicapped.

Authority for this program is contained in sections 641 and 642 of part E of Education of the Handicapped Act (20 U.S.C. 1441, 1442).

The purpose of this program is to support a broad range of research and research-related projects focusing on the education of handicapped children.

For Further Information Contact: Max W. Mueller, Research Projects Branch, BEH, 400 Maryland Avenue, SW, Washington, DC, 20202, phone (202) 245-2275.

Closing Date for Transmittal of Applications: Applications for awards must be mailed or hand delivered by October 31, 1979.

Applications Delivered by Mail: An application sent by mail must be addressed to the U.S. Office of Education, Application Control Center, Attention: 13.443C, Washington, D.C. 20202.

An applicant must show proof of mailing consisting of one of the following:

- (1) A legible dated U.S. Postal Service postmark.
- (2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.
- (3) A dated shipping label, invoice, or receipt from a commercial carrier.
- (4) Any other proof of mailing acceptable to the U.S. Commissioner of Education.

If an application is sent through the U.S. Postal Service, the Commissioner does not accept a private metered postmark or a private mail receipt as proof of mailing. An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail. Each late applicant will be notified that its application will not be considered.

Hand-Delivered Applications: An application that is hand-delivered must be taken to the U.S. Office of Education Application Control Center, Room 5673, Regional Office Building 3, Seventh and D Streets SW., Washington, D.C. The Application Control Center will accept hand-delivered applications between the hours of 8:00 a.m. and 4:30 p.m., (Washington, D.C. time) daily, except Saturdays, Sundays, or Federal holidays. Applications that are hand-delivered will not be accepted after 4:30 p.m. on the closing date.

Available Funds: Approximately \$3,000,000 is available for support of new Field Initiated Research projects in 1980. Based on a mean grant amount in recent years of approximately \$90,000 we expect that about 33 new grants will be awarded. The range of funding for 1979 projects was from approximately \$10,000 to \$200,000 per year. Most

awards were for under \$100,000 per year.

While there is no firm limit on the duration of projects, the vast majority of field-initiated projects are for one to three years. In the event that assistance is provided for multiple year projects, grant awards will be made for a budget period of a single year's duration with continuation awards made on a non-competitive basis subject to satisfactory performance as determined under 45 CFR 121h.4(b) and the availability of funds in future fiscal years.

Application Forms: Further information and application forms are available and may be obtained by writing to the Research Projects Branch, Bureau of Education for the Handicapped, U.S. Office of Education, 400 Maryland Avenue SW, (Donohoe, 3165), Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages. The Commissioner strongly urges that the narrative portion of the application not exceed forty (40) pages in length. The Commissioner further urges that only the information required by the application form instructions be submitted.

Applicable Regulations: The following regulations are applicable to this program through the granting of the award:

- (a) Regulations governing the handicapped education program (45 CFR Parts 121 and 121h). Final regulations for part 121h were published in the Federal Register on August 18, 1978; and
- (b) Office of Education General Provisions Regulations (45 CFR 100 and 100a).

However, it is expected that grant awards made under this program will be subject to the post award provisions of the Education Division General Administrative Regulations (EDGAR) when they become effective. EDGAR was published in proposed form in the Federal Register on May 4, 1979 (44 FR 26298). When published in final, EDGAR will supersede the Office of Education General Provisions Regulations.

(20 U.S.C. 1441, 1442.)

13.443C—Handicapped Research and Demonstrations Field Initiated Research

Closing Date: Variable.

Noncompeting Continuation Projects

Applications are invited for noncompeting continuation projects under the Handicapped Research—Field Initiated Research.

Authority for this program is contained in Part E sections 641 and 642 of the Education for the Handicapped Act, as amended.

(20 U.S.C. 1441, 1442.)

Under this program awards are issued to States, State or Local educational agencies, institutions of higher education, public or private educational or research agencies and organizations.

The purpose of the awards is to assist these institutions that have demonstrated satisfactory performance on previous awards in carrying out research relating to the education of handicapped children.

Closing Date for Transmittal of Applications: To be assured of consideration for funding, applications for a noncompeting continuation award should be mailed or hand delivered no later than 120 days prior to the end of the current budget period.

If the application is late, the Office of Education may lack sufficient time to review it with other noncompeting continuation applications and may decline to accept it.

Applications Delivered by Mail: An application sent by mail must be addressed to the U.S. Office of Education, Application Control Center, Attention: 13.443C, Washington, D.C. 20202.

An applicant should show proof of mailing consisting of one of the following:

- (1) A legibly dated U.S. Postal Service postmark.
 - (2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.
 - (3) A dated shipping label, invoice, or receipt from a commercial carrier.
 - (4) Any other evidence acceptable to the U.S. Commissioner of Education.
- If an application is sent through the U.S. Postal Service, the Commissioner does not accept either of the following as proof of mailing: (1) a private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail.

Applications Delivered by Hand: An application that is hand delivered should be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, S.W., Washington, D.C.

The Application Control Center will accept a hand delivered application

between 8:00 a.m. and 4:30 p.m. (Washington, D.C., time) daily, except Saturdays, Sundays, and Federal holidays.

Available Funds: It is anticipated that funds will be available for continuation of projects and at the level projected in the original applications.

Application Forms: Application forms and program information packages are expected to be ready for mailing by September 3, 1979. They may be obtained by writing to the Research Projects Branch, U.S. Office of Education (Room 3165, Donohoe Building), 400 Maryland Avenue, S.W., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. The Commissioner strongly urges that applicants not submit information that is not requested.

Applicable Regulations: Regulations applicable to this program include the following:

- (a) Regulations governing the Handicapped Education Program (45 CFR Part 121h). Final regulations for part 121h were published in the Federal Register on August 10, 1978.
- (b) General Provisions Regulations for Office of Education Programs (45 CFR Parts 100 and 100a).

Note.—The proposed Education Division General Administrative Regulations (EDGAR) were published in the Federal Register on May 4, 1979 (44 FR 26298). When EDGAR becomes effective, it will supersede the General Provisions Regulations for Office of Education Programs.

If EDGAR takes effect before grants are made under this program, those grants will be subject to the following provisions of EDGAR: Subpart A (General); Subpart E (What Conditions Must Be Met by a Grantee?); Subpart F (What Are the Administrative Responsibilities of a Grantee?); and Subpart G (What Procedures Does the Education Division Use to Get Compliance?).

Further Information: For further information contact Dr. Max W. Mueller, Chief, Research Projects Branch, Bureau of Education for the Handicapped, U.S. Office of Education, 400 Maryland Avenue, S.W., (Donohoe Building, Room 3165), Washington, D.C. 20202. Telephone (202) 245-2275.

(20 U.S.C. 1441, 1442.)

Fulbright-Hays Training Grants

13.438—Faculty Research Abroad Program
13.439—Foreign Curriculum Consultants Programs

13.440—Group Projects Abroad Program

13.441—Doctoral Dissertation Research Abroad Program

Closing Date: November 2, 1979.

Applications are invited for new projects under the Fulbright-Hays training grants—Faculty Research Abroad, Foreign Curriculum Consultants, Group Projects Abroad, and Doctoral Dissertation Research Abroad programs.

Authority for these programs is contained in section 102(b)(6) of the Mutual Educational and Cultural Exchange Act of 1961.

(22 U.S.C. 2452(b)(6)).

This program issues awards to eligible applicants. Eligible applicants for Fulbright-Hays training awards are as follows:

A. For the Faculty Research Abroad program, accredited institutions of higher education;

B. For the Foreign Curriculum Consultants program, accredited institutions of higher education, State departments of education, local public school systems, private nonprofit educational organizations, and consortiums of such entities;

C. For the Group Projects Abroad program, accredited institutions of higher education, State departments of education, private nonprofit educational organizations, and consortiums of such entities;

D. For the Doctoral Dissertation Research Abroad program, accredited institutions of higher education which offer doctoral programs in the fields of foreign languages and area studies. The purpose of the awards is to improve and develop modern foreign language and area studies in the educational structure of the United States.

Closing Date for Transmittal of Applications: An application for a grant must be mailed or hand delivered by November 2, 1979.

Applications Delivered by Mail: An application sent by mail must be addressed to the U.S. Office of Education, Application Control Center, Attention: 13.438; 13.439; 13.440; or 13.441, Washington, D.C. 20202.

An applicant must show proof of mailing consisting of one of the following:

(1) A legible dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the U.S. Commissioner of Education.

If an application is sent through the U.S. Postal Service, the Commissioner does not accept either of the following as proof of mailing: (1) a private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail. Each late applicant will be notified that its application will not be considered.

Applications Delivered by Hand: An application that is hand delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, SW., Washington, D.C.

The Application Control Center will accept a hand-delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C., time) daily, except Saturdays, Sundays, and Federal holidays.

An application that is hand delivered will not be accepted after 4:30 p.m. on the closing date.

Program Information: Evaluation criteria and eligibility requirements for the Faculty Research Abroad, Foreign Curriculum Consultants, Group Projects Abroad, and Doctoral Dissertation Research Abroad programs appear in the Code of Federal Regulations at 45 CFR Part 148.

Available Funds: It is expected that approximately \$3,600,000 and \$1,890,000 in special foreign currencies will be available for the Faculty Research Abroad, Foreign Curriculum Consultants, Group Projects Abroad, and Doctoral Dissertation Research Abroad programs in fiscal year 1980.

It is estimated that these funds could support the following distribution of awards:

A. Sixty-five Faculty Research Abroad fellows at an average cost of approximately \$11,150;

B. Twenty Foreign Curriculum Consultants at an average cost of approximately \$13,620;

C. Forty-five Group Projects Abroad at an average cost of approximately \$61,800;

D. One hundred and thirty-five Doctoral Dissertation Research Abroad fellows at an average cost of approximately \$12,680;

However, these estimates do not bind the U.S. Office of Education to a specific

number of grants or to the amount of any grant unless that number or amount is specified by statute or regulations.

Application Forms: Application forms and program information packages are expected to be ready for mailing by August 31, 1979. They may be obtained by writing to the Division of International Education, U.S. Office of Education (Room 3669, Regional Office Building 3), 400 Maryland Avenue, SW., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. The Commissioner strongly urges that the narrative portion of the application not exceed the following pages in length:

A. For the Faculty Research Abroad program, five pages;

B. For the Foreign Curriculum Consultants program, ten pages;

C. For the Group Projects Abroad program, twenty pages;

D. For the Doctoral Dissertation Research Abroad program, five pages. The Commissioner further urges that applicants not submit information that is not required.

Applicable Regulations: Regulations applicable to this program include the following:

(a) Regulations governing the Higher Education Programs in Modern Foreign Language Training and Area Studies Program (45 CFR Part 148); and

(b) General Provisions Regulations for Office of Education Programs (45 CFR Parts 100 and 100a).

Note:—The proposed Education Division General Administrative Regulations (EDGAR) were published in the *Federal Register* on May 4, 1979 (44 FR 26298). When EDGAR becomes effective, it will supersede the General Provisions Regulations for Office of Education Programs.

If EDGAR takes effect before grants are made under the program, those grants will be subject to the following provisions of EDGAR: Subpart A (General); Subpart E (What Conditions Must be Met by a Grantee?); Subpart F (What are the Administrative Responsibilities of a Grantee?); and Subpart G (What Procedures Does the Education Division Use to Get Compliance?).

Further Information: For further information contact Mr. John Paul, Fulbright-Hays Training Grants, Division of International Education, ISB, U.S. Office of Education (Room 3669, Regional Office Building 3), 400 Maryland Avenue, SW., Washington, D.C. 20202, Telephone (202) 245-9808.

(22 U.S.C. 2452(b)(6)).

13.558—Bilingual Vocational Training Program

Closing date: November 5, 1979.

Applications are invited for new projects under the Bilingual Vocational Training Program.

Authority for this program is contained in Sections 181 through 185 of Vocational Education Act of 1963, as amended by the Education Amendments of 1976.

This program issues awards to local educational agencies, State agencies, postsecondary educational institutions, private nonprofit vocational training institutions, nonprofit educational or training organizations especially created to serve a group whose language as normally used is other than English, and private for profit agencies and organizations.

The purpose of the awards is to provide bilingual vocational training to persons of limited English-speaking ability who are unemployed or underemployed because they come from environments where the dominant language is other than English.

Closing date for transmittal of applications: An application for a grant must be mailed or hand delivered by November 5, 1979.

Applications delivered by mail: An application sent by mail must be addressed to the U.S. Office of Education, Application Control Center, Attention: 13.558, Washington, D.C. 20202.

An applicant must show proof of mailing consisting of one of the following:

(1) A legible dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other evidence of mailing acceptable to the U.S. Commissioner of Education.

If an application is sent through the U.S. Postal Service, the Commissioner does not accept either of the following as proof of mailing: (1) a private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail. Each late applicant will be notified that its application will not be considered.

Applications delivered by hand: An application that is hand delivered must

be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, S.W., Washington, D.C.

The Application Control Center will accept a hand-delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C., time) daily, except Saturdays, Sundays, and Federal holidays.

An application that is hand delivered will not be accepted after 4:30 p.m. on the closing date.

Program information: Applications are accepted from:

(1) Local educational agencies;

(2) State agencies;

(3) Postsecondary educational institutions;

(4) Private nonprofit vocational training institutions;

(5) Nonprofit educational or training organizations especially created to serve a group whose language as normally used is other than English; and

(6) Private for profit agencies and organizations.

Sixty-five percent of the funds available under Section 183 of the Act may be used by the Commissioner to award grants or assistance contracts for the cost of operating programs designed to carry out the purposes set forth in Section 184 of the Act.

All awards will be new; no funds are reserved for continuation awards. A request for funding by an applicant who has had a prior award should include an evaluation of the prior award.

Awards are for a one year duration.

Available funds: It is expected that approximately \$1,820,000 will be available for the Bilingual Vocational Training program in FY 1980.

It is estimated that these funds could support 12 projects.

The anticipated award for each new project will be \$140,000.

However, these estimates do not bind the U.S. Office of Education to a specific number of grants or to the amount of any grant unless that amount is otherwise specified by statute or regulations.

Application forms: Application forms and program information packages are expected to be ready for mailing by August 9, 1979. They may be obtained by writing to the Demonstration Branch, U.S. Office of Education (Room 5028, Regional Office Building 3), 400 Maryland Avenue, SW., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. The Commissioner strongly urges that the narrative portion of the

application not exceed 25 pages in length. The Commissioner further urges that applicants not submit information that is not requested.

Special procedures: An applicant must provide a copy of the application to the State Board for Vocational Education at the same time it is submitted to the Office of Education. The State Board shall submit comments upon the application to the Office of Education within thirty days after the closing date for applications.

Applicable regulations: Regulations applicable to this program include the following:

(a) Regulations governing the Bilingual Vocational Training program (45 CFR Part 105, Sections 601-607); and

(b) General Provisions Regulations for Office of Education Program (45 CFR Parts 100 and 100a).

Note.—The proposed Education Division General Administrative Regulations (EDGAR) were published in the *Federal Register* on May 4, 1979 (44 FR 26298). When EDGAR becomes effective, it will supersede the General Provisions Regulations for Office of Education Programs.

If EDGAR takes effect before grants are made under this program, those grants will be subject to the following provisions of EDGAR:

Subpart A (General); Subpart E (What Conditions Must Be Met by a Grantee?); Subpart F (What Are the Administrative Responsibilities of a Grantee?); and Subpart G (What Procedures Does the Education Division Use to Get Compliance?).

Further information: For further information contact Dr. Doris V. Gunderson, Chief, Demonstration Branch, Bilingual Vocational Training Program, U.S. Office of Education (Room 5028, Regional Office Building 3), 400 Maryland Avenue, SW., Washington, D.C. 20202, Telephone: (202) 245-2614.

(20 U.S.C. 2414; 45 CFR Part 105)

13.561—Metric Education Program

Closing Date: November 14, 1979.

Applications are invited for new projects under the Metric Education Program.

Authority for this program is contained in Section 311 of Title III of the Elementary and Secondary Education Act of 1965, as amended by Pub. L. 95-561.

(20 U.S.C. 2951-2954)

This program issues grant awards to State educational agencies (SEAs) and local educational agencies (LEAs), institutions of higher education (IHEs), and other public and private nonprofit agencies or organizations (NPOs) or to combinations of those.

The purpose of the awards is to encourage and support projects that prepare students (including parents and other adults) to use the metric system of measurement (International System of Units (SI)).

Closing date for transmittal of applications: An application for a grant must be mailed or hand delivered by November 14, 1979.

Applications delivered by mail: An application sent by mail must be addressed to the U.S. Office of Education, Application Control Center, Attention: 13.561, Washington, D.C. 20202.

An applicant must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the U.S. Commissioner of Education.

If an application is sent through the U.S. Postal Service, the Commissioner does not accept either of the following as proof of mailing: (1) a private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail. Each late applicant will be notified that its application will not be considered.

Applications delivered by hand: An application that is hand delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Building 3, 7th & D Streets, S.W., Washington, D.C.

The Application Control Center will accept a hand-delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

An application that is hand delivered will not be accepted after 4:30 p.m. on the closing date.

Preapplications: Preapplications will not be required for fiscal year 1980 funding consideration.

Program information: Applicants shall provide an abstract based on the categories of information set forth in the abstract information page that introduces Part IV, the program narrative. The abstract will be developed in compliance with the

sequence of items as they appear in this information page. It will not exceed three (3) typewritten pages. Each proposal shall include a table of contents and the proposal shall be sequentially numbered throughout.

Categories of typical activities that are supported by the Program are specifically set forth in subpart B, § 161b.10 of the regulations.

All awards will be new; no funds are reserved for continuation awards.

Available funds: It is expected that approximately \$1,840,000 will be available for the Metric Education Program in FY 1980.

It is estimated that these funds could support 46 to 50 new projects.

Higher operational costs are involved in (1) projects whose activities are state-wide or multi-state in scope; (2) projects that include or are basically designed to implement mobile metric laboratories; (3) projects whose activities are to be carried out by a group of eligible parties including a consortium and cooperative arrangements; and (4) projects whose activities are national in scope. Because of these higher costs these projects will be funded at a level which will generally exceed amounts of grants for activities for single school districts or single institutions.

Where justified by design, projects that include state-wide or multistate activities are expected to be funded in the range of \$35,000 to \$40,000. Projects whose activities are carried out by a group of eligible parties are expected to be funded in the range of \$50,000 to \$75,000. Projects which include the operation of mobile metric education laboratories are expected to be funded in the range of \$50,000 to \$80,000.

Projects that include metric educational activities in single agencies or institutions but which do not pursue activities comparable in scope to those described above, are expected to be funded in the range of \$25,000 to \$35,000 where justified by the design.

These estimates, however, do not bind the U.S. Office of Education to specific number of grants or to the amount of any grant unless that amount is otherwise specified by statute or regulations.

Application forms: Application forms and program information packages are expected to be ready for mailing no later than September 14, 1979. They may be obtained by writing to the Metric Education Program, U.S. Office of Education (1832 M Street, N.W., Suite 835), 400 Maryland Avenue, S.W., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms

included in the program information package. The Commissioner strongly urges that the narrative portion of the application not exceed 50 pages in length. The Commissioner further urges that applicants not submit information that is not requested.

Applicable regulations: Regulations applicable to this program include the following:

(a) Regulations governing the Metric Education Program (45 CFR Part § 161b).

These regulations were published as a notice of proposed rulemaking on May 25, 1979 (44 FR 30636). Applicants should base their applications on the notice of proposed rulemaking. When they are published as final regulations and become effective, these regulations will govern applications and grants under this program.

(b) The Education Division General Administrative Regulations (EDGAR) (45 CFR Parts 100a and 100c). EDGAR was published in proposed form in the Federal Register on May 4, 1979 (44 FR 26298). When EDGAR is published as final regulations, it will supersede the General Provisions Regulations for Office of Education Programs (the current 45 CFR Parts 100a through 100d).

When it becomes effective, EDGAR will govern applications and grants under this program. The selection criteria contained in Subpart D of EDGAR (§ 100a.202 through 100a.206) are included in the preamble to this notice.

If material changes are made in the final regulations governing this Program or in the EDGAR final regulations that relate to the preparation of applications for the current fiscal year, the Commissioner may extend the closing date to permit applicants to amend their applications.

Further information: For further information, contact Dr. Floyd A. Davis, Program Manager, Metric Education Program, BSI, U.S. Office of Education (1832 M Street, N.W., Suite 835, Washington, D.C. 20208), 400 Maryland Avenue, S.W., Washington, D.C. 20202. Telephone: (202) 653-5920.

(20 U.S.C. 2951-2954)

13.443D—Handicapped Children's Model Program

Closing date: December 3, 1979.

Applications are invited for new demonstration projects under the Handicapped Children's Model Program.

Authority for this program is contained in Section 641 of Part E of the Education of the Handicapped Act (20 U.S.C. 1441).

This program issues awards to States, State or local educational agencies, institutions of higher education and other public or nonprofit private educational or research agencies and organizations.

The purpose of this program is to develop and conduct model programs designed to meet the special educational needs of handicapped children.

Closing date for transmittal of applications: An application for a grant must be mailed or hand delivered by December 3, 1979.

Applications delivered by mail: An application sent by mail must be addressed to the U.S. Office of Education, Application Control Center, Attention: 13.443D, Washington, D.C. 20202.

An application must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoiced, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the U.S. Commissioner of Education.

If an application is sent through the U.S. Postal Service, the Commissioner does not accept either of the following as proof of mailing: (1) a private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail. Each late applicant will be notified that its application will not be considered.

Applications delivered by hand: An application that is hand delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, S.W., Washington, D.C.

The Application Control Center will accept a hand delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time), daily, except Saturdays, Sundays and Federal holidays.

An application that is hand delivered will not be accepted after 4:30 p.m. on the closing date.

Available funds: Approximately \$2,000,000 is available for support of new demonstration projects in 1980. We expect that about 25 new grants will be awarded. The range of funding for 1979 projects was from approximately \$60,000

to \$125,000 per year. The average award was \$103,000.

Grant awards will be made for a budget period of one year with continuation awards made on a non-competitive basis subject to satisfactory performance as determined under 45 CFR Section 121h.9 and the availability of funds in future fiscal years.

However, these estimates do not bind the U.S. Office of Education to a specific number of grants or to the amount of any grant unless that amount is otherwise specified by statute or regulations.

Application forms: Application forms and information packages are expected to be ready for mailing October 3, 1979. They may be obtained by writing to the Handicapped Children's Model Program, Program Development Branch, Bureau of Education for the Handicapped, U.S. Office of Education, (Donohoe Building, Room 3123), 400 Maryland Avenue, S.W., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages. The Commissioner strongly urges that the narrative portion of the application not exceed fifty (50) pages in length. The Commissioner further urges that applicants not submit information that is not requested.

Special procedures: Every applicant is subject to the State and areawide clearinghouse review procedures under OMB Circular A-95.

An applicant should check with its appropriate Federal regional office to obtain the name(s) and address(es) of the clearinghouse(s) in its State. OMB Circular A-95 requires the applicant to give the clearinghouse(s) up to 60 days for review, consultation, and comments on the application.

In its application each applicant must provide—

(a) The comments of each clearinghouse that commented on the application; or

(b) A statement that the applicant used the procedures of Part I of OMB Circular A-95 but did not receive any clearinghouse comments.

Applicable regulations: Regulations applicable to this program include the following:

(a) Regulations governing the Research in the Education of the Handicapped Program (45 CFR Part 121h); and

(b) General Provisions Regulations for Office of Education Programs (45 CFR Parts 100 and 100a).

Note.—The proposed Education Division General Administrative Regulations

(EDGAR) were published in the Federal Register on May 4, 1979 (44 FR 26298). When EDGAR becomes effective, it will supersede the General Provisions Regulations for Office of Education Programs.

If EDGAR takes effect before grants are made under this program, those grants will be subject to the following provisions of EDGAR: Subpart A (General); Subpart E (What Conditions Must Be Met by a Grantee?); Subpart F (What Are the Administrative Responsibilities of a Grantee?); and Subpart G (What Procedures Does the Education Division Use to Get Compliance?).

Further information: For further information contact the Handicapped Children's Model Program, Program Development Branch, Bureau of Education for the Handicapped, U.S. Office of Education, (Donohoe Building, Room 3123), 400 Maryland Avenue, S.W., Washington, D.C. 20202. Telephone (202) 245-9722.

(20 U.S.C. 1441)

13.588—Contract Program for Indian Tribes and Indian Organizations

Closing date: December 3, 1979.

Applications are invited for new projects under the Contract Program for Indian Tribes and Indian Organizations.

Authority for this program is contained in Section 103 of the Vocational Education Act of 1963 as amended by the Education Amendments of 1976.

This program issues awards to Indian Tribal Organizations or Indian Tribes which are eligible to contract with the Secretary of the Interior for the administration of programs under the Indian Self-Determination and Education Assistance Act of 1975 or under the Act of April 16, 1934.

The purpose of the awards is to provide opportunities in vocational education for Indian Tribes and Indian Organizations.

Closing date for transmittal of applications: An application for a grant must be mailed or hand delivered by December 3, 1979.

Applications delivered by mail: An application sent by mail must be addressed to the U.S. Office of Education, Application Control Center, Attention: 13.588, Washington, D.C. 20202.

An applicant must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the U.S. Commissioner of Education.

If an application is sent through the U.S. Postal Service, the Commissioner does not accept either of the following as proof of mailing: (1) a private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail. Each late applicant will be notified that its application will not be considered.

Applications delivered by hand: An application that is hand delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, S.W., Washington, D.C.

The Application Control Center will accept a hand-delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C., time) daily, except Saturdays, Sundays, and Federal holidays.

An application that is hand delivered will not be accepted after 4:30 p.m. on the closing date.

Program information: Applications are accepted from Indian Tribes and Indian Organizations which are eligible to contract with the Secretary of the Interior for the administration of programs under the Indian Self-Determination and Education Assistance Act of 1975 or under the Act of April 16, 1934.

(1) An award will not exceed three fiscal years. Continuation funding is contingent upon satisfactory performance. Applications for multi-year awards shall have a detailed budget for the current year and total budget figures for the subsequent years.

(2) A request for continuation of a project beyond the project period will be considered a new application and will be reviewed competitively with all other applications. In order for the Commissioner to make this determination, an applicant who has had a prior contract under this program shall include an evaluation of the previous project.

Available funds: It is expected that approximately \$1,411,400, will be available for the Contract Program for Indian Tribes and Indian Organizations for FY 1980.

It is estimated that these funds could support up to 9 new projects.

The anticipated award for each new project will be approximately \$150,000.

However, these estimates do not bind the U.S. Office of Education to a specific number of grants or to the amount of any grant unless that amount is otherwise specified by statute or regulations.

Application forms: Application forms and program information packages are expected to be ready for mailing by August 9, 1979. They may be obtained by writing to the Demonstration Branch, U.S. Office of Education (Room 5028, Regional Office Building 3), 400 Maryland Avenue, SW, Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. The Commissioner strongly urges that the narrative portion of the application not exceed 25 pages in length. The Commissioner further urges that applicants not submit information that is not requested.

Special procedures: An applicant shall submit a copy of the application directly to the Commissioner of the Bureau of Indian Affairs and the State Board for Vocational Education at the same time it submits an application to the Office of Education. The copy of the application to be sent to the Bureau of Indian Affairs should be sent to the following address: Director of Education Programs, Bureau of Indian Affairs, Main Interior Building, Room 3510, 1951 Constitution Avenue, NW, Washington, D.C. 20245. A directory of the State Boards for Vocational Education in all States is included with the application package.

Applicable regulations: Regulations applicable to this program include the following:

(a) Regulations governing the Contract Program for Indian Tribes and Indian Organizations (45 CFR Part 105, Sections 201-214); and

(b) General Provisions Regulations for Office of Education Programs (45 CFR Parts 100 and 100a).

Note.—The proposed Education Division General Administrative Regulations (EDGAR) were published in the Federal Register on May 4, 1979 (44 FR 26298). When EDGAR becomes effective, it will supersede the General Provisions Regulations for Office of Education Programs.

If EDGAR takes effect before grants are made under this program, those grants will be subject to the following provisions of EDGAR:

Subpart A (General); Subpart E (What Conditions Must Be Met by a Grantee?); Subpart F (What Are the Administrative Responsibilities of a Grantee?); and

Subpart G (What Procedures Does the Education Division Use to Get Compliance?).

Further information: For further information contact Dr. Doris V. Gunderson, Chief, Demonstration Branch, Contract Program for Indian Tribes and Indian Organizations, U.S. Office of Education (Room 5028, Regional Office Building 3), 400 Maryland Avenue, SW, Washington, D.C. 20202, Telephone: (202) 245-2614. (20 U.S.C. 2414; 45 CFR Part 105)

13.525, 13.529, 13.589, 13.689, 13.690—
Emergency School Aid

Closing Date: December 7, 1979.
Applications are invited for new projects under the following Emergency School Aid Act programs:

(1) Basic grants to local educational agencies under section 608(a) of the Act.

(2) Grants to public or private nonprofit organizations other than local educational agencies under section 608(b) of the Act.

(3) Magnet school, university/business cooperation, and neutral site planning grants to local educational agencies under section 608(a) of the Act.

(4) State agency grants under section 608(c) of the Act.

(5) Grants for the arts to any public agency (other than a local education agency) that is responsible for the administration of statewide public arts programs under section 608(a) of the Act.

The Commissioner does not, by this notice, invite applications for the following programs described in proposed program regulations:

- (1) Planning grants.
- (2) Transitional grants.
- (3) Metropolitan area grants.
- (4) Other special projects.
- (5) Compensatory service grants.
- (6) Television and radio contracts.

The purposes of these programs are set out in the proposed regulations. The Commissioner will, by another notice, invite applications for grant programs for which funds are appropriated. The Commissioner will invite proposals for television and radio contracts by the publication of a request for proposals.

Authority for these programs is contained in Title VI of the Elementary and Secondary Education Act of 1965, as amended by the Education Amendments of 1978 (20 U.S.C. 3191 *et seq.*).

(1) The purpose of a basic grant is to meet educational needs that arise from a desegregation plan or a plan to eliminate, reduce or prevent minority group isolation that qualifies under section 806(a) of the Act.

(2) The purpose of a nonprofit organization grant is to support a local educational agency's development or implementation of a qualifying plan.

(3) The purposes of magnet school grants are to plan, design, and conduct educational programs in magnet schools. University/business cooperation grants are for cooperative programs between local educational agencies and institutions of higher education or businesses. Neutral site planning grants are to develop plans for neutral site schools.

(4) The purpose of a State agency grant is to pay a portion of the cost to a State for activities related to the voluntary elimination or reduction of minority group isolation.

(5) The purpose of a grant for the arts is to provide, through the arts, opportunities for interracial and intercultural communication to meet needs related to the implementation of a qualifying plan.

Closing date for transmittal of applications: An application for a grant must be mailed or hand delivered by December 7, 1979.

Applications delivered by mail: An application sent by mail must be addressed to the U.S. Office of Education, Application Control Center, Washington, D.C. 20202. An application must be marked—

- (1) Attention: 13.525 (for basic grants);
- (2) Attention: 13.529 (for nonprofit organization grants);
- (3) Attention: 13.589 (for magnet school, university/business cooperation, and neutral site planning grants);
- (4) Attention: 13.689 (for State agency grants); or
- (5) Attention: 13.690 (for grants for the arts).

An applicant must show proof of mailing consisting of one of the following:

- (1) A legibly dated U.S. Postal Service postmark.
- (2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the U.S. Commissioner of Education.

If an application is sent through the U.S. Postal Service, the Commissioner does not accept either of the following as proof of mailing: (1) a private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office. An

applicant is encouraged to use registered or at least first class mail.

Each late applicant will be notified that its application will not be considered.

Applications delivered by hand: An application that is hand delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, S.W., Washington, D.C.

The Application Control Center will accept a hand delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

An application that is hand delivered will not be accepted after 4:30 p.m. on the closing date.

Available funds: The amount of fiscal year 1980 funds for various types of assistance has not yet been set. The amount of funds available for each type will be established after enactment of appropriation legislation.

Application forms: Application forms and program information packages are expected to be ready for mailing by October 8, 1979. They may be obtained by writing to the Division of Program Operations, Equal Educational Opportunity Programs, Office of Education, Room 2007A, 400 Maryland Avenue, S.W., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. The Commissioner strongly urges that the narrative portion of the application not exceed 40 pages in length. The Commissioner further urges that applicants not submit information that is not requested.

Applicable regulations: Regulations applicable to these programs include the following:

(1) Regulations governing programs under the Emergency School Aid Act (45 CFR Part 185).

These regulations were published in proposed form on June 29, 1979 (44 FR 38364). Applicants should base their applications on the notice of proposed rulemaking. When they are published as final regulations and become effective, these regulations will govern applications and grants under these programs.

(2) The Education Division General Administrative Regulations (EDGAR) (45 CFR Parts 100a and 100c).

These regulations were published in proposed form on May 4, 1979 (44 FR 26298). When they are published as final regulations and become effective, they will supersede the Office of Education general provisions regulations (45 CFR

Parts 100a through 100d) and will govern awards under these programs.

If changes that relate to the preparation of applications for fiscal year 1980 are made in final regulations governing these programs or in the EDGAR final regulations, the Commissioner may extend the closing date to permit applicants to amend their applications.

Further information: For further information contact Mr. Jesse Jordan, Division of Program Operations, Equal Educational Opportunity Programs, U.S. Office of Education, 400 Maryland Avenue, S.W., Room 2007A, Washington, D.C. 20202. Telephone: (202) 245-7965.

(20 U.S.C. 3191 *et seq.*)

13.566—**Arts Education Program**

Closing date: December 14, 1979.

Applications are invited for new projects under the Arts Education Program.

Authority for this program is contained in Part C of Title III of the Education Amendments of 1978, Pub. L. 95-561.

(20 U.S.C. 2961)

The program makes awards to State educational agencies (SEAs), local educational agencies (LEAs), and other public and private agencies, organizations, and institutions.

The purpose of the program is to encourage cooperative school-community projects which recognize and stress the essential role of the arts in elementary and secondary education.

Closing date for transmittal of applications: An application for a grant must be mailed or hand delivered by December 14, 1979.

Applications delivered by mail: An application sent by mail must be addressed to the U.S. Office of Education, Application Control Center, Attention: 13.566, Washington, D.C. 20202.

An applicant must show proof of mailing consisting of one of the following:

- (1) A legibly dated U.S. Postal Service postmark.
- (2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the U.S. Commissioner of Education.

If an application is sent through the U.S. Postal Service, the Commissioner does not accept either of the following as proof of mailing: (1) a private metered

postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail. Each late applicant will be notified that its application will not be considered.

Applications delivered by hand: An application that is hand delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, S.W., Washington, D.C.

The Application Control Center will accept a hand-delivered application between 8 a.m. and 4:30 p.m. (Washington, D.C., time) daily, except Saturdays, Sundays, and Federal holidays.

An application that is hand delivered will not be accepted after 4:30 p.m. on the closing date.

Program information: An application may be submitted in one of three funding categories. However, an applicant may be funded for only one project—whether proposed singly by the applicant or jointly with other applicants.

The funding categories are: (1) State—for statewide projects; (2) urban or large community—for projects in standard metropolitan statistical areas with access to cultural resources; and (3) rural or small community—for projects in areas isolated from metropolitan environments with limited or no cultural resources.

Each of the three categories has specific application requirements that are addressed in the regulations. All projects must be designed to—

(1) Provide opportunities for all students in the schools served by the project to acquire skills in and through several arts media, including at least dance, music, theater, and the visual arts; and

(2) Integrate these disciplines into the regular educational program of the schools, rather than to include them peripherally or as extra-curricular activities.

Each applicant shall provide for a project advisory committee broadly representative of State and local arts and educational resources. A State project shall use its official State arts education advisory committee, if one exists. A local applicant shall submit an information copy of its application to the SEA for a 30-day comment period.

The proposed regulations give examples of types of project activities for which an applicant may request

support. The Commissioner may approve projects for a maximum of three years; however, renewals are subject to availability of funds and review.

Applications are judged on the basis of the following criteria: Need; assessment; coordination; project administration; and results, end products, or outcome. The Commissioner may add 10 points to the total score of an application to achieve geographic distribution and project diversity.

Available funds: It is expected that approximately \$1,250,000 will be available for grants under the Arts Education Program in FY 1980.

It is estimated that these funds could support between 20 to 25 new projects at an average of \$50,000. Also, it is expected that the annual Federal share of any project will not exceed \$100,000.

However, these estimates do not bind the U.S. Office of Education to a specific number of grants or to the amount of any grants unless that amount is otherwise specified by statute or regulations.

Application forms: Application forms and program information packages are expected to be ready for mailing by September 21, 1979. They may be obtained by writing to the Arts and Humanities Staff, U.S. Office of Education (Room 3728, Donohoe Building), 400 Maryland Avenue, S.W., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. The Commissioner strongly urges that the narrative portion of the application not exceed 15 pages in length. The Commissioner further urges that applicants not submit information that is not requested.

Applicable regulations: The following regulations apply under this program:

(a) Regulations governing the Arts Education Program (45 CFR Part 161c). These regulations were published as a notice of proposed rulemaking in the Federal Register on June 18, 1979 (44 FR 35186). Applicants should base their applications on the notice of proposed rulemaking. When they are published as final regulations and become effective, these regulations will govern applications and grants under this program.

(b) The Education Division General Administrative Regulations (EDGAR) (45 CFR Parts 100a and 100c).

EDGAR was published in proposed form in the Federal Register on May 4, 1979 (44 FR 26298). When EDGAR is published as final regulations, it will supersede the General Provisions

Regulations for Office of Education Programs (the current 45 CFR Parts 100a through 100d). When it becomes effective, EDGAR will govern applications and grants under this program. The selection criteria contained in Subpart D of EDGAR (§§ 100a.202—100a.206) are included in the preamble to this notice.

If material changes are made in the final regulations governing this program or in the EDGAR final regulations that relate to the preparation of applications for the current fiscal year, the Commissioner may extend the closing date to permit applicants to amend their applications.

Further information: For further information contact the Arts and Humanities Staff, U.S. Office of Education (Room 3728, Donohoe Building), 400 Maryland Avenue, S.W., Washington, D.C. 20202, Telephone: (202) 472-7793.

(20 U.S.C. 2961)

13.568—Contract Program for Indian Tribes and Indian Organizations

Closing date: December 17, 1979.

Noncompeting Continuation projects.

Applications are invited for noncompeting continuation projects under the Contract Program for Indian Tribes and Indian Organizations.

Authority for this program is contained in Section 103 of the Vocational Education Act of 1963 as amended by the Education Amendments of 1976.

This program issues awards to Indian Tribal Organizations or Indian Tribes which are eligible to contract with the Secretary of the Interior for the administration of programs under the Indian Self-Determination and Education Assistance Act of 1975 or under the Act of April 16, 1934.

The purpose of the awards is to provide opportunities in vocational education for Indian Tribes and Indian Organizations.

Closing date for Transmittal of applications: To be assured of consideration for funding, an application for a noncompeting continuation award should be mailed or hand delivered by December 17, 1979.

If the application is late, the Office of Education may lack sufficient time to review it with other noncompeting continuation applications and may decline to accept it.

Applications delivered by mail: An application sent by mail should be addressed to the U.S. Office of Education, Application Control Center, Attention: 13.588, Washington, D.C. 20202.

An applicant should show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other evidence of mailing acceptable to the U.S. Commissioner of Education.

If an application is sent through the U.S. Postal Service, the Commissioner does not accept either of the following as proof of mailing: (1) a private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail.

Applications delivered by hand: An application that is hand delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, S.W., Washington, D.C.

The Application Control Center will accept a hand-delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C., time) daily, except Saturdays, Sundays, and Federal holidays.

Available funds: It is anticipated that funds will be available for continuation of projects at the prior year level.

Application forms: Application forms and program information packages are expected to be ready for mailing by August 9, 1979.

They may be obtained by writing to the Demonstration Branch, U.S. Office of Education (Room 5026, Regional Office Building 3), 400 Maryland Avenue, S.W., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. The Commissioner strongly urges that applicants not submit information that is not requested.

Applicable regulations: Regulations applicable to this program include the following:

(a) Regulations governing the Contract Program for Indian Tribes and Indian Organizations (45 CFR Part 105, Sections 201-214); and

(b) General Provisions Regulations for Office of Education Programs (45 CFR Parts 100 and 100a).

Note.—The proposed Education Division General Administrative Regulations

(EDGAR) were published in the Federal Register on May 4, 1979 (44 FR 26298). When EDGAR becomes effective, it will supersede the General Provisions Regulations for Office of Education Programs.

If EDGAR takes effect before grants are made under this program, those grants will be subject to the following provisions of EDGAR:

Subpart A (General); Subpart E (What Conditions Must Be Met by a Grantee?); Subpart F (What Are the Administrative Responsibilities of a Grantee?); and Subpart G (What Procedures Does the Education Division Use to Get Compliance?).

Further information: For further information contact Dr. Doris V. Gunderson, Chief, Demonstration Branch, Contract Program for Indian Tribes and Indian Organizations, U.S. Office of Education (Room 5026, Regional Office Building 3), 400 Maryland Avenue, S.W., Washington, D.C. 20202, Telephone: (202) 245-2614.

(20 U.S.C. 2414; 45 CFR Part 105)

13.564—Consumers' Education Program

Closing date: December 19, 1979.

Applications are invited for projects under the Consumers' Education Program.

Authority for this program is contained in section 331-336 of Title III of the Elementary and Secondary Education Act of 1965, as amended by Pub. L. 95-561.

(20 U.S.C. 2981-2986)

This program issues awards to local education agencies, State education agencies, institutions of higher education, other public agencies, and non-profit private organizations. The purpose of these awards is to assist these groups to develop and carry out innovative special projects designed to help people function more effectively as consumers and in their roles as consumer-citizens.

Closing date for transmittal of applications: An application for a grant must be mailed or hand delivered by December 19, 1979.

Applications delivered by mail: An application sent by mail must be addressed to the U.S. Office of Education, Application Control Center, Attention: 13.564, Washington, D.C. 20202.

An applicant should show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other evidence of mailing acceptable to the U.S. Commissioner of Education.

If an application is sent through the U.S. Postal Service, the Commissioner does not accept either of the following as proof of mailing: (1) a private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail. Each late applicant will be noticed that its application will not be considered.

Applications delivered by hand: An application that is hand delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, S.W., Washington, D.C.

The Application Control Center will accept a hand-delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C., time) daily, except Saturdays, Sundays, and Federal holidays.

An application that is hand delivered will not be accepted after 4:30 p.m. on the closing date.

Program information: Specific information is contained in the regulations and the program information packet. Applications should emphasize projects which are designed to serve as models or which build an organization's long-range capacity to provide consumers' education.

Available funds: It is estimated that approximately \$3,135,000 will be available for the Consumers' Education Program in FY 1980 to support new projects.

It is estimated that these funds could support 50-55 projects in addition to contract obligations.

The anticipated average award for projects will be approximately \$45,000. No minimum or maximum amounts will be set.

These estimates do not bind the U.S. Office of Education except as may be required by the applicable statute and regulations.

Application forms: Application forms and program information packages are expected to be ready for mailing by October 19, 1979. They may be obtained by writing to the Office of Consumers' Education, U.S. Office of Education, (Room 807, Riviere Building), 400 Maryland Avenue, S.W., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. The Commissioner strongly urges that the narrative portion of the application not exceed 25 pages in length. The Commissioner further urges that applicants not submit information that is not requested.

Special procedures: Local education agencies must certify that an open meeting has been held where members of the community have had an opportunity to comment on the contents of the application.

Applicable regulations: Regulations applicable to this program include the following:

(a) Regulations governing the Consumers' Education Program (45 CFR Part 161e).

These regulations were published as a notice of proposed rulemaking on May 16, 1979 (44 FR 28758). Applicants should base their applications on the notice of proposed rulemaking. When they are published as final regulations and become effective, these regulations will govern applications and grants under this program.

(b) The Education Division General Administrative Regulations (EDGAR), (45 CFR Parts 100a and 100c).

EDGAR was published in proposed form in the *Federal Register* on May 1, 1979 (44 FR 26298). When EDGAR is published as final regulations, it will supersede the General Provisions Regulations for Office of Education Programs (the current 45 CFR Parts 100a through 100d).

When it becomes effective, EDGAR will govern applications and grants under this program. The selection criteria contained in Subpart D of EDGAR (§§ 100a.202-100a.206) are included in the preamble to this notice.

If material changes are made in the final regulations governing this Program or in the EDGAR final regulations that relate to the preparation of applications for the current fiscal year, the Commissioner may extend the closing date or permit applicants to amend their applications.

Further information: For further information, contact Dr. Dustin W. Wilson, Jr., Director, Consumers' Education Program, U.S. Office of Education, (Room 807, Riviére Building), 400 Maryland Avenue, S.W., Washington, D.C. 20202, Telephone: (202) 653-5983.

(20 U.S.C. 3386)

13.552—National Diffusion Network Program

Closing date: January 3, 1980.

Applications are invited for new projects under the National Diffusion Network Program.

Authority for this program is contained in Sections 303 and 378 of the Elementary and Secondary Education Act of 1965, as amended by Pub. L. 95-561, "Education Amendments of 1978." (20 U.S.C. 2943, 3041)

This program issues awards to public or nonprofit private agencies, organizations, and institutions.

The purpose of the awards is to promote widespread installation across the Nation of vigorously evaluated, exemplary programs.

Closing date for transmittal of applications: An application for a grant must be mailed or hand delivered by January 3, 1980.

Applications delivered by mail: An application sent by mail must be addressed to the U.S. Office of Education, Application Control Center, Attention: 13.552-A for Developer Demonstrators, and 13.552-B for Facilitators, Washington, D.C. 20202.

An applicant must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the U.S. Commissioner of Education.

If an application is sent through the U.S. Postal Service, the Commissioner does not accept either of the following as proof of mailing: (1) a private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail. Each late applicant will be notified that its application will not be considered.

Applications delivered by hand: An application that is hand delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, S.W., Washington, D.C.

The Application Control Center will accept a hand-delivered application between 8:00 a.m. and 4:30 p.m.

(Washington, D.C., time) daily, except

Saturdays, Sundays, and Federal holidays.

An application that is hand delivered will not be accepted after 4:30 p.m. on the closing date.

Program information: Application Preparation Workshops will be conducted this Fall (Fiscal Year 1980). For the time and location of these workshops contact the Division of Educational Replication (see address in section on Further Information).

Available funds: It is expected that approximately \$8,000,000 will be available for the National Diffusion Network Program in FY 1980.

It is estimated that these funds could support: 13.552-A: Developer/Demonstrator—90 projects ranging from \$35,000-\$75,000. 13.552-B: Facilitators—55 projects ranging from \$35,000-\$200,000. However, these estimates do not bind the U.S. Office of Education to a specific number of grants or to the amount of any grant unless that amount is otherwise specified by statute or regulations.

Application forms: Application forms and program information packages are expected to be ready for mailing by November 5, 1979. They may be obtained by writing to the Division of Educational Replication, U.S. Office of Education (Room 3616, Regional Office Building 3), 400 Maryland Avenue, S.W., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. The Commissioner strongly urges that the narrative portion of the application not exceed 50 pages in length. The Commissioner further urges that applicants not submit information that is not requested.

Applicable regulations: Regulations applicable to this program include the following:

(a) Regulations governing the National Diffusion Network Program (45 CFR Part 193).

These regulations were published as a notice of proposed rulemaking on June 25, 1979. Applicants should base their applications on the notice of proposed rulemaking. When they are published as final regulations and become effective, these regulations will govern applications and grants under this program.

(b) The Education Division General Administrative Regulations (EDGAR) (45 CFR Parts 100a and 100c).

EDGAR was published in proposed form in the *Federal Register* on May 4, 1979 (44 FR 26298). When EDGAR is published as final regulations, it will supersede the General Provisions

Regulations for Office of Education Programs (the current 45 CFR Parts 100a through 100d).

When it becomes effective, EDGAR will govern applications and grants under this program. The selection criteria contained in Subpart D of EDGAR (§§ 100a.202-100a.206) are included in the preamble to this notice.

If material changes are made in the final regulations governing this Program or in the EDGAR final regulations that relate to the preparation of applications for the current fiscal year, the Commissioner may extend the closing date or permit applicants to amend their applications.

Further information: For further information contact Mr. Harry DeVanney, Deputy Director, Division of Educational Replication, National Diffusion Network Program, U.S. Office of Education (Room 3616, Regional Office Building 3), 400 Maryland Avenue, S.W., Washington, D.C. 20202, Telephone: (202) 245-2257.

(20 U.S.C. 2943, 3041)

13.436—Foreign Language and Area Studies Research Program

Closing date: January 4, 1980.

Applications are invited for new and/or continuation projects under the Foreign Language and Area Studies Research Program.

Authority for this program is contained in Title VI, section 602, of the National Defense Education Act of 1958. (20 U.S.C. 512)

This program issues awards to qualified institutions, organizations and individuals.

The purpose of the awards is to assist researchers to conduct studies and surveys to determine the need for increased or improved instruction in modern foreign languages and related fields, to conduct research on training methods for use in such languages and fields, and to develop specialized materials for use in training students and language teachers.

Closing date for transmittal of applications: An application for a new grant must be mailed or hand delivered by January 4, 1980.

To be assured of consideration for funding, an application for a noncompeting continuation award should be mailed or hand delivered by January 4, 1980. If the application is late, the Office of Education may lack sufficient time to review it with other noncompeting continuation applications and may decline to accept it.

Applications delivered by mail: An application sent by mail must be addressed to the U.S. Office of

Education, Application Control Center, Attention: 13.436, Washington, D.C. 20202.

An applicant must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the U.S. Commissioner of Education.

If an application is sent through the U.S. Postal Service, the Commissioner does not accept either of the following as proof of mailing: (1) a private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail. Each late applicant for a new award will be notified that its application will not be considered.

Applications delivered by hand: An application that is hand delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, S.W., Washington, D.C.

The Application Control Center will accept a hand delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C., time) daily, except Saturdays, Sundays, and Federal holidays.

An application for a new project that is hand delivered will not be accepted after 4:30 p.m. on the closing date.

Program information: Activities supported by this program may include the following:

(1) Studies and surveys, including conferences, to assess the state of the art of foreign language and international studies instruction in the United States, to determine new emphases needed, to identify priority needs for specialized materials, and to define and analyze national trends through, for example, surveys of enrollments, degree requirements, and newly developing types of training programs;

(2) Research in teaching methodology (a) which applies linguistic theories and concepts of modern language pedagogy to projects that can thereby be expected to increase the understanding of second language acquisition and to improve language teaching, and (b) which applies

modern teaching approaches to international studies.

(3) The preparation of specialized instructional materials, particularly for modern foreign languages which are not widely taught in the United States and for which there is only a limited commercial market; and for international studies concerned with the non-Western world.

(4) More specific information regarding these activities is contained in the program regulations, 45 CFR Part 146, and the program application package.

Available funds: It is expected that approximately \$970,000 will be available for the Research Program in FY 1980.

It is estimated that these funds could support 27 new projects and 5 continuing projects.

The anticipated award for new projects is estimated at an average cost of \$30,300 each. (Projects which exceed eighteen months should be planned and budgeted in yearly phases).

However, these estimates do not bind the U.S. Office of Education to a specific number of grants or to the amount of any grant unless that amount is otherwise specified by statute or regulations.

Application forms: Application forms and program information packages are expected to be ready for mailing by September 7, 1979. They may be obtained by writing to the Research Program International Studies Branch, U.S. Office of Education (Rm. 3671, Regional Office Building 3), 400 Maryland Avenue, S.W., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with regulations, instructions, and forms included in the program information package. The Commissioner strongly urges that the narrative portion of the application not exceed 10 pages in length. The Commissioner further urges that applicants not submit information that is not requested.

Applicable regulations: Regulations applicable to this program include the following:

(a) Regulations governing the Foreign Language and Area Studies Research Program (45 CFR Part 146); and

(b) General Provisions Regulations for Office of Education Programs (45 CFR Parts 100 and 100a).

Note.—The proposed Education Division General Administrative Regulations (EDGAR) were published in the *Federal Register* on May 4, 1979 (44 FR 26298). When EDGAR becomes effective, it will supersede the General Provisions Regulations for Office of Education Programs.

If EDGAR takes effect before grants are made under this program, those grants will be subject to the following provisions of EDGAR: Subpart A (General); Subpart E (What Conditions Must Be Met by a Grantee?); Subpart F (What Are the Administrative Responsibilities of a Grantee?); and Subpart G (What Procedures Does the Education Division Use to Get Compliance?).

Further information: For further information contact Mrs. Julia A. Petrov, Chief, Research Program, ISB/DIE, U.S. Office of Education (Rm. 3671, Regional Office Building 3), 400 Maryland Avenue, S.W., Washington, D.C. 20202. Telephone: (202) 245-9819.

(20 U.S.C. 512)

13.444A—Handicapped Children's Early Education Program—Demonstration Projects

Closing date: January 10, 1980.

Noncompeting continuation projects. Applications are invited for noncompeting continuation projects under the Handicapped Children's Early Education Program—Demonstration.

Authority for this program is contained in sections 623 and 624 of the Education of the Handicapped Act (20 U.S.C. 1423, 1424).

The purpose of this program is to assist in developing and implementing innovative and experimental programs for young handicapped children (ages birth to 8 years) and their families.

Closing date for transmittal of applications: To be assured of consideration for funding, an application for a noncompeting continuation award should be mailed or hand delivered by January 10, 1980.

If the application is late, the Office of Education may lack sufficient time to review it with other noncompeting continuation applications and may decline to accept it.

Applications delivered by mail: An application sent by mail should be addressed to the U.S. Office of Education, Application Control Center, Attention: 13.444A, Washington, D.C. 20202.

An applicant should show proof of mailing consisting of one of the following:

- (1) A legibly dated U.S. Postal Service postmark.
- (2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.
- (3) A dated shipping label, invoice, or receipt from a commercial carrier.
- (4) Any other evidence acceptable to the U.S. Commissioner of Education.

If an application is sent through the U.S. Postal Service, the Commissioner

does not accept either of the following as proof of mailing: (1) a private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail.

Applications delivered by hand: An application that is hand delivered should be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, S.W., Washington, D.C.

The Application Control Center will accept a hand-delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C., time) daily, except Saturdays, Sundays, and Federal holidays.

Available funds: The funding level for the Handicapped Children's Early Education Program is expected to be approximately \$20 million for FY 1980. During previous years of the program, funding for second and third year demonstration projects has averaged between \$80,000 and \$120,000.

Application forms: Application forms and program information packages are expected to be ready for mailing by November 9, 1980. They may be obtained by writing to the Division of Innovation and Development, Bureau of Education for the Handicapped, U.S. Office of Education, 400 Maryland Avenue, S.W., (Donohoe Building, Room 3100), Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages. The Commissioner strongly urges that applicants not submit information that is not requested.

Applicable regulations: Regulations applicable to this program include the following:

(a) Regulations governing the Handicapped Children's Early Education Program (45 CFR, Part 121d), and

(b) General Provisions Regulations for the Office of Education Programs (45 CFR, Parts 100 and 100a).

Note.—The proposed Education Division General Administrative Regulations (EDGAR) were published in the Federal Register on May 4, 1979 (44 FR 26298). When EDGAR becomes effective, it will supersede the General Provisions Regulations for Office of Education Programs.

If EDGAR takes effect before grants are made under this program those grants will be subject to the following

provisions of EDGAR: Subpart A (General); Subpart E (What Conditions Must Be Met by a Grantee?); Subpart F (What Are the Administrative Responsibilities of a Grantee?); and Subpart G (What Procedures Does the Education Division Use to Get Compliance?).

Further information: For further information contact the Handicapped Children's Early Education Program, U.S. Office of Education, 400 Maryland Avenue, S.W. (Donohoe Building, Room 3100), Washington, D.C. 20202. Telephone (202) 245-9722.

(20 U.S.C. 1423, 1424)

13.405—Desegregation of Public Education

Closing date: January 15, 1980.

Applications are invited for new projects under the following Desegregation of Public Education programs:

1. State Educational Agency programs for race, sex, and national origin desegregation assistance under section 403 of the Civil Rights Act of 1964.
2. Training Institute programs for race and sex desegregation assistance under section 404 of the Act.
3. School Board Grants for sex desegregation assistance under section 405 of the Act.

The purpose of these programs is to help solve problems related to the race, sex, and national origin desegregation of public elementary and secondary schools.

Authority for these programs is contained in Title IV of the Civil Rights Act of 1964 (42 U.S.C. 2000c et seq.).

Applications for Race, Sex, and National Origin Desegregation Assistance Center (DAC) awards are not covered by this notice.

Applications for the Special Grants to School Boards for Race and National Origin Desegregation will not be covered by a notice of closing date. Applicants for these grants may apply at any time, but should first review the eligibility requirements contained in §§ 180.04 and 180.71 (a) and (b) of the program regulations. Applications for these Special Grants should be sent to the Application Control Center (Attention: 13.405E) at the address indicated below.

Closing date of transmittal of applications: An application for a grant must be mailed or hand delivered by January 15, 1980.

Application delivered by mail: An application sent by mail must be addressed to the U.S. Office of Education, Application Control Center, Attention: 13.405, Washington, D.C. 20202.

An application must show proof of mailing consisting of one of the following:

- (1) A legibly dated U.S. Postal Service postmark.
- (2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.
- (3) A dated shipping label, invoice, or receipt from a commercial carrier.
- (4) Any other proof of mailing acceptable to the U.S. Commissioner of Education.

If an application is sent through the U.S. Postal Service, the Commissioner does not accept either of the following as proof of mailing: (1) a private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service. An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office. An applicant is encouraged to use registered or at least first class mail.

Each late applicant will be notified that its application will not be considered.

Applications delivered by hand: An application that is hand delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, S.W., Washington, D.C.

The Application Control Center will accept a hand delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

An application that is hand delivered will not be accepted after 4:30 p.m. on the closing date.

Available funds: The amount of fiscal year 1980 funds for various programs has not yet been set. The amount of funds available for each program will be established after enactment of appropriation legislation.

Application forms: Application forms and program information packages are expected to be ready for mailing by October 15, 1979. They may be obtained by writing to the Division of Technical Assistance, Equal Educational Opportunity Programs, U.S. Office of Education (Room 2181-J, FOB-6), 400 Maryland Avenue, S.W., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. The Commissioner strongly urges that the narrative portion of the application not exceed 15 pages in length. The Commissioner further urges

that applicants not submit information that is not requested.

Applicable regulations: Regulations applicable to this program include the following:

- (a) Regulations governing the Desegregation of Public Education programs (45 CFR Part 180); and
- (b) Office of Education general provisions regulations (45 CFR Parts 100 and 100a).

Note.—The proposed Education Division General Administrative Regulations (EDGAR) were published in the Federal Register on May 4, 1979 (44 FR 26298). When they are published as final regulations and become effective, they will supersede the Office of Education general provisions regulations and will govern awards under these programs. However, they will not govern the pre-award phase of programs under the Act in fiscal year 1980.

Further information: For further information contact Director, Division of Technical Assistance, Equal Educational Opportunity Programs, Office of Education, Room 2181-J, FOB-6, 400 Maryland Avenue, S.W., Washington, D.C. 20202; Telephone: (202) 245-8840. (20 U.S.C. 2000c-2000c-5)

13.510—Cooperative Education Program

Closing Date: January 16, 1980.

Applications are invited for new administration projects under Section 802, and for new research and training projects under Section 803.

A separate notice of closing date will be published inviting applications for demonstration grants under Section 803. Authority for this program is contained in Title VIII of the Higher Education Act of 1965, as amended. (20 U.S.C. 1133-1133b)

This program issues awards to institutions or combinations of institutions of higher education and to public or private nonprofit agencies for training, research, or demonstration/exploration projects. Awards are made to institutions or combinations of institutions of higher education for administration projects.

The purpose of the awards is to assist institutions in carrying out programs of Cooperative Education wherein students alternate classroom study with periods of supervised related employment.

Closing date for transmittal of applications: Applications for grants under both Sections 802 and 803 must be mailed or hand delivered by January 16, 1980.

Applications delivered by mail: An application sent by mail must be addressed to the U.S. Office of Education, Application Control Center,

Attention: 13.510, Washington, D.C. 20202.

An applicant must show proof of mailing consisting of one of the following:

- (1) A legibly dated U.S. Postal Service postmark.
- (2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.
- (3) A dated shipping label, invoice, or receipt from a commercial carrier.
- (4) Any other proof of mailing acceptable to the U.S. Commissioner of Education.

If an application is sent through the U.S. Postal Service, the Commissioner does not accept either of the following as proof of mailing: (1) a private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail. Each late applicant will be notified that its application will not be considered.

Applications delivered by hand: An application that is hand delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, S.W., Washington, D.C.

The Application Control Center will accept a hand-delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

An application that is hand delivered will not be accepted after 4:30 p.m. on the closing date.

Available funds: It is expected that approximately \$15,000,000 will be available for the Program in FY 1980. Of this sum \$12,000,000 will be awarded for the administration of programs under Section 802 and \$3,000,000 will be available for research, training, and demonstration grants under Section 803.

Institutions applying for administration grants are eligible for awards up to \$175,000 per institutions; consortia applicants are eligible for awards of up to \$125,000 times the number of institutions in the consortium. Potential applicants are encouraged to develop programs of a comprehensive nature including all or most fields in a college, school or other major division, and to seek funding which will permit adequate staffing and administration of such programs representing a substantial institutional commitment to expand and maintain them beyond the period of Federal funding.

The remaining \$3,000,000 for training, research, and demonstration could support one or two research projects (five are currently funded), and five to six training programs (seventeen are currently funded).

These estimates do not bind the U.S. Office of Education except as may be required by the applicable statute and regulations.

Application forms: Application forms and program information packages are expected to be mailed to all eligible institutions of higher education by November 5, 1979. They may also be obtained after November 5 from the Cooperative Education Branch, U.S. Office of Education (Room 3053, Regional Office Building 3, 7th and D Streets, S.W., Washington, D.C. 20202) (telephone number: 202-245-2146).

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. The Commissioner strongly urges that the narrative portion of the application not exceed 10 pages in length for administration proposals and 20 pages for research and training proposals. The Commissioner further urges that applicants not submit information that is not requested.

Applicable regulations: Regulations applicable to this program include the following:

- (a) Regulations governing the Cooperative Education Program (45 CFR Part 182, published in the Federal Register May 2, 1978); and
- (b) General Provisions Regulations for the Office of Education Programs (45 CFR Parts 100 and 100a).

Note.—The proposed Education Division General Administrative Regulations (EDGAR) were published in the Federal Register on May 4, 1979 (44 FR 26298). When EDGAR becomes effective, it will supersede the General Provisions Regulations for the Office of Education Programs.

If EDGAR takes effect before grants are made under this program, those grants will be subject to the following provisions of EDGAR: Subpart A (General); Subpart E (What Conditions Must Be Met by a Grantee?); Subpart F (What Are the Administrative Responsibilities of a Grantee?); and Subpart G (What Procedures Does the Education Division Use to Get Compliance?).

Further information: For further information contact Dr. John L. Chase, Chief, Cooperative Education Branch, Division of Training and Facilities/BHCE, U.S. Office of Education (Room 3053, Regional Office Building 3, 7th and D Streets, S.W., Washington, D.C.

20202. Telephone: (202) 245-2146 or 245-2484.

(20 U.S.C. 1133-1133b)

13.565A—Women's Educational Equity Act Program 13.565B

Closing date: January 21, 1980.

Applications are invited for new general (13.565A) and small (13.565B) grants under the Women's Educational Equity Act Program.

Authority for this program is contained in Title IX part C of the Education Amendments of 1978.

(20 U.S.C. 3341-3346)

This program issues awards to public agencies, private nonprofit organizations, and individuals.

Applications must be under the first tier of the Women's Educational Equity Act Program. This tier supports demonstration, developmental, and dissemination activities of national, statewide, or general significance. The purpose of the awards is to develop educational materials and model programs designed to promote women's educational equity. The materials and programs are developed for replication throughout the United States.

Applications are *not* invited for the second tier of the Women's Educational Equity Act Program which assists projects of local significance. The second tier takes effect only if the annual appropriation for the program exceeds \$15 million.

Closing date for transmittal of applications: An application for a grant must be mailed or hand delivered by January 21, 1980.

Applications delivered by mail: An application sent by mail must be addressed to the U.S. Office of Education Control Center, Attention: 13.565A for general grants and 13.565B for small grants, Washington, D.C. 20202.

An applicant must show proof of mailing consisting of one of the following:

- (1) A legibly dated U.S. Postal Service postmark.
- (2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.
- (3) A dated shipping label invoice, or receipt from a commercial carrier.
- (4) Any other evidence acceptable of the U.S. Commissioner of Education.

If an application is sent through the U.S. Postal Service, the Commissioner does not accept either of the following as proof of mailing: (1) a private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly

provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail.

Applications delivered by hand: An application that is hand delivered should be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, S.W., Washington, D.C. 20202.

The Application Control Center will accept a hand-delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C., time) daily, except Saturdays, Sundays, and Federal holidays.

An application that is hand delivered will not be accepted after 4:30 p.m. on the closing date.

Program information: While the Notice of Proposed Rulemaking of the Women's Educational Equity Act Program has been published in the Federal Register, we anticipate that there will be changes between the proposed regulations and the final regulations. Therefore, we suggest that applicants wait until the final regulations are published before drafting their proposals. We anticipate that the final regulations will be published the beginning of November 1979. At that time more information will be provided on the program.

Available funds: Approximately \$10 million is anticipated for the Women's Educational Equity Act Program in Fiscal Year 1980. It is estimated that these funds could support approximately 10-20 small grants (\$25,000 or less) and 40-45 general grants. When the final regulations are published, applicants will be notified of the selected priorities and of the amounts allocated to them for FY 1980. This information will be provided in an amendment to this notice.

Application forms: Application forms and program information packages are expected to be ready for mailing by November 21, 1979. This date is contingent upon the publication of the final regulations by November, 1979. They may be obtained by writing to the Women's Educational Equity Act Program, U.S. Office of Education (Room 2147), 400 Maryland Avenue, S.W., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. The Commissioner strongly urges that the narrative portion of the application not exceed 40 pages in length. The Commissioner further urges that

applicants not submit information that is not requested.

Applicable regulations: Regulations applicable to this program include the following:

- (a) Regulations governing the Women's Educational Equity Act Program (45 CFR Part 160f).

These regulations were published as a Notice of Proposed Rulemaking on May 25, 1979, (44 FR 30540). Applicants should base their applications, however, on the final regulations which are expected to be published at the beginning of November.

- (b) The Education Division General Administrative Regulations (EDGAR) (45 CFR Parts 100a and 100c).

EDGAR was published in proposed form in the Federal Register on May 4, 1979 (44 FR 26298). When EDGAR is published as final regulations, it will supersede the General Provisions Regulations for Office of Education programs (the current 45 CFR Parts 100a through 100d).

When it becomes effective, EDGAR will govern applications and grants under this program. However, the selection criteria in EDGAR do not apply to this program.

If material changes are made in the final regulations governing this Program or in the EDGAR final regulations that relate to the preparation of applications for the current fiscal year, the Commissioner may extend the closing date to permit applicants to amend their applications.

Further information: For further information contact Dr. Leslie Wolfe, Director, Women's Educational Equity Act Program, U.S. Office of Education (Room 2147), 400 Maryland Avenue, S.W., Washington, D.C. 20202. Telephone: (202) 245-2181.

(20 U.S.C. 3341-3348)

13.562—Gifted and Talented Children's Education Program—Discretionary Program for Professional Development

Closing date: January 25, 1980.

Applications are invited for new projects under the Gifted and Talented Children's Education Program—Discretionary Program for Professional Development.

Authority for this program is contained in Section 905(a)(1) of the Gifted and Talented Children's Education Act of 1978.

(20 U.S.C. 3315).

This program issues awards for professional development projects to State educational agencies, local educational agencies, institutions of

higher education, and other public and private agencies and organizations.

The purpose of the awards is to:

- a. Establish and operate graduate programs leading to a degree in education of the gifted and talented.
- b. Provide seminars and other high-level opportunities for leaders in education, public affairs, industry, and related fields to interact with and promote the professional development of potential leaders in the education of gifted and talented students.

Closing date for transmittal of applications: An application for a grant must be mailed or hand delivered by January 25, 1980.

Applications delivered by mail: An application sent by mail must be addressed to the U.S. Office of Education, Application Control Center, Attention: 13.562, Washington, D.C. 20202.

An applicant must show proof of mailing consisting of one of the following:

- (1) A legibly dated U.S. Postal Service postmark.
- (2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.
- (3) A dated shipping label, invoice, or receipt from a commercial carrier.
- (4) Any other proof of mailing acceptable to the U.S. Commissioner of Education.

If an application is sent through the U.S. Postal Service, the Commissioner does not accept either of the following as proof of mailing: (1) a private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail. Each late applicant will be notified that its application will not be considered.

Applications delivered by hand: An application that is hand delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, S.W., Washington, D.C.

The Application Control Center will accept a hand-delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

An application that is hand delivered will not be accepted after 4:30 p.m. on the closing date.

Program information: Assistance will be available for three categories of projects. An applicant shall submit a

separate application for each of the categories for which assistance is sought.

The first two categories are in the area of graduate level instruction leading to a degree in the education of the gifted and talented. They include awards for 1) a graduate degree program and 2) establishing and/or operating at the university level a doctoral program in the education of the gifted and talented.

The third category is in the area of providing seminars and other high level opportunities for leaders in education, public affairs, industry and related fields to interact with and promote the professional development of potential leaders in the education of gifted and talented students.

Available funds: It is expected that approximately \$440,000 will be available for new Professional Development projects in FY 1980. Of this total, it is anticipated that approximately \$225,000 will be available for projects under Category 1; approximately \$75,000 will be available for projects under Category 2; and approximately \$140,000 will be available for Category 3.

It is estimated that these funds could support 3 new projects in Category 1; 1 new project in Category 2; and 2 new projects in Category 3.

However, these estimates do not bind the U.S. Office of Education to a specified number of grants or to the amount of any grant unless that amount is otherwise specified by statute or regulations.

Application forms: Application forms and program information packages are expected to be ready for mailing by November 21, 1979. They may be obtained by writing to the Office for the Gifted and Talented, U.S. Office of Education (Room 3835, Donohoe Building), 400 Maryland Avenue, S.W., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. The Commissioner strongly urges that the narrative portion of the application not exceed 40 pages in length. The Commissioner further urges that applicants not submit information that is not requested.

Applicable regulations: Regulations applicable to this program include the following:

- (a) Regulations governing the Gifted and Talented Children's Education Program (45 CFR Part 195).

These regulations were published as a notice of proposed rulemaking on June 25, 1979. Applicants should base their applications on the notice of proposed

rulemaking. When they are published as final regulations and become effective, these regulations will govern applications and grants under this program.

(b) The Education Division General Administrative Regulations (EDGAR) (45 CFR parts 100a and 100c).

EDGAR was published in proposed form in the *Federal Register* on May 4, 1979 (44 FR 26298). When EDGAR is published as final regulations, it will supersede the General Provisions Regulations for Office of Education Programs (the current 45 CFR Parts 100a through 100d).

When it becomes effective, EDGAR will govern applications and grants under this program. The selection criteria contained in Subpart D of EDGAR (§§ 100a.202-100a.206) are included in the preamble to this notice.

If material changes are made in the final regulations governing this Program or in the EDGAR final regulations that relate to the preparation of applications for the current fiscal year, the Commissioner may extend the closing date to permit applicants to amend their applications.

Further information: For further information contact Dr. Harold C. Lyon, Jr., Director, Office for the Gifted and Talented, U.S. Office of Education (Room 3827, Donohoe Building), 400 Maryland Avenue, S.W., Washington, D.C. 20202. Telephone: (202) 245-2482. (20 U.S.C. 3315)

13.562—Gifted and Talented Children's Education Program—Discretionary Program For Statewide Planning

Closing date: January 25, 1980.

Applications are invited for new projects under the Gifted and Talented Children's Education Program—Discretionary Program for Statewide Planning.

Authority for this program is contained in Section 905(a)(5) of the Gifted and Talented Children's Education Act of 1978.

(20 U.S.C. 3315)

This program issues awards to State educational agencies (SEA's).

The purpose of the awards is to assist SEA's in the statewide planning, development, operation, and improvement of programs and projects designed to meet the educational needs of gifted and talented children.

The Commissioner strongly urges those States which have not previously received assistance from the Office of Gifted and Talented, U.S. Office of Education, and those States which have received assistance from the Office of Gifted and Talented for only one year

prior to FY 1980 to apply for assistance under this Program.

Closing date for transmittal of applications: An application for a grant must be mailed or hand delivered by January 25, 1980.

Applications delivered by mail: An application sent by mail must be addressed to the U.S. Office of Education, Application Control Center, Attention: 13.562, Washington, D.C. 20202.

An applicant must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the U.S. Commissioner of Education.

If an application is sent through the U.S. Postal Service, the Commissioner does not accept either of the following as proof of mailing: (1) a private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail. Each late applicant will be notified that its application will not be considered.

Applications delivered by hand: An application that is hand delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, S.W., Washington, D.C.

The Application Control Center will accept a hand-delivered application between 8:00 a.m. and 4:30 p.m.

(Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

An application that is hand-delivered will not be accepted after 4:30 p.m. on the closing date.

Available funds: It is expected that approximately \$300,000 will be available for new Statewide Planning projects in FY 1980.

It is estimated that these funds could support 10-15 new projects.

The anticipated award for each new project will be between \$15,000 and \$30,000.

However, these estimates do not bind the U.S. Office of Education to a specific number of grants or to the amount of any grant unless that amount is otherwise specified by statute or regulations.

Application forms: Application forms and program information packages are expected to be ready for mailing by November 21, 1979. They may be obtained by writing the Office for the Gifted and Talented, U.S. Office of Education, (Room 3835, Donohoe Building), 400 Maryland Avenue, S.W., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. The Commissioner strongly urges that the narrative portion of the application not exceed 40 pages in length. The Commissioner further urges that applications not submit information that is not requested.

Applicable regulations: Regulations applicable to this program include the following:

(a) Regulations governing the Gifted and Talented Children's Education Program (45 CFR Parts 160b and 195).

These regulations were published as a notice of proposed rulemaking on June 25, 1979. Applicants should base their applications on the notice of proposed rulemaking. When they are published as final regulations and become effective, these regulations will govern applications and grants under this program.

(b) The Education Division General Administrative Regulations (EDGAR) (45 CFR Parts 100a and 100c).

EDGAR was published in proposed form in the *Federal Register* on May 4, 1979 (44 FR 26298). When EDGAR is published as final regulations, it will supersede the General Provisions Regulations for Office of Education Programs (the current 45 CFR Parts 100a through 100d).

When it becomes effective, EDGAR will govern applications and grants under this program. The selection criteria contained in Subpart D of EDGAR (§§ 100a.202-100a.206) are included in the preamble to this notice.

If material changes are made in the final regulations governing this Program or in the EDGAR final regulations that relate to the preparation of applications for the current fiscal year, the Commissioner may extend the closing date to permit applicants to amend their applications.

Further information: For further information contact Dr. Harold C. Lyon, Jr., Director, Office for the Gifted and Talented, U.S. Office of Education, (Room 3827, Donohoe Building), 400 Maryland Avenue, S.W., Washington, D.C. 20202. Telephone: (202) 245-2482.

(20 U.S.C. 3315)

13.562—Gifted and Talented Children's Education Program—State-Administered Program

Closing date: January 25, 1980.

Applications are invited for new projects under the Gifted and Talented Children's Education Program—State-Administered Program.

Authority for this program is contained in Sections 903 and 904 of the Gifted and Talented Children's Education Act of 1978.

(20 U.S.C. 3313-3314)

This program issues awards to State educational agencies (SEA's).

The purpose of the awards is to assist the SEA's in planning, developing, operating, and improving programs to meet the needs of gifted and talented children at the preschool, elementary and secondary levels through a program of competitive awards to local educational agencies (LEA's).

Closing date for transmittal of applications: To be assured of consideration for funding, an application for a new award should be mailed or hand delivered by January 25, 1980.

Applications delivered by mail: An application sent by mail should be addressed to the Office of Gifted and Talented, U.S. Office of Education, 400 Maryland Avenue, S.W. (Room 3827, Donohoe Building—Attention: 13.562) Washington, D.C. 20202.

An applicant should show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service Postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other evidence acceptable to the U.S. Commissioner of Education.

If an application is sent through the U.S. Postal Service, the Commissioner does not accept either of the following as proof of mailing: (1) a private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail.

Applications delivered by hand: An application that is hand delivered should be taken to the U.S. Office of Education, Office of Gifted and Talented, 400 6th Street, S.W., Room 3827, Washington, D.C.

The Office of Gifted and Talented will accept a hand delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

Program information: The Commissioner provides financial assistance to State educational agencies (SEA's) to plan, develop, operate and improve programs to meet the needs of gifted and talented children at the preschool, elementary and secondary levels. Assistance may be used to—(1) Administer a program of competitive awards to local educational agencies (LEA's) for projects that meet the educational needs of gifted and talented children; (2) Provide in-service training of personnel to teach these children; and (3) Provide technical assistance to LEA's in preparing proposals and in planning, developing and operating programs.

SEA's submitting an acceptable application in accordance with the Notice of Proposed Rulemaking published in the *Federal Register* on June 25, 1979 (44 FR 37135) (§ 195.10-195.41) and in accordance with Public Law 95-561, Title IX, Part A, Sec. 904 will receive a minimum grant award of \$50,000 contingent upon a sufficient appropriation to pay this amount.

A State may compete for additional funds under the State administered program by including in its application a designated section addressing the evaluation criteria contained in the Notice of Proposed Rulemaking, § 195.21.

Available funds: It is estimated that approximately \$4.71 million will be available for the State-Administered Program in FY 1980 to support up to 57 new projects.

Application forms: Application forms and program information packages are expected to be ready for mailing by November 21, 1979. They may be obtained by writing to the Office of Gifted and Talented, U.S.O.E., 400 Maryland Avenue, S.W. (Room 3827, Donohoe Building) (13.562) Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. The Commissioner strongly urges that applicants not submit information that is not requested.

Applicable regulations: Regulations applicable to this program include the following:

(a) Regulations governing the Gifted and Talented Children's Education Program (45 CFR Part 195).

These regulations were published as a notice of proposed rulemaking on June

25, 1979. Applicants should base their applications on the notice of proposed rulemaking. When they are published as final regulations and become effective, these regulations will govern applications and grants under this program.

(b) The Education Division General Administrative Regulations (EDGAR) (45 CFR Parts 100b and 100c).

EDGAR was published in proposed form in the *Federal Register* on May 4, 1979 (44 FR 26298). When EDGAR is published as final regulations, it will supersede the General Provisions Regulations for Office of Education Programs (the current 45 CFR Parts 100a through 100d).

If material changes are made in the final regulations governing this Program or in the EDGAR final regulations that relate to the preparation of applications for the current fiscal year, the Commissioner may extend the closing date to permit applicants to amend their applications.

Further information: For further information contact Dr. Harold C. Lyon, Jr., Director, Office of Gifted and Talented, U.S. Office of Education (Room 3827, Donohoe Building 38313-3314), 400 Maryland Avenue, S.W., Washington, D.C. 20202. Telephone: (202) 245-2482.

13.416—Teacher Centers Program Closing Dates

To States: January 31, 1980.

To USOE: March 3, 1980.

Awards for new projects.

Applications are invited for new projects under the Teacher Centers Program.

Authority for this program is contained in section 532, title V-B, of the Higher Education Act of 1965, as amended.

(20 U.S.C. 111(a))

This program makes awards to local educational agencies and institutions of higher education.

The purpose of the awards is to assist local educational agencies in planning, establishing, and operating teacher centers and to assist institutions of higher education in operating teacher centers. However, the unusually limited amount of money available for making grants to new projects in fiscal year 1980 would support only about four projects to operate centers. Therefore, and for the following reasons, we strongly encourage applicants to apply for planning grants instead of operational grants:

(1) A national competition in which over 25,000 agencies and institutions are eligible to compete, and which results in

only four "winners" of grants to operate centers would be wasteful, because the cost of preparing the applications would exceed by far the sum available for new grants.

(2) Furthermore, the comparatively low cost of applying for planning grants is more cost effective.

(3) By funding planning grants, which require less money than operational grants, we would be able to maintain better the momentum of the Teacher Centers Program by starting more new projects.

Institutions of higher education are not eligible to apply for planning grants. In addition, the limited sum available to them for new projects in fiscal year 1980 (estimated to be \$60,000) makes it impracticable for them to apply for operational grants. Therefore, for fiscal year 1980, the entire ten percent set aside for institutions of higher education will be awarded to institutions of higher education whose teacher center projects began in fiscal years 1978 and 1979 and are being continued.

Closing date for transmittal of applications to state educational agencies: To be assured of consideration for funding, applications for awards must be mailed or hand delivered to the appropriate State educational agency by January 31, 1980.

All applications must be submitted to the state educational agency of the State in which the applicant is located, for review by that agency. The State educational agency must then transmit to the U.S. Office of Education those applications that it recommends for consideration and approval by the Commissioner of Education. State educational agencies may set their own criteria for the review of applications, and applicants may wish to take these criteria into consideration. The State criteria (if any) can be obtained by writing to the appropriate State educational agency. See the list of addresses of chief State school officers below.

Applications delivered by mail: An application sent by mail must be addressed with five copies (3 for the U.S. Office of Education) to the chief State school officer of the appropriate State educational agency at the address below. The package in which the application is mailed should be clearly marked: "Attention: CFDA 13.416—Teacher Centers Program application. State review required."

Applications delivered by hand: An application that is hand delivered must be taken to the office of the appropriate chief State school officer, during that office's regular business hours.

Closing date for transmittal of applications to USOE: To be assured of consideration for funding, applications for new awards must be mailed or hand delivered to the Office of Education by March 3, 1980.

Applications delivered by mail: Applications sent by mail must be addressed to the U.S. Office of Education, Application Control Center, Attention: 13.416, Washington, D.C. 20202.

An applicant should show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other evidence acceptable to the U.S. Commissioner of Education.

If an application is sent through the U.S. Postal Service, the Commissioner does not accept either of the following as proof of mailing: (1) a private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail. Each late applicant will be notified that its application will not be considered.

Applications delivered by hand: An application that is hand delivered should be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, S.W., Washington, D.C.

The Application Control Center will accept a hand-delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C., time) daily, except Saturdays, Sundays, and Federal holidays.

An application that is hand delivered will not be accepted after 4:30 p.m. on the closing date.

Appeals to the Commissioner: Applicants whose applications are not transmitted to the U.S. Office of Education by the appropriate State educational agency may appeal to the U.S. Commissioner of Education to request further consideration by the State educational agency. In the event of such an appeal, the Commissioner must request further consideration and the State educational agency must then transmit the application to the Commissioner. Such an appeal, signed by an authorized official for the

applicant, must be received at the address given below under "Further Information" by March 17, 1980, and a copy of the appeal should be sent simultaneously to the appropriate State educational agency. Applicants who wish to appeal are encouraged to make their intent known by telephone at the number given below under "Further Information" prior to submitting a written appeal.

The Commissioner hereby requests further consideration by the appropriate State educational agencies of any and all applications for which an appeal is taken, and further requests the State educational agencies to transmit those applications to the U.S. Office of Education Application Control Center by April 16, 1980.

(Although the amended Teacher Centers Program statute allows the State educational agency to wait 30 days before transmitting its nonrecommended applications for which appeals have been made, transmittal by the date suggested in the above paragraph will facilitate timely review by the Office of Education.)

Available funds: It is estimated that approximately \$800,000 will be available for grants to new projects. As noted above, this amount would fund approximately twenty new projects, if the projects were devoted exclusively to planning. On the other hand, this amount would support only about four new operational projects.

This estimate does not bind the U.S. Office of Education except as may be required by the applicable statute and regulations.

Application forms: Application forms and program information packages are expected to be ready for mailing by November 30, 1979. They may be obtained by writing to the Division of Educational Systems Development, U.S. Office of Education (Room 819, Riviere Building), 400 Maryland Avenue, SW, Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. The Commissioner strongly urges that applicants not submit information that is not requested.

Applicable regulations: The regulations applicable to this program are:

- (a) Regulations governing the Teacher Centers Program (45 CFR Part 197); and
- (b) Office of Education General Provisions Regulations (45 CFR Parts 100 and 100a).

Note—The proposed Education Division General Administrative Regulations

(EDGAR) were published in the Federal Register on May 4, 1979 (44 FR 26298). When EDGAR becomes effective, it will supersede the General Provisions Regulations for Office of Education programs.

If EDGAR takes effect before grants are made under this program, those grants will be subject to the following provisions of EDGAR: Subpart A (General); Subpart E (What Conditions Must Be Met by a Grantee?); Subpart F (What Are the Administrative Responsibilities of a Grantee?); and Subpart G (What Procedures Does the Education Division Use to Get Compliance?).

Further information: For further information contact Dr. Allen Schmieder, Teacher Centers Program, Division of Educational Systems Development, U.S. Office of Education (Room 819, Riviere Building), 400 Maryland Avenue, SW, Washington, D.C. 20202. Telephone (202) 653-5839.

(20 U.S.C. 1119a)

Addresses of Chief State School Officers

Hon. Wayne Teague, Superintendent of Education, State Department of Education, Montgomery, Ala. 36130.
 Hon. Marshall L. Lind, Commissioner of Education, State Department of Education, Juneau, Alaska 99801.
 Hon. Carolyn Warner, Superintendent of Public Instruction, State Department of Education, Phoenix Ariz. 85007.
 Hon. Earl Willis, Acting Director of Education, State Department of Education, Little Rock, Ark. 72201.
 Hon. Wilson Riles, Superintendent of Public Instruction and Director of Education, State Department of Education, Sacramento, Calif. 95184.
 Hon. Calvin M. Frazier, Commissioner of Education, State Department of Education, Denver, Colo. 80203.
 Hon. Mark R. Shedd, Commissioner of Education, State Department of Education, P.O. Box 2219, Hartford, Conn. 06115.
 Hon. Kenneth C. Madden, Superintendent of Public Instruction, State Department of Education, Dover, Del. 19901.
 Hon. Vincent E. Reed, Superintendent of Schools, Public Schools of the District of Columbia, 415 12th Street NW., Washington, D.C. 20004.
 Hon. Ralph D. Turlington, Commissioner of Education, State Department of Education, Tallahassee, Fla. 32304.
 Hon. Charles McDaniel, Superintendent of Schools, State Department of Education, Atlanta, Ga. 30334.
 Hon. Charles G. Clark, Superintendent of Education, P.O. Box 2360, Honolulu, Hawaii 96804.
 Hon. Jerry L. Evans, Superintendent of Public Instruction, State Department of Education, Boise, Idaho 83720.
 Hon. Joseph M. Cronin, Superintendent of Education, Illinois Office of Education, Springfield, Ill. 62777.
 Hon. Harold H. Negley, Superintendent of Public Instruction, Indianapolis, Ind. 46204.

Hon. Robert D. Benton, Superintendent of Public Instruction, Des Moines, Iowa 50319.
 Hon. Merle R. Bolton, Commissioner of Education, State Department of Education, Topeka, Kans. 66612.
 Hon. James B. Graham, Superintendent of Public Instruction, State Department of Education, Frankfort, Ky. 40601.
 Hon. J. Kelly Nix, Superintendent of Education, State Department of Education, Baton Rouge, La. 70804.
 Hon. H. Sawin Millett, Jr., Commissioner of Educational and Cultural Services, State Department of Educational and Cultural Services, Augusta, Maine 04333.
 Hon. David W. Hornbeck, Superintendent of Schools, State Department of Education, Baltimore-Washington International Airport, P.O. Box 8717, Baltimore, Md. 21240.
 Hon. Gregory R. Anrig, Commissioner of Education, State Department of Education, 31 St. James Avenue, Boston, Mass. 02116.
 Hon. John W. Porter, Superintendent of Public Instruction, State Department of Education, Lansing, Mich. 48909.
 Hon. Howard B. Casmeys, Commissioner of Education, State Department of Education, St. Paul, Minn. 55101.
 Hon. Charles E. Holladay, Superintendent of Education, State Department of Education, Jackson, Miss. 39205.
 Hon. Arthur L. Mallory, Commissioner of Education, State Department of Elementary and Secondary Education, Jefferson City, Mo. 65101.
 Hon. Georgia R. Rice, Superintendent of Public Instruction, Office of the State Superintendent, State Capitol, Helena, Mont. 59601.
 Hon. M. Anne Campbell, Commissioner of Education, State Department of Education, Lincoln, Nebr. 68509.
 Hon. Ted Sanders, Superintendent of Public Instruction, State Department of Education, 400 West King Street, Carson City, Nev. 89710.
 Hon. Robert L. Brunelle, Commissioner of Education, State Department of Education, Concord, N.H. 03301.
 Hon. Fred G. Burke, Commissioner of Education, State Department of Education, Trenton, N.J. 08625.
 Hon. Leonard J. DeLayo, Superintendent of Public Instruction, State Department of Education, Santa Fe, N. Mex. 87503.
 Hon. Gordon M. Ambach, Commissioner of Education, State Education Department, Albany, N.Y. 12234.
 Hon. A. Craig Phillips, Superintendent of Public Instruction, State Department of Public Instruction, Raleigh, N.C. 27611.
 Hon. Howard J. Snortland, Superintendent of Public Instruction, State Department of Public Instruction, Bismarck, N. Dak. 58505.
 Hon. Franklin B. Walter, Superintendent of Public Instruction, State Department of Education, Columbus, Ohio 43215.
 Hon. Leslie R. Fisher, Superintendent of Public Instruction, State Department of Education, Oklahoma City, Okla. 73105.
 Hon. Verne A. Duncan, Superintendent of Public Instruction, State Department of Education, Salem, Ore. 97310.
 Hon. Robert G. Scanlon, Secretary of Education, State Department of Education, Harrisburg, Pa. 17126.

Hon. Thomas C. Schmidt, Commissioner of Education, State Department of Education, Providence, R.I. 02908.
 Hon. Charlie G. Williams, Superintendent of Education, State Department of Education, Columbia, S.C. 29201.
 Hon. Thomas C. Todd, State Superintendent of the Division of Elementary and Secondary Education, KNEIP Building, Pierre, S. Dak. 57501.
 Hon. E. A. Cox, Commissioner of Education, State Department of Education, Nashville, Tenn. 37219.
 Hon. Marlin L. Brockette, Commissioner of Education, Texas Education Agency, Austin, Tex. 78701.
 Hon. Walter D. Talbot, Superintendent of Public Instruction, State Board of Education, Salt Lake City, Utah 84111.
 Hon. Robert A. Withey, Commissioner of Education, State Department of Education, Montpelier, Vt. 05602.
 Hon. W. E. Campbell, Superintendent of Public Instruction, State Department of Education, Richmond, Va. 23216.
 Hon. Frank B. Brouillet, Superintendent of Public Instruction, Office of the Superintendent of Public Instruction, Olympia, Wash. 98504.
 Hon. Daniel B. Taylor, Superintendent of Schools, State Department of Education, Charleston, W. Va. 25305.
 Hon. Barbara S. Thompson, Superintendent of Public Instruction, State Department of Public Instruction, Wisconsin Hall, 126 Langdon St., Madison, Wis. 53702.
 Hon. Lynn Simons, Superintendent of Public Instruction, State Department of Education, Hathaway Building, Cheyenne, Wyo. 82002.

Chief State School Officers of Outlying Areas

Hon. Mere T. Betham, Director of Education, Department of Education, Pago Pago, Tutuila, American Samoa 96799.
 Hon. David A. Speir, Superintendent of Schools, Canal Zone Government, Box M. Balboa Heights, Canal Zone.
 Hon. Mary E. Cadigan, Director of Education, Department of Education, Agana, Guam 96910.
 Hon. Carlos E. Chardon, Jr., Secretary of Education, Department of Education, Hato Rey, P.R. 00919.
 Hon. David Ramarui, Director of Education, Department of Education, Saipan, Mariana Islands, Trust Territory of the Pacific Islands 96950.
 Mr. Isaac M. Calvo, Assistant Director of Education, Department of Education, Commonwealth of the Northern Mariana Islands, Saipan, Mariana Islands 96950.
 Hon. Gwendolyn E. Kean, Commissioner of Education, Department of Education, Box 630, Charlotte Amalie, St. Thomas, V.I. 00801.

13.416—Teacher Centers Program Closing Dates

To States: January 31, 1980.
 To USOE: March 3, 1980.
Noncompeting Continuation Projects.
 Applications are invited for noncompeting continuation projects under the Teacher Centers Program. Authority for this program is contained in section 532, title V—E, of the

Higher Education Act of 1965, as amended.

(20 U.S.C. 1119a)

This program makes awards to local educational agencies and institutions of higher education.

The purpose of the awards is to assist local educational agencies in planning, establishing, and operating teacher centers and to assist institutions of higher education in operating teacher centers.

Closing date for transmittal of applications to State educational agencies: To be assured of consideration for funding, applications for noncompeting continuation awards should be mailed or hand delivered to the appropriate State educational agency by January 31, 1980.

If the application is late, the State educational agency may lack sufficient time to review it with other noncompeting continuation applications and may decline to accept it.

All applications must be submitted to the State educational agency of the State in which the applicant is located, for review by that agency. The State educational agency must then transmit to the U.S. Office of Education those applications that it recommends for consideration and approval by the Commissioner of Education. State educational agencies may set their own criteria for the review of applications, and applicants may wish to take these criteria into consideration. The State criteria (if any) can be obtained by writing to the appropriate State educational agency. See the list of addressed of chief State school officers below.

Applications delivered by mail: An application sent by mail should be addressed with five copies (3 for the U.S. Office of Education) to the chief State school officer of the appropriate State educational agency at the address below. The package in which the application is mailed should be clearly marked: "Attention: CFDA 13.416—Teacher Centers Program continuation application. State review required."

Application delivered by hand: An application that is hand delivered must be taken to the office of the appropriate chief State school officer, during that officer's regular business hours.

Closing date for transmittal of applications to USOE: To be assured of consideration for funding, applications for noncompeting continuation awards should be mailed or hand delivered to the Office of Education by March 3, 1980.

If the application is late, the Office of Education may lack sufficient time to

review it with other noncompeting continuation applications and may decline to accept it.

Applications delivered by mail: Applications sent by mail must be addressed to the U.S. Office of Education, Application Control Center, Attention: 13.416, Washington, D.C. 20202.

An applicant should show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other evidence of mailing acceptable to the U.S. Commissioner of Education.

If an application is sent through the U.S. Postal Service, the Commissioner does not accept either of the following as proof of mailing: (1) a private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail.

Applications delivered by hand: An application that is hand delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets S.W., Washington, D.C.

The Application Control Center will accept a hand-delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C., time) daily, except Saturdays, Sundays, and Federal holidays.

Appeals to the commissioner: Applicants whose applications are not transmitted to the U.S. Office of Education by the appropriate State educational agency may appeal to the U.S. Commissioner of Education to request further consideration by the State educational agency. In the event of such an appeal, the Commissioner must request further consideration and the State educational agency must then transmit the application to the Commissioner. Such an appeal, signed by an authorized official for the applicant, must be received at the address given below under "Further Information" by March 17, 1980, and a copy of the appeal should be sent simultaneously to the appropriate State educational agency. Applicants who wish to appeal are encouraged to make their intent known telephone at the

number below under "Further Information" prior to submitting a written appeal.

The Commissioner hereby requests further consideration by the appropriate State educational agencies of any and all applications for which an appeal is taken, and further requests the State educational agencies to transmit those applications to the U.S. Office of Education Application Control Center by April 16, 1980.

(Although the amended Teacher Centers Program statute allows the State educational agency to wait 30 days before transmitting its nonrecommended application for which appeals have been made, transmittal by the date suggested in the above paragraph will facilitate timely review by the Office of Education.)

Available funds: It is estimated that funds will be available for continuation of projects at approximately the same level as the prior year. No applicant, except those whose grants in the prior year were made exclusively for planning, should expect to receive more funds than it was granted for the prior year.

This estimate does not bind the U.S. Office of Education except as may be required by the applicable statute and regulations.

Application forms: Application forms and program information packages are expected to be ready for mailing by November 30, 1979. They may be obtained by writing to the Division of Educational Systems Development, U.S. Office of Education (Room 819, Riviere Building), 400 Maryland Avenue, SW., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages. The Commissioner strongly urges that applicants not submit information that is not requested.

Applicable regulations: The regulations applicable to this program are:

(a) Office of Education General Provisions Regulations (45 CFR Parts 100 and 100a), and

(b) The regulations governing the Teacher Centers Programs (45 CFR Part 197).

Note.—The proposed Education Division General Administrative Regulations (EDGAR) were published in the Federal Register on May 4, 1979 (44 FR 26298). When EDGAR becomes effective, it will supersede the General Provisions Regulations for Office of Education programs.

If EDGAR takes effect before grants are made under this program, those grants will be subject to the following

provisions of EDGAR: Subpart A (General); Subpart E (What Conditions Must Be Met by a Grantee?);

Hon. Wayne Teague, Superintendent of Education, State Department of Education, Montgomery, Ala. 36130.

Hon. Marshall L. Lind, Commissioner of Education, State Department of Education, Juneau, Alaska 99801.

Hon. Carolyn Warner, Superintendent of Public Instruction, State Department of Education, Phoenix, Ariz. 85007.

Hon. Earl Willis, Acting Director of Education, State Department of Education, Little Rock, Ark. 72201.

Hon. Wilson Riles, Superintendent of Public Instruction and Director of Education, State Department of Education, Sacramento, Calif. 95184.

Hon. Calvin M. Frazier, Commissioner of Education, State Department of Education, Denver, Colo. 80203.

Hon. Mark R. Shedd, Commissioner of Education, State Department of Education, P.O. Box 2219, Hartford, Conn. 06115.

Hon. Kenneth C. Madden, Superintendent of Public Instruction, State Department of Public Instruction, Dover, Del. 19901.

Hon. Vincent E. Reed, Superintendent of Schools, Public Schools of the District of Columbia, 415 12th Street NW., Washington, D.C. 20004.

Hon. Ralph D. Turlington, Commissioner of Education, State Department of Education, Tallahassee, Fla. 32304.

Hon. Charles McDaniel, Superintendent of Schools, State Department of Education, Atlanta, Ga. 30334.

Hon. Charles G. Clark, Superintendent of Education P.O. Box 2360, Honolulu, Hawaii 96804.

Hon. Jerry L. Evans, Superintendent of Public Instruction, State Department of Education, Boise, Idaho 83720.

Hon. Joseph M. Cronin, Superintendent of Education, Illinois Office of Education, Springfield, Ill. 62777.

Hon. Harold H. Negley, Superintendent of Public Instruction, Indianapolis, Ind. 46204.

Hon. Robert D. Benton, Superintendent of Public Instruction, Des Moines, Iowa 50319.

Hon. Merle R. Bolton, Commissioner of Education, State Department of Education, Topeka, Kans. 66612.

Hon. James B. Graham, Superintendent of Public Instruction, State Department of Education, Frankfort, Ky. 40601.

Hon. J. Kelly Nix, Superintendent of Education, State Department of Education, Baton Rouge, La. 70804.

Hon. H. Sawin Millett, Jr., Commissioner of Educational and Cultural Services, State Department of Educational and Cultural Services, Augusta, Maine 04333.

Hon. David W. Hornbeck, Superintendent of Schools, State Department of Education, Baltimore-Washington International Airport, P.O. Box 8717, Baltimore, Md. 21240.

Hon. Gregory R. Anrig, Commissioner of Education, State Department of Education, 31 St. James Avenue, Boston, Mass. 02116.

Subpart F (What are the Administrative Responsibilities of a Grantee?); and Subpart G (What

Procedures Does the Education Division Use to Get Compliance?).

Further information: For further information contact Dr. Allen Schmieder, Teacher Centers Program, Division of Educational Systems Development, U.S. Office of Education (Room 819, Riviere Building), 400 Maryland Avenue, SW., Washington, D.C. 20202. Telephone (202) 653-5839. (20 U.S.C. 1119a)

Addresses of Chief State School Officers

Hon. John W. Porter, Superintendent of Public Instruction, State Department of Education, Lansing, Mich. 48909.

Hon. Howard B. Casmey, Commissioner of Education, State Department of Education, St. Paul, Minn. 55101.

Hon. Charles E. Holladay, Superintendent of Education, State Department of Education, Jackson, Miss. 39205.

Hon. Arthur L. Mallory, Commissioner of Education, State Department of Elementary and Secondary Education, Jefferson City, Mo. 65101.

Hon. Georgia R. Rice, Superintendent of Public Instruction, Office of the State Superintendent, State Capitol, Helena, Mont. 59601.

Hon. M. Anne Campbell, Commissioner of Education, State Department of Education, Lincoln, Nebr. 68509.

Hon. Ted Sanders, Superintendent of Public Instruction, State Department of Education, 400 West King Street, Carson City, Nev. 89710.

Hon. Robert L. Brunelle, Commissioner of Education, State Department of Education, Concord, N.H. 03301.

Hon. Fred G. Burke, Commissioner of Education, State Department of Education, Trenton, N.J. 08625.

Hon. Leonard J. DeLayo, Superintendent of Public Instruction, State Department of Education, Santa Fe, N. Mex. 87503.

Hon. Gordon M. Ambach, Commissioner of Education, State Education Department, Albany, N.Y. 12234.

Hon. A. Craig Phillips, Superintendent of Public Instruction, State Department of Public Instruction, Raleigh, N.C. 27611.

Hon. Howard J. Shortland, Superintendent of Public Instruction, State Department of Public Instruction, Bismarck, N. Dak. 58505.

Hon. Franklin B. Walter, Superintendent of Public Instruction, State Department of Education, Columbus, Ohio 43215.

Hon. Leslie R. Fisher, Superintendent of Public Instruction, State Department of Education, Oklahoma City, Okla. 73105.

Hon. Verne A. Duncan, Superintendent of Public Instruction, State Department of Education, Salem, Ore. 97310.

Hon. Robert G. Scanlon, Superintendent of Education, State Department of Education, Harrisburg, Pa. 17126.

Hon. Thomas C. Schmidt, Commissioner of Education, State Department of Education, Providence, R.I. 02908.

Hon. Charlie G. Williams, Superintendent of Public Instruction, State Department of Education, Columbia, S.C. 29201.

Hon. Thomas C. Todd, State Superintendent of the Division of Elementary and

Secondary Education, KNEIP Building, Pierre, S. Dak. 57501.

Hon. E. A. Cox, Commissioner of Education, State Department of Education, Nashville, Tenn. 37219.

Hon. Mark L. Brockette, Commissioner of Education, Texas Education Agency, Austin, Tex. 78701.

Hon. Walter D. Talbot, Superintendent of Public Instruction, State Board of Education, Salt Lake City, Utah 84111.

Hon. Robert A. Withey, Commissioner of Education, State Department of Education, Montpelier, Vt. 05602.

Hon. W. E. Campbell, Superintendent of Public Instruction, State Department of Education, Richmond, Va. 23216.

Hon. Frank E. Brouillet, Superintendent of Public Instruction, Office of the Superintendent of Public Instruction, Olympia, Wash. 98504.

Hon. Daniel B. Taylor, Superintendent of Schools, State Department of Education, Charleston, W. Va. 25305.

Hon. Barbara S. Thompson, Superintendent of Public Instruction, State Department of Public Instruction, Wisconsin Hall, 126 Langdon St., Madison, Wis. 53702.

Hon. Lynn Simons, Superintendent of Public Instruction, State Department of Education, Hathaway Building, Cheyenne, Wyo. 82002.

Chief State School Officers of Outlying Areas

Hon. Mere T. Betham, Director of Education, Department of Education, Pago Pago, Tutuila, American Samoa 96799.

Hon. David A. Speir, Superintendent of Schools, Canal Zone Government, Box M, Balboa Heights, Canal Zone

Hon. Mary E. Cadigan, Director of Education, Department of Education, Agana, Guam 96910.

Hon. Carlos E. Chardon, Jr., Secretary of Education, Department of Education, Hato Rey, P. R. 00919.

Hon. David Ramarui, Director of Education, Department of Education, Saipan, Mariana Islands, Trust Territory of the Pacific Islands 96950.

Mr. Isaac M. Calvo, Assistant Director of Education, Department of Education, Commonwealth of the Northern Mariana Islands, Saipan, Mariana Islands 96950.

Hon. Gwendolyn E. Kean, Commissioner of Education, Department of Education, Box 630, Charlotte Amalie, St. Thomas, V.I. 00801.

13.576—Strengthening Research Library Resources

Closing date: February 15, 1980.

Applications are invited for new projects under the Strengthening Research Library Resources Program.

Authority for this program is contained in sections 231-236 of Part C of Title II of the Higher Education Act of 1965, as amended by section 107 of the Education Amendments of 1976.

(20 U.S.C. 1041-1046.)

This program issues grants to public or private nonprofit institutions, including the library resources of institutions of higher education,

independent research libraries, and State and other public libraries which serve as major research libraries as defined in § 136.04 of the regulations.

The purpose of these grants is to promote research and education of higher quality throughout the United States by providing financial aid to eligible major research libraries to help maintain and strengthen their collections, and to make these collections available to researchers and scholars beyond their primary users and to other libraries whose users have need for research materials.

Closing date for transmittal of applications: An application for a grant must be mailed or hand delivered by February 15, 1980.

Applications delivered by mail: An application sent by mail must be addressed to the U.S. Office of Education, Application Control Center, Attention: 13.576, Washington, D.C. 20202.

An applicant must show proof of mailing consisting of one of the following:

- (1) A legibly dated U.S. Postal Service postmark.
- (2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.
- (3) A dated shipping label, invoice, or receipt from a commercial carrier.
- (4) Any other proof of mailing acceptable to the U.S. Commissioner of Education.

If an application is sent through the U.S. Postal Service, the Commissioner does not accept either of the following as proof of mailing: (1) a private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail. Each late applicant will be notified that its application will not be considered.

Applications delivered by hand: An application that is hand delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, SW., Washington, D.C.

The Application Control Center will accept a hand-delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C., time) daily, except Saturdays, Sundays, and Federal holidays.

An application that is hand delivered will not be accepted after 4:30 p.m. on the closing date.

Program information: In formulating proposals for new projects, potential applicants should give special attention to § 136.04, which provides a definition of what constitutes a major research library and to § 136.06, which contains specific program funding criteria and the number of points attached to each. While planning grants are not deemed eligible for consideration, a proposed project may include a planning component prior to an operational component.

Available funds: It is expected that approximately \$6 million will be available for the strengthening research library resources program in fiscal year 1980.

It is estimated that these funds could support approximately 12 new projects with approximately \$2.5 million and support 14 noncompeting continuation projects with approximately \$3.5 million.

However, these estimates do not bind the U.S. Office of Education to a specific number of grants or to the amount of any grant unless that amount is otherwise specified by statute or regulations.

Application forms: Application forms and program information packages are expected to be ready for mailing by November 15, 1979. They may be obtained by writing to the Library Education and Postsecondary Resources Branch, U.S. Office of Education (Room 3622, Regional Office Building 3), 400 Maryland Avenue, SW., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. The Commissioner strongly urges that the narrative portion of the application not exceed 50 pages in length. The Commissioner further urges that applicants not submit information that is not requested.

Applicable regulations: Regulations applicable to this program are:

- (a) Regulations governing the Strengthening Research Library Resources Program (45 CFR Part 136); and
- (b) General Provisions Regulations for Office of Education Programs (45 CFR Parts 100 and 100a).

Note.—The proposed Education Division General Administrative Regulations (EDGAR) were published in the Federal Register on May 4, 1979 (44 FR 26298). When EDGAR becomes effective, it will supersede the General Provisions Regulations for Office of Education Programs.

If EDGAR takes effect before grants are made under this program, those grants will be subject to the following provisions of EDGAR: Subpart A

(General); Subpart E (What Conditions Must Be Met by a Grantee?); Subpart F (What Are the Administrative Responsibilities of a Grantee?) and Subpart G (What Procedures Does the Education Division Use to Get Compliance?).

Further information: For further information contact Mr. Frank A. Stevens, Chief, Library Education and Postsecondary Resources Branch, Division of Library Programs, Office of Libraries and Learning Resources, U.S. Office of Education, (Room 3622, Regional Office Building 3), 400 Maryland Avenue, SW., Washington, D.C. 20202, telephone 202-245-9530. (20 U.S.C. 1041-1046)

13.576—Strengthening Research Library Resources

Closing date: February 15, 1980.

Noncompeting Continuation Projects. Applications are invited for noncompeting continuation projects under the Strengthening Research Library Resources Program.

Authority for this program is contained in sections 231-236 of Part C of Title II of the Higher Education Act of 1965, as amended by section 107 of the Education Amendments of 1976.

(20 U.S.C. 1041-1046)

This program issues grants to public or private nonprofit institutions, including the library resources of institutions of higher education, independent research libraries, and State and other public libraries which serve as major research libraries as defined in § 136.04 of the regulations.

The purpose of these grants is to promote research and education of higher quality throughout the United States by providing financial aid to eligible major research libraries to help maintain and strengthen their collections, and to make these collections available to researchers and scholars beyond their primary users and to other libraries whose users have need for research materials.

Closing date for transmittal of applications: To be assured of consideration for funding, an application for a noncompeting continuation award should be mailed or hand delivered by February 15, 1980.

If the application is late, the Office of Education may lack sufficient time to review it with other noncompeting continuation applications and may decline to accept it.

Applications delivered by mail: An application sent by mail should be addressed to the U.S. Office of Education, Application Control Center,

Attention: 13.567, Washington, D.C. 20202.

An applicant should show proof of mailing consisting of one of the following:

- (1) A legibly dated U.S. Postal Service postmark.
 - (2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.
 - (3) A dated shipping label, invoice, or receipt from a commercial carrier.
 - (4) Any other evidence acceptable to the U.S. Commissioner of Education.
- If an application is sent through the U.S. Postal Service, the Commissioner does not accept either of the following as proof of mailing: (1) a private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail.

Applications delivered by hand: An application that is hand delivered should be taken to the U.S. Office of Education, Application Control Center, Room 5672, Regional Office Building 3, 7th and D Streets, S.W., Washington, D.C.

The Application Control Center will accept a hand-delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C., time) daily, except Saturdays, Sundays, and Federal holidays.

Program information: In formulating proposals for noncompeting continuation projects, applicants should give special attention to section 136.10(d), which provides an explanation of the procedure to be used in evaluating these proposals.

Available funds: It is expected that approximately \$6 million will be available for the Strengthening Research Library Resources program in fiscal year 1980.

It is estimated that these funds could support approximately 12 new projects with approximately \$2.5 million and support 14 noncompeting continuation projects with approximately \$3.5 million.

However, these estimates do not bind the U.S. Office of Education to a specific number of grants or to the amount of any grant unless that amount is otherwise specified by statute or regulations.

Application forms: Application forms and program information packages are expected to be ready for mailing by November 15, 1979. They may be obtained by writing to the Library Education and Post-secondary

Resources Branch, U.S. Office of Education (Room 3622, Regional Office Building 3), 400 Maryland Avenue, S.W., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. It will not be necessary for applicants to include the basic institutional data required in the original application. The new narrative will be expected to address itself to project activities for the continuing year requested. The Commissioner urges that applicants not submit information that is not requested.

Applicable regulations: Regulations applicable to this program are:

- (a) Regulations governing the Strengthening Research Library Resources Program (45 CFR Part 136); and
- (b) General Provisions Regulations for Office of Education Program (45 CFR Parts 100 and 100a).

Note.—The proposed Education Division General Administrative Regulations (EDGAR) were published in the Federal Register on May 4, 1979 (44 FR 26298). When EDGAR becomes effective, it will supersede the General Provisions Regulations for Office of Education Programs.

If EDGAR takes effect before grants are made under this program those grants will be subject to the following provisions of EDGAR: Subpart A (General); Subpart E (What Conditions Must Be Met by a Grantee?); Subpart F (What Are the Administrative Responsibilities of a Grantee?); and Subpart G (What Procedures Does the Education Division Use to Get Compliance?).

Further information: For further information contact Mr. Frank A. Stevens, Chief, Library Education and Postsecondary Resources Branch, Division of Library Programs, OLLR, U.S. Office of Education, (Room 3622, Regional Office Building 3), 400 Maryland Avenue, S.W., Washington, D.C. 20202, Telephone (202) 245-9530. (20 U.S.C. 1041-1046)

13.446—Media Research, Production, Distribution, and Training Grant Program

Closing date: February 18, 1980.

Applications are invited for new projects under the Educational Media Research, Production, Distribution, and Training Grant Program.

Authority for this program is contained in sections 651 and 652 of Part F of the Education for the Handicapped Act, as amended.

(20 U.S.C. 1451, 1452).

This program issues awards to profit or nonprofit public and private agencies, organizations, and institutions to promote the advancement of handicapped persons through media by assisting research, production, distribution, and training in the use of media.

Closing date for transmittal of applications: An application for a grant must be mailed or hand delivered by February 18, 1980.

Applications delivered by mail: An application sent by mail must be addressed to the U.S. Office of Education, Application Control Center, Attention: 13.446, Washington, D.C. 20202.

An applicant must show proof of mailing consisting of one of the following:

- (1) A legibly dated U.S. Postal Service postmark.
- (2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.
- (3) A dated shipping label, invoice, or receipt from a commercial carrier.
- (4) Any other proof of mailing acceptable to the U.S. Commissioner of Education.

If an application is sent through the U.S. Postal Service, the Commissioner does not accept either of the following as proof of mailing: (1) a private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail. Each late applicant will be notified that its application will not be considered.

Applications delivered by hand: An application that is hand delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, SW., Washington, D.C.

The Application Control Center will accept a hand-delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C., time) daily, except Saturday, Sundays, and Federal holidays.

An application that is hand delivered will not be accepted after 4:30 p.m. on the closing date.

Available funds: In the first three years of this program, a combined total of approximately 10 million dollars has been awarded to 70 grantees for new awards and noncompeting continuation awards. The budget for 1980 has not yet been established but should equal and

may exceed the average for the first three years.

Previous first year awards for new projects have been between \$25,000 and \$220,000 with the average just over \$100,000. It is anticipated that most new awards will fall in this range. However, these estimates do not bind the U.S. Office of Education to a specific number of grants or to the amount of any grant unless that amount is otherwise specified by statute or regulations.

Application forms: Application forms and program information packages are expected to be ready for mailing by December 7, 1979. They may be obtained by writing to the Division of Media Services, Bureau of Education for the Handicapped, U.S. Office of Education (Room 4853 Donohoe Building), 400 Maryland Avenue, S.W., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. The Commissioner strongly urges that the narrative portion of the application not exceed 25 pages in length. The Commissioner further urges that applicants not submit information that is not requested.

Special procedures: Applicants to this program are not subject to the State and areawide clearinghouse review procedures under OMB Circular A-95.

Applicable regulations: Regulations applicable to this program include the following:

(a) Regulations governing Instructional Media for the Handicapped Program (45 CFR Part 121i); and

(b) General Provisions Regulations for Office of Education Programs (45 CFR Parts 100 and 100a).

Note.—The proposed Education Division General Administrative Regulations (EDGAR) were published in the Federal Register on May 4, 1979 (44 FR 26298). When EDGAR becomes effective, it will supersede the General Provisions Regulations for Office of Education Programs.

If EDGAR takes effect before grants are made under this program, those grants will be subject to the following provisions of EDGAR: Subpart A (General); Subpart E (What Conditions Must Be Met by a Grantee?); Subpart F (What Are the Administrative Responsibilities of a Grantee?); and Subpart G (What Procedures Does the Education Division Use to Get Compliance?).

Also, new regulations for this program are in development. A Notice of Proposed Rulemaking is expected to be published in the near future and new regulations are expected to be in effect

prior to the release of the new application. If so, these regulations will supersede the current 45 CFR Part 121i. Any changes in regulations will be included in the program information packets with the application forms.

Further information: For further information contact Mr. Barry E. Katz, Grants Program Officer, Division of Media Services, Bureau of Education for the Handicapped, U.S. Office of Education, (Donohoe Building, Room 4819), 400 Maryland Avenue, S.W., Washington, D.C. 20202, Telephone: (202) 472-4640.

(20 U.S.C. 1451, 1452)

13.446—Media Research, Production, Distribution, and Training Grant Program

Closing date: February 18, 1980.

Noncompeting Continuation Projects

Applications are invited for noncompeting continuation projects under the Educational Media Research, Production, Distribution, and Training Grant Program.

Authority for this program is contained in sections 651 and 652 of Part F of the Education for the Handicapped Act, as amended.

(20 U.S.C. 1451, 1452)

This program issues awards to promote the advancement of handicapped persons through media by assisting research, production, distribution, and training in the use of media.

Closing date for transmittal of applications: To be assured of consideration for funding, an application for a noncompeting continuation award should be mailed or hand delivered by February 18, 1980.

If the application is late, the Office of Education may lack sufficient time to review it with other noncompeting continuation applications and may decline to accept it.

Applications delivered by mail: An application sent by mail should be addressed to the U.S. Office of Education, Application Control Center, Attention: 13.446, Washington, D.C. 20202.

An applicant should show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other evidence acceptable to the U.S. Commissioner of Education.

If an application is sent through the U.S. Postal Service, the Commissioner does not accept either of the following as proof of mailing: (1) a private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail.

Applications delivered by hand: An application that is hand delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, S.W., Washington, D.C.

The Application Control Center will accept a hand delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C., time) daily, except Saturdays, Sundays, and Federal holidays.

Available funds: In the first three years of this program, a combined total of approximately 10 million dollars has been awarded to 70 grantees for new awards and noncompeting continuation awards. The budget for 1980 has not yet been established but could equal and may exceed the average for the first three years.

In fiscal year 1979, approximately \$1,250,000 was awarded for noncompeting continuation awards to ten grantees. However, the U.S. Office of Education is not bound to a specific number of grants or to the amount of any grant unless that amount is otherwise specified by statute or regulations.

Application forms: Application forms and program information packages are expected to be ready for mailing by December 7, 1979. They may be obtained by writing to the Division of Media Services, Bureau of Education for the Handicapped, U.S. Office of Education (Room 4853 Donohoe Building), 400 Maryland Avenue, S.W., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. The Commissioner strongly urges that applicants not submit information that is not requested.

Special procedures: Applicants to this program are not subject to the State and areawide clearinghouse review procedures under OMB Circular A-95.

Applicable regulations: Regulations applicable to this program include the following:

(a) Regulations governing Instructional Media for the

Handicapped Program (45 CFR Part 121i); and

(b) General Provisions Regulations for Office of Education programs (45 CFR Parts 100 and 100a).

Note.—The proposed Education Division General Administrative Regulation (EDGAR) were published in the Federal Register on May 4, 1979 (44 FR 26298). When EDGAR becomes effective, it will supersede the General Provisions Regulations for Office of Education Programs.

If EDGAR takes effect before grants are made under this program, those grants will be subject to the following provisions of EDGAR: Subpart A (General); Subpart E (What Conditions Must Be Met by a Grantee?); Subpart F (What Are the Administrative Responsibilities of a Grantee?); and Subpart G (What Procedures Does the Education Division Use to Get Compliance?).

Also, new regulations for this program are in development. A notice of Proposed Rulemaking is expected to be published in the near future. If new regulations are in effect prior to the release of the new application, the new regulations will supersede the current 45 CFR Part 121i. Any changes in the regulations will be included in the program information packets with the application forms.

Further information: For further information contact Mr. Barry E. Katz, Grants Program Officer, Division of Media Services, Bureau of Education for the Handicapped, U.S. Office of Education, (Donohoe Building, Room 4819), 400 Maryland Avenue, S.W., Washington, D.C. 20202, Telephone (202) 472-4640.

(20 U.S.C. 1451, 1452)

13.599A—Basic Skills Improvement—Basic Skills in the Schools Program

Closing Date February 29, 1980

Applications are invited for new projects under the Basic Skills Improvement Program—Basic Skills Improvement in the Schools Program.

Authority for this program is contained in Section 205 of the Elementary and Secondary Education Act, as amended by the Education Amendments of 1978.

(20 U.S.C. 2885)

This program issues awards to State and local educational agencies (elementary and secondary) and other public and private agencies, organizations, and institutions.

The purpose of the awards is to support activities to demonstrate improved delivery of instructional services in the areas of reading,

mathematics, and oral and written communications.

Closing date for transmittal of applications: An application for a grant must be mailed or hand delivered by February 29, 1980.

Applications delivered by mail: An application sent by mail must be addressed to the U.S. Office of Education, Application Control Center, Attention: 13.599A, Washington, D.C. 20202.

An applicant must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the U.S. Commissioner of Education.

If an application is sent through the U.S. Postal Service, the Commissioner does not accept either of the following as proof of mailing: (1) a private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail. Each late applicant will be notified that its application will not be considered.

Applications delivered by hand: An application that is hand delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, S.W., Washington, D.C.

The Application Control Center will accept a hand-delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C., time) daily, except Saturdays, Sundays, and Federal holidays.

An application that is hand delivered will not be accepted after 4:30 p.m. on the closing date.

Program Information: It is expected that these projects will be multi-year in duration. Projects must be designed to serve as demonstration models and show promise of replication and validation.

After the first year of funding, applicants are expected to decrease their level of Federal funding as stated in § 162.114 of the Basic Skills Improvement proposed regulations. Therefore, applications should reflect this decrease in future years.

An applicant should review § 162.120 of the proposed regulations to determine if it is required to submit an application to the State educational agency for comment. If so, the applicant shall submit a copy of its application to the State educational agency fifteen (15) days before the closing date for submitting applications to the Commissioner. To ensure consideration of its comments, the State educational agency shall forward its comments to the Commissioner within thirty (30) days.

Available funds: It is expected that approximately \$7,500,000 will be available for the Basic Skills in the Schools Program in FY 1980.

It is estimated that these funds could support approximately 115 elementary and secondary projects.

The anticipated award for each new project may vary between \$50,000 and \$150,000.

However, these estimates do not bind the U.S. Office of Education to a specific number of grants or to the amount of any grant unless that amount is otherwise specified by statute or regulations.

Application forms: Application forms and program information packages are expected to be ready for mailing by November 26, 1979. They may be obtained by writing to the Basic Skills Program Office, U.S. Office of Education, (Room 1167 Donohoe Building), 400 Maryland Avenue, S.W., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. The Commissioner strongly urges that the narrative portion of the application not exceed thirty (30) pages in length. The Commissioner further urges that applicants submit only the information that is requested.

Applicable regulations: Regulations applicable to this program include the following:

(a) Regulations governing the Basic Skills and Educational Proficiency Programs (45 CFR Part 162).

These regulations were published as a notice of proposed rulemaking on April 27, 1979 (44 FR 25148). When they are published as final regulations and become effective, these regulations will govern applications and grants under this program. The U.S. Office of Education anticipates publishing the final regulations in early Fall. Applicants should wait until final regulations are published before planning their projects.

(b) The Education Division General Administrative Regulations (EDGAR) (45 CFR Parts 100a and 100c).

EDGAR was published in proposed form in the *Federal Register* on May 4, 1979 (44 FR 26298). When EDGAR is published as final regulations, it will supersede the General Provisions Regulations for Office of Education Programs (the current 45 CFR Parts 100a through 100d).

When it becomes effective, EDGAR will govern applications and grants under this program. The selection criteria contained in Subpart D of EDGAR (§§ 100a.202-100a.206) are included in the preamble to this notice.

If material changes are made in the final regulations governing this Program or in the EDGAR final regulations that relate to the preparation of applications for the current fiscal year, the Commissioner may extend the closing date of permit applicants to amend their applications.

Further information: For further information contact Mr. Thomas Keyes, Education Program Specialist, Basic Skills Program Office, U.S. Office of Education (Room 1150, Donohoe Building), 400 Maryland Avenue, S.W., Washington, D.C. 20202, Telephone: (202) 245-2710.

(20 U.S.C. 2885)

13.599B—Basic Skills Improvement—Parent Participation Program

Closing date: February 29, 1980.

Applications are invited for new projects under the Basic Skills Improvement Program—Parent Participation Program.

Authority for this program is contained in Section 208 of the Elementary and Secondary Education Act, as amended by the Education Amendments of 1978.

(20 U.S.C. 2886)

This program issues awards to State and local educational agencies (elementary and secondary), and other public and private agencies, organizations and institutions.

The purpose of the awards is to support activities designed to enlist the assistance of parents and volunteers working with schools to improve the skills of children in reading, mathematics, and oral and written communication.

Closing date for transmittal of applications: An application for a grant must be mailed or hand delivered by February 29, 1980.

Applications delivered by mail: An application sent by mail must be addressed to the U.S. Office of Education, Application Control Center,

Attention: 13.599B, Washington, D.C. 20202.

An applicant must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the U.S. Commissioner of Education.

If an application is sent through the U.S. Postal Service, the Commissioner does not accept either of the following as proof of mailing: (1) a private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail. Each late applicant will be notified that its application will not be considered.

Applications delivered by hand: An application that is hand delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, S.W., Washington, D.C.

The Application Control Center will accept a hand-delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C., time) daily, except Saturdays, Sundays, and Federal holidays.

An application that is hand delivered will not be accepted after 4:30 p.m. on the closing date.

Program information: While the Notice of Proposed Rulemaking for the Basic Skills and Educational Proficiency Programs has been published in the *Federal Register*, we anticipate that there will be changes between the proposed regulations and the final regulations. Therefore, we suggest that applicants wait until the final regulations are published before drafting their proposals. We anticipate that the final regulations will be published the beginning of October, 1979. At that time more information will be provided on the program.

An applicant should review § 162.120 of the proposed regulations to determine if it is required to submit an application to the State educational agency for comment. If so, the applicant shall submit a copy of its application to the State educational agency fifteen (15) days before the closing date for submitting applications to the

Commissioner. To ensure consideration of its comments, the State educational agency shall forward its comments to the Commissioner within thirty (30) days.

Available funds: It is expected that approximately \$1,500,000 will be available for the Parent Participation Program.

It is estimated that these funds could support approximately fifteen (15) projects.

The anticipated award for each project will be between \$10,000 and \$50,000.

However, these estimates do not bind the U.S. Office of Education to a specific number of grants or to the amount of any grant unless that amount is otherwise specified by statute or regulations.

Application forms: Application forms and program information packages are expected to be ready for mailing by November 26, 1979. They may be obtained by writing to the Basic Skills Program Office, U.S. Office of Education (Room 1167, Donohoe Building), 400 Maryland Avenue, S.W., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. The Commissioner strongly urges that the narrative portion of the application not exceed thirty-five (35) pages in length. The Commission further urges that applicants submit only the information that is requested.

Applicable regulations: Regulations applicable to this program include the following:

(a) Regulations governing the Basic Skills and Educational Proficiency Program (45 CFR, Part 162). These regulations were published as a notice of proposed rulemaking on April 27, 1979 (44 FR 25148). When they are published as final regulations and become effective, these regulations will govern applications and grants under this program.

(b) The Education Division General Administrative Regulations (EDGAR) (45 CFR Parts 100a and 100c).

(EDGAR) was published in proposed form in the *Federal Register* on May 4, 1979 (44 FR 26298). When EDGAR is published as final regulations, it will supersede the General Provisions Regulations for Office of Education Programs (the current 45 CFR parts 100a through 100d).

When it becomes effective, EDGAR will govern applications and grants under this program. The selection criteria contained in Subpart D of

EDGAR (§§ 100a.202-100a.206) are included in the preamble to this notice.

If material changes are made in the final regulations governing this Program or in the EDGAR final regulations that relate to the preparation of applications for the current fiscal year, the Commissioner may extend the closing date to permit applicants to amend their applications.

Further information: For further information contact Mrs. Doris Crudup, Education Program Specialist, Basic Skills Program Office, U.S. Office of Education (Room 1629, Donohoe Building), 400 Maryland Avenue, S.W., Washington, D.C. 20202, Telephone: (202) 245-8213.

(20 U.S.C. 2886)

13.599C—Basic Skills Improvement—Out-of-School Basic Skills Improvement Program

Closing date: February 29, 1980.

Applications are invited for new projects under the Basic Skills Improvement Program—Out-of-School Basic Skills Improvement Program.

Authority for this program is contained in Section 208 of the Elementary and Secondary Education Act, as amended by the Education Amendments of 1978.

(20 U.S.C. 2888)

This program issues awards to State and local educational agencies (elementary and secondary), institutions of higher education, and private agencies, organizations, and institutions (such as labor unions, volunteer organizations, and business associations).

The purpose of the awards is to support the efforts of these agencies, organizations, and institutions to stimulate children, youth, and adults to improve their achievement in basic skills.

Closing date for transmittal of applications: An application for a grant must be mailed or hand delivered by February 29, 1980.

Applications delivered by mail: An application sent by mail must be addressed to the U.S. Office of Education, Application Control Center, Attention: 13.599C, Washington, D.C. 20202.

An applicant must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the U.S. Commissioner of Education.

If an application is sent through the U.S. Postal Service, the Commissioner does not accept either of the following as proof of mailing: (1) a private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail. Each late applicant will be notified that its application will not be considered.

Applications delivered by hand: An application that is hand delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, S.W., Washington, D.C.

The Application Control Center will accept a hand-delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C., time) daily, except Saturdays, Sundays, and Federal holidays.

An application that is hand delivered will not be accepted after 4:30 p.m. on the closing date.

Program information: While the Notice of Proposed Rulemaking for the Basic Skills and Educational Proficiency Programs has been published in the *Federal Register*, we anticipate that there will be changes between the proposed regulations and the final regulations. Therefore, we suggest that applicants wait until the final regulations are published before drafting their proposals. We anticipate that the final regulations will be published the beginning of October, 1979. At that time more information will be provided on the program.

An applicant should review § 162.120 of the proposed regulations to determine if it is required to submit an application to the State educational agency for comment. If so, the applicant shall submit a copy of its application to the State educational agency fifteen (15) days before the closing date for submitting applications to the Commissioner. To ensure consideration of its comments, the State educational agency shall forward its comments to the Commissioner within thirty (30) days.

Available funds: It is expected that approximately \$6,000,000 will be available for the Out-of-School Basic Skills Improvement Program in Fiscal Year 1980.

Application forms: Application forms and program information packages are expected to be ready for mailing by November 26, 1979. They may be obtained by writing to the Basic Skills Program Office, U.S. Office of Education (Room 1167, Donohoe Building), 400 Maryland Avenue, S.W., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. The Commissioner strongly urges that the narrative portion of the application not exceed forty (40) pages in length. The Commissioner further urges that applicants submit only the information that is requested.

Applicable regulations: Regulations applicable to this program include the following:

(a) Regulations governing the Basic Skills and Educational Proficiency Program (45 CFR Part 162).

These regulations were published as a notice of proposed rulemaking on April 27, 1979 (44 FR 25148). When they are published as final regulations and become effective, these regulations will govern applications and grants under this program.

(b) The Education Division General Administrative Regulations (EDGAR) (45 CFR Parts 100a and 100c).

EDGAR was published in proposed form in the *Federal Register* on May 4, 1979 (44 FR 26298). When EDGAR is published as final regulations, it will supersede the General Provisions Regulations for Office of Education Programs (the current 45 CFR Parts 100a through 100d).

When it becomes effective, EDGAR will govern applications and grants under this program. The selection criteria contained in Subpart D of EDGAR (§§ 100a.202-100a.206) are included in the preamble to this notice.

If material changes are made in the final regulations governing this Program or in the EDGAR final regulations that relate to the preparation of applications for the current fiscal year, the Commissioner may extend the closing date to permit applicants to amend their applications.

Further information: for further information contact Mr. Andres Montez, Education Program Specialist, Basic Skills Program Office, U.S. Office of Education (Room 1154, Donohoe Building), 400 Maryland Avenue, S.W., Washington, D.C. 20202, Telephone: (202) 245-8213.

(20 U.S.C. 2888)

13.489D—Teacher Corps Program 79 (2D YEAR)

Closing date: March 3, 1980.

Applications are invited for noncompeting continuation grants for the second year of the Teacher Corps "Program 79" projects.

Authority for the Teacher Corps program is contained in title V-A of the Higher Education Act of 1965, as amended.

(20 U.S.C. 1101-1107a)

This program issues awards to institutions of higher education, local educational agencies and State educational agencies to develop and operate Teacher Corps projects.

The purpose of the awards is to strengthen the educational opportunities available to children in areas having concentrations of low-income families, encouraging colleges and universities to broaden their program of teacher preparation and encouraging institutions of higher education and local educational agencies to improve programs of training and retraining for teachers, teacher aides, and other educational personnel.

Closing date for transmittal of applications: To be assured of consideration for funding, applications for noncompeting continuation awards should be mailed or hand delivered by March 3, 1980.

If the application is late, the Office of Education may lack sufficient time to review it with other noncompeting continuation applications and may decline to accept it.

Application delivered by mail: An application sent by mail should be addressed to the U.S. Office of Education, Application Control Center, Attention: 13.489D, Washington, D.C. 20202.

An applicant should show proof of mailing consisting of one of the following:

- (1) A legibly dated U.S. Postal Service postmark.
- (2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.
- (3) A dated shipping label, invoice, or receipt from a commercial carrier.
- (4) Any other proof of mailing acceptable to the U.S. Commissioner of Education.

If an application is sent through the U.S. Postal Service, the Commissioner does not accept either of the following as proof of mailing: (1) a private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying

on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail.

Applications delivered by hand: An application that is hand delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, SW., Washington, D.C.

The Application Control Center will accept a hand-delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C., time) daily, except Saturday, Sunday, and Federal holidays.

Available funds: It is anticipated that funds will be available for continuation of projects and that the total amount awarded to each project will be limited to approximately \$275,000.

Application forms: Application forms and program information packages are expected to be ready for mailing by December 7, 1979. They may be obtained by writing to Teacher Corps, Operations Branch, U.S. Office of Education, Room 1725, Donohoe Building, 400 Maryland Avenue SW., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages. The Commissioner urges that applicants not submit information that is not requested.

Special procedures. Applicants must comply with the following procedures as well as those in the teacher corps regulation.

1. An application for continuation of funding must be signed by: (a) The president or other authorized official of each institution of higher education; (b) the superintendent or other authorized official of each local educational agency; (c) the chairperson of the community council; (d) if a State educational agency participates, the chief State school officer; and (e) in the case of an application for a youth advocacy project, the authorized official of each correctional facility.

2. An application for continuation of funding must be submitted to and approved by the State educational agency of the State in which the application is located. The State educational agency's approval must be in writing, signed by the chief State school officer, and attached to the application which is submitted to the U.S. Office of Education.

3. An application must describe the stipends and compensation (including insurance and travel expenses) which will be paid to: (a) Teacher interns; (b) teachers; (c) volunteers; (d) other educational personnel; (e) project staff;

and (f) the project director. An application must also describe the amount and proposed use of funds requested for training Teacher Corps members and for the secretarial and administrative expenses of the community council.

4. In satisfaction of the requirements in §§ 172.123(a) (1) and (2), 172.124(a), and 172.126 of the teacher corps regulations, applicants may submit catalogs or other descriptive material already developed for other purposes. If the information included in an initial application in response to §§ 172.122, 172.123, 172.124, 172.125, and 172.126 of the regulation remains unchanged, an application for continuation funding need not respond to these sections.

5. The Commissioner strongly urges that the narrative portion of the application not exceed 150 pages in length.

Applicable regulations. The regulations applicable to this program are:

- (a) General Provisions Regulations for Office of Education Programs (45 CFR parts 100 and 100a), and (b) The regulation governing the Teacher Corps Program (45 CFR Part 172).

Note.—The proposed Education Division General Administrative Regulations (EDGAR) were published in the Federal Register on May 4, 1979 (44 FR 26298). When EDGAR becomes effective, it will supersede the General Provisions Regulations for Office of Education Programs.

If EDGAR takes effect before grants are made under the program, those grants will be subject to the following provisions of EDGAR: Subpart A (General); Subpart E (What Conditions Must Be Met by a Grantee?); Subpart F (What Are the Administrative Responsibilities of a Grantee?); and Subpart G (What Procedures Does the Education Division Use to Get Compliance?).

For further information: For further information contact Dr. Preston M. Royster, Associate Director, Operations Branch, Teacher Corps, U.S. Office of Education, Room 1725, Donohoe Building, 400 Maryland Avenue SW., Washington, D.C. 20202, Telephone (202) 245-8272.

13.563—Community Education Program

Closing Date: March 10, 1980.

Applications are invited for new projects under the Community Education Program.

Authority for this program is contained in Title VIII of the revised Elementary and Secondary Education Act of 1965.

(20 U.S.C. 3281).

This program is authorized to make grants to assist local educational agencies (LEAs) in planning, establishing, expanding, and operating community education programs; to public agencies and nonprofit private organizations (NPOs), including State educational agencies (SEAs), in promoting more efficient use of school facilities and more effective delivery of social services; and to institutions of higher education (IHEs) in providing training to persons who are or will be engaged in community education.

Closing date for transmittal of applications: An application for a grant must be mailed or hand delivered by March 10, 1980.

Applications delivered by mail: An application sent by mail must be addressed to the U.S. Office of Education, Application Control Center, Attention: 13.563, Washington, D.C. 20202.

An applicant must show proof of mailing consisting of one of the following:

- (1) A legibly dated U.S. Postal Service postmark.
- (2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.
- (3) A dated shipping label, invoice, or receipt from a commercial carrier.
- (4) Any other proof of mailing acceptable to the U.S. Commissioner of Education.

If an application is sent through the U.S. Postal Service, the Commissioner does not accept either of the following as proof of mailing: (1) a private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail. Each late applicant will be notified that its application will not be considered.

Applications delivered by hand: An application that is hand delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, S.W., Washington, D.C.

The Application Control Center will accept a hand-delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C., time) daily, except Saturdays, Sundays, and Federal holidays.

An application that is hand delivered will not be accepted after 4:30 p.m. on the closing date.

Program information: While the Notice of Proposed Rulemaking for the

Community Education Program has been published in the Federal Register, we anticipate that there will be changes between the proposed regulations and the final regulations. Therefore, we suggest that applicants, wait until the final regulations are published before drafting their proposals. We anticipate that the final regulations will be published the beginning of December 1979. At that time more information will be provided on the program.

Available funds: Approximately \$3.1 million is anticipated for the Community Education Program in Fiscal Year 1980.

Application forms: Application forms and program information packages are expected to be ready for mailing by January 9, 1980. This date is contingent upon the publication of the final regulations by December, 1979. They may be obtained by writing to the Community Education Program U.S. Office of Education (Room 5622, Regional Office Building 3), 400 Maryland Avenue, S.W., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. The Commissioner strongly urges that the narrative portion of the application not exceed 50 pages in length. The Commissioner further urges that applicants not submit information that is not requested.

Applicable regulations: Regulations applicable to this program include the following:

- (a) Regulations governing the Community Education Program (45 CFR Part 160c).

These regulations were published as a Notice of Proposed Rulemaking on June 29, 1979. Applicants should base their applications, however, on the final regulations which are expected to be published at the beginning of December.

(b) The Education Division General Administrative Regulations (EDGAR) (45 CFR Parts 100a and 100c).

EDGAR was published in proposed form in the Federal Register on May 4, 1979 (44 FR 26298). When EDGAR is published as final regulations, it will supersede the General Provisions Regulations for Office of Education Programs (the current 45 CFR Parts 100a through 100d).

When it becomes effective, EDGAR will govern applications and grants under this program. The selection criteria contained in Subpart D of EDGAR (§§ 100a.202-100a.206) are included in the preamble to this notice.

Further information: For further information contact Ms. Julie Englund, Director, Community Education

Program, U.S. Office of Education (Room 5622, Regional Office Building 3), 400 Maryland Avenue, S.W., Washington, D.C. 20202, Telephone: (202) 245-0891. (20 U.S.C. 3281)

13.443D—Handicapped Children's Model Program

Closing date: March 13, 1980.

Noncompeting continuation projects. Applications are invited for noncompeting continuation projects under the Handicapped Children's Model Program.

Authority for this program is contained in section 641 of Part E of the Education of the Handicapped Act. (20 U.S.C. 1441).

This program issues awards to States, State or local educational agencies, institutions of higher education and other public or nonprofit private educational or research agencies and organizations.

The purpose of this program is to develop and conduct model programs designed to meet the special educational needs of handicapped children.

Closing date for transmittal of applications: To be assured of consideration for funding, an application for a noncompeting award should be mailed or hand delivered by March 13, 1980.

If the application is late, the Office of Education may lack sufficient time to review it with other noncompeting continuation applications and may decline to accept it.

Applications delivered by mail: An application sent by mail should be addressed to the U.S. Office of Education, Application Control Center, Attention: 13.443D, Washington, D.C. 20202.

An applicant should show proof of mailing consisting of one of the following:

- (1) A legibly dated U.S. Postal Service postmark.
- (2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.
- (3) A dated shipping label, invoice, or receipt from a commercial carrier.
- (4) Any other evidence acceptable to the U.S. Commissioner of Education.

If an application is sent through the U.S. Postal Service, the Commissioner does not accept either of the following as proof of mailing: (1) a private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail.

Applications delivered by hand: An application that is hand delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, S.W., Washington, D.C.

The Application Control Center will accept a hand-delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C., time) daily, except Saturdays, Sundays, and Federal holidays.

Available funds: The funding level for the Handicapped Children's Model Program for new and noncompeting continuation is expected to be approximately \$5,500,000 for FY 1980. During the previous year of the program, funding for continuation projects was between \$82,000 and \$140,000.

Application forms: Application forms and program information packages are expected to be ready for mailing by January 14, 1980. They may be obtained by writing to the Elementary, Secondary, Post-Secondary Section, Program Development Branch, Bureau of Education for the Handicapped, U.S. Office of Education, (Donohoe Building, Room 3123), 400 Maryland Avenue, S.W., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages. The Commissioner strongly urges that applicants not submit information that is not requested.

Special procedures: Every applicant is subject to the State and areawide clearinghouse review procedures under OMB Circular A-95.

An applicant should check with its appropriate Federal regional office to obtain the name(s) and address(es) of the clearinghouse(s) in its State. OMB Circular A-95 requires the applicant to give the clearinghouse(s) up to 60 days for review, consultation, and comments on the application.

In its application each applicant must provide—

(a) The comments of each clearinghouse that commented on the application; or

(b) A statement that the applicant used the procedures of Part I of OMB Circular A-95 but did not receive any clearinghouse comments.

Applicable regulations:

Regulations applicable to this program include the following:

(a) Regulations governing the Handicapped Education Program (45 CFR Part 121h); and

(b) General Provisions Regulations for Office of Education Programs (45 CFR Parts 100 and 100a).

Note:—The proposed Education Division General Administrative Regulations (EDGAR) were published in the Federal Register on May 4, 1979 (44 FR 26298). When EDGAR becomes effective, it will supersede the General Provisions Regulations for Office of Education Programs.

If EDGAR takes effect before grants are made under this program, those grants will be subject to the following provisions of EDGAR: Subpart A (General); Subpart E (What Conditions Must Be Met by a Grantee?); Subpart F (What Are the Administrative Responsibilities of a Grantee?); and Subpart G (What Procedures Does the Education Division Use to Get Compliance?).

Further information: For further information contact the Handicapped Children's Model Program, Bureau of Education for the Handicapped, U.S. Office of Education, (Donohoe Building, Room 3123), 400 Maryland Avenue, S.W., Washington, D.C. 20202, Telephone (202) 245-9722.

(20 U.S.C. 1441)

13.565A—Women's Educational Equity Act Program

Closing Date: March 13, 1980.

Noncompeting continuation projects.

Applications are invited for noncompeting continuation projects under the Women's Educational Equity Act Program.

Authority for this program is contained in Title IX, Part C of the Education Amendments of 1978.

(20 U.S.C. 3341-3348)

This program issues awards to public agencies, private nonprofit organizations, and individuals.

The purpose of the awards is to develop educational materials and model programs designed to promote women's educational equity. The materials and programs are developed for replication throughout the United States.

Closing date for transmittal of application: To be assured of consideration for funding, an application for a noncompeting continuation award should be mailed or hand delivered by March 13, 1980.

Applications delivered by mail: An application sent by mail should be addressed to the U.S. Office of Education, Application Control Center, Attention: 13.565A, Washington, D.C. 20202.

An applicant should show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other evidence acceptable to the U.S. Commissioner of Education.

If an application is sent through the U.S. Postal Service, the Commissioner does not accept either of the following as proof of mailing: (1) a private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail.

Applications delivered by hand: An application that is hand delivered should be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, S.W., Washington, D.C. 20202.

The Application Control Center will accept a hand-delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C., time) daily, except Saturdays, Sundays, and Federal holidays.

Available funds: It is estimated that funds will be available for continuation of projects at the continuation level requested in the initial application. This estimate does not bind the U.D. Office of Education except as may be required by the applicable statute and regulations.

Application forms: Application forms and program information packages are expected to be ready for mailing by November 21, 1979. They may be obtained by writing to the Women's Educational Equity Act Program, U.S. Office of Education (Room 2147), 400 Maryland Avenue, S.W., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages. The Commissioner strongly urges that applicants not submit information that is not requested.

Application regulations: Regulations applicable to this program include the following:

(a) Regulations governing the Women's Educational Equity Act Program (45 CFR Part 160f).

These regulations were published as a Notice of Proposed Rulemaking on May

25, 1979, (44 FR 30540). Applicants should base their applications, however, on the final regulations which are expected to be published at the beginning of November.

(b) The Education Division General Administrative Regulations (EDGAR) (45 CFR Parts 100a and 100c).

EDGAR was published in proposed form in the Federal Register on May 4, 1979 (44 FR 26298). When EDGAR is published as final regulations, it will supersede the General Provisions Regulations for Office of Education Programs (the current 45 CFR Parts 100a through 100d).

When it becomes effective, EDGAR will govern applications and grants under this program.

If material changes are made in the final regulations governing this Program or in the EDGAR final regulations that relate to the preparation of applications for the current fiscal year, the Commissioner may extend the closing date to permit applicants to amend their applications.

Further information: For further information contact Dr. Leslie Wolfe, Director, Women's Educational Equity Act Program, U.S. Office of Education (Room 2147), 400 Maryland Avenue, S.W., Washington, D.C. 20202, Telephone: (202) 245-2181.

(20 U.S.C. 3341-3348)

13.489C—Teacher Corps Program 78 (3d Year)

Closing date: March 25, 1980.

Noncompeting continuation projects.

Applications are invited for noncompeting continuation grants for the third year of the Teacher Corps "Program 78" projects.

Authority for the Teacher Corps program is contained in Title V-A of the Higher Education Act of 1965, as amended.

(20 U.S.C. 1101-1107a)

This program issues awards to institutions of higher education, local educational agencies and State educational agencies to develop and operate teacher corps projects.

The purpose of the awards is strengthening the educational opportunities available to children in areas having concentrations of low-income families, encouraging colleges and universities to broaden their program of teacher preparation and encouraging institutions of higher education and local educational agencies to improve programs of training and retraining for teachers, teacher aides, and other educational personnel.

Closing date for transmittal of applications: To be assured of consideration for funding, applications for noncompeting continuation awards should be mailed or hand delivered by March 25, 1980.

If the application is late, the Office of Education may lack sufficient time to review it with other noncompeting continuation applications and may decline to accept it.

Application delivered by mail: An application sent by mail should be addressed to the U.S. Office of Education, Application Control Center, Attention: 13.489C, Washington, D.C. 20202.

An application should show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the U.S. Commissioner of Education.

If an application is sent through the U.S. Postal Service, the Commissioner does not accept either of the following as proof of mailing: (1) a private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail.

Applications delivered by hand: An application that is hand delivered should be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, S.W., Washington, D.C.

The Application Control Center will accept a hand-delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

Available funds: It is anticipated that funds will be available for continuation of projects and that the total amount awarded to each project will be limited to approximately \$275,000.

Application forms: Application forms and program information packages are expected to be ready for mailing by January 25, 1980. They may be obtained by writing to Teacher Corps, Operations Branch, U.S. Office of Education, Room 1725, Donohoe Building, 400 Maryland Avenue, S.W., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. The Commissioner urges that applicants not submit information that is not requested.

Special Procedures. Applicants must comply with the following procedures as well as those in the Teacher Corps regulation.

1. An application for continuation of funding must be signed by: (a) The president or other authorized official of each institution of higher education; (b) the superintendent or other authorized official of each local educational agency; (c) the chairperson of the community council; (d) if a State educational agency participates, the chief State school officer; and (e) in the case of an application for a youth advocacy project, the authorized official of each correctional facility.

2. An application for continuation of funding must be submitted to and approved by the State educational agency of the State in which the application is located. The State educational agency's approval must be in writing, signed by the chief State school officer, and attached to the application which is submitted to the U.S. Office of Education.

3. An application must describe the stipends and compensation (including insurance and travel expenses) which will be paid to: (a) Teacher interns; (b) teachers; (c) volunteers; (d) other educational personnel; (e) project staff; and (f) the project director. An application must also describe the amount and proposed use of funds requested for training Teacher Corps members and for the secretarial and administrative expenses of the community council.

4. In satisfaction of the requirements in §§ 172.123(a)(1) and (2), 172.124(a), and 172.128 of the Teacher Corps regulations, applicants may submit catalogs or other descriptive material already developed for other purposes. If the information included in an initial application in response to §§ 172.122, 172.123, 172.124, 172.125, and 172.126 of the regulation remains unchanged, an application for continuation funding need not respond to these sections.

Applicable Regulations: Regulations applicable to this program include the following:

(a) Regulations governing the Teacher Corps Program (45 CFR Part 172); and

(b) General Provisions Regulations for the Office of Education Programs (45 CFR Parts 100 and 100a).

Note.—The proposed Education Division General Administrative Regulations (EDGAR) were published in the Federal Register on May 4, 1979 (44 FR 26298). When EDGAR becomes effective, it will supersede the General Provisions Regulations for Office of Education Programs.

If EDGAR takes effect before grants are made under this program, those grants will be subject to the following provisions of EDGAR: Subpart A (General); Subpart E (What Conditions Must Be Met by a Grantee?); Subpart F (What Are the Administrative Responsibilities of a Grantee?); and Subpart G (What Procedures Does the Education Division Use to Get Compliance?).

Further Information: For further information contact Dr. Preston M. Royster, Associate Director, Operations Branch, Teacher Corps, U.S. Office of Education, Room 1725, Donohoe Building, 400 Maryland Avenue SW., Washington, D.C. 20202, telephone (202) 245-8272.

(20 U.S.C. 1101-1107a.).

(No catalog number)—Biomedical Sciences Program

Closing Date: March 28, 1980

Applications are invited for new projects under the Biomedical Sciences Program.

Authority for this program is contained in Title III, Part L, of the Elementary and Secondary Education Act, as amended by Pub. L. 95-561. (20 U.S.C. 3053).

This program issues awards to individual institutions of higher education or to combinations of these institutions.

The purpose of the awards is to assist these institutions in motivating and educating talented secondary school students from an economically disadvantaged background to prepare for and enter into careers in the biomedical sciences.

Closing Date for Transmittal of Applications: An application for a grant must be mailed or hand delivered by March 28, 1980.

Applications Delivered by Mail: An application sent by mail must be addressed to the U.S. Office of Education, Application Control Center, Attention: Biomedical Sciences Program, Washington, D.C. 20202.

An applicant must show proof of mailing consisting of one of the following:

- (1) A legibly dated U.S. Postal Service postmark.
- (2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the U.S. Commissioner of Education.

If an application is sent through the U.S. Postal Service, the Commissioner does not accept either of the following as proof of mailing: (1) a private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail. Each late applicant will be notified that its application will not be considered.

Applications Delivered by Hand: An application that is hand delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, S.W., Washington, D.C.

The Application Control Center will accept a hand-delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

An application that is hand delivered will not be accepted after 4:30 p.m. on the closing date.

Available Funds: It is expected that approximately \$3.0 million will be available for the Biomedical Sciences Program.

It is estimated that these funds could support approximately 8 to 12 new projects.

The anticipated award for each new project will be between \$260,000 and \$300,000.

However, these estimates do not bind the U.S. Office of Education to a specific number of grants or to the amount of any grant unless that amount is otherwise specified by statute or regulations.

Application Forms: Application forms and program information packages are expected to be ready for mailing by January 2, 1980. They may be obtained by writing to the Bureau of School Improvement, U.S. Office of Education (Room 3700, Donohoe Building), 400 Maryland Avenue, S.W., Washington, D.C., 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. The Commissioner strongly urges that the narrative portion of the application not exceed 15 pages in length. The Commissioner further urges

that applicants not submit information that is not required.

Applicable Regulations: Regulations applicable to this program include the following:

(a) Regulations governing the Biomedical Sciences Program (45 CFR Part 161).

These regulations were published as a notice of proposed rulemaking on June 25, 1979 (44 FR 37170). Applicants should base their applications on the notice of proposed rulemaking. When they are published as final regulations and become effective, these regulations will govern applications and grants under this program.

(b) The Education Division General Administrative Regulations (EDGAR) (45 CFR Parts 100a and 100c).

EDGAR was published in proposed form in the Federal Register on May 4, 1979 (44 FR 26298). When EDGAR is published as final regulations, it will supersede the General Provisions Regulations for Office of Education Programs (the current 45 CFR Parts 100a through 100d).

When it becomes effective, EDGAR will govern applications and grants under this program. The selection criteria contained in Subpart D of EDGAR (§§ 100a.202-100a.206) are included in the preamble to this notice.

If material changes are made in the final regulations governing this Program or in the EDGAR final regulations that relate to the preparation of applications for the current fiscal year, the Commissioner may extend the closing date to permit applicants to amend their applications.

Further Information: For further information contact Dr. Melvin E. Engelhardt, Education Program Specialist, Division of State Educational Assistance Programs, U.S. Office of Education (Room 3010, Regional Office Building 3), 400 Maryland Avenue, S.W., Washington, D.C. 20202. Telephone: (202) 245-1990.

(20 U.S.C. 3051).

13.444c—Handicapped Children's Early Education Program—State Implementation Grants

Closing Date: April 2, 1980

Noncompeting Continuation Projects

Applications are invited for noncompeting continuation State Implementation Grants under the Handicapped Children's Early Education Program.

Authority for this program is contained in section 624 of the Education of the Handicapped Act (20 U.S.C. 1424).

The purpose of this program is to assist State Education Agencies in the implementation of state plans for preschool and early education for handicapped children and the accelerated provision of services to those children.

Closing Date for Transmittal of Applications: To be assured of consideration for funding, an application for a noncompeting continuation award should be mailed or hand delivered by April 2, 1980.

If the application is late, the Office of Education may lack sufficient time to review it with other noncompeting continuation applications and may decline to accept it.

Applications Delivered by Mail: An application sent by mail should be addressed to the U.S. Office of Education, Application Control Center, Attention: 13.444C, Washington, D.C. 20202.

An applicant should show proof of mailing consisting of one of the following:

- (1) A legibly dated U.S. Postal Service postmark.
- (2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other evidence acceptable to the U.S. Commissioner of Education. If an application is sent through the U.S. Postal Service, the Commissioner does not accept either of the following as proof of mailing: (1) a private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail.

Applications Delivered by Hand: An application that is hand delivered should be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets SW., Washington, D.C.

The Application Control Center will accept a hand-delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

Available Funds: The amount of funds expected to be available to the State Implementation Grants under the Handicapped Children's Early Education Program is \$1.5 million during FY 1980. The funding level for each of these projects has averaged between \$50,000 and \$80,000.

Application Forms: Application forms and program information packages are expected to be ready for mailing by February 1, 1980. They may be obtained by writing the Division of Innovation and Development, Bureau of Education for the Handicapped, U.S. Office of Education, 400 Maryland Avenue SW., (Donohoe Building, Room 3100), Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages. The Commissioner strongly urges that applicants not submit information that is not requested.

Applicable Regulations: Regulations applicable to this program include the following:

(a) Regulations governing the Handicapped Children's Early Education Program (45 CFR, Part 121d); and

(b) General Provisions Regulations for Office of Education Programs (45 CFR, Parts 100 and 100a).

Note.—The proposed Education Division General Administrative Regulations (EDGAR) were published in the Federal Register on May 4, 1979 (44 FR 26298). When EDGAR becomes effective, it will supersede the General Provisions Regulations for Office of Education Programs.

If EDGAR takes effect before grants are made under this program, those grants will be subject to the following provisions of EDGAR: Subpart A (General); Subpart E (What Conditions Must Be Met by a Grantee?); Subpart F (What Are the Administrative Responsibilities of a Grantee?); and Subpart G (What Procedures Does the Education Division Use to Get Compliance?).

Further information: For further information contact Dr. James Button, Project Officer, Early Childhood Program, Bureau of Education for the Handicapped, U.S. Office of Education, 400 Maryland Avenue, SW., (Donohoe Building, Room 3100), Washington, D.C. 20202, Telephone (202) 245-9722.

(20 U.S.C. 1423, 1424).

13.444C—Handicapped Children's Early Education Program—State Implementation Grants

Closing Date: April 2, 1980.

Applications are invited for new demonstration projects under the Handicapped Children's Early Education Program.

Authority for this program is contained in Section 624 of the Education of the Handicapped Act (20 U.S.C. 1424).

The purpose of this program is to issue awards to State Education Agencies to assist eligible parties in the implementation of state plans for preschool and early education for handicapped children and the accelerated provision of services to those children.

Closing Date for Transmittal of Applications: An application for a grant must be mailed or hand delivered by April 2, 1980.

Applications Delivered by Mail: An application sent by mail must be addressed to the U.S. Office of Education, Application Control Center, Attention: 13.444C, Washington, D.C. 20202.

An applicant must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the U.S. Commissioner of Education.

If an application is sent through the U.S. Postal Service, the Commissioner does not accept either of the following as proof of mailing: (1) a private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail. Each late applicant will be notified that its application will not be considered.

Applications Delivered by Hand: An application that is hand delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, SW., Washington, D.C.

The Application Control Center will accept a hand delivered application between 8:00 a.m. and 4:30 p.m., (Washington, D.C. time) daily, except Saturdays, Sundays and Federal holidays.

An application that is hand delivered will not be accepted after 4:30 p.m. on the closing date.

Available Funds: The amount of funds expected to be available to the State Implementation Grants under the Handicapped Children's Early Education Program is \$1.5 million during Fiscal Year 1980. Approximately 20-25 new projects and noncompeting continuation projects are expected to be

funded. The funding level for each of these projects has averaged between \$50,000 and \$80,000.

However, these estimates do not bind the U.S. Office of Education to a specific number of grants or to the amount of any grant unless that amount is otherwise specified by statute or regulations.

Application forms: Application forms and program information packages are expected to be ready for mailing by February 1, 1980. They may be obtained by writing to the Division of Innovation and Development, Bureau of Education for the Handicapped, U.S. Office of Education, 400 Maryland Avenue SW. (Donohoe, Room 3100), Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages. The Commissioner strongly urges that the narrative portion of the application not exceed fifty (50) pages in length. The Commissioner further urges that applicants not submit information that is not requested.

Applicable regulations: Regulations applicable to this program include the following:

(a) Regulations governing the Handicapped Children's Early Education Program (45 CFR, Part 121d); and

(b) General Provisions Regulations for Office of Education Programs (45 CFR, Parts 100 and 100a).

Note—The proposed Education Division General Administrative Regulations (EDGAR) were published in the **Federal Register** on May 4, 1979 (44 FR 26298). When EDGAR becomes effective, it will supersede the General Provisions Regulations for Office of Education Programs.

If EDGAR takes effect before grants are made under this program, those grants will be subject to the following provisions of EDGAR: Subpart A (General); Subpart E (What Conditions Must Be Met by a Grantee?); Subpart F (What Are the Administrative Responsibilities of a Grantee?); and Subpart G (What Procedures Does the Education Division Use to Get Compliance?).

Further information: For further information contact Dr. James Button, Project Officer, Early Childhood Section, Bureau of Education for the Handicapped, U.S. Office of Education, 400 Maryland Avenue SW. (Donohoe Building, Room 3100), Washington, D.C. 20202, Telephone (202) 245-9722.

(20 U.S.C. 1423, 1424).

Dated: August 17, 1979.

John Ellis,
Executive Deputy Commissioner for
Educational Programs.

[FR Doc. 79-26134 Filed 8-22-79; 6:45 am]

BILLING CODE 4110-02-M

Thursday
August 23, 1979

Part III

Department of Transportation

Federal Aviation Administration

Special Aviation Fire and Explosion
Reduction (SAFER) Advisory Committee
and its Technical Groups; Meetings

federal register

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Special Aviation Fire and Explosion Reduction (SAFER) Advisory Committee and its Technical Groups; Meetings

Pursuant to section 10(a)(2) of the Federal Advisory Committee (Pub. L. 92-463; 5 U.S.C. App. 1) notice is hereby given of meetings of the SAFER Advisory Committee, the SAFER Technical Group on Compartment Interior Materials, and the SAFER Technical Group on Post-Crash Fire Hazard Reduction, to be held in the Building N239 Conference Room at the NASA Ames Research Center, Moffett Field, California 94035, according to the following schedule:

Monday, September 24, 1979

- 9:00 to 5:00—Initial session of the SAFER Technical Group on Compartment Interior Materials.

Tuesday, September 25, 1979

- 9:00 to noon—Final session of the SAFER Technical Group on Compartment Interior Materials.
- 1:00 to 5:00—Initial session of the SAFER Technical Group on Post-Crash Fire Hazard Reduction.

Wednesday, September 26, 1979

- 9:00 to 5:00—Final session of the SAFER Technical Group on Post-Crash Fire Hazard Reduction.

Thursday, September 27, 1979

- 9:00 to 5:00—Initial session of the SAFER Advisory Committee.

Friday, September 28, 1979

- 9:00 to noon—Final session of the SAFER Advisory Committee.
- 1:00 to 3:00—Tour of the NASA-Ames Research Center.

The agenda for each meeting is as follows:

A. Agenda for the SAFER Technical Group on Compartment Interior Materials. Group Leader: Martin E. Wilfert; Deputy Group Leader: Sanford Davis.

1. Report of the Accident Statistics Review Sub-Group. Chairman: S. Davis.
2. Report of the Research and Development Review Sub-Group. Chairman: M. Salkind.
3. Report of the Short-term Action Sub-Group. Co-chairman: E. Bara, (materials systems; materials) and H. Schjelderup (toxicology; materials evaluation and testing; airline operations).

4. Review of a preliminary draft of the summary report the Group Leader will submit to the SAFER Advisory Committee.

5. Time, place, and agenda for the next Group meeting.

B. Agenda for the SAFER Technical Group on Post-Crash Fire Hazard Reduction. Group Leader: Edward F. Versaw.

1. Report of the Sub-Group on Explosion Suppression, Fuel Tank Foam-Foil, and Fuel Tank Inerting. Chairman: H. Skavdahl.
2. Report of the Sub-Group on Crash-Resistant Fuel Tanks. Chairman: J. Wignot.
3. Report of the Sub-Group on Anti-Misting Fuels. Chairman: T. Peacock.
4. Review of a preliminary draft of the summary report the Group Leader will submit to the SAFER Advisory Committee.
5. Time, place, and agenda for the next Group meeting.

C. Agenda for the SAFER Advisory Committee. Chairman: John H. Enders.

1. Summary report by Martin E. Wilfert, Group Leader of the SAFER Technical Group on Compartment Interior Materials.
2. Summary report by Edward F. Versaw, Group Leader of the SAFER Technical Group on Post-Crash Fire Hazard Reduction.
3. Discussion of findings and recommendations in the Technical Groups' summary reports, with respect to:
 - The need for short-term rule making action, or other action.
 - The need to redirect or modify existing R & D programs.
4. Charge to the Chairman concerning what he is to recommend (on behalf of the SAFER Advisory Committee) to the Administrator for short-term rule making action.
5. Time, place, and agenda for the next Committee meeting.

Attendance is open to the interested public but is limited to the space available. With the approval of the Group Leader or the Chairman (as applicable) members of the public may present oral statements at the meeting. Persons wishing to present an oral statement at a meeting should notify, not later than the day before the meeting, Irving Fagin, ASF-300, Special Programs Division, Office of Aviation Safety, Federal Aviation Administration, 800 Independence Avenue, S.W., Washington, D.C. 20591. Telephone: 202-426-8198. Any member of the public may present a written statement to the appropriate Technical Group, or to the Committee, at any time.

Issued in Washington, D.C., on August 20, 1979.

Harlan Hosler,

Acting Director, Office of Aviation Safety.

[FR Doc. 79-26223 Filed 8-22-79; 8:45 am]

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federal register

Thursday
August 23, 1979

Part IV

Office of the Special Representative for Trade Negotiations

Generalized System of Preferences (GSP)

OFFICE OF THE SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS

Generalized System of Preferences (GSP); Acceptance for Review of Petitions To Modify the List of Articles Receiving Duty-Free Treatment; Public Hearings; Timetable

I. Deadline for Receipt of Requests To Participate in the Public Hearings

Requests to present oral testimony in connection with public hearings announced in 44 FR 32758 (June 7, 1979), and related written briefs, in twenty copies in English should be received by the Chairman of the GSP Subcommittee of the Trade Policy Staff Committee, Room 711, 1800 G Street, NW., Washington, DC 20506, not later than the close of business Monday, September 17, 1979. Oral testimony will be limited to five-minute presentations. All such requests and briefs must conform to the regulations codified at 15 CFR Parts 2001-2003 and 2007. Rebuttal briefs will be accepted if submitted in twenty copies in English within one week after the close of the hearings.

II. Notice of Public Hearings

Hearings will begin at 9:30 a.m. on Monday, September 24, 1979, in Room 2008 of the New Executive Office Building (entrance on 17th Street between Pennsylvania Avenue and H Street, NW.), Washington, DC, and will continue on that and subsequent days until all witnesses wishing to appear have been heard. The hearings on Friday, September 28, 1979, will be held in Room 9104 of the New Executive Office Building.

1. *Acceptance of petitions for review.* Notice is hereby given of acceptance for review of petitions to modify the list of articles receiving duty-free treatment under the Generalized System of Preferences (GSP) as provided for in Title V of the Trade Act of 1974 (88 Stat. 2066-2071, 19 U.S.C. 2461-2465). These petitions have been submitted, and will be reviewed, pursuant to regulations codified at 15 CFR, Part 2007 (42 FR 45532, September 9, 1977).

The list of petitions accepted for review is set forth in Annex I at the end of this notice.

2. *Information Subject to Public Inspection.* Information submitted in connection with the hearings will be subject to public inspection by appointment at the Office of the Executive Director of the GSP Subcommittee of the TPSC, except for information granted business

confidential status pursuant to 15 CFR 2003.6 and 15 CFR 2006.10.

The hearings will be open to the public, and transcripts of the hearings will be made available for public inspection or purchase.

3. *Solicitation of Public Views.* The TPSC invites submissions to be made in support of or opposition to any petition contained in Annex I to this notice. Such submissions should, however, conform to 15 CFR 2007.0, 2007.1(1), 2007.1(2), and 2007.1(3) (42 FR 45532, September 9, 1977).

4. *Communications.* All communications with regard to these hearings should be addressed to: Secretary, GSP Subcommittee, Office of the Special Representative for Trade Negotiations, 1800 G Street, NW., Room 711, Washington, DC 20506. The telephone number of the Secretary of the GSP Subcommittee is 202-395-6971.

Acceptance of the petitions listed in Annex I does not indicate any opinion with respect to a disposition on the merits of the petitions accepted for review. Acceptance indicates only that the listed petitions have been found to be formally adequate as bases for reviews by the TPSC, and that such reviews will take place.

Doris Whitnack,

Acting Chairman, Trade Policy Staff Committee.

BILLING CODE 3190-01-M

Annex I

Part 1: Petitions Accepted for Review

Case No.	TSUS or TSUSA 1/ item No.	Article	Petitioner
[The bracketed language in this list has been included only to clarify the scope of the numbered items which are being considered, and such language is not itself intended to describe articles which are under consideration.]			
A. <u>Petitions to add products to the list of eligible articles for the Generalized System of Preferences.</u>			
79-1	107.30	Pork, prepared or preserved (except sausages): Not boned and cooked and packed in airtight containers	Government of Romania
79-2	107.30	Boned and cooked and packed in airtight containers	do.
Leather, in the rough, partly finished, or finished: [Chamois; patent; upholstery leather]			
Other:			
Calf and kip:			
Upper			
79-3	121.30	[Pig and hog]	Government of Argentina
Other:			
Not fancy:			
[Vegetable-tanned goat and sheep, in the rough; buffalo; reptilian]			
Other:			
[Bovine]			
Other leather:			
79-4	121.5045	Goat and kid	Florsheim Shoe Company Chicago, IL
79-5	121.60	Fancy: Goat and kid	do., Government of India
79-6	130.45	Oats, hulled or not hulled	Government of Colombia
Vegetables, fresh, chilled, or frozen, and cut, sliced, or otherwise reduced in size (but not otherwise prepared or preserved):			
[Broccoli, cauliflower and okra]			
Other:			
Frozen:			
[Asparagus]			
79-7	138.50 or 138.5060 pt.	Other or Artichoke hearts	Government of Chile do.

1/ Tariff Schedules of the United States Annotated (19 U.S.C. 1202).

Annex I

Part 1: Petitions Accepted for Review

Case No.	TSUS or TSUSA 1/ item No.	Article	Petitioner
A. <u>Petitions to add products to the list of eligible articles for the Generalized System of Preferences (con.)</u>			
		Vegetables (whether or not reduced in size), packed in salt, in brine, pickled, or otherwise prepared or preserved (except vegetables in schedule 1, part 8, subpart B of the Tariff Schedules of the United States): [Beans; cabbage; chickpeas or garbanzos; black-eye cowpeas; onions; peas; pimientos; tomatoes; water-chestnuts] Other: [Packed in salt, in brine, or pickled] Other: [Palm hearts] Other: [Frozen] Other: [Artichokes; asparagus; potatoes, dehydrated] Other: or Tender cactus	Herdez USA Corp. Vernon, CA do.
79-8	141.8180 or 141.8180 pt.		
79-9	144.10	Mushrooms, fresh, or dried, or otherwise prepared or preserved: Fresh	Industrias Internacionales de Alimentos, S.A. Dominican Republic
79-10	146.7550 or 146.7550 pt.	Berries, fresh, or prepared or preserved: [Fresh or in brine; and dried] Otherwise prepared or preserved: [Blackberries; black currants, gooseberries, lingon or partridge berries, and loganberries] Other berries: Frozen: [Strawberries] Other: or Blackberries	Government of Chile do.
79-11	147.77 or 147.77 pt.	Grapes, fresh, or prepared or preserved: [Fresh (in bulk, or in crates, barrels or other packages); dried] Otherwise prepared or preserved or Grape must	Government of Argentina do.

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Annex I

Part 1: Petitions Accepted for Review

Case No.	TSUS or TSUSA 1/ item No.	Article	Petitioner
A. <u>Petitions to add products to the list of eligible articles for the Generalized System of Preferences (con.)</u>			
79-12	147.94 or 147.94 pt.	Mangoes, fresh, or prepared or preserved: Fresh: [If entered during the period from November 1 in any year, to the following March 31, inclusive] If entered at any other time or If entered during the period from April 1 in any year, to the following May 31, inclusive	Lincoln Diversified Systems, Inc. Chicago, IL do.
79-13	148.44	Olives, fresh, or prepared or preserved: [Fresh] In brine, whether or not pitted or stuffed: Not ripe and not pitted or stuffed: [Not green in color and not packed in airtight containers of glass, metal, or glass and metal] Other	Hazayith of Israel do.
79-14	148.50	Pitted or stuffed [Dried]	do.
79-15	148.56	Otherwise prepared or preserved	do.
79-16	148.60	Papayas, fresh, or prepared or preserved: Fresh	Government of Panama
79-17	170.10	Wrapper tobacco (whether or not mixed or packed with filler tobacco): Not stemmed	Government of Nicaragua, Cigar Association of America, Inc. Washington, DC
79-18	170.15	Stemmed	Cigar Association of America, Inc. Washington, DC
79-19	170.65 or 170.65 pt.	Cigarettes or Bidis	Government of India do.
79-20	170.66	Cigars and cheroots: Cigars each valued 15 cents or over	Government of Mexico, Government of Nicaragua
79-21	175.36	Poppy seed Edible preparations not specially provided for (including prepared meals individually packaged): [Of gelatin] Other: [Containing over 5.5 percent by weight of butterfat and not packaged for retail sale]	Government of Romania

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Part 1: Petitions Accepted for Review

Case No.	TSUS or TSUSA 1/ item No.	Article	Petitioner
A. Petitions to add products to the list of eligible articles for the Generalized System of Preferences (con.)			
Edible preparations not specially provided for, etc. (con.)			
Other: (con.)			
[Containing over 5.5 percent by weight of butterfat (con.)]			
Other:			
[Wheat gluten]			
Other:			
[Provided for in item 950.16;			
provided for in item 950.23;			
pancake flour and other flour mixes;			
refrigerated (including frozen)			
doughs]			
79-22	182.98 or 182.9888 pt.	Other or Pre-cooked rice	Government of Colombia do.
Wood blinds, shutters, screens, and shades, all the foregoing, with or without their hardware:			
Consisting of wooden frames in the center of which are fixed louver boards or slats, with or without their hardware			
79-23	206.65		Miramar Corporation, Ltd. Taipei, Taiwan
Yarns of wool or hair:			
[Yarns of wool, colored, and cut into uniform lengths of not over 3 inches, in immediate packages or containers not over 6 ounces in weight including the weight of the immediate package or container]			
Other:			
[Of angora rabbit hair]			
Other			
or			
79-24	307.64 or 307.64 pt.	Yarns, handspun and handdyed	Manos del Uruguay, Montevideo, Uruguay do.
Cordage:			
Of vegetable fibers:			
Of jute:			
Not bleached, not colored, and not treated:			
79-25	315.80	The singles yarn of which measures under 720 yards per pound	Government of India, Government of Bangladesh
79-26	315.85	The singles yarn of which measures 720 yards or over per pound	Government of Bangladesh
Bleached, colored, or treated:			
79-27	315.90	The singles yarn of which measures under 720 yards per pound	do.
79-28	315.95	The singles yarn of which measures 720 yards or over per pound	Government of India Government of Bangladesh

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Part 1: Petitions Accepted for Review

Case No.	TSUS or TSUSA 1/ item No.	Article	Petitioner
A. Petitions to add products to the list of eligible articles for the Generalized System of Preferences (con.)			
Woven fabrics, of silk:			
Wholly of silk:			
Jacquard-figured:			
79-29	337.40	Degummed, bleached, or colored	Government of Thailand
Woven or knit fabrics (except pile or tufted fabrics), of textile materials, coated or filled with rubber or plastics material, or laminated with sheet rubber or plastics:			
Of man-made fibers:			
Over 70 percent by weight of rubber or plastics			
79-30	355.81		Government of Korea
Floor coverings of pile or tufted construction, of textile materials:			
In which the pile was inserted or knotted during weaving or knitting:			
With pile hand-inserted or hand-knotted:			
[With over 50 percent by weight of the pile being hair of the alpaca, guanaco, huarizo, llama, misti, suri, or any combination of these hairs]			
Other:			
Valued over 66-2/3 cents per square foot			
79-31	360.15		Pande Cameroon & Company New York, NY, Government of Bangladesh, Government of India, Government of Turkey, Manos del Uruguay, Montevideo, Uruguay
Floor coverings not specially provided for, of textile materials:			
Of wool:			
Woven, but not made on a power-driven loom:			
Valued over 30 cents per square foot			
79-32	361.44		Manos del Uruguay, Montevideo, Uruguay
Tapestries, including hand-worked petit-point and other needle-point tapestries, all the foregoing of textile materials:			
[Cobelin and other hand-woven tapestries fit only for use as wall hangings, and valued over \$20 per square foot]			
Other:			
Of wool:			
Valued over \$2 per pound			
or			
79-33	364.22 or 364.22 pt.	Hand-woven mohair tapestries	Government of Lesotho do.

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Part 1: Petitions Accepted for Review

Case No.	TSUS or TSUSA 1/ item No.	Article	Petitioner
A. <u>Petitions to add products to the list of eligible articles for the Generalized System of Preferences (con.)</u>			
79-34	385.45	Bags and sacks, or other shipping containers, of textile materials: Of vegetable fibers, except cotton: Not bleached, not colored, and not rendered nonflammable	Government of Bangladesh
		Articles not specially provided for, of textile materials: [Lace or net articles, whether or not ornamented, and other articles ornamented] Other articles, not ornamented: Of cotton: [Knit (except pile or tufted construction); pile or tufted construction] Other: [Shoe uppers; inked ribbons] Other: [Knit (except pile or tufted construction); pile or tufted construction] Other: [Artificial flowers] Other: [Tents and tarpaulins; shoe uppers; inked ribbons] Other: Nylon sleeping bags	Noam-Urim, Israel do. do. do.
79-35	386.5040 or 386.5040 pt.	Of man-made fibers: [Knit (except pile or tufted construction); pile or tufted construction] Other: [Artificial flowers] Other: [Tents and tarpaulins; shoe uppers; inked ribbons] Other: Nylon sleeping bags	do. do.
79-36	389.6260 or 389.6260 pt.	Products suitable for medicinal use, and drugs: Obtained, derived, or manufactured in whole or in part from any product provided for in subpart A or B of part 1 of schedule 4 of the Tariff Schedules of the United States: Drugs: [Products provided for in TSUS items 407.20 through 407.80] Other: Anti-infective agents: Antibiotics: [Ampicillin and its salts; penicillin G, potassium; penicillin G, procaine; phenoxymethylpenicillin, potassium] Other: Amoxicillin trihydrate	do. do.
79-37	407.8518 or 407.8518 pt.	Drugs primarily affecting the central nervous system, except alkalooids and their derivatives: Antidepressants, tranquilizers, and other psychotherapeutic agents or Amitriptyline	Plantex/Ikapharm, Ltd., Israel do.
79-38	407.8555 or 407.8555 pt.	Drugs primarily affecting the central nervous system, except alkalooids and their derivatives: Antidepressants, tranquilizers, and other psychotherapeutic agents or Amitriptyline	do. do.

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Part 1: Petitions Accepted for Review

Case No.	TSUS or TSUSA 1/ item No.	Article	Petitioner
A. <u>Petitions to add products to the list of eligible articles for the Generalized System of Preferences (con.)</u>			
79-39	427.88	Alcohols, monohydric, unsubstituted: Ethyl for nonbeverage use	Government of Argentina
79-40	432.0065 or 432.0065 pt.	Mixtures not specially provided for: Pesticides or N.[(trichloromethyl) thio]-4-cyclohexene -1, 2-dicarboximide (Captan) or Dimethyl (2,2,2-Trichloro -1-hydroxyethyl) phosphorrate (Trichlorofon)	Makhteshim Chemical Works, Ltd., Israel do. do.
79-41	532.21	Ceramic tiles: Floor and wall tiles: Mosaic tiles	Government of Colombia, Guatemala Export Promotion Center, Government of Malaysia, Stylex, S.A., Honduras
79-42	532.24	Other: Glazed	Guatemala Export Promotion Center, Government of Mexico, Government of Malaysia, Government of Colombia, Guatemala Export Promotion Center
79-43	532.27	Other	
		Articles chiefly used for preparing, serving, or storing food or beverages, or food or beverage ingredients: Of fine-grained earthenware (except articles provided for in items 533.14 and 533.16) or of fine-grained stoneware: Available in specified sets: In any pattern for which the aggregate value of the articles listed in headnote 2(b) of subpart C part 2 of schedule 5 of the Tariff Schedules of the United States is over \$12 Of nonbone chinaware or of subporcelain: Household ware available in specified sets: In any pattern for which the aggregate value of the articles listed in headnote 2(b) of subpart C part 2 of schedule 5 of the Tariff Schedules of the United States is over \$24 but not over \$56	Government of Romania do.
79-44	533.28		
79-45	533.66		

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Part 1: Petitions Accepted for Review

Case No.	TSUS or TSUSA 1/ item No.	Article	Petitioner
A. <u>Petitions to add products to the list of eligible articles for the Generalized System of Preferences (con.)</u>			
		Glass (whether or not containing wire netting), in rectangles, not ground, not polished and not otherwise processed, weighing over 4 oz. per sq. ft.: [Cast or rolled glass] Other, including blown or drawn glass, but excluding pressed or molded glass: Ordinary glass: Weighing over 16 oz. but not over 28 oz. per sq. ft.: Measuring not over 40 united inches	Government of the Philippines, Government of Romania
79-46	542.31		
79-47	542.33	Measuring over 40 but not over 60 united inches	Government of the Philippines, Government of Romania
79-48	542.35	Measuring over 60 but not over 100 united inches	Government of the Philippines, Government of Romania
79-49	542.37	Measuring over 100 united inches	Government of the Philippines, Government of Romania
79-50	542.42	Weighing over 28 oz. per sq. ft.: Not over 2-2/3 sq. ft. in area	do.
79-51	542.44	Over 2-2/3 but not over 7 sq. ft. in area	do.
79-52	542.46	Over 7 but not over 15 sq. ft. in area	do.
79-53	542.48	Over 15 sq. ft. in area	do.
79-54	544.31	Toughened (specially tempered) glass, made of any of the glass described in items 541.11 through 544.18, whether or not shaped or framed or both	Government of the Philippines
		Articles chiefly used in the household or elsewhere for preparing, serving, or storing food or beverages, or food or beverage ingredients; smokers' articles, household articles, and art and ornamental articles, all the foregoing not specially provided for: [Glassware provided for in items 546.11 thru 546.38] Other glassware: [Smokers' articles; perfume bottles fitted with ground glass stoppers] Other:	
79-55	546.52	Valued not over \$0.30 each	Allen Lewis Manufacturing Co., Inc., Denver CO
79-56	546.54	Valued over \$0.30 but not over \$1.00 each	do.

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Part 1: Petitions Accepted for Review

Case No.	TSUS or TSUSA 1/ item No.	Article	Petitioner
A. <u>Petitions to add products to the list of eligible articles for the Generalized System of Preferences (con.)</u>			
		Pipes and tubes and blanks therefor, all the foregoing of iron (except cast iron) or steel: Welded, jointed, or seamed, with walls not thinner than 0.065 inch, and of circular cross section: Other than alloy iron or steel: 0.375 inch or more in outside diameter: [Suitable for use in boilers, superheaters, heat exchangers, condensers and feedwater heaters] Other: Over 16 inches in outside diameter	Grand Bahama Steel & Pipe Co., Ltd. Freeport, Bahamas
79-57	610.3265		
		Unwrought aluminum: [Of uniform cross-section throughout its length, the least cross-sectional dimension of which is not greater than 0.375 inch, in coils Other: Aluminum other than alloys of aluminum Alloys of aluminum: [Aluminum silicon] Other	Government of Romania
79-58	618.02		
79-59	618.06		do.
		Unwrought lead: [Lead bullion] Other: Alloyed	Government of Mexico
79-60	624.0330		
		Brads, nails, spikes, staples, and tacks, all the foregoing, not described in the foregoing provisions of subpart D of part 3 of schedule 6 of the Tariff Schedules of the United States, of base metal: Of iron or steel (except articles with heads of nonferrous metals): Of one piece construction: Made of round wire: Under 1 inch in length and under 0.065 inch in diameter	Government of India
79-61	646.25		
		Locks and padlocks (whether key, combination, or electrically operated), luggage frames incorporating locks, all the foregoing, and parts thereof, of base metal; lock keys: [Padlocks; cabinet locks; luggage locks, and parts thereof, and luggage frames incorporating locks] Other	Government of Colombia, Government of Mexico
79-62	646.92		

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Part 1: Petitions Accepted for Review

Case No.	TSUS or TSUSA 1/ item No.	Article	Petitioner
A. Petitions to add products to the list of eligible articles for the Generalized System of Preferences (con.)			
79-63	650.01	Knives not specifically provided for elsewhere in subpart E of part 3 of schedule 6 of the Tariff Schedules of the United States, and cleavers, with or without their handles: Without handles	Manos del Uruguay, Montevideo, Uruguay
79-64	650.17	Knives with their handles: With rubber or plastics handles: [Table, kitchen, and butcher knives] Other	Government of Brazil
79-65	650.91	Scissors and shears (except machines and except shears provided for in items 650.71 thru 650.85), and blades therefor: Valued over \$1.75 per dozen	Government of India
79-66	650.9110	Pinking shears: Valued over \$30 per dozen	Marks International, Incorporated Newton, MA
79-67	662.30	Weighing machinery and scales (except balances of a sensitivity of 5 centigrams or better provided for in part 2D of schedule 7 of the Tariff Schedules of the United States), including weight-operated counting and checking machines, and parts thereof; weighing machine weights not provided for in part 2D of schedule 7 of the Tariff Schedules of the United States: [Weighing machinery for use in the manufacture of sugar; fully automatic weighing machinery requiring no manual operations for weight determinations, and accurate to 1/20 of 1 percent or better of the maximum weighing capacity, on weight tests within the weighing range of the scale] Other	Government of Argentina, Government of Mexico
79-68	680.50 or 680.50 pt.	Gear boxes and other speed changers with fixed, multiple, or variable ratios; pulleys and shaft couplings; pillow blocks; flange, take-up cartridge, and hanger units; torque converters; chain sprockets; clutches and universal joints; all the foregoing (except parts of agricultural or horticultural machinery and implements provided for in item 666.00 and parts of motor vehicles, aircraft, and bicycles) and parts thereof: Pulleys and shaft couplings, and parts thereof Gray-iron tackle pulleys	New Born Brothers & Company, Inc., Columbia, MD do.

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Part 1: Petitions Accepted for Review

Case No.	TSUS or TSUSA 1/ item No.	Article	Petitioner
A. Petitions to add products to the list of eligible articles for the Generalized System of Preferences (con.)			
79-69	685.21 pt.	Radiotelegraphic and radiotelephonic transmission and reception apparatus; radiobroadcasting and television transmission and reception apparatus, and television cameras; record players, phonographs, tape recorders, dictation recording and transcribing machines, record changers, and tone arms; all of the foregoing, and any combination thereof, whether or not incorporating clocks or other timing apparatus, and parts thereof: Radiotelegraphic and radiotelephonic transmission and reception apparatus; radiobroadcasting and television transmission and reception apparatus, and parts thereof: [Television apparatus, and parts thereof] Other: Solid-state (tubeless) radio receivers: Designed for motor-vehicle installation	Government of Korea
79-71	715.33	Clocks: [With watch movements; or with clock movements measuring less than 1.77 inches in width] With other movements: [Standard marine chronometers having spring-detent escapements] Other clocks: Valued over \$10 each	Government of Korea
79-72	725.01	Stringed musical instruments: Pianos (including player pianos, whether or not with keyboards); harpsichords, clavichords, and other keyboard stringed instruments: Pianos (including player pianos, whether or not with keyboards), except grand pianos	do.
79-73	727.10 or 727.10 pt.	Furniture, and parts thereof, not specially provided for: Of unspun fibrous vegetable materials Of willow	Guatemala Export Promotion Center, Government of Mexico, Government of Nicaragua, Government of Thailand, Government of Yugoslavia Interplet Zagreb, Yugoslavia

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Part 1: Petitions Accepted for Review

Case No.	TSUS or TSUSA 1/ item No.	Article	Petitioner
A. <u>Petitions to add products to the list of eligible articles for the Generalized System of Preferences (con.)</u>			
		Slide fasteners, and parts thereof including tapes in continuous lengths but not including tapes wholly of textile fibers:	
		Fasteners:	
79-74	745.70	Valued not over 4 cents each	Government of Brazil
79-75	745.72	Valued over 4 cents each	do.
79-76	745.74	Parts	do.
79-77	760.15	Marking pens having a wick-like tip of felt or other material	Drafton, Ltd., Israel
B. <u>Petitions to remove products from the list of eligible articles for the Generalized System of Preferences</u>			
		Strands, ropes, cables, and cordage, all the foregoing, of wire, whether or not cut to length, and whether or not fitted with hooks, swivels, clamps, clips, thimbles, sockets, or other fittings or made up into slings, cargo nets, or similar articles:	
		Not fitted with fittings and not made up into articles:	
		Not covered with textile or other non-metallic material:	
		Ropes, cables, and cordage other than wire strand:	
		Valued 13 cents or more per pound:	
		[Of stainless steel]	
		Other:	
		Of iron or steel	
		(except stainless):	
		[Of brass plated wire]	
		Other	
79-78	642.1630		Committee of Domestic Steel Wire Rope and Specialty Cable Manufacturers Washington, DC
		Eyeglasses, lorgnettes, goggles, and similar articles, all the foregoing whether used for corrective, protective, or other purposes; frames and mountings for any of the foregoing, and parts of such frames and mountings:	
79-79	708.47	Frames and mountings, and parts thereof	Optical Manufacturers Association Arlington, VA

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Part 1: Petitions Accepted for Review

Case No.	TSUS or TSUSA 1/ item No.	Article	Petitioner
B. <u>Petitions to remove products from the list of eligible articles for the Generalized System of Preferences (con.)</u>			
		Toys, and parts of toys, not specially provided for:	
		[Toys having a spring mechanism]	
		Other:	
		[Kites]	
		Other:	
		[Toys having a friction or weight operated motor; toys having an electric motor]	
		Other (except parts):	
		Wholly or almost wholly of rubber or plastics:	
79-80	737.9535	Inflatable	Association of American Toy Balloon Manufacturers Washington, DC
	or	or	
	737.9535 pt.	Toy balloons (including rubber punch balls)	do.
		Film, strips, sheets, plates, slabs, blocks, filaments, rods, seamless tubing, and other profile shapes, all the foregoing wholly or almost wholly of rubber or plastics:	
		Not of cellulosic plastics materials:	
		Film, strips, and sheets, all the foregoing which are flexible:	
		[Made in imitation of patent leather]	
		Other:	
79-81	771.4212	Of polyvinyl chloride	Plastics Import Action Committee, New York, NY
C. <u>Petitions to subdivide TSUS items currently designated as eligible articles for the Generalized System of Preferences</u>			
		Leather, in the rough, partly finished, or finished:	
		[Chamois; patent; upholstery leather]	
		Other:	
		[Calf and kid; pig and hog]	
		Other:	
		Not fancy:	
		Buffalo:	
79-82	[121.55]	Water buffalo	Florsheim Shoe Company Chicago, IL
	121.55 pt.		Import Leather Inc., Exeter, NH
	121.55 pt.	Other	

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Case No.	TSUS or TSUSA 1/ item No.	Article	Petitioner
C. Petitions to subdivide TSUS items currently designated as eligible articles for the Generalized System of Preferences (con.)			
Other edible nuts, shelled or not shelled, blanched, or otherwise prepared or preserved:			
Shelled, blanched, or otherwise prepared or preserved:			
[Almonds; brazil nuts; cashews; filberts; peanuts; pecans; pignolia; pistache; walnuts]			
Other edible nuts:			
[Shelled or blanched]			
Other:			
79-83	[145.60] 145.60 pt.	Litchi	Eastimpex San Francisco, CA
	145.60 pt.	Other	
Generators, motors, motor-generators, converters (rotary or static), transformers, rectifiers and rectifying apparatus, and inductors; all the foregoing which are electrical goods, and parts thereof:			
[Transformers; motors; commutators; parts of motors of under 1/40 horsepower]			
Other:			
79-84	[682.60] 682.60 pt.	Coils and inductors	General Electric Company Bridgeport, CT
	682.60 pt.	Other	
	682.60 pt.	and Coils and inductors for motors and generators	
	682.60 pt.	Other coils and inductors	Coilcraft Cary, IL
	682.60 pt.	Other	
Electrical articles, and electrical parts of articles, not specially provided for			
[Ferrite core memories]			
Other:			
79-85	[683.40] 683.40 pt.	Musical tone synthesizers	Calfax, Inc. New York, NY
	683.40 pt.	Other	
[735.20]			
Puzzles; game, sport, gymnastic, athletic, or playground equipment; all the foregoing, and parts thereof, not specially provided for:			
79-86	735.20 pt.	Raquetball rackets	Wilson Sporting Goods Co. River Grove, IL
	735.20 pt.	Other	

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Part 1: Petitions Accepted for Review

Case No.	TSUS or TSUSA 1/ item No.	Article	Petitioner
C. Petitions to subdivide TSUS items currently designated as eligible articles for the Generalized System of Preferences (con.)			
Jewelry and other objects of personal adornment, and small articles ordinarily carried in the pocket, in the handbag, or on the person for mere personal convenience, all the foregoing, and parts thereof, of precious metal (including rolled precious metal), of precious stones, of natural pearls, of precious metal (including rolled precious metal) set with semiprecious stones, cameos, intaglios, amber, or coral, or of any combination of the foregoing:			
[Of silver (including rolled silver) and valued not over \$18 per dozen pieces or parts]			
Other:			
Of precious metals:			
Machine-made gold chain:			
Not over 0.8mm in diameter			
79-87	740.10 pt.	Over 0.08mm in diameter	Israel Export Institute, Israel
	740.10 pt.	Hand-made gold chains weighing per length of 18 inches:	
	740.10 pt.	Not over 25 grams	
	740.10 pt.	Over 25 grams	
	740.10 pt.	Gold jewelry mounted with precious stones	
	740.10 pt.	Other	
79-88	[741.50]	Articles not specially provided for, of beads, of bugles, of spangles, of imitation gemstones, or of any combination thereof:	Alanco Industries, Inc. New York, NY
	741.50 pt.	Plastic beaded curtains	
	741.50 pt.	Other	

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Reader Aids

Federal Register
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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY*	USDA/ASCS		DOT/SECRETARY*	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/FHWA	USDA/FSQS		DOT/FHWA	USDA/FSQS
DOT/FRA	USDA/REA		DOT/FRA	USDA/REA
DOT/NHTSA	MSPB/OPM		DOT/NHTSA	MSPB/OPM
DOT/RSPA	LABOR		DOT/RSPA	LABOR
DOT/SLS	HEW/FDA		DOT/SLS	HEW/FDA
DOT/UMTA			DOT/UMTA	
CSA			CSA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

*NOTE: As of July 2, 1979, all agencies in the Department of Transportation, will publish on the Monday/Thursday schedule.

REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.

Rules Going Into Effect Today

HEALTH, EDUCATION, AND WELFARE DEPARTMENT
Health Care Financing Administration—

30341 5-25-79 / Timely claims payment provisions

List of Public Laws

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's List of Public Laws.

Last Listing August 17, 1979.

Public Papers of the Presidents of the United States

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Federal Register

Friday
August 24, 1979

Highlights

- 49700 Mortgage Insurance** HUD/FHC proposes rules for additional facilities for non-resident care of elderly individuals; comments by 10-23-79
- 49651 Onshore Production Wells** DOE/FERC sets ceiling prices and amends requirements; effective 8-20-79
- 49656 Stripper Well Natural Gas** DOE/FERC establishes ceiling prices and special rules; effective 8-22-79
- 50002 Young Adult Conservation Corps** Labor/ETA sets requirements for funding, establishment, location, operation, and management; effective 9-24-79 (Part VIII of this issue)
- 49994 Grants and Programs** HUD/CPD establishes requirements for funding financial settlements of projects; effective 10-1-79 (Part VI of this issue)
- 49694 School Breakfast and Lunch Programs** USDA/FNS extends comment period regarding minimum nutritional standards; comments by 10-6-79
- 49696 Consumer Products** DOE solicits comments in developing energy efficiency standards; comments by 10-23-79

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Highlights

- 50012, Uranium Mill Tailings** NRC amends regulations to conform to requirements; effective 8-24-79 (Part IX of this issue) (2 documents)
 - 49998 Public Utility Policies** DOE/ERA intends to establish Federal requirements (Part VII of this issue)
 - 49844 Hospital Devices** HEW/FDA classifies medical devices (Part III of this issue) (100 documents)
 - 49956 Special Counsel** MSPB sets procedures for the receipt and investigation; comments by 10-30-79 (Part IV of this issue)
 - 49644 National Security Information** EXIMBANK revises regulations relating to classification, downgrading, declassification, and safeguarding; effective 12-1-78
 - 49641 Recruitment, Selection, and Placement** OPM requires Federal agencies to notify State Job Service Offices of vacancies; effective 8-24-79
 - 49699 Radiological Health** HEW/FDA proposes requirements to manufacturers of radio frequency sealers and electromagnetic induction heating equipment; comments by 10-23-79
 - 49687 Inspection Service Authority** PS amends mail cover regulations; effective 8-24-79
 - 49650 Franchising and Business Opportunity Ventures** FTC finalizes guides for Trade Regulation Rule on Disclosure Requirements and Prohibitions; effective 10-21-79
 - 49687 Bulk Mailing** PS extends comments period on proposed revised regulations; comments by 8-31-79
 - 49665 Vitamin and Mineral Products** HEW/FDA corrects provisions concerning saccharin use and labeling; effective 8-24-79
 - 49823 Sunshine Act Meetings**
- Separate Parts of This Issue**
- 49826 Part II, Labor/ESA**
 - 49844 Part III, HEW/FDA**
 - 49956 Part IV, MSPB**
 - 49966 Part V, FTC**
 - 49994 Part VI, HUD/CPD**
 - 49998 Part VII, DOE/ERA**
 - 50002 Part VIII, Labor/ETA**
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Federal Register

Vol. 44, No. 166

Friday, August 24, 1979

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OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 330

Recruitment, Selection, and Placement (General)

AGENCY: Office of Personnel Management.

ACTION: Final Regulations.

SUMMARY: This final regulation requires Federal agencies to notify State Job Service Offices and the Office of Personnel Management of vacancies in the competitive service which they intend to fill from outside the Federal service other than through competitive examinations or with persons eligible for noncompetitive appointment. This requirement is specifically included in the Civil Service Reform Act of 1978, section 309 (5 U.S.C. 3327).

EFFECTIVE DATE: August 24, 1979.

FOR FURTHER INFORMATION CONTACT: Allan W. Howerton, Chief, Recruitment Management, Staffing Services, Office of Personnel Management, Washington, D.C. 20415, (202) 632-6013.

SUPPLEMENTARY INFORMATION: On January 19, 1979, the Office of Personnel Management published an interim regulation to implement this requirement of the Civil Service Reform Act (44 FR 6325) and invited comments from the public. Comments were received from six organizations and Federal agencies. Several comments raise questions concerning the coverage of the regulation, but discussion with those agencies indicates that the regulation is sufficiently clear in its definition of which vacancies are to be reported. Most comments concerned the administrative workload involved in notifying a number of local Job Service Offices of each covered vacancy. This workload, however, appears to be

unavoidable under the language of the statutory requirement. Neither the U.S. Employment Service nor the Office Personnel Management is in a position to provide consolidated distribution services for such vacancy notifications. Two respondents suggested that required notification be expanded to include exclusive union bargaining representatives and organizations representing women, minorities, veterans, and the handicapped. Notification of some of these groups is common practice. Determinations of which groups to contact are properly made at the discretion of the Federal agency concerned and should not be prescribed in regulation.

In response to questions, to clarify the meaning of the phrase "rehiring of former Federal employees" in the interim regulation, we have substituted "hiring a person who is eligible for career service entry without competitive examination." Since by statute or other authority Vietnam era veterans, certain disabled veterans, career employees, and certain other specific groups may be hired for the career service without open competition with other candidates, it would be improper to solicit other applicants in such circumstances.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, the Office of Personnel Management is adding § 330.102 to 5 CFR Part 330 as set out below:

§ 330.102 Notification of vacancies to State Job Service and Office of Personnel Management.

Federal agencies (as defined in 5 USC 5102(a)(1)) must notify State Job Service offices and the Office of Personnel Management of vacant positions in the competitive service which they intend to fill from outside the Federal service, other than through competitive examinations or hiring a person who is eligible for career service entry without competitive examination. Such notification must indicate the period during which applications will be accepted.

(5 USC 3327)

[FR Doc. 79-26388 Filed 8-23-79; 8:45 am]

BILLING CODE 5325-01-M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 910

[Lemon Regulation 213]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona lemons that may be shipped to market during the period August 26-September 1, 1979. Such action is needed to provide for orderly marketing of fresh lemons for this period due to the marketing situation confronting the lemon industry.

EFFECTIVE DATE: August 26, 1979.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, 202-447-5975.

SUPPLEMENTARY INFORMATION: Findings. This regulation is issued under the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The action is based upon the recommendations and information submitted by the Lemon Administrative Committee, and upon other information. It is hereby found that this action will tend to effectuate the declared policy of the act.

The committee met on August 21, 1979, to consider supply and market conditions and other factors affecting the need for regulation and recommended a quantity of lemons deemed advisable to be handled during the specified week. The committee reports the demand for lemons is easier.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the Federal Register (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared policy of the act. Interested persons were given an opportunity to

submit information and views on the regulation at an open meeting. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

Further, in accordance with procedures in Executive Order 12044, the emergency nature of this regulation warrants publication without opportunity for further public comment. The regulation has not been classified significant under USDA criteria for implementing the Executive Order. An Impact Analysis is available from Malvin E. McGaha, 202-447-5975.

§ 910.513 Lemon Regulation 213.

Order. (a) The quantity of lemons grown in California and Arizona which may be handled during the period August 26, 1979, through September 1, 1979, is established at 225,000 cartons.

(b) As used in this section, "handled" and "carton(s)" mean the same as defined in the marketing order.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: August 22, 1979.

D. S. Kuryloski,

Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.
(FR Doc. 79-26601 Filed 8-23-79; 8:45 am)

BILLING CODE 3410-02-M

7 CFR Part 993

Dried Prunes Produced in California; Salable Percentages Established

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes a salable percentage of 100 percent and a reserve percentage of 0 percent for the crop year which begins August 1, 1979.

DATES: Effective August 1, 1979, through July 31, 1980.

FOR FURTHER INFORMATION CONTACT: William J. Higgins (202) 447-5053.

SUPPLEMENTARY INFORMATION: *Findings.* Pursuant to the marketing agreement, as amended, and Order No. 993, as amended (7 CFR 993), regulating the handling of dried prunes produced in California, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by the Prune Administrative Committee established under this order, it is found that the salable percentage for the 1979-80 crop year should be

established at 100 percent and the reserve percentage established at 0 percent.

The Committee's recommendations are based on its estimate that California's 1979 dried prune production would approximate 123,600 tons. Carryin on August 1, 1979, the beginning of the 1979-80 crop year, was estimated to be about 27,516 tons, for a total available supply of 151,116 tons. Trade requirements for the 1979-80 crop year, including a desirable carryout of 25,000 tons, is estimated at 165,700 tons, which results in a supply of 14,584 tons less than estimated trade demand. (All preceding data in processed weight.) Consequently, the Committee recommended that no volume regulation be established for the 1979-80 crop year.

It is further found that it is impractical, unnecessary, and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the Federal Register (5 U.S.C. 553) in that: (1) The 1979-80 crop year began August 1, 1979, and the salable and reserve percentages are applicable for that crop year; (2) handlers will begin receiving prunes soon, and no useful purpose will be served by delaying the effective date of this action; and (3) this regulation imposes no restrictions on handlers.

Further, in accordance with procedures in Executive Order 12044, the emergency nature of this regulation warrants publication without opportunity for further public comment. The regulation has not been classified significant under USDA criteria for implementing the Executive Order. An Impact Analysis is available from William J. Higgins (202) 447-5053.

Therefore, the salable and reserve percentages for the 1979-80 crop year are as follows:

§ 993.215 Salable and reserve percentages for prunes for the 1979-80 crop year.

The salable and reserve percentages for the 1979-80 crop year shall be 100 percent and 0 percent, respectively.

(Secs. 1-19, 48 Stat. 31, as amended; (7 U.S.C. 601-674))

Dated: August 21, 1979.

D. S. Kuryloski,

Acting Director, Fruit and Vegetable Division.

(FR Doc. 79-26461 Filed 8-23-79; 8:45 am)

BILLING CODE 3410-02-M

Commodity Credit Corporation

7 CFR Part 1435

[Amendment 6]

Price Support Loan Program for 1978 Crop Sugarbeets and Sugarcane; Correction of 1978 Crop Loan Rate for Puerto Rico

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: On October 30, 1978, there was published in the Federal Register (43 FR 50410) a final rule which (1) increased the 1978 crop support prices for sugarbeets and sugarcane and the 1978 crop basic loan rates for refined beet sugar and cane sugar, raw value, to reflect 52.5 percent of the announced July 1978 parity prices for sugarbeets and sugarcane; and (2) established differential loan rates for both domestic offshore sugar and mainland sugar based on the estimated average costs of transporting sugar from the processing region to destination.

The Puerto Rican sugar industry has supplied the Department with data showing that the costs attributed to transporting sugar from Puerto Rico to normal mainland markets were too high, thus making the loan rate for Puerto Rico too low. This action increases the loan rate for Puerto Rico to the level indicated by the use of proper transportation costs. Loan rates for other sugar processing regions remain unchanged.

EFFECTIVE DATE: August 24, 1979.

FOR FURTHER INFORMATION CONTACT: Laurence E. Ackland, ASCS, PSD, 202-447-5647, P.O. Box 2415, Washington, D.C. 20013.

SUPPLEMENTARY INFORMATION: At the time 1978 crop differential loan rates were being developed, the Department obtained from trade sources the estimated costs of transporting sugar from Puerto Rico to the mainland. Subsequent to issuance on October 30, 1978 (43 FR 50410) of the amended regulations which established differential loan rates for all sugar processing regions, representatives of the Puerto Rican sugar industry objected to the loan rate established for Puerto Rico. After several consultations with those representatives, the problem was identified as being the transportation

costs attributed from Puerto Rico to normal market outlets on the mainland. The Sugar Corporation of Puerto Rico thereupon collected and presented data alleged to be more representative. Extensive verification with the trade has established the inaccuracy of the data originally obtained by the Department and the substantial accuracy of that submitted on behalf of the Puerto Rican sugar industry. These data indicate that total transportation costs should be 1.30 cents per pound rather than the 1.97-cent per pound rate used initially.

The transportation components and their estimated costs as originally used by the Department and as now determined to be substantially accurate are as follows:

3—Loan program for 1978 crop sugar beets and sugarcane (Amend. 6).

Transportation cost components	Cents per pound	
	Used originally	Now Verified as accurate
Inland trucking.....	0.25	0.19
Loading.....	0.11	0.06
Ocean freight.....	1.12	0.63
Insurance.....	0.17	0.10
Stevedoring.....	0.27	0.27

Differential Loan Rates

(Cents per pound)

Area	As initially determined by USDA	As indicated by use of 1.30 cents per pound transportation cost for Puerto Rico	As finally determined with revised cost adjustment applied only to Puerto Rico
Louisiana.....	15.04	14.99	15.04
Florida.....	14.98	14.93	14.98
Texas.....	14.66	14.61	14.66
Hawaii.....	14.66	14.61	14.66
Puerto Rico.....	13.44	14.06	14.06
Weighted Average.....	14.73	14.73	14.75

The Puerto Rican loan rate implemented by this action would have been effective beginning October 30, 1978 had correct transportation data been known at the time. Its implementation at this time cannot restore any financial benefits which Puerto Rican processors and producers would have gained on the amount of the increase from October 30 to the publication date of this final rule. It is accordingly imperative to avoid delay now that the validity of the action has been determined.

Final Rule

Accordingly, CFR Part 1435 is amended as follows:

§ 1435.37 [Amended]

The loan rate shown for Puerto Rico in Subpart—Price Support Loan Program for 1978 Crop Sugar Beets and Sugarcane, § 1435.37, paragraph (c)(3), is changed from "13.44" cents per pound to "14.06" cents per pound.

Transportation cost components	Cents per pound	
	Used originally	Now Verified as accurate
Sampling and testing.....	0.05	0.05
Total.....	1.97	1.30

Had correct transportation cost data for movement of Puerto Rican sugar to market been used at the time differential loan rates were initially established for the 1978 crop, Puerto Rico's loan rate would have been as established by this action; but loan rates for other sugarcane processing regions would have been lower since all were calculated to weight out to a basic domestic loan rate of 14.73 cents per pound. Loan rates cannot be decreased for loans already made, and to reduce loan rates only for future 1978 crop loans would create inequity within regions. Accordingly, loan rate adjustment resulting from the use of proper transportation expense for Puerto Rico in total weighting has been limited to Puerto Rico. The weighted basic raw cane sugar loan rate increases to 14.78 cents per pound.

(Secs. 202 and 401 et seq. of the Agricultural Act of 1949, as amended (7 U.S.C. 1446, 1421 et seq.).)

Note.—This final rule has been reviewed under the USDA criteria established to implement Executive Order 12044, "Improving Government Regulations." A determination has been made that this action should not be classified "significant" under those criteria.

This rule corrects the 1978 crop sugar loan rate for Puerto Rico established under the rule (43 FR 50410), determined to be significant, which announced 1978 crop sugar loan rates for all domestic processing regions, and for which an approved impact statement is available.

Signed at Washington, D.C. on August 17, 1979.

Bob Bergland,
Secretary.

(FR Doc. 79-25985 Filed 8-23-79; 8:45 am)
BILLING CODE 3410-05-M

Office of Operations and Finance

7 CFR Part 3010

Availability of Information to the Public

AGENCY: Department of Agriculture.
ACTION: Final rule.

SUMMARY: This rule explains how to request records from the Office of Operations and Finance under the Freedom of Information Act. It supplements the Department's regulations in 7 CFR 1.1-1.16 and Appendix A.

EFFECTIVE DATE: October 1, 1979.

ADDRESSES: Send comments to G. Kent Godwin, Chief, Data Standards and Security Division, Office of Operations and Finance, Department of Agriculture, Room 4646-S, Washington, DC 20250.

FOR FURTHER INFORMATION CONTACT: G. Kent Godwin, Chief, Data Standards and Security Division, Office of Operations and Finance, Department of Agriculture, Room 4646-S, Washington, DC 20250, 202-447-6330.

SUPPLEMENTARY INFORMATION: This rule is an interpretative rule. Therefore, prior notice for comments is not required. See 5 U.S.C. 553(b). However, the Department will consider comments to change this rule.

7 CFR is amended by adding a new Chapter XXX and Part 3010 reading as follows.

CHAPTER XXX—OFFICE OF OPERATIONS AND FINANCE, DEPARTMENT OF AGRICULTURE

PART 3010—AVAILABILITY OF INFORMATION TO THE PUBLIC

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3010.1 General statement.
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Authority: 5 U.S.C. 301, 552; 7 CFR 1.1-1.16.

§ 3010.1 General statement.

This Part is issued in accordance with 7 CFR 1.4 of the U.S. Department of Agriculture regulations governing the availability of records (7 CFR 1.1-1.16 and Appendix A) under the Freedom of Information Act (5 U.S.C. 552). The Department's regulations, as supplemented by the regulations in this Part, provide guidance for any person wishing to request records from the Office of Operations and Finance (O&F).

§ 3010.2 Public inspection and copying.

(a) *Background.* 5 U.S.C. 552(a)(2) requires that each agency make certain

kinds of records available for public inspection and copying.

(b) *Procedure.* Persons wishing to gain access to O&F records may contact the division or center that maintains them. See appendix A, List of Addresses, for the location and hours of operation.

§ 3010.3 Indexes.

(a) *Background.* 5 U.S.C. 552(a)(2) also requires that each agency maintain and make available for public inspection and copying current indexes providing identifying information for the public with regard to any records which are made available for public inspection and copying.

(b) *Procedure.* Persons wishing to get an index may contact the division or center that maintains the records. See § 3010.4. Publication of these indexes as a separate document is unnecessary and impractical.

§ 3010.4 Initial requests for records.

(a) *Background.* (1) The head of each division and computer center in Washington, D.C. and in the field is authorized to:

(i) Grant requests for O&F records in the head's custody which are not exempted from disclosure.

(ii) Reduce or waive fees to be charged where determined to be appropriate.

(iii) Refer a request to the O&F FOIA Officer for determination.

(2) The O&F FOIA Officer is authorized to:

(i) Grant requests for O&F records which are not exempted from disclosure.

(ii) Deny requests for O&F records determined to be exempt under one or more provisions of 5 U.S.C. 552(b).

(iii) Make discretionary releases (unless prohibited by other authority) of O&F records when it is determined that the public interests in disclosure outweigh the public and/or private ones in withholding.

(iv) Reduce or waive fees to be charged where determined to be appropriate.

(b) *Procedure.* Persons wishing to request records from the Office of Operations and Finance may do so as follows.

(1) *How.* Submit each initial request for O&F records as prescribed in 7 CFR 1.3(a).

(2) *Where.* Submit each initial request to the official in charge of the division or center that maintains the O&F records. See Appendix A, List of Addresses. Contact the FOIA Officer for guidance as needed. Or, submit the request to the FOIA Officer for forwarding to the proper official. The FOIA Officer, Office of Operations and Finance, Room 4646

South Agriculture Building 14th and Independence Avenue, SW., Washington, DC 20250 Phone (202) 447-6330 (This office is open from 8:30 am. to 5:00 pm. Monday through Friday, except legal holidays.)

§ 3010.5 Appeals.

Procedure. Any person whose initial request is denied in whole or in part may appeal that denial, in accordance with 7 CFR 1.3(e) and 1.7, to the Director, Office of Operations and Finance, Room 118-W, Administration Building, 14th and Independence Avenue, SW., Washington, DC 20250.

Appendix A—List of Addresses

Section 1. General. This list provides the titles and mailing addresses of officials who are authorized to receive requests for records. It also provides the hours of operation.

Section 2. List of Addresses.

(a) Washington Divisions and Centers.

Chief, Information Systems and Planning Division, Room 3164-S.

Chief, Data Systems and Development Division, Room 3121-S.

Chief, ADP Operations and Communications Division, Room 3131-S.

Chief, Data Standards and Security Division, Room 4646-S.

Chief, Facilities Management Division, Room 1566-S.

Chief, Personal Property Management Division, Room 1532-S.

Chief, Procurement Division, Room 1575-S.

Chief, Reproduction and Distribution Division, Room 1547-S.

Chief, Internal Energy Conservation Division, Room 1533-S.

Chief, Budget and Executive Services, Room 118-W.

Chief, Fiscal Management Division, Room 126-E.

Chief, Accounting Systems & Grants Management Division, Room 10-A, of the: Office of Operations and Finance, USDA, 14th and Independence Avenue, SW., Washington, DC 20250 (Office hours are 8:30 am. to 5:00 pm. Monday through Friday, except legal holidays.)

Director, Washington Computer Center, U.S. Department of Agriculture, Room S-100, South Building, 12th and Independence Avenue, SW., Washington, D.C. 20250 (Office hours are 8:30 am. to 5:00 pm. Monday through Friday, except legal holidays.)

(b) Field Divisions and Centers.

Chief, Accounting Division.

Chief, Design and Programming Division.

Chief, Computer Services Division.

Chief, Requirements and Evaluation Division.

Chief, Administrative Management and Processing Division of the National Finance Center, USDA, 13800 Old Gentilly Road, Building 350, (P.O. Box 60000), New Orleans, Louisiana 70160 (Office hours are 7:45 am. to 4:15 pm. Monday through Friday except legal holidays.)

Director, Fort Collins Computer Center, U.S. Department of Agriculture, 3825 East

Mulberry Street, (P.O. Box 1206), Fort Collins, Colorado 80521 (Office hours are 8:00 am. to 4:30 pm. Monday through Friday, except legal holidays.)

Director, Kansas City Computer Center, U.S. Department of Agriculture, 8930 Ward Parkway, (P.O. Box 205), Kansas City, Missouri 64141 (Office hours are 8:00 am. to 4:45 pm. Monday through Friday, except legal holidays.)

Chief, St. Louis Computer Center, U.S. Department of Agriculture, 1520 Market Street, St. Louis, Missouri 63103 (Office hours are 8:00 am. to 4:30 pm. Monday through Friday, except legal holidays.)

Date signed: August 17, 1979.

Dean K. Crowther,

Director, Office of Operations and Finance.

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FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 329

Amendments Relating to Penalties for Early Withdrawal of Deposits, Interest Rate Ceilings on Deposits, and Restrictions on Nondeposit Obligations

Correction

In FR Doc. 79-24263, appearing at page 46264 in the issue of Tuesday, August 7, 1979, the following changes should be made:

1. On page 46265, the asterisks in the ninth line of the third column should be deleted.

2. On page 46266, first column, the fourth and seventh lines should read "a new insured bank, 1st but only to the" and "result thereof, and provided that notice", respectively.

BILLING CODE 1505-01-M

EXPORT-IMPORT BANK OF THE UNITED STATES

12 CFR Part 403

Classification, Downgrading, Declassification, and Safeguarding of National Security Information

AGENCY: Export-Import Bank of the United States.

ACTION: Final rule.

SUMMARY: These regulations supersede the Bank's regulations at Part 403, Chapter IV of Title 12 of the Code of Federal Regulations. The revisions are necessary to implement Executive Order 12065 of June 28, 1978 (hereinafter referred to as the Order), and Information Security Oversight Office Directive No. 1 of October 5, 1978

(hereinafter referred to as the Directive), relating to the classification, downgrading, declassification and safeguarding of national security information. The Order increases openness in government by limiting classification of documents and by accelerating the declassification of other documents while providing improved protection against unauthorized disclosure of information which requires protection in the interest of national security.

EFFECTIVE DATE: December 1, 1978.

FOR FURTHER INFORMATION CONTACT: Warren W. Glick, General Counsel, Export-Import Bank of the United States, 811 Vermont Avenue, NW., Washington, D.C. 20571, (202) 566-8834.

Dated: August 21, 1979.

Warren W. Glick,

General Counsel.

Accordingly, Part 403 of Chapter IV of Title 12 is revised as follows:

PART 403—CLASSIFICATION, DOWNGRADING, DECLASSIFICATION, AND SAFEGUARDING OF NATIONAL SECURITY INFORMATION

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| Sec. | |
| 403.1 | General Policy. |
| 403.2 | Responsibilities. |
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| 403.8 | Systematic Review For Declassification. |
| 403.9 | Mandatory Declassification Review. |
| 403.10 | Appeals. |
| 403.11 | Fees. |
| 403.12 | Safeguarding. |
| 403.13 | Enforcement. |

Authority: Executive Order 12065, National Security Information, June 28, 1978 (43 FR 28949, July 3, 1978) (Order); Information Security Oversight Office Directive No. 1 (43 FR 46280, October 5, 1978) (Directive).

§ 403.1 General policy.

(a) The interests of the United States and its citizens are best served by making information regarding the affairs of Government readily available to the public. This concept of an informed citizenry is reflected in the Freedom of Information Act (5 U.S.C. 552) and in the current public information policies of the executive branch. Within the Federal Government there is some information, however, which, because it bears directly on the effectiveness of our national defense and the conduct of our foreign relations, must be subject to some constraints for the security of our Nation. This information, hereinafter referred to as classified information, is

expressly exempted from compulsory public disclosure by 5 U.S.C. 552(b)(1).

(b) To balance the public's interest in access to government information with the need to protect certain national security information from disclosure, these regulations, which supplement the issuances listed in the Authority above, identify the information to be protected and outline classification, downgrading, declassification, and safeguarding procedures to be followed.

§ 403.2 Responsibilities.

In the carrying out of security procedures, responsibility falls on all personnel generally and on certain personnel in a more particular manner.

(a) *Individual.* Each employee of the Bank having access to classified material has an individual responsibility to protect such information.

(b) *Office and Division Heads.* These officials have the additional responsibility of a continuing review for ascertaining that security procedures are properly observed by the personnel comprising their respective offices.

(c) *Security Officer.* The Vice President—Administration as Security Officer has the responsibility for developing, inspecting, and advising on procedures and controls for safeguarding classified material originating in, received by, in transit through, or in custody of the Bank; the training and orientation of employees; the carrying out of inspections; and the destruction of obsolete and non-record material.

(d) *Security Committee.* This committee, consisting of the General Counsel, as Chairperson, the Security Officer, and other Bank employees as designated by the President and Chairman, has the responsibility to ensure the effective compliance with and implementation of the Order and the Directive. This committee will act on all matters with respect to the Bank's administration of the Order.

§ 403.3 Authority to classify.

The authority to assign original classification to any document which requires protection in the interest of national security, in accordance with the provisions of the Order, is limited as follows and is non-delegable:

Classification	Classifier
Confidential	President and Chairman, First Vice President and Vice Chairman, General Counsel, Senior Vice Presidents, Security Officer.

§ 403.4 Classification.

(a) *Criteria for classification.* Except as provided in the Atomic Energy Act of 1954, as amended, the Order, as implemented by the Directive and supplemented by these regulations, provides the only basis for classifying information. To be eligible for a classification, information or material must meet two requirements. First, it must deal with one of the following:

- (1) Military plans, weapons, or operations;
- (2) Foreign government information;
- (3) Intelligence activities, sources or methods;

(4) Foreign relations or foreign activities of the United States;

(5) Scientific, technological, or economic matters relating to the national security;

(6) United States Government programs for safeguarding nuclear materials or facilities; or

(7) Other categories of information which are related to national security and which require protection against unauthorized disclosure as determined by the President of the United States or the President and Chairman of the Bank, or by officials designated by the President of the United States in accordance with Section 1-201 of the Order.

Second, an official with original classification authority must determine that unauthorized disclosure of the information or material can reasonably be expected to cause at least identifiable damage to the national security. Unauthorized disclosure of foreign government information or the identity of confidential foreign sources is presumed to cause at least identifiable damage to the national security. Determinations of categories of information related to national security which require classification as noted in paragraph (a)(7) of this section shall be reported promptly to the Director of the Information Security Oversight Office.

(b) *Classification Designations.*

Except as provided in the Atomic Energy Act of 1954, as amended, the Order provides the only basis for classifying information. Such information may be classified in one of the three designations listed below:

(1) "Top Secret" shall be applied only to information, the unauthorized disclosure of which reasonably could be expected to cause exceptionally grave damage to the national security.

(2) "Secret" shall be applied only to information, the unauthorized disclosure of which reasonably could be expected to cause serious damage to the national security.

(3) "Confidential" shall be applied to information, the unauthorized disclosure of which reasonably could be expected to cause identifiable damage to the national security.

(c) *Duration of Classification.* (1) Except as permitted below, information or material which is classified after December 1, 1978, shall be marked at the time of classification with the date for declassification no more than 6 years after the date of classification.

(2) Only the President and Chairman may classify information for more than 6 years from the date of the original classification. This authority shall be used sparingly. In such cases, a declassification date or event, or a date for declassification review shall be set. This date or event shall be as early as national security permits and shall be no more than 20 years after original classification, except that for foreign government information the date or event may be up to 30 years after original classification.

(d) *Identification and Markings.* (1) At the time of original classification, the following shall be shown on the face of paper copies of all classified documents:

- (i) The identity of the original classification authority;
- (ii) The office of origin;
- (iii) The date or event for declassification or review;
- (iv) The classification designation; and
- (v) Date of classification.

(2) Documents classified for more than 6 years shall be marked to indicate that the President and Chairman authorized the prolonged classification. Such documents shall be annotated with the reason the classification is expected to remain necessary.

(3) Only the designations prescribed by the Order may be used to identify classified information. Markings such as "For Official Use Only" and "Limited Official Use" may not be used for that purpose.

(4) In order to facilitate excerpting and other uses, each classified document shall, by marking or other means, indicate clearly which portions are classified and which portions are not classified.

(i) In marking sections, parts, paragraphs, subparagraphs, or similar portions, the parenthetical symbols "(TS)" for Top Secret, "(S)" for Secret, "(C)" for Confidential, and "(U)" for Unclassified, shall be used immediately preceding the text that it governs. When appropriate, the symbols "RD" for Restricted Data and "FRD" for Formerly Restricted Data shall be added, e.g., "(S-RD)" or "(C-FRD)".

(ii) Classified subjects or titles of documents shall be marked with the appropriate symbol "(TS)", "(S)", "(C)", or "(U)" placed immediately following and to the right of the item. When applicable, other appropriate symbols, e.g., "(RD)" and "(FRD)", shall be added. Unclassified documents that transmit as an attachment a classified document shall bear a notation substantially as follows: "UNCLASSIFIED WHEN SEPARATED FROM CLASSIFIED ENCLOSURE".

(5) Except in those cases where such markings would reveal intelligence information, foreign government information incorporated in United States documents shall, whenever practicable, be identified in such manner as to ensure that the foreign government information is not declassified prematurely or made accessible to nationals of a third country without consent of the originator. Documents classified by a foreign government or an international organization of governments shall, if the foreign classification is not in English, be marked with the equivalent United States classification. Foreign government information not classified by a foreign government or an international organization of governments but provided to the United States in confidence by a foreign government or by an international organization of governments shall be classified at an appropriate level and shall be marked with the United States classification accordingly.

(e) *Prohibitions.* (1) Classification may not be used to conceal violations of the law, inefficiency, or administrative error, to prevent embarrassment to a person, organization or agency, or to restrain competition.

(2) Basic scientific research information not clearly related to the national security may not be classified.

(3) A product of non-government research and development that does not incorporate or reveal classified information to which the producer or developer was given prior access may not be classified under the Order until and unless the government acquires a proprietary interest in the product.

(4) References to classified documents that do not disclose classified information may not be classified or used as a basis for classification.

(5) Classification may not be used to limit dissemination of information that is not classifiable under the provisions of the Order or to prevent or delay the public release of such information.

(6) No documents originated on or after December 1, 1978, may be classified after the Bank has received a

request for them under the Freedom of Information Act or under the mandatory review provisions of the Order unless the documents were inadvertently or erroneously not classified at the time of origination or events subsequent to origination necessitate classification. Furthermore such documents may be classified only if classification of the information is consistent with the Order and is authorized by the President and Chairman personally, in writing, on a document-by-document basis. The same provisions shall apply to documents originated before December 1, 1978, but in such case the Chairperson of the Security Committee may personally authorize classification.

(7) Classification may not be restored to documents already declassified and released to the public under this Order or prior orders.

§ 403.5 Derivative Classification.

(a) *Use of Derivative Classification.*

(1) Derivative classification is the responsibility of those who only reproduce, extract, or summarize classified information, or who only apply classification markings derived from source material or as directed by a classification guide.

(2) Persons who apply such derivative classification markings shall:

- (i) Respect original classification decisions;
- (ii) Verify the information's current level of classification so far as practicable before applying the markings; and
- (iii) Carry forward to any newly created documents the assigned dates or events for declassification or review.

(b) *Classification Guides.* Classification guides used to direct derivative classification shall be prepared and issued from time to time. They shall be unclassified and written and organized to facilitate the identification and uniform classification of information requiring the protection of classification under these regulations.

(1) Classification guides shall specifically identify the information to be classified. Each classification guide shall specifically indicate how the designations, time limits, markings and other requirements under these regulations are to be applied to the information.

(2) Each classification guide shall be approved in writing by the President and Chairman. Such approval constitutes an original classification decision.

(3) Classification guides shall be kept current and shall be reviewed at least every two years. The Bank shall

maintain a list of all classification guides in current use.

(c) *New Material.* (1) New material that derives its classification from information classified on or after the effective date of the Order shall be marked with the declassification date or event, or the date for review, assigned to the source information.

(2) New material that derives its classification from information classified under prior orders shall be treated as follows:

(i) If the source material bears a declassification date or event 20 years or less from the date of origin, that date or event shall be carried forward on the new material.

(ii) If the source material bears no declassification date or event or is marked for declassification beyond 20 years, the new material shall be marked with a date for review for declassification at 20 years from the date of original classification of the source material.

(iii) If the source material is foreign government information bearing no date or event for declassification or is marked for declassification beyond 30 years, the new material shall be marked for review for declassification at 30 years from the date of original classification of the source material.

§ 403.6 Training Responsibilities and Objectives.

The Security Officer shall be responsible for disseminating written material and conducting oral briefings to inform Bank personnel of the Order, Directive and regulations. An explanation of the practical application of these procedures and the underlying policy objectives thereof shall be emphasized.

§ 403.7 Declassification and Downgrading.

(a) *Declassification.* Declassification of classified information shall be given emphasis comparable to that accorded to classification. The determination to declassify information shall not be made on the basis of the level of classification assigned, but on the loss of the sensitivity of the information with the passage of time, and with due regard for the public interest in access to official information. At the time of review, any determination not to declassify shall be based on a determination that despite the passage of time since classification, release of information reasonably could still be expected to cause at least identifiable damage to the national security.

(b) *Declassification and Downgrading Authority.* The authority to declassify or downgrade national security

information or material under the final classification jurisdiction of the Bank shall be exercised as follows:

(1) Classified information or material may be declassified or downgraded by the official authorizing the original classification, if that official is still serving in the same position; by a successor in the same position; or by a supervisory official of either.

(2) The President and Chairman shall designate additional officials at the lowest practicable echelons to exercise declassification and downgrading authority.

(3) If the Director of the Information Security Oversight Office determines that information is classified in violation of the Order, the Director may require the Bank to declassify it. Any such decision by the Director may be appealed to the National Security Council. The appeal shall be forwarded by the General Counsel, as Chairperson of the Security Committee. The information shall remain classified until the appeal is decided or until one year from the date of the Director's decision whichever comes first.

(c) *Downgrading.* Information classified under Executive Orders prior to this Order and marked for automatic downgrading shall be downgraded without notification to holders. Classified information not marked for automatic downgrading may be downgraded by the originator or other authorized officials when such action is considered appropriate. Notice of downgrading shall be provided to the holder of the record copy. Other holders of the information shall be notified to the extent that such action is practicable.

(d) *Transferred Material.* In the case of classified information or material officially transferred together with a transfer of function, the receiving agency shall be deemed to be the originating agency for all purposes, including downgrading and declassification. In the case of classified information not so transferred, but originated in an agency which has ceased to exist, each agency in possession shall be deemed the originating agency for all purposes, including downgrading and declassification. The agency in possession shall consult with any other agency having an interest in the subject matter before downgrading or declassifying.

§ 403.8 Systematic Review for Declassification.

(a) *Systematic Review Guidelines.* (1) Systematic review guidelines, applicable to 20-year-old, United States

Government-originated, classified information under the Bank's jurisdiction, shall be issued in accordance with the Order and reviewed at least every other year. Information which has not been declassified earlier and which is not identified in the guidelines as requiring item-by-item review shall be automatically declassified at the end of the 20th full calendar year from its date of origin. The guidelines shall be authorized for use by the Archivist of the United States and may be authorized by the President and Chairman for use by other agencies having custody of the information contained therein. Only the President and Chairman, in writing, may authorize the continued classification of information beyond 20 years. In cases where information is exempted from declassification at 20 years, a date shall be determined for declassification or for further review for declassification. This date shall be no more than 10 years later or as otherwise permitted by Section 3-401 of the Order.

(2) Foreign government information is exempt from automatic declassification at 6 years and from systematic review at 20 years. Unless declassified earlier, such information shall be reviewed for declassification at 30 years in accordance with Section 3-3 of the Order and the guidelines developed by the Bank in consultation with the Archivist of the United States and, where appropriate with the foreign government or international organization concerned.

(b) *Scheduling for Systematic Review.* Classified information constituting permanently valuable records of the Government as defined by 44 U.S.C. 2103 and information in the possession and control of the Administrator of General Services pursuant to 44 U.S.C. 2107 and 2107 Note shall be reviewed for declassification as it becomes 20 years old. However, in view of the backlog, transition to systematic review at 20 years shall be implemented as rapidly as practicable and shall be completed by December 1, 1988.

§ 403.9 Mandatory Declassification Review.

All information classified under the Order or prior executive orders, except information described in Section 3-503 of the Order, shall be subject to review for declassification upon request of a member of the public, a government employee, or an agency in accordance with the following procedures:

(a) For the request to be considered, it must reasonably describe the information sought. Whenever a request

does not reasonably describe the information sought, the requester shall be notified that unless additional information is provided, no further action will be taken.

(b) A request for classified information under the Order will be processed in accordance with the Order. In such a case, however, the exemptions of the Freedom of Information Act and any other exemption under applicable law may be invoked by the Bank to deny material on grounds other than classification.

(c) Requests may be addressed to the: General Counsel, Export-Import Bank of the United States, 811 Vermont Avenue, N.W., Washington, D.C. 20571.

(d) Requests for declassification under the Order shall be acted upon within 60 days from the date on which the request reaches the Office of General Counsel, which shall promptly acknowledge receipt of the request.

(e) The Bank shall determine whether information under the classification jurisdiction of the Bank or any reasonable segregable portion of it no longer requires protection. If so, the General Counsel shall promptly make such information available to the requester, and shall inform the requester of any fees, as identified in § 403.11, due before releasing the document. If the information may not be released, in whole or in part, the General Counsel shall give the requester a brief statement of the reasons, a notice of the right to appeal the determination to the First Vice President and Vice Chairman (hereinafter referred to as Vice Chairman) and notice that such an appeal must be filed within 60 days of the date of the statement.

(f) Requests for declassification of classified documents originated by the Bank but in the possession and control of the Administrator of General Services, pursuant to 44 U.S.C. 2107 or 2107 Note, shall be referred by the Archivist to the Bank for processing and for direct response to the requests. The Archivist will inform requesters of such referrals.

(g) In response to a request for a classified document in its possession, the Bank may not refuse to confirm the existence or non-existence of the document unless the fact of its existence or non-existence would itself be classified.

(h) If any agency makes a request on behalf of a member of the public, the request shall be considered as a request by that member of the public and handled accordingly.

§ 403.10 Appeals.

(a) *Policy.* The Vice Chairman is designated to receive appeals from denials of documents by the Bank. Such appeals shall be addressed to: First Vice President and Vice Chairman, Export-Import Bank of the United States, 811 Vermont Avenue, N.W., Washington, D.C. 20571.

The appeal must be received within 60 days of the date of the original denial letter. Appeals shall be decided within 30 days of their receipt by the Vice Chairman.

(1) If the decision is to declassify the materials in their entirety, the Vice Chairman shall promptly make such information available to the requester, and inform the requester of any fees due before releasing the documents.

(2) If the decision is to deny declassification of a portion of the material, the Vice Chairman shall promptly make the declassified information available to the requester, and shall advise the requester in writing of the reasons for the partial denial of declassification.

(3) If the decision is to deny declassification of all the material, the Vice Chairman shall promptly advise the requester in writing of the reasons for such denial.

(b) *Challenges to Classification.* A government employee, where there is reasonable cause to believe that a document is classified unnecessarily, improperly, or for an inappropriate period of time, is encouraged to and shall have the right to challenge such classification. The challenger shall prepare a statement giving the reasons to support such a challenge, and may submit a request to the General Counsel for a review of the document under the mandatory declassification procedures of the Bank, except that the Bank shall reach a determination in consultation with agency or agencies with subject matter interest in 30 days instead of 60 days. If the General Counsel agrees with the challenger, changes shall be made on the face of and inside the document. The office of the record holder and other holders should be notified of the changes to the extent practicable. If the General Counsel disagrees with the challenger, the challenger may appeal within 60 days to the Vice Chairman who shall make a decision within 30 days of receipt of the appeal. If the challenger wishes to remain anonymous, an officer designated by the Vice Chairman shall act as the challenger's agent.

§ 403.11 Fees.

The following specific fees shall be applicable with respect to services rendered to members of the public under these regulations, by the Bank, except that the search fee will normally be waived when the search involves less than one-half hour of clerical time.

(a) Search for records, per hour or fraction thereof:	
(i) Professional.....	\$11.00
(ii) Clerical.....	6.00
(b) Computer service charges per second for actual use of computer central processing unit.....	.25
(c) Copies made by photostat or otherwise (per page); maximum of 5 copies will be provided.....	.10
(d) Certification of each record as a true copy.....	1.00
(e) Certification of each record as a true copy under official seal.....	1.50
(f) Duplication of architectural photographs and drawings.....	2.00

Fees must be paid in full prior to issuance of requested copies. Remittances shall be in the form either of a personal check or bank draft drawn on a bank in the United States, or postal money order. Remittances shall be made payable to the order of the Export-Import Bank of the United States and mailed to Vice President—Administration, Export-Import Bank of the United States, 811 Vermont Avenue, N.W., Washington, D.C. 20571.

§ 403.12 Safeguarding.

(a) *General Access Requirements.* Except as provided in Paragraph 12(b) below, access to classified information shall be granted in accordance with the following:

(1) *Determination of Trustworthiness.* No person shall be given access to classified information or material unless a favorable determination has been made as to his trustworthiness. The determination of eligibility, referred to as a security clearance, shall be based on such investigations as the Bank may require in accordance with the standards and criteria of Executive Order 10450 and Executive Order 10865.

(2) *Determination of Need to Know.* In addition to a security clearance, a person must have a need for access to the particular classified information or material sought in connection with the performance of official duties or contractual obligations. The determination of that need shall be made by officials having responsibility for the classified information or material.

(3) *Administrative Withdrawal of Security Clearance.* The Bank shall make provision for administratively withdrawing the security clearance of any person who no longer requires access to classified information or material in connection with the performance of his official duties or contractual obligations. Likewise, when a person no longer needs access to

particular national security information, his security clearance shall be adjusted to the classification category still required for the performance of his official duties and obligations. In both instances, such action shall be without prejudice to the person's eligibility for a security clearance should the need again arise.

(b) *Access by Historical Researchers and Former Presidential Appointees.* The Bank shall obtain written agreements from requesters to safeguard the information to which they are given access as permitted by the Order and written consent to the Bank's review of their notes and manuscripts for the purpose of determining that no classified information is contained therein. A determination of trustworthiness is a pre-condition to a requester's access. If the access requested by historical researchers and former Presidential Appointees requires the rendering of services for which fair and equitable fees may be charged pursuant to Title 5 of the Independent Offices Appropriations Act, 65 Stat. 290, 31 U.S.C. 483a (1976), the requester shall be so notified and the fees may be imposed.

(c) *Dissemination.* Except as otherwise provided by Section 102 of the National Security Act of 1947, 61 Stat. 495, 50 U.S.C. 403 (1970 & Supp. V 1975), classified information originating in another agency and in the possession of the Bank may not be disseminated outside the Bank without the consent of the originating agency.

(d) *Accountability Procedures.* The Bank shall prescribe such accountability procedures as are necessary to control effectively the dissemination of classified information or material. Particularly stringent controls shall be placed on information and material classified as Top Secret.

(1) *Top Secret.* Designated as Top Secret Control Officers are the Vice President—Europe, the Vice President—Policy Analysis, the Security Officer and Assistant Security Officer. It is their responsibility with respect to all information classified in this category:

- (i) To receive the material for the Bank;
- (ii) To maintain registers which will reflect the routing of the material and the return thereof in a reasonable length of time for security storage in their safe-files;
- (iii) To dispatch and make record of material disseminated to authorized persons outside the Bank;
- (iv) To make a physical inventory of all material at least annually; and
- (v) To maintain current access records.

(2) *Secret and Confidential.* Designated as Secret and Confidential Control Officers are the Security Officer and Assistant Security Officer. It is their responsibility, with respect to all information classified in these categories:

- (i) To receive the material for the Bank;
- (ii) To maintain registers which will reflect the routing of the material and the return thereof in a reasonable length of time for security storage in their safe-files;
- (iii) To dispatch and make record of material disseminated to authorized persons outside the Bank;
- (iv) To make a physical inventory of all material at least annually; and
- (v) To maintain current access records.

(e) *Storage.* Classified information shall be stored only in facilities or under conditions adequate to prevent unauthorized persons from gaining access to it and in accordance with the Directive as well as General Services Administration standards and specifications.

(f) *Transmittal.* (1) Preparation and Receipting. Classified information shall be enclosed in opaque inner and outer covers before transmitting. The inner cover shall be a sealed wrapper or envelope plainly marked with the assigned classification and addresses of both sender and addressee. The outer cover shall be sealed and addressed with no identification of the classification of its contents. A receipt shall be attached to or enclosed in the inner cover, except that Confidential information shall require a receipt only if the sender deems it necessary. The receipt shall identify the sender, addressee, and the document but shall contain no classified information. It shall be immediately signed by the recipient and returned to the sender.

Any of these wrapping and receipting requirements may be waived by agency heads under conditions that will provide adequate protection and prevent access by unauthorized persons.

(2) *Transmittal of Confidential Information.* Confidential information shall be transmitted within and between the fifty States, the District of Columbia, the Commonwealth of Puerto Rico, and U.S. territories or possessions by one of the means established for higher classifications, or by United States Postal Service, certified first class, or express mail service, when prescribed by an agency head. Outside these areas, Confidential information shall be transmitted only as is authorized for higher classifications.

(3) *Transmittal of Top Secret and Secret information* shall be in accordance with the Directive.

(g) *Loss or Possible Compromise.* Any person who has knowledge of the loss or possible compromise of classified information shall immediately report the circumstances to the Security Officer. In turn, the originating agency shall be notified about the loss or compromise in order that a damage assessment may be conducted and appropriate measures taken to negate or minimize any adverse effect of such a compromise. An immediate inquiry shall be initiated by the Bank for the purpose of taking corrective measures and appropriate administrative, disciplinary, or legal action.

(h) *Destruction.* All classified information to be destroyed must be torn and placed in containers designated as burnbags which are available through the Office Services Section of the Bank. Destruction of such information will be carried out by the Security Officer or his designee by use of a disintegrator. The method of destruction selected must preclude recognition or reconstruction of the classified information or material. Records of destruction will be maintained by the Security Office for Top Secret information, material with serialized markings or material for which there is a special need to record its destruction.

(i) *Reproduction Controls.* (1) Top Secret documents may not be reproduced without the consent of the originating agency unless otherwise marked by the originating office.

(2) Reproduction of Secret and Confidential documents may be restricted by the originating agency.

(3) Reproduced copies of classified documents are subject to the same accountability and controls as the original documents.

(4) Records shall be maintained by the Security Officer to show the number and distribution of reproduced copies of all Top Secret documents, of all documents covered by special access programs distributed outside the originating agency, and all Secret and all Confidential documents which are marked with special dissemination and reproduction limitations in accordance with Section 4.

(5) Paragraphs (i) (1) and (2) of this section shall not restrict the reproduction of documents for the purpose of facilitating review for declassification. However, such reproduced documents that remain classified after review must be destroyed after they are used.

§ 403.13 Enforcement.

The Security Committee shall have responsibility for recommending to the President and Chairman appropriate administrative action to correct abuse or violation of any provision of the Order or directive thereunder, including notification by warning letter, formal suspension without pay and removal. Upon receipt of such a recommendation, the President and Chairman shall act promptly and advise the Security Committee of his action.

[FR Doc. 79-26479 Filed 8-23-79; 8:45 am]

BILLING CODE 6690-01-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION**14 CFR Part 1216****Policy on Environmental Quality and Control; Procedures for Implementing the National Environmental Policy Act (NEPA)**

AGENCY: National Aeronautics and Space Administration.

ACTION: Final rule; correction.

SUMMARY: NASA set forth its Policy on Environmental Quality and Control and its Procedures for Implementing the National Environmental Policy Act (NEPA) in 44 FR 44485-44491, July 30, 1979. This amendment makes editorial changes related to those Procedures.

EFFECTIVE DATE: July 30, 1979.

ADDRESS: Mr. Nathaniel B. Cohen, Director, Management Support Office (External Relations), Code LB-4, National Aeronautics and Space Administration, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Mr. Nathaniel B. Cohen, 202-755-8383.

14 CFR Part 1216 is amended by revising §§ 1216.303, 1216.308, 1216.310 and 1216.315 as follows:

1. § 1216.303(c) is revised to read as follows:

(c) The Director, Office of Legislative Affairs, is responsible for ensuring that legislative environmental impact statements accompany NASA recommendations or reports on proposals for legislation submitted to Congress. The Associate Administrator for External Relations, the Comptroller, and General Counsel will provide guidance as required.

2. § 1216.308(b) is revised to read as follows:

(b) After the NASA review is completed, the Associate Administrator for External Relations shall submit the approved draft statement to the Environmental Protection Agency (EPA),

Office of Environmental Review, and shall seek the views of appropriate agencies and individuals in accordance with Part 1503 and § 1506.6 of the CEQ Regulations.

3. § 1216.310(a) is revised to read as follows:

(a) After conclusion of the review process with other Federal, state, and local agencies and the public, the responsible Headquarters official shall consider all suggestions, revise the statement as appropriate, and forward the proposed final statement to the Associate Administrator for External Relations. The Associate Administrator for External Relations shall submit the approved final statement to the EPA Office of Environmental Review, to all parties who commented, and to other interested parties in accordance with CEQ Regulations.

4. § 1216.315(a) is revised to read as follows:

(a) Preparation of a legislative environmental impact statement shall conform to the requirements of § 1506.8 of the CEQ Regulations. The responsible Headquarters official, in coordination with the Associate Administrator for External Relations, shall identify those NASA recommendations or reports on proposals for legislation that would require preparation of environmental impact statements in accordance with criteria set forth in § 1216.305.

Joan E. Cavanaugh,

Federal Register Liaison Officer.

[FR Doc. 79-26352 Filed 8-23-79; 8:45 am]

BILLING CODE 7510-01-M

FEDERAL TRADE COMMISSION**16 CFR Part 13**

[Docket 9059]

Prohibited Trade Practices, and Affirmative Corrective Actions; Trans World Accounts, Inc., Et Al.

AGENCY: Federal Trade Commission.

ACTION: Modification of order to cease and desist.

SUMMARY: This modified order to cease and desist replaces an order issued on October 25, 1977. To clarify and reformulate the earlier order in accordance with the March 29, 1979 mandate of the Court of Appeals for the Ninth Circuit, Paragraph 3, which is the subject of further proceeding, has been omitted, but Paragraph 4 has not been renumbered.

DATES: Decision issued Oct. 25, 1977. Modified order issued July 25, 1979.¹
FOR FURTHER INFORMATION CONTACT: William A. Arbitman, Director, 9R, San Francisco Regional Office, Federal Trade Commission, 450 Golden Gate Ave., San Francisco, Calif. 94102. (415) 556-1270.

SUPPLEMENTARY INFORMATION: In the Matter of Trans World Accounts, Inc., a corporation, and Floyd T. Watkins, individually and as an officer of said corporation. The prohibited trade practices and/or corrective actions, as codified under 16 CFR 13, appear at 43 FR 2388, and has been changed by deleting § 13.2264 Delinquent debt collection, under Subpart "Threatening Suits, Not in Good Faith."

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

The modified order to cease and desist, is as follows:

Modified Order to Cease and Desist

On February 21, 1978, respondents filed in the United States Court of Appeals for the Ninth Circuit a petition to review an order to cease and desist issued herein on October 25, 1977. The Court thereafter rendered its decision and judgment, affirming and enforcing the Commission's order with the exception of numbered paragraph 3 thereof which was remanded for clarification pursuant to the decision of the Court. The time in which to file a petition for certiorari has now expired without any party having filed such a petition, and, accordingly, the order of the Commission shall be rendered in accordance with the mandate of the Court. See 15 U.S.C. § 45(i).

Therefore, it is ordered that the aforesaid order to cease and desist, save for numbered paragraph "3" (which is the subject of further proceedings), be rendered to read as follows:

Order

It is ordered that respondents, Trans World Accounts, Inc., a corporation, its successors and assigns, and its officers, and Floyd T. Watkins, individually and as an officer of said corporation, and respondents' agents, representatives and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the offering for sale, sale or distribution of any service or printed matter for use in the collection of, or attempted collection of, or for assisting in the collection of, or for inducing or attempting to induce the

¹ Copies of the modified order filed with the original document.

payment of, alleged delinquent debts in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Using or placing in the hands of others for use, envelopes, letters, forms or any other materials which by their appearance, content, or otherwise, misrepresent that they are telegrams or a telegram.

2. Using or placing in the hands of others for use, envelopes, letters, forms or any other materials which by simulating telegrams or other methods or forms or types of communication misrepresent the nature, import, or urgency of any communication.

4. Placing in the hands of others the means and instrumentalities to accomplish any of the matters prohibited in this order, or which fail to comply with the requirements of this order.

It is further ordered that the respondent corporation shall distribute a copy of this order to each of its operating divisions or departments and to each of its present and future officers, agents, representatives, or employees engaged in any aspect of the offering for sale, sale or distribution of any service or printed matter for use in the collection of, or for inducing or attempting to induce the payment of, alleged delinquent debts, and that said respondent secure a signed statement acknowledging receipt of said order from each person.

It is further ordered that the respondent corporation notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of the order.

It is further ordered that the individual respondent named herein promptly notify the Commission of the discontinuance of his employment with Trans World Accounts, Inc., and of his affiliation with a new business or employment. In addition, for a period of ten years from the effective date of this order, the individual respondent named herein shall promptly notify the Commission of his affiliation with a new business or employment whose principal activities include the offering for sale,

sale or distribution of any service or printed matter for use in the collection of, or attempted collection of, or for assisting in the collection of, alleged delinquent debts, or of his affiliation with a new business or employment in which his own duties and responsibilities involve the offering for sale, sale or distribution of any service or printed matter for use in the collection of, or attempted collection of, or for assisting in the collection of, or for inducing or attempting to induce the payment of, alleged delinquent debts. Such notice shall include individual respondent's current business address and a statement as to the nature of the business or employment in which he is engaged as well as a description of his duties and responsibilities. The expiration of the notice provision of this paragraph shall not affect any other obligation arising under this order.

It is further ordered that the respondents herein shall, within sixty (60) days from the date this order becomes final, and periodically thereafter as required by the Federal Trade Commission, file with the Commission a written report setting forth in detail the manner and form of their compliance with this order.

By the Commission.

James A. Tobin,

Acting Secretary.

[FR Doc. 79-26387 Filed 8-23-79; 8:45 am]

BILLING CODE 6750-01-M

SECURITIES AND EXCHANGE COMMISSION**17 CFR Part 210**

[Release Nos. 33-6097, 34-16047, 35-21163, IC-10797, AS-268]

Presentation in Financial Statements of "Redeemable Preferred Stocks"**Correction**

In FR Doc. 79-23971 appearing on page 45610 in the issue of Friday, August 3, 1979, in the middle column of page 45612, under "Rules of General Application", change "1. Paragraph (f) of § 210.3-16 is revised to read as follows." to "1. Paragraph (f)(1) of § 210.3-16 is revised to read as follows."

BILLING CODE 1505-01-M

**DEPARTMENT OF ENERGY
Federal Energy Regulatory
Commission****18 CFR Parts 271 and 274**

[Docket No. RM79-72; Order No. 43]

New Onshore Production Wells; Final Regulations and Amendment to Interim Regulations

AGENCY: Federal Energy Regulatory Commission.

ACTION: Final Regulations and Amendment to Interim Regulations.

SUMMARY: The regulations issued in final form implement section 103 of the Natural Gas Policy Act of 1978 which sets ceiling prices for new, onshore production wells and represents several modifications of the Interim Regulations issued December 1, 1978. In addition, the Commission is amending the requirements for filing with jurisdictional agencies for this type of gas to track the change made by the final regulations.

EFFECTIVE DATE: August 20, 1979.

FOR FURTHER INFORMATION CONTACT: Thom Hirsch, Office of the General Counsel, Federal Energy Regulatory Commission, Room 4008-E, 825 North Capitol Street, NE., Washington, D.C. 20426 (202) 275-0431.

Before Commissioners: Georgiana Sheldon, Acting Chairman; Matthew Holden, Jr., and George R. Hall.

In the matter of final rule amending regulations on natural gas from new, onshore production wells and amendment to the filing requirements in § 274.204 of the interim regulations.

Issued: August 20, 1979.

Background

The Commission is issuing final regulations implementing section 103 of the Natural Gas Policy Act of 1978 (NGPA), Pub. L. No. 95-621, which concerns new, onshore production wells. The Commission also is amending a portion of § 274.204 of its interim regulations regarding filing requirements for new, onshore production wells.

On December 1, 1978, the Commission issued interim regulations (43 FR 56448) implementing the NGPA. Since issuing the interim regulations, the Commission has held numerous public hearings and provided opportunity for written comments on the regulations. One result of the hearings and the written submissions is this order which promulgates §§ 271.301 through 271.305 as final rules and amends § 274.204 of

the interim regulations. Sections 271.301 through 271.305 concern new, onshore production wells under section 103 of the NGPA. Section 274.204 prescribes filing requirements for applications with jurisdictional agencies which request a determination that gas is produced from a new, onshore production well.

The NGPA established maximum lawful prices for first sales of natural gas. The applicable price depends upon which of the several price categories the gas qualifies for. This in turn depends, among other things, on the characteristics of the well that produced the gas. The price category of section 103 covers natural gas from so-called new, onshore production wells. These are wells: 1) The surface drilling of which began on or after February 19, 1977, 2) Which satisfy the applicable Federal or State well-spacing requirements and 3) Which are not within certain proration units. These statutory requirements are refined in §§ 271.301 through 271.305.

Discussion of Comments

Most of the comments on §§ 271.301 through 271.305 of the interim regulations concerning new, onshore production wells focused on the special rule established in § 271.305 which applies to wells within existing proration units. Generally, a new well drilled within an existing proration unit cannot qualify as a new, onshore production well.

The special rule provides for an exception where a jurisdictional agency making the section 103 determination finds that the new well is necessary to effectively and efficiently drain a portion of the reservoir covered by the proration unit, which cannot be effectively and efficiently drained by any existing well within the unit. Two State public service commissions allege that there is no authority in the NGPA for the special rule and that § 271.305 of the regulations should be eliminated. The comments allege that a well drilled within an existing proration unit simply cannot qualify under section 103.

The Joint Explanatory Statement of the Committee on Conference speaks directly to the point raised by these State commissions:

In some instances, a State or Federal agency may designate a proration unit for a reservoir which it later determines cannot effectively or efficiently be drained by a single well. In such case, the State or Federal agency may allow another well to be drilled on the same proration unit. The conferees do not intend a new well to be disqualified as a new onshore production well in such cases. S. Rep. No. 1126, 95th Cong., 2 Sess. 81 (1978).

It is clear that Congress contemplated that in certain cases wells drilled in

existing proration units could qualify as new, onshore production wells under section 103 of the NGPA. Thus, § 271.305 is not without a basis in the NGPA.

Section 271.305(a) of the interim regulations describes the jurisdictional agency determinations to which the special rule applies. One comment requests that language be added to § 271.305(a)(2)(i) to narrow the coverage of that section to include only reservoirs that produced gas in commercial quantities before February 19, 1977.

The Commission finds no statutory basis for this proposal. Section 103(c)(3)(C)(i) of the NGPA mentions reservoirs that produced gas in commercial quantities, but contains no specific date in reference to these reservoirs. However, to make § 271.305(a) clearer, the Commission will amend this section to track the exact language of section 103(c)(3) of the NGPA. This change is only for purposes of clarification and should not be construed as a change in Commission policy on the scope of the special rule applicable to existing proration units.

Amending § 271.305(a) to track the language of section 103 also will resolve another apparent point of confusion that is raised in the comments. One comment states that the wording of § 271.305(a)(2)(i) and (ii) is overly broad and ostensibly makes the special rule (for wells drilled within existing proration units) applicable even where no other well is located within the same proration unit as the well for which the section 103 determination is sought. This comment alleges that as long as another well produced or was capable of producing natural gas in commercial quantities from the same reservoir as the subject well, the special rule applies and the finding required by § 271.305(b) would have to be made in order for the subject well to qualify as a new, onshore production well.

As the Joint Explanatory Statement of the Conferees on the NGPA makes clear, the Congress in discussing section 103(c) of the Act envisioned that a special rule for wells drilled within existing proration units would be needed in that situation where the subject well is drilled within the same proration unit and into the same reservoir as another well which produced or was capable of producing natural gas in commercial quantities. The Commission never intended that the special rule apply in any other situation. By changing § 271.305(a), as noted, any ambiguity on this issue should be eliminated.

For a well drilled after December 31, 1978 and for which no drilling permit was issued until after that date, the special rule in § 271.305(b) requires that the jurisdictional agency make the

requisite finding regarding effective and efficient draining of the proration unit "prior to the commencement of drilling" for this new well. Two comments contend that the finding should not be required to be made prior to the drilling of the new well. They contend that such a finding is not always possible before the drilling commences. One of these comments adds that there is no language in the NGPA which requires that the finding by the jurisdictional agency be made prior to the drilling.

Again, the Commission must take guidance from the Statement of the Conferees on the NGPA. In referring to situations where wells can be drilled within existing proration units and still qualify as new, onshore production wells, the Conferees stated that:

In all cases, the unit must be designated prior to drilling the new well. S. Rep. No. 1126, 95th Cong., 2d Sess. 81 (1978).

This statement indicates the general intent of Congress that the need for the second well in a proration unit must be evaluated prior to drilling. However, because of the practical problems involved in determining—prior to drilling—if the new well is needed to effectively and efficiently drain the proration unit, the Commission will entertain applications by the jurisdictional agencies for alternative procedures that would allow such a finding to be made after the drilling and based on facts developed after the drilling. Accordingly, a new § 271.305(e) will be added to the special rule for new wells drilled in existing proration units to implement this procedure.

One problem identified by the comments is that establishment of proration units varies from State to State. For example, some States do not provide for proration units. In other States, a proration unit expires when the well on the unit is plugged and abandoned, and a new proration unit can be formed later when a new well is drilled in the same area. In yet other States, proration units exist indefinitely and independently of the well or wells within the unit. These diverse State policies regarding proration units conceivably could cause diverse results as the jurisdictional agencies make their determinations under section 103 of the NGPA.

The problem addressed by this comment is caused by the requirement in § 271.305(b)(2) that the requisite finding regarding the effective and efficient draining of an existing proration unit must involve either a redefinition of the boundaries of a proration unit or waiver of the applicable well-spacing requirements. Some States may be constricted by their

proration unit and well-spacing policies and may not be able to redefine a proration unit or alter or waive a spacing requirement in conjunction with making the finding required by § 271.305(b). Such diverse results under section 103 could not have been intended by Congress. Accordingly, the Commission is removing the last sentence of § 271.305(b)(2) which currently requires a redefinition of the boundaries of a proration unit or alteration or waiver of applicable well-spacing requirements.

As a consequence, so-called replacement wells are now eligible to qualify as new, onshore production wells. Generally, replacement wells are wells drilled to replace another well in a proration unit when the other well is no longer capable of draining the reservoir covered by the unit because of geological or engineering reasons. Hence, the drilling of a replacement well usually does not necessitate a redefinition of the boundaries of the unit or a waiver of the applicable well-spacing rules. Thus, most replacement wells could not qualify as new, onshore production wells under § 271.305(b) of our interim regulations, which required either a change of an existing proration unit or an alteration or waiver of a spacing rule. Since § 271.305(b) is being amended to eliminate this requirement, replacement wells can now qualify as new, onshore production wells—as long as the requisite finding regarding the effective and efficient draining of the proration unit is made.

The Commission emphasizes that in order for any well drilled on an existing proration unit to qualify as a new, onshore production well, the jurisdictional agency still must explicitly find that the new well is necessary to effectively and efficiently drain a portion of the reservoir covered by the unit, which cannot be effectively and efficiently drained by any existing well on the unit. This requirement is the key to the special rule for wells drilled within existing proration units. To be able to review these findings more closely, the Commission will henceforth require that the explicit finding be based on appropriate geological and engineering data contained in the record submitted to the Commission by the jurisdictional agencies with their section 103 determinations. New language will be added to § 271.305(b)(2) and to § 274.204(f) (which establishes the pertinent filing procedures) to reflect the new requirement.

Also, the Commission takes note of the situation where the jurisdictional agency finds that both an existing well

and the new well are necessary to effectively and efficiently drain a proration unit and a State has established allowables or production levels for that unit. The Commission is concerned that in this situation, the special rule in § 271.305 creates an incentive to produce a disproportionate amount of gas from the new well, because it commands the higher price as a new, onshore production well. To prevent this result, the Commission will amend § 271.305(b)(2) to require the jurisdictional agency to provide a reasonable method of establishing separate allowables or production levels for each of the two wells. The allowables or production levels should be based on the respective ability of the two wells to deliver gas. In the cases where no State authority has established allowables or production levels for the proration unit, there is no need for an allocation of production from the two wells because the Commission assumes that both wells will produce in accordance with their respective abilities to deliver gas.

Several comments object to the fact that there is no mention in the interim regulations of the "local custom or practice" definition for proration units. Under section 2(8)(C) of the NGPA, when a proration unit is not specifically provided for by any State or Federal agency, it can be established by "local custom or practice". These comments contend that omission of the phrase "local custom or practice" from the regulations implementing section 103 of the NGPA indicates that formal State or Federal action will always be required by this Commission in order to establish a proration unit.

The Commission here points out that the definitions contained in the regulations implementing section 103, or any other section of the NGPA, are in addition to those definitions contained in the Act. See § 270.102(a) of our regulations. The Commission recognizes that a proration unit may be established in certain situations by "local custom or practice", but feels that promulgation in the final regulations of the definition in section 2(8)(C) of the NGPA is unnecessary.

For wells drilled on or after February 19, 1977 and before January 1, 1979, and for wells for which a drilling permit was issued before January 1, 1979, a transitional period rule is established in § 271.305(c). Under the transitional rule, the jurisdictional agency finding regarding effective and efficient draining of the proration unit does not have to be made prior to the drilling of the new well. The jurisdictional agency in

making its finding can go back and review record evidence developed before the qualifying well was drilled. Two comments state that the transitional rule does not provide for the situation where the prior record was developed by an agency different from the jurisdictional agency that must make the section 103 determination. For example, for wells on Federal lands, a previous permit proceeding may have been conducted by a State agency, whereas under the NGPA the United States Geological Survey will have to make the jurisdictional determination for eligibility of the well under section 103. These comments assert that such wells may not be covered by the transitional period rule in § 271.305(c).

The concern expressed in these comments is well taken. The Commission will amend § 271.305(c) to make clear that where an agency other than the jurisdictional agency issued the drilling permit for the subject well, the jurisdictional agency making the required finding may rely on the record developed by the other agency.

One comment asserts that in New Mexico, for example, generally no records have been developed prior to the commencement of the drilling of wells, and that the State thus cannot review prior records as is necessary under the transitional rule. The comment suggests that the transitional rule be changed to allow an after-the-fact finding for such wells.

As noted on page 6, the Commission will entertain applications by jurisdictional agencies for alternative procedures that would allow such after-the-fact findings. A new § 271.305(e) has been added to the Commission's regulations to reflect this procedure. Thus, the problem raised by the comment can more appropriately be addressed by the Commission under the procedure set forth in § 271.305(e).

One jurisdictional agency suggests that the jurisdictional agencies be given the additional flexibility under §§ 271.305(b) and 271.305(c) to submit to this Commission the hearing record and order of the agency authorizing the drilling of the second well within an existing proration unit. The submission would be optional and would be made in lieu of the requirement of §§ 271.305(b) and 271.305(c) that the agency make the finding discussed above.

It would be administratively cumbersome for jurisdictional agencies to certify hearing records to this Commission. More importantly, the Commission is more concerned about the conclusions that a jurisdictional agency draws from the record it

develops. If this Commission received just the record and the agency's order, we would be without the benefit of the relevant factual finding that the agency must make before a second well drilled on an existing proration unit can be determined to be a new, onshore production well. Without this explicit or implicit finding, required by §§ 271.305(b) or 271.305(c), regarding the effective and efficient draining of the proration unit, the Commission in its appellate role under the NGPA cannot make a meaningful determination whether the second well should qualify under section 103. Thus, this suggestion will not be adopted.

Another comment notes that the special rule of § 271.305 does not take into account wells which penetrate several reservoirs. This comment suggests that language be added to the special rule so that a well, which has penetrated several reservoirs and which is determined to be a new, onshore production well as to one reservoir, can automatically qualify as a new, onshore production well as to the other reservoirs. The comment requests that a separate finding by the jurisdictional agency prior to the drilling of the well not be required in order for the gas from each of the other reservoirs to be eligible for the section 103 price.

We recognize that multiple reservoir development can present practical problems involved in requiring separate findings by the jurisdictional agency prior to drilling. As noted previously, the Commission will under § 271.305(e) entertain applications of jurisdictional agencies for alternative procedures which would, if approved by the Commission, allow the findings to be made after drilling and based on facts developed after the drilling. The Commission points out, however, that in all cases where multiple reservoirs are penetrated by a single well a separate finding will have to be made for each reservoir covered by each proration unit.

Under § 271.305(d), the jurisdictional agency must notify the Commission if the agency makes the finding required by §§ 271.305(b) and 271.305(c). A comment suggests that a jurisdictional agency be allowed to file a blanket notification with the Commission when the agency makes such a finding for a field in which several wells are located.

Under § 274.207 of our interim regulations, a jurisdictional agency may submit for approval of the Commission alternative filing and notice requirements governing applications by producers for NGPA well determinations. Each jurisdictional agency is free to apply to the

Commission for approval of an alternative plan incorporating a procedure for blanket notification as suggested. A party desiring such a blanket notification procedure as a means of complying with § 271.305(d) where there are several wells in a single field first must approach the pertinent jurisdictional agency. Only after a jurisdictional agency applies to the Commission for approval of such a blanket notification procedure will the Commission consider the merits of such a proposal.

One comment suggests that producers who file for a well determination under section 103 of the NGPA, not also be required to file for a certificate of public convenience and necessity under the Natural Gas Act for sales of gas made prior to a final section 103 determination. The comment contends that most of the gas involved will ultimately qualify for the section 103 price and that the certificate filing will therefore be unnecessary. The comment also contends that the certificate requirement will delay deliveries of gas to the interstate market while the producer awaits the issuance of the certificate from the Commission. This comment requests that the regulations make clear that filing for a certificate of public convenience and necessity is unnecessary for gas covered by section 103 pending the outcome of the jurisdictional agency proceeding and final review by the Commission.

Currently, the Commission is in the process of formulating a policy on the issue raised by this comment. Moreover, this issue which concerns the certificating of sales of committed or dedicated gas which ultimately may be excluded from the jurisdiction of the Commission under the Natural Gas Act, involves sections other than section 103 of the NGPA. Consequently, the Commission will resolve the issue in a separate order to be issued at a later date.

Under § 271.304 of the interim regulations, a new well is deemed to have satisfied applicable State or Federal well-spacing requirements if, prior to the commencement of drilling of the new well, a jurisdictional agency alters or waives the applicable well-spacing requirements. Two State public service commissions request that § 271.304 be amended so that the section does not include alterations and waivers granted for the sole purpose of having a new well qualify as a new, onshore production well. Otherwise, these State commissions allege, the requirement under section 103(c)(2) of the NGPA that a new well satisfy applicable well-

spacing requirements would be rendered meaningless.

As noted above, the Commission believes that the special rule for new wells within existing proration units applies whenever a jurisdictional agency finds that a proration unit cannot be effectively and efficiently drained by an existing well, and that a new well is needed to perform the task. In some instances, to allow a new well that would qualify under the special rule as a new, onshore production well to be drilled on the existing proration unit, the jurisdictional agency must alter or waive its well-spacing requirements. Without § 271.304 as presently written, the jurisdictional agency in these instances would be foreclosed from determining that the new well is a new, onshore production well even though the agency makes the finding necessary for the well to qualify as such under the special rule. Furthermore, by permitting a State to waive its spacing requirements in order to permit new wells to qualify as new, onshore production wells, the Commission is not eviscerating section 103(c)(2) of the NGPA. The Commission does not believe that a State or Federal agency will necessarily waive its well-spacing requirements just to enable a well to qualify as a new, onshore production well. Thus, the request of these two State public service commissions must be denied.

One jurisdictional agency requests that § 271.304 be amended to provide a rule for changes in the sizes of proration units, similar to the rule for waivers of well-spacing requirements. Under the agency's proposal, when a jurisdictional agency redefines the boundaries of a proration unit prior to the drilling of a new well, which is within the former unit but which is also the only well within the newly created unit, the new well will be deemed to be not within an existing proration unit described in section 103(c)(3) of the NGPA.

The Commission must reject this proposal. Unlike waivers of well-spacing requirements for the purposes of section 103(c)(2) of the NGPA, redefinitions of the boundaries of proration units for the purposes of section 103(c)(3) must be accompanied by the finding regarding the effective and efficient draining of the existing proration unit. Unless the finding is made by the jurisdictional agency, a new well drilled within the former unit cannot qualify as a new, onshore production well, regardless of the fact that the new well is the only well within the newly created unit.

No comments were received by the Commission on §§ 271.301, 302 and 303 of our interim regulations. These

sections have not been modified in the final regulations on new, onshore production wells issued by this order.

Finally, the Commission on its own motion makes certain other editorial changes in § 271.305. These changes do not reflect a variance in the Commission policy as implemented in the interim regulations.

Public Procedures and Effective Date

The regulations in Subpart C of Part 271 and Subpart B of Part 274 were originally proposed for comment in November of 1978 and issued as interim regulations on December 1, 1978 (43 FR 56448, December 1, 1978). For 60 days thereafter comments were received and during that period public hearings were held on these regulations. By this process the Commission complied with the provisions of section 502(b) of the NGPA which requires that "[t]o the maximum extent practicable, an opportunity for oral presentation of data, views, and arguments" be afforded for certain regulations under the NGPA.

The amendments to Parts 271 and 274 which are contained in this order rest upon consideration given to the information received during the above-described notice, comment, and hearing process, as well as upon comments received over the FERC "Hot Line." The Commission finds that further notice and public procedure with respect to these rules is unnecessary.

Subpart C of Part 271, as issued in final form, and Subpart B of Part 274, as amended,¹ relieve restrictions previously placed on producers who file applications under the interim regulations implementing the NGPA. Thus, the Commission is dispensing with the publication requirements of 5 U.S.C. 553(d)(1) (1977). Accordingly, both Subpart C of Part 271, issued as final regulations, and Subpart B of Part 274, as amended, are effective immediately with regard to jurisdictional agency determinations which have not yet become final under § 275.202 as of the day before the date of issuance of this order.

(Natural Gas Act, as amended, 15 U.S.C. 717 *et seq.*; Department of Energy Organization Act, 42 U.S.C. 7107 *et seq.*, Exec. Order No. 12009, 42 FR 46267, Natural Gas Policy Act of 1978, Pub. L. No. 95-621, 92 Stat. 3350.)

In consideration of the foregoing, Subpart C of Part 271, Subchapter H, Chapter I, Title 18, Code of Federal Regulations, is issued as final regulations effective immediately as set forth above. Subpart B of Part 274 is

¹ There may be further amendments to Subpart B of Part 274 at the time Final Regulations for that Subpart are issued.

amended effective immediately as set forth above.

By the Commission.

Kenneth F. Plumb,
Secretary.

PART 271—CEILING PRICES

1. Part 271 is amended in Subpart C to read as follows:

Subpart C—New, Onshore Production Wells

§ 271.301 Applicability.

This subpart implements section 103 of the NGPA and applies to the first sale of natural gas produced from a new, onshore production well.

§ 271.302 Maximum lawful price.

The maximum lawful price, per MMBtu, for natural gas to which this subpart applies shall be the price specified for Subpart C of Part 271 in Table I of § 271.101(a).

§ 271.303 Definition of new, onshore production well.

For purposes of this subpart, the term "new, onshore production well" means a well which a jurisdictional agency has determined, in accordance with Parts 274 and 275, to be a new, onshore production well (as defined in section 103(c) of the NGPA).

§ 271.304 Waivers of well-spacing requirements.

If a jurisdictional agency alters, or grants a waiver of, any applicable well-spacing requirements prior to the commencement of surface drilling of the well for which a determination is sought, the new well shall be deemed to satisfy any applicable Federal or State well-spacing requirements as required by section 103(c)(2) of the NGPA.

§ 271.305 Special rule applicable to existing proration units.

(a) *Applicability.* This section applies only to a jurisdictional agency determination with respect to a new well which is within a proration unit:

- (1) Which was in existence at the time the surface drilling of such well began;
- (2) Which was applicable to the reservoir from which natural gas from such well is produced; and
- (3) Which applied to a well:
 - (i) Which produced natural gas in commercial quantities; or
 - (ii) The surface drilling of which was begun before February 19, 1977, and which was thereafter capable of producing natural gas in commercial quantities.

(b) *Wells spudded after December 31, 1978, and for which a drilling permit had not been issued prior to January 1, 1979.*

(1) This paragraph applies to wells to which this section applies and:

(i) For which a drilling permit is issued after December 31, 1978; or

(ii)(A) The surface drilling of which began after December 31, 1978; and

(B) For which a drilling permit had not been issued prior to January 1, 1979.

(2)(i) In order for natural gas from a well to which this paragraph applies to qualify for the maximum lawful price under this subpart, the jurisdictional agency must explicitly find, prior to the commencement of drilling, that the well is necessary to effectively and efficiently drain a portion of the reservoir covered by the proration unit which cannot be effectively and efficiently drained by any existing well within the proration unit. This explicit finding must be based on appropriate geological and engineering data, and such data must be included in the notice of determination submitted to the Commission.

(ii) Where the explicit finding of paragraph (b)(2)(i) of this section is that both an existing well and a new well are necessary to effectively and efficiently drain the reservoir covered by the proration unit and a pertinent State authority establishes allowables or production levels for the proration unit, the jurisdictional agency must also establish separate allowables or production levels for both the existing well and the new well, in order for natural gas from the new well to qualify for the maximum lawful price under this subpart.

(c) *Wells spudded on or after February 19, 1977, and before January 1, 1979, or for which a drilling permit was issued before January 1, 1979.*

(1) This paragraph applies to wells to which this section applies and:

(i) The surface drilling of which began on or after February 19, 1977, and before January 1, 1979; or

(ii) For which a drilling permit was issued before January 1, 1979.

(2) Upon request of an applicant, the jurisdictional agency shall review the record which was developed (by that agency or an agency which issued the pertinent drilling permit) prior to the commencement of drilling of a well described in paragraph (c)(1)(i) of this section or the issuance of the drilling permit for a well described in paragraph (c)(1)(ii) of this section. In order for natural gas from such well to qualify for the maximum lawful price under this subpart, the jurisdictional agency the commencement of drilling:

(i) The agency which developed the record explicitly found that the drilling of the new well was necessary to effectively and efficiently drain a portion of the reservoir covered by the proration unit which could not be effectively and efficiently drained by any existing well within the proration unit; or

(ii) The agency which developed the record implicitly made such a finding and the record would support an explicit finding that the drilling of the new well was necessary to effectively and efficiently drain a portion of the reservoir covered by the proration unit which could not be effectively drained by any existing well within the proration unit.

(d) *Notice of finding.* If the jurisdictional agency makes a finding under paragraph (b) or (c) of this section, it shall notify the Commission of such a determination in accordance with § 274.104.

(e) *Alternative procedure.* A jurisdictional agency may submit to the Commission alternative procedures for making the findings required in paragraphs (b) and (c) of this section after commencement of drilling of the new well. The finding then may be made on the basis of a record developed after commencement of drilling of the new well. Such procedures will apply, if approved by the Commission, in lieu of the procedures under the preceding paragraphs of this section.

PART 274—DETERMINATIONS BY JURISDICTIONAL AGENCIES

2. Part 274 is amended in § 274.204(f) to read as follows:

§ 274.204 New, onshore production wells.

(f) If the applicant is seeking a determination with respect to a new well drilled into an existing proration unit pursuant to § 271.305, the applicant must file all items required in paragraphs (a) through (e) of this section, except for the portion of the oath statement described in paragraph (d)(3) and demonstrate by appropriate geological evidence and engineering data that the new well is necessary to effectively and efficiently drain a portion of the reservoir covered by the proration unit which cannot be effectively and efficiently drained by any existing well within the proration unit.

[FR Doc. 79-26459 Filed 8-23-79; 8:45 am]
BILLING CODE 6450-01-M

18 CFR Parts 271 and 274

[Docket No. RM79-73; Order No. 44]

Stripper Well Natural Gas; Final Regulations and Amendments to Interim Regulations

AGENCY: Federal Energy Regulatory Commission.

ACTION: Final Regulations and Amendments to Interim Regulations.

SUMMARY: The Federal Energy Regulatory Commission is issuing in final form regulations which implement section 108 of the Natural Gas Policy Act of 1978. Section 108 establishes ceiling prices and special rules for natural gas produced from stripper wells. The final regulations represent several modifications of the Interim Regulations issued December 1, 1978. In addition, the Commission is amending the requirements for filing with jurisdictional agencies for this type of gas to track changes made in the final regulations.

EFFECTIVE DATE: August 22, 1979.

FOR FURTHER INFORMATION CONTACT: Carol Lane, Office of the General Counsel, Federal Energy Regulatory Commission, Room 4308-F, 825 North Capitol Street, N.E., Washington, D.C. 20426, (202) 275-4867.

Before Commissioners: Charles B. Curtis, Chairman; Georgiana Sheldon, Matthew Holden, Jr., and George R. Hall.

In the matter of final rule amending Subpart H of Part 271 on stripper well natural gas and amendments to § 274.206 of the interim regulations.

Issued: August 22, 1979.

I. Background

On December 1, 1978, the Federal Energy Regulatory Commission (Commission) issued interim regulations (43 FR 56448) implementing certain sections of the Natural Gas Policy Act of 1978 (92 Stat. 3350) (NGPA). Part 271, Subpart H, of the interim regulations implements section 108 of the NGPA, applying to first sales of natural gas produced from stripper wells. Subpart H contains definitions of terms used in section 108 and prescribes several special rules intended to assist in implementation of the section. Section 274.206 sets forth the filing requirements for stripper well natural gas determinations.¹

¹ The amendments to § 274.206 are not being promulgated as final rules at this time. The Commission is considering promulgating all sections of Subpart B, Part 274, as final regulations by separate order.

II. Summary of Comments and Revisions to Subpart H

A. *General.* Section 108 of the NGPA prescribes a definition and a maximum lawful price for stripper well natural gas. According to the general rule prescribed in section 108(b)(1) of the statute, natural gas is stripper well natural gas if, during the 90-day production period preceding the date on which application is made for a stripper well determination, the well produced nonassociated natural gas at its maximum efficient rate of flow and did not exceed an average of 60 Mcf per production day. Natural gas may qualify as stripper well natural gas regardless of the spud date for the producing well. Section 108(b)(2) provides that a well may, after initial qualification, continue to qualify as a stripper well if production exceeds 60 Mcf per day during any 90-day production period, so long as the increased production is determined to have resulted from the application of recognized enhanced recovery techniques.

B. *Recognized Enhanced Recovery Techniques.* Section 271.803(a) of the regulations defines "recognized enhanced recovery techniques." In the interim regulations, this definition required that a recognized enhanced recovery technique increase the ultimate recovery of gas from a well. Comments from producers and jurisdictional agencies expressed confusion as to the meaning of the term "ultimate recovery." It was pointed out that it would be difficult to determine whether a well had actually experienced an increase in the amount of gas which could ultimately have been produced from the well had the enhanced recovery technique not been applied. Most comments asserted that the only determination which a jurisdictional agency could make with certainty would relate to whether or not rate of recovery from a well had been accelerated.

Upon consideration of these comments, the Commission has concluded that our use of the term "ultimate recovery" established a test which was difficult to meet and which limited recognized enhanced recovery techniques to a narrower scope than was contemplated in section 108. We believe that once a well has qualified as a stripper well, Congress intended that a producer who applies an enhanced recovery technique which increases his rate of production above 60 Mcf per day should not be penalized by loss of the stripper well price. Accordingly, we have revised the rule to provide that any enhanced recovery techniques which increase the rate of production of gas

from a well shall generally qualify as recognized enhanced recovery techniques. We have also revised the rule to provide that normal completion operations performed within two years of the initial completion do not qualify as recognized enhanced recovery techniques. This provision is intended to insure that a producer does not have an economic incentive to delay installation of a normal completion operation, establish the well as a stripper well, and then apply the completion operation, claiming that it is a recognized enhanced recovery technique. Additionally, the new rule provides that any drilling activity which results in production from another reservoir shall not qualify as a recognized enhanced recovery technique.

A number of comments asked that the Commission provide examples of processes or equipment that constitute recognized enhanced recovery techniques. Commentors gave particular attention to the issue of whether or not compression falls within the definition. In this respect, we believe it is clear from our revised definition that any technique shall qualify if it increases the rate of production from the well. Accordingly, compression qualifies as a recognized enhanced recovery technique so long as it is not a normal completion operation performed within two years of initial completion. With respect to what constitutes a "normal well completion operation," the Commission notes that such operations may differ from State to State due to geological differences in the producing reservoirs. For this reason we have stipulated in the regulation that the jurisdictional agency shall define the term "normal well completion operation" with respect to wells in the State. If the agency has not defined the term, it shall apply State custom or practice in making such determinations.

One comment suggested that determinations of what constitutes enhanced recovery techniques under § 271.803(a) should be left entirely to the jurisdictional agencies and not to the Commission. We do not agree. Section 501(a) gives the Commission authority to prescribe such rules as it finds necessary or appropriate to carry out its functions under the NGPA, and section 501(b) authorizes the Commission to define accounting, technical, and trade terms used in the Act. In the case of recognized enhanced recovery techniques, we have exercised our statutory authority to define this term because we believe that such a definition is essential to a reasonably uniform application of the provisions Congress included in section 108.

Another comment proposed that where a well qualifies as a stripper well for a 12-month period and then production increases to a level in excess of 60 Mcf per day, it should be conclusively presumed that the cause of this increase was the application of recognized enhanced recovery techniques. The Commission believes that adoption of this proposal would contravene the NGPA, because it would mean that once a well had maintained stripper status for 12 months it would conclusively maintain its stripper well status permanently. To the contrary, we note that the NGPA provides that maintenance of stripper status after production exceeds 60 Mcf per production day is specifically predicated upon the operator's having installed "recognized" enhanced recovery techniques.

C. *Nonassociated Natural Gas.* Section 271.803(b) defines "nonassociated natural gas." A well meets the statutory definition of a stripper well only if the gas it produces during the qualifying production period is not associated with oil. However, "nonassociated natural gas" is defined so as to permit a stripper well to qualify under this subpart if it produces crude oil in volumes which do not exceed specific limits. The rule provides for a sliding-scale ratio of natural gas to crude oil production, depending on the amount of production.

A number of comments addressed this issue. Some asserted that the definition went beyond the Commission's statutory authority and that "nonassociated natural gas" should properly be defined by the jurisdictional agencies. Others proposed that the sliding-scale crude oil allowance be eliminated because the statute makes no provision for it. On the other hand, some parties favored increasing the crude oil allowance, with a number of commentors favoring a 10-barrel-per-day limitation on crude oil production. Still others suggested that the sliding scale be replaced with a flat 3-barrel-per-day oil allowance in order to lessen administrative burdens and make the provision less restrictive.

As noted earlier, we have concluded that sections 501(a) and 501(b) of the NGPA provide authorization for the Commission, where appropriate, to define terms used in the Act. We believe that the definition of nonassociated natural gas established in the interim regulations conforms to the intent of Congress, as stated in the Statement of Managers, that "the Commission could allow a *de minimis* amount of oil to be produced from the well without

disqualifying the well." (at p. 89) As we noted in the preamble to the interim regulations, we adopted the sliding scale in the belief that it provides a reasonable definition of nonassociated natural gas. Our approach is an attempt to reconcile two important interests which commentors on this section have stressed. First, we believe that a reasonable incentive is needed to preserve production of gas and oil from marginal wells, particularly in the Appalachian area. Too restrictive a limit on crude oil production could result in premature plugging and abandonment of marginal gas wells, which in turn could result in a permanent loss of reserves. On the other hand, we are mindful that Congress provided in section 108(b)(3)(c) of the NGPA that nonassociated natural gas means natural gas which is not produced in association with crude oil. While the above-cited Statement of Managers and other legislative history make it clear that Congress intended a minimal amount of crude oil production to be permitted, we feel constrained to keep crude oil allowances to a *de minimis* standard. Accordingly, we believe that the definition as it stands is reasonable and prescribes limits contemplated by Congress.

In addition, the Commission's sliding scale approach is predicated in part on the economics of producing both oil and gas from marginal wells. We believe that aggregate revenues from such wells should be adequate to maintain continued production. However, such aggregate revenues should not exceed those revenues which would result from the sale of 60 Mcf of gas and 1 barrel of oil. The sliding scale in § 271.803(b) implements this approach.²

D. *90-Day Production Period and Production Day.* Two additional definitions have been added to § 271.803 in response to comments which asked that the statutory terms "90-day production period" and "production day" be explained in our regulations. A new subparagraph (c) defines that former term, and a new subparagraph (d) defines the latter. Both reflect the statutory definitions. Subpart (c) also establishes a presumption (explained below) with respect to the establishment of a 90-day production period.

A 90-day production period is defined as any period of 90 consecutive calendar days, excluding those days during which natural gas is not produced for reasons

² For example, if a well produced 30 Mcf of gas (at \$2.50 per Mcf) and 3 barrels of oil (at \$20 a barrel) per day, aggregate revenues from the well would be \$75 + \$60, or \$135 per day. These aggregate revenues would not exceed aggregate revenues for a well producing 60 Mcf of gas and 1 barrel of oil per day (\$150 + \$20, or \$170 per day).

other than voluntary action of any person with the right to control production. All stripper well determinations rest on qualifying 90-day production periods. The Commission has determined, however, that several important administrative considerations make it appropriate that 90-day production periods be calculated on a 90-calendar-day basis, without bringing additional days into the period in cases where some days are excluded pursuant to the statutory definition. We note two relevant considerations in this respect. First, it is general industry practice to keep production records on a monthly rather than daily basis. Any necessity to change this practice could present producers with a difficult and costly burden. Second, the calculations required to compute a statutory 90-day production period would complicate the jurisdictional agency determination process while resulting in no substantial difference in the outcome of the determination in the great majority of cases.

Accordingly, the Commission has determined that where average daily production, calculated on a 90-calendar-day basis, is 60 Mcf or less per production day, there is substantial evidence to support a finding that the well produced 60 Mcf or less per production day during the 90-day production period defined in the statute. To implement our determination in this respect, we have provided in § 271.803(c)(2) that where records for a 90-consecutive-calendar-day period indicate that the well produced 60 Mcf or less per production day during that period, a rebuttable presumption is created that the well produced 60 Mcf or less per production day during the statutory 90-day production period.

A "production day" is defined in § 271.803(d) as (1) any day during which natural gas is produced, and (2) any day during which natural gas is not produced if production during such day is prohibited by a requirement of State law or a conservation practice recognized or approved by the State agency having regulatory jurisdiction over the production of natural gas.

Under these regulations, we will permit a 90-day production period to be calculated as follows:

(1) The producer shall submit daily or monthly production records for a 90-consecutive-calendar-day period.

(2) The producer shall submit the number of days natural gas was produced during the 90-consecutive-calendar-day period.

(3) The producer shall submit, if applicable, the number of days natural gas was not produced during the 90-

consecutive-calendar-day period, and (a) a description of the State law or conservation practice (recognized or approved by the State agency having regulatory jurisdiction over the production of natural gas) under which the well did not produce on any such day or days, or (b) and explanation of any other reason the well did not produce on any such day or days.

(4) The total volume of gas produced during the 90-consecutive-calendar-day period shall be divided by the number of days in the period which qualify as "production days" as defined in § 271.803(d). The figure reached is to be rounded off to the nearest whole number. Fractions are rounded off by increasing the whole number where the fraction is equal to or greater than .5 Mcf (e.g., 60.6 Mcf = 61 Mcf) and by dropping any fraction less than .5 Mcf (e.g., 60.4 Mcf = 60 Mcf).

(5) Where the average production, calculated according to (4) above, is 60 Mcf or less per production day, a presumption is created that the well produced 60 Mcf or less per production day during the statutory 90-day production period.

(6) The presumption created according to (5) above may be rebutted by the purchaser or other interested person by evidence showing that if the producer, pursuant to the statutory definition of 90-day production period, had excluded days during which natural gas was not produced for reasons other than voluntary action, and subsequently added on days to bring the production period back to a total of 90 calendar days, production for that period would have exceeded 60 Mcf per production day.

Sections 274.206(a)(4) and (5) have been amended, where appropriate, to accord with the above-described procedure.

The Commission is also aware that some three-calendar-month records may contain slightly more or less than 90 calendar days. For example, the period February-March-April 1979 contained 89 calendar days. In such cases, we believe that reasonable assumptions premised upon monthly records will provide the jurisdictional agency with sufficient evidence upon which a determination may be made.

E. Rate of Production. Section 271.804 sets forth special rules which interpret and apply terms used in the NGPA. Section 271.804(a) concerns the methodology for determining the rate of production from a well for which a stripper well determination is sought. Comments were received from a number of producers, as well as from the State of New Mexico and one of its Senators,

proposing that the Commission revise this interim rule. The commentators objected to the requirement that total volume of natural gas produced from the well be utilized for purposes of calculating the average rate of production, regardless of whether the well is completed in more than one interval. It was suggested that separate completion locations within a multi-completion well be treated as separate wells for purposes of determining rate of production. The parties argued that the rule as it stood would encourage owners to refrain from producing a second reservoir within the same bore because this might mean loss of the stripper price. They argued further that owners might also be encouraged to plug one interval of a well in order to qualify production from another interval as a stripper. Some parties made the point that dual completions may have nothing in common other than the same wellbore: they may have different interest owners, different royalty owners, different purchasers, and fall into different price categories. Other comments noted that many States and Government agencies have traditionally classified individual completions as individual wells and that nothing in the NGPA directly contravenes this traditional practice.

The Commission cannot agree that a practice should be maintained solely because it is traditional, or that the interests of different owners or purchasers in the same wellbore make the interim rule unreasonable. We recognize that there may be cases in which treating volume from separate intervals as total volume in order to calculate stripper well eligibility may result in a lack of incentive to drill a new interval or to maintain an old one. However, we believe that the language of the statute supports the Rate of Production rule. We note that Congress provided separate definitions for the terms "well" and "completion location" in section 2 of the NGPA. Throughout the Act, Congress made use of the term "completion location" in places in which that term needed to be distinguished from the term "well." For example, in sections 102, 103, and 107, Congress referred to "completion location" when describing certain criteria under which wells could qualify under those sections. But Congress did not use the term "completion location" when describing criteria for qualification under section 108. We believe that if Congress had intended stripper well qualification to be determined for each "completion location," it would have used that term. Congress instead used the term "well."

Accordingly, we believe that the Rate of Production rule implements Congressional intent that total volume from the well, regardless of whether it is completed in more than one interval, is the basis for calculation of volume under section 108.

Another comment on § 271.804(a) requested that the Commission make it clear that rate of production may be measured either before or after the extraction of natural gas liquids. In this respect, we note that the Statement of Managers says: "The 60 Mcf per day measurement is intended to be applied after extraction of natural gas liquids; production of natural gas liquids does not disqualify a well from qualifying as a natural gas stripper well" (at p. 89). Accordingly, § 271.804(a) has been amended to reflect this Congressional intent.

F. Averaging of Production. Section 271.804(b) applies when the wells are not individually metered. Under paragraph (b), jurisdictional agencies may average rates of production in order to determine whether particular wells are stripper wells. For example, if six wells were attached to a single meter, and the meter showed deliveries averaging 360 Mcf per production day, presumptively all wells would qualify. If, on the other hand, deliveries from the six wells averaged 370 Mcf per production day, presumptively none of the wells would qualify. In either case, alternative evidence may be offered in rebuttal to establish qualification or the lack of qualification.

One comment on this rule suggested that an allocation to each well should be calculated based on both a master meter reading and periodic production tests of each well. We do not believe that periodic tests on individual wells are necessary in order to insure stripper well eligibility where there is a single meter. Accordingly, the interim rule has not been changed.

G. Applications for Determinations. Section 271.804(c) originally provided that an application for a stripper well determination be based on a 90-day production period falling within 120 days of the date on which the application was filed. Inquiries made over the FERC "Hot Line" indicated that some parties interpreted this rule to mean that any 90-day production period in which one or more days fell within 120 days of the filing date would qualify under the rule. It was not the Commission's intent to allow such a prolonged interval between the end of the 90-day production period and the date of filing. We believe that a jurisdictional agency should be provided with the most current data possible

upon which to make a stripper well determination. Accordingly, we have revised the rule to make it clear that the entire 90-day production period must fall within the prescribed period for filing. However, in response to one written comment, we have also expanded the 120-day limit to 180 days. This will give an owner or operator a maximum of 90 days after the end of the 90-day production period within which to file a stripper well application. (Section 271.805(c) has also been changed to allow a maximum of 90 days for filing a notice of increased production pursuant to the rules for continuing qualification.) Section 274.206, which sets forth the filing requirements for stripper well determinations, is also amended, in § 274.206(a)(3)(ii), to reflect both of these changes.

A group of producers proposed that any well which had a documented history as a stripper well before May 1, 1978 but whose production subsequently rose above the 60 Mcf limit as the result of the application of recognized enhanced recovery techniques should be eligible to apply for a stripper well determination. The Commission disagrees. The definition of stripper well natural gas in section 108(b)(1) requires the establishment of a 90-day production period (during which production did not exceed an average of 60 Mcf per day) preceding the application for a stripper well determination. The statutory definition then goes on to provide that a well "which previously qualified as a stripper well under paragraph (1)" may exceed the 60 Mcf per day limit if the increase was the result of application of a recognized enhanced recovery technique. Accordingly, in order for a well to be eligible for a determination that production has increased due to a recognized enhanced recovery technique, an applicant must first have established a qualifying preceding 90-day production period. A well such as that described in this comment cannot establish such a qualifying period.

H. Seasonally-affected Wells. Section 271.804(d) (formerly § 271.804(e)) is a special rule which permits wells to retain stripper status despite increases in production above the 60 Mcf per day level, provided the increase is attributable to seasonal fluctuations. Jurisdictional agencies may make the determination that a well is seasonally affected on the basis of production history over a 24-month period if production from the well has not and cannot reasonably be expected to have exceeded an average of 60 Mcf per day for any 12-month period.

Comments from State public service commissions and other groups recommended that this special rule be deleted, because section 108 does not provide a statutory predicate for it. The Commission disagrees. Production from a well often varies as a result of pressure differentials. A rule that ignores this occurrence would place an undue administrative burden on producers. States and the Commission. Many wells would have to go through the qualification and disqualification process every year. The Commission believes that once a well has qualified as a stripper, it should be able to remain qualified as long as production, when calculated on a yearly basis, does not exceed an average of 60 Mcf per production day, where the well is determined to be seasonally affected. The Commission believes this rule is practical, is within the spirit and intent of the law, and is a proper exercise of its rulemaking authority under section 501(a) of the Act.

One comment on seasonally affected wells asked if production level, as set forth in § 271.804(d)(1), was the only criterion for the establishment of a well as a stripper well. This party pointed out that the filing requirements of § 274.206(d)(4) additionally require that an applicant describe "the nature of the seasonal fluctuations." In this respect, the Commission notes that § 271.804(d)(1) provides that a designation that a well is seasonally affected shall be granted by a jurisdictional agency "only if it finds that the seasonal fluctuations have not and cannot reasonably be expected to increase production levels above an average of 60 Mcf per production day for any 12-month period." We believe that a jurisdictional agency must look into the nature of seasonal fluctuations in order to make such a finding. Accordingly, the filing requirement of § 274.206(d)(4) acts as a supplement to the special rule for seasonally affected wells.

Section 274.206(d)(5) requires that the applicant file a statement indicating that notice of the designation that a well is seasonally affected has been served on the entities listed in § 271.805. Section 274.206(d)(5) is amended to clarify that notice is required to be served on the jurisdictional agency, the Commission, and any purchaser. A similar change is made in § 274.206(c)(4).

Section 271.804(d)(1) also requires that production records for a period of at least 24 months accompany a petition for a designation as a seasonally affected well. One jurisdictional agency proposed that the 24 months be reduced to 12 months, arguing that seasonal

variations on gas wells generally show their range over a 12-month period. We decline to make this change. It is our belief that a 24-month record provides a more reliable indication of a well's true production pattern.

Section 271.804(d)(3) of the interim regulations contained a clerical error which has been corrected in the final regulations. This section now exempts the purchaser and operator of a well which has been designated as seasonally affected from the filing requirements of § 271.805 (not § 274.805), unless the average rate of production exceeds 60 Mcf per day for a 12-month period.

1. *Continuing Qualification.* Section 271.805 is a rule implementing section 108(b)(2) of the NGPA. The format of the section has undergone certain revisions for purposes of clarification.

The continuing qualification rule disqualifies wells which produce quantities of gas in excess of the amounts permitted by law and this subpart. The rule also provides for a reporting mechanism to monitor the continued qualification of the well. Both the operator of the well and the purchaser of the gas are obligated to report any increase in gas production above an average of 60 Mcf per production day for any 90-day production period. Unless the operator receives a determination from a jurisdictional agency that the increase was due to the application of recognized enhanced recovery techniques, or that the well has been designated as seasonally affected, he may no longer collect the stripper price for the well. If the operator files a petition for a determination that the increase results from enhanced recovery techniques or seasonal fluctuations, or if he files a motion contesting the notice, continued collection of the stripper well price shall be made subject to refund for deliveries made after the last day of the applicable 90-day or 12-month production period.

One comment proposed that a jurisdictional agency be permitted to make a permanent finding that a well is seasonally affected, excusing the operator and purchaser from any further filing requirements under this section, regardless of subsequent production level. The Commission has not adopted this approach. A properly designated seasonally affected well which subsequently exceeds the allowable 12-month production level for reasons other than use of recognized enhanced recovery techniques can no longer be defined as a stripper well under section 108(b)(1) of the NGPA. We believe that to ignore production level once a well is designated as seasonally affected is to

ignore our duty to administer and enforce the NGPA.

Another comment on § 271.805 proposed that the section be eliminated altogether, adopting an approach of "once a stripper, always a stripper." As noted previously, the Commission believes that the implementation of sections 108(b)(1) and 108(b)(2) requires the rule. We have attempted in § 271.805(d) to give operators a reasonable means of challenging any notice given by a purchaser that the statutory limit has been exceeded. Section 271.805(d) provides that a well will not lose its stripper well status if a petition opposing the notice is filed within 30 days of the date the purchaser gives notice. The operator may continue to collect the maximum lawful price, subject to refund from the last day of the 90-day or 12-month production period described in the notice.

A number of comments from pipelines proposed that the burden of giving notice under § 271.805(a) be placed solely on the operator, rather than on both operator and purchaser. It was argued that the operator is in the best position to determine when the well exceeds stripper limits. The Commission strongly disagrees with this proposal. We find that to require a pipeline to monitor its purchases of stripper well gas is not unduly burdensome. In many cases the pipeline already monitors production for purposes of billing. More importantly, however, we believe that our rule is consistent with the duty pipelines owe to their own purchasers to insure that all gas purchases are properly priced.

Two comments asserted that § 271.805 should require that written notice be given if production of crude oil exceeds the amount allowed under the definition of nonassociated natural gas. The Commission has not adopted this proposal because of our concern about both the practical difficulties inherent in monitoring oil production and the administrative burden it would impose. In a situation where oil production increases, we believe that as a general matter gas production will also increase. Consequently, most wells which come to exceed the oil limit will at the same time exceed the gas limit and be disqualified as strippers on the basis of the latter. Should a situation come to the Commission's attention wherein this general proposition does not apply and wherein crude oil production is in excess of the prescribed limits of § 271.803(b), the Commission will undertake whatever measures we deem appropriate to resolve the matter.

J. Jurisdictional Agency Determinations and Commission

Review. Section 271.806(a) stipulates that upon receipt of a petition to designate a well as seasonally affected or an application to determine that production in excess of the stripper well limitation was due to use of recognized enhanced recovery techniques, the jurisdictional agency shall treat the petition or application as if it were an application for an initial determination. Section 271.806(b) provides for Commission review of jurisdictional agency determinations with respect to seasonally affected wells and recognized enhanced recovery techniques.

In order to assist jurisdictional agencies in making determinations with respect to enhanced recovery techniques, § 271.806(c) provides that an agency may seek a declaratory order or staff interpretation from the Commission that a type of process or equipment qualifies as a recognized enhanced recovery technique as defined in § 271.803(a). In this respect one commenter asked whether the declaratory order procedure was optional or mandatory on the part of a jurisdictional agency. We stress that initial determinations regarding recognized enhanced recovery techniques will be made by each jurisdictional agency pursuant to the definition established by the Commission in § 271.803(a) and subject to Commission review. The declaratory order procedure is available to an agency, on an optional basis, in order to facilitate its determinations.

Another comment asked that the Commission specify the procedure to be employed when an agency seeks a declaratory order with respect to recognized enhanced recovery techniques. Accordingly, we have added language to § 271.806(c) to provide that such declaratory orders shall be filed in accordance with the requirements of § 1.7(c) of the Commission's Rules of Practice and Procedure (18 CFR 1.7(c)).

A group of producers suggested that it would be helpful if a producer could directly file with the Commission for a declaratory order on a particular enhanced recovery technique. It was argued that producers will be reluctant to install certain techniques without advance knowledge that the well will retain its stripper well status. The Commission notes that under § 1.7(c) of its Regulations any person may file for a declaratory order on an issue in which that person has an interest. Section 271.806(c) was specifically included in our regulations so as to emphasize that jurisdictional agencies may seek declaratory orders with respect to

recognized enhanced recovery techniques. The Commission contemplates that each jurisdictional agency will make the initial determination on this issue, basing its decision on our definition of the term. We have also provided, in an amendment to § 271.806(c), that a jurisdictional agency may seek a staff interpretation from the Commission with respect to a recognized enhanced recovery technique. We encourage agencies to seek such interpretations where necessary to facilitate their decisions.

A suggestion was made that a well producing low Btu gas should be allowed to exceed the 60 Mcf per day limit, yet still qualify as a stripper. The Commission declines to make such an allowance because the NGPA clearly stipulates that stripper well production shall be measured in Mcfs. Btu content is a consideration only for purposes of determining the maximum lawful price.

K. *Maximum Efficient Rate of Flow.* Section 108(b)(1)(B) of the NGPA provides that a well must produce at its "maximum efficient rate of flow" (MER) during the 90-day production period in order to qualify as a stripper well. Section 271.807 (formerly § 271.804(d)) implements this MER requirement. The section has been amended in several respects, as discussed below, and conforming amendments have been made in § 274.206.

Section 271.807(a) applies the statutory requirement for establishment of MER and § 271.807(b) provides alternative methods for establishment of MER. The first alternative provides that if a well has produced an average volume of 60 Mcf or less per production day during the 12-month period ending concurrently with the 90-day production period, there is a rebuttable presumption that the well produced at its MER during the 90-day production period. The Commission notes that over the course of the 12-month period a well may occasionally be shut in for several days or weeks as part of normal production procedure. Such a shut-in will not disqualify the well from establishing MER. We wish to make it clear, however, that a well which is not producing at all during the 9 months preceding the 90-day production period cannot be presumed to have produced at its MER during the 90-day production period. An MER presumption cannot reasonably be made unless the jurisdictional agency is able to review a record which sets forth the production pattern and rate of production over a 12-month period during which the well was actually in production.

The second alternative method of establishing MER involves situations in which natural field decline has brought about a gradual decrease in a well's production to a point at which the well is producing 60 Mcf or less during the 90-day production period, but where production during the preceding 9 months was high enough that the well's 12-month production average slightly exceeded 60 Mcf. The Commission is adopting a new regulation to apply in this situation. Section 271.807(b)(1)(ii) provides that where a well's production during the 12 months ending concurrently with the 90-day production period indicates an average of 70 Mcf or less per production day, the jurisdictional agency shall defer making a determination on the well and shall establish a later 12-month period upon which to determine MER. (This deferred 12-month period must include the 90-day production period upon which the application was based.) At the end of the deferred period, the applicant shall submit the relevant production records and the jurisdictional agency shall determine whether or not the well's average production for the deferred 12 months exceeded 60 Mcf. The agency shall then make the MER determination accordingly. An applicant may make interim collection of the section 108 price during the period of deferral, or may collect such price retroactively once an affirmative determination has become final.

The Commission's decision to amend the regulations in this regard rests on our confidence that examination of a well's production history can provide the jurisdictional agency with substantial evidence that a well has or has not met the statutory requirement with respect to MER. We have established a 12-month average production level of 70 Mcf as a cut-off point for permitting deferral of the determination because we believe a well within the 61-70 Mcf range per production day during that period may experience natural decline to 60 Mcf or less per production day by the last 90 days of that 12 month period. If, however, average production at 60 Mcf or less is not experienced during a deferred 12-month period, the jurisdictional agency must make a negative determination and the applicant must make the appropriate refunds pursuant to the provisions of Subpart C of Part 273.

There may arise situations in which a 12-month production history is not available because the well is new. In such situations, the jurisdictional agency

may also employ the deferral process described above.

A final alternative method of establishing MER is provided in § 271.807(b)(3). The jurisdictional agency may base the determination on other substantial evidence, such as flow tests, which measure production capability.

Unless the jurisdictional agency is relying on § 271.807(a) or § 271.807(b)(3), it is required to make a negative determination in the following situations:

(1) Where production data for the 12 months ending concurrently with the 90-day production period indicate that the well's average production exceeded 70 Mcf;

(2) Where production data for the deferred 12 month period indicate that the well's average production exceeded 60 Mcf; and

(3) Where the jurisdictional agency is relying on a deferred 12 month period and the applicant fails to submit the required production data.

In order to clarify the MER regulations, the Commission has amended § 271.807 to eliminate the word "nonassociated" from portions of the section and from portions of the filing requirements of § 274.206. This change has been made because the phrase "nonassociated natural gas" refers to the kind of gas which must be produced during a 90-day production period. We do not believe it is appropriate to extend this phrase to apply to one of the tests used to establish MER.

One comment on this section expressed concern that the Commission's regulations exceed its statutory power because they dictate procedures under which a jurisdictional agency shall make determinations as to MER. The Commission wishes to stress that § 271.807(a) provides that a jurisdictional agency may establish its own procedures, in accordance with recognized conservation practices, for determining maximum efficient rate of flow. In a case where such procedures have not been established by the agency, § 274.807(b) sets forth what the Commission considers reasonable data upon which to determine MER.

Section 271.807(c) provides that an applicant who is required by the jurisdictional agency to submit deferred 12-month production data has 90 (rather than 30) days from the end of the 12-month period to submit the data to the agency. This change is made in response to a comment which pointed out that gas purchasers often take more than 30 days to supply meter statements to gas sellers.

III. Public Procedures and Effective Date

The regulations in Subpart H were originally proposed for comment in November of 1978 and issued as interim regulations on December 1, 1978 (43 FR 56448, Dec. 1, 1978). For 60 days thereafter comments were received and during that period public hearings were held on these regulations. By this process the Commission complied with the provisions of section 502(b) of the NGPA, which requires that, "(t)o the maximum extent practicable," an opportunity for the oral presentation of data, views, and arguments be afforded for certain regulations under the NGPA.

The amendments to Subpart H contained in this order rest upon consideration given to the information received during the above-described notice, comment, and hearing process, as well as upon comments received via the FERC "Hot Line." The Commission finds that further notice and public procedure with respect to Subpart H is unnecessary.

Subpart H of Part 271, as issued in final form, and Subpart B of Part 274, as amended,³ relieve restrictions previously placed on applicants under the interim regulations, with two exceptions. Thus the Commission is dispensing with the publication requirements of 5 U.S.C. 553(d)(3), except with respect to §§ 271.804(c), and 271.807. Accordingly, both Subpart H of Part 271, issued as final regulations, and Subpart B of Part 274, as amended, are effective immediately with regard to jurisdictional agency determinations which have not yet become final under § 275.202 as of the day before the date of issuance of this order, except that §§ 271.804(c) and 271.807 are effective 30 days from date of issuance with regard to applications for determinations filed on or after date of issuance.

(Natural Gas Policy Act of 1978, Pub. L. 95-621, 92 Stat. 3350, Department of Energy Organization Act, 42 U.S.C. 7107 *et seq.* EO 12009, 42 FR 46267.)

In consideration of the foregoing, Subpart H of Part 271, Subchapter H, Chapter I, Title 18, Code of Federal Regulations, is issued as final regulations effective immediately as set forth above, except that §§ 271.804(c) and 271.807 are effective 30 days from date of issuance. Subpart B of Part 274 is amended, effective immediately as set forth above.

³ There may be further amendments to Subpart B of Part 274 at the time Final Regulations for that Subpart are issued.

By the Commission. Commissioner Hall was present and not voting.
Kenneth F. Plumb,
Secretary.

PART 271—CEILING PRICES

1. The Table of Contents for Part 271 is amended in Subpart H by adding at the end thereof "§ 271.807 Maximum efficient rate flow."
2. Subpart H of Part 271 is amended to read as follows:

Subpart H—Stripper Well Natural Gas

§ 271.801 Applicability.

This subpart implements section 108 of the NGPA and applies to any first sale of natural gas which a jurisdictional agency determines is stripper well natural gas.

§ 271.802 Maximum lawful price.

The maximum lawful price, per MMBtu, for natural gas to which this subpart applies shall be the price specified for Subpart H of Part 271 in Table I of § 271.101(a).

§ 271.803 Definitions.

For purposes of this subpart:

(a) *Recognized enhanced recovery techniques.* "Recognized enhanced recovery techniques" means processes or equipment, or both, which when performed or installed by the producer, increase the rate of production of gas from a well. Processes qualifying as recognized enhanced recovery techniques include mechanical as well as chemical stimulation of the reservoir formation. Equipment may include items installed in the well bore or on the surface.

Normal well maintenance, repair, or replacement of equipment or facilities does not qualify as enhanced recovery techniques. Normal completion operations (as defined by the jurisdictional agency or, if the agency has not defined the term, by state custom or practice) which are performed within two years of the initial completion do not qualify as recognized enhanced recovery techniques. Any drilling activity which results in production from another reservoir does not qualify as a recognized enhanced recovery technique.

(b) *Nonassociated Natural Gas.* "Nonassociated natural gas" means natural gas produced from a well which a jurisdictional agency determines produced an average number of barrels of crude oil per production day during the production period upon which the determination is based, which does not exceed the number of barrels determined in accordance with the following table:

If the average production of natural gas per production day during such production period was.	Then average crude oil production per day may not exceed
50 Mcf or more but not more than 60 Mcf.	1 bbl.
30 Mcf or more but less than 50 Mcf.	2 bbl.
Less than 30 Mcf.	3 bbl.

(c) *90-Day Production Period.* (1) "90-day production period" means any period of 90 consecutive calendar days excluding any day during which natural gas is not produced for reasons other than voluntary action of any person with the right to control production of natural gas from such well.

(2) Where records for a 90-consecutive-calendar-day period indicate that the well produced 60 Mcf or less per production day during that period, a rebuttable presumption is created that the well produced 60 Mcf or less per production day during the 90-day production period defined in subparagraph (1) of this paragraph.

(d) *Production Day.* "Production day" means:

- (1) Any day during which natural gas is produced; and
- (2) Any day during which natural gas is not produced if production during such day is prohibited by a requirement of State law or a conservation practice recognized or approved by the State agency having regulatory jurisdiction over the production of natural gas.

§ 271.804 Special rules.

(a) *Rate of production.* For purposes of determining the rate of production from a well for which a stripper well determination is sought:

(1) The total volume of natural gas produced from the well shall constitute its daily production regardless of whether the well is completed in more than one interval or the production is separately metered from separate intervals;

(2) Production may be measured either before or after the extraction of natural gas liquids.

(b) *Averaging of production.* If a determination of stripper well status is sought with respect to wells which are not individually metered, rates of production of natural gas and oil may, in the absence of other reliable evidence, be averaged equally among the non-metered wells.

(c) *Applications for determinations.* Applications under this subpart shall be based on a 90-day production period which falls entirely within the 180 days prior to the date on which the application is filed.

(d) *Seasonally affected wells.* (1) If together with a petition for qualification

as a stripper well, the applicant submits to the jurisdictional agency production reports for a period of at least 24 months ending concurrently with the 90-day production period which is the basis for the application under paragraph (c) of this section and if such reports demonstrate that the well is subject to seasonal fluctuations which temporarily increase average production above 60 Mcf per production day, the jurisdictional agency may, upon request, designate the well as "seasonally affected." Such designation shall be granted by the jurisdictional agency only if it finds that the seasonal fluctuations have not increased and cannot reasonably be expected to increase production levels above an average of 60 Mcf per production day for any 12-month period.

(2) If at any time subsequent to a final determination of stripper well status, the operator acquires production reports for a period of 24 consecutive months which demonstrate that the well is "seasonally affected", a petition may be filed with the jurisdictional agency for designation as a seasonally affected well. The jurisdictional agency shall make the designation according to the standards described in paragraph (d)(1) of this section.

(3) If a well is designated as seasonally affected, the operator of such well and the purchaser of production from such well are exempt from the filing requirements of § 271.805 unless the average rate of production exceeds 60 Mcf per production day for a 12-month period.

§ 271.805 Continuing qualification.

(a) *Notice of disqualification.* (1) Unless exempt under § 271.804(d)(3), the operator and any purchaser of natural gas shall give written notice if:

(i) A well for which an application has been filed under this subpart or a determination has been made under this subpart produces natural gas at a rate exceeding an average of 60 Mcf per production day for any 90-day production period; or

(ii) A well which has been designated a seasonally affected well produces natural gas at an average rate in excess of 60 Mcf per production day for any 12-month period.

(2) Notice required under paragraph (a)(1) of this section shall be given within 90 days after the last day of the 90-day or the 12-month production period in which the increased production of natural gas occurred.

(3) Such notice shall be served on the jurisdictional agency and the Commission, and on the operator and any purchaser, as appropriate. Except as

provided in paragraph (b) of this section, such notice shall terminate the right of any seller to continue the collection of the maximum lawful price set forth in § 271.802 for natural gas produced from the well identified in the notice.

(b) *Petition under § 271.806.* The operator may file with the jurisdictional agency (1) a motion contesting a notice filed by a purchaser under paragraph (a); or (2) a petition for a determination under § 271.806 that the increased production of natural gas is the result of the application of an enhanced recovery technique or, if the well has not been designated as seasonally affected, the result of seasonal fluctuations. Such petition or motion may be filed at any time before 30 days after notice is given under paragraph (a). A copy of the petition or motion and of the notice required under paragraph (a)(1) of this section shall be provided to the Commission and to the purchaser.

(c) *Effect of notice.* If the notice served pursuant to paragraph (a) of this section is filed by a purchaser, the well to which such notice applies shall immediately be disqualified as a stripper well and the right of any seller to collect the maximum lawful price set forth in § 271.802 shall terminate as of the last day of the 90-day or the 12-month production period described in the notice unless, within 30 days of service the operator files a petition or motion with the jurisdictional agency as provided in paragraph (b) of this section.

(d) *Collection subject to refund.* If an operator files a petition or motion with a jurisdictional agency pursuant to paragraph (b) of this section, further collection of the maximum lawful price set forth in § 271.802 may be made subject to refund from the last day of the 90-day or the 12-month production period to which the notice served under paragraph (a) of this section applies.

(e) *Filing requirements for increased production based on enhanced recovery techniques.* If subsequent to the filing of a petition it is determined that the increase in production of natural gas is the result of recognized enhanced recovery techniques, neither the operator nor the purchaser shall be obligated to report average production levels above 60 Mcf per day during any 90-day production period unless there is an increase in production resulting from causes other than use of recognized enhanced recovery techniques determined to have been used.

§ 271.806 Jurisdictional agency determinations and Commission review.

(a) *Petitions under §§ 271.804(d) and 271.803(a).* The jurisdictional agency in receipt of a petition to designate a well

as a seasonally affected well pursuant to § 271.804(d) or a petition to determine that production in excess of an average of 60 Mcf per production day was due to use of recognized enhanced recovery techniques defined in § 271.803(a), shall treat the petition as if it were an application for an initial determination and shall comply with the applicable provisions of Subpart A of Part 274.

(b) *Review of determinations.* Upon receipt of notice of a determination made under paragraph (a) of this section, the Commission will review such determination pursuant to the applicable provisions of Subpart B of Part 275.

(c) *Declaratory order or staff interpretation.* A jurisdictional agency, when making a determination under § 271.806(a) (relating to production in excess of 60 Mcf per production day resulting from the application of recognized enhanced recovery techniques), may seek a declaratory order or staff interpretation from the Commission that a process (or type of process) or the installation of equipment (or type of equipment) qualifies as a recognized enhanced recovery technique as defined in § 271.803(a). The petition for declaratory order shall be filed in accordance with the requirements of § 1.7(c) of the Commission's Rules of Practice and Procedure (18 CFR 1.7(c)).

§ 271.807 Maximum efficient rate of flow.

(a) *Determination under recognized conservation practice.* If a maximum efficient rate of flow for a well, determined in accordance with recognized conservation practices designed to maximize the ultimate recovery of natural gas, has been established by a jurisdictional agency, production of natural gas at that rate shall be deemed to be production at the maximum efficient rate of flow.

(b) *Alternative methods for determination.* If a maximum efficient rate of flow has not been determined in accordance with paragraph (a) by a jurisdictional agency, for a well which has produced nonassociated gas at an average rate of 60 Mcf per production day or less for a 90-day production period, the jurisdictional agency shall establish maximum efficient rate of flow in accordance with one of the following methods:

(1) *Prior production data available.* If production data are available for the 12-month period ending concurrently with such 90-day production period, the applicant shall submit such data.

(i) If such 12-months' production data established that the well produced natural gas at a rate which did not exceed an average of 60 Mcf per

production day for such 12-month period, there is a rebuttable presumption that the well produced at its maximum efficient rate of flow.

(ii) If such 12-months' production data established that the well produced natural gas at a rate which did not exceed an average of 70 Mcf per production day for such 12-month period, the jurisdictional agency shall make a deferred determination in accordance with paragraph (c).

(2) *Prior production data not available.* If production data are not available for the 12-month period ending concurrently with such 90-day production period, the jurisdictional agency shall make a deferred determination in accordance with paragraph (c).

(3) *Other evidence.* The jurisdictional agency may base the determination upon other substantial evidence, such as flow tests, which measure the capability of the well to produce natural gas under normal operating conditions.

(c) *Deferred determination procedure.* If a determination is deferred under paragraph (b)(1)(ii) or (b)(2), the jurisdictional agency shall designate a 12-month period during which the applicant may secure the data establishing that the well produced natural gas at an average rate not in excess of 60 Mcf per production day. The applicant may submit such data not later than 90 days after the close of such 12-month period, and if such data show that the well's production did not exceed 60 Mcf per production day, the jurisdictional agency shall make an affirmative determination.

(d) *Negative determinations.* The jurisdictional agency shall make a negative determination as to eligibility if:

(1) The production data submitted by the applicant indicate that for the 12 months ending concurrently with the 90-day production period the well produced natural gas at a rate which exceeded an average of 70 Mcf per production day, unless the jurisdictional agency determines that the well produced at its maximum efficient rate of flow pursuant to paragraph (a)(1) or paragraph (b)(3).

(2) The production data submitted by the applicant indicate that for the deferred 12-month period established by the jurisdictional agency, the well produced natural gas at a rate which exceeded an average of 60 Mcf per production day, or

(3) The applicant fails to submit available production data pursuant to paragraph (b)(1) or fails to submit production data pursuant to paragraph (c).

(e) Interim collection. When the jurisdictional agency defers making a determination on an application pursuant to paragraph (b)(1)(ii) or (b)(2), the applicant shall be permitted to make interim collections of the maximum lawful price provided in § 271.802 pursuant to the requirements of § 273.202. If the filing requirements of § 273.202(d) have previously been complied with, the applicant shall not be required to make such filings again.

PART 274—DETERMINATIONS BY JURISDICTIONAL AGENCIES

2. Part 274 is amended in § 274.206(a) (3), (4), (5) and (6) to read as follows:

§ 274.206 Stripper well natural gas.

A person seeking a determination for purposes of Subpart H of Part 271 that a well either qualifies or continues to qualify as a stripper well shall file an application with the jurisdictional agency which contains the following items:

(3) Where the maximum efficient rate of flow for the well has not been previously established;

(i) Production records, if available, and if not tax records, if available, or verified copies of billing statements for the 12 months ending on the last day of the 90-day production period upon which the application is based; or

(ii) A copy of the results of any tests which measure the production capability of the well, or any other evidence as the applicant may submit upon which the jurisdictional agency could establish maximum efficient rate of flow.

(4) Where the determination is deferred pursuant to § 271.807 (b)(1)(ii) or (b)(2), within 90 days after the last day of the deferred period, production data for the deferred period, including the 90-day production period upon which the application is based.

(5) The number of days natural gas was produced during the 90-day production period described in § 271.803(c)(2).

(6) The number of days natural gas was not produced during the 90-day production period described in § 271.803(c)(2), and

(i) A description of the state law or conservation practice, as set forth in § 271.803(d)(2), pursuant to which the well did not produce on any such day or days, or

(ii) An explanation of any other reason the well did not produce on any such day or days.

3. Section 274.206(a) is amended by redesignating subparagraph (6) as

subparagraph (7), subparagraph (7) as subparagraph (8), subparagraph (8) as subparagraph (9), and subparagraph (9) as subparagraph (10).

4. Section 274.206(a) is amended in redesignated subparagraph (9) by deleting the phrase "person signing the application," and inserting in lieu thereof the word "applicant,".

5. Section 274.206(b) is amended in subparagraph (5) by deleting "§ 271.805" and inserting in lieu thereof "§ 271.805(a)(3)".

6. Sections 274.206(c) and 274.206(d) are amended in subparagraphs (4) and (5) respectively by deleting the phrase "the appropriate entities specified in § 271.805" and inserting in lieu thereof the phrase "the jurisdictional agency, the Commission, and any purchaser".

[FR Doc. 79-26460 Filed 8-23-79; 8:45 am]
BILLING CODE 6450-01-M

DEPARTMENT OF LABOR

Employment and Training Administration

20 CFR Part 655

Adverse Effect Wage Rate for Agricultural Employment in the State of Colorado; Correction

AGENCY: Employment and Training Administration, Labor.

ACTION: Final rule; correction.

SUMMARY: On August 10, 1979, a final rule was published in the Federal Register, at 44 FR 47040, amending 20 CFR § 655.207(b)(2), by adding the State of Colorado to the list of States for which adverse effect wage rates are computed and published annually. The State of Vermont was inadvertently left off the list. As corrected, 20 CFR § 655.207(b)(2) reads as follows:

§ 655.207 Adverse effect rates.

(b) * * *

(2) *List of States.* Colorado, Connecticut, Maine, Maryland, Massachusetts, New Hampshire, New York, Rhode Island, Texas, Vermont, Virginia, and West Virginia. Other States may be added as appropriate.

FOR FURTHER INFORMATION CONTACT: Aaron Bodin, Chief, Division of Labor Certification, Office of Technical Services, ETA, Department of Labor, Telephone: 202-376-6295.

(Secretary of Labor's Order No. 4-75, 40 FR 18515)

Signed at Washington, D.C. this 16th day of August, 1979.

Ernest G. Green,
Assistant Secretary for Employment and Training.

[FR Doc. 79-26464 Filed 8-23-79; 8:45 am]
BILLING CODE 4510-30-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

21 CFR Part 105

[Docket No. 75N-0107]

Foods for Special Dietary Use; Vitamin and Mineral Products; Revocation of Regulations

AGENCY: Food and Drug Administration.
ACTION: Final rule.

SUMMARY: The Food and Drug Administration amends the food regulations by deleting a certain provision concerning the use and labeling of saccharin. The agency is taking this action to correct a previously published order reinstating regulations that were no longer superseded because the U.S. Court of Appeals for the Second Circuit ruled the superseding regulations invalid. The reinstated regulations include a provision that conflicts with another regulation promulgated in the interim.

EFFECTIVE DATE: August 24, 1979.

FOR FURTHER INFORMATION CONTACT: L. Robert Lake, Bureau of Foods (HFF-302), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, DC 20204, 202-245-1254.

SUPPLEMENTARY INFORMATION: In the Federal Register of March 18, 1979 (44 FR 16005), FDA revoked certain definitions, standards, and labeling regulations relating to dietary supplements of vitamins and minerals because of a court ruling pointing out procedural deficiencies in their issuance. Although FDA intends to repropose those regulations, there was a need to fill (on an interim basis) some of the gaps created by the court mandated revocation. Therefore, the March 16 document reinstated certain provisions that were to have been superseded by the regulations being revoked.

The March 16 document inadvertently reinstated one paragraph, § 105.3(d) (21 CFR 105.3(d)), that contains saccharin labeling provisions inconsistent with another regulation. Paragraph (b) of § 105.66 *Label statements relating to usefulness in reducing or maintaining caloric intake or body weight* (21 CFR

105.66), published in the Federal Register of September 22, 1978 (43 FR 43248), now addresses the labeling of such nonnutritive ingredients.

§ 105.3 [Amended]

Therefore, under the decision by the court, the Commissioner of Food and Drugs hereby orders that § 105.3 *Definitions and interpretations* be amended by deleting and reserving paragraph (d).

Because the order corrected by this final rule is a ministerial act revoking regulations already ruled invalid by a court and because it relieves a restriction and there is no useful purpose in postponing the effective date, the Commissioner concludes, under the Administrative Procedure Act (5 U.S.C. 553(b)(B) and (d) (1) and (3)), that notice and public procedure and delayed effective date are unnecessary.

Executive Order 12044 on improving government regulations requires the agency to consider economic impacts in the development of regulations. Because this action is being taken to revoke regulations that a court has already invalidated, no assessment of its economic impact has been made. No economic impacts are expected to occur from the revocation because no new requirements are imposed at this time. The economic impact of vitamin and mineral supplement standards and labeling regulations will be evaluated in the course of reissuing these regulations through the normal rulemaking procedure.

EFFECTIVE DATE: This regulation is effective August 24, 1979.

Dated: August 17, 1979.
William F. Randolph,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-26353 Filed 8-23-79; 8:45 am]
BILLING CODE 4110-03-M

21 CFR Parts 520 and 522

[Docket No. 79N-0271]

Chlorpromazine Hydrochloride, Chlorpromazine Hydrochloride Injection

AGENCY: Food and Drug Administration.
ACTION: Final rule.

SUMMARY: This document amends the regulations for chlorpromazine hydrochloride and chlorpromazine hydrochloride injection to indicate those conditions of use for which approvals for identical products need not include certain types of efficacy data. These conditions of use were classified as

probably effective as a result of a National Academy of Sciences/National Research Council (NAS/NRC), Drug Efficacy Study Group evaluation of the products. In lieu of certain efficacy data, approval may require submission of bioequivalence or similar data. An earlier Federal Register publication has reflected that these products are in compliance with the conclusions of the review.

EFFECTIVE DATE: August 24, 1979.

FOR FURTHER INFORMATION CONTACT: Donald A. Gable, Bureau of Veterinary Medicine (HFV-100), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4313.

SUPPLEMENTARY INFORMATION: The NAS/NRC review of these products was published in the Federal Register of November 18, 1969 (34 FR 18394). In that document, the Academy concluded, and the Food and Drug Administration agreed, that the products were probably effective as tranquilizers for veterinary use.

That announcement was issued to inform holders of new animal drug applications (NADA's) of the findings of the Academy and the agency, and to inform all interested persons that such articles could be marketed if they were the subject of approved NADA's and otherwise complied with the requirements of the Federal Food, Drug, and Cosmetic Act.

Pitman-Moore, Inc., Washington Crossing, NJ 08560, responded to the notice by submitting a supplemental NADA (10-905V) providing current information covering manufacturing and controls and revising the labeling for the safe and effective use of the products as tranquilizers for animals. The supplemental application was approved by a regulation published in the Federal Register of March 5, 1973 (38 FR 5441). The regulation reflecting this approval established a new section for the drug in tablet form (21 CFR 135c.105, recodified at 21 CFR 520.443) and a new section for the drug in the injectable form (21 CFR 135b.80, recodified at 21 CFR 522.443). The new sections did not specify those conditions of use that were NAS/NRC approved.

This document amends the regulations to indicate those conditions of use for which approval for identical products need not include certain types of efficacy data required for approval by § 514.111(a)(5)(vi) of the new animal drug regulations. In lieu of those data, approval of such products may be obtained if bioequivalency or similar data are submitted as suggested in the

guideline for submitting NADA's for generic drugs reviewed by the NAS/NRC. The guideline is available from the office of the Hearing Clerk (HFA-305), Rm. 4-65, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))), and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) and redelegated to the Director of the Bureau of Veterinary Medicine (21 CFR 5.83), Parts 520 and 522 are amended as follows:

1. In Part 520, § 520.443 is amended by adding after paragraph (c) (1), (2), (3), and (4) the footnote reference "1" and by adding at the end of the section the footnote to read as follows:

§ 520.443 Chlorpromazine hydrochloride.

- (c) *Conditions of use.* (1) * * *
(2) * * *
(3) * * *
(4) * * *

1 These conditions are NAS/NRC reviewed and deemed effective. Applications for these uses need not include effectiveness data as specified by § 514.111 of this chapter, but may require bioequivalency and safety information.

2. In Part 522, § 522.443 is amended by adding after paragraph (c) (1), (2), (3), and (4) the footnote reference "1" and by adding at the end of the section the footnote to read as follows:

§ 522.443 Chlorpromazine hydrochloride injection.

- (c) *Conditions of use.* (1) * * *
(2) * * *
(3) * * *
(4) * * *

1 These conditions are NAS/NRC reviewed and deemed effective. Applications for these uses need not include effectiveness data as specified by § 514.111 of this chapter but may require bioequivalency and safety information.

Effective date. This regulation is effective August 24, 1979.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(1)).)

Dated: August 16, 1979.

Lester M. Crawford,
Director, Bureau of Veterinary Medicine.

[FR Doc. 79-26029 Filed 8-23-79; 8:45 am]

BILLING CODE 4110-03-M

21 CFR Part 524

[Docket No. 79N-0300]

Ophthalmic and Topical Dosage Form New Animal Drugs Not Subject to Certification; Neomycin Sulfate Ophthalmic Ointment

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The regulations are amended to reflect approval of a supplemental new animal drug application (NADA) providing that safe and effective use of neomycin sulfate ophthalmic ointment in dogs and cats be restricted to use by or on the order of a veterinarian. The application was filed by Evsco Pharmaceutical Corp.

EFFECTIVE DATE: August 24, 1979.

FOR FURTHER INFORMATION CONTACT:

Bob G. Griffith, Bureau of Veterinary Medicine (HFV-112), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3430.

SUPPLEMENTARY INFORMATION: Evsco Pharmaceutical Corp., P.O. Box 209, Buena, NJ 08310, filed a supplemental NADA (44-655) providing for a change from over-the-counter (OTC) to prescription drug status for its Neomycane product (neomycin-sulfate ophthalmic ointment). Proper treatment of eye infections involve clinical diagnosis and laboratory tests before treatment. The ability of a lay person to recognize infections of the conjunctiva and eliminate ocular syndromes and infections which would be unresponsive to neomycin therapy is questionable. Therefore, the conditions of use of this drug are restricted to use by or on the order of a licensed veterinarian. The approval of this supplement improves the animal safety and effectiveness of the product by moving the drug from OTC to prescription status. Accordingly, under the Bureau of Veterinary Medicine's supplemental approval policy, the approval did not require a reevaluation of the underlying safety and effectiveness data in the parent application.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) and redelegated to the Director of the Bureau of Veterinary Medicine (21 CFR 5.83), § 524.1484a is amended by adding new paragraph (c)(6) to read as follows:

§ 524.1484a Neomycin sulfate ophthalmic ointment.

- (c) * * *
(6) Federal law restricts this drug to use by or on the order of a licensed veterinarian.

EFFECTIVE DATE: This amendment is effective August 24, 1979.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)).)

Dated: August 16, 1979.

Lester M. Crawford,
Director, Bureau of Veterinary Medicine.

[FR Doc. 79-26355 Filed 8-23-79; 8:45 am]

BILLING CODE 4110-03-M

21 CFR Part 540

Penicillin Antibiotic Drugs for Animal Use; Procaine Penicillin G Aqueous Suspension (Injectable)

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The agency is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) providing for safe and effective use of injectable procaine penicillin G aqueous suspension for treating cattle, sheep, swine, and horses. The application, filed by Maurry Biological Co., is in compliance with the conclusions of the National Academy of Sciences—National Research Council (NAS/NRC) evaluation of the product.

EFFECTIVE DATE: August 24, 1979.

FOR FURTHER INFORMATION CONTACT:

John R. Quast, Bureau of Veterinary Medicine (HFV-123), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3442.

SUPPLEMENTARY INFORMATION: Maurry Biological Co., Inc., 6109 South Western Ave., Los Angeles, CA 90047, is the holder of NADA 65-010 for an injectable procaine penicillin G aqueous suspension used for treating infections in cattle, sheep, swine, and horses. This application was originally approved November 27, 1956. It was one of several that were the subject of a NAS/NRC evaluation published in the Federal Register of August 25, 1970 (35 FR 13544). In that document NAS/NRC concluded, and the agency concurred, that the injectable procaine penicillin G aqueous suspension products are probably effective in animals for intramuscular use in treating infections caused by pathogens sensitive to procaine penicillin G. The document, however, identified certain deficiencies

in the labeling for the products then approved.

In response to the NAS/NRC evaluation, Pfizer, Inc., submitted a supplement to its NADA 65-110 to upgrade the classification of Pfizer's product from probably effective to effective. Approval of the supplement was published in the Federal Register of July 28, 1978 (43 FR 32748). In that publication, § 540.274b *Procaine penicillin G aqueous suspension* (21 CFR 540.274b) was amended by adding new paragraph (c)(3) to reflect the approval of Pfizer's supplement. The regulation reflecting the approval complies with the conclusion of the NAS/NRC evaluation. The published regulation provides that NADA's for identical products for the same conditions of use do not require efficacy data as specified by § 514.1(b)(8)(ii) (21 CFR 514.1(b)(8)(ii)) or § 514.111(a)(5)(vi) (21 CFR 514.111), but may require bioequivalency or similar data as suggested in the guideline for submitting NADA's for NAS/NRC reviewed generic drugs.

Maurry Biological Co. manufactures an injectable procaine penicillin G aqueous suspension (NADA 65-010) identical to Pfizer's product (NADA 65-110). Maurry has an authorization from Pfizer to use the data and information contained in NADA 65-110 to support approval of Maurry's supplement to 65-010.

The Director of the Bureau of Veterinary Medicine concludes that approval of Maurry's supplemental application poses no increased human risk from exposure to residues of the new animal drug, procaine penicillin G, because the number of food-producing animals treated will not increase, as the drug is already approved for the requested uses. Accordingly, under the Bureau's supplemental approval policy (see the Federal Register of December 23, 1977 (42 FR 64367)), this approval did not require reevaluation of the safety data in the parent application.

In accordance with the provisions of Part 20 (21 CFR Part 20) promulgated under the Freedom of Information Act (5 U.S.C. 552) and the freedom of information regulations in § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of the safety and effectiveness data and information submitted to support approval of this application is available for public examination at the office of the Hearing Clerk (HFA-305), Rm. 4-65, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

§ 540.274b [Amended]

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512 (i) and (n), 82 Stat. 347, 350-351 (21 U.S.C. 360b (i) and (n))), under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) and redelegated to the Director of the Bureau of Veterinary Medicine (21 CFR 5.83), § 540.274b *Procaine penicillin G aqueous suspension* is amended in paragraph (c)(3)(ii) by adding after the sponsor 000069 the phrase "and 010719".

EFFECTIVE DATE: This regulation is effective August 24, 1979.

(Sec. 512 (i) and (n), 82 Stat. 347, 350-351 (21 U.S.C. 360b (i) and (n)).)

Dated: August 16, 1979.

Lester M. Crawford,
Director, Bureau of Veterinary Medicine.

[FR Doc. 79-26354 Filed 8-23-79; 8:45 am]

BILLING CODE 4110-03-M

21 CFR Parts 1000, 1020

[Docket No. 76N-0055]

Diagnostic X-Ray Systems Amendment of Assembly and Reassembly Provision and Performance Standard

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the regulations on assembly and reassembly of diagnostic x-ray systems by revoking the provision prohibiting the assembly of uncertified components into any diagnostic x-ray system or the reassembly of uncertified components associated with a change of ownership and location that was to have become effective on August 1, 1979. The agency is extending indefinitely the provisions permitting installation of uncertified components into existing systems whose components are all uncertified and the provisions permitting continued reassembly of uncertified equipment. Furthermore, the revised policy is recodified as an integral part of the performance standard for diagnostic x-ray systems. The agency is also incorporating into the performance standard for diagnostic x-ray systems clarifying interpretations concerning (1) the reporting of assembly of accessory components, (2) the reloading of x-ray tube-housing assemblies, and (3) the modification of certified diagnostic x-ray components and systems that have been made by the agency since promulgation of the standard.

EFFECTIVE DATE: September 24, 1979.

FOR FURTHER INFORMATION CONTACT: Robert Phillips, Bureau of Radiological Health (HFV-460), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3426.

SUPPLEMENTARY INFORMATION: This amendment combines two proposals that were published in the Federal Registers of February 24, 1978 (43 FR 7654) and April 17, 1979 (44 FR 22755).

Amendment of Policy on Assembly and Reassembly

In the Federal Register of April 17, 1979 (44 FR 22755) FDA proposed to amend 21 CFR 1000.16, which identifies the agency's policy on assembly and reassembly of diagnostic x-ray systems. This document proposed to: (1) revoke the regulation prohibiting the assembly of uncertified components into any diagnostic x-ray system (21 CFR 1000.16(c)) and the reassembly of uncertified components associated with a change in ownership and location (21 CFR 1000.16(d)), both of which would otherwise have become effective on August 1, 1979; and (2) to extend indefinitely the provisions of 21 CFR 1000.16(a), which identify the conditions under which certified and uncertified components may be assembled and reassembled together. The agency at the same time proposed to revoke 21 CFR 1000.16(b), originally designed to aid the transition from the sale of uncertified to certified equipment when the diagnostic x-ray standard became effective on August 1, 1974, because the section would no longer have been necessary.

Twenty-two comments were received on the proposal within the 30-day comment period. Of these, seven were submitted by dealers or assemblers of x-ray equipment; one by a manufacturer, one by a national dealer's organization, five by physicians, two by national medical organizations, four by hospitals and two by private individuals. The agency was unable to complete its review of the comments in time to publish this final rule before August 1, 1979. Thus, in the Federal Register of July 31, 1979 (44 FR 44843), FDA continued until further notice § 1000.16(a) and (b), and suspended until further notice § 1000.16(c) and (d). This final rule constitutes the further notice anticipated by the July 31 document.

1. Many comments expressed opinions or concerns that were apparently based on a misunderstanding of the existing regulation or the April 17 proposal. For example, several comments expressed concern that the proposed change would allow

uncertified components to be installed with certified components, resulting in poorer radiation protection for patients and users.

The agency advises that under § 1000.16(a), uncertified components can only be installed into a system if the system is composed entirely of uncertified components. Once a system contains one or more certified components, then every component added to that system must also be certified. A reassembled system can contain both certified and uncertified components if they were all part of the previously existing system. However, if this reassembled system contains one or more certified components, then any component added to the system that was not part of the original system prior to reassembly must also be certified. The integrity of certified equipment is, therefore, protected.

2. Three comments expressed the concern that poorly manufactured equipment, substandard design, or substandard performance of older equipment contributed to unnecessary radiation exposure of the public and that the object of the policy on assembly and reassembly was to reduce this unnecessary radiation exposure by eliminating substandard systems.

The agency agrees that the purpose of the performance standard and the policy on assembly and reassembly is to reduce unnecessary radiation exposure to the public. A study performed by the agency and discussed at length in the April proposal, however, has shown that the policy as it would have applied after August 1, 1979, is not an effective means of removing substandard equipment from use. This is because § 1000.16(c) and (d) will impact within a reasonable time on only a small portion of the systems that provide substandard performance while preventing the sale and continued use of adequate systems because they lack certification.

The agency believes that a substandard radiograph is not necessarily the result of using an older machine. There are older machines that have been maintained so that they perform reliably and possess acceptable radiation protection. Other older machines and some newer ones which have not been well maintained do not perform reliably. Yet some older machines, owing to their design, cannot be brought to acceptable levels of performance. FDA agrees that these substandard machines should be removed from service. This goal, however, is not achieved by § 1000.16(d) because the system must both change ownership and location for the prohibition to take effect. Under current

§ 1000.16, substandard machines can remain in use and continue to produce unacceptable films. The agency is convinced that substandard systems are more effectively removed from service or improved by the States under existing inspection programs and radiation safety regulations. However, to further this process, the agency is instituting action programs that assess the performance of various types of x-ray systems. These programs, as described in the proposal, are better suited to improving the performance of x-ray equipment than is § 1000.16(d). Thus, the agency concludes that the comments do not warrant withdrawal of the proposal.

3. Two comments interpreted FDA to have stated that 95 percent of all x-ray equipment is less than 15 years old. This was a misunderstanding of the agency's description of the used equipment market. The agency actually stated that 95 percent of equipment reaching the used market is less than 15 years old.

4. Another comment indicated that there are substantial numbers of outdated portable and mobile systems in use and objected to withdrawal of § 1000.16(d) arguing that the regulation, if continued in effect, would force the retirement of these systems.

This is not a correct interpretation of the regulation. For § 1000.16(d) to apply to the reassembly of a system, the system must both change ownership and be reassembled as part of a change in location. Both the act of manufacture and the introduction into commerce must occur for this restrictive provision to apply. Because a mobile or portable machine does not usually undergo reassembly as part of a change in location, § 1000.16(d) would not apply. The comment is rejected.

5. A comment similar to that in paragraph 4 was based on the assumption that systems containing uncertified components could not be used after August 1, 1979.

This, too, is an incorrect interpretation of § 1000.16. Section 1000.16(d) prevents the reassembly of uncertified components when associated with a change in ownership and location after August 1, 1979. It does not prohibit the continued use of uncertified components or systems containing them after that date.

One comment agreed with the agency's proposal but added that it is unfortunate that the regulation does not allow the upgrading of a system when it is resold and reassembled.

The agency advises that the intent of the regulation is to permit the improvement and upgrading of x-ray equipment. The policy on assembly and reassembly as represented by

§ 1000.16(a) (redesignated in this final rule as 1020.30(p)) is intended to prevent the downgrading of systems composed of or containing certified components. It does not prevent the upgrading of uncertified x-ray systems with certified components but, in fact, encourages such procedures.

7. Two comments expressed concern that inadequate uncertified beam-limiting devices could not be replaced by more adequate beam-limiting devices as part of the reassembly of a system containing certified components without a positive beam limitation (PBL) type of beam limiting device being installed. In certain cases, PBL is incompatible with the existing system or represents an excessive cost, thereby inhibiting the assembler from improving the beam-limiting device in the system.

The FDA addressed this issue in a final rule published in the Federal Register of November 8, 1977 (42 FR 58167), in which the agency concluded that, for stationary, general-purpose x-ray systems, the additional cost of a beam-limiting device providing PBL is not always justified for older systems when the PBL device is added to the x-ray system as a replacement for the original beam-limiting device. Therefore, 21 CFR 1020.31(e)(2) was revised to require that stationary, general-purpose x-ray systems be equipped with beam-limiting devices providing PBL only if the system also contains a tube-housing assembly, x-ray control, and, for those systems so equipped, an x-ray table all of which have been certified under § 1020.30 (21 CFR 1020.30). Thus, final rule amending § 1000.16 does not affect the provisions of § 1020.31(e)(2). Therefore, the comments are rejected.

8. One comment supported the proposal because § 1000.16(d) prevents a person from moving satisfactorily functioning x-ray equipment within an institution (e.g., moving old equipment from heavy use areas to areas of limited use).

This again is a misunderstanding of the applicability of § 1000.16(d). As indicated in response to comment 4, the condition for the application of § 1000.16(d) is reassembly associated with both a change in ownership and location. Moving a piece of equipment within an institution would only meet one of these tests—relocation. Because the ownership of the equipment would not change, the prohibitions of § 1000.16(d) would not apply. Independent of § 1000.16(d), however, such a relocation will have to conform to the provisions of § 1000.16(a) concerning mixing certified and uncertified components.

9. One comment objected to the proposal, arguing that there are many manufacturers of good quality and reasonably priced x-ray parts that meet FDA performance standards. Therefore, these facts should mean that limiting the reassembly of uncertified x-ray components would have a small impact on x-ray efficacy and user safety.

FDA in its proposal attributed the adverse impact of § 1000.16 (c) and (d) to two factors: the loss of resale value to a user and the difference between the cost of purchasing a new system and that of purchasing an equivalent used system. The agency is aware of instances where a new low-priced x-ray system might not be as suitable to a user as a more complex used system purchased for the same amount of money. A used system may have been built to withstand heavier use and would undoubtedly contain features not found in new low-cost systems that are similar in price to the used system. Although the equipment may, for many reasons, no longer meet the needs of the original purchaser, a second owner (e.g., a small hospital) might like some of its features and heavy duty construction. Therefore, the comment is rejected.

10. Six comments expressed the opinion that the proposed revocation of § 1000.16 (c) and (d) would assist hospitals and medical facilities in their efforts to contain increasing costs.

FDA recognizes this likelihood and used this argument in the proposal.

11. One comment argued that it will be difficult to ensure that some assemblers do not collect and mix used, certified, and uncertified components to reassemble and sell them as previously existing systems.

The agency is aware of this possibility of abuse but believes it does not justify any change in the proposal. If the question arises as to the origin of a component in a reassembled system containing any certified components, the assembler must be able to document the fact that the components were part of the original system before reassembly.

12. Three comments indicated that the April 17 proposal was inconsistent with previous FDA policy.

The agency agrees that the April 17 proposal represents a policy that differs from the conclusions it came to in 1974 that led to publishing § 1000.16 (see Federal Register of July 29, 1974 (39 FR 27432)). Indeed, the preamble to the April 17 proposal clearly stated that, on reevaluation, the policy concerning used x-ray equipment "is not appropriate." FDA often reevaluates the costs and benefits of its regulations. The reevaluation of § 1000.16 was made to consider experience gained through the

administration of the regulations and to consider data not available when the regulations were originally promulgated. The reanalysis led the agency to conclude that only a small fraction of the uncertified x-ray systems now in use would be affected by the regulation. Further, in terms of increased cost of x-ray equipment or interruption of health care delivery, the impact of subsections (c) and (d) may have been significant. Finally, for uncertified systems that would be affected, by virtue of their sale and relocation, § 1000.16 as scheduled to take effect would not likely have been a cost-effective approach to improving the radiation safety performance of x-ray systems.

The agency believes that it is FDA's responsibility to change regulations that are shown to be ineffective or that do not perform the function for which they were designed and, therefore, proposed revoking § 1000.16(c) and (d). The comment presented no data to dispute the conclusions leading to the proposal and is rejected.

13. Three comments stated that dealers had invested significant amounts of time, manpower, and money training personnel and purchasing test equipment in contemplation of § 1000.16(c) and (d) becoming effective. Changing the regulation would waste this investment.

FDA disagrees with this argument and rejects the comments. The upgrading of technical expertise, purchasing of test equipment, and training of personnel to ensure that new equipment is assembled and performs properly are benefits to the public. The fact that a system is used and is being reassembled and, therefore, might not be covered by the standard does not mean that it too should not be reassembled to operate at the highest level of performance. The improvement of a dealer's expertise and capability is, therefore, no more than what a conscientious dealer should do to provide a high level of service to customers.

14. One comment indicated that manufacturers and dealers have made production decisions and formulated marketing strategies based on the situation that would exist after August 1, 1979. A change now would cause economic loss.

FDA is aware that the change in § 1000.16(c) and (d) will necessitate changes in production plans and marketing strategies. The agency believes, however, that the possible adverse economic consequences to the public and the health care system from allowing § 1000.16(c) and (d) to become effective as scheduled would be far

greater than those that would result from its elimination. Therefore, it rejects the comment.

15. One comment indicated that the decision to propose the amendment was hasty and is being initiated at the last minute.

FDA notes that, beginning in 1977, the agency, as a result of data then available from experience in enforcement of the standard, became aware of possible adverse consequences resulting from the policy on assembly and reassembly that were unforeseen when § 1000.16 was originally promulgated in 1974. As a result, the Bureau of Radiological Health, on September 1, 1978, unofficially proposed and solicited comments on possible changes in FDA policy. The proposal, along with the comments received, was then presented to the Bureau's advisory committee, TEPRSSC, at its 17th meeting on November 9, 1978. At the meeting, the Committee was not convinced of the correctness of the Bureau's proposed actions and recommended a 1-year delay in the effective date of § 1000.16(c) and (d), during which the problem would be further evaluated. In a response to a letter in December 1978, which clarified the Bureau's reasons for the proposal, a majority of the Committee concurred that action be initiated without the 1-year delay previously recommended. Therefore, this proposal has not been developed at the last minute and has afforded several opportunities for widespread public awareness and comment. The agency also believes that, once the question of changing the policy on assembly and reassembly has been publicly raised, a prompt considered decision concerning the proposal is in the public interest.

16. One comment provided a detailed critique of FDA's cost-benefit analysis. With respect to § 1000.16(d), the comment pointed out several possible errors. If values corrected according to the party's claim were substituted into the analysis, the cost of § 1000.16(d) would decrease. The resulting cost-benefit ratio would be closer to 1.0 instead of the 0.4 to 0.8 calculated by FDA. The comment further claimed that the magnitude of the adverse cost impact "would run about 1/2 of the values used by FDA." The adjusted values would result in a maximum adverse cost of \$45 million rather than \$121 million in 1980 and \$22 million rather than \$64 million in 1985.

This alternative cost-benefit analysis caused the agency to reexamine its proposal. FDA has concluded, however, that, if the altered analysis were correct, FDA's initial conclusions would still not change: a significant adverse impact on

health care delivery would result from the regulation. Also, considering the variability in the factors that must be used in any cost-benefit analysis, the agency believes that a cost-benefit ratio near 1.0 cannot demonstrate cost effectiveness. Cost-benefit analyses of complex issues are usually not exact because all necessary data are seldom available. Therefore average and approximate values must often be used to make the calculations tractable. The calculations here were particularly inexact because the benefit (radiation exposure reduction to the population) had to be expressed as an economic value. The benefit of this kind of regulatory action should significantly exceed the cost before it is undertaken. Section 1000.16 did not represent action which promised to show such a very favorable ratio.

Assembly of Systems Purchased Prior to August 1, 1974

17. Two comments indicated that § 1000.16(b), concerning the assembly of systems containing both certified and noncertified components purchased prior to the effective date of the policy (August 1, 1974), should not be eliminated because the respondents had equipment waiting to be installed that was affected by this section.

FDA, in proposing to remove § 1000.16(b), believed that it was unlikely that after 5 years there would be many new systems composed of both certified and uncertified components purchased prior to August 1, 1974, and still awaiting assembly. The comments, however, indicate that there are still some unassembled systems that are exempted by the regulation. If § 1000.16(b) were revoked, the owners of these systems would be prohibited from installing them unless they applied for and were granted a variance or exemption from the standard. The original intent of the provision was to permit the assembly of uncertified components purchased before August 1, 1974. Also, § 1000.16(a) permits the reassembly of systems containing both certified and noncertified components. The agency believes that prohibiting assembly of the few systems affected by § 1000.16(b) is an unnecessary economic burden; therefore, the agency is extending § 1000.16(b) (redesignated as 21 CFR 1020.30(p)(2)).

Clarification of Standard and Policies

In the Federal Register of February 24, 1978 (43 FR 7654), FDA proposed to amend the performance standard for diagnostic X-ray systems and their major components (21 CFR 1020.30). This related action was intended to

incorporate into the regulation clarifying interpretations and policies that had been made since the promulgation of the standard. Topics addressed were: (1) reporting of assembly of accessory components, (2) reloading of X-ray tube-housing assemblies, (3) recodification of § 1000.16, and (4) modification of certified diagnostic X-ray components and systems.

Three comments were received during the 60-day comment period, one each from a manufacturer, a national manufacturer's organization, and a private individual. All three comments agreed with the agency's proposed amendments.

18. One comment suggested changes in language to clarify the intent of the amendments. This comment argued that in § 1020.30(b)(3) and 1020.30(q)(2) the phrase, "provide professional or commercial services," can be interpreted to mean something other than medical diagnostic usage of X-ray systems and could result in confusion as to intent. The comment suggests that the phrase be changed to read "for diagnosis or visualization of human beings."

The agency disagrees with this comment. Section 1020.30 applies in its entirety to diagnostic X-ray systems and their major components. Section 1020.30(b)(12) defines any diagnostic X-ray system to mean, "an X-ray system designed for irradiation of any part of the human body for the purpose of diagnosis or visualization." Paragraph 1020.30(q)(2) includes the term, "diagnostic X-ray system" as part of its construction; therefore, the agency concludes that the meaning is clear. Paragraph 1020.30(b)(3), however, uses the term "X-ray system." Although the agency believes the definition is adequate, to clarify the definition further, the word "diagnostic" is added to the first sentence of § 1020.30(b)(3) so that the reference will clearly be to "diagnostic X-ray system."

19. The same comment also addressed the modification of certified diagnostic X-ray components and systems by the owner (§ 1020.30(q)(2)). This proposed new paragraph would permit the owner of an X-ray system to modify it, provided that the modification did not result in the failure of the component or system to comply with applicable requirements. The proposal would also exempt the owner from submitting reports otherwise required by subpart B of 21 CFR Part 1002. The comment notes that this proposal would not provide for recording of modifications, resulting in problems for the manufacturer, service personnel, and FDA in determining the

modification history of any component or system.

The agency agrees with this comment and inserts the phrase "the owner records the date and the details of the modification, and" between the words "provided" and "the" in § 1020.30(q)(2). This addition will require the owner of any system or component to maintain a history of modifications, thereby allowing service personnel and other interested parties to determine what changes or modifications have been made to any system or component.

To clarify FDA's position on the modification of certified X-ray components or systems, the agency advises that § 1020.30(q)(1) prohibits those modifications that will result in noncompliance with a specific performance requirement stated in the performance standard. For example, proper collimator sizing, source-image receptor distance (SID) indication, reproducibility, linearity, etc., may not be modified unless a variance or exemption has been granted.

By contrast, modifications that result in a change to the required information in § 1020.30(g) or (h) or that change any of the preselected technique factors are not considered modifications to specific performance requirements and are, therefore, permitted under § 1020.30(q)(2). When modifications that invalidate a manufacturer's specification are made, that specification no longer applies. Any permitted modification made at time of installation of a certified component should be documented in the comments section of Form FD-2579 (the form used by an assembler to report compliance with assembly instructions). Modifications made at a later date should be documented as to date and the nature of the modification in the service statement provided by the servicing organization or documented and retained by the user in the service record if such modification is made by the user.

Therefore, under the Public Health Service Act, as amended by the Radiation Control for Health and Safety Act of 1968 (sec. 358, 82 Stat. 1177-1179 (42 U.S.C. 263f)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1, Subchapter J of Chapter I of Title 21 of the Code of Federal Regulations) is amended as follows:

PART 1000—GENERAL

§ 1000.16 [Deleted]

1. In Part 1000, § 1000.16 *Assembly and reassembly of diagnostic X-ray systems* is deleted, and the text is

revised and redesignated as § 1020.30(p).

PART 1020—PERFORMANCE STANDARDS FOR IONIZING RADIATION—EMITTING PRODUCTS

2. In Part 1020, § 1020.30 is amended by revising paragraph (b)(3), the introductory text of paragraph (d), and paragraph (e)(2) and by adding new paragraphs (b)(56) and (57), (d)(3), (e)(3), (p), and (q) to read as follows:

§ 1020.30 Diagnostic x-ray systems and their major components.

(b) * * *

(3) "Assembler" means any person engaged in the business of assembling, replacing, or installing one or more components into a diagnostic x-ray system or subsystem. The term includes the owner of an x-ray system or his or her employee or agent who assembles components into an x-ray system that is subsequently used to provide professional or commercial services.

(56) "Quick change x-ray tube" means an x-ray tube designed for use in its associated tube housing such that:

- (i) The tube cannot be inserted in its housing in a manner that would result in noncompliance of the system with the requirements of paragraphs (k) and (m) of this section, and
- (ii) The focal spot position will not cause noncompliance with the provisions of this section or §§ 1020.31 or 1020.32, and
- (iii) The shielding within the tube housing cannot be displaced, and
- (iv) Any removal and subsequent replacement of a beam-limiting device during reloading of the tube in the tube housing will not result in noncompliance of the x-ray system with the applicable field limitation and alignment requirements of §§ 1020.31 and 1020.32.

(57) "Accessory component" means:

- (i) A component used with diagnostic x-ray systems, such as a cradle or film changer, that is not necessary for the compliance of the system with applicable provisions of this subchapter but which requires an initial determination of compatibility with the system, or
- (ii) A component necessary for compliance of the system with applicable provisions of this subchapter but which may be interchanged with similar compatible components without affecting the system's compliance, such as one of a set of interchangeable beam-limiting devices, or
- (iii) A component compatible with all x-ray systems with which it may be

used and that does not require, compatibility or installation instructions, such as a tabletop cassette holder.

(d) *Certification by assembler.* An assembler who installs one or more components certified as required by paragraph (c) of this section into an x-ray system shall install certified components that are of the type required by §§ 1020.31 or 1020.32 and, except as provided for in paragraph (d)(2) of this section, shall assemble, install, adjust, and test the certified components in accordance with the instructions of their respective manufacturers. All assemblers who install certified components shall file a report of such assembly as specified in paragraph (d)(1), (2), and (3) of this section. The report will be construed as the assembler's certification and identification under §§ 1010.2 and 1010.3 of this chapter. All assembler reports must be on a form prescribed by and available from the Director, Bureau of Radiological Health, 5600 Fishers Lane, Rockville, MD 20857. Completed reports must be submitted to the Director, the purchaser, and, where applicable, to the State agency responsible for radiation protection within 15 days following completion of the assembly.

(3) *Accessory components.* The following requirements apply to the assembly of accessory certified components and x-ray systems that do not require assembly by the dealer or purchaser.

(i) The initial installation or assembly of interchangeable and removable accessory certified components within a diagnostic x-ray system following delivery at the user's facility shall be reported as required by paragraphs (d)(1) and (2) of this section. No report of assembly is required for subsequent use of such components.

(ii) Assembler certification as specified in paragraphs (d)(1) and (2) of this section is not required for certified components or systems that have been described by their manufacturer in the information furnished the user as not requiring assembler certification. Prior to stating that assembler certification is not required for a component or system, the manufacturer of the item must have reported to the Bureau of Radiological Health, in the report required by § 1002.10 of this chapter, that compliance with this section and §§ 1020.31 and 1020.32 is assured by the existence of the following conditions:

(a) Certification of compliance by the manufacturer is not contingent upon

acts of assembly or installation by the dealer or purchaser.

(b) Preparation for use by either the dealer or user does not require adherence to the manufacturer's instructions to ensure compliance.

(c) Interconnection or use, or both, of the component or systems does not require compatibility specifications.

(e) * * *

(2) *Replacement of tubes.* Except as specified in paragraph (e)(3) of this section, the replacement of an x-ray tube in a previously manufactured tube-housing assembly certified pursuant to paragraph (c) of this section constitutes manufacture of a new tube housing assembly, and the manufacturer is subject to the provisions of paragraph (e)(1) of this section. The manufacturer shall remove, cover, or deface any previously affixed inscriptions, tags, or labels that are no longer applicable.

(3) *Quick-change x-ray tubes.* The requirements of paragraph (e)(2) of this section shall not apply to tube-housing assemblies designed and designated by their original manufacturer to contain quick-change x-ray tubes. The manufacturer of such x-ray tubes shall include with each replacement tube a label with the tube manufacturer's name, the model, and serial number of the x-ray tube. The manufacturer of the tube shall instruct the assembler who installs the new tube to attach the label to the tube-housing assembly and to remove the cover or deface the previously affixed inscriptions, tags, or labels that are described by the tube manufacturer as no longer applicable.

(p) *Assembly and reassembly of diagnostic x-ray system.* The following provisions apply to the assembly and reassembly of diagnostic x-ray components specified in paragraph (a)(1) of this section into diagnostic x-ray systems.

(1) *Assembly after August 1, 1974.* Except as provided in paragraph (p)(2) of this section, specified components which are assembled after August 1, 1974 into those x-ray systems which contain, or will contain upon completion of the assembly, one or more components certified pursuant to paragraph (c) of this section, may only be those which have themselves been so certified. For example, after August 1, 1974:

(i) An assembler who installs a new, complete diagnostic x-ray system may not assemble a system consisting of both certified and uncertified components.

(ii) An assembler who installs components into an existing diagnostic

x-ray system containing one or more certified components prior to such installation may only install components which have been certified by the component manufacturer(s), regardless of whether certified components themselves are replaced.

(iii) An assembler who installs a group of components into an existing diagnostic x-ray system containing no certified components prior to the assembly may not install a combination of certified and uncertified components but must install either all uncertified components or all certified components into such a system.

(iv) An assembler may reassemble a previously existing (used) system for resale whether or not the system is composed of all uncertified or a combination of certified and uncertified components. However, any components added to or installed in place of original components in an existing system composed of one or more certified components must be certified.

(2) *Purchase prior to August 1, 1974.* The provisions of paragraph (p)(1) of this section do not apply to the assembly of specified components, provided:

(i) All of the specified components which are assembled into the x-ray system after August 1, 1974, were purchased prior to that date and

(ii) The report filed pursuant to paragraph (d) of this section includes adequate evidence that all the specified components assembled were purchased prior to August 1, 1974. A copy of a notarized bill of sale or other notarized contract for purchase clearly establishing the date of purchase of each of the specified components will be considered adequate evidence.

(3) [Reserved]

(4) [Reserved]

(5) *Repair of x-ray systems.* The following requirements govern the assembly and reassembly of diagnostic x-ray components during repair of diagnostic x-ray components and systems:

(i) The removal of a component, whether certified or uncertified, from an x-ray system for the purpose of repair and the subsequent reinstallation of the component into the system following repair are not prohibited by this section. Those performing repair of certified components are not required to recertify the repaired component under paragraph (c) of this section except for reloaded previously certified x-ray tube housing assemblies. A report pursuant to paragraph (d) of this section need not be filed to report the reinstallation of a certified component into an x-ray

system following repair of the component or system.

(ii) The installation into an x-ray system of components specified in paragraph (a) of this section on an exchange basis when an identical model is installed in place of a malfunctioning component shall not be subject to paragraph (p)(1) of this section or affect the status of the x-ray system under that paragraph. A report pursuant to paragraph (d) of this section must be filed to report installation of certified components.

(iii) Components installed temporarily in an x-ray system in place of certified components removed temporarily for repair must be certified. The temporary installation of such certified components is not subject to the report required in paragraph (d) of this section, provided the temporarily installed component is identified by a tag or label bearing the information set forth in paragraph (p)(5)(iii) (a) or (b) of this section. The replacement of the temporarily installed component by a permanently installed certified component must be reported in accordance with paragraph (d) of this section.

(a) Temporarily installed compatible component. A temporarily installed compatible component must bear the following statement and information:

Temporarily Installed Compatible Component

This certified component has been assembled, installed, adjusted, and tested by me according to the instructions provided by the manufacturer.

Signature
Company Name
Street Address, P.O. Box
City, State, Zip Code
Date of Installation

(b) Temporarily installed noncompatible component. A temporarily installed noncompatible component must bear the following statement and information:

Temporarily Installed Noncompatible Component

This certified component has been assembled or installed by me, but could not be assembled, installed, adjusted, and tested according to the instructions provided by the manufacturer because other already existing components of the system do not meet the compatibility specifications of the certified component being installed, and there are no commercially available certified components of a similar type that are compatible with the system.

Signature
Company Name
Street Address, P.O. Box
City, State, Zip Code
Date of Installation

(6) *Accessory components.* The use with an x-ray system of accessory

components specified in paragraph (a) of this section that are not permanently installed in the x-ray system, which are not essential to the performance of the system in compliance with the requirements of this section and §§ 1020.31 and 1020.32, and which are subject to the assembler reporting exceptions of paragraph (d)(3) of this section are not subject to paragraph (p)(1) of this section and do not affect the status of the x-ray system under that paragraph.

(q) *Modification of certified diagnostic x-ray components and systems.* (1) Diagnostic x-ray components and systems certified in accordance with § 1010.2 of this chapter shall not be modified such that the component or system fails to comply with any applicable provision of this chapter unless a variance in accordance with § 1010.4 of this chapter or an exemption under section 358(a)(5) or 360B(b) of the Public Health Service Act has been granted.

(2) The owner of a diagnostic x-ray system who uses the system in a professional or commercial capacity may modify the system, provided the modification does not result in the failure of the system or component to comply with the applicable requirements of this section or of §§ 1020.31 or 1020.32. The owner who causes such modification need not submit the reports required by Subpart B of Part 1002 of this chapter, provided the owner records the date and the details of the modification, and provided the modification of the x-ray system does not result in a failure to comply with §§ 1020.31 or 1020.32.

Effective date: These amendments become effective September 24, 1979.

(Sec. 358, 82 Stat. 1177-1179 (42 U.S.C. 263f).)

Note.—In accordance with Executive Order 12044, the economic effects of this amendment have been carefully analyzed, and it has been determined that this rulemaking does not involve major economic consequences as defined by that order. A copy of the regulatory analysis assessment supporting this determination is on file with the Hearing Clerk, Food and Drug Administration.

Dated: August 17, 1979.

William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.

[FR Doc. 79-26612 Filed 8-23-79; 8:45 am]

BILLING CODE 4110-03-M

DEPARTMENT OF LABOR

Office of the Secretary

29 CFR Part 13

Participation of State and Local Officials in the Development of Federal Policies; Removal of Regulations

AGENCY: Department of Labor.

ACTION: Removal of regulations.

SUMMARY: The purpose of this document is to remove the Department's regulations at 29 CFR Part 13 on the participation of State and local officials in the development of the Department's regulations. The regulations have been superseded by the Department's procedures under Executive Order 12044, the Executive Order issued by the President to improve Government regulations.

EFFECTIVE DATE: August 24, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. James Marion, Office of the Solicitor, U.S. Department of Labor, Room N2428, 200 Constitution Avenue, NW., Washington, D.C. 20210. Telephone: 202-523-7721.

SUPPLEMENTARY INFORMATION: On March 23, 1978 President Carter issued Executive Order 12044, *Improving Government Regulations*. The Executive Order was published in the Federal Register on March 24, 1978 at 43 FR 12661. Section 2(c) of the Executive Order set forth improved procedures for public participation, including the participation of State and local officials, in Governmental rulemaking. In light of this the "Summary and Analysis of Public Comments," which accompanied the Executive Order, stated at 43 FR 12667:

OMB Circular A-85. With the order's emphasis on new and expanded opportunities for public comment, several respondents felt that OMB Circular A-85 would no longer be needed. This circular will be rescinded.

On Friday, January 26, 1979 at 44 FR 5570 the Department of Labor published its final guidelines implementing Executive Order 12044. The guidelines contained a section setting forth procedures for involving the public, including State and local officials, in the development of the Department's regulations.

In the meantime, on October 20, 1978, Mr. James T. McIntyre, Director, Office of Management and Budget, notified the heads of executive departments and agencies that OMB Circular A-85 was to be rescinded as of October 31, 1978. In his memorandum Mr. McIntyre stated

that the circular was "superseded by the new procedures required by Executive Order 12044."

Since 1972, the Department of Labor has had regulations at 29 CFR Part 13 setting forth procedures for involving State and local officials in the development of the Department's regulations. These regulations were issued pursuant to OMB Circular A-85, and they virtually repeated verbatim the language of that circular. Since OMB Circular A-85 has now been rescinded, and since the procedures have now been superseded by Executive Order 12044 and the Department's guidelines under the Executive Order, the regulations at Part 13 are now obsolete. State and local officials, however, will continue to be appropriately involved in the development of the Department of Labor's regulations in accordance with Executive Order 12044 and the Department of Labor's procedures which implement Executive Order 12044.

This regulation is not a significant regulation within the meaning of Executive Order 12044.

Accordingly, Title 29, Subtitle A, of the Code of Federal Regulations is amended by removing Part 13.

PART 13—PARTICIPATION OF STATE AND LOCAL OFFICIALS IN THE DEVELOPMENT OF FEDERAL POLICIES [REMOVED]

Signed at Washington, D.C., this 20th day of August 1979.

Ray Marshall,
Secretary of Labor.

[FR Doc. 79-26411 Filed 8-23-79; 8:45 am]

BILLING CODE 4510-23-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Chapter VII

Surface Coal Mining and Reclamation Operations, Permanent Regulatory Program; Corrections

AGENCY: Office of Surface Mining Reclamation and Enforcement, Department of the Interior.

ACTION: Corrections.

SUMMARY: This document corrects the Preamble and Regulations to the Permanent Regulatory Program that begin on page 14901 of the Federal Register of Tuesday, March 13, 1979, Part II, Book 2 of 3 and Book 3 of 3.

EFFECTIVE DATE: August 24, 1979.

ADDRESS: Director, Office of Surface Mining Reclamation and Enforcement,

Department of the Interior, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Toney Head, Jr., 202-343-4293.

SUPPLEMENTARY INFORMATION: This document corrects errors that appeared in the March 13, 1979, Permanent Regulatory Program. The following instructions will aid the user in locating referenced corrections:

Preamble:

page—indicates the page number that appears in the upper margin

Section—indicates the last referenced Section prior to the error

column—indicates the column number where the error is found

paragraph—indicates the number of full paragraphs down from the top of the column

line—indicates the number of lines down from the referenced paragraph or from the top of the column.

Permanent Regulations:

page—indicates the page number that appears in the upper margin

Section—indicates the Section and paragraph where the error occurs

lines—indicates the number of lines down from the referenced Section.

The corrections made in this Federal Register notice are of a number of different types: (1) typographical, printing, capitalization, punctuation or spelling errors; (2) inconsistencies in discussion within the text of the preamble or between statements in the preamble and the regulations themselves; (3) incorrect cross references to sections of the regulations made either within the text of the preamble or in the regulations themselves and (4) incorrect form of citation to technical literature. In some cases corrections may on first impression appear substantive but the basis for all of them can be found elsewhere in the preamble or regulations and the corrections are made for purposes of consistency.

Dated: August 20, 1979.

Walter N. Heine,
Director, Office of Surface Mining
Reclamation and Enforcement.

The following corrections are made:

Preamble

Table of Contents

On page 14902, Section 730.11, column 3, title "laws regulations" is corrected to read "laws and regulations".

On page 14902, Section 730.12, column 3, title "Requirement" is corrected to read "Requirements".

On page 14903, Section 742.13, column 1, title, "leasee" is corrected to read "lessee".

On page 14903, Part 771, column 3, title "AND APPLICATIONS" is corrected to read "AND PERMIT APPLICATIONS".

On page 14904, Section 785.22, column 3, title, "Insitu" is corrected to read "In situ".

On page 14905, Part 788, column 1, title, "PERMIT, REVIEWS," is corrected to read "PERMIT REVIEWS".

On page 14905, Section 788.18, column 1, title "sale, or assignment" is corrected to read "assignment or sale".

On page 14905, Section 800.2, column 1, "Objective" is corrected to read "Objectives".

On page 14905, column 2, between lines 5 and 6, insert

PART 809—BONDING AND INSURANCE REQUIREMENTS FOR ANTHRACITE SURFACE COAL MINING AND RECLAMATION OPERATIONS

Sec.

809.1 Scope.

809.2 Objective.

809.3 Responsibility.

809.11 Applicability.

809.12 Requirements.

On page 14905, Section 816.62 column 3, title, "Preblasting" is corrected to read "Pre-blasting".

On page 14906, Section 817.62, column 2, title, "Preblasting" is corrected to read "Pre-blasting".

On page 14907, Subchapter S, column 2, title, "RESTITUTES" is corrected to read "INSTITUTES".

On page 14909, Subchapter K, column 3, paragraph 3, line 14, "(5)", is corrected to read "(b)".

On page 14910, Section 700.4, column 3, paragraph 2, lines 9 and 10, "of Interior" is corrected to read "of the Interior".

On page 14912, Section 700.5, column 1, paragraph 2, line 3, "defintion" is corrected to read "definition".

On page 14913, Section 700.5, column 1, paragraph h, line 2, "paragrahs" is corrected to read "paragraphs".

On page 14913, Section 700.5, column 1, paragraph 8, line 14, "act" is corrected to read "Act".

On page 14913, Section 700.5, column 1, paragraph 8, line 17, "district court" is corrected to read "District Court".

On page 14914, Section 700.5, column 2, paragraph 4, line 3, "incidental" is corrected to read "incidental".

On page 14917, Section 700.13, column 2, line 5, "then" is corrected to read "than".

PART 701—PERMANENT REGULATORY PROGRAM

On page 14918, Section 701.4, column 1, introductory paragraph, line 5, "is" is corrected to read "are".

On page 14919, Section 701.5, column 2, paragraph 3, line 2 and 3, "American Geological Institute Glossary of Geology, 1972" is corrected to read, "Gary, M. et al. 1974. Glossary of Geology, American Geological Institute".

On page 14919, Section 701.5, column 2, paragraph 3, line 6 and 7, "U.S. Bureau of Mines, Dictionary of Mining, Mineral and Related Terms, 1968" is corrected to read "Thrush, P.W., 1968. Dictionary of Mining, Mineral and Related Terms, U.S. Bureau of Mines".

On page 14919, Section 701.5, column 2, paragraph 3, line 10, "Soil Conservation Society of America, Resources Conservation Glossary, 1976" is corrected to read, "Hutchinson D.E., et al., 1976".

On page 14919, Section 701.5, column 2, paragraph 4, line 17, "EPA 670/2-74-093, 1974" is corrected to read "Grim, E.C., and Hill, R.D., 1974".

On page 14919, Section 701.5, column 2, paragraph 5, line 3 and 4, "EPA 490/1-76/057-a, 1976" is corrected to read "EPA, 1976a".

On page 14919, Section 701.5, column 3, line 1, "drainage" in" is corrected to read "drainage" as used in".

On page 14919, Section 701.5, column 3, paragraph 4, line 7, "and Parizek, 1968" is corrected to read "1968".

On page 14920, Section 701.5, column 1, line 4, "Smith et al., 1978" is corrected to read "Smith et al., 1976".

On page 14921, Section 701.5, column 3, lines 18 and 19, "and mine plan areas," is corrected to read "and 'mine plan areas'".

On page 14922, Section 701.5, column 1, paragraph 4, line 8 and 9, "U.S. Environmental Protection Agency" is corrected to read "Axetell, Kenneth, Jr.",

On page 14922, Section 701.5, column 2, line 2, "ERT Doc. No. P-3549" is corrected to read "U.S. Department of Energy, ERT Doc. No. P-3549".

On page 14922, Section 701.5, column 2, line 13, "FWS/OBS-78/05 (1978)," is corrected to read "Moore, R., and Mills, T. (1977) FWS/OBS-78/05."

On page 14922, Section 701.5, column 2, line 17, "FWS/OBS-78/30 (1978)" is corrected to read "Masons, W.T., Jr. (1978) FWS/OBS-78/30".

On page 14923, Section 701.5, column 3, paragraph 3, line 12, "mights" is corrected to read "might", and

paragraph 4, line 15, "OMHSA" is corrected to read "latter".

On page 14924, Section 701.5, column 1, line 2, "overlying" is corrected to read "overlying".

On page 14926, Section 701.5, column 2, paragraph 2, line 6, "justifications" is corrected to read "justification".

On page 14926, Section 701.5, column 3, paragraph 2, line 15, "state" is corrected to read "State".

On page 14927, Section 701.5, column 3, line 8, "diamond, core" is corrected to read "diamond core"; and paragraph 1, line 4, "area 30" is corrected to read "area. 30".

On page 14928, Section 701.5, column 2, paragraph 1, line 14, "significantly" is corrected to read "significantly".

On page 14929, Section 701.5, column 3, lines 6 and 7, "maximum, guidance" is corrected to read "maximum guidance";

On page 14929, Section 701.5, column 3, paragraph 2, line 4, "systems" is corrected to read "system"; and

paragraph 3, line 22, "Occurance" is corrected to read "Occurrence".

On page 14930, Section 701.5, column 2, paragraph 4, line 24, "floor" is corrected to read "floors".

On page 14930, Section 701.5, column 3, paragraph 3, line 15, "conjunction" is corrected to read "conjunction".

On page 14930, Section 701.5, column 3, paragraph 4, line 5, "American" is corrected to read "America".

On page 14931, Section 701.5, column 1, paragraph 1, lines 10 and 11, "American Society of Range Management, 1974" is corrected to read "Kothmann, M.M. (1974), Society for Range Management (36 pp.)".

On page 14931, Section 701.5, column 1, paragraph 5, line 4, "Skelly and Loy, 1977, p. II-3" is corrected to read "Robins, J.D., et al., 1977".

On page 14931, Section 701.5, column 1, paragraph 6, line 4, "Greene and Rainy, 1975, pp. 1-6" is corrected to read "Greene, B.C., and Raney, W.B., 1974, pp. 5-17".

On page 14931, Section 701.5, column 1, paragraph 6, line 4, "Greene and Rainy, 1975, pp. 1-6" is corrected to read "Greene, B.C., and Raney, W.B., 1974, pp. 5-17".

On page 14931, Section 701.5, column 2, paragraph 1, line 5, "Grim, E.C. and Hill, R.D., at 217, 1976" is corrected to read "Grim, E.C., and Hill, R.D., at 217, 1974".

On page 14931, Section 701.5, column 2, paragraph 2, line 3, after "entirety", is corrected to read "as it is used in

Section 701(20) of the Act".

On page 14931, Section 701.5, column 3, paragraph 1 is corrected by deleting

"Prime farmland used as cropland for fifty percent or more of the historical-use period will be considered as prime farmland historically used as cropland.

Fifty percent or more was chosen because this represents the predominant land use in the historical period".

On page 14931, section 701.5, column 3, paragraph 2, line 18 is corrected by inserting "Fifty percent or more was chosen because this represents the predominant land use in the historical period" after "cropland use".

On page 14931, Section 701.5, column 3, paragraph 3, line 5, "second

alternative was rejected." is corrected to read "second and fourth alternatives were rejected".

On page 14931, Section 701.5, column 3, paragraph 5, lines 1-8, are corrected by deleting "Many variations of the historical use period have been suggested. A commenter claimed that local farming conditions vary considerably from region to region and are heavily dependent upon the local economy, market conditions, and government regulations."

On page 14933, Section 701.5, column 2, paragraph 1, line 15, "60, (1973)" is corrected to read "60 (1973)".

On page 14935, Section 701.5, column 1, line 1 is corrected by deleting "P Draft III- 101".

On page 14935, Section 701.5, column 2, paragraph 3, line 4, "Grim, E.C. and Hill, R.D., at 219" is corrected to read "U.S. Environmental Protection Agency".

On page 14935, Section 701.5, column 2, paragraph 6, line 13, "1971, at p. 362" is corrected to read "1971".

On page 14936, Section 701.5, column 1, paragraph 4, lines 23 and 24, "1960, pp. 39-67" is corrected to read "1973, pp. 39-67".

On page 14937, Section 701.5, column 3, paragraph 2, line 10, "Hirschfeld, R.C." is corrected to read "Hirschfeld, R.C.,".

On page 14937, Section 701.5, column 2, paragraph 6, last line, "817.170" is corrected to read "817.150".

On page 14937, Section 701.5, column 3, paragraph 2, lines 14-16, "Coates, D.F. and Yu, Y. S., editors, 1977: Pit Slope Manual, Chapter 9—Waste

Embankments; Canada Centre for Mineral and Energy Technology" is corrected to read "Canada Department of Energy, Mines and Resources, 1977, Waste embankments, Chapter 9 in the Pit Slope Manual, Mining Research Laboratories."

On page 14939, Section 701.5, column 2, paragraph 3, line 13, "See Glossary of Geology," is corrected to read "See Gary, M., et al., 1974. Glossary of Geology, American Geological Institute, p. 233".

PART 731—SUBMISSION OF STATE PROGRAMS

On page 14951, Section 731.12, column 2, paragraph 3, line 6, "lettered" is corrected to read "relettered".

On page 14953, Section 731.13, column 1, paragraph 1, lines 11 and 12, "The Office believes that paragraphs" is corrected to read "The Office believes that the State program Subchapters".

On page 14954, Section 731.14, column 1, paragraph 2, line 21, "It could prove" is corrected to read "it could not prove".

PART 732—PROCEDURES AND CRITERIA FOR APPROVAL OR DISAPPROVAL OF STATE PROGRAM SUBMISSIONS

On page 14959, Section 732.4, column 2, paragraph 3, line 4, "Sections" is corrected to read "Subsections".

On page 14963, Section 732.15, column 2, paragraph 2, line 5, "criterian" is corrected to read "criterion".

PART 733—MAINTENANCE OF STATE PROGRAMS AND PROCEDURES FOR SUBSTITUTING FEDERAL ENFORCEMENT OF STATE PROGRAMS AND WITHDRAWING APPROVAL OF STATE PROGRAMS

On page 14969, Section 733.4, column 2, paragraph 6, line 12, "521" is corrected to read "526".

PART 736—FEDERAL PROGRAM FOR A STATE

On page 14970, Part 736, column 1, paragraph 3, line 12, is corrected by inserting "736.22(b)," after "736.22(a).".

On page 14970, Section 736, column 1, paragraph 3, line 13, "736.25(b)" is corrected to read "736.24(b)" and "736.25(b)(1)" is corrected to read "736.24(b)(1)".

PART 741—PERMITS

On page 14977, column 1, title, "741.13" is corrected to read "741.12".

On page 14978, Section 741.13, column 1, line 27, "the Director will issue" is corrected to read "The Director of OSM will issue a permit".

On page 14979, Section 741.19, column 1, paragraph 5, lines 4-5, "Confidential Information" is corrected to read "Company Proprietary Information".

On page 14979, Section 741.19, column 2, paragraph 1, lines 11, 12 and 24, "Confidential" is corrected to read "Proprietary".

On page 14980, Section 741.24, column 2, paragraph 6, line 15, "reasonable" is corrected to read "responsible".

SUBCHAPTER F—AREAS UNSUITABLE FOR MINING

On page 14989, Subchapter F, column 2, paragraph 2, line 15, "BLM" is corrected to read "Federal".

On page 14989, Subchapter F, column 3, paragraph 2, line 8, "and the" is corrected to read "and if the", and lines 20 and 21, "would: Be" is corrected to read "would, be".

On page 14989, Subchapter F, column 3, paragraph 6, line 1, "procedures for determining" is corrected to read "procedures for the initial and

permanent regulatory programs for determining".

On page 14989, Subchapter F, column 3, paragraph 6, line 1, "Act" is corrected to read "Act; (see 30 CFR 710.14(b))".

PART 761—AREAS DESIGNATED BY ACT OF CONGRESS

On page 14991, Part 761, column 2, paragraph 2, line 12, "occasional use" is corrected to read "occasional public use".

On page 14991, Part 761, column 2, paragraph 2, line 15, "from" is corrected to read "of".

On page 14992, Part 761, column 1, paragraph 3, line 1, "determing" is corrected to read "determining".

On page 14992, Part 761, column 2, line 9, "at—" is corrected to read "at 119. 138".

On page 14992, Part 761, column 3, paragraph 2, line 5, "these" is corrected to read "the commenters".

On page 14993, Part 761, column 1, paragraph 2, line 16, "minerals" is corrected to read "minerals".

On page 14993, Part 761, column 1, paragraph 2, line 27, "claim acquire" is corrected to read "claim, acquire".

On page 14993, Part 761, column 2, paragraph 3, line 10, "indicated" is corrected to read "indicates".

On page 14994, Part 761, column 1, paragraph 4, line 21, "VER there" is corrected to read "VER, there".

On page 14994, Part 761, column 2, paragraph 2, line 5, "in" is corrected to read "on".

On page 14995, Part 761, column 1, paragraph 2, line 8, "authority" is corrected to read "State agency".

PART 762—CRITERIA FOR DESIGNATING AREAS AS UNSUITABLE FOR SURFACE COAL MINING OPERATIONS

On page 14996, Part 762, column 1, paragraph 1, line 29, "other agencies" is corrected to read "other Federal agencies".

On page 14996, Part 762, column 3, paragraph 1, line 18, "broad" is corrected to read "broad".

On page 14996, Part 762, column 3, paragraph 2, lines 15-19 delete the following sentence "OSM has decided that for the purpose of Subchapter F, a place is "eligible" at the time the notice of its eligibility is published in the Federal Register".

On page 14997, Part 762, column 2, paragraph 1, last line, "commitments" is corrected to read "commitments".

On part 14997, Part 762, column 2, paragraph 5, lines 10 and 11, "enforceable, sales" is corrected to read "enforceable coal sales".

On page 14998, Part 762, column 1, paragraph 1, line 2, "as substantial" is corrected to read "as an example of a substantial commitment".

On page 14999, Part 762, column 3, lines 34 and 35, "all surface" is corrected to read "all other surface".

PART 764—STATE PROCESSES FOR DESIGNATING AREAS UNSUITABLE FOR SURFACE COAL MINING OPERATIONS

On page 15001, Part 764, column 2, paragraph 1, line 29, "restricted" is corrected to read "restrictive".

On page 15003, Part 764, column 1, line 3, "intevenors" is corrected to read "intervenorers".

On page 15003, Part 764, column 1, paragraph 1, line 14 "travelling" is corrected to read "traveling".

On page 15003, Part 764, column 1, paragraph 2, line 14, "hearing" is corrected to read "hearings".

On page 15003, Part 764, column 3, line 12, "believe" is corrected to read "believed".

On page 15004, Part 764, column 2, paragraph 2, lines 4 and 5, "demonstrate it" is corrected to read "demonstrate that it".

On page 15004, Part 764, column 3, paragraph 2, line 20, "is" is corrected to read "are".

PART 764—STATE PROCESSES FOR DESIGNATING AREAS UNSUITABLE FOR SURFACE COAL MINING OPERATIONS

On page 15005, Part 764, column 2, paragraph 2, line 22, "hazards" is corrected to read "hazard".

On page 15005, Part 764, column 2, paragraph 3, line 16, "states" is corrected to read "States".

On page 15005, Part 764, column 3, paragraph 5, line 11, "states" is corrected to read "States".

On page 15005, Part 764, column 3, paragraph 5, line 16, "state" is corrected to read "State".

On page 15006, Part 764, column 1, line 8, "states" is corrected to read "States".

On page 15006, Part 764, column 2, paragraph 1, line 12, "date" is corrected to read "data".

On page 15006, Part 764, column 3, paragraph 3, line 4, "Section" is corrected to read "Sections".

PART 769—PETITION PROCESS FOR DESIGNATION OF FEDERAL LANDS AS UNSUITABLE FOR ALL OR CERTAIN TYPES OF SURFACE COAL MINING OPERATIONS AND FOR TERMINATION OF PREVIOUS DESIGNATIONS

On page 15008, Part 769, column 1, paragraph 1, line 2, "record keeping" is corrected to read "recordkeeping".

On page 15008, Part 769, column 1, paragraph 1, line 14, "Federal program" is corrected to read "Federal lands program".

On page 15008, Part 769, column 2, paragraph 1, lines 16 and 17, "recommended" is corrected to read "recommend".

PART 770—GENERAL REQUIREMENTS FOR PERMITS AND COAL EXPLORATION SYSTEMS UNDER REGULATORY PROGRAMS

On page 15009, Part 770, column 3, paragraph 5, line 1, "(a)" is corrected to read "(A)".

On page 15009, Part 770, column 3, paragraph 6, line 1, "(b)" is corrected to read "(B)".

On page 15011, Part 770, column 2, paragraph 5, line 5, "84-48" is corrected to read "74-48".

On page 15011, Part 770, column 2, paragraph 6, line 5, "Geology" is corrected to read "Ecology"; and paragraph 7, line 5, "Geology" is corrected to read "Ecology".

On page 15011, Part 770, column 2, paragraph 7, line 6, "93" is corrected to read "97".

On page 15011, Part 770, column 3, paragraph 3, line 2, "few" is corrected to read "a few".

PART 776—GENERAL REQUIREMENTS FOR COAL EXPLORATION

On page 15019, Section 776.11, column 1, paragraph 2, line 1, "776.11(c)" is corrected to read "776.11(d)"; column 2, between paragraphs 2 and 3, add heading "776.12 General requirements: Exploration of more than 250 tons".

PART 778—SURFACE MINING PERMIT APPLICATIONS: MINIMUM REQUIREMENTS FOR LEGAL, FINANCIAL, COMPLIANCE AND RELATED INFORMATION

On page 15023, Section 778.14, column 1, line 40, "have been" is corrected to read "have not been"; column 2, paragraph 2, line 8, "917 (1973)" is corrected to read "917".

On page 15024, Section 778.14, column 1, paragraph 1, line 21, "American Power

Light Co." is corrected to read "Electric Bond and Share Co.".

On page 15024, Section 778.14, column 3, paragraph 2, line 1, "Commenters" is corrected to read "2. Pursuit of Appeals. Commenters".

On page 15025, Section 778.14, column 2, title, paragraph 2, "Section 778.14(c)" is corrected to read "3. Other comments".

On page 15025, Section 778.14, column 1, paragraph 5, lines 6 and 7, "this specific subsection" is corrected to read "778.14(c)".

On page 15029, Section 779.13, column 3, paragraph 1, is corrected by deleting "Arnett, R.C., Deju, R.A., Nelson, R.W., Cole, C.R., and Gephart, R.E. 1976. Conceptual and mathematical modeling of the Hanford ground water flow regime. (Prepared by Atlantic Richfield Handford Co., Richland, Wash., for U.S. Energy, Research and Development Administration.) Report ARH-ST-140, 103 pp."

On page 15029, Section 779.13, column 3, paragraph 2, line 5, "3.5." is corrected to read "3-5".

On page 15029, Section 779.13, column 3, paragraph 11, line 2, "mathematic" is corrected to read "mathematical".

On page 15029, Section 779.13, column 3, paragraph 13, line 7, "PB-257" is corrected to read "PB-257142".

On page 15031, Section 779.13, column 1, paragraph 1, line 18, "fined Section" is corrected to read "fined in Section".

On page 15031, Section 779.14, column 2, paragraph 4, line 3, "Groundwater" is corrected to read "Ground water".

On page 15031, Section 779.14, column 2, paragraph 6, line 1, "P.B." is corrected to read "P.D."

On page 15032, Section 779.14, column 2, paragraph 2, lines 11 and 12, "requirement to" is corrected to read "requirement for the listing to".

On page 15033, Section 779.15, column 1, line 11, "510(b)(2)" is corrected to read "510(b)(3)".

On page 15033, Section 779.15, column 2, paragraph 6, line 4, "1973" is corrected to read "1473".

On page 15033, Section 779.15, column 2, paragraph 10, line 5, "Econology" is corrected to read "Ecology".

On page 15033, Section 779.15, column 1, paragraph 1, line 11, "510(b)(2)" is corrected to read "510(b)(3)".

On page 15035, Section 779.16, column 1, paragraph 8, line 8, "and mine" is corrected to read "and acid mine".

On page 15036, Section 779.19, column 2, paragraph 4, line 4, "area;" is corrected to read "area and the reference area;"

On page 15036, Section 779.19, column 2, paragraph 9, line 2, "prunes" is corrected to read "prunus".

On page 15036, Section 779.19, column 2, paragraph 10, lines 2-4, "barrow intensive site, 1970, in Biome Symposium, U.S. Tundra Biome" is corrected to read "Barrow intensive site, 1970, in Bown, S., editor, U.S. tundra biome symposium".

On page 15036, Section 779.19, column 3, paragraph 1, lines 1-3, "Benton, A.H. and Werner, W.E., 1965, Manual of field biology and ecology, 4th Edition" is corrected to read "Benton, A.H., and Werner, W.E., Jr., 1972, Manual of field biology and ecology, 5th Edition".

On page 15036, Section 779.19, column 3, paragraph 2, line 3, Rev. 43 "481-530" is corrected to read Rev. 43 "481-529."

On page 15036, Section 779.19, column 3, paragraph 3, line 1, "forest" is corrected to read "forests".

On page 15036, Section 779.19, column 3, paragraph 5, line 2, "Wetland" is corrected to read "Wetlands".

On page 15036, Section 779.19, column 3, paragraph 11, line 4, "Journal 24" is corrected to read "Journal Vol. 24".

On page 15036, Section 779.19, column 3, paragraph 13, line 6, "Bulletin 55" is corrected to read "Bulletin 85".

On page 15036, Section 779.19, column 3, paragraph 15, line 1, "1967" is corrected to read "1967.".

On page 15036, Section 779.19, column 3, paragraph 18, line 4, "Bethesda" is corrected to read "Bethesda, Md".

On page 15036, Section 779.19, column 3, paragraph 19, line 1, "1978" is corrected to read "1977".

On page 15036, Section 779.19, column 3, paragraph 20, line 3, "Research 4:289-306" is corrected to read "Research, Vol. 4, no. 4, pp. 291-305".

On page 15037, Section 779.19, column 1, lines 1 and 2, "trend in Wisconsin, Ecol. Monogr. 43:(1), pp. 77-94" is corrected to read "trends in Wisconsin. Ecol."

On page 15037, Section 779.19, column 1, paragraph 2, line 5, "p. 375" is corrected to read "p. 116".

On page 15040, Section 779.22, column 3, paragraph 1, line 4, "510(b)(2) and (10)" is corrected to read "510(b) and 515(b)(2) and (10)".

On page 15040, Section 779.22, column 3, paragraph 2, line 1, "Criteria in" is corrected to read "criteria for".

On page 15040, Section 779.22, column 3, paragraph 7, line 5, "Wallace McHarg Roberts" is corrected to read "Wallace, McHarg, Roberts."

On page 15040, Section 779.22, column 3, paragraph 10, "Section 779.22" is corrected to read "Section 779.22(a)".

On page 15041, Section 779.22, column 3, paragraph 2, last line, "779.22(b)(5)" is corrected to read "779.22(b)(4)".

On page 15045, Section 779.27, column 3, paragraph 1, line 12, "strigent" is corrected to read "stringent".

On page 15046, Section 779.27, column 2, lines 13 and 14, "regulatory authority program" is corrected to read "regulatory program".

On page 15046, Section 779.27, column 2, paragraph 1, line 6, "41 716" is corrected to read "41718".

On page 15046, Section 779.27, column 2, paragraph 3, line 11, "rejected" is corrected to read "deleted".

On page 15046, Section 779.27, column 3, paragraph 2, lines 4 and 5, "condition [too] can also be [matter] of substantial" is corrected to read "condition can also be a matter of substantial".

On page 15047, Section 779.27, column 1, line 6, "extend" is corrected to read "extent".

On page 15047, Section 779.27, column 1, line 20, "is used in marketable use" is corrected to read "is in marketable use".

PART 780—SURFACE MINING PERMIT APPLICATION—MINIMUM REQUIREMENTS FOR RECLAMATION AND OPERATION PLAN

On page 15047, Part 780, title, line 2, "APPLICATION" is corrected to read "APPLICATIONS".

On page 15050, Section 780.15, column 1, paragraph 2, line 10, ";(c)" is corrected to read ";(c) or (c)".

On page 15053, Section 780.16, column 1, paragraph 3, line 8, "Monitoring" is corrected to read, "Monitoring" (Morre, R., and Mills, T. 1977)".

On page 15056, Section 780.18, column 1, paragraph 3, line 9, "soil" is corrected to read "spoil".

On page 15058, Section 780.25, column 3, paragraph 4, line 16, "(USSCS, 1967a, p. 5-2.)" is corrected to read "(USSCS, 1976(a), p. 5-2)".

On page 15059, Section 780.25, column 2, paragraph 3, lines 6 and 7, "(Ifft, T.R., 1979s, p.1, and pp. 266 and 312 of attachment;" is corrected to read "Ifft, T.H., 1979s".

On page 15059, Section 780.25, column 3, paragraph 1, line 5, "(b)" is corrected to read "(d)"; and paragraph 2, line 11, "(iii)" is corrected to read "(iv)".

On page 15060, Section 780.27, column 3, paragraph 1, line 18, "were" is corrected to read "was".

PART 782—UNDERGROUND MINING PERMIT APPLICATIONS—MINIMUM REQUIREMENTS FOR LEGAL, FINANCIAL, COMPLIANCE, AND RELATED INFORMATION

On page 15063, Part 782, column 3, lines 8 and 9, "and" is corrected to read "Azd".

PART 783—UNDERGROUND MINING PERMIT APPLICATIONS—MINIMUM REQUIREMENTS FOR INFORMATION ON ENVIRONMENTAL RESOURCES

On page 15064, Part 783, title, line 2, "APPLICATION" is corrected to read "APPLICATIONS".

On page 15067, Section 783.14, column 1, paragraph 1, line 18, "Horslev, 1949," is corrected to read "Hvorsleve", M.J., 1949".

On page 15067, Section 783.17, column 2, paragraph 2, line 15, "Inst." is corrected to read "1st".

On page 15067, Section 783.17, column 2, paragraph 3, last line, "(d)" is corrected to read "(b) and (d)".

On page 15068, Section 783.21, column 2, paragraph 3, line 16, "operation" is corrected to read "operations".

On page 15070, Section 783.25, column 1, paragraph 1, line 7, "subSections" is corrected to read "subsections".

PART 784—UNDERGROUND MINING PERMIT APPLICATIONS—MINIMUM REQUIREMENTS FOR RECLAMATION AND OPERATION PLAN

On page 15071, Section 784.13, column 2, paragraph 1, line 16, "subSection" is corrected to read "subsection".

On page 15072, Section 784.13, column 1, paragraph 3, lines 3 and 7, "cross-Sections" is corrected to read "cross sections".

On page 15072, Section 784.14, column 3, paragraph 3, line 2, "median" is corrected to read "medium".

On page 15074, Section 784.18, column 2, paragraph 2, line 4, "780.13" is corrected to read "780.33".

On page 15075, Section 784.20, column 2, paragraph 3, line 19, "GAI Consultants, 1977" is corrected to read "U.S. Bureau of Mines, 1977".

On page 15075, Section 784.20, column 2, paragraph 3, line 21, "subsidence ground" is corrected to read "subsidence and ground".

On page 15075, column 2, paragraph 3, lines 28 and 29, "1975, Vol. 1, p. 22, Vol. 2, p. 2, 1973)" is corrected to read "Handbook, p. 102, 1975; Brauner, G., Vol. 1, p. 22, Vol. 1, p. 22, Vol. 2, p. 2, sections a-b 1973)".

On page 15075, Section 784.20, column 2, paragraph 3, lines 29 and 30, "Vol. 2, p. 2, 1973," is corrected to read "National Coal Board, Principles of Subsidence Engineering, 1963, p. 2."

On page 15075, Section 784.20, column 3, paragraph 3, line 8, "Brauner, 1970, p. 33)" is corrected to read "Brauner, G., 1973, p. 33, 1. Subsidence due to Underground Mining, 2. Ground Movements and Mining Damage)".

On page 15075, Section 784.20, column 3, paragraph 3, line 12, "USBM #10" is corrected to read "USBM".

On page 15076, Section 784.20, column 1, paragraph 1, line 9, "Doyle 1976, p. 312" is corrected to read "Doyle, W. S., 1976, Deep Coal Mining—Waste Disposal Technology, p. 392."

On page 15076, Section 784.20, column 2, paragraph 2, line 2, "by a USBM" is corrected to read "by USBM".

On page 15077, Section 784.23, column 2, paragraph 1, lines 10 and 14, "cross Sections" is corrected to read "cross sections".

On page 15079, Section 784.25, column 1, line 2, "Condub," is corrected to read, "Candeub".

On page 15079, Section 784.25, column 1, lines 6 and 7, "Michael Baker, 1973" is corrected to read "Appalachian Regional Commission, 1973".

On page 15079, Section 784.26, column 3, line 4, "Aerovironment, Inc." is corrected to read "USGS, 1977a".

PART 785—REQUIREMENTS FOR PERMITS FOR SPECIAL CATEGORIES OF MINING

On page 15082, Section 785.14, column 2, paragraph 1, line 8, "amendment of permit terms." is corrected to read "review of permits."

On page 15085, Section 785.17, column 2, paragraph 1, lines 22 and 23, "Bunrud" is corrected to read "Dunrud".

On page 15086, Section 785.17, column 2, line 10, "p. 150.)" is corrected to read "p. 150)".

On page 15086, Section 785.17, column 2, paragraph 1, line 2, "Paragraphs" is corrected to read "Paragraph".

On page 15086, Section 785.17, column 1, paragraph 2, lines 11 and 12, "McCormack, 1967, p. 28, Table 3" is corrected to read "McCormack, D. E., 1976, Soil Reconstruction: Selecting Materials for Placement in Mine Reclamation, Mining Congress Journal, Vol. 62, No. 9, p. 28, Table 3".

On page 15086, Section 785.17, column 2, line 10, "subSection" is corrected to read "subsection".

On page 15086, Section 785.17, column 3, paragraph 4, line 5, "agriculture" is corrected to read "agricultural."

On page 15088, Section 785.19, column 2, paragraph 3, line 5, "as an alluvial" is corrected to read "as alluvial".

On page 15091, Section 785.19, column 1, paragraph 1, lines 2-12, "SubSections" is corrected to read "Subsections"; the column 3, paragraph 1, line 10, "to the Subparagraph" is corrected to read "to subparagraph".

On page 15093, Section 785.19 column 2, paragraph 3, lines 11-13, "Journal of the Irrigation and Drainage Division of

ASCE (1977)" is corrected to read "Maas E.V. and Hoffman G.J. 1977 Crop Salt Tolerance—Current Assessment. ASCE Journal of the Irrigation and Drainage Division".

On page 15093, Section 785.19, column 3, last line, "SubSection" is corrected to read "Subsection".

On page 15094, Section 785.19, column 1, paragraph 3, line 12, "Mr. Meeds. That is correct. 123 Cong. Rec." is corrected to read "Mr. Meeds. That is correct.", and line 13, "H. 3814 (Apr. 29, 1973)." is corrected to read "123 Cong. Rec. H. 3814 (April 29, 1973)".

PART 786—REVIEW, PUBLIC PARTICIPATION AND APPROVAL OR DISAPPROVAL OF PERMIT APPLICATIONS AND PERMIT TERMS AND CONDITIONS

On page 15101, Section 786.19, column 3, paragraph 1, line 10, "816.133817.133" is corrected to read "86.133 and 817.133".

On page 15104, Section 786.29, column 2, paragraph 2, lines 24 and 30, "when alternative methods of" is corrected to read "by the applicant with alternative methods approved by the regulatory authority for".

PART 805—AMOUNT AND DURATION OF PERFORMANCE BOND

On page 15112, Section 805.11, column 1, paragraph 1, lines 5-7,

"appearments or the need to bring additional personnel or equipment to the permit area." is corrected to read "appear in Section 509(a) of the Act. The comments were not accepted because this specific data is incorporated in the applicant's reclamation plan and detailed estimate. Adding the factors would not clarify or give additional data to the regulatory authority."

PART 806—FORM, CONDITIONS AND TERMS OF BONDS AND LIABILITY INSURANCE

On page 15114, Section 806.11, column 2, paragraph 1, line 39, "or" is corrected to read "on".

On page 15115, Section 806.11, column 2, paragraph 1, line 8, "806.119(b)(2)" is corrected to read "806.11(b)(2)".

On page 15117, Section 806.11, column 1, paragraph 3, line 4, "806.11(b)(c)(i)(D)" is corrected to read "806.11(b)(6)(i)(D)", and line 5, "execution" is corrected to read "and execution".

PART 815—PERMANENT PROGRAM PERFORMANCE STANDARDS COAL EXPLORATION

On page 15127, Section 815.11, paragraph 2, lines 30-33, "tory authority.

By comparison, in most instances, aerial exploration alone will not cause the kind of disturbance requiring notification." is corrected to read "tory authority."

On page 15130, Section 815.15, column 1, paragraph 2, lines 21 and 22, "in the previous paragraph" is corrected to read "previously", and column 3, lines 30-32, "is one use of the data OSM had suggested as a basis for the proposed requirement" has been corrected to read "purpose the commenter erroneously attributed to OSM".

On page 15132, Section 815.15, column 1, paragraph 2, line 18, "qualified that" is corrected to read "qualified as being that".

On page 15133, Section 815.15, column 1, lines 21 and 22, "coal, removing the stream" is corrected to read "coal stream", and column 3, paragraph 1, line 19, "road" is corrected to read "roads".

On page 15134, Section 815.15, column 3, paragraph 3, line 14, "than" is corrected to read "that".

On page 15135, Section 815.15, column 2, paragraph 1, line 8, "these" is corrected to read "These".

On page 15136, Section 815.15, column 2, paragraph 2, line 13, "816.42 (k)" is corrected to read "815.12(k)", and column 3, paragraph 2, lines 14, and 15 "the organization since the proposed" is corrected to read "the proposed".

PART 816—PERMANENT PROGRAM PERFORMANCE STANDARDS—SURFACE MINING ACTIVITIES

On page 15137, Section 816.11, column 2, paragraph 5, line 2, "Rules and Regulations promulgated under the Open Mining Reclamation Act of 1973" is corrected to read "1976. Rules and regulations of the Land Reclamation Board".

On page 15137, Section 816.11, column 2, paragraph 6, line 1, "Maryland Department of Natural Resources, Geological Survey—Bureau of Mines, Bituminous Coal Strip Mine and Auger Mine Regulations of 1973, 08.06.01(.03)." is corrected to read "Maryland Geological Survey, Bureau of Mines, 1973. Monuments (08.06.01.03) of Regulations governing reclamation of Bituminous coal strip mines (08.06.01), in Bituminous coal strip mine and auger mine regulations. Maryland Department of Natural Resources Rules and Regulations pp. 23 and 24".

On page 15137, Section 816.11, column 2, paragraph 9, line 1, "Tennessee State Department of Conservation, Division of Surface Mining, Rules and Regulations, Chapter 0400-3.0-205, 1975" is corrected to read "Tennessee Department of Conservation 1975. Permit marker 0400-

3-2-.05 in chapter of Requirements for surface mining permits. Tennessee Department of Conservation Division of Surface Mining Rules and Regulations".

On page 15137, Section 816.11, column 2, paragraph 12, line 1, "Wyoming State Department of Environmental Quality, Land Quality Division, Land quality rules and regulations, 1975 (as amended)" is corrected to read "Wyoming Department of Environmental Quality, 1975. Land quality rules and regulations (as amended on September 1, 1978). Land Quality Division".

On page 15138, Section 816.21-816.25, column 3, paragraph 5, line 1, "Baker, James B. and Broodfoot, W.M. 1977. Site Evaluation For Light Important Southern Hardwoods, U.S.D.A., Forest Service General Technical Report 0-14" is corrected to read "Baker, J. B., and Broadfoot, W. M., 1977. A Practical Field Method of Site Evaluation for Eight Important Southern Hardwoods, U.S. Forest Service General Technical Report SO-14".

On page 15138, Section 816.21-816.25, column 3, paragraph 6, line 1, "Carman" is corrected to read "Carmaen".

On page 15138, Section 816.21-816.25, column 3, paragraph 7, line 1, "Colorado, Rules and Regulations of the Land Reclamation Board, 1976 pp. 1-25." is corrected to read "Colorado State Land Reclamation Board, 1976. Rules and Regulations of the Land Reclamation Board, 25 pp."

On page 15138, Section 816.21-816.25, column 3, paragraph 8, line 1, "Lull, W.H., 1959, U.S.D.A., Forest Service, Misc. Pub. No. 786" is corrected to read "Lull, H.W., 1959. Soil Compaction on Forest and Range Lands. U.S. Forest Service Miscellaneous Publication No. 768, 33 pp."

On page 15138, Section 816.21-816.25, column 3, paragraph 10, line 1, "McCormack, E. 1974, Research and Applied Technology Symposium, 2nd, Oct. 22-24, Louisville, Ky. pp. 150-162" is corrected to read "McCormack, D.E., 1974. Soil reconstruction: for the best soil after mining, in Second research and applied technology symposium on minedland reclamation, at Coal and the Environmental Technical Conference, October 22-24, 1974, Louisville, Ky., National Coal Association, Washington, D.C. pp. 150-162."

On page 15140, Section 816.22, column 2, paragraph 1, line 8, "regulations" is corrected to read "regulation".

On page 15140, Section 816.22, column 2, paragraph 2, line 17, "act" is corrected to read "Act".

On page 15140, Section 816.22, column 3, paragraph 2, line 9, "concures" is corrected to read "concurs".

On page 15141, Section 816.22, column 1, paragraph 2, line 2, "(e) (4)." is corrected to read "(e)(4) of the proposed regulations.", and line 12, "(e)(4)" is corrected to read "(e)(2) of these rules".

On page 15141, Section 816.23, column 2, paragraph 4, lines 10 and 11, "distributed" is corrected to read "disturbed".

On page 15142, Section 816.41-816.57, column 3, paragraph 2, line 4, "22-66" is corrected to read "22-28".

On page 15142, Section 816.41-816.57, column 3, paragraph 6, line 1, "Bhutani, J., et al. 1975, 'Impact of Hydrologic Modifications on Water Quality.' EPA-600/2-75-007 office of Research and Development, U.S. Environmental Protection Agency, Washington, D.C. 20460. 530 pp. (Sec. 816.42(a))" is corrected to read "Bhutani, J., et al. 1975. Impact of hydrologic modifications on water quality. (Prepared by Mitre Corp., McLean, Va.) U.S. Environmental Protection Agency Report EPA-600/2-75-007. (Available from U.S. Department of Commerce, NTIS PB-248 523. 530 pp.)

On page 15142, Section 816.41-816.57, column 3, paragraph 9, line 3, "Proceedings—Planning" is corrected to read "Proceeding, Planning".

On page 15143, 816.41-816.57, column 1, paragraph 2, line 2, "Transactions American Geophysical Union" is corrected to read "American Geophysical Union Transactions".

On page 15143, Section 816.41-816.57, column 1, paragraph 4, lines 3 and 4, "Engineers, Transactions, Paper" is corrected to read "Engineers Transactions Paper".

On page 15143, Section 816.41-816.57, column 2, paragraph 6, lines 4 and 5, "Davis, grant" is corrected to read "Davis, Grant".

On page 15144, Section 816.41-57, column 1, paragraph 11, line 1, "Ryder, P.B." is corrected to read "Ryder, P.D."

On page 15144, Section 816.41-57, column 2, paragraph 1, line 1, "Barfield B.T." is corrected to read "Barfield, B.J."

On page 15145, Section 816.41-57, column 2, paragraph 4, line 2, "Wastewater Engineering, Collection" is corrected to read, "Wastewater Engineering: Collection".

On page 15146, Section 816.41-816.57, column 2, paragraph 7, line 4, "Davis, G. Eds." is corrected to read "Davis, Grant, editors".

On page 15149, Section 816.42, column 3, paragraph 3, line 1, "816.42(a)(b)" is corrected to read "816.42(a)(6)".

On page 15150, Section 816.42, column 1, paragraph 2, line 19, "1978." is corrected to read "1978)", and line 41, "implied" is corrected to read "implied".

On page 15152, Section 816.42, column 1, last paragraph line 2, "Ch. 206," is corrected to read "Ch. 20-6,".

On page 15152, Section 816.42, column 1, paragraph 1, line 22, "Wyoming" is corrected to read "Wyoming." In addition, similar effluent limitation requirements for all phases of mining were directly imposed upon the industry under several State's laws as noted below, prior to and at the time of passage of the Act."

On page 15152, Section 816.42, column 1, footnote 2, the following sentence is deleted "In addition, similar effluent limitations requirements for all phases of mining were directly imposed upon the industry under several States laws as noted below prior to and at the time of passage of the Act".

On page 15153, Section 816.42, column 1, line 6, "lead" is corrected to read "led"; column 2, paragraph 1, line 15, "tice" is corrected to read "tive"; and column 3, paragraph 2, line 3, "production coal", is corrected to read "production, coal", line 4, "involved" is corrected to read "involve", and line 20, "over large areas down from" is corrected to read "downward from large".

On page 15154, Section 816.42, column 1, paragraph 3, line 14 "applies" is corrected to read "apply"; and column 2, paragraph 2, lines 18-23, "coal mines. These data indicate that many of these mines have been able to discharge pollutants (specifically total suspended solids). In lower concentrations than Eastern coal mines." is corrected to read "coal mines."

On page 15154, Section 816.42, column 3, paragraph 2, line 11, "McWhorther" is corrected to read "McWorter".

On page 15155, Section 816.42, column 3, paragraph 2, line 12, "limitation consitute" is corrected to read "limitations constitute", column 3, paragraph 4, line 12, "816.42(a)(7)" is corrected to read "816.42(a)(7)".

On page 15156, Section 816.42, column 1, line 4, "hydrozides" is corrected to read "hydroxides".

On page 15156, Section 816.43, column 2, paragraph 3, lines 1 and 2, "U.S. Department of Interior, 1960" is corrected to read "U.S. Bureau of Reclamation, 1973."

On page 15156, Section 816.43, column 3, paragraph 4, line 5, "stated the" is corrected to read "stated in the".

On page 15157, Section 816.44, column 2, paragraph 5, line 1, "established" is corrected to read "establishes", and column 3, line 14, "discussing" is corrected to read "discussion".

On page 15158, Section 816.44, column 2, line 2, "(1974," is corrected to read "(1964,".

On page 15161, Section 816.46, column 1, paragraph 3, line 18, "5" is corrected to read "51".

On page 15165, Section 816.46(g), column 2, line 22, "SCS, Pond 278-313 (1977)" is corrected to read "U.S. Soil Conservation Service, Pond Section 378, 8 pp. (1977s)".

On page 15166, Section 816.46(j), column 1, paragraph 1, line 11, "SCS (No.) Pond 378-2 (1977)" is corrected to read "U.S. Soil Conservation Service, Pond Practice Standard 378".

On page 15166, Section 816.46(k), column 1, paragraph 3, lines 11 and 12, "SCS (No.) Pond 378-2 (1977)" is corrected to read "U.S. Soil Conservation Service, Pond Section 378-2. (1977s)".

On page 15166, Section 816.46(k), column 1, paragraph 4, line 19, "Reclamation at 202 (1960)" is corrected to read "Reclamation, (1973, p. 202)".

On page 15168, Section 816.47, column 1, line 14, "Hyne" is corrected to read "Hynes".

On page 15168, Section 816.48, column 2, paragraph 1, lines 10 and 11 "(Kinney, 1964; Warner, 1973; Turner, 1958; Striffler, 1973)" is corrected to read "(Kinney, 1964, p. 27; Striffler, 1973, pp. 175-190; Turner, 1958, pp. 192-193; Warner, 1973, pp. 227-236)".

On page 15169, Section 816.49, column 2, line 25, "PL 504" is corrected to read "PL 78-534".

On page 15169, Section 816.49, column 2, paragraph 1, line 19, "programs. SCS" is corrected to read "programs (Johnson, 1978). SCS".

On page 15169, Section 816.49, column 3, paragraph 1, line 12, "W. Va." is corrected to read "See also W. Va.".

On page 15169, Section 816.49, column 3, paragraph 2, line 9, "W. Va." is corrected to read "See also W. Va.".

On page 15169, Section 816.49, column 3, paragraph 3, line 12, "W. Va." is corrected to read "See also W. Va."; and line 13, "date). See also Comptroller" is corrected to read "date) and Comptroller".

On page 15179, Sections 816.61-816.68, column 2, paragraph 2, line 1, "Ash, R.L." is corrected to read "Pfleider, E.P.".

On page 15179, Sections 816.61-816.68, column 2, paragraph 2 line 1, "Ash, R.L." is corrected to read "Pfleider, E.P.".

On page 15179, Sections 816.61-816.68, column 2, paragraph 6, line 1, "5. Committee" is corrected to read "5. National Academy of Sciences, Committee".

On page 15179, Section 816.61-816.68, column 2, paragraph 7, lines 2 and 3, "Geotysikalni Shornik" is corrected to read "Geophysical Institute Report".

On page 15179, Section 816.61-816.68, column 2, paragraph 8, "Agency No. 1BB040" is corrected to read "Agency Publication EPA-67012-74093".

On page 15179, Section 816.61-816.68, column 3, paragraph 10, lines 1 and 3, "Bureau of Mines Special Study Submitted to OSM, 5 pp." is corrected to read "Memorandum from Geophysicist, U.S. Bureau of Mines".

On page 15179, Section 816.61-816.68, column 3, paragraph 12, lines 1 and 2, "University of Maryland, An Investigation into Delay Blasting 1975" is corrected to read "Winkler, S.R. 1978".

On page 15179, Section 816.61-816.68, column 3, paragraph 13, line 1, "W. J. Devine" is corrected to read "W. # J., and Devine, J. 1968".

On page 15179, Section 816.61-816.68, column 2, paragraph 12, lines 5 and 6, "strip mines and auger regulations" is corrected to read "strip mine and auger mine regulations".

On page 15179, Section 816.61-816.61, column 3, paragraph 14, "Grubb and Ryder, 1972" is corrected to read "Grubb, H.F., and Ryder, P.D., 1972, Effects of Coal Mining on the Water Resources of the Tradewater River Basin, Kentucky, U.S. Geological Survey Water Supply Paper 1940, 83 pp.".

On page 15179, Section 816.61-816.68, column 3, paragraph 15, line 1, "USGS, 1974(a), vol. 1." is corrected to read "U.S. Geological Survey, 1974, Proposed Plan of Mining and Reclamation, Big Sky Mine, Peabody Coal Company, Coal Lease M-15965, Colstrip, Montana, U.S. Geological Survey Final Environmental Statement FEES 74-12, vol. 1, 438 pp.".

On page 15180, Section 816.61-816.68, column 3, paragraph 2, line 4, "exist" is corrected to read "exists".

On page 15182, Section 816.61, column 1, paragraph 1, line 1, line 8, "personnel" is corrected to read "personal".

On page 15182, Section 816.61, column 1, paragraph 2, line 10, "is is" is corrected to read "it is".

On page 15183, Section 816.62, column 3, paragraph 2, line 7, "alternative 2" is corrected to read "alternatives 1 and 2", and paragraph 8, lines 1 and 2, "did not adopt" is corrected to read "adopted".

On page 15184, Section 816.62, column 1, paragraph 3, line 6, "where restrictions" is corrected to read "where blasting is proposed to be conducted within the distance restriction".

On page 15186, Section 816.64, column 2, paragraph 2, line 1, "limited" is corrected to read "limiting".

On page 15186, Section 816.65, column 2, paragraph 4, title, "Section 816.65(a)" is corrected to read "I. Section 816.65(a)".

On page 15187, Section 816.65, column 2, paragraph 2, title, "(III) Section 816.65(b)." is corrected to read "II. Section 816.65(b).".

On page 15187, Section 816.65, column 2, paragraph 4, line 1, "MSHA's is second" is corrected to read "MSHA's second".

On page 15188, Section 816.65, column 1, paragraph 1, line 2, "menter's objection, that the" is corrected to read "menter objected to the"; and lines 3 and 4, "establish, was rejected" is corrected to read "establish. This would imply that if no schedule existed, no emergency provision would be necessary. This comment was rejected".

On page 15188, Section 816.65, column 3, paragraph 3, lines 9 and 10, "variable," is corrected to read "variable interpretations".

On page 15193, Section 816.65, column 1, line 15, heading, "Sections" is corrected to read "Section".

On page 15193, Section 816.65, column 1, paragraph 1, line 33, "alternative" is corrected to read "alternatives".

On page 15193, Section 816.65, column 3, footnote 6, line 5, "62.4 x 0 = pi(.5)" is corrected to read "62.4 x pi(.5)".

On page 15194, Section 816.65, column 1, paragraph 1, line 4, "the" is corrected to read "that"; and line 13, heading Section 816(g) (816.65(h) (in proposed rule)." is corrected to read "Section 816.65(g) (816.65(h) in proposed rule."

On page 15195, Section 816.65, column 2, paragraph 4, line 5, "pp. 83," is corrected to read "pp. 83-".

On page 15197, Section 816.65, column 3, paragraph 3, line 11, "Moreover, the" is corrected to read "Moreover, to the".

On page 15197, Section 816.65, column 1, paragraph 4, line 10, "because the" is corrected to read "because".

On page 15197, Section 816.65, column 1, paragraph 1, lines 14-22 and footnote 9, "cent."

$$\begin{array}{ll} 60 = 1,000/\sqrt{W} & 50 = 1,000/\sqrt{W} \\ \sqrt{W} = 1,000/60 & \sqrt{W} = 1,000/50 \\ \sqrt{W} = 16.667 & \sqrt{W} = 1,000/50 \\ \sqrt{W} = 278 \text{ lb/delay} & \sqrt{W} = 20 \\ \sqrt{W} = 400 \text{ lb/delay} & \\ 278/400 = 70\% & \end{array}$$

If an operator is currently blasting at or near two-inches-per-second, he

* Calculated by comparing the two scaled distance equations: SD = distance/Charge weight.

Example: Calculation comparing scaled distance of 50 to 60 using an absolute distance of 1,000 feet.

is corrected to read: "cent."

If an operator is currently blasting at or near two inches per second, he or she

* Calculated by comparing the two scaled distance equations: SD = distance/charge weight.

Example: Calculation comparing scaled distance of 50 to 60 using an absolute distance of 1,000 feet.

$$\begin{array}{ll} 60 = 1,000/W & 50 = 1,000/W \\ W = 1,000/60 & W = 1,000/50 \\ W = 278 \text{ lb/delay} & W = 20 \\ 278/400 = 70\% & W = 400 \text{ lb/delay} \end{array}$$

On page 15198, Section 816.65, column 1, line 5, "17" is corrected to read "71".

On page 15200, Section 816.65, column 1, paragraph 3, line 12, "employing" is corrected to read "employing".

On page 15201, Section 816.65, column 1, line 30, "limits" is corrected to read "limit".

On page 15202, Sections 816.71-816.74, column 3, paragraph 10, lines 1-6, "Presentation at Public Hearings October 28, 1978, and submitted as written comments on the letterhead of Casagrande Consultants, October 27, 1978, 3 pp. with 4 page attachment" is corrected to read "Statement presented at the hearing on proposed regulatory program for the Office of Surface Mining in Washington, D.C., on October 27, by Casagrande Consultants for the Consolidation Coal Co. 3 pp. and attachment."

On page 15203, Sections 816.71-816.74, column 1, paragraph 7, lines 2-5,

"Development of classification Index for Clay Shales TRS-71-G, pp. 95. Report 1 Waterways Experiment Station, U.S. Army Corps of Engineers" is corrected to read "engineering Properties of Clay Shales; Report 1, Development of Classification Indexes for Clay Shales. (Conducted by U.S. Army Engineer Waterways Experiment Station, Technical Report S-71-6, 89 pp)".

On page 15203, Sections 816.71-816.74, column 1, paragraph 13, "Robins, J.D., Hutchins, J.C. and Permeuter, D.A. 1977. Environmental assessment of surface mining methods: Head-of-hollow file and mountaintop removal (interim report). Prepared by Skelly and Loy, Harrisburg, Pa.) U.S. Environmental Protection Agency Contract No. 68-03-2356 report." is inserted.

On page 15203, Sections 816.71-816.74, column 2, line 7, "353" is corrected to read "343".

On page 15203, Section 816.71, column 3, paragraph 1, line 10, "H-7582" is corrected to read "H-7584".

On page 15204, Section 816.71-816.74, column 1, lines 3 and 4, "Cedegren" is corrected to read "Cedergren".

On page 15204, Section 816.71, column 1, "816.71" is corrected to read "816.72".

On page 15204, Section 816.71, column 1, paragraph 1, line 16, "Skelly and Loy, and others, 1978" is corrected to read "Loy, L.D. et al, 1978".

On page 15204, Section 816.71, column 1, paragraph 2, line 15, "Paker, 1965, Fig. 1" is corrected to read "Packer, P.E.

1976"; and line 16, "Meyerhoff" is corrected to read "Meyerhof".

On page 15205, Section 816.71, column 2, line 4, "Cedegren" is corrected to read "Cedergren".

On page 15206, Section 816.73, column 2, paragraph 1, line 20, "Green, 1978" is corrected to read "Greene, B.C., 1978sa".

On page 15206, Section 816.73, column 3, paragraph 4, line 6, "1974" is corrected to read "1975".

On page 15207, Section 816.73, column 1, lines 12 and 13 "Wahler, 1978, pp. 69-70, 78" is corrected to read "USEPA, 1978sc pp. 69 and 70"; and line 15, "U.S. Department of the Navy" is corrected to read "U.S. Navy Bureau of Yards and Docks, 1971 (revised 1974)".

On page 15207, Section 816.73, column 1, paragraph 4, line 6, "Hinger, 1978, pp. 7-22)" is corrected to read "Robins, Hutchins and Permeuter, 1977, pp. 7-22)".

On page 15207, Section 816.74, column 3, line 10, "Young, 1978" is corrected to read "Young, S.G. 1979".

On page 15208, Section 816.74, column 1, paragraph 7, line 14, "Cumming and others" is corrected to read "Cummins, D.G. et al, 1965".

On page 15208, Section 816.74, column 2, paragraph 1, lines 15 and 16, "1978" is corrected to read "1978sc".

On page 15209, Section 816.81, column 3, last line, "Canadian Department" is corrected to read "Canada, Department".

On page 15210, Section 816.81, column 1, paragraph 6, line 9, "EPA, 1978 p. 73-79." is corrected to read "EPA 1978sc, p. 73-79."

On page 15210, Section 816.82, column 1, paragraph 7, line 15, "Wood et al" is corrected to read "Wood, L.E. et al. 1976".

On page 15210, Section 816.83, column 2, paragraph 6, line 16, "EPA 1976" is corrected to read "EPA 1976b".

On page 15211, Section 816.85, column 1, paragraph 2, line 21, "National Coal Board 1973" is corrected to read "National Coal Board, 1972".

On page 15211, Section 816.83, column 1, paragraph 3, line 22, "Peterson and Gachwind" is corrected to read "Peterson and Gschwind".

On page 15213, Section 816.87, column 1, paragraph 4, line 9, "Dixon, 1978 Part II pp 1-16" is corrected to read "Dixon, E.F. 1968, Part II pp. 1-16".

On page 15213, Section 816.91, column 3, paragraph 9, line 6, "697 pp." is corrected to read "698 pp.".

On page 15214, Section 816.91, column 1, paragraph 14, line 6, "24, 1974, 1974" is corrected to read "24, 1974".

On page 15214, Section 816.91, column 3, paragraph 5, lines 2 and 3, "coal-

mining" is corrected to read "coal-mine".

On page 15215, Sections 816.91-816.93, column 1, paragraph 2, line 5, "p. 46" is corrected to read "46 pp.".

On page 15216, Section 816.91, column 1, paragraph 6, line 4, "22 pp." is corrected to read "222 pp.".

On page 15216, Sections 816.91-816.93, column 1, paragraph 8, line 5, "p. 1207-1225" is corrected to read "pp. 1207-1225".

On page 15216, Section 816.91, column 1, paragraph 13, line 2, "Glevenger" is corrected to read "Clevenger".

On page 15216, Section 816.91, column 1, paragraph 14, lines 2 and 3, "materials without use topsoil" is corrected to read "material without use of topsoil".

On page 15216, Sections 816.91-816.93, column 2, paragraph 1, line 5, "p. 15" is corrected to read "15 pp.".

On page 15216, Section 816.91, column 2, paragraph 6, lines 5 and 6, "SR-76" is corrected to read "SR-78".

On page 15216, Section 816.91, column 2, paragraph 10, lines 3 and 4, "1110-20-1603" is corrected to read "1110-2-1603".

On page 15216, Section 816.91, column 2, paragraph 12, lines 3 and 4, "Report of Congress" is corrected to read "Report to Congress".

On page 15216, Section 816.91, column 3, paragraph 2, line 1, "Navigation Waters" is corrected to read "Navigable Waters".

On page 15217, Section 816.91, column 1, paragraph 10, lines 1-3, "1976a. Earth dams and reservoirs. U.S. Soil Conservation Service Technical Release No. 60.57 pp." is corrected to read "1976a. Earth

embankments and foundations, Chapter 5 in Earth dams and reservoirs, U.S. Soil Conservation Service Technical Release No. 60, pp. 5-1 to 5-5."

On page 15217, Section 816.91, column 1, paragraph 11, lines 1-4, "1977a. National Handbook of Conservation Practices. U.S. Department of Agriculture" is corrected to read "1977s. Classification of

soil series of the United States, Soil Conservation Service. Part 1, 171 pp.; Part 2, 139 pp."

On page 15217, Section 816.91, column 2, paragraph 4, line 3, "applies" is corrected to read "applied".

On page 15217, Section 816.91, column 3, paragraph 3, line 15, "ASCE, 1969" is corrected to read "ASCE, 1966".

On page 15218, Section 816.92, column 1, line 1, "Woods" is corrected to read "Wood".

On page 15218, Section 816.93, column 3, paragraph 3, line 10, "1976" is corrected to read "1969".

On page 15219, Section 816.93, column 1, paragraph 2, line 18, "1974" is corrected to read "1973".

On page 15219, Section 816.93, column 1, paragraph 3, line 8, "1974" is corrected to read "1977".

On page 15220, Section 816.93, column 1, paragraph 2, line 8, "1967b" is corrected to read "1976b".

On page 15220, Section 816.93, column 2, paragraph 2, line 14, "216-1" is corrected to read "77.216-1".

On page 15221, Section 816.95, column 2, paragraph 4, lines 5 and 6, "PEDCO Report at 65 (1978)" is corrected to read "Axetell, K. (1978)"; and lines 23 and 24, "PEDCO Report at 56 (1978)" is corrected to read "Axetell, K. (1978)".

On page 15222, Section 816.95, column 1, paragraph 3, line 7, "PEDCO Report at 76-84, 1976" is corrected to read "USEPA 1976c".

On page 15222, Section 816.95, column 2, paragraph 4, line 7, "Where We Agree At 207 (1977)" is corrected to read "Murray, F.X., Editor 1978".

On page 15223, Section 816.97, column 3, paragraph 3, line 2, "REA Bulletin 60-10" is corrected to read "U.S. Rural Electrification Administration (1972)".

On page 15223, Section 816.97, column 3, paragraph 4, line 3, "Impact, Mitigation and Monitoring" is corrected to read "Impacts, Mitigation and Monitoring in the Rocky Mountains".

On page 15223, Section 816.97, column 3, paragraph 5, line 1-3, "Methods of Assessment and Prediction of Universal Mining, Impacts on Aquatic Communities" is corrected to read "Methods for the Assessment of Mineral Mining Impacts on Aquatic Communities".

On page 15225, Sections 816.97, column 2, paragraph 20, line 12, "posing" is corrected to read "and thus pose".

On page 15228, Sections 816.101-816.105, column 2, paragraph 1, line 10, "Curtis and Superfesy, 1977" is corrected to read "Curtis, W. R. and Superfesy, M. J., 1978".

On page 15229, Sections 816.101-816.105, column 3, paragraph 2, line 30, "Gaston, 1976," is corrected to read "Gasper, 1976,".

On page 15231, Sections 816.111-816.117, column 3, paragraph 3, line 2, "plans" is corrected to read "plants".

On page 15231, Sections 816.111-816.117, column 3, last paragraph, line 1, "Armger," is corrected to read "Arminger".

On page 15232, Sections 816.111-816.117, column 1, paragraph 5, line 1, "Guidelines for reclamation of surface mined areas in Utah, 1972" is corrected to read "USSCS 1975d. Reclamation of Utah's Surface Mined areas".

On page 15232, Sections 816.111-816.117, column 1, paragraph 11, line 1, "Iowa, State of" is corrected to read "Schaller, F. and Hertel, G. No date".

On page 15232, Sections 816.111-816.117, column 1, paragraph 12, line 1, "Kentucky Guidelines" is corrected to read "USSCS 1973bb Kentucky guide for classification, use, and vegetative treatment of surface mine spoil."

On page 15232, Sections 816.111-816.117, column 1, paragraph 17, line 1, "New York, Mined Land Reclamation Mine Operator Handbook, p. III 1-43." is corrected to read "New York Department of Conservation Developing a Mined Land Use Plan, in Mine Operators Handbook, p. III 1-43".

On page 15232, Sections 816.111-816.117, column 1, paragraph 18, line 2, "undated" is corrected to read "1964".

On page 15232, Sections 816.111-816.117, column 2, paragraph 1, line 1, "A Guide" is corrected to read "Davis, Grant, Chairman, 1965. A Guide".

On page 15232, Sections 816.111-816.117, column 2, paragraph 5, line 1, "Bos. I." is corrected to read "Bos, T.". On page 15232, Sections 816.111-

816.117, column 2, paragraph 8, line 1, "Use and requirements of lime" is corrected to read "Requirements and use of fertilizer, lime".

On page 15232, Sections 816.111-816.117, column 2, paragraph 9, line 4, "in R. S. Hutnik and Grant Davis (ed.)." is corrected to read "in Hutnik, R. J., and Davis, Grant, editors..".

On page 15232, Sections 816.111-816.117, column 2, paragraph 10, line 1, "Wahlquist, B. T. and others, 1975. Mined-land revegetation without supplemental irrigation in the arid southwest pp. 29, 31, 32." is corrected to read "Wahlquist, B. T., Dressler, R. L. and Sowards, W. 1975. Mined-land revegetation without supplemental irrigation in the arid southwest in third symposium on surface mining and reclamation, at NCA/BCR Coal Conference and Expo II, October 21-23f. 1975, Louisville, Ky. National Coal Association, Washington, D.C. Vol I, pp. 29-39".

On page 15233, Section 816.111, Column 1, paragraph 3, line 12, "785.12" is corrected to read "785.17".

On page 15233, Section 816.112, column 3, paragraph 4, line 2, "made" is corrected to read "make".

On page 15234, Section 816.112, column 1, paragraph 2, line 10, "availability" is corrected to read "availability".

On page 15234, Section 816.113, column 2, paragraph 4, line 9, "pp." is corrected to read "p.". On page 15235, Section 816.114,

column 1, line 5, "Plass (1978)" is

corrected to read "(Plass, 1978, Reclamation of Coal Mined Land in Appalachia. Journal of Soil and Water Conservation. Vol. 33, No. 2, pp. 56-61.)"; and line 11, "Vogel (1974)" is

corrected to read "(Vogel, 1974, Requirements and use of fertilizer, lime and mulch for vegetating acid mine spoils. USDA, Forest Service Report ARC-71-66-T4, pp. 260-281.)".

On page 15235, Section 816.114, column 2, paragraph 6, line 1, "5" is deleted.

On page 15235, Section 816.114, column 3, paragraph 1, lines 5 and 8, "redistributed within 5 working days after completion of backfilling and regarding," is corrected to read "redistributed..".

On page 15235, Section 816.115, column 3, paragraph 3, line 6, "Aldon and Springfield, 1977" is corrected to read "(Aldon, S.F., and Springfield H.W. 1973. Revegetating coal spoils in New Mexico: U.S. Forest Service Research Note RM-245, pp) 4.)".

On page 15236, Section 816.115, column 1, paragraph 1, line 11, delete comma after "Since".

On page 15236, Section 816.115, column 3, paragraph 1, line 6, "authorities" is corrected to read "authority's".

On page 15236, Section 816.116, column 3, paragraph 2, line 9, "Kuchlers" is corrected to read "Kuchler's".

On page 15236, Section 816.116, column 3, paragraph 3, line 1, "Technical guides published by United States Department of Agriculture (USDA) or United States Department of the Interior" is corrected to read "Technical guides such as *National Handbook and Handbook for Making Resource Inventories* published by the United States Department of Agriculture (USDA) or United States Department of the Interior"; and line 18, "delete comma after "specific".

On page 15237, Section 816.116, column 3, paragraph 2, line 14, "complete" is corrected to read "complete".

On page 15237, Section 816.116, column 3, paragraph 3, line 11, "achievements" is corrected to read "achievement".

On page 15238, Section 816.116, column 1, paragraph 1, line 5, "will" is corrected to read "well"; and lines 8-10 "mimum" is corrected to read "minimum".

On page 15238, Section 816.116, column 2, paragraph 4, line 12, "suggest" is corrected to read "suggested".

On page 15239, Section 816.116, column 1, paragraph 1, line 17, and paragraph 3, line 11, "office" is corrected to read "Office".

On page 15242, Section 816.133, column 1, paragraph 5, line 6, "better or higher" is corrected to read "higher or better".

On page 15242, Section 816.133, column 2, paragraph 3, line 1, "Clenkner" is corrected to read "Clickner".

On page 15242, Section 816.133, column 3, paragraph 8, line 1, "Livingston and Blayney, Inc. Public Costs are Expensive in Hillside areas. Foothills Environmental Design Study, Report No. 3 to the City of Palo Alto, Calif. Palo Alto Planning Department, Palo Alto, Calif. 1970" is corrected to read "California, Palo Alto Planning Commission 1971. Land use Alternatives, Report No. 3 in Open Space vs. development (formerly named Foothills Environmental design study). Prepared by Livingston and Blayney, San Francisco, Calif.) pp. 84-162."

On page 15242, Section 816.133, column 3, paragraph 10, line 1, "Coughlin, R.E. and Hammer, T.R. Stream Quality Preservation Through Planned Urban Development. U.S. GPO, Washington, D.C. 1973" is corrected to read "Coughlin, R.E., and Hammer, T.R. 1973. Stream quality preservation through planned urban development (Prepared by Regional Science Institute, Philadelphia, Pa.) U.S. Environmental Protection Agency, Socioeconomic Environmental Studies Series, Report EPA-Rj-5-73-019, 227 pp. (Available from U.S. Department of Commerce, NTIS DB-22 177)

On page 15242, Section 816.133, column 3, paragraph 11, line 5, "Notes 29, 1968." is corrected to read "Notes 29, 1969".

On page 15242, Section 816.133, column 3, paragraph 12, line 1, "Moore, G.T. Emerging" is corrected to read "Moore, G.T. editor 1970. Emerging".

On page 15242, Section 816.133, column 3, paragraph 13, line 1, "Johnson, A.H., Berger, J. and McHarg, I.L. Landscape Analysis for Ecologically Sound Land Use Planning, Department of Landscape Architecture and Regional Planning, University of Penna., Phila., PA. 1978" is corrected to read "Johnson, A. H., Berger, J. and McHarg, I.L. 1978. Landscape analysis for ecologically sound land use planning (*title changed to A Case Study in Ecological Planning, the Woodlands*), Chapter 39 in Land use planning. (Prepared by University of Pennsylvania, Department of Landscape Architecture and Regional Planning, Philadelphia, Pa.) American Society of Agronomy (In press).".

On page 15243, Section 816.133, column 1, line 1, "Klingebiel, A.D." is corrected to read "Klingebiel, A.A.". On page 15244, Section 816.133,

column 2, paragraph 1, line 10, "Paragraph 2" is corrected to read "Section 816.133 (c)(2)".

On page 15245, Sections 816.150-816.176, column 3, paragraph 3, line 1, "1975" is corrected to read "1965". "Specifications for transportation materials and methods of sampling and testing Part I Specifications. Part II, Methods of sampling and testing. American Association of State Highway and Transportation Officials, Washington, D.C. Part I, 828 pp.; Part II, 998 pp. 1978s".

On page 15245, Section 816.150-816.176, column 3, paragraph 10, line 1, "U.S. Department of Transportation, Public Roads, March, 1978, Vol. 41., No. 4. Albert Demillio" is corrected to read "DiMillio, Albert F. 1978. Status of Shale Embankment Research. Public Roads, a journal on highway research and development. Vol. 41, No. 4 pp. 153-164".

On page 15245, Section 816.150-816.176, column 3, paragraph 11, line 1, "AASHTO, T-99" is corrected to read "American Association of State Highway and Transportation Officials, T-99, 1978s".

On page 15245, Section 816.150-816.176, column 3, paragraph 11, line 1, "AASHTO, T-99" is corrected to read "American Association of State Highway and Transportation Officials, T-180, 1978s".

On page 15245, Sections 816.150-816.176, column 3, paragraph 13, line 1, "AASHTO, T-91" is corrected to read "American Association of State Highway and Transportation Officials T-91, 1978s..".

On page 15245, Sections 816.150-816.176, column 3, paragraph 13, line 3, "of Coal." is corrected to read "Coal. U.S. Environmental Protection Agency Publication EPA-670/2-74-093, pp. 276..".

On page 15256, Section 816.153(A)(1), 816.163(a)(1) and 816.173(a)(1), column 3, paragraph 2, line 7, "U.S. Bureau of Mines Circular No. 8758, 1977. (Kaufman, W.W. and Ault, 1977)." is corrected to read "Kaufman, W.W. and Ault, J.C. 1977".

PART 817—PERMANENT PROGRAM PERFORMANCE STANDARDS

On page 15263, Sections 817.13-817.15, column 1, paragraph 6, line 1, "Penrose, Jr., et al., EPA 68 010135, 1973. Laboratory study of self-sealing limestone plugs for mine openings—EPA 43019-73-011" is corrected to read "Penrose, R. G., Jr., et al., 1973. Laboratory study of self-sealing limestone plugs for mine openings. (Prepared by NUS Corp. and

D'Appolonia Consulting Engineers, Inc., Pittsburgh, Pa.) U.S. Environmental Protection Agency Report EPA 670/2-73-081. 217 pp. (Available from U.S. Department of Commerce, NTIS PB-228 586, 217 pp.)".

On page 15263, Sections 817.13-817.15, column 1, paragraph 9, line 1, "Penrose, R. G., Jr., and Holuber, Igor, 1973. Laboratory study of self-sealing limestone plugs for mine operations. EPA670/2-73-081" is deleted.

On page 15263, Sections 817.13-817.15, column 1, paragraph 10, line 3, "EPA-67012-73-092" is corrected to read "EPA-670/2-73-092".

On page 15263, Sections 817.13-817.15, column 1, paragraph 11, lines 2 and 3, "1973. Processes, activities, EPA-43019-73-011." is corrected to read "1973b. Processes, procedures, and methods to control pollution from mining activities, EPA-430/9-73-011."

On page 15263, Sections 817.13-817.15, column 1, paragraph 11, line 1, "U.S.E.P.A. 1965." is corrected to read "Robins, J. D. and Hutchins, J. C. 1975."

On page 15263, Sections 817.13-817.15, column 2, paragraph 1, line 7, "Halliburton Co. 1970, pp 5-6, 9-10, 20-21" is corrected to read "U.S. Federal Water Quality Administration, 1970".

On page 15263, Sections 817.13-817.15, column 3, paragraph 3, line 13, "by" is corrected to read "be".

On page 15266, Section 817.42, column 2, paragraph 2, line 15, "Clear" is corrected to read "Clean".

On page 15267, Section 817.50, paragraph 1, line 10, "Broley" is corrected to read "Braley".

On page 15269, Sections 817.61-817.68, line 12, "contains" is corrected to read "contain".

On page 15272, Sections 817.121-817.126, column 1, paragraph 6, line 9, "1977" is corrected to read "1978".

On page 15272, Section 817.121-817.126, column 2, paragraph 1, "Subsidence Engineers Handbook National Coal Board" is corrected to read "National Coal Board (Great Britain) 1975. Subsidence Engineers Handbook. 111 pp..".

On page 15272, Sections 817.121-817.126, column 2, paragraph 1, line 3, "1966, 1974" is corrected to read "1975".

On page 15272, Sections 817.121-817.126, column 3, paragraph 4, line 2, "Mallis" is corrected to read "Mallio".

On page 15272, Section 817.121-817.126, column 3, paragraph 8, line 1, "Amuedo and Ivey" is corrected to read "A. R. Myers" et al., 1975".

On page 15272, Sections 817.121-817.126, column 3, paragraph 14, line 4, "874-3832" is corrected to read "374-383".

On page 15272, Sections 817.121-128, column 3, paragraph 11, line 5, "1966" is corrected to read "1970".

On page 15273, Sections 817.121-817.128, column 1, paragraph 6, line 12, "GAI, 1977" is corrected to read "U.S. Bureau of Mines, 1977C."

On page 15273, Sections 817.121-817.128, column 1, paragraph 7, line 18, "Baker, pp. 40-42, 1974" is corrected to read "Appalachian Regional Commission and the Pennsylvania Department of Environmental Resources, pp. 40-42, 1974;"

On page 15273, Sections 817.121-817.128, column 1, paragraph 7, line 17, "Grey et al p. II-26 1974" is corrected to read "Gray, R. E., et al 1974".

On page 15273, Sections 817.121-817.128, column 1, paragraph 5, line 1, "USGS, 1962" is corrected to read "Osterwald, F. W., 1962".

On page 15273, Sections 817.121-817.128, column 2, paragraph 2, line 14, "(Legger, pp. 374-83, 1972)" is corrected to read "(Leggett, pp. 374-383, 1972)".

On page 15273, Sections 817.121-817.128, Column 1, paragraph 2, line 1, "Curtis" is corrected to read "Cortis".

On page 15278, Sections 817.150-817.176, column 1, paragraph 2, line 13, "Parker, P.E. 1965" is corrected to read "Packer, P.E. 1967".

PART 819—SPECIAL PERMANENT PROGRAM PERFORMANCE STANDARDS—AUGER MINING

On page 15280, Section 819.11, column 2, line 1, "and" is corrected to read "or".

PART 823—SPECIAL PERMANENT PROGRAM PERFORMANCE STANDARDS FOR OPERATIONS ON PRIME FARMLAND

On page 15285, Part 823, column 1, paragraph 3, line 1, "1974" is corrected to read "1947"; and line 29, "pp. 571" is corrected to read "pp. 517".

On page 15285, Section 823.14, column 2, paragraph 6, last line, "overmerge burden" is corrected to read "overburden".

On page 15286, Section 823.14, column 1, lines 13 and 14, "Agriculture" is corrected to read "Agriculture".

On page 15286, Section 823.14, column 2, paragraph 1, line 16, "farmland" is corrected to read "farmland".

PART 826—SPECIAL PERMANENT PROGRAM PERFORMANCE STANDARDS OPERATIONS ON STEEP SLOPES

On page 15291, Section 826.12, column 1, paragraph 1, line 17, "Kimball, 1974, p. 35" is corrected to read "Appalachian Regional Commission and the Kentucky

Department for Natural Resources and Environmental Protection, 1974, Vol. 1, p. 35".

PART 828—SPECIAL PERMANENT PROGRAM PERFORMANCE STANDARDS—IN SITU PROCESSING

On page 15293, Part 828, column 3, paragraph 3, line 13, "Edgar, pp. 47-49" is corrected to read "Edgar, T.F. 1978".

SUBCHAPTER L—INSPECTION AND ENFORCEMENT

On page 15294, Subchapter L, column 1, paragraph 1, lines 2 and 3, "Inspection and Enforcement by the State Regulatory Authority" is corrected to read "State Regulatory Authority Inspection and Enforcement"; and line 4, "Inspections Part" is corrected to read "Inspections), Part".

PART 840—STATE REGULATORY AUTHORITY INSPECTION AND ENFORCEMENT

On page 15296, Section 840.13, column 1, paragraph 4, line 1, "Furthermore" is corrected to read "Furthermore".

On page 15297, Section 840.14, column 1, last paragraph, line 3, "878.15" is corrected to read "786.15".

On page 15297, Section 840.15, column 2, paragraph 3, line 4, the quotation is corrected to begin at the margin.

On page 15297, Section 840.15, column 2, paragraph 4, line 15, "(1977);" is corrected to read "(1977) (emphasis added);".

On page 15297, Section 840.15, column 2, paragraph 5, lines 5 and 6, "coal mining" is corrected to read "coal surface mining".

On page 15297, Section 840.15, column 3, line 11, "is not and cannot be" is corrected to read "is not, and cannot be,".

On page 15297, Section 840.15, column 3, paragraph 2, line 13, "841.15" is corrected to read "842.15".

On page 15298, column 3, paragraph 4, lines 19 and 20, "Sections 842.11(b) and 842.12(a)(1) and (b)(1)" is corrected to read "Sections 842.11(b)(1)(i), which is referred to in Section 842.12(a)".

On page 15299, Section 842.11, column 1, paragraph 2, line 3, insert "(1)" between "(b)" and "(ii)".

On page 15299, Section 842.12, column 3, paragraph 6, line 7, delete "731.14(g) (4) and".

On page 15300, Section 842.12, column 1, line 3, "affected section" is corrected to read "affected under Section".

On page 15300, Section 842.14, column 2, paragraph 2, lines 10-12, "within 10 days of the Federal inspection or within 30 days of the complaint, if there is no inspection." is corrected to read "the

person alleged to be in violation, within 30 days of the receipt by the Regional Director of the request for review".

On page 15303, Section 843.13, column 1, paragraph 3, line 11, "requirements" is corrected to read "and were renumbered as Sections 843.13(a)(2) and (3)".

On page 15305, Section 843.17, column 1, paragraph 2, line 28, "§ 842.11(d)" is corrected to read "842.11(a)".

On page 15308, column 1, line 3, "845.15(c)" is corrected to read "845.15(a)".

On page 15308, Section 845.15, column 1, paragraph 5, lines 1-3 are deleted and paragraph 5 is corrected to read "A new subsection (c) was added to clarify the manner in which both the mandatory \$750/day penalty for failure to abate and the discretionary penalty for continuing violations will be assessed, and to provide for reassessment to take account of good faith compliance or other facts not available at the time the initial assessment was made. As in the case of good faith points, the mandatory \$750/day penalty and the discretionary penalty for continuing violations cannot properly be finally assessed until after the violation is abated. The new subsection (c) provides for authority for reassessment and clarifies how modifications of assessment should be served.

Regulations

Table of Contents

On page 15312, Table of Contents, Part 783, column 3, lines 3 and 4, "in the permit and adjacent areas" is deleted.

SUBCHAPTER A—GENERAL

PART 700—GENERAL

§ 700.4 [Amended]

On page 15314, Section 700.4(a)(2), is corrected to read "(2) Designation of non-Federal lands of Federal lands without the concurrence of the Federal surface managing agency as unsuitable for all or certain types or surface coal mining operations under Section 522 of the Act and as unsuitable of non-coal mining under Section 601 of the Act; and".

§ 700.5 [Amended]

On page 15314, Section 700.5, line 1, "chapter" is corrected to read "Chapter."

On page 15315, Section 700.5, line 22-23, "provided" is corrected to read "Provided."

§ 700.11 [Amended]

On page 15315, Section 700.11(f), line 2, "25 CFR 177," is corrected to read "25 CFR Part 177."

PART 701—PERMANENT REGULATORY PROGRAM

§ 701.1 [Amended]

On page 15316, Section 701.1(b)(3), line 6, "authority;" is corrected to read "authority:"

§ 701.5 [Amended]

On page 15319, Section, 701.5(c), lines 4 and 5, "hay occasional" is corrected to read "occasional hay".

On page 15320, Section 701.5, column 2, paragraph 2, line 4, "Register Vol. 4 No. " is corrected to read "Register Vol. 43 No. ".

SUBCHAPTER C—PERMANENT REGULATORY PROGRAMS FOR NON-FEDERAL AND NON-INDIAN LANDS

PART 736—FEDERAL PROGRAMS FOR A STATE

On page 15330, Section 736.4(a), lines 3-6, "Office with exclusive jurisdiction and makes the Director" is corrected to read "Director with exclusive jurisdiction and makes the Office".

SUBCHAPTER D—FEDERAL LANDS PROGRAM

PART 741—PERMITS

§ 741.4 [Amended]

On page 15333, Section 741.4(b), line 2 and 3, "Cooperative Agreement" is corrected to read "cooperative agreement".

On page 15333, Section 741.4(d), lines 4 and 5, "includes the operation and reclamation plan for the life of the mine" is corrected to read "includes the mining and operation plan for the life of the mine".

§ 741.13 [Amended]

On page 15334, Section 741.13(c)(1), line 2, "30 CFR 771.23" is corrected to read "30 CFR 771.23 and 771.27".

§ 741.14 [Amended]

On page 15334, Section 741.14(E), line 6, "state" is corrected to read "State".

§ 741.17 [Amended]

On page 15335, Section 741.17, lines 4 and 5, "and the Director finds," is corrected to read "and the Director, in addition to making the findings required in Part 786, finds,"

§ 741.19 [Amended]

On page 15335, Section 741.19(a), line 3, "state" is corrected to read "State".

On page 15335, Section 741.19(b) line 3, "paragraph" is corrected to read "Paragraph".

On page 15335, Section 741.19(b), lines 6-9, "CONFIDENTIAL INFORMATION"

is corrected to read "COMPANY PROPRIETARY INFORMATION".

§ 741.19 [Amended]

On page 15335, Section 741.21(a)(4)(i), line 14, "state" is corrected to read "State".

On page 15335, Section 741.21(a)(4)(iii), lines 6 and 9, "state" is corrected to read "State".

PART 742—BONDS AND LIABILITY INSURANCE ON FEDERAL LANDS

§ 742.17 [Amended]

On page 15337, Section 742.17, line 6, "States" is corrected to read "States"; and line 7, "state" is corrected to read "State".

PART 744—PERFORMANCE STANDARDS FOR FEDERAL LANDS..

§ 744.11 [Amended]

On page 15338, Section 744.11(a), line 5, "817.14 drill" is corrected to read "817.14, drill".

On page 15339, Section 744.11(c), lines 13 and 19 "paragraph" is corrected to read "Paragraph".

PART 745—STATE-FEDERAL COOPERATIVE AGREEMENTS

§ 745.1 [Amended]

On page 15339, Section 745.1, line 1, "part" is corrected to read "Part".

§ 745.2 [Amended]

On page 15339, Section 745.2, lines 9 and 10, "mining reclamation" is corrected to read "mining and reclamation".

§ 745.11 [Amended]

On page 15340, Section 745.11(b)(5), lines 7 and 8, "paraph" is corrected to read "Paragraph".

On page 15340, Section 745.11(d), line 2, "paragraph" is corrected to read "Paragraph".

SUBCHAPTER F—AREAS UNSUITABLE FOR MINING

PART 761—AREAS DESIGNATED BY ACT OF CONGRESS

§ 761.12 [Amended]

On page 15343, Section 761.12(h), line 1, "determination of" is corrected to read "determination by".

PART 762—CRITERIA FOR DESIGNATING AREAS AS UNSUITABLE FOR SURFACE COAL MINING OPERATIONS

§ 762.5 [Amended]

On page 15344, Section 762.5, column 2, paragraph 2, line 13, "or of the" is corrected to read "or the".

PART 769—PETITION PROCESS FOR DESIGNATION OF FEDERAL LANDS AS UNSUITABLE FOR ALL OR CERTAIN TYPES OF SURFACE COAL MINING OPERATIONS AND FOR TERMINATION OF PREVIOUS DESIGNATION

§ 769.3 [Amended]

On page 15347, Section 769.3, line 5, "affected, to" is corrected to read "affected to".

§ 769.4 [Amended]

On page 15347, Section 769.4(a), line 5, "on, act, and" is corrected to read "on, and."

§ 769.14 [Amended]

On page 15348, Section 769.14(g)(2), line 7, "petition, and" is corrected to read "petition and".

SUBCHAPTER G—SURFACE COAL MINING AND RECLAMATION OPERATIONS PERMITS AND COAL EXPLORATION SYSTEMS UNDER REGULATORY PROGRAMS

On page 15349, Subchapter G, title, line 3, "PROCEDURES SYSTEMS" is corrected to read "SYSTEMS UNDER REGULATORY PROGRAMS."

4PART 771—GENERAL REQUIREMENTS FOR PERMITS AND PERMIT APPLICATIONS

§ 771.21 [Amended]

On page 15351, Section 771.21(b)(2), line 2, "permit shall" is corrected to read "permit under 30 CFR 788.13-788.14 shall."

On page 15351, Section 771.21(b)(3), line 2, "permit shall" is corrected to read "permit under 30 CFR 788.12 shall".

PART 779—SURFACE MINING PERMIT APPLICATIONS—MINIMUM REQUIREMENTS FOR INFORMATION ON ENVIRONMENTAL RESOURCES

§ 779.24 [Amended]

On page 15356, Section 779.24(i), line 6, "or" is corrected to read "and."

PART 780—SURFACE MINING PERMIT APPLICATIONS—MINIMUM REQUIREMENTS FOR RECLAMATION AND OPERATIONS PLAN

On page 15357, Part 780, title, line 2, "APPLICATION" is corrected to read "APPLICATIONS" and line 4, "OPERATIONS" is corrected to read "OPERATION".

§ 780.14 [Amended]

On page 15358, Section 780.14(c)(2), lines 1 and 2, "Spoil disposal facilities, maps, plans, and cross-sections" is corrected to read "Maps, plans, and

cross-sections of spoil disposal facilities".

§ 780.23 [Amended]

On page 15360, Section 780.23(a), line 3, "reclamation of" is corrected to read "reclamation, of".

PART 783—UNDERGROUND MINING PERMIT APPLICATIONS—MINIMUM REQUIREMENTS FOR INFORMATION ON ENVIRONMENTAL RESOURCES

§ 783.24 [Amended]

On page 15365, Section 783.24(g), line 3, "and, within" is corrected to read "and within".

On page 15365, Section 783.24(i), line 6, "or" is corrected to read "and".

§ 783.27 [Amended]

On page 15366, Section 783.27(d)(1), line 5, "submit application" is corrected to read "submit an application".

PART 784—UNDERGROUND MINING PERMIT APPLICATIONS—MINIMUM REQUIREMENTS FOR RECLAMATION AND OPERATION PLAN

§ 784.13 [Amended]

On page 15367, Section 784.13(a), last line, "784.25" is corrected to read "784.26".

§ 784.20 [Amended]

On page 15369, Section 784.20, paragraph 1, line 20, "and" is corrected to read "or".

§ 784.23 [Amended]

On page 15370, Section 784.23(b)(10), line 5, "784" is corrected to read "784.16", and last line, "784" is corrected to read "784.19".

PART 785—REQUIREMENTS FOR PERMITS FOR SPECIAL CATEGORIES OF MINING

§ 785.13 [Amended]

On page 15371, Section 785.13(a), line 4, "and" is corrected to read "or".

§ 785.18 [Amended]

On page 15374, Section 785.18(d)(8), line 4, "J, of" is corrected to read "J of".

PART 786—REVIEW, PUBLIC PARTICIPATION, AND APPROVAL OR DISAPPROVAL OF PERMIT APPLICATIONS AND PERMIT TERMS AND CONDITIONS

§ 786.17 [Amended]

On page 15379, Section 786.17(a)(2), line 4, "784.20" is corrected to read "784.21".

§ 786.19 [Amended]

On page 15380, Section 786.19(c), lines 4 and 5, are corrected by deleting "as

described in 30 CFR 780.21(c) or 784.14(c)".

§ 786.21 [Amended]

On page 15380, Section 786.21(a)(1), line 4, "701.11(c)(1)(i)" is corrected to read "701.11(e)(1)(i)".

§ 786.21 [Amended]

On page 15380, Section 786.21(a)(1)(i), line 2, "act" is corrected to read "Act".

On page 15380, Section 786.21(a)(2)(i), line 4, "701.11(C)(1)(ii)" is corrected to read "701.11(e)(1)(ii)".

On page 15380, Section 786.21(a)(2)(i)(A), line 2, "act" is corrected to read "Act".

On page 15380, Section 786.21(a)(2)(ii) lines 3-5, "of Paragraphs (b)(1) (i) and (ii) of this Section, but does not meet the criterion of Paragraph (b)(1)(iii) of this Section" is corrected to read "of 30 CFR 701.11(e)(1)(iii)".

§ 786.27 [Amended]

On page 15381, Section 786.27, line 2, "shall endure that" is corrected to read "shall ensure and contain specific conditions requiring that".

On page 15381, Section 786.27(b)(2), line 4, "842" is corrected to read "840 and 842".

SUBCHAPTER J—BOND AND INSURANCE REQUIREMENTS FOR SURFACE COAL MINING AND RECLAMATION OPERATIONS

PART 805—AMOUNT AND DURATION OF PERFORMANCE BOND

§ 805.14 [Amended]

On page 15387, Section 805.14(b), last three lines are corrected to read "bond release subject to the procedures in 30 CFR 807.11."

PART 806—FORMS, CONDITIONS, AND TERMS OF PERFORMANCE BONDS AND LIABILITY INSURANCE

On page 15388, Section 806.11(b)(4)(iii)(C), line 4, "this" is corrected to read "a permit".

PART 807—PROCEDURES CRITERIA AND SCHEDULE FOR SEEKING RELEASE OF PERFORMANCE BOND

§ 807.11 [Amended]

On page 15390, Section 807.11(a), line 15, "bond liability," is corrected to read "bond liability. The procedures of this Section also apply to requests made pursuant to 30 CFR 805.14(b)".

SUBCHAPTER K—PERMANENT PROGRAM PERFORMANCE STANDARDS

PART 815—PERMANENT PROGRAM PERFORMANCE STANDARDS—COAL EXPLORATION

On page 15394, Section 815.11(a), line 7, "776.12" is corrected to read "776.11".

On page 15394, Section 815.11(b), line 10, "776.13" is corrected to read "776.12".

PART 816—PERMANENT PROGRAM PERFORMANCE STANDARDS—SURFACE MINING ACTIVITIES

§ 816.11 [Amended]

On page 15398, Section 816.11(f)(3), line 6, "use and" is corrected to read "use, and".

§ 816.14 [Amended]

On page 15396, Section 816.14, lines 1 and 2, "other than drill" is corrected to read "other drill".

§ 816.49 [Amended]

On page 15401, Section 816.49(a)(5), line 11, "77-126(a)" is corrected to read "77-216(a)".

§ 816.55 [Amended]

On page 15403, Section 816.55(b), line 7, "and is" is corrected to read "and the discharge is".

§ 816.61 [Amended]

On page 15404, Section 816.61(c), last line, "30 CFR 850" is corrected to read "Subchapter M".

§ 816.65 [Amended]

On page 15405, Section 816.65(e)(2), line 4, "200" is corrected to read "1,100".

§ 816.112 [Amended]

On page 15413, Section 816.112(b), line 7, "780.23," is corrected to read "780.23;" and Section 816.112(c), line 3, "region" is corrected to read "region; and".

§ 816.116 [Amended]

On page 15414, Section 816.116(b)(2)(i), column 1, paragraph 2, lines 2, 3, 6, 7, and 11, change single quotation mark to double in all six places.

On page 15414, Section 816.116(b)(3), column 1, paragraph 4, line 8, "shrublands" is corrected to read "shrub lands" and on lines 8 and 9, "productively" is corrected to read "productivity".

§ 816.133 [Amended]

On page 15415, Section 816.133(c), the italicized words in lines 1 and 2, are corrected to be in standard type.

§ 816.153 [Amended]

On page 15417, Section 816.153(c)(1)(iii), line 2, "area" is corrected to read "ditches".

PART 817—PERMANENT PROGRAM PERFORMANCE STANDARDS—UNDERGROUND MINING ACTIVITIES

§ 817.55 [Amended]

On page 15430, Section 817.55(a), column 2, line 6, "and is" is corrected to read "and the discharge is".

§ 817.61 [Amended]

On page 15430, Section 817.61(c), last line, "30 CFR 850" is corrected to read "Subchapter M".

§ 817.65 [Amended]

On page 15431, Section 817.65, table, last line, last entry, "109°C." is corrected to read "109C".

§ 817.112 [Amended]

On page 15438, Section 817.112(a), line 6, "use; or" is corrected to read "use:".

§ 817.116 [Amended]

On page 15439, Section 817.116(b)(1), line 11, "initiates" is corrected to read "begins".

On page 15439, Section 817.116(b)(2)(i), lines 2, 3, 6, 7, and 11, change single quotation marks to double in all six places.

On page 15439, Section 817.116(b)(3)(i), line 2, "reclaimed, to" is corrected to read "reclaimed to".

§ 817.153 [Amended]

On page 15444, Section 817.153(c)(iii), line 2, "area" is corrected to read "ditches".

PART 823—SPECIAL PERMANENT PROGRAM PERFORMANCE STANDARDS OPERATIONS ON PRIME FARMLANDS

§ 823.15 [Amended]

On page 15452, Section 823.15(c), line 5, "As" is corrected to read "At".

PART 824—SPECIAL PERMANENT PROGRAM PERFORMANCE STANDARDS—MOUNTAINTOP REMOVAL

§ 824.11 [Amended]

On page 15452, Section 824.11(a)(7), lines 2 and 5, "v" is corrected to read "v".

PART 840—STATE REGULATORY AUTHORITY INSPECTION AND ENFORCEMENT

On page 15455, insert before Part 840 "SUBCHAPTER L—PERMANENT

PROGRAM INSPECTION AND ENFORCEMENT PROCEDURES".

PART 843—FEDERAL ENFORCEMENT

On page 15460, Section 843.14, title, "Service of notices of violation and cessation orders" is corrected to read "Service of notices of violation, cessation orders, and show cause orders".

On page 15460, Section 843.14(b), last line is corrected by deleting "(2)".

[FR Doc. 79-28383 Filed 8-23-79; 8:45 am]

BILLING CODE 4310-05-M

POSTAL SERVICE

39 CFR Part 233

Inspection Service Authority; Mail Covers; National Security

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: The Postal Service amends its mail cover regulations so as to: (1) define more specifically when the issuance of a mail cover order is necessary to protect the national security; and (2) provide that the requesting authority for national security mail cover order shall be the head of the law enforcement agency requesting the cover. The purpose of both regulatory amendments is to show generally that the "national security" mail cover program is a carefully limited and well-focused program which does significantly protect the national security, but which does not significantly affect the general privacy of the mails or impair First Amendment values. This rule is a revision of a proposal on which public comments were invited on April 24, 1979.

EFFECTIVE DATE: August 24, 1979.

ADDRESS: Comments on this rule are welcome and will be considered toward making changes in the regulations in the future. Questions about the rule or requests to amend or repeal it should be directed to Assistant General Counsel, Special Projects, U.S. Postal Service, 475 L'Enfant Plaza West, SW., Washington, D.C. 20260.

FOR FURTHER INFORMATION CONTACT: Charles R. Braun, 202-245-4620.

SUPPLEMENTARY INFORMATION: The text of this final rule is stated below, at the end of this Supplementary Information Section. This rule is a revision of a proposal which was published in the Federal Register for public comment on April 24, 1979.¹ Based on the comments received and other available

¹44 FR 24111-24115.

information, the Postal Service adopts the proposal modified by two amendments discussed further in this Section.

The Postal Service received about 180 written comments on the April 24 proposal from various members of the public, private organizations, executive departments, and committees and members of Congress. Many of the individuals and private organizations apparently were misinformed about the proposal, and thus their comments contained analysis and recommendations which were not directly relevant to it. Nearly half of the comments, for example, expressed opposition to a supposed mail opening scheme or a supposed plan to disobey or circumvent a court decision. The Postal Service has already written individually to these commenters to provide a copy of the actual proposal and to correct particular misapprehensions.

The comments in general showed strong public support for generally safeguarding the privacy of the mails, and for preserving civil liberties. They expressed opposition to vaguely defined "national security" programs which might lead to governmental investigative abuses. The comments thus supported the principal purpose of the Postal Service's proposal, which was to define the grounds for ordering national security mail covers more specifically. Several commenters who first wrote to express opposition to the proposal as they originally understood it later wrote to express their general understanding and support after they had received a letter of explanation and a copy of the actual proposal from the Postal Service.

The governmental bodies whose representatives commented in writing on the proposal were the Senate Select Committee on Intelligence, the House Permanent Select Committee on Intelligence, the House Judiciary Subcommittee on Courts, Civil Liberties, and the Administration of Justice, and the Departments of Defense and Justice. The two executive departments are the only federal agencies which are or would be authorized under postal regulations to request national security mail covers. The two intelligence committees have legislative oversight responsibilities over these and other executive agencies insofar as they make use of national security mail cover information. The House Judiciary Subcommittee has conducted oversight hearings in the past two Congresses to review present mail cover regulations and practices, whether related to the national security or not, and to consider the need for mail cover legislation.

The governmental comments showed a broad consensus in both the Legislative and Executive branches in favor of the basic objective of the Postal Service's proposal: to provide for a continuation of the existing national security mail cover program, but under clear, specific, and more tightly drawn guidelines. The Chairman and Vice Chairman of the Senate Committee stated in this regard: "The Senate Select Committee on Intelligence is pleased to note that the Postal Service is undertaking to clarify the regulations governing foreign counterintelligence mail covers, as proposed in the Federal Register of April 24, 1979. The proposal is a constructive response to concerns for the privacy of the mails. . . . The Select Committee fully supports the efforts of the Postal Service to provide authority for meeting United States counterintelligence requirements in a manner that will be clearly understood and accepted by the American people." Similarly, the General Counsel of the Department of Defense wrote: "Although the Department of Defense does not request mail covers frequently, we have found them to be very valuable in acquiring information necessary for effective law enforcement and protection of the national security. . . . [T]he Department of Defense strongly supports your efforts to ensure that [national security] mail covers are employed only for limited purposes and only when approved by senior officials. . . ."

It is the intent of existing mail cover regulations, the April 24 proposal, and the mail cover regulations as amended by this final rule to authorize mail cover assistance to protect the "national security" only in support of the following two types of investigations: (1) "domestic" national security investigations, conducted by the F.B.I., aimed at detecting terrorism, violence, or certain other activities conducted by domestic groups not believed to be acting under the control or at the instigation of a foreign power; and, (2) "foreign" counterintelligence investigations, conducted by the counterintelligence components of the F.B.I. or the Department of Defense, aimed at detecting and taking countermeasures against espionage, terrorism, or other activities perpetrated by a hostile foreign power through its agents.

Such mail cover support is authorized only in limited circumstances which are stringently defined in postal regulations so as to prevent excesses or abuses insofar as it is practicable for the Postal Service to prevent them.

The second type of "national security" investigation—counterintelligence—is an essential and limited activity directed at taking countermeasures against the significantly threatening activities of hostile foreign powers. There have been no known abuses in this area, and the secrecy in which counterintelligence investigations are conducted tends to insure that the information collected in such investigations is not widely disseminated, even within the government itself.

The first type—"domestic" national security investigations—is one as to which abuses have been alleged but not proved. These investigations embrace a delicate area in which it is sometimes difficult to distinguish sharply between groups merely possessing extreme views and extremist groups having violent or criminal intentions. Heretofore it has been possible to afford mail cover cooperation to "domestic" national security investigations under the "national security" part of the mail cover regulations. Under the proposal and the final rule, such postal assistance would continue to be possible, but only to the extent necessary to detect evidence of the commission or attempted commission of a crime. Mail cover assistance for such investigations thus would be permitted only under a part of present mail cover regulations which has been repeatedly upheld by the courts.²

In sum, only the counterintelligence effort is intended to be assisted by the national security mail cover regulation as proposed or as amended by this final rule. A continuation of this assistance on this basis is fully supported by all the governmental commenters mentioned above.

Based on its own experience as well as the comments it received, the Postal Service is aware of the possibility of abuses in the "national security" area. The basic responsibility, however, for preventing abuses in national security investigations lies with the President, the appropriate Cabinet members, Congress, the appropriate Congressional oversight committees, and other authorized oversight entities such as the General Accounting Office. These are the officials or organizations which are responsible either for direct executive supervision or legislative oversight of national security investigations and operations. Mail cover information provides only a limited amount of support to an investigation. Withholding that support from an investigation is not

² See footnote 7 of the Supplementary Information Section of the proposal, 44 FR at 24112.

a practicable means of generally preventing investigatory abuses. Furthermore, the Postal Service has no general mandate to police or second-guess the F.B.I. or any other government agency in the performance of its functions. Nevertheless, the Postal Service is responsible for defining and controlling the extent of its voluntary cooperation with other government agencies, in the mail cover area and otherwise, so as to prevent insofar as practicable an abuse of its willingness to cooperate in support of other authorized federal programs.

Other governmental comments indicated a full understanding of the fact that the job of preventing intelligence or national security abuses cannot reasonably be left to the Postal Service or postal regulations alone. The Senate Committee, for example, wrote that: "[Postal] regulations need not substitute for more detailed procedures of other agencies under Executive Order 12036, which governs United States counterintelligence activities. Nor should the Postal Service monitor compliance with such procedures. . . . In a similar vein, the Attorney General advised: 'The Administration is presently developing intelligence charter legislation to regulate on a comprehensive basis all United States intelligence activities which affect the privacy of Americans. The President has personally approved some of those proposals and is now reviewing certain other proposals.'"

It was argued against the continuation of the national security mail cover program on any basis that nothing in the proposal could "guarantee" against future investigatory abuses affecting the privacy of U.S. citizens. However, the risks of abuse should both be considered in the light of the precautions embodied in the final rule designed to reduce such risks, and balanced against the risks to national security inherent in discontinuing the program altogether. The Postal Service believes that the program should be continued, subject to new controls that should reduce the risks of abuse substantially. The more specific regulations that are here adopted will require more detailed explanations in support of national security mail cover requests. This is one precaution against abuses. Requiring high level personal approval of the request establishes another precaution.

One commenter asked why it was necessary to have national security mail covers in support of counterintelligence in view of the regulatory authorization for mail covers to detect evidence of crime: ". . . [I]t is not even clear why

there is a need for mail covers based on 'protecting the national security' It is difficult to imagine a genuine threat to national security which a mail cover might reveal which does not involve violation of the criminal law It is unclear why 'foreign' national security investigations cannot also be investigated under the same part of the regulations [entailing investigation of crimes]."

Since counterintelligence investigations are kept secret, a questioning of their need for limited mail cover information support, without regard to the investigation of crime, is understandable. The basic answer is that the part of the mail cover regulations applying to crime detection is interpreted to be limited to those circumstances where the requesting authority is seeking to detect evidence of a crime or attempted crime, and is conducting a good faith criminal investigation which potentially leads to indictment (or its equivalent) and prosecution. In counterintelligence investigations, criminal activities are generally being investigated, but principally for the purpose of gathering information needed for taking preventive or corrective measures. Such information may incidentally be evidence of crime, but is not necessarily so. There usually is no good faith intention to indict or prosecute, because the perpetrators may be protected by sovereign or diplomatic immunity, or by a *de facto* immunity typically arising out of the natural unwillingness of the Government to risk a public trial which might expose classified information or endanger certain U.S. counterintelligence efforts.³ The knowledge that a hostile foreign power may gain about U.S. counterintelligence efforts from such a trial may more than offset the foreign power's loss of its agent or collaborator—a loss which in any event is as conjectural as the outcome of any litigation. Instead of stretching the crime detection part of the regulations to encompass investigations in which the detection of crime is an incidental—but not the controlling—purpose of the investigation, the Postal Service prefers a clear-cut but limited authorization for providing mail cover information in support of this necessary activity.

³ For a more detailed description of the problems inherent in attempting to prosecute crimes under United States law where classified data might be disclosed, see the House Government Operation Committee's recent report, "Justice Department Handling of Cases Involving Classified Data and Claims of National Security," H.R. Rep. No. 96-280, 96th Cong., 1st Sess., 1-23 (June 18, 1979).

The details of the proposal consisted of, first, a proposed definition of protecting the national security, and, second, proposed limitations on who might request a national security mail cover. The proposed definition had—in the interest of achieving greater specificity—enumerated four categories of possible threats to the national security.⁴ Certain private organizations and members of the public interested in protecting civil liberties objected to the proposed fourth category on the ground that it was itself too broad and vague, and might serve as a pretext for conducting surveillance of groups expressing dissenting views.⁵ Both of the intelligence oversight committees questioned the need for the proposed fourth category; on the limited ground that it was not clear whether it fell within official definitions of counterintelligence—definitions that appeared to correspond only to proposed categories (ii) and (iii).⁶ The Department of Justice and the Minority of the House Permanent Select Committee on Intelligence questioned the general clarity of proposed category (iv). In light of these comments, the Postal Service has deleted proposed category (iv) from the final rule.

The Senate Committee also expressed concern that it be made clear that proposed category (i)—"an attack or other grave hostile act"—meant acts of war or the like and not mere criticism or hostile commentary. An interpretation of category (i) as embracing expressions of views would be entirely inconsistent with the statement of intent accompanying the proposal to the effect that it was intended—". . . to show generally that the 'national security'

⁴ Proposed 39 CFR 233.2(c)(5)(i)-(iv), 44 FR 24114.

⁵ The proposed fourth category of possible threats by a hostile foreign power or its agents to the national security was: ". . . (iv) the conduct of foreign affairs or military policies in opposition to those foreign and military policies of the United States which are intended to protect the United States from the foregoing enumerated actual or potential threats."

⁶ "Counterintelligence means information gathered and activities conducted to protect against espionage and other clandestine intelligence activities, sabotage, international terrorist activities or assassinations conducted for or on behalf of foreign powers, organizations or persons, but not including personnel, physical, document, or communications security programs." Exec. Order No. 12,036, January 24, 1978, sec. 4-202, 43 FR 3691.

"FOREIGN COUNTERINTELLIGENCE: Investigative operations conducted within the United States to protect the national security from activities of foreign intelligence services, or to prevent terrorist activities undertaken pursuant to the direction of a foreign power." FBI Guidelines for Foreign Intelligence Collection and Foreign Counterintelligence Investigations, May 28, 1976, sec. III E, in: Hearings before the S. Select Committee on Intelligence, 95th Cong., 2d Sess., on s. 2525, page 777 (1978).

mail cover program . . . does not . . . impair First Amendment values." In this context, the words "attack or other grave hostile act" refer only to military or paramilitary actions, acts of economic warfare, or similar acts, and do not refer to hostile words, thoughts, arguments, views, or propaganda.

The proposed limitations on the requesting authority for national security mail covers⁷ were not the subject of much public comment. Governmental comments, however, indicated support for the general idea of requiring high-level approval of national security mail cover requests, but doubts about whether the approving authority had been properly specified in the proposal. The executive departments and the two intelligence committees supported the proposed requirement that the requesting authority for a national security mail cover be the law enforcement agency head (proposed § 233.2(f)(7)), but questioned the proposed requirement for executive department head approval of extensions (proposed § 233.2(f)(8)). The House Judiciary Subcommittee took the opposite tack, approving the executive head requirement, but urging that it be modified so that the Attorney General would be required to approve all mail cover requests.

The basic purpose of both proposed (f)(7) and proposed (f)(8) was essentially the same: to require high level approvals in the requesting agency for national security mail cover requests. The executive agencies affected by the proposal, supported by their oversight committees, objected to proposed (f)(8). The basic purpose of this aspect of the proposal—to secure a high level assumption of responsibility for the request in the requesting agency—can be accomplished by adopting only proposed (f)(7). The final rule accordingly omits proposed § 233.2(f)(8). In view of this revision, section § 233.2(f)(7)—which requires law enforcement agency head approval for all national security mail cover requests—will apply to all requests for national security mail covers, regardless of whether the request is for a new cover or an extension of one already in effect.

⁷ 44 FR at 24111.

⁸ The words "actual or potential attack or other grave hostile acts of a foreign power or an agent of a foreign power", as used in the Foreign Intelligence Surveillance Act of 1978, are similarly construed not to extend to "criticism". FISA, sec. 101(e)(1)(A), 92 Stat. 1784; S. Rep. No. 95-701, 95th Cong., 1st Sess., note 13 at page 32 (1978).

⁹ Proposed 39 CFR 233.2(f)(7) and (f)(8), 44 FR 24114.

Both executive departments suggested the need to amend the proposal's references to the agency or department "head" so as to state explicitly "head or acting head". The Department of Justice alternatively suggested "an explanatory statement in the notice accompanying publication of the final rule." The notice accompanying the proposal indicated the Postal Service's intention—in the interest of not interfering with "ongoing administration"—to construe the "head" of the department or agency to include the "acting head".⁹ The Postal Service reaffirms its intentions on that point here.

The record of 180 or so comments includes several suggestions which the Postal Service decided not to adopt or propose for adoption. One of these suggestions was to require judicial control of the issuance of mail covers. This was not adopted because it would require legislation to be adopted: the Postal Service has no authority to assign extra duties to the courts.¹⁰

Another suggestion was to require the requesting authority to certify that the request complied with " * * * the provisions of applicable statutes and executive orders relating to United States intelligence activities." Such a certification requirement, however, seemed unnecessary. Such a certification would be conclusory, and would not give the Postal Service any information which would assist it in independently determining whether to honor the request. Implicit in any request by a responsible official for mail cover assistance is a representation that the requesting official believes the request to be advanced in good faith compliance with all constitutional, legal, and regulatory requirements applicable to that official and his subordinates, not just those imposed by applicable laws and executive orders. The suggestion is accordingly not adopted.

A further suggestion was to authorize mail cover assistance for foreign intelligence investigations. Foreign intelligence investigations are conducted by many federal government agencies in order to gather general information about the plans and capabilities of foreign powers (whether hostile or not).¹¹ The foreign intelligence

mission is thus a wide-ranging one. The usefulness, however, of mail cover information to foreign intelligence collection has not been demonstrated. None of the federal agencies which collect foreign intelligence information filed written comments seeking or attempting to justify an authorization of mail covers for foreign intelligence purposes. Both intelligence oversight committees, moreover, clearly indicated that their support for national security mail covers was limited to those conducted in support of counterintelligence operations. In view of these circumstances, the suggestion of authorizing mail covers for foreign intelligence purposes is not adopted.

The Postal Service's policy is generally not to let a final rule which it publishes in the *Federal Register* become effective until 30 days after the date of the publication of the rule. This policy coincides with the general rule-making policy of the Administrative Procedure Act, which requires such a 30-day advance notice period except in certain specially defined circumstances or if the agency determines otherwise "for good cause found and published with the rule."¹²

On July 31, a federal district judge issued an opinion stating in part as follows: " . . . I am prepared to issue a permanent injunction barring any new or present national security mail covers until a new [postal] regulation [on national security mail covers] is effective. This injunction is effective only for the temporary period it may last; that is, until the promised new regulation is promulgated and effected * * *. A permanent injunction shall issue barring any new national security mail covers and shall be effective until the new amendment is published. Counsel for the defendants shall submit an order within three (3) days."¹³ On August 1, 1979, the Postal Service was advised that amendments of the opinion would be filed that would strike the words "or present" in the first quoted sentence, and add, before the end of the third sentence, the words, "and becomes effective". The Postal Service has been advised that an injunction against new national security mail covers was issued on August 9, effective August 10, 1979.

capabilities, intentions and activities of any foreign power relevant to the national security or to the conduct of foreign affairs of the United States." FBI Guidelines, cited in note 6 above, sec. 1 D, in: Hearings cited in note 6 above at page 774.

¹⁰ 5 U.S.C. 553(d) (1976).

¹¹ *Paton v. LoPrade*, D. N.J. Civ. No. 1091-73, opinion dated July 30, 1979, page 6 (footnote omitted).

It is readily inferable from the court's opinion, especially its explicit finding that national security mail cover regulations "further a substantial governmental interest which is unrelated to the suppression of free expression * * *", that its injunction is not intended to place an obstacle in the path of legitimate executive branch efforts which are necessary to protect the national security. The purpose of the injunction instead appears to be, at least in part, to encourage the Postal Service to set a final rule on national security mail covers into effect as soon as possible.¹⁵

The 30-day notice period, moreover, is normally provided to give affected persons reasonable advance notice of requirements about to be imposed on them, so that they will have time to prepare to comply with them. The direct effect of this final rule, however, is solely an intragovernmental one. The Postal Service believes that all affected government agencies can immediately comply with it.

Based on the foregoing considerations, the Postal Service has found that good cause exists to let this final rule become effective immediately upon its publication in the *Federal Register*.

The Postal Service appreciates the assistance and support it received from the public, Committees and members of Congress, and government agencies, in developing a final rule on this subject. Further suggestions for improvement in these regulations are welcome with a view toward making further changes in the regulations in the future.

In view of the foregoing considerations, the Postal Service adopts the following revision of title 39 of the Code of Federal Regulations.

PART 233—INSPECTION SERVICE AUTHORITY

In § 233.2 add new paragraphs (c)(5) and (f)(7), reading as follows:

§ 233.2 Mail covers.

* * * * *

(5) To protect the national security means to protect the United States from any of the following actual or potential threats to its security by a foreign power or its agents: (i) an attack or other grave hostile act; (ii) sabotage, or international

¹⁴ *Id.* at page 4.

¹⁵ The opinion stated that the court retained jurisdiction to hear a motion for an injunction against national security mail cover regulations as amended by this final rule. *Id.* at pages 5 and 6.

terrorism; or, (iii) clandestine intelligence activities.

(f) * * *

(7) Any national security mail cover request must be approved personally by the head of the law enforcement agency requesting the cover.

(39 U.S.C. 101, 401, 403, 404, 410, 411)

W. Allen Sanders,

Acting Deputy General Counsel.

[FR Doc. 79-28356 Filed 8-23-79; 8:45 am]

BILLING CODE 7710-12-M

DEPARTMENT OF LABOR

Office of Federal Contract Compliance Programs, Equal Employment Opportunity

41 CFR Parts 60-30, 60-250, 60-741

Procedures for Filing Administrative Complaints

AGENCY: Department of Labor.

ACTION: Final rule.

SUMMARY: This rule authorizes the Associate Solicitor for Labor Relations and Civil Rights and Regional Solicitors/Attorney of the Department of Labor, Office of the Solicitor, to file administrative complaints under Executive Order 11246, as amended, Section 503 of the Rehabilitation Act of 1973, as amended, and Section 402 of the Vietnam Era Veterans Readjustment Assistance Act of 1974 directly with the Office of Administrative Law Judges. This change will expedite the processing of cases under the Executive Order, section 503 of the Rehabilitation Act of 1973, and section 402 of the Vietnam Era Veterans Readjustment Assistance Act of 1974.

DATES: This regulation is a procedural change which is effective August 24, 1979.

FOR FURTHER INFORMATION CONTACT: Stephen F. Feigin, Deputy Associate Solicitor, Office of the Solicitor, Room N-2414, 200 Constitution Avenue NW., Washington, DC 20210, (202) 523-8235.

SUPPLEMENTARY INFORMATION: Enforcement proceedings before an Administrative Law Judge under the Executive Order, section 503 of the Rehabilitation Act and section 402 of the Vietnam Era Veterans Readjustment Assistance Act presently are instituted either by the Solicitor of Labor (E.O. 11246) or the Associate Solicitor for Labor Relations and Civil Rights (sections 503 and 402). To expedite the bringing of such proceedings, this rule

also authorizes the Associate Solicitor for Labor Relations and Civil Rights and Regional Solicitors/Attorney to bring such actions.

Because these amendments affect only rules of internal agency procedure and practice, the rulemaking procedure prescribed by 5 U.S.C. 553(c) is not required under 5 U.S.C. 553(b)(3)(A). Also, the regulations proposed herein do not fall within the criteria for significant regulations set forth in Department of Labor guidelines (44 FR 5570, January 26, 1979) issued to implement Executive Order 12044 (43 FR 12661, March 23, 1978).

Accordingly, 41 CFR 60-30.5(a), 41 CFR 60-250.29(b)(1) and 41 CFR 60-741.29(b)(1) are amended to read as set forth below.

Dated: August 20, 1979.

Ray Marshall,

Secretary of Labor.

1. 41 CFR 60-30.5(a) is amended to read as follows:

PART 60-30—RULES OF PRACTICE FOR ADMINISTRATIVE PROCEEDINGS TO ENFORCE EQUAL OPPORTUNITY UNDER EXECUTIVE ORDER 11246

§ 60-30.5 Administrative complaint.

(a) *Filing.* The Solicitor of Labor, Associate Solicitor for Labor Relations and Civil Rights Regional Solicitors and Regional Attorney upon referral from the Office of Federal contract Compliance Programs, are authorized to institute enforcement proceedings by filing a complaint and serving the complaint upon the contractor which shall be designated as the defendant. The Department of Labor, OFCCP, as shall be designated on plaintiff.

2. 41 CFR 60-250.29(b)(1) is amended to read as follows:

PART 60-250—AFFIRMATIVE ACTION OBLIGATIONS OF CONTRACTORS AND SUBCONTRACTORS FOR DISABLED VETERANS AND VETERANS OF THE VIETNAM ERA

§ 60-250.29 Formal hearings.

* * * * *

(b) *Hearing practice and procedure.*

(1) All hearings conducted under section 402 of the Vietnam Era Veterans Readjustment Assistance Act of 1974 and the regulations in this Part shall be governed by the Rules of Practice for Administrative Proceedings to Enforce Equal Opportunity Under Executive Order 11246 contained in 41 CFR Part, 60-30. Complaints may be issued by the Solicitor, Associate Solicitor for Labor Relations and Civil Rights, Regional Solicitors and the Regional Attorney.

3. 41 CFR 60-741.29(b)(1) is amended to read as follows:

PART 60-741—AFFIRMATIVE ACTION OBLIGATIONS OF CONTRACTORS AND SUBCONTRACTORS FOR HANDICAPPED WORKERS

§ 60-741.29 Formal hearings.

* * * * *

(b) *Hearing practice and procedure.*

(1) All hearings conducted under section 503 of the Rehabilitation Act of 1973, as amended, and the regulations in this Part shall be governed by the Rules of Practice for Administrative Proceedings to Enforce Equal Opportunity Under Executive Order 11246 contained in 41 CFR Part 60-30. Complaints may be issued by the Solicitor, Associate Solicitor for Labor Relations and Civil Rights, Regional Solicitors, and the Regional Attorney.

[FR Doc. 79-28413 Filed 8-23-79; 8:45 am]

BILLING CODE 4510-27-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 90

Designation of a new starting point for assigning frequencies in the Business Radio Service in the Miami, Florida metropolitan area in the 470-512 MHz band

AGENCY: Federal Communications Commission.

ACTION: Final rule (Order).

SUMMARY: This Order establishes new starting points for assigning frequencies in the Business Radio Service in the 470-512 MHz range in the Miami, Florida area. The new starting points are 470.3125/473.3125 and 471.2625/474.2625 MHz.

EFFECTIVE DATE: August 30, 1979.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Arthur C. King, Rules Division, Private Radio Bureau, (202) 632-6497.

Adopted: August 15, 1979; Released: August 17, 1979.

By the Chief, Private Radio Bureau.

In the matter of the designation of a new starting point for assigning frequencies in the Business Radio Service in the Miami, Florida metropolitan area in the 470-512 MHz band.

1. In the Fifth Report and Order in Docket 18261 the Commission provided a flexible frequency assignment plan for the 470-512 MHz band frequencies available in Dallas and Houston, Texas,

and Miami, Florida. *Land Mobile/UHF-TV Sharing Plan*, 48 FCC 2d 360 (1974). In Paragraph 12 of that Report and Order, the Commission said, "... since all of the frequencies are to be available in all eligible radio services, the frequencies in which the first assignments are to be made do not necessarily set out the boundaries for frequency availability in a particular radio service. A new starting frequency may be assigned by the staff for any of the various groups when the frequencies available to it in sequence are exhausted. Also, should any group fail to use its assigned frequency, that base line may be moved." *Land Mobile/UHF-TV Sharing Plan*, *supra*, at p. 364.

2. The frequencies available in sequence in the Business Radio Service in Miami, Florida in the 470-512 MHz band are now occupied and are substantially loaded. Therefore, in accordance with Paragraph 12 of the Report and Order in Docket 18261, an additional starting point is being established. That starting frequency will be 470.3125/473.3125 MHz. Since there are only four pairs of frequencies available beginning at 470.3125/473.3125 MHz, we are also reallocating seven additional pairs starting at 471.2625/474.2625 MHz. Assignments will be made sequentially until all contiguous channels are occupied.

3. This action is taken pursuant to the authority contained in Section 4(i) of the Communications Act of 1934, as amended, and to authority delegated by the Commission in the *Fifth Report and Order* in Docket 18261 previously cited. The amendment to § 90.311(b)(4) is for conformity with substantive matters which were previously decided in the *Fifth Report and Order* and which are being implemented herein. Therefore, compliance with the prior notice requirements prescribed by 5 USC 553 is unnecessary.

4. Accordingly, It Is Ordered, That effective August 30, 1979, § 90.311(b)(4) of the Commission's Rules is amended as shown in the attached Appendix.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303.)

Carlos V. Roberts,
Chief, Private Radio Bureau.

Appendix

Part 90 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

Section 90.311(b)(4) is amended to read:

§ 90.311 Frequencies.

(b) * * *

(4) Base station frequencies for the Business Radio Service will be assigned serially beginning at 470.3125, 471.2625, and 472.3625 MHz for Miami, 483.6125 and 483.1375 MHz for Dallas, and 489.6625 MHz and 490.3625 MHz for Houston and progressing, a channel at a time from those points. Mobile station frequencies are 3 MHz higher than the corresponding base station frequencies. Normally, each channel shall be substantially filled before the next channel is assigned.

[FR Doc. 79-26381 Filed 8-23-79; 8:45 am]

BILLING CODE 6712-01-M

47 CFR—Part 90

[PR Docket No. 79-192]

One-Way Radio Paging in the Special Emergency Radio Service

AGENCY: Federal Communications Commission.

ACTION: Order suspending conversion date.

SUMMARY: Order suspending January 1, 1980, date for conversion of paging operations in the Special Emergency Radio Service to paging only frequencies.

EFFECTIVE DATE: August 1, 1979.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Richard Taube, Private Radio Bureau (202) 632-6497.

In the matter of amendment of Part 90 of the Commission's rules regarding one-way radio paging in the Special Emergency Radio Service. PR Docket No. 79-192. Order suspending conversion date.

Adopted: August 15, 1979.

Released: August 16, 1979.

By the Chief, Private Radio Bureau.

1. This action concerns Section 90.55 of the Commission's Rules. This rule section requires, in part, that effective January 1, 1980, all paging operations in the Special Emergency Radio Service must be converted to frequencies provided exclusively for radio paging operations.

2. For reasons set forth in a Notice of Proposed Rulemaking in the above matter in PR Docket 79-192, as published elsewhere in this Federal Register edition, the Commission has suspended effective August 1, 1979, the January 1, 1980, paging conversion date. The suspension action is taken pending resolution of frequency allocation

proposals and other related matters in the rulemaking proceeding.

3. Accordingly, pursuant to authority contained in Section 0.331 of the Commission's Rules, the Chief, Private Radio Bureau, Orders That the conversion date of January 1, 1980, as set forth in Section 90.55 of the Commission's Rules is hereby suspended.

Carlos V. Roberts,
Chief, Private Radio Bureau.

[FR Doc. 79-26486 Filed 8-23-79; 8:45 am]

BILLING CODE 6712-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1056

Transportation of Household Goods in Interstate or Foreign Commerce; Notice of Reinstitution of Reasonable Dispatch Requirement

AGENCY: Interstate Commerce Commission.

ACTION: Reinstitution of rules.

SUMMARY: By Notice served June 29, 1979, the Commission "temporarily relieved" household goods carriers of their obligations to provide service with reasonable dispatch. This action was taken in recognition of the severely adverse conditions under which the carriers were then operating as a result of the independent truckers work-stoppage and the critical nationwide shortage of diesel fuel and gasoline. The independent truckers work-stoppage was discontinued during the latter part of July and the availability of fuel has ceased to be a critical problem. Numerous complaints from shippers allege that irreparable harm is resulting from the carriers' failure to provide service as agreed or to give proper timely notice of delays in providing service. After consideration of the improved operating conditions available to the carriers and the continuing adverse impact on shippers, the Commission is reinstituting the reasonable dispatch requirements to apply on all household goods shipments booked on or after the effective date of this notice.

EFFECTIVE DATE: August 29, 1979.

FOR FURTHER INFORMATION CONTACT: Joel E. Burns, (202) 275-7849.

SUPPLEMENTARY INFORMATION: On June 29, 1979 (44 FR 40068, July 9, 1979), the Commission, in response to the fuel crisis and the strike by independent owner-operators, temporarily relieved household goods carriers of their obligation to perform transportation

with reasonable dispatch as required by 49 CFR 1056.1(c) and 49 CFR 1056.12(a). Since that time the labor disruption has ended and the severity of the fuel shortage has lessened.

The Commission has received numerous complaints from consumers that relaxation of the reasonable dispatch regulations has adversely affected the quality of service provided by household goods carriers. Many shippers allege that they have suffered irreparable harm from carriers' failure to provide contracted services or to promptly notify shippers of impending or actual delays.

Representatives of the industry and of consumer organizations attended an informal conference on August 6, 1979, to discuss the effect of suspension of the reasonable dispatch regulations. Information gathered at that conference indicates that reinstitution of the regulations is required.

Accordingly, it is ordered that the reasonable dispatch regulations appearing at 49 CFR 1056.1(c) and 49 CFR 1056.12(a), be reinstituted. This order will become effective August 24, 1979.

These regulations as reinstituted will apply only to interstate household goods shipments booked on or after the effective date of this notice.

Dated: August 20, 1979.

By the Commission: Chairman O'Neal, Vice Chairman Stafford, Commissioners Gresham, Clapp, Christian, Trantum and Gaskins.
Agatha L. Mergenovich,
Secretary.

[FR Doc. 79-26463 Filed 8-23-79; 8:45 am]

BILLING CODE 7035-01-M

Proposed Rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

OFFICE OF PERSONNEL MANAGEMENT

[5 CFR Part 831]

Retirement

AGENCY: Office of Personnel Management.

ACTION: Proposed rulemaking.

SUMMARY: The proposed change in rulemaking will allow a law enforcement officer or firefighter who satisfies the initial direct transfer requirement from a basic law enforcement/firefighter covered position to a supervisory/administrative covered position, to separate, or enter a non-law enforcement/firefighter covered position, and still resume special retirement coverage upon subsequent reentry in another supervisory/administrative covered position.

DATE: Comments must be received on or before October 23, 1979.

ADDRESS: Send comments to Craig B. Pettibone, Chief, Office of Policy Development and Technical Services, Compensation Group, Retirement and Insurance, Room 4351, Office of Personnel Management, 1900 E Street, NW., Washington, D.C. 20415.

FOR FURTHER INFORMATION CONTACT: Jane Lohr, phone 202-632-4634.

SUPPLEMENTARY INFORMATION: The Office of Personnel Management proposes a change in the regulations implementing title 5, United States Code, section 8336(c) as amended by Public Law 93-350, which provides for the early retirement of Federal law enforcement and firefighter personnel at age 50 after 20 years of qualifying service. The definitions of law enforcement officer and firefighter are broad in that they provide the early retirement coverage for such employees who transfer to administrative and supervisory positions. The current regulations governing the early retirement coverage require that supervisory/administrative service counts for early retirement only if the employee transfers directly from a

basic position (or from one in which he/she already had coverage, i.e., another supervisory/administrative position). This regulation creates problems in that a law enforcement officer or firefighter who is in a covered supervisory or administrative position could leave Government because of RIF, personnel illness, agency relocation, etc. If he/she later returned to the same or a similar supervisory/administrative job, the retirement coverage of section 8336(c) would not be restored. The individual would have to return to a basic position to reactivate the early retirement coverage. Under the proposed regulations a law enforcement officer and/or firefighter who has transferred from a basic to a supervisory and/or administrative section 8336(c) covered position shall be deemed to have met the transfer requirement for all subsequent employment in supervisory and/or administrative section 8336(c) positions. Changes do not apply to any period of reemployment of an annuitant retired under title 5, United States Code, section 8335(b) or section 8336(c).

Such reemployed annuitant, with a break of more than three days in service, is considered not to be in a covered section 8336(c) supervisory and/or administrative position.

Office of Personnel Management
Beverly M. Jones,
Issuance System Manager.

Accordingly, the Office of Personnel Management proposes to amend 5 CFR Part 831 by adding a new paragraph (d) to § 831.903 and a new paragraph (c) to § 831.904, as set out below:

§ 831.903 Law Enforcement Officer.

(d) A law enforcement officer, as defined in section 8331(20) of title 5, United States Code, who has transferred to a position identified by paragraph (c) of this section, under the conditions described in this paragraph, shall be deemed to have met the transfer requirements for all subsequent employment in supervisory and/or administrative law enforcement positions, except for any period of reemployment as an annuitant of an individual retired under title 5, United States Code, section 8335(b) or section 8336(c).

§ 831.904 Firefighter.

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(c) A firefighter, as defined in section 8331(21), of title 5, United States Code, who has transferred to a position identified by paragraph (b) of this section, under the conditions described in this paragraph, shall be deemed to have met the transfer requirements for all subsequent employment in supervisory and/or administrative firefighter positions, except for any period of reemployment as an annuitant of an individual retired under title 5, United States Code, section 8336(b) or section 8336(c).

[FR Doc. 79-26443 Filed 8-23-79; 8:45 am]

BILLING CODE 6325-01-M

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

[7 CFR Parts 210 and 220]

National School Lunch Program and School Breakfast Program; Extension of Comment Period

AGENCY: Food and Nutrition Service, USDA.

ACTION: Extension of Comment Period.

SUMMARY: Notice is hereby given that the period is extended for receipt of comments on the proposed rule, published July 6, 1979 (44 FR 40004), establishing minimum nutritional standards for foods sold in competition with meals served in schools participating in the National School Lunch and School Breakfast Programs under the Child Nutrition Act of 1966, and the National School Lunch Act. The proposed rule identifies foods of minimal nutritional value and restricts their sale until after the last lunch period.

The Department continues to receive a large volume of public comments. In view of the number of comments received to date, and due to the complex nature of the competitive foods issue, the Department considers it to be in the public interest to continue receiving comments beyond the date originally established. Therefore, the public comment period will be extended for an additional 30 days to October 6, 1979. The Department does not anticipate that this extension will result in any extension of the proposed rule's effective date.

DATES: To be assured of consideration, comments must be received on or before October 6, 1979.

ADDRESS: Comments should be sent to: Margaret O'K. Glavin, Director, School Programs Division, USDA, FNS, Washington, D.C. 20250, (202) 447-8130.

FOR FURTHER INFORMATION CONTACT: Margaret O'K. Glavin, Director, School Programs Division, USDA, FNS, Washington, D.C. 20250, (202) 447-8130.

(Sec. 17, P.L. 95-166, 91 Stat. 1345, (42 U.S.C. 1779))

Dated: August 20, 1979.

Carol Tucker Foreman,
Assistant Secretary for Food and Consumer Services.

[FR Doc. 79-26226 Filed 8-23-79; 8:45 am]

BILLING CODE 3410-30-M

Animal and Plant Health Inspection Service

[7 CFR Part 319]

Foreign Quarantine Notices; Nursery Stock, Plants, and Seeds; Proposed Rulemaking; Extension of Comment Period

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed Rule; Extension of time for comment period.

SUMMARY: On June 15, 1979, the Department published in the Federal Register (44 FR 34856-34882) a proposal to revise "Subpart—Nursery Stock, Plants, and Seeds" (7 CFR 319.37 through 319.28a) relating to prohibitions and restrictions on the importation of certain classes of nursery stock, and certain other classes of plants, roots, bulbs, seeds and other plant products. Written comments were to be received on or before September 13, 1979. The comment period is hereby extended until October 1, 1979.

DATES: Comments on the proposed regulation must be received on or before October 1, 1979.

ADDRESS: Written comments should be submitted to the Hearing Officer, Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 635, Federal Building, Hyattsville, MD 20782.

FOR FURTHER INFORMATION CONTACT: H. V. Autry, 301-436-8247.

SUPPLEMENTARY INFORMATION: The comment period was scheduled to expire September 13, 1979. Since publication of the proposal, the Department has received a request by a trade association to extend the comment

period to October 1, 1979. This request is based on the assertion by the trade association that the additional time is necessary in order to complete discussions and make comments on the proposal. Since the Department is interested in receiving meaningful comments, these circumstances are considered sufficient justification for an extension of time originally allotted for filing comments.

Done at Washington, D.C., this 21st day of August 1979.

James O. Lee, Jr.,

Deputy Administrator, Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service.

[FR Doc. 79-26482 Filed 8-23-79; 8:45 am]

BILLING CODE 3410-34-M

Agricultural Marketing Service

[7 CFR Part 1064]

[Docket No. AO-23-A52]

Milk in the Greater Kansas City Marketing Area; Extension of Time for Filing Exceptions to the Recommended Decision on Proposed Amendments to Tentative Marketing Agreement and to Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Extension of time for filing exceptions to proposed rule.

SUMMARY: This notice extends the time for filing exceptions to a recommended decision concerning a proposed amended order regulating the handling of milk in the Greater Kansas City marketing area. Counsel for Associated Milk Producers, Inc. requested additional time to complete an analysis of the decision.

DATE: Exceptions now are due on or before August 30, 1979.

ADDRESS: Exceptions (four copies) should be filed with the Hearing Clerk, Room 1077, South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Maurice M. Martin, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250 (202-447-7183).

SUPPLEMENTARY INFORMATION:

Prior documents in this proceeding: Notice of hearing: Issued September 29, 1978; published October 4, 1978 (43 FR 45881).

Extension of time for filing briefs: Issued January 15, 1979; published January 19, 1979 (44 FR 3989).

Recommended decision: Issued July 24, 1979; published July 30, 1979 (44 FR 44517).

Notice is hereby given that the time for filing exceptions to the above listed recommended decision is hereby extended to August 30, 1979.

This notice is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

Signed at Washington, D.C., on August 20, 1979.

Irving W. Thomas,

Acting Deputy Administrator, Marketing Program Operations.

[FR Doc. 79-26390 Filed 8-23-79; 8:45 am]

BILLING CODE 3410-02-M

Rural Electrification Administration

[7 CFR Part 1701]

Electric Distribution Borrowers' Financial and Statistical Report; Revision of Existing Bulletin

AGENCY: Rural Electrification Administration.

ACTION: Proposed Rule.

SUMMARY: REA proposes to revise REA Bulletin 108-1, Electric Distribution Borrowers' Financial and Statistical Report. The revised bulletin will provide REA and others with more accurate information, which can be used in analyzing the borrowers' operations, especially conservation activities.

DATE: Public comments must be received by REA no later than October 23, 1979.

ADDRESS: Submit written comments to the Director, Electric Borrowers' Management Division, Rural Electrification Administration, Room 3342, South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Edward Moran, telephone (202) 447-3234.

SUPPLEMENTARY INFORMATION: Pursuant to the Rural Electrification Act, as amended (7 U.S.C. 901 *et seq.*), REA proposes to revise REA Bulletin 108-1, Electric Distribution Borrowers' Financial and Statistical Report.

Interested persons may obtain copies of this proposed action from the address indicated above. All written submissions made pursuant to this action will be made available for public inspection during regular business hours, address, above.

General Summary of Changes

We propose the following changes in Bulletin 108-1:

1. Expanding the instructions to include the material covered in File with REA Bulletin 108-1 dated December 22, 1978.
2. Identifying on a separate line other interest expense.
3. Breaking down Notes and Accounts Payable into two items.
4. Breaking down Sales for Resale into two items, REA Borrowers and Others.
5. Separating Headquarters from General Plant.
6. Obtaining new information with respect to Conservation Activities.
7. Adding the instructions for completing OMB Form 40-R 4075, "Typical Monthly Bills for Electric Service."
8. Clarifying the instructions for preparing certain items on the Forms 7 and 7a.

The proposal has been reviewed under the USDA criteria established to implement Executive Order 12044, "Improving Government Regulations." A determination has been made that this action should not be classified "significant" under those criteria. A Draft Impact Analysis has been prepared and is available from the Director, Electric Borrowers' Management Division, Rural Electrification Administration, Room 3342, South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

Dated: August 17, 1979.
Robert W. Feragen,
Administrator.

[FR Doc. 79-26380 Filed 8-23-79; 8:45 am]
BILLING CODE 3410-15-M

[7 CFR Part 1701]**Operating Report—Power Supply Borrowers and Distribution Borrowers with Generating Facilities; Revision of Existing Bulletin**

AGENCY: Rural Electrification Administration.

ACTION: Proposed rule.

SUMMARY: REA proposes to revise REA Bulletin 108-2, Operating Report—Power Supply Borrowers and Distribution Borrowers with Generating Facilities. The bulletin was last revised in 1977 and at that time changed from a monthly to an annual report. We are now changing the format to provide yearly and/or year-to-date information with respect to load and demand data as well as certain labor and production data. We are requesting information which will enable REA to better analyze the borrowers' finances.

DATE: Public comments must be received by REA no later than October 23, 1979.

ADDRESS: Submit written comments to the Director, Electric Borrowers' Management Division, Rural Electrification Administration, Room 3342, South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Edward Moran, telephone (202) 447-3234.

SUPPLEMENTARY INFORMATION: Pursuant to the Rural Electrification Act, as amended (7 U.S.C. 901 et seq.), REA proposes to revise REA Bulletin 108-2, Operating Report—Power Supply Borrowers and Distribution Borrowers with Generating Facilities.

Interested persons may obtain copies of proposed action from the address indicated above. All written submissions made pursuant to this action will be made available for public inspection during regular business hours, address above.

General Summary of Changes

We propose the following changes in bulletin 108-2:

- a. Separating Investments in Associated Organizations—Other into General and Non-General Funds.
- b. Identifying as a separate item Interest Expense—Other.
- c. Revising operating hours and labor data for production plant from a monthly to a year-to-date basis.
- d. Replacing substation and demand data, formerly reported on a monthly format, with Demand and Energy at Power Sources and Metered Demand and Energy at Delivery Points.
- e. Clarifying the instructions for certain items on Forms 12a-h and providing a uniform heading for each of these forms.

This proposal has been reviewed under the USDA criteria established to implement Executive Order 12044, "Improving Government Regulations." A determination has been made that this action should not be classified "significant" under those criteria. A Draft Impact Analysis has been prepared and is available from the Director, Electric Borrowers' Management Division, Rural Electrification Administration, Room 3342, South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

Dated: August 17, 1979.

Robert W. Feragen,
Administrator.

[FR Doc. 79-26379 Filed 8-23-79; 8:45 am]
BILLING CODE 3410-15-M

DEPARTMENT OF ENERGY**Office of Energy Conservation and Solar Applications****[10 CFR PART 430]****Energy Conservation Program for Consumer Products; Energy Efficiency Standards for Nine Types of Consumer Products; Notice of Opportunity for Further Comment**

AGENCY: Department of Energy.
ACTION: Notice of Opportunity for Further Comment.

SUMMARY: By this notice the Department of Energy provides interested persons with an opportunity to submit further written comments to assist the Department in developing energy efficiency standards for nine types of consumer products. Comments were originally submitted in response to an advance notice of proposed rulemaking published January 2, 1979 (44 FR 49).

DATE: Comments by October 23, 1979.

ADDRESS: Comments on this document to: U.S. Department of Energy Consumer Products Efficiency Branch Room 2221C, CAS-RM-78-110, 20 Massachusetts Avenue, N.W. Washington, D.C. 20461 202 376-4814.

FOR FURTHER INFORMATION CONTACT: James A. Smith U.S. Department of Energy, Office of Conservation & Solar Applications, Mail Station 2221C, 20 Massachusetts Avenue, N.W., Washington D.C. 20585, 202-376-4814.
William J. Dennison, U.S. Department of Energy, Office of General Counsel, Mail Station 3224, 20 Massachusetts Avenue, N.W., Washington, D.C. 20585, 202-376-4100.

SUPPLEMENTARY INFORMATION: Section 325 of the Energy Policy and Conservation Act (Pub. L. 94-163), as amended by section 422 of the National Energy Conservation Policy Act (Pub. L. 95-619), requires that the Department of Energy (DOE) prescribe energy efficiency standards for nine types of consumer products no later than December 1980. The nine types of products include refrigerators and refrigerator-freezers, freezers, clothes dryers, water heaters, room air conditioners, home heating equipment (not including furnaces), kitchen ranges and ovens, central air conditioners, and furnaces. On January 2, 1979 (44 FR 49), DOE published an advance notice of proposed rulemaking which solicited comments from interested persons to assist DOE in this undertaking. Comments were to be submitted to DOE by March 5, 1979.

Because some respondents have indicated a desire to have a further

opportunity to provide data, views and arguments in response to the advance notice, DOE has determined to provide interested persons an opportunity to submit further written comments in response to the advance notice, by October 23, 1979.

Comments are invited to submit data, views and arguments either individually or in aggregated format, which aggregation for DOE's purposes may be performed by trade associations or other groups at commenters' discretion, in accordance with applicable antitrust laws. Any questions regarding the type of aggregation which would be useful to DOE should be directed to James A. Smith at the address given above.

Comments should be identified on the outside of the envelope, and on documents submitted to DOE, with the designation, "Energy Efficiency Standards for Consumer Products." If possible, fifteen copies should be submitted, but this is not a requirement for submitting comments.

Pursuant to the provisions of 10 CFR 1004.11, any person submitting information which he or she believes to be confidential and exempt by law from public disclosure should submit one complete copy, and fifteen copies from which information claimed to be confidential has been deleted. In accordance with the procedures established at 10 CFR 1004.11, DOE shall make its own determination with regard to any claim that information submitted be exempted from public disclosure.

All comments received on or before October 23, 1979 will be considered by DOE in developing the proposed standards.

Issued in Washington, D.C., August 17, 1979.

Omi G. Walden,
Assistant Secretary, Conservation and Solar Applications.

[FR Doc. 79-26382 Filed 8-23-79; 8:45 am]
BILLING CODE 9450-01-M

DEPARTMENT OF LABOR**Employment and Training Administration****[20 CFR Part 655]****Labor Certification Process for the Temporary Employment of Aliens in Agriculture: Adverse Effect Wage Rate for Arizona; Proposed Rulemaking**

AGENCY: Employment and Training Administration, Labor.

ACTION: Proposed rulemaking.

SUMMARY: The Department of Labor proposes to publish annually an adverse

effect wage rate for the State of Arizona, that is, the minimum wage rate which the Department has determined must be offered and paid by the employers of nonimmigrant alien agricultural workers in the State of Arizona. The adverse effect wage rate for Arizona will be established and set to prevent the employment of these aliens from having an adverse effect on the wages of similarly employed United States workers.

DATES: Interested persons are invited to submit written comments on this proposed regulation on or before September 24, 1979. The comment period is being limited to 30 days due to the imminent harvest season in Arizona. A longer period would delay the effect of the adverse effect wage rate on crop activities in that State.

ADDRESS: Send Written Comments To: Mr. William B. Lewis, Administrator, U.S. Employment Service, Employment and Training Administration, U.S. Department of Labor, Room 8000—Patrick Henry Building, 601 "D" Street, N.W., Washington, D.C. 20213.

FOR FURTHER INFORMATION CONTACT: Mr. Aaron Bodin, Chief, Division of Labor Certification, Office of Technical Support, U.S. Employment Service, Employment and Training Administration, U.S. Department of Labor, Room 8410—Patrick Henry Building, 601 "D" Street, N.W., Washington, D.C. 20213. Telephone: 202-376-6295.

SUPPLEMENTARY INFORMATION:
Introduction

1. The Employment and Training Administration (ETA) of the Department of Labor (DOL) is proposing to amend its regulations at 20 CFR 655.207(b)(2) to add the State of Arizona to the list of States for which the Administrator, U.S. Employment Service, must compute and publish annually an adverse effect wage rate for the temporary employment of nonimmigrant aliens in agricultural occupations. DOL's regulations for the certification of temporary employment of nonimmigrant aliens are issued pursuant to the Immigration and Naturalization Service (INS) regulations at 8 CFR 214.2(h)(3)(i), set forth in pertinent part below:

Either a certification from the Secretary of Labor or his designated representatives stating that qualified persons in the United States are not available and that the employment of the beneficiary will not adversely affect the wages and working conditions of workers in the United States similarly employed, or a notice that such certification cannot be made shall be attached to every nonimmigrant visa petition to accord an alien a classification under

Section 101(a)(15)(H)(ii) of the [Immigration and Nationality] Act. (8 U.S.C. 1101(a)(15)(H)(ii).)

Temporary Alien Employment Certification Process

2. Whether to grant or deny a nonimmigrant visa petition under 8 U.S.C. 1101(a)(15)(H)(ii) is solely the decision of INS. It is INS policy, however, as expressed in its above-quoted regulation, that, before INS will grant or deny such a visa, it first requests DOL to advise INS with respect to two issues:

(a) Whether there are a sufficient number of able, willing, and qualified U.S. workers available to do the work proposed to be done by the alien; and

(b) Whether the employment of the alien will adversely affect the wages and working conditions of similarly employed U.S. workers.

3. If DOL determines that there are no able, willing, qualified, and available U.S. workers, and that the employment of the alien will not adversely affect similarly employed U.S. workers, DOL advises INS of these findings, by issuing a temporary labor certification. The employer proposing to use the alien for temporary work then attaches the certification as part of the alien's visa petition, pursuant to 8 CFR 214.2(h)(3)(i).

4. If DOL cannot make one or both of the above findings, DOL so advises INS. DOL may be unable to make the two required findings for any of one or more reasons, including, but not limited to:

(a) The employer seeking the temporary labor certification on behalf of the alien has not submitted a proper temporary labor certification application, or has not followed the proper procedural steps.

(b) The employer has not met its burden of proof under section 291 of the INA (8 U.S.C. 1361), that is, the employer has not submitted sufficient evidence of attempts to obtain available U.S. workers, and/or the employer has not submitted sufficient evidence that the wages and working conditions which the employer is offering will not adversely affect the wages and working conditions of similarly employed U.S. workers. With respect to the burden of proof, 8 U.S.C. 1361 states, in pertinent part that:

Whenever any person makes application for a visa or any other document required for entry, or makes application for admission, or otherwise attempts to enter the United States, the burden of proof shall be upon such person to establish that he is eligible to receive such visa or such document, or is not subject to exclusion under any provision of this Act. . . .

(c) DOL through its own knowledge and experience, finds that U.S. workers are available and/or that an adverse effect on similarly employed U.S. workers will result, and the employer has not met the burden of rebutting DOL's finding or findings.

Department of Labor Regulations

5. DOL has published regulations at 20 CFR Part 655, Subpart C, governing the labor certification process for the temporary employment of nonimmigrant aliens in the United States in agricultural and logging occupations. Part 655 was promulgated pursuant to the Immigration and Naturalization Service (INS) regulations at 8 CFR 214.2(h)(3)(i), quoted above.

6. The regulations in 20 CFR Part 655, Subpart C, set forth the factfinding process designed to develop information sufficient to support the granting or denial of a temporary agricultural labor certification. They describe the potential of the Federal-State system of public employment offices for assisting employers in finding available U.S. workers, and how this process is utilized by DOL as a partial basis of information for the certification determination. See also 20 CFR Parts 602, 621, 651-654, and 656-658.

7. Part 655 also sets forth the responsibilities of employers who desire to employ nonimmigrant aliens in temporary agricultural and logging jobs. Such employers are required to demonstrate that they have attempted to recruit U.S. workers through advertising, through the Federal-State public employment service system, and by other specified means. The purpose is to assure an adequate test of the availability of U.S. workers to perform the work, and to insure that aliens are not employed under conditions adversely affecting the wages and working conditions of similarly employed U.S. workers.

Adverse Effect Wage Rates

8. Under 20 CFR 655.207, the Administrator, United States Employment Service (USES), must annually publish adverse effect wage rates for various named States. Adverse effect wage rates set forth the minimum wages which an employer applying for a temporary alien labor certification must offer and pay to aliens and similarly employed U.S. workers in order to ensure that the wages of the U.S. workers are not adversely affected. An adverse effect wage rate is either the prevailing wage for the occupation or a somewhat higher wage computed by methodology at 20 CFR 655.207(b).

9. The Secretary of Labor has the authority to set such a rate. See *Florida Sugar Cane League v. Utery*, 531 F. 2d 299 (5th Cir. 1976); and *Williams v. Utery*, 531 F. 2d 305 (5th Cir. 1976), cert. denied, 429 U.S. 1000.

10. The adverse effect wage rate is designed to insure that the wage rates of similarly employed U.S. workers will not be adversely affected by the importation of low-paid temporary foreign labor.

11. Adverse effect wage rates apply only to those employers who are seeking to import temporary foreign labor into the United States. Employers applying for temporary labor certifications must agree to comply with all employment-related laws, however. 20 CFR 655.203(b). If the employment is covered by any Federal, State, or local minimum wage law, the employer must comply with that law. See, e.g., 29 U.S.C. 206(a)(5). Thus, a worker in employment under the temporary alien labor certification program which is covered by both an adverse effect wage rate and a minimum wage law must be compensated at the highest of the applicable wage rates.

12. It should be noted that in 1977, DOL conducted a series of hearings relating to the establishment of the regulations at 20 CFR Part 655, Subpart C. See 43 FR 10305 (March 10, 1978); 42 FR 27261 (May 27, 1977); 42 FR 22378 (May 3, 1978); and FR 42 1619 (March 25, 1977); see also *Agricultural Labor Certification Programs and Small Business: Hearings Before the Senate Select Committee on Small Business*, Part I, 95th Cong., 1st Sess. 38 (statement of William B. Lewis, Administrator, United States Employment Service) (December 20, 1977). In that series, hearings were held around the country, and employers, workers, and other parties commented on the regulations, commenting fully on the general issues surrounding adverse effect wage rates.

13. Separate adverse effect wage rates currently are published annually by the Administrator, U.S. Employment Service (USES), for agricultural employment in the six New England States, New York, Maryland, Texas, Virginia, West Virginia, and for employment in the sugar cane industry in Florida. 20 CFR 655.207(b) (1978); see also 44 FR 32209 (June 5, 1979). A notice of proposed rulemaking was published in the *Federal Register* on June 5, 1979, proposing to add Colorado to this list. 44 FR 32233. The addition of Colorado is made, therefore, in the rule proposed below. The rates in all States are either the prevailing wage rate or a somewhat higher wage rate. Adverse effect wage rates for all States have been computed under a methodology which has been

published numerous times in the *Federal Register*. See, e.g., 41 FR 25018 (June 22, 1976); and 43 FR 10310 (March 10, 1978).

14. While the Administrator, USES, is required to publish adverse effect wage rates for only those States listed in 20 CFR 655.207(b)(2), DOL has computed, for a number of years, rates for the 48 contiguous States, including Arizona, according to the published methodology. The rates were not published, since the numbers of applications for temporary employment of aliens in agriculture had been relatively low in those States. At one time, the rates for the 48 contiguous States, including Arizona, were published under the regulations in force prior to promulgation of Part 655, Subpart C. 20 CFR 602.10b(a)(1) (1971); 35 FR 12394 (August 4, 1970).

Adversely Affected Employment in the State of Arizona

15. DOL has found that the employment of nonimmigrant aliens in the State of Arizona has had and will continue to have an adverse effect on the wages of similarly employed United States workers, unless the employers of these aliens are required to offer and to pay their workers an adverse effect wage rate.

16. The use of undocumented alien workers in agriculture in Arizona is substantiated by records of INS. Additionally, agricultural employers filed sworn documents with the United States District Court for the District of Arizona, as plaintiffs in the case of *Goldmar v. Marshall*, Civil Action No. 79-236-PHX (Complaint filed, March 30, 1979), attesting to the fact that the bulk of their labor force in citrus crops consists of undocumented nonimmigrant alien workers.

17. For the 1979 harvest, some agricultural employers in Arizona have already begun seeking certifications to employ nonimmigrant aliens temporarily. In such applications for certifications filed for the 1978 harvest season, employers were offering workers a wage of \$3.13 per hour for agricultural employment. For the 1979 harvest season, however, Arizona agricultural employers are offering only \$2.90 per hour, the federal Fair Labor Standards Act minimum wage. 29 U.S.C. 206(a)(1) and (a)(6). Clearly, therefore, the employment and potential employment of nonimmigrant alien workers has and will continue to depress and otherwise adversely affect the wages of similarly employed U.S. workers.

18. DOL recently has received requests for information from some Arizona employers regarding certification of the temporary

employment of nonimmigrant aliens in agricultural occupations. Without a formally established adverse effect wage rate, it is anticipated that many of these nonimmigrant aliens would be employed at wages close to or below the Federal minimum wage. As expressed in the mandate from Congress (8 U.S.C. 1101(a)(15)(H)(ii)), in the policy of INS (8 CFR 214.2(h)(i)), and in the policy of DOL (20 CFR 655.0(e)), employers must use, wherever possible, U.S. workers rather than aliens.

Where temporary alien workers are admitted, the terms and conditions of their employment must not result in a lowering of the terms and conditions of domestic workers similarly employed.

20 CFR 655.0(e); 43 FR 10312 (March 10, 1978).

19. If Arizona employers seeking nonimmigrant aliens for temporary agricultural labor offer those aliens, or U.S. workers, wages below the adverse effect wage rate, DOL will determine that similarly employed U.S. workers will be adversely affected. The wages offered and afforded to temporary aliens and to U.S. workers by specific agricultural employers in Arizona, will be compared to the established adverse effect wage rate. If it is concluded that an adverse effect would result, the ultimate determination of availability of U.S. workers cannot be made. U.S. workers cannot be expected to accept employment under conditions below the established adverse effect levels. 20 CFR 655.0(d).

1979 Arizona Adverse Effect Wage Rate

20. It is anticipated that the rate for 1979 would be \$3.67 per hour. The methodology for computing this wage is the same as that used for determining past years' adverse effect wage rates for the States now listed in 20 CFR 655.207(b)(2). DOL has determined that the methodology can be used to construct adverse effect wage rates in a way that is reasonable, cost effective, and geared as much as possible to the reality of agricultural crops, areas, and existing wage factors.

21. As stated above, DOL has computed, for a number of years, a statewide adverse effect wage rate for Arizona based on U.S. Department of Agriculture (USDA) computed statewide annual average wage rates for Arizona agricultural workers, and on the methodology published at 20 CFR 655.207 and at 43 FR 10310 (March 10, 1978). The adverse effect wage rates for agricultural employment in Arizona, computed for the current year and for the preceding five years are shown in the table below.

Annual Adverse Effect Wage Rates: Arizona		
Year	Rate	Percentage Increase
1979	\$3.67	+17.3
1978	3.13	+11.0
1977	2.82	+5.8
1976	2.67	+7.7
1975	2.48	+11.2
1974	2.23	

22. For the above reasons, DOL proposes to annually compute and publish an adverse effect wage rate for agricultural employment in the State of Arizona.

Development of Proposed Regulations

23. This proposed rulemaking document was prepared under the direction and control of:

Mr. William B. Lewis, Administrator, U.S. Employment Service, Employment and Training Administration, U.S. Department of Labor, Washington, D.C.

Regulatory Impact

24. The proposed rulemaking implements the existing procedures to add new States to 20 CFR 655.207(b)(2). Because the financial and other impact of this proposed regulation is less than specified in DOL's criteria, the effect of the proposed regulation is not so major as to require the preparation of a regulatory analysis. See 44 FR 5576 (January 26, 1979).

Proposed Rule

25. Accordingly, it is proposed to revise § 655.207(b)(2) of Part 655 of Chapter V, Code of Federal Regulations, to read as follows:

§ 655.207 Adverse Effect Rates.

(b) * * *

(2) *List of States.* Arizona, Colorado, Connecticut, Maine, Maryland, Massachusetts, New Hampshire, New York, Rhode Island, Texas, Vermont, Virginia, and West Virginia. Other States may be added as appropriate.

(Secretary of Labor's Order No. 4-75, 40 FR 18515)

Signed at Washington, D.C., this 17th day of August, 1979.

Ernest G. Green,
Assistant Secretary for Employment and Training.

[FR Doc. 79-26410 Filed 8-23-79; 8:45 am]

BILLING CODE 4510-30-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 1002]

[Docket No. 79N-0260]

Records and Reports; Applicability of Requirements to Manufacturers of Radiofrequency (RF) Sealers and Electromagnetic (EM) Induction Heating Equipment

AGENCY: Food and Drug Administration.
ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to add radiofrequency (RF) sealers and electromagnetic (EM) induction heating equipment to the listing of electronic products for which manufacturers are required to submit initial reports, annual reports, and model change reports. The proposal would also require manufacturers to maintain certain records on these sealer and induction heater products. The agency is taking this action because available data support the contention that currently marketed RF sealers and EM induction heating equipment may present a health hazard to persons exposed to the products.

DATES: Written comments by October 23, 1979.

ADDRESS: Written comments and any supporting documentation to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5400 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Richard S. Sternchak, Bureau of Radiological Health (HF-460), Food and Drug Administration, Department of Health Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3426.

SUPPLEMENTARY INFORMATION: FDA has obtained information indicating a need to evaluate a potential radiation hazard to humans. It involves use of RF sealers and EM induction heating equipment designed to emit electromagnetic radiation in the frequency range from 10 megahertz (MHz) to 300 MHz for heating materials. Of particular concern are the industrial, scientific, and medical (ISM) frequency bands centered at 13.56 MHz, 27.12 MHz, and 40.68 MHz. Health and safety personnel from various State and Federal agencies have conducted independent measurement surveys and have corroborated that RF sealers and EM induction heaters emit significant levels of unnecessary radiation in an uncontrolled manner. Institutional

groups in several countries have conducted research and testing. Although some experiments have produced inconclusive or negative results, others have indicated biological effects in laboratory animals exposed to these frequencies and levels of electromagnetic radiation. Concern exists because of the ability of the radiation to cause deep body heating and localized rises in tissue temperature that may result in cell death. Copies of the pertinent background data and information supporting the proposal are on file with the Hearing Clerk, Food and Drug Administration (address above).

The agency is concerned that this electromagnetic radiation may cause similar biological effects in humans, and, therefore, presents a health hazard. Information is now needed on the design and emission characteristics of these sealers and heaters to help the Bureau evaluate the need for promulgating a radiation safety performance standard for the products.

The proposed amendment would add to the specific product listing under § 1002.61(c) (21 CFR 1002.61(c)) all RF sealers and EM induction heating equipment operating in the 10 MHz to 300 MHz frequency range. It is intended to apply to products whose primary function is to heat materials controllably by emitting electromagnetic radiation within the specified frequency range. This rule would include all products used in industry where RF fields are the mechanism of energy transfer in such processes as sealing, dielectric welding, fastening, fusing, molding, embossing, drying or gluing materials including, but not limited to, plastics, wood, paper, rubber, textiles, and fibers. Listing these products under § 1002.61(c) would in turn require the submission of initial reports under § 1002.10 (21 CFR 1002.10), annual reports under § 1002.11 (21 CFR 1002.11), and model change reports under § 1002.12 (21 CFR 1002.12). In addition, manufacturers will be required to maintain certain records under § 1002.30 (21 CFR 1002.30) and comply with the preservation and inspection of records provisions of § 1002.31 (21 CFR 1002.31). Manufacturers of RF sealers and EM induction heaters currently are required by § 1002.20 (21 CFR 1002.20) to report any known injuries resulting from the products' use to the Bureau of Radiological Health, Food and Drug Administration. This proposal would not affect that requirement. Initial reports on the products would be required to be submitted within 90 days of the effective date of this proposed amendment, or prior to introduction of a sealer or heater product into commerce,

whichever is later (21 CFR 1002.10). This proposed rule is to become effective 30 days after the date of publication of the final rule in the Federal Register.

The Radiation Control for Health and Safety Act of 1968 gives the agency ample powers to require the records and reports which are the subject of this proposal. Section 360A(b) of the act (42 U.S.C. 263i(b)) requires manufacturers of electronic products (including RF sealers and EM induction heating equipment) to establish and maintain records, make reports, and provide information that the agency reasonably requires to enable it to determine whether the manufacturers are complying with the act. Subsection (c) of that section requires manufacturers to make available to the agency performance data and other safety data as may be required for the agency to carry out the purposes of the act.

The Food and Drug Administration has determined that this document does not contain an agency action covered by § 25.1(b) (21 CFR 25.1(b)), and consideration by the agency of the need for preparing an environmental impact statement is not required.

Therefore, under the Public Health Service Act, as amended by the Radiation Control for Health and Safety Act of 1968 (sec. 360A, 82 Stat. 1182-1184 (42 U.S.C. 263i)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), it is proposed that Part 1002 be amended in § 1002.61 by adding new paragraph (c)(5), to read as follows:

§ 1002.61 List of specific product groups.

(c) * * *

(5) Radiofrequency (RF) sealers and electromagnetic (EM) induction heating equipment that operate in the frequency range from 10 megahertz to 300 megahertz.

Interested persons may, on or before October 23, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-85, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

In accordance with Executive Order 12044, the economic effects of this proposal have been carefully analyzed, and it has been determined that the proposed rulemaking does not involve

major economic consequences as defined by that order. A copy of the regulatory analysis assessment supporting this determination is on file with the Hearing Clerk, Food and Drug Administration.

Dated: August 15, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-26033 Filed 8-23-79; 8:45 am]

BILLING CODE 4110-03-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing - Federal Housing Commissioner

[24 CFR Part 232]

[Docket No. R-79-703]

Nursing Homes and Intermediate Care Facilities Mortgage Insurance; Eligibility Requirements Definitions

AGENCY: Department of Housing and Urban Development (HUD).

ACTION: Proposed rule.

SUMMARY: This proposed rule amends Part 232 to allow mortgage insurance for additional facilities for non-resident care of elderly individuals and others who are able to live independently but who require care during the day.

COMMENTS DUE: October 23, 1979.

ADDRESSES: Send comments to: Rules Docket Clerk, Office of the General Counsel, Room 5218, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410. Comments submitted should refer to the above docket number and title. Copies of the comments will be available at this address for public inspection during regular business hours.

FOR FURTHER INFORMATION CONTACT: Charles P. Storrs, Special Programs Branch, Multifamily Development Division, Room 6114, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410, (202) 755-6513 (This is not a toll-free number).

SUPPLEMENTARY INFORMATION: Section 312 of the Housing and Community Development Amendments of 1978, Pub. L. 95-557, amends section 232 of the National Housing Act to allow space for day care for the elderly and others in nursing homes and intermediate care facilities with HUD-insured mortgages. The purpose of day care for the elderly and others is to provide protective care and offer social contacts with others,

plus providing useful creative activities. Day care enables family members to work without having to worry about the elderly or other infirm left at home alone all day. Additionally, day care is a cost saving measure and can prevent premature, unnecessary institutionalization.

A Finding of Inapplicability respecting the National Environmental Policy Act of 1969 has been made in accordance with HUD procedures. A copy of this Finding of Inapplicability will be available for public inspection during regular business hours in the Office of the Rules Docket Clerk at the above address.

Accordingly, § 232.1 is amended by revising paragraphs (i), (j), and (k) to read as follows:

§ 232.1 Definitions.

(i) "Nursing Home" means a proprietary facility or a facility of a private non-profit corporation or association, licensed or regulated by the State (or if there is no State Law providing for such licensing and regulation by the State, by the municipality or other political subdivision in which the facility is located), for the accommodation of convalescent or other persons who are not acutely ill and not in need of hospital care but who require skilled nursing care and related medical including additional facilities for the non-resident care of elderly individuals and others who are able to live independently but who require care during the day, in which medical services are prescribed by, or are performed under general direction of persons licensed to provide such care or services in accordance with the laws of the State where the facility is located.

(j) "Project" means a nursing home or intermediate care facility or combined nursing home and intermediate care facility which may include such additional facilities as may be authorized by the Secretary for the non-resident care of elderly individuals and others who are able to live independently but who require care during the day, and which have been approved by the Commissioner under provisions of this subpart.

(k) "Intermediate Care Facility" means a proprietary facility or facility of a private non-profit corporation or association licensed or regulated by the State (or if there is no State law providing for such licensing and regulation by the State, by the municipality or other political subdivision in which the facility is located) for the accommodation of

persons who because of incapacitating infirmities, require minimum but continuous care but are not in need of continuous medical or nursing services including additional facilities for the non-resident care of elderly individuals and others who are able to live independently but who require care during the day.

(Sec. 7(d) Department of Housing and Urban Development Act (42 U.S.C. 3535(d)). Issued at Washington, D.C. on August 14, 1979.

Lawrence B. Simons,
Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc. 79-26357 Filed 8-23-79; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Parts 1 and 7]

[LR-168-76]

Determination of Amounts at Risk with Respect to Certain Activities; Public Hearing on Proposed Regulations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Public hearing on proposed regulations.

SUMMARY: This document provides notice of a public hearing on proposed regulations relating to the determination of amounts at risk with respect to certain activities.

DATES: The public hearing will be held on September 27, 1979, beginning at 10:00 a.m. Outlines of oral comments must be delivered or mailed by September 13, 1979.

ADDRESS: The public hearing will be held in the I.R.S. Auditorium, Seventh Floor, 7400 Corridor, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, D.C. The outlines should be submitted to the Commissioner of Internal Revenue, Attn: CC:LR:T (LR-168-76), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: George Bradley or Charles Hayden of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224, 202-566-3935, not a toll-free call.

SUPPLEMENTARY INFORMATION: The subject of the public hearing is proposed regulations under section 465 of the Internal Revenue Code of 1954. The

proposed regulations appeared in the Federal Register for Tuesday, June 5, 1979 at page 32235 (44 FR 32235).

The rules of § 601.601(a)(3) of the "Statement of Procedural Rules" (26 CFR Part 601) shall apply with respect to the public hearing. Persons who have submitted written comments within the time prescribed in the notice of proposed rulemaking and also desire to present oral comments at the hearing on the proposed regulations should submit an outline of the comments to be presented at the hearing and the time they wish to devote to each subject by September 13, 1979. Each speaker will be limited to 10 minutes for an oral presentation exclusive of time consumed by questions from the panel for the Government and answers to these questions.

Because of controlled access restrictions, attendees cannot be admitted beyond the lobby of the Internal Revenue Building until 9:45 a.m.

An agenda showing the scheduling of the speakers will be made after outlines are received from the speakers. Copies of the agenda will be available free of charge at the hearing.

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the Treasury Directive appearing in the Federal Register for Wednesday, November 8, 1978.

By direction of the Commissioner of Internal Revenue:

Robert A. Bley,

Director, Legislation and Regulations Division.

[FR Doc. 79-26455 Filed 8-23-79; 8:45 am]

BILLING CODE 4830-01-M

[26 CFR Part 53]

[EE-162-78]

Taxes on Excess Business Holdings; Proposed Rule

Correction

A FR Doc. 79-25388, appearing on page 47958, in the issue of Thursday, August 16, 1979, in the first column, under the heading "Dates", the last sentence should be corrected to read: "written comments to the modifications set forth in this notice must be delivered or mailed by October 15, 1979."

BILLING CODE 1505-01-M

POSTAL SERVICE

[39 CFR Part 111]

Preparation of Bulk Mailings;
Extension of Comment Period

AGENCY: U.S. Postal Service.

ACTION: Extension of time for comments.

SUMMARY: This notice extends the time for filing comments on proposed revised regulations relating to the preparation of bulk mailings.

DATE: Comments must be received on or before August 31, 1979.

ADDRESS: Written comments should be addressed to: Director, Office of Mail Classification, U.S. Postal Service, 475 L'Enfant Plaza West, SW., Washington, D.C. 20260. Copies of all written comments received will be available for public inspection and photocopying between 9 A.M. and 4 P.M., outside room 1610, 475 L'Enfant Plaza West, SW., Washington, DC 20260.

FOR FURTHER INFORMATION CONTACT: Ernest Collins, Office of Mail Classification, U.S. Postal Service, 475 L'Enfant Plaza West, SW., Washington, DC 20260; (202) 245-4749.

SUPPLEMENTARY INFORMATION: On July 31, 1979, a document was published in the *Federal Register* (44 FR 44895) proposing revisions of Postal Service regulations pertaining to bulk mail preparation. Comments were invited, for receipt by August 20, 1979.

In response to a number of requests for an extension of time within which to submit comments, and in order to facilitate maximum public participation in the rulemaking process, the Postal Service will accept written comments which are received on or before August 31, 1979.

W. Allen Sanders,

Acting Deputy General Counsel.

[FR Doc. 79-26382 Filed 8-21-79; 1:51 pm]

BILLING CODE 7710-12-M

ENVIRONMENTAL PROTECTION
AGENCY

[40 CFR Part 52]

[FRL 1304-5]

Approval and Promulgation of
Implementation Plans: Georgia;
Transportation Control Measures for
Atlanta Carbon Monoxide
Nonattainment Area

AGENCY: U.S. Environmental Protection Agency, Region IV.

ACTION: Proposed rule.

SUMMARY: EPA today proposes to approve the Georgia implementation plan providing for attainment of the 8-hour national ambient air quality standard for carbon monoxide in the Atlanta nonattainment area (those portions of Clayton, DeKalb, and Fulton Counties within perimeter highway I-285). The public is invited to submit written comments on the proposed approval action.

DATE: To be considered, comments must be received on or before September 24, 1979. A thirty-day comment period is being provided because the July 1 statutory deadline for EPA approval of 1979 revisions for nonattainment areas has already passed. Also, the issues involved in the proposed action were described in the general proposal of Georgia's 1979 implementation plan revisions (*Federal Register* of May 9, 1979, pp. 27184-27187).

ADDRESSES: Written comments should be addressed to Harriet Smith of EPA Region IV's Air Programs Branch. (See EPA Region IV address below). Copies of the materials submitted by Georgia may be examined during normal business hours at the following locations:

Public Information Reference Unit, Library Systems Branch, Environmental Protection Agency, 401 M Street, SW., Washington, DC, 20460.

Library, Environmental Protection Agency, Region IV, 345 Courtland Street, NE., Atlanta, Georgia, 30308.

Air Protection Branch, Environmental Protection Division, Georgia Department of Natural Resources, 270 Washington Street, SW., Atlanta, Georgia, 30334.

FOR FURTHER INFORMATION CONTACT: Harriet Smith, Region IV, Air Programs Branch, 345 Courtland Street, NE., Atlanta, Georgia, 30308, 404/881-3286 (FTS 257-3286).

SUPPLEMENTAL INFORMATION:

Background

On May 9, 1979, (44 FR 27184), EPA described the Georgia 1979 implementation plan revisions, submitted pursuant to the requirements of Part D of Title I of the Clean Air Act. In that notice, certain deficiencies were noted in the transportation control measures needed to assure attainment of the 8-hour carbon monoxide standard in the Atlanta nonattainment area.

The Georgia Environmental Protection Division on June 29, 1979, submitted materials as part of the SIP revision designed to correct the deficiencies noted in the Agency's proposed notice. These materials include the following:

1. A memorandum of agreement signed by the appropriate agencies,

which identifies the responsibilities of each agency under the Transportation Control Program pursuant to the requirements of Section 174 of the CAAA.

2. A list of projects, committed to implementation by July, 1980 in the Atlanta area, which will have air quality benefits. The projects were taken from the current Annual Element of the area's Transportation Improvement Program. Letters of commitments to these projects by the State Department of Transportation, City of Atlanta, Clayton County Commission, Cobb County Commission, DeKalb County Commission, Fulton County Commission, and the Gwinnett County Commission were submitted. Implementation dates are consistent with the Annual Element of the Transportation Improvement Program.

3. A commitment from the Metropolitan Atlanta Rapid Transit Authority (MARTA) to the continued improvement and expansion of public transportation including implementation of appropriate projects from the annual element of the TIP and the expeditious implementation of future transportation control measures which are found feasible.

4. The 1979-1982 work program for the Atlanta Regional Commission, which includes the schedule for analysis of Section 108(f) alternative transportation control measures. The work program also identifies the financial and manpower allocations to accomplish the analysis and to provide EPA with periodic progress reporting of the analysis. The Georgia Environmental Protection Division also submitted to EPA a letter from the State Department of Transportation committing to subjecting projects found feasible to the programming process.

On May 1, 1979, the Governor submitted a schedule for implementation of the motor vehicle inspection and maintenance (I/M) program, including dates for key milestones of the program. The letter from the Governor committed the State through the Board of Natural Resources and the Department of Public Safety to implement the program according to the submitted schedule. This submittal corrects deficiencies noted for I/M in the May 9th *Federal Register* notice, and along with the initial SIP submittal constitutes an approvable I/M program.

EPA's review of the materials submitted by Georgia indicates that they correct all of the deficiencies noted in the Atlanta CO revision in the notice of May 9, 1979. Accordingly, it is hereby proposed to approve the Georgia SIP for CO in Atlanta.

The public is invited to participate in this rulemaking by submitting written comments on the present proposal. After reviewing pertinent comments received together with all other information available to him, the Administrator will take action on this portion of the Georgia 1979 implementation plan revisions for nonattainment areas.

(Sections 110 and 172 of the Clean Air Act (42 U.S.C. 7410 and 7502)).

Dated: July 23, 1979.

John C. White,

Regional Administrator.

[FR Doc. 79-26478 Filed 8-23-79; 8:45 am]

BILLING CODE 6560-01-M

[40 CFR Part 81]

[FRL 1304-3]

Air Quality Control Regions, Criteria,
and Control Techniques; Attainment
Status Designation: Georgia

AGENCY: U.S. Environmental Protection Agency, Region IV.

ACTION: Proposed rulemaking.

SUMMARY: The Clean Air Act Amendments of 1977 required that the Environmental Protection Agency (EPA) designate the attainment status of all areas within the states on a state-by-state, pollutant-by-pollutant basis. This was done on March 3, 1978 (43 FR 8962). Either the state or EPA can initiate changes in these designations, and such changes, if approved, will replace extant designations. This has been done previously for certain areas in EPA's Region IV (43 FR 40412, September 11, 1978).

A review of total suspended particulate matter (TSP) air quality data in Sandersville, Georgia shows that the monitor in an area presently designated as "non-attainment" for secondary standards has measured no violations for 24 calendar months. Based on this finding, it is proposed to change the designation to one of "attainment." Comment is solicited on this change.

DATE: Written public comment should be submitted to the person listed below and must be received on or before September 24, 1979, to be considered.

FOR FURTHER INFORMATION CONTACT: Ms. Harriet Smith, Air Programs Branch, EPA Region IV, 345 Courtland Street, NE., Atlanta, Georgia 30308, 404/881-3286; FTS 257-3286.

SUPPLEMENTARY INFORMATION: On March 3, 1978, Sandersville, Georgia was designated as nonattainment for TSP. The basis for this designation was violations of the secondary standard at

the Morningside Drive site in Sandersville, Georgia.

On August 1, 1979, the director of Georgia's Environmental Protection Division submitted air quality data showing that the national ambient air quality standards for TSP were not violated at the Morningside Drive site (Sandersville) during the period July 1, 1977, through June, 1979, and requested that the status of the area be redesignated as attainment. EPA has verified that the data in question meets all applicable Agency criteria established to assure the validity and representativeness of air quality data. Accordingly, it is proposed to

redesignate the area as the State requests.

(Sections 107, 171, 301 of the Clean Air Act (42 U.S.C. 7407, 7501, 7601))

Dated: August 13, 1979.

John C. White,

Regional Administrator, Region IV.

It is proposed to amend Part 81 of Chapter 1, Title 40, Code of Federal Regulations, as follows:

Subpart 81—Section 107 Attainment
Status Designation

In § 81.311, the attainment status designation table for TSP is revised to read as follows:

§ 81.311 Georgia.

Georgia—TSP

Designated area	Does not meet primary standards	Does not meet secondary standards	Cannot be classified	Better than national standards
That portion of Fulton County within northwest section of Atlanta	x	x		
That portion of Chatham County within the north central section of Savannah	x	x		
That portion of the northern part of Walker County which includes Rossville	x	x		
Rest of State				x

[FR Doc. 79-26477 Filed 8-23-79; 8:45 am]

BILLING CODE 6560-01-M

FOREIGN CLAIMS SETTLEMENT
COMMISSION

[45 CFR Part 503]

National Security Information;
Executive Order 12065; Implementing
Regulations

AGENCY: Foreign Claims Settlement Commission.

ACTION: Proposed rule.

SUMMARY: Section 5-402 of Executive Order 12065, relating to national security information, requires that regulations establishing agency information security policy and guidelines for systematic declassification review shall be published in the *Federal Register*. This notice proposes to adopt a new Subpart B of Part 503 of 45 CFR, consisting of the regulations set forth below, to implement the policy, program, and procedures of the Executive Order as they apply to the Commission.

DATES: Written comments may be submitted on or before September 30, 1979.

ADDRESS: All comments should be addressed to: General Counsel, Foreign Claims Settlement Commission, Room 414, 1111 20th Street, N.W., Washington, DC 20579.

FOR FURTHER INFORMATION CONTACT: Wayland D. McClellan (202) 651-6166.

It is proposed to amend Chapter V, Foreign Claims Settlement Commission, of 45 CFR by adding a new Subpart B of Part 503 as follows:

Subpart B—National Security
Information

Sec.

503.15 Policy.

503.16 Program.

503.17 Procedures.

Authority: Executive Order 12065

§ 503.15 Policy.

It is the policy of the Foreign Claims Settlement Commission to act in accordance with Executive Order 12065 in matters relating to national security information.

§ 503.16 Program.

The Executive Director is designated as the official of the Commission who is responsible for implementation and oversight of information security programs and procedures, including

insuring conformity at all times with Executive Order 12065. All questions, suggestions, and complaints regarding all elements of this program, shall be directed to the Executive Director, who is solely responsible for acting upon suggestions and complaints. All requests for declassification of materials submitted under the provisions of Executive Order 12065, regardless of the point of origin of such requests shall be directed to the Executive Director.

§ 503.17 Procedures.

(a) *Mandatory declassification review.* As the Commission does not have original classification authority and national security information in its custody has been classified by another federal agency, the Executive Director shall refer all requests for mandatory declassification review of national security information in its custody to the originating federal agency that classified it for review and disposition in accordance with Executive Order 12065 and the regulations and guidelines of that agency. Requests for declassification shall be referred and the requester so advised within 80 days of receipt, providing that the request reasonably describes the information which is the subject of the request for declassification. All requests for declassification submitted pursuant to the Freedom of Information Act shall be processed in accordance with the provisions of that Act and the applicable regulations of the Commission.

(b) *Safeguarding.* All classified materials shall be delivered to the Executive Director or such person designated to act in the absence of the Executive Director immediately upon receipt at the Offices of the Commission. All potential recipients of such materials shall be advised of the name of such designee and updated information as necessary. In the event that the Executive Director or such designee is not available to receive such materials, they shall be delivered to the General Counsel and secured, unopened, in the combination safe located in the Commission offices until the Executive Director or such designee is available. Under no circumstances shall classified materials that cannot be delivered to the Executive Director or such designee be stored other than in the designated safe. Access to classified materials at the Commission shall be limited to officers and employees of the Commission on the basis of a favorable determination of trustworthiness and a need to know.

(c) *Reproduction.* Reproduction of classified materials shall be only in accordance with Executive Order 12065.

Section 4-4, and any limitations imposed by the originator. Reproduced copies shall be subject to the same controls as the original document. Records showing the number and distribution of copies shall be maintained, as required by Executive Order, by the Executive Director and the log stored with the original documents. Reproduction for the purposes of mandatory review shall not be restricted.

(d) *Storage.* All classified materials shall be stored in the combination safe located in the Commission offices. The combination shall be changed as required by ISOO Directive No. 1, Section IV-F-5-a. The combination shall be known only by the Executive Director, General Counsel and such designees with the appropriate security clearance.

(e) *Employee education.* All employees who have been granted a security clearance and who have occasion to handle classified materials shall be advised of handling, reproduction, and storage procedures and shall be required to review Executive Order 12065 and appropriate ISOO directives. This shall be effected by a memorandum to all affected employees at the time these procedures are implemented. New employees will be instructed in procedures as they enter employment with the Commission.

(f) *Agency terminology.* The use of the terms "Top Secret", "Secret", and "Confidential" shall be limited to materials classified for national security purposes.

Dated: August 16, 1979.

Richard W. Varborough,
Chairman.

[FR Doc. 79-26257 Filed 8-23-79; 8:45 am]

BILLING CODE 6770-01-M

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 90]

[PR Docket No. 79-192; RM-3315, RM-3325, RM-3330; FCC 79-477]

One-Way Radio Paging in the Special Emergency Radio Service

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The FCC proposes to amend its regulations concerning conversion to one-way radio paging operations in the Special Emergency Radio Service. The original purpose of the paging requirement was to eliminate the interference problems that resulted

when paging was conducted on the same frequencies that are used for two way voice communications. We are suspending the January 1, 1980, compliance deadline in § 90.55 while we consider the proposed amendments. (See order suspending compliance date in the Rules section of today's issue of the Federal Register.)

Specifically, we propose to allocate additional frequencies for medical paging by designating the four (4) 450 MHz band highway call box frequencies for medical paging. In addition, we propose a staggered deadline for converting to one way frequency paging in urban areas and a 5-year, or possibly indefinite, suspension of the compliance deadline in rural areas.

DATES: Comments must be received on or before September 14, 1979, and Reply Comments must be received on or before October 1, 1979.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Richard Taube, Private Radio Bureau, (202) 632-6497.

In the matter of amendment of Part 90 of the Commission's rules regarding one-way radio paging in the Special Emergency Radio Service. PR Docket No. 79-192 RM's-3315, 3325, 3330; FCC 79-477.

Notice of Proposed Rulemaking

Adopted: August 1, 1979.

Released: August 9, 1979.

By the Commission: Commissioner Lee absent.

1. This action gives public notice of proposed rule changes concerning the use of frequencies for one-way radio paging operations in the Special Emergency Radio Service. The rules involved are in Section 90.55 (formerly 89.523(d)). These rules now provide that as of January 1, 1980, paging in the Special Emergency Radio Service will only be permitted on those frequencies that are available exclusively for radio paging operations.¹ There are seven of these paging-only frequencies: 35.64, 35.68, 43.64, 43.68, 152.0075, 157.450, and 163.250 MHz.

2. The allocation of these seven frequencies and the requirement for their use by 1980, were part of the rule changes adopted in 1974, in Docket 19880. That proceeding upgraded the frequency allocations and rule provisions for operating medical radio systems in the Special Emergency Radio

¹ An exception to this requirement applies to "alert-paging" to ambulance and rescue squad personnel. See rule § 90.53(b)(25) (formerly § 89.525(f)(25)).

Service. The primary purpose of the paging requirement was to eliminate the interference problems that resulted when paging was conducted on the same frequencies that are used for two-way voice communications. To help amortize equipment costs, we also provided that paging systems that were authorized to share two-way frequencies prior to August, 1974, could continue such operations until the 1980 cut-off date. Many of the licensees of these earlier systems have deferred switching to the paging-only frequencies and it is basically the problems that they now face that we are considering in this proceeding.

3. The issues are presented in petitions filed by the American Hospital Association (AHA) and the National Association of Business and Educational Radio (NABER). AHA asks us to postpone the January 1, 1980, frequency switching deadline. To support its request, AHA argues for a longer equipment amortization period, stating that many hospitals would face conversion costs beyond their means. Also, for heavily populated urban areas, AHA contends that there are significant limitations on the seven paging-only frequencies and that these channels will not accommodate the requirements. It wants the present shared frequency use to continue until more frequencies are allocated to meet paging needs. For the lightly populated rural areas, AHA argues that conversion is usually not necessary because the interference problems rarely exist. The petitioner concludes that the present deadline for conversion should be extended to all areas until at least 1985.

4. NABER asks that four 450 MHz band highway call box frequency pairs be re-allocated from the Local Government Radio Service and to the Business Radio Service to accommodate paging requirements. These frequencies were allocated in 1970 to permit development of roadside call box systems that would allow voice communications between motorists and emergency responders.² Secondary use of these frequencies is authorized to operate devices for detecting and displaying information as to rain, temperature, traffic flow, etc. NABER's argument, as in AHA's petition, is that medical paging in major metropolitan areas cannot be adequately accommodated on the particular seven frequencies which have been allocated for these operations. It wants what it labels the "under-utilized" call box frequencies to be reallocated for this

² Call box systems in other bands, primarily at 72-76 MHz, permit only tone signalling for assistance.

function. NABER would also extend the 1980 deadline to two years after these call box frequencies are reallocated.

5. There is considerable merit in these proposals. AHA's and NABER's petitions reflect the tremendous surge in private medical paging in the last five years. As noted by the petitioners, in 1974 it appeared that the seven exclusive frequencies for paging would meet the demand, but they are apparently not going to be adequate. This is due not only to the increase in paging systems but also because of technical and practical limitations on most of these frequencies. Thus, the petitions raise timely issues of whether to alter the paging frequency structure in the Special Emergency Radio Service and, if so, in what ways.

6. We find that the allocation of additional frequencies for medical paging is an appropriate step at this time. Suitable frequencies would undoubtedly alleviate the congestion that can be expected in many urban regions on the present complex of paging frequencies. However, there are no apparent unused frequencies below 500 MHz that can accommodate the need for dedicated paging channels. The lightly used 450 MHz band highway call box frequencies proposed by NABER for reallocation for medical paging appear to be a reasonable solution. These 450 MHz channels offer some distant advantages. These include the relative absence of technical limitations which limit the effectiveness of the present paging frequency complex, and the ready availability of suitable miniaturized pocket pagers. Also, operation in this band ties in with the allocations at 450-460 MHz which are already being used for medical radio systems.

7. An objection to reallocation of these call box frequencies was submitted by the Associated Public Safety Communications Officers, Inc. (APCO). APCO argues that the Commission knew that highway radio call box development would take a lengthy period of time and has made a commitment to retaining these channels for such purpose. However, we do not believe that APCO's contention is valid. The call box frequencies were allocated in 1971, for what appeared to be a need for motorists to voice-communicate as to highway problems. The Commission noted, nevertheless, that the approach was only one possible solution and not necessarily the most desirable. Numerous options were discussed in the proceeding and the intent was that the 450 MHz allocation for call boxes would be given a trial period as one of the

many alternatives.³ It is significant, too, that in the 1974 Docket 19880 action, the mobile side of these 450 MHz frequency pairs was found to be under-utilized and was reallocated for shared use in the SERS for certain medical uses.

8. Accordingly, it is proposed that the four highway call box frequencies, 453.025, 453.075, 453.125, and 453.175 MHz, be reallocated from the Local Government Radio Service to the Special Emergency Radio Service to be used only for paging in medical radio services operations.⁴ NABER's suggestion that these frequencies should also be made available in the Business Radio Service is not warranted. The medical paging problem exists primarily in the Special Emergency Radio Service where most of these systems operate. We believe that these operations should be concentrated in this radio service where they can be more readily centralized and coordinated for effective and efficient use. However, we propose to reserve one of the four frequencies for more spectrally efficient systems, such as tone (including system transmitting more than a single tone) and digital paging systems. We want to encourage the development of more effective non-voice paging systems which could provide the advantages of tone and voice transmissions with greater spectral efficiency. Comments on this specific proposal are invited.

9. We also propose to extend the January 1, 1980, deadline date for conversion to paging-only frequencies. Within 75 miles of the center of the largest urbanized areas of the country, the extension would be for one year for medical services licensees. "Urbanized areas" are in Table 1 of § 90.477(c) and a list is in Attachment 1 for ready reference. This will afford licensees a reasonable period to take advantage of the 450 MHz band frequencies.

10. In other areas of the country, we propose extending the January 1, 1980, deadline for five years until 1985. In these regions the interference conditions that justified the requirement that paging and regular two-way radio operations be separated have been demonstrated to be a comparatively minimal problem. There is no immediate requirement, therefore, that paging be restricted in these areas. The additional five-year period will allow for greater amortization of equipment costs. We

³ Report and Order, Docket 19001, FCC 71-334.

⁴ If this reallocation action is adopted, a "grandfather" provision will be included to permit continued authorization on a primary basis of radio call box systems that are already in operation. Our records indicate about twenty of these systems are presently licensed, most of which are operating 50 units or less.

realize that these cost savings would also advantage licensees in the urbanized areas. However, the interference problems which prompted our 1974 decision generally do exist in urbanized areas. We consider alleviation of this interference to be of paramount importance, particularly since medical emergencies are often involved.

11. Because the usage of these frequencies in rural areas is not as intensive as in urban areas, consideration will be given to continue indefinitely the use of the SERS frequencies for paging as well as for two-way communications. Therefore, we ask for comments specifically on this matter. If we are to permit continued use of these frequencies for paging, are the areas indicated the appropriate ones, and should paging be permitted on a co-channel basis and, if so, should it be on a secondary basis to two-way operations.

12. To summarize, we are proposing: (a) to reallocate four 450 MHz band Local Government Radio Service call box frequency pairs to the Special Emergency Radio Service for medical paging; (b) to extend the January 1, 1980, deadline for conversion of paging systems to paging-only frequencies in the Special Emergency Radio Service. This extension is to be for one-year for areas that are within 75 miles of the center of the top 25 urbanized areas. In other areas, the extension is to be for five years, and the question is raised whether it should be for an indefinite period.

13. In view of the foregoing, we hereby suspend the January 1, 1980, conversion date pending the outcome of this proceeding.

14. It is noted that a petition (RM-3325) related to action taken in this proceeding has been filed by the Telecommunications Division of the State of Georgia. The petition requests reallocation of the same 450 MHz band call box frequencies. Georgia wants these frequencies assignable as additional frequencies in medical mobile relay systems. They would be used to provide doctor "interrupt" capability during continuous transmissions from an ambulance vehicle. This request has been considered but we find that the more urgent public interest requirement is to accommodate the medical paging needs on these frequencies. We propose, therefore, to deny this petition but our decision will be deferred until final action is taken in this proceeding.

15. In accordance with the foregoing, the Commission proposes to amend Part 90 of its rules governing frequency allocations for paging systems in the

Special Emergency Radio Service. These proposed amendments are issued pursuant to authority contained in sections 4(i) and 303(r) of the Communications Act of 1934, as amended.

16. Pursuant to applicable procedures set forth in Section 1.415 of the Commission's Rules, interested persons may file comments on or before September 14, 1979, and reply comments on or before October 1, 1979. Six copies of all statements, briefs, and comments filed shall be furnished to the Secretary of the Commission. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision, the Commission may take into consideration information and ideas not contained in the comments provided that such information or a writing indicating the nature and source of the information is placed in the public file, and provided that the fact of the Commission's reliance on such information is noted in the Report and Order.

17. For questions on this proceeding, the following should be contacted: Mr. Richard Taube, Rules Division, Private Radio Bureau, Federal Communications Commission, 2025 M Street, NW., Washington, D.C. 20554, (202) 632-6497.

Federal Communications Commission,
William J. Tricarico,
Secretary

Top 25 urbanized areas as set forth in § 90.477(c) of the Commission's Rules.

Urbanized Area	North Latitude	West Longitude
New York, N.Y.-Northeastern N.J.	40-45-06	73-59-39
Los Angeles-Long Beach, Calif.	34-03-15	118-14-28
Chicago, Illinois	41-52-28	87-38-22
Philadelphia, Pa.-N.J.	39-56-58	75-09-21
Detroit, Michigan	42-19-48	83-02-57
San Francisco, Oakland, Calif.	37-46-39	122-24-40
Boston, Massachusetts	42-21-24	71-03-25
Washington, D.C.-Md.-Va.	38-53-51	77-00-33
Cleveland, Ohio	41-29-51	81-41-50
St. Louis, Mo.-Ill.	38-37-45	90-12-22
Pittsburgh, Pa.	40-26-19	80-00-00
Minneapolis-St. Paul, Minn.	44-58-57	93-15-43
Houston, Texas	29-45-26	95-21-37
Baltimore, Md.	39-17-26	76-36-45
Dallas, Texas	32-47-09	96-47-37
Milwaukee, Wisc.	43-02-19	87-54-15
Seattle-Everett, Wash.	47-36-32	122-20-12
Miami, Florida	25-46-37	80-11-32
San Diego, Calif.	32-42-53	117-09-21
Atlanta, Ga.	33-45-10	84-23-37
Cincinnati, Ohio, Ky.	39-06-07	84-30-35
Kansas City, Mo.-Ks.	39-04-56	94-35-20
Buffalo, N.Y.	42-52-52	78-52-21
Denver, Colo.	39-44-58	104-59-22
San Jose, Calif.	37-20-16	121-53-24

[FR Doc. 79-26487 Filed 8-23-79; 8:45 am]

BILLING CODE 6712-01

INTERSTATE COMMERCE COMMISSION

[49 CFR Part 1056]

Ex Parte No. MC-19 (Sub-No. 34)

Household Goods Transportation; Decision on Storage-In-Transit Charges

AGENCY: Interstate Commerce Commission.

ACTION: Extension of time for filing public comments in this proceeding. (44 FR 30387, 43325; May 25, 1979, July 24, 1979).

SUMMARY: By a petition for administrative review filed July 27, 1979, Household Goods Carriers' Bureau, Inc., (HGCBC or petitioner) requested that the Commission review its procedural decision of July 17, 1979, in this proceeding and allow an additional extension of 59 days for the filing of comments. The Commission's Office of Special Counsel filed a petition in opposition of any further extension. An extension of 30 days is granted.

DATES: Comments in this proceeding are due on or before September 24, 1979.

ADDRESS: Comments should be sent to: Secretary, Room 5356, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT: Martin E. Foley (202) 275-7348.

SUPPLEMENTARY INFORMATION: The petitioner states that it has transmitted questionnaires to over 1600 of its member carriers and noncarrier agents. HGCBC states that in order for it to accumulate and process the responses to the questionnaires it will need an additional extension of 59 days for the filing of its comments in this proceeding. The petitioner states that an earlier 30-day extension in this proceeding is not adequate.

HGCBC has already been allowed 90 days to prepare its comments and process the questionnaires. A further extension of 59 days to accomplish this task does not appear to be warranted; however, the results of HGCBC's questionnaires may be useful to the Commission in its formulation of a decision in this rulemaking. These results are to be included in HGCBC's comments. An extension of 30 days is granted to allow the HGCBC to formulate its comments.

Decided: August 16, 1979.

By the Commission, Chairman O'Neal.
Agatha L. Mergenovich,
Secretary.

[FR Doc. 79-26367 Filed 8-23-79; 8:45 am]
BILLING CODE 7035-01

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[50 CFR Part 32]

Opening of White River National Wildlife Refuge, Arkansas to Migratory Game Bird Hunting.

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Fish and Wildlife Service proposes to add White River National Wildlife Refuge, Arkansas to the refuge areas open for migratory game bird hunting. The Director has received information that this action would be in accordance with the provisions of all laws applicable to the area, would be compatible with the principles of sound wildlife management, would otherwise be in the public interest and that such use is compatible with the major purpose for which the refuge was established. Migratory game bird hunting, subject to annual special regulations, will provide additional public recreational opportunity.

DATES: Comments must be received on or before September 24, 1979.

ADDRESS: Comments may be addressed to the Director, (FWS/FR), U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Ronald L. Fowler, Division of Refuge Management, U.S. Fish and Wildlife Service, Washington, D.C. 20240. Telephone 202-343-4305.

SUPPLEMENTARY INFORMATION: Ronald L. Fowler is the primary author of this proposed rulemaking. Areas within the National Wildlife Refuge System are closed to hunting until officially opened by regulation. The Director may open refuge areas to hunting upon a determination that such use is compatible with the major purposes for which such areas were established and that funds are available for the development, operation and maintenance of the permitted forms of recreation. This action will be in accordance with provisions of all laws applicable to the area, will be compatible with the principles of sound wildlife management and will otherwise be in the public interest. It is the purpose of this proposed rulemaking to seek public input regarding the opening of the above cited refuge to the hunting of migratory game birds. Pursuant to the requirements of section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332(2)(C), an environmental assessment has been

prepared on this proposal and is available for public inspection and copying at room 2024, Department of the Interior, 18th and C Streets, NW., Washington, D. C. 20240, or by mail, addressing the Director at the address above. The policy of the Department of Interior is, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments, suggestions, or objection regarding the proposed amendment. All relevant comments will be considered by the Department prior to the issuance of a final rulemaking.

Note.—The Department of the Interior has determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

Accordingly, it is proposed to amend 50 CFR Part 32 by the addition of White River National Wildlife Refuge in § 32.11 as follows:

§ 32.11 List of open areas; migratory game birds.

* * * * *

Arkansas

* * * * *

White River National Wildlife Refuge

(Sec. 2, 33 Stat. 614, as amended; sec. 5, 43 Stat. 651; sec. 5, 45 Stat. 449; sec. 10, 45 Stat. 1224; sec. 4, 48 Stat. 402, as amended; sec. 4, 48 Stat. 451, as amended; sec. 2, 48 Stat. 1270; sec. 4, 80 Stat. 927; 5 U.S.C. 301, 16 U.S.C. 685, 725, 690d, 715i, 664, 718d, 43 U.S.C. 315a; 16 U.S.C. 460k, 668dd; sec. 2, 80 Stat. 926; 16 U.S.C. 668bb)

Dated: August 17, 1979.

Lynn A. Greenwalt,
Director, U. S. Fish and Wildlife Service.

[FR Doc. 79-26444 Filed 8-23-79; 8:45 am]

BILLING CODE 4310-55-M

Notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE Rural Electrification Administration Seminole Electric Cooperative, Inc.; Proposed Loan Guarantee

Under the authority of Pub. L. 93-32 (87 Stat. 65) and in conformance with applicable agency policies and procedures as set forth in REA Bulletin 20-22 (Guarantee of Loans for Bulk Power Supply Facilities), notice is hereby given that the Administrator of REA will consider providing a guarantee supported by the full faith and credit of the United States of America for a loan in the approximate amount of \$1,115,036,000 to Seminole Electric Cooperative, Inc. of Tampa, Florida. These loan funds will be used to finance the construction of two 600 MW coal-fired electric generating units and approximately 200 miles of 230 kV associated transmission line.

Legally organized lending agencies capable of making, holding and servicing the loan proposed to be guaranteed may obtain information on the proposed project, including the engineering and economic feasibility studies and the proposed schedule for the advances to the borrower of the guaranteed loan funds from Mr. Harry W. Wright, Manager, Seminole Electric Cooperative, Inc., 2410 East Busch Blvd., Tampa, Florida 33612.

In order to be considered, proposals must be submitted on or before September 24, 1979 to Mr. Wright. The right is reserved to give such consideration and make such evaluation or other disposition of all proposals received, as the cooperative and REA deem appropriate. Prospective lenders are advised that the guaranteed financing for this project is available from the Federal Financing Bank under a standing agreement with the Rural Electrification Administration.

Copies of REA Bulletin 20-22 are available from the Director, Information Services Division, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250.

Dated at Washington, D.C., this 17th day of August, 1979.

Robert W. Feragen,
Administrator, Rural Electrification
Administration.

[FR Doc. 79-26370 Filed 8-23-79; 8:45 am]
BILLING CODE 3410-15-M

CIVIL AERONAUTICS BOARD

Application for an All-Cargo Air Service Certificate

August 20, 1979.

In accordance with Part 291 (41 CFR Part 291) of the Board's Economic Regulations (effective November 8, 1978), notice is hereby given that the Civil Aeronautics Board has received an application, Docket 35462, from Intercontinental Airways, Inc., P.O. Box 765, Wilmington, Ohio 45177 for an all-cargo air service certificate to provide domestic cargo transportation.

Under the provisions of § 291.12(c) of Part 291, interested persons may file an answer in opposition to this application on or before September 14, 1979. An executed original and six copies of such answer shall be addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. It shall set forth in detail the reasons for the position taken and must relate to the fitness, willingness, or ability of the applicant to provide all-cargo air service or to comply with the Act or the Board's orders and regulations. The answer shall be served upon the applicant and state the date of such service.

Phyllis T. Kaylor,
Secretary.

[FR Doc. 79-26395 Filed 8-23-79; 8:45 am]
BILLING CODE 6320-01-M

Subpart Q Applications

Date filed	Docket No.	Description
August 14, 1979	36373	Western Air Lines, Inc. 6080 Avion Drive, Los Angeles, California 90045. Application of Western Air Lines, Inc. pursuant to section 401 of the Act requests the Board to authorize it to engage in foreign air transportation as follows: Between the terminal point Miami, Florida; the intermediate points Guatemala City, Guatemala; Panama City, Panama; Bogota, Colombia; Caracas, Venezuela; Lima, Peru; Rio de Janeiro and Sao Paulo, Brazil; and Santiago, Chile; and the terminal point Buenos Aires, Argentina.
August 17, 1979	36416	Answers due August 28, 1979. Trans World Airlines, Inc., 605 Third Avenue, New York, New York 10016. Application of Trans World Airlines, Inc. pursuant to Section 401 of the Act requesting the Board to Amend its certificate of public convenience and necessity for Route No. 2 by adding a new segment which would authorize service between the terminal point Kansas City, Missouri, and the terminal point Salt Lake City, Utah. Answers due September 14, 1979.

Phyllis T. Kaylor,
Secretary.

Federal Register

Vol. 44, No. 166

Friday, August 24, 1979

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed under Subpart Q of the Board's Procedural Regulations

Notice is hereby given that, during the week ended August 17, 1979, CAB has received the applications listed below, which request the issuance, amendment, or renewal of certificates of public convenience and necessity or foreign air carrier permits under Subpart Q of 14 CFR Part 302.

Answers to foreign permit applications are due 28 days after the application is filed. Answers to certificate applications requesting restriction removal are due within 14 days of the filing of the application. Answers to conforming application in a restriction removal proceeding are due 28 days after the filing of the original application. Answers to certificate applications (other than restriction removals) are due 28 days after the filing of the application. Answers to conforming applications or those filed in conjunction with a motion to modify scope are due within 42 days after the original application was filed. If you are in doubt as to the type of application which has been filed, contact the applicant, the Bureau of Pricing and Domestic Aviation (in interstate and overseas cases) or the Bureau of International Aviation (in foreign air transportation cases).

[Docket No. 35508]

Fitness Investigation of Pacific Alaska Airlines; Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a hearing in the above-entitled proceeding is assigned to be held on September 19, 1979, at 10:00 a.m. (local time), in Room 1003, Hearing Room B, Universal North Building, 1875 Connecticut Avenue NW, Washington, DC, before the undersigned.

For information concerning the issues involved and other details in this proceeding, interested persons are referred to the prehearing conference report dated July 20, 1979, and other documents which are in the docket of this proceeding on file in the Docket Section of the Civil Aeronautics Board.

Dated at Washington, D.C., August 20, 1979.

Richard M. Hartsock,
Administrative Law Judge.

[FR Doc. 79-26397 Filed 8-23-79; 8:45 am]
BILLING CODE 6320-01-M

[Docket No. 35107]

Hawaii Common Fares Investigation; Reassignment of Proceeding

This proceeding has been reassigned from Chief Administrative Law Judge Nahum Litt to Administrative Law Judge Henry M. Switkay. Future communications should be addressed to Judge Switkay.

Dated at Washington, D.C., August 20, 1979.

Nahum Litt,
Chief Administrative Law Judge.

[FR Doc. 79-26398 Filed 8-23-79; 8:45 am]

BILLING CODE 6320-01-M

COMMISSION ON CIVIL RIGHTS

Mississippi Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Mississippi Advisory Committee (SAC) of the Commission will convene at 3:00 pm and will end at 5:30 pm, on September 12, 1979, at the Holiday Inn Downtown, 200 E. Amite Street, Southern Pine Room 1, Jackson, Mississippi 39201.

Persons wishing to attend this open

meeting should contact the Committee Chairperson, or the Southern Regional Office of the Commission, Citizens Trust Bank Building, Room 362, 75 Piedmont Avenue N.E., Atlanta, Georgia 30308.

The purpose of this meeting is for orientation of rechartered Advisory Committee; update on Laurel study and videotape report (Responsiveness of Commission-form government to needs of total community); implications of Justice Department suit against Philadelphia, Pennsylvania police for brutality in cities such as Jackson; other local concerns; election of officers. This meeting will be conducted pursuant to the provisions of the Rules and regulations of the Commission.

Dated at Washington, D.C., August 20, 1979.

John I. Binkley,
Advisory Committee Management Officer.

[FR Doc. 79-26250 Filed 8-23-79; 8:45 am]
BILLING CODE 6335-01-M

New Jersey Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the New Jersey Advisory Committee (SAC) of the Commission will convene at 6:30 pm and will end at 9:00 pm, on September 13, 1979, at the Ramada Inn, Route 18, Schoolhouse Lane, New Brunswick, New Jersey.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Eastern Regional Office of the Commission, 28 Federal Plaza, Room 1639, New York, New York 10007.

The purpose of this meeting is for program planning for FY-81. This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., August 20, 1979.

John I. Binkley,
Advisory Committee Management Officer.

[FR Doc. 79-26251 Filed 8-23-79; 8:45 am]
BILLING CODE 6335-01-M

Washington Advisory Committee; Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Washington Advisory Committee (SAC)

of the Commission will convene at 9:00 a.m. and will end at 12 noon, on September 14, 1979, at 2854 Federal Building, 915 Second Avenue, Seattle, Washington 98174.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Northwestern Regional Office of the Commission, 915 Second Avenue, Room 2852, Seattle, Washington 98174.

The purpose of this meeting is to discuss Advisory Committee study of the administration of justice.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., August 20, 1979.

John I. Binkley,
Advisory Committee Management Officer.

[FR Doc. 79-26252 Filed 8-23-79; 8:45 am]
BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

Industry and Trade Administration

Hardware Subcommittee of the Computer Systems Technical Advisory Committee; Closed Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, as amended, 5 U.S.C. App. (1976), notice is hereby given that a meeting of the Hardware Subcommittee of the Computer Systems Technical Advisory Committee will be held on Monday, September 10, 1979, at 9:00 a.m. in Room 6802, Main Commerce Building, 14th Street and Constitution Avenue N.W., Washington, D.D.

The Computer Systems Technical Advisory Committee was initially established on January 3, 1973. On December 20, 1974, January 13, 1977, and August 28, 1978, the Assistant Secretary for Administration approved the recharter and extension of the Committee, pursuant to Section 5(c)(1) of the Export Administration Act of 1969, as amended, 50 U.S.C. App. Sec. 2404(c)(1) and the Federal Advisory Committee Act. The Hardware Subcommittee of the Computer Systems Technical Advisory Committee was established on July 6, 1975, with the approval of the Director, Office of Export Administration, pursuant to the charter of the Committee. And, on October 18, 1978, the Assistant Secretary for Industry and Trade approved the continuation of the Subcommittee pursuant to the charter of the Committee.

The Committee advises the Office of Export Administration with respect to

questions involving (A) technical matters, (B) worldwide availability and actual utilization of production technology, (C) licensing procedures which affect the level of export controls applicable to computer systems, including technical data or other information related therein, and (D) exports of the aforementioned commodities and technical data subject to multilateral controls in which the United States participates, including proposed revisions of any such multilateral controls. The Hardware Subcommittee was formed to continue the work of the Performance Characteristics and Performance Measurements Subcommittee, pertaining to (1) maintenance of the processor performance tables and further investigation of total systems performance; and (2) investigation of array processors in terms of establishing the significance of these devices and determining the differences in characteristics of various types of these devices.

The subcommittee will meet only in Executive Session to discuss matters properly classified under Executive Order 11652 or 12065, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

Written statements may be submitted at any time before or after the meeting.

The Assistant Secretary of Commerce for Administration, with the concurrence of the delegate of the General Counsel, formally determined on September 6, 1978, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended by Section 5(c) of the Government In The Sunshine Act, P.L. 94-409, that the matters to be discussed during the meeting should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the meeting will be concerned with matters listed in 5 U.S.C. 552b(c)(1). Such matters are specifically authorized under criteria established by an Executive Order to be kept secret in the interests of national defense or foreign policy. All materials to be reviewed and discussed by the subcommittee during the meeting have been properly classified under Executive Order 11652 or 12065. All subcommittee members have appropriate security clearances.

The computer Notice of Determination to close meetings or portions thereof of the series of meetings of the Computer Systems Technical Advisory Committee and of any subcommittees thereof, was published in the *Federal Register* on September 14, 1978 (43 FR 41073).

For further information, contact Ms. Margaret A. Cornejo, Operations Division, Office of Export Administration, Industry and Trade Administration, Room 1617M, U.S. Department of Commerce, Washington, D.C. 20230, telephone: A/C 202-377-2583.

Dated: August 21, 1979.

Kent Knowles,
Director, Office of Export Administration,
Bureau of Trade Regulation, U.S. Department
of Commerce.

(FR Doc. 79-26481 Filed 8-23-79; 8:45 am)

BILLING CODE 3510-25-M

Licensing Procedures Subcommittee of the Computer Systems Technical Advisory Committee; Open Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, as amended, 5 U.S.C. App. (1976), notice is hereby given that a meeting of the Licensing Procedures Subcommittee of the Computer Systems Technical Advisory Committee will be held on Monday, September 10, 1979, at 1:00 p.m. in Room 6802, Main Commerce Building, 14th Street and Constitution Avenue, N.W., Washington, D.C.

The Computer Systems Technical Advisory Committee was initially established on January 3, 1973. On December 20, 1974, January 13, 1977, and August 28, 1978, the Assistant Secretary for Administration approved the recharter and extension of the Committee, pursuant to Section 5(c)(1) of the Export Administration Act of 1969, as amended, 50 U.S.C. App. Sec. 2404(c)(1) and the Federal Advisory Committee Act. The Licensing Procedures Subcommittee of the Computer Systems Technical Advisory Committee was established on February 4, 1974. On July 8, 1975, the Director, Office of Export Administration, approved the reestablishment of this Subcommittee, pursuant to the charter of the Committee. And, on October 16, 1978, the Assistant Secretary for Industry and Trade approved the continuation of the Subcommittee pursuant to the charter of the Committee.

The Committee advises the Office of Export Administration with respect to questions involving (A) technical matters, (B) worldwide availability and actual utilization of production technology, (C) licensing procedures which may affect the level of export controls applicable to computer systems, including technical data or other information related thereto, and (D) exports of the aforementioned commodities and technical data subject

to multilateral controls in which the United States participates, including proposed revisions of any such multilateral controls. The Licensing Procedures Subcommittee was formed to review the procedural aspects of export licensing and recommend areas where improvements can be made.

The Subcommittee meeting agenda has four parts:

- (1) Opening remarks by the Subcommittee Chairman.
- (2) Presentation of papers or comments by the public.
- (3) Review of Subcommittee recommendations.
- (4) Discussion and preparation of Subcommittee position paper on the qualified general/product distribution license.

The meeting will be open for public observation and a limited number of seats will be available. To the extent time permits members of the public may present oral statements to the Subcommittee. Written statements may be submitted at any time before or after the meeting.

Copies of the minutes of the meeting will be available by calling Mrs. Margaret Cornejo, Policy Planning Division, Office of Export Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone: A/C 202-377-2583.

For further information contact Mrs. Cornejo either in writing or by phone at the address or number shown above.

Dated: August 21, 1979.

Kent Knowles,
Director, Office of Export Administration,
Bureau of Trade Regulation, U.S. Department
of Commerce.

(FR Doc. 79-26482 Filed 8-23-79; 8:45 am)

BILLING CODE 3510-25-M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1979; Proposed Addition

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed Addition to Procurement List.

SUMMARY: The Committee has received a proposal to add to Procurement List 1979 a service to be provided by workshops for the blind and other severely handicapped.

COMMENTS MUST BE RECEIVED ON OR BEFORE: September 26, 1979.

ADDRESS: Committee for Purchase from the Blind and Other Severely

Handicapped, 2009 14th Street North, Suite 610, Arlington, Virginia 22201.

FOR FURTHER INFORMATION CONTACT: C. W. Fletcher, (703) 557-1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2), 85 Stat. 77.

If the Committee approves the proposed addition, all entities of the Federal Government will be required to procure the service listed below from workshops for the blind or other severely handicapped.

It is proposed to add the following service to Procurement List 1979, November 15, 1978 (43 FR 53151):

SIC 7349

Janitorial Service, Federal Building and U.S. Courthouse; Atlanta, Georgia.

C. W. Fletcher,
Executive Director.

(FR Doc. 79-26399 Filed 8-23-79; 8:45 am)

BILLING CODE 5820-33-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Cities Service Co., et al.; Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

August 14, 1979.

The Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

Kansas Corporation Commission

1. Control number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 79-14376/K-79-0046

2. 15-067-20435

3. 103

4. Cities Service Company

5. Askew A No 2

6. Panama

7. Grant, KS

8. 67.4 million cubic feet

9. July 30, 1979

10. Cities Service Gas Company

1. 79-14377/K-79-0047

2. 15-067-20520

3. 103

4. Cities Service Company

5. Baughman Q No 3

6. Panama

7. Grant, KS

8. 114.9 million cubic feet

9. July 30, 1979

10. Cities Service Gas Company

1. 79-14378/K-79-0048

2. 15-067-20450

3. 103

4. Cities Service Company

5. Baughman S No 2

6. Panama

7. Grant, KS

8. 71.9 million cubic feet

9. July 30, 1979

10. Cities Service Gas Company

1. 79-14379/K-79-0049

2. 15-067-20506

3. 103

4. Cities Service Company

5. Baughman T No 2

6. Panama

7. Grant, KS

8. 83.9 million cubic feet

9. July 30, 1979

10. Cities Service Gas Company

1. 79-14380/K-79-0050

2. 15-067-20513

3. 103

4. Cities Service Company

5. Beck C No 2

6. Panama

7. Grant, KS

8. 69.1 million cubic feet

9. July 30, 1979

10. Cities Service Gas Company

1. 79-14381/K-79-0051

2. 15-081-20107

3. 103

4. Cities Service Company

5. Biggs A No 2

6. Panama

7. Haskell, KS

8. 59.5 million cubic feet

9. July 30, 1979

10. Cities Service Gas Company

1. 79-14382/K-79-0052

2. 15-081-20114

3. 103

4. Cities Service Company

5. Cook E No 2

6. Panama

7. Haskell, KS

8. 59.5 million cubic feet

9. July 30, 1979

10. Cities Service Gas Company

1. 79-14383/K-79-0053

2. 15-067-20507

3. 103

4. Cities Service Company

5. Cook F No 2

6. Panama

7. Grant, KS

8. 66.8 million cubic feet

9. July 30, 1979

10. Cities Service Gas Company

1. 79-14384/K-79-0054

2. 15-067-20489

3. 103

4. Cities Service Company

5. Cox B No 2

6. Panama

7. Grant, KS

8. 66.2 million cubic feet

9. July 30, 1979

10. Cities Service Gas Company

1. 79-14385/K-79-0055

2. 15-067-20508
3. 103
4. Cities Service Company
5. Cromer A No 2
6. Panama
7. Grant, KS
8. 80.4 million cubic feet
9. July 30, 1979
10. Cities Service Gas Company
1. 79-14386/K-79-0056
2. 15-067-20522
3. 103
4. Cities Service Company
5. Davatz A No 2
6. Panama
7. Grant, KS
8. 69.0 million cubic feet
9. July 30, 1979
10. Cities Service Gas Company
1. 79-14387/K-79-0057
2. 15-067-20434
3. 103
4. Cities Service Company
5. Dew D No 2
6. Panama
7. Grant, KS
8. 42.0 million cubic feet
9. July 30, 1979
10. Cities Service Gas Company
1. 79-14388/K-79-0058
2. 15-067-20538
3. 103
4. Cities Service Company
5. Eubanks A No 3
6. Hugoton
7. Grant, KS
8. 325.8 million cubic feet
9. July 30, 1979
10. Cities Service Gas Company
1. 79-14389/K-79-0066
2. 15-047-20253
3. 102
4. F C Holl
5. No 1 Newsome
6. Fitzer Gas Field
7. Edwards, KS
8. 40.0 million cubic feet
9. July 30, 1979
10. Kansas-Nebraska Natural Gas Co Inc
1. 79-14390/K-79-0041
2. 15-067-20499
3. 103
4. Cities Service Company
5. Fry Brothers A No 2
6. Panama
7. Grant, KS
8. 100.5 million cubic feet
9. July 30, 1979
10. Cities Service Gas Company
1. 79-14391/K-79-0045
2. 15-067-20467
3. 103
4. Cities Service Company
5. Alexander E No 3
6. Panama
7. Grant, KS
8. 88.8 million cubic feet
9. July 30, 1979
10. Cities Service Gas Company
1. 79-14392/K-79-0042
2. 15-067-20515
3. 103
4. Cities Service Company
5. Goering B No 2
6. Panama
7. Grant, KS
8. 54.7 million cubic feet
9. July 30, 1979
10. Cities Service Gas Company
1. 79-14393/K-79-0043
2. 15-067-20470
3. 103
4. Cities Service Company
5. Gray B No 2
6. Panama
7. Grant, KS
8. 68.1 million cubic feet
9. July 30, 1979
10. Cities Service Gas Company
1. 79-14394/K-79-0044
2. 15-067-20517
3. 103
4. Cities Service Company
5. Gray C No 2
6. Panama
7. Grant, KS
8. 98.6 million cubic feet
9. July 30, 1979
10. Cities Service Gas Company
1. 79-14470/K-79-0059
2. 15-189-20409
3. 103
4. Kaiser Francis Oil Company
5. Kelly B No 2-A
6. Panama Council Grove
7. Stevens, KS
8. 240.0 million cubic feet
9. July 31, 1979
10. Panhandle Eastern Pipeline Co
1. 79-14471/K-79-0061
2. 15-119-00000
3. 108
4. Kansas Gas Purchasing
5. Hockett No 1
6. Hockett
7. Meade, KS
8. 9.0 million cubic feet
9. July 31, 1979
10. Northern Natural Gas Company
1. 79-14472/K-79-0062
2. 15-119-00000
3. 108
4. Kansas Gas Purchasing
5. Gano No 1
6. Hockett
7. Meade, KS
8. 16.3 million cubic feet
9. July 31, 1979
10. Northern Natural Gas Company
1. 79-14473/K-79-0010
2. 15-007-00000
3. 108
4. Braden-Deem Inc
5. Kincaid Estate Unit A
6. Aetna
7. Barber, KS
8. 14.6 million cubic feet
9. July 31, 1979
10. Kansas Power and Light Company
1. 79-14474/K-79-0012
2. 15-129-20101
3. 108
4. Charles B Wilson Jr Ltd
5. Karl E. Niles No 1-14
6. Greenwood Gas Field
7. Morton County, KS
8. 12.0 million cubic feet
9. July 31, 1979
10. Colorado Interstate Gas Co
1. 79-14475/K-79-0013

2. 15-007-00000
3. 108
4. Braden-Deem Inc
5. Wheat B-2
6. Aetna
7. Barber, KS
8. 18.0 million cubic feet
9. July 31, 1979
10. Kansas Power and Light Company
1. 79-14476/K-79-0014
2. 15-007-00000
3. 108
4. Braden-Deem Inc
5. Wheat B-1
6. Aetna
7. Barber, KS
8. 15.8 million cubic feet
9. July 31, 1979
10. Kansas Power & Light Company
1. 79-14477/K-79-0015
2. 15-007-00000
3. 108
4. Braden-Deem Inc
5. Wheat #3
6. Aetna
7. Barber, KS
8. 14.4 million cubic feet
9. July 31, 1979
10. Kansas Power & Light Company
1. 79-14478/K-79-0020
2. 15-187-20234
3. 103
4. Kansas Petroleum Inc
5. Carrithers #1
6. Panama Council Grove
7. Stanton, KS
8. 14.0 million cubic feet
9. July 31, 1979
10. Colorado Interstate Gas Co

New Mexico Department of Energy and Minerals, Oil Conservation Division

1. Control Number (FERC/State)
2. API Well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or Block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)
1. 79-14479
2. 30-025-00000
3. 103
4. Texas Oil & Gas Corp
5. Osudo State #1
6. N Osudo (Morrow)
7. Lea, NM
8. 1825.0 million cubic feet
9. July 31, 1979
10. Bixco Inc
1. 79-14480
2. 30-025-00000
3. 103 Denied
4. Tipperary Oil and Gas Corp
5. Kelsay #1
6. No Bagley Pennsylvanian
7. Lea, NM
8. 15.0 million cubic feet
9. July 31, 1979
10. Warren Petroleum Corp
1. 79-14481
2. 30-005-00000
3. 103

4. Stevens Oil Company
5. CITGO A State No 8
6. Twin Lakes San Andres
7. Chaves, NM
8. 12.0 million cubic feet
9. July 31, 1979
10. Transwestern Pipeline Co
1. 79-14482
2. 30-005-00000
3. 103
4. El Ran Inc
5. Roberts #1 Prod Unit #17163
6. Chaveroo (San Andres)
7. Chaves, NM
8. 18.0 million cubic feet
9. July 31, 1979
10. Transwestern Pipeline Company
1. 79-14483
2. 30-005-00000
3. 103
4. El Ran Inc
5. Roberts #2 Prod Unit #17163
6. Chaveroo (San Andres)
7. Chaves, NM
8. 15.0 million cubic feet
9. July 31, 1979
10. Transwestern Pipeline Company
1. 79-14484
2. 30-025-25654
3. 103
4. Tenneco Oil Company
5. Kennnitz Deep #1
6. Kennnitz Atoka-Morrow (undesignated)
7. Lea, NM
8. 639.0 million cubic feet
9. July 31, 1979
10. Northern Natural Gas Company
1. 79-14485
2. 30-015-22692
3. 103
4. Southland Royalty Company
5. State 16 Comm #1
6. Turkey-Track Morrow
7. Eddy, NM
8. 300.0 million cubic feet
9. July 31, 1979
10. El Paso Natural Gas Co
1. 79-14486
2. 30-005-00000
3. 103
4. Stevens Oil Company
5. CITGO State #5
6. Twin Lakes San Andres
7. Chaves, NM
8. 2.5 million cubic feet
9. July 31, 1979
10. Transwestern Pipeline Co

Texas Railroad Commission, Oil and Gas Division

1. Control Number (FERC/State)
2. API Well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or Block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)
1. 79-14762/01453
2. 42-501-31448
3. 103
4. Shell Oil Company et al
5. Denver Unit 4226
6. Wasson
7. Yoakum, TX
8. 73.0 million cubic feet
9. August 1, 1979
10. Shell Oil Company, Coltexo Corp
1. 79-14649/03676
2. 42-409-31238
3. 102
4. Edwin L Cox
5. Cox-H Schmidt #1
6. Midway South
7. San Patricio, TX
8. 500.0 million cubic feet
9. July 31, 1979
10. Florida Gas Transmission Company
1. 79-14650/03673
2. 42-211-30657
3. 103
4. Gulf Oil Corporation
5. Forgey #4-79
6. Alpar Tonkawa
7. Hemphill, TX
8. 67.0 million cubic feet
9. July 31, 1979
10. Cities Service Gas Co
1. 79-14651/03672
2. 42-195-30316
3. 103
4. Gulf Oil Corporation
5. J I Steele #2-53
6. Bernstein
7. Hansford, TX
8. 216.0 million cubic feet
9. July 31, 1979
10. Transwestern Pipeline Co
1. 79-14652/03670
2. 42-211-00000
3. 103
4. Gulf Oil Corporation
5. J Campbell #2-56
6. Red Deer Creek
7. Hemphill, TX
8. 708.0 million cubic feet
9. July 31, 1979
10. Transwestern Pipeline Co
1. 79-14653/03636
2. 42-445-30336
3. 103
4. Amoco Production Company
5. Christine Devitt No 8
6. Kingdom (Abo Reef)
7. Terry, TX
8. 8.4 million cubic feet
9. July 31, 1979
10. El Paso Natural Gas Co
1. 79-14654/03611
2. 42-295-30587
3. 103
4. Universal Resources Corporation
5. Goodson #1-282 04370
6. Lipscomb SW (Cleveland-Oil)
7. Lipscomb, TX
8. 18.0 million cubic feet
9. July 31, 1979
10. Phillips Petroleum Company
1. 79-14655/03610
2. 42-295-30574
3. 103
4. Universal Resources Corporation
5. Tubb #1-247 04374
6. Lipscomb SW (Cleveland-Oil)
7. Lipscomb, TX
8. 150.0 million cubic feet
9. July 31, 1979
10. Phillips Petroleum Company

1. 79-14656/03606
2. 42-103-31784
3. 103
4. Warren Pet Co Div/Gulf Oil Corp
5. JB Tubb B Tr A #50
6. Sand Hills (Tubb)
7. Crane, TX
8. 7.0 million cubic feet
9. July 31, 1979
10. El Paso Natural Gas Co
1. 79-14657/03602
2. 42-103-31768
3. 103
4. Warren Pet Co Div/Gulf Oil Corp
5. JB Tubb A No 35
6. Sand Hills (Tubb)
7. Crane, TX
8. 7.0 million cubic feet
9. July 31, 1979
10. El Paso Natural Gas Co
1. 79-14658/03592
2. 42-103-31783
3. 103
4. Warren Pet Co Div/Gulf Oil Corp
5. JB Tubb B TR A No 51
6. Sand Hills (Tubb)
7. Crane, TX
8. 6.0 million cubic feet
9. July 31, 1979
10. El Paso Natural Gas Co
1. 79-14659/03590
2. 42-211-30916
3. 103
4. Gulf Oil Corporation
5. W Campbell No 3-56
6. Red Deer Creek
7. Hemphill, TX
8. 10.0 million cubic feet
9. July 31, 1979
10. Transwestern Pipeline Co
1. 79-14660/03580
2. 42-365-30717
3. 103
4. Tenneco Oil Company
5. Floyd Gas Unit No 3
6. Bethany
7. Panola, TX
8. 100.0 million cubic feet
9. July 31, 1979
10. United Gas Pipeline Company
1. 79-14661/03579
2. 42-483-30507
3. 103
4. Amarillo Oil Company
5. Brown No 1-6 (Morrow) 78044
6. Buffalo Wallow (Morrow)
7. Wheeler, TX
8. 747.0 million cubic feet
9. July 31, 1979
10. Pioneer Natural Gas Company
1. 79-14662/03573
2. 42-103-31961
3. 103
4. Exxon Corporation
5. JB Tubb A/C-1 Well No 174L
6. Sand Hills (Tubb)
7. Crane, TX
8. 3.0 million cubic feet
9. July 31, 1979
10. El Paso Natural Gas Company
1. 79-14663/03572
2. 42-219-32613
3. 103
4. Exxon Corporation
5. W A Coons Well No 45

6. Kingdom (ABO Reef)
7. Hockley, TX
8. 5 million cubic feet
9. July 31, 1979
10. Amoco Production Company
1. 79-14664/03570
2. 42-103-31961
3. 103
4. Exxon Corporation
5. J B Tubb A/C-1 Well No 174U
6. Sand Hills (Judkins)
7. Crane, TX
8. 3.0 million cubic feet
9. July 31, 1979
10. El Paso Natural Gas Company
1. 79-14665/03554
2. 42-103-31462
3. 103
4. Warren Pet Co Div/Gulf Oil Corp
5. J B Tubb B No 47
6. Sand Hills (Tubb)
7. Crane, TX
8. 6.0 million cubic feet
9. July 31, 1979
10. El Paso Natural Gas Company
1. 79-14666/03552
2. 42-103-31785
3. 103
4. Warren Pet Co Div/Gulf Oil Corp
5. J B Tubb B TR A No 49
6. Sand Hills (Tubb)
7. Crane, TX
8. 16.0 million cubic feet
9. July 31, 1979
10. El Paso Natural Gas Company
1. 79-14667/03551
2. 42-103-31950
3. 103
4. Warren Pet Co Div/Gulf Oil Corp
5. P J Lea et al No 74
6. Lea (San Andres)
7. Crane, TX
8. 5.0 million cubic feet
9. July 31, 1979
10. El Paso Natural Gas Company
1. 79-14668/03549
2. 42-103-31813
3. 103
4. Warren Pet Co Div/Gulf Oil Corp
5. W N Waddell et al No 1100
6. Sand Hills (Tubb)
7. Crane, TX
8. 8.0 million cubic feet
9. July 31, 1979
10. El Paso Natural Gas Company
1. 79-14669/03547
2. 42-445-30338
3. 103
4. Gulf Oil Corporation
5. Mallet Land & Cattle Co No 70
6. Kingdom (ABO Reef)
7. Terry, TX
8. 7.2 million cubic feet
9. July 31, 1979
10. Amoco Production Company
1. 79-14670/02092
2. 42-371-32547
3. 103
4. Robert L Glossop
5. Cities Service et al No 21D No 77169
6. Putnam (Wichita Albany)
7. Pecos, TX
8. 274.0 million cubic feet
9. July 31, 1979
10. Transwestern Pipeline Co
1. 79-14671/02091
2. 42-371-32680
3. 103
4. Robert L Glossop
5. No 3 C Cities Service et al ID No 79903
6. Putnam (Wichita Albany)
7. Pecos, TX
8. 210.0 million cubic feet
9. July 31, 1979
10. Transwestern Pipeline Co
1. 79-14672/02015
2. 42-103-31777
3. 103
4. Warren Pet Co Div/Gulf Oil Corp
5. J B Tubb A No 34
6. Sand Hills (Tubb)
7. Crane, TX
8. 32.0 million cubic feet
9. July 31, 1979
10. El Paso Natural Gas Company
1. 79-14673/02090
2. 42-371-32860
3. 103
4. Robert L Glossop
5. No 3 T Cities Service et al ID No 79902
6. Putnam (Wolfcamp)
7. Pecos, TX
8. 328.0 million cubic feet
9. July 31, 1979
10. Transwestern Pipeline Co
1. 79-14674/00259
2. 42-211-03143
3. 103
4. McCulloch Oil Corp of Texas
5. Mathers Ranch No 38
6. Humphreys-Douglas
7. Hemphill, TX
8. 430.0 million cubic feet
9. July 31, 1979
10. Arkansas Louisiana Gas Company
1. 79-14675/00282
2. 42-211-30998
3. 103
4. McCulloch Oil Corp of Texas
5. Mathers Ranch No 34
6. Humphreys-Douglas
7. Hemphill, TX
8. 430.0 million cubic feet
9. July 31, 1979
10. Arkansas Louisiana Gas Company
1. 79-14676/00260
2. 42-211-31038
3. 103
4. McCulloch Oil Corp of Texas
5. Mathers Ranch No 36
6. Humphreys-Douglas
7. Hemphill, TX
8. 430.0 million cubic feet
9. July 31, 1979
10. Arkansas Louisiana Gas Company
1. 79-14677/01921
2. 42-481-31642
3. 103
4. Vanderbilt Resources Corporation
5. Miller No 1
6. New Taiton (Frio 4600)
7. Wharton, TX
8. 87.0 million cubic feet
9. July 31, 1979
10. Tennessee Gas Pipeline Company
1. 79-14678/01866
2. 42-481-31580
3. 103
4. Jon Nelson
5. Forgason No 1

6. South West Bernard
7. Wharton, TX
8. 55.0 million cubic feet
9. July 31, 1979
10. Tennessee Gas Pipeline
1. 79-14679/03750
2. 42-475-31005
3. 107
4. Forrest Oil Corporation
5. Golden Unit No 1 RRC No 76685
6. Vermejo (Fusselman)
7. Ward, TX
8. 485.0 million cubic feet
9. July 31, 1979
10. El Paso Natural Gas Company
1. 79-14680/03779
2. 42-105-31851
3. 103
4. Hytech Energy Corporation
5. Shannon Est No 1 RRC 76165
6. Noelke NE (Queen)
7. Crockett, TX
8. 47.5 million cubic feet
9. July 31, 1979
10. El Paso Natural Gas Company
1. 79-14681/03839
2. 42-165-30686
3. 103
4. Hytech Energy Corporation
5. Sherman No 1
6. G-M-K South (San Andres)
7. Gaines, TX
8. 2.9 million cubic feet
9. July 31, 1979
10. Phillips Petroleum Company
1. 79-14682/03840
2. 42-165-31356
3. 103
4. Hytech Energy Corporation
5. Sherman No 2
6. G-M-K South (San Andres)
7. Gaines, TX
8. 1.0 million cubic feet
9. July 31, 1979
10. Phillips Petroleum Company
1. 79-14683/03924
2. 42-185-30066
3. 102
4. Cashco Energy Corporation
5. D M Wright No 1
6. Iola (Glen Rose B)
7. Grimes, TX
8. 365.0 million cubic feet
9. July 31, 1979
10. Phillips Petroleum Company
1. 79-14684/03925
2. 42-185-30194
3. 102
4. Cashco Energy Corporation
5. F I Johnson No 6-R
6. Hill (Georgetown)
7. Grimes, TX
8. 160.0 million cubic feet
9. July 31, 1979
10. Armour Pipe Line Company
1. 79-14685/03984
2. 42-211-30984
3. 102
4. Earl T Smith & Associates Inc
5. Dodd No 1
6. Briscoe (Morrow)
7. Hemphill, TX
8. 2000.0 million cubic feet
9. July 31, 1979
10. El Paso Natural Gas Company

1. 79-14686/04392
2. 42-391-31161
3. 103
4. Continental Oil Co
5. J F Welder Heirs R No 6 73204
6. West Vidauri (4800)
7. Refugio, TX
8. 12.0 million cubic feet
9. July 31, 1979
10. Houston Pipeline Company
1. 79-14687/04748
2. 42-211-30710
3. 103
4. Kerr-McGee Corporation
5. Mary Jones #4
6. Hemphill (Granite Wash)
7. Hemphill, TX
8. 604.0 million cubic feet
9. July 31, 1979
10. Pioneer Natural Gas Company, Kansas-Nebraska Pipeline, Panhandle Eastern Pipeline Co
1. 79-14688/04753
2. 42-103-31895
3. 103
4. Warren Pet Co Div/Gulf Oil Corp
5. W N Waddell et al #1101
6. Sand Hills (Judkins)
7. Crane, TX
8. 11.0 million cubic feet
9. July 31, 1979
10. H-T Gathering Co
1. 79-14689/04873
2. 42-357-30860
3. 103
4. Natural Gas Anadarko Inc
5. Dudley #1-661
6. Dude Wilson
7. Ochiltree, TX
8. 200.0 million cubic feet
9. July 31, 1979
10. Transwestern Pipeline Company
1. 79-14690/00098
2. 42-355-30832
3. 102
4. Pennzoil Producing Co
5. Clara Driscoll No A-12(U)
6. Agua Dulce
7. Nueces, TX
8. 275.0 million cubic feet
9. August 1, 1979
10. United Gas Pipeline Co
1. 79-14691/00347
2. 42-203-30495
3. 103
4. Texas Oil & Gas Corp
5. Marney #1 (10016)
6. Scottsville E (Travis Peak)
7. Harrison, TX
8. 55.0 million cubic feet
9. August 1, 1979
10. Texas Eastern Transmission Corp
1. 79-14692/00348
2. 42-203-30506
3. 103
4. Texas Oil & Gas Corp
5. Vaughn A #1 (78748)
6. Waskom (Pettit Lower)
7. Harrison, TX
8. 310.0 million cubic feet
9. August 1, 1979
10. Texas Eastern Transmission Corp
1. 79-14593/00393
2. 42-295-30567
3. 102

4. Lear Petroleum Corporation
5. Wetmore No 1
6. Lear (Morrow Upper)
7. Lipscomb, TX
8. 365.0 million cubic feet
9. July 31, 1979
10. Northern Natural Gas Company, Rael Gas Company
1. 79-14694/00392
2. 42-295-30580
3. 102
4. Lear Petroleum Corporation
5. Bowdle No 1
6. Lear (Morrow Upper)
7. Lipscomb, TX
8. 1095.0 million cubic feet
9. July 31, 1979
10. Northern Natural Gas Company, Rael Gas Company
1. 79-14695/00471
2. 42-203-00000
3. 108
4. The Maurice L Brown Company
5. Furrh-Lewis Gas Unit #2
6. Bethany
7. Harrison County, TX
8. 4.0 million cubic feet
9. August 1, 1979
10. United Gas Pipeline Company
1. 79-14696/00472
2. 42-203-00000
3. 108
4. The Maurice L Brown Company
5. Ruby Russell Gas Unit #1
6. Bethany
7. Harrison County, TX
8. 5.0 million cubic feet
9. August 1, 1979
10. United Gas Pipeline Company
1. 79-14697/00473
2. 42-365-00000
3. 108
4. The Maurice L Brown Company
5. Bagley Gas Unit #1
6. Bethany
7. Panola County, TX
8. 15.0 million cubic feet
9. August 1, 1979
10. United Gas Pipeline Company
1. 79-14698/00474
2. 42-203-00000
3. 108
4. The Maurice L Brown Company
5. Newton-Whiteside Gas Unit #1
6. Bethany-Pettit
7. Harrison County, TX
8. 14.0 million cubic feet
9. August 1, 1979
10. United Gas Pipeline Company
1. 79-14699/00477
2. 42-203-00000
3. 108
4. The Maurice L Brown Company
5. Timmins Gas Unit B #1
6. Bethany
7. Harrison, TX
8. 8.0 million cubic feet
9. August 1, 1979
10. Tennessee Gas Pipeline Company
1. 79-14700/00555
2. 42-103-00000
3. 103
4. W M & A P Fuller
5. Ewell McKnight No 11
6. Armer (Clearfork)

7. Crane, TX
8. 55.0 million cubic feet
9. July 31, 1979
10. Warren Petroleum Corporation
1. 79-14701/00557
2. 42-103-00000
3. 103
4. W M & A P Fuller
5. Ewell McKnight No 15
6. Armer (Glorieta)
7. Crane, TX
8. 25.0 million cubic feet
9. July 31, 1979
10. Warren Petroleum Corporation
1. 79-14702/00565
2. 42-419-30286
3. 102
4. WHB Exploration Inc
5. Davis-Jones 79634
6. Joaquin Southeast (Travis Peak)
7. Shelby, TX
8. 547.5 million cubic feet
9. August 1, 1979
10. Texas Eastern Transmission Corp
1. 79-14703/00567
2. 42-507-00000
3. 102
4. Mole Operating Company Inc
5. Mole Pryor Box 1-T
6. Wildcat
7. Zavala, TX
8. 182.5 million cubic feet
9. August 1, 1979
10. Lovaca Gathering Co
1. 79-14704/00569
2. 42-383-00000
3. 103
4. Frank Cass
5. Hughes 5 RRC No 07337
6. Spraberry (Trend area)
7. Reagan, TX
8. 46.4 million cubic feet
9. July 31, 1979
10. El Paso Natural Gas Co
1. 79-14705/00570
2. 42-383-00000
3. 103
4. Frank Cass
5. Hughes 22-B RRC No 07334
6. Spraberry (Trend area)
7. Reagan, TX
8. 44.7 million cubic feet
9. July 31, 1979
10. El Paso Natural Gas Co
1. 79-14706/00577
2. 42-413-00000
3. 102
4. Arapaho Petroleum Incorporated
5. Otis Deal #1
6. Buck Horn (Wilberns) Field
7. Schleicher, TX
8. 218.5 million cubic feet
9. August 1, 1979
10. El Paso Natural Gas Company
1. 79-14707/00620
2. 42-393-00000
3. 108
4. D & C Gas Properties Inc
5. Shamrock Adelia C Clark 34237
6. Quinduno (Albany Dolomite Lower)
7. Roberts, TX
8. 11.5 million cubic feet
9. July 31, 1979
10. Natural Gas Pipeline Company of America

1. 79-14708/00621
2. 42-355-30840
3. 102
4. McMoran Exploration Company
5. State Tract 352 Well No 1
6. Red Fish Bay (9500)
7. Nueces, TX
8. 35.0 million cubic feet
9. August 1, 1979
10. United Gas Pipeline Co
1. 79-14709/00634
2. 42-203-00000
3. 108
4. The Maurice L Brown Company
5. Lawless Gas Unit A #1
6. Bethany
7. Harrison, TX
8. 12.0 million cubic feet
9. August 1, 1979
10. Tennessee Gas Pipeline Company
1. 79-14710/00663
2. 42-203-00000
3. 103
4. Hurley Petroleum Corporation
5. Jos Rogers #17
6. Waskom (Cotton Valley)
7. Harrison, TX
8. 380.0 million cubic feet
9. July 31, 1979
10. Miss River Transmission Corp
1. 79-14711/00667
2. 42-249-03300
3. 108
4. Joseph G Gibson
5. H C De Tijerina #48-T
6. T-C-B
7. Jim Wells, TX
8. 9.1 million cubic feet
9. August 1, 1979
10. Natural Gas Pipeline Co of America
1. 79-14712/00668
2. 42-365-00790
3. 108
4. Joseph G Gibson
5. T C Adams #18
6. Bethany
7. Panola, TX
8. 4.7 million cubic feet
9. August 1, 1979
10. United Gas Pipeline
1. 79-14713/0721
2. 42-175-00000
3. 108
4. M D Abel
5. Ramsey B-1 ID=69110
6. A-B-R (Miocene 1600)
7. Goliad, TX
8. 2.0 million cubic feet
9. July 31, 1979
10. United Gas Pipeline Company
1. 79-14714/00732
2. 42-003-00000
3. 108
4. Joseph I O'Neill Jr
5. University C #1 73148
6. Block 12 (Yates)
7. Andrews, TX
8. 6.0 million cubic feet
9. July 31, 1979
10. Northern Natural Gas Company
1. 79-14715/00743
2. 42-383-00000
3. 103
4. Michel T Halbouty
5. Rocker B Lse #2 07457
6. Sprayberry (Trend Area)
7. Reagan TX
8. 13.0 million cubic feet
9. July 31, 1979
10. El Paso Natural Gas Co
1. 79-14716/00744
2. 42-383-00000
3. 103
4. Michel T Halbouty
5. Rocker B Lse #3 07457
6. Sprayberry (Trend Area)
7. Reagan TX
8. 13.0 million cubic feet
9. July 31, 1979
10. El Paso Natural Gas Co
1. 79-14717/00745
2. 42-383-00000
3. 103
4. Michel T Halbouty
5. Rocker B Lse #9 07457
6. Sprayberry (Trend Area)
7. Reagan TX
8. 15.0 million cubic feet
9. July 31, 1979
10. El Paso Natural Gas Co
1. 79-14718/00746
2. 42-383-00000
3. 103
4. Michel T Halbouty
5. Rocker B Lse #5 07457
6. Sprayberry (Trend Area)
7. Reagan TX
8. 13.0 million cubic feet
9. July 31, 1979
10. El Paso Natural Gas Co
1. 79-14719/00797
2. 42-391-31292
3. 103
4. Belco Petroleum Corporation
5. Tatton B Well No 2
6. Twin Creek (Mang Upper)
7. Refugio TX
8. 127.8 million cubic feet
9. July 31, 1979
10. Texas Eastern Transmission Corp
1. 79-14720/00810
2. 42-461-00000
3. 103
4. Energy Reserves Group Inc
5. R P Amacker #2 (02963)
6. Amacker Tippet (Wolfcamp)
7. Upton TX
8. 39.0 million cubic feet
9. July 31, 1979
10. El Paso Natural Gas Co
1. 79-14721/00883
2. 42-393-30262
3. 103
4. Amarillo Oil Company
5. Fields-Mahler Unit #2-98
6. Mendota NW (Granite Wash SW)
7. Roberts TX
8. 240.0 million cubic feet
9. July 31, 1979
10. Pioneer Natural Gas Company
1. 79-14722/00884
2. 42-393-00000
3. 103
4. Amarillo Oil Company
5. Fields-Mahler Unit #3-98
6. Mendota NW (Granite Wash SW)
7. Roberts TX
8. 240.0 million cubic feet
9. July 31, 1979
10. Pioneer Natural Gas Company
1. 79-14723/00968
2. 42-383-31297
3. 103
4. Frank Cass
5. Hughes 14 No 1 RRC No 07688
6. Spraberry (Trend Area)
7. Reagan TX
8. 32.8 million cubic feet
9. July 31, 1979
10. El Paso Natural Gas Company
1. 79-14724/00970
2. 42-371-00000
3. 108
4. UV Industries Inc
5. Santa Rosa No 1
6. Santa Rosa
7. Pecos TX
8. 11.9 million cubic feet
9. July 31, 1979
10. El Paso Natural Gas Company
1. 79-14725/00971
2. 42-483-30464
3. 107
4. An-Son Texas Corporation
5. Mills #1-40
6. Mills Ranch (Upper Hunton) Field
7. Wheeler, TX
8. 73.0 million cubic feet
9. August 1, 1979
10. Northern Natural Gas Co
1. 79-14726/00984
2. 42-105-00000
3. 108
4. Bill J Graham
5. University 1 Well #2
6. Howard Draw (Grayburg San Andres)
7. Crockett, TX
8. 14.0 million cubic feet
9. July 31, 1979
10. The Permian Corporation
1. 79-14727/00986
2. 42-329-30778
3. 103
4. Halvey Energy Co
5. Braun B No 1
6. Spraberry Trend Area (CLFK)
7. Midland, TX
8. 22.0 million cubic feet
9. July 31, 1979
10. El Paso Natural Gas Co
1. 79-14728/00987
2. 42-329-30800
3. 103
4. Halvey Energy Co
5. Braun C No 1
6. Spraberry Trend Area (CLFK)
7. Midland, TX
8. 20.0 million cubic feet
9. July 31, 1979
10. El Paso Natural Gas Co
1. 79-14729/00989
2. 42-233-00000
3. 103
4. Fitkin Oil Company
5. Tevebaugh #1-115
6. Shirley Cleveland
7. Hutchinson, TX
8. 203.0 million cubic feet
9. July 31, 1979
10. Northern Natural Gas Company
1. 79-14730/01030
2. 42-165-31490
3. 103
4. Exxon Corporation
5. Robertson (CLFK) Unit Well #5702

6. Robertson N (Clearfork 7100)
7. Gaines, TX
8. 20.0 million cubic feet
9. August 1, 1979
10. Phillips Petroleum Co
1. 79-14731/01170
2. 42-465-30296
3. 103
4. Hunt Energy Corporation et al
5. S M Brown No 1 77182
6. Vinegarone (Strawn 10000)
7. Val Verde, TX
8. 208.0 million cubic feet
9. August 1, 1979
10. Northern Natural Gas Company
1. 79-14732/01173
2. 42-211-30988
3. 103
4. Anadarko Production Co
5. Etheredge A 1-46
6. Hemphill GW
7. Hemphill, TX
8. 360.0 million cubic feet
9. July 31, 1979
10. Panhandle Eastern Pipeline Co
1. 79-14733/01174
2. 42-211-30959
3. 103
4. Anadarko Production Co
5. George A 3-45
6. Hemphill GW
7. Hemphill, TX
8. 420.0 million cubic feet
9. July 31, 1979
10. Panhandle Eastern Pipeline Co
1. 79-14734/01175
2. 42-211-31017
3. 103
4. Anadarko Production Co
5. George A 4-45
6. Hemphill GW
7. Hemphill, TX
8. 250.0 million cubic feet
9. July 31, 1979
10. Panhandle Eastern Pipeline Co
1. 79-14735/01176
2. 42-211-30729
3. 103
4. Anadarko Production Co
5. Flowers B 4-47
6. Hemphill GW
7. Hemphill, TX
8. 288.0 million cubic feet
9. July 31, 1979
10. Panhandle Eastern Pipeline Co
1. 79-14736/01177
2. 42-211-30728
3. 103
4. Anadarko Production Co
5. Yeager A 1-48
6. Hemphill GW
7. Hemphill, TX
8. 264.0 million cubic feet
9. July 31, 1979
10. Panhandle Eastern Pipeline Co
1. 79-14737/01178
2. 42-211-30914
3. 103
4. Anadarko Production Co
5. George B 2-28 L
6. Hemphill GW
7. Hemphill, TX
8. 360.0 million cubic feet
9. July 31, 1979
10. Panhandle Eastern Pipeline Co
1. 79-14738/01263
2. 42-393-30648
3. 103
4. Amarillo Oil Company
5. Flowers D #2-7 (80301)
6. Mendota NW (Granite Wash SW)
7. Roberts, TX
8. 215.0 million cubic feet
9. August 1, 1979
10. Pioneer Natural Gas Company
1. 79-14739/01370
2. 42-285-00000
3. 103
4. Barth Energy Corporation
5. Klumtcheck Estate No 1
6. Lavaca River Field
7. Lavaca, TX
8. 90.0 million cubic feet
9. August 1, 1979
10. Texas Eastern Transmission Corp
1. 79-14740/01371
2. 42-285-31306
3. 103
4. Barth Energy Corp
5. Oscar Gordon #1
6. Lavaca River Field
7. Lavaca, TX
8. 90.0 million cubic feet
9. August 1, 1979
10. Texas Eastern Transmission Corp
1. 79-14741/01376
2. 42-357-30418
3. 103
4. Earl T Smith & Associates Inc
5. Tarbox #1
6. Perryton (Morrow Lower)
7. Ochiltree, TX
8. 180.0 million cubic feet
9. August 1, 1979
10. Northern Natural Gas Company
1. 79-14742/01387
2. 42-501-31444
3. 103
4. Shell Oil Company et al
5. Denver Unit 4118
6. Wasson
7. Yoakum, TX
8. 35.0 million cubic feet
9. August 1, 1979
10. Shell Oil Company, Coltexo Corp
1. 79-14743/01388
2. 42-501-31457
3. 103
4. Shell Oil Company et al
5. Denver Unit 4117
6. Wasson
7. Yoakum, TX
8. 40.9 million cubic feet
9. August 1, 1979
10. Shell Oil Company, Coltexo Corp
1. 79-14744/01390
2. 42-501-31453
3. 103
4. Shell Oil Company et al
5. Denver Unit 3736
6. Wasson
7. Yoakum, TX
8. 44.5 million cubic feet
9. August 1, 1979
10. Shell Oil Company, Coltexo Corp
1. 79-14745/01394
2. 42-501-31482
3. 103
4. Shell Oil Company et al
5. Denver Unit 3632
6. Wasson
7. Yoakum, TX
8. 118.3 million cubic feet
9. August 1, 1979
10. Shell Oil Company, Coltexo Corp
1. 79-14746/01397
2. 42-501-31433
3. 103
4. Shell Oil Company et al
5. Denver Unit 3532
6. Wasson
7. Yoakum, TX
8. 88.3 million cubic feet
9. August 1, 1979
10. Shell Oil Company, Coltexo Corp
1. 79-14747/01402
2. 42-501-31305
3. 103
4. Shell Oil Company et al
5. Denver Unit 2833
6. Wasson
7. Yoakum, TX
8. 2.9 million cubic feet
9. August 1, 1979
10. Shell Oil Company, Coltexo Corp
1. 79-14748/01403
2. 42-501-31306
3. 103
4. Shell Oil Company et al
5. Denver Unit 2832
6. Wasson
7. Yoakum, TX
8. 8.4 million cubic feet
9. August 1, 1979
10. Shell Oil Company, Coltexo Corp
1. 79-14749/01406
2. 42-501-31449
3. 103
4. Shell Oil Company et al
5. Denver Unit 2731
6. Wasson
7. Yoakum, TX
8. 328.5 million cubic feet
9. August 1, 1979
10. Shell Oil Company, Coltexo Corp
1. 79-14750/01407
2. 42-501-31308
3. 103
4. Shell Oil Company et al
5. Denver Unit 2729
6. Wasson
7. Yoakum, TX
8. 10.6 million cubic feet
9. August 1, 1979
10. Shell Oil Company, Coltexo Corp
1. 79-14751/01408
2. 42-501-31455
3. 103
4. Shell Oil Company et al
5. Denver Unit 2728
6. Wasson
7. Yoakum, TX
8. 20.4 million cubic feet
9. August 1, 1979
10. Shell Oil Company, Coltexo Corp
1. 79-14752/01411
2. 42-501-31454
3. 103
4. Shell Oil Company et al
5. Denver Unit 2632
6. Wasson
7. Yoakum, TX
8. 73.7 million cubic feet
9. August 1, 1979
10. Shell Oil Company, Coltexo Corp

1. 79-14753/01412
2. 42-501-31485
3. 103
4. Shell Oil Company et al
5. Denver Unit 2631
6. Wasson
7. Yoakum, TX
8. .7 million cubic feet
9. August 1, 1979
10. Shell Oil Company, Coltexo Corp
1. 79-14754/01414
2. 42-501-31309
3. 103
4. Shell Oil Company et al
5. Denver Unit 1717
6. Wasson
7. Yoakum, TX
8. 36.0 million cubic feet
9. August 1, 1979
10. Shell Oil Company, Coltexo Corp
1. 79-14755/01415
2. 42-501-31456
3. 103
4. Shell Oil Company et al
5. Denver Unit 1716
6. Wasson
7. Yoakum, TX
8. 4.7 million cubic feet
9. August 1, 1979
10. Shell Oil Company, Coltexo Corp
1. 79-14756/01444
2. 42-501-31441
3. 103
4. Shell Oil Company et al
5. Denver Unit 5413
6. Wasson
7. Yoakum, TX
8. .0 million cubic feet
9. August 1, 1979
10. Shell Oil Company, Coltexo Corp
1. 79-14757/01446
2. 42-501-31450
3. 103
4. Shell Oil Company et al
5. Denver Unit 5513
6. Wasson
7. Yoakum, TX
8. 8.8 million cubic feet
9. August 1, 1979
10. Shell Oil Company, Coltexo Corp
1. 79-14758/01448
2. 42-501-31442
3. 103
4. Shell Oil Company et al
5. Denver Unit 5411
6. Wasson
7. Yoakum, TX
8. 74.5 million cubic feet
9. August 1, 1979
10. Shell Oil Company, Coltexo Corp
1. 79-14759/01449
2. 42-501-31440
3. 103
4. Shell Oil Company et al
5. Denver Unit 5412
6. Wasson
7. Yoakum, TX
8. 196.0 million cubic feet
9. August 1, 1979
10. Shell Oil Company, Coltexo Corp
1. 79-14760/01451
2. 42-501-31446
3. 103
4. Shell Oil Company et al
5. Denver Unit 4224

6. Wasson
7. Yoakum, TX
8. 70.1 million cubic feet
9. August 1, 1979
10. Shell Oil Company, Coltexo Corp
1. 79-14761/01452
2. 42-501-31447
3. 103
4. Shell Oil Company et al
5. Denver Unit 4225
6. Wasson
7. Yoakum, TX
8. 96.4 million cubic feet
9. August 1, 1979
10. Shell Oil Company, Coltexo Corp
1. 79-14763/01454
2. 42-501-31451
3. 103
4. Shell Oil Company et al
5. Denver Unit 4227
6. Wasson
7. Yoakum, TX
8. 21.9 million cubic feet
9. August 1, 1979
10. Shell Oil Company, Coltexo Corp
1. 79-14764/01456
2. 42-501-31460
3. 103
4. Shell Oil Company et al
5. Denver Unit 4538
6. Wasson
7. Yoakum, TX
8. 56.9 million cubic feet
9. August 1, 1979
10. Shell Oil Company, Coltexo Corp
1. 79-14765/01457
2. 42-501-31463
3. 103
4. Shell Oil Company et al
5. Denver Unit 4633
6. Wasson
7. Yoakum, TX
8. 151.8 million cubic feet
9. August 1, 1979
10. Shell Oil Company, Coltexo Corp
1. 79-14766/01458
2. 42-501-31464
3. 103
4. Shell Oil Company et al
5. Denver Unit 4634
6. Wasson
7. Yoakum, TX
8. 76.6 million cubic feet
9. August 1, 1979
10. Shell Oil Company, Coltexo Corp
1. 79-14767/01462
2. 42-501-31452
3. 103
4. Shell Oil Company et al
5. Denver Unit 5613
6. Wasson
7. Yoakum, TX
8. 39.8 million cubic feet
9. August 1, 1979
10. Shell Oil Company, Coltexo Corp
1. 79-14768/01463
2. 42-501-31458
3. 103
4. Shell Oil Company et al
5. Denver Unit 5614
6. Wasson
7. Yoakum, TX
8. 5.1 million cubic feet
9. August 1, 1979
10. Shell Oil Company, Coltexo Corp

1. 79-14769/01465
2. 42-501-31459
3. 103
4. Shell Oil Company et al
5. Denver Unit 5714
6. Wasson
7. Yoakum, TX
8. 93.1 million cubic feet
9. August 1, 1979
10. Shell Oil Company, Coltexo Corp
1. 79-14770/01506
2. 42-375-30615
3. 103
4. Gas Producing Enterprises Inc.
5. Bivins 5-5 RO
6. West Panhandle Red Cave
7. Potter, TX
8. 15.0 million cubic feet
9. August 1, 1979
10. Colorado Interstate Gas Co.
1. 79-14771/01507
2. 42-375-30605
3. 103
4. Gas Producing Enterprises Inc.
5. Bivins 28-12 RO
6. West Panhandle Red Cave
7. Potter, TX
8. 9.0 million cubic feet
9. August 1, 1979
10. Colorado Interstate Gas Co.
1. 79-14772/01508
2. 42-375-30339
3. 103
4. Gas Producing Enterprises Inc.
5. Bivins 21-11 RO
6. West Panhandle Red Cave
7. Potter, TX
8. 3.0 million cubic feet
9. August 1, 1979
10. Colorado Interstate Gas Co.
1. 79-14773/01509
2. 42-375-30616
3. 103
4. Gas Producing Enterprises Inc.
5. Bivins 8-20 RO
6. West Panhandle Red Cave
7. Potter, TX
8. 10.0 million cubic feet
9. August 1, 1979
10. Colorado Interstate Gas Co.
1. 79-14774/01510
2. 42-375-30602
3. 103
4. Gas Producing Enterprises Inc.
5. Bivins 5-13 RO
6. West Panhandle Red Cave
7. Potter, TX
8. 6.0 million cubic feet
9. August 1, 1979
10. Colorado Interstate Gas Co.
1. 79-14775/01511
2. 42-375-30627
3. 103
4. Gas Producing Enterprises Inc.
5. Bivins 6-13 RO
6. West Panhandle Red Cave
7. Potter, TX
8. 6.0 million cubic feet
9. August 1, 1979
10. Colorado Interstate Gas Co.
1. 79-14776/01512
2. 42-375-30631
3. 103
4. Gas Producing Enterprises Inc.
5. Bivins 6-14 RO

6. West Panhandle Red Cave
7. Potter, TX
8. 4.0 million cubic feet
9. August 1, 1979
10. Colorado Interstate Gas Co.
1. 79-14777/01513
2. 42-375-30633
3. 103
4. Gas Producing Enterprises Inc.
5. Bivins 20-1 RO
6. West Panhandle Red Cave
7. Potter, TX
8. 13.0 million cubic feet
9. August 1, 1979
10. Colorado Interstate Gas Co.
1. 79-14778/01544
2. 42-163-00000
3. 103
4. Wayne E. Glenn Associates Inc.
5. Earl Howard #1 74308
6. West Big Foot Gas
7. Frio, TX
8. 74.8 million cubic feet
9. July 31, 1979
10. Transcontinental Gas Pipeline Corp.
1. 79-14779/01557
2. 42-435-00000
3. 108
4. UV Industries Inc.
5. Mayer Ranch No. 7
6. Mayer Ranch
7. Sutton, TX
8. 10.5 million cubic feet
9. July 31, 1979
10. Lovaca Gathering Company
1. 79-14780/01558
2. 42-235-00000
3. 108
4. UV Industries Inc.
5. Mayer Ranch No. 5
6. Mayer Ranch
7. Sutton, TX
8. 2.2 million cubic feet
9. July 31, 1979
10. Lovaca Gathering Company
1. 79-14781/01559
2. 42-235-00000
3. 108
4. UV Industries Inc.
5. Mayer Ranch No. 11
6. Mayer Ranch
7. Sutton, TX
8. 2.5 million cubic feet
9. July 31, 1979
10. Lovaca Gathering Company
1. 79-14782/01560
2. 42-235-00000
3. 108
4. UV Industries Inc.
5. Mayer Ranch No. 2
6. Mayer Ranch
7. Sutton, TX
8. 6.8 million cubic feet
9. July 31, 1979
10. Lovaca Gathering Company
1. 79-14783/01563
2. 42-103-00000
3. 103
4. Warren Pet Co/Div Gulf Oil Corp
5. J B Tubb A #31
6. Sand Hills (Tubb)
7. Crane, TX
8. 315.0 million cubic feet
9. July 31, 1979
10. El Paso Natural Gas Co

1. 79-14784/01564
2. 42-103-00000
3. 103
4. Warren Pet Co/Div Gulf Oil Corp
5. J B Tubb A #31
6. Sand Hills (McKnight)
7. Crane, TX
8. 195.0 million cubic feet
9. July 31, 1979
10. El Paso Natural Gas Co
1. 79-14785/01589
2. 42-249-00000
3. 108
4. Mobil Oil Corporation
5. C F H Von Blucher No 18T (ID11454)
6. La Gloria/Helen
7. Jim Wells, TX
8. 3.9 million cubic feet
9. July 31, 1979
10. Natural Gas Pipeline Co of America
1. 79-14786/01612
2. 42-211-30868
3. 103
4. Diamond Shamrock Corporation
5. Charles E Brown No 11-U
6. Canadian SE
7. Hemphill, TX
8. 100.0 million cubic feet
9. July 31, 1979
10. Northern Natural Gas Co
1. 79-14787/01627
2. 42-393-30615
3. 103
4. Diamond Shamrock Corporation
5. Morrison B No 3-36
6. Morrison Ranch
7. Roberts, TX
8. 500.0 million cubic feet
9. July 31, 1979
10.
1. 79-14788/01663
2. 42-249-30848
3. 103
4. Antares Oil Corporation
5. C W Price #2
6. Teresa (3110)
7. Jim Wells, TX
8. 50.0 million cubic feet
9. August 1, 1979
10. United Gas Pipeline Co
1. 79-14789/01665
2. 42-249-30774
3. 103
4. Antares Oil Corporation
5. Shepherd #1
6. Teresa
7. Jim Wells, TX
8. 54.0 million cubic feet
9. August 1, 1979
10. United Gas Pipeline Co
1. 79-14790/01671
2. 42-389-30510
3. 103
4. Gulf Oil Corporation
5. Bertha Hoefs et al Well No 6
6. Worsham (Delaware Sand)
7. Reeves, TX
8. 25.0 million cubic feet
9. July 31, 1979
10. Transwestern Pipeline Co
1. 79-14791/01672
2. 42-389-30503
3. 103
4. Gulf Oil Corporation
5. Bertha Hoefs et al Well No 4

6. Worsham (Delaware Sand)
7. Reeves, TX
8. 17.0 million cubic feet
9. August 1, 1979
10. Transwestern Pipeline Co
1. 79-14792/01704
2. 42-103-00000
3. 103
4. Warren Pet Co Div/Gulf Oil Corp
5. W N Waddell et al #1087
6. Sand Hills (Wolfcamp)
7. Crane, TX
8. 7.0 million cubic feet
9. July 31, 1979
10. El Paso Natural Gas Company
1. 79-14793/01706
2. 42-103-00000
3. 103
4. Warren Pet Co Div/Gulf Oil Corp
5. M B McKnight #113
6. Sand Hills (Wolfcamp)
7. Crane, TX
8. 10.0 million cubic feet
9. July 31, 1979
10. El Paso Natural Gas Company
1. 79-14794/01707
2. 42-103-00000
3. 103
4. Warren Pet Co Div/Gulf Oil Corp
5. J B Tubb B #48
6. Sand Hills (Tubb)
7. Crane, TX
8. 3.0 million cubic feet
9. July 31, 1979
10. El Paso Natural Gas Company
1. 79-14795/01733
2. 42-285-31309
3. 102
4. Highland Resources Inc
5. Brushy Creek Gas Unit No 7
6. Brushy Creek (Yegua 4700)
7. Lavaca, TX
8. 300.0 million cubic feet
9. July 31, 1979
10. Texas Eastern Transmission Corp
1. 79-14796/01734
2. 42-321-30825
3. 103
4. A Nelson McCarter Inc
5. Paul Ryan 79492
6. Tidehaven N (Upper Frio 6600)
7. Matagorda, TX
8. 273.0 million cubic feet
9. August 1, 1979
10. Tennessee Gas Pipeline
1. 79-14797/01738
2. 42-089-30865
3. 102
4. Cities Service Company
5. Koehn A-1 11630
6. Dubina S (9080)
7. Colorado, TX
8. 60.0 million cubic feet
9. July 31, 1979
10. United Gas Pipeline Co
1. 79-14798/01739
2. 42-089-30851
3. 102
4. Cities Service Company
5. White S #1-U 11536
6. Dubina S (9080)
7. Colorado, TX
8. 86.0 million cubic feet
9. July 31, 1979
10. United Gas Pipeline Co

1. 79-14799/01741
2. 42-089-30651
3. 102
4. Cities Service Company
5. White S #1-L 71833
6. Dubina S (9150)
7. Colorado, TX
8. 170.0 million cubic feet
9. July 31, 1979
10. United Gas Pipeline Co
1. 79-14800/01746
2. 42-097-00000
3. 102
4. L E Jones Production Company
5. Dick-Sturdivant
6. Handy West (Dornick Hills)
7. Cooke, Tx
8. 61.3 million cubic feet
9. July 31, 1979
10. CCGP Ltd, Lone Star Gas Company
1. 79-14801/01747
2. 42-097-00000
3. 102
4. L E Jones Production Company
5. J R Dick No 1
6. Handy West (Dornick Hills)
7. Cooke, Tx
8. 46.7 million cubic feet
9. July 31, 1979
10. CCGP Ltd, Lone Star Gas Company
1. 79-14802/01790
2. 42-135-32738
3. 103
4. Gulf Oil Corporation
5. Goldsmith San Andres Unit No 1342
6. Goldsmith
7. Ector, Tx
8. 9.7 million cubic feet
9. July 31, 1979
10. Phillips Petroleum Company
1. 79-14803/01791
2. 42-135-32762
3. 103
4. Gulf Oil Corporation
5. Goldsmith San Andres Unit No 1343
6. Goldsmith
7. Ector, Tx
8. 29.2 million cubic feet
9. July 31, 1979
10. Phillips Petroleum Company
1. 79-14804/01792
2. 42-135-32150
3. 103
4. Gulf Oil Corporation
5. Goldsmith San Andres Unit No 1355
6. Goldsmith
7. Ector, Tx
8. 24.2 million cubic feet
9. July 31, 1979
10. Phillips Petroleum Company
1. 79-14805/01793
2. 42-135-32159
3. 103
4. Gulf Oil Corporation
5. Goldsmith San Andres Unit No 1357
6. Goldsmith
7. Ector, Tx
8. 25.5 million cubic feet
9. July 31, 1979
10. Phillips Petroleum Company
1. 79-14806/01864
2. 42-481-31609
3. 103
4. Jon Nelson
5. Gilbert B #1
6. South West Bernard
7. Wharton, Tx
8. 110.0 million cubic feet
9. July 31, 1979
10. Tennessee Gas Pipeline
1. 79-14807/01865
2. 42-481-31587
3. 103
4. Jon Nelson
5. Gilbert A #1
6. South West Bernard
7. Wharton, Tx
8. 55.0 million cubic feet
9. July 31, 1979
10. Tennessee Gas Pipeline
1. 79-14808/01867
2. 42-481-31701
3. 103
4. Jon Nelson
5. Gilbert B #2
6. South West Bernard
7. Wharton, Tx
8. 110.0 million cubic feet
9. July 31, 1979
10. Tennessee Gas Pipeline
1. 79-14809/01913
2. 42-211-30980
3. 107
4. Phillips Petroleum Company
5. McQuiddy H No 2
6. Howe Ranch
7. Hemphill, Tx
8. 1460.0 million cubic feet
9. July 31, 1979
10. El Paso Natural Gas Co

West Virginia Department of Mines, Oil and Gas Division

1. Control Number (F.E.R.C./State)
2. API Well Number
3. Section of NGPA
4. Operator
5. Well Name
6. Field or OCS Area Name
7. County, State or Block No.
8. Estimated Annual Volume
9. Date Received at Ferc
10. Purchaser(s)

1. 79-14396
2. 47-033-00712
3. 108 Denied
4. Consolidated Gas Supply Corp
5. J W McKinley 11542
6. West Virginia other A-85772
7. Harrison WV
8. 9.0 million cubic feet
9. July 30, 1979
10. General System Purchasers
1. 79-14397
2. 47-033-00873
3. 108 Denied
4. Consolidated Gas Supply Corp
5. J E Barnett 11860
6. West Virginia other A-85772
7. Harrison WV
8. 4.0 million cubic feet
9. July 30, 1979
10. General Service Purchasers
1. 79-14398
2. 47-033-00811
3. 108
4. Consolidated Gas Supply Corp
5. L Nutter 11723
6. West Virginia other A-85772
7. Harrison WV

8. 16.0 million cubic feet
9. July 30, 1979
10. General System Purchasers
1. 79-14399
2. 47-033-00814
3. 108
4. Consolidated Gas Supply Corp
5. C Lang 11786
6. West Virginia other A-85772
7. Harrison WV
8. 20.0 million cubic feet
9. July 30, 1979
10. General System Purchasers
1. 79-14400
2. 47-033-00823
3. 108
4. Consolidated Gas Supply Corp
5. L Stout 11807
6. West Virginia other A-85772
7. Harrison WV
8. 4.0 million cubic feet
9. July 30, 1979
10. General System Purchasers
1. 79-14401
2. 47-033-00843
3. 108
4. Consolidated Gas Supply Corp
5. R McReynolds 11729
6. West Virginia other A-85772
7. Harrison WV
8. 8.0 million cubic feet
9. July 30, 1979
10. General System Purchasers
1. 79-14402
2. 47-033-00844
3. 108
4. Consolidated Gas Supply Corp
5. C Watkins 11852
6. West Virginia other A-85772
7. Harrison WV
8. 9.0 million cubic feet
9. July 30, 1979
10. General System Purchasers
1. 79-14403
2. 47-033-00848
3. 108
4. Consolidated Gas Supply Corp
5. A R Sommerville 11855
6. West Virginia other A-85772
7. Harrison WV
8. 8.0 million cubic feet
9. July 30, 1979
10. General System Purchasers
1. 79-14404
2. 47-033-00749
3. 108
4. Consolidated Gas Supply Corp
5. M Stark Hrs 11690
6. West Virginia other A-85772
7. Harrison WV
8. 8.0 million cubic feet
9. July 30, 1979
10. General System Purchasers
1. 79-14405
2. 47-033-00736
3. 108
4. Consolidated Gas Supply Corp
5. J P Boring 11687
6. West Virginia other A-85772
7. Harrison WV
8. 3.0 million cubic feet
9. July 30, 1979
10. General System Purchasers
1. 79-14406

2. 47-033-00735
3. 108
4. Consolidated Gas Supply Corp
5. P Maxwell 11886
6. West Virginia other A-85772
7. Harrison WV
8. 8.0 million cubic feet
9. July 30, 1979
10. General System Purchasers
1. 79-14407
2. 47-033-00855
3. 108
4. Consolidated Gas Supply Corp
5. Consolidated Gas 11867
6. West Virginia other A-85772
7. Harrison WV
8. 9.0 million cubic feet
9. July 30, 1979
10. General System Purchasers
1. 79-14408
2. 47-033-00917
3. 108 Denied
4. Consolidated Gas Supply Corp
5. D Sinclair 11977
6. West Virginia other A-85772
7. Harrison WV
8. 8.0 million cubic feet
9. July 30, 1979
10. General System Purchasers
1. 79-14409
2. 47-033-00903
3. 108 Denied
4. Consolidated Gas Supply Corp
5. Flint-Simpson 12442
6. West Virginia other A-85772
7. Barbour WV
8. 13.0 million cubic feet
9. July 30, 1979
10. General System Purchasers
1. 79-14410
2. 47-041-02022
3. 108
4. Consolidated Gas Supply Corp
5. M E Posey 12047
6. West Virginia other A-85772
7. Lewis WV
8. 2.0 million cubic feet
9. July 30, 1979
10. General System Purchasers
1. 79-14411
2. 47-041-02025
3. 108
4. Consolidated Gas Supply Corp
5. G Jackson 12045
6. West Virginia other A-85772
7. Lewis WV
8. 4.0 million cubic feet
9. July 30, 1979
10. General System Purchasers
1. 79-14412
2. 47-033-01070
3. 108 Denied
4. Consolidated Gas Supply Corp
5. J Hurst 12294
6. West Virginia other A-85772
7. Harrison WV
8. 11.0 million cubic feet
9. July 30, 1979
10. General System Purchasers
1. 79-14413
2. 47-033-01063
3. 108 Denied
4. James F Scott
5. H G Porter (S-211)
6. Coal District
7. Harrison WV
8. 23.1 million cubic feet
9. July 30, 1979
10. Consolidated Gas Supply Corp
1. 79-14414
2. 47-033-01067
3. 108 Denied
4. James F Scott
5. B Zirkle (S-213)
6. Sardis District
7. Harrison WV
8. 24.2 million cubic feet
9. July 30, 1979
10. Consolidated Gas Supply Corp
1. 79-14415
2. 47-033-01168
3. 108 Denied
4. James F. Scott
5. A Hall Heirs (S-243)
6. Coal District
7. Harrison WV
8. 16.1 million cubic feet
9. July 30, 1979
10. Consolidated Gas Supply Corp.
1. 79-14416
2. 47-033-01193
3. 108 Denied
4. James F. Scott
5. S. Monks & J. T. Flynn (S-246)
6. Coal District
7. Harrison WV
8. 17.2 million cubic feet
9. July 30, 1979
10. Consolidated Gas Supply Corp.
1. 79-14417
2. 47-033-01688
3. 108 Denied
4. James F. Scott
5. Mary S. Robey (S-257)
6. District
7. Harrison WV
8. 8.1 million cubic feet
9. July 30, 1979
10. Consolidated Gas Supply Corp.
1. 79-14418
2. 47-033-01707
3. 108 Denied
4. James F. Scott
5. Notley Bates (S-254)
6. Eagle District
7. Harrison WV
8. 7.0 million cubic feet
9. July 30, 1979
10. Consolidated Gas Supply Corp.
1. 79-14419
2. 47-001-00677
3. 108 Denied
4. Consolidated Gas Supply Corp.
5. J. Johnson 11843
6. West Virginia other A-85772
7. Barbour WV
8. 18.0 million cubic feet
9. July 30, 1979
10. General System Purchasers
1. 79-14420
2. 47-047-00618
3. 108 Denied
4. Consolidated Gas Supply Corp.
5. Pocahontas Land 11642
6. Pineville Field Area A-59442
7. McDowell WV
8. 20.0 million cubic feet
9. July 30, 1979
10. General System Purchasers
1. 79-14421

2. 47-001-00906
3. 108 Denied
4. Consolidated Gas Supply Corp.
5. C. M. Hickman 12346
6. West Virginia other A-85772
7. Barbour WV
8. 20.0 million cubic feet
9. July 30, 1979
10. General System Purchasers
1. 79-14423
2. 47-067-00423
3. 108 Denied
4. Consolidated Gas Supply Corp.
5. B. P. Horan 12185
6. West Virginia other A-85772
7. Nicholas WV
8. .5 million cubic feet
9. July 31, 1979
10. General System Purchasers
1. 79-14424
2. 47-033-00904
3. 108 Denied
4. Consolidated Gas Supply Corp.
5. P. Maxwell 11976
6. West Virginia other A-85772
7. Harrison WV
8. 8.0 million cubic feet
9. July 31, 1979
10. General System Purchasers
1. 79-14425
2. 47-033-00931
3. 108
4. Consolidated Gas Supply Corp.
5. J. W. Hess 12076
6. West Virginia other A-85772
7. Harrison WV
8. 17.0 million cubic feet
9. July 31, 1979
10. General System Purchasers
1. 79-14426
2. 47-033-00921
3. 108
4. Consolidated Gas Supply Corp.
5. W. L. Waggoner 12043
6. West Virginia other A-85772
7. Harrison WV
8. 2.0 million cubic feet
9. July 31, 1979
10. General System Purchasers
1. 79-14427
2. 47-033-01081
3. 108
4. Consolidated Gas Supply Corp.
5. J. B. Cunningham 12292
6. West Virginia other A-85772
7. Harrison WV
8. 20.0 million cubic feet
9. July 31, 1979
10. General System Purchasers
1. 79-14428
2. 47-033-00945
3. 108
4. Consolidated Gas Supply Corp.
5. J. J. Strother 12068
6. West Virginia other A-85772
7. Harrison WV
8. 16.0 million cubic feet
9. July 31, 1979
10. General System Purchasers
1. 79-14429
2. 47-041-02039
3. 108
4. Consolidated Gas Supply Corp.
5. E. Fahey 12072
6. West Virginia other A-85772

7. Lewis WV
8. 4.0 million cubic feet
9. July 31, 1979
10. General System Purchasers
1. 79-14430
2. 47-041-02047
3. 108
4. Consolidated Gas Supply Corp.
5. W. G. Hinzman 12037
6. West Virginia other A-85772
7. Lewis WV
8. 3.0 million cubic feet
9. July 31, 1979
10. General System Purchasers
1. 79-14431
2. 47-041-02052
3. 108
4. Consolidated Gas Supply Corp.
5. G. Lawson 12192
6. West Virginia other A-85772
7. Lewis WV
8. 14.0 million cubic feet
9. July 31, 1979
10. General System Purchasers
1. 79-14432
2. 47-041-02057
3. 108
4. Consolidated Gas Supply Corp.
5. S. Lester 12119
6. West Virginia other A-85772
7. Lewis WV
8. 7.0 million cubic feet
9. July 31, 1979
10. General System Purchasers
1. 79-14433
2. 47-041-02056
3. 108
4. Consolidated Gas Supply Corp.
5. O. Bailey 12118
6. West Virginia other A-85772
7. Lewis WV
8. 6.8 million cubic feet
9. July 31, 1979
10. General System Purchasers
1. 79-14434
2. 47-041-02065
3. 108
4. Consolidated Gas Supply Corp.
5. W. D. Allman 12150
6. West Virginia other A-85772
7. Lewis WV
8. 4.0 million cubic feet
9. July 31, 1979
10. General System Purchasers
1. 79-14435
2. 47-041-02095
3. 108
4. Consolidated Gas Supply Corp.
5. I. F. Linger 12015
6. West Virginia other A-85772
7. Lewis WV
8. 20.0 million cubic feet
9. July 31, 1979
10. General System Purchasers
1. 79-14436
2. 47-041-02084
3. 108
4. Consolidated Gas Supply Corp.
5. Brannon-Hardman 12221
6. West Virginia other A-85772
7. Lewis WV
8. 16.0 million cubic feet
9. July 31, 1979
10. General System Purchasers
1. 79-14437

2. 47-041-02074
3. 108
4. Consolidated Gas Supply Corp.
5. Geo Lawson 12233
6. West Virginia other A-85772
7. Lewis WV
8. 1.5 million cubic feet
9. July 31, 1979
10. General System Purchasers
1. 79-14438
2. 47-001-00430
3. 108
4. James F. Scott
5. N. Burmfield (S-98)
6. Union District
7. Barbour WV
8. 4.4 million cubic feet
9. July 31, 1979
10. Consolidated Gas Supply Corp.
1. 79-14439
2. 47-001-00447
3. 108
4. James F. Scott
5. L. Stout (S-113)
6. Elk District
7. Barbour WV
8. 5.8 million cubic feet
9. July 31, 1979
10. Consolidated Gas Supply Corp.
1. 79-14440
2. 47-001-00462
3. 108
4. James F. Scott
5. Thomas Kane #1 (S-129)
6. Union District
7. Barbour WV
8. 6.8 million cubic feet
9. July 31, 1979
10. Consolidated Gas Supply Corp.
1. 79-14441
2. 47-001-00466
3. 108
4. James F. Scott
5. Thomas Kane #2 (S-119)
6. Union District
7. Barbour WV
8. 6.8 million cubic feet
9. July 31, 1979
10. Consolidated Gas Supply Corp.
1. 79-14442
2. 47-017-01521
3. 108
4. James F. Scott
5. Manser Kinney (S-48)
6. Grant-District
7. Doddridge WV
8. 4.1 million cubic feet
9. July 31, 1979
10. Consolidated Gas Supply Corp.
1. 79-14443
2. 47-017-01516
3. 108
4. James F. Scott
5. Z. T. Ball #3 (S-46)
6. Grant-District
7. Doddridge WV
8. 4.1 million cubic feet
9. July 31, 1979
10. Consolidated Gas Supply Corp.
1. 79-14444
2. 47-017-01515
3. 108
4. James F. Scott
5. Z. T. Ball #1 (S-45)
6. Grant-District

7. Doddridge WV
8. 4.1 million cubic feet
9. July 31, 1979
10. Consolidated Gas Supply Corp.
1. 79-14445
2. 47-017-01514
3. 108
4. James F. Scott
5. Lee Davis (S-47)
6. Grant-District
7. Doddridge WV
8. 4.1 million cubic feet
9. July 31, 1979
10. Consolidated Gas Supply Corp.
1. 79-14446
2. 47-017-01498
3. 108
4. James F. Scott
5. E M Ross No 2 (S-37)
6. Grant-District
7. Doddridge WV
8. 4.1 million cubic feet
9. July 31, 1979
10. Consolidated Gas Supply Corp.
1. 79-14447
2. 47-017-01497
3. 108
4. James F. Scott
5. F Tate No 2 (S-39)
6. Grant-District
7. Doddridge WV
8. 4.1 million cubic feet
9. July 31, 1979
10. Consolidated Gas Supply Corp.
1. 79-14448
2. 47-017-01496
3. 108
4. James F. Scott
5. Tate Bros No 3 (S-42)
6. Grant-District
7. Doddridge WV
8. 4.1 million cubic feet
9. July 31, 1979
10. Consolidated Gas Supply Corp.
1. 79-14449
2. 47-017-01496
3. 108
4. James F. Scott
5. Tate Bros No 2 (S-41)
6. Grant-District
7. Doddridge WV
8. 4.1 million cubic feet
9. July 31, 1979
10. Consolidated Gas Supply Corp.
1. 79-14450
2. 47-017-01487
3. 108
4. James F. Scott
5. R B Ross No 2 (S-35)
6. Grant-District
7. Doddridge WV
8. 4.1 million cubic feet
9. July 31, 1979
10. Consolidated Gas Supply Corp.
1. 79-14451
2. 47-017-01540
3. 108
4. James F. Scott
5. E Drummond No 1 (S-109)
6. Grant-District
7. Doddridge WV
8. 4.1 million cubic feet
9. July 31, 1979
10. Consolidated Gas Supply Corp.
1. 79-14452

2. 47-017-01541
3. 108
4. James F. Scott
5. E Drummond No 2 (S-110)
6. Grant-District
7. Doddridge WV
8. 4.1 million cubic feet
9. July 31, 1979
10. Consolidated Gas Supply Corp.
1. 79-14453
2. 47-017-01559
3. 108
4. James F. Scott
5. Blackshire C-1 (S-123)
6. McClellan-District
7. Doddridge WV
8. 3.3 million cubic feet
9. July 31, 1979
10. Consolidated Gas Supply Corp.
1. 79-14454
2. 47-017-01007
3. 108
4. James F. Scott
5. Hyde John (S-3)
6. McClellan-District
7. Doddridge WV
8. 3.1 million cubic feet
9. July 31, 1979
10. Consolidated Gas Supply Corp.
1. 79-14455
2. 47-017-01165
3. 108
4. James F. Scott
5. Fleming W B (S-4)
6. McClellan-District
7. Doddridge WV
8. 4.5 million cubic feet
9. July 31, 1979
10. Consolidated Gas Supply Corp.
1. 79-14456
2. 47-017-01175
3. 108
4. James F. Scott
5. S R Gain No 1 (S-24)
6. Grant-District
7. Doddridge WV
8. 3.7 million cubic feet
9. July 31, 1979
10. Consolidated Gas Supply Corp.
1. 79-14457
2. 47-017-01192
3. 108
4. James F. Scott
5. S R Gain No 2 (S-25)
6. Grant-District
7. Doddridge WV
8. 3.7 million cubic feet
9. July 31, 1979
10. Consolidated Gas Supply Corp.
1. 79-14458
2. 47-017-01204
3. 108
4. James F. Scott
5. Larmer Gaskins (S-21)
6. Grant-District
7. Doddridge WV
8. 1.8 million cubic feet
9. July 31, 1979
10. Carnegie National Gas Co.
1. 79-14459
2. 47-017-01218
3. 108
4. James F. Scott
5. C Talkington (S-111)
6. Grant-District

7. Doddridge WV
8. 4.1 million cubic feet
9. July 31, 1979
10. Consolidated Gas Supply Corp.
1. 79-14460
2. 47-017-01219
3. 108
4. James F. Scott
5. Joel Davis No 1 (S-22)
6. Grant-District
7. Doddridge WV
8. 3.1 million cubic feet
9. July 31, 1979
10. Consolidated Gas Supply Corp.
1. 79-14461
2. 47-017-01221
3. 108
4. James F. Scott
5. Joel Davis No 2 (S-23)
6. Grant-District
7. Doddridge WV
8. 3.1 million cubic feet
9. July 31, 1979
10. Consolidated Gas Supply Corp.
1. 79-14462
2. 47-017-01235
3. 108
4. James F. Scott
5. J P Orr No 1 (S-12)
6. Grant-District
7. Doddridge WV
8. 1.4 million cubic feet
9. July 31, 1979
10. Consolidated Gas Supply Corp.
1. 79-14463
2. 47-017-01236
3. 108
4. James F. Scott
5. J P Orr No 2 (S-13)
6. Grant-District
7. Doddridge WV
8. 1.4 million cubic feet
9. July 31, 1979
10. Consolidated Gas Supply Corp.
1. 79-14464
2. 47-017-01244
3. 108
4. James F. Scott
5. S R Gain A (S-26)
6. Grant-District
7. Doddridge WV
8. 7.3 million cubic feet
9. July 31, 1979
10. Consolidated Gas Supply Corp.
1. 79-14465
2. 47-017-01251
3. 108
4. James F. Scott
5. Justice M No 1 (S-5)
6. McClellan-District
7. Doddridge WV
8. 2.1 million cubic feet
9. July 31, 1979
10. Consolidated Gas Supply Corp.
1. 79-14466
2. 47-017-01530
3. 108
4. James F. Scott
5. W N Frasure (S-51)
6. Grant-District
7. Doddridge WV
8. 14.4 million cubic feet
9. July 31, 1979
10. Consolidated Gas Supply Corp.
1. 79-14467

2. 47-017-01529
3. 108
4. James F. Scott
5. Z T Ball A (S-50)
6. Grant-District
7. Doddridge WV
8. 3.5 million cubic feet
9. July 31, 1979
10. Consolidated Gas Supply Corp.
1. 79-14468
2. 47-017-01524
3. 108
4. James F. Scott
5. L A Yerkey (S-49)
6. Grant-District
7. Doddridge WV
8. 4.1 million cubic feet
9. July 31, 1979
10. Consolidated Gas Supply Corp.
1. 79-14469
2. 47-017-01562
3. 108
4. James F. Scott
5. R Minor No 1 (S-126)
6. McClellan-District
7. Doddridge WV
8. .8 million cubic feet
9. July 31, 1979
10. Consolidated Gas Supply Corp.
1. 79-14487
2. 47-041-02106
3. 108 Denied
4. Consolidated Gas Supply Corp.
5. Beach & Arnold 12278
6. West Virginia other A-85772
7. Lewis WV
8. 19.0 million cubic feet
9. July 31, 1979
10. General System Purchasers
1. 79-14488
2. 47-091-01773
3. 108 Denied
4. Consolidated Gas Supply Corp.
5. E O Wilson 12407
6. West Virginia other A-85772
7. Upshur WV
8. 9.0 million cubic feet
9. July 31, 1979
10. General System Purchasers
1. 79-14489
2. 47-001-00759
3. 108
4. Consolidated Gas Supply Corp.
5. A Cole 12044
6. West Virginia other A-85772
7. Barbour WV
8. 14.0 million cubic feet
9. July 31, 1979
10. General System Purchasers
1. 79-14490
2. 47-001-00752
3. 108
4. Consolidated Gas Supply Corp.
5. G Carder 12108
6. West Virginia other A-85772
7. Barbour WV
8. 11.0 million cubic feet
9. July 31, 1979
10. General System Purchasers
1. 79-14491
2. 47-001-00740
3. 108
4. Consolidated Gas Supply Corp.
5. C Burner 11957
6. West Virginia other A-85772

7. Barbour WV
8. 12.0 million cubic feet
9. July 31, 1979
10. General System Purchasers
1. 79-14492
2. 47-001-00799
3. 108
4. Consolidated Gas Supply Corp.
5. R H Bowers 12214
6. West Virginia other A-85772
7. Barbour WV
8. 9.0 million cubic feet
9. July 31, 1979
10. General System Purchasers
1. 79-14493
2. 47-085-03611
3. 108
4. Consolidated Gas Supply Corp
5. J Hogue 11948
6. West Virginia Other A-85772
7. Ritchie, WV
8. 8.0 million cubic feet
9. July 31, 1979
10. General System Purchasers
1. 79-14494
2. 47-085-03592
3. 108
4. Consolidated Gas Supply Corp
5. H Jarvis 11961
6. West Virginia Other A-85772
7. Ritchie, WV
8. 1.0 million cubic feet
9. July 31, 1979
10. General System Purchasers
1. 79-14495
2. 47-041-02097
3. 108
4. Consolidated Gas Supply Corp
5. L M Long 12207
6. West Virginia Other A-85772
7. Lewis, WV
8. 15.0 million cubic feet
9. July 31, 1979
10. General System Purchasers
1. 79-14496
2. 47-085-03622
3. 108 Denied
4. Consolidated Gas Supply Corp
5. S C Hammet 12087
6. West Virginia Other A-85772
7. Ritchie, WV
8. 1 million cubic feet
9. July 31, 1979
10. General System Purchasers
1. 79-14497
2. 47-033-00884
3. 108 Denied
4. Consolidated Gas Supply Corp
5. V Haymond 11935
6. West Virginia Other A-85772
7. Harrison, WV
8. 1.0 million cubic feet
9. July 31, 1979
10. General System Purchasers
1. 79-14498
2. 47-033-01083
3. 108 Denied
4. Consolidated Gas Supply Corp
5. E Maxwell 12385
6. West Virginia Other A-85772
7. Harrison, WV
8. 12.0 million cubic feet
9. July 31, 1979
10. General System Purchasers
1. 79-14499
2. 47-033-01087
3. 108 Denied
4. Consolidated Gas Supply Corp
5. L J Ayers 12313
6. West Virginia Other A-85772
7. Harrison, WV
8. 18.0 million cubic feet
9. July 31, 1979
10. General System Purchasers
1. 79-14500
2. 47-033-00938
3. 108 Denied
4. Consolidated Gas Supply Corp
5. R F Stout 12073
6. West Virginia Other A-85772
7. Harrison, WV
8. 15.0 million cubic feet
9. July 31, 1979
10. General System Purchasers
1. Control Number (F.E.R.C./State)
2. API Well Number
3. Section of NGPA
4. Operator
5. Well Name
6. Field or OCS Area Name
7. County, State or Block No.
8. Estimated Annual Volume
9. Dated Received at FERC
10. Purchaser(s)
1. Control Number (F.E.R.C./State)
2. API Well Number
3. Section of NGPA
4. Operator
5. Well Name
6. Field or OCS Area Name
7. County, State or Block No.
8. Estimated Annual Volume
9. Dated Received at FERC
10. Purchaser(s)
1. 79-14422
2. 17-711-40437-00S2-0
3. 102
4. Ocean Production Company
5. OCS-063 #35B
6. Ship Shoal 113 Field
7. 93
8. 420.0 million cubic feet
9. July 30, 1979
10. Transcontinental Gas Pipe Line Corp
1. 79-14395/C8-175
2. 17-711-40421-00S1-0
3. 102
4. Ocean Production Company
5. OCS-C 038 No. 3A
6. Ship Shoal 113 Field
7. 120
8. 2500.0 million cubic feet
9. July 30, 1979
10. Transcontinental Gas Pipe Line Corp
1. Control Number (F.E.R.C./State)
2. API Well Number
3. Section of NGPA
4. Operator
5. Well Name
6. Field or OCS Area Name
7. County, State or Block No.
8. Estimated Annual Volume
9. Dated Received at FERC
10. Purchaser(s)
1. 79-14523/COA-1829-79
2. 05-067-05083-0000-0
3. 108
4. Ladd Petroleum Corporation
5. Southern Ute #1-16
6. Ignacio Blanco

7. La Plata, Co
8. 14.0 million cubic feet
9. July 31, 1979
10. Peoples Natural Gas
1. 79-14524/COA-531-79-B
2. 05-067-06215-0000-0
3. 103
4. Mesa Petroleum Co
5. Ute Indian 3A PC
6. Ignacio Pictured Cliffs
7. La Plata, CO
8. 0 million cubic feet
9. July 31, 1979
10. El Paso Natural Gas Co
1. 79-14525/COA-533-79
2. 05-067-06217-0000-0
3. 103
4. Mesa Petroleum Co
5. Ute Indian 7A
6. Ignacio Blanco Mesaverde
7. La Plata, CO
8. 21.0 million cubic feet
9. July 31, 1979
10. El Paso Natural Gas Co
1. 79-14526/COA-534-79A
2. 05-067-06216-0000-1
3. 103
4. Mesa Petroleum Co
5. Ute Indian 8A
6. Ignacio Blanco Mesaverde
7. La Plata, CO
8. 24.0 million cubic feet
9. July 31, 1979
10. El Paso Natural Gas Co
Northeast Pipeline Corp
1. 79-14527/COA-534-79B
2. 05-067-06216-0000-2
3. 103
4. Mesa Petroleum Co
5. Ute Indian 6A
6. Ignacio Blanco Mesaverde
7. La Plata, CO
8. 87.0 million cubic feet
9. July 31, 1979
10. El Paso Natural Gas Co
Northeast Pipeline Corp
1. 79-14539/NM 1833-79
2. 05-067-05301-0000-0
3. 108
4. Ladd Petroleum Corporation
5. Southern Ute No 1-25A
6. Ignacio Blanco
7. La Plata, CO
8. 13.0 million cubic feet
9. July 31, 1979
10. Northeast Pipeline Corp
1. 79-14540/COA 1834-79
2. 05-067-05573-0000-0
3. 108
4. Ladd Petroleum Corporation
5. Long Mountain No 1-27
6. Ignacio Blanco
7. La Plata, CO
8. 15.0 million cubic feet
9. July 31, 1979
10. El Paso Natural Gas Co
Northeast Pipeline Corp
1. 79-14541/COA 1835-79
2. 05-067-05107-0000-0
3. 108
4. Ladd Petroleum Corporation
5. Southern Ute #1-10
6. Ignacio Blanco
7. La Plata, Co
8. 18.0 million cubic feet

9. July 31, 1979
10. Peoples Natural Gas
1. 79-14542/COA 1838-79
2. 05-067-05173-0000-0
3. 108
4. Ladd Petroleum Corporation
5. No Cox Canyon #1-2
6. Ignacio Blanco
7. La Plata, Co
8. 18.0 million cubic feet
9. July 31, 1979
10. Northwest Pipeline Corp El Paso Natural Gas Co
1. 79-14543/COA 1838-79
2. 05-067-05077-0000-0
3. 108
4. Sohio Natural Resources Co
5. Southern Ute #8 Mesa Verde
6. Ignacio
7. La Plata, Co
8. 17.8 million cubic feet
9. July 31, 1979
10. Northwest Pipeline Corp El Paso Natural Gas Co
1. 79-14544/COA 1839-79
2. 05-067-05017-0000-0
3. 108
4. Sohio Natural Resources Co
5. Southern Ute #8 Mesa Verde
6. Ignacio
7. La Plata, Co
8. 19.8 million cubic feet
9. July 31, 1979
10. Northwest Pipeline Corporation El Paso Natural Gas Co
1. 79-14602/COA 1824-79
2. 05-067-05713-0000-0
3. 108
4. Ladd Petroleum Corporation
5. Trail Canyon #1-9
6. Ignacio Blanco
7. La Plata, Co
8. 6.0 million cubic feet
9. July 31, 1979
10. Northwest Pipeline Corporation
1. 79-14603/COA 1825-79
2. 05-067-05101-0000-0
3. 108
4. Ladd Petroleum Corporation
5. N E Cox Canyon #2-7
6. Ignacio Blanco
7. La Plata, Co
8. 13.0 million cubic feet
9. July 31, 1979
10. Northwest Pipeline Corp
1. 79-14604/COA 1826-79
2. 05-067-05598-0000-0
3. 108
4. Ladd Petroleum Corporation
5. Animas #2-11
6. Ignacio Blanco
7. La Plata, Co
8. 15.0 million cubic feet
9. July 31, 1979
10. Northwest Pipeline Corporation
1. 79-14648/COA 531-79-A
2. 05-057-06215-0000-0
3. 103
4. Mesa Petroleum Co
5. Ute Indian 3A MV
6. Ignacio Blanco Mesaverde
7. La Plata, Co
8. 27.0 million cubic feet
9. July 31, 1979
10. El Paso Natural Gas Co
1. 79-14501/NM 1788-79
2. 30-045-22386-0000-0
3. 103
4. El Paso Natural Gas Company
5. Delhi-Turner 1A
6. Blanco
7. San Juan, NM
8. 292.0 million cubic feet
9. July 31, 1979
10. El Paso Natural Gas Company Southern Union Gathering Co
1. 79-14502/NM 1785-79
2. 30-045-22445-0000-0
3. 103
4. El Paso Natural Gas Company
5. Quigley 1-A
6. Blanco
7. San Juan, NM
8. 453.0 million cubic feet
9. July 31, 1979
10. El Paso Natural Gas Company
1. 79-14503/NM 1784-79
2. 30-045-22435-0000-0
3. 103
4. El Paso Natural Gas Company
5. Howell M 1-A
6. Blanco
7. San Juan, NM
8. 451.0 million cubic feet
9. July 31, 1979
10. El Paso Natural Gas Company
1. 79-14504/NM 1783-79
2. 30-045-22432-0000-0
3. 103
4. El Paso Natural Gas Company
5. Gartner 6A
6. Blanco
7. San Juan, NM
8. 263.0 million cubic feet
9. July 31, 1979
10. El Paso Natural Gas Company
1. 79-14505/NM 1782-79
2. 30-045-22367-0000-0
3. 103
4. El Paso Natural Gas Company
5. Gartner 7-A
6. Blanco
7. San Juan, NM
8. 294.0 million cubic feet
9. July 31, 1979
10. El Paso Natural Gas Company
1. 79-14506/NM 1781-79
2. 30-045-22896-0000-0
3. 103
4. El Paso Natural Gas Company
5. San Juan 32-9 Unit #1A
6. Blanco
7. San Juan, NM
8. 220.0 million cubic feet
9. July 31, 1979
10. El Paso Natural Gas Company
1. 79-14507/NM 1780-79
2. 30-045-22895-0000-0
3. 103
4. El Paso Natural Gas Company
5. San Juan 32-9 Unit #19A
6. Blanco
7. San Juan, NM
8. 290.0 million cubic feet
9. July 31, 1979
10. El Paso Natural Gas Company
1. 79-14508
2. 30-045-22894-0000-0
3. 103
4. El Paso Natural Gas Company
5. San Juan 32-9 Unit #6A
6. Blanco
7. San Juan, NM
8. 150.0 million cubic feet
9. July 31, 1979
10. El Paso Natural Gas Company
1. 79-14509/NM 1778-79
2. 30-045-21982-0000-0
3. 103
4. El Paso Natural Gas Company
5. Florance 2-A
6. Blanco
7. San Juan, NM
8. 309.0 million cubic feet
9. July 31, 1979
10. El Paso Natural Gas Company Southern Union Gathering Co
1. 79-14510/NM 1593-79
2. 30-039-06132-0000-0
3. 108
4. El Paso Natural Gas Company
5. Sheets C 6
6. Ballard-Pictured Cliffs Gas
7. Rio Arriba, NM
8. 9.5 million cubic feet
9. July 31, 1979
10. El Paso Natural Gas Company
1. 79-14511/NM 1592-79
2. 30-039-06184-0000-0
3. 108
4. El Paso Natural Gas Company
5. Sheets C 7
6. Ballard-Pictured Cliffs Gas
7. Rio Arriba, NM
8. 9.1 million cubic feet
9. July 31, 1979
10. El Paso Natural Gas Company
1. 79-14512/NM 1591-79
2. 30-045-06817-0000-0
3. 108
4. El Paso Natural Gas Company
5. Turner Hughes #9
6. Blanco South-Pictured Cliffs Gas
7. San Juan, NM
8. 12.0 million cubic feet
9. July 31, 1979
10. El Paso Natural Gas Company
1. 79-14513/NM 1590-79
2. 30-045-10481-0000-0
3. 108
4. El Paso Natural Gas Company
5. Mudge 26
6. Basin-Dakota Gas
7. San Juan, NM
8. 11.0 million cubic feet
9. July 31, 1979
10. El Paso Natural Gas Company
1. 79-14514/NM 1589-79
2. 30-045-10351-0000-0
3. 108
4. El Paso Natural Gas Company
5. Heaton 14
6. Basin-Dakota Gas
7. San Juan, NM
8. 9.0 million cubic feet
9. July 31, 1979
10. El Paso Natural Gas Company
1. 79-14515/NM 1588-79
2. 30-045-17163-0000-0
3. 108
4. El Paso Natural Gas Company
5. Florance C 10
6. Basin-Dakota Gas
7. San Juan, NM
8. 15.3 million cubic feet

9. July 31, 1979
10. El Paso Natural Gas Company
1. 79-14516/NM 1587-79
2. 30-045-13134-0000-0
3. 108
4. El Paso Natural Gas Company
5. Heaton 16
6. Basin-Dakota Gas
7. San Juan, NM
8. 13.1 million cubic feet
9. July 31, 1979
10. El Paso Natural Gas Company
1. 79-14517/NM 1586-79
2. 30-039-82323-0000-0
3. 108
4. El Paso Natural Gas Company
5. Lindrith Unit NP 38
6. Blanco South-Pictured Cliffs Gas
7. Rio Arriba, NM
8. 5.6 million cubic feet
9. July 31, 1979
10. El Paso Natural Gas Company
1. 79-14518/NM 1585-79
2. 30-045-09391-0000-0
3. 108
4. El Paso Natural Gas Company
5. Lloyd 1
6. Aztec-Pictured Cliffs Gas
7. San Juan, NM
8. 1.0 million cubic feet
9. July 31, 1979
10. El Paso Natural Gas Company
1. 79-14519/NM 1584-79
2. 30-045-00000-0000-0
3. 108
4. El Paso Natural Gas Company
5. Lloyd A 1
6. Aztec-Pictured Cliffs Gas
7. San Juan, NM
8. 1.0 million cubic feet
9. July 31, 1979
10. El Paso Natural Gas Company
1. 79-14520/NM 1583-79
2. 30-045-08754-0000-0
3. 108
4. El Paso Natural Gas Company
5. Sunray 3
6. Blanco-Pictured Cliffs Gas
7. San Juan, NM
8. 9.9 million cubic feet
9. July 31, 1979
10. El Paso Natural Gas Company
1. 79-14521/NM 1582-79
2. 30-039-05670-0000-0
3. 108
4. El Paso Natural Gas Company
5. Canyon Largo Unit #64
6. Ballard-Pictured Cliffs Gas
7. Rio Arriba, NM
8. 6.0 million cubic feet
9. July 31, 1979
10. El Paso Natural Gas Company
1. 79-14522/NM 1395-79
2. 30-045-11605-0000-0
3. 108
4. El Paso Natural Gas Company
5. Schwedtfeger A #3
6. Blanco South-Pictured Cliffs Gas
7. San Juan, NM
8. 6.0 million cubic feet
9. July 31, 1979
10. El Paso Natural Gas Company
1. 79-14528/NM 1787-79
2. 30-045-22917-0000-0
3. 103
4. El Paso Natural Gas Company
5. San Juan 32-9 Unit #34A
6. Blanco
7. San Juan, NM
8. 380.0 million cubic feet
9. July 31, 1979
10. El Paso Natural Gas Company
1. 79-14529/NM 1788-79
2. 30-045-22401-0000-0
3. 103
4. El Paso Natural Gas Company
5. Fields Com 5A
6. Blanco
7. San Juan, NM
8. 290.0 million cubic feet
9. July 31, 1979
10. El Paso Natural Gas Company
1. 79-14530/NM 1790-79
2. 30-045-22494-0000-0
3. 103
4. El Paso Natural Gas Company
5. Huerfano Unit 281
6. Basin
7. San Juan, NM
8. 140.0 million cubic feet
9. July 31, 1979
10. El Paso Natural Gas Company, Southern
Union Gathering Co, Northwest Pipeline
Corp
1. 79-14531/NM 1791-79
2. 30-045-22925-0000-0
3. 103
4. El Paso Natural Gas Company
5. Huerfano Unit 282
6. Basin
7. San Juan, NM
8. 87.0 million cubic feet
9. July 31, 1979
10. El Paso Natural Gas Company, Southern
Union Gathering Co, Northwest Pipeline
Corp
1. 79-14532/NM 1792-79
2. 30-039-20864-0000-0
3. 103
4. El Paso Natural Gas Company
5. San Juan 28-7 Unit #225
6. Basin
7. Rio Arriba, NM
8. 158.0 million cubic feet
9. July 31, 1979
10. El Paso Natural Gas Company, Northwest
Pipeline Corp
1. 79-14533/NM 1793-79
2. 30-039-20882-0000-0
3. 103
4. El Paso Natural Gas Company
5. San Juan 28-7 Unit #223
6. Basin
7. Rio Arriba, NM
8. 228.0 million cubic feet
9. July 31, 1979
10. El Paso Natural Gas Company, Northwest
Pipeline Corp
1. 79-14534/NM 1794-79
2. 30-039-21064-0000-0
3. 103
4. El Paso Natural Gas Company
5. San Juan 28-7 Unit #221
6. Basin
7. Rio Arriba, NM
8. 156.0 million cubic feet
9. July 31, 1979
10. El Paso Natural Gas Company, Northwest
Pipeline Corp

1. 79-14535/NM 1828-79
2. 30-045-09317-0000-0
3. 108
4. Ladd Petroleum Corporation
5. Federal B#1
6. Basin Dakota
7. San Juan, NM
8. 9.0 million cubic feet
9. July 31, 1979
10. Northwest Pipeline Corporation
1. 79-14536/NM 1830-79
2. 30-045-09261-0000-0
3. 108
4. Ladd Petroleum Corporation
5. Federal C #1
6. Basin Dakota
7. San Juan, NM
8. 11.0 million cubic feet
9. July 31, 1979
10. El Paso Natural Gas Company
1. 79-14537/NM 1831-79
2. 30-039-06603-0000-0
3. 108
4. Ladd Petroleum Corporation
5. Lindreth #29
6. Largo-Gallup
7. Rio Arriba, NM
8. 11.0 million cubic feet
9. July 31, 1979
10. El Paso Natural Gas Company
1. 79-14538/NM 1832-79
2. 30-045-00000-0000-0
3. 108
4. Ladd Petroleum Corporation
5. Federal C#2
6. Basin Dakota
7. San Juan, NM
8. 11.0 million cubic feet
9. July 31, 1979
10. El Paso Natural Gas Company
1. 79-14545/NM 1840-79
2. 30-045-21832-0000-0
3. 108
4. Depco Inc
5. Hancock 8R
6. West Kutz (Picture Cliffs)
7. San Juan, NM
8. 7.0 million cubic feet
9. July 31, 1979
10. Gas Company of New Mexico
1. 79-14546/NM 1841-79
2. 30-045-06633-0000-0
3. 108
4. Depco Inc
5. Hancock No 12
6. West Kutz (Picture Cliffs)
7. San Juan, NM
8. 10.0 million cubic feet
9. July 31, 1979
10. Gas Company of New Mexico
1. 79-14547/NM 1842-79
2. 30-045-09408-0000-0
3. 108
4. Monsanto Company
5. Vierson Federal #1
6. Basin Dakota
7. San Juan County, NM
8. 16.0 million cubic feet
9. July 31, 1979
10. El Paso Natural Gas Co
1. 79-14548/NM 1843-79
2. 30-045-22955-0000-0
3. 103
4. Ladd Petroleum Corporation
5. Aztec #3-35

6. Harper Hill Fruitland PC
7. San Juan, NM
8. .0 million cubic feet
9. July 31, 1979
10. El Paso Natural Gas Co
1. 79-14549/NM 1844-79
2. 30-045-06734-0000-0
3. 108
4. Depco Inc
5. Hancock No 7
6. West Kutz (Picture Cliffs)
7. San Juan, NM
8. 15.0 million cubic feet
9. July 31, 1979
10. Gas Company of New Mexico
1. 79-14550/NM 1845-79
2. 30-015-22032-0000-0
3. 103
4. Cities Service Company
5. Elizondo Federal A #5
6. Burton Flats Wolfcamp No
7. Eddy, NM
8. 15.4 million cubic feet
9. July 31, 1979
10. El Paso Natural Gas Company
1. 79-14551/NM 1846-79
2. 30-015-22020-0000-0
3. 103
4. Cities Service Company
5. Government AD #2
6. Undesignated Atoka
7. Eddy, NM
8. 10.0 million cubic feet
9. July 31, 1979
10. El Paso Natural Gas Company
1. 79-14552/NM 1847-79
2. 30-015-22082-0000-0
3. 103
4. Cities Service Company
5. Government AE #1
6. East Carlsbad Morrow
7. Eddy, NM
8. 30.1 million cubic feet
9. July 31, 1979
10. El Paso Natural Gas Co
1. 79-14553/NM 1848-79
2. 30-015-22196-0000-0
3. 103
4. Cities Service Company
5. Little Box Canyon Unit #2
6. Little Box Canyon Morrow
7. Eddy, NM
8. 18.4 million cubic feet
9. July 31, 1979
10. El Paso Natural Gas Co
1. 79-14554/NM 1849-79
2. 30-015-22197-0000-0
3. 103
4. Cities Service Company
5. Little Box Canyon Unit #3
6. Wildcat Cisco
7. Eddy, NM
8. 18.8 million cubic feet
9. July 31, 1979
10. El Paso Natural Gas Co
1. 79-14555/NM 529-79-10
2. 30-015-22244-0000-0
3. 102 Denied
4. Southern Union Exploration Company
5. Exxon Federal #1
6. West Bubbling Springs
7. Eddy, NM
8. 13.0 million cubic feet
9. July 30, 1979
10. Gas Company of New Mexico

1. 79-14556/NM 530-79-10
2. 30-015-22035-0000-0
3. 102 Denied
4. Southern Union Exploration Company
5. Exxon Federal #1
6. West Bubbling Springs
7. Eddy, NM
8. 357.0 million cubic feet
9. July 30, 1979
10. Gas Company of New Mexico
1. 79-14557/NM 1340-79
2. 30-045-06301-0000-0
3. 108
4. Depco Inc
5. Mudge B No 1
6. West Kutz (Picture Cliffs)
7. San Juan, NM
8. 1.0 million cubic feet
9. July 31, 1979
10. Gas Company of New Mexico
1. 79-14558/NM 1341-79
2. 30-045-06688-0000-0
3. 108
4. Depco Inc
5. Hancock No 1
6. West Kutz (Picture Cliffs)
7. San Juan, NM
8. 1.0 million cubic feet
9. July 31, 1979
10. Gas Company of New Mexico
1. 79-14559/NM 151-78
2. 30-043-20287-0000-0
3. 103
4. J Gregory Merrion & Robert L Bayless
5. Jicarilla 428 #6
6. Ballard Pictured Cliffs
7. Sandoval, NM
8. 30.0 million cubic feet
9. July 31, 1979
10. Northwest Pipeline Corporation
1. 79-14560/NM 152-78
2. 30-043-20289-0000-0
3. 103
4. J G Merrion & R L Bayless
5. Jicarilla 428 #7
6. Ballard Pictured Cliffs
7. Sandoval, NM
8. 20.0 million cubic feet
9. July 31, 1979
10. Northwest Pipeline Corporation
1. 79-14561/NM 154-78
2. 30-045-22310-0000-0
3. 108
4. J G Merrion & R L Bayless
5. Chaco #2
6. Waw Fruitland Pictured Cliffs
7. San Juan, NM
8. 6.1 million cubic feet
9. July 31, 1979
10. Southern Union Company
1. 79-14562/NM-204-78
2. 30-045-22686-0000-0
3. 103
4. J G Merrion & R L Bayless
5. Chaco #11
6. WAW Fruitland Pictured Cliffs
7. San Juan NM
8. 70.0 million cubic feet
9. July 31, 1979
10. El Paso Natural Gas Company
1. 79-14583/NM-337-78
2. 30-045-22774-0000-0
3. 103
4. Oklahoma Oil Company
5. Navaho 4-1 Well

6. Nipp Pictured Cliff
7. San Juan County NM
8. 120.0 million cubic feet
9. July 31, 1979
10. El Paso Natural Gas Company
1. 79-14564/NM-375-78
2. 30-045-00000-0000-0
3. 108
4. Shenandoah Oil Corporation
5. Rock Island No 1
6. Basin Dakota
7. San Juan NM
8. 12.0 million cubic feet
9. July 31, 1979
10. Northwest Pipeline Corporation
1. 79-14565/NM-1358-79
2. 30-039-05827-0000-0
3. 108
4. El Paso Natural Gas Company
5. Jicarilla D #2
6. Blanco South-Pictured Cliffs Gas
7. Rio Arriba NM
8. 9.9 million cubic feet
9. July 31, 1979
10. El Paso Natural Gas Company
1. 79-14566/NM-1359-79
2. 30-039-05755-0000-0
3. 108
4. El Paso Natural Gas Company
5. Jicarilla B #6
6. Blanco South-Pictured Cliffs Gas
7. Rio Arriba NM
8. 10.2 million cubic feet
9. July 31, 1979
10. El Paso Natural Gas Company
1. 79-14567/NM-1401-79
2. 30-043-20072-0000-0
3. 108
4. El Paso Natural Gas Company
5. Jicarilla 183 #4
6. Ballard-Pictured Cliffs Gas
7. Sandoval NM
8. 10.2 million cubic feet
9. July 31, 1979
10. El Paso Natural Gas Company
1. 79-14568/NM-1403-79
2. 30-039-05614-0000-0
3. 108
4. El Paso Natural Gas Company
5. Jicarilla H #3
6. Blanco South-Pictured Cliffs Gas
7. Rio Arriba NM
8. 4.0 million cubic feet
9. July 31, 1979
10. El Paso Natural Gas Company Northwest
Pipeline Corporation
1. 79-14569/NM-1404-79
2. 30-039-05660-0000-0
3. 108
4. El Paso Natural Gas Company
5. Jicarilla H #2
6. Blanco South-Pictured Cliffs Gas
7. Rio Arriba NM
8. 3.0 million cubic feet
9. July 31, 1979
10. El Paso Natural Gas Company Northwest
Pipeline Corporation
1. 79-14570/NM-1870-79
2. 30-039-20655-0000-0
3. 108
4. El Paso Natural Gas Company
5. Vaughn 26
6. Otero-Chacra Gas
7. Rio Arriba NM
8. 13.9 million cubic feet

9. July 31 1979
10. El Paso Natural Gas Company
1. 79-14571/NM-1672-79
2. 30-045-21448-0000-0
3. 108
4. El Paso Natural Gas Company
5. Nye 11
6. Aztec-Fruitland Gas
7. San Juan NM
8. 15.3 million cubic feet
9. July 31 1979
10. El Paso Natural Gas Company
1. 79-14572/NM-1673-79
2. 30-039-06314-0000-0
3. 108
4. El Paso Natural Gas Company
5. Hughes #15
6. Ballard-Pictured Cliffs Gas
7. Rio Arriba NM
8. 7.0 million cubic feet
9. July 31 1979
10. El Paso Natural Gas Company
1. 79-14573/NM-1674-79
2. 30-045-07121-0000-0
3. 108
4. El Paso Natural Gas Company
5. Howell 4
6. Blanco-Mesaverde Gas
7. San Juan NM
8. 12.0 million cubic feet
9. July 31 1979
10. El Paso Natural Gas Company
1. 79-14574/NM-1675-79
2. 30-039-06282-0000-0
3. 108
4. El Paso Natural Gas Company
5. Hughes #9
6. Ballard-Pictured Cliffs Gas
7. Rio Arriba NM
8. 17.5 million cubic feet
9. July 31 1979
10. El Paso Natural Gas Company
1. 79-14575/NM-1676-79
2. 30-045-06446-0000-0
3. 108
4. El Paso Natural Gas Company
5. Morris 3
6. Fulcher Kutz-Pictured Cliffs Gas
7. San Juan NM
8. 3.3 million cubic feet
9. July 31 1979
10. El Paso Natural Gas Company
1. 79-14576/NM-1677-79
2. 30-045-06651-0000-0
3. 108
4. El Paso Natural Gas Company
5. Morris 2
6. Fulcher Kutz-Pictured Cliffs Gas
7. San Juan NM
8. 6.9 million cubic feet
9. July 31 1979
10. El Paso Natural Gas Company
1. 79-14577/NM-1678-79
2. 30-045-06854-0000-0
3. 108
4. El Paso Natural Gas Company
5. Turner Hughes #7
6. Blanco South-Pictured Cliffs Gas
7. San Juan NM
8. 16.0 million cubic feet
9. July 31 1979
10. El Paso Natural Gas Company
1. 79-14578/NM-1679-79
2. 30-045-21146-0000-0
3. 108
4. El Paso Natural Gas Company
5. Hardie E 8
6. Blanco South-Pictured Cliffs Gas
7. San Juan NM
8. 11.3 million cubic feet
9. July 31 1979
10. El Paso Natural Gas Company
1. 79-14579/NM-1680-79
2. 30-045-21049-0000-0
3. 108
4. El Paso Natural Gas Company
5. King 2
6. Blanco-Pictured Cliffs Gas
7. San Juan NM
8. 16.4 million cubic feet
9. July 31 1979
10. El Paso Natural Gas Company
1. 79-14580/NM-1681-79
2. 30-045-05565-0000-0
3. 108
4. El Paso Natural Gas Company
5. Quitau 1
6. Ballard-Pictured Cliffs Gas
7. San Juan NM
8. 4.0 million cubic feet
9. July 31 1979
10. El Paso Natural Gas Company
1. 79-14581/NM-1682-79
2. 30-039-05936-0000-0
3. 108
4. El Paso Natural Gas Company
5. Jicarilla E #1
6. Blanco South-Pictured Cliffs Gas
7. Rio Arriba NM
8. 17.2 million cubic feet
9. July 31 1979
10. El Paso Natural Gas Company
1. 79-14582/NM-1685-79
2. 30-045-20748-0000-0
3. 108
4. El Paso Natural Gas Company
5. Case #12
6. Blanco-Pictured Cliffs Gas
7. San Juan NM
8. 13.0 million cubic feet
9. July 31 1979
10. El Paso Natural Gas Company
1. 79-14583/NM-1687-79
2. 30-045-21366-0000-0
3. 108
4. El Paso Natural Gas Company
5. Lackey #6
6. Harris Mesa-Chacra Gas
7. San Juan NM
8. 13.5 million cubic feet
9. July 31 1979
10. El Paso Natural Gas Company
1. 79-14584/NM-1688-79
2. 30-045-05631-0000-0
3. 108
4. El Paso Natural Gas Company
5. MC Manus 8
6. Ballard-Pictured Cliffs Gas
7. San Juan NM
8. 7.3 million cubic feet
9. July 31 1979
10. El Paso Natural Gas Company
1. 79-14585/NM-1690-79
2. 30-045-13044-0000-0
3. 108
4. El Paso Natural Gas Company
5. Gordon 3
6. Fulcher Kutz-Pictured Cliffs Gas
7. San Juan NM
8. 11.0 million cubic feet
9. July 31 1979
10. El Paso Natural Gas Company
1. 79-14586/NM-1691-79
2. 30-045-05761-0000-0
3. 108
4. El Paso Natural Gas Company
5. HUN-NOP-PI 1
6. Ballard-Pictured Cliffs Gas
7. San Juan NM
8. 1.0 million cubic feet
9. July 31 1979
10. El Paso Natural Gas Company
1. 79-14587/NM-1695-79
2. 30-039-20634-0000-0
3. 108
4. El Paso Natural Gas Company
5. SJ 28-5 Unit 92
6. Basin-Dakota Gas
7. Rio Arriba NM
8. 9.5 million cubic feet
9. July 31 1979
10. El Paso Natural Gas Company
1. 79-14588/NM-1696-79
2. 30-039-06728-0000-0
3. 108
4. El Paso Natural Gas Company
5. Rincon Unit 2
6. Blanco South-Pictured Cliffs Gas
7. Rio Arriba NM
8. 18.6 million cubic feet
9. July 31 1979
10. El Paso Natural Gas Company
1. 79-14589/NM-1697-79
2. 30-039-21094-0000-0
3. 108
4. El Paso Natural Gas Company
5. SJ 28-7 Unit 101
6. Basin-Dakota Gas
7. Rio Arriba NM
8. 11.0 million cubic feet
9. July 31 1979
10. El Paso Natural Gas Company Northwest Pipeline Corporation
1. 79-14590/NM-1698-79
2. 30-039-08117-0000-0
3. 108
4. El Paso Natural Gas Company
5. Quantius #4
6. Blanco South-Pictured Cliffs Gas
7. Rio Arriba NM
8. 11.7 million cubic feet
9. July 31 1979
10. El Paso Natural Gas Company
1. 79-14591/NM-1699-79
2. 30-045-20679-0000-0
3. 108
4. El Paso Natural Gas Company
5. NYE #3
6. Aztec-Pictured Cliffs Gas
7. San Juan NM
8. 15.0 million cubic feet
9. July 31 1979
10. El Paso Natural Gas Company
1. 79-14592/NM 1700-79
2. 30-045-20760-0000-0
3. 108
4. El Paso Natural Gas Company
5. Atlantic A #11
6. Blanco-Pictured Cliffs Gas
7. San Juan NM
8. 15.7 million cubic feet
9. July 31 1979
10. El Paso Natural Gas Company
1. 79-14593/NM 1813-29

2. 30-039-21623-0000-0
3. 103
4. El Paso Natural Gas Company
5. San Juan 29-7 Unit 79A
6. Blanco
7. Rio Arriba, NM
8. 110.0 million cubic feet
9. July 31, 1979
10. El Paso Natural Gas Company Northwest Pipeline Corp
1. 79-14594/NM 1814-79
2. 30-039-21622-0000-0
3. 103
4. El Paso Natural Gas Company
5. San Juan 29-7 Unit #82-A
6. Blanco
7. Rio Arriba, NM
8. 540.0 million cubic feet
9. July 31, 1979
10. El Paso Natural Gas Company Northwest Pipeline Corp
1. 79-14595/NM 1815-79
2. 30-039-20997-0000-0
3. 103
4. El Paso Natural Gas Company
5. San Juan 28-7 Unit #226
6. Basin
7. Rio Arriba, NM
8. 102.0 million cubic feet
9. July 31, 1979
10. El Paso Natural Gas Company Northwest Pipeline Corp
1. 79-14596/NM 1816-79
2. 30-039-06580-0000-0
3. 108
4. Depco Inc
5. Mudge A No 4
6. West Kutz (Picture Cliffs)
7. San Juan, NM
8. 2.0 million cubic feet
9. July 31, 1979
10. Gas Company of New Mexico
1. 79-14597/NM 1817-79
2. 30-045-06571-0000-0
3. 108
4. Depco Inc
5. Mudge A No 2
6. West Kutz (Picture Cliffs)
7. San Juan, NM
8. 6.0 million cubic feet
9. July 31, 1979
10. Gas Company of New Mexico
1. 79-14598/NM 1818-79
2. 30-045-06656-0000-0
3. 108
4. Depco Inc
5. Hancock No 13
6. West Kutz (Picture Cliffs)
7. San Juan, NM
8. 13.0 million cubic feet
9. July 31, 1979
10. Gas Company of New Mexico
1. 79-14599/NM 1819-79
2. 30-025-23760-0000-0
3. 108
4. Tahoe Oil & Cattle Co
5. Clair #1
6. West Sawyer San Andres
7. Lea, NM
8. 15.8 million cubic feet
9. July 31, 1979
10. Cities Service Transwestern Pipeline Company
1. 79-14600/NM 1822-79
2. 30-015-22386-0000-0
3. 102
4. Gulf Oil Corporation
5. Nopal Draw Federal Unit Well No 1
6. Undesignated Wildcat (Morrow)
7. Eddy, NM
8. 83.0 million cubic feet
9. July 31, 1979
10. Tuco Inc
1. 79-14601/NM 1823-79
2. 30-015-22230-0000-0
3. 103
4. Hanagan Petroleum Corporation
5. N Horseshoe Bend Com #1 NM 10895
6. Undesignated (Strawn U & L)
7. Eddy, NM
8. 33.0 million cubic feet
9. July 31, 1979
10. Transwestern Pipeline Company
1. 79-14605/NM 1405-79
2. 30-045-20326-0000-0
3. 108
4. El Paso Natural Gas Company
5. Huerfano Unit #153
6. Basin-Dakota Gas
7. San Juan, NM
8. 14.0 million cubic feet
9. July 31, 1979
10. El Paso Natural Gas Company Northwest Pipeline Corp
1. 79-14606/NM 1406-79
2. 30-039-06165-0000-0
3. 108
4. El Paso Natural Gas Company
5. Sheets A #2
6. Ballard-Pictured Cliffs Gas
7. Rio Arriba, NM
8. 10.6 million cubic feet
9. July 31, 1979
10. El Paso Natural Gas Company
1. 79-14607/NM 1430-79
2. 30-039-07763-0000-0
3. 108
4. El Paso Natural Gas Company
5. San Juan 30-4 Unit #3
6. Blanco East-Pictured Cliffs Gas
7. Rio Arriba, NM
8. 3.7 million cubic feet
9. July 31, 1979
10. El Paso Natural Gas Company
1. 79-14608/NM 1431-79
2. 30-039-20818-0000-0
3. 108
4. El Paso Natural Gas Company
5. San Juan 27-5 Unit #179
6. Tapacito-Pictured Cliffs Gas
7. Rio Arriba, NM
8. 20.0 million cubic feet
9. July 31, 1979
10. El Paso Natural Gas Company Northwest Pipeline Corp
1. 79-14609/NM 1432-79
2. 30-039-05218-0000-0
3. 108
4. El Paso Natural Gas Company
5. Lindrieth Unit #56
6. Blanco South-Pictured Cliffs Gas
7. Rio Arriba, NM
8. 13.9 million cubic feet
9. July 31, 1979
10. El Paso Natural Gas Company
1. 79-14610/NM 1433-79
2. 30-039-05307-0000-0
3. 108
4. El Paso Natural Gas Company
5. Lindrieth Unit #28
6. Blanco South-Pictured Cliffs Gas
7. Rio Arriba, NM
8. 9.0 million cubic feet
9. July 31, 1979
10. El Paso Natural Gas Company
1. 79-14611/NM 1434-79
2. 30-039-08074-0000-0
3. 108
4. El Paso Natural Gas Company
5. Lindrieth Unit #60
6. Blanco South-Pictured Cliffs Gas
7. Rio Arriba, NM
8. 17.2 million cubic feet
9. July 31, 1979
10. El Paso Natural Gas Company
1. 79-14612/NM 1435-79
2. 30-045-11819-0000-0
3. 108
4. El Paso Natural Gas Company
5. Schwerdtfeger A #6
6. Blanco South-Pictured Cliffs Gas
7. San Juan, NM
8. 8.0 million cubic feet
9. July 31, 1979
10. El Paso Natural Gas Company
1. 79-14613/NM 1436-79
2. 30-045-06040-0000-0
3. 108
4. El Paso Natural Gas Company
5. Luthy 1
6. Blanco South-Pictured Cliffs Gas
7. San Juan, NM
8. 3.0 million cubic feet
9. July 31, 1979
10. El Paso Natural Gas Company
1. 79-14614/NM 1437-79
2. 30-039-05202-0000-0
3. 108
4. El Paso Natural Gas Company
5. Lindrieth Unit #55
6. Blanco South-Pictured Cliffs Gas
7. Rio Arriba, NM
8. 13.0 million cubic feet
9. July 31, 1979
10. El Paso Natural Gas Company
1. 79-14615/NM 1480-79
2. 30-039-05247-0000-0
3. 108
4. El Paso Natural Gas Company
5. Jicarilla P #7
6. Ballard-Pictured Cliffs Gas
7. Rio Arriba, NM
8. 1.0 million cubic feet
9. July 31, 1979
10. El Paso Natural Gas Company
1. 79-14616/NM 1481-79
2. 30-039-05328-0000-0
3. 108
4. El Paso Natural Gas Company
5. Jicarilla, #10
6. Ballard-Pictured Cliffs Gas
7. Rio Arriba, NM
8. 3.0 million cubic feet
9. July 31, 1979
10. El Paso Natural Gas Company
1. 79-14617/NM 1482-79
2. 30-045-09865-0000-0
3. 108
4. El Paso Natural Gas Company
5. Bolack F #1
6. Flora Vista-Fruitland Gas
7. San Juan, NM
8. 10.0 million cubic feet
9. July 31, 1979
10. El Paso Natural Gas Company

1. 79-14618/NM 1484-79
2. 30-045-06945-0000-0
3. 108
4. El Paso Natural Gas Company
5. Schwerdtfeger A 7
6. Blanco South-Pictured Cliffs Gas
7. San Juan, NM
8. 10.8 million cubic feet
9. July 31, 1979
10. El Paso Natural Gas Company
1. 79-14619/NM 1485-79
2. 30-039-06361-0000-0
3. 108
4. El Paso Natural Gas Company
5. Sanchez A1
6. Blanco South-Pictured Cliffs Gas
7. Rio Arriba, NM
8. 5.5 million cubic feet
9. July 31, 1979
10. El Paso Natural Gas Company
1. 79-14620/NM 1602-79
2. 30-039-20739-0000-0
3. 108
4. El Paso Natural Gas Company
5. San Juan 27-5 Unit #159
6. Tapacito-Pictured Cliffs Gas
7. Rio Arriba, NM
8. 7.0 million cubic feet
9. July 31, 1979
10. El Paso Natural Gas Company Northwest Pipeline Corp
1. 79-14621/NM 1603-79
2. 30-039-20643-0000-0
3. 108
4. El Paso Natural Gas Company
5. 27.5 Unit #81
6. Tapacito-Pictured Cliffs Gas
7. Rio Arriba, NM
8. 4.0 million cubic feet
9. July 31, 1979
10. El Paso Natural Gas Company Northwest Pipeline Corp
1. 79-14622/NM 1604-79
2. 30-039-20642-0000-0
3. 108
4. El Paso Natural Gas Company
5. San Juan 27-5 Unit #182
6. Tapacito-Pictured Cliffs Gas
7. Rio Arriba, NM
8. 5.0 million cubic feet
9. July 31, 1979
10. El Paso Natural Gas Company Northwest Pipeline Corp
1. 79-14623/NM 1605-79
2. 30-039-20814-0000-0
3. 108
4. El Paso Natural Gas Company
5. San Juan 27-5 Unit No 172
6. Tapacito-Pictured Cliffs Gas
7. Rio Arriba, NM
8. 6.2 million cubic feet
9. July 31, 1979
10. El Paso Natural Gas Company Northwest Pipeline Corp
1. 79-14624/NM 1607-79
2. 30-045-21440-0000-0
3. 108
4. El Paso Natural Gas Company
5. Morris A 10
6. Aztec-Pictured Cliffs Gas
7. San Juan, NM
8. 5.1 million cubic feet
9. July 31, 1979
10. El Paso Natural Gas Company
1. 79-14625/NM 1608-79

2. 30-045-21613-0000-0
3. 108
4. El Paso Natural Gas Company
5. Pinon Mesa C 1
6. Basin-Dakota Gas
7. San Juan, NM
8. 7.0 million cubic feet
9. July 31, 1979
10. El Paso Natural Gas Company
1. 79-14626/NM 1609-79
2. 30-045-06368-0000-0
3. 108
4. El Paso Natural Gas Company
5. McAdams 4
6. Fulcher Kutz-Pictured Cliffs Gas
7. San Juan, NM
8. 4.4 million cubic feet
9. July 31, 1979
10. El Paso Natural Gas Company
1. 79-14627/NM 1610-79
2. 30-045-06338-0000-0
3. 108
4. El Paso Natural Gas Company
5. Lodewick 4
6. Fulcher Kutz-Pictured Cliffs Gas
7. San Juan, NM
8. 13.0 million cubic feet
9. July 31, 1979
10. El Paso Natural Gas Company
1. 79-14628/NM 1611-79
2. 30-045-09248-0000-0
3. 108
4. El Paso Natural Gas Company
5. Riddle B 1
6. Blanco-Mesaverde Gas
7. San Juan, NM
8. 7.0 million cubic feet
9. July 31, 1979
10. El Paso Natural Gas Company
1. 79-14629/NM 1612-79
2. 30-045-06600-0000-0
3. 108
4. El Paso Natural Gas Company
5. Bolack B No 4
6. Blanco-Mesaverde Gas
7. San Juan, NM
8. 13.5 million cubic feet
9. July 31, 1979
10. El Paso Natural Gas Company
1. 79-14630/NM 1613-79
2. 30-045-06643-0000-0
3. 108
4. El Paso Natural Gas Company
5. Rowley 2
6. Fulcher Kutz-Pictured Cliffs Gas
7. San Juan, NM
8. 2.9 million cubic feet
9. July 31, 1979
10. El Paso Natural Gas Company
1. 79-14631/NM 1614-79
2. 30-045-06629-0000-0
3. 108
4. El Paso Natural Gas Company
5. Bolack B No 2
6. Blanco South-Pictured Cliffs Gas
7. San Juan, NM
8. 3.0 million cubic feet
9. July 31, 1979
10. El Paso Natural Gas Company
1. 79-14632/NM 1615-79
2. 30-045-06540-0000-0
3. 108
4. El Paso Natural Gas Company
5. Rowley 4
6. Fulcher Kutz-Pictured Cliffs Gas

7. San Juan, NM
8. 9.0 million cubic feet
9. July 31, 1979
10. El Paso Natural Gas Company
1. 79-14633/NM 1616-79
2. 30-045-06246-0000-0
3. 108
4. El Paso Natural Gas Company
5. Graham 1
6. Fulcher Kutz-Pictured Cliffs Gas
7. San Juan, NM
8. 1.0 million cubic feet
9. July 31, 1979
10. El Paso Natural Gas Company
1. 79-14634/NM 1635-79
2. 30-039-20016-0000-0
3. 108
4. El Paso Natural Gas Company
5. Lindrith Unit No 68
6. Blanco South-Pictured Cliffs Gas
7. Rio Arriba, NM
8. 11.0 million cubic feet
9. July 31, 1979
10. El Paso Natural Gas Company
1. 79-14635/NM 1634-79
2. 30-039-20017-0000-0
3. 108
4. El Paso Natural Gas Company
5. Lindrith Unit No 67
6. Blanco South-Pictured Cliffs Gas
7. Rio Arriba, NM
8. 8.0 million cubic feet
9. July 31, 1979
10. El Paso Natural Gas Company
1. 79-14636/NM 1633-79
2. 30-039-20014-0000-0
3. 108
4. El Paso Natural Gas Company
5. Lindrith Unit No 64
6. Blanco South-Pictured Cliffs Gas
7. Rio Arriba, NM
8. 11.3 million cubic feet
9. July 31, 1979
10. El Paso Natural Gas Company
1. 79-14637/NM 1633-79
2. 30-039-20498-0000-0
3. 108
4. El Paso Natural Gas Company
5. Canyon Largo Unit NP 188
6. Basin-Dakota Gas
7. Rio Arriba, NM
8. 12.0 million cubic feet
9. July 31, 1979
10. El Paso Natural Gas Company
1. 79-14638/NM 1618-79
2. 30-045-21536-0000-0
3. 108
4. El Paso Natural Gas Company
5. Lackey A 8
6. Aztec-Pictured Cliffs Gas
7. San Juan, NM
8. 12.4 million cubic feet
9. July 31, 1979
10. El Paso Natural Gas Company
1. 79-14639/NM 1617-79
2. 30-045-20895-0000-0
3. 108
4. El Paso Natural Gas Company
5. Case 15
6. Blanco-Pictured Cliffs Gas
7. San Juan, NM
8. 8.0 million cubic feet
9. July 31, 1979
10. El Paso Natural Gas Company
1. 79-14640/NM 1664-79

2. 30-039-05659-0000-0
3. 108
4. El Paso Natural Gas Company
5. Jicarilla H No 1
6. Blanco South-Pictured Cliffs Gas
7. Rio Arriba, NM
8. 3.0 million cubic feet
9. July 31, 1979
10. El Paso Natural Gas Company, Northwest Pipeline Corp
1. 79-14641/NM 1636-79
2. 30-039-20015-0000-0
3. 108
4. El Paso Natural Gas Company
5. Lindrith Unit No 65
6. Blanco South-Pictured Cliffs Gas
7. Rio Arriba, NM
8. 9.0 million cubic feet
9. July 31, 1979
10. El Paso Natural Gas Company
1. 79-14642/NM 1665-79
2. 30-039-05584-0000-0
3. 108
4. El Paso Natural Gas Company
5. Jicarilla H No 8
6. Blanco South-Pictured Cliffs Gas
7. Rio Arriba, NM
8. 1.0 million cubic feet
9. July 31, 1979
10. El Paso Natural Gas Company, Northwest Pipeline Corp
1. 79-14643/NM 1666-79
2. 30-045-20911-0000-0
3. 108
4. El Paso Natural Gas Company
5. Huerfano Unit NP No 229
6. Basin-Dakota Gas
7. San Juan, NM
8. 13.0 million cubic feet
9. July 31, 1979
10. El Paso Natural Gas Company
1. 79-14644/NM 1667-79
2. 30-045-06359-0000-0
3. 108
4. El Paso Natural Gas Company
5. McAdams A No 1
6. Fulcher Kutz-Pictured Cliffs Gas
7. San Juan, NM
8. 5.1 million cubic feet
9. July 31, 1979
10. El Paso Natural Gas Company
1. 79-14645/NM 1671-79
2. 30-045-05499-0000-0
3. 108
4. El Paso Natural Gas Company
5. Sheets A No 4
6. Ballard-Pictured Cliffs Gas
7. San Juan, NM
8. 2.0 million cubic feet
9. July 31, 1979
10. El Paso Natural Gas Company
1. 79-14646/NM 1669-79
2. 30-045-05562-0000-0
3. 108
4. El Paso Natural Gas Company
5. Sheets A No 3
6. Ballard-Pictured Cliffs Gas
7. San Juan, NM
8. 16.4 million cubic feet
9. July 31, 1979
10. El Paso Natural Gas Company
1. 79-14647/NM 1668-79
2. 30-045-09234-0000-0
3. 108
4. El Paso Natural Gas Company

5. Sellers No 1
6. Blanco Mesaverde Gas
7. San Juan, NM
8. 12.0 million cubic feet
9. July 31, 1979
10. El Paso Natural Gas Company

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, room 1000, 825 North Capitol Street, NE., Washington, D.C. 20426.

Persons objecting to any of these final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before September 10, 1979. Please reference the FERC control number in all correspondence related to these determinations.

Kenneth F. Plumb,
Secretary.

[FR Doc 79-26475 Filed 8-23-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. CP79-426]

Colorado Interstate Gas Co.; Application

August 20, 1979.

Take notice that on August 2, 1979, Colorado Interstate Gas Company (Applicant), P.O. Box 1087, Colorado Springs, Colorado 80944, filed in Docket No. CP79-426 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of three additional 1,100 horsepower compressors and ancillary equipment at its existing Mocane Compressor Station in Beaver County, Oklahoma, all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant states that the wellhead pressures of many wells on the gathering systems of the Mocane-Adams Ranch Fields have declined to the point where Applicant's gas purchase contract obligations cannot be met with the existing compression capability of its Mocane Station. Therefore, in order to provide a lower suction pressure to offset declining field pressure and to comply with gas purchase contracts in the Mocane Field, Applicant proposes to construct the 3,300 horsepower addition.

The estimated cost of the proposed facilities is \$2,659,009 which Applicant proposes to finance from current funds

on hand, funds from operations, short-term borrowings, on long-term financing.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 10, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants party to a proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-26445 Filed 8-23-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. GP79-42]

D/FW Oil & Gas, Inc.; Application for Allowance for Production-Related Costs

August 16, 1979.

Take notice that on June 22, 1979, D/FW Oil and Gas, Inc. (Applicant), Suite 603, University Towers, 6440 N. Central Expressway, Dallas, Texas 75204, filed with the Federal Energy Regulatory Commission (Commission), pursuant to §§ 1.5 and 271.1105 of the Commission's regulations, an application for recovery of production-related costs under

authority of section 110 of the Natural Gas Policy Act of 1978 (NGPA) and section 271.1105 of the Commission's regulation implementing that section. Applicant is applying for an allowance of \$0.22 per MMBtu for transportation and compression costs connected with natural gas deliveries to Coronado Transmission Company (Coronado).

The Applicant is currently seeking a determination from the Texas Railroad Commission that this gas delivered to Coronado qualifies for a maximum lawful price under section 102 and 103 of the NGPA. Applicant, however, is requesting the \$0.22 allowance under section 110 of the NGPA only in the event that the gas does not qualify under sections 102 or 103 and is subject to a maximum lawful price under section 109 of the NGPA.

Any person desiring to be heard or to make any protest with reference to this proceeding should, on or before September 10, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-26446 Filed 8-23-79; 8:45 am]

BILLING CODE 6450-01-M

DEPCO, Inc., et al.; Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

August 17, 1979.

The Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

California Department of Conservation,
Division of Oil and Gas

1. Control number (F.E.R.C./State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or Block No.
8. Estimated annual volume
9. Date received at FERC

10. Purchaser(s)
1. 79-15273/79-4-0011
2. 04-029-56083
3. 103
4. DEPCO Inc
5. Brandt No 12-27
6. English Colony
7. Kern, CA
8. 180.0 million cubic feet
9. July 31, 1979
10. Pacific Lighting Service Company

Kansas Corporation Commission

1. Control number (F.E.R.C./State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or Block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 79-15372/K-78-0394
2. 15-175-20339
3. 103
4. John R. Lebosquet
5. #1 Northern Natural Gas Co
6. Hugoton
7. Seward, KS
8. 60.0 million cubic feet
9. August 6, 1979
10. Northern Natural Gas Co

1. 79-15373/K-78-0391
2. 15-175-00000
3. 108
4. Donald W Jackson
5. Thompson C No 1
6. Kansas Hugoton
7. Seward, KS
8. 18.0 million cubic feet
9. August 6, 1979
10. Northern Natural Gas Co

1. 79-15374/K-78-0392
2. 15-175-00000
3. 108
4. Donald W Jackson
5. Simonson A No 1
6. Kansas-Hugoton
7. Seward, KS
8. .0 million cubic feet
9. August 6, 1979
10. Northern Natural Gas Company

West Virginia Department of Mines, Oil and Gas Division

1. Control number (F.E.R.C./State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or Block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 79-15275
2. 47-019-00273
3. 108
4. Consolidated Gas Supply Corporation
5. Kanawha-Hocking 11959
6. West Virginia other A-85772
7. Fayette, WV
8. 20.0 million cubic feet
9. August 3, 1979

10. General system purchasers
1. 79-15276
2. 47-017-01850
3. 108
4. Consolidated Gas Supply Corporation
5. M J McMillian 12272
6. West Virginia other A-85772
7. Doddridge, WV
8. 6.0 million cubic feet
9. August 3, 1979
10. General system purchasers

1. 79-15277
2. 47-017-01807
3. 108
4. Consolidated Gas Supply Corporation
5. M T Williams 12117
6. West Virginia other A-85772
7. Doddridge, WV
8. 20.0 million cubic feet
9. August 3, 1979
10. General system purchasers

1. 79-15278
2. 47-017-01806
3. 108
4. Consolidated Gas Supply Corporation
5. Stutler Hrs 12020
6. West Virginia other A-85772
7. Doddridge, WV
8. 3.0 million cubic feet
9. August 3, 1979
10. General system purchasers

1. 79-15279
2. 47-033-00876
3. 108
4. Consolidated Gas Supply Corporation
5. H G Porter 11913
6. West Virginia other A-85772
7. Harrison, WV
8. 1.0 million cubic feet
9. August 3, 1979
10. General system purchasers

1. 79-15280
2. 47-021-02747
3. 108
4. Consolidated Gas Supply Corporation
5. Louis Bennett 12218
6. West Virginia other A-85772
7. Gilmer, WV
8. 8.0 million cubic feet
9. August 3, 1979
10. General system purchasers

1. 79-15281
2. 47-019-00303
3. 108
4. Consolidated Gas Supply Corporation
5. Gauley Mountain Coal 12243
6. West Virginia other A-85772
7. Fayette, WV
8. 8.0 million cubic feet
9. August 3, 1979
10. General system purchasers

1. 79-15282
2. 47-001-00726
3. 108
4. Consolidated Gas Supply Corporation
5. M Carpenter 11983
6. West Virginia other A-85772
7. Barbour, WV
8. 11.0 million cubic feet
9. August 3, 1979
10. General system purchasers

1. 79-15283
2. 47-001-00739
3. 108

4. Consolidated Gas Supply Corporation
5. C Peck 12052
6. West Virginia other A-85772
7. Barbour, WV
8. 5.0 million cubic feet
9. August 3, 1979
10. General system purchasers

1. 79-15284
2. 47-001-00720
3. 108
4. Consolidated Gas Supply Corporation
5. E Walker 11934
6. West Virginia other A-85772
7. Barbour, WV
8. 17.0 million cubic feet
9. August 3, 1979
10. General System Purchasers

1. 79-15285
2. 47-049-00309
3. 108
4. Consolidated Gas Supply Corporation
5. J Blackshere 11638
6. West Virginia other A-85772
7. Marion, WV
8. 1.0 million cubic feet
9. August 3, 1979
10. General System Purchasers

1. 79-15286
2. 47-049-00308
3. 108
4. Consolidated Gas Supply Corporation
5. J Hess 11637
6. West Virginia other A-85772
7. Marion, WV
8. 16.0 million cubic feet
9. August 3, 1979
10. General System Purchasers

1. 79-15287
2. 47-041-01927
3. 108
4. Consolidated Gas Supply Corporation
5. Peterson HRS 11668
6. West Virginia other A-85772
7. Lewis, WV
8. 7.0 million cubic feet
9. August 3, 1979
10. General System Purchasers

1. 79-15288
2. 47-041-01928
3. 108
4. Consolidated Gas Supply Corporation
5. S Cummings 11669
6. West Virginia other A-85772
7. Lewis, WV
8. 2.0 million cubic feet
9. August 3, 1979
10. General System Purchasers

1. 79-15289
2. 47-041-01970
3. 108
4. Consolidated Gas Supply Corporation
5. M E Posey 11842
6. West Virginia other A-85772
7. Lewis, WV
8. 18.0 million cubic feet
9. August 3, 1979
10. General System Purchasers

1. 79-15290
2. 47-041-01910
3. 108
4. Consolidated Gas Supply Corporation
5. G W Neely 11551
6. West Virginia other A-85772
7. Lewis, WV

8. 16.0 million cubic feet
9. August 3, 1979
10. General System Purchasers
1. 79-15291
2. 47-041-01911
3. 108
4. Consolidated Gas Supply Corporation
5. M O Edwards 11591
6. West Virginia other A-85772
7. Lewis, WV
8. 5.0 million cubic feet
9. August 3, 1979
10. General System Purchasers

1. 79-15292
2. 47-041-01915
3. 108
4. Consolidated Gas Supply Corporation
5. D Neeley 11617
6. West Virginia other A-85772
7. Lewis, WV
8. 18.0 million cubic feet
9. August 3, 1979
10. General System Purchasers

1. 79-15293
2. 47-041-01916
3. 108
4. Consolidated Gas Supply Corporation
5. J H McKinley 11553
6. West Virginia other A-85772
7. Lewis, WV
8. 20.0 million cubic feet
9. August 3, 1979
10. General System Purchasers

1. 79-15294
2. 47-041-01919
3. 108
4. Consolidated Gas Supply Corporation
5. S P Queen 11593
6. West Virginia other A-85772
7. Lewis, WV
8. 14.0 million cubic feet
9. August 3, 1979
10. General System Purchasers

1. 79-15295
2. 47-041-01893
3. 108
4. Consolidated Gas Supply Corporation
5. E Gaston 11549
6. West Virginia other A-85772
7. Lewis, WV
8. 10.0 million cubic feet
9. August 3, 1979
10. General System Purchasers

1. 79-15296
2. 47-041-01901
3. 108
4. Consolidated Gas Supply Corporation
5. A Woofler 11550
6. West Virginia other A-85772
7. Lewis, WV
8. 9.0 million cubic feet
9. August 3, 1979
10. General System Purchasers

1. 79-15297
2. 47-041-01902
3. 108
4. Consolidated Gas Supply Corporation
5. P C Allman 11552
6. West Virginia other A-85772
7. Lewis, WV
8. 9.0 million cubic feet
9. August 3, 1979
10. General System Purchasers

1. 79-15298

2. 47-061-00335
3. 108
4. Consolidated Gas Supply Corporation
5. E Davis 11702
6. Greer-Gladesville 290235
7. Monongalia, WV
8. 3.0 million cubic feet
9. August 3, 1979
10. General System Purchasers

1. 79-15299
2. 47-041-01957
3. 108
4. Consolidated Gas Supply Corporation
5. I Forinash 11727
6. West Virginia other A-85772
7. Lewis, WV
8. 5.0 million cubic feet
9. August 3, 1979
10. General System Purchasers

1. 79-15300
2. 47-033-00887
3. 108
4. Consolidated Gas Supply Corporation
5. E Rogers 11668
6. West Virginia other A-85772
7. Harrison, WV
8. 18.0 million cubic feet
9. August 3, 1979
10. General System Purchasers

1. 79-15301
2. 47-033-00888
3. 108
4. Consolidated Gas Supply Corporation
5. L Robinson 11690
6. West Virginia other A-85772
7. Harrison, WV
8. 20.0 million cubic feet
9. August 3, 1979
10. General System Purchasers

1. 79-15302
2. 47-047-00625
3. 108 Denied
4. Consolidated Gas Supply Corporation
5. McDowell-Pocahontas Coal 11794
6. Pineville Field Area
7. McDowell, WV
8. 6.0 million cubic feet
9. August 3, 1979
10. General System Purchasers

1. 79-15303
2. 47-041-01904
3. 108 denied
4. Consolidated Gas Supply Corporation
5. L M Lawson 11594
6. West Virginia other A-85772
7. Lewis, WV
8. 19.0 million cubic feet
9. August 3, 1979
10. General System Purchasers

1. 79-15304
2. 47-035-01365
3. 108 denied
4. Consolidated Gas Supply Corporation
5. I Livingston 11792
6. West Virginia other A-85772
7. Jackson, WV
8. 2.0 million cubic feet
9. August 3, 1979
10. General System Purchasers

1. 79-15305
2. 47-067-00320
3. 108 denied
4. Consolidated Gas Supply Corporation
5. W F & A McGue 11621
6. West Virginia other A-85772

7. Nicholas, WV
8. 1.0 million cubic feet
9. August 3, 1979
10. General System Purchasers
1. 79-15308
2. 47-059-00845
3. 108 denied
4. Consolidated Gas Supply Corporation
5. C Hamill 11881
6. Pineville Field Area A-59442
7. Mineo, WV
8. 8.0 million cubic feet
9. August 3, 1979
10. General System Purchasers
1. 79-15307
2. 47-047-00607
3. 108 denied
4. Consolidated Gas Supply Corporation
5. R L Dennis 11641
6. Pineville Field Area A-59442
7. McDowell, WV
8. 5.0 million cubic feet
9. August 3, 1979
10. General System Purchasers
1. 79-15308
2. 47-047-00595
3. 108 denied
4. Consolidated Gas Supply Corporation
5. McDowell-Pocahontas Coal 11479
6. Pineville Field Area A-59442
7. McDowell, WV
8. 13.0 million cubic feet
9. August 3, 1979
10. General System Purchasers
1. 79-15309
2. 47-033-00880
3. 108 denied
4. Consolidated Gas Supply Corporation
5. M Bond 11883
6. West Virginia other A-85772
7. Harrison, WV
8. 20.0 million cubic feet
9. August 3, 1979
10. General System Purchasers
1. 79-15310
2. 47-047-00621
3. 108 denied
4. Consolidated Gas Supply Corporation
5. Crozier Land 11572
6. Pineville Field Area A-59442
7. McDowell, WV
8. 20.0 million cubic feet
9. August 3, 1979
10. General System Purchasers
1. 79-15311
2. 47-059-00838
3. 108 denied
4. Consolidated Gas Supply Corporation
5. C A Hamill 11580
6. Pineville Field Area A-59442
7. Mineo, WV
8. 20.0 million cubic feet
9. August 3, 1979
10. General System Purchasers
1. 79-15312
2. 47-047-00614
3. 108 denied
4. Consolidated Gas Supply Corporation
5. McDowell-Pocahontas Coal 11684
6. Pineville Field Area A-59442
7. McDowell, WV
8. 10.0 million cubic feet
9. August 3, 1979
10. General System Purchasers
1. 79-15313
2. 47-033-00902
3. 108
4. Consolidated Gas Supply Corporation
5. G Conley 11894
6. West Virginia other A-85772
7. Harrison, WV
8. 5.0 million cubic feet
9. August 3, 1979
10. General System Purchasers
1. 79-15314
2. 47-041-01948
3. 108
4. Consolidated Gas Supply Corporation
5. P M O'Hara 11712
6. West Virginia Other A-85772
7. Lewis, WV
8. 11.0 million cubic feet
9. August 3, 1979
10. General System Purchasers
1. 79-15375
2. 47-041-02008
3. 108
4. Consolidated Gas Supply Corporation
5. C Long 11988
6. West Virginia Other A-85772
7. Lewis, WV
8. 6.0 million cubic feet
9. August 6, 1979
10. General System Purchasers
1. 79-15376
2. 47-035-01373
3. 108
4. Consolidated Gas Supply Corporation
5. L A Baier 12144
6. West Virginia Other A-85772
7. Jackson, WV
8. 18.0 million cubic feet
9. August 6, 1979
10. General System Purchasers
1. 79-15377
2. 47-041-01988
3. 108
4. Consolidated Gas Supply Corporation
5. W Woofor 11941
6. West Virginia Other A-85772
7. Lewis, WV
8. 4.0 million cubic feet
9. August 6, 1979
10. General System Purchasers
1. 79-15378
2. 47-041-01993
3. 108
4. Consolidated Gas Supply Corporation
5. J Waldeck 11937
6. West Virginia Other A-85772
7. Lewis, WV
8. 3.0 million cubic feet
9. August 6, 1979
10. General System Purchasers
1. 79-15379
2. 47-041-01996
3. 108
4. Consolidated Gas Supply Corporation
5. R Kelley 11928
6. West Virginia Other A-85772
7. Lewis, WV
8. 3.0 million cubic feet
9. August 6, 1979
10. General System Purchasers
1. 79-15380
2. 47-041-02132
3. 108
4. Consolidated Gas Supply Corporation
5. A C Simmons 12404
6. West Virginia Other A-85772

7. Lewis, WV
8. 12.0 million cubic feet
9. August 6, 1979
10. General System Purchasers
1. 79-15381
2. 47-049-00318
3. 108
4. Consolidated Gas Supply Corporation
5. D D Hawkins 12077
6. West Virginia Other A-85772
7. Marion, WV
8. 8.0 million cubic feet
9. August 6, 1979
10. General System Purchasers
1. 79-15382
2. 47-041-02064
3. 108
4. Consolidated Gas Supply Corporation
5. D R Swisher 12154
6. West Virginia Other A-85772
7. Lewis, WV
8. 14.0 million cubic feet
9. August 6, 1979
10. General System Purchasers
1. 79-15383
2. 47-097-01668
3. 108
4. Consolidated Gas Supply Corporation
5. M B Wilson 12017
6. West Virginia Other A-85772
7. Upshur, WV
8. 15.0 million cubic feet
9. August 6, 1979
10. General System Purchasers
1. 79-15384
2. 47-097-01654
3. 108
4. Consolidated Gas Supply Corporation
5. H M Carte 12018
6. West Virginia Other A-85772
7. Upshur, WV
8. 7.0 million cubic feet
9. August 6, 1979
10. General System Purchasers
1. 79-15385
2. 47-033-01044
3. 108
4. Consolidated Gas Supply Corporation
5. S Ashcraft 12271
6. West Virginia Other A-85772
7. Harrison, WV
8. 14.0 million cubic feet
9. August 6, 1979
10. General System Purchasers
1. 79-15386
2. 47-033-01045
3. 108 denied
4. Consolidated Gas Supply Corporation
5. T Ward 12235
6. West Virginia Other A-85772
7. Harrison, WV
8. 11.0 million cubic feet
9. August 6, 1979
10. General System Purchasers
1. 79-15387
2. 47-077-00174
3. 108
4. Consolidated Gas Supply Corporation
5. H J Rehe 11918
6. Greer-Gladesville 290235
7. Preston, WV
8. 10.0 million cubic feet
9. August 6, 1979
10. General System Purchasers
1. 79-15388

2. 47-059-00878
3. 108 denied
4. Consolidated Gas Supply Corporation
5. McDonald Land Co 12361
6. Pineville Field Area A-59442
7. Mingo, WV
8. 15.0 million cubic feet
9. August 6, 1979
10. General System Purchasers
1. 79-15389
2. 47-033-01229
3. 108 denied
4. Consolidated Gas Supply Corporation
5. Fittro-Gerrard 12486
6. West Virginia Other A-85772
7. Harrison, WV
8. 4.0 million cubic feet
9. August 6, 1979
10. General System Purchasers
1. 79-15390
2. 47-097-01738
3. 108 denied
4. Consolidated Gas Supply Corporation
5. D C Ressenger 12269
6. West Virginia Other A-85772
7. Upshur, WV
8. 10.0 million cubic feet
9. August 6, 1979
10. General System Purchasers
1. 79-15391
2. 47-041-01955
3. 108
4. Consolidated Gas Supply Corporation
5. J Cheuvront 11749
6. West Virginia Other A-85772
7. Lewis, WV
8. 12.0 million cubic feet
9. August 6, 1979
10. General System Purchasers
1. 79-15392
2. 47-041-01954
3. 108
4. Consolidated Gas Supply Corporation
5. I Jackson 11725
6. West Virginia Other A-85772
7. Lewis, WV
8. 9.0 million cubic feet
9. August 6, 1979
10. General System Purchasers
1. 79-15394
2. 47-041-01941
3. 108
4. Consolidated Gas Supply Corporation
5. A A Rohrbaugh 11707
6. West Virginia Other A-85772
7. Lewis, WV
8. 15.0 million cubic feet
9. August 6, 1979
10. General System Purchasers
1. 79-15395
2. 47-041-01929
3. 108
4. Consolidated Gas Supply Corporation
5. B S Hall 11688
6. West Virginia Other A-85772
7. Lewis, WV
8. 8.0 million cubic feet
9. August 6, 1979
10. General System Purchasers
1. 79-15396
2. 47-041-01964
3. 108
4. Consolidated Gas Supply Corporation
5. J Casey 11817
6. West Virginia Other A-85772

7. Lewis, WV
8. 14.0 million cubic feet
9. August 6, 1979
10. General System Purchasers
1. 79-15397
2. 47-041-01960
3. 108
4. Consolidated Gas Supply Corporation
5. I Jackson 11724
6. West Virginia Other A-85772
7. Lewis, WV
8. 20.0 million cubic feet
9. August 6, 1979
10. General System Purchasers
1. 79-15398
2. 47-097-01616
3. 108
4. Consolidated Gas Supply Corporation
5. J Lewis 11853
6. West Virginia Other A-85772
7. Upshur, WV
8. 14.0 million cubic feet
9. August 6, 1979
10. General System Purchasers
1. 79-15399
2. 47-041-01972
3. 108
4. Consolidated Gas Supply Corporation
5. R Linger 11829
6. West Virginia Other A-85772
7. Lewis, WV
8. 12.0 million cubic feet
9. August 6, 1979
10. General System Purchasers
1. 79-15400
2. 47-041-01986
3. 108
4. Consolidated Gas Supply Corporation
5. L Conley 11892
6. West Virginia Other A-85772
7. Lewis, WV
8. 9.0 million cubic feet
9. August 6, 1979
10. General System Purchasers
1. 79-15401
2. 47-041-01985
3. 108
4. Consolidated Gas Supply Corporation
5. E Taylor 11904
6. West Virginia Other A-85772
7. Lewis, WV
8. 1.0 million cubic feet
9. August 6, 1979
10. General System Purchasers
1. 79-15402
2. 47-041-01977
3. 108
4. Consolidated Gas Supply Corporation
5. R Pletcher 11887
6. West Virginia Other A-85772
7. Lewis, WV
8. 7.0 million cubic feet
9. August 6, 1979
10. General System Purchasers
1. 79-15403
2. 47-097-01565
3. 108
4. Consolidated Gas Supply Corporation
5. O Lanham 11793
6. West Virginia Other A-85772
7. Upshur, WV
8. 6.0 million cubic feet
9. August 6, 1979
10. General System Purchasers
1. 79-15404
2. 47-097-01490
3. 108
4. Consolidated Gas Supply Corporation
5. A Smith 11586
6. West Virginia Other A-85772
7. Upshur, WV
8. 10.0 million cubic feet
9. August 6, 1979
10. General System Purchasers
1. 79-15393
2. 47-041-01973
3. 108
4. Consolidated Gas Supply Corporation
5. L L Gould 11877
6. West Virginia Other A-85772
7. Lewis, WV
8. 15.0 million cubic feet
9. August 6, 1979
10. General System Purchasers
- Geological Survey,
Metairie, La.**
1. Control number (FERC/State)
2. API well number
3. Section of NCPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)
1. 79-15274/G9-642
2. 17-715-40250-0000-0
3. 102
4. Shell Oil Company
5. OCS G-1244 No 13
6. South Pelto
7. 23
8. 1095.0 million cubic feet
9. August 3, 1979
10. Trunkline Gas Company
1. 79-15405/G9-599
2. 17-706-40312-00D2-2
3. 102
4. CNG Producing Company
5. A-702
6. Vermilion
7. 329
8. 855.0 million cubic feet
9. August 7, 1979
10. Consolidated Gas Supply Corporation
Panhandle Eastern Pipeline Company
1. 79-15406/G9-596
2. 17-706-40253-00D2-0
3. 102
4. CNG Producing Company
5. A-2D2
6. Vermilion
7. 329
8. 1140.0 million cubic feet
9. August 7, 1979
10. Consolidated Gas Supply Corporation
Panhandle Eastern Pipeline Company
1. 79-15407/G9-597
2. 17-706-40298-00D2-0
3. 102
4. CNG Producing Company
5. A-6D2
6. Vermilion
7. 329
8. 570.0 million cubic feet
9. August 7, 1979
10. Consolidated Gas Supply Corporation
Panhandle Eastern Pipeline Company

1. 79-15408/G9-598
2. 17-706-40312-00D1-1
3. 102
4. CNG Producing Company
5. A-7D1
6. Vermilion
7. 329
8. 570.0 million cubic feet
9. August 7, 1979
10. Consolidated Gas Supply Corporation -
Panhandle Eastern Pipeline Company

Albuquerque, N. Mex.

1. Control number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)
1. 79-15315/NM-755-79
2. 30-045-21909-0000-0
3. 108
4. Jerome P McHugh
5. Chaco Plant No 8
6. Gallegos Fruitland South
7. San Juan, NM
8. 22.0 million cubic feet
9. August 3, 1979
10. El Paso Natural Gas Company
1. 79-15316/NM-1684-79
2. 30-039-20821-0000-0
3. 108
4. El Paso Natural Gas Company
5. SJ 27-5 Unit 186
6. Blanco South-Pictured Cliffs Gas
7. Rio Arriba, NM
8. 13.1 million cubic feet
9. August 3, 1979
10. El Paso Natural Gas Company Northwest
Pipeline Corp
1. 79-15317/NM-1688-79
2. 30-045-10694-0000-0
3. 108
4. El Paso Natural Gas Company
5. Case 3
6. Blanco Mesaverde Gas
7. San Juan, NM
8. 9.5 million cubic feet
9. August 3, 1979
10. El Paso Natural Gas Company
1. 79-15318/NM-1712-79
2. 30-039-05712-0000-0
3. 108
4. El Paso Natural Gas Company
5. Jicarilla D No 7
6. Blanco South-Pictured Cliffs Gas
7. Rio Arriba, NM
8. 4.0 million cubic feet
9. August 3, 1979
10. El Paso Natural Gas Company
1. 79-15319/NM-1713-79
2. 30-039-05972-0000-0
3. 108
4. El Paso Natural Gas Company
5. Jicarilla C No 8
6. Blanco South-Pictured Cliffs Gas
7. Rio Arriba, NM
8. 10.0 million cubic feet
9. August 3, 1979
10. El Paso Natural Gas Company
1. 79-15320/NM-1714-79
2. 30-039-06509-0000-0
3. 108
4. El Paso Natural Gas Company
5. Jicarilla J No 11
6. Blanco South-Pictured Cliffs Gas
7. Rio Arriba, NM
8. 7.0 million cubic feet
9. August 3, 1979
10. El Paso Natural Gas Company Northwest
Pipeline Corp
1. 79-15321/NM-1715-79
2. 30-039-05615-0000-0
3. 108
4. El Paso Natural Gas Company
5. Jicarilla H No 11
6. Blanco South-Pictured Cliffs Gas
7. Rio Arriba, NM
8. 1.1 million cubic feet
9. August 3, 1979
10. El Paso Natural Gas Company Northwest
Pipeline Corp
1. 79-15322/NM-1771-79
2. 30-045-22492-0000-0
3. 103
4. El Paso Natural Gas Company
5. Atlantic A 9A
6. Blanco
7. San Juan, NM
8. 312.0 million cubic feet
9. August 3, 1979
10. El Paso Natural Gas Company
1. 79-15323/NM-1772-79
2. 30-045-22507-0000-0
3. 103
4. El Paso Natural Gas Company
5. Atlantic A 3A
6. Blanco
7. San Juan, NM
8. 283.0 million cubic feet
9. August 3, 1979
10. El Paso Natural Gas Company
1. 79-15324/NM-1773-79
2. 30-045-22786-0000-0
3. 103
4. El Paso Natural Gas Company
5. Atlantic C No 2A
6. Blanco
7. San Juan, NM
8. 350.0 million cubic feet
9. August 3, 1979
10. El Paso Natural Gas Company
1. 79-15325/NM-1774-79
2. 30-045-22743-0000-0
3. 103
4. El Paso Natural Gas Company
5. Scott 1A
6. Blanco
7. San Juan, NM
8. 249.0 million cubic feet
9. August 3, 1979
10. El Paso Natural Gas Company
1. 79-15326/NM-1775-79
2. 30-045-22755-0000-0
3. 103
4. El Paso Natural Gas Company
5. Scott 3A
6. Blanco
7. San Juan, NM
8. 307.0 million cubic feet
9. August 3, 1979
10. El Paso Natural Gas Company
1. 79-15327/NM-1776-79
2. 30-045-22547-0000-0
3. 103
4. El Paso Natural Gas Company
5. Scott 5A
6. Blanco
7. San Juan, NM
8. 317.0 million cubic feet
9. August 3, 1979
10. El Paso Natural Gas Company
1. 79-15328/NM-1777-79
2. 30-045-21981-0000-0
3. 103
4. El Paso Natural Gas Company
5. Mansfield 2A
6. Blanco
7. San Juan, NM
8. 205.0 million cubic feet
9. August 3, 1979
10. El Paso Natural Gas Company Southern
Union Gathering Company
1. 79-15329/NM-1810-79
2. 30-039-21371-0000-0
3. 103
4. El Paso Natural Gas Company
5. Canyon Largo Unit 6
6. Basin
7. Rio Arriba, NM
8. 153.0 million cubic feet
9. August 3, 1979
10. El Paso Natural Gas Company Southern
Union Gathering Company
1. 79-15330/NM-1811-79
2. 30-039-21177-0000-0
3. 103
4. El Paso Natural Gas Company
5. Lindrith Unit COM 87
6. South Blanco
7. Rio Arriba, NM
8. 46.0 million cubic feet
9. August 3, 1979
10. El Paso Natural Gas Company
1. 79-15331/NM-1812-79
2. 30-039-60111-0000-0
3. 103
4. El Paso Natural Gas Company
5. San Juan 32-5 Unit No 15A
6. Blanco
7. Rio Arriba, NM
8. 19.0 million cubic feet
9. August 3, 1979
10. El Paso Natural Gas Company
1. 79-15332/NM-1821-79-1
2. 30-025-25913-0000-0
3. 102
4. General Exploration Company
5. Pipeline deep unit No 4
6. Quail Ridge North (Morrow)
7. Lea, NM
8. 1,450.0 million cubic feet
9. August 3, 1979
10. El Paso Natural Gas Company
1. 79-15333/NM-1821-79-1
2. 30-025-25913-0000-0
3. 103
4. General Exploration Company
5. Pipeline deep unit No 4
6. Quail Ridge North (Morrow)
7. Lea, NM
8. 1,460.0 million cubic feet
9. August 3, 1979
10. El Paso Natural Gas Company
1. 79-15334/NM 166-78
2. 30-039-20110-0000-0
3. 108
4. J Merrion & R L Bayless
5. Rockhouse Canyon #1
6. South Blanco Pictured Cliffs
7. Rio Arriba, NM

8. 5.5 million cubic feet
9. August 3, 1979
10. El Paso Natural Gas Company
1. 79-15335/NM 536-79
2. 30-045-13033-0000-0
3. 108
4. Beta Development Co
5. Henderson Federal #1
6. Basin Dakota
7. San Juan, NM
8. 8.0 million cubic feet
9. August 3, 1979
10. El Paso Natural Gas Company
1. 79-15336/NM 1071-79
2. 30-045-06479-0000-0
3. 108
4. Gulf Oil Corporation
5. Fullerton Federal Well No 3
6. Kutz Pictured Cliffs West
7. San Juan, NM
8. 9.2 million cubic feet
9. August 3, 1979
10. Gas Company of New Mexico
1. 79-15337/NM 1342-79
2. 30-045-06652-0000-0
3. 108
4. Depco Inc
5. Hancock No 2
6. West Kutz (Pictured Cliffs)
7. San Juan, NM
8. 17.0 million cubic feet
9. August 3, 1979
10. Gas Company of New Mexico
1. 79-15338/NM 1402-79
2. 30-043-20096-0000-0
3. 108
4. El Paso Natural Gas Company
5. Stromberg #9
6. Ballard-Pictured Cliffs Gas
7. Sandoval, NM
8. 2.9 million cubic feet
9. August 3, 1979
10. El Paso Natural Gas Company
1. 79-15339/NM 1411-79
2. 30-039-05926-0000-0
3. 108
4. El Paso Natural Gas Company
5. Hall 3
6. Blanco South-Pictured Cliffs Gas
7. Rio Arriba, NM
8. 9.0 million cubic feet
9. August 3, 1979
10. El Paso Natural Gas Company
1. 79-15340/NM 1412-79
2. 30-045-06235-0000-0
3. 108
4. El Paso Natural Gas Company
5. Rowley C2
6. Fulcher Kutz-Pictured Cliffs Gas
7. San Juan, NM
8. 1.0 million cubic feet
9. August 3, 1979
10. El Paso Natural Gas Company
1. 79-15341/NM 1413-79
2. 30-045-06708-0000-0
3. 108
4. El Paso Natural Gas Company
5. Turner Hughes #2
6. Blanco South-Pictured Cliffs Gas
7. San Juan, NM
8. 7.0 million cubic feet
9. August 3, 1979
10. El Paso Natural Gas Company
1. 79-15342/NM 1414-79
2. 30-039-20654-0000-0
3. 108
4. El Paso Natural Gas Company
5. Klein 22
6. Otero-Chacra Gas
7. Rio Arriba, NM
8. 19.0 million cubic feet
9. August 3, 1979
10. El Paso Natural Gas Company
1. 79-15343/NM 1415-79
2. 30-045-06268-0000-0
3. 108
4. El Paso Natural Gas Company
5. Rowley C1
6. Fulcher Kutz-Pictured Cliffs Gas
7. San Juan, NM
8. 2.0 million cubic feet
9. August 3, 1979
10. El Paso Natural Gas Company
1. 79-15344/NM 1438-79
2. 30-045-20925-0000-0
3. 108
4. El Paso Natural Gas Company
5. Florance D 17
6. Largo-Chacra Gas
7. San Juan, NM
8. 5.8 million cubic feet
9. August 3, 1979
10. El Paso Natural Gas Company
1. 79-15345/NM 1439-79
2. 30-045-06766-0000-0
3. 108
4. El Paso Natural Gas Company
5. Schwerdtfeger A #4
6. Blanco South-Pictured Cliffs Gas
7. San Juan, NM
8. 15.7 million cubic feet
9. August 3, 1979
10. El Paso Natural Gas Company
1. 79-15346/NM 1440-79
2. 30-039-05447-0000-0
3. 108
4. El Paso Natural Gas Company
5. Lindrith Unit #32
6. Blanco South-Pictured Cliffs Gas
7. Rio Arriba, NM
8. 9.1 million cubic feet
9. August 3, 1979
10. El Paso Natural Gas Company
1. 79-15347/NM 1441-79
2. 30-045-06564-0000-0
3. 108
4. El Paso Natural Gas Company
5. Lodewick 1
6. Fulcher Kutz-Pictured Cliffs Gas
7. San Juan, NM
8. 10.2 million cubic feet
9. August 3, 1979
10. El Paso Natural Gas Company
1. 79-15348/NM 1442-79
2. 30-045-07079-0000-0
3. 108
4. El Paso Natural Gas Company
5. Omier 2
6. Fulcher Kutz-Pictured Cliffs Gas
7. San Juan, NM
8. 13.1 million cubic feet
9. August 3, 1979
10. El Paso Natural Gas Company
1. 79-15349/NM 1443-79
2. 30-045-07565-0000-0
3. 108
4. El Paso Natural Gas Company
5. Kutz Canyon Oil & Gas 2
6. Fulcher Kutz-Pictured Cliffs Gas
7. San Juan, NM
8. 9.5 million cubic feet
9. August 3, 1979
10. El Paso Natural Gas Company
1. 79-15350/NM 1444-79
2. 30-045-06214-0000-0
3. 108
4. El Paso Natural Gas Company
5. Rowley D 2
6. Fulcher Kutz-Pictured Cliffs Gas
7. San Juan, NM
8. 6.0 million cubic feet
9. August 3, 1979
10. El Paso Natural Gas Company
1. 79-15351/NM 1445-79
2. 30-045-06381-0000-0
3. 108
4. El Paso Natural Gas Company
5. Huerfanito Unit #59
6. Blanco South-Pictured Cliffs Gas
7. San Juan, NM
8. 5.1 million cubic feet
9. August 3, 1979
10. El Paso Natural Gas Company
1. 79-15352/NM 1456-79
2. 30-045-06568-0000-0
3. 108
4. El Paso Natural Gas Company
5. Cleveland #1
6. Fulcher Kutz-Pictured Cliffs Gas
7. San Juan, NM
8. 11.7 million cubic feet
9. August 3, 1979
10. El Paso Natural Gas Company
1. 79-15353/NM 1476-79
2. 30-039-20957-0000-0
3. 108
4. El Paso Natural Gas Company
5. SJ 28-6 unit 197
6. Blanco South-Pictured Cliffs Gas
7. Rio Arriba, NM
8. 8.8 million cubic feet
9. August 3, 1979
10. El Paso Natural Gas Company
1. 79-15354/NM 1477-79
2. 30-039-20657-0000-0
3. 108
4. El Paso Natural Gas Company
5. Rincon unit 197
6. Blanco South-Pictured Cliffs Gas
7. Rio Arriba, NM
8. 16.0 million cubic feet
9. August 3, 1979
10. El Paso Natural Gas Company
1. 79-15355/NM 1478-79
2. 30-039-06478-0000-0
3. 108
4. El Paso Natural Gas Company
5. Jicarilla F #11
6. Blanco South-Pictured Cliffs Gas
7. Rio Arriba, NM
8. 16.1 million cubic feet
9. August 3, 1979
10. El Paso Natural Gas Company, Northwest
Pipeline Corp
1. 79-15356/NM 1479-79
2. 30-039-06379-0000-0
3. 108
4. El Paso Natural Gas Company
5. Jicarilla F #1
6. Blanco South-Pictured Cliffs Gas
7. Rio Arriba, NM
8. 17.9 million cubic feet
9. August 3, 1979

10. El Paso Natural Gas Company, Northwest Pipeline Corp

1. 79-15357/NM 1507-79
2. 30-045-13258-0000-0
3. 108

4. El Paso Natural Gas Company
5. Lackey B 2
6. Aztec-Pictured Cliffs Gas
7. San Juan, NM
8. 19.0 million cubic feet
9. August 3, 1979

10. El Paso Natural Gas Company
1. 79-15358/NM 1509-79
2. 30-039-05803-0000-0
3. 108

4. El Paso Natural Gas Company
5. Jicarilla D #4
6. Blanco South-Pictured Cliffs Gas
7. Rio Arriba, NM
8. 5.5 million cubic feet
9. August 3, 1979

10. El Paso Natural Gas Company
1. 79-15359/NM 1508-79
2. 30-045-06911-0000-0
3. 108

4. El Paso Natural Gas Company
5. Galt B 1
6. Fulcher Kutz-Pictured Cliffs Gas
7. San Juan, NM
8. 1.8 million cubic feet
9. August 3, 1979

10. El Paso Natural Gas Company
1. 79-15360/NM 1510-79
2. 30-039-06697-0000-0
3. 108

4. El Paso Natural Gas Company
5. Jicarilla B #13
6. Blanco South-Pictured Cliffs Gas
7. Rio Arriba, NM
8. 7.7 million cubic feet
9. August 3, 1979

10. El Paso Natural Gas Company
1. 79-15361/NM 1511-79
2. 30-045-05533-0000-0
3. 108

4. El Paso Natural Gas Company
5. Sheets C4
6. Ballard-Pictured Cliffs Gas
7. San Juan, NM
8. 6.6 million cubic feet
9. August 3, 1979

10. El Paso Natural Gas Company
1. 79-15362/NM 1606-79
2. 30-045-20932-0000-0
3. 108

4. El Paso Natural Gas Company
5. Turner Hughes 18
6. Harris Mesa-Chacra Gas
7. San Juan, NM
8. 12.0 million cubic feet
9. August 3, 1979

10. El Paso Natural Gas Company
1. 79-15363/NM 1683-79
2. 30-043-20073-0000-0
3. 108

4. El Paso Natural Gas Company
5. Stromberg #8
6. Ballard-Pictured Cliffs Gas
7. Sandoval, NM
8. 7.0 million cubic feet
9. August 3, 1979

10. El Paso Natural Gas Company

Osage Agency, Bureau of Indian Affairs, Osage County, Okla.

1. Control number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received of FERC
10. Purchaser(s)

1. 79-15364
2. 35-113-23662-0000-0
3. 103
4. Wichita Industries Inc
5. S Wildhorse Well No 1-C
6. S Wildhorse Lease SE10-21-10

7. Osage County, OK
8. 36.5 million cubic feet
9. August 6, 1979
10. Phillips Petroleum Co

1. 79-15365
2. 35-113-24051-0000-0
3. 103

4. Wichita Industries Inc
5. S Wildhorse Well No 2-C
6. S Wildhorse Lease SE10-21-10
7. Osage County, OK
8. 36.5 million cubic feet
9. August 6, 1979

10. Phillips Petroleum Co
1. 79-15366
2. 35-113-24052-0000-0
3. 103

4. Wichita Industries Inc
5. S Wildhorse Well No 3-C
6. S Wildhorse Lease SE10-21-10
7. Osage County, OK
8. 36.5 million cubic feet
9. August 6, 1979

10. Phillips Petroleum Co
1. 79-15367
2. 35-113-00000-0000-0
3. 103

4. Wichita Industries Inc
5. S Wildhorse Well No 4-C
6. S Wildhorse Lease SE10-21-10
7. Osage County, OK
8. 36.5 million cubic feet
9. August 6, 1979

10. Phillips Petroleum Co
1. 79-15368
2. 35-113-00000-0000-0
3. 103

4. Wichita Industries Inc
5. S Wildhorse Well No 5-C-1
6. S Wildhorse Lease SE10-21-10
7. Osage County, OK
8. 36.5 million cubic feet
9. August 6, 1979

10. Phillips Petroleum Co
1. 79-15369
2. 35-113-00000-0000-0
3. 103

4. Wichita Industries Inc
5. S Wildhorse Well No 7-C
6. S Wildhorse Lease SE10-21-10
7. Osage County, OK
8. 36.5 million cubic feet
9. August 6, 1979

10. Phillips Petroleum Co
1. 79-15370
2. 35-113-00000-0000-0

3. 103
4. Wichita Industries Inc
5. S Wildhorse Well No 8-C
6. S Wildhorse Lease SE10-21-10
7. Osage County, OK
8. 36.5 million cubic feet
9. August 6, 1979
10. Phillips Petroleum Co
1. 79-15371
2. 35-113-00000-0000-0
3. 103
4. Greenwood Oil Co
5. #2B Phillips
6. Hominy Falls
7. Osage, OK
8. 24.0 million cubic feet
9. August 6, 1979
10. Phillips Petroleum Co

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, room 825, North Capitol Street, N.W., Washington, D.C. 20426.

Persons objecting to any of these final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the commission on or before September 10, 1979.

Please reference the FERC control number in all correspondence related to these determinations.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-26457 Filed 8-23-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ID-1729]

Elwin W. Thurlow; Application

August 18, 1979.

Take notice that on August 9, 1979, Elwin W. Thurlow, (Applicant) filed an application pursuant to Section 305 (b) of the Federal Power Act to hold the following positions:

Position	Name of corporation	Classification
President	Maine Yankee Atomic Power Co.	Public utility
President	Maine Electric Power Co.	Public utility
Director	Maine Electric Power Co.	Public utility

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C., 20426, in accordance with 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before September

8, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-26466 Filed 8-23-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. GP79-44]

Equitable Gas Co.; Protest To Charge and Collect NGPA Prices

August 20, 1979.

Take note that on May 1, 1979, the Equitable Gas Company (Equitable) filed pursuant to § 154.94(h)(8) of the Commission's regulations (18 CFR 154.94(h)(8)) in Docket No. GP79-44 a petition protesting the right of the Cities Service Company (Cities) and the Pennzoil Company (Pennzoil) to charge Equitable the maximum lawful prices established by the Natural Gas Policy Act of 1978 (NGPA). Equitable is located at 420 Boulevard of the Allies, Pittsburgh, Pennsylvania 15219.

As stated in the petition, both Cities and Pennzoil sell natural gas to Equitable and seek a determination that certain gas sold to Equitable qualifies for the maximum lawful price under section 103 or 108 of the NGPA. The petition alleges that Cities and Pennzoil have filed for interim collection authority with respect to this gas.

According to Equitable, both Cities and Pennzoil assert the right to charge and collect the section 103 and 108 prices pursuant to their contracts with Equitable. However, Equitable in its petitions alleges that its contract with Cities is a fixed price contract and contains no indefinite price escalation clause, and that its contract with Pennzoil, though containing an escalation clause, provides only for price escalations tied to cost-based rates. Thus, Equitable in its petition contests, on the grounds of lack of contractual authority, the right of both of these producers to collect the NGPA ceiling rates.

The actual language of the contracts at issue herein is contained in Equitable's protest, a copy of which is contained in the Commission's public files and available for inspection by any member of the public.

Any person desiring to be heard or to make any protest concerning Equitable's protest filed in this docket should on or

before September 12, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken herein, but will not serve to make the protestants parties to this proceeding. Any party wishing to become a party to this proceeding, or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-26447 Filed 8-23-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. GP79-43]

Florida Gas Transmission Co.; Petition for Declaratory Order

August 16, 1979.

Take notice that on July 3, 1979, Florida Gas Transmission Company (FGT), P.O. Box 44, Winter Park, Florida 32790, filed a petition for a declaratory order pursuant to § 1.7(c) of the Commission's Rules of Practice and Procedure (18 CFR 1.7(c)) in Docket No. GP79-43. Petitioner requests that the Commission determine the appropriate treatment to be accorded severance taxes paid under an intrastate rollover contract pursuant to § 106(b) and 110 of the Natural Gas Policy Act of 1978 (NGPA) and § 271.601, *et seq.* of the Commission's interim regulations thereunder (18 CFR 271.601, *et seq.*).

By separate gas purchase contracts dated January 15, 1957, Sun Oil Company (Sun) agreed to sell natural gas to Florida Power Corporation (FPC) and Florida Power & Light (FP&L). The gas purchase contracts expired by their own terms in June 1979, and were not extended by the parties thereto. Upon their termination, FGT entered into gas purchase contracts for the gas that Sun had previously sold to FPC and FP&L.

FGT states that under the terms of the January 15, 1957 contracts, Sun was responsible for the payment of all taxes imposed upon the gas sold to FPC and FP&L. The June 1979 Sun-FGT purchase contracts, however, provide that FGT is to reimburse Sun for all taxes imposed on the gas.

The foregoing raises the question as to whether a seller under an intrastate rollover contract subject to § 106(b) of the NGPA may, without exceeding the maximum lawful price established by

that section, collect State severance taxes from the buyer when the expired contract required the seller to bear such taxes.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with § 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 6, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene; provided, however, that any person who has previously filed a petition to intervene in this proceeding is not required to file a further notice. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-26469 Filed 8-23-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. GP79-61, formerly RI79-38]

George A. Angle, d.b.a. Frontier Oil Co.; Application for Increase in Maximum Lawful Price Under NGPA To Recover Production-Related Costs

August 16, 1979.

Take notice that on December 11, 1978, George A. Angle, d/b/a Frontier Oil Company, 1720 Kansas State Bank Building, Wichita, Kansas 67202, a small producer, filed in the captioned docket an application for a determination under Section 271.1105 of the FERC regulations that the maximum lawful price applicable to a first sale of natural gas should not be considered to be exceeded as a result of the addition thereto of production-related costs in the amount of 22 cents per Mcf. The gas involved is to be sold to Kansas Nebraska Natural Gas Company pursuant to a contract of November 20, 1978. Applicant states that such gas was not subject to any contract on November 8, 1978, (day before enactment of the NGPA) and that the wells at that time were shut in. It further states that it is to gather the gas from its low volume, low pressure gas wells scattered over some 28,000 acres to a central point and there compress the low pressure gas to a pressure suitable to Kansas Nebraska's requirements; and that Kansas Nebraska has agreed to pay

a fee for such gathering and compression.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 or 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 6, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FER Doc. 79-26470 Filed 8-23-79; 8:45 am]

BILLING CODE 6450-01-M

Kansas Corp.; Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

August 17, 1979.

The Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

Kansas Corporation Commission

1. Control Number (F.E.R.C./State)
2. API Well Number
3. Section of NGPA
4. Operator
5. Well Name
6. Field or OCS Area Name
7. County, State or Block No.
8. Estimated Annual Volume
9. Date Received at FERC
10. Purchaser(s)
1. 79-14942/K-78-0345
2. 15-119-20279-0000-2
3. 103
4. Mesa Petroleum Co
5. Adams #3-35
6. Cimarron Bend (Morrow)
7. Meade, KS
8. 44.0 million cubic feet
9. July 31, 1979
10. Kansas Power and Light Company
1. 79-14943/K-78-0346
2. 15-119-20276
3. 103
4. Mesa Petroleum Co
5. Adams #4-2
6. Adams Ranch (Chester)
7. Meade, KS
8. 7.0 million cubic feet
9. July 31, 1979
10. Kansas Power and Light Company
1. 79-14944/K-78-0347

2. 15-119-20277-0000-2
3. 103
4. Mesa Petroleum Co
5. Adams #1-27
6. Cimarron Bend (Morrow)
7. Meade, KS
8. 43.0 million cubic feet
9. July 31, 1979
10. Kansas Power and Light Company
1. 79-14945/K-78-0348
2. 15-119-20277-0000-1
3. 103
4. Mesa Petroleum Co
5. Adams #1-27
6. Cimarron Bend (Chester)
7. Meade, KS
8. 8.0 million cubic feet
9. July 31, 1979
10. Kansas Power and Light Company
1. 79-14946/K-78-0349
2. 15-119-20279-0000-3
3. 103
4. Mesa Petroleum Co
5. Adams #3-35
6. Cimarron Bend (Toronto)
7. Meade, KS
8. 25 million cubic feet
9. July 31, 1979
10. Kansas Power and Light Company
1. 79-14947/K-78-0350
2. 15-119-202319
3. 103
4. Mesa Petroleum Co
5. Merkle #2-7
6. Cimarron Bend (Chester)
7. Meade, KS
8. 11.0 million cubic feet
9. July 31, 1979
10. Kansas Power and Light Company
1. 79-14948/K-78-0351
2. 15-025-20219
3. 102
4. Mesa Petroleum Co
5. Seacat #2-19
6. Lexington (St. Louis)
7. Clark, KS
8. 538.0 million cubic feet
9. July 31, 1979
10. Kansas Power and Light Company
1. 79-14949/K-78-0360
2. 15-125-0000
3. 108
4. Benson Mineral Group Inc
5. Hemphill #1
6. Jefferson-Sycamore
7. Montgomery, KS
8. 2.1 million cubic feet
9. July 31, 1979
10. Union Gas Systems Inc
1. 79-149450/K-78-0336
2. 15-119-20286
3. 103
4. Mesa Petroleum Co
5. Pinnick Petroleum I-24
6. Cimarron Bend Chester
7. Meade, KS
8. 9.0 million cubic feet
9. July 31, 1979
10. Kansas Power and Light Company
1. 79-149451/K-78-0338
2. 15-119-20322
3. 103
4. Mesa Petroleum Co
5. Adams #3-33
6. Cimarron Bend (Chester)

7. Meade, KS
8. 365.0 million cubic feet
9. July 31, 1979
10. Kansas Power and Light Company
1. 79-149452/K-78-0339
2. 15-119-20260-0000-1
3. 103
4. Mesa Petroleum Co
5. Adams #2-34
6. Cimarron Bend (Chester)
7. Meade, KS
8. 384.0 million cubic feet
9. July 31, 1979
10. Kansas Power and Light Company
1. 79-14953/K-78-0340
2. 15-119-20260-0000-2
3. 103
4. Mesa Petroleum Co
5. Adams #2-34
6. Cimarron Bend (Morrow)
7. Meade, KS
8. 16.0 million cubic feet
9. July 31, 1979
10. Kansas Power and Light Company
1. 79-14954/K-78-0341
2. 15-119-20280-0000-1
3. 103
4. Mesa Petroleum Co
5. Barragsee #2-17
6. Cimarron Bend (St. Louis)
7. Meade, KS
8. 26.0 million cubic feet
9. July 31, 1979
10. Kansas Power and Light Company
1. 79-14955/K-78-0342
2. 15-119-20280-0000-2
3. 103
4. Mesa Petroleum Co
5. Barragsee #2-17
6. Cimarron Bend (Chester)
7. Meade, KS
8. 33.0 million cubic feet
9. July 31, 1979
10. Kansas Power and Light Company
1. 79-14956/K-78-0343
2. 15-119-20280-0000-3
3. 103
4. Mesa Petroleum Co
5. Barragsee #2-17
6. Cimarron Bend (Morrow)
7. Meade, KS
8. 82.0 million cubic feet
9. July 31, 1979
10. Kansas Power and Light Company
1. 79-14957/K-78-0344
2. 15-119-20279-0000-1
3. 103
4. Mesa Petroleum Co
5. Adams #3-35
6. Cimarron Bend (Chester)
7. Meade, KS
8. 59.0 million cubic feet
9. July 31, 1979
10. Kansas Power and Light Company
1. Control Number (F.E.R.C./State)
2. API Well Number
3. Section of NGPA
4. Operator
5. Well Name
6. Field or OCS Area Name
7. County, State or Block No.
8. Estimated Annual Volume
9. Date Received at FERC
10. Purchaser(s)

1. 79-14934
2. 30-045-21320
3. 108
4. El Paso Natural Gas Company
5. Allison Unit #40
6. Basin-Dakota Gas
7. San Juan, NM
8. 16.0 million cubic feet
9. July 31, 1979
10. El Paso Natural Gas Co.
1. 79-14935
2. 30-045-07480
3. 108
4. Supron Energy Corporation
5. Sanchez A-1
6. Aztec Pictured Cliffs
7. San Juan County, NM
8. 18.3 million cubic feet
9. July 31, 1979
10. Southern Union Gathering Company
1. 79-14938
2. 30-045-05814
3. 108
4. Supron Energy Corp
5. Ruthven #1
6. Ballard Pictured Cliffs
7. San Juan County NM
8. .0 million cubic feet
9. July 31, 1979
10. Gas Company of New Mexico
1. 79-14937
2. 30-045-10189
3. 108
4. Supron Energy Corporation
5. Rawson #1
6. Basin Dakota
7. San Juan County, NM
8. .0 million cubic feet
9. July 31, 1979
10. Gas Company of New Mexico
1. 79-14938
2. 30-045-06941
3. 108
4. Locke-Taylor Drilling Co.
5. Foutz No. 1
6. West Kutz Pictured Cliffs
7. San Juan, NM
8. 11.5 million cubic feet
9. July 31, 1979
10. El Paso Natural Gas Co.
1. 79-14939
2. 30-045-06004
3. 108
4. El Paso Natural Gas Company
5. Huerfano Unit #17
6. Ballard-Pictured Cliffs Gas
7. San Juan, NM
8. 11.0 million cubic feet
9. July 31, 1979
10. El Paso Natural Gas Company
1. 79-14940
2. 30-039-06813
3. 108
4. El Paso Natural Gas Company
5. San Juan 27-5 Unit #18
6. Tapacito-Pictured Cliffs Gas
7. Rio Arriba, NM
8. 14.0 million cubic feet
9. July 31, 1979
10. El Paso Natural Gas Company Northwest Pipeline Corporation
1. 79-14941
2. 30-039-20892
3. 108
4. El Paso Natural Gas Company

5. San Juan 28-6 Unit #189
6. Blanco South-Pictured Cliffs Gas
7. Rio Arriba, NM
8. 12.0 million cubic feet
9. July 31, 1979
10. El Paso Natural Gas Company
1. 79-15270
2. 30-045-07491
3. 108
4. Supron Energy Corporation
5. Sanchez A-2
6. Aztec Pictured Cliffs
7. San Juan, NM
8. 14.9 million cubic feet
9. July 31, 1979
10. Southern Union Gathering Company
1. Control Number (F.E.R.C./State)
2. API Well Number
3. Section of NGPA
4. Operator
5. Well Name
6. Field or OCS Area Name
7. County, State or Block No.
8. Estimated Annual Volume
9. Date Received at FERC
10. Purchaser(s)
1. 79-14958/04004
2. 34-083-22359-0014
3. 108
4. Reliance Management Co
5. Edgar Dudgeon #1
- 6.
7. Knox, OH
8. 5.0 million cubic feet
9. August 1, 1979
10. Columbia Gas Transmission Corp
1. 79-14959/04004
2. 34-075-21700-0014
3. 108
4. Buckeye Oil Producing Co
5. Hershberger #1
- 6.
7. Holmes, OH
8. 21.0 million cubic feet
9. August 1, 1979
10. Columbia Gas Transmission Corp.
1. 79-14960/03990
2. 34-099-20149-0014
3. 108
4. Buckeye Oil Producing Co.
5. Schoeni #1
- 6.
7. Mahoning, OH
8. 9.0 million cubic feet
9. August 1, 1979
10. East Ohio Gas Company
1. 79-14961/03981
2. 34-133-20078-0014
3. 108
4. Buckeye Oil Producing Co
5. Buchs #1
- 6.
7. Portage, OH
8. 19.0 million cubic feet
9. August 1, 1979
10. East Ohio Gas Company
1. 79-14962/05754
2. 34-083-22618-0014
3. 103
4. Derrick Petroleum Company
5. Heald Bros. #1
- 6.
7. Knox, OH
8. 15.0 million cubic feet
9. August 1, 1979

10. Columbia Gas Transmission Corp.
1. 79-14963/05755
2. 34-031-23437-0014
3. 103
4. Edco Drilling & Producing Inc.
5. MO-1D Miller
- 6.
7. Coshocton, OH
8. 18.0 million cubic feet
9. August 1, 1979
- 10.
1. 79-14964/05756
2. 34-031-23427-0014
3. 103
4. Edco Drilling & Producing Inc.
5. MO-1A McDonald
- 6.
7. Coshocton, OH
8. 18.0 million cubic feet
9. August 1, 1979
- 10.
1. 79-14965/05757
2. 34-099-21157-0014
3. 103
4. K S T Oil & Gas Co., Inc.
5. Mahoning County J V S #2
- 6.
7. Mahoning, OH
8. 36.0 million cubic feet
9. August 1, 1979
10. East Ohio Gas Co.
1. 79-14966/05758
2. 34-099-21158-0014
3. 103
4. K S T Oil & Gas Co., Inc.
5. Mahoning County J V S #1
- 6.
7. Mahoning, OH
8. 36.0 million cubic feet
9. August 1, 1979
10. East Ohio Gas Co.
1. 79-14967/05759
2. 34-119-24266-0014
3. 103
4. Williston Oil & Development Corp.
5. Frame Sutton #18
- 6.
7. Muskingum, OH
8. 14.6 million cubic feet
9. August 1, 1979
- 10.
1. 79-14968/05760
2. 34-119-24263-0014
3. 103
4. Williston Oil & Development Corp.
5. Frame Sutton #19
- 6.
7. Muskingum, OH
8. 14.6 million cubic feet
9. August 1, 1979
- 10.
1. 79-14969/05761
2. 34-119-24223-0014
3. 103
4. Williston Oil & Development Corp.
5. Williston Oil #2
- 6.
7. Muskingum, OH
8. 14.6 million cubic feet
9. August 1, 1979
- 10.
1. 79-14970/05762
2. 34-119-24632-0014
3. 103

4. Williston Oil & Development Corp.
5. Barnhouse #2
6.
7. Muskingum, OH
8. 0 million cubic feet
9. August 1, 1979
10.
1. 79-14971/05763
2. 34-119-24312-0014
3. 103
4. Williston Oil & Development Corp.
5. Frame Sutton #17
6.
7. Muskingum, OH
8. 14.6 million cubic feet
9. August 1, 1979
10.
1. 79-14972/05764
2. 34-119-24464-0014
3. 103
4. Williston Oil & Development Corp.
5. R Mitchell #2
6.
7. Muskingum, OH
8. 0 million cubic feet
9. August 1, 1979
10.
1. 79-14973/05765
2. 34-119-24633-0014
3. 103
4. Williston Oil & Development Corp.
5. Betz #5
6.
7. Muskingum, OH
8. 0 million cubic feet
9. August 1, 1979
10.
1. 79-14974/05766
2. 34-119-24645-0014
3. 103
4. Williston Oil & Development Corp.
5. Betz #4
6.
7. Muskingum, OH
8. 0 million cubic feet
9. August 1, 1979
10.
1. 79-14975/05767
2. 34-119-24637-0014
3. 103
4. Williston Oil & Development Corp.
5. Betz #3
6.
7. Muskingum, OH
8. 0 million cubic feet
9. August 1, 1979
10.
1. 79-14976/05768
2. 34-119-24698-0014
3. 103
4. Williston Oil & Development Corp.
5. Betz #7
6.
7. Muskingum, OH
8. 0 million cubic feet
9. August 1, 1979
10.
1. 79-14977/05770
2. 34-119-24438-0014
3. 103
4. Williston Oil & Development Corp.
5. Williston Oil No. 1
7. Muskingum, OH
8. 14.6 million cubic feet
9. August 1, 1979
10.
1. 79-14978/05771
2. 34-119-24325-0014
3. 103
4. Williston Oil & Development Corp.
5. Frame—Sutton No. 9
6.
7. Muskingum, OH
8. 14.6 million cubic feet
9. August 1, 1979
10.
1. 79-14979/05772
2. 34-119-24236-0014
3. 103
4. Williston Oil & Development Corp.
5. Frame—Sutton No. 10
6.
7. Muskingum, OH
8. 14.6 million cubic feet
9. August 1, 1979
10.
1. 79-14980/05773
2. 34-119-24228-0014
3. 103
4. Williston Oil & Development Corp.
5. Frame—Sutton No. 11
6.
7. Muskingum, OH
8. 14.6 million cubic feet
9. August 1, 1979
10.
1. 79-14981/05774
2. 34-119-24238-0014
3. 103
4. Williston Oil & Development Corp.
5. Frame—Sutton No. 12
6.
7. Muskingum, OH
8. 14.6 million cubic feet
9. August 1, 1979
10.
1. 79-14982/05775
2. 34-119-24629-0014
3. 103
4. Williston Oil & Development Corp.
5. Barnhouse No. 1
6.
7. Muskingum, OH
8. 0 million cubic feet
9. August 1, 1979
10.
1. 79-14983/05776
2. 34-119-24497-0014
3. 103
4. Williston Oil & Development Corp.
5. A Parker No. 1
6.
7. Muskingum, OH
8. 14.6 million cubic feet
9. August 1, 1979
10.
1. 79-14984/05777
2. 34-119-24490-0014
3. 103
4. Williston Oil & Development Corp.
5. A Parker No. 2
6.
7. Muskingum, OH
8. 14.6 million cubic feet
9. August 1, 1979
10.
1. 79-14985/05778
2. 34-119-24488-0014
3. 103

4. Williston Oil & Development Corp.
5. A Parker No. 3
6.
7. Muskingum, OH
8. 14.6 million cubic feet
9. August 1, 1979
10.
1. 79-14986/05779
2. 34-119-24496-0014
3. 103
4. Williston Oil & Development Corp.
5. A Parker No. 4
6.
7. Muskingum, OH
8. 14.6 million cubic feet
9. August 1, 1979
10.
1. 79-14987/05780
2. 34-119-24550-0014
3. 103
4. Williston Oil & Development Corp.
5. A Parker No. 5A
6.
7. Muskingum, OH
8. 0 million cubic feet
9. August 1, 1979
10.
1. 79-14988/05781
2. 34-119-24520-0014
3. 103
4. Williston Oil & Development Corp.
5. A Parker No. 7
6.
7. Muskingum, OH
8. 0 million cubic feet
9. August 1, 1979
10.
1. 79-14989/05782
2. 34-119-24521-0014
3. 103
4. Williston Oil & Development Corp.
5. A Parker No. 8
6.
7. Muskingum, OH
8. 0 million cubic feet
9. August 1, 1979
10.
1. 79-14990/05783
2. 34-119-24506-0014
3. 103
4. Williston Oil & Development Corp.
5. A Parker No. 68
6.
7. Muskingum, OH
8. 0 million cubic feet
9. August 1, 1979
10.
1. 79-14991/05784
2. 34-119-24708-0014
3. 103
4. Williston Oil & Development Corp.
5. Drake No. 1
6.
7. Muskingum, OH
8. 14.6 million cubic feet
9. August 1, 1979
10.
1. 79-14992/05785
2. 34-119-24706-0014
3. 103
4. Williston Oil & Development Corp.
5. Drake No. 2
6.
7. Muskingum, OH
8. 14.6 million cubic feet

9. August 1, 1979
10.
1. 79-14993/05786
2. 34-119-24264-0014
3. 103
4. Williston Oil & Development Corp.
5. Walter Sutton No. 2
6.
7. Muskingum, OH
8. 14.6 million cubic feet
9. August 1, 1979
10.
1. 79-14994/05787
2. 34-119-24465-0014
3. 103
4. Williston Oil & Development Corp.
5. R Mitchell No. 3
6.
7. Muskingum, OH
8. 0 million cubic feet
9. August 1, 1979
10.
1. 79-14995/05788
2. 34-119-24237-0014
3. 103
4. Williston Oil & Development Corp.
5. Frame—Sutton No. 13
6.
7. Muskingum, OH
8. 14.6 million cubic feet
9. August 1, 1979
10.
1. 79-14996/05789
2. 34-119-24597-0014
3. 103
4. Williston Oil & Development Corp.
5. Betz No. 1
6.
7. Muskingum, OH
8. 0 million cubic feet
9. August 1, 1979
10.
1. 79-14997/05790
2. 34-119-24251-0014
3. 103
4. Williston Oil & Development Corp.
5. Frame—Sutton No. 14
6.
7. Muskingum, OH
8. 14.6 million cubic feet
9. August 1, 1979
10.
1. 79-14998/05791
2. 34-119-24256-0014
3. 103
4. Williston Oil & Development Corp.
5. Frame—Sutton No. 15
6.
7. Muskingum, OH
8. 14.6 million cubic feet
9. August 1, 1979
10.
1. 79-14999/05792
2. 34-119-24304-0014
3. 103
4. Williston Oil & Development Corp.
5. Frame—Sutton No. 16
6.
7. Muskingum, OH
8. 14.6 million cubic feet
9. August 1, 1979
10.
1. 79-15000/05793
2. 34-119-24326-0014

3. 103
4. Williston Oil & Development Corp.
5. Frame—Sutton No. 7
6.
7. Muskingum, OH
8. 14.6 million cubic feet
9. August 1, 1979
10.
1. 79-15001/05794
2. 34-119-24222-0014
3. 103
4. Williston Oil & Development Corp.
5. Frame—Sutton No. 8
6.
7. Muskingum, OH
8. 14.6 million cubic feet
9. August 1, 1979
10.
1. 79-15002/05795
2. 34-119-24581-0014
3. 103
4. Williston Oil & Development Corp.
5. Williston Oil No. 36
6.
7. Muskingum, OH
8. 14.6 million cubic feet
9. August 1, 1979
10.
1. 79-15003/05796
2. 34-119-24582-0014
3. 103
4. Williston Oil & Development Corp.
5. Williston Oil No. 37
6.
7. Muskingum, OH
8. 14.6 million cubic feet
9. August 1, 1979
10.
1. 79-15004/05797
2. 34-119-24583-0014
3. 103
4. Williston Oil & Development Corp.
5. Williston Oil No. 38
6.
7. Muskingum, OH
8. 14.6 million cubic feet
9. August 1, 1979
10.
1. 79-15005/05798
2. 34-119-24516-0014
3. 103
4. Williston Oil & Development Corp.
5. Williston Oil No. 41
6.
7. Muskingum, OH
8. 14.6 million cubic feet
9. August 1, 1979
10.
1. 79-15006/05799
2. 34-119-24431-0014
3. 103
4. Williston Oil & Development Corp.
5. Williston Oil No. 5
6.
7. Muskingum, OH
8. 14.6 million cubic feet
9. August 1, 1979
10.
1. 79-15007/05752
2. 34-157-23336-0014
3. 103
4. Floyd E Kimble DBA Red Hill Dev
5. Breyer #3
6.
7. Tuscarawas, OH

8. 21.0 million cubic feet
9. August 1, 1979
10.
1. 79-15008/05753
2. 34-083-22609-0014
3. 103
4. Derrick Petroleum Company
5. Gail Porterfield #1
6.
7. Knox, OH
8. 30.0 million cubic feet
9. August 1, 1979
10. Columbia Gas Transmission Corp
1. 79-15009/05746
2. 34-007-21112-0014
3. 103
4. Clarence K Tussell Jr
5. P Roskos #1
6.
7. Ashtabula, OH
8. 30.0 million cubic feet
9. August 1, 1979
10. East Ohio Gas Co
1. 79-15010/05745
2. 34-075-22176-0014
3. 103
4. Tatco Petroleum Operations Inc
5. Fink-Smith-Treece Unit #1
6.
7. Holmes, OH
8. 60.0 million cubic feet
9. August 1, 1979
10. American Energy Service Inc
1. 79-15011/05412
2. 34-167-22684-0014
3. 108
4. Phillip H Brown Jr
5. Heldman #1
6.
7. Washington, OH
8. 1.8 million cubic feet
9. August 1, 1979
10. Columbia Gas Transmission Corp
1. 79-15012/04394
2. 34-119-24451-0014
3. 103
4. Williston Oil & Development Corp
5. Williston Oil #11
6.
7. Muskingum, OH
8. 14.6 million cubic feet
9. August 1, 1979
10.
1. 79-15013/05838
2. 34-031-23435-0014
3. 103
4. Edco Drilling & producing Inc
5. MO-1A Gamertsfelder
6.
7. Coshocton, OH
8. 18.0 million cubic feet
9. August 1, 1979
10.
1. 79-15014/05837
2. 34-153-20685-0014
3. 103
4. K S T Oil & Gas Co Inc
5. E Weinberger #1
6.
7. Summit, OH
8. 36.0 million cubic feet
9. August 1, 1979
10. East Ohio Gas Co
1. 79-15015/05836

2. 34-099-21158-0014
3. 103
4. K S T Oil & Co Inc
5. Mahoning County J V S #3
6.
7. Mahoning, OH
8. 36.0 million cubic feet
9. August 1, 1979
10. East Ohio Gas Co
1. 79-15016/05835
2. 34-119-24737-0014
3. 103
4. Williston Oil & Development Corp
5. J & V McIntire #1
6.
7. Muskingum, OH
8. 14.6 million cubic feet
9. August 1, 1979
10.
1. 79-15017/05834
2. 34-119-24729-0014
3. 103
4. Williston Oil & Development Corp
5. J & V McIntire #2
6.
7. Muskingum, OH
8. 14.6 million cubic feet
9. August 1, 1979
10.
1. 79-15018/05833
2. 34-119-24731-0014
3. 103
4. Williston Oil & Development Corp
5. J & V McIntire #4
6.
7. Muskingum, OH
8. 14.6 million cubic feet
9. August 1, 1979
10.
1. 79-15019/05832
2. 34-119-24696-0014
3. 103
4. Williston Oil & Development Corp
5. Mitchell #7
6.
7. Muskingum, OH
8. 14.6 million cubic feet
9. August 1, 1979
10.
1. 79-15020/05831
2. 34-119-24730-0014
3. 103
4. Williston Oil & Development Corp
5. J & V McIntire #3
6.
7. Muskingum, OH
8. 14.6 million cubic feet
9. August 1, 1979
10.
1. 79-15021/05830
2. 34-059-22379-0014
3. 103
4. Enterprise Gas & Oil Inc
5. Herman Martin #2
6.
7. Guernsey, OH
8. 36.5 million cubic feet
9. August 1, 1979
10. East Ohio Co
1. 79-15022/05829
2. 34-019-21211-0014
3. 103
4. Enterprise Gas & Oil Inc
5. Simpson #1
6.
7. Carroll, OH
8. 36.5 million cubic feet
9. August 1, 1979
10. East Ohio Gas Co
1. 79-15023/05828
2. 34-119-24345-0014
3. 103
4. Williston Oil & Development Corp
5. W Sutton #4
6.
7. Muskingum, OH
8. 14.6 million cubic feet
9. August 1, 1979
10.
1. 79-15024/05827
2. 34-119-24355-0014
3. 103
4. Williston Oil & Development Corp
5. W Sutton #3
6.
7. Muskingum, OH
8. 14.6 million cubic feet
9. August 1, 1979
10.
1. 79-15025/05826
2. 34-119-24642-0014
3. 103
4. Williston Oil & Development Corp
5. Wilson #1
6.
7. Muskingum, OH
8. 14.6 million cubic feet
9. August 1, 1979
10.
1. 79-15026/05825
2. 34-119-24638-0014
3. 103
4. Williston Oil & Development Corp
5. Wilson #2
6.
7. Muskingum, OH
8. .0 million cubic feet
9. August 1, 1979
10.
1. 79-15027/05824
2. 34-119-24344-0014
3. 103
4. Williston Oil & Development Corp
5. W Sutton #2—Lease 2
6.
7. Muskingum, OH
8. 14.6 million cubic feet
9. August 1, 1979
10.
1. 79-15028/05823
2. 34-119-24640-0014
3. 103
4. Williston Oil & Development Corp
5. Williston Oil #7
6.
7. Muskingum, OH
8. 14.6 million cubic feet
9. August 1, 1979
10.
1. 79-15029/05822
2. 34-119-24683-0014
3. 103
4. Williston Oil & Development Corp
5. White #3
6.
7. Muskingum, OH
8. 14.6 million cubic feet
9. August 1, 1979
10.
1. 79-15030/05821

2. 34-119-24684-0014
3. 103
4. Williston Oil & Development Corp
5. White #2
6.
7. Muskingum, OH
8. 14.6 million cubic feet
9. August 1, 1979
10.
1. 79-15031/05820
2. 34-119-24685-0014
3. 103
4. Williston Oil & Development Corp
5. White #1
6.
7. Muskingum, OH
8. 14.6 million cubic feet
9. August 1, 1979
10.
1. 79-15032/05819
2. 34-119-24707-0014
3. 103
4. Williston Oil & Development Corp
5. Drake #3
6.
7. Muskingum, OH
8. 14.6 million cubic feet
9. August 1, 1979
10.
1. 79-15033/05818
2. 34-119-24595-0014
3. 103
4. Williston Oil & Development Corp
5. Wilson #3
6.
7. Muskingum, OH
8. .0 million cubic feet
9. August 1, 1979
10.
1. 79-15034/05817
2. 34-119-24473-0014
3. 103
4. Williston Oil & Development Corp
5. Williston Oil #15
6.
7. Muskingum, OH
8. 14.6 million cubic feet
9. August 1, 1979
10.
1. 79-15035/05816
2. 34-119-24530-0014
3. 103
4. Williston Oil & Development Corp
5. Williston Oil #35
6.
7. Muskingum, OH
8. 14.6 million cubic feet
9. August 1, 1979
10.
1. 79-15036/05815
2. 34-119-2429-0014
3. 103
4. Williston Oil & Development Corp
5. Williston Oil #34
6.
7. Muskingum, OH
8. 14.6 million cubic feet
9. August 1, 1979
10.
1. 79-15037/05807
2. 34-119-24466-0014
3. 103
4. Williston Oil & Development Corp
5. Williston Oil #13

6.
7. Muskingum, OH
8. 14.6 million cubic feet
9. August 1, 1979
10.
1. 79-15038/05806
2. 34-119-24489-0014
3. 103
4. Williston Oil & Development Corp.
5. Williston Oil #12
6.
7. Muskingum, OH
8. .0 million cubic feet
9. August 1, 1979
10.
1. 79-15039/05805
2. 34-119-24189-0014
3. 103
4. Williston Oil & Development Corp.
5. Frame-Sutton #6
6.
7. Muskingum, OH
8. 14.6 million cubic feet
9. August 1, 1979
10.
1. 79-15040/05804
2. 34-119-24186-0014
3. 103
4. Williston Oil & Development Corp.
5. Frame Sutton #5
6.
7. Muskingum, OH
8. 10.8 million cubic feet
9. August 1, 1979
10.
1. 79-15041/05803
2. 34-119-24733-0014
3. 103
4. Williston Oil & Development Corp.
5. Yarian #2
6.
7. Muskingum, OH
8. 14.6 million cubic feet
9. August 1, 1979
10.
1. 79-15042/05802
2. 34-119-24528-0014
3. 103
4. Williston Oil & Development Corp.
5. Williston Oil #33
6.
7. Muskingum, OH
8. 14.6 million cubic feet
9. August 1, 1979
10.
1. 79-15043/05800
2. 34-119-24453-0014
3. 103
4. Williston Oil & Development Corp.
5. Williston Oil #10
6.
7. Muskingum, OH
8. 14.6 million cubic feet
9. August 1, 1979
10.
1. 79-15044/05708
2. 34-133-21122-0014
3. 103
4. Jud Noble and Associates Inc
5. McConnell #4
6.
7. Portage, OH
8. 30.0 million cubic feet
9. August 1, 1979
10. East Ohio Gas Company
1. 79-15045/05707
2. 34-133-21123-0014
3. 103
4. Jud Noble and Associates Inc
5. McConnell #3
6.
7. Portage, OH
8. 30.0 million cubic feet
9. August 1, 1979
10. East Ohio Gas Company
1. 79-15046/05706
2. 34-007-21111-0014
3. 103
4. Clarence K Tussell Jr
5. H Dalrymple #1
6.
7. Ashtabula, OH
8. 30.0 million cubic feet
9. August 1, 1979
10. East Ohio Gas Company
1. 79-15047/05705
2. 34-007-21115-0014
3. 103
4. Clarence K Tussell Jr
5. I Grossman #1
6.
7. Ashtabula, OH
8. 30.0 million cubic feet
9. August 1, 1979
10. East Ohio Gas Company
1. 79-15048/05704
2. 34-059-22195-0014
3. 103
4. Enterprise Gas & Oil Inc
5. Shriver #2
6.
7. Guernsey, OH
8. 127.7 million cubic feet
9. August 1, 1979
10. Owens-Illinois Glass Co
1. 79-15049/05703
2. 34-059-22209-0014
3. 103
4. Enterprise Gas & Oil Inc
5. Mace-Marks #1
6.
7. Guernsey, OH
8. 36.5 million cubic feet
9. August 1, 1979
10. Owens-Illinois Glass Co
1. 79-15050/05702
2. 34-059-22324-0014
3. 103
4. Enterprise Gas & Oil Inc
5. H R King #1
6.
7. Guernsey, OH
8. 10.9 million cubic feet
9. August 1, 1979
10. Owens-Illinois Glass Co
1. 79-15051/05701
2. 34-059-22230-0014
3. 103
4. Enterprise Gas & Oil Inc
5. James #1
6.
7. Guernsey, OH
8. 36.5 million cubic feet
9. August 1, 1979
10. Columbia Gas Transmission Corp
1. 79-15052/05700
2. 34-059-22340-0014
3. 103
4. Enterprise Gas & Oil Inc
5. H Martin #1

6.
7. Guernsey, OH
8. 91.2 million cubic feet
9. August 1, 1979
10. Owens-Illinois Glass Co
1. 79-15053/05699
2. 34-059-22329-0014
3. 103
4. Enterprise Gas & Oil Inc
5. Hall-Bonnell #1
6.
7. Guernsey, OH
8. 36.5 million cubic feet
9. August 1, 1979
10. Owens-Illinois Glass Co
1. 79-15054/05698
2. 34-121-21930-0014
3. 103
4. Enterprise Gas & Oil Inc
5. C Cooper #1
6.
7. Noble, OH
8. 45.6 million cubic feet
9. August 1, 1979
10. Corning Glass Works
1. 79-15055/05697
2. 34-121-22071-0014
3. 103
4. Enterprise Gas & Oil Inc
5. Bond-Wheeler #1
6.
7. Noble, OH
8. 41.2 million cubic feet
9. August 1, 1979
10. Corning Glass Works
1. 79-15056/05686
2. 34-155-20517-0014
3. 103
4. Atlas Energy Group Inc
5. Callahan Unit No 1—#0537
6.
7. Trumbull, OH
8. 187.0 million cubic feet
9. August 1, 1979
10. Columbia Gas Transmission Corp
1. 79-15057/05685
2. 34-155-20510-0014
3. 103
4. Atlas Energy Group Inc
5. Gleason No 1—#0536
6.
7. Trumbull, OH
8. 52.0 million cubic feet
9. August 1, 1979
10. Columbia Gas Transmission Corp
1. 79-15058/05684
2. 34-155-20490-0014
3. 103
4. Atlas Energy Group Inc
5. Kane No 1—#0534
6.
7. Trumbull, OH
8. 35.0 million cubic feet
9. August 1, 1979
10. Columbia Gas Transmission Corp
1. 79-15059/04445
2. 34-099-20927-0014
3. 108
4. Pominex Inc
5. #1 Kentzel Sowers Unit
6.
7. Mahoning, OH
8. 15.0 million cubic feet
9. August 1, 1979
10. East Ohio Gas Company

1. 79-15060/04446
2. 34-099-20911-0014
3. 108
4. Pominex Inc.
5. #1 Harry Rhodes
6.
7. Mahoning, OH
8. 12.0 million cubic feet
9. August 1, 1979
10. East Ohio Gas Company
1. 79-15061/04448
2. 34-099-20879-0014
3. 108
4. Pominex Inc.
5. #1 Kentzel-Bowman Unit
6.
7. Mahoning, OH
8. 12.0 million cubic feet
9. August 1, 1979
10. East Ohio Gas Company
1. 79-15062/04450
2. 34-099-20591-0014
3. 108
4. Pominex Inc.
5. #1 Cullar
6.
7. Mahoning, OH
8. 14.0 million cubic feet
9. August 1, 1979
10. East Ohio Gas Company
1. 79-15063/04451
2. 34-099-20572-0014
3. 108
4. Pominex Inc.
5. #1 Velma Perkins
6.
7. Mahoning, OH
8. 13.0 million cubic feet
9. August 1, 1979
10. East Ohio Gas Company
1. 79-15064/04452
2. 34-099-20548-0014
3. 108
4. Pominex Inc.
5. #1 Wagenhauser
6.
7. Mahoning, OH
8. 10.0 million cubic feet
9. August 1, 1979
10. East Ohio Gas Company
1. 79-15065/04453
2. 34-099-20592
3. 108
4. Pominex Inc.
5. #1 Daryl Scattergood
6.
7. Mahoning, OH
8. 13.0 million cubic feet
9. August 1, 1979
10. East Ohio Gas Company
1. 79-15066/04454
2. 34-099-20556-0014
3. 108
4. Pominex Inc.
5. #1 William Calvin
6.
7. Mahoning, OH
8. 14.0 million cubic feet
9. August 1, 1979
10. East Ohio Gas Company
1. 79-15067/04455
2. 34-099-20590
3. 108
4. Pominex Inc.
5. #1 Otto Luplow
6.
7. Mahoning OH
8. 10.0 million cubic feet
9. August 1, 1979
10. East Ohio Gas Company
1. 79-15068/04457
2. 34-099-20574-0014
3. 108
4. Pominex Inc.
5. #1 Wiltcrest Farms
6.
7. Mahoning OH
8. 20.0 million cubic feet
9. August 1, 1979
10. East Ohio Gas Company
1. 79-15069/04458
2. 34-099-20573-0014
3. 108
4. Pominex Inc.
5. #1 S & R Antonoff
6.
7. Mahoning OH
8. 13.0 million cubic feet
9. August 1, 1979
10. East Ohio Gas Company
1. 79-15070/04459
2. 34-099-20528-0014
3. 108
4. Pominex Inc.
5. #1 Bowman-Stepuk Unit
6.
7. Mahoning OH
8. 160.0 million cubic feet
9. August 1, 1979
10. East Ohio Gas Company
1. 79-15071/04534
2. 34-099-20589-0014
3. 108
4. Pominex Inc.
5. #1 Harvey Lodwick Unit
6.
7. Mahoning OH
8. 14.0 million cubic feet
9. August 1, 1979
10. East Ohio Gas Company
1. 79-15072/04535
2. 34-099-20593-0014
3. 108
4. Pominex Inc.
5. #1 Calvin Unit
6.
7. Mahoning OH
8. 15.0 million cubic feet
9. August 1, 1979
10. East Ohio Gas Company
1. 79-15073/04538
2. 34-099-20650-0014
3. 108
4. Pominex Inc.
5. #1 McIntyre Wiltcrest Unit
6.
7. Mahoning OH
8. 12.0 million cubic feet
9. August 1, 1979
10. East Ohio Gas Company
1. 79-15074/04542
2. 34-099-20616-0014
3. 108
4. Pominex Inc.
5. #1 Coler Et Al Unit
6.
7. Mahoning OH
8. 20.0 million cubic feet
9. August 1, 1979
10. East Ohio Gas Company
1. 79-15075/04543
2. 34-099-20625-0014
3. 108
4. Pominex Inc.
5. #1 Floyd Calvin
6.
7. Mahoning OH
8. 19.0 million cubic feet
9. August 1, 1979
10. East Ohio Gas Company
1. 79-15076/04545
2. 34-099-20854-0014
3. 108
4. Pominex Inc.
5. #1 Hugh Knauf Unit
6.
7. Mahoning OH
8. 10.0 million cubic feet
9. August 1, 1979
10. East Ohio Gas Company
1. 79-15077/05726
2. 34-005-23215-0014
3. 103
4. Ohio Natural Fuel Co
5. Kaufman #1
6.
7. Ashland OH
8. 36.0 million cubic feet
9. August 1,
510. Columbia Gas Transmission Corp
1. 79-15078/05725
2. 34-155-21034-0014
3. 103
4. Dart Oil Company
5. Bottger No. 1
6.
7. Trumbull OH
8. 35.0 million cubic feet
9. August 1, 1979
10. East Ohio Gas Company
1. 79-15079/05724
2. 34-121-21970-0014
3. 103
4. Green Gas Company
5. IVA Courtney #1
6.
7. Noble OH
8. 28.0 million cubic feet
9. August 1, 1979
10. East Ohio Gas Company
1. 79-15080/05723
2. 34-111-21776-0014
3. 103
4. Little Rock Oil Company
5. Donald Howell #2
6.
7. Monroe OH
8. 70.0 million cubic feet
9. August 1, 1979
10. Columbia Gas Transmission Corp
1. 79-15081/05722
2. 34-085-20256-0014
3. 103
4. Drillex Inc.
5. E H Tresger Inc #2
6. Painesville
7. Lake OH
8. 30.0 million cubic feet
9. August 1, 1979
10. East Ohio Gas Company
1. 79-15082/05721
2. 34-009-21912-0014
3. 103
4. Reliance Management Co.
5. Sunday Creek Coal #47R

6.
7. Athens OH
8. 15.0 million cubic feet
9. August 1, 1979
10. Columbia Gas Transmission Corp
1. 79-15083/05720
2. 34-019-21269-0014
3. 103
4. Stocker & Sitler Inc.
5. No. 4 Shirley Et Al Unit
6.
7. Carroll OH
8. 46.0 million cubic feet
9. August 1, 1979
10. Morges Inc
1. 79-15084/05719
2. 34-155-20686-0014
3. 103
4. Atlas Energy Group Inc
5. Tobin No. 1-0541
6.
7. Trumbull OH
8. .0 million cubic feet
9. August 1, 1979
10. Columbia Gas Transmission Corp
1. 79-15085/05718
2. 34-155-20415-0014
3. 103
4. Atlas Energy Group Inc
5. Furry-Manning Unit No. 1-0529
6.
7. Trumbull OH
8. .0 million cubic feet
9. August 1, 1979
10. Columbia Gas Transmission Corp.
1. 79-15086/05717
2. 34-155-21049-0014
3. 103
4. Atlas Energy Group Inc
5. Cleason No. 2-0565
6.
7. Trumbull OH
8. .0 million cubic feet
9. August 1, 1979
10. Columbia Gas Transmission
1. 79-15087/05716
2. 34-155-20501-0014
3. 103
4. Atlas Energy Group Inc.
5. Winch-King Unit No. 1-0532
6.
7. Trumbull OH
8. 34.0 million cubic feet
9. August 1, 1979
10. Columbia Gas Transmission Corp.
1. 79-15088/05715
2. 34-155-20418-0014
3. 103
4. Atlas Energy Group Inc.
5. Howland Board of Ed No. 1-0530
6.
7. Trumbull OH
8. .0 million cubic feet
9. August 1, 1979
10. Columbia Gas Transmission Corp.
1. 79-15089/05714
2. 34-155-20685-0014
3. 103
4. Atlas Energy Group Inc
5. Hurl No. 1-0542
6.
7. Trumbull OH
8. .0 million cubic feet
9. August 1, 1979
10. Columbia Gas Transmission Corp.
1. 79-15090/05713
2. 34-133-21901-0014
3. 103
4. JUD Noble and Associates Inc.
5. H & G Davis #1
6.
7. Portage OH
8. 20.0 million cubic feet
9. August 1, 1979
10. East Ohio Gas Company
1. 79-15091/04378
2. 34-029-20722-0014
3. 108
4. Pominex Inc.
5. #2 Ellyson Unit
6.
7. Columbiana OH
8. 6.0 million cubic feet
9. August 1, 1979
10. Columbia Gas Transmission Corp.
1. 79-15092/04380
2. 34-029-20724-0014
3. 108
4. Pominex Inc.
5. #1 Delmer Little Unit
6.
7. Columbiana OH
8. 8.0 million cubic feet
9. August 1, 1979
10. East Ohio Gas Company
1. 79-15093/04383
2. 34-029-20733-0014
3. 108
4. Pominex Inc.
5. #1 EVA Inc
6.
7. Columbiana OH
8. 11.0 million cubic feet
9. August 1, 1979
10. Columbia Gas of Ohio
1. 79-15094/04384
2. 34-029-20717/0014
3. 108
4. Pominex Inc.
5. #1 Ellyson Unit
6.
7. Columbiana OH
8. 18.0 million cubic feet
9. August 1, 1979
10. East Ohio Gas Company
1. 79-15095/04386
2. 34-029-20719-00140
3. 108
4. Pominex Inc.
5. #1 Richard Hill
6.
7. Columbiana OH
8. 14.0 million cubic feet
9. August 1, 1979
10. Columbia Gas of Ohio
1. 79-15096/04387
2. 34-169-21888-0014
3. 108
4. Pominex Inc.
5. #1 Dorothy Croskey
6.
7. Wayne OH
8. 1.0 million cubic feet
9. August 1, 1979
10. Spartek Inc.
1. 79-15097/0488
2. 34-169-21808-0014
3. 108
4. Pominex Inc.
5. No. 1 Albert Stutzman
6.
7. Wayne, OH
8. 8.0 million cubic feet
9. August 1, 1979
10. Spartek Inc.
1. 79-15098/04389
2. 34-169-21946-0014
3. 108
4. Pominex Inc.
5. No. 1 Joseph Flinner
6.
7. Wayne, OH
8. 4.0 million cubic feet
9. August 1, 1979
10. Spartek Inc.
1. 79-15099/04392
2. 34-099-20736-0014
3. 108
4. Pominex Inc.
5. No. 1 Lindquist et al unit
6.
7. Mahoning, OH
8. 8.0 million cubic feet
9. August 1, 1979
10. East Ohio Gas Company
1. 79-15100/04427
2. 34-099-20637-0014
3. 108
4. Pominex Inc.
5. No. 1 H. J. Sauerwein
6.
7. Mahoning, OH
8. 10.0 million cubic feet
9. August 1, 1979
10. East Ohio Gas Company
1. 79-15101/04428
2. 34-099-20767-0014
3. 108
4. Pominex Inc.
5. No. 1 Hugh Knauf
6.
7. Mahoning, OH
8. 6.0 million cubic feet
9. August 1, 1979
10. East Ohio Gas Company
1. 79-15102/04429
2. 34-099-20676-0014
3. 108
4. Pominex Inc.
5. No. 1 Charles Stearns
6.
7. Mahoning, OH
8. 9.0 million cubic feet
9. August 1, 1979
10. East Ohio Gas Company
1. 79-15103/04430
2. 34-099-20628-0014
3. 108
4. Pominex Inc.
5. No. 1 Plummer et al unit
6.
7. Mahoning, OH
8. 14.0 million cubic feet
9. August 1, 1979
10. East Ohio Gas Company
1. 79-15104/04431
2. 34-099-20694-0014
3. 108
4. Pominex Inc.
5. No. 1 Clyde Sigle
6.
7. Mahoning, OH
8. 7.0 million cubic feet
9. August 1, 1979
10. East Ohio Gas Company

1. 79-15105/04432
2. 34-099-20647-0014
3. 108
4. Pominex Inc.
5. No. 1 A. L. Beardsley
- 6.
7. Mahoning, OH
8. 9.0 million cubic feet
9. August 1, 1979
10. East Ohio Gas Company
1. 79-15106/04434
2. 34-099-20913-0014
3. 108
4. Pominex Inc.
5. No. 1 Paul Less
- 6.
7. Mahoning, OH
8. 13.0 million cubic feet
9. August 1, 1979
10. East Ohio Gas Company
1. 79-15107/04436
2. 34-099-20893-0014
3. 108
4. Pominex Inc.
5. No. 1 Schneck-Mellinger Unit
- 6.
7. Mahoning, OH
8. 11.0 million cubic feet
9. August 1, 1979
10. East Ohio Gas Company
1. 79-15108/04437
2. 34-099-20855-0014
3. 108
4. Pominex Inc.
5. No. 2 Luplow Unit
- 6.
7. Mahoning, OH
8. 10.0 million cubic feet
9. August 1, 1979
10. East Ohio Gas Company
1. 79-15109/04438
2. 34-099-20740-0014
3. 108
4. Pominex Inc.
5. No. 1 Everson Mackey Unit
- 6.
7. Mahoning, OH
8. 8.0 million cubic feet
9. August 1, 1979
10. East Ohio Gas Company
1. 79-15110/04440
2. 34-099-27380-0014
3. 108
4. Pominex Inc.
5. No. 2 Sauerwein
- 6.
7. Mahoning, OH
8. 15.0 million cubic feet
9. August 1, 1979
10. East Ohio Gas Company
1. 79-15111/04441
2. 34-099-20729-0014
3. 108
4. Pominex Inc.
5. No. 1 D. Roller
- 6.
7. Mahoning, OH
8. 13.0 million cubic feet
9. August 1, 1979
10. East Ohio Gas Company
1. 79-15112/04442
2. 34-099-20638-0014
3. 108
4. Pominex Inc.
5. No. 1 M. E. Detwiler
- 6.
7. Mahoning, OH
8. 6.0 million cubic feet
9. August 1, 1979
10. East Ohio Gas Company
1. 79-15113/04443
2. 34-099-20737-0014
3. 108
4. Pominex Inc.
5. No. 1 Petrilla et al Unit
- 6.
7. Mahoning, OH
8. 10.0 million cubic feet
9. August 1, 1979
10. East Ohio Gas Company
1. 79-15114/04444
2. 34-099-20818-0014
3. 108
4. Pominex Inc.
5. No. 1 Russell Garber
- 6.
7. Mahoning, OH
8. 10.0 million cubic feet
9. August 1, 1979
10. East Ohio Gas Company
1. 79-15115/05683
2. 34-155-21017-0014
3. 103
4. Atlas Energy Group Inc.
5. Losen Unit No. 1—No. 0516
- 6.
7. Trumbull, OH
8. 50.0 million cubic feet
9. August 1, 1979
10. Columbia Gas Transmission Corp.
1. 79-15116/05682
2. 34-155-20384-0014
3. 103
4. Atlas Energy Group Inc.
5. Manning No. 1—No. 0528
- 6.
7. Trumbull, OH
8. 44.0 million cubic feet
9. August 1, 1979
10. Columbia Gas Transmission Corp.
1. 79-15117/05681
2. 34-155-21018-0014
3. 103
4. Atlas Energy Group, Inc.
5. Losen Unit No. 2—No. 0524
- 6.
7. Trumbull, OH
8. 35.0 million cubic feet
9. August 1, 1979
10. Columbia Gas Transmission Corp.
1. 79-15118/05680
2. 34-155-20762-0014
3. 103
4. Atlas Energy Group, Inc.
5. Mosko No. 1—No. 0543
- 6.
7. Trumbull, OH
8. 50.0 million cubic feet
9. August 1, 1979
10. Columbia Gas Transmission Corp.
1. 79-15119/05679
2. 34-155-20509-0014
3. 103
4. Atlas Energy Group, Inc.
5. Tobin Unit No. 1—No. 0535
- 6.
7. Trumbull, OH
8. 33.0 million cubic feet
9. August 1, 1979
10. Columbia Gas Transmission Corp.
1. 79-15120/05678
2. 34-155-21007-0014
3. 103
4. Atlas Energy Group, Inc.
5. Winch No. 1—No. 0556
- 6.
7. Trumbull, OH
8. 35.0 million cubic feet
9. August 1, 1979
10. Columbia Gas Transmission Corp.
1. 79-15121/05677
2. 34-155-20304-0014
3. 103
4. Atlas Energy Group, Inc.
5. Williams No. 2—No. 0522
- 6.
7. Trumbull, OH
8. 47.0 million cubic feet
9. August 1, 1979
10. Columbia Gas Transmission Corp.
1. 79-15122/05675
2. 34-127-24322-0014
3. 103
4. F. E. Thompson Oil Co. Inc.
5. Patrick L. & Mary Green No. 1
- 6.
7. Perry, OH
8. 5.0 million cubic feet
9. August 1, 1979
10. Columbia Gas Transmission Corp.
1. 79-15123/05674
2. 34-127-24286-0014
3. 103
4. Francis A. Metzger
5. Carl Muhler No. 1
- 6.
7. Jackson TWP NE ¼ Sec. 20
8. 12.0 million cubic feet
9. August 1, 1979
10. National Oil & Gas
1. 79-15124/05673
2. 34-133-21379-0014
3. 103
4. Orion Energy Corp.
5. Green No. 2
- 6.
7. Portage, OH
8. 15.0 million cubic feet
9. August 1, 1979
- 10.
1. 79-15125/05672
2. 34-119-24450-0014
3. 103
4. Benatty Corporation
5. Kilpatrick No. 2
- 6.
7. Muskingum, OH
8. 25.0 million cubic feet
9. August 1, 1979
10. East Ohio Gas Company
1. 79-15126/05671
2. 34-119-24447-0014
3. 103
4. Benatty Corporation
5. Winland No. 1
- 6.
7. Muskingum, OH
8. 25.0 million cubic feet
9. August 1, 1979
10. East Ohio Gas Company
1. 79-15127/05670
2. 34-035-20928-0014
3. 103
4. Green Gas Co
5. Six Hundred Superior Corp #1

- 6.
7. Cuyahoga, OH
8. 1.5 million cubic feet
9. August 1, 1979
10. Columbia Gas of Ohio
1. 79-15128/05583
2. 34-127-24235-0014
3. 103
4. Quaker State Oil Refining Corp
5. Good #1 80199
- 6.
7. Perry, OH
8. 5.5 million cubic feet
9. August 1, 1979
10. Columbia Gas Transmission Corp
1. 79-15129/05570
2. 34-103-22116-0014
3. 103
4. H E Rupp
5. Stine #3
- 6.
7. Medina, OH
8. 250.0 million cubic feet
9. August 1, 1979
- 10.
1. 79-15130/05738
2. 34-031-23433-0014
3. 103
4. Edco Drilling & Producing Inc
5. M0-3A Staser
- 6.
7. Coshocton, OH
8. 18.0 million cubic feet
9. August 1, 1979
- 10.
1. 79-15131/05737
2. 34-031-23429-0014
3. 103
4. Edco Drilling & Producing Inc
5. M0-2A Shaw
- 6.
7. Coshocton, OH
8. 18.0 million cubic feet
9. August 1, 1979
- 10.
1. 79-15132/05736
2. 34-031-23431-0014
3. 103
4. Edco Drilling & Producing Inc
5. M0-1A Richcreek
- 6.
7. Coshocton, OH
8. 18.0 million cubic feet
9. August 1, 1979
- 10.
1. 79-15133/05735
2. 34-031-23424-0014
3. 103
4. Edco Drilling & Producing Inc
5. M0-3A Huff
- 6.
7. Coshocton, OH
8. 18.0 million cubic feet
9. August 1, 1979
- 10.
1. 79-15134/05734
2. 34-031-23414-0014
3. 103
4. Edco Drilling & Producing Inc
5. M0-1A Fry
- 6.
7. Coshocton, OH
8. 18.0 million cubic feet
9. August 1, 1979
- 10.
1. 79-15135/05733
2. 34-031-23428-0014
3. 103
4. Edco Drilling & Producing Inc
5. M0-1A Dusenberry
- 6.
7. Coshocton, OH
8. 18.0 million cubic feet
9. August 1, 1979
- 10.
1. 79-15136/05732
2. 34-169-22139-0014
3. 103
4. Sheldon L. Turrill
5. J & B Punneo #2
- 6.
7. Wayne, OH
8. 100.0 million cubic feet
9. August 1, 1979
10. East Ohio Gas Company
1. 79-15137/05731
2. 34-031-23325-0014
3. 103
4. The Oxford Oil Co
5. Walter Adams-Karr #1
- 6.
7. Coshocton, OH
8. 9.0 million cubic feet
9. August 1, 1979
- 10.
1. 79-15138/05730
2. 34-119-24752-0014
3. 103
4. The Oxford Oil Co
5. John Graham #1
- 6.
7. Muskingum, OH
8. 10.0 million cubic feet
9. August 1, 1979
- 10.
1. 79-15139/05729
2. 34-073-21961-0014
3. 103
4. The Oxford Oil Co
5. Oxford Fee #1
- 6.
7. Hocking, OH
8. 10.0 million cubic feet
9. August 1, 1979
- 10.
1. 79-15140/05728
2. 34-119-24690-0014
3. 103
4. The Oxford Oil Co
5. Robert Ellerman #2
- 6.
7. Muskegon, OH
8. 10.0 million cubic feet
9. August 1, 1979
- 10.
1. 79-15141/05727
2. 34-073-22022-0014
3. 103
4. Oak Dale Drilling Co
5. Soale #1
- 6.
7. Hocking, OH
8. 7.0 million cubic feet
9. August 1, 1979
10. Columbia Gas Transmission Corp
1. 79-15142/05712
2. 34-133-21834-0014
3. 103
4. Jud Noble and Associates Inc
5. Caywood #1
- 6.
7. Portage, OH
8. 20.0 million cubic feet
9. August 1, 1979
10. East Ohio Gas Company
1. 79-15143/05711
2. 34-133-21833-0014
3. 103
4. Jud Noble and Associates Inc
5. McKinney #1
- 6.
7. Portage, OH
8. 20.0 million cubic feet
9. August 1, 1979
10. East Ohio Gas Company
1. 79-15144/05710
2. 34-133-21884-0014
3. 103
4. Jud Noble and Associates Inc
5. H & M Hall #2
- 6.
7. Portage, OH
8. 20.0 million cubic feet
9. August 1, 1979
10. East Ohio Gas Company
1. 79-15145/05747
2. 34-007-21102-0014
3. 103
4. Clarence K Tussel Jr
5. O Mackey #1
- 6.
7. Ashtabula, OH
8. 20.0 million cubic feet
9. August 1, 1979
10. East Ohio Gas Company
1. 79-15146/05748
2. 34-089-23608-0014
3. 103
4. Mid-Con Oil Company
5. Swinehart Well #2
- 6.
7. Bowling Green TWP LIOH
8. .0 million cubic feet
9. August 1, 1979
10. Columbia Gas Transmission
1. 79-15147/05749
2. 34-031-23467-0014
3. 103
4. John C Mason
5. Hipp-Steimel #2
- 6.
7. Coshocton, OH
8. 15.0 million cubic feet
9. August 1, 1979
10. Cincinnati Gas & Electric
1. 79-15148/05750
2. 34-059-22522-0014
3. 103
4. Tiger Oil Inc
5. Henry Szuber #1
- 6.
7. Guernsey, OH
8. 15.0 million cubic feet
9. August 1, 1979
10. Columbia Gas Transmission
1. 79-15149/05751
2. 34-153-20664-0014
3. 103
4. Peter A Bartlo
5. Falls Stamping #1
- 6.
7. Summit, OH
8. 50.0 million cubic feet
9. August 1, 1979
- 10.

1. 79-15271/05769
2. 34-119-24419-0014
3. 103
4. Williston Oil & Development Corp
5. Williston Oil #4
- 6.
7. Muskingum, OH
8. 14.6 million cubic feet
9. August 1, 1979
- 10.
1. 79-15272/05709
2. 34-133-21883-0014
3. 103
4. Jud Noble and Associates Inc
5. H & M Hall #1
- 6.
7. Portage, OH
8. 20.0 million cubic feet
9. August 1, 1979
10. East Ohio Gas Company
1. Control number (FERC/State)
2. API well number
3. Section of NGPA
4. Operation
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)
1. 79-14810/02000
2. 42-227-31531
3. 103
4. Phillips Petroleum Company
5. Bellam No 11
6. Iatan East (Howard)
7. Howard, TX
8. 5.2 million cubic feet
9. August 1, 1979
10. Getty Oil Company
1. 79-14811/02001
2. 42-227-31532
3. 103
4. Phillips Petroleum Company
5. Bellam No 12
6. Iatan East (Howard)
7. Howard, TX
8. 3.3 million cubic feet
9. August 1, 1979
10. Getty Oil Company
1. 79-14812/02002
2. 42-227-31645
3. 103
4. Phillips Petroleum Company
5. Bellam No 13
6. Iatan East (Howard)
7. Howard, TX
8. 6.8 million cubic feet
9. August 1, 1979
10. Getty Oil Company
1. 79-14813/02016
2. 42-103-31777
3. 103
4. Warren Pet Co Div/Gulf Oil Corp
5. J B Tubb A #34
6. Sand Hills (McKnight)
7. Crane, TX
8. 159.0 million cubic feet
9. August 1, 1979
10. El Paso Natural Gas Co
1. 79-14814/02017
2. 42-103-00000
3. 103
4. Warren Pet Co Div/Gulf Oil Corp
5. W N Waddell et al #1097
6. Sand Hills (Tubb)
7. Crane, TX
8. 30.0 million cubic feet
9. August 1, 1979
10. El Paso Natural Gas Co
1. 79-14815/02018
2. 42-103-00000
3. 103
4. Warren Pet Co Div/Gulf Oil Corp
5. W N Waddell et al #1098
6. Sand Hills (Tubb)
7. Crane, TX
8. 133.0 million cubic feet
9. August 1, 1979
10. El Paso Natural Gas Co
1. 79-14816/02019
2. 42-103-00000
3. 103
4. Warren Pet Co Div/Gulf Oil Corp
5. W N Waddell et al #1097
6. Sand Hills (McKnight)
7. Crane, TX
8. 89.0 million cubic feet
9. August 1, 1979
10. El Paso Natural Gas Co
1. 79-14817/02020
2. 42-103-00000
3. 103
4. Warren Pet Co Div/Gulf Oil Corp
5. W N Waddell et al #1098
6. Sand Hills (McKnight)
7. Crane, TX
8. 100.0 million cubic feet
9. July 31, 1979
10. Cabot Corporation
1. 79-14819/02022
2. 42-495-30971
3. 103
4. Gulf Oil Corporation
5. Keystone Cattle Co Well No 341
6. Keystone (Colby)
7. Winkler, TX
8. 60.0 million cubic feet
9. July 31, 1979
10. Cabot Corporation
1. 79-14820/02023
2. 42-123-30798
3. 103
4. William Herbert Hunt Trust Est
5. Harold Heyer No 1 C 05522
6. Arneckeville (Yegua 4870 E)
7. Dewitt, TX
8. 12.0 million cubic feet
9. August 1, 1979
10. Texas Eastern Transmission Corp
1. 79-14821/02025
2. 42-123-30835
3. 103
4. William Herbert Hunt Trust Est
5. Egg-Junker et al Unit #2T 77252
6. Arneckeville (Yegua 4870)
7. Dewitt, TX
8. 136.0 million cubic feet
9. August 1, 1979
10. Texas Eastern Transmission Corp
1. 79-14822/02030
2. 42-167-30395
3. 103
4. Hassie Hunt Exploration Company
5. John Blake et al No 1 11529
6. Alta Loma South (Big Gas Sand)
7. Galveston, TX
8. 34.0 million cubic feet
9. August 1, 1979
10. Natural Gas Pipeline Co of America
1. 79-14823/02050
2. 42-421-30069
3. 103
4. Phillips Petroleum Company
5. Keith No 2
6. Cold Water Creek
7. Sherman, TX
8. 260.0 million cubic feet
9. August 1, 1979
10. El Paso Natural Gas Co
1. 79-14824/02083
2. 42-123-30903
3. 103
4. William Herbert Hunt Trust Est
5. Emilie Junker et al Unit #3 78977
6. Arneckeville (Yegua 5260)
7. Dewitt, TX
8. 160.0 million cubic feet
9. August 1, 1979
10. Texas Eastern Transmission Corp
1. 79-14825/02117
2. 42-495-30942
3. 103
4. Texas Pacific Oil Company Inc
5. Brown Altman A/C 8 No 3
6. Kermit
7. Winkler, TX
8. 6.9 million cubic feet
9. August 1, 1979
10. Cabot Corp
1. 79-14826/02118
2. 42-103-31534
3. 103
4. Texas Pacific Oil Company Inc
5. H E Adams C No 8
6. Dune
7. Crane, TX
8. 3.9 million cubic feet
9. August 1, 1979
10. Warren Petroleum Co (Gulf Oil Corp)
1. 79-14827/02119
2. 42-103-31740
3. 103
4. Texas Pacific Oil Company Inc
5. H E Adams C No 9
6. Dune
7. Crane, TX
8. 5.3 million cubic feet
9. August 1, 1979
10. Warren Petroleum Co (Gulf Oil Corp)
1. 79-14828/02120
2. 42-495-30943
3. 103
4. Texas Pacific Oil Company Inc
5. E Brown No 1
6. Kermit
7. Winkler, TX
8. 10.4 million cubic feet
9. August 1, 1979
10. Cabot Corp
1. 79-14829/02121
2. 42-495-30944
3. 103
4. Texas Pacific Oil Company Inc
5. E Brown No 2

6. Kermit
7. Winkler, TX
8. 5.2 million cubic feet
9. August 1, 1979
10. Cabot Corp
1. 79-14830/02130
2. 42-501-31535
3. 103
4. Texas Pacific Oil Company Inc
5. Bennett Ranch Unit Well No 284
6. Wasson
7. Yoakum, TX
8. 9.4 million cubic feet
9. August 1, 1979
10. Shell Oil Company
1. 79-14831/02139
2. 42-165-31328
3. 103
4. American Petroleum Co of Texas
5. Nora Coltharp B No 3
6. Robertson (San Andres)
7. Gaines, TX
8. 14.0 million cubic feet
9. July 31, 1979
10. Phillips Petroleum Company
1. 79-14832/02152
2. 42-389-30976
3. 103
4. Rosewood Corporation
5. Lindemann No 24-1 79556
6. Nine Mile Draw (Fusselman)
7. Reeves, TX
8. 30.0 million cubic feet
9. August 1, 1979
10. Delhi Gas Pacific Corp
1. 79-14833/02153
2. 42-123-30887
3. 103
4. William Herbert Hunt Trust Est
5. Harold Heyer No 3 05522
6. Arneckeville (Yegua 4870 E)
7. Dewitt, TX
8. 14.0 million cubic feet
9. August 1, 1979
10. Texas Eastern Transmission Corp
1. 79-14834/02156
2. 42-367-31405
3. 103
4. Baron Company Inc
5. McCarty
6. Carterville Strawn 2700
7. Parker, TX
8. 105.0 million cubic feet
9. July 31, 1979
10. Lone Star Gas Company
1. 79-14835/02171
2. 42-105-31576
3. 103
4. Gulf Oil Corp
5. F R Henderson No 10
6. Ozona Northwest (Canyon)
7. Crockett, TX
8. 36.7 million cubic feet
9. July 31, 1979
10. Shell Oil Company
1. 79-14836/02214
2. 42-103-30854
3. 108
4. Abohe Oil & Gas Corp
5. Day A No 1
6. GIB
7. Crane, TX
8. 9.0 million cubic feet
9. July 31, 1979
10. Phillips Petroleum Company
1. 79-14837/02220
2. 42-367-31167
3. 102
4. Mitchell Energy Corporation
5. J E Deakins #1 78125
6. Lake Mineral Wells (4000 Congl)
7. Parker, TX
8. 330.0 million cubic feet
9. July 31, 1979
10. Natural Gas Pipeline Co of America
1. 79-14838/02223
2. 42-211-31027
3. 102 103
4. Donald C Slawson
5. Campbell 1-33
6. Mendota East (Morrow Upper)
7. Hemphill, TX
8. 1800.0 million cubic feet
9. July 31, 1979
10. Northern Natural Gas
1. 79-14839/02224
2. 42-391-00000
3. 108
4. Sohio Natural Resources Co
5. J J Obrien A Well 6C
6. Creta
7. Refugio TX
8. 12.4 million cubic feet
9. July 31, 1979
10. Transcontinental Gas P L Co
1. 79-14840/02228
2. 42-105-00371
3. 108
4. Sohio Natural Resources Co
5. Ingham No. 1
6. Ingham
7. Crockett TX
8. 7.3 million cubic feet
9. July 31, 1979
10. El Paso Natural Gas Co
1. 79-14841/02235
2. 42-211-00000
3. 108
4. Monsanto Company
5. Hodgson No. 1 RRC No. 55579
6. Feldman (Cherokee)
7. Hemphill TX
8. 13.5 million cubic feet
9. July 31, 1979
10. Transwestern Gas Supply Co
1. 79-14842/02268
2. 42-483-30462
3. 103
4. CIC Exploration Inc
5. Lott 1-2
6. Lott Ranch (Morrow Upper)
7. Wheeler TX
8. 131.0 million cubic feet
9. July 31, 1979
10. Colorado Interstate Gas Co
1. 79-14843/02270
2. 42-235-00000
3. 103
4. MWJ Producing Company
5. Branch B No. 1 (RRC No. 07450)
6. Tucker (Canyon)
7. Irion County TX
8. 64.0 million cubic feet
9. July 31, 1979
10. Northern Natural Gas Company
1. 79-14844/02271
2. 42-235-00000
3. 103
4. MWJ Producing Company
5. Branch B No. 2 (RRC No. 07450)
6. Tucker (Canyon)
7. Irion County TX
8. 5.0 million cubic feet
9. July 31, 1979
10. Northern Natural Gas Co
1. 79-14845/02273
2. 42-475-31564
3. 103
4. HNG Oil Company
5. Nordan Trust 45 No. 1 ID No. 77310
6. Barstow (Wolfcamp)
7. Ward TX
8. 396.0 million cubic feet
9. July 31, 1979
10. Northern Natural Gas Co
1. 79-14846/02275
2. 42-455-00000
3. 103
4. HNG Oil Company
5. Kenley No. 1 ID No. 76502
6. Apple Springs (Glen Rose)
7. Trinity TX
8. 540.0 million cubic feet
9. July 31, 1979
- 10.
1. 79-14847/02276
2. 42-455-30291
3. 102
4. HNG Oil Company
5. Kenley No. 2 ID No. 76433
6. Apple Springs (Glen Rose)
7. Trinity TX
8. 540.0 million cubic feet
9. July 31, 1979
- 10.
1. 79-14848/02292
2. 42-389-30948
3. 103
4. Union Oil Company of Calif
5. N T Evans No. 7 (76114)
6. Worsham (Cherry Canyon)
7. Reeves TX
8. 690.0 million cubic feet
9. July 31, 1979
10. El Paso Natural Gas Co
1. 79-14849/02293
2. 42-079-30931
3. 103
4. Union Oil Co of California
5. D S Wright No. 1 (79797)
6. Levelland (San Andres)
7. Cochran TX
8. 80.0 million cubic feet
9. July 31, 1979
10. El Paso Natural Gas Co
1. 79-14850/02294
2. 42-079-30932
3. 103
4. Union Oil Co of California
5. D S Wright C No. 2 (79795)
6. Levelland (San Andres)
7. Cochran TX
8. 20.0 million cubic feet
9. July 31, 1979
10. El Paso Natural Gas Co
1. 79-14851/02300
2. 42-393-30267
3. 103
4. Union Oil Company of Calif
5. Killebrew No. 1-196
6. Killebrew (Morrow Upper)
7. Roberts TX
8. 300.0 million cubic feet
9. July 31, 1979
10. Northern Natural Gas Co

1. 79-14852/02308
2. 42-445-30582
3. 103
4. Gulf Oil Corporation
5. Mallet Land & Cattle Co No. 80
6. Kingdom (ABO Reef)
7. Terry TX
8. 4.7 million cubic feet
9. July 31, 1979
10. Amoco Production Co
1. 79-14853/02783
2. 42-479-00000
3. 102
4. Hughes & Hughes
5. Rosa V De Benavides No. 1
6. Bruni NE (10350)
7. Webb TX
8. 500.0 million cubic feet
9. July 31, 1979
10.
1. 79-14854/02786
2. 42-455-30293
3. 103
4. HNG Oil Company
5. Richards Mary E. No. 1 ID-80700
6. Apple Springs (Glen Rose)
7. Trinity TX
8. 134.0 million cubic feet
9. July 31, 1979
10.
1. 79-14855/02797
2. 42-3-00000
3. 103
4. MWJ Producing Company
5. Arnold No. 2 (RRC No. 07392)
6. Calvin (Dean)
7. Glasscock County TX
8. 60.0 million cubic feet
9. July 31, 1979
10. El Paso Natural Gas Company
1. 79-14856/02798
2. 42-173-00000
3. 103
4. MWJ Producing Company
5. Arnold No. 1 (RRC No. 07392)
6. Calvin (Dean)
7. Glasscock County TX
8. 32.0 million cubic feet
9. July 31, 1979
10. El Paso Natural Gas Co
1. 79-14857/03010
2. 42-195-30313
3. 103
4. Yucca Petroleum Co
5. Phelps-Bryan No. 1-121 (TRC No. 73514)
6. Hansford (Morrow Upper)
7. Hansford TX
8. 300.0 million cubic feet
9. July 31, 1979
10. Northern Natural Gas Company
1. 79-14858/03011
2. 42-357-30856
3. 103
4. Yucca Petroleum Co
5. Percy Powers No. 3-652 (TRC No. 79350)
6. Northrup (Cleveland)
7. Ochiltree TX
8. 200.0 million cubic feet
9. July 31, 1979
10. Northern Natural Gas Company
1. 79-14859/03045
2. 42-505-30581
3. 103
4. Gas Producing Enterprises Inc
5. Laurel S L No. 1
6. J J & J (Wilcox 8800)
7. Zapata TX
8. 1480.0 million cubic feet
9. July 31, 1979
10. Transcontinental Gas Pipeline
1. 79-14860/03519
2. 42-105-31691
3. 103
4. Amoco Production Company
5. J S Todd A R/A A No. 12
6. Wyatt
7. Crockett
8. 9.0 million cubic feet
9. August 1, 1979
10. Permian Corporation, El Paso Natural Gas Co
1. 79-14861/03520
2. 42-105-31690
3. 103
4. Amoco Production Company
5. J S Todd A R/A A No. 13
6. Wyatt
7. Crockett TX
8. 3.0 million cubic feet
9. August 1, 1979
10. Permian Corporation, El Paso Natural Gas Co
1. 79-14862/03521
2. 42-105-31586
3. 103
4. Amoco Production Company
5. J S Todd A R/A A No. 10
6. Wyatt
7. Crockett TX
8. 15.0 million cubic feet
9. August 1, 1979
10. Permian Corporation, El Paso Natural Gas Co
1. 79-14863/03522
2. 42-383-31170
3. 103
4. Amoco Production Company
5. Renna T Ringo et al No. 3
6. Spraberry Trend Area
7. Reagan TX
8. 26.0 million cubic feet
9. August 1, 1979
10. El Paso Natural Gas Company
1. 79-14864/03524
2. 42-003-31592
3. 103
4. Amoco Production Company
5. Three Bar Unit No. 71
6. Three Bar/Devonian
7. Andrews TX
8. 62.0 million cubic feet
9. August 1, 1979
10. El Paso Natural Gas Company
1. 79-14865/03525
2. 42-003-31676
3. 103
4. Amoco Production Company
5. Three Bar Unit No. 72
6. Three Bar/Devonian
7. Andrews TX
8. 66.0 million cubic feet
9. August 1, 1979
10. El Paso Natural Gas Company
1. 79-14866/03528
2. 42-413-30401
3. 103
4. Amoco Production Company
5. Rousselot Doris Mayer /A/004
6. Sawyer (Canyon)
7. Schleicher TX

8. 28.0 million cubic feet
9. August 1, 1979
10. Lone Star Gas Company
1. 79-14867/03529
2. 42-435-31399
3. 103
4. Amoco Production Company
5. Marjory R Johansen No. 3
6. Whitehead/Strawn
7. Sutton TX
8. 79.0 million cubic feet
9. August 1, 1979
10. Lone Star Gas Company
1. 79-14868/03530
2. 42-435-31400
3. 103
4. Amoco Production Company
5. Marjory R Johansen No. 2
6. Whitehead/Strawn
7. Sutton TX
8. 143.0 million cubic feet
9. August 1, 1979
10. Lone Star Gas Company
1. 79-14869/03531
2. 42-435-31373
3. 103
4. Amoco Production Company
5. Morris Brothers 003
6. Whitehead/Strawn
7. Sutton TX
8. 38.0 million cubic feet
9. August 1, 1979
10. Lone Star Gas Co
1. 79-14870/03532
2. 42-435-31374
3. 103
4. Amoco Production Company
5. Morris Brothers 003
6. Whitehead/Strawn
7. Sutton TX
8. 62.0 million cubic feet
9. August 1, 1979
10. Lone Star Gas Co
1. 79-14871/03533
2. 42-105-31174
3. 103
4. Amoco Production Company
5. Alford Margaret F/8/001
6. Whitehead/Strawn
7. Crockett TX
8. 240.0 million cubic feet
9. August 1, 1979
10. Lone Star Gas Co
1. 79-14872/03535
2. 42-219-32377
3. 103
4. Amoco Production Company
5. Elsie Smith No 4
6. Levelland
7. Hockley TX
8. 6.4 million cubic feet
9. August 1, 1979
10. El Paso Natural Gas Co
1. 79-14873/03697
2. 42-219-31988
3. 103
4. Amoco Production Company
5. Eva S Bratton No 1
6. Levelland
7. Hockley TX
8. 17.5 million cubic feet
9. August 1, 1979
10. El Paso Natural Gas Co
1. 79-14874/03707
2. 42-219-32306

3. 103
4. Amoco Production Company
5. Elsie Smith No 3
6. Levelland
7. Hockley TX
8. 12.8 million cubic feet
9. August 1, 1979
10. El Paso Natural Gas Co
1. 79-14875/03708
2. 42-079-30818
3. 103
4. Amoco Production Company
5. Boyd Mallet Unit No 85
6. Slaughter
7. Cochran TX
8. 6.2 million cubic feet
9. August 1, 1979
10. El Paso Natural Gas Co
1. 79-14876/03709
2. 42-079-30819
3. 103
4. Amoco Production Company
5. Boyd Mallet Unit No 84
6. Slaughter
7. Cochran TX
8. 4.0 million cubic feet
9. August 1, 1979
10. El Paso Natural Gas Co
1. 79-14877/03712
2. 42-219-32370
3. 103
4. Amoco Production Company
5. May Montgomery Unit No 47
6. Levelland
7. Hockley TX
8. 2.4 million cubic feet
9. August 1, 1979
10. El Paso Natural Gas Co
1. 79-14878/03713
2. 42-219-32369
3. 103
4. Amoco Production Company
5. May Montgomery Unit No 46
6. Levelland
7. Hockley TX
8. 2.4 million cubic feet
9. August 1, 1979
10. El Paso Natural Gas Co
1. 79-14879/03714
2. 42-219-31981
3. 103
4. Amoco Production Company
5. J M Davis No 2
6. Levelland (ABO)
7. Hockley TX
8. 1.5 million cubic feet
9. August 1, 1979
10. El Paso Natural Gas Co
1. 79-14880/03716
2. 42-445-30642
3. 103
4. Amoco Production Company
5. Christine Devitt B No 10
6. Kingdom (ABO Reef)
7. Terry TX
8. 4 million cubic feet
9. August 1, 1979
10. El Paso Natural Gas Co
1. 79-14881/03717
2. 42-079-30855
3. 103
4. Amoco Production Company
5. Smith Igoo No 9
6. Slaughter
7. Cochran TX
8. 12.4 million cubic feet
9. August 1, 1979
10. El Paso Natural Gas Co
1. 79-14882/03719
2. 42-219-31922
3. 103
4. Amoco Production Company
5. W G Frazier No 105
6. Kingdom (ABO Reef)
7. Hockley TX
8. 9.1 million cubic feet
9. August 1, 1979
10. El Paso Natural Gas Co
1. 79-14883/03720
2. 42-219-32304
3. 103
4. Amoco Production Company
5. W G Frazier No 108
6. Kingdom (ABO Reef)
7. Hockley TX
8. 4 million cubic feet
9. August 1, 1979
10. El Paso Natural Gas Co
1. 79-14884/03721
2. 42-219-32468
3. 103
4. Amoco Production Company
5. Northwest Malley Unit No 152
6. Slaughter
7. Hockley TX
8. 17.9 million cubic feet
9. August 1, 1979
10. El Paso Natural Gas Co
1. 79-14885/03722
2. 42-501-31605
3. 103
4. Amoco Production Company
5. N C Clanahan D No 4
6. Prentice (Clearfork Lower)
7. Yoakum TX
8. 7 million cubic feet
9. August 1, 1979
10. Northern Natural Gas Company
1. 79-14886/03723
2. 42-501-31592
3. 103
4. Amoco Production Company
5. N C Clanahan E No 1
6. Prentice (Clearfork Lower)
7. Yoakum TX
8. 5 million cubic feet
9. August 1, 1979
10. Northern Natural Gas Company
1. 79-14887/03724
2. 42-501-31502
3. 103
4. Amoco Production Company
5. N C Clanahan B No 16
6. Prentice (Clearfork Lower)
7. Yoakum TX
8. 13.5 million cubic feet
9. August 1, 1979
10. Northern Natural Gas Company
1. 79-14888/03725
2. 42-501-31483
3. 103
4. Amoco Production Company
5. N C Clanahan B No 3
6. Prentice (Clearfork Lower)
7. Yoakum TX
8. 15.7 million cubic feet
9. August 1, 1979
10. Northern Natural Gas Company
1. 79-14889/03732

2. 42-219-32372
3. 103
4. Amoco Production Company
5. Ellwood A Well No 142
6. Smyer (Clearfork)
7. Hockley TX
8. 7 million cubic feet
9. August 1, 1979
10. El Paso Natural Gas Co
1. 79-14890/03733
2. 42-219-31927
3. 103
4. Amoco Production Company
5. Ellwood A No 137
6. Smyer (Clearfork)
7. Hockley TX
8. 7 million cubic feet
9. August 1, 1979
10. El Paso Natural Gas Co
1. 79-14891/03734
2. 42-219-31926
3. 103
4. Amoco Production Company
5. Ellwood A No 138
6. Smyer (Clearfork)
7. Hockley TX
8. 7 million cubic feet
9. August 1, 1979
10. El Paso Natural Gas Co
1. 79-14892/03735
2. 42-219-32366
3. 103
4. Amoco Production Company
5. Ellwood A No 139
6. Smyer (Clearfork)
7. Hockley TX
8. 6 million cubic feet
9. August 1, 1979
10. El Paso Natural Gas Co
1. 79-14893/03736
2. 42-219-32373
3. 103
4. Amoco Production Company
5. Ellwood A Well No 140
6. Smyer (Clearfork)
7. Hockley TX
8. 7 million cubic feet
9. August 1, 1979
10. El Paso Natural Gas Co
1. 79-14894/03737
2. 42-219-32371
3. 103
4. Amoco Production Company
5. Ellwood A Well No 141
6. Smyer (Clearfork)
7. Hockley TX
8. 7 million cubic feet
9. August 1, 1979
10. El Paso Natural Gas Co
1. 79-14895/03738
2. 42-445-30335
3. 103
4. Amoco Production Company
5. Ella Covington B No 16
6. Prentice (Clearfork Lower)
7. Terry TX
8. 1.5 million cubic feet
9. August 1, 1979
10. Northern Natural Gas Company
1. 79-14896/03780
2. 42-445-30333
3. 103
4. Amoco Production Company
5. Alexander No 5
6. Prentice (Clearfork Lower)

7. Terry TX
8. 5.5 million cubic feet
9. August 1, 1979
10. Northern Natural Gas Company
1. 79-14897/03783
2. 42-219-32432
3. 103
4. Amoco Production Company
5. Levelland Unit Well No 728
6. Levelland
7. Hockley TX
8. 8.9 million cubic feet
9. August 1, 1979
10. El Paso Natural Gas Co
1. 79-14898/03784
2. 42-219-32477
3. 103
4. Amoco Production Company
5. Levelland Unit No 725
6. Levelland
7. Hockley TX
8. 8.9 million cubic feet
9. August 1, 1979
10. El Paso Natural Gas Co
1. 79-14899/03785
2. 42-219-32378
3. 103
4. Amoco Production Company
5. Levelland Unit No 729
6. Levelland
7. Hockley TX
8. 8.9 million cubic feet
9. August 1, 1979
10. El Paso Natural Gas Co
1. 79-14900/03786
2. 42-219-32376
3. 103
4. Amoco Production Company
5. Levelland Unit No 724
6. Levelland
7. Hockley TX
8. 8.9 million cubic feet
9. August 1, 1979
10. El Paso Natural Gas Co
1. 79-14901/03787
2. 42-219-32367
3. 103
4. Amoco Production Company
5. Levelland Unit Well No 719
6. Levelland
7. Hockley TX
8. 8.9 million cubic feet
9. August 1, 1979
10. El Paso Natural Gas Co
1. 79-14902/03788
2. 42-219-32413
3. 103
4. Amoco Production Company
5. Levelland Unit Well No 722
6. Levelland
7. Hockley TX
8. 8.9 million cubic feet
9. August 1, 1979
10. El Paso Natural Gas Co
1. 79-14903/03799
2. 42-501-31604
3. 103
4. Amoco Production Company
5. N C Clanahan E No 2
6. Prentice (Clearfork Lower)
7. Yoakum TX
8. 3.7 million cubic feet
9. August 1, 1979
10. Northern Natural Gas Co
1. 79-14904/03802
2. 42-219-32448
3. 103
4. Amoco Production Company
5. Northwest Mallet Unit No 149
6. Slaughter
7. Hockley TX
8. 9.9 million cubic feet
9. August 1, 1979
10. El Paso Natural Gas Co
1. 79-14905/03803
2. 42-219-32897
3. 103
4. Amoco Production Company
5. Northwest Mallet Unit No 150
6. Slaughter
7. Cochran TX
8. 13.9 million cubic feet
9. August 1, 1979
10. El Paso Natural Gas Co
1. 79-14906/03814
2. 42-219-32549
3. 103
4. Amoco Production Company
5. Levelland Unit No 721
6. Levelland
7. Hockley TX
8. 8.9 million cubic feet
9. August 1, 1979
10. El Paso Natural Gas Co
1. 79-14907/03815
2. 42-219-32481
3. 103
4. Amoco Production Company
5. Levelland Unit No 723
6. Levelland
7. Hockley TX
8. 8.9 million cubic feet
9. August 1, 1979
10. El Paso Natural Gas Co
1. 79-14908/03816
2. 42-219-32479
3. 103
4. Amoco Production Company
5. Levelland Unit No 727
6. Levelland
7. Hockley TX
8. 8.9 million cubic feet
9. August 1, 1979
10. El Paso Natural Gas Co
1. 79-14909/03817
2. 42-219-32476
3. 103
4. Amoco Production Company
5. Levelland Unit No 726
6. Levelland
7. Hockley TX
8. 8.9 million cubic feet
9. August 1, 1979
10. El Paso Natural Gas Co
1. 79-14910/03819
2. 42-219-32505
3. 103
4. Amoco Production Company
5. West RKM Unit No 213
6. Slaughter
7. Hockley TX
8. 15.4 million cubic feet
9. August 1, 1979
10. El Paso Natural Gas Co
1. 79-14911/03844
2. 42-219-01942
3. 103
4. Amoco Production Company
5. Post Montgomery Unit B No 1
6. Levelland
7. Hockley TX
8. 16.4 million cubic feet
9. August 1, 1979
10. El Paso Natural Gas Co
1. 79-14912/04391
2. 42-383-31171
3. 103
4. Amoco Production Company
5. Renna T Ringo Et Al Well No 1
6. Spraberry Trend Area
7. Reagan TX
8. 14.0 million cubic feet
9. July 31, 1979
10. El Paso Natural Gas Co
1. 79-14913/04393
2. 42-323-31212
3. 103
4. Continental Oil Company
5. N J Chitim No 4062 02082
6. Sacatosa (San Miguel #1 Sand)
7. Maverick TX
8. 6.8 million cubic feet
9. July 31, 1979
10. Lovaca Gathering Company
1. 79-14914/04409
2. 42-165-31495
3. 103
4. Belco Petroleum Corporation
5. Sessau 42 62077 42
6. Seminole S E (San Andres)
7. Gaines TX
8. 11.0 million cubic feet
9. July 31, 1979
10. Phillips Petroleum Corp
1. 79-14915/04410
2. 42-165-31408
3. 103
4. Belco Petroleum Corporation
5. Sessau 33 62077 33
6. Seminole S E (San Andres)
7. Gaines TX
8. 11.0 million cubic feet
9. July 31, 1979
10. Phillips Petroleum Corp
1. 79-14916/04430
2. 42-165-31412
3. 103
4. Belco Petroleum Corporation
5. Sessau 72 62077 72
6. Seminole S E (San Andres)
7. Gaines TX
8. 11.0 million cubic feet
9. July 31, 1979
10. Phillips Petroleum Corp
1. 79-14917/04431
2. 42-165-31413
3. 103
4. Belco Petroleum Corporation
5. Sessau 73 60777 73
6. Seminole S E (San Andres)
7. Gaines TX
8. 11.0 million cubic feet
9. July 31, 1979
10. Phillips Petroleum Corp
1. 79-14918/04481
2. 42-365-30674
3. 103
4. McCormick Oil & Gas Corp
5. L Werner Sawmill Co Unit 3 #D-2
6. Centennial (Travis Peak) Field
7. Panola County TX
8. 29.0 million cubic feet
9. July 31, 1979
10. Tennessee Gas Pipeline Co
1. 79-14919/04485

2. 42-365-30628
3. 103
4. McCormick Oil & Gas Corporation
5. L Werner Sawmill Co Unit 3 #D-1
6. Centennial (Cotton Valley)
7. Panola County TX
8. 74.0 million cubic feet
9. July 31, 1979
10. Tennessee Gas Pipeline
1. 79-14920/04627
2. 42-383-31169
3. 103
4. Amoco Production Company
5. Renna T Ringo et al No 2
6. Spraberry Trend Area
7. Reagan TX
8. 15.0 million cubic feet
9. July 31, 1979
10. El Paso Natural Gas Company
1. 79-14921/04668
2. 42-357-30798
3. 103
4. S K Tuthill & B J Barbee
5. McAfee #1
6. Dude Wilson Lower Morrow
7. Ochiltree TX
8. 120.0 million cubic feet
9. July 31, 1979
10. Northern Natural Gas Co
1. 79-14922/04676
2. 42-261-30447
3. 103
4. Exxon Corporation
5. Sarita Fld Oil and Gas #147 80624
6. Sarita (2-A)
7. Kenedy TX
8. 73.0 million cubic feet
9. July 31, 1979
10. Natl Gas Pipeline Co of Am
1. 79-14923/04680
2. 42-481-31680
3. 103
4. Sue-Ann Operating Company
5. Vineyard No 1 79772
6. Arrington (Marg)
7. Wharton TX
8. 750.0 million cubic feet
9. July 31, 1979
10. United Gas Pipe Line Co
1. 79-14924/04688
2. 42-109-31369
3. 103
4. Gulf Oil Corporation
5. Txl Cx (NCT-B) Well No 9
6. Geraldine (Ford)
7. Culberson TX
8. .3 million cubic feet
9. July 31, 1979
10. Continental Oil & Gas Co
1. 79-14925/04900
2. 42-079-30896
3. 103
4. Amoco Production Company
5. Landreth Company B No 6
6. Bledsoe (San Andres)
7. Cochran TX
8. 42.7 million cubic feet
9. July 31, 1979
10. Cities Service Company
1. 79-14926/06006
2. 42-079-30921
3. 103
4. Continental Oil Company
5. Conoco-Dean Unit (60106) #130
6. Slaughter (San Andres)
7. Cochran TX
8. 7 million cubic feet
9. July 31, 1979
10. Amoco Production Co
1. 79-14927/06008
2. 42-109-30924
3. 103
4. Continental Oil Company
5. G E Ramsey 14 (24241) #3
6. Ford West (4100)
7. Culberson TX
8. 3.8 million cubic feet
9. July 31, 1979
10. El Paso Natural Gas Co
1. 79-14928/06010
2. 42-079-30803
3. 103
4. Continental Oil Company
5. Conoco-Dean Unit (60106) #120
6. Slaughter (San Andres)
7. Cochran TX
8. 7 million cubic feet
9. July 31, 1979
10. Amoco Production Co
1. 79-14929/06040
2. 42-135-30805
3. 103
4. Continental Oil Company
5. Arthur Brinkley A (04263) #37
6. Flowers/Canyon Sand
7. Stonewall TX
8. 6.2 million cubic feet
9. July 31, 1979
10. Cities Service Co
1. 79-14930/06059
2. 42-151-30881
3. 103
4. Continental Oil Company
5. J B Terrell A (13657) #9
6. Round Top/Canyon Sand
7. Fisher TX
8. 52.6 million cubic feet
9. July 31, 1979
10. Lone Star Gas Co
1. 79-15269/03718
2. 42-219-30344
3. 103
4. Amoco Production Company
5. W G Frazier No 104
6. Kingdom (ABO Reef)
7. Hockley TX
8. 1.5 million cubic feet
9. August 1, 1979
10. El Paso Natural Gas Co
West Virginia Department of Mines, Oil and Gas Division
1. Control number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)
1. 79-15150
2. 47-033-00898
3. 108
4. Consolidated Gas Supply Corporation
5. J. H. McDonald 11983
6. West Virginia other A-85772
7. Harrison WV
8. 8.0 million cubic feet
9. August 1, 1979
10. General System Purchasers
1. 79-15151
2. 47-007-01199
3. 108
4. Consolidated Gas Supply Corporation
5. I.N. Brown 12285
6. West Virginia other A-85772
7. Braxton WV
8. 8.0 million cubic feet
9. August 1, 1979
10. General System Purchasers
1. 79-15152
2. 47-019-00274
3. 108
4. Consolidated Gas Supply Corporation
5. Vanetta Land Co 11960
6. West Virginia other A-85772
7. Fayette WV
8. 4.0 million cubic feet
9. August 1, 1979
10. General System Purchasers
1. 79-15153
2. 47-017-01788
3. 108
4. Consolidated Gas Supply Corporation
5. W. B. Maxwell 11985
6. West Virginia other A-85772
7. Doddridge WV
8. 8.0 million cubic feet
9. August 1, 1979
10. General System Purchasers
1. 79-15154
2. 47-017-01787
3. 108
4. Consolidated Gas Supply Corporation
5. J. McReynolds 11998
6. West Virginia other A-85772
7. Doddridge WV
8. 6.0 million cubic feet
9. August 1, 1979
10. General System Purchasers
1. 79-15155
2. 47-013-02544
3. 108
4. Consolidated Gas Supply Corporation
5. O. Burns 12088
6. West Virginia other A-85772
7. Calhoun WV
8. 9.0 million cubic feet
9. August 1, 1979
10. General System Purchasers
1. 79-15156
2. 47-013-02543
3. 108
4. Consolidated Gas Supply Corporation
5. F. Witte 12053
6. West Virginia other A-85772
7. Calhoun WV
8. 7.0 million cubic feet
9. August 1, 1979
10. General System Purchasers
1. 79-15157
2. 47-007-01158
3. 108
4. Consolidated Gas Supply Corporation
5. I. N. Brown 12121
6. West Virginia other A-85772
7. Braxton WV
8. 4.0 million cubic feet
9. August 1, 1979
10. General System Purchasers
1. 79-15158
2. 47-033-01027

3. 108
4. Consolidated Gas Supply Corporation
5. I. N. Burnside 12320
6. West Virginia other A-85772
7. Harrison WV
8. 4.0 million cubic feet
9. August 1, 1979
10. General System Purchasers
1. 79-15159
2. 47-007-01204
3. 108
4. Consolidated Gas Supply Corporation
5. I. N. Brown 12288
6. West Virginia other A-85772
7. Braxton WV
8. 11.0 million cubic feet
9. August 1, 1979
10. General System Purchasers
1. 79-15160
2. 47-021-02704
3. 108
4. Consolidated Gas Supply Corporation
5. L. Bennett Hrs 12019
6. West Virginia other A-85772
7. Gilmer WV
8. 7.0 million cubic feet
9. August 1, 1979
10. General System Purchasers
1. 79-15161
2. 47-001-00660
3. 108
4. Consolidated Gas Supply Corporation
5. Talbott-Martin 11696
6. West Virginia other A-85772
7. Barbour WV
8. 6.0 million cubic feet
9. August 2, 1979
10. General System Purchasers
1. 79-15162
2. 47-001-00684
3. 108 Denied
4. Consolidated Gas Supply Corporation
5. J. Croston 11874
6. West Virginia other A-85772
7. Barbour WV
8. 21.0 million cubic feet
9. August 2, 1979
10. General System Purchasers
1. 79-15163
2. 47-001-00646
3. 108
4. Consolidated Gas Supply Corporation
5. R. B. Boyles 11635
6. West Virginia other A-85772
7. Barbour WV
8. 5.0 million cubic feet
9. August 2, 1979
10. General System Purchasers
1. 79-15164
2. 47-013-02517
3. 108
4. Consolidated Gas Supply Corporation
5. Snodgrass-Bennett 11734
6. West Virginia other A-85772
7. Calhoun WV
8. 4.0 million cubic feet
9. August 2, 1979
10. General System Purchasers
1. 79-15165
2. 47-017-01766
3. 108
4. Consolidated Gas Supply Corporation
5. J. McReynolds 11716
6. West Virginia other A-85772
7. Doddridge WV
8. 15.0 million cubic feet
9. August 2, 1979
10. General System Purchasers
1. 79-15166
2. 47-017-01779
3. 108
4. Consolidated Gas Supply Corporation
5. W. Dent 11895
6. West Virginia other A-85772
7. Doddridge WV
8. 7.0 million cubic feet
9. August 2, 1979
10. General System Purchasers
1. 79-15167
2. 47-017-01738
3. 108
4. Consolidated Gas Supply Corporation
5. S. Sadler 11666
6. West Virginia other A-85772
7. Doddridge WV
8. 17.0 million cubic feet
9. August 2, 1979
10. General System Purchasers
1. 79-15168
2. 47-017-01781
3. 108
4. Consolidated Gas Supply Corporation
5. J. McReynolds 11838
6. West Virginia other A-85772
7. Doddridge WV
8. 20.0 million cubic feet
9. August 2, 1979
10. General System Purchasers
1. 79-15169
2. 47-001-00673
3. 108
4. Consolidated Gas Supply Corporation
5. J. Reger 11785
6. West Virginia other A-85772
7. Barbour WV
8. 11.0 million cubic feet
9. August 2, 1979
10. General System Purchasers
1. 79-15170
2. 47-013-02516
3. 108
4. Consolidated Gas Supply Corporation
5. L. Bennett 11736
6. West Virginia other A-85772
7. Calhoun WV
8. 4.0 million cubic feet
9. August 2, 1979
10. General System Purchasers
1. 79-15171
2. 47-007-01121
3. 108
4. Consolidated Gas Supply Corporation
5. I. Brown 11889
6. West Virginia other A-85772
7. Braxton WV
8. 8.0 million cubic feet
9. August 2, 1979
10. General System Purchasers
1. 79-15172
2. 47-007-01102
3. 108
4. Consolidated Gas Supply Corporation
5. I. Brown 11717
6. West Virginia other A-85772
7. Braxton WV
8. 7.0 million cubic feet
9. August 2, 1979
10. General System Purchasers
1. 79-15173

2. 47-001-00902
3. 108 Denied
4. Consolidated Gas Supply Corporation
5. G. D. Young 12304
6. West Virginia other A-85772
7. Barbour WV
8. 13.0 million cubic feet
9. August 2, 1979
10. General System Purchasers
1. 79-15174
2. 47-001-00901
3. 108 Denied
4. Consolidated Gas Supply Corporation
5. A. Hickman 12238
6. West Virginia other A-85772
7. Barbour WV
8. 8.0 million cubic feet
9. August 2, 1979
10. General System Purchasers
1. 79-15175
2. 47-006-01052
3. 108
4. Consolidated Gas Supply Corporation
5. Federal Coal Co. 11744
6. West Virginia other A-85772
7. Boone WV
8. 3.0 million cubic feet
9. August 2, 1979
10. General System Purchasers
1. 79-15176
2. 47-005-01049
3. 108
4. Consolidated Gas Supply Corporation
5. Federal Coal Co. 11742
6. West Virginia other A-85772
7. Boone WV
8. 20.0 million cubic feet
9. August 2, 1979
10. General System Purchasers
1. 79-15177
2. 47-021-02394
3. 108
4. Consolidated Gas Supply Corporation
5. L. Mick 11561
6. West Virginia other A-85772
7. Gilmer WV
8. 17.0 million cubic feet
9. August 2, 1979
10. General System Purchasers
1. 79-15178
2. 47-017-01732
3. 108
4. Consolidated Gas Supply Corporation
5. B. Lemasters 11557
6. West Virginia other A-85772
7. Doddridge WV
8. 9.0 million cubic feet
9. August 2, 1979
10. General System Purchasers
1. 79-15179
2. 47-013-02518
3. 108
4. Consolidated Gas Supply Corporation
5. G. E. Cooper 11735
6. West Virginia other A-85772
7. Calhoun WV
8. 16.0 million cubic feet
9. August 2, 1979
10. General system purchasers
1. 79-15180
2. 47-013-02529
3. 108
4. Consolidated Gas Supply Corporation
5. C. Hardman 11896
6. West Virginia other A-85772

7. Calhoun WV
8. 16.0 million cubic feet
9. August 2, 1979
10. General system purchasers
1. 79-15181
2. 47-013-02524
3. 108
4. Consolidated Gas Supply Corporation
5. L. Bennett 11838
6. West Virginia other A-85772
7. Calhoun WV
8. 5.0 million cubic feet
9. August 2, 1979
10. General system purchasers
1. 79-15182
2. 47-001-00667
3. 108
4. Consolidated Gas Supply Corporation
5. L. Boylen 11780
6. West Virginia other A-85772
7. Barbour WV
8. 8.0 million cubic feet
9. August 2, 1979
10. General system purchasers
1. 79-15183
2. 47-021-02451
3. 108
4. Consolidated Gas Supply Corporation
5. L. Bennett 11740
6. West Virginia other A-85772
7. Gilmer WV
8. 3.0 million cubic feet
9. August 2, 1979
10. General system purchasers
1. 79-15184
2. 47-001-00640
3. 108
4. Consolidated Gas Supply Corporation
5. H. B. Simpson 11595
6. West Virginia other A-85772
7. Barbour WV
8. 4.0 million cubic feet
9. August 2, 1979
10. General system purchasers
1. 79-15185
2. 47-001-00647
3. 108
4. Consolidated Gas Supply Corporation
5. A. L. Robinson 11650
6. West Virginia other A-85772
7. Barbour WV
8. 15.0 million cubic feet
9. August 2, 1979
10. General system purchasers
1. 79-15186
2. 47-033-01013
3. 108 Denied
4. Consolidated Gas Supply Corporation
5. J. Lanham 12248
6. West Virginia other A-85772
7. Harrison WV
8. 1.0 million cubic feet
9. August 2, 1979
10. General system purchasers
1. 79-15187
2. 47-019-00279
3. 108 Denied
4. Consolidated Gas Supply Corporation
5. Kanawha-Hocking 11975
6. West Virginia other A-85772
7. Fayette WV
8. 14.0 million cubic feet
9. August 2, 1979
10. General system purchasers
1. 79-15188

2. 47-017-01858
3. 108 Denied
4. Consolidated Gas Supply Corporation
5. L. M. Stout 12257
6. West Virginia other A-85772
7. Doddridge WV
8. 15.0 million cubic feet
9. August 2, 1979
10. General system purchasers
1. 79-15189
2. 47-033-00957
3. 108
4. Consolidated Gas Supply Corporation
5. O. E. Washburn 12110
6. West Virginia other A-85772
7. Harrison WV
8. 10.0 million cubic feet
9. August 2, 1979
10. General system purchasers
1. 79-15190
2. 47-033-00894
3. 108
4. Consolidated Gas Supply Corporation
5. E. Post 11952
6. West Virginia other A-85772
7. Harrison WV
8. 5.0 million cubic feet
9. August 2, 1979
10. General system purchasers
1. 79-15191
2. 47-033-00891
3. 108
4. Consolidated Gas Supply Corporation
5. A. Knically 11938
6. West Virginia other A-85772
7. Harrison WV
8. 14.0 million cubic feet
9. August 2, 1979
10. General system purchasers
1. 79-15192
2. 47-033-00969
3. 108
4. Consolidated Gas Supply Corporation
5. C. G. & L. Smith 12067
6. West Virginia other A-85772
7. Harrison WV
8. 15.0 million cubic feet
9. August 2, 1979
10. General system purchasers
1. 79-15193
2. 47-033-00962
3. 108
4. Consolidated Gas Supply Corporation
5. Morris-Conger 12105
6. West Virginia other A-85772
7. Harrison WV
8. 9.0 million cubic feet
9. August 2, 1979
10. General system purchasers
1. 79-15194
2. 47-033-00991
3. 108
4. Consolidated Gas Supply Corporation
5. A. A. Post 12066
6. West Virginia other A-85772
7. Harrison WV
8. 9.0 million cubic feet
9. August 2, 1979
10. General system purchasers
1. 79-15195
2. 47-033-01011
3. 108
4. Consolidated Gas Supply Corporation
5. W. A. Law 12309
6. West Virginia other A-85772

7. Harrison WV
8. 8.0 million cubic feet
9. August 2, 1979
10. General system purchasers
1. 79-15196
2. 47-033-00890
3. 108 Denied
4. Consolidated Gas Supply Corporation
5. C. Woodford 11932
6. West Virginia other A-85772
7. Harrison WV
8. 11.0 million cubic feet
9. August 2, 1979
10. General system purchasers
1. 79-15197
2. 47-033-00961
3. 108 Denied
4. Consolidated Gas Supply Corporation
5. G. W. Post 12062
6. West Virginia other A-85772
7. Harrison WV
8. 1.0 million cubic feet
9. August 2, 1979
10. General system purchasers
1. 79-15198
2. 47-001-00878
3. 108 Denied
4. Consolidated Gas Supply Corporation
5. V. C. Trimble 12342
6. West Virginia other A-85772
7. Barbour WV
8. 5.0 million cubic feet
9. August 2, 1979
10. General system purchasers
1. 79-15199
2. 47-021-02327
3. 108 Denied
4. Consolidated Gas Supply Corporation
5. C. A. Vandale 11665
6. West Virginia other A-85772
7. Gilmer WV
8. 15.0 million cubic feet
9. August 2, 1979
10. General system purchasers
1. 79-15200
2. 47-005-01046
3. 108
4. Consolidated Gas Supply Corporation
5. M. Dickenson 11659
6. West Virginia other A-85772
7. Boone WV
8. 4.0 million cubic feet
9. August 2, 1979
10. General system purchasers
1. 79-15201
2. 47-006-01045
3. 108
4. Consolidated Gas Supply Corporation
5. M. Dickenson 11658
6. West Virginia other A-85772
7. Boone WV
8. 19.0 million cubic feet
9. August 2, 1979
10. General system purchasers
1. 79-15202
2. 47-001-00713
3. 108
4. Consolidated Gas Supply Corporation
5. R. Thompson 11844
6. West Virginia other A-85772
7. Barbour WV
8. 13.0 million cubic feet
9. August 2, 1979
10. General system purchasers
1. 79-15203

2. 47-001-00688
3. 108
4. Consolidated Gas Supply Corporation
5. Indian Fork Coal & Coke 11866
6. West Virginia other A-85772
7. Barbour, WV
8. 15.0 million cubic feet
9. August 2, 1979
10. General system purchasers
1. 79-15204
2. 47-001-00685
3. 108
4. Consolidated Gas Supply Corporation
5. W C Stalnaker 11848
6. West Virginia other A-85772
7. Barbour, WV
8. 5.0 million cubic feet
9. August 2, 1979
10. General system purchasers
1. 79-15205
2. 47-001-00682
3. 108
4. Consolidated Gas Supply Corporation
5. T J Hickman 11847
6. West Virginia other A-85772
7. Barbour, WV
8. 3.0 million cubic feet
9. August 2, 1979
10. General system purchasers
1. 79-15206
2. 47-001-00680
3. 108
4. Consolidated Gas Supply Corporation
5. I Marteney 11812
6. West Virginia other A-85772
7. Barbour, WV
8. 9.0 million cubic feet
9. August 2, 1979
10. General system purchasers
1. 79-15207
2. 47-001-00650
3. 108
4. Consolidated Gas Supply Corporation
5. E Winans 11660
6. West Virginia other A-85772
7. Barbour, WV
8. 2.0 million cubic feet
9. August 2, 1979
10. General system purchasers
1. 79-15208
2. 47-019-00250
3. 108
4. Consolidated Gas Supply Corporation
5. W R Johnson Jr 11801
6. West Virginia other A-85772
7. Fayette, WV
8. 18.0 million cubic feet
9. August 2, 1979
10. General system purchasers
1. 79-15209
2. 47-019-00253
3. 108
4. Consolidated Gas Supply Corporation
5. W R Johnson Jr 11819
6. West Virginia other A-85772
7. Fayette, WV
8. 5.0 million cubic feet
9. August 2, 1979
10. General System Purchasers
1. 79-15210
2. 47-001-00639
3. 108 denied
4. Consolidated Gas Supply Corporation
5. W R Shaw 11600
6. West Virginia other A-85772
7. Barbour, WV
8. 8.0 million cubic feet
9. August 2, 1979
10. General System Purchasers
1. 79-15211
2. 47-013-02531
3. 108 denied
4. Consolidated Gas Supply Corporation
5. H Bennett 11897
6. West Virginia other A-85772
7. Calhoun, WV
8. 4.0 million cubic feet
9. August 2, 1979
10. General System Purchasers
1. 79-15212
2. 47-021-02328
3. 108 denied
4. Consolidated Gas Supply Corporation
5. L Bennett HRS 11563
6. West Virginia other A-85772
7. Gilmer, WV
8. 2.0 million cubic feet
9. August 2, 1979
10. General System Purchasers
1. 79-15213
2. 47-021-02324
3. 108 denied
4. Consolidated Gas Supply Corporation
5. J D Smith 11645
6. West Virginia other A-85772
7. Gilmer, WV
8. 1.0 million cubic feet
9. August 2, 1979
10. General System Purchasers
1. 79-15214
2. 47-021-02353
3. 108 denied
4. Consolidated Gas Supply Corporation
5. H Woofter 11649
6. West Virginia other A-85772
7. Gilmer, WV
8. 2.0 million cubic feet
9. August 2, 1979
10. General System Purchasers
1. 79-15215
2. 47-015-02519
3. 108
4. Consolidated Gas Supply Corporation
5. D A Butcher 11784
6. West Virginia other A-85772
7. Calhoun, WV
8. 9.0 million cubic feet
9. August 2, 1979
10. General System Purchasers
1. 79-15216
2. 47-017-01735
3. 108
4. Consolidated Gas Supply Corporation
5. W B Maxwell 11564
6. West Virginia other A-85772
7. Doddridge, WV
8. 12.0 million cubic feet
9. August 2, 1979
10. General System Purchasers
1. 79-15217
2. 47-019-00214
3. 108
4. Consolidated Gas Supply Corporation
5. Kanawha-Hocking Coal 11570
6. West Virginia other A-85772
7. Fayette, WV
8. 15.0 million cubic feet
9. August 2, 1979
10. General System Purchasers
1. 79-15218
2. 47-019-00215
3. 108
4. Consolidated Gas Supply Corporation
5. Gauley Mtn Coal 11618
6. West Virginia other A-85772
7. Fayette, WV
8. 10.0 million cubic feet
9. August 2, 1979
10. General System Purchasers
1. 79-15219
2. 47-019-00232
3. 108
4. Consolidated Gas Supply Corporation
5. W R Johnson Jr 11675
6. West Virginia other A-85772
7. Fayette, WV
8. 7.0 million cubic feet
9. August 2, 1979
10. General System Purchasers
1. 79-15220
2. 47-019-00233
3. 108
4. Consolidated Gas Supply Corporation
5. W Johnson 11782
6. West Virginia other A-85772
7. Fayette, WV
8. 11.0 million cubic feet
9. August 2, 1979
10. General System Purchasers
1. 79-15221
2. 47-033-00995
3. 108
4. Consolidated Gas Supply Corporation
5. Union National Bank 12200
6. West Virginia other A-85772
7. Harrison, WV
8. 8.0 million cubic feet
9. August 3, 1979
10. General System Purchasers
1. 79-15222
2. 47-001-00727
3. 108
4. Consolidated Gas Supply Corporation
5. D Crosten 12007
6. West Virginia other A-85772
7. Barbour, WV
8. 3.0 million cubic feet
9. August 3, 1979
10. General System Purchasers
1. 79-15223
2. 47-005-01056
3. 108
4. Consolidated Gas Supply Corporation
5. Spruce-Boone Coal 11924
6. West Virginia other A-85772
7. Boone, WV
8. 6.0 million cubic feet
9. August 3, 1979
10. General System Purchasers
1. 79-15224
2. 47-001-00805
3. 108
4. Consolidated Gas Supply Corporation
5. W Flint 12318
6. West Virginia other A-85772
7. Barbour, WV
8. 7.0 million cubic feet
9. August 3, 1979
10. General System Purchasers
1. 79-15225
2. 47-001-00809
3. 108
4. Consolidated Gas Supply Corporation
5. W T Carden 12337
6. West Virginia other A-85772

7. Barbour, WV
8. 3.0 million cubic feet
9. August 3, 1979
10. General System Purchasers
1. 79-15226
2. 47-033-00889
3. 108
4. Consolidated Gas Supply Corporation
5. C McClusky 11939
6. West Virginia other A-85772
7. Harrison, WV
8. 17.0 million cubic feet
9. August 3, 1979
10. General System Purchasers
1. 79-15227
2. 47-017-01804
3. 108
4. Consolidated Gas Supply Corporation
5. C L Percy 12074
6. West Virginia other A-85772
7. Doddridge, WV
8. 3.0 million cubic feet
9. August 3, 1979
10. General System Purchasers
1. 79-15228
2. 47-033-00883
3. 108
4. Consolidated Gas Supply Corporation
5. M Bartlett 11936
6. West Virginia other A-85772
7. Harrison, WV
8. 8.0 million cubic feet
9. August 3, 1979
10. General System Purchasers
1. 79-15229
2. 47-033-00895
3. 108
4. Consolidated Gas Supply Corporation
5. W Maxwell 11956
6. West Virginia other A-85772
7. Harrison, WV
8. 20.0 million cubic feet
9. August 3, 1979
10. General System Purchasers
1. 79-15230
2. 47-001-00709
3. 108
4. Consolidated Gas Supply Corporation
5. P Pickens 11951
6. West Virginia other A-85772
7. Barbour, WV
8. 6.0 million cubic feet
9. August 3, 1979
10. General System Purchasers
1. 79-15231
2. 47-001-00700
3. 108
4. Consolidated Gas Supply Corporation
5. W Lantz 11914
6. West Virginia other A-85772
7. Barbour, WV
8. 11.0 million cubic feet
9. August 3, 1979
10. General System Purchasers
1. 79-15232
2. 47-053-00138
3. 108
4. Consolidated Gas Supply Corporation
5. R M McKinney 12184
6. West Virginia other A-85772
7. Mason, WV
8. 6.0 million cubic feet
9. August 3, 1979
10. General System Purchasers
1. 79-15233
2. 47-033-01043
3. 108
4. Consolidated Gas Supply Corporation
5. W B Maxwell 12291
6. West Virginia other A-85772
7. Harrison, WV
8. 6.0 million cubic feet
9. August 3, 1979
10. General System Purchasers
1. 79-15234
2. 47-095-00481
3. 108
4. Consolidated Gas Supply Corporation
5. M V B George 12274
6. West Virginia other A-85772
7. Tyler, WV
8. 13.0 million cubic feet
9. August 3, 1979
10. General System Purchasers
1. 79-15235
2. 47-097-01655
3. 108
4. Consolidated Gas Supply Corporation
5. R E Dean 12070
6. West Virginia other A-85772
7. Upshur, WV
8. 5.0 million cubic feet
9. August 3, 1979
10. General System Purchasers
1. 79-15236
2. 47-097-01696
3. 108
4. Consolidated Gas Supply Corporation
5. G Radabaugh 12122
6. West Virginia other A-85772
7. Upshur, WV
8. 3.0 million cubic feet
9. August 3, 1979
10. General System Purchasers
1. 79-15237
2. 47-047-02096
3. 108
4. Consolidated Gas Supply Corporation
5. C F Simons 12016
6. West Virginia other A-85772
7. Lewis, WV
8. 3.0 million cubic feet
9. August 3, 1979
10. General System Purchasers
1. 79-15238
2. 47-041-02019
3. 108
4. Consolidated Gas Supply Corporation
5. J Burns 12013
6. West Virginia other A-85772
7. Lewis, WV
8. 2.0 million cubic feet
9. August 3, 1979
10. General System Purchasers
1. 79-15239
2. 47-041-02076
3. 108
4. Consolidated Gas Supply Corporation
5. C W Meader 12170
6. West Virginia other A-85772
7. Lewis, WV
8. 20.0 million cubic feet
9. August 3, 1979
10. General System Purchasers
1. 79-15240
2. 47-033-00987
3. 108
4. Consolidated Gas Supply Corporation
5. A. D. Lawson 12167
6. West Virginia other A-85772
7. Harrison, WV
8. 20.0 million cubic feet
9. August 3, 1979
10. General System Purchasers
1. 79-15241
2. 47-033-00984
3. 108
4. Consolidated Gas Supply Corporation
5. A. A. Ash 12151
6. West Virginia other A-85772
7. Harrison, WV
8. 12.0 million cubic feet
9. August 3, 1979
10. General System Purchasers
1. 79-15242
2. 47-033-00973
3. 108
4. Consolidated Gas Supply Corporation
5. L Haymond 12064
6. West Virginia other A-85772
7. Harrison, WV
8. 12.0 million cubic feet
9. August 3, 1979
10. General System Purchasers
1. 79-15243
2. 47-005-01053
3. 108
4. Consolidated Gas Supply Corporation
5. Federal Coal Co 11963
6. West Virginia other A-85772
7. Boone, WV
8. 8.0 million cubic feet
9. August 3, 1979
10. General System Purchasers
1. 79-15244
2. 47-005-01046
3. 108 Denied
4. Consolidated Gas Supply Corporation
5. M. Dickenson 11741
6. West Virginia other A-85772
7. Boone, WV
8. 3.0 million cubic feet
9. August 3, 1979
10. General System Purchasers
1. 79-15245
2. 47-005-01047
3. 108 Denied
4. Consolidated Gas Supply Corporation
5. M. Dickenson 11704
6. West Virginia other A-85772
7. Boone, WV
8. 7.0 million cubic feet
9. August 3, 1979
10. General System Purchasers
1. 79-15246
2. 47-001-00724
3. 108 Denied
4. Consolidated Gas Supply Corporation
5. J. Daugherty 12001
6. West Virginia other A-85772
7. Barbour, WV
8. 2.0 million cubic feet
9. August 3, 1979
10. General System Purchasers
1. 79-15247
2. 47-001-00651
3. 108 Denied
4. Consolidated Gas Supply Corporation
5. Badger Coal Co 11538
6. West Virginia other A-85772
7. Barbour, WV
8. 2 million cubic feet
9. August 3, 1979
10. General System Purchasers
1. 79-15248

2. 47-087-00316
3. 108
4. Consolidated Gas Supply Corporation
5. W. Johnson 11816
6. West Virginia other A-85772
7. Nicholas, WV
8. 12.0 million cubic feet
9. August 3, 1979
10. General System Purchasers
1. 79-15249
2. 47-041-01889
3. 108
4. Consolidated Gas Supply Corporation
5. S. A. Hall 11684
6. West Virginia other A-85772
7. Lewis, WV
8. 3.0 million cubic feet
9. August 3, 1979
10. General System Purchasers
1. 79-15250
2. 47-041-01906
3. 108
4. Consolidated Gas Supply Corporation
5. White-Egan 11565
6. West Virginia other A-85772
7. Lewis, WV
8. 8.0 million cubic feet
9. August 3, 1979
10. General System Purchasers
1. 79-15251
2. 47-033-00862
3. 108
4. Consolidated Gas Supply Corporation
5. W. W. Wolfe 11861
6. West Virginia other A-85772
7. Harrison, WV
8. 12.0 million cubic feet
9. August 3, 1979
10. General System Purchasers
1. 79-15252
2. 47-033-01061
3. 108 Denied
4. Consolidated Gas Supply Corporation
5. E. C. Tetrick 12296
6. West Virginia other A-85772
7. Harrison, WV
8. 5.0 million cubic feet
9. August 3, 1979
10. General System Purchasers
1. 79-15253
2. 47-047-00639
3. 108 Denied
4. Consolidated Gas Supply Corporation
5. McDowell Poca Coal 11994
6. Pineville Field Area A-59442
7. McDowell, WV
8. 21.0 million cubic feet
9. August 3, 1979
10. General System Purchasers
1. 79-15254
2. 47-047-00644
3. 108 Denied
4. Consolidated Gas Supply Corporation
5. R. Dennis 11999
6. Pineville Field Area A-59442
7. McDowell, WV
8. 21.0 million cubic feet
9. August 3, 1979
10. General System Purchasers
1. 79-15255
2. 47-033-01031
3. 108 Denied
4. Consolidated Gas Supply Corporation
5. W. Brown 12253
6. West Virginia Other A-85772

7. Harrison, WV
8. 2.0 million cubic feet
9. August 3, 1979
10. General System Purchasers
1. 79-15256
2. 47-033-01046
3. 108 Denied
4. Consolidated Gas Supply Corporation
5. I. N. Burnside 12321
6. West Virginia Other A-85772
7. Harrison, WV
8. 17.0 million cubic feet
9. August 3, 1979
10. General System Purchasers
1. 79-15257
2. 47-045-00959
3. 108 Denied
4. Consolidated Gas Supply Corporation
5. Boone County Coal 12353
6. West Virginia Other A-85772
7. Logan, WV
8. 2.0 million cubic feet
9. August 3, 1979
10. General System Purchasers
1. 79-15258
2. 47-041-02055
3. 108 Denied
4. Consolidated Gas Supply Corporation
5. A. Gaston 12198
6. West Virginia Other A-85772
7. Lewis, WV
8. 13.0 million cubic feet
9. August 3, 1979
10. General System Purchasers
1. 79-15259
2. 47-033-01200
3. 108 Denied
4. Consolidated Gas Supply Corporation
5. C. M. Lang 12312
6. West Virginia Other A-85772
7. Harrison, WV
8. 14.0 million cubic feet
9. August 3, 1979
10. General System Purchasers
1. 79-15260
2. 47-033-01137
3. 108 Denied
4. Consolidated Gas Supply Corporation
5. M. W. Smith 12280
6. West Virginia Other A-85772
7. Harrison, WV
8. 14.0 million cubic feet
9. August 3, 1979
10. General System Purchasers
1. 79-15261
2. 47-033-01212
3. 108 Denied
4. Consolidated Gas Supply Corporation
5. W. G. Allen 12293
6. West Virginia Other A-85772
7. Harrison, WV
8. 14.0 million cubic feet
9. August 3, 1979
10. General System Purchasers
1. 79-15262
2. 47-033-01246
3. 108 Denied
4. Consolidated Gas Supply Corporation
5. I. W. Stuttler 12063
6. West Virginia Other A-85772
7. Harrison, WV
8. 16.0 million cubic feet
9. August 3, 1979
10. General System Purchasers
1. 79-15263

2. 47-035-01371
3. 108 denied
4. Consolidated Gas Supply Corporation
5. L. H. Miller 12041
6. West Virginia Other A-85772
7. Jackson, WV
8. 2.0 million cubic feet
9. August 3, 1979
10. General System Purchasers
1. 79-15264
2. 47-041-02108
3. 108 denied
4. Consolidated Gas Supply Corporation
5. R. V. McCue 12268
6. West Virginia Other A-85772
7. Lewis, WV
8. 14.0 million cubic feet
9. August 3, 1979
10. General System Purchasers
1. 79-15265
2. 47-041-02119
3. 108 denied
4. Consolidated Gas Supply Corporation
5. L. Bennett 12398
6. West Virginia Other A-85772
7. Lewis, WV
8. 7.0 million cubic feet
9. August 3, 1979
10. General System Purchasers
1. 79-15266
2. 47-067-00422
3. 108 denied
4. Consolidated Gas Supply Corporation
5. C. H. Walkup 12211
6. West Virginia Other A-85772
7. Nicholas, WV
8. 1.0 million cubic feet
9. August 3, 1979
10. General System Purchasers
1. 79-15267
2. 47-051-00565
3. 108 denied
4. Consolidated Gas Supply Corporation
5. N. Shepherd 12141
6. West Virginia Other A-85772
7. Marshall, WV
8. 1.0 million cubic feet
9. August 3, 1979
10. General System Purchasers
1. 79-15268
2. 47-059-00850
3. 108 denied
4. Consolidated Gas Supply Corporation
5. C. Hamill 11911
6. West Virginia Other A-85772
7. Mingo, WV
8. 12.0 million cubic feet
9. August 3, 1979
10. General System Purchasers
1. Control number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)
1. 79-14931/G8-203
2. 17-711-40388-00S1-0
3. 102
4. Ocean Production Company
5. OCS-G 042 No 15A
6. Ship Shoal 113 field

7. 94
8. 500.0 million cubic feet
9. July 30, 1979
10. Transcontinental Gas PL Corp
1. 79-14932/G8-176
2. 17-711-40390-00S1-0
3. 102
4. Ocean Production Company
5. OCS-G 063 No 32A
6. Ship Shoal 113 field
7. 93
8. 200.0 million cubic feet
9. July 31, 1979
10. Transcontinental Gas PL Corp
1. 79-14933/G9-695
2. 17-700-40270-0000-0
3. 102
4. Chevron USA Inc
5. OCS-G-1995 No 4
6. West Cameron
7. 145
8. 744.0 million cubic feet
9. August 1, 1979
10. Natural Gas Pipeline Co of America

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of these final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before September 10, 1979.

Please reference the FERC control number in all correspondence related to these determinations.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-26458 Filed 8-23-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. CP77-537]

Natural Gas Pipeline Co. of America; Amendment to Application

August 20, 1979.

Take notice that on July 27, 1979, Natural Gas Pipeline Company of America (Applicant), 122 South Michigan Avenue, Chicago, Illinois 60603, filed in Docket No. CP77-537 an amendment to its application filed in the instant docket pursuant to Section 7(c) of the Natural Gas Act so as to provide for certain changes in the construction of certain proposed facilities, all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant now proposes to construct and operate approximately 27 miles of 8-inch pipeline, and appurtenant facilities,

from Madill Processing Plant to Applicant's existing 10-inch pipeline in Love County, Oklahoma, and to construct and operate 400 horsepower of compression. The total estimated cost of these facilities is \$2,705,000, which cost would be met from funds on hand.

Applicant indicates that the construction and operation of these facilities is necessary in order to receive into its system quantities of natural gas to be produced from reserves located in Bryan and Marshall Counties, Oklahoma.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before September 10, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding.

Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. All persons who have heretofore filed need not file again.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-26448 Filed 8-23-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. TC79-138]

North Alabama Gas District; Petition for Declaratory Order

August 20, 1979.

Take notice that on April 3, 1979, North Alabama Gas District (Petitioner), P.O. Drawer 2605, Muscle Shoals, Alabama 35660, filed in Docket No. TC79-138 a petition for a declaratory order pursuant to Section 1.7(c) of the Commission's Rules of Practice and Procedure. Petitioner requests that the Commission issue a declaratory order interpreting certain provisions filed with the Commission as part of Tennessee Gas Pipeline Company's (Tennessee) tariff. Petitioner further requests relief from the penalty charges assessed against it by Tennessee.

Petitioner states that it has contracts with Tennessee and Texas Eastern Gas Pipeline Company (Texas Eastern) to buy certain amounts of natural gas. Petitioner then resells such gas to U.S.S.

Agri-Chemical Corporation. Petitioner further states that it exceeded its daily demand from Tennessee during September 1978 and was billed for the excess amount in the September 1978 monthly statement according to Tennessee's tariff provisions. Petitioner asserts that part of the charges assessed by Tennessee are tantamount to a penalty charge. Petitioner argues that it should be relieved from paying such penalty charge because the excess gas was not willfully taken, but was taken as a result of a faulty meter of North Alabama situated on Tennessee's pipeline.

Petitioner further states that the relief it seeks is permissible under Paragraphs 5.1, 5.3 and 6.2 of Tennessee's FPC Gas Tariff Ninth Revised Volume No. 1.

Any person desiring to be heard or to make any protest with reference to said petition should on or before September 14, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-26449 Filed 8-23-79; 8:45 am]
BILLING CODE 6450-01-M

Richard W. Beeson, et al.; Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

August 14, 1979.

The Federal Energy Regulatory Commission received notices from the jurisdictional Agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

Indiana Department of Natural Resources, Oil and Gas Division

1. Control number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC

10. Purchaser(s)
1. 79-14128
2. 13-027-20184
3. 108
4. Richard W Beeson
5. Grissom Norris Gas unit
6. Odon Field
7. Daviess, In
8. 10.0 million cubic feet
9. July 27, 1979
10. Natural Gas Processors Inc
1. 79-14127
2. 13-051-00000
3. 102
4. John M Zanetis
5. Deep Vein-Ruble-Community #A-3
6. East Mt Carmel
7. Gibson, In
8. .0 million cubic feet
9. July 27, 1979
10. Crystal Oil Company
1. 79-14128
2. 13-051-00000
3. 102
4. John M Zanetis
5. Deep Vein-Ruble-Community #A-3
6. East Mt Carmel
7. Gibson, In
8. .0 million cubic feet
9. July 27, 1979
10. Crystal Oil Company
1. 79-14129
2. 13-051-00000
3. 102
4. John M Zanetis
5. Deep Vein-Ruble-Community #A-1
6. East Mt Carmel
7. Gibson, In
8. .0 million cubic feet
9. July 27, 1979
10. Crystal Oil Company
1. 79-14130
2. 13-051-00000
3. 102
4. John M Zanetis
5. Deep Vein-Ruble-State #1
6. East Mt Carmel
7. Gibson, In
8. .0 million cubic feet
9. July 27, 1979
10. Crystal Oil Company
1. 79-14131
2. 13-051-00000
3. 102
4. John M Zanetis
5. Deep Vein-Ruble-State #2
6. East Mt Carmel
7. Gibson, In
8. .0 million cubic feet
9. July 27, 1979
10. Crystal Oil Company
1. 79-14132
2. 13-051-00000
3. 102
4. John M Zanetis
5. Deep Vein-Ruble-State #2
6. East Mt Carmel
7. Gibson, In
8. .0 million cubic feet
9. July 27, 1979
10. Crystal Oil Company
1. 79-14133
2. 13-051-00000
3. 102
4. John M Zanetis
5. Deep Vein-Ruble-Community #A-2
6. East Mt Carmel
7. Gibson, In
8. .0 million cubic feet
9. July 27, 1979
10. Crystal Oil Company
Kansas Corporation Commission
1. Control number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)
1. 79-14134/K-78-0406
2. 15-115-00000
3. 108
4. Robert F White
5. Paul E Heise Unit No 1
6. East Antelope Gas Field
7. Marion, Ks
8. 5.0 million cubic feet
9. July 30, 1979
10. Cities Service Gas Company
1. 79-14135/K-78-0409
2. 15-151-00000
3. 108
4. Braden-Deep Inc
5. Robbins Unit #1
6. Carver-Robbins
7. Pratt, Ks
8. 21.6 million cubic feet
9. July 30, 1979
10. Panhandle Eastern Pipeline
1. 79-14136/K-78-0413
2. 15-033-20251
3. 103
4. Donald C Slawson
5. Woolfolk E #1
6. Tuttle NE
7. Comanche, Ks
8. 182.5 million cubic feet
9. July 30, 1979
10. Northern Natural Gas Co
1. 79-14137/K-78-0889
2. 15-047-00000
3. 108
4. Robert F White
5. Belcher Unit No 1
6. Bordewick Gas Field
7. Edwards, Ks
8. 12.0 million cubic feet
9. July 30, 1979
10. Kansas-Nebraska Natural Gas Company
1. 79-14138/K-78-0890
2. 15-055-00000
3. 108
4. Robert F White
5. Grub Unit No 1
6. Hugoton Gas Field
7. Finney, Ks
8. 12.0 million cubic feet
9. July 30, 1979
10. Northern Natural Gas Company
1. 79-14139/K-78-0398
2. 15-175-00000
3. 108
4. Hasada Industries
5. Shrack #1 P03717000
6. Three Star Sec TWP 35 RG 32

7. Seward, Ks
8. 18.9 million cubic feet
9. July 30, 1979
10. Panhandle Eastern Pipeline Co
1. 79-14140/K-78-0401
2. 15-185-00000
3. 108
4. Robert F White
5. #1 Doran
6. Farmington Field
7. Stafford, Ks
8. 10.0 million cubic feet
9. July 30, 1979
10. Panhandle Eastern Pipeline Company
1. 79-14141/K-78-0402
2. 15-185-00000
3. 108
4. Robert F White
5. #1 Aiken
6. Farmington Gas Field
7. Stafford County Ks
8. 5.0 million cubic feet
9. July 30, 1979
10. Northern Natural Gas Co
1. 79-14142/K-78-0403
2. 15-115-00000
3. 108
4. Robert F White
5. Schick No 1
6. East Antelope Gas Field
7. Marion County Ks
8. 12.0 million cubic feet
9. July 30, 1979
10. Cities Service Gas Company
1. 79-14143/K-78-0404
2. 15-093-00000
3. 108
4. Robert F. White
5. Foster-Armentrout No. 1
6. Chase Group-Hugoton Field
7. Kearny, Ks
8. 12.0 million cubic feet
9. July 30, 1979
10. Northern Natural Gas Company
1. 79-14144/K-78-0405
2. 15-115-20188
3. 108
4. Robert F. White
5. Albrecht No. 1
6. East Antelope Gas Field
7. Marion County, Ks
8. 8.0 million cubic feet
9. July 30, 1979
10. Cities Service Gas Company
1. 79-14151/K-78-0414
2. 15-033-20261
3. 103
4. Donald C. Slawson
5. Cimarron A #1
6. Tuttle, NE
7. Comanche, Ks
8. 121.6 million cubic feet
9. July 30, 1979
10. Northern Natural Gas Company
1. 79-14152/K-78-0415
2. 15-007-00000
3. 108
4. Mull Drilling Co. Inc
5. Bartholomew #1
6. North Aetna
7. Barber, Ks
8. 19.2 million cubic feet
9. July 30, 1979
10. Cities Service Gas Company
1. 79-14153/K-79-0063

2. 15-119-00000
3. 108
4. Kansas Gas Purchasing
5. Flagela, #1
6. Hockett
7. Meade, KS
8. 10.3 million cubic feet
9. July 30, 1979
10. Northern Natural Gas Company
1. 79-14154/K-79-0064
2. 15-025-20211
3. 103
4. American Petrofina Company of Texas
5. Theis No 1-18A
6.
7. Clark, KS
8. 99.5 million cubic feet
9. July 30, 1979
10. Northern Natural Gas Company
1. 79-14155/K-79-0069
2. 15-165-20500
3. 108
4. John O. Farmer Inc
5. Juno #1
6.
7. Rush, KS
8. 5.8 million cubic feet
9. July 30, 1979
10. Kansas-Nebraska Natural Gas Co. Inc
1. 79-14156/K-79-0070
2. 15-165-00000
3. 108
4. George A. Angle
5. #1 Beahm
6. Reichel
7. Rush, KS
8. 3.0 million cubic feet
9. July 30, 1979
10. Kansas-Nebraska Natural Gas Co. Inc
1. 79-14169/K-79-0021
2. 15-067-20407
3. 103
4. Cities Service Company
5. Emrie B #2
6. Panama
7. Grant, KS
8. 92.9 million cubic feet
9. July 30, 1979
10. Cities Service Gas Company
1. 79-14170/K-79-0022
2. 15-067-20524
3. 103
4. Cities Service Company
5. Dietz A #2
6. Panama
7. Grant, KS
8. 52.9 million cubic feet
9. July 30, 1979
10. Cities Service Gas Company
1. 79-14171/K-79-0023
2. 15-067-20514
3. 103
4. Cities Service Company
5. Diehl A #2
6. Panama
7. Grant, KS
8. 67.3 million cubic feet
9. July 30, 1979
10. Cities Service Gas Company
1. 79-14172/K-79-0024
2. 15-067-20449
3. 103
4. Cities Service Company
5. Wilks A #2
6. Panama
7. Grant, KS
8. 6.1 million cubic feet
9. July 30, 1979
10. Cities Service Gas Company
1. 79-14173/K-79-0025
2. 15-067-20497
3. 103
4. Cities Service Company
5. Ungles B #2
6. Panama
7. Grant, KS
8. 91.8 million cubic feet
9. July 30, 1979
10. Cities Service Company
1. 79-14174/K-79-0028
2. 15-067-20510
3. 103
4. Cities Service Company
5. Stanley C #2
6. Panama
7. Grant, KS
8. 88.6 million cubic feet
9. July 30, 1979
10. Cities Service Company
1. 79-14175/K-79-0027
2. 15-067-20433
3. 103
4. Cities Service Company
5. Rixon C #2
6. Panama
7. Grant, KS
8. 1.1 million cubic feet
9. July 30, 1979
10. Cities Service Company
1. 79-14176/K-79-0028
2. 15-067-20432
3. 103
4. Cities Service Company
5. Rixon B #2
6. Panama
7. Grant, KS
8. 20.1 million cubic feet
9. July 30, 1979
10. Cities Service Gas Company
1. 79-14177/K-79-0029
2. 15-067-20488
3. 103
4. Cities Service Company
5. Pickens B #2
6. Panama
7. Grant, KS
8. 111.4 million cubic feet
9. July 30, 1979
10. Cities Service Gas Company
1. 79-14178/K-79-0030
2. 15-067-20531
3. 103
4. Cities Service Company
5. Miller V #2
6. Panama
7. Grant, KS
8. 98.0 million cubic feet
9. July 30, 1979
10. Cities Service Gas Company
1. 79-14179/K-79-0031
2. 15-067-20505
3. 103
4. Cities Service Company
5. McMorran A #2
6. Panama
7. Grant, KS
8. 92.6 million cubic feet
9. July 30, 1979
10. Cities Service Gas Company
1. 79-14180/K-79-0032
2. 15-067-20498
3. 103
4. Cities Service Company
5. McCandless A #2
6. Panama
7. Grant, KS
8. 105.2 million cubic feet
9. July 30, 1979
10. Cities Service Gas Company
1. 79-14181/K-79-0033
2. 15-067-20448
3. 103
4. Cities Service Company
5. King K #2
6. Panama
7. Grant, KS
8. 41.8 million cubic feet
9. July 30, 1979
10. Cities Service Gas Company
1. 79-14182/K-79-0034
2. 15-067-20453
3. 103
4. Cities Service Company
5. King J #2
6. Panama
7. Grant, KS
8. 72.9 million cubic feet
9. July 30, 1979
10. Cities Service Gas Company
1. 79-14183/K-79-0035
2. 15-067-20468
3. 103
4. Cities Service Company
5. King H #2
6. Panama
7. Grant, KS
8. 73.8 million cubic feet
9. July 30, 1979
10. Cities Service Gas Company
1. 79-14184/K-79-0036
2. 15-067-20472
3. 103
4. Cities Service Company
5. King G #2
6. Panama
7. Grant, KS
8. 80.9 million cubic feet
9. July 30, 1979
10. Cities Service Gas Company
1. 79-14185/K-79-0036
2. 15-067-20452
3. 103
4. Cities Service Company
5. King E #2
6. Panama
7. Grant, KS
8. 44.1 million cubic feet
9. July 30, 1979
10. Cities Service Gas Company
1. 79-14186/K-79-0038
2. 15-67-20451
3. 103
4. Cities Service Company
5. Jordan B #2
6. Panama
7. Grant, KS
8. 25.5 million cubic feet
9. July 30, 1979
10. Cities Service Gas Company
1. 79-14187/K-79-0039
2. 15-67-20509
3. 103
4. Cities Service Company
5. Higginbotham A #2
6. Panama

7. Grant, KS
8. 64.4 million cubic feet
9. July 30, 1979
10. Cities Service Gas Company
1. 79-14188/K-79-0040
2. 15-67-20500
3. 103
4. Cities Service Company
5. Gray D #2
6. Panama
7. Grant, KS
8. 88.8 million cubic feet
9. July 30, 1979
10. Cities Service Gas Company
1. 79-14189/K-79-0003
2. 15-155-20320
3. 103
4. Hinkle Oil Company
5. Knoefel #1
6. Morton SE NE NW Sec 21-24S-8W
7. Reno, KS
8. 4.4 million cubic feet
9. July 30, 1979
10. Cities Service Gas Company
1. 79-14190/K-79-0008
2. 15-155-20319
3. 108
4. Hinkle Oil Company
5. Morton #1
6. Morton SE SE SE NW Sec 17-24S-7. Reno, KS
8. 9.9 million cubic feet
9. July 30, 1979
10. Cities Service Gas Company
1. 79-14191/K-79-0009
2. 15-007-00000
3. 108
4. Braden-Deem Inc.
5. Wolgamott unit
6. Aetna
7. Barber, KS
8. 8.0 million cubic feet
9. July 30, 1979
10. Cities Service Gas Company
1. 79-14192/K-78-0361
2. 15-125-00000
3. 108
4. Benson Mineral Group Inc.
5. Stair #1
6. Jefferson-Sycamore
7. Montgomery, KS
8. 1.1 million cubic feet
9. July 30, 1979
10. Union Gas Systems Inc
1. 79-14193/K-78-0362
2. 15-125-00000
3. 108
4. Benson Mineral Group Inc.
5. Schaub #5
6. Jefferson-Sycamore
7. Montgomery, KS
8. 9.1 million cubic feet
9. July 30, 1979
10. Union Gas Systems Inc
1. 79-14194/K-78-0363
2. 15-125-00000
3. 108
4. Benson Mineral Group Inc.
5. Kansas Gas #1
6. Jefferson-Sycamore
7. Montgomery, KS
8. 1.4 million cubic feet
9. July 30, 1979
10. Union Gas Systems Inc
1. 79-14195/K-78-0365

2. 15-125-00000
3. 108
4. Benson Mineral Group Inc.
5. Gillman-Schreff
6. Jefferson-Sycamore
7. Montgomery, KS
8. 12.4 million cubic feet
9. July 30, 1979
10. Union Gas Systems Inc
1. 79-14196/K-78-0368
2. 15-125-00000
3. 108
4. Benson Mineral Group Inc.
5. Dalsing #1
6. Jefferson-Sycamore
7. Montgomery, KS
8. 1.5 million cubic feet
9. July 30, 1979
10. Union Gas Systems Inc
1. 79-14197/K-78-0369
2. 15-125-00000
3. 108
4. Benson Mineral Group Inc.
5. Klumpp #8
6. Jefferson-Sycamore
7. Montgomery, KS
8. 19.3 million cubic feet
9. July 30, 1979
10. Union Gas Systems Inc
1. 79-14198/K-78-0370
2. 15-125-00000
3. 108
4. Benson Mineral Group Inc.
5. Darby #1
6. Jefferson-Sycamore
7. Montgomery, KS
8. 8.3 million cubic feet
9. July 30, 1979
10. Union Gas Systems Inc
1. 79-14199/K-78-0371
2. 15-125-00000
3. 108
4. Benson Mineral Group Inc.
5. Klumpp-Rob
6. Jefferson-Sycamore
7. Montgomery, KS
8. 8.2 million cubic feet
9. July 30, 1979
10. Union Gas Systems Inc
1. 79-14200/K-78-0372
2. 15-125-20997
3. 108
4. Benson Mineral Group Inc.
5. Gillen #1-B
6. Jefferson-Sycamore
7. Montgomery, KS
8. 7.7 million cubic feet
9. July 30, 1979
10. Union Gas Systems Inc
1. 79-14201/K-78-0373
2. 15-125-21574
3. 108
4. Benson Mineral Group Inc.
5. Fairleigh #1-25
6. Jefferson-Sycamore
7. Montgomery, KS
8. 1.5 million cubic feet
9. July 30, 1979
10. Union Gas Systems Inc
1. 79-14202/K-78-0374
2. 15-125-21459
3. 108
4. Benson Mineral Group Inc.
5. Tucker 1-5
6. Jefferson-Sycamore

7. Montgomery, KS
8. 8.5 million cubic feet
9. July 30, 1979
10. Union Gas Systems Inc
1. 79-14203/K-78-0381
2. 15-125-21470
3. 108
4. Benson Mineral Group Inc.
5. Hall #1-19
6. Jefferson-Sycamore
7. Montgomery, KS
8. 1.8 million cubic feet
9. July 30, 1979
10. Union Gas Systems Inc
1. 79-14204/K-78-0385
2. 15-125-21467
3. 108
4. Benson Mineral Group Inc.
5. Cranor 1-13
6. Jefferson-Sycamore
7. Montgomery, KS
8. 2.9 million cubic feet
9. July 30, 1979
10. Union Gas Systems Inc

Louisiana Office of Conservation

1. Control Number (F.E.R.C./State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or Block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)
1. 79-14244/17-1789
2. 17-111-21619
3. 103
4. Mid Louisiana Gas Company
5. MLGC Fee Gas #734
6. Monroe Gas Field
7. Union Parish, LA
8. 19.0 million cubic feet
9. July 27, 1979
10. Mid Louisiana Gas Co.
1. 79-14245/79-1788
2. 17-111-21617
3. 103
4. Mid Louisiana Gas Company
5. MLGC Fee Gas #732
6. Monroe Gas Field
7. Union Parish, LA
8. .0 million cubic feet
9. July 27, 1979
10. Mid Louisiana Gas Co.
1. 79-14246/79-1787
2. 17-111-21540
3. 103
4. Mid Louisiana Gas Company
5. MLGC Fee Gas #723
6. Monroe Gas Field
7. Union Parish, LA
8. 18.0 million cubic feet
9. July 27, 1979
10. Mid Louisiana Gas Co.
1. 79-14247/79-1786
2. 17-111-21678
3. 103
4. Mid Louisiana Gas Company
5. MLGC Fee Gas #758
6. Monroe Gas Field
7. Union Parish, LA
8. 17.0 million cubic feet
9. July 27, 1979

10. Mid Louisiana Gas Co.
1. 79-14248/79-1785
2. 17-111-21538
3. 103
4. Mid Louisiana Gas Company
5. MLGC Fee Gas #721
6. Monroe Gas Field
7. Union Parish, LA
8. 32.0 million cubic feet
9. July 27, 1979
10. Mid Louisiana Gas Co.
1. 79-14249/79-1784
2. 17-111-21647
3. 103
4. Mid Louisiana Gas Company
5. MLGC Fee Gas #746
6. Monroe Gas Field
7. Union Parish, LA
8. 32.0 million cubic feet
9. July 27, 1979
10. Mid Louisiana Gas Co.
1. 79-14250/79-1834
2. 17-073-21140
3. 103 108
4. Lock Arbor Production Co
5. Smith et al #6
6. Monroe Gas
7. Ouachita, LA
8. 13.0 million cubic feet
9. July 27, 1979
10. United Gas Pipe Line Co.
1. 79-14251/79-1709
2. 17-023-21304
3. 102
4. Houston Oil & Minerals Corp.
5. E M Stewart 159552
6. South Kings Bayou
7. Cameron, LA
8. .0 million cubic feet
9. July 27, 1979
10.
1. 79-14252/79-1708
2. 17-023-21240
3. 102
4. Houston Oil & Minerals Corp.
5. T C Theriot 159552
6. South Kings Bayou
7. Cameron, LA
8. 750.0 million cubic feet
9. July 27, 1979
10. Texas Eastern Transmission Corp.
1. 79-14253/79-1899
2. 17-111-01328
3. 108
4. Eason Oil Company
5. Jordan 1 #25601
6. Monroe
7. Union LA
8. 11.2 million cubic feet
9. July 27, 1979
10. Texas Gas Transmission Corp
1. 79-14254/79-1898
2. 17-111-00000
3. 108
4. Eason Oil Company
5. Wilson 1 #23730
6. Monroe
7. Union LA
8. 19.9 million cubic feet
9. July 27, 1979
10. Texas Gas Transmission Corp.
1. 79-14255/79-1897
2. 17-111-00562
3. 108

4. Eason Oil Company
5. Taylor et al 1 #31496
6. Monroe
7. Union LA
8. 10.0 million cubic feet
9. July 27, 1979
10. Texas Gas Transmission Corp
1. 79-14256/79-1850
2. 17-113-20864
3. 103
4. Hilliard Oil & Gas Inc.
5. No 1 E. J. Chiasson et al
6. Erath
7. Vermillion Parish LA
8. 68.0 million cubic feet
9. July 27, 1979
10.
1. 79-14257/79-868
2. 17-127-20647
3. 102 103
4. Black Bayou Management Co Inc
5. WIL RA SUC Crown Zellerbach No. 3
6. Newport Field
7. Winn LA
8. 55.0 million cubic feet
9. July 27, 1979
10. United Gas Pipe Line Company
1. 79-14258/79-1854
2. 17-019-20802
3. 103
4. Toce Oil Company Inc
5. Albert Pujol No. 1
6. Gillis English Bayou
7. Calcasieu LA
8. 1095.0 million cubic feet
9. July 27, 1979
10.
1. 79-14259/79-1853
2. 17-011-20259
3. 103
4. Goldking Production Company
5. Owens-ill Dev Corp No. 1 (157847)
6. Cordon
7. Beauregard LA
8. 132.0 million cubic feet
9. July 27, 1979
10. United Gas Pipeline Company
1. 79-14260/79-1852
2. 17-053-20562
3. 103
4. Union Texas Petroleum
5. Hughes #A-8 LAM CAM RA SU
6. Lake Arthur Sec 25 T10S R4W
7. Jefferson Davis LA
8. 511.0 million cubic feet
9. July 27, 1979
10. Texas Gas Transmission Corp
1. 79-14261/79-1851
2. 17-113-20881
3. 103
4. Exxon Corporation
5. Exxon Fee-Pecan Island No. 68
6. Pecan Island
7. Vermilion LA
8. 2900.0 million cubic feet
9. July 27, 1979
10. Columbia Gas Trans Corp., Monterrey
Pipeline Company
1. 79-14262/79-1879
2. 17-111-00178
3. 108
4. Eason Oil Company
5. Lankford K. D. 17 #80336
6. Monroe
7. Union LA

8. 2.5 million cubic feet
9. July 27, 1979
10. Texas Gas Transmission Corp.
1. 79-14263/79-1878
2. 17-111-01163
3. 108
4. Eason Oil Company
5. Lankford 15 #98863
6. Monroe
7. Union LA
8. 7.3 million cubic feet
9. July 27, 1979
10. Texas Gas Transmission Corp
1. 79-14264/79-1877
2. 17-111-01452
3. 108
4. Eason Oil Company
5. Lankford K. D. 20 #105142
6. Monroe
7. Union LA
8. 10.6 million cubic feet
9. July 27, 1979
10. Texas Gas Transmission Corp
1. 79-14265/79-869
2. 17-127-20556
3. 102 103
4. Black Bayou Management Co., Inc
5. WIL RA SUB Olinkraft W No. 3
6. Newport Field
7. Winn LA
8. 65.0 million cubic feet
9. July 27, 1979
10. United Gas Pipe Line Company
1. 79-14266/79-1696
2. 17-119-00000
3. 108
4. Garland Operating Company
5. BOD SU A J W Garland Unit #1
6. Blackburn
7. Webster LA
8. 20.7 million cubic feet
9. July 27, 1979
10. Texas Gas Transmission Corp
1. 79-14267/79-1698
2. 17-099-20709
3. 103
4. Exxon Corporation
5. OL OPERC 6 RA SU R H Goodrich C-13
6. Duck Lake
7. St. Martin LA
8. 300.0 million cubic feet
9. July 27, 1979
10. United Gas Pipe Line Co
1. 79-14268/79-1699
2. 17-109-22078
3. 107
4. The Superior Oil Company
5. LL&E No. 7
6. Four Isle Dome
7. Terrebonne Parish LA
8. 875.0 million cubic feet
9. July 27, 1979
10. United Gas Pipe Line Co
1. 79-14269/79-1702
2. 17-001-20699
3. 102
4. Henry Goodrich D.B.A. Goodrich Oil Co.
5. Tweedel RB SUA Veronie #1
6. Tepetate Field
7. Acadia Parish LA
8. .0 million cubic feet
9. July 27, 1979
10. Texas Gas Transmission Corp
1. 79-14270/79-1908

2. 17-111-01359
3. 108
4. Eason Oil Company
5. Potts 2 #24193
6. Monroe
7. Union LA
8. 3.7 million cubic feet
9. July 27, 1979
10. Texas Gas Transmission Corporation
1. 79-14271/79-1701
2. 17-113-20708
3. 102
4. Great Southern Oil & Gas Co., Inc
5. 11600 A RA SUA L J Eleazar #1
6. Erath
7. Vermilion Parish LA
8. 190.0 million cubic feet
9. July 27, 1979
10. Phillips Petroleum Company
1. 79-14272/79-1751
2. 17-075-22248
3. 103
4. Gulf Oil Corporation
5. VU 95 BLD ST UN3 #9
6. South Pass Blk 24
7. Plaquemines LA
8. 161.0 million cubic feet
9. July 27, 1979
10. Southern Natural Gas Co
1. 79-14273/79-1750
2. 17-075-22612
3. 103
4. Gulf Oil Corporation
5. SPB 24 4 RE SU White Est ST U #10
6. South Pass Block 24
7. Plaquemines LA
8. 9.0 million cubic feet
9. July 27, 1979
10. Texas-Eastern Transmission Corp.,
Southern Natural Gas Company, Tennessee
Gas Pipeline Company
1. 79-14274/79-1749
2. 17-074-22501
3. 103
4. Gulf Oil Corporation
5. S L 195 QQ #289
6. Quarantine Bay
7. Plaquemines LA
8. 133.0 million cubic feet
9. July 27, 1979
10. United Gas Pipeline
1. 79-14275/79-1748
2. 17-075-22478-0000
3. 103
4. Gulf Oil Corporation
5. S L 195 QQ #285-D
6. Quarantine Bay
7. Plaquemines LA
8. 6.0 million cubic feet
9. July 27, 1979
10. United Gas Pipeline Co
1. 79-14276/79-1747
2. 17-075-22460
3. 103
4. Gulf Oil Corporation
5. S L 195 QQ #283
6. Quarantine Bay
7. Plaquemines LA
8. 168.0 million cubic feet
9. July 27, 1979
10. United Gas Pipeline
1. 79-14277/79-1697
2. 17-101-21063
3. 102 103
4. Strata Energy Inc

5. Miami Corp No. 2
6. Bayou Sale
7. St. Mary LA
8. 270.0 million cubic feet
9. July 27, 1979
10. Southern Natural Gas Company
1. 79-14278/79-1868
2. 17-111-00354
3. 108
4. Eason Oil Company
5. Haile Irma 1 #81068
6. Monroe
7. Union LA
8. 7.2 million cubic feet
9. July 27, 1979
10. Texas Gas Transmission Corp
1. 79-14279/79-1867
2. 17-111-01202
3. 108
4. Eason Oil Company
5. Haile 4 #32502
6. Monroe
7. Union LA
8. 11.9 million cubic feet
9. July 27, 1979
10. Texas Gas Transmission Corp
1. 79-14280/79-1866
2. 17-111-01304
3. 108
4. Eason Oil Company
5. Haile 3 #32130
6. Monroe
7. Union LA
8. 10.6 million cubic feet
9. July 27, 1979
10. Texas Gas Transmission Corp
1. 79-14281/79-1865
2. 17-111-01175
3. 108
4. Eason Oil Company
5. Haile 1 #31707
6. Monroe
7. Union LA
8. 10.2 million cubic feet
9. July 27, 1979
10. Texas Gas Transmission Corp
1. 79-14282/79-1753
2. 17-111-21676
3. 103
4. Mid Louisiana Gas Company
5. MLGC Fee Gas #751
6. Monroe Gas Field
7. Union Parish LA
8. 32.0 million cubic feet
9. July 27, 1979
10. Mid Louisiana Gas Company
1. 79-14283/79-1752
2. 17-111-21385
3. 103
4. Mid Louisiana Gas Company
5. MLGC Fee Gas #668
6. Monroe Gas Field
7. Union Parish, LA
8. 17.0 million cubic feet
9. July 27, 1979
10. Mid Louisiana Gas Company
1. 79-14284/79-1763
2. 17-111-21537
3. 103
4. Mid Louisiana Gas Company
5. MLGC Fee Gas #720
6. Monroe Gas Field
7. Union Parish, LA
8. 29.0 million cubic feet
9. July 27, 1979
10. Mid Louisiana Gas Company

1. 79-14285/79-1767
2. 17-111-21653
3. 103
4. Mid Louisiana Gas Company
5. MLGC Fee Gas #765
6. Monroe Gas Field
7. Union Parish, LA
8. 18.0 million cubic feet
9. July 27, 1979
10. Mid Louisiana Gas Company
1. 79-14286/79-1756
2. 17-111-21539
3. 103
4. Mid Louisiana Gas Company
5. MLGC Fee Gas #722
6. Monroe Gas Field
7. Union Parish, LA
8. 15.0 million cubic feet
9. July 27, 1979
10. Mid Louisiana Gas Company
1. 79-14287/79-1755
2. 17-111-21651
3. 103
4. Mid Louisiana Gas Company
5. MLGC Fee Gas #750
6. Monroe Gas Field
7. Union Parish, LA
8. 31.0 million cubic feet
9. July 27, 1979
10. Mid Louisiana Gas Company
1. 79-14288/79-1754
2. 17-111-21650
3. 103
4. Mid Louisiana Gas Company
5. MLGC Fee Gas #740
6. Monroe Gas Field
7. Union Parish, LA
8. .0 million cubic feet
9. July 27, 1979
10. Mid Louisiana Gas Company
1. 79-14289/79-1870
2. 17-111-00546
3. 108
4. Eason Oil Company
5. Frost LBR IND 25 #108520
6. Monroe
7. Union, LA
8. 6.5 million cubic feet
9. July 27, 1979
10. Texas Gas Transmission Corp
1. 79-14290/79-1869
2. 17-111-01206
3. 108
4. Eason Oil Company
5. Haile 5 #106080
6. Monroe
7. Union, LA
8. 10.9 million cubic feet
9. July 27, 1979
10. Texas Gas Transmission Corp
1. 79-14291/79-1703
2. 17-047-20552
3. 103
4. Lamson/Onshore Petroleum Corp
5. LMT SUC K G Wilbert et al No 1
6. Bayou Henry
7. Iberville, LA
8. 275.0 million cubic feet
9. July 27, 1979
10. Southern Natural Gas Company
1. 79-14292/79-1792
2. 17-111-21530
3. 103
4. Mid Louisiana Gas Company
5. MLGC Fee Gas #713

6. Monroe Gas Field
7. Union Parish, LA
8. 33.0 million cubic feet
9. July 27, 1979
10. Mid Louisiana Gas Company
1. 79-14293/79-1700
2. 17-075-22640
3. 107
4. Ladd Petroleum Corporation
5. LL&E #2
6. Lake Washington
7. Plaquemines Parish, LA
8. 600.0 million cubic feet
9. July 27, 1979
10. Southern Natural Gas Co
1. 79-14294/79-1900
2. 17-111-01296
3. 108
4. Eason Oil Company
5. Jordan 2 #25913
6. Monroe
7. Union, LA
8. 14.3 million cubic feet
9. July 27, 1979
10. Texas Gas Transmission Corp
1. 79-14295/79-1828
2. 17-073-20027
3. 108
4. Roy M Teel
5. Cole Heirs #20
6. Monroe Gas Rock Field
7. Ouachita, LA
8. 5.5 million cubic feet
9. July 27, 1979
10. IMC Exploration Company
1. 79-14296/79-1827
2. 17-073-20038
3. 108
4. Roy M Teel
5. Cole Heirs #19
6. Monroe Gas Rock Field
7. Ouachita, LA
8. 9.7 million cubic feet
9. July 27, 1979
10. IMC Exploration Company
1. 79-14297/79-1826
2. 17-073-20026
3. 108
4. Roy M Teel
5. Cole Heirs #18
6. Monroe Gas Rock Field
7. Ouachita, LA
8. 3.8 million cubic feet
9. July 27, 1979
10. IMC Exploration Company
1. 79-14298/79-1825
2. 17-073-20025
3. 108
4. Roy M Teel
5. Cole Heirs #17
6. Monroe Gas Rock Field
7. Ouachita, LA
8. 10.1 million cubic feet
9. July 27, 1979
10. IMC Exploration Company
1. 79-14299/79-1769
2. 17-111-21618
3. 103
4. Mid Louisiana Gas Company
5. MLGC Fee Gas #733
6. Monroe Gas Field
7. Union Parish, LA
8. 19.0 million cubic feet
9. July 27, 1979
10. Mid Louisiana Gas Company

1. 79-14300/79-1669
2. 17-119-20177
3. 103
4. Marathon Oil Company
5. CVSU MOC Hope et al #3
6. Cotton Valley
7. Webster, LA
8. 110.0 million cubic feet
9. July 27, 1979
10. United Gas Pipe Line Company
1. 79-14301/79-1668
2. 17-119-20179
3. 103
4. Marathon Oil Company
5. CVSU MOC Coyle No 1
6. Cotton Valley
7. Webster, LA
8. 240.0 million cubic feet
9. July 27, 1979
10. United Gas Pipe Line Company
1. 79-14302/79-1667
2. 17-119-20198
3. 103
4. Marathon Oil Company
5. CVSU MOC Gaines No 1
6. Cotton Valley
7. Webster, LA
8. 150.0 million cubic feet
9. July 27, 1979
10. United Gas Pipe Line Company
1. 79-14303/79-1666
2. 17-119-20184
3. 103
4. Marathon Oil Company
5. CVSU MOC Bodcaw No 3
6. Cotton Valley
7. Webster, LA
8. 220.0 million cubic feet
9. July 27, 1979
10. United Gas Pipeline Company
1. 79-14304/79-1665
2. 17-119-20217
3. 103
4. Marathon Oil Company
5. CVSU MOC Bodcaw No 4
6. Cotton Valley
7. Webster, LA
8. 1095.0 million cubic feet
9. July 27, 1979
10. United Gas Pipeline Company
1. 79-14305/79-1664
2. 17-119-20192
3. 103
4. Marathon Oil Company
5. CVSU MOC Hope et al #4
6. Cotton Valley
7. Webster, LA
8. 500.0 million cubic feet
9. July 27, 1979
10. United Gas Pipe Line Company
1. 79-14306/79-1790
2. 17-111-21528
3. 103
4. Mid Louisiana Gas Company
5. MLGC Fee Gas #711
6. Monroe Gas Field
7. Union Parish, LA
8. 23.0 million cubic feet
9. July 27, 1979
10. Mid Louisiana Gas Company
1. 79-14307/79-1831
2. 17-073-20031
3. 108
4. Roy M Teel
5. Cole Heirs #24

6. Monroe Gas Rock Field
7. Ouachita, LA
8. 13.0 million cubic feet
9. July 27, 1979
10. IMC Exploration Company
1. 79-14308/79-1838
2. 17-067-21128
3. 103
4. Primos Production Co
5. Tensas Delta E #1
6. Monroe Field
7. Morehouse, LA
8. 84.2 million cubic feet
9. July 27, 1979
10. United Gas Pipeline
1. 79-14309/79-1837
2. 17-111-21719
3. 103
4. IMC Exploration Company
5. LA Gas Lands #20
6. Monroe Gas Field
7. Union, LA
8. 23.7 million cubic feet
9. July 27, 1979
10. Mid Louisiana Gas Company
1. 79-14310/79-1836
2. 17-107-00313
3. 108
4. E L Larry
5. M T Sud, E S Mathews et al No 1
6. Justina
7. Tensas, LA
8. 17.0 million cubic feet
9. July 27, 1979
10. Mid Louisiana Gas Co, Ashland Oil Inc
1. 79-14311/79-1896
2. 17-111-00000
3. 108
4. Eason Oil Company
5. Taunton 1 #23456
6. Monroe
7. Union, LA
8. 3.4 million cubic feet
9. July 27, 1979
10. Texas Gas Transmission Corp
1. 79-14312/79-1895
2. 17-111-00000
3. 108
4. Eason Oil Company
5. REPPCND 2 #99548
6. Monroe
7. Union, LA
8. 6.8 million cubic feet
9. July 27, 1979
10. Texas Gas Transmission Corp
1. 79-14313/79-1704
2. 17-113-20743
3. 102
4. Pel-Tex Oil Company Inc
5. S L 2476 #3
6. Intracoastal City
7. Vermilion, LA
8. 36.0 million cubic feet
9. July 27, 1979
10. Transcontinental Gas Pipe Line Corp.
Louisiana Resources Company
1. 79-14314/79-1758
2. 17-111-21609
3. 103
4. Mid Louisiana Gas Company
5. MLGC Fee Gas #737
6. Monroe Gas Field
7. Union Parish, LA
8. 26.0 million cubic feet
9. July 27, 1979

10. Mid Louisiana Gas Company
1. 79-14315/79-1757
2. 17-111-21527
3. 103
4. Mid Louisiana Gas Company
5. MLGC Fee Gas #710
6. Monroe Gas Field
7. Union Parish, LA
8. 15.0 million cubic feet
9. July 27, 1979
10. Mid Louisiana Gas Company
1. 79-14316/79-1845
2. 17-075-22454
3. 103
4. Signal Petroleum
5. CC-6 RA Sua E Cockrell Jr A #133
6. Lake Washington
7. Plaquemines, LA
8. 270.0 million cubic feet
9. July 27, 1979
10. Southern Natural Gas Company,
Tennessee Gas Pipeline Company
1. 79-14317/79-1844
2. 17-093-20183
3. 103
4. Lamson/Onshore Petroleum Corporation
5. SL 560 No 1 161750
6. St Amelia
7. St James, LA
8. 400.0 million cubic feet
9. July 27, 1979
10. Sugar Bowl Gas Corporation
1. 79-14318/79-1842
2. 17-067-00401
3. 108
4. Primos Production Co
5. Tensas Delta #43
6. Monroe Gas Field
7. Morehouse, LA
8. 22.5 million cubic feet
9. July 27, 1979
10. United Gas Pipeline
1. 79-14319/79-1840
2. 17-067-21242
3. 103
4. Primos Production Co
5. Tensas Delta E #16
6. Monroe Field
7. Morehouse, LA
8. 18.3 million cubic feet
9. July 27, 1979
10. United Gas Pipeline
1. 79-14320/79-1839
2. 17-067-21248
3. 103
4. Primos Production Co
5. Tensas Delta E #15
6. Monroe Field
7. Morehouse, LA
8. 18.3 million cubic feet
9. July 27, 1979
10. United Gas Pipeline
1. 79-14321/79-1883
2. 17-111-01185
3. 108
4. Eason Oil Company
5. Lankford 5 #23729
6. Monroe
7. Union, LA
8. 4.2 million cubic feet
9. July 27, 1979
10. Texas Gas Transmission Corp
1. 79-14322/79-1882
2. 17-111-01186
3. 108
4. Eason Oil Company
5. Lankford 4 #23643
6. Monroe
7. Union, LA
8. .7 million cubic feet
9. July 27, 1979
10. Texas Gas Transmission Corp
1. 79-14323/79-1763
2. 17-111-21624
3. 103
4. Mid Louisiana Gas Company
5. MLGC Fee Gas #742
6. Monroe Gas Field
7. Union Parish, LA
8. 23.0 million cubic feet
9. July 27, 1979
10. Mid Louisiana Gas Company
1. 79-14324/79-1762
2. 17-111-21649
3. 103
4. Mid Louisiana Gas Company
5. MLGC Fee Gas #748
6. Monroe Gas Field
7. Union Parish, LA
8. 20.0 million cubic feet
9. July 27, 1979
10. Mid Louisiana Gas Company
1. 79-14325/79-1761
2. 17-111-21545
3. 103
4. Mid Louisiana Gas Company
5. MLGC Fee Gas #728
6. Monroe Gas Field
7. Union Parish, LA
8. 12.0 million cubic feet
9. July 27, 1979
10. Mid Louisiana Gas Company
1. 79-14326/79-1760
2. 17-111-21622
3. 103
4. Mid Louisiana Gas Company
5. MLGC Fee Gas #740
6. Monroe Gas Field
7. Union Parish, LA
8. 21.0 million cubic feet
9. July 27, 1979
10. Mid Louisiana Gas Company
1. 79-14327/79-1759
2. 17-111-21626
3. 103
4. Mid Louisiana Gas Company
5. MLGC Fee Gas #744
6. Monroe Gas Field
7. Union Parish, LA
8. 24.0 million cubic feet
9. July 27, 1979
10. Mid Louisiana Gas Company
1. 79-14328/79-1875
2. 17-111-00190
3. 108
4. Eason Oil Company
5. La Gas Lands 1 #32560
6. Monroe
7. Union, LA
8. 5.3 million cubic feet
9. July 27, 1979
10. Texas Gas Transmission Corp
1. 79-14329/79-1744
2. 17-075-22363
3. 103
4. Gulf Oil Corporation
5. GB 5 RC SU GPLD A #167-D
6. Grand Bay
7. Plaquemines, LA
8. 3.7 million cubic feet
9. July 27, 1979
10. United Gas Pipeline Co, Texas Eastern
Transmission Co
1. 79-14330/79-1876
2. 17-111-20029
3. 108
4. Eason Oil Company
5. Lankford 21 #120489
6. Monroe
7. Union, LA
8. 9.7 million cubic feet
9. July 27, 1979
10. Texas Gas Transmission Corp
1. 79-14331/79-1770
2. 17-111-21680
3. 103
4. Mid Louisiana Gas Company
5. MLGC Fee Gas #760
6. Monroe Gas Field
7. Union Parish, LA
8. 25.0 million cubic feet
9. July 27, 1979
10. Mid Louisiana Gas Company
1. 79-14332/79-1847
2. 17-727-20090
3. 103
4. Texas International Petroleum Corp
5. State Lease 4039 #8
6. Half Moon Lake
7. St Bernard, LA
8. 30.0 million cubic feet
9. July 27, 1979
10. Southern Natural Gas Company
1. 79-14333/79-1846
2. 17-727-20081
3. 103
4. Texas International Petroleum Corp
5. State Lease 2220 #510
6. Elroi Bay
7. St Bernard, LA
8. 26.0 million cubic feet
9. July 27, 1979
10. Southern Natural Gas Company
1. 79-14334/79-1707
2. 17-113-20765
3. 103
4. North Central Oil Corporation
5. A R Romaine #1
6. Kaplan
7. Vermilion, LA
8. 440.0 million cubic feet
9. July 27, 1979
10. Transcontinental Gas Pipeline Corp
1. 79-14335/79-1705
2. 17-113-20787
3. 102
4. Amerada Hess Corporation
5. E M Cessac #1
6. No Live Oak
7. Vermilion, LA
8. 730.0 million cubic feet
9. July 27, 1979
10. Louisiana Resources Company
1. 79-14336/79-1766
2. 17-111-21654
3. 103
4. Mid Louisiana Gas Company
5. MLGC Fee Gas #756
6. Monroe Gas Field
7. Union Parish, LA
8. 30.0 million cubic feet
9. July 27, 1979
10. Mid Louisiana Gas Company
1. 79-14337/79-1765

2. 17-111-21529
3. 103
4. Mid Louisiana Gas Company
5. MLGC Fee Gas #712
6. Monroe Gas Field
7. Union Parish, LA
8. 28.0 million cubic feet
9. July 27, 1979
10. Mid Louisiana Gas Company
1. 79-14338/79-1764
2. 17-111-21543
3. 103
4. Mid Louisiana Gas Company
5. MLGC Fee Gas #726
6. Monroe Gas Field
7. Union Parish, LA
8. 21.0 million cubic feet
9. July 27, 1979
10. Mid Louisiana Gas Company
1. 79-14339/79-867
2. 17-127-20555
3. 102
4. Black Bayou Management Co Inc
5. Wil Ra Sua Olinkraft W No 2
6. Newport Field
7. Winn, LA
8. 88.0 million cubic feet
9. July 27, 1979
10. United Gas Pipe Line Company
1. 79-14340/79-866
2. 17-127-20497
3. 102
4. Black Bayou Management Co Inc
5. Wil Ra Sud Olinkraft W No 1
6. Newport Field
7. Winn, LA
8. 55.0 million cubic feet
9. July 27, 1979
10. United Gas Pipe Line Company
1. 79-14341/79-1835
2. 17-111-21302
3. 108
4. K D Lankford Jr et al
5. Pennzoil Fee 61A GRU #3
6. Monroe Gas
7. Union, LA
8. 20.0 million cubic feet
9. July 27, 1979
10. United Gas Pipe Line Co
1. 79-14342/79-1830
2. 17-073-20029
3. 108
4. Roy M Teel
5. Cole Heirs #23
6. Monroe Gas Rock Field
7. Ouachita Parish, LA
8. 12.8 million cubic feet
9. July 27, 1979
10. IMC Exploration Company
1. 79-14343/79-1829
2. 17-073-20028
3. 108
4. Roy M Teel
5. Cole Heirs #21
6. Monroe Gas Rock Field
7. Ouachita Parish LA
8. 11.0 million cubic feet
9. July 27, 1979
10. IMC Exploration Company
1. 79-14344/79-1745
2. 17-073-22382
3. 103
4. Gulf Oil Corporation
5. NBLB S-1 RA SU SL 195 QQ #71
6. Black Bay (North)
7. Plaquemines LA
8. 10.0 million cubic feet
9. July 27, 1979
10. Southern Natural Gas Co
1. 79-14345/79-1748
2. 17-075-22440
3. 103
4. Gulf Oil Corporation
5. SL 195 QQ #75
6. North Black Bay
7. Plaquemines LA
8. 90.0 million cubic feet
9. July 27, 1979
10. Southern Natural Gas Co
1. 79-14346/79-1771
2. 17-111-21575
3. 103
4. Mid Louisiana Gas Company
5. MLGC Fee Gas #729
6. Monroe Gas Field
7. Union Parish LA
8. 9.0 million cubic feet
9. July 27, 1979
10. Mid Louisiana Gas Company
1. 79-14347/79-1888
2. 17-111-01445
3. 108
4. Eason Oil Company
5. Lankford 14 #32409
6. Monroe
7. Union LA
8. 7.0 million cubic feet
9. July 27, 1979
10. Texas Gas Transmission Corp
1. 79-14348/79-1871
2. 17-111-00486
3. 108
4. Eason Oil Company
5. Frost Lbr Ind 24 #107938
6. Monroe
7. Union LA
8. 9.2 million cubic feet
9. July 27, 1979
10. Texas Gas Transmission Corp
1. 79-14349/79-1872
2. 17-111-00348
3. 108
4. Eason Oil Company
5. Lankford 2 #22902
6. Monroe
7. Union LA
8. 4.0 million cubic feet
9. July 27, 1979
10. Texas Gas Transmission Corp
1. 79-14350/79-1873
2. 17-111-00177
3. 108
4. Eason Oil Company
5. Lankford KD 16 #80335
6. Monroe
7. Union LA
8. 9.3 million cubic feet
9. July 27, 1979
10. Texas Gas Transmission Corp
1. 79-14351/79-1874
2. 17-111-00199
3. 108
4. Eason Oil Company
5. Lankford 15 #32290
6. Monroe
7. Union LA
8. 3.5 million cubic feet
9. July 27, 1979
10. Texas Gas Transmission Corp
1. 79-14352/79-1782
2. 17-111-21652
3. 103
4. Mid Louisiana Gas Company
5. MLGC Fee Gas #754
6. Monroe Gas Field
7. Union Parish LA
8. 11.0 million cubic feet
9. July 27, 1979
10. Mid Louisiana Gas Company
1. 79-14353/79-1781
2. 17-111-21677
3. 103
4. Mid Louisiana Gas Company
5. MLGC Fee Gas #752
6. Monroe Gas Field
7. Union Parish LA
8. 21.0 million cubic feet
9. July 27, 1979
10. Mid Louisiana Gas Company
1. 79-14354/79-1780
2. 17-111-21620
3. 103
4. Mid Louisiana Gas Company
5. MLGC Fee Gas #738
6. Monroe Gas Field
7. Union Parish LA
8. 16.0 million cubic feet
9. July 27, 1979
10. Mid Louisiana Gas Company
1. 79-14355/79-1779
2. 17-111-21608
3. 103
4. Mid Louisiana Gas Company
5. MLGC Fee Gas #736
6. Monroe Gas Field
7. Union Parish LA
8. 20.0 million cubic feet
9. July 27, 1979
10. Mid Louisiana Gas Company
1. 79-14356/79-1778
2. 17-111-21646
3. 103
4. Mid Louisiana Gas Company
5. MLGC Fee Gas #745
6. Monroe Gas Field
7. Union Parish LA
8. 20.0 million cubic feet
9. July 27, 1979
10. Mid Louisiana Gas Company
1. 79-14357/79-1777
2. 17-111-21542
3. 103
4. Mid Louisiana Gas Company
5. MLGC Fee Gas #725
6. Monroe Gas Field
7. Union Parish LA
8. 25.0 million cubic feet
9. July 27, 1979
10. Mid Louisiana Gas Company
1. 79-14358/79-1776
2. 17-111-21623
3. 103
4. Mid Louisiana Gas Company
5. MLGC Fee Gas #741
6. Monroe Gas Field
7. Union Parish LA
8. 20.0 million cubic feet
9. July 27, 1979
10. Mid Louisiana Gas Company
1. 79-14359/79-1775
2. 17-111-21625
3. 103
4. Mid Louisiana Gas Company
5. MLGC Fee Gas #743
6. Monroe Gas Field

7. Union Parish LA
8. 28.0 million cubic feet
9. July 27, 1979
10. Mid Louisiana Gas Company
1. 79-14360/79-1774
2. 17-111-21536
3. 103
4. Mid Louisiana Gas Company
5. MLGC Fee Gas #719
6. Monroe Gas Field
7. Union Parish LA
8. 38.0 million cubic feet
9. July 27, 1979
10. Mid Louisiana Gas Company
1. 79-14361/79-1773
2. 17-111-21534
3. 103
4. Mid Louisiana Gas Company
5. MLGC Fee Gas #717
6. Monroe Gas Field
7. Union Parish LA
8. 32.0 million cubic feet
9. July 27, 1979
10. Mid Louisiana Gas Company
1. 79-14362/79-1772
2. 17-111-21655
3. 103
4. Mid Louisiana Gas Company
5. MLGC Fee Gas #757
6. Monroe Gas Field
7. Union Parish LA
8. 28.0 million cubic feet
9. July 27, 1979
10. Mid Louisiana Gas Company
1. 79-14363/79-1886
2. 17-111-00000
3. 108
4. Eason Oil Company
5. Lankford 12 #24906
6. Monroe
7. Union LA
8. 6.3 million cubic feet
9. July 27, 1979
10. Texas Gas Transmission Corp
1. 79-14364/79-1887
2. 17-111-00353
3. 108
4. Eason Oil Company
5. Lankford 13 #32091
6. Monroe
7. Union LA
8. 12.3 million cubic feet
9. July 27, 1979
10. Texas Gas Transmission Corp
1. 79-14365/79-1849
2. 17-075-22350
3. 103
4. Gulf Oil Corporation
5. VU 31 J G Timolat B #133
6. West Bay
7. Plaquemines LA
8. 913.0 million cubic feet
9. July 27, 1979
10. Texas Eastern Transmission Corp
- United Gas Pipeline Company
1. 79-14366/79-1848
2. 17-727-20090
3. 103
4. Texas International Petroleum Corp
5. State Lease 4039 #8D
6. Half Moon Lake
7. St Bernard LA
8. 40.0 million cubic feet
9. July 27, 1979
10. Southern Natural Gas Company

1. 79-14367/79-1783
2. 17-111-21606
3. 103
4. Mid Louisiana Gas Company
5. MLGC Fee Gas #731
6. Monroe Gas Field
7. Union Parish LA
8. 19.0 million cubic feet
9. July 27, 1979
10. Mid Louisiana Gas Company
1. 79-14368/79-1880
2. 17-111-00000
3. 108
4. Eason Oil Company
5. Haile 2 #31708
6. Monroe
7. Union LA
8. 6.3 million cubic feet
9. July 27, 1979
10. Texas Gas Transmission Corp
1. 79-14369/79-1881
2. 17-111-02573
3. 108
4. Eason Oil Company
5. Lankford 3 #23155
6. Monroe
7. Union LA
8. 8.5 million cubic feet
9. July 27, 1979
10. Texas Gas Transmission Corp
1. 79-14370/79-1861
2. 17-027-02091
3. 108
4. H E Sutton
5. PSU C Neel A #1-D 42972
6. Athens
7. Claiborne LA
8. 1.4 million cubic feet
9. July 27, 1979
10. Arkansas Louisiana Gas Co
1. 79-14371/79-1862
2. 17-027-02139
3. 108
4. H E Sutton
5. Hoss SU U McCalman-Lewis 28891
6. Athens
7. Claiborne LA
8. 1.5 million cubic feet
9. July 27, 1979
10. Arkansas Louisiana Gas Co
1. 79-14372/79-1863
2. 17-027-02135
3. 108
4. H E Sutton
5. Hoss SU T McCalman-Gandy 1-D 45811
6. Athens
7. Claiborne LA
8. 1.2 million cubic feet
9. July 27, 1979
10. Arkansas Louisiana Gas Co
1. 79-14373/79-1864
2. 17-027-02132
3. 108
4. H E Sutton
5. Hoss SU N Claude H Hill #1
6. Athens
7. Claiborne, LA
8. 1.1 million cubic feet
9. July 27, 1979
10. Arkansas Louisiana Gas Co
1. 79-14374/79-1884
2. 17-111-00445
3. 108
4. Eason Oil Company
5. Lankford 11 #24849

8. Monroe
7. Union, LA
8. 10.6 million cubic feet
9. July 27, 1979
10. Texas Gas Transmission Corp
1. 79-14375/79-1885
2. 17-111-02572
3. 108
4. Eason Oil Company
5. Lankford 9 #23644
6. Monroe
7. Union, LA
8. 3.2 million cubic feet
9. July 27, 1979
10. Texas Gas Transmission Corp

Michigan Department of Natural Resources

1. Control number (F.E.R.C./State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)
1. 79-14056
2. 21-065-00000
3. 102
4. Petrotech Inc
5. Grover C Akers Jr Unit #1-24
6. Wildcat T2N-R2W Section 24
7. Ingham, MI
8. .0 million cubic feet
9. July 27, 1979
10. Mobil Oil Corporation
1. 79-14061
2. 21-025-32492
3. 102
4. Collins Brothers Oil Company
5. Richard Lavoy #1-21
6. Lee 21-1S-5W
7. Calhoun, MI
8. 256.0 million cubic feet
9. July 27, 1979
10. Michigan Gas Utilities Co
1. 79-14062
2. 21-025-31740
3. 102
4. Collins Brothers Oil Company
5. Velliquette-Lavoy #5-16
6. Lee 16A-1S-5W
7. Calhoun, MI
8. 64.0 million cubic feet
9. July 27, 1979
10. Michigan Gas Utilities Co

Mississippi Oil and Gas Board

1. Control number (F.E.R.C./State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)
1. 79-14115/7179437
2. 23-095-20270
3. 102
4. Pruet & Hughes Operating Co
5. Irons Unit #25-3 Well #1
6. Buttahatchie River

7. Monroe, MS
8. 548.0 million cubic feet
9. July 27, 1979
10. Tennessee Gas Pipeline Co
1. 79-14116/7079437
2. 23-095-20270-
3. 102
4. Pruet & Hughes Operating Co
5. Irons Unit #25-3 Well #1
6. Buttahatchie River
7. Monroe, MS
8. 183.0 million cubic feet
9. July 27, 1979
10. Tennessee Gas Pipeline Co
1. 79-14117/7579361
2. 23-029-20019
3. 102
4. Kilroy Company of Texas Inc
5. International Paper Co No. 1
6. Glancy Field
7. Copiah, MS
8. 1,095.0 million cubic feet
9. July 27, 1979
10. Mississippi Power and Light
1. 79-14118/74-79-361
2. 23-029-20014
3. 107
4. Kilroy Company of Texas Inc
5. R D Sanders No. 1
6. Glancy
7. Copiah, MS
8. 730.0 million cubic feet
9. July 27, 1979
10. Mississippi Power and Light
1. 79-14119/69-79-435
2. 23-073-20121
3. 102
4. Sun Oil Company (Delaware)
5. Ross Beatty Well No 1
6. Tatum's Camp
7. Lamar, MS
8. 1,460.0 million cubic feet
9. July 27, 1979
10. Alabama Tennessee Natural Gas Co
1. 79-14120/65-79-146
2. 23-065-20116
3. 102 103
4. System Fuels Inc
5. A F Steele 31-6 Well No 1
6. Grange
7. Jefferson Davis, MS
8. 900.0 million cubic feet
9. July 27, 1979
10. System Fuels Inc, Southern Natural Gas Company
1. 79-14121/64-79-420
2. 23-065-20069
3. 102
4. First Energy Corporation
5. Jessie P Diffrient Well #1
6. Holiday Creek
7. Jefferson Davis, MS
8. 164.3 million cubic feet
9. July 27, 1979
10. Lithium Corporation of America
1. 79-14122/63-79-418
2. 23-065-20102
3. 102 107
4. Harkins & Company
5. Barnes Unit 9-10 Number 1 Well
6. Greens Creek Field
7. Jefferson Davis Counms, MS
8. 1,825.0 million cubic feet
9. July 27, 1979
10. Transcontinental Pipeline Corp

1. 79-14123/58-79-53(3)
2. 23-035-00000
3. 108
4. Marathon Oil Company
5. Unit SW-11 #1-T
6. Maxie
7. Forrest, MS
8. 11.8 million cubic feet
9. July 27, 1979
10. United Gas Pipe Line Company
1. 79-14124/29-79-370
2. 23-091-20034
3. 102
4. System Fuels Inc
5. Shirley McKenzie Well No 1
6. Hurricane Creek
7. Marion MS
8. 360.0 million cubic feet
9. July 27, 1979
10. Yates Petroleum Corporation
1. 79-14125/72-79-437
2. 23-095-20221
3. 102
4. Pruet & Hughes Operating Co
5. Walker Unit #26-1 Well #1
6. Buttahatchie River
7. Monroe MS
8. 110.0 million cubic feet
9. July 27, 1979
10. Tennessee Gas Pipeline Co

New Mexico Department of Energy and Minerals, Oil Conservation Division

1. Control Number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well Name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)
1. 79-14043
2. 30-025-00000
3. 108
4. Coquina Oil Corporation
5. Janda State #2
6. Langlie-MATTIX
7. Lea NM
8. 13.0 million cubic feet
9. July 27, 1979
10. El Paso Natural Gas
1. 79-14044
2. 30-025-00000
3. 108
4. Coquina Oil Corporation
5. Janda State #1
6. Langlie-Mattix
7. Lea NM
8. 13.0 million cubic feet
9. July 27, 1979
10. El Paso Natural Gas Company
1. 79-14045
2. 30-025-00000
3. 108
4. Amerada Hess Corporation
5. J G Hare #7
6. Eunice
7. Lea NM
8. 11.1 million cubic feet
9. July 27, 1979
10. Northern Natural Gas Company
1. 79-14046
2. 30-015-00000

3. 108
4. Yates Petroleum Corporation
5. Loyd Foster A #1
6. Dagger Draw Wolfcamp
7. Eddy NM
8. 2.4 million cubic feet
9. July 27, 1979
10. Transwestern Pipeline Co
1. 79-14047
2. 30-015-22174
3. 108
4. Yates Petroleum Corporation
5. Penasco IW Com #1
6. Wildcat Wolfcamp
7. Eddy NM
8. .7 million cubic feet
9. July 27, 1979
10. Yates Petroleum Corporation
1. 79-14048
2. 30-015-21754
3. 108
4. Yates Petroleum Corporation
5. Gable FV Com #1
6. Eagle Creek Permo-Penn
7. Eddy NM
8. 14.0 million cubic feet
9. July 27, 1979
10. Transwestern Pipeline Company
1. 79-14049
2. 30-045-08209
3. 108
4. Helen Loraine Harvey
5. Mary Hare #1
6. Aztec Fruitland
7. San Juan NM
8. 5.4 million cubic feet
9. July 27, 1979
10. El Paso Natural Gas Company
1. 79-14050
2. 30-045-08132
3. 108
4. Locke-Taylor Drilling Company
5. Tycksen No 1
6. West Kutz Fruitland
7. San Juan NM
8. 18.9 million cubic feet
9. July 27, 1979
10. El Paso Natural Gas Company
1. 79-14051
2. 30-039-20613
3. 108
4. El Paso Natural Gas Company
5. San Juan 27-5 Unit #156
6. Tapacito-Pictured Cliffs Gas
7. Rio Arriba NM
8. 20.0 million cubic feet
9. July 27, 1979
10. El Paso Natural Gas Company, Northwest Pipeline Corporation
1. 79-14052
2. 30-045-10000
3. 108
4. El Paso Natural Gas Company
5. Moncrief Com A #2
6. Basin-Dakota Gas
7. San Juan NM
8. 15.3 million cubic feet
9. July 27, 1979
10. El Paso Natural Gas Company
1. 79-14053
2. 30-015-22474
3. 102
4. J C Barnes Oil Company
5. No 1 Big Chief Comm

6. Wildcat
7. Eddy NM
8. 547.5 million cubic feet
9. July 27, 1979
10. El Paso Natural Gas Company
1. 79-14054
2. 30-015-20892
3. 108
4. Yates Petroleum Corporation
5. Stonewall DD Com #1
6. Burton-Flat Morrow
7. Eddy NM
8. 10.6 million cubic feet
9. July 27, 1979
10. Transwestern Pipeline Company
1. 79-14055
2. 30-015-21705
3. 108
4. Yates Petroleum Corporation
5. Foster FF Com #1
6. Cemetery Morrow
7. Eddy NM
8. 3.3 million cubic feet
9. July 27, 1979
10. Transwestern Pipeline Co
1. 79-14057
2. 30-025-26017
3. 102
4. Gifford Mitchell & Wisenbaker
5. Sitting Bull Well #1
6. Sioux Yates
7. Lea NM
8. 11.0 million cubic feet
9. July 27, 1979
10. El Paso Natural Gas Co.
1. 79-14058
2. 30-025-26027
3. 102
4. Gifford Mitchell & Wisenbaker
5. Sitting Bull A Well #1
6. Sioux Yates
7. Lea NM
8. 128.0 million cubic feet
9. July 27, 1979
10. El Paso Natural Gas Company
1. 79-14059
2. 30-045-00000
3. 108 Denied
4. Dugan Production Corp
5. Com #1
6. Basin-Dakota
7. San Juan NM
8. 2.0 million cubic feet
9. July 27, 1979
10. El Paso Natural Gas Company
1. 79-14060
2. 30-045-23200
3. 103
4. Dugan Production Corp
5. Winifred #2
6. Harper Hill Fruitland PC
7. San Juan NM
8. 48.0 million cubic feet
9. July 27, 1979
10. El Paso Natural Gas Company

New York Department of Environmental
Conservation, Bureau of Mineral Resources
1. Control Number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)
1. 79-14067/686
2. 31-029-13723
3. 102
4. P & S Drilling Inc
5. Ellis #1
6. Buffalo Creek
7. Erie NY
8. 13.5 million cubic feet
9. July 27, 1979
10. National Fuel Gas Dist Corp
1. 79-14068/716
2. 31-029-13226
3. 103
4. SCG Gas Quest Inc
5. Diocese of Buffalo #1
6. Eden-Evans
7. Erie NY
8. 36.5 million cubic feet
9. July 27, 1979
10. Tennessee Gas Pipeline Co Southern
Connecticut Gas Co
1. 79-14069/715
2. 31-029-12898
3. 103
4. SCG Gas Quest Inc
5. Miller #1
6. Eden-Evans
7. Erie NY
8. 36.5 million cubic feet
9. July 27, 1979
10. Tennessee Gas Pipeline Co Southern
Connecticut Gas Co
1. 79-14070/714
2. 31-029-12897
3. 103
4. SCG Gas Quest Inc
5. Howles #1
6. Eden-Evans
7. Erie NY
8. 36.5 million cubic feet
9. July 27, 1979
10. Tennessee Gas Pipeline Co Southern
Connecticut Gas Co
1. 79-14071/713
2. 31-029-12875
3. 103
4. SCG Gas Quest Inc
5. Mortimer A Sullivan #1
6. Eden-Evans
7. Erie NY
8. 36.5 million cubic feet
9. July 27, 1979
10. Tennessee Gas Pipeline Co Southern
Connecticut Gas Co
1. 79-14072/712
2. 31-029-12853
3. 103
4. SCG Gas Quest Inc
5. Norman E Bromley Et Ux #1
6. Eden-Evans
7. Erie NY
8. 36.5 million cubic feet
9. July 27, 1979
10. Tennessee Gas Pipeline Co Southern
Connecticut Gas Co
1. 79-14073/711
2. 31-029-12759
3. 103
4. SCG Gas Quest Inc
5. Milius-Thomas #2
6. Eden-Evans
7. Erie NY

8. 36.5 million cubic feet
9. July 27, 1979
10. Tennessee Gas Pipeline Co Southern
Connecticut Gas Co
1. 79-14074/710
2. 31-029-12757
3. 103
4. SCG Gas Quest Inc
5. Milius-Thomas #1
6. Eden-Evans
7. Erie NY
8. 36.5 million cubic feet
9. July 27, 1979
10. Tennessee Gas Pipeline Co Southern
Connecticut Gas Co
1. 79-14075/709
2. 31-029-12760
3. 103
4. SCG Gas Quest Inc
5. Wheelock-Turnbull #2
6. Eden-Evans
7. Erie NY
8. 36.5 million cubic feet
9. July 27, 1979
10. Tennessee Gas Pipeline Co Southern
Connecticut Gas Co
1. 79-14076/708
2. 31-029-12758
3. 103
4. SCG Gas Quest Inc
5. Wheelock-Turnbull #1
6. Eden-Evans
7. Erie NY
8. 36.5 million cubic feet
9. July 27, 1979
10. Tennessee Gas Pipeline Co Southern
Connecticut Gas Co
1. 79-14077/707
2. 31-029-13227
3. 103
4. SCG Gas Quest Inc
5. Diocese of Buffalo #2
6. Eden-Evans
7. Erie NY
8. 36.5 million cubic feet
9. July 27, 1979
10. Tennessee Gas Pipeline Co Southern
Connecticut Gas Co
1. 79-14078/706
2. 31-029-13303
3. 103
4. SCG Gas Quest Inc
5. N C Farming #1
6. Eden-Evans
7. Erie NY
8. 36.5 million cubic feet
9. July 27, 1979
10. Tennessee Gas Pipeline Co Southern
Connecticut Gas Co
1. 79-14079/705
2. 31-029-13306
3. 102
4. SCG Gas Quest Inc
5. Henrich #1
6. Eden-Evans
7. Erie NY
8. 36.5 million cubic feet
9. July 27, 1979
10. Tennessee Gas Pipeline Co Southern
Connecticut Gas Co
1. 79-14080/704
2. 31-029-13228
3. 102
4. SCG Gas Quest Inc
5. Garcia #1

6. Eden-Evans
7. Erie NY
8. 36.5 million cubic feet
9. July 27, 1979
10. Tennessee Gas Pipeline Co Southern
Connecticut Gas Co
1. 79-14081/703
2. 31-029-12896
3. 102
4. SCG Gas Quest Inc
5. Yager #1
6. Eden-Evans
7. Erie NY
8. 36.5 million cubic feet
9. July 27, 1979
10. Tennessee Gas Pipeline Co Southern
Connecticut Gas Co
1. 79-14082/702
2. 31-029-13538
3. 102
4. SCG Gas Quest Inc
5. Lardo #1
6. Eden-Evans
7. Erie NY
8. 36.5 million cubic feet
9. July 27, 1979
10. Tennessee Gas Pipeline Co Southern
Connecticut Gas Co
1. 79-14083/701
2. 31-029-13535
3. 102
4. SCG Gas Quest Inc
5. Fralick #1
6. Eden-Evans
7. Erie NY
8. 36.5 million cubic feet
9. July 27, 1979
10. Tennessee Gas Pipeline Co Southern
Connecticut Gas Co
1. 79-14084/700
2. 31-029-13304
3. 102
4. SCG Gas Quest Inc
5. Bower #1
6. Eden-Evans
7. Erie NY
8. 36.5 million cubic feet
9. July 27, 1979
10. Tennessee Gas Pipeline Co Southern
Connecticut Gas Co
1. 79-14085/699
2. 31-029-13230
3. 102
4. SCG Gas Quest Inc
5. Howles #2
6. Eden-Evans
7. Erie NY
8. 36.5 million cubic feet
9. July 27, 1979
10. Tennessee Gas Pipeline Co Southern
Connecticut Gas Co
1. 79-14086/698
2. 31-029-13229
3. 102
4. SCG Gas Quest Inc
5. Miller #2
6. Eden-Evans
7. Erie NY
8. 36.5 million cubic feet
9. July 27, 1979
10. Tennessee Gas Pipeline Co Southern
Connecticut Gas Co
1. 79-14087/697
2. 31-029-13231
3. 102
4. SCG Gas Quest Inc
5. Yager #2
6. Eden-Evans
7. Erie NY
8. 36.5 million cubic feet
9. July 27, 1979
10. Tennessee Gas Pipeline Co Southern
Connecticut Gas Co
1. 79-14088/696
2. 31-029-13305
3. 102
4. SCG Gas Quest Inc
5. Martens #1
6. Eden-Evans
7. Erie NY
8. 36.5 million cubic feet
9. July 27, 1979
10. Tennessee Gas Pipeline Co Southern
Connecticut Gas Co
1. 79-14089/732
2. 31-013-13237
3. 103
4. Joseph Mikula
5. Forbes-Rizzo #3
6. Lake Shore
7. Chautauqua NY
8. 45.5 million cubic feet
9. July 27, 1979
10. National Fuel Gas
1. 79-14090/34
2. 31-013-13120
3. 103
4. Envirogas Inc.
5. Cochrane Farms Inc. #4
6. Lakeshore
7. Chautauqua, NY
8. 18.0 million cubic feet
9. July 27, 1979
10. National Fuel Gas Supply Corporation
1. 79-14091/33
2. 31-013-13119
3. 103
4. Envirogas Inc.
5. Cochrane Farms Inc. #3
6. Lakeshore
7. Chautauqua, NY
8. 18.0 million cubic feet
9. July 27, 1979
10. National Fuel Gas Supply Corporation
1. 79-14092/413
2. 31-013-13712
3. 103
4. Oilmark & Co. Inc.
5. Yericco #2
6. Lakeshore
7. Chautauqua, NY
8. 210.0 million cubic feet
9. July 27, 1979
10. National Fuel Gas
1. 79-14093/412
2. 31-013-13711
3. 103
4. Oilmark & Co. Inc.
5. Yericco #1
6. Lakeshore
7. Chautauqua, NY
8. 200.0 million cubic feet
9. July 27, 1979
10. National Fuel Gas
1. 79-14094/411
2. 31-013-13709
3. 103
4. Oilmark & Co. Inc.
5. Chant #2
6. Lakeshore
7. Chautauqua, NY
8. 200.0 million cubic feet
9. July 27, 1979
10. National Fuel Gas
1. 79-14095/410
2. 31-013-13708
3. 103
4. Oilmark & Co. Inc.
5. Chant #1
6. Lakeshore
7. Chautauqua, NY
8. 200.0 million cubic feet
9. July 27, 1979
10. National Fuel Gas
1. 79-14096/15
2. 31-029-12719
3. 103
4. NYS Natural Gas Company
5. #1 Berner 31-029-12719
6. Elma Field
7. Erie, NY
8. 25.0 million cubic feet
9. July 27, 1979
10. National Fuel Gas Supply Co.
1. 79-14097/14
2. 31-029-12782
3. 103
4. NYS Natural Gas Company
5. #1 Jeziersky
6. Elma Field
7. Erie, NY
8. 10.0 million cubic feet
9. July 27, 1979
10. National Fuel Gas Supply Co.
1. 79-14098/13
2. 31-029-12783
3. 103
4. NYS Natural Gas Company
5. #1 Lein
6. Elma Field
7. Erie, NY
8. 10.0 million cubic feet
9. July 27, 1979
10. National Fuel Gas Supply Co.
1. 79-14099/12
2. 31-029-13283
3. 103
4. NYS Natural Gas Company
5. #1 Leon Berner
6. Elma Field
7. Erie, NY
8. 25.0 million cubic feet
9. July 27, 1979
10. National Fuel Gas Supply Co.
1. 79-14100/11
2. 31-029-12784
3. 103 000 000
4. NYS Natural Gas Company
5. #1 Kaiser
6. Elma Field
7. Erie, NY
8. 20.0 million cubic feet
9. July 27, 1979
10. National Fuel Gas Supply Co.
1. 79-14101/10
2. 31-029-13282
3. 103
4. NYS Natural Gas Company
5. #1 Ward
6. Elma Field
7. Erie, NY
8. 25.0 million cubic feet
9. July 27, 1979
10. National Fuel Gas Supply Co.

2. 47-033-00714
 3. 108
 4. Consolidated Gas Supply Corp
 5. M A Lowther 11598
 6. West Virginia A-85772
 7. Harrison, WV
 8. 10.0 million cubic feet
 9. July 30, 1979
 10. General System Purchasers
 1. 79-14161
 2. 47-033-00878
 3. 108
 4. Consolidated Gas Supply Corp
 5. R Martin 11886
 6. West Virginia other A-85772
 7. Harrison, WV
 8. 20.0 million cubic feet
 9. July 30, 1979
 10. General System Purchasers
 1. 79-14162
 2. 47-033-00869
 3. 108
 4. Consolidated Gas Supply Corp
 5. Union National Bank 11875
 6. West Virginia other A-85772
 7. Harrison, WV
 8. 11.0 million cubic feet
 9. July 30, 1979
 10. General System Purchasers
 1. 79-14163
 2. 47-033-00865
 3. 108
 4. Consolidated Gas Supply Corp
 5. I Stuttl 11862
 6. West Virginia other A-85772
 7. Harrison, WV
 8. 16.0 million cubic feet
 9. July 30, 1979
 10. General System Purchasers
 1. 79-14164
 2. 47-033-00775
 3. 108
 4. Consolidated Gas Supply Corp
 5. P Maxwell 11726
 6. West Virginia A-85772
 7. Harrison, WV
 8. 6.0 million cubic feet
 9. July 30, 1979
 10. General System Purchasers
 1. 79-14165
 2. 47-033-00763
 3. 108
 4. Consolidated Gas Supply Corp
 5. B Wilson 11630
 6. West Virginia other A-85772
 7. Harrison, WV
 8. 1.0 million cubic feet
 9. July 30, 1979
 10. General System Purchasers
 1. 79-14166
 2. 47-033-00757
 3. 108
 4. Consolidated Gas Supply Corp
 5. A C Thrash 11628
 6. West Virginia other A-85772
 7. Harrison, WV
 8. 12.0 million cubic feet
 9. July 30, 1979
 10. General System Purchasers
 1. 79-14167
 2. 47-021-02459
 3. 108
 4. Consolidated Gas Supply Corp
 5. W G Bennett HRS 11738
 6. West Virginia other A-85772
 7. Gilmer, WV
 8. 18.0 million cubic feet
 9. July 30, 1979
 10. General System Purchasers
 1. 79-14168
 2. 47-033-00779
 3. 108
 4. Consolidated Gas Supply Corp
 5. R Sommerville 11721
 6. West Virginia other A-85772
 7. Harrison, WV
 8. 11.0 million cubic feet
 9. July 30, 1979
 10. General System Purchasers
 1. 79-14205
 2. 47-033-00784
 3. 108
 4. Consolidated Gas Supply Corp
 5. H Maxon 11754
 6. West Virginia other A-85772
 7. Harrison, WV
 8. 1.0 million cubic feet
 9. July 30, 1979
 10. General System Purchasers
 1. 79-14206
 2. 47-033-00785
 3. 108
 4. Consolidated Gas Supply Corp
 5. L Allen 11722
 6. West Virginia other A-85772
 7. Harrison, WV
 8. 9.0 million cubic feet
 9. July 30, 1979
 10. General System Purchasers
 1. 79-14207
 2. 47-033-00788
 3. 108
 4. Consolidated Gas Supply Corp
 5. L Stout 11713
 6. West Virginia other A-85772
 7. Harrison, WV
 8. 12.0 million cubic feet
 9. July 30, 1979
 10. General System Purchasers
 1. 79-14208
 2. 47-033-00794
 3. 108
 4. Consolidated Gas Supply Corp
 5. M Slussar 11715
 6. West Virginia other A-85772
 7. Harrison, WV
 8. 10.0 million cubic feet
 9. July 30, 1979
 10. General System Purchasers
 1. 79-14209
 2. 47-033-00795
 3. 108
 4. Consolidated Gas Supply Corp
 5. J Corbin 11753
 6. West Virginia other A-85772
 7. Harrison, WV
 8. 14.0 million cubic feet
 9. July 30, 1979
 10. General System Purchasers
 1. 79-14210
 2. 47-033-00798
 3. 108
 4. Consolidated Gas Supply Corp
 5. E Washburn 11750
 6. West Virginia other A-85772
 7. Harrison, WV
 8. 17.0 million cubic feet
 9. July 30, 1979
 10. General System Purchasers
 1. 79-14211
 2. 47-033-00799
 3. 108
 4. Consolidated Gas Supply Corp
 5. M Stout 11718
 6. West Virginia other A-85772
 7. Harrison, WV
 8. 1.0 million cubic feet
 9. July 30, 1979
 10. General System Purchasers
 1. 79-14212
 2. 47-033-00805
 3. 108
 4. Consolidated Gas Supply Corp
 5. A Post 11755
 6. West Virginia other A-85772
 7. Harrison, WV
 8. 5.0 million cubic feet
 9. July 30, 1979
 10. General System Purchasers
 1. 79-14213
 2. 47-021-02485
 3. 108
 4. Consolidated Gas Supply Corp
 5. J E Arbuckle 11827
 6. West Virginia other A-85772
 7. Gilmer, WV
 8. 4.0 million cubic feet
 9. July 30, 1979
 10. General System Purchasers
 1. 79-14214
 2. 47-021-02539
 3. 108
 4. Consolidated Gas Supply Corp
 5. L Mick 11901
 6. West Virginia other A-85772
 7. Gilmer, WV
 8. 1.0 million cubic feet
 9. July 30, 1979
 10. General System Purchasers
 1. 79-14215
 2. 47-033-00730
 3. 108
 4. Consolidated Gas Supply Corp
 5. J H McDonald 11827
 6. West Virginia A-85772
 7. Harrison, WV
 8. 3.0 million cubic feet
 9. July 30, 1979
 10. General System Purchasers
 1. 79-14216
 2. 47-033-00732
 3. 108
 4. Consolidated Gas Supply Corp
 5. C L Andrews 11831
 6. West Virginia A-85772
 7. Harrison, WV
 8. 3.0 million cubic feet
 9. July 30, 1979
 10. General System Purchasers
 1. 79-14217
 2. 47-033-00718
 3. 108
 4. Consolidated Gas Supply Corp.
 5. H. J. Garrett 11708
 6. West Virginia A-85772
 7. Harrison, WV
 8. 2.0 million cubic feet
 9. July 30, 1979
 10. General System Purchasers
 1. 79-14218
 2. 47-021-02537
 3. 108
 4. Consolidated Gas Supply Corp.
 5. L. Bennett 11899
 6. West Virginia Other A-85772

7. Gilmer, WV
8. 6.0 million cubic feet
9. July 30, 1979
10. General System Purchasers
1. 79-14219
2. 47-033-00719
3. 108
4. Consolidated Gas Supply Corp.
5. W. B. Maxwell 11544
6. West Virginia Other A-85772
7. Harrison, WV
8. 8.0 million cubic feet
9. July 30, 1979
10. General System Purchasers
1. 79-14220
2. 47-033-00726
3. 108
4. Consolidated Gas Supply Corp.
5. L. J. Allen 11543
6. West Virginia Other A-85772
7. Harrison, WV
8. 13.0 million cubic feet
9. July 30, 1979
10. General System Purchasers
1. 79-14221
2. 47-033-00713
3. 108
4. Consolidated Gas Supply Corp.
5. R. S. Hershey 11597
6. West Virginia Other A-85772
7. Harrison, WV
8. 16.0 million cubic feet
9. July 30, 1979
10. General System Purchasers
1. 79-14222
2. 47-021-02546
3. 108
4. Consolidated Gas Supply Corp.
5. J. Kuhl 11788
6. West Virginia Other A-85772
7. Gilmer, WV
8. 3.0 million cubic feet
9. July 30, 1979
10. General System Purchasers
1. 79-14223
2. 47-033-00674
3. 108
4. Consolidated Gas Supply Corp.
5. P. D. Ruckman 11555
6. West Virginia Other A-85772
7. Harrison, WV
8. 13.0 million cubic feet
9. July 30, 1979
10. General System Purchasers
1. 79-14224
2. 47-033-00700
3. 108
4. Consolidated Gas Supply Corp.
5. A. W. Davis 11667
6. West Virginia Other A-85772
7. Harrison, WV
8. 15.0 million cubic feet
9. July 30, 1979
10. General System Purchasers
1. 79-14225
2. 47-033-00703
3. 108
4. Consolidated Gas Supply Corp.
5. I. N. Burnside 11533
6. West Virginia Other A-85772
7. Harrison, WV
8. 4.0 million cubic feet
9. July 30, 1979
10. General System Purchasers
1. 79-14226
2. 47-033-00704
3. 108
4. Consolidated Gas Supply Corp.
5. L. McMillen 11546
6. West Virginia Other A-85772
7. Harrison, WV
8. 17.0 million cubic feet
9. July 30, 1979
10. General System Purchasers
1. 79-14227
2. 47-033-00706
3. 108
4. Consolidated Gas Supply Corp.
5. I. N. Burnside 11540
6. West Virginia Other A-85772
7. Harrison, WV
8. 12.0 million cubic feet
9. July 30, 1979
10. General System Purchasers
1. 79-14228
2. 47-033-00727
3. 108
4. Consolidated Gas Supply Corp.
5. M. R. Bond 11689
6. West Virginia Other A-85772
7. Harrison, WV
8. 13.0 million cubic feet
9. July 30, 1979
10. General System Purchasers
1. 79-14229
2. 47-033-00733
3. 108
4. Consolidated Gas Supply Corp.
5. L. Haymond 11629
6. West Virginia Other A-85772
7. Harrison, WV
8. 8.0 million cubic feet
9. July 30, 1979
10. General System Purchasers
1. 79-14230
2. 47-017-01486
3. 108
4. James F. Scott
5. C. Frum (S-43)
6. Grant District
7. Doddridge, WV
8. 4.1 million cubic feet
9. July 30, 1979
10. Consolidated Gas Supply Corp.
1. 79-14231
2. 47-017-01485
3. 108
4. James F. Scott
5. Tate Bros. #1 (S-40)
6. Grant District
7. Doddridge, WV
8. 4.1 million cubic feet
9. July 30, 1979
10. Consolidated Gas Supply Corp.
1. 79-14232
2. 47-017-01484
3. 108
4. Consolidated Gas Supply Corp.
5. James F. Scott
6. Grant District
7. Doddridge, WV
8. 4.1 million cubic feet
9. July 30, 1979
10. Consolidated Gas Supply Corp.
1. 79-14233
2. 47-017-01483
3. 108
4. James F. Scott
5. R. B. Ross #1 (S-34)
6. Grant District

7. Doddridge, WV
8. 4.1 million cubic feet
9. July 30, 1979
10. Consolidated Gas Supply Corp.
1. 79-14234
2. 47-017-01462
3. 108
4. James F. Scott
5. F. Tate #1 (S-38)
6. Grant District
7. Doddridge, WV
8. 4.1 million cubic feet
9. July 30, 1979
10. Consolidated Gas Supply Corp.
1. 79-14235
2. 47-017-01448
3. 108
4. James F. Scott
5. John P. Orr A (S-14)
6. Grant District
7. Doddridge, WV
8. 1.4 million cubic feet
9. July 30, 1979
10. Consolidated Gas Supply Corp.
1. 79-14236
2. 47-017-01415
3. 108
4. James F. Scott
5. Geo. Cumberledge (S-8)
6. McClellan District
7. Doddridge, WV
8. 1.4 million cubic feet
9. July 30, 1979
10. Consolidated Gas Supply Corp.
1. 79-14237
2. 47-017-01303
3. 108
4. James F. Scott
5. Shields J. T. (S-7)
6. McClellan District
7. Doddridge, WV
8. 2.0 million cubic feet
9. July 30, 1979
10. Consolidated Gas Supply Corp.
1. 79-14238
2. 47-017-01252
3. 108
4. James F. Scott
5. Justice M #2 (S-6)
6. McClellan District
7. Doddridge, WV
8. .0 million cubic feet
9. July 30, 1979
10. Consolidated Gas Supply Corp.
1. 79-14239
2. 47-007-00912
3. 108
4. James F. Scott
5. A. G. Toms (S-164)
6. Saltlick District
7. Braxton, WV
8. 4.3 million cubic feet
9. July 30, 1979
10. Consolidated Gas Supply Corp.
1. 79-14240
2. 47-017-00505
3. 108
4. James F. Scott
5. Edwin Chapman (S-9)
6. Cove District
7. Doddridge, WV
8. 1.6 million cubic feet
9. July 30, 1979
10. Consolidated Gas Supply Corp.
1. 79-14241

2. 47-017-00883
3. 108
4. James F. Scott
5. Dan Smith #1 (S-1)
6. McClellan District
7. Doddridge, WV
8. 2.7 million cubic feet
9. July 30, 1979
10. Consolidated Gas Supply Corp.
1. 79-14242
2. 47-017-00917
3. 108
4. James F. Scott
5. Dan Smith #2 (S-2)
6. McClellan District
7. Doddridge, WV
8. 2.7 million cubic feet
9. July 30, 1979
10. Consolidated Gas Supply Corp.
1. 79-14243
2. 47-017-01531
3. 108
4. James F. Scott
5. W. A. McMillan (S-53)
6. Grant District
7. Doddridge, WV
8. 7.3 million cubic feet
9. July 30, 1979
10. Consolidated Gas Supply Corp.

Geological Survey*Metairie, La.*

1. Control Number (F.E.R.C./State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or Block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)
1. 79-14150/G8-204
2. 17-701-14041-00S1-0
3. 102
4. Ocean Production Company
5. OCS-G 063 No. 33A
6. Ship Shoal 113 Field
7. 93
8. 275.0 million cubic feet
9. July 30, 1979
10. Transcontinental Gas PL Corp.

Tulsa, Okla.

1. Control number (F.E.R.C./State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or Block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)
1. 79-14064/KN42-9
2. 15-093-20590-0000-0
3. 103
4. Mobil Oil Corporation
5. Hugoton U.S.A. No. 2
6. Panoma
7. Kearny, KS
8. 70.0 million cubic feet
9. July 27, 1979
10. Cities Service Gas Company
1. 79-14065/KN32-9

2. 15-055-20339-0000-0
3. 103
4. Helmerich & Payne Inc
5. USA J No. 1
6. Panoma Gas Area 538159
7. Finney, KS
8. 110.0 million cubic feet
9. July 27, 1979
10. Colorado Interstate Gas Company
1. 79-14066/KN33-9
2. 15-093-20584-0000-0
3. 103
4. Helmerich & Payne Inc
5. Campbell A No. 2
6. Panoma Gas Area 538159
7. Kearny, KS
8. 110.0 million cubic feet
9. July 27, 1979
10. Colorado Interstate Gas Company
1. 79-14063/OK 43-9
2. 35-011-20982-0000-0
3. 103
4. An-son Corporation
5. Tobacco #1-30
6. Tobacco
7. Blaine, OK
8. 700.0 million cubic feet
9. July 27, 1979
10. Delhi Gas Pipeline Company.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, D.C. 20426.

Persons objecting to any of these final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before September 10, 1979.

Please reference the FERC control number in all correspondence related to these determinations.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-26474 Filed 8-23-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. ID-1877]**Richard A. Crabtree; Application**

August 16, 1979.

Take notice that on August 9, 1979, Richard A. Crabtree (Applicant) filed an application pursuant to Section 305 (b) of the Federal Power Act to hold the following positions:

Position	Name of corporation	Classification
Treasurer	Central Maine Power Co.	Public utility.
Treasurer	Maine Yankee Atomic Power Co.	Public utility.
Treasurer	Maine Electric Power Co., Inc.	Public utility.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol St., NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before September 8, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-26471 Filed 8-23-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. ID-1878]**Robert F. Scott; Application**

August 16, 1979.

Take notice that on August 9, 1979, Robert F. Scott, (Applicant) filed an application pursuant to Section 305 (b) of the Federal Power Act to hold the following positions:

Position	Name of corporation	Classification
Senior Vice Pres., Customer Service and Rates.	Central Maine Power Co.	Public utility.
Director	Central Maine Power Co.	Public utility.
Director	Maine Yankee Atomic Co.	Public utility.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before September 6, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-26472 Filed 8-23-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. ID-1631]

Robert D. Weimer; Application

August 16, 1979.

Take notice that on August 9, 1979, Robert D. Weimer, (Applicant) filed an application pursuant to Section 305 (b) of the Federal Power Act to hold the following positions:

Position	Name of corporation	Classification
Chairman of the Board and Chief Executive Officer.	Delmarva Power and Light Co.	Public utility.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C., 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before September 6, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-26473 Filed 8-23-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. CP79-427]

Southwest Gas Corp.; Application

August 20, 1979.

Take notice that on August 2, 1979, Southwest Gas Corporation (Southwest), P.O. Box 15015, Las Vegas, Nevada 89114, filed in Docket No. CP79-427 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain additional transmission facilities in its northern Nevada system all as more fully set forth in the application which is on file with the Commission and open for public inspection.

Southwest states that its Northern Nevada jurisdictional transmission system extends from the Idaho-Nevada border to the California-Nevada state line near the north and south ends of Lake Tahoe.

The proposed facilities consist of 2,294 feet of 8-inch loop line which facilities would permit adequate pipeline pressure and volumes to be maintained upstream of the sales meter for CP National Corporation, a resale customer of Southwest.

The application indicates that the estimated design day requirements for natural gas by Southwest's Priority 1 and 2 customers on its South Lake Tahoe lateral beginning with the 1979-80 heating season, would exceed the daily design capacity of the current facilities to deliver such gas.

The proposed loop line would increase the daily design capacity of the existing facilities to deliver the estimated design day requirements of natural gas to Southwest's Priority 1 and 2 customers for the 1979-80, 1980-81, and 1981-82 heating seasons. Without the construction and operation of the proposed facilities during the 1979 summer construction season, Southwest asserts, it would be unable to deliver the estimated design day requirements to its high priority customers on the South Lake Tahoe lateral.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 10, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if

the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Southwest to appear or be represented at the hearing.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-26450 Filed 8-23-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. CP79-418]

Tennessee Gas Pipeline Co., a Division of Tenneco, Inc.; Application

August 20, 1979.

Take notice that on July 25, 1979, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Applicant), P.O. Box 2511, Houston, Texas 77001, filed in Docket No. CP79-418 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the rendition of compression service for Natural Gas Pipeline Company of America (Natural), United Gas Pipe Line Company (United), Sea Robin Pipeline Company (Sea Robin) and Trunkline Gas Company (Trunkline) (Recipients), all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant proposes to render compression service for Recipients pursuant to the terms of a gas compression agreement dated May 30, 1979, between Applicant and Recipients, whereby Applicant would accept and receive daily from Recipients, as permitted in Applicant's sole opinion by operating conditions on its system, such quantity of gas as Recipients make available at the East Cameron 281B (EC 281B) Platform; compress for Recipients such quantity of gas; and deliver such quantity of compressed gas to Recipients, less volumes of gas for Applicant's fuel use requirements involved with the proposed service.

Commencing with the date of initial receipt of gas by Applicant for compression, Applicant indicates that it would charge each Recipient a monthly charge (prorated for any partial months) equal to a percentage of the total cost of service for the compressor units being utilized based on the ratio of the volume of gas compressed by Applicant for Recipient's account and the total volume of gas compressed during such month.

Initially, the total cost of such service shall be \$51,667 monthly. Applicant states, and Applicant and the Recipients would rely on the monthly allocation made by the producer-operator on the EC 281B Platform for the volumes used in the determination of the percentage referred to above. Also, Recipients would provide to Applicant volumes of gas to compensate for Applicant's fuel and use requirements by providing at no cost to Applicant a monthly volume of gas for Applicant's compressor station fuel use requirements equal to each Recipient's share of the actual volumes used for fuel in the compressor station, it is said.

The proposed service would be beneficial to Recipient in that it would permit them to receive gas supplies for their respective system supply without the need to install additional horsepower and, at the same time, would optimize the use of Applicant's facilities. Applicant's assistance would further enable Recipients to receive gas into a joint interstate pipeline being constructed by all Recipients, except Trunkline, under their respective budget authorizations, which would connect the EC 281 Platform to the Stingray System.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 10, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if

the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-26451 Filed 8-23-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. CP77-435]

Transcontinental Gas Pipe Line Corp.; Amendment to Application

August 20, 1979.

Take notice that on August 1, 1979, Transcontinental Gas Pipe Line Corporation (Applicant), P.O. Box 1396, Houston, Texas 77001, filed in Docket No. CP77-435 an amendment to its application filed in the instant docket pursuant to Section 7(c) of the Natural Gas Act so as to provide for the transportation of up to 2,000 Mcf of natural gas per day for United Gas Pipe Line Company (United), all as more fully set forth in the application on file with the Commission and open to public inspection.

Pursuant to temporary authorization issued herein on August 3, 1979, Applicant is presently transporting for United up to 90,000 Mcf of natural gas per day which gas is produced in Vermilion Area Block 22, offshore Louisiana, and delivered into Applicant's Central Louisiana Gathering System onshore in the Pecan Island area, Vermilion Parish through facilities jointly owned by Applicant, Florida Gas Transmission Company and Sea Robin Pipeline Company (Sea Robin). Applicant indicates that it receives the gas at the Pecan Island location and redelivers equivalent million Btu's to or for the account of United at the interconnection between Applicant's and United's systems in Victoria County, Texas, and the interconnection between Applicant's system and the system of Tennessee Gas Pipeline Company, a Division of Tenneco Inc., near Crowley, Acadia Parish, Louisiana.

United, through its affiliate Sea Robin, has arranged to purchase approximately 2,000 Mcf of natural gas per day which gas is produced in East Cameron Area Blocks 38 and 39 and delivered to the jointly owned Vermilion 22 facilities by means of budget-type facilities to be constructed by Sea Robin. Applicant proposes to receive such gas at Pecan Island and redeliver equivalent million Btu's to or for the account of United at

the aforementioned redelivery points, in accordance with the provisions of Rule Schedule X-159.

Applicant indicates that the volumes of gas available to United from the East Cameron Area blocks would help to maintain as adequate and reliable service as possible in United's marketing areas.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before September 10, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. All persons who have heretofore filed need not file again.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-26452 Filed 8-23-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. CP79-422]

Transwestern Pipeline Co. and Michigan Wisconsin Pipe Line Co.; Application

August 17, 1979.

Take notice that on July 30, 1979, Transwestern Pipeline Company (Transwestern), P.O. Box 2521, Houston, Texas 77001, and Michigan Wisconsin Pipe Line Company (Mich Wis), One Woodward Avenue, Detroit, Michigan 48226, filed in Docket No. CP79-422 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of interconnecting facilities and the exchange of natural gas, all as more fully set forth in the application which is on file with the Commission and open for public inspection.

Pursuant to the terms of a gas exchange agreement, natural gas quantities would be exchanged at a balancing point at an interconnection to be constructed where Mich Wis' 20-inch pipeline and Transwestern's 24-inch pipeline intersect in Roberts County, Texas. The application indicates that

construction of the interconnection facilities is estimated to cost approximately \$121,790.

In the gas exchange agreement, Transwestern and Mich Wis have provided for the possible future addition of wells and balancing points, when necessary, to provide other points of exchange and, accordingly, request the Commission to permit the exchange of gas from these future wells and balancing points.

In the gas exchange agreement Transwestern and Mich Wis have agreed to gather, deliver, and exchange gas from the following wells:

Sooner No. 1, Beckham County, Oklahoma.
Cupp "D" No. 1, Beckham County, Oklahoma.
Sutton No. 1, Beckham County, Oklahoma.

The application asserts that both systems have capacity available to render the exchange service and the arrangement would avoid the duplication of existing facilities resulting in a reduced cost of bringing the subject gas supplies to market.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 10, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Transwestern and Mich Wis to appear or be represented at the hearing.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-26454 Filed 8-23-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP79-429]

United Gas Pipe Line Co.; Application

August 20, 1979.

Take notice that on August 3, 1979, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77001, filed in Docket No. CP79-429 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation by United of natural gas for Mid Louisiana Gas Company (Mid Louisiana), all as more fully set forth in the application which is on file with the Commission and open for public inspection.

In the application United requests authorization to transport up to 9,000 Mcf of natural gas per day for Mid Louisiana in accordance with the gas transportation agreements between United and Mid Louisiana dated June 21 and June 23, 1979. Mid Louisiana has acquired such gas from production (1) under the State of Louisiana Lease No. 6324 located in the Timbalier Bay area, Lafourche Parish, Louisiana, attributable to the interests of Natomas North America, Inc., Union Oil of California, and Louisiana Land and Exploration Company and (2) in Bayou Jean LaCroix Field located in Terrebonne Parish, Louisiana, attributable to the interest of Louisiana Land and Exploration Company, it is asserted.

Pursuant to the terms of the June 21, 1979, gas transportation agreement, Mid Louisiana would deliver or cause to be delivered to United up to 6,000 Mcf per day at a mutually agreeable point located on United's existing Lake Raccourci Field Main Line in Lafourche Parish, Louisiana; and pursuant to the July 23, 1979, gas transportation agreement, Mid Louisiana would deliver or cause the delivery of up to 3,000 Mcf per day of natural gas to United at a mutually agreeable point located on United's existing pipeline in the Bayou Jean LaCroix field in Terrebonne Parish, Louisiana. United would transport and redeliver to Mid Louisiana equivalent volumes, less quantities attributable to fuel and company-used gas and, if necessary, plant volume reduction, to Mid Louisiana at the existing point of

interconnection between the systems of United and Mid Louisiana at the Scotland Compressor Site, Baton Rouge Parish, Louisiana, and/or any mutually agreeable existing authorized point of interconnection between the facilities of United and Mid Louisiana. Measuring facilities necessary for Mid Louisiana to make deliveries to United would be installed, owned, operated and maintained by Mid Louisiana at no expense to United. Existing facilities would be used by United to make redeliveries to Mid Louisiana; therefore, new construction of facilities by United would not be required.

Mid Louisiana has agreed to pay United for gas transported, under the said agreements, an amount per Mcf equal to United's jurisdictional transportation rate in effect from time to time in United's Southern Rate Zone as such may be determined by United based on rate filings made from time to time with the Commission, less any amount included in such jurisdictional transportation rate which is attributable to fuel and unaccounted for gas. The current rate, exclusive of the cost of gas utilized in United's operation, is 19.40 cents per Mcf.

The proposed transportation would allow Mid Louisiana to receive additional quantities of natural gas into its system without the costly construction of transmission facilities.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 10, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the

matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for United to appear or be represented at the hearing.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-26455 Filed 8-23-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. SA79-12]

Western Gas Interstate Co.; Application for Adjustment and Request for Interim Relief

August 20, 1979.

On July 27, 1979, Western Gas Interstate Company ("Western") filed with the Federal Energy Regulatory Commission an application for an adjustment under Section 502(c) of the Natural Gas Policy Act of 1978 ("NGPA") wherein Western sought exemption from Sections 281.201 through 281.215, inclusive, of the Commission's Regulations under the NGPA. Western also requested interim relief pending determination of the application.

Said regulations require the filing of tariff sheets regarding curtailment plans, the filing of indices of entitlements regarding high-priority and essential agricultural users, the attribution of natural gas, and the establishment of a Data Verification Committee. The applicant states that it sells gas to only one customer, its parent, Southern Union Company, and that such sales are made in accordance with tariffs on file with this Commission. The sales of gas to the ultimate consumers are regulated by various state and local authorities and are made in order of the priorities set forth in curtailment plans on file with said authorities. The applicant further states that it projects no curtailment of essential agricultural or high-priority uses. For these reasons, the applicant contends that the requirements of §§ 281.201 to 281.215 are unnecessary and would be burdensome, and, consequently the applicant requests waiver of such requirements, all as more fully set forth in the application which is on file with the

Commission and open to public inspection.

The procedures applicable to the conduct of this adjustment proceeding are found in § 1.41 of the Commission's Rules of Practice and Procedure, Order No. 24 issued March 22, 1979.

Any person desiring to participate in this adjustment proceeding shall file a petition to intervene in accordance with the provisions of § 1.41. All petitions to intervene must be filed on or before September 10, 1979.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-26456 Filed 8-23-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. TC79-8]

Transcontinental Gas Pipe Line Corp.; Order Granting in Part and Denying in Part Petition for the Institution of Proceedings and for a Declaratory Order, Establishing Procedures for Briefing and for Hearing and Granting Interventions

Issued: August 17, 1979.

I. Introduction and Procedural History

On February 28, 1979, Transcontinental Gas Pipeline Corporation (Transco) filed in Docket No. TC79-8 a petition pursuant to Section 1.7 of the Commission's Rules of Practice and Procedure (18 CFR § 1.7(c)) for the institution of a proceeding and for a declaratory order.

Transco requests the Commission to institute a proceeding to inquire into:

1. The facts and circumstances that resulted in the shortage of gas on Transco's pipeline system;
2. The effect of Transco's gas tariff curtailment provisions and service agreements and of the Commission's orders, rules and regulations; and
3. The effect of an award of damages for curtailment of service against Transco upon the Commission's ability to carry out its responsibilities under Sections 4, 5 and 7 of the Natural Gas Act.

Transco further requests the Commission to make specific findings and issue a declaratory order that:

- (a) The natural gas shortage on Transco's system was caused by intervening events and factors beyond Transco's control;
- (b) That Transco reacted to offset the shortage on its system in good faith and in a reasonable and prudent manner under conditions then existing;

(c) That Transco's curtailment tariff provisions and service agreements are in compliance with Commission rules and regulations; and

(d) That, under such circumstances, compliance with such tariff provisions is a complete defense to any claims for damages for breach of contract; and finally,

(e) That an award of damages against Transco for curtailments of service would constitute an undue preference and discrimination under the Natural Gas Act and would unduly and adversely affect the Commission's ability to fairly allocate the gas supplies available to Transco.

Transco states that its petition was prompted by a continuing controversy concerning the causes of the natural gas shortage on Transco's system. Transco's efforts to maintain and supplement its gas supplies in response to the declining deliverability of its contracted reserves and the effect of curtailment plans on Transco's obligations to serve its customers.

It is necessary to inquire briefly into the procedural history associated with this petition in order to gain a fuller understanding of the issues involved therein. The instant petition arises out of a civil damage suit filed against Transco by CF Industries, Inc. (CF) and Farmers Chemical Association, Inc. (Farmers) in connection with the curtailment on Transco's system commencing in 1971 and continuing to the present time in U.S. District Court for the Western District of North Carolina, Civil Action No. CC77-131. Transco filed and the Commission approved interim curtailment plans as early as 1971 and a more permanent curtailment plan was approved in 1976.¹ Furthermore, the Commission has conducted several investigations which commenced in January 1975 and are continuing at present into the causes of the shortages on the Transco system, both as a result of the Commission's own initiative and

¹An order of November 15, 1971, 46 FPC 1212 (1971) approved the first interim curtailment plan. See Opinion No. 778 issued October 8, 1976, prescribing a permanent curtailment plan for Transco, and Opinion 778-A issued December 8, 1976, denying rehearing. Remanded, *State of North Carolina v. F.E.R.C.*, 584 F. 2d 1003 (D.C. Cir. 1978). Transco's curtailment is presently governed by a settlement approved by an order of January 19, 1979, order denying rehearing of August 2, 1979, *State of North Carolina v. F.E.R.C.*, supra, also remanded the compensation issue under the Opinion No. 778 plan. The Commission has that matter under consideration; see August 2, 1979 order at pp. 3-4.

as mandated by several decisions of the U.S. Court of Appeals.² The final resolution of these investigations is still pending.

On February 16, 1979 a jury in the North Carolina federal district court proceeding awarded \$23.8 million in damages against Transco in favor of CF and Farmers based on Transco's liability in contract, negligence and promissory estoppel.³ The federal district court in that case twice denied Transco's motion to refer to the Commission several of the same issues for which Transco seeks a declaratory order in the instant petition.⁴ The case is now on appeal to the United States Court of Appeals for the Fourth Circuit⁵ where Transco has again filed a motion both to refer several of these issues to the Commission under the doctrine of primary jurisdiction and to stay the appeal pending such referral.⁶

Although many of the issues raised in the Transco petition are closely related to similar litigation against other pipeline companies arising out of curtailments in the early 1970's,⁷ the commission specifically confines this order to the instant petition. This order will address and dispose of each of the issues raised in Transco's petition.

II. Issues Raised in the Transco Petition for Institution of a Proceeding

A. Transco seeks to institute a proceeding to inquire into the facts and circumstances that resulted in the shortage of gas on Transco's pipeline system in order to develop a factual

² By order of January 8, 1975 the FPC instituted an investigation in Docket No. RP75-51 into the causes of Transco's 1974-75 shortage and what should be done to prevent a recurrence thereof. See Order of June 25, 1976 in Docket No. RP72-99, wherein the causes of Transco's shortages as related to the compensation question were examined. This issue has been in the courts for some time, viz.: an order by the D.C. Circuit on August 1, 1975 which withheld consideration of the interim curtailment plan until the FPC's investigation was completed (Case No. 74-2036); a subsequent vacation of that order in *Transcontinental Gas Pipeline Corp. v. FPC*, 423 U.S. 326 (1976); a subsequent remand to the FPC by a D.C. Circuit order of February 6, 1976, and, on appeal, another remand to develop a fuller factual record. *Transcontinental Gas Pipeline Corp. v. FPC*, 562 F.2d 664 (D.C. Cir. 1976).

³ *CF Industries, Inc. and Farmers' Chemical Association, Inc. v. Transcontinental Gas Pipeline Corp.*, No. CC77-131 (W.D.N.C., Charlotte Division).

⁴ See 452 F. Supp. 358 (1978); second referral request denied in unreported order of October 6, 1978.

⁵ *CF Industries, Inc., et al. v. Transcontinental Gas Pipeline Corp.*, Nos. 79-1359 and 79-1366.

⁶ The motion was filed on July 5, 1978.

⁷ Similar litigation has been instituted against United Gas Pipe Line Company, Kansas-Nebraska Natural Gas Company, El Paso Natural Gas Company and Florida Gas Company.

record. The Commission undoubtedly can assert and has asserted jurisdiction over investigations into the causes of natural gas shortages on particular pipeline company systems pursuant to its broad authority under the Natural Gas Act in the area of curtailments.⁸

Upon thorough review of this request, the Commission declines to institute the proceeding sought by Transco. The Commission believes that it is not necessary at the present time to assert its jurisdiction to undertake the factual proceeding sought by Transco for several reasons.

First, there is no indication that the \$23.8 million federal district court judgment against Transco will have a material adverse effect on Transco's financial position so as to create a compelling present need for the institution of a Commission proceeding. In fact, to the contrary, Transco's 1978 Annual Report states that "Pipe Line [Transco] believes . . . that, in any event, the final resolution of [CF and Farmer's] claims will not have a material adverse effect on its financial position."⁹

Second, the Commission is unable to perceive a need at the present time for the Commission's assertion of jurisdiction to provide a forum for broad determinations into the full historical circumstances surrounding shortages on particular pipeline systems. The Commission has, in the past, conducted limited examinations into particularized points of inquiry concerning shortages on certain pipeline systems.¹⁰ The broad historical proceeding sought by the petitioner can justify the expenditure of the Commission's limited resources only upon a showing of a compelling present need to undertake the proceeding. In view of the Commission's judgment that no such present need has been demonstrated in Transco's petition and in view of the significant ramifications of the acceptance of broad historical proceedings in that the potential for a substantial burden on the Commission's limited resources would arise, the Commission declines at this time to

⁸ *FPC v. Louisiana Power and Light Co.*, 406 U.S. 621 (1972); *Fort Pierce Utility Authority v. Federal Power Commission*, 526 F.2d 993 (5th Cir. 1976); See also Section 16 of the Natural Gas Act, 15 U.S.C. § 717(c).

⁹ See Transco Companies, Inc. 1978 Annual Report dated February 19, 1979.

¹⁰ See, e.g., Transco investigation in Docket No. RP75-51 initiated by an order of January 8, 1975;

"Certain Producer and Pipeline Respondents" investigation in Docket No. RP75-112 of thirteen pipeline companies initiated by an order of February 20, 1975.

institute a proceeding to inquire into the facts and circumstances that resulted in the shortage of gas on Transco's pipeline system.¹¹

B. Transco next seeks a proceeding to inquire into the effect of its gas tariff curtailment provisions and service agreements and of the Commission's orders, rules and regulations. The Commission grants this request in part, but carefully circumscribes the scope of the proceeding in this area. In particular, the Commission will not adjudicate specific common law claims of contract liability. This is a determination ultimately for the courts.¹² Nor will the Commission make a determination as to negligence or wrongful conduct. Negligence questions bearing upon resolution of specific contract liability questions properly belong to the courts.¹³ The Commission, however, is cognizant of the public importance of tariff and service agreement interpretation questions in the context of curtailment damage suits and, therefore, provides the following reasons as justification for the limited proceeding ordered on this question.

Transco and other pipelines must submit to the Commission's certification authority before engaging in the transportation of gas subject to the Commission's jurisdiction or before the construction or extension of any facilities associated therewith, and such regulatory oversight continues once the certificate is issued by the Commission and accepted by the Company.¹⁴ A federal obligation to continue service attaches subsequent to the issuance of the certificate and continues until the

¹¹ The Commission does not, at this time, decide the further question of whether a broader inquiry into the historical causes of shortage on pipeline systems would ever constitute a proper basis for the Commission's primary jurisdiction in curtailment damage suits. We have, however, no power to award reparations or damages. The Supreme Court has held, in similar cases involving a primary jurisdiction reference by a court to an agency of issues relating to damage claims, that the agency's lack of remedial power over alleged past wrongdoing makes such a reference inappropriate. *Montana-Dakota Utilities Co. v. Northwestern Public Service Co.*, 341 U.S. 248 (1951); *T.I.M.E. v. United States*, 359 U.S. 464 (1959).

¹² *Mississippi Power & Light Co. v. United Gas Pipeline Co.*, 532 F.2d 412 (5th Cir. 1976); *State of Louisiana v. FPC*, 503 F.2d 844 (5th Cir. 1974); *International Paper Co. v. FPC*, 476 F.2d 121 (5th Cir. 1973); Order of August 8, 1978 in *United Gas Pipeline Company* (Docket No. RP71-29—Phase III).

¹³ Order of August 9, 1978 in *United Gas Pipeline Company*, Docket No. RP71-29 (Phase III); see also Order of August 20, 1978 in Docket No. RP71-29.

¹⁴ Section 7(c) of the Natural Gas Act, 15 U.S.C. § 717(c).

Commission authorizes abandonment of service.¹⁵

The certificate rather than the specific contract controls the terms of the service.¹⁶ Moreover, the interpretation of the service agreement is clearly within the Commission's jurisdictional purview.¹⁷

It is, therefore, appropriate for the Commission to determine in a carefully delimited proceeding the effect of Transco's service agreements upon various claims asserted in connection with curtailments in service made pursuant to Commission-approved orders, rules and regulations.

The interpretation and effect of Transco's gas tariff curtailment provisions and the Commission's approval thereof are also matters appropriately entrusted to the Commission pursuant to its regulatory authority under the Natural Gas Act. It is well established that the interpretation and effect of tariff provisions approved by a federal regulatory agency are ordinary uniquely within the agency's primary and exclusive jurisdiction.¹⁸ All of the reasons traditionally cited for the assertion of the primary jurisdiction doctrine, viz., special competency and expertise of the administrative agency, necessity to avoid disruption of the overall regulatory scheme and the necessity for uniformity of regulation are extant in the instant Transco request for the interpretation of its gas tariff curtailment provisions.¹⁹ The courts and this Commission have recognized the primary jurisdiction of the Commission over the interpretation and determination of the effect of the tariff provisions at issue in litigation closely akin to that involved in the instant petition.²⁰

Therefore, Transco's petition is granted in part to establish a process to interpret and determine the effect(s) of the petitioner's gas tariff curtailment provisions and service agreements and of the Commission's orders, rules and regulations. The Presiding Administrative Law Judge shall be

¹⁵ *California v. Southland Royalty Co.*, 436 U.S. 519, 526 (1978).

¹⁶ *Id.* at 56-57.

¹⁷ *Gulf Oil Corp. v. FPC*, 563 F.2d 588, 596-97 (3d Cir. 1977).

¹⁸ *U.S. v. Western Pacific Railroad Co.*, 352 U.S. 50 (1956); *Southwestern Sugar and Molasses Co. v. River Terminals Corp.*, 360 U.S. 411 (1959).

¹⁹ *United States v. Western Pacific* 352 U.S. 50 (1956); *United States v. R.C.A.*, 358 U.S. 334 (1959); *Ricci v. Chicago Mercantile Exchange*, 409 U.S. 289 (1973); *Nader v. Allegheny Airlines*, 426 U.S. 290 (1976).

²⁰ *Mississippi Power & Light Co. v. FPC*, 532 F.2d 412 (1976); *Texasgulf Inc. v. United Gas Pipeline Co.*, Civil Action No. 71-2253 (D.C.D.C. February 13, 1979); Order of August 9, 1978 *United Gas Pipeline Company*.

empowered to determine the extent to which this question presents factual as well as legal issues which require an evidentiary hearing and shall delineate the scope of the limited proceeding accordingly in view of the substantial record already developed in the other Commission and court proceedings involving the curtailment of Transco's system. Such parts of the records in these other Commission and court proceedings which are material to this inquiry may be incorporated therein. The Commission, however, emphasizes that it declines to consider specific questions of negligence or wrongful conduct or those involving ultimate contract liability premised upon negligence or wrongful conduct.

C. Transco also petitions the Commission for the institution of a proceeding to inquire into the effect of an award of damages against Transco upon the Commission's ability to carry out its responsibilities under Sections 4, 5, and 7 of the Natural Gas Act. This request is apparently designed to encompass the specific Transco request in the petition for a declaratory order that a damage award based on curtailment of service would constitute an undue preference and discrimination under the Natural Gas Act and would unduly and adversely affect the Commission's ability to allocate fairly the gas supplies available to Transco.

The Commission's authority with respect to determining under Section 4(b) of the Natural Gas Act whether an undue preference or advantage has been granted to any person or whether any person has been subjected to any undue prejudice or disadvantage has been described as being without limitation.²¹ The issue of undue preference raised in the context of curtailment damages suits, therefore, present novel questions within the Commission's exclusive jurisdiction. However, while the Commission possesses the authority to set aside any contractual provision creating an undue preference,²² the threshold question here relates to whether an undue preference is created by the award of damages in the context of curtailment suits.²³

Due to the novel and difficult questions presented, the Commission accepts the issue of whether an undue preference or advantage has been or

²¹ See 15 U.S.C. § 717(c)(b); *Michigan Consolidated Gas Co. v. Panhandle Eastern Pipeline Co.*, 173 F.2d 784, 789 (6th Cir. 1949).

²² *State of Louisiana v. FPC*, 503 F.2d 844, 864 (1974).

²³ The Commission has accepted the referral of the undue preference or advantage issue in *United Gas Pipeline Co.* Docket Nos. RP71-29, et al. (Phase III). Order of August 9, 1978.

would be granted to any person, or whether any person has been or would be subjected to undue prejudice or disadvantage in connection with the award of damages for curtailment of service on Transco's system and what, if any, steps should be taken in response to this situation. Although this question involves predominantly legal issues suitable for the submission of briefs by interested parties and trial staff, the presiding Administrative Law Judge shall be empowered to institute a limited evidentiary hearing to the extent that this question presents factual issues not already adequately developed in other Commission and court proceedings involving the curtailment on Transco's system. Such parts of the records in these other Commission and court proceedings which are material to this inquiry may be incorporated therein.

The Commission believes that there is no present need, however, to depart from its previous position in *United*,²⁴ which declined to consider the broader questions raised by Transco's request for the institution of a proceeding to inquire into the effects of an award of damages against Transco upon the Commission's ability to carry out its responsibilities under Section 4, 5 and 7 of the Natural Gas Act and to determine whether an award of damages would unduly and adversely affect the Commission's ability to allocate fairly the gas supplies available to Transco. It is premature at this time for the Commission to consider such issues in view of the fact that the district court judgment against Transco is now on appeal to the U.S. Court of Appeals for the Fourth Circuit and such issues cannot be answered effectively without speculating as to Transco's liability. As previously mentioned, the Commission will not adjudicate ultimate liability and therefore declines this request except with respect to the undue preference issue.

III. Issues Raised in Transco's Petition for a Declaratory Order

Transco has requested findings and a declaratory order that the natural gas shortage on Transco's system was caused by intervening events and factors beyond Transco's control and further that Transco reacted to offset the shortage on its system in good faith and in a reasonable and prudent manner under conditions then existing. In light of the Commission's declination to institute a proceeding to inquire into the facts and circumstances that resulted in

²⁴ See Order of August 9, 1978 in *United Gas Pipeline Company*, mimeo., pp. 16-17.

the shortage of gas on Transco's pipeline system, the Commission emphasizes its intention not to adjudicate negligence or wrongful conduct questions and, therefore, herein declines to issue a declaratory order as to these two requests which concern the causation of the shortage of gas on Transco's system and the reasonableness and prudence of Transco's actions.

Transco next seeks a declaratory order that its curtailment tariff provisions and service agreements are in compliance with Commission rules and regulations. The Commission understands this request to contemplate Transco's technical compliance with Commission rules and regulations, viz., that Transco has filed for and has received the necessary FERC regulatory approvals with respect to its curtailment tariff provisions and service agreements. There is no material controversy regarding this request as Transco has dutifully filed proposed interim and permanent curtailment plans which have been approved by the FPC and this Commission.²⁵ Transco has been operating under either a court-ordered or Commission-approved curtailment plan since 1971.

Nor has there been any uncertainty as to Transco's compliance with the Commission's regulatory requirements in regard to its service agreements at issue. In this regard, the FPC issued a certificate of public convenience and necessity to Transco to construct a lateral from its main pipeline into northeastern North Carolina and southeastern Virginia in order to expand service to, *inter alia*, the North Carolina Natural Gas Company (NCCNGC) pursuant to a twenty year service agreement.²⁶ NCCNGC supplies CF and Farmers. The Commission, therefore, finds that Transco's curtailment tariff provisions and service agreements are in technical compliance with Commission rules and regulations and so grants the requested declaratory order with respect to this issue. This finding, however, in no way addresses the issue of causation of or blameworthiness for the curtailment on Transco's system.

A declaratory order that compliance with such tariff provisions is a complete defense to any claims for damages for breach of contract is also sought by

Transco. The legal authority of the Commission to issue such an order is at best doubtful in light of language in two Fifth Circuit decisions which suggests serious reservations as to the legal validity of such a Commission order.²⁷ The Commission need not reach this question, however, because it adheres to its traditional position of declining to adjudicate issues of ultimate contract liability which properly belong to the courts.²⁸ The Commission believes that the declaratory order sought by Transco with respect to the issue of whether Transco's compliance with curtailment tariff provisions is a complete defense to breach of contract damage claims clearly involves questions of ultimate contract liability and, therefore, is appropriately entrusted to the courts for ultimate resolution.

Finally, Transco requests the Commission to make specific findings and issue a declaratory order that an award of damages for curtailment of service would constitute an undue preference and discrimination under the Natural Gas Act and would unduly and adversely affect the Commission's ability to fairly allocate the gas supplies available to Transco. This issue has been previously discussed in this order (see Part II(C), *supra*), the resolution of which being the Commission's acceptance of the undue preference and discrimination issue for briefing by interested parties and trial staff and possibly for a limited evidentiary hearing and the Commission's non-acceptance of the issue of whether an award of damages would unduly and adversely affect the Commission's ability to fairly allocate the gas supplies to Transco. The resolution of this request with respect to the undue preference question, therefore, must await subsequent action after briefs have been submitted and the limited evidentiary hearing, if necessary, has been held.

In accordance with the March 19, 1979 notice of the Transco petition published at 44 Fed. Reg. 18073 (1979), petitions to intervene were required to be filed on or before April 10, 1979. The following petitions to intervene were filed in a timely fashion and intervention should be granted as to the parties listed below.

Consolidated Edison Company of New York, Inc.; North Penn Gas Company; Pennsylvania Gas and Water Company; Philadelphia Gas Works, Public Service Commission of the state of New York; Public Service Company of North Carolina, Inc.; Delmarva Power and Light Company; North

Carolina Natural Gas Corporation; Public Service Electric and Gas Company; Atlanta Gas Light Company; Texas Gas Transmission Corporation; United Gas Pipeline Company; Interstate Natural Gas Association of America; Washington Gas Light Company; Elizabethtown Gas Company; North Carolina Utilities Commission; Columbia Gas Transmission Corporation; The Brooklyn Union Gas Company; Piedmont Natural Gas Company, Inc.; CF Industries, Inc. and Farmers Chemical Association, Inc.; Consolidated Gas Supply Corporation; The American Textile Manufacturers Institute, Inc.; Philadelphia Electric Company; General Motors Corporation; and Carolina Pipeline Company.

The following petitions to intervene were received after the April 10, 1979 deadline:

South Jersey Gas Company; Eastern Shore Natural Gas Company; Commonwealth Gas Pipeline Corporation; Long Island Lighting Company; Virginia Electric and Power Company (VEPCO).

VEPCO states that it did not become aware of the proceeding until after the filing deadline. The Commission finds good cause to grant VEPCO's petition to intervene. The other untimely petitioners did not state reasons for their late filings. The Commission, nevertheless, finds good cause to grant these petitions in view of their substantial interest in this proceeding.

The Commission finds and orders:

(A) That Transco's request to institute a proceeding to inquire into the facts and circumstances that resulted in the shortage of gas on its system is herein denied for the reasons stated above.

(B) That a proceeding be instituted to interpret and determine the effect(s) of Transco's gas tariff curtailment provisions and service agreements and of the Commission's orders, rules and regulations relevant thereto consistent with the foregoing procedural and substantive limitations regarding the scope of such proceeding.

(C) That the proceeding established by paragraph (B) in the context of this order also address the issue of whether an undue preference or advantage has been or would be granted to any person, or whether any person has been or would be subjected to undue prejudice or disadvantage in connection with the award of damages for curtailment of service on Transco's system and what, if any, steps should be taken in response to this situation, and that such issue be addressed in accordance with the procedural directions stated above.

(D) That all other requests for the institution of proceedings in Transco's petition are herein denied for the reasons stated above.

(E) Transco's request for declaratory order that its actions with respect to

curtailment of deliveries have been reasonable and prudent is herein denied for the reasons stated above.

(F) Transco's request for declaratory order that its curtailment tariff provisions and service agreements are in compliance with Commission rules and regulations is hereby granted provided that such declaratory order is understood to be strictly limited to technical compliance with Commission rules and regulations.

(G) That Transco's request for a declaratory order that its curtailment tariff provisions form a complete defense to claims for damages for breach of contract is herein denied for the reasons stated above.

(H) An Administrative Law Judge, to be designated by the Chief Administrative Law Judge for that purpose (see Delegation of Authority, 18 CFR § 3.5(d)), shall preside at the prehearing conference and subsequent hearing in this proceeding, with authority to establish and change all procedural dates and to rule on all motions (with the exception of motions to consolidate or sever and motions to dismiss), as provided by the Rules of Practice and Procedure.

(I) The above listed interveners are permitted to intervene in the instant proceeding subject to the rules and regulations of the Commission; *Provided, however*, that participation of such interveners shall be limited to matters affecting asserted rights and interests as specifically set forth in the petitions to intervene; and *Provided, further*, that the admission of such interveners shall not be construed as recognition by the Commission that they might be aggrieved because of any order of the Commission entered in the proceeding.

By the Commission.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-26453 Filed 8-23-79; 8:45 am]
BILLING CODE 6450-01-M

Western Area Power Administration Colorado River Storage Project (CRSP); Revised Proposed Power Rate Adjustment

AGENCY: Western Area Power Administration (Western), Department of Energy.

ACTION: Announcement of a public information forum for the CRSP revised proposed power rate adjustment.

SUMMARY: The Western Area Power Administration initially proposed a 38-percent rate increase for CRSP firm and peaking power as published at 44 FR 19533 (April 3, 1979) and amended by 44 FR 30759 (May 29, 1979). Public information forums were held in Phoenix, Arizona, on April 24, 1979; in Salt Lake City, Utah, on April 25, 1979; and in Denver, Colorado, on April 26, 1979. A public comment forum was held in Salt Lake City, Utah, on June 26, 1979, and written comments were received until the close of the comment period on July 11, 1979.

A public information forum is scheduled to be held in the Grand Ballroom Number One, of the Hotel Utah, Main and South Temple Streets, Salt Lake City, Utah.

DATES: The public information forum will be held at 9 a.m. on September 5, 1979.

ADDRESSES: Interested persons wishing further information should contact: Mr. A. M. Gabiols, Area Manager, Salt Lake City Area Office, Western Area Power Administration, P.O. Box 11606, Salt Lake City, UT 84147, Telephone: 801-524-5493.

SUPPLEMENTAL INFORMATION: Additional written comments concerning the revised proposed rate adjustment for the CRSP, submitted on or before October 5, 1979, will be considered. Interested persons wishing to submit written comments pertaining to the proposed rate adjustment on CRSP shall mail three (3) copies of such comments to each of the following:

Mr. A. M. Gabiols, Area Manager, Salt Lake City Area Office, Western Area Power Administration, P.O. Box 11606, Salt Lake City, UT 84147, Telephone: 801-524-5493.

Mr. Robert L. McPhail, Administrator, Western Area Power Administration, Department of Energy, P.O. Box 3402, Golden, CO 80401, Telephone: 301-231-1511.

Mr. George S. McIsaac, Assistant Secretary for Resource Applications, Office of Resource Applications, Department of Energy, 12th and Pennsylvania Avenue NW., Washington, DC 20461, Telephone: 202-633-9222.

Issued in Golden, Colorado, August 17, 1979.

Robert L. McPhail,
Administrator.

[FR Doc. 79-26414 Filed 8-23-79; 8:45 am]
BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL 1304-6]

Availability of Environmental Impact Statements

AGENCY: Office of Environmental Review; Environmental Protection Agency.

PURPOSE: This Notice lists the Environmental Impact Statements which have been officially filed with the EPA and distributed to Federal Agencies and interested groups, organizations and individuals for review pursuant to the Council on Environmental Quality's Regulations (40 CFR Part 1506.9).

PERIOD COVERED: This Notice includes EIS's filed during the week of August 13 to August 17, 1979.

REVIEW PERIODS: The 45-day review period for draft EIS's listed in this Notice is calculated from August 24, and will end on October 9, 1979. The 30-day wait period for final EIS's as calculated from August 24, 1979 will end on September 24, 1979.

EIS AVAILABILITY: To obtain a copy of an EIS listed in this Notice you should contact the Federal agency which prepared the EIS. This Notice will give a contact person for each Federal agency which has filed an EIS during the period covered by the Notice. If a Federal agency does not have the EIS available upon request you may contact the Office of Environmental Review, EPA for further information.

BACK COPIES OF EIS'S: Copies of EIS's previously filed with EPA or CEQ which are no longer available from the originating agency are available from the Environmental Law Institute, 1346 Connecticut Avenue, Washington, D.C. 20036.

FOR FURTHER INFORMATION CONTACT: Kathi Weaver Wilson, Office of Environmental Review (A-104), Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460 (202) 245-3006.

SUMMARY OF NOTICE: On July 30, 1979, the CEQ Regulations became effective. Pursuant to § 1506.10(a), the 30 day wait period for final EIS's received during a given week will now be calculated from Friday of the following week. Therefore, for all final EIS's received during the week of August 13 through August 17, 1979, the 30 day wait period will be calculated from August 24, 1979. The wait period will end on September 24, 1979.

Appendix I sets forth a list of EIS's filed with EPA during the week of August 13 to August 17, 1979, the Federal

²⁵ Order of November 15, 1971, 46 FPC 1212 (1971) approving interim settlement; Order of November 15, 1972, 48 FPC 1060 (1972) approving another interim settlement agreement; Opinion No. 778, October 8, 1976 prescribing permanent plan, and Opinion 778-a, December 8, 1976 denying rehearing; Order of January 19, 1979 in Docket No. RP72-99 approving settlement; Order of August 2, 1979 denying rehearing.

²⁶ See Docket No. CP68-155, 39 FPC 663 (1968).

²⁷ *International Paper Co. v. F.P.C.*, 476 F.2d 121, 125 (5th Cir. 1973); *State of Louisiana v. Federal Power Commission*, 503 F.2d 844, 867 (5th Cir. 1974).

²⁸ See, Order of August 9, 1978 in *United Gas Pipeline Company, supra*.

agency filing the EIS, the name, address, and telephone number of the Federal agency contact for copies of the EIS, the filing status of the EIS, the actual date the EIS was filed with EPA, the title of the EIS, the State(s) and County(ies) of the proposed action and a brief summary of the proposed Federal action and the Federal agency EIS number if available. Commenting entities on draft EIS's are listed for final EIS's.

Appendix II sets forth the EIS's which agencies have granted an extended review period or a waiver from the prescribed review period. The Appendix II includes the Federal agency responsible for the EIS, the name, address, and telephone number of the Federal agency contact, the title, State(s) and County(ies) of the EIS, the date EPA announced availability of the EIS in the Federal Register and the extended date for comments.

Appendix III sets forth a list of EIS's which have been withdrawn by a Federal agency.

Appendix IV sets forth a list of EIS retractions concerning previous Notices of Availability which have been made because of procedural noncompliance with NEPA or the CEQ regulations by the originating Federal agencies.

Appendix V sets forth a list of reports or additional supplemental information on previously filed EIS's which have been made available to EPA by Federal agencies.

Appendix VI sets forth official corrections which have been called to EPA's attention.

Dated: August 21, 1979.

William N. Hedeman, Jr.,
Director, Office of Environmental Review.

Appendix I.—EIS's Filed With EPA During the Week of August 13 to 17, 1979

DEPARTMENT OF AGRICULTURE

Contact: Mr. Barry Flamm, Coordinator, Environmental Quality Activities, Office of the Secretary, U.S. Department of Agriculture, Room 412A, Washington, D.C. 20250 (202) 447-3965.

Forest Service

Draft

Lake Tahoe Basin, Eldorado, Tahoe, and Toiyabe NFS, several counties in California and Nevada, August 17: Proposed is a land management plan for the Lake Tahoe Basin management unit located in the Eldorado, Tahoe and Toiyabe National Forests within the counties of El Dorado, Placer and Alpine, California and Washoe and Douglas Counties, Nevada. The preferred alternative emphasizes water-oriented recreation where it can be served by the existing utility system. Most new recreational development would be required to be near water attractions such as Lake Tahoe, other lakes, the Truckee River,

and major streams. Other features include: 1) ski development; 2) motorized and nonmotorized dispersed recreation; 3) timber cutting; and 4) placement of roads, and sewer and power lines. (EIS order #90887)

Mt. Baker-Snoqualmie NF Timber Management Plan, several counties in Wash., August 14: Proposed is a ten year timber resource management plan for the Mt. Baker-Snoqualmie National Forest located in King, Pierce, Skagit, Snohomish, and Whatcom Counties, Washington. The preferred alternative includes planting genetically superior stock; fertilization and full stocking control including thinning (both precommercial and commercial); reforestation of backlog; interplanting; and brush, disease, and animal control. The other alternatives considered include: 1) no change, 2) extensive management, and 3) declining flow. (DES-06-05-79-10.) (EIS Order #90881.)

Draft Supplement

Fox unit land management plan, Six Rivers NF, Del Norte County, Calif., August 17: This statement supplements a final EIS, #40600, filed 4-16-74 concerning a land management plan for 30,000 acres of land known as the Fox unit of the Six Rivers National Forest located in Del Norte County, California. The plan divides the unit into seven resource zones of varying sizes. Resource management and development including timber management and associated road construction will occur primarily in three of the zones. The other five zones will remain essentially undeveloped. This statement provides additional information concerning geology, erosion, water quality, and fisheries. (USDA-FS-R5-FES-SUPP(ADM)74-25.) (EIS Order #90888.)

U.S. Army Corps of Engineers

Contact: Mr. Richard Makinen; Office of Environmental Policy, Attn: Daen-CWR-P, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 20 Massachusetts Avenue, Washington, D.C. 20314 (202) 272-0121.

Final

Lynnhaven Inlet, Bay & Connecting Waters, Dredging, Chesapeake County Va., August 16: Proposed is maintenance dredging of Lynnhaven inlet and bay to authorized dimensions which will require the removal of approximately 100,000 cubic yards at 2-3 year intervals. Disposal will be on a 6-acre portion of a 17 acre site which the city of Virginia Beach, Virginia is attempting to acquire. The area is designed for use as a permanent dredged material disposal area in conjunction with a state operated boat launching facility. The material placed at the disposal site will be transported by truck to the ocean front, Virginia Beach for the purposes of sand replenishing. (Norfolk district.) Comments made by: EPA DOI DOC HUD USDA state agencies (EIS order No. 90883.)

Final Supplement

Grand Isle and Vicinity, Beach Erosion, Jefferson County, La., August 17: This statement supplements a final EIS filed in September 1976 concerning beach erosion and hurricane protection for Grand Isle and vicinity located in Jefferson Parish, Louisiana.

The project will consist of a 2,600-foot stone jetty at Caminada Pass to stabilize the western end of Grand Isle and a sandfill dune and berm extending approximately 7.5 miles along the island's gulf shore. Sandfill for the dune and berm will be dredged from nearshore bottoms. Five alternatives are considered. (New Orleans district.) Comments made by: AHP, USDA, DOC, HEW, DOI, DOT, EPA, FERC, State and local agencies (EIS order No. 90889.)

ENVIRONMENTAL PROTECTION AGENCY

Final contact: Mr. Daniel Sullivan, Region II, Environmental Protection Agency, 26 Federal Plaza, New York, New York 10007 (212) 264-1858.

WWT Facilities, Ramapo River Basin, Grants, Orange, Rockland Counties, N.Y., August 16: Proposed is the issuance of construction grants for wastewater treatment facilities in the Ramapo River Basin, Orange and Rockland Counties, New York. The recommended plan would expand and upgrade the wastewater treatment plant (WTP) of the Village of Suffern; would upgrade the WTPS serving the village and hamlet of Tuxedo Park; and continue the present method of wastewater management in other areas. Comments made by: USDA, DOI, HUD, EPA, DOC, State and local agencies (EIS order No. 90884.)

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Contact: Mr. Richard H. Broun, Director, Office of Environmental Quality, Room 7274, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410 (202) 755-6306

Final

Verdemar Housing Complex, Humacao, Puerto Rico, August 13: Proposed is the construction of the Verdemar Housing project in Humacao, Puerto Rico. The residential complex will occupy 98 cuerdas (93.2 acres) of land and will consist of 761 dwelling units. Plans also call for the construction of playlots, parks, lakes, and a cultural center. Comments made by: DOI NRC HUD DOT EPA USDA GSA DOE HEW State agencies (EIS order #90874.)

Plaza Renacimiento, Stage 3, San Juan, Puerto Rico, August 13: The proposed action involves development of 42.61 cuerdas of land in Rio Piedras, San Juan, Puerto Rico. The complete project consists of 10 towers providing 2,500 apartments, approximately, for low and moderate income families. This statement addresses the third stage of the project which includes construction of four towers, a recreational plaza, a swimming pool, a passive park and a cultural center. Application has been made for home mortgage insurance funding through HUD. Comments made by: USDA DOE HEW DOI EPA DOT VA State agencies (EIS order # 90878.)

Section 104(H)

The following are community development block grant statements prepared and circulated directly by applicants pursuant to section 104(H) of the 1974 housing and community development act. Copies may be obtained from the office of the appropriate

local executive. Copies are not available from HUD.

Final

High service transmission main, Alexander City, Tallapoosa County, Ala., August 14: Proposed is the issuance of CDBG funds for the construction of a water main to connect the proposed new water treatment facility near Lake Martin, to the presently existing Alexander City water distribution system. The water main will be of adequate size to provide the households, businesses, and industries in Alexander City, Tallapoosa County, Alabama with sufficient potable water for their daily needs and will also provide fire protection. The alternatives considered include: 1) no action, 2) enlargement of present facilities, and 3) construction of new facilities with a new source of supply. (HUD-B-78-NH-01-0001.) Comments made by: USDA FERC EPA AHP DOI State and local agencies (EIS order # 90879.)

DEPARTMENT OF INTERIOR

Contact: Mr. Bruce Blanchard, Director, Environmental Project Review, Room 4256 Interior Bldg., Department of the Interior, Washington, D.C. 20240 (202) 343-3891.

National Park Service

Final

Big Bend National Park, Master Plan, Brewster County, Tex., August 13: Proposed is the master plan for Big Bend National Park located in Brewster County, Texas, which establishes goals for development and administration of park areas. The plan encompasses a land area of 706,118 acres, 533,900 of which is to be designated as wilderness to be included under the national wilderness preservation system. Within the remaining 174,218 acres, the plan proposes to continue development of, or upgrading of existing facilities in already established use areas and the park in general. (FES-79-32.) Comments made by: DOI USDA COE DJUS TREA EPA State agencies individuals (EIS order No. 90875.)

DEPARTMENT OF TRANSPORTATION

Contact: Mr. Martin Convisser, Director, Office of Environmental Affairs, U.S. Department of Transportation, 400 7th Street, SW., Washington, D.C. 20590 (202) 426-4357.

Federal Aviation Administration

Final

Fort Wayne Municipal Airport, Baer Field, Allen County, Ind., August 17: Proposed is the expansion of the airport facilities at Fort Wayne Municipal Airport, Baer Field, Fort Wayne, Allen County, Indiana. This proposal will involve the acquisition of approximately 342 acres, extending runway 13/13 and parallel taxiway from 6200 feet to 7200 feet, relocating instrument landing system, and approach light system strengthening the entire 9000 ft. length of runway 4/22, and associated road closings and improvements.

Comments made by: DOT DOI USDA COE (EIS order No. 90891.)

Federal Highway Administration

Final

Dubuque North-West Arterial, U.S. 20 to U.S. 52/IA-3, Dubuque County, Iowa, August 14: The proposed project pertains to the construction of a divided four-lane highway facility beginning at U.S. 20 in the vicinity of its intersection with Crescent Ridge Road in the west-central portion of Dubuque, and a proceeding northerly to intersect with U.S. 52 and IA-3 northerly of West Thirty-second Street, a distance of approximately 5.0 miles. The project is located within the Dubuque metropolitan area in Dubuque County, Iowa. (FHWA-IOWA-EIS-78-01-1.) Comments made by: DOI COE State Agencies, Groups (EIS Order No. 90880.)

Final

IA-14, East High Street to East Linn Street, Marshall County, Iowa, August 15: The proposed study provides for four-lane construction of a 0.9 mile section of existing Iowa 14 in Marshalltown, from just South of East High Street at South Center Street northerly and easterly to East Linn Street at South Third Avenue. The project will require the acquisition of sufficient right-of-way to accommodate the construction of a four-lane facility. The project is located in Marshall County, Iowa. (FHWA IOWA-EIS-77-06-F.) Comments made by: HUD DOI EPA COE State and local agencies, groups (EIS order No. 90882.)

East Loop 363, from U.S. 190 to I-35, Temple City, Bell County, Tex., August 14: Proposed is construction of a two-lane highway with a 24 foot roadway with paved shoulders and interchange structures known as East Loop 363 located near Temple City, Bell County, Texas. The project will begin at U.S. 190 south of Temple and extend approximately 6.7 miles to I-35 north of Temple. The alternatives include alternate routes and no build. (FHWA-TEX-EIS-78-03-F.) Comments made by: DOT COE USDA DOI EPA State and local agencies (EIS Order No. 90878.)

West Seattle Bridge, Spokane Street Corridor, King County, Wash., August 14: The proposed project located in Seattle, King County, Washington, is to construct a replacement bridge system for the West Seattle Corridor. The project area would extend from the vicinity of the Alaskan way viaduct across Harbor Island and the East and West waterways of the Dowamish River and connect with the existing West Seattle Freeway near Puget Ridge. The preferred alternative separates express or through traffic from local traffic by use of a fixed bridge slightly south of the existing alignment. (FHWA-WA-EIS-78-06-F.) Comments made by: HUD DOT DOI DOE COE EPA State and local agencies groups, individuals and businesses (EIS order No. 90877.)

NATIONAL SCIENCE FOUNDATION

Contact: Mr. John Giacomini, Special Assistant for Operations Astronomical,

Atmospheric Earth and Ocean Sciences, Room 641, National Science Foundation, 1800 G Street, NW., Washington, D.C. 20550 (202) 632-7360.

Draft

US Antarctic Program, Continuation, Antarctica, August 17: Proposed is the continuation of the current US Antarctic program. This program is a large multidisciplinary scientific effort consisting of two activities: 1) scientific research and 2) operations support. The scientific research projects conducted at four year-round stations and temporary field camps in Antarctica, and aboard ships in the surrounding oceans. The operations support activity includes transportation of personnel and materials to, from, and within Antarctica; construction and maintenance of stations, field camps and other facilities; and general logistics support for all US scientific activities in the Antarctic. (EIS Order No. 90886.)

NUCLEAR REGULATORY COMMISSION

Contact: Mr. Richard E. Cunningham, Director, Division of Fuel Cycle and Material Safety, U.S. Nuclear Regulatory Commission, Mail Stop SS-396, Washington, D.C. 20455 (301) 427-4485.

FINAL

Spent Light Water Power Reactor Fuel, August 16: Proposed is a generic EIS on spent fuel storage prepared in response to a directive from the Commissioners published in the Federal Register, September 16, 1975 (40 FR 44801). The Commission directed the staff to analyze alternatives for the handling and storage of spent light water power reactor fuel with particular emphasis on developing long range policy. Accordingly, the scope of this statement examines alternative methods of spent fuel storage as well as the possible restriction or termination of the generation of spent fuel through nuclear power plant shutdown. (NUREG-0575.) Comments made by: DOI COE HEW TVA DOE EPA State agencies individuals and businesses (EIS Order No. 90885.)

VETERANS ADMINISTRATION

Contact: Mr. Willard Sittler, Director, Environmental Affairs Office (66), Veterans Administration, 810 Vermont Avenue, Washington, D.C. 20420 (202) 389-2526.

Final

Oklahoma City VA Medical Center, Addition, Canadian; Cleveland; Oklahoma, Counties in Okla., August 17: Proposed is the construction of a new clinical addition to the VA Medical Center in Oklahoma City which includes portions of Canadian, Cleveland, and Oklahoma Counties, Oklahoma. Seismic deficiencies will also be corrected in portions of the Medical Center. The addition will provide expanded facilities for ambulatory care, clinical and administrative services, radiology, nuclear medicine, laboratory cardiac catheterization, nursing education, canteen service, and pharmacy. New ambulance entrances will be constructed. Comments made by: GSA DOT DOI HUD EPA State and local agencies (EIS Order No. 90890.)

EIS's Filed During the Week of August 13 to August 17, 1979

(Statement Title Index—By State and County)

State	County	Status	Statement title	Accession No.	Dated filed	Orig Agency No.
Alabama	Tallapoosa	Final	Spent Light Water Power Reactor Fuel	90885	08-16-79	NRC
Antarctica		Final	High Service Transmission Main, Alexander City	90879	08-14-79	HUD
California		Draft	U.S. Antarctic Program, continuation	90886	08-17-79	NSF
		Draft	Lake Tahoe Basin, Eldorado, Tahoe, and Toiyabe National Forest Service	90887	08-17-79	USDA
	Del Norte	Supple	Fox Unit Land Management Plan, Six Rivers National Forest	90888	08-17-79	USDA
Indiana	Allen	Final	Fort Wayne Municipal Airport, Baer Field	90891	08-17-79	DOT
Iowa	Dubuque	Final	Dubuque North-West Arterial, U.S. 20 to U.S. 52/IA-3	90880	08-14-79	DOT
	Marshall	Final	IA-14, East High Street to East Linn Street	90882	08-15-79	DOT
Louisiana	Jefferson	Final	Suppl Grand Isle and Vicinity, Beach Erosion	90889	08-17-79	COE
Nevada		Draft	Lake Tahoe Basin, Eldorado, Tahoe, and Toiyabe National Forest Service	90887	08-17-79	USDA
New York	Orange	Final	WWT Facilities, Ramapo River Basin, Grants	90884	08-16-79	EPA
	Rockland	Final	WWT Facilities, Ramapo River Basin, Grants	90884	08-16-79	EPA
Oklahoma	Canadian	Final	Oklahoma City Va. Medical Center, addition	90890	08-17-79	VA
	Cleveland	Final	Oklahoma City Va. Medical Center, addition	90890	08-17-79	VA
	Oklahoma	Final	Oklahoma City Va. Medical Center, addition	90390	08-17-79	VA
Puerto Rico		Final	Verdemar Housing Complex, Humacao	90874	08-13-79	HUD
Texas	Bell	Final	Plaza Renacimiento, Stage 3, San Juan	90878	08-13-79	HUD
	Brewster	Final	East Loop 363, from U.S. 190 to I-35, Temple City	90878	08-14-79	DOT
Virginia	Chesapeake	Final	Big Bend National Park, Master Plan	90875	08-13-79	DOT
		Final	Lynnhaven Inlet, Bay and Connecting Waters, Dredging	90883	08-16-79	COE
Washington	Several	Draft	Mt. Baker-Snoqualmie National Forest Timber Management Plan	90881	08-14-79	USDA
	King	Final	West Seattle Bridge, Spokane Street Corridor	90877	08-14-79	DOT

Appendix II.—Extension/Waiver of Review Periods on EIS's Filed With EPA

Federal agency contact	Title of EIS	Filing status/accession No.	Dated notice of availability published in "Federal Register"	Waiver/extension	Date review terminates
DEPARTMENT OF COMMERCE Dr. Sidney R. Galler, Deputy Assistant Secretary, Environmental Affairs, Department of Commerce, Washington, D.C. 20230, (202) 377-4335.	South Carolina Coastal Zone Management Program	Final 90855	Aug. 17, 1979, see app. L	Waiver	Sept. 8, 1979.

Appendix III.—EIS's Filed With EPA Which Have Been Officially Withdrawn by the Originating Agency

Federal agency contact	Title of EIS	Filing status/accession No.	Dated notice of availability published in "Federal Register"	Date of withdrawal
DEPARTMENT OF TRANSPORTATION Mr. Martin Convisser, Director, Office of Environmental Affairs, U.S. Department of Transportation, 400 7th Street, S.W., Washington, D.C. 20590, (202) 426-4357.	Northfield-Williamstown, State Highway VT-12 to I-89, Washington and Orange Counties, Vermont	Draft supp. 90828	Aug. 10, 1979	Aug. 21, 1979

Appendix IV.—Notice of Official Retraction

Federal agency contact	Title of EIS	Status/number	Dated notice published in "Federal Register"	Reason for retraction
None.				

Appendix V.—Availability of Reports/Additional Information Relating to EIS's Previously Filed With EPA

Federal agency contact	Title of report	Date made available to EPA	Accession No.
None.			

Appendix VI.—Official Correction

Federal agency contact	Title of EIS	Filing status/accession No.	Dated notice of availability published in "Federal Register"	Correction
DEPARTMENT OF AGRICULTURE Mr. Barry Flamm, Coordinator, Environmental Quality Activities, Office of the Secretary, U.S. Department of Agriculture, Room 412A, Washington, D.C. 20250, (202) 447-3965.	East Side Green River Watershed Protection, Flood Protection, Washington.	Final 90697	July 20, 1979	This EIS was incorrectly listed as a draft EIS. The correct status is final. Comments will be due on Aug. 8, 1979.
DEPARTMENT OF COMMERCE Dr. Sidney R. Galler, Deputy Assistant Secretary, Environmental Affairs, Department of Commerce, Washington, D.C. 20230, (202) 377-4335.	Knoxville International Energy Exposition.	Final supp. 90873	Aug. 17, 1979	This EIS was incorrectly published in the Aug. 17, 1979 FEDERAL REGISTER with the draft supplement accession number and received date. The correct accession number and received date for the final supplement is #90873 and Aug. 10, 1979.

[FR Doc. 79-26478 Filed 8-23-79; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1304-4; PFT-36]

Pesticide Programs; Filing of Feed Additive Petition

Ciba-Geigy Corp., PO Box 11422, Greensboro, NC 27409, has submitted a petition (FAP 9H5231) to the Environmental Protection Agency (EPA) which proposes that 21 CFR 561.53 be amended by permitting the combined residues of the insecticide profenofos [O-(4-bromo-2-chlorophenyl)-O-ethyl-S-propyl phosphorothioate] and its metabolite converted to 4-bromo-2-chlorophenyl and calculated as O-(4-bromo-2-chlorophenyl)-O-ethyl-S-propyl phosphorothioate in connection with a proposed experimental program involving the application of the insecticide in the growing of soybeans with tolerance limitations of 2.0 parts per million (ppm) in or on soybean meal and hulls. Notice of this submission is given pursuant to the provisions of section 409(b)(5) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on this petition. Comments may be submitted, and inquiries directed, to Product Manager (PM) 16, Room E-343, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M St., SW, Washington, DC 20460, telephone number 202/426-9458. Written comments should bear a notation indicating the petition number "FAP 9H5231". Comments may be made at any time while the petition is pending before the Agency. All written comments filed pursuant to this notice will be available for public inspection in the Product Manager's office from 8:30 a.m. to 4:00 p.m., Monday through Friday, excluding holidays.

Dated: August 20, 1979.

Herbert S. Harrison,
Acting Director, Registration Division.

[FR Doc. 79-26467 Filed 8-23-79; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1304-8; PF-147]

Pesticide Programs; Filing of Pesticide/Food/Feed Additive Petitions

Pursuant to sections 408(d)(1) and 409(b)(5) of the Federal Food, Drug, and Cosmetic Act, the Environmental Protection Agency (EPA) gives notice that the following petitions have been submitted to the Agency for consideration.

PP 9F2235. ICI Americas Inc., Concord Pike and New Murphy Road, Wilmington, DE 19897. Proposes that 40 CFR 180.365 be amended by establishing tolerances for the combined residues of the insecticide 2-(dimethylamino)-5,6-dimethyl-4-pyrimidinyl dimethylcarbamate and its metabolites 5,6-dimethyl-2-(formylmethylamino)-4-pyrimidinyl (dimethylamino)-5,6-dimethyl-4-(methylamino)-4-pyrimidinyl dimethylcarbamate (both calculated as parent) in or on the raw agricultural commodities apples at 1.0 part per million (ppm) and cottonseed at 0.05 ppm. The proposed analytical method for determining residues is by gas-liquid chromatography using a nitrogen-specific detector.

FAP 9H5232. ICI Americas Inc. Proposes that 21 CFR 193 be amended by permitting the combined residues of the above insecticide in the commodity cottonseed oil at 0.2 ppm. FAP 9H5232. ICI Americas Inc. Proposes that 21 CFR 561 be amended by permitting the combined residues of the above insecticide in or on the commodities apply pomace and pulp at 2.0 ppm.

Interested persons are invited to submit written comments on these petitions. Comments may be submitted, and inquiries directed, to Product Manager (PM) 16, Room E-343, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M St., SW,

Washington, DC 20460, telephone number 202/426-9458. Written comments should bear a notation indicating the petition number to which the comments pertain. Comments may be made at any time while a petition is pending before the Agency. All written comments filed pursuant to this notice will be available for public inspection in the Product Manager's office from 8:30 a.m. to 4:00 p.m., Monday through Friday, excluding holidays.

Dated: August 20, 1978.

Herbert Harrison,
Acting Director, Registration Division.

[FR Doc. 79-26465 Filed 8-23-79; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1304-7; PF-146]

Pesticide Programs; Filing of Feed Pesticide Petitions

Pursuant to sections 408(d)(1) and 409(b)(5) of the Federal Food, Drug, and Cosmetic Act, the Environmental Protection Agency (EPA) gives notice that the following petitions have been submitted to the Agency for consideration.

PP 9F2231. E. I. du Pont de Nemours and Co., Wilmington, DE 19898. Proposes that 40 CFR 180.253 be amended by establishing tolerances for residues of the insecticide methomyl (S-methyl-N-[(methylcarbamoyl)oxy] thioacetimidate) in or on the raw agricultural commodities peanut hay and forage at 10 parts per million (ppm). The proposed analytical method for determining residues is by microcoulometric gas chromatography.

PP 9F2238. E. I. du Pont de Nemours and Co. Proposes that 40 CFR 180.303 be amended by establishing tolerances for residues of the insecticide oxamyl (methyl N-methyl-N-[(methylcarbamoyl)oxy]-1-thiooxamidate in or on the raw agricultural commodities peanuts and peanut hulls at 0.2 ppm and peanut hay at 10.0 ppm. The proposed analytical method for determining residues is by flame photometric gas chromatography.

Interested persons are invited to submit written comments on these petitions. Comments may be submitted, and inquiries directed, to Product Manager (PM) 12, Room E-335, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M St., SW., Washington, DC 20460, telephone number 202/426-2635. Written comments should bear a notation indicating the petition number to which the comments pertain. Comments may be made at any time while the petition is pending before the Agency. All written comments filed pursuant to this notice will be available for public inspection in the Product Manager's office from 8:30 a.m. to 4:00 p.m., Monday through Friday, excluding holidays.

Dated: August 20, 1979.

Herbert S. Harrison,

Acting Director, Registration Division.

[FR Doc. 79-26466 Filed 8-23-79; 8:45 am]

BILLING CODE 6560-01-M

DEPARTMENT OF HEALTH, EDUCATION AND WELFARE

Food and Drug Administration

[Docket No. 79N-01901 DEST 5378]

Amphetamines; Drugs for Human Use; Drug Efficacy Study Implementation; Amendment or Previous Notice and Opportunity for Hearing

Correction

In FR Doc. 79-21953, published at page 41552, on Tuesday, July 17, 1979, the following corrections should be made:

1. On page 41552, in the third column, in the paragraph labeled #2, "NDA 5-540 Methedrine Tablets containing" should be corrected to read "NDA 5-504 Methedrine Tablets containing";

2. On page 41553, in the second column, in the paragraph #22, in the fifth line, "table" should be corrected to read "tablet";

3. On page 41553, in the third column, in the third paragraph:

a. In the second line "September 35, 1973" should be corrected to read "September 25, 1973";

b. In the sixteenth line "NDAO." should be corrected to read "NDA.";

c. In the twenty-first line, "58i7" should be corrected to read "587";

4. On page 41556, in the third column, in paragraph #12, in the twenty-third

line "For other used" should be corrected to read "For other uses".

BILLING CODE 1505-01-M

[Docket No. 79-N0179]

Beecham Laboratories; Sansalid (Uredofos) Tablets; Opportunity for Hearing on Withdrawal of Approval of NADA

Correction

In FR Doc. 79-22005, published at page 41727, on Tuesday, July 17, 1979, the following corrections should be made:

1. On page 41737, in the third column, in the eighth line, "were" should be deleted;

2. On page 41738, in the first column, in paragraph #11, in the eighth line "(dichlorros)" should be corrected to read "(dichlorvos)";

3. On page 41739:

a. In the first column, in the seventh line of the second paragraph, "hypersensitivity" should be corrected to read "hypersensitivity";

b. In the second column, in the eighth line of the seventh paragraph, "ensure" should be corrected to read "ensure";

4. On page 41740, in the third column, in paragraph D, in the sixth line "and" should be corrected to read "any";

5. On page 41741:

a. In the second column, in the twenty-first line of the third paragraph, "(2) giving the reasons by" should be corrected to read "(2) giving the reasons why";

b. In the third column, in the seventeenth and eighteenth lines of the second paragraph "elsewhere is this of" should be corrected to read "elsewhere in this issue of".

BILLING CODE 1505-01-M

[Docket No. 78N-0116; DESI 11792]

Carisoprodol in Combination with Phenacetin and Caffeine with or without Codeine Phosphate; and Carisoprodol 250-Milligram Capsules; Drug Efficacy Study Implementation; Reevaluation; Correction

AGENCY: Food and Drug Administration.

ACTION: Correction.

SUMMARY: In Document 79-13553 appearing at page 26165 in the Federal Register for Friday, May 4, 1979, in column two of page 26166, the last sentence of the paragraph entitled "Carisoprodol; and Carisoprodol, Phenacetin and Caffeine," should be changed to read "Carisoprodol does not directly relax tense skeletal muscles in man."

FOR FURTHER INFORMATION CONTACT: Suzanne O'Shea, Bureau of Drugs (HFD-32), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3650.

Dated: August 14, 1979.

Jerome A. Halperin,

Acting Director, Bureau of Drugs.

[FR Doc. 79-26028 Filed 8-23-79; 8:45 am]

BILLING CODE 4110-03-M

[Docket No. 79N-0304; DESI 1730]

Combination Drugs Containing Butabarbital and Hydrochlorothiazide; Withdrawal of Approval of New Drug Application

AGENCY: Food and Drug Administration.
ACTION: Withdrawal of approval.

SUMMARY: This notice withdraws approval of the new drug application (NDA 13-312) for Butizide-25 and Butizide-50 Prestabs containing butabarbital and hydrochlorothiazide. The basis of the withdrawal is that the drug products lack substantial evidence of effectiveness for their labeled indications. These combination drug products, previously used to treat hypertension, are no longer marketed.

EFFECTIVE DATE: September 4, 1979.

ADDRESS: Requests for the opinion of the applicability of this notice to a specific product should be identified with the reference number DESI 1730 and directed to the Division of Drug Labeling Compliance (HFD-310), Bureau of Drugs, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Douglas I. Ellsworth, Bureau of Drugs (HFD-32), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3650.

SUPPLEMENTARY INFORMATION: In a notice of opportunity for hearing (DESI 1730, Docket No. FDC-D-534, now Docket No. 79N-0304) published in the Federal Register of December 23, 1972 (37 FR 28433), the agency proposed to issue an order withdrawing approval of the new drug applications for certain drugs containing amobarbital and dioxylone phosphate; phenobarbital and theobromine calcium salicylate; or butabarbital and hydrochlorothiazide, with and without reserpine. The proposed order was based on the lack of substantial evidence of effectiveness according to the fixed-combination drug policy (21 CFR 300.50).

In response to the December 23, 1972 notice, McNeil Laboratories, Inc.,

requested a hearing for Butizide-25 and Butizide-50 Prestabs containing butabarbital and hydrochlorothiazide (NDA 13-312) and Butiserpazide-25 and Butiserpazide-50 Prestabs containing butabarbital, hydrochlorothiazide, and reserpine (NDA 13-313). Approval of the other new drug applications was withdrawn in a Federal Register notice of May 2, 1973 (38 FR 10828), as no other application holder or any other person filed a written notice of appearance and request for a hearing as provided by the December 23, 1972 notice.

Subsequent to the May 2, 1973 notice, McNeil Laboratories, Inc. discontinued the manufacture of Butizide-25 and Butizide-50 Prestabs and withdrew its hearing request concerning these products. Approval of the new drug application for these products is now being withdrawn.

NDA 13-312; Butizide-25 and Butizide-50 Prestabs, prolonged action tablets containing butabarbital and hydrochlorothiazide; McNeil Laboratories, Inc., Camp Hill Rd., Fort Washington, PA 19034.

The request for a hearing concerning Butiserpazide-25 and Butiserpazide-50 is under review and will be the subject of a future notice. The notice that follows, therefore, does not apply to NDA 13-313, and marketing of these products may continue pending a ruling on the hearing request.

Any drug product that is identical, related, or similar to the drug products named above and is not the subject of an approved new drug application is covered by the new drug application reviewed and is subject to this notice (21 CFR 310.6). Any person who wishes to determine whether a specific product is covered by this notice should write to the Division Drug Labeling Compliance at the address given above.

The Director of the Bureau of Drugs, under the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1052-1053 as amended (21 U.S.C. 355)), and under the authority delegated to him (21 CFR 5.82), finds that, on the basis of new information before him with respect to the drug products, evaluated together with the evidence available to him when the application was approved, there is a lack of substantial evidence that the drug products will have the effects they purport or are represented to have under the conditions of use prescribed, recommended, or suggested in the labeling.

Therefore, pursuant to the foregoing findings, approval of NDA 13-312 and all its amendments and supplements is withdrawn effective September 4, 1979.

Shipment in interstate commerce of the products for which approval is

withdrawn or of any identical, related, or similar product that is not the subject of an approved new drug application will then be unlawful. The products described above that are the subject of a pending hearing request may continue to be marketed.

Dated: August 14, 1979.

Jerome A. Halperin,

Acting Director, Bureau of Drugs.

[FR Doc. 79-26031 Filed 8-23-79; 8:45 am]

BILLING CODE 4110-03-M

[Docket No. 78P-0078]

Newport Research Corp.; Approval of Variance for Laser-Aimed Firearms

Correction

In Fr. Doc. 79-21954, published at page 41549, on Tuesday, July 17, 1979, the following corrections should be made:

1. On page 41551, in the first column, in the first full paragraph, in the eleventh line, "misues" should be corrected to read "misuse";

2. On page 41551, in the second column, in the first full paragraph, in the fifteenth line, "emerging" should be corrected to read "emergency".

BILLING CODE 1505-01-M

[Docket No. 79N-0309; DESI 5079]

Phenylmercuric Nitrate; Withdrawal of Approval of New Drug Application

AGENCY: Food and Drug Administration.
ACTION: Withdrawal of approval.

SUMMARY: This notice withdraws approval of the new drug application (NDA) 5-079 for Merpectogel Vaginal Jelly, formerly manufactured by William P. Poythress & Co., Inc.

EFFECTIVE DATE: August 24, 1979.

FOR FURTHER INFORMATION CONTACT: Suzanne O'Shea, Bureau of Drugs (HFD-32), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3650.

SUPPLEMENTARY INFORMATION: In a notice (DESI 5079, Docket No. FDC-D-245, now Docket No. 79N-0309) published in the Federal Register of July 27, 1972 (37 FR 15034), FDA announced its conclusions, based on a report of the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on the efficacy of the following drug product:

NDA 5-079; Merpectogel Vaginal Jelly containing phenylmercuric nitrate and pectin; formerly marketed by William P. Poythress and Co., Inc., 16 N. 22nd St., P.O. Box 26946, Richmond, VA 23261.

The drug was classified as effective for maintaining vaginal hygiene; and possibly effective as a dressing for burns, chronic ulcers, and slow-healing wounds, and as a treatment for vaginal infections. The drug was found to lack substantial evidence of effectiveness for its claim related to prevention of postsurgical tissue infection.

Poythress submitted no data in support of the less-than-effective indications. Therefore, all indications initially classified as less-than-effective are now considered as lacking substantial evidence of effectiveness.

On June 20, 1979, Poythress submitted a written request that the new drug application for Merpectogel Vaginal Jelly be withdrawn as the drug product has not been marketed since 1971 and the firm has no further interest in it.

The Director of the Bureau of Drugs, under the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1052-1053, as amended (21 U.S.C. 355)), and under authority delegated to him (21 CFR 5.82) withdraws approval of new drug application 5-079 and all applicable supplements and amendments upon the applicant's request for withdrawal. The withdrawal is effective August 24, 1979.

Shipment in interstate commerce of the above product will then be unlawful.

Dated: August 14, 1979.

Jerome A. Halperin,

Acting Director, Bureau of Drugs.

[FR Doc. 79-26030 Filed 8-23-79; 8:45 am]

BILLING CODE 4110-03-M

[Docket No. 78G-0061]

Pro-Star Mills Ltd.; Withdrawal of Petition for Affirmation of Gras Status

AGENCY: Food and Drug Administration.
ACTION: Notice.

SUMMARY: This document announces the withdrawal without prejudice of the petition (GRASP-7G0089) proposing that pea protein concentrate, pea fiber, and pea starch used in food be affirmed as generally recognized as safe (GRAS).

FOR FURTHER INFORMATION CONTACT: Corbin I. Miles, Bureau of Foods (HFF-335), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, DC 20204, 202-472-4750.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b), 72 Stat. 1786 (21 U.S.C. 348(b))), the following notice is issued:

In accordance with § 171.7 *Withdrawal of petition without prejudice* of the procedural food additive regulations (21 CFR 171.7), Pro-

Star Mills Ltd., 817 48th St. East, Saskatoon, Saskatchewan, Canada S7K0X5, has withdrawn its petition (GRASP-7G0089), notice of which was published in the Federal Register of April 7, 1978 (43 FR 14738), proposing that pea protein concentrate, pea fiber, and pea starch used in food be affirmed as GRAS.

Dated: August 13, 1979.
Sanford A. Miller,
Director, Bureau of Foods.
[FR Doc. 79-26032 Filed 8-23-79; 8:45 am]
BILLING CODE 4110-03-M

[Docket No. 79F-0243]

Pennwalt Corp.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.
ACTION: Notice.

SUMMARY: Pennwalt Corporation has filed a petition proposing that the food additive regulations be amended to provide for the safe use of dodecylbenzene sulfonic acid and isopropyl alcohol as components of sanitizing solutions for use on food processing equipment and utensils, and on glass bottles and other glass containers intended for holding milk.

FOR FURTHER INFORMATION CONTACT: Gerard L. McCowin, Bureau of Foods (HFF-334), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1788 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 91-3429) has been filed by Pennwalt Corp., Three Parkway, Philadelphia, PA 19102, proposing that the food additive regulations be amended to provide for the safe use of dodecylbenzene sulfonic acid and isopropyl alcohol as components of sanitizing solutions for use on food processing equipment and utensils, and on glass bottles and other glass containers intended for holding milk.

The environmental impact analysis report and other relevant material have been reviewed, and it has been determined that the proposed use of the additive will not have a significant environmental impact. Copies of the environmental impact analysis report may be seen in the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 15, 1979.
Robert M. Schaffner,
Acting Director, Bureau of Foods.
[FR Doc. 79-25890 Filed 8-23-79; 8:45 am]
BILLING CODE 4110-03-M

[Docket No. 79P-0054]

CGR Medical Corp; Approval of Variance for Lateral Fluoroscopic Automatic Field Limiter

AGENCY: Food and Drug Administration.
ACTION: Notice.

SUMMARY: The agency announces the approval of a variance from the performance standard for diagnostic x-ray systems and their major components for the Lateral Fluoroscopic Automatic Field Limiter, manufactured by CGR Medical Corp. The manufacturer submitted a petition for the variance, and the Director of the Bureau of Radiological Health has determined that the primary x-ray beam may exceed the primary protective barrier under certain conditions not addressed by the standard and that suitable protection will be provided. Thus, critical fluoroscopic procedures may continue uninterrupted when the automatic field limiter's failure necessitates switching to override.

DATES: The variance becomes effective September 24, 1979 and ends September 24, 1981; written objections by September 24, 1979.

ADDRESS: Written objections should be sent to the Hearing Clerk, (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Raymond F. Coakley, Jr., Bureau of Radiological Health (HFX-460), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3426.

SUPPLEMENTARY INFORMATION: Section 1020.32(a)(1) (21 CFR 1020.32(a)(1)) of the performance standard for diagnostic x-ray systems and their major components requires that a primary protective barrier (PPB) be in position to intercept the entire useful beam before an x-ray tube used for fluoroscopy can produce x-rays. This provision of the standard assures that radiation cannot be produced without the image receptor in place and thus unnecessarily expose patients and attendant personnel. In practice, a system of mechanical and electrical interlocks disables x-ray emission when the PPB is out of position. The Fluoroscopic Automatic Field Limiter manufactured by CGR

Medical Corp., 2519 Wilkens Ave., Baltimore, MD 21203, performs the function of a PPB in this manufacturer's fluoroscopic system. The product restricts the x-ray to the image receptor at all source-to-image-distances (SID) and in all axes for which the system is designed. In one configuration, the system permits (while in compliance with the relevant section of the standard) oblique lateral fluoroscopy. When the procedure is begun with all system components operating properly, the patient and medical personnel are appropriately safeguarded. However, in the case of a system malfunction during a procedure, the patient would be placed in serious jeopardy if the procedure were prematurely terminated by the automatic termination of the x-ray exposure.

In a notice published in the Federal Register of May 9, 1978 (43 FR 19879), the agency proposed to amend the performance standard (21 CFR 1020.32(b)) to permit, in case of system failure, a capability for overriding the automatic x-ray field size adjustment on fluoroscopic x-ray systems, if appropriate labeling is provided. The manufacturer's petition notes that it is possible for a system malfunction to occur wherein the PPB may no longer be fully intercepting the x-ray beam. The proposed override capability would not apply, and the procedure would have to be terminated. In light of this possibility, the manufacturer has requested a variance from § 1020.32 (a)(1) to provide an override capability in case of a system failure in the Fluoroscopic Automatic Field Limiter. The advantages to be derived from this variance are related to patient safety during life-endangering procedures when a field limiting system fails. The procedure would be interrupted only as long as it takes the operator to turn on the override key. Image quality would be maintained because no change in SID would be required. The practitioner would be free to decide to continue or not based on his judgment with respect to patient benefit and attendant risk. With suitable user instructions and warning labels and signals, radiation protection can be maintained.

It must be clearly understood that this variance will allow a procedure which is begun with a fluoroscopic system in compliance with the standard (21 CFR 1020.32) to continue to completion. This override capability will not permit the system to be set up in an unsafe mode in order to perform a procedure for which

the system is not designed. Thus, the PPB will be in proper position and the override switch turned off at the beginning of the lateral fluoroscopy. The override capability allows the procedure to continue when the interlock system later fails but the protective barriers do not. The warning signal is given so that attendant personnel can take whatever precautions they deem necessary.

The Director, Bureau of Radiological Health, agrees that the added override capability is a necessary safety feature and that radiation protection to attendant personnel can be maintained with the use of this product. The capability to complete lateral fluoroscopic procedures is particularly needed because these special procedures would be likely to involve a high percentage of patients who are critically ill. However, adequate warning must be provided to personnel who are in the room when the machine is operating in the override mode, so they will know precautions must be taken to avoid exposure. Therefore, in addition to user instructions and appropriate labeling, two specific requirements must be met: (1) The override switch must be labeled with an appropriate sign warning that its use is hazardous and must occur only in case of Fluoroscopic Automatic Field Limiter failure; and (2) a warning light and/or sound perceptible to all in the x-ray room must continue when the main power switch and the override are both on.

On condition of prior approval of the labeling and warning provision, the Director approves the requested variance from § 1020.32(a)(1) to allow the use of an override capability in case of system failure during a lateral oblique fluoroscopic procedure. The manufacturer is directed to modify, in accordance with § 1010.4(d) (21 CFR 1010.4(d)), the tags, labels, or other certification required by § 1010.2 (21 CFR 1010.2) and permanently affixed to or inscribed upon products that are marketed under this variance, to state the following: "This product complies with Variance No. 79P-0054 effective on September 24, 1979."

The agency has reviewed the potential environmental impact of this variance and has concluded that the action will not significantly affect the quality of the human environment, and that an environmental impact statement is not required. An environmental impact assessment report is on file in the office of the Hearing Clerk, Food and Drug Administration, address above.

Variance No. 79P-0054 becomes effective on September 24, 1979, for the manufacture of 10 product units per

year, and ends September 24, 1981, unless written objections and supporting documentation, identified with Hearing Clerk Docket No. 79P-0054, are filed with the Hearing Clerk (HFA-305), Food and Drug Administration, address above, on or before September 24, 1979, requesting that the variance be modified or not granted. Upon receipt of objections and supporting documentation, the agency will stay the effective date of the variance until the Director, Bureau of Radiological Health, rules on them. Under § 1010.4(c)(3) (21 CFR 1010.4(c)(3)), the applicant will be notified of the stay by certified mail, and a notice of the stay will be published in the Federal Register. FDA will rule on the objections within 60 days. The ruling will be published in the Federal Register and will constitute final agency action subject to judicial review under section 358(d) of the Public Health Service Act, as amended by the Radiation Control for Health and Safety Act of 1968 (the act) (42 U.S.C. 263f(d)).

The application for this variance and all related correspondence, except information covered by the confidentiality provisions of section 360A(e) of the act (42 U.S.C. 263i(e)), have been placed on public display in the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, and may be seen from 9 a.m. to 4 p.m. Monday through Friday.

Dated: August 16, 1979.
William F. Randolph,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-26346 Filed 8-23-79; 8:45 am]
BILLING CODE 4110-03-M

Consumer Participation; Open Meeting

AGENCY: Food and Drug Administration.
ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces a forthcoming consumer exchange meeting to be chaired by George R. White, District Director, District Office, Atlanta, GA.

DATE: The meeting will be held 1 p.m. to 5 p.m., Thursday, August 30, 1979.

ADDRESS: The meeting will be held at the Carolina Inn, Cameron Ave., Chapel Hill, NC.

FOR FURTHER INFORMATION CONTACT: Faye P. Matlock, Consumer Affairs Officer, Food and Drug Administration, Department of Health, Education, and Welfare, 880 W. Peachtree St., NW., Atlanta, GA 30309, 404-881-7355.Q02

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to encourage dialogue between consumers and FDA officials, to identify and set priorities for current and future health concerns, to enhance relationships between local consumers and FDA's Atlanta District Office, and to contribute to the agency's policymaking decisions on vital issues.

Dated: August 17, 1979.
William F. Randolph,
Acting Associate Commissioner for Regulatory Affairs.
[FR Doc. 79-26345 Filed 8-23-79; 8:45 am]
BILLING CODE 4110-03-M

Health Resources Administration

Advisory Committee; Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92-463), announcement is made of the following National Advisory body scheduled to meet during the month of September 1979:

Name: National Advisory Council on Health Professions Education.
Date and Time: September 10-11, 1979, 8:30 a.m.
Place: Conference Room 7-32, Center Building, 3700 East-West Highway, Hyattsville, Maryland 20782.
Open September 10, 1979, 8:30 a.m.—12:30 p.m. (10:30 a.m.—12:30 p.m. will be structured study for Council members.)
Closed remainder of meeting.
Purpose: The Council advises the Secretary concerning the programs authorized by the Health Professions Educational Assistance Act of 1976, including recommendations on contracts, grant applications for construction, capitation, special projects, and financial need. These and other programs are designed to enable the health professions education institutions to meet the Nation's health manpower requirements.

Agenda: Agenda items for the open portion of the meeting will include Bureau Update, Update on 1980 Budget, consideration of minutes of previous meeting, and discussion of future meeting dates. The remainder of the meeting will be closed to the public for the review of applications for Grants for Mid-Career Training in Health Administration/Planning. The closing is in accordance with the provisions set forth in section 552b(c)(6), Title 5 U.S. Code, and the Determination by the Administrator, Health Resources Administration, pursuant to Public Law 92-463.

Anyone wishing to obtain a roster of members, minutes of meetings, or other relevant information should contact Mr. Robert L. Belsley, Bureau of Health Manpower, Room 4-27, Center Building, 3700 East-West Highway, Hyattsville, Maryland 20782, Telephone (301) 436-6564.

Agenda items are subject to change as priorities dictate.

Dated: August 13, 1979.
James A. Walsh,
Associate Administrator for Operations and Management.
 [FR Doc 79-26495 Filed 8-23-79; 8:45 am]
BILLING CODE 4110-83-M

Office of Education

National Advisory Council on Adult Education; Meeting

AGENCY: National Advisory Council on Adult Education.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the Orientation Ad Hoc Committee of the National Advisory Council on Adult Education. Notice of this meeting is required under the Federal Advisory Committee Act (Pub. L. 92-463, Sec. 10(a)(2)).
DATE: September 11, 1979, Noon to 10:00 p.m.; September 12, 1979, 8:00 a.m. to Noon.

ADDRESS: Holiday Inn, 1000 East 6th Street, Reno, Nevada.

FOR FURTHER INFORMATION CONTACT: Dr. Gary A. Eyre, Executive Director, National Advisory Council on Adult Education, 425 13th St., N.W., Washington, D.C. 20004 (202/376-8892).

SUPPLEMENTARY INFORMATION: The National Advisory Council on Adult Education is established under Section 313 of the Adult Education Act (20 U.S.C. 1201). The Council is directed to:

Advise the Commissioner in the preparation of general regulations and with respect to policy matters arising in the administration of this title, including policies and procedures governing the approval of State plans under section 306 and policies to eliminate duplication, and to effectuate the coordination of programs under this title and other programs offering adult education activities and services.

The Council shall review the administration and effectiveness of programs under this title, make recommendations with respect thereto, and make annual reports to the President of its findings and recommendations (including recommendations for changes in this title and other Federal laws relating to adult education activities and services). The President shall transmit each such report to the Congress together with his comments and recommendations.

The meeting of the Committee shall be open to the public.

The proposed agenda includes:

Orientation Meeting and Procedures—New Presidential Appointees.
 Orientation Materials.
 Committee Structures.
 Orientation Meeting Format with Urban Policy Meeting.

Records shall be kept of all Council proceedings, and shall be available for public inspection at the Office of the National Advisory Council on Adult Education, 425 13th St., NW., Suite 323, Washington, D.C. 20004.

Signed at Washington, D.C., on August 21, 1979.

Gary A. Eyre,
Executive Director, National Advisory Council on Adult Education.

[FR Doc. 79-26369 Filed 8-23-79; 8:45 am]
BILLING CODE 4110-02-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. D-79-579]

Certain HUD Employees in Denver Regional Office, Region VIII; Redefinition of Authority To Administer Oaths and Verify Complaints

Section A. Authority to Administer Oaths and Verify Complaints. The incumbents of the following positions in the Department of Housing and Urban Development, Denver Regional Office, are hereby authorized to administer oaths under Section 811(a) of Title VIII (Fair Housing) of the Civil Rights Act of 1968 (Pub. L. 90-284 (42 U.S.C. 3611(a))) and to verify complaints filed under the Civil Rights Act of 1968:

1. Director, Fair Housing and Equal Opportunity Compliance Division.
2. Director, Program Compliance and Operations Division.
3. Equal Opportunity Specialists.
4. Equal Opportunity Program Assistant.

Section B. Superseding. This redefinition of authority supersedes the redefinition effective January 22, 1973 (38 FR 6422, March 9, 1973).

Redefinition of Authority by the Assistant Secretary for Fair Housing and Equal Opportunity effective April 2, 1976 (41 FR 14208, April 2, 1976).

Effective date: This redefinition of authority shall be effective July 1, 1979.

Sandra K. Woods

Regional Director for Fair Housing and Equal Opportunity, Denver Regional Office.

[FR Doc. 79-26348 Filed 8-23-79; 8:45 am]
BILLING CODE 4210-01-M

[Docket No. D-79-581]

Deputy Regional Administrator, Region IX, San Francisco; Designation

The officers appointed to the following listed positions in Region IX (San Francisco) are hereby designated to serve as Acting Deputy Regional

Administrator during the absence of the Deputy Regional Administrator, with all the powers, functions and duties redelegated or assigned to the Deputy Regional Administrator: *Provided*, That no officer is authorized to serve as Acting Deputy Regional Administrator unless the preceding officer in this designation is unable to act by reason of absence; *Provided, further*, That in the absence of both the Regional Administrator and the Deputy Regional Administrator, if the officer first designated below is serving as Acting Regional Administrator by virtue of other designations, the second officer designated below shall serve as Acting Deputy Regional Administrator.

1. Regional Counsel.
2. Director, Office of Regional Administration.

(Delegation of Authority to Designate Acting Regional Officers, 27 FR 4319, May 4, 1962.)

This designation shall be effective on May 1, 1979.

Emma D. McFarlin,

Regional Administrator, Region IX, San Francisco.

[FR Doc. 79-26350 Filed 8-23-79; 8:45 am]
BILLING CODE 4210-01-M

[Docket No. D-79-580]

Regional Director, Fair Housing and Equal Opportunity, Denver Regional Office; Redefinition of Authority With Respect To Fair Housing

Section A. Authority with respect to fair housing. The Regional Director, Fair Housing and Equal Opportunity, Denver Regional Office, is authorized to exercise the power and authority of the Secretary, Housing and Urban Development, under Title VIII (Fair Housing) of the Civil Rights Act of 1968, Pub. L. 90-284 (42 U.S.C. 3601-3619), except the authority to:

1. Make studies and publish reports under Section 808(e) of the Act (42 U.S.C. 3608(d)); and
2. Issue rules and regulations.

Section B. Authority to Redelegate. The Regional Director, Fair Housing and Equal Opportunity is further authorized to redelegate to subordinate employees in the Regional Office the authority of the Secretary to administer oaths under Section 811(a) of the Act (42 U.S.C. 3611(a)) and to verify complaints filed under the Civil Rights Act of 1968.

Section C. Superseding. This redefinition of authority supersedes the redefinition published at 38 FR 11821, June 19, 1971.

Redefinition of Authority by Assistant Secretary for Fair Housing

and Equal Opportunity effective April 2, 1976 (41 FR 14208, April 2, 1976).

Effective date: This redelegation of authority shall be effective, July 1, 1979.

Betty Miller,

Regional Administrator, Region VIII, (Denver).

[FR Doc. 79-26349 Filed 8-23-79; 8:45 am]
BILLING CODE 4210-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[F-19155-20]

Alaska Native Claims Selection and Easement Conformance; Notice for Publication

By decision dated June 26, 1978, among other things, certain lands were determined proper for regional selection and approved for interim conveyance or patent to Doyon, Limited, under the provisions of section 12(c) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 701; 43 U.S.C. 1601, 1611(a) (1976) (ANCSA). Additionally, that decision reserved certain public easements to the United States pursuant to section 17(b) of the ANCSA.

The decision of June 26, 1978, states that, "These reservations (section 17(b) easements) have not been conformed to the Departmental easement policy announced March 3, 1978. Conformance is contingent upon resolution of the litigation *Calista, et al v. Andrus, et al*, and implementation of the Secretary's new easement policy." On November 27, 1978, new section 17(b) easement regulations were published in the *Federal Register* as final rule making (43 FR 56326). The process of review by the Bureau of Land Management to bring easements into conformance with the regulations is now complete.

Accordingly, the decision of June 26, 1978, is modified by deleting paragraph 12 of the listed reservations to the United States and substituting the following new paragraph:

"Pursuant to sec. 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 708; 43 U.S.C. 1601, 1616(b) (1976)), the following public easements, referenced by easement identification number (EIN) on the easement maps attached to this document, copies of which will be found in case file F-21779-20, are reserved to the United States. All easements are subject to applicable Federal, State, or municipal corporation regulation. The following is a listing of uses allowed for each type of easement. Any uses which are not specifically listed are prohibited.

25 Foot Trail—The uses allowed on a twenty-five (25) foot wide trail easement are: travel by foot, dogsled, animals, snowmobiles, two and three-wheel vehicles, and small all-terrain vehicles (less than 3,000 lbs. Gross Vehicle Weight (GVW)).

50 Foot Trail—The uses allowed on a fifty (50) foot wide trail easement are: travel by foot, dogsled, animals, snowmobiles, two and three-wheel vehicles, small and large all-terrain vehicles, track vehicles, and four-wheel drive vehicles.

60 Foot Road—The uses allowed on a sixty (60) foot wide road easement are: travel by foot, dogsled, animals, snowmobiles, two and three-wheel vehicles, small and large all-terrain vehicles, track vehicles, four-wheel drive vehicles, automobiles, and trucks.

Easements to Be Reserved:

a. (EIN 2 C5) An easement for a proposed access trail twenty-five (25) feet in width from public lands in Sec. 36, T. 16 N., R. 17 E., Copper River Meridian, southeasterly through Sec. 1, T. 15 N., R. 17 E., Copper River Meridian, to public lands. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

b. (EIN 5 C5, L) An easement for an existing access trail fifty (50) feet in width from the Alaska Highway in Sec. 19, T. 16 N., R. 18 E., Copper River Meridian, easterly to public lands. The uses allowed are those listed above for a fifty (50) foot wide trail easement.

c. (EIN 14 C5, L) An easement for an existing access trail twenty-five (25) feet in width from the Alaska Highway in Sec. 11, T. 14 N., R. 19 E., Copper River Meridian, northerly to public lands. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

d. (EIN 40 C4) An easement for a proposed access trail fifty (50) feet in width from Sec. 36, T. 16 N., R. 19 E., Copper River Meridian, southeasterly to public lands. The uses allowed are those listed above for a fifty (50) foot wide trail easement.

e. (EIN 49b K) An easement one hundred (100) feet in width for an existing road and utility line from the Beaver Creek Relay Site in Sec. 28, T. 15 N., R. 19 E., Copper River Meridian, northerly to the AFTAC site in Sec. 21, T. 15 N., R. 19 E., Copper River Meridian. The uses allowed for the utility line are those activities associated with the operation and maintenance of the utility line facility and the uses allowed for the road are those listed above for a sixty (60) foot wide road easement. The uses are limited to the U.S. Government, its agents or assignees.

f. (EIN 52 C4, C5, E) An easement for a proposed access trail fifty (50) feet in width from a point in Sec. 31, T. 13 N., R. 18 E., Copper River Meridian, westerly

to public lands in Sec. 1, T. 12 N., R. 17 E., Copper River Meridian. The uses allowed are those listed above for a fifty (50) foot wide trail easement."

Except as modified by this decision, the decision of June 26, 1978, stands as written.

Notice of this decision is being published once in the *Federal Register* and once a week, for four (4) consecutive weeks, in the Fairbanks Daily News-Miner. Any person who claims a property interest in land which is adversely affected by the modification set forth in this decision (as to conformed section 17(b) easements), may appeal the decision to the Alaska Native Claims Appeal Board, P.O. Box 2433, Anchorage, Alaska 99510 with a copy served upon both the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513 and the Regional Solicitor, Office of the Solicitor, 510 L Street, Suite 408, Anchorage, Alaska 99501, also:

1. Any party receiving service of this decision shall have 30 days from the receipt of this decision to file an appeal.

2. Any unknown parties, any parties unable to be located after reasonable efforts have been expended to locate and any parties who failed or refused to sign the return receipt shall have until September 23, 1979 to file an appeal.

3. Any party known or unknown who may claim a property interest which is adversely affected by this decision as to the issue of section 17(b) easements, shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Alaska Native Claims Appeal Board.

If an appeal is taken, the adverse party to be served with a copy of the notice of appeal is:

Doyon, Limited, First and Hall Streets, Fairbanks, Alaska 99701.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeal. Further information on the manner of and requirement for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

Sue A. Wolf,

Acting Chief, Division of ANCSA Operations.

[FR Doc. 79-26385 Filed 8-23-79; 8:45 am]
BILLING CODE 4310-84-M

Proposed 5-Year Outer Continental Shelf Oil and Gas Lease Sale Schedule; Notice of Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has

prepared a draft environmental statement relating to a proposed Five-Year Outer Continental Shelf Oil and Gas Lease Sale Schedule, prepared according to section 18 of the Outer Continental Shelf Lands Act, as amended (92 Stat. 632).

Single copies of the draft environmental statement can be obtained from the Office of the Manager, New York Outer Continental Shelf Office, Bureau of Land Management, 28 Federal Plaza, Suite 32-120, New York, New York 10007; Office of the Manager, New Orleans Outer Continental Shelf Office, Bureau of Land Management, Hale Boggs Federal Building, Suite 841, 500 Camp Street, New Orleans, Louisiana 70130; Office of the Manager, Pacific Outer Continental Shelf Office, Bureau of Land Management, 7663 Federal Building, 300 North Los Angeles Street, Los Angeles, California 90012; Office of the Manager, Alaska Outer Continental Shelf Office, Bureau of Land Management, P.O. Box 1159, Anchorage, Alaska 99510, and from the Office of Public Affairs, Bureau of Land Management (130), Washington, D.C. 20240.

Copies of the draft environmental statement will also be available for review in public libraries located throughout the coastal States. Information regarding the location of libraries where copies of the statement will be available may be obtained from the OCS Offices listed above.

In accordance with 43 CFR 3314.1, public hearings will be held in New York, New York; New Orleans, Louisiana, Los Angeles, California; Anchorage, Alaska; and Washington, D.C. for the purpose of receiving comments and suggestions relating to the proposed lease schedule. The exact locations and dates of the hearings will be announced at a later date. Comments will be accepted until October 15, 1979.

After a public hearing is held and comments have been received and analyzed, a final environmental statement will be prepared.

Ed Hastey,

Associate Director, Bureau of Land Management.

Approved: August 21, 1979.

Larry E. Meierotto,
Secretary of the Interior.

[FR Doc. 79-26376 Filed 8-23-79; 8:45 am]

BILLING CODE 4310-84-M

[W-68635]

Wyoming; Application

August 16, 1979.

Notice is hereby given that pursuant to Sec. 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Colorado Interstate Gas Company of Colorado Springs, Colorado filed an application for a right-of-way to construct two 4½ inch O.D. pipelines, two 4' x 6' meter houses and related metering and dehydration facilities for the purpose of transporting natural gas across the following described public lands:

Sixth Principal Meridian, Wyoming

T. 17 N., R. 94 W.,

Sec. 4, N½SW¼;

Sec. 10, E½NW¼.

The proposed pipelines will transport natural gas from the Chorney-Federal #4-1 Well in the SW¼ of section 4 and the Madrid-Federal #10-1 Well in the NW¼ of section 10 to points of connection with existing pipelines. The proposed 4' x 6' metering houses and related metering and dehydration facilities are to be located entirely within the 50 foot right-of-way in the SW¼ of section 4 and the NW¼ of section 10, all within T. 17 N., R. 94 W., Sweetwater County, Wyoming.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, 1300 Third Street, P.O. Box 670, Rawlins, Wyoming 82301.

Harold G. Stinchcomb,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79-26384 Filed 8-23-79; 8:45 am]

BILLING CODE 4310-84-M

Bureau of Reclamation

Sioux Falls Unit, South Dakota

Pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a draft environmental statement for Sioux Falls Unit, South Dakota. This statement (INT DES 79-49,

dated July 30, 1979) was made available to the public on July 30, 1979.

The draft environmental statement covers impacts of constructing a reservoir on Slip Up Creek near the city of Sioux Falls, and associated pumping plans and pipelines for municipal water, recreation, and fish and wildlife development.

A public hearing will be held in Sioux Falls, South Dakota, at the Howard Johnson Motor Lodge on September 27 at 9:30 to 12:30 a.m., 2 to 5 p.m. and 7 p.m. until all presentations have been made, to receive views and comments from interested organizations or individuals relating to the environmental impacts of this project. Oral statements at the hearing will be limited to a period of 15 minutes. Speakers will not be allowed to trade their time to obtain a longer oral presentation; however, the person authorized to conduct the hearing may allow any speaker to provide additional oral comment after all persons wishing to make comment have been heard. Speakers will be scheduled according to the time preference mentioned in their letter or telephone request, whenever possible, and any scheduled speaker not present when called will lose his or her privilege in the scheduled order and his name will be recalled at the end of the scheduled speakers. Requests for scheduled presentation will be accepted up to 4 p.m. on September 25, and any subsequent requests will be handled on a first-come, first-served basis following the scheduled presentation.

Organizations or individuals desiring to present their statement at the hearing should contact the Project Manager, Missouri-Oahe Projects Office, Bureau of Reclamation, P.O. Box 825, 450 Dakota Avenue South, Huron, South Dakota 57350, telephone (605) 352-8651, extension 242, and announce their intention to participate. Written comments from those unable to attend, and from those wishing to supplement their oral presentation at the hearing should be sent on or before October 2, 1979, so that they can be included in the hearing record.

Dated: August 16, 1979.

Clifford I. Barrett,

Acting Commissioner.

[FR Doc. 79-26142 Filed 8-23-79; 8:45 am]

BILLING CODE 4310-09-M

Fish and Wildlife Service

Endangered Species Permit; Receipt of Application

Applicant: Regional Director, U.S. Fish and Wildlife Service, P.O. Box 95067, Atlanta, Georgia 30347.

The applicant requests a permit to take various species for short term surveys to document the presence of listed species.

Documents and other information submitted with this application are available to the public during normal business hours in Room 601, 1000 N. Glebe Road, Arlington, Virginia, or by writing to the Director, U.S. Fish and Wildlife Service (WPO) Washington, D.C. 20240.

This application has been assigned file number PRT 2-3996. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address on or before September 24, 1979. Please refer to the file number when submitting comments.

Dated: August 13, 1979.

Donald G. Donahoo,

Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc. 79-26253 Filed 8-23-79; 8:45 am]

BILLING CODE 4310-55-M

Endangered Species Permit; Notice of Receipt of Application

Applicant: E. G. and G., 130 Robin Hill Rd., Goleta, California 93017.

The applicant requests a permit to live trap and release San Joaquin kit foxes (*Vulpes macrotis mutica*) and blunt-nosed leopard lizards (*Crotaphytus silus*) for scientific purposes.

Humane care and treatment during transport has been indicated by the applicant.

Document and other information submitted with this application are available to the public during normal business hours in Room 601, 1000 N. Glebe Road, Arlington, Virginia, or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-4573. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address on or before September 24, 1979. Please refer to the file number when submitting comments.

Dated: August 16, 1979.

Fred L. Bolwahn,

Acting Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc. 79-26254 Filed 8-23-79; 8:45 am]

BILLING CODE 4310-55-M

Issuance of Permit for Marine Mammals and Endangered Species

On June 15, 1979, a Notice was published in the Federal Register (44 FR 34649), that an application has been filed with the Fish and Wildlife Service by Donald B. Siniiff and John R. Tester, University of Minnesota, Minneapolis, Minnesota 55455, for a permit to conduct research on sea otters (*Enhydra lutris*) in Alaska and California.

Notice is hereby given that on August 6, 1979, as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), the Fish and Wildlife Service issued a permit PRT 2-4114, to capture 20 sea otters in California and 300 in Alaska, attach telemetry devices and/or tags to the animals, collect blood samples and conduct other experiments as described in the application, subject to certain conditions set forth in the permit.

The permit is available for public inspection during normal business hours at the Fish and Wildlife Service's office in Room 601, 1000 N. Glebe Road, Arlington, Virginia.

Dated: August 14, 1979.

Donald G. Donahoo,

Chief, Permit Branch, Federal Wildlife Permit Office.

[FR Doc. 79-26256 Filed 8-23-79; 8:45 am]

BILLING CODE 4310-55-M

Threatened Species Permit; Receipt of Permit Renewal Request

Applicant: George H. Wilson, 3404 Old River Rd., Fallon, Nevada 89406.

The permittee wishes to renew his Captive Self-Sustaining Population permit authorizing the purchase and sale in interstate commerce, for the purpose of propagation, all species of pheasants listed in 50 CFR 17.11 as T(C/P). Humane shipment and care in transit is assured.

Documents and other information submitted with the permit file are available to the public during normal business hours in Room 601, 1000 N. Glebe Road, Arlington, Virginia, or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240.

This permit file has been assigned file number PRT 2-1219. Interested persons may comment on this file by submitting written data, views, or arguments to the Director at the above address on or

before September 24, 1979. Please refer to the file number when submitting comments.

Dated: August 16, 1979.

Fred L. Bolwahn,

Acting Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc. 79-26255 Filed 8-23-79; 8:45 am]

BILLING CODE 4310-55-M

National Park Service

Publication of a Boundary Map Charlestown Navy Yard, Boston NHP

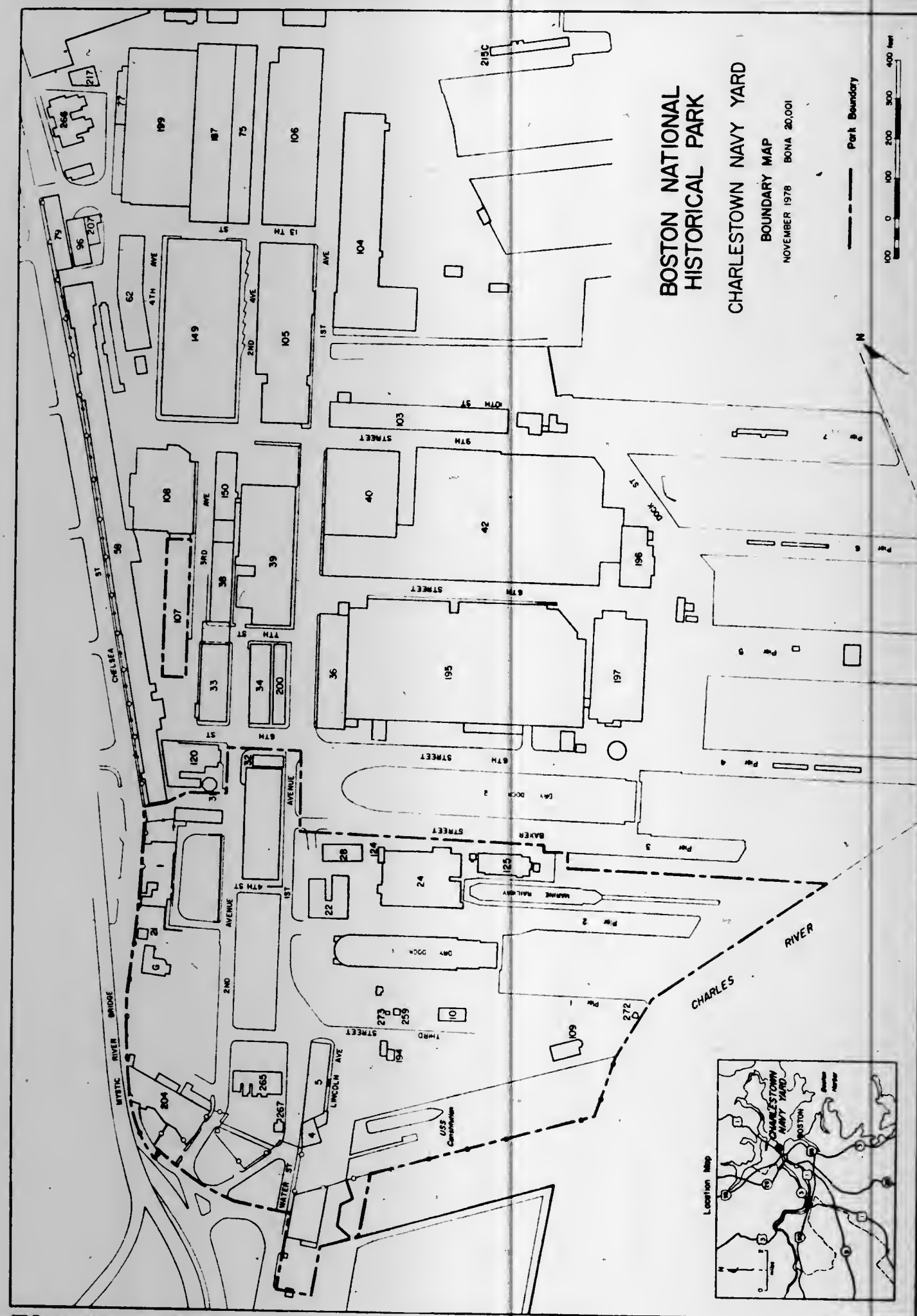
There is hereby published a boundary map which details the land associated with the Charlestown Navy Yard in the Boston National Historical Park in Boston, Massachusetts, pursuant to Pub. L. 95-625, Section 310. Comments on the Map should be addressed to Planning and Design Section, North Atlantic Region, National Park Service, 15 State Street, Boston, Massachusetts 02109.

Dated: August 16, 1979.

L. J. Hovig,

Acting Regional Director, North Atlantic Region.

BILLING CODE 4310-70-M



[FR Doc. 79-28401 Filed 8-23-79; 8:45 am]

BILLING CODE 4310-70-C

Publication of a Boundary Map Salem Maritime NHS, Salem, Mass.

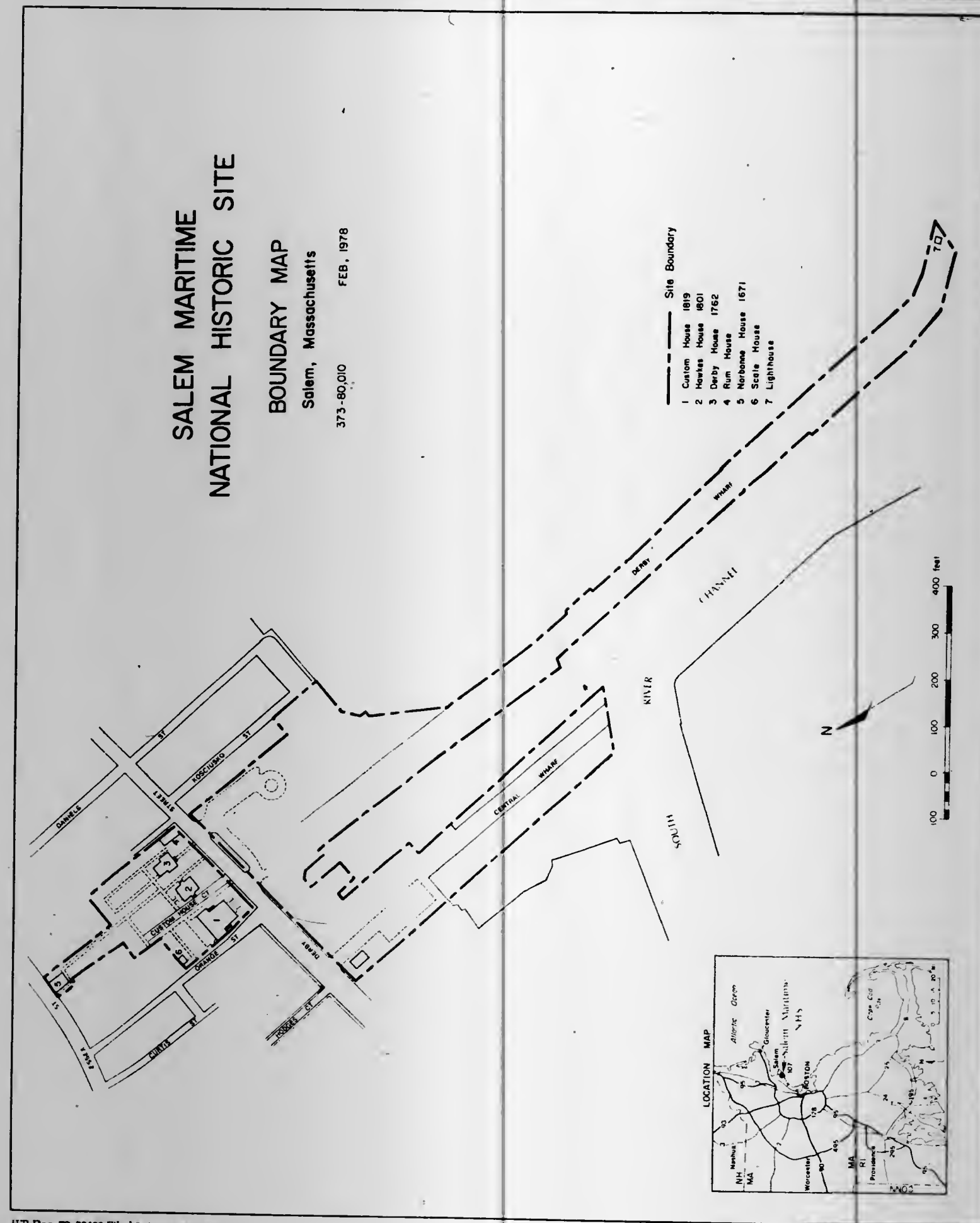
There is hereby published a boundary map which details the land which is being added to the Salem Maritime NHS, pursuant to Pub. L. 95-625, Section 301. Comments on the map should be addressed to Planning and Design Section, North Atlantic Region, National Park Service, 15 State Street, Boston, Massachusetts 02109.

Dated: August 16, 1979.

L. J. Hovig,

Acting Regional Director, North Atlantic Region.

BILLING CODE 4310-70-M



[FR Doc. 79-28400 Filed 8-23-79; 8:45 am]
BILLING CODE 4310-70-C

DEPARTMENT OF JUSTICE

Consent Judgment in Clean Air Act Enforcement Action

In accordance with Departmental policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that a proposed consent decree in *United States of America v. The Connecticut Charcoal Company* has been lodged with the United States District Court for the District of Connecticut. The decree requires that Connecticut Charcoal design and place into operation pollution abatement facilities to bring it beehive reduction kilns into compliance with the Connecticut air pollution regulations for particular matter and fugitive dust. The company has also agreed to pay to the United States a twelve thousand dollar civil penalty.

The Department of Justice will receive for a period of thirty (30) days from the date of this notice written comments relating to the proposed consent judgment. Comments should be addressed to the Assistant Attorney General, Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States v. Connecticut Charcoal Company*, D.J. Ref. 90-5-2-1-169.

The proposed consent decree may be examined at the office of the United States Attorney, 722 U.S.P.O. and Courthouse, 5th & Walnut Streets, Cincinnati, Ohio 45202, at the Region V office of the Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604, and at the Pollution Control Section, Land and Natural Resources Division, Department of Justice (Room 2625), Ninth Street and Pennsylvania Avenue, NW, Washington, DC 20530. A copy of the proposed consent decree may be obtained in person or by mail from the Pollution Control Section, Land and Natural Resources Division, Department of Justice.

James W. Moorman,
Assistant Attorney General, Land and
Natural Resources Division.

[FR Doc. 79-26386 Filed 8-23-79; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF LABOR

Mine Safety and Health Administration
[Docket No. M-79-18-M]Cotter Corp.; Petition for Modification
of Application of Mandatory Safety
Standard

Cotter Corporation, 8305 West

Alameda Parkway, Suite 201, Lakewood, Colorado 80226 has filed a petition to modify the application of 30 CFR 57.11-55 (emergency hoisting facilities) to its SM 18, CJP 21, CFR 7 and CJD 9 Mines located in Nucla, Colorado. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977, Pub. L. 95-164.

The substance of the petition follows:

1. As an alternative to locating an emergency hoisting facility at each of the above mines, the petitioner proposes to maintain a portable, truck-mounted emergency hoisting unit.
2. The truck-mounted unit will include a hoist, headframe and capsule.
3. Each of the affected mines is within a 25 mile radius of Nucla, Colorado where the emergency hoisting unit will be located. Travel time to any mine within the radius would be about one hour.
4. The petitioner also proposes to install refuge stations adjacent to the bottom of the mines' ventilation raises which are designated as escapeways to be served by the portable hoisting unit. These refuge stations will provide a safe place for personnel to assemble.
5. The petitioner believes that its alternative will achieve no less protection for its personnel than that provided by the standard as well as providing the following advantages:
 - (a) The portable hoisting unit will be of superior quality to fixed hoists as it will not be subjected to weather and other natural hazards which affect readiness.
 - (b) The central location of the portable hoisting unit allows for its maintenance and operation to be handled by personnel well familiar with them.
 - (c) The portable hoisting unit is adaptable to use in ventilation raises not normally designated, but capable of being used, as escapeways.

Request for Comments

Persons interested in this petition may furnish written comments on or before September 24, 1979. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: August 15, 1979.

Robert B. Lagather,
Assistant Secretary for Mine Safety and
Health.

[FR Doc. 79-26406 Filed 8-23-79; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-79-106-C]

Harlan-Cumberland Coal Co.; Petition
for Modification of Application of
Mandatory Safety Standard

Harlan-Cumberland Coal Company, Grays Knob, Kentucky 40829 has filed a petition to modify the application of 30 CFR 75.1910 (canopies) to its No. 2 Mine located in Harlan County, Kentucky. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977, Pub. L. 95-164.

The substance of the petition follows:

1. The petition concerns the installation of cabs or canopies on two shuttle cars in the petitioner's mine.
2. The petitioner believes that cabs or canopies on its shuttle cars would result in a diminution of safety for the following reasons:
 - (a) Cabs or canopies would restrict the operator's field of vision, possibly resulting in injuries to persons working in the face area.
 - (b) Cabs or canopies could catch and tear loose roof bolts, damaging the roof support.
3. For these reasons, the petitioner requests relief from the application of the standard to its shuttle cars.

Request for Comments

Persons interested in this petition may furnish written comments on or before September 24, 1979. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: August 17, 1979.

Robert B. Lagather,
Assistant Secretary for Mine Safety and
Health.

[FR Doc. 79-26404 Filed 8-23-79; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-79-23-M]

Hecla Mining Co.; Petition for
Modification of Application of
Mandatory Safety Standard

Hecla Mining Company, Post Office Box 320, Wallace, Idaho 83837 has filed a petition to modify the application of 30 CFR 57.19-71 (hoisting procedures) to its Lucky Friday Mine and Star Mine located in Shoshone County, Idaho. The petition is filed under section 101(c) of

the Federal Mine Safety and Health Act of 1977, Pub. L. 95-164.

The substance of the petition follows:

1. The standard prohibits miners from riding in skips or buckets with materials, supplies or tools.
2. During shaft sinking at the petitioner's mines, blasting at the bottom of the shafts could destroy timbers installed at the bottom of the shaft.
3. Accordingly, shaft guides are not generally installed all the way to the bottom of the shaft during construction, making it necessary for workers to guide the hoisting bucket onto chairs and thus onto the shaft guides.
4. If this procedure were not followed, the bucket could swing into loose rock and turn over, spilling loose supplies onto workers at the bottom of the shaft.
5. The petitioner requests permission for its workers to ride in skips or buckets with supplies, materials or tools during shaft sinking and shaft repair operations to prevent unattended materials from falling down the shaft on top of workers below.
6. As part of its alternative method, the petitioner proposes the following: (a) Supplies, materials and tools will be securely fastened during transit.
(b) Two miners will ride in the skip or bucket at all times when such items are hoisted.
(c) A special signal will be given to alert the hoistman that such items are being so hoisted.
7. The petition further details hoisting procedures for specific items of material, supplies and tools.
8. The petitioner believes that its alternative method will achieve no less protection for its miners than that provided by the standard.

Request for Comments

Persons interested in this petition may furnish written comments on or before September 24, 1979. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: August 14, 1979.

Robert B. Lagather,
Assistant Secretary for Mine Safety and Health.

[FR Doc. 79-26407 Filed 8-23-79; 8:45 am]
BILLING CODE 4510-43-M

[Docket No. M-79-99-C]

Rushton Mining Co.; Petition for Modification of Application of Mandatory Safety Standard

Rushton Mining Company, Post Office Drawer 589, Philipsburg, Pennsylvania 16868 has filed a petition to modify the application of 30 CFR 75.1405 (automatic couplers) to its Rushton Mine located in Centre County, Pennsylvania. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977, Pub. L. 95-164.

The substance of the petition follows:

1. In September 1976, the petitioner received a favorable decision on its proposal (Docket No. M-74-106) to couple and uncouple its off-track haulage equipment with a levered-pin system. This system eliminates the necessity of miners passing between cars or manually directing the coupling of a link and pin coupling assembly.
2. With its present petition, the petitioner requests modification of stipulations in the 1976 decision and order. The petitioner requests permission to use a second hole in its supply car bumper for off-track coupling. This second hole provides for greater maneuverability in hauling.
3. In addition, by pinning the second hole during off-track coupling, the operator does not have to go between equipment nor leave his position to set the levered-pin normally used for on-track coupling.
4. The use of the second hole for on-track haulage will be prohibited.
5. The petitioner believes that its alternative will achieve no less protection for its miners than that provided by the standard.

Request for Comments

Persons interested in this petition may furnish written comments on or before September 24, 1979. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: August 15, 1979.

Robert B. Lagather,
Assistant Secretary for Mine Safety and Health.

[FR Doc. 79-26409 Filed 8-23-79; 8:45 am]
BILLING CODE 4510-43-M

[Docket No. M-79-124-C]

Spring Branch Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Spring Branch Coal Company, Beisden, Wyoming County, West Virginia has filed a petition to modify the application of 30 CFR 75.1710-1 (canopies) to its Millam Fork No. 1 Mine located in Wyoming County, West Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977, Pub. L. 95-164.

The substance of the petition follows:

1. The petition concerns the use of cabs or canopies on electric face equipment in the petitioner's mine.
2. The coal seam the petitioner is mining varies from 40 to 48 inches in height.
3. The petitioner believes that the application of the standard to its mine will result in a diminution of safety. Due to numerous undulations in the coal seam, cabs or canopies would catch on the roof of the mine.
4. For this reason, the petitioner requests relief from the application of the standard to its mine.

Request for Comments

Persons interested in this petition may furnish written comments on or before September 24, 1979. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: August 17, 1979.

Robert B. Lagather,
Assistant Secretary for Mine Safety and Health.

[FR Doc. 79-26406 Filed 8-23-79; 8:45 am]
BILLING CODE 4510-43-M

[Docket No. M-79-125-C]

Westmoreland Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Westmoreland Coal Company, Big Stone Gap, Virginia 24219 has filed a petition to modify the application of 30 CFR 75.305 (weekly examinations) to its Prescott No. 2 Mine located in Wise County, Virginia. The petition is filed under section 101(c) of the Federal Mine

Safety and Health Act of 1977, Pub. L. 95-164.

The substance of the petition follows:

1. Due to adverse roof conditions, the petitioner is unable to travel a specified return airway at its mine.
2. The return air from the airway is coursed directly to the outside of the mine and is not used for any additional ventilation requirements.
3. As an alternative to making weekly examinations for hazardous conditions in the return airway, the petitioner proposes to establish two checkpoints to determine the quantity and quality of the return air.
4. The petitioner believes that its alternative will achieve no less protection for its miners than that provided by the standard.

Request for Comments

Persons interested in this petition may furnish written comments on or before September 24, 1979. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: August 17, 1979.

Robert B. Lagather,
Assistant Secretary for Mine Safety and Health.

[FR Doc. 79-26405 Filed 8-23-79; 8:45 am]
BILLING CODE 4510-43-M

Office of the Secretary

[TA-W-5590-5592]

Avondale Mills; Notice of Negative Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of investigations regarding certifications of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigations were initiated on June 18, 1979 in response to worker petitions received on June 12, 1979 which were filed on behalf of workers and former workers producing cotton yarn at the Eufaula, Alabama and Ozark, Alabama plants and dyed cotton and acrylic yarn at the Tifton, Georgia plant of Avondale Mills. In the following determination, without regard to

whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

The Department conducted a survey of customers purchasing yarn from the Eufaula, Alabama, Ozark, Alabama and Tifton, Georgia plants of Avondale Mills. The survey revealed that none of the responding customers with decreased purchases of yarn from the plants had increased their purchases of imported yarn.

Conclusion

After careful review, I determine that all workers of the Eufaula, Alabama, Ozark, Alabama and Tifton, Georgia plants of Avondale Mills are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 16th day of August 1979.

C. Michael Abo,
Director, Office of Foreign Economic Research.

[FR Doc. 79-26415 Filed 8-23-79; 8:45 am]
BILLING CODE 4510-28-M

[TA-W-5551, 5552]

Bata Shoe Co., Inc.; Notice of Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on June 12, 1979 in response to a worker petition received on June 7, 1979 which was filed on behalf of workers and former workers producing rubber canvas and vinyl footwear for men, women, and children at the Belcamp, Maryland and Elkins, West Virginia facilities of Bata Shoe Company, Incorporated. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Average employment of hourly workers at the Belcamp facility of Bata Shoe Company increased in 1977 and in 1978 compared to the preceding year and remained stable in the January-May 1979 period compared to the same period of 1978. Average employment of hourly workers at the Elkins plant increased in 1978 compared to 1977 and in the January-May 1979 period compared to the same period of 1978. Workers who were on lay-off status in June 1979 at the Elkins plant are being recalled in August, 1979.

The Belcamp and Elkins plants of Bata Shoe Company form an integrated production unit. Production of finished pairs of rubber canvas and vinyl footwear at the Belcamp and the Elkins plants increased in 1978 compared to 1977 and increased in the first five months of 1979 compared to the corresponding period of 1978.

Conclusion

After careful review, I determine that all workers of the Belcamp, Maryland and Elkins, West Virginia facilities of the Bata Shoe Company, Incorporated are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 18th day of August 1979.

James F. Taylor,
Director, Office of Management, Administration and Planning.

[FR Doc. 79-26616 Filed 8-23-79; 8:45 am]
BILLING CODE 4510-28-M

[TA-W-5575]

Bernardi Fashions, Inc.; Notice of Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on June 15, 1979 in response to a worker

petition received on June 12, 1979 which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' coats at Bernardi Fashions, Jersey City, New Jersey. The investigation revealed that the correct corporate title is Bernardi Fashions, Incorporated. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Bernardi began producing ladies' winter coats in July 1977. Employment at Bernardi increased in July-December 1978 compared to July-December 1977. Production increased from quarter to quarter throughout 1978 and 1979, with the exception of a seasonal decline in the first quarter of each year.

Coat manufacturers for whom Bernardi performed contract work were surveyed. Manufacturers who reduced orders with Bernardi in January-June 1979 compared to January-June 1978 did not purchase imported ladies' coats nor did they utilize foreign contractors. These manufacturers did not experience declining sales during the comparable time period.

Conclusion

After careful review, I determine that all workers of Bernardi Fashions, Incorporated, Jersey City, New Jersey are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 20th day of August 1979.

James F. Taylor,
Director, Office of Management,
Administration and Planning.

[FR Doc. 79-26417 Filed 8-23-79; 8:45 am]
BILLING CODE 4510-28-M

[TA-W-5561]

Comfort Products Co.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility

requirements of section 222 of the Act must be met.

The investigation was initiated on June 14, 1979, in response to a worker petition received on June 1, 1979, which was filed on behalf of workers and former workers producing men's, women's and children's house slippers at Comfort Products Company, Worcester, Massachusetts. The investigation revealed that the plant produces primarily men's, women's and children's house slippers. It is concluded that all of the requirements have been met.

U.S. imports of vinyl slide casual shoes which are included the house slippers category have increased absolutely in 1978 and continued to rise in 1979.

A Departmental survey of the customers of Comfort Products Company revealed that customers accounting for a significant proportion of the subject firms sales decreased their purchases of men's and women's slippers and increased their purchases of casual shoes "Browsabouts" type which are directly competitive with domestically produced slippers. This is consistent with the Trade and Industry analysis which reported increases of the competitive vinyl slide casual shoe in 1978 and which has continued to rise in 1979.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with women's, men's and children's house slippers produced at Comfort Products Company, Worcester, Massachusetts contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Comfort Products Company, Worcester, Massachusetts who became totally or partially separated from employment on or after October 14, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 13th day of August 1979.

James F. Taylor,
Director, Office of Management,
Administration and Planning.

[FR Doc. 79-26418 Filed 8-23-79; 8:45 am]
BILLING CODE 4510-28-M

[TA-W-5762]

The Finney Co.; Notice of Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on July 20, 1979 in response to a worker petition received on July 12, 1979 which was filed on behalf of workers and former workers producing outdoor television (TV) antennas at the Clinton, Kentucky plant of The Finney Company D.B.A. Finney Manufacturing Company. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Evidence developed during the course of the investigation revealed that the Clinton, Kentucky plant of The Finney Company produces only outdoor TV antennas. U.S. imports of outdoor TV antennas are negligible.

Conclusion

After careful review, I determine that all workers at the Clinton, Kentucky plant of The Finney Company are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 20th day of August 1979.

James F. Taylor,
Director, Office of Management,
Administration and Planning

[FR Doc. 79-26419 Filed 8-23-79; 8:45 am]
BILLING CODE 4510-28-M

[TA-W- 5650, 5650-A and 5650-B]

Gant, Inc.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on June 28, 1979 in response to a worker petition received on June 18, 1979 which was filed by the Amalgamated Clothing and Textile Workers Union on behalf of workers and former workers producing men's shirts and women's blouses and sportswear at the New Haven, Connecticut plant of Gant Incorporated. The investigation was expanded to include workers and former workers producing men's shirts and women's blouses at the San Antonio, Texas (TA-W-5650-A) and Salisbury, Maryland (TA-W-5650-B) plants of Gant, Incorporated. It is concluded that all of the requirements have been met.

U.S. imports of men's and boys' woven dress and sport shirts increased from 1977 to 1978 and rose in the first quarter of 1979 compared to the first quarter of 1978. U.S. imports of men's and boys' knit dress and sport shirts, excluding T-shirts, increased from 1977 to 1978. U.S. imports of women's, misses' and children's blouses and shirts increased from 1977 to 1978.

Company imports by Gant, Inc. of men's and boys' shirts and apparel increased from 1977 to 1978. A Department survey revealed that surveyed customers reduced purchases from Gant, Inc. and increased purchases imports in the first half of 1979 compared to the first half of 1978.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with men's shirts and women's blouses produced at Gant, Incorporated contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Gant, Incorporated, New

Haven, Connecticut who became totally or partially separated from employment on or after September 28, 1978; all workers of Gant, Incorporated, San Antonio, Texas who became totally or partially separated from employment on or after November 7, 1978; and all workers of Gant, Incorporated, Salisbury, Maryland who became totally or partially separated from employment on or after June 14, 1978 and on or before June 30, 1979 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 20th day of August 1979.

James F. Taylor,
Director, Office of Management,
Administration and Planning.

[FR Doc. 79-26420 Filed 8-23-79; 8:45 am]
BILLING CODE 4510-28-M

[TA-W-5582]

Genoa Fashions, Inc.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on June 15, 1979 in response to a worker petition received on June 12, 1979 which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' coats at Genoa, Hoboken, New Jersey. The investigation revealed that the company's full name is Genoa Fashions, Incorporated. It is concluded that all of the requirements have been met.

Imports of women's, misses', and children's coats and jackets increased absolutely and relative to domestic production in 1977 compared with 1976 and in 1978 compared with 1977.

Genoa Fashions began producing ladies' coats in March, 1978. A Department survey revealed that a coat manufacturer providing Genoa Fashions with most of its contract work decreased orders with Genoa in the second quarter of 1979 compared with the like period in the previous year. This manufacturer reported decreasing orders with other domestic contractors in 1978 compared with 1977 and in the

first six months of 1979 compared with the first six months of 1978. The manufacturer further indicated increased orders with foreign contractors and increased purchases of imports in 1978 compared with 1977 and during January-June 1979 compared with January-June 1978. In the future, the coat manufacturer expects to increase its purchases of imported coats.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with ladies' coats produced at Genoa Fashions, Incorporated, Hoboken, New Jersey contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Genoa Fashions, Incorporated, Hoboken, New Jersey who became totally or partially separated from employment on or after October 1, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 14th day of August 1979.

C. Michael Abo,
Director, Office of Foreign Economic
Research.

[FR Doc. 79-26421 Filed 8-23-79; 8:45 am]
BILLING CODE 4510-28-M

[TA-W-5707]

Georgia Pacific Corp.; Notice of Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on July 5, 1979 in response to a worker petition received on July 2, 1979 which was filed by the International Woodworkers Union on behalf of workers and former workers producing sanded Douglas fir plywood at Georgia Pacific Corporation, Coos Bay Division, Coos Bay, Oregon.

The investigation revealed that the complete name of the plant referred to in the petition is the Georgia Pacific Corporation, Coos Bay Division, Douglas fir plywood plant. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Evidence developed during the course of the investigation indicated that imports of softwood plywood, compared to domestic production, are negligible. The ratio of imports to domestic production was less than 0.2 percent from 1975 through 1978. U.S. imports of softwood plywood decreased absolutely and relative to domestic production in the first three months of 1979 compared to the same period in 1978.

The petition alleges that increasing exports of logs from the U.S. have led to a shortage of raw logs available to the mill for processing into finished plywood. However, the export of logs cannot be considered to have adversely affected the domestic production of plywood within the meaning of Section 222(3) of the Trade Act of 1974.

Conclusion

After careful review, I determine that all workers of Georgia Pacific Corporation, Coos Bay Division, Douglas fir plywood plant, Coos Bay, Oregon are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 15th day of August 1979.

James F. Taylor,
Director, Office of Management,
Administration, and Planning.

[FR Doc. 79-26422 Filed 8-23-79; 8:45 am]
BILLING CODE 4510-28-M

[TA-W-5408]

Gold Seal Garter Corp.; Notice of Affirmative Determination Regarding Application for Reconsideration

On July 10, 1979, an official of the Undergarment and Negligee Workers Union requested administrative reconsideration of the Department of Labor's Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance in the case of workers and former workers of Gold Seal Garter Corporation, New York City, New York. This

determination was published in the Federal Register on June 29, 1979, (44 FR 38014).

In issuing the negative determination, the Department cited increasing sales in 1978 relative to 1977 as supporting the conclusion that increased imports of articles like or directly competitive with articles produced by the workers' firm had not contributed importantly to the separation of workers at the firm. The petitioning union attributes the increase in 1978 firm sales to the addition of an article to the firm's product line whose manufacture was contracted out to another domestic firm. Further, the petitioner states that, in 1978 at least one major customer substituted imported articles for those formerly purchased from the workers' firm thus necessitating a reduction in the firm's work force.

Conclusion

After review of the application, I conclude that this claim of the petitioner is of sufficient weight to justify reconsideration of the Department of Labor's prior decision. The application is, therefore, granted. Signed at Washington, D.C., this 20th day of August 1979.

James F. Taylor,
Director, Office of Management,
Administration and Planning.

[FR Doc. 79-26423 Filed 8-23-79; 8:45 am]
BILLING CODE 4510-28-M

[TA-W-5630, 5642, 5643 and 5643A]

Harwood Cos. Inc.; Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on June 22, 1979, in response to worker petitions received on June 18, 1979, which were filed by the International Ladies' Garment Workers Union on behalf of workers and former workers producing men's underwear and shorts at Adele Manufacturing Corporation, Phillip Manufacturing Company and Rio Grande Manufacturing Corporation, Rio Grande, Puerto Rico. The investigation revealed that Adele Manufacturing

Corporation and Phillip Manufacturing Company produce men's and boys' undershorts and that Rio Grande Manufacturing Corporation produces men's and boys' undershorts and athletic shorts. The investigation also revealed that all of the subject firms are subsidiaries of Harwood Companies, Incorporated.

The investigation was expanded to include workers producing undershorts at the Abingdon, Virginia plant of the Marion-Harwood Manufacturing Company, which is also a subsidiary of the Harwood Companies, Incorporated. In the following determination, without regard to whether any of the other criteria have been met for workers producing undershorts at Rio Grande Manufacturing Corporation, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

The decline in production of athletic shorts at Rio Grande Manufacturing Corporation was due to the seasonal pattern of sales and production for this product. Retail sales peak in the spring. Production correspondingly peaks in late fall and early winter. The Harwood Manufacturing Company Division of the Harwood Companies, Incorporated reduced production of athletic shorts at its Rio Grande Manufacturing Corporation and other Division locations in spring 1979 in response to this seasonal pattern.

The Division began producing athletic shorts in November 1977. Division sales of the product increased in the first half of 1979 compared with the first half of 1978. The Division does not import athletic shorts.

For all workers of Adele Manufacturing Corporation and Phillip Manufacturing Company, and for workers producing men's and boys' undershorts at Rio Grande Manufacturing Corporation and the Abingdon, Virginia plant of Marion-Harwood Manufacturing Company, all of the criteria have been met.

U.S. imports of men's and boys' underwear increased in 1978 compared with 1977.

The Harwood Manufacturing Company Division began importing men's and boys' undershorts in December 1978. These imports constituted a significant proportion of the Division's sales of undershorts in the first five months of 1979.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with the men's and boys' undershorts produced at Adele Manufacturing Corporation, Phillip Manufacturing Company and Rio Grande Manufacturing Corporation, Rio Grande, Puerto Rico and at the Abingdon, Virginia plant of Marion-Harwood Manufacturing Company contributed importantly to the decline in

sales of production and to the total or partial separation of workers of those firms. In accordance with the provisions of the Act, I make the following certification:

The specified groups of workers at the following plants of the companies in the Harwood Manufacturing Company Division of the Harwood Companies, Incorporated who became totally or partially separated from employment on or after November 18, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Company	Plant location	Workers certified
Adele Manufacturing Corporation	Rio Grande, Puerto Rico	All workers.
Phillip Manufacturing Company	Rio Grande, Puerto Rico	All workers.
Rio Grande Manufacturing Corporation	Rio Grande, Puerto Rico	Workers producing undershorts.
Marion-Harwood Manufacturing Corporation	Abingdon, Virginia	Workers producing undershorts.

Signed at Washington, D.C. this 20th day of August 1979.

James F. Taylor,
Director, Office of Management, Administration and Planning.

[FR Doc. 79-26424 Filed 8-23-79; 8:45 am]

BILLING CODE 4510-28-M

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to Section 221(a) of the Act and 29 CFR 90.12.

Appendix

Petitioner: union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Cranston Print Works Co., Fletcher Div. (M.P. Fletcher, N.C. & E.A.)	Paragould, Ark.	8/10/79	8/6/79	TA-W-5,866	Printing of textile cloth.
E & W of Paragould, Inc. (workers)	Paragould, Ark.	8/10/79	8/6/79	TA-W-5,867	Men's and boy's shirts.
Herman Funke & Sons, Inc. (United Textile Workers of America)	Ashley, Pa.	8/13/79	8/3/79	TA-W-5,868	Schiffli embroideries.
George Hallden Sons Trucking Company (workers)	Youngstown, Ohio	8/15/79	8/6/79	TA-W-5,869	Truck transporting of steel products.
Manes Organization, Inc. (workers)	New York, N.Y.	8/15/79	8/6/79	TA-W-5,870	Converters of textiles.
Precept, Inc. (ILGWU)	Fort Worth, Tex.	8/10/79	8/6/79	TA-W-5,871	Disposable hospital garments.
Trace Fork Coal Company (workers)	Premier, W. Va.	8/10/79	8/4/79	TA-W-5,872	Office workers.

[FR Doc. 79-26402 Filed 8-23-79; 8:45 am]
BILLING CODE 4510-28-M

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a)

of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to Section 221(a) of the Act and 29 CFR 90.12.

accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than September 4, 1979.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than September 4, 1979.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210.

Signed at Washington, DC this 17th day of August 1979.

Harold A. Brett,

Acting Director, Office of Trade Adjustment Assistance.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or

subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than September 4, 1979.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than September 4, 1979.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, DC 20210.

Signed at Washington, DC this 20th day of August 1979.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

Appendix

Petitioner (union/workers or former workers of)	Location	Date received	Date of petition	Petition No.	Articles produced
Belhaven Manufacturing (ILGWU)	Belhaven, N.C.	8/13/79	8/2/79	TA-W-5, 873	Contractor of ladies' apparel.
Jay Apparel Company (ILGWU)	New Bern, N.C.	8/13/79	8/2/79	TA-W-5, 874	Contractor of ladies' apparel.
Keene Wood Heel Company, Inc. (company)	Keene, N.H.	8/18/79	8/9/79	TA-W-5, 875	Wooden heels and wedges for shoes.
Terry Jane Coal Company, Inc. (workers)	Mingo County, W. Va.	8/10/79	8/6/79	TA-W-5, 876	Contract mining of coal.

[FR Doc. 79-26403 Filed 8-23-79; 8:45 am]
BILLING CODE 4510-28-M

[TA-W-5603]

J & M Fashions, Inc.; Notice of Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on June 18, 1979 in response to a worker petition received on June 12, 1979 which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' coats at J and M, Union City, New Jersey. The investigation revealed that the correct name of the company is J & M Fashions, Incorporated. In the following determination, without regard to whether any of the criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or

threat thereof, and to the absolute decline in sales or production.

The value of J & M Fashion's sales increased in 1978 compared to 1977. A survey of the manufacturers for whom J & M performed contracts in 1977, 1978 and the first half of 1979 was conducted. None of the manufacturers reduced orders with J & M from 1977 to 1978. Manufacturers that decreased purchases from J & M did not increase purchases of imported ladies' coats or experience decreasing sales in the first half of 1979 compared to the same period in 1978.

Conclusion

After careful review, I determine that all workers of J & M Fashions, Incorporated, Union City, New Jersey are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 15th day of August 1979.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 79-26425 Filed 8-23-79; 8:45 am]
BILLING CODE 4510-28-M

[TA-W-5665]

J. Z. Coat Co.; Notice of Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding

certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on June 27, 1979 in response to a worker petition received on June 21, 1979 which was filed June 5, 1979 on behalf of workers and former workers producing ladies' coats at J. Z. Coat Company, Jersey City, New Jersey. The investigation revealed that the plant primarily produces ladies' coats, jackets and suit jackets. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Evidence developed in the Department's investigation revealed that the decline in production and employment at J. Z. Coat Company in December 1978 and in the first four months of 1979 can be attributed to the seasonal patterns characteristic to the women's coat industry.

Production at J. Z. Coat Company increased in 1978 compared to 1977 and during the first six months of 1979 compared to the same period in 1978.

Employment of workers at J. Z. Coat Company increased substantially during the first six months of 1979 compared to the same period in 1978.

Conclusion

After careful review, I determine that all workers of J. Z. Coat Company, Jersey City, New Jersey are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 20th day of August 1979.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 79-26426 Filed 8-23-79; 8:45 am]
BILLING CODE 4510-28-M

[TA-W-5697]

Lancer of California; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on July 5, 1979 in response to a worker petition received on June 29, 1979 which was filed on behalf of workers and former workers producing men's jeans, jackets, pants and shirts at the Los Angeles, California facility of Lancer of California. The investigation revealed that the plant primarily produces men's knit and woven shirts. It is concluded that all of the requirements have been met.

Imports of men's and boys' woven and knit sport, dress, business and uniform shirts increased absolutely in 1978 compared to 1977. Imports of men's and boys' woven dress, business, sport and uniform shirts continued to increase absolutely in the first quarter of 1979 compared to the like 1978 period.

The percentage of total company sales of shirts accounted for by company imports increased in the first half of 1979 compared to the like 1978 period. The company terminated all domestic production of men's shirts in April 1979. Several former customers of men's shirts domestically produced by Lancer reported in a survey conducted by the Department that they had increased purchases of imported shirts in 1978

compared to 1977 and/or in the first half of 1979 compared to the like 1978 period.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with the men's shirts produced at Lancer of California in Los Angeles, California contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Lancer of California in Los Angeles, California engaged in employment related to the production of men's shirts who became totally or partially separated from employment on or after December 1, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 20th day of August 1979.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 79-26427 Filed 8-23-79; 8:45 am]
BILLING CODE 4510-28-M

[TA-W-5562]

L. B. Evans' Son Co., Wakefield, Mass.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on June 14, 1979, in response to a worker petition received on June 11, 1979, which was filed on behalf of workers and former workers producing slippers and shoes at L. B. Evans' Son Company, Wakefield, Massachusetts. The investigation revealed that the plant produces primarily men's slippers and shoes. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

U.S. imports of house slippers decreased absolutely and relative to domestic production in 1978 compared to 1977 and in the January through March period of 1979 compared to the same period of 1978. U.S. imports of men's dress and casual footwear, except athletic, decreased absolutely in 1978 compared to 1977 and decreased absolutely and relative to domestic production in the January through March period of 1979 compared to the same period of 1978.

In a Department survey, customers of L. B. Evans' Son Company who decreased purchases from the subject firm and increased imports of men's slippers and shoes represented an insignificant proportion of the firm's decline in sales.

Conclusion

After careful review, I determine that all workers of L. B. Evans' Son Company, Wakefield, Massachusetts are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 13th day of August 1979.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 79-26428 Filed 8-23-79; 8:45 am]
BILLING CODE 4510-28-M

[TA-W-5586]

M.C.M. Coat Co., Inc., Hoboken, N.J.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on June 15, 1979 in response to a worker petition received on June 12, 1979 which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' coats at M.C.M., Hoboken, New Jersey. The investigation revealed that the correct corporate title is M.C.M. Coat Company, Incorporated. Without regard to whether any of the other criteria have been met, the following criterion had not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Manufacturers for whom M.C.M. Coat Company did contract work reported that, during the period under investigation they either increased contract work with M.C.M. or decreased their reliance upon foreign sources for ladies' coats while decreasing purchases of ladies' coats from M.C.M.

Conclusion

After careful review, I determine that all workers of M.C.M., Coat Company, Incorporated, Hoboken, New Jersey are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 20th day of August 1979.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 79-26429 Filed 8-23-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5481]

Metaltex, Inc., Bayonne, N.J.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on May 29, 1979 in response to a worker petition received on May 22, 1979 which was filed on behalf of workers and former workers producing make-up mirrors and bathroom accessories at Metaltex Inc., Bayonne, New Jersey. The investigation revealed that Metaltex also produced dresser sets (sets of brushes, combs and mirrors). Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Average annual employment by Metaltex Inc. remained the same in 1978 from 1977. Total sales of domestically manufactured products by Metaltex increased in 1978 from 1977. Sales by Metaltex in the first five months of 1979 consisted primarily of bathroom accessories. Sales of bathroom accessories by Metaltex increased during January-May 1979 compared to January-May 1978.

Conclusion

After careful review, I determine that all workers of Metaltex Inc., Bayonne, New Jersey are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 20th day of August 1979.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 79-26430 Filed 8-23-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5608]

Modern Coat Co., Union City, N.J.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on June 18, 1979 in response to a worker petition received on June 12, 1979 which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' coats at Modern, Union City, New Jersey. The investigation revealed that the company's name is the Modern Coat Company. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

A Department survey of the manufacturer for whom the Modern

Coat Company performs contract work revealed that manufacturer's business with Modern remained constant from 1977 to 1978 and decreased insignificantly in the first six months of 1979 compared to the first six months of 1978. While the manufacturer's business with foreign suppliers showed no change in the first six months of 1979 compared to the first six months of 1978, its business with other domestic suppliers increased substantially during that period.

Conclusion

After careful review, I determine that all workers of the Modern Coat Company, Union City, New Jersey are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 16th day of August 1979.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 79-26431 Filed 8-23-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5624]

National Mines Corp., Pocahontas Division, Wyoming County, W. Va.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on June 19, 1979 in response to a worker petition received on June 12, 1979 which was filed by the United Mine Workers of America on behalf of workers and former workers mining coal at the Pocahontas Division, Wyoming County, West Virginia of the National Mines Corporation. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That sales or production, or both, of the firm or subdivision have decreased absolutely.

The Pocahontas Division of the National Mines Corporation did not produce or sell any coal in the first quarter of 1978 because of the strike by the United Mine Workers of America.

Sales of coal by the Pocahontas Division increased in the second, third, and fourth quarters of 1978 compared to the same quarters in 1977 and increased during April through July 1979 compared to April through July 1978.

The Pocahontas Division sells all of its coal to a single domestic steel producer. This steel producer significantly increased purchases of domestic coke in 1978 compared to 1977 and in the first half of 1979 compared to the first half of 1978.

Conclusion

After careful review, I determine that all workers of the National Mines Corporation, Pocahontas Division, Wyoming County, West Virginia are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 15th day of August 1979.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 79-26432 Filed 8-23-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5610]

Nickoletta, Jersey City, N.J.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on July 18, 1979 in response to a worker petition received on July 12, 1979 which was filed by the International Ladies' Garment Workers Union on behalf of workers and former workers producing ladies coats at Nickoletta, Jersey City, New Jersey. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Evidence developed during the course of the investigation indicated that declines in business and employment levels at Nickoletta in late 1978 and 1979 were the result of seasonal fluctuations.

Nickoletta began to perform contract work for manufacturers in April 1978, the start of the production season for the 1978 fall sales season. Quarterly declines in business and employment levels in late 1978 and early 1979 are attributable to seasonal fluctuations in the industry. Business and employment levels in the second quarter of 1978 represent the start of the production season for the 1979 fall sales season. A partial quarter comparison of production in May-June 1978 and May-June 1979 shows an increase in the quantity and the value of coats produced at Nickoletta in the 1979 period.

Conclusion

After careful review, I determine that all workers of Nickoletta, Jersey City, New Jersey are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 16th day of August 1979.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 79-26433 Filed 8-23-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5611]

Park Fashions, Inc., Hoboken, N.J.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on June 18, 1979 in response to a worker petition received on June 12, 1979 which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' coats at Park Fashions, Hoboken, New Jersey. The investigation revealed that the correct name of the company is Park Fashions, Incorporated. In the following determination, without regard to whether any of the other criteria have

been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

A survey of the only manufacturer for whom Park Fashions worked in 1978 and 1979 was conducted. This manufacturer increased the value of its total domestic contracts for ladies' coats and sales in 1979 compared to 1978.

Conclusion

After careful review, I determine that all workers of Park Fashions, Incorporated, Hoboken, New Jersey are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 20th day of August 1979.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 79-26434 Filed 8-23-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5525]

Phelps Dodge Puerto Rico Corp., Carolina, P.R.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on June 7, 1979 in response to a worker petition received on June 1, 1979 which was filed by the Teamsters on behalf of workers and former workers producing telephone and high voltage cable at the Carolina, Puerto Rico plant of the Phelps Dodge Corporation. The investigation revealed that the plant primarily produces building wire and that the correct name of the petitioner's firm is the Phelps Dodge Puerto Rico Corporation. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced

by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Evidence developed during the course of the investigation revealed that customers which decreased purchases from the Phelps Dodge Puerto Rico Corporation and increased purchases of imported wire and cable represented an insignificant proportion of the firm's total sales.

The Office of Trade Adjustment Assistance conducted a survey of some of the customers of cable and wire of the Phelps Dodge Puerto Rico Corporation. Only one of the customers reported purchases of imported cable and wire in 1977 or 1978 and that customer accounted for an insignificant percentage of the firm's total 1978 sales. None of the respondents stated that the availability of imported wire and cable had affected their purchases from domestic sources.

Production and sales of the Phelps Dodge Puerto Rico Corporation increased from 1977 to 1978. Evidence indicates that the plant was closed in December 1978 because of a low projected demand for the products as a result of the declining level of capital construction in Puerto Rico. The demand for high voltage cable, communications cable and building wire is dependent upon the level of capital construction in the producer's market area. Because of transportation costs, it was not feasible to produce in Puerto Rico for markets on the U.S. mainland.

The ratio of imports of power wire and cable to domestic production in terms of value was 6.8 percent in 1978. Imports of power wire and cable into Puerto Rico declined marginally from 1977 to 1978. The ratio of imports of communication wire and cable, building wire, appliance wire and cordage to total domestic production was 2.5 percent in 1978. Additionally, the U.S. has a positive balance of trade in both of the above categories.

Conclusion

After careful review, I determine that all workers of the Phelps Dodge Puerto Rico Corporation in Carolina, Puerto Rico are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 20th day of August 1979.

James F. Taylor,

Director, Office of Management,
Administration and Planning.

[FR Doc. 79-26435 Filed 8-23-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5625]

Poughkeepsie Finishing Corp., Paterson, N.J.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on June 19, 1979 in response to a worker petition received on May 28, 1979 which was filed by the Amalgamated Clothing and Textile Workers' Union on behalf of workers and former workers dyeing fabric at the Paterson, New Jersey plant of Poughkeepsie Finishing Corporation. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

A Departmental survey was conducted with the converters for whom the Paterson, New Jersey plant of Poughkeepsie Finishing Corporation dyed fabric. The survey revealed that converters, accounting for a significant portion of the Paterson plant's total sales, did not purchase imported dyed fabric or employ foreign dyers during the 1976-June 1979 period.

Conclusion

After careful review, I determine that all workers of the Paterson, New Jersey plant of Poughkeepsie Finishing Corporation are denied eligibility to

apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 18th day of August 1979.

James F. Taylor,

Director, Office of Management,
Administration and Planning.

[FR Doc. 79-26436 Filed 8-23-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5571]

Roanoke Fashions Co., Chilhowie, Va.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on June 14, 1979 in response to a worker petition received on June 11, 1979 which was filed on behalf of workers and former workers producing beach jackets, jogger shorts, "T" shirts, sweat shirts and girls' rompers at the Chilhowie, Virginia plant of Roanoke Fashions Company, Roanoke, Virginia. Roanoke Fashions Company is a subsidiary of Tultex Corporation. The investigation revealed that the plant produces men's and ladies' fleece-knit jackets, sport shirts, tops, turtlenecks, sweatshirt-look coverups, shorts, warm-up suits and ladies' rompers. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

The Chilhowie plant of Roanoke Fashions Company produced fleece-knit jackets on a contractual basis from May, 1977 through December, 1978. The plant produced the Roanoke Fashions product line of tops and shorts from June, 1978 through the present.

The Chilhowie plant of Roanoke Fashions Company produced fleece-knit

jackets on a contractual basis for one manufacturer. A Departmental survey revealed that this manufacturer did not employ any foreign contractors nor purchase imported fleece-knit jackets in 1977, 1978 or 1979. The Department of Labor then conducted a survey of the major retail customers purchasing fleece-knit jackets from the manufacturer. This survey revealed that the majority of customers did not import fleece-knit jackets. Those surveyed customers who purchased imported fleece-knit jackets increased their purchases from the manufacturer in the January through June period of 1979 compared to the same period in 1978.

With respect to the production of the Roanoke Fashions product line of tops and shorts at the Chilhowie plant, evidence revealed that the Chilhowie plant was producing this product line for less than one year at the time of the investigation. The Chilhowie plant began production of the Roanoke Fashions line of tops and shorts in July 1978. Production increased in both quantity and value in the fourth quarter of 1978 and in the first quarter of 1979 compared to the preceding quarter. Production declined in quantity, but increased in value in the second quarter of 1979 compared to the first quarter of 1979. Due to the short length of time that the new product line was in operation at Chilhowie, it is not possible to statistically measure the impact of imports or the effects of seasonality on this product line.

Conclusion

After careful review, I determine that all workers of the Chilhowie, Virginia plant of Roanoke Fashions Company are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 13th day of August 1979.

James F. Taylor,

Director, Office of Management,
Administration and Planning.

[FR Doc. 79-26437 Filed 8-23-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W- 4921, 4921A, and 4921B]

J. Schoeneman Co., Winchester, Va., Wilmington, Del., and Chambersburg, Pa.; Revised Certification of Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to apply for Worker Adjustment Assistance on May 11, 1979, applicable to all workers of the

Winchester, Virginia; Wilmington, Delaware and Chambersburg, Pennsylvania plants of J. Schoeneman, Incorporated. The Notice of Certification was published in the Federal Register on May 25, 1979, (44 FR 30490).

On the basis of additional information, the Office of Trade Adjustment Assistance, on its own motion, reviewed the certification. The review of the case revealed that, in addition to the three previously certified plants, J. Schoeneman's warehouse and administrative facility in Owings Mills, Maryland is an integral part of the company's production process for the manufacture of men's suits and sportcoats.

The intent of the certification is to cover all workers who were affected by the decline in production and sales of men's suits and sportcoats at J. Schoeneman, Incorporated, related to import competition. The certification, therefore, is revised to include all workers of the company's warehouse and administrative facility at Owings Mills, Maryland.

The revised certification applicable to TA-W-4921, 4921A and 4921B is hereby issued as follows:

All workers of the Winchester, Virginia; Wilmington, Delaware and Chambersburg, Pennsylvania plants of J. Schoeneman, Incorporated, and the company's warehouse and administrative facility in Owings Mills, Maryland, who became totally or partially separated from employment on or after March 1, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 20th day of August 1979.

James F. Taylor,

Director, Office of Management,
Administration and Planning.

[FR Doc. 79-26438 Filed 8-23-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5730]

Singer Co., Elizabeth, N.J.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on July

10, 1979 in response to a worker petition received on July 5, 1979 which was filed by the International Union of Electrical Radio and Machine Workers on behalf of workers and former workers producing domestic and industrial sewing machines at the Elizabeth, New Jersey plant of the Singer Company. The investigation revealed that domestic and industrial sewing machine parts are also produced at the Elizabeth plant. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated.

Average employment of production workers at the Elizabeth plant increased from 1976 to 1977, from 1977 to 1978, and during the first five months of 1979 compared to the first five months of 1978. Average weekly hours worked per employee increased from 1976 to 1977, decreased slightly from 1977 to 1978, and increased during the first five months of 1979 compared to the first five months of 1978. There is no immediate threat of separation of workers at this plant.

Conclusion

After careful review, I determine that all workers of the Elizabeth, New Jersey plant of the Singer Company are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 15th day of August 1979.

James F. Taylor,

Director, Office of Management,
Administration and Planning.

[FR Doc. 79-26439 Filed 8-23-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5626]

Tucker Knits, Inc., Secaucus, N.J.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on June 19, 1979 in response to a worker petition received on June 12, 1979 which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' knitted garments at Tucker Knits, Secaucus, New Jersey. The investigation revealed that the company name is Tucker Knits, Incorporated. Tucker Knits, Incorporated produces ladies' pantsuits. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Tucker Knits, Incorporated produces ladies' pantsuits. The Office of Trade Adjustment Assistance updated a survey with Tucker's major customers and with those who had reduced purchases from Tucker. The updated survey revealed that imported pantsuits were a significant proportion of only one respondent's total purchases. However, this customer represented an insignificant influence on Tucker's total sales for 1978. Most of the customers who decreased business with Tucker also decreased their purchases of pantsuits from other domestic sources and from foreign sources in 1978 versus 1977 or in the first quarter of 1979 compared to the same period of 1978.

Tucker Knits is the parent company of M. Jensen, Incorporated and Raoul, Incorporated and manages Just Mort, Incorporated. M. Jensen, Incorporated (TA-W-5711), Just Mort, Incorporated and Raoul, Incorporated (TA-W-5741) are currently the subjects of ongoing investigations. Determinations on these cases will be forthcoming.

Conclusion

After careful review, I determine that all workers of the Tucker Knits, Incorporated, Secaucus, New Jersey, engaged in employment related to the production of ladies' pantsuits are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 20th day of August 1979.

James F. Taylor,
Director, Office of Management,
Administration and Planning.

[FR Doc. 79-26440 Filed 8-23-79; 8:45 am]
BILLING CODE 4510-28-M

[TA-W-5628]

Wall Tube & Metal Products Co., Newport, Tenn.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on June 19, 1979 in response to a worker petition received on June 15, 1979 which was filed by the United Steelworkers of America on behalf of workers and former workers producing steel products, including bumpers and parts for pickups and utility trucks at Wall Tube and Metal Products Company, Newport, Tennessee. The investigation revealed that the petition was filed specifically on behalf of workers producing step bumpers. It is concluded that all of the requirements have been met.

Imports of step bumpers increased in 1979 from 1978.

Wall Tube and Metal Products Company lost a contract with a truck manufacturer for step bumpers for the 1980 model year. That contract represented the major portion of their step bumper production for the 1979 model year. The investigation revealed that the truck manufacturer has contracted with a foreign firm for step bumpers for the 1980 model year. Following the loss of this contract and the resulting decline in production, a large number of workers in the Automotive Division were separated in July 1979.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with step bumpers produced at Wall Tube and Metal Products Company, Newport, Tennessee contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Wall Tube and Metal Products Company, Newport, Tennessee, who are engaged in employment related to

the production of step bumpers who became totally or partially separated from employment on or after July 1, 1979 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 20th day of August 1979.

James F. Taylor,
Director, Office of Management,
Administration and Planning.

[FR Doc. 79-26441 Filed 8-23-79; 8:45 am]
BILLING CODE 4510-28-M

[TA-W-5649]

Winer Manufacturing Co., Hammond, Ind.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on June 22, 1979 in response to a worker petition received on June 18, 1979 which was filed on behalf of workers and former workers producing grain leather coats, sheep skin coats, split cow coats, and wool coats at the Winer Manufacturing Company, Hammond, Indiana. It is concluded that all of the requirements have been met.

U.S. imports of leather coats and jackets increased absolutely and relative to domestic production in 1978 compared to 1977 and increased absolutely in the first quarter of 1979 compared to the first quarter of 1978. U.S. imports of men's and boys' outercoats and jackets increased absolutely and relative to domestic production during 1978 and 1977 before declining slightly in 1978.

Winer began importing leather outercoats in 1979 while reducing its production of leather outercoats. A Department survey revealed that surveyed customers increased purchases of imported cloth outercoats in the first half of 1979 compared to the first half of 1978 while decreasing purchases from Winer Manufacturing.

Conclusion

After careful review of the facts obtained in the investigation, I conclude

that increases of imports of articles like or directly competitive with men's leather and cloth outercoats produced at the Winer Manufacturing Company, Hammond, Indiana contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of the Winer Manufacturing Company, Hammond, Indiana who became totally or partially separated from employment on or after June 20, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 15th day of August 1979.

James F. Taylor,
Director, Office of Management,
Administration and Planning.

[FR Doc. 79-26442 Filed 8-23-79; 8:45 am]
BILLING CODE 4510-28-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (79-72)]

NASA Advisory Council (NAC) Space and Terrestrial Applications Advisory Committee (STAAC); Meeting

The *Ad Hoc* Informal Advisory Subcommittee on Agriculture, Land Cover and Hydrology of the NAC-STAAC has changed its meeting dates from August 28 and 29, 1979 to September 11 and 12, 1979. All other items regarding this meeting are the same as announced in the Federal Register, August 9, 1979 (44 FR p. 46959).

For further information regarding the meeting please contact Louis B. C. Fong, Executive Secretary of the Subcommittee, Washington, D.C. at (202) 755-7450.

Russell Ritchie,
Deputy Associate Administrator for External Relations.

August 20, 1979.
[FR Doc. 79-26343 Filed 8-23-79; 8:45 am]
BILLING CODE 7510-01-M

NATIONAL SCIENCE FOUNDATION

Advisory Council, Meeting, Task Group #7

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Task Group No. 7 of the NSF Advisory Council.

Place: Room 523, National Science Foundation, 1800 G Street, NW, Washington, D.C. 20550.

Date: Tuesday, September 11, 1979.

Time: 9:00 a.m. until 5:00 p.m.

Type of Meeting: Open.

Contact Person: Mr. Bruce B. Darling, NSF Liaison, Task Group #7 of the NSF Advisory Council, National Science Foundation, Room 518, 1800 G Street, NW, Washington D.C. 20550, Telephone (202) 632-4384.

Purpose of task group: The purpose of the Task Group, composed of members of the NSF Advisory Council, is to provide the full Advisory Council with a mechanism to consider numerous issues of interest to the Council that have been assigned by the National Science Foundation.

Summary minutes: May be obtained from the contact person at above stated address.

AGENDA: The Task Group is asked to study the effects on basic research of existing mechanisms for assuring technical, financial, and social accountability, and to recommend ways in which the balance between accountability, and to recommend ways in which the balance between accountability and effectiveness in research can be optimized.

Joyce F. Laplante,

Acting Committee Management Coordinator.

Dated: August 21, 1979.

[FR Doc. 79-26377 Filed 8-23-79; 8:45 am]

BILLING CODE 7555-01-M

Advisory Council, Steering Committee, Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Science Foundation announces the following meeting.

Name: Steering Committee of the NSF Advisory Council

Place: Room 523, National Science Foundation, 1800 G Street, NW, Washington, D.C. 20550

Date and Time: September 12, 1979—9:00 a.m. to 5:00 p.m.

Type of meeting: Open

Contact person: Mr. Bruce Darling, Executive Secretary, NSF Advisory Council, National Science Foundation, Room 518, 1800 G Street, NW, Washington, D.C. 20550. Telephone: (202) 632-4384.

Purpose of steering committee: The purpose of the Steering Committee, composed of members of the NSF Advisory Council, is to assist the Chairperson and Foundation staff in planning Council activity and related matters not requiring the formation of a separate task group.

Summary minutes: May be obtained from the contact person at above stated address.

Agenda: To review with cognizant NSF staff the issues being studied by the four task groups and other issues of general concern. Dated: August 21, 1979.

Joyce F. Laplante,

Acting Committee Management Coordinator.

[FR Doc. 79-26375 Filed 8-23-79; 8:45 am]

BILLING CODE 7555-01-M

Advisory Committee for Ocean Sciences, Subcommittee for Ocean Sciences Research; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Subcommittee for Ocean Sciences Research of the Advisory Committee for Ocean Sciences.

Date and Time: September 10-14, 1979, 9:00 a.m. to 5:00 p.m. each day.

Place: U.S. Naval Academy, Michelson Hall, Rm. 330, Annapolis, MD 21402.

Type of Meeting: Closed.

Contact person: Dr. M. Grant Gross, International Decade of Ocean Exploration section, Room 606, National Science Foundation, Washington, D.C. 20550, telephone (202) 632-7356.

Purpose of Subcommittee: To provide the IDOE with additional expertise in the review and evaluation of large and intermediate-sized oceanographic research efforts related to Pacific Equatorial Ocean Dynamics (PEQUOD), Seasonal Equatorial Atlantic Experiment (SEQUAL), and Biology and Eastern Equatorial Dynamics (BEED) Projects.

Agenda: September 10-11: Pacific Equatorial Ocean Dynamics (PEQUOD) September 12: Seasonal Equatorial Atlantic Experiment (SEQUAL) September 13-14: Biology and Eastern Equatorial Dynamics (BEED).

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

Joyce F. Laplante,

Acting Committee Management Coordinator.

August 21, 1979.

[FR Doc. 79-26374 Filed 8-23-79; 8:45 am]

BILLING CODE 7555-01-M

Advisory Committee for Ocean Sciences, Subcommittee for Ocean Sciences Research; Meeting

In accordance with the Federal Advisory Committee Act as amended, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Subcommittee for Ocean Sciences Research of the Advisory Committee for Ocean Sciences.

Date and time: September 11-12, 1979, 9:00 a.m. to 5:00 p.m. each day.
Place: Room 642, National Science Foundation, 1800 G St., N.W., Washington D.C. 20550.

Type of meeting: Closed.

Contact person: Dr. M. Grant Gross, International Decade of Ocean Exploration Section, Room 606, National Science Foundation, Washington D.C. 20550, telephone (202) 832-7356.

Purpose of subcommittee: To provide the IDOE with additional expertise in the review and evaluation of oceanographic research proposals related to the Low Energy Benthic Boundary Layer Experiment (LEBBLE) Project.

Agenda: September 11-12: Low Energy Benthic Boundary Layer Experiment (LEBBLE).

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

Joyce F. Laplante,
Acting Committee Management Coordinator.
[FR Doc. 79-26372 Filed 8-23-79; 8:45 am]
BILLING CODE 7555-01-M

Advisory Committee Ocean Sciences, Subcommittee for Oversight and Evaluation; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Subcommittee for Oversight and Evaluation of the Advisory Committee for Ocean Sciences.

Date and Time: September 10-14, 1979, 9:00 a.m. to 5:00 p.m. each day.

Place: Rooms 628 and 338, National Science Foundation, 1800 G St., N.W., Washington, D.C. 20550.

Type of Meeting: Closed.

Contact person: Dr. Dirk Frankenberg, Director, Division of Ocean Sciences, Rm. 609, National Science Foundation, Washington, D.C. 20550, telephone (202) 632-5813.

Purpose of subcommittee: To provide expert assistance in carrying out external oversight which is concerned with the examination of decisions made, procedures and policies in effect and focuses on operations and activities, priorities, program balance, and selection of awards.

Agenda: September 10-12: Submarine Geology and Geophysics Review—Room 628; September 12-14: Physical Oceanography Review—Room 338.

Reason for Closing: The meeting will deal with a review of grants and declinations in which the Committee will review materials containing the names of applicant institutions and principal investigators and privileged information contained in declined proposals. This meeting will also include a review of peer review documentation pertaining to applicants. Any non-exempt material that may be discussed at this meeting (proposals that have been awarded) will be inextricably intertwined with the discussion of exempt materials and no further separation is practical. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b (c), the Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, July 6, 1979.

Joyce F. Laplante,
Acting Committee Management Coordinator.
August 21, 1979.
[FR Doc. 79-26373 Filed 8-23-79; 8:45 am]
BILLING CODE 7555-01-M

POSTAL SERVICE

Westport Station, Kansas City, Mo.; Intent To Prepare Environmental Impact Statement

AGENCY: U.S. Postal Service, Field Real Estate and Buildings Office, Central Region.

ACTION: Notice of Intent To Prepare Draft Environmental Impact Statement (DEIS).

SUMMARY: Public notice is hereby given of the intention of the Postal Service to prepare a DEIS for a proposed expansion of the existing Westport Postal Station located at 200 Westport Road, Kansas City, Missouri. The purpose of the proposed expansion is to provide surfaced parking area for additional operational, employee, and customer vehicles.

DATE: Information submitted by interested parties concerning this proposal must be received on or before September 27, 1979.

ADDRESS: Information should be submitted to Mr. Gilbert B. Mullen, Field Manager, Field Real Estate and Buildings Office, 5700 Broadmoor, Room 920, Mission, Kansas 66202.

FOR FURTHER INFORMATION CONTACT:

Robert H. Coven, (202) 245-4304.

W. Allen Sanders,
Acting Deputy General Counsel.
[FR Doc. 79-26347 Filed 8-23-79; 8:45 am]
BILLING CODE 7710-12-M

SMALL BUSINESS ADMINISTRATION

[Proposed License No. 01/01-0297]

Hampshire Capital Corp.; Application for a License To Operate as a Small Business Investment Company

Notice is hereby given that an Application has been filed with the Small Business Administration, pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1979)), under the name of Hampshire Capital Corporation (Applicant) for a License to operate as a Small Business Investment Company under the provisions of the Small Business Investment Act of 1958, as amended (Act), and the Rules and Regulations promulgated thereunder.

The Applicant is incorporated under the laws of the State of New Hampshire and it will commence operations with a capitalization of at least \$500,000, which amount will be raised from the private sale of shares of Common Stock, \$1.00 Par Value, of the Applicant to a limited number of investors.

The Applicant will have its principal place of business at 48 Congress Street, Portsmouth, New Hampshire 03801 and it intends to conduct its operations primarily in the State of New Hampshire.

The Officers, Directors and present and prospective owners of ten or more percent of the Applicants' Common Stocks are:

Name, Address and Title or Relationship to Applicant

Philip G. Baker, Wild Rose Lane, New Castle, New Hampshire, President and Director and 10% Stockholder.
William A. Darling, Birch Knolls, Cape Elizabeth, Maine, Treasurer, and Chairman.
Charles L. Hildreth, Jr., 10 Falls Road, Falmouth, Maine, 10% Stockholder.
The Emery-Waterhouse Company, Rand Road, P.O. Box 659, Portland, Maine, 30% Stockholder.

In the event the private sale of the Applicants' Common Stock results in additional investors owning ten or more percent of such stock, their identity will be published in the Federal Register, and the newspaper mentioned below.

The Business Investment Advisory Corporation (Business), a newly formed corporation with its principal place of business located at 48 Congress Street, Portsmouth, New Hampshire, will be

employed as the Applicants' Investment Adviser/Manager. Philip G. Baker, listed above, is President, a Director and the owner of 82 percent of the voting securities of Business. The other Officers, Directors and owners of the balance of the voting securities of Business are:

Name, Address and Relationship

Harry F. Calamin, 320 Leslie Drive, Portsmouth, New Hampshire, Treasurer and Director.
Thomas E. Flynn, 2575 Ocean Blvd., Rye Beach, New Hampshire, Clerk and Director.

Matters involved in SBA's consideration of the Applicant include the general business reputation and character of the proposed owners and management, and the probability of successful operations of the Applicant under their management including adequate profitability and financial soundness in accordance with the Act and SBA Regulations.

Notice is hereby given that any person may within, 15 days after the date of publication of this Notice, submit written comments on the Applicant to the Acting Associate Administrator for Finance and Investment, Small Business Administration, 1441 "L" Street, N.W., Washington, D.C. 20416.

A copy of this Notice shall be published by the Applicant in a newspaper of general circulation in Portsmouth, New Hampshire.

(Catalogue of Federal Domestic Assistance Program No. 59.011 Small Business Investment Companies)

Dated: August 17, 1979.

Peter F. McNeish,
Acting Associate Administrator for Finance and Investment.

[FR Doc. 79-26371 Filed 8-23-79; 8:45 am]
BILLING CODE 8025-01-M

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco, and Firearms

[Notice No. 79-5]

Advisory Committee on Explosives Tagging; Closed Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App. 1 section 10(a)(2)), notice is hereby given that a closed meeting of the Advisory Committee on Explosives Tagging will be held on September 20, 1979, at the Federal Building, 1200 Pennsylvania Avenue, NW, Washington, DC, room 5041, beginning at 9:30 a.m. (EDT).

The Advisory Committee will discuss detailed proprietary, scientific, and technical data concerning various candidate explosive tagging systems that can be used in the detection and identification of explosives. The information which will be presented and discussed during the meeting will constitute trade secrets and commercial or financial information obtained from a person and privileged or confidential within the ambit of 5 U.S.C. section 552b(c)(4). Accordingly, the meeting of the Advisory Committee will, under authority of section 10(d) of the Federal Advisory Committee Act (5 U.S.C. App. 1 section 10(d)), not be open to the public.

All communications regarding this meeting of the Advisory Committee should be addressed to the Bureau of Alcohol, Tobacco and Firearms, Washington, DC 20226, Attention: Mr. James K. Syverson, Committee Manager, room 5205.

Signed: August 7, 1979.

G. R. Dickerson,

Director.

[FR Doc. 79-26464 Filed 8-23-79; 8:45 am]
BILLING CODE 4810-31-M

INTERSTATE COMMERCE COMMISSION

[MC 99532 (Sub-4)]

Arnie's Motor Freight, Inc. (Altoona, IA); Decision

Decided: August 13, 1979.

Applicant seeks a Certificate of Registration as evidence of the right to conduct operations in interstate and foreign commerce which do not exceed the scope of its intrastate authority. Applicant holds a State motor common carrier certificate issued by the Iowa Department of Transportation in No. C-130 dated May 29, 1979, which authorizes the operations in intrastate commerce reflected in the appendix to this decision. This certificate supersedes and revokes the prior State certificates on which applicant's Certificate of Registration in No. MC-99532 (Sub-Nos. 1, 2, and 3) issued February 1, 1971, November 22, 1972, and November 6, 1973, respectively, are based.

The authority granted, to a certain extent, exceeds the scope of the authority as published in the Federal Register. Because it is possible persons who have relied upon the notice of the application as published may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the appendix to this decision, a notice of the authority

actually granted will be published in the Federal Register. Issuance of a Certificate of Registration in this proceeding will be withheld for a period of 30 days from the date of that publication. During that period any proper party in interest may file a petition for leave to intervene in this proceeding, setting forth in detail the precise manner in which it has been prejudiced.

While the application was opposed at the State level, no party in interest has filed a petition for reconsideration with this Commission.

We find: That provisions of 49 USC 10931 have been satisfied. This decision does not significantly affect the human environment.

It is ordered: Notice of the authority granted in this decision will be published in the Federal Register. In the event a petition for leave to intervene is filed, this decision shall be void. Otherwise, this decision shall become final on September 24, 1979.

The application is granted to the extent set forth in the appendix.

Operations may begin only following the service of a certificate of registration which will be issued if applicant complies with the following requirements set forth in the Code of Federal Regulations: insurance (49 CFR 1043), designation of process agent (49 CFR 1044), and tariffs (49 CFR 1311).

Applicant must comply with these requirements within 90 days after the date this decision becomes final, or the grant of authority will be void. The Certificate of Registration in No. MC-99532 (Sub-Nos. 1, 2, and 3) will be revoked concurrently with the issuance of the new one.

Note—This decision does not constitute authority to operate.

By the Commission, Review Board Number 4, Members FitzPatrick, Fisher, and Reed.
Agatha L. Mergenovich,
Secretary.

Appendix—No. MC 99532 (Sub-4).

Arnie's Motor Freight, Inc., Altoona, IA

Description of the transportation service authorized to be conducted solely within the State of Iowa, in intrastate commerce, as a common carrier by motor vehicle, pursuant to Certificate of Public Convenience and Necessity No. C-130, dated May 29, 1979, by the Iowa Department of Transportation: General commodities (except liquid products, in bulk, in tank vehicles), between Allmen, Altoona, Baxter, Bondurant, Cambridge, Clemons, Colfax, Colo., Collins, Des Moines, Elkhart, Fernald, Haverhill, Ira, Kelly, Maxwell, Melbourne, Mingo, Mitchellville, McCallsburg, Nevada, Rhodes, Runnels, St.

Anthony, Sheldahl, Shipley, Slater, State Center, and Zearing, IA.
[FR Doc. 79-26365 Filed 8-23-79; 8:45 am]
BILLING CODE 7035-01-M

[Notice No. 123]

Assignment of Hearings

August 20, 1979.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 119767 (Sub-350F), Beaver Transport Co., now assigned for Prehearing Conference on September 10, 1979 at Chicago, IL, and will be held in Room No. 280, Everett McKinley Dirksen Building, 219 South Dearborn Street.

MC 720 (Sub-58F), Bird Trucking Company, Inc., MC 139577 (Sub-27F), Adams Transit, Inc., MC 114457 (Sub-466F), Dart Transit Company, now assigned for hearing on September 11, 1979 at Madison, WI, and will be held at the Rear Lecture Room, Madison Public Library, 201 West Mifflin Street.

MC-FC-77634, A M & M Incorporated, Transferee and Record Truck Line, Inc. Transferor, MC 133220 (Sub-12F), A M & M Incorporated (Reentitled), MC 133220 (Sub-13F), A M & M Incorporated (Reentitled), now assigned for hearing on September 11, 1979 at Washington, DC, is postponed to September 24, 1979 (5 days), at Atlanta, GA, in a hearing room to be later designated.

MC 107445 (Sub-20F), Underwood Machinery Transport, Inc., now assigned for hearing on October 15, 1979 at Chicago, IL, is canceled and reassigned to October 15, 1979 (1 week) at Indianapolis, ID, in a hearing room to be later designated.

MC 125156 (Sub-2F), Dawson's Charter Service, Inc., now assigned for hearing on September 5, 1979 at Washington, DC, is postponed to October 10, 1979 at the Offices of the Interstate Commerce Commission, Washington, DC.

MC 112963 (Sub-82F), Roy Bros., Inc., now assigned for hearing on September 12, 1979 (3 days), at Boston, MA, is postponed to October 29, 1979 (1 week) at Boston, MA, in a hearing room to be later designated.

MC 121658 (Sub-14F), Steve D Thompson Trucking, Inc., now assigned for hearing on September 11, 1979 (2 days), at the Holiday Inn, 6th and Broadway, Little Rock, AR, and continued to September 13, 1979 (2

days), at the Ramada Inn, 1311 U.S. Highway, 165 By Pass, Monroe, LA. I&S No. 9217, Increased Rates On Coal, Arco, TN, now assigned for hearing on September 5, 1979 is postponed to September 6, 1979 (2 days) at the Offices of the Interstate Commerce Commission, Washington, DC.

MC F 13803 F, Spector Industries, Inc., d.b.a. Spector Freight System-Control-Spector Freight System of Canada Limited, now being assigned for hearing on November 5, 1979 (2 days), at Chicago, IL, in a hearing room to be designated later.

MC 146468 F, Nankin Auto Parts Transport, Inc., now being assigned for hearing on November 7, 1979 (2 days), at Chicago, IL, in a hearing room to be designated later.

MC 108119 (Sub-125F), E. L. Murphy Trucking Company, now being assigned for hearing on November 9, 1979 (1 day), at Chicago, IL, in a hearing room to be designated later.

MC 135812 (Sub-1F), Professional Driver Services, Inc., and MC 140245 F, Professional Driver Services, Inc., Contract Carrier Application, now being assigned for Prehearing Conference on September 21, 1979 at the Offices of the Interstate Commerce Commission in Washington, DC.

MC 115093 (Sub-17F), Mercury Motor Xpress, Inc., now being assigned for Prehearing Conference on October 2, 1979 at the Offices of the Interstate Commerce Commission in Washington, DC.

MC 107012 (Sub-366F), North American Van Lines, Inc., now being assigned for hearing on November 5, 1979 (3 days), at Boston, MA, in a hearing room to be designated later.

MC 30844 (Sub-632F), Kroblin Refrigerated Express, Inc., Application dismissed. MC 107107 (Sub-473F), Alterman Transport Lines, Inc., transferred to Modified Procedure.

MC 108119 (Sub-124F), E. L. Murphy Trucking Company, now assigned for hearing on October 30, 1979 (1 day), at Chicago, IL, location of hearing room will be designated later.

MC-F-13826, H & W Motor Express Company, now assigned for hearing on October 31, 1979 (3 days), at Chicago, IL, location of hearing room will be designated later.

MC 112893 (Sub-55F), Bulk Transport Company, now assigned for hearing on November 5, 1979 (1 day), at Chicago, IL, location of hearing room will be designated later.

MC 119741 (Sub-143), Green Field Transport Company, Inc., now assigned for hearing on November 6, 1979 (2 days), at Chicago, IL, location of hearing room will be designated later.

MC 146110F, Small Shipment Express of

Illinois, Inc., now assigned for hearing on November 8, 1979 (2 days), at Chicago, IL, location of hearing room will be designated later.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 79-26361 Filed 8-23-79; 8:45 am]

BILLING CODE 7035-01-M

[Notice No. 124]

Assignment of Hearing—Correction

August 17, 1979.

MC 138635 (Sub-67F), Carolina Western Express, Inc., appearing page 46607, August 8, 1979 is corrected as follows: MC 138635 (Sub-67F), Carolina Western Express, Inc., now being assigned for hearing on September 12, 1979 (3 days), at Los Angeles, CA will be held in Room No. 203, U.S. County Court House, 111 North Hill Street (instead of September 11, 1979).

Agatha L. Mergenovich,
Secretary.

[FR Doc. 79-26362 Filed 8-23-79; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 29021F]

Consolidated Rail Corporation (ConRail)—Discontinuance of Passenger Trains Nos. 453-456 Between Valparaiso, Ind. and Chicago, Ill.

AGENCY: Interstate Commerce Commission, Office of Policy and Analysis, Energy and Environment Branch.

ACTION: Notice of availability of final environmental impact statement prepared in above-entitled proceeding.

SUMMARY: On or about August 28, 1979 the Energy and Environment Branch will serve on the public and the Environmental Protection Agency (EPA), a copy of the final environmental impact statement prepared in the above-entitled proceeding. This notice is intended as a supplement to that which will be published by EPA (approximately one week later), if upon review it finds the subject document to be acceptable for filing.

FOR FURTHER INFORMATION CONTACT: Steve Botts, Energy and Environment Branch, Interstate Commerce Commission, 12th & Constitution

Avenue, Washington, DC 20423, Tel. (202) 275-7917.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 79-26363 Filed 8-23-79; 8:45 am]

BILLING CODE 7035-01-M

[No. MC 111231 (Sub-No. 236) F]

Jones Truck Lines, Inc., Extension—St. Louis Steel; Springfield, AR

Decided: July 28, 1979.

Applicant seeks a certificate of public convenience and necessity authorizing the operations substantially as described in the appendix. The evidence has been considered under the modified procedure. The application is opposed by Steel Haulers, Inc., a motor common carrier. Applicant filed a rebuttal statement.

Pertinent Facts

Hyman-Michaels Company and Sauk Steel Co., Inc., both maintain facilities in the Chicago, IL, commercial zone. Hyman-Michaels ships scrap iron while Sauk distributes steel bars. Each month they consign respectively five and five to six shipments to Oklahoma destinations and will tender to applicant two and two to three such monthly loads. Each firm gives representative Oklahoma destinations.

American Sheet and Strip Steel Corporation, Manufacturers Steel Supply Co., Inc., and Southwest Steel Supply Co., Inc., all conduct operations in the St. Louis, MO—East St. Louis, IL, commercial zone. Each markets various types of steel articles in Oklahoma points. American presently ships only about 1 such load a month but is hiring a salesman to cover that territory and expects to increase pertinent monthly volumes to three or four movements. Shipper plans to tender half of this traffic to applicant.

Manufacturers presently has "limited" shipments into Oklahoma due to availability of similar products from Oklahoma based producers at a lower price but speculates that traffic to that State may increase due to market conditions. If the application is granted, Jones will receive a proportionate share of such freight. All of manufacturers' Oklahoma shipments will be destined to points near Norman.

Southwest ships about 200 tons a month into the area to be served here and gives representative destinations for this traffic. It plans to tender three or four loads a month to applicant.

Each shipper requires truckload service and all except Hyman-Michaels need occasional multiple deliveries. All

have used the services of Steel Haulers, and will continue to use this protestant if the authority sought is granted. The Chicago-based shippers and Southwest as well, find that Steel Haulers is sometimes unable to supply equipment. Sauk has been forced to transport shipments to Oklahoma in private carriage due to protestant's inability to furnish vehicles.

Applicant not only requests authority from St. Louis to points in Oklahoma, but also seeks to tack the sought rights with certain authority (identified in the Federal Register publication as Certificate Sub-No. 41) to transport "steel and steel products between St. Louis and its commercial zone on the one hand, and, on the other, Chicago."

Applicant operates terminals at St. Louis, Chicago, and points throughout Oklahoma. It offers all services for which shippers express a need. Jones presently handles this traffic to portions of Oklahoma assertedly by tacking certain of its authorities which are not identified by Sub-Nos. During October and November 1978, it handled seven shipments from St. Louis and 78 shipments from Chicago to the sought destinations. Movements which it could not transport directly were interlined with a non-party carrier, but this arrangement has deteriorated and Jones seeks direct authority to replace the interline operation. Of the October and November 1978, shipments, applicant interlined eleven. All moved from Chicago. During the same period in 1977, it interlined four shipments from each origin.

Steel Haulers has authority to handle iron and steel articles from Chicago and St. Louis to points in Oklahoma. It maintains terminals at those points and one near Tulsa, OK. Protestant operates a substantial fleet of equipment and offers all services which shippers desire. It has not transported any traffic for Manufacturers during 1978, and has handled minimal amounts of traffic for the other supporting shippers here. During the last quarter of 1978, it transported 129 shipments from St. Louis to Oklahoma, and derived over \$70,000 from this transportation. Steel Haulers averages 89 movements a month from Chicago to Oklahoma. Its earnings from such traffic in the last three months of 1978 exceeded \$17,000. Steel Haulers points out that a grant of this application would enable Jones to gain authority to serve two major steel producing areas on the basis of a need shown by a few small firms. Protestant fears diversion of traffic which it handles for large shippers of steel at the involved origins. Protestant would not object to a grant of

authority if it were limited to the facilities of the supporting shippers.

Discussion and Conclusions

Although the evidence of Manufacturers is too indefinite and speculative to show even a future need for applicant's operation, the remaining shipper's testimony is sufficient to establish a requirement for additional service to Oklahoma from both origins. Significant quantities of traffic are involved, and shippers require periodic split deliveries. Applicant has demonstrated the ability to serve the supporting firms. Protestant has handled some freight for the interested shippers but this has not been substantial and its statement that it would not object to a grant limited to the pertinent facilities indicates little interest in the involved traffic. Protestant's real concern seems to be in protecting the revenues it enjoys from large shippers at St. Louis and Chicago. However, we note that applicant can presently transport much of this traffic directly by tacking of various authorities,¹ and has interlined some to Oklahoma points it does not cover directly. Steel Haulers, therefore, is presently a competitor for the involved freight. For this reason, and because the opposing carriers have not shown the significance of the involved traffic in relation to their overall revenues, we see little probability that a grant to serve additional Oklahoma points directly without a plantsite restriction will materially harm protestants to an extent contrary to the public interest. We will grant the authority as sought from St. Louis to Oklahoma without further discussion.

In the application as filed and published, Jones generally asks the right to tack the authority sought here with its Sub-No. 41 authority. That certificate does enable the carriage of general commodities (with exceptions) between Chicago and St. Louis. The same franchise also contains irregular-route authority to transport steel and steel products from Chicago, and various other points in St. Louis. It would be inappropriate to allow tacking with the pertinent irregular-route rights since this would allow service not only from Chicago, but also at numerous other origins where applicant has made no showing of need. Also one Chicago shipper distributes only iron articles which could not move under "steel products" authority. In order to meet the

¹ We admonish applicant for not identifying the franchises which allow this service, but a review of the extensive list of authorities attached to its statement reveals it has regular-route general commodity rights which would permit much of the sought service.

needs shown on this record and to avoid granting authority from many points at which *Jones* service is not required, we will deny applicant's tacking request and instead grant specific authority to serve Chicago as an origin. Since applicant has demonstrated only one way movements of traffic, the grant will be limited accordingly.

The Federal Register publication did not make it clear that tacking was sought to serve Chicago so issuance of the authority here will be withheld until publication in the Federal Register of a notice of the authority actually granted and the disposition of any timely filed petitions to intervene by parties prejudiced by the inclusion of this additional origin.

We find: The present and future public convenience and necessity require operation by applicant, performing the service described in the appendix. Applicant is fit, willing, and able properly to perform the granted service and to conform to the requirements of Title 49, Subtitle IV, U.S. Code, and the Commission's regulations. An appropriate certificate should be granted. This decision does not significantly affect the quality of the human environment.

It is ordered: The application is granted to the extent set forth in the appendix.

Operations may begin only following the service of a *certificate* which will be issued after satisfaction of the republication condition in the appendix if applicant complies with the following requirements set forth in the Code of Federal Regulations: insurance (49 CFR 1043), designation of process agent (49 CFR 1044), and tariffs (49 CFR 1310).

Applicant must comply within 90 days after the date of service of this decision, or the grant of authority shall be void.

By the Commission, Review Board Number 2. Members Boyle, Eaton, and Liberman.
Agatha L. Mergenovich,
Secretary.

Appendix

Authority to conduct the following operations will be issued in an appropriate document. This decision does not constitute authority to operate.

To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting iron and steel articles, from St. Louis, MO, and Chicago, IL, to points in Oklahoma.

CONDITION: Issuance of the certificate authorized here will be withheld until publication in the Federal Register of a notice of the grant of authority set forth above and

the disposition of any petitions to intervene filed within 90 days of such publication.

[FR Doc. 79-26368 Filed 8-23-79; 8:45 am]

BILLING CODE 7035-01-M

[MC 143983]

Mel-Kris Trucking Corp. Contract Carrier Application; Paterson, N.J.

Decided: July 5, 1979.

Applicant seeks a permit to operate as a contract carrier by motor vehicle, authorizing the operations described in the appendix. The evidence has been considered under the modified procedure.¹ The application is opposed by Interstate Dress Carriers, Inc. (IDC), a motor common carrier. Applicant filed a reply argument.

Pertinent Facts

Applicant here seeks its initial permanent operating rights from the Commission. It maintains a terminal at Paterson, NJ, and will begin operations by leasing two tractors, five trailers, and one straight truck. It has been serving shipper for many years within the New York, NY, commercial or "exempt" zone. If the instant application is approved, applicant will provide shipper with expedited and timed pickups and deliveries (including inside pickups and deliveries if necessary), reconsign and divert shipments, perform loading, unloading, and warehousing services at its Paterson terminal, and effect a local pickup and delivery service in the New York, NY, commercial zone in conjunction with a line-haul transportation service between Paterson and Glens Falls, NY.

Supporting shipper, Native Textiles, A Division of Carisbrook Industries, Inc., manufactures textiles and textile products at pertinent plants situated at Dallas, PA, and Glens Falls, NY. At present, shipper uses its own equipment to transport its finished products and related materials, equipment, and supplies from the Dallas facility to applicant's facilities in New York City, where the shipments are distributed by applicant locally or for export. Native also transports these same commodities, as well as freight originating in the New

¹ This is the second decision by this Board. Because the original statements failed by applicant and its supporting shipper were significantly deficient in certain respects, and because applicant failed to demonstrate the operational feasibility of its service proposal or to provide any financial data, by decision served January 31, 1979, this proceeding was reassigned for further processing under the modified procedure. Applicant and shipper were afforded a period of time in which to submit evidence conforming to Rule 247(f)(3) of the Commission's General Rules of Practice. Protestant was afforded additional time to respond.

York City area, from New York City to its Glens Falls Plant. The traffic then moves back by shipper to New York City and subsequently to Dallas in a continuous round-robin operation.

Native requires the services of a carrier which will not only effect a local pickup and delivery service in the New York City commercial zone, but will also perform a linehaul transportation service between the New York area and its Glens Falls facility (the latter service replacing its own private operations). As proposed herein, traffic originating at Native's Dallas, PA, plant destined to the New York commercial zone (and ultimately to Glens Falls), will continue to be transported in shipper's own vehicles to applicant's Paterson terminal. Applicant will then make local pickups and deliveries in the New York commercial zone and also provide power equipment to pull shipper's trailers from the New York area to Glens Falls. The parties envision that, at some point, applicant will supply a portion of the trailer equipment as well. At Glens Falls this pattern will be reversed. If this application is granted, Native will tender to applicant all of the subject traffic. Native asserts existing carriers cannot provide the dedicated service applicant proposes. However, it goes on to say that any carriers currently being used at its plants will continue to be used in accordance with customer routings.

IDC asserts it holds pertinent authority to transport materials and supplies used in the manufacture of wearing apparel between New York City and Glens Falls, NY. It also alleges it can provide direct service between Dallas, PA, and Glens Falls, NY, with no need for an intermediate stop at Paterson, NJ, as required in applicant's proposal. We note, however, that protestant merely provides an appendix containing all of its operating authorities and fails to indicate specifically its pertinent operating rights in conflict with the authority sought here. IDC directs its evidence to a great extent at shipper's traffic moving to and from Dallas, PA, but this service is not sought in the application.

IDC contends that applicant's proposed service is for common rather than contract carriage. It argues it is in a position to satisfy shipper's transportation requirements. IDC submits it is currently handling substantial traffic from Native's Glens Falls facility to customers situated throughout the New York commercial zone and fears unwarranted diversion by applicant of this traffic and the resulting revenues should the sought

authority be approved. No traffic studies, however, are presented.

Discussion and Conclusions

Applicant's proposal constitutes contract carriage under 49 U.S.C. 10102(12), inasmuch as applicant has no other interstate authority and since the character of the evidence submitted indicates that it will assign equipment to the exclusive use of the supporting shipper, the only person it will be serving as a contract carrier. See, for example, *Royal Transports, Inc., Contr. Car. Applic.*, 120 M.C.C. 783, 789 (1974).

Applicant will provide service to but one shipper, the strongest showing possible under the first criterion of 49 U.S.C. 10923(b)(2). It will perform a personalized, "house carrier" service for shipper including effecting prompt, scheduled, and inside pickups and deliveries, reconsigning and warehousing shipments, and coordinating a local pickup and delivery service in the New York area with a line-haul service between Glens Falls, NY, and applicant's terminal at Paterson, NJ. The sole protestant, IDC, simply has not shown it is in a position to match the type of dedicated, tailored transportation service applicant proposes here.

IDC avers it is presently transporting traffic from Native's Glens Falls plant to New York area destinations. However, we note that protestant fails to specifically document such service making it impossible for us to accurately assess any harm it may suffer as a result of a grant of authority in this proceeding. In any event, we conclude that the advantages to Native of having applicant's proposed superior operation outweigh any potentially detrimental effects which may befall IDC.

A denial of the application would adversely affect applicant to the extent it would be prevented from joining the ranks of regulated carriers. Such a decision also would deprive Native of the services of a carrier willing to devote its operations to shipper's expressed for-hire transportation needs. The changing character of Native's transportation needs does not appear to be a significant factor here.

Weighing in balance the evidence in light of the criteria of 49 U.S.C. 10923(b)(2), we conclude that the application should be granted to the extent set forth in the appendix.

Certain additional matters concerning the scope of authority sought and granted must be considered. In its initial verified statement on further modified procedure, applicant requests that the authority sought be amended to include materials, equipment, and supplies used

in the manufacture and sale of textiles and textile products (except in bulk). The supporting shipper has, in fact, clearly demonstrated a need for the movement of such commodities and the grant will include appropriate authority. Additionally, applicant requests that the base point originally sought, Paterson, NJ, be changed to New York, NY, in order to allow it to provide the service shown to be required by shipper. We agree that this change is necessary and to deny the request would be to deprive shipper of a substantial portion of the service it needs. Paterson's commercial zone does not include New York City and thus a grant to serve Paterson would not allow applicant to perform the pickups and deliveries within the geographical area known as the New York, NY, commercial zone shown to be needed by shipper. A grant to serve New York, NY, would, however, include all points in the New York City commercial zone, including Paterson, and would allow applicant not only to operate to its Paterson facilities but also to make pickups and deliveries within the New York commercial zone with regard to traffic moving, respectively, to or from Glens Falls. See 49 CFR 1041.20 and 1048.101.

However, in making these changes in the application, we rather substantially have broadened the scope of the authority as originally sought and published. Accordingly, a notice of the authority actually granted will be published in the Federal Register and issuance of a permit will be withheld for a period of 30 days from the date of publication, during which period any proper party in interest may file an appropriate petition for leave to intervene in this proceeding, setting forth in detail the precise manner in which it has been prejudiced.

We find: Operation by applicant, as a contract carrier by motor vehicle, performing the service described in the appendix, will be consistent with the public interest and the transportation policy of 49 U.S.C. 10101. Applicant is fit, willing, and able properly to perform the granted service and to conform to the requirements of Title 49, Subtitle IV, U.S. Code, and the Commission's regulations. An appropriate permit should be granted. This decision does not significantly affect the quality of the human environment.

It is ordered: The application is granted to the extent set forth in the appendix.

Operations may begin only following the service of a *Permit* which will be issued after republication and if applicant complies with the following requirements set forth in the Code of

Federal Regulations: insurance (49 CFR 1043), designation of process agent (49 CFR 1044), contracts (49 CFR 1053), and freight rate schedules (49 CFR 1307).

Compliance with these requirements must be made within 90 days after the date of service of this decision or the grant of authority in this decision shall be void.

By the Commission, Review Board Number 2. Members Boyle, Eaton, and Liberman (Board Member Eaton not participating).

Agatha L. Mergenovich,
Secretary.

Appendix

AUTHORITY SOUGHT: To transport textiles and textile products, between Paterson, NJ, on the one hand, and, on the other, Glens Falls, NY, under continuing contract(s) with Native Textiles, Inc.

SERVICE AUTHORIZED: Authority to conduct the following operations will be issued in an appropriate document. This decision does not constitute authority to operate.

To operate as a *contract carrier*, by motor vehicle, in interstate of foreign commerce, over irregular routes, transporting (1) *textiles and textile products*, and (2) *materials, equipment, and supplies* used in the manufacture and sale of the commodities in (1) above (except commodities in bulk), between New York, NY, on the one hand, and, on the other, Glens Falls, NY, under continuing contract(s) with Native Textiles, Division of Carisbrook Industries, Inc., of New York, NY.

CONDITION: Issuance of the permit authorized here will be withheld for a period of 30 days from the date of publication in the Federal Register of a notice of the authority granted by this decision.

[FR Doc. 79-26364 Filed 8-23-79; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 368]

Increased Freight Rates and Charges, Nationwide—1979; Decision

Decided: August 16, 1979.

By petition and verified statements filed July 28, 1979, United States Railroads sought authority to increase freight rates and charges generally by 9 percent within Eastern Territory, 7.5 percent within Western Territory and between the West and East, and 6.4 percent within Southern Territory and between Southern Territory and the East or West. The railroads sought to make the proposed increase effective October 1, 1979.

In a decision served August 9, 1979, the Commission ordered that any person opposing or wishing to comment on the proposed increase should file and serve verified statements on or before September 8, 1979. (44 FR 47854, August 15, 1979) The Commission further

ordered that respondents should file and serve their replies to protests as other pleadings and rebuttal evidence on or before September 12, 1979. The Commission added that in the event the railroads did not file their tariff prior to August 13, 1979, the due dates specified for the filing of protests and for the filing of replies would be extended.

The railroads did not file their tariff on August 13, 1979. They anticipate filing the tariff on August 20, 1979. Therefore, we extend the due date for the filing of protests from September 8, 1979 to September 11, 1979, and we extend the due date for the filing of replies from September 12, 1979 to September 17, 1979. These extended deadlines will provide sufficient time for all parties to file their pleadings without unnecessary delay. However, these extended procedural dates subtract from the period the Commission has for rendering a decision. The railroads are placed on notice that the Commission may, if the circumstances warrant, require that the October 1, 1979 proposed effective date be postponed for a period of time equal to the delay in filing the tariff.

It is ordered: The due date for the filing of protests is extended to September 11, 1979. The due date for the filing of replies is extended to September 17, 1979.

By the Commission, Chairman O'Neal.
Agatha L. Mergenovich,
Secretary.

[FR Doc. 79-26368 Filed 8-23-79; 8:45 am]
BILLING CODE 7035-01-M

Sunshine Act Meetings

Federal Register

Vol. 44, No. 166

Friday, August 24, 1979

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

CIVIL AERONAUTICS BOARD.

TIME AND DATE: 9 a.m., August 23, 1979.

PLACE: Room 1027, 1825 Connecticut Avenue N.W., Washington, D.C. 20428.

SUBJECT: 18a. Dockets 35893, 36005, 36020, 36024, 36031, 36033, 36035, 36036, 36049, 36052, 36054, and 36057; Boston/Philadelphia/Washington-Orlando Show-Cause Proceeding (Memo No. 8927-A, BDA, BIA, OGC).

STATUS: Open.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary (202) 673-5068.

SUPPLEMENTARY INFORMATION:

Immediate action is required in this matter because the Philadelphia-Orlando awards have a direct bearing on a pending court proceeding, and the General Counsel has been requested to produce evidence of the Board's action as soon as possible. Accordingly, the following Members have voted that agency business requires the addition of Item 18a to the August 23, 1979 agenda and that no earlier announcement of this addition was possible:

Chairman Marvin S. Cohen
Member Elizabeth E. Bailey
Member Gloria Schaffer

[S-1672-79 Filed 8-22-79; 3:28 pm]
BILLING CODE 6320-01-M

2

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

TIME AND DATE: 9:30 a.m. (eastern time), Tuesday, August 28, 1979.

PLACE: Commission conference room, No. 5240, on the fifth floor of the Columbia Plaza Office Building, 2401 E Street NW., Washington, D.C. 20506.

MATTERS TO BE CONSIDERED:

Open to the Public

1. Modification of various state and local agency fiscal year 1979 charge resolution contracts.
2. Revised draft annual report required by Executive Order 12067.
3. Affirmative Action instructions for Federal Agencies for fiscal year 1980.
4. Two sole source contracts to obtain information pursuant to a court order.
5. Report on Commission operations by the Executive Director.

Closed to the Public

1. Litigation authorization; General Counsel recommendations.
2. Decision on request to appeal 01790595.
3. Decision on request to appeal 05790024.

Note.—Any matter not discussed or concluded may be carried over to a later meeting.

CONTACT PERSON FOR MORE INFORMATION:

Marie D. Wilson,
Executive Officer, Executive Secretariat,
at (202) 634-6748.

This notice issued August 21, 1979.

[S-1671-79 Filed 8-22-79; 2:47 pm]
BILLING CODE 6570-06-M

3

FEDERAL DEPOSIT INSURANCE CORPORATION.

Notice of Agency Meeting

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at 4:30 p.m. on Tuesday, August 21, 1979, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to (1) consider a Legal Division memorandum dated August 14, 1979, in connection with an appeal from an initial partial denial under the Freedom of Information Act; and (2) reconsider a decision of the Board in a section 8(b) proceeding under the Federal Deposit Insurance Act (12 U.S.C. 1818(b)) against an insured State nonmember bank for alleged violation of 12 CFR 329.8(f).

In calling the meeting, the Board determined, on motion of Chairman Irvine H. Sprague, seconded by Director John G. Heimann (Comptroller of the Currency), and concurred in by Director

William M. Isaac (Appointive), that Corporation business required its consideration of these matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of these matters in a meeting open to public observation; and that these matters were eligible for consideration in a closed meeting pursuant to subsections (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10)).

Dated: August 22, 1979.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,
Executive Secretary.

[S-1670-79 Filed 8-22-79; 11:54 am]
BILLING CODE 6714-01-M

4

FEDERAL ENERGY REGULATORY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Published August 20, 1979; 44 FR 48842.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10 a.m., August 20, 1979.

CHANGE IN MEETING: Addition to the agenda meeting of August 20, 1979.

Item Number, Docket Number, and Company
CP-3—CP79-295, Black Warrior Pipeline, Inc. and Rayar Pipeline, Inc.
Kenneth F. Plumb,
Secretary.

[S-1669-79 Filed 8-22-79; 11:54 am]
BILLING CODE 6450-01-M

5

FEDERAL MARITIME COMMISSION

TIME AND DATE: 2 p.m., August 20, 1979.

PLACE: Room 12126, 1100 L Street NW., Washington, D.C. 20573.

STATUS: Open.

MATTER TO BE CONSIDERED: Korean cargo preference laws.

CONTACT PERSONS FOR MORE INFORMATION: Francis C. Hurney (202) 523-5725.

[S-1667-79 Filed 8-21-79; 4:36 pm]
BILLING CODE 6730-01-M

6

FEDERAL MARITIME COMMISSION.

TIME AND DATE: 10 a.m., August 29, 1979.

PLACE: Room 12126, 1100 L Street, NW., Washington, D.C. 20573.

STATUS: Parts of the meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Portions Open to the Public

1. Monthly report of actions taken pursuant to authority delegated to the Managing Director.
2. Report on United States Lines, Inc., proposed 2.9 percent rate increase in Pacific Coast/Hawaii trade.
3. Appeal of Pacific Coast European Conference of staff action rejecting the filing of tariff matter.
4. Rules published by the Japan/Korea-Atlantic and Gulf Freight Conference pertaining to chassis availability and demurrage charges that result when chassis are not made available.
5. Acceptability of the city of New York as a self-insurer for purposes of General Order 40.
6. Possible rulemaking with respect to issues raised in Docket No. 77-11: Petition for Declaratory Order of Pacific Cruise Conference.
7. Universal Transcontinental Corporation and J. S. Stass Co. Division of Universal Transcontinental Corporation—Possible shipper connection.

Portions Closed to the Public

1. Show cause proceedings regarding failure to self police under General Order 7—Consideration of records.
2. Docket No. 79-46: Expedited surcharges for recovery of carriers increased fuel costs in the foreign commerce of the United States—Consideration of record.
3. Agreement No. 10286—WINAC Pool: Status report on Commission's directives in Docket No. 77-43.

CONTACT PERSON FOR MORE

INFORMATION: Francis C. Hurney, Secretary (202) 523-5725.

[S-1675-79 Filed 8-22-79; 3:50 pm]

BILLING CODE 6730-01-M

7

FEDERAL RESERVE SYSTEM.

TIME AND DATE: 10 a.m., Wednesday, August 29, 1979.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Summary Agenda

Because of its routine nature, no substantive discussion of the following item is anticipated. This matter will be voted on without discussion unless a member of the Board requests that the item be moved to the discussion agenda.

1. Proposed authorization for another 3 years of the Statement of Purpose of a Stock-Secured Extension of Credit (FR U-1).

Discussion Agenda

1. Proposed requirement of the New York Clearing House Association that all participants in Clearing House Interbank Payments System transactions with capital of less than \$250 million obtain a letter of support from their parents.
 2. Any agenda items carried forward from a previously announced meeting.
- Note.**—This meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the Board's Freedom of Information Office, and copies may be ordered for \$5 per cassette by calling (202) 452-3684 or by writing to: Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

CONTACT PERSON FOR MORE

INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board, (202) 452-3204.

Dated: August 21, 1979.

Griffith L. Garwood,

Deputy Secretary of the Board.

[S-1668-79 Filed 8-21-79; 4:44 pm]

BILLING CODE 6210-01-M

8

NATIONAL MEDIATION BOARD.

TIME AND DATE: 2 p.m., Wednesday, September 5, 1979.

PLACE: Board hearing room, eighth floor, 1425 K Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

- (1) Ratification of Board actions taken by notation voting during the month of August, 1979.
- (2) Other priority matters which may come before the Board for which notice will be given at the earliest practicable time.

SUPPLEMENTARY INFORMATION: Copies of the monthly report of the Board's notation voting actions will be available from the Executive Secretary's Office following the meeting.

CONTACT PERSON FOR MORE

INFORMATION: Mr. Rowland K. Quinn, Jr., Executive Secretary, telephone: (202) 523-5920.

Date of Notice: August 21, 1979.

[S-1673-79 Filed 8-22-79; 3:28 pm]

BILLING CODE 7550-01-M

9

NATIONAL RAILROAD PASSENGER CORPORATION.

Board of Directors Meeting.

Additional Agenda Item for Meeting.

In accordance with rule 4d. of Appendix A of the Bylaws of the

National Railroad Passenger Corporation, notice is given that the following item will be added to the agenda for the Board of Directors meeting of August 29, 1979:

4. *Commitment Approval Requests*—79-114 Establish New Service—Chicago to Indianapolis.

Board members Edwards, Boyd, Head, Kling, Langdon, Quinn and Nathan determined by recorded vote that the business of the Corporation requires the change in subject matter by addition of the agenda item, and affirmed that no earlier announcement of the change was possible, and directed the issuance of this notice at the earliest practicable time. Board members Dunlop, Lamphier, Luna, Mills, Neel and Goldschmidt were not reached for the vote.

The revised agenda to be discussed at the meeting follows:

Agenda—National Railroad Passenger Corporation—Meeting of the Board of Directors—August 29, 1979

(9 a.m.) Closed Session

1. Internal personnel matters.
2. Litigation matters.

(10 a.m.) Open Session

3. Approval of minutes of regular meeting of July 25, 1979.
4. Commitment approval requests:
 - 79-106 PCB handling/storage facilities—Wilmington, Del.
 - 79-112 Construct new station—Borie, Wyo.
 - 79-113 Modify station trackage—Temple, Tex.
 - 79-114 Establish new service—Chicago to Indianapolis.
5. Superliner inaugural/board trip.
6. Board committee reports:
 - Audit.
 - Finance.
 - Northeast corridor improvement project.
 - Organization and compensation.
 - Legal affairs.
 - Ad hoc bylaws revision.
7. Approval of preparation for October 1 route system.
8. President's report.
9. New business.
10. Adjournment.

Inquiries regarding the agenda for the August 29, 1979 Board meeting should be directed to the Corporate Secretary at (202) 383-3973.

Elyse G. Wander,
Corporate Secretary,
August 22, 1979.

[S-1674-79 Filed 8-22-79; 3:45 pm]

Friday
August 24, 1979

Part II

Department of Labor

Employment Standards Administration

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

federal register

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Educational and/or Appr. Tr.
Asbestos Workers	12.90	.55	.90		.07
Boilermakers	13.05	1.05+.40	1.00	5%	.03
Bricklayers	12.35	.55	.80		
Carpenters & Soft Floor Layers	11.05	.55	1.00		
Cement Masons	11.78	.55	1.00		
Electricians: No Limit on Units	6.65	.50	33+.60		.4%
Ironworkers: Structural, Ornamental and Reinforcing	12.50	.75	.375		.10
Laborers	10.65	.65	.60		.035
Lathers	11.79	.55	.60		
Marble Setters, Terrazzo Workers & Tile Setters	11.45	.55	.70		
Painters	10.95	.55			
Plasterers	11.23	.55	1.00		
Plumbers & Steamfitters	11.55	.45	.60		.07
Roofers -	12.20	.55			
Sheet Metal Workers	12.00	.55	1.22	.50	.09
Truck Drivers - 2 and 1 Axle	11.25	.55	1.00		
Welders - Rate for Craft					

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a) (1) (ii)).

MODIFICATION P. 1

Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vacation	
Decision MS79-1077-Mod. #1 (44 FR-23115-April 27, 1979) Clarke, Jasper, Kemper, Lauderdale, Neshoba and Newton Counties, Mississippi <u>Change:</u> Under Power Equipment Operators: Buckhoe				
3.50				
DECISION NO. OH79-2043 - MOD. #5 (44 FR 26504 - May 4, 1979) Statewide, Ohio <u>ADD:</u> Power Equipment Operators: Excavating Counties of Columbiana, Mahoning, & Trumbull Well & Pump Work (Including Drilling & Repair of all Water Wells; Test Holes and Wells; and Installation & Repair of Deep Well Type and Shallow Well Pumps on Water Wells) Well Driller & Pump Installer				
\$7.60	.34	.27	a & b	
FOOTNOTES: a. 9 Paid Holidays: New Year's Day; Good Friday; Memorial Day; Independence Day; Labor Day; Thanksgiving; Day; Friday after Thanksgiving; Christmas Eve Day; & Christmas Day b. Employees who have been in the continuous employment of the company for less than 1 year as of January 1, will receive pro-rated vacation based on 5/12 day per full month of employment, but not exceeding 5 days' vacation; 3rd continuous calendar year - 2 wks' paid vacation; 4th continuous calendar year - 3 wks' paid vacation				

MODIFICATION P. 2

Basic Hourly Rates	Fringe Benefits Payments			Education and/or App. Tr.
	H & W	Pensions	Vacation	
DECISION NO. OH79-2047 - MOD. #6 (44 FR 27859 - May 11, 1979) Adams, Brown, Butler, Champaign, Clark, Clermont, Clinton, Darke, Delaware, Fairfield, Fayette, Franklin, Gallia, Geauga, Greene, Hamilton, Highland, Lawrence, Licking, Madison, Meigs, Miami, Montgomery, Muskingum, Perry, Pickaway, Pike, Preble, Ross, Scioto, Shelby, Union & Warren Counties, Ohio				
ADD: Power Equipment Operators: Well & Pump Work (Including Drilling & Repair of all Water Wells; Test Holes and Wells; and Installation & Repair of Deep Well Type and Shallow Well Pumps on Water Wells)	\$7.60	.27	a & b	
FOOTNOTES: a. 9 Paid Holidays: New Year's Day; Good Friday; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Friday after Thanksgiving; Christmas Eve Day; & Christmas Day b. Employees who have been in the continuous employment of the company for less than 1 year as of January 1, will receive pro-rated vacation based on 5/12 day per full month of employment, but not exceeding 5 days' vacation; 3rd continuous calendar year - 2 wks' paid vacation; 11th continuous calendar year - 3 wks' paid vacation				

SUPERSEDEAS DECISION

STATE: Illinois

COUNTIES: DuPage, Grundy,
Kane, Kendall, Lake,

DECISION NUMBER: IL79-2052
Supersedes Decision No.: IL78-2094, dated October 20, 1978, in 43
FR 49159
McHenry & Will
DATE: Date of Publication

DESCRIPTION OF WORK: Building Construction Projects (including Residential Construction Projects)	FR 49159

	Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
		H. & W	Pensions	Vacation		
ASBESTOS WORKERS	\$13.01	.91	.99			.05
BOILERMAKERS	13.05	1.05+	1.00	5%		.03
		.40				
BRICKLAYERS & STONEMASONS:						
DuPage County:						
North of Butterfield Road:						
Argonne Vicinity (Na-						
tional Accl. Lab.) ABC						
Plant	11.71	.90	.85			.05
South of Butterfield Road						
from East to West	11.71	.90	.85			.05
Northern Kane, bounded on						
the South by St. Charles,						
Campton & Virgil Twp;						
West by the Dekalb Co.	13.00	.90	.85			.02
line, East by Cook County						
line, McHenry County	13.00	.90	.85			.02
Southern Kane County &	11.71	.90	.85			.03
Kendall Counties	12.16	.90	.45			
Lake County						
Will & Grundy Counties						
Cement Masons:	13.20	.90	.96			
Southern Kane, Kendall	11.75	.85	1.05			
Cos.						
Lake County						
MARBLE, TILE & TERRAZZO						
Workers:						
Kane, DuPage, Lake & Will						
Cos.:						
Marble Setters	12.73	.90				
Terrazzo Workers	8.95	.30	.30			
Tile Setters	10.85	.425	.45625			
Tile Setters' Finishers	9.55	.325d	3.40d			
CARPENTERS:						
Carpenters, Soft Floor						
Layers, Millwrights &						
Piledrivers						
DuPage & Lake Counties	12.70	1.08	1.08			.08
Kane, Kendall & McHenry						
Cos.	11.74	.75	1.00			
Will County:						
Building	11.88	.85	1.00			
Residential	11.81	.85	1.00			
Grundy County	12.145	.75	.85			.04

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DECISION NO. IL79-2052

DECISION NO. IL79-2052

	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
CEMENT MASONS: DuPage County Southern Kane & Kendall Cos.	\$10.90 13.20 11.75 11.02 12.15	.68 .90 .85 .65 .70	.70 .86 1.05 1.28 .80		.06 .05
Lake County will and Grundy Counties Remainder of Kane County					
ELECTRICIANS: DuPage County McHenry Co. & Northern half of Kane County Fendall Co. & Southern half of Kane County	14.20 14.75 14.67	5% 5% 5%	9% 13% 11%	8%	$\frac{1}{4}$ of 1% .5 of 1% $\frac{1}{4}$ of 1%
Will & Grundy Cos.: Building Residential Lake County	15.11 10.31 13.54	.88 .98 .65	3%+.70 3%+.60 3%+1.00		.2 of 1% .2 of 1% $\frac{1}{4}$ of 1%
GLAZIERS: DuPage, Kane, Kendall, Lake & Will Counties ELEVATOR CONSTRUCTORS: DuPage, Lake & Will Cos. Constructors Helpers Helpers (Prob.)	11.89 13.20 70%JR 50%JR	.48 .745 .745	.89 .56 .56 a+b a+b a+b		.01 .025 .025
IRONWORKERS: Kane County; Kendall (Northern & Cook, includ- ing Bristol & Yorkville) Co; McHenry (S.E. $\frac{1}{4}$ of Co., including Huntley) Co. & the remainder of DuPage Co.	13.65	.75	.525		.08
Will & Grundy Cos.: DuPage (Argonne) Co; & Southern half of Kendall Co. N. W. $\frac{1}{4}$ of McHenry County Lake Co.; McHenry, (Hoborn, Woodstock & east thereof) Co.	11.07 12.50 12.30	2.65, .75 1.24	.525 .375 1.87		.02 .10 .10

	Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
		H & W	Pensions	Vacation		
PLUMBERS, PIPEFITTERS & Steamfitters: (Cont'd)						
Kendall (Cities of Oswego & Plano) County	\$13.06	.55	.29	.25		.02
Kendall (City of Yorkvil- le) County; & Grundy (W. of Rt. #47) County	12.78	.55	.60			.09
Lake & McHenry Counties; Plumbers	12.10	.90	.92			.25
Steamfitters & Pipefitters Will (City limits of Jo- liet) County; & Grundy (E. of Rt. #47) County;	14.10	.85	1.12			.03
Plumbers & Pipefitters Remainders of Will County;	13.65	.85	.87			.10
Plumbers	12.50	.75	.82			.10
Pipefitters	14.10	.85	1.12			.03
PIPEFITTERS	13.05	1.27	.90			.03
DuPage & Lake Counties; Kane; Kendall, McHenry (Southern part including cities of McHenry, Wood- stock & Crystal Lake) Cos.	13.55	.85	.70			
Will & Grundy Counties	11.89	.86	.80			
Remainder of McHenry Cos.	12.20	.55				
SPRINKLER FITTERS:						
DuPage County;	12.50	.95	1.05			.15
Lake County; Within 20 mile radius of Chicago City Hall	12.50	.95	1.05			.15
Kane, Will, Grundy, Mc- Henry, Kendall & Remainder of Lake County	13.08	.75	1.05			.08
SHEET METAL WORKERS:						
DuPage County	12.90	.70	.60	.20		.12
Kane, Kendall & McHenry Co Cos.	12.73	.55	.60	1.10		.08
Lake County	12.95	.90	.73	.50		.07
Will & Grundy Counties	13.52	.80	.98			.09

	Basic Hourly Rates	Fringe Benefits Payments.				Education and/or Appr. Tr.
		H & W	Pensions	Vacation		
LATHERS:						
DuPage & Lake Cos.	11.52	.58	.645		.04	
Kane Co. & eastern 1/2 of McHenry Co.	11.05	.65	.40	.01		
Western 1/2 of McHenry Co.	11.79	.55	.60			
LINE CONSTRUCTION:						
DuPage Co.:						
Linenmen	12.83	.45	38			1/8
Equipment Operator	10.92	.45	38			1/8
Groundman Truck Driver	8.70	.45	38			1/8
Groundman	8.41	.45	38			1/8
PAINTERS:						
DuPage; Kane, Kendall & McHenry Counties	9.34	.60	.70			.06
Brush, Spray & Taper						
Lake County:						
Brush, Paperhangers & Tapers	10.85	.575	.75			.013
Will & Grundy Counties; Residential & Commercial	11.50	.80	.80			.05
PLASTERERS:						
DuPage County	10.46	.75	.50			
Northern Kane Co. (Twp. of Elgin)	13.25	.80	.91			
Southern Kane & Kendall Cos.	13.20	.90	.86			
Lake County	10.935	.85	1.05			
Will & Grundy Counties	11.87	.875	.92			.07
PLUMBERS, PIPEFITTERS & STEAMFITTERS:						
DuPage County: (Argonne-AEC Plant)						
Plumbers	12.50	.75	.82			
Pipefitters	12.90	.80	1.00			.10
DuPage County: (Remainder of Co.)						.02
Plumbers & Pipefitters: Wheaton & N. DuPage Cos.	12.00	.60	.86			.07
Naperville & S. DuPage Co.	11.90	.65	.90			.05
Kane County:						
Plumbers; Steamfitters & Pipefitters:						
Elgin & Vicinity	11.72	.80	.60	1.00		.05
Aurora & Vicinity	13.06	.55	.29	.25		.02

	Basic Hourly Rate	Fringe Benefits Payments			
		H & W	Pensions	Vocation	Education and/or Appr. Tr.
TRUCK DRIVERS:					
2-3 Axle Trucks	11.45	29.00c	33.00c		
4 Axle Trucks	11.60	29.00c	33.00c		
5 Axle Trucks	11.80	29.00c	33.00c		
6 Axle Trucks	12.00	29.00c	33.00c		
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.					

PAID HOLIDAYS: (*WHERE APPLICABLE)
 A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day;
 E-Thanksgiving Day; F-Day after Thanksgiving; G-Christmas, Day

FOOTNOTES:

- a. Employer contributes 8% of regular hourly rate to vacation pay credit for employee who has worked in business more than 5 years. Employer contributes 6% of regular rate to vacation pay credit for employee who has worked in business less than 5 years.
- b. 7 Paid Holidays: A through G
- c. Per week per employee
- d. Per Day

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS: <u>Kane, Kendall & McHenry</u>					
Class 1 - Laborers	\$10.10	.57	1.10		
Class 2 - Power Vibrator	10.20	.57	1.10		
Class 3 - Mortar Men, Torchmen (on Demolition Only)	10.25	.57	1.10		
Class 4 - Power Tampers	10.30	.57	1.10		
Class 5 - Chain Saw Men, Swinging Stage & Boat-Gun swain Chairs, Cement Nozzlemen, Hod Carriers, Plasterer Tenders, Tunnelmen, Tree Surgeons (Toppers)	10.35	.57	1.10		
Class 6 - Tile Layers & Bottom Men	10.45	.57	1.10		
Class 7 - Caisson Laborers & Dynamiters	10.60	.57	1.10		

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LABORERS: DuPage, Grundy & Will Cos.	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
CLASS 1 - Common Laborers, Plasterer, Laborers, Pumps or Dewatering & other Unclassified Laborers	\$10.10	.57	1.20		
CLASS 2 - Cement Gun Laborers	10.175	.57	1.20		
CLASS 3 - Scaffold Labor- ers & Chimney Laborers over 40'	10.20	.57	1.20		
CLASS 4 - Windlass & Ce- ment Gun Nozzle Laborers Gunite	10.20	.57	1.20		
CLASS 5 - Stone Handler & Derrickmen	10.20	.57	1.20		
CLASS 6 - Jackhammermen 10.325	10.325	.57	1.20		
CLASS 7 - Concrete Vibra- tor, Plumbers' Labor & Chain Saw Operator	10.35	.57	1.20		
CLASS 8 - Firebrick & Boiler Setters' Laborers	10.42	.57	1.20		
CLASS 9 - Chimney Laborers on Firebrick, Caisson Diggers & Well Point System Men	10.45	.57	1.20		
CLASS 10 - Boiler Setters Plastic Laborers	10.55	.57	1.20		
CLASS 11 - Jackhammer on Firebrick Only	10.655	.57	1.20		

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LABORERS: LAKE COUNTY	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
CLASS 1 Building & Plasters Labor- ers; General Laborers (Wrecking & Demolition) Fireproofing & Fire Shop Laborers.	\$ 9.20	.57	1.10		
CLASS 2 Cement Gun Laborers & Hose	9.275	.57	1.10		
CLASS 3 Chimney Laborers (over 40'); Scaffold Laborers; Wall Men or Wreckers	9.30	.57	1.10		
CLASS 4 Stone Derrickmen, & Hand- lers	9.40	.57	1.10		
CLASS 5 Jackhammer Men (Tampers & Vibrators) Power Driven Concrete Saws	9.425	.57	1.10		
CLASS 6 Caisson Diggers, Well Point System; Chimney Laborers (on Firebrick)	9.55	.57	1.10		
CLASS 7 Cement Gun Nozzle, Laborers (Gunnite)	9.35	.57	1.10		

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POWER EQUIPMENT OPERATORS:

CLASS I CLASS II CLASS III CLASS IV	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
	\$13.25	1.10	1.10	.60	.05
	11.95	1.10	1.10	.60	.05
	10.80	1.10	1.10	.60	.05
	9.55	1.10	1.10	.60	.05

CLASS I - Asphalt Plant, Asphalt Spreader, Auto-Grad, Batch Plant, Benoto (Requires two engineers), Boiler & Throttle Valve, Caisson Rigs, Central Red-Mix Plant, Combination Backhoe Front End Loader Machine Compressor & Throttle Valve, Concrete Breaker (Truck Mount- ed), Conveyor, Concrete Paver, Concrete Placer, Concrete Tower, Cranes (all), Derricks (all), Grader, Elevating, Grouting Machines, Highlift Shovels or Front End Loader 2 1/2 yd. & over, Hoists, One, Two & Three Drum Hoists, Two Tugger One Floor, Hydraulic Boom Truck, Locomotives (all), Motor Patrol, Pile Drivers & Skid Rig, Post- Hole Digger, Pre-Stress Machine, Pump Cretes Dual Ram (requir- ing frequent lubrication & water), Pump Cretes, Squeeze Cretes - Screw type pumps, Gypsum Bulker & Pump, Rock Drill (Self-Pneumated), Rock Drill (truck mounted), Scoops - Tractor Drawn, Slip Form Paver, Straddle Buggies, Tournapull, Tractor with Boom & Side Boom, Trenching Machines

CLASS II - Boilers, Bulldozers, Broom all Power Propelled, Concrete Mixer (2 bag & over), Conveyor Portable, Forklift Truck, Greaser Engineer, Highlift Shovels or Front End Loaders under 2 1/2 yd., Hoists, Automatic, Hoists, All Elevators, Hoists, Tugger Single Drum, Rollers, (All), Steam Generators, Stone Crushers, Tractors, (All), Winch Trucks with "A" Frame

CLASS III - Air Compressor - Small 125 & under (1 to 5 not exceed a total of 300 ft.), Air Compressor - large over 125, Combination - Small Equipment Opr., Generators under & over 50 KW, Heaters, Me- chanical Pumps over 3" (1 to 3 not to exceed a total of 300 ft.), Pumps, Well Points, Welding Machine (2 through 5), Winches, 4 Small Electric Drill Winches

CLASS IV - Oilers

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR 5.5 (a) (1) (ii)).

SUPERSEDES DECISION

STATE: Illinois
COUNTIES: Madison & St. Clair
DECISION NUMBER: IL79-2053
DATE: Date of Publication
Supersedes Decision No. IL78-2117, dated November 13, 1978 in 43
PR 52638
DESCRIPTION OF WORK: Building (Including Residential), Construction Projects

	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
ASBESTOS WORKERS	\$12.63	.80	.97		.03
BOILERMAKERS	11.45	.95	1.20		
BRICKLAYERS: Madison County: Alton, Granite City & Vi- cinity					
Bricklayers: Stone- masons; Pointers-Caulk- ers & Cleaners	12.43	.70	.75		
Edwardsville, Marine, Highland & Troy					
Bricklayers: Stone- masons, Marble-Tile- Terrazzo Workers, Pointers, Caulkers & Cleaners	9.95	.50	.75	1.00	
St. Clair County: E. St. Louis & Vicinity					
Bricklayers: Stone- masons; Marble-Tile- Terrazzo Workers, Pointers-Caulkers- Cleaners	9.95	.50	.75	1.00	
Belleville & Vicinity					
Bricklayers & Stone- masons	12.45	.70	.75		.10
CARPENTERS: Madison County: Carpenters; Millwrights; Soft Floor Layers & Piledrivermen: Building Residential-Single Family, Duplex, up to 4 Family Walk-Up Apart- ments	12.685	.70	.90		
St. Clair County: Carpenters; Millwrights; Soft Floor Layers & Piledrivermen	12.285	.70	.90		
	11.835	.60	1.00		

Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vacation	
\$12.45		.25		.035
Common Men Working on Sewer Work from Building to Main Sewer				
12.55		.25		.035
Men Working in Main Sewer Ditch & Cutting w/a Torch				
12.70		.25		.035
Plaster & Mason Tenders		.25		.035
Glen Carbon				
11.75		1.00		.035
Mason & Plaster Tenders		1.00		.035
12.25		1.00		.035
Dynamite Men		1.00		.035
13.35				
Highland				
12.05		.60		.035
Common Mason & Plasterers Tenders				
12.55		.60		.035
Workers cutting & burning w/a Torch				
12.30		.60		.035
Dynamite Men		.60		.035
13.65				
Livingston				
12.15		.50		.035
Common Working on the Bottom of Sewer				
12.40		.50		.035
Mason & Plasterer Tenders		.50		.035
12.65		.50		.035
Dynamite Men		.50		.035
13.75				
Marine				
12.45		.20		.035
Common Mason & Plasterer		.20		.035
12.95				
Working on the Bottom of Sewer				
12.70		.20		.035
Dynamite Men		.20		.035
14.05				
Troy				
11.65		1.60		.035
Common Mason & Plasterer Tenders		1.60		.035
12.15				
Working on the Bottom of Sewer				
11.90		1.60		.035
Dynamite Men		1.60		.035
13.25				

DECISION NO. IL79-2053	Basic Hourly Rates	Fringe Benefits Payments			Education Paid/Adm. Appr. Tr.
		H & W	Pensions	Vacation	
CEMENT MASONS	\$12.085	1.00	.69		
ELECTRICIANS:					
Alton & Vicinity in Madison Co.	12.35	.50	3 1/2 .65	6 1/2	.3 of 18
st. Clair Co. & the remainder of Madison Co.	12.73	4 1/2	3 1/2 .65	6 1/2	.25 1/2
ELEVATOR CONSTRUCTORS:					
Constructors	11.38	.745	.56	a+b	.025
Helpers	70 1/2 JR	.745	.56	a+b	.025
Helpers (Prob.)	50 1/2 JR				
GLAZIERS	11.95	.88	1.58	1.58	.01
IRONWORKERS	12.95	.55	1.05		
LABORERS:					
Madison County:					
Alton					
Common	11.35	.80	.60		.035
Laying Sewer & All Sewer Work	11.45	.80	.60		.035
Well Digging; Gunnite Machine; Gunnite Nozzle					
Oper.; Rip-Rapping	11.60	.80	.60		.035
MOOD RIVER					
Common	11.70		1.00		.035
Laying Sewer & All Sewer Work	11.80		1.00		.035
Well Digging; Gunnite Machine & Nozzle Oper.	11.95		1.00		.035
Granite City, Madison, Venice, Nameoki & Mitchell					
Common	11.35	.55	.80		.035
Open Wall	11.85	.55	.80		.035
Cutting, Burning & Welding	11.625	.55	.80		.035
Plasterers' & Brickmason Tenders	11.85	.55	.80		.035
Dynamite & Powdermen	12.025	.55	.80		.035
Collinsville					
Common	11.30	.65	.75		.035
Mason & Plasterer Tenders	11.80	.65	.75		.035
Dynamite Men	12.90	.65	.75		.035

Basic Hourly Rates	Fringe Benefits Payments			Education end/or Appr. Tr.
	H & W	Pensions	Vacation	
\$13.815				
PLASTERERS				
PLUMBERS & STEAMFITTERS:				
Alton & Northern part of				
Madison Co., North of	.48	.96		.05
Mitchell				
Granite City; Southern of				
Madison Co., & E. St.		.96		.03
Louis & Vic. in St. Clair	.72		.60	
Co.	12.00			
Belleville & Vicinity	12.90	1.00		
ROOFERS:				
Composition-Slate-Tile	10.95	.55		.03
SHEET METAL WORKERS	11.83	1.00	68	.02
SPRINKLER FITTERS	13.08	1.05		.08
WELDERS - receive rate pre-				
scribed for craft perform-				
ing operation to which				
welding is incidental.				

DECISION NO. IL79-2053

	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
LABORERS: (Cont'd)					
<u>St. Jacob Common</u>					
Mason & Plasterer Tenders	\$12.05		.60		.035
Working in Sewer Trenches	12.55		.60		.035
Dynamite Men	12.30		.60		.035
	13.65		.60		.035
<u>St. Clair County:</u>					
<u>E. St. Louis of Vicinity</u>					
Laborers	11.35	.55	.80		.035
Plasterer Tender	11.85	.55	.80		.035
Dynamite Men	12.875	.55	.80		.035
Relleville & Vicinity					
Laborers	11.35	.55	.80		.035
Dynamite Men & Powder Men	12.95	.55	.80		.035
Mason & Plasterer Tenders	11.85	.55	.80		.035
Working w/a Torch at Bottom of Sewer					
O'Fallon, Mascoutah, Scott & Vicinity	11.60	.55	.80		.035
<u>AFB, Shilo & Lebanon & Vicinity</u>					
Laborers	11.45	.65	.60		.035
Bottom Men on Sewer Work	11.70	.65	.60		.035
Dynamite Men	13.05	.65	.60		.035
Brick & Plaster Tenders	11.95	.65	.60		.035
<u>Freeburg & Vicinity</u>					
Laborers	11.55	.50	.60		.035
All Sewer Work	11.80	.50	.60		.035
Mason & Plaster Tenders	12.05	.50	.60		.035
Dynamite Men	12.30	.50	.60		.035
<u>New Athens & Vicinity</u>					
Laborers	11.50	.55	.60		.035
Bottom Men on Sewer Work	11.75	.55	.60		.035
Mason & Plaster Tenders	12.00	.55	.60		.035
Dynamite Men	13.10	.55	.60		.035
	13.735			.65	.01
<u>LATHERS</u>					
PAINTERS:					
Residential - Commercial	11.93	.55	.35		
Industrial	12.18	.55	.35		
Briggs; Grain Elevators, Water; Radio & TV Towers; Stack; Spray, Sand & Waterblasting; Steam Cleaning - additional 1.00 per hour		.95	.35		

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TRUCK DRIVERS	Fringe Benefits Payments				Education and/or Appr. Tr.
	Basic Hourly Rates	H & W	Pensions	Vacation	
GROUP I	\$10.80	.65	20.00a		
GROUP II	11.20	.65	20.00a		
GROUP III	11.40	.65	20.00a		

TRUCK DRIVERS

GROUP I: - Drivers on 2 Axle Trucks hauling less than 9 tons; Air Compressor and Welding Machine including those pulled by separate units; Warehouseman, Greasers & firemen; Pick-Up Trucks when hauling materials, Tools, or men to and from and on the jobs site; Fork Lifts up to 6,000 lbs., capacity

GROUP II: - 2 or 3 Axle Trucks hauling more than 9 tons, but hauling less than 16 tons; A-Frame Winch Trucks, Hydrolift Trucks, or similar equipment when used for transportation purposes; Fork Lifts over 6,000 lb. capacity; Winch Trucks; 4-Axle combination units; ticket writers

GROUP III: - 2, 3 or 4 Axle Trucks, Hauling 16 tons or more; Drivers on Off-Distributors; Water Pumps, Mechanics & Working Foreman; 5-Axle or more combination units; Dispatcher

FOOTNOTES

a. Per Week Per Employee

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a) (1) (ii)).

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DECISION NO. IL79-2053

POWER EQUIPMENT OPERATORS:

POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
		H & W	Pensions	Vacation		
GROUP I	\$12.62	.87	1.51			.05
GROUP II	10.59	.87	1.51			.05
GROUP III	10.04	.87	1.51			.05
GROUP IV	9.94	.87	1.51			.05
GROUP V	9.69	.87	1.51			.05
GROUP VI	13.67	.87	1.51			.05
a.	13.92	.87	1.51			.05
b.	11.97	.87	1.51			.05
c.	12.29	.87	1.51			.05
d.						

POWER EQUIPMENT OPERATORS:

GROUP I Cranes, Draglines, Shovels, Skimmer Scoops, Clamshells or Derrick Boats, Pile Drivers, Crane-Type Backhoes, Asphalt Plant Operators, Plant Ops., Ditching Machines or Backfillers (requiring oilers), Dredges, Asphalt Spreading Machines, Heavy Duty Mechanic, Ass't. Master Mechanic, All Locomotives, Cableways or Tower Machines, Hoists 2 drum or more (where oiler or fireman is required), Hoists-2 drum or more (where oiler or fireman is not required), Hydraulic Backhoes, Ditching Machines or Backfiller (not required oilers), Cherry Pickers, Overhead Cranes, Roller (Steam or Gas) Concrete Pavers, Excavators, Concrete Breakers, Concrete Pumps, Bulk Cement Plants, Cement Pumps, Derrick-Type Drills, Mixers (over 3 bags) and Road Ops., (25' & over), Motor Graders or Pushcats, Scoops or Tournapulls, Bulldozers, Endloaders or Fork-Lifts, Power Blade or Elevating Graders, Winch Cuts, Boom Tractors, and Pipe Wrapping or Painting Machines, Drills (other than derrick type) 1-drum-hoists, Mud Jacks, Mixers (2 or 3 bags), Conveyors (2), Air Compressors (2), Water Pumps regardless of size (2), Welding Machines (2) Siphons or Jets (2), Winch Heads or Apparatus (2) and Light Plants (2), Mixers (under 2 bags), all Tractors regardless of size (Straight Tractor Only), Firemen on Stationary Boilers, Automatic Elevators, Form Grading Machines, Finishing Machines, Power-Sub-Graders or Ribbon Machine, Longitudinal Floats, Boat Ops., (under 25 ft., conveyors (1), Distribution Ops., On Trucks, Siphons or Jets (1) Winch Heads or Apparatus (1), Light Plant (1) Mixers (under 2 bags) or Welding Machines (1).

GROUP II Air Compressor (1), Water Pumps regardless of size (1)

GROUP III Firemen and Asphalt Spreader Oilers

GROUP IV Heavy Equipment Oilers (truck cranes, dredges, monicans, large cranes, etc.)

GROUP V Oilers

GROUP VI

a. Engineers Operating under air pressure

b. Engineers Operating in air over 10 lbs. pressure

c. Oilers operating under air pressure

d. Oilers operating in air over 10 lbs pressure

SUPERSEDES DECISION

STATE: Illinois
COUNTIES: See Below
DECISION NUMBER: IL79-2067
DATE: Date of Publication
Supersedes Decision No. IL78-2126, dated October 27, 1978 in 43 FR 50314

DESCRIPTION OF WORK: Building Construction (excluding single family homes and apartments up to and including 4 stories).

COUNTIES: Boone, Carroll, DeKalb, JoDaviess, Lee, Ogle, Stephenson, Whiteside & Winnebago

ASBESTOS WORKERS: Boone, Ogle, Stephenson & Winnebago Counties Carroll, JoDaviess & Whiteside Counties	Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
		H & W	Pensions	Vacation		
BOILERMAKERS: Boone, Ogle & Winnebago Counties	\$12.90	.85	.90			.07
	12.07	.45	.85			.10
	13.05	1.05 +	1.00	5%		.03
	11.45	.40	1.00			.03
Remainder of Counties BRICKLAYERS & STONEMASONS: Boone, Ogle, Winnebago, Carroll, JoDaviess, Stephenson, Lee & Whiteside Counties	12.35	.55	.80			.02
	13.00	.90	.85			
CARPENTERS: Stephenson County: Carpenters & Soft Floor Layers	11.93	.55	.75			
	12.90	.55	.75			
Winnebago & Boone Counties: Carpenters & Piledrivermen & Soft Floor Layers	11.05	.55	1.00			
	11.65	.55	1.20			
Carroll & JoDaviess Cos.: Carpenters & Soft Floor Layers	11.93	.55	.75			
	12.90	.55	.75			
Millwrights Whiteside (all areas east of Hwy. #78) Co., & Ogle (Twp. of Mount Maryland, Forreston, Harper, Hal-dane, Buffalo, Brookville, Adeline, Lightsville & Baileyville) Co: Carpenters & Soft Floor Layers	11.93	.55	.75			
	12.90	.55	.75			
Millwrights Whiteside Co. (all areas west of Hwy. #78) Carpenters & Soft Floor Layers	11.86	.65	1.00			.06
	13.40	.60	1.00			.25
Millwrights Piledrivermen	12.11	.65	1.00			.06

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CARPENTERS: (Cont'd) DeKalb Co., Ogle (East of Hwy. #15 incl. Rochelle City) Co., Lee (Eastern & of Co., incl. Roxbury & Compton) Co: Carpenters & Soft Floor Layers Millwrights & Piledrivermen Remainder of Lee & Ogle Cos.: Carpenters & Soft Floor Layers Millwrights & Piledrivermen	Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
		H & W	Pensions	Vacation		
	\$11.78	.75	.62			.01
	12.03	.75	.62			.01
	13.20	.55	.50			
	13.80	.55	.50			
CEMENT MASONS: Boone & Winnebago Counties DeKalb County Whiteside (Erie & Area S.W. thereof) County Carroll, JoDaviess, Lee, Ogle, Stephenson & Remainder of Whiteside Co. ELECTRICIANS: Boone, DeKalb, Winnebago, Stephenson, Ogle, Lee, JoDaviess (Warren, Rush, Nora, Stockton, Wards, Grove, Pleasant Valley, Berrenman Twp.) Co.: Carroll (Cherry Grove, Shannon, Rock Creek, Lima, Wysock, Elkhorn, Grove Twp.) Co.: Whiteside (Genesee, Jordan, Hopkins, etc.) Co.: Hume, Montgomery, Tampico, Hahnman Twp.) Co. JoDaviess (Savanna Ordnance Depot) Co., Carroll (Cities of Chadwick, Mt. Carroll, Savanna & Thompson) Co.: & Remainder of Whiteside Co.	11.78	.55	1.00			
	13.20	.90	.86			
	12.02	.70	.60			
	11.75	.55	1.00			
	12.96	.50	34+.80			1%
	13.29	.70	7.5%			.03

DECISION NO. IL79-2067

	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vocellen	
ELECTRICIANS: (Cont'd)	\$12.25	.75	3%+.50		.09
Remainder of JoDavies Co.					
ELEVATOR CONSTRUCTORS:					
DeKalb County:					
Constructors	13.20	.745	.56	a+b	.025
Helpers	*70%JR	.745	.56	a+b	.025
Carrolli & Whiteside Cos.:					
Constructors	11.57	.495	.32		.02
Helpers	70%JR	.495	.32		.02
Remainder of Counties:					
Constructors	12.02	.745	.56	a+b	.025
Helpers	70%JR	.745	.56	a+b	.025
GLAZIERS:					
DeKalb (Lee, Watermon, Hinckley & South Theroof). Co.	12.46	.60	.30		.01
Carroll, JoDavies, Stephenson, Whiteside Co., Lee (Western & of County incl. Dixon) County	10.59	.70	1.00		.02
IRONWORKERS:					
DeKalb (S.E. 2/3 of Co., incl. Sycamore of DeKalb) Carroll (Vicinity of Savan- na & Thompson) Co.; Jo- Davies (E. Dubuque, Galena, Hanover & Vic.) Co.; & Remainder of White- side County	13.65	.75	.525		.08
Boone, Winnebago, Stephen- son, Lee, Sterling & West Sterling Co.; Remainder of Carroll, JoDavies & DeKalb Counties	13.87	.75	.375		.11
LABORERS:					
Boone County:					
Laborers	10.10	.57	1.20		.10
Power Vibrator	10.20	.57	1.20		
Mortar Men	10.25	.57	1.20		
Plaster Tenders & Hod Carriers	10.35	.57	1.20		

DECISION NO. IL79-2067

	Basic Hourly Rates	Fringe Benefits Payments			Education Appr. Tr.
		H & W	Pensions	Vacation	
LABORERS: (Cont'd)					
Power Tamper	\$10.30	.57	1.20		
Dynamiters	10.60	.57	1.20		
MARBLE-TILE-TERRAZZO WORKERS					
Carroll, Boone, DeKalb,					
Stephenson, Ogle & Winne-					
bago Counties	11.45	.55	.70		
PAINTERS:					
DeKlab County:					
Brush, Spray & Drywall					
Taper	9.34	.60	.70		.06
Carroll, Lee, Ogle, White-					
side Counties:					
Brush	10.53				
Spray, Structural Steel,					
Sandblast	10.88				
Jobaviness County:					
Brush & Roller	9.05	.70	.40		
Spray, Structural Steel,					
Sandblast	9.60	.70	.40		
Winnebago, Boone & Stephen-					
son Counties:					
Brush & Roller	10.95	.55			
Structural Steel & Sand-					
blast	11.20	.55			
Spray	11.50	.55			
PLASTERERS:					
DeKalb County					
Boone & Winnebago Counties	11.62	.75	.50		
Whiteside (Erie & Area S.W.	11.23	.55	1.00		
thercof) Co.	12.00				
Carroll, Jobaviness, Lee,					
Stephenson Cos; & Remaind-					
er of Whiteside County	11.45	.55	1.00		
PLUMBERS & STEAMFITTERS:					
DeKalb County	12.55	.57.	.95		.10

DECISION NO. IL79-2067

	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
PLUMBERS & STEAMFITTERS:					
(Cont'd)					
Whiteside, Lee, Carroll (West of Rt. #78 excluding Mt. Carroll by 1 mile out- side the city limits containing North of Rt. #78) Co: JoDavies (South line of Co., then west to the River 1 mile North of Blanding Co:) Savanna Or- dinance Depot Boone, Ogile, Stephenson, Winnebago, Carroll (to Rt. #78 incl. Mt. Carroll) Co: Remainder of JoDavies County	\$12.45	.54	1.41		.20
ROOFERS:					
Dekalb (Eastern 1/2 of Co., incl. Sycamore, Dekalb & Waterman) County Boone, Carroll, JoDavies, Lee, Ogile, Stephenson, Winnebago, Whiteside Cities or Rock Falls, Sterling & Mt. Sterling County, Dekalb (Western 1/2 of County): Composition-Slate & Tile Remainder of Whiteside Co.: Flat Slate-Tile-Damp- waterproof	12.20	.55			
SHEET METAL WORKERS:					
Boone, Dekalb, Lee, Ogile, Whiteside, Winnebago, Carroll (Eastern 1/2 of Co.) & JoDavies & Stephenson Counties	12.65	.65	.80		
Carroll County (Western 1/2 of Co.)	12.00	.55	1.22	.50	.09
SPRINKLER FITTERS					
	11.23	.55	.55		.12
	13.08	.75	1.05		.08

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Basic Hourly Rates	Fringe Benefits Payments			
	H & W	Pensions	Vocelon	Education and/or Appr. Tr.
TRUCK DRIVERS:				
Boone, Stephenson, Winnebago Cos., Carroll (North of Rt. #72 & East of Rt. #78) Co.; JobDavless (East of Rt. #78 except City of Stockton) County;				
2-3 Axle Trucks	\$.55	1.00		
4 Axle Trucks	.55	1.00		
5 Axle Trucks	.55	1.00		
6 Axle Trucks	.55	1.00		
DeKalb County; East of Rt. #51 in Lee & Ogile Cos.:				
2-3 Axle Trucks	29.00 C	33.00 C		
4 Axle Trucks	29.00 C	33.00 C		
5 Axle Trucks	29.00 C	33.00 C		
6 Axle Trucks	29.00 C	33.00 C		
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.				

PAID HOLIDAYS (WHERE APPLICABLE)
A-New Year's Day; **B**-Memorial Day; **C**-Independence Day; **D**-Labor Day;
E-Thanksgiving Day; **F**-Day After Thanksgiving; **G**-Christmas Day

FOOTNOTES:

- a. 7 Paid Holidays: A through G
- b. Employer contributes 8% of regular hourly rate to Vacation Pay. Credit for employee who has worked in business more than 5 years.
- c. Employer contributes 6% of regular hourly rate to Vacation Pay. Credit for employee who has worked in business less than 5 years.
- d. Per Employee Per Week

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LABORERS:	REMAINDER OF COUNTIES:	Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
			H & W	Pensions	Vacation		
CLASS I		\$10.65	.65	.60			.035
CLASS II		10.85	.65	.60			.035
CLASS III		10.95	.65	.60			.035

CLASS I - Common Laborers, Carpenter Tenders, Tool Cribmen, Fireman or Salamander Tenders, Flagmen, Gravel Box Men, Dismen, Spotters, Form Handlers, Material Handlers, Fencing Laborers, Cleaning Lumber, Pit Men, Material Checkers, Dispatchers, Landscapers, Unloading Explosives, Laying of Sod, Planting of Trees, Removal of Trees, Asphalt Plant Laborers, Wrecking Laborers, Writers of Scale Tickets, Fire Shop Laborers, Fireproofing Laborers, Janitors, Driving of Stakes, Stringlines for all machinery, Rod & Chainmen with Technical Engineers with Land Surveyors, Asphalt Workers with Machine & Layers, Grade Checker, Signal Man on Crane, Coring Machine Operator, Concrete Workers (wet), On Concrete Paving, Cutting and Tying or Reinforcing Steel Form Setters-Street and Highway.

CLASS II - Scaffold Workers, Handling of materials treated with any foreign matter harmful to skin or clothing, Bulk Cement Handlers, Unloading of Rebars, Batch Pumps, Mason Tenders, Kettle and War Men, Tank Cleaners, Plastic Installers, Motorized Buggies of Motorized Unit used for wet concrete or handling of Building Materials, Vibrator Operators, Mortar Mixer Operators, Cement Silica, Clay Fly Ash, Line & Plasters, Handlers (Bulk or Bag) Deck Hand, Dredge Hand & Shore Laborers, Bankmen on Floating Plant, Power Tools, Material Selector (Firebrick or Castable Material) Chain Saw Operators, Air Tamping Hammerman, Concrete Saw Operator, Front End Man on Chip Spreader, Luteman, Asphalt Raker

CLASS III - Jackhammer and Drill Operators, Laborers with De-Watering Systems, Bottom Sewer Workers plus depth, Cofferdam Workers plus depth, Caisson Workers plus depth, Gunnite Nozzle Men, Leadman on Sewer Work, Welders, Burners and Torchmen, Layout Man and/or Tile Layer, Screenman on Asphalt Pavers, Laborers "ending Masons with Hot Material, Multiple Concrete Duct-Leadman, "urb Asphalt Machine Operator, Ready-Mix Scalemen, Permanent, Portable or Temporary Plant, Laser Beam Operator, Concrete Burning Machine Operator, Underpinning and Shoring of Building, Pump Men

DECISION NO. IL79-2067

POWER EQUIPMENT OPERATORS	REMAINDER OF COUNTIES:	Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
			H & W	Pensions	Vacation		
CLASS I		\$13.25	1.10	1.10	.60		.05
CLASS II		11.95	1.10	1.10	.60		.05
CLASS III		10.80	1.10	1.10	.60		.05
CLASS IV		9.55	1.10	1.10	.60		.05

CLASS I - Asphalt Plant, Asphalt Spreader, Auto-Grader, Batch Plant, Paving Machine (Requires two engineers), Boiler & Throttle Valve, Caisson Rigs, Central Redi-Mix Plant, Combination Backhoe Front End Loader Machine Compressor & Throttle Valve, Concrete Breaker (Truck Mounted), Conveyor, Concrete Paver, Concrete Placer, Concrete Tower, Cranes (all), Derricks (all), Grader, Elevating, Grouting Machines, Highlift Shovels or Front End Loader 2 1/2 yd. & over, Hoists, One, Two & Three Drum Hoists, Two Tugger One Floor, Hydraulic Boom Truck, Locomotives (all), Motor Patrol, Pile Drivers & Skid Rig, Post-hole Digger, Pre-Stress Machine, Pump Cretes Dual Ram (require frequent lubrication & water), Pumpcretes, Squeeze Cretes - Screw type Pumps, Cypsum Bulker & Pump, Rock Drill (Self-Propelled), Rock Drill (Truck Mounted), Scoops - Tractor Drawn, Slip Form Paver, Straddle Buggies, Tournapull, Tractor with Boom & Side Boom, Trenching Machines

CLASS II - Boilers, Bulldozers, Broom all Power Propelled, Concrete Mixer (2 bag & over), Conveyor Portable, Forklift Truck, Greaser Engineer, Highlift Shovels or Front End Loaders under 2 1/2 yd., Hoists, Automatic, Hoists, All Elevators, Hoists, Tugger Single Drum, Rollers, (All), Steam Generators, Stone Crushers, Tractors, (All), Winch Trucks with "A" Frame

CLASS III - Air Compressor Small 125 & under (1 to 5 not exceed a total of 300 ft.), Air Compressor - large over 125, Combination Small Equipment Opr., Generators under & over 50 KW, Heaters, Mechanical Pumps over 3" (1 to 3 not to exceed a total of 300 ft.), Pumps, Well Points, Welding Machine (2 through 5), Winches, 4 Small Electric Drill Winches

CLASS IV - Oilers

CLASS V - Oilers

DECISION NO. IL79-2067

POWER EQUIPMENT OPERATORS:	REMAINDER OF COUNTIES:	Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
			H & W	Pensions	Vacation		
CLASS 1		\$11.80	.65	.70			.08
CLASS 2		11.80	.65	.70			.08
CLASS 3		10.40	.65	.70			.08
CLASS 4		10.40	.65	.70			.08
CLASS 5		12.65	.65	.70			.08

CLASS 1 - Crane, Shovel Clamshell, Dragline, Backhoe, Derrick, Tower Crane, Cableway, Concrete Spreader (servicing two pavers), Asphalt Spreader, Asphalt Mixer Plant Engineer, Dipper Operator, Dipper Driver, Crane Operator, Dual Purpose Truck (boom or winch), Lever-man or Engineer (hydraulic derrick), Mechanic, Paving Mixer with tower attached (two operators required), Pile Driver, Boom Tractor, Stationary, Portable or Floating Mixing Plant, Trenching Machine Cleaning and Forming Machine, Endloader (one half cubic yard or over, on basement excavation work), Backfiller (throw bucket), Locomotive Engineer, Qualified Welder, Tow or Push Boat, Concrete Paver, Seaman Trav-l-Plant or similar machines, CMI Autograder or similar machine, Slip Form Paver, Caisson Augering Machine, Ruck-ing, Asphalt Heater-Planer unit Hydraulic Cranes, Mine Hoists

CLASS 2 - Athey, Barber-Green, Euclid or Basis Loader, Asphalt Pug Mill, Fireman and Driver, Concrete Pump, Concrete Spreader (servicing one paver), Bulldozer, Endloader (other than mentioned above), Forklift, Elevating Grader, Group Equipment Greaser, Locomotives and similar machine, DW-10, Straddle Carrier, Hyster Winch and similar machines, Motor Patrol, Power Blade Push Car, Tractor pulling Elevating Grader or Power Blade, Tractor Operating Scoop or Scraper, Tractor with power attachment, Roller on Asphalt or Blacktop, Single Drum Hoist, Jaeger Mix and Place Machine, Pipe Bending Machine, Welding Machines (3 or 4), Fuller Kenyon Cement Pump or similar machine, Automatic Cement and Gravel Batch Plants (one stop set-up), Seaman Pulvi-Mixer or similar machine, Propel led Sheep Foot Roller or Compactor (used in conjunction with a grading spread), Asphalt Spreader Screed Operator Anasco Spreader or similar machine, Slusher, Forklift (over 6,000 lb. cap. or working at heights above 28 ft.) Conveyors

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POWER EQUIPMENT OPERATORS: (Cont'd)

CLASS 3 - Asphalt Booster, Fireman and Pump Operator at Asphalt Plant, Compressor (300 cu. ft. and over) Concrete Finishing Machine, Form Grader with Roller on Earth, Mixers (3 bag to 16E), Power Operated Bull Float, Tractor without Power Attachment, Dope Pot (agitator motor), Dope Chop Machine, Distributor (back end), Fleecplane or similar machines, Portable Machine Fireman, Hydro-hammer, Power winch on Paving Work, Self-Propelled Roller or Compactor (other than provided for above), Pump Operator Crusher Operator, Trench Machine (40 H.P. and under), Power Sub Grader (on forms), or similar machines, Forklift (6,000 or less cap.) Gypsum Pump, Conveyor over 20 H.P.

CLASS 4 - Air Compressor (275 c.f.m. or over) Drivers on Truck Crane or similar machines, Light Plant, Mixers (1 or 2 bags), Power Batching Machine (cement auger or conveyor), Boiler Engineer or Fireman, Water Pumps, Welding Machine, Mechanical Broom, Automatic Cement and Gravel Batch Plants (two or three stop set-up), Small Backhoes or endloaders Self-Propelled Curing Machine

CLASS 5 - Oilier, Water Pump (pumping water to paver), Mechanical Heater (other than steam boiler) Belt Machine, Small Putboard Motor Boat

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5, 5 (a) (1) (ii)).

[FR Doc. 79-25093 Filed 8-24-79; 8:45 am]

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Register Federal

Friday
August 24, 1979

Part III

Department of Health, Education, and Welfare

Food and Drug Administration

Classification of General Hospital and
Personal Use Devices; Development of
General Provisions

DEPARTMENT OF HEALTH,
EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 880]

[Docket No. 78N-1267]

Classification of General Hospital and
Personal Use Devices; Development of
General ProvisionsAGENCY: Food and Drug Administration.
ACTION: Proposed Rule.

SUMMARY: The agency is proposing general rules applicable to the classification of all general hospital and personal use devices. The Medical Device Amendments of 1976 require the Food and Drug Administration (FDA) to classify all medical devices intended for human use into three categories: class I, general controls; class II, performance standards; and class III, premarket approval. In the preamble to this proposal, FDA describes the development of the proposed regulations classifying individual general hospital and personal use devices, which are being published elsewhere in this issue of the Federal Register. The preamble also describes the activities of the General Hospital and Personal Use Device Classification Panel, an FDA advisory committee that makes recommendations to FDA concerning the classification of general hospital and personal use devices.

DATES: Comments by October 23, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Lillian L. Yin, Bureau of Medical Devices (HFK-470), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7555.

SUPPLEMENTARY INFORMATION:

Device Classification System

The Medical Device Amendments of 1976 (Pub. L. 94-295), hereinafter called the amendments, establish a comprehensive system for the regulation of medical devices intended for human use. Section 513 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360c), establishes three categories (classes) of devices, depending on the

regulatory controls needed to provide reasonable assurance of their safety and effectiveness. The three categories are as follows: Class I, general controls; class II, performance standards; class III, premarket approval.

Most devices are not classified under section 513 of the act until after FDA has (1) received a recommendation from a device classification panel (an FDA advisory committee); (2) published the Panel's recommendation for comment, along with a proposed regulation classifying the device; and (3) published a final regulation classifying the device. These steps must precede the classification of any device that was in commercial distribution before May 28, 1976 (the date of enactment of the amendments) and that was not previously regarded by FDA as a new drug under section 505 of the act (21 U.S.C. 355). A device that is first offered for commercial distribution after May 28, 1976, and that is substantially equivalent to a device classified under this scheme, is classified in the same class as the device to which it is substantially equivalent.

A device that FDA previously regarded as a new drug, or a newly offered device that is not substantially equivalent to a device that was in commercial distribution before the amendments, is classified by statute into class III. These two types of devices are classified into class III without any FDA rulemaking proceedings. The agency determines whether new devices are substantially equivalent to previously offered devices by means of the premarket notification procedure in section 510(k) of the act (21 U.S.C. 360(k)) and Part 807 of the regulations (21 CFR Part 807).

Related Regulations

In the Federal Register of July 28, 1978 (43 FR 32988), FDA issued final regulations describing the procedures for classifying devices intended for human use. These regulations, which were proposed in the Federal Register of September 13, 1977 (42 FR 46028), supplement the agency's regulations in Part 14 (21 CFR Part 14) governing the use of advisory committees. The agency also issued interim device classification procedures in a notice published in the Federal Register of May 19, 1975 (40 FR 21848).

Activities of Panel

Anticipating enactment of the amendments, FDA established several advisory committees to make preliminary recommendations on device classification. The General Hospital and Personal Use Device Classification

Panel (the Panel) was originally chartered on October 15, 1974, as the Panel on Review of General Hospital and Personal Use Devices. On January 28, 1976, FDA placed a report of the Panel's tentative classification recommendations on file with the office of the Hearing Clerk (HFA-305), Food and Drug Administration, and announced the availability of the report to the public by notice published in the Federal Register of June 25, 1976 (41 FR 26245).

On August 9, 1976, the Panel and other preamendments device classification panels were rechartered to reflect their new responsibilities under the amendments. The agency directed each panel to reconsider its preamendments classification recommendations in light of the new requirements. In 1976 and 1977, the Panel reviewed all devices that FDA had referred to it to make certain that its recommendations were in accord with the amendments.

Throughout the Panel's deliberations, interested persons were given an opportunity to present their views, data, and other information concerning the classification of general hospital and personal use devices. The Panel also invited experts to testify and sought information on many devices from the published literature.

In October 1977, the Panel submitted to FDA a preliminary report of its recommendations. The report included a roster of current and former Panel members and consultants and listed all meeting dates. The agency placed a copy of the report in the office of the Hearing Clerk (HFA-305), Food and Drug Administration, and announced its availability to the public by notice published in the Federal Register of November 29, 1977 (42 FR 60792). At meetings held on March 2-3, 1978, May 22-25, 1978, November 6, 1978, and January 15, 1979, the Panel changed its previous recommendations concerning the classification of several devices and made classification recommendations for several devices not previously considered by the Panel. An addendum to the Panel report showing these changes has been placed in the office of the Hearing Clerk (HFA-305), Food and Drug Administration. Also available in the office of the Hearing Clerk are summary minutes from all Panel meetings, verbatim transcripts of meetings held after May 28, 1976 (the date of enactment of the amendments), and all references cited in individual general hospital and personal use device proposed classification regulations. Interested persons may review these documents in the office of the Hearing

Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

List of General Hospital and Personal
Use Devices

In 1972 FDA surveyed device manufacturers to identify the devices for which classification regulations would be needed. Following this survey, FDA developed a list of general and miscellaneous devices. The Panel supplemented the list using its members' knowledge of general and miscellaneous devices in use. Devices that were solely for experimental or investigational use or that were not generally available were not included.

The agency is proposing to establish a new part 880 in Title 21 of the Code of Federal Regulations. Part 880 will consist of sections identifying each general hospital and personal use device with a brief narrative description and stating the classification of that device. A list of the general hospital and personal use devices appears elsewhere in this preamble.

Individual General Hospital and
Personal Use Device Classification
Regulations

Elsewhere in this issue of the Federal Register, FDA is issuing 99 individual proposed regulations to classify each general hospital and personal use device. The agency is proposing to classify 54 general hospital and personal use devices into class I (general controls), 42 general hospital and personal use devices into class II (performance standards), 2 general hospital and personal use devices into class III (premarket approval), and one general hospital use device into class I when mechanically operated and into class II when AC-powered. The agency also is publishing the recommendations of the Panel regarding these devices, as required by section 513(c)(2) and (d)(1) of the act (21 U.S.C. 360c(c)(2) and (d)(1)).

Published Panel Recommendations

Each published Panel recommendation concerning a general hospital and personal use device includes the information described below.

1. *Identification.* Both the Panel recommendation and the proposed FDA classification regulation include a brief narrative identification of the generic type of device. The identification statement is necessarily broad because it applies to a category or type of device rather than to a specific device. As explained in proposed § 880.1, any

manufacturer of a newly offered device who files a premarket notification submission under section 510(k) of the act and Part 807 of the regulations cannot show merely that the device is accurately described by the section title and identification provisions of a classification regulation. Although a new device may be described accurately by the title and identification in a classification regulation, it is nevertheless in class III under section 513(f) of the act if it is not substantially equivalent to a preamendments device (or to a postamendments device that has already been reclassified from class III into class I or class II). It is not practical for FDA to publish an identification of each type of device that is so detailed as to anticipate every product feature that may be relevant in determining whether a new device is substantially equivalent to previous devices classified by the regulation. The agency believes that this problem was recognized in, and addressed by, the premarket notification procedures in section 510(k) of the act. Accordingly, any manufacturer who submits a premarket notification submission should state why the manufacturer believes the device is substantially equivalent to other devices in commercial distribution, as required by § 807.87 (21 CFR 807.87), and whether the device is described in a classification regulation.

2. *Recommended classification.* Each Panel's recommendation describes whether the device is recommended for classification into class I (general controls), class II (performance standards), or class III (premarket approval).

For each device recommended for classification into class I, the Panel considered whether the device should be exempt from any requirements under certain sections of the act: section 510 (21 U.S.C. 360, registration), section 519 (21 U.S.C. 360i, records and reports), and section 520(f) (21 U.S.C. 360j(f), good manufacturing practice requirements). Although the Panel did not recommend that any device be granted total general exemptions at this time from section 510 or section 519 of the act, the Panel did recommend that the manufacturers of several class I devices be exempted from premarket notification procedures under section 510(k) of the act and part 807 of the regulations (21 CFR Part 807). The Panel also recommended that manufacturers of several class I devices be exempted from the good manufacturing practice regulation in Part 820 (21 CFR Part 820) and thus from the records and reports requirements in that regulation. The agency's policy

concerning these exemption recommendations is discussed below in the section of this proposal concerning "Exemptions for Class I Devices."

A Panel recommendation that a device be classified into class II includes the Panel's recommended priority ("high," "medium," or "low") for establishing a performance standard for the device. Similarly, each Panel recommendation that a device be classified into class III includes the Panel's recommended priority ("high," "medium," or "low") for application of premarket approval requirements to that device. As explained below in the section of this notice concerning "Priorities for Class II and III Devices," FDA is not, however, proposing the establishment of agency priorities at this time.

3. *Summary of reasons for recommendation.* The summary of reasons for the Panel's recommendation explains why the Panel believes that a particular device meets the statutory criteria for classification into class I, II, or III.

Except in those instances in which FDA's classification proposal differs from the Panel's recommendation, the agency is adopting the Panel's summary of reasons as the agency's statement of the reasons for issuing the regulations, as required by section 517(f) of the act (21 U.S.C. 360g(f)).

The summary of reasons for a recommendation identifies any device that is an implant or a life supporting or life sustaining device. The summary of reasons for any implant or life supporting or life sustaining device that is not recommended for classification into class III also explains why the Panel determined that classification of the device into class III is not necessary to provide reasonable assurance of its safety and effectiveness. The agency provides a similar explanation in the "Proposed Classification" section of the preamble to any proposal to classify an implant or a life supporting or life sustaining device into a class other than class III.

4. *Summary of data on which the recommendation is based.* In many cases, the Panel based its recommendations on the Panel members' personal knowledge of, and clinical experience with, the devices under review. The Panel particularly relied upon clinical experience and judgment when considering a simple device that had been used extensively and was accepted widely before the amendments were enacted. The legislative history of the amendments makes clear that the term "data" has special meaning in section 513(c)(2)(A)

of the act, which requires that a Panel recommendation summarize the data upon which a recommendation is based. As used in that section, "data" refers not only to the results of scientific experiments, but also to less formal evidence, other scientific information, or judgments of experts (House Committee on Interstate and Foreign Commerce, Medical Device Amendments of 1976, H.R. Rept. No. 94-853, 94th Congress, 2d Session 40 (1976)). The agency has determined that clinical experience and judgment is valid scientific evidence for classifying certain devices.

In several cases, FDA sought more data and information concerning the classification of a device than were cited by the Panel. References to these data and information are found in the "Proposed Classification" section of the preambles to individual general hospital and personal use device regulations. FDA is adopting as the agency's statement of the basis for issuing the regulation under section 517(f) of the act the Panel's summary of the data on which a recommendation to classify a device is based, together with any additional data and information cited in the preamble to the proposed classification regulation.

5. *Risks to health.* In identifying the risks to health presented by general hospital and personal use devices, the Panel recognized that few devices are completely free of risk. The Panel listed the risks it considered most significant, especially those that are unique to the individual device. In some cases, FDA has identified additional risks to health presented by a device. These additional risks are set out in the section of the preamble concerning the "Proposed Classification" of a particular device.

The Panel's classification recommendation for a number of devices that are recommended for classification into class I identify one or more risks to health that are presented by these devices. In these cases, the Panel believed that these risks to health could be addressed adequately by labeling, other general controls, or both. In most of these cases FDA agrees with the Panel's belief that general controls are adequate to control these risks to health.

Because the classification recommendations and FDA regulations do not identify all risks to health presented by general hospital and personal use devices, future regulations establishing performance standards under section 514 of the act (21 U.S.C. 360d) or requiring premarket approval under section 515(b) of the act (21 U.S.C. 360e(b)) may identify additional risks to

health to be addressed by FDA requirements.

Proposed Classification

Each proposed regulation to classify a general hospital and personal use device states whether FDA agrees with the Panel's recommendation, describes the agency's proposed classification of the device, and proposes a new section in part 880 in which the device classification will be codified.

The agency cautions that the final classification of a device may differ from the proposal. Factors that may cause such a change include comments, the agency's reconsideration of existing data and information, and the agency's consideration of new data and information.

Priorities for Class II and Class III Devices

For a device that the Panel recommends be classified into class II or class III, section 513(c)(2)(A) of the act requires that the Panel recommendation include, to the extent practicable, a recommendation for the assignment of a priority for application to the device of a performance standard or premarket approval requirements. In developing its advice concerning priorities ("high," "medium," or "low") of devices recommended for classification into class II or class III, the Panel compared the device with other general hospital and personal use devices, based on information available to the Panel members concerning the relative importance of use of the device and the relative risks presented by the device. The Panel recommended assignment of a "high priority" only to those class II or class III devices that the Panel believed should receive the agency's immediate attention.

The agency is not proposing at this time to establish priorities for development of performance standards for class II devices or application of premarket approval requirements to class III devices. Section 513(d)(3) of the act authorizes, but does not require, establishment of these priorities. At a later date, however, the agency will establish priorities for the development of standards for class II devices and the application of premarket approval requirements to class III devices. These priorities will be based on the classification panels' recommendations, available resources, and other relevant factors. The agency's priorities will be reflected in the agency's annual budget request and other publicly available documents and may be published in the Federal Register.

The agency intends to proceed as quickly as the statute and classification panel resources permit to require premarket approval of devices classified into class III. There are two factors affecting the length of time necessary before FDA requires submission of premarket approval applications for any particular device that is classified by an FDA regulation into class III: the number of devices reviewed by a panel and the priority of a particular device in relation to other class III devices considered by classification panel. For example, where FDA classifies into class III only a few devices within a Panel's specialty area, FDA may at the same time also publish regulations under section 515(b) of the act requiring premarket approval for many of the class III devices considered by the Panel, regardless of whether of a high, medium, or low priority. Where practical, FDA will publish these section 515(b) regulations during the grace period (at least 30 months) following classification during which a device classified into class III by FDA regulation may lawfully remain on the market without a premarket approval application. The grace period is provided for in section 501(f) of the act (21 U.S.C. 351(f)).

Exemptions for Class I Devices

Section 513 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360c) provides that FDA may exempt a device recommended for classification into class I from a requirement under the following sections of the act: section 510 (21 U.S.C. 360), registration; section 519 (21 U.S.C. 360i), records and reports; and section 520(f) (21 U.S.C. 360j(f)), good manufacturing practices.

Under section 510 of the act, a person "engaged in the manufacture, preparation, propagation, compounding or processing of * * * a device or devices" must register with FDA (section 510 (b) through (i)), file a list of devices (section 510(j)), and notify FDA at least 90 days before beginning commercial distribution of a device (section 510(k)). (See Part 807 (21 CFR Part 807).) Section 510(g)(4) authorizes the agency to exempt a device from section 510 if it finds that compliance with that section is not necessary for the protection of the public health. In § 807.65 (21 CFR 807.65), FDA has exempted certain classes of persons from section 510 of the act. Several device classification panels have recommended that manufacturers of certain class I devices also be exempted from all or some of the requirements of section 510. The agency has determined that protection of the public health requires that manufacturers of medical

devices, other than those already exempt under § 807.65, register and list their products with FDA to ensure that the agency can identify these manufacturers and their products and conduct necessary inspections.

The agency has determined, however, for certain devices, that it is not necessary for the protection of the public health that FDA receive premarket notification submissions. Thus, the agency has proposed to exempt certain devices from Subpart E of Part 807 of the regulations, which implements section 510(k) of the act. The agency does not, at this time, anticipate that premarket approval will be required for these devices. The agency believes that the semiannual updating of device listing under section 510(j)(2) will provide FDA with adequate notice of new products within this generic type of device.

Section 519 of the act authorizes FDA to issue regulations requiring device manufacturers, importers, and distributors to establish and maintain such records, make such reports, and provide such information as the agency may reasonably require to assure that devices are not adulterated or misbranded and to otherwise assure their safety and effectiveness. The records and reports requirements in several of FDA's present device regulations are authorized, wholly or in part, by section 519. The most extensive of these requirements are found in the device good manufacturing practice (GMP) regulation under Part 820 (21 CFR Part 820), published in the Federal Register of July 21, 1978 (43 FR 31508). In the future, FDA will publish other regulations in accordance with section 519 of the act, including regulations requiring reports to FDA of experience with medical devices. Until these regulations are issued, FDA believes that it cannot properly issue exemptions from them. In the future, whenever the agency proposes device regulations that include records and reports requirements, interested persons may submit comments requesting that certain classes of manufacturers or other persons be exempted from the requirements, and FDA will issue exemptions that are appropriate.

The only type of exemption from records and reports requirements that FDA is proposing now, in device classification regulations, is an exemption of certain manufacturers from most requirements of the device

GMP regulation. As explained below, the exemption will not extend to two device GMP records requirements.

The device GMP regulation was published in final form in the Federal Register of July 21, 1978. At the time of the Panel's recommendations, the GMP regulation had not yet been promulgated, and the agency had not yet developed criteria for exempting a class I device from GMP requirements. The agency has now decided that, if any one of the following criteria is met, FDA will consider exempting from the GMP regulation a class I device that is not labeled or otherwise represented as sterile. The agency will not, however, exempt a device from § 820.180 (21 CFR 820.180), with respect to general requirements concerning records, or § 820.198 (21 CFR 820.198), with respect to complaint files. The criteria are:

1. FDA has determined, based on adequate information about current practices in the manufacture of the device and about user experience with the device, that application of the GMP regulation is unlikely to improve the safety and effectiveness of the device.

2. FDA has determined that all possible defects relating to the safety and effectiveness of the device are readily detectable before use, either through visual examination by the user or routine testing before use, e.g., testing a clinical laboratory reagent with positive and negative controls.

3. FDA has determined that any defect in the device that is not readily detectable will not result in a device failure that could have an adverse effect on the patient or other user.

FDA has determined that no device that is labeled or otherwise represented as sterile will be exempted from the device GMP regulation. Such a device must be subject to the entire GMP regulation to ensure that manufacturers adequately reduce the bioburden (number of microorganisms) on the device and its components during the manufacturing process. This reduction is accomplished through adherence to a comprehensive quality assurance program as is required by the GMP regulation, with adequate environmental controls, trained personnel, appropriate maintenance and calibration of sterilization equipment, recordkeeping concerning lot sterility, strict packaging and labeling controls, and other quality assurance measures.

The agency also has determined that no exemption from the device GMP

regulation will extend to § 820.180, with respect to general requirements concerning records, or § 820.198, with respect to complaint files. The agency believes that granting exemptions from these sections would not be in the public interest, and that compliance with these sections is not unduly burdensome for device manufacturers. To ensure that device manufacturers have adequate systems for complaint investigation and followup, all such manufacturers are required to comply with the complaint file requirements of § 820.198. All device manufacturers also are required to comply with the general requirements concerning records in § 820.180 to ensure that FDA has access to complaint files, can investigate device-related injury reports and complaints about product defects, may determine whether the manufacturer's corrective actions are adequate, and may determine whether the exemption from other sections of the GMP regulation is still appropriate.

In general, FDA has not initiated proposals to exempt manufacturers of class I devices from requirements under sections 510, 519, or 520(f) but has acted on the basis of exemption recommendations of the device classification panels. Manufacturers and other interested persons may submit comments on the appropriateness of exemptions of manufacturers of class I devices that are not the subject of panel exemption recommendations. FDA will consider granting exemptions from the requirement of premarket notification and from the GMP regulation (other than §§ 820.180 and 820.198) according to the policies and criteria discussed above. Comments requesting additional exemptions should be supported by information showing that the exemption of manufacturers of a device from the premarket notification requirement or the GMP regulation (other than §§ 820.180 and 820.198), or both, is consistent with the policies and criteria discussed above.

List of General Hospital and Personal Use Devices

The following is a list of the general hospital and personal use devices that FDA is proposing to classify, the section in the Code of Federal Regulations under which the regulation classifying the device will be codified, the docket number of the proposed classification regulation, and the proposed classification of each device.

Section	Device	Docket No.	Class
SUBPART C—GENERAL HOSPITAL AND PERSONAL USE MONITORING DEVICES			
880.2200	Liquid crystal forehead temperature strip	78N-1268	I
880.2400	Bed-patient monitor	78N-1269	I
880.2420	Electronic monitor for gravity flow infusion system	78N-1270	I
880.2440	Neonatal ventilatory effort monitor (apnea detector)	78N-1271	I
880.2460	AC-powered spinal fluid pressure monitor	78N-1272	I
880.2500	Spinal fluid pressure manometer	78N-1273	I
880.2700	Stand-on patient scale	78N-1274	I
880.2720	Patient scale	78N-1275	I
880.2740	Surgical sponge scale	78N-1276	I
880.2800	Sterilization indicator	78N-1277	I
880.2900	Clinical color change thermometer	78N-1278	I
880.2910	Clinical electronic thermometer	78N-1280	I
880.2920	Clinical mercury thermometer	78N-1281	I
SUBPART F—GENERAL HOSPITAL AND PERSONAL USE THERAPEUTIC DEVICES			
880.5025	I.V. container	78N-1284	I
880.5045	Recirculating air cleaner	78N-1285	I
880.5065	Urine collection bag for infants	78N-1286	I
880.5075	Elastic bandage	78N-1287	I
880.5090	Liquid bandage	78N-1288	I
880.5100	AC-powered adjustable hospital bed	78N-1289	I
880.5110	Hydraulic adjustable hospital bed	78N-1290	I
880.5120	Manual adjustable hospital bed	78N-1291	I
880.5130	Infant radiant warmer	78N-1292	I
880.5140	Pediatric hospital bed	78N-1293	I
880.5150	Nonpowered flotation therapy mattress	78N-1294	I
880.5160	Therapeutic medical binder	78N-1295	I
880.5180	Burn sheet	78N-1297	I
880.5200	Intravascular catheter	78N-1298	I
880.5210	Intravenous catheter securement device	78N-1299	I
880.5240	Adhesive tape and bandage	78N-1301	I
880.5270	Neonatal eye pad	78N-1302	I
880.5300	Medical absorbent fiber	78N-1303	I
880.5375	Infant oxygen hood	78N-1305	I
880.5400	Neonatal incubator	78N-1306	I
880.5410	Neonatal transport incubator	78N-1307	I
880.5420	Pressure infuser for I.V. bag	78N-1308	I
880.5430	Nonelectrically powered fluid injector	78N-1308	I
880.5440	Intravascular administration set	78N-1309	I
880.5450	Patient care reverse isolation chamber	78N-1310	I
880.5475	Jet lavage	78N-1311	I
880.5500	AC-powered patient lift	78N-1312	I
880.5510	Nonelectrical patient lift	78N-1313	I
880.5550	Alternating pressure air flotation mattress	78N-1314	I
880.5560	Heated water mattress	78N-1315	I
880.5570	Hypodermic single lumen needle	78N-1316	I
880.5630	Nipple shield	78N-1317	I
880.5640	Lamb feeding nipple	78N-1318	I
880.5680	Infant position holder	78N-1319	I
880.5700	Neonatal phototherapy unit	78N-1320	I
880.5725	Infusion pump	78N-1321	I
880.5740	Suction snakebite kit	78N-1361	I
880.5760	Chemical cold pack snakebite kit	78N-1362	I
880.5780	Medical support stocking	78N-1322	I
880.5800	I.V. set stopcock	78N-1323	I
880.5820	Scrotal support	78N-1324	I
880.5860	Piston syringe	78N-1325	I
880.5900	Nasogastric tube	78N-1327	I
880.5910	Fluid delivery tubing	78N-1328	I
880.5950	Umbilical occlusion device	78N-1329	I
SUBPART G—GENERAL HOSPITAL AND PERSONAL USE MISCELLANEOUS DEVICES			
880.6025	Absorbent tipped applicator	78N-1330	I
880.6050	Ice bag	78N-1332	I
880.6060	Disposable bedding	78N-1333	I
880.6070	Bed board	78N-1334	I
880.6080	Cardiopulmonary resuscitation board	78N-1335	I
880.6085	Hot/cold water bottle	78N-1336	I
880.6100	Aerator cabinet	78N-1338	I
880.6140	Medical chair and table	78N-1340	I
880.6150	Ultrasonic cleaner for medical instruments	78N-1341	I
880.6175	Specimen container	78N-1342	I
880.6185	Cast cover	78N-1343	I
880.6190	Mattress cover	78N-1344	I
880.6200	Ring cutter	78N-1345	I
880.6230	Tongue depressor	78N-1346	I
880.6250	Patient examination glove	78N-1347	I

Section	Device	Docket No.	Class
SUBPART G—GENERAL HOSPITAL AND PERSONAL USE MISCELLANEOUS DEVICES—Continued			
880.6265	Examination gown	78N-1348	I
880.6290	Medical insole	78N-1383	I
880.6320	AC-powered examination light	78N-1384	I
880.6350	Battery-powered examination light	78N-1350	I
880.6375	Patient lubricant	78N-1351	I
880.6430	Liquid medication dispenser	78N-1386	I
880.6450	Skin pressure protector	78N-1353	I
880.6500	Ultraviolet air purifier	78N-1354	I
880.6710	Ultraviolet water purifier	78N-1355	I
880.6730	Body waste receptacle	78N-1356	I
880.6740	Vacuum-powered body fluid suction apparatus	78N-1357	I
880.6760	Protective restraint	78N-1358	I
880.6775	AC-powered patient transfer device	78N-1359	I
880.6785	Manual patient transfer device	78N-1360	I
880.6800	Washer for body waste receptacles	78N-1361	I
880.6820	Disposable scissor	78N-1362	I
880.6850	Sterilization wrap	78N-1363	I
880.6860	Ethylene oxide gas sterilizer	78N-1364	I
880.6870	Dry heat sterilizer	78N-1365	I
880.6880	Steam sterilizer	78N-1366	I
880.6900	Hand-carried stretcher	78N-1367	I
880.6910	Wheeled stretcher	78N-1368	I
880.6920	Syringe needle introducer	78N-1369	I
880.6960	Irrigating syringe	78N-1368	I
880.6970	Liquid crystal vein locator	78N-1371	I
880.6980	Vein stabilizer	78N-1372	I

Devices Considered by Other Panels

The FDA has determined that three devices that were reviewed by classification Panels other than the General Hospital and Personal Use Device Classification Panel are more appropriately published in the part of the Code of Federal Regulations for General Hospital and Personal Use Devices. Therefore, in proposals appearing elsewhere in this issue of the Federal Register, FDA is publishing the recommendations of the Anesthesiology Device Classification Panel for AC-powered spinal fluid pressure monitors, of the Obstetrical and Gynecological Device Classification Panel for nipple shields, and of the Physical Medicine Device Classification Panel for cast covers.

Devices Considered by Two or More Panels

Many devices were reviewed by two or more device classification panels. For these devices, FDA will publish each panel's recommendations and a single proposed classification regulation. The following devices were considered by the General Hospital and Personal Use Device Classification Panel and by other panels:

1. The Anesthesiology Device Classification Panel recommends that temperature monitors (self-contained) be classified into class II. The General

Hospital and Personal Use Device Classification Panel recommends that liquid crystal forehead fever indicators be classified into class II. The agency has determined that these devices are the same. Therefore, the agency is proposing a single regulation classifying liquid crystal forehead temperature strips into class II and is publishing both Panel recommendations in a proposal appearing elsewhere in this issue of the Federal Register.

2. The Anesthesiology Device Classification Panel recommends that infusion rate monitors be classified into class II. The General Hospital and Personal Use Device Classification Panel recommends that electronic gravity flow infusion line monitors be classified into class II. The agency has determined that these devices are the same. Therefore, the agency is proposing a single regulation classifying electronic monitors for gravity flow infusion systems into class II and is publishing both Panel recommendations in a proposal appearing elsewhere in this issue of the Federal Register.

3. The Anesthesiology Device Classification Panel recommends that spinal fluid pressure monitors be classified into class II. The General Hospital and Personal Use Device Classification Panel recommends that spinal pressure manometers be classified into class II. The agency has

determined that these devices are the same. Therefore, the agency is proposing a single regulation classifying spinal fluid pressure manometers into class II and is publishing both Panel recommendations in a proposal appearing elsewhere in this issue of the Federal Register.

4. The General Hospital and Personal Use Device Classification Panel recommends that biological sterilization indicators and physical/chemical sterilization indicators be classified into class II. The agency has determined that these devices are the same. Therefore, the agency is proposing a single regulation classifying sterilization indicators into class II and is publishing the Panel recommendations in a proposal appearing elsewhere in this issue of the Federal Register.

5. The General and Plastic Surgery Device Classification Panel recommends that liquid crystal thermometers be classified into class I. The General Hospital and Personal Use Device Classification Panel recommends that clinical color change thermometers be classified into class II. The agency has determined that these devices are the same. Therefore, the agency is proposing a single regulation classifying clinical color change thermometers into class II and is publishing both Panel recommendations in a proposal appearing elsewhere in this issue of the Federal Register.

6. The Anesthesiology Device Classification Panel recommends that temperature monitors (with probe) be classified into class II. The General and Plastic Surgery Device Classification Panel recommends that temperature monitors be classified into class II. The General Hospital and Personal Use Device Classification Panel recommends that clinical electronic thermometers be classified into class II. The agency has determined that these devices are the same. Therefore, the agency is proposing a single regulation classifying clinical electronic thermometers into class II and is publishing the three Panel recommendations in a proposal appearing elsewhere in this issue of the Federal Register.

7. The General and Plastic Surgery Device Classification Panel recommends that fluid column thermometers be

classified into class I. The General Hospital and Personal Use Device Classification Panel recommends that clinical mercury thermometers be classified into class II. The agency has determined that these devices are the same. Therefore, the agency is proposing a single regulation classifying clinical mercury thermometers into class II and is publishing both Panel recommendations in a proposal appearing elsewhere in this issue of the Federal Register.

8. The Physical Medicine Device Classification Panel recommends that manual flotation therapy beds be classified into class I. The General Hospital and Personal Use Device Classification Panel recommends that silicone mattresses be classified into class I. The agency has determined that these devices are the same. Therefore, the agency is proposing a single regulation classifying nonpowered flotation therapy beds into class I and is publishing both Panel recommendations in a proposal appearing elsewhere in this issue of the Federal Register.

9. The Obstetric and Gynecological Device Classification Panel recommends that breast binders and OB/GYN abdominal binders be classified into class I. The General Hospital and Personal Use Device Classification Panel recommends that abdominal binders and perineal binders be classified into class I. The agency has determined that these devices are the same. Therefore, the agency is proposing a single regulation classifying therapeutic medical binders into class I and is publishing both Panel recommendations in a proposal appearing elsewhere in this issue of the Federal Register.

10. The Cardiovascular Device Classification Panel recommends that long-term vascular catheters be classified into class II. The General Hospital and Personal Use Device Classification Panel recommends that intravascular catheters and umbilical artery catheters be classified into class II. The agency has determined that these devices are the same. Therefore, the agency is proposing a single regulation classifying intravascular catheters into class II and is publishing both Panel recommendations in a proposal appearing elsewhere in this issue of the Federal Register.

11. The General and Plastic Surgery Device Classification Panel recommends that adhesive tapes and bandages be classified into class I. The General Hospital and Personal Use Device Classification Panel recommends that adhesive strip skin closures be classified into class I. The agency has determined

that these devices are the same. Therefore, the agency is proposing a single regulation classifying adhesive tapes and bandages into class I and is publishing both Panel recommendations in a proposal appearing elsewhere in this issue of the Federal Register.

12. The Anesthesiology Device Classification Panel recommends that manual infusion apparatus be classified into class II. The General Hospital and Personal Use Device Classification Panel recommends that I.V. bag pressure infusion devices be classified into class II. The agency has determined that these devices are the same. Therefore, the agency is proposing a single regulation classifying pressure infuser for I.V. bags into class II and is publishing both Panel recommendations in a proposal appearing elsewhere in this issue of the Federal Register.

13. The Anesthesiology Device Classification Panel recommends that transfusion sets be classified into class II. The General Hospital and Personal Use Device Classification Panel recommends that intravascular administration sets be classified into class II. The agency has determined that these devices are the same. Therefore, the agency is proposing a single regulation classifying intravascular administration sets into class II and is publishing both Panel recommendations in a proposal appearing elsewhere in this issue of the Federal Register.

14. The Physical Medicine Device Classification Panel recommends that alternating pressure mattresses be classified into class II. The General Hospital and Personal Use Device Classification Panel recommends that alternating pressure air flotation mattresses be classified into class I. The agency has determined that these devices are the same. Therefore, the agency is proposing a single regulation classifying alternating pressure air flotation mattresses into class II and is publishing both Panel recommendations in a proposal appearing elsewhere in this issue of the Federal Register.

15. The Anesthesiology Device Classification Panel recommends that powered infusion apparatus except radiographic dye injection be classified into class II. The Cardiovascular Device Classification Panel recommends that cardiovascular infusion pumps be classified into class II. The General Hospital and Personal Use Device

Classification Panel recommends that perfusion units and infusion pumps be classified into class II. The agency has determined that these devices are the same. Therefore, the agency is proposing a single regulation classifying infusion pumps into class II and is publishing the three Panel recommendations in a proposal appearing elsewhere in this issue of the Federal Register.

16. The Cardiovascular Device Classification Panel recommends that medical support stockings be classified into class II. The General Hospital and Personal Use Device Classification Panel recommends that elastic stockings be classified into class I. The agency has determined that these devices are the same. Therefore, the agency is proposing a single regulation classifying medical support stockings into class I and is publishing both Panel recommendations in a proposal appearing elsewhere in this issue of the Federal Register.

17. The Gastroenterological and Urological Device Classification Panel recommends that scrotal supports be classified into class II. The General Hospital and Personal Use Device Classification Panel recommends that scrotal supports be classified into class I. The agency has determined that these devices are the same. Therefore, the agency is proposing a single regulation classifying scrotal supports into class I and is publishing both Panel recommendations in a proposal appearing elsewhere in this issue of the Federal Register.

18. The Dental Device Classification Panel recommends that luer-lock drug syringes be classified into class I. The Ophthalmic Device Classification Panel recommends that ophthalmic syringes be classified into class I. The General Hospital and Personal Use Device Classification Panel recommends that piston syringes be classified into class II. The agency has determined that these devices are the same. Therefore, the agency is proposing a single regulation classifying piston syringes into class II and is publishing the three Panel recommendations in a proposal appearing elsewhere in this issue of the Federal Register.

19. The Anesthesiology Device Classification Panel recommends that nasogastric tubes be classified into class I. The General Hospital and Personal Use Device Classification Panel recommends that feeding tubes and Levine tubes be classified into class I. The agency has determined that these devices are the same. Therefore, the agency is proposing a single regulation classifying nasogastric tubes into class I and is publishing both Panel recommendations in a proposal

appearing elsewhere in this issue of the Federal Register.

20. The Dental Device Classification Panel recommends that cotton applicators be classified into class I. The General and Plastic Surgery Device Classification Panel recommends that cotton/dye applicators be classified into class I. The Gastroenterology and Urology Device Classification Panel recommends that gastro/urology applicators be classified into class I. The General Hospital and Personal Use Device Classification Panel recommends that absorbent-tipped applicators be classified into class I. The agency has determined that these devices are the same. Therefore, the agency is proposing a single regulation classifying absorbent-tipped applicators into class I and is publishing the four Panel recommendations in a proposal appearing elsewhere in this issue of the Federal Register.

21. The General Hospital and Personal Use Device Classification Panel recommends that manual nonwheeled chairs, blood donor chairs, examination and treatment chairs, and geriatric chairs be classified into class I. The agency has determined that these devices are the same. Therefore, the agency is proposing a single regulation classifying nonelectric nonwheeled chairs and tables into class I and is publishing the Panel recommendations in a proposal appearing elsewhere in this issue of the Federal Register.

22. The Dental Device Classification Panel recommends that tongue depressors be classified into class I. The General and Plastic Surgery Device Classification Panel recommends that tongue blades be classified into class I. The Ear, Nose, and Throat Device Classification Panel recommends that wooden tongue depressors be classified into class I. The General Hospital and Personal Use Device Classification Panel recommends that tongue depressors be classified into class I. The agency has determined that these devices are the same. Therefore, the agency is proposing a single regulation classifying tongue depressors into class I and is publishing the four Panel recommendations in a proposal appearing elsewhere in this issue of the Federal Register.

23. The Physical Medicine Device Classification Panel recommends that heel protectors be classified into class I. The General Hospital and Personal Use Device Classification Panel recommends that skin pressure protectors be classified into class I. The agency has determined that these devices are the same. Therefore, the agency is proposing a single regulation classifying skin

pressure protectors into class I and is publishing both Panel recommendations in a proposal appearing elsewhere in this issue of the Federal Register.

24. The Anesthesiology Device Classification Panel recommends that the connecting flexible aspirating tubes, rigid suction tips, and sterile specimen traps be classified into class I. The Anesthesiology Device Classification Panel recommends that suction regulators (with gauge), be classified into class II. The General Hospital and Personal Use Device Classification Panel recommends that suction catheters and tips, vacuum collection bottles, and vacuum regulators, be classified into class I. The General and Plastic Surgery Device Classification Panel recommends that noninvasive tubing be classified into class I. The agency has determined that these devices are components of the wall vacuum powered operating room suction apparatus, a device that the General and Plastic Surgery Device Classification Panel recommended be classified into class II. Therefore, the agency is proposing a single regulation classifying vacuum powered body fluid suction apparatus into class II and is publishing the three Panel recommendations in a proposal appearing elsewhere in this issue of the Federal Register.

25. The General and Plastic Surgery Device Classification Panel recommends that packs, sterilization wrappers, bags and accessories be classified into class II. The General Hospital and Personal Use Device Classification Panel recommends that sterilization wraps be classified into class II. The agency has determined that these devices are the same. Therefore, the agency is proposing a single regulation classifying sterilization wraps into class II and is publishing both Panel recommendations in a proposal appearing elsewhere in this issue of the Federal Register.

26. The Dental Device Classification Panel recommends that ethylene oxide gas sterilizers be classified into class II. The General and Plastic Surgery Device Classification Panel recommends that ethylene oxide sterilizers be classified into class II. The General Hospital and Personal Use Device Classification Panel recommends that gas sterilizers be classified into class II. The agency has determined that these devices are the same. Therefore, the agency is proposing a single regulation classifying ethylene oxide gas sterilizers into class II and is publishing the three Panel recommendations in a proposal appearing elsewhere in this issue of the Federal Register.

27. The Dental Device Classification Panel recommends that autoclaves be

classified into class II. The General and Plastic Surgery Device Classification Panel recommends that autoclave sterilizers be classified into class II. The General Hospital and Personal Use Device Classification Panel recommends that steam sterilizers be classified into class II. The agency has determined that these devices are the same. Therefore, the agency is proposing a single regulation classifying steam sterilizers into class II and is publishing the three Panel recommendations in a proposal appearing elsewhere in this issue of the Federal Register.

28. The General and Plastic Surgery Device Classification Panel recommends that stretchers be classified into class I. The General Hospital and Personal Use Device Classification Panel recommends that hand-carried stretchers be classified into class I. The agency has determined that these devices are the same. Therefore, the agency is proposing a single regulation classifying hand-carried stretchers into class I and is publishing both Panel recommendations in a proposal appearing elsewhere in this issue of the Federal Register.

29. The Physical Medicine Device Classification Panel recommends that mechanical wheeled stretchers be classified into class I. The Anesthesiology Device Classification Panel recommends that patient carts be classified into class II. The General Hospital and Personal Use Device Classification Panel recommends that wheeled stretchers be classified into class II. The agency has determined that these devices are the same. Therefore, the agency is proposing a single regulation classifying wheeled stretchers into class II and is publishing the three Panel recommendations in a proposal appearing elsewhere in this issue of the Federal Register.

30. The General Hospital and Personal Use Device Classification Panel and other Panels listed below made classification recommendations concerning the following devices:

Device	Other panel
Nasal cannula.....	Anesthesiology.
Neonatal ventilator respirator.....	Anesthesiology.
Manual pulmonary resuscitator.....	Anesthesiology.
Neonatal invasive oxygen analyzer.....	Anesthesiology.
Oxygen mask.....	Anesthesiology.
Venturi oxygen mask.....	Anesthesiology.
Mechanical oxygen regulator.....	Anesthesiology.
Pediatric aerosol tent.....	Anesthesiology.
Inflation cuff.....	Cardiovascular.
Aneroid blood pressure manometer.....	Cardiovascular.
Mercury blood pressure manometer.....	Cardiovascular.
Manual cuff inflating air pump.....	Cardiovascular.
DC-powered stethoscope.....	Cardiovascular.
Mechanical stethoscope.....	Cardiovascular.
Invasive neonatal blood pressure monitor.....	Cardiovascular.
Ultrasonic/doppler neonatal blood pressure monitor.....	Cardiovascular.
Neonatal heart rate monitor.....	Cardiovascular.

Device	Other panel
Manual external cardiac compressor.	Cardiovascular.
Powered external cardiac compressor.	Cardiovascular.
Blood lancet.	General and Plastic Surgery.
Laminar airflow unit.	General and Plastic Surgery.
AC-powered operating room table.	General and Plastic Surgery.
Surgical isolation unit.	General and Plastic Surgery.
Operating room lamp.	General and Plastic Surgery.
Manual operating room table.	General and Plastic Surgery.
Surgical glove.	General and Plastic Surgery.
Dressing.	General and Plastic Surgery.
Operating room gown.	General and Plastic Surgery.
Kelly pad.	General and Plastic Surgery.
Ostomy drainage bag, with adhesive.	Gastroenterology and Urology.
Prophylactic (condom).	Obstetrical and Gynecology.
Wheeled gynecatic chair.	Physical Medicine.
Silicone chair cushion.	Physical Medicine.
Chemical cold pack.	Physical Medicine.
Chemical hot pack.	Physical Medicine.
Electric heating pad.	Physical Medicine.
Heat lamp.	Physical Medicine.
AC-powered flotation bed.	Physical Medicine.

At this time, FDA is not publishing the General Hospital and Personal Use Device Classification Panel's recommendations to classify the devices listed above. Those devices reviewed by the Cardiovascular Device Classification Panel were proposed for classification in the Federal Register of March 9, 1979 (44 FR 13284). With respect to the prophylactic (condom), FDA published the recommendations of this Panel and of the Obstetrical and Gynecological Device Classification Panel in the Federal Register of April 3, 1979 (44 FR 19894).

The Physical Medicine Device Classification Panel recommended that electric heating pads be classified as powered heating pads and proposed that the device be classified into class II. The Physical Medicine Device Classification Panel recommendation and a proposed classification regulation for powered heating pads will publish in the Federal Register in the near future. The agency will publish the other recommendations listed above and proposed classification regulations when it publishes the recommendations of the Anesthesiology Device Classification Panel, General and Plastic Surgery Device Classification Panel, and Gastroenterology and Urology Device Classification Panel.

Electrical Safety

For many of the devices that the Panel recommends be classified into class II (performance standards), the only aspect of the devices that needs to be addressed by a performance standard is

electrical safety, the Panel referred to two voluntary electrical safety standards that address safety problems presented by these devices (Refs. 1 and 2).

References

The following information has been placed in the office of the Hearing Clerk (HFA-305) (address above) and may be seen by interested persons, from 9 a.m. to 4 p.m., Monday through Friday.

1. Association for the Advancement of Medical Instrumentation, "American National Standard: Safe Current Limits for Electromedical Apparatus," ANSI/AAMI SCL 12/78, Association for the Advancement of Medical Instrumentation, Arlington, VA, 1978.

2. Underwriters Laboratory, "UL 544: Standard for Medical and Dental Equipment," Underwriters Laboratory, Northbrook, IL, 1972.

Environmental Impact

The FDA has carefully considered the environmental effects of proposed § 880.1 and of the proposed general hospital and personal use device classification regulations, and, because the proposed actions will not significantly affect the quality of the human environment, FDA has concluded that an environmental impact statement is not required. A copy of the environmental impact assessment is on file with the Hearing Clerk (HFA-305), Food and Drug Administration (address above).

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513 and 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a)), and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs proposes that Chapter I of Title 21 of the Code of Federal Regulations be amended by adding new Part 880, consisting of Subpart A, to read as follows:

PART 880—GENERAL HOSPITAL AND PERSONAL USE DEVICES

Subpart A—General Provisions

Sec.

880.1 Scope.

Authority: Secs. 513 and 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c and 701(a)).

Subpart A—General Provisions

§ 880.1 Scope.

(a) This part sets forth the classification of general hospital and personal use devices intended for human use.

(b) The identification of a device in a regulation in this part is not a precise description of every device that is, or

will be, subject to the regulation. A manufacturer who submits a premarket notification submission for a device under Part 807 of this chapter cannot show merely that the device is accurately described by the section title and identification provision of a regulation in this part, but shall state why the device is substantially equivalent to other devices, as required by § 807.87 of this chapter.

(c) To avoid duplicative listings, a general hospital and personal use device that has two or more types of uses (e.g., used both as a diagnostic device and as a therapeutic device) is listed in the subpart representing one use of the device, rather than in two or more subparts.

Interested persons may, on or before October 23, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit one copy. Comments shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

In accordance with Executive Order 12044, the economic effects of this proposal have been carefully analyzed, and it has been determined that the proposed rulemaking does not involve major economic consequences as defined by that order. A copy of the regulatory analysis assessment supporting this determination is on file with the Hearing Clerk, Food and Drug Administration.

Dated: August 10, 1979.

William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.

[FR Doc. 79-25034 Filed 8-23-79; 8:45 am]

BILLING CODE 4110-03-M

[21 CFR Part 880]

[Docket No. 78N-1268]

Medical Devices; Classification of Liquid Crystal Forehead Temperature Strips

AGENCY: Food and Drug Administration.
ACTION: Proposed Rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying liquid crystal forehead temperature strips into class II

(performance standards). FDA is also publishing the recommendation of the General Hospital and Personal Use Device Classification Panel and the recommendation of the Anesthesiology Device Classification Panel that the device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by October 23, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Lillian L. Yin, Bureau of Medical Devices (HFK-470), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7555.

SUPPLEMENTAL INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the Federal Register provides background information concerning the development of the proposed regulation. The General Hospital and Personal Use Device Classification Panel and the Anesthesiology Device Classification Panel, FDA advisory committees, made the following recommendations regarding the classification of liquid crystal forehead temperature strips:

1. Identification: A liquid crystal forehead temperature strip is a device applied to the forehead that is used to indicate the presence or absence of fever, or to monitor body temperature changes. The device displays the color changes of heat sensitive liquid crystals corresponding to the variation in the surface temperature of the skin. The liquid crystals, which are cholesteric esters, are sealed in plastic. The General Hospital and Personal Use Device Classification Panel identified this generic type of device as the "forehead liquid crystal fever indicator." The Anesthesiology Device Classification Panel identified this generic type of device as the "self-contained temperature monitor."

2. Recommended classification: Class II (performance standards).
The General Hospital and Personal Use Device Classification Panel recommends that establishing a performance standard for this device be a high priority. The Anesthesiology Device Classification Panel recommends that

establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The General Hospital and Personal Use Device Classification Panel recommends that liquid crystal forehead temperature strips be classified into class II because the Panel believes that performance standards are needed to assure that this device accurately shows the presence or absence of fever. The Panel believes that the accuracy of and any limitations of the device should be stated in the labeling.

The Panel recommends that the device labeling warn users to confirm body temperature by using alternative devices if there is any reason to suspect the accuracy of the device's temperature data. The Panel believes that general controls would not provide sufficient control over these characteristics. The Anesthesiology Device Classification Panel recommends that the device be classified into class II because the Panel believes that performance standards are needed to assure the accuracy of the forehead temperature data generated by the device, especially when the device is used for the detection of malignant hyperpyrexia (rapid rise in body temperature that occurs in some patients undergoing general anesthesia).

The Panel also believes that materials used in the device should meet a biocompatibility standard. The Panel recommends that the labeling of the device state whether the device is to be used for quantitative or qualitative measurement. The Panel believes that general controls would not provide sufficient control over these characteristics. Both Panels believe that a performance standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance.

4. Summary of data on which the recommendation is based: The Anesthesiology Device Classification Panel based its recommendation on presentations at the January 24, 1978 Panel meeting (Ref. 1).

The General Hospital and Personal Use Device Classification Panel had recommended that the device be classified into class III (premarket approval) at the May 22-23, 1978 Panel meeting because the Panel was unaware of any data correlating the forehead temperature with the body core temperature. The Panel reconsidered its recommendation at the November 6, 1978 Panel meeting and recommended that the device be classified into class II (performance standards). The Panel based its recommendation on presentations by guest speakers and several manufacturers of the device concerning the use of liquid crystal technology for forehead temperature monitoring. At the Panel meeting, the Panel also reviewed several articles in the literature. The information in the articles indicates that forehead temperature changes correspond to body core temperature changes (Refs. 2 through 4).

5. Risks to health: (a) Misdiagnosis and inappropriate therapy: If the device is inaccurate, misdiagnosis of fever or lack of fever, or misdiagnosis of malignant

hyperpyrexia, may occur and subsequent inappropriate therapy may result. (b) Skin or eye irritation: The chemicals in the device may cause skin or eye irritation in the patient.

Proposed Classification

The agency agrees with the recommendation of both Panels and is proposing that liquid crystal forehead temperature strips be classified into class II (performance standards). However, FDA is concerned that the room environment and the physical condition of the patient can affect the patient's forehead temperature and thus the effectiveness of the device. The clinical trials for one of these devices shows that the forehead temperature is significantly lower than the body core temperature (Ref. 3). These trials also show that the temperature difference varies from patient to patient and the average temperature difference is from 3° to 8° F. Because the normal forehead temperature varies from patient to patient and because the forehead temperature can be affected by external factors, FDA is concerned about possible false negative data (where the patient has a fever but the device indicates that the patient's temperature is normal) generated by the device. FDA is also concerned about whether adequate labeling can be written for use of the device by the lay public. The agency is not at this time requiring any mandatory labeling for the device; it will consider the appropriateness of such labeling when additional information is obtained. The agency believes that the concerns expressed above can adequately be controlled through a performance standard and appropriate labeling. The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

FDA has reviewed the recommendation of the General Hospital and Personal Use Device Classification Panel for "forehead liquid crystal fever indicators" and the recommendation of the Anesthesiology Device Classification Panel for "self-contained temperature monitors," and has concluded that this generic device should be named "liquid crystal forehead temperature strip" and be published in the part of the Code of Federal Regulations for general hospital and personal use devices.

References

The following information has been placed in the office of the Hearing Clerk (address above) and may be seen by interested persons, from 9 a.m. to 4 p.m., Monday through Friday.

1. "Minutes of the Anesthesiology Device Classification Panel Meeting," Washington, DC, January 24, 1978.
2. "Minutes of the General Hospital and Personal Use Device Classification Panel Meeting," Washington, DC, November 6, 1978.
3. Solis, A. M., "Summary: Clinical Trial Results," Temperature Monitoring Devices, Research and Development Department, Jelco Laboratories, January 1977.
4. Lees, D. E., "Evaluation of Liquid Crystal Thermometry as a Screening Device for Elevations of Core Body Temperature," International Research Society Meeting, San Francisco, March 1978.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs proposes to amend Part 880 by adding new Subpart C and § 880.2200, to read as follows:

Subpart C—General Hospital and Personal Use Monitoring Devices

§ 880.2200 Liquid crystal forehead temperature strip.

(a) *Identification.* A liquid crystal forehead temperature strip is a device applied to the forehead that is used to indicate the presence or absence of fever, or to monitor body temperature changes. The device displays the color changes of heat sensitive liquid crystals corresponding to the variation in the surface temperature of the skin. The liquid crystals, which are cholesteric esters, are sealed in plastic.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before October 23, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 9, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-28035 Filed 8-23-79; 8:45 am]

BILLING CODE 4110-03-M

[21 CFR Part 880]

[Docket No. 78N-1269]

Medical Devices; Classification of Bed-Patient Monitors

AGENCY: Food and Drug Administration.
ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying bed-patient monitors into class I (general controls). FDA is also publishing the recommendation of the General Hospital and Personal Use Device Classification Panel that the device be classified into class I. The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by October 23, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Lillian L. Yin, Bureau of Medical Devices (HFK-470), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7555.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the Federal Register provides background information concerning the development of the proposed regulation. The General Hospital and Personal Use Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of bed-patient monitors:

1. Identification: A bed patient monitor is a battery-powered device placed under a mattress and used to indicate by an alarm or other signal when a patient attempts to leave the bed.

2. Recommended classification: Class I (general controls). The Panel recommends that there be no exemptions.

3. Summary of reasons for recommendation: The Panel recommends that bed-patient monitors be classified into class I because the Panel believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device. The Panel believes that the requirements of the good manufacturing practice regulation under section 520(f) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360(f)) and the misbranding provisions under section 502 of the act (21 U.S.C. 352) are sufficient to assure the reliability of the alarm and thus reduce the risk of patient injury.

4. Summary of data on which the recommendation is based: The Panel based its recommendation upon the Panel members' personal knowledge of, and clinical experience with, the device. The Panel had recommended at the March 2-3, 1978 Panel meeting that the device be classified into class II (performance standards) because the Panel believed that performance standards are needed to assure the reliability of the alarm. The Panel changed its recommendation at the November 6, 1978 Panel meeting and recommended that the device be classified into class I (general controls) with no exemptions because the agency informed the Panel that general controls, specifically the good manufacturing practice (GMP) regulation under section 520(f) of the act (21 U.S.C. 360(f)) and misbranding provisions under section 502 of the act (21 U.S.C. 352), were sufficient to assure the reliability of the alarm.

5. Risks to health: Patient injury: Failure of the alarm system to alert attendant personnel that the patient is attempting to leave the bed could allow the patient to be in a hazardous situation and suffer an injury.

Proposed Classification

FDA agrees with the Panel recommendation and is proposing that bed-patient monitors be classified into class I (general controls) with no exemptions. The agency believes that general controls are sufficient to control the risks to health. The agency believes that the requirements of the good manufacturing practice regulation under section 520(f) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360(f)) and the misbranding provisions under section 502 of the act (21 U.S.C. 352) are sufficient to assure the reliability of the alarm. The good manufacturing provision regulation was published in the Federal Register of July 21, 1978 (43 FR 31508). The agency believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the

Commissioner of Food and Drugs proposes to amend Part 880 in Subpart C by adding new § 880.2400, to read as follows:

§ 880.2400 Bed-patient monitor.

(a) *Identification.* A bed-patient monitor is a battery-powered device placed under a mattress and used to indicate by an alarm or other signal when a patient attempts to leave the bed.

(b) *Classification.* Class I (general controls).

Interested persons may, on or before October 23, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the Hearing Clerk document number found in brackets in the heading of this document. Received comments may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 9, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-28036 Filed 8-23-79; 8:45 am]

BILLING CODE 4110-03-M

[21 CFR Part 880]

[Docket No. 78N-1270]

Medical Devices; Classification of Electronic Monitors for Gravity Flow Infusion Systems

AGENCY: Food and Drug Administration.
ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying electronic monitors for gravity flow infusion systems into class II (performance standards). FDA is also publishing the recommendation of the General Hospital and Personal Use Device Classification Panel and the recommendation of the Anesthesiology Device Classification Panel that this device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by October 23, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Lillian L. Yin, Bureau of Medical Devices (HFK-470), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7555.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the Federal Register provides background information concerning the development of the proposed regulation. The General Hospital and Personal Use Device Classification Panel and the Anesthesiology Device Classification Panel, FDA advisory committees, made the following recommendation regarding the classification of electronic monitors for gravity flow infusion systems:

1. Identification: An electronic monitor for gravity flow infusion systems is a device used to monitor the amount of fluid being infused into a patient. The device consists of an electronic transducer and equipment for signal amplification, conditioning, and display. The General Hospital and Personal Use Device Classification Panel identified this generic type of device under the name "electronic gravity flow infusion line monitor." The Anesthesiology Device Classification Panel considered this generic type of device under the name "infusion rate monitor."

2. Recommended classification: Class II (performance standards). The General Hospital and Personal Use Device Classification Panel recommends that establishing a performance standard for this device be a medium priority. The Anesthesiology Device Classification Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The General Hospital and Personal Use Device Classification Panel recommends that electronic monitors for gravity flow infusion systems be classified into class II because the Panel believes that the electrical properties of the device must be controlled through an electrical safety standard. The Panel also believes that performance standards are needed for this device to assure the accurate monitoring of parenterally administered fluids. The Panel believes that general controls would not provide sufficient control over these characteristics. The Anesthesiology Device Classification Panel recommends that this device be classified into class II because the Panel believes that the device must be

accurate and must not generate incorrect data that may lead to inappropriate therapy. Performance characteristics including the accuracy and any limitations of the device's function should be maintained at a generally accepted satisfactory level and should be made known to the user through labeling. Materials used in the fluid pathway of the device should meet a generally accepted satisfactory level of tissue and/or blood compatibility and be of such a nature that toxic substances will not be leached out in the infused fluids. The Panel believes that general controls would not provide sufficient control over these characteristics. Both Panels believe that a performance standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance.

4. Summary of data on which the recommendation is based: The General Hospital and Personal Use Device Classification Panel and the Anesthesiology Device Classification Panel based their recommendations upon the Panel members' personal knowledge of, and clinical experience with, the device.

5. Risks to health: (a) Inappropriate therapy: Inaccuracy of the device may result in the generation of inaccurate data that may lead to inappropriate therapy. Inaccurate administration data may allow unsafe levels of drugs to be administered. (b) Electrical shock: Improper device design and construction or device malfunction could result in an electrical shock. (c) Toxic reaction: If any material in the device leaches into the intravenous fluid, a toxic reaction may occur.

Proposed Classification

FDA agrees with the Panels' recommendations and is proposing that electronic monitors for gravity flow infusion systems be classified into class II (performance standards). The agency has reviewed the recommendation of the General Hospital and Personal Use Device Classification Panel for "electronic gravity flow infusion line monitors" and the recommendation of the Anesthesiology Device Classification Panel for "infusion rate monitors" and has concluded that it is more appropriate for the device to be named "electronic monitor for gravity flow infusion systems" and to be published in the part of the Code of Federal Regulations for general hospital and personal use devices. The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by this device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a standard for this device.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs proposes to amend Part 880 in Subpart C by adding new § 880.2420, to read as follows:

§ 880.2420 Electronic monitor for gravity flow infusion systems.

(a) *Identification.* An electronic monitor for gravity flow infusion systems is a device used to monitor the amount of fluid being infused into a patient. The device consists of an electronic transducer and equipment for signal amplification, conditioning, and display.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before October 23, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the Hearing Clerk document number found in brackets in the heading of this document. Received comments may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 9, 1979.
William F. Randolph,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-20037 Filed 8-23-79; 8:45 am]
BILLING CODE 4110-03-M

[21 CFR Part 880]

[Docket No. 78N-1271]

Medical Devices; Classification of Neonatal Ventilatory Effort Monitors (Apnea Detectors)

AGENCY: Food and Drug Administration.
ACTION: Proposed Rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying neonatal ventilatory effort monitors (apnea detectors) into class II (performance standards). FDA is also publishing the recommendation of the General Hospital and Personal Use Device Classification Panel that the device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of

the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by October 23, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Lillian L. Yin, Bureau of Medical Devices (HFK-470), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7555.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the Federal Register provides background information concerning the development of the proposed regulation. The General Hospital and Personal Use Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of neonatal ventilatory effort monitors (apnea detectors):

1. *Identification:* A neonatal ventilatory effort monitor (apnea detector) is a device that monitors the ventilatory efforts (body movements necessary to move or attempt to move air in and out of the lungs) of an infant by means of a motion sensitive transducer, a change of thoracic impedance, or other suitable means. An abnormal pause in breathing efforts (interpreted as apnea) or a departure from a set rate of breathing efforts may be detected by the device, which then activates an alarm. The device may include movement transducers, thoracic impedance electrodes, and electronic signal amplification, conditioning, and display equipment. The Panel identified this generic type of device under the name "nursery apnea/respiration monitor."

2. *Recommended classification:* Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a high priority.

3. *Summary of reasons for recommendation:* The Panel recommends that neonatal ventilatory effort monitors (apnea detectors) be classified into class II because the Panel believes a performance standard is necessary for this device to control the electrical energy output properties of the impedance type of monitor, to assure the accurate determination of the respiration rate, and to assure that an abnormal change in the breathing effort rate is detected and not masked by other physiological signs, such as those from cardiac activity. The Panel believes that general controls would not

provide sufficient control over these characteristics. Although the device is potentially hazardous to health if it fails, the Panel believes that a performance standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance. The Panel recommends that the device have an indicator or an alarm that will notify the user if the sensor becomes dislodged. The Panel also recommends that the number of false alarms associated with the use of this device be minimized by a suitable design. The Panel recommends that the labeling contain specific information for the use of this device with infants and a warning of the limitations of this device. The Panel recommends that other monitors, such as cardiac monitors, be used in conjunction with this advice.

4. *Summary of data on which the recommendation is based:* The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device. The Panel also reviewed the final report of the Emergency Care Research Institute concerning the hazards associated with this device (Ref. 1).

5. *Risks to health:* (a) Infant death: Poor device design, construction, or device malfunction may lead to the failure of the device to detect an abnormal pause in ventilatory efforts (apnea), which could result in infant death. (b) Electrical shock: Improper device design and construction or device malfunction could result in an electrical shock. (c) Inappropriate therapy: Inappropriate therapy may result if the device is not accurate in determining the breathing rate.

Proposed Classification

FDA agrees with the Panel recommendation and is proposing that neonatal ventilatory effort monitors (apnea detectors) be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

References

The following information has been placed in the office of the Hearing Clerk (address above) and may be seen by interested persons, from 9 a.m. to 4 p.m., Monday through Friday.

1. "An Investigation to Determine the Risks and Hazards Associated With Apnea Monitors." Final Report of the Emergency Care Research Institute, ECRI 410-276, Emergency Care Research Institute, Plymouth Meeting, PA, July 1978.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs proposes to amend Part 880 in Subpart C by adding new § 880.2440, to read as follows:

§ 880.2440 Neonatal ventilatory effort monitor (apnea detector).

(a) *Identification.* A neonatal ventilatory effort monitor (apnea detector) is a device that monitors the ventilatory efforts (body movements necessary to move or attempt to move air in and out of the lungs) of an infant by means of a motion sensitive transducer, a change of thoracic impedance, or other suitable means. An abnormal pause in breathing efforts (interpreted as apnea) or a departure from a set rate of breathing efforts may be detected by the device, which then activates an alarm. The device may include movement transducers, thoracic impedance electrodes, and electronic signal amplification, conditioning, and display equipment.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before October 23, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 15, 1979.
William F. Randolph,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-26038 Filed 8-23-79; 8:45 am]
BILLING CODE 4110-03-M

[21 CFR Part 880]

[Docket No. 78N-1272]

Medical Devices; Classification of AC-Powered Spinal Fluid Pressure Monitors

AGENCY: Food and Drug Administration.
ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying AC-powered spinal fluid

pressure monitors into class II (performance standards). FDA is also publishing the recommendation of the Anesthesiology Device Classification Panel that the device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by October 23, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Lillian L. Yin, Bureau of Medical Devices (HFK-470), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7555.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the Federal Register provides background information concerning the development of the proposed regulation. The Anesthesiology Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of AC-powered spinal fluid pressure monitors:

1. *Identification:* An AC-powered spinal fluid pressure monitor is an electrically powered device used to measure the spinal fluid pressure by use of a transducer, which converts the spinal fluid pressure into an electrical signal. The device includes signal amplification, conditioning and display equipment.

2. *Recommended classification:* Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a high priority.

3. *Summary of reasons for recommendation:* The Panel recommends that AC-powered spinal fluid pressure monitors be classified into class II because the Panel believes that the electrical properties of the device must be controlled through an electrical safety standard. The Panel believes that a performance standard is needed to ensure that the materials used in the transducer are biocompatible. The Panel believes that the transducer must be sterilizable to reduce the risk of infection. The Panel also believes that a performance

standard must ensure that the device is accurate to prevent generation of erroneous data which might lead to inappropriate therapy. The Panel believes that general controls would not provide sufficient control over these characteristics. The Panel believes that a performance standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance.

4. *Summary of data on which the recommendation is based:* The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device.

5. *Risks to health:* (a) Electrical shock: Improper device design and construction or device malfunction could result in an electrical shock. (b) Infection: If the device is unable to be sterilized because of poor design or inappropriate materials, it may introduce microorganisms that could cause infection in the patient. (c) Inappropriate therapy: Inaccuracy of the device may result in the generation of incorrect data that may lead to inappropriate therapy. (d) Adverse tissue reaction: Certain materials in the device may not be compatible with living tissue or body fluids and could cause an adverse tissue reaction.

Proposed Classification

FDA agrees with the recommendation of the Anesthesiology Device Classification Panel and is proposing that AC-powered spinal fluid pressure monitors be classified into class II (performance standards). The agency has concluded that this device should be published in the part of the Code of Federal Regulations for general hospital and personal use devices. The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by this device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a standard for this device. Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs proposes to amend Part 880 in Subpart C by adding new § 880.2460, to read as follows:

§ 880.2460 AC-powered spinal fluid pressure monitor.

(a) *Identification.* An AC-powered spinal fluid pressure monitor is an electrically powered device used to measure the spinal fluid pressure by the use of a transducer, which converts spinal fluid pressure into an electrical signal. The device includes signal

amplification, conditioning, and display equipment.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before October 23, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between 9 a.m. and 4 p.m.; Monday through Friday.

Dated: August 9, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-26039 Filed 8-23-79; 8:45 am]

BILLING CODE 4110-03-M

[21 CFR Part 880]

[Docket No. 78N-1273]

Medical Devices; Classification of Spinal Fluid Pressure Manometers

AGENCY: Food and Drug Administration.

ACTION: Proposed Rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying spinal fluid pressure manometers into class II (performance standards). FDA is also publishing the recommendation of the General Hospital and Personal Use Device Classification Panel and the recommendation of the Anesthesiology Device Classification Panel that the device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by October 23, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the Office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Lillian L. Yin, Bureau of Medical Devices (HFK-470), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7555.

SUPPLEMENTAL INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the Federal Register provides background information concerning the development of the proposed regulation. The General Hospital and Personal Use Device Classification Panel and the Anesthesiology Device Classification Panel, FDA advisory committees, made the following recommendations regarding the classification of spinal fluid pressure manometers:

1. Identification: A spinal fluid manometer is a device used to measure the spinal fluid pressure. The device uses a hollow needle, which is inserted into the spinal column fluid space, to connect the spinal fluid to a graduated column so that the pressure can be measured by reading the height of the fluid. The General Hospital and Personal Use Device Classification Panel identified this generic type of device as "spinal pressure manometer." The Anesthesiology Device Classification Panel identified this generic type of device as "spinal fluid pressure monitor."

2. Recommended classification: Class II (performance standards). The General Hospital and Personal Use Device Classification Panel and the Anesthesiology Device Classification Panel recommend that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The General Hospital and Personal Use Device Classification Panel and the Anesthesiology Device Classification Panel recommend that spinal fluid pressure manometers be classified into class II because the Panels believe that the accuracy of the device must be controlled to assure that the device correctly displays the patient's spinal fluid pressure. The Panels also believe that a biocompatibility standard is needed for materials used in the device to avoid an adverse tissue reaction. The Panels believe that the device must be sterilizable to reduce the risk of infection. The Panels believe that general controls would not provide sufficient control over these characteristics. The Panels believe that a performance standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance.

4. Summary of data on which the recommendation is based: Both Panels based their recommendations on the Panel members' personal knowledge of, and clinical experience with, the device. The General Hospital and Personal Use Device Classification Panel had recommended at the February 7-8, 1977 Panel meeting that the

device be classified into class I (general controls). The Panel reconsidered its recommendation at the November 6, 1978 Panel meeting and, upon review of the Anesthesiology Device Classification Panel recommendation, recommended that the device be classified into class II (performance standards) because the Panel believes that a standard is needed to assure the accuracy and biocompatibility of the device.

5. Risks to health: (a) Infection: If the device is unable to be sterilized because of poor design or inappropriate materials, it may introduce microorganisms that could cause infection in the patient. (b) Inappropriate therapy: Generation of inaccurate spinal fluid pressure data may lead to inappropriate therapy. (c) Adverse tissue reaction: Certain materials in the device may not be compatible with living tissue or body fluids and could cause an adverse tissue reaction.

Proposed Classification

FDA agrees with the recommendation of the General Hospital and Personal Use Device Classification Panel and the recommendation of the Anesthesiology Device Classification Panel and is proposing that spinal fluid pressure manometers be classified into class II (performance standards). The agency has reviewed the recommendations of the General Hospital and Personal Use Device Classification Panel for spinal pressure manometers and the Anesthesiology Device Classification Panel for spinal fluid pressure monitors, and has concluded that it would be more appropriate for the generic device to be named "spinal fluid pressure manometer" and published in the part of the Code of Federal Regulations for general hospital and personal use devices. The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. The agency believes that the accuracy and reproducibility of the spinal fluid pressure data generated by the device must be controlled through a performance standard to avoid possible inappropriate therapy. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a standard for this device.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs proposes to amend Part 880 in Subpart C by adding new § 880.2500, to read as follows:

§ 880.2500 Spinal fluid pressure manometer.

(a) *Identification.* A spinal fluid pressure manometer is a device used to measure spinal fluid pressure. The device uses a hollow needle, which is inserted into the spinal column fluid space, to connect the spinal fluid to a graduated column so that the pressure can be measured by reading the height of the fluid.

(b) *Classification.* Class I (performance standards).

Interested persons may, on or before October 23, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the Hearing Clerk document number found in brackets in the heading of this document. Received comments may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 9, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-26040 Filed 8-23-79; 8:45 am]

BILLING CODE 4110-03-M

[21 CFR Part 880]

[Docket No. 78N-1274]

Medical Devices; Classification of Stand-On Patient Scales

AGENCY: Food and Drug Administration.

ACTION: Proposed Rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying stand-on patient scales into class I (general controls). FDA is also publishing the recommendation of the General Hospital and Personal Use Device Classification Panel that the device be classified into class I. The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by October 23, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Lillian L. Yin, Bureau of Medical Devices (HFK-470), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7555.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the Federal Register provides background information concerning the development of the proposed regulation. The General Hospital and Personal Use Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of stand-on patient scales:

1. Identification: A stand-on patient scale is a device used to weigh a patient who is able to stand on the scale platform. The Panel identified this generic type of device under the name "body weight scale".

2. Recommended classification: Class I (general controls). The Panel recommends that this device be exempt from premarket notification regulations under section 510(k) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360(k)) and from the good manufacturing practice (GMP) regulation under section 520(f) of the act (21 U.S.C. 360(f)).

3. Summary of reasons for recommendation: The Panel recommends that stand-on patient scales be classified into class I because the Panel believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device. The Panel recommends that this device be exempt from premarket notification regulations under section 510(k) of the act because the Panel believes that FDA does not need to receive premarket notification of a manufacturer's intent to market this simple device. The Panel recommends that this device be exempt from the GMP regulation under section 520(f) of the act because the Panel believes that the quality of the device is easily discernible and that defects are readily apparent to the user. In addition, the Panel recommends that the labeling state the accuracy of the device and how frequently the device should be recalibrated.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device.

5. Risks to health: None identified.

Proposed Classification

FDA agrees with the Panel recommendation and is proposing that the stand-on patient scale be classified into class I (general controls). The

agency believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

In response to the Panel's recommendation that manufacturers of a stand-on patient scale be exempt from section 510 of the act, FDA is proposing that these manufacturers be subject to registration and device listing under section 510 (a) through (j) of the act, but exempt from premarket notification under section 510(k) of the act and Subpart E of Part 807 of the regulations. Under section 510(g)(4) of the act, the agency may exempt a manufacturer from section 510 only if it finds that compliance with this section is not necessary for the protection of the public health. In the case of registration and listing by manufacturers of a stand-on patient scale, the agency cannot make the required finding. To protect the public health, the agency needs to be able to identify the firms manufacturing this device and to conduct necessary inspections. The agency has determined, however, that it is not necessary for the protection of the public health that FDA receive premarket notification submissions concerning a stand-on patient scale. The agency does not, at this time, anticipate that premarket approval will be required for this device. The agency believes that the semiannual updating of device listing under section 510(j)(2) will provide FDA with adequate notice concerning new products within this generic type of device.

In response to the Panel's recommendation that manufacturers of a stand-on patient scale be exempt from the device good manufacturing practice (GMP) regulation under section 520(f) of the act, FDA is proposing that a manufacturer of this device be exempt, in the manufacture of the device, from all requirements in the GMP regulation except § 820.180 (21 CFR 820.180), with respect to general requirements concerning records, and § 820.198 (21 CFR 820.198), with respect to complaint files. Based on available information about current practices used in the manufacture of the device and user experience with the device, the agency has determined that application of the GMP regulation, other than §§ 820.180 and 820.198, is unlikely to improve the safety and effectiveness of the device. The agency believes, however, that manufacturers of a stand-on patient scale must still be required to comply with the complaint file requirements of § 820.198 to ensure that these manufacturers have adequate systems for complaint investigation and followup. The agency also believes that

manufacturers of a stand-on patient scale must still be required to comply with the general requirements concerning records in § 820.180 to ensure that FDA has access to complaint files, can investigate device-related injury reports and complaints about product defects, may determine whether the manufacturer's corrective actions are adequate, and may determine whether the exemption from other sections of the GMP regulation is still appropriate.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs proposes to amend Part 880 in Subpart C by adding new § 880.2700, to read as follows:

§ 880.2700 Stand-on patient scale.

(a) *Identification.* A stand-on patient scale is a device used to weigh a patient who is able to stand on the scale platform.

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in Subpart E of Part 807 of this chapter. The device also is exempt from the good manufacturing practice regulation in Part 820 of this chapter, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complain files.

Interested persons may, on or before October 23, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 9, 1979.
William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.

[FR Doc. 79-26041 Filed 8-23-79; 8:45 am]
BILLING CODE 4110-03-M

[21 CFR Part 880]

[Docket No. 78N-1275]

Medical Devices; Classification of Patient Scales

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying mechanical patient scales into class I (general controls) and AC-powered patient scales into class II (performance standards). FDA is also publishing the recommendation of the General Hospital and Personal Use Device Classification Panel that these devices be classified into class I. The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the devices. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by October 23, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

Lillian L. Yin, Bureau of Medical Devices (HFK-470), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7555.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the Federal Register provides background information concerning the development of the proposed regulation. The General Hospital and Personal Use Device Classification Panel, an FDA advisory committee, made the following recommendation with respect to the classification of patient scales:

1. Identification: A patient scale is a device used to measure the weight of a patient who cannot stand on a scale. This generic device includes devices placed under a bed or chair to weigh both the support and the patient, devices where the patient is lifted by a sling from a bed to be weighed, and devices where the patient is placed on the scale platform to be weighed. The device may operate mechanically or it may be AC-powered and may include transducers, electronic signal amplification, conditioning and display equipment.

2. Recommended classification: Class I (general controls). The Panel recommends that there be no exemptions for these devices.

3. Summary of reasons for recommendation: The Panel recommends that patient scales be classified into class I because the Panel believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the devices. The Panel also recommends that the labeling of the devices state the accuracy of the devices, and how frequently the devices should be recalibrated.

4. Summary of data on which the recommendation is based: The Panel based its recommendation upon the Panel members' personal knowledge of, and clinical experience with, the devices.

5. Risks to health: (a) Patient injury: If the sling or lifting mechanism is defective, the patient could be dropped and injured. (b) Inappropriate therapy: If the device is inaccurate, inappropriate therapy could be administered to the patient. (c) Electrical shock: If the AC-powered patient scales is not designed or constructed properly or if it malfunctions, users can receive an electrical shock.

Proposed Classification

FDA agrees with the Panel recommendation as it applies to mechanical patient scales and is proposing that mechanical patient scales be classified into class I (general controls) with no exemptions. FDA believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of mechanical patient scales. However, the agency believes that a performance standard is necessary for AC-powered patient scales because the electrical properties of the device must be controlled through an electrical safety standard. Therefore, the agency is proposing that AC-powered patient scales be classified into class II (performance standards). The agency believes that general controls alone are insufficient to control the risks to health presented by the AC-powered device. A performance standard would provide reasonable assurance of the safety and effectiveness of the AC-powered device. The agency also believes that there is sufficient information to establish a performance standard for the AC-powered patient scale.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs proposes to amend Part 880 in Subpart C by adding new § 880.2720, to read as follows:

§ 880.2720 Patient scale.

(a) *Identification.* A patient scale is a device used to measure the weight of a patient who cannot stand on a scale. This generic device includes devices placed under a bed or chair to weigh both the support and the patient, devices where the patient is lifted by a sling from a bed to be weighed, and devices where the patient is placed on the scale platform to be weighed. The device may operate mechanically or it may be AC-powered and may include transducers, electronic signal amplification, conditioning and display equipment.

(b) *Classification.* (1) Class I (general controls) for a mechanical patient scale. (2) Class II (performance standards) for an AC-powered patient scale.

Interested persons may, on or before October 23, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 9, 1979.
William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.

[FR Doc. 79-26042 Filed 8-23-79; 8:45 am]
BILLING CODE 4110-03-M

[21 CFR Part 880]

[Docket No. 78N-1276]

Medical Devices; Classification of Surgical Sponge Scales

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying surgical sponge scales into class I (general controls). FDA is also publishing the recommendation of the General Hospital and Personal Use Device Classification Panel that the device be classified into class I. The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. After considering public comments, FDA will issue a final regulation classifying the device. These

actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by October 23, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Lillian L. Yin, Bureau of Medical Devices (HFK-470), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7555.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the Federal Register provides background information concerning the development of the proposed regulation. The General Hospital and Personal Use Device Classification Panel, an FDA advisory committee, made the following recommendation with respect to the classification of surgical sponge scales:

1. Identification: A surgical sponge scale is a nonelectrically powered device used to weigh surgical sponges that have been used to absorb blood during surgery so that, by comparison with the known dry weight of the sponges, an estimate may be made of the blood lost by a patient during surgery. The Panel identified this generic type of device under the name "sponge scale."

2. Recommended classification: Class I (general controls). The Panel recommends that this device be exempt from premarket notification regulations under section 510(k) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360(k)) and from the good manufacturing practice regulation under section 520(f) of the act (21 U.S.C. 360(f)).

3. Summary of reasons for recommendation: The Panel recommends that surgical sponge scales be classified into class I because the Panel believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device. The Panel recommends that this device be exempt from premarket notification under section 510(k) of the act because the Panel believes the FDA does not need to receive premarket notification of a manufacturer's intent to market this simple device. The Panel recommends that this device be exempt from the good manufacturing practice regulation under section 520(f) of the act because the Panel believes that the quality of the device is easily discernible and that defects are readily apparent to the user. The Panel recommends that information regarding the accuracy of the device be included in the labeling.

4. Summary of data on which the recommendation is based: The Panel based its recommendation upon the Panel members'

personal knowledge of, and clinical experience with, the device.

5. Risks to health: None identified.

Proposed Classification

FDA agrees with the Panel recommendation and is proposing that surgical sponge scales be classified into class I (general controls). The agency believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

In response to the Panel's recommendation that manufacturers of a surgical sponge scale be exempt from section 510 of the act, FDA is proposing that these manufacturers be subject to registration and device listing under section 510(a) through (j) of the act, but exempt from premarket notification under section 510(k) of the act and Subpart E of Part 807 of the regulations. Under section 510(g)(4) of the act, the agency may exempt a manufacturer from section 510 only if it finds that compliance with this section is not necessary for the protection of the public health. In the case of registration and listing by manufacturers of a surgical sponge scale, the agency cannot make the required finding. To protect the public health, the agency needs to be able to identify the firms manufacturing this device and to conduct necessary inspections. The agency has determined, however, that it is not necessary for the protection of the public health that FDA receive premarket notification submissions concerning a surgical sponge scale. The agency does not at this time anticipate that premarket approval will be required for this device. The agency believes that the semiannual updating of device listing under section 510(j)(2) will provide FDA with adequate notice concerning new products within this generic type of device.

In response to the Panel's recommendation that manufacturers of a surgical sponge scale be exempt from the device good manufacturing practice (GMP) regulation under section 520(f) of the act, FDA is proposing that a manufacturer of this device be exempt, in the manufacture of the device, from all requirements in the GMP regulation except § 820.180 (21 CFR 820.180), with respect to general requirements concerning records, and § 820.198 (21 CFR 820.198), with respect to complaint files. Based on available information about current practices used in the manufacture of the device and user experience with the device, the agency has determined that application of the GMP regulation, other than §§ 820.180 and 820.198, is unlikely to improve the safety and effectiveness of the device.

The agency believes, however, that manufacturers of a surgical sponge scale must still be required to comply with the complaint file requirements of § 820.198 to ensure that these manufacturers have adequate systems for complaint investigation and followup. The agency also believes that manufacturers of a surgical sponge scale must still be required to comply with the general requirements concerning records in § 820.180 to ensure that FDA has access to complaint files, can investigate device-related injury reports and complaints about product defects, may determine whether the manufacturer's corrective actions are adequate, and may determine whether the exemption from other sections of the GMP regulations is still appropriate.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs proposes to amend Part 880 in subpart C by adding new § 880.2740, to read as follows:

§ 880.2740 Surgical sponge scale.

(a) *Identification.* A surgical sponge scale is a nonelectrically powered device used to weigh surgical sponges that have been used to absorb blood during surgery so that, by comparison with the known dry weight of the sponges, an estimate may be made of the blood lost by a patient during surgery.

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in Subpart E of Part 807 of this chapter. The device also is exempt from the good manufacturing practice regulation in Part 820 of this chapter, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

Interested persons may, on or before October 23, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 9, 1979.

William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.

[FR Doc. 79-26043 Filed 8-23-79; 8:45 am]

BILLING CODE 4110-03-M

[21 CFR Part 880]

[Docket No. 78N-1277]

Medical Devices; Classification of Sterilization Indicators

AGENCY: Food and Drug Administration.
ACTION: Proposed Rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying sterilization indicators into class II (performance standards). FDA is also publishing the recommendation of the General Hospital and Personal Use Device Classification Panel that the device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by October 23, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Lillian L. Yin, Bureau of Medical Devices (HFK-470), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7555.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the Federal Register provides background information concerning the development of the proposed regulation. The General Hospital and Personal Use Device Classification Panel, an FDA advisory committee, made the following recommendation with respect to the classification of sterilization indicators:

1. Identification: A sterilization indicator is a device used to show by visible or measurable evidence that a treated medical product was sufficiently exposed to a

sterilization agent to allow the user to assume that the product is sterile. The Panel identified this generic type of device under the names "biological sterilization indicator" and "physical/chemical sterilization indicator".

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a medium priority.

3. Summary of reasons for recommendation: The Panel recommends that sterilization indicators be classified into class II because the Panel believes that the accuracy and effectiveness of the device must be controlled through a standard. The Panel believes that general controls would not provide sufficient control over this characteristic. The Panel believes that a performance standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance. The Panel also recommends that the labeling of the device include explicit instructions for use and include a description of any performance limitations.

4. Summary of data on which the recommendation is based: The Panel based its recommendation upon the Panel members' personal knowledge of, and clinical experience with, the device.

5. Risks to health: (a) Infection: If the sterilization indicator shows that sterility was achieved before the product has been exposed sufficiently to the sterilization agent to ensure sterility, a nonsterile product may be used in treating a patient, causing an infection. (b) Adverse effect to patient from a deteriorated product: If the sterilization indicator does not show sterility until the treated products have received excessive exposure to a sterilization agent, the treated products may deteriorate and the resulting physical or chemical changes in the product may adversely affect the patient.

Proposed Classification

FDA agrees with the Panel recommendation and is proposing that sterilization indicators be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by this device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a standard for this device.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs proposes to amend Part 880 in Subpart C by adding new § 880.2800, to read as follows:

§ 880.2800 Sterilization indicator.

(a) *Identification.* A sterilization indicator is a device used to show by visible or measurable evidence that a treated medical product was sufficiently exposed to a sterilization agent to allow the user to assume that the product is sterile.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before October 23, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 15, 1979.

William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.

[FR Doc. 79-26044 Filed 8-23-79; 8:45 am]

BILLING CODE 4110-03-M

[21 CFR Part 880]

[Docket No. 78N-1279]

Medical Devices; Classification of Clinical Color Change Thermometers

AGENCY: Food and Drug Administration.
ACTION: Proposed Rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying clinical color change thermometers into class II (performance standards). FDA is also publishing the recommendation of the General Hospital and Personal Use Device Classification Panel that this device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. FDA is also publishing the recommendation of the General and Plastic Surgery Device Classification Panel that the device be classified into class I. The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken

under the Medical Device Amendments of 1976.

DATES: Comments by October 23, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Lillian L. Yin, Bureau of Medical Devices (HFK-470), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7555.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the Federal Register provides background information concerning the development of the proposed regulation. The General Hospital and Personal Use Device Classification Panel and the General and Plastic Surgery Device Classification Panel, FDA advisory committees, made the following recommendations regarding the classification of clinical color change thermometers:

1. Identification: A clinical color change thermometer is a device used to measure oral or rectal body temperature by displaying the color changes of heat sensitive liquid crystals. It is a disposable device with the liquid crystals (cholesteric esters) sealed in plastic at the end of a plastic strip. The General Hospital and Personal Use Device Classification Panel identified this generic type of device under the name of "clinical color change thermometer." The General and Plastic Surgery Device Classification Panel identified this generic type of device as the "liquid crystal thermometer."

2. Recommended classification: The General Hospital and Personal Use Device Classification Panel recommends that this device be classified into class II (performance standards) and that establishing a performance standard for this device be a medium priority. The General and Plastic Surgery Device Classification Panel recommends that this device be classified into class I (general controls) and that this device be exempt from records and reports requirements under section 519 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360i).

3. Summary of reasons for recommendation: The General Hospital and Personal Use Device Classification Panel recommends that clinical color change thermometers be classified into class II because the Panel believes that the accuracy of the device must be controlled through a standard. The Panel believes that general controls would not provide sufficient control over this characteristic. The Panel believes

that a performance standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance. The Panel recommends that the labeling state the accuracy of the device. The accuracy of the device may be affected by high humidity, heat, or prolonged storage. Therefore, the Panel also recommends that the labeling state how the device should be stored until use. The General and Plastic Surgery Device Classification Panel recommends that this device be classified into class I because the Panel believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device. This Panel also recommends that the device be exempt from records and reports requirements under section 519 of the act because the Panel believes that FDA does not need to receive records and reports for this device.

4. Summary of data on which the recommendation is based: Both Panels based their recommendations upon the Panel members' personal knowledge of, and clinical experience with, the device.

5. Risks to health: The General Hospital and Personal Use Device Classification Panel identified the following risk to health: (a) Misdiagnosis and inappropriate therapy: If the device is inaccurate, a potential exists for misdiagnosis and subsequent inappropriate therapy. The General and Plastic Surgery Device Classification Panel identified no risks to health.

Proposed Classification

FDA agrees with the recommendation of the General Hospital and Personal Use Device Classification Panel and is proposing that the clinical color change thermometer be classified into class II (performance standards). The agency has reviewed the recommendation of the General Hospital and Personal Use Device Classification Panel for clinical color change thermometers and the recommendations of the General and Plastic Surgery Device Classification Panel for liquid crystal thermometers, and has concluded that it is more appropriate for the device to be named the "clinical color change thermometer" and to be published in the Part of the Code of Federal Regulations for general hospital and personal use devices. The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risk to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a standard to provide this assurance.

The agency disagrees with the recommendation of the General and Plastic Surgery Device Classification

Panel that clinical color change thermometers be classified into class I because performance standards are necessary to assure the accuracy of the device in its measurement of body temperature. Because the agency has decided that the clinical color change thermometer should be classified in class II rather than class I, the agency is not required to publish a regulation adopting or rejecting the recommendation of the General and Plastic Surgery Device Classification Panel that this device be exempt from records and reports requirements under section 519 of the act (21 U.S.C. 360i). Even if the device were classified into class I, the agency could not exempt manufacturers of the device from records and reports requirements under section 519 of the act because FDA believes that the agency cannot properly issue exemptions from regulations that have not yet been promulgated. When the agency proposes device regulations that include records and reports requirements, interested persons can submit comments requesting that certain classes of manufacturers be exempted from those requirements, and FDA will issue any exemptions that are appropriate. At this time, FDA is only proposing exemptions from records and reports requirements in the device good manufacturing practice (GMP) regulation, published in the Federal Register of July 21, 1978 (43 FR 31508). The agency is not proposing to exempt manufacturers of the clinical color change thermometer from the records and reports requirements in the GMP regulation, because compliance with these requirements is necessary to assure the quality of this device and thus its safety, effectiveness, and compliance with the adulteration and misbranding provisions of the act. Compliance with the GMP regulation, including the records and reports provisions, will help prevent production of clinical color change thermometers having defects that could harm users.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs proposes to amend Part 880 in Subpart C by adding new § 880.2900, to read as follows:

§ 880.2900 Clinical color change thermometer.

(a) *Identification.* A clinical color change thermometer is a device used to measure oral or rectal body temperature by displaying the color changes of heat sensitive liquid crystals. It is a

disposable device with the liquid crystals (cholesteric esters) sealed in plastic at the end of a plastic strip.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before October 23, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 15, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-26045 Filed 8-23-79; 8:45 am]

BILLING CODE 4110-03-M

[21 CFR Part 880]

[Docket No. 78N-1280]

Medical Devices; Classification of Clinical Electronic Thermometers

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying clinical electronic thermometers into class II (performance standards). FDA is also publishing the recommendation of the General Hospital and Personal Use Device Classification Panel, the Anesthesiology Device Classification Panel, and the General and Plastic Surgery Device Classification Panel that the device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by October 23, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-

65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Lillian L. Yin, Bureau of Medical Devices (HFK-470), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7555.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the Federal Register provides background information concerning the development of the proposed regulation. The General Hospital and Personal Use Device Classification Panel, the Anesthesiology Device Classification Panel, and the General and Plastic Surgery Device Classification Panel, FDA advisory committee, made the following recommendations with respect to the classification of clinical electronic thermometers:

1. *Identification:* A clinical electronic thermometer is a device used to measure the body temperature of a patient by means of a transducer coupled with an electronic signal amplification, conditioning, and display unit. The transducer may be in a detachable probe with or without a disposable cover. The General Hospital and Personal Use Device Classification Panel identified this generic type of device under the name "clinical electronic thermometer." The Anesthesiology Device Classification Panel and the General and Plastic Surgery Device Classification Panel identified this generic type of device under the name "temperature monitor."

2. *Recommended classification:* Class II (performance standards). The General Hospital and Personal Use Device Classification Panel recommends that establishing a performance standard for this device be a medium priority. The Anesthesiology Device Classification Panel and the General and Plastic Surgery Device Classification Panel recommend that establishing a performance standard for this device be a low priority.

3. *Summary of reasons for recommendation:* The General Hospital and Personal Use Device Classification Panel and the General and Plastic Surgery Device Classification Panel recommend that clinical electronic thermometers be classified into class II because the Panels believe that the accuracy of the device must be controlled through a standard. The General Hospital and Personal Use Device Classification Panel believes that a standard is also needed to control the materials used in the probe to reduce the risk of puncturing the colon and the Panel also recommends that the labeling state the accuracy of the device and include instructions for proper cleaning. The Anesthesiology Device Classification Panel recommends that this device be classified into class II because the Panel believes that the electrical properties of the device must be controlled through an electrical safety standard to assure that the patient is not

shocked or burned by excessive leakage current through the probe. This Panel believes that a standard is needed to control the design and materials of the probe to prevent tissue damage due to improper size or shape. The Panel also recommends that the use of the device be restricted to trained personnel under the direction of a physician. All three Panels believe that general controls would not provide sufficient control over these characteristics. The Panels believe that a performance standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance.

4. *Summary of data on which the recommendation is based:* The Panels based their recommendations upon the Panel members' personal knowledge of, and clinical experience with, the device.

5. *Risks to health:* The General Hospital and Personal Use Device Classification Panel and the General and Plastic Surgery Device Classification Panel identified the following risk to health: (a) Misdiagnosis and inappropriate therapy: If the device is inaccurate, erroneous readings could result that may lead to misdiagnosis and inappropriate therapy. The General Hospital and Personal Use Device Classification Panel identified the following additional risks to health: (b) Infection: If the disposable covers for the probe are not impervious to microorganisms and/or are not easy to attach and remove, there is a possibility of infection in the patient. (c) Puncture of colon: If the rectal probe and cover are not made of a soft material, puncture of the colon may result. The Anesthesiology Device Classification Panel identified the following risks to health: (d) Electrical shock: Improper device design and construction or device malfunction could result in an electrical shock. (e) Tissue damage: Improper size or shape of the probe may result in tissue damage.

Proposed Classification

FDA agrees with the Panels' recommendations and is proposing that clinical electronic thermometers be classified into class II (performance standards). The agency has reviewed the recommendation of the Anesthesiology Device Classification Panel and the recommendation of the General and Plastic Surgery Device Classification Panel for temperature monitors, and the recommendation of the General Hospital and Personal Use Device Classification Panel for clinical electronic thermometers, and has concluded that it is more appropriate for the device to be named the "clinical electronic thermometer" and to be published in the part of the Code of Federal Regulations for general hospital and personal use devices. The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard

would provide reasonable assurance of the safety and effectiveness of the device. The agency believes that there is sufficient information to establish a standard for this device.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs proposes to amend Part 880 in Subpart C by adding new § 880.2910, to read as follows:

§ 880.2910 Clinical electronic thermometer.

(a) *Identification.* A clinical electronic thermometer is a device used to measure the body temperature of a patient by means of a transducer coupled with an electronic signal amplification, conditioning, and display unit. The transducer may be in a detachable probe with or without a disposable cover.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before October 23, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 9, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-26046 Filed 8-23-79; 8:45 am]

BILLING CODE 4110-03-M

[21 CFR Part 880]

[Docket No. 78N-1281]

Medical Devices; Classification of Clinical Mercury Thermometers

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying clinical mercury thermometers into class II (performance standards). FDA is also publishing the recommendation of the General Hospital and Personal Use Device Classification Panel that the device be classified into

class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. FDA is also publishing the recommendation of the General and Plastic Surgery Device Classification Panel that the device be classified into class I. The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by October 23, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Lillian L. Yin, Bureau of Medical Devices (HFK-470), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7555.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the Federal Register provides background information concerning the development of the proposed regulation. The General Hospital and Personal Use Device Classification Panel and the General and Plastic Surgery Device Classification Panel, FDA advisory committees, made the following recommendation with respect to the classification of clinical mercury thermometers:

1. *Identification:* A clinical mercury thermometer is a device used to measure oral, rectal, or axillary body temperature using the thermal expansion of mercury. The General and Plastic Surgery Device Classification Panel identified this generic type of device under the name "fluid column thermometer." The General Hospital and Personal Use Device Classification Panel identified this generic type of device under the name "clinical mercury thermometer."

2. *Recommended classification:* The General Hospital and Personal Use Device Classification Panel recommends that this device be classified into class II (performance standards) and that establishing a performance standard for this device be a medium priority. The General and Plastic Surgery Device Classification Panel

recommends that this device be classified into class I (general controls) and that this device be exempt from records and reports regulations under section 519 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360i).

3. Summary of reasons for recommendation: The General Hospital and Personal Use Device Classification Panel recommends that the device be classified into class II because the Panel believes that the accuracy of the device must be controlled through a standard to assure the correct measurement of the patient's body temperature. The Panel believes that general controls would not provide sufficient control over this characteristic.

The Panel believes that a performance standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance. The Panel recommends that the labeling include a warning against ingestion of mercury if the thermometer breaks. The Panel also recommends that the labeling state the accuracy of the device.

The General and Plastic Surgery Device Classification Panel recommends that the device be classified into class I because the Panel believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device. The Panel recommends that this device be exempt from records and reports regulations under section 519 of the act because the Panel believes that FDA does not need to receive records and reports for this device.

4. Summary of data on which the recommendation is based: Both Panels based their recommendations upon the Panel members' personal knowledge of, and clinical experience with, the device.

5. Risks to health: The General Hospital and Personal Use Device Classification Panel identified the following risks to health: (a) Misdiagnosis and inappropriate therapy: if the device is inaccurate, a potential exists for misdiagnosis and subsequent inappropriate treatment. (b) Mercury poisoning: If the thermometer breaks and mercury is ingested, mercury poisoning could result. The General and Plastic Surgery Device Classification Panel identified no risks to health.

Proposed Classification

FDA agrees with the recommendation of the General Hospital and Personal Use Device Classification Panel and is proposing that clinical mercury thermometers be classified into class II (performance standards). The agency has reviewed the recommendation of the General Hospital and Personal Use Device Classification Panel for clinical mercury thermometers and the recommendation of the General and Plastic Surgery Device Classification Panel for fluid column thermometers, and has concluded that it is more appropriate for the device to be named the "clinical mercury thermometer" and to be published in the part of the Code

of Federal Regulations for general hospital and personal use devices. The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a standard for this device.

The agency disagrees with the recommendation of the General and Plastic Surgery Device Classification Panel that clinical mercury thermometers be classified into class I because FDA believes that performance standards are necessary to assure the accuracy of the device in its measurement of body temperature.

Because the agency has decided that clinical mercury thermometers should be classified into class II rather than class I, the agency is not required to publish a regulation adopting or rejecting the recommendation of the General and Plastic Surgery Device Classification Panel that this device be exempt from records and reports requirements under section 519 of the act (21 U.S.C. 360i). Even if the device were classified into class I, the agency could not exempt manufacturers of the device from records and reports requirements under section 519 of the act because FDA believes that the agency cannot properly issue exemptions from regulations that have not yet been promulgated. When the agency proposes device regulations that include records and reports requirements, interested persons can submit comments requesting that certain classes of manufacturers be exempted from those requirements, and FDA will issue any exemptions that are appropriate. At this time, FDA is only proposing exemptions from records and reports requirements in the device good manufacturing practice (GMP) regulation, published in the Federal Register of July 21, 1978 (43 FR 31508).

The agency is not proposing to exempt manufacturers of the clinical mercury thermometer from the records and reports requirements in the GMP regulation, because compliance with these requirements is necessary to assure the quality of this device and thus its safety, effectiveness, and compliance with the adulteration and misbranding provisions of the act. Compliance with the GMP regulation, including the records and reports provision, will help prevent production of clinical mercury thermometers having defects that could harm users.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs proposes to amend Part 880 in Subpart C by adding new § 880.2920, to read as follows:

§ 880.2920 Clinical mercury thermometer.

(a) *Identification.* A clinical mercury thermometer is a device used to measure oral, rectal, or axillary body temperature using the thermal expansion of mercury.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before October 23, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 15, 1979.

William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.

[FR Doc. 79-26047 Filed 8-23-79; 8:45 am]
BILLING CODE 4110-03-M

[21 CFR Part 880]

[Docket No. 78N-1284]

Medical Devices; Classification of I.V. Containers

AGENCY: Food and Drug Administration.
ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying I.V. containers into class II (performance standards). FDA is also publishing the recommendation of the General Hospital and Personal Use Device Classification Panel that the device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by October 23, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Lillian L. Yin, Bureau of Medical Devices (HFK-470), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7555.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the Federal Register provides background information concerning the development of the proposed regulation. The General Hospital and Personal Use Device Classification Panel, an FDA advisory committee, made the following recommendation with respect to the classification of I.V. containers.

1. Identification: An I.V. container is a sterile container for a fluid mixture to be administered to a patient. The Panel identified this generic type of device under the name "empty admixture container."

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a high priority.

3. Summary of reasons for recommendation: The Panel recommends that I.V. containers be classified into class II because the Panel believes that standards are needed to assure that the material used in the device does not leach toxic substance into the liquid mixtures. The Panel believes that general controls would not provide sufficient control over this characteristic. The Panel also recommends that the device be used only by, or on the order of, a physician. The Panel believes that a standard would provide reasonable assurance of the safety and effectiveness of the device, and that there is sufficient information to establish a standard to provide such assurance.

4. Summary of data on which the recommendation is based: The Panel based its recommendation upon the Panel members' personal knowledge of, and clinical experience with, the device.

5. Risks to health: (a) Adverse tissue reactions: If the plastic material of the container leaches toxic substances into the liquid, an adverse tissue reaction could occur when the liquid enters the patient. (b) Infection: If the device is not sterile, pathogenic organisms could cause an infection in the patient. (c) Inappropriate therapy: If a part of the liquid mixture adheres to the walls of the container, the patient could receive inappropriate therapy.

Proposed Classification

FDA agrees with the Panel recommendation and is proposing that I.V. containers be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a standard to provide this assurance.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs proposes to amend Part 880 by adding Subpart F and new § 880.5025, to read as follows:

Subpart F—General Hospital and Personal Use Therapeutic Devices

§ 880.5025 I.V. container.

(a) *Identification.* An I.V. container is a container for a fluid mixture to be administered to a patient.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before October 23, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 9, 1979.

William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.

[FR Doc. 79-26048 Filed 8-23-79; 8:45 am]
BILLING CODE 4110-03-M

[21 CFR Part 880]

[Docket No. 78N-1285]

Medical Devices; Classification of Recirculating Air Cleaners

AGENCY: Food and Drug Administration.
ACTION: Proposed Rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for

public comments a proposed regulation classifying recirculating air cleaners into class II (performance standards). FDA is also publishing the recommendation of the General Hospital and Personal Use Device Classification Panel that the device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by October 23, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Lillian L. Yin, Bureau of Medical Devices (HFK-470), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7555.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the Federal Register provides background information concerning the development of the proposed regulation. The General Hospital and Personal Use Device Classification Panel, an FDA advisory committee, made the following recommendation with respect to the classification of recirculating air cleaners:

1. Identification: A recirculating air cleaner is a device used to remove particles from the air by electrostatic precipitation or filtration. The Panel identified this generic type of device under the name "recirculating room air cleaner".

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a high priority.

3. Summary of reasons for recommendation: The Panel recommends that recirculating air cleaners be classified into class II because the Panel believes that the electrical properties of the device must be controlled through an electrical safety standard to prevent electrical shock and unnecessary electrical arcing, which produces ozone. The Panel also believes a standard is needed to assure that the device dissipates heat adequately so that burns are avoided. The Panel believes that general controls would not provide sufficient control over these characteristics. The Panel believes

that a standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device. Also, the Panel considered an article evaluating high efficiency particulate air filters, which was prepared by the Wilmot Castle Co. under a contract with the Jet Propulsion Laboratory (Ref. 1). The Article concludes that: (a) Areas of particulate penetration may be related to increased velocity of particles through holes in the filter media or frames; (b) the efficiency level of a filter should be tested before each use; and (c) high-efficiency particulate air filters having an efficiency rating exceeding 99.99 percent can remove from a gas stream all particles of a size greater than 0.5 micrometers.

5. Risks to health: (a) Inappropriate therapy: Inappropriate therapy may result if the device is used for therapeutic purposes and does not remove enough particles from the air. Ineffective particle removal may result from an insufficient electrical charge, in the case of the electrostatic type of cleaner, or from a dirty filter, in the case of the filter type of air cleaner. (b) Burns: If the device does not dissipate heat adequately, it may cause skin burns upon contact. (c) Ozone toxicity: If there is electrical arcing in the electrostatic air cleaner, the device will produce ozone and thus may cause ozone toxicity. (d) Electrical shock: Improper device design and construction or device malfunction can result in electrical shock.

Proposed Classification

FDA agrees with the Panel recommendation and is proposing that the recirculating air cleaner be classified into class II (performance standards). FDA believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. FDA is concerned about the effectiveness of the device in removing particles from the air. The literature reports that the devices can be very effective in removing particles from the air (Ref. 1). Therefore, FDA believes a performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a standard to provide this assurance.

References

The following information has been placed in the office of the Hearing Clerk (address above) and may be seen by interested persons, from 9 a.m. to 4 p.m., Monday through Friday.

1. Irons, A. S., "Microbiological Evaluation of High Efficiency Particulate Air (HEPA)

Filters," Jet Propulsion Laboratories, Space Programs Summary No 37-43, IV: 53-58, February 28, 1967.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs proposes to amend Part 880 in Subpart F by adding new § 880.5045, to read as follows:

§ 880.5045 Recirculating air cleaner.

(a) *Identification.* A recirculating air cleaner is a device used to remove particles from the air in a room by electrostatic precipitation or filtration.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before October 23, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 9, 1979.

William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.

[FR Doc. 79-28049 Filed 8-23-79; 8:45 am]

BILLING CODE 4110-03-M

[21 CFR Part 880]

[Docket No. 78N-1286]

Medical Devices; Classification of Urine Collection Bags for Infants

AGENCY: Food and Drug Administration.
ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying urine collection bags for infants into class I (general controls). FDA is also publishing the recommendation of the General Hospital and Personal Use Device Classification Panel that the device be classified into class I. The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken

under the Medical Device Amendments of 1976.

DATES: Comments by October 23, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Lillian L. Yin, Bureau of Medical Devices (HFK-470), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7555.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the Federal Register provides background information concerning the development of the proposed regulation. The General Hospital and Personal Use Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of urine collection bags for infants:

1. Identification: A urine collection bag for an infant is a disposable device attached to the infant by an adhesive material and used to collect the infant's urine. The Panel identified this generic type of device under the name "newborn urine collection bag."
2. Recommended classification: Class I (general controls). The Panel recommends that there be no exemptions.
3. Summary of reasons for recommendation: The Panel recommends that urine collection bags for infants be classified into class I because the Panel believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.
4. Summary of data on which the recommendation is based: The Panel based its recommendation upon the Panel members' personal knowledge of, and clinical experience with, the device.
5. Risks to health: Skin irritation: The adhesive material used to attach the bag may irritate the skin.

Proposed Classification

FDA agrees with the Panel recommendation and is proposing that urine collection bags for infants be classified into class I (general controls) with no exemptions. The FDA is concerned that the adhesive material used in the bag may irritate the skin. However, the FDA believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs proposes to amend Part 880 in Subpart F by adding new § 880.5065, to read as follows:

§ 880.5065 Urine collection bag for an infant.

(a) *Identification.* A urine collection bag for an infant is a disposable device attached to the infant by an adhesive material and used to collect the infant's urine.

(b) *Classification.* Class I (general controls).

Interested persons may, on or before October 23, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 9, 1979.

William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.

[FR Doc. 79-28050 Filed 8-23-79; 8:45 am]

BILLING CODE 4110-03-M

[21 CFR Part 880]

[Docket No. 78N-1287]

Medical Devices; Classification of Elastic Bandages

AGENCY: Food and Drug Administration.
ACTION: Proposed Rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying elastic bandages into class I (general controls). FDA is also publishing the recommendation of the General Hospital and Personal Use Device Classification Panel that the device be classified into class I. The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by October 23, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Lillian L. Yin, Bureau of Medical Devices (HFK-470), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7555.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the Federal Register provides background information concerning the development of the proposed regulation. The General Hospital and Personal Use Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of elastic bandages:

1. Identification: An elastic bandage is a device consisting of either a long flat strip or a tube of elasticized material that is used to support and compress a part of a patient's body.
2. Recommended classification: Class I (general controls): The Panel recommends that this device be exempt from premarket notification under section 510(k) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360(k)), and from the good manufacturing practice regulation under section 520(f) of the act (21 U.S.C. 360(f)).
3. Summary of reasons for recommendation: The Panel recommends that elastic bandages be classified into class I because the Panel believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device. The Panel recommends that this device be exempt from premarket notification under section 510(k) of the act because the Panel believes that FDA does not need to receive premarket notification of a manufacturer's intent to market this simple device. The Panel recommends that this device be exempt from the good manufacturing practice regulation under section 520(f) of the act because the Panel believes that the quality of the device is easily discernible and that defects are readily apparent to the user. The Panel recommends that the device be nonirritating and porous and that it provide proper support by exerting uniform pressure. The Panel recommends that the labeling describe the proper usage of the device and state whether it is sterilizable.
4. Summary of data on which the recommendation is based: The Panel based its recommendations on the Panel members' personal knowledge of, and clinical experience with, the device.
5. Risks to health: None identified.

Proposed Classification

FDA agrees with the Panel recommendation and is proposing that elastic bandages be classified into class I (general controls). The agency believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

In response to the Panel's recommendation that manufacturers of an elastic bandage be exempt from section 510(k) of the act, FDA is proposing that these manufacturers be subject to registration and device listing under section 510(a) through (j) of the act, but exempt from premarket notification under section 510(k) of the act and Subpart E of Part 807 of the regulations (21 CFR Part 807). Under section 510(g)(4) of the act, the agency may exempt a manufacturer from section 510 only if it finds that compliance with this section is not necessary for the protection of the public health. In the case of registration and listing by manufacturers of an elastic bandage, the agency cannot make the required finding. To protect the public health, the agency needs to be able to identify the firms manufacturing this device and to conduct necessary inspections. The agency has determined, however, that it is not necessary for the protection of the public health that FDA receive premarket notification submissions concerning an elastic bandage. The agency does not at this time anticipate that premarket approval will be required for this device. The agency believes that the semiannual updating of device listing under section 510(j)(2) will provide FDA with adequate notice concerning new products within this generic type of device.

In response to the Panel's recommendation that manufacturers of an elastic bandage be exempt from the device good manufacturing practice (GMP) regulation under section 520(f) of the act, FDA is proposing that a manufacturer of this device who does not label or otherwise represent it as sterile be exempt, in the manufacture of the device, from all requirements in the GMP regulation except § 820.180 (21 CFR 820.180), with respect to general requirements concerning records, and § 820.198 (21 CFR 820.198), with respect to complaint files. Based on available information about current practices used in the manufacture of the device and user experience with the device, the agency has determined that application of the GMP regulation, other than §§ 820.180 and 820.198, is unlikely to improve the safety and effectiveness of the device. The agency believes, however, that manufacturers of an

elastic bandage, even when it is not labeled or otherwise represented as sterile, must still be required to comply with the complaint file requirements of § 820.198 to ensure that these manufacturers have adequate systems for complaint investigation and followup. The agency also believes that manufacturers of an elastic bandage must still be required to comply with the general requirements concerning records in § 820.180 to ensure that FDA has access to complaint files, can investigate device-related injury reports and complaints about product defects, may determine whether the manufacturer's corrective actions are adequate, and may determine whether the exemption from other sections of the GMP regulation is still appropriate. A manufacturer of an elastic bandage that is labeled or otherwise represented as sterile is, in the manufacture of this device, subject to the GMP regulation in its entirety.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs proposes to amend Part 880 in Subpart F by adding new § 880.5075, to read as follows:

§ 880.5075 Elastic bandage.

(a) *Identification.* An elastic bandage is a device consisting of either a long flat strip or a tube of elasticized material that is used to support and compress a part of a patient's body.

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in Subpart E of Part 807 of this chapter. If the device is not labeled or otherwise represented as sterile, it also is exempt from the good manufacturing practice regulation in Part 820 of this chapter, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

Interested persons may, on or before October 23, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 9, 1979.

William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.

[FR Doc. 79-26051 Filed 8-23-79; 8:45 am]

BILLING CODE 4110-03-M

[21 CFR Part 880]

[Docket No. 78N-1288]

Medical Devices; Classification of Liquid Bandages

AGENCY: Food and Drug Administration.
ACTION: Proposed Rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying liquid bandages into class I (general controls). FDA is also publishing the recommendation of the General Hospital and Personal Use Device Classification Panel that the device be classified into class I. The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by October 23, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20856.

FOR FURTHER INFORMATION CONTACT: Lillian L. Yin, Bureau of Medical Devices (HFK-470), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7555.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the Federal Register provides background information concerning the development of the proposed regulation. The General Hospital and Personal Use Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of liquid bandages:

1. *Identification:* A liquid bandage is a sterile liquid or semiliquid used to cover an opening in the skin or as a dressing for burns. The device is also used as a topical skin protectant.

2. *Recommended classification:* Class I (general controls). The Panel recommends that there be no exemptions.

3. *Summary of reasons for recommendation:* The Panel recommends that liquid bandages be classified into class I because the Panel believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device. The Panel also recommends that the device be hypoallergenic to reduce the risk of skin irritation, and that it be porous to allow the passage of vapor.

4. *Summary of data on which the recommendation is based:* The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device.

5. *Risks to health:* (a) Skin irritation: The device may irritate the skin. (b) Infection: If the device is not sterile, an infection could occur.

Proposed Classification

FDA agrees with the Panel recommendation and is proposing that the liquid bandage be classified into class I (general controls) with no exemptions. The agency believes general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs proposes to amend Part 880 in Subpart F by adding new § 880.5090, to read as follows:

§ 880.5090 Liquid bandage.

(a) *Identification.* A liquid bandage is a sterile liquid or semiliquid used to cover an opening in the skin or as a dressing for burns. The device is also used as a topical skin protectant.

(b) *Classification.* Class I (general controls).

Interested persons may, on or before October 23, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20856, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 9, 1979.

William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.

[FR Doc. 79-26052 Filed 8-23-79; 8:45 am]

BILLING CODE 4110-03-M

[21 CFR Part 880]

[Docket No. 78N-1289]

Medical Devices; Classification of AC-Powered Adjustable Hospital Beds

AGENCY: Food and Drug Administration.
ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying AC-powered adjustable hospital beds into class II (performance standards). FDA is also publishing the recommendation of the General Hospital and Personal Use Device Classification Panel that the device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by October 23, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Lillian L. Yin, Bureau of Medical Devices (HFK-470), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Springs, MD 20910, 301-427-7555.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the Federal Register provides background information concerning the development of the proposed regulation. The General Hospital and Personal Use Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of AC-powered adjustable hospital beds:

1. *Identification:* An AC-powered adjustable hospital bed is a device consisting

of a bed with a built-in electric motor and remote controls that can be operated by the patient to adjust the height and surface contour of the bed. The device includes moveable and latchable side rails.

2. *Recommended classification:* Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a medium priority.

3. *Summary of reasons for recommendation:* The Panel recommends that the AC-powered adjustable hospital bed be classified into class II because the Panel believes that the electrical properties of the device must be controlled through an electrical safety standards. The Panel also believes that standards are needed to assure that the device's controls are readily accessible to the patient and do not require the patient to lean over the bed's side to manipulate them; that operation of the device's controls require minimal physical effort, even by geriatric and arthritic patients; that the device has a manual override in the event of a power failure; and that the side rails have a safety lock. The Panel believes that general controls would not provide sufficient control over these characteristics. The Panel believes that a standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance.

4. *Summary of data on which the recommendation is based:* The Panel based its recommendation upon the Panel members' personal knowledge of, and clinical experience with, the device.

5. *Risks to health:* (a) Electrical shock: Improper design and construction or device malfunction can result in electrical shock. (b) Patient falls and injuries: If the side rail latch fails or if the patient must lean over the bed's side to operate the device's controls, the patient could fall from the bed and be injured.

Proposed Classification

FDA agrees with the Panel recommendation and is proposing that the AC-powered adjustable hospital beds be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a standard to provide this assurance.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs proposes to amend Part 880 in Subpart F by adding new § 880.5100, to read as follows:

§ 880.5100 AC-powered adjustable hospital bed.

(a) *Identification.* An AC-powered adjustable hospital bed is a device consisting of a bed with a built-in electric motor and remote controls that can be operated by the patient to adjust the height and surface contour of the bed. The device includes moveable and latchable side rails.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before October 23, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 15, 1979.

William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.

[FR Doc. 79-26053 Filed 8-23-79; 8:45 am]

BILLING CODE 4110-03-M

[21 CFR Part 880]

[Docket No. 78N-1290]

Medical Devices; Classification of Hydraulic Adjustable Hospital Beds

AGENCY: Food and Drug Administration.
ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying hydraulic adjustable hospital beds into class I (general controls). FDA is also publishing the recommendation of the General Hospital and Personal Use Device Classification Panel that the device be classified into class I. The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by October 23, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305),

Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Lillian L. Yin, Bureau of Medical Devices (HFK-470), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7555.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the *Federal Register* provides background information concerning the development of the proposed regulation. The General Hospital and Personal Use Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of hydraulic adjustable hospital beds:

1. Identification: A hydraulic adjustable hospital bed is a device consisting of a bed with a hydraulic mechanism operated by an attendant to adjust the height and surface contour of the bed. The device includes moveable and latchable side rails.
2. Recommendation classification: Class I (general controls). The Panel recommends no exemptions.

3. Summary of reasons for recommendation: The Panel recommends that the hydraulic adjustable hospital bed be classified into class I because the Panel believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device. The Panel also recommends that the side rails have a safety lock.

4. Summary of data on which the recommendation is based: The Panel based its recommendation upon the Panel members' personal knowledge of, and clinical experience with, the device.

5. Risks to health: Patient falls and injuries: If the side rail latch fails, the patient could fall from the bed and be injured.

Proposed Classification

FDA agrees with the Panel recommendation and is proposing that the hydraulic adjustable hospital bed be classified into class I (general controls) with no exemptions. The agency believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs proposes to amend Part 880 in Subpart F by adding new § 880.5110, to read as follows:

§ 880.5110 Hydraulic adjustable hospital bed.

(a) *Identification.* A hydraulic adjustable hospital bed is a device consisting of a bed with a hydraulic mechanism operated by an attendant to adjust the height and surface contour of the bed. The device includes moveable and latchable side rails.

(b) *Classification.* Class I (general controls).

Interested persons may, on or before October 23, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 9, 1979.

William F. Randolph,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-28054 Filed 8-23-79; 8:45 am]
BILLING CODE 4110-03-M

[21 CFR Part 880]

[Docket No. 78N-1291]

Medical Devices; Classification of Manual Adjustable Hospital Beds

AGENCY: Food and Drug Administration.
ACTION: Proposed Rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying manual adjustable hospital beds into class I (general controls). FDA is also publishing the recommendation of the General Hospital and Personal Use Device Classification Panel that the device be classified into class I. The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976. **DATES:** Comments by October 23, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the *Federal Register*.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-

65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Lillian L. Yin, Bureau of Medical Devices (HFK-470), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7555.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the *Federal Register* provides background information concerning the development of the proposed regulation. The General Hospital and Personal Use Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of manual adjustable hospital beds:

1. Identification: A manual adjustable hospital bed is a device consisting of a bed with a manual mechanism operated by an attendant to adjust the height and surface contour of the bed. The device includes moveable and latchable side rails.
2. Recommended classification: Class I (general controls). The Panel recommends that the device be exempt from the good manufacturing practice regulation under section 520(f) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360(f)).
3. Summary of reasons for recommendation: The Panel recommends that manual adjustable hospital beds be classified into class I because the Panel believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device. The Panel recommends that this device be exempt from the good manufacturing practice regulation under section 520(f) of the act because the Panel believes that the quality of the device is easily discernible and that defects are readily apparent to the user.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, this device.

5. Risks to health: Patient falls and injuries: If the side rail latch fails, the patient could fall from the bed and be injured.

Proposed Classification

FDA agrees with the Panel recommendation and is proposing that manual adjustable hospital beds be classified into class I (general controls). The agency believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

In response to the Panel's recommendation that manufacturers of a manual adjustable hospital bed be exempt from the device good manufacturing practice (GMP) regulation under section 520(f) of the act,

FDA is proposing that a manufacturer of this device be exempt, in the manufacture of the device, from all requirements in the GMP regulation except § 820.180 (21 CFR 820.180), with respect to general requirements concerning records, and § 820.198 (21 CFR 820.198), with respect to complaint files. Based on available information about current practices used in the manufacture of the device and user experience with the device, the agency has determined that application of the GMP regulation, other than §§ 820.180 and 820.198, is unlikely to improve the safety and effectiveness of the device. The agency believes, however, that manufacturers of a manual adjustable hospital bed must still be required to comply with the complaint file requirement of § 820.198 to ensure that these manufacturers have adequate systems for complaint investigation and followup. The agency also believes that manufacturers of a manual adjustable hospital bed must still be required to comply with the general requirements concerning records in § 820.180 to ensure that FDA has access to complaint files, can investigate device-related injury reports and complaints about product defects, may determine whether the manufacturer's corrective actions are adequate, and may determine whether the exemption from other sections of the GMP regulation is still appropriate.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs proposed to amend Part 880 in Subpart F by adding new § 820.5120, to read as follows:

§ 820.5120 Manual adjustable hospital bed.

(a) *Identification.* A manual adjustable hospital bed is a device consisting of a bed with a manual mechanism operated by an attendant to adjust the height and surface contour of the bed. The device includes moveable and latchable side rails.

(b) *Classification.* Class I (general controls). The device is exempt from the good manufacturing practice regulation in Part 820 of this chapter, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

Interested persons may, on or before October 23, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written

comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 9, 1979.

William F. Randolph,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-28055 Filed 8-23-79; 8:45 am]
BILLING CODE 4110-03-M

[21 CFR Part 880]

[Docket No. 78N-1292]

Medical Devices; Classification of Infant Radiant Warmers

AGENCY: Food and Drug Administration.
ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying infant radiant warmers into class III (premarket approval). FDA is also publishing the recommendation of the General Hospital and Personal Use Device Classification Panel that the device be classified into class III. The effect of classifying a device into class III is to provide for each manufacturer of the device to submit to FDA a premarket approval application at a date to be set in a future regulation. Each application includes information concerning safety and effectiveness tests of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by October 23, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the *Federal Register*.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Lillian L. Yin, Bureau of Medical Devices (HFK-470), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7555.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the *Federal Register* provides background information concerning the development of the proposed regulation. The General Hospital and Personal Use Device Classification Panel, an FDA advisory committee, made the following recommendation with respect to the classification of infant radiant warmers:

1. Identification: An infant radiant warmer is a device consisting of an infrared heating element placed over an infant to maintain the infant's body temperature by means of radiant heat. The device may contain a temperature monitoring sensor, a heat output control mechanism to regulate the infant's body temperature, and an alarm to alert operators of the device's failure. The device may be placed over a pediatric hospital bed or it may be built into the bed as a complete unit. The Panel considered this generic type of device under the name "neonatal open bed with radiant heat."
2. Recommended classification: Class III (premarket approval). The Panel recommends that premarket approval of this device be a high priority.
3. Summary of reasons for recommendation: The Panel recommends that infant radiant warmers be classified into class III because the Panel believes that the device is life sustaining and life supporting and because sufficient scientific and medical data do not exist from which adequate performance standards governing the device's safety and effectiveness can be established. Sufficient information does not exist on the relationship between levels of infrared radiation and maintenance of a proper infant body temperature. The Panel believes that there is a lack of information to determine a safe maximum energy output from the infrared radiation to keep the infant warm and at the same time not to cause insensible water loss in the infant. The Panel believes that long-term studies on the effects of infrared radiation are needed to assess the possibility that the device causes infant eye damage. Therefore, the Panel recommends that the device be subject to premarket approval to ensure that manufacturers demonstrate satisfactory performance and that the device is safe and effective. In addition, the Panel recommends that the device be used only on the order of a physician.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, this device. Under contract with FDA, the Emergency Care Research Institute has developed a proposed standard for infant radiant warmers (Ref. 8). However, this standard does not address the concerns identified by the Panel for classifying the product in class III. The proposed standard states that the maximum energy output of the device should be stated in the labeling of the device. However, the proposed standard does not recommend an upper limit on the energy output of the device, an omission which the Panel regards as a serious deficiency. The

Panel has discussed this device at several Panel meetings (August 23, 1976, October 3, 1977, and May 22-23, 1978) and has consistently concluded that there is insufficient information to establish performance standards for the device.

5. Risks to health: (a) Electrical shock: Improper design and construction or device malfunction can result in electrical shock. (b) Possible eye damage: The long-term effects of infrared radiation on the infant eye are unknown. (c) Patient injury: If the device is not designed for stability, it may fall and injure the infant. If the energy output of the device is too high, it could burn the infant. (d) Hospital staff burns: If the device is constructed of material that absorbs radiant heat, it could burn hospital staff. (e) Insensible (not easily perceived) water loss: Radiant heat causes vessel dilation, which in turn may produce insensible water loss in an infant. (f) Hyperthermia or hypothermia: If the temperature sensor or probe becomes dislodged or is improperly placed, hyperthermia or hypothermia in the infant could result.

Proposed Classification

FDA agrees with the Panel recommendation and is proposing that infant radiant warmers be classified into class III (premarket approval). The agency has reviewed the Panel recommendation and has obtained additional data and information describing the application of radiant heat to minimize heat loss in infants. A lack of information in the literature substantiates the Panel's belief that there is insufficient information to determine the relationship between the level of infrared radiation and maintenance of a proper body temperature in the infant. The literature confirms the Panel's concern that radiant heat may cause insensible water loss in infants. Williams and Oh show that insensible water loss in newborn infants placed under a radiant warmer is significantly greater than the insensible water loss of infants placed in a standard incubator (Ref. 1). Similar results were found by Wu and Hodgman in their studies comparing insensible water loss in infants of different birthweights. Their studies show that insensible water loss increases when the infants are exposed to radiant heat. Also, insensible water loss is greater in infants with birthweights lower than 1500 grams (g) than it is in infants with birthweights of 1500 g or more (Ref. 2). The Panel has also expressed concern about possible damage due to radiant heat. There is disagreement in the literature about whether there is enough data to determine the risk of retinal injury from infrared radiation. One article that evaluates radiant warmers concludes that although the infrared radiation emitted by the warmers is

entirely absorbed by the cornea of the eye, radiation exposure of up to 0.3 watts per square centimeter (W/cm^2) appears to be a safe limit for an infant under a radiant warmer, because the infant's blinking prevents the corneal epithelium from drying out. These studies also show that $0.04 W/cm^2$ of near infrared radiation (wavelengths from 0.7 to 3.0 micrometers) for 12 minutes is a safe limit for an infant under a radiant warmer. These studies show, however, that high intensity near infrared radiation that is focused on the retina for a sufficient length of time can cause retinal damage (Ref. 3). Another article that evaluates radiant warmers warns that until more is known about the biological effects of infrared radiation on infants, these devices should be used with caution and with consideration of whether the benefits outweigh the risks. The article mentions such effects as hyperthermia, insensible water loss, burns, and potential eye damage. The article states that measurements of near infrared emissions still need to be done for most radiant warmers; that these measurements are needed to evaluate the risk of retinal damage; and that further research is needed to determine the levels of infrared radiation that could cause retinal injury (Ref. 4). The literature also describes frequent mechanical failures, such as alarm failure or detachment of parts, with these devices (Refs. 3, 5, 6, and 7).

Therefore, the agency has concluded that the infant radiant warmer presents a potential unreasonable risk of illness or injury to the patient. In addition, the device is purported or represented to be for a use in supporting or sustaining human life. Insufficient information exists to determine that general controls alone can provide reasonable assurance of the safety and effectiveness of the device, and insufficient information exists to establish a performance standard that would provide such assurance.

References

The following information has been placed in the office of the Hearing Clerk (address above) and may be seen by interested persons, from 9 a.m. to 4 p.m., Monday through Friday.

1. Williams, P. R. and W. Oh. "Effects of Radiant Warmer on Insensible Water Loss in Newborn Infants," *American Journal of Diseases in Children*, 128(4):511-514, 1974.
2. Wu, P. Y. and J. E. Hodgman. "Insensible Water Loss in Preterm Infants: Changes with Postnatal Development and Non-ionizing Radiant Energy," *Pediatrics*, 54(6):704-712, 1974.

3. "Evaluation: Infant Warmers," *Health Devices*, 3:4-25, November 1973.
4. Committee on Environmental Hazards, "Infant Radiant Warmers," *Pediatrics*, 61(1): 113-114, January 1978.
5. "Evaluation: Infant Radiant Warmers," *Health Devices*, 4:128-136, 147, April 1975.
6. "Inspection and Preventive Maintenance of Radiant Warmers," *Health Devices*, pp. 137-142, April 1975.
7. "Hazard: IMI 2300-Series Baby Warmer," *Health Devices*, 2:83, January 1973.
8. "The Development of a Standard for Infant Warmers and Incubators," Final Report of the Emergency Care Research Institute, Plymouth Meeting, PA, September 1976.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs proposed to amend Part 880 in Subpart F by adding new § 880.5130, to read as follows:

§ 880.5130 Infant radiant warmers.

(a) *Identification.* An infant radiant warmer is a device consisting of an infrared heating element placed over an infant to maintain the infant's body temperature by means of radiant heat. The device may also contain a temperature monitoring sensor, a heat output control mechanism to regulate the infant's body temperature and an alarm to alert operators of the device's failure. The device may be placed over a pediatric hospital bed or it may be built into the bed as a complete unit.

(b) *Classification.* Class III (premarket approval).

Interested persons may, on or before October 23, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 15, 1979.
William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.

[FR Doc. 79-26056 Filed 8-23-79; 8:45 am]
BILLING CODE 4110-03-M

[21 CFR Part 880]

[Docket No. 78N-1293]

Medical Devices; Classification of Pediatric Hospital Beds

AGENCY: Food and Drug Administration.
ACTION: Proposed Rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying pediatric hospital beds into class II (performance standards). FDA is also publishing the recommendation of the General Hospital and Personal Use Device Classification Panel that the device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by October 23, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20856.

FOR FURTHER INFORMATION CONTACT: Lillian L. Yin, Bureau of Medical Devices (HFK-470), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7555.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the Federal Register provides background information concerning the development of the proposed regulation. The General Hospital and Personal Use Device Classification Panel, and FDA advisory committee, made the following recommendation regarding the classification of pediatric hospital beds:

1. Identification: A pediatric (open) hospital bed is a device consisting of a bed or crib designed for the use of a pediatric patient, with fixed end rails and movable and latchable side rails. The contour or the bed surface may be adjustable.
2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a medium priority.
3. Summary of reasons for recommendation: The Panel recommends that the pediatric hospital bed be classified into

class II because the Panel believes that a performance standard is necessary for this device to assure that the side rail does not drop suddenly and injure the infant. The Panel suggests that a safety device be installed to prevent the infant from lowering the side rail. In addition, the Panel recommends that certain characteristics of the bed, such as distance between the vertical slats of the safety rail and the distance between the mattress and bed frame, be standardized. Also, a standard should prohibit the use of lead paint on this device. The Panel believes that general controls would not provide sufficient control over these characteristics. The Panel believes that a standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, this device. They also considered the results of a survey by the Consumer Product Safety Commission of crib-related injuries (Ref. 1). This survey showed the need for a standard governing certain characteristics of pediatric hospital beds. The Commission has published safety regulations for full-size cribs intended for use in the home (16 CFR Part 1508) and for non-full-size cribs intended for use in and around the home and for travel and other purposes (16 CFR Part 1509). Although these regulations do not apply to cribs intended for use in general pediatric care, many provisions of the regulations may be suitable for application to such cribs.

5. Risks to health: (a) Injury to infant: If the side rail drops suddenly, the infant could be injured. The infant could also be injured from falling out of the crib. (b) Suffocation: If there is too much space between the mattress and the bed frame, the infant's head may become lodged between the two and the infant may suffocate. (c) Head injuries: If the vertical slats of the rails are too far apart, the infant's head could become lodged between the slats and be injured. (d) Lead poisoning: If lead paint is used on the bed and the infant eats the paint, the infant may suffer lead poisoning.

Proposed Classification

FDA agrees with the Panel recommendation and is proposing that the pediatric hospital bed be classified into class II (performance standards). The agency has reviewed the Panel recommendation and has obtained additional data and information regarding pediatric hospital beds. A review of the medical literature substantiates the need for developing a standard to assure the safety and effectiveness of pediatric hospital beds. A study of infant deaths in Wayne County, Michigan showed that during a 30-month period, 15 infants died of accidental asphyxia when their heads or necks got trapped between the vertical

crib slats or between the crib rail and mattress (Ref. 2).

The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a standard to provide this assurance.

References

The following information has been placed in the office of the Hearing Clerk (address above), and may be seen by interested persons, from 9 a.m. to 4 p.m., Monday through Friday.

1. Nelson, Theresa. "Hazard Analysis of Injuries Relating to Cribs, Full Size Cribs (1504) and Portable Cribs (1929)," NHC-1504-75-H007, U.S. Consumer Product Safety Commission, Bureau of Epidemiology, December 1975.
2. Bass, M., "Asphyxial Crib Death," *New England Journal of Medicine*, 296(10):555-556, 1977.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs proposes to amend Part 880 in Subpart F by adding new § 880.5140, to read as follows:

§ 880.5140 Pediatric hospital bed.

(a) *Identification.* A pediatric hospital bed is a device consisting of a bed or crib designed for the use of a pediatric patient, with fixed end rails and movable and latchable side rails. The contour of the bed surface may be adjustable.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before October 23, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 15, 1979.
 William F. Randolph,
 Acting Associate Commissioner for
 Regulatory Affairs.
 (FR Doc. 79-28057 Filed 8-23-79; 8:45 am)
 BILLING CODE 4110-03-M

[21 CFR Part 880]

[Docket No. 78N-1294]

Medical Devices; Classification of Nonpowered Flotation Therapy Mattresses

AGENCY: Food and Drug Administration.
ACTION: Proposed Rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying nonpowered flotation therapy mattresses into class I (general controls). FDA is also publishing the recommendation of the General Hospital and Personal Use Device Classification Panel and the recommendation of the Physical Medicine Device Classification Panel that this device be classified into class I. The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by October 23, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Lillian L. Yin, Bureau of Medical Devices (HFK-470), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7555.

SUPPLEMENTARY INFORMATION:**Panel Recommendation**

A proposal elsewhere in this issue of the Federal Register provides background information concerning the development of the proposed regulation. The General Hospital and Personal Use Device Classification Panel and the Physical Medicine Device Classification Panel, FDA advisory committees, made the following recommendations with respect to the classification of

nonpowered flotation therapy mattresses:

1. Identification: A nonpower flotation therapy mattress is a mattress containing air or fluid designed to support a patient and avoid excess pressure on local body areas. The device is used to treat and prevent decubitus ulcers (bed sores). The Physical Medicine Device Classification Panel considered this generic type of device under the name "manual flotation therapy bed". The General Hospital and Personal Use Device Classification Panel considered this generic type of device under the name "silicone mattress."

2. Recommended classification: Class I (general controls). The General Hospital and Personal Use Device Classification Panel recommends that silicone mattresses be exempt from premarket notification under section 510(k) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360(k)) and from the good manufacturing practice regulation under section 520(f) of the act (21 U.S.C. 360(f)). The Physical Medicine Device Classification Panel recommends that there be no exemptions.

3. Summary of reasons for recommendation: Both Panels recommend that nonpowered flotation therapy mattresses be classified into class I (general controls) because the Panels believe that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device. The General Hospital and Personal Use Device Classification Panel recommends that silicone mattresses be exempt from premarket notification under section 510(k) of the act because the Panel believes that FDA does not need to receive premarket notification of a manufacturer's intent to market this simple device. The General Hospital and Personal Use Device Classification Panel also recommends that this device be exempt from the good manufacturing practice regulation under section 520(f) of the act because the Panel believes that the quality of the device is easily discernible and that defects are readily apparent to the user.

4. Summary of data on which the recommendation are based: The Physical Medicine Device Classification Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device and on a review of the literature. Lilla, Friedrichs, and Vistnes describe the pressure distribution characteristics of water beds and their advantages over conventional hospital innerspring mattresses in the prevention of decubitus ulcers (Ref. 1). Dewis, Caplan, and Pache describe the beneficial effects of a water mattress on large chronic decubitus ulcers in a group of severely debilitated, bedridden patients (Ref. 2). The authors conclude that the obvious improvement outweighs the minor inconvenience involved in the use of water mattresses for these debilitated patients. The General Hospital and Personal Use Device Classification Panel members based their recommendation on their personal knowledge of, and clinical experience with, the device.

5. Risks to health: The General Hospital and Personal Use Device Classification Panel

identified the following risk to health: Infection: If the mattress is difficult to clean, a risk of infection exists. The Physical Medicine Device Classification Panel identified no risks to health.

Proposed Classification

FDA agrees with both Panels' recommendations and is proposing that nonpowered flotation therapy mattresses be classified into class I (general controls).

The agency disagrees with the recommendation of the Physical Medicine Device Classification Panel that there be no exemptions for this device. In response to the General Hospital and Personal Use Device Classification Panel's recommendation that manufacturers of a nonpowered flotation therapy mattress be exempt from section 510(k) of the act, FDA is proposing that these manufacturers be subject to registration and device listing under section 510(a) through (j) of the act, but exempt from premarket notification under section 510(k) of the act and Subpart E of Part 807 of the regulations (21 CFR Part 807). Under section 510(g)(4) of the act, the agency may exempt a manufacturer from section 510 only if it finds that compliance with this section is not necessary for the protection of the public health. In the case of registration and listing by manufacturers of a nonpowered flotation therapy mattress, the agency cannot make the required finding. To protect the public health, the agency needs to be able to identify the firms manufacturing this device and to conduct necessary inspections. The agency has determined, however, that it is not necessary for the protection of the public health that FDA receive premarket notification submissions concerning a nonpowered flotation therapy mattress. The agency does not at this time anticipate that premarket approval will be required for this device. The agency believes that the semiannual updating of device listing under section 510(j)(2) will provide FDA with adequate notice concerning new products within this generic type of device.

In response to the General Hospital and Personal Use Device Classification Panel's recommendation that manufacturers of a nonpowered flotation therapy mattress be exempt from the device good manufacturing practice (GMP) regulation under section 520(f) of the act, FDA is proposing that a manufacturer of this device be exempt, in the manufacture of the device, from all requirements in the GMP regulation except § 820.180 (21 CFR 820.180), with respect to general requirements concerning records, and § 820.198 (21

CFR 820.198), with respect to complaint files. Based on available information about current practices used in the manufacture of the device and user experience with the device, the agency has determined that application of the GMP regulation, other than §§ 820.180 and 820.198, is unlikely to improve the safety and effectiveness of the device. The agency believes, however, that manufacturers of a nonpowered flotation therapy mattress must still be required to comply with the complaint file requirements of § 820.198 to ensure that these manufacturers have adequate systems for complaint investigation and followup. The agency also believes that manufacturers of a nonpowered flotation therapy mattress must still be required to comply with the general requirements concerning records in § 820.180 to ensure that FDA has access to complaint files, can investigate device-related injury reports and complaints about product defects, may determine whether the manufacturer's corrective actions are adequate, and may determine whether the exemption from other sections of the GMP regulation is still appropriate.

References

The following information has been placed in the office of the Hearing Clerk (address above) and may be seen by interested persons, from 9 a.m. to 4 p.m., Monday through Friday.

1. Lilla, J., R. Friedrichs, and L. Vistnes. "Flotation Mattress for Preventing and Treating Tissue Breakdown." *Geriatrics*, 30(9):71-75, 1975.

2. Dewis, L., H. Caplan, and H. Pache. "Treatment of Decubitus Ulcers by Use of a Water Mattress." *Archives of Physical Medicine and Rehabilitation*, 49:290-293, May 1968.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 [21 U.S.C. 360c, 371(a)]) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs proposes to amend Part 880 in Subpart F by adding new § 880.5150, to read as follows:

§ 880.5150 Nonpowered flotation therapy mattress.

(a) *Identification.* A nonpowered flotation therapy mattress is a mattress containing air or fluid designed to support a patient and avoid excess pressure on local body areas. The device is used to treat and prevent decubitus ulcers (bed sores).

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in Subpart E of Part 807 of this chapter.

The device also is exempt from the good manufacturing practice regulation in Part 820 of this chapter, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

Interested persons may, on or before October 23, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 9, 1979.

William F. Randolph,
 Acting Associate Commissioner for
 Regulatory Affairs.

(FR Doc. 79-28058 Filed 8-23-79; 8:45 am)
 BILLING CODE 4110-03-M

[21 CFR Part 880]

[Docket No. 78N-1295]

Medical Devices; Classification of Therapeutic Medical Binders

AGENCY: Food and Drug Administration.
ACTION: Proposed Rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying therapeutic medical binders into class I (general controls). FDA is also publishing the recommendation of the General Hospital and Personal Use Device Classification Panel and the Obstetrical and Gynecological Device Classification Panel that the device be classified into class I. The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by October 23, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Lillian L. Yin, Bureau of Medical Devices (HFK-470), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7555.

SUPPLEMENTARY INFORMATION:**Panel Recommendation**

A proposal elsewhere in this issue of the Federal Register provides background information concerning the development of the proposed regulation. The General Hospital and Personal Use Device Classification Panel and the Obstetrical and Gynecological Device Classification Panel, FDA advisory committees, made the following recommendations regarding the classification of therapeutic medical binders:

1. Identification: A therapeutic medical binder is a device, usually made of cloth, that can be secured by ties so that it support the underlying part of the body and/or holds a dressing in place. The General Hospital and Personal Use Device Classification Panel identified this generic type of device under the names "perineal binder" and "abdominal binder." The Obstetrical and Gynecological Device Classification Panel identified this generic type of device under the names "breast binder" and "abdominal binder."

2. Recommended classification: Class I (general controls). The General Hospital and Personal Use Device Classification Panel recommends that the device be exempt from premarket notification under section 510(k) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360(k)) and from the good manufacturing practice regulation under section 520(f) of the act (21 U.S.C. 360(f)). The Obstetrical and Gynecological Device Classification Panel recommends that there be no exemptions.

3. Summary of reasons for recommendation: Both Panels recommend that therapeutic medical binders be classified into class I because the Panels believe that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device. The General Hospital and Personal Use Device Classification Panel recommends that this device be exempt from premarket notification under section 510(k) of the act because the Panel believes that FDA does not need to receive premarket notification of a manufacturer's intent to market this simple device. The Panel recommends that this device be exempt from the good manufacturing practice regulation under section 520(f) of the act because the Panel believes that the quality of the device is easily discernible and that defects are readily apparent to the user.

4. Summary of data on which the recommendation are based: Both Panel based their recommendations on their Panel members' personal knowledge of, and clinical experience with, the device.

5. Risks to health: None identified.

Proposed Classification

FDA agrees with the Panels' recommendations and is proposing that therapeutic medical binders be classified into class I (general controls). The agency has reviewed the recommendation of the General Hospital and Personal Use Device Classification Panel for the abdominal binder and the perineal binder and the recommendation of the Obstetrical and Gynecological Device Classification Panel for the breast binder and the Ob-Gyn abdominal binder, and has concluded that the device should be named "therapeutic medical binder" and its classification be published in the part of the Code of Federal Regulations for General Hospital and Personal Use Devices. The agency believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

The agency disagrees with the recommendation of Obstetrical and Gynecological Device Classification Panel that there be no exemptions for his device.

In response to the General Hospital and Personal Use Device Classification Panel's recommendation that manufacturers of a therapeutic medical binder be exempt from section 510(k) of the act (21 U.S.C. 360(k)), FDA is proposing that these manufacturers be subject to registration and device listing under section 510 (a) through (j) of the act, but exempt from premarket notification under section 510(k) of the act and Subpart E of Part 807 of the regulations (21 CFR Part 807). Under section 510(g)(4) of the act, the agency may exempt a manufacturer from section 510 only if it finds that compliance with this section is not necessary for the protection of the public health. In the case of registration and listing by manufacturers of a therapeutic medical binder, the agency cannot make the required finding. To protect the public health, the agency needs to be able to identify the firms manufacturing this device and to conduct necessary inspections. The agency has determined, however, that it is not necessary for the protection of the public health that FDA receive premarket notification submissions concerning a therapeutic medical binder. The agency does not at this time anticipate that premarket approval will be required for this device. The agency believes that the semiannual updating of device listing under section 510(j)(2) will provide FDA with adequate notice concerning new products within this generic type of device.

In response to the General Hospital and Personal Use Device Classification Panel's recommendation that manufacturers of a therapeutic medical binder be exempt from the device good manufacturing practice (GMP) regulation under section 520(f) of the act (21 U.S.C. 360(f)), FDA is proposing that a manufacturer of this device who does not label or otherwise represent it as sterile be exempt, in the manufacture of the device, from all requirements in the GMP regulation except § 820.180 (21 CFR 820.180), with respect to general requirements concerning records, and § 820.198 (21 CFR 820.198), with respect to complaint files. Based on available information about current practices used in the manufacture of the device and user experience with the device, the agency has determined that application of the GMP regulation, other than §§ 820.180 and 820.198, is unlikely to improve the safety and effectiveness of the device. The agency believes, however, that manufacturers of a therapeutic medical binder, even when it is not labeled or otherwise represented as sterile, must still be required to comply with the complaint file requirements of § 820.198 to ensure that these manufacturers have adequate systems for complaint investigation and followup. The agency also believes that manufacturers of a therapeutic medical binder must still be required to comply with the general requirements concerning records in § 820.180 to ensure that FDA has access to complaint files, can investigate device-related injury reports and complaints about product defects, may determine whether the manufacturer's corrective actions are adequate, and may determine whether the exemption from other sections of the GMP regulation is still appropriate. A manufacturer of a therapeutic medical binder that is labeled or otherwise represented as sterile is, in the manufacture of this device, subject to the GMP regulation in its entirety.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 [21 U.S.C. 360c, 371(a)]) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs proposes to amend Part 880 in Subpart F by adding new § 880.5160, to read as follows:

§ 880.5160 Therapeutic medical binder.

(a) *Identification.* A therapeutic medical binder is a device, usually made of cloth, that can be secured by ties so that it supports the underlying part of the body and/or holds a dressing in place. This generic type of device

includes the abdominal binder, breast binder, and perineal binder.

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in Subpart E of Part 807 of this chapter, if the device is not labeled or otherwise represented as sterile, it also is exempt from the good manufacturing practice regulation in Part 820 of this chapter, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

Interested persons may, on or before October 23, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 9, 1979

William F. Randolph,
*Acting Associate Commissioner, for
Regulatory Affairs.*

[FR Doc. 79-26069 Filed 8-23-79; 8:45 am]

BILLING CODE 4110-03-M

[21 CFR Part 880]

[Docket No. 78N-1297]

Medical Devices; Classification of Burn Sheets

AGENCY: Food and Drug Administration.
ACTION: Proposed Rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying burn sheets into class I (general controls). FDA is also publishing the recommendation of the General Hospital and Personal Use Device Classification Panel that the device be classified into class I. The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by October 23, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Lillian L. Yin, Bureau of Medical Devices (HFK-470), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7555.

SUPPLEMENTARY INFORMATION:**Panel Recommendation**

A proposal elsewhere in this issue of the Federal Register provides background information concerning the development of the proposed regulation. The General Hospital and Personal Use Device Classification Panel, an FDA advisory committee, made the following recommendations regarding the classification of burn sheets:

1. *Identification:* A burn sheet is a device made of a porous material that is wrapped around a burn victim to provide warmth or a barrier against contaminants.
2. *Recommended classification:* Class I (general controls). The Panel recommends that there be no exemptions.
3. *Summary of reasons for recommendation:* The Panel recommends that burn sheets be classified into class I because the Panel believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device. The Panel also recommends that the label state whether the device is nonflammable, does not shed, is sufficiently porous to allow passage of air and moisture but impermeable to fluids, does not tear, and is sterilizable. The Panel also recommends that the label have instructions for sterilizing the device.
4. *Summary of data on which the recommendation is based:* The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device.
5. *Risks to health—Infection:* If the device is labeled as sterile and it is not sterile, pathogenic organisms may cause an infection in the patient.

Proposed Classification

FDA agrees with the Panel recommendation and is proposing that the burn sheet be classified into class I (general controls) with no exemptions. FDA agrees with the Panel's labeling recommendations. However, FDA is deferring a decision on whether the labeling should be voluntary or mandatory until additional information is obtained. The agency believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 [21

U.S.C. 360c, 371(a)]) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs proposes to amend Part 880 in Subpart F by adding new § 880.5180, to read as follows:

§ 880.5180 Burn sheet.

(a) *Identification.* A burn sheet is a device made of a porous material that is wrapped around a burn victim to provide warmth or a barrier against contaminants.

(b) *Classification.* Class I (general controls).

Interested persons may, on or before October 23, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 9, 1979.

William F. Randolph,
*Acting Associate Commissioner for
Regulatory Affairs.*

[FR Doc. 79-26060 Filed 8-23-79; 8:45 am]
BILLING CODE 4110-03-M

[21 CFR Part 880]

[Docket No. 78N-1298]

Medical Devices; Classification of Intravascular Catheters

AGENCY: Food and Drug Administration.
ACTION: Proposed Rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying intravascular catheters into class II (performance standards). FDA is also publishing the recommendations of the General Hospital and Personal Use Device Classification Panel and the Cardiovascular Device Classification Panel that intravascular catheters be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by October 23, 1979. It is proposed that the final regulation

based on this proposal become effective 30 days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20856.

FOR FURTHER INFORMATION CONTACT: Lillian L. Yin, Bureau of Medical Devices (HFK-470), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7555.

SUPPLEMENTARY INFORMATION:**Panel Recommendation**

A proposal elsewhere in this issue of the Federal Register provides background information concerning the development of the proposed regulation. The General Hospital and Personal Use Device Classification Panel and the Cardiovascular Device Classification Panel, FDA advisory committees, made the following recommendations regarding the classification of intravascular catheters:

1. *Identification:* An intravascular catheter is a device consisting of a slender tube constructed of metal, rubber, or plastic, that is inserted into the patient's vascular system for short-term use (less than 30 days) to sample blood, monitor blood pressure, or administer fluids intravenously. The General Hospital and Personal Use Device Classification Panel identified this generic type of device under the name "intravascular catheter" and "umbilical artery catheter." The Cardiovascular Device Classification Panel identified this generic type of device under the name "long-term vascular catheter."
2. *Recommended classification:* Class II (performance standards). The General Hospital and Personal Use Device Classification Panel recommends that establishing a performance standard for this device be a low priority. The Cardiovascular Device Classification Panel recommends that establishing a performance standard for this device be a high priority.
3. *Summary of reasons for recommendation:* The General Hospital and Personal Use Device Classification Panel recommends that the intravascular catheter be classified into class II because the device contacts the patient's vascular system, and standards are necessary to assure that the material used in the device is compatible with body tissues and blood. The Panel also recommends that the device be flexible, sterile, and radiopaque, and that it have standard diameters. The Panel believes that general controls would not provide sufficient control over these characteristics. In addition, the labeling should state whether the device is sterilizable or sterile disposable, and state the internal and external diameters of the catheter. The Panel recommends that the device be used only by, or on the order of,

a physician. The Cardiovascular Device Classification Panel recommends that the long-term vascular catheter be classified into class II because the materials used in this life-supporting device should meet a generally accepted, satisfactory level of tissue and blood compatibility, surface finish, cleanliness, and mechanical performance. The long-term vascular catheter is in direct contact with the bloodstream for extended periods of time (but less than 30 days). In addition, the Panel believes that the catheter tip should be designed to minimize the risk of vessel perforation or rupture. The Panel believes that general controls would not provide sufficient control over these characteristics. The Panel believes that, although the device is life supporting, sufficient scientific and medical data exist on the basis of which adequate standards can be established to assure the device's safety and effectiveness. Both panels believe that a performance standard would provide reasonable assurance of the safety and effectiveness of the device, and that there is sufficient information to establish a standard to provide such assurance.

4. Summary of data on which the recommendations are based: Both Panels based their recommendations on the Panel members' personal knowledge of, and clinical experience with, the device.

5. Risks to health: (a) Blood vessel occlusion: Breakage of the catheter due to poor mechanical properties of the device materials could cause blood vessel occlusion. (b) Adverse tissue reaction: If the material used in the device is not compatible with body tissue, an adverse tissue reaction could occur. (c) Thromboembolic complications: If the material used in the device is not compatible with blood, there could be thromboembolic complications. (d) Blood vessel rupture: If the catheter size is not indicated correctly, a catheter may be used that is too large for the blood vessel and rupture the vessel. Also, if the catheter is too stiff, it may rupture the vessel. (e) Infection: The introduction of pathogenic organisms associated with a nonsterile device may cause an infection in the patient.

Proposed Classification

FDA agrees with the Panels' recommendations and is proposing that intravascular catheters be classified into class II (performance standards). The agency has reviewed the recommendation of the General Hospital and Personal Use Device Classification Panel for the intravascular catheter and the umbilical artery catheter, and the recommendation of the Cardiovascular Panel for the long-term vascular catheter and has concluded that the device should be named "intravascular catheter" and its classification be published in the part of the Code of Federal Regulations for General Hospital and Personal Use Devices. The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health

presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. Although this device is life supporting, the agency believes that premarket approval is unnecessary for this device because there is sufficient information to establish a standard for this device.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs proposes to amend Part 880 in Subpart F by adding new § 880.5200, to read as follows:

§ 880.5200 Intravascular catheter.

(a) *Identification.* An intravascular catheter is a device consisting of a slender tube constructed of metal, rubber, or plastic, that is inserted into the patient's vascular system for short-term use (less than 30 days) to sample blood, monitor blood pressure, or administer fluids intravenously.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before October 23, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 9, 1979.

William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.

[FR Doc. 79-28061 Filed 8-23-79; 8:45 am]

BILLING CODE 4110-03-M

[21 CFR Part 880]

[Docket No. 78N-1299]

Medical Devices; Classification of Intravenous Catheter Securement Devices

AGENCY: Food and Drug Administration.
ACTION: Proposed Rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying intravenous catheter securement devices into class I (general controls). FDA is also publishing the

recommendation of the General Hospital and Personal Use Device Classification Panel that the device be classified into class I. The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by October 23, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Lillian L. Yin, Bureau of Medical Devices (HFK-470), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Springs, MD 20910, 301-427-7555.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the Federal Register provides background information concerning the development of the proposed regulation. The General Hospital and Personal Use Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of intravenous catheter securement devices:

1. Identification: An intravenous catheter securement device is a device with an adhesive backing that is placed over a needle or catheter and is used to keep the hub of the needle or the catheter flat and securely anchored to the skin.

2. Recommended classification: Class I (general controls). The Panel recommends that there be no exemptions.

3. Summary of reasons for recommendation: The Panel recommends that the intravenous catheter securement devices be classified into class I because the Panel believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device.

5. Risks to health: (a) Inappropriate therapy: If the device is not securely attached to the skin, the needle or catheter could slip out of the blood vessel, resulting in loss of therapy that may be critical to the patient. (b) Skin irritation: The adhesive backing on the device may irritate the skin.

Proposed Classification

FDA agrees with the Panel recommendation and is proposing that intravenous catheter securement devices be classified into class I (general controls) with no exemptions. The agency is concerned about possible vessel trauma if the intravenous catheter securement device fails to anchor the needle or the catheter to the skin and the needle on the catheter moves after insertion. The agency believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs proposes to amend Part 880 in Subpart F by adding new § 880.5210, to read as follows:

§ 880.5210 Intravenous catheter securement device.

(a) *Identification.* An intravenous catheter securement device is a device with an adhesive backing that is placed over a needle or catheter and is used to keep the hub of the needle or the catheter flat and securely anchored to the skin.

(b) *Classification.* Class I (general controls).

Interested persons may, on or before October 23, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 9, 1979.

William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.

[FR Doc. 79-28062 Filed 8-23-79; 8:45 am]

BILLING CODE 4110-03-M

[21 CFR Part 880]

[Docket No. 78N-1301]

Medical Devices; Classification of Adhesive Tapes and Bandages

AGENCY: Food and Drug Administration.

ACTION: Proposed Rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying adhesive tapes and bandages into class I (general controls). FDA is also publishing the recommendation of the General Hospital and Personal Use Device Classification Panel and the General and Plastic Surgery Device Classification Panel that the device be classified into class I. The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by October 23, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Lillian L. Yin, Bureau of Medical Devices (HFK-470), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7555.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the Federal Register provides background information concerning the development of the proposed regulation. The General Hospital and Personal Use Device Classification Panel and the General and Plastic Surgery Device Classification Panel, FDA advisory committees, made the following recommendations with respect to the classification of adhesive tapes and bandages:

1. Identification: An adhesive tape and bandage is a device which consists of a strip of material or plastic, coated on one side with an adhesive, and may include a pad of surgical dressing without a disinfectant. The device is used to cover and protect wounds, to hold together the skin edges of a wound, to support an injured part of the body, and to secure objects to the skin. The General Hospital and Personal Use Device Classification Panel identified this generic type of device under the name "adhesive strip skin closure." The General and Plastic Surgery Device Classification Panel identified this generic type of device under the name "adhesive tape and bandage."

2. Recommended classification: Class I (general controls). Both Panels recommend that there be no exemptions.

3. Summary of reasons for recommendations: Both Panels recommend that the device be classified into class I because the Panels believe that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device. Also, the General Hospital and Personal Use Device Classification Panel recommends that the adhesive material used in the device be hypoallergenic, to reduce skin irritations, and that, the device be porous, to allow the passage of air and moisture.

4. Summary of data on which the recommendations are based: Both Panels based their recommendations on the Panel members' personal knowledge of, and clinical experience with, the device.

5. Risks to health: Both Panels identified the following risk to health: Skin irritation: The adhesive material used on the strip may irritate the skin.

Proposed Classification

FDA agrees with the Panels' recommendations and is proposing that adhesive tapes and bandages be classified into class I (general controls) with no exemptions. The agency has reviewed the recommendations of the General Hospital and Personal Use Device Classification Panel for adhesive strip skin closures and the recommendation of the General and Plastic Surgery Device Classification Panel for adhesive tapes and bandages and has concluded that the device should be named "adhesive tapes and bandages" and its classification be published in the part of the Code of Federal Regulations for General Hospital and Personal Use Devices. The agency is concerned that if the device is labeled as sterile and it is not sterile, then there is a possibility of an infection in the patient. However, the agency believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs proposes to amend Part 880 in Subpart F by adding new § 880.5240, to read as follows:

§ 880.5240 Adhesive tape and bandage.

(a) *Identification.* An adhesive tape and bandage is a device which consists of a strip of material or plastic, coated on one side with an adhesive, and may include a pad of surgical dressing without a disinfectant. The device is used to cover and protect wounds, to hold together the skin edges of a wound,

to support an injured part of the body, and to secure objects to the skin.

(b) *Classification.* Class I (general controls).

Interested persons may, on or before October 23, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 9, 1979.

William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.

[FR Doc. 79-26063 Filed 8-23-79; 8:45 am]
BILLING CODE 4110-03-M

[21 CFR Part 880]

[Docket No. 78N-1302]

Medical Devices; Classification of Neonatal Eye Pads

AGENCY: Food and Drug Administration.
ACTION: Proposed Rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying neonatal eye pads into class I (general controls). FDA is also publishing the recommendation of the General Hospital and Personal Use Device Classification Panel that the device be classified into class I. The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by October 23, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the Federal Register.

ADDRESS: The written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Lillian L. Yin, Bureau of Medical Devices, (HFK-470), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia

Ave., Silver Spring, MD 20910, 301-427-7555.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the Federal Register provides background information concerning the development of the proposed regulation. The General Hospital and Personal Use Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of neonatal eye pads:

1. Identification: A neonatal eye pad is an opaque device used to cover and protect the eye of an infant during therapeutic procedures, such as phototherapy.
2. Recommended classification: Class I (general controls). The Panel recommends that this device, if it is not labeled as sterile, be exempt from the good manufacturing practice regulation under section 520(f) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360j(f)).

3. Summary of reasons for recommendation: The Panel recommends that neonatal eye pads be classified into class I because the Panel believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device. The Panel recommends that this device be exempt from the good manufacturing practice regulation under section 520(f) of the act, if the device is not labeled as sterile, because the Panel believes that the quality of the device is easily discernible and that defects are readily apparent to the user. The Panel also recommends that manufacturers voluntarily assure that the device is nonirritating and impenetrable to light rays. Furthermore, the Panel believes that proper cleaning instructions should be provided in the labeling.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device.

5. Risks to health: Infection: If the device is labeled as sterile and it is not sterile, pathogenic organisms could cause an infection in the patient.

Proposed Classification

FDA agrees with the Panel recommendation and is proposing that neonatal eye pads be classified into class I (general controls) because the agency believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

In response to the Panel's recommendation that manufacturers of a neonatal eye pad be exempt from the device good manufacturing practice (GMP) regulation under section 520(f) of the act, FDA is proposing that a manufacturer of this device who does not label or otherwise represent it as

sterile be exempt, in the manufacture of the device, from all requirements, in the GMP regulation except § 820.180 (21 CFR § 820.180), with respect to general requirements concerning records, and § 820.198 (21 CFR 820.198), with respect to complaint files. Based on available information about current practices used in the manufacture of the device and user experience with the device, the agency has determined that application of the GMP regulation, other than §§ 820.180 and 820.198, is unlikely to improve the safety and effectiveness of the device. The agency believes, however, that manufacturers of a neonatal eye pad, even when it is not labeled or otherwise represented as sterile, must still be required to comply with the complaint file requirements of § 820.198 to ensure that these manufacturers have adequate systems for complaint investigation and followup. The agency also believes that manufacturers of a neonatal eye pad must still be required to comply with the general requirements concerning records in § 820.180 to ensure that FDA has a access to complaint files, can investigate device-related injury reports and complaints about product defects, may determine whether the manufacturer's corrective actions are adequate, and may determine whether the exemption from other sections of the GMP regulation is still appropriate. A manufacturer of a neonatal eye pad that is labeled or otherwise represented as sterile is, in the manufacture of this device, subject to the GMP regulation in its entirety.

Therefore, under the Federal Food, Drug, and Cosmetic Act, (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs proposes to amend Part 880 in Subpart F by adding new § 880.5270, to read as follows:

§ 880.5270 Neonatal eye pad.

(a) *Identification.* A neonatal eye pad is an opaque device used to cover and protect the eye of an infant during therapeutic procedures, such as phototherapy.

(b) *Classification.* Class I (general controls). If the device is not labeled or otherwise represented as sterile, it is exempt from the good manufacturing practice regulation in Part 820 of this chapter, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

Interested persons may, on or before October 23, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug

Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 9, 1979.

William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.

FR Doc. 79-26064 Filed 8-23-79; 8:45 am]
BILLING CODE 4110-03-M

[21 CFR Part 880]

[Docket No. 78N-1303]

Medical Devices; Classification of Medical Absorbent Fibers

AGENCY: Food and Drug Administration.
ACTION: Proposed Rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying medical absorbent fibers into class I (general controls). FDA is also publishing the recommendation of the General Hospital and Personal Use Device Classification Panel that the device be classified into class I. The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by October 23, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Lillian L. Yin, Bureau of Medical Devices (HFK-470), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7555.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the Federal Register provides

background information concerning the development of the proposed regulation. The General Hospital and Personal Use Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of medical absorbent fibers:

1. Identification: A medical absorbent fiber is a device made from cotton or synthetic fiber in the shape of a ball or pad used for applying medication to, or absorbing small amounts of body fluids from, the patient's body surface.

2. Recommended classification: Class I (general controls). The Panel recommends that there be no exemptions.

3. Summary of reasons for recommendation: The Panel recommends that medical absorbent fibers be classified into class I because the Panel believes that the general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

4. Summary of data on which the recommendation is based: The Panel based its recommendation upon the Panel members' personal knowledge of, and clinical experience with, the device. The Panel members believe that the device should meet United States Pharmacopeia requirements for the absorbency and purity of absorbent cotton.

5. Risks to health: (a) Tissue irritation: Tissue irritation could occur if the material is impure or sheds. (b) Infection: If the device is labeled as sterile and it is not sterile, pathogenic organisms could cause infection in the patient.

Proposed Classification

FDA agrees with the Panel recommendation and is proposing that medical absorbent fibers be classified into class I (general controls) with no exemptions. The agency believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs proposes to amend Part 880 in Subpart F by adding new § 880.5300, to read as follows:

§ 880.5300 Medical absorbent fiber.

(a) *Identification.* A medical absorbent fiber is a device made from cotton or synthetic fiber in the shape of a ball or a pad used for applying medication to, or absorbing small amounts of body fluids from, the patient's body surface.

(b) *Classification.* Class I (general controls).

Interested persons may, on or before October 23, 1979, submit to the Hearing

Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 15, 1979.

William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.

[FR Doc. 79-26065 Filed 8-23-79; 8:45 am]
BILLING CODE 4110-03-M

[21 CFR Part 880]

[Docket No. 78N-1305]

Medical Devices; Classification of Infant Oxygen Hoods

AGENCY: Food and Drug Administration.
ACTION: Proposed Rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying infant oxygen hoods into class I (general controls). FDA is also publishing the recommendation of the General Hospital and Personal Use Device Classification Panel that the device be classified into class I. The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by October 23, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Lillian L. Yin, Bureau of Medical Devices (HFK-470), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7555.

**SUPPLEMENTARY INFORMATION:
Panel Recommendation**

A proposal elsewhere in this issue of the *Federal Register* provides background information concerning the development of the proposed regulation. The General Hospital and Personal Use Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of infant oxygen hoods:

1. Identification: An infant oxygen hood is a device consisting of a rigid transparent enclosure with an open bottom placed over an infant's head. The device is connected to an external source of oxygen to maintain an oxygen-rich atmosphere for the infant.

2. Recommended classification: Class I (general controls). The Panel recommends that this device be exempt from premarket notification under section 510(k) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360(k)), and from the good manufacturing practice regulation under section 520(f) of the act (21 U.S.C. 360j(f)).

3. Summary of reasons for recommendation: The Panel recommends that infant oxygen hoods be classified into class I because the Panel believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device. The Panel recommends that this device be exempt from premarket notification under section 510(k) of the act because the Panel believes that FDA does not need to receive premarket notification of a manufacturer's intent to market this simple device. The Panel recommends that this device be exempt from the good manufacturing practice regulation under section 520(f) of the act because the Panel believes that the quality of the device is easily discernible and that defects are readily apparent to the user.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device.

5. Risks to health: None identified.

Proposed Classification

FDA agrees with the Panel recommendation and is proposing that infant oxygen hoods be classified into class I (general controls) because the agency believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device. The external oxygen source to which infant oxygen hoods are connected is subject to regulations applicable to inhaled gases.

The agency disagrees with the Panel recommendation that manufacturers of infant oxygen hoods be exempt from premarket notification under section 510(k) of the act. Under section 10(g)(4) of the act, the agency may exempt a manufacturer from compliance with section 510 of the act only upon a finding that compliance is not necessary for the protection of the public health. In

the case of infant oxygen hoods, the agency cannot make the required finding. To protect the public health, the agency needs to require manufacturers of this device to register and to list their products with FDA, so that the agency can identify the firms and products that it regulates and can conduct necessary inspections and investigations concerning safety, effectiveness, adulteration, or misbranding. Premarket notification by these manufacturers assures that FDA learns of new products, and of significant modifications of existing products, for which premarket approval is required.

In response to the Panel's recommendation that manufacturers of an infant oxygen hood be exempt from the device good manufacturing practice (GMP) regulation under section 520(f) of the act, FDA is proposing that a manufacturer of this device be exempt, in the manufacture of the device, from all requirements in the GMP regulation except § 820.180 (21 CFR 820.180), with respect to general requirements concerning records, and § 820.198 (21 CFR 820.198), with respect to complaint files. Based on available information about current practices used in the manufacture of the device and user experience with the device, the agency has determined that application of the GMP regulation, other than §§ 820.180 and 820.198, is unlikely to improve the safety and effectiveness of the device. The agency believes, however, that manufacturers of an infant oxygen hood must still be required to comply with the complaint file requirements of § 820.198 to ensure that these manufacturers have adequate systems for complaint investigation and followup. The agency also believes that manufacturers of an infant oxygen hood must still be required to comply with the general requirements concerning records in § 820.180 to ensure that FDA has access to complaint files, can investigate device-related injury reports and complaints about product defects, may determine whether the manufacturer's corrective actions are adequate, and may determine whether the exemption from other sections of the GMP regulation is still appropriate.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs proposes to amend Part 880 in Subpart F by adding new § 880.5375, to read as follows:

§ 880.5375 Infant oxygen hood.

(a) *Identification.* An infant oxygen hood is a device consisting of a rigid transparent enclosure with an open bottom placed over an infant's head. The device is connected to an external source of oxygen to maintain an oxygen-rich atmosphere for the infant.

(b) *Classification.* Class I (general controls). The device is exempt from the good manufacturing practice regulation in Part 820 of this chapter, with the exception of § 820.180, with respect to records, and § 820.198, with respect to complaint files.

Interested persons may, on or before October 23, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 9, 1979.

William F. Randolph,
*Acting Associate Commissioner for
Regulatory Affairs.*

[FR Doc. 79-26066 Filed 8-23-79; 8:45 am]

BILLING CODE 4110-03-M

[21 CFR Part 880]**[Docket No. 78N-1306]****Medical Devices; Classification of
Neonatal Incubators**

AGENCY: Food and Drug Administration.
ACTION: Proposed Rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying neonatal incubators into class II (performance standards). FDA is also publishing the recommendation of the General Hospital and Personal Use Device Classification Panel that the device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: It is proposed that the final regulation based on this proposal

become effective 30 days after the date of its publication in the *Federal Register*.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Lillian L. Yin, Bureau of Medical Devices (HFK-470), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7555.

SUPPLEMENTARY INFORMATION:**Panel Recommendation**

A proposal elsewhere in this issue of the *Federal Register* provides background information concerning the development of the proposed regulation. The General Hospital and Personal Use Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of neonatal incubators:

1. Identification: A neonatal incubator is a device consisting of a rigid boxlike enclosure in which an infant may be kept in a controlled environment for medical care. The device may include an AC-powered heater, a fan to circulate the warmed air, a container for water to add humidity, a control valve through which oxygen may be added, and access ports for nursing.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a high priority.

3. Summary of reasons for recommendation: The Panel recommends that neonatal incubators be classified into class II because the Panel believes that although the device is life sustaining and life supporting, sufficient scientific and medical data exist to establish an adequate performance standard governing the safety and effectiveness of the device. The Panel recommends that the standard address noise levels, electrical safety, accuracy and reliability of temperature control, and accuracy of oxygen delivery. The Panel believes that general controls would not provide sufficient control over these characteristics. The Panel also recommends that the labeling provide instructions for cleaning and sterilizing the device. In addition, the Panel recommends that the device be used only by or on the order of a physician. The Panel believes that a performance standard would provide reasonable assurance of the safety and effectiveness of the device, and that there is sufficient information to establish a standard to provide such assurance.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device. The Panel also based its recommendation on the infant warmer and incubator standard developed by the Emergency Care Research Institute under contract with FDA (Ref. 7).

5. Risks to health: (a) Hearing loss: If noise levels of the air fan are not controlled, the infant may suffer hearing loss. (b) Electrical shock: Improper design and construction or device malfunction can result in electrical shock. (c) Hypothermia or hyperthermia: If the temperature level in the device is not adequately controlled, Hypothermia (lowering of body temperature below 98.6° F) or hyperthermia (elevation of body temperature above 98.6° F) in the infant could result. (d) Hyperoxia or hypoxia: If the flow meters in the device do not accurately control the amount of oxygen delivered, the infant may suffer hyperoxia (excessive oxygen in body tissues) or hypoxia (inadequate oxygen in body tissues), which could lead to retrolental fibroplasia (blindness and other eye damage) and possible brain damage. (e) Infection: If the device is not able to be cleaned and sterilized properly, there is a risk to the infant of infection.

Proposed Classification

FDA agrees with the Panel recommendation and is proposing that neonatal incubators be classified into class II (performance standards). The Agency recognizes that neonatal incubators have been successfully used in neonatal care for many years. In appropriate applications, the benefits of the use of this device far outweigh the risks. The agency agrees with the Panel's belief that, although the device is life sustaining and life supporting, sufficient scientific and medical data exist to establish a standard to provide reasonable assurance of the safety and effectiveness of the device. FDA believes that a performance standard is necessary because general controls alone are insufficient to control the risks to health presented by the device.

References

The following information has been placed in the office of the Hearing Clerk (address above) and may be seen by interested persons, from 9 a.m. to 4 p.m., Monday through Friday.

1. "The Development of a Standard for Infant Warmers and Incubators." Final Report, Emergency Care Research Institute, Plymouth Meeting, PA, September 1976.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs proposes to amend Part 880 in Subpart F by adding new § 880.5400, to read as follows:

§ 880.5400 Neonatal incubator.

(a) *Identification.* A neonatal incubator is a device consisting of a rigid boxlike enclosure in which an infant may be kept in a controlled environment for medical care. The

device may include an AC-powered heater, a fan to circulate the warmed air, a container for water to add humidity, a control valve through which oxygen may be added, and access ports for nursing.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before October 23, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 9, 1979.

William F. Randolph,
*Acting Associate Commissioner for
Regulatory Affairs.*

[FR Doc. 79-26067 Filed 8-23-79; 8:45 am]

BILLING CODE 4110-03-M

[21 CFR Part 880]**[Docket No. 78N-1307]****Medical Devices; Classification of
Neonatal Transport Incubators**

AGENCY: Food and Drug Administration.
ACTION: Proposed Rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying neonatal transport incubators into class II (performance standards). FDA is also publishing the recommendation of the General Hospital and Personal Use Device Classification Panel that the device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by October 23, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the *Federal Register*.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-

65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Lillian L. Yin, Bureau of Medical Devices (HFK-470), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7555.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the *Federal Register* provides background information concerning the development of the proposed regulation. The General Hospital and Personal Use Device Classification Panel, and FDA advisory committee, made the following recommendation regarding the classification of neonatal transport incubators:

1. Identification: A neonatal transport incubator is a device consisting of a portable rigid boxlike enclosure with insulated walls in which an infant may be kept in a controlled environmental while being transported for medical care. The device may include straps to secure the infant, a battery-operated heater, an AC-powered battery charger, a fan to circulate the warmed air, a container for water to add humidity, and provision for a portable oxygen bottle.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a high priority.

3. Summary of reasons for recommendation: The Panel recommends that neonatal transport incubators be classified into class II because the Panel believes that, although the device is life sustaining and life supporting, sufficient scientific and medical data exist to establish an adequate performance standard to assure the safety and effectiveness of the device. The Panel recommends that the standard address noise levels, electrical safety, accuracy and reliability of temperature control, and accuracy of oxygen delivery. The Panel also recommends that the duration of the device's portable power supply last at least 1 hour, that the device be designed to minimize radiant heat loss, and that the device include restraining belts for the infant. The Panel believes that general controls would not provide sufficient control over the device characteristics. The Panel also recommends that the labeling provide instructions for cleaning and sterilizing the device. In addition, the Panel recommends that the device be used only by or on the order of a physician.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device. The Panel also based its recommendation on the infant warmer and incubator standard developed by the Emergency Care Research Institute under contract with FDA (Ref. 1).

5. Risks to health: (a) Infant fatality: Because the device provides total support to the infant, a failure of its power source could result in death. (b) Radiant heat loss: If the device is not designed to minimize radiant heat loss, the patient could become hypothermic. (c) Injury during transportation: If restraining belts are not included with the device to secure the infant, there is a possibility of injury during transportation. (d) Hearing loss: If noise levels of the air fan are not controlled, the infant may suffer hearing loss.

(e) Electrical shock: Improper device design and construction or device malfunction can result in electrical shock. (f) Hypothermia or hyperthermia: If the temperature level in the device is not adequately controlled, hypothermia or hyperthermia in the infant could result. (g) Hyperoxia or hypoxia: If the flow meters in the device do not accurately control the amount of oxygen delivered, the infant may suffer hyperoxia (excessive oxygen in body tissues) or hypoxia (inadequate oxygen in body tissues), which could lead to retrolental fibroplasia (blindness and other eye damage) and possible brain damage. (h) Infection: If the device is not able to be cleaned and sterilized properly, there is a risk to the infant of infection.

Proposed Classification

FDA agrees with the Panel recommendation and its proposing that neonatal transport incubators be classified into class II (performance standards). The agency recognizes that neonatal transport incubators have been successfully used in neonatal care for many years. In appropriate applications, the benefits of using this device far outweigh the risks. The agency agrees with the Panel's belief that, although the device is life sustaining and life supporting, sufficient scientific and medical data exist to establish a standard to provide reasonable assurance of the safety and effectiveness of the device. FDA believes that a performance standard is necessary because general controls alone are insufficient to control the risks to health presented by the device.

References

The following information has been placed in the office of the Hearing Clerk (address above) and may be seen by interested persons, from 9 a.m. to 4 p.m., Monday through Friday.

1. "The Development of a Standard for Infant Warmers and Incubators." Final Report, Emergency Care Research Institute, Plymouth Meeting, PA, September 1976.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs proposes to amend Part 880 in Subpart F

by adding new § 880.5410, to read as follows:

§ 880.5410 Neonatal transport incubator.

(a) *Identification.* A neonatal transport incubator is a device consisting of a portable rigid boxlike enclosure with insulated walls in which an infant may be kept in a controlled environment while being transported for medical care. The device may include straps to secure the infant, a battery-operated heater, an AC-powered battery charger, a fan to circulate the warmed air, a container for water to add humidity, and provision for a portable oxygen bottle.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before October 23, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 9, 1979.

William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.

[FR Doc. 79-26099 Filed 8-23-79; 8:45 am]
BILLING CODE 4110-03-M

[21 CFR Part 880]

[Docket No. 78N-1308]

Medical Devices; Classification of Pressure Infusors for I.V. Bags

AGENCY: Food and Drug Administration.
ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying pressure infusors for I.V. bags into class II (performance standards). FDA is also publishing the recommendation of the General Hospital and Personal Use Device Classification Panel and the Anesthesiology Device Classification Panel that the device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These

actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by October 23, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the *Federal Register*.

ADDRESS: The written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Lillian L. Yin, Bureau of Medical Devices, (HFK-470), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7555.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the *Federal Register* provides background information concerning the development of the proposed regulation. The General Hospital and Personal Use Device Classification Panel, and the Anesthesiology Device Classification Panel, FDA advisory committees, made the following recommendation regarding the classification of pressure infusors for I.V. bags:

1. Identification: A pressure infusor for an I.V. bag is a device consisting of an inflatable cuff which is placed around an I.V. bag. When the device is inflated, it increases the pressure on the I.V. bag to assist the infusion of the fluid. The General Hospital and Personal Use Device Classification Panel identified this generic type of device under the name "intravenous (I.V.) bag pressure infusion device." The Anesthesiology Device Classification Panel identified this generic type of device under the name "manual infusion apparatus."

2. Recommended classification: Class II (performance standards). The General Hospital and Personal Use Device Classification Panel recommends that establishing a performance standard for this device be a medium priority. The Anesthesiology Device Classification Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: Both Panels recommend that pressure infusors for I.V. bags be classified into class II because the Panels believe that a performance standard is needed for this device to assure accuracy in the amount of pressure exerted by the device on the bag. The Panels believe that general controls would not provide sufficient control over this characteristic. The Panels believe that a performance standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a performance standard to provide such assurance.

4. Summary of data on which the recommendations are based: The Panels based their recommendations on the Panel members' personal knowledge of, and clinical experience with, the device. The General Hospital and Personal Use Device Classification Panel also based its recommendation on an article in the literature that describes a device for maintaining constant pressure in a pressure infusor (Ref. 1).

5. Risks to health: (a) Inappropriate therapy: If the cuff is not large enough to exert even pressure on the I.V. bag, or if the valve or connectors in the cuff fail, the flow rate may decrease causing inappropriate therapy. The General Hospital and Personal Use Device Classification Panel identified the following additional risk to health: (b) Air embolism: Overinflation of the device may cause the plastic I.V. bag to rupture and allow air to be infused, resulting in air embolism.

Proposed Classification

FDA agrees with the Panel's recommendations and is proposing that the pressure infusor for I.V. bags be classified into class II (performance standards). The agency has reviewed the recommendation of the General Hospital and Personal Use Device Classification Panel for the intravenous (I.V.) bag pressure infusion device and the recommendation of the Anesthesiology Device Classification Panel for the manual infusion apparatus and has concluded that the device should be named "pressure infusor for I.V. bags" and its classification be published in the part of the Code of Federal Regulations for General Hospital and Personal Use Devices. The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

References

The following information has been placed in the office of the Hearing Clerk (address above) and may be seen by interested persons, from 9 a.m. to 4 p.m., Monday through Friday.

1. Houghton, I. T., "A Constant Pressure Infusor," *Anaesthesia*, 31:73-75, 1976.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs proposes to amend Part 880 in Subpart F

by adding new § 880.5420, to read as follows:

§ 880.5420 Pressure infusor for an I.V. bag.

(a) *Identification.* A pressure infusor for an I.V. bag is a device consisting of an inflatable cuff which is placed around an I.V. bag. When the device is inflated, it increases the pressure on the I.V. bag to assist the infusion of the fluid.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before October 23, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 10, 1979.

William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.

[FR Doc. 79-26099 Filed 8-23-79; 8:45 am]
BILLING CODE 4110-03-M

[21 CFR Part 880]

[Docket No. 78N-1308]

Medical Devices; Classification of Nonelectrically Powered Fluid Injectors

AGENCY: Food and Drug Administration.
ACTION: Proposed Rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying nonelectrically powered fluid injectors into class II (performance standards). FDA is also publishing the recommendation of the General Hospital and Personal Use Device Classification Panel that the device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by October 23, 1979. It is proposed that the final regulation based on this proposal become effective

30 days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Lillian L. Yin, Bureau of Medical Devices (HFK-470), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7555.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the Federal Register provides background information concerning the development of the proposed regulation. The General Hospital and Personal Use Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of nonelectrically powered fluid injectors:

1. Identification: A nonelectrically powered fluid injector is a nonelectrically powered device used to give a hypodermic injection by means of a narrow, high velocity jet of fluid which can penetrate the surface of the skin and deliver the fluid to the body. It may be used for mass inoculations.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a medium priority.

3. Summary of reasons for recommendation: The Panel recommends that nonelectrically powered fluid injectors be classified into class II because the Panel believes that a performance standard is needed for this device to assure the accuracy of the amount of fluid administered to the patient and the accuracy of the pressure of the injection. The Panel believes that general controls would not provide sufficient control over these characteristics. The Panel believes that a standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance. The Panel recommends that FDA determine which drugs can be administered with this device.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device, manufacturers' presentations and data presented at the November 6, 1978 Panel meeting (Ref. 1), and articles in the literature which evaluate the use of jet injectors for mass immunizations (Refs. 2 through 5).

5. Risks to health: (a) Inappropriate therapy: If the amount of fluid administered to the patient is inaccurate, the patient will receive inappropriate therapy. Also, if the pressure of the injection is inaccurate, fluid may be injected at a different level below the

surface of the skin from that intended. This could alter the absorption of the fluid, which could lead to inappropriate therapy.

Proposed Classification

FDA agrees with the Panel recommendation and is proposing that nonelectrically powered fluid injectors be classified into class II (performance standards). The agency has reviewed the Panel recommendation that FDA determine which drugs can be administered with this device and has determined that each drug must be considered individually for administration with nonelectrically powered fluid injectors. The agency will consider at a later date which drugs can be administered with the device. The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard to provide this assurance.

References

The following information has been placed in the office of the Hearing Clerk (address above) and may be seen by interested persons, from 9 a.m. to 4 p.m., Monday through Friday.

1. Minutes of the General Hospital and Personal Use Device Classification Panel Meeting, Washington, DD, Nov. 6, 1978.
2. Cohn, M. L., R. A. Chez, et al., "Use of Jet Insulin Injection in Diabetes Mellitus Therapy," *Diabetes*, 21(1):39-44, January 1972.
3. Cohn, M. L., R. A. Hingson, et al., "Clinical Experience with Jet Insulin Injection in Diabetes Mellitus Therapy: A Clue to the Pathogenesis of Lipodystrophy," *Alabama Journal of Medical Sciences*, 11(3):265-72, 1974.
4. Millar, J. D., L. Morris, et al., "The Introduction of Jet Injection Mass Vaccination into the National Smallpox Eradication Program of Brazil," *Tropical and Geographical Medicine*, 23:89-101, 1971.
5. Neufeld, P. D., and L. Katz, "Comparative Evaluation of Three Jet Injectors for Mass Immunization," *Canadian Journal of Public Health*, 68:513-516, November/December 1977.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs proposes to amend Part 880 in Subpart F by adding new § 880.5430, to read as follows:

§ 880.5430 Nonelectrically powered fluid injector.

(a) *Identification.* A nonelectrically powered fluid injector is a nonelectrically powered device used to give a hypodermic injection by means of a narrow, high velocity jet of fluid which can penetrate the surface of the skin and deliver the fluid to the body. It may be used for mass inoculations.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before October 23, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 15, 1979.

William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.

(FR Doc. 79-26070 Filed 8-23-79; 8:45 am)

BILLING CODE 4110-03-M

[21 CFR Part 880]

[Docket No. 78N-1309]

Medical Devices; Classification of Intravascular Administration Sets

AGENCY: Food and Drug Administration.
ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying intravascular administration sets into class II (performance standards). FDA is also publishing the recommendations of the General Hospital and Personal Use Device Classification Panel and the Anesthesiology Device Classification Panel that this device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. FDA is also publishing the recommendation of the General Hospital and Personal Use Device Classification Panel that infusion line filters, a component of intravascular administration sets, be classified into class I (general controls). The effect of classifying a device into class I is to

require that the device meet only the general controls applicable to all devices. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by October 23, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Lillian L. Yin, Bureau of Medical Devices (HFK-470), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7555.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the Federal Register provides background information concerning the development of the proposed regulation. The General Hospital and Personal Use Device Classification Panel and the Anesthesiology Device Classification Panel, FDA advisory committees, made the following recommendations regarding the classification of intravascular administration sets:

1. Identification: An intravascular administration set is a device used to administer fluids from a container to a patient's vascular system through a needle or catheter inserted into a vein. The device may include the needle or catheter, tubing, a flow regulator, a drip chamber, an infusion line filter, connectors between parts of the set, a side tube with a cap to serve as an injection site, and a hollow spike to penetrate and connect the tubing to an I.V. bag or other infusion fluid container. The General Hospital and Personal Use Device Classification Panel identified this device as the "intravascular administration set." The Anesthesiology Device Classification Panel identified this device as the "transfusion set" and described it as a device, sometimes in kit form, used to deliver blood to a patient. The General Hospital and Personal Use Device Classification Panel identified as infusion line filter, a component of an intravascular administration set, as a device connected to the infusion line tubing to prevent bacteria and particulates from entering the patient's vascular system.

2. Recommended classification: Class II (performance standards.) The General Hospital and Personal Use Device Classification Panel recommends that establishing a performance standard for this device be a medium priority. The Anesthesiology Device Classification Panel

recommends that establishing a performance standard for this device be a high priority. The General Hospital and Personal Use Device Classification Panel recommends that the infusion line filter be classified into class I (general controls). The Panel also recommends that there be no exemptions for the infusion line filter.

3. Summary of reasons for recommendation: The General Hospital and Personal Use Device Classification Panel recommends that the device be classified into class II because the Panel believes that a performance standard is needed to assure the compatibility of the connectors (components of the device that connect with other intravenous devices). The Panel believes that general controls would not provide sufficient control over this characteristic. The Panel also recommends that there be some mechanism for controlling the flow rate (the rate at which the device permits fluids to flow into the vascular system). The Panel also recommends that the labeling state the length of time that the infusion line filter is effective and describe the proper use of the filter.

The Anesthesiology Device Classification Panel recommends that the device be classified into class II because the device must operate effectively in life-threatening situations. The Panel notes that use of materials in the device that are not biocompatible may cause toxic, pyrogenic, or allergic reactions, and recommends a biocompatibility standard to control these hazards. The Panel also recommends that the standard assure the effectiveness of the filter, to minimize pulmonary thromboembolism, and that the device be designed so that air can be completely flushed from the system to prevent air emboli. Materials and connections must be leakproof to prevent introduction of air. Like the General Hospital and Personal Use Device Classification Panel, the Anesthesiology Device Classification Panel believes that standardization of connectors also is needed. The Panel also notes that a nonsterile device may introduce organisms and cause infection; however, use of a standard sterilization procedure can adequately control this hazard. The infusion rate should be adequately controllable to prevent over or under infusion. Both Panels believe that a performance standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance. The General Hospital and Personal Use Device Classification Panel recommends that the infusion line filter be classified into class I because the Panel believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

4. Summary of data on which the recommendations are based: The Panels based their recommendations on the Panel members' personal knowledge of, and clinical experience with, the device.

5. Risks to health: Both Panels identified the following risks to health: (a) Infection: The spike can become contaminated and cause infection when connecting the device

to an infusion fluid container. Contamination and infection can occur when the outside shield or cap is removed to add medication. Also, if the infusion line filter is ineffective in removing pathogenic organisms, an infection could occur. (b) Inappropriate therapy: If there is an inadvertent change in the flow rate because of a faulty flow-rate controller or because the set has become disconnected, with resulting loss of medication, inappropriate therapy could result. (c) Adverse tissue reaction: The use of materials in the device that have not demonstrated sufficient tissue compatibility may cause an adverse tissue reaction. (d) Air embolism: If air cannot be flushed from the system or if a leak occurs in the tubing or at the connectors, an air embolism could result. The Anesthesiology Device Classification Panel also identified the following additional risk to health: (e) Pulmonary thromboembolism: If filtration of the intravascular fluid by the device is inadequate, harmful particles could enter the body, causing pulmonary thromboembolism.

Proposed Classification

FDA agrees with the recommendations of the General Hospital and Personal Use Device Classification Panel and the Anesthesiology Device Classification Panel and is proposing that intravascular administration sets be classified into class II (performance standards). The agency disagrees with the recommendation of the General Hospital and Personal Use Device Classification Panel that infusion line filters be classified into class I (general controls) because the agency has concluded that this device is a component of intravascular administration sets and, therefore, should be classified in the same class as the device of which it is a part. The agency has reviewed the recommendation of the General Hospital and Personal Use Device Classification Panel for intravascular administration sets and the recommendation of the Anesthesiology Device Classification Panel for transfusion sets and has concluded that the device should be named "intravascular administration set" and its classification be published in the part of the Code of Federal Regulations for General Hospital and Personal Use Devices. The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by this device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a standard to provide such assurance.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs proposes to amend Part 880 in Subpart F by adding new § 880.5440, to read as follows:

§ 880.5440 Intravascular administration set.

(a) *Identification.* An intravascular administration set is a device used to administer fluids from a container to a patient's vascular system through a needle or catheter inserted into a vein. The device may include the needle or catheter, tubing, a flow regulator, a drip chamber, an infusion line filter, connectors between parts of the set, a side tube with a cap to serve as an injection site, and a hollow spike to penetrate and connect the tubing to an I.V. bag or other infusion fluid container.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before October 23, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 9, 1979.
William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.
[FR Doc. 79-26071 Filed 8-23-79; 8:45 am]
BILLING CODE 4110-03-M

[21 CFR Part 880]

(Docket No. 78N-1310)

Medical Devices; Classification of Patient Care Reverse Isolation Chambers

AGENCY: Food and Drug Administration.
ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying patient care reverse isolation chambers into class II (performance standards). FDA is also publishing the recommendation of the General Hospital and Personal Use Device Classification Panel that the device be classified into

class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by October 23, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Lillian L. Yin, Bureau of Medical Devices (HFK-470), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7555.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the Federal Register provides background information concerning the development of the proposed regulation. The General Hospital and Personal Use Device Classification Panel, an FDA advisory committee, made the following recommendation with respect to the classification of patient care reverse isolation chambers:

1. Identification: A patient care reverse isolation chamber is a device consisting of a roomlike enclosure designed to prevent the entry of harmful airborne material. This device protects a patient who is undergoing treatment for burns or is lacking a normal immunosuppressive defense due to therapy or congenital abnormality. The device includes fans and air filters which maintain an atmosphere of clean air at a pressure greater than the air pressure outside the enclosure.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a medium priority.

3. Summary of reasons for recommendation: The Panel recommends that patient care reverse isolation chambers be classified into class II because the Panel believes that a performance standard is necessary to assure that the filters in the device are effective in preventing the passage of microorganisms. Performance characteristics, including the accuracy and reliability of, and any limitations on, the device's functions, should be described in the labeling. Hospital personnel should take precautions to ensure that dust and other particulates do not plug the device's filters and thus reduce air flow or change the air

flow pattern. The Panel believes that general controls would not provide sufficient control over these characteristics. The Panel believes that a performance standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance.

4. Summary of data on which the recommendations is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device. The Panel also considered an article evaluating particulate air filters prepared by the Wilmot Castle Co. under a contract with the Jet Propulsion Laboratory (Ref. 1). The article concludes that: (a) Areas of particulate penetration may be related to increased velocity of particles through holes in the filter media or frames; (b) the efficiency level of a filter should be tested before each use; and (c) high efficiency particulate air filters having an efficiency exceeding 99.99 percent can remove from a gas stream all particles of a size greater than 0.5 micrometer.

Risks to health: (a) Infection: If the device's filter is not effective in preventing the passage of microorganisms, microorganisms may come into contact with the patient and cause infection. Also, if the air flow pattern is interrupted by dust or other particulates plugging the filters or by a power failure, organisms transmitted from the hospital staff could cause infection in the patient.

Proposed Classification

FDA agrees with the Panel recommendation and is proposing that patient care reverse isolation chambers be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a standard to provide this assurance.

References

The following information has been placed in the office of the Hearing Clerk (address above), and may be seen by interested persons, from 9 a.m. to 4 p.m., Monday through Friday.

1. Irons, A. S., "Microbiological Evaluation of High Efficiency Particulate Air (HEPA) Filters," Jet Propulsion Laboratories, Space Programs Summary No. 37-43, IV:53-58, February 28, 1967.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs proposes to amend Part 880 in Subpart F

by adding new § 880.5450, to read as follows:

§ 880.5450 Patient care reverse isolation chamber.

(a) *Identification.* A patient care reverse isolation chamber is a device consisting of a roomlike enclosure designed to prevent the entry of harmful airborne material. This device protects a patient who is undergoing treatment for burns or is lacking a normal immunosuppressive defense due to therapy or congenital abnormality. The device includes fans and air filters which maintain an atmosphere of clean air at a pressure greater than the air pressure outside the enclosure.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before October 23, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 15, 1979.
William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.
[FR Doc. 79-26072 Filed 8-23-79; 8:45 am]
BILLING CODE 4110-03-M

[21 CFR Part 880]

(Docket No. 78N-1311)

Medical Devices; Classification of Jet Lavages

AGENCY: Food and Drug Administration.
ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying jet lavages into class II (performance standards). FDA is also publishing the recommendation of the General Hospital and Personal Use Device Classification Panel that the device be classified into class I. The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device.

After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by October 23, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Lillian L. Yin, Bureau of Medical Devices (HFK-470), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7555.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the Federal Register provides background information concerning the development of the proposed regulation. The General Hospital and Personal Use Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of jet lavages:

1. Identification: A jet lavage is a device used to clean a wound by a pulsatile jet of sterile fluid. The device consists of the pulsing head, tubing to connect to a container of sterile fluid, and a means of propelling the fluid through the tubing, such as an electric roller pump.

2. Recommended classification: Class I (general controls). The Panel recommends that this device be exempt from premarket notification under section 510(k) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360(k)) and from the good manufacturing practice regulation under section 520(f) of the act (21 U.S.C. 360(f)).

3. Summary of reasons for recommendation: The Panel recommends that the jet lavage be classified into class I because the Panel believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device. The Panel recommends that this device be exempt from premarket notification under section 510(k) of the act because the Panel believes that FDA does not need to receive premarket notification of a manufacturer's intent to market this simple device. The Panel recommends that this device be exempt from the good manufacturing practice regulation under section 520(f) of the act because the Panel believes that the quality of the device is easily discernible and that defects are readily apparent to the user.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members'

personal knowledge of, and clinical experience with, the device.

5. Risks to health: (a) Bacteremia (the presence of bacteria in the blood): If the sterile fluid pressure is too high, the fluid impact could force bacteria into an open blood vessel and bacteremia could result. (b) Soft tissue trauma: If the fluid pressure is too high, soft tissue trauma may result.

Proposed Classification

FDA disagrees with the Panel recommendation and is proposing that jet lavages be classified into class II (performance standards). The agency believes that a performance standard is needed for this device because general controls alone are insufficient to control the risks to health presented by the device. The agency believes that a performance standard is needed to control the fluid pressure generated by the device to reduce the risk of bacteremia and soft tissue trauma. Because most of the devices are a.c. electrically powered, the agency also believes that the electrical properties of the device must be controlled through an electrical safety standard. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a standard to provide such assurance.

Because the agency has decided that jet lavages should be classified into class II rather than class I, the agency is not required to publish a regulation adopting or rejecting the Panel recommendation that this device be exempt from premarket notification under section 510(k) of the act or from the good manufacturing practice regulation under section 520(f) of the act.

FDA disagrees with the Panel's recommendation that manufacturers of jet lavages be exempt from all requirements under section 510 of the act. Under section 510(g)(4), the agency may exempt a manufacturer from section 510 only upon a finding that compliance with this section is not necessary for the protection of the public health. In the case of jet lavages, the agency cannot make the required finding. To protect the public health, the agency needs to require manufacturers of this device to register and to list their products with FDA, so that the agency is able to identify the firms manufacturing this device and to conduct necessary inspections. Premarket notification by these manufacturers assures that FDA learns of new products, and of significant modifications of existing products, for which premarket approval is required.

Because the agency is proposing that jet lavages be classified into class II,

FDA disagrees with the Panel's recommendation that manufacturers of jet lavages be exempt from the good manufacturing practice (GMP) regulation under section 520(f) of the act. The agency believes that compliance with this regulation is necessary to assure the quality of this device and thus its safety, effectiveness, and compliance with the adulteration and misbranding provisions of the act. Compliance with the GMP regulation will help prevent production of jet lavages having defects that could harm users.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drug proposes to amend Part 880 in Subpart F by adding new § 880.5475, to read as follows:

§ 880.5475 Jet lavage.

(a) *Identification.* A jet lavage is a device used to clean a wound by a pulsatile jet of sterile fluid. The device consists of the pulsing head, tubing to connect to a container of sterile fluid, and a means of propelling the fluid through the tubing, such as an electric roller pump.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before October 23, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 9, 1979.

William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.

[FR Doc. 79-26073 Filed 8-23-79; 8:45 am]

BILLING CODE 4110-03-M

[21 CFR Part 880]

[Docket No. 78N-1312]

Medical Devices; Classification of AC-Powered Patient Lifts

AGENCY: Food and Drug Administration.
ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying AC-powered patient lifts into class II (performance standards). FDA is also publishing the recommendation of the General Hospital Device Classification Panel that the device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by October 23, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Lillian L. Yin, Bureau of Medical Devices (HFK-470), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7555.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the Federal Register provides background information concerning the development of the proposed regulation. The General Hospital Device Classification Panel, an FDA advisory committee, made the following recommendation with respect to the classification of AC-powered patient lifts:

1. Identification: An AC-powered patient lift is an electrically powered device, either fixed or mobile, used to lift and transport a patient in the horizontal or other required position from one place to another, as from a bed to a bath. The device includes straps and slings to support the patient.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that AC-powered patient lifts be classified into class II because the Panel believes that the electrical properties of the device must be controlled through an electrical safety standard. The Panel believes that general controls would not provide sufficient control over this characteristic. The Panel also recommends that the labeling provide instructions for the use of the device in the

presence of water or other liquids, and state the weight capacity of the device. The Panel believes that a performance standard would provide reasonable assurance of the safety and effectiveness of the device, and that there is sufficient information to establish a standard to provide such assurance.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device.

5. Risks to health: (a) Infection: The straps or slings should be disposable or cleanable to prevent the spread of infection.

(b) Electrical shock: Improper design and construction or device malfunction can result in electrical shock. (c) Patient injury: If the device carries a load that exceeds its weight capacity, it may break and injure the patient.

Proposed Classification

FDA agrees with the Panel recommendation and is proposing that the AC-powered patient lift be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency believes that there is sufficient information to establish a standard to provide reasonable assurance of the safety and effectiveness of the device.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs proposes to amend Part 880 in Subpart F by adding new § 880.5500, to read as follows:

§ 880.5500 AC-powered patient lift.

(a) *Identification.* An AC-powered patient lift is an electrically powered device either fixed or mobile, used to lift and transport patients in the horizontal or other required position from one place to another, as from a bed to a bath. The device includes straps and slings to support the patient.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before October 23, 1979 submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the Hearing Clerk docket number found in brackets in the heading of this

document. Received comments may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 15, 1979.

William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.

[FR Doc. 79-26074 Filed 8-23-79; 8:45 am]

BILLING CODE 4110-03-M

[21 CFR Part 880]

[Docket No. 78N-1313]

Medical Devices; Classification of Nonelectrical Patient Lifts

AGENCY: Food and Drug Administration.
ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying nonelectrical patient lifts into class I (general controls). FDA is also publishing the recommendation of the General Hospital and Personal Use Device Classification Panel that the device be classified into class I. The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by October 23, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Lillian L. Yin, Bureau of Medical Devices (HFK-470), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7555.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the Federal Register provides background information concerning the development of the proposed regulation. The General Hospital and Personal Use Device Classification Panel, and FDA advisory committee, made the following recommendation with respect to the classification of nonelectrical patient lifts:

1. Identification: A nonelectrical patient lift is a hydraulic or mechanically powered device, either fixed or mobile, used to lift and transport a patient in the horizontal or other required position from one place to another, as from a bed to a bath. The device includes straps and slings to support the patient.

2. Recommended classification: Class I (general controls). The Panel recommends that there be no exemptions.

3. Summary of reasons for recommendation: The Panel recommends that the nonelectrical patient lift be classified into class I because the Panel believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device. The Panel recommends that the labeling state the weight capacity of the device.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device.

5. Risks to health: Patient injury: If the device carries a load that exceeds its weight capacity, it may break and may injure the patient.

Proposed Classification

FDA agrees with the Panel recommendation and is proposing that nonelectrical patient lifts be classified into class I (general controls) with no exemptions. The agency believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs proposes to amend Part 880 in Subpart F by adding new § 880.5510, to read as follows:

§ 880.5510 Nonelectrical patient lift.

(a) *Identification.* A nonelectrical patient lift is a hydraulic or mechanically powered device, either fixed or mobile, used to lift and transport a patient in the horizontal or other required position from one place to another, as from a bed to a bath. The device includes straps and slings to support the patient.

(b) *Classification.* Class I (general controls).

Interested persons may, on or before October 23, 1979 submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be

seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 9, 1979.

William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.

[FR Doc. 79-26075 Filed 8-23-79; 8:45 am]

BILLING CODE 4110-03-M

[21 CFR Part 880]

[Docket No. 78N-1314]

Medical Devices; Classification of Alternating Pressure Air Flotation Mattresses

AGENCY: Food and Drug Administration.
ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying alternating pressure air flotation mattresses into class II (performance standards). FDA is also publishing the recommendation of the Physical Medicine Device Classification Panel that the alternating pressure mattress be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. FDA is also publishing the recommendation of the General Hospital and Personal Use Device Classification Panel that alternating pressure air flotation mattresses be classified into class I. The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by October 23, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the Office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Lillian L. Yin, Bureau of Medical Devices (HFK-470), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7555.

SUPPLEMENTARY INFORMATION:**Panel Recommendation**

A proposal elsewhere in this issue of the Federal Register provides background information concerning the development of the proposed regulation. The General Hospital and Personal Use Device Classification Panel and the Physical Medicine Device Classification Panel, FDA advisory committees, made the following recommendations with respect to the classification of alternating pressure air flotation mattresses:

1. Identification: An alternating pressure air flotation mattress is a mattress with multiple air cells that can be filled and emptied in an alternating pattern by an associated control unit, to provide regular, frequent, and automatic changes in the distribution of body pressure. The device is used to prevent and treat decubitus ulcers (bed sores). The Physical Medicine Device Classification Panel identified this generic type of device under the name "alternating pressure mattress." The General Hospital and Personal Use Device Classification Panel identified this generic type of device under the name "alternating pressure air flotation mattress."

2. Recommended classification: The Physical Medicine Device Classification Panel recommends that the alternating pressure mattress be classified into class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority. The General Hospital and Personal Use Device Classification Panel recommends that the device be classified into class I (general controls). The Panel recommends that the device be exempt from the good manufacturing practice regulation under section 520(f) of the act (21 U.S.C. 360j(f)).

3. Summary of reasons for recommendation: The Physical Medicine Device Classification Panel recommends that the alternating pressure mattress be classified into class II (performance standards) because the Panel believes that there is a potential hazard of electrical shock in any AC-powered device. Therefore, an electrical safety standard is needed to control the electrical properties of the device. The Panel also expresses concern that an air leak may cause the device to fail. This hazard would not be recognized readily by a patient who has a sensation loss. The Panel believes that general controls would not provide sufficient control over these characteristics. The Panel also recommends that the labeling warn users to check the mattress regularly for loss of air pressure. The Panel believes that a standard would provide reasonable assurance of the safety and effectiveness of the device, and that there is sufficient information to establish a standard to provide such assurance. The General Hospital and Personal Use Device Classification Panel recommends that the device be classified into class I (general controls) because the Panel believes that general controls are sufficient to provide reasonable assurance of the safety and

effectiveness of the device. The Panel recommends that the labeling state the maximum weight capacity of the device and warn users to check the mattress regularly to make sure it is functioning properly. The Panel recommends that the device be exempt from good manufacturing practices under section 520(f) of the act because the Panel believes that the quality of the device is easily discernible and that defects are readily apparent to the user.

4. Summary of data on which the recommendations are based: Both Panels based their recommendations on the Panel members' personal knowledge of, and clinical experience with, the device.

5. Risks to health: The Physical Medicine Device Classification Panel identified this risk to health: (a) Electrical shock: Improper design and construction or device malfunction can result in electrical shock. The General Hospital and Personal Use Device Classification Panel identified this risk to health: (b) Infection: If the mattress is difficult to clean, a risk of infection exists.

Proposed Classification

FDA agrees with the Physical Medicine Device Classification Panel recommendation and is proposing that the alternating pressure air flotation mattress be classified into class II (performance standards). The agency has reviewed the recommendations of the Physical Medicine Device Classification Panel for the alternating pressure mattress and the recommendation of the General Hospital and Personal Use Device Classification Panel for the alternating pressure air flotation mattress, and has concluded that the device should be named "alternating pressure air flotation mattress" and its classification be published in the part of the Code of Federal Regulations for General Hospital and Personal Use Devices.

FDA disagrees with the recommendation of the General Hospital and Personal Use Device Classification Panel that this device be classified into class I (general controls) because the agency believes that a standard is needed to control the electrical properties of the device. Because the agency has determined that alternating pressure air flotation mattresses should be classified into class II rather than class I, the agency is not required to publish a regulation adopting or rejecting the recommendation of the General Hospital and Personal Use Device Classification Panel that this device be exempt from the good manufacturing practice regulation under section 520(f) of the act. The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard

would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a standard to provide this assurance.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs proposes to amend Part 880 in Subpart F by adding new § 880.5550, to read as follows:

§ 880.5550 Alternating pressure air flotation mattress.

(a) *Identification.* An alternating pressure air flotation mattress is a mattress with multiple air cells that can be filled and emptied in an alternating pattern by an associated control unit, to provide regular, frequent, and automatic changes in the distribution of body pressure. The device is used to prevent and treat decubitus ulcers (bed sores).

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before October 23, 1979 submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 9, 1979.

William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.

[FR Doc. 79-26076 Filed 8-23-79; 8:45 am]

BILLING CODE 4110-03-M

[21 CFR Part 880]**[Docket No. 78N-1316]****Medical Devices; Classification of Heated Water Mattresses**

AGENCY: Food and Drug Administration.
ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying heated water mattresses into class II (performance standards). FDA is also publishing the recommendation of the General Hospital and Personal Use Device Classification Panel that the device be classified into class II. The

effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by October 23, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Lillian L. Yin, Bureau of Medical Devices (HFK-470), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7555.

SUPPLEMENTARY INFORMATION:**Panel Recommendation**

A proposal elsewhere in this issue of the Federal Register provides background information concerning the development of the proposed regulation. The General Hospital and Personal Use Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of heated water mattresses:

1. Identification: A heated water mattress is a device consisting of a mattress of suitable size, filled with water which can be heated or in some cases cooled, and used for therapy. The device includes electrical heating and water circulating components, and an optional cooling component. The temperature control may be manual or automatic.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a medium priority.

3. Summary of reasons for recommendation: The Panel recommends that the heated water mattress be classified into class II because the Panel believes that a performance standard is needed for this device to assure proper temperature control. The Panel also believes that the electrical properties of this device must be controlled through an electrical safety standard. The Panel believes that general controls would not provide sufficient control over these characteristics. In addition, the Panel recommends that the device be cleanable. The Panel believes that a standard would provide reasonable assurance of the safety and effectiveness of the device, and that there is sufficient information to establish a standard to provide such assurance.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device.

5. Risks to health: (a) Patient burns: If the temperature control mechanism fails, the device may become overheated and burn the patient. Hot water leaking from the mattress also could burn the patient. (b) Infection: If a mattress is difficult to clean, there is a risk of infection. (c) Electrical shock: Improper design and construction or device malfunction could result in electrical shock.

Proposed Classification

FDA agrees with the Panel recommendation and is proposing that the heated water mattress be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a standard to provide such assurance.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs proposes to amend Part 880 in Subpart F by adding new § 880.5560, to read as follows:

§ 880.5560 Heated water mattress.

(a) *Identification.* A heated water mattress is a device consisting of a mattress of suitable size, filled with water which can be heated or in some cases cooled, and used for therapy. The device includes electrical heating and water circulating components, and an optional cooling component. The temperature control may be manual or automatic.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before October 23, 1979 submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 9, 1979.

William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.

[FR Doc. 79-26077 Filed 8-23-79; 8:45 am]

BILLING CODE 4110-03-M

[21 CFR Part 880]**[Docket No. 78N-1316]****Medical Devices; Classification of Hypodermic Single Lumen Needles**

AGENCY: Food and Drug Administration.
ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying hypodermic single lumen needles into class II (performance standards). FDA is also publishing the recommendation of the General Hospital and Personal Use Device Classification Panel that the device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by October 23, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Lillian L. Yin, Bureau of Medical Devices (HFK-470), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7555.

SUPPLEMENTARY INFORMATION:**Panel Recommendation**

A proposal elsewhere in this issue of the Federal Register provides background information concerning the development of the proposed regulation. The General Hospital and Personal Use Device Classification Panel, an FDA advisory committee, made the following recommendation with respect to the classification of hypodermic single lumen needles:

1. Identification: A hypodermic single lumen needle is a device consisting of a tube

that is sharpened at one end and shaped at the other end with a female connector (hub) to mate with the male connector (nozzle) of a piston syringe or an intravascular administration set. It is used to inject fluids into, or withdraw fluids from, parts of the body below the surface of the skin.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a medium priority.

3. Summary of reasons for recommendation: The Panel recommends that hypodermic single lumen needles be classified into class II because the Panel believes that a performance standard is needed for this device to assure proper connection between the "female" connector (hub) of the needle and the "male" connector (nozzle) of the syringe. The Panel believes that general controls would not provide sufficient control over this characteristic. The Panel believes that a performance standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device.

5. Risks to health: (a) Leakage of medication: Improper connection could cause leakage of medication at the connecting site and failure of therapy. Also, leakage of medication could cause drug hypersensitivity in the administering health care personnel exposed to the medication. (b) Infections: Improper sterilization of the device may result in infection in the patient. (c) Tissue trauma: If the needle point is not properly finished and sharp, there is a possibility of tissue trauma.

Proposed Classification

FDA agrees with the Panel recommendation and is proposing that the hypodermic single lumen needle be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a standard to provide this assurance.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs proposes to amend Part 880 in Subpart F by adding new § 880.5570, to read as follows:

§ 880.5570 Hypodermic single lumen needle.

(a) *Identification.* A hypodermic single lumen needle is a device consisting of a tube that is sharpened at one end and shaped at the other end with a female connector (hub) to mate with the male connector (nozzle) of a piston syringe or an intravascular administration set. It is used to inject fluids into, or withdraw fluids from, parts of the body below the surface of the skin.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before October 23, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 15, 1979.

William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.

[FR Doc. 79-26078 Filed 8-23-79; 8:45 am]
BILLING CODE 4110-03-M

[21 CFR Part 880]

[Docket No. 78N-1317]

Medical Devices; Classification of Nipple Shields

AGENCY: Food and Drug Administration.
ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying nipple shields into class I (general controls). FDA is also publishing the recommendation of the Obstetrical and Gynecological Device Classification Panel that nipple shields be classified into class I. The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by October 23, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Lillian L. Yin, Bureau of Medical Devices (HFK-470), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7555.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the Federal Register provides background information concerning the development of the proposed regulation. The Obstetrical and Gynecological Device Classification Panel, an FDA advisory committee, made the following recommendation with respect to the classification of nipple shields:

1. Identification: A nipple shield is a device consisting of a cover used to protect the nipple of a nursing woman.

2. Recommended classification: Class I (general controls). The Panel recommends that there be no exemptions.

3. Summary of reasons for recommendation: The Panel recommends that nipple shields be classified into class I because the Panel believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device. These simple devices have been widely used for many years.

5. Risks to health: (a) Skin irritation: The material used in this device may irritate the skin.

Proposed Classification

FDA agrees with the Obstetrical and Gynecological Device Classification Panel recommendation and is proposing that the nipple shield be classified into class I (general controls) with no exemptions. The agency has concluded that because this device has many general uses, its classification should be published in the part of the Code of Federal Regulations for General Hospital and Personal Use Devices. The agency believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs proposes to amend Part 880 in Subpart F

by adding new § 880.5630, to read as follows:

§ 880.5630 Nipple shield.

(a) *Identification.* A nipple shield is a device consisting of a cover used to protect the nipple of a nursing woman.

(b) *Classification.* Class I (general controls).

Interested persons may, on or before October 23, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 15, 1979.

William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.

[FR Doc. 79-26079 Filed 8-23-79; 8:45 am]
BILLING CODE 4110-03-M

[21 CFR Part 880]

[Docket No. 78N-1318]

Medical Devices; Classification of Lamb Feeding Nipples

AGENCY: Food and Drug Administration.
ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying lamb feeding nipples into class I (general controls). FDA is also publishing the recommendation of the General Hospital and Personal Use Device Classification panel that the device be classified into class I. The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by October 23, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Lillian L. Yin, Bureau of Medical Devices (HFK-470), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7555.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A Proposal elsewhere in this issue of the Federal Register provides background information concerning the development of the proposed regulation. The General Hospital and Personal Use Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of lamb feeding nipples:

1. Identification: A lamb feeding nipple is a device intended to be used as a feeding nipple for infants with oral or facial abnormalities.

2. Recommended classification: Class I (general controls). The Panel recommends that this device be exempt from premarket notification under section 510(k) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360(k)) and exempt from the good manufacturing practice regulation under section 520(f) of the act (21 U.S.C. 360(f)).

3. Summary of reasons for recommendation: The Panel recommends that lamb feeding nipples be classified into class I because the Panel believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device. The Panel recommends that this device be exempt from premarket notification under section 510(k) of the act because the Panel believes that FDA does not need to receive premarket notification of a manufacturer's intent to market this simple device. The Panel recommends that this device be exempt from the good manufacturing practice regulation under section 520(f) of the act because the panel believes that the quality of the device is easily discernible and that defects are readily apparent to the user.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device.

5. Risks to health: None identified.

Proposed Classification

FDA agrees with the Panel recommendation and is proposing that lamb feeding nipples be classified into class I (general controls). The agency believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

In response to the Panel's recommendation that manufacturers of a lamb feeding nipple be exempt from section 510(k) of the act, FDA is proposing that these manufacturers be subject to registration and device listing

under section 510(a) through (j) of the act, but exempt from premarket notification under section 510(k) of the act and Subpart E of Part 807 of the regulations (21 CFR Part 807). Under section 510(g)(4) of the act, the agency may exempt a manufacturer from section 510 only if it finds that compliance with this section is not necessary for the protection of the public health. In the case of registration and listing by manufacturers of a lamb feeding nipple, the agency cannot make the required finding. To protect the public health, the agency needs to be able to identify the firms manufacturing this device and to conduct necessary inspections. The agency has determined, however, that it is not necessary for the protection of the public health that FDA receive premarket notification submissions concerning a lamb feeding nipple. The agency does not at this time anticipate that premarket approval will be required for this device. The agency believes that the semiannual updating of device listing under section 510(j)(2) will provide FDA with adequate notice concerning new products within this generic type of device.

In response to the Panel's recommendation that manufacturers of a lamb feeding nipple be exempt from the device good manufacturing practice (GMP) regulation under section 520(f) of the act, FDA is proposing that a manufacturer of this device who does not label or otherwise represent it as sterile be exempt, in the manufacture of the device, from all requirements in the GMP regulation except § 820.180 (21 CFR 820.180), with respect to general requirements concerning records, and § 820.198 (21 CFR 820.198), with respect to complaint files. Based on available information about current practices used in the manufacture of the device and user experience with the device, the agency has determined that application of the GMP regulation, other than §§ 820.180 and 820.198, is unlikely to improve the safety and effectiveness of the device. The agency believes, however, that manufacturers of a lamb feeding nipple, even when it is not labeled or otherwise represented as sterile, must still be required to comply with the complaint file requirements of § 820.198 to ensure that these manufacturers have adequate systems for complaint investigation and followup. The agency also believes that manufacturers of a lamb feeding nipple must still be required to comply with the general requirements concerning records in § 820.180 to ensure that FDA has access to complaint files, can investigate device-related injury reports and

complaints about product defects, may determine whether the manufacturer's corrective actions are adequate, and may determine whether the exemption from other sections of the GMP regulation is still appropriate. A manufacturer of a lamb feeding nipple that is labeled or otherwise represented as sterile is, in the manufacture of this device, subject to the GMP regulation in its entirety.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs proposes to amend Part 880 in Subpart F by adding new § 880.5640, to read as follows:

§ 880.5640 Lamb feeding nipple.

(a) *Identification.* A lamb feeding nipple is a device intended to be used as a feeding nipple for infants with oral or facial abnormalities.

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in Subpart E of Part 807 of this chapter. If the device is not labeled or otherwise represented as sterile, it also is exempt from the good manufacturing practice regulation in Part 820 of this chapter, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

Interested persons may, on or before October 23, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 9, 1979.
William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.

[FR Doc. 79-28080 Filed 8-23-79; 8:45 am]
BILLING CODE 4110-03-M

[21 CFR Part 880]

(Docket No. 78N-1319)

**Medical Devices; Classification of
Infant Position Holders**

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying infant position holders into class I (general controls). FDA is also publishing the recommendation of the General Hospital and Personal Use Device Classification Panel that the device be classified into class I. The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by October 23, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Lillian L. Yin, Bureau of Medical Devices (HFK-470), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7555.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the Federal Register provides background information concerning the development of the proposed regulation. The General Hospital and Personal Use Device Classification Panel, and FDA advisory committee, made the following recommendation regarding the classification of infant position holders:

1. Identification: An infant position holder is a device used to hold an infant in a desired position for therapeutic and diagnostic purposes, e.g., in a crib under a radiant warmer. The Panel considered this generic type of device under the name "tiltable cradle bed."

2. Recommended classification: Class I (general controls). The Panel recommends that the device be exempt from the good manufacturing practice regulation under section 520(f) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360j(f)).

3. Summary of reasons for recommendation: The Panel recommends that infant position holders be classified into class I because the Panel believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device. The Panel recommends that this device be exempt from the good manufacturing practice regulation under

section 520(f) of the act because the Panel believes that the quality of the device is easily discernible and defects are readily apparent to the user.

4. Summary of data on which the recommendation is based: The Panel members based their recommendation on their personal knowledge of, and clinical experience with, this device.

5. Risks to health: Patient injury: If the device is not stable or if the straps holding the infant cannot be made secure, the infant may fall and be injured.

Proposed Classification

FDA agrees with the Panel recommendation and is proposing that infant position holders be classified into class I (general controls). The agency believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

In response to the Panel's recommendation that manufacturers of an infant position holder be exempt from the device good manufacturing practice (GMP) regulation under section 520(f) of the act, FDA is proposing that a manufacturer of this device be exempt, in the manufacture of the device, from all requirements in the GMP regulation except § 820.180 (21 CFR 820.180), with respect to general requirements concerning records, and § 820.198 (21 CFR 820.198), with respect to complaint files. Based on available information about current practices used in the manufacture of the device and user experience with the device, the agency has determined that application of the GMP regulation, other than §§ 820.180 and 820.198, is unlikely to improve the safety and effectiveness of the device. The agency believes, however, that manufacturers of an infant position holder must still be required to comply with the complaint file requirements of § 820.198 to ensure that these manufacturers have adequate systems for complaint investigation and followup. The agency also believes that manufacturers of an infant position holder must still be required to comply with the general requirements concerning records in § 820.180 to ensure that FDA has access to complaint files, can investigate device-related injury reports and complaints about product defects, may determine whether the manufacturer's corrective actions are adequate, and may determine whether the exemption from other sections of the GMP regulation is still appropriate.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the

Commissioner of Food and Drugs proposes to amend Part 880 in Subpart F by adding new § 880.5680, to read as follows:

§ 880.5680 Infant position holder.

(a) *Identification.* An infant position holder is a device used to hold an infant in a desired position for therapeutic and diagnostic purposes, e.g., in a crib under a radiant warmer.

(b) *Classification.* Class I (general controls). The device is exempt from the good manufacturing practice regulation in Part 820 of this chapter, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

Interested persons may, on or before October 23, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between 9 a.m. to 4 p.m., Monday through Friday.

Dated: August 9, 1979.

William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.

[FR Doc. 79-28081 Filed 8-23-79; 8:45 am]
BILLING CODE 4110-03-M

[21 CFR Part 880]

(Docket No. 78N-1320)

**Medical Devices; Classification of
Neonatal Phototherapy Units**

AGENCY: Food and Drug Administration.
ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying neonatal phototherapy units into class II (performance standards). FDA is also publishing the recommendation of the General Hospital and Personal Use Device Classification Panel that the device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to ensure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being

taken under the Medical Device Amendments of 1976.

DATES: Comments by October 23, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Lillian L. Yin, Bureau of Medical Devices (HFK-470), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7555.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the Federal Register provides background information concerning the development of the proposed regulation. The General Hospital and Personal Use Device Classification Panel, and FDA advisory committee, made the following recommendation regarding the classification of neonatal phototherapy units:

1. Identification: A neonatal phototherapy unit is a device used to treat or prevent hyperbilirubinemia (elevated serum bilirubin level). The device consists of one or more lamps that emit a specific spectral band of light, under which an infant is placed for therapy. This generic type of device may include supports for the patient and equipment and component parts.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a high priority.

3. Summary of reasons for recommendation: The Panel recommends that neonatal phototherapy units be classified into class II because the Panel believes that a performance standard is needed to ensure that the lamp in the device emits the most effective spectral band of light and does not emit ultraviolet light, which could increase the risk of skin cancer. The Panel believes that a performance standard is needed to regulate the amount and intensity of light administered to the patient and to ensure that the lamp is a proper distance from the patient. Also, if the neonatal phototherapy unit includes a dosimeter (a device that measures the dosage of light administered to the patient), the dosimeter should be accurate. Furthermore, the Panel believes that the electrical properties of the device must be controlled through an electrical safety standard. The Panel recommends that the labeling state the spectral band of the lamp, describe the recommended maintenance schedule for the device, and include a chart describing recommended doses for therapy. The Panel also

recommends that the labeling include warnings that insensible (imperceptible) water loss in the patient increases during therapy, that the patient may develop hyperthermia (body temperature above 38.6° F) during therapy, and that the patient's eyes should be protected during therapy. The Panel also recommends that the lamp be shielded to prevent injury to the patient from falling glass if the lamp breaks. The Panel recommends that this device be used only by, or under the direction of, a physician. The Panel believes that general controls would not provide sufficient control over these characteristics. The Panel believes that a performance standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a performance standard to provide such assurance.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device, on presentations made at the January 15, 1979, Panel Meeting (Ref. 7), and on several articles in the literature (Refs. 2 and 3). Sisson et al. conducted a controlled study to evaluate the effect of three types of fluorescent lamps on serum bilirubin concentrations in three groups of newborn infants with physiologic jaundice (Ref. 2). Each group consisted of 24 infants. The study found that the lamp that most effectively reduced serum bilirubin concentrations was a special blue lamp with narrow spectral emissions of 420 to 470 nanometers. The energy output of this lamp was 2.90 microwatts per square centimeter. In 1972 the National Research Council of the National Academy of Sciences established a committee on phototherapy of the newborn infant. A preliminary report of the committee was published in 1974 (Ref. 3). The report stated that there are adequate data to show that the serum bilirubin concentration in a premature infant can be prevented from rising if phototherapy is used for as long as 72 hours, starting on the first day of life. The report stated that the use of light meters to measure exposures during phototherapy is inappropriate because these meters are designed to measure illuminance, which does not show the amount of electromagnetic radiation absorbed by the infant. The report recommends that spectral irradiance, spectral transmittance, and spectral absorbance be used to determine the amount of electromagnetic radiation absorbed by the infant. Spectral irradiance is the radiative power density of the incident light expressed in watts per square centimeter per unit wavelength over the entire spectral range to which the patient is exposed. Spectral transmittance is the amount of incident light transmitted through the epidermis and other tissues to the sites of photochemical reactions. Spectral absorbance is the amount of transmitted light absorbed by molecules that initiate photochemical reactions. The committee recommends that for the present, phototherapeutic dosage be defined as the product of spectral irradiance and time (Ref. 3).

5. Risks to health: (a) Burns: If the patient touches the lamp or if the lamp emits

radiation in the infrared or ultraviolet spectrum, burns could result. (b) Eye injury: If the patient's eyes are not shielded, eye injury could result from radiation exposure. (c) Hyperthermia (body temperature above 98.6° F): If the patient is constantly exposed to the radiation, hyperthermia could result. (d) Toxicity reaction: The radiation emitted by the lamp may cause toxic substances to be formed in and leached from plastic intravenous (I.V.) tubing. These substances could be carried by the I.V. fluid into the patient's blood system, resulting in a toxicity reaction. (e) Skin cancer: If the device emits radiation in certain regions of the ultraviolet spectrum, there could be a risk of skin cancer. (f) Insensible (not easily perceived) water loss: The heat from the radiation of this device may cause insensible water loss in the patient. (g) Electrical shock: Improper device design and construction or device malfunction could result in an electrical shock. (h) Inability to absorb lactose, resulting in diarrhea: Phototherapy treatment may inhibit the patient's intestinal lactase, preventing absorption of lactose and resulting in diarrhea. (i) Thrombocytopenia (subnormal number of platelets in the blood): Phototherapy may cause thrombocytopenia. (j) Inappropriate therapy: The level of serum bilirubin does not decrease in some infants who are treated with phototherapy, resulting in jaundice. Without appropriate patient monitoring, a delay of a necessary exchange blood transfusion could result. (k) Bronze baby syndrome: Infants undergoing phototherapy can develop bronze baby syndrome (a brown-black discoloration of the skin, serum, and urine). (l) Patient injury: If the lamp breaks, the patient could be injured by glass.

Proposed Classification

FDA agrees with the Panel recommendation and is proposing that neonatal phototherapy units be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by this device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a standard to provide this assurance.

References

The following information has been placed in the office of the Hearing Clerk (address above) and may be seen by interested persons, from 9 a.m. to 4 p.m., Monday through Friday.

- Minutes of the General Hospital and Personal Use Device Classification Panel Meeting, Washington, DC, January 15, 1979.
- Sisson, T. R., N. Kendall, E. Shaw, and L. Kechavarz-Oliai. "Phototherapy of Jaundice in the Newborn Infant. II: Effect of Various Light Intensities." *Journal of Pediatrics*, 81(1): 35-38, July 1972.
- Behrman, R. E., A. K. Brown, et al., (National Academy of Sciences Committee),

"Preliminary Report of the Committee on Phototherapy in the Newborn Infant," *Journal of Pediatrics*, 84(1): 135-147, January 1974.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs proposes to amend Part 880 in Subpart F by adding new § 880.5700, to read as follows:

§ 880.5700 Neonatal phototherapy unit

(a) *Identification.* A neonatal phototherapy unit is a device used to treat or prevent hyperbilirubinemia (elevated serum bilirubin level). The device consists of one or more lamps that emit a specific spectral band of light, under which an infant is placed for therapy. This generic type of device may include supports for the patient and equipment and component parts.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before October 23, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 9, 1979.

William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.

[FR Doc. 79-26082 Filed 8-23-79; 8:45 am]

BILLING CODE 4110-03-M

[21 CFR Part 880]

[Docket No. 78N-1321]

Medical Devices; Classification of Infusion Pumps

AGENCY: Food and Drug Administration.
ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying infusion pumps into class II (performance standards). FDA is also publishing the recommendations of the General Hospital and Personal Use Device Classification Panel, the Cardiovascular Device Classification Panel, and the Anesthesiology Device Classification Panel that infusion pumps

be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by October 23, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Lillian L. Yin, Bureau of Medical Devices (HFK-470), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7555.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the Federal Register provides background information concerning the development of the proposed regulation. The General Hospital and Personal Use Device Classification Panel, the Cardiovascular Device Classification Panel, and the Anesthesiology Device Classification Panel, FDA advisory committees, made the following recommendations regarding the classification of infusion pumps:

1. Identification: An infusion pump is a device used to pump fluids into a patient in a controlled manner. The device may use a piston pump, a roller pump, or a peristaltic pump and may be powered electrically or mechanically. The device may include means to detect a fault condition, such as air in or blockage of the infusion line, and to activate an alarm. The General Hospital and Personal Use Device Classification Panel identified this generic type of device under the names "infusion pump" and "perfusion unit." The Cardiovascular Device Classification Panel identified this generic type of device under the name "cardiovascular infusion pump." The Anesthesiology Device Classification Panel identified this generic type of device under the name "powered infusion apparatus (except radiographic dye injection)."

2. Recommended classification: Class II (performance standards). The Cardiovascular Device Classification Panel recommends that establishing a performance standard for this device be a high priority. The General Hospital and Personal Use Device Classification Panel and the Anesthesiology Device Classification Panel recommend that establishing a performance standard for this device be a medium priority.

3. Summary of reasons for recommendation: All three Panels recommend that infusion pumps be classified into class II because the electrical properties of this device must be controlled through an electrical safety standard. In addition, the Cardiovascular Device Classification Panel believes that a performance standard is necessary to assure accurate, controlled delivery of fluids to the patient without inadvertent administration of other substances (e.g., air). The General Hospital and Personal Use Device Classification Panel recommends that a performance standard assure accuracy of the rate of flow of fluids, according to a standard test method which would be established by the performance standard. The Panel also believes that the labeling should describe the accuracy of the flow rate, according to such a method. In addition, the Panel recommends that the labeling for the perfusion unit state the size of catheter, needle, and filter that should be used with the device and describe the degree of accuracy of drug delivery that can be expected. The General Hospital and Personal Use Device Classification Panel also expresses concern that the hypersensitivity of some pump alarms causes them to be activated by slight vibrations, resulting in a high rate of false positive alarms. The Panel also recommends that users check any emergency battery supply for the device at regular and frequent intervals to avoid the risk of a power failure. The Anesthesiology Device Classification Panel recommends that a performance standard control the device's design and the materials used in the device, to assure that all connections and components are leak-free, to prevent air emboli from entering the patient, to assure proper infusion pressure without extravasation (overflow of fluid into the surrounding tissues), and to control the infusion rate to prevent administration of an inappropriate dosage. All three Panels believe that general controls would not provide sufficient control over these characteristics. All three Panels believe that general controls would not provide sufficient control over these characteristics. All three Panels believe that a performance standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance.

4. Summary of data on which the recommendations are based: All three Panels based their recommendations on the Panel members' personal knowledge of, and clinical experience with, the device. The Cardiovascular Device Classification Panel also based its recommendation on the summary of a report prepared by the Utah Biomedical Test Laboratory under contract with FDA (Ref. 1). This report describes the results of a study conducted by the Laboratory on the technical characteristics of angiographic injectors and infusion and withdrawal pumps. The report recommends that a standard for infusion pumps address accuracy of fluid delivery, range of infusion parameters, warmup time, battery operation, and safety features.

5. Risks to health: All three Panels identified the following risks to health: (a) Electrical microshock, macroshock, or arrhythmias: Because the device is frequently used in close proximity to conductive beds and catheters to the heart, electrical leakage current could cause electrical microshock, macroshock, or arrhythmia. (b) Inaccurate drug administration: If the device fails to deliver a drug at the prescribed flow rate, overdosage or underdosage will result. (c) Air embolism: If the pump is unable to detect when the reservoir is empty or when there is leakage from a connection or component, air may be infused into the patient. The General Hospital and Personal Use Device Classification Panel identified the following additional risk to health: (d) Alarm failure: If the alarm is overly sensitive to the environment, it may be activated for a reason other than the reason for which it was designed, resulting in a high rate of false positive alarms. As a result, some personnel may disregard the alarm as a signal of patient distress. The Anesthesiology Device Classification Panel identified the following additional risk to health: (e) Extravasation: Overpressurization by the device may cause extravasation (overflow of fluid into surrounding tissues) in the patient.

Proposed Classification

FDA agrees with the three Panels and is proposing that infusion pumps be classified into class II (performance standards). The agency has reviewed the recommendation of the Cardiovascular Device Classification Panel for cardiovascular infusion pumps, the recommendation of the General Hospital and Personal Use Device Classification Panel for infusion pumps and perfusion units, and the recommendation of the Anesthesiology Device Classification Panel for powered infusion apparatus, and has concluded that the device should be named "infusion pump" and its classification be published in the part of the Code of Federal Regulation for General Hospital and Personal Use Devices.

The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a standard to provide this assurance.

Reference

The following information has been placed in the office of the Hearing Clerk (address above) and may be seen by interested persons, from 9 a.m. to 4 p.m., Monday through Friday.

- "Safety and Performance of Angiographic Injectors and Infusion and Withdrawal Pumps," Final Report of the Utah Biomedical Test Laboratory (TR 170-005).

University of Utah Research Institute, Salt Lake City, Utah, June 30, 1977.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs proposes to amend Part 880 in Subpart F by adding new § 880.5725, to read as follows:

§ 880.5725 Infusion pump.

(a) *Identification.* An infusion pump is a device used to pump fluids into a patient in a controlled manner. The device may use a piston pump, a roller pump, or a peristaltic pump and may be powered electrically or mechanically. The device may include means to detect a fault condition, such as air in or blockage of the infusion line, and to activate an alarm.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before October 23, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 9, 1979.

William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.

[FR Doc. 79-26083 Filed 8-23-79; 8:45 am]

BILLING CODE 4110-03-M

[21 CFR Part 880]

[Docket No. 78N-1381]

Medical Devices; Classification of Suction Snakebite Kits

AGENCY: Food and Drug Administration.
ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying suction snakebite kits into class I (general controls). FDA is also publishing the recommendation of the General Hospital and Personal Use Device Classification Panel that the device be classified into class I. The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all

devices. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by October 23, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Lillian L. Yin, Bureau of Medical Devices (HFK-470), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Avenue, Silver Spring, MD 20910, 301-427-7555.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the Federal Register provides background information concerning the development of the proposed regulation. The General Hospital and Personal Use Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of suction snakebite kits:

1. Identification: A suction snakebite kit is a device consisting of a knife, suction device, and tourniquet used for first-aid treatment of snakebites by removing venom from the wound.

2. Recommended classification: Class I (general controls). The Panel recommends that there be no exemptions.

3. Summary of reasons for recommendation: The Panel recommends that suction snakebite kits be classified into class I because the Panel believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device. The Panel also recommends that the labeling state that the device should be used within 5 minutes after a bite has been inflicted, and that the tourniquet should not be applied too tightly or for a prolonged period of time.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device, and on several articles in the literature that evaluate the different types of treatment of snakebites (Refs. 1 through 6).

5. Risks to health: (a) Infection: If the knife is not sterile, the wound may become infected. (b) Inadequate removal of venom: If the vacuum pressure of the suction device is inadequate, the venom may not be removed. (c) Local tissue necrosis: If the tourniquet is applied too tightly or for a prolonged period, necrosis of local tissue may occur.

Proposed Classification

FDA agrees with the Panel recommendation and is proposing that suction snakebite kits be classified into class I (general controls) with no exemptions. The agency believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

References

The following information has been placed in the office of the Hearing Clerk (address above) and may be seen by interested persons, from 9 a.m. to 4 p.m., Monday through Friday.

1. Brossy, J., "The Treatment of Snakebite," *South African Medical Journal*, 51:390-391, 1977.
2. Clement, J. F. and R. G. Pietrusko, "Pit Viper Snakebite in the United States," *The Journal of Family Practice*, 6(2):269-279, 1978.
3. "First Aid for Snakebite," Report of the Committee on Emergency Medical Services, Assembly of Life Sciences, National Research Council, National Academy of Sciences, Washington, DC, 1977.
4. Glass, T. C., "Early Debridement in Pit Viper Bites," *Journal of the American Medical Association*, 235(23):2513-2516, 1976.
5. Sabback, M. S., E. R. Cunningham, and C. T. Fitts, "A Study of the Treatment of Pit Viper Envenomization in 45 Patients," *The Journal of Trauma*, 17(8):569-573, 1977.
6. Watt, C. H., "Poisonous Snakebite Treatment in the United States," *Journal of the American Medical Association*, 240(7):654-656, 1978.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs proposes to amend Part 880 in Subpart F by adding new § 880.5740, to read as follows:

§ 880.5740 Suction snakebite kit.

(a) *Identification.* A suction snakebite kit is a device consisting of a knife, suction device, and tourniquet used for first-aid treatment of snakebites by removing venom from the wound.

(b) *Classification.* Class I (general controls).

Interested persons may, on or before (October 23, 1979 submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 10, 1979.

William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.

(FR Doc. 79-28084 Filed 8-23-79; 8:45 am)

BILLING CODE 4110-03-M

[21 CFR Part 880]

[Docket No. 78-1382]

Medical Devices; Classification of Chemical Cold Pack Snakebite Kits

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying chemical cold pack snakebite kits into class III (premarket approval). FDA is also publishing the recommendation of the General Hospital and Personal Use Device Classification Panel that the device be classified into class III. The effect of classifying a device into class III is to provide for each manufacturer of the device to submit to FDA a premarket approval application at a date to be set in a future regulation. Each application includes information concerning safety and effectiveness tests of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by October 23, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Lillian L. Yin, Bureau of Medical Devices (HFK-470), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Avenue, Silver Spring, MD 20910, 301-427-7555.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A Proposal elsewhere in this issue of the Federal Register provides background information concerning the development of the proposed regulation. The General Hospital and Personal Use Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the

classification of chemical cold pack snakebite kits:

1. Identification: A chemical cold pack snakebite kit is a device consisting of a chemical cold pack and tourniquet used for first-aid treatment of snakebites.

2. Recommended classification: Class III (Premarket approval). The Panel recommends that premarket approval of this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that chemical cold pack snakebite kits be classified into class III because the use of cold therapy for the first-aid treatment of snakebites has not been proven to be safe and effective. The Panel believes that a performance standard would not provide reasonable assurance of the safety and effectiveness of the device and that there is insufficient information to establish a standard to provide such assurance. The device, therefore, should be subject to premarket approval to assure that manufacturers demonstrate satisfactory performance of the device and thus assure its safety and effectiveness.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device and on several articles in the literature that evaluate different types of treatment for snakebites (Refs. 1, 2, and 3). Most of the literature shows that cryotherapy (the use of cold therapy for the treatment of snakebites) is inappropriate. Clement and Pietrusko found high rates of amputation, local tissue destruction, and prolonged disability in patients treated by this method (Ref. 1). A National Academy of Sciences report stated that doubts about the safety and effectiveness of short-term cold therapy for treatment of snakebites have not been resolved (Ref. 2). The report also stated that the use of cold therapy for a long period of time appears to be dangerous. Watt reported that, among children who had to have amputations because of snakebites, 75 percent had received cryotherapy for the snakebites (Ref. 3).

5. Risks to health: Local tissue damage: Exposure of tissue to cold temperatures for long periods of time can freeze the tissue and cause local tissue damage, sometimes necessitating limb amputations.

Proposed Classification

FDA agrees with the Panel recommendation and is proposing that chemical cold pack snakebite kits be classified into class III (premarket approval). The agency believes that the device presents a potential unreasonable risk of illness or injury because the device has not been proven to be a safe and effective method of first aid treatment of snakebites, and its use has been associated with an unduly high rate of amputation, local tissue destruction, and other disabilities in snakebite victims. The agency believes that insufficient information exists to

determine that general controls would provide reasonable assurance of the safety and effectiveness of the device and that insufficient information exists to establish a performance standard to provide this assurance.

References

The following information has been placed in the office of the Hearing Clerk (address above) and may be seen by interested persons, from 9 a.m. to 4 p.m., Monday through Friday.

1. Clement, J. F. and R. G. Pietrusko, "Pit Viper Snakebite in the United States," *The Journal of Family Practice*, 6(2): 269-279, 1978.
2. "First Aid for Snakebite," Report of the Committee on Emergency Medical Services, Assembly of Life Sciences, National Research Council, National Academy of Sciences, Washington, DC, 1977.
3. Watt, C. H., Jr., "Poisonous Snakebite Treatment in the United States," *Journal of the American Medical Association*, 240(7): 654-656, August 1978.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs proposes to amend Part 880 in Subpart F by adding new § 880.5760, to read as follows:

§ 880.5760 Chemical cold pack snakebite kit.

(a) *Identification.* A chemical cold pack snakebite kit is a device consisting of a chemical cold pack and tourniquet used for first-aid treatment of snakebites.

(b) *Classification.* Class III (premarket approval).

Interested persons may, on or before October 23, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 10, 1979.

William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.

(FR Doc. 79-28085 Filed 8-23-79; 8:45 am)

BILLING CODE 4110-03-M

[21 CFR Part 880]

[Docket No. 78N-1322]

Medical Devices; Classification of Medical Support Stockings

AGENCY: Food and Drug Administration.
ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying medical support stockings into class I (general controls). FDA is also publishing the recommendation of the General Hospital and Personal Use Device Classification Panel that this device be classified into class I (general controls). The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. FDA is also publishing the recommendation of the Cardiovascular Device Classification Panel that this device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by October 23, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Lillian L. Yin, Bureau of Medical Devices (HFK-470), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Avenue, Silver Spring, MD 20910, 301-427-7555.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the Federal Register provides background information concerning the development of the proposed regulation. The General Hospital and Personal Use Device Classification Panel and the Cardiovascular Device Classification Panel, FDA advisory committees, made the following recommendations regarding the classification of medical support stockings:

1. Identification: A medical support stocking is a device used to help prevent

pooling of blood in the leg. The General Hospital and Personal Use Device Classification Panel identified this generic type of device under the name "elastic stocking." The Cardiovascular Device Classification Panel identified this generic type of device under the name "medical support stocking."

2. Recommended and classification: The General Hospital and Personal Use Device Classification Panel recommends that this device be classified into class I (general controls). The Panel recommends that there be no exemptions. The Cardiovascular Device Classification Panel recommends that this device be classified into class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The General Hospital and Personal Use Device Classification Panel recommends that the device be classified into class I because the Panel believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device. The Panel also recommends that manufacturers voluntarily assure that the device is made of a porous material to permit the passage of moisture and air. The Panel also recommends that the label state the size of stocking required for various leg sizes and describe the different uses of the device. The Cardiovascular Device Classification Panel recommends that this device be classified into class II because the Panel believes that the elastic material used in the device, which comes in direct contact with the patient's skin, should meet a generally accepted, satisfactory level of tissue compatibility, and should be subject to controls on surface finish and cleanliness, which may affect tissue compatibility. This Panel also believes that a standard should assure that the device provides enough pressure on the leg to help prevent blood pooling, and that the pressure should be greatest on the distal portions of the leg. In addition, a standard should prohibit the use of a restrictive band at the top of the stocking which would tend to increase, rather than decrease, blood pooling. The Cardiovascular Device Classification Panel believes that general controls would not provide sufficient control over these characteristics. The Panel believes that a performance standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance.

4. Summary of data on which the recommendations are based: Both Panels based their recommendations on the Panel members' personal knowledge of, and clinical experience with, the device.

5. Risks to health: The Cardiovascular Device Classification Panel identified the following risk to health: Occlusion of a blood vessel: An ineffective design of the device can allow, rather than prevent, pooling of blood and thus increase the danger of thrombus formation and embolization. The General Hospital and Personal Use Device Classification Panel identified no risks to health.

Proposed Classification

FDA agrees with the General Hospital and Personal Use Device Classification Panel recommendation and is proposing that medical support stockings be classified into class I (general controls) with no exemptions. The agency has reviewed the recommendation of the General Hospital and Personal Use Device Classification Panel for the elastic stocking and the recommendation of the Cardiovascular Device Classification Panel for the medical support stocking and has concluded that the device should be named "medical support stocking" and its classification be published in the part of the Code of Federal Regulations for General Hospital and Personal Use Devices. The agency disagrees with the recommendation of the Cardiovascular Device Classification Panel that medical support stockings be classified into class II. FDA believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device. FDA believes that adequate labeling, including the size of the device and a description of the different uses of the device, and compliance by manufacturers with the good manufacturing practice regulation will assure the quality of the device and assure that the device does not increase the risk of embolic complications.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs proposes to amend Part 880 in Subpart F by adding new § 880.5780, to read as follows:

§ 880.5780 Medical support stocking.

(a) *Identification.* A medical support stocking is a device used to help prevent pooling of blood in the leg.

(b) *Classification.* Class I (general controls).

Interested persons may, on or before October 23, 1979 submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 10, 1979.
William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.

[FR Doc. 79-26086 Filed 8-23-79; 8:45 am]
BILLING CODE 4110-03-M

[21 CFR Part 880]

[Docket No. 78N-1323]

Medical Devices; Classification of I.V. Set Stopcocks

AGENCY: Food and Drug Administration.
ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying I.V. set Stopcocks into class II (performance standards). FDA is also publishing the recommendation of the General Hospital and Personal Use Device Classification Panel that the device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by October 23, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Lillian L. Yin, Bureau of Medical Devices (HFK-470), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Avenue, Silver Spring, MD 20910, 301-427-7555.

SUPPLEMENTARY INFORMATION:

Panel recommendation

A proposal elsewhere in this issue of the Federal Register provides background information concerning the development of the proposed regulation. The General Hospital and Personal Use Device Classification Panel, an FDA advisory committee, made the following recommendation with respect to the classification of I.V. set stopcocks:

1. *Identification:* An I.V. set stopcock is a device consisting of an outer valve shell to which two or more tubes can be connected and an inner movable valve which, when

turned to different positions, interconnects the several fluid paths from the tubes to permit or prevent the flow of fluid between tubes.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a medium priority.

3. Summary of reasons for recommendation: The Panel recommends that I.V. set stopcocks be classified into class II because the Panel believes that a standard is needed to assure proper connection between the "female" and "male" connectors of the stopcock, and the corresponding "male" and "female" connectors of the tubing. The Panel also believes the label of the device should indicate the pathways for the flow of fluids. The Panel believes that general controls would not provide sufficient control over these characteristics. The Panel believes that a performance standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device.

5. Risks to health: Inappropriate therapy: Fluid leakage at the connection site or erroneous indication of fluid path through the stopcock could cause a failure to deliver the appropriate amount of fluid to the patient, resulting in inappropriate therapy.

Proposed Classification

FDA agrees with the Panel recommendation and is proposing that I.V. set stopcocks be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risk to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a standard to provide this assurance.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs proposes to amend Part 880 in Subpart F by adding new § 880.5800, to read as follows:

§ 880.5800 I.V. set stopcock.

(a) *Identification.* An I.V. set stopcock is a device consisting of an outer valve shell to which two or more tubes can be connected and an inner movable valve which, when turned to different positions, interconnects the several fluid paths from the tubes to permit or prevent the flow of fluid between tubes.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before October 23, 1979 submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 10, 1979.

William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.

[FR Doc. 79-26087 Filed 8-23-79; 8:45 am]
BILLING CODE 4110-03-M

[21 CFR Part 880]

[Docket No. 78N-1324]

Medical Devices; Classification of Scrotal Supports

AGENCY: Food and Drug Administration.
ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying scrotal supports into class I (general controls). FDA is also publishing the recommendation of the General Hospital and Personal Use Device Classification Panel that the device be classified into class I. The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. FDA is also publishing the recommendation of the Gastroenterological-Urological Device Classification Panel that the device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by October 23, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-

65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Lillian L. Yin, Bureau of Medical Devices (HFK-470), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Avenue, Silver Spring, MD 20910, 301-427-7555.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the Federal Register provides background information concerning the development of the proposed regulation. The General Hospital and Personal Use Device Classification Panel and the Gastroenterological-Urological Device Classification Panel, FDA advisory committees, made the following recommendations regarding the classification of scrotal supports:

1. *Identification:* A scrotal support is a device consisting of a pouch attached to an elastic waistband used to support the scrotum (the sac that contains the testicles) for therapeutic purposes.

2. Recommended classification: The General Hospital and Personal Use Device Classification Panel recommends that this device be classified into class I (general controls). The Panel recommends that this device be exempt from premarket notification under section 510(k) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360(k)) and the good manufacturing practice regulation under section 520(f) of the act (21 U.S.C. 360(f)). The Gastroenterological-Urological Device Classification Panel recommends that this device be classified into class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The General Hospital and Personal Use Device Classification Panel recommends that scrotal supports be classified into class I because the Panel believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device. The Panel recommends that the device be exempt from premarket notification under section 510(k) of the act because the Panel believes that FDA does not need to receive premarket notification of a manufacturer's intent to market this simple device. The Panel recommends that this device be exempt from the good manufacturing practice regulation under section 520(f) of the act because the Panel believes that the quality of the device is easily discernible and that defects are readily apparent to the user. The Gastroenterological-Urological Device Classification Panel recommends that this device be classified into class II because the Panel believes that materials used in the device should be compatible with the skin. The Panel believes that general controls would not provide sufficient control over this characteristic. The Panel believes that a standard would provide reasonable

assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance.

4. Summary of data on which the recommendations are based: The Panels based their recommendations on the Panel members' personal knowledge of, and clinical experience with, the device.

5. Risks to health: The General Hospital and Personal Use Device Classification Panel identified no risks to health. The Gastroenterological-Urological Device Classification Panel identified the following risk to health: Skin irritation: Materials used in the construction of the device may irritate the skin.

Proposed Classification

FDA agrees with the General Hospital and Personal Use Device Classification Panel recommendation that scrotal supports be classified into class I (general controls). FDA has reviewed the recommendations of the General Hospital and Personal Use Device Classification Panel and the Gastroenterological-Urological Device Classification Panel for scrotal supports. The agency has concluded that the classification of scrotal supports should be published in the part of the Code of Federal Regulations for General Hospital and Personal Use Devices. The agency disagrees with the recommendation of the Gastroenterological-Urological Device Classification Panel that scrotal supports be classified into class II (performance standards) because the history of use of this device shows that the risk of skin irritation by materials used in the device is minimal. FDA believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

In response to the General Hospital and Personal Use Device Classification Panel's recommendation that manufacturers of a scrotal support be exempt from section 510(k) of the act, FDA is proposing that these manufacturers be subject to registration and device listing under section 510(a) through (j) of the act, but exempt from premarket notification under section 510(k) of the act and Subpart E of Part 807 of the regulations (21 CFR part 807). Under section 510(g)(4) of the act, the agency may exempt a manufacturer from section 510 only if it finds that compliance with this section is not necessary for the protection of the public health. In the case of registration and listing by manufacturers of a scrotal support, the agency cannot make the required finding. To protect the public health, the agency needs to be able to identify the firms manufacturing this

device and to conduct necessary inspections. The agency has determined, however, that it is not necessary for the protection of the public health that FDA receive premarket notification submissions concerning a scrotal support. The agency does not at this time anticipate that premarket approval will be required for this device. The agency believes that the semiannual updating of device listing under section 510(j)(2) will provide FDA with adequate notice concerning new products within this generic type of device.

In response to the General Hospital and Personal Use Device Classification Panel's recommendation that manufacturers of a scrotal support be exempt from the device good manufacturing practice (GMP) regulation under section 520(f) of the act, FDA is proposing that a manufacturer of this device be exempt, in the manufacture of the device, from all requirements in the GMP regulation except § 820.180 (21 CFR 820.180), with respect to general requirements concerning records, and § 820.198 (21 CFR 820.198), with respect to complaint files. Based on available information about current practices used in the manufacture of the device and user experience with the device, the agency has determined that application of the GMP regulation, other than §§ 820.180 and 820.198, is unlikely to improve the safety and effectiveness of the device. The agency believes, however, that manufacturers of a scrotal support must still be required to comply with the complaint file requirements of § 820.198 to ensure that these manufacturers have adequate systems for complaint investigation and followup. The agency also believes that manufacturers of a scrotal support must still be required to comply with the general requirements concerning records in § 820.180 to ensure that FDA has access to complaint files, can investigate device-related injury reports and complaints about product defects, may determine whether the manufacturer's corrective actions are adequate, and may determine whether the exemption from other sections of the GMP regulation is still appropriate.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs proposes to amend Part 880 in Subpart F by adding new § 880.5820, to read as follows:

§ 880.5820 Scrotal support.

(a) *Identification.* A scrotal support is a device consisting of a pouch attached to an elastic waistband used to support the scrotum (the sac that contains the testicles) for therapeutic purposes.

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in Subpart E of Part 807 of this chapter. The device also is exempt from the good manufacturing practice regulation in Part 820 of this chapter, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

Interested persons may, on or before October 23, 1979 submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 10, 1979.

William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.

[FR Doc. 79-26088 Filed 8-23-79; 8:45 am]

BILLING CODE 4110-03-M

[21 CFR Part 880]

[Docket No. 78N-1325]

Medical Devices; Classification of Piston Syringes

AGENCY: Food and Drug Administration.
ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying piston syringes into class II (performance standards). FDA is also publishing the recommendation of the General Hospital and Personal Use Device Classification Panel that this device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. FDA is also publishing the recommendations of the Dental Device Classification Panel and the Ophthalmic Device Classification Panel that this device be classified into class I. The effect of classifying a device into class I is to require that the device meet only

the general controls applicable to all devices. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by October 23, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Lillian L. Yin, Bureau of Medical Devices (HFK-470), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7555.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the Federal Register provides background information concerning the development of the proposed regulation. The General Hospital and Personal Use Device Classification Panel, the Dental Device Classification Panel, and the Ophthalmic Device Classification Panel, FDA advisory committees, made the following recommendations regarding the classification of piston syringes:

1. *Identification:* A piston syringe is a device consisting of a calibrated hollow barrel and a movable plunger. At one end of the barrel there is a male connector for fitting the female connector (hub) of a hypodermic single lumen needle. The device is used to inject fluids into or withdraw fluids from the body. The General Hospital and Personal Use Device Classification Panel identified this generic type of device under the name "piston syringe." The Dental Device Classification Panel identified this generic type of device under the name "luer-lock drug syringe." The Ophthalmic Device Classification Panel identified this generic type of device under the name "ophthalmic syringe."

2. *Recommended classification:* The General Hospital and Personal Use Device Classification Panel recommends that the device be classified into class II (performance standards) and that establishing a performance standard for the device be a medium priority. The Dental Device Classification Panel recommends that the device be classified into class I (general controls) and that the device be exempt from registration, device listing, and premarket notification under section 510 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360), records and reports under section 519 of the act (21 U.S.C. 360i), and the good manufacturing practice regulation under section 520(f) of the act (21 U.S.C. 360j(f)).

The Ophthalmic Device Classification Panel recommends that the device be classified into class I (general controls) and that there be no exemptions.

3. *Summary of reasons for recommendation:* The General Hospital and Personal Use Device Classification Panel recommends that the device be classified into class II because the Panel believes that a standard is needed to assure a proper connection between the male connector (nozzle) of the syringe and the female connector (hub) of needle. The Panel believes that general controls would not provide sufficient control over this characteristic. The Panel believes that a standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance. The Dental Device Classification Panel recommends that the device be classified into class I because the Panel believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device. This device has been used in dentistry for many years, uses materials in contact with the body that are generally acceptable or that have known and acceptable properties, and is safe and effective without additional control requirements imposed under a performance standard. The Panel recommends that the device be exempt from registration, device listing, and premarket notification under section 510 of the act because the Panel believes that FDA does not need to know who manufactures this simple device. The Dental Device Classification Panel also recommends that the device be exempt from records and reports requirements under section 519 of the act because the Panel believes that requiring this information will not serve a useful purpose. The Panel also recommends that the device be exempt from the good manufacturing practice regulation under section 520(f) of the act because the Panel believes that the quality of the device is easily discernible and that defects are readily apparent to the user. The Ophthalmic Device Classification Panel recommends that the device be classified into class I because the Panel believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device. The Panel also believes that the composition of materials used in the device should be specified in the labeling and that manufacturers should voluntarily assure that the device is sterilizable.

4. *Summary of data on which the recommendations are based:* All three Panels based their recommendations on the Panel members' personal knowledge of, and clinical experience with, the device.

5. *Risks to health:* The General Hospital and Personal Use Device Classification Panel identified the following risks to health: (a) Infection: Inadequate sterilization of the device may cause infection in the patient. (b) Inappropriate therapy: If the measurement markings on the barrel of the syringe are not accurate, administration of an incorrect drug dosage could cause inappropriate therapy. (c) Toxic reactions: If the material used in the construction of the syringe is not compatible

with the body or interacts with fluids used in the device, a toxic reaction could occur. (d) Leakage of fluid: If the connection between the needle and the syringe is not tight, leakage of fluids could occur. The Dental Device Classification Panel and the Ophthalmic Device Classification Panel identified no risks to health.

Proposed Classification

FDA agrees with the recommendation of the General Hospital and Personal Use Device Classification Panel and is proposing that piston syringes be classified into class II (performance standards). The agency has reviewed the recommendation of the General Hospital and Personal Use Device Classification Panel for piston syringes, the recommendation of the Dental Device Classification Panel for luer-lock drug syringes, and the recommendation of the Ophthalmic Device Classification Panel for ophthalmic syringes, and has concluded that the device should be named "piston syringe" and its classification be published in the part of the Code of Federal Regulations for General Hospital and Personal Use Devices. The agency disagrees with the recommendation of the Dental Device Classification Panel and the Ophthalmic Device Classification Panel that the device be classified into class I. The agency believes that a performance standard is needed to assure accurate measurement marking on the syringe barrel, use of biocompatible materials in the device, and incorporation of a standard type of connector. The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a standard to provide this assurance. Because the agency has decided that piston syringes should be classified into class II rather than class I, the agency is not required to publish a regulation adopting or rejecting the recommendation of the Dental Device Classification Panel that this device be exempt from registration, device listing, and premarket notification under section 510 of the act, records and reports requirements under section 519 of the act, and good manufacturing practice regulation under section 520(f) of the act.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the

Commissioner of Food and Drugs proposes to amend Part 880 in Subpart F by adding new § 880.5860, to read as follows:

§ 880.5860 Piston syringe.

(a) *Identification.* A piston syringe is a device consisting of a calibrated hollow barrel and a movable plunger. At one end of the barrel there is a male connector for fitting the female connector (hub) of a hypodermic single lumen needle. The device is used to inject fluids into or withdraw fluids from the body.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before October 23, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 15, 1979.

William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.

[FR Doc. 79-26089 Filed 8-23-79; 8:45 am]
BILLING CODE 4110-03-M

[21 CFR Part 880]

[Docket No. 78N-1327]

Medical Devices; Classification of Nasogastric Tubes

AGENCY: Food and Drug Administration.
ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying nasogastric tubes into class I (general controls). FDA is also publishing the recommendations of the General Hospital and Personal Use Device Classification Panel and the Anesthesiology Device Classification Panel that the device be classified into class I. The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by October 23, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Lillian L. Yin, Bureau of Medical Devices (HFK-470), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7555.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the Federal Register provides background information concerning the development of the proposed regulation. The General Hospital and Personal Use Device Classification Panel and the Anesthesiology Device Classification Panel, FDA advisory committees, made the following recommendations with respect to the classification of nasogastric tubes:

1. *Identification:* A nasogastric tube is a device inserted through the patient's nose into the upper gastrointestinal tract to provide liquid nourishment to the patient, or to remove air or liquid. The General Hospital and Personal Use Device Classification Panel identified this generic type of device under the names "feeding tube" and "Levine tube." The Anesthesiology Device Classification Panel identified this generic type of device under the name "nasogastric tube."

2. *Recommended classification:* Class I (general controls). Both Panels recommend that there be no exemptions.

3. *Summary of reasons for recommendation:* The Anesthesiology Device Classification Panel recommends that the device be classified into class I (general controls) because the Panel believes that if the use of this device is restricted to trained personnel, general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device. Similarly, the General Hospital and Personal Use Device Classification Panel recommends that this device be classified into class I (general controls) because the Panel believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device. The Panel also recommends that the labeling of the device state the tube size, whether the device is sterilizable or sterile disposable, and whether the material used is nontoxic.

4. *Summary of data on which the recommendations are based:* Both Panels based their recommendations on the Panel members' personal knowledge of, and clinical experience with, the device.

5. *Risks to health:* Both Panels identified the following risks to health: (a) Injury to

gastrointestinal tract and nasal mucosa: If the device is not of proper size, shape, and flexibility, injury to internal mucosa could result. The General Hospital and Personal Use Device Classification Panel identified these additional risks to health: (b) Infection: If the device is not sterilized properly, infection could result. (c) Tissue irritation: If the material used in the device is not biocompatible, tissue irritation may occur.

Proposed Classification

FDA agrees with both Panels' recommendations and is proposing that nasogastric tubes be classified into class I (general controls) with not exemptions. The agency has reviewed the recommendation of the General Hospital and Personal Use Device Classification Panel for feeding tubes and Levine tubes and the recommendation of the Anesthesiology Device Classification Panel for nasogastric tubes and has concluded that the device should be named "nasogastric tube" and its classification should be published in the part of the Code of Federal Regulations for General Hospital and Personal Use Devices. The Agency believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of this device.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs proposes to amend Part 880 in Subpart F by adding § 880.5900, to read as follows:

§ 880.5900 Nasogastric tube.

(a) *Identification.* A nasogastric tube is a device inserted through the patient's nose into the upper gastrointestinal tract to provide liquid nourishment to the patient, or to remove air or liquid.

(b) *Classification.* Class I (general controls).

Interested persons may, on or before October 23, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 10, 1979.

William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.

[FR Doc. 79-26090 Filed 8-23-79; 8:46 am]
BILLING CODE 4110-03-M

[21 CFR Part 880]

[Docket No. 78N-1328]

Medical Devices; Classification of Fluid Delivery Tubing

AGENCY: Food and Drug Administration.
ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying fluid delivery tubing into class II (performance standards). FDA is also publishing the recommendation of the General Hospital and Personal Use Device Classification Panel that the device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by October 23, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Lillian L. Yin, Bureau of Medical Devices (HFK-470), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Avenue, Silver Spring, MD 20910, 301-427-7555.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the Federal Register provides background information concerning the development of the proposed regulation. The General Hospital and Personal Use Device Classification Panel, an FDA advisory committee, made the following recommendation with respect to the classification of fluid delivery tubing:

1. *Identification:* Fluid delivery tubing is a device consisting of a flexible tube used in conjunction with other devices to deliver fluids to a patient's vascular system.

2. *Recommended classification:* Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a medium priority.

3. *Summary of reasons for recommendation:* The Panel recommends that fluid delivery tubing be classified into class II because the Panel believes that a performance standard is needed to assure that the material used in the device does not leach toxic substances into the fluid and that the tubing is sterilizable, kink resistant, and flexible. The Panel recommends that the labeling give instructions for sterilization. The Panel believes that general controls would not provide sufficient control over these characteristics. The Panel believes that a standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance.

4. *Summary of data on which the recommendation is based:* The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device.

5. *Risks to health:* Toxic reaction: If the device leaches toxic substances into the fluid, a toxic reaction might occur in the patient.

Proposed Classification

FDA agrees with the Panel recommendation and is proposing that fluid delivery tubing be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish standards to provide this assurance.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs proposes to amend Part 880 in Subpart F by adding new § 880.5910, to read as follows:

§ 880.5910 Fluid delivery tubing.

(a) *Identification.* Fluid delivery tubing is a device consisting of a flexible tube used in conjunction with other devices to deliver fluids to a patient's vascular system.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before October 23, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be

submitted, except that individuals may submit single copies of comments. The comments are to be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 10, 1979.

William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.

[FR Doc. 79-26091 Filed 8-23-79; 8:45 am]
BILLING CODE 4110-03-M

[21 CFR Part 880]

[Docket No. 78N-1329]

Medical Devices; Classification of Umbilical Occlusion Devices

AGENCY: Food and Drug Administration.
ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying umbilical occlusion devices into class I (general controls). FDA is also publishing the recommendation of the General Hospital and Personal Use Device Classification Panel that the device be classified into class I. The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by October 23, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Lillian L. Yin, Bureau of Medical Devices (HFK-470), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Avenue, Silver Spring, MD 20910, 301-427-7555.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the Federal Register provides background information concerning the development of the proposed regulation. The General Hospital and Personal Use Device Classification Panel, an FDA

advisory committee, made the following recommendation with respect to the classification of umbilical occlusion devices:

1. Identification: An umbilical occlusion device is a clip, tie, tape, or other article used to close the blood vessels in the umbilical cord of a newborn infant.

2. Recommended classification: Class I (general controls). The Panel recommends that there be no exemptions for this device.

3. Summary of reasons for recommendation: The Panel recommends that umbilical occlusion devices be classified into class I because the Panel believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device. The Panel also recommends that the labeling state whether the device is sterile or sterilizable.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device.

5. Risks to health: (a) Bleeding: Failure of the device to occlude the blood vessels in the umbilical cord properly may result in bleeding.

Proposed Classification

FDA agrees with the Panel recommendation and is proposing that umbilical occlusion devices be classified into class I (general controls) with no exemptions. FDA is aware that there is a possibility of infection if the device is not sterile. The agency believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the devices.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a)) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs proposes to amend Part 880 in Subpart F by adding new § 880.5950, to read as follows:

§ 880.5950 Umbilical occlusion device.

(a) *Identification.* An umbilical occlusion device is a clip, tie, tape, or other article used to close the blood vessels in the umbilical cord of a newborn infant.

(b) *Classification.* Class I (general controls).

Interested persons may, on or before October 23, 1979 submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the Hearing Clerk docket number found in brackets in the heading of this

document. Received comments may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 10, 1979.

William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.

[FR Doc. 79-26092 Filed 8-23-79; 8:45 am]

BILLING CODE 4110-03-0

[21 CFR Part 880]

[Docket No. 78N-1330]

Medical Devices; Classification of Absorbent Tipped Applicators

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying absorbent tipped applicators into class I (general controls). FDA is also publishing the recommendation of the General Hospital and Personal Use Device Classification Panel, the Gastroenterology and Urology Device Classification Panel, the Dental Device Classification Panel, and the General and Plastic Surgery Device Classification Panel that the device be classified into class I. The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by October 23, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Lillian L. Yin, Bureau of Medical Devices (HFK-470), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Avenue, Silver Spring, MD 20910, 301-427-7555.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the Federal Register provides background information concerning the development of the proposed regulation. The General Hospital and Personal Use Device Classification Panel, the

Gastroenterology and Urology Device Classification Panel, the Dental Device Classification Panel, and the General and Plastic Surgery Device Classification Panel, FDA advisory committees, made the following recommendations regarding the classification of absorbent tipped applicators:

1. Identification: An absorbent tipped applicator is a device that consists of an absorbent swab on a wooden, paper, or plastic stick. The device is used to apply medication or to take specimens from a patient. The Gastroenterology and Urology Device Classification Panel identified this generic type of device under the name "gastro/urology applicators." The Dental Device Classification Panel identified this generic type of device under the name "cotton applicators." The General and Plastic Surgery Device Classification Panel identified this generic type of device under the name "cotton/dye applicators."

2. Recommended classification: Class I (general controls). The General Hospital and Personal Use Device Classification Panel recommends that this device be exempt from premarket notification under section 510(k) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360(k)) and, if the device is not labeled as sterile, exempt from the good manufacturing practice regulation under section 520(f) of the act (21 U.S.C. 360(f)). The Gastroenterology and Urology Device Classification Panel recommends that this device be exempt from registration, device listing, and premarket notification under section 510 of the act and exempt from good manufacturing practice regulations under section 520(f) of the act. The Dental Device Classification Panel recommends that this device be exempt from premarket notification regulations under section 510(k) of the act, records and reports regulations under section 519 of the act (21 U.S.C. 360(i)) and good manufacturing practice regulations under section 520(f) of the act. The General and Plastic Surgery Device Classification Panel recommends that there be no exemptions for this device.

3. Summary of reasons for recommendation: The Panels recommend that absorbent tipped applicators be classified into class I because the Panels believe that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device. The Gastroenterology and Urology Device Classification Panel recommends that this device be exempt from registration, device listing, and premarket notification regulations under section 510 of the act because the Panel believes that FDA does not need to know who is manufacturing this simple device. The General Hospital and Personal Use Device Classification Panel and the Dental Device Classification Panel recommend that this device be exempt from premarket notification under section 510(k) of the act because the Panels believe that FDA does not need to receive premarket notification of a manufacturer's intent to market this simple device. The Panels recommend that this device be exempt from

the good manufacturing practice regulation under section 520(f) of the act because the Panels believe that the quality of the device is easily discernible and defects are readily apparent to the user. The General Hospital and Personal Use Device Classification Panel recommends that the device labeling warn users that improper use may cause puncture wounds. The Gastroenterology and Urology Device Classification Panel recommends that this device be used by or under the direction of a physician when used for gastroenterology or urology purposes.

4. Summary of data on which the recommendation is based: The Panels based their recommendations on the Panel members' personal knowledge of, and clinical experience with, the device.

5. Risks to health: (a) Infection: If the device is labeled as sterile and is not sterile, pathogenic organisms could cause infection in the patient.

Proposed Classification

FDA agrees with the Panels' recommendations and is proposing that absorbent tipped applicators be classified into class I (general controls). The agency has reviewed the recommendations of the General Hospital and Personal Use Device Classification Panel for absorbent tipped applicators, the General and Plastic Surgery Device Classification Panel for cotton dye applicators, the Dental Device Classification Panel for cotton applicators, and the Gastroenterology and Urology Device Classification Panel for gastro/urology applicators, and has concluded that the device should be named "absorbent tipped applicator" and its classification be published in the part of the Code of Federal Regulations for General Hospital and Personal Use Devices. The agency believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

In response to the Gastroenterology and Urology Device Classification Panel recommendation that manufacturers of absorbent tipped applicators be exempt from section 510 of the act, and in response to the General Hospital and Personal Use Device Classification Panel and the Dental Device Classification Panel that absorbent tipped applicators be exempt from section 510(k) of the act, FDA is proposing that these manufacturers be subject to registration and device listing under section 510(a) through (j) of the act, but exempt from premarket notification under section 510(k) of the act and Subpart E of Part 807 of the regulations (21 CFR Part 807). Under section 510(g)(4) of the act, the agency may exempt a manufacturer from section 510 only if it finds that compliance with this section is not

necessary for the protection of the public health. In the case of registration and listing by manufacturers of an absorbent tipped applicator, the agency cannot make the required finding. To protect the public health, the agency needs to be able to identify the firms manufacturing this device and to conduct necessary inspections. The agency has determined, however, that it is not necessary for the protection of the public health that FDA receive premarket notification submissions concerning an absorbent tipped applicator. The agency does not at this time anticipate that premarket approval will be required for this device. The agency believes that the semiannual updating of device listing under section 510(j)(2) will provide FDA with adequate notice concerning new products within this generic type of device.

FDA disagrees with the Dental Device Classification Panel's recommendation that manufacturers of an absorbent tipped applicator be exempt from records and reports regulations under section 519 of the act. The records and reports requirements in several of FDA's present device regulations are authorized, wholly or in part, by section 519. The most extensive of these requirements are found in the device good manufacturing practice (GMP) regulation, published in the Federal Register of July 21, 1978 (43 FR 31508). In the future, FDA will publish other regulations under section 519, including regulations requiring reports to FDA of experience with medical devices. Until these regulations are issued, FDA believes that it cannot properly issue exemptions from them. In the future, whenever the agency proposes device regulations that include records and reports requirements, interested persons may submit comments requesting that certain classes of manufacturers or other persons be exempt from the requirements, and FDA will issue exemptions that are appropriate. The only type of exemption from records and reports requirements that FDA is proposing now, in device classification regulations, is an exemption of certain manufacturers from requirements of the device GMP regulation. The exemption will not extend to two device GMP requirements, § 820.180 (21 CFR 820.180), with respect to general requirements concerning records, and § 820.198 (21 CFR 820.198), with respect to complaint files.

In response to the Panel's recommendation that manufacturers of an absorbent tipped applicator be exempt from the device good manufacturing practice (GMP)

regulation under section 520(f) of the act, FDA is proposing that a manufacturer of this device who does not label or otherwise represent it as sterile be exempt, in the manufacture of the device, from all requirements in the GMP regulation except § 820.180 with respect to general requirements concerning records, and § 820.198 with respect to complaint files. Based on available information about current practices used in the manufacture of the device and user experience with the device, the agency has determined that application of the GMP regulation, other than §§ 820.180 and 820.198, is unlikely to improve the safety and effectiveness of the device. The agency believes, however, that manufacturers of an absorbent tipped applicator, even when it is not labeled or otherwise represented as sterile, must still be required to comply with the complaint file requirements of § 820.198 to ensure that these manufacturers have adequate systems for complaint investigation and followup. The agency also believes that manufacturers of an absorbent tipped applicator must still be required to comply with the general requirements concerning records in § 820.180 to ensure that FDA has access to complaint files, can investigate device-related injury reports and complaints about product defects, may determine whether the manufacturer's corrective actions are adequate, and may determine whether the exemption from other sections of the GMP regulation is still appropriate. A manufacturer of an absorbent tipped applicator that is labeled or otherwise represented as sterile is, in the manufacture of this device, subject to the GMP regulation in its entirety.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs proposes to amend Part 880 by adding new Subpart G and § 880.6025, to read as follows:

Subpart G—General Hospital and Personal Use Miscellaneous Devices

§ 880.6025 Absorbent tipped applicator.

(a) *Identification.* An absorbent tipped applicator is a device that consists of an absorbent swab on a wooden, paper, or plastic stick. The device is used to apply medications or to take specimens from a patient.

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in Subpart E of Part 807 of this chapter. If

the device is not labeled or otherwise represented as sterile, it also is exempt from the good manufacturing practice regulation in Part 820 of this chapter, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

Interested persons may, on or before October 23, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 10, 1979.

William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.

(FR Doc. 79-26094 Filed 8-23-79; 8:45 am)
BILLING CODE 4110-03-M

[21 CFR Part 880]

[Docket No. 78N-1332]

Medical Devices; Classification of Ice Bags

AGENCY: Food and Drug Administration.
ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying ice bags into class I (general controls). FDA is also publishing the recommendation of the General Hospital and Personal Use Device Classification Panel that the device be classified into class I. The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by October 23, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Lillian L. Yin, Bureau of Medical Devices (HFK-470), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Avenue, Silver Spring, MD 20910, 301-427-7555.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the Federal Register provides background information concerning the development of the proposed regulation. The General Hospital and Personal Use Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of ice bags:

1. Identification: An ice bag is a device in the form of a container intended to be filled with ice used to apply dry cold to an area of the body for therapeutic purposes. The device may include a holder that keeps the bag in place against an external area of a patient.

2. Recommended classification: Class I (general controls). The Panel recommends that this device be exempt from premarket notification under section 510(k) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360(k)) and from the good manufacturing practice regulation under section 520(f) of the act (21 U.S.C. 360(f)).

3. Summary of reasons for recommendation: The Panel recommends that ice bags be classified into class I because the Panel believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device. The Panel recommends that this device be exempt from premarket notification under section 510(k) of the act because the Panel believes that FDA does not need to receive premarket notification of a manufacturer's intent to market this simple device. The Panel recommends that this device be exempt from the good manufacturing practice regulation under section 520(f) of the act because the Panel believes that the quality of the device is easily discernible and that defects are readily apparent to the user. The Panel also recommends that the device be sterilizable if reuse is possible.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device.

5. Risks to health: Cross-infection: If the device is not capable of being sterilized for reuse, cross-infection could occur between patients.

Proposed Classification

FDA agrees with the Panel recommendation and is proposing that ice bags be classified into class I (general controls). The history of use of the device has shown that there is minimal risk of crossinfection caused by the device. Therefore, the agency believes that general controls are sufficient to provide reasonable

assurance of the safety and effectiveness of the device.

In response to the Panel's recommendation that manufacturers of an ice bag be exempt from section 510(k) of the act, FDA is proposing that these manufacturers be subject to registration and device listing under section 510(a) through (j) of the act, but exempt from premarket notification under section 510(k) of the act and Subpart E of Part 807 of the regulations (21 CFR Part 807). Under section 510(g)(4) of the act, the agency may exempt a manufacturer from section 510 only if it finds that compliance with this section is not necessary for the protection of the public health. In the case of registration and listing by manufacturers of an ice bag, the agency cannot make the required finding. To protect the public health, the agency needs to be able to identify the firms manufacturing this device and to conduct necessary inspections. The agency has determined, however, that it is not necessary for the protection of the public health that FDA receive premarket notification submissions concerning an ice bag. The agency does not at this time anticipate that premarket approval will be required for this device. The agency believes that the semiannual updating of device listing under section 510(j)(2) will provide FDA with adequate notice concerning new products within this generic type of device.

In response to the Panel's recommendation that manufacturers of an ice bag be exempt from the device good manufacturing practice (GMP) regulation under section 520(f) of the act, FDA is proposing that a manufacturer of this device who does not label or otherwise represent it as sterile be exempt, in the manufacture of the device, from all requirements in the GMP regulation except § 820.180 (21 CFR 820.180), with respect to general requirements concerning records, and § 820.198 (21 CFR 820.198), with respect to complaint files. Based on available information about current practices used in the manufacture of the device and user experience with the device, the agency has determined that application of the GMP regulation, other than §§ 820.180 and 820.198, is unlikely to improve the safety and effectiveness of the device. The agency believes, however, that manufacturers of an ice bag, even when it is not labeled or otherwise represented as sterile, must still be required to comply with the complaint file requirements of § 820.198 to ensure that these manufacturers have adequate systems for complaint investigation and followup. The agency

also believes that manufacturers of an ice bag must still be required to comply with the general requirements concerning records in § 820.180 to ensure that FDA has access to complaint files, can investigate device-related injury reports and complaints about product defects, may determine whether the manufacturer's corrective actions are adequate, and may determine whether the exemption from other sections of the GMP regulation is still appropriate. A manufacturer of an ice bag that is labeled or otherwise represented as sterile is, in the manufacture of this device, subject to the GMP regulation in its entirety.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs proposes to amend Part 880 in Subpart G by adding new § 880.6050, to read as follows:

§ 880.6050 Ice bag.

(a) *Identification.* An ice bag is a device in the form of a container intended to be filled with ice that is used to apply dry cold therapy to an area of the body for therapeutic purposes. The device may include a holder that keeps the bag in place against an external area of the patient.

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in Subpart E of Part 807 of this chapter. If the device is not labeled or otherwise represented as sterile, it also is exempt from the good manufacturing practice regulation in Part 820 of this chapter, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

Interested persons may, on or before October 23, 1979 submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 10, 1979.

William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.

(FR Doc. 79-26094 Filed 8-23-79; 8:45 am)
BILLING CODE 4110-03-M

[21 CFR Part 880]

[Docket No. 78N-1333]

Medical Devices; Classification of Disposable Bedding

AGENCY: Food and Drug Administration.
ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying disposable bedding into class I (general controls). FDA is also publishing the recommendation of the General Hospital and Personal Use Device Classification Panel that the device be classified into class I. The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976. It is proposed that the final regulation based on this proposal become effective 30 days after the date of publication in the Federal Register.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Lillian L. Yin, Bureau of Medical Devices (HFK-470), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Avenue, Silver Spring, MD 20910, 301-427-7555.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the Federal Register provides background information concerning the development of the proposed regulation. The General Hospital and Personal Use Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of disposable bedding:

1. Identification: Disposable bedding is a device intended to be used by one patient for a period of time and then discarded. This generic type of device includes disposable bed sheets, bed pads, pillows and pillowcases, blankets, and emergency rescue blankets.

2. Recommended classification: Class I (general controls). The Panel recommends that the device be exempt from the good manufacturing practice regulation under section 520(f) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360(f)).

3. Summary of reasons for recommendation: The Panel recommends that disposal bedding be classified into class I because the Panel believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device. The Panel recommends that this device be exempt from the good manufacturing practice regulation under section 520(f) of the act because the Panel believes that the quality of the device is easily discernible and that defects are readily apparent to the user. The Panel also recommends that the material used in the bedding be non-irritating to the skin.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel member's personal knowledge of, and clinical experience with, the device.

5. Risks to health: Skin irritation: The device could cause skin irritation to the patient.

Proposed Classification

FDA agrees with the Panel recommendation and is proposing that disposable bedding be classified into class I (general controls). The history of use of the device has shown that there is minimal risk of skin irritation caused by the device. Therefore, the agency believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

In response to the Panel's recommendation that manufacturers of disposable bedding be exempt from the device good manufacturing practice (GMP) regulation under section 520(f) of the act, FDA is proposing that a manufacturer of this device who does not label or otherwise represent it as sterile be exempt, in the manufacture of the device, from all requirements in the GMP regulation except § 820.180 (21 CFR 820.180), with respect to general requirements concerning records, and § 820.198 (21 CFR 820.198), with respect to complaint files. Based on available information about current practices used in the manufacture of the device and user experience with the device, the agency has determined that application of the GMP regulation, other than §§ 820.180 and 820.198, is unlikely to improve the safety and effectiveness of the device. The agency believes, however, that manufacturers of disposable bedding, even when it is not labeled or otherwise represented as sterile, must still be required to comply with the complaint file requirements of § 820.198 to ensure that these manufacturers have adequate systems

for complaint investigation and followup. The agency also believes that manufacturers of disposable bedding must still be required to comply with the general requirements concerning records in § 820.180 to ensure that FDA has access to complaint files, can investigate device-related injury reports and complaints about product defects, may determine whether the manufacturer's corrective actions are adequate, and may determine whether the exemption from other sections of the GMP regulation is still appropriate. A manufacturer of disposable bedding that is labeled or otherwise represented as sterile is, in the manufacture of this device, subject to the GMP regulation in its entirety.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs proposes to amend Part 880 in Subpart G by adding new § 880.6060, to read as follows:

§ 880.6060 Disposable bedding.

(a) *Identification.* Disposable bedding is a device intended to be used by one patient for a period of time and then discarded. This generic type of device includes disposable bedsheets, bedpads, pillows and pillowcases, blankets, and emergency rescue blankets.

(b) *Classification.* Class I (general controls). If the device is not labeled or otherwise represented as sterile, it is exempt from the good manufacturing practice regulation in Part 820 of this chapter, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

Interested persons may, on or before (October 23, 1979) submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 10, 1979.

William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.

[FR Doc. 79-28095 Filed 8-23-79; 8:45 am]
BILLING CODE 4110-03-M

[21 CFR Part 880]

[Docket No. 78N-1334]

Medical Devices; Classification of Bed Boards

AGENCY: Food and Drug Administration.
ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying bed boards into class I (general controls). FDA is also publishing the recommendations of the General Hospital and Personal Use Device Classification Panel that the device be classified into class I. The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976. **DATES:** Comments by October 23, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Lillian L. Yin, Bureau of Medical Devices (HFK-470), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7555.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the Federal Register provides background information concerning the development of the proposed regulation. The General Hospital and Personal Use Device Classification Panel, an FDA advisory committee, made the following recommendation with respect to the classification of bed boards:

1. Identification: A bed board is a device consisting of a stiff board used to increase the firmness of a bed for therapeutic purposes.

2. Recommended classification: Class I (general controls). The Panel recommends

that this device be exempt from premarket notification under section 510(k) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360(k)) and from the good manufacturing practice regulation under section 520(f) of the act (21 U.S.C. 360(f)).

3. Summary of reasons for recommendation: The Panel recommends that bed boards be classified into class I because the Panel believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device. The Panel recommends that this device be exempt from premarket notification under section 510(k) of the act because the Panel believes that FDA does not need to receive premarket notification of a manufacturer's intent to market this simple device. The Panel recommends that this device be exempt from the good manufacturing practice (GMP) regulation under section 520(f) of the act because the Panel believes that the quality of the device is easily discernible and that defects are readily apparent to the user.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device.

5. Risks to health: None identified.

Proposed Classification

FDA agrees with the Panel recommendation and is proposing that bed boards be classified into class I (general controls). The agency believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

In response to the Panel's recommendation that manufacturers of a bed board be exempt from section 510(k) of the act (21 U.S.C. 360(k)), FDA is proposing that these manufacturers be subject to registration and device listing under section 510 (a) through (j) of the act, but exempt from premarket notification under section 510(k) of the act and Subpart E of Part 807 of the regulations (21 CFR Part 807). Under section 510(g)(4) of the act, the agency may exempt a manufacturer from section 510 only if it finds that compliance with this section is not necessary for the protection of the public health. In the case of registration and listing by manufacturers of a bed board, the agency cannot make the required finding. To protect the public health, the agency needs to be able to identify the firms manufacturing this device and to conduct necessary inspections. The agency has determined, however, that it is not necessary for the protection of the public health that FDA receive premarket notification submissions concerning a bed board. The agency does not at this time anticipate that premarket approval will be required for this device. The agency believes that the semiannual updating of device listing under section 510(j)(2) will

provide FDA with adequate notice concerning new products within this generic type of device.

In response to the Panel's recommendation that manufacturers of a bed board be exempt from the device good manufacturing practice (GMP) regulation under section 520(f) of the act (21 U.S.C. 360(f)), FDA is proposing that a manufacturer of this device be exempt, in the manufacture of the device, from all requirements in the GMP regulation except § 820.180 (21 CFR 820.180), with respect to general requirements concerning records, and § 820.198 (21 CFR 820.198), with respect to complaint files. Based on available information about current practices used in the manufacture of the device and user experience with the device, the agency has determined that application of the GMP regulation, other than §§ 820.180 and 820.198, is unlikely to improve the safety and effectiveness of the device. The agency believes, however, that manufacturers of a bed board must still be required to comply with the complaint file requirements of § 820.198 to ensure that these manufacturers have adequate systems for complaint investigation and followup. The agency also believes that manufacturers of a bed board must still be required to comply with the general requirements concerning records in § 820.180 to ensure that FDA has access to complaint files, can investigate device-related injury reports and complaints about product defect, may determine whether the manufacturer's corrective actions are adequate, and may determine whether the exemption from other sections of the GMP regulation is still appropriate.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs proposes to amend Part 880 in Subpart G by adding new § 880.6070, to read as follows:

§ 880.6070 Bed board.

(a) *Identification.* A bed board is a device consisting of a stiff board used to increase the firmness of a bed for therapeutic purposes.

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in Subpart E of Part 807 of this chapter. The device also is exempt from the good manufacturing practice regulation in Part 820 of this chapter, with the exception of § 820.180, with respect to general requirements concerning

records, and § 820.198, with respect to complaint files.

Interested persons may, on or before October 23, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 10, 1979.

William R. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.

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[21 CFR Part 880]

[Docket No. 78N-1335]

Medical Devices; Classification of Cardiopulmonary Resuscitation Boards

AGENCY: Food and Drug Administration.
ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying cardiopulmonary resuscitation boards into class I (general controls). FDA is also publishing the recommendation of the General Hospital and Personal Use Device Classification Panel that the device be classified into class I. The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by October 23, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Lillian L. Yin, Bureau of Medical Devices (HFK-470), Food and Drug Administration, Department of Health,

Education, and Welfare, 8757 Georgia Avenue, Silver Spring, MD 20910, 301-427-7555.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the Federal Register provides background information concerning the development of the proposed regulation. The General Hospital and Personal Use Device Classification Panel, and FDA advisory committee, made the following recommendation with respect to the classification of cardiopulmonary resuscitation boards:

1. Identification: A cardiopulmonary resuscitation board is a device consisting of a rigid board which is placed under a patient to act as a support during cardiopulmonary resuscitation.

2. Recommended classification: Class I (general controls). The Panel recommends that this device be exempt from premarket notification under section 510(k) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360(k)) and from the good manufacturing practice regulation under section 520(f) of the act (21 U.S.C. 360(f)).

3. Summary of reasons for recommendation: The Panel recommends that cardiopulmonary resuscitation boards be classified into class I because the Panel believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device. The Panel recommends that this device be exempt from premarket notification under section 510(k) of the act because the Panel believes that FDA does not need to receive premarket notification of a manufacturer's intent to market this simple device. The Panel recommends that this device be exempt from the good manufacturing practice regulation under section 520(f) of the act because the Panel believes that the quality of the device is easily discernible and that defects are readily apparent to the user. The Panel recommends that the device be unbreakable, splinter-free, and of the proper length.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device.

5. Risks to health: None identified.

Proposed Classification

FDA agrees with the Panel recommendation and is proposing that cardiopulmonary resuscitation boards be classified into class I (general controls) because the agency believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

In response to the Panel's recommendation that manufacturers of a cardiopulmonary resuscitation board be exempt from section 510 of the act, FDA is proposing that these manufacturers be subject to registration and device listing

under section 510(a) through (j) of the act, but exempt from premarket notification under section 510(k) of the act and Subpart E of Part 807 of the regulation (21 CFR Part 807). Under section 510(g)(4) of the act, the agency may exempt a manufacturer from section 510 only if it finds that compliance with this section is not necessary for the protection of the public health. In the case of registration and listing by manufacturers of a cardiopulmonary resuscitation board, the agency cannot make the required finding. To protect the public health, the agency needs to be able to identify the firms manufacturing this device and to conduct necessary inspections. The agency has determined, however, that it is not necessary for the protection of the public health that FDA receive premarket notification submissions concerning a cardiopulmonary resuscitation board. The agency does not at this time anticipate that premarket approval will be required for this device. The agency believes that the semiannual updating of device listing under section 510(j)(2) will provide FDA with adequate notice concerning new products within this generic type of device.

In response to the Panel's recommendation that manufacturers of a cardiopulmonary resuscitation board be exempt from the device good manufacturing practice (GMP) regulation under section 520(f) of the act, FDA is proposing that a manufacturer of this device be exempt, in the manufacture of the device, from all requirements in the GMP regulation except § 820.180 (21 CFR 820.180), with respect to general requirements concerning records, and § 820.198 (21 CFR 820.198), with respect to complaint files. Based on available information about current practices used in the manufacture of the device and user experience with the device, the agency has determined that application of the GMP regulation, other than §§ 820.180 and 820.198, is unlikely to improve the safety and effectiveness of the device. The agency believes, however, that manufacturers of a cardiopulmonary resuscitation board must still be required to comply with the complaint file requirements of § 820.198 to ensure that these manufacturers have adequate systems for complaint investigation and followup. The agency also believes that manufacturers of a cardiopulmonary resuscitation board must still be required to comply with the general requirements concerning records in § 820.180 to ensure that FDA has access to complaint files, can investigate

device-related injury reports and complaints about product defects, may determine whether the manufacturer's corrective actions are adequate, and may determine whether the exemption from other sections of the GMP regulation is still appropriate.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs proposes to amend Part 880 in Subpart G by adding new § 880.6080, to read as follows:

§ 880.6080 Cardiopulmonary resuscitation board.

(a) *Identification.* A cardiopulmonary resuscitation board is a device consisting of a rigid board which is placed under a patient to act as a support during cardiopulmonary resuscitation.

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in Subpart E of Part 807 of this chapter. The device also is exempt from the good manufacturing practice regulation in Part 820 of this chapter, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

Interested persons may, on or before October 23, 1979 submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 10, 1979.

William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.

[FR Doc. 79-26097 Filed 8-23-79; 8:45 am]
BILLING CODE 4110-03-M

[21 CFR Part 880]

[Docket No. 78N-1336]

Medical Devices; Classification of Hot/Cold Water Bottles

AGENCY: Food and Drug Administration.
ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying hot/cold water bottles into class I (general controls). FDA is also publishing the recommendation of the General Hospital and Personal Use Device Classification Panel that the device be classified into class I. The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by October 23, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-350), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Lillian L. Yin, Bureau of Medical Devices (HFK-470), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7555.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the Federal Register provides background information concerning the development of the proposed regulation. The General Hospital and Personal Use Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of hot/cold water bottles:

1. *Identification:* A hot/cold water bottle is a device in the form of a container intended to be filled with hot or cold water used to apply heat or cold to an area of the body for therapeutic purposes.

2. *Recommended classification:* Class I (general controls). The Panel recommends that this device be exempt from premarket notification under section 510(k) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360(k)) and from the good manufacturing practice regulation under section 520(f) of the act (21 U.S.C. 360j(f)).

3. *Summary of reasons for recommendation:* The Panel recommends that hot/cold water bottles be classified into class I because the Panel believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device. The Panel recommends that this device be exempt from premarket notification under section 510(k) of the act because the Panel believes that FDA does not need to receive premarket notification of a

manufacturer's intent to market this simple device. The Panel recommends that this device be exempt from the good manufacturing practice regulation under section 520(f) of the act because the Panel believes that the quality of the device is easily discernible and that defects are readily apparent to the user. The Panel recommends that the material used in this device be leakproof. In addition, the Panel recommends that there be labeling as to correct usage, e.g., a warning that boiling water should not be used.

4. *Summary of data on which the recommendation is based:* The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device.

5. *Risks to health:* None identified.

Proposed Classification

FDA agrees with the Panel recommendation and is proposing that hot/cold water bottles be classified into class I (general controls). The agency believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

In response to the Panel's recommendation that manufacturers of a hot/cold water bottle be exempt from section 510(k) of the act, FDA is proposing that these manufacturers be subject to registration and device listing under section 510(a) through (j) of the act, but exempt from premarket notification under section 510(k) of the act and Subpart E of Part 807 of the regulations (21 CFR Part 807). Under section 510(g)(4) of the act, the agency may exempt a manufacturer from section 510 only if it finds that compliance with this section is not necessary for the protection of the public health. In the case of registration and listing by manufacturers of a hot/cold water bottle, the agency cannot make the required finding. To protect the public health, the agency needs to be able to identify the firms manufacturing this device and to conduct necessary inspections. The agency has determined, however, that it is not necessary for the protection of the public health that FDA receive premarket notification submissions concerning a hot/cold water bottle. The agency does not at this time anticipate that premarket approval will be required for this device. The agency believes that the semiannual updating of device listing under section 510(j)(2) will provide FDA with adequate notice concerning new products within this generic type of device.

In response to the Panel's recommendation that manufacturers of a hot/cold water bottle be exempt from the device good manufacturing practice (GMP) regulation under section 520(f) of the act, FDA is proposing that a

manufacturer of this device be exempt, in the manufacture of the device, from all requirements in the GMP regulation except § 820.180 (21 CFR 820.180), with respect to general requirements concerning records, and § 820.198 (21 CFR 820.198), with respect to complaint files. Based on available information about current practices used in the manufacture of the device and user experience with the device, the agency has determined that application of the GMP regulation, other than §§ 820.180 and 820.198, is unlikely to improve the safety and effectiveness of the device. The agency believes, however, that manufacturers of a hot/cold water bottle must still be required to comply with the complaint file requirements of § 820.198 to ensure that these manufacturers have adequate systems for complaint investigation and followup. The agency also believes that manufacturers of a hot/cold water bottle must still be required to comply with the general requirements concerning records in § 820.180 to ensure that FDA has access to complaint files, can investigate device-related injury reports and complaints about product defects, may determine whether the manufacturer's corrective actions are adequate, and may determine whether the exemption from other sections of the GMP regulation is still appropriate.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs proposes to amend Part 880 in Subpart G by adding new § 880.6085, to read as follows:

§ 880.6085 Hot/cold water bottle.

(a) *Identification.* A hot/cold water bottle is a device in the form of a container intended to be filled with hot or cold water used to apply heat or cold to an area of the body for therapeutic purposes.

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in Subpart E of Part 807 of this chapter. The device also is exempt from the good manufacturing practice regulation in Part 820 of this chapter, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

Interested persons may, on or before October 23, 1979 submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four

copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the Hearing Clerk docket number found in brackets in heading of this document. Received comments may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

Date: August 10, 1979.

William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.

[FR Doc. 79-26098 Filed 8-23-79; 8:45 am]
BILLING CODE 4110-03-M

[21 CFR Part 880]

[Docket No. 78N-1338]

Medical Devices; Classification of Aerator Cabinets

AGENCY: Food and Drug Administration.
ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying aerator cabinets into class II (performance standards). FDA is also publishing the recommendation of the General Hospital and Personal Use Device Classification Panel that the device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by October 23, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Lillian L. Yin, Bureau of Medical Devices (HFK-470), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7555.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the Federal Register provides background information concerning the development of the proposed regulation.

The General Hospital and Personal Use Device Classification Panel, an FDA advisory committee, made the following recommendation with respect to the classification of aerator cabinets:

1. Identification: An aerator cabinet is a device consisting of a cabinet with a ventilation system designed to circulate and exchange the air in the cabinet to assist residual ethylene oxide (ETO) to escape from wrapped medical devices that have undergone ETO sterilization.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a high priority.

3. Summary of reasons for recommendation: The Panel recommends that aerator cabinets be classified into class II because the Panel believes that the electrical properties of the aerator cabinet must be controlled through an electrical safety standard. The Panel also believes that performance standards are needed to assure adequate air movement within the aerator cabinet and to assure proper venting of the aerator cabinet. The Panel believes that general controls would not provide sufficient control over these characteristics. The Panel believes that a standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device.

5. Risks to health: (a) Burns: Medical devices that contain residual ETO may cause burns where they contact the skin or body. (b) Hemolysis (destruction of red blood cells) and tissue damage: Implantable devices that contain residual ETO may cause hemolysis and localized tissue damage. (c) Electric shock: Improper device design and construction or device malfunction can result in electrical shock.

Proposed Classification

FDA agrees with the Panel recommendation and is proposing that aerator cabinets be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a standard to provide this assurance.

In the Federal Register of June 23, 1978 (43 FR 27474), FDA proposed to amend Parts 211 and 821 (21 CFR Parts 211 and 821) to establish maximum residue limits and maximum levels of exposure of ethylene oxide and its two major reaction products, ethylene chlorohydrin

and ethylene glycol. This proposal would impose restrictions on the continued use of ethylene oxide as a sterilant for certain drug products and medical devices for human use by: (1) Establishing maximum residue limits for ethylene oxide and its two major reaction products, ethylene chlorohydrin (2-chloroethanol) and ethylene glycol, in drug products for human and veterinary use, including biological products for human use, and in medical devices for human use; and (2) establishing maximum daily levels of exposure for drug products for ethylene oxide and its two major reaction products. FDA proposed this action because residues of ethylene oxide and its two major reaction products in drug products and devices for which ethylene oxide is used as a sterilant may produce toxic reactions in patients, and because of the potential risk of mutagenicity from exposure to these residues. The restrictions imposed by this proposed rule concern aerator cabinets because this device is used to assist residual ethylene oxide and its reaction products to escape from treated products.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs proposes to amend Part 880 in Subpart G by adding new § 880.6100 as follows:

§ 880.6100 Aerator cabinet.

(a) *Identification.* An aerator cabinet is a device consisting of a cabinet with a ventilation system designed to circulate and exchange the air in the cabinet to assist residual ethylene oxide (ETO) to escape from wrapped medical devices that have undergone ETO sterilization.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before October 23, 1979 submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 15, 1979.
William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.
(FR Doc. 79-26099 Filed 8-23-79; 8:45 am)
BILLING CODE 4110-03-M

[21 CFR Part 880]

[Docket No. 78N-1340]

Medical Devices; Classification of Medical Chairs and Tables

AGENCY: Food and Drug Administration.
ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying medical chairs and tables into class I (general controls). FDA is also publishing the recommendation of the General Hospital and Personal Use Device Classification Panel that the device be classified into class I. The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by October 23, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Lillian L. Yin, Bureau of Medical Devices (HFK-470), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7555.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A notice elsewhere in this issue of the Federal Register provides background information concerning the development of the proposed regulation. The General Hospital and Personal Use Device Classification Panel, an FDA advisory committee, made the following recommendation with respect to the classification of medical chairs and tables:

1. Identification: A medical chair or table is a device consisting of a chair or table without wheels and not electrically powered which, by reason of special shape or attachments,

such as food trays or headrests, or special features, such as a built-in raising and lowering mechanism or removable arms, is designed for the use of blood donors, geriatric patients, or patients undergoing treatment or examination. The Panel identified this generic type of device under the names "blood donor chair," "examination and treatment chair," and "geriatric chair."

2. Recommended classification: Class I (general controls). The Panel recommends that this device be exempt from premarket notification under section 510(k) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360(k)) and from the good manufacturing practice regulation under section 520(f) of the act (21 U.S.C. 360(f)).

3. Summary of reasons for recommendation: The Panel recommends that medical chairs and tables be classified into class I because the Panel believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device. The Panel recommends that this device be exempt from premarket notification under section 510(k) of the act because the Panel believes that FDA does not need to receive premarket notification of a manufacturer's intent to market this simple device. The Panel recommends that this device be exempt from the good manufacturing practice regulation under section 520(f) of the act because the Panel believes that the quality of the device is easily discernible and that defects are readily apparent to the user. The Panel also recommends that the device be sufficiently stable that it does not tip over and sufficiently durable that it does not collapse.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device.

5. Risks to health: None identified.

Proposed Classification

FDA agrees with the Panel recommendation and is proposing that medical chairs and tables be classified into class I (general controls). The agency believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

In response to the Panel's recommendation that manufacturers of a medical chair or table be exempt from section 510(k) of the act, FDA is proposing that these manufacturers be subject to registration and device listing under section 510 (a) through (j) of the act, but exempt from premarket notification under section 510(k) of the act and Subpart E of Part 807 of the regulations (21 CFR Part 807). Under section 510(g)(4) of the act, the agency may exempt a manufacturer from section 510 only if it finds that compliance with this section is not necessary for the protection of the public health. In the case of registration and listing by manufacturers of a

medical chair or table, the agency cannot make the required finding. To protect the public health, the agency needs to be able to identify the firms manufacturing this device and to conduct necessary inspections. The agency has determined, however, that it is not necessary for the protection of the public health that FDA receive premarket notification submissions concerning a medical chair or table. The agency does not at this time anticipate that premarket approval will be required for this device. The agency believes that the semiannual updating of device listing under section 510(j)(2) will provide FDA with adequate notice concerning new products within this generic type of device.

In response to the Panel's recommendation that manufacturers of a medical chair or table be exempt from the device good manufacturing practice (GMP) regulation under section 520(f) of the act, FDA is proposing that a manufacturer of this device be exempt, in the manufacture of the device, from all requirements in the GMP regulation except § 820.180 (21 CFR 820.180), with respect to general requirements concerning records, and § 820.198 (21 CFR 820.198), with respect to complaint files. Based on available information about current practices used in the manufacture of the device and user experience with the device, the agency has determined that application of the GMP regulation, other than §§ 820.180 and 820.198, is unlikely to improve the safety and effectiveness of the device. The agency believes, however, that manufacturers of a medical chair or table must still be required to comply with the complaint file requirements of § 820.198 to ensure that these manufacturers have adequate systems for complaint investigation and followup. The agency also believes that manufacturers of a medical chair or table must still be required to comply with the general requirements concerning records in § 820.180 to ensure that FDA has access to complaint files, can investigate device-related injury reports and complaints about product defects, may determine whether the manufacturer's corrective actions are adequate, and may determine whether the exemption from other sections of the GMP regulation is still appropriate.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs proposes to amend Part 880 in Subpart G

by adding new § 880.6140, to read as follows:

§ 880.6140 Medical chair and table.

(a) *Identification.* A medical chair or table is a device consisting of a chair or table without wheels and not electrically powered which, by reason of special shape or attachments, such as food trays or headrests, or special features such as a built-in raising and lowering mechanism or removable arms, is designed for the use of blood donors, geriatric patients, or patients undergoing treatment or examination.

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in Subpart E of Part 807 of this chapter. The device also is exempt from the good manufacturing practice regulation in Part 820 of this chapter, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

Interested persons may, on or before October 23, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 10, 1979.
William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.
(FR Doc. 79-26100 Filed 8-23-79; 8:45 am)
BILLING CODE 4110-03-M

[21 CFR Part 880]

[Docket No. 78N-1341]

Medical Devices; Classification of Ultrasonic Cleaners for Medical Instruments

AGENCY: Food and Drug Administration.
ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying ultrasonic cleaners for medical instruments into class I (general controls). FDA is also publishing the recommendation of the General Hospital and Personal Use Device Classification Panel that the device be classified into class I. The effect of classifying a device

into class I is to require that the device meet only the general controls applicable to all devices. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by October 23, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Lillian L. Yin, Bureau of Medical Devices (HFK-470), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7555.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the Federal Register provides background information concerning the development of the proposed regulation. The General Hospital and Personal Use Device Classification Panel, an FDA advisory committee, made the following recommendation with respect to the classification of ultrasonic cleaners for medical instruments:

1. Identification: An ultrasonic cleaner for medical instruments is a device used to clean medical instruments by the emission of high frequency soundwaves.

2. Recommended classification: Class I (general controls). The Panel recommends that there be no exemptions.

3. Summary of reasons for recommendation: The Panel recommends that ultrasonic cleaners for medical instruments be classified into class I because the Panel believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device. The Panel also recommends that the device labeling advise users to check periodically the level of energy emitted by the device.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device.

5. Risks to health: None identified.

Proposed Classification

FDA agrees with the Panel recommendation and is proposing that ultrasonic cleaners for medical instruments be classified into class I (general controls) with no exemptions. The agency believes that general controls are sufficient to provide

reasonable assurance of the safety and effectiveness of the device.

In addition to the Medical Device Amendments of 1976 (Pub. L. 94-295), FDA has authority under the Radiation Control for Health and Safety Act of 1968 (Pub. L. 90-602) to establish and implement an electronic product radiation control program that includes performance standards for electronic products and their related accessories. Within this program, radiation emission performance standards have been, and will continue to be, set and enforced for certain medical devices that emit electronic product radiation. At this time, performance standards have been promulgated for diagnostic x-ray systems and their major components (§ 1020.30(21 CFR 1020.30)), radiographic equipment (§ 1020.32 (21 CFR 1020.32)), laser products, whether used medically or not (§§ 1040.10 and 1040.11 (21 CFR 1040.10 and 1040.11)), and ultrasonic therapy products (§ 1050.10 (21 CFR 1050.10)). The agency will use its authority over radiation-emitting electronic medical products under the Medical Device Amendments of 1976 and/or the Radiation Control for Health and Safety Act of 1968, as appropriate.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs proposes to amend Part 880 in Subpart G by adding new § 880.6150, to read as follows:

§ 880.6150 Ultrasonic cleaner for medical instruments.

(a) *Identification.* An ultrasonic cleaner for medical instruments is a device used to clean medical instruments by the emission of high frequency soundwaves.

(b) *Classification.* Class I (general controls).

Interested persons may, on or before October 23, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 10, 1979.

William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.

[FR Doc. 79-26101 Filed 8-23-79; 8:45 am]

BILLING CODE 4110-03-M

[21 CFR Part 880]

[Docket No. 78N-1342]

Medical Devices; Classification of Specimen Containers

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying specimen containers into class I (general controls). FDA is also publishing the recommendation of the General Hospital and Personal Use Device Classification Panel that the device be classified into class I. The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by October 23, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Lillian L. Yin, Bureau of Medical Devices (HFK-470), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7555.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the Federal Register provides background information concerning the development of the proposed regulation. The General Hospital and Personal Use Device Classification Panel, an FDA advisory committee, made the following recommendation with respect to the classification of specimen containers:

1. Identification: A specimen container is a device, usually sterile, used for the collection and transport of body waste, body exudate, or tissue samples.

2. Recommended classification: Class I (general controls). The Panel recommends that there be no exemptions.

3. Summary of reasons for recommendation: The Panel recommends that specimen containers be classified into class I because the Panel believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device. The Panel recommends that the device be made of an inert material to prevent chemical reactions with the specimen, be unbreakable and sterilizable, and be designed with a secure closure to maintain the integrity of the contents.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device.

5. Risks to health: (a) Inappropriate therapy: Lack of sterility or leakage of the container may result in contamination or deterioration of the sample and lead to erroneous test results which could result in inappropriate therapy.

Proposed Classification

FDA agrees with the Panel recommendation and is proposing that specimen containers be classified into class I (general controls) with no exemptions. The agency believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs proposes to amend Part 880 in Subpart G by adding new § 880.6175, to read as follows:

§ 880.6175 Specimen container.

(a) *Identification.* A specimen container is a device, usually sterile, used for the collection and transport of body waste, body exudate, or tissue samples.

(b) *Classification.* Class I (general controls).

Interested persons may, on or before October 23, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 10, 1979.

William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.

[FR Doc. 79-26102 Filed 8-23-79; 8:45 am]

BILLING CODE 4110-03-M

[21 CFR Part 880]

[Docket No. 78N-1343]

Medical Devices; Classification of Cast Covers

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying cast covers into class I (general controls). FDA is also publishing the recommendation of the Physical Medicine Device Classification Panel that the device be classified into class I. The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by October 23, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Lillian L. Yin, Bureau of Medical Devices (HFK-470), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7555.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the Federal Register provides background information concerning the development of the proposed regulation. The Physical Medicine Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of cast covers:

1. Identification: A cast cover is a device made of waterproof material that is placed over a cast to protect it from getting wet during a shower or a bath.

2. Recommended classification: Class I (general controls). The Panel recommends

that this device be exempt from premarket notification under section 510(k) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360(k)), from records and reports regulations under section 519 of the act (21 U.S.C. 360i), and from the good manufacturing practice regulation under section 520(f) of the act (21 U.S.C. 360(f)).

3. Summary of reasons for recommendation: The Panel recommends that cast covers be classified into class I because the Panel believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device. Because this is a simple device with no known potential risks to health, the Panel believes that it should be exempt from sections 510(k), 519, and 520(f) of the act.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device.

5. Risks to health: None identified.

Proposed Classification

FDA agrees with the Physical Medicine Device Classification Panel recommendation and is proposing that cast covers be classified into class I (general controls). The agency has concluded that cast covers should be published in the part of the Code of Federal Regulations for General Hospital and Personal Use Devices. The agency believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

In response to the Panel's recommendation that manufacturers of a cast cover be exempt from section 510(k) of the act, FDA is proposing that these manufacturers be subject to registration and device listing under section 510(a) through (j) of the act, but exempt from premarket notification under section 510(k) of the act and Subpart E of Part 807 of the regulations (21 CFR Part 807). Under section 510(g)(4) of the act, the agency may exempt a manufacturer from section 510 only if it finds that compliance with this section is not necessary for the protection of the public health. In the case of registration and listing by manufacturers of a cast cover, the agency cannot make the required finding. To protect the public health, the agency needs to be able to identify the firms manufacturing this device and to conduct necessary inspections. The agency has determined, however, that it is not necessary for the protection of the public health that FDA receive premarket notification submissions concerning a cast cover. The agency does not at this time anticipate that premarket approval will be required for this device. The agency believes that the semiannual updating of device listing under section 510(j)(2) will

provide FDA with adequate notice concerning new products within this generic type of device.

FDA disagrees with the Panel's recommendation that manufacturers of a cast cover be exempt from records and reports regulations under section 519 of the act. The records and reports requirements in several of FDA's present device regulations are authorized, wholly or in part, by section 519. The most extensive of these requirements are found in the device good manufacturing practice (GMP) regulation, published in the Federal Register of July 21, 1978 (43 FR 31508). In the future, FDA will publish other regulations under section 519, including regulations requiring reports to FDA of experience with medical devices. Until these regulations are issued, FDA believes that it cannot properly issue exemptions from them. In the future, whenever the agency proposes device regulations that include records and reports requirements, interested persons may submit comments requesting that certain classes of manufacturers or other persons be exempt from the requirements, and FDA will issue exemptions that are appropriate. The only type of exemption from records and reports requirements that FDA is proposing now, in device classification regulations, is an exemption of certain manufacturers from requirements of the device GMP regulation. The exemption will not extend to two device GMP requirements, § 820.180 (21 CFR 820.180), with respect to general requirements concerning records, and § 820.198 (21 CFR 820.198), with respect to complaint files.

In response to the Panel's recommendation that manufacturers of a cast cover be exempt from the device good manufacturing practice (GMP) regulation under section 520(f) of the act, FDA is proposing that a manufacturer of this device be exempt, in the manufacture of the device, from all requirements in the GMP regulation except § 820.180 (21 CFR 820.180), with respect to general requirements concerning records, and § 820.198 (21 CFR 820.198), with respect to complaint files. Based on available information about current practices used in the manufacture of the device and user experience with the device, the agency has determined that application of the GMP regulation, other than §§ 820.180 and 820.198, is unlikely to improve the safety and effectiveness of the device. The agency believes, however, that manufacturers of a cast cover must still be required to comply with the complaint file requirements of § 820.198

to ensure that these manufacturers have adequate systems for complaint investigation and followup. The agency also believes that manufacturers of a cast cover must still be required to comply with the general requirements concerning records in 820.180 to ensure that FDA has access to complaint files, can investigate device-related injury reports and complaints about product defects, may determine whether the manufacturer's corrective actions are adequate, and may determine whether the exemption from other sections of the GMP regulation is still appropriate.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs proposes to amend Part 880 in Subpart C by adding new § 880.6185, to read as follows:

§ 880.6185 Cast cover.

(a) *Identification.* A cast cover is a device made of waterproof material that is placed over a cast to protect it from getting wet during a shower or a bath.

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in Subpart E of Part 807 of this chapter. The device also is exempt from the good manufacturing practice regulation in Part 820 of this chapter, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

Interested persons may, on or before October 23, 1979 submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 10, 1979.

William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.

[FR Doc. 79-26103 Filed 8-23-79; 8:45 am]

BILLING CODE 4110-03-M

[21 CFR Part 880]

(Docket No. 78N-1344)

**Medical Devices; Classification of
Mattress Covers**

AGENCY: Food and Drug Administration.
ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying mattress covers into class I (general controls). FDA is also publishing the recommendation of the General Hospital and Personal Use Device Classification Panel that the device be classified into class I. The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by October 23, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305) Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Lillian L. Yin, Bureau of Medical Devices (HFK-470), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7555.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the Federal Register provides background information concerning the development of the proposed regulation. The General Hospital and Personal Use Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of mattress covers:

1. *Identification:* A mattress cover is a device usually made of plastic used to protect a mattress. The device may contain a germicide and may be electrically conductive.

2. *Recommended classification:* Class I (general controls). The Panel recommends that this device be exempt from premarket notification under section 510(k) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360(k)) and from the good manufacturing practice regulation under section 520(f) of the act (21 U.S.C. 360(f)).

3. *Summary of reasons for recommendation:* The Panel recommends that

mattress covers be classified into class I because the Panel believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device. The Panel recommends that this device be exempt from premarket notification under section 510(k) of the act because the panel believes that FDA does not need to receive a premarket notification of a manufacturer's intent to market this simple device. The Panel recommends that this device be exempt from the good manufacturing practice regulation under section 520(f) of the act because the Panel believes that the quality of the device is easily discernible and that defects are readily apparent to the user. The Panel also recommends that the device be impermeable to fluids.

4. *Summary of data on which the recommendation is based:* The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device.

5. *Risk to health:* Crossinfection: If the device is not capable of being cleaned or sterilized for reuse, crossinfection could occur between patients.

Proposed Classification

FDA agrees with the Panel recommendation and is proposing that mattress covers be classified into class I (general controls). The agency believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device. The agency disagrees with the Panel recommendation that manufacturers of a mattress cover be exempt from premarket notification under section 510(k) of the act. Under section 510(g)(4) of the act, the agency may exempt a manufacturer from compliance with section 510(k) of the act only upon a finding that compliance is not necessary for the protection of the public health. In the case of mattress covers, the agency cannot make the required finding. To protect the public health, FDA needs to require premarket notification by these manufacturers to assure that the agency learns of new products, and significant modifications of existing products, for which premarket approval is required.

In response to the Panel's recommendation that manufacturers of a mattress cover be exempt from the device good manufacturing practice (GMP) regulation under section 520(f) of the act (21 U.S.C. 360(f)), FDA is proposing that a manufacturer of this device who does not label or otherwise represent it as sterile be exempt, in the manufacture of the device, from all requirements in the GMP regulation except § 820.180 (21 CFR 820.180), with respect to general requirements concerning records, and § 820.189 (21 CFR 820.189), with respect to complaint files. Based on available information about current practices used in the

manufacture of the device and user experience with the device, the agency has determined that application of the GMP regulation, other than §§ 820.180 and 820.198, is unlikely to improve the safety and effectiveness of the device. The agency believes, however, that manufacturers of a mattress cover, even when it is not labeled or otherwise represented as sterile, must still be required to comply with the complaint file requirements of § 820.198 to ensure that these manufacturers have adequate systems for complaint investigation and followup. The agency also believes that manufacturers of a mattress cover must still be required to comply with the general requirements concerning records in § 820.180 to ensure that FDA has access to complaint files, can investigate device-related injury reports and complaints about product defects, may determine whether the manufacturer's corrective actions are adequate, and may determine whether the exemption from other sections of the GMP regulation is still appropriate. A manufacturer of a mattress cover that is labeled or otherwise represented as sterile is, in the manufacture of this device, subject to the GMP regulation in its entirety.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs proposes to amend Part 880 in Subpart C by adding new § 880.6190, to read as follows:

§ 880.6190 Mattress cover.

(a) *Identification.* A mattress cover is a device usually made of plastic used to protect a mattress. The device may contain a germicide and may be electrically conductive.

(b) *Classification.* Class I (general controls). If the device is not labeled or otherwise represented as sterile, it is exempt from the good manufacturing practice regulation in Part 820 of this chapter, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.189, with respect to complaint files.

Interested persons may, on or before October 23, 1979 submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the Hearing Clerk docket number found in brackets in the heading of this

document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 10, 1979.

William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.

[FR Doc. 79-26104 Filed 8-23-79; 8:45 am]

BILLING CODE 4110-03-M

[21 CFR Part 880]

(Docket No. 78N-1345)

**Medical Devices; Classification of Ring
Cutters**

AGENCY: Food and Drug Administration.
ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying ring cutters into class I (general controls). FDA is also publishing the recommendation of the General Hospital and Personal Use Device Classification Panel that the device be classified into class I. The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by October 23, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Lillian L. Yin, Bureau of Medical Devices (HFK-470), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7555.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A Proposal elsewhere in this issue of the Federal Register provides background information concerning the development of the proposed regulation. The General Hospital and Personal Use Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of ring cutters:

1. Identification: A ring cutter is a device used to cut a ring on a patient's finger so that the ring can be removed. The device incorporates a guard to prevent injury to the patient's finger.

2. Recommended classification: Class I (general controls). The Panel recommends that this device be exempt from premarket notification under section 510(k) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360(k)) and from the good manufacturing practice regulation under section 520(f) of the act (21 U.S.C. 360(f)).

3. Summary of reasons for recommendation: The Panel recommends that ring cutters be classified into class I (general controls) because the Panel believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device. The Panel recommends that this device be exempt from premarket notification under section 510(k) of the act because the Panel believes that FDA does not need to receive premarket notification of a manufacturer's intent to market this simple device. The Panel recommends that this device be exempt from the good manufacturing practice regulation under section 520(f) of the act because the panel believes that the quality of the device is easily discernible and that defects are readily apparent to the user.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device.

5. Risks to health: None identified.

Proposed Classification

FDA agrees with the Panel recommendation and is proposing that ring cutters be classified into class I (general controls). The agency believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

In response to the Panel's recommendation that manufacturers of a ring cutter be exempt from section 510(k) of the act, FDA is proposing that these manufacturers be subject to registration and device listing under section 510(a) through (j) of the act, but exempt from premarket notification under section 510(k) of the act and Subpart E of Part 807 of the regulations (21 CFR Part 807). Under section 510(g)(4) of the act, the agency may exempt a manufacturer from section 510 only if it finds that compliance with this section is not necessary for the protection of the public health. In the case of registration and listing by manufacturers of a ring cutter, the agency cannot make the required finding. To protect the public health, the agency needs to be able to identify the firms manufacturing this device and to conduct necessary inspections. The agency has determined, however, that it is not necessary for the protection of the public health that FDA receive

premarket notification submissions concerning a ring cutter. The agency does not at this time anticipate that premarket approval will be required for this device. The agency believes that the semiannual updating of device listing under section 510(j)(2) will provide FDA with adequate notice concerning new products within this generic type of device.

In response to the Panel's recommendation that manufacturers of a ring cutter be exempt from the device good manufacturing practice (GMP) regulation under section 520(f) of the act, FDA is proposing that a manufacturer of this device be exempt, in the manufacture of the device, from all requirements in the GMP regulation except § 820.180 (21 CFR 820.180), with respect to general requirements concerning records, and § 820.198 (21 CFR 820.198), with respect to complaint files. Based on available information about current practices used in the manufacture of the device and user experience with the device, the agency has determined that application of the GMP regulation, other than §§ 820.180 and 820.198, is unlikely to improve the safety and effectiveness of the device. The agency believes, however, that manufacturers of a ring cutter must still be required to comply with the complaint file requirements of § 820.198 to ensure that these requirements of § 820.198 to ensure that these manufacturers have adequate systems for complaint investigation and followup. The agency also believes that manufacturers of a ring cutter must still be required to comply with the general requirements concerning records in § 820.180 to ensure that FDA has access to complaint files, can investigate device-related injury reports and complaints about product defects, may determine whether the manufacturer's corrective actions are adequate, and may determine whether the exemption from other sections of the GMP regulation is still appropriate.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs proposes to amend Part 880 in Subpart C by adding new § 880.6200, to read as follows:

§ 880.6200 Ring cutter.

(a) *Identification.* A ring cutter is a device used to cut a ring on a patient's finger so that the ring can be removed. The device incorporates a guard to prevent injury to the patient's finger.

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in Subpart E of Part 807 of this chapter. The device also is exempt from the good manufacturing practice regulation in Part 820 of this chapter, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

Interested persons may, on or before October 23, 1979 submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 10, 1979.

William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.

[FR Doc. 79-26105 Filed 8-23-79; 8:45 am]

BILLING CODE 4110-03-M

[21 CFR Part 880]

[Docket No. 78N-1346]

Medical Devices; Classification of Tongue Depressors

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying tongue depressors into class I (general controls). FDA is also publishing the recommendation of the General Hospital and Personal Use Device Classification Panel, the General and Plastic Surgery Device Classification Panel, the Dental Device Classification Panel, and the Ear, Nose, and Throat Device Classification Panel that the device be classified into class I. The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by October 23, 1979.

It is proposed that the final regulation based on this proposal become effective

30 days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Lillian L. Yin, Bureau of Medical Devices (HFK-470), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Avenue, Silver Spring, MD 20910, 301-427-7555.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the Federal Register provides background information concerning the development of the proposed regulation. The General Hospital and Personal Use Device Classification Panel, the General and Plastic Surgery Device Classification Panel, the Dental Device Classification Panel, and the Ear, Nose, and Throat Device Classification Panel, FDA advisory committees, made the following recommendation regarding the classification of tongue depressors:

1. Identification: A tongue depressor is a device used to displace the tongue to facilitate examination of the surrounding organs and tissues. The General and Plastic Surgery Device Classification panel identified this generic type of device under the name "tongue blades." The Dental Device Classification Panel identified this generic type of device under the name "tongue depressors." The Ear, Nose, and Throat Device Classification Panel identified this generic type of device under the name "wooden tongue depressors."

2. Recommended classification: Class I (general controls). The General Hospital and Personal Use Device Classification Panel recommends that this device be exempt from premarket notification under section 510(k) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360(k)) and, if the device is not labeled as sterile, exempt from the good manufacturing practice regulation under section 520(f) of the act (21 U.S.C. 360(f)). The General and Plastic Surgery Device Classification Panel recommends that there be no exemptions for this device. The Dental Device Classification Panel recommends that this device be exempt from premarket notification under section 510(k) of the act, records and reports regulations under section 519 of the act (21 U.S.C. 360i), and the good manufacturing practice regulation under section 520(f) of the act. The Ear, Nose, and Throat Device Classification panel recommends that this device be exempt from premarket notification under section 510(k) of the act.

3. Summary of reasons for recommendation: The Panels recommend that tongue depressors be classified into class I because the Panels believe that general controls are sufficient to provide reasonable

assurance of the safety and effectiveness of the device. The Panels recommend that this device be exempt from premarket notification under section 510(k) of the act because the Panels believe that FDA does not need to receive premarket notification of a manufacturer's intent to market this simple device. The Panels recommend that this device be exempt from the good manufacturing practice regulation under section 520(f) of the act because the Panels believe that the quality of the device is easily discernible and that defects are readily apparent to the user. The Dental Device Classification panel recommends that this device be exempt from records and reports regulations under section 519 of the act because the Panel believes that FDA does not need to receive records and reports for this simple device. The General Hospital and Personal Use Device Classification Panel recommends that the device should be sanitized, although not necessarily sterilized. The Panel also recommends that the device be smooth and durable.

4. Summary of data on which the recommendations are based: The panels based their recommendations on the Panel members' personal knowledge of, and clinical experience with, the device.

5. Risk to health: Infection: If the device is labeled as sterile and it is not sterile, pathogenic organisms could cause an infection in the patient.

Proposed Classification

FDA agrees with the Panel's recommendations and is proposing that tongue depressors be classified into class I (general controls).

The agency has reviewed the recommendations of the General Hospital and Personal Use Device Classification Panel for tongue depressors, the General and Plastic Surgery Device Classification Panel for tongue blades, the Dental Device Classification Panel for tongue depressors, and the Ear, Nose, and Throat Device Classification Panel for wooden tongue depressors, and has concluded that the device should be named "tongue depressor" and its classification be published in the part of the Code of Federal Regulations for General Hospital and Personal Use Devices. The agency believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

In response to the Panel's recommendation that manufacturers of a tongue depressor be exempt from section 510(k) of the act, FDA is proposing that these manufacturers be subject to registration and device listing under section 510(a) through (j) of the act, but exempt from premarket notification under section 510(k) of the act and Subpart E of Part 807 of the regulations (21 CFR Part 807). Under section 510(g)(4) of the act, the agency

may exempt a manufacturer from section 510 only if it finds that compliance with this section is not necessary for the protection of the public health. In the case of registration and listing by manufacturers of a tongue depressor, the agency cannot make the required finding. To protect the public health, the agency needs to be able to identify the firms manufacturing this device and to conduct necessary inspections. The agency has determined, however, that it is not necessary for the protection of the public health that FDA receive premarket notification submissions concerning a tongue depressor. The agency does not at this time anticipate that premarket approval will be required for this device. The agency believes that the semiannual updating of device listing under section 510(j)(2) will provide FDA with adequate notice concerning new products within this generic type of device.

FDA disagrees with the Panel's recommendation that manufacturers of a tongue depressor be exempt from records and reports regulations under section 519 of the act. The records and reports requirements in several of FDA's present device regulations are authorized, wholly or in part, by section 519. The most extensive of these requirements are found in the device good manufacturing practice (GMP) regulation, published in the Federal Register of July 21, 1978 (43 FR 31508). In the future, FDA will publish other regulations under section 519, including regulations requiring reports to FDA of experience with medical devices. Until these regulations are issued, FDA believes that it cannot properly issue exemptions from them. In the future, whenever the agency proposes device regulations that include records and reports requirements, interested persons may submit comments requesting that certain classes of manufacturers or other persons be exempt from the requirements, and FDA will issue exemptions that are appropriate. The only type of exemption from records and reports requirements that FDA is proposing now, in device classification regulations, is an exemption of certain manufacturers from requirements of the device GMP regulation. The exemption will not extend to two device GMP requirements, § 820.180 (21 CFR 820.180), with respect to general requirements concerning records, and § 820.198 (21 CFR 820.198), with respect to complaint files.

In response to the Panel's recommendation that manufacturers of a tongue depressor be exempt from the device good manufacturing practice

(GMP) regulation under section 520(f) of the act, FDA is proposing that a manufacturer of this device who does not label or otherwise represent it as sterile be exempt, in the manufacture of the device, from all requirements in the GMP regulation except § 820.180 (21 CFR 820.180), with respect to general requirements concerning records, and § 820.198 (21 CFR 820.198), with respect to complaint files. Based on available information about current practices used in the manufacture of the device and user experience with the device, the agency has determined that application of the GMP regulation, other than §§ 820.180 and 820.198, is unlikely to improve the safety and effectiveness of the device. The agency believes, however, that manufacturers of a tongue depressor, even when it is not labeled or otherwise represented as sterile, must still be required to comply with the complaint file requirements of § 820.198 to ensure that these manufacturers have adequate systems for complaint investigation and followup. The agency also believes that manufacturers of a tongue depressor must still be required to comply with the general requirements concerning records in § 820.180 to ensure that FDA has access to complaint files, can investigate device-related injury reports and complaints about product defects, may determine whether the manufacturer's corrective actions are adequate, and may determine whether the exemption from other sections of the GMP regulation is still appropriate. A manufacturer of a tongue depressor that is labeled or otherwise represented as sterile is, in the manufacture of this device, subject to the GMP regulation in its entirety.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs proposes to amend Part 880 in Subpart G by adding new § 880.6230, to read as follows:

§ 880.6230 Tongue depressor.

(a) *Identification.* A tongue depressor is a device used to displace the tongue to facilitate examination of the surrounding organs and tissues.

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in Subpart E of Part 807 of this chapter. If the device is not labeled or otherwise represented as sterile, it also is exempt from the good manufacturing practice regulation in Part 820 of this chapter, with the exception of § 820.180, with respect to general requirements

concerning records, and § 820.198, with respect to complaint files.

Interested persons may, on or before October 23, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 10, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-28106 Filed 8-23-79; 8:45 am]

BILLING CODE 4110-03-M

[21 CFR Part 880]

[Docket No. 78N-1347]

Medical Devices; Classification of Patient Examination Gloves

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying patient examination gloves into class I (general controls). FDA is also publishing the recommendation of the General Hospital and Personal Use Device Classification Panel that the device be classified into class I. The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by October 23, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Lillian L. Yin, Bureau of Medical Devices (HFK-470), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia

Ave., Silver Spring, MD 20910, 301-427-7555.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the Federal Register provides background information concerning the development of the proposed regulation. The General Hospital and Personal Use Device Classification Panel, an FDA advisory committee, made the following recommendations regarding the classification of patient examination gloves:

1. Identification: A patient examination glove is a disposable device worn on the examiner's hand or finger to prevent contamination between patient and examiner.
2. Recommended classification: Class I (general controls). The Panel recommends that this device be exempt from premarket notification under section 510(k) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360(k)) and, if the device is not labeled as sterile, exempt from the good manufacturing practice regulation under section 520(f) of the act (21 U.S.C. 360(f)).
3. Summary of reasons for recommendation: The Panel recommends that patient examination gloves be classified into class I because the Panel believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device. The Panel recommends that this device be exempt from premarket notification under section 510(k) of the act because the Panel believes that FDA does not need to receive premarket notification of a manufacturer's intent to market this simple device. The Panel recommends that this device be exempt from the good manufacturing practice regulation under section 520(f) of the act because the Panel believes that the quality of the device is easily discernible and that defects are readily apparent to the user. The Panel also recommends that the device be clean, although not necessarily sterile, and that glove size be stated on the label to assure proper fit.
4. Summary of data on which the recommendations are based: The Panel based its recommendations on the Panel members' personal knowledge of, and clinical experience with, the device.
5. Risks to health: None identified.

Proposed Classification

FDA agrees with the Panel recommendation and is proposing that patient examination gloves be classified into class I (general controls). The agency believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

In response to the Panel's recommendation that manufacturers of a patient examination glove be exempt from section 510(k) of the act, FDA is proposing that these manufacturers be

subject to registration and device listing under section 510(a) through (j) of the act, but exempt from premarket notification under section 510(k) of the act and Subpart E of Part 807 of the regulations (21 CFR Part 807). Under section 510(g)(4) of the act, the agency may exempt a manufacturer from section 510 only if it finds that compliance with this section is not necessary for the protection of the public health. In the case of registration and listing by manufacturers of a patient examination glove, the agency cannot make the required finding. To protect the public health, the agency needs to be able to identify the firms manufacturing this device and to conduct necessary inspections. The agency has determined, however, that it is not necessary for the protection of the public health that FDA receive premarket notification submissions concerning a patient examination glove. The agency does not at this time anticipate that premarket approval will be required for this device. The agency believes that the semiannual updating of device listing under section 510(j)(2) will provide FDA with adequate notice concerning new products within this generic type of device.

In response to the Panel's recommendation that manufacturers of a patient examination glove be exempt from the device good manufacturing practice (GMP) regulation under section 520(f) of the act, FDA is proposing that a manufacturer of this device who does not label or otherwise represent it as sterile be exempt, in the manufacture of the device, from all requirements in the GMP regulation except § 820.180 (21 CFR 820.180), with respect to general requirements concerning records, and § 820.198 (21 CFR 820.198), with respect to complaint files. Based on available information about current practices used in the manufacture of the device and user experience with the device, the agency has determined that application of the GMP regulation, other than §§ 820.180 and 820.198, is unlikely to improve the safety and effectiveness of the device. The agency believes, however, that manufacturers of a patient examination glove even when it is not labeled or otherwise represented as sterile, must still be required to comply with the complaint file requirements of § 820.198 to ensure that these manufacturers have adequate systems for complaint investigation and followup. The agency also believes that manufacturers of a patient examination glove must still be required to comply with the general requirements concerning records in § 820.180 to ensure that FDA has access to

complaint files, can investigate device-related injury reports and complaints about product defects, may determine whether the manufacturer's corrective actions are adequate, and may determine whether the exemption from other sections of the GMP regulation is still appropriate. A manufacturer of a patient examination glove that is labeled or otherwise represented as sterile is, in the manufacture of this device, subject to the GMP regulation in its entirety.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs proposes to amend Part 880 in Subpart G by adding new § 880.6250, to read as follows:

§ 880.6250 Patient examination glove.

(a) *Identification.* A patient examination glove is a disposable device worn on the examiner's hand or finger to prevent contamination between patient and examiner.

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in Subpart E of Part 807 of this chapter. If the device is not labeled or otherwise represented as sterile, it is also exempt from the good manufacturing practice regulation in Part 820 of this chapter, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

Interested persons may, on or before October 23, 1979 submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 15, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-28107 Filed 8-23-79; 8:45 am]

BILLING CODE 4110-03-M

[21 CFR Part 880]

[Docket No. 78N-1348]

Medical Devices; Classification of Examination Gowns

AGENCY: Food and Drug Administration.
ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying examination gowns into class I (general controls). FDA is also publishing the recommendation of the General Hospital and Personal Use Device Classification Panel that the device be classified into class I. The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by October 23, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Lillian L. Yin, Bureau of Medical Devices (HFK-470), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7555.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the Federal Register provides background information concerning the development of the proposed regulation. The General Hospital and Personal Use Device Classification Panel, an FDA advisory committee, made the following recommendation with respect to the classification of examination gowns:

1. Identification: An examination gown is a device made of cloth, paper, or other material that is draped over or worn by a patient as a body covering during a medical examination.
2. Recommended classification: Class I (general controls). The Panel recommends that this device be exempt from premarket notification under section 510(k) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360(k)) and the good manufacturing practice regulation under section 520(f) of the act (21 U.S.C. 360(f)).
3. Summary of reasons for recommendation: The Panel recommends that

examination gowns be classified into class I (general controls) because the Panel believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device. The Panel recommends that this device be exempt from premarket notification under section 510(k) of the act because the Panel believes that FDA does not need to receive premarket notification of a manufacturer's intent to market this simple device. The Panel recommends that this device be exempt from the good manufacturing practice regulation under section 520(f) of the act because the Panel believes that the quality of the device is easily discernible and that defects are readily apparent to the user. The Panel also recommends that the material used in the device be flame retardant.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device.

5. Risks to health: None identified.

Proposed Classification

FDA agrees with the Panel recommendation and is proposing that examination gowns be classified into class I (general controls). The agency believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

In response to the Panel's recommendation that manufacturers of an examination gown be exempt from section 510(k) of the act, FDA is proposing that these manufacturers be subject to registration and device listing under section 510 (a) through (j) of the act, but exempt from premarket notification under section 510(k) of the act and Subpart E of Part 807 of the regulations (21 CFR Part 807). Under section 510(g)(4) of the act, the agency may exempt a manufacturer from section 510 only if it finds that compliance with this section is not necessary for the protection of the public health. In the case of registration and listing by manufacturers of an examination gown, the agency cannot make the required finding. To protect the public health, the agency needs to be able to identify the firms manufacturing this device and to conduct necessary inspections. The agency has determined, however, that it is not necessary for the protection of the public health that FDA receive premarket notification submissions concerning an examination gown. The agency does not at this time anticipate that premarket approval will be required for this device. The agency believes that the semiannual updating of device listing under section 510(j)(2) will provide FDA with adequate notice concerning new products within this generic type of device.

In response to the Panel's recommendation that manufacturers of an examination gown be exempt from the device good manufacturing practice (GMP) regulation under section 520(f) of the act, FDA is proposing that a manufacturer of this device who does not label or otherwise represent it as sterile be exempt, in the manufacture of the device, from all requirements in the GMP regulation except § 820.180 (21 CFR 820.180) with respect to general requirements concerning records, and § 820.198 (21 CFR 820.198), with respect to complaint files. Based on available information about current practices used in the manufacture of the device and user experience with the device, the agency has determined that application of the GMP regulation, other than §§ 820.180 and 820.198, is unlikely to improve the safety and effectiveness of the device. The agency believes, however, that manufacturers of an examination gown, even when it is not labeled or otherwise represented as sterile, must still be required to comply with the complaint file requirements of § 820.198 to ensure that these manufacturers have adequate systems for complaint investigation and followup. The agency also believes that manufacturers of an examination gown must still be required to comply with the general requirements concerning records in § 820.180 to ensure that FDA has access to complaint files, can investigate device-related injury reports and complaints about product defects, may determine whether the manufacturer's corrective actions are adequate, and may determine whether the exemption from other sections of the GMP regulation is still appropriate. A manufacturer of an examination gown that is labeled or otherwise represented as sterile is, in the manufacture of this device, subject to the GMP regulation in its entirety.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs proposes to amend Part 880 in Subpart G by adding new § 880.6265, to read as follows:

§ 880.6265 Examination gown.

(a) *Identification.* An examination gown is a device made of cloth, paper, or other material that is draped over or worn by a patient as a body covering during a medical examination.

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in Subpart E of Part 807 of this chapter. If

the device is not labeled or otherwise represented as sterile, it also is exempt from the good manufacturing practice regulation in Part 820 of this chapter, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

Interested persons may, on or before October 23, 1979 submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 10, 1979.

William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.

[FR Doc. 79-26108 Filed 8-23-79; 8:45 am]

BILLING CODE 4110-03-M

[21 CFR Part 880]

[Docket No. 78N-1363]

Medical Devices; Classification of Medical Insoles

AGENCY: Food and Drug Administration.
ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying medical insoles into class I (general controls). FDA is also publishing the recommendation of the General Hospital and Personal Use Device Classification Panel that the device be classified into class I. The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by October 23, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Lillian L. Yin, Bureau of Medical Devices (HFK-470), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7555.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the Federal Register provides background information concerning the development of the proposed regulation. The General Hospital and Personal Use Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of medical insoles:

1. Identification: A medical insole is a device placed inside a shoe to relieve the symptoms of athlete's foot infection by absorbing moisture.
2. Recommended classification: Class I (general controls). The Panel recommends that there be no exemptions.
3. Summary of reasons for recommendation: The Panel recommends that medical insoles be classified into class I because the Panel believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.
4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device and on an article describing the use of insoles containing activated charcoal to reduce excessive perspiration of the foot (Ref. 1). The article states that in patients who had worn the insoles for over 4 weeks, there was a decrease in perspiration of the foot.
5. Risks to health: None identified.

Proposed Classification

FDA agrees with the Panel recommendation and is proposing that medical insoles be classified into class I (general controls) with no exemptions. The agency believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

References

The following information has been placed in the office of the Hearing Clerk (address above) and may be seen by interested persons, from 9 a.m. to 4 p.m., Monday through Friday.

1. Regan, A., "The Treatment of Bromhidrosis and Hyperhidrosis with Cushioned Insoles Containing Activated Charcoal," *Current Podiatry*, pp. 15-20, November 1975.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority

delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs proposes to amend Part 880 in Subpart G by adding new § 880.6280, to read as follows:

§ 880.6280 Medical insole.

(a) *Identification.* A medical insole is a device placed inside a shoe to relieve the symptoms of athlete's foot infection by absorbing moisture.

(b) *Classification.* Class I (general controls).

Interested persons may, on or before October 23, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 10, 1979.

William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.

[FR Doc. 79-26109 Filed 8-23-79; 8:45 am]

BILLING CODE 4110-03-M

[21 CFR Part 880]

[Docket No. 78N-1364]

Medical Devices; Classification of AC-Powered Examination Lights

AGENCY: Food and Drug Administration.
ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying AC-powered examination lights into class II (performance standards). FDA is also publishing the recommendation of the General Hospital and Personal Use Device Classification Panel that the device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by October 23, 1979. It is proposed that the final regulation based on this proposal become effective

30 days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Lillian L. Yin, Bureau of Medical Devices (HFK-470), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7555.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the Federal Register provides background information concerning the development of the proposed regulation. The General Hospital and Personal Use Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of AC-powered examination lights:

1. Identification: An AC-powered examination light is an electrically powered device that illuminates body surfaces and cavities during a medical examination.
2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.
3. Summary of reasons for recommendation: The Panel recommends that AC-powered examination lights be classified into class II because the Panel believes that the electrical properties of the device must be controlled through an electrical safety standard. The Panel believes that general controls would not provide sufficient control over this characteristic. The Panel believes that a standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance.
4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device.
5. Risks to health: (a) Burns: If the device overheats and touches the patient, it may cause a burn. (b) Electrical shock: Improper device design and construction or device malfunction can result in electrical shock.

Proposed Classification

FDA agrees with the Panel recommendation and is proposing that AC-powered examination lights be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide

this assurance. The agency also believes that there is sufficient information to establish a performance standard for this device.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a)) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs proposes to amend Part 880 in Subpart G by adding new § 880.6320, to read as follows:

§ 880.6320 AC-powered examination light.

(a) *Identification.* An AC-powered examination light is an electrically powered device that illuminates body surfaces and cavities during a medical examination.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before October 23, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 10, 1979.

William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.

[FR Doc. 79-26110 Filed 8-23-79; 8:45 am]
BILLING CODE 4110-03-M

[21 CFR Part 880]

[Docket No. 78N-1350]

Medical Devices; Classification of Battery-Powered Examination Lights

AGENCY: Food and Drug Administration.
ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying battery-powered examination lights into class I (general controls). FDA is also publishing the recommendations of the General Hospital and Personal Use Device Classification Panel, an FDA advisory committee, made the following recommendations with respect to the classification of battery-powered examination lights:

comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by October 23, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Lillian L. Yin, Bureau of Medical Devices (HFK-470), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7555.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the Federal Register provides background information concerning the development of the proposed regulation. The General Hospital and Personal Use Device Classification Panel, an FDA advisory committee, made the following recommendations with respect to the classification of battery-powered examination lights:

1. *Identification:* A battery-powered examination light is a battery-powered device that illuminates body surfaces and cavities during a medical examination.

2. *Recommended classification:* Class I (general controls). The Panel recommends that this device be exempt from premarket notification under section 510(k) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360(k)) and from the good manufacturing practice regulation under section 520(f) of the act (21 U.S.C. 360j(f)).

3. *Summary of reasons for recommendation:* The Panel recommends that battery-powered examination lights be classified into class I because the Panel believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device. The Panel recommends that this device be exempt from premarket notification under section 510(k) of the act because the Panel believes that FDA does not need to receive premarket notification of a manufacturer's intent to market this simple device. The Panel recommends that this device be exempt from the good manufacturing practice regulation under section 520(f) of the act because the Panel believes that the quality of the device is easily discernible and that defects are readily apparent to the user.

4. *Summary of data on which the recommendation is based:* The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device.

5. *Risks to health:* None identified.

Proposed Classification

FDA agrees with the Panel recommendation and is proposing that battery-powered examination lights be classified into class I (general controls). The agency believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

In response to the Panel's recommendation that manufacturers of a battery-powered examination light be exempt from section 510(k) of the act, FDA is proposing that these manufacturers be subject to registration and device listing under section 510(a) through (j) of the act, but exempt from premarket notification under section 510(k) of the act and Subpart E of Part 807 of the regulations (21 CFR Part 807). Under section 510(g)(4) of the act, the agency may exempt a manufacturer from section 510 only if it finds that compliance with this section is not necessary for the protection of the public health. In the case of registration and listing by manufacturers of a battery-powered examination light, the agency cannot make the required finding. To protect the public health, the agency needs to be able to identify the firms manufacturing this device and to conduct necessary inspections. The agency has determined, however, that it is not necessary for the protection of the public health that FDA receive premarket notification submissions concerning a battery-powered examination light. The agency does not at this time anticipate that premarket approval will be required for this device. The agency believes that the semiannual updating of device listing under section 510(j)(2) will provide FDA with adequate notice concerning new products within this generic type of device.

In response to the Panel's recommendation that manufacturers of a battery-powered examination light be exempt from the device good manufacturing practice (GMP) regulation under section 520(f) of the act, FDA is proposing that a manufacturer of this device be exempt, in the manufacture of the device, from all requirements in the GMP regulation except § 820.180 (21 CFR 820.180), with respect to general requirements concerning records, and § 820.198 (21 CFR 820.198), with respect to complaint files. Based on available information about current practices used in the manufacture of the device and user experience with the device, the agency has determined that application of the GMP regulation, other than §§ 820.180 and 820.198, is unlikely to improve the safety and effectiveness of the device.

The agency believes, however, that manufacturers of a battery-powered examination light must still be required to comply with the complaint file requirements of § 820.198 to ensure that these manufacturers have adequate systems for complaint investigation and followup. The agency also believes that manufacturers of a battery-powered examination light must still be required to comply with the general requirements concerning records in § 820.180 to ensure that FDA has access to complaint files, can investigate device-related injury reports and complaints about product defects, may determine whether the manufacturer's corrective actions are adequate, and may determine whether the exemption from other sections of the GMP regulation is still appropriate.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs proposes to amend Part 880 in Subpart C by adding new § 880.6350, to read as follows:

§ 880.6350 Battery-powered examination light.

(a) *Identification.* A battery-powered examination light is a battery-powered device that illuminates body surfaces and cavities during a medical examination.

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in Subpart E of Part 807 of this chapter. The device also is exempt from the good manufacturing practice regulation in Part 820 of this chapter, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

Interested persons may, on or before October 23, 1979 submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 10, 1979.

William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.

[FR Doc. 79-26111 Filed 8-23-79; 8:45 am]
BILLING CODE 4110-03-M

[21 CFR Part 880]

[Docket No. 78N-1351]

Medical Devices; Classification of Patient Lubricants

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying patient lubricants into class I (general controls). FDA is also publishing the recommendation of the General Hospital and Personal Use Device Classification Panel that the device be classified into class I. The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by October 23, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Lillian L. Yin, Bureau of Medical Devices (HFK-470), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7555.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the Federal Register provides background information concerning the development of the proposed regulation. The General Hospital and Personal Use Device Classification Panel, an FDA advisory committee, made the following recommendation with respect to the classification of patient lubricants:

1. *Identification:* A patient lubricant is a device used to lubricate a body orifice to facilitate entry of a diagnostic or therapeutic device. The Panel identified this generic type of device under the name "lubricants."

2. *Recommended classification:* Class I (general controls). The Panel recommends that the device be exempt from the good manufacturing practice (GMP) regulation under section 520(f) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360j(f)).

3. *Summary of reasons for recommendation:* The Panel recommends that patient lubricants be classified into class I because the Panel believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device. The Panel recommends that this device be exempt from the GMP regulation under section 520(f) of the act because the Panel believes that the quality of the device is easily discernible and that defects are readily apparent to the user.

4. *Summary of data on which the recommendation is based:* The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device.

5. *Risks to health:* None identified.

Proposed Classification

FDA agrees with the Panel recommendation and is proposing that patient lubricants be classified into class I (general controls). The agency believes that there is a risk of skin irritation or a toxicity reaction associated with this device if inappropriate chemicals are used in the manufacture of this device. Therefore, the agency disagrees with the Panel recommendation that manufacturers of patient lubricants be exempt from the GMP regulation under section 520(f) of the act. The agency believes that compliance with this regulation is necessary to assure the quality of this device and thus its safety, effectiveness, and compliance with adulteration and misbranding provisions of the act. Compliance with the GMP regulation will help prevent production of patient lubricants having defects that could cause harm to users.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs proposes to amend Part 880 in Subpart G by adding new § 880.6375, to read as follows:

880.6375 Patient lubricant.

(a) *Identification.* A patient lubricant is a device used to lubricate a body orifice to facilitate entry of a diagnostic or therapeutic device.

(b) *Classification.* Class I (general controls).

Interested persons may, on or before October 23, 1979 submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written

comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 10, 1979.
William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.

[FR Doc. 79-26112 Filed 8-23-79; 8:45 am]
BILLING CODE 4110-03-M

[21 CFR Part 880]

[Docket No. 78N-1386]

Medical Devices; Classification of Liquid Medication Dispensers

AGENCY: Food and Drug Administration.
ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying liquid medication dispensers into class I (general controls). FDA is also publishing the recommendation of the General Hospital and Personal Use Device Classification Panel that the device be classified into class I. The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by October 23, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Lillian L. Yin, Bureau of Medical Devices (HFK-470), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7555.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the Federal Register provides background information concerning the

development of the proposed regulation. The General Hospital and Personal Use Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of liquid medication dispensers:

1. **Identification:** A liquid medication dispenser is a disposable device used to issue a measured amount of liquid medication. The Panel made a recommendation regarding the classification of "liquid medication dispensers" and regarding "graduated liquid medication containers."

The Panel identified a liquid medication dispenser as a disposable graduated syringe, with a tip that will not accept a standard syringe needle, intended to dispense liquid medication into the mouth of a patient. The Panel identified a graduated liquid medication container as a disposable device consisting of a beaker or an open-end vessel with graduation marks used to measure and dispense liquid medication.

2. **Recommended classification:** Class I (general controls). The Panel recommends that there be no exemptions for liquid medication dispensers. The Panel recommends that graduated liquid medication containers be exempt from premarket notification under section 510(k) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360(k)) and from the good manufacturing practice regulation under section 520(f) of the act (21 U.S.C. 360(f)).

3. **Summary of reasons for recommendation:** The Panel recommends that liquid medication dispensers and graduated liquid medication containers be classified into class I because the Panel believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the devices. The Panel also recommends that these devices be made of an inert material. The Panel recommends that graduated liquid medication containers be exempt from premarket notification under section 510(k) of the act because the Panel believes that FDA does not need to receive premarket notification of a manufacturer's intent to market this simple device. The Panel recommends that the graduated liquid medication container be exempt from the good manufacturing practice regulation under section 520(f) of the act because the Panel believes that the quality of the device is easily discernible and that defects are readily apparent to the user.

4. **Summary of data on which the recommendation is based:** The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, liquid medication dispensers and graduated liquid medication containers.

5. **Risks to health:** (a) Incorrect dosage: Inaccuracy in the calibration of the dispenser or the container will cause an incorrect dosage of medication to be dispensed to the patient. (b) Adverse reaction: If the medication leaches toxic substances from the dispenser or the container, the patient may suffer an adverse reaction.

Proposed Classification

FDA agrees with the Panel recommendations and is proposing that the generic type device, liquid medication dispenser, be classified into class I (general controls). FDA has reviewed the recommendation of the Panel for the "liquid medication dispenser" and the "graduated liquid medication container" and has concluded that these devices are essentially the same and that it is more appropriate for the agency to publish one classification regulation for the generic type of device and that the generic type device should be named the "liquid medication dispenser." The agency believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the generic type of the device. The agency believes that the history of use of the generic type of device has shown that there is minimal risk of adverse reaction due to leaching of toxic substances. The agency also believes that the misbranding provisions under section 502 of the act (21 U.S.C. 352) are sufficient to assure the accuracy of the calibration of the device.

The agency disagrees with the Panel recommendation that there be no exemption for the device they identified as "liquid medication dispensers"; however, FDA agrees in part with the Panel recommendation that the device they identified as "graduated liquid medication containers" be exempt from sections 510(k) and 520(f) of the act.

Therefore, FDA is proposing that the manufacturers of the generic type device FDA has named "liquid medication dispenser" be subject to registration and device listing under section 510 (a) through (j) of the act, but exempt from premarket notification under section 510(k) of the act and Subpart E of Part 807 of the regulations (21 CFR Part 807). Under section 510(g)(4) of the act, the agency may exempt a manufacturer from section 510 only if it finds that compliance with this section is not necessary for the protection of the public health. In the case of registration and listing by manufacturers of a liquid medication dispenser, the agency cannot make the required finding. To protect the public health, the agency needs to be able to identify the firms manufacturing this device and to conduct necessary inspections. The agency has determined, however, that it is not necessary for the protection of the public health that FDA receive premarket notification submissions concerning a liquid medication dispenser. The agency does not at this time anticipate that premarket approval will be required for

this device. The agency believes that the semiannual updating of device listing under section 510(j)(2) will provide FDA with adequate notice concerning new products within this generic type of device.

In response to the Panel's recommendation that manufacturers of a liquid medication dispenser be exempt from the device good manufacturing practice (GMP) regulation under section 520(f) of the act, FDA is proposing that a manufacturer of this device be exempt, in the manufacture of the device, from all requirements in the GMP regulation except § 820.180 (21 CFR 820.180), with respect to complaint files. Based on available information about current practices used in the manufacture of the device and user experience with the device, the agency has determined that application of the GMP regulation, other than §§ 820.180 and 820.198, is unlikely to improve the safety and effectiveness of the device. The agency believes, however, that manufacturers of a liquid medication dispenser must still be required to comply with the complaint file requirements of § 820.198 to ensure that these manufacturers have adequate systems for complaint investigation and followup. The agency also believes that manufacturers of a liquid medication dispenser must still be required to comply with the general requirements concerning records in § 820.180 to ensure that FDA has access to complaint files, can investigate device-related injury reports and complaints about product defects, may determine whether the manufacturer's corrective actions are adequate, and may determine whether the exemption from other sections of the GMP regulation is still appropriate.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs proposes to amend Part 880 in Subpart G by adding new § 880.6430, to read as follows:

§ 880.6430 Liquid medication dispenser.

(a) **Identification.** A liquid medication dispenser is a device used to issue a measured amount of liquid medication.

(b) **Classification.** Class I (general controls). The device is exempt from the premarket notification procedures in Subpart E of Part 807 of this chapter. The device also is exempt from the good manufacturing practice regulation in Part 820 of this chapter, with the

exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

Interested persons may, on or before October 23, 1979 submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 10, 1979.
William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.

[FR Doc. 79-26113 Filed 8-23-79; 8:45 am]
BILLING CODE 4110-03-M

[21 CFR Part 880]

[Docket No. 78N-1353]

Medical Devices; Classification of Skin Pressure Protectors

AGENCY: Food and Drug Administration.
ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying skin pressure protectors into class I (general controls). FDA is also publishing the recommendations of the General Hospital and Personal Use Device Classification Panel and the Physical Medicine Device Classification Panel that this device be classified into class I. The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by October 23, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Lillian L. Yin, Bureau of Medical Devices

(HFK-470), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7555.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the Federal Register provides background information concerning the development of the proposed regulation. The General Hospital and Personal Use Device Classification Panel and the Physical Medicine Device Classification Panel, FDA advisory committees, made the following recommendations regarding the classification of skin pressure protectors:

1. **Identification:** A skin pressure protector is a device used to reduce pressure on the skin over a bony prominence to reduce the likelihood of the patient's developing decubitus ulcers (bedsores). This generic type of device includes a device that the Physical Medicine Device Classification Panel identified as the "heel protector," a device worn on the heels or elbows of immobile patients to lessen the likelihood of decubitus ulcers (bedsores).

2. **Recommended classification:** Class I (general controls). The General Hospital and Personal Use Device Classification Panel and the Physical Medicine Device Classification Panel recommend that this device be exempt from premarket notification under section 510(k) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360(k)), and from the good manufacturing practice regulation under section 520(f) of the act (21 U.S.C. 360(f)). The Physical Medicine Device Classification Panel recommends that this device be exempt from records and reports regulations under section 519 of the act (21 U.S.C. 360(i)).

3. **Summary of reasons for recommendation:** The General Hospital and Personal Use Device Classification Panel and the Physical Medicine Device Classification Panel recommend that this device be classified into class I because the Panels believe that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device. The General Hospital and Personal Use Device Classification Panel recommends that this device be exempt from premarket notification under section 510(k) of the act because the Panel believes that FDA does not need to receive premarket notification of a manufacturer's intent to market this simple device. The Panel also recommends that this device be exempt from the good manufacturing practice regulation under section 520(f) of the act because the Panel believes that the quality of the device is easily discernible and that defects are readily apparent to the user. The Physical Medicine Device Classification Panel believes that this is a simple device with no known potential risks to health and, therefore, should be exempt from sections 510(k), 519, and 520(f) of the act. The Physical Medicine Device Classification Panel believes that the safety and effectiveness of the device can be

adequately controlled without premarket notification, the regulation of manufacturing methods, and documentation.

4. Summary of data on which the recommendations are based: The Panel based their recommendations on the Panel members' personal knowledge of, and clinical experience with, the device.

5. Risks to health: The General Hospital and Personal Use Device Classification Panel identified the following risks to health: (a) Skin irritation: The material used in the device may irritate the patient's skin. (b) Infection: If the device is not cleanable or sterilizable, an infection in the patient could result. The Physical Medicine Device Classification Panel identified no risks to health presented by the device.

Proposed Classification

FDA agrees with Panels' recommendations and is proposing that skin pressure protectors be classified into class I (general controls). FDA has reviewed the recommendations of the General Hospital and Personal Use Device Classification Panel for skin pressure protectors and the Physical Medicine Device Classification Panel for heel protectors and has concluded that because there are many general uses for this type of device, the device should be described under of general identification for the "skin pressure protector" and that its classification will be published in the part of the Code of Federal Regulations for General Hospital and Personal Use Devices. The history of use of the device indicates that there is minimal risk of skin irritation or infection caused by the device. Therefore, the agency believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

In response to the Panel's recommendation that manufacturers of a skin pressure protector be exempt from section 510(k) of the act, FDA is proposing that these manufacturers be subject to registration and device listing under section 510 (a) through (j) of the act, but exempt from premarket notification under section 510(k) of the act and Subpart E of Part 807 of the regulations (21 CFR Part 807). Under section 510(g)(4) of the act, the agency may exempt a manufacturer from section 510 only if it finds that compliance with this section is not necessary for the protection of the public health. In the case of registration and listing by manufacturers of a skin pressure protector, the agency cannot make the required finding. To protect the public health, the agency needs to be able to identify the firms manufacturing this device and to conduct necessary inspections. The agency has determined, however, that it is not necessary for the protection of the public health that FDA

receive premarket notification submissions concerning a skin pressure protector. The agency does not at this time anticipate that premarket approval will be required for this device. The agency believes that the semiannual updating of device listing under section 510(j)(2) will provide FDA with adequate notice concerning new products within this generic type of device.

FDA disagrees with the recommendation of the Physical Medicine Device Classification Panel that manufacturers of skin pressure protectors be exempt from records and reports regulations under section 519 of the act. The records and reports requirements in several of FDA's present device regulations are authorized, wholly or in part, by section 519. The most extensive of these requirements are found in the device good manufacturing practice (GMP) regulation, published in the Federal Register of July 21, 1978 (43 FR 31508). In the future, FDA will publish other regulations under section 519, including regulations requiring reports to FDA of experience with medical devices. Until these regulations are issued, FDA believes that it cannot properly issue exemptions from them. In the future, whenever the agency proposes device regulations that include records and reports requirements, interested persons may submit comments requesting that certain classes of manufacturers or other persons be exempt from the requirements, and FDA will issue exemptions that are appropriate. The only type of exemption from records and reports requirements that FDA is proposing now, in device classification regulations, is an exemption of certain manufacturers from requirements of the device GMP regulation. The exemption will not extend to two device GMP requirements, § 820.180 (21 CFR 820.180), with respect to general requirements concerning records, and § 820.198 (21 CFR 820.198), with respect to complaint files.

In response to the Panel's recommendation that manufacturers of a skin pressure protector be exempt from the device good manufacturing practice (GMP) regulation under section 520(f) of the act, FDA is proposing that a manufacturer of this device be exempt, in the manufacture of the device, from all requirements in the GMP regulation except § 820.180 (21 CFR 820.180), with respect to general requirements concerning records, and § 820.198 (21 CFR 820.198), with respect to complaint files. Based on available information about current practices used in the

manufacture of the device and user experience with the device, the agency has determined that application of the GMP regulation, other than §§ 820.180 and 820.198, is unlikely to improve the safety and effectiveness of the device. The agency believes, however, that manufacturers of a skin pressure protector must still be required to comply with the complaint file requirements of § 820.198 to ensure that these manufacturers have adequate systems for complaint investigation and followup. The agency also believes that manufacturers of a skin pressure protector must still be required to comply with the general requirements concerning records in § 820.180 to ensure that FDA has access to complaint files, can investigate device-related injury reports and complaints about product defects, may determine whether the manufacturer's corrective actions are adequate, and may determine whether the exemption from other sections of the GMP regulation is still appropriate.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs proposes to amend Part 880 in Subpart G by adding new § 880.6450, to read as follows:

§ 880.6450 Skin pressure protector.

(a) *Identification.* A skin pressure protector is a device used to reduce pressure on the skin over a bony prominence to reduce the likelihood of the patient's developing decubitus ulcers (bedsores).

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in Subpart E of Part 807 of this chapter. The device also is exempt from the good manufacturing practice regulation in Part 820 of this chapter, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

Interested persons may, on or before (October 23, 1979 submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the

hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 10, 1979.

William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.

[FR Doc. 79-26114 Filed 8-23-79; 8:45 am]
BILLING CODE 4110-03-M

[21 CFR Part 880]

[Docket No. 78N-1354]

Medical Devices; Classification of Ultraviolet Air Purifiers

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying ultraviolet air purifiers into class II (performance standards). FDA is also publishing the recommendation of the General Hospital and Personal Use Device Classification Panel that the device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by October 23, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Lillian L. Yin, Bureau of Medical Devices (HFK-470), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7555.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the Federal Register provides background information concerning the development of the proposed regulation. The General Hospital and Personal Use Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of ultraviolet air purifiers:

1. Identification: An ultraviolet air purifier is a device used to destroy bacteria in the air by exposure to ultraviolet radiation.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a high priority.

3. Summary of reasons for recommendation: The Panel recommends that ultraviolet air purifiers be classified into class II because the Panel believes that performance standards are needed to assure that the device reduces the level of bacteria in the air and to control the electrical properties of the device. The Panel believes that general controls would not provide sufficient control over these characteristics. The Panel recommends that the labeling contain a warning that overexposure to the ultraviolet radiation emitted by the device may cause injury to the eye or skin. The Panel also recommends that the labeling indicate the degree of effectiveness of the device. The Panel also recommends that users have the ultraviolet bulb checked regularly to determine its output of ultraviolet radiation. The Panel believes that a standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device.

Risks to health: (a) Ozone toxicity: The device may produce ozone, which may cause ozone toxicity. (b) Injury of the skin or eye: Overexposure to ultraviolet radiation emitted by the device may cause injury to the skin or eye. (c) Infection: Failure of the device to eliminate bacterial contamination sufficiently in air could result in patient infection. (d) Electrical injury: Improper device design and construction or device malfunction can result in electrical injury.

Proposed Classification

FDA agrees with the Panel recommendation and is proposing that ultraviolet air purifiers be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a standard to provide this assurance.

In addition to the Medical Device Amendments of 1976 (Pub. L. 94-295), FDA has authority under the Radiation Control for Health and Safety Act of 1968 (Pub. L. 90-602) to establish and implement an electronic product radiation control program that includes performance standards for electronic products and their related accessories.

Within this program, radiation emission performance standards have been, and will continue to be, set and enforced for certain medical devices that emit electronic product radiation. At this time, performance standards have been promulgated for diagnostic x-ray systems and their major components (§ 1020.30 (21 CFR 1020.30)), radiographic equipment (§ 1020.32 (21 CFR 1020.32)), laser products, whether used medically or not (§§ 1040.10 and 1040.11 (21 CFR 1040.10 and 1040.11)), and ultrasonic therapy products (§ 1050.10 (21 CFR 1050.10)). The agency will use its authority over radiation emitting electronic medical products under the Medical Device Amendments of 1976 and/or the Radiation Control for Health and Safety Act of 1968, as appropriate.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs proposes to amend Part 880 in Subpart G by adding new § 880.6500, to read as follows:

§ 880.6500 Ultraviolet air purifier.

(a) *Identification.* An ultraviolet air purifier is a device used to destroy bacteria in the air by exposure to ultraviolet radiation.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before October 23, 1979 submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 10, 1979.

William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.

[FR Doc. 79-26115 Filed 8-23-79; 8:45 am]
BILLING CODE 4110-03-M

[21 CFR Part 880]

[Docket No. 78N-1355]

Medical Devices; Classification of Ultraviolet Water Purifiers

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying ultraviolet water purifiers into class II (performance standards). FDA is also publishing the recommendation of the General Hospital and Personal Use Device Classification Panel that the device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by October 23, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Lillian L. Yin, Bureau of Medical Devices (HFK-470), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7555.

SUPPLEMENTARY INFORMATION:**Panel Recommendation**

A proposal elsewhere in this issue of the Federal Register provides background information concerning the development of the proposed regulation. The General Hospital and Personal Use Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of ultraviolet water purifiers:

1. Identification: An ultraviolet water purifier is a device used to destroy bacteria in water by exposure to ultraviolet radiation.
2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.
3. Summary of reasons for recommendation: The Panel recommends that ultraviolet water purifiers be classified into class II because the Panel believes that performance standards are necessary to assure that the device reduces the level of bacteria in water and to control the electrical properties of the device. The Panel believes that general controls would not provide sufficient control over these characteristics. The Panel recommends that the labeling contain a warning that overexposure to the

ultraviolet radiation emitted by the device may cause injury to the eye or skin. The Panel also recommends that the labeling indicate the degree of effectiveness of the device. In addition, the Panel recommends that users have the ultraviolet bulb checked regularly to determine its output of ultraviolet radiation. The Panel believes that a standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device.

5. Risks to health: (a) Ozone toxicity: The device may produce ozone, which may cause ozone toxicity. (b) Injury to the skin and eye: Overexposure to ultraviolet radiation emitted by this device may cause injury of the skin or eye. (c) Infection: Failure of the device to eliminate bacterial contamination sufficiently in water could result in patient infection. (d) Electrical shock: Improper device design and construction or device malfunction could result in electrical shock.

Proposed Classification

FDA agrees with the Panel recommendation and is proposing that ultraviolet water purifiers be classified into class II (performance standards). The agency believes that performance standards are necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a standard to provide this assurance.

In addition to the Medical Device Amendments of 1976 (Pub. L. 94-295), FDA has authority under the Radiation Control for Health and Safety Act of 1968 (Pub. L. 90-602) to establish and implement an electronic product radiation control program that includes performance standards for electronic products and their related accessories. Within this program, radiation emission performance standards have been, and will continue to be, set and enforced for certain medical devices that emit electronic product radiation. At this time, performance standards have been promulgated for diagnostic x-ray systems and their major components (§ 1020.30 (21 CFR 1020.30)), radiographic equipment (§ 1020.32 (21 CFR 1020.32)), laser products, whether used medically or not, (§§ 1040.10 and 1040.11 (21 CFR 1040.10 and 1040.11)), and ultrasonic therapy products (§ 1050.10 (21 CFR 1050.10)). The agency will use its authority over radiation emitting electronic medical products

under the Medical Device Amendments of 1976 and/or the Radiation Control for Health and Safety Act of 1968, as appropriate.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs proposes to amend Part 880 in Subpart G by adding new § 880.6710, to read as follows:

§ 880.6710 Ultraviolet water purifier.

(a) *Identification.* An ultraviolet water purifier is a device used to destroy bacteria in water by exposure to ultraviolet radiation.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before October 23, 1979 submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 10, 1979.

William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.

(FR Doc. 79-26116 Filed 8-22-79; 8:46 am)
BILLING CODE 4110-03-M

[21 CFR Part 880]**[Docket No. 78N-1356]****Medical Devices; Classification of Body Waste Receptacles**

AGENCY: Food and Drug Administration.
ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying body waste receptacles into class I (general controls). FDA is also publishing the recommendation of the General Hospital and Personal Use Device Classification Panel that the device be classified into class I. The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. After considering public comments, FDA will issue a final regulation classifying the device. These

actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by October 23, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Lillian L. Yin, Bureau of Medical Devices (HFK-470), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7555.

SUPPLEMENTARY INFORMATION:**Panel Recommendation**

A proposal elsewhere in this issue of the Federal Register provides background information concerning the development of the proposed regulation. The General Hospital and Personal Use Device Classification Panel, an FDA advisory committee, made the following recommendation with respect to the classification of body waste receptacles:

1. Identification: A body waste receptacle is a device not attached to the body used to collect the body wastes of a bed patient. The Panel identified this generic type of device under the names "emesis basins," "bedpans" and "urinals."

2. Recommended classification: Class I (general controls). The Panel recommends that this device be exempt from premarket notification under section 510(k) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360(k)) and from the good manufacturing practice regulation under section 520(f) of the act (21 U.S.C. 360(f)).

3. Summary of reasons for recommendation: The Panel recommends that body waste receptacles be classified into class I because the Panel believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device. The Panel recommends that this device be exempt from premarket notification under section 510(k) of the act because the Panel believes that FDA does not need to receive premarket notification of a manufacturer's intent to market this simple device. The Panel also recommends that the device be exempt from the good manufacturing practices regulation under section 520(f) of the act because the Panel believes that the quality of the device is easily discernible and that defects are readily apparent to the user. The Panel also recommends that the device be sterilizable and, if made of metal, rustproof, have no rough edges, and be able to support the patient if necessary.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members'

personal knowledge of, and clinical experience with, the device.
5. Risks to health: None identified.

Proposed Classification

FDA agrees with the Panel recommendation and is proposing that body waste receptacles be classified into class I (general controls). The agency believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

In response to the Panel's recommendation that manufacturers of a body waste receptacle be exempt from section 510(k) of the act, FDA is proposing that these manufacturers be subject to registration and device listing under section 510(a) through (j) of the act, but exempt from premarket notification under section 510(k) of the act and Subpart E of Part 807 of the regulations (21 CFR Part 807). Under section 510(g)(4) of the act, the agency may exempt a manufacturer from section 510 only if it finds that compliance with this section is not necessary for the protection of the public health. In the case of registration and listing by manufacturers of a body waste receptacle, the agency cannot make the required finding. To protect the public health, the agency needs to be able to identify the firms manufacturing this device and to conduct necessary inspections. The agency has determined, however, that it is not necessary for the protection of the public health that FDA receive premarket notification submissions concerning a body waste receptacle. The agency does not at this time anticipate that premarket approval will be required for this device. The agency believes that the semiannual updating of device listing under section 510(j)(2) will provide FDA with adequate notice concerning new products within this generic type of device.

In response to the Panel's recommendation that manufacturers of a body waste receptacle be exempt from the device good manufacturing practice (GMP) regulation under section 520(f) of the act, FDA is proposing that a manufacturer of this device be exempt, in the manufacture of the device, from all requirements in the GMP regulation except § 820.180 (21 CFR 820.180), with respect to general requirements concerning records, and § 820.198 (21 CFR 820.198), with respect to complaint files. Based on available information about current practices used in the manufacture of the device and user experience with the device, the agency has determined that application of the GMP regulation, other than §§ 820.180 and 820.198, is unlikely to improve the

safety and effectiveness of the device. The agency believes, however, that manufacturers of a body waste receptacle must still be required to comply with the complaint file requirements of § 820.198 to ensure that these manufacturers have adequate systems for complaint investigation and followup. The agency also believes that manufacturers of a body waste receptacle must still be required to comply with the general requirements concerning records in § 820.180 to ensure that FDA has access to complaint files, can investigate device-related injury reports and complaints about product defects, may determine whether the manufacturer's corrective actions are adequate, and may determine whether the exemption from other sections of the GMP regulation is still appropriate.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs proposes to amend Part 882 in Subpart G by adding new § 880.6730, to read as follows:

§ 880.6730 Body waste receptacle.

(a) *Identification.* A body waste receptacle is a device not attached to the body used to collect the body wastes of a bed patient.

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in Subpart E of Part 807 of this chapter. The device also is exempt from the good manufacturing practice regulation in Part 820 of this chapter, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

Interested persons may, on or before October 23, 1979 submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 10, 1979.

William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.

[FR Doc. 79-28117 Filed 8-23-79; 8:45 am]

BILLING CODE 4110-03-M

[21 CFR Part 880]

[Docket No. 78N-1357]

Medical Devices; Classification of Vacuum-Powered Body Fluid Suction Apparatus

AGENCY: Food and Drug Administration.
ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying vacuum-powered body fluid suction apparatus into class II (performance standards). FDA is also publishing: the recommendation of the General and Plastic Surgery Device Classification Panel that this device be classified into class II; the recommendation of the General Hospital and Personal Use Device Classification Panel that suction catheters and tips, vacuum collection bottles, and vacuum regulators, which are components of the device, be classified into class I; the recommendation of the Anesthesiology Device Classification Panel that connecting flexible aspirating tubes, rigid suction tips, and sterile specimen traps, which are components of the device to be classified into class I; the recommendation of the General and Plastic Surgery Device Classification Panel that noninvasive tubing, which is tubing, a component of the device, be classified into class I; and the recommendation of the Anesthesiology Device Classification Panel that the suction regulator (with gage), which is a component of the device, be classified into class II (performance standards). The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device.

DATES: Comments by October 23, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Lillian L. Yin, Bureau of Medical Devices (HFK-470), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7555.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the Federal Register provides background information concerning the development of the proposed regulation. The General and Plastic Surgery Device Classification Panel, the General Hospital and Personal Use Device Classification Panel, and the Anesthesiology Device Classification Panel, FDA advisory committees, made the following recommendations regarding the classification of the vacuum-powered body fluid suction apparatus and its components:

1. Identification: A vacuum-powered body fluid suction apparatus is a device used to aspirate, remove, or sample body fluids. The device is powered by an external source of vacuum. This generic type of device includes vacuum regulators, vacuum collection bottles, suction catheters and tips, connecting flexible aspirating tubes, rigid suction tips, specimen traps, noninvasive tubing and suction regulators (with gage). The General Hospital and Personal Use Device Classification Panel and the Anesthesiology Device Classification Panel considered components of this device as separate generic types of devices and under separate classification recommendations for the vacuum regulator, the suction regulator, the vacuum collection bottle, the sterile specimen trap, the suction catheter and tip, the rigid suction tip, and the connecting flexible aspirating tube. The General and Plastic Surgery Device Classification Panel considered a component of this device as a separate generic type of device and made a separate classification recommendation for noninvasive tubing. These Panels identified the vacuum regulator and the suction regulator (with gage) as a device used to control the vacuum pressure in a suction system, the vacuum collection bottle and the sterile specimen trap as a device used for the collection of aspirated fluids, the suction catheter and tip and rigid suction tip as a device used for the aspiration of fluids, and the connecting flexible aspirating tube as a device used to conduct fluids from the suction tip to the collection bottle.

2. Recommended classification: The General and Plastic Surgery Device Classification Panel recommends that the vacuum powered body fluid suction apparatus be classified into class II (performance standards) and that establishing a performance standard for this device be a low priority. The Panel recommends that noninvasive tubing be classified into class I (general controls) and that the device be exempt from records and reports regulations under 519 of the act (21

U.S.C. 360i). The General Hospital and Personal Use Device Classification Panel recommends that the suction catheter and tip, the vacuum collection bottle, and the vacuum regulator be classified into class I (general controls). The Panel recommends that the vacuum collection bottle be exempt from premarket notification under section 510(k) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360(k)) and exempt from the good manufacturing practice (GMP) regulation under section 520(f) of the act (21 U.S.C. 360j(f)). The Panel recommends that there be no exemption for the suction catheter and tip or the vacuum regulator. The Anesthesiology Device Classification Panel recommends that the suction regulator (with gage) be classified into class II (performance standards). The Panel recommends that establishing a performance standard for this device be a medium priority. The Panel recommends that the rigid suction tips, sterile specimen trap, and connecting flexible aspirating tube be classified into class I (general controls). The Panel recommends that there be no exemptions.

3. Summary of reasons for recommendation: The General and Plastic Surgery Device Classification Panel recommends that this device be classified into class II because the Panel believes that a standard is needed to assure that the vacuum regulator is accurate and that the suction catheter and tip will not collapse during use. The Anesthesiology Device Classification Panel recommends that suction regulators (with gage) be classified into class II because the Panel believes that a performance standard is needed to assure that the device is accurate. The two Panels believe that general controls would not provide sufficient control over these characteristics. The Anesthesiology Device Classification Panel recommends that connecting flexible aspirating tubes, rigid suction tips, and sterile specimen traps be classified into class I because the Panel believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device. The General Hospital and Personal Use Device Classification Panel recommends that suction catheters and tips, vacuum collection bottles, and vacuum regulators be classified into class I because the Panel believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device. The Panel recommends that vacuum collection bottles be exempt from premarket notification under section 510(k) of the act because the Panel believes that FDA does not need to receive premarket notification of a manufacturer's intent to market this simple device. The Panel recommends that vacuum collection bottles be exempt from good manufacturing practice regulations under section 520(f) of the act because the Panel believes that the quality of the device is easily discernible and defects are readily apparent to the user. The Panel also recommends that the suction catheter and tip be supplied sterile. The General and Plastic Surgery Device Classification Panel recommends that noninvasive tubing be classified into class I because the Panel believes that general controls are sufficient to

provide reasonable assurance of the safety and effectiveness of the device. The Panel recommends that the device be exempt from the records and reports regulations under section 519 of the act because the Panel believes that FDA does not need to receive records and reports for this simple device.

4. Summary of data on which the recommendations are based: The Panels based their recommendations on the Panel members' personal knowledge of, and clinical experience with, the device.

5. Risks to health: The General and Plastic Surgery Device Classification Panel and the Anesthesiology Device Classification Panel identified the following risk to health: (a) Tissue damage: If the vacuum regulator does not regulate the vacuum pressure properly, or if the suction catheter and tip is not of appropriate size, shape, and rigidity, tissue damage could result. The Anesthesiology Device Classification Panel identified the following additional risks to health: (b) Misdiagnosis and inappropriate therapy: Contamination of the sterile specimen trap used to collect specimens for laboratory analysis may result in the generation of inaccurate diagnostic information and thus in inappropriate therapy. (c) Infection: A lack of sterility of the rigid suction tip may cause an infection in the patient. (d) Inadequate fluid removal: Faulty connections or leaks in the rigid suction tip or the connecting flexible aspirating tube may result in inadequate fluid removal.

Proposed Classification

FDA agrees with the recommendation of the General and Plastic Surgery Device Classification Panel and is proposing that the vacuum-powered body fluid suction apparatus be classified into class II (performance standards). The agency has also reviewed the recommendations of the General Hospital and Personal Use Device Classification Panel, the Anesthesiology Device Classification Panel, and the General and Plastic Surgery Device Classification Panel for vacuum regulators, suction regulators (with gage), vacuum collection bottles, sterile specimen traps, suction catheters and tips, rigid suction tips, connecting flexible aspirating tubes, and noninvasive tubing, and has concluded that because these devices are components of the generic type vacuum-powered body fluid suction apparatus, they should be classified in the same regulation as the device of which they are parts. The agency also believes it is more appropriate for the classification of the vacuum-powered body fluid suction apparatus to be published in the part of the Code of Federal Regulations for General Hospital and Personal Use Devices. The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A

performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a standard to provide this assurance.

The agency disagrees with the General Hospital and Personal Use Device Classification Panel recommendation that suction catheters and tips, vacuum collection bottles, and vacuum regulators be classified into class I. The agency also disagrees with the Anesthesiology Device Classification Panel that connecting flexible aspirating tubes, rigid suction tips, and sterile specimen traps be classified into class I. The agency also disagrees with the General and Plastic Surgery Device Classification Panel that noninvasive tubing be classified into class I. The agency is proposing that the vacuum-powered body fluid suction apparatus be classified into class II. Therefore, the components of the apparatus would also be classified into class II.

Because the agency has decided that the vacuum-powered body fluid suction apparatus should be classified into class II rather than class I, the agency is not required to publish a regulation adopting or rejecting the recommendation of the General Hospital and Personal Use Device Classification Panel that the vacuum collection bottle, a component of the device, be exempt from premarket notification under section 510(k) of the act and from the good manufacturing practice regulation under section 520(f) of the act and the agency is not required to publish a regulation adopting or rejecting the recommendation of the General and Plastic Surgery Device Classification Panel that noninvasive tubing, a component of the device, be exempt from the records and reports regulations under section 519 of the act.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs proposes to amend Part 880 in Subpart G by adding new § 880.6740, to read as follows:

§ 880.6740 Vacuum-powered body fluid suction apparatus.

(a) *Identification.* A vacuum-powered body fluid suction apparatus is a device used to aspirate, remove, or sample body fluids. The device is powered by an external source of vacuum. This generic type of device includes vacuum regulators, vacuum collection bottles, suction catheters and tips, connecting flexible aspirating tubes, rigid suction

tips, specimen traps, noninvasive tubing and suction regulators (with gage).

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before October 23, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 15, 1979.

William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.

[FR Doc. 79-28118 Filed 8-23-79; 8:45 am]

BILLING CODE 4110-03-M

[21 CFR Part 880]

[Docket No. 78N-1358]

Medical Devices; Classification of Protective Restraints

AGENCY: Food and Drug Administration.
ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying protective restraints into class I (general controls). FDA is also publishing the recommendation of the General Hospital and Personal Use Device Classification Panel that the device be classified into class I. The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.
DATES: Comments by October 23, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Lillian L. Yin, Bureau of Medical Devices (HFK-470), Food and Drug Administration, Department of Health,

Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7555.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the *Federal Register* provides background information concerning the development of the proposed regulation. The General Hospital and Personal Use Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of protective restraints:

1. Identification: A protective restraint is a device, usually a wristlet, ankle, or other type of strap, that limits a patient's movements to the extent necessary for treatment, examination, or protection of the patient.

2. Recommended classification: Class I (general controls). The Panel recommends that this device be exempt from premarket notification under section 510(k) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360(k)) and from the good manufacturing practice regulation under section 520(f) of the act (21 U.S.C. 360(f)).

3. Summary of reasons for recommendation: The Panel recommends that protective restraints be classified into class I because the Panel believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device. The Panel recommends that this device be exempt from premarket notification under section 510(k) of the act because the Panel believes that FDS does not need to receive premarket notification of a manufacturer's intent to market this simple device. The Panel recommends that this device be exempt from the good manufacturing practice regulation under section 520(f) of the act because the Panel believes that the quality of the device is easily discernible and that defects are readily apparent to the user. The Panel also recommends that the device be flame retardant, strong, nonconstricting, and cleanable.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device.

5. Risks to health: Constriction of blood supply or restriction of respiration: If the device straps can slip and tighten, they could constrict the blood supply to an arm or leg or restrict respiration.

Proposed Classification

FDA agrees with the Panel recommendation and is proposing that protective restraints be classified into class I (general controls). The history of use of the device has shown that there is minimal risk of constriction of the patient's blood supply to an arm or leg or restriction of the patient's respiration caused by the device. Therefore, the agency believes that general controls

are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

In response to the Panel's recommendation that manufacturers of a protective restraint be exempt from section 510(k) of the act, FDA is proposing that these manufacturers be subject to registration and device listing under section 510(a) through (j) of the act, but exempt from premarket notification under section 510(k) of the act and Subpart E of Part 807 of the regulations (21 CFR Part 807). Under section 510(g)(4) of the act, the agency may exempt a manufacturer from section 510 only if it finds that compliance with this section is not necessary for the protection of the public health. In the case of registration and listing by manufacturers of a protective restraint, the agency cannot make the required finding. To protect the public health, the agency needs to be able to identify the firms manufacturing this device and to conduct necessary inspections. The agency has determined, however, that it is not necessary for the protection of the public health that FDA receive premarket notification submissions concerning a protective restraint. The agency does not at this time anticipate that premarket approval will be required for this device. The agency believes that the semiannual updating of device listing under section 510(j)(2) will provide FDA with adequate notice concerning new products within this generic type of device.

In response to the Panel's recommendation that manufacturers of a protective restraint be exempt from the device good manufacturing practice (GMP) regulation under section 520(f) of the act, FDA is proposing that a manufacturer of this device be exempt, in the manufacture of the device, from all requirements in the GMP regulation except § 820.180 (21 CFR 820.180), with respect to general requirements concerning records, and § 820.198 (21 CFR 820.198), with respect to complaint files. Based on available information about current practices used in the manufacture of the device and user experience with the device, the agency has determined that application of the GMP regulation, other than §§ 820.180 and 820.198, is unlikely to improve the safety and effectiveness of the device. The agency believes, however, that manufacturers of a protective restraint must still be required to comply with the complaint file requirements of § 820.198 to ensure that these manufacturers have adequate systems for complaint investigation and followup. The agency also believes that manufacturers of a

protective restraint must still be required to comply with the general requirements concerning records in § 820.180 to ensure that FDA has access to complaint files, can investigate device-related injury reports and complaints about product defects, may determine whether the manufacturer's corrective actions are adequate, and may determine whether the exemption from other sections of the GMP regulation is still appropriate.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs proposes to amend Part 880 in Subpart G by adding new § 880.6760, to read as follows:

§ 880.6760 Protective restraint.

(a) *Identification.* A Protective restraint is a device, usually a wristlet, ankle, or other type of strap, that limits a patient's movements to the extent necessary for treatment, examination, or protection of the patient.

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in Subpart E of Part 807 of this chapter. The device also is exempt from the good manufacturing practice regulation in Part 820 of this chapter, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

Interested persons may, on or before October 23, 1979 submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-56, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 10, 1979.

William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.

[FR Doc. 79-27119 Filed 8-23-79; 8:45 am]

BILLING CODE 4110-03-M

[21 CFR Part 880]

[Docket No. 78N-1359]

Medical Devices; Classification of AC-Powered Patient Transfer Devices

AGENCY: Food and Drug Administration.
ACTION: Proposed Rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying AC-powered patient transfer devices into class II (performance standards). FDA is also publishing the recommendation of the General Hospital and Personal Use Device Classification Panel that the device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: comments by October 23, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the *Federal Register*.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Lillian L. Yin, Bureau of Medical Devices (HFK-470), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7555.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the *Federal Register* provides background information concerning the development of the proposed regulation. The General Hospital and Personal Use Device Classification Panel, an FDA advisory committee, made the following recommendation with respect to the classification of AC-powered patient transfer devices:

1. Identification: An AC-powered patient transfer device is a device consisting of a wheeled stretcher and an AC-powered mechanism that has a broad flexible band stretched over long rollers that can advance itself under a patient and transfer the patient with minimal disturbance in a horizontal position to the stretcher. The Panel identified this generic type of device under the name "AC-powered patient roller."

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that AC-powered patient transfer devices be classified into class II because the Panel believes the electrical properties of the device must be controlled through an electrical safety standard. The Panel believes that general controls would not provide sufficient control over this device characteristic. The Panel believes that the device labeling should state the maximum weight capacity of the device and include cleaning instructions. The Panel believes that a performance standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device.

5. Risks to health: (a) Electrical shock: Improper device design and construction or device malfunction can result in electrical shock. (b) Infection: If the device cannot be properly cleaned, an infection to the patient could result.

Proposed Classification

FDA agrees with the Panel recommendation and is proposing that AC-powered patient transfer devices be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a standard to provide this assurance.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs proposes to amend Part 880 in Subpart G by adding new § 880.6775, to read as follows:

§ 880.6775 AC-powered patient transfer device.

(a) *Identification.* An AC-powered patient transfer device is a device consisting of a wheeled stretcher and an AC-powered mechanism that has a broad flexible band stretched over long rollers that can advance itself under a patient and transfer the patient with minimal disturbance in a horizontal position to the stretcher.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before October 23, 1979 submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 10, 1979.

William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.

[FR Doc. 79-26120 Filed 8-23-79; 8:45 am]

BILLING CODE 4110-03-M

[21 CFR Part 880]

[Docket No. 78N-1360]

Medical Devices; Classification of Manual Patient Transfer Devices

AGENCY: Food and Drug Administration.
ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying manual patient transfer devices into class I (general controls). FDA is also publishing the recommendation of the General Hospital and Personal Use Device Classification Panel that the device be classified into class I. The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by October 23, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the *Federal Register*.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Lillian L. Yin, Bureau of Medical Devices (HFK-470), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia

Ave., Silver Spring, MD 20910, 301-427-7555.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the Federal Register provides background information concerning the development of the proposed regulation. The General Hospital and Personal Use Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of manual patient transfer devices:

1. Identification: A manual patient transfer device is a device consisting of a wheeled stretcher and a mechanism on which a patient can be placed so that the patient can be transferred with minimal disturbance in a horizontal position to the stretcher. The Panel identified this generic type of device under the name "manual patient roller."

2. Recommended classification: Class I (general controls). The Panel recommends that the device be exempt from premarket notification under section 510(k) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360(k)) and from the good manufacturing practice regulation under section 520(f) of the act (21 U.S.C. 360(f)).

3. Summary of reasons for recommendation: The Panel recommends that manual patient transfer devices be classified into class I because the Panel believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device. The Panel recommends that this device be exempt from premarket notification under section 510(k) of the act because the Panel believes that FDA does not need to receive premarket notification of a manufacturer's intent to market this simple device. The Panel recommends that this device be exempt from the good manufacturing practice regulation under section 520(f) of the act because the Panel believes that the quality of the device is easily discernible and that defects are readily apparent to the user. The Panel also recommends that the device labeling state the maximum weight capacity of the device and include cleaning instructions.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device.

5. Risks to health: Infection: If the device cannot be properly cleaned, an infection in the patient could result.

Proposed Classification

FDA agrees with the Panel recommendation and is proposing that manual patient transfer devices be classified into class I (general controls). The agency believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

In response to the Panel's recommendation that manufacturers of a

manual patient transfer device be exempt from section 510(k) of the act, FDA is proposing that these manufacturers be subject to registration and device listing under section 510(a) through (j) of the act, but exempt from premarket notification under section 510(k) of the act and Subpart E of Part 807 of the regulations (21 CFR Part 807). Under section 510(g)(4) of the act, the agency may exempt a manufacturer from section 510 only if it finds that compliance with this section is not necessary for the protection of the public health. In the case of registration and listing by manufacturers of a manual patient transfer device, the agency cannot make the required finding. To protect the public health, the agency needs to be able to identify the firms manufacturing this device and to conduct necessary inspections. The agency has determined, however, that it is not necessary for the protection of the public health that FDA receive premarket notification submissions concerning a manual patient transfer device. The agency does not at this time anticipate that premarket approval will be required for this device. The agency believes that the semiannual updating of device listing under section 510(j)(2) will provide FDA with adequate notice concerning new products within this generic type of device.

In response to the Panel's recommendation that manufacturers of a manual patient transfer device be exempt from the device good manufacturing practice (GMP) regulation under section 520(f) of the act, FDA is proposing that a manufacturer of this device be exempt, in the manufacture of the device, from all requirements in the GMP regulation except § 820.180 (21 CFR 820.180), with respect to general requirements concerning records, and § 820.198 (21 CFR 820.198), with respect to complaint files. Based on available information about current practices used in the manufacture of the device and user experience with the device, the agency has determined that application of the GMP regulation, other than §§ 820.180 and 820.198, is unlikely to improve the safety and effectiveness of the device. The agency believes, however, that manufacturers of a manual patient transfer device must still be required to comply with the complaint file requirements of § 820.198 to ensure that these manufacturers have adequate systems for complaint investigation and followup. The agency also believes that manufacturers of a manual patient transfer device must still be required to comply with the general requirements

concerning records in § 820.180 to ensure that FDA has access to complaint files, can investigate device-related injury reports and complaints about product defects, may determine whether the manufacturer's corrective actions are adequate, and may determine whether the exemption from other sections of the GMP regulation is still appropriate.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs proposes to amend Part 880 in Subpart G by adding new § 880.6785 as follows:

§ 880.6785 Manual patient transfer device.

(a) *Identification.* A manual patient transfer device is a device consisting of a wheeled stretcher and a mechanism on which a patient can be placed so that the patient can be transferred with minimal disturbance in a horizontal position to the stretcher.

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in Subpart E of Part 807 of this chapter. The device also is exempt from the good manufacturing practice regulation in Part 820 of this chapter, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

Interested persons may, on or before October 23, 1979 submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 10, 1979.

William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.

[FR Doc. 79-26121 Filed 8-23-79; 8:45 am]

BILLING CODE 4110-03-M

[21 CFR Part 880]

[Docket No. 78N-1361]

Medical Devices; Classification of Washers for Body Waste Receptacles

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying washers for body waste receptacles into class I (general controls). FDA is also publishing the recommendations of the General Hospital and Personal Use Device Classification Panel that the device be classified into class I. The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by October 23, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Lillian L. Yin, Bureau of Medical Devices (HFK-470), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7555.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the Federal Register provides background information concerning the development of the proposed regulation. The General Hospital and Personal Use Device Classification Panel, an FDA advisory committee, made the following recommendation with respect to the classification of washers for body waste receptacles:

1. Identification: A washer for body waste receptacles is a device used to clean and sanitize a body waste receptacle, such as a bedpan. The device consists of a wall-mounted plumbing fixture with a door through which a body waste receptacle is inserted. When the door is closed the body waste receptacle is cleaned by hot water or steam and/or germicide. The Panel identified this generic type of device under the name "mechanical bedpan sanitizer."

2. Recommended classification: Class I (general controls). The Panel recommends that this device be exempt from premarket notification under section 510(k) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360(k)), and from the good manufacturing practice regulation under section 520(f) of the act (21 U.S.C. 360(f)).

3. Summary of reasons for recommendation: The Panel recommends that washers for body waste receptacles be classified into class I because the Panel believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device. The Panel recommends that this device be exempt from premarket notification under section 510(k) of the act because the Panel believes that FDA does not need to receive premarket notification of a manufacturer's intent to market this simple device. The Panel recommends that this device be exempt from the good manufacturing practice regulation under section 520(f) of the act because the Panel believes that the quality of the device is easily discernible and that defects are readily apparent to the user. The Panel also recommends that washers for body waste receptacles with a germicide cycle (a cycle in which a chemical germicide is automatically added to the wash water) allow sufficient time for the germicide to act so that bacterial concentration is reduced. The Panel also recommends that the device include a system for odor control.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device.

5. Risks to health: (a) Contamination: If a body waste receptacle is inadequately cleaned and sanitized, there is a possibility of contaminating patients or attendants. (b) Burns: If steam can escape from the device, there is a possibility that operating personnel may be burned.

Proposed Classification

FDA agrees with the Panel recommendation and is proposing that washers for body waste receptacles be classified into class I (general controls). The history of use of the device has shown that there is minimal risk of contamination or burns caused by the device. Therefore, the agency believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

In response to the Panel's recommendation that manufacturers of a washer for body waste receptacles be exempt from section 510(k) of the act, FDA is proposing that these manufacturers be subject to registration and device listing under section 510(a) through (j) of the act, but exempt from premarket notification under section 510(k) of the act and Subpart E of Part 807 of the regulations (21 CFR Part 807). Under section 510(g)(4) of the act, the agency may exempt a manufacturer from section 510 only if it finds that compliance with this section is not necessary for the protection of the public health. In the case of registration and listing by manufacturers of a washer for body waste receptacles, the agency cannot make the required finding. To protect the public health, the

agency needs to be able to identify the firms manufacturing this device and to conduct necessary inspections. The agency has determined, however, that it is not necessary for the protection of the public health that FDA receive premarket notification submissions concerning a washer for body waste receptacles. The agency does not at this time anticipate that premarket approval will be required for this device. The agency believes that the semiannual updating of device listing under section 510(j)(2) will provide FDA with adequate notice concerning new products within this generic type of device.

In response to the Panel's recommendation that manufacturers of a washer for body waste receptacles be exempt from the device good manufacturing practice (GMP) regulation under section 520(f) of the act, FDA is proposing that a manufacturer of this device be exempt, in the manufacture of the device, from all requirements in the GMP regulation except § 820.180 (21 CFR 820.180), with respect to general requirements concerning records, and § 820.198 (21 CFR 820.198), with respect to complaint files. Based on available information about current practices used in the manufacture of the device and user experience with the device, the agency has determined that application of the GMP regulation, other than §§ 820.180 and 820.198, is unlikely to improve the safety and effectiveness of the device. The agency believes, however, that manufacturers of a washer for body waste receptacles must still be required to comply with the complaint file requirements of § 820.198 to ensure that these manufacturers have adequate systems for complaint investigation and followup. The agency also believes that manufacturers of a washer for body waste receptacles must still be required to comply with the general requirements concerning records in § 820.180 to ensure that FDA has access to complaint files, can investigate device-related injury reports and complaints about product defects, may determine whether the manufacturer's corrective actions are adequate, and may determine whether the exemption from other sections of the GMP regulation is still appropriate.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs proposes to amend Part 880 in Subpart G by adding new § 880.6800, to read as follows:

§ 880.6800 Washer for body waste receptacles.

(a) *Identification.* A washer for body waste receptacles is a device used to clean and sanitize a body waste receptacle, such as a bedpan. The device consists of a wall-mounted plumbing fixture with a door through which a body waste receptacle is inserted. When the door is closed the body waste receptacle is cleaned by hot water or steam and/or germicide.

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in Subpart E of Part 807 of this chapter. The device also is exempt from the good manufacturing practice regulation in Part 820 of this chapter, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

Interested persons may, on or before October 23, 1979 submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 10, 1979.
William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.
[FR Doc. 79-26122 Filed 8-23-79; 8:45 am]
BILLING CODE 4110-03-M

[21 CFR Part 880]**[Docket No. 78N-1362]****Medical Devices; Classification of Disposable Scissors**

AGENCY: Food and Drug Administration.
ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying disposable scissors into class I (general controls). FDA is also publishing the recommendation of the General Hospital and Personal Use Device Classification Panel that the device be classified into class I. The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. After considering public comments, FDA will issue a final

regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by October 23, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Lillian L. Yin, Bureau of Medical Devices (HFK-470), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7555.

SUPPLEMENTARY INFORMATION:**Panel Recommendation**

A proposal elsewhere in this issue of the Federal Register provides background information concerning the development of the proposed regulation. The General Hospital and Personal Use Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of disposable scissors:

1. *Identification:* Disposable scissors are a disposable general cutting device. This generic type of device does not include surgical scissors. The Panel identified this generic type of device under the name "general hospital scissors."

2. *Recommended classification:* Class I (general controls). The Panel recommends that this device be exempt from premarket notification under section 510(k) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360(k)).

3. *Summary of reasons for recommendation:* The Panel recommends that disposable scissors be classified into class I because the Panel believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device. The Panel recommends that this device be exempt from premarket notification under section 510(k) of the act because the Panel believes that FDA does not need to receive premarket notification of a manufacturer's intent to market this simple device.

4. *Summary of data on which the recommendation is based:* The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device.

5. *Risks to health:* None identified.

Proposed Classification

FDA agrees with the Panel recommendation and is proposing that disposable scissors be classified into class I (general controls). The agency believes that general controls are sufficient to provide reasonable

assurance of the safety and effectiveness of the device.

In response to the Panel's recommendation that manufacturers of disposable scissors be exempt from section 510(k) of the act, FDA is proposing that these manufacturers be subject to registration and device listing under section 510 (a) through (j) of the act, but exempt from premarket notification under section 510(k) of the act and Subpart E of Part 807 of the regulations (21 CFR Part 807). Under section 510(g)(4) of the act, the agency may exempt a manufacturer from section 510 only if it finds that compliance with this section is not necessary for the protection of the public health. In the case of registration and listing by manufacturers of disposable scissors, the agency cannot make the required finding. To protect the public health, the agency needs to be able to identify the firms manufacturing this device and to conduct necessary inspections. The agency has determined, however, that it is not necessary for the protection of the public health that FDA receive premarket notification submissions concerning disposable scissors. The agency does not at this time anticipate that premarket approval will be required for this device. The agency believes that the semiannual updating of device listing under section 510(j)(2) will provide FDA with adequate notice concerning new products within this generic type of device.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs proposes to amend Part 880 in Subpart G by adding new § 880.6820, to read as follows:

§ 880.6820 Disposable scissors.

(a) *Identification.* Disposable scissors are a disposable general cutting device. This generic type of device does not include surgical scissors.

(b) *Classification.* Class I (general controls). The device is exempt from premarket notification procedures in Subpart E of Part 807 of this chapter.

Interested persons may, on or before October 23, 1979 submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the Hearing Clerk docket number found in brackets in the heading of this

document. Received comments may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 10, 1979.

William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.

[FR Doc. 79-26123 Filed 8-23-79; 8:45 am]

BILLING CODE 4110-03-M

[21 CFR Part 880]**[Docket No. 78N-1363]****Medical Devices; Classification of Sterilization Wraps**

AGENCY: Food and Drug Administration.
ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying sterilization wraps into class II (performance standards). FDA is also publishing the recommendation of the General Hospital and Personal Use Device Classification Panel and the General and Plastic Surgery Device Classification Panel that the device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by October 23, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Lillian L. Yin, Bureau of Medical Devices (HFK-470), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7555.

SUPPLEMENTARY INFORMATION:**Panel Recommendation**

A proposal elsewhere in this issue of the Federal Register provides background information concerning the development of the proposed regulation. The General Hospital and Personal Use Device Classification Panel and the General and Plastic Surgery Device Classification Panel, FDA advisory

committees, made the following recommendation with respect to the classification of sterilization wraps:

1. *Identification:* A sterilization wrap is a bag or wrap in which a device is placed, sterilized, and kept sterile until use. The General and Plastic Surgery Device Classification Panel identified this generic type of device as the "pack, sterilization wrapper, bag, and accessories."

2. *Recommended classification:* Class II (performance standards). The General Hospital and Personal Use Device Classification Panel recommends that establishing a performance standard for this device be a medium priority. The General and Plastic Surgery Device Classification Panel recommends that establishing a performance standard for this device be a low priority.

3. *Summary of reasons for recommendation:* The Panels recommend that the sterilization wrap be classified into class II because the Panels believe that the material properties of this device must be controlled through a standard to assure that the device performs as an adequate sterilization wrap and that the device will maintain the sterility of the enclosed product until it is used. The General and Plastic Surgery Device Classification Panel recommends that the standard address the particulate (lint) shedding properties of the device. The General Hospital and Personal Use Device Classification Panel recommends that the standard address the permeability and wetting properties of the wrap material, the device's shelflife, and the device's sealing and opening properties. The Panels believe that general controls would not provide sufficient control over these characteristics. The Panels believe that a standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance. The General Hospital and Personal Use Device Classification Panel recommends that the device labeling state which sterilization method (ethylene oxide or steam) is appropriate.

4. *Summary of data on which the recommendation is based:* The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device.

5. *Risks to health:* Both Panels identified the following risk to health: (a) Infection: If the sterilization wrap fails to maintain the sterility of the enclosed device, a patient using the device may get an infection. The General Hospital and Personal Use Device Classification Panel identified the following additional risk to health: (b) Adverse toxic reaction: If the sterilization wrap does not allow escape of residual ethylene oxide from an enclosed sterilized device, a patient on whom the device is used may experience an adverse toxic reaction. The General and Plastic Surgery Device Classification Panel identified the following additional risk to health: (c) Foreign body reaction: Lint shed from the device may be transferred to the product (e.g., surgical instruments, etc.) which is enclosed by this device and then to the patient, causing a foreign body reaction.

Proposed Classification

FDA agrees with the Panel recommendation and is proposing that sterilization wraps be classified into class II (performance standards). FDA has concluded that it would be more appropriate for this device to be named "sterilization wrap" and for its classification to be published in the part of the Code of Federal Regulations for General Hospital and Personal Use Devices. The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a standard to provide this assurance.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs proposes to amend Part 880 in Subpart G by adding new § 880.6850, to read as follows:

§ 880.6850 Sterilization wrap.

(a) *Identification.* A sterilization wrap (pack, sterilization wrapper, bag, and accessories) is a bag or wrap in which a device is placed, sterilized, and kept sterile until use.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before October 23, 1979 submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 10, 1979.

William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.

[FR Doc. 79-26124 Filed 8-23-79; 8:45 am]

BILLING CODE 4110-03-M

[21 CFR Part 880]**[Docket No. 78N-1364]****Medical Devices; Classification of Ethylene Oxide Gas Sterilizers****AGENCY:** Food and Drug Administration.
ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying ethylene oxide (ETO) gas sterilizers into class II (performance standards). FDA is also publishing the recommendation of the General Hospital and Personal Use Device Classification Panel, the Dental Device Classification Panel, and the General and Plastic Surgery Device Classification Panel that this device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. The actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by October 23, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Lillian L. Yin, Bureau of Medical Devices (HFK-470), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7555.

SUPPLEMENTARY INFORMATION**Panel Recommendation**

A proposal elsewhere in this issue of the Federal Register provides background information concerning the development of the proposed regulation. The General Hospital and Personal Use Device Classification Panel, the Dental Device Classification Panel, and the General and Plastic Surgery Device Classification Panel, FDA advisory committees, made the following recommendations regarding the classification of ethylene oxide gas sterilizers:

1. Identification: An ethylene oxide gas sterilizer is a device that uses ethylene oxide (ETO) to sterilize medical products. The General Hospital and Personal Use Device

Classification Panel identified this generic type of device as the "gas sterilizer." The Dental Device Classification Panel identified this generic type of device as the "ethylene-oxide gas sterilizer." The General and Plastic Surgery Device Classification Panel identified this generic type of device as the "ethylene oxide sterilizer."

2. Recommended classification: Class II (performance standards). The General Hospital and Personal Use Device Classification Panel recommends that establishing a performance standard for this device be a medium priority. The Dental Device Classification Panel recommends that establishing a performance standard for this device be a low priority. The General and Plastic Surgery Device Classification Panel recommends that establishing a performance standard for this device be a high priority.

3. Summary of reasons for recommendation: The three Panels recommend that the device be classified into class II because the Panels believe that a performance standard is necessary to assure that this device sterilizes medical products properly. The Panels also recommend that ethylene oxide sterilization be used only when steam sterilization cannot be employed. The Panels believe that qualified personnel must be trained in the use of ethylene oxide gas sterilizers to assure familiarity with certain procedures that need to be carried out in the sterilization process. The General Hospital and Personal Use Device Classification Panel recommends that the labeling of the device include directions for the installation of an ETO exhaust system and describe the need for periodic performance testing using a sterilization indicator. The General and Plastic Surgery Device Classification Panel believes that manufacturers need to agree on the length of time required to sterilize and aerate certain medical products and that aerators should be a required part of a gas sterilizer, particularly when products made of rubber or certain plastics are to be sterilized. All three Panels believe that general controls would not provide sufficient control over these characteristics. The Panels believe that a standard would provide a reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance.

4. Summary of data on which the recommendations are based: The Panels based their recommendations on the Panel members' personal knowledge of, and clinical experience with, the device, on their knowledge of the literature that relates to sterilization and the use of ETO, and on the Association for the Advancement of Medical Instrumentation standard for E-O sterilization (Ref. 1).

5. Risks to health: The General Hospital and Personal Use Device Classification Panel and the Dental Device Classification Panel identified the following risks to health: (a) Infection: If the device fails to sterilize medical products adequately, patients exposed to the products may experience infection. The General and Plastic Surgery Device Classification Panel and the General Hospital and Personal Use Device

Classification Panel identified the following risk to health: (b) Tissue burns, skin and mucosal membrane irritation, toxic reactions, or dermatitis: If the ETO gas is not properly removed after the sterilization procedures, residual gas may be absorbed by the sterilized product. A patient exposed to this contaminated product could, as a result, experience tissue burns, skin and mucosal membrane irritation, toxic reactions, or dermatitis.

Proposed classification

FDA agrees with the Panels' recommendations and is proposing that ethylene oxide gas sterilizers be classified into class II (performance standards). FDA has concluded that it would be more appropriate for the device to be called "ethylene oxide gas sterilizer" and for its classification to be published in the part of the Code of Federal Regulations for General Hospital and Personal Use Devices. The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a standard to provide this assurance.

In the Federal Register of June 23, 1978 (43 FR 27474), FDA proposed to amend Parts 211 and 821 (21 CFR Parts 211 and 821) to establish maximum residual limits and maximum levels of exposure of ethylene oxide and its two major reaction products, ethylene chlorohydrin and ethylene glycol. This proposal would impose restrictions on the continued use of ethylene oxide as a sterilant for certain drug products and medical devices for human use by (1) establishing maximum residue limits for ethylene oxide and its two major reaction products, ethylene chlorohydrin (2-chloroethanol) and ethylene glycol, in drug products for human and veterinary use, including biological products for human use, and in medical devices for human use, and (2) establishing maximum daily levels of exposure for drug products for ethylene oxide and its two major reaction products. This amendment was proposed because residues of ethylene oxide and its two major reaction products in drug products and devices for which ethylene oxide is used as a sterilant may produce toxic reactions in patients, and because of the potential risk of mutagenicity from exposure to these residues. The restrictions imposed by this proposed rule would apply to ethylene oxide gas sterilizers because gas sterilizers use ethylene oxide as a sterilant.

References

The following information has been placed in the office of the Hearing Clerk (address above) and may be seen by interested persons, from 9 a.m. to 4 p.m., Monday through Friday.

1. Association for the Advancement of Medical Instrumentation, "E-O Sterilization Standard (Draft)," Association for the Advancement of Medical Instrumentation, Arlington, VA, 1976.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs proposes to amend Part 880 in Subpart G by adding new § 880.6860, to read as follows:

§ 880.6860 Ethylene oxide gas sterilizer.

(a) *Identification.* An ethylene oxide gas sterilizer is a device that uses ethylene oxide (ETO) to sterilize medical products.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before October 23, 1979 submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 15, 1979.

William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.

[FR Doc. 79-28125 Filed 8-23-79; 8:45 am]

BILLING CODE 4110-03-M

[21 CFR Part 880]**[Docket No. 78N-1365]****Medical Devices; Classification of Dry-Heat Sterilizers****AGENCY:** Food and Drug Administration.
ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying dry-heat sterilizers into class II (performance standards). The FDA is also publishing the recommendation of the General Hospital and Personal Use Device Classification Panel that the

device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by October 23, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Lillian L. Yin, Bureau of Medical Devices (HFK-470), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7555.

SUPPLEMENTARY INFORMATION:**Panel Recommendation**

A proposal elsewhere in this issue of the Federal Register provides background information concerning the development of the proposed regulation. The General Hospital and Personal Use Device Classification Panel, an FDA advisory committee, made the following recommendation with respect to the classification of dry-heat sterilizers:

1. Identification: A dry-heat sterilizer is a device that uses dry heat to sterilize medical products.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a high priority.

3. Summary of reasons for recommendation: The Panel recommends that dry-heat sterilizers be classified into class II because the Panel believes that performance standards are necessary to assure that the device maintains the correct temperature for a length of time adequate for proper sterilization of medical products. The Panel believes that general controls would not provide sufficient control over this characteristic. The Panel also recommends that the labeling of the device provide proper instructions for its use and describe the need for periodic performance testing using a sterilization indicator. The Panel believes that a performance standard would provide reasonable assurance of the safety and effectiveness of the device, and that there is sufficient information to establish a standard to provide such assurance.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device and on reports of

studies of dry-heat sterilization that were sponsored by the National Aeronautics and Space Administration (NASA) (Refs. 1 through 5). These reports describe recent progress made in research on dry-heat sterilization and some of the problems associated with this sterilization method.

5. Risks to health: Infection: If the dry-heat sterilizer fails to maintain the correct temperature for a length of time adequate to sterilize medical products properly, patients exposed to the products may experience infection.

Proposed Classification

FDA agrees with the Panel recommendation and is proposing that dry-heat sterilizers be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risk to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a standard to provide this assurance.

References

The following information has been placed in the office of the Hearing Clerk (address above) and may be seen by interested persons, from 9 a.m. to 4 p.m., Monday through Friday.

1. Daspi, L. P., J. A. Stern, and E. M. Cortright, "Viking Heat Sterilization—Progress and Problems," *Acta Astronautica* 2(7-8):649-666, 1975.

2. Ernst, R. R., "Sterilization by Heat," in "Disinfection, Sterilization, and Preservation," Ed. by Lawrence, C. A. and S. S. Block, Lea and Febiger, Philadelphia, pp. 703-740, 1968.

3. Hall, L. B., "Sterilization Technology in the United States Space Program," in "Industrial Sterilization," Ed. by Phillips, G. B. and W. S. Miller, Duke University Press, Durham, NC, pp. 337-342, 1973.

4. Hall, L. B., M. S. Favero, and R. G. Lyle, "Spacecraft Sterilization," in "Disinfection, Sterilization, and Preservation," 2d Ed., Ed. by S. S. Block, Lea and Febiger, Philadelphia, pp. 611-638, 1977.

5. Pflug, I. J., "Factors Affecting the Dry Heat Destruction of Microorganisms," in "Semi-Annual Progress Report No. 13, Environmental Microbiology as Related to Planetary Quarantine," University of Minnesota, Minneapolis, pp. 35-56, 1974.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs proposes to amend Part 880 in Subpart G by adding new § 880.6870, to read as follows:

§ 880.6870 Dry-heat sterilizer.

(a) *Identification.* A dry-heat sterilizer is a device that uses dry heat to sterilize medical products.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before October 23, 1979 submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 10, 1979.

William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.

[FR Doc. 79-26126 Filed 8-23-79; 8:45 am]
BILLING CODE 4110-03-M

[21 CFR Part 880]

(Docket No. 78N-1366)

Medical Devices; Classification of Steam Sterilizers

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying steam sterilizers into class II (performance standards). FDA is also publishing the recommendation of the General Hospital and Personal Use Device Classification Panel, the Dental Device Classification Panel, and the General and Plastic Surgery Device Classification Panel that the device be classified into class II. The effect of classifying a device into class II is to provide for future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by October 23, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-

65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Lillian L. Yin, Bureau of Medical Devices (HFK-470), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7555.

SUPPLEMENTARY INFORMATION:**Panel Recommendation**

A proposal elsewhere in this issue of the Federal Register provides background information concerning the development of the proposed regulation. The General Hospital and Personal Use Device Classification Panel, the Dental Device Classification Panel, and the General and Plastic Surgery Device Classification Panel, FDA advisory committees, made the following recommendations with respect to the classification of steam sterilizers:

1. *Identification:* A steam sterilizer is a device that uses pressurized steam to sterilize medical products. The General Hospital and Personal Use Device Classification Panel identified this generic type of device as the "steam sterilizer." The Dental Device Classification Panel identified this generic type of device as the "autoclave." The General and Plastic Surgery Device Classification Panel identified this generic type of device as the "autoclave sterilizer."

2. *Recommended classification:* Class II (performance standards). The General Hospital and Personal Use Device Classification Panel recommends that establishing a performance standard for this device be a medium priority. The Dental Device Classification Panel recommends that establishing a performance standard for this device be a low priority. The General and Plastic Surgery Device Classification Panel recommends that establishing a performance standard for this device be a high priority.

3. *Summary of reasons for recommendation:* The three Panels recommend that steam sterilizers be classified into class II because the Panels believe that a performance standard is necessary to assure that the device properly sterilizes medical products. Adequate sterilization depends upon the parameters of time, temperature, and steam saturation. The Panels believe that general controls would not provide control over these characteristics. The General Hospital and Personal Use Device Classification Panel recommends that the device labeling describe the need for periodic performance testing using a sterilization indicator. The General and Plastic Surgery Device Classification Panel recommends that the device be properly designed and only trained personnel operate the device.

4. *Summary of data on which the recommendations are based:* The Panels based their recommendations on the Panel members' personal knowledge of, and clinical experience with, the device.

5. *Risks to health:* The three Panels identified the following risk to health: (a) Infection: If the device fails to sterilize medical products adequately, patients exposed to the products may experience infection. The General and Plastic Surgery Device Classification Panel also identified the following risk to health: (b) Steam burns to personnel: If the device is improperly designed, it could cause steam burns to operating personnel.

Proposed Classification

FDA agrees with the Panels' recommendations and is proposing that steam sterilizers be classified into class II (performance standards). FDA has concluded that the device should be named the "steam sterilizer" and that its classification should be published in the part of the Code of Federal Regulations for General Hospital and Personal Use Devices. The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a standard to provide this assurance.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs proposes to amend Part 880 in Subpart G by adding new § 880.6880, to read as follows:

§ 880.6880 Steam sterilizer.

(a) *Identification.* A steam sterilizer (autoclave) is a device that uses pressurized steam to sterilize medical products.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before October 23, 1979 submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 10, 1979.

William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.

[FR Doc. 79-26127 Filed 8-23-79; 8:45 am]

BILLING CODE 4110-03-M

[21 CFR Part 880]

(Docket No. 78N-1367)

Medical Devices; Classification of Hand-Carried Stretchers

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying hand-carried stretchers into class I (general controls). FDA is also publishing the recommendation of the General Hospital and Personal Use Device Classification Panel and the General and Plastic Surgery Device Classification Panel that the device be classified into class I. The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by October 23, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Lillian L. Yin, Bureau of Medical Devices (HFK-470), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7555.

SUPPLEMENTARY INFORMATION:**Panel Recommendation**

A proposal elsewhere in this issue of the Federal Register provides background information concerning the development of the proposed regulation. The General Hospital and Personal Use Device Classification Panel and the General and Plastic Surgery Device Classification Panel, FDA advisory committees, made the following recommendations with respect to the classification of hand-carried stretchers:

1. *Identification:* A hand-carried stretcher is a device consisting of a lightweight frame, or of two poles with a cloth or metal platform, on which a patient can be carried.

2. *Recommended classification:* Class I (general controls). The Panels recommend no exemptions for this device.

3. *Summary of reasons for recommendation:* The Panels recommend that hand-carried stretchers be classified into class I because the Panels believe that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device. The General Hospital and Personal Use Device Classification Panel recommends that the labeling of the device state the maximum weight that the device can support. The Panel further recommends that the device be of a suitable size to fit into all ambulances.

4. *Summary of data on which the recommendations are based:* The Panels based their recommendations on the Panel members' personal knowledge of, and clinical experience with, the device.

5. *Risks to health:* None identified.

Proposed Classification

FDA agrees with the Panels' recommendations and is proposing that hand-carried stretchers be classified into class I (general controls). FDA has concluded that the classification of the device should be published in the part of the Code of Federal Regulations for General Hospital and Personal Use Devices. The agency believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

FDA disagrees with the Panel recommendation that there be no exemptions for hand-carried stretchers. The agency is proposing that manufacturers of a hand-carried stretcher be exempt from the device good manufacturing practice (GMP) regulation under section 520(f) of the act (21 U.S.C. 360(f)). FDA is proposing that a manufacturer of this device be exempt, in the manufacture of the device, from all requirements in the GMP regulation except § 820.180 (21 CFR 820.180), with respect to general requirements concerning records, and § 820.198 (21 CFR 820.198), with respect to complaint files. Based on available information about current practices used in the manufacture of the device and user experience with the device, the agency has determined that application of the GMP regulation, other than §§ 820.180 and 820.198, is unlikely to improve the safety and effectiveness of the device. The agency believes, however, that manufacturers of a hand-carried stretcher must still be required to comply with the complaint file requirements of § 820.198 to ensure that these manufacturers have adequate systems for complaint investigation and

followup. The agency also believes that manufacturers of a hand-carried stretcher must still be required to comply with the general requirements concerning records in § 820.180 to ensure that FDA has access to complaint files, can investigate device-related injury reports and complaints about product defects, may determine whether the manufacturer's corrective actions are adequate, and may determine whether the exemption from other sections of the GMP regulation is still appropriate.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs proposes to amend Part 880 in Subpart G by adding new § 880.6900, to read as follows:

§ 880.6900 Hand-carried stretcher.

(a) *Identification.* A hand-carried stretcher is a device consisting of a lightweight frame, or of two poles with a cloth or metal platform, on which a patient can be carried.

(b) *Classification.* Class I (general controls). The device is exempt from the good manufacturing practice regulation in Part 820 of this chapter, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

Interested persons may, on or before October 23, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 10, 1979.

William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.

[FR Doc. 79-26126 Filed 8-23-79; 8:45 am]
BILLING CODE 4110-03-M

[21 CFR Part 880]

(Docket No. 78N-1368)

Medical Devices; Classification of Wheeled Stretchers

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying wheeled stretchers into class II (performance standards). FDA is also publishing the recommendations of the General Hospital and Personal Use Device Classification Panel and the Anesthesiology Device Classification Panel that this device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. Additionally, FDA is publishing the recommendation of the Physical Medicine Device Classification Panel that this device be classified into class I. The effect of classifying a device into class I is to require that the device only meet the general controls applicable to all devices. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by October 23, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Lillian L. Yin, Bureau of Medical Devices (HFK-470), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7555.

SUPPLEMENTARY INFORMATION:**Panel Recommendation**

A proposal elsewhere in this issue of the Federal Register provides background information concerning the development of the proposed regulation. The General Hospital and Personal Use Device Classification Panel, the Physical Medicine Device Classification Panel, and the Anesthesiology Device Classification Panel, FDA advisory committees, made the following recommendations regarding the classification of wheeled stretchers:

1. Identification: A wheeled stretcher is a device consisting of a platform mounted on a wheeled frame that is designed to transport patients in a horizontal position. The device may have side rails, supports for fluid infusion equipment, and patient securement straps. The frame may be fixed or collapsible for use in an ambulance. The General

Hospital and Personal Use Device Classification Panel identified this generic type of device as the "wheeled stretcher." The Physical Medicine Device Classification Panel identified this generic type of device as the "mechanical wheeled stretcher." The Anesthesiology Device Classification Panel identified this generic type of device as the "patient cart."

2. Recommended classification: The General Hospital and Personal Use Device Classification Panel and the Anesthesiology Device Classification Panel recommend that this device be classified into class II (performance standards) and that establishing a performance standard for the device be a medium priority. The Physical Medicine Device Classification Panel recommends that this device be classified into class I (general controls) and the Panel recommends that there be no exemptions for the device.

3. Summary of reasons for recommendation: The General Hospital and Personal Use Device Classification Panel recommends that this device be classified into class II (performance standards) because the Panel believes that a standard should control the bumper height, require lockable wheels and self-locking side rails with safety latches, and assure adequate weight capacity for most patients. The Panel also recommends that the standard assure that the device's center of gravity be sufficiently low that the device is stable and does not topple over, and that the device's wheels be large enough so that they cannot get trapped in the space between the floor and an elevator. The Anesthesiology Device Classification Panel recommends that this device be classified into class II because the Panel believes that a performance standard should assure that the device has no sharp edges or protrusions that could injure the patient or personnel, to require the device to have side rails and restraint straps that are properly placed and sufficiently strong to prevent the patient from falling from the cart, and to require the device to have adequate brakes. The General Hospital and Personal Use Device Classification Panel and the Anesthesiology Device Classification Panel believe that general controls would not provide sufficient control over these characteristics. The Panels also believe that a performance standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance. The Physical Medicine Device Classification Panel recommends that this device be classified into class I (general controls) because the Panel believes that the device presents no risks to health and that general controls are, therefore, sufficient to provide reasonable assurance of the safety and effectiveness of the device.

4. Summary of data on which the recommendations are based: The three Panels based their recommendations on the Panel members' personal knowledge of, and clinical experience with, the device.

5. Risks to health: The General Hospital and Personal Use Device Classification Panel and the Anesthesiology Device Classification Panel identified the following risks of injury

to the patient: The patient may fall from the device and be injured if the side rails fail, if the device is unstable and topples over, if the wheels get trapped in the space between the floor and an elevator and cause the patient to be thrown, if the patient tries to get off a device that lacks lockable wheels, if the device collapses under the patient's weight, or if the device's restraint straps are weak or improperly placed. The patient could also be injured if the device has sharp edges, protrusions, or improper brakes. The Physical Medicine Device Classification Panel identified no risks to health presented by the device.

Proposed Classification

FDA agrees with the recommendations of the General Hospital and Personal Use Device Classification Panel and the Anesthesiology Device Classification Panel and is proposing that wheeled stretchers be classified into class II (performance standards). FDA has concluded that the advice should be named the "wheeled stretcher" and that its classification should be published in the part of the Code of Federal Regulations for General Hospital and Personal Use Devices.

FDA disagrees with the recommendation of the Physical Medicine Device Classification Panel that the device be classified into class I (general controls). The agency believes that a standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device, especially the risk of falls due to inadequate device design. A performance standard would provide reasonable assurance of safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a standard to provide this assurance.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (12 CFR 5.1), the Commissioner of Food and Drugs proposes to amend Part 880 in Subpart G by adding new § 880.6910, to read as follows:

§ 880.6910 Wheeled stretcher.

(a) *Identification.* A wheeled stretcher is a device consisting of a platform mounted on a wheeled frame that is designed to transport patients in a horizontal position. The device may have side rails, supports for fluid infusion equipment, and patient securement straps. The frame may be fixed or collapsible for use in an ambulance.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before October 23, 1979 submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 10, 1979.

William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.

[FR Doc. 79-26129 Filed 8-23-79; 8:45 am]

BILLING CODE 4110-03-M

[21 CFR Part 880]**[Docket No. 78N-1369]****Medical Devices; Classification of Syringe Needle Introducers**

AGENCY: Food and Drug Administration.
ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying syringe needle introducers into class II (performance standards). FDA is also publishing the recommendation of the General Hospital and Personal Use Device Classification Panel that the device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by October 23, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Lillian L. Yin, Bureau of Medical Devices (HFK-470), Food and Drug Administration, Department of Health,

Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7555.

SUPPLEMENTARY INFORMATION:**Panel Recommendation**

A proposal elsewhere in this issue of the Federal Register provides background information concerning the development of the proposed regulation. The General Hospital and Personal Use Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of syringe needle introducers:

1. Identification: A syringe needle introducer is a device that uses a spring-loaded mechanism to drive a hypodermic needle into a patient to a predetermined depth below the skin surface.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that syringe needle introducers be classified into class II because the Panel believes that a standard is needed to control the force of the spring used to drive the needle into the skin so that the needle is driven to the correct depth below the skin surface, without unnecessary tissue trauma. The Panel believes that general controls would not provide sufficient control over this characteristic. The Panel believes that a performance standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance. The Panel also recommends that the device be sterilizable to prevent cross-contamination.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device.

5. Risks to health: (a) Cross-contamination: If the device is not sterilizable, cross-contamination may occur. (b) Incorrect dosage: If the needle penetrates to an incorrect depth, the patient may receive an incorrect dosage of drug. (c) Tissue trauma: If the needle penetrates too deep, tissue trauma may result.

Proposed Classification

FDA agrees with the Panel recommendation and is proposing that syringe needle introducers be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient

information to establish a performance standard to provide this assurance.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs proposes to amend Part 880 in Subpart G by adding new § 880.6920, to read as follows:

§ 880.6920 Syringe needle introducer.

(a) *Identification.* A syringe needle introducer is a device that uses a spring-loaded mechanism to drive a hypodermic needle into a patient to a predetermined depth below the skin surface.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before October 23, 1979 submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 10, 1979.

William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.

[FR Doc. 79-26130 Filed 8-23-79; 8:45 am]

BILLING CODE 4110-03-M

[21 CFR Part 880]**[Docket No. 78N-1388]****Medical Devices; Classification of Irrigating Syringes**

AGENCY: Food and Drug Administration.
ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying irrigating syringes into class I (general controls). FDA is also publishing the recommendation of the General Hospital and Personal Use Device Classification Panel that the device be classified into class I. The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. After considering public comments, FDA will issue a final regulation classifying the device. These

actions are being taken under the Medical Device Amendments of 1976. **DATES:** Comments by October 23, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Lillian L. Yin, Bureau of Medical Devices (HFK-470), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7555.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the Federal Register provides background information concerning the development of the proposed regulation. The General Hospital and Personal Use Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of irrigating syringes:

1. Identification: An irrigating syringe is a device consisting of a bulb or a piston syringe with an integral or a detachable tube. The device is used to irrigate, withdraw fluid from, or instill fluid into a body cavity or wound. The Panel identified this generic type of device under the name "nonsurgical irrigating syringe."

2. Recommended classification: Class I (general controls). The Panel recommends that this device be exempt from premarket notification under section 510(k) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360(k)) and, if the device is not labeled as sterile, exempt from the good manufacturing practice regulation under section 520(f) of the act (21 U.S.C. 360(f)).

3. Summary of reasons for recommendation: The Panel recommends that irrigating syringes be classified into class I because the Panel believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device. The Panel recommends that this device be exempt from premarket notification under section 510(k) of the act because the Panel believes that FDA does not need to receive premarket notification of a manufacturer's intent to market this simple device. The Panel recommends that this device be exempt from the good manufacturing practice regulation under section 520(f) of the act because the Panel believes that the quality of the device is easily discernible and that defects are readily apparent to the user.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device.

5. Risks to health: Infection: If the device is labeled as sterile and it is not sterile, pathogenic organisms may cause an infection in the patient.

Proposed Classification

FDA agrees with the Panel recommendation and is proposing that irrigating syringes be classified into class I (general controls). The agency believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

In response to the Panel's recommendation that manufacturers of an irrigating syringe be exempt from section 510 of the act, FDA is proposing that these manufacturers be subject to registration and device listing under section 510(a) through (j) of the act, but exempt from premarket notification under section 510(k) of the act and Subpart E of Part 807 of the regulations (21 CFR Part 807). Under section 510(g)(4) of the act, the agency may exempt a manufacturer from section 510 only if it finds that compliance with this section is not necessary for the protection of the public health. In the case of registration and listing by manufacturers of an irrigating syringe, the agency cannot make the required finding. To protect the public health, the agency needs to be able to identify the firms manufacturing this device and to conduct necessary inspections. The agency has determined, however, that it is not necessary for the protection of the public health that FDA receive premarket notification submissions concerning an irrigating syringe. The agency does not at this time anticipate that premarket approval will be required for this device. The agency believes that the semiannual updating of device listing under section 510(j)(2) will provide FDA with adequate notice concerning new products within this generic type of device.

In response to the Panel's recommendation that manufacturers of an irrigating syringe be exempt from the device good manufacturing practice (GMP) regulation under section 520(f) of the act, FDA is proposing that a manufacturer of this device who does not label or otherwise represent it as sterile be exempt, in the manufacture of the device, from all requirements in the GMP regulation except § 820.180 (21 CFR 820.180), with respect to general requirements concerning records, and § 820.198 (21 CFR 820.198), with respect to complaint files. Based on available information about current practices used in the manufacture of the device and user experience with the device, the agency has determined that application

of the GMP regulation, other than §§ 820.180 and 820.198, is unlikely to improve the safety and effectiveness of the device. The agency believes, however, that manufacturers of an irrigating syringe, even when it is not labeled or otherwise represented as sterile, must still be required to comply with the complaint file requirements of § 820.198 to ensure that these manufacturers have adequate systems for complaint investigation and followup. The agency also believes that manufacturers of an irrigating syringe must still be required to comply with the general requirements concerning records in § 820.180 to ensure that FDA has access to complaint files, can investigate device-related injury reports and complaints about product defects, may determine whether the manufacturer's corrective actions are adequate, and may determine whether the exemption from other sections of the GMP regulation is still appropriate. A manufacturer of an irrigating syringe that is labeled or otherwise represented as sterile is, in the manufacture of this device, subject to the GMP regulation in its entirety.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs proposes to amend Part 880 in Subpart G by adding new § 880.6960, to read as follows:

§ 880.6960 Irrigating syringe.

(a) *Identification.* An irrigating syringe is a device consisting of a bulb or a piston syringe with an integral or a detachable tube. The device is used to irrigate, withdraw fluid from, or instill fluid into a body cavity or wound.

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in Subpart E of Part 807 of this chapter. If the device is not labeled or otherwise represented as sterile, it also is exempt from the good manufacturing practice regulation in Part 820 of this chapter, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

Interested persons may, on or before October 23, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the

Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 10, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-28132 Filed 8-23-79; 8:45 am]

BILLING CODE 4110-03-M

[21 CFR Part 880]

[Docket No. 78N-1371]

Medical Devices; Classification of Liquid Crystal Vein Locators

AGENCY: Food and Drug Administration.
ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying liquid crystal vein locators into class I (general controls). FDA is also publishing the recommendation of the General Hospital and Personal Use Device Classification Panel that the device be classified into class I. The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by October 23, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Lillian L. Yin, Bureau of Medical Devices (HFK-470), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7555.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the Federal Register provides background information concerning the development of the proposed regulation. The General Hospital and Personal Use Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the

classification of liquid crystal vein locators:

1. Identification: A liquid crystal vein locator is a device used to indicate the location of a vein by revealing variations in the surface temperature of the skin by displaying the color changes of heat sensitive liquid crystals (cholesteric esters).

2. Recommended classification: Class I (general controls). The Panel recommends that there be no exemptions.

3. Summary of reasons for recommendation: The Panel recommends that liquid crystal vein locators be classified into class I because the Panel believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and clinical experience with, the device.

5. Risks to health: None identified.

Proposed Classification

FDA agrees with the Panel recommendation and is proposing that liquid crystal vein locators be classified into class I (general controls) with no exemptions. The agency believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs proposes to amend Part 880 in Subpart G by adding new § 880.6970, to read as follows:

§ 880.6970 Liquid crystal vein locator.

(a) *Identification.* A liquid crystal vein locator is a device used to indicate the location of a vein by revealing variations in the surface temperature of the skin by displaying the color changes of heat sensitive liquid crystals (cholesteric esters).

(b) *Classification.* Class I (general controls).

Interested persons may, on or before October 23, 1979 submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 15, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-28132 Filed 8-23-79; 8:45 am]

BILLING CODE 4110-03-M

[21 CFR Part 880]

[Docket No. 78N-1372]

Medical Devices; Classification of Vein Stabilizers

AGENCY: Food and Drug Administration.
ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying vein stabilizers into class I (general controls). FDA is also publishing the recommendation of the General Hospital and Personal Use Device Classification Panel that the devices be classified into class I. The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by October 23, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Lillian L. Yin, Bureau of Medical Devices (HFK-470), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Avenue, Silver Spring, MD 20910, 301-427-7555.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the Federal Register provides background information concerning the development of the proposed regulation. The General Hospital and Personal Use Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of vein stabilizers:

1. Identification: A vein stabilizer is a device consisting of a flat piece of plastic with two noninvasive prongs. The device is placed on the skin so that the prongs are on either side of a vein and hold it stable while a

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hypodermic needle is inserted into the vein. The Panel identified this generic type of device under the name "vein stabilization device."

2. Recommended classification: Class I (general controls). The Panel recommends that these devices be exempt from premarket notification under section 510(k) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360(k)) and from the good manufacturing practice regulation under section 520(f) of the act (21 U.S.C. 360j(f)).

3. Summary of reasons for recommendation: The Panel recommends that vein stabilizers be classified into class I because the Panel believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device. The Panel recommends that the device be exempt from premarket notification under section 510(k) of the act because the Panel believes that FDA does not need to receive premarket notification of a manufacturer's intent to market this simple device. The Panel also recommends that the device be exempt from the good manufacturing practice regulation under section 520(f) of the act because the Panel believes that the quality of the device is easily discernible and that defects are readily apparent to the user.

4. Summary of data on which the recommendation is based: The Panel based its recommendations on the Panel members' personal knowledge of, and clinical experience with, the device.

5. Risks to health: None identified.

Proposed Classification

FDA agrees with the Panel recommendation and is proposing that vein stabilizers be classified into class I (general controls). The agency believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

In response to the Panel's recommendation that manufacturers of a vein stabilizer be exempt from section 510(k) of the act, FDA is proposing that these manufacturers be subject to registration and device listing under section 510 (a) through (j) of the act, but exempt from premarket notification under section 510(k) of the act and Subpart E of Part 807 of the regulations (21 CFR Part 807). Under section 510(g)(4) of the act, the agency may exempt a manufacturer from section 510 only if it finds that compliance with this section is not necessary for the protection of the public health. In the case of registration and listing by manufacturers of a vein stabilizer, the agency cannot make the required finding. To protect the public health, the agency needs to be able to identify the firms manufacturing this device and to conduct necessary inspections. The agency has determined, however, that it is not necessary for the protection of the public health that FDA receive

premarket notification submissions concerning a vein stabilizer. The agency does not at this time anticipate that premarket approval will be required for this device. The agency believes that the semiannual updating of device listing under section 510(j)(2) will provide FDA with adequate notice concerning new products within this generic type of device.

In response to the Panel's recommendation that manufacturers of a vein stabilizer be exempt from the device good manufacturing practice (GMP) regulation under section 520(f) of the act, FDA is proposing that a manufacturer of this device be exempt, in the manufacture of the device, from all requirements in the GMP regulation except § 820.180 (21 CFR 820.180), with respect to general requirements concerning records, and § 820.198 (21 CFR 820.198), with respect to complaint files. Based on available information about current practices used in the manufacture of the device and user experience with the device, the agency has determined that application of the GMP regulation, other than §§ 820.180 and 820.198, is unlikely to improve the safety and effectiveness of the device. The agency believes, however, that manufacturers of a vein stabilizer must still be required to comply with the complaint file requirements of § 820.198 to ensure that these manufacturers have adequate systems for complaint investigation and followup. The agency also believes that manufacturers of a vein stabilizer must still be required to comply with the general requirements concerning records in § 820.180 to ensure that FDA has access to complaint files, can investigate device-related injury reports and complaints about product defects, may determine whether the manufacturer's corrective actions are adequate, and may determine whether the exemption from other sections of the GMP regulation is still appropriate.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs proposes to amend part 880 in Subpart G by adding new § 880.6980, to read as follows:

§ 880.6980 Vein stabilizer.

(a) *Identification.* A vein stabilizer is a device consisting of a flat piece of plastic with two noninvasive prongs. The device is placed on the skin so that the prongs are on either side of a vein and hold it stable while a hypodermic needle is inserted into the vein.

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in Subpart E of Part 807 of this chapter. The device also is exempt from the good manufacturing practice regulation in Part 820 of this chapter, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

Interested persons may, on or before October 23, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 10, 1979.

William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.

[FR Doc. 79-28133 Filed 8-23-79; 8:45 am]

BILLING CODE 4110-03-M

federal register

Friday
August 24, 1979

Part IV

Merit Systems Protection Board

Prohibited Personnel Practices and
Activities; Procedures for the Receipt
and Investigation of Allegations

MERIT SYSTEMS PROTECTION BOARD**[5 CFR Parts 1251 Through 1269]****Prohibited Personnel Practices and Activities; Procedures for the Receipt and Investigation of Allegations.****AGENCY:** Office of the Special Counsel.**ACTION:** Proposed rule.

SUMMARY: These regulations set forth the procedures for the receipt and investigation by the Office of the Special Counsel of allegations of prohibited personnel practices and activities prohibited by other civil service law, rule or regulation, and the receipt and referral to agencies for investigation of or a report on whistleblower allegations.

DATES: Comments should be submitted by October 30, 1979.

ADDRESS: Send comments to the Office of the Special Counsel, 1717 H Street, NW., Washington, DC 20419.

FOR FURTHER INFORMATION CONTACT: Shigeki J. Sugiyama or Lynn R. Collins, Office of the Special Counsel (202-653-7140).

SUPPLEMENTARY INFORMATION: The Special Counsel published interim procedures for operations in the Federal Register on January 30, 1979 (44 FR 6060). The interim regulations remain in effect until final regulations are published. The Special Counsel received written comments on the interim regulations from two unions representing federal employees and one federal agency. In addition, comments were received from the Government Accountability Project. Those comments were considered in preparing these proposed regulations.

In § 1253.1, an address is set out to which complaints, allegations, and information under Subchapter B can be filed. As soon as the field office structure is established, § 1253.1 will be revised to include a list of those offices.

Accordingly, it is proposed to amend 5 CFR Chapter II by revising Subchapter B to read as follows:

Subchapter B—Office of the Special Counsel

PART 1250—JURISDICTION AND DEFINITIONS

Sec.

1250.1 General authority of the Special Counsel.

1250.2 Scope.

1250.3 Definitions.

Authority.—5 U.S.C. 1206(k); Sec. 204(g) of Reorganization Plan No. 2 of 1978, unless otherwise noted.

§ 1250.1 General authority of the Special Counsel.

The Special Counsel is authorized to carry out the following general functions, as described in this subchapter:

(a) To receive and investigate allegations of prohibited personnel practices and certain other violations of law, rule or regulation.

(b) To receive and refer to agencies for investigation or a report certain disclosures of information reasonably believed by the discloser to evidence a violation of any law, rule, or regulation, or mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety.

(c) To recommend, upon determination that there is reasonable ground to believe that a prohibited personnel practice has occurred, exists, or is to be taken, corrective action to the agency involved.

(d) To file with the Merit Systems Protection Board requests to order corrective action (if the agency has not taken the corrective action recommended after a reasonable period), requests for stays of prohibited personnel actions, and complaints for disciplinary action against federal employees, and intervene or otherwise participate in any proceeding before the Board.

§ 1250.2 Scope.

(a) The Special Counsel is required to receive and to investigate allegations of prohibited personnel practices and certain other activities prohibited by civil service law, rule, or regulation involving any Executive agency, the Administrative Office of the United States Courts, and the Government Printing Office, except that the prohibited personnel practices set forth below do not apply to:

(1) A Government corporation.

(2) The Federal Bureau of Investigation, the Central Intelligence Agency, the Defense Intelligence Agency, the National Security Agency, and certain other intelligence agencies excepted by the President.

(3) The General Accounting Office.

(4) The United States Postal Service and the Postal Rate Commission.

(b) The Special Counsel will investigate allegations of Hatch Act violations in any Executive agency, the U.S. Postal Service, and Postal Rate Commission and the District of Columbia Government.

(c) The Special Counsel will receive and act on information which evidences a violation of any law, rule, or regulation, or of mismanagement, a

gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety, involving any Executive agency.

§ 1250.3 Definitions.

As used in this subchapter:

(a) "Personnel action" means—

(1) An appointment;

(2) A promotion;

(3) An adverse action under chapter

75 of title 5, United States Code or other disciplinary or corrective action; (4) a detail, transfer, or reassignment;

(5) A reinstatement;

(6) A restoration;

(7) A reemployment;

(8) A performance evaluation under chapter 43 of title 5, United States Code;

(9) A decision concerning pay, benefits, or awards, or concerning education or training if the education or training may reasonably be expected to lead to an appointment, promotion, performance evaluation, or other personnel action; or

(10) Any other significant change in duties or responsibilities which is inconsistent with the employee's salary or grade level.

(b) "Prohibited personnel practice" means action by an employee who has authority to take, direct others to take, recommend, or approve any personnel action.

(1) That discriminates for or against any employee or applicant for employment on the basis of race, color, religion, sex, national origin, age, handicapping condition, marital status or political affiliation, as prohibited by certain specified laws (see 5 U.S.C. 2302(b)(1)).

(2) To solicit or consider any recommendation or statement, oral or written, with respect to any individual who requests or is under consideration for any personnel action unless the recommendation or statement is based on the personal knowledge or records of the person furnishing it and consists of an evaluation of the work performance, ability, aptitude, or general qualifications of the individual, or an evaluation of the character, loyalty, or suitability of such individual;

(3) To coerce the political activity of any person (including the providing of any political contribution or service), or take any action against any employee or applicant for employment as a reprisal for the refusal of any person to engage in such political activity;

(4) To deceive or willfully obstruct any person with respect to such person's right to compete for employment;

(5) To influence any person to withdraw from competition for any position for the purpose of improving or

injuring the prospects of any other person for employment;

(6) To grant any preference or advantage not authorized by law, rule or regulation to any employee or applicant for employment (including defining the scope or manner of competition or the requirements for any position) for the purpose of improving or injuring the prospects of any particular person for employment;

(7) To appoint, employ, promote, advance, or advocate for appointment, employment, promotion, or advancement, in or to a civilian position any individual who is a relative (as defined in 5 U.S.C. 3110) of the employee if the position is in the agency in which the employee is serving as a public official (as defined in 5 U.S.C. 3110) or over which the employee exercises jurisdiction or control as an official;

(8) To take or fail to take a personnel action with respect to any employee or applicant for employment as a reprisal for being a whistleblower, as defined in paragraph (c) of this section.

(9) To take or fail to take a personnel action against an employee or applicant for employment as a reprisal for the exercise of any appeal right granted by law, rule or regulation;

(10) To discriminate for or against any employee or applicant for employment on the basis of conduct which does not adversely affect the performance of the employee or applicant or the performance of others; or

(11) To take or fail to take any other personnel action if the taking of or failure to take such action violates any law, rule, or regulation implementing, or directly concerning, the merit system principles contained in 5 U.S.C. 2301.

(c) "Whistleblower" means a present or former Federal employee or applicant for Federal employment who discloses information he reasonably believes evidences a violation of any law, rule or regulation, or mismanagement, a gross waste of funds, an abuse of authority, or a substantial or specific danger to public health or safety, if the disclosure is not specifically required by Executive order to be kept secret in the interest of national defense or the conduct of foreign affairs. Where the information disclosed affects only the personnel situation of the complainant, it will normally be treated as an allegation of a prohibited personnel practice or violation of other civil service law, rule or regulation, and the complainant will not be considered to be a whistleblower.

(d) "Gross waste of funds" means unnecessary expenditure of substantial sums of money, or a series of instances of unnecessary expenditures of smaller amounts.

(e) "Mismanagement" means wrongful or arbitrary and capricious actions that may have an adverse effect on the efficient accomplishment of the agency mission.

PART 1251—INVESTIGATIVE AUTHORITY OF THE SPECIAL COUNSEL

Sec.

1251.1 Matters subject to investigation.

1251.2 Deferral to administrative appeals procedures.

1251.3 Investigation policy in discrimination complaints.

1251.4 Closing cases and terminating investigations.

1251.5 Actions on results of investigations.

§ 1251.1 Matters subject to investigation.

The Special Counsel is authorized—

(a) To receive and investigate allegations of prohibited personnel practices, as defined in section 1250.3 of this subchapter, and to determine whether there are reasonable grounds to believe that a prohibited personnel practice has occurred, exists, or is to be taken (5 U.S.C. 1206(a)).

(b) To conduct an investigation of any allegation concerning—

(1) Political activity by Federal employees and employees of the District of Columbia Government, prohibited by Subchapter III of Chapter 73 of title 5, United States Code (Hatch Act);

(2) Political activities by certain State and local officers and employees prohibited by Chapter 15 of title 5, United States Code (Hatch Act);

(3) Arbitrary or capricious withholding of information prohibited under section 552 of title 5, United States Code (Freedom of Information Act), except that the Special Counsel shall make no investigation under this subsection of any withholding of foreign intelligence or counter-intelligence information the disclosure of which is specifically prohibited by law or by Executive order;

(4) Activities prohibited by any civil service law, rule, or regulation, including partisan political intrusion in personnel decisionmaking, except when the Special Counsel determines that the allegation may be resolved more appropriately under an administrative appeals procedure; and

(5) Involvement by any employee in any prohibited discrimination found by any court or appropriate administrative authority to have occurred in the course of any personnel action, except when the Special Counsel determines that such allegation may be resolved more appropriately under an administrative appeals procedure. (5 U.S.C. 1206(e)).

§ 1251.2 Deferral to administrative appeals procedures.

Section 1206(e)(2) of title 5, United States Code, provides that the Special Counsel shall make no investigation of allegations described in § 1251.2(b)(4) or (5) of this part, if he determines that the matter may be resolved more appropriately under an administrative appeals procedure. The Special Counsel generally will not initiate an investigation in the following circumstances:

(a) The employee has a pending appeal on the same matter before the Merit Systems Protection Board, the Office of Personnel Management, the Equal Employment Opportunity Commission, or the Federal Labor Relations Authority, or a pending grievance under a formal agency or negotiated grievance proceeding, unless there is sufficient evidence submitted with the complaint to the Special Counsel to indicate the matter is not being properly processed.

(b) An administrative appeal proceeding has been completed, unless there is sufficient evidence submitted with the complaint to the Special Counsel to indicate the matter was not properly processed.

(c) An administrative proceeding was available to the complainant but the complainant did not file a timely appeal or otherwise failed to pursue the matter.

(d) The complainant alleges a violation of law, rule, or regulation in connection with a promotion action, particularly complaints of nonselection or general charges of "preselection", when the information submitted with the complaint to the Special Counsel does not evidence any prohibited personnel practice, as defined in § 1250.3 of this subchapter. In such circumstances the complainant should utilize the agency or negotiated grievance procedure if the matter is grievable.

§ 1251.3 Investigative policy in discrimination complaints.

The Special Counsel is authorized to investigate allegations of discrimination prohibited by law, as defined in § 1250.3(b)(1) of this subchapter. Since procedures for investigating discrimination complaints have already been established in the agencies and the Equal Employment Opportunity Commission, the Special Counsel will normally avoid duplicating those procedures and will defer to those procedures rather than initiating an independent investigation. However, the Special Counsel will—

(a) Assert independent investigative jurisdiction in those circumstances

where it appears that the agency is not processing the complaint consistent with provisions of applicable statutes and regulations; and

(b) Monitor agency and EEOC processing of discrimination complaints, in cases where he determines this to be necessary or appropriate.

§ 1251.4 Closing cases and terminating investigations.

(a) The Special Counsel will notify the complainant of the closing of the case and the reasons therefore, when the matter complained of is not within the investigative jurisdiction of the Special Counsel.

(b) The Special Counsel will notify the complainant of the termination of any investigation under this part and the reasons therefore, and any action taken by the Special Counsel on the allegation.

§ 1251.5 Actions on results of investigations.

(a) If the Special Counsel determines that there are reasonable grounds to believe that a prohibited personnel practice, as defined in § 1250.3 of this subchapter, has occurred, exists, or is to be taken, which requires corrective action, he reports his determinations, findings and recommendations to the agency, the Merit Systems Protection Board, and the Office of Personnel Management, and may report such finding to the President (5 U.S.C. 1206(c)(1)). If the agency involved fails to take the action recommended within a reasonable period, the Special Counsel may request the Board to consider the matter pursuant to 5 U.S.C. 1206(c)(1)(B).

(b) If the Special Counsel has reasonable cause to believe any other violation of any law, rule or regulation has occurred (i.e., violations other than or in addition to a prohibited personnel practice), he is required to report this to the agency head concerned and to require, within 30 days, a certificate by the agency head which states that (1) the agency head has personally reviewed the report of the Special Counsel, (2) what action has been, or is to be taken, and (3) when the action will be completed (5 U.S.C. 1206(c)(3)). Agency head certifications are included in the public list, provided for in § 1260.1 of this subchapter.

(c) When the investigation indicates that disciplinary action against any employee to investigations is warranted, the Special Counsel may file a complaint, together with a statement of supporting facts with the Merit Systems Protection Board. The complaint and statement of supporting facts shall be served on the employee at the same time it is filed with the Board. Additionally,

in the case of violations of provisions of Chapter 15 of title 5, United States Code (political activity of certain State and local officers and employees), the complaint, including the statement of supporting facts, shall be served on the State or local agency as well as the officer or employee (5 U.S.C. 1206(g)).

(d) In the case of a complaint for disciplinary action against an employee in a confidential, policy-making, policy-determining, or policy-advocating position appointed by the President by and with the advice and consent of the Senate [other than an individual in the Foreign Service of the United States], the Special Counsel shall submit the complaint including a statement of supporting facts and the employee's response to the complaint to the President for appropriate action in lieu of presenting the complaint before the Merit Systems Protection Board. (5 U.S.C. 1206(g)).

(e) When the Special Counsel believes that there is in an agency a pattern of prohibited personnel practices not otherwise appealable to the Merit Systems Protection Board under any law, rule or regulation, the Special Counsel may file a complaint with the Board against the agency involved to obtain an order for appropriate corrective action. (5 U.S.C. 1206(h)).

(f) If, in connection with any investigation under this part, the Special Counsel determines that there is reasonable cause to believe that a criminal violation by an employee has occurred, he shall report the determination to the Attorney General and to the head of the agency involved, and shall submit a copy of the report to the Director of the Office of Personnel Management and the Director of the Office of Management and Budget. The referral of an alleged criminal violation to the Attorney General shall not preclude the Special Counsel from conducting any investigation or proceeding concerning prohibited personnel practices instituted under this part. (5 U.S.C. 1206(c)(2)).

PART 1252—DISCLOSURES OF INFORMATION (WHISTLEBLOWING)

Sec.

1252.1 Applicability.

1252.2 Referral to agency heads under 5 U.S.C. 1206(b)(3); reports from agency heads.

1252.3 Referral to agency heads under 5 U.S.C. 1206(b)(7).

1252.4 Failure of agency head to file report.

1252.5 Review of agency report.

1252.6 Foreign intelligence or counterintelligence information.

§ 1252.1 Applicability.

This part applies to disclosures of information not specifically required by law or Executive order to be kept secret in the interest of national defense or the conduct of foreign affairs, which the discloser reasonably believes evidences a violation of any law, rule or regulation, or mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to the public health or safety.

§ 1252.2 Referral to agency heads under 5 U.S.C. 1206(b)(3); reports from agency heads.

(a) If after review of the information received under this part the Special Counsel determines that there is a substantial likelihood that the information discloses a violation of any law, rule or regulation, or mismanagement, gross waste of funds, abuse of authority, or a substantial and specific danger to the public health or safety, he may, if the information was transmitted to him by an employee or former employee or applicant for employment in the agency which the information concerns, or by an employee who obtained the information in connection with the performance of his duties and responsibilities, require the head of the agency to conduct an investigation of the information and any related matters and to submit to the Special Counsel a written report setting forth the findings of the head of the agency.

(b) Any report required by the Special Counsel under this section shall be submitted within sixty (60) calendar days after the date on which the Special Counsel transmitted the information to the head of the agency, or within any reasonable longer period of time agreed to in writing by the Special Counsel or designee of the Special Counsel. In the event the agency finds that it is unable to adequately investigate and report within the time limit imposed by the statute, the agency shall as soon as practicable, but not less than 15 days before the date the report is due to the Special Counsel, the President, and the Congress, submit a written request to the Special Counsel specifying the additional time required and the reasons therefore.

(c) Any report required under this section shall be reviewed and signed by the agency head and shall include: (1) A summary of the information with respect to which the investigation was initiated; (2) a description of the conduct of the investigation; (3) a summary of any evidence obtained from the investigation; (4) a listing of any violation or apparent violation of any

law, rule, or regulation; (5) a description of any corrective action taken or planned to be taken as a result of the investigation, including, but not limited to, changes in agency rules, regulations, or practices, restoration of any aggrieved employee, disciplinary action against any employee, and referral to the Attorney General of any evidence of a criminal violation.

(d) Any report required under this section shall be submitted, by the agency head, to the Congress and the President, as well as to the Special Counsel.

(e) The Special Counsel will transmit a copy of the agency head's report to the party who made the disclosure to the Special Counsel, except when the report includes evidence of criminal violations referred to the Attorney General.

§ 1252.3 Referral to agency heads under 5 U.S.C. 1206(b)(7).

If the Special Counsel does not require an investigation by the head of the agency, the agency head shall, within a reasonable time (but no later than 60 days) after the information was transmitted to him by the Special Counsel, review the information, make any inquiry necessary, and inform the Special Counsel, in writing, of what action has been or is to be taken and when such action will be completed. The Special Counsel will inform the complainant of the report of the agency head.

§ 1252.4 Failure of agency head to file report pursuant to § 1252.2.

Whenever the Special Counsel does not receive a required report from an agency head within the time specified in the letter of referral, the Special Counsel may transmit a copy of the information which he sent to the agency head to the President and to the Congress, together with a statement noting the failure of the agency head to file the required report.

§ 1252.5 Review of agency report.

Upon receipt of any report of the head of an agency under § 1253.2, the Special Counsel shall review the report and determine whether the findings of the head of the agency appear reasonable and whether the agency's report contains the information required.

§ 1252.6 Foreign intelligence or counterintelligence information.

Any disclosure under this part involving foreign intelligence or counterintelligence information, the disclosure of which is specifically prohibited by law or Executive order, shall be transmitted by the Special Counsel to the Permanent Select Committee on Intelligence of the House

of Representatives and the Select Committee on Intelligence of the Senate.

PART 1253—FILING OF COMPLAINTS AND ALLEGATIONS

Sec.

1253.1 Place of filing.

1253.2 Form and content.

1253.3 Withdrawal of complaint.

1253.4 Request for stay of personnel action.

1253.5 Disclosure of identity of complainant or whistleblower.

§ 1253.1 Place of filing.

All complaints, allegations, and information under this subchapter shall be submitted to the Office of the Special Counsel, Merit Systems Protection Board, 1717 H Street, NW, Washington, DC 20419.

§ 1253.2 Form and content.

(a) Complaints, allegations and information may be submitted in any written form, but should include:

(1) The name and mailing address of the complainant of whistleblower, unless the matter is submitted anonymously;

(2) The department or agency, location and organizational unit complained about;

(3) A concise description of the actions complained about, names and positions of employees who took these actions, if known to the complainant, and dates, preferably in chronological order, together with any documentary evidence to the complainant;

(4) In the case of any allegation of a prohibited personnel practice, the personnel action, as defined in section 1250.3, that has been taken or is proposed to be taken;

(5) In the case of reprisal for disclosure of information by a whistleblower, the information believed to evidence violation of law, rule, or regulation, mismanagement, gross waste of funds, abuse of authority, or substantial and specific danger to public health or safety and when, to whom, and how or in what form it was disclosed;

(6) In the case of reprisal for exercising appeal rights, the action or specific matter that was appealed or grieved, the procedure involved, dates, and name of official or officer appealed to, and decision on or status of the appeal.

(7) A statement as to whether or not the complainant consents to the Special Counsel revealing the complainant's identity to the agency.

(b) If the complainant or whistleblower does not furnish sufficient information, the Special Counsel may request the complainant to do so before acting on the complaint.

§ 1253.3 Withdrawal of complaint.

A complaint may be withdrawn at any time. However, the Special Counsel may conduct an investigation in the absence of a complaint and withdrawal of a complaint does not necessarily result in termination of the investigation.

§ 1253.4 Request for stay of personnel action.

(a) A request for a stay of personnel action should be submitted to the Special Counsel as early as possible and should include:

(1) any available documentary evidence of the personnel action taken or to be taken; and

(2) a chronology of facts evidencing a prohibited personnel practice, as defined in § 1250.3 of this subchapter, has occurred or is to be taken.

(b) If possible, the facts supporting a request for a stay of personnel action should be sworn to or affirmed by the complainant.

§ 1253.5 Disclosure of identity of complainant or whistleblower.

(a) The identity of any complainant or whistleblower may not be disclosed without his consent, unless the Special Counsel determines that the disclosure of the identity is necessary in order to carry out his functions.

(b) The Special Counsel will determine to disclose the identity of a complainant or whistleblower without express consent only if:

(1) it is clear from the submissions of the complainant or whistleblower that his identity has already been disclosed with respect to the matter complained of (e.g. where the party has filed a grievance, complaint, or appeal on the matter or reported the matter to the agency inspector general or equivalent official without anonymity), or

(2) immediate action by the Special Counsel is necessary and there is not sufficient time to secure express consent to disclose identity. In such cases, the complainant or whistleblower will be notified of the disclosure immediately.

PART 1254—PROSECUTIONS

Sec.

1254.1 Complaint.

1254.2 Stay of personnel actions.

1254.3 Enforcement of board decisions.

1254.4 Petition for withholding order.

1254.5 Hearings on complaints filed by the Special Counsel.

1254.6 Dismissal by the Special Counsel.

§ 1254.1 Complaint.

The Special Counsel is authorized to file with the Merit Systems Protection Board, a complaint for disciplinary action against an employee, specifying the law, rule, or regulation violated,

together with a statement of supporting facts. The rights of employees against whom complaints are filed are set forth in the Board's regulations (5 CFR 1201.124).

§ 1254.2 Stay of personnel actions.

(a) The Special Counsel may request any member of the Board to order a stay of any personnel action for 15 calendar days if the Special Counsel determines that there are reasonable grounds to believe that the personnel action was taken, or is to be taken, as a result of a prohibited personnel practice. Where administratively practicable, the petition for stay shall be served upon the agency official or office which has taken or is taking the personnel action. The stay shall be effective on order of the Board member or on the fourth calendar day (excluding Saturdays, Sundays, and legal holidays) following submission of the petition to the Board member provided the Board member does not deny the stay within three calendar days of submittal.

(b) The Special Counsel may request any member of the Board to extend the period of any stay for a period of not more than 30 calendar days.

(c) The Special Counsel may request the Board to order a further extension of the stay for such period as the Board considers appropriate.

(d) Generally, the Special Counsel will not seek a stay if the taking of or failure to take the personnel action in question does not impose an undue hardship on the employee, such as geographic dislocation or termination, and can be addressed through an available appeals procedure.

§ 1254.3 Enforcement of Board decisions.

(a) If the Special Counsel determines that disciplinary action should be taken against an employee for knowing and willful refusal or failure to comply with an order of the Board, he is authorized to file a complaint setting forth the substance of the violation charged with specificity, including a statement of supporting facts, and to file the complaint with the Board.

(b) The complaint, including the statement of supporting facts, must be served upon the employee at the same time it is filed with the Board.

§ 1254.4 Petition for withholding order.

When the Special Counsel determines that a State or local agency has failed to remove an employee after a decision requiring such action by the Merit Systems Protection Board under 5 U.S.C. 1505, or that the employee was reemployed within 18 months in a State or local agency of the same State, the

Special Counsel may initiate proceedings for a withholding order as provided under 5 U.S.C. 1508, by filing a petition for a withholding order with an administrative law judge designated by the Board.

§ 1254.5 Hearings on complaints filed by the Special Counsel.

Any employee against whom the Special Counsel presents a complaint to the Merit Systems Protection Board shall, pursuant to the regulations of the Board, have the right to a reasonable time to answer orally and in writing and to furnish affidavits and other documentary evidence in support of the answer, to be represented by an attorney or other representative, to a hearing before the Board or an administrative law judge designated by the Board, to have a transcript kept of any hearing, to a written decision and reasons therefor, and a copy of any final order on the complaint.

§ 1254.6 Dismissal by the Special Counsel.

The Special Counsel or his designee may, with leave of the Board or administrative law judge, file a dismissal of all or part of a complaint at any time prior to the close of the hearing before the Board or administrative law judge. Prosecution by the Special Counsel with respect to any of the charges so dismissed shall thereupon terminate.

PART 1255—ANCILLARY MATTERS

Subpart A—Discovery

Sec.

- 1255.1 Subpenas.
- 1255.2 Testimony and evidence.
- 1255.3 Depositions and interrogatories.
- 1255.4 Witness fees.

Subpart B—Prohibition on Disciplinary Action During Pendency of Investigation by Special Counsel

- 1255.5 Prohibition on Disciplinary Action During Pendency of Investigation by Special Counsel.

Subpart C—Advisory Opinions; Intervention; Requests to Merit Systems Protection Board to Review Office of Personnel Management Regulations

- 1255.6 Advisory Opinions.
- 1255.7 Intervention.
- 1255.8 Requests to Merit Systems Protection Board to Review Office of Personnel Management Regulations.

Subpart A—Discovery

§ 1255.1 Subpenas.

(a) The Special Counsel may issue subpenas requiring the attendance and testimony of witnesses and the production of documentary or other evidence from any place in the United

States or any territory or possession thereof, the Commonwealth of Puerto Rico, or the District of Columbia. A subpoena may be served by a representative of the Special Counsel, or a U.S. Marshal or Deputy Marshal.

(b) The subpoena must be signed by the Special Counsel, or by his designee upon a specific delegation by the Special Counsel. Subpenas may not be signed in blank.

(c) In the case of contumacy or failure to obey a subpoena issued by the Special Counsel or his designee, the Special Counsel may request the United States District Court for the judicial district in which the person to whom the subpoena is addressed resides, or is served, to issue an order requiring such person to appear at any designated place to testify or to produce documentary or other evidence. Upon any failure to obey an order of the court granted pursuant to the application of the Special Counsel, the Special Counsel may request the court to hold the person or persons to whom the order was directed in contempt of court.

(d) Application to a federal court for enforcement of a subpoena issued under this section may be made by the Special Counsel or his designee.

§ 1255.2 Testimony and evidence.

(a) Pursuant to Civil Service Rule V (5 CFR 5.4) all officers and employees in the executive branch, or applicants or eligibles for positions therein, shall give to the Special Counsel, or his authorized representative, all information, testimony, and documentary evidence in regard to matters inquired of arising under the laws, rules, and regulations administered by the Special Counsel.

(b) Whenever required by the Special Counsel or his authorized representative, such persons shall subscribe such testimony and make oath or affirmation thereto before an officer authorized by law to administer oaths. Such oath may be administered by any officer or employee of the Office of the Special Counsel authorized to administer such oaths.

§ 1255.3 Depositions and interrogatories.

The Special Counsel may order the taking of depositions and order responses to written interrogatories. Depositions shall be taken before an officer authorized to administer oaths. Reasonable notice shall be given to the person to be deposed concerning the time, place and subject of the deposition. Answers to interrogatories shall be served upon the Special Counsel or his authorized representative within thirty (30) days of the date of receipt of the interrogatories unless an

extension of time has been granted by the Special Counsel or his representative.

§ 1255.4 Witness fees.

(a) Except as provided in paragraph (c) of this section, witness fees and mileage allowances shall be paid by the party requesting the witness to appear, or asking for and receiving a subpoena requiring the attendance of a witness or the production of documents or other materials, and shall be tendered to the witness or person who is directed to produce documents or other materials along with the subpoena, or, if the witness appears voluntarily, at the time of appearance. When the witness is subpoenaed or appears at the request of the United States or an officer or agency thereof, fees and mileage need not be tendered with the subpoena or prior to the appearance of the witness or production of evidence; payment shall be made by the agency on whose behalf the witness appeared or was subpoenaed, upon the certificate of the Special Counsel or his designee that the witness appeared or produced documents or other evidence.

(b) Witness fees and mileage allowances payable under this section shall be the same as those paid subpoenaed witness in the courts of the United States, as set forth in section 1821 of title 28, United States Code.

(c) Employees of the Federal Government who appear voluntarily or pursuant to subpoena and who appear in official duty status shall not be entitled to any witness fees or mileage allowance (other than that to which they are entitled under the Federal Travel Regulations). All costs relating to federal employee witnesses shall be paid by the agency against whom the complaint or allegation is filed.

Subpart B—Prohibition on Disciplinary Action During Pendency of Investigation by Special Counsel

§ 1255.5 Prohibition on disciplinary action during pendency of investigation by Special Counsel.

During any investigation initiated by the Special Counsel, no disciplinary action shall be taken against any employee for any alleged prohibited activity under investigation or for any related activity, without the express approval of the Special Counsel.

Subpart C—Advisory Opinions; Intervention; Requests to Merit Systems Protection Board to Review Office of Personnel Management Regulations

§ 1255.6 Advisory opinions.

The Special Counsel is not authorized to issue any advisory opinion concerning any law, rule, or regulation (other than an advisory opinion concerning chapter 15 of title 5, U.S. Code, dealing with political activity of State and local officers and employees, or subchapter III of chapter 73 of title 5, United States Code, dealing with political activity of Federal officers and employees).

§ 1255.7 Intervention.

The Special Counsel may intervene or otherwise participate in any proceeding before the Merit Systems Protection Board.

§ 1255.8 Request to the Merit Systems Protection Board to review Office of Personnel Management regulations.

The Special Counsel may file a written complaint with the Merit Systems Protection Board, requesting the Board to review the validity of any provision of any rule, or regulation issued by the Director of the Office of Personnel Management. Such complaint shall specify the manner in which application of specific provisions of the rule or regulation has resulted or will result in causing any employee or agency to take a prohibited personnel practice.

PARTS 1256 THROUGH 1259 (RESERVED)

PART 1260—PUBLIC INFORMATION

Sec.

- 1260.1 Public list.
- 1260.2 Freedom of Information Act policy.
- 1260.3 Procedures for obtaining records.
- 1260.4 Service charge for information.
- 1260.5 Appeals.
- 1260.6 Disclosures by authorized officials.

§ 1260.1 Public list.

A public list of certain noncriminal whistleblower allegations and Special Counsel findings of violations of law, rule, or regulation, together with reports and certifications by heads of agencies, pursuant to 5 U.S.C. 1206(b)(3) and (c), is available to the public between 8:30 a.m. and 5:00 p.m., weekdays (except legal holidays) in the Office of the Special Counsel, Room 215, 1717 H Street, NW., Washington, D.C. 20419.

§ 1260.2 Freedom of Information Act policy.

Upon receipt by the Office of the Special Counsel of a request for agency records under the Freedom of Information Act (5 U.S.C. 552) that are reasonably described, the records shall be provided promptly unless it is determined that one or more of the exemptions under subsection (b) of that Act should be applied to withhold the records. See Appendix I, Disclosure Policy of the Office of the Special Counsel.

§ 1260.3 Procedures for obtaining records.

Requests for records may be made in person or in writing and, except in unusual circumstances, a determination shall be made on a request within 10 days (excluding Saturdays, Sundays, and legal holidays). Requests in writing should be addressed to the Office of the Special Counsel, 1717 H Street, NW., Washington, D.C. 20419. Requests in person may be made by appearing at that address during business hours on a regular business day. Requests in writing should be clearly and prominently marked "Freedom of Information Act Request".

§ 1260.4 Service charge for information.

(a) Requests for records of the Office of the Special Counsel are subject to the following fees for search and duplication:

Photocopies, per page, \$0.10.
Manual record search, \$5.00 per hour.
Where copies of records have already been made available to an individual in the course of agency proceedings or otherwise, the cost of photocopies to that individual or his representative shall be fifteen (15) cents per page. Fees for search and duplication of automated records shall be provided upon request.

(b) Requests that do not specify that whatever fees are involved shall be acceptable or acceptable up to a designated amount will be deemed not received for purposes of the time limits for a determination until the requester, after being promptly notified of the anticipated fees, agrees to payment.

(c) When the anticipated fees exceed fifty (\$50.00) dollars, a deposit of twenty (20%) percent of that amount must be made within thirty (30) days after the requester is so advised. Records will not be released until the deposit is received.

§ 1260.5 Appeals.

Any denial, in whole or in part, of a request for records of the Office of the Special Counsel may be appealed to the Special Counsel or his designee. The appeal shall be in writing and addressed

to the Special Counsel at 1717 H Street, NW., Washington, D.C. 20419. Except in unusual circumstances, the Special Counsel or his designee shall make a determination on the appeal within twenty (20) days (excluding Saturdays, Sundays, and legal holidays) after it is received. When a request is denied on appeal, the requester shall be advised of his right to seek judicial review.

§ 1260.6 Disclosures by authorized official.

No employee or former employee of the Office of the Special Counsel shall, in response to a demand of a court or other authority, produce or disclose any information or records acquired as part of the performance of his official duties or because of his official status without the prior approval of the appropriate official of the Office of the Special Counsel. This section does not apply in cases where the Government is a party.

PART 1261—PRIVACY

- Sec.
- 1261.1 Records maintained on individuals.
 - 1261.2 Access to records and identification.
 - 1261.3 Medical records.
 - 1261.4 Requests for amendment of records.
 - 1261.5 Appeals.
 - 1261.6 Exemptions.

Appendix I—Disclosure Policy of the Office of the Special Counsel.

Authority: 5 U.S.C. 522a.

§ 1261.1 Records maintained on individuals.

Information on individuals that are maintained in any group or system of records by the Office of the Special Counsel and which are retrieved by the name of the individual or some identifying particular assigned to the individual, is subject to the Privacy Act (5 U.S.C. 552a). The terms used in this part that are defined in that section shall have the meanings set forth therein.

§ 1261.2 Access to records and identification.

(a) Individuals may request access to records pertaining to them that are maintained as described in section 1261.1 by addressing an inquiry to the Office of the Special Counsel either by mail or by appearing in person at the offices of the Special Counsel at 1717 H Street, NW., Washington, D.C. 20419, during business hours on a regular business day. Requests in writing should be clearly and prominently marked "Privacy Act Request". Requests for copies of records shall be subject to duplication fees set forth in § 1260.4 of this subchapter.

(b) Individuals making a request in person shall be required to present

satisfactory proof of identity, preferably a document bearing the individual's photograph. Requests by mail or submitted other than in person should contain sufficient information to enable the Office of the Special Counsel to determine that the requester and the subject of the record are one and the same. To assist in this process, individuals should submit their name and address, date and place of birth, social security number, and any other known identifying information such as an agency file number or identification number and a description of the circumstances under which the records were compiled.

§ 1261.3 Medical records.

When a request for access involves medical records that are not otherwise exempt from disclosure, the requesting individual may be advised, if it is deemed necessary, that the records will be provided only to a physician designated in writing by the individual. Upon receipt of the designation, the physician will be permitted to review the records or to receive copies by mail upon proper verification of identity.

§ 1261.4 Requests for amendment of records.

Individuals may request amendment of records pertaining to them that are subject to this part. Requests should be addressed, in writing, to the Special Counsel and be clearly and prominently marked "Privacy Act Request". Requests for amendment should include identification of the records together with a statement of the basis for the requested amendment and all available supporting documents and materials. Requests for amendment shall be acknowledged not later than ten (10) days (excluding Saturdays, Sundays, and legal holidays) after receipt and a determination on the request shall be made promptly.

§ 1261.5 Appeals.

When a request for access or amendment has been denied, a written appeal may be submitted to the Special Counsel or his designee. A final determination on the appeal shall be issued within thirty (30) days (excluding Saturdays, Sundays, and legal holidays) after receipt. Where unusual circumstances prevent a determination within that time period, the time for a determination may be extended an additional thirty (30) working days after the requesting individual has been advised in writing of the reasons for the extension and the estimated date a determination will be made. Where the final determination denies a request for

amendment, the requesting individual shall be notified of his right to file a concise statement of reasons for disagreeing with the final determination. A copy of the statement shall be appended to the disputed record and provided to persons to whom the record is disclosed and to prior known recipients of the record. The Office of the Special Counsel may also attach to the statement a concise account of its reasons for not making the amendments requested. The final determination shall contain a notice of the right to judicial review.

§ 1261.6 Exemptions.

The Office of the Special Counsel may claim exemptions from the provisions of the Privacy Act at subsections (c)(3) and (d) as permitted by subsection (k) for records subject to the Act that fall within the category of investigatory material described in paragraphs (2) and (5) and testing or examination material described in paragraph (6) of that subsection. The exemptions for investigatory material are necessary to prevent frustration of inquiries into allegations of prohibited personnel practices or political activity and to protect identities of confidential sources of information. The exemption for testing or examination material is necessary to prevent the disclosure of information which would potentially give an individual an unfair competitive advantage or diminish the utility of established examination procedures. The Office of the Special Counsel also reserves the right to assert exemptions for records received from another agency that could be properly claimed by that agency in responding to a request and the Office of the Special Counsel may refuse access to information compiled in reasonable anticipation of a civil action or proceeding.

PARTS 1262 THROUGH 1269 [RESERVED]

Appendix I to Part 1261.—Disclosure Policy of the Office of the Special Counsel.

A. *General Statement of Policy.* The purpose of this statement is to express the policies of the Office of the Special Counsel regarding the disclosure of information about cases handled by the office in order to both protect the rights of individuals involved and meet the legitimate informational needs of the public through responsible disclosure.

The Office of the Special Counsel has broad statutory authority to receive and investigate allegations of prohibited personnel practices and certain disclosures of information ("whistleblowing"). To carry out these responsibilities, the identity of persons who provide information and cooperate during an investigation must be protected.

Unless the Special Counsel can be assured of a free flow of information from complainants, witnesses, and agencies, the investigative and enforcement functions of the Office of the Special Counsel cannot be discharged in an effective and timely manner. If complainants and witnesses are subjected to reprisal, intimidation, or coercion, they may refuse to come forward with complaints and be hesitant to cooperate.

In the same vein, unless agency management officials feel confident that they will not be subjected to embarrassment and unfair publicity based on unwarranted disclosure of complaints and charges, cooperation from agencies may be limited to only that required by law.

At the same time, complainants and the Congress, as well as interested members of the public and press, should be kept fully informed about activities of the Special Counsel and the disposition of matters brought to his attention. The legislation creating the Office of the Special Counsel contains specific statutory mechanisms for disclosure of information to Congress, complainants, and the public. The legislation also contains restrictions on disclosure of information.

Where there appears to be a conflict between the enabling legislation of the Office of the Special Counsel and other statutes governing disclosure and nondisclosure of information, it shall be the policy of the Special Counsel to favor the former where such an interpretation is necessary to carry out its investigative and enforcement functions absent a well-defined and overriding public interest.

B. *Protecting the Identity of Complainants.* The Special Counsel is precluded from disclosing the identity of a complainant without his consent unless it is determined that disclosure is necessary in order to carry out the Special Counsel's functions. Where circumstances surrounding an investigation create a likelihood that the identity of the complainant may become known, the Special Counsel will weight the public interest in proceeding with the investigation (based on the seriousness of the charges involved and the likelihood of obtaining corrective action) against the possibility of harm to the complainant arising from disclosure of his identity. Except where it would jeopardize the likelihood of success in investigation and enforcement, the complainant will be notified when disclosure of the complainant's identity appears imminent.

C. *Protecting the identity of Witnesses.* It shall be the policy of the Special Counsel to protect the identity of witnesses and sources of information who cooperate during an investigation. However, witnesses who provide affidavits or sworn statements will ordinarily be advised that the affidavit or statement is given without a pledge of confidentiality to the extent that it may be used in a proceeding or for official action arising from the investigation. Agency officials and other interested persons shall not, as a matter of right, be given access to statements of witnesses or information from sources collected by the Special Counsel during an investigation.

D. *Protecting the Privacy of Persons Named in an Investigation.* While an

investigation is pending, disclosure of the identity of persons who are being investigated shall be limited to disclosures necessary to proceed with the investigation. When an investigation has been terminated, disclosure of information that would reveal the identity of persons associated with the investigation will be based on a determination of how the public interest would be served by disclosure when balanced against the invasion of personal privacy involved. Unless and until an agency official or employee is formally charged with a violation, the focus of the investigation for disclosure purposes, shall be on prohibited personnel practices or violations of law of the agency concerned. The identity of a person together with the nature of the charges will be revealed when he is made the subject of a written complaint by the Special Counsel or an agency charging violations of law or prohibited personnel practices.

E. *Access to Information by the Complainant.* The Special Counsel will take reasonable steps to assure that a complainant is advised of the status of an investigation and is given the opportunity to provide information relevant to the investigation. When an investigation is terminated by the Special Counsel, the complainant whose allegation led to the investigation will be advised in writing why the investigation was terminated and the reasons for termination. Where the information provided results in an agency report at the direction of the Special Counsel, the report will be transmitted to the complainant, except when it contains evidence of a criminal violation or when disclosure of the information involved is specifically prohibited by law.

If the information provided by the complainant evidences a violation and the Special Counsel transmits the information to the agency head but does not require an investigation, the Special Counsel will inform the complainant in writing of the matters reported by the agency head.

F. *Access to Information by Employees Subjected to Disciplinary Action.* When the Special Counsel determines that disciplinary action should be taken against any employee and has prepared and presented a complaint against the employee together with a statement of supporting facts to the employee and the Merit Systems Protection Board, the employee shall be entitled to review the documents and records relied upon to support the disciplinary action.

Access to the identity of a complainant or sources of information consulted during the investigation leading to the disciplinary action will not routinely be made available. Where the circumstances surrounding the proposal for disciplinary action and the information relied upon to support the complaint make it apparent that the employee should be entitled to such information as a matter of due process, access to the identity of the complainant or sources of information will be granted, as necessary, to meet this standard after the complaint against the employee is served on the employee and Merit Systems Protection Board.

G. *Disclosure of Information to Congress.* By statute, when the Special Counsel requires

an agency to conduct an investigation and submit a written report within 60 days after a determination that there is a substantial likelihood of prohibited matters within its authority, the report shall be submitted to the Congress, to the President, and to the Special Counsel for transmittal to the complainant.

Agencies that are directed to submit a report under this authority shall transmit the report directly to the President of the Senate and the Speaker of the House of Representatives to satisfy the reporting requirement to Congress.

When any Member of Congress requests access to records or reports prepared by the Office of the Special Counsel or at its direction, and disclosure is not prohibited by law or Executive order, the records or reports requested, depending on the source of the request, shall be transmitted to the oversight committee for the Office of the Special Counsel in the House of Representatives or the oversight committee for the Office of the Special Counsel in the Senate, to be transmitted to the Member.

H. *Disclosure of Information Pertaining to a Pending Investigation.* While an investigation is pending, the Special Counsel will disclose the following information to a member of the public, generally only upon a written request, except where to do so would interfere with enforcement proceedings, constitute an unwarranted invasion of personal privacy or disclose the identity of the complainant:

- (1) Confirmation that an investigation of the matter described by the requester is pending, including the name and location of the agency or agencies involved;
- (2) The nature of the matters under investigation;
- (3) A description of any formal action taken by the Special Counsel.

Generally, any request for access to records or documents pertaining to an investigation will be denied while the investigation is pending.

I. *Public Disclosure of Noncriminal Matters.* In the public interest, the Office of the Special Counsel has statutory authority to make available to the public a list of noncriminal matters referred to heads of agencies together with the reports and certifications by heads of agencies specified by statute.

The list available to the public shall contain the following information in chronological sequence:

- (1) The nature of the matter;
- (2) The name and location of the agency involved;
- (3) The disposition of the matter, including a description of any corrective action ordered;
- (4) The names and position titles of any agency officials or employees disciplined by adverse action or by action of the Special Counsel, together with the nature of the action arising from the matter.

The information contained in the list together with any related reports or certifications shall be made available within 10 calendar days after final action by the Special Counsel in the matter.

J. *Control of Records.* Records, reports and related materials prepared by or submitted to

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the Office of the Special Counsel shall be subject to the exclusive control of the Office of the Special Counsel for purposes of disclosure. Any request for access to such records or reports shall be referred to the Special Counsel. When the request for access to reports or records prepared by agencies involves information that may be lawfully protected from disclosure, the Special Counsel will, where practicable, consult with the agency involved. Requests for access to reports or records of an agency in the custody of the Office of the Special Counsel, but not under its control as described above, shall be referred to the agency concerned.

Dated: August 17, 1979.

H. Patrick Swygert,
Special Counsel, Merit Systems Protection Board.

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Part V

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Disclosure Requirements and Prohibitions
Concerning Franchising and Business
Opportunity Ventures; Promulgation of
Final Interpretive Guides

FEDERAL TRADE COMMISSION

16 CFR PART 436

Disclosure Requirements and Prohibitions Concerning Franchising and Business Opportunity Ventures; Promulgation of Final Interpretive Guides

AGENCY: Federal Trade Commission.

ACTION: Promulgation of final interpretive guides for Trade Regulation Rule on Disclosure Requirements and Prohibitions Concerning Franchising and Business Opportunity Ventures.

SUMMARY: On December 21, 1978 the Commission published proposed interpretive guides to its Franchising and Business Opportunities trade regulation rule and invited public comment on the proposed guides [43 FR 59614]. After reviewing the public comment, the Commission now promulgates final guides to accompany the rule.

EFFECTIVE DATE: The effective date of the rule to which these guides correspond is October 21, 1979.

FOR FURTHER INFORMATION CONTACT: John M. Tifford, Federal Trade Commission, Pennsylvania Ave. and Sixth Street, N.W., Washington, D.C. 20580, 202-523-1753.

FINAL GUIDES TO THE FRANCHISING AND BUSINESS OPPORTUNITY VENTURES TRADE REGULATION RULE

Introduction

These interpretive guides describe the provisions of the Federal Trade Commission's trade regulation rule entitled "Disclosure Requirements and Prohibitions Concerning Franchising and Business Opportunity Ventures" ("the rule") which was promulgated on December 21, 1978, and is effective October 21, 1979 (16 C.F.R. § 436). These guides neither amend nor modify the rule. They have been prepared solely to assist franchisors in understanding the rule and complying with its obligations.

In general, the rule addresses the problems of nondisclosure and misrepresentation which arise when prospective franchisees purchase franchises without essential and reliable information about them. To alleviate these problems, the rule requires franchisors and franchise brokers to furnish prospective franchisees with information about the franchisor, the franchisor's business and the terms of the franchise agreement in a single document ("the Basic Disclosure Document"). Additional information

must be furnished if any claims are made about actual or potential earnings ("the Earnings Claim Document"). Copies of the proposed franchise agreements also must be furnished. All disclosures must be made at prescribed times before any sale is consummated.

The rule requires disclosure of important facts. It does not regulate the substantive terms of the franchisor-franchisee relationship. It does not require registration, approval or the filing of any documents with the Federal Trade Commission in connection with the sale of franchises.

These interpretive guides are organized into four sections: (I) an overview of the rule, (II) a description of each disclosure required in the Basic Disclosure Document, (III) use of earnings claims and (IV) the official text of the rule.

I. An Overview of the Rule

This section will interpret provisions of the rule concerning: (i) what transactions are covered, (ii) who is obligated to make disclosures and entitled to receive disclosures, (iii) when disclosures must be made, (iv) when state disclosure documents may be utilized in lieu of the rule's disclosure documents, (v) acts or practices which violate the rule and potential liabilities, and (vi) miscellaneous definitions.

A. What Transactions Are Covered

Two types of continuing commercial relationships are defined as a "franchise" by the rule: "package and product franchises" and "business opportunity ventures." The specific elements of these relationships are described below. The name which the parties give to their relationship is not relevant in determining whether the relationship is within the scope of the rule. Thus, a relationship described by the parties as a "franchise" will not be covered by the rule unless it meets the definitional criteria of the rule; conversely, a self-described "distributorship" will be covered by the rule if the definitional elements are satisfied. Moreover, the rule covers relationships which are represented either orally or in writing as having the characteristics specified in the rule's definition of "franchise" regardless of whether the representations are, in fact, fulfilled.

1. Package and Product Franchises (§ 436.2(a)(1)(i) and (a)(2))

A package franchise adopts the business format established by the franchisor and identified by the franchisor's trademark. The franchisee's method of operation in producing the

goods or services sold by him are subject to significant controls instituted by the franchisor, or, alternatively, the franchisor promises to render significant assistance to the franchisee in the operation of the business. The franchisee is required to pay money to the franchisor. Examples of package franchises include fast food outlets (hamburgers, fried chicken, etc.) car products or services (car washes, transmission centers, rust proofing services, etc.) and business aids and services (tax preparation services, accounting services, etc.).

A product franchise distributes goods that are produced by the franchisor (or under his control or direction) and which bear the franchisor's trademark. The product franchisor exercises significant control over the franchisee's method of operation or, alternatively, promises to provide a significant degree of assistance in the franchisee's method of operation. The franchisee is required to pay the franchisor for the right to sell the trademarked goods, either by required purchases of equipment, supplies, etc., or by paying an initial fee for the right to sell the goods.

Thus, the three elements common to package and product franchises covered by the rule are (i) distribution of goods or services associated with the franchisor's trademark, (ii) significant control of, or significant assistance to, the franchisee's method of operation, and (iii) required payments by the franchisee to the franchisor. The Commission's interpretation of these elements is more fully described in the following three subsections.

a. *Trademark.* This element will be satisfied only when the franchisee is given the right to distribute goods and services which bear the franchisor's trademark, service mark, trade name, advertising or other commercial symbol ("the mark"). The most common instances occur when either the goods or services being distributed by the franchisee are associated with the franchisor's mark or when (i) the franchisee must conform to quality standards established by the franchisor with respect to the goods or services being distributed, and (ii) the franchisee operates under a name that includes, in whole or in part, the franchisor's mark.

The Commission does not intend to cover package or product franchises in which no mark is involved. If a mark is not necessary to a particular distribution arrangement, the supplier may avoid coverage under the rule by expressly prohibiting the use of its mark by the distributor.

b. *Significant Control or Assistance.* The term "significant" relates to the

degree to which the franchisee is dependent upon the franchisor's superior business expertise—an expertise made available to the franchisee by virtue of its association with the franchisor. The franchisee, in order to reduce its business risks or enhance its chances for business success, relies upon the availability of such expertise to avoid business mistakes that it otherwise might make. The franchisor conveys its expertise either by exercising controls over the franchisee's method of operation of the business or by furnishing assistance to the franchisee in areas relating to the controls over or assistance to the franchisee's method of operation of the business are "significant," then this second element of the rule's definition is met.

Among the significant types of controls over the franchisee's method of operation are those involving (a) site approval for unestablished businesses, (b) site design or appearance requirements, (c) hours of operation, (d) production techniques, (e) accounting practices, (f) personnel policies and practices, (g) promotional campaigns requiring franchisee participation or financial contribution, (h) restrictions on customers, and (i) location or sales area restrictions.

Among the significant types of promises of assistance to the franchisee's method of operation are (a) formal sales, repair or business training programs, (b) establishing accounting systems, (c) furnishing management, marketing or personnel advice, (d) selecting site locations, and (e) furnishing a detailed operating manual.

In addition to the above listed elements—the presence of any of which would suggest the existence of "significant control or assistance"—the following additional elements will, to a lesser extent, be considered when determining whether "significant" control or assistance is present in a relationship: (a) a requirement that a franchisee service or repair a product (except warranty work), (b) inventory controls, (c) required displays of goods and (d) on-the-job assistance in sales or repairs.

The Commission as a matter of policy will not consider the following items in determining whether "significant" control or assistance exists: (a) trademark controls designed solely to protect the trademark owner's legal ownership rights in the mark under state or federal trademark laws (such as display of the mark or right of inspection), (b) health or safety restrictions required by federal or state

laws or regulations, (c) agreements between a retailer and a trading stamp company providing for the distribution of trading stamps in connection with retail sales of merchandise or service, (d) agreements between a bank credit interchange organization and retailers or member banks for the provision of credit cards and credit services, and (e) assisting distributors in obtaining financing to be able to transact business.

The Commission will not interpret a supplier's assistance in a franchisee's promotional activities as "significant," in the absence of additional forms of assistance. This includes assistance in furnishing a distributor with point-of-sale advertising displays, sales kits, product samples and other promotional materials intended to assist the distributor in making sales. It also includes assistance in connection with advertising in the media, whether provided solely by the franchisor or on a cooperative basis with its franchisees.

The Commission's interpretation of the term "significant" recognizes that significance also is a function of the degree of reliance which franchisees are reasonably likely to place upon the controls or assistance. Obviously, reliance is likely to be greater in circumstances where the franchisee is relatively inexperienced in the business represented by the franchisor, or where the relative financial risk assumed by the franchisee in relation to its total business is greater (i.e. adding a new product line which is intended to account for a substantial amount of the business' future sales or income compared to a modest amount), or where controls or promised assistance are unique to one specific franchisor as opposed to typical industry practices employed by all businesses in the same industry.

Moreover, it should be emphasized that in order to be deemed "significant" the controls or assistance must be related to the franchisee's entire *method of operation*—not its method of selling a specific product or products which represent a small part of the franchisee's business. Controls or assistance directed to the sale of a specific product which have, at most, a marginal effect on a franchisee's method of operating the entire business will not be considered in determining whether control or assistance is "significant."

c. *Required Payments.* The franchisee must be required to pay to the franchisor (or an affiliate of the franchisor), as a condition of obtaining or commencing the franchise operation, a sum of at least \$500 during a period from any time before to within six months after

commencing operation of the franchisee's business.

The Commission's objective in interpreting the term "required payment" is to capture all sources of revenue which the franchisee must pay to the franchisor or its affiliate for the right to associate with the franchisor and market its goods or services. Often, required payments are not limited to a simple franchise fee, but entail other payments which the franchisee is required to pay to the franchisor or an affiliate, either by contract or by practical necessity. Among the forms of required payments are initial franchise fees as well as those for rent, advertising assistance, required equipment and supplies—including those from third parties where the franchisor or its affiliate receives payment as a result of such purchases—training, security deposits, escrow deposits, non-refundable bookkeeping charges, promotional literature, payments for services of persons to be established in business, equipment rental, and continuing royalties on sales.

The payments may be required either by contract or by practical necessity. Payments required by contract would include not only those required by the franchise agreement, but also those required in any companion contracts which the parties may execute, such as a real estate lease. Payments made by practical necessity include, among others, those for equipment which can only be obtained, in fact, from the franchisor or its affiliate.

Questions have been raised as to where, within the foregoing scheme, fall payments for inventory sold at a bona fide wholesale price. The Commission recognizes that it is, as a practical matter, virtually impossible to draw a clear line between start-up inventory that is purchased at the franchisee's option, and that which is purchased as a matter or practical or contractual necessity. In order to minimize ambiguity in this respect, but consistent with the Commission's objective that "required payment" capture all sources of hidden franchise fees, the Commission will not construe as "required payments" any payments made by a person at a bona fide wholesale price for reasonable amounts of merchandise to be used for resale. The Commission will construe "reasonable amounts" to mean amounts not in excess of those which a reasonable businessman normally would purchase by way of a starting inventory or supply or to maintain a going inventory or supply.

Agency relationships in which independent agents, compensated by

commission, sell goods or services (e.g. insurance salespersons) are excluded, since there is no "required payment."

2. Business Opportunity Ventures (§ 436.2 (c)(1)(ii) and (a)(2))

Business opportunity ventures are covered by the rule if each of the following three elements is present:

- (1) The franchisee sells goods or services supplied by the franchisor or its affiliate, or by suppliers with which it is required by the franchisor to do business;
- (2) The franchisor secures retail outlets or accounts for the goods or services, or secures locations for vending devices or racks, or provides the services of a person to do either; and
- (3) The franchisee is required to pay the franchisor or an affiliated person in order to obtain or commence the franchised business.

The most common types of business opportunity ventures are distributorships, rack jobbing and vending machine routes. In these ventures, the franchisor puts the franchisee into a business of distributing certain goods or services, usually those of a well-known third party (such as film, juice, pantyhose, etc.), by providing or suggesting a supplier for the goods and representing that the franchisor will establish retail accounts or place vending machines or rack displays in suitable locations. In some cases, the franchisor obtains the services of another person to secure accounts or locations. For example, the franchisor may represent that he will secure ten gasoline stations to be retail outlets for automotive after-market products (e.g., oil filters, gas additives, etc.) or place vending machines in ten locations. The franchisee of a business opportunity venture is required to pay a fee or purchase goods or equipment (such as vending machines or display racks) in order to participate in the business opportunity offered by the franchisor. The Commission expects that most business opportunity ventures will be covered by the rule.

3. Exemptions and Exclusions (§ 436.2(a)(3) and (4))

A relationship defined as a "franchise" under the rule nevertheless may be exempted or excluded from the rule's requirements. The rule exempts "fractional franchises," "leased departments," "minimal investments," and purely oral agreements, and excludes employer-employee and general business partnership relationships, relationships created by membership in a "retailer-owned cooperative," relationships with a testing or certification service, and "single" license relationships. The Commission's

interpretation of these terms is discussed below.

a. *Fractional Franchise.* A "fractional franchise" relationship results when an established distributor adds a franchised product line to its existing line of goods.

The fractional franchise exemption is available if two conditions are met.

The first condition is that the franchisee or any of its current directors or executive officers has more than 2 years of prior management experience at any time in the past in the business represented by the franchise. The required experience may be in the same business selling competitive goods, or in a business that would ordinarily be expected to sell the type of goods to be distributed under the franchise. For example, the experience requirement would be met in a franchise for tires, batteries and accessories granted to a service station dealer, but not by a truck rental franchise granted to the dealer.

The second condition is that the parties in good faith anticipated or should have anticipated, at the time of entering into the franchise agreement, that the sales arising from the proposed relationship would represent no more than 20% of the dollar volume of the franchisee's projected gross sales within the reasonably foreseeable future. The Commission will expect parties invoking this exemption to take into account in good faith the franchisee's anticipated sales for a period of at least 1 year after the franchisee begins selling the goods or products involved in the franchise.

b. *Leased Departments.* A "leased department" is an arrangement in which an independent retailer sells its own goods and services from premises leased from a larger retailer in the larger retailer's store. Such arrangements usually occur in areas of merchandising such as footwear, optometry, tobacco, cosmetics and jewelry. This exemption is applicable only if the independent retailer is not required directly or indirectly to purchase its goods or services from either the large retailer or from suppliers required or approved by the large retailer.

c. *Minimal Investments.* If the payment which the franchisee is required to make to the franchisor or an affiliate of the franchisor from any time before to within six months after commencing operation of the franchised business is less than \$500, then the relationship is exempt from coverage under the rule. The exemption reflects the Commission's policy determination that a significant financial risk on the part of the franchisee is a necessary element of a franchise. A franchisee commences operation when it first

makes goods or services available for sale. A commitment entered into during the first six months which requires a payment later than six months after commencing operation is not counted toward the \$500 minimum, such as a promissory note or that portion of lease payments made after six months.

d. *Oral Agreements.* The rule exempts purely oral relationships which lack any written evidence of a material term of the franchise relationship or agreement, as a matter of policy to avoid problems of proof in its enforcement. However, the exemption will not be available where there is any writing, even if unsigned, with respect to a material term, such as a purchase invoice for goods or equipment.

e. *Employer-Employee and General Partner Relationships.* Bona fide employer-employee relationships and relationships among general partners are excluded from coverage under the rule.

The Commission will apply the traditional test of "right of control" in determining whether an employment relationship exists, e.g., whether a salary or definite sum of money is given as consideration for the work, or whether the employee can be discharged or his employment terminated without liability on the part of the principal, as well as consider whether the "employee" must invest money in the business before being "hired."

All partners must be general partners to qualify for the exclusion. The Commission will look carefully at those "employment" or "partnership" arrangements which are structured to shield the "employer" or "limited partner" (franchisor) from liability to the disadvantage of the "employee" or "general partner" (franchisee).

f. *Cooperative Associations.* Two types of "cooperative associations" qualify for this exclusion: (1) agricultural cooperatives authorized by the Capper-Volstead Act, 7 U.S.C. § 291, and (2) retailer-owned cooperative chains. Retailer-owned cooperatives are those operated by and for independent retailers on a cooperative basis. The members must be independent retailers, and the organization must furnish services or goods primarily to its members. The phrase "cooperative basis" is adopted from the federal income tax statutes (Section 1381 of the Internal Revenue Code) and is intended to provide a general standard to cover the multitude of cooperative arrangements.

g. *Certification or Testing Services.* The rule excludes relationships which are created solely by arrangements with

bona fide certification or testing services, such as that offered by Underwriters Laboratory and similar organizations. Franchising involves distribution of goods or services through selected outlets; in contrast, certification or testing services authorize use of their trademark by all parties meeting their standards and willing to pay their fee.

h. *"Single" Trademark Licenses.* The rule excludes trademark licensing arrangements in which a single licensee is granted the right to use the trademark. This exclusion also includes a "one-on-one" licensing arrangement, i.e., the license of a trademark to a single licensee who manufactures the trademarked goods according to the licensor's specifications. This arrangement is common, for example, in the clothing industry where trademark owners license the manufacture of textiles. The exclusion also includes "collateral product" licensing; i.e., the practice of licensing a trademark which is well-known in one context (e.g., a soft drink) for use in another (e.g., clothing or decorative items embossed with the soft drink logo). This exclusion also includes licensing agreements entered into in the course of settlement negotiations in trademark infringement litigation, where the licensor will grant the "infringing" party a license to use the trademark for a specified period of time.

B. Who Makes and Receives Disclosures

1. Who Makes Disclosures

Disclosure must be made by "franchisors" and "franchise brokers."

A "franchisor" is a "person" (defined in § 436.2(b) to mean any individual, group, association, partnership, corporation or other business entity) who participates in a transaction covered by the rule (see paragraph A above) as a franchisor; that is, the person offering the business described in paragraph A. This definition does not include a franchisee who sells his own franchise, since the franchisee will not be a "franchisor" with respect to the relationship being offered.

A "franchise broker" is defined in § 436.2(j) to mean any person (i.e., any individual, group, association, partnership, corporation, or other business entity) other than a franchisor or franchisee who sells, offers for sale, or arranges for the sale of a franchise. An organizer or promoter of a trade show in which franchises or business opportunities are offered for sale is a "franchise broker" within the meaning of the rule, since such person "arranges" for the sale of franchises. This definition does not cover franchisees who sell

their own franchise. A sub-franchisor authorized to offer or sell sub-franchises will be a "franchise broker" within the meaning of the rule.

The rule establishes the same obligations for both the "franchisor" and the "franchise broker." Either the franchisor or the franchise broker may satisfy the requirements set out in § 436.1(a)-(e) and (g) by furnishing the required disclosure documents. The requirements of the rule, apply jointly to both the franchisor and the franchise broker; however, compliance by one will constitute compliance by the other.

Some franchisors permit their franchisees to sub-franchise others. Agreements authorizing such subfranchising may range from instances where the sub-franchisor merely "passes through" the terms and conditions prescribed by the franchisor, to instances where the sub-franchisor acts on its own, with the franchisor's role limited to approving the sub-franchisor's selections. The more power and responsibility the franchisor has with respect to the franchisees sold by the sub-franchisor, the more necessary that disclosures about the franchisor be included.

When sub-franchisors franchise others, the franchisor and sub-franchisor are free to decide between themselves as to the party responsible for preparing and disseminating the required disclosures. Both the franchisor and the sub-franchisor are responsible for each other's compliance with the rule, and are jointly and severally liable for each other's violations. In preparing the necessary disclosure document(s), franchisors and sub-franchisors should bear in mind that the goal of the rule is to furnish complete and accurate disclosure of essential and reliable information. It is their joint responsibility to ensure that such disclosure is made. It may be that some of the 20 categories of information required by the Basic Disclosure Document need be answered by the sub-franchisor only, or by the franchisor only, in order that the answer will be complete and accurate. Other categories may require disclosures by both the sub-franchisor and the franchisor in order to be complete and accurate. The determination of which parties should make which disclosures will depend upon the type of subfranchise relationship the parties have established.

As a general rule, the Commission would expect that categories 1-5 and 20 would contain information supplied by both parties, and category 16 would be answered by the sub-franchisor in all cases and by the franchisor, also, if the

franchisor's statistics differ materially from the sub-franchisor's statistics. Finally, to ease the expense of certified financial statements, the Commission will permit use of a franchisor's certified financial statements without any additional financial reporting requirement from a sub-franchisor if the franchisor absolutely and irrevocably guarantees the obligations of the sub-franchisor to the franchisee arising out of the franchise agreement between those two parties. A sub-franchisor is free to include its own financial statements in addition to the franchisor's financial statements.

2. Who Receives Disclosures

Disclosures must be made to "prospective franchisees" and, in some circumstances, to existing franchisees who extend or renew the term of their franchises. Section 436.2(e) defines a "prospective franchisee" as "any person, including any representative, agent, or employee of that person, who approaches or is approached by a franchisor or franchise broker, or any representative, agent or employee thereof, for the purpose of discussing the establishment, or possible establishment, of a franchise relationship involving such person." However, the prospective franchisee is not *per se* entitled to disclosure until the requisite timeframe for such disclosure. This timeframe is described in paragraph C below.

Franchisees who exercise a right under their franchise agreement to establish new outlets for themselves (as opposed to selling outlets to others), as well as franchisees who choose to extend or renew the term of their franchise agreement, need not be furnished with the disclosures required for prospective franchisees unless the new relationship is under terms and conditions materially different from their present agreement. In interpreting whether disclosure is required in such circumstances the Commission will employ a flexible standard based upon the extent to which the disclosure will materially assist the franchisees in making an informed decision.

A person who purchases an existing franchise directly from the franchisee who owns it, without significant contact with the franchisor, is not a prospective franchisee. A purchaser who purchases from an existing franchisee will not be deemed a prospective franchisee, therefore, merely because the franchisor has, and exercises, a right to approve or disapprove the purchaser, unless the franchisor's role in the sale is otherwise significant. Franchisors and franchise

brokers must make required disclosures only to prospective franchisees.

C. When Disclosures Must Be Made

1. The Basic Disclosure Document

The Basic Disclosure Document must be given to a "prospective franchisee" at the earlier of the first "personal meeting" or the "time for making of disclosures."

The term "personal meeting" is defined as a face-to-face meeting between a prospective franchisee and a franchisor or franchise broker (or their representatives) which is held for the purpose of discussing the sale, or possible sale, of a franchise. By definition, a first "personal meeting" does not include communication by telephone or mail. Even where a face to face meeting occurs, it is not necessarily a "first" personal meeting. In interpreting this term, the Commission will consider such factors as whether the franchisor clearly indicated at the outset of the discussion that it was not prepared to discuss the possible sale of a franchise at that time, whether the meeting was initiated by the prospective franchisee rather than the franchisor, whether the meeting was limited to a brief and generalized discussion and whether earnings claims were made. The Commission believes that by using common sense precautions, franchisors can defer the first personal meeting until such time as they are prepared to provide the required disclosures.

The term "time for making of disclosures" is defined in § 436.2(g) as ten business days prior to the earlier of (i) the execution by a prospective franchisee of any franchise agreement or any other agreement imposing a binding legal obligation on such prospective franchisee, about which the franchisor, franchise broker, or any agent, representative, or employee thereof knows or should know, in connection with the sale or proposed sale of a franchise; or (ii) the payment by a prospective franchisee, about which the franchisor, franchise broker, or any agent, representative or employee thereof knows or should know, of any consideration in connection with the sale, or proposed sale, of a franchise. This latter payment does not include payments which the prospective franchisee chooses to make on its own in connection with reviewing the proposed investment, such as a retainer for an attorney or a market feasibility study. The term "business days" does not include Saturdays, Sundays, or national holidays.

2. Earnings Claim Document

The Earnings Claim Document must be given (if it is required at all) to a prospective franchisee at the earlier of (i) the first personal meeting at which or following the time an earnings claim is made or (ii) the "time for making of disclosures." An Earnings Claim Document prepared exclusively for media claims (§ 436.1(e)) must be given to the prospective franchisee at the same time that the Basic Disclosure Document is given; i.e., the earlier of the first personal meeting or the time for making of disclosures.

3. Other Disclosures

A copy of the franchisor's standard franchise agreement and any related agreements (e.g., leases, purchase orders, etc.) must be given to the prospective franchisee when the Basic Disclosure Document is furnished. In addition, a copy of the completed franchise agreement (and any related agreements) which are intended to be executed by the parties must be given to the prospective franchisee at least five business days prior to the day that the agreements are to be executed. A revised copy of the agreement need not be provided if, within the five-day period, minor revisions are made to the completed agreement at the request of the franchisee which substantially benefit the franchisee and provide no more than *de minimis* benefits to the franchisor. Nor is a revised agreement required if, within the five-day period, purely typographical errors or omissions are corrected.

4. Updating Disclosures

To ensure that the disclosure documents contain accurate and timely information, the rule requires that they be kept current. The Basic Disclosure Document must be current as of the franchisor's most recent fiscal year. After the close of its fiscal year, the franchisor has ninety days in which to prepare a revised Basic Disclosure Document for distribution to prospective franchisees. In addition, the Basic Disclosure Document must be updated, on at least a quarterly basis, whenever a "material" change occurs in the information contained in the document. The updating information may be attached to the Basic Disclosure Document as an addendum. The Earnings Claim Document must be current as of the time when the earnings claim is made. Finally, and in addition to the above stated updating requirements, prospective franchisees must be notified of any material changes in the information contained in the

Earnings Claim Document prior to entering into a franchise relationship.

D. State Disclosure Documents and Laws

1. Uniform Franchise Offering Circular

Several states permit use of a disclosure format known as the Uniform Franchise Offering Circular ("UFOC") to comply with their own state registration or disclosure requirements. The Commission has determined that, in the aggregate, the disclosures required by the UFOC format provide protection to prospective franchisees which is equal to or greater than that provided by the rule. As a result, and in an effort to minimize compliance burdens, the Commission will permit the UFOC to be used in lieu of the disclosure requirements set forth in Section 436.1 (a) through (e) of the rule, to satisfy the rule's disclosure requirements. This determination is limited to the UFOC format adopted by the Midwest Securities Commissioners Association on September 2, 1975, plus its associated guidelines and any minor modifications thereof, that do not diminish the protection accorded to a prospective franchisee, which may be made or allowed by a state in which such registration has been made effective.

Either the rule or the UFOC disclosure format must be used in its entirety. Franchisors or franchise brokers may not pick and choose questions from each format, regardless of which specific question may provide equal or greater protection to prospective franchisees. Inasmuch as UFOC item 19 (or alternative item 19) involves disclosure about earnings claims, the rule's earnings claims disclosures set forth in § 436.1(b)-(e) will not apply if the UFOC format is utilized, except with respect to the printed text of advertisements, where the rule's preemption standard of "inconsistency" (Note 2 of the rule) will apply.

The UFOC format may be used in lieu of the rule documents in any state, notwithstanding the presence or absence of a state franchise law. The manner in which the UFOC may be used in lieu of the rule documents will depend on whether the UFOC is part of a currently effective state registration. The three possibilities are as follows:

a. If the UFOC is used in lieu of the rule documents in a state in which there is a currently effective registration, then in such event, the UFOC document and instructions should be followed completely, subject only to the modifications set forth later in this section. The Commission will presume the sufficiency, adequacy and accuracy of the document; however, the Commission retains the right to determine whether the UFOC

requirements as elaborated in the UFOC guidelines have been met, so that this presumption should not be viewed as deferring to state law enforcement. Moreover, the Commission will be influenced by subsequent state determinations of disclosure violations when considering its own enforcement alternatives. The UFOC cover page should be used; a separate page containing the information required for the cover to FTC documents pursuant to § 436.1(a)(21) of the rule must be given to the prospective franchisee. This paragraph does not apply to states with disclosure requirements but not registration, like Hawaii and Oregon.

b. If the UFOC is currently registered and effective in one state but is used in another state, then in such event, the UFOC format and instructions should be followed completely except that (a) answers to state-specific questions (such as the number of franchisees located within the registration state, franchisees proposed to be sold in the registration state, trademark information relating to the registration state, reference to state laws concerning termination rights or non-competition covenants, etc.) must be changed so that they refer to the state in which the document will be used rather than the original registration state in which the document was declared effective, (b) the FTC cover page prepared pursuant to § 436.1(a)(21) must be used; no UFOC cover page is required; and (c) no Commission presumption of sufficiency, adequacy or accuracy of the disclosure document will be made.

c. If the UFOC format is used when no current state registration is in effect, then in such event, in addition to the obligations set forth in paragraph b. above, the requirements of § 436.1(a)(22) concerning timeliness of information and updating requirements also will apply.

The following provisions of the rule still will apply even when the UFOC format is utilized:

a. *Scope of the Rule.* Disclosure must be made for all transactions covered by the rule, regardless of whether such transactions would require disclosure pursuant to state law.

b. *Persons Covered by the Rule.* Persons obligated to comply with the rule are determined by the rule, regardless of whether such persons would be obligated to make disclosure under state law. (However, while the FTC definitions determine persons required to comply with the rule, the UFOC definitions are used for making disclosures using the UFOC format.)

c. *Timing of Disclosures.* The disclosure statement must be furnished to the prospective franchisee at the times mandated by the rule, not by the state law, unless the state law requires earlier disclosure.

d. *Contracts to Be Executed.* Prospective franchisees must be given a copy of the completed contracts and agreements proposed to be executed at least five business days before they can be signed.

e. *Certain Prohibitions.* Franchisors and franchise brokers may not make any representation contradictory to those

appearing in the disclosure documents. Similarly, no information may appear in the disclosure document unless it is required either by the rule or by non-preempted state law.

f. *Refunds.* Section 436.1(h) makes it an independent violation of the rule to fail to return or refund fees in accordance with contract provisions disclosed in the Basic Disclosure Document regardless of whether the rule document or the UFOC document is used.

2. Preemption

The rule attempts to create a minimum federal standard of disclosure applicable to all franchise and business opportunity offerings, and, at the same time, permits state and local authorities to provide additional concurrent protection. Note 2 of the rule sets forth the preemption standard; namely, state or local laws or regulations are preempted only to the extent that they are "inconsistent" with the rule—that is, provide less protection to the

prospective franchisee than that provided by the rule. The degree of preemption is limited to the "inconsistency." Accordingly, franchisors and franchise brokers must comply with non-preempted state and local laws and regulations in addition to the rule.

Examples of state and local laws or regulations not preempted by the rule include (a) registration of franchisors and franchise salespersons, (b) escrow or bonding requirements, (c) substantive regulation of the franchisor-franchisee relationship, such as termination practices, contract provisions and financing arrangements, and (d) disclosure laws and regulations requiring more extensive disclosures than those provided by the rule.

The following breakdown gives examples of preemption in several situations (other than where the UFOC is used) where the rule and state franchise laws overlap:

STATE REQUIRES	FTC REQUIRES	FRANCHISOR MUST COMPLY WITH
Disclosure of item x.....	(Silent as to item x).....	State disclosure requirement.
(Silent as to item x).....	Disclosure of item x.....	FTC disclosure requirement.
Disclosure of item x.....	Disclosure of items x, y & z.....	Both State and FTC requirements.
Prohibits disclosure.....	Disclosure of item x.....	FTC Requirement; state requirement is preempted.
Registration; escrow or bonding.....	(Silent as to such requirements).....	State requirements.
Disclosure by Franchisor x.....	(Silent as to Franchisor x).....	State requirement.
(Silent as to Franchisor x).....	Disclosure by Franchisor x.....	FTC requirement.
Disclosure by Franchisor x.....	Disclosure by Franchisor x & y.....	State and FTC requirements.

E. Acts or Practices Which Violate the Rule and Potential Liabilities

It is an unfair or deceptive act or practice within the meaning of § 5 of the Federal Trade Commission Act for any franchisor or franchise broker:

1. To fail to furnish prospective franchisees with the Basic Disclosure Document in the manner and within the timeframes established in the rule (§ 436.1(a));

2. To make any representations about the actual or potential sales, income, or profits of existing or prospective franchises except in the manner and within the timeframes established by the rule, including dissemination of the Earnings Claim Document (§ 436.1(b)-(e));

3. To make any claim or representation (such as in advertising or oral statements by salespersons) which is inconsistent with the information required to be disclosed by the rule (§ 436.1(f));

4. To fail to furnish prospective franchisees, within the timeframes established by the rule, with copies of the franchisor's standard forms of franchise agreements and copies of the final agreements to be signed by the parties (§ 436.1(g)); and

5. To fail to return to prospective franchisees any funds or deposits (such as down payments) identified as refundable in the Basic Disclosure Document (§ 436.1(h)).

Violators are subject to civil penalty

actions brought by the Commission of up to \$10,000 per violation. In addition, the Commission may bring an action in federal or states court for damages on behalf of franchisees.

The Commission believes that the courts should and will hold that any person injured by a violation of the rule has a private right of action against the violator, under the Federal Trade Commission Act, as amended, and the rule. The existence of such a right is necessary to protect the members of the class for whose benefit the statute was enacted and the rule is being promulgated, is consistent with the legislative intent of the Congress in enacting the Federal Trade Commission Act, as amended, and is necessary to the enforcement scheme established by the Congress in that Act and to the Commission's own enforcement efforts.

F. Miscellaneous Definitions

1. "Material"

A number of provisions of the rule refer to the concept of "materiality." As defined in § 436.2(n), the phrase "material fact" includes "any fact, circumstances, or set of conditions which has a substantial likelihood of

influencing a reasonable franchisee or a reasonable prospective franchisee in the making of a significant decision relating to a named franchise business or which has any significant financial impact on a franchisee or prospective franchisee."

2. "Affiliated Person"

Several provisions of the rule require certain disclosures regarding persons "affiliated" with the franchisor. The term "affiliated person" is defined in § 436.2(e) to mean any individual, group, association, limited or general partnership, corporation, or any other business entity:

(a) Which directly or indirectly controls, is controlled by, or is under common control with, a franchisor; or

(b) Which directly or indirectly owns, controls or holds with power to vote, 10 percent (10%) or more of the outstanding voting securities of a franchisor; or

(c) Which has, in common with a franchisor, one or more partners, officers, directors, trustees, branch managers, or other persons occupying a similar status or performing similar functions.

In determining whether there is a "control" relationship, the Commission will look to the degree to which a person has the power or authority to manage or direct the course of the other person. Whether a control relationship exists is a question of fact. Such control may be exercised directly, such as in majority or controlling ownership of voting stock, or indirectly, such as where a person owns a majority or controlling interest in an intermediary corporation which is the majority or controlling shareholder of the other person. In determining whether there is a "control" relationship, the Commission will be guided by the concept of control employed in the federal securities laws and cases dealing with such laws.

II. The Basic Disclosure Document

The Basic Disclosure Document consists of 20 categories of information. Set forth below is a description of the rule section, explanation and example for each of these 20 categories.

§ 436.1(a)(1) [Identifying Information as to Franchisor]

Rule

(1)(i) The official name and address and principal place of business of the franchisor, and of the parent firm or holding company of the franchisor, if any;

(ii) The name under which the franchisor is doing or intends to do business; and

(iii) The trademarks, trade names, service marks, advertising or other commercial symbols (hereinafter collectively referred to as "marks") which identify the goods, commodities, or services to be offered, sold, or distributed by the prospective franchisee,

or under which the prospective franchisee will be operating.

Explanation

Disclosures should include (i) the franchisor's name and address as well as that of its parent or holding company, if applicable, (ii) the name under which the franchisor now does or intends to do business, and (iii) the trademarks, trade names, service marks or commercial symbols (the "marks") which the franchisor authorizes the prospective franchisee to utilize in the conduct of its business.

The description of marks should include information about registration, litigation, and the franchisor's knowledge of any infringing uses. Franchisors need not discuss any marks of companies whose products are merely distributed, such as the various trademarked food products distributed by a wholesale grocer to its retailers.

A "parent" controls the franchisor directly or indirectly through one or more intermediaries.

Example of Disclosure

Doe, Inc., doing business under the name of Doe Burgers, maintains its principal business address at 55 Front Street, New York, New York 11111. Doe, Inc., is a wholly owned subsidiary of Roe Industries whose principal place of business is 2 Union Street, Rye, New York 22222.

Pursuant to the franchise agreement, Doe, Inc. authorizes its franchisees to operate fast food restaurants under the name "Doe Burgers." The franchisee is also authorized to use the following trademarks, service marks, trade names, advertising or other commercial symbol(s): (a) "Big Doe"; (b) "Do-Roe Cola" and (c) "Double Doe Burger."

All of the marks are registered with the United States Patent Office and the registrations are in the principal Register. The mark "Big-Doe" also is registered in the state of Minnesota. Doe, Inc. is not aware of any current infringing uses of the marks stated above, nor is any litigation pending with respect to any of these marks.

§ 436.1(a)(2) [Business Experience of Franchisor's Directors and Executive Officers]

Rule

(2) The business experience during the past 5 years, stated individually, of each of the franchisor's current directors and executive officers (including, and hereinafter to include, the chief executive and chief operating officer, financial, franchise marketing, training and service officers). With regard to each person listed, those persons' principal occupations and employers must be included.

Explanation

Disclosure should include the name and relevant business experience of the franchisor's current directors as well as those executive officers who will have

significant management responsibility with respect to the marketing and servicing of franchises, such as the chief executive and operating officers, and financial, franchise marketing, franchise training and franchise service officers.

Information for each listed person should include the person's current position and facts about his or her business experience during the preceding five fiscal years, such as all other occupations or employment (including name of employers and position or title held), and any other facts which would assist a prospective franchisee in assessing the person's business experience. Incidental biographical data, such as age, address, community activities, etc. should not be included.

Example of Disclosure

John Smith, President

In 1974, Mr. Smith was employed with Camper's Delight, Inc., a franchisor of campgrounds, as the Vice President of Franchise Marketing. His employment with KampKorners, Inc., began in 1977 when he was appointed Director of Franchise Marketing. Since January, 1978, he has served as President of KampKorners, Inc.

§ 436.1(a)(3) [Business Experience of the Franchisor]

Rule

(3) The business experience of the franchisor and the franchisor's parent firm (if any), including the length of time each:

(i) has conducted a business of the type to be operated by the franchisee;

(ii) has offered or sold a franchise for such business;

(iii) has conducted a business or offered or sold a franchise for a business (A) operating under a name using any mark set forth under paragraph (a)(1)(iii), or (B) involving the sale, offering, or distribution of goods, commodities, or services which are identified by any mark set forth under paragraph (a)(1)(iii); and

(iv) has offered for sale or sold franchises in other lines of business, together with a description of such other lines of business.

Explanation

Disclosure relates to the business experience of the franchisor and any parent corporation, and must include complete information on each of the categories set forth in the rule section. The franchisor also should include a brief description of the nature of its business, its type of business organization (e.g., corporation, partnership, etc.) and the state and date of its incorporation or organization. The "other lines of business" disclosure (subparagraph (iv)) is limited to the franchisor's (and parent's) experience in franchising, and does not require non-franchise business history.

Example of Disclosure

The franchisor, Ralph's Rentals, Inc. was originally incorporated in Virginia on January 3, 1962. Since then, it has operated a full service equipment rental store. Since 1971, the franchisor has been selling franchises for the operation of retail establishments known as Ralph's Rentals. It has been offering franchises since 1971 under the marks set forth in section 1. The franchisor does not sell franchises in other lines of business.

§ 436.1(a)(4) [Litigation History]

Rule

(4) A statement disclosing who, if any, of the persons listed in paragraphs (a)(2) and (a)(3) of this section:

(i) Has, at any time during the previous seven fiscal years, been convicted of a felony or pleaded *nolo contendere* to a felony charge if the felony involved fraud (including violation of any franchise law, or unfair or deceptive practices law), embezzlement, fraudulent conversion, misappropriation of property, or restraint of trade;

(ii) Has, at any time during the previous seven fiscal years, been held liable in a civil action resulting in a final judgment or has settled out of court any civil action or is a party to any civil action (A) involving allegations of fraud (including violation of any franchise law, or unfair or deceptive practices law), embezzlement, fraudulent conversion, misappropriation of property, or restraint of trade, or (B) which was brought by a present or former franchisee or franchisees and which involves or involved the franchise relationship; *Provided, however*, That only material individual civil actions need be so listed pursuant to this subparagraph (4)(ii), including any group of civil actions which, irrespective of the materiality of any single such action, in the aggregate is material;

(iii) Is subject to any currently effective State or Federal agency or court injunctive or restrictive order, or is a party to a proceeding currently pending in which such order is sought, relating to or affecting franchise activities or the franchisor-franchisee relationship, or involving fraud (including violation of any franchise law, or unfair or deceptive practices law), embezzlement, fraudulent conversion, misappropriation of property, or restraint of trade.

Such statement shall set forth the identity and location of the court or agency; the date of conviction, judgment, or decision; the penalty imposed; the damages assessed; the terms of settlement or the terms of the order; and the date, nature, and issuer of each such order or ruling. A franchisor may include a summary opinion of counsel as to any pending litigation, but only if counsel's consent to the use of such opinion is included in the disclosure statement.

Explanation

Disclosure involves three types of franchisor litigation: criminal, civil, and administrative. For each past criminal, civil or administrative proceeding disclosed, set forth the (i) identity of the court or agency involved, (ii) date of conviction, judgment, decision, order or

ruling, (iii) amount of award or judgment and (iv) terms of any settlement order or ruling. The exact dollar amount of any settlement need not be disclosed if it is not disclosed in any papers filed in court. Instead, an approximate dollar amount may be used, such as "the low four figures". Additional requirements dependent upon the type of litigation disclosed are described below.

a. *Criminal litigation*. Subsection (i) requires disclosure of past felony convictions, including those entered after pleas of *nolo contendere*, of the franchisor, its current officers or directors, and its parent firm, which occurred within the previous seven fiscal years and which relate to those felonies described in the rule. Disclosure is not required with respect to any other criminal matter, such as proceedings which (a) are pending, (b) culminated in a manner other than by conviction or (c) involved crimes other than those set forth in subsection (i).

b. *Civil litigation*. Subsection (ii) requires disclosure of certain types of past and pending civil actions where the franchisor, its current directors or officers, or its parent firm, is or was a party. The term "civil action" is limited to judicial tribunals and arbitrations, and does not include legislative or administrative proceedings. Disclosure is required regardless of whether the "party" is a plaintiff or defendant, as well as situations where the party has been impleaded or intervenes or interpleads others. It covers judgments as well as out-of-court settlements where a complaint has been served or filed.

No disclosure is required unless both the subject matter and materiality prerequisites, described below, are satisfied.

The subject matter must involve either (a) those actions set forth in subsection (ii) or (b) actions by a present or former franchisee which involve the franchise relationship. A franchisor who offers more than one type of franchise—fried chicken and pizza, for example—must disclose litigation involving the franchise relationship in both types of franchises in disclosure statements given to prospective franchisees of either system.

Only material actions need be disclosed; that is, actions which have a substantial likelihood of influencing the investment decision of a reasonable prospective franchisee, or actions whose pendency or outcome may have a significant financial impact on a franchisor or prospective franchisee. When a number of material actions of a similar nature exist, or when an individual non-material proceeding is

combined with other past or pending non-material proceedings involving similar basic issues, making the aggregate impact of these proceedings material, then disclosure should be made about the combined proceedings as a whole. An example of this combination would be a situation where each of 15 franchisees is suing the franchisor about the franchisor's reimbursement policies on certain required warranty work performed by the franchisees.

For each pending civil proceeding disclosed, including any combined proceedings as a whole, the franchisor must set forth a brief description of the factual basis alleged in the complaint, the defenses or answers raised, and the relief sought. Disclosure may include a summary opinion of counsel about the merits of the claims asserted and any defenses raised as long as counsel has consented to the use of such opinion in the disclosure.

c. *Administrative-type proceedings*. Subsection (iii) requires disclosure of certain past or pending administrative-type proceedings in a state or federal agency or court which seek, or have resulted in currently effective injunctive or restrictive orders, such as complaints, consent agreements, cease and desist orders, and restraining or injunctive orders. Disclosure is required only when the proceedings either relate to or affect franchise activities or the franchisee-franchisor relationship or involve the subject matters set forth in subsection (iii). Neither orders of general applicability resulting from administrative rulemaking nor restrictive orders resulting from private negotiations between the franchisor and the franchisee need be disclosed (although the latter may require disclosure under subsection (ii) discussed above).

For each pending administrative proceeding disclosed, the franchisor must set forth a brief description of the factual basis alleged in the proceeding, the defenses or answers raised, and the relief sought. Disclosure may include a summary opinion of counsel about the merits of the claims asserted and any defenses raised as long as counsel has consented to the use of such opinion in the disclosure.

Example of Disclosure

On December 2, 1975, Mr. Raoul Meyer, current Vice President of Franchise Marketing for Whiz Stores, Inc., was convicted of mail fraud in violation of 18 U.S.C. § 1341, in the United States District Court for the District of Maryland. On January 30, 1978, Mr. Meyer was given a 3-year suspended sentence by U.S. District Judge Mertz and fined \$15,000. On January 13,

1977, Consolidated Amalgamation, Inc., the parent firm of Whiz Stores, Inc., pleaded guilty to charges of an unlawful conspiracy to fix prices with respect to the distribution of television sets. *United States v. Consolidated Amalgamation, Inc.*, Action No. 77-435C, United States District Court for the Eastern District of New York. On February 20, 1977, U.S. District Judge Foster fined Consolidated Amalgamation, Inc., \$250,000. A civil action was filed against Whiz Stores, Inc., in April, 1976, in the Superior Court of California, County of Orange, entitled *Loughlin v. Whiz Stores, Inc.*, Civil No. H-4567. Plaintiff Loughlin, a former franchisee of Whiz Stores, Inc., alleges in his complaint (among other things) that Whiz Stores, Inc., breached its contract and its fiduciary duties with regard to a franchise agreement between the plaintiff and Whiz Stores, Inc. Plaintiff has alleged damages of \$55,000 and has requested punitive damages of \$500,000. Whiz Stores, Inc., through its counsel, has denied such allegations and counterclaimed for unpaid royalties due under the franchise agreement. The case is scheduled for trial in December, 1979. Whiz Stores, Inc., is subject to a cease-and-desist order issued by the Federal Trade Commission on March 23, 1975, prohibiting Whiz Stores, Inc., from using unfair and deceptive practices in the marketing of franchises, including the use of atypical claims of profitability.

§ 436.1(a)(5) [Bankruptcy History]

Rule

(5) A statement disclosing who, if any, of the persons listed in paragraphs (a)(2) and (a)(3) of this section at any time during the previous seven fiscal years has:

- (i) Filed in bankruptcy;
- (ii) Been adjudged bankrupt;
- (iii) Been reorganized due to insolvency; or
- (iv) Been a principal, director, executive officer, or partner of any other person that has so filed or was so adjudged or reorganized, during or within 1 year after the period that such person held such position in such other person. If so, the name and location of the person having so filed, or having been so adjudged or reorganized, the date thereof, and any other material facts relating thereto, shall be set forth.

Explanation

Disclosure involves the bankruptcy history during the previous seven fiscal years of the franchisor, its parent or holding company, and those of its current directors and executive officers for whom disclosure is required. With respect to subsection (iv), disclosure is required only if the bankruptcy occurred during or within one year after the person's association with the bankrupt person or entity.

The franchisor should disclose, with respect to each bankruptcy proceeding requiring disclosure, (a) the name of the person(s) or business entity who has filed in bankruptcy, been adjudged bankrupt or has been reorganized due to insolvency (if other than the franchisor, the identity of such persons should be

disclosed, e.g., the chief executive officer or parent firm); (b) the court in which the proceeding was held, including the case or docket number, and the nature of the proceeding, i.e., bankruptcy, reorganization, etc. (c) the date of the adjudication of bankruptcy or confirmation of a plan for reorganization and the date of discharge; and (d) any other material facts, e.g., a summary of the details of the arrangements with creditors. This section does not require disclosure where the franchisor or an appropriate officer merely files a claim in a bankruptcy proceeding.

Example of Disclosure

On January 15, 1976, Richard Roe, President of Kwikkar Wash Systems, Inc., was adjudged bankrupt in the United States District Court for the District of Columbia, Docket No. B-20920-76. Arthur Sheppard, Vice President for franchise marketing was President of Amalgatron, Inc., from June, 1975 April, 1977. On July 3, 1977, Amalgatron, Inc., filed a petition for reorganization under Chapter XI of the Federal Bankruptcy Act. The plan is pending approval by creditors in the United States District Court for the District of Vermont, Docket B-45-76.

§ 436.1(a)(6) [Description of Franchise]

Rule

(6) A factual description of the franchise offered to be sold by the franchisor.

Explanation

Disclosures should provide a factual description of the franchise being offered for sale. The term "sold" encompasses purchasing, leasing, licensing or other methods of acquisition. Included within this disclosure should be (1) a general description of the business to be conducted by the franchisee; (2) a detailed discussion of the "business format" and/or "product line" which the franchisee is purchasing, including goods or services to be sold by the franchisee; and (3) a description of the market for the goods and/or services to be sold by the franchisee (e.g., whether the goods will be marketed to a specific segment of the community such as students, upper income consumers, etc.).

Example of Disclosure

The Franchisor develops, owns and operates, and authorizes others to operate, a quick service restaurant under the name of "Doe Burgers" (sometimes hereinafter referred to as Doe's restaurants). All Doe's restaurants are built to Company specifications as to exterior style and interior decor. The majority are free-standing corrugated iron buildings substantially uniform in design and appearance with adjoining parking space for 40 to 60 cars. Some are storefronts (which vary according to available locations but generally retain the

standard green and orange decor and sign). The typical free-standing restaurant has a cooking area and dining room capacity for 100 to 120 persons. The standardized decor features bamboo lamps, ice cream parlor chairs, art deco mirrors and cultured marble tabletops. The restaurants depend upon serving a large number of customers for their success and are generally located in urban or heavily populated suburban areas.

Each Doe's restaurant offers a uniform limited menu. Hamburgers are featured in three sizes—Bambi's Double-Doe burger, and Big Doe—and are prepared with a choice of cheese and eight other condiments. Also offered are french-fried potatoes, "Do-Ro" Cola and a limited number of other beverages. Doe's hamburgers are prepared with fresh beef.

The services and products of "Doe Burgers" restaurants are used primarily by the motoring public for quick service meals.

§ 436.1(a)(7) [Initial Funds Required To Be Paid by a Franchisee]

Rule

(7) A statement of the total funds which must be paid by the franchisee to the franchisor or to a person affiliated with the franchisor, or which the franchisor or such affiliated person imposes or collects in whole or in part on behalf of a third party, in order to obtain or commence the franchise operation, such as initial franchise fees, deposits, down payments, prepaid rent, and equipment and inventory purchases. If all or part of these fees or deposits are returnable under certain conditions, these conditions shall be set forth; and if not returnable, such fact shall be disclosed.

Explanation

The franchisor must disclose the nature, amount, payee and due date of all monies which the franchisee must pay in order to obtain or commence the franchise operation, in those circumstances when such payment is made either to (i) the franchisor, (ii) an affiliate of the franchisor, or when (iii) the franchisor or its affiliate collects the payment on behalf of a third party. Such payments include, but are not limited to, the initial franchise fees, deposits, down payments, prepaid rent, and equipment and inventory purchases. If exact amounts for any one or more categories vary, then a reasonable range of anticipated payments for each of such categories may be substituted. The franchisor need not disclose required payments which the franchisee must make to obtain or commence the franchise business (such as payments for the purchase of signs) when the franchisee has the option to make such payments to unaffiliated third parties.

The statement must indicate, for each payment, whether all or any part is refundable, and, if so, under what conditions. Although the rule neither requires nor prohibits refund promises,

section 436.1(h)- requires that refunds must be made when promised. Failure to do so constitutes a violation of the rule.

Franchisors also must disclose any nonrecurring commitments of funds by franchisees to the franchisor or affiliated persons for securing the franchise if the commitment is made when the franchise relationship is commenced, even though payment is not required until a later date, such as a 12-month deferred payment of a part of the franchise fee.

It is recommended, though not required by the rule, that franchisors disclose the nature and approximate amount of other payments that a franchisee would need to make to obtain or commence business.

Example of Disclosure

A MAR, Inc. franchisee is required to make a total initial expenditure of \$5,000. A franchise fee in the amount of \$2,000 is payable to the franchisor upon signing the franchise agreement. The remaining \$3,000 is due and payable by the franchisee to PhR, Inc., a wholly-owned subsidiary of MAR, Inc., upon delivery of the vending machines and supplies listed in the franchise agreement. The franchise fee of \$2,000 is nonrefundable. Eighty percent (80%) of the equipment fee to PhR, Inc. is refundable if the equipment is returned within 30 days of delivery in good working order.

§ 436.1(a)(8) [Recurring Funds Required To Be Paid by a Franchisee]

Rule

(8) A statement describing any recurring funds required to be paid, in connection with carrying on the franchise business, by the franchisee to the franchisor or to a person affiliated with the franchisor, or which the franchisor or such affiliated person imposes or collects in whole or in part on behalf of a third party, including, but not limited to, royalty, lease, advertising, training, and sign rental fees, and equipment or inventory purchases.

Explanation

The franchisor must disclose the nature, amount and payee of all payments which a franchisee must make on a recurring basis in carrying on the franchise business, in those circumstances when those payments are made to (i) the franchisor, (ii) an affiliate of the franchisor, or when (iii) the franchisor or its affiliate collects the payment on behalf of a third party. Such payments include, but are not limited to, royalty, lease, advertising, training, sign rental fees and equipment purchases. Two categories of recurring payments should be listed: those payable on a regular periodic basis, such as royalties, advertising and inventory purchases (in those circumstances where there are minimum purchase requirements), and

those infrequent anticipated expenses of a major nature such as the replacement cost of expensive equipment.

The amount of the payments should be expressed in an estimated dollar amount. If the amount of payments are dependent on a variable, such as sales volume, then these amounts may be expressed as a percentage of such variable. Where no accurate dollar amount is available, an estimated payment range may be used. Infrequent anticipated major expenses may be expressed either in their present or estimated future cost.

Example of Disclosure

Regular Periodic Payments

Royalty—The franchisee pays to Hudson, Inc. a royalty of six percent on total gross sales. Gross sales include all cash and charge room sales made at the franchisee's Hudson Inn.

Reservation Service—The franchisee is required to pay Hudson Reservation and Travel Service, Inc., an affiliate of the franchisor, a charge of \$2.00 per reservation obtained through and provided by Hudson Reservations.

Advertising fee—The franchisee will pay Hudson, Inc. an advertising fee of 3 percent on total gross room sales.

Infrequent Major Expenses

The Hudson Vacuum pump room vacuum system which all franchisees are required to operate and which can be purchased only from Hudson, Inc., has an estimated useable life of 10 years and now costs approximately \$10,000 installed.

§ 436.1(a)(9) [Affiliated Persons the Franchisee is Required or Advised To Do Business With by the Franchisor]

Rule

(9) A statement setting forth the name of each person (including the franchisor) the franchisee is directly or indirectly required or advised to do business with by the franchisor, where such persons are affiliated with the franchisor.

Explanation

The franchisor must list those suppliers who it requires or advises the franchisee to use, regardless of whether the supplier is the sole approved supplier or one of several approved suppliers, whenever such supplier is either the franchisor or an affiliate of the franchisor. The supplier should be listed even if its use is recommended rather than required. A brief description of the goods or services supplied by any listed supplier also must be disclosed. This disclosure differs from that required in the next category, (i.e., § 436.1(a)(10) which concerns circumstances where a franchisee is required to purchase, lease, or rent a good or service from a specific supplier), since the disclosure pursuant to this section of the rule is required

only when the listed supplier is either the franchisor or an affiliate. Where a supplier could be identified under both sections, the disclosure should be made in this section with a cross reference to this section contained in the disclosure for § 436.1(a)(10).

Example of Disclosure

[Assume the following fact situation: A franchisor is offering a vending machine route. The franchisee is required to purchase the vending machine from the franchisor. The franchisee has the choice of a specified number of products to be distributed from the machines, and the sources of those products are limited by the franchise agreement. Acme Company is the parent firm of the franchisor. Ace Products Company's President is also President of the franchisor. Bard Distributors is not "affiliated" with the franchisor, but is an approved source of fruit juice. In this situation, the following disclosure would be appropriate:]

If the franchisee chooses to vend canned food products, such products must be purchased from Acme Company. If the franchisee chooses to vend fruit juice, such juice must be purchased from a limited group of suppliers, including Acme Company or Ace Products Company, both of which are affiliated with the franchisor. If the franchisee wishes to vend non-food products, he or she may purchase such products from any source (as long as they meet our specifications), although we recommend that such products be purchased from Ace Products Company. If the franchisee chooses to vend soft drinks, they must be purchased from the franchisor. Further restrictions on supplies are noted in the next section.

§ 436.1(a)(10) [Obligations to Purchase]

Rule

(10) A statement describing any real estate, services, supplies, products, inventories, signs, fixtures, or equipment relating to the establishment or the operation of the franchise business which the franchisee is directly or indirectly required by the franchisor to purchase, lease or rent; and if such purchases, leases or rentals must be made from specific persons (including the franchisor), a list of the names and addresses of each such person. Such list may be made in a separate document delivered to the prospective franchisee with the prospectus if the existence of such separate document is disclosed in the prospectus.

Explanation

This section requires a description of specified items, related to the establishment or operation of the franchise business, which the franchisor requires the franchisee to purchase, lease or rent. Such items may consist of real estate, services, supplies, products, inventories, signs, fixtures, equipment, etc. If any listed items must conform to certain franchisor-imposed specifications, such as brand names or product standards, (e.g., a requirement for a sign at least six feet tall with

illuminated letters on a green background instead of a requirement that the franchisee have a sign) the existence of such specifications must be disclosed. If such specifications make the item substantially more expensive or difficult to obtain, then such fact should be mentioned. The franchisor also should indicate the manner in which the franchisor issues and changes specifications, and its business justification for such specification(s).

It is unnecessary to list items which any business would need in its ordinary operation, like stationery (unless, for example, the franchisor requires that stationery be of a certain color and/or carry the franchisor's logo) telephones, etc.

If a required purchase, lease, or rental must be made from a person or among a group of persons specified by the franchisor, the names and addresses of such suppliers should be disclosed together with the business justification for such restricted purchase list and the manner in which the franchisor issues and changes approved suppliers.

The list of required purchases and required suppliers may be contained in a document separate from the Basic Disclosure Document, if the separate document is delivered to the prospective franchisee along with the Basic Disclosure Document, and if the Basic Disclosure notes the existence of such other document.

Example of Disclosure

(1) Kiddycare Co. sets minimum quality standards and specifications for interior design, including carpeting, draperies, wall paints and furnishings, including desks, tables, chairs and lighting.

The franchisee is required to purchase toys, educational games, arts and crafts supplies, and playground equipment (including swing set, jungle gym, and teeterboards) from the franchisor.

Kiddycare illuminated signs must be purchased from either Signo Co., 1754 Wilshire Pike, Oklahoma City, Oklahoma, or Kidco Co., 154 Subsidiary Lane, Omaha, Nebraska.

Other than the items described above, there are no other items which Kiddycare requires its franchisees to purchase, lease or rent. Obviously, Kiddycare franchisees, like other businessmen, will need to purchase the customary and usual type and amount of business supplies like cash registers, stationery, etc.

These requirements are included in order to assure the health and safety of customers.

(2) [Assume the same fact example set forth in the discussion of § 436.1(a)(9) above.]

The franchisee is required to purchase a minimum of three vending machines from the franchisor. In addition, the franchisee is required to purchase at least \$300 worth of initial inventory of his or her choice.

This requirement is included to ensure the franchisor of minimum economies of scale.

§ 436.1(a)(11) Revenues Received by the Franchisor in Consideration of Purchases by a Franchisee

Rule

(11) A description of the basis for calculating, and, if such information is readily available, the actual amount of, any revenue or other consideration to be received by the franchisor or persons affiliated with the franchisor from suppliers to the prospective franchisee in consideration for goods or services which the franchisor requires or advises the franchisee to obtain from such suppliers.

Explanation

Disclosure is limited to situations in which (a) the supplier (or group of suppliers) is a required or advised source of franchisee purchases and (b) the rebate is received by the franchisor as a result of such purchases by the franchisee. The term "rebate" refers to any revenue or other monetary or non-monetary consideration, including but not limited to cash payments in the form of "kickbacks" or commissions. Volume discounts resulting solely from a franchisor's own purchases for its own use (as opposed to purchases which later are resold to franchisees) need not be disclosed.

Franchisors must describe both the basis for calculating rebates and the amount received by them or their affiliates. If the franchisor is reasonably capable of computing the exact amount of the rebate, he must do so; otherwise an estimate may be set forth.

Example of Disclosure

(1) [Assume the same fact example set forth in the discussion of § 436.1(a)(9) above.] The franchisor receives a flat 4 percent commission from Acme Company on all fruit juice sold to franchisees. In recent years, the total commissions received have ranged from \$2,500 to \$3,000 annually.

(2) Food Services Supply Co., an affiliate of the Fast Food Company, has an annual discount arrangement with Herd Ovens, Inc., a manufacturer of pizza ovens, under which it receives credits or rebates from Herd based on 5% of the annual volume of purchases made by Fast Food franchisees. The rebate for 1979 has not been received, nor has the company received a breakdown from Herd Ovens of accrued rebates to date. In 1977 it received a \$2,500 rebate and in 1978 it received a \$2,750 rebate.

§ 436.1(a)(12) [Financing Arrangements]

Rule

(12)(i) A statement of all the material terms and conditions of any financing arrangement offered directly or indirectly by the franchisor, or any person affiliated with the franchisor, to the prospective franchisee; and (ii) A description of the terms by which any payment is to be received by the franchisor from (A) any person offering financing to a

prospective franchisee; and (B) any person arranging for financing for a prospective franchisee.

Explanation

Disclosures should describe the material terms of financing arrangements offered to the franchisee, where such financing is to be made directly by the franchisor or any affiliated person, or indirectly through third parties who lend money to franchisees as a result of an arrangement with or through the intercession of the franchisor. Material terms would include, for example, the name and address of the lender; the maximum amount to be financed; the term and annual percentage rate of the loan; any required collateral; repayment rights and penalties; and provisions in the event of default. Where such terms vary over time and from offer to offer (such as interest rates) the franchisor should indicate the range of such terms which have been offered in the recent past.

The franchisor must describe any rebate to be received by it, or an affiliate, from a third person arising out of or in consideration of a franchisee's financing arrangement, such as a finder's fee.

Neither open account financing payable within 90 days nor franchise fees payable, without interest, over a period of time, need be disclosed under this section.

Example of Disclosure

A cash downpayment of \$2,500 of the \$7,500 franchise fee is required. Financing for the balance (\$5,000) is available from Allied Co., Inc., a subsidiary of the franchisor. The terms of such financing, which are negotiable and subject to change, are contained in a monthly installment note to be signed by the franchisee. In the past two years, the interest rate has ranged from 8½% to 10½% per annum.

The note is secured by the equipment on the franchisee's premises; the indebtedness may be prepaid in full without prepayment penalty; there is no acceleration of payment of principal upon default; and the franchisee waives no defenses. The franchisor receives no payment from any person offering financing, or arranging for the placement of financing, for a prospective franchisee.

§ 436.1(a)(13) [Restriction of Sales]

Rule

(13) A statement describing the material facts of whether, by the terms of the franchise agreement or other device or practice, the franchisee is:

- (i) Limited in the goods or services he or she may offer for sale;
- (ii) Limited in the customers to whom he or she may sell goods or services;

(iii) Limited in the geographic area in which he or she may offer for sale or sell goods or services; or

(iv) Granted territorial protection by the franchisor, by which, with respect to a territory or area, (A) the franchisor will not establish another, or more than any fixed number of, franchises or company-owned outlets, either operating under, or selling, offering, or distributing goods commodities or services, identified by any mark set forth under this paragraph (a)(1)(iii); or (B) the franchisor or its parent will not establish other franchises or company-owned outlets selling or leasing the same or similar products or services under a different trade name, trademark, service mark, advertising or other commercial symbol.

Explanation

This provision requires a description of whether the franchisee is:

- (i) Limited in the type of products or services it may sell;
- (ii) Limited in the customers to whom it may sell;
- (iii) Limited in the geographic area in which it may sell; or
- (iv) Granted territorial protection by the franchisor.

Any of the foregoing limitations or grants may result from specific terms of the franchise agreement or any "other device or practice" instituted by the franchisor, such as written or verbal understandings, or provisions in other agreements. With respect to the limitations described above, the disclosure must describe the specific limitation(s) involved and the franchisor's reason(s) for imposing such limitation(s). In addition, disclosures should be made concerning any limitation of a franchisee's right to sell competing goods or services, or any requirement that, with respect to the franchisor's goods or services, either (a) all must be offered for sale or (b) some may not be offered for sale. The description of any geographic limitation on a franchisee should include the typical boundaries of such area. If the franchisee is limited to selling goods or services from a particular location this fact should also be disclosed. If the size of the franchisee's selling area is subject to negotiation, this must also be indicated.

Descriptions about exclusive franchisee sales areas or areas of territorial protection should include (a) the typical boundaries of such area, (b) a description of the territorial restrictions imposed on the franchisor or an affiliate limiting the number of franchises or company-owned outlets for the operation of a business using the same trade names, trademarks, service marks or logos to be used by the franchisee within the area or territory granted by the franchisor, and (c) a

description of the territorial restrictions imposed on the franchisor and its parent limiting the number of franchise or company-owned outlets for the operation of a business selling or leasing "the same or similar products or services" under marks within the area or territory granted by the franchisor. With respect to (c), the phrase "same or similar products or services" is intended to be interpreted as involving only closely interchangeable items which are in relatively direct competition. For example, a fast food hamburger outlet would be considered to be selling a product which was "the same [as] or similar" to a fast food chicken outlet but not the "same [as] or similar" to a relatively expensive steak house or an ice cream outlet or a cheese store. Although all of the stores sell food, only the chicken outlet would, for the purpose of this disclosure section, sell products which involve closely interchangeable items in relatively direct competition to the hamburger outlet.

Example of Disclosure

The Franchise Agreement provides that the franchisee is required to sell all the goods enumerated by Happy Ice Cream Company in its operating manual. The franchisee is precluded from offering any goods not specifically approved by the franchisor, and violation of this restriction may result in termination of the franchise relationship. This requirement has been imposed to assure uniform flavor quality. The franchisee is not limited in the customers to whom it may sell the franchise goods.

The franchisee is restricted to sales from the franchise premises and may not, without explicit authorization of the franchisor, open or operate another outlet. This restriction has been imposed to permit the franchisor to offer exclusive sales areas.

A Happy Ice Cream franchisee is granted an exclusive territory, which generally encompasses a five-mile radius from the franchised outlet. The specific size of the territory is subject to negotiation and will be included in the franchise agreement. The franchisor will not establish another Happy Ice Cream franchise of a company-owned Happy Ice Cream store within the exclusive territory. Additionally, the franchisor will not establish or operate a company-owned outlet or grant a franchise to sell similar products under a different trade name or mark within the franchisee's exclusive territory.

§ 436.1(a)(14) [Personal Participation Required of the Franchisee in the Operation of the Franchise]

Rule

(14) A statement of the extent to which the franchisor requires the franchisee (or, if the franchisee is a corporation, any person affiliated with the franchisee) to participate personally in the direct operation of the franchise.

Explanation

This section requires a statement of the extent to which the franchisee's personal participation in the direct operation of the franchise business is required by the terms of the franchise agreement or other written or verbal instructions from the franchisor. A brief description of the type of activities which constitute such participation should be included. If the franchisee is a corporation, the statement should indicate whether any specific director or employee thereof must personally participate in the direct operation of the franchise business.

Example of Disclosure

An individual franchisee is required to be on the premises of the franchise business at least 4 hours a day, and to be available during the remaining 6 hours of operation pursuant to Section 7 of the Operating Manual. While on the business premises, the franchisee manages, supervises employees and, depending on customer traffic, assists in the servicing of customers. The franchisor does not require any personal participation of any person affiliated with a corporate franchisee.

§ 436.1(a)(15) [Termination, Cancellation, and Renewal of the Franchise]

Rule

(15) A statement disclosing, with respect to the franchise agreement and any related agreements:

- (i) The term (i.e., duration of arrangement), if any, of such agreement, and whether such term is or may be affected by any agreement (including leases or subleases) other than the one from which such term arises;
- (ii) The conditions under which the franchisee may renew or extend;
- (iii) The conditions under which the franchisor may refuse to renew or extend;
- (iv) The conditions under which the franchisee may terminate;
- (v) The conditions under which the franchisor may terminate;
- (vi) The obligations (including lease or sublease obligations) of the franchisee after termination of the franchise by the franchisor, and the obligations of the franchisee (including lease or sublease obligations) after termination of the franchise by the franchisee and after the expiration of the franchise;
- (vii) The franchisee's interest upon termination of the franchise, or upon refusal to renew or extend the franchise, whether by the franchisor or by the franchisee;
- (viii) The conditions under which the franchisor may repurchase, whether by right of first refusal or at the option of the franchisor (and, if the franchisor has the option to repurchase the franchise, whether there will be an independent appraisal of the franchise, whether the repurchase price will be determined by a predetermined formula and whether there will be a recognition of goodwill or other intangibles associated

therewith in the repurchase price to be given the franchisee);

(ix) The conditions under which the franchisee may sell or assign all or any interest in the ownership of the franchise, or of the assets of the franchise business;

(x) The conditions under which the franchisor may sell or assign, in whole or in part, its interest under such agreements;

(xi) The conditions under which the franchisor may modify;

(xii) The conditions under which the franchisee may modify;

(xiii) The rights of the franchisee's heirs or personal representative upon the death or incapacity of the franchisee; and

(xiv) The provisions of any covenant not to compete.

Explanation

This section requires the disclosure of information set forth in 14 subsections, all concerning the rights and obligations of the franchisor and franchisee upon termination, modification, or renewal of the franchise. The disclosures relating to each subsection should: (a) be set forth in a separate paragraph; (b) describe the provision(s) of the franchise agreement and any companion agreement(s) which are relevant to the category, or, if no provisions exist, such fact also should be stated; and (c) describe franchisor policies which, although not part of any franchise agreement, nevertheless are germane to the subsection.

Subsections (ii-v) should include a discussion of how and when renewals, extensions and terminations are effected or refused. If the franchise agreement may be materially modified when renewed or extended, this fact should be noted.

Subsection (vi) should include a description of the respective parties' material obligations to each other with respect to real estate lease or ownership, equipment, financing arrangements, etc., following termination, renewal or extension.

Subsection (vii) should include a description of what interest the franchisee has upon termination or refusal to renew, and what means are used to determine such interest, including valuation of leases, assets of the business, and goodwill.

Subsection (viii) should include a description of when and under what conditions the franchisor may repurchase all or a part interest in the franchise. The disclosure should indicate whether the franchisor has an exclusive option or right of first refusal.

Subsection (xiv) should include a description of any restrictions on the franchisee's other businesses or employment during and after the term of the franchise agreement, including but not limited to, restrictions relating to geographic areas, customers, and

products, and the applicable time period of any such restrictions.

Example of Disclosure

1. The initial term of the Bull-Pen franchise agreement is 10 years from the date of execution. The term is subject to the renewal of a 7-year lease of the premises; further, if the lease is terminated for any cause, MAR, Inc. (franchisor) has the right to terminate the franchise agreement before the expiration of the initial term. No other agreement affects the initial term of the franchise.

2. Upon expiration of the initial term, the franchisee has the right to renew the franchise for an additional 5 years by the execution of a new franchise agreement, and such other necessary companion agreements. These new agreements may differ materially from those presently used by MAR, Inc.

3. MAR, Inc. has the right to refuse to renew the franchise if the franchisee has been cited more than twice during the initial term for failure to comply with MAR's quality control standards. If MAR, Inc., intends to refuse to renew the franchise, it will notify the franchisee in writing 90 days before the expiration of the franchise agreement.

4. The franchisee may terminate the agreement if MAR, Inc. fails to comply with any of the provisions of the agreement, and if the franchisee notifies MAR, Inc. of such failure, giving MAR, Inc. 60 days to cure the failure. If MAR, Inc. does not comply to the franchisee's satisfaction during that period, the franchisee may terminate the agreement 45 days thereafter. The franchisee may also terminate the franchise agreement if MAR, Inc. has failed, within 1 year after execution of the agreement, to construct a Bull-Pen Restaurant for the franchisee.

5. MAR, Inc. may terminate the franchise if any of the following occurs: (1) the franchisee fails to conform to the terms of the agreement relating to the use of trademark "Bull-Pen"; (2) the lease on the premises is terminated for any reason; (3) the franchisee files a petition in bankruptcy or makes an assignment for the benefit of creditors; or (4) the franchisee fails to comply with any provision of the franchise agreement, provided that MAR, Inc. notifies the franchisee in writing of such failure and gives the franchisee 60 days to correct such failure. If the franchisee fails to correct the situation, MAR, Inc. may terminate the franchise 30 days thereafter.

6. The obligations of the franchisee after either the termination or the expiration of the franchise (either by the franchisor or the franchisee) are as follows:

(1) franchisee is obligated to pay royalties, advertising fees, and other charges owed to franchisor,

(2) franchisee shall not hold himself out as a "Bull-Pen" franchisee, and shall cease the use of trademarks, processes, materials, methods, or promotional materials provided by MAR, Inc.; he shall take all necessary steps to disassociate himself from "Bull-Pen," including the removal of signs, destruction of letterheads, changing of telephone listings, etc.,

(3) franchisee shall return to franchisor all manuals and training and promotional aids, and

(4) franchisee shall assign the remainder of the lease to franchisor.

7. The franchisee relinquishes all interest of every kind and description in the franchise upon termination or expiration of the franchise agreement. The franchisor shall purchase from the franchisee, at fair market values determined by the franchisor, all of the franchisee's right, title and interest in all inventory, supplies, and equipment on the premises. The franchisee receives no payment for equity with regard to the Bull-Pen trademark, or for goodwill established either prior to or during the operation of the franchise.

8. MAR, Inc. has an option to repurchase the franchisee's right, title and interest in and to the business developed under the Bull-Pen trademark during the term of the franchise agreement whenever the franchisee commits an act of default under the terms of the agreement, i.e., becomes insolvent, fails to make a refund payment to the franchisor within 15 days of the due date, or fails to comply with any health, safety or quality edict, given to it by the franchisor, within 20 days of such delivery. The purchase price will be the fair market value of the assets being purchased, as determined by the franchisor. There will be no independent appraisal of the assets, and no predetermined formula for the appraisal. There will be no payment in recognition of goodwill or other intangibles. The franchisor also has a right of first refusal whenever the franchisee seeks to assign all or any interest in the franchise to a third party.

9. During the term of the agreement, the franchisee may not sell, assign, transfer, convey or encumber any interest in the Bull-Pen Franchise without prior written consent of MAR, Inc. Any attempted sale will trigger a right of first refusal for the franchisor to match the terms of the requested sale. This right may be exercised for a period of 14 days after notification by the franchisee of the sale. Notwithstanding the franchisor's decision not to match the terms of the sale, the franchisor may disapprove a sale, assignment, transfer, conveyance or encumbrance whenever it determines that the proposed action is not in the best interest of the franchise or the other franchisees. All approvals shall be subject to such terms and conditions as may be prescribed by MAR, Inc.

10. MAR, Inc. has the right to sell or assign the agreement in whole or in part in its discretion.

11. The agreement may be modified only if MAR, Inc. and franchisee agree to the modification in writing.

12. Same as 11.

13. In the event of the death or incapacity of the franchisee, the franchisor will purchase the franchise in the same manner as noted above with respect to repurchase upon termination or expiration of the franchise agreement.

14. The franchisee neither shall be employed by nor have any financial or ownership interest in a business selling goods or services sold under the franchise agreement during the term of and for a period of 1 year from termination, transfer, or expiration of the franchise agreement, if such business is located within a 10-mile radius of the franchise outlet owned by the franchisee.

There are no restrictions on a franchisee's solicitation of customers of the franchise business for ventures other than for those businesses to which the restrictions described above would apply.

§ 436.1(a)(16) [Statistical Information Concerning the Number of Franchises (and Company-Owned Outlets)]

Rule

(16) A statement disclosing, with respect to the franchisor and as to the particular named business being offered;

(i) The total number of franchises operating at the end of the preceding fiscal year;

(ii) The total number of company-owned outlets operating at the end of the preceding fiscal year;

(iii) The names, addresses, and telephone numbers of (A) the 10 franchised outlets of the named franchise business nearest the prospective franchisee's intended location; or (B) all franchisees of the franchisor, or (C) all franchisees of the franchisor in the state in which the prospective franchisee lives or where the proposed franchise is to be located, provided, however, that there are more than 10 such franchisees. If the number of franchisees to be disclosed pursuant to subparagraph (B) or (C) exceeds 50, such listing may be made in a separate document delivered to the prospective franchisee with the prospectus if the existence of such separate document is disclosed in the prospectus;

(iv) The number of franchises voluntarily terminated or not renewed by franchisees within, or at the conclusion of, the term of the franchise agreement, during the preceding fiscal year;

(v) The number of franchises reacquired by purchase by the franchisor during the term of the franchise agreement, and upon the conclusion of the term of the franchise agreement, during the preceding fiscal year;

(vi) The number of franchises otherwise reacquired by the franchisor during the term of the franchise agreement, and upon the conclusion of the term of the franchise agreement, during the preceding fiscal year;

(vii) The number of franchises for which the franchisor refused renewal of the franchise agreement or other agreements relating to the franchise during the preceding fiscal year; and

(viii) The number of franchises that were cancelled or terminated by the franchisor during the term of the franchise agreement, and upon conclusion of the term of the franchise agreement, during the preceding fiscal year.

With respect to the disclosures required by subparagraphs (v), (vi), (vii) and (viii), the disclosure statement shall also include a general categorization of the reasons for such reacquisitions, refusals to renew or terminations, and the number falling within each such category, including but not limited to the following: failure to comply with quality control standards, failure to make sufficient sales, and other breaches of contract.

Explanation

This paragraph requires disclosure of the total number of operating franchisees and company-owned outlets of the franchisor, as well as the number of franchises which the franchisor has terminated, failed to renew or reacquired during the preceding fiscal year. It also requires disclosure of the number of franchises voluntarily terminated or not renewed by the franchisee.

The franchisor may comply with subsection (iii) disclosures by any one of three methods: (a) listing the ten franchised outlets nearest the prospective franchisee's intended location (or all franchise units if fewer than ten); (b) listing all franchisees; or (c) listing all franchisees located in either the state where the prospective franchisee will locate its business or where the prospective franchisee lives. This latter alternative is especially helpful if the proposed business location of the potential franchisee is unknown. Method (c) may be utilized only if the list will contain more than ten franchisees. If either method (b) or (c) is chosen, and such list contains more than 50 franchisees, the list may be given to the prospective franchisee separate from the Basic Disclosure Document, as long as the Basic Disclosure Document references the existence of the list, and the list is given to the prospective franchisee at the same time as the Basic Disclosure Document.

Subsection (iv) refers only to those situations in which the termination or non-renewal resulted solely from the franchisee's own preference. Furthermore, it is limited to those events occurring during the franchisor's preceding fiscal year.

Subsections (v-viii) refer to terminations by the franchisor by means of reacquisition, non-renewal or cancellation. It, too, is limited to those events occurring during the franchisor's preceding fiscal year. Subsection (v) covers reacquisitions resulting from voluntary purchase from franchisees. Subsection (vi) covers reacquisitions resulting from franchisee bankruptcy, triggered by the death or incapacity of the franchisee, or "otherwise reacquired." Subsection (vii) covers reacquisitions resulting from refusal to renew under the terms of the franchise agreement or any ancillary agreements (e.g., lease or purchasing agreements). Subsection (viii) covers reacquisitions resulting from termination or cancellation. The disclosure accompanying the number of franchises for each subsection (v-viii) should state the general reason for the reacquisition,

such as "failure to comply with quality control standards" or "failure to make sufficient sales." The franchisor is not required to disclose either the name or any other identifying information about any terminated franchisee.

Example of Disclosure

As of December 31, 1977, Hudson, Inc. had 212 franchised Hudson Inns and 14 company-owned outlets in operation. A list of the names, addresses and telephone numbers of all franchisees is attached hereto as Appendix C.

In the preceding fiscal year, 5 franchisees chose not to renew their franchise at the conclusion of their franchise agreements and 6 franchisees terminated their franchise relationship during the term of the franchise agreement. During the same period, Hudson, Inc. has repurchased 6 franchises during the term of the franchise agreement through the exercise of its right of refusal. In addition, Hudson, Inc. has reacquired 2 franchisees because of the bankruptcy of the franchisee.

Hudson, Inc. has not refused to renew any of its franchises during the previous fiscal year. It has, however, terminated 3 franchised outlets; 2 of these were terminated for failure to comply with the franchisor's quality control standards, and 1 for having failed to maintain his bookkeeping system in accordance with the franchise agreement.

§ 436.1(a)(17) [Site Selection]

Rule

(17)(i) If site selection or approval thereof by the franchisor is involved in the franchise relationship, a statement disclosing the range of time that has elapsed between signing of franchise agreements or other agreements relating to the franchise and site selection, for agreements entered into during the preceding fiscal year; and

(ii) If operating franchise outlets are to be provided by the franchisor, a statement disclosing the range of time that has elapsed between the signing of franchise agreements or other agreements relating to the franchise and the commencement of the franchise's business for agreements entered into during the preceding fiscal year.

With respect to the disclosures required by subparagraphs (a)(17) (i) and (ii), a franchisor may at its option also provide a distribution chart using meaningful classifications with respect to such ranges of time.

Explanation

The disclosures required by this section concern the selection or approval of a site for the proposed franchise outlet and the timeframes for such activity, based on the franchisor's experience in the preceding fiscal year. Franchisor approval is present whenever it is required by explicit contractual agreement as well as through other indirect means of controlling or strongly influencing site selections, such as, for example, requirements in operating manuals relating to sufficient customer parking or

customer traffic specifications. If the franchisor does not select or approve a site, a statement to such effect will suffice. Location clauses limited to general geographic areas like counties or cities, where the actual location within such geographic area is left solely to the franchisee's discretion, need not be described.

In listing the ranges of time between events requiring disclosure, the disclosure may include a distribution chart using meaningful classifications for the data therein presented. This chart may show different ranges of time depending on size or location, e.g., highway, shopping center, urban, rural, etc.

Example of Disclosure

The franchise agreement obligates the franchisor to select the site and provide an operating outlet for the franchisee. During the past fiscal year, the average length of time between the signing of the Franchise Agreement and the selection of a site for the Doe Burger Restaurant franchise was two to four months, and the typical length of time between the signing of the franchise agreement and the opening of the franchisees' business was six to eight months (or approximately four months after the site was selected).

§ 436.1(a)(18) [Training Programs]

Rule

(18) If the franchisor offers an initial training program or informs the prospective franchisee that it intends to provide such person with initial training, a statement disclosing:

- (i) The type and nature of such training;
- (ii) The minimum amount, if any, of training that will be provided to a franchisee; and
- (iii) The cost, if any, to be borne by the franchisee for the training to be provided, or for obtaining such training.

Explanation

This section requires disclosures relating to the franchisor's training program. The required disclosure is limited in scope to the training the franchisor offers at the beginning of the franchise relationship—that is, from the period after the execution of the franchise agreement through shortly after the actual commencement of the franchise business. The franchisor is required to disclose (a) the type and nature of the initial training; (b) the minimum amount, if any, of training that will be provided; and (c) the cost, if any, to be borne by the franchisee for such training.

By "type and nature", the Commission intends a description of the general content of the initial training program, including all elements of such training. Among the factors that should be disclosed are the location of the training

program (e.g., franchisor's headquarters, franchised outlet, by mail, etc.) the persons for whom training is either available or required (e.g., franchisee, manager, or employees), the instructional method, and whether the franchisor requires the trainee to attain a stated level of performance (e.g., satisfactory completion).

Disclosure about the cost to franchisees for such training should include the charges for the training, as well as personal expenses such as transportation, food and lodging. Estimates of expenses to the franchisees may be used if exact amounts are unknown or not easily calculated. The franchisor, at its option, may describe any additional training available to franchisees during the term of the franchise relationship.

Example of Disclosure

The management training program of the franchisor is conducted at Doe's Management Center, located in Neptune, New Jersey. The Center provides a training program for all new franchisees which must be completed prior to opening the franchise outlet. The training combines both classroom instruction and training in a special company-owned outlet. Classroom instruction covers food preparation, equipment operation, cost control, stock ordering, accounting principles and basic techniques of management. In addition to classroom instruction, an on-the-job training course is mandatory for each franchisee and each person responsible for the daily operation of a Doe Burger's Restaurant. The minimum amount of training that the franchisee will receive is two weeks. The training program is offered free of charge to the franchisee and his/her supervisory employees; except that the franchisee is responsible for costs such as room, board and transportation. Franchisee costs for room and board in the Neptune, New Jersey area are approximately \$50 per day per person.

§ 436.1(a)(19) [Public Figure Involvement in the Franchise]

Rule

(19) If the name of a public figure is used in connection with a recommendation to purchase a franchise, or as a part of the name of the franchise operation, or if the public figure is stated to be involved with the management of the franchisor, a statement disclosing:

- (i) The nature and extent of the public figure's involvement and obligations to the franchisor, including but not limited to the promotional assistance the public figure will provide to the franchisor and to the franchisee;
- (ii) The total investment of the public figure in the franchise operation; and
- (iii) The amount of any fee or fees the franchisee will be obligated to pay for such involvement or assistance provided by the public figure.

Explanation

This section requires the disclosure of the role of a "public figure" if his or her name is (1) used as part of the name of the franchise operation, or (2) used in connection with a recommendation to purchase a franchise, or (3) stated to be involved with the management of the franchisor. The term "public figure" refers to a person whose identity would be known to a substantial portion of the public either nationally or within the geographic area in which the franchise is sold, such as a person who has achieved prominence in sports, entertainment or public affairs. The term does not include non-living or fictionalized characters.

Disclosure is not required if the public figure's representations are limited to product endorsements, unless the endorsement also either includes a recommendation to purchase a franchise or suggests that the individual is affiliated with the franchisor's management. Moreover, even if the public figure is associated with the franchisor's management (e.g., a director), no disclosure is required unless such association is highlighted (i) in connection with a recommendation to purchase a franchise, (ii) as part of the name of the franchise operation, or (iii) as a communicated factor in describing the management structure of the franchisor.

The disclosure with respect to a public figure involvement should discuss the terms of the agreement with the public figure, including compensation and the franchisee's rights or restrictions in utilizing the public figure's personal appearances, name or likeness. If the public figure is stated to be involved with the actual management of the franchisor, the statement should describe the person's title and responsibilities.

The franchisor also must disclose the public figure's total investment, if any, in the franchise operation, including a description of the type of investment, e.g., common stock, notes, etc.

Example of Disclosure

MAR, Inc., the franchisor, has a 20-year exclusive agreement with the famous tennis player Paul Showdorf to use his name and likeness in the promotion of Paul's Palace Restaurant franchises. A likeness of Mr. Showdorf will appear on all outdoor signs, napkins and placemats. Mr. Showdorf will receive \$250,000 per year in compensation. Mr. Showdorf is obligated to make 12 commercials per year for national circulation and is obligated to appear at the grand opening of each Paul's Palace Restaurant. Mr. Showdorf has not invested in the franchise operation. The services outlined above are

provided by the franchisor as part of the franchise agreement.

§ 436.1(a)(20) [Financial Information Concerning the Franchisor]

Rule

(20)(i) A balance sheet (statement of financial position) for the franchisor for the most recent fiscal year, and an income statement (statement of results of operations) and statement of changes in financial position for the franchisor for the most recent 3 fiscal years. Such statements are required to have been examined in accordance with generally accepted auditing standards by an independent certified or licensed public accountant. *Provided, however*, that where a franchisor is a subsidiary of another corporation which is permitted under generally accepted accounting principles to prepare financial statements on a consolidated or combined statement basis, the above information may be submitted for the parent if (A) the corresponding unaudited financial statements of the franchisor are also provided and (B) the parent absolutely and irrevocably has agreed to guarantee all obligations of the subsidiary:

(ii) Unaudited statements shall be used only to the extent that audited statements have not been made, and provided that such statements are accompanied by a clear and conspicuous disclosure that they are unaudited. Statements shall be prepared on an audited basis as soon as practicable, but, at a minimum, financial statements for the first full fiscal year following the date on which the franchisor must first comply with this Part shall contain a balance sheet opinion prepared by an independent certified or licensed public accountant, and financial statements for the following fiscal year shall be fully audited.

Explanation

Required disclosure includes a balance sheet (statement of financial position) for the franchisor's most recent fiscal year, an income statement (statement of results of operations) for the most recent three fiscal years, and a statement of changes in financial position for the most recent three fiscal years. These financial statements must be accompanied by an opinion from an independent certified or licensed public accountant that the statements have been examined in accordance with generally accepted auditing standards of the United States. The opinion may be "qualified" or contain disclaimers if the accountant believes that the circumstances so warrant. An "independent or licensed public accountant" is an accountant who is permitted under the law of such person's State to prepare opinions on audited statements and is independent of the company being examined.

Financial statements prepared and filed with the Securities and Exchange Commission in accordance with SEC

Regulation S-X and the SEC's Accounting Series Releases may be used, even though their preparation may differ in minor respects from generally accepted accounting principles.

If the franchisor is a subsidiary of another company, the parent company's audited financial statements may be used in lieu of the franchisor's statements if the parent's financial statements are prepared on a combined or consolidated basis according to generally accepted accounting principles, provided that the franchisor's *unaudited* statements also are included. In such circumstances the parent must absolutely and irrevocably agree to guarantee to the franchisee all obligations of the franchisor under the franchise agreement and related agreements, and as set forth in the Basic Disclosure Document. This guarantee should appear in conjunction with the financial statements.

Franchisors may use unaudited financial statements (or those of their parents) if they lack audited statements for the fiscal years to be reported when they are first required to furnish a Basic Disclosure Document. However, the rule limits the length of time that unaudited statements may be used. Subsection (ii) requires that financial statements for the first year following the date when the franchisor first is required to comply with the rule must contain a balance sheet opinion prepared by an independent certified or licensed public accountant. A franchisor is "first required to comply with the rule" the first time it ever is required to distribute the Basic Disclosure Document to a prospective franchisee. Thus, a franchisor who is not now recruiting franchisees need not furnish a Basic Disclosure Document until such time as it resumes recruiting.

In practice, subsection (ii) will give franchisors who presently lack audited financials at least two complete fiscal years to begin reporting on an audited basis. For example, assume that a franchisor who lacks audited financials first disseminates a Basic Disclosure Document in the middle of its 1980 fiscal year. In such circumstance, it may use its unaudited 1979 fiscal year balance sheet in that document. Within 90 days after the close of its 1980 fiscal year, a revised disclosure document for the franchisor's 1981 fiscal year must be prepared. This new Basic Disclosure Document would contain the franchisor's fiscal 1980 financial information. These financials need not be audited (unless they were, in fact, previously prepared on an audited basis) since the franchisor's fiscal 1980

was not a *full* fiscal year from the date when the franchisor was first required to comply with the rule (i.e., give out a disclosure document). However, the franchisor's Basic Disclosure Document the next year, i.e., for fiscal year 1982, would contain a balance sheet opinion with respect to its 1981 financial statements. A "balance sheet opinion," in accounting terminology, consists of an opinion by an independent certified or licensed public accountant that the balance sheet presents fairly the financial position of the company, in conformity with generally accepted accounting principles consistently applied and that the accountant has performed the analyses and examinations required in conformity with generally accepted accounting principles. The Basic Disclosure Document for fiscal year 1983 would contain fully certified financial statements for Fiscal Year 1982.

A tabular summary of the above-described example is as follows:

Franchisor fiscal year	Required financial statement for fiscal year ending	Type of statement required
1980.....	1979	Unaudited.
1981.....	1980	Unaudited.
1982.....	1981	Balance sheet opinion.
1983.....	1982	Fully certified.

While § 436.1(a)(20)(i) requires an income statement (statement of results of operations) and a statement of changes in financial position for each of the most recent three fiscal years, the rule does not require that such past information be audited if it has not in fact been audited or, if the franchisor has not been in business for that long. The obligation to report audited information arises only as financial statements are prepared on an audited basis, within the period set out in § (a)(20)(ii). In the example noted above, the franchisor in fiscal 1983 would include audited statements for fiscal year 1982, and unaudited income statements and statements of changes in financial position for fiscal 1981 and 1980, indicating that such statements are unaudited.

Whenever unaudited statements are used, they must be accompanied by a disclosure that the statement has not been audited by an independent certified or licensed public accountant. The format for unaudited financials should correspond as closely as possible to whatever consolidated financials also may appear. For example, if the consolidated balance sheet lists five categories of "current assets", the unaudited balance sheet should list the

same five categories if possible, for "current assets", rather than merely list an aggregate number for "current assets" without further elaboration.

Where material changes occur in the information contained in the financial statements—i.e., changes which have a substantial likelihood of affecting a reasonable franchisee's investment decision or which have a significant impact on a franchisee—the franchisor is required to give the prospective franchisee updated information as discussed in these guides in Chapter I An Overview of the Rule, Section C when disclosures must be made. Such updated information need not be audited.

III. Use of Earnings Claims

The rule does not require that any earnings claim be made. However, if such claims are made, they may be made only in accordance with the provisions of Sections 436.1(b)–(e) of the rule. Section 436.1(b) concerns claims of potential earnings; § 436.1(c) concerns claims of past earnings performance; § 436.1(d) concerns segments of a disclosure document which describe the earnings claims that are made and § 436.1(e) concerns earnings claims made in the media.

The term earnings claim should be interpreted as including an oral, written or visual representation to a prospective franchisee or for general dissemination in the media which states or suggests a specific level or range of potential or actual sales, income, gross or net profits. Thus, it includes claims such as "earn a \$10,000 profit" or "sales volume of \$250,000" or "earn up to \$25,000 per year income." It also includes the presentation of facts which suggests or from which a prospective franchisee easily could infer a specific level or range of income, sales or profits, such as "earn enough money to buy a new Porsche" or "100% return on investment within the first year of operation." It does not include mere puffery, such as "make big money" or "opportunity of a lifetime." The presentation of data, such as costs only, from which income or profits can be determined simply by arbitrarily selecting a sales figure, is considered to be an earnings claim subject to the provisions of the rule. All earnings claims—whether they be made directly to the prospective franchisee or in the media—must satisfy the following rule imposed standards:

1. A reasonable basis must exist to support the accuracy of the claim.
2. Material sufficient to substantiate the accuracy of the claim must be in the franchisor's possession at the time the claim is made.

3. The claim must be geographically relevant to the prospective franchisee's proposed location (except for media claims discussed *infra*). These three standards are discussed separately below.

In addition, any time an earnings claim is made, an Earnings Claim Document must be furnished to the prospective franchisee at the time required by the rule.

A. Reasonable Basis

The facts in the franchisor's possession must reasonably support the earnings claim as it is likely to be understood by a reasonable prospective franchisee. These facts should constitute information upon which a prudent businessperson would rely in making an investment decision. Obviously, no rigid criteria can be established for the quality and quantity of information which constitutes the reasonable basis for a claim.

With respect to projections of potential future earnings (436.1(b)), two publications prepared by the American Institute of Certified Public Accountants suggest a number of criteria which contribute to the reasonableness of a forecast. These publications are *Presentation and Disclosure of Financial Forecasts* (August, 1975) (AICPA Pub. 75-4), and *Guidelines for Systems for the Preparation of Financial Forecasts* (Guideline Series No. 3 (1975)). These factors include:

- (1) The quality of information upon which the forecast is based;
- (2) The degree to which the information upon which the forecast is based is the best information reasonably available to the franchisor at the time the forecast was made;
- (3) The degree to which the forecast is the single most probable result, given the information and assumptions on which the representation is based;
- (4) The degree to which the assumptions on which the forecast is based are, in themselves, reasonable and suitably supported;
- (5) Whether the forecast has been prepared with appropriate care and by qualified personnel; and
- (6) The degree to which previous forecasts have been accurate in predicting subsequent events.

In citing these publications, the Commission is not suggesting that they are an exclusive test of what constitutes a reasonable basis; instead they only provide illustrations of the types of considerations which are relevant. The state of the art of forecasting precludes any inflexible approach to the definition of a reasonable basis.

With respect to claims of past earnings performance pursuant to Section 436.1(c), the data upon which

the franchisor bases its claims must be capable of independent examination and verification. The data must reasonably support the claim as it is likely to be understood by a reasonable prospective franchisee. For example, a representation that franchisees earn a net profit of \$30,000 per year implies that such figure is representative of the usual experience of the system's franchisees. The claim would not have a reasonable basis if, in fact, only a small minority of the franchisees earn such amount or if profits were due to non-recurring conditions or if the franchisees used inconsistent systems for reporting profit. Moreover, the franchisor would not have a reasonable basis for the claim if the only facts to support it were the income statements of a disproportionately small percentage of the system's franchisees.

Claims pursuant to 436.1(c) should be prepared in accordance with generally accepted United States accounting principles on a uniform basis consistently applied. This requirement does not mean that all franchisee results must be audited. Rather, a franchisor can rely on profit and loss statements furnished by franchisees or other representations as long as the franchisor is advised by the franchisees whose data the franchisor utilizes that the data was prepared in accordance with generally accepted accounting principles.

B. Substantiation

A franchisor must possess the data upon which its earnings claim is based at the time the representation is made. This data can consist of, for example, market studies, statistical analyses, franchisee profit and loss statements, as well as other types of information which customarily are relied upon by prudent persons in the course of making business decisions. This material must be made available to prospective franchisees and to the Commission or its staff upon reasonable notice. The franchisor must disclose the availability of the substantiating material in conjunction with any representation made. In order to protect franchisees from unwarranted disclosure of sensitive financial information the franchisor may delete any identifying information from which the identity of the franchisee can be obtained by the prospective franchisee. This limitation, however, does not apply to disclosures made to the Commission.

C. Geographic Relevance

Earnings claims (except those used in the media) must be relevant to the geographic market in which the

franchisee is to be located. This common-sense requirement, which is essentially a part of the "reasonable basis" concept, simply recognizes that projections which may be relevant to the geographic market of one franchisee may not be reasonably based for another franchisee to be located in a different geographic market presenting significantly dissimilar conditions. This requirement does not, however, restrict the franchisor to using information relating solely to the geographic area in which the franchisee is to be located. By "relevant," the Commission means that the experience of outlets in one geographic market area is likely to be predictive of the prospective franchisee's experience. The more similar the market conditions between the geographic areas are (e.g., demographics, socio-economic characteristics, climate, location—such as freestanding vs. shopping center—etc.) the more predictive the experience of the outlets in the other geographic market is likely to be. Any factors which are different and/or which are likely to affect the prospective franchisee's chances of achieving similar results should be disclosed.

D. Disclosure Document

Earnings claims may be made only if accompanied by an Earnings Claim Document. This document must be given to the prospective franchisee at the earlier of the first personal meeting at which the claim is made or ten days prior to entering into the franchise relationship. With respect to representations made solely in media advertising, the Earnings Claim Document must be given at the earlier of the first personal meeting or time for making of disclosures (described in Chapter I, Paragraph C, *supra*).

The Earnings Claim Document must contain six items:

1. A cover page setting forth the name of the franchisor, the date of issuance of the document, and a statement—whose text is set forth in Section 436.1(d)(1)—which, in essence, advises the prospective franchisee of the importance of the document. A table of contents to the document also is required by Section 436.1(d)(2).
2. The earnings claim.
3. A statement of the bases and assumptions upon which any earnings claim is made (discussed *infra*).
4. Certain mandatory disclosures, the text of which is dependent upon the type of earnings claim made. If a claim relates to projected future earnings (Section 436.1(b)), then the text must be as follows:

CAUTION

These figures are only estimates of what we think you may earn. There is no assurance you'll do as well. If you rely on our figures, you must accept the risk of not doing as well.

If the earnings claim relates to past performance (Section 436.1(c)), then the text must be as follows:

CAUTION

Some outlets have [sold] [earned] this amount. There is no assurance you'll do as well. If you rely upon our figures, you must accept the risk of not doing as well.

5. Notice that substantiating material is available for inspection by the prospective franchisee (except that no such statement is required in the disclosure document if the earnings claims are made solely in media advertising).

6. Other disclosures, depending upon type of claim made (discussed *infra*).

1. Statements of bases and assumptions

As set forth in item 3, *supra*, the Earnings Disclosure Document must contain a statement of bases and assumptions. Generally speaking, this statement should furnish sufficient information to enable the prospective franchisee to make an independent judgment as to the validity of the earnings claim. The statement should include a description of the material information relied upon when making the claim and a description of the material assumptions implicit in the claim.

If an earnings claim relates to past performance, or if the results of past performance are used to base predictions of projected future performance, then assumptions and facts which bear on the probability that a prospective franchisee will achieve similar earnings must be disclosed, including characteristics of the outlets upon which the claim is based which differ materially from the outlet being offered. Examples of such differences in characteristics would include geographic location, type of location (e.g., free standing vs. shopping center location), degree of competition in the market area, time the outlets have been in operation, services or goods sold, services supplied by the franchisor, and whether the units are franchised or company-owned or operated.

Assumptions with respect to earnings claims for projected future earnings must be disclosed if their validity is sufficiently in doubt that a reasonably prudent prospective franchisee might be deterred from relying on the forecast if he or she knew of the underlying assumptions. Guidance on the type of disclosures to be made may be gained

from the AICPA *Statement on the Presentation and Disclosure of Financial Forecasts* at 5–6, which states, in part:

Those assumptions should be disclosed which management thinks are most significant to the forecast or are key factors upon which the financial results of the enterprise depend. There ordinarily should be some indication of the basis or rationale for these assumptions. It would also be desirable for the disclosure to include an expression of the relative impact of a variation in the assumption when it would significantly affect the forecasted result.

Frequently, basic assumptions that have enormous potential impact are considered to be implicit in the forecast. Examples might be conditions of peace, absence of natural disasters, etc. Such assumptions need be disclosed only when there is a reasonable possibility that the current conditions will not prevail. In such circumstances, to the extent practicable, the possible impact of a change in the assumptions should be disclosed.

Identifying those assumptions which at the time of preparation, appear to be most significant to the forecast or which are key factors upon which the financial results of the business depend requires the careful exercise of good-faith judgment by management. The disclosure should include the following:

- a. Assumptions as to which there is a reasonable possibility of the occurrence of a variation that may significantly affect the forecasted results.
- b. Assumptions about anticipated conditions that are expected to be significantly different from current conditions, which are not otherwise reasonably apparent.
- c. Other matters deemed important to the forecast or to the interpretation of the forecast.

2. Other disclosures for potential earnings (436.1(b))

The number and percentage of the outlets which are located in the geographic markets that form the basis for the forecast and which the franchisor or the franchise broker knows to have achieved at least as favorable results as those forecasted must appear in immediate conjunction with the potential earnings claim.

The term "outlet" includes both franchised and company-owned or operated outlets. However, if the representation is based on both types of outlets, the data should separate the two types to reflect the experience of each type of outlet.

The disclosure is limited to those outlets which have achieved at least such results in a time period of corresponding length in the immediate past (usually within the last several years) as those forecasted. Thus, if the forecast is for achievements to be reached in a year, the disclosure should

indicate the number and percentage of outlets in those geographic markets upon which the representation is based which achieved at least the same result in a period of a recent year. The beginning and ending dates for the corresponding time period must be disclosed.

Paragraph (b)(5)(ii) requires that the disclosure document include, where appropriate, a statement that a franchisor is without prior franchising experience with respect to the particular product or service being franchised.

Paragraph (b)(4) requires the disclosure statement to include a disclaimer warning the prospective franchisee that there is no assurance that he or she will achieve the forecast and that he or she must assume the risk that the forecast will not be achieved.

Example of Disclosure of Potential Earnings Together With Statement of Bases and Assumptions

Disclosure

Ice Cream Systems of America, Inc., estimates the most probable sales volume for the first twelve months at the proposed Kensington, Maryland site at \$75,000.

CAUTION

These figures are only estimates of what we think you may earn. There is no assurance you'll do as well. If you rely upon our figures, you must accept the risk of not doing as well.

Five franchised outlets, which constitute 42 percent of all the franchised outlets in the geographic markets upon which this forecast is based, have achieved a sales volume of at least \$75,000 in their first twelve months, for the period from June 1, 1978 to May 31, 1979.

Bases

This forecast is based upon (1) recent past performance of two franchised units in similar geographic market areas; (2) recent past experience of three franchised units in the same geographic market area; (3) a market study for the geographic market area conducted by H. Arthur Associates, an independent consulting firm; and (4) traffic volume study for proposed site conducted by qualified personnel from Ice Cream Systems of America, Inc.

(1) Three franchised outlets in geographical market areas similar to the suburban Washington, D.C. area report results for their first twelve months as at least \$75,000 in sales volume. These franchised units are identical in design and operation to the unit proposed for Kensington, Maryland, and are located in similar areas (shopping center mall) with similar traffic volume and population characteristics. One of the units is located near a small college which generates approximately 25% of its customers.

(2) Ice Cream Systems of America, Inc., has recently opened two other franchised outlets in Washington, D.C., suburban area. Both units report sales volume in excess of \$75,000 for their first twelve months in business (June 1, 1978-May 31, 1979). One of the units is

located near the main campus of a state university which accounts for approximately 45% of its customers.

(3) Ice Cream Systems of America, Inc., has conducted appropriate traffic volume studies for the proposed site, which indicate traffic potential in excess of that for the five franchised outlets mentioned above. The study indicates that the outlet should be able to generate 200 or more customers a day.

(4) H. Arthur Associates, Inc., an independent consultant has conducted a market study for the demand of KoneKorner products in the geographic market areas in which the franchise is to be located (suburban Maryland/Washington, D.C. suburbs). The study indicates strong consumer preference for KoneKorner brands over brands currently available in the geographic market area.

These studies, and the financial statements of the franchise units mentioned above, are available to the prospective franchisee for inspection.

Assumptions

The above forecasted sales volumes assume an opening date no later than June 1, 1980. If opening is delayed, this figure will be affected since, on the average (based on all reporting operating outlets), 50% of the annual volume is achieved in June, July and August.

The above forecast assumes operating hours from 10 A.M. until 1 A.M. daily, 365 days a year. This further assumes an average of 172 customers a day with average orders of \$1.20, which is the average of all reporting operating outlets.

The above forecast also assumes the completing of the Kensington Community College facilities by September 1, 1979. Students from this facility are expected to account for a significant proportion of the customers (varying from 25%-45% in the experience of the two outlets mentioned above).

The above forecast also assumes: (1) stable supply of dairy products for 1980; (2) no competing ice cream outlet within a 4 block radius; and (3) retail price increases of no more than 7 percent in 1980.

3. Special Features of Disclosures of Past Earnings (436.1(c))

The number and percentage of outlets of the franchise which are located in the geographic markets which form the basis for the representation and which the franchisor or the franchise broker knows to have obtained at least the same results as those represented must appear in immediate conjunction with the past earnings claim. Where a franchisor distributes more than one type of good or service, it may only disclose information about outlets which sell the same goods or services as those being offered to the prospective franchisee. For example, where a franchisor franchises two fast-food systems—one fried chicken and the other pizza—it may disclose only information about pizza outlets where

the pizza franchise is the franchise being offered.

The term "outlet" includes both franchised and company-owned or operated outlets. However, if the representation is based on both types of outlets, the data should separate the two types to reflect the experience of each type of outlet.

The disclosure is limited to those outlets which have achieved such results during a period of corresponding length to that represented, during the immediate past (e.g., within the last several years). The beginning and ending dates of the corresponding time period must be disclosed.

If the franchisor is without prior experience in franchising the particular product or service being offered, it must disclose this fact.

Example of Disclosure of Past Earnings Together With Statement of Bases and Assumptions

Disclosure

Kleanco franchisees earn \$35,000 in net profits a year.

CAUTION

Some outlets have earned this amount. There is no assurance you'll do as well. If you rely upon our figures, you must accept the risk of not doing as well.

Thirty, or 25% of all Kleanco franchised outlets in the 5 metropolitan areas on which this claim is based, reported net profits in excess of \$35,000 for the fiscal year 1978. (July 1, 1978-June 30, 1979).

Bases

This claim is based on the income statements (statement of results of operations) for 30 Kleanco franchisees in the downtown areas of New York, New Haven, Trenton, Philadelphia, and Hartford. These statements have been prepared in accordance with generally accepted accounting principles and reflect operations for the period from July 1, 1978-June 30, 1979.

The income statements are available for inspection.

Assumptions

These figures are based on accounting principles which are disclosed as part of the income statement and the notes thereto.

Ten of the franchisees noted above have been in business for more than ten years; five have been in business between five and ten years; and five more have been in business between two and five years. Only ten of the outlets referred to above have been open less than 2 years.

4. Special Features for Media Claims (436.1(e))

Section 436.1(e) encompasses earnings claims made for "general dissemination." It includes claims made in advertising (radio, television, magazines, newspapers, billboards, etc.)

as well as those contained in speeches or press releases. It does not include communications to financial journals or the trade press in connection with bona-fide news stories, or directly to lenders in connection with arranging financing for the franchisee.

Like other earnings claims, a reasonable basis must exist for the claim, substantiating material must be in the franchisor's possession at the time the claim is made and an Earnings Claim Document must be given to prospective franchisees at the earlier of the first personal meeting or time for making of disclosures. However, unlike claims made directly to a prospective franchisee, substantiating material must be made available for inspection only to the Commission, and notice of the existence of the substantiating material is not required. Further, no geographic relevance is required.

Mandatory disclosures must be included in the actual advertisement containing any earnings claim, regardless of whether the claim relates to past earnings or potential earnings. Section 436.1(e)(3) requires, in "immediate conjunction" with any earnings claim, the disclosure of the number and percentage of the outlets which the franchisor or franchise broker knows to have made at least the same results as those represented in the claim, in the recent past during a similar time period. (If the claim is not based on earnings of existing outlets, this must be disclosed.) This disclosure should refer to all of the franchisor's outlets (including company owned outlets), unless the advertisement clearly indicates otherwise. If the claim includes both franchised and company-owned outlets, each category should be reported separately in this disclosure.

In addition to the above requirement, section 436.1(e)(4) requires the following disclosures to be made in conjunction with any forecast about potential franchise sales, income or profits in media advertising:

CAUTION

These figures are only estimates; there is no assurance you'll do as well. If you rely upon our figures, you must accept the risk of not doing as well.

Example of Advertisement Describing Past Earnings

Our Franchisees Earn \$50,000 or More Per Year!

Now, for a limited time in this area, a well-known licensor of mobile office cleaning franchises is offering an opportunity for a self-motivated person to join the ranks of independent businessmen who have earned \$50,000 a year! Small investment needed! This is an opportunity of a lifetime!

Three units, or 6 percent of all franchised units, earned net profits of at least \$50,000 from June 1, 1978-May 30, 1979.

IV. Official Text of the Franchise Rule

§ 436.1 The rule.

In connection with the advertising, offering, licensing, contracting, sale, or other promotion in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, of any franchise, or any relationship which is represented either orally or in writing to be a franchise, it is an unfair or deceptive act or practice within the meaning of section 5 of that Act for any franchisor or franchise broker:

(a) To fail to furnish any prospective franchisee with the following information accurately, clearly, and concisely stated, in a legible, written document at the earlier of the "time for making of disclosures" or the first "personal meeting":

(1)(i) The official name and address and principal place of business of the franchisor, and of the parent firm or holding company of the franchisor, if any;

(ii) The name under which the franchisor is doing or intends to do business; and

(iii) The trademarks, trade names, service marks, advertising or other commercial symbols (hereinafter collectively referred to as "marks") which identify the goods, commodities, or services to be offered, sold, or distributed by the prospective franchisee, or under which the prospective franchisee will be operating.

(2) The business experience during the past 5 years, stated individually, of each of the franchisor's current directors and executive officers (including, and hereinafter to include, the chief executive and chief operating officer, financial, franchise marketing, training and service officers). With regard to each person listed, those persons' principal occupations and employers must be included.

(3) The business experience of the franchisor and the franchisor's parent firm (if any), including the length of time each: (i) has conducted a business of the type to be operated by the franchisee; (ii) has offered or sold a franchise for such business; (iii) has conducted a business or offered or sold a franchise for a business (A) operating under a name using any mark set forth under paragraph (a)(1)(iii), or (B) involving the sale, offering, or distribution of goods, commodities, or services which are identified by any mark set forth under paragraph (a)(1)(iii); and (iv) has offered for sale or sold franchises in other lines of business, together with a

description of such other lines of business.

(4) A statement disclosing who, if any, of the persons listed in paragraphs (a)(2) and (a)(3) of this section:

(i) Has, at any time during the previous seven fiscal years, been convicted of a felony or pleaded nolo contendere to a felony charge if the felony involved fraud (including violation of any franchise law, or unfair or deceptive practices law), embezzlement, fraudulent conversion, misappropriation of property, or restraint of trade;

(ii) Has, at any time during the previous seven fiscal years, been held liable in a civil action resulting in a final judgment or has settled out of court any civil actions or is a party to any civil action (A) involving allegations of fraud (including violation of any franchise law, or unfair or deceptive practices law), embezzlement, fraudulent conversion, misappropriation of property, or restraint of trade, or (B) which was brought by a present or former franchisee or franchisees and which involves or involved the franchise relationship: *Provided, however*, That only material individual civil actions need be so listed pursuant to this subparagraph (4)(ii), including any group of civil actions which, irrespective of the materiality of any single such action, in the aggregate is material;

(iii) Is subject to any currently effective State or Federal agency or court injunctive or restrictive order, or is a party to a proceeding currently pending in which such order is sought, relating to or affecting franchise activities or the franchisor-franchisee relationship, or involving fraud (including violation of any franchise law, or unfair or deceptive practices law), embezzlement, fraudulent conversion, misappropriation of property, or restraint of trade.

Such statement shall set forth the identity and location of the court or agency; the date of conviction, judgment, or decision; the penalty imposed; the damages assessed; the terms of settlement or the terms of the order; and the date, nature, and issuer of each such order or ruling. A franchisor may include a summary opinion of counsel as to any pending litigation, but only if counsel's consent to the use of such opinion is included in the disclosure statement.

(5) A statement disclosing who, if any, of the persons listed in paragraphs (a)(2) and (a)(3) of this section at any time during the previous 7 fiscal years has:

(i) Filed in bankruptcy;

(ii) Been adjudged bankrupt;

(iii) Been reorganized due to insolvency; or

(iv) Been a principal, director, executive officer, or partner of any other person that has so filed or was so adjudged or reorganized, during or within 1 year after the period that such person held such position in such other person. If so, the name and location of the person having so filed, or having been so adjudged or reorganized, the date thereof, and any other material facts relating thereto, shall be set forth.

(6) A factual description of the franchise offered to be sold by the franchisor.

(7) A statement of the total funds which must be paid by the franchisee to the franchisor or to a person affiliated with the franchisor, or which the franchisor or such affiliated person imposes, or collects in whole or in part on behalf of a third party, in order to obtain or commence the franchise operation, such as initial franchise fees, deposits, downpayments, prepaid rent, and equipment and inventory purchases. If all or part of these fees or deposits are returnable under certain conditions, these conditions shall be set forth; and if not returnable, such fact shall be disclosed.

(8) A statement describing any recurring funds required to be paid, in connection with carrying on the franchise business, by the franchisee to the franchisor or to a person affiliated with the franchisor, or which the franchisor or such affiliated person imposes or collects in whole or in part on behalf of a third party, including, but not limited to, royalty, lease, advertising, training, and sign rental fees, and equipment or inventory purchases.

(9) A statement setting forth the name of each person (including the franchisor) the franchisee is directly or indirectly required or advised to do business with by the franchisor, where such persons are affiliated with the franchisor.

(10) A statement describing any real estate, services, supplies, products, inventories, signs, fixtures, or equipment relating to the establishment or the operation of the franchise business which the franchisee is directly or indirectly required by the franchisor to purchase, lease or rent; and if such purchases, leases or rentals must be made from specific persons (including the franchisor), a list of the names and addresses of each such person. Such list may be made in a separate document delivered to the prospective franchisee with the prospectus if the existence of such separate document is disclosed in the prospectus.

(11) A description of the basis for calculating, and, if such information is readily available, the actual amount of, any revenue or other consideration to be received by the franchisor or persons affiliated with the franchisor from suppliers to the prospective franchisee in consideration for goods or services which the franchisor requires or advises the franchisee to obtain from such suppliers.

(12) (i) A statement of all the material terms and conditions of any financing arrangement offered directly or indirectly by the franchisor, or any person affiliated with the franchisor, to the prospective franchisee; and

(ii) A description of the terms by which any payment is to be received by the franchisor from (A) any person offering financing to a prospective franchisee; and (B) any person arranging for financing for a prospective franchisee.

(13) A statement describing the material facts of whether, by the terms of the franchise agreement or other device or practice, the franchisee is:

(i) Limited in the goods or services he or she may offer for sale;

(ii) Limited in the customers to whom he or she may sell such goods or services;

(iii) Limited in the geographic area in which he or she may offer for sale or sell goods or services; or

(iv) Granted territorial protection by the franchisor, by which, with respect to a territory or area, (A) the franchisor will not establish another, or more than any fixed number of, franchises or company-owned outlets, either operating under, or selling, offering, or distributing goods, commodities or services, identified by any mark set forth under paragraph (a)(1)(iii) of this section; or (B) the franchisor or its parent will not establish other franchises or company-owned outlets selling or leasing the same or similar products or services under a different trade name, trademark, service mark, advertising or other commercial symbol.

(14) A statement of the extent to which the franchisor requires the franchisee (or, if the franchisee is a corporation, any person affiliated with the franchisee) to participate personally in the direct operation of the franchise.

(15) A statement disclosing, with respect to the franchise agreement and any related agreements:

(i) The term (i.e., duration of arrangement), if any, of such agreement; and whether such term is or may be affected by any agreement (including leases or subleases) other than the one from which such term arises;

(ii) The conditions under which the franchisee may renew or extend;

(iii) The conditions under which the franchisor may refuse to renew or extend;

(iv) The conditions under which the franchisee may terminate;

(v) The conditions under which the franchisor may terminate;

(vi) The obligations (including lease or sublease obligations) of the franchisee after termination of the franchise by the franchisor, and the obligations of the franchisee (including lease or sublease obligations) after termination of the franchise by the franchisee and after the expiration of the franchise;

(vii) The franchisee's interest upon termination of the franchise, or upon refusal to renew or extend the franchise, whether by the franchisor or by the franchisee;

(viii) The conditions under which the franchisor may repurchase, whether by right of first refusal or at the option of the franchisor (and if the franchisor has the option to repurchase the franchise, whether there will be an independent appraisal of the franchise, whether the repurchase price will be determined by a predetermined formula and whether there will be a recognition of goodwill or other intangibles associated therewith in the repurchase price to be given the franchisee);

(ix) The conditions under which the franchisee may sell or assign all or any interest in the ownership of the franchise, or of the assets of the franchise business;

(x) The conditions under which the franchisor may sell or assign, in whole or in part, its interest under such agreements;

(xi) The conditions under which the franchisee may modify;

(xii) The conditions under which the franchisor may modify;

(xiii) The rights of the franchisee's heirs or personal representative upon the death or incapacity of the franchisee; and

(xiv) The provisions of any covenant not to compete.

(16) A statement disclosing, with respect to the franchisor and as to the particular named business being offered:

(i) The total number of franchises operating at the end of the preceding fiscal year;

(ii) The total number of company-owned outlets operating at the end of the preceding fiscal year;

(iii) The names, addresses, and telephone numbers of (A) the 10 franchised outlets of the named franchise business nearest the prospective franchisee's intended location; or (B) all franchisees of the

franchisor, or (C) all franchisees of the franchisor in the State in which the prospective franchisee lives or where the proposed franchise is to be located. *Provided, however,* That there are more than 10 such franchisees. If the number of franchisees to be disclosed pursuant to subparagraph (B) or (C) exceeds 50, such listing may be made in a separate document delivered to the prospective franchisee with the prospectus if the existence of such separate document is disclosed in the prospectus;

(iv) The number of franchises voluntarily terminated or not renewed by franchisees within, or at the conclusion of, the term of the franchise agreement, during the preceding fiscal year;

(v) The number of franchises reacquired by purchase by the franchisor during the term of the franchise agreement, and upon the conclusion of the term of the franchise agreement, during the preceding fiscal year;

(vi) The number of franchises otherwise reacquired by the franchisor during the term of the franchise agreement, and upon the conclusion of the term of the franchise agreement, during the preceding fiscal year.

(vii) The number of franchises for which the franchisor refused renewal of the franchise agreement or other agreements relating to the franchise during the preceding fiscal year; and

(viii) The number of franchises that were canceled or terminated by the franchisor during the term of the franchise agreement, and upon conclusion of the term of the franchise agreement, during the preceding fiscal year.

With respect to the disclosures required by paragraphs (a)(16) (v), (vi), (vii), and (viii) of this section, the disclosure statement shall also include a general categorization of the reasons for such reacquisitions, refusals to renew or terminations, and the number falling within each such category, including but not limited to the following: failure to comply with quality control standards, failure to make sufficient sales, and other breaches of contract.

(17)(i) If site selection or approval thereof by the franchisor is involved in the franchise relationship, a statement disclosing the range of time that has elapsed between signing of franchise agreements or other agreements relating to the franchise and site selection, for agreements entered into during the preceding fiscal year; and

(ii) If operating franchise outlets are to be provided by the franchisor, a statement disclosing the range of time

that has elapsed between the signing of franchise agreements or other agreements relating to the franchise and the commencement of the franchisee's business, for agreements entered into during the preceding fiscal year.

With respect to the disclosures required by paragraphs (a)(17) (i) and (ii) of this section, a franchisor may at its option also provide a distribution chart using meaningful classifications with respect to such ranges of time.

(18) If the franchisor offers an initial training program or informs the prospective franchisee that it intends to provide such person with initial training, a statement disclosing:

(i) The type and nature of such training;

(ii) The minimum amount, if any, of training that will be provided to a franchisee; and

(iii) The cost, if any, to be borne by the franchisee for the training to be provided, or for obtaining such training.

(19) If the name of a public figure is used in connection with a recommendation to purchase a franchise, or as a part of the name of the franchise operation, or if the public figure is stated to be involved with the management of the franchisor, a statement disclosing:

(i) The nature and extent of the public figure's involvement and obligations to the franchisor, including but not limited to the promotional assistance the public figure will provide to the franchisor and to the franchisee;

(ii) The total investment of the public figure in the franchise operation; and

(iii) The amount of any fee or fees the franchisee will be obligated to pay for such involvement or assistance provided by the public figure.

(20)(i) A balance sheet (statement of financial position) for the franchisor for the most recent fiscal year, and an income statement (statement of results of operations) and statement of changes in financial position for the franchisor for the most recent 3 fiscal years. Such statements are required to have been examined in accordance with generally accepted auditing standards by an independent certified or licensed public accountant. *Provided, however,* That where a franchisor is a subsidiary of another corporation which is permitted under generally accepted accounting principles to prepare financial statements on a consolidated or combined statement basis, the above information may be submitted for the parent if (A) the corresponding unaudited financial statements of the franchisor are also provided, and (B) the parent absolutely and irrevocably has

agreed to guarantee all obligations of the subsidiary;

(ii) Unaudited statements shall be used only to the extent that audited statements have not been made, and provided that such statements are accompanied by a clear and conspicuous disclosure that they are unaudited. Statements shall be prepared on an audited basis as soon as practicable, but, at a minimum, financial statements for the first full fiscal year following the date on which the franchisor must first comply with this part shall contain a balance sheet opinion prepared by an independent certified or licensed public accountant, and financial statements for the following fiscal year shall be fully audited.

(21) All of the foregoing information in paragraph (a) (1) through (20) of this section shall be contained in a single disclosure statement or prospectus, which shall not contain any materials or information other than that required by this part or by State law not preempted by this part. This does not preclude franchisors or franchise brokers from giving other nondeceptive information orally, visually, or in separate literature so long as such information is not contradictory to the information in the disclosure statement required by paragraph (a) of this section. This disclosure statement shall carry a cover sheet distinctively and conspicuously showing the name of the franchisor, the date of issuance of the disclosure statement, and the following notice imprinted thereon in upper and lower case boldface type of not less than 12 point size:

INFORMATION FOR PROSPECTIVE FRANCHISEES REQUIRED BY FEDERAL TRADE COMMISSION

To protect you, we've required your franchisor to give you this information. We haven't checked it, and don't know if it's correct. It should help you make up your mind. Study it carefully. While it includes some information about your contract, don't rely on it alone to understand your contract. Read all of your contract carefully. Buying a franchise is a complicated investment. Take your time to decide. If possible, show your contract and this information to an advisor, like a lawyer or an accountant.

If you find anything you think may be wrong or anything important that's been left out, you should let us know about it. It may be against the law.

There may also be laws on franchising in your state. Ask your state agencies about them.

Federal Trade Commission,
Washington, D.C.

Provided, That the obligation to furnish such disclosure statement shall be

deemed to have been met for both the franchisor and the franchise broker if either such party furnishes the prospective franchisee with such disclosure statement.

(22) All information contained in the disclosure statement shall be current as of the close of the franchisor's most recent fiscal year. After the close of each fiscal year, the franchisor shall be given a period not exceeding 90 days to prepare a revised disclosure statement and, following such 90 days, may distribute only the revised prospectus and no other. The franchisor shall, within a reasonable time after the close of each quarter of the fiscal year, prepare revisions to be attached to the disclosure statement to reflect any material change in the franchisor or relating to the franchise business of the franchisor, about which the franchisor or franchise broker, or any agent, representative, or employee thereof, knows or should know. Each prospective franchisee shall have in his or her possession, at the "time for making of disclosures," the disclosure statement and quarterly revision for the period most recent to the "time for making of disclosures" and available at that time. Information which is required to be audited pursuant to paragraph (a)(20) of this section is not required to be audited for quarterly revisions. *Provided, however,* That the unaudited information be accompanied by a statement in immediate conjunction therewith that clearly and conspicuously discloses that such information has not been audited.

(23) A table of contents shall be included within the disclosure statement.

(24) The disclosure statement shall include a comment which either positively or negatively responds to each disclosure item required to be in the disclosure statement, by use of a statement which fully incorporates the information required by the item. Each disclosure item therein must be preceded by the appropriate heading, as set forth in Note 3 of this part.

(b) To make any oral, written, or visual representation to a prospective franchisee which states a specific level of potential sales, income, gross or net profit for that prospective franchisee, or which states other facts which suggest such a specific level, unless:

(1) At the time such representation is made, such representation is relevant to the geographic market in which the franchise is to be located;

(2) At the time such representation is made, a reasonable basis exists for such representation and the franchisor has in its possession material which

constitutes a reasonable basis for such representation, and such material is made available to any prospective franchisee and to the Commission or its staff upon reasonable demand.

Provided, however, That in immediate conjunction with such representation, the franchisor shall disclose in a clear and conspicuous manner that such material is available to the prospective franchisee; and *Provided, further,* That no provision within paragraph (b) of this section shall be construed as requiring the disclosure to any prospective franchisee of the identity of any specific franchisee or of information reasonably likely to lead to the disclosure of such person's identity; and *Provided, further,* That no additional representation as to a prospective franchisee's potential sales, income, or profits may be made later than the "time for making of disclosures";

(3) Such representation is set forth in detail along with the material bases and assumptions therefor in a single legible written document whose text accurately, clearly and concisely discloses such information, and none other than that provided for by this part or by State law not preempted by this part. Each prospective franchisee to whom the representation is made shall be furnished with such document no later than the "time for making of disclosures"; *Provided, however,* That if the representation is made at or prior to a "personal meeting" and such meeting occurs before the "time for making of disclosures," the document shall be furnished to the prospective franchisee to whom the representation is made at that "personal meeting";

(4) The following statement is clearly and conspicuously disclosed in the document described by paragraph (b)(3) of this section in immediate conjunction with such representation and in not less than twelve point upper and lower-case type:

CAUTION

These figures are only estimates of what we think you may earn. There is no assurance you'll do as well. If you rely upon our figures, you must accept the risk of not doing as well.

(5) The following information is clearly and conspicuously disclosed in the document described by paragraph (b)(3) of this section in immediate conjunction with such representation:

(i) The number and percentage of outlets of the named franchise business which are located in the geographic markets that form the basis for any such representation and which are known to the franchisor or franchise broker to have earned or made at least the same sales, income, or profits during a period

of corresponding length in the immediate past as those potential sales, income, or profits represented; and

(ii) The beginning and ending dates for the corresponding time period referred to by paragraph (b)(5)(i) of this section. *Provided, however,* That any franchisor without prior franchising experience as to the named franchise business so indicate such lack of experience in the document described in paragraph (b)(3) of this section.

Except, That representations of the sales, income or profits of existing franchise outlets need not comply with this paragraph (b).

(c) To make any oral, written or visual representation to a prospective franchisee which states a specific level of sales, income, gross or net profits of existing outlets (whether franchised or company-owned) of the named franchise business, or which states other facts which suggest such a specific level, unless:

(1) At the time such representation is made, such representation is relevant to the geographic market in which the franchise is to be located;

(2) At the time such representation is made, a reasonable basis exists for such representation and the franchisor has in its possession material which constitutes a reasonable basis for such representation, and such material is made available to any prospective franchisee and to the Commission or its staff upon reasonable demand.

Provided, however, That in immediate conjunction with such representation, the franchisor discloses in a clear and conspicuous manner that such material is available to the prospective franchisee; and *Provided, further,* That no provision within paragraph (c) of this section shall be construed as requiring the disclosure to any prospective franchisee of the identity of any specific franchisee or of information reasonably likely to lead to the disclosure of such person's identity; and *Provided, further,* That no additional representation as to the sales, income, or gross or net profits of existing outlets (whether franchised or company-owned) of the named franchise business may be made later than the "time for making of disclosures";

(3) Such representation is set forth in detail along with the material bases and assumptions therefor in a single legible written document which accurately, clearly and concisely discloses such information, and none other than that provided for by this part or by State law not preempted by this part. Each prospective franchisee to whom the representation is made shall be

furnished with such document no later than the "time for making of disclosures." *Provided, however,* That if the representation is made at or prior to a "personal meeting" and such meeting occurs before the "time for making of disclosures," the document shall be furnished to the prospective franchisee to whom the representation is made at that "personal meeting";

(4) The underlying data on which the representation is based have been prepared in accordance with generally accepted accounting principles;

(5) The following statement is clearly and conspicuously disclosed in the document described by paragraph (c)(3) of this section in immediate conjunction with such representation, and in not less than twelve point upper and lower case boldface type:

CAUTION

Some outlets have [sold] [earned] this amount. There is no assurance you'll do as well. If you rely upon our figures, you must accept the risk of not doing as well.

(6) The following information is clearly and conspicuously disclosed in the document described by paragraph (c)(3) of this section in immediate conjunction with such representation:

(i) The number and percentage of outlets of the named franchise business which are located in the geographic markets that form the basis for any such representation and which are known to the franchisor or franchise broker to have earned or made at least the same sales, income, or profits during a period of corresponding length in the immediate past as those sales, income, or profits represented; and

(ii) The beginning and ending dates for the corresponding time period referred to by subparagraph (6)(i). *Provided, however,* That any franchisor without prior franchising experience as to the named franchise business so indicate such lack of experience in the document described in paragraph (c)(3) of this section.

(d) To fail to provide the following information within the document(s) required by paragraphs (b)(3) and (c)(3) of this section whenever any representation is made to a prospective franchisee regarding its potential sales, income, or profits, or the sales, income, gross or net profits of existing outlets (whether franchised or company-owned) of the named franchise business:

(1) A cover sheet distinctively and conspicuously showing the name of the franchisor, the date of issuance of the document and the following notice imprinted thereon in upper and lower case boldface type of not less than twelve point size:

INFORMATION FOR PROSPECTIVE FRANCHISEES ABOUT FRANCHISE [SALES] [INCOME] [PROFIT] REQUIRED BY THE FEDERAL TRADE COMMISSION.

To protect you, we've required the franchisor to give you this information. We haven't checked it and don't know if it's correct. Study these facts and figures carefully. If possible, show them to someone who can advise you, like a lawyer or an accountant. Then take your time and think it over.

If you find anything you think may be wrong or anything important that's been left out, let us know about it. It may be against the law.

There may also be laws on franchising in your State. Ask your State agencies about them.

Federal Trade Commission,
Washington, D.C.

(2) A table of contents.

Provided, however, That each prospective franchisee to whom the representation is made shall be notified at the "time for making of disclosures" of any material change (about which the franchisor, franchise broker, or any of the agents, representatives, or employees thereof, knows or should know) in the information contained in the document(s) described by paragraphs (b)(3) and (c)(3) of this section.

(e) To make any oral, written, or visual representation for general dissemination (not otherwise covered by paragraphs (b) or (c) of this section) which states a specific level of sales, income, gross or net profits, either actual or potential, of existing or prospective outlets (whether franchised or company-owned) of the named franchise business or which states other facts which suggest such a specific level, unless:

(1) At the time such representation is made, a reasonable basis exists for such representation and the franchisor has in its possession material which constitutes a reasonable basis for such representation and which is made available to the Commission or its staff upon reasonable demand;

(2) The underlying data on which each representation of sales, income or profit for existing outlets is based have been prepared in accordance with generally accepted accounting principles;

(3) In immediate conjunction with such representation, there shall be clearly and conspicuously disclosed the number and percentage of outlets of the named franchise business which the franchisor or the franchise broker knows to have earned or made at least the same sales, income, or profits during a period of corresponding length in the immediate past as those sales, income, or profits represented, and the beginning and ending dates for said time period;

(4) In immediate conjunction with each such representation of potential sales, income or profits, the following statement shall be clearly and conspicuously disclosed:

CAUTION

These figures are only estimates; there is no assurance you'll do as well. If you rely upon our figures, you must accept the risk of not doing as well.

Provided, however, That if such representation is not based on actual experience of existing outlets of the named franchise business, that fact also should be disclosed;

(5) No later than the earlier of the first "personal meeting" or the "time for making of disclosures," each prospective franchisee shall be given a single, legible written document which accurately, clearly and concisely sets forth the following information and materials (and none other than that provided for by this part or by State law not preempted by this part):

(i) The representation, set forth in detail along with the material bases and assumptions therefor;

(ii) The number and percentage of outlets of the named franchise business which the franchisor or the franchise broker knows to have earned or made at least the same sales, income or profits during a period of corresponding length in the immediate past as those sales, income, or profits represented, and the beginning and ending dates for said time period;

(iii) With respect to each such representation of sales, income, or profits of existing outlets, the following statement shall be clearly and conspicuously disclosed in immediate conjunction therewith, printed in not less than 12 point upper and lower case boldface type:

CAUTION

Some outlets have [sold] [earned] this amount. There is no assurance you'll do as well. If you rely upon our figures, you must accept the risk of not doing as well.

(iv) With respect to each such representation of potential sales, income, or profits, the following statement shall be clearly and conspicuously disclosed in immediate conjunction therewith, printed in not less than 12 point upper and lower case boldface type:

CAUTION

These figures are only estimates. There is no assurance that you'll do as well. If you rely upon our figures, you must accept the risk of not doing as well.

(v) If applicable, a statement clearly and conspicuously disclosing that the franchisor lacks prior franchising

experience as to the named franchise business;

(vi) If applicable, a statement clearly and conspicuously disclosing that the franchisor has not been in business long enough to have actual business data;

(vii) A cover sheet, distinctively and conspicuously showing the name of the franchisor, the date of issuance of the document, and the following notice printed thereon in not less than 12 point upper and lower case boldface type:

INFORMATION FOR PROSPECTIVE FRANCHISEES ABOUT FRANCHISE [SALES] [INCOME] [PROFIT] REQUIRED BY THE FEDERAL TRADE COMMISSION

To protect you, we've required the franchisor to give you this information. We haven't checked it and don't know if it's correct. Study these facts and figures carefully. If possible, show them to someone who can advise you, like a lawyer or an accountant.

If you find anything you think may be wrong or anything important that's been left out, let us know about it. It may be against the law.

There may also be laws about franchising in your State. Ask your State agencies about them.

Federal Trade Commission
Washington, D.C.

(viii) A table of contents;

(6) Each prospective franchisee shall be notified at the "time for making of disclosures" of any material changes that have occurred in the information contained in this document.

(f) To make any claim or representation which is contradictory to the information required to be disclosed by this part.

(g) To fail to furnish the prospective franchisee with a copy of the franchisor's franchise agreement and related agreements with the document, and a copy of the completed franchise and related agreements intended to be executed by the parties at least 5 business days prior to the date the agreements are to be executed.

Provided, however, That the obligations defined in paragraphs (b) through (g) of this section shall be deemed to have been met for both the franchisor and the franchise broker if either such person furnishes the prospective franchisee with the written disclosures required thereby.

(h) To fail to return any funds or deposits in accordance with any conditions disclosed pursuant to paragraph (a)(7) of this section.

§ 436.2 Definitions.

As used in this part, the following definitions shall apply:

(a) The term "franchise" means any continuing commercial relationship

created by any arrangement or arrangements whereby:

(1)(i)(A) a person (hereinafter "franchisee") offers, sells, or distributes to any person other than a "franchisor" (as hereinafter defined), goods, commodities, or services which are:

(1) Identified by a trademark, service mark, trade name, advertising or other commercial symbol designating another person (hereinafter "franchisor"); or
(2) Indirectly or directly required or advised to meet the quality standards prescribed by another person (hereinafter "franchisor") where the franchisee operates under a name using the trademark, service mark, trade name, advertising or other commercial symbol designating the franchisor; and

(B)(1) The franchisor exerts or has authority to exert a significant degree of control over the franchisee's method of operation, including but not limited to, the franchisee's business organization, promotional activities, management, marketing plan or business affairs; or

(2) The franchisor gives significant assistance to the franchisee in the latter's method of operation, including, but not limited to, the franchisee's business organization, management, marketing plan, promotional activities, or business affairs; *Provided, however,* That assistance in the franchisee's promotional activities shall not, in the absence of assistance in other areas of the franchisee's method of operation, constitute significant assistance; or

(ii)(A) A person (hereinafter "franchisee") offers, sells, or distributes to any person other than a "franchisor" (as hereinafter defined), goods, commodities, or services which are:

(1) Supplied by another person (hereinafter "franchisor"); or

(2) Supplied by a third person (e.g., a supplier) with whom the franchisee is directly or indirectly required to do business by another person (hereinafter "franchisor"); or

(3) Supplied by a third person (e.g., a supplier) with whom the franchisee is directly or indirectly advised to do business by another person (hereinafter "franchisor") where such third person is affiliated with the franchisor; and

(B) The franchisor:

(1) Secures for the franchisee retail outlets or accounts for said goods, commodities, or services; or

(2) Secures for the franchisee locations or sites for vending machines, rack displays, or any other product sales display used by the franchisee in the offering, sale, or distribution of said goods, commodities, or services; or

(3) Provides to the franchisee the services of a person able to secure the retail outlets, accounts, sites or locations

referred to in paragraph (a)(1)(ii)(B) (1) and (2) above; and

(2) The franchisee is required as a condition of obtaining or commencing the franchise operation to make a payment or a commitment to pay to the franchisor, or to a person affiliated with the franchisor.

(3) Exemptions. The provisions of this part shall not apply to a franchise:

(i) Which is a "fractional franchise"; or

(ii) Where pursuant to a lease, license, or similar agreement, a person offers, sells, or distributes goods, commodities, or services on or about premises occupied by a retailer-grantor primarily for the retailer-grantor's own merchandising activities, which goods, commodities, or services are not purchased from the retailer-grantor or persons whom the lessee is directly or indirectly (A) required to do business with by the retailer-grantor or (B) advised to do business with by the retailer-grantor where such person, is affiliated with the retailer-grantor; or

(iii) Where the total of the payments referred to in paragraph (a)(2) of this section made during a period from any time before to within 6 months after commencing operation of the franchisee's business, is less than \$500; or

(iv) Where there is no writing which evidences any material term or aspect of the relationship or arrangement.

(4) Exclusions. The term "franchise" shall not be deemed to include any continuing commercial relationship created solely by:

(i) The relationship between an employer and an employee, or among general business partners; or

(ii) Membership in a bona fide "cooperative association"; or

(iii) An agreement for the use of a trademark, service mark, trade name, seal, advertising, or other commercial symbol designating a person who offers on a general basis, for a fee or otherwise, a bona fide service for the evaluation, testing, or certification of goods, commodities, or services;

(iv) An agreement between a licensor and a single licensee to license a trademark, trade name, service mark, advertising or other commercial symbol where such license is the only one of its general nature and type to be granted by the licensor with respect to that trademark, trade name, service mark, advertising, or other commercial symbol.

(5) Any relationship which is represented either orally or in writing to be a franchise (as defined in this paragraph (a)(1) and (2) of this section) is subject to the requirements of this part.

(b) The term "person" means any individual, group, association, limited or general partnership, corporation, or any other business entity.

(c) The term "franchisor" means any person who participates in a franchise relationship as a franchisor, as denoted in paragraph (a) of this section.

(d) The term "franchisee" means any person (1) who participates in a franchise relationship as a franchisee, as denoted in paragraph (a) of this section, or (2) to whom an interest in a franchise is sold.

(e) The term "prospective franchisee" includes any person, including any representative, agent, or employee of that person, who approaches or is approached by a franchisor or franchise broker, or any representative, agent, or employee thereof, for the purpose of discussing the establishment, or possible establishment, of a franchise relationship involving such a person.

(f) The term "business day" means any day other than Saturday, Sunday, or the following national holidays: New Year's Day, Washington's Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans' Day, Thanksgiving, and Christmas.

(g) The term "time for making of disclosures" means ten (10) business days prior to the earlier of (1) the execution by a prospective franchisee of any franchise agreement or any other agreement imposing a binding legal obligation on such prospective franchisee, about which the franchisor, franchise broker, or any agent, representative, or employee thereof, knows or should know, in connection with the sale or proposed sale of a franchise, or (2) the payment by a prospective franchisee, about which the franchisor, franchise broker, or any agent, representative, or employee thereof, knows or should know, of any consideration in connection with the sale or proposed sale of a franchise.

(h) The term "fractional franchise" means any relationship, as denoted by paragraph (a) of this section, in which the person described therein as a franchisee, or any of the current directors or executive officers thereof, has been in the type of business represented by the franchise relationship for more than 2 years and the parties anticipated, or should have anticipated, at the time the agreement establishing the franchise relationship was reached, that the sales arising from the relationship would represent no more than 20 percent of the sales in dollar volume of the franchisee.

(i) The term "affiliated person" means a person (as defined in paragraph (b) of this section):

(1) Which directly or indirectly controls, is controlled by, or is under common control with, a franchisor; or

(2) Which directly or indirectly owns, controls, or holds with power to vote, 10 percent or more of the outstanding voting securities of a franchisor; or

(3) Which has, in common with a franchisor, one or more partners, officers, directors, trustees, branch managers, or other persons occupying similar status or performing similar functions.

(j) The term "franchise broker" means any person other than a franchisor or a franchisee who sells, offers for sale, or arranges for the sale of a franchise.

(k) The term "sale of a franchise" includes a contract or agreement whereby a person obtains a franchise or interest in a franchise for value by purchase, license, or otherwise. This term shall not be deemed to include the renewal or extension of an existing franchise where there is no interruption in the operation of the franchised business by the franchisee, unless the new contracts or agreements contain material changes from those in effect between the franchisor and franchisee prior thereto.

(l) A "cooperative association" is either (1) an association of producers of agricultural products authorized by section 1 of the Capper-Volstead Act, 7 U.S.C. 291; or (2) an organization operated on a cooperative basis by and for independent retailers which wholesales goods or furnishes services primarily to its member-retailers.

(m) The term "fiscal year" means the franchisor's fiscal year.

(n) The terms "material," "material fact," and "material change" shall include any fact, circumstance, or set of conditions which has a substantial likelihood of influencing a reasonable franchisee or a reasonable prospective franchisee in the making of a significant decision relating to a named franchise business or which has any significant financial impact on a franchisee or prospective franchisee.

(o) The term "personal meeting" means a face-to-face meeting between a franchisor or franchise broker (or any agent, representative, or employee thereof) and a prospective franchisee which is held for the purpose of discussing the sale or possible sale of a franchise.

§ 436.3 Severability.

If any provision of this part or its application to any person, act, or practice is held invalid, the remainder of the part or the application of its provisions to any person, act, or practice shall not be affected thereby.

Note 1.—The Commission expresses no opinion as to the legality of any practice mentioned in this part. A provision for disclosure should not be construed as condonation or approval with respect to the matter required to be disclosed, nor as an indication of the Commission's intention not to enforce any applicable statute.

Note 2.—By taking action in this area, the Federal Trade Commission does not intend to annul, alter, or affect, or exempt any person subject to the provisions of this part from complying with the laws or regulations of any State, municipality, or other local government with respect to franchising practices, except to the extent that those laws or regulations are inconsistent with any provision of this part, and then only to the extent of the inconsistency. For the purposes of this part, a law or regulation of any State, municipality, or other local government is not inconsistent with this part if the protection such law or regulation affords any prospective franchisee is equal to or greater than that provided by this part. Examples of provisions which provide protection equal to or greater than that provided by this part include laws or regulations which require more complete record keeping by the franchisor or the disclosure of more complete information to the franchisee.

Note 3.—[As per § 436.1(a)(24) of this part:]

DISCLOSURE STATEMENT

Pursuant to 16 CFR 436.1 et seq., a Trade Regulation Rule of the Federal Trade Commission regarding Disclosure Requirements and Prohibitions Concerning Franchising and Business Opportunity Ventures, the following information is set forth on [name of franchisor] for your examination:

1. IDENTIFYING INFORMATION AS TO FRANCHISOR.

2. BUSINESS EXPERIENCE OF FRANCHISOR'S DIRECTORS AND EXECUTIVE OFFICERS.

3. BUSINESS EXPERIENCE OF THE FRANCHISOR.

4. LITIGATION HISTORY.

5. BANKRUPTCY HISTORY.

6. DESCRIPTION OF FRANCHISE.

7. INITIAL FUNDS REQUIRED TO BE PAID BY A FRANCHISEE.

8. RECURRING FUNDS REQUIRED TO BE PAID BY A FRANCHISEE.

9. AFFILIATED PERSONS THE FRANCHISEE IS REQUIRED OR ADVISED TO DO BUSINESS WITH BY THE FRANCHISOR.

10. OBLIGATIONS TO PURCHASE.

11. REVENUES RECEIVED BY THE FRANCHISOR IN CONSIDERATION OF PURCHASES BY A FRANCHISEE.

12. FINANCING ARRANGEMENTS.

13. RESTRICTION OF SALES.

14. PERSONAL PARTICIPATION REQUIRED OF THE FRANCHISEE IN THE OPERATION OF THE FRANCHISE.

15. TERMINATION, CANCELLATION, AND RENEWAL OF THE FRANCHISE.

16. STATISTICAL INFORMATION CONCERNING THE NUMBER OF FRANCHISES (AND COMPANY-OWNED OUTLETS).

17. SITE SELECTION.

18. TRAINING PROGRAMS.
19. PUBLIC FIGURE INVOLVEMENT IN
THE FRANCHISE.
20. FINANCIAL INFORMATION
CONCERNING THE FRANCHISOR.

Effective October 21, 1979.

By direction of the Commission dated July
25, 1979.

Carol M. Thomas,
Secretary.

[FR Doc. 79-28359 Filed 8-23-79; 8:45 am]

BILLING CODE 6750-01-M

federal register

Friday
August 24, 1979

Part VI

Department of Housing and Urban Development

Office of the Assistant Secretary for
Community Planning and Development

Community Development Block Grants;
Categorical Program Settlement Fund

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

24 CFR Part 570

[Docket No. R-79-540]

Community Development Block Grants; Categorical Program Settlement Fund**AGENCY:** Department of Housing and Urban Development.**ACTION:** Final rulemaking.

SUMMARY: This rule establishes the requirements for funding the financial settlement of projects assisted under Title I of the Housing Act of 1949, as amended. The purpose of the rule is to implement Title I of the Housing and Community Development Act of 1977, section 103(d)(2).

Section 103(d)(2) authorizes grants for the financial settlement of projects and programs assisted under the categorical programs terminated by section 116(a) of the Housing and Community Development Act of 1974, primarily urban renewal projects assisted under the Housing Act of 1949, as amended which require supplemental assistance to close them out financially, and to the extent feasible the completion of previously approved activities. Though block grant funds are being used to complete most ongoing projects, there is a need to continue funding projects which require grants to close them out financially. The law and the prior interim rule authorized these funds to be used for the cost to complete previously approved activities for all the terminated programs. The existence of a potential federal exposure arising from direct or Federally-guaranteed loans made pursuant to Title I of the Housing Assistance Act of 1949 necessitates that these resources be restricted to reducing or eliminating such potential exposure. The increased potential exposure to the Government has resulted from project assets (primarily land disposition proceeds) not being realized in a timely fashion. Therefore, in the final rule, only grants for the purpose of retiring the outstanding Federal loans and other obligations necessary for a financial settlement will be considered for financial assistance. This is a marked deviation from the interim rule which allowed assistance to be provided to any project assisted under any of the programs terminated by section 116(a) of the Housing and Community Development Act of 1974.

EFFECTIVE DATE: October 1, 1979.**FOR FURTHER INFORMATION CONTACT:**

Peter Rowan, Program Completion Division, Community Planning and Development, HUD, Room 7186, 451 Seventh Street, SW., Washington, D.C. 20410, 202-755-1871.

SUPPLEMENTARY INFORMATION: On June 6, 1978 (43 FR 24656) an interim rule governing categorical program settlement funds was published in the Federal Register. Interested parties were given until July 6, 1978 to submit written comments. All comments received with respect to the interim rule were given due consideration. Copies of the comments received are available for inspection and copying in the Office of General Counsel, Department of Housing and Urban Development, Room 5218, 451 Seventh Street, SW., Washington, D.C. 20410.

The following is a discussion of the major comments received and revisions made in the interim rule.

Purpose

Section 570.480. Since the rule is being modified to limit assistance only for financial settlement of ongoing urban renewal projects, references to all other "terminated programs" and assistance for "cost to complete" activities have been deleted.

Definition

Section 570.481 has been deleted by cross-referencing this subpart to Subpart N and using the definitions contained therein—thus avoiding duplication.

Eligible Applicants

A number of comments were received which suggested that the eligibility be expanded to permit communities that had undertaken renewal type programs and whose activities had not been recognized for Federal assistance be allowed to compete for funds under this subpart. Since these comments are in conflict with the provisions of section 116 of the Housing and Community Development Act of 1974 which limits consideration to projects and programs that have been previously financially assisted by HUD, the recommendations were not adopted.

Similar comments were received which recommended that the eligibility for assistance be further restricted to exclude from consideration any project that had previously been financially settled. These comments were accepted on the basis that the primary use of these funds is for the purpose of achieving financial settlement of the ongoing projects, and to reduce the

potential Federal exposure from inadequately secured loans.

In keeping with the interim rule that precludes assistance to projects that have previously been funded from the "Urgent Needs Fund", § 570.482 has been modified to exclude any project for which a financial settlement has been previously approved.

Applications

Section 570.483(a) has been expanded to require consultation with the appropriate HUD Area Office to establish a proposed financial settlement date prior to submission of an application. This change was necessary in order that realistic cost estimates involving interest payments may be included in the grant requests. Generally a period of not less than 60 days or more than 150 days from the last day applications will be accepted for a given funding cycle should be specified. Wherever possible the financial settlement date should be the maturity date of the currently outstanding project temporary loans.

Section 570.483(b) has been modified to clarify the fact that funds under the financial settlement grants may not be used to substitute for cash local grants-in-aid owed the project(s) nor costs for noncash local grant-in-aid activities.

Project Funding Resources

Several comments were received suggesting that the requirement that a community commit the equivalent of 20 percent of their 1978-1980 block grant entitlement as a funding resource was excessive in those instances where prior year block grant funds had been used to continue project activities or reduce the outstanding loans of a project. The percentage clause equates with that portion of entitlement grants which the Secretary is authorized to apply, without the request of the applicant, to settle outstanding loans for urban renewal projects which cannot be completed without additional grants, pursuant to Section 112(a) of the Act. It would be inappropriate not to consider this resource since the Categorical Program Settlement Grants are being provided for funding projects which cannot be financially settled without supplemental assistance.

To recognize past contributions would be contrary to the purpose of the Categorical Program Settlement Grants, which is to provide supplemental assistance beyond the existing resources in order to achieve financial settlement of the project.

Certifications

Section 570.483(e) and (f) have been deleted since these requirements are fully set forth in Subpart N. To repeat them here is redundant. A comment was received which suggested that this Section be expanded to include the full wording of each certification and the background information with respect to each. This comment was rejected in that they are set forth in Subpart D (570.307) and Subpart K of the regulations, and would therefore be redundant.

Submission of Applications

Section 570.484 specifies the dates by which applications must be filed for consideration for funding during Fiscal Year 1980.

Purpose of Funding

Section 570.485 has been revised to clarify that financial assistance is only available for the purpose of financially settling ongoing urban renewal projects which have insufficient resources to achieve financial settlement.

The Department has determined that an Environmental Impact Statement is not required with respect to this rule. A copy of the Finding of Inapplicability is available for inspection in the Office of Rules Docket Clerk, Room 5218, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410.

PART 570—COMMUNITY DEVELOPMENT BLOCK GRANTS

Accordingly the interim rule published June 8, 1978 at FR 28656 is made final and 24 CFR Part 570, Subpart H is amended as follows:

Subpart H—Categorical Program Settlement Fund

Sec.	Purpose.
570.480	Eligible applicants.
570.482	Applications.
570.483	Submission of applications.
570.484	Funding considerations.
570.485	Repayment of categorical program settlement grant.
570.487	General provisions.

Subpart H—Categorical Program Settlement Grants**§ 570.480 Purpose.**

The purpose of categorical program settlement grants is to provide supplemental assistance necessary for the financial settlement of urban renewal projects (including annual Neighborhood Development Programs) pursuant to Subpart N, subject to the requirements of this Subpart.

§ 570.482 Eligible applicants.

Eligible applicants are units of general local government, in which projects assisted under Title I of the Housing Act of 1949 are located, which cannot financially settle such projects without supplemental financial assistance.

§ 570.483 Applications.

Applications shall be transmitted to the appropriate HUD Area Office and shall include the following:

(a) A completed standard form 424, Application for Federal Assistance (short form). Section IV of form 424, Remarks, shall include a statement which indicates the proposed settlement date. Prior to submission, the proposed financial settlement date shall be determined through consultation with the appropriate HUD Area Office.

(b) A summary of the funding assistance required, shown as the difference between funding needs and funding resources.

(1) *Project funding needs.* Applicants shall list amounts for direct Federal loans, Federally-guaranteed loans, other loans or incurred obligations payable. Project funding needs may not include requests for Categorical Program Settlement grant funds to be used as a substitute for cash local grants-in-aid owed the project(s) nor costs for noncash local grant-in-aid activities.

(2) *Project funding resources.* Applicants shall list amounts for accounts receivable, cash on hand, unpaid Federal grants, any unpaid cash local share for the project and any other funding resources to be made available. Applications shall list anticipated land proceeds to the date of settlement. The equivalent of 20 percent of an applicant's block grant entitlement from 1978-1980 shall be or shall have been provided to meet funding needs.

(c) A schedule showings, all estimated land proceeds after the settlement date.

(d) A statement indicating action taken to minimize the need for supplemental assistance. Program alternatives which were rejected shall be reported along with the reasons for the rejection.

§ 570.484 Submission of applications.

(a) Applications will be accepted in the appropriate area office and may be submitted at any time during the fiscal year. Funding selections will be made twice annually for fiscal year 1980.

(b) Applications received prior to February 1, 1980 will be considered in the first funding cycle. All other applications will be included in the second funding cycle. Applicants will be notified as to the status of their requests

promptly after funding selections are made.

§ 570.485 Funding considerations.

(a) *General criterion.* The general criterion for funding consideration is that financial settlement of a project cannot be accomplished without grant assistance under this subpart if the project funding needs are in excess of the funding resources, as listed under § 570.483(b). The Secretary may approve a grant in an amount less than the funding assistance established pursuant to § 570.483(b), taking into account the funding priority needs of other applicants and the availability of funds under this Subpart;

(b) *Purpose of grant.* Priority for funding consideration will be determined by status of an applicant as delineated below:

(c) *Funding priority.* Applicants will be given consideration for funding in the following order of priority:

- (1) Non-entitlement applicants.
- (2) Applicants with entitlements that phase out in 1980.
- (3) Entitlement applicants.

§ 570.486 Repayment of categorical program settlement grant.

An applicant receiving a grant under this Subpart shall be required to make repayments up to the amount of the grant from the land proceeds described in § 570.483(c) which are realized, provided that any reasonable expenses incurred in the disposition of such land may be deducted from the proceeds. The repayments shall be made quarterly from proceeds received by the grant recipient. The repayment obligation shall be included in the terms of the closeout agreement notwithstanding the provisions of § 570.804(b)(7)(i) of subpart N;

§ 570.487 General provisions.

(a) The Secretary reserves the right to impose such other conditions in approving categorical program settlement grants as are deemed appropriate in furthering the objectives of this subpart.

(b) Any settlement grants which are found to be in excess of actual needs on financial settlement of the project shall be returned to HUD.

(c) The failure to comply substantially with requirements applicable to this Subpart, and Subpart N, may result in the termination of the grant and the recapture of any remaining funds which have not been obligated by the recipient for the purposes, and in accordance with the requirements, with respect to which the grant was provided.

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(d) The provision of a grant under this subpart shall not serve to increase the local share requirements of the project.

(e) The provisions of Subparts J, K, N, and O apply to this subpart, except to the extent they are specifically modified or augmented by the provisions of this subpart.

(Section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).)

Issued at Washington, D.C., July 26, 1979.

Robert C. Embry, Jr.,

Assistant Secretary for Community Planning and Development.

[FR Doc. 79-26358 Filed 8-23-79; 8:45 am]

BILLING CODE 4210-01-M

federal register

Friday
August 24, 1979

Part VII

Department of Energy

Economic Regulatory Administration

Notice of Intent Regarding Certain Responsibilities of the Department of Energy in Carrying Out Title I of the Public Utility Regulatory Policies Act of 1978

DEPARTMENT OF ENERGY

Economic Regulatory Administration

(Docket No. ERA-R-79-18)

Notice of Intent Regarding Certain Responsibilities of the Department of Energy in Carrying Out Title I of the Public Utility Regulatory Policies Act of 1978

AGENCY: Economic Regulatory Administration, Department of Energy.
ACTION: Notice of Intent.

SUMMARY: Title I of the Public Utility Regulatory Policies Act of 1978 (PURPA) establishes a number of Federal requirements relating to the regulation of electric utilities and imposes obligations upon State regulatory authorities, certain nonregulated utilities and the Department of Energy (DOE). On April 6, 1979, the Economic Regulatory Administration (ERA) of DOE issued a Notice of Inquiry to solicit public comment on the manner of exercising DOE's authority under PURPA to (a) prescribe voluntary guidelines respecting the Federal standards set forth in PURPA, (b) intervene in State regulatory proceedings, and (c) provide technical assistance to help State regulatory authorities carry out their duties and responsibilities with respect to the standards. This Notice of Intent summarizes the public comments which ERA received and presents ERA's determinations with respect to the exercise of its authority to set guidelines, to intervene, and to provide technical assistance.

FOR FURTHER INFORMATION CONTACT: Dr. Stephen S. Skjei, Division of Regulatory Assistance, Office of Utility Systems, Department of Energy, 2000 M Street, NW., (Room 4016B), Washington, D.C. 20461, telephone (202) 254-8209. Carl Kaplan, Division of Regulatory Proceedings, Office of Utility Systems, Department of Energy, 2000 M Street, NW. (Room 4332B), Washington, D.C. 20461, telephone (202) 634-1800. William L. Webb, Office of Public Information, Economic Regulatory Administration, Department of Energy, 2000 M Street, NW. (Room B-110), Washington, D.C. 20461, telephone (202) 634-2170. Mary Ann Masterson, Office of General Counsel, Department of Energy, 20 Massachusetts Avenue, NW. (Room 3224), Washington, D.C. 20585, telephone (202) 376-9469.

If the persons listed above cannot be reached at their respective telephone numbers, interested parties should

contact the Department of Energy locator at (202) 254-5000.

SUPPLEMENTARY INFORMATION:

I. Background

On April 6, 1979, ERA issued a Notice of Inquiry (44 FR 22022, April 12, 1979) soliciting public comment on the exercise of DOE's authority to prescribe voluntary guidelines respecting standards established by the Public Utility Regulatory Policies Act of 1978 (PURPA), Pub. L. 95-617, 92 Stat. 3117 *et seq.* (16 U.S.C. 2601 *et seq.*); to intervene in State regulatory proceedings; and to provide technical assistance to State regulatory authorities. ERA also sought the views of hundreds of private organizations, State and local agencies, Federal agencies and other interested persons through a special mailing. Testimony was received from three speakers at a public hearing held in Washington, D.C. on May 10, 1979, and from three speakers at a public hearing held in Denver, Colorado on May 17, 1979. Written and oral comments were received from a total of 23 respondents. Among those commenting were State utility commissions, publicly-owned electric utilities, privately-owned electric utilities, and consumers.

In the Notice of Inquiry, ERA posed the following questions concerning the exercise of its authority for voluntary guidelines, intervention, and technical assistance:

Voluntary Guidelines

- (a) Should DOE decline to issue voluntary guidelines?
- (b) What policy areas should be addressed in the guidelines?
- (c) Should there be a single comprehensive guideline issuance, or multiple issuances each addressing specific policy issues?
- (d) How should voluntary guidelines be disseminated?
- (e) How should new issues be brought to the attention of DOE?
- (f) What factors should be considered in selecting issues for guidelines?

Intervention

- (a) Which State proceedings should be considered for intervention?
- (b) Once a proceeding is selected for intervention, what issues should be addressed by DOE?

Technical Assistance

- (a) What kinds of information should DOE provide to State regulatory authorities?
- (b) How should the information be disseminated?
- (c) Should DOE offer on-site, informal assistance?

(d) Should DOE sponsor seminars and workshops?

(e) What services should DOE provide with respect to cost-of-service information?

(f) Should DOE provide assistance to regulated utilities?

This Notice of Intent summarizes the public comments received as a result of the April 6, 1979 Notice of Inquiry and states ERA's intent regarding the exercise of its authority under PURPA to issue voluntary guidelines, to intervene in State regulatory proceedings, and to provide technical assistance.

II. Discussion of Comments and Intended Actions

A. Guideline Issues

(1) *Summary of Comments.* The number of respondents supporting the issuance of guidelines was approximately equal to the number opposed to their issuance. Respondents in favor of the issuance of voluntary guidelines suggested that voluntary guidelines: (a) would be helpful to some State commissions in the process of considering the PURPA standards; (b) should address particular areas as needed; and (c) should be published in the Federal Register as well as being directly communicated to all interested parties. Respondents opposed to the issuance of voluntary guidelines contended that substantial information on PURPA is already available and that the legislation is sufficiently explicit to guide State commissions in their consideration process. The major reasons cited for not issuing voluntary guidelines were that guidelines could (a) restrict the flexibility of State regulatory authorities and nonregulated electric utilities in responding to PURPA in a manner that adequately considers the individual circumstances of each utility and region; (b) delay ongoing State proceedings; and (c) cause States which have already considered PURPA standards to duplicate needlessly their prior efforts in order to reconsider issues in the context of DOE's voluntary guidelines.

Several respondents opposed to the issuance of voluntary guidelines, nonetheless, provided constructive suggestions in the event ERA determined to issue guidelines. Among the suggestions these respondents advanced were that voluntary guidelines should (a) clearly state that they are merely the DOE's opinion on the PURPA standards; (b) be stated in generic terms that provide sufficient decision-making flexibility for case-specific application; (c) reflect DOE's intervention experience; and (d) be

published for public review and comment prior to final adoption.

(2) *Intended Actions.* After a careful evaluation of the comments received and other available information, ERA has decided that it will exercise its discretionary authority under PURPA to promulgate voluntary guidelines for selected PURPA standards. These guidelines will be published as the need for them is identified through the States' annual PURPA reports, ERA's regulatory intervention program, or other ERA assessments of the progress being made at the State level in carrying out PURPA duties and responsibilities.

The purpose of these voluntary guidelines will be to provide State commissions, nonregulated utilities, and other interested parties with DOE's views on issues that DOE believes to be important to the consideration of specific PURPA standards. The guidelines will be designed to contribute to the consideration process of State regulatory authorities and covered nonregulated utilities by (a) identifying factors pertinent to the consideration of a specific standard, especially elements of national policy, that DOE believes should be taken into account; (b) indicating how these factors may relate to other factors entering into consideration of the standard; and (c) describing the important issues that are implicit in such relationships of factors and that need to be addressed when considering the standard. Voluntary guidelines of this nature will be particularly helpful to those regulatory authorities and nonregulated utilities that have not yet considered the PURPA standards.

The guidelines will, of course, be DOE's opinion and the final determinations regarding the appropriateness of each standard in a particular case must ultimately be made by State commissions and nonregulated utilities on a case-by-case basis in light of the evidence presented and applicable legal requirements. The voluntary guidelines will seek to avoid those matters which are unique to an individual jurisdiction, as well as policy issues specific to particular cases. Case-specific policy issues will be addressed by DOE, as appropriate, through intervention in selected regulatory proceedings.

While ERA believes that the process of consideration by State regulatory authorities and covered nonregulated utilities will be enhanced by voluntary guidelines, this Notice of Intent to issue voluntary guidelines should not and is not intended to provide a basis for delaying a State's consideration of, or determinations of appropriateness with

respect to, the PURPA standards. Moreover, any failure by DOE to issue guidelines, or any delay by DOE in issuing guidelines will in no way relieve State commissions or covered nonregulated utilities of their obligations and responsibilities under PURPA. ERA, therefore, encourages State commissions and covered nonregulated utilities to proceed expeditiously in the consideration of the PURPA standards.

(3) *Procedures.* Prior to issuing any voluntary guidelines, ERA will publish proposed voluntary guidelines for comment in the Federal Register and afford a period for receipt of written comments. Public hearings will be scheduled during this period, as appropriate. Final voluntary guidelines will be published in the Federal Register and will be mailed directly to all covered electric utilities and State regulatory authorities identified in the current Final List of (Gas and) Electric Utilities Covered by Titles I and III of the Public Utility Regulatory Policies Act of 1978 and Title II of the National Energy Conservation Policy Act of 1978, initially published in the Federal Register on March 21, 1979 (44 FR 17448).

In this regard, ERA soon will publish proposed voluntary guidelines for solar energy and renewable resources in accordance with the President's directive of June 20, 1979. The proposed voluntary guidelines for solar energy and renewable resources will be available for comment by October 15, 1979.

B. Intervention Issues

(1) *Summary of Comments.* A total of eight respondents commented on the scope of DOE's authority to intervene regarding PURPA standards in State regulatory authority proceedings. On the question of factors to be considered by DOE in selecting State proceedings for DOE intervention, it was suggested that interventions should be limited to issues of national interest, should be precedential in nature, and should assist small utilities. On the question of issues DOE should address in preparing testimony, it was suggested that DOE should focus on controversial issues to clarify the intent of PURPA. One respondent commented that DOE should not intervene, and all other respondents qualified the scope of DOE intervention.

(2) *Intended Actions.* No change in DOE's intervention selection policy appears warranted based on the comments received. In the exercise of its discretionary authority to intervene in State regulatory proceedings and the proceedings of nonregulated utilities, DOE will endeavor initially to foster the

purposes of PURPA and to contribute to informal decisionmaking through comprehensive participation in a limited number of proceedings.

In selecting interventions under PURPA, DOE will continue to assess a variety of factors including, but not limited to: (a) the opportunity for a precedential decision; (b) PURPA objectives; (c) energy policy objectives; (d) regulatory climate; (e) potential receptivity to DOE participation; (f) utility generation and fuel mix; (g) geographical balance; (h) data availability, as well as other issues that may be particularly relevant to each proceeding.

In a related matter, one commenter suggested that DOE might have an inherent advantage as an intervening party in a proceeding where DOE had provided financial or technical assistance to the involved State public utility commission or to the utility company itself. DOE does not perceive that such assistance would create any advantage to DOE, since statutorily authorized financial and technical assistance activities are not case-specific. Assistance under PURPA is given only to assist in carrying out the duties and responsibilities of PURPA and is not intended to influence the outcome of deliberations concerning the PURPA standards. Furthermore, such assistance is always a matter of public record.

(C) Technical Assistance Issues

(1) *Summary of Comments.* A total of 23 respondents commented on various aspects of the technical assistance questions posed in the Notice of Inquiry. Many encouraged ERA to provide some kind of technical assistance to interested parties. Several respondents were in favor of DOE providing on-site informal consultations. Several other respondents suggested that ERA continue to sponsor seminars and workshops.

(2) *Intended Actions.* Based on the comments received, ERA will continue to expand its ongoing efforts to identify State needs in considering and implementing the PURPA standards and to make available appropriate assistance materials, programs and workshops in areas of national or regional interest.

At the present time DOE has taken a number of steps to provide PURPA-related technical assistance to the States. Through the National Regulatory Research Institute (NRRI), ERA is engaged in a program to provide research, technical and analytic support to State regulatory and energy agencies and to nonregulated utilities. This

technical assistance effort presently encompasses 13 National Energy Act related projects and one long-range research project in the area of regulatory economics. NRRI will also conduct several workshops for State public utility commissions on marginal cost pricing, time-of-use rates, and cost-of-service. In addition, other workshops will be conducted by ERA on residential conservation services, cogeneration and small power production, and conservation voltage regulation and other utility energy efficiency measures.

Other related ERA activities include (a) a project to determine the needs of State public utility commissions and utilities for an information clearinghouse, (b) case studies on lifeline rate programs, (c) development of assistance materials for use by State public utility commissions and utilities in complying with PURPA in the areas of load management, master metering, consumer rate information and rate analysis techniques, and (d) grants to State consumer agencies to assist in presentation of the consumer perspective in rate proceedings.

ERA will continue to monitor State needs, to analyze requests for technical assistance and to structure programs to meet those needs.

Issued in Washington, D.C. on August 20, 1979.

Jerry L. Pfeffer,

*Assistant Administrator for Utility Systems,
Economic Regulatory Administration.*

[FR Doc 79-26393 Filed 8-23-79; 8:45 am]

BILLING CODE 6450-01-M

federal register

Friday
August 24, 1979

Part VIII

Department of Labor

Employment and Training Administration

Young Adult Conservation Corps

DEPARTMENT OF LABOR

Employment and Training Administration

20 CFR Parts 675 and 685

Young Adult Conservation Corps.

AGENCY: Employment and Training Administration, Labor.

ACTION: Final rules.

SUMMARY: This document contains final rules for the Young Adult Conservation Corps (YACC). These regulations set forth the requirements for the funding, establishment, location, operation and management of YACC and for the recruitment, referral, selection, and assignment of enrollees. These regulations also set forth the standards for hours and conditions of employment; standards for safe and healthful working and living conditions; wage rates and allowable deductions; and various YACC administrative provisions.

DATE: Effective date of these rules is September 24, 1979.

Comments on the final rules are requested by October 23, 1979.

ADDRESSES: Comments should be addressed to the Assistant Secretary of Employment and Training, U.S. Department of Labor, 601 D Street, NW., Washington, DC 20213. Attention: Robert Taggart, Administrator, Office of Youth Programs.

FOR FURTHER INFORMATION CONTACT: Robert Taggart, Administrator, Office of Youth Programs, Telephone: (202) 376-2646.

SUPPLEMENTARY INFORMATION: The Comprehensive Employment and Training Act (CETA) Amendments of 1978 (Pub. L. 95-524), which extended the authorization of the Young Adult Conservation Corps (YACC), was signed into law on October 27, 1978. The YACC remains as Title VIII of CETA, as it was when first enacted as part of the Youth Employment and Demonstration Projects Act (YEDPA) of 1977 (Title I, Pub. L. 95-93) on August 5, 1977. The provisions of Title VIII (YACC) remain basically unchanged, with the following exceptions:

(a) Section 804(a) was amended to add a new subsection (12) to provide for activities in integrated pest management. (See § 685.22(a)(12) of this Part.)

(b) Section 804(b)(1) was amended to include the Fish and Wildlife Conservation Act; 16 U.S.C. 601, with those provisions of Federal law with which work on YACC projects must be

consistent. (See § 685.22(b)(1) of this Part.)

(c) Section 806(a)(2)(B)(i) was amended to add, specifically, as eligible deliverers, the Federal Extension Service and the cooperative extension service of any State with respect to pest management projects described in Section 804(a)(12) of the Act. (See § 685.3(b)(1) of this Part.)

The purpose of the YACC is to provide employment and other benefits to youths who would not otherwise be currently employed, through a period of service during which they engage in completing projects of a public nature on Federal and non-Federal public lands and waters.

Section 126(a) of CETA states that the Secretary may prescribe such rules and regulations as he deems necessary to carry out the purposes of CETA. Pursuant to this authority, the Department of Labor is setting forth in this document the Federal regulations governing the Young Adult Conservation Corps program. The Department of Labor's regulation at 29 CFR 2.7 states that it is the policy of the Department of Labor to use proposed rulemaking procedures when issuing regulations for grant programs. The Secretary, however, in signing this document, is waiving the regulation at 29 CFR 2.7 for the following reasons: (1) these regulations continue the provisions of the existing YACC regulations at 29 CFR Part 97b with minimal substantive changes; and (2) Section 4(a)(2) of the CETA Amendments of 1978 requires that CETA, as reauthorized, be implemented by April 1, 1979. Nevertheless, even though this document contains final rules, the Department, in keeping with the spirit of 29 CFR 2.7 and Executive Order 12044, is requesting comments on these final rules. Changes in these rules may be made at a later date, depending upon the extent and nature of any comments.

The financial and other impact of these regulations is less than specified in DOL criteria for determining when a regulatory analysis should be performed. See 44 FR 5576 (January 26, 1979). Therefore, the preparation of a regulatory analysis is not required for these regulations.

Accordingly, Title 20 of the Code of Federal Regulations, Chapter V, is amended as follows:

1. In § 675.3 add the following table of contents for Part 685:

PART 675—INTRODUCTION OF THE REGULATIONS UNDER THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

§ 675.3 Table of Contents for Regulations Under CETA.

* * * * *

PART 685—YOUNG ADULT CONSERVATION CORPS UNDER TITLE VIII OF THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

Subpart A—General

Sec.

685.1 Purpose and scope.

685.2 Definitions.

685.3 Eligibility for funds.

685.4 Funding procedures.

Subpart B—Enrollee Recruitment, Referral, Selection, Assignment, Status

685.10 Eligibility criteria.

685.11 Limitations on enrollment.

685.12 Recruitment and referral procedures.

685.13 Selection, and assignment.

685.14 Federal status of enrollees.

685.15 Federal Employees' Compensation procedures.

685.16 Tort claims.

685.17 Enrollee claims for lost, stolen or damaged personal property.

Subpart C—Program Operation

685.20 Camp/project site selection, location.

685.21 Camp/project operation and management.

685.22 Work projects and assignments.

685.23 Safety and health.

685.24 Residential camp living conditions.

685.25 Enrollee wages and hours of work.

685.26 Allowable deductions from enrollee wages.

685.27 Enrollee payroll procedures.

685.28 Enrollee leave.

685.29 Resolution of grievances and complaints filed by enrollees.

685.30 Cooperation with agencies and institutions.

Subpart D—Administrative Provisions

685.40 Interagency agreement.

685.41 Annual program operating plan.

685.42 Directives, guidelines, controls, and records.

685.43 Enrollee records.

685.44 Financial management.

685.45 Property management.

685.46 Procedures for resolving complaints.

685.47 Maintenance of records.

685.48 Reporting requirements.

685.49 Assessment/monitoring.

685.50 Overall program evaluation.

2. By adding a new Part 685 to read as follows:

PART 685—YOUNG ADULT CONSERVATION CORPS UNDER TITLE VIII OF THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

Subpart A—General

Sec.

685.1 Purpose and scope.

Sec.

685.2 Definitions.

685.3 Eligibility for funds.

685.4 Funding procedures.

Subpart B—Enrollee Recruitment, Selection, Assignment, Status

685.10 Eligibility criteria.

685.11 Limitations on enrollment.

685.12 Recruitment and referral procedures.

685.13 Selection, and assignment.

685.14 Federal status of enrollees.

685.15 Federal Employees' Compensation procedures.

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685.17 Enrollee claims for lost, stolen or damaged personal property.

Subpart C—Program Operation

685.20 Camp/project site selection, location.

685.21 Camp/project operation and management.

685.22 Work projects and assignments.

685.23 Safety and health.

685.24 Residential camp living conditions.

685.25 Enrollee wages and hours of work.

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685.40 Interagency agreement.

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685.46 Procedures for resolving complaints.

685.47 Maintenance of records.

685.48 Reporting requirements.

685.49 Assessment/monitoring.

685.50 Overall program evaluation.

Authority: Section 126(a)(1) of the Comprehensive Employment and Training Act (29 U.S.C. 801 et seq.) unless otherwise noted.

Subpart A—General

§ 685.1 Purpose and scope.

(a) The purpose of this part is to provide the regulations of the Department of Labor for a Young Adult Conservation Corps (YACC) under Title VIII of the Comprehensive Employment and Training Act.

(b) This part contains the policies, rules and regulations pertaining to the Young Adult Conservation Corps program. The definitions at § 675.4 of this title and the following listed provisions of Part 676 of this title also apply to the YACC to the extent that they do not conflict with the provisions of this Part:

Subpart B

(1) Section 676.30(f), *Termination conditions; participant limitations.*

Subpart C

(2) Section 676.46, *Secretary's responsibilities.*

Subpart D

(3) Section 676.51, *Nondiscrimination and equitable service.*

Subpart E

(4) Section 676.61 through 676.74, pertaining to prevention of fraud and program abuse, except that the words "recipient" or "subrecipient" shall include entities receiving financial assistance from Agriculture and Interior under Title VIII of CETA to perform substantive work for YACC.

§ 685.2 Definitions.

Definitions for abbreviations and major terms used in this part are contained in § 675.4 of this title. The following definitions are specific to this part:

"Act" means the Comprehensive Employment and Training Act.

"Academic credit" means credit for education, training or work applicable toward a secondary school diploma, a post secondary degree, or an accredited certificate of completion, consistent with applicable State law and the requirements of an accredited educational agency or institution.

"Agriculture" means the Secretary of Agriculture or his or her designee.

"Area(s) of substantial unemployment" (ASU) means an area—

(1) which has a population of at least 10,000;

(2)(i) which has an average unemployment rate of at least 6.5 percent for the most recent twelve-month period, as determined by the Bureau of Labor Statistics (BLS); or

(ii) which for fiscal year 1979, and for parts A, B, and C of Title II of the Act for all fiscal years, has an average unemployment rate of at least 6.5 percent for any three consecutive months during the most recent twelve-month period, as determined by the Bureau of Labor Statistics. (Sec. 803(d).)

"Enrollee" means an individual who

has been officially enrolled at the assigned camp/project until the time of his or her official termination from the YACC program. The term "enrollee" is synonymous with "Corps member" as used in the statute and includes individuals in both the Federal and State grant programs.

"Federal program" means those camps/projects of the YACC program which are operated directly by Agriculture and Interior, as distinguished from those operated by States under the State grant program.

"Interagency agreement" means the tripartite agreement, entered into by the Secretaries of Labor, Agriculture and the Interior, which outlines their separate and joint responsibilities for operation and management of the YACC program under the Act. (Sec. 802)

"Interior" means the Secretary of the Interior or his or her designee.

"Labor" means the Secretary of Labor or his or her designee.

"Nonresidential project" means a designated area from which daily work activities are assigned and to/from which nonresidential enrollees commute daily.

"Onboard strength" means the actual number of individuals enrolled in the YACC program or any specified camp, project or other component thereof, at a given time.

"Program direction" means those general and administrative functions and services provided by Agriculture and/or Interior for overall management of the YACC.

"Program operating plan" means the annual plan for operation of the overall YACC program, which is jointly developed by Labor, Agriculture and Interior pursuant to the interagency Agreement. The plan consists of site selections/locations, the proportions of residential and nonresidential enrollee slots, and the budget.

"Refugee/parolee" as used in § 685.10(a) means an alien who is admitted into the United States under the Immigration and Nationality Act, and who is legally authorized to take permanent employment in the United States. (Sec. 803(b)(1)(C))

"Report, financial and program progress" as used in § 685.4(a)(2) and (3), and outlined in § 685.47(c), means that report which is required from Agriculture and Interior under section III C of the YACC Interagency Agreement, and which includes information on enrollee slot capacity, enrollment, and characteristics, as well as financial status, for both the Federal and State grant programs.

"Residential camp" means a YACC facility established and maintained to provide 7-days-a-week, 24-hours-a-day residential support services for enrollees.

"School program, full time" as used in § 685.11(a), means any educational program, attendance at which would prevent full-time participation in scheduled work assignments required by the YACC program.

"Selection, enrollee" means the Agriculture or Interior process of choosing, only from among those candidates referred to them by Labor,

which individuals will be enrolled in the YACC. (Sec. 803(a))

"Selection, site" means the Agriculture or Interior process of choosing, in consultation with Labor, the location at which each YACC residential camp or nonresidential project will be established and operated. (Sec. 804(a))

"State grant program" means those YACC camps/projects operated by States, local units of government, public and/or private nonprofit agencies or organizations, under grants made and administered jointly by Agriculture and Interior with States. In accordance with title VIII, Section 806 of the Act.

"Unemployed" means, for purposes of the YACC program, persons who are without jobs and who want and are available for full-time work.

"YACC" means the Young Adult Conservation Corps program, authorized by Title VIII of the Comprehensive Employment and Training Act.

"Youth population, State's total" means the number of youth in a State ages 16 through 24, consistent with the most current Bureau of Census estimate.

§ 685.3 Eligibility for funds.

(a) Labor shall make an interagency transfer of funds to Agriculture and Interior to carry out their responsibilities in the operation and management of YACC residential camps and nonresidential projects, in accordance with the interagency agreement between Labor, Agriculture, and Interior.

(b) Agriculture and Interior shall make available to governors or their designees 30 percent of the sums appropriated for the YACC for any fiscal year, for the operation of State and local programs. Agriculture and Interior shall apportion such sums on the basis of each State's total youth population, and consistent with the interagency agreement and the regulations of this part, and after consultation with the Governor, may enter into agreements with the Governor or his or her designee for operation of the State grant programs by:

(1) any State agency or institution specifically including the Federal Extension Service and the cooperative extension service of any State with respect to pest management projects described in Sec. 685.22(a)(12) of this title.

(2) any unit of general local government, or any public agency or organization or any private nonprofit agency or organization which has been in existence for at least two years. (Sec. 806)

(c) Regulations promulgated by Agriculture and Interior, covering the State grant program, shall be consistent

with the Department of Labor regulations issued under this part, and the interagency agreement.

§ 685.4 Funding procedures.

(a) Labor shall fund the Federal and State grant YACC program by semiannual, direct transfers of funds and obligational authority to Agriculture and Interior, using Standard Form 1151, "Nonexpenditure Transfer Authorization." (Sec. 809)

(1) After the initial transfer of funds, Labor shall make semiannual transfers of funds, no sooner than 30 days after receipt of each first-quarter financial and program progress report for the midyear transfer, and no later than 30 days before the beginning of subsequent new fiscal years. (See Sec. 685.41 of this part.)

(2) In advance of each third quarter, after the first fiscal year, Labor shall review quarterly financial and program progress reports and use the financial data to provide for adjustments in the midyear semiannual transfer. Such adjustments will include reductions by amounts corresponding to the balances remaining unobligated by Agriculture or Interior, or both, during the fourth quarter of the previous fiscal year, since such balances are considered available resources.

Subpart B—Enrollee Recruitment, Referral, Selection, Assignment, Status

§ 685.10 Eligibility criteria.

To be eligible for YACC, a youth must be:

- (a) unemployed, at the time of application;
- (b) age 16 through 23, inclusive;
- (c) citizens or lawfully admitted permanent residents of the United States or lawfully admitted refugees or parolees; and
- (d) capable of carrying out the work to which they may be assigned. (Sec. 803(b)(1))

§ 685.11 Limitations on enrollment.

(a) Labor shall not refer any youth to Agriculture or Interior who is between the ages of 16 and 18, inclusive unless the applicant gives written assurance on the application form that he or she has not left a full-time school program for the purpose of enrolling in YACC. (Sec. 803(b)(2).)

(b) Agriculture and Interior shall assure that no youth is enrolled in the YACC for a period exceeding 12 months. Such period may be completed in up to three separate enrollments, so long as the youth meets the eligibility requirements at the time of each

separate enrollment. If a youth reaches the age of 24 while enrolled, he or she may remain in the program to complete his or her current period of enrollment. (Sec. 803(e)(1).)

(c) Labor shall not refer any youth if he or she desires enrollment only for the normal periods between school terms. (Sec. 803(e)(2).)

§ 685.12 Recruitment and referral procedures.

(a) Labor shall recruit candidates for YACC through the public employment service, prime sponsors qualified under section 101 of the Act, sponsors of Native American programs qualified under section 302 of the Act, sponsors of migrant and seasonal farmworkers programs under section 303 of the Act, Agriculture and Interior, and such other agencies and organizations as Labor may deem appropriate. (Sec. 803(c).) To the extent feasible, Labor shall refer, through the public employment service, an equitable number of youth for employment, based upon the total youth population of the State, from both sexes, and from all economic and racial classifications. Labor shall transmit to the SESA's Census data reflecting the numbers of youth in each State in these classifications.

(b) State employment security agencies (SESA's), through their local employment service/job service offices (ES/JS), shall enter into nonfinancial agreements with title II prime sponsors and other agencies and organizations, as they deem appropriate, for the recruitment and initial referral of candidates for YACC to the ES/JS. ES/JS offices shall identify prospective applicants from their own files and shall also take and process all applications from interested youth for subsequent referral of eligible applicants to Agriculture/Interior.

(c) Local ES/JS offices shall refer all those candidates who self-certify that they meet the eligibility criteria listed in § 685.10 (a), (b), and (c) to individuals designated by Agriculture and Interior for selection of those to be enrolled. These candidates shall be deemed capable of performing the work which the YACC has available. Such referrals shall include all interested youth, including veterans, from all economic and racial classifications.

(d) After receipt of verification, from a camp or project director, that a youth has been officially enrolled, the ES/JS office shall notify the appropriate recruiting agency.

(e) Labor shall review data to determine whether any adjustment in the recruitment and referral process is necessary to see that, to the extent

feasible, an equitable proportion of male, female, poor, nonpoor, minority, and nonminority youth are being served, based upon the most current Census estimates of total youth population in each State.

§ 685.13 Selection and assignment.

Agriculture and Interior representatives shall:

(a) Notify ES offices when openings are available;

(b) Select potential enrollees only from applications referred by ES/JS;

(c) To the extent feasible, select an equitable number of youth for employment, based upon the total youth population of the State, from both sexes, and from all economic and racial classifications;

(d) Notify selected applicants of the date, time, and place to which they should report for work, and that:

(1) A physical examination is required of each selectee, which either must be obtained at the selectee's expense or may be obtained by the selectee at little or no cost;

(2) They will be required to pay for their own transportation to and from the project or camp. Youths, who need an advance against future salary to pay for transportation to a residential camp may request one from the camp director;

(3) A parental consent will be required for those youth who have not yet reached the age of majority;

(4) They must provide their own clothing, with the exception of certain safety equipment which will be provided.

(e) Assign youth to nonresidential projects within normal commuting distance from their homes, and youth to residential camps as near to their homes as practicable, without regard to State boundaries;

(f) Notify the referring ES/JS office, as soon as possible but no later than thirty days after receipt of application, which applicants have been selected and have reported for employment, and which have not been so selected.

§ 685.14 Federal status of enrollees.

(a) Except as otherwise specifically provided in this part, all YACC enrollees, whether in the Federal program or the State grant program, shall not be deemed Federal employees, and shall not be subject to the provisions of law relating to Federal employment including those regarding hours of work, rates of compensation, leave, unemployment compensation, and Federal employee benefits. (Sec. 805(a).)

(b) For purposes of section 5911 of title 5 of the United States Code, relating to allowances for living quarters,

enrollees whose housing is provided by the Federal Government shall be deemed employees of the United States within the meaning of the term "employee" as defined in that section, and provisions of that section shall apply. (Sec. 805(a)(4).)

(c) For purposes of the Internal Revenue Code of 1954 (26 U.S.C. 1 et seq.) and title II of the Social Security Act (42 U.S.C. 401 et seq.), enrollees, including State grant program enrollees, shall be deemed employees of the United States, and any service performed by a person as an enrollee shall be deemed to be performed in the employ of the United States. (See 805(a).)

(d) For purposes of chapter 171 of title 28 of the United States Code, relating to tort claims procedures, enrollees, including State grant program enrollees, shall be deemed employees of the United States within the meaning of the term "employee of the Government" as defined in section 2671 of title 28, United States Code, and provisions of that chapter shall apply. (Sec. 805(a)(3).)

(e) For purposes of subchapter 1 of chapter 31 of title 5 of the United States Code, relating to compensation to Federal employees for work injuries, enrollees, including State grant program enrollees, shall be deemed employees of the United States within the meaning of the term "employee" as defined in section 8101 of title 5, United States Code, and provisions of that subchapter shall apply except that the term "performance of duty" shall not include any act of an enrollee while absent without authorization from his or her assigned post of duty, but shall include time spent participating in an activity (including an activity while on pass or during travel to or from such post of duty) authorized by or under the direction of YACC program staff. (Sec. 805(a)(2).)

(1) Residential enrollees are generally considered under FECA to be Federal employees from the time each begins Government authorized travel to the assigned YACC camp, to the time each completes Government authorized travel after termination from the program. During this period, residential enrollees are generally considered, under FECA, to be in "performance of duty" at all times, during any and all of their activities, 24 hours a day, 7 days a week, except when they are absent without authorization. Whether a residential enrollee is in "performance of duty" shall be determined by the Office of Workers' Compensation Programs (OWCP).

(2) Nonresidential enrollees, after official enrollment, are generally considered, under FECA, to be in

"performance of duty" as Federal employees from the time they arrive daily at the designated area from which activities are assigned, until they leave such designated area or activity. Nonresidential enrollees are generally not covered by FECA while commuting between a designated area/authorized activity and their residence. Whether a nonresidential enrollee is in "performance of duty" shall be determined by OWCP.

§ 685.15 Federal Employees' Compensation procedures.

(a) Whenever a youth is injured, develops an occupationally related illness, or dies, the camp/project director shall immediately comply with the procedures set out in the Employment Standards Administration regulations at 20 CFR Chapter 1. The camp/project director shall also see that a thorough investigation of the circumstances, and a medical evaluation, are made, and shall see that required forms are filed with the appropriate OWCP district office.

(b) If a youth dies, the camp or project director, in addition to making proper notifications, in accordance with procedures established by Agriculture and/or Interior, shall:

(1) Notify the appropriate district office of OWCP of the death and the circumstances surrounding it, and file appropriate forms with that office; (Sec. 805(a)(2) of the Act);

(2) Inform the next of kin of any benefits which may be available from Federal Employees' Compensation. The camp/project director shall notify them that the Government shall pay for expenses involved in the preparation and transportation of the remains to a mortuary in the area selected by the next of kin, but not for other funeral expenses;

(3) Consult the decedent's family as to the final disposition of the remains before any final action is taken in this regard; and

(4) If the next of kin refuses to accept the remains, arrange for burial at a site close to the camp/project and at a cost not to exceed the amount authorized in section 8134(a) of the Federal Employee's Compensation Act (FECA).

§ 685.16 Tort claims.

(a) In the event an enrollee is alleged to be involved in the damage, loss or destruction of the property of others or of causing personal injury to or the death of other individual(s) while in the performance of duty, claims may be filed by the owner(s) of the property, the injured person(s), or by a duly authorized agent or legal representative

of the claimant to the camp/project director who shall collect all of the facts and submit the claim for a decision to the appropriate officials of Agriculture and Interior for processing pursuant to the tort claim procedures established by those departments.

(b) Tort claims shall be made on Standard Form 95, the Claim for Damage or Injury form or a similar document, supported by necessary justification.

§ 685.17 Enrollee claims for lost, stolen or damaged personal property.

(a) Agriculture or Interior may pay claims to enrollees for lost, damaged, or stolen personal property, up to a maximum of \$200, when such loss is not due to the negligence of the enrollee. Enrollees shall always be compensated for losses when they are the result of a natural disaster or when the enrollee's property is in the protective custody of the camp director. The Camp/project director shall file such claims with Agriculture or Interior for a determination on the claim and promptly notify the enrollee of the determination.

Subpart C—Program Operation

§ 685.20 Camp/project site selection, location.

Consistent with the interagency agreement, Agriculture and Interior, in consultation with Labor, shall select the site of each residential camp and nonresidential project.

(a) Nonresidential projects and those residential camps providing for nonresidential participation shall be located within normal commuting distances from the geographic centers of areas of substantial unemployment designated by the Secretary of Labor. Labor shall annually provide Agriculture and Interior with a listing of areas of substantial unemployment.

(b) To the maximum extent feasible, residential camps shall be located in areas where existing residential facilities for the enrollees are available. Whenever appropriate, existing but unoccupied or underutilized Federal, State, or local government facilities and equipment shall be utilized for YACC camps with the approval of the Federal agency, State or local government involved. (Sec. 804(d)(2))

§ 685.21 Camp/project operation and management.

(a) In keeping with the interagency agreement, Agriculture and Interior shall, in the case of the Federal program, have responsibility for, and, in the case of the State grant program, issue guidelines covering:

(1) The identification of a director or supervisor in charge of each YACC residential camp or nonresidential project;

(2) The staffing, operation and management of each YACC camp and project;

(3) Selection of enrollees;

(4) Determination of enrollee's work assignments, subject to the health, safety, and work standards established by Labor in §§ 685.22, 23, 24 and 25 of this subpart;

(5) Enrollee discipline;

(6) Enrollee termination; and

(7) Operating an effective program at each camp and project.

(b) Agriculture and Interior may provide for such transportation related to camp and/or work project operations, lodging, subsistence, medical treatment, and other services, supplies, equipment, and facilities as they may deem appropriate to carry out the purposes of this part, consistent with the regulations mentioned in paragraph (a)(4) of this section, regarding health, safety and work standards. (Sec. 804(d)(1))

§ 685.22 Work projects and assignments.

(a) YACC enrollees shall perform work on projects in such fields as:

(1) Tree nursery operations, planting, pruning, thinning, and other silvicultural measures;

(2) Wildlife habitat improvements and preservation;

(3) Range management improvement;

(4) Recreation area development, rehabilitation, and maintenance;

(5) Fish habitat and culture measures;

(6) Forest insect and disease prevention and control;

(7) Road and trail maintenance and improvements;

(8) General sanitation, cleanup and maintenance;

(9) Erosion control and flood damage;

(10) Drought damage measures; and

(11) Other natural disaster damage measures. (Sec. 804(a))

(12) Integrated pest management, including activities to provide the producers of Agricultural commodities with information about the appropriate amount of chemical pesticides which when used in conjunction with nonchemical methods of pest control (a) will provide protection against a wide variety of pests, (b) will preserve to the greatest extent possible the quality of the environment, and (c) will be cost effective.

(b) Agriculture and Interior shall undertake to assure that projects on which work is performed under this part are consistent with the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the

National Forest Management Act of 1976, and such other standards relating to such projects as the Secretaries of Agriculture and Interior shall prescribe, consistent with other provisions of Federal law (including the Fish and Wildlife Conservation Act; 16 USC 601). (Sec. 804(b)(1))

(c) To the maximum extent practicable, Agriculture and Interior shall establish projects that:

(1) Are labor-intensive;

(2) Are projects for which work plans can be readily developed;

(3) Are able to be initiated promptly;

(4) Are productive;

(5) Are likely to have a lasting impact both as to the work performed and the benefit to the youths participating;

(6) Provide work experience to participants in skill areas required for the projects; and

(7) Are similar to activities of persons employed in seasonal and part-time employment in agencies such as the National Park Service, United States Fish and Wildlife Service, Bureau of Reclamation, Bureau of Land Management, Bureau of Indian Affairs, Forest Service, Bureau of Outdoor Recreation, and Soil Conservation Service. (Sec. 804(c))

(d) Agriculture and Interior shall assure that YACC program activities will not result in the displacement of employed workers, or impair existing contracts for services, or result in the substitution of YACC funds for other funds in connection with work that would otherwise be performed.

(e) Agriculture and Interior shall place individuals employed as enrollees into jobs which will diminish the backlog of relatively labor-intensive projects which would otherwise be carried out if adequate funding were made available. (Sec. 804(b)(2))

(f) Agriculture and Interior shall see that YACC enrollees do not, at the same time, share common facilities or property, or work with members of the Job Corps, under title IV of the Act, except in emergency situations, as outlined in paragraphs (g) and (h) of this section.

(g) Agriculture and Interior may authorize and utilize enrollees who are at least 18 years old to provide assistance and to perform work in emergency disaster situations. Camp/project directors may ask enrollees to volunteer, but may not require them to participate while any natural disaster is occurring. They may, however, require enrollees to perform work on damage which has been caused by such disasters. In determining the eligibility of enrollees for performing such work, camp/project directors shall follow

regular Agriculture and Interior policies and procedures, insofar as they are consistent with health, safety, and work standards established by Labor in sections 685.22, 23, 24, and 25 of this subpart. Agriculture and Interior shall arrange, to the extent feasible, for any added expenses consequent to such assistance to be borne by the benefiting organization. If funding is not available from the benefiting organization, Agriculture and Interior may use YACC operational funds to provide the emergency assistance, subject to the availability of such funds.

(h) Camp and project directors shall see that no enrollee participates in emergency relief efforts:

(1) In connection with strikes or labor stoppages; or

(2) On private property except as incidental to authorized emergency work as outlined in paragraph (g) of this section.

(i) Camp and project directors shall see that the assignment of enrollees under 18 years of age to work activities is in compliance with the Hazardous Occupation Orders issued pursuant to the Fair Labor Standards Act and set forth at 29 CFR 570.50 et seq.

§ 685.23 Safety and health.

(a) Agriculture and Interior shall assure that enrollees are not required or permitted to work or receive services in buildings or surroundings or under conditions which are unsanitary, hazardous, or lack proper ventilation. Camp and project directors shall see that such work or services are conducted or provided in accordance with appropriate Agriculture or Interior policies and procedures, and are consistent with the standards set forth in the regulations under the Occupational Safety and Health Act at 29 CFR Part 1910, 1926, and 1960 subpart B.

(b) Agriculture and Interior shall conduct safety and health inspections of every residential camp and work project area connected therewith, at least annually, consistent with the requirements in 29 CFR 1960.26(d).

(c) Camp/project directors shall issue such items of protective and safety clothing and equipment to enrollees as are necessary and appropriate to ensure a maximum of safety in all work situations. Camp/project directors shall also see that proper use of such clothing and equipment is taught to enrollees and enforced. Enrollees are expected to provide all other clothing.

(d) Camp/project directors shall provide complete safety orientation to enrollees in all work situations to alert

them to any hazards to which they may be exposed. (Sec. 805(b)(3))

§ 685.24 Residential camp living conditions.

(a) Residential camp directors shall provide for residential support facilities and services which ensure healthful and secure living conditions, 7 days a week, 24 hours a day.

(b) Agriculture and Interior shall assure that all residential facilities are well maintained and shall comply with applicable Federal, State, and local safety, health, and housing codes for multipurpose group residences.

(c) Agriculture and Interior shall see that adequate supervision and assistance are provided which are adequate to ensure the safety and health of the enrollees. (Sec. 805(b)(3))

§ 685.25 Enrollee wages and hours of work.

(a) Agriculture and Interior shall assure that each enrollee, in both the Federal and State grant programs, is paid at the same hourly rate, which shall be at the Federal minimum rate specified in section 6(a)(1) of the Fair Labor Standards Act of 1938, as amended.

(b) Notwithstanding paragraph (a) of this section Agriculture and Interior shall provide for an additional cost-of-living allowance for enrollees in the State of Alaska, not to exceed 25 percent of the Federal wage rate.

(c) As an incentive, camp and project directors may authorize incremental increases, above the minimum wage specified in paragraphs (a) and (b) of this section, for a limited number of enrollees, to reflect additional responsibilities or competencies. For this purpose, two promotional categories may be established: (1) Enrollee Leader, and (2) Enrollee Assistant Leader. No more than 15 percent of the enrollment of any individual camp or project shall be given such increases. For each enrollee thus compensated, the wage increase shall not exceed 50 percent, nor be less than 15 percent of the applicable basic hourly minimum wage, as outlined in paragraphs (a) and (b) of this section.

(d) Camp and project directors shall reduce enrollee wages for each hour of unexcused absence.

(e) Camp directors may require enrollees assigned to residential camps to assume responsibility for housekeeping and maintenance duties. Such duties shall not be considered compensable, unless scheduled during the regular work day, in which case enrollees shall be paid at the same rate as for regular work assignments.

(f) Camp and project directors shall see that:

(1) Only those enrollees who are qualified in accordance with § 685.22(g) are allowed to participate in fire suppression activities;

(2) Such enrollees are used only to supplement compensated firefighters, and are paid at the rates set by Agriculture and Interior as established in pay plans for emergency firefighters, in accordance with established agency policies, procedures and practices;

(3) No YACC enrollee is required to work for a greater number of hours per day than other firefighters.

(g) Agriculture and Interior shall see that no enrollee is required to work for more than 8 hours per day or 40 hours per week, except that camp and project directors may authorize overtime, which shall not exceed 10 such hours per week, in which event they shall pay them at the same rate as specified in paragraph (a) and (b), or (f)(2) when applicable, of this section. (Sec. 805(b))

§ 685.26 Allowable deductions from enrollees' wages.

(a) Agriculture and Interior shall see that enrollees assigned to residential camps are charged for food and lodging, at the rate of \$3.00 per day, while in residence. Project and camp directors shall arrange for payment of such charges by payroll deduction. Agriculture and Interior shall see that such deductions remain in the applicable appropriation or fund.

(b) Residential camp directors may arrange, through payroll deductions, for the reimbursement, by enrollees, of initial travel advances provided to them in the circumstances outlined in § 685.13(d)(2).

(c) Camp and project directors shall see that:

(1) Income taxes are withheld from enrollee wages pursuant to the Federal Internal Revenue Code of 1954 (26 U.S.C. 1 et seq.) (Sec. 805(a)(1)), and such State income tax laws as are applicable, and that any forms required to effect income tax deductions or withholding exemptions are provided to and completed by each enrollee; and

(2) Wage and tax statements are provided to enrollees.

(d) Deductions shall not exceed the limit as set forth in title III of the Consumer Credit Protection Act (15 U.S.C., 1671 et seq.).

§ 685.27 Enrollee payroll procedures.

Agriculture and Interior shall assure that the payroll procedures for both the Federal and State programs are the same. State and local grantees shall utilize the payroll forms used by the

Federal Government for payment of enrollees in accordance with the regulations/instructions issued by Agriculture or Interior, as appropriate.

§ 685.28 Enrollee leave.

(a) Agriculture and Interior shall provide enrollees with paid annual leave at a rate of 4 hours for every full pay period which shall consist of two normal work weeks. Accrual shall commence at the beginning of the first full pay period after the day of official enrollment, and shall end on the date of official termination. Such leave may be accrued up to a maximum of 13 days for 52 weeks of uninterrupted enrollment. Enrollees may use accrued leave at any time, subject to the approval of the camp/project director, but shall use all accrued leave prior to each formal termination. The date of formal termination shall be the final date upon which the youth is eligible to receive pay, whether this is a work day or an accrued but unused leave day.

(b) The camp or project director may grant administrative leave with pay, at his or her discretion, for enrollee participation in job search and employment development activities. Such leave with pay is to be counted as time in employment.

(c) The camp or project director may grant emergency or administrative leave, without pay, at his or her discretion. Such leave without pay is not counted as time in employment.

(d) Camp and project directors shall pay enrollees for all official holidays, if they are in a pay status for 8 hours on the workdays immediately preceding and following the holiday. Approved leave with pay shall count as time in employment for official paid holidays. Such holidays shall not count as annual leave. (Sec. 805(b))

§ 685.29 Resolution of grievances and complaints filed by enrollees.

Agriculture and/or Interior shall establish plans and procedures, subject to approval by Labor, for resolving any issues or complaints filed by youths, from the time at which their referrals are received from ES/JS to the time of formal termination. These plans and procedures shall encompass issues or complaints such as those regarding adverse action, civil rights, equal employment opportunity, enrollment or upgrading which arise between their Departments and any enrollee. Such procedures shall provide the enrollee with:

- (a) An opportunity for an informal conference to resolve the issue;
- (b) A notice setting forth the grounds for any adverse action proposed to be

taken against him or her and giving him or her an opportunity to respond;

(c) An opportunity for a formal hearing and, if the enrollee is not satisfied, with an opportunity for an appeal; and

(d) An offer of assistance in the preparation for hearings and appeals. (Sec. 802)

§ 685.30 Cooperation with agencies and institutions.

(a) Agriculture and/or Interior shall, to the extent feasible, arrange for local linkages with educational systems, CETA and other employment and training programs, employment service offices, local apprenticeship sponsors and information centers, and employers, in order to arrange for the provision of available services to enrollees, both during nonwork hours while enrolled, and after termination from YACC. Camp/project directors shall be encouraged to establish procedures to ensure that enrollees are made aware of established linkages and related information and opportunities.

(b) Camp and project directors shall notify appropriate local ES/JS offices regarding enrollee status, in advance of the end of the enrollment period or upon termination and shall, to the extent feasible, assist the enrollee in making contact with ES/JS or other organizations to enhance the possibilities for placement.

(c) Labor shall work with the Department of Health, Education, and Welfare to make suitable arrangements whereby academic credit may be awarded by educational institutions and agencies for competencies derived from work experience obtained through the YACC program. Labor shall also encourage camp and project directors, through Agriculture and Interior, to make necessary arrangements with local education agencies so that academic credit for such work experience may be granted. (Sec. 804(e))

Subpart D—Administrative Provisions

§ 685.40 Interagency agreement.

Labor shall administer the YACC program through an interagency agreement with Agriculture and Interior. (Sec. 802)

§ 685.41 Annual program operating plan.

(a) In advance of each fourth fiscal quarter, Labor shall review the quarterly financial and program progress reports received during the fiscal year, to form the basis for joint interagency development of the program operating plan for the next fiscal year, as outlined in this section.

(b) Labor, Agriculture, and Interior shall jointly begin the development of an annual program operating plan at least 90 days in advance of the beginning of each fiscal year. This plan shall include:

- (1) The camp/project site selections/locations arrived at in consultation, in accordance with the interagency agreement;
 - (2) The proportions of residential and nonresidential slots; and
 - (3) The budget for the new fiscal year.
- (c) Labor shall approve the proportion of residential and nonresidential slots, and the budget before transfer of funds can occur.

For the initial and subsequent budgets, the cost per unit (per-slot for fiscal years 1978 and 1979, and per-enrollee-year for subsequent years) will be reflective of all programs costs, including, but not limited to: camp/project operating costs; enrollee wages and benefits; recruitment, selection, and placement support costs; transportation; annual capital replacement costs; program direction expenses; and startup costs, including those for rehabilitation, construction, purchase of real property, lease(s), equipment and furnishings, vehicles, transfers of station, and initial planning.

§ 685.42 Directives, guidelines, controls, and records.

Labor, Agriculture and Interior shall establish procedures to ensure that operational directives, guidelines, controls, and records of the YACC program are established, promulgated, and maintained, in accordance with their established policies and procedures, and consistent with the requirements of this part.

§ 685.43 Enrollee records.

Camp and project directors shall establish and maintain enrollee records, according to regular Agriculture and/or Interior policies and procedures, subject to their regulations under the Freedom of Information Act, and the Privacy Act of 1974.

§ 685.44 Financial management.

Based upon each annual program operating plans, Agriculture and/or Interior shall assume financial responsibility, authority and accountability for all the camps and projects respectively operated under the YACC program within the total program costs per slot or enrollee year approved by Labor.

§ 685.45 Property management.

Agriculture and/or Interior are responsible for real and personal property procurement, management, and

accountability. When accountable property, other than real property, is declared excess to the needs of the YACC program, Labor shall be given first preference for use of the property in other Labor programs.

§ 685.46 Procedures for resolving complaints.

(a) Agriculture and Interior shall receive and resolve complaints concerning alleged violations of their responsibilities as outlined in these regulations and the Act from any person or any unit of Federal, State, or local government.

(b) All such complaints shall be filed with Agriculture or Interior according to procedures established by those agencies.

§ 685.47 Maintenance of records.

Agriculture and Interior shall ensure that sufficient auditable and otherwise adequate records are maintained to support the expenditure of all funds under the Act.

§ 685.48 Reporting requirements.

Agriculture and Interior shall compile and submit to the Department of Labor, Office of Youth Programs, the reports listed below, with data for Federal and State grant programs separately delineated:

(a) A copy of the monthly report on budget execution (Standard Form 133), as submitted to the U.S. Treasury Department;

(b) A monthly report of onboard strength, which shall be due no later than 15 calendar days after the end of each month and which shall include the actual number of individuals enrolled on the last day of the reporting month;

(c) A quarterly financial and program progress report, in accordance with the format outlined in Appendix No. 1 of the YACC Interagency Agreement, which shall be due no later than 30 calendar days after the end of each quarter, and shall consist of:

- (1) A Federal program summary, supported by individual reports of the Federal program by State;
- (2) A State grant program summary, supported by individual State reports;
- (3) A combined Federal/State summary report.

§ 685.49 Assessment/monitoring.

(a) Agriculture and Interior shall plan and conduct regularly scheduled onsite assessments and such other interim visits as are necessary to monitor camp/project performance, and to insure effective accomplishment of YACC program objectives by all levels of management charged with program responsibilities.

(b) Labor, in consultation with Agriculture and/or Interior, may participate in any onsite monitoring or assessment effort.

§ 685.50 Overall program evaluation.

Labor, in accordance with a plan developed in consultation with Agriculture and Interior, shall fund and conduct such evaluations of the YACC program as deemed necessary to determine whether the program is meeting statutory objectives.

Signed at Washington, D.C., this 20th day of August, 1979.

Ray Marshall,
Secretary of Labor.

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federal register

Friday
August 24, 1979

Part IX

Nuclear Regulatory Commission

Uranium Mill Tailings Licensing and
Criteria, and Construction of Major Plants

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NUCLEAR REGULATORY COMMISSION**10 CFR Parts 40, 150****Uranium Mill Tailings Licensing****AGENCY:** Nuclear Regulatory Commission.**ACTION:** Final Regulations with request for comments.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its regulations to conform to the requirements of the Uranium Mill Tailings Radiation Control Act of 1978 and to the standards set forth in the draft Generic Environmental Impact Statement Uranium Milling. The bulk of these regulations are being published in proposed form. (See proposed rules published elsewhere in this part of the Federal Register.) The Commission finds it necessary, however, to issue as immediately effective a temporary general license to authorize the possession and storage of mill tailings or wastes to prevent existing milling operations in both Agreement and non-Agreement States from being in technical violation of the Atomic Energy Act of 1954, as amended by the Uranium Mill Tailings Radiation Control Act of 1978. The immediately effective regulations relating to the general license, such as amendments to the definition of "byproduct material," and to the coverage of tailings in Agreement States, serve two functions. They reflect the NRC's legal interpretation of the new Act necessitating the general license and clarify the application of the general license. Accordingly, these regulations must also be made immediately effective.

DATES: Effective date: August 24, 1979. Comments on or before October 24, 1979.

ADDRESSES: Written comments should be submitted to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Attention: Docketing and Service Branch. Copies of comments on these amendments may be examined in the Commission's Public Document Room at 1717 H Street, NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Don F. Harmon, Office of Standards Development, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555 (phone 301/433-5910) or Hubert J. Miller, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555 (phone 301/427-4103).

SUPPLEMENTARY INFORMATION: These immediately effective regulations are closely related to the proposed rules implementing the Uranium Mill Tailings Radiation Control Act of 1978 and the draft Generic Environmental Impact Statement on Uranium Milling. Thus, the two sets of amendments should be read together. (See proposed rules published elsewhere in this part of the Federal Register.)

On May 17, 1979, the Commission met to determine the issue of the timing of the effectiveness of certain requirements of the Uranium Mill Tailings Radiation Control Act of 1978. At this meeting it was determined that the NRC has immediate licensing authority over mill tailings, now defined as section 11e(2) byproduct material in the Atomic Energy Act of 1954, as amended; that the new requirements for agreement state regulation of tailings and milling operations will not take effect until three years after the date of enactment of the mill tailings legislation; and that during that three-year interim, the legislation requires that NRC assume concurrent jurisdiction over tailings in both Agreement and non-Agreement States. The Commission also determined that the definition of section 11e(2) byproduct material includes the above-ground wastes from in situ extraction operations.

New § 40.26 is added to 10 CFR Part 40 to establish a temporary general license to authorize the possession and storage of mill tailings or wastes. The general license will prevent existing milling operations with valid licenses from being in technical violation of the Atomic Energy Act of 1954, as amended by the Uranium Mill Tailings Radiation Control Act of 1978. The Commission believes this general license is consistent with the Congressional intent to implement the mill tailings legislation in a manner designed to minimize unnecessary disruption. As provided in section 40.20 of 10 CFR Part 40, a general license is effective without filing of an application or the issuance of licensing documents to particular persons. This general license is applicable only to persons who possess appropriate specific licenses issued by the Commission or Agreement States to authorize uranium milling activities. The authority to possess, use, or own tailings under the general license shall expire upon the expiration or renewal of the underlying NRC or Agreement State specific milling license.

The Commission notes that all of its existing active milling licenses have been reviewed or are being reviewed under the provisions of the National

Environmental Policy Act (NEPA). All NRC licenses presently contain, or will contain, requirements for tailings reclamation, mill and site cleanup, and surety arrangements to cover these costs. For the most part, present requirements and conditions are substantially the same as the requirements set forth in the proposed amendments concerning uranium milling, and most milling operations in non-Agreement States have already committed to specific plans for decommissioning and tailings disposal meeting the new requirements. NRC uranium milling licenses that have been granted under the NEPA process during the period over which the NRC's generic environmental impact statement or uranium milling was being developed were issued with the express condition that approved waste generating processes and mill tailings management practices were subject to revision in accordance with the conclusions of the final generic environmental impact statement and any related rulemaking. In the process of reevaluating approved mill operator plans upon expiration or renewal to meet the new regulatory requirements, the NRC staff plans to incorporate into applicable specific licenses the authority to possess and store byproduct material covered by this general license.

Under the provisions of this general license, Agreement State licensees will not be required to obtain a specific NRC license until such time as the licensee's Agreement State specific license expires or is renewed. The Commission notes in this regard that there presently exist Agreement State regulations and requirements governing the control of tailings in Agreement States that appear adequate to protect the public health and safety during the interim period until such licenses expire or are renewed. At such time as each Agreement State license expires or is renewed, it will be necessary at least until November 1, 1981, for the Agreement State licensee to apply for and obtain a specific NRC license covering the possession of byproduct material. The Commission intends to review each application under the NEPA process and impose any necessary requirements as may be necessary to protect the public health and safety. Given that tailings piles in Agreement States covered by this general license have been in existence for several years, the Commission does not believe that the relatively small incremental increase to such piles during the interim time until licenses expire or are renewed will foreclose available alternatives for

reducing or avoiding adverse environmental and other effects or result in irreversible or irretrievable commitments of sources. The Commission has concluded that the issuance of the general license is not a major Federal action significantly affecting the quality of the human environment and as such does not require an environmental impact statement. The Commission further notes in this regard that the authority to possess, own, or receive title to tailings now defined as byproduct material under this general license is subject to NRC remedial orders as necessary to protect the public health and safety and to correct any situations in which events might require more immediate Commission attention to insure proper control of tailings.

Section 40.4 of 10 CFR Part 40 is amended to include a new definition of "byproduct material." This amendment, which includes uranium and thorium mill tailings as byproduct material licensable by the Commission, is required by the recently enacted Uranium Mill Tailings Radiation Control Act. Discrete above-ground wastes from in situ or solution extraction are covered by this definition, although the underground ore bodies depleted by the extraction process are not covered. The Commission considered amending 10 CFR Part 30, "Rules of General Applicability to Licensing of Byproduct Material," to specify licensing requirements concerning tailings, but has concluded that it is more appropriate to amend 10 CFR Part 40. The legislative record of the mill tailings legislation makes it clear that the expanded definition of byproduct material covers only mill tailings or wastes, which are exclusively associated with 10 CFR Part 40 licensing matters.

The amendments to 10 CFR Part 150 are to conform to Part 40's new definition of byproduct material and to Part 40's coverage of such byproduct material in Agreement States for the three years following enactment of the Uranium Mill Tailings Radiation Control Act of 1978. This is in accordance with the statute's provisions requiring NRC licensing of tailings in Agreement States for the three-year interim. Pursuant to the mill tailings legislation, however, Agreement States may exercise concurrent jurisdiction over tailings and wastes for the three-year interim.

The Commission finds that because the regulations supporting the general license must be effective immediately so as to prevent existing milling operations from being in technical violation of the

Atomic Energy Act, good cause exists pursuant to 5 U.S.C. 553 to waive the 30-day comment period, as impracticable and contrary to the public interest, and make the amendments to 10 CFR 40.1, 40.2a, 40.3, 40.4, 40.26, 150.3, and 150.15 immediately effective. The Commission notes in this regard that informal written comments on this matter were solicited and received from industry, environmental groups, and several states. (These comments may be found in the Commission's public document room in a memorandum dated May 9, 1979, from the Executive Legal Director to the Commission entitled "Staff Response to the Commission Request for Further Information Regarding SECY-79-88 'Timing of Certain Requirements of the Uranium Mill Tailings Radiation Control Act of 1978'.") Comments on these amendments are invited, however, and the new regulations remain subject to further modification in response to such comments.

(Secs. 11e(2), 81, 83, 84, 161b, 174; Pub. L. No. 83-703, 68 Stat. 948 et seq. (42 U.S.C. 2014e(2), 2111, 2113, 2114, 2201b, 2021)).

Dated at Washington, D.C. this 22nd day of August 1979.

For the Nuclear Regulatory Commission.
Samuel J. Chilk,
Secretary of the Commission.

Regulatory Changes

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, the Uranium Mill Tailings Radiation Control Act of 1978, and sections 552 and 553 of Title 5 of the United States Code, the following amendments to Title 10, Chapters 40 and 150, Code of Federal Regulations are published as a document subject to codification.

1. § 40.1 of 10 CFR 40 is amended by revising paragraphs (a) and (b) as follows:

§ 40.1 Purpose.

(a) The regulations in this part establish procedures and criteria for the issuance of licenses to receive title to, receive, possess, use, transfer, deliver, or import into or export from the United States source and byproduct materials, as defined in this Part, and establish and provide for the terms and conditions upon which the Commission will issue such licenses. The regulations in this Part do not establish procedures and criteria for the issuance of licenses for material covered under Title I of the Uranium Mill Tailings Radiation Control Act of 1978 (92 Stat. 3021).

(b) The regulations contained in this part are issued pursuant to the Atomic Energy Act of 1954, as amended (68 Stat.

919), Title II of the Energy Reorganization Act of 1974 (88 Stat. 1242), and Title II of the Uranium Mill Tailings Radiation Control Act of 1978 (42 U.S.C. 7901).

2. § 40.2a of 10 CFR 40 is added to read as follows:

§ 40.2a Temporary coverage in Agreement States.

Until November 8, 1981, the regulations in this Part shall govern the Commission's licensing of byproduct material as defined in this Part in Agreement States.

3. § 40.3 of 10 CFR 40 is revised to read as follows:

§ 40.3 License requirements.

No person subject to the regulations in this Part shall receive title to, own, receive, possess, use, transfer, deliver, or import into or export from the United States byproduct material as defined in this Part or any source material after removal from its place of deposit in nature, except as authorized in a specific or general license issued by the Commission pursuant to the regulations in this Part.

4. § 40.4 of 10 CFR 40 is amended by revising paragraphs 40.4(a-1), 40.4(e), and 40.4(l) and adding new paragraphs 40.4(b-1) and 40.4(p).

§ 40.4 Definitions.

(a-1) "Byproduct Material" means the tailings or wastes produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its source material content, including discrete surface wastes resulting from uranium solution extraction processes. Underground ore bodies depleted by such solution extraction operations do not constitute "byproduct material" within this definition.

(b-1) "Department of Energy" means the United States Department of Energy or its duly authorized representative.

(e) "Persons" means (1) any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, Government agency other than the Commission or the Department of Energy except that the Department of Energy shall be considered a person within the meaning of the regulations in this Part to the extent that its facilities and activities are subject to the licensing and related regulatory authority of the Commission pursuant to section 202 of the Energy Reorganization Act of 1974 (88 Stat.

1244) and the Uranium Mill Tailings Radiation Control Act of 1978 (92 Stat. 21), any State or any political subdivision of, or any political entity within a State, any foreign government or nation or any subdivision of any such government or nation, or other entity; and (2) any legal successor, representative, agent or agency of the foregoing.

(1) With the exception of "byproduct material" as defined in Section 11e. of the Act, other terms defined in Section 11 of the Act shall have the same meaning when used in the regulation in this Part.

(p) "Uranium Milling" means any activity that results in the production of byproduct material as defined in this Part.

5. § 40.26 of 10 CFR 40 is added to read as follows:

§ 40.26 General license for possession and storage of byproduct material as defined in this Part.

(a) A general license is hereby issued to receive title to, own, or possess byproduct material as defined in this Part without regard to form or quantity.

(b) The general license in paragraph (a) of this section applies only:

(1) In the case of licensees of the Commission, where activities that result in the production of byproduct material are authorized under a specific license issued by the Commission pursuant to this Part, to byproduct material possessed or stored at an authorized disposal containment area or transported incident to such authorized activity; Provided, that authority to receive title to, own, or possess byproduct material under this general license shall terminate when the specific license for source material expires, is

¹ The Department of Energy facilities and activities identified in section 202 are:

(1) Demonstration Liquid Metal Fast Breeder reactors when operated as part of the power generation facilities of an electric utility system, or when operated in any other manner for the purpose of demonstrating the suitability for commercial application of such a reactor.

(2) Other demonstration nuclear reactors, except those in existence on January 19, 1975, when operated as part of the power generation facilities of an electric utility system, or when operated in any other manner for the purpose of demonstrating the suitability for commercial application of such a reactor.

(3) Facilities used primarily for the receipt and storage of high-level radioactive wastes resulting from licensed activities.

(4) Retrieval Surface Storage Facilities and other facilities authorized for the express purpose of subsequent long-term storage of high-level radioactive waste generated by the Department of Energy, which are not used for, or are part of, research and development activities.

renewed, or is amended to include a specific license for byproduct material as defined in this Part; or

(2) In Agreement States until November 8, 1981, where activities that result in the production of byproduct material are authorized under a specific license issued by the Agreement State on or before May 17, 1979, to byproduct material possessed, or stored at an authorized disposal containment area or transported incident to such authorized activities; Provided, that authority to receive title to, own, or possess byproduct material under such general license shall terminate when such Agreement State license expires or is renewed, whichever first occurs.

(c) The general license in paragraph (a) of this section is subject to:

(1) The provisions of Parts 19, 20, 21, and §§ 40.1, 40.2, 40.2a, 40.3, 40.4, 40.5, 40.8, 40.41, 40.46, 40.61, 40.62, 40.63, 40.65, 40.71, and 40.81 of Part 40 of this Chapter; and

(2) The documentation of daily inspections of tailings or waste retention systems and the immediate notification of the appropriate NRC regional office as indicated in Appendix D of 10 CFR Part 20, or the Director, Office of Inspection and Enforcement, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, of any failure in a tailings or waste retention system which results in a release of tailings or waste into unrestricted areas, and/or of any unusual conditions (conditions not contemplated in the design of the retention system) which if not corrected could lead to failure of the system and result in a release of tailings or waste into unrestricted areas; and any additional requirements the Commission may by order deem necessary.

6. § 150.3 of 10 CFR 150 is amended by revising § 150.3(c) to read as follows:

§ 150.3 Definitions.

(c) "Byproduct material" means (1) any radioactive material (except special nuclear material) yielded in or made radioactive by exposure to the radiation incident to the process of producing or utilizing special nuclear material; or (2) the tailings or wastes produced by the extraction.

7. § 150.15 of 10 CFR 150 is amended by adding a new paragraph (a)(7), to read as follows:

§ 150.15 Persons not exempt.

(a) * * *

(7) Until November 8, 1981, the receipt of title to, ownership of, receipt of, possession of, use of, transfer of, delivery of, import or export of the byproduct material as defined in

§ 150.3(c)(2) of this Part; Provided, however, that during this period any State may exercise any authority under State law respecting such material in the same manner, and to the same extent, as permitted before enactment of the Uranium Mill Tailings Radiation Control Act of 1978. In case of conflict between Federal and State requirements regarding a license, the Federal license requirements shall prevail unless the State requirements are more stringent than the Federal requirements.

[FR Doc. 79-26515 Filed 8-23-79; 8:45 am]

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NUCLEAR REGULATORY COMMISSION

[10 CFR Parts 30, 40, 70, 150, and 170]

Criteria Relating to Uranium Mill Tailings and Constructions of Major Plants

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Proposed rules.

SUMMARY: The proposed amendments to 10 CFR Parts 40 and 150 would incorporate licensing requirements for uranium and thorium mills and their tailings and wastes into the Commission's regulations. The proposed amendments to Parts 40 and 150 are derived from a draft generic environmental impact statement on uranium milling and the requirements contained in the Uranium Mill Tailings Radiation Control Act of 1978. The proposed amendments to Parts 30 and 70 would require a final environmental assessment be completed by the NRC prior to construction of other types of major plants. The proposed amendments to 10 CFR 170 set forth the fees to be charged in conjunction with licenses authorizing the possession of tailings. These proposed regulation changes and the draft generic environmental impact statement referred to above will be the subjects of public hearings to be held in October at locations in western milling regions. The general purpose of these hearings will be to receive comments on these proposed regulation changes and the draft generic environmental impact statement. More specific information concerning these hearings will be made available in a forthcoming Federal Register notice.

Closely related to these proposed regulations are immediately effective regulations pertaining to a general license authorizing possession of tailings by existing milling operations with valid specific licenses for milling. Although the immediately effective regulations are formally published elsewhere in this part of the Federal Register, they are shown here for purposes of clarity and continuity.

DATE: Comment period expires October 24, 1979.

ADDRESSES: Written comments should be submitted to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch. Copies of comments on the proposed amendment may be examined in the Commission's Public Document Room at 1717 H Street, N.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Don F. Harmon, Office of Standards

Development, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555 (phone 301/433-5910) or Hubert J. Miller, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555 (phone 301/427-4103).

SUPPLEMENTARY INFORMATION: The Nuclear Regulatory Commission is amending its regulations to conform to the requirements of the Uranium Mill Tailings Radiation Control Act of 1978 and to the standards set forth in the draft generic environmental impact statement on uranium milling. The bulk of these regulations are published here in proposed form. The Commission finds it necessary, however, to issue as immediately effective a temporary general license to authorize the possession and storage of mill tailings or wastes to prevent existing milling operations in both Agreement and non-Agreement States from being in technical violation of the Atomic Energy Act of 1954, as amended by the Uranium Mill Tailings Radiation Control Act of 1978. Although the immediately effective regulations are formally published elsewhere in this part of the Federal Register, they are shown here for the purposes of clarity and continuity. In a notice published in the Federal Register on June 3, 1976, the U.S. Nuclear Regulatory Commission announced its intention to prepare a generic environmental impact statement (GEIS) on uranium milling. The Commission was acting partly in response to a petition for rulemaking filed with the Commission by the Natural Resources Defense Council, Inc. The Commission has evaluated the environmental impacts of uranium milling and has published a draft GEIS (NUREG-0511) on this subject (See Notice of Availability, April 26, 1979, 44 FR 24963).

The GEIS concludes that there is a need for certain definitive rule changes to the Commission's regulations to establish specific uranium mill licensing requirements, particularly with regard to the tailings or wastes generated during the milling process. The rule change proposed herein to 10 CFR 40 will incorporate into the Commission's regulations the additional needed requirements derived from the draft GEIS. These proposed additional requirements and potential alternatives are discussed in detail in the draft GEIS along with their supporting bases. It is not possible to provide here a complete summary of all the complex issues, alternatives, and supporting technical bases addressed in the draft GEIS. In formulating proposals for dealing with uranium milling problems to assure

public health and safety and environment protection, the NRC staff has developed a full range of perspectives and facts. It has analyzed the problems from short- and long-term points of view. It has evaluated potential health risks to individuals living in the immediate vicinity of mills, to individuals living in mining and milling regions, to mill workers, and to large populations which can be exposed to radon. Potential impacts on land use, air quality, water quality, water use, biota and soils, and potential socioeconomic effects of milling operations have been assessed. Alternatives for tailings disposal which have been examined range from the past practice of doing virtually nothing to isolate tailings, to utilizing potential advanced treatment methods such as incorporation of tailings in a solid matrix, such as cement or asphalt. The major institutional questions considered by the NRC in developing needed rule changes include: the need for land use controls and site monitoring at tailings disposal sites; methods of providing financial surety so that tailings disposal and site decommissioning are accomplished by the milling operator; and the need for and methods of funding any long-term surveillance which may be necessary at tailings disposal sites. For additional information concerning these issues, the draft GEIS should be reviewed. (It is suggested that readers of the GEIS start with the Summary; the chief bases for these proposed regulations are presented there. In preparing the Summary, the staff made a special effort to refer to specific sections of the text which are pertinent to each issue discussed. This has been done to make it easy for readers to find and consider all of the information that has been developed, so that they can draw their own conclusions about the issues addressed.) The major conclusions reached in the draft GEIS relative to needed rule changes, stated here in broad terms, are:

1. Tailings areas should be located at remote sites to reduce potential population exposures to the maximum extent reasonably achievable.

2. Tailing areas should be located at sites where disruption and dispersion by natural forces are eliminated or reduced to the maximum extent reasonably achievable.

3. The "prime option" for tailings disposal is placement below grade.

4. If tailings are located above ground, stringent siting and design criteria should be adhered to.

5. Sufficient cover should be placed over tailings to reduce radon exhalation

to a calculated value of less than 2pCi/m³sec above natural background levels.

6. Steps should be taken to reduce seepage of materials into groundwater to the maximum extent reasonably achievable.

7. Final disposition of tailings should be such that ongoing active maintenance is not necessary to preserve isolation.

8. Milling operations should be conducted so that all airborne effluent releases are reduced to as low as is reasonably achievable. Yellowcake drying and packaging operations should cease when effluent control devices are inoperative or not working at their reasonably expected best performance levels.

9. Financial surety arrangements should be established to ensure that sufficient funds are available to cover the costs of decontamination and decommissioning the mill and site and for the reclamation of tailings areas.

10. Sites on which tailings are stored should be controlled through ownership and custody by a government agency unless, in special cases as might occur in deep mine disposal, this is determined unnecessary.

11. Funds should be provided by each mill operator to cover the costs of long-term site surveillance.

12. Construction of a uranium mill or tailings disposal area should not commence until the NRC has completed its final environmental impact statement required by the National Environmental Policy Act (NEPA).

The rule changes proposed herein would also incorporate into the Commission's regulation 10 CFR 40 and 150 the requirements established by the Uranium Mill Tailings Radiation Control Act of 1978 (92 Stat. 3201). This legislation, among other things, establishes a program to regulate mill tailings during uranium or thorium ore processing at active mill operations and after termination of such operations in order to stabilize and control such tailings in a safe and environmentally sound manner and to minimize or eliminate radiation health hazards to the public. In the Commission's view, the legislation also requires that the NRC exercise concurrent jurisdiction over tailings in Agreement States until November 8, 1981. The UMTRCA, among other things, specifies:

1. A revised definition of "byproduct material" to include tailings or wastes produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its source material content;

2. Ownership and custody requirements for byproduct material;

3. Provisions for bonds, sureties, or other financial arrangements covering the decontamination, decommissioning, and reclamation of sites, structures, and equipment used in conjunction with byproduct material;

4. Provisions for Agreement State authority under Section 274 of the Atomic Energy Act; and

5. Provisions for NRC grants to States to aid in the development of State regulatory programs.

The UMTRCA further establishes certain responsibilities and authorities whereby the Environmental Protection Agency (EPA) must develop standards of general application for the protection of the public health, safety, and the environment from radiological and nonradiological hazards associated with the processing and with the possession, transfer, and disposal of byproduct material. Such generally applicable standards for nonradiological hazards must provide for the protection of human health and the environment consistent with the standards required under subtitle C of the Solid Waste Disposal Act, as amended. The Commission and any State permitted to exercise authority under § 274b.(2) of the Atomic Energy Act must apply these standards of general application in licensing actions involving byproduct material. In this regard, the Commission notes that the EPA has published (43 FR 58946), for comments, proposed regulations to implement the requirements of the Solid Waste Disposal Act, as amended. The Commission believes that the requirements in the amendments proposed herein, along with applicable requirements in other parts of the Commission's regulations, will be at least comparable to presently published requirements applicable to the possession, transfer, and disposal of similar material regulated by the EPA under the Solid Waste Disposal Act, as amended. Since final regulations have not been adopted by EPA to implement the mandates of the Solid Waste Disposal Act, additional amendments to the Commission's regulations may be required. The Commission intends to follow the progress of the EPA rulemaking action to implement regulations under the Solid Waste Disposal Act. Any final regulations pertaining to byproduct material adopted by the Commission will be comparable, to the maximum extent practicable, to requirements applicable to the possession, transfer, and disposal of similar hazardous material regulation by EPA under the Solid Waste Disposal Act, as amended. To ensure

comparability, concurrence of final regulations will be obtained from the Administrator of EPA as required by the UMTRCA. In addition, the Administrator of EPA will be specifically requested to provide comments and recommendations concerning this matter.

The significant features of the amendments to 10 CFR 40 are:

1. Section 40.4 of Part 40 is being amended (effective immediately) to include the definition of "byproduct material." This amendment, to include uranium and thorium mill tailings as byproduct material as a licensable material in the Commission's regulations, is required by the recently enacted UMTRCA. Discrete above ground wastes from in-situ or solution extraction are covered by this definition, although the underground ore bodies depleted by the extraction process are not covered. While the Commission has considered amending its regulation 10 CFR 30, "Rules of General Applicability to Licensing of Byproduct Material," to specify licensing requirements relative to tailings, the Commission considers it more appropriate to amend 10 CFR 40 since the legislative record of the UMTRCA makes clear that the expanded definition of byproduct material covers only mill tailings or wastes which are exclusively associated with 10 CFR 40 licensing matters.

2. A new § 40.28 is being added (effective immediately) to 10 CFR 40 to establish a temporary general license to authorize the possession and storage of mill tailings or wastes to keep existing milling operations in both Agreement and non-Agreement States from being in technical violation of the Atomic Energy Act of 1954, as amended by UMTRCA. The Commission believes this general license is consistent with the Congressional intent to implement the UMTRCA in a manner designed to minimize unnecessary disruption. As provided in § 40.20 of 10 CFR 40, a general license is effective without the filing of an application or the issuance of licensing documents to particular persons. This general license is applicable only to persons who possess appropriate specific licenses issued by the Commission or Agreement States which authorize uranium milling activities. The authority to possess, use, or own tailings under the general license shall expire concurrently with the expiration or renewal of each NRC or Agreement State specific milling license.

The Commission notes that all of its existing active milling licenses have been reviewed or are being reviewed under the provisions of the National Environmental Policy Act (NEPA). All

NRC licenses presently contain, or will contain, requirements for tailings reclamation, mill and site cleanup, and surety arrangements to cover these costs. For the most part, present requirements and conditions are substantially the same as the requirements being proposed herein, and most milling operators involved in non-Agreement States have already committed themselves to specific plans for decommissioning and tailings disposal meeting these requirements. NRC uranium milling licenses that have been granted under the NEPA process during the period over which the NRC's generic environmental impact statement on uranium milling was being developed were issued with the express condition that approved waste generating processes and mill tailings management practices were subject to revision in accordance with the conclusions of the final generic environmental impact statement and any related rulemaking. In the process of reevaluating approved mill operator plans upon expiration or renewal to meet the requirements of the rule change proposed herein, the NRC staff plans to incorporate into applicable specific licenses the authority to possess and store byproduct material covered by this general license.

Under the provisions of this general license, Agreement State licensees will not be required to obtain a specific NRC license until such time as the licensee's Agreement State specific license expires or is renewed. The Commission notes in this regard that there presently exist Agreement State regulations and requirements governing the control of tailings in Agreement States which appear adequate to protect the public health and safety during the interim period until such licenses expire or are renewed. At such time as each Agreement State license expires or is renewed, it will be necessary at least until November 1, 1981, for the Agreement State licensee to apply for and obtain a specific NRC license covering the possession of byproduct material. The Commission intends to review each application under the NEPA process and impose any necessary requirements as may be necessary to protect the public health and safety. Given that the tailings piles in Agreement States covered by this general license have been in existence for several years, the Commission does not believe that the incremental increase to such piles during the interim time until licenses expire or are renewed will foreclose available alternatives for reducing or avoiding adverse environmental and other effects or result

in irreversible or irretrievable commitments of resources. Thus, the Commission has concluded that an environmental impact statement to support this interim general license is not required. The Commission further notes in this regard that the authority to possess, own, or receive title to tailings now defined as byproduct material under this general license is subject to NRC remedial orders as necessary to protect the public health and safety and to correct any situations where events might require more immediate Commission attention to insure proper control of tailings.

3. Section 40.31 of Part 40 is being amended by revising § 40.31(a) to cover applications for byproduct material and by adding a new paragraph (g) to require applicants for mill licenses to propose specifications relating to the operation of mill sand disposition of tailings or wastes so as to achieve certain requirements and objectives set forth in a new Appendix A to 10 CFR 40. These requirements and objectives are discussed in detail in the following Item #4.

Since these requirements and objectives deal primarily with presently operating and future milling activities, they do not apply to the remedial action program authorized in Title 1 of the UMTRCA.

4. A new Appendix A entitled, "Criteria Relating to the Operation of Uranium Mills and Disposition of Tailings or Wastes (i.e., byproduct material as defined in Section 11e.(2) of the Atomic Energy Act) Produced by the Extraction or Concentration of Source Material From Ores," is being added to 10 CFR 40. This appendix is divided into four major categories: technical criteria; financial criteria; site and byproduct material ownership; and long-term site surveillance. The technical criteria deal primarily with specifications for siting tailing areas, options for storing tailings below and above ground, seepage controls, minimum cover requirements for tailings at the end of milling operations, preoperational site monitoring requirements, and effluent controls during milling operations. These criteria were basically derived from the GEIS discussed above. The guiding principles in the development of these criteria were that: tailings should be isolated from people and the environment in such a manner to reduce potential exposures to as low as is reasonably achievable; the site where tailings are stored should be returned to conditions reasonably near those of the surrounding environment; and final disposition of tailings should be such

that active maintenance is not necessary to preserve isolation. The bases for these criteria are set forth in detail in the GEIS. The Commission believes that under these criteria tailings can be disposed of at reasonable costs and in such a manner that conditions at disposal sites will be reasonably near those of surrounding environs. Thus, the need for ongoing active care and maintenance programs to redress degradation of the tailings isolation by natural weathering and erosion forces can be essentially eliminated. In that the proposed technical criteria for mill siting and tailings disposal areas preclude location of tailings or milling operations in an area that could be disrupted by natural events such as flooding, these criteria will assure that the requirements of Executive Order 11988 of May 23, 1977, concerning flood plain management are met. Therefore, as well as assuring tailings isolation, floodplains will be protected.

The ownership, surety, and long-term funding criteria delineated in the new Appendix were derived from the GEIS. They are also requirements established under the UMTRCA. The Commission believes that compliance with these criteria will ensure that milling operators, who are responsible for the generation of tailings, will bear the costs of tailing reclamation and long-term site surveillance and that government ownership of tailings and disposal sites will ensure adequate long-term control of the tailings.

With regard to long-term site surveillance, the UMTRCA requires the final disposition of tailings or wastes at milling sites to be such that the need for long-term maintenance and monitoring of such sites after license termination shall be minimized, and to the maximum extent practicable, eliminated. These requirements are delineated in the long-term surveillance criterion set forth in the new Appendix. In order to confirm the integrity of a stabilized tailings system, the Commission proposes to require annual site inspections by site owners (e.g., an appropriate government agency). Depending on the specific conditions of a particular site, as determined during the period following site reclamation and before termination of a mill operator's license, a determination may be made that more frequent inspections or more comprehensive monitoring are required. More specific guidance on long-term surveillance may be issued in the future after more experience has been gained relative to this issue. Results of such inspections would be submitted to the

Commission within 60 days following each inspection.

The criteria in the new Appendix A would become effective following completion of the rulemaking action contemplated herein by the Commission, except that criterion 11 would not become effective until November 8, 1981, under the provisions of the UMTRCA.

5. Paragraphs (b) of § 40.14 and (e) of § 40.32 of 10 CFR 40 are being amended to require the Director of the Commission's Office of Nuclear Material Safety and Safeguards or his designee to make a positive finding on an applicant's proposed plans as meeting the requirements and objectives in Appendix A prior to commencement of construction of a mill which produces byproduct material. This finding would be that made in the final environmental impact statement (or other environmental assessment) prepared pursuant to Part 51 of this chapter. These proposed amendments will delete paragraph (b) of § 40.14 so as to preclude exemptions from the requirements of §§ 40.31(f) and 40.32(e) of Part 40 and amend paragraph (e) of § 40.32 so as to require the denial of applications for licenses where construction is started before the appropriate environmental appraisals are completed and documented. The Commission notes in this regard that milling results in the production of large quantities of byproduct material as tailings per year. When construction of a mill commences, nearly irrevocable commitments are made regarding tailings disposal. Given that each mill tailings pile constitutes a low-level waste burial site containing long-lived radioactive materials, the Commission believes that prudence requires that specific methods of tailings disposal, mill decontamination, site reclamation, surety arrangements, and arrangements to allow for transfer of site and tailings ownership be worked out and approved before a license is granted.

The Commission also notes that similar irrevocable and/or ir retrievable commitments are involved in the commencement of construction of plants and facilities in which source materials are possessed and used for the production of uranium hexafluoride and commercial waste disposal by land burial. Accordingly, the requirements of the revised paragraphs (b) of § 40.14 and (e) of § 40.32 would apply to these plants and facilities.

The proposed amendments to 10 CFR 30 and 70 also relate to commencement of construction of other types of plants and facilities in which byproduct and special nuclear materials are used and possessed. The Commission also

believes commencement of construction of these plants and facilities may also result in irreversible and irretrievable commitments of resources. Therefore, the Commission believes that it is also desirable and necessary that a final environmental impact statement or assessment be completed and documented before authorizing commencement of construction. Thus, 10 CFR 30.11(b), 10 CFR 30.33(a)(5), 10 CFR 70.14(b) and 10 CFR 70.23(a)(7) are being amended to conform to the foregoing amendments to 10 CFR 40.

The amendments to 10 CFR Part 150 that are to conform to Part 40's new definition of byproduct material and to Part 40's coverage of such byproduct material in Agreement States for the three years following enactment of UMTRCA are immediately effective. These amendments are in accordance with UMTRCA's provisions requiring NRC licensing of tailings in Agreement States for the three year interim. Pursuant to UMTRCA, however, Agreement States may exercise concurrent jurisdiction over tailings and wastes for the three-year interim.

A new proposed § 150.15a is added to enumerate certain authorities reserved in the Commission under UMTRCA. Paragraph (a) is drawn directly from sections 204(f) and 202(a) of UMTRCA. Paragraph (b) is extracted from § 83 of the Atomic Energy Act of 1954, as added by § 202(a) of UMTRCA. The language of UMTRCA and its legislative history indicate that the NRC is to make the determinations under and establish requirements pursuant to § 83, which minimum Federal standards and determinations must, under § 204(e) of the UMTRCA, be met by the Agreement States. New proposed § 150.31 and 150.32 outline requirements in the UMTRCA for Agreement State regulation of tailings or activities that produce such tailings or wastes. The new requirements, which become effective after November 8, 1981, are taken directly from § 274c of the Atomic Energy Act, as added by § 204(e) of the UMTRCA.

The proposed amendments to 10 CFR 170 establish fees for licensing and inspection actions involving only the management of mill tailings and associated wastes. The proposed fees are based on NRC staff experience involving the review of the environmental and public health aspects of uranium milling and related activities.

Proposed regulatory changes

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, the Uranium Mill Tailings Radiation

Control Act of 1978, and section 553 of title 5 of the United States Code, notice is hereby given that the Commission proposes to amend 10 CFR 30, 40, 70, 150, and 170 as indicated below.

The amendments to §§ 40.1, 40.2a, 40.3, 40.4, 40.26, 150.3, and 150.15, adopted as final rules in a document printed elsewhere in this part, are included below for purposes of clarity and continuity. They are identified in the amendatory language as being effective immediately.

1. Section 40.1 of 10 CFR 40 is amended (effective immediately) by revising paragraphs (a) and (b) as follows:

§ 40.1 Purpose.

(a) The regulations in this part establish procedures and criteria for the issuance of licenses to receive title to, receive, possess, use, transfer, deliver, or import into or export from the United States source and byproduct materials, as defined in this Part, and establish and provide for the terms and conditions upon which the Commission will issue such licenses. The regulations in this Part do not establish procedures and criteria for the issuance of licenses for materials covered under Title I of the Uranium Mill Tailings Radiation Control Act of 1978 (92 Stat. § 2021).

(b) The regulations contained in this part are issued pursuant to the Atomic Energy Act of 1954, as amended (68 Stat. 919), Title II of the Energy Reorganization Act of 1974 (88 Stat. 1242), and Title II of the Uranium Mill Tailings Radiation Control Act of 1978 (42 U.S.C. 7901).

2. § 40.2a of 10 CFR 40 is added (effective immediately) to read as follows:

§ 40.2a Temporary coverage in Agreement States.

Until November 8, 1981, the regulations in this Part shall govern the Commission's licensing of byproduct material as defined in this Part in Agreement States.

3. § 40.2b of 10 CFR 40 is proposed to be read as follows:

§ 40.2b Coverage of inactive tailings sites.

(a) Prior to the completion of the remedial action, the Commission will not require a license pursuant to this Part for possession of byproduct material as defined in this Part that is located at a site where milling operations are no longer active, if such site is or is likely to be designated a processing site covered by the remedial action program of title I of the Uranium Mill Tailings Radiation Control Act of 1978. The Commission will exert its

regulatory role in remedial actions exclusively through concurrence and consultation in the execution of the remedial action pursuant to title I of the Uranium Mill Tailings Radiation Control Act of 1978.

(b) The Commission will require a license pursuant to this Part for byproduct material as defined in this Part that is located at a site where milling operations are not longer active, if such site is not and will not be covered by the remedial action program of title I of the Uranium Mill Tailings Radiation Control Act of 1978; provided, however, that the criteria in Appendix A of this Part will be applied to the maximum extent practicable, with consideration given to the unique circumstances of such inactive sites.

4. § 40.3 of 10 CFR 40 is revised (effective immediately) to read as follows:

§ 40.3 License requirements.

No person subject to the regulations in this Part shall receive title to, own, receive, possess, use, transfer, deliver, or import into or export from the United States byproduct material as defined in this Part or any source material after removal from its place of deposit in nature, except as authorized in a specific or general license issued by the Commission pursuant to the regulations in this Part.

5. § 40.4 of 10 CFR 40 is revised (effective immediately) by amending paragraphs 40.4(a-1), 40.4(e), and 40.4(1) and adding new paragraphs 40.4(b-1) and 40.4(p).

§ 40.4 Definitions.

(a-1) "Byproduct Material" means the tailings or wastes produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its source material content, including discrete surface wastes resulting from uranium solution extraction processes. Underground ore bodies depleted by such solution extraction operations do not constitute "byproduct material" within this definition.

(b-1) "Department of Energy" means the United States Department of Energy or its duly authorized representative.

(e) "Person" means (1) any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, Government agency other than the Commission or the Department of Energy except that the Department of Energy shall be considered a person within the meaning

of the regulations in this Part to the extent that its facilities and activities are subject to the licensing and related regulatory authority of the Commission pursuant to section 202 of the Energy Reorganization Act of 1974 (88 Stat. 1244) * and the Uranium Mill Tailings Radiation Control Act of 1978 (92 Stat. 21), any State or any political subdivision of, or any political entity within a State, any foreign government or nation or any political subdivision of any such government or nation, or other entity; and (2) any legal successor, representative, agent or agency of the foregoing.

(1) With the exception of "byproduct material" as defined in Section 11e. of the Act, other terms defined in Section 11 of the Act shall have the same meaning when used in the regulation in this Part.

(p) "Uranium Milling" means any activity that results in the production of byproduct material as defined in this Part.

6. Section 40.11 of 10 CFR 40 is proposed to be amended by changing the word "Administration" to read "Department of Energy" and by adding the words "or the Uranium Mill Tailings Radiation Control Act of 1978" following the words "Energy Reorganization Act of 1974."

7. Section 40.13 of 10 CFR 40 is proposed to be amended by adding the following sentence at the end of Paragraph (a): "The exemption contained in this paragraph does not include byproduct material as defined in this Part."

8. Section 40.14 of 10 CFR 40 is proposed to be amended by deleting paragraph 40.14(b).

*The Department of Energy facilities and activities identified in section 202 are:

(1) Demonstration Liquid Metal Fast Breeder reactors when operated as part of the power generation facilities of an electric utility system, or when operated in any other manner for the purpose of demonstrating the suitability for commercial application of such a reactor.

(2) Other demonstration nuclear reactors, except those in existence on January 19, 1975, when operated as part of the power generation facilities of an electric utility system, or when operated in any other manner for the purpose of demonstrating the suitability for commercial application of such a reactor.

(3) Facilities used primarily for the receipt and storage of high-level radioactive wastes resulting from licensed activities.

(4) Retrieval Surface Storage Facilities and other facilities authorized for the express purpose of subsequent long-term storage of high-level radioactive waste generated by the Department of Energy, which are not used for, or are part of, research and development activities.

9. Section 40.26 of 10 CFR 40 is added (effective immediately) to read as follows:

§ 40.26 General license for possession and storage of byproduct material as defined in this Part.

(a) A general license is hereby issued to receive title to, own, or possess byproduct material as defined in this Part without regard to form or quantity.

(b) The general license in paragraph (a) of this section applies only:

(1) In the case of licensees of the Commission, where activities that result in the production of byproduct material are authorized under a specific license issued by the Commission pursuant to this Part, to byproduct material possessed or stored at an authorized disposal containment area or transported incident to such authorized activity; Provided, that authority to receive title to, own, or possess byproduct material under this general license shall terminate when the specific license for source material expires, is renewed, or is amended to include a specific license for byproduct material as defined in this Part; or

(2) In Agreement States until November 8, 1981, where activities that result in the production of byproduct material are authorized under a specific license issued by the Agreement State on or before May 17, 1979, to byproduct material possessed, or stored at an authorized disposal containment area or transported incident to such authorized activities; Provided, that authority to receive title to, own, or possess byproduct material under such general license shall terminate when such Agreement State license expires or is renewed, whichever first occurs.

(c) The general license in paragraph (a) of this section is subject to:

(1) The provisions of Parts 19, 20, 21, and sections 40.1, 40.2, 40.2a, 40.3, 40.4, 40.5, 40.6, 40.41, 40.46, 40.61, 40.62, 40.63, 40.65, 40.71, and 40.81 of Part 40 of this Chapter; and

(2) The documentation of daily inspections of tailings or waste retention systems and the immediate notification of the appropriate NRC regional office as indicated in Appendix D of 10 CFR Part 20, or the Director, Office of Inspection and Enforcement, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, of any failure in a tailings or waste retention system which results in a release of tailings or waste into unrestricted areas, and/or of any unusual conditions (conditions not contemplated in the design of the retention system) which if not corrected could lead to failure of the system and result in a release of tailings or waste

into unrestricted areas; and any additional requirements the Commission may by order deem necessary.

10. Section 40.31 of 10 CFR 40 is proposed to be amended by revising § 40.31(a) and adding a new § 40.31(g) as follows:

§ 40.31 Applications for specific licenses.

(a)(1) Applications for a specific license for source material or for byproduct material produced in conjunction with the uranium milling activity for which a source material license is sought from the Commission should be filed in quadruplicate on Form NRC-2 "Application for Source Material License," with the Director of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Applications may be filed in person at the Commission's Offices at 1717 H Street, NW., Washington, D.C., or 7920 Norfolk Avenue, Bethesda, Md. Information contained in previous applications, statements, or reports filed with the Commission may be incorporated by reference, provided such references are clear and specific.

(2) Applications for specific licenses for byproduct material as defined in this Part not sought in conjunction with a source material license from the Commission for uranium milling shall be filed with the Director of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Such applications include, until November 8, 1981, applications for specific licenses from the Commission for such byproduct material generated by uranium milling under an Agreement State license issued or renewed after May 17, 1979.

(g) An application for a license to receive title to, own, receive, possess, and use source material for uranium milling or byproduct material, as defined in this Part, shall contain proposed specifications relating to milling operations and the disposition of the byproduct material to achieve the requirements and objectives set forth in Appendix A of this Part.

11. Section 40.32 of 10 CFR 40 is proposed to be amended by revising § 40.32(e) as follows:

§ 40.32 General requirements for issuance of specific licenses.

(e) In the case of an application for a license to possess and use source and byproduct material for uranium milling, production of uranium hexafluoride, commercial waste disposal by land burial or for the conduct of any other

activity which the Commission determines will significantly affect the quality of the environment, the Director of Nuclear Material Safety and Safeguards or his designee, before commencement of construction of the plant or facility in which the activity will be conducted, on the basis of information filed and evaluations made pursuant to Part 51 of this chapter, has concluded, after weighing the environmental, economic, technical and other benefits against environmental costs and considering available alternatives, that the action called for is the issuance of the proposed license, with any appropriate conditions to protect environmental values. Commencement of construction prior to such a conclusion shall be grounds for denial of a license to possess and use source and byproduct material in such plant or facility.

12. Appendix A is proposed to be added to Part 40 to read as follows:

Appendix A to Part 40

Criteria Relating to the Operation of Uranium Mills and the Disposition of Tailings or Wastes (i.e., byproduct material as defined in Section 11e.(2) of the Atomic Energy Act) Produced by the Extraction or Concentration of Source Material From Ores.

Introduction. Every applicant for a license to possess and use source material in conjunction with uranium or thorium milling is required by the provisions of § 40.31(g) to include in a license application proposed specifications relating to milling operations and the disposition of tailings or waste resulting from such milling activities. This appendix establishes technical, financial, ownership, and long-term site surveillance requirements relating to the siting, operation, decontamination, decommissioning, and reclamation of mills and tailings or waste systems and sites at which such mills and systems are located.

I. Technical Criteria

Criterion 1—Tailings or waste disposal areas shall be located at remote sites so as to reduce potential population exposures and the likelihood of human intrusions to the maximum extent reasonably achievable. To avoid proliferation of small waste disposal sites, byproduct material from in-situ extraction operations, such as residues from solution evaporation or contaminated control processes, and wastes from small remote above ground extraction operations shall preferably be disposed of at existing large mill tailings disposal sites; consideration will be given to the nature of the wastes, such

as their volume and specific activity, and to costs and environmental impacts of transporting the wastes to a large disposal site.

Criterion 2—Tailings or waste disposal areas shall be located at sites where disruption and dispersion by natural forces are eliminated or reduced to the maximum extent reasonably achievable. In the selection of mill sites, primary emphasis shall be given to isolation of tailings or wastes, a matter having long-term impacts, as opposed to consideration only of short-term convenience or benefits, such as minimization of transportation or land acquisition costs. These criteria, which preclude location of tailings or mill site in an area which could be disrupted by natural events, such as flooding, assure that the requirements of Executive Order 11988 concerning floodplain management are met.

Criterion 3—The "prime option" for disposal of tailings is placement below grade, either in mines or specially excavated pits. The evaluation of alternative sites and disposal methods performed by mill operators in support of their proposed tailings disposal program (provided in applicant environmental reports) shall reflect this. In some instances, below-grade disposal may not be the most environmentally sound approach, such as might be the case if a high quality groundwater formation is relatively close to the surface or not very well isolated by overlying soils and rock. Also, geologic and topographic conditions might make full, below-grade burial impracticable; for example, bedrock may be sufficiently near surface that blasting would be required to excavate a disposal pit at excessive cost, and more suitable alternate sites are not available. In these cases, it must be demonstrated that an above-grade disposal program will provide reasonably equivalent isolation of the tailings from natural erosional forces.

Criterion 4—If tailings or wastes are disposed of above ground, the following siting and design criteria shall be adhered to:

(a) Upstream rainfall catchment areas must be utilized to decrease the size of the maximum possible flood which could erode or wash out sections of the tailings disposal area.

(b) Topographic features shall provide good wind protection.

(c) Embankment slopes shall be relatively flat after final stabilization to minimize erosion potential and to provide conservative factors of safety assuring long-term stability. The broad objective should be to contour final slopes to grades which are as close as

possible to those which would be provided if tailings were disposed of below grade; this would, for example, lead to slopes of about 10 horizontal to 1 vertical (10h:1v) or less steep. In general, slopes should not be steeper than about 5h:1v. Where steeper slopes are proposed, reasons why a slope less steep than 5h:1v would be impracticable should be provided, and compensating factors and conditions which make such slopes acceptable should be identified.

(d) A full, self-sustaining vegetative cover shall be established or riprap employed to retard wind and water erosion. Special concern shall be given to slopes of embankments.

(e) The impoundment shall not be located near a potentially active fault that could cause a maximum credible earthquake larger than that which the impoundment could reasonably be expected to withstand.

(f) The impoundment, where feasible, should be designed to incorporate features which will promote deposition. For example, design features which promote deposition of sediment suspended in any runoff which flows into the impoundment area might be utilized; the objective of such a design feature would be to enhance the thickness of cover over time.

Criterion 5—Steps shall be taken to reduce seepage of toxic materials into groundwater to the maximum extent reasonably achievable. This could be accomplished by lining the bottom of tailings areas and reducing the inventory of liquid in the impoundment by such means as dewatering tailings and/or recycling water from tailings impoundments to the mill. Furthermore, steps shall be taken during stockpiling of ore to minimize penetration of radionuclides into underlying soils; suitable methods include lining and/or compaction of ore storage areas. Also, tailings treatment, such as neutralization to promote immobilization of toxic substances shall be considered. The specific method, or combination of methods, to be used must be worked out on a site-specific basis. While the primary method of protecting groundwater shall be isolation of tailings and tailings solutions, disposal involving contact with groundwater will be considered provided supporting tests and analysis are presented demonstrating that the proposed disposal and treatment methods will preserve quality of groundwater.

Criterion 6—Sufficient earth cover, but not less than three meters, shall be placed over tailings or wastes at the end of milling operations to result in a calculated reduction in surface exhalation of radon from the tailings or

wastes to less than two picocuries per square meter per second above natural background levels. Direct gamma exposure from the tailings or wastes should be reduced to background levels. Plastic or other synthetic caps should not be used to reduce radon exhalation from the tailings or wastes. Cover material must not include mine waste or rock that contain elevated levels of radium; soils used for cover must be essentially the same, as far as radioactivity is concerned, as that or surrounding soils.

Criterion 7—At least one full year prior to any major site construction, a preoperational monitoring program should be conducted to provide complete baseline data on a milling site and its environs prior to development. Throughout the construction and operation phase of the mill, an operational monitoring program should be conducted to demonstrate compliance with applicable standards and regulations; to evaluate performance of control systems and procedures; to evaluate environmental impacts of operation; and to detect potential long-term effects.

Criterion 8—Milling operations shall be conducted so that all airborne effluent releases are reduced to as low as is reasonably achievable below the limits in 10 CFR Part 20. The primary means of accomplishing this should be by means of emission controls. Institutional controls, such as extending the site boundary and exclusion area, may be employed to ensure that offsite exposure limits are met, but only after efforts have been taken to control emissions at the source to the maximum extent reasonably achievable. Notwithstanding the existence of individual dose standards, strict control of emissions is necessary to assure that population exposures are reduced to the maximum extent reasonably achievable and to avoid site contamination. The greatest potential sources of offsite radiation exposure (aside from radon exposure) are dusting from dry surfaces or the tailings disposal area not covered by tailings solution and emissions from yellowcake drying and packaging operations. Yellowcake drying and packaging operations should cease when effluent control devices are inoperative or not working at their reasonably expected best performance levels. To control dusting from tailings, that portion not covered by standing liquids should be wetted or chemically stabilized to prevent or minimize blowing and dusting to the maximum extent reasonably achievable. This requirement may be relaxed if tailings

are effectively sheltered from wind, such as may be the case where they are disposed of below grade and the tailings surface is not exposed to wind. Consideration should be given in planning tailings disposal programs to methods which would allow phased covering and reclamation of tailings impoundments since this will help in controlling particulate and radon emissions during operation. To control dusting from diffuse sources, such as tailings and ore pads where automatic controls do not apply, operators should develop written operating procedures specifying the methods of control which will be utilized.

Criterion 8(A)—Daily inspections of tailings or waste retention systems shall be conducted and documented. The appropriate NRC regional office as indicated in Appendix D of 10 CFR Part 20, or the Director, Office of Inspection and Enforcement, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, shall be immediately notified of any failure in a tailings or waste retention system which results in a release of tailings or waste into unrestricted areas, and/or of any unusual conditions (conditions not contemplated in the design of the retention system) which if not corrected could lead to failure of the system and result in a release of tailings or waste into unrestricted areas.

II. Financial Criteria

Criterion 9—Financial surety arrangements shall be established by each mill operator to assure that sufficient funds will be available to carry out the decontamination and decommissioning of the mill and site and for the reclamation of any tailings or waste disposal areas. The amount of funds to be ensured by such surety arrangements shall be based on cost estimates in an approved plan for (1) decontamination and decommissioning of mill buildings and the milling site to levels which would allow unrestricted use of these areas upon decommissioning, and (2) the reclamation of tailings and/or waste disposal areas in accordance with technical criteria delineated in Section I of this Appendix. The licensee shall submit this plan in conjunction with an environmental report that addresses the expected environmental impacts of the milling operation, decommissioning and tailings reclamation, and evaluates alternatives for mitigating these impacts. The surety shall cover the payment of the charge for long-term surveillance required by Criterion 10. In establishing specific surety arrangements, the licensee's cost estimates shall take into

account total capital costs that would be incurred if an independent contractor were hired to perform the decommissioning and reclamation work. In order to avoid unnecessary duplication and expense, the Commission will accept financial sureties that have been consolidated with financial or surety arrangements established to meet requirements of other Federal or State agencies and/or local governing bodies for such decommissioning, decontamination, reclamation, and long-term site surveillance. The licensee's surety mechanism will be reviewed from time to time by the Commission (generally at the time of license renewal) to assure sufficient funds for completion of the reclamation plan if the work had to be performed by the regulatory authority. The amount of surety liability should change in accordance with the predicted cost of future reclamation. Factors affecting reclamation cost estimates include: inflation; increases in the amount of disturbed land; and decommissioning and reclamation that has been performed. This will yield a surety that is at least sufficient at all times to cover the costs of decommissioning and reclamation of the areas that are expected to be disturbed before the next license renewal. The term of the surety mechanism must be open ended. Liability under the surety mechanism shall remain in effect until the reclamation program has been completed and approved. Financial surety arrangements generally acceptable to the Commission are:

- (a) Surety bonds;
- (b) Cash deposits;
- (c) Certificates of deposit;
- (d) Deposits of government securities;
- (e) Letters or lines of credit; and
- (f) Combinations of the above or such other types of arrangements as may be approved by the Commission.

Criterion 10—A charge of \$250,000 to cover the costs of long-term surveillance shall be paid by each mill operator to the general treasury of the United States or to an appropriate State agency prior to the termination of a uranium or thorium mill license. If site surveillance requirements at a particular site are determined, on the basis of a site-specific evaluation, to be significantly greater than those specified in Criterion 12, variance in funding requirements may be specified by the Commission. The total charge to cover the costs of long-term surveillance shall be such that, with an assumed 1 percent annual real interest rate, the collected funds will yield interest in an amount sufficient to cover the annual costs of site surveillance. The charge will be

adjusted annually to recognize inflation. The inflation rate to be used is that indicated by the change in the Consumer Price Index published by the U.S. Department of Labor, Bureau of Labor Statistics.

III. Site and Byproduct Material Ownership

Criterion 11—

A. These criteria relating to ownership of tailings and their disposal sites become effective on November 8, 1981, and apply to all licenses terminated, issued, or renewed after that date.

B. Any uranium or thorium milling license or tailings license shall contain such terms and conditions as the Commission determines necessary to assure that, prior to termination of the license, the licensee will comply with ownership requirements of this criterion for sites used for tailings disposal.

C. Title to the byproduct material licensed under this Part and land, including any interests therein (other than land owned by the United States or by a State) which is used for the disposal of any such byproduct material, shall be transferred to the United States or the State in which such land is located, at the option of such State. For licenses issued before November 8, 1981, the NRC will review an applicant's plans to effect arrangements to allow for transfer of site and tailings ownership prior to issuance of a license.

D. If the Commission determines that use of the surface or subsurface estates, or both, of the land transferred to the United States or to a State will not endanger the public health, safety, welfare, or environment, the Commission will permit the use of the surface or subsurface estates, or both, of such land in a manner consistent with the provisions provided in these criteria. If the Commission permits such use of such land, it will provide the person who transferred such land with the right of first refusal with respect to such use of such land.

E. In the case of any uranium or thorium milling license in effect on November 8, 1981, the Commission may require, before the termination of such license, transfer of land and interests therein (including tailings) to the United States or a State in which such land is located at the option of such State as may be necessary to protect the public health, welfare, and the environment from any effects associated with byproduct material defined in this Part. In exercising this requirement, the Commission will take into consideration the status of the ownership of such land and interests therein (including tailings) and the ability of the licensee to transfer

title and custody thereof to the United States or a State. For licenses issued before November 8, 1981, the NRC will review an applicant's plans to effect arrangements to allow for transfer of site and tailings ownership prior to issuance of a license. Subsequent renewals shall not disqualify licensees otherwise eligible for such consideration under this criterion.

F. Material and land transferred to the United States or a State in accordance with this Criterion shall be transferred without cost to the United States or a State other than administrative and legal costs incurred in carrying out such transfer.

G. The provisions of this Part respecting transfer of title and custody to land and tailings and wastes shall not apply in the case of lands held in trust by the United States for any Indian tribe or lands owned by such Indian tribe subject to a restriction against alienation imposed by the United States. In the case of such lands which are used for the disposal of byproduct material, as defined in this Part, the licensee shall enter into arrangements with the Commission as may be appropriate to assure the long-term surveillance of such lands by the United States.

IV. Long-Term Site Surveillance

Criterion 12—The final disposition of tailings or wastes at milling sites should be such that the need for ongoing active maintenance is not necessary to preserve isolation. As a minimum, annual site inspections shall be conducted by site owners where tailings, or wastes are stored to confirm the integrity of the stabilized tailings or waste systems and to determine the need, if any, for maintenance and/or monitoring. Results of the inspection shall be reported to the Commission within 60 days following each inspection. The Commission may require more frequent site inspections if, on the basis of a site-specific evaluation, such a need appears necessary due to the features of a particular tailings or waste disposal system.

13. Section 70.14 of 10 CFR 70 is proposed to be amended by deleting paragraph 70.14(b).

14. Section 70.23 of 10 CFR 70 is proposed to be amended by revising paragraph (a)(7) to read as follows:

§ 70.23 Requirements for the approval of applications.

(a) * * *

(7) Where the proposed activity is processing and fuel fabrication, scrap recovery, conversion of uranium hexafluoride, commercial waste disposal by land burial, or any other

activity which the Commission determines will significantly affect the quality of the environment, the Director of Nuclear Material Safety and Safeguards or his designee, before commencement of construction of the plant or facility in which the activity will be conducted, on the basis of information filed and evaluations made pursuant to Part 51 of this chapter, has concluded, after weighing the environmental, economic, technical, and other benefits against environmental costs and considering available alternatives, that the action called for is the issuance of the proposed license, with any appropriate conditions to protect environmental values. Commencement of construction prior to such conclusions shall be grounds for denial to possess and use special nuclear material in such plant or facility.

15. Section 30.11 of 10 CFR 30 is proposed to be amended by deleting paragraph 30.11(b).

16. Section 30.33 of 10 CFR 30 is proposed to be amended by revising paragraph (a)(5) to read as follows:

§ 30.33 General requirements for issuance of specific licenses.

(a) * * *

(5) In the case of an application for a license to receive and possess byproduct material for commercial waste disposal by land burial or for the conduct of any other activity which the Commission determines will significantly affect the quality of the environment, the Director of Nuclear Material Safety and Safeguards or his designee, before commencement of construction of the plant or facility in which the activity will be conducted, on the basis of information filed and evaluations made pursuant to Part 51 of this chapter, has concluded, after weighing the environmental, economic, technical, and other benefits against environmental costs and considering available alternatives, that the action called for is the issuance of the proposed license, with any appropriate conditions to protect environmental values. Commencement of construction prior to such conclusion shall be grounds for denial of a license to receive and possess byproduct material in such plant or facility.

17. Section 150.3 of 10 CFR 150 is amended (effective immediately) by revising paragraph 150.3(c) to read as follows:

§ 150.3 Definitions.

* * * *

(c) "Byproduct material" means (1) any radioactive material (except special

nuclear material) yielded in or made radioactive by exposure to the radiation incident to the process of producing or utilizing special nuclear material; or (2) the tailings or wastes produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its source material content, including discrete surface wastes resulting from solution extraction processes. Underground ore bodies depleted by such solution extraction operations do not constitute "byproduct material" within this definition.

18. Section 150.15 of 10 CFR 150 is amended (effective immediately) by adding a new paragraph (a)(7), to read as follows:

§ 150.15 Persons not exempt.

(a) * * *

(7) Until November 8, 1981, the receipt of title to, ownership of, receipt of, possession of, use of, transfer of, delivery of, import or export of the byproduct material as defined in § 150.3(c)(2) of this Part; Provided, however, that during this period any State may exercise any authority under State law respecting such material in the same manner, and to the same extent, as permitted before enactment of the Uranium Mill Tailings Radiation Control Act of 1978. In case of conflict between Federal and State requirements regarding a license, the Federal license requirements shall prevail unless the State requirements are more stringent than the Federal requirements.

19. 10 CFR 150 is proposed to be amended by adding a new § 150.15a to read as follows:

§ 150.15a Continued Commission authority pertaining to byproduct material.

(a) Prior to the termination of any Agreement State license for byproduct material as defined in § 150.3(c)(2) of this Part, or for any activity that results in the production of such material, the Commission shall have made a determination that all applicable standards and requirements pertaining to such material have been met.

(b) After November 8, 1981, the Commission reserves the authority to establish minimum standards regarding reclamation, long term surveillance (i.e., continued site observation, monitoring and, in some cases where necessary, maintenance), and ownership of byproduct material as defined in § 150.3(c)(2) of this Part and of land used as a disposal site for such material. Such reserved authority includes:

(1) Authority to establish such terms and conditions as the Commission determines necessary to assure that, prior to termination of any license for

byproduct material as defined in § 150.3(c)(2) of this Part, or for any activity that results in the production of such material, the licensee shall comply with decontamination, decommissioning, and reclamation standards prescribed by the Commission; and with ownership requirements for such materials and its disposal site as the Commission may establish;

(2) The authority to require that prior to termination of any license for byproduct material as defined in § 150.3(c)(2) of this Part or for any activity that results in the production of such material, that title to such byproduct material and its disposal site be transferred to the United States or the State in which such material and land is located, at the option of the State (provided such option is exercised prior to termination of the license);

(3) The authority to permit use of the surface or subsurface estates, or both, of the land transferred to the United States or a State pursuant to paragraph (b)(2) of this section in a manner consistent with the provisions of the Uranium Mill Tailings Radiation Control Act of 1978, provided that the Commission determines that such use would not endanger the public health, safety, welfare, or the environment;

(4) The authority to require, in the case of a license for any activity that produces such byproduct material (which license was in effect on November 8, 1981) transfer of land and material pursuant to paragraph (b)(2), of this section, taking into consideration the status of such material and land and interests therein, and the ability of the licensee to transfer title and custody thereof to the United States or a State;

(5) The authority to require the Secretary of the Department of Energy, other Federal agency, or State, whichever has custody of such property and materials, to undertake such monitoring, maintenance, and emergency measures as are necessary to protect the public health and safety and other actions as the Commission deems necessary to comply with the standards promulgated pursuant to the Uranium Mill Tailings Radiation Control Act of 1978; and

(6) The authority to enter into arrangements as may be appropriate to assure Federal long term surveillance (i.e., continued site observation of such disposal sites on land held in trust by the United States for any Indian tribe or land owned by an Indian tribe and subject to a restriction against alienation imposed by the United States.

20. 10 CFR 150 is proposed to be amended by adding a new § 150.31 to read as follows:

§ 150.31 Requirements for Agreement State regulation of byproduct material.

After November 8, 1981, in the licensing and regulation of byproduct material, as defined in § 150.3(c)(2) of this Part, or of any activity which results in the production of such byproduct material, an Agreement State shall require—

(a) Compliance with requirements established by the Commission pertaining to ownership of such byproduct material and disposal sites for such material; and

(b) Compliance with standards which shall be adopted by the Agreement State for the protection of the public health, safety, and the environment from hazards associated with such material which are equivalent, to the extent practicable, or more stringent than, standards adopted and enforced by the Commission for the same purpose, including requirements and standards promulgated by the Commission and the Administrator of the Environment Protection Agency pursuant to the Uranium Mill Tailings Radiation Control Act of 1978; and

(c) Procedures which—

(1) In the case of licenses under State law include—

(i) An opportunity, after public notice, for written comments and a public hearing, with a transcript,

(ii) An opportunity for cross examination, and

(iii) A written determination which is based upon findings included in such determination and upon the evidence presented during the public comment period and which is subject to judicial review;

(2) In the case of rulemaking, provide an opportunity for public participation through written comments or a public hearing and provide for judicial review of the rule;

(3) Require for each license which has a significant impact on the human environment a written analysis (which shall be available to the public before the commencement of any such proceedings) of the impact of such license, including any activities conducted pursuant thereto, on the environment. Such analysis shall include—

(i) An assessment of the radiological and nonradiological impacts to the public health of the activities to be conducted pursuant to such license;

(ii) An assessment of any impact on any waterway and groundwater resulting from such activities;

(iii) Consideration of alternatives, including alternative sites and engineering methods, to the activities to be conducted pursuant to such license; and

(iv) Consideration of the long term impacts, including decommissioning, decontamination, and reclamation impacts associated with activities to be conducted pursuant to such license, including the management of any byproduct material, as defined in § 150.3(c)(2) of this Part; and

(4) Prohibit any major construction activity with respect to such material prior to complying with the provisions of paragraph (c)(3) of this section.

(d) No Agreement State shall be required under paragraph (c) to conduct proceedings concerning any license or regulation which would duplicate proceedings conducted by the Commission.

21. 10 CFR 150 is proposed to be amended to add § 150.32 to read as follows:

§ 150.32 Funds for reclamation or maintenance of byproduct material.

(a) The total amount of funds an Agreement State collects, pursuant to a license for byproduct material as defined in § 150.3(c)(2) of this Part or for any activity that results in the production of such material, for reclamation or long term maintenance and monitoring of such material, shall, after November 8, 1981, be transferred to the United States if title and custody of such material and its disposal site is transferred to the United States upon termination of such license. Such funds include, but are not limited to, sums collected for long term surveillance (i.e., continued site observation, monitoring and, in some cases where necessary, maintenance). Such funds do not, however, include monies held as surety where no default has occurred and the reclamation or other bonded activity has been performed.

(b) If an Agreement State requires such payments for reclamation or long term surveillance (i.e., continued site observation, monitoring and, in some cases where necessary, maintenance), they payments must, after November 8, 1981, be sufficient to ensure compliance with those standards established by the Commission pertaining to bonds, sureties, and financial arrangements to ensure adequate reclamation and long term management of such byproduct material and its disposal site.

22. § 170.2 of 10 CFR 170 is proposed to be revised to read as follows:

§ 170.2 Scope.

Except for persons who apply for or hold the permits, licenses, or approvals exempted in § 170.11, the regulations in this part apply to a person who is an applicant for, or holder of, a specific byproduct material license issued pursuant to Part 40 of this chapter, a specific special nuclear material license issued pursuant to Part 70 of this chapter, a specific approval of spent fuel casks and shipping containers issued pursuant to Part 71 of this chapter, a specific request for approval of sealed sources and devices containing byproduct material, source material, or special nuclear material, or a production or utilization facility construction permit and operating license issued pursuant to Part 50 of this chapter, to routine safety and safeguards inspections of a licensed person, to a person who applies for approval of a reference standardized design of a nuclear steam supply system or balance of plant, for review of a facility site prior to the submission of an application for a construction permit, for review of a standardized spent fuel facility design, and for a special project review which the Commission completes or makes whether or not in conjunction with a license application on file or which may be filed.

23. § 170.3 of 10 CFR 170 is proposed to be amended by revising paragraphs 170.3 (a) and (c) to read as follows:

§ 170.3 Definitions.

As used in this part:

(a) "Byproduct material" means (1) any radioactive material (except special nuclear material) yielded in or made radioactive by exposure to the radiation incident to the process of producing or utilizing special nuclear material; or (2) the tailings or wastes produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its source material content, including discrete surface wastes resulting from uranium solution extraction processes. Underground ore bodies depleted by such solution extraction operations do not constitute "byproduct material" within this definition.

(c) "Materials license" means a byproduct material license issued pursuant to Part 30 of this chapter, or a source or byproduct material license issued pursuant to Part 40 of this chapter, or a special nuclear material license issued pursuant to Part 70 of this chapter.

24. § 170.31 of 10 CFR 170 is proposed to be amended by adding a new category 4.D to read as follows:

§ 170.31 Schedule of fees for materials licenses and other regulatory services.

4.D (1) Licenses specifically authorizing the receipt, possession, use, or ownership of tailings or wastes (i.e., byproduct material) produced in conjunction with heap-leaching operations.

Application.....	10,000
New License ¹	63,800
Renewal ¹	93,800
Amendment ²	
Major.....	20,800
Minor.....	3,500
Administrative.....	150

(2) Licenses specifically authorizing the receipt, possession, use, or ownership of tailings or wastes (i.e., byproduct material) produced in conjunction with milling operations.

Production scale activity:	
Application.....	7,000
New License ¹	52,600
Research and development scale activity:	
Application.....	2,000
New License ¹	14,800
Renewal ¹	*13,800
Amendment ²	
Major.....	*4,200
Minor.....	*760
Administrative.....	*150

(3) Licenses specifically authorizing the receipt, possession, use, or ownership of tailings or wastes (i.e., byproduct material) produced in conjunction with in situ leaching operations.

Production scale activity:	
Application.....	2,500
New License ¹	16,900
Research and development scale activity:	
Application.....	850
New License ¹	5,000
Renewal ¹	*14,800
Amendment ²	
Major.....	*1,400
Minor.....	*250
Administrative.....	*150

25. § 170.32 of 10 CFR 170 is proposed to be amended by adding a new category 4.D to read as follows:

§ 170.32 Schedule of fees for health and safety, and safeguards inspections for materials licenses.

4.D. Licenses specifically authorizing the receipt, possession, use, or ownership of tailings or wastes (i.e., byproduct material) produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its source material content.

Health and Safety..... 1,800 One Per Year.

The Commission finds that because the regulations supporting the general license must be effective immediately so as to prevent existing milling operations from being in technical violation of the Atomic Energy Act, good cause exists pursuant to 5 U.S.C. 553 to waive the 30-day comment period, as impracticable

and contrary to the public interest, and make the amendments to 10 CFR 40.1, 40.2a, 40.3, 40.4, 40.26, 150.3, and 150.15 immediately effective. The Commission notes in this regard that informal written comments on this matter were solicited and received from industry, environmental groups, and several States (these comments may be found in the Commission's public document room in a memorandum dated May 9, 1979, from the Executive Legal Director to the Commission entitled "Staff Response to the Commission Request for Further Information Regarding SECY-79-88 'Timing of Certain Requirements of the Uranium Mill Tailings Radiation Control Act of 1978'"). Comments on these amendments are invited, however, and the new regulations remain subject to further modifications in response to such comments.

(Secs. 11e.(2), 81, 83, 84, 161b, 161x, 274; Pub. L. No. 83-703, 68 Stat. 948 et seq. (42 U.S.C. 2014e.(2), 2111, 2113, 2114, 2201b, 2201x, 2201y))

Dated at Washington, D.C. this 22nd day of August 1979.

for the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 79-26516 Filed 8-23-79; 8:45 am]

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY*	USDA/ASCS		DOT/SECRETARY*	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/FHWA	USDA/FSQS		DOT/FHWA	USDA/FSQS
DOT/FRA	USDA/REA		DOT/FRA	USDA/REA
DOT/NHTSA	MSPB/OPM		DOT/NHTSA	MSPB/OPM
DOT/RSPA	LABOR		DOT/RSPA	LABOR
DOT/SLS	HEW/FDA		DOT/SLS	HEW/FDA
DOT/UMTA			DOT/UMTA	
CSA			CSA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

*NOTE: As of July 2, 1979, all agencies in the Department of Transportation, will publish on the Monday/Thursday schedule.

REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.

Rules Going Into Effect Today

INTERIOR DEPARTMENT

Land Management Bureau—

44158 7-27-79 / Oregon; restoration of public land laws for certain areas along Walla Walla River

43470 7-25-79 / Updating of Recreation and Public Purposes Act provisions

List of Public Laws

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's List of Public Laws.

Last Listing August 17, 1979.

Slip Laws

Subscriptions Now Being Accepted

96th Congress, 1st Session, 1979

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Registered Interest

Monday
August 27, 1979

Highlights

- 50314, 50321 Lithium Sulfur Dioxide Batteries** DOT/FAA adopts a new Technical Standard Order for batteries used in aircraft; effective 9-26-79 (Part VII of this issue) (2 documents)
- 50072 Propane Deregulation** DOE/ERA issues notice of availability of draft regulatory analysis; comments by 12-1-79
- 50140 Improving Government Regulations** DOT/Sec'y publishes semi-annual regulations agenda and review list (Part II of this issue)
- 50276, 50286, 50292, 50299 Emergency Management and Assistance** FEMA establishes basic set of administrative rules; effective 8-27-79; comments by 10-26-79 (Part V of this issue) (5 documents)
- 50067 Mass Transportation** DOT/UMTA proposes rules dealing with maintenance of effort by designated recipients of funds; comments by 10-11-79
- 50218 Home Insulation** FTC issues rules which prescribe standardized test methods relating to labeling and advertising; effective 11-30-79 (Part III of this issue)
- 50304 Noninflationary Pay and Price Behavior** CWPS adopts form PAY-1; effective 8-27-79 (Part VI of this issue)

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Highlights

- 50065 Taxes** Treasury/IRS proposes rules relating to excise tax on coal; comments and request for hearing by 10-26-79
 - 50130 Treasury Securities** Treasury/Sec'y announces auction of Series C-1984 notes
 - 50027 1979 Rice Crop** USDA/CCC establishes loan and purchase program; effective 8-27-79
 - 50135 Sunshine Act Meetings**
- Separate Parts of This Issue**
- 50140 Part II—DOT/Sec'y**
 - 50218 Part III—FTC**
 - 50248 Part IV—HUD**
 - 50276 Part V—FEMA**
 - 50304 Part VI—CWPS**
 - 50314 Part VII—DOT/FAA**

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Rules and Regulations

Federal Register

Vol. 44, No. 167

Monday, August 27, 1979

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 981

Expenses of the Almond Board of California, and Rate of Assessment for the 1979-80 Crop Year

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final Rule.

SUMMARY: This regulation authorizes expenses and a rate of assessment for the 1979-80 crop year, to be collected from handlers to support activities of the Board which locally administers the Federal marketing order covering almonds grown in California.

DATES: Effective July 1, 1979, through June 30, 1980.

FOR FURTHER INFORMATION CONTACT: William J. Higgins, (202) 447-5053.

SUPPLEMENTARY INFORMATION: *Findings.* Pursuant to Marketing Order No. 981, as amended (7 CFR Part 981), regulating the handling of almonds grown in California, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by the Board, established under this marketing order, and upon other information, it is found that the expenses and rate of assessment, as hereinafter provided, will tend to effectuate the declared policy of the act.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking and postpone the effective time until 30 days after publication in the *Federal Register* (5 U.S.C. 553), as the order requires that the rate of assessment for a particular marketing year shall apply to all

assessable almonds handled from the beginning of such year which began July 1, 1979. To enable the Board to meet crop year obligations, approval of the expenses and assessment rate is necessary without delay. Handlers and other interested persons were given an opportunity to submit information and views on the expenses and assessment rate at an open meeting of the Board. It is necessary to effectuate the declared purposes of the act to make these provisions effective as specified.

Further in accordance with procedures in Executive Order 12044, the emergency nature of this regulation warrants publication, without opportunity for further public comments. The regulation has not been classified significant under USDA criteria for implementing the Executive Order. An Impact Analysis is available from William J. Higgins (202) 447-5053.

§ 981.329 Expenses and rate of assessment.

(a) Expenses that are reasonable and likely to be incurred by the Board during the 1979-80 crop year, will amount to \$8,885,869.

(b) The rate of assessment for said year payable by each handler in accordance with § 981.81 is fixed at 2.75 cents per pound of almonds (kernelweight basis), less any amount credited pursuant to § 981.41 but not to exceed 2.5 cents per pound of almonds (kernelweight basis).

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: August 22, 1979.

D. S. Kuryloski,

Acting Director, Fruit and Vegetable Division.

[FR Doc. 79-26511 Filed 8-24-79; 8:45 am]

BILLING CODE 3410-02-M

Commodity Credit Corporation

7 CFR Part 1421

[CCC Grain Price Support Regulations, 1979 Crop Rice Supplement]

Grains and Similarly Handled Commodities; 1979 Crop Rice Loan and Purchase Program

AGENCY: Commodity Credit Corporation, Department of Agriculture.

ACTION: Final rule.

SUMMARY: The purpose of this rule is to set forth the: (1) Final loan and purchase availability dates, (2) maturity dates, and (3) loan and purchase rates, (4)

premiums and discounts, and (5) location differentials under which Commodity Credit Corporation (CCC) will extend price support on 1979-crop rice. This rule is needed to satisfy statutory requirements and will enable eligible rice producers to obtain loans and purchases on their eligible 1979-crop rice.

EFFECTIVE: August 27, 1979.

ADDRESS: Price Support and Loan Division, ASCS, U.S. Department of Agriculture, 3749 South Building, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: Merle Strawderman, ASCS, (202) 447-7973.

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking was published in the *Federal Register* on December 12, 1978, 43 FR 58095, stating that the Department of Agriculture proposed to make determinations and issue regulations relative to a loan and purchase program for the 1979 crop of rice. Such determinations included determining loan rates, premiums, and discounts for grades, classes, other qualities, location differentials and other provisions as may be needed to carry out the program. Interested persons were given until January 11, 1979, to submit recommendations, views, and comments. Eight responses were received concerning the loan and purchase rates for rice. Three respondents recommended no change in the loan rate, three recommended an increase without specifying a level, one commentator reported satisfaction with current whole kernel rice differentials, while another recommended elimination of class and quality differentials.

The loan and purchase rates established by CCC are determined herein on the basis of statutory requirements.

Final Rule

The General Regulations Governing Price Support for 1978 and Subsequent Crops, and any amendments thereto, and the 1978 and Subsequent Crops Rice Loan and Purchase Program Regulations, and any amendments thereto, in Part 1421, are further supplemented, as stated herein, for the 1979 crop of rice. Accordingly, the regulations in 7 CFR 1421.325 through 1421.328 and the title of the subpart are revised, as provided below, effective as to the 1979 crop of rice. The material

previously appearing in these sections shall remain in full force and effect as to the crops to which it is applicable.

Subpart—1979 Crop Rice Loan and Purchase Program

Sec.
1421.325 Purpose.
1421.326 Availability.
1421.327 Maturity of loans.
1421.328 Loan and purchase rates and premiums and discounts.

Authority.—Secs. 4 and 5, 62 Stat. 1070, as amended (15 U.S.C. 714 b and c); secs. 101, 401, 63 Stat. 1051, as amended, sec. 702, 91 Stat. 940 (7 U.S.C. 1441 and 1421).

§ 1421.325 Purpose.

This subpart contains additional program provisions which, together with the applicable provisions of the General Regulations Governing Price Support for 1978 and Subsequent Crops, as amended, and the 1978 and Subsequent Crops Rice Loan and Purchase Program Regulations, as amended, apply to loans and purchases for 1979-crop rice.

§ 1421.326 Availability.

(a) *Loans.* Producers desiring to participate in the program through loans must request a loan on their 1979 crop of eligible rice on or before March 31, 1980.

(b) *Purchases.* Producers desiring to offer eligible rice not under loan for purchase must execute and deliver to the county ASCS office prior to April 30, 1980, a purchase agreement (Form CCC-614) indicating the approximate quantity of 1979 crop of rice they will sell to CCC.

§ 1421.327 Maturity of loans.

Loans mature on demand but not later than April 30, 1980.

§ 1421.328 Loan and purchase rates and premiums and discounts.

(a) *Farm storage loans.* The loan rate for farm storage rice shall be \$6.79 per hundredweight for any class. The settlement rate shall be the applicable basis rate specified in paragraph (c) of this section, adjusted in accordance with the provisions of this section and §§ 1421.311 and 1421.22.

(b) *Warehouse storage loans and purchases.* The loan rate for rice stored modified-commingled and identity-preserved in an approved warehouse shall be the applicable basic rate specified in paragraph (c) of this section, adjusted as provided in paragraphs (e) and (f) of this section. The rate for loans on rice stored commingled in an approved warehouse and for settlement for modified-commingled and identity-preserved loans and purchases shall be the applicable basic rate specified in paragraph (c) of this section, adjusted in

accordance with the provisions of this section and §§ 1421.311 and 1421.22.

(c) *Basic rates.* The basic rate per 100 pounds of rice shall be computed as follows: Multiply the milling yield (in pounds per hundredweight) of whole kernels by the applicable loan value for whole kernels (as shown in the table below according to class), and round the result to the nearest hundredth. Similarly, multiply the difference between the total milling yield and the whole kernels yield (in pounds per hundredweight) by the applicable loan value for broken rice and round the result to the nearest hundredth. Add the results (as rounded) of the two computations to obtain the basic loan and purchase rate per 100 pounds of rice and express such rate in dollars and cents.

Loan Value for Whole Kernels and Broken Rice
(In cents per pound)

Rough rice class	Whole kernels	Broken rice
Long grains	12.18	4.40
Medium grains	10.43	4.40
Short grains	10.43	4.40

(d) *Premium.* The basic rate determined under paragraph (c) of this section shall be adjusted for Grade U.S. No. 1 by the following premium:

Grade U.S. No. 1	Cents per 100 lbs
	8

(e) *Discounts.*—(1) *Grade.* The basic rate determined under paragraph (c) of this section shall be adjusted for grades below U.S. No. 2 by the following discounts:

Grade U.S. No. 3	Cents per 100 lbs
Grade U.S. No. 4	15
Grade U.S. No. 5	30
	50

(2) *Smut damage.* The rate for rice evidencing smut damage shall be further adjusted by the following discounts:

Percent smut damage:	Cents per 100 lbs
Trace	0
0 1 to 1 0	5
1 1 to 2 0	10
2 1 to 3 0	15
3 1 and over	25

(f) *Location differentials.* For rice produced in areas specified below, discounts for location (to adjust for transportation costs of moving rice to an area where competitive milling facilities are available) shall be applied to the basic rate determined under paragraph (c) of this section and shall be in addition to any adjustment under paragraphs (d) and (e) of this section: *Provided, however,* That if such rice is transported and stored in a rice

producing area where no location differential is applicable, no discount for location shall be applied.

Differential Table
(Dollars per hundredweight)

Production areas	Discounts rice
State of Florida	\$2.73
States of North Carolina and South Carolina	2.75
Counties of Lafayette, Little River, and Miller, Ark.; Bowie, Tex.; McCurtain, Okla.; and Bos-sier Parish, La.	1.26
Imperial County, Calif., and adjacent counties in Arizona and California	3.115
Counties of Marion, Pike, and St. Charles, Mo.	1.89

(g) *Other.* Rice that (1) contains in excess of 14 percent moisture, (2) is weevily, (3) is musty, (4) is sour, shall not be eligible for loan. However, in the event that such rice is delivered in satisfaction of loan obligations to CCC, such rice will be discounted on the basis of the schedule of discounts as provided by the Kansas City Commodity office for settlement purposes. Such discounts will be in effect at the time of delivery of rice to CCC for settlement purposes. CCC will, from time to time, adjust such discounts as CCC determines appropriate to reflect changes in market conditions. Producers may obtain schedules of such factors and discounts at county ASCS offices approximately one month prior to the loan maturity date.

Note.—This rule has been determined to be not significant under the USDA criteria implementing Executive Order 12044 and contains necessary operating decisions needed to implement the national average for 1979 rice loan and purchase rates announced on June 29. An approved Final Impact Statement is available from George Schaefer, ASCS, (202) 447-8480.

Signed at Washington, D.C., August 17, 1979.

Ray Fitzgerald,
Executive Vice President, Commodity Credit Corporation.

[FR Doc. 79-26510 Filed 8-24-79; 8:45 am]
BILLING CODE 3410-05-M

SMALL BUSINESS ADMINISTRATION

13 CFR Part 107

Leverage to Unincorporated Small Business Investment Companies

AGENCY: Small Business Administration.
ACTION: Final rule.

SUMMARY: This final rule adopts without change the Proposed rule published April 19, 1979 (44 FR 23258). This rule sets forth SBA's policy that it will generally supply funds to Unincorporated Licensees (that is, Licensees organized as limited

partnerships) on a nonrecourse basis. SBA will usually look exclusively to the Unincorporated Licensee's assets for repayment of any debt owed SBA. However, in appropriate cases SBA may make the liability of the general partner as such a condition of its purchase or guaranty of the Unincorporated Licensee's debentures. Without this rule, SBA would have the right in every case to look to the separate (nonpartnership) assets of the general partner for payment of debts owed to SBA, for which the general partner is liable by operation of law. SBA believes nonrecourse financing for partnership SBICs would attract additional investors and capital into the SBIC program, in furtherance of Congressional policy.

EFFECTIVE DATE: This rule is effective as of August 27, 1979.

FOR FURTHER INFORMATION CONTACT: Arthur P. Cyr, Acting Deputy Associate Administrator for Investment, 202-653-6584.

SUPPLEMENTARY INFORMATION: The only comment received dealt with matters beyond the scope of this rule, but it was apparent that this rule is a step in the direction urged by the comment.

Accordingly, the proposed rule is adopted as published.

Pursuant to the authority contained in section 308 of the Small Business Investment Act of 1958, as amended, 15 U.S.C. 661, *et seq.*, Part 107 of Title 13, Code of Federal Regulations, is amended as follows:

1. Section 107.4 is amended by inserting after paragraph (d) the following paragraph:

§ 107.4 Limited Partnership SBIC.

(e) *Liability of general partner for partnership debts to SBA.* Subject to section 314 of the Act, the general partner of an Unincorporated Licensee shall not be liable solely by reason of its status as a general partner for repayment of any debts owed by the Licensee to SBA unless SBA, in the exercise of reasonable investment prudence, and with regard to the financial soundness of such Unincorporated Licensee, shall determine otherwise prior to the purchase or guaranty of such Unincorporated Licensee's debentures.

2. Present § 107.4(e) of the Regulation is redesignated as § 107.4(f).

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: August 14, 1978.

A. Vernon Weaver,
Administrator.

[FR Doc. 79-26541 Filed 8-24-79; 8:45 am]
BILLING 8025-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 79-WE-8-AD; Amdt. 39-3541]

Airworthiness Directives; McDonnell Douglas DC-10 Series Airplanes

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD) which requires upper wing/VHF antenna anti-ice system testing and eventual modification of the system on DC-10 series airplanes. This AD is necessary to detect possible passive failures in the right upper wing/VHF antenna anti-ice valve position monitor. The passive failure followed by a valve failure could result in asymmetric ice accretion on RH wing surfaces and/or ice ingestion in the No. 2 engine.

DATES: Effective September 29, 1979.

Compliance schedule—As prescribed in the body of the AD.

ADDRESS: The applicable service information may be obtained from: McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846. Attn: Director, Publications and Training, C1-750, (54-60).

Also, a copy of the service information may be reviewed at, or a copy obtained from:

Rules Docket in Room 916, FAA, 800 Independence Avenue, SW., Washington, D.C. 20591, or
Rules Docket in Room 6W14, FAA Western Region, 15000 Aviation Boulevard, Hawthorne, California 90261.

FOR FURTHER INFORMATION CONTACT: Jerry Presba, Executive Secretary, Airworthiness Directive Review Board, Federal Aviation Administration, Western Region, P.O. Box 92007, World Way Postal Center, Los Angeles, California 90009. Telephone: (213) 536-6351.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an Airworthiness Directive requiring upper wing/VHF antenna anti-ice system testing and modification of the system on McDonnell Douglas Model DC-10 series airplanes was published in the Federal Register at 44 FR 30100. The proposal was prompted by analysis

indicating that a right upper wing or VHF antenna anti-ice valve monitor could fail without knowledge of the flight crew. Under certain conditions this could result in asymmetric ice accretion on RH wing surfaces or could produce ice ingestion in No. 2 engine.

The monitor, without maintenance testing, could remain passively failed. The monitored valves have demonstrated a relatively high failure rate. A subsequent valve failure under these conditions could leave the aircraft without anti-ice protection without knowledge of the crew.

Interested persons have been afforded an opportunity to participate in the making of this amendment, and comments were received indicating that DC-10 operators had no objection to this proposed rule.

While no adverse comments were received, the FAA has amended the proposal to include clarification of the requirements for inspection to relieve operators from the undue burden of performing the maintenance tests if the aircraft is already modified.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended, by adding the following new airworthiness directive:

McDonnell Douglas: Applies to DC-10-10, -10F, -30, -30F and -40 airplanes. Serial Numbers corresponding to manufacturer's fuselage Numbers 1 through 257, certificated in all categories.

Compliance is required as indicated.

To reduce the possibility of an unannounced anti-ice system failure, accomplish the following, unless modified per Paragraph (c) of this AD.

a. Within the next 300 hours' time in service from the effective date of this AD, unless previously accomplished within the last 3,000 hours' time in service, accomplish the tests specified below.

Test Procedure for Wing/Antenna Anti-ice System Passive Failures

1. Remove power from all AC and DC buses.
2. Open "BATT DIRECT & LEFT EMER DC FEED" circuit breaker on overhead CB panel.
3. Disconnect P1-837 at center accessory compartment right hand (CAC-R) disconnect panel.
4. Restore power to DC buses 1 and 3. (Other buses may be energized if desired).
5. Pressurize No. 3 pneumatic system to at least 15 psig per instructions in Maintenance Manual Chapter 36-00-00.
6. Place WING & ANT ANTI-ICE switch to TEST position and verify that WING & ANT ANTI-ICE DISAGREE light comes on and goes off.

Caution

WING ICE PROTECTION MUST NOT BE OPERATED IN TEST POSITION ON THE GROUND WITH ENGINES OR APU OPERATING OR WITH PNEUMATIC GROUND SUPPLY CONNECTED FOR MORE THAN 30 SECONDS. FAILURE TO OBSERVE THIS PRECAUTION CAN RESULT IN OVERHEATING WING LEADING EDGES, CAUSING DAMAGE.

Note.—The above caution is not applicable if an external ground pneumatic source with air temperature controlled at 190°F (88°C) or less is used.

7. Release WING & ANT ANTI-ICE switch and verify WING & ANT DISAGREE light comes on and goes off.

8. Depressurize No. 3 pneumatic system, remove power from all AC and DC buses, and verify "BATT DIRECT & LEFT EMER DC FEED" circuit breaker is open.

9. Reconnect P1-837 at CAC-R panel and restore power to aircraft as required.

10. Open "WING & ANT ANTI-ICE DISAGREE LTS" circuit breaker on upper main CB panel.

11. In lower galley or forward cargo area as applicable, gain access to antenna valve.

12. Disconnect P1-2472 from antenna valve position switches.

13. Close circuit breaker listed in Step 10.

14. Pressurize No. 3 pneumatic system to at least 15 psig per instructions in Maintenance Manual Chapter 36-00-00.

15. Place WING & ANT ANTI-ICE switch to TEST position and verify that WING & ANT ANTI-ICE DISAGREE light comes on and goes off.

Caution

WING ICE PROTECTION MUST NOT BE OPERATED IN TEST POSITION ON THE GROUND WITH ENGINES OR APU OPERATING OR WITH PNEUMATIC GROUND SUPPLY CONNECTED FOR MORE THAN 30 SECONDS. FAILURE TO OBSERVE THIS PRECAUTION CAN RESULT IN OVERHEATING WING LEADING EDGES, CAUSING DAMAGE.

Note.—The above caution is not applicable if an external ground pneumatic source with air temperature controlled at 190°F (88°C) or less is used.

16. Release WING & ANT ANTI-ICE switch and verify WING & ANT DISAGREE light comes on and goes off.

17. Open circuit breaker listed in Step 10.

18. Reinstall P1-2472 connector on antenna valve.

19. Restore aircraft to normal operating condition.

Note.—Steps 1 through 7 check the integrity of the VHF antenna anti-ice valve and monitoring circuit. Steps 10 through 16 check the integrity of the right wing anti-ice valve and monitoring circuit.

b. If Steps a.6 and 7 or a.15 and 16 are not satisfactorily accomplished, repair the unsatisfactory condition, or restrict the aircraft from flight in icing conditions.

c. Within one year from the effective date of this AD provide for performance monitoring of the wing and antenna anti-ice systems by separate lights in a manner

approved by the Chief, Aircraft Engineering Division, FAA Western Region.

Note.—McDonnell Douglas Service Bulletin 50-47 dated December 5, 1978 provides a satisfactory method of accomplishment.

d. Alternative inspections, modifications or other actions which provide an equivalent level of safety may be used when approved by the Chief, Aircraft Engineering Division, FAA Western Region.

This amendment becomes effective September 29, 1979.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.85)

Issued in Los Angeles, Calif., on August 15, 1979.

William R. Krieger,

Acting Director, FAA Western Region.

[FR Doc. 79-26584 Filed 8-24-79; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 79-WE-11-AD; Amdt. 39-3542]

Airworthiness Directives; Hughes Model 369D Helicopter

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Final rule.

SUMMARY: This action publishes in the Federal Register and makes effective to all persons an amendment adopting a new Airworthiness Directive (AD) which was previously made effective as to known operators of Hughes Helicopters Model 369D Helicopter by priority mail dated June 20, 1979. This AD was issued because of three reported failures of the main rotor blade root fittings. This AD requires an initial visual inspection with 5X or higher magnification glass, and repetitive visual inspections, for cracks or corrosion of the main rotor blade upper and lower root fittings and lead-lag links.

DATES: Effective August 30, 1979, except with respect to certain persons specified in the body of the AD.

Compliance schedule—As prescribed in the body of the AD.

ADDRESSES: The applicable service information may be obtained from: Hughes Helicopters, Centinela and Teale Streets, Culver City, California 90230.

FOR FURTHER INFORMATION CONTACT: Wallace M. Frei, Executive Secretary, Airworthiness Directive Review Board, Federal Aviation Administration, Western Region, P.O. Box 92007, World Way Postal Center, Los Angeles,

California 90009. Telephone: (213) 536-6351.

SUPPLEMENTARY INFORMATION: An emergency Airworthiness Directive (AD) was adopted on June 19, 1979 and made effective immediately upon receipt of the airmail letter dated June 20, 1979 to all known operators of Hughes Helicopters Model 369D Helicopter because of three reported failures in the main rotor blade root fittings and the main rotor blade attach lugs of the lead-lag links, due to corrosion and/or fretting. This condition could result in the loss of a main rotor blade. The AD required an initial visual inspection with a 5X or higher magnifying glass within ten (10) hours time in service for cracks in the main rotor blade root fittings and attach lugs of the lead-lag links, and also the application of zinc chromate primer for corrosion protection. In addition, a repetitive visual inspection for broken or cracked lugs, without removing the blades, is required at intervals not to exceed 25 hours time in service.

Since the issuance of the June 20, 1979 emergency airmail letter AD, it has been determined that corrosion is a major cause of crack initiation. The AD has been amended to also inspect for corrosion.

Since it was found that immediate corrective action was required, notice and public procedure thereon was impracticable and contrary to the public interest, and good cause existed for making the AD effective immediately as to all known operators of Hughes Helicopters Model 369D Helicopter. These conditions still exist and the AD is hereby published in the Federal Register as an Amendment to § 39.13 of Part 39 of the Federal Aviation Regulations to make it effective as to all persons.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended, by adding the following new airworthiness directive:

Hughes Helicopters: Applies to Hughes Model 369D Helicopter certificated in all categories.

Compliance required as indicated.

To prevent failure of the main rotor blade attachment lugs, which could result in loss of a main rotor blade, accomplish the following:

(a) Within ten (10) hours time in service, after the effective date of this AD, unless already accomplished, remove the main rotor blades in accordance with Hughes Model

369D Helicopter Basic Handbook of Maintenance Instructions and visually inspect with a 5X or higher magnifying glass the area around the main rotor blade attach pins lug holes in the upper main rotor blade root fitting, P/N 369A1113, the lower main rotor blade root fitting, P/N369A1114, and the main rotor vertical hinge links (lead-lag links), P/N369H1203, for cracks and corrosion.

(1) If any cracks or corrosion are found in main rotor blade upper and lower root fitting, replace that main rotor blade, P/N369D21100, before further flight.

(2) If any cracks or corrosion are found in the main rotor vertical hinge link, P/N 369H1203, replace the main rotor hub, P/N 369D21200, before further flight.

(3) If no cracks or corrosion are found in the main rotor fittings or main rotor vertical hinge links (lead-lag links), seal all junctions between the steel bushing and lugs with a thin film of zinc chromate primer without removing the bushings.

(b) Thereafter, without removing the main rotor blades and within intervals not exceeding 25 hours time in service, visually inspect all the exposed portions of all main rotor blade upper and lower root fitting attach lugs and main rotor hub lead-lag links attach lugs for broken, corroded or cracked lugs. If any broken, corroded or cracked lugs are found, replace in accordance with (a)(1) and/or (a)(2) above.

(c) Equivalent visual inspections may be used when approved by the Chief, Aircraft Engineering Division, FAA, Western Region.

This amendment becomes effective August 30, 1979, as to all persons except those persons to whom it was made immediately effective by the airmail letter dated June 20, 1979, which contained this amendment.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89)

Issued in Los Angeles, Calif., on August 15, 1979.

William R. Krieger

Acting Director, FAA Western Region.

[FR Doc. 79-26570 Filed 8-24-79; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 79-WE-18-AD; Amdt. 39-3534]

Airworthiness Directives; McDonnell Douglas DC-10 Airplanes

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Final rule.

SUMMARY: This action publishes in the Federal Register and makes effective as to all persons an amendment adopting an airworthiness directive (AD) which was previously made effective as to known operators of McDonnell Douglas

Model DC-10-10, DC-10-10F, DC-10-40 airplanes by telegraphic message dated July 15, 1979. This AD was required because of failure of the nuts retaining the engine at the aft engine mount which could result in loss of engine retention strength capability.

DATES: Effective August 29, 1979, and was effective earlier for all recipients of the telegram dated July 15, 1979.

Compliance schedule—As prescribed in the body of the AD.

FOR FURTHER INFORMATION CONTACT: Jerry Presba, Executive Secretary, Airworthiness Directive Review Board, Federal Aviation Administration, Western Region, P.O. Box 92007, World Way Postal Center, Los Angeles, California 90009. Telephone: (213) 536-6351.

SUPPLEMENTARY INFORMATION: Pursuant to the authority delegated me by the administrator, an AD was adopted on July 15, 1979, and was made effective to all known operators of McDonnell Douglas Model DC-10-10, DC-10-10F, and DC-10-40 series airplanes because of a possibility of loss of engine retention strength capability resulting from failures of the nuts retaining the engine at the aft engine mount.

Since it was found that immediate corrective action was required, notice of public procedure thereon was impracticable and contrary to the public interest and good cause existed therefore, to make the AD effective immediately as to all operators of McDonnell Douglas Model DC-10-10, -10F, and -40 series airplanes. These conditions still exist and the AD is hereby published in the Federal Register as an amendment to § 39.13 of Part 39 of the Federal Aviation Regulations to make it effective as to all persons.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended, by adding the following new airworthiness directive:

McDonnell Douglas: Applies to McDonnell Douglas Model DC-10-10, DC-10-10S, and DC-10-40 series airplanes certificated in all categories. Compliance required as indicated. To prevent failure of the aft engine mount barrel nuts on No. 1, No. 2 and No. 3 engines which could result in the loss of engine support, accomplish the following unless already accomplished subsequent to July 6, 1979:

(a) Before further flight after August 29, 1979, visually inspect the aft engine mount barrel nuts on No. 1, No. 2 and No. 3 engines for evidence of cracking with particular regard to the area adjacent to the protruding bolt shank.

(b) Before further flight after August 29, 1979, verify torque values of the aft engine mount bolts which mate with the barrel nuts on No. 1, No. 2 and No. 3 engines to the minimum value specified in the DC-10 Maintenance Manual.

(c) Revenue flight to the first base for the necessary equipment to accomplish (b) of this AD is authorized if such equipment is not available at the location of the aircraft on August 29, 1979.

(d) Report results of all inspections to the Chief, Aircraft Engineering Division, FAA Western Region, within twenty-four hours of accomplishment in the following format:

(1) "N" number.

(2) Hours' time-in-service and inspection.

(3) The results of inspection by reference to specific paragraph of this AD.

(e) If cracks are discovered per paragraph (a) or if minimum torque values cannot be achieved per paragraph (b), replace the barrel nut with like serviceable part prior to further flight.

This amendment becomes effective August 29, 1979, and was effective earlier for all recipients of the telegram dated July 15, 1979.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89)

Issued in Los Angeles, Calif., on August 14, 1979.

Benjamin Demps, Jr.,

Acting Director, FAA Western Region.

[FR Doc. 79-26574 Filed 8-24-79; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 79-WE-20-AD; Amdt. 39-3535]

Airworthiness Directives; Piper Aerostar Model 600 and 601 Airplanes

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires modification of the upper main cabin door latch assemblies. This AD will require modification to prevent the possible disengagement of the door locking pins, a positive visual indication of locking pin position and replacement of the rod end fittings. This AD is necessary to prevent the loss of the upper cabin door in flight.

DATES: Effective August 29, 1979.

Compliance required within thirty (30) days after the effective date.

ADDRESSES: The applicable service information may be obtained from: The Piper Aerostar Customer Service Department, 2560 Skyway Drive, Santa Maria, California 93454.

Also, a copy of the service information may be reviewed at, or a copy obtained from:

Rules Docket in Room 916, FAA, 800 Independence Avenue SW., Washington, D.C. 20591.

or
Rules Docket in Room 6W14, FAA Western Region, 15000 Aviation Boulevard, Hawthorne, California 90261.

FOR FURTHER INFORMATION CONTACT: Kyle L. Olsen, Executive Secretary, Airworthiness Directive, Review Board, Federal Aviation Administration, Western Region, P.O. Box 92007, World Way Postal Center, Los Angeles, California 90009. Telephone: (213) 536-6351.

SUPPLEMENTARY INFORMATION: There have been two instances of inflight loss of the upper cabin door and reports of the door latch mechanism not operating properly. In one instance, the door could not be opened by the pilot and the emergency exit was used to exit the aircraft. In other instances, the upper cabin door is left open by the pilot for ventilation during taxi and the door is not latched before takeoff. The manufacturer has issued two service bulletins which modify the door latch mechanism and add a positive visual indication to the pilot if the upper cabin door is unlatched.

Since this condition is likely to exist or develop in other airplanes of the same type design, an airworthiness directive is being issued which requires (1) installation of a spacer to prevent the disengagement of the door locking pins in the event of separation of the inner door handle from its shaft, (2) installation of a positive visual indication of door locking position and (3) replacement of the door locking rod end fittings made from tubing with those made from solid steel.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impractical and a good cause exists for making this amendment effective in less than thirty (30) days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended, by adding the following new airworthiness directive:

Piper: (Ted Smith) applies to Aerostar Model 600 and 601 airplanes certificated in all categories:

Compliance required within thirty (30) days after the effective date of this AD, unless already accomplished.

To prevent inflight loss of the upper cabin door and to prevent the disengagement of door locking pins accomplish the following:

(a) Install in the upper cabin door latching mechanism, spacers and the locking position visual indicators in accordance with Aerostar Service Bulletin 600-35, dated August 28, 1973.

(b) Replace the rod end fittings made from tubing with solid steel rod end fittings in accordance with Aerostar Service Bulletin 600-61, dated January 28, 1977.

(c) Alternate modifications or other actions which provide an equivalent level of safety may be used when approved by the Chief, Aircraft Engineering Division, FAA Western Region.

(d) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of inspections required by this AD.

This amendment becomes effective August 29, 1979.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89)

Issued in Los Angeles, Calif., on August 14, 1979.

Benjamin Damps, Jr.,

Acting Director, FAA Western Region.

[FR Doc. 79-26575 Filed 8-24-79; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 79-WE-22-AD; Amdt. 39-3536]

Airworthiness Directives; Lockheed L-1011 Airplanes

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD) which requires an inspection of the No. 2 engine electrical power feeder cable and corrective action, if required.

This AD is required to prevent loss of integrity of the No. 2 engine firewall as a result of burn-through due to electrical arcing from the No. 2 engine electrical power feeder cable.

DATES: Effective August 29, 1979.

Compliance schedule—Within 400 hours' time in service from August 29, 1979.

ADDRESSES: The applicable service information may be obtained from: Lockheed California Company, Burbank, California 91520.

Also, a copy of the service information may be reviewed at, or a copy obtained from:

Rules Docket in Room 916, FAA, 800 Independence Avenue, S.W., Washington, D.C. 20591.

or

Rules Docket in Room 6W14, FAA Western Region, 15000 Aviation Boulevard, Hawthorne, California 90261.

FOR FURTHER INFORMATION CONTACT: Jerry J. Presba, Executive Secretary, Airworthiness Directive, Review Board, Federal Aviation Administration, Western Region, P.O. Box 92007, World Way Postal Center, Los Angeles, California 90009. Telephone: (213) 536-6351.

SUPPLEMENTARY INFORMATION: The FAA has received a report that one L-1011 operator encountered grounding of the No. 2 engine generator feeder cable to the firewall at approximately Fuselage Station 2022. This inadvertent grounding produced overheating and burn-through of the firewall, and is attributed to possible excessive slack in the wire and/or missing wire clamp cushion(s).

This AD provides for inspection for these discrepant conditions and further specifies corrective action to prevent recurrence from this cause.

Since a situation exists that requires immediate adoption of this regulation it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than thirty (30) days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended, by adding the following new airworthiness directive:

Lockheed California: Applies to Lockheed L-1011-385 series airplanes certificated in all categories:

Compliance required within the next 400 hours' time in service from the effective date of this AD, unless already accomplished.

To prevent local structural damage and insure security of the No. 2 engine generator feeder cables, accomplish the following:

(a) Inspect the No. 2 engine generator feeder cables in the aft body area between Fuselage Station 2011 and Fuselage Station 2053 above Waterline 350 for looseness and slack, surface abrasions, discoloration of outer surface and close proximity to structure without clamps or other protective supports. Inspect feeder cable support clamps for lack of clamp cushions and bent or dislodged mount brackets or clamps. These inspections are to be made in accordance with Part 2 of Lockheed Service Bulletin 093-24-086, dated August 2, 1979.

(b) If any of the above discrepant conditions is found to exist, prior to further flight perform corrective action in accordance with Part 2 of Lockheed Service Bulletin 093-24-086, dated August 2, 1979.

(c) Alternative inspections, modifications or other actions which provide an equivalent level of safety may be used when approved

by the Chief, Aircraft Engineering Division, FAA Western Region.

(d) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of inspections required by this AD.

This amendment becomes effective August 29, 1979.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89)

Issued in Los Angeles, Calif., on August 14, 1979.

Benjamin Damps, Jr.,

Acting Director, FAA Western Region.

[FR Doc. 79-26576 Filed 8-24-79; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 79-NW-10-AD; Amdt. 39-3539]

Airworthiness Directives; Rockwell NA 265-60 Airplanes Equipped With Ralsbeck Mark Five Modification

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: On April 13, 1979, a telegraphic Airworthiness Directive (AD) was issued and made effective upon receipt to all known operators of Rockwell NA 265-60 (Sabreliner) which had been modified per Ralsbeck STC SA687NW. The AD, which was amended April 18, 1979, and April 23, 1979, required deactivation of the flap system and the imposition of certain operating limitations following an incident which resulted in loss of control of a modified Sabreliner. AD 79-13-02 (Amendment 39-3499), 44 FR 36169 was published on June 21, 1979, making the telegraphic AD and Amendments effective as to all persons. Ralsbeck has now developed a modification which is terminating action for the AD. This Amendment incorporates the approved terminating action.

DATES: The effective date: September 4, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. William M. Perrella, Engineering and Manufacturing Branch, FAA Northwest Region, 9010 East Marginal Way South, Seattle, Washington, 98108. Telephone (206) 767-2516.

SUPPLEMENTAL INFORMATION: The Ralsbeck Group has now developed and the FAA has approved modifications which, when made, will warn of flap asymmetrical conditions prior to the flap impinging on the aileron. Since this

corrects the unsafe condition which required the issuance of AD 79-13-02, the AD is further herein amended to incorporate the modifications as terminating action.

Since this amendment imposes no additional burden on any person and is relieving in nature, it is found that notice and public procedure hereon are unnecessary and the amendment may be made effective in less than 30 days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended by further amending Airworthiness Directive 79-13-01 (Amdt. 39-3499, 44 FR 36169; dated June 21, 1979) by adding a paragraph D as follows:

"D. Installation of the modifications in accordance with FAA-approved Ralsbeck Mark Five Sabreliner Service Bulletin No. 5 (or equivalent modifications approved by the Chief, Engineering and Manufacturing Branch, FAA Northwest Region) and incorporation of Change I of the FAA-approved Airplane Flight Manual (Ralsbeck Report 76-601 for S/N 306-84 and subsequent; and 76-602 for S/Nos. 306-1 through 306-63), constitute terminating action to the requirements of this Airworthiness Directive."

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1). All persons affected by this directive who have not already received these documents from the manufacturer, may obtain copies upon request to The Ralsbeck Group, 7777 Perimeter Road South, Boeing Field International, Seattle, Washington 98108. These documents may also be examined at FAA Northwest Region, 9010 East Marginal Way South, Seattle, Washington 98108.

This amendment becomes effective September 4, 1979.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89)

Note.—The FAA has determined that this document involves a proposed regulation which is not considered to be significant under the provisions of Executive Order 12044 and as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

Issued in Seattle, Wash., on August 15, 1979.

C. B. Walk, Jr.,

Director, Northwest Region.

Note.—The incorporation by reference provisions in the document were approved by

the Director of the Federal Register on June 19, 1967.

[FR Doc. 79-26577 Filed 8-24-79; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 79-NW-26-AD; Amdt. 39-3533]

Airworthiness Directives; Boeing Model 747 Series Airplanes

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD) to require inspection and replacement, as required, of the inboard nacelle lower diagonal strut forward fittings. Strut fitting cracking could eventually result in fitting failures.

DATES: Effective date September 4, 1979. Compliance required within 500 hours time-in-service after the effective date of this AD unless already accomplished.

ADDRESS: The Boeing service bulletin specified in this directive may be obtained upon request to Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. These documents may also be examined at FAA Northwest Region, 9010 East Marginal Way South, Seattle, Washington 98108.

FOR FURTHER INFORMATION CONTACT: Mr. Iven D. Connally, Airframe Section, ANW-212, Engineering and Manufacturing Branch, FAA, Northwest Region, 9010 East Marginal Way South, Seattle, Washington 98108, telephone (206) 767-2516.

SUPPLEMENTARY INFORMATION: Eight instances of cracked diagonal strut fittings have been reported at the lower strut forward attachment on Boeing 747 aircraft. The cracks are due to stress corrosion and fatigue. Loss of a support fitting would reduce the pylon structural integrity sufficiently to allow engine separation under certain flight conditions. Since this condition is likely to exist or develop in other Boeing 747 airplanes, action is taken herein to require inspection and replacement, if required, of the strut attachment fittings. Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation

Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive:

Boeing: Applies to all Model 747 series airplanes certificated in all categories listed in Boeing Service Bulletin 747-54-2062 with more than 5,000 landings. Compliance required with 500 hours time-in-service after the effective date of this AD unless already accomplished. To prevent failure of the inboard pylon lower diagonal brace fittings accomplish the following:

A. Within 500 hours time-in-service after the effective date of this AD unless already accomplished, visually inspect the forward lower diagonal brace fittings for cracks in accordance with Boeing Service Bulletin 747-54-2062, or methods approved by the Chief, Engineering and Manufacturing Branch, FAA Northwest Region.

B. Replace or repair cracked fittings before further flight in accordance with Boeing Service Bulletin 747-54-2062, or in accordance with procedures approved by the Chief, Engineering and Manufacturing Branch, FAA, Northwest Region.

C. If no cracks are found, repeat the inspection in accordance with Paragraph A above at intervals not to exceed 1,000 landings until all affected fittings are replaced with steel fittings. If cracks are found and reworked, repeat the inspection at intervals not to exceed 250 landings, until the reworked fitting is replaced.

D. Upon request of the operator, an FAA Maintenance Inspector, subject to prior approval of the Chief, Engineering and Manufacturing Branch, FAA, Northwest Region, may adjust the compliance times if the request contains substantiating data to justify the increase for that operator.

E. Report results of the inspections of the fittings both positive and negative, to the Chief, Engineering and Manufacturing Branch, FAA, Northwest Region. (Reporting approved by the Bureau of Budget under BOB No. 04-R0174.)

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1).

All persons affected by this directive who have not already received these documents from the manufacturer, may obtain copies upon request to Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. These documents may also be examined at FAA Northwest Region, 9010 East Marginal Way South, Seattle, Washington 98108.

This amendment becomes effective September 4, 1979.

(Secs. 313(a), 601, and 603 Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c); and 14 CFR 11.89).)

Note.—The FAA has determined that this document involves a regulation which is not considered to be significant under the provisions of Executive Order 12044, as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 28, 1979).

Issued in Seattle, Wash., on August 13, 1979.

Note.—The incorporation by reference provisions in the document were approved by the Director of the Federal Register on June 19, 1967.

C. B. Walk, Jr.,

Director, Northwest Region.

[FR Doc. 79-26578 Filed 8-24-79; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 79-NW-24-AD Amdt. 39-3537]

Airworthiness Directives: Boeing Model 747 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This Airworthiness Directive (AD) requires inspection and replacement, as necessary, of the lanyard cables on B. F. Goodrich escape slide/raft assemblies on certain Boeing 747 airplanes. During routine inspection, the slide/raft firing and packboard lanyards were found to be subject to corrosion which caused cable separation. Separation of the firing or packboard lanyard will prevent proper inflation of the slide/raft.

DATES: Effective date September 4, 1979.

ADDRESSES: The service bulletins specified in this directive may be obtained upon request to Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington, 98124. These documents may be examined at FAA Northwest Region, 9010 East Marginal Way South, Seattle, Washington 98108.

FOR FURTHER INFORMATION CONTACT: Mr. Roger S. Young, Airframe Section, ANW-212, Engineering and Manufacturing Branch, FAA Northwest Region, 9010 East Marginal Way South, Seattle, Washington 98108, telephone (206) 767-2516.

SUPPLEMENTARY INFORMATION: The firing lanyard connects the girt bar to the valve on the stored gas reservoir and activates the inflation of the slide/raft assembly during an emergency evacuation of the airplane. Separation of the firing lanyard will prevent inflation of the slide/raft both automatically and manually. Failure of the packboard lanyard will prevent the slide/raft from separating from the packboard and thus prevent proper inflation. In approximately forty percent of the twenty slide/raft assemblies checked, the firing lanyard showed evidence of corrosion. There were six instances of firing lanyards and two instances of

packboard lanyards that had separated. Since this condition is likely to exist or develop on other slide/raft assemblies, this AD requires inspecting the lanyards and replacing as necessary. Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new Airworthiness Directive:

Boeing: Applies to all Boeing Model 747 airplanes which are equipped with slide/raft assemblies. Compliance is required as indicated. Accomplish the following:

A. Within the next 90 days from the effective date of this AD, unless accomplished within the last 180 days, inspect the firing and packboard lanyards for corrosion in accordance with Boeing Alert Service Bulletin 747-25A2467 and B. F. Goodrich Alert Service Bulletin 25-051.

B. Lanyards showing signs of corrosion are to be replaced with new parts in accordance with B. F. Goodrich Alert Service Bulletin 25-051.

C. Repeat inspections, described in paragraph A, at intervals not to exceed one (1) year from the date of the last inspection.

D. Upon request of the operator, an FAA Maintenance Inspector, subject to prior approval of the Chief, Engineer and Manufacturing Branch, FAA Northwest Region may adjust the inspection interval if the request contains substantiating data to justify the increase for that operator.

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1).

All persons affected by this directive who have not already received these documents from the manufacturer, may obtain copies upon request to Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. These documents may also be examined at FAA Northwest Region, 9010 East Marginal Way South, Seattle, Washington 98108.

This amendment becomes effective September 4, 1979.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c); and 14 CFR 11.85).)

Note.—The FAA has determined that this document involves a regulation which is not considered to be significant under the provisions of Executive Order 12044 and as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 28, 1979).

Issued in Seattle, Wash., on August 15, 1979.

Note.—The incorporation by reference provisions in the document were approved by the Director of the Federal Register on June 19, 1967.

C. B. Walk, Jr.,

Director, Northwest Region.

[FR Doc. 79-26581 Filed 8-24-79; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 79-NW-18-AD—Amdt. No. 39-3538]

Airworthiness Directive; Hillier UH12D and UH12E (Including 4-Place) Helicopters Soloy Turbine Conversions

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: On June 15, 1979, an airmail letter Airworthiness Directive (AD) was issued and made effective upon receipt to all known operators of Hillier UH12D and UH12E (including 4-place) helicopters that have been converted to turbine power by Soloy Conversions LTD., under Supplemental Type Certificates (STC'S SH177WE and SH178WE). The AD required a one time inspection, reporting of results, and possible repair or replacement of the outer gimbal forward attachment fitting on these aircraft. This action was prompted by four (4) confirmed incidents of cracked forward gimbal attachment fittings on Soloy Turbine converted helicopters, one of which completely failed one side of the dual load path fitting in less than 20 flight hours after turbine conversion. Compliance with the AD will result in detection of cracks in the fitting thereby preventing failure of the fitting and consequential loss of main rotor control. This condition still exists and the AD is hereby published in the Federal Register to make it effective as to all persons.

DATES: The effective date is September 4, 1979, except for recipients of the airmail letter of June 15, 1979, which contained this amendment. Initial compliance required before further flight.

FOR FURTHER INFORMATION CONTACT: Mr. James R. Haynes, Airframe Section, ANW-212, Engineering and Manufacturing Branch, Northwest Region, 9010 East Marginal Way South, Seattle, Washington, 98108. Telephone (206) 767-2516.

SUPPLEMENTARY INFORMATION: The cracks found were in the forward outer gimbal attachment fitting (Hiller Engine Mount Part No. 63181-5). The cracks appeared to originate from the weld

beads and possibly progress into the gusset area of the fitting. The cracks occurred in both sides of the fitting simultaneously which negates the failsafe properties of the fitting. Complete failure of the forward fitting would result in an upward shift of the transmission causing binding of all main rotor controls and possible loss of the main rotor transmission assemblies. It was not determined if these cracks were caused by the higher flight loads induced by the turbine conversion, by damage induced at the time of conversion, or by incipient damage that already existed in these fittings when salvaged from previously damaged helicopters prior to turbine conversion. Consequently, the AD includes a reporting requirement to provide additional information.

Since this condition is likely to exist in other Hillier Helicopter Models UH12D and UH12E, converted to turbine power by Soloy Conversions, LTD. under applicable STC's, the AD was issued and is now published in the Federal Register requiring inspection and repair or replacement, as necessary, of the affected parts.

Since a situation existed that required immediate adoption of this regulation, it is found that notice and public procedure thereon were impracticable and good cause existed at the time of issuance, and still exists for making this amendment effective in less than 30 days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations, (14 CFR 39.13) is amended by adding the following new Airworthiness Directive:

Hiller Aviation: Applies to Hillier UH12D and UH12E (including 4-place) helicopters certificated in all categories which have been converted to turbine power under Soloy Conversions, LTD. Supplemental Type Certificates SH177WE and SH178WE.

A. Before further flight, unless already accomplished in the last 20-flight hours, remove the paint from the outer gimbal forward attach fitting of the Hillier engine mount Part No. 63181-5 and dye penetrant or magnetic particle inspect the gusset weld beads for cracks on both the front and back sides of the gusset.

B. If cracks are found, repair or replace the fitting on the engine mount Part No. 63181-5 before further flight in accordance with the following:

1. If cracks in the welds do not exceed 25 percent of the total weld length, repair by grinding out the defect and rewelding with Heliarc equipment and Oxweld #32 welding rod in accordance with the Hillier Structural Repair Manual.

2. If cracks in the fitting do not extend into the original welds, they may be repaired by welding with the equipment in (1) above in accordance with the Hillier Structural Repair Manual.

3. If cracks are found outside the limits of 1 or 2 above, replace the fitting in accordance with the engine mount strut repair procedures of the Hillier Structural Repair Manual by using appropriate fixture for maintaining mounting locations.

C. Equivalent repairs or replacements may be approved by the Chief, Engineering and Manufacturing Branch, FAA Northwest Region.

D. Report cracks found, total flight hours, and flight hours since last inspection, to Chief, Engineering and Manufacturing Branch, FAA Northwest Region, 9010 East Marginal Way South, Seattle, WA 98108. Reporting approved by the Bureau of the Budget under BOB No. 04-R0174.

E. Helicopters may be flown to a maintenance base for inspections or replacements in accordance with FAR 21.197.

"This Amendment is effective September 4, 1979, and was effective earlier for all recipients of the airmail letter dated June 15, 1979, which contained this Amendment."

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a)), 1421, 1423) and sec. 6(c) of Department of Transportation Act (49 U.S.C. 1655(c); and 14 CFR 11.89)

Note.—The FAA has determined that this document involves a proposed regulation which is not considered to be significant under the provisions of Executive Order 12044 and as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 28, 1979).

Issued in Seattle, Wash., on August 15, 1979.

C. B. Walk, Jr.,

Director, Northwest Region.

[FR Doc. 79-26582 Filed 8-24-79; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 79-WE-3-AD; Amdt. 39-3540]

Airworthiness Directives; Hillier Helicopter Models UH-12D and UH-12E

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes the currently effective Airworthiness Directive (AD) which requires inspection and replacement, if necessary, of main rotor blade forks on Hillier UH-12D and UH-12E helicopters. This amendment revises the effectivity of the mandatory action and subdivides the required action into two categories, dependent upon the main rotor blade fork serial number.

DATES: Effective August 30, 1979. Compliance schedule—As prescribed in the body of the AD.

FOR FURTHER INFORMATION CONTACT: Jerry Presba, Executive Secretary, Airworthiness Directive Review Board, Federal Aviation Administration, Western Region, P.O. Box 92007, World Way Postal Center, Los Angeles, California 90009. Telephone: (213) 536-8351.

SUPPLEMENTARY INFORMATION: Amendment 39-3441, (44 FR 18645), AD 79-07-01 requires inspection and replacement, if necessary, of main rotor blade forks on UH-12D and UH-12E helicopters.

After issuing AD 79-07-01 the FAA has received a report of a crack in a main rotor blade fork which was in a serial number category exempt from the provisions of the AD. Therefore, the FAA is superseding AD 79-07-01 with a new AD requiring inspection of these additional serial numbered parts. Since this latter group of serial numbered parts is of an improved design, the inspection requirements for this serial numbered category of main rotor blade forks is less frequent than that specified for the original group of forks.

Additionally, the FAA has learned that certain serial numbered forks of the improved design were erroneously included in the inspection requirements of the superseded AD. Relief from undue burden is achieved by deleting these serial numbers from the more rigorous inspection requirements.

The FAA has also determined that the daily visual inspection requirements specified in the superseded AD are capable of accomplishment by the flight crew. The appropriate language has therefore been revised to "check," with an explanatory note.

This amendment relieves the restriction and imposes no additional burden to persons affected by the superseded AD. With respect to the additional requirements of the AD, it was found that immediate corrective action was required, hence notice and public procedure thereon was impracticable and contrary to the public interest and good cause existed for making this amendment effective in less than thirty (30) days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended, by adding the following new airworthiness directive:

Hiller Aviation: I. Applies to Models UH-12D and UH-12E helicopters certificated in

all categories equipped with main rotor blade fork P/N 52110-3, S/N 4000P and lower Serial Numbered forks, except Serial Nos. 001P, 002P, 003P, 04P, 005P through 009P, 0010P, 0011P, 0012P, 013P through 016P, 0017P, 018P, 020P, 022P through 027P, 0027P, 028P through 040P, and 043P through 052P.

To detect cracks and prevent failures which have occurred in the main rotor blade fork P/N 52110-3 at the outboard tension-torsion bar retention bolt hole, the following inspections shall be conducted:

(a) Perform daily visual check of P/N 52110-3 forks for cracks in the area of the outboard tension-torsion bar retention bolt hole. Washers and nuts need not be removed for this inspection. This check may be performed by the pilot.

Note.—For the requirements regarding the listing of compliance and method of compliance with this AD in the aircraft's permanent maintenance record, see FAR 91.173.

(b) On forks having 240 or more hours' time in service, on the effective date of this AD, within the next 10 hours' time in service, unless already accomplished within the last 90 hours' time in service, and within each 100 hours' time in service thereafter from the last inspection, accomplish the inspection specified in I(d).

(c) On forks having less than 240 hours' time in service on the effective date of this AD, accomplish the inspection specified in I(d) prior to the accumulation of 250 hours' time in service and within each 100 hours' time in service thereafter from the last inspection.

(d) Perform a dye penetrant inspection, or FAA approved equivalent, of the bolt hole and adjacent milled surfaces. For this inspection remove the nut, washer and pin.

(e) Replace cracked rotor forks with like serviceable parts prior to further flight.

(f) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of inspections required by this AD.

(g) Equivalent inspection procedures and repairs may be used when approved by the Chief, Aircraft Engineering Division, FAA Western Region.

II. Applies to Models UH-12D and UH-12E helicopters certificated in all categories equipped with main rotor blade fork P/N 52110-3, Serial Numbers 001P, 002P, 003P, 04P, 005P through 009P, 0010P, 0012P, 013P through 016P, 0017P, 018P, 020P, 022P through 027P, 028P through 040P, 043P through 052P and 4001P and higher Serial Numbers.

a. Coincident with replacement of the main rotor retention pin P/N 51452 perform a visual inspection of the P/N 52110-3 fork using a 10 power magnifying glass. The P/N 52110-3 fork is to be inspected for cracks in the area of the outboard tension-torsion bar retention bolt hole including both the forward and aft faces.

Note.—The replacement period of the retention pin P/N 51452 is 643 hours' time in service.

b. Replace cracked rotor forks with like serviceable parts prior to further flight.

c. Equivalent inspection procedures and repairs may be used when approved by the Chief, Aircraft Engineering Division, FAA Western Region.

This supersedes Amendment 39-3441 (44 FR 18645), AD 79-07-01.

This amendment becomes effective August 30, 1979.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89)

Issued in Los Angeles, Calif., on August 15, 1979.

William R. Krieger,
Acting Director, FAA Western Region.

[FR Doc. 79-26583 Filed 8-24-79; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 79-GL-26]

Alteration of Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this federal action is to designate additional controlled airspace near Ashland, Wisconsin, to accommodate revised Very High Frequency Omnidirectional Range (VOR) and Non-Directional Radio Beacon (NDB) instrument approach procedure into the John F. Kennedy Memorial Airport, Ashland, Wisconsin.

EFFECTIVE DATE: October 4, 1979.

FOR FURTHER INFORMATION CONTACT: Doyle W. Hegland, Airspace and Procedures Branch, Air Traffic Division, AGL-530, FAA, Great Lakes Region, 2300 East Devon Avenue, Des Plaines, Illinois 60018, Telephone (312) 694-4500, Extension 456.

SUPPLEMENTARY INFORMATION: The intended effect of this action is to insure segregation of the aircraft using this approach procedure in instrument weather conditions and other aircraft operating under visual weather conditions. The floor of the controlled airspace will be lowered from 1200 feet above the surface to 700 feet for a distance of approximately one mile beyond that now depicted. The development of these proposed procedures necessitates that the FAA alter the designated airspace to insure that the procedure will be contained within controlled airspace. The minimum descent altitudes for this procedure will be established below the floor of the 700 foot controlled airspace. In addition, aeronautical maps and charts will reflect the area of the instrument procedure which will enable

other aircraft to circumnavigate the area in order to comply with applicable visual flight rule requirements.

Discussion of Comments

On page 31198 of the Federal Register dated May 31, 1979, the Federal Aviation Administration published a Notice of Proposed Rule Making which would amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to designate additional controlled airspace near Ashland, Wisconsin. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No objections were received as a result of the Notice of Proposed Rule Making.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective October 4, 1979, as follows:

In § 71.181 (44 FR 442), the following transition area is amended to read:

Ashland, Wis.

That airspace extending upward from 700 feet above the surface within an 8 mile radius of the John F. Kennedy Memorial Airport (Latitude 40°32'59" N.; Longitude 90°56'06" W.) and within 4.5 miles west and 10.5 miles east of the Ashland, Wisconsin VOR 205° radial, extending from the 8 mile radius area to 18.5 miles southwest of the Ashland, Wisconsin VOR.

(Sec. 307(a), Federal Aviation Act of 1958 (47 U.S.C. 1348(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); sec. 11.61, of the Federal Aviation Regulations (14 CFR 11.61)).

Note.—The Federal Aviation Administration has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the final evaluation prepared for this document is contained in the docket. A copy of it may be obtained by writing to the Federal Aviation Administration, Attention: Rules Docket Clerk (AGL-7), Docket No. 79-GL-26, 2300 East Devon Avenue, Des Plaines, Illinois.

Issued in Des Plaines, Ill., on August 14, 1979.

Wayne J. Barlow,
Director, Great Lakes Region.

[FR Doc. 79-26571 Filed 8-24-79; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 79-ANW-09]

Redesignation of Control Zone, Pendleton, Ore.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment revises the effective time for the Pendleton, Oregon, control zone from continuous to part-time to establish effective times for this control zone which coincide with the availability of weather reporting service at this location. The National Weather Service has reduced their hours of operation at Pendleton, Oregon, making this amendment necessary.

EFFECTIVE DATE: August 28, 1979.

FOR FURTHER INFORMATION CONTACT: Robert L. Brown, Airspace Specialist (ANW-534), Operations, Procedures and Airspace Branch, Air Traffic Division, Federal Aviation Administration, Northwest Region, FAA Building, Boeing Field, Seattle, Washington, 98108; telephone: (206) 767-2610.

SUPPLEMENTARY INFORMATION:

History

The National Weather Service at Pendleton, Oregon, currently provides weather reporting service supporting the control zone at Pendleton, Oregon. Beginning May 5, 1979, operational hours for the National Weather Service at Pendleton, Oregon, were changed from full time to the period from 0600 to 2200 hours local time daily and weather reporting service is not available for an 8-hour period. Therefore, the present continuous effective period for the Pendleton, Oregon, control zone must be revised to establish effective times for this control zone coincidental with the availability of weather reporting service by the National Weather Service.

Furthermore, it is anticipated that the loss of weather reporting service at Pendleton, Oregon, will be temporary. Therefore, the revised Pendleton, Oregon, control zone designation provides for changes in the effective periods for this control zone by Notice to Airmen with continuous publication of these effective periods in the Airport/Facility Directory.

Since this amendment imposes no additional burden on any person and is relieving in nature, notice and public procedures hereon are unnecessary and the amendment may be made effective in less than thirty (30) days.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations (FARs) revises the control zone at Pendleton, Oregon.

The reduced hours of weather reporting service by the National Weather Service at Pendleton, Oregon, necessitates the changing of the effective hours of operation for the Pendleton, Oregon, control zone.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended effective August 28, 1979, as follows:

By amending Subpart § 71.171 by adding the following:

Pendleton, Ore.

This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory. (Sec. 107(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c))).

Note.—The FAA has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Seattle, Wash., on August 15, 1979.

C. B. Walk, Jr.,
Director, Northwest Region.

[FR Doc. 79-26572 Filed 8-24-79; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 79-SO-53]

Alteration of Transition Area, Elkin, N.C.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule redesignates an extension and corrects the geographic location of the Zephyr RBN in the Elkin, North Carolina, Transition Area. This action provides controlled airspace required to protect instrument flight operations at the Elkin Municipal Airport.

EFFECTIVE DATE: September 20, 1979.
ADDRESS: Federal Aviation Administration, Chief, Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320.

FOR FURTHER INFORMATION CONTACT: Harlen D. Phillips, Airspace and Procedures Branch, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone: 404-763-7646.

SUPPLEMENTARY INFORMATION: In the Elkin, North Carolina, Transition Area described in § 71.181 (44 FR 442), an extension was designated on the 056° bearing from the Zephyr RBN to provide controlled airspace for aircraft executing the NDB RWY 25 standard instrument approach procedure at the Elkin Municipal Airport. The final approach course and geographic location of the Zephyr RBN have been changed. It is necessary to redesignate the extension and correct the RBN location in order to provide the required controlled airspace to protect aircraft executing the approach procedure.

Since this amendment is minor in nature and creates no burden on the public, notice and public procedures hereon are unnecessary.

Adoption of the Amendment

Accordingly, Subpart G, § 71.181 (44 FR 442) of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective 0901 G.m.t., September 20, 1979, as follows:
Elkin, N.C.

" * * * 056° bearing from Zephyr RBN (latitude 36°18'47" N., longitude 80°43'25" W.) * * * " is deleted and " * * * 057° bearing from Zephyr RBN (latitude 36°18'35" N., longitude 80°43'37" W.) * * * " is substituted therefor.

(Sec. 307(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)) and sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)))

Note.—The Federal Aviation Administration has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in East Point, Ga., on August 15, 1979.

George R. LaCaille,
Acting Director, Southern Region.

[FR Doc. 79-26576 Filed 8-24-79; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 79-SO-51]

Alteration of Transition Area, Southport, N.C.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final Rule.

SUMMARY: This rule redesignates an extension in the Southport, North Carolina, Transition Area. This action provides controlled airspace required to protect instrument flight operations at the Brunswick County Airport.

EFFECTIVE DATE: September 20, 1979.

ADDRESS: Federal Aviation Administration, Chief, Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320.

FOR FURTHER INFORMATION CONTACT: Harlen D. Phillips, Airspace and Procedures Branch, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone: 404-763-7646.

SUPPLEMENTARY INFORMATION: In the Southport, North Carolina, transition area described in § 71.181 (44 FR 442), an extension was designated on the 315° bearing from the Yaupon RBN to provide controlled airspace for aircraft executing the NDB-A standard instrument approach procedure at the Brunswick County Airport. The final approach course in the procedure has been changed to the 291° bearing. It is necessary to redesignate the extension to provide the required controlled airspace to protect aircraft executing the procedure.

Since this amendment is minor in nature and creates no greater burden on the public, notice and public procedure hereon are unnecessary.

Adoption of the Amendment

Accordingly, Subpart G, § 71.181 (44 FR 442) of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective 0901 GMT, September 20, 1979, as follows:

Southport, N.C.

" * * * 315° * * * " is deleted and " * * * 291° * * * " is substituted therefor.

(Sec. 307(a), Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)); sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)))

Note.—The Federal Aviation Administration has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally

current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in East Point, Ga., on August 15, 1979.

George R. LaCaille,
Acting Director, Southern Region.

[FR Doc. 79-26580 Filed 8-24-79; 8:45 am]

BILLING CODE 4910-13-M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Ch. I

Interpretative Statement Regarding the Use of Misleading Names by Persons Required To Be Registered With the Commission

AGENCY: Commodity Futures Trading Commission.

ACTION: Interpretative statement.

SUMMARY: The Commission is concerned about the use of names by individuals and firms required to be registered with the Commission which may mislead the public as to the affiliations or the true nature of the businesses of those persons. Of particular concern is the use of terms like "exchange" and "board of trade" in misleading contexts. The Commission is, therefore, announcing that it considers the use of a misleading name to constitute "other good cause" for the denial, suspension or revocation or registration.

FOR FURTHER INFORMATION CONTACT: Mark N. Rae, Office of the General Counsel, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C., 20581, 202-254-7285.

SUPPLEMENTARY INFORMATION: Under section 8a(2)(B) of the Commodity Exchange Act, 7 U.S.C. 12a(2)(B) (1976), the Commission may deny an application for registration if the Commission determines, after affording the applicant an opportunity for a hearing, that the applicant is unfit to engage in the activity for which registration is sought.¹ A finding of unfitness may be based on one or more of several enumerated factors or on

¹ Individuals and firms engaged in commodity activities are required to register with the Commission in various categories. See, e.g., Sections 4d (futures commission merchants), 4e (floor brokers) and 4m (commodity trading advisors and commodity pool operators) of the Act, 7 U.S.C. 6d, 6e and 6m (1976), as amended, 92 Stat. 869, 870 (1978). Section 4k of the Act, 7 U.S.C. 6k (1976), as amended, 92 Stat. 869 (1978), generally requires the registration of any person associated with a futures commission merchant or with any agent thereof as a partner, officer or employee (or occupying a similar status or performing similar functions).

"other good cause shown." A finding of "other good cause shown" to deny registration is also sufficient to suspend or revoke the registration of any person. See Section 8a(3), 7 U.S.C. 12a(3) (1976).

In an interpretative statement published in the Federal Register on July 3, 1975, the Commission set forth a number of factors which, in the Commission's opinion, would constitute "other good cause" for denial of an application for registration. See 40 FR 28125 *et seq.* In that release, the Commission noted that the factors which it had listed as constituting "other good cause" were not exclusive and that other activity could also form the basis of a finding that a person is not suited to engage in the business for which registration is sought. *Id.* at 28126.

The Commission has determined at this time to advise prospective applicants, registrants and other interested persons that it considers the "other good cause" standard to preclude the use of names that suggest to the public that a firm is affiliated with another person when this is not the case or that a firm is engaged in a commodity-related business in which the firm is not engaged to a substantial extent.² The Commission is particularly concerned about the use of such terms as "board of trade" or "exchange" in misleading contexts. By way of illustration, the Commission believes that the use of a name such as "National Exchange, Incorporated" by an applicant for registration as a futures commission merchant or by its agents or correspondents named in the firm's application would be misleading. In contrast, the use of the name "Exchange Futures Merchants, Incorporated" by the same firm probably would not be inappropriate.

Similarly, in the case of an applicant for registration as a commodity trading advisor, the name "Futures Newsletter, Inc.," would probably be acceptable, but "Board of Trade Newsletters, Inc.," would be misleading.

The Commission has directed its staff to advise an applicant of any problem that the staff perceives with the firm's name in order to afford the applicant an opportunity voluntarily to make whatever changes may be necessary to eliminate the misleading character of the name. In some cases, the only

² The use of a name by a person in these circumstances may be so misleading as to constitute fraud within the meaning of Sections 4b or 4c of the Act, 7 U.S.C. 6b and 6c (1976), as amended, 92 Stat. 870 (1978), or the Commission's antifraud regulations, 17 CFR 30.03, 31.03 and 32.9. See also Section 4h(2) of the Act, 7 U.S.C. 6h (1976), which, among other things, makes it unlawful for any person falsely to represent that he or she is a member of a contract market.

acceptable solution will be to delete certain terms from the name of a firm. In others, however, clarification may be sufficient to correct the problem.

Issued in Washington, D.C., on August 21, 1979, by the Commission.

Jane K. Stuckey,
Secretary, Commodity Futures Trading Commission.

[FR Doc. 79-26568 Filed 8-24-79; 8:45 am]
BILLING CODE 6351-01-M

EXECUTIVE OFFICE OF THE PRESIDENT

Office of Administration

32 CFR Part 2500

Information Security Regulations

AGENCY: Office of Administration.

ACTION: Final rule.

SUMMARY: The Office of Administration is publishing this regulation as required by Executive Order 12065 and Information Security Oversight Office Directive No. 1, which provide for the classification, downgrading, declassification and safeguarding of national security information. This regulation establishes the policies and procedures by which the Office of Administration will safeguard the information under its control. The policies and procedures are intended to apply only to the Office of Administration and its employees.

EFFECTIVE DATE: August 27, 1979.

FOR FURTHER INFORMATION CONTACT: Donald Street, Assistant Security Officer, Telephone: 202-456-2832.

SUPPLEMENTARY INFORMATION: This regulation is issued pursuant to the provisions of Executive Order 12065 and Information Security Oversight Office Directive No. 1. Users of this regulation should concurrently refer to the Executive Order and the Directive.

In consideration of the foregoing, Part 2500 of Chapter XXV, Title 32, Code of Federal Regulations is promulgated as a final regulation as set forth below, effective August 27, 1979.

William R. Pollak,
General Counsel.

Title 32 of the Code of Federal Regulations is amended by establishing Chapter XXV—Executive Office of the President, Office of Administration, and adding a new Part 2500 as follows:

PART 2500—INFORMATION SECURITY REGULATION

Sec.
 2500.1 Introduction.
 2500.3 Original classification.

Sec.
 2500.5 Derivative classification.
 2500.7 Declassification and downgrading.
 2500.9 Safeguarding.
 2500.11 Implementation and review.
 Authority: Sec. 5-404 of Executive Order 12065

§ 2500.1 Introduction.

(a) *References.* (1) Executive Order 12065, "National Security Information", dated June 28, 1978.

(2) Information Security Oversight Office Directive No. 1, "National Security Information", dated October 2, 1978.

(b) *Purpose.* The purpose of this regulation is to ensure, consistent with the authorities listed in Section (a), that national security information held by the Office of Administration is protected to the extent necessary to safeguard the national security.

(c) *Applicability.* This regulation governs the Office of Administration. Together with the authorities listed in Section (a), it establishes the policies and procedures for safeguarding of information that is under the control of the Office of Administration.

§ 2500.3 Original classification.

No one in the Office of Administration has been granted authority for original classification of information.

§ 2500.5 Derivative classification.

The Office of Administration serves only as the temporary physical custodian of classified information which originated in other agencies of the Executive Office of the President. Therefore, no one in the Office of Administration incorporates, restates, paraphrases or generates in a new form information which is already classified.

§ 2500.7 Declassification and downgrading.

(a) *Declassification authority.* No one in the Office of Administration has the authority to declassify or downgrade classified information.

(b) *Mandatory review for declassification.* Requests for mandatory review for declassification of classified information contained in the records of any Executive Office of the President agency for which the Office of Administration provides services should be addressed directly to the agency which is the owner of the record, in accordance with that agency's published Information Security Regulation.

§ 2500.9 Safeguarding.

The Office of Administration shall protect information in its custody against unauthorized disclosure

commensurate with its level of classification.

§ 2500.11 Implementation and review.

The Information Security Oversight Committee of the Office of Administration shall be chaired by the agency's General Counsel. The Committee shall be responsible for acting on all suggestions and complaints concerning the administration of the information security program. The chairperson shall also be responsible for conducting an active oversight program to ensure effective implementation of Executive Order 12065.

[FR Doc. 79-26616 Filed 8-24-79; 8:45 am]

BILLING CODE 3115-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 110

[CGD 77-210]

Anchorage Grounds, Disestablishment of Anchorage B, Buffalo Harbor, N.Y.

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This rule disestablishes the Explosives and Inflammables Anchorage B, Buffalo Harbor, New York. A reduction in the number of explosives transfers within the harbor has eliminated the need for this anchorage. **EFFECTIVE DATE:** This amendment is effective on August 27, 1979.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander H. E. Snow, Office of Marine Environment and Systems (G-WLE/73), Room 7315, Department of Transportation, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590 (202) 426-1934.

SUPPLEMENTARY INFORMATION: On April 28, 1979, the Coast Guard published a proposed rule (44 FR 24586) concerning this amendment. Interested persons were given until May 29, 1979 to submit comments. No comments were received.

DRAFTING INFORMATION: The principal persons involved in drafting this rule are Lieutenant Commander H. E. Snow, Project Manager, Office of Marine Environment and Systems, and Lieutenant J. W. Salter, Project Attorney, Office of the Chief Counsel.

In consideration of the foregoing Part 110 of Title 33, Code of Federal Regulations is amended as follows:

§ 110.208 [Amended]

By deleting from § 110.208 paragraphs (a)(2), (b)(1), and (b)(2).

(Sec. 7, 38 Stat. 1053, as amended, (33 U.S.C. 471); sec. 6(g)(1)(A), 80 Stat. 940, (49 U.S.C. 1655(g)(1)(A)); 49 CFR 1.46(c)(1).)

Dated: August 21, 1979.

R. H. Scarborough,
Vice Admiral, U.S. Coast Guard, Acting
Commandant.

[FR Doc. 79-26604 Filed 8-24-79; 8:45 am]

BILLING CODE 4910-14-M

33 CFR Part 110

[CGD 77-067]

Anchorage Grounds, Vieques Passage and Vieques Sound, Near Vieques Island, P.R.

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This rule changes the size and location of Vieques Passage explosives anchorage and ammunition handling berth (Area 1). A portion of this anchorage area extends into a buoyed channel. This rule will eliminate a potentially unsafe situation by relocating the anchorage away from the channel.

EFFECTIVE DATE: This amendment is effective on August 27, 1979.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander H. E. Snow, Office of Marine Environment and Systems, (G-WLE/73), Room 7315, Department of Transportation, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590, (202) 426-1934.

SUPPLEMENTARY INFORMATION: On March 29, 1979, the Coast Guard published a proposed rule (44 FR 18703) concerning this amendment. Interested persons were given until May 10, 1979 to submit comments. No comments were received.

DRAFTING INFORMATION: The principal persons involved in drafting this rule are Lieutenant Commander H. E. Snow, Project Manager, Office of Marine Environment and Systems, and Lieutenant J. W. Salter, Project Attorney, Office of the Chief Counsel.

In consideration of the foregoing Part 110 of Title 33 of the Code of Federal Regulations is amended by revising § 110.245(a)(1) to read as follows:

§ 110.245 Vieques Passage and Vieques Sound, near Vieques Island, P.R.

(a) *The anchorage grounds—(1) Vieques Passage explosives anchorage and ammunition handling berth (Area 1).* A circular area having a radius of 1,700 yards with its center at latitude 18°09'00"N., longitude 65°32'40"W.

* * *

(Sec. 7, 38 Stat. 1053, as amended, (33 U.S.C. 471); sec. 6(g)(1)(A), 80 Stat. 937, (49 U.S.C. 1655(g)(1)(A)); 49 CFR 1.46(c)(1).)

Dated: August 21, 1979.

R. H. Scarborough,
Vice Admiral, U.S. Coast Guard, Acting
Commandant.

[FR Doc. 79-26603 Filed 8-24-79; 8:45 am]

BILLING CODE 4910-14-M

33 CFR Part 110

[CGD 79-018]

Special Anchorage Area, Lower Harbor, Marquette, Mich.

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This rule establishes a special anchorage in the lower harbor, Marquette, Michigan. The high density of boats in this area warrants establishment of a defined anchorage area. This rule will provide a safe anchorage area within the harbor for small craft.

EFFECTIVE DATE: This amendment is effective on August 27, 1979.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander H. E. Snow, Office of Marine Environment and Systems (G-WLE/73), Room 7315, Department of Transportation, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590, (202) 426-1934.

SUPPLEMENTARY INFORMATION: On May 3, 1979, the Coast Guard published a proposed rule (44 FR 25883) concerning this amendment. Interested persons were given until June 19, 1979 to submit comments. One letter supporting the proposal was received.

DRAFTING INFORMATION: The principal persons involved in drafting this rule are Lieutenant Commander H. E. Snow, Project Manager, Office of Marine Environment and Systems, and Lieutenant J. W. Salter, Project Attorney, Office of the Chief Counsel.

In consideration of the foregoing Part 110 of Title 33, Code of Federal Regulations is amended by adding § 110.80b to read as follows:

§ 110.80b Marquette Harbor, Marquette, Mich.

The area within Marquette Harbor beginning at latitude 46°32'38"N., longitude 87°22'46"W.; thence to latitude 46°32'37"N., longitude 87°22'54"W.; thence to latitude 46°32'33"N., longitude 87°22'54"W.; thence to latitude 46°32'33"N., longitude 87°22'46"W., thence to point of origin.

Note.—An ordinance of the City of Marquette authorizes the Harbormaster to

direct the location and length of time any watercraft may anchor in this area.

(Rule 9, 28 Stat. 647, as amended, (33 U.S.C. 258); sec. 6(g)(1)(C) 80 Stat. 937, (49 U.S.C. 1655(g)(1)(C)); 49 CFR 1.46(c)(3))

Dated: August 21, 1979.

R. H. Scarborough,
Vice Admiral, U.S. Coast Guard, Acting
Commandant.

[FR Doc. 79-26602 Filed 8-24-79; 8:45 am]

BILLING CODE 4910-14-M

COPYRIGHT ROYALTY TRIBUNAL

37 CFR Part 304

Cost of Living Adjustment for Compulsory Royalty Rates Paid by Non-Commercial Broadcasting; Correction

AGENCY: Copyright Royalty Tribunal.

ACTION: Final rules; correction.

SUMMARY: In FR Doc. 79-23727 at pages 45130 to 45131 in the issue of Wednesday, August 1, the Copyright Royalty Tribunal inadvertently excluded a cost of living adjustment under § 304.6(5)(b) for SESAC, Inc. Therefore, the following should be added under § 304.6(5)(b), after "For all such compositions in the repertory of BMI, annually, \$500":

For all such compositions in the repertory of SESAC, Inc., annually, \$111.

FOR FURTHER INFORMATION CONTACT: Douglas Coulter, Chairman, Copyright Royalty Tribunal, 202-653-5175.

Douglas Coulter,
Chairman.

[FR Doc. 79-26569 Filed 8-24-79; 8:45 am]

BILLING CODE 1410-01-M

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Part 265

[Docket No. 79-905]

Nondiscrimination in Federally Assisted Railroad Programs; Minority Business Enterprise

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice of emergency rulemaking; extension of comment period.

SUMMARY: On June 21, 1979, the Federal Railroad Administration (FRA) published amendments to 49 CFR Part 265, modifying the definition of minority business enterprise (MBE) and providing

guidance in establishing the eligibility of MBEs (44 FR 36338). Interested parties were given until August 20, 1979 to submit comments. A correction of the background statement to the amendments was published on July 23, 1979 (44 FR 42974).

The Chicago and Northwestern Transportation Company has filed a request that the comment period be extended to and including September 20, 1979. The request is granted.

DATE: Interested persons may submit comments through September 20, 1979.

ADDRESS: Written comments should identify the docket number and must be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration (Trans Point Building), 2100 Second Street, S.W., Washington, D.C. 20590. All comments received will be available for examination by interested persons in Room 4406 of the Trans Point Building.

FOR FURTHER INFORMATION CONTACT: Rufus S. Watson, Jr., (202) 472-5312.

Issued in Washington, D.C. on August 21, 1979.

John M. Sullivan,
Administrator.

[FR Doc. 79-26626 Filed 8-24-79; 8:45 am]

BILLING CODE 4910-06-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

49 CFR Part 396

[BMCS Docket No. MC-48; Amendment No. 78-10]

Federal Motor Carrier Safety Regulations; Inspection, Repair, and Maintenance

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Effective date extended; additional comments requested.

SUMMARY: The final rule published in the Federal Register on July 2, 1979 (44 FR 38523), to become effective on August 31, 1979, is hereby amended to become effective on December 31, 1979. This extension is in response to various petitions requesting clarification of certain requirements, exemption from certain requirements, and additional time to use the current stock of vehicle condition reports. This document also requests comments on the exemptions requested by certain motor carriers and rebuttal comments on submissions from various entities.

DATES: The rule is effective on December 31, 1979. Comments must be received on or before December 31, 1979.

ADDRESS: Comments should be sent, preferably in triplicate, to BMCS Docket No. MC-48, Amendment No. 78-10, Room 3402, Bureau of Motor Carrier Safety, 400 Seventh Street, S.W., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT: Mr. Gerald J. Davis, Chief, Regulations Development Branch, Bureau of Motor Carrier Safety (202-426-9767); Mrs. Kathleen S. Markman, Office of the Chief Counsel, (202-426-0824). Federal Highway Administration, Department of Transportation, Washington, D.C. 20590. Office hours are 7:45 a.m. to 4:15 p.m. ET, Monday through Friday.

SUPPLEMENTARY INFORMATION: Thus far FHWA has received 17 comments on the revision of 49 CFR 396 published at 44 FR 38523 on July 2, 1979. That revision would provide more adequate inspection and maintenance procedures and thus mitigate vehicle defects and defect-related accidents. Comments were received from fourteen motor carriers, two carrier organizations and one labor organization. Twelve entities requested an extension of the effective date. Three entities requested exemptions from certain requirements of 49 CFR Part 396. These petitions will be described in more detail below. Three entities requested revision of 49 CFR 396.11, in particular the requirement that a copy of the vehicle inspection report be carried on the power unit. Seven entities requested a revision of the 396.13(3) requirement that the driver certify before driving the vehicle that repairs of defects indicated on the prior driver vehicle inspection report have been made.

The majority of comments received indicated that a four month extension of the effective date of the revision of 49 CFR 396 is needed in order to permit depletion of current stocks of vehicle condition report forms. However, one carrier requested an extension until October 1, 1980, while another carrier requested an extension until August 31, 1980. The Private Truck Council of America, Inc., requested a four month extension to provide additional time for clarification of certain requirements contained in the above mentioned revision. In contrast, the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers (IBT) has filed an objection to any postponement or delay in the effective date of the rule. The IBT said that any argument for delay or postponement is without merit and should be denied. The American Trucking Associations, Inc. (ATA), requested an extension to June 30, 1980, to permit carriers to use up their present stock of forms and also requested a

revision of § 396.13(3), regarding driver certification. The ATA contends that certification of repairs is not a responsibility of drivers in the regulated trucking industry.

Hudson Transit Lines, Inc., of Mahwah, New Jersey, has requested an indefinite postponement of § 396.13(3), and a revision of § 396.13(1) to read "Satisfy himself that the motor vehicle is in safe operating condition and sign a report to that effect." (Underlining indicates addition). In addition, Hudson requested a four month postponement of the effective date of the new rules.

As indicated above, three motor carriers petitioned for exemptions from certain requirements of the new rule. The United Parcel Service (UPS) and Car Carriers, Inc., requested exemptions from certain provisions of 49 CFR 396.11 and 396.13 when the same person drives the same vehicle regularly, and the vehicle is returned to its origin point each day. The UPS suggested that a master work sheet be retained at the home base, where the driver can sign the vehicle in at the end of the workday and sign it out again at the beginning of the next day's run. In addition, each vehicle covered by the exemption would have an exemption card indicating the vehicle's home base, the place where the vehicle condition records could be inspected. The UPS requests that § 396.11(c)(3) be amended to provide for an exemption for all vehicles domiciled at the same location each day, or vehicles domiciled at one of two fixed locations on alternate days. Transport, Inc. of New Jersey, a motor carrier of passengers, requested for motor bus carriers and especially for motor bus commuter operators an exemption from the provisions of 49 CFR 396.11 and 396.13 requiring, in essence, that vehicle inspection reports be carried on the vehicle, that the last vehicle inspection report be reviewed for defects noted thereon and that the driver certify that necessary repairs have been made.

In consideration of the foregoing, it has been determined that a postponement of the effective date of the new rules to December 31, 1979, has merit for the purpose of obtaining additional views or comments with respect to the petitions referred to herein. Interested parties are invited to submit their views with respect to the above-mentioned petitions and comments on or before December 31, 1979.

Note.—The FHWA has determined that this document does not contain a significant proposal according to the criteria established by the Department of Transportation pursuant to Executive Order 12044. However, this document does relate to a significant

regulation. An evaluation of that regulation is contained in BMCS Docket No. MC-48 and can be reviewed in Room 3402, Bureau of Motor Carrier Safety, 400 Seventh Street SW., Washington, D.C. 20590 from 7:45 a.m. to 4:15 p.m. ET, Monday-Friday.

(49 U.S.C. 304, 49 U.S.C. 1655, 49 CFR 1.48(b) and 301.60)

Issued on: August 22, 1979.

Robert A. Kaye,
Director, Bureau of Motor Carrier Safety.

[FR Doc. 79-26513 Filed 8-24-79; 8:45 am]

BILLING CODE 4910-22-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 611 and 672

Gulf of Alaska Groundfish; Final Regulations

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Final rule.

SUMMARY: This document makes final an amendment (amendment number 4) to the fishery management plan (FMP) for the Gulf of Alaska groundfish fishery, submitted by the North Pacific Fishery Management Council. This amendment, consisting of 11 subparts, which was proposed on July 9, 1979 (44 FR 40099), corrects omissions in the original plan, eliminates superfluous management measures, and eases the burden of the measures on both domestic and foreign fishermen. The regulations are revised to implement this amendment.

EFFECTIVE DATE: August 22, 1979.

FOR FURTHER INFORMATION CONTACT: Denton R. Moore, Acting Chief, Permits and Regulations Division, National Marine Fisheries Service, Washington, D.C. 20235. Telephone: 202-634-7432.

SUPPLEMENTARY INFORMATION: On April 21, 1978, an FMP for the Gulf of Alaska groundfish, prepared by the North Pacific Fishery Management Council (Council) was published (43 FR 17242). This approved FMP was amended three times to: (1) Extend the fishing year to October 31, 1979; (2) allow a directed Pacific cod fishery to concentrate in one portion of a fishing area; and (3) raise reserves to allow for possible joint ventures. Final regulations implementing the FMP and the amendments were published (in two parts) on November 14, 1978 (43 FR 52709) and December 1, 1978 (43 FR 56238).

On April 4, 1979, amendment number 4 was submitted by the Council. The

amendment was approved preliminarily by the Assistant Administrator for Fisheries, and was published on July 9, 1979, under section 306(a) of the Fishery Conservation and Management Act, as amended (the Act).

The approved management measures and these regulations are the result of experience gained by the Council in the fishery. This amendment will relieve restrictions on both foreign and domestic fishermen. The components of the amendment, and the basis for the changes are as follows:

1. Reduce the number of fishing areas in the Gulf of Alaska from 5 to 3 in order to relieve burdens on foreign and domestic fishermen while retaining sufficient delineation among stocks to prevent localized overfishing.

2. Allow foreign fishing within the 3-12 mile zone between 169° and 170° W. longitude to correct an omission in the original FMP.

3. Remove the restriction which allowed only 25% of the total allowable level of foreign fishing (TALFF) to be taken from December 1 to May 31. This provision, after experience, was considered unnecessary, since the requirement that foreign vessels use pelagic trawls in the winter adequately protects halibut stocks.

4. Allow foreign longlining for sablefish seaward of 400 meters (instead of 500 meters) from May 1 to September 30 in the area between 140° and 170° W. longitude. Because incidental halibut catch by longliners is low during the summer, this change increases areas for foreign nations to catch sablefish while retaining adequate protection for halibut stocks.

5. Permit a directed longline fishery for Pacific cod between 140° and 157° W. longitude (in addition to the authorized fishery between 157° and 170° W. longitude) seaward of 12 miles, except during the U.S. halibut season. By encouraging foreign longliners, rather than foreign trawlers, to take the Pacific cod TALFF, the incidental mortality of halibut will be reduced.

6. Exempt foreign longline vessels from the provisions of the foreign regulations which required that fishing by all vessels of a nation in a fishing area cease when the allocation for any species has been taken. The exemption does not apply if the allocation reached is for a target species of the longliners. This change prevents the foreign trawl fishery from inadvertently closing the foreign longline fishery (which tends to have low incidental catch mortality) before the longline fishermen achieve their allocation of target species.

7. Increase the squid optimum yield (OY) to 5,000 metric tons from 2,000 mt.

This adjustment of OY allows foreign nations a sufficient incidental catch of squid while maintaining harvest of squid at levels below the estimated maximum sustainable yield.

8. Increase the Atka mackerel OY by 2,000 metric tons to 28,800 mt. The increase conforms the OY to new information indicating higher historical catches of Atka mackerel by foreign nations.

9. Remove the domestic one-hour tow restriction. After experience, the Council judged this an unnecessary management measure given the separate incidental catch quota on halibut for domestic fishermen.

10. Remove the domestic requirement for the use of off-bottom trawls from December 1 to May 1. As in number 9, above, this measure was considered redundant for the protection of halibut.

11. Require domestic permits to be renewed annually and domestic reporting (i.e., fish tickets) to be submitted within 7 days instead of 72 hours to eliminate an unnecessary inconsistency between Federal and State regulations.

On July 9, 1979 (44 FR 40099) this amendment to the FMP for the Gulf of Alaska groundfish (see 43 FR 17242) was published in the Federal Register along with proposed implementing regulations. Comments on the proposed regulations were invited until August 16, 1979. No comments were received.

The Assistant Administrator for Fisheries, under a delegation of authority from the Secretary, has determined that this amendment to the FMP (1) is necessary and appropriate to the conservation and management of Gulf of Alaska groundfish resources; (2) is consistent with the National Standards and other provisions of the Act; (3) does not constitute a major Federal action requiring the preparation of an environmental impact statement (an appropriate statement of no significant environmental impact has been filed with the Environmental Protection Agency); and (4) does not constitute a significant action requiring the preparation of a regulatory analysis under Executive Order 12044.

Signed at Washington, D.C., this 22nd day of August 1979.

(16 U.S.C. 1801 et seq.)

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

PART 611—FOREIGN FISHING

A. Amend 50 CFR Part 611 as follows:

§ 611.20 (Amended)

1. In § 611.20, Table I, under Gulf of Alaska Groundfish, change TALFF for Mackerel, Atka, to "25,640" and TALFF for Squid to "4,465".

§ 611.92 (Amended)

2. In § 611.92(b), change "fishing area"

to "regulatory area" where it appears as follows:

§ 611.92(b)(1)—one place.
§ 611.92(b)(1)(i)—two places.
§ 611.92(b)(2)(i)(A)—four places.
§ 611.92(b)(2)(i)(B)—one place.
§ 611.92(b)(2)(ii)(A)—five places.
§ 611.92(b)(2)(ii)(B)—four places.

Table I.—Gulf of Alaska Groundfish Fishery TALFF and Reserve¹ by Species and Regulatory Area for 1978-79: Regulatory Areas²

		[In metric tons]			
Species		Western	Central	Eastern	Total
Pollack	TALFF	52,150	70,200	14,200	136,550
	Reserve	50	17,000	1,000	18,050
Pacific cod	TALFF	3,936	9,626	3,050	16,612
	Reserve	1,364	1,174	150	2,688
Flounders	TALFF	8,150	11,400	6,500	26,050
	Reserve	50	100	100	250
Pacific ocean perch (POP)	TALFF	2,150	6,350	13,075	21,575
	Reserve	450	1,250	625	2,325
Other rockfishes ³	TALFF	175	500	4,600	5,275
	Reserve	25	100	200	325
Sablefish	TALFF	1,815	2,795	2,490	7,100
	Reserve	185	905	810	1,900
Atka mackerel	TALFF	4,350	18,700	2,590	25,640
	Reserve	50	700	410	1,160
Squid	TALFF	895	1,780	1,790	4,465
	Reserve	105	220	210	535
Other species ⁴	TALFF	4,200	8,100	3,070	15,370
	Reserve	100	200	30	330

¹ The TALFF's specified in this table may be modified during the year if reserves are apportioned in TALFF.

² See Figure 1 of this § 611.92(b) for description of regulatory areas.

³ The category "other rockfishes" includes all rockfishes other than Pacific ocean perch.

⁴ The category "other species" includes all species of fish except: (A) The other fish listed in the table; and (B) shrimp, scallops, salmon, steelhead trout, Pacific halibut, herring, fishes of the genus *Coryphaenoides* and Continental Shelf fishery resources.

§ 611.92(b)(2)(iii)—one place.

3. In § 611.92(b)(1), remove Table I and replace it with the following Table I.

4. In § 611.92(b)(1), insert the new Figure 1.—Regulatory Areas of the Gulf of Alaska:

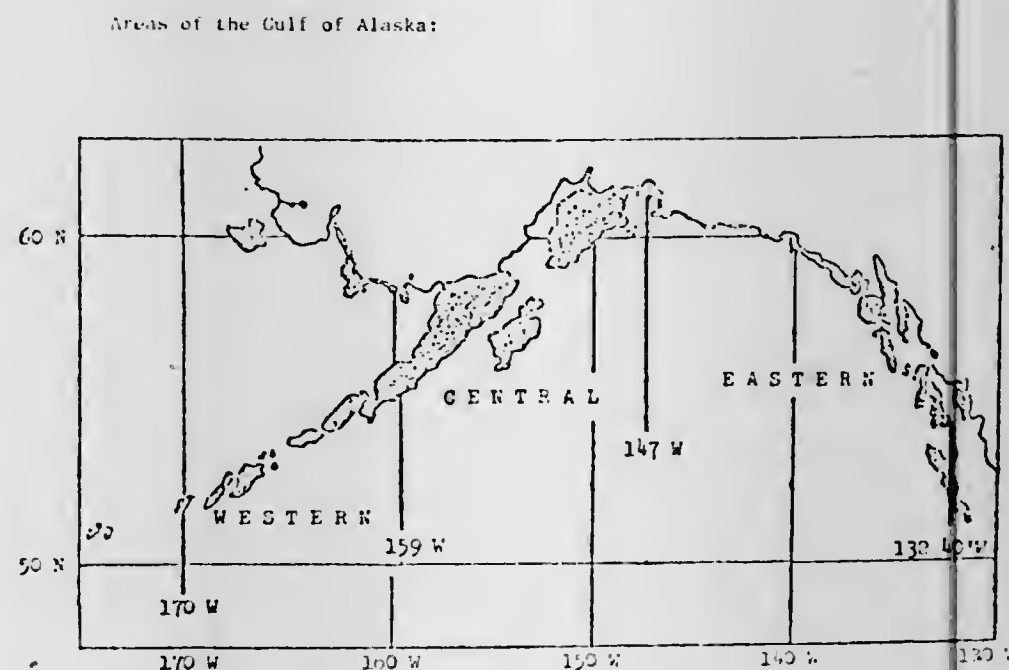


Figure 1. Regulatory Areas of the Gulf of Alaska

5. In § 611.92 is amended by revising (b)(1)(ii)(A); adding (b)(2)(i)(D); revising (b)(2)(ii) and (C); deleting (b)(2)(ii) (D) and (E); revising paragraph (c); and amending paragraph (d)(3), as set forth below.

§ 611.92 Gulf of Alaska groundfish fishery.

* * * * *

(b) * * *
(1) * * *
(ii) * * *

(A) *Apportionment of reserve amounts.* As soon as practicable after each of the following dates, the Regional Director shall apportion to the TALFF's twenty-five (25) percent of the initial annual reserve amount for each species in each regulatory area: January 2, March 2, May 2, and July 2.

* * * * *

(2) * * *
(i) * * *

(D) The provisions of paragraph (b)(2)(i)(A) of this section do not apply to foreign vessels using longline gear unless the allocation reached is for Pacific cod or sablefish. However, when the area allocation of any groundfish species, or species group other than Pacific cod or sablefish is reached, any subsequent catch of that species in that area by vessels using longline gear shall be considered catch of a "prohibited species" and treated in accordance with the provisions of § 611.13.

(ii) The Regional Director shall issue a notice of closure, pursuant to the procedures of § 611.15(c), prohibiting fishing for the applicable species of groundfish, in the applicable regulatory area during the applicable periods using the applicable gear, as listed in paragraphs (A) through (C) below, when it is determined that one or more of the following catch limitations will be reached:

* * * * *

(C) The allocation of a nation for any groundfish species, or species group, in a regulatory area: the Regional Director shall issue a notice prohibiting all fishing for groundfish by vessels of that nation using trawl gear, and prohibiting retention of that species or species group by vessels of that nation using longline gear, in that regulatory area until November 1, *except* that if a

national allocation for sablefish or Pacific cod in a regulatory area will be reached, the Regional Director shall prohibit fishing for groundfish in that regulatory area by all vessels of that nation until November 1.

(D) [Reserved]

(E) [Reserved]

(c) *Open areas.* Except as prohibited in paragraph (d) of this section, foreign fishing for groundfish is permitted in the Gulf of Alaska beyond twelve nautical miles from the base line used to measure the U.S. territorial sea, and between three and twelve nautical miles from the base line used to measure the U.S. territorial sea between 169° and 170° W. longitude.

(d) * * *

(3) *Fishing with longline gear.* * * *

(i) *General.* Longline fishing for groundfish by vessels subject to this section is prohibited east of 140° W. longitude at all times. For the purpose of this § 611.92, longline means a stationary, buoyed and anchored line with hooks or pots attached, or the taking of fish by means of such a device.

(ii) *Longline fishing for sablefish.* Longline fishing for sablefish by vessels subject to this section between 140° and 169° W. longitude is prohibited: (A) Landward of the 400 meter depth contour, from May 1 to September 30; and (B) landward of the 500 meter depth contour, between October 1 and April 30.

(iii) *Longline fishing for Pacific cod.* Longline fishing for Pacific cod by vessels subject to this section between 140° to 169° W. longitude is prohibited landward of the 400 meter depth contour during the halibut fishing seasons as established by regulations of the International Pacific Halibut Commission. The Regional Director shall give notification of the opening and closing dates of the U.S. halibut fishing seasons to the designated representative of each foreign nation, at least 48 hours before the opening and closing dates of the U.S. halibut fishing seasons.

PART 672—GROUND FISH OF THE GULF OF ALASKA

B. Amend CFR Part 672 as follows: 1. In § 672.2 delete the paragraph commencing "Fishing area * * *",

delete the paragraph commencing "Off-bottom trawl * * *", and add the following new definition:

§ 672.2 Definitions.

* * * * *

Regulatory area means any of three areas of the FCZ of the Gulf of Alaska seaward of the State of Alaska. The three regulatory areas are described as follows:

Area and Location

Eastern, between 132° 40' and 147° W. longitude.

Central, between 147° and 159° W. longitude.

Western, between 159° and 170° W. longitude.

* * * * *

2. Section 672.4(e) is amended to read as follows:

§ 672.4 Permits.

* * * * *

(e) *Duration.* A permit shall continue in full force and effect for one year, or until it is revoked, suspended, or modified pursuant to 50 CFR Part 621 (Civil procedures).

* * * * *

§ 672.5 [Amended]

3. Section 672.5, change "72 hours" to "seven days": where it appears as follows:

§ 672.5(b)—two places.

§ 672.5(d)—one place.

4. In § 672.20(a), Table I, (c)(1), and (e)(1) are amended to read as follows:

§ 672.20 General limitations.

(a) *Optimum yield.* The optimum yield (OY) and reserves for species regulated under this Part in the three regulatory areas are set forth in Table I. These specifications of OY and reserves are effective for a fishing year beginning on December 1, 1978, and ending on October 31, 1979. The OY of each species in Table I is the maximum amount of that species which may be caught or harvested during the fishing year by vessels of the United States and foreign nations in each regulatory area.

Table I.—Optimum Yield and Reserves: Regulatory Areas

[In metric tons]

Species		Western	Central	Eastern	Total
Pollock	OY	57,000	95,200	16,600	168,800
	Reserve	50	17,000	1,000	18,050
Pacific cod	OY	9,600	19,400	5,800	34,800
	Reserve	1,364	1,174	150	2,688
Flounder	OY	10,400	14,700	8,400	33,500
	Reserve	50	100	100	250
Pacific ocean perch (POP)	OY	2,700	7,900	14,400	25,000
	Reserve	450	1,250	625	2,325
Other rockfish	OY	300	800	6,500	7,600
	Reserve	25	100	200	325
Sablefish	OY	2,100	3,800	7,100	13,000
	Reserve	185	905	810	1,900
Atka mackerel	OY	4,400	19,400	3,000	26,800
	Reserve	50	700	410	1,160
Squid	OY	1,000	2,000	2,000	5,000
	Reserve	105	220	210	535
Other species*	OY	4,400	8,600	3,200	16,200
	Reserve	100	200	30	330

*Includes all stocks of finfish except: (1) those listed above, and (2) salmon, steelhead trout, Pacific halibut, and fishes of the genus *Coryphaenoides*.

* * * * *

(c) * * *

(1) *Apportionment of reserve amounts.* As soon as practicable after each of the following dates, the Regional Director shall apportion to Total Allowable Level of Foreign Fishing (TALFF) twenty-five (25) percent of the initial annual reserve amount for each species in each regulatory area: January 2, March 2, May 2, and July 2.

* * * * *

(e) * * *

(1) If, during the period between December 1 and May 31, the Regional Director determines that the estimated total catch of halibut in any regulatory area by vessels regulated by this Part will reach the amount listed below, he shall issue a field order pursuant to § 672.22(a) prohibiting, until June 1, groundfish fishing with trawl gear in that regulatory area by vessels regulated by this part.

Regulatory Area and Catch Amount

Western—29 metric tons (m.t.).

Central—52 m.t.

Eastern—31 m.t.

* * * * *

§ 672.20 and § 672.22 [Amended]

5. Sections 672.20 and 672.22, change "fishing area" to "regulatory area" where it appears as follows:

§ 672.20(b)(1)—three places.

§ 672.20(b)(2)—two places.

§ 672.20(b)(5)—two places.

§ 672.20(e)(2)—one place.

§ 672.20(b)(3)(i)—one place.

6. Sections 672.24 and 672.25 are amended to read as follows:

§ 672.24 Gear limitations. [Reserved]

§ 672.25 Effort limitations. [Reserved]

[FR Doc. 79-26547 Filed 8-24-79; 8:45 am]

BILLING CODE 3510-22-M

Proposed Rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

SMALL BUSINESS ADMINISTRATION
[13 CFR Part 121]

Small Business Size Standards;
Procurement Purposes; Proposed Change

AGENCY: Small Business Administration.
ACTION: Proposed Rule.

SUMMARY: This proposal would amend the wording of 13 CFR Part 121.3-8(c)(2)(i) to carry out the intent of Pub. L. 95-507 subsection 15(j). This change will allow small offerers, including nonmanufacturers, to furnish any domestically manufactured product on Federal procurements valued at less than \$10,000.

DATE: Written comments must be submitted by September 11, 1979.

ADDRESS: Address all comments to: Kaleel C. Skelrik, Chief, Size Standards Division, Small Business Administration, 1441 L Street, NW., Washington, D.C. 20416.

FOR FURTHER INFORMATION CONTACT: John D. Whitmore (202) 653-6373.

SUPPLEMENTARY INFORMATION: Pub. L. 95-507, enacted October 24, 1978, among other things, added a provision, Subsection 15(j) to the Small Business Act requiring that:

Each contract for the procurement of goods or services which has an anticipated value of less than \$10,000 and which is subject to small purchase procedures shall be "reserved" exclusively for small concerns

At present, SBA Rules and Regulations, Part 121, § 121.3-8(c)(2)(i), provide that small business nonmanufacturers must " . . . furnish the products of a small business manufacturer or producer . . . " in the case of Government procurements " . . . reserved for or involving the preferential treatment of small business" That language, considered in conjunction with the statutory requirement of (new) Subsection 15(j) of the Small Business Act, would necessitate application of formal set-aside procedures and criteria in the processing of virtually every

Government small purchase action irrespective of dollar value. For example, the \$10, \$50, \$500, etc., solicitation and award actions would, for small business program purposes, require review and evaluation efforts comparable to those currently established by Federal agency procurement regulations for formal procurements exceeding \$10,000. To impose this requirement upon Federal procurement offices for small purchase procedures under \$10,000 would be burdensome and administratively unfeasible. Therefore, we propose to amend that part of the first sentence of 13 CFR 121.3-8(c)(2)(i) that appears before the proviso to read as follows:

§ 121.3-8 Definition of small business for Government procurements.

* * * * *

(c) Nonmanufacturing. . . .
(1)

(2)(i) In the case of government procurement reserved for small businesses, such nonmanufacturer furnishes in the performance of the contract the products of a small business manufacturer or producer, which products are manufactured or produced in the United States: *Provided, however,* If the procurement has an anticipated value of less than \$10,000 and is subject to, and is actually processed under "small purchase procedures" as defined in the Federal Acquisition Regulation or, pending issuance thereof by the Office of Federal Procurement Policy, in the Defense Acquisition Regulation (DAR), Federal Procurement Regulation (FPR), and the National Aeronautics and Space Administration Procurement Regulation (NASAPR), as applicable, such nonmanufacturer may furnish any domestically produced or manufactured product. For purposes of this exception such nonmanufacturer must qualify as an independently owned wholesaler, distributor or dealer selling in substantial quantities to local commercial customers and be located within the local trading area of the Federal purchasing office awarding the contract or in the location of where the supplies or services are to be delivered;

* * * * *

Federal Register
Vol. 44, No. 167
Monday, August 27, 1979

Dated: August 20, 1979.
A. Vernon Weaver,
Administrator.
[FR Doc. 79-26548 Filed 8-24-79; 8:45 am]
BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 79-SO-47]

Proposed Designation of Control Zone; Smyrna, Tenn.

AGENCY: Federal Aviation Administration (FAA), DOT.
ACTION: Notice of Proposed Rulemaking.

SUMMARY: This proposed rule will designate the Smyrna, Tennessee, control zone and lower the base of controlled airspace in the vicinity of the Smyrna Airport from 700 feet AGL to the surface.

DATES: Comments must be received on or before: October 3, 1979.

ADDRESS: Send comments on the proposal to: Federal Aviation Administration, Chief, Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320.

FOR FURTHER INFORMATION CONTACT: Harlan D. Phillips, Airspace and Procedures Branch, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone: 404-763-7646.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Southern Region, Federal Aviation Administration, Attention: Chief, Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320. All communications received on or before October 3, 1979, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report

summarizing each public contact with FAA personnel concerned with this rulemaking will be filed in the public regulatory docket.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

The Proposal

The FAA is considering an amendment to Subpart F of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to designate the Smyrna, Tennessee, control zone. A nonfederal airport traffic control tower has been established on the Smyrna Airport. The control tower meets the requirements for establishment of a part-time control zone with irregular hours of operation.

In order to provide the maximum level of safety, designation of the control zone, controlled airspace to the surface, is required to contain flight operations near the airport.

The Proposed Amendment

Accordingly, the Federal Aviation Administration proposes to amend Subpart F, § 71.171 (44 FR 353), of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) by adding the following: Smyrna, Tenn.

Within a five-mile radius of Smyrna Airport (latitude 36°00'32" N., longitude 86°31'12" W.); excluding the portion within the Nashville, Tennessee, Control Zone. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereunder be continuously published in the Airport Facility Directory.

(Sec. 307(a), Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)), sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

Note.—The Federal Aviation Administration has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current

and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in East Point, Ga., on August 17, 1979.

Lonnie D. Parrish,
Acting Director, Southern Region.

[FR Doc. 79-26573 Filed 8-24-79; 8:45 am]

BILLING CODE 4810-13-M

FEDERAL TRADE COMMISSION

[16 CFR Part 13]

[File No. 9075]

Irving E. Miller; Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.
ACTION: Consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order, accepted subject to final Commission approval, among other things, would require an individual party to a complaint issued against Bankers Life and Casualty Company and others, to cease, in connection with the advertising, promotion and sale of land, misrepresenting that land purchase is a safe investment; involves little financial risk; and is a means of achieving financial security. The order would require that all advertising, promotional materials and sales contracts include specified disclosures regarding risks involved in undeveloped land investment; the advisability of consulting with a real estate specialist prior to contracting; the availability and cost of water, sewage disposal and utilities; and the identity of lots in flood plain areas. Mr. Miller would be required to provide customers with cooling-off periods and information regarding rights to cancellation and refund; and prohibited from using certain contractual provisions including one by which defaulting purchasers forfeit all payments made. Additionally, the order would require Mr. Miller to release in favor of consumers who have paid for their lots in full any security interest he has or obtains in subdivisions.

DATE: Comments must be received on or before: October 22, 1979.

ADDRESS: Comments should be directed to: Office of the Secretary, Federal Trade Commission, 8th St. and Pennsylvania Ave., N.W., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: Paul C. Daw, Director, 6R, Denver

Regional Office, Federal Trade Commission, Suite 2900, 1405, Curtis St., Denver, Colo. 80202. (303) 837-2271.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 3.25(f) of the Commission's rules of practice (16 CFR 3.25(f)), notice is hereby given that the following consent agreement containing a consent order to cease and desist and an explanation thereof, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 5.9(b)(14) of the Commission's rules of practice (16 CFR 4.9(b)(14)). [Docket No. 9075]

Irving E. Miller

AGREEMENT Containing Consent Order To Cease and Desist

The agreement herein, by and between Irving E. Miller, an individual, and his attorney and counsel for the Federal Trade Commission, is entered into in accordance with the Commission's rules governing consent order procedure:

1. Respondent Irving E. Miller is an individual whose business address is 2601 Biscayne Boulevard, Miami, Florida.

2. Respondent has been served with a copy of the complaint issued by the Commission.

3. Respondent admits all the jurisdictional facts set forth in the complaint.

4. Respondent waives:
(a) Any further procedural steps;
(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law; and
(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the Order entered pursuant to this Agreement.

5. This Agreement shall not become a part of the official record of this proceeding unless and until it is accepted by the Commission. If this Agreement is accepted by the Commission, it will be placed on the public record pursuant to the Commission Rules for a period of sixty (60) days and information in respect thereto publicly released; and such acceptance may be withdrawn by the Commission if thereafter it deems the Agreement inappropriate.

6. This Agreement is for settlement purposes only and does not constitute

an admission by respondent that the law has been violated as alleged in the complaint.

7. This Agreement contemplates that, if accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of Section 3.25 of the Commission Rules, the Commission may, without further notice to respondent:

(a) Issue its decision containing the following Order to cease and desist in disposition of this proceeding; and

(b) Make information public with respect thereto. When so entered, the Order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The Order shall become final upon service. The complaint may be used in construing the terms of the Order, and no agreement, understanding, representation or interpretation not contained in the Order or this Agreement may be used to vary or contradict the terms of the Order.

8. Respondent understands that once the Order has been issued, he will be required to file one or more compliance reports pursuant to the Commission Rules showing that he has fully complied with the Order, and that he may be liable for a civil penalty in the amount provided by law for each violation of the Order after it becomes final.

9. It is agreed that the relief set forth in the Order contained herein fully satisfies any claim for consumer redress which the Commission has under Sections 5 and 19 of the Federal Trade Commission Act, as amended, arising out of the acts and practices alleged in the complaint which occurred prior to the effective date of the Order relating to the following developments: Hartsel Ranch, Estates of the World, Rio Grande Ranches, Larwill Costilla Ranches, Top of the World and San Luis Valley Ranches. By its final acceptance of this Agreement, with such modifications, if any, which the parties may make prior to said final acceptance, the Commission waives its right to commence a civil action under Section 19 of the Federal Trade Commission Act, as amended, with respect to the acts and practices alleged in the Commission's complaint which occurred prior to the effective date of the Order relating to said developments.

Order

For purposes of this Order, unless otherwise provided, the following definitions shall be applicable:

"Purchaser" shall mean a person to whom one or more lots in a subdivision have been sold or offered for sale: *Provided, however*, That a "purchaser" shall not include a person who purchases land in a single transaction for a sum in excess of \$25,000.

"Land" or "subdivision" shall mean any real property which is divided or proposed to be divided into 50 or more units, whether contiguous or not, for the purpose of sale or lease to purchasers as part of a common promotional plan.

"Contract" shall mean a written agreement for the sale of land to purchasers.

"Business day" shall mean any calendar day except Saturday, Sunday, or the following business holidays: New Year's Day, Washington's Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans' Day, Thanksgiving Day and Christmas Day.

"Property Report" includes documents sometimes referred to as an Offering Statement or Prospectus.

"Company which sold the lot" shall mean the title owner or its sales agent. "Inconsistent" shall mean mutually repugnant or contradictory one to the other.

For purposes of this Order, a requirement to cease and desist from representing or misrepresenting shall include representing or misrepresenting directly or indirectly. For purposes of this Order, all required disclosures shall be made in a clear and conspicuous manner.

Except as provided in Sections IV and IX of this Order, this Order shall not apply to a bulk transfer of land or subdivision. The term "bulk transfer" shall mean the transfer of all or a portion of land or subdivision conveyed in a single transaction for a sum in excess of \$25,000.

I

It is ordered, That respondent Irving E. Miller and his agents, representatives and employees, directly or through any corporation, subsidiary, division, or other entity, in connection with the advertising, offering for sale or sale of land in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

A. Representing: 1. That land or lots are a good or safe investment, or that the purchase of a lot is a good or safe investment.

2. That there is little or no financial risk involved in the purchase of lots.

3. That the resale of a purchased lot is not difficult.

4. That the value of, or demand for, any land, including lots being offered for sale or previously sold, has increased, or will increase, or that purchasers have made, or will in the future make, a profit by reason of having purchased such land.

5. That the prices of lots periodically rise or that prices of said lots are increasing, have increased or will increase, without disclosing at the same time, and by the same medium by which the price increases are communicated, that the price increases of lots do not in any way relate to the value of said lots.

6. That the purchase of a lot is a way to achieve financial security or prosperity, to deal with inflation or to become wealthy.

7. That the land in any subdivision will soon be unavailable or that prospective purchasers must purchase a lot in a subdivision immediately to ensure that such lot will be available

8. That subdivision land and the area surrounding it are comparable, similar or analogous either to urban, metropolitan and industrial areas or to mountain resort areas or to recreation areas.

9. That the growth in land values or potential growth in land values at a subdivision corresponds to or will correspond to the growth in land values at any other locality. The word "locality" includes, but is not limited to, cities, towns, counties, townships, boroughs, States and regions.

Provided, however, It shall be a defense that at the time a representation was made, it was true and the maker of the representation possessed data substantiating the representation. Such substantiating data shall be maintained for at least three years from the making of the representation it substantiates and shall be made available to the Commission upon request.

B. Including in any contract for the sale of subdivision land, or in the documents shown or provided to purchasers or prospective purchasers of subdivision land:

1. Language to the effect that no express or implied representations have been made in connection with the sale or offering for sale of such land, other than those set forth in the contract.

2. Language to the effect that upon a failure of the purchaser to pay any installment due under the contract or otherwise to perform any obligation under the contract, the company which sold the lot shall be entitled to retain sums previously paid thereunder by the purchaser.

3. Any waiver, limitation or condition on the right of a purchaser to cancel a

transaction or receive a refund under any provisions of this Order, except as such waiver, limitation or condition is expressly allowed by this Order.

C. Misrepresenting the right of a purchaser under any provision of this Order or any applicable statute or regulation to cancel a transaction or receive a refund.

D. Making any representation concerning the rights or obligations of a company or purchaser which differs in any respect from the rights or obligations of the parties as stated in the contract or Property Report.

E. Making any statement or representation concerning the proximity to any subdivision of any existing or future city, place, facility, body of water or road without disclosing, in immediate conjunction therewith and with the same conspicuousness as such statement of representation, the approximate distance to the nearest two (2) miles in road miles from the center of the subdivision to the downtown or geographical center of the city, place or facility referred to, or in the case of a body of water or a road, to the nearest point at which such body of water or road is accessible to entry and use by purchasers.

F. Making any statement of representation concerning any credit, refund or other monetary benefit or remuneration to purchasers or prospective purchasers from the company which sold the lot unless such is a fact and unless any conditions or limitations attached to such credit, refund, benefit or remuneration are disclosed.

II

It is further ordered, That respondent Irving E. Miller, his agents, representatives, and employees, directly or through any corporation, subsidiary, division, or other entity, in connection with the advertising, offering for sale or sale of land in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith:

A. Set forth in all sales and promotional material and advertising relating to the sale of land, except billboards, the following statement:

Risk Factor: Since land values are uncertain, you should consult a qualified professional before purchasing.

B. Set forth as the title on the first page of any contract for the sale of land in 12-point boldface type "Contract for the Purchase of Land."

C. Set forth on the first page of all contracts for the sale of land in 10-point boldface type the following statement:

This is a contract by which you agree to purchase land. The future value of this land, as well as all undeveloped real estate, is uncertain. You should not assume that the value of land will increase. Do not assume that you will be able to resell your land without significant community development and population growth.

D. Set forth on the first page of all contracts for the sale of lots such of the following statements as are applicable:

1. For contracts for the sale of lots where the company which sold the lot is not obligated to provide electricity, water, and sewage disposal by central systems, but where all such utilities are available by other means, the following statement:

This undeveloped land has been planned for use as a vacation homesite. Electricity, water, and sewage disposal are available at the purchaser's expense. Electricity is obtainable by generator, water by well, and sewage disposal by septic tank. Access will be by unpaved roads.

Provided, That, if a central system is provided instead of a generator or well or septic tank, then the above statement may be modified only to the extent necessary to so indicate. *Provided further*, That, if paved roads are provided, then the above statement may be modified only to the extent necessary to so indicate. *Provided further*, That, if roads are county accepted, then the above statement may be so modified only to the extent necessary to so indicate.

2. For contracts for the sale of lots where the company which sold the lot is not obligated to provide any utilities and where utilities are not known to be available, the following statement in lieu of the above statement:

This completely undeveloped land is being sold "as is." No improvements are planned for this subdivision other than county-approved and maintained roads. No representation is made as to the availability of water or sewer.

Provided, That, if the roads are not county-approved and maintained, this statement shall be modified to disclose the status of the roads if any.

E. Set forth the following statement in any contract for land requiring a Property Report; immediately below the statement required by paragraph D. above.

Note to Buyer: See page [insert page number] of the Property Report for statements relating to the additional expense for improvements.

F. Set forth in any contract for the sale of land which does not require a Property Report, immediately below the statements required by paragraph D. above, a statement providing the cost of improvements.

G. Whenever prospective buyers are provided with a contract for the sale of land by any means other than by mailing said contract directly to such purchasers:

1. Furnish each purchaser, at the time the purchaser signs a contract for the sale of land, with two copies of a form, captioned in boldface type "Notice of Cancellation," which shall contain in boldface type the following information and statements:

Notice of Cancellation

Date of Transaction

Contract Number

You may cancel this transaction, without any penalty or obligation, at any time prior to midnight of the tenth business day after the date shown on the contract.

If you cancel, any payments made by you under the contract and any negotiable instrument issued by you will be returned within twenty business days following receipt by the seller of your cancellation notice.

To cancel this transaction, mail or deliver a signed copy of this cancellation notice or any other written notice, or send a telegram to [name of company which sold the lot], at [address of said company's place of business]; not later than midnight of [date].

I (we) hereby cancel this transaction (each purchaser must sign this notice.)

Dated: _____

Signature of Purchaser

Dated: _____

Signature of Purchaser

2. Before furnishing copies of the above "Notice of Cancellation" to the purchaser, complete both of the copies by entering the name of the company which sold the lot, the address of said company's place of business, the date of the transaction, the contract number and the date by which the purchaser may give notice of cancellation, but in no event may such date be earlier than the tenth business day following the date of the transaction.

3. Where a timely notice of cancellation is received and said notice is not properly signed and the company which sold the lot does not intend to honor the notice, immediately notify the purchaser by certified mail, return receipt requested, enclosing the notice, informing the purchaser of his error and stating clearly and conspicuously that a notice signed by the purchaser must be mailed by midnight of the seventh business day following the purchaser's receipt of the mailing if the purchaser is to obtain a refund.

4. Where the signature of a prospective purchaser is solicited during

the course of a sales presentation, inform each person orally, at the time he signs the contract, of his right to cancel as stated in paragraph II.G.5. of this Order.

5. Include clearly and conspicuously in each contract for the sale of land the following statement in boldface type:

Purchaser has the right to cancel the contract, without any penalty or obligation, at any time prior to midnight of the tenth business day after the date of this contract. See the attached "notice of cancellation" for an explanation of this right.

6. Within twenty business days after the receipt of a timely notice of cancellation signed by a purchaser, refund all payments made under the contract, and cancel and return any monies paid by the purchaser in connection with the contract.

H. Furnish any report required to be furnished to a purchaser at or before the signing of a contract by Federal or State law or by this Order (i) with the first written materials furnished to a prospective purchaser in connection with the sale of a lot or (ii) during the first contact which the prospective purchaser has with any agent or employee of the company which is offering the lot for sale, in connection with the sale of a lot.

I. Inform all prospective purchasers that a bank or other lender located near the subdivision should be consulted prior to the purchase of land if the purchaser intends to finance the building of a house on that land.

J. If a refund is offered contingent upon the purchaser taking a company-guided inspection tour or making a registered inspection of the property in which the purchaser's lot is located:

1. Provide the purchaser three business days after taking said tour or making said inspection within which to request a refund.

2. Include in any contract with the original purchaser, in immediate proximity to the provision setting forth the availability of a refund upon the completion of a company-guided tour or registered inspection of the property, the following statements:

If you take a company-guided tour of the property within [designate time period] months of your purchase and you have not been declared in default, you will have three days after the tour to cancel your purchase and get your money back.

You, the purchaser, pay your own expenses for travel to the property in order to take the tour.

3. Furnish each purchaser at the completion of the tour or inspection a completed form in duplicate, captioned "Notice of Cancellation," which shall

contain in boldface type the following statements:

Notice of Cancellation

Date of Company-Guided Inspection Tour or Registered Inspection of Property

Contract Number

You may cancel your contract, without any penalty or obligation, at any time prior to midnight of the third business day after the above date.

If you cancel, any payments made by you under the contract and any negotiable instrument executed by you will be returned within twenty business days following receipt by the seller of your cancellation notice. To cancel your contract, mail or deliver a signed copy of this cancellation notice or any other written notice, or send a telegram to [name of company which sold the lot], at [address of said company's place of business] not later than midnight of [date]. I (we) hereby cancel the contract. (Each purchaser must sign this notice.)

Dated: _____

Signature of Purchaser

Dated: _____

Signature of Purchaser

4. Before furnishing copies of the above "Notice of Cancellation" to purchaser, complete both copies by entering the name of the company which sold the lot and the address of said company's place of business, the date of the company-guided inspection tour or the registered inspection of the property, the contract number and the date by which the purchaser may give notice of cancellation, but in no event may such date be earlier than the third business day following the date of said tour or inspection.

5. Where a timely notice of cancellation is received but said notice is not properly signed and the company which sold the lot does not intend to honor the notice, immediately notify the purchaser by certified mail, return receipt requested, enclosing the notice, informing the purchaser of his error and stating clearly and conspicuously that a notice signed by the purchaser must be mailed by midnight of the seventh day following the purchaser's receipt of the mailing if the purchaser is to obtain a refund.

K. Disclose in each instance where all or part of any printed article, publication, endorsement or testimonial is used, published or referred to, the date when such article, publication, endorsement or testimonial was originally published or made and the source of such article, publication, endorsement or testimonial.

L. Notify prospective purchasers of any lot offered for sale in a flood plain area that said lot is in a flood plain area.

III

It is further ordered, That respondent Irving E. Miller and his agents, representatives, and employees, directly or through any corporation, subsidiary, division, or other entity, in connection with the advertising, offering for sale or sale of land in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing that any land may be used now or in the future:

A. As a homesite, unless the contracts or Property Reports accurately set forth:

1. That water is available to the purchaser by drilling a well or by central water system.

2. That sewage disposal is available to purchasers by installation of a septic tank or by hook-up to a central sewage system.

3. That electricity will be available to the purchaser from a utility company.

B. As a vacation homesite, unless the contracts or Property Reports set forth:

1. That water is available to the purchaser by drilling a well.

2. That percolation on the property purchased is sufficient to support a septic tank.

3. That electricity is available to the purchaser by installing a generator.

IV

It is further ordered, That respondent Irving E. Miller, including his agents, representatives and employees, directly or through any corporation, subsidiary, division or other entity.

A. Regarding each subdivision in which respondent has or obtains a security interest, shall execute and record a covenant providing that, if a purchaser pays the total purchase price pursuant to the terms of a contract for the purchase of land, respondent shall grant to such purchaser a release of said security interest.

1. For each subdivision in which respondent has a security interest as of the effective date of this Order, respondent shall execute and record such covenant within 90 days of the effective date of this Order.

2. For each subdivision in which respondent obtains a security interest after the effective date of this Order, respondent shall execute and record such covenant at the same time said security interest is recorded.

B. Regarding each subdivision in which respondent has or obtains title, for as long as respondent retains title, shall obtain for each purchaser who

pays the total purchase price pursuant to the terms of a contract for the purchase of land, a release as to that purchaser of any security interest on such subdivision granted subsequent to the effective date of this Order.

V

It is further ordered, That if the Interstate Land Sales Full Disclosure Act, presently codified at 15 U.S.C. §§ 1701-20 (1970), or any regulation that has been or may be promulgated pursuant thereto requires an act or practice that is prohibited by any provision of this Order, or prohibits an act or practice that is required by any such provision, or is otherwise inconsistent with any such provision of this Order, any such provision of this Order shall be without legal force or effect.

VI

It is further ordered, That in the event the Federal Trade Commission promulgates a valid Trade Regulation Rule applicable to respondents' sale of land, then to the extent there are any inconsistencies between this Order and such Rule, the Trade Regulation Rule will govern.

VII

It is further ordered, That respondent Irving E. Miller:

1. Deliver, by hand or by certified mail, a copy of Sections I, II, and III of this Order to each of his present or future employees and salesmen, and independent brokers, who sell or promote the sale of land to purchasers.

2. Provide each person so described in Paragraph 1 above with a form, returnable to said respondent, clearly stating such person's intention to be bound by and to conform his sales practices to the requirements of this Order.

3. Inform each person described in Paragraph 1 above that said respondent shall not use any such person, or the services of any such person, unless such person agrees to and does file notice with said respondent that such person will be bound by the provisions contained in this Order.

4. That in the event such person will not agree to so file notice with said respondent and to be bound by the provisions of this Order, said respondent shall not use such person, or the services of such person.

5. Inform the persons described in Paragraph 1 above that said respondent is obligated by this Order to discontinue dealing with those persons who engage on their own in the acts and practices prohibited by this Order.

6. Institute a program of continuing surveillance adequate to reveal whether the sales practices of each of said persons described in Paragraph 1 above conform to the requirements of Sections I, II, and III of this Order.

7. Discontinue dealing with any person described in Paragraph 1 above, revealed by the aforesaid program of surveillance, who repeatedly engages on his own in the acts or practices prohibited by Sections I, II, and III of this Order: *Provided, however*, That, in the event remedial action is taken, evidence of such dismissal or termination shall not be admissible against said respondent in any proceeding brought to recover penalties for alleged violation of any other paragraph of this Order.

VIII

It is further ordered, That respondent Irving E. Miller shall forthwith distribute a copy of this Order to each entity which he owns or controls and which is engaged in the sale of land.

IX

It is further ordered, That in the event that respondent Irving E. Miller transfers to any other person or entity all or a substantial part of any subdivision owned by him or by an entity within his control, respondent shall notify the Commission in writing within sixty days of such transfer of the fact of the transfer, identifying the property transferred, the name and address of the transferee, and the date of the transfer.

X

It is further ordered, That respondent Irving E. Miller, for a period of 10 years from the date of service of this order, shall promptly notify the Commission of each affiliation with a new business or employment whose activities include the advertising, offering for sale or sale of subdivision land to the consuming public. Such notice shall include the respondent's new business address and a statement of the nature of the business or employment in which the respondent is newly engaged as well as a description of respondent's duties and responsibilities in connection with the business or employment. The expiration of the notice provision of this paragraph shall not affect any other obligation arising under this order.

XI

It is further ordered, That respondent Irving E. Miller shall, within sixty (60) days after service upon him of this Order, file with the Commission a report in writing setting forth in detail the manner and form in which said

respondent has complied with this Order.

Analysis of Proposed Consent

Order To Aid Public Comment

The Federal Trade Commission has accepted an Agreement to a proposed consent Order in Docket No. 9075 from:

Irving E. Miller

The proposed consent Order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the Agreement and the comments received and will decide whether it should withdraw from the Agreement or make final the Agreement's proposed Order.

On February 26, 1976, the Federal Trade Commission issued a Complaint against Irving E. Miller and 15 other respondents, including Bankers Life and Casualty Company, alleging unfair and deceptive acts and practices in the sale of subdivided lots of undeveloped land in six subdivisions in Colorado. Four of these subdivisions are located in the San Luis Valley, a region in southern Colorado, and are known as: San Luis Valley Ranches, Rio Grande Ranches, Top of the World, and Larwill Costilla Ranches.

The other two subdivisions are located in Park County in central Colorado, and are known as: Hartsoel Ranch, and Estates of the World or Estates of Colorado.

Previously, on May 16, 1979, the Commission published for comment a consent agreement which it had accepted from all respondents except Mr. Miller.

Complaint Allegations

The Complaint alleged that the respondents cooperated and acted together in using certain unfair and/or deceptive acts and practices in the sale of subdivision lots, including:

- (1) Representing falsely that the purchase of a lot was a good investment;
- (2) Failing to say that the purchase was a risky one due in part to the difficulty a consumer would have in attempting to resell;
- (3) Misrepresenting the useability of respondents' lots as homesites;
- (4) Failing to make disclosures about the high cost of utilities, the poor quality and remote location of the land, and the lack of home construction financing;
- (5) Using unfair contract provisions; and
- (6) Selling lots by the use of contracts-for-deeds while at the same time

entering into mortgage agreements which could cut off the purchaser's right to receive a warranty deed upon payment in full for the land. Additionally, the notice of contemplated relief which accompanied the Complaint apprised respondents that the Commission might seek consumer redress at the conclusion of the adjudicative proceedings.

The Agreement

The Agreement basically requires the respondent to (1) cease and desist from making certain representations, and (2) make certain disclosures in the sale of subdivision lots. This Agreement with Mr. Miller does not provide for consumer redress, since the agreement with the other respondents provides that its redress terms fully satisfy the Commission's consumer redress claims regarding the subdivisions involved here.

(A) Cease and Desist Provisions

The Order prohibits the respondent from representing in the future that the purchase of a lot is a good investment, involves little or no financial risk, or is a way to achieve financial security or prosperity, to deal with inflation or to become wealthy. The Order also requires the respondent to stop representing that lots may soon be unavailable, and that the subdivision land is comparable to industrial areas, urban areas or mountain resort areas. The Order has a proviso which allows the respondent to make these representations if he can prove that at the time they are made, the representations are true and the respondent has data which substantiates them.

In addition, the respondent is prohibited from representing that the lots are useable as homesites or vacation homesites, unless water, sewage disposal and electricity are available and the source of such utilities is accurately disclosed.

Further, the respondent is prohibited from using certain contractual provisions, including the one by which defaulting purchasers forfeit all payments made.

(B) Disclosures

The respondent is required by the Order to make certain disclosures in the advertising, promotional materials and contracts used in future lot sales. The Order often sets out the exact form in which these disclosures are to be made. Disclosures are to be made concerning:

(1) The risky nature of a land investment and possible difficulties in reselling the land;

(2) The availability of utilities and roads;

(3) The cost to the purchaser of utilities and the necessary improvements;

(4) The fact that a bank or other lender near the subdivision should be consulted prior to purchase if the purchaser needs home construction financing;

(5) The approximate distance from the purchaser's land to any city, facility, body of water, or road represented to be in the proximity of the land; and

(6) The identity of lots in flood plain areas.

The Order also requires the respondent to notify purchasers of two "cooling-off" periods. First, anyone who contracts other than through the mails must receive notice of the right to cancel the contract at any time within 10 days of signing the contract. Second, if the respondent offers a refund contingent upon the purchaser taking a company-guided inspection tour, then the purchaser must be given three days after taking the tour to cancel the contract and receive the refund.

(C) Release of Security Interests

The Order also is designed to insure that purchasers who fulfill their contracts receive a deed and that their rights are not cut off by a holder of a mortgage on the land. If the respondent owns or obtains a security interest, such as a mortgage, in subdivision land, he must publicly record a promise to release that security interest in favor of any consumer who pays for his lot in full. If the respondent holds the title to subdivision land, he must obtain for any lot purchaser who pays in full a release of any security interest granted in the future on the land.

(D) Reporting and Compliance

The Order also addresses the respondent's sale of all or a substantial part of a subdivision. In the event that the respondent makes such a sale, he must submit a report to the Commission identifying the property sold and the party who acquired it.

In addition to the above, the respondent must notify the Commission each time he becomes involved with a company in the subdivided land sales business within the next ten years. Finally, the respondent must file a report with the Commission, within sixty days of the effective date of the Order, indicating how he is complying with the terms of the Order.

The purpose of this analysis is to facilitate public comment on the proposed Order, and it is not intended to constitute an official interpretation of

the Agreement and proposed Order or to modify in any way their terms.

James A. Tobin,
Acting Secretary.

[FR Doc. 79-26565 Filed 8-24-79; 8:45 am]

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DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[18 CFR Parts 2 and 3d]

[Docket No. RM79-69]

Regulations Implementing the National Environmental Policy Act of 1969

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Commission is proposing a new Part 3d of its regulations to replace §§ 2.80 through 2.82 as the basic procedural framework for collecting, evaluating, and disseminating environmental information about Commission actions or the proposed actions of applicants and jurisdictional entities. The regulations are drafted to reflect the policies and procedures of the NEPA regulations issued by the Council on Environmental Quality (40 CFR Parts 1500-1508), consistent with the Commission's independent regulatory responsibilities. The proposed rule lists those actions requiring an Environmental Assessment to determine if there is a major Federal action significantly affecting the quality of the human environment, thereby necessitating an Environmental Impact Statement (EIS). There are certain actions which automatically require an EIS and certain actions which are excluded from environmental reviews altogether, except in unusual circumstances.

Although many of the CEQ regulations are adopted by reference, the proposed rules provides applicants seeking Commission action or approval with a self-contained manual for compliance with NEPA.

DATE: Written comments by September 17, 1979.

ADDRESS: Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, Reference Docket No. RM79-69

FOR FURTHER INFORMATION CONTACT:

James Hoecker, Office of the General Counsel, Federal Energy Regulatory Commission, Room 8106, 825 North Capitol Street, N.E., Washington, D.C. 20426, (202) 275-0422, or

Dr. Jack Heinemann, Advisor on Environmental Quality, Office of Regulatory Analysis, Federal Energy Regulatory Commission, Room 3347, 825 North Capitol Street, N.E., Washington, D.C. 20426, (202) 275-6569.

Regulations Implementing the National Environmental Policy Act of 1969

Issued: August 20, 1979.

Notice is given that the Federal Energy Regulatory Commission (Commission) proposes to amend its regulations which govern the collection, evaluation, and dissemination of environmental information concern Commission actions, including actions on non-Federal projects within the Commission's jurisdiction, pursuant to the Department of Energy Organization Act, Natural Gas Act, Federal Power Act, the Public Utility Regulatory Policies Act, the Natural Gas Policy Act and the Interstate Commerce Act. The proposed regulations would replace and elaborate on existing Commission regulations under the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321-4347. The proposed regulations reflect the policies and essential procedures of the NEPA regulations promulgated by the Council on Environmental Quality, 40 CFR Parts 1500-1508.

Background

Section 102(2)(C) of NEPA provides in part that all Federal agencies shall

include in every recommendation or report on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment, a detailed statement by the responsible official on:

- (i) The environmental impact of the proposed action;
- (ii) Any adverse environmental effects which cannot be avoided should the proposal be implemented;
- (iii) Alternatives to the proposed action;
- (iv) The relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity, and
- (v) Any irreversible and irretrievable commitment of resources which would be involved in the proposed action should it be implemented.

On December 18, 1972, the Federal Power Commission, predecessor to the Federal Energy Regulatory Commission, issued Order No. 415-C to comply with the NEPA mandate that Federal agencies preserve the natural, cultural, historic, aesthetic, and biologic environments by requiring calculation and reporting of the probable environmental impact of Federal actions and programs and by prescribing means for preventing or mitigating environmental damage. Since the

issuance of Order No. 415-C, §§ 2.80 through 2.82, and appendices that describe what applicants should include in an Environmental Report, have guided Commission review of environmentally related actions undertaken by permittees, licensees, and applicants within Commission jurisdiction.

On November 29, 1978, the Council on Environmental Quality (CEQ) published in the Federal Register its regulations implementing NEPA. The CEQ regulations establish processes which enable Federal executive agencies to work together in researching and solving environmental problems and provide for uniform methods of writing environmental impact statements and assessments, receiving comments, developing records of decision, and handling information. (40 CFR Parts 1500-1508) Executive agencies are bound by the CEQ regulations, and have supplemented them with interpretive guidelines. (See e.g., proposed Department of Energy guidelines, 44 FR 42136, July 18, 1979). The Commission has determined not to adopt the CEQ regulations in their entirety. Rather, the Commission proposes to adopt much of the CEQ regulations with accompanying elaborative provisions which are specifically tailored to the Commission's particular procedures, functions, and responsibilities as an independent collegial body that regulates the activities of non-Federal entities.

Although the Commission, as an independent regulatory agency, is not bound by the CEQ regulations, it concurs in the policies reflected in the CEQ regulations. In the interests of uniformity, the Commission has determined to structure its own regulations as closely as practicable to the essential procedures reflected in the CEQ regulations, while ensuring that its regulations are consistent with its independent regulatory duties and responsibilities.

The Commission is also proposing environmental regulations for the management of floodplains and the protection of wetlands which are directly related to the NEPA processes proposed here. See Docket No. RM79-70.

The regulations proposed in this docket were developed in consultation with CEQ.

The Proposed Regulation

The rulemaking revokes the existing NEPA regulations and retains Appendices A and B, which specify the components of an Environmental Report for certain projects under the Federal Power Act and Natural Gas Act, respectively. Those appendices are

transferred to new Part 3d, the NEPA regulations. The appendices are amended to eliminate the "abbreviated application" whereby an applicant was allowed to show that a project has no significant environmental impact and thus avoid filing a report. Section 3d.12 would require Environmental Reports without exception for certain types of actions or projects.

Appendix A will serve an increasingly limited role as the Commission revises its water power project licensing procedures to vary the Environmental Report requirements according to the type of project application. Only applications for major unconstructed water power projects and certain interconnection and transmission facilities will utilize Appendix A after the proposal in Docket No. RM79-36 is issued as a final rule.¹ New Appendix C is a flow chart showing the conceptual framework of the NEPA process for evaluating environmental issues.

Subpart A of Part 3d expresses the Commission's general approach to implementing NEPA and its goals and adopts most of the CEQ regulations for early and efficient review of environmental issues, public notice and participation, scoping, and inter-agency cooperation. The Commission proposes to adopt by reference certain parts of the CEQ regulations and to adopt others with revisions to accommodate its particular procedures and functions. Those sections to be adopted by reference wholly or in part (40 CFR Parts 1501, 1502, 1503, 1505 and 1508) should be read in conjunction with the proposals in this docket. They contain the general concepts, processes, and definitions used in the evaluation of environmental information.

Certain portions of the CEQ regulations may be inconsistent with the Commission's primary jurisdictional statutes.² Part 1504 of the CEQ regulations establishes a procedure whereby an agency's environmental impact statements and judgments about the acceptability of an action's impact may become subject to CEQ review outside the particular agency's NEPA processes. For proceedings under the Commission's primary jurisdictional statutes, however, any disputed issues must be decided by the Commission, on the full record before it, subject to

¹ In Docket No. RM78-9, 43 FR 40215 (September 11, 1978), the Commission established a separate Environmental Report for all minor water power projects (less than 2,000 horsepower of installed capacity). Other rulemakings are establishing separate Environmental Report requirements for particular kinds of water power projects. Docket No. RM79-36 concerns major projects at existing dams.

² See 40 CFR 1500.3, 1507.3(b).

statutory judicial review. Resolution of disputed issues by CEQ in such proceedings would be inconsistent with the statutory regulatory schemes. The Commission will enter any CEQ opinion on an environmental issue in the record of the relevant proceedings, however. Such an opinion will be considered advisory unless CEQ is a party to the proceeding. Part 1504 is appropriate for use by the Commission in those instances where environmental disagreements arise in a context other than regulatory decisionmaking under the Commission's primary jurisdictional statutes. Section 3d.14(c) of the proposed regulations reflects the limitations on the Commission's participation in Part 1504 process.

The Commission adopts the procedures established by CEQ under 40 CFR 1501.5 for determining lead agency designations if agencies disagree. It does so in the interest of interagency cooperation and with the expectation that such procedures will not unnecessarily delay or infringe on the Commission's independent regulatory decisionmaking.

Other deviations from the CEQ regulations concern form more than substance. Section 3d.21 proposes a slightly different format for Environmental Impact Statements than that in the CEQ model, because the Commission has determined from prior experience that the § 3d.21 format provides a more useful analytical focus for proposed actions under the Commission's particular regulatory responsibilities.

Parts 1500 and 1507 of the CEQ regulations simply provide statements of CEQ's purposes, policies, and mandate in issuing its regulations and instructions to agencies on implementation of CEQ's regulations. These provisions are therefore not necessary for inclusion in the Commission's regulations.

Part 1506 has been largely revised as § 3d.13 of these proposed regulations, with modifications to those provisions of the CEQ regulations which might infringe upon the Commission's timely discharge of its regulatory functions. In addition, Part 1506 contains a number of provisions sufficiently important to applicants and other participants in the Commission's regulatory proceedings to warrant placing them in the Commission's regulations. The proposed regulations should provide a clear, concise, and self-contained manual on those matters for participants in the Commission's proceedings.

Subpart B of the proposed regulations contains the basic NEPA procedures and substantive requirements to be used

by the Commission. Section 3d.10 sets forth the role that environmental documents will play in the Commission's decisions whether to approve or disapprove projects or programs, issue licenses or permits, or propose legislation. The Commission will routinely require that Environmental Assessments be prepared for certain proposals or applications to determine if the proposed action will be a major Federal action significantly affecting the quality of the human environment. Such an action would necessitate an Environmental Impact Statement for Commission and public consideration. (Section 3d.10(b)). Certain other proposed actions that almost always trigger the writing of an Environmental Impact Statement are set forth in § 3d.10(c). The procedures for intervenors to follow in Commission proceedings insofar as environmental concerns are at issue, is found in § 3d.10(e).

A variety of actions, some taken on proposals by applicants and others of an internal or administrative nature, are excluded as a class from the requirements of this part. The Commission believes that no genuine environmental interest is served by extensively reviewing certain types of actions or proposals for environmental impact. Almost by definition, the impact of most of the actions listed are extremely remote, incalculable, or non-existent. Many of the actions have impacts that are exclusively social and economic. The CEQ regulations do not contemplate environmental review of such actions. However, the Commission recognizes the possibility that unusual circumstances may create the need for examination of the environmental consequences of any of these excluded actions. It therefore proposes to evaluate the environmental impact of such normally excluded actions if the staff, an applicant, or an intervenor shows that circumstances warrant such evaluation. (§ 3d.11(b))

While the proposed rulemaking is intended to comprehend all Commission actions and applicant proposals within the three classes of actions in the NEPA process (*i.e.*, actions requiring an EA or an EIS, or actions usually excluded from environmental review), these classes may be subject to later expansion or reorganization. As the Commission is given new action by Congress, or recognizes that a particular responsibility requires or does not require environmental evaluation,³ the

³For example, in issuing a final rule establishing transportation certification for natural gas for

regulation would be amended accordingly.

Section 3d.12 provides guidance to applicants about the NEPA process and indicates the general responsibilities of staff during the process. Paragraph (c) directs applicants to specific requirements for preparing Environmental Reports according to the type of proposed action.

Section 3d.13 parallels the CEQ regulations at 40 CFR Part 1506. This section explains limitations against prejudicial actions during the NEPA processes, cooperation with State and local agencies, the use of an EIS written by another Federal agency, public involvement in decisions affecting the environment, the NEPA process in relation to legislative proposals, cooperation with the Environmental Protection Agency, and the timing of Commission action in relation to public notice, the Administrative Procedure Act, and emergency circumstances.

Section 3d.14 reflect the Commission's intention that all issues, including environmental issues, be resolved within Commission proceedings exclusively when a proposed action is within the Commission's independent regulatory responsibility, subject to court review as provided in its jurisdictional statutes. In those instances, any recommendation by CEQ on a referral to it under Part 1504 of the CEQ regulations would be entered in the record as advisory only, unless CEQ is a party to the proceeding. In other instances, such as when acting as a cooperating agency, the Commission proposes to allow or initiate referral of environmental disputes to CEQ for resolution. The environmental consequences of any action which is subject to proceedings under the Federal Power Act, Natural Gas Act, or other primary jurisdictional statutes may be debated by intervenors, public or private, as participants in Commission proceedings. Under proposed § 3d.15, coordination of the Commission's NEPA activities relating to NEPA and cooperation with CEQ and other agencies would be the responsibility of the Commission's Advisor on Environmental Quality.

Subpart C proposes specific requirements for the preparation and content of Environmental Assessments (§ 3d.20) and Environmental Impact Statements (§ 3d.21), the fundamental documents in the NEPA process.

displacement of fuel oil [Order No. 30, issued May 17, 1979, Docket No. RM79-34], the Commission assessed potential environmental impacts of this kind of action and found no significant impact. This finding is now reflected in proposed § 3d.11(a)(23).

Comment Procedure

Interested persons are invited to submit written views, comments, or suggestions in writing concerning all or part of the regulations proposed in this notice. An original and 14 copies of any comment should be filed with the Secretary of the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. Comments must be received by September 17, 1979, and should reference Docket No. RM79-69. Written submissions will be available for public inspection at the Office of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, D.C. 20426, during regular business hours. The Commission will consider all written submittals before acting on the proposed regulations.

(Department of Energy Organization Act, 42 U.S.C. 7101-7352; Executive Order No. 12009, 42 FR 46267; National Environmental Policy Act of 1969, 42 U.S.C. §§ 4321-4347.)

In consideration of the foregoing, the Commission proposes to amend Part 2 and add Part 3d in Chapter I, Title 18, Code of Federal Regulations as set forth below.

By direction of the Commission,

Kenneth F. Plumb,
Secretary.

PART 2—GENERAL POLICY AND INTERPRETATIONS

§ 2.80, 2.81, 2.82 [Revoked]

Appendices A and B [Amended]

1. Part 2, Subchapter A, Chapter 1 of Title 18, Code of Federal Regulations, is amended by revoking §§ 2.80, 2.81, and 2.82 and by transferring Appendices A and B to Part 3d, Appendices A and B are amended by deleting the first paragraph of numbered guideline (8), deleting from numbered guideline (2) the words "the Commission's Order No. 415C (issued December 18, 1972) amending §§ 2.80-2.82," and inserting in lieu thereof the words "Part 3d," and deleting from numbered guideline (3) in Appendix A the term "§ 2.81(a)" and from numbered guideline (3) in Appendix B the term "§ 2.82(a)", inserting in lieu thereof the term "§ 3d.12" in both places. The title of Appendix A is revised to read:

"Guidelines for the Preparation of Environmental Reports for Major Unconstructed Water Power Projects and Other Applications under Part I of the Federal Power Act, as specified in Section 3d.12."

2. Subchapter A, Chapter 1 of Title 18, Code of Federal Regulations, is

amended by adding a new Part 3d and an Appendix C to read as follows:

PART 3D—REGULATIONS IMPLEMENTING THE NATIONAL ENVIRONMENTAL POLICY ACT

Subpart A—General

Sec.

3d.1 Purpose.

3d.2 Council on Environmental Quality NEPA regulations.

3d.3 Definitions.

Subpart B—Procedure

3d.10 Environmental documents and FERC decisionmaking.

3d.11 FERC categorical exclusions.

3d.12 Applicant and staff responsibilities and environmental reports.

3d.13 Other requirements of NEPA.

3d.14 Interagency resolution of disagreements on environmental matters.

3d.15 Coordination of NEPA activities.

Subpart C—Environmental Documents

3d.20 Environmental assessment.

3d.21 Environmental impact statement.

Appendix A—Guidelines for the Preparation of Environmental Reports for Major Unconstructed Water Power Projects and Other Applications Under Part I of the Federal Power Act as specified in Section 3d.12.

Appendix B—Guidelines for the Preparation of Applicants' Environmental Reports for Applications under Section 7(c) of the Natural Gas Act.

Appendix C—FERC Decisionmaking Process under NEPA.

Authority: National Environmental Policy Act of 1969, 42 U.S.C. §§ 4321-4347, and the Department of Energy Organization Act, 42 U.S.C. §§ 7101-7352.

Subpart A—General

§ 3d.1 Purpose and applicability.

(a) This part sets forth the procedures by which the Federal Energy Regulatory Commission (Commission) assesses the environmental consequences of any Commission action not categorically excluded from this part by § 3d.11, particularly the consequences of Commission authorization or licensing of projects for the production, transport, or sale of gas, oil, or electricity within the Commission's jurisdiction. The regulations implement the National Environmental Policy Act of 1969 (NEPA) and adopt or reflect the policies set forth in the NEPA regulations of the Council on Environmental Quality (CEQ), to the extent that those regulations are consistent with the Commission's responsibilities and practices. The regulations apply to environmental documents and review processes initiated before the effective date only to the extent practicable.

(b) This part provides the means for early identification and assessment of

environmental issues and problems, thereby assisting the Commission in protecting the human environment in the course of its decisionmaking. The Commission encourages public involvement in decisions affecting the environment and, to that end, requires the presentation of genuine environmental issues and alternatives and the formulation of clear and concise environmental documents.

§ 3d.2 Council on Environmental Quality NEPA Regulations.

The Commission adopts the following parts of the Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act issued by CEQ as part of Title 40 of the Code of Federal Regulations, except of modified by this part: Part 1501, Part 1502 (except §§ 1502.10-18, which are replaced by § 3d.21(c) of this part), Part 1503, Part 1505, and Part 1508 (which is supplemented by the definitions in § 3d.3 of this part).

§ 3d.3 Definitions.

The terms used in this part have the meanings set forth in 40 CFR Part 1508 and in this section. For the purposes of this part—

(1) "Commission" means the Federal Energy Regulatory Commission its staff, or organizational units.

(2) "Environmental Report" or "ER" means a document submitted to the Commission by an applicant as that part of an application for authorization of a proposed action identifying the environmental impact of the action and alternatives to the action.

(3) "Secretary" means the Secretary of the Commission.

Subpart B—Procedures

§ 3d.10 Environmental documents and FERC decisionmaking.

(a) *Environmental considerations and decisionmaking.* (1) It will be the policy of the Commission to adopt and adhere to the objectives and aims of NEPA in all Commission actions, including its actions under the Department of Energy Organization Act, the Federal Power Act, the Natural Gas Act, the Interstate Commerce Act, the Natural Gas Policy Act, the Power Plant and Industrial Fuel Use Act, the Alaska Natural Gas Transportation Act and the Public Utility Regulatory Policies Act. The Commission will include a detailed environmental impact statement in every recommendation or report on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment.

(2) Major docketed electric, gas, and oil items, including actions that are new

or continuing on the effective date of this part, proposed actions or programs, or expansion or revisions of actions or programs requiring Commission authorization are reviewed in status reports updated periodically. If Commission actions or programs are likely to have a significant impact on the human environment, environmental considerations will be addressed at appropriate major decision points. The flow chart in Appendix C generally illustrates decision points for compliance with NEPA in Commission decisionmaking.

(3) Relevant environmental documents [40 CFR § 1508.10], comments, and responses will be part of the record of decision [40 CFR § 1505.2] in rulemaking and adjudicatory proceedings.

(4) The Environmental Report (ER), Environmental Assessment (EA), Environmental Impact Statement (EIS), comments, and responses [40 CFR Part 1503] will accompany the proposal through existing agency review processes so that all levels of the Commission may use them in making decisions.

(5) The alternatives the Commission considers with respect to major Federal actions significantly affecting the quality of the human environment will encompass the range of alternatives described in the relevant environmental documents. The Commission will consider the alternatives described in the EIS.

(b) *Actions that require an EA.* For proposals identified in this paragraph and not normally requiring an EIS under paragraph (c) of this section, the Commission will prepare an EA under § 3d.20 as part of the record of decision on the environmental effects of the proposed action. An EA will ascertain whether the proposed Action is a major Federal Action significantly affecting the quality of the human environment under section 102(2)(c) of NEPA. Proposals that will normally require an EA are:

- (1) Construction or abandonment of compression, processing, interconnecting, pipeline, and metering facilities;
- (2) Filing for a certification of sale, exchange, or transportation of gas;
- (3) Natural gas abandonment or reduction of service;
- (4) Conversion of existing depleted oil or gas fields to underground storage fields;
- (5) Natural gas curtailment plans;
- (6) Licensing of minor water power projects (not more than 2000 horsepower, or 1.5 MW, of installed capacity);

(7) Licensing of major water power projects (more than 2000 horsepower or 1.5 MW)—existing dams (see § 4.50);

(8) Surrender of water power project licenses and changes in licensed water power project facilities, operation, or boundaries;

(9) Exemptions for small conduit hydroelectric facilities;

(10) Licenses for transmission lines only;

(11) Electrical interconnections and wheeling under §§ 202(b), 210, 211, and 212 of the Federal Power Act, that would entail substantial new construction; and

(12) Regulations or proposals for legislation not excluded under § 3d.11 that may have significant environmental effects [40 CFR § 1508.8].

(c) *Actions that require an EIS.* The Commission will prepare an EIS pursuant to § 3d.21 of this part for the following types of proposals, unless the proposed action is not a major Federal action significantly affecting the quality of the human environment [40 CFR Part 1508]:

- (1) Projects for liquefied natural gas import/export facilities;
- (2) Major new onshore/offshore natural gas pipeline projects; and
- (3) Construction of new major water power projects, that is, projects other than minor projects or major projects—existing dams.

(d) *Consultation with CEQ.* The Commission may consult with the CEQ under § 3d.14 in determining the need for an EIS.

(e) *Intervention and hearing.* (1) In addition to the opportunity to petition to intervene in response to a notice of an application, any person also may file a petition to intervene in Commission proceedings on the basis of a staff draft EIS within the time period for submitting comments prescribed in the notice of availability of the draft EIS. Any intervenor that takes a position on environmental matters must file timely comments with the Secretary containing an analysis of its environmental position and specifying any differences with the position of staff upon which the intervenor wishes to be heard. Nothing in this section precludes an intervenor from filing a separate ER.

(2) In the case of an EIS set for hearing, the applicant, the staff, and all intervenors that take a position on environmental matters must offer evidence for the record in support of their environmental positions. The applicant and all such intervenors must specify any differences with the position of the staff and other relevant factors.

(3) In the case of an EIS set for hearing, the initial and reply briefs filed by the applicant, the staff, and all

intervenors taking a position on environmental matters must specifically analyze and evaluate the evidence in the light of the environmental criteria set forth in § 3d.21(b).

(4) The initial decision of the Presiding Administrative Law Judge in such cases, and the final order of the Commission dealing with the application on the merits in all cases, will include an evaluation of the environmental factors described in the EIS and the views and comments expressed in conjunction therewith by the applicant and those making formal comment pursuant to the provisions of this part.

§ 3d.11 **Categorical exclusions.**

(a) *General rule.* There are certain categories of actions that normally are not major Federal actions significantly affecting the quality of the human environment. Such actions are categorically excluded from the requirements of this part, except as provided in paragraph (b). Those programs, actions, and procedures which are categorically excluded from application of this part are:

- (1) Procedural, ministerial, or internal administrative and management actions, programs, or decisions, including procurement, contracting, personnel actions, correction or clarification of filings or orders, and acceptance and rejection of filings;
- (2) Reports or recommendations on legislation not initiated by the Commission;
- (3) Compliance and review actions, including investigations (jurisdictional or otherwise), conferences, hearings, notices of probable violation, show cause orders, review of denials of adjustment requests, and of contested remedial orders;

(4) Proposals for legislative and promulgation of rules and regulations which are clarifying, corrective, or procedural, or which do not substantially change the effect of legislation or regulations being amended;

(5) Information gathering, analysis, and dissemination;

(6) Conceptual or feasibility studies;

(7) Actions concerning the reservation and classification of United States lands as water power sites and other actions under section 24 of the Federal Power Act;

(8) Transfers of water power project licenses;

(9) Withdrawals of applications for certificates or for water power project preliminary permits or licenses;

(10) Setting of annual charges or headwaters benefits charges for water power projects;

(11) Approval for water power projects of "as built" or revised drawings or exhibits that propose no changes of consequence to project works or operations or that reflect changes that have previously been approved or required by the Commission;

(12) Review or approval of study proposals required by a license or preliminary permit for a water power project;

(13) Review of filings made in compliance with the requirements of a preliminary permit or license order or article for a water power project;

(14) Issuance of preliminary permits for water power projects;

(15) Water resource appraisal studies;

(16) Review of electric rate filings submitted by public utilities and confirmation and approval of rate filings submitted by Federal power marketing agencies;

(17) Review and approval of actions under the Federal Power Act relating to issuance and purchase of securities, acquisition or disposition of property, merger, interlocking directorates, jurisdictional determinations, and accounting orders;

(18) Budget-type facilities applications filed under § 157.7(b), (c), (d) and (g) of this chapter, such as gas-purchase facilities or field gas compression facilities;

(19) Producers' applications for the sale of gas filed under §§ 157.23–29 of this chapter;

(20) Approval of taps, meters, and regulating facilities located within an existing right-of-way where the land use of the vicinity has not changed since the original facilities were installed.

(21) Review of natural gas rate filings, except curtailment plans;

(22) Review of oil pipeline rate filings; and

(23) Plans for displacement of fuel oil by natural gas.

(b) *Unusual circumstances.* If there are unusual circumstances in which a categorically excluded action might be a major Federal action significantly affecting the quality of the human environment, the Commission staff will prepare an EA or EIS.

§ 3d.12 **Applicant and staff responsibilities and environmental reports.**

(a) *Applicant responsibilities.* (1) Any applicant seeking authorization from the Commission for any proposal identified in § 3d.10(b) and (c) must submit an ER with the proposal as prescribed in paragraph (c) of this section. In particular instances, the Commission may require applicants to submit environmental information required to

comply with these regulations on proposals not identified as requiring an ER.

(2) An applicant seeking Commission authorization must also:

(i) Carry out a good-faith effort to provide all necessary or relevant information to the Commission;

(ii) Conduct any studies that the Commission staff considers necessary or relevant to determine the impact of the proposal on the human environment and natural resources;

(iii) Consult with appropriate Federal, regional, state, and local agencies throughout the planning stages of the proposed action, to assure that all potential environmental impacts are identified;

(iv) Submit applications for all Federal and state approvals as early as possible in the planning process;

(v) Notify the Commission staff of all other Federal actions required for completion of the proposed action so that the staff may coordinate with other interested Federal agencies.

(vi) Before completion of the EA/EIS process and issuance of a Commission decision, the applicant may not take any steps toward completion of a proposed action that may cause significant environmental impact, or that may foreclose alternatives available to the applicant or the Commission.

(b) *Staff responsibilities.* (1) The Commission staff will be available to provide informal guidance to any prospective applicant regarding the proper scope and depth of analysis in an ER. Such staff guidance will not bar any subsequent determination by the staff, an Administrative Law Judge, or the Commissioners that additional data or analysis must be submitted under this rule.

(2) The staff will review the methodologies employed by the applicant in its ER and independently evaluate the environmental impacts of the proposed action and all alternatives. Using the ER and other pertinent data and analyses, the staff will independently determine whether a proposed action requires EA or an EIS. Any information or analysis in the ER that is used by staff or relied on for preparation of an EA or EIS will be verified and independently evaluated.

(c) *Content of an ER for specific proposals.* (1) *Water power projects.* (i) Any application under Part I of the Federal Power Act for a license for a major water power project (more than 2,000 horsepower or 1.5 Mw of capacity) other than a major project—existing dam (see § 4.50 of this chapter) must include an ER which conforms to the requirements of Appendix A of this part

and the requirements of § 4.41 [Exhibit W].

(ii) Any application under Part I of the Federal Power Act for a license for a major project—existing dam, as defined in § 4.50(b), must include an ER which conforms to the requirements of § 4.51(f) [Exhibit E].

(iii) Any application for the surrender or for the amendment of a license that proposes a change in the existing state of project works or project operation that would significantly increase the normal maximum surface area or normal maximum surface elevation of an existing impoundment, create a new impoundment, or significantly affect the quality of the human environment, must include an ER that conforms to the requirements of Appendix A of this part. Any application for surrender or amendment of a license that proposes a change in the existing state of project works or project operation that would not have any of the effects described in this clause must include an ER which conforms to the requirements of § 4.51(f) [Exhibit E]. A prospective applicant may seek advice from the Commission staff concerning whether any proposed change in the existing state of project works or project operation would result in a significant increase in the normal maximum surface area or normal maximum surface elevation of an existing impoundment, or could significantly affect the quality of the human environment, subject to § 3d.12(b)(1).

(iv) An application for a minor water power project (not more than 2,000 horsepower, or 1.5 MW, of installed capacity) must include an ER which conforms to the requirements of § 131.6 of this chapter.

(v) An application for exemption of a small conduit hydroelectric facility from all or part of Part I of the Federal Power Act must include the Environmental Report specified in § 4.66(b)(5) of this chapter.

(vi) An application either under § 4.70 of this chapter for a license for transmission line only or under §§ 202(b), 210, 211, or 212 of the Federal Power Act for electrical connections or wheeling which would entail substantial new construction must include an ER which conforms to the requirements of Appendix A of this part, to the extent that those requirements are applicable to the transmission lines or other electrical facilities proposed.

(2) *Gas projects.* Any application filed under the Natural Gas Act for a proposal identified in § 3d.10 (b) or (c) must include an ER that contains the environmental information and analysis specified in Appendix B of this part.

(3) *Format of an ER.* (i) Appendices A and B of this part are intended to provide specifications for the content of an ER and not to impose rigid requirements for format.

(ii) The level of detail in an ER must be commensurate with the complexity and expected significance of the environmental impacts of the proposed action. An ER must be a substantially self-supporting public document in which the data are accurate and complete. Data pertinent to the assessment of environmental impacts must be included in the text in a form that may be readily understood by the Commission staff and the public. For additional guidance in preparing an ER, see §§ 2.13, 2.14, 2.69, and 2.78 of this chapter.

§ 3d.13 Other requirements of NEPA.

(a) *Limitations on actions.* Except as provided in paragraph (b) of this section, the Commission will not undertake, or permit to be undertaken, any step toward completion of a proposed action which would have an adverse environmental impact or restrict the choice of reasonable alternatives until the appropriate EA/EIS process has been completed and a decision issued by the Commission. The Commission will take action to ensure that the objectives and procedures of NEPA are achieved when the Commission becomes aware that an applicant or jurisdictional entity may take or has taken such a step.

(b) While work on a required EIS for a program described in 40 CFR § 1508.18(b)(3) is not covered by an existing program EIS, the Commission will not undertake, or permit to be undertaken, any action that may significantly affect the quality of the human environment unless the action:

(1) Is justified independently of the program;

(2) Is itself accompanied by an adequate EIS; and

(3) Will not prejudice the ultimate action on the program.

(c) *Cooperation with state and local agencies.* (1) The Commission will cooperate with state and local agencies to the fullest extent possible, consistent with its primary jurisdictional statutes, to reduce duplication between NEPA and state or local requirements. Such cooperation may include joint planning, joint environmental research and study, and the conduct of joint hearings, subject to the requirements of Part 1 of this chapter.

(2) The Commission may share with state and local agencies its responsibility to formulate environmental documents.

(3) The Commission will reconcile NEPA with state law and local ordinances to the fullest extent possible, consistent with its primary jurisdictional statutes. An EIS will discuss any inconsistencies between a proposed action and any approved state or local plan or law and will discuss how the inconsistency would be resolved.

(d) *Adoption of the EIS of a Federal agency.* (1) The Commission may adopt a draft or final EIS prepared by another Federal agency or portion of either if the EIS, or adopted portion of it, meets the standards for an adequate EIS under this part.

(2) If the actions that are covered by the adopted EIS are substantially similar to the proposed action, the Commission, in adopting the EIS of another Federal agency, will not recirculate it except as a final EIS. Otherwise the Commission will treat the EIS as a draft and recirculate it (except as provided in subparagraph (4)).

(3) The Commission, as a cooperating agency [40 CFR 1501.6], may adopt without recirculation the EIS of a lead agency when, after an independent review of the EIS, the Commission concludes that its comments and suggestions have been satisfied.

(4) The Commission will specify if any of the following circumstances exist with respect to adopting all or part of an EIS of another Federal agency:

(i) The EIS is not final within the agency that prepared it;

(ii) The action that the EIS assesses is the subject of a referral under 40 CFR Part 1504; or

(iii) The adequacy of the EIS is the subject of a judicial action that is not final.

(e) *Combining documents.* Any environmental document that is prepared to comply with NEPA may be combined with any other Commission documents to reduce duplication and paperwork.

(f) *Public involvement.* (1) *Notice.* The Commission will provide public notice of NEPA-related hearings, public meetings, and the availability of environmental documents to inform those persons and agencies who may be interested or affected.

(i) In the case of an action with effects of national concern, notice will include publication in the *Federal Register* and notice by mail to national organizations reasonably expected to be interested in the matter.

(ii) In the case of an action with effects primarily of local concern, the notice may include:

(A) Notice to state and area-wide clearinghouses;

(B) Notice to Indian tribes when effects may occur on reservations;

(C) Use of the affected state's public notice procedures for comparable actions;

(D) Publication in local newspapers of general circulation; or

(E) Notice through other local media.

(2) *Hearings or meetings.* (i) The Commission will hold or sponsor hearings or public meetings if required by statute or if the Commission otherwise determines appropriate. Criteria that will be considered in determining whether to hold a hearing or public meeting include:

(A) Substantial environmental controversy concerning the proposed action or substantial interest in holding the hearing or meeting;

(B) A request for a hearing or meeting by another agency with jurisdiction over the action, supported by reasons why a hearing or meeting will be helpful.

(ii) If a draft EIS is to be considered at a hearing or public meeting, the Commission will normally make the EIS available to the public at least 15 days in advance, unless the purpose of the hearing or meeting is to provide information for the draft EIS.

(3) *Information.* The Commission will make information or status reports on an EIS and other elements of the NEPA process available to interested persons through the Commission's Advisor on Environmental Quality, Office of Regulatory Analysis.

(4) *Documents.* The Commission will make the EIS, the comments received, and any underlying documents available to the public from the Commission's Office of Public Information. Materials made available will include interagency memoranda to the extent that those memoranda transmit comments of Federal agencies on the environmental impact of the proposed action. Materials will be provided to the public without charge to the extent practicable, or at a fee that is not more than the actual cost of reproducing copies. A copy of each EIS will be available for inspection at the Commission's regional office for the region in which the proposed action would occur.

(g) *Proposals for legislation.* (1) The NEPA process for proposals for legislation [40 CFR 1508.17] significantly affecting the quality of the human environment will be integrated with the legislative process of the Congress. An EIS will be part of the formal transmittal of a legislative proposal to Congress. It may be transmitted to Congress up to 30 days later in order to allow time for completion of an accurate EIS which can serve as the basis for public and Congressional debate. The EIS will be

available in time for Congressional hearings and deliberations.

(2) Preparation of an EIS for a legislative proposal will conform to the requirements of this part, except that:

(i) There need not be a scoping process [40 CFR § 1508.25];

(ii) When any of the following conditions exist, both the draft and final EIS on the legislative proposal will be prepared and circulated:

(A) A Congressional committee with jurisdiction over the proposal has a rule requiring both a draft and a final EIS;

(B) The proposal results from a study process required by statute; or

(C) Legislative approval is sought for Federal or Federally assisted construction or other projects that the Commission recommends be located at specific geographic locations.

(h) *Filing with the Environmental Protection Agency.* An EIS prepared by the Commission staff, with comments and responses, will be filed with the Environmental Protection Agency (EPA) at the time it is transmitted to commenting agencies and made available to the public.

(i) *Timing of Commission action.* (1) Under 40 CFR 1508.10, the EPA is required to publish a notice of availability and distribution of an EIS in the *Federal Register*. If the EPA fails to publish such notice within 15 days of the filing of the EIS under paragraph (h) of this section, the Commission will publish such notice. The minimum time periods set forth in this section will be calculated from the date of publication of this notice.

(2) No decision on the proposed action will be made by the Commission until the later of the following dates:

(i) Ninety (90) days after publication of the notice of a draft EIS under this paragraph; or

(ii) Thirty (30) days after publication of the notice of a final EIS under this paragraph.

(3) The Commission will allow no fewer than 45 days for comment on a draft EIS.

(4) The Commission may waive the time periods in paragraphs (i)(2) and (3) of this section when engaged in rulemaking under the Administrative Procedure Act or other statute for the purpose of protecting the public health or safety, or, in any proceeding, upon a finding of compelling reasons of national policy. To the extent practicable, the Commission will consult with the EPA regarding the waiver. A notice to waive time period will be published in the *Federal Register*. When time periods are waived under this subparagraph, the Commission may publish a decision on the final rule simultaneously with

publication of the notice of the availability of the final EIS.

(5) If the notice of a final EIS is published within 90 days after a notice of a draft EIS is published in the *Federal Register*, the minimum 30-day period and the minimum 90-day period under paragraph (i)(2) of this section may run concurrently.

(6) The Commission may extend prescribed periods for good cause. Mere failure to file timely comments will not be a sufficient reason for granting an extension of a period.

(j) *Emergencies.* Where emergency circumstances make it necessary to take action with significant environmental impact without observing the provisions of these regulations, the Commission may consult with the CEQ and EPA about alternative arrangements. The Commission will limit those arrangements to actions necessary to control the immediate effects of the emergency. Other actions remain subject to NEPA review.

§ 3d.14 Interagency resolution of disagreements on environmental matters.

(a) This section provides procedures for resolution of disagreements between the Commission and another Federal agency about which agency will be the lead agency or about proposed major Federal actions that might cause significant adverse environmental effects.

(b) *Lead agency disputes.* If the Commission and another Federal agency that shares responsibility for a proposed Federal action are unable to agree on a lead agency designation, the Commission staff will refer or participate in referral of the matter to CEQ for determination under 40 CFR 1501.5.

(c) *Substantive environmental disputes.* (1) Any environmental issue or dispute concerning a proposed major Federal action significantly affecting the quality of the human environment related to a Commission action or proceeding pursuant to administration of the Commission's regulatory decisionmaking functions under the Natural Gas Act, the Federal Power Act, the Department of Energy Organization Act, the Interstate Commerce Act, the Natural Gas Policy Act, the Power Plant and Industrial Fuel Use Act, the Alaska Natural Gas Transportation Act, or the Public Utility Regulatory Policies Act must be resolved exclusively by Commission decision and any judicial review of Commission decision provided by law. Any person wishing to participate in Commission decisionmaking processes in such a case may seek to intervene in the proceeding

as an interested party, under §§ 1.8 or 3d.10(e)(1) of this chapter.

(2) If an environmental issue of dispute within the scope of paragraph (c)(1) of this section is referred to CEQ pursuant to 40 CFR Part 1504 for a recommendation to the Commission, any recommendation from CEQ will be entered in the record as advisory only, if CEQ is not a party to the Commission proceeding.

(d) *Referral of substantive issues.* If the Commission, acting in a matter other than one pursuant to administration of its regulatory decisionmaking functions under the Natural Gas Act, the Federal Power Act, the Department of Energy Organization Act, the Interstate Commerce Act, the Natural Gas Policy Act, the Power Plant and Industrial Fuel Use Act, the Alaska Natural Gas Transportation Act, or the Public Utility Regulatory Policies Act, such as a legislative proposal, and another agency sharing responsibility for a proposed major Federal action are unable to resolve any environmental disagreements, the Commission will refer the problem to the CEQ for resolution under 40 CFR Part 1504.

§ 3d.15 Coordination of NEPA activities.

The Commission's Advisor on Environmental Quality will be responsible for coordinating the Commission's NEPA activities and for coordinating the Commission's environmental policies with CEQ and the Department of Energy.

Subpart C—Environmental Documents

§ 3d.20 Environmental assessments.

(a) An EA is an environmental document, defined in 40 CFR 1508.9, prepared by the Commission staff to evaluate the environmental impact of proposed actions not categorically excluded from the NEPA process or normally requiring an EIS under § 3d.10(c). The Commission staff will determine the scope and content of each EA to ensure that sufficient information is available to determine whether the proposed action would be a major Federal action significantly affecting the quality of the human environment.

(b) The Commission staff will prepare an EIS for each proposed action determined under § 3d.10(c) or on the basis of the EA to be a major Federal action significantly affecting the quality of the human environment. In making that determination, the staff will consider at least:

(1) The magnitude of the proposed action, with respect to:

(i) The extent of Commission control or influence over the proposed action by virtue of its discretionary authority; and
(ii) The extent of the commitment of resources entailed.

(2) The significance of the environmental impacts of the proposed action, with respect to:

(i) The overall cumulative impact of relevant past, present, and reasonably foreseeable future actions by the Commission or other entities;

(ii) The potential for both short- and long-term degradation of the quality of the human environment, and the curtailment of the range of beneficial uses of the environment;

(iii) The effects on management, allocation, or consumption of important, scarce or nonrenewable resources;

(iv) The presence of responsible opposing views concerning the environmental impacts; and

(v) The unique characteristics of the environment to be affected.

(c) A separate EA need not be prepared for a proposed action for which the Commission or another Federal agency has already prepared an EA or EIS, if that document affords a currently valid evaluation of the environmental impact of the proposed action. In such a case, the Commission staff may adopt the EA or EIS of another Federal agency, in whole or in part, according to procedures in § 3d.13(d).

§ 3d.21 Environmental impact statement.

(a) Unless the Commission adopts all or part of an EIS prepared by another agency as described in § 3d.13(c), each EIS will be prepared directly by Commission staff or a contractor selected by the Commission, or where appropriate, by or in conjunction with a cooperating agency. Any contractor will be required to certify itself free of financial or other interest in the proposed action. Any EIS prepared under contract will be independently evaluated by the Commission staff before it is circulated.

(b) Data and analyses in an EIS will be commensurate with the importance of the impact of the proposed action, with less important material summarized, consolidated, or simply referenced. Useless bulk in an EIS will be avoided and the staff will concentrate effort and attention on important issues. Unpublished material, if necessary for a through understanding of the environmental impacts of a proposed action, may be included in an appendix.

(c) *Contents.* (1) *Format.* The Commission will normally use the following standard EIS format:

(i) Cover sheet.

(ii) Summary.

(iii) List of agencies, organizations, and persons to whom copies of the statement are sent.

(iv) Table of Contents.

(v) Description of proposed action and the need for it.

(vi) Affected environment.

(vii) Environmental impacts of the proposed action.

(viii) Analysis of alternatives.

(ix) Staff conclusions on significant environmental matters.

(x) References.

(xi) List of preparers.

(xii) Appendices (if any).

(2) *Cover sheet.* The cover sheet will include:

(i) A list of the responsible agencies, including the lead agency and any cooperating agencies;

(ii) The title of the proposed action that is the subject of the EIS (and, if appropriate, the titles of related cooperating agency actions), including reference to the states and counties (or other jurisdictions, if applicable) where the action would occur;

(iii) The name, address, and telephone number of the person at the Commission who can supply further information;

(iv) A designation of the EIS as a draft, final, or draft or final supplement;

(v) A one paragraph abstract of the EIS;

(vi) The date by which comments must be received; and

(vii) For a draft EIS only, a statement of the procedures for intervening in the Commission proceeding on the subject proposal.

(3) *Summary.* Each EIS will contain a summary of the EIS. The summary will stress the major conclusions, areas of controversy (including issues raised by agencies and the public), and the issues to be resolved (including the choice among alternatives). The summary normally will not exceed 10 pages.

(4) *Description of the proposed action and the need for it.* The proposed action and its objectives will be briefly described. Factors to be covered include the location and duration of the proposed action, historical information necessary to place it in proper perspective, its relationship to other current or future projects of programs of Federal, state, or local governments, private industry, or non-Federal applicants, its overall physical description, environmental and safety controls, and mitigative measures, including plans for site restoration.

(5) *Affected environment.* The EIS will succinctly describe the environment of the area to be affected by the proposed action. The description will be no longer

than is necessary to understand the effects of the proposed action.

(6) *Environmental impacts of the proposed action.* (i) The EIS will identify and analyze the probable direct and indirect environmental effects [40 CFR 1508.8] of the proposed action, including the effects of proposed mitigative measures. The analysis will describe: the effects (beneficial and adverse) on the biological, physical, and socio-economic environment which could be caused by the proposed action, the magnitude and importance of each effect, and the time periods in which these effects are anticipated.

(ii) The analysis will discuss the extent to which the proposal will conform to, or conflict with, any Federal, state, or local statutes, regulations, standards, limitations, or policies respecting environmental quality, including air and water quality, wastes, pesticides, and land use. The analysis will assess, with respect to probability of occurrence and magnitude of consequences, the risks of environmental degradation and damage to the society from:

(A) Potential accidents or failures, whether attributable to natural or non-natural causes, associated with the proposed action;

(B) Normal operations associated with the proposed action; and

(C) To the extent practicable, termination and abandonment of facilities or services associated with the proposed action.

(iii) The EIS will address the issues in section 102(2)(C) of NEPA: adverse environmental effects that will be unavoidable if the proposal is implemented, the relationship between short-term uses of the human environment and the maintenance and enhancement of long-term productivity, any irreversible or irretrievable commitments of resources that would be involved in the proposal should it be implemented, possible conflicts between the proposed action and the objectives of Federal, regional, state, local and (in the case of an Indian reservation) tribal land use plans, policies, and controls for the area concerned, and the natural or depletable resource requirements and conservation potential.

(7) *Analysis of alternatives.* (i) *Factual evaluation.* The EIS will present factual evaluations of the environmental impacts of the full range of reasonable alternatives to the proposed action in a concise, but sufficiently informative, manner. In particular, the EIS will discuss reasonable alternatives to the proposed action that might be taken to avoid or mitigate adverse environmental impacts.

(ii) *Examples of alternatives.* The alternative of taking no action will always be evaluated. Examples of other potential alternatives include: postponing action, taking action of a significantly different nature that would provide similar benefits with different environmental impacts, and modification of the designs or details of the proposed action which would alter its environmental impact.

(iii) *Comparative evaluation.* The EIS will include a comparative evaluation of the environmental impacts of the proposed action and each reasonable alternative. If an existing EIS contains an analysis of an alternative to the proposed action, its treatment of that alternative may be summarized and incorporated by reference, if the earlier treatment is still current and relevant to the objective of the proposed action. The range of alternatives discussed in an EIS will not be limited to measures that the Commission has authority to implement.

(8) *Staff conclusions on significant environmental matters.* The EIS will contain the staff's conclusions, which may include, but need not be limited to, summaries of: the significant environmental impacts of the proposed action, the staff's preferred alternatives, if any, and any alternative to these which would have less severe environmental impacts; any mitigative measures proposed by the applicant, as well as additional mitigation measures that might be more effective; any environmental impacts of the proposed action that cannot be mitigated; and reference to any pending, completed, or recommended studies that might provide base-line data or additional data on the proposed action.

(9) *References.* This EIS will contain a list of reports, literature, reference works and other source material cited or used in the text.

(10) *List of preparers.* The EIS will list the names, together with a brief summary of the qualifications (expertise, experience, professional disciplines) of the persons who were primarily responsible for preparing the EIS or significant background papers.

(11) *Appendix.* If the Commission staff prepares or adopts an appendix to an EIS, the appendix will:

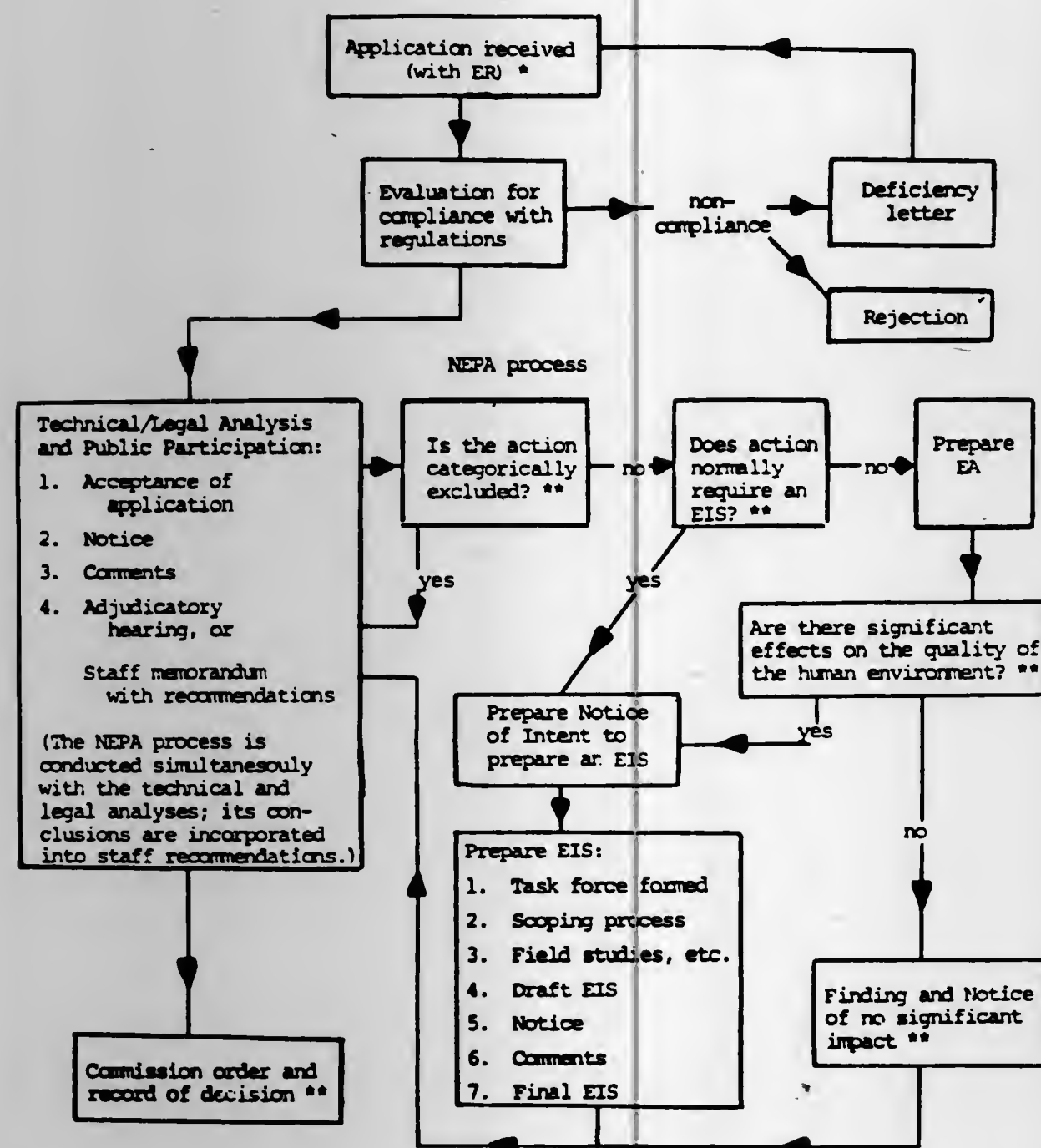
(i) Consist of material prepared in connection with an EIS (as distinct from material incorporated by reference);

(ii) Consist of material that substantiates any analysis fundamental to the EIS.

(iii) Be circulated with the EIS or be readily available on request.

* * * * *
BILLING CODE 6450-01-M

APPENDIX C

FERC DECISIONMAKING PROCESS
UNDER NEPA

* An ER is not required for categorically excluded actions.

** NEPA Decision Points.

[FR Doc. 79-26199 Filed 8-24-79; 8:45 am]
BILLING CODE 6450-01-C

[18 CFR Part 282]

[Docket No. RM79-47]

Statewide Exemptions From Incremental Pricing; Extension of Time To File Comments

August 22, 1979.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of Extension of Time to File Comments.

SUMMARY: In the Notice of Proposed Rulemaking and Opportunity for Written and Oral Presentations of Data, Views and Arguments issued in Docket No. RM79-14 on June 5, 1979 (44 FR 33099, June 8, 1979), the Federal Energy Regulatory Commission (Commission) announced that it had opened a docket to receive comments on the question of whether a rulemaking proceeding should be established with respect to statewide exemptions from incremental pricing. The opening of this docket was also announced in a Notice of Opportunity to Comment on Whether a Rulemaking Proceeding Should be Established, which was issued on July 3, 1979 (44 FR 40898, July 13, 1979). Both notices stated that comments in the docket would be due September 1, 1979. By this notice, we announce that the deadline for filing comments in Docket No. RM79-47 has been extended to September 17, 1979. This extension should provide commentators the opportunity to review the final rules in Docket Nos. RM79-14 and RM79-21, which should be issued in early September.

We take opportunity to note that the Commission desires that those who believe a rulemaking should be initiated indicate in as much detail as possible the sort of exemptions that should be allowed. The information on why such exemptions are required is also solicited.

DATES: Comments due September 17, 1979.

ADDRESS: Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: Barbara K. Christin, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North

Capitol Street, NE., Washington, D.C. 20426, (202) 275-0426.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-26586 Filed 8-24-79; 8:45 am]
BILLING CODE 6450-01-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Federal Highway Administration

[23 CFR Part 1252]

[NHTSA Docket 79-12; Notice]

State Matching of Planning and Administration Costs

AGENCIES: National Highway Traffic Safety Administration (NHTSA), Federal Highway Administration (FHWA).

ACTION: Amendment to notice of proposed rulemaking.

SUMMARY: This notice amends the outstanding notice of proposed rulemaking on State matching of planning and administration costs to make it clear that the States will not have to spend a fixed amount of their Federal Highway Administration funds on planning and administration costs.

DATES: Comments must be received on or before August 30, 1979.

ADDRESS: Submit written comments to NHTSA Docket No. 79-12, National Highway Traffic Safety Administration, Room 5108, 400 Seventh Street, S.W., Washington, D.C. 20590. Because this notice amends the first notice issued in Docket 79-12, it is expected that most comments on the two notices will be consolidated. All comments will be available for examination at the above address between 7:45 a.m. and 4:15 p.m. EDT, Monday through Friday.

FOR FURTHER INFORMATION CONTACT: NHTSA: George Reagle, Office of State Program Assistance, 202-426-0068, or John Womack, Office of the Chief Counsel, 202-426-1834. FHWA: James L. Rummel, Office of Highway Safety, 202-426-2131, or Thomas P. Holian, Office of the Chief Counsel, 202-426-0761. Office hours for both agencies are from 7:45 a.m. to 4:15 p.m. EDT Monday through Friday. All offices are located at 400 Seventh Street, S.W., Washington, D.C. 20590.

SUPPLEMENTARY INFORMATION: The proposed rule on State matching of planning and administration costs in State highway safety programs contains procedures for the identification of these costs in the Highway Safety Plan

submitted annually by each State. Among the procedures is a procedure for computing the portion of the Federal share that is to come from each of the two Federal agencies (subsection (b) of 23 CFR 1252.5). The intent behind the procedure was to allow the States to use FHWA funds for planning and administration costs in an amount proportional to the FHWA share of the total highway safety authorization under 23 U.S.C. 402, but the procedure was drafted in a manner that appears to require the States to use a fixed proportion of FHWA funds.

Although the procedure could be corrected in the final rule, many States will be preparing their fiscal year 1980 Highway Safety Plans on the basis of the procedures contained in the proposed rule. A number of States administer the highway-related portions of their highway safety programs through their State highway departments and do so without using FHWA funds to cover planning and administration costs. To allay the fears of officials in these States that they would have to divert a part of their FHWA funds to planning and administration purposes, NHTSA and FHWA find it advisable to issue an immediate amendment of the proposed rule.

As amended, the proposed rule allows the States to decide whether to use FHWA funds to pay planning and administration costs, but limits FHWA participation to amounts proportional to the FHWA share of the authorization under 23 U.S.C. 402.

In consideration of the foregoing, subsection (b) in proposed 23 CFR 1252.5 is amended as follows:

§ 1252.5 Procedures.

(b) FHWA funds may be used to pay for the federal share of P&A costs, in a proportion not to exceed the ratio of the FHWA authorization under 23 U.S.C. 402 to the total authorization. For example:

A State's P&A cost is \$40,000. The State's share is 25 percent, or \$10,000. To pay the remaining \$30,000, the State may use FHWA funds up to the amount of 12.5 percent (the FHWA percentage of total 402 authorizations), or \$3,750. The NHTSA share would therefore be 87.5 percent, or \$26,250.

Note.—The National Highway Traffic Safety Administration and the Federal Highway Administration have determined that this document does not contain a significant proposal according to the criteria established by the Department of Transportation pursuant to E.O. 12044.

Issued on August 21, 1979.

Charles F. Livingston,
Acting Associate Administrator, Traffic
Safety Programs, National Highway Traffic
Safety Administration.

Robert A. Kaye,
Acting Associate Administrator for Safety,
Federal Highway Administration.

[FR Doc. 79-29606 Filed 8-24-79; 8:45 am]

BILLING CODE 4910-59-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 1]

[LR-100-78]

Creditability of Foreign Taxes; Public Hearing on Proposed Regulations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Public hearing on proposed regulations.

SUMMARY: This document provides notice of a public hearing on proposed regulations setting forth the requirements for the creditability of foreign taxes against a person's U.S. income tax liability.

DATES: The public hearing will be held on October 11, 1979, beginning at 10:00 a.m. Outlines of oral comments must be delivered or mailed by September 30, 1979.

ADDRESS: The public hearing will be held in the I.R.S. Auditorium, Seventh Floor, 7400 Corridor, Internal Revenue Building, 1111 Constitution Avenue, N.W., Washington, D.C. The outlines should be submitted to the Commissioner of Internal Revenue, Attn: CC:LR:T (LR-100-78), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: George Bradley or Charles Hayden of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202-566-3935, not a toll-free call.

SUPPLEMENTARY INFORMATION: The subject of the public hearing is proposed regulations under sections 901 and 903 of the Internal Revenue Code of 1954. The proposed regulations appeared in the Federal Register for Wednesday, June 20, 1979, at page 36071 (44 FR 36071).

The rules of § 601.601(a)(3) of the "Statement of Procedural Rules" (26 CFR Part 601) shall apply with respect to the public hearing. Persons who have submitted written comments within the

time prescribed in the notice of proposed rulemaking and also desire to present oral comments at the hearing on the proposed regulations should submit an outline of the comments to be presented at the hearing and the time they wish to devote to each subject by September 30, 1979. Each speaker will be limited to 10 minutes for an oral presentation exclusive of time consumed by questions from the panel for the Government and answers to these questions.

Because of controlled access restrictions, attendees cannot be admitted beyond the lobby of the Internal Revenue Building until 9:45 a.m.

An agenda showing the scheduling of the speakers will be made after outlines are received from the speakers. Copies of the agenda will be available free of charge at the hearing.

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the Treasury Directive appearing in the Federal Register for Wednesday, November 8, 1978.

By direction of the Commissioner of Internal Revenue.

Robert A. Bley,
Director, Legislation and Regulations
Division.

[FR Doc. 79-26489 Filed 8-24-79; 8:45 am]

BILLING CODE 4830-01-M

[26 CFR Part 1]

[LR-227-76]

Investment in U.S. Property by Controlled Foreign Corporations; Public Hearing on Proposed Regulations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Public hearing on proposed regulations.

SUMMARY: This document provides notice of a public hearing on proposed regulations relating to the exceptions to the definitions of United States property under section 956(b)(2) of the Internal Revenue Code of 1954. The proposed regulations, which are the subject of this public hearing, also contain changes under section 956(c) of the Internal Revenue Code of 1954, which would affect the computation of the investment of earnings in United States property by controlled foreign corporations.

DATES: The public hearing will be held on October 30, 1979, beginning at 10:00 a.m. Outlines of oral comments must be delivered or mailed by October 16, 1979.

ADDRESS: The public hearing will be held in the I.R.S. Auditorium, Seventh Floor, 7400 Corridor, Internal Revenue Building, 1111 Constitution Avenue, N.W., Washington, D.C.

The outlines should be submitted to the Commissioner of Internal Revenue, Attn: CC:LR:T (LR-227-76), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: George Bradley or Charles Hayden of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202-566-3935, not a toll-free call.

SUPPLEMENTARY INFORMATION: The subject of the public hearing is proposed regulations under sections 956 and 958 of the Internal Revenue Code of 1954. The proposed regulations appeared in the Federal Register for Monday, April 23, 1979, at page 23880 (44 FR 23880).

The rules of § 601.601(a)(3) of the "Statement of Procedural Rules" (26 CFR Part 601) shall apply with respect to the public hearing. Persons who have submitted written comments within the time prescribed in the notice of proposed rulemaking and also desire to present oral comments at the hearing on the proposed regulations should submit an outline of the comments to be presented at the hearing and the time they wish to devote to each subject by October 16, 1979. Each speaker will be limited to 10 minutes for an oral presentation exclusive of time consumed by questions from the panel for the Government and answers to these questions.

Because of controlled access restrictions, attendees cannot be admitted beyond the lobby of the Internal Revenue Building until 9:45 a.m.

An agenda showing the scheduling of the speakers will be made after outlines are received from the speakers. Copies of the agenda will be available free of charge at the hearing.

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the Treasury Directive appearing in the Federal Register for Wednesday, November 8, 1978.

By direction of the Commissioner of Internal Revenue.

Robert A. Bley,
Director, Legislation and Regulations
Division.

[FR Doc. 79-26488 Filed 8-24-79; 8:45 am]

BILLING CODE 4830-01-M

[26 CFR Parts 48, 139]

[LR-61-78]

Excise Tax on Coal; Notice of Proposed Rulemaking

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations relating to the excise tax on coal. Changes to the applicable tax law were made by the Black Lung Benefits Revenue Act of 1977. The regulations would provide the public with the guidance needed to comply with the Act and affect all producers who mine coal in the United States.

DATES: Written comments and requests for a public hearing must be delivered or mailed by October 26, 1979. The amendments are proposed to be effective with respect to coal sold or used by the producer in other than a mining process after March 31, 1978.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T, LR-61-78, Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Robert H. Waltuch of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, Attention: CC:LR:T, 202-566-3328, not a toll-free call.

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the excise tax regulations (26 CFR Part 48) under section 4121 of the Internal Revenue Code of 1954 (Code), as added by section 2 of the Black Lung Benefits Revenue Act of 1977 (Pub. L. 95-227; 92 Stat. 11). These amendments are to be issued under the authority contained in section 7805 of the Code (68A Stat. 917; 26 U.S.C. 7805).

Section 4121 of the code imposes a manufacturers excise tax on the sale of coal by the producer. The tax is imposed at the rate of 50 cents per ton in the case of coal from underground mines in this country and 25 cents per ton in the case of coal from surface mines in this country. However, the amount of the tax per ton is limited to 2 percent of the sales price of the coal. Furthermore, this tax does not apply to lignite or imported coal. The proposed regulations are substantially similar to T.D. 7538, 43 FR 14305, which consists of temporary

regulations under the Black Lung Benefits Revenue Act of 1977.

Comments and Requests for a Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably six copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the Federal Register.

Drafting Information

The principal author of these proposed regulations is Robert H. Waltuch of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

Proposed Amendments to the Regulations

Accordingly, 26 CFR Parts 48 and 139 are amended as follows:

Paragraph 1. § 48.4121-1 is added to read as set forth below.

§ 48.4121-1 Imposition and rate of tax on coal.

(a) *Imposition of tax.* Section 4121 (a) imposes a tax on coal mined at any time in this country if the coal is sold or used by the producer after March 31, 1978. For purposes of this section, the term "producer of the coal" is the person in whom is vested ownership of the coal immediately after the coal is extracted from the mine, without regard to the existence of any contractual arrangement for the sale or other disposition of the coal or the payment of any royalties between the producer and third parties. The term includes any person who reclaims coal from coal waste refuse piles.

(b) *Rate of tax.*—(1) *Underground mines; surface mines.* The rate of tax imposed on coal from underground mines located in the United States is the lower of 50 cents per ton (2,000 pounds), or 2 percent of the sale price. The rate of tax imposed on coal from surface mines located in the United States is the lower of 25 cents per ton (2,000 pounds) or 2 percent of the sale price. If a sale or use includes a portion of a ton, the tax is applied proportionately. Thus, if 1,200 pounds of coal from an underground

mine are sold for \$35.00, the tax is 30 cents.

(2) *Combination.* If a single mine yields coal from both surface and underground mining, the producer must determine the rate (50 cents or 25 cents per ton) for each ton of coal mined. It is presumed that coal is mined from underground mines (50 cents per ton) unless the producer keeps sufficient records to establish to the satisfaction of the Secretary that the coal was mined from a surface mine.

(c) *Exemptions.* The excise tax on coal does not apply to imported coal or lignite as defined in accordance with the standard specifications for the classification of coals by rank of the American Society for Testing and Materials. There are no exemptions for sales for further manufacture, for export, for use as supplies for vessels or aircraft, for the use of a state or local government, or for the use of a nonprofit educational organization. Furthermore, the Secretary does not have discretion to exempt sales of coal for use of the United States from the tax. There is also no exemption from the coal excise tax when the coal is used in further manufacture of another article that is subject to manufacturers excise tax. For example, if a producer of coal converts coal into gasoline which he then sells, the producer is liable for the coal excise tax when the coal is converted into gasoline and also liable for the manufacturers excise tax on gasoline when the gasoline is sold.

(d) *Definitions and special rules.*—(1) *Coal produced from surface mine.* Coal is treated as produced from a surface mine if all of the geological matter (e.g., trees, earth, rock) above the coal is removed before the coal is mined. In addition, both coal mined by auger and coal that is reclaimed from coal waste refuse piles are treated as produced from a surface mine.

(2) *Coal produced from underground mine.* Coal is treated as produced from an underground mine if it is not produced from a surface mine.

(3) *Coal used by the producer.* For purposes of this section, the term "coal used by the producer" means use by the producer in other than a mining process. A mining process is determined the same way it is determined for percentage depletion purposes. For example, a producer who mines coal does not "use" the coal and thereby becomes liable for the tax merely because, before selling the coal, the producer breaks it, cleans it, sizes it, or applies one of the other processes listed in section 813(c)(4)(A) of the Code. In such a case, the producer will be liable for the tax only when he sells the coal.

On the other hand, a producer who mines coal does become liable for the tax when he uses the coal as fuel, as an ingredient in making coke, or in another process not treated as "mining" under section 613(c).

(4) *Tonnage sold and sales price.* For purposes of determining both the amount of coal sold by a producer and the sales price of the coal, the point of sale is f.o.b. mine, or f.o.b. cleaning point if the producer cleans the coal before selling it. This is true even if the producer sells the coal on the basis of a delivered price. Accordingly, f.o.b. mine or cleaning point is the point at which the number of tons sold is to be determined for purposes of applying the applicable tonnage rate, and the point at which the sales price is to be determined for purposes of the tax under the 2 percent rate.

(5) *Constructive sale price.* If a producer uses coal mined by the producer in other than a mining process, a constructive sale price must be used in determining the tax under the 2 percent rate. This constructive price is determined under sections 613(c) and 4218(e) of the Code, and is based on sales of like kind and grade of coal by the producer or other producers made f.o.b. mine (if the coal is used without first being cleaned) or f.o.b. cleaning plant (if the coal is cleaned before it is used). Normally, this constructive price will be the same as the constructive price used in determining the producer's percentage depletion deduction.

(e) *Due date of tax returns; payment of tax, and tax deposits.* For information relating to the due date of tax returns and the time and place for the payment of the tax see § 48.6011(a)-1, § 48.6151-1 and § 48.6071(a)-1 of the Manufacturers and Retailers Excise Tax Regulations. The return form is Form 720, Quarterly Federal Excise Tax Return. For information relating to tax deposits, see § 48.6302(c)-1 of the Manufacturers and Retailers Excise Tax Regulations and Form 720 (Quarterly Federal Excise Tax Return) and the accompanying instructions.

§ 139.4121-1 [Revoked]

Par. 2. Section 139.4121-1 is revoked.

Jerome Kurtz,
Commissioner of Internal Revenue.

[FR Doc. 79-26493 Filed 8-24-79; 8:45 am]

BILLING CODE 4830-01-M

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 52]

[FRL 1305-6]

Proposed Revision of the Maryland State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The State of Maryland has submitted a proposed revision of the State Implementation Plan (SIP) consisting of a Consent Order for the Dickerson Generating Station of the Potomac Electric Power Company (PEPCO) at Dickerson, Maryland. The schedule in the Order requires PEPCO to achieve compliance with Maryland's particulate regulation by April 14, 1979, and specifies other milestones which the company must meet toward that end. This compliance date was not met on schedule, but good faith efforts are underway. For sulfur dioxide, a determination of compliance with national ambient air quality standards (NAAQS) around the plant to the year 1985 was made by PEPCO before July 1, 1979 as required by the Consent Order. Both Maryland and EPA concur that sulfur dioxide air quality standards are presently being met, and that air quality modeling shows no violations of either the NAAQS or the PSD increment. If at a later time violations are found or projected, the compliance schedule provides for an expeditious conversion to low-sulfur fuel. If no violations are measured or predicted, the plant may continue to burn higher-sulfur fuel (about 1.8%) with a re-evaluation every five years.

DATE: Comments must be submitted on or before September 26, 1979.

ADDRESSEES: Copies of the proposed SIP revision and the accompanying support documents are available for inspection during normal business hours at the following offices:

U.S. Environmental Protection Agency, Air Programs Branch, Curtis Building, 6th & Walnut Streets, Philadelphia, Pennsylvania 19106. Attn: William E. Belanger.

Bureau of Air Quality and Noise Control, State of Maryland, 201 West Preston Street, Baltimore, Maryland 21201. Attn: George Ferreri.

Public Information Reference Unit, Room 2922—EPA Library, U.S. Environmental Protection Agency, 401 M Street, S.W. (Waterside Mall), Washington, D.C. 20460.

All comments on the proposed revision submitted within 30 days of publication of this notice will be considered and should be directed to:

Mr. Howard Heim, Chief, Air Programs Branch, Air & Hazardous Materials Division, U.S. Environmental Protection Agency, Region III, 8th & Walnut Streets, Philadelphia, Pennsylvania 19106, Attn: AH014MD.

FOR FURTHER INFORMATION CONTACT: William E. Belanger (3AH13), U.S. Environmental Protection Agency, Region III, 8th & Walnut Streets, Philadelphia, Pennsylvania 19106, telephone number 215-597-8188.

SUPPLEMENTARY INFORMATION: On August 8, 1978, the Acting Governor of Maryland, Blair Lee III, submitted to EPA, Region III a proposed revision of the Maryland State Implementation Plan consisting of a Consent Order for the Dickerson Generating Station of the Potomac Electric Power Company (PEPCO). In his letter, the Governor certified that the Order was adopted in accordance with the public hearing and notice requirements of 40 CFR, Part 51.4 and all relevant State procedural requirements, and asked that EPA consider the Consent Order as a revision of the State Implementation Plan. The Order states that PEPCO at Dickerson was not, as of the date of the Order, in compliance with the State's emission limitation for particulate matter as applicable to this facility, and establishes a schedule for improvement of control equipment to ensure compliance with that limitation. The final date for compliance with the applicable particulate regulations was April 14, 1979. While the company is behind schedule on the control of particulate matter at Dickerson the particulate control systems became operational for the Number 2 and the Number 3 scrubbers on June 22, 1979, and June 30, 1979 respectively.

The Order also establishes an interim increase in the allowable emission limit for sulfur dioxide (SO₂). This limit is 2.8 pounds per million BTU and is approximately equal to 1.8% sulfur-in-fuel. The existing limitation is approximately 1% sulfur.

The air quality impact of the proposed change was evaluated by a modeling study conducted by the H. E. Cramer Company, a consultant, under contract to PEPCO. The modeling was performed based on the stack height which was in existence at the time of the enactment of the Clean Air Act. In the case of Dickerson, the height is 122 meters. The facility is now served by a 213-meter stack. Under the maximum SO₂ emission of 2.8 pounds per million BTU, two exceedances of the 24-hour SO₂ standard were predicted under one of the five years of meteorology considered in the study. There were no predicted

violations of the three-hour or annual SO₂ standards.

The second highest predicted level of a pollutant based upon at least five years of meteorology has been utilized in the past by EPA as a criterion for acceptability when modeling single sources of air pollution. The modeling evaluation of this proposed revision utilizes a new method which accounts for the variability of the fuel as it is burned, and would accept, as meeting the standard, an expected number of exceedances as yet to be determined by EPA. For purposes of this rulemaking, all candidate criteria for approving the revision were examined and all were met. The concentrations predicted by the modeling study were based on a constant emission rate for the five years reviewed. Because the sulfur content of coal will vary considerably from day to day a further objective was to determine what effect this variation would have on 24-hour concentrations. Compliance with the 24-hour standard was therefore evaluated using a statistical analysis which accounts for the fact that the plant does not operate at the maximum allowable sulfur level all of the time.¹

The result of this analysis is that there is not more than one expected exceedance in the worst year and less than three expected exceedances over the five-year period. According to any of the candidate criteria which may be used to define acceptability of the modeling demonstration EPA concludes that there is no expected violation of the ambient air quality standards. This new method would be used only for single sources of air pollution. Since this proposal is a SIP relaxation, an analysis of the impact on the PSD increment is required. EPA has determined that the air quality base line as measured in 1977 and the proposed emission limitation are equivalent, thus no consumption of the PSD increment from this revision will occur.

Under the Order, PEPCO is required to submit new projections of SO₂ and TSP air quality levels based on actual ambient air measurements and emissions, by July 1, 1979, and every five years thereafter. The Consent Order further states that if the study should find or project a violation, PEPCO will come into compliance expeditiously on a preset schedule. The analysis due July 1, 1979 was performed by PEPCO. Evaluations by both Maryland and EPA concur with the conclusion that there are no projected violations of the

¹Because this approach depends on sophisticated air quality modeling it is not applicable to situations where such modeling cannot be used satisfactorily (e.g., to do complex terrain or an absence of meteorological information).

NAAQS or PSD increment under the present plant configuration using the stack height previously defined.

Therefore, it is the tentative decision of the Administrator to approve the proposed revision of the Maryland State Implementation Plan.

The public is invited to submit to the address stated above, comments on whether the Dickerson Consent Order should be approved as a revision of the Maryland State Implementation Plan.

The Administrator's decision to approve or disapprove the proposed revision will be based on the comments received and, on a determination whether the amendments meet the requirements of Section 110(a)(2) of the Clean Air Act and 40 CFR Part 51, Requirements for Preparation, Adoption, and Submittal of State Implementation Plans.

Note.—Under Executive Order 12044 EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized." I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

(42 U.S.C. 7401-7642)

Dated: July 30, 1979.

Stephen R. Wassersuy

Acting Regional Administrator.

[FR Doc. 79-26818 Filed 8-24-79; 8:45 am]

BILLING CODE 6560-01-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[49 CFR Part 571]

Maximum Permissible Candlepower for Motorcycle Headlamps; Closure of Docket No. 76-5

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Closure of docket.

SUMMARY: This notice terminates Docket No. 76-5, which proposed that the maximum permissible candlepower for motorcycle headlamps be increased at two test points.

FOR FURTHER INFORMATION CONTACT: W. Marx Elliott, Office of Rulemaking, National Highway Traffic Safety Administration, Washington, D.C. 20590 (202-426-2720).

SUPPLEMENTARY INFORMATION: On July 22, 1976 the NHTSA published (41 FR 30128) a notice of proposed rulemaking (NPRM) granting the petition by L. A. MacEachern of Walnut Creek, California, to amend the motorcycle headlighting requirements of Federal

Motor Vehicle Safety Standard No. 108, *Lamps, Reflective Devices, and Associated Equipment*. The agency proposed an increase in the maximum permissible candlepower at two test points which, if adopted, would have allowed Mr. MacEachern to market a motorcycle headlamp system consisting of a single Type 2A headlamp (a rectangular headlamp 4 inches by 6 1/2 inches, incorporating both an upper and a lower beam).

The NHTSA has decided to terminate this rulemaking action without adoption of the amendment proposed. The petitioner's system would illuminate the roadway by simultaneous activation of both the high and low beam filaments. This method of illumination, however, does not appear to meet the need for motor vehicle safety. The Type 2A lamp is designed for use with the Type 1A lamp and intended to provide only a small part of the total light available for the high beam pattern. The Type 1A lamp provides about 90 percent of the upper beam output. To adopt the proposal would result in a headlamp with an unsatisfactory upper beam.

Six comments were received on the proposal. Three, from members of the public, supported it. General Electric Corporation opposed it. General Motors and the California Highway Patrol supported it in part and opposed it in part.

The lawyer and program official principally responsible for this notice are Z. Taylor Vinson and W. Marx Elliott, respectively.

(Secs. 103, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407); delegation of authority at 49 CFR 501.8 and 1.50)

Issued on August 17, 1979.

Michael M. Finkelstein,
Associate Administrator for Rulemaking.

[FR Doc. 79-26508 Filed 8-24-79; 8:45 am]

BILLING CODE 4910-59-M

Urban Mass Transportation Administration

[49 CFR Part 635]

[Docket No. 79-D]

Maintenance of Effort Requirements

AGENCY: Urban Mass Transportation Administration, DOT.

ACTION: Proposed rule.

SUMMARY: The Urban Mass Transportation Administration (UMTA) is proposing regulations to implement Section 5(f) of the Urban Mass Transportation Act of 1964, as amended by the Surface Transportation Assistance Act of 1978, which deals with maintenance of effort (MOE) by

designated recipients of Federal mass transportation funds. The maintenance of effort requirement is imposed to ensure that state and local support and mass transportation non-farebox revenues will be maintained for provision of mass transportation services. The changes made by the 1978 statute give recipients of funds greater flexibility in meeting their maintenance of effort requirements. The proposed regulations will implement these changed requirements.

DATES: Comments must be received on or before October 11, 1979.

ADDRESS: Comments must be submitted to UMTA Docket 79-D, Room 9320, 400-7th Street, S.W., Washington, D.C. 20590. All comments and suggestions received will be available for examination at the above address between 8:30 a.m. and 5:00 p.m., Monday through Friday. Receipt of comments will be acknowledged by UMTA if a self-addressed, stamped postcard is included with each comment.

FOR FURTHER INFORMATION CONTACT: Candace Noonan, Office of Program Analysis, (202) 472-6997.

SUPPLEMENTARY INFORMATION: All comments received before the expiration of the comment period will be considered before the final action is taken on this proposal.

The Administrator has determined that this regulation is not a significant regulation under the criteria in the DOT Order for Improving Government Regulations (44 FR 11042, February 26, 1979).

Under the DOT Order, a full evaluation is not warranted because the expected economic impact of the proposed regulations is minimal. The proposed regulations merely implement and interpret a statutory requirement and do not, in and of themselves, have any economic impact.

Discussion of Proposal and Background

The 1978 legislative changes to the MOE requirements cover the following four areas:

1. Reimbursement payments for transportation of school children.
2. Increases in operating revenue resulting from a change in the fare structure.
3. Eligible operating costs reduced while maintaining service levels.
4. Federal reductions in Section 5 operating assistance commensurate with a shortfall from the required maintenance of effort level as a result of reductions in local subsidies.

The proposed regulations implement these four areas of change. UMTA Circular 9050.1 sets out the basic

application requirements in the MOE area.

Section 5 of the Urban Mass Transportation Act requires the grantee for Federal transit formula operating and capital grants to maintain state or local operating assistance contributions. The MOE requirement is one of five factors that govern the amount of Section 5 assistance that is available to a particular applicant.

The amount is also governed by the amount of money that is appropriated by the Congress, the manner in which that money is apportioned by the statutory formula, the net project cost for the particular project, and the availability of local share matching funds. Changes in any of these five factors will affect the amount of Federal assistance which is available to a particular applicant.

Under the original Section 5 maintenance of effort (MOE) requirement as it was implemented prior to the passage of the Surface Transportation Assistance Act of 1978, any locality which failed to meet its MOE requirement—regardless of the cause of the amount of shortfall—was denied all Section 5 assistance for the project year. Under the new maintenance of effort requirements as modified by the recent legislation, a grant recipient may reduce the overall level of effort below the average of the previous two local fiscal years without losing all Section 5 assistance. A reduction in the overall level of effort may, however, result in a commensurate reduction in the level of Federal assistance. MOE requirements apply to all subsidies for operating assistance provided by all non-Federal public agencies or state and local agencies and must be met for all Section 5 capital or operating grants. MOE requirements apply to certain non-farebox public mass transportation revenues used for the support of public mass transportation. MOE requirements also apply to all state and local contributions during the local fiscal year to the operating expenses of transportation modes for which Section 5 operating assistance is sought except those contributions that are reimbursement payments for the transportation of school children. If an operator provides both bus and rapid rail transportation services, but requests Section 5 assistance for the bus operation only, then only that portion of the local subsidy which is applied to the eligible operating expenses of the bus operation is subject to MOE requirements. However, if the applicant applies for Section 5 assistance based on the

eligible costs incurred for the operation of only a portion of the public transportation bus fleet eligible for assistance, the MOE requirement is applied to the total level of effort for the entire eligible bus operation. Contributions toward capital projects do not contribute toward MOE.

Prior to November 6, 1978, the effective date of the Surface Transportation Assistance Act of 1978, UMTA required that state and local governmental reimbursements for the transportation of schoolchildren in regular route service be counted as revenues of the mass transportation system and that these reimbursements be included in the calculations of the MOE.

The legislation now permits the inclusion of reimbursements for the transportation of schoolchildren in local share but requires that these reimbursements not be included in the calculation of the MOE.

UMTA is in the process of developing a comprehensive set of proposed regulations for Section 5 grants. In the interim, proposals such as this will be published to implement the 1978 legislative changes. This method necessitates the use of codified regulations in conjunction with the existing UMTA Circulars on Section 5.

If an applicant for a Section 5 grant does not comply with the application requirement then the grant will not be approved.

If a grantee fails to comply with its certifications in regards to MOE, it is liable to suspension of termination under the terms of its grant contract.

In consideration of the foregoing, it is proposed that Title 49 of the Code of Federal Regulations be amended by adding a new Subpart B to Part 635 to read as follows:

Subpart B—Maintenance of Effort Requirements Applicable to Section 5 Capital and Operating Assistance Grants

Sec.	
635.21	Purpose.
635.23	Applicability.
635.25	Definitions.
635.27	Maintenance of effort requirement.
635.29	Transportation of schoolchildren.
635.31	Offsetting increase in fare structure.
635.33	Reduced operating costs.
635.35	Commensurate reductions.

Appendix—Sample Calculations.

Authority. 49 U.S.C. 1604 (d)(2) and (f); 49 CFR 1.51.

Subpart B—Maintenance of Effort Requirements Applicable to Section 5 Capital and Operating Assistance Grants

§ 635.21 Purpose.

(a) Section 5 of the Urban Mass Transportation Act requires designated recipients of Federal transit formula operating and capital grants to maintain state and local operating assistance contributions. The application instructions for public agencies who wish to apply for this formula assistance are contained in UMTA Circular 9050.1 which is available in UMTA by writing to the following: UMTA Office of Public Affairs, Room 9330, 400 7th Street, S.W., Washington, D.C. 20590.

(b) Exhibit B to UMTA Circular 9050.1 discusses application instructions relating to the maintenance of effort requirement. The purpose of this subpart is to implement changes to the maintenance of effort requirement necessitated by changes made to Section 5 by the Surface Transportation Assistance Act of 1978 (Pub. L. 95-599). The effect of these changes is to give recipients greater flexibility in meeting the maintenance of effort requirement.

§ 635.23 Applicability.

This subpart applies to all Section 5 projects, both operating and capital, approved by UMTA after November 6, 1978 regardless of the year in which the monies were apportioned.

§ 635.25 Definitions.

(a) "Act" means the Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1601 et seq.).

(b) "Designated recipient" means the entity designated to receive funds by the procedures prescribed in Section 5(b) of the Act.

(c) "Grantee" is the local public body which undertakes legal responsibility for carrying out the Section 5 project directly, by lease, or otherwise. In most instances, the designated recipient and the grantee will be the same entity.

(d) "Level of Effort" (LOE) is the amount contributed from state and local government funds and other transit revenues described in Appendix B to Circular 9050.1 expended on the operation of mass transportation service in the area involved for a given local fiscal year. By statute, LOE includes advertising concessions and property leases and excludes reimbursement payments for the transportation of schoolchildren.

(e) "Maintenance of effort" (MOE) is the average of the LOE's for the two local fiscal years preceding the project year.

(f) "Mass transportation operator" is the entity (or entities) whose eligible transit operating expenses are included within a Section 5 operating assistance project.

(g) "Project year" is the fiscal year of the predominant mass transportation operator, unless the grantee is permitted by the Federal Government to use a different fiscal year.

§ 635.27 Maintenance of effort requirement.

Except as set forth in §§ 635.29, 635.31 and 635.33, each grantee must maintain a LOE in the project year which equals or exceeds the average level of effort for the two immediately preceding local fiscal years. Failure to maintain this LOE will result in commensurate reductions in Federal assistance in accordance with § 635.35.

§ 635.29 Transportation of schoolchildren.

All Section 5 grants approved after November 6, 1978 must exclude reimbursements for the transportation of schoolchildren from the MOE and LOE calculations. The effect of this change for many grantees is to decrease the level of the MOE requirement while also reducing the LOE for the project year.

§ 635.31 Offsetting increase in fare structure.

(a) If the grantee's LOE for the project year is less than its MOE requirement, then the difference can be offset without a reduction in the amount of Federal assistance because of a failure to meet MOE if all of the requirements of paragraphs (b) through (f) are met. Changes in fare structure can also be used in combination with the other provisions of §§ 635.29, 635.33, and 635.35.

(b) The reduction in LOE may be offset dollar for dollar by an increase in operating revenues which results solely from a change or changes in the fare structure. Changes in the fare structure include, but are not limited to, fare increases or reductions, changes in the zone structure, institution of zone charges, or new peak hours.

(c) Increases in operating revenues which result from changes to service levels cannot be used to offset reductions in the required LOE. Measures of service levels include, but are not limited to, the total number of vehicle miles, the total number of route miles, frequency of service, and the characteristics of special services such as providing transportation for the elderly or handicapped or reverse commuter trips.

(d) An offsetting increase in operating revenues may be claimed only for one

local fiscal year. In cases where the change in the fare structure is put into effect in the last three months of the local fiscal year, the grantee, at its option, may claim the offset amount for the following year. In all other cases, the offsetting increase may be claimed only for the local fiscal year in which it was put into effect. If the grantee met its LOE for the year in which the change in fare was claimed, the change must not be used to offset reductions in the level of effort in later years.

(e) The grantee has the burden of proof to establish that the amount of the offset claimed is due solely to increases in operating revenues resulting solely from changes in the fare structure ("offset amount"). The grantee must describe the fare structure change, compute the offset amount, and demonstrate the relationship between the increased revenues and changes in the fare structure. The accuracy of this document must be certified by the authorized certifying officer. These documents should be included as an attachment to the regular grant application.

(f) Actual revenues and expenses must be reported for the year in which they were incurred or received.

(g) In the project application for the next fiscal year (project year #2), a grantee who has been permitted to offset reductions in LOE under the provisions of § 635.31(a) in the previous year (project year #1) may apply the same dollar amount of offset in the project application for project year #2 as was actually realized in project year #1. If the application for project year #1 was based on projections or estimated data, the amount actually realized in project year #1 must be calculated based on empirical data. To the extent that the difference between the MOE and LOE for project year #2 is offset by an increase in operating revenues in project year #1 which results solely from changes in the fare structure, there will not be a reduction in the amount of Federal assistance of a failure to meet the MOE requirement.

§ 635.33 Reduced operating costs.

(a) If a grantee is able to reduce eligible operating costs while maintaining the same transit service levels, UMTA permits the grantee to reduce its level of effort by an amount proportional to the reduction in operating costs without a loss of UMTA funds resulting from the decrease in the level of effort providing that the conditions specified in paragraphs (b) through (f) of this section have been met. However since the Federal operating assistance cannot exceed 50% of net

project cost, the UMTA assistance may decrease because the operating costs have decreased. This could happen, for instance, where a new provider of service under contract to the grantee provides the same service at a lower cost.

(b) Service levels must be maintained by the grantee. Any reductions of the total number of vehicle miles, total number of route miles, frequency of service, special services such as provisions for the elderly and handicapped or reverse commuter trips or other measures of service levels would make the grantee ineligible under this section.

(c) Grantees who seek to reduce their LOE under the provisions of this section have the burden of proof to establish that service levels have been maintained. Grantees must specify the dollar amount and percentage reduction in eligible operating costs for the project year compared to the eligible operating costs over the previous year and describe the actions taken to effect those reductions.

(d) Changes which result in reduced operating costs may be claimed only for one local fiscal year. In cases where the reduced operating costs result from changes that all went into effect in the last three months of the local fiscal year, the grantee, at its option, may claim the reduced operating costs for either the year in which the changes were instituted or it may claim the reduced operating costs for the following year. In all other cases, the reduced operating costs may be claimed only for the local fiscal year in which the changes were put into effect. If the grantee met its LOE for the year in which the reduced operating costs are claimed, the changes must not be used to offset reductions in the level of effort in later years.

(e) Actual revenues and expenses must be reported for the year in which they were incurred or received.

(f) The grantee must also certify the following:

Reductions in operating expenses that are being used to justify a reduction in the LOE have not been the result of any decreases in the level of service provided nor are these reductions in operating expenses expected to cause any decline in the level of service provided in the future.

This must be signed by the authorized certifying officer. The documents required under this section should be included as an attachment to the regular grant application.

(g) In the project application for the next fiscal year (project year #2), a grantee who has been permitted to reduce its LOE under the provisions of § 635.33(a) in the previous year (project

year #1) should apply the same dollar amount of reduced operating costs for project year #2 as were actually realized in project year #1. If the application for project year #1 was based on projections or estimated data, the amount actually realized in project year #1 must be calculated based on empirical data. To the extent that the difference between the MOE and the LOE for project year #2 is met by reductions in operating expenses in project year #1 without reductions in service levels, the grantee may reduce its level of effort in project year #2 by an amount proportional to the reduction in operating costs in project year #1 without a loss of UMTA funds resulting from the decrease in the level of effort.

§ 635.35 Commensurate reductions.

(a) A grantee who has an LOE for the project year that is less than the MOE requirement of § 635.27 will receive a commensurate reduction in Section 5 operating assistance for any amounts of the reduced LOE which are not attributable to the specific provisions of §§ 635.29, 635.31, or 635.33.

(b) "Commensurate reduction" means that the amount of Section 5 operating assistance which the grantee would otherwise receive will be reduced either (1) by a dollar amount equal to the amount by which the grantee's LOE is less than the MOE requirement or (2) by an amount proportional to the percentage shortfall from MOE. The method of calculating the Section 5 operating assistance reduction will be the method that is most advantageous to the grantee. The MOE and LOE calculations will include the adjustments made by this subpart.

(c) Reductions in LOE which lead to reductions in Section 5 operating assistance may lead to unfunded deficits unless the grantee has sufficient profits from the sale or operation of services which are not mass transportation and are therefore not included in the LOE and MOE calculations.

Appendix A—Sample Calculations

Sample calculations are provided below of the various situations that may arise based on the requirements of §§ 635.31 through 635.35.

The operator in each calculation has a required MOE level of \$100 which is just equal to its local subsidy. MOE can, however, be lower than the current local subsidy if subsidies were lower in previous years.

The financial data for the sample operator for the year preceding the project period are as follows:

Eligible operating expenses.....	\$200
Operating revenue.....	40
Local subsidy.....	100
MOE (Recomputed excluding reimbursement for the transportation of school children).....	100

Section 5 assistance for project period and for preceding year..... 60

§ 6325.31

Case 1: For the project period, the operator increased all fares, which increased operating revenues by \$3. During the same period, the local government reduced property taxes which resulted in a \$3 decline in the local subsidy. Because the operator offset the \$3 shortfall from the required MOE level with increased operating revenues, there will be no decrease in the amount of Section 5 assistance for which the operator is now eligible.

	Before	After
Eligible expenses.....	\$200	\$200
Revenues.....	40	43
LOE (Local subsidy).....	100	97
Section 5 funds.....	60	60

Case 2: The operator instituted special higher charges for rush hour service and put additional vehicles into service during the time period. The increased frequency of service generated an additional \$4 in revenues and the fare increase resulted in \$2 of new revenues. Additionally, eligible operating expenses increased during this period by \$4. Because only \$2 of the total \$6 in increased revenues are attributable to the change in the fare structure, the level of effort cannot be reduced more than \$2 below the MOE level without risking a commensurate reduction in Section 5 assistance.

	Before	After
Eligible expenses.....	\$200	\$204
Revenues.....	40	46
LOE (Local subsidy).....	100	98
Section 5 funds.....	60	60

§ 635.33

Case 3: The operator has consolidated all administrative functions in one building and realized a 10% (\$20) reduction in eligible operating expenses. The level of effort is then reduced below the MOE level by the same percentage to \$90 (10% of \$100). Since the shortfall from the MOE level is the same percentage as the reduction in operating expenses, and service levels have been maintained, no reduction will be made in the amount of operating assistance for which the grantee is eligible based on the new data.

	Before	After
Eligible expenses.....	\$200	\$180
Revenues.....	40	40
LOE (Local subsidy).....	100	90
Section 5 funds.....	60	50

In this example, the level of Section 5 assistance *did* decrease because the full amount of available assistance (\$60) is no longer needed by the grantee to cover its deficit.

A reduction in level of effort under the requirements of § 635.33 will in most cases result in a decrease in the amount of Section 5 assistance that the operator required. There are, however, some exceptions, as shown in Cases 4 and 5 below. In Case 4 the operator

has an unfunded deficit which absorbs a portion of the change.

Case 4: Assume the operator in Case 3 had an MOE requirement of \$80 rather than \$100 but had achieved the same reduction in operating costs described in the previous example. In this case, the financial data would be as follows:

	Before	After
Eligible expenses.....	\$200	\$180
Revenues.....	40	40
LOE (Local subsidy).....	80	72
Section 5 funds.....	60	60
Unfunded deficit.....	20	8

In this instance, the reduction in eligible operating expenses permitted the unfunded deficit to be reduced and the amount of Section 5 assistance to remain constant.

A change under § 635.33 in conjunction with other changes in the eligible expenses or in revenues could result in a constant level of Section 5 assistance, as in the following example:

Case 5: Assume the operator in Case 3 had also cut all fares in half in a move to increase ridership. The level of ridership increases by 50% so that there is only a 25% reduction in fare revenue from \$40 to \$30. The resulting financial data are:

	Before	After
Eligible expenses.....	\$200	\$180
Revenues.....	40	30
LOE (Local subsidy).....	100	80
Section 5 funds.....	60	60

Despite the fact that there was a change in the fare structure in this example, there was no increase in operating revenues so that this additional action by the operator does not qualify for a reduction in LOE under § 635.31 but it does have the effect of retaining the amount of Section 5 assistance received (in Case 3, the federal assistance decreased by \$10).

§ 635.35

Case 6: After the state rolled back property taxes, the operator received less income from that source, which resulted in a 10% (\$10) shortfall from the required MOE level.

Because the operator had no offsetting increase in operating revenues (§ 635.31) or proportional decrease in operating expenses (§ 635.33), the reduction in LOE must be compensated for by a commensurate reduction in Section 5 assistance. Were it not for the reduction in local subsidy, the operator would have been eligible to receive \$60 in Section 5 assistance (the total amount apportioned). It is against this level of assistance that the § 635.35 commensurate reduction is taken. Since a 10% reduction in UMTA funds (\$6) is less than the dollar reduction in LOE (\$10), the operator is eligible to receive \$54 in Section 5 funds.

	Before	After
Eligible expenses.....	\$200	\$200
Revenues.....	40	40
LOE (Local subsidy).....	100	90
Section 5 funds.....	60	54
Unfunded deficit.....	0	16

Case 7: The operator in Case 6, despite the loss of \$10 in state aid, had a 25% increase in ridership (no fare changes) which resulted in a \$10 increase in revenues. The financial data in this case are:

	Before	After
Eligible expenses.....	\$200	\$200
Revenues.....	40	50
LOE.....	100	90
Section 5 funds.....	60	54
Unfunded deficit.....	0	6

With a § 635.35 MOE shortfall, the operator will *always* incur an unfunded deficit unless additional revenues are available from non-mass transportation sources. If a reduction below the MOE level falls under more than one requirement all changes in the LOE under § 635.31 and § 635.33 are computed first, in order to determine the amount of MOE shortfall attributable to more than one reduction in LOE. The remaining shortfall is used to calculate the amount of commensurate reduction under § 635.35. The amount or reduction is computed on the basis of the level of Section 5 assistance the applicant would receive based on Section 5 apportionment, the local share, and the project deficit. It is against this calculated level of assistance that commensurate reductions under § 635.35 are taken. In the above example, the project budget indicates that prior to the commensurate reduction under § 635.35, the operator would be eligible for \$60 in UMTA funds. It is against this funding level (\$60) that the 10% reduction is taken as a result of the § 635.35 \$10 (10%) shortfall from the required MOE level.

§ 635.31 and § 635.35

Case 8: The state voted to reduce the amount of subsidy granted to local transit operators. As a result, the level of effort for the operator in this example is reduced by \$20 (20% of the MOE level). During the project period, the operator instituted new zone charges which resulted in an additional \$10 in revenues. In this instance, \$10 of the MOE shortfall are offset by operating revenue increases under § 635.31. This calculation is therefore applied first. Since there is still a remaining \$10 shortfall, § 635.35 is applied to calculate a commensurate reduction in Section 5 operating assistance. The steps in calculating the new level of Section 5 assistance for the operator in this case are as follows:

	Before	After
Eligible expenses.....	\$200	\$200
Revenues.....	40	50
LOE (Local subsidy).....	100	80
Section 5 funds.....	60	54
Unfunded deficit.....	0	16

§ 635.33 and § 635.35

Case 9: An operator had total operating expenses of \$220 but only \$200 of this amount constituted eligible operating expenses since \$20 in expenses were the result of a charter service operation. The operator took all buses out of charter service and transferred them to regular service thereby saving the \$20 in expenses previously spent on charter

operations. This savings in operating costs does not fall under § 635.33 since it does not reduce *eligible* operating expenses. Because the charter buses were the newest in the fleet, the operator finds that by putting them into regular service, costs for maintenance, vehicle repairs, fuel and oil fall enough to reduce operating costs by 5% or \$10. However, when the City Council learned of the estimate that operating costs would be reduced by \$10, the Council voted to divert \$10 of the operator's subsidy to the school district, thereby reducing the level of effort from \$100 to \$90. Since the reduction in eligible operating expenses was effected with no reduction in service levels, the operator may reduce the level of effort proportionally (§ 635.33) by \$5 (5% of \$100) to \$85. The remaining \$5 shortfall from the MOE level will result in a commensurate reduction in Section 5 assistance of \$3 (5% of \$60) rather than a dollar for dollar reduction of \$5.

	Before	After
Eligible expenses.....	\$200	\$190
Revenues.....	40	40
LOE (Local subsidy).....	100	90
Section 5 funds.....	60	57
Unfunded deficit.....	0	3

§ 635.31, § 635.33, and § 635.35

Case 10: The state has voted to roll back property taxes, which results in a loss of \$25 in local subsidies to the operator in this example. To offset the loss, the operator raised fares which results in \$10 in new revenues. Under § 635.31, the level of effort may then be reduced on a dollar for dollar basis to \$90 (\$100-\$10). During the project year, the operator upgraded the maintenance program which resulted in a \$10 (5% of eligible expenses) savings in eligible operating costs. Because this reduction in costs falls under § 635.33, the operator may reduce his level of effort by an additional 5% of \$100 or \$5 to \$85. However, as a result of the loss of state aid, the level of effort for the project year is only \$75 thereby leaving \$10 of the total \$25 MOE shortfall which is not covered under § 635.31 or § 635.33. Due to the § 635.33 shortfall the operator will receive a commensurate reduction in Section 5 funds of \$6 (10% of \$60) thereby reducing UMTA funds to \$54 and resulting in an \$11 unfunded deficit. The operator's financial data are as follows:

	Before	After
Eligible expenses.....	\$200	\$190
Revenues.....	40	50
LOE (Local subsidy).....	100	75
Section 5 funds.....	60	54
Unfunded deficit.....	0	11

(49 U.S.C. 1604 (d)(2) and (f); 49 CFR 1.51)

Dated: August 22, 1979.

Lillian C. Liburdi,

Acting Deputy Administrator.

[FR Doc. 79-26609 Filed 8-24-79; 8:45 am]

BILLING CODE 4910-57-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[10 CFR Part 212]

[Docket No. ERA-R-79-3A]

Mandatory Petroleum Price Regulations; Availability of Propane Deregulation Draft Regulatory Analysis**AGENCY:** Economic Regulatory Administration, Department of Energy.**ACTION:** Notice of Availability of Draft Regulatory Analysis.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives public notice and solicits comments on the Availability of a Draft Regulatory Analysis which examines the potential impacts of exempting propane from the Mandatory Petroleum Allocation and Pricing Regulations. Copies may be obtained from the Office of Public Information, ERA.

DATES: Written comments by December 1, 1979, 4:30 p.m.

ADDRESS: Comments to: Economic Regulatory Administration, Office of Public Hearing Management, Docket No. ERA-R-79-3A, Room 2313, 2000 M Street, NW., Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT: Robert C. Gillette (Comment Procedures), Economic Regulatory Administration, Room 2222-A, 2000 M Street NW., Washington, D.C. 20461, (202) 254-5201. William L. Webb (Office of Public Information), Economic Regulatory Administration, Room B-110, 2000 M Street NW., Washington, D.C. 20461, (202) 634-2170.

Robert Reinstein (Office of Regulations & Emergency Planning), Economic Regulatory Administration, Room 8202, 2000 M Street NW., Washington, D.C. 20461, (202) 632-5042.

Roger Miller (Office of Regulations & Emergency Planning), Economic Regulatory Administration, Room 8202, 2000 M Street NW., Washington, D.C. 20461, (202) 634-7351.

Jack Kendall (Office of General Counsel), Department of Energy, Room 6A-127, 1000 Independence Avenue SW., Washington, D.C. 20585, (202) 252-6739.

Issued in Washington, D.C., August 22, 1979.

F. Scott Bush,

Assistant Administrator, Regulations and Emergency Planning, Economic Regulatory Administration.

[FR Doc. 79-26909 Filed 8-24-79; 12:42 pm]

BILLING CODE 6450-01-M

Notices

Federal Register

Vol. 44, No. 167

Monday, August 27, 1979

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Nez Perce National Forest Grazing Advisory Board; Meeting

The Nezperce National Forest Grazing Advisory Board will meet at 9:00 a.m., September 19, 1979, at Moore's Cabin near White Bird, Idaho. The purpose of this meeting will be a two day field trip via horseback into the Dome Hill allotment area to gain first-hand knowledge of the allotment management plan.

Public participation is welcome, however, participants will be responsible for their own transportation, subsistence and lodging. Persons who wish to participate should notify James J. Harvey, 319 East Main, Grangeville, Idaho; telephone 208-983-1950.

Don Biddison,

Forest Supervisor.

August 17, 1979.

[FR Doc. 79-26549 Filed 8-24-79; 8:45 am]

BILLING CODE 3410-11-M

Office of Transportation

Rural Transportation Advisory Task Force Meeting

AGENCY: Office of Transportation, U.S. Department of Agriculture.

ACTION: Notice of Public Hearing of the Rural Transportation Advisory Task Force.

DATES: September 5, 1979—9:00 a.m., September 6, 1979—9:00 a.m.

ADDRESS: September 5 and 6, 1979, Ramada Inn, Rosslyn, Virginia.

SUMMARY: At the completion of its work on January 1, 1980, the Task Force will report on methods for enhancing the economical and efficient movement of agricultural commodities (including forest products) and agricultural inputs and recommend approaches for

establishing a national agricultural transportation policy and for identifying impediments to a railroad transportation system adequate for the needs of agriculture. The Task Force formed three subcommittees on policy and essential transportation needs of agriculture; railroad problems of agriculture, and highway, waterway, and air transportation problems of agriculture. The Task Force published and distributed its interim report including the identification of critical agricultural transportation issues. The Task Force has held its 12 regional Public Hearings.

The purpose of this meeting is to prioritize and begin to formulate the process for the development of final recommendations. The meeting will be open to the public.

FOR FURTHER INFORMATION CONTACT: Dr. Robert J. Tosterud, Office of Transportation, U.S. Department of Agriculture, Washington, DC 20250. Phone: (202) 447-7690.

Dated: August 16, 1979.

Ron Schrader,

Director, Office of Transportation.

[FR Doc. 79-26605 Filed 8-24-79; 8:45 am]

BILLING CODE 3410-02-M

Soil Conservation Service

Five Creeks Watershed, Miss.; Intent Not To File an Environmental Impact Statement for Deauthorization of Federal Funding of the Five Creeks Watershed

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the deauthorization of Federal funding of the Five Creeks Watershed, Yazoo County, Mississippi.

The environmental assessment of this action indicates that deauthorization of Federal funding of the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Chester F. Bellard, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this action.

The project plan provided for accelerated technical assistance for application of land treatment measures, installation of seven floodwater retarding structures and 63.3 miles of channel improvement.

The notice of intent not to file an environmental impact statement has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Chester F. Bellard, State Conservationist, Soil Conservation Service, P.O. Box 610, Jackson, Mississippi 39205, telephone number 601-969-4335. An environmental impact appraisal has been prepared and sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the environmental impact appraisal are available to fill single copy requests at the above address.

No administrative action on implementation of the proposal will be taken on or before October 26, 1979.

Dated: August 20, 1979.

[Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program—Pub. L. 83-566, 16 U.S.C. 1001-1008.]

Victor H. Barry, Jr.,

Deputy Administrator for Programs, SCS.

[FR Doc. 79-26551 Filed 8-24-79; 8:45 am]

BILLING CODE 3410-16-M

Pine Valley Watershed, Oreg.; Intent Not To File an Environmental Impact Statement for Deauthorization of Federal Funding of the Pine Valley Watershed

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the deauthorization of Federal funding of the Pine Valley Watershed, Baker County, Oregon.

The environmental assessment of this action indicates that deauthorization of Federal funding of the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Guy W. Nutt, State Conservationist, has

determined that the preparation and review of an environmental impact statement are not needed for this action.

The project plan provided for accelerated technical assistance for application of land treatment measures, installation of a multiple purpose reservoir, and 4.45 miles of irrigation delivery system improvement.

The notice of intent not to file an environmental impact statement has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Guy W. Nutt, State Conservationist, Soil Conservation Service, 1220 S.W. Third Avenue, Portland, Oregon 97204, telephone number 503-221-2751. An environmental impact appraisal has been prepared and sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the environmental impact appraisal are available to fill single copy requests at the above address.

No administrative action on implementation of the proposal will be taken on or before October 26, 1979.

Dated: August 20, 1979.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program—Pub. L. 83-566, 16 U.S.C. 1001-1008.)

Victor H. Barry, Jr.,

Deputy Administrator for Programs, SCS.

[FR Doc. 79-26550 Filed 8-24-79; 8:45 am]

BILLING CODE 3410-16-M

Spring Brook Watershed, Wis.; Intent Not To File an Environmental Impact Statement for Deauthorization of Federal Funding of the Spring Brook Watershed

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the deauthorization of Federal funding of the Spring Brook Watershed, Langlade and Marathon Counties, Wisconsin.

The environmental assessment of this action indicates that deauthorization of Federal funding of the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. J. C. Hytry, State Conservationist, has determined that the preparation and review of an

environmental impact statement are not needed for this action.

The project being deauthorized concerns a plan for watershed protection, flood prevention, and enhancement of fish and wildlife resources. The planned works of improvement include one single-purpose floodwater retarding structure, 1,340 feet of dike, one lake outlet structure, and 10,430 feet of channel improvement.

The notice of intent not to file an environmental impact statement has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. J. C. Hytry, State Conservationist, Soil Conservation Service, 4601 Hammersley Road, Madison, Wisconsin 53711, telephone number 608-252-5351. An environmental impact appraisal has been prepared and sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the environmental impact appraisal are available to fill single copy requests at the above address.

No administrative action on implementation of the proposal will be taken on or before October 26, 1979.

Dated: August 17, 1979.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program—Pub. L. 83-566, 16 U.S.C. 1001-1008.)

Victor H. Barry, Jr.,

Deputy Administrator for Programs, SCS.

[FR Doc. 79-26552 Filed 8-24-79; 8:45 am]

BILLING CODE 3410-16-M

CIVIL AERONAUTICS BOARD

[Docket Nos. 36419, etc.; Order 79-8-103]

Alaska Airlines, Inc.; Order Instituting Investigation

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 20th day of August 1979.

Route D.1 of the Air Transport Services Agreement between the United States and Canada, May 8, 1974, provides for the designation of a U.S. airline or airlines to operate over the Houston/Dallas/Ft. Worth-Calgary/Edmonton-Anchorage/Fairbanks route.¹

Existing service in the Texas-Alberta markets is provided through two interchange agreements, one between Braniff and Western, the other between

¹ Under the Agreement, only one U.S.-flag designation may be made for this route unless the Government of Canada gives prior approval for an additional designation. No Canadian-flag carrier may be designated.

Western and Continental.² Through these interchanges, the Dallas/Ft. Worth-Calgary and Houston-Calgary markets receive daily round-trip one-stop service; and Dallas/Ft. Worth-Edmonton receives daily round-trip two-stop service. Houston-Edmonton, however, currently receives no single-plane service.³ Service between Texas and Alaska is also provided pursuant to interchange agreements.⁴

Alberta-Alaska service is extremely limited. No direct or connecting service exists between Anchorage or Fairbanks and Calgary. Edmonton-Fairbanks/Anchorage has connecting service, but only in one direction, and the first leg involves a four-stop flight from Edmonton to Whitehorse, Yukon Territories, on CP Air.

We have received applications from three carriers, Alaska Airlines (Docket 30705), Texas International Airlines (Docket 31178), and Braniff Airways (Docket 31599), to provide direct Texas-Alberta-Alaska service. All three carriers seek Houston and Dallas/Ft. Worth as coterminals and Calgary and Edmonton as intermediates. Braniff and TXI request Fairbanks and Anchorage as coterminals. Alaska Airlines seeks only Anchorage. No applicant has presented a service proposal.

No answers have been received to the applications.

On June 22, 1977, the Calgary Transportation Authority and the Edmonton Area Air Services Commission ("the Canadian parties") jointly petitioned for an investigation to determine whether the public convenience and necessity required the certification of a U.S.-flag carrier to serve the Texas-Alberta-Alaska route (Docket 31036). The petition was joined to a motion for hearing. On September 15, 1977, we denied the Canadian parties' motion and petition.⁵ We felt that a hearing should not be held at that time considering the other more pressing matters pending at the Board.⁶ We did not dismiss the carrier applications.

² The Braniff/Western and Continental/Western interchanges authorize single-plane service (limited to one daily round-trip) between Calgary/Edmonton-Dallas/Ft. Worth and Calgary/Edmonton-Houston respectively, via Denver. Orders 78-3-75 and 78-4-162.

³ OAG, North American Edition, August 1, 1979.

⁴ An agreement between Alaska Airlines and Braniff provides for daily Dallas/Ft. Worth/Houston-Fairbanks/Anchorage service via Seattle. An agreement between Continental and Western provides for daily Dallas/Ft. Worth/Houston-Anchorage service, also via Seattle. Both agreements were approved by the Board in Order 74-4-105, April 19, 1974.

⁵ Order 77-8-48, September 15, 1977.

⁶ This conclusion was reaffirmed on reconsideration, Order 77-11-107, November 22, 1977.

though, anticipating that a time would come when we could justifiably give them our attention. That time is now. We either have completed or are in the process of completing our work on nearly all the route opportunities opened up by the 1974 United States-Canada bilateral. The Texas-Alberta-Alaska route remains for our consideration.

Therefore, we have determined to institute a *Texas-Alberta-Alaska Case* to consider the need for certificated U.S.-flag service over the U.S.-Canada bilateral route D.1 described above, and which, if any, U.S. carrier or carriers should be selected to meet this need.

As is our usual policy in cases where carrier selection is at issue,⁷ we will take into account the offer of or failure to offer lower prices in determining whether the public convenience and necessity require the award of certificate authority, and, if so, which carrier or carriers should be selected. We therefore expect this proceeding to include an examination of the need for and feasibility of various price/quality options in addition to traditional service benefits. We also want to register our continuing concern with competitive performance in international markets where there are limitations on our ability to designate new competitors. In limited designation situations, we wish to devise regulatory approaches to create competitive incentives resembling those that exist where our designation powers are not limited. We expect the parties and the judge to explore what those approaches may be. (Examples might include temporary certification, experimental certification, see section 401(d)(8) of the Act, as amended; price or service conditions; back-up awards and other possibilities.) We are especially anxious to come up with fair and effective ways to maximize the continuing incentives of the chosen carrier to perform efficiently and offer the optimal combination of price and service options to consumers. We also want to explore ways to replace a chosen carrier which does not perform in that manner. Those parties not familiar with the Board's practice should be aware that we desire to reduce the delay and costs of the evidentiary burden associated with traditional carrier selection cases. We invite parties to explore with the judge ways to reduce the quantity of required exhibit material, eliminate duplication and excessive detail, standardize methodology, and focus on significant facts and assumptions. Resolution of these matters will, of course, remain with the administrative law judge.

⁷ Order 79-1-160, January 24, 1979.

Application for an All-Cargo Air Service Certificate

August 21, 1979.

In accordance with Part 291 (14 CFR Part 291) of the Board's Economic Regulations (effective November 8, 1978), notice is hereby given that the Civil Aeronautics Board has received an application, Docket 36254, from United Parcel Service Co., 51 Weaver Street, Greenwich Office Park #5, Greenwich, Connecticut 06830 for an all-cargo air service certificate to provide domestic cargo transportation.

Under the provisions of § 291.12(c) of Part 291, interested persons may file an answer in opposition to this application on or before September 17, 1979. An executed original and six copies of such answer shall be addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. It shall set forth in detail the reasons for the position taken and must relate to the fitness, willingness, or ability of the applicant to provide all-cargo air service or to comply with the Act or the Board's orders and regulations. The answer shall be served upon the applicant and state the date of such service.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 79-26588 Filed 8-24-79; 8:45 am]

BILLING CODE 6320-01-M

[Docket No. 35834; Order 79-8-105]

Colibri Aviation Reg'd. Order To Show Cause

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order to Show Cause: ORDER 79-8-105.

SUMMARY: The Board proposes to approve the following application:
Applicant: Colibri Aviation Reg'd.
Application Date: June 14, 1979 (Docket: 35834).

Authority Sought: Foreign air carrier permit authorizing small aircraft charters between points in Canada and points in the United States.

OBJECTIONS: All interested persons having objections to the Board's tentative findings and conclusions that this authority should be granted, as described in the order cited above, shall, no later than September 13, 1979, file a statement of such objections with the Civil Aeronautics Board (20 copies) and mail copies to the applicant, the Department of Transportation, the Department of State, and the Ambassador of Canada in Washington, D.C. A statement of objections must cite the docket number and must include a

Applications, motions to consolidate, and petition for reconsideration of this order shall be filed within 20 days of the date of service of this order, and responsive answers shall be filed within 10 days thereafter.

Accordingly, 1. We institute the *Texas-Alberta-Alaska Case*, Docket 36419, and set it for hearing before an administrative law judge of the Board at a time and place to be designated after any petitions for reconsideration have been acted upon by the Board;

2. This proceeding shall consider whether the public convenience and necessity require certification of a U.S. air carrier or carriers to engage in foreign air transportation of persons, property and mail, on a subsidy-ineligible basis, between the coterminal points Houston/Dallas/Ft. Worth, Texas, the intermediate points Calgary/Edmonton, Alberta, Canada, and the coterminal points Anchorage/Fairbanks, Alaska and, if so, which carrier or carriers should be authorized to provide the service; and what, if any, terms, conditions, or limitations should be placed on the operation of the carrier or carriers;

3. We consolidate the certificate applications of Alaska Airlines in Docket 30750, Texas International Airlines in Docket 31178 and Braniff Airways in Docket 31599 into this proceeding;

4. We make the following persons parties to this proceeding: Alaska Airlines, Texas International Airlines, Braniff Airways, Western Airlines, Continental Airlines, the Calgary Transportation Authority, and the Edmonton Area Services Commission;

5. Applications, motions to consolidate conforming to the scope of this proceeding and petitions for reconsideration of this order shall be filed no later than September 10, 1979, and answers shall be filed no later than September 20, 1979; and

6. All applicants that have not done so shall file environmental evaluations within 30 days of the date of service of this order.

This order shall be published in the Federal Register.

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 79-26591 Filed 8-24-79; 8:45 am]

BILLING CODE 6320-01-M

⁸ All members concurred.

summary of testimony, statistical data, or other such supporting evidence.

If no objections are filed, the Secretary of the Board will enter an order which will, subject to disapproval by the President, make final the Board's tentative findings and conclusions and issue the proposed permit or certificate.

ADDRESSES FOR OBJECTIONS:

Docket 35834, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428.

Mr. Jacques Corbeil, Owner, Colibri Aviation Reg'd, P.O. Box 215, Dorval Airport, Dorval, Quebec, Canada H4Y 1A5.

To get a copy of the complete order, request it from the C.A.B. Distribution Section, Room 516, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Persons outside the Washington metropolitan area may send a postcard request.

FOR FURTHER INFORMATION CONTACT:

Nancy L. Pitzer, Regulatory Affairs Division, Bureau of International Aviation, Civil Aeronautics Board—202-673-5104.

By the Civil Aeronautics Board.
Phyllis T. Kaylor,
Secretary.

[FR Doc. 79-26590 Filed 8-24-79; 8:45 am]
BILLING CODE 6320-01-M

[Order 79-8-106; Docket 34765]

Cougar Air, Inc.

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order to Show Cause: ORDER 79-8-106.

SUMMARY: The Board proposes to approve the following application:

Applicant: Cougar Air Incorporated.
Application Date: February 15, 1979 (Docket 34765).

Authority Sought: Small aircraft charter permit to operate between the United States and Canada.

OBJECTIONS: All interested persons having objections to the Board's tentative findings and conclusions that this authority should be granted, as described in the order cited above, shall, no later than September 13, 1979, file a statement of such objections with the Civil Aeronautics Board (20 copies) and mail copies to the applicant, the Department of Transportation, the Department of State, and the Ambassador of Canada in Washington, D.C. A statement of objections must cite the docket number and must include a summary of testimony, statistical data, or other such supporting evidence.

If no objections are filed, the Secretary of the Board will enter an order which will, subject to disapproval

by the President, make final the Board's tentative findings and conclusions and issue the proposed permit or certificate.

ADDRESSES FOR OBJECTIONS:

Docket 34765, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428.

Cougar Air Incorporated, P.O. Box 2385, Sidney, British Columbia, Canada V8L 3Y3.

To get a copy of the complete order, request it from the C.A.B. Distribution Section, Room 516, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Persons outside the Washington metropolitan area may send a postcard request.

FOR FURTHER INFORMATION CONTACT:

C. Robert Mallalieu, Bureau of International Aviation, Civil Aeronautics Board; (202) 673-5407.

By the Civil Aeronautics Board.

Phyllis T. Kaylor,
Secretary.

[FR Doc. 79-26589 Filed 8-24-79; 8:45 am]
BILLING CODE 6320-01-M

[Order 79-8-104; Docket 35385]

Polskie Linie Lotnicze

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order to Show Cause: ORDER 79-8-104.

SUMMARY: The Board proposes to approve the following application:

Applicant: Polskie Linie Lotnicze (LOT).

Application Date: April 20, 1979 (Docket 35385).

Authority Sought: Amendment of Polskie Linie Lotnicze (LOT) foreign air carrier permit to lift frequency restrictions and to conform to U.S.-Poland Exchange of Notes, Jan. 31, 1979.

OBJECTIONS: All interested persons having objections to the Board's tentative findings and conclusions that this authority should be granted, as described in the order cited above, shall, no later than September 12, 1979, file a statement of such objections with the Civil Aeronautics Board (20 copies) and mail copies to the applicant, the Department of Transportation, the Department of State, and the Ambassador of Poland in Washington, D.C. A statement of objections must cite the docket number and must include a summary of testimony, statistical data, or other such supporting evidence.

If no objections are filed, the Secretary of the Board will enter an order which will, subject to disapproval by the President, make final the Board's tentative findings and conclusions and issue the proposed permit or certificate.

ADDRESSES FOR OBJECTIONS:

Docket 35385, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428.

Applicant: Polskie Linie Lotnicze, c/o Robert R. Gray, Hale, Russell, Gray, Seaman & Birkett, 1025 Connecticut Avenue, N.W., Washington, D.C. 20036.

To get a copy of the complete order, request it from the C.A.B. Distribution Section, Room 516, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Persons outside the Washington metropolitan area may send a postcard request.

FOR FURTHER INFORMATION CONTACT:

Bureau of International Aviation, Civil Aeronautics Board; (202) 673-5880.

By the Civil Aeronautics Board: August 20, 1979.

Phyllis T. Kaylor,
Secretary.

[FR Doc. 79-26587 Filed 8-24-79; 8:45 am]
BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

Industry and Trade Administration

Foreign Availability Subcommittees of the Computer Systems Technical Advisory Committee and Computer Peripherals, Component and Related Test Equipment Technical Advisory Committee; Partially Closed Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, as amended, 5 U.S.C. App. (1976), notice is hereby given that a meeting of the Foreign Availability Subcommittees of the Computer Systems Technical Advisory Committee and the Computer Peripherals, Components and Related Test Equipment Technical Advisory Committee will be held on Tuesday, September 11, 1979, at 9:00 a.m. in Room 3817, Main Commerce Building, 14th Street and Constitution Avenue, N.W., Washington, D.C.

The Computer Systems Technical Advisory Committee and the Computer Peripherals, Components and Related Test Equipment Technical Advisory Committee were initially established on January 3, 1973. On December 20, 1974, January 13, 1977, and August 28, 1978, the Assistant Secretary for Administration approved the recharter and extension of the Committees, pursuant to Section 5 (c)(1) of the Export Administration Act of 1969, as amended, 50 U.S.C. App. Sec. 2404(c)(1) and the Federal Advisory Committee Act. The Foreign Availability Subcommittee of the Computer Systems Technical Advisory Committee was established on July 8, 1975. On October 16, 1978, the

Assistant Secretary for Industry and Trade approved the continuation of the Subcommittee pursuant to the charter of the Committee. The Foreign Availability Subcommittee of the Computer Peripherals, Components and Related Test Equipment Technical Advisory Committee was established on December 21, 1978, by the Assistant Secretary for Industry and Trade pursuant to the charter of the Committee.

The Committees, where they have expertise in such matters, advise the Office of Export Administration, Bureau of Trade Regulation, with respect to questions involving (A) technical matters, (B) worldwide availability and actual utilization of production technology, (C) licensing procedures which may affect the level of export controls applicable to computer systems, peripherals, components and related test equipment, including technical data or other information related thereto, and (D) exports of the aforementioned commodities and technical data subject to multilateral controls in which the United States participates including proposed revisions of any such multilateral controls. The Foreign Availability Subcommittees were formed to ascertain if certain kinds of equipment are available in non-COCOM and Communist countries, and if such equipment is available, then to ascertain if it is technically the same or similar to that available elsewhere.

The joint Subcommittee meeting agenda has five parts:

General Session

1. Opening remarks by the Subcommittee Chairman.
2. Presentation of papers or comments by the public.
3. Continuation of review of recent material on COMECON computer technology.
4. New business.

Executive Session

5. Discussion of matters properly classified under Executive Order 11652 or 12065, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The General Session of the meeting will be open to the public, at which a limited number of seats will be available. To the extent time permits members of the public may present oral statements to the Subcommittees. Written statements may be presented at any time before or after the meeting.

The Assistant Secretary of Commerce for Administration, with the concurrence of the delegate of the General Counsel, has formally determined, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended by Section 5(c) of the Government in the Sunshine

Act, Pub. L. 94-409, that the matters to be discussed by each of the aforementioned Subcommittees in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1). Such matters are specifically authorized under criteria established by an Executive Order to be kept secret in the interest of national defense of foreign policy. All materials to be reviewed and discussed by the Subcommittees during the Executive Session of the joint meeting have been properly classified under Executive Order 11652 or 12065. All Subcommittee members have appropriate security clearances.

Copies of the minutes of the General Session will be available by calling Mrs. Margaret Cornejo, Policy Planning Division, Office of Export Administration, U.S. Department of Commerce, Washington, D.C. 20230, phone 202-377-2583.

For further information contact Mrs. Cornejo either in writing or by phone at the address or number shown above.

Following are the dates of approval of the Notices of Determination to close portions of the series of meetings of the Technical Advisory Committees involved in this joint meeting, and of any subcommittees thereof, the dates the full texts of the Notices of Determination were published in the Federal Register and the Federal Register citations

Date Approved and Date Published

Computer Systems Technical Advisory Committee, September 8, 1978, September 14, 1978 (43 FR 41073).
Computer Peripherals, Components and Related Test Equipment Technical Advisory Committee, September 8, 1978, September 14, 1978 (43 FR 41071)

Dated: August 22, 1979.

Kent N. Knowles,

Director, Office of Export Administration,
Bureau of Trade Regulation, U.S. Department of Commerce.

[FR Doc. 79-26613 Filed 8-24-79; 8:45 am]

BILLING CODE 3510-25-M

Semiconductor Technical Advisory Committee; Partially Closed Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, as amended, 5 U.S.C. App. 10(a)(2) (1976), notice is hereby given that a meeting of the Semiconductor Technical Advisory Committee will be held on Tuesday, September 18, 1979, at 9:30 a.m. in Room

B841, Main Commerce Building, 14th Street and Constitution Avenue, N.W., Washington, D.C. The meeting will continue, to its conclusion, on September 19, in Room 6802, Main Commerce Building.

The Semiconductor Technical Advisory Committee was initially established on January 3, 1973. On December 20, 1974, January 13, 1977, and August 28, 1978, the Assistant Secretary for Administration approved the recharter and extension of the Committee, pursuant to section 5(c)(1) of the Export Administration Act of 1969, as amended, 50 U.S.C. App. Sec. 2404(c)(1) and the Federal Advisory Committee Act.

The Committee advises the Office of Export Administration with respect to questions involving (A) technical matters, (B) worldwide availability and actual utilization of production technology, (C) licensing procedures which affect the level of export controls applicable to semiconductor products, including technical data or other information related thereto, and (D) exports of the aforementioned commodities and technical data subject to multilateral controls in which the United States participates including proposed revisions of any such multilateral controls.

The Committee meeting agenda had four parts:

General Session

1. Opening remarks by the Chairman.
2. Presentation of papers or comments by the public.
3. Committee program planning for 1979-80.

Executive Session

4. Discussion of matters properly classified under Executive Order 11652 or 12065, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The General Session of the meeting is open to the public, at which a limited number of seats will be available. To the extent time permits members of the public may present oral statements to the Committee. Written statements may be presented at any time before or after the meeting.

With respect to agenda item (4), the Assistant Secretary of Commerce for Administration, with the concurrence of the delegate of the General Counsel, formally determined on September 8, 1978, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended by Section 5(c) of the Government in the Sunshine Act, Pub. L. 94-409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public

participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1). Such matters are specifically authorized under criteria established by an Executive Order to be kept secret in the interests of the national defense or foreign policy. All materials to be reviewed and discussed by the Committee during the Executive Session of the meeting have been properly classified under Executive Order 11652 and 12065. All Committee members have appropriate security clearances.

The complete Notice of Determination to close meetings or portions thereof of the series of meetings of the Semiconductor Technical Advisory Committee and of any subcommittees thereof, was published in the Federal Register on December 21, 1978 (43 FR 59537).

Copies of the minutes of the open portion of the meeting can be obtained by calling Mrs. Margaret Cornejo, Policy Planning Division, Office of Export Administration, Industry and Trade Administration, Room 1617M, U.S. Department of Commerce, Washington, D.C. 20230, telephone 202-377-2583.

For further information contact Mrs. Cornejo either in writing or by phone at the address or number shown above.

Dated: August 22, 1979.

Kent Knowles,

Director, Office of Export Administration, Bureau of Trade Regulation, U.S. Department of Commerce.

[FR Doc. 79-26614 Filed 8-24-79; 8:45 am]

BILLING CODE 3510-25-M

National Bureau of Standards

Operational Specifications for Rotating Mass Storage Subsystems; Issuance of Federal Information Processing Standard

On January 23, 1979, notice was given in the Federal Register (44 FR 4750-4751) that a standard for Operational Specifications for Rotating Mass Storage Subsystems was being proposed for Federal use. Interested parties were invited to submit written comments concerning this proposed standard to the National Bureau of Standards.

The written comments submitted by interested parties and other material available to the Department relevant to this standard have been reviewed. This examination, study, and review has resulted in a detailed analysis. On the basis of this analysis, together with the analyses completed as a part of the processing of three I/O channel level interface standards, Federal Information Processing Standards Publication (FIPS

PUB) 60, 61, and 62 announced as approved standards in the Federal Register on February 16, 1979 (44 FR 10098-10101), and pursuant to the authority vested in the Secretary of Commerce (Secretary) under Pub. L. 89-306 (79 Stat. 1127; 40 U.S.C. 759(f)) and Executive Order 11717 (38 FR 12315, dated May 11, 1973), the Secretary has approved this Federal Information Processing Standard and has approved the publication of this notice announcing her approval of the standard.

A copy of the evaluation documents on which the Secretary's approval of this standard was based, including copies of the written comments received and their analysis together with comments submitted and analyses completed as a part of the processing of FIPS PUB's 60, 61, and 62, are available for inspection and copying in the Central Reference and Records Inspection Facility, Room 5317, Department of Commerce Building, 14th Street between Constitution Avenue and E Street N.W., Washington, D.C. 20230. This facility is open to the public Monday through Friday between the hours of 9:00 a.m. and 4:30 p.m. See § 4.4(c) of Title 15 of the Code of Federal Regulations for more details regarding the operation of this facility.

This standard defines the peripheral device dependent interface specifications for use of rotating mass storage subsystems, including magnetic disk equipment, connected as a part of automatic data processing (ADP) systems through interfaces that are also in conformance with FIPS PUB 60, I/O Channel Interface, and FIPS PUB 61, Channel Level Power Control Interface. These standards together will enable Federal agencies to procure rotating mass storage computer peripheral equipment competitively with regard to cost and performance and to be assured that the resulting interconnected equipment will perform correctly as a part of Federal ADP systems. Such competition will be made possible in the procurement of this computer peripheral equipment at the time of initial ADP system acquisition, when systems are being augmented, and when system components are being replaced.

This approved Federal Information Processing Standard contains two basic sections: (1) an announcement section which provides information concerning the applicability and implementation of the standard, and (2) a technical specifications section which defines the technical parameters of the standard. Only the announcement section of this standard is provided in this notice.

Interested parties may purchase either paper or microfiche copies of this

standard, including the technical specifications section, from the National Technical Information Service (NTIS). Specific ordering information from NTIS for these standards is set out below in the *Where to Obtain Copies* portion of the announcement section of the standard.

Persons desiring any further information about this standard may contact Mr. Thomas N. Pyke, Jr., Director, Center for Computer Systems Engineering, Institute for Computer Sciences and Technology, National Bureau of Standards, Washington, D.C. 20234, (301) 921-3438.

Dated: August 22, 1979.

Ernest Ambler,
Director.

Federal Information Processing Standards Publication 63

Operational Specifications for Rotating Mass Storage Subsystems

Federal Information Processing Standards Publications are issued by the National Bureau of Standards pursuant to the Federal Property and Administrative Services Act of 1949, as amended, Pub. L. 89-306 (79 Stat. 1127), Executive Order 11717 (38 FR 12315, dated May 11, 1973) and Part 6 of Title 15 Code of Federal Regulations (CFR).

Name of Standard. Operational Specifications for Rotating Mass Storage Subsystems (FIPS PUB 63).

Category of Standard. Hardware Standard, Interface.

Explanation. This standard defines the peripheral device dependent operational interface specifications for connecting rotating mass storage equipment as a part of automatic data processing (ADP) systems. It is to be used together with FIPS PUB 60, I/O Channel Interface and FIPS PUB 61, Channel Level Power Control Interface. This standard, together with these two referenced standards, provides for full plug-to-plug interchangeability of rotating mass storage equipment as a part of ADP systems.

The Government's intent in employing this standard for Operational Specifications for Rotating Mass Storage Subsystems is to reduce the cost of satisfying its data processing requirements through increasing its available alternative sources of supply for computer system components at the time of initial system acquisition, as well as in system replacement augmentation and in system component replacement. This standard is also expected to lead to improved reutilization of system components.

When acquiring ADP systems and system components, Federal agencies

shall cite this standard in specifying the interface for connecting rotating mass storage peripheral equipment as a part of ADP systems.

Approving Authority. Secretary of Commerce.

Maintenance Agency. Department of Commerce, National Bureau of Standards (Institute for Computer Sciences and Technology).

Cross Index: American National Standards Institute document X3T9/848, Rev. 2, Draft Proposed Operational Specifications for Rotating Mass Storage Subsystems. This operational specification is in turn supplemented by three draft proposed American National Standards, each of which provides supplemental track format definition and specifies the sense information format and content for a particular class of rotating mass storage devices: 1) American National Standards Institute document X3T9/904 Rev. 1, Draft Proposed American National Standard Class A Rotating Mass Storage Device Specification, 2) American National Standards Institute document X3T9/905 Rev. 1, Draft Proposed American National Standard Class B Rotating Mass Storage Device Specification, and 3) American National Standards Institute document X3T9/906 Rev. 1, Draft Proposed American National Standard Class C Rotating Mass Storage Specification.

Applicability. This standard is applicable to the acquisition of all rotating mass storage equipment whenever the use of Federal Information Processing Standard I/O Channel Interface (NBS-FIPS-PUB 60) is required.

Verification of the correct operation of all interfaces that are required to conform to this standard shall, through demonstration or other means acceptable to the Government, be provided prior to the acceptance of all applicable ADP equipment.

Specifications. This standard incorporates by reference the technical specifications of the following ANSI documents: X3T9/904 Rev. 1, X3T9/905 Rev. 1, and X3T9/906 Rev. 1, and X3T9/848 Rev. 2 except for:

1. Page 6. Change paragraph numbered 1.4.4 to 1.4.3.
2. Page 20, paragraph 2.1, last sentence. Add to the beginning of that sentence—"Attempts to execute . . .".
3. Page 21a, Table 3, Diagnostic Optional Extensions, column entitled "Multitrack off Binary." Enter the following four binary values:

0101	0011
0111	0011
0100	0100
1000	0010

Copies of the technical specifications section of the standard will be available from the National Technical Information Service as described in the *Where to Obtain Copies* section below.

Implementation. The provisions of this standard are effective June 23, 1979. All applicable equipment ordered on or after the effective date, or procurement actions for which solicitation documents have not been issued by that date, must conform to the provisions of this standard unless a waiver has been granted in accordance with the procedure described elsewhere in this publication.

Regulations concerning the specific use of this standard in Federal procurement will be issued by the General Services Administration to be a part of the Federal Property Management Regulations.

This standard shall be reviewed by NBS within three years after its effective date, taking into account technological trends and other factors, to determine whether the standard should be affirmed, revised, or withdrawn.

Waivers. Heads of agencies desiring a waiver from the requirements stated in this publication, so as to acquire ADP equipment that does not conform to this standard, shall submit a request for such a waiver to the Secretary of Commerce for review and approval. Approval will be granted if, in the judgment of the Secretary based on all available information, including that provided in the waiver request, a major adverse economic or operational impact would occur through conformance with this standard.

A request for waiver shall include: (1) a description of the existing or planned ADP system for which the waiver is being requested, (2) a description of the system configuration, identifying those items for which the waiver is being requested, and including a description of planned expansion of the system configuration at any time during its life cycle, and (3) a justification for the waiver, including a description and discussion of the major adverse economic or operational impact that would result through conformance to this standard as compared to the alternative for which the waiver is requested.

The request for waiver shall be submitted to the Secretary of Commerce, Washington, D.C. 20230, and labeled as a Request for Waiver to a Federal Information Processing Standard. Waiver requests will normally be processed within 45 days of receipt by the Secretary. No action shall be taken to issue solicitation documents or to order equipment for which this standard

is applicable and which does not conform to this standard prior to receipt of a waiver approval response from the Secretary.

Where to Obtain Copies. Either paper or microfiche copies of this Federal Information Processing Standard, including the technical specifications, may be purchased from the National Technical Information Service (NTIS) by ordering Federal Information Processing Standards Publication 63 (NBS-FIPS-PUB-63), Operational Specifications for Rotating Mass Storage Subsystems. Ordering information, including prices and delivery alternatives, may be obtained by contacting the National Technical Information Service (NTIS), U.S. Department of Commerce, Springfield, Virginia 22161, Telephone: (703) 557-4630.

[FR Doc. 79-26517 Filed 8-23-79; 8:48 am]

BILLING CODE 3510-13-M

I/O Channel Level Interface Standard; Revision of Federal Information Processing Standard

On February 16, 1979, notice was given in the Federal Register (44 FR 10098-10101) that the Secretary of Commerce had approved three Federal Information Processing Standards: (1) I/O Channel Interface Standard, (2) Channel Level Power Control Interface, and (3) Operational Specifications for Magnetic Tape Subsystems, designated FIPS Publications (PUB) 60, FIPS PUB 61, and FIPS PUB 62, respectively.

Federal Information Processing Standards Publication 63 (FIPS PUB 63), Operational Specifications for Rotating Mass Storage Subsystems, has been approved by the Secretary with an effective date of June 23, 1979. That standard defines the peripheral device dependent interface specifications for use of rotating mass storage subsystems, including magnetic disk storage equipment, connected as a part of Federal ADP systems. That standard is to be used with FIPS PUB 60, and FIPS PUB 61 to provide for full plug-to-plug interchangeability of rotating mass storage subsystems. In order to assure the orderly and consistent conformance with these standards by Federal agencies and ADP equipment suppliers, FIPS PUB 60, I/O Channel Interface, should be revised so that its effective date for application to rotating mass storage subsystems is the same as the effective date of FIPS PUB 63. It should be noted that FIPS PUB 61 is applicable whenever use of FIPS PUB 60 is required.

Accordingly, and pursuant to the authority vested in the Secretary of

Commerce (Secretary) under Pub. L. 89-306 (79 Stat. 1127; 40 U.S.C. 759(f)) and Executive Order 11717 (38 FR 12315, dated May 11, 1973), the Secretary has approved a revision of FIPS PUB 60, I/O Channel Interface, that replaces the first sentence of the "Implementation" section of that standard which reads "The provisions of this standard are effective December 13, 1979," so that it now reads "The provisions of this standard are effective December 13, 1979, except for the provisions of the third paragraph of the section labeled "Applicability" as they apply to rotating mass storage subsystems, including magnetic disk storage equipment, such provisions being effective on June 23, 1979."

Persons desiring any further information about this revision may contact Mr. Thomas N. Pyke, Jr., Director, Center for Computer Systems Engineering, Institute for Computer Sciences and Technology, National Bureau of Standards, Washington, D.C. 20234, (301) 921-3436.

Dated: August 22, 1979.

Ernest Ambler,
Director.

[FR Doc. 79-26518 Filed 8-23-79; 8:49 am]

BILLING CODE 3510-13-M

National Oceanic and Atmospheric Administration

Caribbean Fishery Management Council and Scientific and Statistical Committee and Advisory Panel; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The Caribbean Fishery Management Council was established by Section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265) and the Council has established a Scientific and Statistical Committee (SSC) and an Advisory Panel (AP) which will meet concurrently and jointly.

DATES: The Council meeting will convene at 8:30 a.m. on Tuesday, September 18, 1979, and will adjourn at approximately 12 noon on Wednesday, September 19, 1979. The SSC meeting will convene at 8:30 a.m. on Monday, September 17, 1979, and will adjourn at approximately 5 p.m. on Tuesday, September 18, 1979. The AP meeting will convene at 1:30 p.m. on Monday, September 17, 1979, and will adjourn at approximately 5 p.m. on Tuesday, September 18, 1979. The Council, SSC, and AP will meet jointly on the afternoon of Tuesday, September 18, 1979. If deemed necessary by the

participants, a joint SSC and AP meeting will be held in the morning session of their Tuesday, September 18, 1979, meeting. The meetings are open to the public. Meeting Agendas follow:

Advisory Panel

The AP will consider (1) the Second Working Draft Fishery Management Plan (FMP) for Shallow-Water Reef Fishes; and (2) the development of a new FMP for Deep-Water Reef Fishes.

Scientific and Statistical Committee

The SSC will consider (1) Biological and socioeconomic research needs in the Council's area of jurisdiction; and (2) National Marine Fisheries Service (NMFS) Proposed Guidelines for Optimum Yield (OY) Determination, in addition to the agenda items to be considered by the AP.

Council

The Council will consider (1) Status Reports on FMP Development and related issues; (2) Administrative matters, and (3) Other Council business, in addition to the agenda items listed under the SSC and AP meetings.

FOR FURTHER INFORMATION CONTACT: Caribbean Fishery Management Council, Suite 1108, Banco de Ponce Building, Hato Rey, Puerto Rico 00918. Telephone: (809) 753-4926.

Dated: August 22, 1979.

Winfred H. Meibohm,
Executive Director, National Marine Fisheries Service.

[FR Doc. 79-26617 Filed 8-24-79; 8:45 am]

BILLING CODE 3510-22-M

Pacific Fishery Management Council, and Scientific and Statistical Committee; Amended Meeting Notice

AGENCY: National Marine Fisheries Service, NOAA

SUMMARY: The Pacific Fishery Management Council was established by Section 302 of the Fishery Conservation and Management Act of 1976 (Public Law 94-265) and the Council has established a Scientific and Statistical Committee (SSC) to assist in carrying out its responsibilities. The Council has changed its meeting times and the SSC has cancelled its meeting (FR Vol. 44, No. 154, dated August 8, 1979).

DATES: The Council will now meet for closed session from 6 p.m. to 8 p.m. on Thursday, September 13, 1979, and reconvene in open session from 8 a.m. to 5 p.m. on Friday, September 14, 1979. A public comment period will be held at 1 p.m. on Friday, September 14, 1979.

ADDRESS: The meeting will take place at the Cosmopolitan Motor Hotel, 1030 N.E. Union, Portland, Oregon.

FOR FURTHER INFORMATION CONTACT: Pacific Fishery Management Council 526 S. W. Mill Street, Second Floor, Portland, Oregon 97201. Telephone: (503) 221-6352.

Dated: August 22, 1979.

Winfred H. Meibohm,
Executive Director, National Marine Fisheries Service.

[FR Doc. 79-26546 Filed 8-24-79; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1979; Proposed Addition

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed addition to procurement list.

SUMMARY: The Committee has received a proposal to add to Procurement List 1979 commodities to be produced by workshops for the blind and other severely handicapped.

Comments must be received on or before September 26, 1979.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Virginia 22201.

FOR FURTHER INFORMATION CONTACT: C. W. Fletcher, (703) 557-1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2), 85 Stat. 77.

If the Committee approves the proposed addition, all entities of the Federal Government will be required to procure the commodities listed below from workshops for the blind or other severely handicapped.

It is proposed to add the following commodities to Procurement List 1979, November 15, 1978 (43 FR 53151):

Class 7530

Pad, Writing, Paper

7530-00-286-6173 (GSA Regions 1, 4, 5, 7)

7530-00-285-3083 (GSA Regions 3, 4)

7530-00-239-8479 (GSA Regions 3, 9, 10)

7530-00-285-3088 (GSA Regions 9, 10)

C. W. Fletcher,

Executive Director.

[FR Doc. 79-26585 Filed 8-24-79; 8:45 am]

BILLING CODE 6820-33-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Privacy Act of 1974; Notice of System of Records: Corrections

Corrections

In FR Doc. 79-20389, appearing at page 38967, in the issue for Tuesday, July 3, 1979, make the following corrections:

On pages 38970 and 38980, in the system identification, delete "DIO&R 01", and insert: "DWHS IO&R01".

H. E. Lofdahl,

Director, Correspondence and Directives,
Washington Headquarters Services,
Department of Defense.

August 22, 1979.

[FR Doc. 79-26595 Filed 8-24-79; 8:45 am]

BILLING CODE 3810-70-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

Intent To Publish Names of Potential Sellers of Natural Gas for Fuel Oil Displacement

AGENCY: Department of Energy, Economic Regulatory Administration.

ACTION: Notice of intent to publish names upon written request of potential sellers of available natural gas.

SUMMARY: The Economic Regulatory Administration (ERA) has determined that there is a short-term excess of deliverable natural gas and is attempting to locate those persons with excess supplies. ERA hereby gives notice of its intention to publish notices in the Federal Register upon written request of the names of persons that may have an excess of deliverable natural gas available for sale for fuel oil displacement purposes. This notice requests that those persons wishing to have their names published make such a request in writing to ERA.

FOR FURTHER INFORMATION CONTACT:

Finn K. Neilsen, Director, Import/Export Division, Office of Petroleum Operations, Department of Energy, 2000 M Street, NW., Room 4126, Washington, D.C. 20461. Telephone (202) 254-8202.

Michael T. Skinker, Office of General Counsel, Department of Energy, 12th and Pennsylvania Avenue, NW., Room 7148, Washington, D.C. 20461, Telephone (202) 633-8788.

SUPPLEMENTARY INFORMATION: The Economic Regulatory Administration of the Department of Energy (ERA) is responsible in part for carrying out the national energy policy to utilize the present short-term excess of deliverable

natural gas to displace fuel oil in order to reduce the Nation's reliance on imported fuel oil. President Carter stated the basis for our oil displacement efforts in his national energy policy on April 5, 1979: "We are dangerously dependent on uncertain and expensive sources of foreign oil * * *. This growing dependence has left us dangerously exposed to sudden price rises and interruption in supply." The President re-emphasized it in his July 15, 1979, energy address to the Nation: "This intolerable dependence on foreign oil threatens our economic independence and the very security of our Nation." Although ERA continues to urge voluntary conservation measures by all energy consumers, the substitution in the near-term of natural gas to displace fuel oil has emerged as the single most effective and immediate means of reducing our reliance on imported oil.

ERA has recently taken a number of steps to encourage and to facilitate the use of natural gas in order to reduce our dependence on imported oil. On April 4, 1979, ERA issued a final rule (44 FR 21230, April 9, 1979) providing procedures for obtaining a temporary public interest exemption for the use of natural gas by existing powerplants under the Powerplant and Industrial Fuel Use Act of 1978 (Pub. L. 95-620, 92 Stat. 3289, 42 U.S.C. 3301 *et seq.*) That rule pointed out the current availability of significant natural gas volumes and the usefulness of the new gas transportation authority in the Natural Gas Policy Act of 1978 (Pub. L. 95-621, 92 Stat. 3351, 15 U.S.C. section 3301 *et seq.*) to move those volumes interstate.

On March 18, 1979, ERA issued a proposed rule for action by the Federal Energy Regulatory Commission (Commission) pursuant to section 403 of the Department of Energy Organization Act (Pub. L. 95-91, 91 Stat. 565, 42 U.S.C. 7101 *et seq.*) regarding "Transportation Certificates for Natural Gas" (44 FR 17644, March 22, 1979). That proposal was designed to encourage and facilitate the issuance by the Commission of certificates of public convenience and necessity under section 7(c) of the Natural Gas Act (Act of June 21, 1938, ch. 558, 52 Stat. 821, 15 U.S.C. 717) authorizing the transportation of gas purchased directly by end-users in order to displace fuel oil. On May 17, 1979, the Commission issued the final rule (FERC Order No. 30, 44 FR 30323, May 25, 1979) as a short-term measure to deal with "a serious and immediate fuel oil supply situation".

On April 2, 1979, ERA issued an "Interim-Final Rulemaking Regarding Procedures for Certification of the Use

of Natural Gas for Fuel Oil Displacement" (ERA Docket No. ERA-R-79-16, 44 FR 20398, April 5, 1979). The rule establishes procedures to be followed by ERA for certification to the Commission of the use of natural gas to displace fuel oil. The ERA certification is a precondition to transportation of the oil displacement gas pursuant to FERC Order No. 30. The policy underlying the oil displacement program, then has been established and is the subject of agreement between DOE and the Commission.

ERA has received numerous inquiries from persons capable of switching from oil to natural gas for information regarding oil displacement programs. In particular, they have requested information as to where available supplies of natural gas might be located. In aid of these programs, ERA has attempted to locate excess supplies of natural gas.

ERA is publishing today's notice in order to assist those persons who have the capability of using natural gas to displace fuel oil but are unable to locate available supplies of natural gas. ERA hereby requests that any potential sellers who have excess supplies of deliverable natural gas available for sale and want to have their names published in the Federal Register make such a request, in writing, to ERA. ERA intends to publish those names on a periodic basis, beginning shortly, in furtherance of its policy to encourage and facilitate the use of natural gas to reduce our dependence on imported oil. The published list will include only the names of those persons who responded to this notice and stated they have an excess of deliverable natural gas available for sale. ERA makes no representations regarding the persons to be listed or the amount and availability of any surplus natural gas.

Requests by persons to have their names published should be made to Mr. Finn K. Neilsen at the address previously stated in this notice. The request should include the person's name, address, telephone number, and the name of a person to contact regarding the potential sale of the gas. The request should be labeled "Excess Natural Gas Availability".

Issued in Washington, D.C. August 20, 1979.

Doris J. Dewton,
Assistant Administrator, Office of Petroleum Operations, Economic Regulatory Administration.

[FR Doc. 79-26597 Filed 8-24-79; 8:45 am]

BILLING CODE 6450-01-M

[ERA Docket No. 79-CERT-067]**National Standard Co.; Application for Certification of the Use of Natural Gas To Displace Fuel Oil**

Take notice that on August 6, 1979, National Standard Company (National), 601 N. 8th Street, Niles, Michigan, 49120, filed an application for certification of an eligible use of natural gas to displace fuel oil at its City Plant and Lake Street Plant facilities in Niles, Michigan, pursuant to 10 CFR Part 595 (44 FR 20398, April 15, 1979), all as more fully set forth in the application on file with the Economic Regulatory Administration (ERA) and open to public inspection at the ERA, Docket Room 4126-A, 2000 M Street, N.W., Washington, D.C., 20461, from 8:30 a.m.-4:30 p.m., Monday through Friday, except Federal holidays.

In its application, National states that the volume of natural gas for which it requests certification is approximately 18,250 Mcf per year for the City Plant and 18,250 Mcf per year for the Lake Street Plant and the eligible seller is Rowley and Brown Petroleum Corporation, 850 Leader Building, East 6th and Superior Avenues, Cleveland, Ohio, 44114.

This natural gas will displace the combined use of approximately 242,360 gallons of No. 6 fuel oil (2% sulfur) per year at National's City Plant and Lake Street Plant. The gas will be transported by Columbia Gas Transmission Corporation, Columbia Gulf Transmission Company, and Michigan-Wisconsin Pipeline Company.

In order to provide the public with as much opportunity to participate in this proceeding as is practicable under the circumstances, we are inviting any person wishing to comment concerning this application to submit comments in writing to the Economic Regulatory Administration, Room 4126-A, 2000 M Street, N.W., Washington, D.C. 20461, Attention: Mr. Finn K. Neilsen, on or before September 6, 1979.

An opportunity to make an oral presentation of data, views, and arguments either against or in support of this application may be requested by any interested person in writing within the ten (10) day comment period. The request should state the person's interest, and, if appropriate, why the person is a proper representative of a group or class of persons that has such an interest. The request should include a summary of the proposed oral presentation and a statement as to why an oral presentation is necessary. If

ERA determines an oral presentation is required, further notice will be given to National and any persons filing comments, and published in the Federal Register.

Issued in Washington, D.C., on August 20, 1979.

Doris J. Dewton,
Assistant Administrator, Office of Petroleum Operations, Economic Regulatory Administration.

[FR Doc. 79-26598 Filed 8-24-79; 8:45 am]

BILLING CODE 6450-01-M

[ERA Docket No. 79-CERT-80]**Orange & Rockland Utilities, Inc.; Application for Certification of the Use of Natural Gas To Displace Fuel Oil**

Take notice that on August 9, 1979, Orange and Rockland Utilities, Inc. (Orange and Rockland), One Blue Hill Plaza, Pearl River, New York, 10965, filed an application for certification of an eligible use of natural gas to displace fuel oil at its Lovett Plant and/or Bowline Point generating station in Rockland County, New York, pursuant to 10 CFR Part 595 (44 FR 20398, April 15, 1979), all as more fully set forth in the application on file with the Economic Regulatory Administration (ERA) and open to public inspection at the ERA, Docket Room 4126-A, 2000 M Street, N.W., Washington, D.C., 20461, from 8:30 a.m.-4:30 p.m., Monday through Friday, except Federal holidays.

In its application, Orange and Rockland states that the volume of natural gas for which it requests certification is up to 40,000 Mcf per day and the eligible seller is National Fuel Gas Distribution Corporation, 10 Lafayette Square, Buffalo, New York, 14203.

This natural gas will displace the combined use of approximately 2,000,000 barrels of No. 6 fuel oil (.37% sulfur) for the period August 1, 1979, to June 1, 1980. The gas will be transported by Tennessee Gas Pipeline Company, P.O. Box 2511, Houston Texas, 77001, Texas Eastern and Algonquin Gas Transmission Corporation, 1284 Soldier Field Road, Boston, Massachusetts, 02135.

In order to provide the public with as much opportunity to participate in this proceeding as is practicable under the circumstances, we are inviting any person wishing to comment concerning this application to submit comments in writing to the Economic Regulatory Administration, Room 4126-A, 2000 M Street, N.W., Washington, D.C. 20461,

Attention: Mr. Finn K. Neilsen, on or before September 6, 1979.

An opportunity to make an oral presentation of data, views, and arguments either against or in support of this application may be requested by any interested person in writing within the ten (10) day comment period. The request should state the person's interest, and, if appropriate, why the person is a proper representative of a group or class of persons that has such an interest. The request should include a summary of the proposed oral presentation and a statement as to why an oral presentation is necessary. If ERA determines an oral presentation is required, further notice will be given to Orange and Rockland and any persons filing comments, and published in the Federal Register.

Issued in Washington, D.C., on August 20, 1979.

Doris J. Dewton,
Assistant Administrator, Office of Petroleum Operations, Economic Regulatory Administration.

[FR Doc. 79-26599 Filed 8-24-79; 8:45 am]

BILLING CODE 6450-01-M

Sierra Petroleum Co., Inc.; Issuance of Proposed Remedial Order

Notice is hereby given that on August 3, 1979, the Proposed Remedial Order (PRO) summarized below was issued by the Central Enforcement District of the Economic Regulatory Administration (ERA) of the Department of Energy to Sierra Petroleum Company, Inc. (Sierra), 211 North Broadway, Wichita, Kansas 67202.

The PRO includes findings that Sierra, a crude oil producer, overcharged \$167,475.05 in sales of crude oil during the period September 1973 through January 1976. The overcharges occurred with respect to ten crude oil properties located in Barker, Phillips, Rooks, Russell and Barton Counties in the State of Kansas. Specifically, the Office of Enforcement of the ERA has found that Sierra overcharged \$2,343.25 in sales of crude oil produced from the Brook property; \$158,502.65 in sales of crude oil produced from the Dayton property; \$356.00 in sales of crude oil produced from the Howat (Baxa) property; \$342.00 in sales of crude oil produced from the Hindman property; \$2,988.40 in sales of crude oil produced from the Imm B (Alfred G.) property; \$357.00 in sales of crude oil produced from the Morris property; \$563.00 in sales of crude oil produced from the Sanko property; \$410.00 in sales of crude oil produced

from the Wilborn LKC property; \$1,491.75 in sales of crude produced from the Beckman B property; and \$121.00 in sales of crude oil produced from the Riffe Unit.

The reasons for the overcharges were: (a) Sierra's erroneous characterization of the Brook, Dayton, Howat (Baxa), Hendman, Morris, and Sanko properties as stripper well base properties, as defined at 6 CFR 150.54(s) during the period November 16, 1973, through January 14, 1974; and at 10 CFR 210.32 during the period January 15, 1974 through January 31, 1976; (b) the sale of old crude oil as new or released crude all from the Brook, Dayton, Imm B (Alfred G.) Wilborn LKC, Beckman B and Riffe Unit properties at a price exceeding the ceiling price in violation of 6 CFR 150.354(c) and 10 CFR 212.73(a); (c) Sierra's erroneous computation of the ceiling price based on an incorrect May 15, 1973, posted price for the Beckman B, Brook, Dayton and Imm B (Alfred G.) properties. The specific periods during which the violations occurred with respect to each property are set forth in the PRO.

The Office of Enforcement of the ERA has proposed in the PRO that Sierra be required to refund the full amount of overcharges (plus interest) found with respect to each property as the Department of Energy shall direct. Refunds shall be made over a period of time which is equal to the number of months during which overcharges have been found with respect to each property.

A copy of the PRO, with any confidential information deleted, may be obtained from the ERA at the following address: Chief Crude Products Management Branch, Central Enforcement District, Economic Regulatory Administration, Department of Energy, 324 East 11th Street, Kansas City, Missouri 64106.

Any aggrieved person may, on or before September 11, 1979, file a Notice of Objection with the Office of Hearings and Appeals in accordance with 10 CFR 205.193. Pursuant to 10 CFR 205.193, a Notice of Objection must be filed in duplicate, shall briefly describe how the person would be aggrieved by issuance of the PRO as a final Remedial Order, and shall state the person's intention to file a Statement of Objections pursuant to 10 CFR 205.196. No confidential information shall be included in a Notice of Objection. A Notice of Objection must be filed in the following address: Office of Hearings and Appeals, Department of Energy, 2000 M Street, N.W., Washington, D.C. 20461.

In addition, a copy of each filing must be submitted to the ERA Central

Enforcement District office at the address set forth herein, and to: Assistant General Counsel for Administrative Litigation, Office of General Counsel, U.S. Department of Energy, Room 7149, 12th and Pennsylvania Avenue, NW., Washington, D.C. 20461.

Issued this 20th day of August 1979, in Washington, D.C.

Robert D. Gerring,
Director, Enforcement Program Operations Division, Economic Regulatory Administration.

[FR Doc. 79-26600 Filed 8-24-79; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. GP79-84]

Gilliland and Fix, Whyte-State #2 Well, JD79-12345, and Legg Resources, Ltd., Joyce-State #1 Well, JD79-12346; Preliminary Finding Regarding State of Utah Determinations

Issued August 14, 1979.

On July 12, 1979, the Commission received notice from the State of Utah Department of Natural Resources, Division of Oil, Gas and Mining, that the Whyte-State #2 Well and the Joyce-State #1 Well qualify as stripper wells under section 108 of the Natural Gas Policy Act of 1978 (NGPA). The Commission published notice of these determinations on July 22, 1979.

Section 108(b)(1)(A) of the NGPA provides that in order to qualify as a stripper well, a well must produce nonassociated natural gas at a rate which does not exceed an average of 60 Mcf "per production day" during the preceding 90-day production period. Section 108(b)(3) defines "production day" as (1) any day during which natural gas is produced; and (2) any day during which natural gas is not produced if production during such day is prohibited by a requirement of State law or a conservation practice recognized or approved by the State agency.

The data submitted with the determinations for the above-listed wells indicate that these wells produced no natural gas during the 90-day production periods upon which the applications were based. The data also indicated that the wells were shut in because they are incapable of producing into the nearby transmission line without compression.¹ Accordingly, the

¹ The Commission intends to address the problems arising where wells are incapable of producing without compression in conjunction with

90-day production periods upon which these applications were based contained no "production days" as defined in the statute. Since section 108(b) requires that a well produce at a rate not exceeding an average of 60 Mcf "per production day," a well's rate of production cannot be calculated where the 90-day production period contains no production days.

In addition, section 108(b)(1)(B) of the NGPA provides that in order to qualify as a stripper well, a well must produce at its maximum efficient rate of flow (MER) during the 90-day production period. Section 271.804(d) of the Commission's regulations establishes several procedures by which a jurisdictional agency may determine that a well produced at its MER. The data submitted with these determinations purport to establish MER on the basis of § 271.804(d)(2),² which provides that a well is presumed to have produced at its MER if during the 12 months ending concurrently with the 90-day production period it produced at an average rate of 60 Mcf or less per production day. In this case, however, the relevant data indicate that these wells produced no natural gas during the 12 months relied on to establish MER. Since § 271.804(d)(2) requires that a well produce natural gas at a rate not exceeding an average of 60 Mcf "per production day," a well's MER cannot be presumed when the 12 month period contains no "production days." Accordingly, there is not substantial evidence that the wells in question meet the MER requirement.

On the basis of the records submitted with these determinations, the Commission hereby makes a preliminary finding, pursuant to 10 CFR 275.202(a)(1)(i), that the determinations submitted by the State of Utah Department of Natural Resources that the above-listed wells qualify as section 108 stripper wells are not supported by substantial evidence.

By direction of the Commission.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-26557 Filed 8-24-79; 8:45 am]

BILLING CODE 6450-01-M

Miller Brothers, et al., Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

August 20, 1979.

The Federal Energy Regulatory Commission received notices from the

the implementation of regulations under section 107 of the NGPA.

² The data for the Whyte State #2 Well also include the results of a flow test. Such test indicates a production rate of 180 Mcf per day.

jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the natural gas policy act of 1978.

Michigan Department of Natural Resources

1. Control Number (FERC/State)
2. API Well Number
3. Section of NGPA
4. Operator
5. Well Name
6. Field or OCS Area Name
7. County, State or Block No.
8. Estimated Annual Volume
9. Date Received at FERC
10. Purchaser(s).
1. 79-15475
2. 21-101-00000-
3. 102
4. Miller Brothers
5. Miller Brothers Abshire 29
6. Cleon 29-24N-13W
7. Manistee MI
8. 146.0 million cubic feet
9. August 8, 1979
10. Consumers Power Company

Nebraska Oil and Gas Conservation Commission

1. Control Number (FERC/State)
2. API Well Number
3. Section of NGPA
4. Operator
5. Well Name
6. Field or OCS Area Name
7. County, State or Block No.
8. Estimated Annual Volume
9. Date Received at FERC
10. Purchaser(s)
1. 79-15477/NGPA-34
2. 26-033-05056-
3. 108
4. Marathon Oil Company
5. R. Hawkins #1
6. Rohlifing
7. Cheyenne NB
8. 13.0 million cubic feet
9. July 13, 1979
10. Kansas-Nebraska Natural Company

New Mexico Department of Energy and Minerals Oil Conservation Division

1. Control Number (FERC/State)
2. API Well Number
3. Section of NGPA
4. Operator
5. Well Name
6. Field or OCS Area Name
7. County, State or Block No.
8. Estimated annual volume
9. Date Received at Ferc
10. Purchaser(s)
1. 79-15550
2. 30-015-22463
3. 103
4. Arco Oil and Gas Company
5. Empire Abo Unit G-343
6. Empire-Abo Pool
7. Eddy County NM
8. 54.0 million cubic feet
9. August 8, 1979
10. Amoco Production Company Phillips Petroleum Co
1. 79-15551

2. 30-015-22592
3. 103
4. Arco Oil and Gas Company
5. Empire Abo Unit G-313
6. Empire-Abo Pool
7. Eddy County NM
8. 4.0 million cubic feet
9. August 8, 1979
10. Amoco Production Company Phillips Petroleum Co
1. 79-15552
2. 30-015-22525
3. 103
4. Arco Oil and Gas Company
5. Empire Abo Unit G-322
6. Empire-Abo Pool
7. Eddy County NM
8. 70.0 million cubic feet
9. August 8, 1979
10. Amoco Production Company Phillips Petroleum Co
1. 79-15553
2. 30-015-22415
3. 103
4. Arco Oil and Gas Company
5. Empire Abo Unit H-331
6. Empire-Abo Pool
7. Eddy County NM
8. 235.0 million cubic feet
9. August 8, 1979
10. Amoco Production Company Phillips Petroleum Co

1. 79-15554
2. 30-015-22527
3. 103
4. Arco Oil and Gas Company
5. Empire Abo Unit J-223
6. Empire-Abo Pool
7. Eddy County NM
8. 200.0 million cubic feet
9. August 8, 1979
10. Amoco Production Company Phillips Petroleum Co
1. 79-15555
2. 30-015-22608
3. 103
4. Arco Oil and Gas Company
5. Empire Abo Unit L-142
6. Empire-Abo Pool
7. Eddy County NM
8. 34.0 million cubic feet
9. August 8, 1979
10. Amoco Production Company Phillips Petroleum Co
1. 79-15556
2. 30-015-22597
3. 103
4. Arco Oil and Gas Company
5. Empire Abo Unit H-281
6. Empire-Abo Pool
7. Eddy County NM
8. 53.0 million cubic feet
9. August 8, 1979
10. Amoco Production Company Phillips Petroleum Co

1. 79-15557
2. 30-015-22465
3. 103
4. Arco Oil and Gas Company
5. Empire Abo Unit H-322
6. Empire-Abo Pool
7. Eddy County NM
8. 30.0 million cubic feet
9. August 8, 1979
10. Amoco Production Company Phillips Petroleum Co
1. 79-15558
2. 30-015-22804
3. 103
4. Arco Oil and Gas Company
5. Empire Abo Unit E-363
6. Empire Abo
7. Eddy NM
8. 71.0 million cubic feet
9. August 8, 1979
10. Amoco Production Company Phillips Petroleum Co
1. 79-15559
2. 30-015-22775
3. 103
4. Arco Oil and Gas Company
5. Empire ABO Unit E-374
6. Empire ABO
7. Eddy NM
8. 83.0 million cubic feet
9. August 8, 1979
10. Amoco Production Company, Phillips Petroleum Co
1. 79-15560
2. 30-015-22766
3. 103
4. Arco Oil and Gas Company
5. Empire ABO Unit E-384
6. Empire ABO
7. Eddy NM
8. 50.0 million cubic feet
9. August 8, 1979
10. Amoco Production Company, Phillips Petroleum Co

1. 79-15561
2. 30-015-22772
3. 103
4. Arco Oil and Gas Company
5. Empire ABO Unit F-375
6. Empire ABO
7. Eddy NM
8. 50.0 million cubic feet
9. August 8, 1979
10. Amoco Production Company, Phillips Petroleum Co
1. 79-15562
2. 30-015-22777
3. 103
4. Arco Oil and Gas Company
5. Empire ABO Unit L-134
6. Empire ABO
7. Eddy NM
8. 37.0 million cubic feet
9. August 8, 1979
10. Amoco Production Company, Phillips Petroleum Co
1. 79-15563
2. 30-015-22634
3. 103
4. Arco Oil and Gas Company
5. Empire ABO Unit H-303
6. Empire ABO
7. Eddy NM
8. 31.0 million cubic feet
9. August 8, 1979
10. Amoco Production Company, Phillips Petroleum Co

1. 79-15564
2. 30-015-22630
3. 103
4. Arco Oil and Gas Company
5. Empire ABO Unit F-382
6. Empire-ABO Pool
7. Eddy County NM
8. 64.0 million cubic feet
9. August 8, 1979
1. 79-15565
2. 30-015-22637
3. 103
4. Arco Oil and Gas Company
5. Empire ABO Unit J-212
6. Empire ABO Pool
7. Eddy County NM
8. 37.0 million cubic feet
9. August 8, 1979
10. Amoco Production Company, Phillips Petroleum Co
1. 79-15566
2. 30-015-22844
3. 103
4. Arco Oil and Gas Company
5. Empire ABO Unit F-354
6. Empire ABO
7. Eddy NM
8. 65.0 million cubic feet
9. August 8, 1979
10. Amoco Production Company, Phillips Petroleum Co
1. 79-15567
2. 30-015-22803
3. 103
4. Arco Oil and Gas Company
5. Empire ABO Unit D-631
6. Empire ABO
7. Eddy NM
8. 65.0 million cubic feet
9. August 8, 1979
10. Amoco Production Company, Phillips Petroleum Co

1. 79-15568
2. 30-015-22806
3. 103
4. Arco Oil and Gas Company
5. Empire ABO Unit F-383
6. Empire ABO
7. Eddy NM
8. 27.0 million cubic feet
9. August 8, 1979
10. Amoco Production Company, Phillips Petroleum Co
1. 79-15569
2. 30-015-22807
3. 103
4. Arco Oil and Gas Company
5. Empire ABO Unit K-131
6. Empire ABO
7. Eddy NM
8. 84.0 million cubic feet
9. August 8, 1979
10. Amoco Production Company, Phillips Petroleum Co
1. 79-15570
2. 30-025-00000
3. 108
4. Dallas McCasland
5. Aztec State No 1
6. Jalmat Yates
7. Lea NM
8. 10.1 million cubic feet
9. August 8, 1979
10. Phillips Petroleum Co
1. 79-15571
2. 30-025-00000
3. 108
4. The Wiser Oil Company
5. McQuatters No 1
6. Eumont Queen
7. Lea NM
8. 14.7 million cubic feet

10. Amoco Production Company, Phillips Petroleum Co

1. 79-15565
2. 30-015-22637
3. 103
4. Arco Oil and Gas Company
5. Empire ABO Unit J-212
6. Empire ABO Pool
7. Eddy County NM
8. 37.0 million cubic feet
9. August 8, 1979
10. Amoco Production Company, Phillips Petroleum Co
1. 79-15566
2. 30-015-22844
3. 103
4. Arco Oil and Gas Company
5. Empire ABO Unit F-354
6. Empire ABO
7. Eddy NM
8. 65.0 million cubic feet
9. August 8, 1979
10. Amoco Production Company, Phillips Petroleum Co
1. 79-15567
2. 30-015-22803
3. 103
4. Arco Oil and Gas Company
5. Empire ABO Unit D-631
6. Empire ABO
7. Eddy NM
8. 65.0 million cubic feet
9. August 8, 1979
10. Amoco Production Company, Phillips Petroleum Co

1. 79-15568
2. 30-015-22806
3. 103
4. Arco Oil and Gas Company
5. Empire ABO Unit F-383
6. Empire ABO
7. Eddy NM
8. 27.0 million cubic feet
9. August 8, 1979
10. Amoco Production Company, Phillips Petroleum Co
1. 79-15569
2. 30-015-22807
3. 103
4. Arco Oil and Gas Company
5. Empire ABO Unit K-131
6. Empire ABO
7. Eddy NM
8. 84.0 million cubic feet
9. August 8, 1979
10. Amoco Production Company, Phillips Petroleum Co
1. 79-15570
2. 30-025-00000
3. 108
4. Dallas McCasland
5. Aztec State No 1
6. Jalmat Yates
7. Lea NM
8. 10.1 million cubic feet
9. August 8, 1979
10. Phillips Petroleum Co
1. 79-15571
2. 30-025-00000
3. 108
4. The Wiser Oil Company
5. McQuatters No 1
6. Eumont Queen
7. Lea NM
8. 14.7 million cubic feet

9. August 8, 1979
10. El Paso Natural Gas Company
1. 79-15572
2. 30-025-00000
3. 108
4. Gene Milford
5. Hondo State No 5
6. Chaveroo San Andres
7. Lea NM
8. 1.2 million cubic feet
9. August 8, 1979
10. Cities Service Company
1. 79-15573
2. 30-025-00000
3. 108
4. Gene Milford
5. Hondo State No 6
6. Chaveroo San Andres
7. Lea NM
8. 1.2 million cubic feet
9. August 8, 1979
10. Cities Service Company
1. 79-15574
2. 30-025-00000
3. 108
4. Don H Wilson
5. State BJ No 1
6. Vacuum San Andres
7. Lea NM
8. 8.2 million cubic feet
9. August 8, 1979
10. Phillips Petroleum Co
1. 79-15575
2. 30-015-00000
3. 108
4. Robinson Bros Drilling Co Inc
5. State A No 1
6. Winchester Wolfcamp
7. Eddy NM
8. 20.2 million cubic feet
9. August 8, 1979
10. Phillips Petroleum Co

Texas Railroad Commission Oil and Gas Division

1. Control Number (FERC/State)
2. API Well Number
3. Section of NGPA
4. Operator
5. Well Name
6. Field or OCS Area Name
7. County, State or Block No.
8. Estimated Annual Volume
9. Date Received at FERC
10. Purchaser(s)
1. 79-15409/03053
2. 42-495-00000
3. 108
4. Bass Enterprises Production Co
5. M J Bashara C 1-M
6. Keystone
7. Wilkier TX
8. 13.1 million cubic feet
9. August 7, 1979
10. Transwestern Pipeline Company; El Paso Natural Gas Co
1. 79-15410/03583
2. 42-211-30874
3. 103
4. General American Oil Company of Tex
5. Crow #2-137
6. S E Parsell (Douglas)
7. Hemphill TX
8. 16.0 million cubic feet
9. August 7, 1979

10. El Paso Natural Gas Company
1. 79-15411/02851
2. 42-039-30805
3. 103
4. Sun Oil Company (Delaware)
5. Wisch-Saint Unit No 5-L
6. Pledger (Carter 7940)
7. Brazoria TX
8. 59.0 million cubic feet
9. August 7, 1979
10. United Texas Transmission Company
1. 79-15412/02854
2. 42-039-30823
3. 103
4. Sun Oil Company (Delaware)
5. Wisch-Saint Unit No 6-U
6. Pledger (Braman 7800)
7. Brazoria TX
8. 170.0 million cubic feet
9. August 7, 1979
10. United Texas Transmission Company
1. 79-15413/02211
2. 42-371-00000
3. 108
4. Adobe Oil & Gas Corporation
5. Knight State No 1
6. Apco-Warner West (Wichita Albany)
7. Pecos TX
8. 9.0 million cubic feet
9. August 7, 1979
10. Transwestern Pipeline Company
1. 79-15414/02222
2. 42-469-31166
3. 102
4. Petrotex Management Co
5. R S Williams 1-C (79951)
6. Williams (Frio 5400)
7. Victoria TX
8. 180.0 million cubic feet
9. August 7, 1979
10. Natural Gas Pipeline Co of America
1. 79-15415/02014
2. 42-233-30621
3. 103
4. J M Huber Corporation
5. Read No 12
6. Panhandle
7. Hutchinson TX
8. 36.0 million cubic feet
9. August 7, 1979
10. Colorado Interstate Gas Company
1. 79-15416/01929
2. 42-371-32437
3. 107
4. Ladd Petroleum Corporation
5. Gomez South Unit #1-A
6. Gomez
7. Pecos TX
8. 3,285.0 million cubic feet
9. August 7, 1979
10. Northern Natural Gas Company; Claron Inc
1. 79-15417/01201
2. 42-079-30531
3. 103
4. The Ard Drilling Company Inc
5. D S Wright E No 7
6. Levelland (San Andres)
7. Cochran TX
8. 91.0 million cubic feet
9. August 7, 1979
10. El Paso Natural Gas Company
1. 79-15418/01202
2. 42-079-30534

3. 103
4. The Ard Drilling Company Inc
5. D S Wright E No 11
6. Levelland (San Andres)
7. Cochran TX
8. 133.0 million cubic feet
9. August 7, 1979
10. El Paso Natural Gas Company
1. 79-15419/01909
2. 42-165-31381
3. 103
4. Amerada Hess Corporation
5. Seminole San Andres Unit #3405
6. Seminole
7. Gaines TX
8. 161.0 million cubic feet
9. August 7, 1979
10. Phillips Petroleum Company
1. 79-15420/01910
2. 42-165-31386
3. 103
4. Amerada Hess Corporation
5. Seminole San Andres Unit #3117
6. Seminole
7. Gaines TX
8. 121.0 million cubic feet
9. August 7, 1979
10. Phillips Petroleum Company
1. 79-15421/01911
2. 42-165-31383
3. 103
4. Amerada Hess Corporation
5. Seminole San Andres Unit #3118
6. Seminole
7. Gaines TX
8. 533.0 million cubic feet
9. August 7, 1979
10. Phillips Petroleum Company
1. 79-15422/01199
2. 42-079-30934
3. 103
4. The Ard Drilling Company Inc
5. D S Wright D No 1
6. Levelland (San Andres)
7. Cochran TX
8. 100.0 million cubic feet
9. August 7, 1979
10. El Paso Natural Gas Company
1. 79-15423/01200
2. 42-079-30533
3. 103
4. The Ard Drilling Company Inc
5. D S Wright E No 5
6. Levelland (San Andres)
7. Cochran TX
8. 69.0 million cubic feet
9. August 7, 1979
10. El Paso Natural Gas Company
1. 79-15424/01196
2. 42-079-30541
3. 103
4. The Ard Drilling Company Inc
5. D S Wright B No 4
6. Levelland (San Andres)
7. Cochran TX
8. 33.0 million cubic feet
9. August 7, 1979
10. El Paso Natural Gas Company
1. 79-15425/01198
2. 42-079-30851
3. 103
4. The Ard Drilling Company Inc
5. D S Wright B No 6
7. Cochran TX
8. 106.0 million cubic feet
9. August 7, 1979
10. El Paso Natural Gas Company
1. 79-15426/01893
2. 42-165-30614
3. 103
4. Amerada Hess Corporation
5. Adair San Andres Unit #1405
6. Adair
7. Gaines TX
8. 4.0 million cubic feet
9. August 7, 1979
10. Pioneer Natural Gas Company
1. 79-15427/01890
2. 42-165-31176
3. 103
4. Amerada Hess Corporation
5. Seminole San Andres Unit #2709
6. Seminole
7. Gaines TX
8. 474.0 million cubic feet
9. August 7, 1979
10. Phillips Petroleum Company
1. 79-15428/01891
2. 42-445-30604
3. 103
4. Amerada Hess Corporation
5. Adair San Andres Unit #310
6. Adair
7. Gaines TX
8. 9.0 million cubic feet
9. August 7, 1979
10. Pioneer Natural Gas Company
1. 79-15429/01892
2. 42-445-30605
3. 103
4. Amerada Hess Corporation
5. Adair San Andres Unit #204
6. Adair
7. Gaines TX
8. 9.0 million cubic feet
9. August 7, 1979
10. Pioneer Natural Gas Company
1. 79-15430/01889
2. 42-165-31162
3. 103
4. Amerada Hess Corporation
5. Seminole San Andres Unit #2311
6. Seminole
7. Gaines TX
8. 57.0 million cubic feet
9. August 7, 1979
10. Phillips Petroleum Company
1. 79-15431/01883
2. 42-165-31161
3. 103
4. Amerada Hess Corporation
5. Seminole San Andres Unit #2312
6. Seminole
7. Gaines TX
8. 54.0 million cubic feet
9. August 7, 1979
10. Phillips Petroleum Company
1. 79-15432/07421
2. 42-295-00000
3. 103
4. H & L Operating Co
5. Hanshu #1 (56390)
6. Bradford (Cleveland)
7. Lipscomb TX
8. 19.0 million cubic feet
9. August 7, 1979
10. Northern Natural Gas Co
1. 79-15433/07340
2. 42-365-00000

3. 103
4. Getty Oil Co
5. Beason-Ross No 1 (05994)
6. Carthage (Travis Peak 6400 SW)
7. Panola TX
8. 245.0 million cubic feet
9. August 7, 1979
10. United Gas Pipeline Co
1. 79-15434/04852
2. 42-079-30878
3. 103
4. Amoco Production Company
5. Landreth Company B No 4
6. Buckshot (4950 Ft Sand)
7. Cochran TX
8. 28.1 million cubic feet
9. August 7, 1979
10. Cities Service Company
1. 79-15435/04870
2. 42-079-30879
3. 103
4. Amoco Production Company
5. Landreth Company B No 3
6. Buckshot (4950 Sand)
7. Cochran TX
8. 33.9 million cubic feet
9. August 7, 1979
10. Cities Service Company
1. 79-15436/06338
2. 42-391-31155
3. 103
4. North American Royalties Inc
5. W A Simmons #1 (74833)
6. Austwell (FRIO 9500)
7. Refugio TX
8. 730.0 million cubic feet
9. August 7, 1979
10. Energy Development Corporation
1. 79-15437/06340
2. 42-391-31208
3. 103
4. North American Royalties Inc
5. A E Reilly #2 (76776)
6. Austwell (FRIO 9500)
7. Refugio TX
8. 696.0 million cubic feet
9. August 7, 1979
10. Energy Development Corporation
1. 79-15438/06511
2. 42-135-33081
3. 103
4. John H Hendrix Corporation
5. Amoco-Johnson E #1
6. Johnson
7. Ector TX
8. 20.0 million cubic feet
9. August 7, 1979
10. Amoco Production Company Pioneer
Natural Gas Co
1. 79-15439/07255
2. 42-317-31987
3. 103
4. MCF Oil Corporation
5. Lindsey Estate No 1
6. Spraberry (Trend area)
7. Martin TX
8. 36.5 million cubic feet
9. August 7, 1979
10. Northern Natural Gas Co
1. 79-15440/07256
2. 42-317-31974
3. 103
4. MCF Oil Corporation
5. Stimson No 2
6. Spraberry (Trend area)

7. Martin TX
8. 13.7 million cubic feet
9. August 7, 1979
10. Northern Natural Gas Co
1. 79-15441/07257
2. 42-317-31975
3. 103
4. MGF Oil Corporation
5. Stimson No 1
6. Spraberry (Trend area)
7. Martin TX
8. 18.3 million cubic feet
9. August 7, 1979
10. Northern Natural Gas Co
1. 79-15442/07258
2. 42-317-32047
3. 103
4. MGF Oil Corporation
5. Epley 31 No 1
6. Spraberry (Trend area)
7. Martin TX
8. 46.0 million cubic feet
9. August 7, 1979
10. Phillips Petroleum Co
1. 79-15443/07259
2. 42-115-31155
3. 103
4. MGF Oil Corporation
5. Webb Estate No 1
6. Ackerly (Dean Sand)
7. Dawson TX
8. 7.7 million cubic feet
9. August 7, 1979
10. Getty Oil Co
1. 79-15444/07315
2. 42-365-00000
3. 103
4. Getty Oil Co
5. Eddy A No 4 (05863)
6. Carthage (Travis Peak 6400 SW)
7. Panola TX
8. 35.0 million cubic feet
9. August 7, 1979
10. United Gas Pipeline Co
1. 79-15445/07330
2. 42-365-00000
3. 103
4. Getty Oil Company
5. C H Shivers No 1 (10065)
6. Carthage (Travis Peak 6400 SW)
7. Panola TX
8. 24.4 million cubic feet
9. August 7, 1979
10. United Gas Pipeline Company
1. 79-15446/07334
2. 42-365-00000
3. 103
4. Getty Oil Co
5. H G Shivers No 1 (05988)
6. Carthage (Travis Peak 6400 SW)
7. Panola TX
8. 80.0 million cubic feet
9. August 7, 1979
10. United Gas Pipeline Co
1. 79-15447/07336
2. 42-365-00000
3. 103
4. Getty Oil Co
5. Shivers-Feemster No 1 (10097)
6. Carthage (Travis Peak 6400 SW)
7. Panola TX
8. 75.0 million cubic feet
9. August 7, 1979
10. United Gas Pipeline Co
1. 79-15448/03584
2. 42-329-30771
3. 103
4. General American Oil Company of Tex
5. Winkelman #2-7
6. Spraberry (Trend Area)
7. Midland TX
8. 32.0 Million Cubic Feet
9. August 7, 1979
10. Odessa Natural Corporation, Warren
Petroleum Co.
1. 79-15449/04642
2. 42-357-30798
3. 103
4. S K Tuthill & B J Barbee
5. McAfee #1
6. Dude Wilson Upper Morrow
7. Ochiltree TX
8. 120.0 Million Cubic Feet
9. August 7, 1979
10. Northern Natural Gas Co
1. 79-15450/04778
2. 42-435-31412
3. 103
4. Petroleum Corporation of Texas
5. Wess Hill #3 (75098)
6. Sawyer (Canyon)
7. Sutton TX
8. 58.0 Million Cubic Feet
9. August 7, 1979
10. Northern Natural Gas Company
1. 79-15451/04778
2. 42-435-31411
3. 103
4. Petroleum Corporation of Texas
5. Wess Hill #4 (75307)
6. Sawyer (Canyon)
7. Sutton TX
8. 24.0 Million Cubic Feet
9. August 7, 1979
10. Northern Natural Gas Co
1. 79-15452/06622
2. 42-505-30957
3. 103
4. Gulf Oil Corporation
5. Antonio Martinez et al #1 (76206)
6. Laredo (Lobo)
7. Zapata TX
8. 220.0 Million Cubic Feet
9. August 7, 1979
10. Lovaca Gathering Company
1. 79-15453/06638
2. 42-479-32139
3. 103
4. Gulf Oil Corporation
5. Bruni Mineral Trust #5
6. Laredo (Lobo)
7. Webb TX
8. 15.0 Million Cubic Feet
9. August 7, 1979
10. Lovaca Gathering Co
1. 79-15454/06641
2. 42-505-30972
3. 103
4. Gulf Oil Corporation
5. Eudxio Martinez Unit 1 (76840)
6. Laredo (Lobo)
7. Zapata TX
8. 160.0 Million Cubic Feet
9. August 7, 1979
10. Lovaca Gathering Company
1. 79-15455/06643
2. 42-505-30990
3. 103
4. Gulf Oil Corporation
5. Jose Gonzales et al #1 (78127)

6. J C Martin (Lobo)
7. Zapata TX
8. 160.0 Million Cubic Feet
9. August 7, 1979
10. Lovaca Gathering Company
1. 79-15456/06644
2. 42-479-31935
3. 103
4. Gulf Oil Corporation
5. M J Raymond #1 (77982)
6. Laredo (Lobo)
7. Webb TX
8. 160.0 Million Cubic Feet
9. August 7, 1979
10. Lovaca Gathering Company
1. 79-15457/06647
2. 42-505-30921
3. 103
4. Gulf Oil Corporation
5. Gb Vergara et al #3 (75823)
6. J C Martin (Lobo)
7. Zapata TX
8. 660.0 Million Cubic Feet
9. August 7, 1979
10. Lovaca Gathering Company
1. 79-15458/07087
2. 42-135-00000
3. 103
4. Continental Oil Company
5. J L Johnson #20 (24714)
6. Cowden S/8790 Canyon
7. Ector TX
8. 3.8 Million Cubic Feet
9. August 7, 1979
10. Odessa Natural Gas Co
1. 79-15459/07639
2. 42-211-30900
3. 103
4. Sun Oil Company (Delaware)
5. Frank Shaller No 2-L
6. Canadian SE
7. Hemphill TX
8. 118.0 Million Cubic Feet
9. August 7, 1979
10. Pioneer Natural Gas Company
1. 79-15460/07640
2. 42-211-30900
3. 103
4. Sun Oil Company (Delaware)
5. Frank Shaller No 2-U
6. Canadian SE
7. Hemphill TX
8. 118.0 Million Cubic Feet
9. August 7, 1979
10. Pioneer Natural Gas Company
1. 79-15461/01902
2. 42-165-31367
3. 103
4. Amerada Hess Corporation
5. Seminole San Andres Unit #3211
6. Seminole
7. Gaines TX
8. 392.0 Million Cubic Feet
9. August 7, 1979
10. Phillips Petroleum Company
1. 79-15462/01903
2. 42-165-31452
3. 103
4. Amerada Hess Corporation
5. Seminole San Andres Unit #3115
6. Seminole
7. Gaines TX
8. 26.0 Million Cubic Feet
9. August 7, 1979
10. Phillips Petroleum Company

1. 79-15463/01904
2. 42-165-31372
3. 103
4. Amerada Hess Corporation
5. Seminole San Andres Unit #3213
6. Seminole
7. Gaines TX
8. 179.0 Million Cubic Feet
9. August 7, 1979
10. Phillips Petroleum Company
1. 79-15464/01905
2. 42-165-31373
3. 103
4. Amerada Hess Corporation
5. Seminole San Andres Unit #3212
6. Seminole
7. Gaines TX
8. 9.0 Million Cubic Feet
9. August 7, 1979
10. Phillips Petroleum Company
1. 79-15465/01906
2. 42-165-31378
3. 103
4. Amerada Hess Corporation
5. Seminole San Andres Unit #3519
6. Seminole
7. Gaines TX
8. 23.0 Million Cubic Feet
9. August 7, 1979
10. Phillips Petroleum Company
1. 79-15466/01907
2. 42-165-31379
3. 103
4. Amerada Hess Corporation
5. Seminole San Andres Unit #3406
6. Seminole
7. Gaines TX
8. 254.0 Million Cubic Feet
9. August 7, 1979
10. Phillips Petroleum Company
1. 79-15467/01908
2. 42-165-31380
3. 103
4. Amerada Hess Corporation
5. Seminole San Andres Unit #3517
6. Seminole
7. Gaines TX
8. 229.0 Million Cubic Feet
9. August 7, 1979
10. Phillips Petroleum Company
1. 79-15468/02226
2. 42-173-30951
3. 103
4. Schio Natural Resources Co
5. M V Bryans A Well No 5
6. Calvin Dean
7. Glasscock TX
8. 20.0 Million Cubic Feet
9. August 7, 1979
10. El Paso Natural Gas Co
1. 79-15469/04405
2. 42-195-30622
3. 103
4. Andover Oil Company
5. Thorenson #1
6. Hitchland (Atoka)
7. Hansford TX
8. 70.0 Million Cubic Feet
9. August 7, 1979
10. Phillips Petroleum Company
1. 79-15470/04793
2. 42-103-31812
3. 103
4. Warren Pet Co Div/Gulf Oil Corp
5. W N Waddell et al #1089

6. Sand Hills (Judkins)
7. Crane TX
8. 1.0 Million Cubic Feet
9. August 7, 1979
10. H-T Gathering Company
1. 79-15471/01894
2. 42-165-30615
3. 103
4. Amerada Hess Corporation
5. Adair San Andres Unit #1804
6. Adair
7. Gaines TX
8. 4.0 Million Cubic Feet
9. August 7, 1979
10. Pioneer Natural Gas Company
1. 79-15472/01899
2. 42-165-31364
3. 103
4. Amerada Hess Corporation
5. Seminole San Andres Unit #3306
6. Seminole
7. Gaines TX
8. 119.0 Million Cubic Feet
9. August 7, 1979
10. Phillips Petroleum Company
1. 79-15473/01900
2. 42-165-31365
3. 103
4. Amerada Hess Corporation
5. Seminole San Andres Unit #3210
6. Seminole
7. Gaines TX
8. 67.0 Million Cubic Feet
9. August 7, 1979
10. Phillips Petroleum Company
1. 79-15474/01901
2. 42-165-31366
3. 103
4. Amerada Hess Corporation
5. Seminole San Andres Unit #3305
6. Seminole
7. Gaines TX
8. 96.0 Million Cubic Feet
9. August 7, 1979
10. Phillips Petroleum Company
1. 79-15478/03548
2. 42-475-31655
3. 103
4. Gulf Oil Corporation
5. Hutchings Stock Assn #1011
6. Ward-Estes North
7. Ward TX
8. 8.0 Million Cubic Feet
9. August 7, 1979
10. Cabot Corporation
1. 79-15479/04825
2. 42-435-32047
3. 103
4. Tucker Drilling Company Inc
5. Ned Dunbar #10
6. Sawyer (Canyon) Field
7. Sutton TX
8. 55.0 Million Cubic Feet
9. August 7, 1979
10. El Paso Natural Gas Company
1. 79-15480/04823
2. 42-435-32045
3. 103
4. Tucker Drilling Company Inc
5. Ned Dunbar #12
6. Sawyer (Canyon) Field
7. Sutton TX
8. 53.0 Million Cubic Feet
9. August 7, 1979
10. El Paso Natural Gas Company

1. 79-15481/04820
2. 42-497-31328
3. 103
4. Cities Service Company
5. Davenport A #2
6. Boonsville (Bend Conglomerate Gas)
7. Wise, TX
8. 182.5 million cubic feet
9. August 7, 1979
10. Cities Service Co
1. 79-15482/04781
2. 42-103-31813
3. 103
4. Warren Pet Co Div/Gulf Oil Corp
5. W N Waddell et al #1100
6. Sand Hills (Judkins)
7. Crane, TX
8. 1.0 million cubic feet
9. August 7, 1979
10. H-T Gathering Company
1. 79-15483/04663
2. 42-435-32046
3. 103
4. Tucker Drilling Company Inc
5. Ned Dunbar #11
6. Sawyer (Canyon) Field
7. Sutton, TX
8. 118.0 million cubic feet
9. August 7, 1979
10. El Paso Natural Gas Company
1. 79-15484/04643
2. 42-435-32050
3. 103
4. Tucker Drilling Company Inc
5. Collier Shurley #3
6. Sawyer (Canyon) Field
7. Sutton, TX
8. 83.6 million cubic feet
9. August 7, 1979
10. El Paso Natural Gas Company
1. 79-15485/03037
2. 42-219-32513
3. 103
4. Amoco Production Company
5. West RKM Unit #195
6. Slaughter
7. Hockley, TX
8. 15.4 million cubic feet
9. August 7, 1979
10. El Paso Natural Gas Co
1. 79-15486/03035
2. 42-219-32582
3. 103
4. Amoco Production Company
5. East RKM Unit #64
6. Slaughter
7. Hockley, TX
8. 4.7 million cubic feet
9. August 7, 1979
10. El Paso Natural Gas Company
1. 79-15487/03031
2. 42-219-32571
3. 103
4. Amoco Production Company
5. East RKM Unit #67
6. Slaughter
7. Hockley, TX
8. 8.0 million cubic feet
9. August 7, 1979
10. El Paso Natural Gas Company
1. 79-15488/03026
2. 42-219-32486
3. 103
4. Amoco Production Company
5. West RKM Unit #224

6. Slaughter
7. Hockley, TX
8. 22.6 million cubic feet
9. August 7, 1979
10. El Paso Natural Gas Co
1. 79-15489/03019
2. 42-219-32575
3. 103
4. Amoco Production Company
5. East RKM Unit #79
6. Slaughter
7. Hockley, TX
8. 4.7 million cubic feet
9. August 7, 1979
10. El Paso Natural Gas Company
1. 79-15490/03018
2. 42-219-32557
3. 103
4. Amoco Production Company
5. East RKM Unit #59
6. Slaughter
7. Hockley, TX
8. 8.0 million cubic feet
9. August 7, 1979
10. El Paso Natural Gas Company
1. 79-15491/03016
2. 42-219-32572
3. 103
4. Amoco Production Company
5. East RKM Unit #66
6. Slaughter
7. Hockley, TX
8. 17.5 million cubic feet
9. August 7, 1979
10. El Paso Natural Gas Company
1. 79-15492/03015
2. 42-219-32558
3. 103
4. Amoco Production Company
5. East RKM Unit #46
6. Slaughter
7. Hockley, TX
8. 8.0 million cubic feet
9. August 7, 1979
10. El Paso Natural Gas Company
1. 79-15493/03014
2. 42-219-32562
3. 103
4. Amoco Production Company
5. East RKM Unit #53
6. Slaughter
7. Hockley, TX
8. 20.4 million cubic feet
9. August 7, 1979
10. El Paso Natural Gas Company
1. 79-15494/04832
2. 42-435-32001
3. 103
4. Tucker Drilling Company Inc
5. Ned Dunbar #7
6. Sawyer (Canyon) Field
7. Sutton, TX
8. 75.4 million cubic feet
9. August 7, 1979
10. El Paso Natural Gas Company
1. 79-15495/04830
2. 42-435-32003
3. 103
4. Tucker Drilling Company Inc
5. Ned Dunbar #9
6. Sawyer (Canyon) Field
7. Sutton, TX
8. 51.1 million cubic feet
9. August 7, 1979
10. El Paso Natural Gas Company

1. 79-15496/04831
2. 42-435-32002
3. 103
4. Tucker Drilling Company Inc
5. Ned Dunbar #8
6. Sawyer (Canyon) Field
7. Sutton, TX
8. 131.3 million cubic feet
9. August 7, 1979
10. El Paso Natural Gas Company
1. 79-15497/04829
2. 42-435-32051
3. 103
4. Tucker Drilling Company Inc
5. Collier Shurley #2
6. Sawyer (Canyon) Field
7. Sutton, TX
8. 96.0 million cubic feet
9. August 7, 1979
10. El Paso Natural Gas Company
1. 79-15498/05886
2. 42-135-32758
3. 103
4. Continental Oil Company
5. Johnson-38 #4 (23134)
6. Johnson/Holt/
7. Ector, TX
8. 4.0 million cubic feet
9. August 7, 1979
10. Amoco Production Co
1. 79-15499/05895
2. 42-135-32786
3. 103
4. Continental Oil Company
5. Wight Unit #102 (20661)
6. Cowden North
7. Ector, TX
8. 16.1 million cubic feet
9. August 7, 1979
10. Amoco Production Co
1. 79-15500/05958
2. 42-135-32860
3. 103
4. Continental Oil Company
5. Wight Unit #114 (20661)
6. Cowden North
7. Ector, TX
8. 26.3 million cubic feet
9. August 7, 1979
10. Amoco Production Co
1. 79-15501/05954
2. 42-135-32790
3. 103
4. Continental Oil Company
5. Wight Unit #107 (20661)
6. Cowden North
7. Ector, TX
8. 19.7 million cubic feet
9. August 7, 1979
10. Amoco Production Co
1. 79-15502/05906
2. 42-135-32871
3. 103
4. Continental Oil Company
5. Wight Unit #117 (20661)
6. Cowden North
7. Ector, TX
8. 19.0 million cubic feet
9. August 7, 1979
10. Amoco Production Co
1. 79-15503/04501
2. 42-137-30604
3. 103
4. Amoco Production Company
5. Stanley B Mayfield #15

6. Sawyer/Canyon
7. Edwards, TX
8. 146.0 million cubic feet
9. August 7, 1979
10. Lone Star Gas Co
1. 79-15504/04503
2. 42-137-30693
3. 103
4. Amoco Production Company
5. Stanley B Mayfield #14
6. Sawyer/Canyon
7. Edwards, TX
8. 146.0 million cubic feet
9. August 7, 1979
10. Lone Star Gas Company
1. 79-15505/04626
2. 42-137-30697
3. 103
4. Amoco Production Company
5. Stanley B Mayfield #17
6. Sawyer/Canyon
7. Edwards, TX
8. 146.0 million cubic feet
9. August 7, 1979
10. Lone Star Gas Co
1. 79-15506/06077
2. 42-135-32748
3. 103
4. Continental Oil Company
5. East Cowden (Grayburg) #50 (22927)
6. Cowden North
7. Ector, TX
8. 14.6 million cubic feet
9. August 7, 1979
10. Amoco Production Co
1. 79-15507/06068
2. 42-003-31172
3. 103
4. Continental Oil Company
5. J W Boner B #24 (01664)
6. Fuhrman-Masco
7. Andrews, TX
8. 14.6 million cubic feet
9. August 7, 1979
10. Phillips Petroleum Co
1. 79-15508/06022
2. 42-135-32981
3. 103
4. Continental Oil Company
5. East Cowden (Grayburg) #55 (22927)
6. Cowden North
7. Ector, TX
8. 12.4 million cubic feet
9. August 7, 1979
10. Amoco Production Co
1. 79-15509/05959
2. 42-135-32785
3. 103
4. Continental Oil Company
5. Wight Unit #101 (20661)
6. Cowden North
7. Ector, TX
8. 70.1 million cubic feet
9. August 7, 1979
10. Amoco Production Co
1. 79-15510/03828
2. 42-219-32468
3. 103
4. Amoco Production Company
5. West RKM Unit #217
6. Slaughter
7. Hockley, TX
8. 15.4 million cubic feet
9. August 7, 1979
10. El Paso Natural Gas Company

1. 79-15511/01474
2. 42-375-30624
3. 103
4. Gas Producing Enterprises Inc
5. Bivins 28-20 RO
6. West Panhandle Red Cave
7. Potter, TX
8. 10.0 million cubic feet
9. August 7, 1979
10. Colorado Interstate Gas Co
1. 79-15512/01870
2. 42-165-331157
3. 103
4. Amerada Hess Corporation
5. Seminole San Andres Unit #2710
6. Seminole
7. Gaines, TX
8. 35.0 million cubic feet
9. August 7, 1979
10. Phillips Petroleum Company
1. 79-15513/01871
2. 42-165-31354
3. 103
4. Amerada Hess Corporation
5. Seminole San Andres Unit #3118
6. Seminole
7. Gaines, TX
8. 349.0 million cubic feet
9. August 7, 1979
10. Phillips Petroleum Company
1. 79-15514/01872
2. 42-165-31254
3. 103
4. Amerada Hess Corporation
5. Seminole San Andres Unit #2219
6. Seminole
7. Gaines, TX
8. 50.0 million cubic feet
9. August 7, 1979
10. Phillips Petroleum Company
1. 79-15515/01873
2. 42-165-31160
3. 103
4. Amerada Hess Corporation
5. Seminole San Andres Unit #2309
6. Seminole
7. Gaines, TX
8. 6.0 million cubic feet
9. August 7, 1979
10. Phillips Petroleum Company
1. 79-15516/01874
2. 42-165-31253
3. 103
4. Amerada Hess Corporation
5. Seminole San Andres Unit #2218
6. Seminole
7. Gaines, TX
8. 33.0 million cubic feet
9. August 7, 1979
10. Phillips Petroleum Company
1. 79-15517/01875
2. 42-165-31385
3. 103
4. Amerada Hess Corporation
5. Seminole San Andres Unit #3518
6. Seminole
7. Gaines, TX
8. 34.0 million cubic feet
9. August 7, 1979
10. Phillips Petroleum Company
1. 79-15518/01876
2. 42-165-31158
3. 103
4. Amerada Hess Corporation
5. Seminole San Andres Unit #2810

6. Seminole
7. Gaines, TX
8. 37.0 million cubic feet
9. August 7, 1979
10. Phillips Petroleum Company
1. 79-15519/01877
2. 42-165-31255
3. 103
4. Amerada Hess Corporation
5. Seminole San Andres Unit #2217
6. Seminole
7. Gaines, TX
8. 26.0 million cubic feet
9. August 7, 1979
10. Phillips Petroleum Company
1. 79-15520/01878
2. 42-165-31256
3. 103
4. Amerada Hess Corporation
5. Seminole San Andres Unit #2216
6. Seminole
7. Gaines, TX
8. 64.0 million cubic feet
9. August 7, 1979
10. Phillips Petroleum Company
1. 79-15521/01882
2. 42-165-31264
3. 103
4. Amerada Hess Corporation
5. Seminole San Andres Unit #2712
6. Seminole
7. Gaines, TX
8. 336.0 million cubic feet
9. August 7, 1979
10. Phillips Petroleum Company
1. 79-15522/01883
2. 42-165-31265
3. 103
4. Amerada Hess Corporation
5. Seminole San Andres Unit #2711
6. Seminole
7. Gaines, TX
8. 19.0 million cubic feet
9. August 7, 1979
10. Phillips Petroleum Company
1. 79-15523/01884
2. 42-165-31266
3. 103
4. Amerada Hess Corporation
5. Seminole San Andres Unit #2811
6. Seminole
7. Gaines, TX
8. 177.0 million cubic feet
9. August 7, 1979
10. Phillips Petroleum Company
1. 79-15524/01885
2. 42-165-31267
3. 103
4. Amerada Hess Corporation
5. Seminole San Andres Unit #2812
6. Seminole
7. Gaines, TX
8. 47.0 million cubic feet
9. August 7, 1979
10. Phillips Petroleum Company
1. 79-15525/01887
2. 42-165-31155
3. 103
4. Amerada Hess Corporation
5. Seminole San Andres Unit #2310
6. Seminole
7. Gaines, TX
8. 20.0 million cubic feet
9. August 7, 1979
10. Phillips Petroleum Company

1. 79-15528/02181
2. 42-105-31159
3. 103
4. Gulf Oil Corp
5. State IV No 3
6. Farmer (San Andres)
7. Crockett, TX
8. 2.0 million cubic feet
9. August 7, 1979
10. Big Lake Gas Corp
1. 79-15527/02183
2. 42-105-31162
3. 103
4. Gulf Oil Corp
5. State IT No 8
6. Farmer (San Andres)
7. Crockett, TX
8. 1.8 million cubic feet
9. August 7, 1979
10. Big Lake Gas Corp
1. 79-15528/02184
2. 42-105-31163
3. 103
4. Gulf Oil Corp
5. State IT No 7
6. Farmer (San Andres)
7. Crockett, TX
8. 2.4 million cubic feet
9. August 7, 1979
10. Big Lake Gas Corp
1. 79-15529/02185
2. 42-105-31164
3. 103
4. Gulf Oil Corp
5. State IT No 8
6. Farmer (San Andres)
7. Crockett, TX
8. 1.0 million cubic feet
9. August 7, 1979
10. Big Lake Gas Corp
1. 79-15530/02811
2. 42-033-30473
3. 103
4. Gulf Oil Corporation
5. Cannon Ranch Unit No 1009
6. Jo-Mill (Spraberry)
7. Borden, TX
8. 1.0 million cubic feet
9. August 7, 1979
10. Getty Oil Company
1. 79-15531/02816
2. 42-033-30478
3. 103
4. Gulf Oil Corporation
5. Cannon Ranch Unit No 1806
6. Jo-Mill (Spraberry)
7. Borden, TX
8. 3.4 million cubic feet
9. August 7, 1979
10. Getty Oil Company
1. 79-15532/02818
2. 42-033-30477
3. 103
4. Gulf Oil Corporation
5. Canon Ranch Unit No 1707
6. Jo-Mill (Spraberry)
7. Borden, TX
8. 6.4 million cubic feet
9. August 7, 1979
10. Getty Oil Company
1. 79-15533/02820
2. 42-033-30479
3. 103
4. Gulf Oil Corporation
5. Canon Ranch Unit No 1706

6. Jo-Mill (Spraberry)
7. Borden, TX
8. 3.9 million cubic feet
9. August 7, 1979
10. Getty Oil Company
1. 79-15534/02826
2. 42-033-30439
3. 103
4. Gulf Oil Corporation
5. Canon Ranch Unit No 1506
6. Jo-mill (Spraberry)
7. Borden, TX
8. 13.6 million cubic feet
9. August 7, 1979
10. Getty Oil Company
1. 79-15535/02829
2. 42-033-30480
3. 103
4. Gulf Oil Corporation
5. Canon Ranch Unit No 1506
6. Jo-Mill (Spraberry)
7. Borden, TX
8. 4.3 million cubic feet
9. August 7, 1979
10. Getty Oil Company
1. 79-15536/02839
2. 42-219-32362
3. 103
4. Texas Pacific Oil Company Inc
5. Southeast Levelland Unit #215
6. Levelland
7. Hockley, TX
8. 4.1 million cubic feet
9. August 7, 1979
10. Amoco Production Co
1. 79-15537/02840
2. 42-219-32363
3. 103
4. Texas Pacific Oil Company Inc
5. Southeast Levelland Unit #216
6. Levelland
7. Hockley, TX
8. 6.4 million cubic feet
9. August 7, 1979
10. Amoco Production Co
1. 79-15538/02841
2. 42-219-32361
3. 103
4. Texas Pacific Oil Company Inc
5. Southeast Levelland Unit #217
6. Levelland
7. Hockley, TX
8. 8.9 million cubic feet
9. August 7, 1979
10. Amoco Production Co
1. 79-15539/02842
2. 42-219-32356
3. 103
4. Texas Pacific Oil Company Inc
5. Southeast Levelland Unit #218
6. Levelland
7. Hockley, TX
8. 12.7 million cubic feet
9. August 7, 1979
10. Amoco Production Co
1. 79-15540/02843
2. 42-219-32357
3. 103
4. Texas Pacific Oil Company Inc
5. Southeast Levelland Unit #219
6. Levelland
7. Hockley, TX
8. 3.0 million cubic feet
9. August 7, 1979
10. Amoco Production Co

1. 79-15541/02844
2. 42-219-32358
3. 103
4. Texas Pacific Oil Company Inc
5. Southeast Levelland Unit #220
6. Levelland
7. Hockley, TX
8. 2.9 million cubic feet
9. August 7, 1979
10. Amoco Production Co
1. 79-15542/02845
2. 42-219-32483
3. 103
4. Texas Pacific Oil Company Inc
5. Southeast Levelland Unit #221-A
6. Levelland
7. Hockley, TX
8. 3.3 million cubic feet
9. August 7, 1979
10. Amoco Production Co
1. 79-15543/02846
2. 42-219-32360
3. 103
4. Texas Pacific Oil Company Inc
5. Southeast Levelland Unit #222
6. Levelland
7. Hockley, TX
8. 1.9 million cubic feet
9. August 7, 1979
10. Amoco Production Co
1. 79-15544/02847
2. 42-219-32351
3. 103
4. Texas Pacific Oil Company Inc
5. Southeast Levelland Unit #224
6. Levelland
7. Hockley, TX
8. 2.5 million cubic feet
9. August 7, 1979
10. Amoco Production Co
1. 79-15545/02848
2. 42-219-00000
3. 103
4. Texas Pacific Oil Company Inc
5. Southeast Levelland Unit #225
6. Levelland
7. Hockley, TX
8. 2.3 million cubic feet
9. August 7, 1979
10. Amoco Production Co
1. 79-15546/02849
2. 42-219-32540
3. 103
4. Texas Pacific Oil Company Inc
5. Southeast Levelland Unit #232
6. Levelland
7. Hockley, TX
8. 3.3 million cubic feet
9. August 7, 1979
10. Amoco Production Co
1. 79-15547/02850
2. 42-219-32530
3. 103
4. Texas Pacific Oil Company Inc
5. Southeast Levelland Unit #238
6. Levelland
7. Hockley, TX
8. 1.3 million cubic feet
9. August 7, 1979
10. Amoco Production Co
1. 79-15548/02873
2. 42-179-30362
3. 103
4. Sun Oil Company (Delaware)
5. Combs & Worley A No 15

6. Panhandle Gray County
7. Gray, TX
8. 1.0 million cubic feet
9. August 7, 1979
10. Phillips Petroleum Company
1. 79-15549/03013
2. 42-219-32568
3. 103
4. Amoco Production Company
5. East RKM Unit No 54
6. Slaughter
7. Hockley, TX
8. 17.2 million cubic feet
9. August 7, 1979
10. El Paso Natural Gas Co

Geological Survey Metairie, LA.

1. Control number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)
1. 79-15476/G9-757
2. 17-715-40181-00S2-0
3. 102
4. Exxon Corporation
5. OCS-G 028 No F-4 Unit
6. South Timbalier
7. 55
8. 12.0 million cubic feet
9. August 7, 1979
10. Tennessee Gas Pipeline Co

Casper, Wyoming

1. Control number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)
1. 79-15576/CC871-9
2. 05-103-05615-0000-0
3. 108
4. Fuel Resources Development Co
5. Potter #1
6. White River Dome
7. Rio Blanco, CO
8. 5.1 million cubic feet
9. August 8, 1979
10. Western Slope Gas Company
1. 79-15585/CC959-9
2. 05-045-06029-0000-0
3. 108
4. Belco Petroleum Corporation
5. West Salt Creek Fed 3-32 (6029)
6. South Canyon
7. Garfield, CO
8. 5.0 million cubic feet
9. August 8, 1979
10. Western Slope Gas Company
1. 79-15586/CC958-9
2. 05-045-06025-0000-0
3. 108
4. Belco Petroleum Corporation
5. West Salt Creek Fed 1-7 (6025)
6. South Canyon

7. Garfield, CO
8. 6.0 million cubic feet
9. August 8, 1979
10. Western Slope Gas Company
1. 79-15587/CC958-9
2. 05-045-06172-0000-0
3. 103
4. Mitchell Energy Corporation
5. Federal 1-34 (C-12701)
6. West Salt Creek
7. Garfield, CO
8. 100.0 million cubic feet
9. August 8, 1979
10. Colorado Interstate Gas Company
1. 79-15593/CC679-9
2. 05-103-09038-0000-0
3. 102
4. Twin Arrow Inc
5. Continental 1-20
6. Cathedral
7. Rio Blanco, CO
8. 23.7 million cubic feet
9. August 8, 1979
10. IGC Production Co.
1. 79-15595/CC677-9
2. 05-103-08119-0000-0
3. 102
4. Twin Arrow Inc
5. Rainbow 2-30X
6. Cathedral
7. Rio Blanco, CO
8. .0 million cubic feet
9. August 8, 1979
10. IGC Production Company
1. 79-15598/CC610-9
2. 05-103-08108-0000-0
3. 108
4. Twin Arrow Inc
5. C & K 1-7
6. Cathedral
7. Rio Blanco, CO
8. 8.8 million cubic feet
9. August 8, 1979
10. IGC Production Company
1. 79-15602/CC775-9
2. 05-103-05098-0000-0
3. 108
4. Continental Oil Company
5. Dragon Trail Unit #9
6. Douglas Creek Senw 35-T2S R102W
7. Rio Blanco, CO
8. 4.4 million cubic feet
9. August 8, 1979
10. Western Slope Gas Company
1. 79-15608/CC870-9
2. 05-045-06039-0000-0
3. 108
4. Fuel Resources Development Co
5. Baumgarten #2-17
6. Carbonera
7. Garfield, CO
8. 6.3 million cubic feet
9. August 8, 1979
10. Western Slope Gas Company
1. 79-15609/CC 869-9
2. 05-103-7745-0000-0
3. 108
4. Fuel Resources Development Co
5. Federal #30-1
6. Cathedral
7. Rio Blanco, CO
8. 1.2 million cubic feet
9. August 8, 1979
10. Western Slope Gas Company
1. 79-15610/CC 868-9
2. 05-045-06074-0000-0
3. 108
4. Fuel Resources Development Co
5. Federal #1-9
6. Carbonera
7. Garfield, CO
8. 11.4 million cubic feet
9. August 8, 1979
10. Western Slope Gas Company
1. 79-15611/CC 867-9
2. 05-103-07820-0000-0
3. 108
4. Fuel Resources Development Co
5. Federal #1-2
6. Cathedral
7. Rio Blanco, CO
8. 7.0 million cubic feet
9. August 8, 1979
10. Western Slope Gas Company
1. 79-15612/CC 832-9
2. 05-099-06090-0000-0
3. 103
4. Texas Oil & Gas Corp
5. Hoffman Federal #1
6. Barrel Springs
7. Prowers, CO
8. 75.0 million cubic feet
9. August 8, 1979
10. Lamar Utilities Board
1. 79-15613/CC 786-9
2. 05-077-98134-0000-0
3. 102
4. Norris Oil Co
5. Federal 36-1
6. Shire Culch
7. Mesa, Co
8. 100.0 million cubic feet
9. August 8, 1979
10. Rocky Mountain Natural Gas Co Inc
1. 79-15588/M 509-9
2. 25-025-21118-0000-0
3. 103
4. Shell Oil Company
5. Pennel Unit No 11-24
6. Pennel
7. Fallon, MT
8. 30.0 million cubic feet
9. August 8, 1979
10. Montana-Dakota Utilities Co
1. 79-15589/M 506-9
2. 25-025-21117-0000-0
3. 103
4. Shell Oil Company
5. Pennel Unit #31-23
6. Pennel
7. Fallon, MT
8. 3.0 million cubic feet
9. August 8, 1979
10. Montana-Dakota Utilities Co
1. 79-15590/M 504-9
2. 25-025-21119-0000-0
3. 103
4. Shell Oil company
5. Pennel Unit #33-14
6. Pennel
7. Fallon, MT
8. 22.0 million cubic feet
9. August 8, 1979
10. Montana-Dakota Utilities Co
1. 79-15591/M 503-9
2. 25-025-21129-0000-0
3. 103
4. Shell Oil company
5. Pennel Unit #33-23
6. Pennel

7. Fallon, MT
8. 13.0 million cubic feet
9. August 8, 1979
10. Montana-Dakota Utilities Co
1. 79-15592/M 433-9
2. 25-071-21638-0000-0
3. 102
4. Joseph J C Paine and Associates
5. Montana Power Federal #1-2671
6. Unnamed
7. Phillips, MT
8. 33.0 million cubic feet
9. August 8, 1979
10. Kansas-Nebraska Natural Gas Co
1. 79-15624/M 931-9
2. 25-071-21595-0000-0
3. 103
4. Southland Royalty Company
5. Bowdoin Federal #27 33E
6. Bowdoin Dome
7. Phillips, MT
8. 60.0 million cubic feet
9. August 8, 1979
10. Kansas-Nebraska Gas Company
1. 79-15625/M 930-9
2. 25-071-21603-0000-0
3. 103
4. Southland Royalty Company
5. Bowdoin Federal 1-35-33NE
6. Bowdoin Dome
7. Phillips, MT
8. 50.0 million cubic feet
9. August 8, 1979
10. Montana Dakota Utilities
1. 79-15577/UC109-9
2. 43-019-30430-0000-0
3. 103
4. NP Energy Corporation
5. Federal 14-1
6. Cisco Dome Area
7. Grand County, UT
8. 150.0 million cubic feet
9. August 8, 1979
10. Northwest Pipeline Corporation
1. 79-15578/UC107-9
2. 43-019-30359-0000-0
3. 103
4. NP Energy Corporation
5. Federal 25-1
6. Cisco Dome Area
7. Grand County, UT
8. 90.0 million cubic feet
9. August 8, 1979
10. Northwest Pipeline Corporation
1. 79-15580/UC100-9
2. 43-019-30428-0000-0
3. 103
4. NP Energy Corporation
5. Federal 31-3
6. Cisco Dome Area
7. Grand County, UT
8. 60.0 million cubic feet
9. August 8, 1979
10. Northwest Pipeline Corporation
1. 79-15584/UC 937-9
2. 43-047-15054-0000-0
3. 108
4. Belco Petroleum Corporation
5. CWU-8(15054)
6. Chapita Wells
7. Uintah, Ut
8. 2.0 million cubic feet
9. August 8, 1979
10. Mountain Fuel Supply Co
1. 79-15604/UC 749-9

2. 43-047-30314-0000-0
3. 103
4. Chevron U S A Inc
5. Red Wash Unit 235
6. Red Wash
7. Uintah, UT
8. 46.0 million cubic feet
9. August 8, 1979
10. Northwest Pipeline Corp
1. 79-15605/UC 724-9
2. 43-047-30346-0000-0
3. 103
4. Chevron U S A Inc
5. Red Wash Unit 242
6. Red Wash
7. Uintah, UT
8. 18.0 million cubic feet
9. August 8, 1979
10. Northwest Pipeline Corp
1. 79-15606/UC 723-9
2. 43-047-30387-0000-0
3. 103
4. Chevron U S A Inc
5. Red Wash Unit 246
6. Red Wash
7. Uintah, UT
8. 18.0 million cubic feet
9. August 8, 1979
10. Northwest Pipeline Corp
1. 79-15615/UC 783-9
2. 43-013-30422-0000-0
3. 103
4. Santa Fe Energy Company
5. Tribal Federal 1-36
6. Cedar Rim Wasatch
7. Duchesne, UT
8. 24.0 million cubic feet
9. August 8, 1979
10. Koch Oil Company
1. 79-15621/UC 935-9
2. 43-047-15073-0000-0
3. 108
4. Belco Petroleum Corporation
5. Stagecoach 3 (15073)
6. Stagecoach
7. Uintah, UT
8. .4 million cubic feet
9. August 8, 1979
10. Mountain Fuel Supply Co
1. 79-15622/UC 933-9
2. 43-047-15058-0000-0
3. 108
4. Belco Petroleum Corporation
5. CWU-13 (15058)
6. Chapita Wells
7. Uintah, UT
8. 7.0 million cubic feet
9. August 8, 1979
10. Mountain Fuel Supply Co
1. 79-15623/UC 932-9
2. 43-047-15072-0000-0
3. 108
4. Belco Petroleum Corporation
5. Stagecoach 2 (15072)
6. Stagecoach
7. Uintah, UT
8. 8.0 million cubic feet
9. August 8, 1979
10. Mountain Fuel Supply Co
1. 79-15581/W555-9
2. 49-007-20090-0000-0
3. 108
4. The Kemmerer Coal Company
5. Barrel Springs Unit Ammi 5
6. Barrel Springs Unit

7. Carbon County, WY
8. 15.0 million cubic feet
9. August 8, 1979
10. Northwest Pipeline Corporation
1. 79-15582/W 946-9
2. 49-007-20396-0000-0
3. 102
4. CIG Exploration Inc
5. Highpoint 1-26-19-93
6. Echo Springs
7. Carbon, WY
8. 247.0 million cubic feet
9. August 8, 1979
10. Colorado Interstate Gas Co
1. 79-15583/W 945-9
2. 49-005-25172-0000-0
3. 103
4. Diamond Shamrock Corporation
5. Dale Federal #11-23
6. Porcupine
7. Campbell, WY
8. 182.0 million cubic feet
9. August 8, 1979
10.
1. 79-15594/W 666-9
2. 49-005-23996-0000-0
3. 103
4. Anadarko Production Company
5. South Pumpkin Creek Fed 1-3
6. Hartzog Draw
7. Campbell, WY
8. 2.0 million cubic feet
9. August 8, 1979
10. Panhandle Eastern Pipe Line Company
1. 79-15596/W 588-9
2. 49-005-24465-0000-0
3. 102
4. Reading & Bates Petroleum Co
5. Federal G #1
6. Hartzog Draw
7. Campbell, WY
8. .0 million cubic feet
9. August 8, 1979
10. Phillips Petroleum Company
1. 79-15597
2. 49-005-24466-0000-0
3. 102
4. Reading & Bates Petroleum Co
5. Federal P-D #1
6. Hartzog Draw
7. Campbell, WY
8. .0 million cubic feet
9. August 8, 1979
10. Phillips Petroleum Company
1. 79-15599/W 696-9
2. 49-013-20719-0000-0
3. 102
4. Dome Petroleum Corp
5. Shoshoni-Arapahoe Tribal 9-1
6. Boysen
7. Fremont WY
8. 146.0 Million cubic feet
9. August 8, 1979
10. Montana-Dakota Utilities Co
1. 79-15600/W 689-9
2. 49-013-20821-0000-0
3. 102
4. Dome Petroleum Corp
5. Shoshoni-Arapahoe Tribal 6-1
6. Boysen
7. Fremont WY
8. 146.0 Million cubic feet
9. August 8, 1979
10. Montana-Dakota Utilities Co
1. 79-15601/W 688-9

2. 49-013-20822-0000-0
3. 102
4. Dome Petroleum Corp
5. Shoshoni-Arapahoe Tribal 5-1
6. Boysen
7. Fremont WY
8. 146.0 Million cubic feet
9. August 8, 1979
10. Montana-Dakota Utilities
1. 79-15603/W 762-9
2. 49-037-21165-0000-0
3. 103
4. Houston Oil & Minerals Corporation
5. Federal 13X-10- (W-019995)
6. Table Rock
7. Sweetwater County WY
8. 110.0 Million cubic feet
9. August 8, 1979
10. Colorado Interstate Gas Co
1. 79-15607/W 700-9
2. 49-037-20250-0000-0
3. 102
4. Juniper Petroleum Corporation
5. Federal #1-4
6. Lost Creek
7. Sweetwater County WY
8. 400.0 Million cubic feet
9. August 8, 1979
10. Cities Service Gas Company
1. 79-15614/W 803-9
2. 49-005-25150-0000-0
3. 103
4. UV Industries Inc
5. UV Industries Fed #1-Porcupine
6. Porcupine Creek
7. Campbell WY
8. 73.1 Million cubic feet
9. August 8, 1979
10.
1. 79-15616/W 782-9
2. 49-013-20547-0000-0
3. 108
4. Palmer Oil & Gas Company
5. Federal #1
6. Alkali Butte
7. Fremont WY
8. 20.0 Million cubic feet
9. August 8, 1979
10. Kansas-Nebraska Natural Gas Co Inc
1. 79-15617/W 950-9
2. 49-037-21109-0000-0
3. 103
4. Elf Aquitaine Inc
5. Federal Amoco #13-3
6. Nitchie Gulch
7. Sweetwater WY
8. 365.0 Million cubic feet
9. August 8, 1979
10. Stauffer Chem Co of Wyoming
1. 79-15618/W 954-9
2. 49-035-07995-0000-0
3. 108
4. Belco Petroleum Corporation
5. C-48(07995)
6. Big Piney-Labarge
7. Sublette WY
8. 3.0 Million cubic feet
9. August 8, 1979
10. Northwest Pipeline Corporation
1. 79-15619/W 949-9
2. 49-037-21117-0000-0
3. 103
4. Elf Aquitaine Inc
5. Nitchie Gulch Amoco #13-33
6. Nitchie Gulch

7. Sweetwater WY
8. 73.0 Million cubic feet
9. August 8, 1979
10. Stauffer Chem Co of Wyoming
- 1 79-15620/W 947-9
2. 49-037-20951-0000-0
3. 103
4. Elf Aquitaine Inc.
5. Federal Duncan #1-4
6. Nitchie Gulch
7. Sweetwater WY
8. 365.0 Million cubic feet
9. August 8, 1979
10. Stauffer Chem Co of Wyoming
- 1 79-15626/W 918-9
2. 49-035-07183-0000-0
3. 108
4. Belco Petroleum Corporation
5. B 60-25(07183)
6. Big Piney
7. Sublette WY
8. 21.0 Million cubic feet
9. August 8, 1979
10. Northwest Pipeline Corporation

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of these final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before September 11, 1979.

Please reference the FERC control number in all correspondence related to these determinations.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-26564 Filed 8-24-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. TC79-137¹]

Northwest Pipeline Corp., Proposed Settlement and Request for Waiver

Issued August 16, 1979.

¹ The subject motion and proposed settlement were filed in Docket No. RM79-15. The procedures for the submission of settlements in § 1.18(e) of the Commission's Rules of Practice and Procedure (18 CFR 1.18(e)) apply to proceedings before the Commission other than rulemakings of general applicability. Northwest filed in Docket No. RM79-15, a rulemaking proceeding. At present, Northwest does not have an on-going curtailment proceeding. However, the Commission finds it is in the public interest to allow the submission of this settlement even though it is not strictly within the scope of the new settlement procedures. Therefore, in accordance with § 1.7 of the Commission's Rules of Practice and Procedure (18 CFR 1.7) the Commission hereby waives the relevant provisions of its rules of practice and procedure to allow the submission of this settlement, to be treated in accordance with the provisions of Section 1.18(e) of the Rules, except

Take notice that on July 27, 1979, Northwest Pipeline Corporation (Northwest), P.O. Box 1528, Salt Lake City, Utah 84110, filed in Docket No. TC79-137 pursuant to Section 1.18(e) of the Commission's Rules and Part 281 of the Regulations under the Natural Gas Policy Act of 1978 (Order No. 29, issued May 2, 1979, in Docket No. RM79-15), a motion for approval of a stipulation and agreement with its customers regarding modifications to its curtailment plan. Citing Section 502(c) of the Natural Gas Policy Act of 1978 (NGPA) and Section 1.41 of the Commission's Rules (18 CFR 1.41), Northwest also requests any waiver of certain detailed requirements of Part 281 as may be required to effectuate the stipulation and agreement as well as the waiver of the notice requirements of § 154.22 of the Commission's Regulations under the Natural Gas Act (18 CFR 154.22) to permit immediate filing of proposed tariff sheets. Northwest's proposals are more fully set forth in the subject motion which is on file with the Commission and open to public inspection.

The stipulation indicates that Northwest and its customers have agreed to modifications in Northwest's existing curtailment plan which would, in substance, continue Northwest's current curtailment procedures, while protecting high priority and essential agricultural uses as required by Section 401 of the NGPA and Part 281 of the Regulations thereunder. The proposed modifications include the following:

1. Establishment of new Priorities 1 and 2 to protect high priority and essential agricultural uses, with subordination of all other uses.
2. Continued protection in a new Priority 3 of all other uses previously protected in Northwest's existing curtailment plan.
3. Establishment of a new emergency relief provision for protection of life and property.
4. Specification of Northwest's procedures for protecting high priority uses, including a form of certification required to be submitted to Northwest and signed by customers requesting protection.

Northwest maintains that since its curtailment procedures operate on the basis of daily requirements for protected uses rather than on fixed historical usage, entitlement sheets are not appropriate for its system. Further, Northwest states that it is not currently curtailing, nor does it anticipate curtailment of firm contractual

that notice is given, and dates for comment will be adjusted. Accordingly, the filing has been individually docketed in Docket No. TC79-137.

obligations to its customers so that any data collected currently would soon be stale. Obtaining entitlement data, it is asserted, could be a serious administrative burden for Northwest's customers, requiring perhaps a year of data collection and analysis. For these reasons, Northwest requests waiver of those provisions of Part 281 requiring filing of entitlement sheets. For these same reasons and also because those users receiving protection for high priority and essential agricultural uses are required to submit a certification that such protection was utilized for such purpose, it is maintained that no data verification committee is required under Northwest's established curtailment procedures, and Northwest, therefore, requests waiver of the requirement for formation of such a committee. Northwest also seeks waiver of the notice requirements of Section 154.22 of the Commission's Regulations under the Natural Gas Act to permit current filing of the tariff sheets included in the stipulation and agreement.

It should be noted that the tariff sheets submitted with the stipulation and agreement are considered to be *pro forma* and that their submittal with the stipulation and agreement is not to be considered in lieu of the filing requirements of Section 4 of the Natural Gas Act. It is further noted that Northwest must comply with the requirements of Order No. 29 unless the stipulation and agreement are timely approved by the Commission or unless Northwest has sought and obtained, before the dates proscribed by the Order No. 29 series, an adjustment under Section 502(c) of the NGPA. ² See *Arkansas Louisiana Gas Company*, Docket No. TC79-134, order issued July 18, 1979.

Pursuant to Section 1.7 of the Commission's Rule of Practice and Procedure, the procedural requirement of Section 1.18 of such Rules, as revised by Order No. 32 issued June 13, 1979, in Docket No. RM78-16, that comments be filed 20 days after a settlement is filed with the Commission is waived and any person desiring to be heard or to make any protest or comment with reference to the subject proposal should within 20 days after the date of this notice file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene, protest or comment in accordance with the requirements of the Commission's Rules of Practice and

² A request for adjustment from Order No. 29 may be sought in accordance with the procedure specified in § 1.41 of the Commission's Rules of Practice and Procedure.

Procedure (18 CFR 1.8 or 1.10). Reply comments may be filed on or before September 26, 1979. All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

By direction of the Commission.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-26554 Filed 8-24-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP78-487]

Panhandle Eastern Pipe Line Co.; Petition To Amend

August 20, 1979.

Take notice that on July 30, 1979, Panhandle Eastern Pipe Line Company (Panhandle), P.O. Box 1642 Houston, Texas 77001, filed in Docket No. CP78-487 a petition to amend the order of December 21, 1978 issuing a certificate of public convenience and necessity in the instant docket pursuant to Section 7(c) of the Natural Gas Act by authorizing an increase in the horsepower of the Heydrick Compressor Station, the relocation of the proposed station, and the construction of an additional 1.1 miles of 16-inch pipeline, all as more fully set forth in the petition to amend which is on file with the Commission and open for public inspection.

Said order authorized Panhandle to establish the Heydrick Compressor Station to be equipped with 1,200 horsepower of compression facilities and to be located in Section 84 in Carson County, Texas. Since the issuance of said order, Panhandle has reevaluated the operating conditions existing in the area of Carson County in the vicinity of the proposed Heydrick Compressor Station and has determined that the original proposed location is not acceptable. Thus, this reevaluation by Panhandle has caused it to conclude that more effective use could be made of the proposed facility, if the Heydrick Compressor Station is located in Section 94, in lieu of the previously authorized location in Section 84, which is immediately adjacent to Panhandle's existing Blair Booster.

Also, the petition indicates, as a result of the reevaluation of the operating conditions in the area, Panhandle has determined that the proposed

compressor station should be equipped with 1,400 horsepower of compression facilities which would provide Panhandle with the ability to operate the station in either two, three or four stage operations.

Further, Panhandle previously anticipated the estimated cost of the station to be \$1,120,000; however, if Panhandle is authorized to construct the Heydrick Compressor Station with 1,400 horsepower of compression facilities, it is estimated that the cost would increase to \$1,124,000.

In order for Panhandle to utilize effectively the Heydrick Compressor Station at the new location, it would be necessary for Panhandle to construct a segment of 1.1 miles of 16-inch pipeline from Section 84 to the new location of the compressor station in Section 94 at an estimated cost of \$266,000 to be financed from funds on hand.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before September 6, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-26555 Filed 8-24-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. GP79-102]

Santa Fe Energy Co., ODC Tribal Gulf Ute No. 3-9, JD79-11745; Preliminary Finding Regarding State of Wyoming Office Determination

Issued August 17, 1979.

On July 5, 1979, the Wyoming of United States Geological Survey (U.S.G.S.) submitted to the Commission a notice of determination which states that the Santa Fe Energy Company, ODC Tribal Gulf Ute #3-9 well meets all the requirements of a new, onshore production well under section 103 of the Natural Gas Policy Act (NGPA), Pub. L. No. 95-621. The Commission published

notice of Wyoming's Office of U.S.G.S. determination on July 17, 1979.

A well qualifies as a new, onshore production well under section 103 only if, among other things, the surface drilling for the well began on or after February 19, 1977.

While the well completion record accompanying the determination indicates that surface drilling commenced on August 3, 1978, the location plat indicates that the subject well was originally spudded on January 25, 1967. This evidence indicates that the surface drilling for the subject well as spudded before February 19, 1977, and that reentry and redrilling of the old well occurred on August 3, 1978.

Accordingly, the Commission makes a preliminary finding: (pursuant to 18 CFR 275.202(a)(1)(i)) that the determination submitted by the Wyoming Office of the U.S.G.S., that the Santa Fe Energy Company, ODC Tribal Gulf Ute #3-9 well is not supported by substantial evidence in the record on which the determination was made.

By direction of the Commission.

Lois D. Cashell,
Acting Secretary.

[FR Doc. 79-26556 Filed 8-24-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP79-415]

Southern Natural Gas Co.; Application

August 15, 1979.

Take notice that on July 23, 1979, Southern Natural Gas Company (Applicant), P.O. Box 2563, Birmingham, Alabama 35202, filed in Docket No. CP79-415 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for Texaco, Inc. (Texaco), and the construction and operation of certain facilities, all as more fully set forth in the application on file with the Commission and open to public inspection.

Texaco has certain quantities of gas available to it on the East side of Bayou Mongoulois, St. Martin Parish, Louisiana, which it desires to have transported to the West side of Bayou Mongoulois, St. Martin Parish, it is stated. Because Applicant owns and operates authorized pipeline facilities extending across Bayou Mongoulois, Applicant and Texaco have entered into a transportation agreement dated April 11, 1979, whereby Applicant proposes to receive up to 5,000 Mcf of natural gas per day, or such greater or lesser volume per day as Applicant may accept depending upon available capacity and

operating conditions of its pipeline facilities, for Texaco at its platform on the East Bank of Bayou Mongoulois, in St. Martin Parish and to transport and redeliver a thermally equivalent volume, less gas lost, unaccounted for or utilized by Applicant in the transportation service to or for the account of Texaco on Applicant's platform on the West bank of Bayou Mongoulois, St. Martin Parish.

Applicant also requests authorization to install and operate one measuring station at the point of delivery on Applicant's existing platform and another measuring station at the point of redelivery on the West Bank, which stations would consist of orifice meters and other necessary equipment by which the volumes and Btu content of gas would be measured by Applicant and would cost an estimated \$12,508. Applicant states that such station would be used to measure gas to be transported across the Bayou for the account of Texaco.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 6, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be

unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,
Secretary.
[FR Doc. 79-26556 Filed 8-24-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. GP79-83]

Southland Royalty Co., Davis No. 2-A, JD79-11860; Preliminary Finding Regarding Determination by U.S. Geological Survey at Albuquerque, N. Mex.

Issued August 14, 1979.

On July 8, 1979, the United States Geological Survey at Albuquerque, New Mexico (USGS), submitted to the Commission notice of its determination that the Southland Royalty Company's Davis #2-A well is a new onshore production well pursuant to Section 103 of the Natural Gas Policy Act of 1978 (NGPA), Pub. L. No. 95-621. The Commission published notice of the determination in the Federal Register on July 17, 1979.

Section 103(c)(1) of the NGPA provides that in order for a well to qualify as a new onshore production well, surface drilling of that well must have begun on or after February 19, 1977. Applicant's notice included a statement, made under oath, that the surface drilling of the subject well began on or after February 19, 1977.

The records show that there are two documents, the official USGS Well Completion Report and the New Mexico Form C-104 Request for Allowable, which indicate that the spud date of the subject well was February 14, 1977. Another document, which appears to be an internal well completion report, indicates that the spud date was February 24, 1977.

Since the record contains conflicting reports as to the actual date the surface drilling began, and it cannot be ascertained, therefore, whether the surface drilling began on or after February 19, 1977, the requirement of Section 103(c)(1) is not satisfied.

Accordingly, the Commission hereby makes a preliminary finding (pursuant to 18 CFR § 275.202(a)(1)(C)) that the determination of the USGS was not supported by substantial evidence in the record on which the determination was made.

By direction of the Commission.

Kenneth F. Plumb,
Secretary.
[FR Doc. 79-26563 Filed 8-24-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. CP 78-248]

Tennessee Gas Pipeline Co., a Division of Tenneco Inc.; Petition To Amend

August 20, 1979.

Take notice that on July 31, 1979, Tennessee Gas Pipeline Company, A Division of Tenneco Inc. (Tennessee), P.O. Box 2511, Houston, Texas 77001, filed in Docket No. CP78-248 a petition to amend the order of June 21, 1978 issuing a certificate of public convenience and necessity in the instant docket pursuant to Section 7(c) of the Natural Gas Act by authorizing a maximum transportation quantity of 20,000 Mcf per day, all as more fully set forth in the petition to amend which is on file with the Commission and open for public inspection.

Tennessee was authorized by said order to transport up to 10,000 Mcf per day for United Gas Pipeline Company (United). Such volumes are delivered by United to Tennessee at a point of interconnection on Tennessee's pipeline located in Colorado County, Texas, to be redelivered to United at an existing point of interconnection near West Monroe, Quachita Parish, Louisiana.

Tennessee and United have entered into a letter agreement dated July 20, 1979 to reflect an increase transportation of volumes from 10,000 Mcf per day to 20,000 Mcf per day of natural gas. Said letter agreement amends the transportation contract between Tennessee and United dated March 17, 1978 to include the increase in volumes transported.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before September 6, 1979 file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a

petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,
Secretary.
[FR Doc. 79-26559 Filed 8-24-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. CP78-453]

Transcontinental Gas Pipe Line Corp.; Petition To Amend

August 20, 1979.

Take notice that on July 26, 1979, Transcontinental Gas Pipe Line Corporation (Petitioner), P.O. Box 1396, Houston, Texas 77001, filed in Docket No. CP78-453 a petition to amend the order of November 22, 1978, issued in the instant docket pursuant to Section 7(c) of the Natural Gas Act so as to authorize the continuation of transportation service for Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), for an extended term, all as more fully set forth in the petition to amend on file with the Commission and open to public inspection.

Pursuant to the November 22, 1978, order, Petitioner is presently transporting, on an interruptible basis, for Tennessee for a one-year period which commenced November 22, 1978, up to 30,000 dekatherms of natural gas per day. Such gas is purchased by Tennessee at Ship Shoal Block 246A offshore Louisiana, and delivered to Petitioner at Ship Shoal Block 246B, it is stated. Petitioner states that it transports and delivers thermally equivalent quantities of gas, less compressor fuel and line loss make-up, at existing interconnections with Tennessee, onshore Louisiana and Texas. It is stated that Tennessee has deferred the installation of facilities required to take the Block 246A gas directly into its system and has requested Petitioner to continue its transportation service for an additional one year period. Consequently, Petitioner requests authorization to transport such gas for Tennessee until November 22, 1980, pursuant to the term of an amendatory agreement dated June 20, 1979, between Petitioner and Tennessee.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before September 10, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20425, a petition to intervene or a protest in accordance with the requirements of the

¹ It is indicated that such order was modified on rehearing by order issued January 22, 1979.

Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,
Secretary.
[FR Doc. 79-26561 Filed 8-24-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. CP77-566]

Transcontinental Gas Pipe Line Corp. and Michigan Wisconsin Pipe Line Co.; Petition To Amend

August 20, 1979.

Take notice that on August 1, 1979, Transcontinental Gas Pipe Line Corporation (Transco), P.O. Box 1396, Houston, Texas 77001, and Michigan Wisconsin Pipe Line Company (Mich Wis), One Woodward Avenue, Detroit, Michigan 48226, filed in Docket No. CP77-566 a petition to amend the order of March 22, 1979 issuing a certificate of public convenience and necessity in the instant docket pursuant to Section 7(c) of the Natural Gas Act for authorization of a new delivery point in an existing exchange arrangement between Transco and Mich Wis, all as more fully set forth in the petition to amend which is on file with the Commission and open for public inspection.

Pursuant to said order, Transco and Mich Wis were granted authorization to exchange natural gas. Transco delivers or causes to be delivered to Mich Wis natural gas at two points identified in the gas exchange agreement and Mich Wis delivers gas to Transco at one point identified in the gas exchange agreement.

Transco and Mich Wis amended their gas exchange agreement by adding a new delivery point designated Back Ridge located in Cameron Parish, Louisiana.

The petition indicates that the maximum daily quantity Transco would deliver at such point is 10,000 Mcf. The gas to be delivered at Back Ridge would be sold by Energy Development Corporation to Public Service Electric and Gas Company.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before September 6, 1979, file with the Federal

Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,
Secretary.
[FR Doc. 79-26560 Filed 8-24-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. CP79-3]

Transcontinental Gas Pipe Line Corp. and Michigan Wisconsin Pipe Line Co.; Petition To Amend

August 15, 1979.

Take notice that on July 19, 1979,¹ Transcontinental Gas Pipe Line Corporation (Transco), P.O. Box 1396, Houston, Texas 77001, and Michigan Wisconsin Pipe Line Company (Mich Wis), One Woodward Avenue, Detroit, Michigan 48226 (Petitioners), filed in Docket No. CP79-3 a petition to amend the order of April 4, 1979, issued in the instant docket pursuant to Section 7(c) of the Natural Gas Act so as to authorize Petitioners to transport and exchange natural gas from one additional well, all as more fully set forth in the petition to amend on file with the Commission and open to public inspection.

Pursuant to the order of April 4, 1979, Petitioners were authorized to transport and exchange natural gas pursuant to the terms of a gas transportation and exchange agreement dated September 8, 1978, between Mich Wis and Transco whereby Transco causes to be delivered to Mich Wis gas from nine wells in the Mayfield West Field, Beckham County, Oklahoma, and Mich Wis redelivers thermally equivalent exchange volumes to Transco at specified points of redelivery, it is stated. Likewise Mich Wis delivers to Transco gas at receipt points in Jefferson Davis and Covington Counties, Mississippi, and at other mutually agreeable points in other counties in Mississippi, and Transco

¹ The application was initially tendered for filing on July 19, 1979; however, the fee required by Section 159.1 of the regulations under the Natural Gas Act (18 CFR 159.1) was not paid until July 20, 1979; thus, filing was not completed until the latter date.

redelivers thermally equivalent exchange volumes to Mich Wisc at specified points of redelivery.

Petitioners request that the Commission amend the April 4, 1979, order in the instant docket so as to provide for the transportation and exchange of gas from the Lee No. 1 Well in the Thorndike Area, Wheeler County, Texas, pursuant to the terms of an amendatory agreement dated June 15, 1979, between Mich Wisc and Transco. Petitioners state that Mich Wisc would receive gas from Transco from this well.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before September 6, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10 and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-26562 Filed 8-24-79; 8:45 am]
BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL 1305-7]

Section 107(d) Designations of Particulate Matter Nonattainment Areas

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: The purpose of this notice is to bring to the attention of interested persons, EPA's clarification of the charts appearing in 40 CFR Part 81 presenting the nonattainment area designations for particulate matter as required under Section 107(d) of the Clean Air Act as amended.

FOR FURTHER INFORMATION CONTACT: Lanny M. Deal, Control Programs Development Division, MD-15, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, (919) 541-5365.

SUPPLEMENTARY INFORMATION: In the original designations published on March 3, 1978 on page 8962 of the *Federal Register*, for areas which were violating both the primary and secondary national ambient air quality standards (NAAQS), only the column entitled "Does Not Meet Primary Standards," was marked rather than marking both the "Does Not Meet Primary Standards" and "Does Not Meet Secondary Standards" columns. The rationale for this approach lies with the averaging times for the NAAQS for particulate matter. There is both an annual and a 24-hour averaging time for primary standards for TSP with values of 75 $\mu\text{g}/\text{m}^3$ and 260 $\mu\text{g}/\text{m}^3$, respectively. For secondary TSP NAAQS there is a 24-hour standard of 150 $\mu\text{g}/\text{m}^3$ and an annual value of 60 $\mu\text{g}/\text{m}^3$ which is to be used as a guide in assessing whether or not the secondary 24-hour standard has been achieved. EPA used the rationale that if an area was designated as violating either of the primary standards of 75 $\mu\text{g}/\text{m}^3$ or 260 $\mu\text{g}/\text{m}^3$ for the annual and 24-hour averaging times, then the area must, of necessity, be violating the 60 $\mu\text{g}/\text{m}^3$ annual guide and/or the 150 $\mu\text{g}/\text{m}^3$ 24-hour standard. Furthermore, EPA was not aware of any areas where primary TSP standards were being violated, while secondary TSP standards were not also being violated. Consequently, in order to avoid appearing redundant, there was no need to mark the "Does Not Meet Secondary Standards" column.

Much confusion, however, has resulted from this approach. Additionally, since the original designations were published, in an effort to avoid further confusion, EPA has prepared subsequent Federal Register packages revising various designations which have included changes in TSP designations where both columns indicating violations of both the primary and secondary NAAQS have been marked for the same area. However, this has resulted in some charts indicating both primary and secondary violations for TSP NAAQS while many of the original designations remain unchanged with only the primary nonattainment column marked. This has a potential for creating further confusion over the TSP designations.

In an effort to allay this confusion, EPA will, as additional revisions to the designations are made, modify all charts to mark both columns for those areas where both primary and secondary standards are being violated so as no doubt to the status of the area can arise with regard to both the primary and secondary TSP NAAQS. Until this is

accomplished, the areas with only the primary standard column marked will be assumed to be nonattainment for secondary standards unless specific data are provided showing otherwise.

Dates: The provisions stated in this notice are effective immediately.

Dated: August 21, 1979.

Edward F. Tuerk,

Acting Assistant Administrator for Air, Noise, and Radiation.

[FR Doc. 79-26615 Filed 8-24-79; 8:45 am]
BILLING CODE 6560-01-M

FEDERAL COMMUNICATIONS COMMISSION

Radio Technical Commission for Marine Services; Meetings

In accordance with Public Law 92-463, "Federal Advisory Committee Act," the schedule of future Radio Technical Commission for Marine Services (RTCM) meetings is as follows:

Special Committee No. 74

"Digital Selective Calling", Notice of 4th Meeting, Tuesday, September 11 and Wednesday, September 12, 1979—9:30 a.m. (Full-day meetings) Conference Room 7200, Nassif (DOT) Building, 400 Seventh Street, S.W. (at D Street), Washington, D.C.

Agenda

September 11, 1979

1. Call to Order; Chairman's Report.
2. Administrative Matters.
3. Meeting of Ship Station Working Group and Coast Station Working Group.

September 12, 1979

1. Administrative Matters.
2. Working Group Reports.

CDR J.C. Williams, Chairman, SC-74, U.S. Coast Guard Headquarters, Washington, D.C. Phone: (202) 426-1345.

Special Committee No. 73

"Minimum Performance Standards (MPS)—Marine Omega Receiving Equipment", Notice of 9th meeting, Wednesday, September 12, 1979—4:00 p.m., 4th Annual IOA Meeting, Bahia Hotel, San Diego, CA.

Agenda

1. Call to Order; Chairman's Report.
 2. Administrative Matters.
 3. Review and Approval of final Revised Draft MPS Specification.
- M.H. Carpenter, Co-Chairman, CDR T.P. Nolan, Co-Chairman, Maritime Institute of Technology & Graduate Studies, Linthicum Heights, Maryland 21090. Phone: (301) 636-5700.

Special Committee No. 71

"VHF Automated Radiotelephone Systems", notice of 19th meeting,

Thursday, September 13, 1979—10:00 a.m. (Full-day meeting), Conference Room 10234/36, Nassif Building, 400 Seventh Street, S.W., at D Street, Washington, D.C.

Agenda

1. Call to Order.
 2. Administrative Matters.
 3. Discussion of future work.
- John J. Renner, Chairman, SC-71, Advanced Technology Systems, Inc., 3426 N. Washington Blvd., Arlington, VA 22201. Phone: (703) 525-2664.

Special Committee No. 70

"Minimum Performance Standards (MPS)—Marine Loran-C Receiving Equipment", notice of 19th meeting, Thursday, September 13 and Friday, September 14, 1979—10:00 a.m. Texas Instruments, Semi Conductor Bldg. (Cafeteria Entrance), Conference Room 2-B—September 13, Conference Room 1-B—September 14, 13536 North Central Expressway, Dallas, Texas.

Agenda

1. Call to Order.
 2. Old Business.
 3. Consideration of Terms of Reference.
 4. Working Group Reports.
 5. Approval of Interim Test Procedure for Marine Loran-C Receiving Equipment.
 6. New Business.
 7. Administrative Matters.
- Edward Bregstone, Test Specifications Working Group Chairman, U.S. Coast Guard Headquarters, Washington, D.C. Phone: (202) 426-1201.
Captain Alfred E. Fiore, Chairman, U.S. Merchant Marine Academy, Kings Point, New York. Phone: (516) 482-8200.

Executive Committee Meeting

Notice of September Meeting, Thursday, September 20, 1979—9:30 a.m., Conference Room 7200, Nassif (D.O.T.) Building, 400 Seventh Street, S.W., at D Street, Washington, D.C.

Agenda

1. Administrative Matters.
2. Discussion of U.S. Coast Guard Maritime Safety Requirements.
3. Report on FCC Public Coast Station N.O.I.
4. Appointment of Auditor for FY-1979.
5. Approval of Membership Contribution Schedule for FY-1980.

The RTCM has acted as a coordinator for maritime telecommunications since its establishment in 1947. All RTCM meetings are open to the public. Written statements are preferred, but by previous arrangement, oral presentations will be permitted within time and space limitations.

Those desiring additional information concerning the above meeting(s) may contact either the designated chairman or the RTCM Secretariat (phone: (202) 632-6490).

Federal Communications Commission.

William J. Tricarico,
Secretary.

[FR Doc. 79-26494 Filed 8-24-79; 8:45 am]
BILLING CODE 6712-01-M

FEDERAL MARITIME COMMISSION

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for review and approval, if required, pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10423; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California, and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, within 10 days after publication of this notice in the Federal Register. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Agreement No. T-3843.

Filing Party: Robert W. Goethe, Assistant Executive Director, Georgia Ports Authority, P.O. Box 2406, Savannah, Georgia 31402.

Summary: Agreement No. T-3843, between the Georgia Ports Authority (Authority) and Trans Freight Lines, Inc. (TFL) provides for the 5-year lease by the Authority to TFL of certain paved premises within Container Central at Garden City Terminal. TFL shall have the exclusive use of the leased premises to be used only for the storage and the handling of containers, including trailers and

chassis used to transport containers. By Order of the Federal Maritime Commission.
Francis C. Hurney,
Secretary.

Dated: August 21, 1979.
[FR Doc. 79-26502 Filed 8-24-79; 8:45 am]
BILLING CODE 6730-01-M

[Independent Ocean Freight Forwarder License No. 608R]

Murray H. Weiss & Son, Inc., Order of Revocation

On August 10, 1979, Murray H. Weiss & Son, Inc., 1115 Main Street, Bridgeport, Connecticut 06601, voluntarily surrendered its Independent Ocean Freight Forwarder License No. 608R for revocation.

Therefore, by virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 201.1 (Revised), section 5.01(c), dated August 8, 1977;

It is ordered, that Independent Ocean Freight Forwarder License No. 608R issued to Murray H. Weiss & Son, Inc., be and is hereby revoked effective August 10, 1979, without prejudice to reapplication for a license in the future.

It is further ordered, that a copy of this Order be published in the *Federal Register* and served upon Murray H. Weiss & Son, Inc.

Robert G. Drew, —
Director, Bureau of Certification and Licensing.

[FR Doc. 79-26498 Filed 8-24-79; 8:45 am]
BILLING CODE 6730-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of the Assistant Secretary for Health

Health Services Research and Development Grants Review Committee; Establishment

Pursuant to the Federal Advisory Committee Act, Public Law 92-463 (5 U.S.C. Appendix I), the Office of the Assistant Secretary for Health announces the establishment by the Secretary, HEW, with concurrence by the General Services Administration, of the following advisory committee:

Designation: Health Services Research and Developmental Grants Review Committee.

Purpose: The Committee shall advise the Secretary and make recommendations to the Director, National Center for Health Services Research, concerning the scientific and technical merit of health services research grant applications.

Grant applications considered by this Committee fall into two general types.

One type of application involves primarily analysis and the use of economic, statistical, and other theoretical approaches to examine problems associated with the delivery of health services. The other type of application involves the design and management of both large and small scale experiments and demonstrations, and the analysis of the data that derive from these experiments and demonstrations.

Authority for this Committee will expire on July 27, 1981, unless the Secretary, HEW, with the concurrence of the General Services Administration, formally determines that continuance is in the public interest.

Dated: August 20, 1979.

Marilyn McCarroll,

Acting Executive Secretary, Office of Health Research, Statistics, and Technology.

[FR Doc. 79-26522 Filed 8-24-79; 8:45 am]

BILLING CODE 4110-05-M

Office of Education

National Advisory Council on Extension and Continuing Education; Meeting

AGENCY: National Advisory Council on Extension and Continuing Education.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a meeting of the National Advisory Council on Extension and Continuing Education. It also describes the functions of the Council. Notice of the meeting is required under the Federal Advisory Committee Act (5 U.S.C., Appendix 1, 10(a)(2)). This document is intended to notify the general public of their opportunity to attend the meeting.

DATE: September 19, 20 and 21, 1979.

ADDRESS: The Mills House Hotel, Meeting and Queen Streets, Charleston, South Carolina.

FOR FURTHER INFORMATION: William G. Shannon, Executive Director, National Advisory Council on Extension and Continuing Education, 425 Thirteenth Street, NW., Suite 529, Washington, D.C. 20004. Telephone: (202) 376-8888.

The National Advisory Council on Extension and Continuing Education is authorized under Public Law 89-329. The Council is required to report annually to the President, the Congress, the Secretary of HEW, and the Commissioner of Education in the preparation of general regulations and with respect to policy matters arising in the administration of Part A of Title I

(HEA) including policies and procedures governing the approval of State plans under Section 105; and to advise the Assistant Secretary of HEW on Part B (Lifelong Learning activities) of the title. The Council is required to review the administration and effectiveness of all Federally supported extension and continuing education programs.

The meetings of the Council are open to the public. However, those who are interested in attending any meeting are asked to call the Council's office beforehand. Limited seats will be assigned on a first-come basis.

An orientation for members newly appointed to the Council will be conducted on September 19, 1979, from 2:00 p.m. to 4:00 p.m. The Council's meeting will begin on September 19 at 7:00 p.m. recessing at 9:00 p.m. It will resume of September 20 at 9:00 a.m., recessing at 5:00 p.m., and continue on September 21 at 9:00 a.m., adjourning at 12:30 p.m.

The agenda for the meeting will include the following items:

1. Report of the Chairperson
 2. Report of the Executive Director
 3. Approval of Minutes of Previous Council Meeting
 4. Budget Review
 5. Review of legislative proposals and Council's position regarding reauthorization of Title I, HEA
 6. Establishment of the structure and responsibilities of Council subcommittees
 7. Review of the final draft of the Council's Special Report to the President and Congress
 8. Report on programmatic and administrative issues regarding the Title I program in HEW Region IV.
- All records of the Council proceedings are available for public inspection at the Council's staff office, located in Suite 529, 425 Thirteenth Street, NW., Washington, D.C.

Dated: August 20, 1979.

William G. Shannon,
Executive Director.

[FR Doc. 79-26523 Filed 8-24-79; 8:45 am]

BILLING CODE 4110-02-M

Office of Human Development Services

Statement of Authority of Organization, Functions, and Delegations

This notice amends Part D of the statement of reorganization, functions, and delegations of authority of the Department of Health, Education, and Welfare, Office of Human Development

Service (HDS), published in Volume 43, Number 147, of the *Federal Register* on July 31, 1978, (pp. 33327-33347). The amendments are as follows:

1. *The Office of the Assistant Secretary for Human Development Services.* In the functional statement for the Office of the Assistant Secretary for Human Development services, changes in the statement of mission (DA.00) organization (DA.10) and functions (DA.20) have been made to reflect: (1) Movement of the Division of Equal Opportunity and Civil Rights from the Office of Policy and Management Control to the Office of the Assistant Secretary and (2) redesignation as the Office of Equal Opportunity and Civil Rights. The amended statement for the Office of the Assistant Secretary for Human Development service reads as follows:

DA.00 Mission. *The Office of the Assistant Secretary for Human Development Services (HDS)* advises the Secretary and Under Secretary on, and provides leadership and direction to, human services programs for such groups as the elderly, children, youth, families, Native Americans, persons living in rural areas, handicapped persons, and public assistance recipients. Recommends to the Secretary actions and strategies which improve coordination of human services programs among HEW programs, other Federal agencies, State and local government, and private sector organizations. Directs, coordinates, manages, and provides leadership in planning and developing HDS programs; supervises use of research and impact evaluation funds; and promotes the development of simplified and coherent human services delivery systems. Directs equal employment opportunity and civil rights policies and programs for HDS. Is responsible for directing coordinated public affairs, legislative, and regional and intergovernmental relations activities.

DA.10 Organization. *The Office of Human Development Services* is headed by the Assistant Secretary for Human Development Services (ASHDS), who reports directly to the Secretary, and consists of:

Immediate Office of the Assistant Secretary for Human Development Services (DA)
Office of Regional and Intergovernmental Relations (DAR)
Office of Legislative Affairs (DAL)
Office of Public Affairs (DAP)
Office of Equal Opportunity and Civil Rights (DAE)

DA.20 Functions. *A. The Immediate Office of the Assistant Secretary for Human Development Services (DA)*

provides executive direction, leadership and guidance to all HDS components, including the Regional Offices of HDS. ASHDS serves on the National Coordinating Committee for the Work Incentive Program (WIN), which establishes uniform reporting and similar requirements for the administration of WIN and establishes and clarifies policy under these regulations. Serves as the designee for the Secretary of HEW on the Architectural and Transportation Barrier Compliance Board. Serves as the Director of Equal Employment Opportunity for HDS. The Deputy Assistant Secretary for Human Development Services (DASHDS) acts as the Assistant Secretary in the absence of the ASHDS. In addition to the Immediate Office, there are the following staffs:

1. *Office of Regional and Intergovernmental Relations (DAR)* serves as principal advisor to ASHDS on intergovernmental matters and regional concerns; provides HDS liaison with State and local governments, public interest groups and other voluntary organizations; develops, in conjunction with the Offices of Planning, Research, and Evaluation, mechanisms for outside groups to participate in HDS planning, policy, and program development; assists in the formulation of policies on the delivery of services and advises on shaping assistance to meet specific needs. Provides leadership, management oversight, coordination, evaluation, and administrative direction to the Regional Administrators. Works with OPMC to develop, implement and review Regional Office performance standards; assists the ASHDS and DASHDS in identifying and resolving problems involving Regional Operations; provides the staff work necessary for field visits to HDS Regional Offices by personnel within and outside HEW, including pre-planning and follow-up work for the Assistant Secretary's travel. Serves as HDS liaison with the Deputy Under Secretary for Intergovernmental Affairs. Represents within the Department the concerns of veterans, focusing attention on those with special needs: the handicapped, minorities, under-educated, unemployed, untrained, and those ineligible for benefits because of type of discharge. Is the focus within the Department for inter-agency activities and communication concerning veterans; and represents the Department on inter-departmental committees and task forces concerned with removal of barriers preventing veterans from full participation in society. Reviews programs and policies within the

Department that affect veterans; develops and presents strategies, proposals, and plans for expanding services to veterans within HEW, placing emphasis on increased veteran participation in ongoing programs of the Department. Maintains liaison for the Department with veterans' organizations in the public and private sector.

2. *Office of Legislative Affairs (DAL)* serves as principal contact point for Congressional or legislative issues affecting HDS. Counsels and advises ASHDS and program commissioners on various aspects of Congressional relations and legislation. Develops legislative guidance for ASHDS approval and monitors implementation. Coordinates information and technical assistance provided to Congressional committees, members of Congress and their staffs. Assists in the development of legislative proposals and programs for HDS. Prepares or coordinates the preparation of analyses on legislation, position papers, and reports of proposed legislation; assists in the preparation of testimony and backup material on HDS legislative proposals before Congress; monitors hearings and other Congressional activities which affect HDS; coordinates constituent group concerns about legislation which affects HDS programs. Keeps the calendar of expiring legislation and key legislative activities, such as hearings. Serves as HDS liaison with the Office of the Assistant Secretary for Legislation and coordinates Congressional relations activities with that office.

3. *Office of Public Affairs (DAP)* plans and implements public information activities and projects of national scope which involve the ASHDS and DASHDS. Develops and implements a public affairs strategy for HDS. Exercises review and approval responsibility over annual public information work plans of HDS components and other aspects of public affairs, as mandated by Office of the Assistant Secretary for Public Affairs in its Public Affairs Manual; serves as HDS liaison with OASPA; oversees and evaluates HDS' program administration public information activities and products; plans and implements a field liaison program with State public information officers of programs related to HDS. Provides centralized printing management and graphics design services to HDS, and exercises printing authority to deal directly with contractors and, through the Government Printing Office, with printers; represents HDS in activities involving major print and broadcast media; provides centralized publication

and audio-visual distribution services for all HDS agencies. Serves as the Freedom of Information office for HDS.

4. *Office of Equal Opportunity and Civil Rights (DAE)* reports directly to ASHDS as Director of Equal Opportunity for HDS; provides direction and leadership on equal employment opportunity and civil rights policies and programs for the HDS; plans, develops, and evaluates programs and procedures designed to eliminate discrimination in employment, training, incentive awards, promotion, and career opportunities. Assures non-discriminatory implementation and operation of Federally supported HDS programs and projects; assures the prompt and fair adjudication of discrimination complaints and provides staff support to the ASHDS in processing and preparing final decisions on EEO complaints. Develops, implements and monitors the HDS affirmative action plan. Develops and implements evaluations designed to assess overall EEO program progress. Maintains liaison with various non-Federal organizations and State and local governments concerned with equal opportunity and civil rights; represents minorities, handicapped individuals, and women by identifying particular problems and recommending solutions related to their employment, career development, and upward mobility.

Implements the Disadvantaged Enterprise program as mandated under section 8(a) of the Small Business Act; serves as focal point for 8(a) contracts by advising minority enterprises of potential opportunities; participates in procurement planning to ensure that 8(a) affirmative action objectives are met; and keeps key program and procurement officials apprised of the 8(a) program through conferences, seminars and presentations. Develops, in conjunction with the HEW Office for Civil Rights (OCR), a civil rights operating plan that delineates civil rights management responsibilities and monitoring activities to assure civil rights compliance by all recipients of HDS funds. Develops civil rights procedures to be used to implement Departmental civil rights policies in HDS program reviews and audits to assure that benefits and services are delivered equitably to eligible minority, women, and handicapped persons. Serves as HDS liaison with the HEW Office for Civil Rights, the OS EEO Office, and ASPER on related responsibilities.

2. *The Office of Policy and Management Control:* In the functional statement for the Office of Policy and Management Control, changes in the

statement of mission (DU.00), organization (DU.10), and function (DU.20) have been made to reflect the movement of all Equal Opportunity and Civil Rights functions to the Office of the Assistant Secretary and to clarify the roles of the remaining three divisions. The amended statement for the Office of Policy and Management Control reads as follows:

DU.00 Mission. The Office of Policy and Management Control (OPMC) formulates HDS policy which provides direction in establishing agency goals and objectives of an operational or administrative nature. Serves as the focal point for the HDS policy system and provides leadership to the agency in initiating, conceptualizing and overseeing the implementation of HDS-wide policy. Develops HDS operational strategies, through consultation with HDS Executive Staff, HDS Regional Administrators, other elements in the Department and outside groups. Provides guidance to the ASHDS and HDS components in defining policy coordination and management problems and establishing directions to resolve critical issues. Is responsible for executive secretariat, operational planning, regulations development, and management analysis functions.

DU.10 Organization. The Office of Policy and Management Control is headed by a Director, who reports directly to the Assistant Secretary for Human Development Services, and consists of:

Office of the Director (DU)
Division of Management Analysis and Review (DUM)
Executive Secretariat (DUS)

DU.20 Functions. A. Office of the Director (DU) provides executive leadership to OPMC. Serves as the focal point for the HDS policy system, develops operational strategies for implementing HDS policy, provides guidance to the agency in defining policy coordination and management problems and focuses top level management attention on resolving these issues. Oversees the responsibility of the 3 operating divisions.

B. Division of Management Analysis and Review (DUM) plans, organizes, and conducts surveys and management reviews of processes or functions in HDS program and staff components. Coordinates the development of standards for and conducts Regional Office/Central Office performance reviews. Directs special management systems projects of concern to more than one HDS component (e.g., State plan simplification, development of policy issuance system), establishes

management systems to implement recommendations of such studies. Serves as HDS principal staff for examining organization and management problems of particular interest to the Assistant Secretary. Performs analyses of the overall organizational structure and functions of HDS and the elements which comprise HDS. Coordinates preparation of or prepares organizations proposals requiring Secretarial approval. Serves as HDS committee management office. Maintains official organization files for HDS, including organization charts, and disseminates these materials as appropriate throughout HDS. Prepares formal delegations of authority of the ASHDS.

C. Executive Secretariat (DUS) ensures that issues requiring the attention of the ASHDS, DASHDS, or HDS Executive Staff are developed on a timely and coordinated basis. Facilities decisions on matters requiring immediate action including White House and Secretariat assignments. Serves as HDS liaison to HEW Executive Secretariat. Manages the Secretary's major initiatives tracking system (MITS) with HDS. Aids in formulation of and tracking the operational objectives developed by each HDS unit for the Assistant Secretary. Receives, assesses, and controls incoming correspondence and assignments to the appropriate HDS unit for response. Provides assistance and advice to HDS staff on the development of responses to correspondence and on the content and style of special assignments. Tracks development of periodic reports and facilities Departmental clearance. Exercises quality control for all major written products for the ASHDS and DASHDS signature.

D. Division of Policy Coordination (DUP) designs, implements, and coordinates a uniform policy development, regulatory, and issuance system for HDS and acts as HDS principal liaison for these functions. Implements special HDS and Departmental regulatory reform initiatives; provides substantive HDS input at Departmental meetings on regulatory matters, staffs the Secretary's regulations review panels and represents HDS on all policy and regulatory matters. Coordinates with the General Counsel on all legal matters. Coordinates Privacy Act functions for HDS. Develops and maintains close liaison working relationships with other primary components of DHEW such as Health, SSA, HCFA, as well as other Federal agencies such as Department of

Labor, Agriculture, INS, and BIA in order to coordinate activities pertaining to functional duties and to discuss the legal and technical aspects of OHDS programs. Proposes and analyzes regulations and policy issuances of a binding nature in the area of social service programs, and clears all DHEW regulations.

Provides analysis of HDS statutory authorities to identify policy issues and alternatives for the Assistant Secretary to guide the substantive development of regulations and other policy documents. Prepares guidance that outlines the policy implications of HDS legislative and regulatory authorities and documents for Assistant Secretary issuance. Negotiates and resolves policy and regulatory issues between HDS administrations and other HEW POC's and OS. Performs analyses of legal decisions, opinions, rulings, and other legal instruments affecting HDS programs and policies. Designs and provides training and technical assistance to program administrations, regional components, and HDS constituencies. Assists program administrations in establishing a regulations development capacity. Controls the HDS calendar of regulatory activities; coordinates with fiscal, administrative and legislative cycles for HDS.

Dated: August 18, 1979.

Frederick M. Bohen,
Assistant Secretary for Management and Budget.

[FR Doc. 79-26523 Filed 8-24-79; 8:45 am]

BILLING CODE 4110-92-M

Public Health Service

National Institutes of Health; Statement of Organization, Functions, and Delegations of Authority

Part H, Chapter HN (National Institutes of Health) of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health, Education, and Welfare (40 FR 22859, May 27, 1975, as amended most recently at 44 FR 7234, February 6, 1979), is amended to reflect: (1) The modification of the functions of the Office for Medical Applications of Research; (2) the modification of the functions of the Division of Library Operations in the National Library of Medicine; and the modification of the functions of the Division of Extramural Programs in the National Library of Medicine. These changes will reflect current organizational references and bring into conformity the functions of

the respective organizations with current operations.

Sec. HN-B, Organization and Functions, is amended as follows:

(1) Under the heading Office for Medical Applications of Research (HNA9), make the following changes: Amend item (3) by deleting "PHS Office of Health Technology (OHT)" and substituting "National Center for Health Care Technology (NCHCT)." Amend item (4) by deleting "OHT" after "NIH and the" and substituting "NCHCT."

(2) Under the heading National Library of Medicine (HNL), make the following changes:

Division of Library Operations (HNL2). Delete item (5) and substitute the following: "(5) plans and administers a national on-line biomedical information and retrieval system (MEDLINE)."

Division of Extramural Programs (HNL5). Insert item (4) as follows: "(4) provides administrative and programmatic coordination for the Regional Medical Library Program in meeting the Library's objectives relative to the development and maintenance of a national network designed to provide biomedical information to health professionals."

Dated: August 18, 1979.

Frederick M. Bohen,
Assistant Secretary for Management and Budget.

[FR Doc. 79-26524 Filed 8-24-79; 8:45 am]

BILLING CODE 4110-08-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

[Docket No. N-79-943]

Privacy Act of 1974; Proposed Amendments to Systems of Records

AGENCY: Department of Housing and Urban Development.

ACTION: Notice of proposed amendments to existing systems of records.

SUMMARY: The Department is giving notice that it intends to amend the routine uses of two systems of records.

EFFECTIVE DATE: The amendments shall become effective without further notice on September 26, 1979, unless comments are received on or before September 26, 1979, which would result in a contrary determination.

ADDRESS: Rules Docket Clerk, Room 5218, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington D.C. 20410.

FOR FURTHER INFORMATION CONTACT: Mr. Harold Rosenthal, Departmental Privacy Act Officer, telephone 202-755-5192. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The Department is adding real estate licensing groups and local private fair housing groups and agencies to the routine uses section of the Equal Opportunity Housing Complaints (HUD/DEPT-15) system of records to enable the Department to extend the enforcement of Title VIII of the Civil Rights Act of 1968.

To better clarify the Specific routine uses for the record system entitled Rehabilitation Grants and Loan Files (HUD/DEPT-29), the following changes are made:

1. Dealers, contractors and tax assessors are deleted.
2. Financial institutions replaces lenders.
3. Federal National Mortgage Association, loan servicers, credit reporting agencies, employers and retail consumer credit grantors are added.

The routine uses paragraph for Equal Opportunity Housing Complaints is to read:

HUD/DEPT-15

SYSTEM NAME:

Equal Housing Opportunity
Complaints

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See Routine Uses paragraphs in prefatory statement. Other routine uses: to state and local government EO-concerned agencies, the U.S. Department of Justice (including the FBI), the U.S. Department of Labor (including the Office of Federal Contract Compliance), U.S. Courts, the Veterans Administration, the Farmers' Home Administration, complainants, respondents and attorneys—for investigation, preparing litigation, and monitoring compliance; to real estate licensing groups and local private fair housing enforcement groups and agencies operating under cooperative agreements with HUD—to carry out for HUD investigations and studies of alleged acts of discrimination covered under Title VIII of the Civil Rights Act of 1968.

The routine uses paragraph for Rehabilitation Grants and Loans Files is to read:

HUD/DEPT-29

SYSTEM NAME:

Rehabilitation Grants and Loan Files

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See Routine Uses paragraphs in prefatory statement. Other routine uses: to local agencies—for monitoring and carrying out the program; to financial institutions—for providing supplemental rehabilitation funds; to credit reporting agencies, employers, financial institutions, and retail consumer credit grantors—for verification of employment and financial status; and to Federal National Mortgage Association and loan servicers—for loan servicing.

Authority: 5 U.S.C. 552a; 88 Stat. 1896; Sec. 7(d) Department of HUD Act (42 U.S.C. 3535(d)).

Issued at Washington, D.C., August 13, 1979.

Vincent J. Hearing,
Acting Assistant Secretary for
Administration.

[FR Doc. 79-26512 Filed 8-24-79; 8:45 am]
BILLING CODE 4210-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Outer Continental Shelf Western and Central Gulf of Mexico; Proposed Oil and Gas Lease Sale No. 58A; Correction

In FR DOC. 79-25314 appearing at page 48356 in the issue of Friday, August 17, 1979, make the following changes:

(1) On page 48356, third column, under heading "2. Filing of Bids.", last line, "FR 1979" should be corrected to read "44FR—1979"

(2) On page 48373, second column, under "Stipulation No. 5", land descriptions, "NW 1/4 SW 1/4 NW 1/4 S 1/2 SW 1/4 NW 1/4" should be corrected to read "NW 1/4 SW 1/4 NW 1/4 S 1/2 SW 1/4 NW 1/4."

(3) On page 48373, third column, under "Stipulation No. 5", land descriptions, "N 1/2 NW 1/4 W 1/4 SE 1/4 NW 1/4 NW 1/4" should be corrected to read "N 1/2 NW 1/4 NW 1/4 SE 1/4 NW 1/4 NW 1/4."

BILLING CODE 1505-01-M

DEPARTMENT OF THE INTERIOR

DEPARTMENT OF STATE

Environmental Impact Statement—Caribou Convention; Scoping Meeting**ACTION:** Notice of Public Meeting.

SUMMARY: The Departments announce that they will hold a public meeting on September 11, 1979, to discuss the preparation of an environmental impact statement (EIS) under the provisions of the National Environmental Policy Act on the proposed caribou convention. The purpose of this meeting is to determine the scope of issues to be addressed and to identify significant issues to be analyzed in depth in preparing the EIS.

DATES: The public meeting will be held September 11, 1979, from 9:00 a.m. to 5:00 p.m. at the Department of the Interior, Room 7000A, 18th and C Streets NW., Washington, DC 20240.

SUPPLEMENTARY INFORMATION: Caribou herds that migrate between Alaska and Canada have substantially declined in numbers in the past quarter century. Joint management of this resource by the United States and Canada may be essential to insure its conservation, since these caribou migrate thousands of miles and frequently cross the international boundary. The Secretary of the Interior and the Canadian Environment Minister believe, after consulting respectively with the Departments of State and External Affairs, that such joint management can best be implemented by an international agreement between the two nations.

The United States Fish and Wildlife Service of the Department of the Interior and the Canadian Wildlife Service have held a number of preliminary meetings to determine what matters should be included in the proposed agreement. Both Services have also consulted initially with local governments, native groups, and other interested organizations to determine their views on this question. The Department of the Interior has also requested of the Department of State authority to formally negotiate an international agreement for migratory caribou.

The two Departments believe that any agreement should establish a comprehensive management scheme to insure the conservation of caribou herds that migrate between the two nations. Possible alternatives, however, include more narrow management programs or no international agreement. The Departments will prepare an EIS and will consider it in formulating their positions on the proposed agreement.

The Departments request that all interested persons or organizations participate in the scoping process so the final EIS will focus on significant issues and be a more valuable decision-making tool.

FOR FURTHER INFORMATION CONTACT: Charles Kaiser, Office of the Solicitor, Department of the Interior, Room 6549, 18th and C Streets NW., Washington, DC 20240 (202-343-2172) or William H. Mansfield, Office of Environment and Health, Department of State, Room 7820, Washington, DC 20520 (202-632-9266).

Dated: August 22, 1979.

Lynn A. Greenwalt,
Director, United States Fish and Wildlife Service, Department of the Interior.

William Alston Hayne,
Deputy Assistant Secretary, Environment, Health, and Natural Resources, Department of State.

[FR Doc 79-26594 Filed 8-24-79; 8:45 am]

BILLING CODE 4310-55-M

NUCLEAR REGULATORY COMMISSION**Advisory Committee on Reactor Safeguards Subcommittee on Reliability and Probabilistic Assessment; Meeting**

The ACRS Subcommittee on Reliability and Probabilistic Assessment will hold an open meeting on September 11 and 12, 1979, in Century IV Room, Quality Inn, Airport, 5249 West Century Boulevard, Los Angeles CA 90045 to discuss the concept of establishing quantitative safety goals for nuclear power reactors, the development of a status report concerning nuclear power plant component failure rates, and a review of the NRC Probabilistic Analysis Staff's research program to develop information for the ACRS Annual Report to Congress on the NRC Safety Research Program. Notice of this meeting was published August 23, 1979.

In accordance with the procedures outlined in the Federal Register on October 4, 1978, (43 FR 45926), oral or written statements may be presented by members of the public, recording will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The agenda for subject meeting shall be as follows:

Tuesday, September 11 and Wednesday, September 12, 1979, 8:30 a.m. until the conclusion of business each day.

The Subcommittee may meet in Executive Session, with any of its consultants who may be present, to explore and exchange their preliminary opinions regarding matters which should be considered during the meeting and to formulate a report and recommendations to the full Committee.

At the conclusion of the Executive Session, the Subcommittee will hear presentations by and hold discussions with representatives of the NRC Staff, and their consultants, pertinent to this review. The Subcommittee may then caucus to determine whether the matters identified in the initial session have been adequately covered and whether the project is ready for review by the full Committee.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the Designated Federal Employee for this meeting, Mr. Richard K. Major (telephone 202/634-1414) between 8:15 a.m. and 5:00 p.m., e.s.t.

Dated August 20, 1979.

John C. Hoyle,
Advisory Committee Management Officer.

[FR Doc 79-26394 Filed 8-24-79; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-361A and 50-362A]

Southern California Edison Company, et al.; Receipt of Additional Antitrust Information; Time for Submission of Views on Antitrust Matters

Southern California Edison Company, pursuant to Section 103 of the Atomic Energy Act of 1954, as amended, has filed information requested by the Attorney General for Antitrust Review as required by 10 CFR Part 50, Appendix L. This information concerns two proposed additional ownership participants, the City of Riverside and the City of Anaheim, for the San Onofre Nuclear Generating Station, Units 2 and 3. The current holders of the construction permits are Southern California Edison Company and San Diego Gas and Electric Company.

The information was filed in connection with the application by Southern California Edison Company and San Diego Gas and Electric Company for construction permits and operating licenses for two pressurized water reactors. Construction was

authorized on October 18, 1973 at the San Onofre site located in San Diego County, California.

The original application was dated May 28, 1970, and the Notice of Receipt of Application for Construction Permits and Facility Licenses and Availability of Applicant's Environmental Report; Time for Submission of Views on Antitrust Matters was published in the Federal Register on February 20, 1971 (36 FR 3278). The Notice of Receipt of Application for Facility Operating Licenses; Notice of Availability of Environmental Report; and the Notice of Consideration of Issuance of Facility Operating Licenses and Notice of Opportunity for Hearing was published in the Federal Register on April 7, 1977 (42 FR 18460). Subsequently, the Notice of Hearing was published in the Federal Register on October 26, 1977 (42 FR 57575).

A copy of the above documents are available for public examination and copying for a fee at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555 and at the Mission Viejo Branch Library, 24851 Chrisanta Drive, Mission Viejo, California.

Any person who wishes to have his views on the antitrust matters with respect to the City of Riverside and the City of Anaheim presented to the Attorney General for consideration or who desires additional information regarding the matters covered by this notice, should submit such views or requests for additional information to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Chief, Antitrust and Indemnity Group, Office of Nuclear Reactor Regulation, on or before October 26, 1979.

Dated at Bethesda, Maryland, this 13th day of August, 1979.

For the Nuclear Regulatory Commission,
Robert L. Baer,
Chief, Light Water Reactors Branch No. 2
Division of Project Management.

[FR Doc. 79-26185 Filed 8-24-79; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-409, (SFP License Amendment)]

Dairyland Power Cooperative, (La Crosse Boiling Water Reactor); Prehearing Conference and Evidentiary Hearing

August 21, 1979.

Notice is hereby given that a prehearing conference authorized by 10 CFR 2.752 will be held on September 20 and 21, 1979, at Room 303, Cartwright

Center, of the University of Wisconsin at La Crosse, La Crosse, Wisconsin 54601. The conference will commence at 1 p.m. on Thursday, September 20 and continue at 9 a.m. on Friday, September 21, 1979. It will adjourn no later than 3 p.m. on September 21.

The conference is being convened to discuss the motions for summary disposition which have been filed by the Dairyland Power Cooperative (Applicant) and by the NRC Staff in this proceeding, as well as other matters specified in 10 CFR 2.752(a). (At the conference, the parties may also be asked questions related to the environmental contentions in the ongoing operating license proceeding.) Prior to the conference, on the morning of September 20, the Board wishes to tour the facility, and particularly the spent fuel pool. The Board requests the Applicant to make arrangements for the Board and parties to participate in such a tour.

Notice is also given that, to the extent that the foregoing motions for summary disposition are not granted, the evidentiary hearing in this proceeding will commence at 9:30 a.m. on Tuesday, October 2, 1979. To the extent necessary, further sessions will be held on October 3-5, 1979, beginning at 9 a.m. The hearing will be held at Hall of the Presidents, Cartwright Center, of the University of Wisconsin at La Crosse, La Crosse, Wisconsin 54601. The hearing will be conducted by an Atomic Safety and Licensing Board consisting of Dr. George C. Anderson, Mr. Ralph S. Decker, and Mr. Charles Bechhoefer, Chairman.

A Notice of Opportunity for Hearing in this proceeding was published on May 25, 1978 (43 FR 22462). A petition for leave to intervene filed by George R. Nygaard, Mark Burmaster, and Anne K. Morse on behalf of the Coulee Region Energy Coalition was subsequently granted and a Notice of Hearing was published on August 4, 1978 (43 FR 34565).

The Board intends to render its decision on the summary disposition motions no later than the conclusion of the prehearing conference. Direct testimony for those issues upon which we rule that summary disposition is not appropriate will be required to be filed on the following schedule:

1. For issues, if any, upon which a ruling not to dismiss has been made by September 12: testimony to be filed by Monday, September 17, 1979.

2. For issues, if any, as to which a determination not to dismiss is made as late as the conclusion of the prehearing conference: testimony to be filed by Monday, September 24, 1979.

In the case of the Applicant and Staff, copies of direct testimony for all three Board members are requested to be hand-delivered to the office of the Chairman in Bethesda, MD. (Additional copies should also be served on the Board members through normal service channels.)

Any person who has not been admitted as a party to this proceeding may request permission to make a limited appearance pursuant to the provisions of 10 CFR 2.715(a). A person making a limited appearance may make an oral or written statement on the record. He or she does not become a party but may state a position and raise questions which he or she would like to have answered, to the extent that the questions are within the purview of matters which may be considered in a license amendment proceeding of this type. Limited appearances will be permitted at both the prehearing conference and, if one is held, the evidentiary hearing, within such limits and on such conditions as may be fixed by the Board. At the prehearing conference, such statements will be heard on September 21, 1979, after completion of the formal business of the conference. Persons desiring to make a limited appearance are requested to inform the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, ATTN: Docketing and Service Branch.

Dated at Bethesda, Maryland, this 21st day of August, 1979.

For the Atomic Safety and Licensing Board,
Charles Bechhoefer,
Chairman.

[FR Doc. 79-26542 Filed 8-24-79; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. STN 50-495]

Stone & Webster Engineering Corp. Reference Safety Analysis Report for SWESSAR-PI Balance-of-Plant Standard Design and Its Relationship to the Resar-41 Standard Design; Notice of Issuance of Amendment to Preliminary Design Approval

Notice is hereby given that the staff of the Nuclear Regulatory Commission has issued Amendment No. 4 to Preliminary Design Approval No. PDA-4, dated August 18, 1979, for the reference system design of a balance-of-plant portion of a pressurized water reactor nuclear power plant utilizing the Westinghouse RESAR-41 nuclear steam supply system design, and as described in the application by Stone & Webster Engineering Corporation (SWESSAR-PI). Preliminary Design Approval No.

PDA-4 was issued by the staff of the Nuclear Regulatory Commission on May 5, 1978.

The amendment extends the expiration date for Preliminary Design Approval No. PDA-4 from August 18, 1979 to May 5, 1981. This change was made as a result of the Nuclear Regulatory Commission's August 1978 policy statement on standardization of nuclear power plants which provided for an extension to five years of the effective terms for preliminary design approvals for reference system designs which previously were set to terminate three years after issuance.

The Nuclear Regulatory Commission's August 1978 policy statement identified certain matters that PDA holders would be required to address prior to the granting of PDA extensions. These matters were identified in an NRC staff letter to the Stone & Webster Engineering Corporation, R. Boyd to W. Kennedy, dated January 24, 1979. By letters dated July 16, 1979 and August 17, 1979, W. Kennedy to R. Boyd, the Stone & Webster Engineering Corporation submitted Amendments 40 and 41, respectively, to the SWESSAR-P1 application, which addressed each of these matters. The NRC staff has reviewed Amendments 40 and 41 for completeness and has concluded that the Stone & Webster Engineering Corporation has addressed each of these matters. The NRC staff considers this to be an acceptable basis for extending PDA-4 for two additional years. If the NRC staff is informed by a utility-applicant that it intends to reference the SWESSAR-P1/RESAR-41 design after August 18, 1979, it will then perform a detailed review of Amendments 40 and 41 to assure that each of the identified matters has been acceptably resolved for the SWESSAR-P1/RESAR-41 design.

The NRC staff has implemented this procedure for extending PDA's in consideration of the high degree of confidence it places in reference system designs for which PDA's have been issued. This procedure permits the detailed review of the identified matters to be deferred on these designs until a utility-applicant requirement for that review is identified.

Amendment No. 4 to PDA-4 is effective as of its date of issuance and shall expire on May 18, 1981, unless earlier superseded by issuance of final design approval for the SWESSAR-P1/RESAR-41 design, or unless extended by the NRC staff. The expiration of PDA-4, as amended, should not affect use of the SWESSAR-P1/RESAR-41 design for reference in any construction permit application docketed prior to such date.

A copy of Preliminary Design Approval No. PDA-4, Amendment No. 4 dated August 18, 1979 is available for public inspection at the Commission's Public Document Room at 1717 H Street, NW., Washington, D.C. 20555.

Dated at Bethesda, Maryland, this 18th day of August 1979.
For the Nuclear Regulatory Commission.
C. J. Heltemes, Jr.,
Chief, Standardization Branch Division of Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 79-26544 Filed 8-24-79; 8:45 am]
BILLING CODE 7590-01-M

[Docket No. STN 50-495]

Stone & Webster Engineering Corp. Reference Safety Analysis Report for SWESSAR-P1 Balance-of-Plant Standard Design and its Relationship to the CESSAR Standard Design; Notice of Issuance of Amendment to Preliminary Design Approval

Notice is hereby given that the staff of the Nuclear Regulatory Commission has issued Amendment No. 2 to Preliminary Design Approval No. PDA-6, dated August 18, 1979, for the reference system design of a balance-of-power portion of a pressurized water reactor nuclear power plant utilizing the Combustion Engineering CESSAR nuclear steam supply system design, and as described in the application by Stone & Webster Engineering Corporation (SWESSAR-P1). Preliminary Design Approval No. PDA-6 was issued by the staff of the Nuclear Regulatory Commission on August 18, 1976.

The amendment extends the expiration date for Preliminary Design Approval No. PDA-6 from August 18, 1979 to August 18, 1981. This change was made as a result of the Nuclear Regulatory Commission's August 1978 policy statement on standardization of nuclear power plants which provided for an extension to five years of the effective terms for preliminary design approvals for reference system designs which previously were set to terminate three years after issuance.

The Nuclear Regulatory Commission's August 1978 policy statement identified certain matters that PDA holders would be required to address prior to the granting of PDA extensions. These matters were identified in an NRC staff letter to the Stone & Webster Engineering Corporation, R. Boyd to W. Kennedy, dated January 24, 1979. By letters dated July 16, 1979 and August 17, 1979, W. Kennedy to R. Boyd, the Stone & Webster Engineering Corporation submitted Amendments 40 and 41, respectively, to the SWESSAR-P1

application, which addressed each of these matters. The NRC staff has reviewed Amendments 40 and 41 for completeness and has concluded that the Stone & Webster Engineering Corporation has addressed each of these matters. The NRC staff considers this to be an acceptable basis for extending PDA-6 for two additional years. If the NRC staff is informed by a utility-applicant that it intends to reference the SWESSAR-P1/CESSAR design after August 18, 1979, it will then perform a detailed review of Amendments 40 and 41 to assure that each of the identified matters has been acceptably resolved for the SWESSAR-P1/CESSAR design.

The NRC staff has implemented this procedure for extending PDA's, in consideration of the high degree of confidence it places in reference system designs for which PDA's have been issued. This procedure permits the detailed review of the identified matters to be deferred on these designs until a utility-applicant requirement for that review is identified.

Amendment No. 2 to PDA-6 is effective as of its date of issuance and shall expire on August 18, 1981, unless earlier superseded by issuance of a final design approval for the SWESSAR-P1/CESSAR design, or unless extended by the NRC staff. The expiration of PDA-6, as amended, should not affect use of the SWESSAR-P1/CESSAR design for reference in any construction permit application docketed prior to such date.

A copy of Preliminary Design Approval No. PDA-6, Amendment No. 2 dated August 18, 1979 is available for public inspection at the Commission's Public Document Room at 1717 H Street, NW., Washington, D.C. 20555.

Dated at Bethesda, Maryland, this 18th day of August 1979.
For the Nuclear Regulatory Commission.
C. J. Heltemes, Jr.,
Chief, Standardization Branch, Division of Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 79-26543 Filed 8-24-79; 8:45 am]
BILLING CODE 7590-01-M

[Docket No. 50-338]

Virginia Electric and Power Co.; Notice of Issuance of Amendment to Facility Operating License and Negative Declaration

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 14 to Facility Operating License No. NPF-4, issued to the Virginia Electric and Power Company, which revised Technical Specifications for operation of the North Anna Power Station, Unit No. 1 (the

facility) located in Louisa County, Virginia. The amendment is effective as of its date of issuance.

The amendment revises the provisions in the Technical Specifications to permit and increase in fuel storage capacity from 400 to 966 fuel assemblies in the spent fuel pool of the North Anna Power Station, Units No. 1 and No. 2. The amendment revises design features and associated operating limits for the storage pool, as necessary, to accommodate the increased storage capacity, in accordance with the licensee's application for amendment, dated May 1, 1978, the Technical Specifications issued with Facility Operating License NPF-4 for the North Anna Power Station, Unit No. 1 will also be used for the North Anna Power Station, Unit No. 2 when the latter is operating.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations. The Commission has made appropriate findings as required by the Act and the Commission's regulations in 10 CFR Chapter I, which are set forth in the license amendment. Notice of Proposed Issuance of Amendment to Facility Operating License in connection with this action was published in the *Federal Register* on May 22, 1978 (43 FR 21957). A contested licensing proceeding ensued. On August 6, 1979 the Atomic Safety and Licensing Board issued *Board Decisions* granting the licensee's motion for summary disposition, denying the intervenors' motion to amend petition to intervene and cancelling the prehearing conference and hearing in the proceeding.

The Commission has prepared an environmental impact appraisal relative to the instant amendment and has concluded that an environmental impact statement for this particular action is not warranted because there will be no environmental impact attributable to the action other than that which has already been predicted and described in the Commission's Final Environmental Statement for the facility, dated April 1973, and in the Addendum to the Final Environmental Statement, dated November 1976, or evaluated in the environmental impact appraisal related to this action. Accordingly, the Commission has determined that a negative declaration is appropriate pursuant to 10 CFR 51.7.

For further details with respect to this action, see (1) the application for amendment, dated May 1, 1978, (2) Amendment No. 14 to License No. NPF-4, (3) the Commission's related Safety

Evaluation, dated January 29, 1979, and (4) the Commission's Environmental Impact Appraisal dated April 2, 1979. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., at the Board of Supervisor's Office, Louisa County Courthouse, Louisa, Virginia, 23093, and at the Alderman Library, Manuscripts Department, University of Virginia, Charlottesville, Virginia, 22901. A copy of items (2), (3), and (4) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington D.C., 20555, Attention: Director, Division of Project Management, Office of Nuclear Reactor Regulation.

Dated at Bethesda, Maryland, this 17th day of August 1979.

For the Nuclear Regulatory Commission.

Olan D. Parr,
Chief, Light Water Reactors, Branch #3,
Division of Project Management.

[FR Doc. 79-26545 Filed 8-24-79; 8:45 am]
BILLING CODE 7590-01-M

OFFICE OF MANAGEMENT AND BUDGET

Agency Forms Under Review

Background

August 22, 1979.

When executive departments and agencies propose public use forms, reporting, or recordkeeping requirements, the Office of Management and Budget (OMB) reviews and acts on those requirements under the Federal Reports Act (44 U.S.C. Chapter 35). Departments and agencies use a number of techniques including public hearings to consult with the public on significant reporting requirements before seeking OMB approval. OMB in carrying out its responsibility under the Act also considers comments on the forms and recordkeeping requirements that will affect the public.

List of Forms Under Review

Every Monday and Thursday OMB publishes a list of the agency forms received for review since the last list was published. The list has all the entries for one agency together and grouped into new forms, revisions, extensions, or reinstatements. Each entry contains the following information:

The name and telephone number of the agency clearance officer;

The office of the agency issuing this form;

The title of the form;

The agency form number, if applicable;

How often the form must be filled out; Who will be required or asked to report;

An estimate of the number of forms that will be filled out;

An estimate of the total number of hours needed to fill out the form; and

The name and telephone number of the person or office responsible for OMB review.

Reporting or recordkeeping requirements that appear to raise no significant issues are approved promptly. In addition, most repetitive reporting requirements or forms that require one half hour or less to complete and a total of 20,000 hours or less annually will be approved ten business days after this notice is published unless specific issues are raised; such forms are identified in the list by an asterisk (*).

Comments and Questions

Copies of the proposed forms and supporting documents may be obtained from the agency clearance officer whose name and telephone number appear under the agency name. Comments and questions about that items on this list should be directed to the OMB reviewer or office listed at the end of each entry.

If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the reviewer of your intent as early as possible.

The timing and format of this notice have been changed to make the publication of the notice predicable and to give a clearer explanation of this process to the public. If you have comments and suggestions for further improvements to this notice, please send them to Stanley E. Morris, Deputy Associate Director for Regulatory Policy and Reports Management, Office of Management and Budget, 728 Jackson Place, Northwest, Washington, D.C. 20503.

DEPARTMENT OF AGRICULTURE

Agency Clearance Officer—Richard J. Schrimper—447-6201

New Forms

Food and Nutrition Service
Integrated Quality Review Schedule
On occasion

Food Stamp participants, applicants & State agencies, 27,000 responses.

211,200 hours
Charles A. Filett, 395-5080

Revisions

Economics, Statistics, and Cooperatives Service

*Evaluation of Automated Cotton Fiber Test Line Results in Marketing Annually
Textile mills, 378 responses, 126 hours
Charles A. Felett, 395-5080

DEPARTMENT OF ENERGY

Agency Clearance Office—John Gross—252-5214

New Forms

Schedule (E) Alternative Sites for Powerplants
ERA-321
Single time
Powerplants, 47 responses, 94 hours
Jefferson B. Hill, 395-5887

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Agency Clearance Officer—Peter Gness—245-7488

New Forms

Alcohol, Drug Abuse and Mental Health Administration
Survey of Facilities and Programs for Mentally Disordered Offenders
Single time
State & local mental health & correc. agen. officials
Off. of Federal Statistical Policy & Standard, 673-7974
Health Care Financing Administration (Medicaid)
Integrated Quality Control Review Worksheet
HCFA-316
Semi-annually
Title XIX cases, 14,172 responses, 150,223 hours
Richard Eisinger, 395-3214
Health Care Financing Administration (Medicaid)
*Installation and Operation for Medicaid Management Information system
HCFA-140
Quarterly
States with certified MMIS, 120 responses, 60 hours
Richard Eisinger, 395-3214
Office of the Secretary
*Project-by-Project Cost-Sharing Agreement
HEW 490, OS-17-79
On occasion
Applicants for HEW research grants, 5,000 responses, 1,500 hours
Budget Review Division, 395-4775

Revisions

Health Care Financing Administration (Medicaid)
Medicaid Quality Control Review Schedule and Worksheet
HCFA-301
Semi-annually

Title XIX cases, 141,714 responses, 1,502,168 hours
Richard Eisinger, 395-3214
Social Security Administration
Quality Control in Aid to Families With Dependent Children and Quality Control in Adult Programs
SSA-4341/4342
Semi-annually
Welfare Recipients, 66,500 responses, 944,500 hours
Barbara F. Young, 395-6132

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Agency Clearance Officer—Robert G. Masarsky—755-5184

New Forms

Policy Development and Research
CDBG Evaluation: Multipurpose, Childcare and Elderly Facilities Users
Single time
Users of childcare, multipur. & elderly fac. in 9 cities, 5,792 responses, 2,058 hours
Arnold Strasser, 395-5080
Policy Development and Research
Household Survey—Years 1B, 2, and 3
Annually
Households in 9 cities, 11,250 responses, 11,250 hours
Arnold Strasser, 395-5080
Extensions
Housing Production and Mortgage Credit
Request for Pre-Application Analysis
FHA 3550
On Occasion
Spon. seeking insur. finan. for land acquisition/develop., 50 responses, 50 hours
Arnold Strasser, 395-5080
Housing Production and Mortgage Credit
*Application for Land Development Mortgage Insurance
FHA 3551
On occasion
Sponsors of land development projects, 1,000 responses, 500 hours
Arnold Strasser, 395-5080

DEPARTMENT OF THE INTERIOR

Agency Clearance Officer—William L. Carpenter—343-6716

New Forms

Geological Survey
Supplementary Application for Natural Gas Category Determination
On occasion
Lessees and operators of Federal, Indian, and OCS leases, 4,000 responses, 16,000 hours
Charles A. Ellett, 395-5080

DEPARTMENT OF JUSTICE

Agency Clearance Officer—Donald E. Larue—633-3526

Revisions

Drug Enforcement Administration
Arcos Transaction Reporting
DEA 333
Monthly
Registrants under the Controlled Substance Act, 279,364 responses, 58,984 hours
Laverne V. Collins, 395-3214
Drug Enforcement Administration
*Application for Individual Manufacturing Quota
DEA 189
Annually
Pharmaceutical manufacturers, 60 responses, 30 hours
Laverne V. Collins, 395-3214
Immigration and Naturalization Service
*Application of Waiver of Grounds of Excludability
I-601
On Occasion
Aliens asking for a waiver of excludability 2,600 responses, 1,300 hours
Laverne V. Collins, 395-3214
Immigration and Naturalization Service
Petition To Classify Nonimmigrant as Temporary Worker or Trainee
I-129B
On occasion
Employ. seek. to bring alien into U.S. as temp. wkr/trnee, 35,000 responses, 26,250 hours
Laverne V. Collins, 395-3214

Extensions

Immigration and Naturalization Service
*Waiver of Rights, Privileges, Exemptions and Immunities
Immigration and Naturalization Act
I-508A
On occasion
Aliens requesting to retain status as an immigrant, 1,000 responses, 80 hours
Laverne V. Collins, 395-3214
Immigration and Naturalization Service
*Application for a New Naturalization or Citizenship Paper
N-565
On occasion
Individuals needing a new natural. or citizenship paper, 2,000 responses, 500 hours
Laverne V. Collins, 395-3214
Immigration and Naturalization Service
*Questionnaire Submitted by Petitioner at Final (Naturalization) Hearing
N-445
On occasion
Petitioners at final naturalization hearings, 150,000 responses, 12,500 hours
Laverne V. Collins, 395-3214

Immigration and Naturalization Service
*Annual Report of Status by Treaty Trader Investor

I-126

Annually
Nonimmigrant aliens, 30,000 responses, 15,000 hours
Laverne V. Collins, 395-3214
Immigration and Naturalization Service
Petition for Approval of School for Attendance by Nonimmigrant Students

I-17

On occasion
Schools seeking approval for nonimmigrant students, 1,000 responses, 1,000 hours
Laverne V. Collins, 395-3214
Immigration and Naturalization Service
*Request for determination that Prospective Immigrant is an Investor
I-526
On occasion
Prospective immigrants 4,000 responses, 2,000 hours
Laverne V. Collins, 395-3214

DEPARTMENT OF TRANSPORTATION

Agency Clearance Officer—Bruce H. Allen—426-1887

New Forms

National Highway Traffic Safety Administration DOT Survey of Public Response to Energy Problems¹ (Roper Poll)
Single time
Nationwide sample of adult persons, 2,005 responses, 140 hours
Susan B. Geiger, 395-5867

RAILROAD RETIREMENT BOARD

Agency Clearance Officer—Pauline Lohens—312-751-4693

Extensions

*Application and Statement of Sickness, Miscarriage, or Childbirth
SI-2 (6-68)
On occasion
Applicants for benefits: doctors, 2,000 responses, 1,000 hours
Barbara F. Young, 395-6132

SMALL BUSINESS ADMINISTRATION

Agency Clearance Officer—John Reidy—653-6081

New Forms

SBA Application for Loan and Sea Lender's Application for Guarantee or Participation

¹OMB review and action on this report may already have been completed by the time this notice appears. Prompt action is warranted because of urgent need expressed by the agency to obtain the information. Public comments will still be carefully considered, and any changes indicated will be made whenever possible.

RO X 40 and RO X 42

Single time
Lenders and small business firms, 1,600 responses, 16,000 hours
Richard Sheppard, 395-3211
Stanley E. Morris,
Deputy Associate Director for Regulatory Policy and Reports Management.

[FR Doc. 79-28608 Filed 8-24-79; 8:45 am]

BILLING CODE 3110-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-16116; File No. SR-NASD-79-8]

Self-Regulatory Organization; National Association of Securities Dealers, Inc.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on August 13, 1979 the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

Statement of the Terms of Substance of the Proposed Rule Change

Text of Proposed Rule Change

The following is the full text of the proposed amendment to Article III, Schedule A of the Association's By-Laws which adds a new Section 9 thereto. The language of new Section 9 is set forth in its entirety below.

Section 9—Fees for Clearance and Settlement

Each member shall be assessed a charge of 12 cents for each over-the-counter transaction with another member of the Association cleared through a registered clearing agency and in which the member acts as either agent or principal for the purchase and/or sale of equity securities. Payments of such charge to a registered clearing agency which has entered into an agreement with the NASD for the collection by such agency of such fees from its participants shall be recognized as constituting payment of the charge imposed hereby.

Purpose of Proposed Rules Change

When the NASD, NYSE and AMEX determined to consolidate their respective clearing facilities into a single clearing entity in 1977, it was recognized that these affiliates had been a source of revenue which were used to pay in part for the self-regulatory activities carried on by their parent organizations. While the new consolidated clearing entity, National Securities Clearing Corporation, was intended to be used or controlled and operated for the sole benefit of the member firm community, it was felt that the NASD and the two

exchanges should continue to receive some revenues from clearing operations to help cover regulatory costs. Therefore, the agreements establishing NSCC provided that the NASD, NYSE and AMEX should each be paid 12 cents a side for each round-lot transaction executed in their respective markets and cleared through NSCC.

At present, the NASD does not receive the 12 cent revenue for trades of members which are cleared through clearing agencies other than NSCC. In order to prevent an erosion of revenues from this source, it is proposed that the 12 cent charge be imposed by the NASD, payable either directly to the NASD or to any clearing agency agreeing to collect the charge and remit it to the NASD.

The SEC has approved a NYSE proposal which is similar to the above proposal (SR-NYSE-77-33) and currently has under review another similar proposal submitted by the AMEX (SR-Amex-78-27).

Basis Under the Act for the Proposed Rule Change

The adoption of an alternate method for collection of the 12 cent charge will assure the equitable allocation of reasonable dues, fees, and other charges among members and issuers and other persons using any facility or system which the Association operates or controls, as required by Section 15A(b)-5 of the Act.

Comments Received From Members, Participants, or Others on Proposed Rule Change

No comments were solicited or received with respect to the proposed rule change.

Burden on Competition

Section 15A of the Securities Exchange Act places on the Association the responsibility to regulate the activities of its members, and provides the statutory basis for the assessment of equitable fees. Thus, it is felt that there is no burden on competition imposed by the proposed rule change, and that any incidental financial burdens on the membership is in furtherance of the purposes of the Act.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file six (6) copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and

copying in the Public Reference Room 1100 L Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before September 17, 1979.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

August 17, 1979.

[FR Doc. 79-26530 Filed 8-24-79; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-16120; file No. SR-DTC-79-3]

Self-Regulatory Organizations; Proposed Rule Change by the Depository Trust Co.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on July 23, 1979, the above mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change provides for an addition to the Fee Schedule for major Services filed on form 19b-4A, File No. SR-DTC-78-6:

N. Participant Output Services (Optional)

[Paragraph N(1) is unchanged and is omitted here.]

2. Position Statement:

Total share position on deposit in DTC detailed by the accounts in which the position is resident. Share position is listed by issue.

Hardcopy, monthly—no charge (1st copy).
Additional hardcopy, upon request—\$25 per copy.

Cards, upon request—\$50 per copy.
Mag tape, upon request—\$50 per tape.
Mag tape (supplied by participant), daily—\$550 monthly.

Microfiche in lieu of hardcopy monthly—No charge for first microfiche copy; \$.25 for each additional microfiche copy.

Microfiche in addition to hardcopy monthly—\$1.00 for first microfiche copy; \$.25 for each additional microfiche copy.

3. Daily Activity Statement:

A detailed statement of activity on a given business day.

Hardcopy, daily—No charge (1st copy)

Additional, hardcopy upon request—\$25 per copy.

Additional hardcopy, daily—\$200 monthly.

Cards, daily—\$100 monthly.

Mag tape (supplied by participant), daily—\$250 monthly.

Microfiche in lieu of hardcopy, daily—No charge for first microfiche copy; \$.25 for each additional microfiche copy.

Microfiche in addition to hardcopy, daily—\$1.00 for first microfiche copy; \$.25 for each additional microfiche copy.

Statement of Basis and Purpose

The basis and purpose of the foregoing proposed rule change are as follows:

The purpose of the proposed addition to the Fee Schedule for Major Services is to establish a fee to be charged to DTC Participants who choose to receive their DTC daily activity statements and monthly position statements in computer output microfiche form in lieu of, or in addition to, the present hardcopy (paper) form.

The proposed addition to the Fee Schedule for Major Services relates to DTC's carrying out the purposes of Section 17A of the Securities Exchange Act of 1934 by equitably allocating fees among DTC Participants.

DTC surveyed its Participants to ascertain their interest in receiving reports from DTC in computer output microfiche form in lieu of, or in addition to, hardcopy form. The survey was made with the stated assumption that there would be no fee if microfiche were received in lieu of hardcopy but that there might be a fee if microfiche were received in addition to hardcopy. Written comments on the proposed fee have not been solicited or received. All Participants will be notified of the proposed fee by a DTC Important Notice at least ten business days before reports in microfiche form become available.

DTC perceives no burden on competition by reason of the proposed rule change.

The foregoing rule change has become effective, pursuant to Section 19(b)(3) of the Securities Exchange Act of 1934. At any time within sixty days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission,

Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the public reference room, 1100 L Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before September 17, 1979.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

August 17, 1979.

[FR Doc. 79-26528 Filed 8-24-79; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-16121; File No. SR-DTC-79-4]

Self-Regulatory Organizations; Proposed Rule Change by the Depository Trust Co.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on August 6, 1979 the above mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

Text of Proposed Rule Change

Revision in surcharges for services in securities issues which carry transfer agent fees: Deposits, \$1.60 [.67] per deposit; Withdrawals, \$4.30 [\$3.36] per withdrawal by Transfer-Transfer Control Form (W/T-TCF); \$5.10 [\$3.38] per Urgent Withdrawal Request (COD).

Statement of Basis and Purpose

The basis and purpose of the foregoing proposed rule change are as follows:

The purpose of the proposed rule change is to permit surcharge revenue to cover transfer agent fees.

The proposed rule change relates to DTC's carrying out the purposes of Section 17A of the Securities Exchange Act of 1934 by equitably allocating charges other than dues or fees among DTC Participants.

Written comments on the proposed rule change have not been solicited or received from Participants. All Participants have been notified of the proposed rule change by the DTC Important Notice attached as Exhibit 2

to DTC's filing on Form 19b-4A, File No. SR-DTC-79-4.

DTC perceives no burden on competition by reason of the proposed rule change.

The foregoing rule change has become effective, pursuant to Section 19(b)(3) of the Securities Exchange Act of 1934. At any time within sixty days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purpose of the Securities Exchange Act of 1934.

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the public reference room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All Submissions should refer to the file number referenced in the caption above and should be submitted on or before September 17, 1979.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

August 17, 1979.

[FR Doc. 79-26529 Filed 8-24-79; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-16127; August 21, 1979;
File No. SR-CBOE-79-9]

Chicago Board Options Exchange, Inc.; Self-Regulatory Organizations; Proposed Rule Changes

Proposed Rule Changes By: Chicago Board Options Exchange, Incorporated. Relating to: Responses to the Recommendations of the Special Study of the Options Markets as promulgated by the Securities and Exchange Commission in Release No. 34-15575. Comments requested by: October 1, 1979.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1) as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is

hereby given that on August 16, 1979, the Chicago Board Options Exchange, Incorporated ("CBOE") filed with the Securities and Exchange Commission the proposed rule changes as described in Items I, II and III below, which have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule changes from interested persons.

The Commission has determined that it is necessary and appropriate to provide additional time for public comment on and Commission consideration of the proposed rule changes. Because the subject filing contains numerous rule proposals which, if approved, would affect significantly the operation of the standardized options markets, the Commission believes that additional time is necessary to enable commentators to address meaningfully the substance of the proposals and to enable the Commission to give the proposals the careful consideration they warrant before determining whether to approve the proposals or to initiate proceedings to determine whether they should be disapproved.

Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act, hereby extends until 90 days from the date of publication of notice of filing of the proposed rule changes captioned above the time period within which the Commission must either approve the proposed rule changes or institute proceedings to determine whether the proposed rule changes should be disapproved.

I. Self-Regulatory Organization's Statement of Terms of Substance of the Proposed Rule Changes

The following is a summary of the rule changes proposed by CBOE. The text of the proposed rule changes is attached as Appendix A, with brackets used to indicate words to be deleted and italics used for words to be added.

Rule 9.7. A new Interpretation .01 has been added to the Rule which lists specific categories of minimum information that a member organization must seek to obtain before opening an options account for a customer.

Paragraph (b) of the Rule is proposed to be amended to require that customer background and financial information be retained by the member organization as provided in Rule 9.8. Paragraph (c) of the Rule is proposed to be amended to require that such information be furnished to each new options customer (that is a natural person) for his verification. Also, it is proposed that this information must be sent again to a

customer whenever the firm is aware of any material change in the customer's financial situation.

Rule 9.12. This Rule is proposed to be amended to require customer account statements to bear a legend asking customers to notify the firm of any changes in their financial situation.

Rule 9.8 A new paragraph (c) of this Rule is proposed to be added to require that customer background and financial information be maintained by members at the branch office servicing the customer's account and the principal supervisory office having jurisdiction over that branch office. Also, it is proposed that monthly account statements for the most recent months and other records necessary to the proper supervision of accounts be maintained at, or easily accessible to, both offices. A new paragraph (b) is proposed to be added which would require member firms that do a public business to specifically identify a Compliance Registered Options Principal ("CROP") having no sales functions to be responsible for the review of the firm's options compliance program and to propose any appropriate remedial action. Final responsibility for supervision of all of the firm's options activities would remain with the Senior Registered Options Principal ("SROP") although the CROP would be required to furnish reports on a regular basis directly to the firm's senior management. The requirement for a non-sales CROP will not apply to firms earning less than \$1,000,000 in options commissions annually or having 10 or less options registered representatives.

Rule 9.9. The Rule is proposed to be amended to prohibit a broker-dealer from recommending any opening transaction to a customer unless he has a reasonable basis for believing that the customer is able to evaluate the risks of the transaction and is financially able to bear them.

Rule 9.23. This new Rule would require firms to maintain a central, firm-wide file containing specified information concerning all options-related complaints. Copies of such complaints would be required to be forwarded to the central location and maintained at the branch office that is the subject of the complaint.

Rule 4.9. The Rule is proposed to be amended to call for written notification to the CBOE of disciplinary action taken against persons associated with a member as well as against the member itself, including notification of significant action taken by the member against its associated persons.

Rule 17.1. Existing Interpretation .01 of the Rule is proposed to be redesignated

as paragraph (b). Also, the period of continued disciplinary jurisdiction over terminated members is proposed to be extended if an inquiry is commenced within one year following notice of termination, and the requirement that disciplinary proceedings themselves must commence within any stated time is proposed to be deleted.

Rule 9.21. The Rule is proposed to be amended to require the approval by the CROP of all communications to customers and to further defined the standards applicable to such communications. The proposed amendments would also exempt advertisements from certain of the approval requirements if such advertisements had been previously submitted to another self-regulatory organization having comparable standards regarding advertising. Interpretations .01, .02 and .03 contain further detail concerning what should or should not be included in particular types of communications to customers. Relevant costs and other assumptions used in computing annualized rates of return would also be required to be disclosed by Interpretation .03 under the Rule. This Interpretation would also contain other standards and disclosure requirements pertaining to projected performance figures. Other provisions of Interpretation .03 would impose requirements applicable to options work sheets utilized by member firms, including the requirement that such work sheets must be uniform within a given firm. Complete work sheets would be required to be retained by member firms the same as all other written communications to customers. Interpretation .03 would also include performance reports within the definition of "sales literature," require that they be approved by the CROP and be retained by the firm, and establish standards for their content.

Rule 11.2. The Rule is proposed to be amended to require members who utilize random allocation of exercise notices to use either an automated method that has been approved by a self-regulatory organization, or the manual method that has been uniformly specified by all of the self-regulatory organizations. FIFO methods of allocation would also be required to be approved by a self-regulatory organization. Members would be required to notify their customers of the method of allocation utilized and explain how it works. Also, it is proposed that the Rule be amended to require that records relating to exercise allocation be preserved for three years.

Rule 8.9. The Rule is proposed to be amended to require that Market-Makers

inform the CBOE of all accounts in which they trade stock or options, and also notify the CBOE of all orders for and positions in underlying securities and related securities.

Front-running educational circular. Several editorial changes in CBOE's existing Educational Circular under the Rule relating to front-running are proposed in order to conform it to a uniform document to be jointly promulgated by other self-regulatory organizations.

Rule 9.6. This Rule is proposed to be amended to require every branch manager to be qualified as a Registered Options Principal ("ROP"), unless the branch office has not more than three Registered Representatives, and is otherwise under the supervision of a ROP.

Rule 9.10. The Rule is proposed to be amended to require that customers over whose accounts members exercise investment discretion be furnished with a written explanation of the risks involved in the systematic use of one or more options strategies in these accounts. All such descriptive material would be required to meet the "sales literature" minimum standards of the proposed Rule 9.21. The proposed amendment would also require that the SROP review the acceptance of each discretionary account to determine whether the ROP accepting the account had a reasonable basis for believing that the customer was able to understand and bear the risks of the proposed strategies or transactions.

II. Self-Regulatory Organization's Statement of Purpose and Statutory Basis of Proposed Rule Change

In its filing with the Commission, CBOE included the following statements concerning the purpose and basis of the proposed rule changes and discussed comments it received on the proposed rule change. Such statements are reproduced in sections (A), (B) and (C) below.

(A) Self-Regulatory Organization's Statement of Purpose of and Statutory Basis for Proposed Rule Changes

The rule changes filed herewith represent responses to the recommendations of the Special Study of the Options Markets as promulgated by the Commission in Release No. 34-15575.

A discussion of the purpose of each of the rule changes included in this filing is presented below under the caption of the respective recommendation of the Options Study to which the rule change is responsive. To facilitate the Commission's review, the captions of

the various responses to recommendations of the Options Study are keyed to the numbering system used in Release No. 34-15575.

The statutory basis for these rule changes, as stated in Release No. 34-15575, is that the implementation of the recommendations of the Options Study is "[c]onsistent with the scheme of self-regulation embodied in the Securities Exchange Act of 1934."

I.A.1.a, b, and c. (Rule 9.7). These related recommendations call for the collection and recording of background and financial information concerning customers in order to support the approval of their accounts for options transactions and subsequent suitability determinations, and they also call for the verification by the customer of this information. In response, we propose to add a new Interpretation .01 to Rule 9.7, governing the opening of accounts, that lists specific categories of minimum information that a member organization must seek to obtain before opening an options account for a customer. We have not required that all member organizations adopt a uniform options customer information form, since we believe it appropriate to permit the firms to have some flexibility in this regard, so long as the minimum information required by Interpretation .01 is included. However, we understand on the basis of discussions with representatives of the Securities Industry Association that the SIA expects to develop and make available contemporaneously with the effective date of this Interpretation a standard options customer information form that would satisfy the new requirements.

We also propose to add specific record keeping requirements applicable to options customer information by including in paragraph (b) of Rule 9.7 a cross-reference to the provisions of rule 9.8 that state how options customer information should be maintained. (See I.A.1.d. below.)

Paragraph (c) to Rule 9.7 will require that every new options customer that is a natural person be sent for his verification the background and financial information reflected in his customer account information form within 15 days of the approval of his account for options transactions. In addition, this information must again be sent to the customer for verification whenever the firm is aware of any material change in the customer's financial situation. Customer account statements will contain a legend asking that customers notify the firm of any changes in their financial situation (see proposed change to rule 9.12).

I.A.1.d. (Rule 9.8). In response to this recommendation concerning the maintenance of records of customer background and financial information, we propose to add to Rule 9.8 a requirement that background and financial information of customers approved for options transactions must be maintained both at the branch office and at the principal supervisory office having jurisdiction over the branch office. In addition, Rule 9.8 will require that monthly account statements for the most recent six months be maintained at both offices and that other records necessary to the proper supervision of accounts be easily accessible to both offices. With these new record keeping requirements, not only the registered representative servicing a customer's account, but also the persons responsible for supervising the registered representative, will have easy access to all relevant information concerning the customers and his account.

I.A.1.e. (Rule 9.9). The purpose of the proposed amendment to Rule 9.9 is to make applicable to all recommended opening options transactions the more stringent suitability requirements (that the customer be able to evaluate the risks of the transaction and be financially able to bear them) that now apply only to recommendations for uncovered call writing or put writing. Under the amended suitability rule, a broker-dealer would be prohibited from recommending any opening options transaction to a customer unless these requirements are met.

I.A.1.f. (Rule 9.23). In response to the recommendation that copies of customer complaints be maintained at a central office and at relevant branch offices, we propose to amend what is currently contained in Interpretation .01 to Rule 15.1 and to redesignate it as Rule 9.23(a). This will require member firms to maintain a central, firm-wide file of all options-related complaints containing specified information concerning each complaint. Copies of the complaints themselves would also be forwarded to and maintained at the same central location. In addition, a copy of every options-related complaint would be maintained at the branch office that is the subject of the complaint.

I.A.1.g. (Rule 9.8). This proposed amendment to Rule 9.8 would require member firms that do a public business to specifically identify a Compliance Registered Options Principal having no sales functions to be responsible for the review of the firm's options compliance program and to propose any appropriate remedial action. Final responsibility for

supervision over all of the firm's options activities would remain with the SROP, although the CROP would be required to furnish reports on a regular basis directly to the firm's senior management. The separation of responsibilities between the CROP and the SROP (except in those firms that choose to have a non-sales SROP) provides for audit of compliance by someone having no sales functions, and yet recognizes that the leadership of most securities firms appropriately has and will continue to have sales functions in combination with supervisory responsibilities. In order to avoid placing unacceptable economic burdens upon smaller firms, the requirement for a non-sales CROP will not apply to firms earning less than \$1,000,000 in options commissions or having 10 or less options registered representatives.

I.A.1.h. (Rules 4.9 and 17.1). The proposed amendment to Rule 4.9 expands the existing requirement for notification to the Exchange of disciplinary action taken against members. As amended, the Rule will call for written notification of disciplinary action taken against persons associated with a member as well as against the member itself, including notification of significant action taken by the member against its associated persons.

The proposed amendment to Rule 17.1 redesignates the present Interpretation .01 thereunder as paragraph (b) of the Rule itself, extends the period of continued disciplinary jurisdiction over terminated members so long as an inquiry is commenced within one year following notice of termination, and deletes the requirement that disciplinary proceedings themselves must commence within any stated time.

I.A.1.i, j, k, and l. and I.A.3.a, b and c. (Rule 9.21). We propose to expand existing Rule 9.21, which currently deals with advertisements, market letters and sales literature, so as to cover all communications to customers. The expanded rule, together with interpretations thereunder, will incorporate a number of different recommendations of the Options Study.

Proposed revisions to Rule 9.21 itself are designed to require the approval by the Compliance Registered Options Principal of all communications to customers and to further define the standards applicable to such communications. The Rule would also provide for better coordination among the self-regulatory organizations with respect to the approval of advertisements. Interpretations .01, .02 and .03 contain further detail concerning

what should or should not be included in particular type of communications to customers.

The recommendations that relevant costs and other assumptions used in computing annualized rates of return must be disclosed will be included in Interpretation .03 under the Rule. This interpretation also contains other standards and disclosure requirements pertaining to projected performance figures. Other provisions of Interpretation .03 would impose requirements applicable to options work sheets utilized by member firms, including the requirement that such work sheets must be uniform within a given firm. Completed work sheets would be required to be retained by member firms the same as all other written communications to customers. Interpretation .03 also includes performance reports within the definition of "sales literature" and requires that they be approved by the Compliance Registered Options Principal and retained by the firm, and it contains standards for performance reports to assure that each such report is confined to a specifically identifiable and relevant universe.

Finally, the Rule and its interpretations contemplate the distribution to all member firms of a publication entitled "Guidelines for Options Communications" that would provide further information concerning the standards applicable to communications to customers. A copy of this publication is available for inspection and copying in the Commission's Public Reference Room, but is not filed as a proposed rule change.

I.A.1.m. (Rule 11.2). We proposed to amend Rule 11.2 by requiring members who choose to utilize random allocation of exercise notices to use either an automated method that has been approved by an SRO, or the manual method that has been uniformly specified all of the SROs. FIFO methods of allocation must also be approved by an SRO. Members will be required to notify their customers of the method of allocation utilized, explaining how it works.

I.A.1.n. (Rule 11.2). We proposed adding to Rule 11.2 a requirement that records relating to exercise allocation be preserved for three years. This period of retention will facilitate auditing compliance with required methods of exercise allocation.

I.A.1.o and p. (Rule 8.9). Rule 8.9 will be amended by adding a new requirement that Market-Makers must inform the Exchange of all of the accounts in which they trade stock or

options, and must also notify the Exchange of all orders for and positions in underlying securities and related securities. Both of these requirements will improve Exchange surveillance over the options-related trading activities of Market-Makers.

I.A.1.g. (Front-running Educational Circular). We are proposing a few minor editorial changes to the Exchange's existing Educational Circular on this subject in order to conform it to a uniform document that will be jointly promulgated by other SROs.

I.A.2.b. (Rule 9.6). The proposed amendment to this Rule will require every branch manager to be qualified as a ROP, unless the branch office has not more than three RRs, and is otherwise under the supervision of a ROP. This requirement is one of a number of changes intended to improve internal supervision of firms' options activities.

I.A.2.c. and d. (Rule 9.10). The proposed amendment to this Rule will require that customers over whose accounts members exercise investment discretion must be furnished with a written explanation of the risks involved in the systematic use of one or more options strategies in these accounts. All such descriptive material would be required to meet the "sales literature" minimum standards of the proposed "Communications to Customers" rule. The amendment would also require that the SROP review the acceptance of each discretionary account to determine whether the ROP accepting the account had a reasonable basis for believing that the customer was able to understand and bear the risks of the proposed strategies or transactions. Under existing Rule 9.10, a ROP must personally accept every discretionary account, and the added step of a SROP's review of the ROP's acceptance is intended to provide an additional level of supervisory audit over the acceptance of these kinds of accounts.

(B) Self-Regulatory Organization's Statement on Burden on Competition

CBOE recognizes that, as is pointed out in several of the comments received from members, certain of the proposed rule changes will increase the costs to members of handling customers' options transactions, which in turn may place smaller member organizations at a competitive disadvantage. The Commission will have to determine whether the possible competitive burden of these rule changes is necessary or appropriate in furtherance of the Act in deciding whether to approve these rule changes.

(C) Self-Regulatory Organization's Statement on Comments Received From Members, Participants, or Others on Proposed Rule Changes

Comments on the proposed rule changes were solicited and received from members in several ways. First, representatives of the Securities Industry Association attended and actively participated in most of the meetings of the joint SRO task force that developed the rule changes. Second, a preliminary draft of the rule changes was mailed to every member of each of the SROs involved, with a request that comments be forwarded to any one of the seven signatory SROs. A large number of detailed comments were received in response to this mailing; these are available for inspection and copying in the Commission's Public Reference Room. Many of the comments received in response to the preliminary draft led to revisions in the rule changes that are reflected in the proposals presented in Item 1 hereof. Where the SROs determined not to make changes in response to member comments, often the SROs were sympathetic to the concerns raised by the commentators, but felt that these concerns were outweighed by the emphasis that the Commission had placed upon the particular rule change that was the subject of the comment. The following is a summary of those comments received from members that are relevant to the proposed rule changes in their present form.

Recommendations I.A.1.a.-c. (Opening of Accounts). A number of members commented that many customers will consider it burdensome and an invasion of privacy to have to provide personal financial information to their brokers, and will refuse to do so. Others questioned the relevance of much of the information that must be sought. In response to these comments, the list of information that must be obtained has been reduced, as explained in Item 3 above. Verification of customer information was subject to much criticism as being very expensive (especially for smaller firms) and not likely to be meaningful. While much of this comment was directed at the requirement for periodic verification, which has since been significantly reduced, the requirement for any verification was criticized by many members. One member criticized the inclusion of specific time requirements governing when the record of a new customer's background information must be first sent to him for verification, claiming that such time limits are arbitrary and artificial.

Recommendations I.A.1.d. & f. (Record-Keeping). Many members criticized as unnecessarily duplicative and expensive the requirement that customer account records be kept both at headquarters and at the branch office.

Recommendation I.A.1.e. (Suitability). Several firms expressed the belief that expanded concepts of suitability exposed firms to inappropriate risks of liability. Other comments were that customers should be able to make their own decisions without having to satisfy a third party, and that strict options suitability rules would drive customers into other, riskier, less regulated products. Specific criticism was made of the requirement that a broker must assess the customer's ability to evaluate risks, claiming that this goes beyond traditional concepts of suitability.

Recommendation I.A.1.g. (Non-sales options compliance person). This proposal drew many comments pointing out the cost it would present for small firms. The expanded exemptive provisions of the rule as filed are included in response to this concern. Other comments objected to the concept of separating the sales function from compliance and supervision functions, while others expressed the view that the non-sales compliance officer would amount to a token appointment, but at a high cost. Many comments noted that the costs of complying with this requirement would place smaller firms at a competitive disadvantage.

Recommendation I.A.1.h. (Disciplinary reports and jurisdiction). Some firms observed that a reporting requirement might inhibit firms from taking disciplinary action. Others noted the absence of clear standards defining what constitutes disciplinary action. Several comments objected to the apparent need to file duplicate reports (which will be eliminated upon the implementation of proposed 17d-2 plans). One comment endorsed the extension of SRO disciplinary jurisdiction over former members, while another comment expressed the view that this was improper and inconsistent with the spirit of the Act.

Recommendation I.A.1 and I.A.3.a.-c. (Communications to Customers). Comments suggested that this rule imposed too many responsibilities on the CROP, that centralized approval of communications to customers is unworkable, especially in a large firm, and that advance SRO approval of advertising is contrary to the trend in such matters. Many comments were addressed to the requirements applicable to specific types of written communications, generally criticizing them for being inflexible, unworkable,

expensive to administer, and enlarging the firms' exposure to liabilities.

Recommendations I.A.1.m. & h. (Allocation of exercise notices). Comments suggested that firms should be given more flexibility than this rule would permit, and that an explanation of exercise allocation would be confusing to customers. Others noted the expense involved in conforming data processing equipment to required methods of allocation.

Recommendations I.A.1.o. & p. (Market-makers' account and stock orders). Many comments characterized these requirements as burdensome and costly. It was suggested that these requirements should apply to exchange floor members only, and not to upstairs traders.

Recommendation I.A.1.q. (Front-Running). No comments solicited.

Recommendation I.A.2.b. (ROP Qualification of Branch Managers). This requirement was criticized as being costly and not likely to result in improved supervision. Some suggested that it should be sufficient if an assistant manager or other supervisor is ROP-qualified, without requiring that the branch manager be so qualified.

Recommendation I.A.2.c. and d. (Discretionary Accounts). Several firms commented that these requirements would be so onerous as to inhibit firms from offering discretionary accounts. The requirement for providing an explanation of each strategy utilized in the account was the focus of special criticism. We have attempted to respond to this criticism by making the requirement apply to "programs" for trading options, but not to each separate strategy that might be used.

III. Date of Effectiveness of Proposed Rule Change and Timing for Commission Action

On or before November 26, 1979, the Commission will:

- (A) By order approve such proposed rule changes; or
- (B) Institute proceedings to determine whether the proposed rule changes should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and

of all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 1100 L Street NW., Washington, D.C. Copies of such filings will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to file number SR-CBOE-79-9 and should be submitted on or before October 1, 1979.

For the Commission, by the Division of Market Regulation, pursuant to delegated Authority.

George A. Fitzsimmons,
Secretary.

August 21, 1979.

Appendix A

Text of Proposed Rule Change (supplied by CBOE)

The following proposed amendments to CBOE's rules reflect the uniform response of a joint SRO task force to certain recommendations of the SEC Options Study, departing from the uniform response only to the extent necessary to conform to the style of CBOE's rules. Departures from the uniform response are indicated in red on the "Marked Copy" of this filing.

Following the text of the proposed rules changes set forth below is a table showing the anticipated effective date of the rule changes expressed as the number of days following Commission approval when the rule changes will go into effect. CBOE reserves the right to grant members additional time to comply with certain of the proposed rule changes on a case-by-case basis where circumstances warrant. The interval between Commission approval and effectiveness is to provide member firms with the time needed to familiarize themselves with the new rules in their final form, and to make the necessary internal administrative and procedural changes necessary to bring themselves into compliance. During this interval, CBOE intends to provide member firms with various educational materials explaining the new rules, and otherwise to assist the firms in complying with them. Since uniformity among SROs is essential to the implementation of the proposed new regulatory requirements, the anticipated time of their becoming effective contemplates that other SROs will institute comparable requirements at the same time. If this condition is not met, CBOE may have to defer the effectiveness of some or all of these new

rules until substantial uniformity among SROs can be achieved.

Opening of Accounts

Rule 9.7. (a) No change.

(b) *Diligence in Opening Account.* In approving a customer's account for options transactions, a member organization shall exercise due diligence to learn the essential facts as to the customer and his investment objectives and financial situation [and needs, . . . and shall make a record of such information which shall be retained in accordance with Rule 9.8. [A record of this information shall be maintained by the member organization and,] Based upon such information, [a] the branch office manager or other Registered Options Principal [who is an officer or partner of the member organization] shall approve in writing the customer's account for options transactions: *Provided, That* [in the case of a branch office, an account may be approved for options transactions by the manager of such branch office, in which event the action of the branch office manager] *if the branch office manager is not a Registered Options Principal, his approval shall within a reasonable time be confirmed by [the] a Registered Options Principal.*

(c) *Verification of Customer Background and Financial Information.* The background and financial information upon which the account of every new customer that is a natural person has been approved for options trading, unless the information is included in the customer's account agreement, shall be sent to the customer for verification within fifteen (15) days after the customer's account has been approved for options transactions. A copy of the background and financial information on file with the member organization shall also be sent to the customer for verification within fifteen (15) days after the member organization becomes aware of any material change in the customer's financial situation.

[[c]] (d) No change.

[[d]] (e) No change.

Interpretations and Policies:

.01 In fulfilling its obligations pursuant to paragraph (b) of Rule 9.7 with respect to options customers that are natural persons, a member organization shall seek to obtain the following information at a minimum (information shall be obtained for all participants in a joint account):

1. Investment objectives (e.g., safety of principal, income, growth, trading profits, speculation)
2. Employment status (name of employer, self-employed or retired)

3. Estimated annual income from all sources
4. Estimated net worth (exclusive of family residence)
5. Estimated liquid net worth (cash, securities, other)
6. Marital status; number of dependents
7. Age
8. Investment experience and knowledge (e.g., number of years, size, frequency and type of transactions) for options, stocks and bonds, commodities, other

In addition, the customer's account records shall contain the following information, if applicable:

- a. Source or sources of background and financial information (including estimates) concerning the customer
- b. Discretionary trading authorization: agreement on file, name, relationship to customer and experience of person holding trading authority
- c. Date prospectus furnished to customer
- d. Types of transactions for which account is approved (e.g., buying, covered writing, uncovered writing, spreading)
- e. Name of registered representative
- f. Name of ROP approving account; date of approval
- g. Dates of verification of currency of account information

The member organization should consider utilizing a standard account approval form so as to ensure the receipt of all the required information.

.02 Refusal of a customer to provide any of the information called for in Interpretation .01 shall be so noted on the customer's records at the time the account is opened. Information provided shall be considered together with other information available in determining whether and to what extent to approve the account for options transactions.

.03 The requirement of paragraph (c) of Rule 9.7 for the initial and subsequent verification of customer background and financial information is to be satisfied by sending to the customer the information required in Items 1 through 6 of Interpretation .01 above as contained in the member's records and providing the customer with an opportunity to correct or complete the information. In all cases, absent advice from the customer to the contrary, the information will be deemed to be verified.

Statements of Account to Customers

Rule 9.12. Except with the permission of the Exchange, every member organization shall send to its customers statements of account showing security

and money positions and entries. Such statements of account shall be sent at least quarterly to all accounts having a money or a security position during the preceding quarter and at least monthly to all accounts having an entry during the preceding month. The statement shall bear a legend requesting the customer to promptly advise the member of any material change in the customer's investment objectives or financial situation.

Suitability of Recommendations

Rule 9.9. Every member, Registered Options Principal or Registered Representative who recommends to a customer the purchase or sale (writing) of any option contract shall have reasonable grounds for believing that the recommendation is not unsuitable for such customer on the basis of the information furnished by such customer after reasonable inquiry as to his investment objectives, financial situation and needs, and any other information known by such member, Registered Options Principal or Registered Representative.

[A recommendation to a customer of the writing of a call option contract when the customer does not have a corresponding long position in the underlying security, or the writing of a put option contract, shall be deemed unsuitable for the customer.] No member, Registered Options Principal or Registered Representative shall recommend to a customer an opening transaction in any option contract unless [upon the information furnished by the customer,] the person making the recommendation has a reasonable basis for believing at the time of making [a] the recommendation that the customer has such knowledge and experience in financial matters that he may reasonably be expected to be capable of evaluating the risks of [such] the recommended transaction, and [such financial capacity as to be able to carry such position in the option contract] is financially able to bear the risks of the recommended position in the option contract.

Maintenance, Retention and Furnishing of Books, Records and Other Information

Rule 15.1. No change.

Interpretations and Policies:

[.01 Every member organization conducting a non-member customer business shall make and keep current a separate, central file for all options-related complaints. The term "separate, central file" shall be deemed to include any log, index or other listing through which options-related complaints can be

easily identified and retrieved. The term "options-related complaint" shall mean any written statement by a customer or person acting on behalf of a customer alleging a grievance respecting listed options. Such file shall be maintained in the principal of business of the member organization or such other principal office as shall be designated by the member organization and shall include a record of what action, if any, has been taken by the member organization with respect to each complaint. Each options-related complaint received by a branch office of the member organization shall be forwarded to the office in which the separate, central file is located not later than 30 days after receipt by the branch office.]

.01 The following Rules contain specific requirements with regard to the maintenance and retention of books, records and other information: Rules 3.5, 3.7, 8.9, 9.6, 9.7, 9.8, 9.10, 9.21, 9.23, 11.2, 12.12 and Chapter XV. In addition, the following Rules contain specific requirements with regard to the furnishing of information to the Exchange: Rules 3.6, 3.8, 3.14, 3.15, 3.16, 3.18, 4.9, 4.13, 6.49, 6.51, 6.56, 6.59, 6.71, 6.72, 7.2, 7.3, 7.6, 8.2, 8.3, 8.5, 8.10, 8.11, 9.1, 9.2, 9.3, 12.11, 13.4, 14.2 and 19.2. The foregoing list is not intended to be exhaustive and members must comply with all applicable record-keeping and reporting requirements whether or not listed above.

Customer Complaints

Rule 9.23 Every member organization conducting a non-member customer business shall make and keep current a separate central log, index or other file for all options-related complaints, through which these complaints can easily be identified and retrieved. The term "options-related complaint" shall mean any written statement by a customer or person acting on behalf of a customer alleging a grievance arising out of or in connection with listed options. The central file shall be located at the principal place of business of the member organization or such other principal office as shall be designated by the member organization. At a minimum, the central file shall include: (i) Identification of complainant, (ii) date complaint was received, (iii) identification of Registered Representative servicing the account, (iv) a general description of the matter complained of, and (v) a record of what action, if any, has been taken by the member organization with respect to the complaint. Each options-related complaint received by a branch office of a member organization shall be forwarded to the office in which the

separate, central file is located not later than 30 days after receipt by the branch office. A copy of every options-related complaint shall be maintained at the branch office that is the subject of the complaint.

Supervision of Accounts

Rule 9.8 (a) Senior Registered Options Principal. Every member organization shall [provide for the supervision by a Senior Registered Options Principal who is specifically identified to the Exchange, and] designate and specifically identify to the Exchange a Senior Registered Options Principal who is an [executive] officer (in the case of a corporation) or general partner (in the case of a partnership) of the member organization [of] who shall supervise all of the organization's non-member customer accounts and all orders in such accounts, insofar as such accounts and orders relate to option contracts.

(b) Compliance Registered Options Principal. Every member organization shall designate and specifically identify to the Exchange a compliance Registered Options Principal (who may be the Senior Registered Options Principal), who shall have no sales functions and shall be responsible to review and to propose appropriate action to secure the member organization's compliance with securities laws and regulations and Exchange rules in respect of its options business. The Compliance Registered Options Principal shall regularly furnish reports directly to the compliance officer (if the Compliance Registered Options Principal is not himself the compliance officer) and to other senior management of the member organization. The requirement that the Compliance Registered Options Principal shall have no sales functions does not apply to a member organization that has received less than \$1,000,000 in gross commissions on options business as reflected in its FOCUS Report for either of the preceding two fiscal years or that currently has 10 or fewer Registered Representatives.

(c) Maintenance of Customer Records. Background and financial information of customers who have been approved for options transactions shall be maintained at both the branch office servicing the customer's account and the principal supervisory office having jurisdiction over that branch office. Copies of account statements of options customers shall be maintained at both the branch office supervising the accounts and the principal supervisory office having jurisdiction over that

branch for the most recent six-month period. Other records necessary to the proper supervision of accounts shall be maintained at a place easily accessible both to the branch office servicing the customer's account and to the principal supervisory office having jurisdiction over that branch office.

Interpretations and Policies:

- .01 No change.
- .02 No change.

Disciplinary Action by Other Organizations

Rule 4.9. Every member shall promptly notify the Exchange in writing of any disciplinary action, including the basis therefor, taken by any [other] national securities [or commodities] exchange or association, clearing corporation, [national securities association] commodity futures market or government regulatory body against the member or its associated persons, and shall similarly notify the Exchange of any [such] disciplinary action taken by [any such body or by] the member itself against any of its [Approved Persons or persons registered as Options Principals or Representatives under Chapter IX.] associated persons involving suspension, termination, the withholding of commissions or imposition of fines in excess of \$2,500, or any other significant limitation on activities.

Disciplinary Jurisdiction

Rule 17.1. (a) No change.

Interpretations and Policies:

.01 (b) Any member or person associated with a member shall continue to be subject to the disciplinary jurisdiction of the Exchange following such person's termination of membership or association with a member with respect to matters that occurred prior to such termination; Provided, That [the Exchange serves] written notice of the commencement of an inquiry into such matters is given by the Exchange to such former member or associated person within [ninety days] one year of receipt by the Exchange of written notice of [termination that the Exchange is making inquiry into a matter or matters which occurred prior to] the termination of such person's status as a member or person associated with a member. [Further, disciplinary proceedings, if any, must be initiated within one year from the date of termination of membership or association with a member.]

Interpretations and Policies:

- [.02] .01 No change.

Communications to Customers [Advertisements, Market Letters and Sales Literature]

Rule 9.21 [(a) Approval by Registered Options Principal. All advertisements, market letters and sales literature issued by a member organization pertaining to options shall be approved in advance by a Registered Options Principal who is an officer or partner of the member organization, and copies thereof together with the names of persons approving their issuance, the names of persons who prepared the material and the source of any recommendations contained therein shall be retained by the member organization and be readily available for examination by the Exchange for a period of three years.]

[(b) Standards of Approval. No advertisement, sales literature or market letter shall be approved under paragraph (a) of this Rule which:

- (i) Contains any untrue statement or omission of a material fact or is otherwise false or misleading.
- (ii) Contains promises of specific results, exaggerated or unwarranted claims, opinions for which there is no reasonable basis or forecasts of future events which are unwarranted or which are not clearly labeled as forecasts.
- (iii) Fails to meet general standards of good taste and judgment common to the securities industry.
- (iv) Would constitute a prospectus as that term is defined in the Securities Act of 1933, unless it meets the requirements of Section 10 of said Act.]

[(c) Exchange Approval Required for Advertisements. In addition to the approval required by paragraph (a) of this Rule, every advertisement of a member organization pertaining to options shall be submitted to the Department of Compliance of the Exchange at least ten days prior to use (or such shorter period as the Department may allow in particular instances) and, if expressly disapproved by the Exchange, shall be withheld or withdrawn from circulation until such changes specified by the Exchange have been made and the advertisement re-submitted for Exchange approval.]

[(d) Definitions. For purposes of this Rule, the following definitions shall apply:]

- [(i) Advertisements include any material for use in any newspaper or magazine or other public media or by radio, telephone recording, motion picture or television.
- [(ii) Sales literature and market letters include any communication for distribution to customers or the public which contains any analysis, report, recommendation, option, prediction or

comment with respect to options, underlying securities, or market conditions.]

[. . . Interpretation and Policies:]

[.01 In addition to adhering to the general standards of truthfulness and good taste prescribed by Rule 9.21, the advertisements, market letters and sales literature or Exchange members covering Chicago Board Options should reflect the following factors:]

[I. Chicago Board Options are securities registered under the Securities Act of 1933, and they are the subject of a currently effective registration statement. Section 5 of the Securities Act prohibits the use of any written material or radio or television advertisements (or other material constituting a "prospectus" as defined in the Act) relating to a registered security unless certain conditions are met. With respect to advertisements and sales literature covering Chicago Board Options, the following rules must be observed:]

[A. Except as provided in paragraph B below, no written material with respect to Chicago Board Options may be sent to any person unless prior to or at the same time with the written material a current Options Prospectus was sent to such person.]

[B. Advertisements may be used (and copies of the advertisements may be sent to persons who have not received a Prospectus) if the material meets the requirements of Rule 134 under the Securities Act of 1933, as that Rule has been interpreted as applying to Chicago Board Options. Under Rule 134, advertisements are limited to general descriptions of the security being offered and of its issuer. In the case of Chicago Board Options, advertisements under this Rule must have the following characteristics: (i) The advertisement should state the name and address of the person from whom a current Options Prospectus may be obtained (this would usually be the member sponsoring the advertisement); (ii) The text of the advertisement may contain a brief description of Chicago Board Options, including as statement that the issuer of every Chicago Board Option is the Chicago Board Options Exchange Clearing Corporation. The text may also contain a brief description of the general attributes and method of operation of the Exchange and the Clearing Corporation, including a discussion of how the price of an Option is determined on the Exchange's trading floor; (iii) The advertisement may include any statement or legend required by any state law or administrative authority; (iv)

Advertising designs and devices including borders, scrolls, arrows, pointers, multiple and combined logos and unusual type faces and lettering as well as attention-getting headlines and photographs and other graphics may be used, provided such material is not misleading.]

[II. There are special risks attendant to options transactions and certain options transactions involve complex investment strategies. These factors should be reflected in any communication (including advertising, sales literature and similar material) which purport to include any discussion of the uses or advantages of Chicago Board Options. Although it is up to each member in preparing its communications to take into consideration these factors, the following points of particular importance are presented for the general guidance of members in this regard:]

[A. Any statement referring to the opportunities or advantages presented by Chicago Board Options should be balanced by a statement of the corresponding risks. The risk statement should reflect the same degree of specificity as the statement of opportunities, and broad generalities should be avoided. Thus, a statement such as, "With options, an investor has an opportunity to earn profits while limiting his risk of loss," should be balanced by a statement such as, "Of course, an options investor may lose the entire amount committed to options in a relatively short period of time."]

[B. It should not be suggested that options are suitable for most investors, or for small investors. Indeed, it is strongly suggested that there be included in all Chicago Board Options literature discussing the uses of options a warning to the effect that options are not for everybody.]

[C. Until the existence of the Exchange's secondary market has been demonstrated by experience, Chicago Board Options literature should reflect the untried nature of this aspect of the Exchange. Accordingly, statements suggesting the certain availability of the Exchange's secondary market should not be made. Instead, any reference to the secondary market should be expressed in such terms as, "The Exchange's secondary market is intended to provide a means for the liquidation of positions in options," or, "If the price of the underlying stock goes down, the holder of a Chicago Board Option may be able to realize any remaining value of the Option by selling it in the secondary market." (Italics used for illustrative purposes only.)]

Rule 9.21. (a) General Rule. No member or member organization, and no partner or employee thereof, shall utilize any advertisement, sales literature or other communications to customers or the public concerning options which:

(i) Contains any untrue statement or omission of a material fact or is otherwise false or misleading;

(ii) contains promises of specific results, exaggerated or unwarranted claims, opinions for which there is no reasonable basis or forecasts of future events which are unwarranted or which are not clearly labeled as forecasts;

(iii) contains hedge clauses or disclaimers which are not legible, which attempt to disclaim responsibility for the content of such literature or for opinions expressed therein, or which are otherwise inconsistent with such advertisement or sales literature;

(iv) fails to meet general standards of good taste and truthfulness; or

(v) would constitute a prospectus as that term is defined in the Securities Act of 1933, unless it meets the requirements of Section 10 of said Act.

(b) Approval by Compliance Registered Option Principal. All advertisements and sales literature (except completed worksheets) issued by a member or member organization pertaining to options shall be approved in advance by the Compliance Registered Options Principal or his designee. Copies thereof, together with the names of the persons who prepared the material, the names of the persons who approved the material and, in the case of sales literature, the source of any recommendations contained therein, shall be retained by the member or member organization and be kept at an easily accessible place for examination by the Exchange for a period of three years.

(c) Exchange Approval Required for Options Advertisements. In addition to the approval required by paragraph (b) of this Rule, every advertisement of a member or member organization pertaining to options shall be submitted to the Department of Compliance of the Exchange at least ten days prior to use (or such shorter period as the Department may allow in particular instances) for approval and, if changed or expressly disapproved by the Exchange, shall be withheld from circulation until any changes specified by the Exchange have been made or, in the event of disapproval, until the advertisement has been resubmitted for, and has received, Exchange approval. The requirements of this paragraph shall not be applicable to:

(i) advertisements submitted to another selfregulatory organization having comparable standards pertaining to advertisements; and

(ii) advertisements in which the only reference to options is contained in a listing of the services of a member organization.

(d) Except as otherwise provided in the Interpretations and Policies hereunder, no written materials respecting options may be disseminated to any person who has not previously or contemporaneously received a current Clearing Corporation prospectus.

(e) Definitions. For purposes of this Rule, the following definitions shall apply:

(i) The term "advertisement" shall include any sales material that reaches a mass audience through public media such as newspapers, periodicals, magazines, radio, television, telephone recording, motion picture, audio or video device, billboards, signs, or through written communications to customers or the public not required to be accompanied or preceded by a current Clearing Corporation prospectus.

(ii) The term "sales literature" shall include any written communication (not defined as an "advertisement") distributed or made generally available to customers or the public that contains any analysis, performance report, projection or recommendation with respect to options, underlying securities or market conditions, any standard forms of worksheets, or any seminar text which pertains to options and which is communicated to customers or the public at seminars, lectures or similar such events, or any Exchange-produced materials pertaining to options.

. . . Interpretations and Policies:

.01 The special risks attendant to options transactions and the complexities of certain options investment strategies shall be reflected in any communication which discusses the uses or advantages of options. In the preparation of communications respecting options, the following guidelines shall be observed:

A. Any statement referring to the potential opportunities or advantages presented by options should be balanced by a statement of the corresponding risks. The risk statement should reflect the same degree of specificity as the statement of opportunities, and broad generalities should be avoided. Thus, a statement such as "with options, and investor has an opportunity to earn profits while limiting his risk of loss", should be

balanced by a statement such as "of course, an options investor may lose the entire amount committed to options in a relatively short period of time."

B. It should not be suggested that options are suitable for all investors. All communications discussing the use of options should include a warning to the effect that options are not for everyone.

C. Statements suggesting the certain availability of a secondary market for options should not be made.

.02 Advertisements pertaining to options shall conform to the following standards:

A. Advertisements may only be used (and copies of the advertisements may be sent to persons who have not received a Clearing Corporation prospectus) if the material meets the requirements of Rule 134 under the Securities Act of 1933, as that Rule has been interpreted as applying to options. Under Rule 134, advertisements must be limited to general descriptions of the security being offered and of its issuer. Advertisements under this Rule shall state the name and address of the person from whom a current Clearing Corporation prospectus may be obtained. Such advertisements may have the following characteristics:

(i) The text of the advertisement may contain a brief description of such options, including a statement that the issuer of every such option is the Clearing Corporation. The text may also contain a brief description of the general attributes and method of operation of the exchange or exchanges on which such options are traded and of the Clearing Corporation, including a discussion of how the price of an option is determined on the trading floor(s) of such exchange(s);

(ii) The advertisement may include any statement required by any state law or administrative authority;

(iii) Advertising designs and devices, including borders, scrolls, arrows, pointers, multiple and combined logos and unusual type faces and lettering as well as attention-getting headlines and photographs and other graphics may be used, provided such material is not misleading.

B. The use of recommendations or of past or projected performance figures, including annualized rates of return, is not permitted in any advertisement pertaining to options.

.03 Written communications (other than advertisements) pertaining to options shall conform to the following standards:

A. Such communications shall state that supporting documentation for any claims (including any claims made on behalf of options programs or the

options expertise of sales persons), comparisons, recommendations, statistics or other technical data, will be supplied upon request.

B. Such communications may contain projected performance figures (including projected annualized rates of return): Provided, That:

(i) no suggestion of certainty of future performance is made;

(ii) parameters relating to such performance figures are clearly established (e.g., to indicate exercise price of option, purchase price of the underlying stock and its market price, option premium, anticipated dividends, etc.);

(iii) all relevant costs, including commissions and interest charges (if applicable with regard to margin transactions) are disclosed;

(iv) such projections are plausible and are intended as a source of reference or a comparative device to be used in the development of a recommendation;

(v) all material assumptions made in such calculations are clearly identified (e.g., "assume option expires", "assume option unexercised", "assume option exercised," etc.);

(vi) the risks involved in the proposed transactions are also discussed;

(vii) in communications relating to annualized rates of return, that such returns are not based upon any less than a sixty-day experience; any formulas used in making calculations are clearly displayed; and a statement is included to the effect that the annualized returns cited might be achieved only if the parameters described can be duplicated and that there is no certainty of doing so.

C. Such communications may feature records and statistics which portray the performance of past recommendations or of actual transactions: Provided, That:

(i) any records or statistics must be confined to a specific "universe" that can be fully isolated and circumscribed and that covers at least the most recent 12-month period;

(ii) such communications include or offer to provide the date of each initial recommendation or transaction, the price of each such recommendation or transaction as of such date, and the date and price of each recommendation or transaction at the end of the period or when liquidation was suggested or effected, whichever was earlier;

(iii) such communications disclose all relevant costs, including commissions and interest charges (if applicable with regard to margin transactions) and, whenever annualized rates of return are used, all material assumptions used in the process of annualization;

(iv) in the event such records or statistics are summarized or averaged, such communications include the number of items recommended or transacted, the number that advanced and the number that declined;

(v) an indication is provided of the general market conditions during the period(s) covered, and any comparison made between such records and statistics and the overall market (e.g., comparison to an index) is valid;

(vi) such communications state that the results presented should not and cannot be viewed as an indicator of future performance; and

(vii) a Registered Options Principal determines that the records or statistics fairly present the status of the recommendations or transactions reported upon and so initials the report.

D. In the case of an options program (i.e., an investment plan employing the systematic use of one or more options strategies), the cumulative history or unproven nature of the program and its underlying assumptions shall be disclosed.

E. Standard forms of options worksheets utilized by member organizations, in addition to complying with the requirements applicable to sales literature, must be uniform within a member organization.

F. Communications that portray performance of past recommendations or actual transactions and completed worksheets shall be kept at a place easily accessible to the sales office for the accounts or customers involved.

Allocation of Exercise Notices

Rule 11.2 (a) Each Member Organization shall establish fixed procedures for the allocation of exercise notices assigned in respect of a short position in such Member Organization's customers' accounts. The allocation shall be on a "first in, first out [basis]", or automated [on a basis of] random selection basis that has been approved by the Exchange, or on a manual random selection basis that has been specified by the Exchange. Each member organization shall inform its customers in writing of the method it uses to allocate exercise notices to its customers' accounts, explaining its manner of operation and the consequences of that system [or another allocation method that is fair and equitable to the members' customers: *Provided*, That such method of allocation may provide that an exercise notice of block size shall be allocated to a customer or customers having an open short position of block size and that an exercise notice of less than block size shall be allocated to a customer having

a short position of block size: *And provided further*, That the member organization shall allocate an exercise notice pertaining to a call option contract to a customer who has made a specific deposit of the underlying security if it is directed to do so by the Clearing Corporation. For the purposes of this Rule, an exercise notice or a short position with respect to 25 or more units of trading of the same class of options shall be deemed to be of "block size".

[. . . Interpretations and Policies]

[.01] (b) Each member organization shall report its proposed method of allocation to the Exchange and obtain the Exchange's prior approval thereof, and no member organization shall change its method of allocation unless the change has been reported to and approved by the Exchange. *The requirements of this paragraph shall not be applicable to allocation procedures submitted to and approved by another self-regulatory organization having comparable standards pertaining to methods of allocation.* [Each Member Organization shall, upon the request of a customer, furnish to such customer a description of the method used by it in assigning exercise notices to the accounts of customers.]

(c) Each member organization shall preserve for a three-year period sufficient work papers and other documentary materials relating to the allocation of exercise notices to establish the manner in which allocation of such exercise notices is in fact being accomplished.

[. . . Interpretations and Policies:

[.02].01 No change.

Securities Accounts and Orders of Market Makers

[Interest in Joint Accounts]

Rule 8.9. (a) *Identification of Accounts.* In a manner prescribed by the Exchange, each Market-Maker shall file with the Exchange and keep current a list identifying all accounts for stock, option, and related securities trading in which the Market-Maker may, directly or indirectly, engage in trading activities or over which he exercises investment discretion. No Market-Maker shall engage in stock, option, or related securities trading in an account which has not been reported pursuant to this Rule 8.9.

(b) *Reports of Orders.* In a manner prescribed by the Exchange, each Market-Maker shall, on the business day following order entry date, report to the Exchange every order entered by the Market-Maker for the purchase or sale of a security underlying options traded on the Exchange or a security

convertible into or exchangeable for such underlying security as well as opening and closing positions in all such securities held in each account reported pursuant to Paragraph (a) of this Rule.

The report pertaining to orders must include the terms of each order, identification of the brokerage firms through which the orders were entered, the times of entry or cancellation, the times reports of executions were received and, if all or part of the order was executed, the quantity and execution price.

(c) *Joint Accounts.* No Market-Maker shall, directly or indirectly, hold any interest or participate in any joint account for buying or selling any option contract unless each participant in such joint account is a member or member organization and unless such account is reported to and not disapproved by the Exchange. Such reports in form prescribed by the Exchange shall be filed with the Exchange before any transaction is effected on the Exchange for such joint account.

[. . . Interpretation and Policies:

.01 No change.

.02 No change.

.03 No change.

.04 No change.

.05 No change.

.06 *Reports of accounts and orders required to be filed pursuant to paragraphs (a) and (b) of Rule 8.9 relate only to accounts in which a Market-Maker, individually, directly or indirectly, controls trading activities. Thus, reports would be required for accounts over which a Market-Maker exercises investment discretion as well as for his proprietary accounts. Reports would not be required simply because a Market-Maker has a passive interest in his firm's proprietary accounts. For purposes of Rule 8.9, related securities include securities convertible into or exchangeable for underlying securities.*

Educational Circular Under Rule 4.1

Front-Running of Blocks

This educational circular presents the Exchange's enforcement policy with respect to certain practices generally referred to as "front-running of blocks". Because a block transaction in an underlying security may have an impact on the market for that security or the options covering that security (or vice versa), the Exchange would be concerned if its members were to engage in the practice of trading in options or in underlying securities when they are in possession of material non-public information concerning block transactions in these securities. In keeping with its responsibility to assure

the fairness of its market, the Exchange wishes to emphasize that this kind of activity on the part of market professionals is conduct inconsistent with just and equitable principles of trade and will be dealt with in enforcement proceedings under Chapter XVII.

Although it is not possible to provide an all-inclusive definition of front-running in all of its forms, the Exchange believes that it is important to provide, so far as possible, clear and unambiguous standards describing the kind of conduct that will not be permitted, both in order to provide guidance for members and to avoid interfering with entirely legitimate transactions that do not involve front-running. For this purpose, the Exchange has prepared this educational circular containing a discussion and examples of conduct involving the front-running of blocks that would be considered to be in violation of Rule 4.1. It must be recognized that the following discussion of prohibited conduct is not exclusive, and that conduct not specifically described in this circular may nonetheless constitute front-running that comes within the broad prohibition of Rule 4.1. Although this circular concentrates on proprietary trading of members, front-running violations may also occur in certain agency situations, such as where a member passes on non-public information concerning block transactions to a customer who then trades on the basis of the information.

The Exchange considers it to be conduct inconsistent with just and equitable principles of trade in violation of Rule 4.1 for a member or person associated with a member for an account in which such member or person has an interest, or for an account with respect to which such member or person exercises investment discretion, to cause to be executed

(1) An order to buy or sell an option when such member or person causing such order to be executed has knowledge of a block transaction in the underlying security, or

(2) An order to buy or sell an underlying security when such member or person causing such order to be executed has knowledge of a block transaction in an option covering that security.

prior to the time information concerning the block transaction has been made publicly available. Front-running may be based upon knowledge of less than all of the terms of the transaction, so long as there is knowledge that all of the material terms of the transaction have been or will imminently be agreed upon.

Notwithstanding the foregoing, if a member firm receives at or about the same time a customer's order of block size relating to both an option and the underlying security, the member may position the other side of one or both components of the order, subject to applicable exchange rules governing crosses. However, the member firm would not be able to cover any resulting proprietary position by entering an offsetting order until information concerning all block transactions involved has been made publicly available.

The application of this circular is limited to transactions that are required to be reported on the last sale reporting systems administered by CTA or OPRA, and information as to a block transaction shall be considered to be publicly available when it has been disseminated via the tape or high speed communication line of one of those systems. Public outcry on the Exchange Floor shall not be deemed to make such information publicly available except in unusual circumstances with the advance approval of two Floor Officials.

A transaction involving 10,000 shares or more of an underlying security or options covering such number of shares shall be conclusively deemed to be a block transaction, although transactions of less than 10,000 shares may also be block transactions in appropriate cases. A block transaction that has been agreed upon does not lose its identity as such by arranging partial execution of the transaction in portions which themselves are not of block size. In this situation, the requirement that information concerning the transaction be made publicly available will not be satisfied until the entire block transaction has been completed and publicly reported.

The application of Rule 4.1 to front-running is illustrated by, but not limited to, the following examples:

Example No. 1. Member A has agreed to a transaction involving the sale for its own account or for the account of a customer of 10,000 shares of XYZ common stock, a security listed on the New York Stock Exchange, at a price of 18½. Regardless of whether this price is within or without the bid or offer quoted for XYZ, Member A may not buy or sell any XYZ options for its own account until the sale of the 10,000 shares of XYZ has been reported over CTA Network A. Once the sale has been reported, Member A is free to trade XYZ options.

Example No. 2. Member A has agreed to a transaction involving the purchase of 100 XYZ July 20 options for a premium of 2½ for its own account or for the account of a customer. Until this

block option transaction has been reported over the OPRA high speed network, Member A may not buy or sell any shares of XYZ common stock for its own account.

Branch Offices of Member Organizations

Rule 9.6 (a) No change.

(b) *No branch office of a member organization shall transact options business with the public unless the manager of such branch office has been qualified as a Registered Options Principal. Provided, That this requirement shall not apply to branch offices in which not more than three Registered Representatives are located so long as the member organization can demonstrate that the options activities of such branch offices are appropriately supervised by a Registered Options Principal.*

Discretionary Accounts

Rule 9.10 (a) *Authorization and Approval Required.* No member organization shall exercise any discretionary power with respect to [Exchange transactions] trading in options contracts in a customer's account unless such customer has given prior written authorization and the account has been accepted in writing by a Registered Options Principal (who is an officer or partner of the member organization). *The Senior Registered Options Principal shall review the acceptance of each discretionary account to determine that the Registered Options Principal accepting the account had a reasonable basis for believing that the customer was able to understand and bear the risks of the strategies or transactions proposed, and he shall maintain a record of the basis for his determination.* Each discretionary order shall be approved and initialed on the day entered by [a] the branch office manager or other Registered Options Principal, [or, in the case of a branch office, by a branch office manager: *Provided*, That such] provided that if the branch office manager is not a Registered Options Principal, his approval shall be confirmed within a reasonable time by a Registered Options Principal. Every discretionary order [must] shall be identified as discretionary on the order at the time of entry. Discretionary accounts shall receive frequent appropriate supervisory review by the [Senior] Compliance Registered Options Principal [or his designee].

(b) No change.

(c) No change.

(d) No change.

(e) Options Programs. Where the discretionary account utilizes options programs involving the systematic use of one or more options strategies, the customer shall be furnished with a written explanation, meeting the requirements of Rule 9.21, of the nature and risks of such programs.

Effectiveness Timetable

	No. of days following Commission approval
9.7(b)	30 days.
9.7(c)	30 days for initial verification.
	60 days for subsequent verification.
9.12	60 days.
9.9	30 days.
9.23	60 days.
9.8(a)	30 days.
9.8(b)	90 days.
9.8(c)	90 days.
4.9	30 days.
17.1	Immediately.
9.21(a)	Immediately.
9.21(b)	90 days, until then approval under present 9.21(a).
9.21(c), (d) & (e)	Immediately.
11.2(a)	60 days.
11.2(b)	Immediately.
11.2(c)	60 days.
8.9(a) & (b)	60 days.
"Front-running" circular.	Immediately.
9.6(b)	90 days.
9.10(a)	60 days.
9.10(e)	90 days.

[FR Doc. 79-26526 Filed 8-24-79; 8:45 am]
BILLING CODE 8010-01-M

[Release No. 34-16125; File No. SR-CSE-79-4]

Cincinnati Stock Exchange; Self-Regulatory Organizations; Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on August 1, 1979, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

The Cincinnati Stock Exchange's Statement of the Terms of Substance of the Proposed Rule Change

The Board of Trustees of The Cincinnati Stock Exchange has established a maximum Multiple Dealer Trading System fee charge effective August 1, 1979, as follows:

Multiple Dealer Trading System (CIN/NMS) Fees

(a) 2¢ per share will be charged non-members when acting as principal.

(b) 1½¢ per share will be charged members when acting as principal.

(c) ½¢ per share will be charged both members and non-members on public agency transactions.

(d) Charge on any single transaction executed by an individual firm shall not exceed \$100 per transaction (inclusive of both sides of the transaction).

The Cincinnati Stock Exchange's Statement of Basis and Purpose.

In response to comments received from Multiple Dealer Trading System participants, the Board of Trustees reviewed the Multiple Dealer Trading and in so doing determined that fees charged on large transactions were perhaps excessively high. Therefore, the Board deemed it advisable to reduce fees on these executions by setting a maximum charge.

Section 6(b)(4) of the Act is the basis for these fees since specified charges are reasonable and equitably allocated to those who avail themselves of such Exchange services.

No comments were solicited from Members nor were any received.

Fees as set forth impose no burden on competition.

The foregoing rule change has become effective, pursuant to Section 19(b)(3) of the Securities Exchange Act of 1934. At any time within sixty days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and all written submissions will be available for inspection and copying in the Public Reference Room 1100 L Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number references in the caption above and should be submitted on or before September 17, 1979.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons
Secretary.

August 17, 1979.
[FR Doc. 79-26527 Filed 8-24-79; 8:45 am]
BILLING CODE 8010-01-M

[Release No. 34-16119; File No. SR-NSCC-79-9]

National Securities Clearing Corp.; Self-Regulatory Organizations; Proposed Rule Changes

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on August 14, 1979, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission proposed rule change as follows:

Statement of the Terms of Substance of the Proposed Rule Change

The proposed Rule change consists of a new fee to be charged in connection with submission of certain dividend claims to National Securities Clearing Corporation (NSCC).

State of Basis and Purpose

The basis and purpose of the foregoing proposed rule change is as follows:

The proposed Rule change establishes a \$10.00 processing fee for each dividend claim made against NSCC's NCC & CO. nominee, which fee will be utilized by NSCC to defray the costs of processing such claims as arise against securities which members have elected not to transfer out of the NCC & Co. nominee name subsequent to September 1, 1979.

The proposed Rule change relates to the equitable allocation of reasonable dues, fees and other charges among NSCC's participants.

No comments on proposed rule change have been solicited or received.

The Corporation does not perceive that the proposed rule change would constitute a burden on competition.

The foregoing rule change has become effective, pursuant to Section 19(b)(3) of the Securities Exchange Act of 1934. At any time within sixty days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written

submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before September 17, 1979.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

August 17, 1979.
[FR Doc. 79-26531 Filed 8-24-79; 8:45 am]
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[Release No. 34-16122; File No. SR-OCC-79-5]

Options Clearing Corp.; Self-Regulatory Organizations; Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on July 24, 1979, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

Statement of the Terms of Substance of the Proposed Rule Change

Pursuant to Article III, Section 8 of the By-Laws of The Options Clearing Corporation ("OCC"), and in accordance with the principles set forth in Article IX, Section 9 of said By-Laws, the Board of Directors of OCC has determined to revise OCC's clearing fees by reducing the fee for all Exchange transactions cleared through OCC (other than market-maker scratch transactions) from \$0.095 per contract to \$0.085 per contract. The reduction is to become effective with the August, 1979 billing (covering the month of July, 1979).

Statement of Basis and Purpose

The basis and purpose of the foregoing proposed rule change is as follows:

The purpose of the fee reduction is to adjust OCC's clearing fees to a level

more closely approximating OCC's operating costs, while at the same time enabling OCC to maintain capital, surplus and reserves sufficient for its needs and consistent with the principles set forth in Article IX, Section 9 of its By-Laws.

OCC believes that the reduction of clearing fees for transactions is reasonable in light of OCC's anticipated revenue from clearing fees and those anticipated operating costs and other needs. The fee reduction results in fees for all transactions other than market-maker scratch transactions being \$0.085 which approximates the cost to OCC of handling such contracts. Accordingly, OCC believes that the proposed fee reduction allocates reasonable fees in an equitable manner among OCC's Clearing Members.

Comments were not and are not intended to be solicited with respect to the proposed fee reduction.

OCC does not believe that the proposed fee reduction would impose any burden on competition.

The foregoing rule change has become effective, pursuant to Section 19b-3 of the Securities Exchange Act of 1934. At any time within sixty days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C., 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before September 17, 1979.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

August 17, 1979.

George A. Fitzsimmons,
Secretary.

[FR Doc. 79-26532 Filed 8-24-79; 8:45 am]
BILLING CODE 8010-01-M

[Release No. 16124; SR-PSE-79-9]

Pacific Stock Exchange, Inc.; Order Approving Proposed Rule Change

August 17, 1979.

On June 4, 1979, the Pacific Stock Exchange, Incorporated ("PSE"), 301 Pine Street, San Francisco, California 94104, filed with the Commission, pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1) (the "Act") and Rule 19b-4 thereunder, copies of a proposed rule change amending PSE Rule 1, Sections 3(b) and 3(e) which set forth criteria for initial and continued listing of stocks, bonds, and warrants. Adoption of the revised criteria will enable the PSE to become a national securities exchange certified by the State of California's Commissioner of Corporations. As a result, issuers of securities listed on the PSE will be exempted from certain filing requirements imposed by that State.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission Release (Securities Exchange Act Release No. 15947, June 25, 1979) and by publication in the Federal Register (44 FR 38037, June 29, 1979).¹ All written statements with respect to the proposed rule change which were filed with the Commission and all written communications relating to the proposed rule change between the Commission and any person were considered and were made available to the public at the Commission's Public Reference Room.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges and in particular, the requirements of Section 6 and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the

¹ The PSE submitted one amendment to this rule filing on August 13, 1979. The amendatory material clarified the stated purpose of the rule filing but did not alter the previously proposed amendments to listing and delisting criteria. Since the amendment did not effect a material change in the original submission, the commission did not publish notice of filing of the amendment.

above-mentioned proposed rule change be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc. 79-26533 Filed 8-24-79; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-16117; File No. SR-SCCP 79-7]

Stock Clearing Corp. of Philadelphia; Self-Regulatory Organizations; Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on August 6, 1979 the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed Rule change as follows:

Statement of Terms of Substance of the Proposed Rule Change

The Stock Clearing Corporation of Philadelphia (SCCP) proposes an amendment to its Rule 5 which presently requires its members to use continuous-net-settlement depository clearing.

The change will afford members the ability to exempt selected round-lot purchases from CNS processing and thereby utilize trade-for-trade clearance.

A pro-forma amendment has been made to paragraph 4 of Rule 5 for purposes of clarity.

SCCP also proposes a related amendment to its Rule 23 on Compensation which deals with charges for services rendered. Changes to Sections 3 and 6 of the Rule established fees for special clearing arrangement for C.O.D. purchases of round lots at a higher clearance charge than for CNS processing.

Statement of Basis and Purpose of Proposed Rule Change

The purpose of the change to Rule 5 is to allow members the use of trade-for-trade clearance services in cases where CNS processing can be considered to be a burden.

The purpose of the change to Rule 23 is to make it more cost related to the additional servicing involved in the clearing of C.O.D. purchases.

The proposed change to Rule 5 will enable SCCP to facilitate the prompt and accurate clearance and settlement of securities transactions for which it is responsible in accordance with the purposes set forth in Section 17A(b)(3)(D) of the Act.

The proposed change to Rule 23 provides equitable allocation of fees and other charges among members in accordance with standards set forth in section 17A(b)(3)(D) of the Act.

Formal comments were not solicited.

No burden on competition will be imposed by the proposed Rule changes. The proposed rate schedule does not discriminate between marketplaces nor does it inhibit clearing interfaces.

On or before October 1, 1979, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed Rule change, or

(B) Institute proceedings to determine whether the proposed Rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before September 17, 1979.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

August 17, 1979.

[FR Doc. 79-26534 Filed 8-24-79; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-16118; File No. SR-SCCP 79-10]

Stock Clearing Corp. of Philadelphia; Self-Regulatory Organizations; Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on June 18, 1979 the above mentioned self-regulatory organization filed with the Securities

and Exchange Commission a proposed Rule change as follows:

Statement of Terms of Substance of the Proposed Rule Change

Stock Clearing Corporation of Philadelphia (SCCP) proposes an interpretation to an existing agreement between the Philadelphia-Baltimore Stock Exchange (now the Philadelphia Stock Exchange, Inc.) and the Boston Stock Exchange (now the Boston Stock Exchange, Incorporated) dated March 5, 1957. The interpretation relates specifically to an amendment to the agreement dated March 5, 1957, which states in part that: "All securities delivered shall conform to the delivery requirements of the receiving Stock Clearing Corporation . . ." It is not in conflict with SCCP's requirements if Boston Stock Exchange Clearing Corporation (BSECC) wishes to deliver securities to New England Securities Depository Trust Company (NESDTC), which will act as a depository facility for SCCP pursuant to an agreement signed by SCCP and NESDTC.

Statement of Basis and Purpose of Proposed Rule Change

The purpose of the proposed interpretation is to reduce costs and promote greater efficiency in clearance between SCCP and BSECC.

The proposed interpretation will enable SCCP to facilitate the prompt and accurate clearance and settlement of securities transactions for which it is responsible in accordance with the purposes set forth in Section 17A(b)(3)(F) of the Act.

No formal comments were solicited from members.

No burden on competition will be imposed by the proposed interpretation.

On or before October 1, 1979, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed Rule change, or

(B) Institute proceedings to determine whether the proposed Rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof, with the Secretary of the Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be

available for inspection and copying in the Public Reference Room, 1100 "L" Street NW, Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before September 17, 1979.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

August 17, 1979.

[FR Doc. 79-26535 Filed 8-24-79; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-16123; File No. SR-SCCP 79-12]

Stock Clearing Corp. of Philadelphia; Self-Regulatory Organizations; Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on August 7, 1979, the above mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed Rule change as follows:

Statement of Terms of Substance of the Proposed Rule Change

Stock Clearing Corporation of Philadelphia (SCCP) proposes a new Rule 27 as follows:

Stock Clearing Corporation of Philadelphia may act as the agent of Philadelphia Depository Trust Company to receive and deliver securities and to effect daily money settlements on behalf of those organizations or entities which are participants in both Stock Clearing Corporation and Philadelphia Depository Trust Company.

Statement of Basis and Purpose of Proposed Rule Change

The purpose of the proposed Rule is to authorize SCCP to act as agent for Philadelphia Depository Trust Company (PHILADEP) for the acceptance of PHILADEP deposits at SCCP branch locations.

Its purpose is also to authorize SCCP to effect PHILADEP money settlement on behalf of participants which are members of both SCCP and PHILADEP.

The proposed Rule change will promote the prompt and accurate clearance and settlement of securities transactions and foster cooperation and coordination with persons engaged in such process.

No formal comments were solicited or received from members.

No burden on competition will be imposed by the proposed Rule.

On or before October 1, 1979, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed Rule change, or

(B) Institute proceedings to determine whether the proposed Rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof, with the Secretary of the Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 "L" Street NW, Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before September 17, 1979.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

August 17, 1979.

[FR Doc. 79-26536 Filed 8-24-79; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[Delegation of Authority No. 3A]

Associate Deputy Administrator for Support Services

I. Pursuant to the authority vested in the Administrator by the Small Business Act, 72 Stat. 384, as amended, and the Small Business Investment Act of 1958, 72 Stat. 689, as amended, there is hereby delegated to the Associate Deputy Administrator for Support Services the following authority:

a. To contract for supplies and services for the agency pursuant to Chapter 4 of Title 41, United States Code, subject to the limitations contained in section 257 (a) and (b) of that chapter.

b. To execute grants or cooperative agreements authorized by Federal statute

except Section 7(j) of the Small Business Act subject to the limitations contained in PL 95-224, OMB Circular A-110 and OMB Circular A-110:

II. This delegation is not in derogation of any authority residing in the Deputy Administrator.

III. The authority delegated herein may be redelegated.

IV. The authority delegated herein may be exercised by any employee officially designated as Acting Associate Deputy Administrator for Support Services.

Effective Date: August 17, 1979.

William H. Mauk Jr.,

Acting Administrator.

[FR Doc. 79-26483 Filed 8-24-79; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE-79-17]

Petitions for Exemption: Summary of Petitions Received and Dispositions of Petitions Issued

AGENCY: FEDERAL AVIATION ADMINISTRATION (FAA), DOT.

ACTION: Notice of petitions for exemptions received and of dispositions of petitions issued.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I) and of dispositions of certain petitions previously received. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Publication of this notice and any information it contains or omits is not intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before: September 17, 1979.

ADDRESSES: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-24), Petition Docket No. , 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION: The petition, any comments received and a copy of any final disposition are filed in the assigned regulatory docket and are

available for examination in the Rules Docket (AGC-24), Room 918, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW, Washington, D.C. 20591; telephone (202) 426-3644.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, D.C., on August 20, 1979.
Carl B. Schellenberg,
Assistant Chief Counsel, Regulations and Enforcement Division.

Petitions for Exemptions

Docket No.	Petitioner	Regulations affected	Description of relief sought
19466	Nevada Systems	14 CFR parts 61, 91, and 121	To permit the petitioner to operate its large transport aircraft for hire without a part 121 certificate and to utilize both flight attendants and flight crewmembers who are not qualified in accordance with part 121.

Dispositions of Petitions for Exemptions

19333	Graham Thompson, Ltd.	14 CFR § 91.27	To permit a Glasflugel Homet C to participate in the U.S. National Standard Class Soaring Championships without complying with current airworthiness certificate requirements of Section 91.27(a)(1). <i>Granted 7/13/79.</i>
19174	Boeing Commercial Airplane Co.	14 CFR § 91.32(b)(ii)	To permit petitioner to exclude the requirement for one pilot to wear oxygen equipment for operation of B-747 and B-747SP airplanes between 41,000 and 45,100 feet altitude. <i>Granted 8/14/79.</i>
13141	Trans World Airlines	14 CFR §§ 121.433, 121.441, and 121.443	To allow petitioner an extension of the October 1, 1979, termination date of Exemption No. 1465G which permits the second-in-command pilot to occupy the pilot-in-command position and permits the international relief officer to occupy the second-in-command position during the enroute cruise portions of international flights. <i>Granted 8/14/79.</i>
14477	Altair Airlines, Inc.	14 CFR §§ 121.371(a) and 121.378	To allow petitioner an extension of the August 31, 1979, termination date of Exemption No. 2158B which permits Altair to use on its Nord 26A airplane certain engines, propellers, and spare parts that have been repaired, overhauled, or inspected by persons outside the U.S. who do not hold U.S. airman certificates. <i>Granted 8/14/79.</i>
19242	Northwest Orient Airlines	14 CFR §§ 91.32(b)(1)(ii) and 121.333(c)(2)	To permit operation of their B-747-200 airplane fleet up to 45,100 feet without one pilot at the controls wearing and using an oxygen mask when operating above 41,000 feet. <i>Granted 8/14/79.</i>
19279	Dorado Wings, Inc.	14 CFR § 135.243(a)	To allow petitioner to utilize the services of commercial pilots in their commuter air taxi operations in lieu of using Airline Transport Pilots. <i>Denied 8/14/79.</i>
18297	Wings Airways	14 CFR § 135.243(a)	To allow the operation of a commuter air taxi when the Pilot-in-Command has only a commercial pilot certificate. <i>Denied 8/14/79.</i>
19157	Capt. Stillman A. Bell	14 CFR § 121.383(c)	To permit petitioner to continue to serve as a pilot in air carrier operations after age 60. <i>Denied 8/14/79.</i>
19160	Capt. T.H. Fowler	14 CFR § 121.383(c)	To permit petitioner to continue to serve as a pilot in air carrier operations after age 60. <i>Denied 8/14/79.</i>
19161	John Thornton Mills	14 CFR § 121.383(c)	To permit petitioner to continue to serve as a pilot in air carrier operations after age 60. <i>Denied 8/14/79.</i>
19168	Warren C. Wilkerson	14 CFR § 121.383(c)	To permit petitioner to serve as a pilot for Trans World Airlines after he has reached his 60th birthday. <i>Denied 8/14/79.</i>
19240	Rufus T. Rundlett	14 CFR § 121.383(c)	To allow him to serve as pilot in command in air carrier operations after he has reached his 60th birthday. <i>Denied 8/14/79.</i>
19245	Newton L. Edwards	14 CFR § 121.383(c)	To permit him to continue to serve as pilot in air carrier operations after reaching his 60th birthday on May 19, 1979. <i>Denied 8/14/79.</i>

[FR Doc. 79-26525 Filed 8-24-79; 8:45 am]
 BILLING CODE 4910-13-M

National Highway Traffic Safety Administration

[Docket No. IP79-8; Notice 1]

General Motors Corp.; Receipt of Petition for Inconsequential Noncompliance

General Motors Corporation of

Detroit, Michigan, ("GM" herein) has petitioned to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act for two noncompliances with 49 CFR 571.105, Motor Vehicle Safety Standard No. 105, *Hydraulic Brake Systems*. The basis of the petition is that the noncompliances are inconsequential as they relate to motor vehicle safety.

This notice of receipt of a petition is published under section 157 of the

National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1417) and does not represent any agency decision or other exercise of judgment concerning the merits of the petition.

Paragraph S5.3.5 of Standard No. 105-75 requires school buses to be equipped with a brake system indicator lamp, whose lens is labelled "BRAKE". If a separate indicator lamp is used to indicate a gross loss of brake pressure it shall include additional appropriate

labelling, i.e., "BRAKE PRESSURE". GM has discovered that the separate indicator for this function is simply labelled "BRAKE". The noncompliance exists on 4250 GMC and Chevrolet school bus chassis manufactured between the start of 1979 model production and April 1979.

Paragraph S5.3.2 of Standard No. 105 requires that all brake system indicator lamps shall be activated as a check of lamp function when the ignition switch is turned to the "on" position when the engine is not running. GM also says that this will not occur in the "PARK BRAKE" indicator unless the park brake is also applied. GM's arguments that these noncompliances are inconsequential as they relate to motor vehicle safety may be summarized as follows: The indicator labelled "BRAKE" is the only indicator that identifies any brake system hydraulic failure, and "this wording conveys the same information as the words 'BRAKE PRESSURE' specified by the Standard, which is that a problem may exist in the service brake hydraulic system." with respect to the check function of the "PARK BRAKE" indicator, the operator's manual accompanying each vehicle advises that the driver apply the parking brake before the engine is started. GM further states that the system is designed to illuminate whenever the ignition switch is turned on and the parking hand brake is applied. If these directions are followed, the indicator will illuminate as a check function, and, in any event, may be checked by application of the parking brake.

Interested persons are invited to submit written data, views and arguments on the petition of General Motors Corp., described above. comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5108, 400 Seventh Street, S.W., Washington, D.C. 20590. It is requested but not required that five copies be submitted.

All comments received before the

close of business on the comment closing date indicated below will be considered. The application and supporting materials, and all comments received after the closing date will also be filed and will be considered to the extent possible. When the petition is granted or denied, notice will be published in the *Federal Register* pursuant to the authority indicated below.

Comment closing date:

(Sec. 102, Pub. L. 93-492, 88 Stat. 1470 (15 U.S.C. 1417); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on August 15, 1979

Michael M. Finkelstein,
Associate Administrator for Rulemaking.

[FR Doc. 79-26507 Filed 8-24-79; 8:45 am]
 BILLING CODE 4910-59-M

[Docket IP79-9; Notice 1]

Gillig Corp.; Petition for Determination of Inconsequential Noncompliance

Gillig Corporation of Hayward, California ("Gillig" herein) has petitioned to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 et seq.) for an apparent noncompliance with 49 CFR 571.108, Motor Vehicle Safety Standard No. 108, *Lamps, Reflective Devices, and Associated Equipment*, on the basis that it is inconsequential as it relates to motor vehicle safety.

This notice of receipt of a petition is published under Section 157 of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1417) and 49 CFR Part 556 and does not represent any agency decision or other exercise of judgment concerning the merits of the petition.

Standard No. 108 incorporates by reference SAE Standard J 592e, *Clearance, Side Marker, and Identification Lamps*, July 1972. One of the requirements for a front side marker lamp is that, at 45 degrees to the right or left (i.e., to the rear of the vehicle) it

shall emit not less than 0.62 candela. Until October 1978 Gillig school buses were equipped with combination front clearance side marker lamps whose light output at the test point in question was .05/.06. Gillig argues that the noncompliance is inconsequential because "a number of other lamps are closely visible in the 45 degrees area which is apparently deficient", and that it is not aware of any complaints or accidents attributable to the noncompliant lamp. The other lighting devices that are visible are the front amber reflector, the intermediate and read side marker lamps and reflectors, and all rear lighting devices. It manufactures between 150 and 200 buses a year and "all recent" production has been equipped with the lamps in question.

Interested persons are invited to submit written data, views and arguments on the petition of Gillig Corporation described above. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5108, 400 Seventh Street, S.W., Washington, D.C. 20590. It is requested but not required that five copies be submitted.

All comments received before the close of business on the comment closing date indicated below will be considered. The petition and supporting materials, and all comments received after the closing date will also be filed and will be considered to the extent possible. When the petition is granted or denied, notice will be published in the *Federal Register* pursuant to the authority indicated below.

Comment closing date: September 24, 1979.

(Sec. 102, Pub. L. 93-492, 88 Stat. 1470 (15 U.S.C. 1417) delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on August 16, 1979.

Michael M. Finkelstein,
Associate Administrator for Rulemaking.

[FR Doc. 79-26506 Filed 8-24-79; 8:45 am]
 BILLING CODE 4910-59-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[Delegation Order No. 11 (Rev. 11)]

Delegation of Authority

AGENCY: Internal Revenue Service, Treasury.

ACTION: Delegation of Authority.

SUMMARY: This Delegation Order amends Delegation Order No. 11 (Rev. 10) issued January 29, 1979. Section 4 is amended to authorize Regional Directors of Appeals; Chiefs, Appeals Offices and Associate Chiefs, Appeals Offices, to accept offers in compromise when the liability sought to be compromised (including interest, penalty, additional amount or addition to the tax) is less than \$100,000; to accept offers involving specific penalties; and to reject offers in compromise regardless of the amount of the liability sought to be compromised. The text of the Delegation Order appears below.

EFFECTIVE DATE: November 1, 1979.

FOR FURTHER INFORMATION CONTACT:

Bruce J. Conyne CP:AP:PP, 1111 Constitution Avenue, N.W., Room 2324, Washington, D.C. 20224; Telephone (202) 566-6131.

Bruce J. Conyne,
Chief, Programs & Procedures Branch,
National Office Appeals Division.
Issued: August 23, 1979.

Authority to Accept or Reject Offers in Compromise

The authority vested in the Commissioner of Internal Revenue by Treasury Department Order No. 150-25, dated June 1, 1953, Order No. 150-36 dated August 17, 1954, 26 CFR 301.7122-1 and 26 CFR 301.7701-9, and Treasury Department Order No. 150-60 dated June 3, 1964, is hereby delegated as follows:

1. Regional Commissioners of Internal Revenue are delegated authority, under Section 7122 of the Internal Revenue Code, to accept offers in compromise of tax, based solely on doubt as to liability, if the unpaid liability (including any interest, penalty, additional amount or addition to tax) is \$100,000 or more. This authority does not pertain to offers in compromise of liabilities arising under laws relating to alcohol, tobacco and firearms taxes. The authority delegated herein may not be redelegated.

2. For the Office of International Operations, the Assistant Commissioner (Compliance) is delegated authority, under Section 7122 of the Internal Revenue Code, to accept offers in compromise of tax, based solely on doubt as to liability, if the unpaid liability (including any interest, penalty, additional amount or addition to tax) is \$100,000 or more. This authority does not pertain to offers in compromise of liabilities arising under laws relating to alcohol,

tobacco and firearms taxes. The authority delegated herein may not be redelegated.

3. Regional Commissioners and the Director, Collection Division are delegated authority, under Section 7122 of the Internal Revenue Code, to accept offers in compromise based on doubt as to collectibility and those based on doubt as to both collectibility and liability if the unpaid liability (including any interest, penalty, additional amount or addition to tax) is \$100,000 or more. In addition, Regional Commissioners and the Director, Collection Division, are delegated authority to accept offers in compromise submitted under Section 3469 of the Revised Statutes, as amended (31 U.S.C. 194) insofar as claims arising in the administration of the Internal Revenue laws are concerned. The authorities delegated herein do not pertain to offers in compromise of liabilities arising under laws related to alcohol, tobacco and firearms taxes. The authorities delegated herein may not be redelegated.

4. District Directors, Assistant District Directors, the Director of International Operations and the Assistant Director of International Operations, Regional Directors of Appeals, Chiefs and Associate Chiefs, Appeals Offices, are delegated authority, under Section 7122 of the Internal Revenue Code, to accept offers in compromise in cases in which the liability sought to be compromised (including any interest, penalty, additional amount or addition to the tax) is less than \$100,000, to accept offers involving specific penalties, and to reject offers in compromise regardless of the amount of the liability sought to be compromised. This authority does not pertain to offers in compromise of liabilities arising under laws relating to alcohol, tobacco and firearms taxes. The authority delegated to District Directors, Assistant District Directors and the Director of International Operations herein may not be redelegated, except that the authority to reject offers in compromise may be redelegated, but not lower than to Division Chief. The District Director in a streamlined district may not redelegate this authority. The Regional Director of Appeals, Chiefs and Associate Chiefs, Appeal Offices, may not redelegate this authority.

5. Service Center Directors and Assistant Service Center Directors are delegated authority, under Section 7122 of the Internal Revenue Code, to accept offers in compromise, limited to penalties based solely on doubt as to liability, if the unpaid liability is less than \$100,000, and to reject offers in compromise, limited to penalties, regardless of the amount of the liability sought to be compromised. This authority does not pertain to offers in compromise of liabilities arising under laws relating to alcohol, tobacco and firearms taxes. This authority may be redelegated, but not lower than to Division Chief.

6. This Order supersedes Delegation Order No. 11 (Rev 10) issued January 29, 1979.

William E. Williams,
Acting Commissioner.

[FR Doc. 79-26491 Filed 8-24-79; 8:45 am]

BILLING CODE 4830-01-M

[Delegation Order No. 75 (Rev. 8)]

Delegation of Authority

AGENCY: Internal Revenue Service, Treasury.

ACTION: Revocation of Delegation of Authority.

SUMMARY: Delegation Order No. 75 (Rev. 8), issued October 1, 1978, granted authority to each Regional Director of Appeals and each Chief and Associate Chief, Appeals Office, to determine the disposition of offers on liabilities less than \$100,000 and to recommend acceptance of offers on liabilities in excess of \$100,000. These authorities have been incorporated in to Delegation Order No. 11 (Rev. 11). Accordingly, Delegation Order No. 75 (Rev. 8) issued October 1, 1978, is revoked.

EFFECTIVE DATE: November 1, 1979.

FOR FURTHER INFORMATION CONTACT:

Bruce J. Conyne CP:AP:PP, 1111 Constitution Avenue, NW., Room 2324, Washington, D.C. 20224; Telephone (202) 566-6131.

Bruce J. Conyne,
Chief, Programs & Procedures Branch,
National Office Appeals Division.

Issued: August 23, 1979.

Authority of Regional Director of Appeals in Offers in Compromise

1. Delegation Order No. 75 (Rev. 8), issued October 1, 1978, granted authority to each Regional Director of Appeals and each Chief and Associate Chief, Appeals Office, to determine the disposition of offers on liabilities less than \$100,000 and to recommend acceptance of offers on liabilities in excess of \$100,000.

2. These authorities have been incorporated into Delegation Order No. 11 (Rev. 11).

3. Accordingly, Delegation Order No. 75 (Rev. 8) issued October 1, 1978, is revoked.

William E. Williams,
Acting Commissioner.

[FR Doc. 79-26492 Filed 8-24-79; 8:45 am]

BILLING CODE 4830-01-M

Proposal to Designate Depository for Annual Reports of Private Foundations; Requests for Comments

AGENCY: Internal Revenue Service, Department of the Treasury.

ACTION: Notice of request for comments on a proposal to designate The Foundation Center as a depository to which private foundations must furnish copies of their annual reports required by section 6056 of the Internal Revenue Code.

SUMMARY: The Commissioner of the Internal Revenue Service invites public comment on a proposal to designate The Foundation Center, 888 Seventh Avenue, New York, New York 10019, as a depository to which all private foundations with assets having a fair market value of \$1,000,000 or more or that makes grants of \$100,000 or more per year must furnish copies of their Annual Reports required by section 6056 of the Internal Revenue Code. The designation would be made under the authority contained in section 6056(d)(3) of the Code and section 1.6056-1(b) of the Income Tax Regulations. After considering all comments the Commissioner will decide whether to make the proposed designation.

DATE: Written comments should be mailed or delivered by October 26, 1979.

ADDRESS: Written comments should be mailed or delivered to Internal Revenue Service, Attention E:EO:T, Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Edmond J. Butler of the Exempt Organizations Technical Branch, Office of the Assistant Commissioner Employee Plans and Exempt Organizations; 202-566-4050 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

Section 6056(a) of the Internal Revenue Code requires every private foundation having at least \$5,000 of assets at any time during a taxable year to file an annual report. Form 990-AR, Annual Report of Private Foundation, may be used for this purpose.

Section 6056(d)(3) of the Code provides that foundation managers are required to furnish to State officials and other persons at such times and under such conditions as the Secretary may by regulations prescribe copies of the annual report required under section 6056. Section 1.6056-1(b)(2) of the Income Tax Regulations provides that the Commissioner may designate one or more appropriate libraries or depositories to which foundation managers will be required to send copies of their annual reports.

The Foundation Center is a non-profit organization that currently purchases copies of the annual reports of private foundations from the Internal Revenue

Service and makes them available to the public in libraries throughout the country. It also publishes data extracted from the reports in *The Foundation Directory* and other publications. The Center has proposed that the Commissioner exercise his authority under section 6056(d)(3) by designating it as a depository to which foundation managers of foundations with assets having a fair market value of \$1,000,000 or more or that make grants of \$100,000 or more per year must furnish copies of the annual report. The Center anticipates that by having foundations furnish it copies of their annual reports directly, its publications could include more current data, at a reduced cost to it, and the public would have earlier access to the information contained in the annual reports.

Proposed Implementation

Under this proposal, the Foundation Center would be designated by the Commissioner as a depository for annual reports under section 6056(d)(3) of the Code. Foundation managers of foundations with assets having a fair market value of \$1,000,000 or more or that make grants of \$100,000 or more per year would be required to furnish a copy of the annual report to the Center at the same time it is sent to the Internal Revenue Service. A failure to supply a copy to the Center could result in assertion of penalties under section 6652(d)(3) of the Code.

Appropriate changes would be made to Form 990-PF, Return of Private Foundation Exempt from Income Tax, and Form 990-AR, Annual Report of Private Foundation. Additionally, instructions for these forms would be expanded to include an explanation of the requirement.

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the Treasury Directive appearing in the *Federal Register* for Wednesday, November 8, 1978.

Jerome Kurtz,
Commissioner.

August 20, 1979.

[FR Doc. 79-26490 Filed 8-24-79; 8:45 am]

BILLING CODE 4830-01-M

Office of the Secretary

Steel Bars, Reinforcing Bars, and Shapes From Australia; Antidumping; Tentative Determination To Modify or Revoke Dumping Finding

AGENCY: U.S. Treasury Department.

ACTION: Tentative revocation of finding of dumping.

SUMMARY: This notice is to advise the public that it appears that steel bars, reinforcing bars, and shapes from Australia are no longer being sold to the United States at less than fair value within the meaning of the Antidumping Act, 1921, as amended. Sales at less than fair value generally occur when the price of merchandise sold for exportation to the United States is less than the price of such or similar merchandise sold in the home market or to third countries. If this action is made final, imports of this merchandise from Australia on or after the effective date of this notice will no longer be liable for special dumping duties under the Antidumping Act, 1921. Interested persons are invited to comment on this action.

EFFECTIVE DATE: August 27, 1979.

FOR FURTHER INFORMATION CONTACT:

Steve Garment, Duty Assessment Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202-566-5492).

SUPPLEMENTARY INFORMATION: A finding of dumping with respect to steel bars, reinforcing bars, and shapes from Australia was published as Treasury Decision 70-81 in the *Federal Register* of April 7, 1970 (35 FR 5610).

After due investigation, it has been determined tentatively that steel bars, reinforcing bars, and shapes from Australia are no longer being, nor are likely to be, sold to the United States at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 *et seq.*).

Statement of Reasons on Which This Tentative Determination Is Based

There have been no shipments of steel bars, reinforcing bars, or shapes from Australia since February 1975, and no imports of such products into the U.S. since March 1975. Furthermore, there are no unliquidated entries of such products.

Accordingly, notice is hereby given that the Department of the Treasury intends to revoke the finding of dumping on steel bars, reinforcing bars, and shapes from Australia. This revocation will not have the effect of removing entries from Australia, if any, from the category of steel products currently monitored under the trigger price mechanism.

In accordance with § 153.40 Customs Regulations (19 CFR 153.40), interested persons may present written views or arguments, or request in writing that the Secretary of the Treasury afford an opportunity to present oral views. A copy of all submissions should be delivered to any counsel who has

heretofore represented a party in these proceedings.

Any requests that the Secretary of the Treasury afford an opportunity to present oral views should be addressed to the Commissioner of Customs, 1301 Constitution Avenue, N.W., Washington, D.C. 20229, in time to be received by his office not later than September 11, 1979. Requests must be accompanied by a statement outlining the issues wished to be discussed.

Any written views or arguments should likewise be addressed to the Commissioner of Customs in time to be received by his office not later than September 26, 1979.

This notice is published pursuant to § 153.44(c) of the Customs Regulations (19 CFR 153.44(c)).

David R. Brennan,
Acting General Counsel of the Treasury,
August 16, 1979.

[FR Doc. 79-20509 Filed 8-24-79; 8:45 am]
BILLING CODE 4810-22-M

[Department Circular, Public Debt Series
No. 20-79]

Treasury Notes of May 15, 1984, Series C-1984

August 22, 1979.

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of the Second Liberty Bond Act, as amended, invites tenders for approximately \$2,500,000,000 of United States securities, designated Treasury Notes of May 15, 1984, Series C-1984 (CUSIP No. 912827 JX 1). The securities will be sold at auction, with bidding on the basis of yield. Payment will be required at the price equivalent of the bid yield of each accepted tender. The interest rate on the securities and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of these securities may be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities.

2. Description of Securities

2.1. The securities will be dated September 5, 1979, and will bear interest from that date, payable on a semiannual basis on May 15, 1980, and each subsequent 6 months on November 15 and May 15, until the principal becomes payable. They will mature May 15, 1984, and will not be subject to call for redemption prior to maturity.

2.2. The income derived from the securities is subject to all taxes imposed under the Internal Revenue Code of 1954. The securities are subject to estate,

inheritance, gift or other excise taxes, whether Federal or State, but are exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, any possession of the United States, or any local taxing authority.

2.3. The securities will be acceptable to secure deposits of public monies. They will not be acceptable in payment of taxes.

2.4. Bearer securities with interest coupons attached, and securities registered as to principal and interest, will be issued in denominations of \$1,000, \$5,000, \$10,000, \$100,000, and \$1,000,000. Book-entry securities will be available to eligible bidders in multiples of those amounts. Interchanges of securities of different denominations and of coupon, registered and book-entry securities, and the transfer of registered securities will be permitted.

2.5. The Department of the Treasury's general regulations governing United States securities apply to the securities offered in this circular. These general regulations include those currently in effect, as well as those that may be issued at a later date.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20226, up to 1:30 p.m., Eastern Daylight Saving time, Tuesday, August 28, 1979. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Monday, August 27, 1979.

3.2. Each tender must state the face amount of securities bid for. The minimum bid is \$1,000 and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.11%. Common fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield. No bidder may submit more than one noncompetitive tender and the amount may not exceed \$1,000,000.

3.3. All bidders must certify that they have not made and will not make any agreements for the sale or purchase of any securities of this issue prior to the deadline established in Section 3.1. for receipt of tenders. Those authorized to submit tenders for the account of customers will be required to certify that such tenders are submitted under the same conditions, agreements, and certifications as tenders submitted directly by bidders for their own account.

3.4. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions in and borrowings on such securities, may submit tenders for account of customers if the names of the customers and the amount for each customer are furnished. Others are only permitted to submit tenders for their own account.

3.5. Tenders will be received without deposit for their own account from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from others must be accompanied by a deposit of 5% of the face amount of securities applied for (in the form of cash, maturing Treasury securities or readily collectible checks), or by a guarantee of such deposit by a commercial bank or a primary dealer.

3.6. Immediately after the closing hour, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, a coupon rate will be established, on the basis of a 1/4 of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 99.000. That rate of interest will be paid on all of the securities. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the

Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.7. Competitive bidders will be advised of the acceptance or rejection of their tenders. Those submitting noncompetitive tenders will only be notified if the tender is not accepted in full, or when the price is over par.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of securities specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. Payment and Delivery

5.1. Settlement for allotted securities must be made or completed on or before Wednesday, September 5, 1979, at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes or bonds (with all coupons detached) maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received at such institution no later than:

(a) Friday, August 31, 1979, if the check is drawn on a bank in the Federal Reserve District of the institution to which the check is submitted (the Fifth Federal Reserve District in case of the Bureau of the Public Debt), or

(b) Friday, August 31, 1979, if the check is drawn on a bank in another Federal Reserve District.

Checks received after the dates set forth in the preceding sentence will not be accepted unless they are payable at the applicable Federal Reserve Bank. Payment will not be considered complete where registered securities are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an

individual's social security number or an employer identification number) is not furnished. When payment is made in securities, a cash adjustment will be made to or required of the bidder for any difference between the face amount of securities presented and the amount payable on the securities allotted.

5.2. In every case where full payment is not completed on time, the deposit submitted with the tender, up to 5 percent of the face amount of securities allotted, shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered securities tendered as deposits and in payment for allotted securities are not required to be assigned if the new securities are to be registered in the same names and forms as appear in the registrations or assignments of the securities surrendered. When the new securities are to be registered in names and forms different from those in the inscriptions or assignments of the securities presented, the assignment should be to "The Secretary of the Treasury for (securities offered by this circular) in the name of (name and taxpayer identifying number)." If new securities in coupon form are desired, the assignment should be to "The Secretary of the Treasury for coupon (securities offered by this circular) to be delivered to (name and address)." Specific instructions for the issuance and delivery of the new securities, signed by the owner or authorized representative, must accompany the securities presented. Securities tendered in payment should be surrendered to the Federal Reserve Bank or Branch or to the Bureau of the Public Debt, Washington, D.C. 20226. The securities must be delivered at the expense and risk of the holder.

5.4. If bearer securities are not ready for delivery on the settlement date, purchasers may elect to receive interim certificates. These certificates shall be issued in bearer form and shall be exchangeable for definitive securities of this issue, when such securities are available, at any Federal Reserve Bank or Branch or at the Bureau of the Public Debt, Washington, D.C. 20226. The interim certificates must be returned at the risk and expense of the holder.

5.5. Delivery of securities in registered form will be made after the requested form of registration was been validated, the registered interest account has been established, and the securities have been inscribed.

6. General Provisions

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive

tenders, to make allotments as directed by the Secretary of the Treasury, to issue such notices as may be necessary, to receive payment for and make delivery of securities on full-paid allotments, and to issue interim certificates pending delivery of the definitive securities.

6.2. The Secretary of the Treasury may at any time issue supplemental or amendatory rules and regulations governing the offering. Public announcement of such changes will be promptly provided.

Paul H. Taylor,
Fiscal Assistant Secretary.

Supplementary Statement

The announcement set forth above does not meet the Department's criteria for significant regulations and, accordingly, may be published without compliance with the Departmental procedures applicable to such regulations.

Paul H. Taylor,
Fiscal Assistant Secretary.

[FR Doc. 79-26586 Filed 8-24-79; 3:00 pm]
BILLING CODE 4810-40-M

INTERSTATE COMMERCE COMMISSION

[Ex Parte No. 311]

Expedited Procedures for Recovery of Fuel Costs

Decided: August 21, 1979.

In our decisions of August 7 and August 14, 1979, an 8.5 percent surcharge was authorized on all owner-operator traffic, and on all truckload traffic whether or not owner-operators were employed. We ordered that all owner-operators were to receive compensation at this level.

The weekly figures set forth in the appendix for transportation performed by owner-operators and for truckload traffic, whether or not owner-operators are employed, is 9 percent. Accordingly, we are authorizing a 9-percent surcharge for this category of traffic.

Also, for the reasons stated in the July 31, decision, no change will be made in the existing authorization of a 2.7 percent surcharge on less-than-truckload (LTL) traffic performed by carriers not utilizing owner-operators.

We have received additional information from the general commodity carriers on their percentage of fuel expense to total revenue for truckload traffic. We are presently evaluating this data and hope to release our findings in next week's decision. Possible adjustments could also be made on the

2.7 percent surcharge on LTL traffic. In either situation, we will structure revised surcharge figures so that there will be no adverse impact on owner-operators.

In addition, we have been studying the rate structure in general, and have noted that certain non-labor cost-based general increases have affected the revenue derived from the surcharge. We are reviewing this matter to determine whether further adjustments are necessary.

Notice of this decision shall be given to the general public by mailing a copy of this decision to the Governor of each State and to the Public Utilities Commissions or Boards of each State having jurisdiction over transportation, by depositing a copy in the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., for public inspection, and by delivering a copy to the Director, Office of the Federal Register, for publication therein.

It is ordered:

This decision shall become effective

Friday at 12:01 a.m., August 24, 1979.

By the Commission. Chairman O'Neal, Vice Chairman Stafford, Commissioners Gresham, Clapp, Christian, Trantum and Gaskins. Commissioner Trantum dissenting. Commissioner Gaskins absent and not participating.

Agatha L. Mergenovich,
Secretary.

Commissioner Trantum, *dissenting*:

The Commission should be made fully aware of the apparent "excess" revenue that is currently being received by the general freight motor carriers who do not rely heavily on owner-operators. Without a great deal of homework, I estimate that average fuel costs (including state and Federal taxes) as a percent of revenue ranged from 5.5% to 7.0% by year-end 1978. Thus far in 1979, the ICC has determined that fuel costs have climbed 53.07% which implies that general freight carriers need anywhere from a 3.0% to a 3.7% price increase to fully offset the fuel escalation. The current surcharge proposal will allow a

general freight carrier to raise LTL revenues 2.7% and TL revenues 9.0%. Since many carriers have 40% of revenues accounted as truckload, the weighted average increase taken will frequently be 1.5% greater than is necessary to offset the increase. If allowed to continue, this 1.5% differential is not inconsequential. For example, my preliminary calculations indicate that Yellow Freight System would generate an additional \$2.8 million pretax income per quarter if no adjustments are made to the surcharge methodology. Similarly, McLean Trucking would accrue \$1.7 million per quarter additional income, with Roadway and Consolidated Freightways at \$2.7 million and \$1.4 million respectively. These estimates assume that carriers have been applying the truckload surcharge on all shipments weighing over 10,000 pounds. To the extent that the TL surcharge has been applied only to *truckload-rated* traffic, then the revenue excess would be somewhat less than shown.

Carrier	Fuel as percent of revenue	Fuel cost increase (percent)	Revenue increase needed to offset (percent)	Percent TL revenue to total (percent)	Weighted average revenue increase permitted (percent)	Excess percent increase (percent)	Dollar gain per quarter in millions
Yellow	6.9	53.07	3.66	40	5.22	1.50	2.8
McLean	6.4	53.07	3.38	35	4.91	1.48	1.7
Roadway	5.8	53.07	3.06	25	4.26	1.17	2.7
Consolidated Freightways	6.8	53.07	3.63	26	4.34	0.68	1.4
Total							6.6

I recommend that the Office of Proceedings be given full Commission support to thoroughly and swiftly investigate my revenue/cost assumptions and, if accurate, propose more equitable surcharge mathematics be applied in future weeks. Moreover, the Commission must make it clear that the truckload surcharge applies only to truckload-rated (emphasis added) traffic and determine if carrier have unlawfully liberalized the surcharge to include all shipments in excess of 10,000 pounds.

August 20, 1979.

Appendix—Fuel Surcharge

Base Date and Price Per Gallon (Including Tax)	
January 1, 1979	63.5¢
Date of Current Price Measurement and Price Per Gallon (Including Tax)	
August 20, 1979	97.2¢

Average Percent: Fuel Expenses (Including Taxes) of Total Revenue

(1) From Transportation Performed by Owner Operators (Apply to All Truckload Traffic)	(2) Other (Including Less-Truckload Traffic) 6.0% ¹
16.9%	
Percent Surcharge	
9.0%	3.2%

¹ The change from 7.5% to 6.0% is the result of additional input received in accordance with the Commission's Decision of June 29, 1979.

[FR Doc. 79-26519 Filed 8-23-79; 8:45 am]

BILLING CODE 7035-01-M

Fourth Section Application for Relief

August 22, 1979.

This application for long-and-short-haul relief has been filed with the I.C.C. Expedited handling of the application has been granted.

FSA 43739, Southern Freight Association No. A6353, reduced rates on furniture from origins in Southern Freight Association territory on the Southern Railway System to destinations in Illinois Rate Committee territory published in Supplement 55 to Tariff ICC SFA 4972 to be effective September 22, 1979, and to expire with September 30, 1979. Grounds for relief: motor competition and improved car utilization. Authority has been requested to advance the effective date to an earlier date. Protests against grant of relief are due at the offices of the Commission, Suspension and Fourth Section Board, in Washington, D.C., not later than noon, August 30, 1979. Telegraphic filing with indication of notarization is acceptable.

By the Commission.
Agatha L. Mergenovich,
Secretary.

[FR Doc. 79-26521 Filed 8-24-79; 8:45 am]
BILLING CODE 7035-01-M

[Finance Docket No. 29082]

Green Bay & Western Railroad Co.—Control—Ahnapee & Western Railway Co.—Exemption

AGENCY: Interstate Commerce Commission.

SUMMARY: Green Bay and Western Railroad Company (Green Bay), a subsidiary of Ite Corporation (Ite), intends to acquire the stock of the Ahnapee and Western Railway Company (Ahnapee), from the McCloud River Railroad Company (McCloud), Ahnapee's parent Company. McCloud is also a subsidiary of Ite. A petition was filed on June 1, 1979 for exemption, from 49 U.S.C. 11343-11347, which requires prior consideration and approval of the transaction by the Interstate Commerce Commission. Green Bay, Ahnapee and McCloud are seeking exemption from these sections under 49 U.S.C. 10505, on the basis that prior review of the transaction is necessary.

DATES: Comments must be received on or before: September 24, 1979.

ADDRESS: Send comments to: Interstate Commerce Commission, 12th St. and Constitution Ave., NW., Washington, DC 20423. All written statements will be available for public inspection during regular business hours at the same address. Comments should make reference to the docket number (F.D. 29082).

FOR FURTHER INFORMATION CONTACT: Michael Erenberg, 202-275-7245.

SUPPLEMENTARY INFORMATION: By letter-petition filed June 1, 1979, Green Bay requests exemption pursuant to 49 U.S.C. 10505 from the provisions of 49 U.S.C. 11343 with respect to the acquisition of stock of the Ahnapee from McCloud, Ahnapee's parent company.

The Ahnapee is a Wisconsin corporation, and constitutes a small 13.75 mile line of railroad which has been operated as a division of McCloud. Control of McCloud is, in turn, exercised by Ite, pursuant to authority granted by the Commission in Finance Docket No. 28371, *SSI Rail Corporation and Ite Corporation—Control—McCloud River Railroad Company*, (not printed, decided April 1, 1977). McCloud and its division, the Ahnapee, were acquired from U.S. Plywood, Champion Papers, Inc., which in turn, had acquired the Ahnapee a number of years ago pursuant to authorization of the

Commission in Finance Docket No. 26329, *U.S. Plywood, Champion Papers, Inc. and McCloud River Railroad Company—Purchase—The Ahnapee & W Ry. Company*, (not printed, decided November 2, 1970). The Ahnapee at all times has operated and has been treated by the Commission, the courts, and other railroads as a common carrier in a distinct and identifiable sense both prior to its 1978 incorporation and subsequent thereto.

By order served January 5, 1979, in Finance Docket No. 28813, *The Ahnapee and Western Railway Company Stock*, the Ahnapee, as newly incorporated in Wisconsin, was authorized by Review Board Number 5 to issue 1000 shares of common stock of \$1 par value. As the stock application indicated, the McCloud owns all of the capital stock of Ahnapee except for five shares which are held by named directors. The Ahnapee is shown for purposes of rates as a separate carrier and it is regarded as such by the appropriate legal authorities. None of these factors will change as a result of the stock purchases.

By decision served October 12, 1978, in Finance Docket No. 28654 (Sub-No. 1), *Ite Corporation—Control—Green Bay and Western Railroad Company*, the Commission approved the application of Ite under 49 U.S.C. 11343 to acquire control of the Green Bay. That decision recognized the control by Ite of the McCloud, the Ahnapee, and the Hartford and Slocomb Railroad Company (which operates in Alabama).

The Exemption

The acquisition of control of a carrier by another carrier, requires the approval and authority of the Commission under 49 U.S.C. 11343. To seek Commission approval, an application must be filed in compliance with the ICC *Railroad Acquisition, Control, Merger, Consolidation, Coordination Project, Trackage Rights and Lease Procedures*, 49 CFR Part 1111 (1978) (Consolidation Procedures). Ahnapee, McCloud and Green Bay have requested an exemption from 49 U.S.C. 11343 to avoid the procedural steps required by 49 U.S.C. 11345, in order to expedite consummation of the transaction. They state that the proposed transaction is the type Congress intended the Commission to exempt from detailed regulation when it enacted 49 U.S.C. 10505 in 1976.

We can exempt a matter related to a rail carrier under 49 U.S.C. 10505. This section provides:

(a) In a manner related to a rail carrier providing transportation subject to the jurisdiction of the Interstate Commerce

Commission under this subchapter, the Commission shall exempt a person, class of persons, or a transaction or service because of the limited scope of the transaction or service, when the Commission finds that the application of a provision of this subtitle—

(1) is not necessary to carry out the transportation policy of section 10101 of this title;

(2) would be an unreasonable burden on a person, class of persons, or interstate and foreign commerce; and

(3) would serve little or no useful public purpose.

(b) The Commission may begin a proceeding under this section on its own initiative or on application by the Secretary of Transportation or an interested party. The Commission may specify the period of time during which the exemption is effective.

(c) The Commission may revoke an exemption, to the extent it specifies, when it finds that application of a provision of this subtitle to the person, class, or transportation is necessary—

(1) to carry out the transportation policy of section 10101 of this title;

(2) to achieve effective regulation by the Commission; and

(3) to serve a useful public purpose.

(d) The Commission may act under this section only after an opportunity for a proceeding.

The parties state that this transaction involves only a legal change in corporate structure and operation. In view of the fact that the Commission has already approved the control by Ite of all of the entities involved, the parties petition that exemption from the above statutes is required.

They point out that the legislative history of the Railroad Revitalization and Regulatory Reform Act of 1976 reflects the purpose of the provision to exempt from regulation those transactions in which regulation would serve little or no useful public purpose, and where expenditure of the Commission's scarce resources would not be necessary to promote the national transportation policy. H.R. Rep. No. 94-781, 94th Cong., 2d Sess., p. 135 (January 23, 1976). Petitioners believe no useful public purpose will be served by subjecting this proposed transaction to protracted proceedings.

Any exemption, were it granted in this proceeding, would be limited solely to this proceeding; after consummation of control, the Commission would retain full jurisdiction over the carriers involved.

Before granting an exemption, we are required to provide the opportunity for a proceeding. This request for comments on the requested exemption of the

proposed transaction is that opportunity. All comments filed in response to this notice, along with the petition of Ahnapee, McCloud and Green Bay will be used to determine whether or not the exemption under 49 U.S.C. 10505 should be granted.

Green Bay's petition for waiver of certain provisions of the Consolidation Procedures, also filed June 1, 1979, will be held in abeyance pending receipt of comments on exemption. The waiver petition will be decided concurrently with the decision on the proposed exemption.

This proceeding is instituted under the authority of 49 U.S.C. 10505 and pursuant to 5 U.S.C. 553, 559.

This proceeding is not a major Federal action significantly affecting energy consumption or the quality of the human environment.

Dated: August 15, 1979.
By the Commission, Chairman O'Neal, Vice Chairman Stafford, Commissioners Gresham, Clapp, Christian, Trantum, and Gaskins.
Agatha L. Mergenovich,
Secretary.

[FR Doc. 79-26520 Filed 8-24-79; 8:45 am]
BILLING CODE 7035-01-M

Sunshine Act Meetings

Federal Register
Vol. 44, No. 167
Monday, August 27, 1979

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1
[M-239, Amdt. 5; Aug. 22, 1979]

CIVIL AERONAUTICS BOARD.

Notice of addition of item to the August 23, 1979 meeting agenda.

TIME AND DATE: 9 a.m., August 23, 1979.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT:
6a. Docket 31571: Northwest Alaska Service Investigation (Memo 7515-C, OGC).
6b. Northwest Alaska Bush Route Proceeding. (Memo 9065, OGC).

STATUS: Open.
PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary, (202) 673-5068.

SUPPLEMENTARY INFORMATION: It is requested that Items 6a and 6b be placed on the calendar for August 23, 1979 in order to provide the United States Postal Service with sufficient formal notice of the new, changed circumstances in Northwest Alaska to permit them to make certain changes in their procedures which are anticipated are necessary. Due to pressures to meet the deadline for the calendar of August 20, the staff was unable to submit these items earlier. Accordingly, the following Members have voted that agency business requires that Items 6a and 6b be placed on the August 23 agenda and that no earlier announcement of these additions was possible:

Chairman, Marvin S. Cohen
Member, Elizabeth E. Bailey
Member, Gloria Schaffer.
[S-1879-79 Filed 8-23-79; 3:18 pm]
BILLING CODE 6320-01-M

2
[M-239, Amdt. 6; Aug. 22, 1979]

CIVIL AERONAUTICS BOARD.

Notice of addition of item to the August 23, 1979 meeting agenda.

TIME AND DATE: 9 a.m., August 23, 1979.

PLACE: Room 1027, 1825 Connecticut Avenue, NW., Washington, D.C. 20428.

SUBJECT:
21a. Docket 36418: Alaska Airlines, Alaska Northwest Properties, Inc., Ronald F. Cosgrave, Bruce Kennedy, and Keith J. Kennedy, investigation concerning acquisition of control of Wien Air Alaska, Inc. (OGC)

STATUS: Open.
PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary, (202) 673-5068.

SUPPLEMENTARY INFORMATION: Certain of the respondents in this investigation have requested additional time to respond to Order 79-8-100, issued on August 20, which requires them to show cause by Friday, August 24 why specified relief should not be entered. The parties' request was filed on August 22, so that earlier notification of this matter was not possible. Since this request will be effectively denied unless acted on by the Board by August 24, the following Members have voted that agency business requires the addition of Item 21a to the August 23, 1979 agenda, and that no earlier announcement of this addition was possible:

Chairman, Marvin S. Cohen
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey
Member, Gloria Schaffer.
[S-1880-79 Filed 8-23-79; 3:18 pm]
BILLING CODE 6320-01-M

3
FEDERAL ENERGY REGULATORY COMMISSION.

August 22, 1979.

TIME AND DATE: 10 a.m., August 29, 1979.

PLACE: 825 North Capitol Street, NE., Washington, D.C. 20426, room 9306.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

Note.—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: Kenneth F. Plumb, Secretary, Telephone (202) 275-4166.

This is a list of matters to be considered by the Commission. It does

not include a listing of all papers relevant to the items on the Agenda; however, all public documents may be examined in the Office of Public Information.

Power Agenda—336th Meeting, August 28, 1979, Regular Meeting (10 a.m.)

CAP-1. Docket No. ER79-506, Iowa Southern Utilities Co.

CAP-2. Docket No. ES79-51, Pacific Power and Light Co.

CAP-3. Docket Nos. ID-1841, ID-1847, ID-1849, ID-1850, ID-1851, and ID-1852, Niagara Mohawk Power Corp.

Miscellaneous Agenda—336th Meeting, August 29, 1979, Regular Meeting.

CAM-1. 404 Referral—Proposed amendment to the ERA mandatory petroleum price regulations to increase the markup on wholesale and retail sales of propane. Docket No. ERA-R-79-33

CAM-2. Docket No. RA79-15, Little America Refining Co.

Gas Agenda—336th Meeting, August 29, 1979, Regular Meeting

CAG-1. Docket Nos. RP73-35 (PAG No. 79-3) and RP78-11 (AP No. 79-2), Trunkline Gas Co.

CAG-2. Docket No. RP72-157 (PGA No. 79-5) (R. & O. 79-1), Consolidated Gas Supply Corp.

CAG-3. Docket No. RP75-73 (AP No. 79-4), Texas Eastern Transmission Corp.

CAG-4. Docket No. RP72-149 (PGA No. 79-5 and 79-5A), Mississippi River Transmission Corp.

CAG-5. Docket No. RP73-3 (PGA No. 79-2 and DCA No. 79-3), Transcontinental Gas Pipe Line Corp.

CAG-6. Docket Nos. RP73-36 (PGA No. 79-3A) (DCA No. 79-2A) (AP No. 79-1A) and RP78-62, Panhandle Eastern Pipe Line Co.

CAG-7. Docket Nos. RP72-154, et al., Northwest Pipeline Corp.

CAG-8. Docket Nos. RP74-14 and RP74-14 (PGA No. 79-2A), Mountain Fuel Resources, Inc.

CAG-9. Docket No. RP71-125 (PGA Nos. 79-1 and 79-1A), Natural Gas Pipeline Co. of America

CAG-10. Docket No. RP79-79, Michigan-Wisconsin Pipe Line Co.

CAG-11. Docket Nos. RP76-136 and RP77-26, Transcontinental Gas Pipe Line Corp.

CAG-12. Docket Nos. G-6088, et al., MAPCO Production Co. (Successor to MAPCO, Inc.) et al.

CAG-13. Docket Nos. G-7241, et al., Southland Royalty Co., et al.

CAG-14. Columbia Gas Transmission.

CAG-15. Docket No. CP79-329, Mountain Fuel Supply Co.

CAG-16. Docket No. CP79-190, Consolidated Gas Supply Corp.

CAG-17. Docket No. CP79-284, Colorado Interstate Gas Co.

CAG-18. Docket No. CP79-197, Cities Service Gas Co.
 CAG-19. Docket No. CP79-231, United Gas Pipe Line Co.
 CAG-20. Docket No. CP78-137, Panhandle Eastern Pipe Line Co.
 CAG-21. Docket No. CP71-195, Mid-Louisiana Gas Co.
 CAG-22. Docket No. CP79-294, Northwest Pipeline Corp.
 Docket No. CP79-270, Colorado Interstate Gas Co.

Power Agenda—336th Meeting, August 29, 1979, Regular Meeting

I. Licensed Project Matters

- P-1. Project Nos. 2863 and 2877, city of Holyoke, Mass.
 P-2. Project No. 382, Southern California Edison Co.
 P-3. Project No. 178, Pacific Gas & Electric Co.
 P-4. Project No. 1930, Southern California Edison Co.

II. Electric Rate Matters

- ER-1. Docket No. ER79-166, Kansas City Power & Light Co.
 ER-2. Docket Nos. E-9329 (limited issue), ER76-792, and ER76-716, Indiana & Michigan Electric Co.
 ER-3. Docket Nos. E-9002 and ER76-122, Commonwealth Edison Co.
 ER-4. Docket Nos. E-8187, E-8700, ER76-203, ER76-238 and ER78-516, Boston Edison Co.

Miscellaneous agenda—336th Meeting, August 29, 1979, Regular Meeting

- M-1. Reserved.
 M-2. Reserved.
 M-3. Docket No. RM77-22, rate of interest on amounts subject to refund.
 M-4. Docket No. RM79-40, determination of alternative fuels for essential agricultural users.
 M-5. Docket No. GP79-33, George R. Schurman Norris SUA; Baker No. 2 Louisiana NGPA 79-858 FERC JD No. 79-3446.
 M-6. Docket No. GP79-69, Grace Petroleum Corp. State Docket Nos. 4-6-7928 PD and 3-2-7912 PD FERC JD Nos. 79-9658 and 79-9659.
 M-7. Well category determinations.
 M-8. Docket No. RM78-12, determination of incentive rate of return, tariff and related issues for the Alaska Natural Gas Transportation System.

Gas Agenda—336th Meeting, August 29, 1979, Regular Meeting

I. Pipeline Rate Matters

- RP-1. Docket No. RP73-65 (PGA 79-2), Columbia Gas Transmission Corp.
 RP-2. Docket No. RP75-105, Columbia Gulf Transmission Co. Docket No. RP75-106 (Consolidated taxes), Columbia Gas Transmission Corp.
 RP-3. Docket No. RP71-107 (Phase II), Northern Natural Gas Co.

II. Producer Certificate Matters

- CI-1. Docket No. RI77-53, CRA, Inc.

CI-2. Docket No. CI79-415, Continental Oil Co. Docket No. CI79-532, Exxon Corp.
 Kenneth F. Plumb,
 Secretary.

[S-1677-79 Filed 8-23-79; 2:07 pm]

BILLING CODE 6450-01-M

4

INTER-AMERICAN FOUNDATION.

TIME AND DATE: 2:30 p.m., September 11, 1979.

PLACE: Board Room, Inter-American Foundation 1515 Wilson Blvd., Arlington, VA 22209.

STATUS: Open.

MATTERS TO BE CONSIDERED:

- Chairman's Report.
- President's Report.
- Financial Report
- Project Analysis.

CONTACT PERSON FOR MORE

INFORMATION: Lawrence E. Bruce, Jr., (703) 841-3812.

[S-1678-79 Filed 8-23-79; 2:46 pm]

BILLING CODE 7025-01-M

5

POSTAL RATE COMMISSION.

TIME AND DATE: 1 p.m., Monday, August 27, 1979.

PLACE: Conference Room, Room 500, 2000 L Street NW., Washington, D.C.

STATUS: Open/closed.

MATTERS TO BE CONSIDERED:

Open

- Budget FY80.

Closed

- Status of Docket No. MC78-3.
- Status of Docket No. MC78-1.

[Closed pursuant to 39 USC § 552b(c)(10).]

CONTACT PERSON FOR MORE

INFORMATION: Ned Callan, Information Officer, Postal Rate Commission, Room 500, 2000 L Street NW., Washington, D.C. 20268, Telephone (202) 254-5614.

[S-1678-79 Filed 8-23-79; 10:54 am]

BILLING CODE 7715-01-M

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TENNESSEE VALLEY AUTHORITY

Meeting No. 1225

TIME AND DATE: 9:30 a.m., Thursday, August 30, 1979.

PLACE: Conference Room B-32, West Tower, 400 Commerce Avenue, Knoxville, Tenn.

STATUS: Open.

MATTERS FOR ACTION:

Old Business

- Final rate review.

2. Req. No. 823766—Cooling towers for heat rejection system for Yellow Creek Nuclear Plant.

3. Policy statement relating to contract demand reductions for commercial and industrial customers to encourage adoption of conservation and load management techniques.

4. Policy statement on TVA experimental cogeneration program.

New Business

Personnel Actions

1. Appointment of Marilyn E. F. Taylor as Director of Personnel, Office of Management Services, Knoxville Tennessee.

2. Change of status for Conley L. Ballinger from Acting Director of Personnel to Acting Assistant Director of Personnel, Office of Management Services, Knoxville, Tennessee.

Consulting and Personal Services Contracts

1. Personal service contract with C-E Power Systems, Windsor, Connecticut, for assistance in connection with design of an atmospheric fluidized bed combustion steam generator, requested by the Office of Engineering Design and Construction.

2. Personal service contract with The Babcock & Wilcox Company, Alliance, Ohio for assistance in connection with design of an atmospheric fluidized bed combustion steam generator, requested by the Office of Engineering Design and Construction.

3. Personal service contract with Babcock Contractors, Inc. Pittsburgh, Pennsylvania, for assistance in connection with design of an atmospheric fluidized bed combustion steam generator, requested by the Office of Engineering Design and Construction.

4. Renewal of personal service contract with Teledyne Engineering Services, Waltham, Massachusetts, for piping analyses and related services for TVA nuclear plants, requested by the Office of Engineering Design and Construction.

5. Consulting contract with Dr. Marvin Goldman, Davis, California, for advice and assistance in connection with radiological hygiene issues, requested by the Division of Occupational Health and Safety.

6. Consulting contract with Dr. Uri Marinov, Jerusalem, Israel, for technical advice and counseling concerning various aspects of TVA's environmental programs, requested by the Office of Natural Resources Services.

Purchase Awards

1. Rejection of bids received in response to Invitation No. 823770 for nuclear control valves for Hartsville and Phipps Bend Nuclear Plants.

2. Rejection of bids received in response to Invitation No. 824853 for 600-volt control cable-insulated conductor for Hartsville and Phipps Bend Nuclear Plants.

3. Rejection of bids received in response to Invitation No. 825899 for insulated conductors tefzel insulated thermocouple cable for Bellefonte Nuclear Plant.

4. Req. No. 159768—Furnace wall tube panels for Widows Creek Steam Plant, Unit 7.

¹These items were approved by individual Board members. This would give formal ratification to the Board's action.

5. Req. No. 572867—Indefinite quantity term contract for carbon steel (general purpose), warehouse quantities, for any TVA project or warehouse.

6. Req. No. 822158—Nonseismic pipe hangers for Yellow Creek Nuclear Plant.

7. Req. No. 824481—Spent fuel storage racks for Bellefonte Nuclear Plant.

8. Amendment to Contract No. 77K53-820732 with ITT Grinnell Corporation, Providence, Rhode Island, for seismic support for Bellefonte Nuclear Plant.

Project Authorizations

1. No. 3363.2—Additional minor modifications to the Watts Bar Nuclear Plant necessary to permit utilization of waste heat.

2. No. 3462—Installation of additional truck coal sampling and receiving facilities at Kingston Steam Plant.

3. No. 3474—Load management residential thermal storage field test to determine ability of offpeak thermal storage systems to provide space heating requirements of residences.

4. No. 3460—Demonstration in manpower training for energy conservation (in collaboration with Tennessee Community Services administration and Tennessee Community Action Agencies).

5. No. 3220.3—Amendment to Home Insulation Program for the TVA area.

Power Items

1. Lease and Amendatory Agreement with the city of Lewisburg, Tennessee, covering lease of certain facilities at TVA's Lewisburg District Substation and section of TVA's Lewisburg District-Belfast 46-kV Line.

2. Standard-Form Agreement covering arrangements for distributors' participation with TVA in wood heater financing plan.

Real Property Transactions

1. Filing of condemnation suits.

2. Abandonment of unused portion of the Athens-Pulaski Transmission Line right of way in Limestone County, Alabama—Tracts AP-1, AP-2, AP-3, AP-5, AP-6, AP-7, and a portion of AP-8.

Unclassified

1. Letter Agreement among the Appalachian Regional Commission, U.S. Department of Agriculture and TVA covering arrangements for participation in selected program areas.

2. Interagency Agreement between TVA and U.S. Department of Energy for TVA's technical support and assistance in processing and analyzing aquatic biological samples.

3. Agreement with Chilhowie Redevelopment and Housing Authority for implementation of the Chilhowie, Virginia, Floodplain Relocation Project.

4. Letter Agreement with U.S. Army Corps of Engineers, Mobile District, covering arrangements for engineering and environmental study of DDT contamination in the Huntsville Spring Branch-Indian Creek area of Wheeler Reservoir in north Alabama.

5. TVA policy code relating to small coal operator assistance.

6. Adoption of supplemental resolution authorizing 1979 Series C Bonds.

7. Resolution authorizing the Chairman and other Executive Officers to take further

action relating to issuance and sale of 1979 Series C Bonds.

CONTACT PERSON FOR MORE

INFORMATION: James L. Bentley, Director of Information, or a member of his staff can respond to requests for information about this meeting. Call (615) 632-3257, Knoxville, Tennessee. Information is also available at TVA's Washington Office (202) 245-0101.

Dated: August 23, 1979.

[S-1681-79 Filed 8-23-79; 3:52 pm]

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federal register

Monday
August 27, 1979

Part II

Department of
Transportation

Office of the Secretary

Semi-Annual Regulations Agenda and
Review List

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

(49 CFR Chapters I-VI)

[OST Docket No. 58; Notice 79-17]

Department Regulations Agenda and Review List; Semi-annual Summary

AGENCY: Department of Transportation.

ACTION: Department Regulations Agenda and Review List.

SUMMARY: The Regulations Agenda is a semi-annual summary of each proposed and each final regulation that the Department of Transportation expects to publish in the Federal Register during the succeeding 12 months or such longer projected period as may be anticipated. The Regulations Review List is a semi-annual summary of the existing regulations that the Department of Transportation has selected for review and possible revocation or revision. The Agenda and the Review List provide the public with information about the Department of Transportation's regulatory activity. It is expected that this information will enable the public to be more aware of, and allow it to more effectively participate in, the Department's regulatory activity.

ADDRESSES: The mailing addresses for the initiating offices of the Department which appear in the Agenda and the Review List are 400 Seventh Street, SW., Washington, D.C. 20590, except for the Federal Aviation Administration and St. Lawrence Seaway Development Corporation, which are located at 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

General

For further information on the Agenda or the Review List, in general, contact: Neil R. Eisner, Assistant General Counsel, Office of Regulation and Enforcement, Department of Transportation, 400 Seventh Street, SW., Washington, D.C. 20590, 202-426-4723.

Specific

For further information about any particular item on the Agenda or the Review List, contact the individual listed in the column headed "Contact" for that item.

SUPPLEMENTARY INFORMATION:

Background

Improvement of Government regulations has been a prime goal of the Carter Administration. There should be no more regulations than necessary, and those that are issued should be simpler,

more comprehensible, and less burdensome. Regulations should not be issued without appropriate involvement of the public; once issued, they should be periodically reviewed and revised, as needed, to assure that they continue to meet the needs for which they originally were designed.

To help the Department of Transportation ("Department") achieve these goals, and in accordance with Executive Order 12044 ("Improving Government Regulations"; 43 FR 12661; March 24, 1978) the Secretary of Transportation issued the Department's Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). These Policies and Procedures include a requirement that the Department prepare a semi-annual Department Regulations Agenda for publication in the Federal Register. The Agenda summarizes each proposed and each final regulation that the Department expects to publish in the Federal Register during the succeeding 12 months or such longer projected period as may be anticipated. The regulatory policies and procedures also include a requirement that the Department prepare a semi-annual list of existing regulations it has selected for review and possible revocation or revision for publication in the Federal Register.

The Agendas and Review Lists are based on reports submitted by the initiating offices by the last working days of June and December of each year. After these reports are consolidated for, and reviewed by, the Department Regulations Council, the Department's Regulations Agenda and Review List is prepared and published in the Federal Register. The Department's last Regulations Agenda and Review List was published in the Federal Register on March 1, 1979 (44 FR 11674). The next one is scheduled for publication in the Federal Register on February 25, 1980.

Definitions

The Agenda and the Review List cover all rules and regulations of the Department, including those that establish conditions for financial assistance. The following definitions are provided for ease in understanding the information in this document.

(1) *Initiating office* means an operating administration or other organizational element within the Department, the head of which is authorized by law or delegation to issue regulations or to formulate regulations for issuance by the Secretary.

(2) *Significant regulation* means a regulation that is not an emergency regulation and that in the judgment of

the head of the initiating office or the Secretary or the Deputy Secretary—

(a) Requires a Regulatory Analysis or is otherwise costly;

(b) Concerns a matter on which there is substantial public interest or controversy;

(c) Has a significant impact on another operating administration or other parts of the Department or other Federal Agency; or

(d) Otherwise involves important Department policy.

(3) *Emergency regulation* means a regulation that, in the judgment of the head of the initiating office, circumstances require to be issued without notice and opportunity for public comment or made effective in less than 30 days after publication in the Federal Register.

(4) *Non-significant regulation* means a regulation that, in the judgment of the head of the initiating office, is neither a significant nor an emergency regulation.

A Regulatory Analysis is required for each proposed regulation that—

(1) Could produce a major effect on the general economy in terms of cost, consumer prices, or production;

(2) Could produce a major increase in costs or prices for individual industries, levels of government, geographic regions, or specific elements of the population; or

(3) The Secretary or head of the initiating office determines deserves such an analysis.

Explanation of Information on the Regulations Agenda

The Regulations Agenda is divided by initiating offices. For each initiating office there is a subdivision for: (1) significant regulations, (2) non-significant regulations, and (3) routine and frequent non-significant regulations. For each proposed and final regulation expected to be published, the Agenda provides the following information: (1) a short descriptive title; (2) a summary; (3) the earliest expected date for a decision on whether to issue the proposed or final regulation; (4) a contact office or official who can provide additional information, including advice on how to obtain documents referenced in the Agenda; and (5) the related regulatory citation in the Code of Federal Regulations. If final action has been taken on an item included on the previous semi-annual Agenda, that item is still contained in this Agenda and the final action is indicated under the "Summary" column for that item.

For a significant regulation, the summary includes: (1) a description of the proposed or final regulation; (2) a brief statement as to why it is

considered significant; (3) a statement as to whether a Regulatory Analysis will be required; (4) a brief statement of why the regulation is needed; (5) the legal basis for the action being taken; (6) the past and anticipated chronology of the development of the regulation, including any final action taken since the last semi-annual Agenda and (7) the related regulatory citation in the Code of Federal Regulations. It should be noted that, even though a Regulatory Analysis is not required for some items on the Agenda, either because the criteria are not met or because the regulatory project is covered by earlier regulatory requirements, the Department requires an economic evaluation for all of its regulations.

For non-significant regulations issued routinely and frequently as part of an established body of technical requirements (such as the Federal Aviation Administration's Airspace Rules) to keep those requirements operationally current, only the general category of the regulations, the identity of a contact office or official, and an indication of the expected number of regulations are included; individual regulations are not listed.

If a regulatory docket number has already been established, it is contained in parentheses immediately following the short descriptive title of the regulation. If a member of the public desires further information regarding a particular proposal or regulation, reference should be made to this docket number. The Federal Highway Administration also provides an FHPM number at this point for easier reference by those who use the Federal-aid Highway Program Manual (FHPM). The numbers following the FHPM represent, respectively, the volume, chapter, section and subsection at which the material is located in the FHPM.

In the "Decision Date" column, abbreviations are used to indicate the particular documents being considered for issuance by that date. ANPRM stands for Advance Notice of Proposed Rulemaking, NPRM for Notice of Proposed Rulemaking, and FR for Final Rule. Listing a date in this column is not an indication that a proposal or a final rule will be issued on that date; it is the date on which a final decision is expected to be made on whether to issue the document listed. If any document is issued, publication in the Federal Register would follow within a few days. These dates are based on current schedules. Subsequently received information could result in a decision not to take regulatory action or in changes to proposed publication

dates. For example, the need for further evaluation could result in a later publication date; evidence of a greater need for the regulation could result in an earlier publication date.

It should be noted that some of the items on the Agenda result from programs that were established to review existing regulations and revoke or revise those regulations that the initiating office determined were not achieving their intended purpose. Projects under regulatory development that resulted from a review of existing regulations to determine whether they should be revoked or revised are preceded by the word "Review" in the "Title" column. Because some reviews can be large-scale undertakings, and because there are already a number of these in the regulatory development process, the Department thought it would provide the public with valuable information if it indicated not only which regulatory reviews are under consideration but also which reviews have not reached the stage where proposed revisions are being, or have been, prepared. The number of regulatory projects that an initiating office can handle is limited by available resources. Therefore, the number of projects in the regulatory development stage limits the number of reviews that can be added.

Explanation of Information on the Regulations Review List

The Regulations Review List is divided by initiating offices. For each office, it provides the following information: (1) a short description of the existing regulations involved, including the related citation to the Code of Federal Regulations; (2) a brief description of the reasons for each selection; (3) a contact office or official who can provide additional information; and (4) the target date for completing the review and determining the corrective course of action to be taken. The action taken can be a revocation or revision of the regulation, or it can be a determination that no regulatory action is necessary because the regulation is found to be achieving its goals and the goals and objectives of Executive Order 12044 and the Department Regulatory Policies and Procedures. If final action has been taken on an item included on the previous semi-annual Review List, that item is still contained in this Review List and the final action is indicated under the "Reasons for Selection" column for that item.

General

To allow for easier use of the Agenda and for quick comparison with earlier

Agendas, the Department has instituted the following additional procedures in the Agenda: (1) Items listed on the Agenda or Review List retain the same order in each semi-annual publication. (2) New items are added at the end of the appropriate portion of the Agenda or Review List and are identified by an asterisk on the left side of the "Title" when first added. (3) New substantive information added to items that were on an earlier Agenda or Review List is printed in italics.

Mailing Lists for Regulatory Documents

To assist the public in obtaining regulatory documents issued within the Department of Transportation, an appendix has been included in this document. The appendix contains instructions on how to be placed on mailing lists for copies of regulatory documents, including the Department's Semi-Annual Regulations Agenda, issued by the operating administrations of the Department and the Office of the Secretary. There is no charge for this service; however, because of the costs involved, the number of copies of a document forwarded to an individual requestor may be limited. Persons already on mailing lists for particular documents within the Department will remain on those lists and should not reapply.

By following the instructions specified in the appendix, a person can be placed on a mailing list for future copies of the Department's Regulations Agenda, which will be updated and published in the Federal Register every year during August and February. By using the Agenda, individuals can determine which Notice or Advance Notice of Proposed Rulemaking, to be issued by elements of the Department, is of interest to them. Then, using the instructions in the appendix, such persons also can be placed on a mailing list to ensure that after the document of interest is issued a copy will be mailed to them for their review and comment. In this way, individuals will be relieved of the burden of having to review the Federal Register, perhaps on a daily basis. The Department expects that this process will ensure that those people placed on mailing lists will receive early notice so that their views on the document can be adequately prepared and presented within the established comment period.

Purpose

The Department is publishing this Regulations Agenda and Review List in the Federal Register to share with interested members of the public the Department's preliminary expectations

regarding its future regulatory actions. This should enable the public to be more aware of the Department's regulatory activity. Knowledge of the nature and scope of this activity, as well as the specific proposals and reviews being considered, should result in more effective public participation in the Department's regulatory activity. For example, awareness of the dates when notices may be issued seeking public comment, should allow appropriate planning and more efficient use of the comment period. By providing the expected date for a decision on whether to issue a final rule, the Department expects that more appropriate planning by those concerned with the regulation will also be possible.

This publication in the Federal Register does not impose any binding obligation on the Department, or any of the offices within the Department, with regard to any specific item on the Agenda or the Review List. Regulatory action in addition to the items listed is not precluded.

If further information is desired on any of the items listed in the Agenda or the Review List, the public is encouraged to contact the individual listed for the particular item. Additional information concerning the Agenda or the Review List, in general, or the Department's Regulatory Policies and Procedures may be obtained from Neil Eisner, whose address and telephone number appear above.

Issued in Washington, D.C. on August 20, 1979.

Linda Heller Kamm,

Acting Deputy Secretary of Transportation.

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA AND REVIEW LIST

OST

AGENDA

Office of the Secretary

Significant Regulations

Title	Summary	Contact	Decision date
Nondiscrimination on the Basis of Handicap in DOT-Funded Programs and Activities. (Docket No. 56).	A. Description: The proposed regulation implements sec. 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), prohibiting discrimination against handicapped persons in federally funded programs. The regulation establishes requirements for recipients of DOT financial assistance in order to meet the mandate of sec. 504. B. Why Significant: The proposed regulation would have a major impact on DOT programs, particularly those administered by FAA, FRA, UMTA. It will have a more limited but definite impact on FHWA and NHTSA programs. All recipients of DOT aid must take positive action to make their Federally funded programs accessible to the handicapped. C. Regulatory Analysis: Required..... D. Need: These regulations implement 29 U.S.C. 794 and guidelines issued by the Department of Health, Education and Welfare (HEW). They are needed to ensure that recipients of financial assistance from DOT make the programs operated in existing facilities accessible to handicapped persons, and to ensure that new facilities are constructed so as to be readily accessible to handicapped persons. E. Legal Basis: 29 U.S.C. 794..... F. Chronology: HEW issued guidelines on Jan. 13, 1978, requiring Federal agencies to intergrate the requirements of sec. 504 into their respective programs and activities. (43 FR 2132). An NPRM was published on June 8, 1978 (43 FR 25016). By Supplemental Notice, the comment period was extended to October 20, 1978 (43 FR 30585). Public hearings were held in New York City, September 11; Denver, September 13; San Francisco, September 15; and Washington, D.C., September 19 (43 FR 34176). The Regulatory Analysis Review Group selected this regulation to review for its economic impact, and filed its report in the public docket on October 20, 1978. The Final regulation requiring that the nation's transportation system be made accessible to handicapped persons was published on Thursday, May 31, 1979 (44 FR 25016). The effective date of the regulation is July 2, 1979. G. Citation: 49 CFR pt. 27.....	Robert C. Ashby, (202)426-4723.	Action Complete.
Title VI Civil Rights Regulations.....	A. Description: The proposed regulations would assemble in one package all DOT procedures and requirements concerning all recipients of financial assistance under Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d-4). B. Why Significant: Substantial public interest is anticipated and it will affect all of the DOT elements and the administration of all grant programs. C. Regulatory Analysis: Not required..... D. Need: The Department has an existing Title VI regulation dating from 1970, and a Title VI order promulgated by Secretary Coleman on Jan. 19, 1977, and reaffirmed by Secretary Adams in March of that year. A new regulatory package is being developed to replace the previous layering of regulations. E. Legal Basis: 42 U.S.C. 2000d-4.....	Robert J. Coates, (202)426-4754.	NPRM October 1979.

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA AND REVIEW LIST
AGENDA
OST
Office of the Secretary
Significant Regulations—Continued

Title	Summary	Contact	Decision date
Minority Business Enterprise Program.	F. Chronology: The proposal is currently under review. When the review is completed, it will be submitted to the Department of Justice for approval. G. Citation: 49 CFR pt. 21..... A. Description: This regulation would implement the requirements of DOT Order 4000.7A for DOT operating elements to take affirmative action to assure that minority business enterprises participate in Departmental procurement and financial assistance programs. B. Why Significant: Substantial public interest is anticipated given the proposed action's potential impact on DOT's procurement and assistance programs. C. Regulatory Analysis: Not required..... D. Need: To implement the provisions of the DOT Order 4000.7A by providing detailed instructions for carrying out the affirmative action requirements of the Order. <i>To implement the 1976 amendments to the Small Business Act.</i> E. Legal Basis: Executive Order 11625; 49 U.S.C. 1730; 45 U.S.C. 803; Pub. L. 95-599; Pub. L. 95-507; 4 U.S.C. 471 et seq.; Title 23 of the U.S.C.; 23 U.S.C. 401 et seq. F. Chronology: NPRM was published on May 17, 1979 (44 FR 28928). The comment period closed on July 16, 1979. G. Citation: No CFR citation as yet.....	Terry Dowd, (202)426-4723.	FR November 1979.
Financial Assistance to Participants in Rulemaking Proceedings (Docket No. 48).	A. Description: This proposal would permit, but not require, each agency of the Department to fund eligible members of the public for the reasonable and actual costs of preparing and presenting their views at selected agency rulemaking proceedings. B. Why Significant: This issue concerns a matter on which there is substantial public interest and controversy and would have a significant impact on the operating administrations and the Office of the Secretary. C. Regulatory Analysis: Not required..... D. Need: This rule would substantially increase the number of active, informed, and independent participants at many rulemaking proceedings within the Department, thereby increasing the diversity and balance of views presented to the Department, and enhancing the Department's knowledge of the interests likely to be affected by its proposed rules. E. Legal Authority: The Department's rulemaking authority under the Department of Transportation Act, 49 U.S.C. 1651 et seq., and related statutes.	Sam Podberesky, (202)426-4723.	NPRM September 1979.

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA AND REVIEW LIST
AGENDA
OST
Office of the Secretary
Significant Regulations—Continued

Title	Summary	Contact	Decision date
	F. Chronology: On Jan. 13, 1977, the Department published regulations for a one-year demonstration program to provide financial assistance to certain participants in rulemaking proceedings of NHTSA. (42 FR 2863). At the same time, the Department issued an ANPRM, inviting public comments on the feasibility, wisdom, and scope of a permanent Department-wide program of financial assistance. Upon conclusion of the demonstration program, NHTSA evaluated the program and recommended that the Department establish an amended version of the program throughout the Department. On March 16, 1978, the demonstration program in NHTSA was extended until the Secretary decided whether to issue final, permanent Departmental regulations (43 FR 10918). On January 23, 1979, the regulation governing the NHTSA financial assistance demonstration program was revised to improve its administration. G. Citations: 49 CFR pt. 5.....		
Public Availability of Information.....	A. Description: This involves a revision of DOT's Freedom of Information Act Regulations. Specific areas to be revised may include the fee schedule and the policy on waivers of fees for public interest groups and the press. B. Why Significant: Substantial public interest..... C. Regulatory Analysis: Not required..... D. Need: Freedom of Information Regulations need periodic revision to keep current with changes in case law, policy, and implementation costs. E. Legal Basis: 5 U.S.C. 552 (Freedom of Information Act)..... F. Chronology: The regulations were last revised in 1975. (40 FR 7915) A new revision is currently under internal development. G. Citation: 49 CFR pt. 7.....	Rebecca Lima Dailey, (202)426-4542.	NPRM December 1979.

OST
Office of the Secretary
Non-significant Regulations

Title	Summary	Contact	Decision date
Consolidation of Transportation Grants to U.S. Territories.	The regulation would comply with Title V of Pub. L. 95-134 which permits departments and agencies to consolidate grant programs, reduce reporting requirements, and waive local matching fund requirements. NPRM was published on 1/8/79 (44 FR 1765) (49 CFR pt. 29).	Greg Dahlberg, (202)426-9605.	FR August 1979.
Maintenance of and Access to Records Pertaining to Individuals.	Revision of the Department's Privacy Act regulations. Notice of incorporation by reference published on 8/28/78. NPRM published 12/4/78 (43 FR 56682). (49 CFR pt. 10).	John Windsor, (202)426-1887.	FR August 1979.
Official Seal.....	Revision of regulations governing description and use of the Department's seal. (49 CFR pt. 3).	Sam Podberesky, (202)426-4723.	FR September 1979.
Rulemaking procedures.....	Amendments to the Office of the Secretary regulations on notice-and-comment rulemaking. (49 CFR pt. 5).	Sam Podberesky, (202)426-4723.	NPRM September 1979.

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA AND REVIEW LIST

OST
Office of the Secretary
Non-significant Regulations—Continued

Title	Summary	Contact	Decision date
*Proposed Relocation of Standard Time Zone Boundary in the State of Alaska.	This regulation would move Juneau, Alaska and part of the surrounding area from the Pacific Time Zone to the Yukon Time Zone. NPRM was published on May 16, 1979 (44 FR 28696) (49 CFR 71.11).	Jack Lusk, (202)426-5723.	FR August 1979.
*Nondiscrimination on the Basis of Age in DOT Financial Assistance Programs.	This regulation would prohibit age discrimination by recipients of DOT financial assistance programs.	Leslie Baldwin, (202)426-4388.	NPRM September 1979.

USCG
U.S. Coast Guard
Significant Regulations

Title	Summary	Contact	Decision date
Review: Qualifications of the Person in Charge of Oil Transfer Operations, Tankerman Requirements (Docket No. CGD 74-44, 74-44a).	A. Description: Would redefine and establish qualifying criteria for certifying individuals engaged in the carriage and transfer of the various categories of dangerous cargoes in bulk. B. Why Significant: Considered significant because this is the result of a Presidential initiative. C. Regulatory Analysis: Not required..... D. Need: Most pollution incidents are the result of personnel error; consequently the minimum qualifications of persons involved in handling pollution substances should be specified. E. Legal Basis: 86 Stat. 427, as amended (46 U.S.C. 391a); Sec. 6(b)(1), 80 Stat. 937 (49 U.S.C. 1655(b)(1)); 49 CFR 1.46(n)(4). F. Chronology: Environmental Analysis and Inflationary Impact Statement completed 2/77. NPRM published April 25, 1977 (42 FR 21190). Public hearing 6/77. Extensive comments on first NPRM warrant the issuance of another NPRM. G. Citation: 33 CFR pt. 155; 46 CFR pts. 10, 12, 30, 31, 35, 70, 90, 98, 105, 151, and 157.	CDR Hess, (202)426-2251.	NPRM August 1979.
Review: Revision of Electrical Regulations (Docket No. CGD 74-125).	A. Description: General revision and updating to conform with latest technology and to include steering requirements for vessels other than tank vessels. B. Why Significant: Considered significant since it incorporates the steering requirements set forth in the Presidential initiatives of March 17, 1977. C. Regulatory Analysis: Not Required..... D. Need: The industrial standards for electrical engineering have changed in the past few years and the regulations must be brought up-to-date to reflect the latest industry practice. E. Legal Basis: 46 U.S.C. 170, 367, 369, 375, 390(b), 391(a), 392, 408, 418, 445, 389, 526(p); 49 U.S.C. 1655(b).	LCDR Mowery, (202)426-2205.	NPRM August 1979.

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA AND REVIEW LIST

USCG
U.S. Coast Guard
Significant Regulations—Continued

Title	Summary	Contact	Decision date
Standard for New Self-Propelled Vessel Carrying Bulk Liquefied Gases (Docket No. CGD 74-289).	F. Chronology: NPRM published June 27, 1977 (42 FR 327000). A supplemental NPRM will be issued because of extensive changes that were necessary as a result of comments received on the first NPRM. G. Citation: 46 CFR pts. 110-113 A. Description: These regulations would adopt the Inter-governmental Maritime Consultative Organization (IMCO) Resolution, the Code for Construction and Equipment of Ships Carrying Liquefied Gases in Bulk. B. Why Significant: This is a significant rulemaking involving matters of substantial public interest. C. Regulatory Analysis: Not required..... D. Need: The increased use of liquefied gases for energy sources has produced a dramatic increase in the manufacture and use of vessels designed for that cargo. Due to the unusual and unique hazards associated with liquefied gases, these vessels must be addressed in regulations specially tailored to their unique situation. E. Legal Basis: R.S. 4472 as amended (46 U.S.C. 170); Sec. 201 (86 Stat. 42), as amended (46 U.S.C. 391); Sec. 6(b)(1), 80 Stat. 937 (49 U.S.C. 1655(b)(1)). F. Chronology: Economic and Environmental Impact Assessments and Negative Declarations were prepared before the NPRM was published October 4, 1976 (41 FR 43822). Public hearing held 11/76. Final rule published on May 3, 1979 (44 FR 25985). G. Citation: 46 CFR pts. 31, 34, 40, 54, 56, 98, 154, and 154a.	Mr. A. Rowek, (202)426-1217.	Action Complete.
Whitewater Rafts Inspection (Docket No. CGD 75-020).	A. Description: These proposed regulations would set forth safety requirements for whitewater rafts that would recognize the unique construction, arrangement, equipment, and general operation of these vessels. B. Why Significant: This project is considered significant because of substantial Congressional interest and the potential cost to a minor industry largely comprised of small businesses. C. Regulatory Analysis: Not required..... D. Need: Increased popularity of whitewater rafting as a commercial recreational activity has increased the potential for casualties to paying passengers. Since these rafts are engaged in interstate commerce, by law, they are subject to inspection to ensure that they meet minimum levels of safety. E. Legal Basis: 46 U.S.C. 390 F. Chronology: This project commenced in 1974. Public response to this project indicated that it should be withdrawn at this time and reevaluated. G. Citation: 46 CFR pts. 175-187	LCDR Anderson, (202)426-2183.	Withdrawn.

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA AND REVIEW LIST

AGENDA

USCG

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Title	Summary	Contact	Decision date
Review: Proposed Design Standards for Tank Barges (Docket No. CGD 75-083).	A. Description: This action is comprised of two regulatory projects centered on tank barge construction standards which resulted from Presidential initiatives of March 17, 1977, directing study of the tank barge pollution problem. One project will address new barge construction while the other will pertain to existing barges. Regulatory documents for both will be published at the same time and joint public hearings will be held.	LCDR Johnson, (202)426-4431.	FR April 1980.
Upgrade Existing Tank Barge Construction (Docket No. CGD 75-083a).	B. Why Significant: Considered significant due to substantial Congressional and public interest.	LCDR Sampson, (202)426-2183.	NPRM April 1980.
	C. Regulatory Analysis: Required.....		
	D. Need: Increased public awareness of the oil pollution problem, as well as international and domestic interest in this area have made increased design standards necessary as a means of reducing the possibility of pollution.		
	E. Legal Basis: Sec. 201, 86 Stat. 427, as amended (46 U.S.C. 391a).		
	F. Chronology: The upgrade of tank barge construction standards was published as a NPRM in the <i>Federal Register</i> of December 24, 1971 (36 FR 24960). As a result of the 63 written comments received, it was decided that the standards needed to be studied further, especially as they would apply to existing barges.		
	In 1974, the Coast Guard and the Maritime Administration performed a joint study of the tank barge pollution problem which found that certain construction techniques might provide a significant advantage for eliminating oil pollution from tank barges. However, the study had several weaknesses and regulatory action was not taken.		
	In July 1977, the Coast Guard began a reexamination of the tank barge construction standards. It was determined that new construction should be treated separately from existing barges. An ANPRM concerning impacts related to existing barges was published on June 14, 1979 (44 FR 34440). An NPRM on the standards for new construction was published on June 14, 1979 (44 FR 34440).		
	G. Citation: 46 CFR pts. 32-40.....		
Review: Pollution Prevention, Vessels and Oil Transfer Facilities (Docket No. CGD 75-124a).	A. Description: Would reduce accidental or intentional discharge of oil or oily wastes during vessel operations.	LCDR J. Busavage, (202)426-9578.	NPRM August 1979.
	B. Why Significant: This regulation is the significant part of Docket No. CGD 75-124. Substantive changes to the NPRM are proposed so that a supplemental NPRM is needed. It is considered significant due to opposition from the owners/operators of offshore marine service vessels and inland waterways vessels to the oil-water separator requirements of 33 CFR 155.330. Also, considerable expense may be incurred by the towing service to install separators and monitors or alarms, if alternative measures are not used. Without these sections, the remainder of CGD 75-124 is non-significant and moved to that listing.		
	C. Regulatory Analysis: Not required.....		

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	D. Need: (1) Necessary to reduce the number of oil spills. (2) Clarification of existing rules. (3) Additional requirement for oil-water separators under the 1973 International Convention for the Prevention of Pollution from Ships.		
	E. Legal Basis: Section 311(j)(1) (C) and (D) of the Federal Water Pollution Control Act as amended; 33 U.S.C. 1321(j)(1) (C) and (D).		
	F. Chronology: NPRM published June 27, 1977 (42 FR 32670). Supplemental NPRM published October 27, 1977 (42 FR 56625). Public Hearings held: New Orleans, La. 11/22/77, St. Louis, Mo. 11/30/77, Wash., D.C., 11/28/77.		
	G. Citation: 33 CFR 155.330 thru 155.410.....		
Offshore Oil Spill Pollution Fund (Docket No. CGD 77-055).	A. Description: Would establish procedural rules concerning administration and operation of fund, including liability limits for certain facilities, financial responsibility factors, damage claim settlement procedures, et al.	F. Martin, (202)426-2606.	Action Complete.
	B. Why Significant: Involves matters of substantial public interest and important DOT policy.		
	C. Regulatory Analysis: Required.....		
	D. Need: To implement administration of the fund by creating procedures for prompt settlement of claims arising from damage caused by oil pollution.		
	E. Legal Basis: Outer Continental Shelf Lands Act of 1978. P.L. 95-372, 92 Stat. 629 (43 U.S.C. 1811).		
	F. Chronology: NPRM published December 4, 1978. (43 FR 56840). Public hearings were held in New Orleans, La., January 8, 1979, and Washington, D.C., January 8, 1979. Final Rule published March 19, 1979 (44 FR 16860).		
	G. Citation: 33 CFR 135 and 136.....		
Inert Gas System (Docket No. CGD 77-057).	A. Description: Would require certain oil tankers of 20,000 deadweight tons and over to be fitted with inert gas system.	Mr. D. Sheehan, (202)426-2205.	FR September 1979.
	B. Why Significant: This is a result of a Presidential Initiative and meets major cost impact criteria.		
	C. Regulatory Analysis: Required.....		
	D. Need: As part of the President's initiatives to reduce marine pollution, this regulation will reduce the possibility of in-tank explosions which have been the cause of some pollution incidents.		
	E. Legal Basis: R.S. 4417(a) as amended by section 5, P.L. 95-474, (46 U.S.C. 391a); 49 CFR 1.46(n)(4).		
	F. Chronology: Inflationary Impact Statement completed 5/77. NPRM published May 16, 1977 (42 FR 24874). Public hearings held in Washington, D.C., and San Diego 6/77. Port and Tanker Safety Act (PTSA) of 1978, enacted October 1978. NPRM published February 12, 1979 (44 FR 8984). Hearings were held on March 21, 1979 in Washington, D.C., and March 2, 1979, in San Francisco.		
	G. Citation: 46 CFR 32.53.....		

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Title	Summary	Contact	Decision date
Segregated Ballast for Oil Tankers (Docket No. CGD 77-058).	A. Description: On March 17, 1977 President Carter directed the Secretary of Transportation to issue new rules for oil tanker standards which were to include segregated ballast on all tankers and double bottoms on all new tankers which call at American ports. The provisions of these proposed regulations have been changed by the February 1978 Inter-governmental Maritime Consultative Organization (IMCO) Conference to include Crude Oil Washing (COW) and Clean Ballast Tanks (CBT). B. Why Significant: This rulemaking is considered significant because of substantial Congressional and public interest. C. Regulatory Analysis: Required..... D. Need: As part of the President's initiatives to reduce pollution, this regulation is needed to help reduce pollution resulting from normal operations aboard ships. E. Legal Basis: R.S. 4417(a) as amended by section 5, P.L. 95-474, (46 U.S.C. 391a). F. Chronology: NPRM was published May 16, 1977 (42 FR 24868). As a result of the IMCO 2/78 Tanker and Pollution Prevention Conference a new NPRM will be issued. This rulemaking was also mandated by the Port Tanker and Safety Act of 1978. <i>NPRM published February 12, 1979 (44 FR 8984). Hearings were held on March 21, 1979 in Washington, D.C., and March 28, 1979 in San Francisco.</i> G. Citation: 33 CFR pt. 157.....	CDR Ireland, (202)426-4431.	FR September 1979.
Steering Gear Design Standards to Provide Redundancy (Docket No. CGD 77-063).	A. Description: On March 17, 1977 President Carter directed the Secretary of Transportation to issue new rules to provide for back-up steering systems for all tankers calling at U.S. Ports. B. Why Significant: This rulemaking is considered significant because of Congressional and public interest. C. Regulatory Analysis: Not required..... D. Need: As part of the President's initiatives to reduce pollution, this regulation is needed to help reduce the possibility of a marine collision due to a loss of steering. E. Legal Basis: R.S. 4417(a) as amended by section 5, P.L. 95-474 (46 U.S.C. 391a). F. Chronology: NPRM published May 16, 1977 (42 FR 24869). As a result of the IMCO 2/78 Tanker Safety and Pollution Prevention Conference a new NPRM will be issued. <i>NPRM published February 12, 1979 (44 FR 8984). Hearings were held on March 21, 1979 in Washington, D.C., and March 28, 1979 in San Francisco.</i> G. Citation: 46 CFR pt. 58.....	CDR Williams, (202)426-2160.	FR September 1979.
Review: Construction and Equipment Existing Self-Propelled Vessels Carrying Bulk Liquefied Gases (Docket No. 77-069).	A. Description: Would amend regulations for existing self-propelled vessels that carry bulk liquefied gases by including the substantive requirements for the "Code for Existing Ships Carrying Liquefied Gases in Bulk" adopted by Intergovernmental Maritime Consultative Organization (IMCO) which would increase safety levels of existing ships carrying gas.	LCDR Pluta, (202)426-2160.	NPRM November 1979.

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Title	Summary	Contact	Decision date
Review: Licensing of Pilots (Docket No. CGD 77-084).	B. Why Significant: This is significant because it involves a large number of existing U.S. and foreign flag ships which carry liquefied gas and is the subject of substantial public interest. C. Regulatory Analysis: Required..... D. Need: Increased use of liquefied gases has intensified the problems associated with this product. Since this product has unique properties and dangers, a dedicated set of regulations is needed to address them. E. Legal Basis: R.S. 4417(a) as amended by section 5, P.L. 95-474, (46 U.S.C. 391a); See 6(b)(1), 80 Stat 937 (49 U.S.C. 1655 (b)(1)). F. Chronology: An Advance Notice of Proposed Rulemaking was published June 30, 1977 (42 FR 33353). Regulatory Analysis was completed 2/79. An Environmental Impact Assessment was completed 2/79. This action is also mandated by the Port and Tanker Safety Act of 1978. G. Citation: 46 CFR pts. 31, 34, 38, 40, 54, 98, 154.....		
Tank Vessel Operations Regulations, Puget Sound (Docket No. CGD 78-041).	A. Description: This proposal would require recency of service for each route upon which a pilot is authorized to serve; licenses would be issued with tonnage limitations commensurate with pilot experience; and consideration of shiphandling simulator training for pilots of very large vessels including Very Large Crude Carriers (VLCC). B. Why Significant: Considered significant because there is substantial interest among marine personnel on this matter with opposition expected from Federal pilots. C. Regulatory Analysis: Not required..... D. Need: Increased ship size has led to unusual handling characteristics with which some pilots may not be familiar. This rule will allow use of simulator training for these kinds of vessels. E. Legal Basis: 46 U.S.C. 214, 224, 230, 233, 237; 49 U.S.C. 1655(b)(1). F. Chronology: A Regulatory Analysis and Work Plan were completed 10/78. A public hearing will probably be held shortly after the publication of the NPRM. G. Citation: 46 CFR pt. 10.....	LCDR Norman, (202)426-2240.	NPRM August 1979.
	A. Description: This regulation would govern the operation of tank vessels in the Puget Sound area to protect against environmental harm resulting from vessel or structure damage, destruction, or loss. B. Why Significant: This is considered a significant rule-making due to Congressional and public interest. In addition it may generate controversy among the public, environmentalists, and the oil industry. C. Regulatory Analysis: Not required..... D. Need: To reduce the possibility of environmental harm resulting from oil spills in Puget Sound by governing the operation of tankers to reduce the risk of collision or grounding.	CAPT R. Janacek, (202)426-1935.	FR January 1980.

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Title	Summary	Contact	Decision date
Personnel Job Safety Requirements for Industrial Vessels (No Docket Number).	E. Legal Basis: Port and Waterways Safety Act (33 U.S.C. 1221).	LT Whipple, (202)472-5160.	NPRM October 1979.
	F. Chronology: Secretary Adams signed 180 day Interim Rule on March 14, 1978 prohibiting entry of oil tankers in excess of 125,000 Deadweight Tons in Puget Sound March 23, 1978 (43 FR 12257). ANPRM published March 27, 1978 (43 FR 12840) with public hearing held April 20-21, 1978. <i>NPRM published April 12, 1979 (44 FR 21974). Public hearings were held in Washington State on June 13 and 14, 1979. The interim navigation rule will remain in effect until cancelled (44 FR 36174).</i>		
	G. Citation: 33 CFR pts. 160, 161.....		
Personnel Job Safety Requirements for Fixed Installations on the Outer Continental Shelf (Docket CGD 79-077).	A. Description: This regulation would develop health and safety requirements for personnel employed on artificial islands, fixed installations and vessels engaged in oil field exploration and development.	R. Barrett, (202)472-5160.	ANPRM October 1979.
	B. Why Significant: This action concerns a matter that is of significant public interest and which will impact on other Federal agencies. Action mandated by pending Outer Continental Shelf legislation.		
	C. Regulatory Analysis: Not required.....		
	D. Need: Exploration and development of the offshore resources requires a growing fleet of vessels which perform a variety of industrial functions. The regulations will provide more comprehensive protection for personnel employed on these vessels.		
	E. Legal Basis: 43 U.S.C. 1333(e).....		
	F. Chronology: Work plan prepared 11/78.....		
	G. Citation: 46 CFR Subchapters I and IA.....		
	A. Description: This regulation would develop personnel safety and health requirements for artificial islands, fixed installations and other devices on the Outer Continental Shelf (OCS).		
	B. Why Significant: This action concerns a matter that is of significant public interest and which will impact on other Federal agencies. Action mandated by Outer Continental Shelf legislation.		
	C. Regulatory Analysis: Not required.....		
	D. Need: More comprehensive requirements will improve personnel working conditions and the level of safety on fixed installations on the OCS. The regulations will also help fulfill the mandates for safety and health in the impending legislation on the OCS Land Act Amendments of 1978.		
	E. Legal Basis: 43 U.S.C. 1333(e).....		
	F. Chronology: Work plan prepared 11/78.....		
	G. Citation: 33 CFR Subchapter N; 46 CFR Subchapters IA and V.		

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Title	Summary	Contact	Decision date
Revision of 46 CFR 157.20-5 Division into Three Watch Regulation (Docket No. CGD 78-037).	A. Description: This revision would require an adjustment in vessel manning requirements, to bring them into line with current legislation. It would change the requirements which identify personnel who must be used on the three watches and personnel who may be employed in a day working status. B. Why Significant: Involves a matter that is of significant interest to the public. Also, opposition is anticipated from the maritime labor unions. C. Regulatory Analysis: Not required..... D. Need: The regulations in this section no longer reflect present CG policy and need updating. E. Legal Basis: R. S. 4463, as amended (46 U.S.C. 222); Section 2 of the Seamen's Act of 1915, as amended (48 Stat. 1833; 46 U.S.C. 673). F. Chronology: Prepared Work Plan 5/78..... G. Citation: 46 CFR 157.20-5.....	CDR McCowen, (202)426-2240.	NPRM August 1979.
Drawbridge Operation Regulations—Newark Bay and Passaic and Hackensack Rivers, New Jersey (Docket No. CGD 78-173).	A. Description: Would amend the regulations to provide more equitable balance between the needs of land and marine modes of transportation in scheduling drawbridge openings and generally update the regulations. B. Why significant: Involves coordination with other agencies within DOT and is a matter of significant public interest. C. Regulatory Analysis: Not required..... D. Need: Increased use of rail, road, and water transportation in this heavily industrialized and heavily populated area, mariners' complaints of long delays before bridge openings, and a general need to update existing regulations. E. Legal Basis: Sec. 5, 28 Stat. 362, 33 U.S.C. 499; 80 Stat. 937, 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5). F. Chronology: A fact-finding public hearing was held November 17, 1977 to provide the basis for formulating the proposed rule. G. Citation: 33 CFR 117.200.....	Mr. F. Teuton, (202)426-0942.	NPRM October 1979.
Review: Eight-Hour Day, Voluntary Overtime (Docket No. CGD 78-146).	A. Description: Under 46 CFR 157.20-10, no licensed officer or seaman should be required to be on duty more than eight hours in any one day except in extraordinary conditions. The regulations do not address overtime and do not consider any possible "fatigue factor". B. Why Significant: Involves a matter that is of public interest. In addition, opposition may be forthcoming from maritime labor unions, or management, or both. C. Regulatory Analysis: Not required..... D. Need: In recent years Coast Guard studies have shown that a "fatigue factor" must be recognized as having a profound effect on one's reaction time, judgment, and well being.	CDR McCowen, (202)426-2240.	ANPRM October 1979.

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Title	Summary	Contact	Decision date
	E. Legal Basis: Section 2 of Seaman Act of 1915, as amended. (49 Stat. 1933; 46 U.S.C. 673).		
	F. Chronology: Prepared Work Plan 1/79. Submitted to OST May 1979.		
	G. Citation: 46 CFR 157.20-10		

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Title	Summary	Contact	Decision date
Vessel Traffic Service (VTS), Berwick Bay, LA. (Docket 73-186).	Would codify certain operating procedures now being done under local order. (33 CFR pt. 161).	LTJG Molessa, (202)426-4958.	NPRM November 1979.
Review: Lights on Pipelines (Docket No. CGD 73-216).	Would require warning lights on unattended dredge pipelines. NPRM published February 13, 1978 (43 FR 6200). <i>FR published February 26, 1979 (44 FR 11052); (33 CFR pts. 80, 90, 95).</i>	LTJG Molessa, (202)426-4958.	Action Complete.
Review: Cargo Location Signs and Cargo Information Cards on Barges (Docket No. CGD 73-243).	Would require notification of the vessel's crew of the hazards and locations of dangerous cargoes carried on barges. <i>NPRM published March 29, 1979 (44 FR 18709) (46 CFR pt. 35).</i>	Mr. R. Query, (202)426-1217.	FR January 1980.
VTS San Francisco, CA. (Docket No. CGD 73-274).	Would make mandatory a now voluntary vessel traffic service. (33 CFR pt. 161).	Mr. F. Schwer, (202)426-4958.	NPRM October 1979.
VTS Houston-Galveston, Texas (Docket No. CGD 74-029).	Would make mandatory a now voluntary vessel traffic service. (33 CFR pt. 161).	LTJG Molessa, (202)426-4958.	NPRM December 1979.
Powered Pilot Hoists and Ladders (Docket No. CGD 74-140).	Would establish new regulations for pilot hoists and revise regulations for pilot ladders and chain ladders. (46 CFR pts. 160, 163). <i>NPRM published July 23, 1979 (44 FR 43016).</i>	Mr. R. Markle, (202)426-1445.	FR November 1979.
Review: Measurement of Size of Accesses to Exemptible Water Ballast Spaces (Docket No. CGD 74-211).	Would establish measurement of vessel size of access to exemptible water ballast space. (46 CFR pt. 69).	Mr. Stitt, (202)426-2192.	Withdrawn.
Review: Fixed Fire Extinguishing Systems on Uninspected Vessels (Docket No. CGD 74-284).	Would establish standards for the construction and installation of Halon 1301 and other fixed fire extinguishing systems. (46 CFR 162.029).	Mr. K. Wahle, (202)426-1444.	NPRM August 1979.
Elevators and Dumbwaiters (Docket No. CGD 75-001).	Would adopt the American National Standards Institute (ANSI) code with certain modifications for vessel construction. <i>NPRM published April 5, 1976 (41 FR 14386). (46 CFR pt. 58).</i>	Mr. B. Jackson, (202)426-2206.	FR December 1979.
Review: Compatibility of Bulk Liquid Cargoes (Docket No. CGD 75-059).	Would establish cargo loading standards to prevent the intermingling of cargo likely to create dangerous conditions. (46 CFR pt. 150).	Mr. R. Query, (202)426-1217.	NPRM August 1979.
Benzene Carriage Requirements, Vapor Exposure Limitations (Docket No. CGD 75-075).	Proposed requirements to prevent exposure of crew to hazardous vapors. <i>NPRM published August 21, 1978 (43 FR 37149). (46 CFR pts. 151, 153).</i>	LTJG Murray, (202)426-2192.	FR August 1979.
Review: Ocean Operator (Docket No. CGD 75-178).	Proposed licensing requirements for rank of ocean operator. <i>NPRM published March 14, 1977 (42 FR 13844). (46 CFR pts. 157 and 186). An alternate approach is under consideration; this may be withdrawn.</i>	CDR McCowen, (202)426-2240.	FR August 1979.

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Title	Summary	Contact	Decision date
Review: Launching Devices for Liferrafts (Docket No. CGD 75-217).	Proposed specification for approval of devices used for launching inflatable liferafts. (46 CFR Pts. 160 and 163).	Mr. M. Daniels, (202)426-1445.	NPRM December 1979.
Review: Helicopter Operations with Tank Vessels (Docket No. 75-221).	Would establish guidelines for helicopter operations on tank vessels and Liquefied Natural Gas (LNG) Vessels. (46 CFR pts. 32, 34, and 25).	LTJG Sedlak, (202)426-2197.	NPRM August 1979.
Review: Advance Notice of Arrival (Docket No. CGD 75-238).	Would require advance notice to Captain of the Port (COTP) of vessel arrivals, departures and hazardous conditions. <i>NPRM published June 15, 1978 (43 FR 25958). Public hearing held October 12, 1978 in Washington, D.C., and October 20, 1978 in Houston Texas (33 CFR pt. 161).</i>	LT Dickman, (202)426-1927.	FR August 1979.
Review: Stability Standards for Tug Boats (Docket No. CGD 76-018).	Would establish impact stability standards for vessels normally engaged in towing operations to increase their resistance to capsizing. <i>ANPRM published April 12, 1976 (41 FR 15349). (46 CFR pt. 42).</i>	F. Perrini, (202)426-2187.	NPRM January 1980.
Review: Tug Assistance in Confined Waters (Docket No. CGD 76-025).	Would require tug assistance for large vessels operating in confined waters. <i>ANPRM published May 6, 1976 (41 FR 18770). (33 CFR pt. 164).</i>	Mr. F. Schwer, (202)426-4958.	NPRM November 1979.
Review: Lights and Retro-Reflective Material for Life Preservers and Other Lifesaving Equipment (Docket No. CGD 76-028).	Would require lights and retro-reflective material on life preservers in order to aid rescue efforts. <i>NPRM published May 23, 1977 (42 FR 26229). Final Rule published July 2, 1979 (44 FR 38778). (46 CFR pts. 25, 33, 75, 94, 161, 167, 180, 192).</i>	LCDR Anderson, (202)426-2183.	Action Complete.
Review: Lifesaving systems for Great Lakes Vessels (Docket No. CGD 76-033).	Would amend lifesaving equipment regulations to improve chances of personnel survival following abandonment of vessel (46 CFR Subchapter D, H, I, T, and Q).	Mr. R. Markle, (202)426-1445.	NPRM October 1979.
Review: Exposure Suits on Great Lakes Vessels (Docket No. CGD 76-033a).	Proposed approval, specification and vessel requirements for low-temperature exposure. <i>NPRM published June 8, 1978 (43 FR 25000). (46 CFR pts. 33, 75, 99, 160).</i>	Mr. R. Markle, (202)426-1445.	FR August 1979.
Review: Factory Inspection Approval Procedures (Docket No. CGD 76-048).	Proposed procedures to allow third party inspection of specified equipment. <i>NPRM published October 23, 1978 (43 FR 49440). (46 CFR pt. 159).</i>	Mr. R. Markle, (202)426-1445.	FR August 1979.
Review: Factory Inspector, Distress Signal (Docket No. CGD 76-048a).	Proposed procedures to allow third party inspection of distress signals. <i>NPRM published October 23, 1978 (43 FR 49445). (46 CFR pt. 160).</i>	Mr. R. Markle, (202)426-1445.	FR August 1979.
Minimum Net Bottom Clearance (Docket No. CGD 76-051).	Would require vessels to maintain a minimum net bottom clearance while transiting certain navigable waters of the United States. <i>ANPRM published May 6, 1976 (41 FR 18770). (33 CFR p. 168).</i>	Mr. F. Schwer, (202)426-4958.	Withdrawn.
Review: Subdivision of Passenger Vessels (Docket No. CGD 76-053).	Proposes more flexible regulations by allowing alternate compliance with Intergovernmental Maritime Consultative Organization as an alternative to existing requirements. (46 CFR pts. 73, 74).	Mr. J. Howell, (202)426-2187.	NPRM February 1980.
Review: Stability Standards for Hopper Dredges (Docket No. CGD 76-080).	Would improve capability of a dredge to withstand flooding caused by damage to hull or interior piping. (46 CFR pt. 93).	Mr. D. Ewing, (202)426-2187.	NPRM October 1979.
Requirements for Boat Ventilation (Docket No. CGD 76-082).	Would establish requirements for ventilation of fuel and engine compartments on boats. <i>NPRM published July 27, 1978 (43 FR 32606). (33 CFR pt. 183).</i>	Mr. L. Granholm, (202)426-4027.	FR August 1979.
Review: Combination Fire Hose Nozzles (Docket No. CGD 76-086).	Proposed requirement for an approved combination nozzle on most vessels. <i>NPRM published June 16, 1977 (42 FR 30649). Final Rule published January 11, 1979. (44 FR 2390). (46 CFR pts. 34, 76, 95, 162, 193).</i>	Mr. F. Thompson, (202)426-2174.	Action Complete.

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Review: Cadets of the Coast Guard (Docket No. CGD 76-087).	Would revise present regulatory language to indicate desired procedures for Cadet appointments. NPRM published November 1, 1978 (41 FR 47844). <i>FR published May 29, 1979 (44 FR 30094)</i> (33 CFR pt. 40).	LTJG Marshall, (202)426-1370.	Action Complete.
Oil/Water Separator (Docket No. CGD 76-088a).	Would establish approval procedures and specifications for oil-water separators, cargo and bilge monitors, and bilge alarms for use on merchant vessels. NPRM published June 27, 1977 (42 FR 32686); (46 CFR pt. 162).	LT McCall, (202)426-1445.	FR August 1979.
Cargo Monitors on Tank Vessels (Docket No. CGD 76-088b).	Proposed requirements for installation and use of cargo monitors. NPRM published June 27, 1977 (42 FR 32684); (33 CFR pt. 157).	LT Cool, (202)426-2168.	FR December 1979.
Review: Deepwater Port Safety Zone Regulations, (Docket No. CGD 76-096).	Would establish regulations for safety zones at U.S. Deepwater Ports. (33 CFR pt. 157).	Mr. F. Martin, (202)426-2606.	NPRM September 1979.
Review: Lights on Barges (Docket No. CGD 76-109).	Would extend requirements for flashing yellow lights at heads of tows to all inland waters. NPRM published July 13, 1978 (43 FR 30256). <i>Final rule published June 14, 1979 (33 FR 34129)</i> (33 CFR 80.16).	LTJG Molessa, (202)426-4958.	Action Complete.
Review: Applicability of Western Rivers/Inland Rules (Chief Counsel's Interpretive Rules) (Docket No. CGD 76-129).	Would define where the Inland and Western Rivers rules apply on the Port Allen-Morgan City Alternate and Land-side Routes. <i>Final rule published April 16, 1979. (44 FR 22456)</i> (33 CFR 80.04 and 33 CFR 95.02).	Mr. T. Foley, (202)426-4958.	Action Complete.
Review: Approval Procedures Whistles (Docket No. CGD 76-132).	Would prescribe approval procedures for the manufacture of whistles required by the 72 COLREGS. (33 CFR pt. 87).	LTJG Molessa, (202)426-4958.	NPRM September 1979.
Review: Amendments to Vessel Numbering Requirements (Docket No. CGD 76-155).	Would make minor changes to the vessel numbering and accident reporting requirements to make them more consistent and efficient. NPRM published November 10, 1977 (42 FR 58722). <i>Rule published January 25, 1979 (44 FR 5308)</i> . (33 CFR pts. 173, 174).	Mr. Gauthier, (202)426-4176.	Action Complete.
Review: Casualty Reporting (Docket No. 76-170).	Would update the regulation by changing the monetary and other damage criteria. NPRM published October 19, 1978. <i>Correction published October 23, 1978 (43 FR 49316)</i> . As a result of numerous comments a revised NPRM is being published. (43 CFR 48982). (46 CFR 4.05).	CDR Blomquist, (202)426-1455.	NPRM August 1979.
Visual Distress Signals for Boats (Docket No. CGD 76-183).	Would require visual distress signals to be carried on boats when operating on coastal waters and on the high seas. NPRM published April 10, 1978 (43 FR 15118). Comment period reopened in conjunction with CGD 76-183a October 23, 1978 (43 FR 49440) (33 CFR pt. 175).	Mr. Gauthier, (202)426-4176.	FR August 1979.
Visual Distress Signals for Boats (Docket No. CGD 76-183a).	Would establish approval specifications for certain new visual distress signals to be required in CGD 76-183 (above entry). NPRM published October 23, 1978 (43 FR 49451). (33 CFR pt. 175 and 46 CFR pt. 160).	Mr. Gauthier, (202)426-4176.	FR August 1979.
Review: Use of Dangerous Articles as Ships' Stores and Supplies on Vessels (Docket No. CGD 76-191).	Proposed storage and labeling requirements (46 CFR pt. 147).	Mr. J. McNulty, (202)426-1577.	Withdrawn.
Review: Radar Observer Endorsement for Personnel (Docket No. CGD 76-193a).	Would require specialized training in use of radar equipment. This will be a supplemental notice based on a document published earlier. (46 CFR pt. 10).	CDR Hess, (202)426-2251.	NPRM August 1979.
Review: Reexamination Procedures for Unlicensed Ratings (Docket No. CGD 76-203).	Would eliminate confusion about reexamination procedures. NPRM published July 28, 1977 (42 FR 38394). (46 CFR pt. 12).	CDR Hess, (202)426-2251.	FR September 1979.

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Title	Summary	Contact	Decision date
Review: Shipboard Fumigation Standards (Docket No. CGD 76-206).	Proposed operational requirements for fumigation procedures on vessels. (46 CFR pt. 147a).	LT Norris, (202)426-1577.	NPRM October 1979.
Review: Exemption for Cargo Vessel in Alaska Serving Remote Villages (Docket No. CGD 76-223).	Would allow special uses for specific vessels serving in the Alaskan Trade. (46 CFR pts. 6, 30, 42, 43, 70, 90, and 151 and 33 CFR pt. 1).	LTJG Murray, (202)426-2190.	NPRM November 1979.
Requirement to Stop to Permit Boarding (Docket No. CGD 76-232).	Would require boat operators to stop when ordered to do so by the CG Boarding Officer. (33 CFR pt. 177).	ENS Strickland, (202)426-4176.	NPRM August 1979.
Review: Administrative Amendment to Delete Incorrect References and Add New Proper Reference (Docket No. CGD 76-014).	Would revise incorrect reference in the Code of Federal Regulations. <i>Final Rule published February 25, 1979. (44 FR 5316)</i> (46 CFR pt. 2).	LT Rolman, (202)426-2183.	Action Complete.
Review: Marine Safety Investigations (Docket No. CGD 77-018).	Would implement investigation authority under Ports and Waterways Safety Act. NPRM published January 25, 1979 (44 FR 5368) (33 CFR pt. 168).	LT Dickman, (202)426-1927.	FR November 1979.
Ocean Dumping Surveillance Equipment Requirements, (new Part) (Docket No. CGD 77-029).	Would establish equipment requirements to conduct surveillance to prevent unlawful dumping of material into ocean waters. (33 CFR pt. 158).	LT Voyik, (202)426-9573.	NPRM September 1979.
Review: Suspension & Revocation Proceedings—Consolidation of Regulations (Docket No. CGD 77-037).	Would combine disparate regulations to clarify the appeal process. <i>Certain substantive changes require issuance of a NPRM.</i> (46 CFR pts. 1, 5).	LT McDaniel, (202)426-9776.	NPRM August 1979.
Review: Semi-Portable Fire Extinguishers (Docket No. CGD 77-039).	Would amend specification to allow approval of wheeled units for use on stable platforms. NPRM published November 9, 1978. <i>Final Rule published June 14, 1979 (44 FR 34132)</i> (43 FR 52261). (46 CFR 162.039).	Mr. F. Thompson, (202)426-2174.	Action Complete.
Review: Manning of Uninspected Towing Vessels (Docket No. CGD 77-062).	Would clarify the applicability of the three watch system to towing vessels. NPRM published September 14, 1978 (43 FR 41178). (46 CFR pt. 157).	CDR McCowen, (202)426-2240.	To be withdrawn.
Review: Designation of Oceanographic Vessels (Docket No. CGD 77-081).	Would delegate means of designating an Oceanographic Research vessel to Officers in Charge, Marine Inspection (OCMI). (46 CFR pt. 188).	CDR McCowen, (202)426-2240.	NPRM August 1979.
Operational Specification for Radar (Docket No. CGD 77-085).	Would develop specifications for radar systems on vessels over 1600 gross tons. (33 CFR pt. 164).	Mr. F. Schwer, (202)426-4958.	NPRM December 1979.
Vessel Traffic Service (VTS) New York, N.Y. (Docket No. CGD 77-087).	Would establish regulations for vessel traffic service in New York Harbor. NPRM published February 16, 1978 (43 FR 6906). (33 CFR pt. 161).	Mr. F. Schwer, (202)426-4958.	FR August 1979.
Requirement for First Purchaser List Kept by Boat Dealers (Docket No. CGD 77-115).	Would require boat dealers to assist in creating a list of retail purchasers so manufacturers could send notices to alert of safety defects. (33 CFR pt. 179).	Mr. Ellison, (202)426-1757.	NPRM October 1979.
Review: Optional Numbering Requirements (Docket No. CGD 77-117).	Would make certain vessel numbering requirements applicable to States optional. NPRM published April 13, 1978 (43 FR 15583). (33 CFR pts. 173, 174).	Mr. Gauthier, (202)426-4176.	FR August 1979.
Review: Waterfront Facilities (Docket No. CGD 77-128).	Would revise waterfront facility regulations by consolidating and updating general regulations. ANPRM published April 10, 1978 (43 FR 15108). (33 CFR pt. 126-32).	LT Dickman, (202)426-1927.	NPRM September 1979.
Review: Amendments to Alternative Compliance (Docket No. CGD 77-136).	Would provide editorial improvement and clarification of existing regulations. (33 CFR pt. 87).	Mr. T. Foley, (202)426-4958.	FR November 1979.

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Title	Summary	Contact	Decision date
Review: Barge Loadline Exemptions (Docket No. CGD 77-135a).	Would provide exemptions for barges operating on waters between Chicago and Burns Harbor (46 CFR pt. 42).	Mr. D. Ewing, (202)426-2160.	NPRM August 1979.
Review: Barge Loadline Exemptions (Docket No. CGD 77-135b).	Would provide exemption for barges operating on waters between St. Marks and Carabelle (46 CFR pt. 42).	Mr. D. Ewing, (202)426-2160.	NPRM August 1979.
Review: Acceptance of American Society of Mechanical Engineers (ASME) "U" or "UM" stamp without U.S. Coast Guard inspection. (46 CFR pt. 54).	Would accept pressure vessels bearing the ASME "U" or "UM" stamp without U.S. Coast Guard inspection. (46 CFR pt. 54).	Mr. H. Hime, (202)426-2160.	NPRM September 1979.
Review: Amendments to Customs Regulations for Boats (Docket No. CGD 77-157).	Would amend the joint Coast Guard-Customs regulations for imported boats. Minor revision to improve administration of the regulations. <i>NPRM completed and forwarded to U.S. Customs Service</i> (19 CFR pt. 12).	ENS Ziegenfuss, (202)426-1757.	NPRM October 1979.
Damage Stability Information on Cargo Ships (Docket No. CGD 77-161).	Would require masters of vessels to have damage stability information on board. (46 CFR pt. 93).	Mr. J. Howell, (202)426-2187.	ANPRM December 1979.
Review: Appointment to Officer Status (Docket No. CGD 77-165).	Would reflect changing requirements for commissioning licensed officers of the Merchant Marine. (33 CFR pt. 33).	LCDR Zawadzki, (202)426-0935.	NPRM August 1979.
Electronic Navigation Equipment (Docket No. CGD 77-168).	Would require LORAN-C or Alternative System on all vessels 1600 gross tons and greater. NPRM published November 14, 1977 (42 FR 59012). <i>Supplemental NPRM published January 25, 1979 (44 FR 5312). Interim final rule published May 31, 1979 (44 FR 31592).</i> (33 CFR pt. 164).	Mr. F. Schwer, (202)426-4958.	Action Complete.
Review: Establishment of Second-Class Ocean Operator (Docket No. CGD 77-176).	Would establish qualification for a second operator on small passenger vessels required to have more than one Ocean Operator on Board. NPRM published March 23, 1978 (43 FR 12218). <i>An alternative approach is under consideration, this project may be withdrawn.</i> (46 CFR pts. 157, 186 and 187).	CDR McCowen, (202)426-2240.	FR October 1979.
Review: Amend Navigation Safety Regulations (Docket No. CGD 77-183).	Would relax some navigation requirements for Great Lakes and provide editorial corrections. (33 CFR pt. 164).	Mr. T. Foley, (202)426-4958.	NPRM August 1979.
Designation of Confined or Congested Waters (Docket No. CGD 77-196).	Would establish list of waters to be designated as "Confined or Congested"—in accordance with Navigation Safety Regulations. <i>NPRM published April 16, 1979 (44 FR 22686)</i> (33 CFR pt. 164).	Mr. C. Llana, (202)426-4958.	FR November 1979.
Review: Second Class Operator for Towing Vessels (Docket No. CGD 77-204).	Would allow for able seaman service on ocean going vessels to be credited toward second class towboat license. NPRM published May 25, 1978 (43 FR 22653). (46 CFR pt. 10).	LCDR Norman, (202)426-2240.	FR August 1979.
Review: Inland Waterways Navigation Regulations (Docket No. CGD 77-217).	Would provide editorial changes to certain regulations previously issued by the Corps of Engineers and transferred to the Coast Guard under the Ports and Waterways Safety Act of 1972. <i>Final Rule published December 28, 1978 (43 FR 60458).</i> (33 CFR pt. 162).	LTJG Molessa, (202)426-4958.	Action Complete.
Review: Halon 1301 Fire Extinguishing Systems for Merchant Vessels (Docket No. CGD 77-232).	Would allow Halon 1301 for specific types of installations. (46 CFR 164.035).	Mr. R. Eberly, (202)426-2197.	NPRM August 1979.

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Title	Summary	Contact	Decision date
Navigation Lights for Small Vessels (Docket No. CGD 77-233).	Would specify approval procedures and installation requirements for International Rules navigation lights for small vessels. NPRM published September 7, 1978 (43 FR 39946). (33 CFR pt. 89).	Mr. L. Gray, (202)426-4027.	FR January 1980.
Review: Administrative Update of COTP Areas (Docket No. CGD 77-241).	Would make editorial changes to listing of certain Captain of the Port Areas. <i>Final Rule published February 26, 1979 (44 FR 10982).</i> (33 CFR pt. 3).	LTJG Molessa, (202)426-4958.	Action Complete.
Great Lakes Winter Navigation (Docket No. CGD 77-246).	Would establish three regulated navigation areas for Great Lakes. NPRM published August 17, 1978 (43 FR 36486). <i>Final Rule published January 25, 1979 (44 FR 5118).</i> (33 CFR pt. 128).	Mr. D. Ziegfeld, (202)426-1934.	Action Complete.
Review: Safety Orientation for Passenger Vessels (Docket No. CGD 78-009).	Would alert passengers to locations and use of safety devices. NPRM published June 29, 1978 (43 FR 28426). (46 CFR pts. 185 and 26).	LCDR Rock, (202)426-2183.	FR September 1979.
Review: Handling of Explosives and Other Dangerous Cargoes Within or Contiguous to Waterfront Facilities (Docket No. CGD 78-023).	Would eliminate errors and outdated cross references in existing waterfront facilities regulations. <i>Final Rule published January 22, 1979 (44 FR 4642).</i> (33 CFR pt. 126).	LT Dickman, (202)426-1927.	Action Complete.
Requests for Temporary Documents (Docket No. CGD 78-024).	Would change procedure of merchant seaman appeal for temporary document in suspension/revocation cases so appeal can be made directly to the Commandant. Rule published January 25, 1979 (44 FR 5293).	LCDR King, (202)426-2215.	Action Complete.
Hazardous Substances, Pollution Prevention for Vessels and Marine Transfer Facilities (Docket No. CGD 78-032).	Would establish regulations for pollution prevention for hazardous substances for vessels and marine transfer facilities. (33 CFR pts. 154, and 156).	LCDR Busavage, (202)426-9578.	ANPRM September 1979.
Review: Amendment to Boat Capacity Labels (Docket No. CGD 78-034).	Would make information in safe loading capacity labels clearer and easier to use. NPRM published September 21, 1978 (44 FR 43006). <i>Correction to NPRM published November 16, 1978; (43 FR 53471).</i> (33 CFR pt. 183).	Mr. L. Granholm, (202)426-4027.	FR August 1979.
Liquefied Natural Gas Regulations (Docket No. CGD 78-038).	Would establish LNG Waterfront Facility Safety Regulations in accordance with Memorandum of Understanding between USCG and Materials Transportation Bureau (a bureau within RSAA) ANPRM published August 3, 1978 (43 FR 34362). <i>Will merge with CGD 77-128. Supplemental ANPRM published March 8, 1979 (44 FR 12693).</i> (33 CFR pt. 126).	LT Dickman, (202)426-1927.	NPRM November 1979.
Tows Navigating the Pass Manchac Bridge, LA (Docket No. CGD 78-050).	Would provide for regulation of tows navigating the waters in the vicinity of the Pass Manchac Bridge, LA. NPRM published December 21, 1978 (43 FR 59524). <i>Correction published January 29, 1979 (44 FR 5680).</i> (33 CFR pt. 162).	LTJG Molessa, (202)426-4958.	FR October 1979.
Review: International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS) Demarcation Line (Docket No. CGD 78-052).	Would change 72 COLREGS demarcation line in Florida. (33 CFR pt. 82).	LTJG Molessa, (202)426-4958.	NPRM September 1979.
Review: Appointment of the Permanent Commissioned Teaching Staff (Docket No. CGD 78-077).	Would delete regulatory language to conform to the appointment process desired by the Superintendent, U.S. Coast Guard Academy. (33 CFR pts. 33, 40). <i>Regulation published May 24, 1979. (44 FR 30094).</i>	LT Lee, (202)426-9866.	Action Complete.
Crane Operator Qualifications and Standards for Offshore Crane Design, Inspection, Testing and Operation (Docket No. CGD 79-59).	Would develop required qualifications for crane operators employed on the Outer Continental Shelf. (33 CFR pt. 146 and 46 CFR pt. 92).	ENS Silka, (202)472-5160.	ANPRM September 1979.

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Title	Summary	Contact	Decision date
Deepwater Port Liability Fund Requirements.	Would implement provisions of the Deepwater Port Act of 1974 to establish and administer liability limits and compensation relative to accidental oil spills at deepwater port sites. (33 CFR pt. 150).	Mr. F. Martin, (202)426-2606.	NPRM September 1979.
Liquefied Natural Gas Waterfront Facilities, Delegation to Commandant (DOT Docket 1, Amend 1-137).	Would delegate authority to the Commandant to regulate Liquefied Natural Gas (LNG) Waterfront Facilities under the Natural Gas Pipeline Safety Act. <i>Final Rule published January 26, 1979. (44 CFR 5436) (49 CFR pt. 1).</i>	Lt Dickman, (202)426-1927.	Action Complete.
Review: Pollution Prevention, Vessels and Oil Transfer Facilities (Docket No. CGD 75-124).	Would revise pollution prevention regulations for vessels and oil transfer facilities. NPRM published June 27, 1977 (42 FR 32670). Supplemental NPRM published October 27, 1977 (42 FR 56625). (33 CFR pts. 154, 155, and 156).	LCDR Busavage, (202)426-9578.	FR August 1979.
Review: Inspection and Approval Procedures, Distress Signals (Docket No. CGD 76-048b).	Would introduce revised inspection procedures for Distress Signals. NPRM published October 23, 1978 (43 FR 49447). (46 CFR pt. 160).	Mr. R. Markle, (202)426-1445.	FR September 1979.
Damage Stability, Subchapter "O" Barges (Docket No. CGD 77-027).	Would apply damage stability requirements for chemical vessels to ocean chemical barges. (46 CFR 151.10-10).	Mr. F. Perrini, (202)426-2187.	NPRM September 1979.
Review: Miscellaneous Changes to Subchapter "F" (Docket No. CGD 77-140).	Would update Title 46, Subchapter F—Marine Engineering. (46 CFR pts. 50-63).	LCDR Jenkins, (202)426-2160.	NPRM September 1979.
Oxygen/Explosive Meter Requirements (Docket No. CGD 78-021).	Would require Oxygen/Explosive Meters in place of flame safety lamps (46 CFR pts. 35, 96, and 160).	LTJG Murray, (202)426-2183.	NPRM October 1979.
Amendment to clarify (Docket No. CGD 78-027).	This amendment would clarify 46 CFR 157.30-10 regarding the number of deck officers and engineers to be on board uninspected vessels. (46 CFR 157.30).	CDR McCowen, (202)426-2240.	NPRM December 1979.
Review: St. Mary's River, Vessel Traffic Service (Docket No. CGD 78-079).	Would revise and restate existing anchorage and navigation regulations for St. Mary's River, re-promulgating them under the authority of the Ports and Waterways Safety Act. (33 CFR pt. 161).	Mr. T. Foley, (202)426-4958.	NPRM October 1979.
Vessel Traffic Service, New Orleans Amendments (Docket No. 78-080).	Would update existing regulations comprising VTS New Orleans to reflect present river practices. <i>NPRM published January 1, 1979 (44 FR 2401).</i> (33 CFR pt. 161).	LTJG Molessa, (202)426-4958.	FR August 1979.
Amendment to Electrical Standard for Overcurrent Protection (Docket No. CGD 78-090).	Would make provisions of the standard concerning overcurrent protection more reasonable by allowing use of a jumper conductor under certain conditions. NPRM published December 28, 1978 (43 FR 60850). (33 CFR pt. 183).	Mr. L. Granholm, (202)426-4027.	FR August 1979.
Notification of Marine Casualties (Docket No. CGD 78-098).	Would require vessels within a certain distance of United States' coasts to notify the Coast Guard of certain casualties. <i>ANPRM published April 16, 1979 (44 FR 22476)</i> (33 CFR pt. 124 transferred to 161).	Lt Dickman, (202)426-1927.	Study Pending.
Marine Investigation Regulations (Docket No. CGD 78-105).	Would clarify the Coast Guard's subpoena power in marine investigation proceedings (46 CFR pt. 4).	LT Harden, (202)426-1455.	FR August 1979.
Review: Bulk Chemical Tanker Update (Docket No. CGD 78-128).	Would update and revise standards for self-propelled vessels carrying hazardous liquid. (46 CFR pt. 153).	LT Trainer, (202)426-1217.	NPRM October 1979.
Review: Accessibility of Fire Extinguishers on Boats (Docket No. CGD 78-137).	Would require boat operators to keep portable fire extinguishers in a readily accessible location. (46 CFR pt. 25).	ENS Strickland, (202)426-4176.	NPRM January 1980.

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Title	Summary	Contact	Decision date
Unregulated Hazardous Working Conditions on the Outer Continental Shelf (OCS). (Docket No. CGD 79-073).	Would identify any presently unregulated hazardous working conditions on the OCS and if necessary regulate such conditions. (33 CFR Subchapter N).	LCDR Barrett, (202)472-5160.	ANPRM August 1979.
VTS New Orleans (Docket No. 75-112).	Would make voluntary system mandatory. (33 CFR pt. 161)...	LTJG Molessa, (202)426-4958.	NPRM December 1980.
Pilotage Requirements (Docket No. CGD 76-060).	Would clearly delineate when and in what areas pilots are required. (46 CFR 157.20-40).	CDR McCowen, (202)426-2240.	NPRM September 1979.
Aluminum Hatch Covers Aboard Tank Vessels (Docket No. CGD 78-121).	Would prohibit aluminum hatch covers on tank vessels. (46 CFR 32.60-1).	Mr. R. Eberly, (202)426-2197.	NPRM August 1979.
Review: Private Electronic Aids to Navigation (Docket No. CGD 78-145).	Would delete the prohibition of Private Aids to Navigation to provide uniform regulatory treatment. (33 CFR pt. 66).	LT Johnson, (202)426-1974.	NPRM September 1979.
Review: Tables of Vessels Examined or Inspected under Various Coast Guard Regulations (Docket No. CGD 78-152).	Would update tables in various parts of Title 46 to reflect the new requirements implemented by the recently published Mobile Offshore Drilling Unit Regulations.	LTJG M. Rolman, (202)426-2190.	FR August 1979.
Review: Survey Period for Oil Lubricated Tailshafts with Mechanical Seals (Docket No. CGD 78-153).	Would extend the drawing interval for oil lubricated tailshafts with Mechanical Seals. (46 CFR pt. 61).	LTJG M. Rolman, (202)426-2190.	NPRM October 1979.
Review: Footnote Reference to Flexible Loops on Fixed Semi-Portable CO ₂ Systems (Docket No. CGD 78-154).	Would update footnotes in various parts of Title 46 to provide an accurate cross-reference to inspection requirements. <i>Final Rule published March 12, 1979 (44 FR 13491).</i> (46 CFR pts. 31, 71, 91, 176, and 189).	LT D. Zedan, (202)426-2190.	Action Complete.
Review: Mandatory Marking of Obstructions (Docket No. CGD 78-156).	Would clarify and consolidate the requirements for marking of obstructions. (33 CFR pt. 64).	LT Johnson, (202)426-1974.	NPRM October 1979.
Review: Private Aids to Navigation and State Aids to Navigation (Docket No. CGD 78-157).	Would codify and clarify the Aids to Navigation regulations concerning State and Private Aids to Navigation (33 FR pt. 66).	LT Johnson, (202)426-1974.	NPRM January 1980.
Review: Mandatory Markings for Artificial Islands Installations, and Other Devices (Docket No. CGD 78-158).	Would revise the marking regulations to bring them into agreement with the latest procedures. (33 CFR pt. 67).	LT Johnson, (202)426-1974.	NPRM March 1980.
Review: Aids to Navigation—General Interference with, Damages to and Charges for Aids to Navigation (Docket No. CGD 78-159).	Would codify, revise and clarify the existing regulations. (33 CFR pts. 60, 62, 66, 70, 74, and 76).	LT Johnson, (202)426-1974.	NPRM January 1980.
Review: General Revision to Subchapter N (Docket No. CGD 78-160).	Proposed general revisions to Subchapter N, Artificial Islands and Fixed Structures on the Outer Continental Shelf. Revisions to include changes made necessary by new legislation and the Coast Guard Commercial Diving Rules. (33 CFR pt. 140).	LCDR Barrett, (202)372-5160.	NPRM August 1979.
Review: Update of Marine Inspection Office Table (Docket No. CGD 78-161).	Would bring the regulations into agreement with the present description of Marine Inspection Offices. <i>Final Rule published March 12, 1979 (44 FR 13492).</i> (46 CFR pt. 50).	LTJG Heyl, (202)426-2299.	Action Complete.
Review: Requirement of Shipping Papers for Unslaked Lime (Docket No. CGD 78-165).	Would make clear the Coast Guard's requirements for the carriage of shipping papers for bulk shipments of unslaked lime.	Mr. J. McAnulty, (202)426-1578.	NPRM June 1980.

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Title	Summary	Contact	Decision date
Approval of Inflatable Personal Flotation Devices (PFDs) (Docket No. CGD 78-174).	Would establish performance standards for inflatable PFDs and procedures for granting pound approval to these devices. <i>ANPRM published March 15, 1979.</i> (46 CFR pt. 160).	LT Gasch, (202)426-1444.	<i>NPRM November 1979.</i>
Offshore Oil Lightering (Docket No. CGD 78-180).	Would establish requirements for vessel to vessel transfers of oil or hazardous materials if the cargo is bound for a U.S. port. <i>NPRM published May 31, 1979 (44 FR 31486).</i> (33 CFR pt. 156).	LCDR Busavage, (202)426-9578.	<i>FR March 1980.</i>
*Review: Amendment to Hull Identification Requirements (Docket No. CGD 79-013).	Would further delineate responsibility for marking boats with a hull identification number. Would require a second number inside the boat to aid in identification of stolen boats. (33 CFR pt. 181).	LCDR Pettit, (202)426-1757.	NPRM October 1979.
*Port and Tanker Safety Act Delegations (Docket No. CGD 79-024).	Would delegate authority under the Port and Tanker Safety Act of 1978 to Coast Guard District Commanders and Captains of the Port. (33 CFR pt. 160).	LT Dickman, (202)426-1927.	FR August 1979.
*Port and Tanker Safety Act Delegations Under Section 9, Ports and Waterways Safety Act (Docket No. CGD 79-026).	Would delegate to Captains of the Port authority and responsibility to prohibit vessel operations and cargo transfers which may be unsafe. (33 CFR pt. 160).	LT Dickman, (202)426-1927.	NPRM August 1979.
*Limited Access Areas (Docket No. CGD 79-34).	Would realign limited access area regulations in 33 CFR. (33 CFR pts. 125, 127, 128, and 165).	LT Dickman, (202)426-1927.	FR January 1980.
*Inland Waters Navigation Regulations—Waters Connecting Lake Huron and Lake Erie (Docket No. CGD 78-151).	Would update existing regulations. (33 CFR pt. 162)	Mr. LaRue, (202)426-4958.	NPRM January 1980.
*Opening signals for Drawbridges (Docket No. CGD 75-237).	Would establish uniform signals for opening draw bridges. (33 CFR pt. 117).	Mr. Teuton, (202)426-1380.	NPRM August 1979.
*Substitute Licenses/Merchant Marine Documents in Suspension Cases (Docket No. CGD 78-033).	Would allow the issuance of a substitute license/Merchant Marine Document pending the outcome of a hearing. (46 CFR 5.05-25).	LT McDaniel, (202)426-9776.	FR August 1979.
*Review: Termination of Windsurfer Exemption (Docket No. CGD 78-163).	Determine whether to continue an exemption that allows operators of Windsurfer boats to not carry Personal Flotation Devices. <i>ANPRM published March 29, 1979.</i> (49 CFR 1.46).	Mr. Gauthier, (202)426-4176.	NPRM January 1980.

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Routine and Frequent Non-significant Regulations

Title	Total	Contact	Decision date
Safety/Security Zone Regulations ..	10.....	LCDR McDonald, (202)426-1927.	July 1979-July 1980.
Anchorage Area Regulations	16.....	LCDR Snow, (202)426-1940.	July 1979-July 1980.
Drawbridge Regulations.....	90.....	Mr. F. Teuton, (202)426-1380.	July 1979-July 1980.

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FAA Federal Aviation Administration
Significant Regulations

Title	Summary	Contact	Decision date
Section 30 Regulations—Civil Rights (Docket No. 16419). (Cont.).	A. Description: Develop regulations to implement Section 30 of the Airport and Airway Development Act of 1970, as amended by the Airport and Airway Development Act Amendments of 1976 (Act). The regulations would assure that no person is excluded on the grounds of race, creed, color, national origin, or sex from participating in any project for airport development, airport master planning, or airport system planning conducted with or benefiting from funds received from a grant made under the Act. B. Why Significant: The proposed regulations implementing Section 30 are considered significant inasmuch as there is substantial public interest and they involve important Department policy. C. Regulatory Analysis: Required. D. Need: To assure that minorities and minority businesses are afforded full and equal opportunity with respect to employment contracting, and leasing of concessions on airports operated by sponsors receiving grants from airport development projects. E. Legal Basis: Section 30 of the Airport and Airways Development Act of 1970 (49 U.S.C. 1730) and § 1.47(f)(1) of the Regulations of the Office of the Secretary of Transportation (49 CFR § 1.47(f)(1)) Paul Gallis, (202) 246-3050 FR October 1979. F. Chronology: The proposed regulations were set forth in a Notice of Proposed Rule Making (Notice No. 77-1) on January 13, 1977 (42 FR 2850). The regulations are proposed to be included in existing Part 152 as new Subpart E—Nondiscrimination in Airport Aid Program. The public was invited to comment on the proposed rule by March 14, 1977, which date was twice extended to May 20, 1977, upon numerous requests from the public. Following consideration of the comments, a proposed Final Rule was submitted to the Secretary on February 4, 1979. The Secretary concurred on February 15, 1979, and transmitted a copy to the Equal Employment Opportunity Commission pursuant to Executive Order 12067, for its review. After submittal to EEOC, several discussions were held among representatives of the Office of the Secretary, FAA, and EEOC. Based upon these discussions, additional information has been submitted to EEOC concerning: (1) Reporting requirements; (2) Applicability of requirements to small organizations on airports; (3) The complaints and investigations procedure; and (4) Monitoring responsibilities. The information is being reviewed by EEOC staff members and will be presented to the Commissioner. After completion of EEOC review certain reporting forms must be submitted by the FAA to OMB for clearance.		

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA AND REVIEW LIST
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Significant Regulations—Continued

Title	Summary	Contact	Decision date
Flammability Standard for Crew-member Uniforms (Docket No. 14451).	G. Citation: 14 CFR Pt. 152 A. Description: Proposed revision to establish flammability specifications for crewmember uniforms that will provide protection against heat and flame. B. Why Significant: This proposal is considered a significant rulemaking project due to substantial public interest and potential cost to airlines. C. Regulatory Analysis: Required D. Need: To establish basic flammability specifications for crewmember uniforms, since clothing now used is made of conventional fabrics which may be ignited under many of the emergency conditions that may result. E. Legal Basis: Secs. 313(a), 601, and 804, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421(a), 1422), Sec. 6(c) DOT Act (49 U.S.C. § 1655(c)). F. Chronology: Prior to April 1974, a number of informal conferences were held with members of the public including the Association of Flight Attendants (AFA), regarding flammability of flight attendant uniforms. A project was established to examine AFA claims regarding uniform flammability. National Bureau of Standards (NBS) Center for Fire Research was selected as research contractor. ANPRM No. 75-13 was issued March 16, 1975 (40 FR 11737), to solicit public information and comments. A follow-up contract was established with the NBS to evaluate comments and conduct further testing. <i>The contract has been extended through August 1979.</i> G. Citation: 14 CFR Pt. 121 A. Description: Proposes to revise the Parts Manufacturer Approval application and reporting requirements and provisions related to showing identicalness of parts. B. Why Significant: The proposed revision is considered to be significant because it is controversial. C. Regulatory Analysis: Not required D. Need: Differences of opinion exist with respect to the methods available for showing identicalness of parts. Also the Parts Manufacturer Approval application and reporting requirements may be unnecessarily burdensome. E. Legal Basis: Secs. 313(a), 601 and 603 of the Federal Aviation Act of 1958, (49 U.S.C. 1354(a), 1421, and 1423). F. Chronology: Project No. 76-257-R was initiated December 23, 1975. NPRM No. 77-19 published in the Federal Register (42 FR 43985). Comment period later reopened until January 4, 1978 (NPRM No. 77-19A, 42 FR 61048) and again reopened until May 15, 1978 (NPRM No. 77-19B, 43 FR 15432). Portions of NPRM dealing with other subjects to be handled separately. G. Citation: 14 CFR Pt. 21 A. Description: Proposed airworthiness directive (AD) requiring removal of Lithium Sulfur Dioxide (LiSO₂) batteries from all aircraft including those installed in Emergency Locator Transmitters (ELT's), and companion Technical Standard Order (TSO) prescribing standards for acceptable batteries. <i>Subsequent to completing the processing of this proposal, increased service difficulties with the LiSO₂ batteries necessitated the issuance of an "Emergency" adopted airworthiness directive (AD) on February 21, 1979 to remove the batteries from the aircraft.</i>	William J. Sullivan, (202)755-8716.	NPRM September 1979.
Parts Manufacturer Approvals (Docket No. 17147).		William J. Sullivan, (202)755-8716.	FR October 1979.
Lithium Sulfur Dioxide Batteries.....		William J. Sullivan, (202)755-8716.	NPRM August 1979.

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA AND REVIEW LIST
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FAA
Federal Aviation Administration
Significant Regulations—Continued

Title	Summary	Contact	Decision date
Review: Part 91 Upgrade.....	<i>The original proposal included a "Significant" airworthiness directive to remove LiSO₂ batteries and a new "non-significant" technical standard order (TSO) for LiSO₂ batteries. In view of this, the remaining non-significant TSO portion of this action is now shown in the non-significant portion of the agenda.</i> A. Description: To upgrade the general aviation standards applicable to the operation of certain large aircraft, when not operated as an air carrier and to revise certain regulations applicable to commercial operators and air travel clubs. B. Why Significant: This is considered significant due to substantial public interest in the constraints to be proposed for safer operations of large aircraft under the regulations. C. Regulatory Analysis: Not required D. Need: Experience indicates that these proposed regulations are necessary to replace the current regulations with clearer regulations that are based upon safety, rather than economic criteria. E. Legal Basis: Secs. 313(a) and 601-610 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a) and 1421-1430) and Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)). F. Chronology: Project approved in March 1978 G. Citation: 14 CFR Pt. 91	William J. Sullivan, (202)755-8716.	NPRM August 1979.
Aircraft Cabin Ozone Contamination (Docket No. 16854).	A. Description: Proposed revision to limit the concentration of high altitude ozone allowed in an aircraft cabin. B. Why Significant: The proposal is considered a significant project because it involves an area of substantial public interest and will be controversial. C. Regulatory Analysis: Not required D. Need: To alleviate physical discomfort to crewmembers and passengers, due to ozone gas, on high altitude flights. E. Legal Basis: Secs. 313, 601, 603, and 604, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354, 1421, 1423, and 1424); and Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)). F. Chronology: In the winter of 1976, the FAA became aware of crew and passenger complaints of discomfort on high altitude flights and in March 1977 ozone gas was believed to be the probable cause. An Advisory Circular, No. 00-52, Ozone Irritation During High Altitude Flight, was published July 21, 1977, defining ozone, its causes, and its symptoms. On May 26, 1977, FAA initiated a project to study the short and long term health effects of exposure to high altitude ozone. An ANPRM was issued on October 6, 1977 (42 FR 54427), seeking information from all interested persons. A NPRM was issued on September 27, 1978 proposing specific airplane cabin ozone concentration standards and was published in the Federal Register on October 5, 1978 (43 FR 46034). The closing date for comments was Jan. 5, 1979. G. Citation: 14 CFR Pts. 25 and 121	William J. Sullivan, (202)755-8716.	FR October 1979.
Review: Operations Review Notice No. 7 (Docket No. 17669).	A. Description: Proposes to revise the flight and duty time limitations and rest requirements for flight crewmembers used by domestic, flag, and supplemental air carriers, commercial operators of large aircraft, and air travel clubs.	William J. Sullivan, (202)755-8716.	FR September 1979.

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Significant Regulations—Continued

Title	Summary	Contact	Decision date
Review: Operations Review Notice No. 14.	B. Why Significant: This proposal is considered a significant regulation because of the controversy associated with the complexity and enforcement problems of the current rules.	William J. Sullivan (202)755-8716.	NPRM November 1979.
	C. Regulatory Analysis: Not required.....		
	D. Need: This proposal is needed to eliminate the complexity of the current regulations and to assure that flight and duty time limitations are based upon today's operating environment.		
	E. Legal Basis: Secs. 313(a), 601, and 604 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 and 1424) and Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).		
Review: Airworthiness Review Amendments No. 8 Miscellaneous Cabin Safety Amendments (Docket No. 14779).	F. Chronology: The proposals contained in this notice are based on related proposals discussed at the December 1975 Operations Review Conference. The notice was published in the Federal Register on February 27, 1978 (43 FR 8070), with a closing date of May 30, 1978, for public comments. The initial comment period was extended by supplemental notice on May 25, 1978 (43 FR 22540), to July 14, 1978, with reply comments allowed on or before August 18, 1978.	William J. Sullivan (202)755-8716.	FR October 1979.
	G. Citation: 14 CFR Pts. 121 and 123.....		
	A. Description: Proposes to establish regulations for flight and duty time limitations and rest requirements for flight attendants used by domestic, flag, and supplemental air carriers, commercial operators of large aircraft and air travel clubs.		
	B. Significant: This proposal is considered a significant regulation because there is substantial public interest in it.		
	C. Regulatory Analysis: Not required.....		
	D. Need: Because flight attendants perform important duties relating to the safety of flight, flight and duty time limitations and rest requirements are necessary to prevent excessive fatigue from adversely affecting the performance of those duties.		
	E. Legal Basis: Secs. 313(a), 601, and 604 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 and 1424) and Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).		
	F. Chronology: The proposals contained in this notice are based on related proposals discussed at the December 1975, Operations Review Conference.	William J. Sullivan (202)755-8716.	FR October 1979.
	G. Citation: 14 CFR Pts. 121 and 123.....		
	A. Description: Proposed amendments to improve and update the airworthiness standards contained in the regulations that apply to crewmember seat restraints, flight attendant seat locations, and the use of fire resistant materials.		
	B. Why Significant: This group of amendments is considered significant because it includes a number of costly and controversial amendments (dealing generally with cabin safety) that require modification of aircraft in service.		
	C. Regulatory Analysis: Not required.....		
	D. Need: The need to update and improve the Federal Aviation Regulations as covered in this group of amendment, was emphasized at public conferences held in conjunction with the Airworthiness Review Program.		

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA AND REVIEW LIST

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Significant Regulations—Continued

Title	Summary	Contact	Decision date
Review: Airport Aid Program.....	E. Legal Basis: Secs. 307, 313(a), 502, 601, 603, 604, and 605 of the Federal Aviation Act of 1958 (49 U.S.C. 1348, 1354(a), 1402, 1421, 1423, 1424, and 1425).	Paul Galis, (202)426-3451.	NPRM July 1979.
	F. Chronology: Notice 75-31 (40 FR 29140) appeared in the Federal Register on July 11, 1975. The final amendment is being prepared.		
	G. Citation: 14 CFR Parts 23, 25, 29, 91, and 121.....		
	Description: Proposed amendment to simplify and clarify requirements for receipt of aid and to implement certain provisions of the Airport and Airway Development Act Amendments of 1976.		
Administrative User Charges. (Docket No. 19110).	<i>This proposal has been reclassified as a non-significant regulation. It is now listed in the non-significant portion of this Agenda.</i>	John M. Rodgers, (202)426-3420.	FR October 1979.
	A. Description: This notice proposes to revise existing FAA fees for aircraft registration and for recording conveyances affecting title to, or any interest in, aircraft. In addition, it proposes to establish fees for FAA certification of pilots, instructors, and other airmen, including medical certification. It is intended that this proposed rule will provide for the recovery of expenses that the FAA incurs in these activities. The proposed action would be in accordance with the sense of the Congress.		
	B. Why Significant: This proposal is considered a significant project because it involves an area of substantial public interest and controversy.		
	C. Regulatory Analysis: Not required.....		
Wind Shear.....	D. Need: This proposal will provide for the recovery of expenses that the FAA incurs in these activities and is in accordance with the sense of Congress.	William J. Sullivan, (202)755-8716.	NPRM March 1980.
	E. Legal Basis: Secs. 313, 503, 505, 601, 602, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354, 1401, 1403, 1421, and 1422); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c), Title V); Independent Offices Appropriation Act of 1952 (31 U.S.C. 483(a)).		
	F. Chronology: NPRM published on April 20 (43 FR 16924). The closing date for comments was July 19, 1978.		
	G. Citation: 14 CFR Pts. 47, 49, 61, 63, 65, 67, 143, and 187.		
	A. Description: Proposed revision to require all large passenger-carrying aircraft be equipped with a device that will display wind shear information to the pilots.		
	B. Why Significant: This action is considered a significant project because it will generate substantial public interest and will be controversial.		
	C. Regulatory Analysis: Not required.....		
	D. Need: As a result of several accidents involving wind shear, the FAA believes it is necessary to identify equipment that will enable pilots to identify low level wind shear conditions.		
	E. Legal Basis: Secs. 313(a), 601 and 604 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 and 1424) and Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).		

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Title	Summary	Contact	Decision date
*Controlled Visual Flight. (Docket No. 78605).	F. Chronology: In 1975, the FAA began a two year effort to develop a wind shear program. As part of the program, FAA began work to develop wind shear warning and pilot aiding devices which has achieved encouraging results. Following the initial announcement of this proposal it was determined that a regulatory analysis would not be required; however, an evaluation will be made and docketed. The ANPRM was published on 5/3/79 with the comment period closing 8/3/79 (44 FR 25807). G. Citation: 14 CFR Pt. 121 A. Description: Proposed air traffic control of VFR (visual flight rules) aircraft between 10,000 feet (or 12,500 feet) and 18,000 feet, with following actions to add 44 new TCAs (terminal control areas) and raise the tops of 21 existing TCAs. B. Why Significant: The proposed revision is considered to be significant because there is substantial public interest. C. Regulatory Analysis: Not required D. Need: To respond to near midair collision data showing that a high percentage of incidents involving air carriers also involve aircraft that are unknown to air traffic control and that, therefore, cannot be positively separated by air traffic control. E. Legal Basis: Secs. 305, 306, 307, 313(a), 601, and 1110 of the Federal Aviation Act of 1958. (49 U.S.C. 1346, 1347, 1348, 1354(a), 1421, and 1522). F. Chronology: The proposed regulation was set forth in a NPRM published on Jan. 4, 1979 (44 FR 1322). Comment period extended until April 4, 1979. G. Citation: 14 CFR Pt. 91	William Broadwater, (202)426-3731.	FR September 1979.

FAA NON-SIGNIFICANT REGULATIONS

Third Attitude Gyro	Proposed amendment to add flight instrument requirement for all multiengine turbojet powered airplanes not already required to have a third gyroscopic attitude instrument independently powered in case of total aircraft electrical failure. (914 CFR pts. 23, 25, 91 and 121).	William J. Sullivan, (202)755-8716.	NPRM August 1979.
Export Airworthiness Approvals (Docket No. 17147).	This amendment (1) provides for the issuance of export certificates of airworthiness for unassembled normal category rotorcraft, and (2) provides for the issuance of export airworthiness approvals for aeronautical products that do not meet certain requirements if the importing country agrees to accept the products in such condition. The NPRMs were published on 9/1/77 (42 FR 43985) and 12/1/77 (42 FR 61048). The amendment was published on 3/15/79 (44 FR 15648). (14 CFR Pt. 21).	William J. Sullivan, (202)755-8716.	Action Complete.
Review: Aircraft Engine Regulatory Notice (Docket No. 16919).	Proposed amendment to resolve a number of regulatory issues raised by engine manufacturers and to update those standards. (14 CFR Pts. 23, 25, 27, 29 and 33).	William J. Sullivan, (202)755-8716.	NPRM November 1979.
Instrument Approach Procedures.	Proposed rule to clarify prescribed conditions for approach and landing under specified weather conditions. (14 CFR Pts. 91 and 121).	William J. Sullivan, (202)755-8716.	NPRM August 1979.
Triennial Aircraft Registration Report (Docket No. 18958).	Proposed rule to establish a requirement that holders of Certificate of Aircraft Registration file a report with the FAA Aircraft Registry on the current eligibility of the aircraft for registration, whenever three years have elapsed since the Registry has received information indicating registration eligibility. The NPRM was published 4/26/79 (44 FR 24573). (14 CFR Pt. 47).	Virginia Swimmer, (405)686-2284.	FR November 1979.

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA AND REVIEW LIST

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Federal Aviation Administration

Non-Significant Regulations—Continued

Title	Summary	Contact	Decision date
Controlled Visual Flight (Docket No. 18605).	Proposed revision to provide a means of improving air traffic control separation of aircraft above 12,500 feet. The NPRM was published on Jan. 4, 1979 (44 FR 1381) (14 CFR Pt. 91). (This regulation has been reclassified as a significant regulation. It is now listed in the significant portion of this Agenda).	Maurice Taylor, (202)426-3128.	FR September 1979.
Airport Noise Regulations (Docket No. 16279).	Environmental Protection Agency's proposed revision to require airport noise certification as a condition for Airport and Airway Development Act funding. The NPRM was published on 11/22/76 (41 FR 51522). (14 CFR Pt. 91).	Jim Densmore, (202)755-9468.	FR September 1979.
Review: Operations Review Notice No. 11.	Proposed revision to update and improve the rules applicable to mechanic certification, repair stations and aircraft equipment. (14 CFR Pts. 121, 145, and 183).	William J. Sullivan, (202)755-8716.	NPRM July 1979.
Review: Operations Review Notice No. 12.	Proposed extensive revisions to update and improve regulations applicable to aircraft maintenance, preventive maintenance, rebuilding and alteration of aircraft. (14 CFR Pts. 43 and 91).	William J. Sullivan, (202)755-8716.	NPRM September 1979.
Review: Operations Review Notice No. 13.	Proposed miscellaneous revisions and other editorial and clarifying changes to 14 CFR Pts. 43, 63, 65, 91, 105, 121, 123, 127, 143, 445, and 147.	William J. Sullivan, (202)755-8716.	NPRM November 1979.
Review: Operations Review Amendment No. 8 (Docket No. 17897).	Proposed amendment to update and improve airmen and crewmembers rules, training programs, flight operations, dispatching, records and reports of air carriers and commercial operators and scheduled air carriers with helicopters. NPRM published on 5/11/78 with comment period closing on 9/25/78 (43 FR 35518, 8/10/78) (14 CFR Pts. 121 and 127).	William J. Sullivan, (202)755-8716.	FR August 1979.
Review: Operations Review Notice No. 9 (Docket No. 18241).	Proposed revision to update and improve equipment, maintenance, and operating rules of aircraft, airmen certification, certificated operators and agencies, flight attendants and training requirements. The NPRM was published on 8/17/78 (43 FR 36464). (14 CFR Pts. 63, 65, and 121).	William J. Sullivan, (202)755-8716.	FR November 1979.
Review: Operations Review Notice No. 10 (Docket No. 18247).	Proposes revision to update and improve the equipment and operating rules of aircraft operated by scheduled air carriers of large aircraft and agricultural aircraft operators. The NPRM was published on 8/24/78 (43 FR 37958). (14 CFR Pts. 25, 123, 127, and 137).	William J. Sullivan, (202)755-8716.	FR November 1979.
Review: Operations Review Program (Docket No. 16220).	This amendment covers actions on certain proposals presented during the 1975-76 Operations Review Program. The NPRM was published on 10/26/76 (41 FR 46875). The amendment was published 3/15/79 (44 FR 15654). (14 CFR Pt. 91).	William Broadwater, (202)426-3731.	Action Complete.
Review: Part 91 Notice (Docket No. 16431).	The agency conducted a Regulatory Review Conference of 14 CFR Part 91, Subpart B, in September 1977, in order to update that part. This action will cover all proposals covered by the review except for lost communications. (14 CFR Pt. 77).	William Broadwater, (202)426-3731.	NPRM January 1980.
Review: Part 91 Review Lost Communications (Docket No. 16431).	The FAA conducted a Regulatory Review Conference of 14 CFR Pt. 91 Subpart B, in September 1977, in order to update that Part. This action will cover the special proposal on lost communications.	William Broadwater, (202)426-3731.	NPRM February 1980.
Pearson Airpark. (Docket No. 18311).	Proposal to exclude persons from the requirement of communicating with Portland Tower while operating in the Pearson Airpark Traffic Pattern. The NPRM was published on Sept. 28, 1978 (43 FR 44549). (14 CFR Pt. 93). Note: Further action suspended pending decision on Portland Terminal control area.	William Broadwater, (202)426-3731.	FR June 1980.
Review: Objects Affecting Navigable Airspace (Docket No. 16920).	Proposal to amend regulations including areas such as notice requirements, obstruction standards, aeronautical studies, determinations, antenna farm areas and discretionary review/petition procedures. Notice of Review was published on 6/19/78 (43 FR 26322). (14 CFR Pt. 77).	O. E. Falsetti, (202)426-8777.	NPRM October 1979.

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA AND REVIEW LIST

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Title	Summary	Contact	Decision date
Reimbursement of Security Screening Costs (Docket No. 17326).	Proposes a procedure for compensating air carriers for certain security screening costs in foreign air transportation. The NPRM was published on 10/31/77 (42 FR 56957). (14 CFR Pt. 121).	R. P. Jones, (202)426-8409.	FR August 1979.
Registration of Aircraft by Resident Aliens (Docket No. 18604).	Proposed revision to comply with Section 14 of P.L. 95-163 enacted by Congress effective November 9, 1977, amended March 8, 1978, which provides for United States registration of aircraft by resident aliens and by corporations which do not qualify for registration as citizens. The NPRM was published on January 2, 1979. (44 FR 63) (14 CFR Pt. 47).	Florine G. Crockett, (405)686-2284.	FR August 1979.
Civil Helicopter Noise Certification (Docket No. 13410).	This project would establish noise certification levels and procedures for civil helicopters. An ANPRM was published 12/28/73, (38 FR 35487). (14 CFR Pt. 36).	James Densmore, (202)755-9468.	NPRM July 1979.
Designated Manufacturing Inspection Representatives (Docket No. 16622).	Proposed rule to permit designated manufacturing inspection representatives (DMIR's) to conduct evaluation inspections and to perform all of their authorized functions outside the manufacturing plant at which they are employed. The NPRM was published on 4/7/77 (42 FR 18407). (14 CFR Pt. 183).	William J. Sullivan, (202)755-8716.	FR July 1979.
Identification (ID) Plates (Docket No. 15977).	Proposed rule to prohibit the removal, change, or placement of information on identification plates required by the regulation and the removal and installation of ID plates on aircraft, aircraft engines, propellers, and propeller blades and hubs, without the approval of the Administrator. The NPRM was published on 8/12/78 (41 FR 34076). (14 CFR Pt. 45).	William J. Sullivan, (202)755-8716.	FR July 1979.
Implementation of OMB Circular A-95 (Docket No. 17337).	Final procedures and regulations implementing OMB Circular A-95 (coordination of Federal assistance programs with State, areawide, and local planning agencies), based on public comment on interim procedures in Special Federal Aviation Regulation 35 (42 FR 59476, 11/17/77). (14 CFR Pt. 152).	Edward F. Rancourt, (202)426-8090.	FR September 1979.
Implementation of Energy Policy (Docket No. 16617).	Implementation of the Energy Policy and Conservation Act. The NPRM was published on 3/31/77 (42 FR 17135). (14 CFR Pt. 11).	Cynthia Zook, (202)426-3420.	FR September 1979.
Review: Update of Part 139	Revision of 14 CFR Part 139 to update and clarify the part including fire-fighting and rescue requirements. (14 CFR Pt. 139).	Harry Hink, (202)426-3087.	NPRM December 1979.
Experimental Certificates (Docket No. 18739).	Proposed revision to 14 CFR Part 21 to allow special airworthiness certificates for air racing, exhibition and amateur built aircraft to be issued for periods in excess of one year. (14 CFR Pt. 21). The NPRM was published on 3/5/79 (43 FR 12042).	William J. Sullivan, (202)755-8716.	FR October 1979.
Foreign Airman Certificate (Docket No. 19300).	Proposed revisions to provide for the issuance of special purpose airman certificates to foreign pilots and other flight crew members to permit those persons to operate U.S. registered civil aircraft leased by foreign operators for carriage of persons and property for compensation or hire. (14 CFR Pts. 61 and 63).	William J. Sullivan, (202)755-8716.	NPRM July 1979.
Determination of Aircraft Approach Categories (Docket No. 17538).	This amendment eliminates the use of maximum certificated landing weight as a criterion for grouping aircraft in approach categories in order to facilitate aircraft categorization and simplify determination of landing minimums. The NPRM was published on 1/12/78 (43 FR 1803). Amendment published on 3/15/79 (44 FR 15659). (14 CFR Pt. 97).	William J. Sullivan, (202)755-8716.	Action Complete.
Delayed Landing Flap Procedure for Turbojet-Powered Airplanes (Docket No. 15020).	Proposed regulation would require that landing flap setting for turbojet-powered airplanes be delayed until at or below 1,000 feet above airport elevation for purpose of noise abatement on approach and landing. The NPRM was published on 11/29/76 (41 FR 52396). (14 CFR Pt. 91).	William J. Sullivan, (202)755-8716.	FR October 1979.

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA AND REVIEW LIST

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Title	Summary	Contact	Decision date
Publication of Petitions for Rule Making and Exemptions (Docket No. 18142).	This Amendment established procedures for the publication in the Federal Register of summaries of certain petitions for rule making and exemptions. The Amendment also provides for publication of summaries of denials of petitions for rule making and summaries of grants and denials of petitions for exemptions. The NPRM was published on July 24, 1978 (43 FR 31936). The Amendment was published on Feb. 5, 1979 (44 FR 6897). (14 CFR Pt. 11).	Edward P. Faberman, (202)426-3073.	Action Complete.
Protective Breathing Equipment	Proposed rule to establish minimum performance standards and operating rules for protective breathing equipment. (14 CFR Pts. 25, 29, 37, 91 and 121).	William J. Sullivan, (202)755-8716.	NPRM January 1980.
Supplemental Oxygen	Proposed rule to permit certain widebody turbojet airplanes to operate up to flight level of 45,000 feet above sea level without requirements for the pilot to use supplemental oxygen. (14 CFR Pts. 25, 29, 37, 91, and 121).	William J. Sullivan, (202)755-8716.	NPRM November 1979.
Type Certification Standards (Docket No. 17914).	Proposed revision of Special Federal Aviation Regulation 13 as applicable to DC-3 airplanes to provide a basis for approval of the installation of three turbo-propeller engines in place of two reciprocating engines. The NPRM was published on 5/22/78 (43 FR 21900) (14 CFR Pt. 25; SFAR 13).	William J. Sullivan, (202)755-8716.	FR September 1979.
Aircraft Wheels and Wheel-Brake Assemblies (Docket No. 18564).	Proposal to upgrade the requirements for wheels and brakes for small and transport airplanes. The NPRM was published on 12/7/78 (43 FR 57261). (14 CFR Pts. 23, 25 and 37).	William J. Sullivan, (202)755-8716.	FR November 1979.
Aircraft Tires (Docket No. 18887)	Proposal to determine if aircraft tire standards in the regulations should be upgraded, and, if so, the details of the upgrading. The NPRM was published on 3/19/79 (44 FR 16430). (14 CFR Pt. 37).	William J. Sullivan, (202)755-8716.	FR August 1979.
Review: Part 135 Regulatory Review Program: Additional Airworthiness Requirements for 10 or More Passenger Small Airplanes Over 12,500 Pounds (Docket No. 18315).	Proposed amendment to the airworthiness standards for certain turbopropeller powered multiengine small airplanes to allow their certification and operation at weights above 12,500 pounds. The NPRM was issued on September 26, 1978 (43 FR 46734, October 10, 1978). (14 CFR Pt. 135).	William J. Sullivan, (202)755-8716.	FR September 1979.
Review: Metropolitan Washington Airports Regulations.	Proposed revision to reflect changed operational conditions and policies and to simplify, clarify and consolidate the regulations pertaining to the National Capital Airports. (14 CFR Pt. 159).	Charles Anderson, (703)557-1433.	NPRM September 1979.
Takeoff Limitations	Proposed amendment to establish compensating factors for use in determining runway lengths and accelerate stop distances required for takeoff from wet runways. (This proposed regulatory action has been cancelled.) (14 CFR Pts. 25, 121).	William J. Sullivan, (202)755-8716.	Withdrawn.
Miscellaneous Minor Amendments.	Proposed nonsubstantive amendments that are routine, editorial and clarifying in nature. (14 CFR pts. 23, 25, 37, 45, 61, 63, 65, 91, and 121).	William J. Sullivan, (202)755-8716.	NPRM November 1979.
Aircraft Owners and Pilots Association (AOPA) Petition to Revise Part 91 (Docket No. 18334).	Proposed amendment based upon AOPA petition to revise regulations in a format and language more understandable by pilots. The petition states that the proposed changes are not intended to significantly change the substance of the present regulations. An ANPRM was published on Jan. 22, 1979. (44 FR 4571). (14 CFR Pt. 91).	William J. Sullivan, (202)755-8716.	NPRM January 1980.
Foreign Airman Certification	Proposed amendments to establish priorities for processing applications by foreign airmen for U.S. Airman Certificates. (14 CFR Pts. 61, 63, 65, and 67).	William J. Sullivan, (202)755-8716.	NPRM October 1979.
Review: Airworthiness Review Amendment No. 9 Minimum Equipment Lists (Docket No. 14607).	Proposed amendment to specify the conditions under which multiengine aircraft may be operated under Pt. 91 with certain instruments and equipment inoperable. The NPRM was published on May 20, 1975 (40 FR 22110). (14 CFR Part 91).	William J. Sullivan, (202)755-8716.	FR July 1979.

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA AND REVIEW LIST

AGENDA

FAA

Federal Aviation Administration
Non-Significant Regulations—Continued

Title	Summary	Contact	Decision date
Procedures for Filing Complaints and Formal Fact Finding Investigations (Docket No. 18884).	Proposed rules and procedures for the filing of formal complaints for orders of compliance and for conducting formal fact-finding investigations under the Federal Aviation Act of 1958, the Airport and Airways Development Act of 1970 and the Hazardous Materials Transportation Act. The NPRM was published 3/19/79 (44 FR 16424). (14 CFR Pt. 13).	Jonathan Howe, (202)426-3775.	FR September 1979.
*Extension of Time for Radiation Surveys of Airport X-Ray Inspection Cabinets.	Proposed amendment to extend the time required for surveys of baggage X-Ray Inspection Cabinets from every six months to every twelve months. The proposal is based on a Air Transport Association of America (ATA) petition for rulemaking. (14 CFR Part 121).	Theo Tsacouris, (202)755-8715.	NPRM August 1979.
*Aircraft Loan Guarantee Program (Docket No. 18694).	Proposed regulation to comply with Public Law 95-504 which amended the Act relating to the FAA's Aircraft Loan Guarantee Program. The NPRM was published on January 25, 1979 (44 FR 5153) (14 CFR Part 199).	Richard Smith, (202)426-3480.	FR August 1979.
*Noise Standards for Propeller Driven Agricultural and Fire-fighting airplanes (Docket No. 16382).	Proposed regulation to restrict the operation of agricultural and firefighting airplanes which do not comply with the noise limits of Appendix F of 14 CFR Part 38. The NPRM was published on December 23, 1976 (41 FR 56065). (14 CFR Parts 21, 36, and 91).	James Densmore, (202)755-9468.	FR July 1979.
*Miscellaneous Amendments (Docket No. 16097).	Proposed minor amendments that are clarifying or corrective in nature. The Amendment was published 5/7/79 (44 FR 6757) (14 CFR Parts 121 and 135).	William J. Sullivan, (202)755-8716.	Action Complete.
*Recording of Aircraft Titles and Security Documents—Notice of Lien (Docket No. 14236).	Proposed amendment to prescribe specific procedures for filing Notice of Lien with the Aircraft Registry. This proposal would also require release of the Notice filed upon satisfaction of the lien. The NPRM was published January 13, 1975. (40 FR 2445) (14 CFR Part 49).	Virginia Swimmer, (405)686-2284.	FR November 1979
*Lithium Sulfur Dioxide Batteries Technical Standard Order (Docket No. 18889).	This proposed Technical Standard Order (TSO) is intended to provide such tests and mandatory design standards that will preclude the hazards associated with LiSO ₂ batteries with respect to leaking, burning, and exploding. The NPRM was published 3/26/79 (44 FR 24778). (14 CFR Parts 37 and 39).	William J. Sullivan, (202)755-8716.	FR August 1979.
*Cessna Finance Petition.....	Petition for rulemaking to amend Part 47 to provide all persons who hold a security interest in aircraft the same protection now afforded the seller of an aircraft under a conditional sales contract. (14 CFR Pt. 47).	Virginia Swimmer, (405)688-7284.	FR November 1979.
*Review: Airport Aid Program.....	Revision of 14 CFR Part 152 to update airport aid requirements in accordance with Airport and Airway Development Act Amendments of 1976. (14 CFR Pt. 152).	Paul Galis, (202)426-3050.	NPRM July 1979.
*Indirect Cost as an Allowable ADAP Project Cost.	Proposed revision to Section 152.47(c)(6) of FAR Part 152 and Appendix J thereto to make indirect cost an allowable project cost under the ADAP. (14 CFR Pt. 152).	Jack Cole, (202)426-3057.	FR July 1979.
*Security Requirements Applicable to U.S. Commuter Air Carriers Certificate Holders.	Proposed rule to implement safety standards mandated by the Airline Deregulation Act of 1978, and insure that commuter air carrier passengers enjoy the same level of security as persons traveling on air carriers holding Certificates of Public Convenience and Necessity from the CAB. (14 CFR Pt. 121)..	R. P. Jones, (202)426-8409.	NPRM August 1979.
*Heater Air Ducts.....	Proposed rule to require that ventilating and combustion air ducts be made of fireproof materials whenever such ducts are located near combustion heaters. (14 CFR Pt. 23)..	William J. Sullivan, (202)426-8716.	NPRM December 1979.
*Blood Alcohol Level Tests.....	Proposed rule would subject Certificated Flight Crewmembers suspected of being under the influence of alcohol to blood-alcohol tests and establish a specific blood-alcohol content level at which a pilot is considered to be intoxicated. (14 CFR Pts. 61 and 91).	William J. Sullivan, (202)426-8716.	NPRM November 1979.

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA AND REVIEW LIST

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FAA

Federal Aviation Administration
Non-Significant Regulations—Continued

Title	Summary	Contact	Decision date
*1980 Winter Olympics Temporary Flight Restriction.	Proposed Special Federal Aviation Regulation (SFAR) relative to the 1980 Olympic Games covering radio communications requirements and temporary flight restriction in the Clinton County/Plattsburgh area. (14 CFR Pts. 91 and 93).	William Broadwater, (202)426-3731.	NPRM July 1979.
*Review: Airworthiness Review Amendment No. 8 Miscellaneous and Procedural Amendments (Docket No. 14779).	Proposed amendments to improve and update the airworthiness standards contained in the regulations that apply to the type certification of aircraft, engines, propellers, related operating and maintenance rules, and procedural requirements. The NPRM was published July 11, 1975. (40 FR 29140) 14 CFR Pts. 1, 21, 26, 27, 31, 33, 35, 43, and 45.).	William J. Sullivan, (202)755-8716.	FR December 1979.
*Microwave Landing System (MLS).	Proposed rule to recognize the MLS selected by ICAO and to prescribe measuring standards and procedures for the approval, installation, operation, and maintenance of such systems on non-Federal navigation facilities. (14 CFR Pt. 171).	Edward Hanlon, (202)426-8634.	NPRM September 1979.

FAA

Federal Aviation Administration

Routine and Frequent Non-significant Regulations

Title	Summary		Contact	Decision date
	Approximate number			
Other items:				
Part 95 Instrument Flight Rules Altitudes.	2,500	William J. Sullivan, (202)755-8716.	July 1, 1979–June 30, 1980.	
Airworthiness Directives	300	William J. Sullivan, (202)755-8716.	July 1, 1979–June 30, 1980.	
Standard Instrument Approach Procedures.	2,800	William J. Sullivan, (202)755-8716.	July 1, 1979–June 30, 1980.	
Airspace Actions	525	William Broadwater, (202)426-3731.	July 1, 1979–June 30, 1980.	

FHWA

Federal Highway Administration

Significant Regulations

Title	Summary	Contact	Decision date
Review: Outdoor Advertising Control and Acquisition.	A. Description: This regulation would provide a definition of "effective control" of outdoor advertising per 23 U.S.C. 131. It would also set further requirements for signs exempt from control under the statute and establish the basic framework for State development of police power regulations and procedures. The regulation would also outline the requirements for Federal participation in the acquisition of compensable nonconforming outdoor advertising devices. B. Why Significant: This proposal may involve substantial public interest and is controversial and involves important Department policy. C. Regulatory Analysis: Not Required.....	Richard Moeller, (202)245-0021.	NPRM December 1979 FR April 1980.

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA AND REVIEW LIST
AGENDAFHWA
Federal Highway Administration
Significant Regulations—Continued

Title	Summary	Contact	Decision date
	D. Need: This regulation is necessary for the maintenance of national uniformity in the outdoor advertising control program. Since 23 U.S.C. 131 is regulatory in nature, it is necessary to establish and maintain minimum Federal program requirements. E. Legal Basis: 23 U.S.C. 131, 148, and 315; 49 CFR 1.48.... F. Chronology: The proposal involves the consolidation of two existing regulations, 23 CFR pt. 750, subpts. D and G, and one interim regulation 23 CFR pt. 750, subpt. E. The regulations have been in effect since September 16, 1975 and July 29, 1974, respectively. The interim regulations have been in effect since October 18, 1976. The proposed consolidation will be issued as an NPRM. <i>An ANPRM published April 30, 1979 (44 FR 25387) and a Notice published May 17, 1979 (44 FR 28946) announced public hearings as part of an overall review of the Highway Beautification Program. These currently proposed regulations may be modified as a result of this review.</i> Citation: 23 CFR pt. 750, subpt. C. (FHPM 7-6-2).....		
Review: Air Quality Guidelines.....	A. Description: The regulation would establish administrative procedures on: (1) funding sanctions, (2) conformity of highway plans, programs, and projects with air quality implementation plans, and (3) priority to highway improvements with air quality benefits during an interim period. This regulation will be in addition to existing FHPM 7-7-9, Air Quality Guidelines. B. Why Significant: This regulation is considered significant because it affects another Federal agency and may be controversial. C. Regulatory Analysis: Not Required..... D. Need: Currently, administrative procedures on funding sanctions, priority of highway improvements with air quality benefits, and conformity of highway plans, programs, and projects with air quality implementation plans are lacking. These regulations are a result of the Clear Air Act Amendments of 1977 which became law in August 1977. E. Legal Basis: Clear Air Act Amendments of 1977. (42 U.S.C. 7401). F. Chronology: <i>A joint EPA/FHWA Notice on Sec. 176(a) of the Clear Air Act Amendments, which covers only project approval sanctions, was published June 11, 1979 (44 FR 33473). An NPRM proposed for September 1979 would provide regulations on Sections 176(c) conformity with air quality implementation plans, and 176(d) priority to improvements with air quality benefits.</i> G. Citation: 23 CFR pt. 770. (FHPM 7-7-9-1).....	Harter M. Rupert, (202)426-4836.	NPRM 9/79.
Employee Safety and Health Standards (Docket No. MC-64).	A. Description: This regulation would provide safety and health standards to govern employees engaged in the operation, maintenance, and loading and unloading of motor vehicles, designed to eliminate uncertainty with regard to the jurisdictional authority of the Occupational Safety and Health Administration (OSHA). B. Why Significant: This proposal may have a significant impact on OSHA.	Gerald J. Davis, (202)426-9767.	FR October 1979.

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA AND REVIEW LIST
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Federal Highway Administration
Significant Regulations—Continued

Title	Summary	Contact	Decision date
	C. Regulatory Analysis: Not Required..... D. Need: These standards are designed to eliminate uncertainty with regard to the jurisdictional authority of the OSHA and to improve safety and health standards for employees of motor carriers. E. Legal Basis: 49 U.S.C. 304 and 1655..... F. Chronology: An NPRM was issued March 2, 1978 (43 FR 8566) and the closing date for the comment period was May 31, 1978. A Notice on June 9, 1978 (43 FR 25145) extended the comment period to June 30, 1978. G. Citation: 49 CFR pt. 399.....		
Minimum Cab Space Dimensions (Docket No. MC-79).	A. Description: This regulation would specify minimum size for the cab portion of the regulated commercial vehicles manufactured after a certain date. B. Why Significant: This proposal has the potential of being costly if extensive changes to cab configuration become necessary. C. Regulatory Analysis: Required..... D. Need: Changes in truck technology and maximum limitation on size by States have led to the development of reduced cab space in favor of increased cargo space to remain within State length limitations. The impact on safe operations and driver work place may be negatively affected. E. Legal Basis: 49 U.S.C. 304 and 1655..... F. Chronology: An ANPRM was issued on February 14, 1978 (43 FR 6273). Comment period closed on July 14, 1978. G. Citation: 49 CFR pt. 393.....	D. W. Morrison, (202)426-1700.	NPRM September 1979.
Review: State Highway Agency Equal Employment Opportunity Programs.	A. Description: This regulation would set forth Federal Highway Administration (FHWA) Federal-aid policy and FHWA and State responsibilities relative to a State highway agency's internal equal employment opportunity program and to assuring compliance with the equal employment opportunity requirements of Federally assisted highway construction contracts. B. Why Significant: There is substantial public interest relative to this regulation. C. Regulatory Analysis: Not Required..... D. Need: To set forth responsibilities for State highway agencies' equal employment opportunity programs and to ensure compliance with the equal opportunity requirements of Federal assisted highway construction contracts. E. Legal Basis: 23 U.S.C. 140(a); Executive Order 11246 as amended. F. Chronology: <i>The Department Office of Civil Rights is developing a directive consolidating similar EEO requirements for States by DOT Administrations.</i> G. Citation: 23 CFR pt. 230, subpt. C. (FHPM 2-2-2).....	Ted. B. Sennett, (202)426-0693.	Withdrawn.

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DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA AND REVIEW LIST
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FHWA Federal Highway Administration
Significant Regulations—Continued

Title	Summary	Contact	Decision date
Review: Construction Contract Equal Opportunity Compliance Procedures.	A. Description: This regulation would prescribe policies and procedures to standardize the implementation of the equal opportunity contract compliance program, including compliance reviews, consolidated compliance reviews, and the administration of areawide plans. B. Why Significant: There is substantial public interest relative to this regulation. C. Regulatory Analysis: Not Required..... D. Need: To standardize the implementation of the equal opportunity contract compliance program. E. Legal Basis: Executive Order 11246, as amended, 23 U.S.C. 112(b) and 140(a). F. Chronology: The DOT/FHWA are in the process of negotiating a Memorandum of Understanding with the Department of Labor/Office of Federal Contract Compliance Programs relative to each agency's Executive Order 11246 and Title 23 responsibilities. G. Citation: 23 CFR pt. 230, subpt. D. (FHPM 2-2-3).....	Edward W. Morris, Jr., (202)245-0357.	NPRM December 1979.
Geometric Design Criteria for Resurfacing, Restoration, and Rehabilitation (R-R-R) of Streets and Highways Other Than Freeways (Docket No. 78-10).	A. Description: This regulation would contain criteria intended to provide additional flexibility in some of the basic geometric features of design, primarily those in which modification would result in appreciable savings in costs and other impacts while improving safety. B. Why Significant: This regulation is considered significant because the adoption of new design criteria specifically for R-R-R projects has proven to be controversial. C. Regulatory Analysis: Required..... D. Need: To implement the 1976 amendment to 23 U.S.C. 101 redefining "construction" to include resurfacing, restoration, and rehabilitation. Geometric design criteria are needed to effectively administer a R-R-R program for preservation work on the Federal-aid highway systems. E. Legal Basis: 23 U.S.C. 101, 109, 315, and 402; 49 CFR 1.48(b). F. Chronology: An ANPRM published in the <i>Federal Register</i> on August 25, 1977, (42 FR 42876) offered three alternatives. A Notice published in the <i>Federal Register</i> on October 28, 1977 (42 FR 56751) extended the comment period for the ANPRM to November 22, 1977. A notice of withdrawal of the ANPRM was published in the <i>Federal Register</i> on January 9, 1978 (43 FR 2734). Because of the adverse comments, all alternatives were rejected and FHWA decided to develop a new set of criteria for Resurfacing, Restoration, and Rehabilitation (R-R-R) projects. An NPRM was published on August 23, 1978 (43 FR 37556). A correction to the NPRM was published September 12, 1978 (43 FR 40539). A Notice published on October 19, 1978 (43 FR 48658) extended the comment period for the NPRM to January 4, 1979. On May 23, 1979 (44 FR 29921) FHWA published as a Notice a status report on the creation of an internal task force appointed to evaluate comments received on the NPRM and make recommendations to the Administrator. G. Citation: 23 CFR pt. 625	Alvin R. Cowan or Seppo Sillan, (202)426-0312.	Decision to be made as a result of further evaluation.

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA AND REVIEW LIST
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FHWA Federal Highway Administration
Significant Regulations—Continued

Title	Summary	Contact	Decision date
Certification of Motor Vehicle Size and Weight Enforcement (Docket No. 77-21).	A. Description: This is a proposed revision of existing regulations dealing with annual certifications by the States that all size and weight laws are being enforced. Anticipated is a requirement for an annual enforcement program against which the States' efforts could be measured at the end of the year. B. Why Significant: The regulation is significant because failure on the part of the State is cause for the withholding of Federal-aid highway project approval. C. Regulatory Analysis: Required..... D. Need: This regulation is needed to implement 23 U.S.C. 141, Enforcement of Requirements, as amended by the Surface Transportation Assistance Act of 1978. E. Legal Basis: 23 U.S.C. 141 F. Chronology: ANPRM was issued January 16, 1978, (43 FR 2683) with comments due April 15, 1978. Thirty comments were received. An NPRM was published March 14, 1979 (44 FR 15639), with comments due by June 12, 1979.. G. Citation: 23 CFR 658.9 (FHPM 6-8-5).....	Wm. F. Bauch, (202)426-1993.	FR September 1979.
Withdrawal of Interstate Segments and Substitution of Alternative Projects. (Docket No 77-9).	A. Description: This regulation would implement Sections 103(e)(2) and 103(e)(4) of Title 23 U.S.C., as amended by the Federal-Aid Highway Act of 1976 and the Surface Transportation Assistance Act of 1978 (STAA). Section 103(e)(2) provided for the withdrawal of nonessential Interstate routes and the substitution of alternative Interstate routes, however, the STAA amended this Section to prohibit the designation of any Interstate routes or portions thereof under the authority of this paragraph after the date of enactment of STAA. Section 103(e)(4) provides for the withdrawal of nonessential Interstate routes and the substitution of other transportation projects, both highway and nonhighway by dates specified in the Surface Transportation Assistance Act of 1978. NPRM August 1979..... B. Why Significant: There is substantial public interest and controversy concerning this proposal. C. Regulatory Analysis: Required..... D. Need: This regulation is needed to implement the provisions of 23 U.S.C. 103 enacted in the 1976 Federal-Aid Highway Act, as amended by the Surface Transportation Assistance Act of 1978. E. Legal Basis: 23 U.S.C. 103(e)(2) and 103(e)(4).....	FHWA L. A. Staron, (202)426-0404 or F. Calhoun, (202)426-0762. UMTA Richard White, (202)472-6991.	

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DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA AND REVIEW LIST
AGENDA

FHWA
Federal Highway Administration
Significant Regulations—Continued

Title	Summary	Contact	Decision date
Hours of Service of Drivers (Docket No. MC-70-1).	F. Chronology: The current substitution regulations were issued on June 12, 1974. The Federal-Aid Highway Act Amendments of 1974 and the Federal-Aid Highway Act of 1976 amended the original statutory provisions enacted by the Federal-Aid Highway Act of 1973. Provisions of the Surface Transportation Assistance Act of 1978 will be incorporated prior to issuing the NPRM. G. Citation: 23 CFR pt. 476 subpt. D and pt. 450. A. Description: The Federal Highway Administration (FHWA) is proposing a revision of the regulations pertaining to hours of service limitations for commercial vehicle drivers engaged in interstate or foreign commerce. B. Why Significant: This proposal may be controversial and could have a major cost impact on the motor carrier industry. C. Regulatory Analysis: Required. D. Need: This action is being taken in response to numerous petitions and requests from public interest groups, labor organizations, and individual drivers for the revision of these regulations. E. Legal Basis: 49 U.S.C. 304 and 1655.	Gerald J. Davis, (202)426-9767.	NPRM January 1980.
	F. Chronology: An ANPRM which stated that FHWA was considering an extensive review of the Hours of Service of Drivers regulation was published on February 12, 1976 (Docket MC-70, Notice 76-14, 41 FR 6275). A second ANPRM was issued on May 22, 1978 (43 FR 21905) setting forth three plans for comments. A notice of public hearings was published August 29, 1978 (43 FR 38608). Public hearings were held in 7 major cities. G. Citation: 49 CFR pt. 395.		
Commercial Motor Vehicle Inspection, Repair and Maintenance (Docket No. MC-48).	A. Description: FHWA has amended the regulation on Commercial Motor Vehicle Inspections, Repair and Maintenance to reduce vehicle defect related accidents caused by inadequate inspection and maintenance procedures. B. Why Significant: This proposal has generated substantial public interest. C. Regulatory Analysis: Required. D. Need: Roadside inspections of vehicles in operation in interstate commerce, supported by safety survey inspections at carrier facilities, indicate that carrier maintenance practices are less than satisfactory. This regulation will provide guidance for systematic vehicle inspection and maintenance by carriers and drivers in order to assure vehicle condition is satisfactory for safe operations. E. Legal Basis: 49 U.S.C. 304 and 1655.	Donnell W. Morrison, (202)426-1700.	Action Complete.
	F. Chronology: This amendment was issued as an NPRM on April 5, 1977 (42 FR 18105). Based upon review of public comments and data submitted as a result of the NPRM, the FR was modified to eliminate the potential of a major cost impact on the motor carrier industry. The Final Rule was published July 2, 1979 (44 FR 38523), to be effective August 31, 1979. G. Citation: 49 CFR pt. 396.		

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA AND REVIEW LIST
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FHWA
Federal Highway Administration
Significant Regulations—Continued

Title	Summary	Contact	Decision date
Review: Environmental Impact and Related Statements.	A. Description: This regulation would implement the National Environmental Policy Act and Section 138 of the Federal-Aid Highway Act. It would specify the procedures to be used by FHWA in the preparation and processing of Environmental Impact and Section 4(f) statements. B. Why Significant: These regulations will involve substantial public interest and controversy and will implement important Departmental policy. C. Regulatory Analysis: Not Required. D. Need: Executive Order 11991 authorizes the Council on Environmental Quality (CEQ) to issue regulations to implement the National Environmental Policy Act. E. Legal Basis: These revisions are required because of regulations which were promulgated by CEQ. F. Chronology: The CEQ regulations were published for public comment in the Federal Register on June 9, 1978 (43 FR 25230). Final CEQ regulations were published November 29, 1978 (43 FR 55978). It is anticipated that these joint FHWA/UMTA regulations will be ready for publication in the summer of 1979. G. Citation: 23 CFR pt. 771. (FHPM 7-7-2).	FHWA Dale Wilken, (202)426-4093. UMTA John Collins, (202)426-1908.	NPRM August 1979.
	A. Description: Revisions to these regulations would implement the provisions of Section 169 of the Surface Transportation Assistance Act of 1978, accommodate simplifying recommendations made by FHWA's Regulations Reduction Task Force, and implement the transportation planning aspects of the 1977 Clean Air Act Amendments. B. Why Significant: These are significant regulations since they significantly impact the Urban Mass Transportation Administration (UMTA) and involve important Department policy. C. Regulatory Analysis: Not Required. D. Need: Continuing review has identified areas where added flexibility will not impair effectiveness. Air quality planning must be included in accordance with the DOT-EPA Memorandum of Understanding. E. Legal Basis: 23 U.S.C. 104(f)(3), 134 and 315. F. Chronology: The recommendations of the FHWA Regulation Reductions Task Force were adopted in October 1977. Following agreement with UMTA and EPA, insofar as air quality is concerned, proposed regulatory changes will be prepared. G. Citation: 23 CFR pt. 450, subpt. A and C. (FHPM 4-4-2 and 4-4-6).		
Review: Urban Transportation Planning Process. Review: Transportation Improvement Program.	A. Description: This regulation would simplify procedures relating to Equal Employment Opportunity on Federal-aid Highway Construction Contracts. B. Why Significant: The regulation concerns a matter on which there is substantial public interest. C. Regulatory Analysis: Not Required. D. Need: This regulation is needed to achieve administrative effectiveness and efficiency.	K. L. Ziemis, (202)426-4847.	NPRM September 1979.

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DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA AND REVIEW LIST

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Federal Highway Administration
Significant Regulations—Continued

Title	Summary	Contact	Decision date
Non-Urbanized Area Public Transportation (Docket No. 78-40).	E. Legal Basis: 23 U.S.C. 140 and 315. F. Chronology: An NPRM will be published in <i>September</i> 1979. G. Citation: 23 CFR pt. 230, subpt. A. (FHPM 6-4-1-2). A. Description: Proposed regulation would finalize procedures for the administration of a continuing program of non-urbanized area public transportation including operating subsidies. B. Why Significant: The proposed new program involves FHWA and UMTA and impacts State and local transportation programs. C. Regulatory Analysis: Not Required. D. Need: The proposed regulation would finalize procedures for the administration of the non-urbanized area public transportation assistance program. E. Legal Basis: Section 18 of the Urban Mass Transportation Assistance Act of 1964, as amended. F. Chronology: A DOT Rural and Small Urban Working Group has summarized the policy issues for the Section 18 program. Interim operating procedures were issued as an emergency regulation December 13, 1978 (43 FR 58308), and a 90-day comment period was established. G. Citation: 23 CFR pt. 825.	FHWA Sheldon G. Strickland, (202)426-0150. UMTA Kay Regan, (202)472-7037.	NPRM August 1979.
Major Urban Transportation Investment (Docket No. 78-21).	A. Description: The proposed regulation requires that State and local transportation officials conduct an analysis of alternatives for all major urban transportation investments for highway or public transportation. B. Why Significant: The proposed rule involves important Departmental policy and major urban investments of the Urban Mass Transportation Administration and the Federal Highway Administration. C. Regulatory Analysis: Not Required. D. Need: The increased flexibility in the use of Federal-aid highway funds for mass transit-related activities has led to the need for a single investment policy for both Federal Highway Administration and Urban Mass Transportation projects to ensure that Federal funds are used effectively. E. Legal Basis: 23 U.S.C. 134 and 315 and 49 U.S.C. 1601 et seq. F. Chronology: An NPRM was published in the <i>Federal Register</i> on December 7, 1978 (43 FR 57478). G. Citation: 23 CFR pt. 455, subpt. A and B, and 49 CFR pt. 620.	FHWA A. F. Sevin, (202)426-0215. UMTA Joel Ettinger, (202)426-2360.	FR August 1979.
Certification of Speed Limit Enforcement (Docket No. 78-41).	A. Description: The regulation will establish standards for the States in monitoring speeds on highways with a limit of 55 miles per hour and in calculating a statewide value for the percentage of all traffic exceeding 55 miles per hour on such highways.	William F. Bauch, (202)426-1993.	NPRM August 1979. FR January 1980.

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA AND REVIEW LIST

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FHWA

Federal Highway Administration
Significant Regulations—Continued

Title	Summary	Contact	Decision date
	B. Why Significant: States failing to comply with the provisions of this regulation shall be penalized up to 10% of their Federal-aid primary, secondary and urban funds. C. Regulatory Analysis: Not Required..... D. Need: This regulation is needed to implement the modified 55 mph enforcement provisions of the Surface Transportation Assistance Act of 1978. E. Legal Basis: 23 U.S.C. 141, 154..... F. Chronology: Emergency regulation was published in the <i>Federal Register</i> December 20, 1978. (43 FR 59464). G. Citation: 23 CFR 658.7.....		
Buy America Requirements (Docket No. 78-35).	A. Description: This regulation would establish provisions for the protection of domestic structural steel on construction projects with an estimated cost of \$450,000 or more. B. Why Significant: This regulation involves a matter which may become controversial or arouse significant public interest. C. Regulatory Analysis: Not Required..... D. Need: This regulation is required to implement the provisions of Section 401 of the Surface Transportation Assistance Act of 1978. E. Legal Basis: Section 401 of the Surface Transportation Assistance Act of 1978; P.L. 95-599. F. Chronology: An emergency regulation was issued on November 17, 1978 (43 FR 53717). FHWA asked for comments, and the comments period closed on January 17, 1979. G. Citation: 23 CFR 635.410.....	K. L. Ziems, (202)426-4847.	NPRM September 1979.
Interstate Maintenance Guidelines (Docket No. 78-43).	A. Description: This regulation would establish guidelines describing criteria applicable to the Interstate system to ensure that the conditions of these routes are maintained at the level required by the purposes for which they were designed. Each state must certify each year to the FHWA that it has a maintenance program for the Interstate system to meet these guidelines once they are established. B. Why Significant: These guidelines may involve substantial public and State highway agency interest. C. Regulatory Analysis: Required..... D. Need: This regulation is necessary to insure the preservation of the entire highway, including surface, shoulders, roadsides, structures, and such traffic control devices as are necessary for its safe and efficient utilization. Since 23 U.S.C. 116 is regulatory in nature, it is necessary to establish Federal maintenance guidelines or level of service. E. Legal Basis: 23 U.S.C. 109(m), 315; 49 CFR 1.48(b)..... F. Chronology: An ANPRM was published on January 2, 1979 (44 FR 69). NPRM was published August 9, 1979.. G. Citation: 23 CFR pt. 635.....	Paul E. Cunningham, (202)426-0436.	NPRM August 1979.

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA AND REVIEW LIST

FHWA

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Title	Summary	Contact	Decision date
Review: New Research and Development (R&D) Studies and Work Programs (Docket No. 79-21).	This regulation would cover the starting of new R&D studies and the programming of R&D work funded with Federal-Aid highway funds. (23 CFR pts. 530 and 540; FHPM 5-4-1).	Harry H. Hersey, (703)557-5257.	NPRM September 1979.
Review: R&D Management—General.	This regulation would have covered the management of R&D studies using Federal-aid highway funds. It will be withdrawn because the content is covered by other regulations. (23 CFR pt. 520; FHPM 5-2-1).	Harry H. Hersey, (703)557-5257.	To Be Withdrawn September 1979.
Review: R&D Reports and Implementation Activities (Docket No. 79-21).	This regulation would cover documentation of the results of R&D studies funded with Federal-aid highway funds without State matching to finance pooled fund studies. (23 CFR pt. 544; FHPM 5-4-3).	Harry H. Hersey, (703)557-5257.	NPRM September 1979.
Review: Federal-Aid Funds Without State Matching (Docket No. 79-21).	This regulation would cover the use of Federal-aid highway funds without State matching to finance pooled fund studies. (23 CFR pt. 560; FHPM 5-6-1).	Harry H. Hersey, (703)557-5257.	NPRM September 1979.
Review: R&D Management Option (Docket No. 79-21).	This regulation would provide alternate administrative procedures for State highway agencies which meet specified management standards. (23 CFR pt. 524; FHPM 5-2-4).	Harry H. Hersey, (703)557-5257.	NPRM September 1979.
Review: Administration of Negotiated Contracts (Docket No. 78-17).	The existing three regulations (23 CFR pts. 620, 420 and 170) would be combined to coordinate and minimize requirements and to bring FHWA contracting procedures in conformance with Office of Management (OMB) Circular A-102, specifically Attachment "O" which deals with procurement standards for use by grantees. NPRM was published November 7, 1978 (43 FR 51040). (23 CFR pt. 170; Proposed FHPM 1-7-3).	R. B. Puckett (202)426-0175.	FR August 1979.
Review: Program Approval and Authorization (Docket No. 78-24).	This regulation would reflect recent policy changes in management of the Highway Planning and Research Program, e.g., allowing separate projects for Metropolitan Planning Organizations, applying matching ratio to time periods rather than a fiscal year fund, etc. NPRM was published January 11, 1979 (44 FR 2400). (23 CFR pt. 420; FHPM 4-1-2-1).	R. B. Puckett (202)426-0175.	FR August 1979.
Review: Public Road Mileage for Apportionment of Highway Safety Funds, Safer Off-System Roads Funds and Hazard Elimination Funds.	The revised regulation would expand the existing one, which includes only Highway Safety Funds, to include the other listed programs in the revised title. (23 CFR pt. 460; FHPM 4-5-3).	D. W. Briggs, (202)426-0199.	NPRM September 1979.
Review: Procedures for Abatement of Highway Traffic Noise and Construction Noise (Long-Term Revisions) (Docket No. 78-33).	This revision would make substantial reductions in the detailed procedures and interpretive information in the existing regulation. This is being done pursuant to the FHWA Regulation Reduction Task Force recommendations. An ANPRM was published December 6, 1978 (43 FR 57161) (23 CFR pt. 772; FHPM 7-7-3).	H. M. Rupert, (202)426-4836.	NPRM September 1979.
Review: General Policy and Definitions Regarding the Acquisition of Real Property.	This regulation prescribes the general policy of FHWA regarding the acquisition of real property for highway and related purposes and defines certain terms used in FHWA right-of-way acquisition regulations. (23 CFR pt. 710; FHPM 7-1-1).	Douglas A. Wubbels, (202)426-0142.	To be withdrawn September 1979.
Review: State Highway Department Responsibilities (Docket No. 76-7).	This regulation would prescribe the general responsibility of a State highway department in the acquisition of rights-of-way for the Federal-aid highway systems. An amendment to the existing regulation was published on August 31, 1978, eliminating the requirement for State highway agencies to submit the annual Real Property Acquisition Report. (43 FR 38818) (23 CFR pt. 710; FHPM 7-1-2).	Douglas A. Wubbels, (202)426-0142.	NPRM September 1979.
Review: Reimbursement Provisions.	This regulation would set forth provisions governing reimbursement to a State highway department for right-of-way costs incurred in connection with Federal or Federal-aid highway projects. (23 CFR pt. 710; FHPM 7-1-3).	Douglas A. Wubbels, (202)426-0142.	NPRM September 1979.
Review: Civil Rights.	This regulation would prescribe the general policy of the FHWA in the area of civil rights relative to the right-of-way acquisition function. (23 CFR pt. 710; FHPM 7-1-4).	Douglas A. Wubbels, (202)426-0142.	To be withdrawn September 1979.
Review: The Real Property Acquisition Function—Policy.	This regulation would prescribe FHWA policy regarding the real property acquisition function. (23 CFR pt. 712; FHPM 7-2-1).	Tom Johns, (202)426-0142.	NPRM September 1979.
Review: The Acquisition Function—General Provisions and Project Procedures.	This regulation would prescribe FHWA project provisions and procedures regarding the acquisition of real property for highway and highway related projects. (23 CFR pt. 712; FHPM 7-2-2).	Tom Johns, (202)426-0142.	NPRM September 1979.

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Review: The Acquisition Function—General Provisions and Project Procedures—Functional Replacement of Real Property in Public Ownership.	This regulation would prescribe FHWA policies on functional replacement of real property in public ownership. (23 CFR pt. 712; FHPM 7-2-2-1).	Tom Johns, (202)426-0142.	NPRM September 1979.
Review: The Acquisition Function—Negotiations.	This regulation will be combined with the regulation on general acquisition policy (FHPM 7-2-1). (23 CFR pt. 712; FHPM 7-2-3).	Tom Johns, (202)426-0142.	To be withdrawn September 1979.
Review: The Acquisition Function—Administrative Settlements, Legal Settlements, and Court Awards.	This regulation will be combined with the regulation on reimbursement provisions (FHPM 7-1-3). (23 CFR pt. 712; FHPM 7-2-4).	Tom Johns, (202)426-0142.	To be withdrawn September 1979.
Review: Appraisal and Appraisal Review Policy.	This regulation would establish FHWA requirements for the preparation and review of appraisal reports for the acquisition of lands necessary for Federal-aid highway projects. (23 CFR pt. 720; FHPM 7-3-1).	Douglas A. Wubbels, (202)426-0142.	NPRM September 1979.
Review: Property Management.	This regulation would prescribe FHWA policies and procedures for the management of real property acquired in connection with Federal-aid highway projects. (23 CFR pt. 713; FHPM 7-4-1).	Tom Johns, (202)426-0142.	NPRM September 1979.
Review: Disposal of Right-of-Way.	This regulation would prescribe FHWA policies and procedures for disposal of portions of highway right-of-ways no longer needed for highway purposes. (23 CFR pt. 713; FHPM 7-4-2).	Tom Johns, (202)426-0142.	NPRM September 1979.
Review: Junkyard Control and Abatement.	This regulation would provide definition of "effective control" of junkyards per 23 U.S.C. 136. It would identify alternative methods for abating nonconforming junkyards and establish the basic framework for State development of police power regulations and procedures. It would also identify items which are eligible for Federal participation in the various abatement techniques such as screening, removal, and relocation. An ANPRM published April 30, 1979 (44 FR 25387) and a Notice published May 17, 1979 (44 FR 28946) announced public hearings as part of an overall review of the Highway Beautification Program. These currently proposed regulations may be modified as a result of this review. (23 CFR pt. 751; FHPM 7-6-4).	Richard Moeller, (202)245-0021.	NPRM December 1979.
Review: Relocation Assistance—General.	This regulation would prescribe the general provisions and procedures for the uniform implementation and conduct of the nationwide relocation assistance program to assure the fair and equitable treatment of persons displaced by highway programs. (23 CFR pt. 740; FHPM 7-5-1).	R. G. King, (202)426-0116.	NPRM September 1979.
Review: Relocation Assistance—Relocation Services.	This regulation would set forth the requirement for that portion of the relocation program dealing with the services and assistance to be made available to persons displaced by or adversely affected by highway and related projects. (23 CFR pt. 740; FHPM 7-5-2).	R. G. King, (202)426-0116.	NPRM September 1979.
Review: Relocation Assistance—Moving Payments.	This regulation would prescribe the moving payments and other benefits available to individuals, families, businesses, farm operations, nonprofit organizations, and owners of outdoor advertising devices forced to relocate due to highway activities. (23 CFR pt. 740; FHPM 7-5-3).	R. G. King, (202)426-0116.	NPRM September 1979.
Review: Relocation Assistance—Replacement Housing Payments.	This regulation would prescribe the payments and eligibility requirements for home owners and tenants forced to vacate their dwellings located on lands needed for highway purposes. (23 CFR pt. 740; FHPM 7-5-4).	R. G. King, (202)426-0116.	NPRM September 1979.
Review: Relocation Assistance—Mobile Homes.	This regulation would set forth the special provisions for payments and benefits applicable to owners and occupants of mobile homes located on lands required for highway purposes. (23 CFR pt. 740; FHPM 7-5-5).	R. G. King, (202)426-0116.	NPRM September 1979.

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Review: Relocation Assistance Replacement—Housing As Last Resort.	This regulation would implement Section 206 of Public Law 91-646 and prescribe the procedures and methods for providing replacement housing "as a last resort" when it is determined that a Federal or Federal-aid project cannot proceed to actual construction because comparable replacement housing is not available for persons to be displaced from their dwellings because of such construction. (23 CFR pt. 740; FHPM 7-5-6).	R. G. King, (202)426-0116.	NPRM September 1979.
Review: Land Service Facilities.....	This regulation would establish FHWA policy on participation in costs of facilities to provide or restore access to affected real property. (23 CFR pt. 712; FHPM 7-2-2-2).	Tom Johns, (202)426-0142.	NPRM September 1979.
Review: Right-of-Way Revolving Fund.	This regulation would prescribe FHWA policy on acquisition of right-of-way with funding pursuant to 23 U.S.C. 108(c). (23 CFR pt. 712; FHPM 7-2-7).	Tom Johns, (202)426-0142.	NPRM September 1979.
Review: Management of Airspace.	This regulation would prescribe FHWA policy on the use of airspace on Federal-aid highways for nonhighway purposes. (23 CFR pt. 713; FHPM 7-4-3).	Tom Johns, (202)426-0142.	NPRM September 1979.
Review: State Audit Expense—Contract Costs.	This regulation would establish (a) the State's responsibility for the audit of costs incurred by "third parties" pursuant to a State/claimant contract on Federal-aid and other highway projects undertaken cooperatively with the FHWA and (b) the reimbursement criteria for Federal participation in audit expense to be incurred. (23 CFR pt. 140; FHPM 1-4-2-3).	J. E. Lewis, (202)426-0562.	FR September 1979.
Review: State Legal Expense—Contract Claims.	This regulation would establish the basis of eligibility for reimbursement of administrative settlement costs, and other legal expenses, including attorney salaries and fees, in the defense of contract claims on Federal-aid projects, including any Federal projects performed by a State under Federal-aid procedures. (23 CFR pt. 140; FHPM 1-4-2-4).	J. E. Lewis, (202)426-0562.	FR September 1979.
Review: Bond Issue Projects.....	This regulation would prescribe policies and procedures for the use of Federal funds in aiding the States in the retirement of the principal of bonds, pursuant to 23 U.S.C. 122. (23 CFR pt. 140; FHPM 1-4-8).	J. E. Lewis, (202)426-0562.	FR September 1979.
Review: Advance Construction of Federal-aid Projects.	This regulation would prescribe procedures for the construction by a State of projects on any of the Federal-aid systems, in advance of apportionment of Federal-aid funds, or in lieu of apportioned funds for the Interstate System only, and for the subsequent reimbursement to the State of the Federal share of the cost of the project, pursuant to 23 U.S.C. 115 as amended. (23 CFR pt. 630; FHPM 6-3-2-7).	K. C. Kippley, (202)426-0673.	FR October 1979.
Review: Reimbursement for Employment of Public Employees on Federal-aid Projects.	This regulation would prescribe policies and procedures governing the extent to which Federal funds may participate in the cost of salaries and wages and related labor costs, incurred by public forces of State Highway departments, counties, cities, or other political subdivisions. (23 CFR pt. 140; FHPM 1-4-5).	J. E. Lewis, (202)426-0562.	FR October 1979.
Review: Tire Requirements.....	The FHWA has amended the Tire Requirements regulation (49 CFR 393.75) for the purpose of (1) exempting front tires of single unit vehicles from tire marking requirements, (2) exempting all vehicles operating in commercial zones from tire marking requirements, and (3) providing an exemption for tire overloading for vehicles operating under State permits. ANPRM published October 10, 1978 (43 FR 46555). Final Rule published May 1, 1979 (44 FR 25455). (49 CFR 393.75). (49 CFR pt. 393.75).	Donnell W. Morrison, (202)426-1700.	Action Complete.
Review: Disqualifying Offenses, Drugs.	The FHWA is considering amending the Disqualification of Drivers regulation (49 CFR 391.15) by reviewing and enlarging that group of substances and drugs, whose use by drivers, operating commercial motor vehicles, is forbidden and is considered a disqualifying offense. (49 CFR pt. 391).	Gerald S. Davis, (202)426-9767.	NPRM September 1979.

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Review: Visual Acuity.....	The FHWA is considering amending the Physical Qualification for Drivers regulation (49 CFR 391.41) by reviewing and determining minimum visual acuity in each eye separately as well as binocular acuity for commercial vehicle drivers. (49 CFR pt. 391).	Gerald S. Davis, (202)426-9767.	NPRM September 1979.
Review: Highway Safety Improvements Program (Docket No. 78-4).	When setting priorities for railroad-grade crossing improvements, present regulations require States to consider hazard rating, accident history, and the results of on site inspections. It is necessary that consideration also be given to other factors which have the potential for catastrophic accidents. The change in regulation adds two more factors to be used in determining priority for grade crossing projects: (1) The frequency with which trains carrying hazardous materials use the crossing; (2) The number of persons exposed to the crossing (passenger load of train; crossing use by school or passenger bus, pedestrians or other situations involving large numbers of people.) NPRM was published April 7, 1978 (43 FR 14683). Final Rule published March 1, 1979 (44 FR 11543). (23 CFR pt. 924; FHPM 8-2-3).	J. L. Rummel, (202)426-2131.	Action Complete.
Review: Indian Reservation Roads.	This regulation would contain procedures implementing 23 U.S.C. 208 and the FHWA-Bureau of Indian Affairs (BIA) (Department of Interior) Interagency Agreement covering FHWA overview of BIA Highway Projects. (FHPM 6-3-2-8).	George Hutzelmann, (202)426-0460.	ANPRM September 1979.
Review: Public Lands Development Roads and Trails.	This regulation would contain procedures implementing 23 U.S.C. 214 and the FHWA-Bureau of Land Management (BLM) (Department of Interior) Interagency Agreement covering FHWA overview of BLM Highway Projects. (FHPM 6-9-4-2).	George Hutzelmann, (202)426-0460.	ANPRM October 1979.
Review: Forest Highways.....	This regulation would contain administrative procedures applicable to Forest Highway projects administered by direct Federal Offices and State highway agencies. (23 CFR pt. 660; FHPM 6-9-2-1).	R. C. Coles, (202)426-0460.	NPRM September 1979.
Review: Highway Bridge Replacement Program.	This regulation prescribes the policies and procedures for project eligibility, application filing and evaluation and project funding for the FHWA Special Bridge Replacement Program. Final regulations published on August 8, 1978 (43 FR 35031). The Surface Transportation Assistance Act of 1978 expanded the program to include all public roads and allowed rehabilitation as well as replacement. Final Rule published March 15, 1979 (44 FR 15665). (23 CFR pt. 650; Subpt. D; FHPM 6-7-4-1).	L. A. Herr, (202)426-0426 or Stanley Gordon, (202)472-7697.	Action Complete.
Review: Location and Hydraulic Design of Encroachments on Flood Plains (Docket No. 78-9).	This regulation would establish FHWA policy and procedures to assure good flood-plain management practices are followed in the Federal-aid highway programs. NPRM published on December 27, 1978 (43 FR 60298). (23 CFR pt. 650; FHPM 6-7-3-2).	Frank L. Johnson, or Philip L. Thompson, (202)472-7690.	FR August 1979.
Review: Erosion and Sediment Control on Highway Construction Projects.	This regulation would prescribe practices for the prevention and abatement of erosion and sediment damage on highway projects. (23 CFR pt. 650; FHPM 6-7-3-1).	Frank L. Johnson, (202)472-7690.	FR October 1979.
Review: Permits for Highway Work in or Adjacent to Streams.	This regulation would contain procedures dealing with permits and include memoranda of understanding with the Coast Guard and the Corps of Engineers as appendices. (23 CFR pt. 650; FHPM 6-7-1-1).	Frank L. Johnson, (202)472-7690.	FR December 1979.
Review: Coordination of Water Resources Development Projects.	This regulation would prescribe policy and procedures for the coordination and financing of highway—water resources development projects. (FHPM 6-1-1-4).	Edward D. Johnson, (202)426-0334 or Frank L. Johnson, (202)472-7690.	FR December 1979.

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Fracture Control Plan (for Bridges Containing Fracture—Critical Members).	This regulation would supersede provisions of materials and welding specifications published by the American Association of State Highway and Transportation Officials (AASHTO) and the American Welding Society (AWS), where the materials and welding are to be used in tension components of a bridge whose failure could result in the collapse of the bridge. (23 CFR pt. 650).	Mr. L. A. Herr or Mr. C. E. Hartbower, (202)426-0426.	NPRM September 1979.
Review: Required Contract Provisions—Federal-aid Contracts.	This regulation would update and clarify the required contract provisions for Federal-aid construction contracts. (23 CFR pt. 633; FHPM 6-4-1-1).	K. L. Ziems, (202)426-4847.	FR September 1979.
Review: Contract Procedures (Docket No. 78-16).	This regulation would simplify Federal-aid contract procedures. NPRM was published in the Federal Register on August 18, 1978 (43 FR 36685). (23 CFR pt. 633; FHPM 6-4-1-6).	K. L. Ziems, (202)426-4847.	FR August 1979.
Review: Contract and Force Account, Justifications Required for Force Account Work.	This regulation would simplify procedures relating to Federal-aid construction work performed by other than competitively awarded contract. (23 CFR pt. 635; FHPM 6-4-1-14).	K. L. Ziems, (202)426-4847.	NPRM September 1979.
Review: General Materials Requirements.	This regulation would simplify procedures relating to general material requirements for Federal-aid construction work. (23 CFR pt. 635; FHPM 6-4-1-16).	K. L. Ziems, (202)426-4847.	NPRM August 1979.
Review: Authorization to Proceed to Physical Construction.	This regulation would update procedures relating to authorization of physical construction. (23 CFR pt. 635; FHPM 6-4-2-1).	K. L. Ziems, (202)426-4847.	FR September 1979.
Review: Sampling and Testing of Materials and Construction (Docket No. 78-28).	This regulation revises current procedures relating to sampling and testing of materials and construction in Federal-aid highway projects except those constructed pursuant to 23 U.S.C. 117 which deals with certification acceptance and projects constructed under direct supervision of the Federal Highway Administration. Final Rule published January 11, 1979 (44 FR 2170). (23 CFR pt. 637; FHPM 6-4-2-7).	Ross Martinez, (202)426-0420.	Action Complete.
Review: Inspection of Federal-Aid Construction Projects.	This regulation was to prescribe the policies, procedures, and guides for inspection and approval of Federal-aid highway construction projects, except those constructed pursuant to 23 U.S.C. 117 which deals with certification acceptance. A revocation of this rule was published April 19, 1979 (44 FR 23212). (23 CFR pt. 637; FHPM 6-4-2-8).	Donald Steinke, (202)426-0436.	Withdrawn.
Review: Landscape and Roadside Development (Docket No. 78-2).	This regulation would prescribe policies and procedures relating to highway landscaping and plant establishment, safety rest areas and information centers and systems, and scenic strips in connection with Federal-aid Highway Projects. Interim Final Regulations published in Federal Register May 5, 1978 (43 FR 19390). (23 CFR pt. 752; FHPM 6-2-5-1).	Ken Rickerson, (202)426-0314.	FR October 1980.
Resurfacing, Restoration and Rehabilitation (R-R-R) Work.	This regulation would set forth policy and project procedures for implementing R-R-R program as it relates to pavement design practices. (FHPM 6-2-4-2).	Leon M. Noel, (202)426-0327.	FR October 1979.
Review: Skid Resistant Surface Design.	This regulation would set forth pavement design policy as it pertains to skid resistance on Federal-aid highway projects. (FHPM 6-2-4-3).	Leon M. Noel, (202)426-0327.	NPRM August 1979.
Pavement Type Selection and Alternate Bids.	This regulation would set forth policy for the selection of pavement type on Federal-aid projects, and procedures to be used for bidding on more than one alternate. (FHPM 6-2-4-4).	Leon M. Noel, (202)426-0327.	NPRM November 1979.

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Review: Plans, Specifications, and Estimates.	This regulation prescribes policies and procedures relating to the preparation, submission and approval of plans, specifications, and estimates and supporting documents for Federal-aid projects. Final Rule published December 19, 1978 (43 FR 58563). (23 CFR pt. 630; FHPM 6-3-3-1).	Alvin R. Cowan, (202)426-0312.	Action Complete.
Review: Traffic Control Devices on Federal-aid and Other Streets and Highways.	This regulation would prescribe the policies and procedures of FHWA relative to obtaining basic uniformity in the visible features and functioning of traffic control devices on all highways open to public travel in accordance with the Manual on Uniform Traffic Control Devices for Streets and Highways. (23 CFR pt. 655; FHPM 6-8-3-1).	Donald P. Ryan, (202)426-0411.	NPRM August 1979.
Review: Motorists Aid Systems.....	This regulation would provide policies and procedures relating to motorist-aid systems on Federal-aid highways. (23 CFR pt. 655; FHPM 6-8-3-3).	Robert Harp, (202)426-0411.	FR January 1980.
Review: Traffic Surveillance and Control.	This regulation would establish policies and procedures relating to the expenditure of Federal-aid funds for traffic surveillance and control measures and equipment to reduce congestion, improve traffic flow and increase safety. (23 CFR pt. 655; FHPM 6-8-3-4).	Robert Harp, (202)426-0411.	FR January 1980.
National Standards for Specific Information Signs, (Docket No. 77-6).	This regulation applies existing standards for specific information signs on the Interstate System and other freeways on the Primary System to other primary highways as authorized by Section 122(a), Federal-Aid-Highway Act of 1976. Final rule was published February 2, 1979 (44 FR 6708). (23 CFR pt. 655; FHPM 6-8-3-8).	Donald P. Ryan, (202)426-0411.	Action Complete.
Great River Road.....	This regulation outlines procedures to be followed in the funding, programming, and execution of a program for a National Scenic and Recreational Highway in the Mississippi River Valley known as the Great River Road. Final Rule was published March 1, 1979 (44 FR 11542). (23 CFR pt. 661; FHPM 6-9-15).	V. Ciletti, (202)426-0450.	Action Complete.
Review: Relinquishment of Highway Facilities.	This regulation would prescribe Federal Highway Administration procedures relating to relinquishment of highway facilities. (23 CFR pt. 620; FHPM 6-1-1-8).	R. J. Kreklau or C. R. Green, (202)426-0334.	NPRM December 1979.
Review: Reimbursement for Railroad Work.	This regulation would prescribe policies and procedures on reimbursement to the States for railroad work done on projects undertaken pursuant to the provisions of 23 CFR pt. 646 B. (23 CFR pt. 140; FHPM 1-4-3).	J. A. Carney, (202)426-0104.	ANPRM August 1979.
Review: Utility Relocation and Adjustment.	This regulation would prescribe the policies and procedures for the adjustment and relocation of utility facilities on Federal-aid highway projects and projects under the direct supervision of the Federal Highway Administration. An ANPRM was published March 8, 1979 (44 FR 12209). (23 CFR pt. 645; FHPM 1-4-4).	J. A. Carney, (202)426-0104.	NPRM November 1979.
Review: Accommodation of Utilities.	This regulation would prescribe policies and procedures for accommodating utility facilities on the rights-of-way of Federal and Federal-aid highway projects. (23 CFR pt. 645; FHPM 6-6-3-2).	J. A. Carney, (202)426-0104.	ANPRM August 1979.
Review: Railroad Highway Projects.	This regulation would prescribe policies and procedures for advancing Federal-aid projects involving railroad facilities. (23 CFR pt. 646; FHPM 6-6-2-1).	J. A. Carney, (202)426-0104.	ANPRM August 1979.
Review: Public Lands Highways.....	This regulation would outline the procedures to be followed in administering funds authorized for Public Lands Highways. Final Rule published July 9, 1979 (44 FR 40065). (23 CFR pt. 660; FHPM 6-9-4-1).	V. Ciletti, (202)426-0450.	Action Complete.

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Review: Project Agreements.....	This regulation would prescribe the forms and procedures for the preparation and execution of the project agreements required by 23 U.S.C. 110(a) for Federal-aid projects. (23 CFR pt. 630).	L. Pettigrew or C. R. Green, (202)426-0334.	NPRM September 1979.
Review: Exemption from Preparing Driver's Daily Logs for Operations Between Certain Fixed Locations (Docket No. MC-70-2).	This regulation would propose to exempt certain drivers from preparing the driver's log when they operate between specified fixed locations or over the same route day after day within the allowable hours of service. ANPRM published in <i>Federal Register</i> on November 9, 1978 (43 FR 58418). (49 CFR pt. 395).	Gerald J. Davis, (202)426-9767.	NPRM January 1980.
Review: Rear End Underride Protection (Docket No. MC-77).	This regulation would propose to provide improved rear end protection on heavy motor vehicles manufactured after a certain date to prevent the underiding of vehicles which impact the rear of those vehicles. (49 CFR pt. 393).	D. W. Morrison, (202)426-1700.	NPRM September 1979.
Review: 100-Mile Exemption- Driver's Logs (Docket No. MC-78).	This regulation would propose to increase the present 50-mile radius exemption from the daily log requirement to a radius of 100-miles. NPRM published in <i>Federal Register</i> on October 13, 1978 (43 FR 55109). (49 CFR pt. 395).	Gerald J. Davis, (202)426-9767.	FR January 1980.
Toxic Gases in Truck Cabs (Docket No. MC-80).	This regulation would set maximum toxic gas levels in truck cabs. ANPRM published January 1978 (43 FR 120). NPRM published June 18, 1979 (44 FR 34992). (49 CFR pt. 392).	Gerald J. Davis, (202)426-9767.	FR January 1980.
Ambient Temperature in Heavy Duty Truck Cabs (Docket No. MC-81).	This regulation would set maximum permissible ambient temperatures in truck cabs. ANPRM published in <i>Federal Register</i> on February 8, 1978 (43 FR 5397). (49 CFR pt. 399).	Gerald J. Davis, (202)426-9767.	NPRM September 1979.
Review: Parts and Accessories Necessary for Safe Operations (Docket No. MC-82).	This regulation aligns the Federal Motor Carrier Safety Regulations with the Federal Motor Vehicle Safety Standards of the National Highway Traffic Safety Administration to ensure manufacturing and operational compatibility. NPRM was published March 6, 1978 (43 FR 9166). <i>Final Rule published May 1, 1979 (44 FR 25456)</i> . (49 CFR pt. 393).	D. W. Morrison, (202)426-1700.	Action Complete.
Air-brake System on Commercial Motor Vehicles—NHTSA Standard No. 121 (Docket No. MC-83).	This regulation was to require that any anti-lock system installed on the drive axle of truck tractors to comply with FMVSS No. 121 be kept operative. A court order suspended the NHTSA regulations requiring locking devices thereby eliminating the need for these regulations. <i>Termination of rulemaking published January 31, 1979 (44 FR 6156)</i> .	D. W. Morrison, (202)426-1700.	Withdrawn.
Review: Relocation Assistance-Moving Payments-Moving Expense Schedules.	This regulation would set forth the FHWA approved moving expense schedules which are applicable to all residential moves necessitated by all Federal programs administered by all Federal agencies. These schedules are reviewed and updated by each State highway agency on a semiannual basis and approved by FHWA prior to final publication in the <i>Federal Register</i> semiannually. (49 CFR pt. 25; FHPM 7-5-3).	R. G. King, (202)426-0116.	FR July 1980. FR January 1980.
Employment and Materials Report PR-47.	This regulation would implement new reporting procedures for the collection of data on usage of highway construction materials, supplies and labor (FHPM 6-4-1-9). <i>It has been determined that the material in this directive is not regulatory. It has now been superseded by 6-1-1-11.</i>	L. Staron, (202)426-0404.	Withdrawn.
Roadway Drainage.....	This regulation would provide FHWA policy and procedures for the design of roadway drainage systems for conveying runoff from highways. (23 CFR pt. 650).	Frank L. Johnson or Philip L. Thompson, (202)472-7690.	NPRM December 1979.

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA AND REVIEW LIST

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Non-significant Regulations—Continued

Title	Summary	Contact	Decision date
Uniform Criteria for Warning Devices at Railroad-Highway Grade Crossings (Docket No. 78-13).	This regulation would issue uniform nationwide criteria for the selection of various types of warning devices to be installed at railroad-highway grade crossings. ANPRM published August 10, 1978. (43 FR 35491) (23 CFR pt. 646).	J. A. Carney, (202)426-0104.	NPRM September 1979.
Review: Bikeway Design and Construction Standards (Docket No. 79-3).	This regulation establishes design and construction standards for bikeways. ANPRM published on February 8, 1979 (44 FR 7979).	Ken Rickerson (202)426-0314.	NPRM September 1979.
Review: The General Part of the Federal Motor Carrier Safety Regulations (FMCSR).	The FHWA is considering amending Part 390 in the first step of a general revision of the FMCSR. The purpose of the revision is to improve and simplify the regulations (49 CFR pt. 390).	Gerald J. Davis, (202)426-9767.	NPRM January 1980.
Review: Cardiovascular Requirements.	The FHWA considered amending the minimum cardiovascular requirements (49 CFR 391.41(b)(4)) in order to introduce a classified approach for examining physicians to evaluate the status of individual drivers with cardiovascular disease. NPRM published in <i>Federal Register</i> on April 27, 1976 (41 FR 17569). <i>Termination of rulemaking published May 29, 1979 (44 FR 30704)</i> (49 CFR 391.4).	Gerald J. Davis, (202)426-9767.	Withdrawn.
Appalachian Highway Procedures.....	This regulation revision would reflect the recent legislative change in the participation percentage for Appalachian funds and would make several minor changes to existing procedures. (23 CFR pt. 633, subpt. B; FHPM 6-9-10-1).	W. Bullard, (202)426-0175.	NPRM October 1979.
Carpool and Van Summary.....	This regulation revision would reflect the required changes brought about by the Surface Transportation Assistance Act of 1978 plus related program modifications. (23 CFR pt. 656; FHPM 4-8-3).	Barbara Reichart, (202)426-0210.	NPRM August 1979.
Step, Handhold, and Deck Requirements on Commercial Motor Vehicles..	This regulation would require (1) step, deck, and handhold requirements on high profile Cab Over Engine type tractors; (2) step, handhold, and deck requirements on the rear of all other truck tractors; and (3) step and handhold requirements on the front of trucks as well as all trucks/tractors. NPRM was published in the <i>Federal Register</i> on February 15, 1978 (42 FR 6638); <i>Final Rule was published July 26, 1979 (44 FR 43730)</i> . (49 CFR pt. 393).	Gerald J. Davis, (202)426-9767.	Action Complete.
Safer Off-System Roads Program (Docket No. 79-1).	This revision to the regulation is necessitated by the provisions of Section 168(d) of the Surface Transportation Assistance Act of 1978 which requires that not less than 50 percent of the SOS funds be obligated for highway safety improvement projects. <i>Final Rule was published February 1, 1979 (44 FR 6380)</i> . (23 CFR pt. 922).	J. L. Rummel, (202)426-2131.	Action Complete.
*Federal-aid Program Approval and Project Authorization (Docket No. 78-37).	This revision reflects the change of the Surface Transportation Assistance Act of 1978 requiring State highway agencies (SHA) to consult with local officials when selecting projects for the use of secondary system funds where all public roads and highways are under the control and supervision of the SHA. <i>Final Rule was published March 1, 1979 (44 FR 11541)</i> . (23 CFR pt. 630 Subpt. A; FHPM 6-3-2-2).	V. Ciletti, (202)426-0450.	Action Complete.
*Federal Participation in Cost of Truck Weighing Station Construction Items..	This revision reflects the change of the Surface Transportation Assistance Act of 1978 to now allow the use of Federal-aid construction funds to construct scales and scale-houses which facilitate an effective vehicle weight enforcement program. The regulation prohibiting such use was rescinded March 2, 1979 (44 FR 11754). (23 CFR pt. 630 Subpt. I; FHPM 6-3-2-11).	V. Ciletti, (202)426-0450.	Withdrawn.

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Title	Summary	Contact	Decision date
*Hours of Service—Drivers Declared "Out of Service".	This regulation permits Bureau of Motor Carrier Safety agents to declare a driver "out of service" for a consecutive eight-hour period if the driver has not produced driver's logs for the day of examination and for the prior seven consecutive days. Final Rule published June 18, 1979 (44 FR 34960). (49 CFR 395.8).	Gerald J. Davis, (202)426-1967.	Action Complete.
*National Bridge Inspection Standards.	This regulation provides guidance and establishes procedures concerning the national bridge inspection standards in accordance with Section 124 of the Surface Transportation Assistance Act of 1978. Final Rule published May 1, 1979 (44 FR 25434). (23 CFR pt. 650 Subpt. C).	Stanley Gordon, (202)472-7697.	Action Complete.
*State Highway Safety Agency (Docket No. 79-10).	This rule would replace the existing Joint FHWA/NHTSA Orders on State agencies with a new Part 1251, State Highway Safety Agency in Title 23, Code of Federal Regulations. It proposes to establish new requirements for the authority and function of State highway safety agencies. (23 CFR pt. 1251).	FHWA J. L. Rummel, (202)426-2131. NHTSA George Reagle, (202)426-0068.	FR August 1979.
*State Matching of Planning and Administration Cost.	This Notice proposes to establish NHTSA and FHWA policy on State planning and administration costs associated with carrying out a highway safety program under the Highway Safety Act with a new Part 1252, State Matching of Planning and Administration Costs in Title 23, Code of Federal Regulations. It would define planning and administration costs, describe the expenditures that may be used to satisfy the State matching requirement, prescribe how the requirement will be met, and specify when the State will have to comply with the requirement. NPRM was published on July 16, 1979 (44 FR 41244). (23 CFR pt. 1252).	FHWA J. L. Rummel, (202)426-2131. NHTSA George Reagle, (202)426-0068.	FR October 1979.
*Innovative Project Grants.....	An ANPRM will be issued by FHWA and NHTSA to solicit suggestions, views and comments from all interested parties for use in the development of proposed criteria, procedures, and policies to be issued in an NPRM for administration of Innovative Project Grants under 23 U.S.C. 407 when funds are appropriated. ANPRM published July 19, 1979 (44 FR 42233). (23 CFR pt. 1217).	FHWA J. L. Rummel, (202)426-2131. NHTSA George Reagle, (202)426-0068.	NPRM December 1979.
*Equal Employment Opportunity on Federal-aid Highway Construction Contracts.	This rule would replace existing Forms PR 1391 and PR 1392 with revised Forms PR 1391 and PR 1392 to conform with the standard racial/ethnic categories set forth by the Office of Management and Budget Circular A-46 for statistical reporting of employment data in Federal agencies. (23 CFR pt. 230, subpt. A; FHPM 6-4-1-2).	K. L. Ziems, (202)426-4847.	FR August 1979.
*Program Approval and Project Authorization Procedures.	This rule would focus attention on the statutory provisions of 23 U.S.C. 109 and highlight a provision added by Section 141(g) of the Surface Transportation Assistance Act of 1978 insuring continued travel routes for mopeds, bicycles and pedestrians. (23 CFR pt. 630; FHPM 6-3-2-2).	V. Ciletti, (202)426-0450.	FR August 1979.
*Bicycle Grants Programs.....	This rule would revise FHPM 6-9-14 Bikeway Demonstration Program to include the bicycle grants program authorized under Section 141 of the Surface Transportation Assistance Act of 1978. The FHPM title will be changed to "Bicycle Grants Program." (23 CFR pt. 663; FHPM 6-9-14).	Ken Rickerson, (202)426-0314.	NPRM September 1979.
*Seat Belts for Buses.....	This ANPRM would request comments on a proposal to require seat belts for passengers on buses for the two front seats and the unprotected center aisle back seat (49 CFR pt. 393).	D. W. Morrison, (202)426-1700.	ANPRM September 1979.
*Retread Tires for Trucks.....	This ANPRM would request comments on a proposal to extend the prohibition from buses to trucks on using retreaded or regrooved tires on the front wheels of these vehicles.	D. W. Morrison, (202)426-1700.	ANPRM September 1979.

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Non-significant Regulations—Continued

Title	Summary	Contact	Decision date
*Accessibility of Highway Rest Area Facilities to Handicapped Persons.	This proposed revision of this regulation is to be included as part of a general review of part 752. (23 CFR pt. 752).	Ken Rickerson, (202)426-0314.	NPRM April 1980.
*Manual on Uniform Traffic Control Devices.	The Manual on Uniform Traffic Control Devices (MUTCD) contains the national standards for traffic control devices erected on all streets and highways open to public travel. These standards are constantly under review and revisions and amendments are published from time to time. This portion of the Agenda lists the individual standards which are currently undergoing this process. (23 CFR pt. 1204).	J. C. Partlow, 426-0411.	
	(1) Color of Type III Object markers		NPRM October 1979.
	(2) Use of a black border around the periphery of RR crossbuck signs.		NPRM October 1979.
	(3) Addition of a bicycle parking sign.....		NPRM October 1979.
	(4) Color of pedestrian signal walk lenses		NPRM October 1979.

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Title	Summary	Contact	Decision date
Uniform Tire Quality Grading System (Docket No. 25).	A. Description: Grades tires on treadlife, wet traction and temperature resistance and requires that these relative grades be made available to purchasers. B. Why Significant: This action is considered significant because of public interest. C. Regulatory Analysis: Not required..... D. Need: This regulation is Congressionally mandated and the Agency is under court order requiring its issuance. E. Legal Basis: National Traffic and Motor Vehicle Safety Act of 1966, as amended, Title II Section 203. F. Chronology: NPRM (39 FR 20808) issued in June 1974 and Final Rule issued in May 1975. (40 FR 23073). The rule was challenged by the domestic manufacturers but was upheld, except for remand for minor changes, by the Sixth Circuit Court of Appeals. Effective dates for the bias and belted bias tires issued July 12, 1978 (43 FR 30542). A notice soliciting comments on procedures for using existing rule for radials treadwear grading issued November 6, 1978 (43 FR 51735). Comment period extended to December 19, 1978. (43 FR 57308) FR issued 3/9/79 (44 FR 15721). G. Citation: 49 CFR pt. 575.104	Michael Brownlee, (202)426-1740.	Action Complete.
Light Truck and Van Fuel Economy Rulemaking (Docket No. FE 78-01).	A. Description: Would set average fuel economy standards for Model Years 1982-1985 light trucks. B. Why Significant: The rule is considered significant because of the impact on the automotive industry, the public, and energy consumption.	Richard Strombotne, (202)426-0846.	NPRM September 1979.

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA AND REVIEW LIST
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Significant Regulations—Continued

Title	Summary	Contact	Decision date
Air Brake Systems (Docket No. 75-16).	C. Regulatory Analysis: Required.....	A. Malliaris, (202)426-0842.	Withdrawn.
	D. Need: Conservation of petroleum.....		
	E. Legal Basis: Motor Vehicle Information and Cost Savings Act, as amended, 15 USC 2002.		
	F. Chronology: None yet.....		
Passenger Automobile Fuel Economy Rulemaking.	G. Citation: 49 CFR pt. 533.....	Richard Strombotne, (202)426-0846.	Further action to be determined pending review.
	A. Description: Proposes a moratorium on the anti-lock requirements of Federal Motor Vehicle Safety Standard FMVSS 121 for trailers and the establishment of a test program to determine the effects of anti-lock.		
	B. Why Significant: The rule is considered significant because of the level of public and Congressional interest.		
	C. Regulatory Analysis: Not required.....		
Confidential Business Information (Docket No. 78-10).	D. Need: In response to complaints from truck users about the safety and reliability of the anti-lock systems.	Frank Berndt, (202)426-9511.	FR September 1979.
	E. Legal Basis: National Traffic and Motor Vehicle Safety Act of 1966, as amended.		
	F. Chronology: An NPRM was published March 9, 1978 which proposed a suspension of the "no lockup" provision in the performance requirements for air brake systems (43 FR 9626). Subsequently, the "no lockup" requirement was invalidated by the Ninth Circuit in <i>Paccar v. National Highway Traffic Safety Administration and Department of Transportation</i> , 573 F.2d 632 (9th Cir. 1978). Therefore, further rulemaking became unnecessary and the proposal was withdrawn on February 15, 1979. (44 FR 9783).		
	A. Description: Reevaluates average fuel economy standards for model years 1984 and 1985 passenger automobiles and would set average fuel economy standards for model year 1986 passenger automobiles.		
	B. Why Significant: The rule is considered significant because of the impact on the automotive industry, the public, and energy consumption.		
	C. Regulatory Analysis: Required.....		
	D. Need: Conservation of petroleum.....		
	E. Legal Basis: Motor Vehicle Information and Cost Savings Act, as amended—15 USC 2002. Because of the recent decision to maintain the 1981-85 passenger car fuel economy standards, this rule was withdrawn.		
	F. Chronology: Because of the recent decision to maintain the 1981-85 passenger car fuel economy standards, activity on this rule was temporarily suspended.		
	G. Citation: 49 CFR pt. 531.....		
	A. Description: Would codify existing method of processing confidential information from manufacturers.		
	B. Why Significant: This rule considered significant because of the controversial nature of confidential business information.		

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Significant Regulations—Continued

Title	Summary	Contact	Decision date
Light Truck and Van Fuel Economy Rulemaking (Docket FE 77-05).	C. Regulatory Analysis: Not required.....	Richard Strombotne, (202)426-0846.	Action Complete.
	D. Need: To assure the manufacturer a more predictable process of information gathering and to streamline and speed up NHTSA use of data.		
	E. Legal Basis: National Traffic and Motor Vehicle Safety Act of 1966, as amended, and the Motor Vehicle Information and Cost Savings Act, as amended 15 USC 1381; 15 USC 2002.		
	F. Chronology: NPRM issued 5/25/78. (43 FR 22412).....		
Air Brake System (Docket 79-03)...	G. Citation: 49 CFR pt. 512.....	A. Malliaris, (202)426-0842.	NPRM September 1980.
	A. Description: Chrysler Corporation has petitioned the NHTSA to reduce the 1981 model year light truck average fuel economy standards.		
	B. Why Significant: The petition is considered significant because of the impact on the automotive industry, the public, the light truck fuel economy standards for model years 1982-1984, and energy consumption.		
	C. Regulatory Analysis: Required.....		
	D. Need: Balance the Chrysler claims of restricted light truck production against the conservation of petroleum provided by the existing standard.		
	E. Legal Basis: Motor Vehicle Information and Cost Savings Act, as amended, 15 USC 2002.		
	F. Chronology: September 20, 1978—Initial Chrysler recommendation..... September 28, 1978—Chrysler requested that the recommendation be treated as a petition. October 16, 1978—NHTSA request for additional information to enable handling recommendation as a petition. December 13, 1978—NPRM issued..... January 17, 1979—Closing date for public comments Final rule issued 6/25/79 (44 FR 36975).....		
	G. Citation: 49 CFR pt. 533.....		
	A. Description: Seeks public comment on steps to be taken regarding a new Air Brake Standard No. 130 for trucks, buses, and trailers to replace Air Brake Standard No. 121 including reinstatement, without a no wheel lock-up requirement, of a stopping distance requirement in the standard to replace the one invalidated by the Ninth Circuit Court of Appeals decision. Also would seek public comment on problems associated with disconnecting anti-lock systems and in building vehicles to comply with the standard as modified by the court action.		
	B. Why Significant: The rule is considered significant because of the level of public and Congressional interest.		
	C. Regulatory Analysis: Not required.....		
	D. Need: To terminate the adversary atmosphere related to fixing the existing Air Brake Standard and to prevent degradation of current braking performance as a result of the Court's action.		
	E. Legal Basis: National Traffic and Motor Vehicle Safety Act of 1966 as amended.		

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Title	Summary	Contact	Decision date
Truck and Trailer Brake Systems	F. Chronology: ANPRM issued 2/15/79. (44 FR 9783). Comment period closed 4/16/79. G. Citation: 49 CFR 571.121 A. Description: Would establish long term agency interest in such advanced braking systems concepts as antilock systems, automatic brake adjusters for heavy trucks and buses, and disc brakes for heavy trucks and buses. B. Why Significant: This rule is considered significant because of the level of public and Congressional interest. C. Regulatory Analysis: Not required D. Need: To establish long term plans for truck braking regulations. E. Legal Basis: National Traffic and Motor Vehicle Safety Act of 1966, as amended. F. Chronology: None yet G. Citation: 49 CFR 571.121, 49 CFR 571.105-75	A. Malliaris, (202)426-0842.	ANPRM August 1979.
*Multipiece Rims on Trucks and Buses.	A. Description: NHTSA is examining the need to issue a requirement prohibiting the use of multipiece rims because of their potential for explosive separation. B. Why Significant: This rulemaking is considered significant because of the level of interest shown by users and manufacturers of these rims, and because of the cost impacts. C. Regulatory Analysis: Required D. Need: Balance the safety hazards associated with the use of these rims against the added costs of using safer single-piece rims. E. Legal Basis: National Traffic and Motor Vehicle Safety Act of 1966, as amended. F. Chronology: ANPRM issued March 5, 1979. (44 FR 12072). G. Citation: 49 CFR 571.120	A. Malliaris (202)426-0842.	Further action to be determined.
*Bumper Standard	A. Description: NHTSA released an updated cost benefit analysis on the bumper standard on June 1, 1979. B. Why Significant: This rulemaking is considered significant because of the level of interest shown by Congress, bumper manufacturers, and because of the cost impacts to consumers. C. Regulatory Analysis: Not required D. Need: Congress has asked for a cost benefit study analyzing the merits of 2.5 mph bumpers vs. 5.0 mph bumpers. E. Legal Basis: National Traffic and Motor Vehicle Safety Act of 1966, as amended.	Michael Brownlee, (202)426-1740.	Further action to be determined.

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Title	Summary	Contact	Decision date
	F. Chronology: ANPRM issued 3/1/79 (44 FR 11569). Comment period closed 4/30/79. Task Force organized and contractor began work on Bumper Study, April 2, 1979. Final report published June 1, 1979. G. Citation: 49 CFR pt. 581		

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Non-significant Regulations

Title	Summary	Contact	Decision date
Seat Belt Assemblies (Docket No. 74-14).	Would improve seat belt comfort, convenience, reliability and effectiveness by prescribing parameters for performance of seat belt assemblies. (49 CFR 571.208).	A. Malliaris, (202)426-0842.	NPRM September 1979.
Child Restraint Systems (Docket No. 74-9).	Would upgrade performance of all child restraints by performing dynamic tests using child and infant dummies; regulate infant restraints. NPRM issued 5/18/78 (49 CFR 571.213).	A. Malliaris, (202)426-0842.	FR November 1979.
School Bus Passenger Seating and Crash Protection.	Would amend FMVSS 222 to increase the maximum allowable seat spacing in school buses from 20 to 21 inches; this spacing would accommodate large high school students while still ensuring a safe level of school bus seat performance. FR issued 3/29/79 (44 FR 18674) (49 CFR 571.222).	A. Malliaris, (202)426-0842.	Action Complete.
School Bus Crash Protection (Docket No. 73-03).	Would amend 571.3 definitions to include a subclassification for "School Activities Bus" and amend FMVSS 222 as it would apply to this vehicle class. (49 CFR 571.222).	A. Malliaris, (202)426-0842.	NPRM November 1979.
Test Dummies Representing 6-Month Old and 3-Year Old Children (Docket No. 78-09).	Would provide specifications for dummies to be used in testing for compliance with FMVSS 213, Child Restraint Systems, in conjunction with proposal to amend that standard to provide for dynamic testing and to extend its applicability. NPRM issued 5/18/78. (43 FR 21490) (49 CFR pt. 572).	A. Malliaris, (202)426-0842.	FR November 1979.
Adjudicative Procedures Fuel Economy.	Would establish procedures and rules of practice for adjudications to enforce the fuel economy provisions in Title V of the Motor Vehicle Information and Cost Savings Act. This was issued as an interim regulation 10/16/78 (43 FR 47507-28). Public comments will be invited. (49 CFR pt. 511).	Stephen Wood, (202)426-2992.	FR August 1978.
Low Volume Manufacturers Fuel Economy Rulemaking (Docket No. FE 76-04).	A rule may be proposed to streamline the requirements regarding the contents of and procedures for disposition of petitions from low volume automobile manufacturers (gasoline and diesel) for exemption and for establishment of alternative standards. NPRM issued 4/9/79 (44 FR 21051) (49 CFR pt. 525).	Richard Strombotne, (202)426-0846.	FR September 1979.
Occupant Protection in Interior Impacts.	Would extend to trucks, buses, and multipurpose vehicles of 10,000 pounds or less, the current standard for passenger cars designed to cushion impact of passengers striking interior vehicle structures. NPRM issued 11/9/78, (43 FR 52264-68), (49 CFR 571.201).	A. Malliaris, (202)426-0842.	FR August 1978.

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Title	Summary	Contact	Decision date
Energy Absorbing Steering Column.	Would extend to trucks, buses, and multipurpose passenger vehicles of 10,000 pounds or less, the current standard for passenger cars designed to protect drivers striking the steering column. NPRM issued 11/9/78, (43 FR 52264-68), (49 CFR 571.203).	A. Malliaris, (202)426-0842.	FR August 1979.
Steering Control Rearward Displacement.	Would extend to trucks, buses, and multipurpose passenger vehicles of 10,000 pounds or less, the current standard for passenger cars designed to limit the rearward movement of the steering assembly to reduce the likelihood of death and injury to the driver. NPRM issued 11/9/78, (43 FR 52264-68) (49 CFR 571.204).	A. Malliaris, (202)426-0842.	FR August 1979.
Door Locks and Door Retention Components.	This technical amendment would clarify existing test procedures and extend the applicability of FMVSS 206 such that present side door requirements cover transverse rear doors. (49 CFR 571.206).	A. Malliaris, (202)426-0842.	NPRM August 1979.
Gross Coupling Weight Rating (Docket No. 73-15).	An amendment to the regulations on certification (49 CFR pt. 567) and of vehicles manufactured in two or more stages (49 CFR pt. 568) would require labeling of the gross coupling weight rating for semi-trailers.	A. Malliaris, (202)426-0842.	FR September 1979.
Fields of Direct View (Docket No. 70-7).	This proposal would establish requirements for the maximum allowable size of obstructions in the field of view of drivers, the luminous transmittance of glazing, and the location and functional characteristics of sun visors. NPRM issued 11/6/78 (43 FR 51677).	A. Malliaris, (202)426-0842.	FR March 1980.
Rear View Mirrors (Docket No. 71-3a).	This proposal would amend FMVSS 111 to: (a) reduce the blind areas by upgrading mirror visibility using improved compliance testing procedures, (b) upgrade occupant protection requirements and add pedestrian protection requirements using shatter resistant and breakaway or foldaway tests, (c) set specifications for day-night reflectance requirements to reduce headlight glare, (d) set specifications for convex mirror quality and use, and (e) minimize obstruction of the forward view by establishing mirror location specifications. NPRM issued 11/6/78 (43 FR 51657), (49 CFR 571.111).	A. Malliaris, (202)426-0842.	FR March 1980.
Hydraulic Brake Systems (Docket No., 70-27).	This proposal would extend coverage of FMVSS 105-75 from passenger cars to multi-purpose vehicles, buses, and trucks. (49 CFR 571.105). For vehicles, with Gross Vehicle Weight Rating (GVWR) of 10,000 lbs. or less. For vehicles over GVWR 10,000 lbs.	A. Malliaris, (202)426-0842.	NPRM September 1979 NPRM Fiscal Year 1980.
Brake System Inspectability.....	Would require vehicle modifications in order to inspect for certain levels of brake degradation in accordance with proposed test procedures and criteria for measurement.	A. Malliaris, (202)426-0842.	NPRM September 1979.
Theft Protection (Docket No. 1-21).	Would amend existing standard to require separate keys for doors and ignition, door lock modifications, internal control of hood latch, modification in ignition wiring and ignition key alarm. Would apply to passenger cars, light trucks and vans. NPRM issued 5/1/78. (49 CFR 571.114).	A. Malliaris, (202)426-0842.	FR September 1979.
Lamps, Reflective Devices, and Associated Equipment (Docket No. 69-19).	This proposal would revise the minimum size requirement of lenses used on moped stop lamps. It is in response to a petition that the current requirements are excessively stringent. (49 CFR 571.108).	A. Malliaris, (202)426-0842.	NPRM August 1979.
Vehicle Identification Number (VIN) (Docket No. 1-22).	Responds to petitions for reconsideration of FR issued 8/78. An NPRM was issued 11/9/78 (93 CFR 52268) proposing certain format changes. FR issued 3/15/79. (44 FR 17489). (49 CFR 571.115).	A. Malliaris, (202)426-0842.	Action Complete.

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Title	Summary	Contact	Decision date
Pedestrian Protection.....	Would reduce adult pedestrian lower torso and leg injuries and child injuries through modification of the bumper, grille and hood edges. (49 CFR 571).	A. Malliaris, (202)426-0842.	ANPRM September 1979.
Consumer Information—Wet Stopping Distance.	Develop a new rule for consumer information if tests indicate that there are significant differences in wet stopping distances among different models of cars on asphalt or concrete road surfaces. (49 CFR 105.75).	Michael Brownlee, (202)426-1740.	NPRM November 1979.
Bumper Standard.....	Extend the bumper height requirements to all vehicles under 10,000 lbs. GVWR. Increase the extent to which the vehicle population has matching bumpers, thereby reducing the underside/override problem in vehicle to vehicle accidents involving a light truck, van or multi-purpose vehicle. (49 CFR pt. 581).	Michael Brownlee, (202)426-1740.	ANPRM September 1979.
Rear Lighting and Signalling.....	Would establish requirement for the separation of function of rear lighting and signalling and establish requirements for the location of brake lights. (49 CFR 571.108).	A. Malliaris, (202)426-0842.	ANPRM September 1979.
Battery Explosions.....	Would establish performance requirements and labeling of batteries to reduce the incidence of battery explosions while jump starting. (49 CFR 571).	A. Malliaris, (202)426-0842.	NPRM September 1979.
Interior Noise Levels.....	Would establish maximum allowable interior noise levels in all heavy trucks by extending the current Bureau of Motor Carrier Safety requirement to new vehicles. (49 CFR 571).	A. Malliaris, (202)426-0842.	NPRM September 1979.
*Controls & Displays (Docket No. 1-18).	(a) This final rule would respond to petitions for reconsideration by making minor clarifications.	A. Malliaris, (202)426-0842.	FR August 1979.
*Speedometers and Odometers.....	(b) A NPRM will amend the standard to include several symbols adopted by the International Standards Organization (ISO). A final rule on FMVSS 127 was issued 3/22/79 (44 FR 17500) which responded to petitions for reconsideration by deleting the 10% limit on distance between graduations on speedometer scales, increasing the leadtime for speedometer accuracy and odometer tamper resistance and clarifying the irreversibility option for odometers. An NPRM (also in response to the petitions for reconsideration) was also issued on the same day to further amend the standard with regard to replacement odometers and further refinements in the irreversibility option for odometers.	A. Malliaris, (202)426-0842. A. Malliaris, (202)426-0842.	NPRM September 1979. FR September 1979.
*Air Brake Systems.....	This final rule would ease the compliance burden by allowing parking brakes to be applied by air pressure. It would finalize a portion of a NPRM issued 9/78.	A. Malliaris, (202)426-0842.	FR August 1979.
*Truck Rear Underride Protection...	Would require protective devices to eliminate vehicle penetration under the rear-ends of heavy trucks and trailers and to dissipate crash force, thus reducing accident severity.	A. Malliaris, (202)426-0842.	NPRM September 1979.
*Fuel System Integrity (Docket No. 73-20).	This ANPRM discusses the possibility of establishing specific performance requirements in Safety Standard No. 301-75 for non-metallic fuel tanks (plastic tanks) used in motor vehicles. ANPRM issued 6/2/79. (44 FR 33441).	A. Malliaris, (202)426-0842.	ANPRM September 1979.
*Tire Identification and Record-keeping.	Amendment to require ID on outward facing sidewall of motor vehicle tires.	A. Malliaris, (202)426-0842.	NPRM September 1979.
*Consumer Information—Acceleration and Passing Ability and Tire Reserve Load.	Would amend the Consumer Information Regulations by deleting the acceleration and passing ability items and modify the class of vehicles to which the tire reserve load provisions apply. NPRM issued 3/15/79 (44 FR 15748).	Michael Brownlee (202)426-1740.	FR September 1979.

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA AND REVIEW LIST
AGENDA
NHTSA National Highway Traffic Safety Administration
Non-significant Regulations—Continued

Title	Summary	Contact	Decision date
*Motorcycle Helmets.....	This technical amendment would increase the percentage of helmet sizes covered by FMVSS 218 by testing large and extra-large helmets with the medium (size "C") head-form. Currently, only medium size helmets are covered. (49 CFR 571.218).	A. Malliaris, (202)426-0842.	NPRM August 1979.
*Windshield Retention and Windshield Zone Intrusion.	This technical amendment would change the crash test requirements for FMVSS 212 and 219 for trucks manufactured in more than one stage. (49 CFR 571.212, 571.219).	A. Malliaris, (202)426-0842.	NPRM August 1979.
*Side-Door Strength.....	This technical amendment would change the test requirements for FMVSS 214 to allow the seats to remain in the car during the side door crush test. The seats currently must be removed. NPRM issued 6/2/79 (44 FR 33444). (49 CFR 571.214).	A. Malliaris, (202)426-0842.	FR September 1979.
*Glazing Materials.....	This technical amendment would delete the abrasion resistance requirements for certain types of glazing used on side windows of light trucks and vans (49 CFR 571.205).	A. Malliaris, (202)426-0842.	NPRM September 1979.
*Designated Seating Position.....	This final rule amended the definition of "designated seating position" to clarify which seating positions must be considered as positions that will be used by vehicle occupants while the vehicle is in motion. Final rule issued 4/12/79. (44 FR 23229). (49 CFR 571.3).	A. Malliaris, (202)426-0842.	Action Complete.
Vehicle Speed Control.....	Trailways Bus Company petitioned for a FMVSS to require road speed governors for all commercial vehicles. A request for comments was published in the Federal Register on 3/19/79 with a closing date of 8/17/79. Further Agency action will await results from research.	A. Malliaris, (202)426-0842.	Further action to be determined.
*New Pneumatic Tires.....	Proposed amendments would delete Appendix A (Tire Tables) of FMVSS 109 to ease introduction of new tire concepts and would add criteria to insure compatibility of new concepts with existing tire types.	A. Malliaris, (202)426-0842.	ANPRM September 1979.
*Odometer disclosure.....	Would amend disclosure requirements to allow the States to use an abbreviated disclosure statement on all State-supplied transfer documents, as well as on certificates of title. NPRM issued 5/14/79. (44 FR 28032).	John Womack, (202)426-1834.	FR September 1979.
*State Highway Safety Agencies.....	Would establish new requirements for the authority and function of state highway safety agencies, in keeping with the direction of Congress in the Surface Transportation Assistance Act of 1978. The proposal would upgrade the safety agencies by authorizing them to review and comment on all highway safety programs in the state, regardless of funding source. NPRM issued 6/21/79. (44 FR 36204).	George Reagle, (202)426-0068.	FR September 1979.
*State Matching of Planning and Administration Costs.	Would establish procedure for the the States to provide 25 percent of highway safety planning and administration costs as required by subsection 207(d) of the Surface Transportation Assistance Act of 1978.	George Reagle, (202)426-0068.	NPRM July 1979.
*Innovative Project Grants.....	Would establish procedures and criteria for the award of grants for innovative highway safety projects, as provided by section 208 of the Surface Transportation Assistance Act of 1978.	Charles Livingston, (202)426-0637.	ANPRM July 1979.
Fuel Economy Exemptions: Exemption from and Establishment of Fuel Economy Standards (Docket No. LVM 77-01).	Analysis of petition for exemption from 1979 and 1980 standards for Avanti Motor Corp. (49 CFR pt. 525).	R. Strombotne, (202)426-0846.	NPRM September 1979. FR November 1979.

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA AND REVIEW LIST
AGENDA
NHTSA National Highway Traffic Safety Administration
Non-significant Regulations—Continued

Title	Summary	Contact	Decision date
Exemption from and Establishment of Fuel Economy Standards (Docket No. LVM 77-03).	Analysis of petition for exemption from 1979 and 1980 standards and setting of alternative standards for Checker Motors. NPRM issued 10/23/78. (43 FR 49336). (49 CFR pt. 525).	R. Strombotne, (202)426-0846.	FR September 1979.
Exemption from and Establishment of Fuel Economy Standards (Docket No. LVM 77-02).	Analysis of petition for exemption from 1978 standard and setting of alternative standard for Rolls-Royce Motors Inc. NPRM issued 7/15/78. (49 CFR pt. 525). <i>Final rule issued 1/18/79. (44 FR 3710).</i>	R. Strombotne, (202)426-0846.	Action Complete.
Exemption from and Establishment of Fuel Economy Standards (Docket No. LVM 77-05).	Analysis of petition for exemption from 1978 standard and setting of alternative standard for Excalibur Automobile Corp. NPRM issued 7/31/78. (49 CFR pt. 525). <i>Final rule issued 1/18/79. (44 FR 3708).</i>	R. Strombotne, (202)426-0846.	Action Complete.
Exemption from and Establishment of Fuel Economy Standards (Docket No. LVM 77-02).	Analysis of petition for exemption from 1979 and 1980 standards and setting of alternative standards for Rolls-Royce Motors, Inc. (49 CFR pt. 525).	R. Strombotne, (202)426-0846.	NPRM September 1979. FR November 1979.
Exemption from and Establishment of Fuel Economy Standards (Docket No. LVM 77-04).	Analysis of petition for exemption from 1979-1980 standards and setting of alternative standards for Aston Martin Lagonda. (49 CFR pt. 525).	R. Strombotne, (202)426-0846.	NPRM September 1979. FR November 1979.
Exemption from and Establishment of Fuel Economy Standards (Docket No. LVM 77-05).	Analysis of petition for exemption from 1979 and 1980 standards and setting of alternative standards for Excalibur Automobile Corp. (49 CFR pt. 525).	R. Strombotne, (202)426-0846.	NPRM September 1979. FR November 1979.
Exemption from and Establishment of Fuel Economy Standards.	Analysis of petition for exemption from 1979 and 1980 standards and setting of alternative standards for Lamborghini, S.p.A. (49 CFR pt. 525).	R. Strombotne, (202)426-0846.	NPRM September 1979. FR November 1979.
Exemption from and Establishment of Fuel Economy Standards.	Analysis of petition for exemption from 1978 standard and setting of alternative standard for Maserati S.p.A. <i>FR issued 3/1/79. (44 FR 11548).</i> (49 CFR pt. 525).	R. Strombotne, (202)426-0846.	Action Complete.
Exemption from and Establishment of Fuel Economy Standards.	Analysis of petition for exemption from 1979 and 1980 standards and setting of alternative standards for Maserati, S.p.A. (49 CFR pt. 525).	R. Strombotne, (202)426-0846.	NPRM August 1979. FR October 1979.

FRA Federal Railroad Administration
Significant Regulations

Title	Summary	Contact	Date
Strobe Lights on Locomotives (Docket No. RSGC-2).	A. Description: Lighted warning devices that include strobe lights have been shown to be more readily visible than normal lighting devices. FRA is considering requiring the installation of strobe lights on locomotives. B. Why Significant: Degree of controversy reflected by response to ANPRM. C. Regulatory Analysis: Required..... D. Need: Grade crossing accidents represent the single largest group of railroad related fatalities each year. Available data indicate that the conspicuity of locomotives may be a factor in many of these accidents. Limited research with one railroad has indicated that equipping locomotives with strobe lights will improve their conspicuity and may lead to a reduction in these accident statistics. E. Legal Basis: The Federal Railroad Safety Act of 1970 (45 U.S.C. 431). F. Chronology: The ANPRM was published 3/7/78 (43 FR 9328). NPRM was published 6/18/79 (44 FR 34982). G. Citation: Will be 49 CFR pt. 222.....	John A. McNally, (202)426-9178.	FR December 1979.

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA AND REVIEW LIST

AGENDA

FRA

Federal Railroad Administration

Significant Regulations—Continued

Title	Summary	Contact	Date
Final Station Program Cost Sharing Determination (FRA Intercity Passenger Docket No. 1).	A. Description: Title VII of the Railroad Revitalization and Regulatory Reform Act of 1976 (4R Act) (45 U.S.C. 851 et seq.) provides for the upgrading by the Secretary of Transportation of the passenger railroad system between Washington, D.C. and Boston, Massachusetts, including the funding of certain station improvements. Non-Federal parties will have to bear one-half of the cost of the non-operational portions of stations (as determined by the Secretary) used in intercity passenger service and of related facilities. This notice would set forth the Department's determination as to what will constitute a "non-operational portion" of a station and a "related facility" for purpose of allocating station project costs between the Federal government and other participating entities. B. Why Significant: Great interest on the part of State and local transportation agencies due to the shared cost implication of the Secretary's determination. C. Regulatory Analysis: Not required. D. Need: Required by statute. E. Legal Basis: Sec. 703(1)(B) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 853(1)(B)). F. Chronology: NPRM was published on 4/28/78 (43 FR 18394). It had been under development since early 1977. G. Citation: No CFR citation as yet.	Jeff Godwin, (202)426-7710.	FR September 1979.

FRA

Federal Railroad Administration

Non-significant Regulations

Title	Summary	Contact	Date
Construction of Railroad Employees Sleeping Quarters (Docket No. HS-2).	The final rule implements a Congressional directive in the Hours of Service Act (45 U.S.C. 62(a)(4)) making it unlawful to begin construction of sleeping quarters in the immediate vicinity of a railroad yard. FR issued 7/19/78 (43 FR 31006). Petition for reconsideration by rail unions denied 2/6/79.	Grady C. Cothen, (202)426-8220.	Action Complete.
Railroad Bridge Safety Standards.	The proposed rule would establish safety standards for inspection and rating of load capacity for railroad bridges.	William R. Paxton, (202)426-0912.	ANPRM August 1979.
Railroad Noise Emission Compliance Regulations (Docket No. RNE-1).	The proposed rule would amend FRA Railroad Noise Emission Compliance Regulations to reflect EPA Standards for fixed railroad facilities that are to be issued by 8/79 (49 CFR pt. 210).	John A. McNally, (202)426-9178.	NPRM January 1980.
Rules, Standards, and Instructions for Railroad Signal Systems.	The proposed rule would seek to make miscellaneous technical amendments to the signal inspection rules (49 CFR pt. 236). To be included in general revision of Part 236 after completion of General Safety Inquiry; see FRA REVIEWS UNDER CONSIDERATION.	William R. Paxton, (202)426-0912.	Action deferred pending completion of general safety inquiry.
Safety Standards for Cabooses (Docket No. RSC-76-6).	The proposed rule would seek to establish comprehensive safety standards for cabooses.	Robert E. Abbott, (202)426-9186.	NPRM January 1980.

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA AND REVIEW LIST

AGENDA

FRA

Federal Railroad Administration

Non-significant Regulations—Continued

Title	Summary	Contact	Date
Rail Services Assistance to States Under Section 5 of the DOT Act (FRA Economic Docket No. 4).	This action would amend 49 CFR pt. 266 to provide guidelines for a more comprehensive application for substitute service assistance, to implement proposals offered by the grantees at a recent public meeting, and to make changes necessitated by the enactment of the Local Rail Service Assistance Act of 1978. NPRM published on 1/6/78 (43 FR 1108).	Larry A. Friedman, (202)426-7737.	FR—August 1979.
Financial Assistance for Railroad Passenger Terminals—Revision of Regulations.	On 5/22/78, the regulations (49 CFR pt. 256) were amended to exclude certain functions transferred by law out of DOT, and to extend the deadlines for filing of applications (43 FR 21886). Although the regulations were issued in final form, comments were solicited until 7/1/78. As warranted, changes will be made on the basis of the comments received. FR published 4/11/79 (44 FR 21646).	David Talley, (202)472-5305.	Action Complete.
Safety Inquiry—Lifting Lugs on Freight Cars (Docket RSSI-76-2).	On 10/5/78, FRA published an order temporarily staying effectiveness of industry standards requiring lifting lugs on all new freight cars (43 FR 46052). FRA also published a notice of a special safety inquiry on this subject and conducted a public hearing on 10/31/78 (43 FR 46106). Termination notice published 5/18/79 (44 FR 29416).	Rolf Mowatt-Larssen, (202)426-0924.	Action Complete.
Improved Glazing Materials for Railroad Rolling Equipment (Docket No. RSGM-1).	Formerly classified as significant regulation. NPRM published 10/16/78 (43 FR 47579) proposing minimum safety requirements for glazing materials in windows of locomotives, passenger cars and cabooses to increase protection against bullets and other projectiles. Public hearing held 11/29/78 (49 CFR pt. 229).	Robert E. Abbott, (202)426-9186.	FR August 1979.
Review: Freight Car Safety Standards (Docket No. RSFC-6).	Outgrowth of regulatory review in general safety inquiry. NPRM published 1/5/79 (44 FR 1419) proposing to revise Part 215.	Robert E. Abbott, (202)426-9186.	FR October 1979.
Review: Locomotives (Docket No. LI-6).	Outgrowth of regulatory review in general safety inquiry. Revision and updating of regulations to reflect technological advances and eliminate requirements that are no longer necessary for safety (49 CFR pt. 230). NPRM published 5/21/79 (44 FR 29604).	Arthur T. Ireland, (202)426-9186.	FR December 1979.
Review: Track Safety Regulations.	Outgrowth of regulatory review in general safety inquiry. Revision and updating of current requirements. (49 CFR pt. 213).	William R. Paxton, (202)426-0912.	NPRM July 1979.
Review: Safety Appliance Standards.	Outgrowth of regulatory review in general safety inquiry. Revised standards for new and existing equipment. (49 CFR pt. 231).	Ralph R. Smith, (202)426-9187.	NPRM August 1979.
Review: Power Brake Rules.	Outgrowth of regulatory review in general safety inquiry. Revision and updating of current requirements. (40 CFR pt. 232).	Ralph R. Smith, (202)426-9187.	NPRM October 1979.
Nondiscrimination in Federally Assisted Railroad Programs.	On 6/21/79, a FR was published (44 FR 36338) amending 49 CFR pt. 265 by establishing a new definition of minority business enterprise (MBE) and providing guidance in determining whether a business is an MBE.	Rufus S. Watson, (202)472-5311.	Action Complete.
*Review: Signal and Communication Systems.	Outgrowth of regulatory review in general safety inquiry. Revision and updating of current requirements of Parts 235 and 236.	S. H. Stotts, (202)426-0912.	NPRM November 1979.

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA AND REVIEW LIST
AGENDA

FRA Federal Railroad Administration
Routine and Frequent Non-significant Regulations

Title	Summary	Contact	Date
Rules for Use of Radio in Train Operations (Docket No. RSOR-5).	This final rule would establish penalty schedules for violations of radio rule requirements (49 CFR pt. 220).	John A. McNally, (202)426-9178.	FR September 1979

UMTA Urban Mass Transportation Administration
Significant Regulations

Title	Summary	Contact	Decision date
Withdrawal of Interstate Segments and Substitution of Alternative Projects (Docket No. 77-9).	The regulation is being jointly developed by UMTA and FHWA and is summarized elsewhere in this agenda by the Federal Highway Administration.	Richard White (202)472-6991.	NPRM August 1979.
Private Enterprise Participation in Federally-Assisted Programs.	A. Description: Pursuant to sections 3(e) and 8(e) of the UMT Act, as amended, UMTA plans to publish procedures regarding the involvement of private mass transit operators in federally-assisted programs. B. Why Significant: While these regulations would implement statutory requirements, this is a controversial issue for both the transit industry and private operators. C. Regulatory Analysis: Not required D. Need: To resolve an area of continuing controversy E. Legal Basis: Sections 3(e) (1) and (2), and Section 8(e) of the UMT Act, as amended. F. Chronology: 8(e) was added to the Urban Mass Transportation Act by the Federal Public Transportation Act of 1978. NPRM to be prepared by August 1979. G. Citation: 49 CFR pt. 619	Edward Gill, (202)426-1908.	NPRM August 1979
Paratransit Policy.....	A. Description: UMTA will publish a policy regarding the availability of federal assistance for public and private operators in the provision of paratransit services. In addition, an ANPRM will be issued seeking comments on development of more specific guidelines concerning paratransit and the involvement of private operators in the planning and provision of service. Paratransit services addressed in the policy are meant to encompass those forms of collective passenger transportation which provide flexible, shared-ride service to the general public, or to special categories of users (such as elderly or handicapped persons) on a regular and predictable basis, but which do not necessarily operate on fixed schedules or over prescribed routes. B. Why Significant: The regulation is expected to have a direct or indirect effect on competition. C. Regulatory Analysis: Not required D. Need: To provide uniform guidance to public and applicants. E. Legal Basis: The UMT Act, 49 U.S.C. 1601.....	Douglas Birnie, (202)426-4060.	ANPRM December 1979

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA AND REVIEW LIST
AGENDA

UMTA Urban Mass Transportation Administration
Significant Regulations—Continued

Title	Summary	Contact	Decision date
	F. Chronology: ANPRM to be prepared and issued by December 1979. G. Citation: None.....		
Urban Transportation Planning Process/Transportation Improvement Program.	The regulation is being jointly developed by UMTA and FHWA and is summarized elsewhere in this agenda by the Federal Highway Administration.	Bob Kirkland, (202)426-4991.	NPRM October 1979.
Environmental Procedures	A. Description: These regulations will prescribe UMTA procedures for environmental assessments and preparation of environmental impact statements on major agency actions significantly affecting the quality of the human environment. B. Why Significant: UMTA policy in this area may be expected to be of substantial interest to both UMTA grantees and the public. C. Regulatory Analysis: Not required D. Need: To provide uniform guidance to the public and applicants. E. Legal Basis: National Environmental Policy Act; DOT Order 5610.1; Section 14 of UMT Act; Council on Environmental Quality Regulations implementing NEPA (40 CFR pts. 1500-1508 (43 FR 55978)). F. Chronology: NPRM to be issued by August 1979 G. Citation: 49 CFR pt. 622	John Collins, (202)426-1908.	NPRM August 1979.
Public Transportation for Non-Urbanized Areas.	The regulation is being jointly developed by UMTA and FHWA and is summarized elsewhere in this agenda by the Federal Highway Administration.	Kay Regan, (202)472-7037.	NPRM August 1979.
Major Urban Transportation Investment.	The regulation is being jointly developed by UMTA and FHWA and is summarized elsewhere in this agenda by the Federal Highway Administration.	Joel Ettinger, (202)426-2360.	FR August 1979.
"Buy America" Requirements of Surface Transportation Assistance Act of 1978.	A. Description: These regulations implement section 401 of the Surface Transportation Assistance Act of 1978, which provides, with exceptions, that funds authorized may not be obligated for urban mass transportation projects unless materials and supplies are of United States origin. These regulations were issued as a final rule but comments were solicited until February 15, 1979 and changes will be made based on the comments received. B. Why Significant: There is substantial public interest concerning these regulations because of their impact on urban mass transportation projects. C. Regulatory Analysis: Not required D. Need: These regulations implement section 401 of the Surface Transportation Assistance Act of 1978. E. Legal Basis: 49 U.S.C. 1602 note; P.L. 95-599, Section 401. F. Chronology: The statute creating this provision was signed by the President on November 6, 1978 and required immediate implementation. The emergency final rule was published on December 6, 1978. (43 FR 57144) Comments were invited through February 15, 1979. UMTA is currently analyzing the comments received and will issue revised final regulations in September 1979.	John Collins, (202)426-1908.	Revised FR September 1979.

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA AND REVIEW LIST
AGENDA

UMTA
Urban Mass Transportation Administration
Significant Regulations—Continued

Title	Summary	Contact	Decision date
Regulation Implementing the Nondiscrimination Section of the Urban Mass Transportation Act	G. Citation: 49 CFR pt. 660 A. Description: The proposed regulations would unify the civil rights regulations that recipients of funds under the Urban Mass Transportation Act must meet. B. Why significant: Substantial public interest is anticipated. C. Regulatory Analysis: Not required D. Need: Regulations are needed to implement a new statutory provision which consolidates UMTA's authority to assure effective and uniform compliance with civil rights and equal employment opportunity requirements in a manner comparable to other agencies within the Department of Transportation. E. Legal Basis: Section 19 of the UMT Act (49 U.S.C. § 1615). F. Chronology: Section 19 was added to the UMT Act in November 1978 by the Federal Public Transportation Act of 1978. G. Citation: 49 CFR Chapter VI	Edward Gill, (202)426-1906.	NPRM November 1979.

UMTA
Urban Mass Transportation Administration
Non-significant Regulations

Title	Summary	Contact	Decision date
Charter and School Bus Regulations.	These regulations provide more detailed information regarding the restrictions placed on charter and school bus operations in section 3(f) and 3(g) of the UMT Act, 49 U.S.C. 1601. UMTA received considerable comments as a result of an ANPRM dated December 29, 1976 (41 FR 56680) and a hearing held thereafter and it is now planning to issue an NPRM for comment. (49 CFR pt. 604 and pt. 605).	Prentis Cook, (202)426-1906.	NPRM October 1979.
Innovative Techniques and Methods Set-Aside.	These regulations would prescribe policies and procedures for administering the grant programs for projects using innovative techniques and methods in the management and operation of public transportation services.	Joseph Goodman, (202)426-4984.	NPRM January 1980.
Rail Transit Car Testing	These regulations would prescribe policy guidance for the testing of rail transit cars, the test schedule to be followed and requirements of the tests to be performed.	Robert Haught, (202)426-9545.	NPRM August 1979.
Reporting Requirements for Urbanized Areas.	This regulation establishes a mechanism for submission of bus and rail data from all urbanized areas for apportionment funds under Section 5 of the UMT Act of 1964, as amended. These regulations were issued as an <i>emergency</i> final rule but comments were solicited and changes were made based on the comments received. (December 18, 1978, 43 FR 58928). The revised regulations were published on May 3, 1979 (44 FR 26850).	Peter Benjamin, (202)472-2435.	Action Complete.

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA AND REVIEW LIST
AGENDA

UMTA
Urban Mass Transportation Administration
Non-significant Regulations—Continued

Title	Summary	Contact	Decision date
Regulations Governing Formula Assistance to Urbanized Areas.	A formula assistance grant program for urbanized areas (areas whose population exceeds 50,000) was created by statute in 1974 as Section 5 of the Urban Mass Transportation Act (49 U.S.C. § 1604). The policies and procedures governing this program are described in UMTA Order 9050.1. In November of 1978, this Section 5 program was amended by P.L. 95-599 to modify the formula mechanism, to define new terms, to change the maintenance of effort provision, and to require public hearings prior to fare changes. Furthermore, Sections 304 and 319(a) of P.L. 95-599 required UMTA to collect new types of data to administer this modified Section 5 program. On December 18, 1978, UMTA published changes to 49 CFR pt. 630 which describe the types of data that must be submitted to UMTA. These changes were amended on May 3, 1979 (44 FR 26850). The purpose of the new regulation that is proposed here is to streamline the policies and procedures that were described in UMTA Order 9050.1 and to modify and expand those procedures to meet the new statutory mandates. The changes made in December to 49 CFR pt. 630 will be reviewed to lessen the reporting burden to local public bodies. (49 CFR pt. 630). <i>A proposed regulation governing the public hearing requirements is being published separately and is described elsewhere in this document.</i>	Peter Benjamin, (202)472-2435.	NPRM September 1979.
*Miscellaneous Amendments—Organization, Functions, and Procedures.	These amendments will reflect modifications in the organization and distribution of functions as well as changes in the delegations of authority within the Urban Mass Transportation Administration (49 CFR pt. 401).	Patricia Colbert, (202)426-4011.	FR August 1979.
*Public Hearing Requirements	UMTA is proposing regulations to implement Section 5(i)(3) of the Urban Mass Transportation Act of 1964, as amended. This section requires a public hearing or an opportunity for a public hearing prior to increases in general levels of transit fares or substantial changes in service. A notice of proposed rulemaking was published on July 16, 1979 (44 FR 41272). Comments have been invited through August 30, 1979.	Charlotte Adams, (202)472-6997.	FR September 1979.
*Standardized Specification for Rail Rapid Transit Cars.	These regulations would require UMTA grantees to use standard specifications for rapid transit cars. The emphasis in the specifications would be placed on standardizing performance requirements and subsystems rather than in the area of dimensions.	Stephen Teel, (202)426-0090.	September 1979.
*Investigation of Safety Hazards in Urban Mass Transportation Systems.	These regulations would establish the policy and proceedings to be followed in the implementation of Section 107 of the National Mass Transportation Assistance Act of 1974, including the investigation of an unsafe condition, the requiring of a plan for correcting an unsafe condition, and the withholding of financial assistance until such a plan is approved or implemented.	William Rhine, (202)426-9545.	September 1979.

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA AND REVIEW LIST
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UMTA

Urban Mass Transportation Administration

Non-significant Regulations—Continued

Title	Summary	Contact	Decision date
*Human Resource Needs in Transit Industry.	Section 20 of the Urban Mass Transportation Act of 1964, as amended, provides that the Secretary of Transportation, through UMTA, may provide financial assistance for national and local programs that address human resource needs as they apply to public transportation activities. It is intended that the number of minority and female employees in the public transportation field will be increased and that the quality of opportunities will be increased through outreach, training, and management development. The proposed regulations would set out the types of potential eligible projects and the requirements that a project must meet to receive Section 20 funds.	Ivin Bromall, (202)426-2285.	September 1979.

SLSDC

Saint Lawrence Seaway Development Corporation

Non-significant Regulations

Title	Summary	Contact	Decision date
Operational Regulations	Annual update of 33 CFR Part 401 operational regulations developed, for the most part, jointly with the Seaway Authority of Canada.	Frederick A. Bush, 315-764-0271.	August 1979. Repeated in June 1980.

RSPA

Research and Special Programs Administration

Significant Regulations

Title	Summary	Contact	Decision date
Highway Routing of Radioactive Materials (Docket No. HM-164).	A. Description: This regulation would establish routing requirements for the highway carriage of radioactive materials. B. Why Significant: There is substantial public interest and controversy over the regulation and it would have a significant impact on the Federal Highway Administration. C. Regulatory Analysis: Not required D. Need: To provide a basis for deciding whether Federal routing requirements are necessary for the highway transportation of hazardous materials. E. Legal Basis: 49 U.S.C. 1803, 1804, 1808..... F. Chronology: Administrative ruling on federal pre-emption: Published a public notice and invitation to comment on Aug. 15, 1977 (42 FR 41202); Public hearing was held on Nov. 10, 1977 (42 FR 54487); Ruling published April 20, 1978 (42 FR 16945); Rulemaking: ANPRM issued August 17, 1978 (43 FR 36492); Hearing in New York, held November 29, 1978. G. Citation: 49 CFR pt. 177	D. Crockett, (202)426-2075.	NPRM September 1979.
Development of New Standards for Transportation of Hazardous Waste Materials (Docket No. HM-145A).	A. Description: Would establish new standards and procedures for the transportation of hazardous waste materials.	A. Roberts, (202)426-0656.	FR December 1979.

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA AND REVIEW LIST
AGENDA

RSPA

Research and Special Programs Administration

Significant Regulations—Continued

Title	Summary	Contact	Decision date
Development of New Standards for Liquefied Natural Gas (LNG) Facilities (Docket No. OPSO-46).	B. Why Significant: This regulation would have a significant impact on the operating administration and the Environmental Protection Agency (EPA). C. Regulatory Analysis: Not required D. Need: These standards are necessary to govern the transportation of hazardous waste materials and to provide consistency with the hazardous waste materials regulations to be promulgated by EPA under the Resource Conservation and Recovery Act. E. Legal Basis: 49 U.S.C. 1803, 1804, 1808..... F. Chronology: NPRM jointly developed with EPA; public hearing held on Oct. 26, 1977 (42 FR 51625); NPRM issued May 25, 1978 (43 FR 22626); public hearing on NPRM held on June 20, 1978 (43 FR 22626). G. Citation: 49 CFR pts. 171, 172, 173, 174, 175, 176, and 177. A. Description: Comprehensive new standards would be proposed for the siting, design, construction, operation, and maintenance of LNG facilities. B. Why Significant: Major rulemaking due to substantial public interest and controversy, and due to potential danger of large-scale LNG spills. C. Regulatory Analysis: Not required D. Need: The concerns of Federal, State, and local agencies over LNG safety. E. Legal Basis: 49 U.S.C. 1672 F. Chronology:..... ANPRM Apr. 21, 1977 (42 FR 20776). NPRM (siting, design, and construction): Feb. 8, 1979 (44 FR 8142). NPRM (operation and maintenance): Sept. 1979..... Final rules (siting, design, and construction) Dec. 1979.... Final rules (operation and maintenance): July 1980 G. Citation: 49 CFR pt. 193 (new).....	L. Furrow, (202)426-0135.	FR December 1979.

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA AND REVIEW LIST

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Research and Special Programs Administration

Non-significant Regulations

Title	Summary	Contact	Decision date
Intermodal Portable Tanks (Docket No. HM-167).	Proposed standards for new specifications for portable tanks and procedures for use of these portable tanks for certain hazardous materials. NPRM published December 11, 1978 (43 FR 58050). (49 CFR 107.400-407, 178.271, 178.272).	E. Altemos, (202)246-0656.	FR December 1979.
Review: Recodification of Radioactive Requirements (Docket No. HM-169).	Proposed consolidation, simplification and recodification, of the existing requirements applicable to the transportation of radioactive materials to make them compatible with latest revised international standards as promulgated by the International Atomic Energy Agency. NPRM published January 8, 1979 (44 FR 1852). (New pt. 127 to 49 CFR).	R. Rawl, (202)426-0656.	FR Pending Publication of Companion Document by U.S. Nuclear Regulatory Commission.
Transportation of Asbestos (Docket No. HM-160).	Establishes standards to control asbestos emissions during transportation (49 CFR 172.101, 173.1090). NPRM published March 2, 1978 (43 FR 8562); FR published December 4, 1978 (43 FR 56664).	A. Roberts, (202)426-0656.	Petition for reconsideration under review to be answered by August 1979.
Safety Improvement Program for DOT 105 Tank Cars (Project 264-78).	Consideration of possible changes to current safety performance standards of DOT 105 tank cars (49 CFR pt. 179).	W. Black, (202)426-2748.	NPRM August 1979.
Detonators and Detonating Primers (Docket No. HM-161).	Proposed standards for establishing appropriate shipping descriptions and hazard classifications for many detonators which are currently used in commercial service: NPRM issued May 4, 1978 (43 FR 19242). (49 CFR 172.101). Comment period extended to permit development of testing data.	C. Schultz, (202)755-4906.	FR August 1979.
Cryogenic Liquids (Docket No. HM-115).	Proposed standards and procedures for the transportation of cryogenic liquids. NPRM published March 8, 1979. (44 FR 12826) (49 CFR 172.101, 173.316). Hearing (Washington, D.C.) held on April 17, 1979. Comment period extended to permit further consideration of issues raised in hearing.	P. Seay, (202)755-4906.	FR February 1980.
Hazardous Materials Aboard Aircraft (Docket NO. HM-168).	Proposed standards for the safe operation of aircraft having certain hazardous material aboard. NPRM published December 11, 1978 (43 FR 57928). (49 CFR pts. 107, 171, 175).	E. Mazzullo, (202)755-4902.	FR September 1979.
Availability of Shipping Papers to Emergency Response Personnel (Project 259-78).	Proposal to require shipping papers covering hazardous materials to be made available by train crew to emergency personnel. This proposal has been reconsidered and will become a part of Project 273-78, Hazardous Materials Communications Regulations (49 CFR pts. 171-177).	J. Horning, (202)755-4902.	NPRM September 1979.
Use of United Nations Materials Shipping Terminology/Number (Project 266-78).	Proposed incorporation of shipping descriptions and serial numbers from United Nations regulations covering the transport of dangerous goods. NPRM published July 26, 1979 (44 FR 43864). (49 CFR 172.102).	E. Altemos, (202)426-0656.	FR December 1979.
Definition of a Flammable Solid (Docket No. HM-118).	Proposed new standards for classifying a material as a flammable solid (49 CFR 173.150). Action deferred pending further review.	C. Schultz, (202)755-4906.	Review August 1979.
Radiation Exposure of Transportation Workers (Project 263-78).	Consideration of methods which will reduce radiation exposure levels to transportation workers (New Sections).	R. Rawl, (202)426-0656.	NPRM November 1979.
Requirements for Radioactive Materials (Docket No. HM-152).	Proposed revisions of certain secs. of pt. 175 which will reduce the exposure to radioactive materials for passengers aboard aircraft (49 CFR pt. 175). NPRM published June 21, 1977 (42 FR 37424).	R. Rawl, (202)426-0656.	FR August 1979.

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA AND REVIEW LIST

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Research and Special Programs Administration

Non-significant Regulations—Continued

Title	Summary	Contact	Decision date
Forbidden Materials (Docket No. HM-159).	Proposed standards to add the names of materials to the Hazardous Materials Table that are known to be too hazardous to be permitted in commercial transportation. NPRM published July 26, 1979 (44 FR 43861). (49 CFR 172.101).	C. Schultz, (202)755-4906.	FR November 1979.
Review: Recodification of Operating Procedures For Motor Vehicles (Project 261-78).	Proposed simplification and recodification of the existing operating procedures for transportation of hazardous materials by motor vehicles as prescribed in Part 177 (49 CFR pt. 177).	R. Toth, (202)426-1700.	NPRM March 1980.
Safety Plans for Normal Operations and Emergencies for Pipelines Carrying Highly Volatile Liquids (Docket No. PS-51).	Criteria would be proposed to govern a carrier's plans for preventing and handling emergencies for pipelines carrying highly volatile liquids, e.g., LPG/NH ₃ . NPRM published Aug. 10, 1978 (43 FR 35513). Comment period was extended to Nov. 6, 1978 (43 FR 46015). Final rule published July 16, 1979. (44 FR 41197) (49 CFR pt. 195).	F. Robinson, (202)426-0135.	Action Complete.
Standards to Reduce Spill Size Risks Associated with Pipeline Transportation of Highly Volatile Liquids such as Liquid Petroleum Gas (Docket No. PS-53).	Proposal would require valve spacing or other requirements to minimize the amount of commodity or vapor that can spread into populated areas in event of a spill. NPRM published Sept. 5, 1978 (43 FR 39402). On review, the NPRM is being issued as an amendment. (49 CFR pt. 195).	F. Robinson, (202)426-0135.	FR August 1979.
Joining Plastic Pipe (Docket No. PS-59).	Qualifications would be established for procedures and personnel in joining plastic pipe. NPRM published Oct. 23, 1978 (43 FR 49334). Final rule published July 23, 1979 (44 FR 42968) (49 CFR pt. 192).	P. Cory, (202)426-2392.	Action Complete.
Standards to Reduce Pipeline Failure Rates in Pipelines Carrying Highly Volatile Liquids (LPG/NH ₃) (Docket No. PS-5).	Testing or operating requirements would be proposed to assure the safe operation of existing pipelines transporting highly volatile liquids. NPRM published Nov. 7, 1978 (43 FR 52500). (49 CFR pt. 195).	F. Robinson, (202)426-0135.	FR September 1979.
Corrosion Control (Docket No. PS-52).	Specification of a sampling procedure for inspecting cathodic protection on transmission lines. NPRM issued Sept. 5, 1978 (43 FR 39401). (49 CFR pt. 192).	P. Cory, (202)426-2392.	FR November 1979.
Requirements for Reporting Gas Incidents (Docket No. OPS-49).	The present reporting forms would be revised to provide additional and more appropriate information about gas safety problems and to require reports from certain systems not now covered. NPRM issued June 5, 1978 (43 FR 24478). Comment period was extended to July 7, 1978 (43 FR 30590). Supplemental Notice to NPRM of June 5, 1978, issued February 1, 1979. (49 CFR pt. 191).	R. Langley, (202)426-2082.	FR September 1979.
Miscellaneous Proposals Concerning Rail Transportation (Project 259-78).	Proposals concerning availability of hazardous materials shipping papers to emergency personnel, car placement, compliance with track standards, and tank car safety appurtenances. (49 CFR 174.24, 174.91, 174.7, 174.31 and pt. 179). Availability of shipping papers to emergency response personnel proposal has been reconsidered and will become a part of Project 273-78, Hazardous Materials Communications Regulations. Compliance with track standards proposal has been denied. Other proposals will be considered for incorporation into a rulemaking action at a later date.	J. Horning, (202)755-4902.	Withdrawn.
Color Specifications for Hazardous Warning Labels (Docket No. HM-151).	Incorporation of color specifications for hazard warning labels printed directly on a packaging. (Correction of final rule in HM-112, April 15, 1976, 41 FR 15972). Final rule published February 15, 1979 (44 FR 9756). (49 CFR pt. 172).	L. Metcalfe, (202)426-0656.	Action Complete.
Flattening Test Requirements for Seamless Cylinders (Docket No. HM-156).	Deletion of requirement that certain seamless cylinders be hydrostatically tested prior to flattening test. (NPRM published January 19, 1978, 43 FR 2741). Final rule published January 29, 1979 (44 FR 5666). (49 CFR pt. 178).	J. Pena, (202)755-4906.	Action Complete.

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA AND REVIEW LIST
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Research and Special Programs Administration

Non-significant Regulations—Continued

Title	Summary	Contact	Decision date
Glass Carboy in Expanded Polystyrene Packaging (Docket No. HM-117).	Deletion of obsolete specification packaging; new specification for glass carboy in expanded polystyrene packaging (NPRM published June 14, 1974, 39 FR 20805). <i>Final rule published March 2, 1979 (44 FR 14194).</i> (49 CFR pts. 173, 178).	M. Gigliotti, (202)755-4906.	Action Complete.
Hazardous Polluting Substances (Docket HM-145B).	Proposed new classification for materials designated as hazardous polluting substances by EPA under the Clean Water Act. <i>NPRM published February 22, 1979 (44 FR 10676).</i> (49 CFR pts. 171-177).	L. Metcalfe (202)426-0656.	FR September 1979.
Use of Interested Inspectors for Cylinder Inspections (Docket No. HM-74A).	Discontinuance of "interested" inspectors to perform inspections and testing of domestically manufactured low pressure gas cylinders. <i>NPRM published March 17, 1976 (41 FR 11179).</i> (49 CFR pt. 178).	H. Mitchell, (202)755-4902.	NPRM November 1979.
Deletion of Tank Car Stenciling (Project 276-78).	Amendment to eliminate tank car stenciling requirements which duplicate or conflict with existing marking requirements. <i>Final Rule published April 5, 1979 (44 FR 20433).</i> (49 CFR pts. 174, 179).	W. Black, (202)426-2748.	Action Complete.
Hazardous Materials Communications Regulations (Project 273-78).	Development of changes to shipping papers, marking, labeling, and placarding requirements (49 CFR pts. 171-177).	A. Roberts, (202)426-0656.	NPRM September 1979.
Cylinders Mounted on Motor Vehicles (Project 284-74).	Proposed protection for devices and appurtenances on cylinders mounted on motor vehicles (49 CFR pt. 173).	A. Mallen, (202)755-4902.	NPRM August 1979.
Display of Hazardous Materials Identification Numbers (Docket No. HM-126A).	Development of numerical identification code for hazardous materials for use in emergencies. <i>NPRM published June 7, 1979 (44 FR 32972).</i> (49 CFR pt. 172).	L. Metcalfe, (202)426-0656.	FR November 1979.
Development of Training Requirements for Drivers of Cargo Tank Motor Vehicles (Project 270-78).	Development of minimum driver training requirements necessary to prevent unintentional releases of hazardous materials (49 CFR pt. 177).	R. Toth, (202)426-1700.	ANPRM August 1979.
Specification for 55-gallon Plastic Drum (Project 278-78).	Proposal to authorize 55-gallon capacity plastic drums and authorization for use with certain hazardous materials (49 CFR pt. 178).	M. Gigliotti, (202)755-4906.	NPRM October 1979.
Development of Standards and Qualification Tests for Cargo Tank Hoses (Project 271-78).	Development of standards and periodic tests to prevent rupture of hoses used to load and unload cargo tanks (49 CFR pts. 173, 177).	R. Toth, (202)426-1700.	ANPRM August 1979.
Consolidation and Revision of Requirements for the Carriage of Explosives by Vessel (Project 279-78).	Proposed consolidation and revision of requirements for the carriage of military and commercial explosives by vessel and adoption of United Nations scheme for classification and compatibility of explosives for the water mode (49 CFR pt. 176).	L. Gibson, (202)426-1577.	NPRM October 1979.
Oxidizing Materials Definition, Criteria and Proposed Regulations (Project 160-71).	Development of new standards for classifying a material as an oxidizing material (49 CFR pt. 173).	C. Schultz, (202)755-4906.	ANPRM November 1979.
Attendance of Cargo Tanks During Transportation (Project 272-78).	Proposed revision of attendance requirements to include transportation activities other than loading and unloading (49 CFR pt. 177).	R. Toth, (202)426-1700.	NPRM March 1980.
Establish Performance Standards for Specification Bags (Project 280-78).	Development of performance standards for specification bags (49 CFR pt. 178).	M. Gigliotti, (202)755-4906.	ANPRM October 1979.
Organic Peroxide Requirements (Project 186-72).	Proposed listing of and packaging requirements for organic peroxides. (49 CFR pts. 172, 173). <i>May be combined with (Project 160-71) (49 CFR pt. 173).</i>	C. Schultz, (202)755-4906.	ANPRM November 1979.

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA AND REVIEW LIST
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Research and Special Programs Administration

Non-significant Regulations—Continued

Title	Summary	Contact	Decision date
Odorization of Gas (Project 277-78).	Proposed odorization requirements for certain compressed gases. <i>This proposal has been reconsidered and will become a part of Project 273-78, Hazardous Materials Communications Regulations.</i> (49 CFR pt. 173).	A. Roberts, (202)426-0656.	NPRM September 1979.
Inspection and Testing of Compressed Gas Cylinders (Project 235-74).	Proposed revision and simplification of requirements concerning the inspection, testing, requalification and use of compressed gas cylinders (49 CFR pts. 173, 178).	A. Mallen, (202)755-4906.	NPRM July 1980.
Aluminum Cylinder Specification (Project 228-73).	Development of specifications for aluminum cylinders (49 CFR pts. 173, 178).	A. Mallen, (202)755-4906.	NPRM November 1979.
Design and Construction of Pipelines Carrying Hazardous Volatile Liquids (Docket No. PS-56).	Additional or more stringent design and construction standards would be proposed for pipelines carrying highly volatile liquids. <i>ANPRM published February 5, 1979 (44 FR 6961).</i> (49 CFR pt. 195).	F. Robinson, (202)426-0135.	ANPRM September 1979.
Retention of Radiographic Film.....	Recordkeeping requirement for radiographic film would be revoked for hazardous liquid pipelines. (49 CFR pt. 195).	F. Robinson, (202)426-0135.	NPRM November 1979.
Offsetting Longitudinal Weld Seams on Adjacent Pipe Lengths (Docket No. OPSO-48).	Construction requirement for offsetting weld seams on adjacent pipe lengths in hazardous liquid pipelines would be revoked. (49 CFR pt. 195).	F. Robinson, (202)426-0135.	FR December 1979.
Time Required to Hydrostatically Test a Hazardous Liquids Pipeline.	An 8-hour minimum time period would be proposed for hydrostatically testing hazardous liquid pipelines. (49 CFR pt. 195).	F. Robinson, (202)426-0135.	NPRM August 1979.
Placing Longitudinal Weld Seams in Upper Pipe Half.	Requirement to locate longitudinal weld seams in the upper half of pipe during construction of hazardous liquid pipelines. (49 CFR pt. 195).	F. Robinson, (202)426-0135.	ANPRM October 1979.
Heat Treatment of Hard Spots in Steel Pipe.	Allowable temperature for heat treating hard spots in steel pipe would be increased (49 CFR pt. 192).	P. Cory, (202)426-2392.	NPRM July 1979.
Qualifying Components for Use in Gas Pipelines.	General criteria would be proposed for qualifying the use of pipeline components other than the pipe itself. (49 CFR pt. 192).	P. Cory, (202)426-2392.	NPRM October 1979.
Transportation of Natural and Other Gas By Pipeline (PS-57).	Requirements for procedures and instrumentation for use in monitoring gas for odorants would be proposed. <i>NPRM published February 22, 1979 (44 FR 10604).</i> (49 CFR pt. 192).	P. Cory, (202)426-2392.	FR December 1979.
Leak Survey.....	Present leak survey requirements would be amended in accordance with practices necessary for safety. (49 CFR pt. 192).	P. Cory, (202)426-2392.	NPRM August 1979.
Interior Piping.....	The adequacy of existing standards with regard to safety problems concerning interior piping would be examined and new standards may be proposed. (49 CFR pt. 192).	P. Cory, (202)426-2392.	ANPRM December 1979.
Monitor Pressure Regulating Station.	Monitoring equipment would be required for systems served by a single district pressure regulating station. (49 CFR pt. 192).	R. Simmons, (202)426-2082.	NPRM August 1979.
Procedures to Guard Against Blasting Effects in Gas Pipelines.	Proposed standards requiring gas pipeline operators to have procedures to protect facilities affected by blasting. (49 CFR pt. 192).	R. Langley, (202)426-2082.	NPRM November 1979.
Location, Size, and Operating Pressure of Pipelines.	Operators would be required to maintain maps and records to identify the location, size, and operating pressure of all pipelines (49 CFR pt. 192).	R. Langley, (202)426-2082.	ANPRM August 1979.
Hot Taps in Gas Pipelines.....	Operators would be required to identify a pipeline by pressure monitoring or other means before performing a hot tap on it. (49 CFR pt. 192).	R. Langley, (202)426-2082.	NPRM September 1979.

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA AND REVIEW LIST
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Research and Special Programs Administration
Non-significant Regulations—Continued

Title	Summary	Contact	Decision date
Excavation Damage	Operators would be required to participate in a program to prevent excavation damage to underground pipelines (49 CFR pts. 192 and 195).	R. Langley, (202)426-2082.	NPRM August 1979.
Occupational Health and Safety (Docket No. OPS-39).	Advance notice on possible occupational standards for working conditions has been withdrawn. Withdrawn May 17, 1979. (44 FR 28831).	L. Furrow, (202)426-0135.	Withdrawn.
*Matches (Project 281-78)	Proposed revision and simplification of requirements concerning matches. (49 CFR pts. 172, 173).	H. Mitchell, (202)755-4902.	NPRM August 1979.
*Marking and Record Retention for Cylinders (Project 284-79).	Proposed revision and clarification of cylinder marking requirements; deletion of approval for changes to owner markings, user markings, and serial numbers; deletion of submission requirements for cylinder test reports and substitute record retention requirement. (49 CFR pts. 173, 178).	H. Mitchell, (202)755-4902.	NPRM December 1979.

RSPA

Research and Special Programs Administration
Routine and Frequent Non-significant Regulations

Title	Summary	Contact	Decision date
Conversion of Individual Exemptions to Regulations of General Applicability (Docket No. HM-139).	NPRM approximately every three months; with FR targeted approximately two months thereafter.	D. Raines, (202)755-4962.	January 1979-January 1980.
Minor Regulatory Adjustments to Regulations of General Applicability (Docket No. HM-166).	NPRM approximately every four months; with FR targeted approximately two months thereafter.	D. Raines, (202)755-4962.	January 1979-January 1980.
Matter Incorporated by Reference (Docket No. HM-22).	NPRM every six months; with FR targeted two months thereafter.	J. Horning, (202)755-4902.	January 1979-January 1980.
Withdrawal of Certain Delegations of Authority to the Bureau of Explosives (Docket No. HM-163).	Prior responsibilities delegated to the Bureau of Explosives would be withdrawn in series of rulemaking actions. NPRM every three months; with FR targeted two months thereafter.	D. Raines, (202)755-4962.	January 1979-January 1980.
Matter Incorporated by Reference.	Documents incorporated by reference would be updated to later published editions. NPRM every six months, with FR three months later.	A. Garcia, (202)426-2082.	January 1979-January 1980.

USCG

REVIEW LIST
U.S. Coast Guard

Reviews Under Consideration

Title	Reasons for selection	Contact	Decision date
Charges for Duplicate Medals and Sales of Personal Property, Equipment or Services and Rental (33 CFR 1.26)..	Length of time since last evaluated; changing economic factors.	Mr. A. Bell, (202)426-1863.	September 1979.
Regulations, United States Coast Reserve (33 CFR pt. 8).	Length of time since last evaluated; need to reflect changed procedures..	Capt. Grover, (202)426-2348.	August 1979.
Boating Safety: Equipment requirement Personal Flotation Devices (33 CFR 175.15)..	Length of time since last evaluated; Research and Development project initiated to determine need for carriage regulations revision..	Mr. Gauthier, (202)426-4176.	August 1980.

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA AND REVIEW LIST
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USCG

U.S. Coast Guard
Reviews Under Consideration—Continued

Title	Reasons for selection	Contact	Decision date
Boats and Associated Equipment: Safe Loading (33 CFR Pt. 183, subpart C)..	Length of time since last evaluated; standards may not be effective for all boats to which these regulations apply.	Mr. L. Gray, (202)426-4027.	January 1981.
Boats and Associated Equipment: Safe Powering (33 CFR pt. 183, subpart D)..	Length of time since last evaluated; standards may not be effective for all boats to which these regulations apply.	Mr. L. Gray, (202)426-4027.	January 1980.
Boats and Associated Equipment: Flotation Standards (33 CFR pt. 183).	Length of time since last evaluated; standards may be limited in applicability.	Mr. L. Gray, (202)426-4027.	August 1980.
Vessel Inspection (46 CFR pt. 2)	Being reviewed for purposes of simplification, clarification and accuracy.	Comdr. Delenonardis, (202)426-2183.	Action Complete.
Regattas and Marine Parades (33 CFR pt. 100).	Length of time since last evaluated; survey of District Commanders will determine if District conditions have changed.	Mr. Gauthier, (202)426-4176.	Action Complete.
Revision of Approval of Cargo Containers Regulations (Docket No. CGD 79-027).	Would update regulations implementing International Convention for Safe Containers (OSC) to incorporate internationally agreed upon interpretations and public comments.	Mr. C. Hochman, (202)426-1577.	NPRM August 1979.

FAA

Federal Aviation Administration
Reviews Under Consideration

Title	Summary	Contact	Decision date
Rotorcraft Review	These regulations were selected for review to determine the need for (1) developing instrument flight rules airworthiness standards for rotorcraft certification and (2) improving and updating the rotorcraft airworthiness requirements and operating regulations. Conference scheduled for 12/9-14/79. Notification of Conference location will be published in the Federal Register.	William J. Sullivan, (202)755-8716.	December 1979.
Light Transport Airplane—Airworthiness Review.	These regulations were selected for review to determine the need for developing airworthiness standards for small airplanes carrying 10 or more passengers. Request for proposals published 3/19/79 (44 FR 16855). Proposals due by 7/9/79. Conference Scheduled for 9/17-19/79, Published 4/16/79 (44 FR 22656).	William J. Sullivan, (202)755-8716.	September 1979.

FRA

Federal Railroad Administration
Reviews Under Consideration

Regulations selected for review	Reasons for selection	Contact	Target date
General Safety Inquiry	FRA has initiated a General Railroad Safety Inquiry to obtain information from the public to assist in evaluating and improving its safety program. A series of public hearings, each focused on a single regulatory topic, have been scheduled as indicated below.		
Topic: Locomotives (49 CFR pt. 230).	Hearing notice published May 8, 1978 (43 FR 19696). Public hearing held June 14 and 15, 1978. Rulemaking initiated; see listing under Nonsignificant Regulations..	R. Mowatt-Larssen, (202)426-0924.	Action Complete.
Topic: Power Brakes (49 CFR pt. 232).	Hearing notice published August 8, 1978 (43 FR 36659). Hearing held on September 13 and 14, 1978. Rulemaking to be initiated; see listing under Nonsignificant Regulations.	R. Mowatt-Larssen, (202)426-0924.	Completion October 1979.

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA AND REVIEW LIST
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FRA
Federal Railroad Administration
Reviews Under Consideration—Continued

Regulations selected for review	Reasons for selection	Contact	Target date
Topic: Track and Related Structures, Appliances and Devices (49 CFR pt. 213).	Hearing notice published September 25, 1978 (43 FR 43339). Notice of rescheduling of public hearing published October 4, 1978 (43 FR 45905). Hearing held November 15 and 16, 1978. <i>Rulemaking to be initiated; see listing under Nonsignificant Regulations.</i>	R. Mowatt-Larssen, (202)426-0924.	Completion August 1979.
Topic: Signal and Communication Systems (49 CFR pts. 235 and 236).	Hearing notice published December 12, 1978 (43 FR 58100). Public hearing rescheduled for February 21 and 22, 1979; Notice of change in hearing dates published in <i>Federal Register</i> on 1/3/79 (44 FR 925). <i>Hearing held February 22 and 23, 1979. Rulemaking to be initiated; see listing under Nonsignificant Regulations.</i>	R. Mowatt-Larssen, (202)426-0924.	Completion November 1979.
Guarantee of Certificates of Trustees of Railroads in Reorganization (Pursuant to the Emergency Rail Services Act of 1970).	The financial assistance program under the Emergency Rail Services Act of 1970, 45 U.S.C. 661 <i>et seq.</i> , is likely to become active again due to the July 1, 1978 repayment of \$50 million in trustee certificates by the Penn Central Trustees. The regulations' (49 CFR pt. 250) information requirements are currently being modified to make them consistent with the regulations issued under FRA's other loan guarantee program (49 CFR pt. 260). <i>Review completed and regulation amended 4/23/79 (44 FR 23851).</i>	Larry Friedman, (202)426-7737.	Action Complete.
Nondiscrimination in Federally Assisted Railroad Programs.	See FRA Nonsignificant Regulations.	Rufus S. Watson, (202)472-5311.	Action Complete.
Assistance to State, Local and Regional Transportation Authorities in the Northeast Region for Continuation of Local Rail Services.	The grant program under section 402 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 762) was repealed as of April 1, 1978. Because grants entered into prior to April 1, 1978 are still in effect and subject to the section 402 regulations (49 CFR pt. 255), a determination will be made as to when the regulations will be repealed after the grants have expired in 1981.	Larry Friedman, (202)426-7737.	Withdrawn.

NHTSA
National Highway Traffic Safety Administration
Reviews Under Consideration

Regulations selected for review	Reason for selection	Contact	Target date
*Five Year Plan for Motor Vehicle Safety & Fuel Economy Rulemaking.	Annual review to update the plan. Purpose of the plan is to inform the public of proposed safety rulemaking priorities and each planned fuel economy and safety rulemaking action for the coming 5 year period.	Deborah Parker, (202)426-1570.	April 1980.
Air Brakes (49 CFR 571.121).....	Cost, Safety Benefits and Public Interest.....	Frank Ephraim, (202)426-1574.	September 1979.
Hydraulic Brakes (49 CFR 571.105).	Cost and Safety Benefits.....	Frank Ephraim, (202)426-1574.	December 1980.
Lamps, Reflective Devices and Associated Equipment (49 CFR 571.108).	Cost and Safety Benefits.....	Frank Ephraim, (202)426-1574.	December 1980.
Head Restraints (49 CFR 571.202).	Costs.....	Frank Ephraim, (202)426-1574.	October 1979.
Seating Systems (49 CFR 571.207).	Costs.....	Frank Ephraim, (202)426-1574.	December 1980.
Child Seating Systems (49 CFR 571.213).	Public Interest.....	Frank Ephraim, (202)426-1574.	Preliminary Review March 1980.

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NHTSA
National Highway Traffic Safety Administration
Reviews Under Consideration—Continued

Regulations selected for review	Reason for selection	Contact	Target date
Occupant Protection (49 CFR 571.213).	Cost, Safety Benefits and Public Interest.....	Frank Ephraim, (202)426-1574.	Active Belts August 1979. Passive Belts, Air Cushion, Restraints or other Passive Systems Preliminary Review FY-85.
Side Door Strength (49 CFR 571.214).	Public Interest.....	Frank Ephraim, (202)426-1574.	November 1979.
Exterior Protection (49 CFR 571.215) and (49 CFR pt. 581).	Cost and Public Interest.....	Frank Ephraim, (202)426-1574.	August 1980.
Fuel System Integrity (49 CFR 571.301).	Cost, Safety Benefits and Public Interest.....	Frank Ephraim, (202)426-1574.	September 1979.
School Bus Protection (49 CFR 571.220).	Public Interest.....	Frank Ephraim, (202)426-1574.	Preliminary Review December 1980.
School Bus Body Joint Strength (49 CFR 571.221).	Public Interest.....	Frank Ephraim, (202)426-1574.	Preliminary Review December 1980.
School Bus Seating System (49 CFR 571.222).	Public Interest.....	Frank Ephraim, (202)426-1574.	December 1980.
Tire Reserve Load (49 CFR 575.102).	Public Interest.....	Michael Brownlee, (202)426-1740.	October 1979.
Acceleration and Passing Ability (49 CFR 575.106).	Public Interest.....	Michael Brownlee, (202)426-1740.	October 1979.

RSPA
Research and Special Programs Administration
Reviews Under Consideration

Regulations selected for review	Reasons for selection	Contact	Decision date
Shippers-General Requirements for Shipments and Packagings (49 CFR pt. 173); Matches (49 CFR 173.176).	Due to inquiries requesting an interpretation of this section and to eliminate the possibility of noncompliance based on a misunderstanding of the requirements, there is a need to simplify and clarify present standards.	J. Horning, (202)755-4902.	Action Complete.
Electric Storage Batteries Wet (49 CFR 173.260).	Due to inquiries requesting an interpretation of this section and to eliminate the possibility of noncompliance based on a misunderstanding of the requirements, there is a need to simplify and clarify present standards.	J. Horning, (202)755-4902.	September 1979.
Charcoal (49 CFR 173.162).....	Due to inquiries requesting an interpretation of this section and to eliminate the possibility of noncompliance based on a misunderstanding of the requirements, there is a need to simplify and clarify present standards.	J. Horning, (202)755-4902.	October 1979.
Welding of Steel in Gas Pipelines (49 CFR pt. 192, subpt. E).	Present requirements to be examined in light of changes in technology.	L. Furrow, (202)426-0135.	August 1979.
Maintenance of Gas Pipelines (49 CFR pt. 192, subpt. M).	The performance required by the maintenance standards needs clarification as indicated by extent of interpretations generated by these standards.	L. Furrow, (202)426-0135.	August 1979.
Flammable Solids; definitions criteria (49 CFR 173.150).	Inquiries; lack of objective regulatory standard.....	J. Horning, (202)755-4902.	August 1979.

DEPARTMENT OF TRANSPORTATION SEMI-ANNUAL REGULATIONS AGENDA AND REVIEW LIST

REVIEW LIST

RSPA
Research and Special Programs Administration

Regulations selected for review	Reasons for selection	Contact	Decision date
Toxic Materials; definitions, criteria, and proposed regulations (49 CFR 173.326, 173.343).	Need for quantitative criteria.	J. Horning, (202)755-4902.	December 1979.
Line Markers (49 CFR 195.410).....	The requirement for installation of markers at navigable waterways needs clarification as indicated by extent of interpretations.	F. Robinson, (202)462-2392.	September 1979.
Hydrostatic Testing (49 CFR Part 195, Subpart E).	There is a need to clarify present standards as indicated by extent of interpretation.	F. Robinson, (202)462-2392	August 1979.
Welding Requirements (49 CFR Part 195, Subpart D).	Present requirements to be examined in light of changes in technology.	F. Robinson, (202)462-2392.	December 1979
Petroleum Gas Systems (49 CFR 192.11).	There is a need to eliminate inappropriate regulations.	W. Dennis, (202)426-2082.	August 1979.

Appendix A—Instructions for Obtaining Copies of Regulatory Documents

United States Coast Guard (USCG)

Anyone desiring a copy of a USCG regulatory document listed in the Agenda should write to: U.S. Coast Guard, G-CMC/81, 400 7th Street, SW., Washington, D.C. 20590.

The request should reference the name of the document and the associated regulatory docket (CGD) number which can be found in the Agenda together with the listing of the document. Persons wishing to be placed on mailing lists for all notices and rules to be issued by the USCG or for notices and rules dealing with a particular area should indicate this clearly for proper handling.

Federal Aviation Administration (FAA)

The FAA has a mailing list system for Notices and Advance Notices of Proposed Rulemaking (NPRMs and ANPRMs). Persons interested in obtaining future copies of all of those documents to be issued by the FAA or only of those concerning certain Parts of the Federal Aviation Regulations should request a copy of Advisory Circular No. 11-2, which describes the application procedure, by calling 202-426-8058 or by writing to: Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591

Federal Highway Administration (FHWA)

The FHWA is in the process of establishing a consumer mailing list for individuals and agencies wishing to routinely receive Federal-aid highway related rulemaking actions. Persons may selectively choose to receive rulemaking materials in a number of separately identified program categories from the Code of Federal Regulations, Title 23. Those wishing to take advantage of the FHWA consumer mailing list may

obtain additional information by writing to: Consumer Affairs Representative, Office of Public Affairs, Room 4208, Federal Highway Administration, 400 7th Street, SW., Washington, D.C. 20590.

Persons who desire to obtain a copy of any regulatory document to be issued by the FHWA that is listed in this Agenda should communicate with the contact person listed with the regulation either by telephone or by letter to the contact person at the following address: (Name of contact person), Federal Highway Administration, 400 7th Street, SW., Washington, D.C. 20590.

Federal Railroad Administration (FRA)

Persons who desire to obtain a copy of any regulatory document to be issued by the FRA that is listed in this Agenda should communicate with the contact person listed with the regulation either by telephone or by letter to the contact person at the following address: (Name of contact person), Federal Railroad Administration, 400 7th Street, SW., Washington, D.C. 20590.

National Highway Traffic Safety Administration (NHTSA)

Persons who desire to obtain a copy of any other regulatory document to be issued by the NHTSA that is listed in this Agenda should communicate with the contact person listed with the regulation either by telephone or by letter to the contact person at the following address: (Name of contact person), National Highway Traffic Safety Administration, 400 7th Street, SW., Washington, D.C. 20590, (202)426-0679.

Urban Mass Transportation Administration (UMTA)

Persons who desire to obtain a copy of any regulatory document to be issued by UMTA that is listed in this Agenda should communicate with the contact person listed with the regulation either by telephone or by letter to the contact person at the following address: (Name of contact person), Urban Mass Transit

Administration, 400 7th Street, S.W., Washington, D.C. 20590 (202)426-1909.

Saint Lawrence Seaway Development Corporation (SLSDC)

Persons who desire to obtain a copy of any regulatory document to be issued by SLSDC that is listed in this Agenda should communicate with the contact person listed with the regulation either by telephone or by letter to the contact person at the appropriate address specified below: For contact persons with (202), telephone area code: (name of contact person), Saint Lawrence Seaway Development Corporation, 800 Independence Avenue, S.W., Washington, D.C. 20591. For contact persons with (315) telephone area code: (name of contact person), Saint Lawrence Seaway Development Corporation, P.O. Box 520, Massena, New York 13662.

Research and Special Programs Administration (RSPA)

Persons wishing to be placed on mailing lists for regulatory documents to be issued by RSPA should contact: Mrs. Marge J. Sands, Information Services Division, DMT-43, Materials Transportation Bureau, 2100 2nd Street, S.W., Washington, D.C. 20590.

Office of the Secretary (OST)

Persons desiring to receive future copies of the Regulations Agenda should submit their request to: Assistant General Counsel for Regulation and Enforcement, C-50, Office of the General Counsel, Department of Transportation, Washington, D.C. 20590, (202)426-4723.

Persons who have an interest in specific regulatory documents to be issued by the Office of the Secretary should forward requests for copies of those documents to the same address. These requests should fully identify the document desired.

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Monday
August 27, 1979

Part III

Federal Trade
Commission

Trade Regulations: Labeling and
Advertising of Home Insulation

federal register

FEDERAL TRADE COMMISSION

16 CFR Part 460

Trade Regulation Rules; Labeling and Advertising of Home Insulation

AGENCY: Federal Trade Commission.

ACTION: Final trade regulation rule.

SUMMARY: The Federal Trade Commission issues a final rule which prescribes standardized test methods for determining the R-values of home insulation materials; mandates pre-purchase point-of-sale disclosure of R-values and related information to consumers; requires disclosures in certain types of advertisements for home insulation; and requires substantiation and qualifying disclosures in connection with energy savings claims. The rule is designed to enable consumers to evaluate and compare the thermal performance characteristics of these materials, and to ensure that promotional claims for home insulation products will be fair and nondeceptive.

EFFECTIVE DATE: November 30, 1979.

FOR FURTHER INFORMATION CONTACT: Paul J. Petrucci, Federal Trade Commission, PE-S-7319-A, 414-11th Street NW., Washington, D.C. 20580, (202) 724-1508.

SUPPLEMENTARY INFORMATION:

Statement of Basis and Purpose

I. Introduction

A. *Overview of the Rule.* Insulation can be a very significant energy conservation measure. Its insulating capacity can be measured only by its R-value, which signifies the insulation's degree of resistance to the flow of heat. No other piece of information can tell the consumer how the insulation is likely to perform as an insulator, and whether the cost of the insulation is justified. Yet the record demonstrates that the home insulation market has frequently failed to provide this crucial information to consumers. In the Commission's opinion, the industry's failure systematically to provide R-value information prior to sale is both an unfair and deceptive practice within the meaning of Section 5 of the Federal Trade Commission Act.

The primary purpose of the Rule being promulgated today is to correct the failure of the home insulation marketplace to provide this essential pre-purchase information to the consumer. The information will give consumers an opportunity to compare relative insulating efficiencies, to select

the product with the greatest efficiency and potential for energy savings, to make a cost-effective purchase, and to consider the main variables limiting insulation effectiveness and realization of claimed energy savings.

The Rule mandates that specific R-value information for home insulation products be disclosed in certain ads and at the point of sale. The purpose of the R-value disclosure requirement for advertising is to prevent consumers from being misled by certain claims which have a bearing on insulating value. At the point of transaction, some consumers will be able to get the requisite R-value information from the label on the insulation package. However, since the evidence shows that packages are often unavailable for inspection prior to purchase, no labeled information would be available to consumers in many instances. As a result, the Rule requires that a fact sheet be available to consumers for inspection before they make their purchase.

In general the fact sheets and labels for each insulation product disclose the same basic kind of information about R-value. The fact sheet also gives consumers further information that has an important bearing on how they should assess their insulation needs and their likely fuel savings from insulation. The Commission believes that these additional disclosures are necessary to prevent deception and to allow consumers to make rational, well-informed choices in their insulation purchases.

The Rule also requires that R-value disclosures be accompanied by a brief explanation that R-value is a measure of insulating power; the higher the R-value, the greater the insulating power. Since the evidence shows that many consumers are unfamiliar with the concept—in part because the industry has failed to promote it—the Commission believes that an explanation of the term is needed to compensate for this market deficiency and thereby to ensure that consumers will benefit from the prescribed R-value information.

To ensure that consumers are provided with accurate and comparable R-value information, the Rule requires that R-values be determined scientifically in accordance with standard test methods published by the American Society of Testing and Materials ("ASTM"), a private standards-setting organization. Most types of home insulation can be tested at a reasonable cost using one of several permissible procedures. Because R-values per unit for most insulation materials are non-linear, and actually

decrease significantly with increases in thickness up to a point, R-values must be determined either at a product's installed or "representative" thickness. The latter is the point at which the adverse effect of thickness on R-value becomes insignificant.

The other major provision of the Rule addresses energy savings and other promotional claims for home insulation products, including tax benefit and government certification claims. Claims that a product is certified or qualifies for a tax benefit are prohibited unless true. Since the amount of energy and money that can be saved by insulation is affected by a number of factors unrelated to the performance of the insulation itself, the Rule provides that energy savings must be substantiated and accompanied by a short disclaimer that savings will depend on the consumers' particular circumstances.

This discussion has highlighted the central elements of the Rule. Virtually all other provisions of the Rule are designed to ensure the integrity of this disclosure scheme. Since determining that a rule was necessary to eliminate consumer abuses in the home insulation industry, the Commission's overriding objective has been to fashion a rule that protects the consumer while minimizing the impact of compliance on the insulation industry which, while economically concentrated in the hands of a few producers, is also comprised of hundreds of relatively small businesses. The Commission believes that this Rule, one that has been tightened considerably from the original proposals, represents a reasonable and sustainable effort toward meeting this objective.

B. *Background.* On November 18, 1977, the Federal Trade Commission published in the *Federal Register* a proposed trade regulation rule governing the labeling and advertising of residential thermal insulation materials.⁽¹⁾ Shortages in fuel supplies and rising fuel prices had resulted in a dramatic increase in insulation purchases by consumers. As a result, the Commission found, pursuant to its Rules of Practice,⁽²⁾ that the public interest required the use of expeditious procedures for this rulemaking.⁽³⁾ The use of these procedures, coupled with the generally cooperative attitude of the rulemaking participants,⁽⁴⁾ resulted in Commission consideration of the rule approximately one year after it was proposed.

Interested persons were invited to submit written comments during the two months following publication of the proposed rule.⁽⁵⁾ Hearings were then held in Washington, D.C. from February

13 to March 9, 1978,⁽⁶⁾ followed by a 30-day period during which the participants were permitted to comment on the hearing record.⁽⁷⁾

A wide variety of parties contributed to the record, both in writing and in oral testimony. At the hearings, approximately 50 witnesses represented manufacturers of all types of home insulation, retailers, installers, trade associations, testing laboratories and organizations, consumer and environmental groups, and state and federal government agencies.⁽⁸⁾ In addition to the Commission's staff, nine group representatives were permitted to examine and cross-examine all witnesses.⁽⁹⁾

In July of 1978, approximately three months after the close of the rebuttal period, the rulemaking staff published its report analyzing the record evidence and recommending a final rule.⁽¹⁰⁾ In August of 1978, the Presiding Officer published his report, noting several areas of disagreement with the staff's recommendations.⁽¹¹⁾ The procedures adopted by the Commission for this rulemaking called for 30 days of public comment following the publication of the Presiding Officer's report.⁽¹²⁾ To ensure that all interested persons would have a full opportunity to comment on the recommended rule, however, the public was invited to submit comments immediately following publication of the staff's report in July of 1978.⁽¹³⁾ The availability of the Presiding Officer's report was announced in August.⁽¹⁴⁾ When the public comment period closed on September 22, 1978, more than 100 written comments had been received.⁽¹⁵⁾

At the close of this comment period, the Commission convened a special meeting to permit interested persons to make direct presentations to the Commissioners themselves.⁽¹⁶⁾ After carefully considering the rulemaking record as a whole, the Commission has voted to promulgate a trade regulation rule governing the labeling and advertising of home insulation.

C. *Description of the Industry.* Home insulation is manufactured and sold in a variety of forms. All "mass" insulations⁽¹⁷⁾ are made of solid materials—either cellular, granular, or fibrous—and are heterogeneous in nature. Gas-filled voids within these solid materials retard the flow of heat. The effectiveness of the material in retarding heat flow is measured by its "R-value."⁽¹⁸⁾ The higher the R-value, the greater the insulation's resistance to heat flow.⁽¹⁹⁾

The types of insulation covered by this rule are mineral wool (fiberglass and rock wool), cellulose, cellular

plastics (urea-formaldehyde foam, polystyrene, polyurethane, and polyisocyanurate), vermiculite, perlite, and reflective (aluminum foil). These materials are produced in loose-fill, formed-in-place, flexible or semirigid, and rigid forms.⁽²⁰⁾

Fiberglass and rock wool are produced in batt, blanket, and loose-fill forms for new construction and retrofit⁽²¹⁾ applications in ceilings, walls, and floors.⁽²²⁾ Cellulose is a loose-fill made from shredded waste paper, to which flame retardant chemicals are added. It is used in the ceilings of new houses, and in the ceilings and wall cavities of existing structures.⁽²³⁾ Vermiculite and perlite are granular loose-fill materials. They are used primarily in attics and wall cavities, and in the hollow cores of masonry block walls.⁽²⁴⁾

Cellular plastics are low-density foams which are either manufactured as insulating boards at the factory, or foamed-in-place at the application site. Polystyrene, polyurethane, and polyisocyanurate typically are produced in rigid board form, and are used in new home construction as exterior sheathing and wall and siding insulation.⁽²⁵⁾ Urea-formaldehyde foam can be produced only through a foaming instrument at the site of application. Thus, its primary use is in insulating the enclosed wall cavities of existing houses.⁽²⁶⁾

Reflective materials, primarily aluminum foil, are generally used to insulate residential walls and floors, often in combination with mass insulations. They are commonly found as facings on mineral wool batts and blankets or exterior sheathing materials, and on gypsum board for dry wall.⁽²⁷⁾ In addition, foil insulation is manufactured in an expandable, accordion-like foam, in which two or more sheets of foil are separated by air spaces.⁽²⁸⁾ Unlike mass insulations, the thermal resistance of reflective foil is not provided by the material itself. Rather, insulating ability is provided by installing the foil adjacent to an airspace, significantly increasing the thermal resistance of the airspace itself.⁽²⁹⁾

The three manufacturers of fiberglass account for approximately two-thirds of the insulation currently sold for residential uses.⁽³⁰⁾ Cellulose producers, who number in the hundreds, hold a substantial share of the remaining third.⁽³¹⁾ Rock wool and urea-formaldehyde foam account for most of the rest, with other products holding very small market shares.⁽³²⁾

D. *Factors Affecting Insulation Performance.* There are a number of testing procedures available to provide a laboratory measurement of an

insulation's R-value.⁽³³⁾ These tested R-values are not always representative of in-use effectiveness, however, because there are a variety of factors which can affect the thermal performance of an insulation material. Some of these factors are inherent in the nature of the insulation product. In other cases, environmental and installation-related occurrences can change the R-value of the insulation.

1. *Thickness.* In general, the thicker an insulating material is, the better it resists the flow of heat.⁽³⁴⁾ However, the record demonstrates that, for most mass insulations, the relationship between thickness and thermal performance is not linear.⁽³⁵⁾ In other words, the tested R-value of a one-inch sample of insulation cannot simply be multiplied by six in order to obtain the total R-value for six inches of the material. For almost all insulations, the R-value produced by such a multiplication process, which is based on an assumption of linearity, will be too high.⁽³⁶⁾ This "thickness effect" eventually levels off, usually at a thickness of approximately three or four inches.⁽³⁷⁾ As a result, the record reflects strong scientific agreement that in any reliable measurement of thermal performance, the material must be evaluated either at the thickness at which it is to be used or at a thickness beyond which the R-value per unit will remain constant despite increases in thickness (the "representative thickness").⁽³⁸⁾

2. *Temperature.* Normally, the R-value of any mass insulation decreases as the temperature to which it is exposed rises.⁽³⁹⁾ The record demonstrates that the effect of temperature upon R-value will be about the same for all mass insulations, and that this effect can be substantial.⁽⁴⁰⁾ To account for this temperature effect, most members of the insulation industry use a mean temperature of 75° Fahrenheit for all R-value testing.⁽⁴¹⁾ Federal purchasing specifications for insulation also prescribe a mean test temperature of 75° Fahrenheit.⁽⁴²⁾ While it is generally recognized that 75° Fahrenheit is not representative of all environmental conditions across the country,⁽⁴³⁾ this is the standard test temperature which the industry has long used to permit R-value comparisons.

3. *Aging.* For certain cellular plastics insulations, the R-value of the product will change as the material ages.⁽⁴⁴⁾ This aging process affects polyurethane, polyisocyanurate, and extruded polystyrene.⁽⁴⁵⁾ During the first few years of use, exposure of these insulations to the environment results in

a release of certain gases, lowering the R-value of the products significantly.⁽⁴⁶⁾ Thus, if the product is tested immediately after manufacture, its R-value will be much higher than it would be in actual use.⁽⁴⁷⁾ To account for this effect, some manufacturers test their products for R-value several years after the insulation has been manufactured.⁽⁴⁸⁾ Others test for R-value after subjecting their products to an "accelerated aging" process, which simulates years of aging during a three-month period.⁽⁴⁹⁾

4. *Compression.* Compression is a problem peculiar to flexible insulation, and is particularly a problem with respect to air duct insulation. For example, compression of a mineral wool batt increases its density, thus lowering its thermal resistance.⁽⁵⁰⁾ In the case of batt insulation, the product is generally compressed during installation so that it will fit snugly between the studs in attic or wall cavities. Following installation, however, the product will generally spring back to its original thickness and R-value. Air duct insulation presents a different problem. This flexible product is wrapped around rectangular air ducts and then sealed. Thus, the insulation is compressed when it is folded at the edges of the duct, and is compressed further when it is taped. This compression results in a reduction of the product's tested R-value.⁽⁵¹⁾

5. *Settling.* In general, the material particles of all loose-fill insulations tend to settle after being installed in open or unconfined areas such as attics.⁽⁵²⁾ The particles also will settle when blown into a confined area, such as an enclosed wall cavity, if they are not sufficiently compressed during installation.⁽⁵³⁾ As the particles settle, the insulation becomes more dense and also loses some of its depth or height. Any settling of a loose-fill insulation reduces the R-value of the area in which it is installed.⁽⁵⁴⁾

Industry members generally agreed that all loose-fill should be tested for R-value at the "settled density" of the product, i.e., the density to which the product can be expected to settle over time.⁽⁵⁵⁾ As is the case with aging, loose-fill R-values based on tests that take settling into account will more accurately reflect the actual thermal performance of the product over time.⁽⁵⁶⁾ Although there is no generally accepted settled density test for loose-fill mineral wool insulation,⁽⁵⁷⁾ the federal purchasing specification for cellulose insulation requires that R-values be based on testing performed at the settled density of the product.⁽⁵⁸⁾ This specification provides detailed

procedures for determining the settled density of any cellulosic insulation.⁽⁵⁹⁾

6. *Shrinkage.* The inherent properties of urea-based foam insulation will interact after application to cause the material to lose volume, or "shrink," thereby leaving the wall partially uninsulated.⁽⁶⁰⁾ Although both the rate and extent of shrinkage are somewhat dependent on the quality of the on-site formulation and application of the urea-based foam material,⁽⁶¹⁾ the shrinkage process itself is an independent event—an inherent characteristic of the product.⁽⁶²⁾ In other words, even if UF foam insulation is installed perfectly, the material will still shrink.

During the curing period and succeeding stages of shrinkage, the UF foam material will pull away from the wall cavity in all three directions—namely, at the sides, at the ends, and at both the top and the bottom of the "cube" formed by the wall cavity. The resulting gaps between the foam and the cavity walls and studs create a continuum of airspaces in the cavity that may encompass the insulating material. The size and position of these airspaces, and the extent of the resulting loss in insulating efficiency, will depend upon the severity of the shrinkage that occurs.⁽⁶³⁾

The record indicates that it is extremely difficult to state a typical amount of UF foam shrinkage during and beyond the curing period.⁽⁶⁴⁾ Nevertheless, a substantial body of laboratory and field data has been generated on the subject. In the United States, the National Bureau of Standards (NBS) observed shrinkage of 8.1 percent over a two-year period after UF foam insulation had been installed in a test house.⁽⁶⁵⁾ The Department of Housing and Urban Development concluded from field observations that shrinkage of UF foam ranges between 1 and 11 percent, and averages about 6 percent.⁽⁶⁶⁾ Canada's National Research Council conducted field observations and reported that long-term shrinkage of UF foam varies between 5 and 10 percent, with the average rate of shrinkage being 7 percent.⁽⁶⁷⁾ Governmental bodies in Europe have also concluded that UF foam shrinkage ranges between 4 and 8 percent.⁽⁶⁸⁾ Other studies in the record confirm these findings.⁽⁶⁹⁾

The UF foam insulation industry contends that these shrinkage findings are exaggerated, and that excessive shrinkage is invariably due to improper installation of the material.⁽⁷⁰⁾ Yet, even UF foam industry members conceded that the product shrinks between 1 and 3 percent⁽⁷¹⁾ or 1 and 4 percent⁽⁷²⁾ under normal conditions. Moreover, studies submitted by these industry members

reveal instances in which shrinkage of properly installed foam insulation has exceeded these levels.⁽⁷³⁾

Taken as a whole, the record evidence shows that UF foam insulation invariably shrinks after application, and that the shrinkage has reached levels of 5 percent and above in a broad range of field studies. These shrinkage levels may occur even in the absence of installation problems, which are known to exacerbate the shrinkage problem.^(73a)

The process of shrinkage reduces the effective thermal resistance of UF foam insulation by creating void spaces around the foam in the wall cavity.⁽⁷⁴⁾ Heat loss occurs through these void spaces,⁽⁷⁵⁾ and additional heat loss occurs as a result of movement of air throughout the continuum of void spaces that may encompass the UF foam cube.⁽⁷⁶⁾ The record establishes that the process of shrinkage reduces the effective thermal resistance of the UF foam-filled cavity below the R-value of the foam itself as measured under laboratory conditions.⁽⁷⁷⁾ Industry members do not dispute this conclusion.⁽⁷⁸⁾

Nevertheless, there is considerable dispute regarding the extent of the loss in insulating efficiency caused by UF foam shrinkage. Actual heat loss measurements and laboratory tests performed by both NBS and the Canadian government have shown reductions in thermal resistance of 40 and 50 percent after shrinkage of UF foam insulation in wall cavities.⁽⁷⁹⁾ In addition, some governmental bodies have employed standard engineering calculations to determine the reduction in thermal resistance caused by shrinkage. The Department of Housing and Urban Development calculated that the effective R-value of UF foam insulation is 28 percent lower than its laboratory R-value, if shrinkage is on the order of 6 percent.⁽⁸⁰⁾ The Canadian government, assuming a shrinkage rate of 7 percent, confirmed its 40 percent "derating" ⁽⁸¹⁾ of UF foam R-values by similar engineering calculations.⁽⁸²⁾

The UF foam industry contends that the specific R-value deratings assigned to its product by NBS, HUD, Canada, and others are exaggerated.⁽⁸³⁾ Nevertheless, the industry generally concedes that shrinkage reduces the effective R-value of a UF foam-filled wall cavity in the neighborhood of 12 to 15 percent.⁽⁸⁴⁾

Based on the record evidence taken as a whole, the Commission concludes that UF foam insulations shrink, and that the shrinkage can significantly reduce the R-value of the insulated area.

II. Unfair and Deceptive Acts and Practices in the Home Insulation Market

A. *Characteristics of the Home Insulation Market.* As fuel prices have climbed in recent years, insulation has become an increasingly attractive investment for consumers. In addition, governmental activities have promoted insulation purchases. Because of the important role that insulation can play in conserving energy, the President's National Energy Plan set as its goal that 90 percent of all homes be insulated by 1985.⁽⁸⁵⁾ Attainment of this goal will require insulation purchases by several million homeowners each year.⁽⁸⁶⁾

To encourage these purchases, Congress passed a sizable tax credit for consumers who buy insulation or other energy conservation measures.⁽⁸⁷⁾ Congress also has mandated a comprehensive program under which utility companies will promote energy conservation purchases.⁽⁸⁸⁾ Under this program, virtually every homeowner in the country will receive a brochure from the local utility company. These brochures will urge consumers to purchase insulation and other energy conservation products, and will contain estimates of the savings associated with such products. The utilities also will make available, at the request of any homeowner, individualized energy audits and specific recommendations for conservation purchases. They will provide lists of lending institutions, as well as contractors and suppliers of the various products, and will offer to arrange for the installation and financing of products purchased by the homeowner. In short, through this program, the federal government will be playing a pivotal role in efforts to encourage the purchase of insulation and other energy conservation measures.

Governmental bodies have also promoted insulation purchases in other ways. In recent years, numerous federal and state agencies have issued pamphlets recommending the addition of insulation to existing homes.⁽⁸⁹⁾ A federal low-income weatherization program administered by the Department of Energy funds state-run programs under which houses owned by low-income persons are insulated.⁽⁹⁰⁾ With respect to new housing, both the Farmers Home Administration and the Department of Housing and Urban Development have issued revised minimum property standards for federally-assisted housing.⁽⁹¹⁾ The result of these revisions is an increase in the amount of insulation required in new homes.

In light of the rising fuel prices and active governmental intervention in the home insulation market, it is not surprising that nearly eight million homeowners had some insulation installed or added between 1974 and 1976.⁽⁹²⁾ In the first half of 1977 alone, three million homeowners added insulation to their homes.⁽⁹³⁾ Approximately 70 percent of the insulation being added to existing homes is installed by do-it-yourself consumers.⁽⁹⁴⁾ who generally buy their insulation through retail hardware and department stores.⁽⁹⁵⁾ Insulation is sold and installed in the remaining 30 percent of the retrofit market by seven to ten thousand contractors across the country.⁽⁹⁶⁾ and is sold or financed by a growing number of utility companies.⁽⁹⁷⁾

Insulation is also acquired by consumers through the purchase of a new home. Housing starts in 1977 were at their highest level in several years, and the average amount of insulation being placed in each new home continued to rise.⁽⁹⁸⁾ Not surprisingly, the record shows that purchasers of new homes are increasingly attentive to energy efficiency as a critical feature of the home.⁽⁹⁹⁾ One survey showed that most new home buyers are willing to spend additional money for insulation when advised to do so by builders.⁽¹⁰⁰⁾

Despite the enormous numbers of home insulation purchasers in the market today, it appears that most consumers know very little about available insulating materials and the factors that should affect any purchasing decision. Consumers have a general awareness of insulation and of the energy-saving benefits it can provide, but they are largely uninformed about insulation effectiveness. There are several obvious reasons for this state of affairs. Home insulation is an expensive product, which is purchased very rarely by homeowners.⁽¹⁰¹⁾ Thus, consumers are unable to learn through repetitive purchases how effective the various insulation products are. Moreover, insulation is not the kind of product that can be readily evaluated even by relatively knowledgeable consumers. It is not possible to determine prior to purchase how the insulation material will perform, since insulation effectiveness must be measured by scientific test methods.⁽¹⁰²⁾ Similarly, after the product has been installed, the consumer has no practical way of determining whether the insulation has been installed properly to attain the desired level of effectiveness; further, the number of variables affecting home energy consumption—e.g., climate, type

of dwelling, and lifestyle—make it virtually impossible for the consumer to assess whether the insulation is having any impact on the home's energy consumption, or what the impact is.⁽¹⁰³⁾ In sum, home insulation is a "credence good" because prospective purchasers do not have the sophistication, the resources, or the opportunity to evaluate its likely effectiveness or impact on energy consumption either prior or subsequent to their purchasing decisions.

B. *Unfair and Deceptive Acts and Practices.* 1. *Insulation R-values.* Since consumers cannot independently determine the effectiveness of home insulation, they need to be informed of some product feature or features that they can rely on to provide them with information concerning the material's effectiveness. The central component of the rule initially proposed by the Commission was the requirement that consumers be told, prior to purchase, the R-value of home insulation materials.⁽¹⁰⁴⁾ This proposal was based on the Commission's belief that R-value was that one significant piece of information that measures insulation effectiveness and without which consumers cannot make rational purchasing decisions.⁽¹⁰⁵⁾ In other words, the Commission believed that R-value was a material fact in any insulation purchasing decision.

The record overwhelmingly bears out this early belief.⁽¹⁰⁶⁾ It demonstrates that the R-value of an insulation material is the only existing measurement that enables the consumer to compare the thermal performance of competing insulations.⁽¹⁰⁷⁾ Thickness cannot serve as the appropriate gauge, since three inches of one insulation may be twice as effective as three inches of another.⁽¹⁰⁸⁾ Similarly, price is not a useful measure of performance, since a high price is not necessarily indicative of superior insulation effectiveness.⁽¹⁰⁹⁾ Nor is there any other performance yardstick suited to this purpose. As one industry member put it, an insulation material's R-value "is the only quantifiable . . . measure of thermal resistance that might provide the typical consumer with a means to evaluate insulation products."⁽¹¹⁰⁾

Despite the crucial role that R-value information should play in any insulation purchasing decision, the evidence demonstrates that industry members often fail to disclose product R-values to consumers.⁽¹¹¹⁾ For example, consumer protection specialists in Arizona, California, Georgia, and New Jersey noted that few insulation ads in their respective

jurisdictions disclose product R-values.⁽¹¹²⁾ These contentions are corroborated by record evidence of numerous ads, in both print and broadcast media, for a wide variety of insulation materials.⁽¹¹³⁾

Nor is this widespread failure to disclose R-values necessarily remedied when the consumer actually purchases the product. In a survey of package labels in twelve retail outlets in the Washington, D.C. area, approximately 40 percent of the labels contained no R-value disclosure.⁽¹¹⁴⁾ The survey further revealed that, in half of the stores, package labels are not available for inspection prior to purchase.⁽¹¹⁵⁾ Thus, even if R-value information does appear on the label, consumers may have no opportunity to use the information in reaching a purchasing decision. Indeed, a survey of Wisconsin homeowners showed that 75 percent of those interviewed had never heard of the term "R-value" as applied to home insulation.⁽¹¹⁶⁾

a. *Failure to disclose R-value as an unfair practice.* These findings illustrate a classic case of deficient market performance. Despite the established centrality of R-value to evaluating insulating performance and the absence of public or private restraints against its disclosure,⁽¹¹⁷⁾ market forces have not caused industry members to generate this vital information and make it available to the consuming public. Although the record evidence provides no clear explanation for this failure of the marketplace, the conditions and incentives operating in the home insulation market may account for it.

For example, the recent past has witnessed rapid growth in the insulation industry, characterized by a dramatic influx of manufacturing and contracting firms. In many cases, these firms lacked either substantial experience in the insulating business or sensitivity to the informational needs of insulation consumers. Yet, this phenomenon can account for only part of the market failure, since there are numerous established firms that have also failed to disclose this information. The failure also could be attributable in part to the economic self-interest of sellers of low R-value products, whose success in marketing their products may depend on their ability to shift the competitive focus to some other more favorable attribute of their product. Again, however, this would account for only a portion of the failure to disclose R-values, since the record evidence demonstrates that low as well as high R-values have been disclosed on occasion.

Even for firms that are experienced and that have no incentive to withhold

R-value information, the insulation market simply does not encourage the promotion of R-values. For example, the failure to disclose R-values is attributable in part to the general ignorance of consumers concerning insulation products. In other words, since many consumers do not know that R-value is the performance feature that should be evaluated in an insulation purchasing decision, there has been no market demand for R-value information. In addition, this lack of understanding on the part of consumers may mean that industry members have no incentive to attempt to promote the R-value concept. Since many consumers do not know what R-value means, an advertisement that focuses on R-value is often simply another advertisement to buy insulation. Thus, the R-value information in the ad often does not benefit the advertiser. In fact, an ad that attempts boldly to educate consumers about R-value may inure as much to the benefit of competitors as it does to that of the advertiser; a competitor with comparable R-value material will be able to exploit the consumer education paid for by the advertiser. This risk, one which no reasonable advertiser wishes to take alone, encourages industry members to focus instead on product features that consumers will understand.

Moreover, the same market forces that have operated to deprive consumers of R-value information in the past will continue to do so in the future. Buyers of low R-value products will continue to be ignorant of the significance of R-value, and therefore will not demand this information. The risk of sacrificing competitive advantage from lone attempts at R-value education will remain, encouraging industry members to focus consumer attention on other product features. More importantly, governmental intervention in the insulation market will, if anything, become more intensive in the years to come.⁽¹¹⁸⁾ This intervention may be a distorting factor in the marketplace, as it has been in the past. It inflates the demand for insulation products, so that industry members gain increased sales regardless of the presence or absence of R-value information about their products.

The preceding discussion demonstrates that conditions in the home insulation market are not encouraging industry members to make R-value information available to consumers. This market failure is significant because it results in substantial injury to consumers of home insulation products.⁽¹¹⁹⁾ There are several elements of the economic injury

that flow from the absence of R-value information for use in making purchasing decisions.

As noted earlier, consumers are unable to assess R-value or insulation performance on their own. They cannot ascertain the R-value of a product merely by examining it.⁽¹²⁰⁾ nor will they discover through repeat purchases the relative efficiencies of insulation products. In other words, in the absence of a seller's disclosure, consumers do not have a ready means for determining R-value, and their search costs in seeking out that information would be extraordinarily high. The imposition of this search cost on consumers is in itself a genuine economic injury, which would be prevented by the introduction of R-value information into the marketplace by those who are able to do so most efficiently.⁽¹²¹⁾ Further, extensive consumer search is an unnecessary injury, since the R-value of any particular product is already known to each manufacturer in the ordinary course of its business.⁽¹²²⁾ In light of this fact, it is not surprising that the record reveals a broad consensus of industry support for the Commission's proposal for mandatory disclosure of R-values.⁽¹²³⁾ Thus, this is not a matter in which the Commission must weigh complicated evidence concerning the relative merits of competing objectives, or decide how much consumer injury should be sustained for the sake of preserving some industry or consumer benefit.

In addition to raising consumer search costs, the failure of sellers to disclose R-value impedes the ability of consumers to make rational purchasing decisions. The only significant reason to buy insulation is to save energy, and the only measurement that permits consumers to judge the anticipated level of thermal performance is R-value. Moreover, R-values vary significantly from product to product. Thus, unless consumers know the R-values of all available products, they are effectively deprived of any opportunity to compare relative insulating efficiencies, and to select the product with the greatest efficiency and potential for energy savings. Given the general relationship between thermal resistance and potential energy savings, the inability to comparison shop for the optimum R-value can result in purchases of insulation products that are relatively ineffective. The result is that consumers' expectations of energy savings are disappointed, and the market continues to operate in a manner that frustrates the national program of energy conservation.

There is another element of the economic injury that derives from the failure to disclose R-value information. In order to judge the economic value of an insulation product, that is, to estimate whether the purchase price will be justified by insulating performance, the consumer must know the product's R-value. The only rational way to price shop for home insulation is to determine, for each competing product, how many square feet of space can be insulated to a desired level of R-value for a stated price. Without this R-value information, consumers are deprived of a rational basis for making a very expensive economic decision, and of the opportunity to seek the lowest price at which they can obtain the level of performance they desire. The consequence of this impediment to the buying process is that consumers may make unwarranted, excessively costly insulation purchases.

Thus, the failure of the home insulation market to generate R-value information causes substantial injury to consumers. What is most significant about this injury, however, is that it occurs randomly. In the absence of R-value information, no individual consumer has any assurance that his or her insulation purchase was a rational one in light of his or her needs. Each prospective purchaser is involved in a game of chance, virtually taking it on faith that this will not be one of the randomly dispersed purchases that turns out to be erroneous. On the other hand, if R-value information is available, each consumer can determine how much energy savings to strive for, how much insulation performance to buy, and what price should be paid for that level of performance. For these reasons, the Commission believes that the failure of insulation sellers to disclose R-value information prior to purchase is unfair within the meaning of section 5 of the Federal Trade Commission Act.

The foregoing analysis is sufficient to support the Rule's provision for mandatory disclosure of R-values, because of the public policy favoring the existence and efficient functioning of free markets. A free market cannot function properly in the absence of effective competition which focuses on the merits and value of competing products and services. An essential element of effective competition is the availability of information that consumers need to evaluate competing products and to make the best possible choices. This fundamental public policy of encouraging informed consumer decisions has repeatedly found expression in federal statutes requiring

the disclosure of material information.⁽¹²⁴⁾ Market imperfections that impede the process of providing such material information in the regular flow of commerce discourage consumer consideration of salient product features, diminish comparison shopping, and create unwarranted competitive parity or advantage for inferior products. Thus, a market that functions in this way not only harms consumers but also lessens fair and open competition. In addition, as earlier discussion of the market disincentives for R-value disclosure illustrates, a market that functions imperfectly may by its very nature be incapable of self-correction. Given the nexus between healthy competition and consumer welfare, and considering a market's own capacity to eliminate imperfections, the test of unfairness here is whether the acts or practices at issue inhibit, and are likely to continue to inhibit, the functioning of the competitive market in a manner that causes harm to consumers.⁽¹²⁵⁾ The Commission concludes that this unfairness test is met.

It is also noteworthy that the mandatory disclosure of R-value information complements the strong public policy in favor of energy conservation.⁽¹²⁶⁾ Indeed, in light of the extensive governmental participation in the home insulation market, it is especially important for the Commission to ensure that insulation purchases are not tainted by unfairness. Thus, by enhancing competition and free commerce in the insulation market, the Commission's decision to require R-value disclosure both protects insulation consumers and furthers the nation's energy conservation goals.⁽¹²⁷⁾

b. *Failure to disclose R-value as a deceptive practice.* The failure of insulation manufacturers to disclose product R-values is also a deceptive practice under section 5. It is an established principle of section 5 that when a consumer's normal expectations concerning a product are at odds with actual information about the product, this disparity must be corrected through disclosure.⁽¹²⁸⁾ In the context of home insulation materials, the physical attributes of the most commonly purchased products lend themselves to consideration and purchase by consumers on the basis of thickness. In addition, price is an important consideration in any insulation purchase. Although the record reflects general agreement that consumers are misled when they buy insulation on the basis of price or thickness,⁽¹²⁹⁾ their erroneous expectations are being

exploited and perpetuated by current marketing practices in the industry. For example, although a scientific survey of insulation ads is not available, fully 20 percent of the ads placed on the record by staff and other parties from a available media refer to thickness and/or price without disclosing the product's R-value.⁽¹³⁰⁾ As noted earlier, this limited and misleading information is not always fleshed out when consumers purchase the product.⁽¹³¹⁾ Many labels do not disclose R-values, and labels are often unavailable for inspection prior to purchase.⁽¹³²⁾ Since most insulation sales are made to do-it-yourself consumers,⁽¹³³⁾ and since the physical attributes of the most commonly purchased materials lend themselves to purchase on the basis of thickness,⁽¹³⁴⁾ it is reasonable to conclude that a significant number of insulation purchases are being made on the basis of the product's thickness or price, with no knowledge of its R-value. Yet, the record reflects general agreement that consumers are misled when they purchase insulation on the basis of price or thickness.⁽¹³⁵⁾ For example, although a material's R-value is partly a function of its thickness, insulation R-values per unit thickness vary significantly from product to product.⁽¹³⁶⁾ Thus, a three-inch thickness of one product may provide twice as much R-value as a three-inch thickness of another. Similarly, a consumer is misled when he or she is told simply that a certain area, in square feet, can be covered with insulation at a price of \$100. As the record reflects, the consumer cannot evaluate this price prior to purchase without knowing the R-value that will be attained over the area for the stated price.⁽¹³⁷⁾

Since thickness and price are the elements upon which consumers must rely in the absence of R-value disclosures, and since the record demonstrates that consumers are misled when they purchase insulation on the basis of these factors, the Commission concludes that the failure to disclose product R-values to consumers prior to purchase is deceptive.

c. *Disclosure of R-value in a deceptive and unfair manner.* In many instances, product R-values which are claimed by industry members are exaggerated. The record contains numerous examples of ads which state R-values that greatly exceed those generally agreed to be realistic values for products in that same class.⁽¹³⁸⁾ State consumer protection officials also agreed that ads with overstated R-values are common in their respective jurisdictions.⁽¹³⁹⁾ Indeed, even some industry members conceded

that excessive R-value claims are being made to consumers.⁽¹⁴⁰⁾

Moreover, even if an advertiser's R-value claims accurately reflect available test results, the conditions under which R-value testing takes place can greatly enhance the resulting R-value. Testing an insulation material at a one-inch thickness, for example, inherently produces a higher R-value than testing at greater thicknesses.⁽¹⁴¹⁾ Yet, most manufacturers currently base their R-value representations on one-inch R-value testing. In fact, many manufacturers affirmatively represent their product's "R-value per inch,"⁽¹⁴²⁾ clearly leading consumers to believe that insulation R-values are linear. Similarly, R-value claims based on testing at a low mean temperature, such as 35° Fahrenheit, inevitably mislead consumers.⁽¹⁴³⁾ Testing performed at this lower temperature will invariably produce a higher R-value than testing performed at the standard temperature of 75° Fahrenheit.⁽¹⁴⁴⁾

Further, most manufacturers fail to reduce their claimed R-value to account for factors that are known to affect thermal performance, such as settling, shrinkage, and aging.⁽¹⁴⁵⁾ The result is that R-value claims for these insulation products are exaggerated.⁽¹⁴⁶⁾ Moreover, since the deleterious effects of settling, shrinkage, and aging vary not only among classes of products but among individual materials of the same type, the failure to reduce R-values to account for these factors effectively prevents consumers from comparing product R-values on a fair and accurate basis. Finally, if R-value information is needed for comparison purposes to make the market function effectively, as discussed earlier in this section, then it is unfair not to give R-values that reliably take these comparative differences into account. The Commission therefore concludes that these practices are both deceptive and unfair to consumers of home insulation.

d. *Failure to explain the meaning of R-value.* As noted earlier in this section, consumers are unfamiliar with the concept of insulation R-values.⁽¹⁴⁷⁾ Indeed, one survey showed that 75 percent of the respondents had never heard of the term "R-value" as applied to home insulation materials.⁽¹⁴⁸⁾ This is not entirely surprising, since virtually no ads or labels for home insulation disclose the meaning of the term.⁽¹⁴⁹⁾ Even if the survey finding reflects a more extreme degree of consumer ignorance than can be assumed in the population at large, it nevertheless shows that many consumers cannot benefit from the Commission's decision

to require R-value disclosures unless the meaning of the term is explained to them. Moreover, the same factors that, as previously discussed, have unfairly prevented dissemination of R-values, will unfairly prevent dissemination of an R-value explanation.

As a result, the Commission has decided that R-value disclosures must be accompanied by a brief explanation of the meaning and significance of the term.⁽¹⁵⁰⁾ In the Commission's judgment, the R-value explanation required by the Rule is justified by the industry's past failure to educate and inform consumers about R-value, and is needed to implement the Commission's R-value disclosure scheme.⁽¹⁵¹⁾

2. *Savings claims.* The record in this proceeding demonstrates that insulation consumers are frequently confronted with energy savings claims made by industry members.⁽¹⁵²⁾ In many instances, these claims take the form of advertisements that state that the consumer's fuel bills will be reduced by a specified percentage or by a specified dollar amount after insulation is installed.⁽¹⁵³⁾ These claims are often exaggerated, with some advertisers claiming that fuel bills will be reduced by as much as 50 or 60 percent.⁽¹⁵⁴⁾ State consumer protection officials who have asked to see the proof behind these claims have found that they cannot be substantiated by the firms.⁽¹⁵⁵⁾

Moreover, the amount of energy that can be saved by any individual homeowner through the purchase of insulation is affected by a plethora of factors.

These factors include the geographic region in which the house is located; the type and size of the house; the efficiency of existing heating and cooling systems; the amount of insulation already in the house; the presence or absence of other energy saving features, such as storm windows and doors; the number of occupants and their lifestyle; and the type and cost of the fuel used in the house.⁽¹⁵⁶⁾ Yet, with rare exceptions, savings claims do not disclose these factors to consumers.⁽¹⁵⁷⁾ Nor do they disclose that savings vary from consumer to consumer and that there are other factors to be considered.⁽¹⁵⁸⁾ Since any individual consumer's savings from insulation will depend on his or her particular circumstances, as well as on the purchased insulation's thermal efficiency, it is misleading to suggest that insulation can save any energy without disclosing that savings will depend on the consumer's particular circumstances.⁽¹⁵⁹⁾

3. *Other claims.* Two remaining types of claims warrant attention. First, several ads on the record deceptively

suggest that consumers will qualify for a tax credit through the purchase of insulation.⁽¹⁶⁰⁾ In addition, one state agency pointed out that numerous retailers had been misrepresenting the availability of federal tax credits.⁽¹⁶¹⁾ These claims were being made long before the National Energy Act was passed by Congress, and certainly before it was clear that federal tax credits for insulation purchases would be available.⁽¹⁶²⁾ Now that the tax credit is enacted and available, the Commission is concerned, based on this record of past deception, that some products which are not eligible for tax credits may be advertised deceptively.

Second, several ads for insulation claim that the products have been "certified" by federal agencies.⁽¹⁶³⁾ These claims are misleading. Federal agencies merely set procurement standards which apply to any insulation purchases made or funded by the agency. However, no federal agency certifies the performance or acceptability of any insulation product.⁽¹⁶⁴⁾

C. *Prevalence of Unfair and Deceptive Acts and Practices.* In making its assessment of the frequency with which unfair or deceptive practices are occurring in the home insulation industry, the Commission must consider a number of factors. These include the number of consumer complaints;⁽¹⁶⁵⁾ the opinions of experts in the field; documentary evidence such as insulation labels, advertisements, and other promotional materials;⁽¹⁶⁶⁾ the testimony of industry members regarding the need for a trade regulation rule;⁽¹⁶⁷⁾ studies and investigations performed by state and federal governmental agencies; newspaper investigations and exposes; and the Commission's own prior experience in regulating the practices of insulation industry members through individual cease and desist orders. In sum, the issue of prevalence requires the Commission to examine all of the materials in the record. Moreover, the issue of prevalence involves an examination of both the number of industry members engaging in practices violative of section 5 and the number of consumers affected by the practices.

Millions of consumers are adding insulation to their homes each year.⁽¹⁶⁸⁾ and there are thousands of home insulation manufacturers, distributors, and retailers. As the preceding discussion indicates, many of the industry practices that violate section 5 of the Federal Trade Commission Act are almost uniformly used. For example, most industry members base their R-

value claims on tests performed with one-inch thick insulation samples. Similarly, almost no firms reduce their tested R-values to account for aging, compression, settling, or shrinkage of the product; nor do the firms disclose the fact that these physical changes will occur and may significantly reduce the represented R-value. Despite the abundance of savings claims on the record, almost none indicate that the consumer's savings will depend on many factors, or indicate what those factors are.

Many of the other practices found to be unfair or deceptive also are used frequently. For example, the failure of insulation sellers to disclose product R-values occurs quite often. Of the product labels examined in a survey of Washington area stores, 40 percent did not disclose the R-value of the product. Similarly, 20 percent of the insulation ads on the record state a price or thickness without disclosing the corresponding R-value.

Finally, some of the practices affected by the Rule apparently occur only occasionally. Although the record contains evidence of false or misleading certification and tax claims, the evidence does not suggest that these claims have been made on a widespread scale. However, with enactment of the federal tax credit and the residential conservation program under NECPA, the Commission anticipates that such claims will become substantially more prevalent in the future. Moreover, the Rule provisions that govern these claims merely state the obvious principle that false claims are prohibited by section 5. Since such section 5 violations are so patent, the Commission believes that the claims are appropriately addressed in the rule even if only a few firms are making them.

As this discussion indicates, most of the section 5 violations that this Rule addresses are occurring on a widespread scale. On the basis of the record taken as a whole, and in light of the extremely high demand for home insulation, the Commission is convinced that large numbers of consumers are affected by these practices, and that this number represents a significant percentage of all industry-consumer interactions. The record evidence is therefore sufficient to convince the Commission that action to protect the home insulation consumer from these unfair and deceptive practices is justified.

III. The Provisions of the Rule

A. *Scope of the Rule.* The scope of the Rule adopted by the Commission is determined mainly by the definition of

"home insulation" in § 460.2, and by the provisions of § 460.4. The Rule applies generally to thermal insulation materials that are "for use in old or new homes, condominiums, cooperatives, apartments, modular homes, or mobile homes."⁽¹⁶⁹⁾ With two explicit exceptions,⁽¹⁷⁰⁾ the Rule thus covers all thermal insulation products sold for residential applications.

A number of participants contended that the Rule should also apply to other products with insulating characteristics, such as storm windows and doors.⁽¹⁷¹⁾ Despite their insulating characteristics, these products are distinct in several respects from thermal insulation materials, and their treatment would have complicated and prolonged the proceeding.⁽¹⁷²⁾ In the interest of expeditiously considering regulation of the home insulation industry, the Commission determined at the outset of this proceeding that such products should be excluded from the proposed rule.⁽¹⁷³⁾ As a result, members of these related industries did not participate in the rulemaking, and the record evidence concerning practices in these industries is sparse. Under these circumstances, the Commission has determined not to include these products in the Rule.

While § 460.2 specifies which products are covered under the Rule, § 460.4 indicates when the Rule applies.⁽¹⁷⁴⁾ The Rule must be followed whenever a covered person imports, manufactures, distributes, sells, installs, promotes, or labels home insulation. The Rule also applies to the supplying of written information for,⁽¹⁷⁵⁾ and the preparation and use of, home insulation labels, fact sheets, ads, and other promotional materials for consumer use. The relevant limitation here is that the written materials must be "for consumer use." The Commission recognizes that insulation manufacturers often prepare detailed, technical data for building industry professionals, such as architects.⁽¹⁷⁶⁾ These professionals should already be sufficiently informed concerning insulation performance characteristics, and manufacturers may wish to provide them with information that differs from that required under the Rule. The Commission has therefore concluded that its Rule should not apply to such materials.

B. *Testing Requirements.* 1. *Duty to test R-value.* In § 460.5 of the Rule, the Commission has required that all insulation R-values disseminated to consumers be based on standard scientific tests of thermal efficiency. The specific testing schemes for mass insulation materials, and for insulation

products using reflective aluminum foil, are discussed in Section III.B.3. *infra.*

As noted in Section II.B.1.c of this statement, the record shows that presently used methods for determining R-value fail to consider several factors which have a material effect on thermal performance. As a result, such methods are unreliable forms of R-value substantiation and generate results which can mislead consumers. These methods include: (1) in lieu of testing, using pre-published R-values applicable to a general insulation category but not necessarily accurate for a particular manufacturer's insulation product;⁽¹⁷⁷⁾ (2) extrapolating R-values from thin-sample tests, an inherently deceptive procedure because of the non-linearity of per unit R-values;⁽¹⁷⁸⁾ (3) testing samples at low temperatures to gain a comparative advantage over competing R-values determined at higher temperatures;⁽¹⁷⁹⁾ and (4) testing samples without accounting for the adverse effects of settling, aging, and shrinkage on R-value.⁽¹⁸⁰⁾

In light of this evidence, R-value disclosures based on presently used test methods would sanction the continued deception of consumers. Moreover, unless all home insulation R-values are determined in a standardized manner, consumers will effectively be subjected to the unfairness associated with the failure to disclose R-values. In other words, the disclosure of R-values which are based on differing test methods and which consumers cannot effectively use in making their purchasing decisions is, for all practical purposes, a failure to disclose R-value.

As the record indicates, thermal resistance is a product characteristic reflecting physical properties and environmental factors which can be analyzed only by scientific means. It also indicates that the test methods prescribed by the Rule are the only reliable methods for accurately determining R-value.⁽¹⁸¹⁾ Moreover, the Commission believes that reasonable consumers, generally recognizing the technical nature of insulation materials, would expect R-value claims to be documented by results of some form of scientific testing.⁽¹⁸²⁾ Given this set of circumstances, the Commission has required that all R-values represented by manufacturers be substantiated by particular scientific test methods as set forth in the Rule.

Section 460.5 prescribes the use of ASTM C177, C518 or C238 for determining the R-value of an insulation material.⁽¹⁸³⁾ These tests are "consensus" ASTM procedures⁽¹⁸⁴⁾ and are published as standard test methods in ASTM's *Annual Book of Standards*.

The prescribed test methods provide R-value measurements under "static" or "steady-state" laboratory conditions.⁽¹⁸⁵⁾ In other words, neither these tests nor any other available tests can take into account transient environmental factors, such as moisture and air circulation, which can have a significant effect on insulation performance.⁽¹⁸⁶⁾ Thus, the R-value determined by the prescribed laboratory tests may not always accurately reflect "effective," or "in situ," insulation performance.⁽¹⁸⁷⁾ Notwithstanding this limitation, the record shows that they are the most reliable and accurate test methods available.⁽¹⁸⁸⁾ Accordingly, their implementation will permit fair comparisons of product R-values on a standardized basis to provide consumers with a reliable, uniform, and comparative base for their purchasing decisions.

2. *R-value testing for mass insulations.* As previously noted, § 460.5(a) of the Rule designates the use of one of three tests—ASTM C177, C518, or C236—for determining the R-values of all types of mass insulation. The record shows that all three tests are highly accurate and reproducible steady-state methods.⁽¹⁸⁹⁾ Since manufacturers of mass insulation materials are unlikely to use on a regular basis ASTM C236, which is a "systems" test,⁽¹⁹⁰⁾ this section discusses the provisions relating only to ASTM C177 and C518.⁽¹⁹¹⁾

a. *Representative thickness testing.* The record shows that mathematical extrapolation of R-value from thin-sample tests is inherently inaccurate and misleading, because it fails to recognize the non-linearity of R-value with increases in thickness.⁽¹⁹²⁾ In recognition of this problem, ASTM revised both C177 and C518 in 1976⁽¹⁹³⁾ to discourage such extrapolation and to encourage instead the use of test specimens of sufficient thickness to ensure that thermal resistance measurements will reflect the effect of thickness on R-value.⁽¹⁹⁴⁾

In section 460.6 of the Rule, the Commission has incorporated the 1976 revisions to ASTM C177 and C518 by requiring "representative thickness testing"⁽¹⁹⁵⁾ for all mass insulations. Rulemaking participants did not dispute the scientific principle behind this requirement; indeed, virtually every party agreed that changes in thickness affect R-value, and that the use of revised C177 and C518 would improve the accuracy of R-value claims made to consumers.⁽¹⁹⁶⁾ Nevertheless, some segments of the industry, principally the mineral wool manufacturers, repeatedly contended that the Commission should

not mandate representative thickness testing at this time.⁽¹⁹⁷⁾ Instead, these participants recommended that they be allowed to continue promoting R-value results taken from thin-sample tests. They advanced two arguments to support this position.

The first contention is that mandatory representative thickness testing should be postponed until sufficiently thick standard calibration materials are available from the National Bureau of Standards (NBS).⁽¹⁹⁸⁾ Without such materials, it is alleged, there will be significant measurement uncertainties associated with representative thickness testing. As a result, different laboratories measuring the same insulation sample could produce different R-values, raising a question of the reliability and comparability of all R-value claims. For this reason, the industry members argue that standard calibration materials are essential to a representative thickness testing program.

Although the Commission recognizes the lack of standard calibration specimens as a shortcoming and encourages the development of such materials for commercial use as rapidly as possible, it also believes that the record evidence contradicts industry's contention in several respects. First, there is evidence that the availability of thin-samples for calibration of thin-samples tests has not completely eliminated measurement variations among different laboratories.⁽¹⁹⁹⁾ Second, even by the admission of the mineral wool manufacturers, round robin test results on thick samples using representative thickness testing techniques varied by only three or four percent.⁽²⁰⁰⁾ These results are within acceptable limits,⁽²⁰¹⁾ and are more precise than those obtained in a 1976 international round robin using thin samples.⁽²⁰²⁾ Indeed, they are a very significant improvement over the 10 to 15 percent R-value reduction that consumers unwittingly experience due to the thickness effect.⁽²⁰³⁾ These thick-sample round robin results suggest that internal calibration programs can be used effectively until standard calibration materials become available, and that the use of such programs will enable manufacturers to stay well within the tolerance limit imposed by the Rule.⁽²⁰⁴⁾ Third, the record shows that the absence of standard calibration materials has not prevented other segments of the insulation industry from accepting the fact that representative thickness testing has become a realistic objective and should be required by the Rule.⁽²⁰⁵⁾ In fact, despite their

recommendation for continued thin-sample testing, the mineral wool manufacturers have been testing their loose-fill products at thicknesses up to six inches for years.⁽²⁰⁶⁾ As have many cellulose manufacturers.⁽²⁰⁷⁾ This has occurred despite the absence of any standard calibration materials at these thicknesses.⁽²⁰⁸⁾

Lastly, it is noteworthy that this new Commission requirement follows in the wake of similar action recently taken by other governmental and standards-setting bodies. For example, the HUD materials standard for urea-based foam products requires that urea-based foam manufacturers must perform R-value tests on samples at least three inches in thickness.⁽²⁰⁹⁾ Similarly, ASTM 739, the recommended specification for cellulose insulation, requires testing of cellulose at representative thickness, and the Canadian government has adopted a "derating" procedure to account for the effect of thickness on the R-value of cellulose insulation.⁽²¹⁰⁾ In addition, Canada has required since 1977 that the R-values for mineral wool batts be determined by representative thickness testing.⁽²¹¹⁾ Finally, as discussed in Section III.B.3.a, *infra*, the reflective foil manufacturers who, like cellulose and urea-foam producers, are generally very small firms, must perform the more expensive and time-consuming ASTM C236 test so that claimed R-values will be as representative as possible of the performance of the foil system once installed.

This review indicates that many competitors of the mineral wool batt manufacturers must already perform representative thickness testing, and they must do so without any NBS calibration materials. Further, in this proceeding it has been almost exclusively the mineral wool industry members who continue to assert, somewhat contradictorily, that representative thickness testing cannot be implemented until these materials are provided by NBS. Absent immediate implementation of the representative thickness testing requirement in this Rule, the mineral wool manufacturers, who already hold an overwhelming share of the home insulation market, will preserve an unwarranted competitive advantage—at least for their batt products—over other industry members who are already or will be required to do representative thickness testing. For this reason, and in light of the evidence on the issue, the Commission concludes that standard calibration specimens, while desirable, are not essential to the implementation

of a representative thickness testing requirement.

The second argument advanced by mineral wool manufacturers is that there are not yet enough laboratories equipped with thick sample testing devices to be able to perform representative thickness testing for the entire home insulation industry.⁽²¹²⁾ Once again, the record refutes the industry contention. First, the evidence shows that the major fiberglass producers, which account for the great bulk of all home insulation sales, already have the necessary equipment and personnel to do representative thickness testing.⁽²¹³⁾ Second, several independent testing laboratories also have the requisite resources, and would be able to perform representative thickness testing for the non-fiberglass producing segments of the industry.⁽²¹⁴⁾ Third, there is evidence that additional laboratories are procuring thick-sample testing facilities in light of the 1976 ASTM revisions and in anticipation of a representative thickness testing requirement.⁽²¹⁵⁾ Fourth, it appears that some manufacturers will be able to continue testing relatively thin samples of their products,⁽²¹⁶⁾ and that there is more than enough equipment at present to meet these needs.⁽²¹⁷⁾ Finally, the Commission's deletion of the retesting requirement originally recommended by the staff⁽²¹⁸⁾ should greatly reduce the industry's testing burden and, thus, alleviate whatever backlogs might result from imposition of a representative thickness testing requirement on the non-fiberglass producers.

For the foregoing reasons, the Commission believes that the record supports its decision to require R-value testing at representative thicknesses. At the same time, the Commission recognizes that the present supply of laboratories is not abundant, and that the industry, especially those manufacturers who do not have in-house testing facilities, will need a reasonable grace period in which to prepare for the advent of mandatory representative thickness testing.⁽²¹⁹⁾ Accordingly, the Commission has determined that the new testing requirement and resultant changes in R-value disclosures should take effect 90 days following promulgation of the Rule. This length of time is based on detailed staff calculations reflecting the present numbers of testing laboratories and manufacturers in the home insulation market.⁽²²⁰⁾

b. *Test temperature.* As discussed in Section I.C.2 of this statement, R-values fluctuate inversely with changes in temperature, so that lowering the test

temperature will produce a corresponding rise in the tested R-value of a mass insulation. This aspect of thermal resistance poses a problem with respect to the manner in which R-values are reported to consumers. If two insulation products ordinarily have similar R-values under similar conditions, a significant downward adjustment of the temperature at which one of them is tested will make that product appear to have a higher R-value than the other product.

As this example shows, differences in test temperatures can distort not only the R-value of a particular product, but the comparability of R-values of different and competing products. Because such temperature distortions impede comparison-shopping and have the potential to confuse and mislead consumers, the Commission has required in section 460.5(a) of the Rule that R-value tests for mass insulation materials be conducted at a standard mean temperature.

Specifically, § 460.5(a) requires all R-value tests for these products to be done at a mean temperature of 75° Fahrenheit. The choice of this particular temperature is based on a significant volume of record evidence that 75°F is already a widely used test temperature and is incorporated in many voluntary industry standards and federal procurement specifications.⁽²²¹⁾

Nevertheless, in specifying 75°F, the Commission acknowledges record evidence that this temperature has no particular advantage over any other temperature. As several participants noted, it is not representative of average temperatures in many geographical regions.⁽²²²⁾ In light of this fact, the Commission has given careful consideration to recommendations that a lower standard mean temperature be prescribed.⁽²²³⁾ or that disclosure of R-values tested at other temperatures be allowed to accompany the mandatory disclosure of R-values tested at 75°F.⁽²²⁴⁾

With respect to the first recommendation, the record shows that commenters critical of the 75°F standard nevertheless could not agree on a substitute mean temperature.⁽²²⁵⁾ Thus, even if the standard test temperature should be one that is more representative of average climatic conditions than 75°F, the record does not indicate which alternative temperature should be prescribed. Moreover, in view of the fact that temperatures vary from region to region, the Commission doubts that any single temperature would adequately represent the range of average temperature conditions found across the country.

Accordingly, the Commission rejects the recommendation that another temperature be substituted for 75°F as the standard mean temperature for R-value tests. The prescribed test temperature will be as effective as any other would be in providing a standard temperature condition for R-value comparison purposes.

With respect to the second recommendation, the Commission recognizes that R-values increase at lower temperatures and that other temperatures may be more applicable than 75°F to the average climates of many consumers. However, the Commission believes that a proliferation of R-value claims at various temperatures would confuse consumers, who are unlikely to be aware of the inverse relationship between R-value and temperature, and would complicate the process of comparison shopping which the Rule is designed to encourage. In addition, the Commission sees only marginal benefit in the recommendation to allow two R-values disclosure—one at 75°F and another at a lower standard temperature that would be designated in the Rule. Since any lower temperature, as previously noted, would not be representative of many areas, and since many consumers probably do not know the average temperature for their own geographical region, the Commission questions the utility of a second disclosure at a lower temperature. On balance, the Commission has concluded that the informational benefit would not be great enough to outweigh the risk of consumer confusion from an additional R-value disclosure at a second temperature. Accordingly, § 460.5(a) prescribes a uniform temperature standard of 75°F for all mass insulation R-value tests.⁽²²⁶⁾

c. *Aging of cellular plastics insulations.* As discussed in Section I.C.3 of this statement, a chemical aging process peculiar to certain cellular plastic materials causes their R-value to decrease over a period of time after manufacture. This aging process affects polyurethane, polyisocyanurate, and extruded polystyrene insulations. It lasts a variable length of time, sometimes as long as several years, and can have a significant adverse impact on the R-values of these products.⁽²²⁷⁾ As a consequence, failure to account for this aging effect in the testing of these products results in R-value claims that are inflated and misleading to consumers.

Section 460.5(a) of the Rule addresses this problem by requiring that R-value tests for extruded polystyrene,⁽²²⁸⁾ polyurethane, and polyisocyanurate

insulations be performed on aged samples. In particular, the Rule requires that these products be aged in accordance with the "accelerated aging" method specified in GSA Specification HH-1-530A.(229) or through a comparable procedure that reflects the adverse effect of aging on the product's R-value.

The GSA accelerated aging test received support from a number of commenters, who noted that it is already used by some industry members, and that it will accurately reflect years of aging.(230) However, the representative for the Society of the Plastics Industry noted that some products may suffer physical distortions when subjected to the GSA procedure.(231) In addition, at least one manufacturer already has test data showing the R-value of material that has been aged for five years.(232) Therefore, the Commission has not specified the use of GSA's accelerated aging test in the Rule. Rather, any procedure that results in R-values fully reflective of aging will be acceptable.

d. *Settled density testing for loose-fill insulations.* As discussed in Section I.C. 4 of this statement, loose-fill cellulosic and mineral wool materials always settle in attics, and will also settle in walls if not installed to the proper density. This settling reduces the R-value of the insulated area.(233) Section 460.5(a) of the Rule remedies this deception by prescribing a scheme for testing loose-fill R-values at their "settled density." With respect to cellulose insulation, this provision requires that R-value tests be performed at the settled density determined under GSA Specification HH-1-515D.(234) This settled density test for cellulose represents a significant technological advance in the art of insulation testing. More to the point, since cellulose R-value as tested will be discounted for settling, incorporation of the new GSA Specification obviates the need for the cellulose settling disclosure that had been recommended by the staff.(235) and will make the cellulose coverage chart information as accurate as current technology permits. In addition, it responds to a number of recommendations in the record for settled density testing.(236)

No final settled density testing procedure has yet been accepted for loose-fill mineral wool. However, the mineral wool manufacturers contend that the coverage charts for their loose-fills take settling into account, and that if the coverage information is followed, the consumer will attain the represented R-value.(237) Under these

circumstances, the Commission is presently imposing a general requirement that loose-fill mineral wool R-values be based on tests that take the adverse effects of settling into account.(238) In addition, section 460.5(a) of the Rule states that as soon as a settled density test for loose-fill mineral wool becomes part of a final GSA Specification, R-value tests for that product must be done at the settled density determined under the GSA Specification.(239)

3. *R-value testing for foil insulations.* Sections 460.5(b), (c), and (d) of the Rule specify R-value testing requirements for insulation products that use reflective aluminum foil material. Specifically, these provisions prescribe separate testing requirements for reflective aluminum foil systems and for mass insulation materials that have foil facings.

a. *R-value test for reflective aluminum foil systems.* The record demonstrates that ASTM C236 is the appropriate R-value test method to use for reflective aluminum foil materials. Unlike C177 and C518, C236 is principally designed for thermal insulation systems, not for an individual material.(240) The record further shows that it is the only current standard test method that can be used to determine the thermal resistance of such integrated products as reflective foil systems.(241)

Section 460.5(b) of the Rule accordingly states that the R-value of a foil system with more than one sheet of foil (multiple airspaces) must be determined by the C236 method.(242) During the hearings, the Aluminum Association contended at first that the C236 testing requirement would be an unnecessary and undue burden on reflective insulation manufacturers. Instead, the Association recommended that these industry members be allowed to base their R-value claims on the pre-published ASHRAE R-value tables for airspaces.(243) The evidence in the record refutes the Association's position in two respects. First the ASHRAE tables do not provide R-values for multiple airspaces systems, but only for single-sheet systems.(244) Second, the record shows that extrapolation of a total R-value for a multiple system from the ASHRAE R-value for a single airspace is an unreliable procedure.(245) In light of these weaknesses in its position, the Association finally agreed that the rule should require C236 testing for multiple airspace systems.(246)

Although the Aluminum Association's argument lacked force with respect to multiple airspace systems, it did lead the staff to recommend that the Commission require a lesser burden of

substantiation of R-value claims for single airspace claims by first determining the emissivity (247) of the foil and then finding the ASHRAE R-value which corresponded to the determined emissivity level.(248)

With one modification, section 460.5(c) of the Rule has incorporated this staff recommendation.(249) Based on hearing testimony provided by the Aluminum Association, the staff recommended that the foil's emissivity be determined in accordance with ASTM C445.(250) During the post-record comment period, however, it was discovered that C445 was being revoked by ASTM.(251) and that one appropriate emissivity test to require instead was ASTM E408.(252) Accordingly, section 460.5(c) of the Rule requires the emissivity of foil in single airspace systems to be tested by ASTM E408 or by a comparable test method.(253)

b. *Insulations with foil facings.* Mass insulation materials with foil facings (254) are distinctive products because they can actually have two R-values, depending on the manner in which they are installed. If the material with facing is simply installed in part of the house, it has only its "material" R-value. However, if it is installed in conjunction with an airspace, the interaction of the airspace and facing provides an additional insulating effect.(255) As a result, § 460.5(d) prescribes a particular testing scheme for foil-faced products used alone(256) and in conjunction with an airspace. In the latter case, the rule provides that a manufacturer of such a system may determine its total R-value in one of two ways:

- (1) The manufacturer may test the system, with its airspace, under C236, following the applicable rules in § 460.5(a) for mass insulation testing; or
- (2) The manufacturer may add to the tested R-value of the material, the R-value of the airspace as derived from the ASHRAE tables under the rules in § 460.5(c).(257)

Although two commenters suggested that the C236 test be deemed the only permissible method for determining the system R-value of a foil-faced material,(258) the Commission believes that this would be an overly burdensome requirement. The Rule already permits the use of the ASHRAE R-values for single airspace reflective systems, and there does not seem to be any basis for distinguishing between these products and single sheets of foil attached to mass insulations. Since C236 is a relatively expensive and time-consuming test, the Commission does not believe that it should be exclusively required absent strong indications that the ASHRAE R-values for single sheets

of foil are inaccurate in the context of foil-faced mass insulation. Thus, the Commission concludes that the discretionary scheme in § 460.5(d) represents the more reasonable and equitable approach to determining the system R-value of foil-faced products used in conjunction with an airspace.

4. *Changes in the test methods.* As noted earlier, the Rule requires that the current version of the referenced test methods be used. The Commission is concerned, however, that its Rule not have the undesirable effect of chilling advances in thermal testing technology. To avoid such stagnation, and, in fact, to promote improvements in the science of thermal testing, numerous participants suggested that the Rule provide for "automatic incorporation" of future test revisions.(259) The Commission is in basic agreement with this approach, and § 460.7 states that changes in the test methods specified in the Rule will automatically become a part of the Rule 90 days after they are published.(260)

The issue raised by § 460.7 is whether section 18(d)(2)(B) of the FTC Act would require a reopening of the rulemaking proceeding in order to make test method revisions a part of the Rule. The Commission need not resolve this issue at this time. In many instances, changes in the test methods may be of a technical or "housekeeping" nature and, thus, may not rise to the level of a "substantive" amendment to the Rule.(261) In other cases, however, a test change may be so significant that formal Commission consideration of the matter seems necessary. In order to allow parties the opportunity to call to the Commission's attention what they regard as significant test changes that should be addressed explicitly by the Commission, § 460.7 of the Rule permits the Commission's staff or any person affected by the change to petition during the 90-day period for formal Commission consideration of the matter.

5. *R-value tolerances.* It is arguable that manufacturers of home insulation products should be required to state with absolute precision the R-values of their products. Practically speaking, however, such precision is not yet possible. As noted in Section I.B.1 of this statement, most home insulations are heterogeneous in nature; that is, they have variable rather than constant properties. In addition, the quality of insulation products varies depending on the presence of inconsistencies in the manufacturing process. These variations in composition and production can have a significant effect on the thermal resistance of home insulation.(262) As a result, adequate quality control

measures are essential to ensure that the thermal performance of insulation products will be as consistent as is practically possible.

On the other hand, the inherent variability of these materials means that it is necessary to provide manufacturers with a defense for minor R-value variations from product to product. In other words, a quality control provision in the rule serves two purposes. It ensures that represented R-values are accurate within acceptable limits, and it provides manufacturers with enough leeway so that compliance with the Rule is not rendered impossible.

Although the proposed rule did not include any quality control requirements, the notice of rulemaking invited public comments on quality control issues.(263) The hearings and comments produced several recommendations for Commission action on this point, ranging from leaving quality control completely unregulated to requiring manufacturers to institute comprehensive quality control programs.(264) Given the need for quality control, the former recommendation is clearly unacceptable. Yet, given the differences in approach and the enormous complexities in quality control systems that were described in the proceeding,(265) the latter recommendation seems unrealistic and too prescriptive in this context. Between these extremes, however, several more moderate recommendations were made. These included such ideas as third-party testing, sample selection, R-value tolerances, and periodic retesting.(266)

The rule recommended by the staff required two of these elements of quality control: periodic retesting and an R-value tolerance limit. Specifically, the staff suggested that R-value tests be repeated at least every 60 days and, in addition, that the actual R-value of an insulation material could not be more than 5 percent below the stated R-value.(267)

Although the commenters differed on the soundness of the 60-day retesting requirement, they generally agreed that the record brought to light no specific testing frequency that is superior to all others.(268) In addition, several commenters pointed out that the basic quality control standard of the Rule was in the R-value tolerance provision and not in the retesting requirement.(269) The reasoning behind this view is that in order to stay within the tolerance limit, manufacturers will have to institute whatever in-plant quality controls are necessary to achieve this objective. Since the record fails to illuminate how much testing is necessary to adhere to a

tolerance limit for each product, and since the manufacturers themselves are the best judges of this need, the Commission has deleted the specific retesting provision. In its place, the final Rule establishes the tolerance provision as the governing quality control mechanism.

Although the Commission has decided to make a tolerance limit the chief incentive for quality control, it has raised the 5 percent tolerance ceiling recommended by the staff to 10 percent.(270) This change to a 10 percent tolerance limit is more in line with prevailing quality control standards in industry and GSA specifications.(271) and will ease the quality control burden on manufacturers. More importantly, it ensures that conscientious manufacturers will not be faced with the prospect of liability for relatively minor variations in product R-values.

The Commission wishes to note that the tolerance provision does not give manufacturers a license to raise their R-values above the levels determined through R-value testing. Rather, the testing sections impose two separate bases for potential liability. First, manufacturers will be liable if their labeled R-values do not accurately reflect the results of tests performed in accordance with the Rule. Second, if the Commission tests the manufacturer's product, the tested R-value must be within 10 percent of the R-value shown on the label. If the product is not within this 10 percent tolerance, the manufacturer will be liable even if the labeled R-value accurately reflects the test results available to the manufacturer.(272) In that event, failure to pass the tolerance test indicates that the manufacturer's quality control procedures are insufficient to provide consumers with any assurance that they are achieving the represented R-value.

6. *Recordkeeping.* In response to recommendations on the record and to aid enforcement, the Rule requires records of R-value tests to be kept for three years.(273) Under § 460.9, manufacturers and laboratories must keep the information specified in the "Report" section of the ASTM test method that is used for a test. Section 460.9 also specifies retention of the following items: (1) the name and address of the testing lab; (2) the test date; (3) the date a lab sent the test report to the manufacturer and the date the manufacturer received the test report; (4) the age (in days) of tested extruded polystyrene, polyurethane, and polyisocyanurate; and (5) the emissivity level of tested aluminum foil. The Commission believes that retention of

this information is essential to effective enforcement of the Rule.⁽²⁷⁴⁾

C. *Labeling Requirements.* As the discussion in Section II, *supra*, indicates, the most important component of this Rule is the pre-purchase disclosure to consumers of R-value information for home insulation materials. In light of the prevailing marketing practices in the industry, the Commission has chosen several mechanisms to effectuate the disclosure of this information.

1. *Insulation package labels.* a. *Coverage charts.* Under the rule as initially proposed, all insulation packages were required to be labeled with an R-value and the corresponding thickness and coverage area that would be attained.⁽²⁷⁵⁾ In general, this provision found considerable support in the record.⁽²⁷⁶⁾ However, because of the widespread use of coverage charts in the insulation industry, and because of the ease with which essential pre-purchase information can be conveyed on such charts,⁽²⁷⁷⁾ the Commission agrees with industry members that each package label should contain a coverage chart.

Due to differences among the various forms of home insulation, the staff recommended slightly differing disclosures for the products. Thus, for batt, blanket, and boardstock insulation, all of which are pre-shaped at the factory in specified dimensions, the staff recommended disclosure of the product's R-value, the dimensions of the package, and the number of packages needed to cover 1,000 square feet.⁽²⁷⁸⁾ For loose-fill, the staff's recommended disclosures included the R-value, coverage area, and weight per square foot of the insulation at thicknesses of one, three and one-half, and six inches;⁽²⁷⁹⁾ the number of packages needed to cover 1,000 square feet; and the total weight of the package.⁽²⁸⁰⁾ For aluminum foil insulation, the staff recommended that package labels disclose the number of foil sheets; the number and thickness of the air spaces; and the R-value provided by the foil system when the direction of heat flow is up, down, and horizontal.⁽²⁸¹⁾

Those who commented on the Staff Report suggested numerous improvements to the staff's recommended disclosures. Batt, blanket, and boardstock manufacturers, for example, suggested clarifications of the dimensional disclosures required for their products.⁽²⁸²⁾ Loose-fill manufacturers urged that the Commission follow the labeling provisions found in the federal purchasing specifications, since they provide essentially the same disclosures in a different format, and since many

industry members already comply with the federal specifications.⁽²⁸³⁾ Several commenters suggested that the total package weight disclosure for loose-fills be replaced by a "minimum net weight disclosure, since minor weight variations above the stated minimum will not reduce the R-value below that stated on the label."⁽²⁸⁴⁾ Finally, one manufacturer recommended a separate disclosure provision for mass insulations with reflective facings, to account for the additional R-value that is achieved when such products are installed in conjunction with an airspace.⁽²⁸⁵⁾ This last suggestion received further support during the oral presentations to the Commission.⁽²⁸⁶⁾

The Rule adopted by the Commission reflects the recommendations of the commenters. With respect to all products for which an existing federal specification includes a labeling provision, the Commission is requiring the same disclosures mandated by the federal specification.⁽²⁸⁷⁾ This approach will provide continuity in the labeling practices of many manufacturers and will minimize the cost of compliance with the Rule. There are several products, however, for which no existing federal specification includes a labeling provision. In these cases, the Commission has required disclosures which the record supports, taking into account the similarities among the products covered by the Rule. Thus, for both boardstock and air duct wrap, which are essentially the same as batt and blanket insulation,⁽²⁸⁸⁾ the Rule requires disclosure of the dimensions and coverage of the insulation in the package, and of its R-value.⁽²⁸⁹⁾ For perlite and vermiculite loose-fill, which have R-values roughly equivalent to those of loose fill mineral wool,⁽²⁹⁰⁾ the Rule requires that the coverage chart in the federal specification for loose-fill mineral wool be followed.⁽²⁹¹⁾ For aluminum foil insulation, the Rule requires disclosure of the product characteristics that govern the R-value to be achieved: the number of foil sheets; the number and thickness of the airspaces; and the R-value provided by the system when the direction of heat flow is up, down, and horizontal.⁽²⁹²⁾

Mass insulation materials with foil facings present a unique problem: they can have both a "material" R-value and a "system" R-value. The material R-value is simply the R-value of the mass insulation itself, while the system R-value is the R-value that can be achieved if the product is installed in conjunction with an air space.⁽²⁹³⁾ Under the Rule adopted by the Commission, the material R-value must

be disclosed in all cases. In addition, manufacturers may disclose the system R-value, as long as they clearly and conspicuously state the conditions under which the system R-value can be attained.⁽²⁹⁴⁾

The labeling disclosures required by the Commission's Rule are essential to the consumer's purchasing decision. Without the dimensional disclosures for batt, blanket, boardstock, and duct wrap insulation,⁽²⁹⁵⁾ for example, the consumer cannot determine whether the material will fit into the area to be insulated or how many packages of the insulation to buy.⁽²⁹⁶⁾ The same is true of the thickness and coverage area disclosures for loose-fill products. A single bag of loose-fill insulation can provide almost any desired R-value, depending on how many square feet are covered and to what thickness. Thus, these disclosures are essential to an evaluation of loose-fill R-value. Finally, the disclosures required for aluminum foil concerning the product's R-value and direction of heat flow are essential to the consumer's purchasing decision. Without this information, the consumer cannot determine whether the installation of the material in a wall or ceiling, for example, will produce the desired R-value.⁽²⁹⁷⁾

In addition to being essential purchase information, certain of the disclosures required on coverage charts are also needed to effectuate the Commission's R-value disclosure scheme. The minimum weight per square foot and minimum net weight disclosures for loose-fills fall into this category. Without this information, the Commission will not be able to ascertain the accuracy of the manufacturer's R-value and settled density claims.⁽²⁹⁸⁾ Similarly, unless the number of foil sheets and the number and thickness of the airspaces are disclosed for aluminum foil insulation, the Commission will not be able to verify R-value representations for those products.

The Commission therefore concludes that the various labeling disclosures required for each insulation material covered by the Rule are both necessary and reasonable.

b. *Other label disclosures.* Section 460.12 of the Rule requires two additional disclosures that must appear on all package labels. The first of these is a brief explanation of the term "R-value."⁽²⁹⁹⁾ The need for this disclosure is clear, since the record demonstrates that most consumers are totally unfamiliar with the R-value concept.⁽³⁰⁰⁾ In light of this fact, the Commission believes that the R-value explanation is an essential

accompaniment to the R-value disclosures on package labels.⁽³⁰¹⁾

The second disclosure required for all package labels concerns the need for proper installation. The record demonstrates that proper installation is crucial to the performance of any insulation material.⁽³⁰²⁾ It is not at all clear, however, that insulation consumers are aware of this fact. Many labels on the record do not contain installation instructions, nor do they warn consumers of the critical role that installation plays in insulation performance.⁽³⁰³⁾ In addition, two witnesses who have had extensive contact with insulation purchasers in recent years indicated that consumers do not realize the significance of proper installation.⁽³⁰⁴⁾ This position is further supported by evidence that there are many instances in which improper installation occurs, causing a reduction in the R-value achieved by the consumer.⁽³⁰⁵⁾

To remedy this situation, many participants recommended a label disclosure concerning the importance of proper installation.⁽³⁰⁶⁾ Indeed, a number of parties suggested that the Rule mandate the inclusion of installation instructions in all insulation packages.⁽³⁰⁷⁾ The Commission does not believe that it is necessary to go so far. Instead, the Rule requires only that the critical importance of proper installation be disclosed to consumers and, if installation instructions do not come with the package, that this fact also be disclosed on the label.⁽³⁰⁸⁾

2. *Insulation fact sheets.* In addition to the package labeling requirements in the Rule, the Commission is also requiring that insulation manufacturers provide fact sheets to retailers and installers of their products, for ultimate distribution to consumers. With minor exceptions,⁽³⁰⁹⁾ these fact sheets must contain the same information that would appear on product labels.

There are a number of reasons why fact sheets are needed to supplement the Rule's labeling requirement. First, the evidence shows that insulation sold through retail stores to do-it-yourself consumers is often unavailable for inspection prior to purchase.⁽³¹⁰⁾ Thus, even if the package is labeled, the consumer may not be able to review the relevant R-value information prior to purchase.⁽³¹¹⁾ Second, some products, even though they are sold through retailers, are not generally sold in packaged form.⁽³¹²⁾ As a result, no labeled information would be available with respect to these products.⁽³¹³⁾ Finally, the Rule contains no labeling requirement for insulation that is installed professionally, rather than by

the homeowner.⁽³¹⁴⁾ In this situation, the fact sheet would serve as the product's label. Because of the ways in which home insulation is marketed, the Commission believes that its fact sheet requirement is necessary to effectuate the disclosure of essential pre-purchase information to consumers.

a. *Disclosures required on fact sheets.* In general, the Commission's Rule requires that fact sheets disclose the information required for the product's label under § 460.12. Thus, the sheets must contain an R-value explanation; a disclosure of the importance of proper installation, and the coverage chart required for the product under § 460.12 (b).⁽³¹⁵⁾ For foamed-in-place insulations, which are not subject to labeling under § 460.12(b),⁽³¹⁶⁾ the Rule requires a chart showing the product's R-value at a three and one-half inch thickness, and at any additional thicknesses listed by the manufacturer.⁽³¹⁷⁾ For these foamed-in-place products, the R-value and thickness disclosures provide all of the coverage chart information needed for a pre-purchase evaluation of the material.⁽³¹⁸⁾

The Rule also requires specific disclosures on the fact sheets for urea-formaldehyde foam and duct wrap insulation. In the case of urea-formaldehyde foam insulation, the fact sheet must disclose that the product shrinks after installation, and that the shrinkage may significantly reduce the R-value attained by the consumer.⁽³¹⁹⁾ The record contains overwhelming evidence that UF foam shrinks and that shrinkage reduces R-values.⁽³²⁰⁾ There is disagreement, however, concerning the magnitude of the R-value reduction caused by shrinkage.⁽³²¹⁾ Considerable evidence indicates that the R-value reduction may be as high as 28, 40, or even 50 percent,⁽³²²⁾ but industry members contend that it is much lower.⁽³²³⁾ Even industry members concede that the R-value reduction attributable to shrinkage may be on the order of 10 or 15 percent.⁽³²⁴⁾ Though, and the Commission believes that such a reduction is significant.

The staff originally recommended a disclosure that would have had the effect of derating all UF foam R-values by 28 percent.⁽³²⁵⁾ Yet, some manufacturers may be able to demonstrate that the shrinkage-related R-value loss for a particular product is less than 28 percent.⁽³²⁶⁾ Moreover, an across-the-board 28 percent derating might discourage industry efforts to control the shrinkage phenomenon. At the very least, such a provision would necessitate amendments to, or

exemptions from, the Rule as the state of the art in shrinkage testing advances.

In light of these factors, the Commission has decided not to adopt the disclosure recommended by the staff. Instead, the rule requires that fact sheets for UF foam insulation disclose the fact that the product shrinks, and that the shrinkage "may significantly" reduce the R-value attained by the consumer.⁽³²⁷⁾ In addition, the Rule provides that manufacturers may derate their products' R-values "based on reliable scientific proof of the extent of shrinkage . . . and of its effect on R-value."⁽³²⁸⁾ If the product's R-value is derated in accordance with this provision, the manufacturer need not include the shrinkage disclosure on the fact sheet.⁽³²⁹⁾ The Commission believes that this approach will protect consumers from deception, and at the same time encourage product and testing innovations in the UF foam industry.

The other product for which a specific disclosure is required on fact sheets is air duct insulation. This flexible material must be wrapped around the air duct during installation, causing significant compression at the edges of the duct.⁽³³⁰⁾ This compression will reduce the R-value of the material below the tested R-value.⁽³³¹⁾ The precise extent of the R-value reduction will depend on the extent to which the material is compressed.⁽³³²⁾ Since there is no test available to account for this compression factor,⁽³³³⁾ the fact sheets for air duct wrap must disclose that the product's R-value "varies depending on how much it is compressed during installation."⁽³³⁴⁾

The staff originally recommended a number of other fact sheet disclosures concerning such potential problems as excessive compression of mineral wool batts,⁽³³⁵⁾ improper handling of aluminum foil,⁽³³⁶⁾ and moisture buildup in insulation materials.⁽³³⁷⁾ Although there was some evidence supporting these disclosures,⁽³³⁸⁾ they were criticized by commenters as being overly simplified and in conflict with proper installation practices.⁽³³⁹⁾ More importantly, the disclosures provided information concerning proper installation techniques, rather than information bearing on the consumer's evaluation of the particular product's R-value.⁽³⁴⁰⁾ Since the purpose of the fact sheets—and of the labeling provisions in general—is to provide information essential to the consumer's assessment of insulation R-values, the Commission has decided not to require these disclosures.

b. *Preparation and distribution of fact sheets.* Under the rule initially

recommended by the staff, manufacturers were required to prepare separate fact sheets for each insulation product they marketed.⁽³⁴¹⁾ For example, a producer of batt insulation in several different sizes was required to have a fact sheet for each product.⁽³⁴²⁾ To minimize the costs of compliance with the Rule, the Commission has decided on a different approach. Section 460.13(c)(2) of the Rule permits manufacturers to consolidate the coverage chart information for similar products on the same fact sheet.⁽³⁴³⁾ For example, the coverage charts for several different sizes of batt insulation products could be put on a single fact sheet. Similarly, coverage charts for two different bag sizes of loose-fill products may be consolidated on one fact sheet.⁽³⁴⁴⁾ On the other hand, separate fact sheets are required for batt and loose-fill materials, since the difference between the two products concerns their characteristics, rather than their dimensions. The Commission believes that this provision of the Rule will significantly reduce the number of different fact sheets that must be prepared by each manufacturer.

The staff's recommended rule also required that manufacturers provide their retailers and installers with enough fact sheets for distribution to each purchaser of the products.⁽³⁴⁵⁾ Several commenters contended that this provision would require the preparation and distribution of a large number of fact sheets.⁽³⁴⁶⁾ As an alternative, they suggested that the Commission adopt a "binder system" for fact sheets, modeled on the warranty disclosure rules promulgated under the Magnuson-Moss Warranty—Federal Trade Commission Improvements Act.⁽³⁴⁷⁾ Under this approach, retailers and installers would receive only one fact sheet for each product. These fact sheets would all be kept in a book or binder, which would be available for inspection by consumers.⁽³⁴⁸⁾

The Commission is not convinced that the suggested binder system should be mandated by the Rule. Instead, the Rule permits retailers and installers the flexibility to choose among various disclosure mechanisms, as long as fact sheets are made available to consumers. For example, retailers may use "Take One" displays, or may keep the fact sheets in a central binder.⁽³⁴⁹⁾ Similarly, installers may actually give the fact sheets to their purchasers, or may show their customers a fact sheet binder prior to purchase.⁽³⁵⁰⁾ In other words, the thrust of the requirement is simply that consumers must be given an opportunity to analyze the fact sheet

information before they commit themselves to a purchase. To generate consumer awareness of the availability of fact sheets, and in support of the Commission's overall purpose of ensuring disclosure of prepurchase information, the disclosures required for certain advertisements encourage consumers to ask for fact sheets before buying insulation products. The advertising disclosures will be discussed shortly.⁽³⁵¹⁾

3. Disclosure by new home sellers. Although the proposed rule did not require pre-purchase disclosures to new home buyers, the Commission specifically solicited comment on the question of whether new home sales should be covered by the disclosure provisions of the Rule.⁽³⁵²⁾ The record indicates that most new home buyers will spend additional money on insulation if they are advised to do so by builders.⁽³⁵³⁾ New home sellers, in turn, are capitalizing on this heightened consumer interest in energy conservation by advertising the energy efficient features of their homes.⁽³⁵⁴⁾ Since a new home has no history of utility bills, the buyer is unable to evaluate anticipated energy consumption patterns. As a result, the amount of insulation to be installed in the home may significantly affect the consumer's decision to buy.⁽³⁵⁵⁾ Thus, in this context no less than in the context of an insulation purchase alone, the Commission believes that the R-value of the insulation to be installed in the home is a factor material to the consumer's purchasing decision. The disclosure of this information will permit the new home buyer to evaluate the energy efficiency of his or her home, thereby furthering the national policy of energy conservation.⁽³⁵⁶⁾

Most of the rulemaking participants agreed that the Rule should require pre-purchase disclosure of R-value information to new home buyers.⁽³⁵⁷⁾ However, the representative for the National Association of Home Manufacturers disagreed.⁽³⁵⁸⁾ He agreed that R-values should be disclosed to new home buyers,⁽³⁵⁹⁾ but he argued that new home builders are already subject to state energy conservation codes,⁽³⁶⁰⁾ and that R-value information is often provided to new home buyers.⁽³⁶¹⁾ On the other hand, he conceded that energy conservation codes only set minimum performance standards, and do not require that R-value be disclosed to consumers.⁽³⁶²⁾ He further conceded that R-values are not always disclosed to new home buyers, and that, in fact, he could not estimate how often such

disclosures were made.⁽³⁶³⁾ Since the Commission believes that R-value data must be disclosed, and since the evidence suggests that some consumers are not being provided with this information, a disclosure requirement for new home sales is necessary.

The staff originally recommended that R-value information be provided to new home purchasers via the fact sheets.⁽³⁶⁴⁾ Under this approach, the seller was to give the buyer fact sheets for the various types of insulation installed in the home, and let the buyer read the fact sheets before signing a sales contract.⁽³⁶⁵⁾ In the Commission's view, this is a cumbersome scheme, which may be difficult to implement and, possibly, to enforce. In its place, the Rule simply requires that new home sellers disclose in the sales contract the type, thickness, and R-value of the insulation that will be installed in each part of the house.⁽³⁶⁶⁾ In the event that the buyer signs a sales contract before this information is known, or if the builder substitutes a different material under the terms of the contract,⁽³⁶⁷⁾ the Rule states that the R-value disclosures must be made as soon as the information is known.⁽³⁶⁸⁾

Although the Rule requires that R-value information for new homes appear in the sales contract, the Commission makes no judgment concerning potential state law remedies for nondisclosure or inaccurate disclosure of R-values. Such a disclosure might constitute a warranty in some states, but not in others. The Commission's intent is merely to require that this information be disclosed, and the sales contract provides the most convenient and appropriate vehicle for the disclosure.

4. Additional disclosure by installers. Under the rule as initially proposed, all installers were required to provide their customers, after installation, with a written statement of the R-value and thickness of the insulation that was installed.⁽³⁶⁹⁾ Although various additional disclosures were suggested, this provision was generally supported by the participants.⁽³⁷⁰⁾ Of course, consumers who purchase from installers will have received a fact sheet prior to their purchase.⁽³⁷¹⁾ Unlike do-it-yourself consumers, however, these purchasers will never actually see a label stating the R-value, thickness, and coverage area achieved. Consumers who buy insulation through installers are, thus, in the same position as new home buyers. Absent a requirement to disclose exactly what was installed, they cannot fully assess the energy efficiency of their homes.⁽³⁷²⁾ In addition, disclosure of this information

will provide them with an available reference, if they consider the purchase of additional insulation in the future. The Commission therefore believes that its R-value disclosure program cannot be fully effective unless these consumers, like do-it-yourselfers and new home buyers, are informed of the R-value that is actually installed in their homes.

The general requirement embodied in § 460.17 of the Rule is that R-value, thickness, and coverage area be disclosed to the consumer on a contract or receipt that is dated and signed by the installer. For loose-fill insulation, the receipt must also state the number of bags.⁽³⁷³⁾ For aluminum foil, the number and thickness of the air spaces, the direction of heat flow, and the R-value must be disclosed. The Rule explicitly states that the installer may not multiply the R-value for one inch of the material by the number of inches installed. Instead, installers must use the R-value data provided by manufacturers, which will be based on representative thickness testing in accordance with the Rule.

D. Insulation Advertisements. 1. Claims that trigger R-value disclosures. When this rule was proposed, the Commission solicited comments concerning the circumstances under which insulation advertisements should be required to disclose R-value, thickness, and coverage area information.⁽³⁷⁴⁾ The record evidence on this point indicates that there are several circumstances under which advertising disclosures are necessary.

First, the evidence shows that thickness and R-value must always go hand in hand. A thickness disclosure is necessary before consumers can evaluate products with the same R-value, since different materials provide the same R-value at disparate thicknesses.⁽³⁷⁵⁾ Conversely, a thickness representation leads consumers to believe, mistakenly, that insulation materials can be evaluated without reference to their R-values. The Commission believes that a reference to either of these product attributes, thickness or R-value, without mentioning the other, is unfair and deceptive to consumers. Sections 460.18 (a) and (c) of the Rule therefore require that an ad which states the product's thickness must disclose the corresponding R-value, and that an ad which states the product's R-value must disclose the corresponding thickness.

The Commission also sought comment on the question whether a statement of an insulation material's price in an ad should trigger additional disclosures.⁽³⁷⁷⁾ Based on the record

evidence, the Commission concludes that a price claim, standing alone, is both unfair and deceptive. For example, a consumer cannot evaluate the significance of a claim that his or her attic can be insulated for "as little as \$100," without knowing what R-value will be attained at that price. Moreover, even if the ad includes the price for a stated R-value and thickness, the consumer may still be misled. A very high R-value can be achieved at a very low price if, for that price, only a small area will be insulated.⁽³⁷⁸⁾ Thus, the Commission's rule requires that price claims be accompanied by the R-value, thickness, and coverage area at that price.⁽³⁷⁹⁾

The proposed rule contained a provision requiring comparative claims of thermal performance to be based on equal coverage area and to include R-value, thickness, and coverage area disclosure.⁽³⁸⁰⁾ As the discussion of price claims suggests, the requirement that comparisons be based on equal coverage areas is necessary to prevent unfair and deceptive comparisons. In addition, the record contains a number of examples of comparative claims which fail to disclose the R-values of the products being compared.⁽³⁸¹⁾ This is so despite general agreement that R-value is the measure of thermal performance that permits consumers to evaluate competing insulation products.⁽³⁸²⁾ Section 460.18(d) of the Rule thus requires that ads which compare the thermal performance of one type of insulation with that of another disclose the R-value and thickness of each material.⁽³⁸³⁾

2. The R-value explanation. The proposed rule stated that, whenever an ad mentioned a product's R-value, it was required to disclose the explanation: "The higher the R-value for a given area, the more you save on fuel."⁽³⁸⁴⁾ This provision was based on the Commission's belief that consumers do not understand the R-value concept, a belief which is fully supported on the record, and on the view that the market has contributed directly to this lack of understanding by failing to educate and inform consumers about insulation R-values.⁽³⁸⁵⁾

In light of this fact, there was general agreement that R-value disclosures should be accompanied by an explanation of the term.⁽³⁸⁶⁾ However, the disclosure initially proposed by the Commission was criticized because it erroneously implied a direct correlation between adding insulation and saving fuel.⁽³⁸⁷⁾ The explanation in the Rule now states: "The higher the R-value, the greater the insulating power. Ask your

seller for the fact sheet on R-values."⁽³⁸⁸⁾ The first sentence of this disclosure explains the R-value concept correctly and succinctly. The second sentence, as noted earlier, is a necessary component of the Commission's effort to provide consumers with pre-purchase R-value information.⁽³⁸⁹⁾

As initially proposed, the R-value explanation was to be required in ads for only a one-year period.⁽³⁹⁰⁾ Since insulation is a very infrequently purchased commodity,⁽³⁹¹⁾ however, the Commission is uncertain that the R-value concept will become widely and permanently understood in a short period of time. Unfortunately, the record does not provide a basis for selecting a longer period of time, such as three or five years. In light of this fact, the Rule does not indicate any expiration date for the R-value explanation disclosure in ads. Nevertheless, the Commission intends to conduct a survey several years from now, and will then reexamine the need for a continuation of the R-value explanation in insulation ads.

3. Other disclosures. As the discussion in Section II.C.2.a noted, the R-values achieved by consumers who purchase urea-formaldehyde foam insulation will be lower than the tested R-value.⁽³⁹²⁾ This occurs because current testing practices for these materials do not take shrinkage into account.⁽³⁹³⁾ Absent a disclosure of the effects of shrinkage, ads that state urea-formaldehyde foam R-values will always deceive consumers. The Commission's Rule therefore requires a shrinkage disclosure, or a reduction in the claimed R-value to account for this factor,⁽³⁹⁴⁾ whenever ads for the product mention its R-value.⁽³⁹⁵⁾

E. Savings Claims. As noted in Section I.E.2 of this statement, the evidence shows that many industry members are making savings claims for their products. Some of these claims are general in nature, stating that consumers can cut their fuel bills by installing insulation.⁽³⁹⁶⁾ Others refer specifically to a dollar amount or percentage by which fuel bills can be reduced.⁽³⁹⁷⁾

It seems obvious that a consumer's purpose in buying insulation is to reduce fuel use and, consequently, fuel bills.⁽³⁹⁸⁾ Savings claims, then, are not mere "puffing" by the advertiser, which no one expects the consumer to believe. Rather, the claims are designed to persuade consumers to purchase the products. Yet, because so many factors affect the savings achieved by an individual homeowner,⁽³⁹⁹⁾ any savings claim is untrue with respect to many consumers. In other words, those

consumers who save will do so as a function of their own particular circumstances, and are unlikely to save the amount represented by the advertiser.(400) Moreover, as noted earlier, some consumers will save little or no fuel by adding insulation to their homes.(401)

To remedy this problem, the staff originally recommended that savings claims include a series of disclosures designed to inform consumers of the particular circumstances under which the advertised savings were achieved.(402) The Commission has decided against this approach for two reasons. First, the length and detail of the disclosures would possibly overburden the ad and, as a result, unduly discourage savings claims in advertisements.(403) Second, it could be very difficult for consumers to absorb and comprehend this amount of information in the usually modest amount of advertising space or time available to insulation advertisers, most of which (except for the mineral wool manufacturers, as discussed above) are quite small. Third, even if the staff's proposed disclosures could be adequately presented and absorbed most of the time, the Commission does not believe that consumers could use the disclosed information to evaluate the claim.(404)

Instead of the approach suggested by the staff, the Commission has adopted a much simpler and far less burdensome disclosure provision. This provision is based on the conclusion that, to remedy the deception inherent in savings claims, consumers must be told that savings depend on many factors, and what those factors are. Since a disclosure containing all of this information would be lengthy, however, section 460.19(b) of the Rule simply requires a brief statement that savings vary and a reference to the fact sheets for further information.(405) A detailed enumeration of the factors that affect fuel savings is required in the fact sheets, where space limitations are not so serious a problem.(406) The Commission believes that this disclosure provision will serve as an effective remedy for the misleading nature of savings claims, and will also contribute to the Rule's overall pre-purchase disclosure mechanism.(407)

In light of the evidence that some savings claims are unsubstantiated, and in accordance with the principles announced in the *Pfizer* decision,(408) the Rule also requires that industry members have a reasonable basis for such claims.(409) Since the record indicates that the state of the art in

savings claim substantiation is developing,(410) it is not possible to specify in the Rule precisely what would be an acceptable basis for the variety of possible claims. It is clear that scientifically reliable measurements of fuel use in actual houses, or reliable computer models or methods of heat flow calculation, would meet the reasonable basis requirement imposed by the Rule. However, the Commission cautions advertisers that the language used in a savings claim will influence the level of substantiation required. Thus, an advertiser who claims that adding insulation will "slash fuel bills," or "cut fuel use in half," will be required to produce competent and reliable scientific proof that such high levels of savings will be achieved.

The record also indicates that some industry members claim that a combination of products, such as attic insulation and storm doors, will combine to reduce fuel use.(411) At least in some cases, one of the products results in substantially greater savings than the other or others in the combination.(412) Since savings claim substantiation is still a developing technology, however, it is not always possible to determine precisely how much of the savings was attributable to each product.(413) As a result, the Rule requires that savings claims for more than one product disclose the combination of products used.(414) The ad must also indicate how much of the savings came from each product. However, if the exact or approximate contributions of the products cannot be ascertained under available technologies, the advertiser may rank the products in order of their relative degrees of contribution.(415) This disclosure, while imperfect, will at least apprise consumers of the fact that not all of the products in the combination contributed equally to the savings achieved.

F. Miscellaneous Provisions. 1. R-value per inch claims. Since the record demonstrates that R-values are not linear,(416) ads, labels, and other promotional materials that express a product's thermal resistance in terms of its R-value per inch deceive consumers.(417) In addition, the Commission believes that references to the R-value for a one-inch thickness of the material will encourage consumers to think that it is appropriate to multiply this figure by the desired number of inches, as though the R-value per inch was constant. Section 460.20 consequently prohibits unqualified R-value per inch claims or references to the R-value for one inch of the material,

unless the product is recommended for use at a one-inch thickness(418) or actual test results prove that its R-value per inch does not drop at increased thicknesses. However, the section provides an alternative to industry members who wish to refer to a product's R-value per inch. The Rule permits these industry members to state a range of R-values per inch, if the claim is accompanied by an explanation of the inverse relationship between thickness and R-value.(419)

2. Certification claims. Although the proposed rule did not treat false governmental certification claims, ads on the record reveal that manufacturers sometimes deceptively associate their products with federal agencies.(420) While an insulation material may meet federal procurement standards, no product is certified or recommended by the government for private use.(421) The Rule therefore prohibits false representations that governmental agencies use, certify, recommend, or otherwise favor a product, or that the product complies with a government standard or specification.(422)

3. Tax claims. The record also contains evidence that industry members deceptively suggested to consumers that products were eligible for federal tax credits before the tax credit had been passed by Congress.(423) In addition, now that the tax credit legislation is in effect, the Commission is concerned that some products which are not eligible for tax credits may be advertised deceptively. The Commission therefore concludes that it is necessary to prohibit false claims that a product is eligible for tax credits. This conclusion is reflected in § 460.22 of the Rule.

4. Clear and conspicuous requirement. Section 460.10 of the Rule restates the Commission's long-standing view that affirmative disclosures must be made clearly and conspicuously, if they are to remedy the unfair or deceptive practices to which they relate. The determination that a disclosure is clear and conspicuous rests on a variety of factors. However, the Rule states that, among other things, the Commission's previous Enforcement Policy Statements for Foreign Language Advertising(424) and for Clear and Conspicuous Disclosures in Television Advertising(425) both of which are appended to the Rule, must be followed.

There is one important exception to the requirement that television advertisers must adhere to the Commission's earlier Enforcement Policy Statement. The Statement would require, for TV ads, that any disclosures mandated by the Rule be made in print

with a voice-over. Although the Commission believes that this provision generally is appropriate, the voice-over requirement must be tempered by practical considerations of the cost it imposes upon advertisers. In this case, the Commission has decided to require a voice-over only for the R-value explanation and the savings disclaimer. These are the most important disclosures in the Rule and, since they will contribute significantly to the Rule's pre-purchase disclosure scheme, they should be made in the most effective manner possible. With respect to other disclosures required by the Rule, the Commission has concluded, on balance, that the benefits provided by a voice-over would be outweighed by the costs to advertisers of complying with such a requirement.(426)

G. Preemptive Effect of the Rule. In § 460.23 of the Rule, the Commission has indicated the extent to which state and local laws and regulations are preempted by the Rule. The Commission does not believe it appropriate for it to preempt incipient efforts to experiment with alternative forms of consumer protection in areas covered by the Rule, except to the extent necessary to prevent frustration of the Commission's own efforts.

The determination that a state law does or does not "frustrate the purposes of" the Commission's Rule will not be a simple one. For example, while some additional disclosures mandated by a state law could be helpful to consumers, a state law that mandates excessive disclosures by insulation marketers could seriously disrupt the Commission's pre-purchase disclosure provisions. This is a determination that will have to be made on a case-by-case basis, as provided in the Rule. On the other hand, less stringent testing requirements for insulation materials would clearly be preempted by § 460.23(b).

The Commission has specified in § 460.23(b) of the Rule that state or local governmental entities may petition the Commission, for good cause, to obtain an exemption for statutory or regulatory provisions that would otherwise be preempted. Any action by the Commission to grant such an exemption petition will be conducted in accordance with 5 U.S.C. section 553.(427) It should be emphasized that only state or local governmental entities may request exemptions under § 460.23(b). Insulation manufacturers and other private parties may not avail themselves of this process. Since the determination to grant an exemption will necessarily place the primary enforcement burden

on the state to enforce its provision, the decision to seek an exemption should be made solely by the state entity involved.(428)

H. Economic Impact on Small Businesses and Consumers. The Commission's objective in fashioning a final rule in this proceeding has been wherever possible, to select the least restrictive alternative for providing essential information and protection to the insulation consumer. Based on the proposals and choices available to it, the Commission believes that it has been successful in achieving this goal. As a consequence, the Rule generally provides significant benefits to both consumers and competitors, at a minimal cost to the industry. In this regard, this section briefly sets forth the benefits and burdens likely to be associated with the Rule.

One cost associated with the Rule derives from the testing provisions. Some manufacturers are already testing at representative thickness, in conformance with the tests prescribed by the Rule. The record indicates that these tests are not unduly expensive.(429) In addition, several other manufacturers also have already been testing their R-values, but under different procedures than those required by the Rule. However, there is no reason to believe that compliance with the required tests will impose significantly higher costs than those associated with thin-sampling testing. In short, testing is an inherent burden assumed by a manufacturer who wishes to market an insulation product, and frequently is already done to meet the requirements of many existing industry and governmental specifications, such as the federal government's procurement specifications. Further, since the 60-day retesting provision originally recommended by the staff has been deleted, the Commission does not believe that the testing requirements will impose significant new costs on manufacturers. Nor are the Rule's recordkeeping requirements apparently considered burdensome by industry members; no participants commented on the recordkeeping provisions of the rule initially proposed by the Commission.

On the other hand, home insulation consumers will derive considerable benefit from the testing provisions. R-value claims will now reflect, as accurately as current technology permits, the effects of temperature, increased thickness, settling, shrinkage, and aging on the thermal performance consumers can expect. In addition, all R-values will be determined on a standardized basis, so that competing

products can be compared and rationally evaluated by consumers. Without these Rule provisions, many consumers will continue to make erroneous and costly purchasing decisions, because the R-values they are comparing will not be comparable. With standardized, comparative R-value information, consumers will be better able to select the product with the optimal R-value for their needs. Further, in many cases, R-value competition also should redound to the benefit of smaller manufacturers whose products often compare well on an R-value basis with those manufactured by the dominant members of the industry. As a result, the Rule should provide real market incentives to small manufacturers and enhance competition throughout the industry.

The advertising disclosure provisions also do not impose substantial costs on industry members. The disclosures originally recommended by the staff have been pared down to their essentials, particularly in the area of savings claims. The result is a minimum intrusion on advertising space and time.

The benefits of the advertising provisions are that they eliminate unfairness and deception in the marketplace. Generally, they ensure that consumers have an opportunity to understand and evaluate claims that would otherwise lead to misguided purchasing decisions. For the reasons stated above, they also should allow smaller industry members to compete more effectively with the largest members of the industry. The R-value explanation for advertisements is somewhat different, however. Insofar as it explains the meaning of R-value to consumers, it is a subsidiary disclosure, which is needed to make the R-value disclosure itself meaningful. Insofar as it directs consumers toward fact sheets, it substitutes for a more detailed and costly scheme to ensure that home insulation purchasers get the pre-purchase information they need.

Thus, to the extent that there is a significant new cost placed on industry members under the Rule, it arises in the context of the labeling requirements, and particularly with respect to fact sheets. Most manufacturers already label their products with some information, and many of them follow the federal specification labeling requirements with which the Rule coincides. Thus, while new labels will be required initially, continuous relabeling should not be necessary. In fact, industry members gave strong support to the labeling requirement.(430)

and apparently do not view the initial labeling cost as burdensome.

The fact sheet provision, however, imposes a new cost on manufacturers. As originally recommended by the staff, this requirement could have been very costly, for a number of reasons. First, separate fact sheets would have been required not only for each different product, but for varying sizes of the same product. Second, the coverage chart data on the fact sheets would not always have been identical to that on the product's label. As a result, many manufacturers would have been forced to generate new data in order to comply with the fact sheet requirement. Third, the staff recommended that each consumer be given at least one fact sheet, and suggested that a fact sheet might be needed with each package of insulation sold.⁽⁴³¹⁾

In response to comments on the staff's recommendations, and out of its own concern to minimize any compliance costs associated with the Rule, the Commission has modified the fact sheet sections. As noted earlier, the coverage chart data on fact sheets is identical to that on the product's label so that any costs of generating new information have been eliminated. The Rule also permits consolidation of fact sheets for similar products, thus reducing the number of different fact sheets that any individual manufacturer must produce. Moreover, the Rule will not require that each individual consumer be given a fact sheet. Rather, under the modified binder system approach adopted by the Commission, a relatively small number of fact sheets would suffice for binder purposes. Indeed, for the small businesses which operate in localized areas, a handful of fact sheets may be enough. Based on its experience under the Warranty Rules,⁽⁴³²⁾ the Commission believes that the cost of preparing and distributing fact sheets, for any individual manufacturer, will not be burdensome.

The benefits derived from fact sheets, as noted earlier, are that consumers will be provided with information which the record shows is essential in the context of a home insulation purchasing decision. Through this provision of the Rule, consumers will have available to them a tool that permits them to compare the thermal performance features of insulation materials based on full and complete information, and thereby to participate effectively in the national program of energy conservation.

I. Readability of the Rule. With the adoption of this Rule, the Commission again realizes its goal of writing understandable regulations.⁽⁴³³⁾ The

Commission has for some time required that disclosures to consumers be written in plain and easily understandable language. Likewise, the consumer disclosures required under this Rule for fact sheets and advertisements have been carefully written and reviewed by readability experts to ensure that the intended message will be conveyed in a clear and succinct manner.

Of even greater significance, however, is the fact that the Rule itself is written in understandable language. This reflects the Commission's commitment to the principle that regulations which apply to the actions of small businesses should be readily understood by such persons. After reviewing the language of the Rule carefully, the Commission is convinced that its provisions will be understood by the affected industry members.

Footnotes

1. 42 FR 59678 (1977).
2. 16 CFR 1.20 (1978).
3. 42 FR 59678, 59679 (1977). The most significant departure from previous rulemaking procedures was the abandonment of the two-notice procedure for the designation of disputed issues of material fact. For a discussion of this point and of the other procedures followed, see Report of the Presiding Officer on Proposed Trade Regulation Rule Concerning Thermal Insulation 1-4, 7-8 (1978) [hereinafter cited as Presiding Officer's Report].
4. See Presiding Officer's Report at 3-4.
5. 42 FR 59678 (1977).
6. *Id.*; see Presiding Officer's Report at 6. A transcript of the proceedings was filed in Category L of the rulemaking record, and appears in volumes 215-59-1-2-8 through 215-59-1-2-21.
7. See Presiding Officer's Report at 4.
8. *Id.* at 5-6.
9. The designated groups were as follows: (1) Consumer Group; (2) Environmental Group; (3) Cellulose Group; (4) User Group; (5) Mineral Wool Group; (6) Plastics Group; (7) Government Group; (8) Urea-formaldehyde Foam Group; and (9) Aluminum Group. *Id.*
10. Federal Trade Commission, Bureau of Consumer Protection, Staff Report on Labeling and Advertising of Home Insulation and Proposed Trade Regulation Rule (1978) [hereinafter cited as Staff Report]. For the sake of convenience, many of the citations in this Statement are to the Staff Report. However, the Commission notes that the Staff Report recounts and summarizes the record evidence.
11. See generally Presiding Officer's Report at 8-22.
12. 42 FR 59678, 59684-85 (1977).
13. 43 FR 32142 (1978).
14. 43 FR 37203 (1978).
15. These comments were filed in Category P of the rulemaking record, and appear in volumes 215-59-1-2-26 through 215-59-1-2-8.
16. 16 CFR 1.13 (1978) authorized oral presentations to the Commission in rulemaking proceedings. See 43 Fed. Reg.

51038 (1978). Although the oral presentation meeting was originally scheduled for November 15, 1978, several participants requested an extension of time in order to prepare for the meeting. See motions of Aluminum Ass'n and Borden, Inc., A-13; Environmental and Consumer Groups, A-14. To give the participants an opportunity to digest the staff's recommendations completely, the Commission postponed the meeting until November 21, 1978. See *id.*

17. With the exception of reflective foil, all of the insulations covered by the rule are "mass" insulations. Staff Report at 6.

18. *Id.* at 61.

19. *Id.* at 7 n.14.

20. *Id.* at 6-7; Final Trade Regulation Rule § 460.2 [hereinafter cited as TRR].

21. The term "retrofit" refers to applications in which insulation is added to a house that is already occupied.

22. Staff Report at 7-9.

23. *Id.* at 10-13.

24. *Id.* at 20-21.

25. *Id.* at 15-18.

26. *Id.* at 14-15.

27. *Id.* at 19.

28. *Id.* at 19-20.

29. *Id.*

30. *Id.* at 8; see *id.* at 11.

31. See *id.* at 11, 12.

32. See *id.* at 10, 15-18, 20, 21.

33. These procedures are discussed in greater detail in Section II.B, *infra*.

34. Staff Report at 28.

35. *Id.*

36. *Id.*; Tye, M/809.

37. Tye, M/809.

38. Staff Report at 27.

39. *Id.* at 34.

40. *Id.* Industry members agreed that a product's R-value can be raised 10-30% by decreasing the temperature to which the material is exposed. *Id.* n.220.

41. *Id.* at 63-64.

42. *Id.*

43. See *id.* at 194-95.

44. *Id.* at 33.

45. *Id.* at 33-34.

46. See *id.* at 33; Polycell Industries, Inc., P-69 at 5.

47. Staff Report at 34.

48. *Id.* at 33.

49. See, e.g., Dow Chemical Co., P-61 at 7; Naval Construction Battalion Center, P-70 at 1; California Energy Resources Commission, P-82 at 1. Under this procedure, the test sample is aged for 90 days at 140°F, under conditions of intended use. HH-1-530A, §4.8.4, L/3227, 3238.

50. Staff Report at 31-32.

51. Owens-Corning Fiberglas Corp., L/222, T/123, P-96 at 39.

52. Staff Report at 37.

53. *Id.*

54. *Id.*

55. *Id.* at 63.

56. *Id.*

57. *Id.* GSA has proposed a new specification for loose-fill mineral wool, which includes a settled density test. *Id.* n. 398. Despite the absence of an accepted settling procedure for their products, the mineral wool manufacturers contend that the coverage charts on their package labels take settling into account. According to these

manufacturers, if the material is installed in accordance with the coverage chart, the represented R-value will be attained. See O. Richards, T/130-31; Mineral Insulation Manufacturers' Ass'n, P-79 at 7-8; Owens-Corning Fiberglas Corp., P-96 at 37-38.

58. This document is HH-1-515D, L/3131.

59. *Id.* § 4.5.1, L/3135-36.

60. Staff Report at 44.

61. *Id.*

62. *Id.*

63. *Id.* at 46.

64. *Id.* at 47.

65. *Id.* at 48-49.

66. *Id.* at 49.

67. *Id.* at 49-50.

68. *Id.* at 50-52.

69. *Id.* at 50-51.

70. *Id.* at 50-51.

71. *Id.* at 50 nn.333-34.

72. *Id.*

73a. For example, the temperature and humidity at the time of installation, as well as the quality of the on-site formulation and application, can affect the level of shrinkage. See *id.* at 45.

74. *Id.* at 53.

75. *Id.*

76. *Id.*

77. *Id.* at 53-54.

78. *Id.* at 58.

79. *Id.* at 55, 57-58.

80. *Id.* at 57.

81. The term "derating" refers to a reduction in the tested R-value of a product.

82. *Id.* at 58.

83. *Id.*

84. *Id.* at 59.

85. *Id.* at 1.

86. *Id.*

87. Energy Tax Act of 1978, Pub. L. No. 95-618, § 101, 92 Stat. 3174 (1978). Purchasers of specified energy conservation measures are entitled to a tax credit in the amount of 15% of the first \$2,000 expended.

88. National Energy Conservation Policy Act, Pub. L. No. 95-619, § 212, 92 Stat. 3211 (1978).

89. See Staff Report at 110-11.

90. Energy Conservation in Existing Buildings Act of 1976, 42 U.S.C. § § 6861 *et seq.* (1976), as amended by National Energy Conservation Policy Act, Pub. L. No. 95-619, § 231, 92 Stat. 3224 (1978). The Farmers Home Administration is now developing a similar program for low-income families in rural areas. National Energy Conservation Policy Act, Pub. L. No. 95-619, § 232, 92 Stat. 3226 (1978).

91. See HUD, Interim Rule on Increases in Thermal Requirements for HUD Minimum Property Standards, 44 Fed. Reg. 22444 (1979); FMHA, Thermal Performance Standards, 42 Fed. Reg. 56444 (1977).

92. Staff Report at 5.

93. *Id.*

94. *Id.* at 101.

95. *Id.*

96. *Id.*

97. *Id.* at 101-02.

98. *Id.* at 5.

99. *Id.* at 103.

100. *Id.*

101. *Id.* at 101, 113. One participant suggested that insulation purchases could cost between \$400 and \$1,600. California Dep't of Consumer Affairs, L/1655.

102. Staff Report at 114.

103. *Id.* at 108-09, 114-15.

104. Proposed Rule § 460.4(a), 42 FR 59678, 59680 (1977).

105. See *id.* at 59691.

106. Staff Report at 208009.

107. *Id.* at 105-06.

108. See generally *id.* at 7-21.

109. See text accompanying note 137 *infra*.

110. W. R. Grace & Co., L/318; see Staff Report at 208-09.

111. See Staff Report at 116-19.

112. *Id.* at 117-18.

113. *Id.* at C-1.

114. See Environmental Group, M/509-14.

115. *Id.* at 511.

116. Staff Report at 106.

117. Rather than restraints, there have been pressures to disclose R-value emanating from a few trade associations and the General Services Administration. See *id.* at 155-56, 168-71. As the record shows, these pressures have been largely ineffective.

118. See text accompanying note 88 *supra*.

119. See Statement of Basis and Purpose, Trade Regulation Rule Concerning Unfair or Deceptive Advertising and Labeling of Cigarettes in Relation to Health Hazards of Smoking, 29 FR 8324, 8355 (1964); FTC v. Sperry & Hutchinson Co., 405 U.S. 233, 244-45 & n.5 (1972).

120. See Section III.B.1, *infra*.

121. The Commission recognized the economic injury that derives from consumer search in Pfizer, Inc., 81 F.T.C. 23, 61-62 (1972).

122. See *id.* at 62-63.

123. Staff Report at 208-09.

124. See, e.g., Fair Packaging and Labeling Act, 15 U.S.C. § § 1451 *et seq.* (1976) (label disclosures of package contents); Truth-in-Lending Act, 15 U.S.C. § § 1601 *et seq.* (1976) (consumer credit disclosures); Interstate Land Sales Full Disclosure Act, 15 U.S.C. § § 1701 *et seq.* (1976) (disclosure of facts regarding land offered for sale); Securities Act of 1933, 15 U.S.C. § § 77a *et seq.* (1976); Securities Exchange Act of 1934, 15 U.S.C. § 77b (1976).

125. See Statement of Basis and Purpose in Trade Regulation Rule Concerning Advertising of Ophthalmic Goods and Services, 43 FR 23992, 24001 (1978).

126. This strong public policy has been articulated in many places, including the Energy Policy and Conservation Act, 42 U.S.C. § § 6201 *et seq.* (1976); Energy Conservation and Production Act, 42 U.S.C. § § 6801 *et seq.* (1976); Petroleum Marketing Practices Act, 15 U.S.C. 2801 *et seq.* (Supp., 1979); National Energy Conservation Policy Act, Pub. L. No. 95-619, 92 Stat. 3206 (1978).

127. It is interesting to note that Congress has, on several occasions, chosen to promote energy conservation through required informational disclosures to consumers. See, e.g., Rules Governing the Certification and Posting of Octane Ratings Under Title II of the Petroleum Marketing Practices Act, 16 C.F.R. Part 306 (1979); Proposed Rules for Disclosure of Energy Cost and Consumption Information in Labeling and Advertising of Consumer Appliances Under the Energy Policy and Conservation Act, 43 FR 31806 (1978).

128. Statement of Basis and Purpose of Trade Regulation Rule for the Prevention of

Unfair or Deceptive Advertising and Labeling of Cigarettes in Relation to the Health Hazards of Smoking 88-89 (1964), and cases cited herein.

129. See Staff Report at 26-27, 208009, 241-42; Council of Better Business Bureaus, L/1287; SAI Corp., T/2068; Cellutron Products Corp., T/2690.

130. Advertisements, H/1052; H/1071; H/1082; H/1110; H/1145; H/1148; H/1153; H/2097; M/559; M/560; M/561; M/564; M/565; M/649; M/1209; M/1210.

131. See text accompanying notes 114-16 *supra*.

132. See Environmental Group, M/509-14.

133. See Staff Report at 101.

134. Approximately two-thirds of the home insulation market is held by the 3 fiberglass manufacturers. See Staff Memorandum to Commission, dated January 11, 1979, at 1. Most of the insulation produced by these companies is in the form of batts and blankets of specified thicknesses. See Staff Report at 7.

135. Sources cited note 129 *supra*.

136. See generally Staff Report at 7-21.

137. At a cost of \$100, a consumer might be able to insulate 50 square feet of space to a level of R-10, or 100 square feet to a level of R-5, or 200 square feet to a level of R-2.5.

138. Staff Report at 120-22.

139. *Id.* at 121.

140. *Id.* at 121-23.

141. *Id.* at 61-62, 122.

142. Advertisements, M/1071; M/1082; M/1105; M/1109; M/1111; M/1127; M/1165.

143. Staff Report at 122-23.

144. *Id.* at 123.

145. *Id.* at 126-28.

146. See *id.*

147. See text accompanying notes 111-15 *supra*.

148. Staff Report at 106.

149. *Id.* at 123.

150. The specific circumstances in which the R-value explanation must appear are discussed later in this Statement.

151. Section 18(a)(1)(B) of the FTC Act states that the Commission's rulemaking authority includes the authority to impose "requirements prescribed for the purpose of preventing" unfair or deceptive acts or practices.

152. Staff Report at 129, C-2.

153. *Id.* at 130-31.

154. *Id.*

155. *Id.*

156. *Id.* at 108.

157. *Id.* at 109, 133-35, C-2.

158. See *id.* at 133-35, C-2.

159. *Id.* at 107. Several participants suggested that, under certain circumstances, adding insulation could actually increase fuel costs. See National Ass'n of Home Manufacturers, T/1338-40; Brick Institute of America, P-98 at 4. Others agreed that once a minimum level of insulation is achieved, the savings that can be derived from additional insulation is negligible or non-existent. See Consumers Union, D/11; Chevron Study, H/1622-24; Dow Chemical Co., L/245-46; Mobay Chemical Corp., L/415; National Ass'n of Home Manufacturers, L/199; Council of Better Business Bureaus, L/1288; Environmental Group, L/1604; National Consumers League, L/1714; Consumer

Federation of America, L/5149; Arizona Consumers Council, T/1792; Cellulose Insulation Manufacturers' Ass'n, T/2748.

160. Staff Report at 140.
161. *Id.*
162. *See id.*
163. *Id.* at 142.
164. *Id.*

165. The volume of consumer complaints unearthed in this proceeding was relatively small. *See id.* at 104-05. However, home insulation is not the kind of product that can be readily evaluated even by knowledgeable consumers, and few consumers are informed concerning product attributes. *See* text accompanying notes 101-03 *supra*. As a result, state consumer protection officials generally agreed that, in this industry, the volume of consumer complaints is a poor indicator of the prevalence of consumer abuses. *See* Staff Report at 104-05.

166. The record contains a great deal of such promotional material. *See* Staff Report at App. C, App. D.

167. *Id.* at 179 nn.1167-68.

168. *See* text accompanying notes 88, 92-93 *supra*. This figure does not even include the numerous consumers who buy insulation in other ways, such as through the purchase of a new home.

169. TRR § 460.2. Several participants suggested that the Commission exclude new homes from the scope of its Rule. The Commission has decided to include new homes, for the reasons discussed in Section III.C.3. *infra*.

170. Pipe insulation, which has unique qualities and is generally installed only by professionals, is excluded from the Rule. TRR § 460.2; *see* Staff Report at 21-22, 188. Similarly, of the various kinds of duct installation, only duct wrap is used extensively in the residential setting. *See id.* at 7 n.13; Owens-Corning Fiberglas Corp., P-96 at 5-6. As a result, § 460.2 of the Rule excludes all kinds of duct insulation other than duct wrap.

171. Staff Report at 186 n.1196. For a discussion of these products, *see id.* at 22-25.

172. *See id.* at 19; 3M Company, I-14.

173. 42 F. R. 59678 (1977).

174. Section 460.3 clarifies who is covered by the Rule. In general, all members of the home insulation industry, including utility companies and trade associations, are covered by the Rule. In addition, advertising agencies, testing labs, and sellers of new homes are covered, insofar as they are engaged in activities in the home insulation area.

175. The Commission has determined, in other contexts, that one who furnishes retailers with the means of deceiving the public violates the FTC Act. *See, e.g.,* Baltimore Luggage Co. v. FTC, 296 F.2d 608 (4th Cir. 1961); Clinton Watch Co. v. FTC, 291 F.2d 838 (7th Cir. 1961); Riviera Trading Corp., 63 F.T.C. 114 (1963). The last paragraph of § 460.4 clarifies the application of this principle to testing labs with respect to testing services that they perform for manufacturers. They must follow the provisions of the Rule when they test home insulation materials. The assumption behind this provision is that test results supplied by a lab will be used as the basis for a

manufacturer's claims. However, a manufacturer may wish to depart from the testing procedures at times, in order to observe the product's performance under specified conditions. Section 460.4 permits such activities by testing labs, as long as they have been informed in writing that promotional materials for the insulation will not be based on the test results.

176. *See* Owens-Corning Fiberglas Corp., P-96 at 7-8.

177. Staff Report at 69, 190; *see* Initial Staff Memorandum, B-1 at 4.

178. Staff Report at 190.

179. *Id.* at 34-35, 194.

180. *See id.* at 33-34, 42-43, 53-60, 63, 195, 228.

181. Staff Report at 67, 190-191.

182. Thus, the testing requirement imposed here is consistent with the Commission's position in Pfizer, Inc., 81 F.T.C. 23 (1972). There, the Commission held that it was both unfair and deceptive, within the meaning of section 5 of the FTC Act, for an advertiser to make a claim for which the advertiser did not have substantiation at the time the claim was made. *Id.* at 64. In fact, the Pfizer opinion emphasized that the unfairness of not having substantiation was particularly evident in the case of complex products, with respect to which consumers cannot practically ascertain the truthfulness of claims before sale. *Id.* at 61.

183. In addition to these test methods, the proposed rule also allowed the use of ASTM C653 and C687, test standards specially designed for low-density blanket and loose-fill insulations. 42 Fed. Reg. 58678, 59679 (1977). In light of the record evidence that these standards are not longer appropriate means of determining R-value, *see* Staff Report at 191, they have been deleted from the Rule. The proposed rule also specified ASTM C335 and C691 for pipe insulations. 42 Fed. Reg. 59678, 59679 (1977). Since pipe insulation have been excluded from the Rule's coverage, these tests have been deleted. *See* note 171 *supra*.

184. For a discussion of the ASTM procedures for adopting test standards, *see* Staff Report at 65; Tye Report, H/1918; Tye, T/215-19. Until now, the use of these test methods has been strictly voluntary. Staff Report at 66.

185. Staff Report at 66.

186. *Id.* However, the "calibrated hot box," when it becomes an ASTM standard test method, will take transient environmental factors into account. *Id.* at 84-85. Since the record indicates that this test method will provide the most accurate R-values possible, *id.*, § 460.5(a) of the Rule states that the calibrated hot box will be a permissible test method once it becomes an ASTM standard test method.

187. Staff Report at 66.

188. *Id.* at 67.

189. For a discussion of the specific levels of accuracy and reproducibility for C177, C518, and C236, *see id.* at 70-71, 74-77.

190. A "systems" test is one in which an assembly of materials, such as a built-up wall section, is tested. In contrast, the C177 and C518 methods are used to test only the insulation material itself.

191. ASTM C236 is discussed in Section II.B.3. *infra*, which covers the R-value testing requirements for foil insulations.

192. *See* Sections I.C.1, II.B.1.c. *supra*.

193. Contrary to allegations made during the proceeding, the 1978 revisions to C177 and C518 were not suspended and are currently in effect. Staff Report at 61.

194. *Id.* at 62, 68.

195. "Representative thickness," as defined in the test methods and in § 460.6 of the Rule, means a thickness at which the material's R-value per unit will vary no more than $\pm 2\%$ with increases in thickness.

196. Staff Report at 192.

197. *See id.* at 192-93; U.S. Gypsum Co., P-41 at 3; Dow Chemical Co., P-61 at 7; Johns-Manville Sales Corp., P-64 at 2-5; Rock Wool Mfg. Co., P-89 at 2; Oren Corp., P-94 at 1; Owens-Corning Fiberglas Corp., P-96 at 8-11, 13; CertainTeed Corp., P-100 at 3-4; NAHB Research Foundation, P-105 at 2-3.

198. Staff Report at 192-93; *see* U.S. Gypsum Co., P-41 at 3; Dow Chemical Co., P-61 at 7; Johns-Manville Sales Corp., P-64 at 2-5; Rock Wool Mfg. Co., P-89 at 2; Owens-Corning Fiberglas Corp., P-96 at 13; CertainTeed Corp., P-100 at 3-4. NAHB Research Foundation, P-105 at 2-3.

199. *See* R.P. Tye, T/204, M/717.

200. *See* Staff Report at 82-83; Johns-Manville Sales Corp., P-64 at 4. This was the variation between the results achieved by Dynatech Laboratories and the National Research Council of Canada. *Id.* However, the variation between the results achieved by Dynatech and the other American labs was approximately 1.5%. *See* R.P. Tye, M/717.

201. Staff Report at 82-83.

202. *Id.*

203. *Id.* at 26-27; R.P. Tye, M/718, 809.

204. *See* Staff Report at 83-84, 193. *See* generally Section II.B.3. *infra*.

205. For example, despite the staff's earlier recommendation that representative thickness testing be implemented immediately, the representative for cellulose manufacturers commented only that a delay was needed so that manufacturers could complete their initial round of representative thickness testing. Cellulose Insulation Manufacturers' Ass'n, P-88 at 4. Manufacturers in other segments of the industry also did not question the propriety of a representative thickness testing requirement.

206. *See* ASTM C687-71, Standard Recommended Practice for Determination of the Thermal Resistance of Low-Density Fibrous Loose-Fill-Type Building Insulation, H/458. Thus, the witness for Johns-Manville testified that the company's loose-fill product is normally tested at a 6-inch thickness, and that these tests form the basis for the company's R-value claims to consumers. T/476-77. Similarly, Rockwool Industries tests its loose-fill at a representative thickness. L/4657-58.

207. *See* ASTM C739-73, Standard Specification for Cellulosic Fiber (Wood-Base) Loose-Fill Thermal Insulation, L/2076; National Cellulose Corp., L/4758-59.

208. *See, e.g.,* Johns-Manville Sales Corp., T/468, 478. In fact, both ASTM C687 and C739 indicate that, if a C518 apparatus is used to test thick samples, it should be correlated

with results obtained on C177 or C236 equipment.

209. Use of Materials Bulletin No. 74, § 6.2.7.

42 Fed. Reg. 55143, 55145 (1977), L/3109, 3111.

210. *See* note 207 *supra*; C. Shirliffe, M/814.

211. *Id.*; R.P. Tye, M/716.

212. Staff Report at 193; *see* U.S. Gypsum Co., P-41 at 3; Dow Chemical Co., P-61 at 7; Rock Wool Mfg. Co., P-89 at 2; Oren Corp., P-94 at 1; Owens-Corning Fiberglas Corp., P-96 at 10-11; CertainTeed Corp., P-100 at 3-4.

213. Staff Report at 193.

214. *Id.*

215. *Id.*

216. For example, most cellular plastics boardstock is produced in thicknesses of only an inch or two. Urea-formaldehyde foam typically is installed at a thickness of about $3\frac{1}{2}$ inches. Moreover, the effect of thickness of R-value may level off, for some products, at only a few inches. Thus, R-value tests at greater thicknesses would not be required for these products.

217. *See, e.g.,* R.P. Tye, T/250.

218. Staff Report at 199-202; *id.* at A-3, § 460.7. For further discussion of this point, *see* text accompanying notes 264-68 *infra*.

219. *See, e.g.,* Cellulose Insulation Manufacturers' Ass'n, P-88 at 4; CertainTeed Corp., P-100 at 6.

220. *See* Staff Memorandum of November 3, 1978, to Commission, Attachment B.

221. Staff Report at 63-64, 194; *see, e.g.,* Polymer Building Systems, P-12 at 1; SPI, P-46 at 4; Environmental Group, P-48 at 4-6; Dow Chemical Co., P-61 at 7; Jim Walter Corp., P-63 at 4; Naval Construction Battalion Center, P-70 at 1; Roy & Sons, Inc., P-87 at 1; R.P. Tye, P-82 at 3.

222. Staff Report at 194-95; *see* Warren Sales Corp., P-8 at 1; Southern Ohio Foam, P-14 at 1-2; ENFO Environmental Systems, P-43 at 1; Polycell Industries, P-69 at 1-3; BASF Wyandotte Corp., P-97 at 2-3.

223. *See* sources cited note 222 *supra*.

224. Post-record comment of Dow Chemical Co., P-61 at 7.

225. Suggested lower temperatures included 25°F, 40°F, and 45°F. *See* Warren Sales Corp., P-8 at 1; Jim Walter Corp., P-63 at 4; Dow Chemical Co., P-67 at 7. *See also* Staff Report at 195.

226. Of course, this means that R-values disclosed to consumers in labels, fact sheets, and ads must be the R-values as tested at 75°F.

227. Staff Report at 195.

228. The aging requirement initially recommended by the staff applied to all types of polystyrene insulation. However, the provision has been limited to extruded polystyrene in light of post-record comments that it is the only type that ages significantly after manufacture. *See, e.g.,* ENFO Environmental Systems, P-43 at 1; SPI, P-46 at 6.

229. "Accelerated aging" involves aging the product for 90 days at 140°F in the form of intended use. *See* GSA Specification HH-I-530A, § 4.6.4, L/3227, 3236; Naval Construction Battalion Center, P-70 at 1; California Energy Resources Commission, P-82 at 1; Dow Chemical Co., P-61 at 7. This accelerated aging process reflects expected performance after 5 years of use. *Id.*

230. *See* U.S. Mineral Products Co., P-11 at 1; Dow Chemical Co., P-61 at 7; Naval Construction Battalion Center, P-70 at 1; California Energy Resources Commission, P-82 at 1.

231. Oral presentation of Society of the Plastics Industry, Inc., Transcript at 55-56.

232. Staff Report at 33.

233. *Id.* at 42-43.

234. HH-I-515D, § 4.5.1, L/3135-36. This specification was pending at the time of the hearings, but was published by GSA in June.

235. Staff Report at A-8, § 460.15(d); *id.* at A-9, § 460.20(f).

236. Staff Report at 63; *see* Naval Construction Battalion Center, P-70 at 2; Oren Corp., P-94 at 2.

237. *See* note 57 *supra* and accompanying text.

238. TRR § 460.5(a).

239. GSA has proposed an amendment that would incorporate a settled density test procedure into its specification for loose-fill mineral wool. HH-I-1030B, L/3272.

240. Staff Report at 76-77. For a discussion of the operation, accuracy, and reproducibility of this method, *see id.* at 77-78.

241. *Id.*

242. The test must be conducted at a mean temperature of 75°F, with a temperature differential of 30°F. TRR § 460.5(b).

243. Staff Report at 196.

244. *Id.* at 197.

245. *Id.*

246. *Id.*

247. The emissivity value of a reflective material represents its ability to retain heat. It has a significant impact on the thermal resistance that is achieved. *See id.* at 19.

248. *Id.* at A-2, § 460.5(a)(3); *see id.* at 196-97.

249. This recommendation received further support in the post-record comments. Simplex Products Group, P-5 at 1.

250. Staff Report at 196-97.

251. *See* Aluminum Ass'n, P-49 at 1; Johns-Manville Sales Corp., P-48 at 2; U.S. Fiber Corp., P-67 at 3; Insulation Contractors of America, P-77 at 3; Rockwool Industries, Inc., P-104 at 4.

252. U.S. Fiber Corp., P-67 at 3. The Aluminum Association suggested in its post-record comment that C835 might be referenced in place of C445, P-49 at 1. However, during its oral presentation to the Commission, the Association recommended that the Rule require emissivity testing under E408 or a comparable method. Transcript at 104-05.

253. The Rule also states that the R-value derived from the ASHRAE tables for a single sheet of aluminum foil must be the R-value listed at 50°F, with a temperature differential of 30°F. The ASHRAE tables do not list a single airspace R-value at 75°F, and this alternative temperature is supported by the record. *See* Staff Report at 197-98. *See also* oral presentation of Aluminum Ass'n. Transcript at 105.

One commenter pointed out that when aluminum foil insulation is installed on the exterior of a wall that already has at least R-11 insulation in it, the temperature differential is less than 30°F. While this may be true, it would be impossible to predict in

advance whether the particular insulation product will be installed in such a wall. In other words, the same reasons that support a single test temperature standard, despite the fact that it does not always represent actual environmental conditions, also support the 30°F temperature differential provision.

254. Facings are often used on mineral wool batts and blankets, and on exterior sheathing insulations. *See* Staff Report at 19.

255. For example, if the material R-value of a foam board is 4.0, the system R-value provided by insulation of the board in conjunction with a one-inch airspace would be approximately 6.0 for a wall application. *See* ASHRAE Handbook, H/1272-73.

256. Materials with foil facings must be tested alone (excluding any airspace) in accordance with § 460.5(a) of the Rule, to establish the material R-value.

257. These alternatives were suggested in the post-record comments. SPI, P-48 at 3-4; Dow Chemical Co., P-61 at 6; Jim Walter Corp., P-63 at 3.

258. SPI, P-46 at 3-4; Dow Chemical Co., P-61 at 6.

259. Staff Report at 198.

260. The ASTM consensus process gives industry members an opportunity to keep abreast of, participate in, and plan for prospective changes in the ASTM test methods. *Id.* at 199. Similarly, changes in the GSA specifications are made with the knowledge and technical assistance of the affected industry. As a result, the Commission believes that, except under unusual circumstances, 90 days will provide industry members with enough time to come into compliance with a test change.

261. Section 18(d)(2)(B) of the FTC Act states: "A substantive amendment to . . . a rule promulgated under subsection (a)(1)(B) shall be prescribed . . . in the same manner as a rule prescribed under such subsection."

262. Staff Report at 88.

263. 42 Fed. Reg. 59678, 59683 (1977) (question 3).

264. Staff Report at 199.

265. *See generally id.* at 88-100.

266. *Id.* at 199.

267. *Id.* at 202. The hearings indicated that periodic retesting is an effective way of detecting changes in R-value caused by production or product variations. *Id.* at 200. However, the staff's selection of a 60-day retesting period was a compromise between extremes of retesting periods that seemed either too lenient or too strict, and is reasonable in the absence of evidence providing a more precise basis for designating a retesting interval. *Id.* at 201.

268. *See, e.g.,* Incel Corp., P-13 at 1; Conwed Corp., P-65 at 2; Polycell Industries, Inc., P-69 at 4; Alfol, Inc., P-81 at 2.

269. Mineral Insulation Manufacturers' Ass'n, P-79 at 5; R.P. Tye, P-92 at 3; Rockwell Industries, Inc., P-104 at 4.

270. TRR § 460.8.

271. *See* Staff Report at 202.

272. Non-manufacturers, on the other hand, may rely on the R-value data provided by the manufacturer, unless they know or should know that the data is incorrect or not based on proper tests. TRR § 460.8.

273. *Id.* § 460.9; *see* Staff Report at 202-03.

274. Cf. Proprietary Vocational and Home Study Schools Rule § 438.3(f)(2), 43 FR 60796, 60819-20 (1978).

275. See Proposed Rule § 460.4(a), 42 FR 59678, 59680 (1977).

276. See Staff Report at 208-13.

277. *Id.* at 209.

278. *Id.* at A-4, § 406.14(b)(1). For air duct insulation, the staff recommended disclosure of the product's R-value and the dimensions of the package. *Id.* at A-5, § 406.14(b)(4).

279. *Id.* at A-4, § 460.14(b)(2). The same information was required to be disclosed at any additional thicknesses listed by the manufacturer. *Id.*

280. *Id.*

281. *Id.* at A-4, § 460.14(b)(3).

282. In particular, these commenters pointed out that the relevant information was not the "dimensions of the package" or "packaged thickness," but the dimensions of the material itself and the amount of material in the package. See, e.g., SPI, P-46 at 11-12; Owens-Corning Fiberglas Corp., P-96 at 28; CertainTeed Corp., P-100 at 8.

283. See, e.g., U.S. Fiber Corp., P-67 at 4; Mineral Insulation Manufacturers' Ass'n, P-88 at 4-5.

284. See, e.g., Incel Corp., P-13 at 2; Conwed Corp., P-65 at 3; Cellulose Insulation Manufacturers' Ass'n, P-88 at 5. This position received further support from the cellulose group during the oral presentations to the Commission. Transcript at 17-18.

285. Dow Chemical, P-61 at 10.

286. Transcript at 57-60 (cellular plastics group); *id.* at 110-11 (aluminum group).

287. There is one exception to this approach. The federal specification for cellulose insulation requires disclosure of the number of bags needed to cover 1,000 square feet. HH-1-515D, § 3.2(e).

While this information may be useful to consumers, the Commission does not deem it essential, since it adds little to the disclosure of the number of square feet covered by the package. In any event, some manufacturers already provide this information on their labels, e.g., Fibertherm label, M/1212; Everguard label, M/1231; Monotherm label, M/1232, and the Commission's Rule will not prohibit them from continuing to do so.

288. See text accompanying note 278 *supra*.

289. TRR §§ 460.12(b) (4) & (7).

290. The R-value for one inch of loose-fill fiberglass is approximately 2.2, and the corresponding R-value for loose-fill rockwool is roughly 2.9. Staff Report at 7, 9. Similarly, the R-value for one inch of vermiculite is in the 2.2 range, while an inch of perlite has an R-value of about 2.7. Staff Report at 20-21; Perlite Institute pamphlet, H/669; see W. R. Grace & Co., T/557-58 (vermiculite R-value for one inch is 2.8 to 3.0).

291. See TRR § 460.12(b)(2).

292. See *id.* § 460.12(b)(5). There is an exception to this provision. The manufacturer may disclose the R-value for only one direction of heat flow, as long as the label clearly and conspicuously states that the product can only be used in that application. *Id.*

293. See Staff Report at 19; Jim Walter Corp., I/481, 482, 490.

294. TRR § 460.12(b)(6).

295. The dimensional disclosures are the length, width, and thickness of the insulation

in the package, and the number of square feet covered by the package.

296. See Staff Report at 209-10.

297. See *id.* at 213-14.

298. Cf. TRR § 460.5(a).

299. *Id.* § 460.12(c).

300. See Section II.B.1.d, *supra*.

301. There was widespread support for the inclusion of a brief R-value explanation on insulation labels. Staff Report at 215. However, the disclosure originally proposed by the Commission was criticized because it implied that there is a direct correlation between adding insulation and saving fuel. *Id.* The R-value explanation was redrafted in light of these comments.

302. *Id.* at 216.

303. See *id.* at D-1, D-2.

304. Dr. Leland Gallup, L/1744, T/779, 786;

Allan Ackerman, T/2529-31, M/30, 34.

305. See Staff Report at 149-51; Allan

Ackerman, M/33.

306. Staff Report at 217.

307. *Id.*

308. TRR §§ 460.12(d) & (e).

309. The exceptions are discussed in the

text accompanying notes 319-34 *infra*.

310. National Retail Hardware Ass'n, T/1503; David Reister, T/2498. Five of the 11

Washington, D.C. area stores surveyed by the Environmental Group keep all or most of their insulation stock in warehouses or other locations inaccessible to consumers. Environmental Group, M/511.

311. See Staff Report at 219.

312. Polystyrene, polyurethane, and polyisocyanurate boardstock materials are often broken down at the retail level and sold as loose boards. W.R. Grace & Co., I/323; Dow Chemical, I/253.

313. Of course, the relevant labeling information could be stamped on each board individually. However, manufacturers contend that this would be difficult and expensive. See, e.g., W.R. Grace & Co., I/324, T/591, 595-97.

314. The disclosure required by § 460.17 of the Rule occurs after the insulation has been installed. See Section II.C.4, *infra*.

315. TRR §§ 460.13(c)(1), 460.13(g)

paragraphs 1 & 3. The fact sheets must also state the name and address of the manufacturer, information needed by the Commission for enforcement purposes. In addition, the manufacturer must indicate the type and form of the insulation. Consumers need this information in order to purchase the product. *Id.* §§ 460.13(a) & (b).

316. These products are "manufactured" from component materials at the site of application, and immediately installed by the contractor. See Staff Report at 14, 17. Prior to installation, there is never an actual insulation material that can be labeled.

317. TRR § 460.13(c)(1).

318. No coverage area disclosure is necessary with respect to these products, since the installer simply contracts to fill an entire cavity area with a certain R-value and thickness of the material.

319. TRR § 460.13(e).

320. See Section I.C.6, *supra*.

321. See text accompanying notes 79-84

supra.

322. Text accompanying notes 79-82 *supra*.

323. Text accompanying note 83 *supra*.

324. Text accompanying note 84 *supra*.

325. Staff Report at A-6, § 460.15(f); see Presiding Officer's Report at 10-12. The disclosure stated, among other things, that the Department of Housing and Urban Development "has found that the actual R-value is 28% below the marked R-value."

326. See Presiding Officer's Report at 11; Borden, Inc., P-60 at 24-25.

327. TRR § 460.13(e).

328. *Id.*

329. *Id.*

330. Staff Report at 231-32; Owens-Corning Fiberglas Corp., P-96 at 39.

331. See Staff Report at 31-32, 231; Owens-Corning Fiberglas Corp., L/222, T/123, P-96 at 39.

332. See Owens-Corning Fiberglas Corp., L/222.

333. Staff Report at 231. The Thermal Insulation Manufacturers Association is in the process of developing such a test for air duct wrap. *Id.*

334. TRR § 460.13(f).

335. Staff Report at A-6, § 460.15(c).

336. *Id.*, § 460.15(e).

337. *Id.*, §§ 460.15(c), (d), & (e).

338. See Staff Report at 227-29.

339. See, e.g., Owens-Corning Fiberglas Corp., P-96 at 35 (compression); CertainTeed Corp., P-100 at 9 (compression); Aluminum Ass'n, P-49 at 2 (moisture); Mineral Insulation Manufacturers' Ass'n, P-79 at 7.

340. Cf. National Ass'n of Home Insulation Contractors, P-103 at 9-14.

341. See Staff Report at A-5, § 460.15.

342. See *id.* at 221 n.1485.

343. TRR § 460.13(c)(2).

344. Of course, different types of loose-fill,

such as cellulose and rockwool, would require different fact sheets.

345. See Staff Report at A-5, § 460.15. The rule stated that manufacturers must give installers at least one fact sheet for each customer, and that manufacturers who install their own insulation must give each customer a fact sheet. Due to a drafting error, it stated that retailers were to be supplied one fact sheet for each package of insulation sold to them.

346. See, e.g., United States Mineral Products, P-11 at 2; Johns-Manville Sales Corp., P-64 at 6; Oren Corp., P-94 at 2; CertainTeed Corp., P-100 at 9. Many comments were based on the belief that the recommended rule required one fact sheet for each package of insulation sold. See note 345 *supra*.

347. 16 CFR 702 (1978).

348. Owens-Corning Fiberglas Corp., P-96 at 42-44. This was also the approach recommended during the hearings by the National Retail Hardware Association. T/1503-05, 1511-14.

349. TRR § 460.14.

350. *Id.* § 460.15.

351. See Section II.D, *infra*.

352. 42 FR 59678, 59683 (1977) (question 4).

353. Staff Report at 145; see *id.* at 234; H & H Housing Research Report, L/2388.

354. See Staff Report at 145-47.

355. *Id.* at 234; see *id.*

356. See notes 126-27 *supra* and

accompanying text.

357. Staff Report at 187, 234. It is noteworthy that the National Association of

Home Builders supported such a requirement. L/193.

358. National Ass'n of Home

Manufacturers, L/201-03.

359. National Ass'n of Home

Manufacturers, T/1410-11.

360. See *id.* at 1384-93; National Ass'n of Home Builders, T/1351-52. Approximately 20 to 30 states have such codes.

361. National Ass'n of Home

Manufacturers, T/1397-98.

362. See *id.* at 1382-83, 1388-92; National Ass'n of Home Builders, T/1336-38, 1351-52, 1392.

363. National Ass'n of Home Manufacturers, T/1400, 1407. Indeed, the witness for NAHB noted that many new home ads simply refer to the thickness of the home's insulation and not its R-value, T/1348-49, thus encouraging consumers to believe that insulation performance can be evaluated on the basis of thickness alone.

364. Staff Report at 234-36.

365. *Id.* at A-8, § 460.18.

366. TRR § 460.16.

367. Many building contracts give the builder a right to substitute equivalent insulation material, if the type contracted for becomes unavailable. National Ass'n of Home Builders, T/1328-31.

368. TRR § 460.18.

369. Staff Report at B-4, § 460.4(c).

370. *Id.* at 237.

371. TRR § 460.15.

372. This is especially true in light of the Commission's decision to allow R-value information for more than one product to be consolidated on one fact sheet. See text accompanying notes 343-44 *supra*.

373. The bag count disclosure was suggested primarily by installers, but also by others. See Staff Report at 237-38. Since loose-fill products settle after installation, the bag count assures both the consumer and the installer that, according to the manufacturer's coverage chart data, enough insulation was installed to achieve the represented R-value. See *id.*

374. 42 FR 59678, 59680, 59683 (1977)

(question 5).

375. See Staff Report at 241. Moreover, the Commission cannot determine the accuracy of an R-value claim without knowing the thickness to which it is alleged to correspond.

376. See Section II.B.1.b, *supra*.

377. 42 FR 59678, 59680, 59683 (1977)

(question 5).

378. For example, at a cost of \$100, a consumer might be able to insulate 50 square feet of space to a level of R-10, or 100 square feet to a level of R-5, or 200 square feet to a level of R-2.5. In short, the consumer needs to know that at the stated price and R-value, the entire attic, or half of the attic, or a corner of it, will be insulated. See note 143 *supra* and accompanying text.

379. TRR § 460.18(b). If the price is stated in terms of a price per square foot, the consumer can calculate the coverage area, and the coverage area disclosure is no longer required. *Id.*

380. 42 Fed. Reg. 59678, 59680 (1977).

381. E.g., Advertisements, H/1051; H/1062; H/1093; M/585-88; M/1083.

382. See text accompanying notes 105-07 *supra*.

383. Although the proposed rule also required a coverage area disclosure, that provision has been dropped. The comparison must be based on equal coverage areas, but the consumer does not need this information in order to evaluate the comparison. On the other hand, the last two sentences of § 460.18(d) make clear that if a comparison claim includes a price, the disclosures required by subsections (b) and (d) must be made.

384. 42 FR 59678, 59680 (1977).

385. See text accompanying notes 153-55 *supra*; see also Section II.B.1.d.; *supra*.

386. Staff Report at 106.

387. *Id.* at 244.

388. TRR § 460.18(a).

389. See text accompanying notes 156, 356 *supra*.

390. 42 FR 59678, 59680 (1977).

391. Staff Report at 101.

392. See text accompanying notes 324-29 *supra*.

393. See text accompanying note 333 *supra*.

394. The disclosure provision in § 460.18(e) is identical to that in § 460.13(d) on the fact sheets. If UF foam R-values are properly derated to account for shrinkage, then the disclosure is not required.

395. Although consumers should ultimately receive this disclosure via the fact sheets, the ads are nevertheless deceptive without the disclosures. See Resort Car Rental System, Inc. v. FTC, 518 F.2d 962 (9th Cir.), cert. denied sub nom. Mackenzie v. United States, 423 U.S. 827 (1975); Exposition Press, Inc. v. FTC, 295 F.2d 869 (2d Cir. 1971).

396. Staff Report at C-2.

397. *Id.*

398. See, e.g., Dow Chemical Co., L/131, 132, 134; Georgia Governor's Office of Consumer Affairs, L/160. Center for Public Representation, L/616-17 (Exhibit 1).

399. Staff Report at 108-09.

400. See *id.* at 108, 129-30.

401. See Section II.B.2, *supra*.

402. Staff Report at A-10, § 460.21(b). The staff's disclosure requirement would have applied only to savings claims that referred to a specific percentage of fuel saved. *Id.* Nevertheless, the Commission believes that more general claims are equally deceptive, since some consumers will save little or nothing by adding insulation.

The Commission has also rejected the staff's proposed ban on "dollar" savings claims. *Id.* § 460.21(a). The distinctions between dollar claims and other types of savings claims are insufficient to warrant such drastically different treatment, and the Commission believes that the deceptive character of the claims can be cured through the Rule's disclosure provisions.

403. See, e.g., Dow Chemical Co., P-61 at 12; Mineral Insulation Manufacturers' Ass'n, P-79 at 9; Rock Wool Mfg. Co., P-89 at 2; Owens-Corning Fiberglas Co., P-96 at 54-56.

404. Although a consumer could have determined that the circumstances described in the ad were similar to his or her own, it would not have been possible to predict the impact of one or more differences between the advertised conditions and the consumer's conditions.

405. The disclosure states: "Savings vary. Find out why in the seller's fact sheet on R-

values. Higher R-values mean greater insulating power." TRR § 460.19(b).

406. TRR § 460.13(g), paragraph 2.

407. It is noteworthy that the savings claim disclosure takes precedence over the R-value explanation; that is, if a savings claim also triggers disclosures under § 460.18 of the Rule, the R-value explanation in § 460.18(a) may be omitted. *Id.* § 460.19(d).

408. Pfizer, Inc., 81 F.T.C. 23 (1972).

409. TRR § 460.19(a). However, non-manufacturers may rely on savings claim information provided by the manufacturer, unless they know or should know that the manufacturer does not have a reasonable basis for the claim. *Id.* § 460.19(e).

410. See Staff Report at 249-51, 258-59.

411. Georgia Governor's Office of

Consumer Affairs, L/160.

412. *Id.*

413. See Staff Report at 257-58.

414. TRR § 460.19(c).

415. *Id.*

416. Staff Report at 261.

417. *Id.*

418. Insulation products manufactured in boardstock form are often used at a one-inch thickness. *Id.* at 262.

419. For example, the manufacturer could state the R-value per inch of the material varies between 3.0 at a one-inch thickness and 2.6 at a six-inch thickness. TRR § 460.20.

420. Staff Report at 142-43.

421. *Id.*

422. TRR § 460.21.

423. Staff Report at 140.

424. 16 CFR 14.9 (1978).

425. 2 CCH Trade Reg. Rep. ¶ 7569 (1971).

426. Cf. Statement of Basis and Purpose for Trade Regulation Rule Governing Proprietary Vocational and Home Study Schools, 43 Fed. Reg. 60786, 60808 (1978).

427. This exemption process is similar to that approved by the Commission in the recently-adopted Trade Regulation Rule Governing Proprietary Vocational and Home Study Schools, § 438.9 See 43 FR 60796, 60811 (1978).

428. The only exemption available to industry members is that available under § 18(g) of the FTC Act. Under this provision, an industry member whose peculiar circumstances warrant an exemption from the Rule may petition the Commission.

429. ASTM C177 and C518 cost, respectively, approximately \$200 and \$150 per test. Staff Report at 72, 75. These are the test methods that will be most widely used. The C238 test is more expensive than C177, but exact figures are not available. See *id.* at 78.

430. See *id.* at 208-09.

431. See notes 350-51 *supra*.

432. 16 CFR 701 *et seq.* (197

PART 460—LABELING AND ADVERTISING OF HOME INSULATION

- Sec.
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Appendix A—Enforcement Policy Statement for Foreign Language Advertising.

Appendix B—Enforcement Policy Statement for Clear and Conspicuous Disclosures in Television Advertising.

Authority: 38 Stat. 717, as amended, 15 U.S.C. 41 et seq.

§ 460.1 What this regulation does.

This regulation deals with home insulation labels, fact sheets, ads, and other promotional materials in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act. If you are covered by this regulation, breaking any of its rules is an unfair and deceptive act or practice or an unfair method of competition under section 5 of that Act. You can be fined heavily (up to \$10,000) each time you break a rule.

§ 460.2 What is home insulation.

Insulation is any material mainly used to slow down heat flow. It may be mineral or organic, fibrous, cellular, or reflective (aluminum foil). It may be in rigid, semirigid, flexible, or loose-fill form. Home insulation is for use in old or new homes, condominiums, cooperatives, apartments, modular homes, or mobile homes. It does not include pipe insulation. It does not include any kind of duct insulation except for duct wrap.

§ 460.3 Who is covered.

You are covered by this regulation if you are a member of the home insulation industry. This includes individuals, firms, partnerships, and

corporations. It includes manufacturers, distributors, franchisors, installers, retailers, utility companies, and trade associations. Advertisers and advertising agencies are also covered. So are labs doing tests for industry members. If you sell new homes to consumers, you are covered.

§ 460.4 When the rules apply.

You must follow these rules each time you import, manufacture, distribute, sell, install, promote, or label home insulation. You must follow them each time you prepare, approve, place, or pay for home insulation labels, fact sheets, ads, or other promotional materials for consumer use. You must also follow them each time you supply anyone covered by this regulation with written information that is to be used in labels, fact sheets, ads, or other promotional materials for consumer use. Testing labs must follow the rules unless the industry members tells them, in writing, that labels, fact sheets, ads, or other promotional materials for home insulation will not be based on the test results.

§ 460.5 R-value tests.

R-values measure resistance to heat flow. R-values given in labels, fact sheets, ads, or other promotional materials must be based on tests done under the methods listed below. They were designed by the American Society of Testing and Materials (ASTM).

The test methods are:

(a) All types of insulation except aluminum foil must be tested with ASTM C177, C518, or C236. If the "calibrated hot box" becomes an ASTM standard test method, it can also be used. The tests must be done on the insulation material alone (excluding any air spaces). The tests must be done at a mean temperature of 75° Fahrenheit.

(1) For polyurethane, polyisocyanurate, and extruded polystyrene, the tests must be done on samples that fully reflect the effect of aging on the product's R-value. To age the sample, follow the procedure in paragraph 4.6.4 of GSA Specification HH-I-530A, or another reliable procedure.

(2) For cellulose, the tests must be done at the settled density determined under GSA Specification HH-I-515D.

(3) For loose-fill mineral wool, the tests must be done on samples that fully reflect the effect of settling on the product's R-value. When a settled density procedure becomes part of a final GSA Specification for loose-fill mineral wool, the tests must be done at the settled density determined under the GSA Specification.

(b) Aluminum foil systems with more than one sheet must be tested with ASTM C236 (or the calibrated hot box). The tests must be done at a mean temperature of 75° Fahrenheit, with a temperature differential of 30° Fahrenheit.

(c) Single sheet systems of aluminum foil must be tested with ASTM E408 or another test method that provides comparable results. This tests the emissivity of the foil—its power to radiate heat. To get the R-value for a specific emissivity level, air space, and direction of heat flow, use the tables in the most recent edition of the American Society of Heating, Refrigerating, and Air-Conditioning Engineers' (ASHRAE) Handbook. You must use the R-value shown for 50° Fahrenheit, with a temperature differential of 30° Fahrenheit.

(d) For insulation materials with foil facings, you must test the R-value of the material alone (excluding any air spaces) under the methods listed in subsection (a). You can also determine the R-value of the material in conjunction with an air space. You can use one of two methods to do this:

(1) You can test the system, with its air space, under ASTM C236 (or the calibrated hot box). If you do this, you must follow the rules in subsection (a) on temperature, aging, and settled density.

(2) You can add up the tested R-value of the material and the R-value of the air space. To get the R-value for the air space, you must follow the rules in subsection (c).

§ 460.6 "Representative thickness" testing.

All tests except aluminum foil tests must be done at a representative thickness for every thickness shown in a label, fact sheet, ad, or other promotional material. "Representative thickness" means a thickness at which the R-value per unit will vary no more than plus or minus 2% with increases in thickness. However, if the thickness shown in your label, fact sheet, ad, or promotional material is less than the representative thickness, then you can test the insulation at the thickness shown.

§ 460.7 Which test version to use.

Use the version of the ASTM test method that was in effect when this regulation was promulgated. If ASTM changes a test method, the new version will automatically replace the old one in these rules 90 days after ASTM first publishes the change. However, the Commission's staff or a person affected by the change can petition the

Commission during the 90-day period not to adopt the change or to reopen the proceeding to consider it further.

§ 460.8 R-value tolerances.

If you are an industry member, the R-value of any insulation you sell cannot be more than 10% below the R-value shown in a label, fact sheet, ad, or other promotional material for that insulation. However, if you are not a manufacturer, you can rely on the R-value data given to you by the manufacturer, unless you know or should know that the data is false or not based on the proper tests.

§ 460.9 What test records you must keep.

Manufacturers and testing labs must keep records of each item of information in the "Report" section of the ASTM test method that is used for a test. They must also keep the following records:

(a) The name and address of the testing lab that did each test.

(b) The date of each test.

(c) For manufacturers, the date each test report was received from a lab. For labs, the date each test report was sent to a manufacturer.

(d) For extruded polystyrene, polyurethane, and polyisocyanurate, the age (in days) of the specimen that was tested.

(e) For aluminum foil, the emissivity level that was found in the test.

Manufacturers who own their own testing labs need not keep records of the information in subsection (c).

Keep these records for at least three years. If the documents show proof for your claims, the three years will begin again each time you make the claim. Federal Trade Commission staff members can check these records at any time, but they must give you reasonable notice first.

§ 460.10 How statements must be made.

All statements called for by this regulation must be made clearly and conspicuously. Among other things, you must follow the Commission's Enforcement Policy Statement for Foreign Language Advertising (July 24, 1973) (Appendix A). For TV ads, you must follow the Commission's Enforcement Policy Statement for Clear and Conspicuous Disclosures in Television Advertising (October 21, 1970) (Appendix B). However, only the quoted statements required by §§ 460.18(a) and 460.19(b) must be made in a voice-over. Both of the above documents are in the Appendix to this regulation.

§ 460.11 Rounding off R-values.

R-values shown in labels, fact sheets, ads, or other promotional materials must

be rounded to the nearest tenth. However, R-values of 10 or more may be rounded to the nearest whole number.

§ 460.12 Labels.

If you are a manufacturer, you must label all packages of your insulation. The labels must contain:

(a) The type of insulation.

(b) A chart showing these items:

(1) For mineral fiber batts and blankets: the R-value, length, width, thickness, and square feet of insulation in the package.

(2) For all loose-fill insulation except cellulose: the minimum thickness, maximum net coverage area, and minimum weight per square foot at R-values of 11, 19, and 22. You must also give this information for any additional R-values you list on the chart. Labels for these products must state the minimum net weight of the insulation in the package.

(3) For loose-fill cellulose insulation: the minimum thickness, maximum net coverage area, number of bags per 1,000 square feet, and minimum weight per square foot at R-values of 13, 19, 24, 32, and 40. You must also give this information for any additional R-values you list on the chart. Labels for this product must state the minimum net weight of the insulation in the package.

(4) For boardstock: the R-value, length, width, and thickness of the boards in the package; and the square feet of insulation in the package.

(5) For aluminum foil: the number of foil sheets; the number and thickness of the air spaces; and the R-value provided by that system when the direction of heat flow is up, down, and horizontal. You can show the R-value for only one direction of heat flow if you clearly and conspicuously state that the foil can only be used in that application.

(6) For insulation materials with foil facings, you must follow the rule that applies to the material itself. For example, if you manufacture boardstock with a foil facing, follow subsection (4). You can also show the R-value of the insulation when it is installed in conjunction with an air space. This is its "system R-value." If you do this, you must clearly and conspicuously state the conditions under which the system R-value can be attained.

(7) For air duct insulation: the R-value, length, width, thickness, and square feet of insulation in the package.

(c) The following statement: "R means resistance to heat flow. The higher the R-value, the greater the insulating power."

(d) If installation instructions are included on the label or with the package, add this statement: "To get the

marked R-value, it is essential that this insulation be installed properly. If you do it yourself, follow the instructions carefully."

(e) If no instructions are included, add this statement: "To get the marked R-value, it is essential that this insulation be installed properly. If you do it yourself, get instructions and follow them carefully. Instructions do not come with this package."

§ 460.13 Fact sheets.

If you are a manufacturer, you must give retailers and installers fact sheets for the insulation products you sell to them. Each sheet must contain what is listed here. You can add any disclosures that are required by state or local laws, rules, and orders, unless they are inconsistent with the provisions of this regulation. Do not add anything else.

Each fact sheet must contain these items:

(a) The name and address of the manufacturer. It can also include a logo or other symbol that the manufacturer uses.

(b) A heading: "This is _____ insulation." Fill in the blank with the type and form of your insulation.

(c) The heading must be followed by a chart:

(1) If section 460.12(b) requires a chart for your product's label, you must use that chart. For foamed-in-place insulations, you must show the R-value of your product at 3½ inches. You can also show R-values at other thicknesses.

(2) You can put the charts for similar products on the same fact sheet. For example, if you sell insulation boards or batts in three different thicknesses, you can put the label charts for all three products on one fact sheet. If you sell loose-fill insulation in two different bag sizes, you can put both coverage charts on one fact sheet, as long as you state which coverage chart applies to each bag size.

(d) For urea-based foam insulation, the chart must be followed by this paragraph:

"Foam insulation shrinks after it is installed. This shrinkage may significantly reduce the R-value you get."

However, you can lower your product's R-value to account for shrinkage. To do this, you must have reliable scientific proof of the extent of shrinkage for your product and of its effect on R-value. If you lower your product's R-value, you need not make the above statement.

(e) For air duct insulation, the chart must be followed by this statement:

"The R-value of this insulation varies depending on how much it is compressed during installation."

(f) After the chart and any statement dealing with the specific type of insulation, ALL fact sheets must carry this statement, boxed, in 12-point type:

Read This Before You Buy

What You Should Know About R-values
The chart shows the R-value of this insulation. R means resistance to heat flow. The higher the R-value, the greater the insulating power. Compare insulation R-values before you buy.

There are other factors to consider. The amount of insulation you need depends mainly on the climate you live in. Also, your fuel savings from insulation will depend upon the climate, the type and size of your house, the amount of insulation already in your house, and your fuel use patterns and family size. If you buy too much insulation, it will cost you more than what you'll save on fuel.

To get the marked R-value, it is essential that this insulation be installed properly.

§ 460.14 How retailers must handle fact sheets.

If you sell insulation to do-it-yourself customers, you must have fact sheets for the insulation products you sell. You must make the fact sheets available to your customers. You can decide how to do this, as long as your insulation customers are likely to notice them. For example, you can put them in a display, and let customers take copies of them. You can keep them in a binder at a counter or service desk, and have a sign telling customers where the fact sheets are.

§ 460.15 How installers must handle fact sheets.

If you are an installer, you must have fact sheets for the insulation products you sell. Before customers agree to buy insulation from you, you must show them the fact sheet(s) for the type(s) of insulation they want. You can decide how to do this. For example, you can give each customer a copy of the fact sheet(s). You can keep the fact sheets in a binder, and show customers the binder before they agree to buy.

§ 460.16 What new home sellers must tell new home buyers.

If you are a new home seller, you must put the following information in every sales contract: the type, thickness, and R-value of the insulation that will be installed in each part of the house. There is an exception to this rule. If the buyer signs a sales contract before you know what type of insulation will be put in the house, or if there is a change in the contract, you can give the buyer a receipt stating this information as soon as you find out.

§ 460.17 What installers must tell their customers.

If you are an installer, you must give your customers a contract or receipt for the insulation you install. For all insulation except loose-fill and aluminum foil, the receipt must show the coverage area, thickness, and R-value of the insulation you installed. For loose-fill, the receipt must show those three items plus the number of bags used. For aluminum foil, the receipt must show the number and thickness of the air spaces, the direction of heat flow, and the R-value. The receipt must be dated and signed by the installer. To figure out the R-value of the insulation, use the data that the manufacturer gives you. Do not multiply the R-value for one inch by the number of inches you installed. If you put insulation in more than one part of the house, put the data for each part on the receipt. You can do this on one receipt, as long as you do not add up the coverage areas or R-values for different parts of the house.

§ 460.18 Insulation ads.

(a) If your ad gives an R-value, you must give the type of insulation and the thickness needed to get that R-value. Also, add this statement explaining R-values: "The higher the R-value, the greater the insulating power. Ask your seller for the fact sheet on R-values."

(b) If your ad gives a price, you must give the type of insulation, the R-value at a specific thickness, the statement explaining R-values in subsection (a), and the coverage area for that thickness. If you give the price per square foot, you do not have to give the coverage area.

(c) If your ad gives the thickness of your insulation, you must give its R-value at that thickness and the statement explaining R-values in subsection (a).

(d) If your ad compares one type of insulation to another, the comparison must be based on the same coverage areas. You must give the R-value at a specific thickness for each insulation, and the statement explaining R-values in subsection (a). If you give the price of each insulation, you must also give the coverage area for the price and thickness shown. However, if you give the price per square foot, you do not have to give the coverage area.

(e) If your ad gives the R-value of urea-based foam insulation, you must add this statement: "Foam insulation shrinks after it is installed. This shrinkage may significantly reduce the R-value you get." However, you can lower your product's R-value to account for shrinkage. To do this, you must have reliable scientific proof of the extent of shrinkage for your product and of its

effect on R-value. If you lower your product's R-value, you need not make the above statement.

§ 460.19 Savings claims.

(a) If you say or imply in your ads, labels, or other promotional materials that insulation can cut fuel bills or fuel use, you must have a reasonable basis for the claim. For example, if you say that insulation can "slash" or "lower" fuel bills, or that insulation "saves money," you must have a reasonable basis for the claim. Also, if you say that insulation can "cut fuel use in half," or "lower fuel bills by 30%," you must have a reasonable basis for the claim.

(b) If you say or imply in your ads, labels, or other promotional materials that insulation can cut fuel bills or fuel use, you must make this statement about savings: "Savings vary. Find out why in the seller's fact sheet on R-values. Higher R-values mean greater insulating power."

(c) If you say or imply that a combination of products can cut fuel bills or use, you must have a reasonable basis for the claim. You must make the statement about savings in subsection (b). Also, you must list the combination of products used. They may be two or more types of insulation; one or more types of insulation and one or more other insulating products, like storm windows or siding; or insulation for two or more parts of the house, like the attic and walls. You must say how much of the savings came from each product or location. If you cannot give exact or approximate figures, you must give a ranking. For instance, if your ad says that insulation and storm doors combined to cut fuel use by 50%, you must say which one saved more.

(d) If your ad or other promotional material is covered by section 460.18(a), (b), (c), or (d), and also makes a savings claim, you must follow the rules in §§ 460.18 and 460.19. However, you need not make the statement explaining R-value in § 460.18(a).

(e) Manufacturers are liable if they do not have a reasonable basis for their savings claims before the claim is made. If you are not a manufacturer, you are liable only if you know or should know that the manufacturer does not have a reasonable basis for the claim.

(f) Keep records of all data on savings claims for at least three years. For the records showing proof for claims, the three years will begin again each time you make the claim. Federal Trade Commission staff members can check these records at any time, but they must give you reasonable notice first.

§ 460.20 R-value per inch claims.

In labels, fact sheets, ads, or other promotional materials, do not give the R-value for one inch or the "R-value per inch" of your product. There are two exceptions:

(1) You can do this if you suggest using your product at a one-inch thickness.

(2) You can do this if actual test results prove that the R-values per inch of your product does not drop as it gets thicker.

You can list a range of R-value per inch. If you do, you must say exactly how much the R-value drops with greater thickness. You must also add this statement: "The R-value per inch of this insulation varies with thickness. The thicker the insulation, the lower the R-value per inch."

§ 460.21 Government claims.

Do not say or imply that a government agency uses, certifies, recommends, or otherwise favors your product unless it is true. Do not say or imply that your insulation complies with a governmental standard or specification unless it is true.

§ 460.22 Tax claims.

Do not say or imply that your product qualifies for a tax benefit unless it is true.

§ 460.23 Other laws, rules, and orders.

(a) If an outstanding FTC Cease and Desist Order applies to you but differs from the rules given here, you can petition to amend to order.

(b) State and local laws and regulations that are inconsistent with, or frustrate the purposes of, the provisions of this regulation are preempted. However, a state or local government may petition the Commission, for good cause, to permit the enforcement of any part of a state or local law or regulation that would be preempted by this section.

(c) The Commission's three-day cooling-off rule stays in force.

§ 460.24 Stayed or invalid parts.

If any part of this regulation is stayed or held invalid, the rest of it will stay in force.

Appendix A—Enforcement Policy Statement for Foreign Language Advertising

Title 16—Commercial Practices

Chapter I—Federal Trade Commission

PART 14—ADMINISTRATIVE INTERPRETATIONS, GENERAL POLICY STATEMENTS, AND ENFORCEMENT POLICY STATEMENTS

§ 14.9 Requirements concerning clear and conspicuous disclosures in foreign language advertising and sales materials.

The Federal Trade Commission has noted that, with increasing intensity, advertisers are making special efforts to reach foreign language-speaking consumers. As part of this special effort, advertisements, brochures and sales documents are being printed in foreign languages. In recent years the Commission has issued various cease-and-desist orders as well as rules, guides and other statements, which require affirmative disclosures in connection with certain kinds of representations and business activities. Generally, these disclosures are required to be "clear and conspicuous." Because questions have arisen as to the meaning and application of the phrase "clear and conspicuous" with respect to foreign language advertisements and sales materials, the Commission deems it appropriate to set forth the following enforcement policy statement:

(a) Where cease-and-desist orders as well as rules, guides and other statements require "clear and conspicuous" disclosure of certain information, that disclosure must be in the same language as that principally used in the advertisements and sales materials involved.

(b) Any respondent who fails to comply with this requirement may be the subject of a civil penalty proceeding for violating the terms of a Commission cease-and-desist order.

(Sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [38 FR 21494, Aug. 9, 1973]

Appendix B—Enforcement Policy Statement for Clear and Conspicuous Disclosures in Television Advertising

.09 "Clear and conspicuous" disclosure.—The FTC issued an enforcement policy statement setting forth the standards it considers in determining whether, in fact, an affirmative disclosure in a television commercial is "clear and conspicuous." The FTC explained that in recent years it has issued various opinions, orders and trade regulation rules concerned with the need for affirmative disclosures in connection with various kinds of representations. In making a determination, the FTC said that it will take into consideration all the technical factors, such as the size of letters and the duration of disclosure, used in presenting the disclosure to a television audience, as well as the substance of the individual disclosure. The following standards should be met for a television disclosure to be deemed "clear and conspicuous": (a) the disclosure should be presented simultaneously in both the audio and video portions of the television advertisement; (b) the video portion of the disclosure must contain letters of sufficient size so that it can be easily seen and read on all television sets, regardless of picture tube size; (c) the video portion of the disclosure should contain letters of a color or shade that readily contrast with the background, and the background should consist of only one color or shade; (d) no other sounds, including music, should occur during the audio portion of the disclosure; (e) the video portion of the disclosure should appear on the screen for a sufficient duration to enable it to be completely read by the viewer; and (f) the audio and video portions of the disclosure should immediately follow the specific sales

representations to which they relate and should occur each time the representation is presented during the advertisement; in cases where a disclosure is required, but is not linked to a specific representation, it should appear in immediate conjunction with the major sales theme of the advertisement. Television advertisers should also consider the audience to whom the disclosure is directed in order to assure that persons (such as children) can understand the full meaning of the disclosure. If securing this understanding is impractical, then the advertisements containing such representations should not be used on television. *FTC Statement of Enforcement Policy*, October 21, 1970.

Trade Regulation Reports, Volume 2, ¶7569 at 12, 166 (1971)

By direction of the Commission dated August 10, 1979.

Loretta Johnson,
Acting Secretary.

[FR Doc. 79-26592 Filed 8-24-79, 8:45 am]
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federal register

**Monday
August 27, 1979**

Part IV

Department of Housing and Urban Development

**Office of the Assistant Secretary for
Community Planning and Development**

**Community Development Block Grants
Interim Rule**

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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**Office of the Assistant Secretary for Community Planning and Development****24 CFR Part 570****(Docket No. R-79-704)****Community Development Block Grants; Technical Amendments; Interim Rule****AGENCY:** Department of Housing and Urban Development (HUD).**ACTION:** Interim rule and request for comments.**SUMMARY:** This amendment clarifies provisions of the Community Development Block Grant (CDBG) regulations (Subparts C and D) and corrects various erroneous references, typographical mistakes and other errors.**DATES:****EFFECTIVE DATE:** September 26, 1979.**COMMENT DUE DATE:** October 30, 1979.**EFFECTIVE DATE:** September 26, 1979.**COMMENT DUE DATE:** October 30, 1979.**ADDRESS:** Send comments to the Rules Docket Clerk, Office of General Counsel, Room 5218, Department of HUD, 451 Seventh Street, S.W., Washington, D.C. 20410.**FOR FURTHER INFORMATION CONTACT:** James R. Broughman, Entitlement Cities Division, Office of Community Planning and Development, Department of HUD, 451 Seventh Street, S.W., Washington, D.C. 20410, (202) 755-9267. (This is not a toll free number.)**SUPPLEMENTARY INFORMATION:**
Background

On March 1, 1978, HUD published final rules (43 FR 8434) for the CDBG program covering eligible activities (Subpart C) and entitlement grants (Subpart D) to carry out Title I of the Housing and Community Development Act of 1974, as amended. Those rules contain various incorrect references, typographical mistakes and other errors and omissions. This amendment corrects these errors and makes a number of changes to conform the regulations to other statutory requirements added in 1978.

Special Assessments

Paragraph (f)(2) of § 570.200 has been revised to clarify the treatment of a special assessment, levied by an applicant with HUD authorization, for less than the total cost of a public improvement which has been funded with both block grant and local funds. Where the special assessment does not

exceed the local investment, the applicant may retain the entire amount collected. Where the special assessment exceeds the local investment, the applicant shall apportion the assessment, as collected, between itself, up to the amount of the local investment, and block grant program income.

In addition, paragraph (f)(3) of § 570.200 has been revised to include the requirement that an applicant must carry out the appropriate environmental reviews and clearances for public improvements under 24 CFR 58 where it proposes to use block grant funds to pay special assessments levied against properties owned and occupied by low- and moderate-income persons for the capital costs of such improvements. Although this requirement was stated in the preamble of the March 1, 1978, regulation, it was inadvertently omitted from the text of the regulation.

Consulting Services

Section 408 of the Fiscal Year 1979 HUD and Independent Agencies Appropriations Act prohibits the use of block grant funds to pay the salary of a consultant in excess of the daily equivalent rate paid to GS-18 employees. (The Fiscal Year 1978 Act included a similar limitation.) On the basis of the legislative history for the Fiscal Year 1979 Act clarifying the intent of the provision, § 570.200(g) has been revised to apply the limitation only to individual consultant services of a purely personal nature which create an employer-employee type relationship, and not to consultant services provided under an independent contractor relationship.

Planning and Administrative Costs

The Fiscal Year 1979 HUD and Independent Agencies Appropriations Act places a 20 percent ceiling on expenditures for planning and administrative costs under §§ 570.205 and 570.206.

Accordingly, paragraph (i) has been added to § 570.200 to state that no more than 20 percent of the total block grant resources available to pay program year costs may be budgeted or expended for such costs. Paragraph (a)(5) of § 570.205 has been revised to clarify that eligible planning costs include the development of individual project plans, such as the collection of detailed data and the preparation of analyses, but exclude the engineering and design costs of carrying out an activity eligible under §§ 570.201 through 570.204. Paragraph (a) of § 570.206 has been revised to clarify that eligible administrative costs include reasonable costs of overall program management, coordination, monitoring and evaluation, and similar costs associated with carrying out multi-

activity projects, but exclude direct activity delivery costs eligible as part of the cost of carrying out a specific activity under §§ 570.201 through 570.204. Paragraph (b) of § 570.201 has been revised to include reasonable costs of temporarily managing real property acquired with block grant funds or under urban renewal. Paragraph (c)(4) has been added to § 570.202, eligible rehabilitation and preservation activities, to provide for rehabilitation services, such as rehabilitation counseling, loan processing, preparation of work specifications, and other services related to assisting owners to rehabilitate their properties in conjunction with block grant funded rehabilitation financing and Section 312 rehabilitation loans.

Residential Facilities

The provisions of § 570.201(c)(1) and (3), which prohibit residential facilities from eligibility under public facilities and improvements, and the provisions of § 570.202(a)(2) and (c)(1), which permit rehabilitation of residential facilities, appear to have confused applicants. Section 570.201(c) is intended to ensure that block grant assistance is not used for new construction of residential facilities because construction of new housing is not generally permitted under the block grant program. Rehabilitation of residential facilities is, however, an eligible block grant activity and is covered under § 570.202. To clear up any misunderstandings, references to § 570.202(a)(2) and (c)(1) have been added to § 570.201(c)(1) and (3).

Public Services

Paragraph (e)(1) of § 570.201 has been revised to clarify that an area which meets the requirement for a Neighborhood Strategy Area (NSA) may be so designated by the applicant for purposes of qualifying the continuation of previously approved public services for no more than three years even though the block grant assisted physical development activities in the area have been completed or substantially completed.

In addition, paragraph (e)(1) of § 570.201 has been revised to clarify that, for the Small Cities Program, there is no requirement that an NSA be established. However, under the Small Cities Program, public services are to be provided for residents of areas where block grant assisted physical development activities are being carried out in a concentrated manner. The phrase "concentrated manner" is defined in § 570.201(e)(1)(ii).

Paragraph (e)(2) of § 570.201 has been revised to clarify language that was

misprinted. The revised paragraph indicates that, while public services must be directed toward meeting the needs of residents of NSA's in which block grant assisted physical development activities are being carried out in a concentrated manner, the services may be provided on an incidental basis to persons who are not residents of such areas. HUD recognizes that it may not be feasible to exclude persons from receipt of public services on the basis that they are not residents of an NSA. Accordingly, services may be rendered in such circumstances. However, where a frequent pattern of such presumably incidental delivery occurs, or where it is clear that the design of the public service is such that it is intended to be delivered to non-residents to a significant degree, block grant assistance will not be permitted.

Relocation

The Housing and Community Development Amendments of 1978 extend the availability of relocation payments and assistance to displaced individuals, families, businesses, nonprofit organizations, and farm operations, when determined by the applicant to be appropriate to the community development program. The previous provision limited the eligibility of relocation payments and assistance to those displaced by activities assisted with block grants. The effect of this amendment is to permit the use of block grant funds for relocation payments and assistance for those displaced by activities such as development of Section 8 housing, private development, and other activities causing displacement, so long as the payments and assistance are determined by the applicant to be appropriate to its community development program. Accordingly, paragraph (i) of § 570.201 and paragraph (d) of § 570.602 have been revised to implement the statutory amendment.

Local Development Corporations

The provisions of § 570.204(a)(2)(iv), which describe the local development corporations that are eligible to receive block grant funds, appear to have confused applicants by including the phrase "other similar entity." Accordingly, paragraph (a)(2)(iv) has been revised to clarify that an "other similar entity" means an entity that provides economic development assistance within a specified geographical area and is usually composed of and controlled by representatives of the residents of the area.

Reimbursement of Costs

Paragraph (e) of § 570.301 has been revised to include the costs for relocation and acquisition activities carried out pursuant to § 570.602 which the applicant may incur with local funds before approval of its application and may be reimbursed for with block grant funds after approval of its application. However, to be reimbursed, the applicant must carry out the appropriate environmental reviews and clearances for such activities under 24 CFR Part 58.

Program Benefit

Minor revisions have been made to paragraphs (d)(2)(iv) and (e)(1) of § 570.302. Paragraph (d)(2)(iv) has been revised to indicate that a senior center is only one example of a public facility qualifying under the block grant program. Paragraph (e)(1) has been revised to state explicitly that economic development activities under § 570.203 may be undertaken in an NSA qualifying under the category of projects designed to prevent or eliminate slums or blight.

Opportunity for Participation by, and Benefits to, the Handicapped

The 1977 amendments to the Housing and Community Development Act of 1974 contain a provision that applicants shall design their comprehensive strategies to address community development and housing needs in order that the provision of all improved community facilities and public improvements, including supporting health, social and similar services where necessary or appropriate, shall be described in a manner that provides assurance that there will be opportunity for participation by, and benefits to, the handicapped. Although this provision was contained in the proposed regulations issued for Subpart D on October 25, 1977 (42 FR 58469), it was unintentionally omitted from the final rules issued for Subpart D on March 1, 1978. Accordingly, paragraph (b) of § 570.304 has been amended to include the provisions governing opportunities for participation by, and benefits to, the handicapped under the CDBG program. The applicant should consider such opportunities for the handicapped in developing each component part of the comprehensive strategy.

Expected-to-Reside (ETR)

The interim rule revising the ETR requirement was published on August 9, 1979 (44 FR 46836). That interim rule has been incorporated in these technical amendments.

Procurement Standards

Section 570.507 has been revised to clarify that the requirements of Attachment O of OMB Circular No. A-102 apply to the procurement of materials and services by States, units of general local government, Indian Tribes, public instrumentalities, and eligible entities under § 570.204(a)(2), as subgrantees or subrecipients, as well as by direct grant recipients. In addition, the revised section states clearly that the procurement of materials and services by private homeowners who receive block grant assistance, such as rehabilitation loan financing, is not subject to such requirements.

Other Changes

A number of other minor technical changes are included to correct inaccurate references and printing errors contained in Subparts C and D.

Because this amendment is technical in nature, correcting various errors and omissions and making changes to conform the regulations to other statutory amendments, the Secretary has determined that it is unnecessary to invite public comment on this amendment before its effective date. However, interested persons are invited to participate in this rulemaking by filing data, comments and suggestions with the Rules Docket Clerk at the above address, on or before the comment due date. Each comment should include the commentator's name and address, and must refer to the docket number indicated in the heading to this document. All relevant comments will be considered before adoption of a final rule, and copies of all comments received will be available for copying and inspection in the Office of the Rules Docket Clerk at the above address.

A finding of Inapplicability respecting the National Environmental Policy Act of 1969 has been made in accordance with HUD procedures. A copy of this Finding of Inapplicability is available for public inspection in the Office of the Rules Docket Clerk at the above address.

Accordingly, the Department amends Chapter V of Title 24 of the Code of Federal Regulations as follows:

1. The Table of Contents to 24 CFR Part 570, Subpart C, is revised to read as follows:

Subpart C—Eligible Activities**Sec.**

570.200 General policies.

570.201 Basic eligible activities.

570.202 Eligible rehabilitation and preservation activities.

570.203 Eligible economic development activities.

Sec.

- 570.204 Eligible activities by private nonprofit entities, neighborhood-based nonprofit organizations, local development corporations, and small business investment companies.
- 570.205 Eligible planning and urban design costs.
- 570.206 Eligible administrative costs.
- 570.207 Ineligible activities.

Authority: Title I, Housing and Community Development Act of 1974 (42 U.S.C. 5301, et seq.); Title I, Housing and Community Development Act of 1977 (Pub. L. 95-128); and sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

II. Subpart C, Eligible Activities is revised to read as follows:

Subpart C—Eligible Activities

§ 570.200 General policies.

(a) *Determinations of eligibility.* This subpart sets forth the variety of eligible activities that may be undertaken with assistance under this Part (block grant funds) to meet community development and housing needs and priorities principally for low- and moderate-income persons or for the prevention or elimination of slums and blight. The listing of certain eligible types of activities in this subpart does not by itself, however, render specific activities, proposed to be conducted by individual applicants, eligible for block grant assistance. There are other requirements that must also be met to qualify a specific activity for assistance. An activity may be assisted only in those instances where it complies with the eligibility criteria of this subpart, with all other applicable requirements of this Part as they may apply to applicants under Subparts D, E, F, or G, such as those relating to equal opportunity, and the basic statutory objectives of the block grant program. In particular, activities conducted by entitlement recipients under Subpart D must comply with the requirements set forth in § 570.302 regarding benefit to low- and moderate-income persons or elimination of slums and blight, and small city discretionary recipients must comply with similar requirements set forth in Subpart F. Further, there must be compliance with all applicable environmental review and clearance procedures set forth in 24 CFR Part 58.

(b) *Urban Development action grants.* Grant assistance may be provided with Urban Development Action Grants pursuant to Subpart G for:

- (1) Activities eligible for assistance pursuant to this Subpart; and
- (2) Such other activities, including new housing construction, as the Secretary may determine to be consistent with the statutory objectives of the Urban Development Action Grant

(UDAG) program as provided for in § 570.453. The provisions of § 570.207 regarding ineligible activities apply to the UDAG program, except where an activity is determined to be consistent with the statutory objectives of the UDAG program pursuant to § 570.453, the limitations set forth in § 570.207 do not apply.

In making determinations of eligibility with regard to Urban Development Action Grants, for the purposes of §§ 570.201-207, the term "Community Development and Housing Plan" as used in this subpart shall also mean the "Urban Development Action Program."

(c) *Model cities activities.* Notwithstanding anything to the contrary in this subpart, any ongoing model cities activity being carried out in a model cities program shall be eligible for funding under this Part from that portion of the hold-harmless amount attributable to such model cities program until the applicant has received five years of funding for such activities as calculated pursuant to § 570.103(c)(2)(iii). For the purpose of this paragraph, the term "ongoing activity" means any model cities activity underway as of January 1, 1975, that was approved and funded by HUD on or before June 30, 1974. Upon expiration of the eligibility of activities under this paragraph, applicants should refer to the other requirements of this subpart which must be satisfied in order for block grant assistance to continue to be provided for model cities activities.

(d) *Special policies governing facilities.* The following special policies apply to: (1) *Facilities containing both eligible and ineligible uses.* Where a facility, otherwise eligible for assistance under the block grant program in § 570.201(c), is to be provided as a part of a multiple-use building and/or facility that also contains otherwise ineligible uses, the portion of the costs attributed to the eligible facility may be assisted with block grant funds where:

- (i) The facility, which is otherwise eligible and proposed for assistance, will occupy a designated and discrete area within the larger facility; and
- (ii) The applicant can determine the costs attributable to the facility proposed for assistance as separate and distinct from the overall costs of the multiple-use building and/or facility.

For example, a senior center, which is to occupy space within a building that is otherwise used for the conduct of general governmental business, may be assisted when it exclusively occupies a separate and designated area within the building (i.e., the senior center does not "float" to different locations within the

building that happen to be available on a less than permanent basis) and the applicant can determine the cost associated with providing the senior center as distinct from those costs associated with all remaining ineligible portions of the building.

(2) *Facilities located on school property.* Any facility eligible for assistance pursuant to § 570.201(c), which is designed primarily for a public purpose other than education, is not considered to be a school or educational facility where, although it is to be located on a site controlled by a school district, school board or similar body responsible for public education, the facility will only be used by any adjacent school or educational facility on an incidental basis. In order to determine whether the facility is to be used on an incidental basis, the applicant shall at a minimum demonstrate that:

- (i) After school hours and on weekends, the facility shall be available for use by the general public to the same extent as similar facilities operating within the applicant's jurisdiction; and
- (ii) During school hours, the facility is not used for school purposes for more than four hours each day.

(e) *Activities outside an applicant's boundaries.* Applicants may conduct activities which are otherwise eligible for block grant assistance outside of their boundaries which are not inconsistent with State or local law and which are not plainly inappropriate to meet identified needs of the applicant. This may include an urban county carrying out otherwise eligible activities within a metropolitan city with block grant assistance where the activities are not plainly inappropriate to meeting identified needs of the urban county.

(f) *Special assessments under the block grant program.* The following policies relate to the use of special assessment under the block grant program:

- (1) *Definition of special assessment.* The term "special assessment" means a fee or charge levied or filed as a lien against a parcel of real estate as a direct result of benefit derived from the installation of a public improvement, such as streets, curbs, and gutters. The amount of the fee represents the pro rata share of the capital costs of the public improvement levied against the benefitting properties. This term does not relate to taxes, or the establishment of the value of real estate for the purpose of levying real estate, property, or ad valorem taxes.

(2) *Special assessments to recover capital costs funded in whole or in part with block grant funds.* (i) The general

rule is that special assessments shall not be used to recover any of the capital costs of public improvements funded in whole or in part with block grant funds. Applicants may request an exception to this rule where the use of special assessments as a means to leverage private investment is necessary and appropriate to implement the applicant's strategy for economic development or neighborhood revitalization. HUD will not recover the capital costs of public improvements funded in whole or in part with block grant funds from properties owned and occupied by low- and moderate-income persons.

(ii) Where the capital cost of a public improvement is funded entirely with block grant funds, and the applicant with HUD authorization levies a special assessment, the applicant shall credit the entire amount collected to program income under § 570.506. Where the capital cost of a public improvement is funded with both block grant and local funds, and the applicant with HUD authorization levies a special assessment in an amount not exceeding its local investment, the applicant may retain the entire amount collected.

Where the capital cost of a public improvement is funded with both block grant and local funds, and the applicant with HUD authorization levies a special assessment in an amount exceeding its local investment, the applicant may retain up to the entire amount of the local investment and credit the remainder of the special assessment to program income under § 570.506.

However, the applicant shall apportion the special assessment, as collected, so that the portion retained as the local investment is in the ratio of the total local investment to the total amount of the special assessment. For example, if the capital cost of a public improvement is \$100,000, financed with \$30,000 of local funds and \$70,000 of block grant funds, and a special assessment, as collected, would be $\frac{3}{10}$ to local funds and $\frac{7}{10}$ to program income so that when the entire special assessment has been collected, \$30,000 will have been retained as the local investment and \$50,000 credited to program income.

(iii) The total amount of any special assessment and the amount of funds, as collected, shall be recorded as part of the grant program transactions in accordance with Attachment G of OMB Circular No. A-102.

(3) *Special assessments paid with block grant funds.* Block grant funds may be used to pay special assessments levied against properties owned and occupied by low- and moderate-income persons for the capital costs of eligible

public facilities and improvements financed from local revenue sources, other than block grant funds, which (i) are described in the Community Development Program; (ii) are initiated after March 1, 1978; and (iii) represent the pro rata share of the capital cost of the eligible facility or improvement to the benefitting property. Applicants that propose to pay special assessments with block grant funds must carry out the appropriate environmental reviews and clearances for the public improvements under 24 CFR Part 58.

(g) *Consultant Activities.* Consulting services are eligible for assistance under this Part for professional assistance in program planning, application preparation, and other general professional guidance relating to program execution. The use of consultants is governed by the following:

(1) *Employer-employee type of relationship.* No person providing consultant services in an employer-employee type of relationship shall receive more than a reasonable rate of compensation for personal services paid with block grant funds which, on a daily basis, shall not exceed the maximum daily rate of compensation for a GS-18 as established by Federal law. Such services shall be evidenced by written agreements between the parties which detail the responsibilities, standards and compensation. Adjustments of eligible costs for such services may be made where audit and monitoring reviews indicate that the rates of compensation were not reasonable, or exceeded the maximum daily rate for a GS-18.

(2) *Independent contractor relationship.* Consultant services provided under an independent contractor relationship are governed by the Procurement Standards of Attachment O of OMB Circular No. A-102 and are not subject to the GS-18 limitation.

(h) *Transition policy for fiscal year 1978.* A number of activities set forth in Subpart C contain, as a part of the criteria for eligibility for block grant assistance, requirements that activities be necessary and appropriate to the implementation of certain strategies for community development and housing described in Subpart D, or that activities take place within Neighborhood Strategy Areas (NSA).

(1) *Interim strategy statement.* For those applications submitted during fiscal year 1978 prior to the effective date for the submission of strategies, applicants may submit a brief narrative interim strategy statement for activities subject to this requirement. The interim strategy statement shall include:

- (i) a brief description of the activity;
- (ii) a brief description of the needs and conditions the activity is designed to address; and
- (iii) a brief description of how the activity will impact upon the needs and conditions which it is designed to address.

(2) *Interim NSA designation.* For those applications submitted during fiscal year 1978, applicants may designate interim NSA's for activities subject to this requirement. An interim NSA is selected by the applicant and designated in the Community Development Program. In determining the size of the NSA, the applicant shall take into account the severity of its problems and the amount of resources to be provided to address those problems. For each area designated as an NSA, the applicant shall include a brief narrative description of its plan for stabilizing and upgrading the area which:

- (i) provides for a combination of physical improvements, necessary public facilities and services, private investment and citizen self-help activities appropriate to the needs of the area; and
- (ii) coordinates public and private investment efforts.

(i) *Limitation on planning and administrative costs.* No more than 20 percent of the total block grant resources available to pay program year costs may be budgeted or expended for planning and administrative costs under § 570.205 and § 570.206. Total block grant resources available to pay program year costs are calculated in the cost summary, submitted, as part of the Annual Community Development Program, under § 570.305(b).

§ 570.201 Basic eligible activities.

Grant assistance may be used for the following activities:

(a) *Acquisition.* Acquisition in whole or in part by a public agency, by purchase, lease, donation or otherwise, of real property (including air rights, water rights, rights-of-way, easements, and other interests therein) which is:

- (1) Blighted, deteriorated, deteriorating, undeveloped or inappropriately developed from the standpoint of sound community development and growth, as determined by the recipient pursuant to State and local laws;

(2) Appropriate for rehabilitation or conservation activities;

(3) Appropriate for the preservation or restoration of historic sites, the beautification of urban land, the conservation of open spaces, natural resources and scenic areas, the

provision of recreational opportunities or the guidance of urban development;

(4) To be used for the provision of public works, facilities and improvements eligible for assistance under this subpart; or

(5) To be used for other public purposes, including the conversion of land to other uses where necessary or appropriate to the community development program. Examples include an applicant purchasing land to be used for the development of housing for low- and moderate-income persons, and an applicant which is a central city of a metropolitan area using block grant funds to purchase existing houses in a non-impacted suburban jurisdiction in order to provide a wider choice of housing opportunities for central city lower-income residents.

(b) *Disposition.* Disposition, through sale, lease, donation, or otherwise, of any real property acquired with block grant funds or its retention for public purposes, including reasonable costs of temporarily managing such property or property acquired under urban renewal, provided that the proceeds from any such disposition shall be program income subject to the requirements set forth in § 570.506. Further information regarding disposition is set forth in § 570.613.

(c) *Public facilities and improvements.* Acquisition, construction, reconstruction, rehabilitation, or installation of certain publicly owned facilities and improvements. This may include the execution of architectural design features, and similar treatments intended to enhance the esthetic quality of facilities and improvements receiving block grant assistance, such as decorative pavements, railings, sculpture, pools of water and fountains, and other works of art. Public facilities and improvements eligible for assistance under this paragraph are subject to the special policies in § 570.200(d) and the rules on ineligible facilities and improvements in § 570.207 (a), (b) and (c), and include:

(1) *Senior centers*, but excluding any facility whose primary function is to provide residential accommodations or care on a 24-hour day basis (such as a group home). Further information regarding the rehabilitation of residential facilities is set forth in § 570.202 (a)(2) and (c)(1).

(2) *Parks, playgrounds and other recreational facilities* which are designed for participation, but not spectator facilities such as stadiums.

(3) *Centers for the handicapped.* The term "center for the handicapped" means any single or multipurpose

facility which seeks to assist persons with physical, mental, developmental and/or emotional impairments to become more functional members of the community by providing programs or services which may include, but are not limited to, recreation, education, health care, social development, independent living, physical rehabilitation and vocational rehabilitation; but excluding any facility whose primary function is to provide residential care on a 24-hour a day basis (such as a group home or halfway house). For example, a sheltered workshop would be a single purpose center for the handicapped, and a facility providing several services for the handicapped would be a multipurpose center for the handicapped, both of which are eligible for assistance. Further information regarding the rehabilitation of residential facilities is set forth in § 570.202 (a)(2) and (c)(1).

(4) *Neighborhood facilities.* Such facilities may be of either a single purpose or multipurpose nature and be designed to provide health, social, recreational or similar community services primarily for residents of the neighborhood service area which is either:

(i) A geographic location within the jurisdiction of a unit of general local government (but not the entire jurisdiction) designated in comprehensive plans, ordinances or other local documents as a neighborhood or, in a new community as defined in § 570.403(a), a neighborhood, village or similar geographical designation; or

(ii) An entire unit of general local government or a new community as defined in § 570.403(a) which is under 25,000 population, with the exception of a facility which is designed solely as a communitywide facility in a new community with a currently projected population in excess of 25,000.

(5) *Solid waste disposal facilities*, which are defined as those physical parts of solid waste management systems commencing at and including the site or sites at which publicly or privately owned collection vehicles discharge municipal solid wastes, through the point of ultimate disposal including necessary site improvements and conveying systems, including appropriate fixed and movable equipment including vehicular containers used after the first stage of disposal at transfer stations, but not including the final collections. (i) Such facilities or equipment must be located in or serve areas where other activities included in the Community Development and Housing Plan are

being carried out, such as a NSA. (ii) Equipment and appurtenances used in the initial collection of solid waste are not included among those solid waste disposal facilities eligible for assistance under this Part.

(6) *Fire protection facilities and equipment.* Such facilities and equipment must be located in or serve areas where other activities included in the Community Development and Housing Plan are being carried out, such as an NSA.

(i) Fire protection facilities are defined as the land and necessary improvements thereto which are necessary for properly housing and storing fire protection equipment and personnel by a fire protection organization, but not including fire fighting schools and their appurtenances.

(ii) Fire protection equipment is defined as the appropriate equipment and apparatus which a fire protection organization requires for carrying out a program for protecting property and maintaining the safety and welfare of the public, including emergency medical aid, from the dangers of fire.

(7) *Parking facilities.* Such facilities must be located in or serve areas where other activities included in the Community Development and Housing Plan are being carried out, such as an NSA.

(8) *Public utilities*, other than water and sewer, which include:

(i) Facilities necessary for distribution of the utility (but not production or generation, such as electrical generation plants);

(ii) Buildings and improvements that are an integral part of the utility and are of such a nature that the utility will not function without them; and

(iii) The placing underground of existing or new distribution facilities. Further information regarding the eligibility of assistance to privately owned utilities is set forth in § 570.201(1).

(9) *Street improvements.* Streets, street lights, traffic signals, signs, street furniture, trees, bridges, culverts, alleys, causeways, curbs, gutters, sidewalks, and other normal appurtenances to streets and structures facilitating the passage on, or usage of, streets, but excluding expressways and other limited access ways and their appurtenances.

(10) *Water and sewer facilities*, including storm sewers, except for sewage treatment works and interceptor sewers which are described in § 570.207(a)(2)(v). The term "storm sewers" means sewers or other conduits, open or closed, or their appurtenances which collect, transport

and dispose of storm waters, surface water, street wash, other wash and ground water or drainage into an existing water course, but excluding domestic waste water and commercial and industrial wastes.

(11) *Foundations and platforms for air rights sites.*

(12) *Pedestrian malls and walkways.*

(13) *Flood and drainage facilities*, in cases where assistance for such facilities has been determined to be unavailable under other Federal laws or programs pursuant to the provisions of § 570.607. The term "flood and drainage facilities" means those undertakings designed to influence or affect the flow in a natural water course (such as a river, stream, lake, estuary, bay, ocean or intermittent stream) and excludes storm sewers.

(14) *Other public facilities and improvements*, not listed in this paragraph, except those described in § 570.207 (a)(1) and (f), which are necessary and appropriate to the implementation of the applicant's strategy for neighborhood revitalization or housing.

(i) The applicant shall provide HUD with a description of the proposed facility or improvement and the relationship to the applicant's strategy for neighborhood revitalization or housing.

(ii) Among the factors HUD will take into account in authorizing assistance under this paragraph are the amount of benefit to low- and moderate-income persons, the degree of impact on the identified needs of the applicant, and the availability of other Federal funds for the activity.

(d) *Clearance activities.* Clearance, demolition and removal of buildings and improvements, including movement of structures to other sites. Demolition of HUD assisted housing units may be undertaken only with the prior approval of HUD.

(e) *Public services.* Provision of public services (including labor, supplies and materials) which are directed toward improving the community's public services and facilities, including those concerned with employment, crime prevention, child care, health, drug abuse, education, welfare or recreational needs, and which are directed toward coordinating public and private development programs. Such services may be provided by State or local governments, quasi-public, private or nonprofit agencies, including, but not limited to, HUD-approved counseling agencies, selected by the applicant for funds provided under this Part. In order to be eligible for block grant assistance,

public services must meet each of the following criteria:

(1) Public services are to be provided for residents of Neighborhood Strategy Areas in which block grant assisted physical development activities are being carried out in a concentrated manner. Physical development activities include only activities carried out under § 570.201 (other than paragraphs (i) and (j)), § 570.202 and § 570.203. Such public services may be provided with block grant funds during the period in which block grant assisted physical development activities are being carried out in a concentrated manner, and may be continued for no more than three years after the completion of such physical development activities.

(i) An area which meets the requirement for a Neighborhood Strategy Area may be so designated for purposes of qualifying the continuation of previously approved public services under this three year rule, notwithstanding the fact that such physical development activities have been completed or substantially completed.

(ii) For the Small Cities Program, there is no requirement that a Neighborhood Strategy Area be established. Rather, public services are to be provided for residents of areas where block grant assisted physical development activities are being carried out in a concentrated manner. The phrase "concentrated manner" shall mean that the block grant assisted physical development activities are being carried out within an area in a coordinated manner to serve a common objective or purpose pursuant to a locally developed plan or strategy.

(2) Such services must be directed toward meeting the needs of residents of such areas. Block grant assistance may only incidentally be used to provide public services for persons who are not residents of Neighborhood Strategy Areas.

(3) A public service must be either (i) a new service, or (ii) a quantifiable increase in the level of a service above that which has been provided by or in behalf of the applicant from local revenue sources or State funds received by the applicant in the twelve calendar months prior to submission of the block grant application. (An exception to this requirement with regard to State-funded services may be made if HUD determines that the decrease in the level of a service was the result of events not within the control of the applicant.)

(4) Federal assistance in providing or securing such public services must have been applied for and denied or not made available pursuant to the provisions of § 570.607.

(5) Public services must be determined by the applicant to be necessary or appropriate to support the physical development activities to be carried out within Neighborhood Strategy Areas or, with respect to Small Cities, pursuant to paragraph (e)(1)(ii) of this section. For example, the provision of job training for area residents working on neighborhood revitalization projects would be appropriate to support a concentration of block grant assisted physical development activities being carried out in the area. (i) The specific determination of support for each proposed public service is not required to be included in the application, but the applicant must briefly describe the relationship of the public service to its overall strategy for physical development activities within the NSA. (ii) HUD will accept the applicant's determination that a public service is necessary and appropriate to support the physical development activities unless there is substantial evidence to the contrary, in which case additional information or assurances may be requested from the applicant prior to a determination of eligibility.

(f) *Interim assistance.* Interim assistance to alleviate harmful conditions where immediate public action is determined by the applicant to be necessary.

(1) The following activities may be undertaken as a prelude to more comprehensive treatment in areas, such as NSAs, where activities included in the Community Development and Housing Plan are to be carried out to hold the area from further deterioration during the interim period:

(i) The repairing of streets, sidewalks, parks, playgrounds, publicly owned utilities and public buildings;

(ii) The improvement of private properties to the extent necessary to eliminate immediate dangers to public health, safety or welfare;

(iii) The establishment of temporary public playgrounds on vacant land; and

(iv) The execution of special garbage, trash, and debris removal, including neighborhood clean up campaigns, but not the regular curbside collection of garbage or trash in an area.

(2) The following activities may be undertaken to the extent necessary to alleviate emergency conditions threatening the public health and safety in areas where the chief executive officer of the applicant determines that an imminent threat to the public health and safety exists requiring immediate resolution of emergency conditions:

(i) the improvement of private properties;

(ii) the repair of streets, sidewalks, utilities, and other public facilities and improvements; and

(iii) the removal of trash and debris, unsafe structures, clearance of streets including snow removal, and other similar activities.

The chief executive officer, or his designee, shall notify the appropriate HUD Area Office within seven days of determining that a situation exists which poses an imminent threat to the public health and safety and that block grant funds will be used to alleviate the emergency conditions.

(g) *Payment of the non-Federal share* required in connection with a Federal grant-in-aid program undertaken as part of the block grant activities, *Provided*, That such payment shall be limited to activities otherwise eligible under this subpart.

(h) *Urban renewal completion.* Payment of the cost of completing an urban renewal project funded under Title I of the Housing Act of 1949 as amended. Further information regarding the eligibility of such costs is set forth in § 570.601.

(i) *Relocation.* Relocation payments and assistance for displaced individuals, families, businesses, nonprofit organizations, and farm operations, when determined by the applicant to be appropriate to the community development program. Further information regarding the eligibility of relocation costs is set forth in § 570.602.

(j) *Loss of rental income.* Payments to housing owners for losses of rental income incurred in holding for temporary periods housing units to be utilized for the relocation of individuals and families displaced by program activities assisted under this Part.

(k) *Removal of architectural barriers.* Special projects directed to the removal of material and architectural barriers which restrict the mobility and accessibility of elderly or handicapped persons to publicly owned and privately owned buildings, facilities, and improvements. Further information regarding the removal of architectural barriers is available in publication ANSI A117.1-1961 (R. 1971) of the American National Standards Institute, Inc.

(l) *Privately owned utilities.* Acquisition, construction, reconstruction, rehabilitation, or installation of distribution facilities and lines of privately owned utilities where necessary and appropriate to implement the applicant's strategy for neighborhood revitalization or housing. Activities may include the placing underground of new or existing distribution facilities.

(1) The applicant shall provide HUD with a description of the proposed activity and the relationship to the applicant's strategy for neighborhood revitalization or housing.

(2) Among the factors HUD will take into account in authorizing such activities are:

(i) The degree of benefit to low- and moderate-income persons;

(ii) The degree of impact on the identified needs of the applicant; and

(iii) The availability of other Federal funds for the activity.

§ 570.202 Eligible rehabilitation and preservation activities.

Grant assistance may be used for the following activities for the rehabilitation of buildings and improvements:

(a) *Rehabilitation of public residential structures.* Rehabilitation of publicly owned or acquired properties for use or resale in the provision of housing, including:

(1) *Permanent housing units*, both single family and multifamily, for rental or sale; and

(2) *Residential facilities*, including group homes, halfway houses, and emergency shelters. For example, a group home for the handicapped or a temporary shelter for battered persons may be provided through acquisition and rehabilitation of properties for those purposes.

(b) *Public housing modernization.* Modernization and modernization planning of publicly-owned low-income housing (excluding, the new construction of office facilities for such public housing).

(N.B. block grant funds may also be provided by an applicant to a public housing agency to be used for otherwise eligible activities, e.g., public services such as security and day care meeting the requirements of § 570.201(e) and planning and policy-planning-management activities under § 570.205 related to public housing improvements.)

(c) *Rehabilitation of private properties.* Block grant assistance may be used for the rehabilitation of privately owned properties. Assistance may consist of:

(1) *Acquisition for the purpose of rehabilitation.* Block grant funds may be used to assist private entities, including those organized for profit and on a not-for-profit basis, to acquire, for the purpose of rehabilitation, and rehabilitate properties for use or resale in the provision of housing which, upon completion of rehabilitation, at a minimum will meet the Section 8 Existing Housing Quality Standards set forth in 24 CFR § 882.109, including:

(i) Permanent housing units, both single family and multifamily, for rental or sale; and

(ii) Residential facilities, including group homes, halfway houses, and emergency shelters;

(2) *Rehabilitation financing.* Block grant funds may be used to finance the rehabilitation of privately owned residential, non-residential (excluding industrial), and mixed use properties.

(i) Such financing may be provided either: (A) within areas designated in the application for comprehensive treatment, such as an NSA; (B) for persons of low- and moderate-income; or (C) to eliminate conditions detrimental to public health and safety, provided that the rehabilitation assistance is limited to the extent necessary to correct the conditions that are detrimental to public health and safety.

(ii) Block grant funds may be used directly to finance rehabilitation, including settlement costs, through the direct use of block grant funds in the provision of assistance, such as grants, loans, loan guarantees and interest supplements, for:

(A) Costs of rehabilitation of properties, including, repair directed toward cure of an accumulation of items of deferred maintenance, replacement of principal fixtures and components of existing structures, and renovation through alteration, additions to, or enhancement of existing structures, which may be undertaken singly, or in combination;

(B) Refinancing existing indebtedness secured by a property being rehabilitated if such refinancing is necessary or appropriate to the execution of the Community Development and Housing Plan;

(C) Measures to increase the efficient use of energy in structures through such means as installation of storm windows and doors, siding, wall and attic insulation, and conversion, modification or replacement of heating and cooling equipment, including the use of solar energy equipment;

(D) Financing of costs associated with the connection of residential structures to water distribution lines or local sewer collection lines; or

(E) Costs of initial homeowner warranty premiums for rehabilitation carried out with block grant assistance.

(3) *Materials.* Block grant funds may be used to provide materials, including tools, for use in the rehabilitation of properties either by the property owner or tenant, or where arrangements have been made for the provision of labor, such as through a CETA grant.

(4) *Rehabilitation services.* Block grant funds may be used to provide rehabilitation services, such as rehabilitation counseling, loan processing, preparation of work specifications, and other services related to assisting owners rehabilitate their properties, in conjunction with the provision of rehabilitation financing under paragraph (c)(2) of this section and under Section 312 of the Housing Act of 1964, as amended.

(d) *Temporary relocation assistance.* Block grant funds may be used for temporary relocation payments and assistance to individuals, families, businesses, non-profit organizations, and farm operations displaced temporarily by rehabilitation activities assisted under this part. Further information regarding the eligibility of relocation costs is set forth in § 570.602.

(e) *Code enforcement.* Code enforcement in deteriorating or deteriorated areas where activities included in the Community Development and Housing Plan are being carried out, such as an NSA, and where such enforcement together with public improvements, rehabilitation assistance, and services to be provided, may be expected to arrest the decline of the area.

(f) *Historic preservation.* Rehabilitation, preservation, restoration and acquisition of historic properties, either publicly or privately owned, which are those sites or structures that are either listed in or eligible to be listed in the National Register of Historic Places, listed in a State or local Inventory of Historic Places, or designated as a State or local landmark or historic district by appropriate law or ordinance.

Publicly owned historic properties may be assisted, including those properties which are otherwise ineligible for assistance under this subpart. However, eligibility is limited only to those costs necessary for rehabilitation, preservation or restoration of the property and not for conversion or expansion of the property for any ineligible use. For example, a city museum serving low- and moderate-income persons, and listed in the National Register may be restored, but the addition of a new wing on the museum could not normally be assisted, unless it were otherwise eligible for assistance pursuant to § 570.203(b).

§ 570.203 Eligible economic development activities.

Grant assistance may be provided for the following development activities which are not otherwise eligible for

block grant assistance, which are directed toward the alleviation of physical and economic distress, or the economic development of a new community as described in § 570.403(a) through stimulation of private investment, community revitalization, and expansion of economic opportunities for low- and moderate-income persons, and handicapped persons, and which are necessary and appropriate to implement the applicant's strategy for economic development.

The applicant shall provide HUD with a description of the activity, and of the relationship to the applicant's strategy for economic development under § 570.304(b)(3). In authorizing activities, HUD will take into account the amount of long-term employment to be generated by the activity accessible to low- and moderate-income persons, the necessity of the activity to stimulate private investment, the degree of impact on the economic conditions of the applicant, and the availability of other Federal funds.

(a) *Acquisition.* Acquisition of real property for economic development purposes;

(b) *Public facilities and improvements.* Acquisition, construction, reconstruction, rehabilitation, or installation of public facilities and improvements not otherwise eligible for assistance, except buildings and facilities for the general conduct of government which are excluded by § 570.207(a)(1).

For example, in an area with an unemployment rate in excess of the national rate, a manpower training center which is designed to prepare for the work force low- and moderate-income persons who are unemployed or underemployed, may be assisted where it is determined by the applicant that such a facility is necessary and appropriate to support its economic development strategy.

(c) *Commercial and industrial facilities.* Acquisition, construction, reconstruction, rehabilitation or installation of:

(1) Commercial or industrial buildings and structures, including:

(i) Purchase of equipment and fixtures which are part of the real estate, but not personal property; and

(ii) Energy conservation improvements designed to encourage the efficient use of energy resources (including renewable energy resources or alternative energy resources);

(2) Commercial or industrial real property improvements (including railroad spurs or similar extensions).

§ 570.204 Eligible activities by private nonprofit entities, neighborhood-based nonprofit organizations, local development corporations, or small business investment companies.

(a) *General.* Grant assistance may be used by applicants to provide block grant funds for activities designed to implement the applicant's strategies for economic development and neighborhood revitalization set forth in this section to be carried out by a private nonprofit entity, a neighborhood-based nonprofit organization, local development corporation, or Small Business Investment Company (SBIC).

(1) Applicant Responsibilities.

Applicants are nonetheless responsible for ensuring that block grant funds are utilized by such entities in a manner consistent with the requirements of this Part and other applicable Federal, State, or local law. Specific requirements governing the administration of the use of block grant funds by such entities are set forth in § 570.612. Applicants will also be responsible for the carrying out of applicable environmental review and clearance responsibilities.

(2) *Eligible Entities.* Entities eligible to receive block grant funds under this section are: (i) A private non-profit entity which is any organization, corporation, or association, duly organized to promote and undertake community development activities on a not-for-profit basis, including new community associations as defined in § 570.403(b);

(ii) A neighborhood-based nonprofit organization which is an association or corporation, duly organized to promote and undertake community development activities on a not-for-profit basis within a neighborhood as defined pursuant to § 570.201(c)(4). An organization is considered to be neighborhood-based if the majority of either its membership, clientele, or governing body are residents of the neighborhood where activities assisted with block grant funds are to be carried out;

(iii) A Small Business Investment Company (SBIC) which is an entity organized pursuant to section 301(d) of the Small Business Investment Act of 1958 (15 U.S.C. 681(d)), including those which are profit making; and

(iv) A local development corporation which is an entity organized pursuant to Title VII of the Headstart, Economic Opportunity, and Community Partnership Act of 1974 (42 U.S.C. 2981); an entity eligible for assistance under section 502 of the Small Business Investment Act of 1958 (15 U.S.C. 696); a State development entity eligible for assistance under section 501 of the Small Business Investment Act of 1958

(15 U.S.C. 695); or any similar entity incorporated under State or local law for the principal purpose of providing economic development assistance in neighborhoods or local areas whose residents (including non-resident owners of businesses located in such neighborhoods or areas) represent a majority of its voting membership and control.

(b) *Activities eligible under §§ 570.201-570.203, and § 570.205 and § 570.206.* Grant assistance may be provided by an applicant to be utilized by private nonprofit entities, neighborhood-based nonprofit organizations, SBIC's, or local development corporations for activities otherwise eligible for block grant assistance pursuant to §§ 570.201-570.203, § 570.205, and § 570.206. Where such entities use block grant funds to acquire title to facilities, including those described in § 570.201(c) or § 570.203(b), they shall be operated so as to be open for use by the general public during all normal hours of operation. Reasonable fees may be charged for the use of facilities acquired by such entities, but charges, such as excessive membership fees, which will have the effect of precluding low- and moderate-income persons from using the facilities are not permitted.

(c) *Community economic development or neighborhood revitalization activities.* Grant assistance may be provided by an applicant to be used by neighborhood-based nonprofit organizations, SBIC's or local development corporations, but not private nonprofit entities as defined in § 570.204(a)(2)(i), for community economic development or neighborhood revitalization activities which are not otherwise eligible for assistance under this subpart and which are determined by the applicant to be necessary or appropriate to the accomplishment of its Community Development and Housing Plan. Such activities may include the provision of block grant assistance for use by neighborhood-based nonprofit organizations, SBICs, or local development corporations for:

(1) Assistance through grants, loans, guarantees, interest supplements, or technical assistance to new or existing small businesses, minority businesses and neighborhood nonprofit businesses for

(i) Working capital or operational funds; and

(ii) Capital for land, structures, property improvements, and fixtures;

(2) Capitalization of a SBIC or local development corporation required to qualify for assistance under other Federal programs;

(3) Assistance to minority contractors to obtain performance bonding; or

(4) Other activities, excluding those described as ineligible for block grant assistance in §§ 570.207(a)(1) and (e), appropriate for community economic development or neighborhood revitalization. Where an applicant proposes to fund such entities to undertake activities pursuant to this paragraph, the applicant shall:

(i) Provide HUD with a complete description of the proposed activity;

(ii) Provide HUD with a description of the relationship of the proposed activity to the applicant's strategy for neighborhood revitalization or economic development; and

(iii) Receive specific authorization from HUD to undertake the activity.

§ 570.205 Eligible planning and urban environmental design costs.

Grant assistance may be used for the following planning, design, and environmental costs:

(a) *Development of a Comprehensive Community Development Plan.* For the purpose of this section, the term "Comprehensive Community Development Plan" means a statement or statements (in words, maps, illustrations or other methods of communication) which identify the present conditions, needs and major problems of the applicant's jurisdiction relating to the specific objectives of the Community Development Program as set forth in § 570.2(a) and set forth objectives, policies and standards to guide the development and implementation of such Community Development Program. Activities necessary to develop a Comprehensive Community Development Plan may include:

(1) *Data gathering and studies* necessary for the development of the Plan or its components, including the production of base mapping and aerial photography in coordination with the U.S. Geological Survey, and gathering information from citizens, but excluding the gathering of detailed data and preparing of analyses necessary for the engineering and design of facilities or activities ineligible for block grant assistance pursuant to § 570.207;

(2) *Development of statements of objectives, policies and standards* regarding proposed or foreseeable changes in the present conditions or problems affecting the applicant's jurisdiction that are to be addressed by the Community Development Program, including policies which will affirmatively further fair housing;

(3) *Development of a three-year Community Development and Housing*

Plan and an Annual Community Development Program which identify the community development, housing, and economic conditions and needs, demonstrate a comprehensive strategy for meeting those needs, specify both short- and long-term objectives and identify specific activities to carry out those objectives;

(4) *Related planning and urban environmental design activities* including the preparation of communitywide plans for land use, housing, open space, recreation, utilities, historic preservation, including surveys of historic properties, economic development, neighborhood preservation, removal of architectural barriers to the elderly and handicapped, and environmental assessment;

(5) *Development of individual project plans*, including collection of detailed data and preparation of analyses, but excluding the engineering and design costs of carrying out an activity eligible under § 570.201 through § 570.204; and

(6) *Development of codes, ordinances and regulations*, necessary for the implementation of the plan, including local fair housing ordinances.

(b) *Development of a policy-planning-management capacity* so that the applicant may:

(1) Set long-term and short-term objectives related to the community development and housing needs of its jurisdiction;

(2) Devise programs and activities to meet these goals and objectives;

(3) Establish an urban environmental design administrative capacity to use a systematic, interdisciplinary approach to the integrated use of natural and social sciences and environmental design arts in planning and decision making;

(4) Evaluate the progress of such programs and activities and the extent to which the goals and objectives have been accomplished; and

(5) Carry out the management, coordination and monitoring of the activities and programs that are a part of the applicant's Community Development Program.

(c) *Comprehensive planning activities.* In addition to the planning activities otherwise eligible for assistance under this section, assistance may be also provided for comprehensive planning activities eligible for assistance under the section 701 planning assistance program pursuant to 24 CFR Part 600 provided that such additional planning activities are necessary or appropriate to meeting the needs and objectives of the applicants' Community Development Program. The applicant shall submit a description of the activity to HUD.

Among the factors HUD will take into account in authorizing activities will be the impact of the activity on the needs and objectives identified by the applicant, and the availability of other Federal funds.

§ 570.206 Eligible Administrative Costs.

Payment of reasonable administrative costs and carrying charges related to the planning and execution of community development activities financed, in whole or in part, with funds provided under this Part and housing activities covered in the applicant's Housing Assistance Plan (HAP). Costs incurred in carrying out the program, whether charged to the program on a direct or an indirect basis, must be in conformance with the requirements of Federal Management Circular (FMC) 74-4, "Cost Principles Applicable to Grants and Contracts with State and Local Governments." All items of cost listed in Attachment B, Section C of that Circular (except Item 8, preagreement cost, which are eligible only to the extent authorized in § 570.301(d) and (e) are allowable without prior approval to the extent they constitute reasonable costs and are otherwise eligible under this subpart.

(a) *General management, oversight and coordination.* Reasonable costs of overall program management, coordination, monitoring and evaluation, and similar costs associated with carrying out multi-activity projects, but excluding activity delivery costs eligible as costs of carrying out the activity under § 570.201 through § 570.204. Such costs include, but are not limited to, necessary expenditures for the following:

(1) Salaries, wages and related costs of the applicant's staff and the staff of local public agencies engaged in general management, coordination, monitoring and evaluation; Travel costs incurred for official business in carrying out the program;

(3) Administrative services performed under third-party contracts or agreements, including such services as general legal services, accounting services and audit services; and

(4) Other costs for goods and services required for administration of the program, including such goods and services as rental and maintenance of office space, insurance, utilities, office supplies and rental or purchase of office equipment;

(b) *The provision of information and other resources to residents and citizen organizations participating in the planning, implementation, or assessment of activities being carried out with block grant funds.* This may include assistance

to neighborhood organizations in areas of concentrated activities or to city-wide organizations conducting training or other activities designed to increase the capability of low- and moderate-income persons to be involved effectively in the development and planning and design of a community development program consistent with the applicable citizen participation requirements set forth in this Part.

(c) *Provision of fair housing counseling services* and other activities designed to further the fair housing provisions of § 570.307(1) and the housing objective of promoting greater choice of housing opportunities and avoiding undue concentrations of assisted persons in areas containing a high proportion of lower-income persons. For example, activities may include informing members of minority groups, and the handicapped, of housing opportunities in non-traditional neighborhoods and providing information about such areas, and assisting members of minority groups, and the handicapped, through provision of escort services to brokers offices in non-traditional neighborhoods.

(d) *Provision of assistance to facilitate performance and payment bonding* necessary for contractors carrying out activities assisted with block grant funds including payment of bond premiums in behalf of contractors.

(e) *Administrative costs of urban homesteading program.* Reasonable costs relating to the administration of an urban homesteading program carried out under Section 810 of the Housing and Community Development Act of 1974, as amended, in accordance with a three-year Community Development and Housing Plan.

(f) *Applications for Federal programs,* including the block grant program and UDAG program, may be prepared with block grant funds where necessary and appropriate to implement the applicant's comprehensive strategy for community development. Special provisions regarding letter to proceed for small city applicants are contained in Subpart F.

(g) *Activities to facilitate the implementation of a housing assistance plan* for necessary expenses, prior to construction, in planning and obtaining financing for the new construction or substantial rehabilitation of housing for lower-income persons. Activities may include:

(1) The costs of conducting preliminary surveys and analyses of market needs;

(2) Site and utility plans, narrative descriptions of the proposed construction, preliminary cost estimates, urban design documentation, and

"sketch drawings," but excluding architectural, engineering, and other details ordinarily required for construction purposes, such as structural, electrical, plumbing, and mechanical details;

(3) Reasonable costs associated with development of applications for mortgage and insured loan commitments, including commitment fees, and of applications and proposals under the Section 8 housing assistance payments program pursuant to 24 CFR Parts 880-883; and

(4) Fees associated with processing of applications for mortgage and insured loan commitments under programs including those administered by HUD, Farmers Home Administration (FmHA), Federal National Mortgage Association (FNMA), and the Government National Mortgage Association (GNMA).

The new construction or direct financing of new construction of housing is not eligible for assistance under this Part, except as described in § 570.207(f).

(h) *Environmental Studies.* The reasonable costs of environmental studies, including historic preservation clearances, necessary to comply with 24 CFR Part 58, including project specific environmental assessments and clearances for activities eligible for assistance under this Part.

§ 570.207 Ineligible activities.

The following is a list of activities which are ineligible for block grant assistance under most circumstances and serves as a general guide regarding ineligible activities. There are several authorities set forth in Subpart C which would permit activities cited in this section to be undertaken with block grant funds. When an activity used as an example in this section meets the requirements for eligibility pursuant to Subpart C, such an activity may be assisted with block grant funds even though it is used as an example of an ineligible activity. The list of examples of ineligible activities is merely illustrative and does not constitute a list of all ineligible activities:

(a) *Public works, facilities and site or other improvements.* The general rule is that public works, facilities and site or other improvements are ineligible to be acquired, constructed, reconstructed, rehabilitated or installed unless they are eligible pursuant to § 570.201(c) or § 570.203(b), or were previously eligible under any of the programs consolidated by the Act (except the public facilities loan program, the model cities program, and as an urban renewal local grant-in-aid eligible under section 110(d)(3) of Housing Act of 1949) and cited in § 570.1(b). Activities undertaken to

make facilities and improvements otherwise ineligible for development with block grant assistance accessible to the elderly and handicapped through removal of architectural barriers, or for the purposes of historic preservation pursuant to §§ 570.201(k) and 570.202(f), respectively, are eligible for assistance with block grant funds and are not precluded by this section. Where acquisition of real property includes an existing improvement which is to be utilized in the provision of an ineligible public facility, the portion of the acquisition cost attributable to such improvement, as well as the cost of any rehabilitation or conversion undertaken to adapt or make the property suitable for such use, shall be ineligible. Examples include the following:

(1) *Buildings and facilities for the general conduct of government*, cannot be provided with block grant assistance, such as city halls and other headquarters of government where the governing body of the recipient meets regularly and which are predominantly used for municipal purposes, courthouses, police stations and other municipal office buildings;

(2) *Other facilities and improvements*, which may not be provided with block grant funds unless they are determined by HUD to be necessary and appropriate to the implementation of an applicant's strategy for community development and housing in accordance with §§ 570.201(c)(14) or 570.203(b), include:

(i) *Facilities used for exhibitions, spectator events and cultural purposes*, including stadiums, sports arenas, auditoriums, concert halls, cultural and art centers, convention centers and exhibition halls, museums, central libraries, and similar facilities. For the purpose of this paragraph, libraries (including central libraries in units of general local government under 25,000 population where the criteria set forth in § 570.201(c)(4)(ii) are satisfied), cultural, art and museum facilities which meet the requirements for neighborhood facilities set forth in § 570.201(c)(4) are considered neighborhood facilities and are therefore eligible for assistance.

(ii) *Schools and educational facilities*, (including elementary, secondary, college, and university facilities). For the purpose of this paragraph, a neighborhood facility, senior center or center for the handicapped in which classes in practical and vocational activities (such as first aid, homemaking, crafts, independent living, etc.) are among the services provided is not considered as a school or educational facility. Further information regarding

facilities located on school property is set forth in § 570.200(d)(2);

(iii) *Airports, subways, trolley lines, bus or other transit terminals*, or stations, and other transportation facilities, (excluding railroad spurs assisted pursuant to § 570.203(c)).

(iv) *Hospitals, nursing homes and other medical facilities*. For the purpose of this paragraph, a neighborhood facility, senior center, or center for the handicapped, which provides general health services is not considered to be a medical facility.

(v) *Treatment works for sewage or industrial wastes of a liquid nature*, consisting of the various devices used in the treatment of sewage and commercial and industrial wastes of a liquid nature, including the necessary interceptor sewers, outfall sewers, actual treatment facilities, pumping stations, power and other equipment, and their appurtenances. The term "interceptor sewer" means a line which has as its primary purpose the diversion or transmission of sewage from a collection system to a treatment facility, and applies to the following:

(A) In those situations where raw or inadequately treated sewage is being discharged from an existing public sewer, those sewer lines, whether gravity or force, and any pumping stations or other appurtenances thereto which are necessary to prevent or eliminate the discharge into any waterway of raw or inadequately treated sewage from an existing point or points of discharge in a public system are not eligible. This includes any necessary pumping stations, force mains or other appurtenances thereto; and

(B) In all other situations, the line or lines which divert the flow to the treatment facility from the point of natural discharge of a collection system, where no treatment is to be provided, including any necessary pumping stations, force mains or other appurtenances are not eligible.

(b) *Purchase of equipment*. The purchase of equipment with block grant funds is generally ineligible.

(1) *Construction equipment*. The purchase of construction equipment is ineligible, but compensation for the use of such equipment through leasing, depreciation or use allowances pursuant to Attachment B of Federal Management Circular 74-4 for an otherwise eligible activity is an eligible use of block grant funds. An exception is the purchase of construction equipment which is used as a part of a solid waste disposal facility which is eligible for block grant assistance pursuant to § 570.201(c)(5), such as a bulldozer used at a sanitary landfill.

(2) *Furnishings and personal property*. The purchase of equipment, fixtures, motor vehicles, or furnishings or other personal property not an integral structural fixture is ineligible, except when necessary for use by a recipient or its subgrantees in the administration of its Community Development Program pursuant to § 570.200(a), or as a part of a public service pursuant to § 570.201(e).

(c) *Operating and maintenance expenses*. The general rule is that any expense associated with operating, maintaining or repairing public facilities and works or any expense associated with providing public services not assisted with block grant funds is ineligible for assistance. However, operating and maintenance expenses associated with providing public services or interim assistance otherwise eligible for assistance under this Part may be assisted. For example, the cost of a public service being operated with block grant funds in a neighborhood facility may include reasonable expenses associated with operating the public service within the facility, including costs of rent, utilities and maintenance.

Examples of activities which are not eligible for block grant assistance are:

(1) Maintenance and repair of streets, parks, playgrounds, water and sewer facilities, neighborhood facilities, senior centers, centers for the handicapped, parking and similar public facilities. Examples of maintenance and repair activities for which block grant funds may not be used include the filling of pot holes in streets, repairing of cracks in sidewalks, the mowing of recreational areas, and the replacement of expended street light bulbs.

(2) Payment of salaries for staff, utility costs and similar expenses necessary for the operation of public works and facilities; and

(3) Expenses associated with provision of any public service which is not eligible for assistance pursuant to § 570.201(e).

(d) *General government expenses*. Except as otherwise specifically authorized in this Subpart or under Federal Management Circular 74-4, expenses required to carry out the regular responsibilities of the unit of general local government are not eligible for assistance under this part.

(e) *Political activities*. No expenditure may be made for the use of equipment or premises for political purposes, sponsoring or conducting candidates' meetings, engaging in voter registration activity or voter transportation or other partisan political activities.

(f) *New housing construction*. Assistance may not be used for the

construction of new permanent residential structures or for any program to subsidize or finance such new construction, except as provided under the last resort housing provisions set forth in 24 CFR Part 42, or pursuant to § 570.204(c)(4). For the purpose of this paragraph, activities in support of the development of low- or moderate-income housing in accordance with an approved Housing Assistance Plan including clearance, site assemblage, provision of site improvements and provision of public improvements and certain housing preconstruction costs set forth in § 570.206(g), are not considered as programs to subsidize or finance new residential construction.

(g) *Income payments*. The general rule is that assistance shall not be used for income payments for housing or any other purpose. Examples of ineligible income payments include the following: payments for income maintenance, housing allowances, down payments and mortgage subsidies.

(Title I, Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.); Title I, Housing and Community Development Act of 1977 (Pub. L. 95-128); and sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

III. The table of contents to Subpart D is revised to read as follows:

Subpart D—Entitlement Grants

Sec.	
570.300	Outline of application requirements.
570.301	Planning considerations.
570.302	Program benefit to low- and moderate-income persons.
570.303	Citizen participation requirements.
570.304	Community development and housing plan.
570.305	Annual community development program.
570.306	Housing assistance plan.
570.307	Certifications.
570.308	Timing of application submission.
570.309	[Reserved].
570.310	A-95 clearinghouse review and comment.
570.311	HUD review and approval of application.
570.312	Amendments.

Authority: Title I, Housing and Community Development Act of 1974 (42 U.S.C. 5301, et seq.); Title I, Housing and Community Development Act of 1977 (Pub. L. 95-128); and Sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

IV. Subpart D is revised to read as follows:

Subpart D—Entitlement Grants

§ 570.300 Outline of application requirements.

This section briefly outlines the requirements which must be met by the applicant when applying for an

entitlement grant and references other sections containing more detailed information on these requirements.

(a) *Planning requirements*. Requirements that the applicant must meet in planning its community development program are covered in the following sections.

(1) Section 570.301 describes general planning considerations;

(2) Section 570.302 describes the requirement that the applicant's community development program must be planned and carried out so as to principally benefit persons having low- and moderate-income; and

(3) Section 570.303 describes the requirement that the applicant must prepare and implement a written citizen participation plan, part of which provides for citizen involvement in the planning process.

(b) *Triennial submission requirements*. Every third year, beginning with the first application submitted on or after August 1, 1978, the applicant must submit an application consisting of the following:

(1) Standard Form 424, Federal Assistance, prescribed by OMB Circular No. A-102;

(2) Community Development and Housing Plan as described in § 570.304;

(3) Annual Community Development Program as described in § 570.305;

(4) Housing Assistance Plan as described in § 570.306; and

(5) Certifications as described in § 570.307.

(c) *Annual submission requirements*. For each of the other years in a three year period the applicant must submit an application consisting of the following:

(1) Standard Form 424;

(2) Annual Community Development Program as described in § 570.305;

(3) Annual Housing Action Program as described in § 570.306(b)(4); and

(4) Certifications as described in § 570.307.

(d) *Other application requirements*. The applicant must also comply with the following requirements when applying for an entitlement grant:

(1) Requirements on the timing of applications as set forth in § 570.308; and

(2) Requirements on notifying State and areawide clearinghouses of the applicant's intent to apply for Federal assistance, on submitting the application to clearinghouse for comment, and on taking actions following clearinghouse reviews, as described in § 570.310.

§ 570.301 Planning considerations.

(a) *Comprehensive strategies*. The Act requires that applicants have a three-

year plan for the use of block grant funds which demonstrates a comprehensive strategy for meeting identified community development and housing needs. The Act provides discretion to local governments to develop strategies appropriate to local conditions and permits a wide choice of projects and activities to carry out those strategies. However, a comprehensive strategy shall include: (1) a systematic assessment of the locality's community development and housing needs and the resources available to meet those needs; (2) determination of the applicant's long- and short-term objectives and priorities for the use of funds; (3) development of a three-year plan of activities designed to meet the needs and objectives identified. This plan shall provide for undertaking housing and community development activities in a coordinated and mutually supportive manner consistent with local and areawide development planning and national urban growth policies. The requirements for the summary of the three-year plan are stated in § 570.304.

(b) *Coordination of programs*. It is recognized that different strategies may be appropriate and effective in dealing with different local needs and conditions. However, the Act limits certain activities to areas in which block grant assisted physical development programs are being carried out in a concentrated manner, for example, public services pursuant to § 570.201(e). Moreover, certain other HUD programs are designed to focus on areas of concentrated community development activity, for example, Urban Homesteading, and Section 8 Substantial Rehabilitation Special Procedures pursuant to 24 CFR Part 881. Applicants are therefore encouraged to designate appropriate areas in which various programs can be carried out in a concentrated and coordinated manner. For purposes of these regulations such areas shall be designated as Neighborhood Strategy Areas as defined in paragraph (c).

(c) *Neighborhood strategy area*. This is an area which is selected by the applicant and designated in its three-year Community Development and Housing Plan for a program of concentrated community development activities. For each Neighborhood Strategy Area the applicant shall include in its Plan a comprehensive strategy for stabilizing and upgrading the area which:

(1) Provides for a combination of physical improvements, necessary public facilities and services, housing programs, private investment and

citizen self-help activities appropriate to the needs of the area;

(2) Coordinates public and private development efforts;

(3) Provides sufficient resources to produce substantial long-term improvements in the area within a reasonable period of time; in determining the size of the area the applicant shall take into account the severity of its problems and the amount of resources to be provided so that this requirement can be met.

(4) Examples of Neighborhood Strategy Area programs include: a residential rehabilitation program which provides loans and grants to property owners in a designated area in which street improvements, playgrounds, and public services are also being provided; and a redevelopment program which includes systematic demolition of substandard structures and assemblage of sites for new construction in a particular area in conjunction with site improvements and facilities necessary to attract new development.

(5) In order for a program to qualify as a Neighborhood Strategy Area program, the activities which an applicant includes in such program (including activities to be funded and implemented in more than one action year) shall be grouped and deemed by the applicant to be a project, as defined in 24 CFR § 58.3. The environmental review of such project should take into account the relationship between component activities, and the cumulative environmental effects of activities.

(d) *Planning and implementing multiyear projects.* (1) An applicant may allocate funds in an application for the payment of part of the cost of a multiyear project to be financed in increments with funds becoming available in succeeding program years, provided the full scope and estimated cost of the total project is described in the first application in which grant funds are allocated for the project. This does not preclude use of subsequent year entitlement funds to complete a project which was designed as a single year project and whose cost exceeds initial estimates.

(2) The environmental assessment of a multiyear project, performed under 24 CFR Part 58, should encompass the entire multiyear scope of activities. Upon certification that the applicant has completed the environmental requirements for a multiyear project, HUD may issue its release of funds for the entire multiyear project. Such release of funds shall be subject to the provisions of paragraphs (3) and (4) of this subsection.

(3) Approval of each increment of a multiyear project is subject to the general availability of grant funds, adequate performance, and the submission of an acceptable application in each year in which grant funds are to be applied toward payment of project cost. In those instances where the applicant exhausts previously approved grant funds before the next increment is approved, the applicant may obligate and spend local funds to continue the work and be reimbursed with funds approved for the next increment, provided the locally funded work was undertaken in compliance with the requirements of this Part.

(4) The continued authority of an applicant to commit Title I funds to a multiyear project or to be reimbursed for the expenditure of local funds for costs of such project, after completion of environmental requirements and HUD release of funds, shall be subject to the continued relevance and completeness of the environmental assessment performed. In the event of any significant or substantial change in the nature, magnitude or extent of the project, or any significant or substantial change in the environment affecting the project, the applicant shall, prior to any further commitment of Title I funds to the project, complete the requirements of 24 CFR Part 58 relating to the updating of environmental clearances.

(5) The applicant may also obligate and spend local funds prior to approval of its application for the purpose of completing activities previously approved and assisted under the urban renewal program, the water and sewer facilities program, the neighborhood facilities program, or the open space land program, described in § 570.1(b) (1), (3), (4), and (6), respectively. After approval of its application, the applicant will be reimbursed with funds programmed in the application to cover those costs, provided such locally funded work was undertaken in compliance with the requirements of this Part. The environmental review requirements of 24 CFR Part 58, except the provisions of Subpart C of Part 58, must be complied with prior to the incurring of any such costs to be reimbursed by HUD; however, the provisions of Subpart C of Part 58 must be complied with prior to the release of funds by HUD.

(e) *Reimbursement for costs of planning and environmental studies.* Prior to approval of its application, an applicant may obligate and spend local funds for the purpose of environmental assessments required by 24 CFR Part 58, for the planning and capacity building

purposes authorized by § 570.205 (a) and (b), for engineering and design costs associated with an activity eligible under § 570.201 through § 570.204, for the provision of information and resources to citizens pursuant to § 570.206(b), and for relocation and/or acquisition activities carried out pursuant to § 570.602. After approval of its application, the applicant will be reimbursed with funds programmed in the application to cover those costs, provided such locally funded activities were undertaken in compliance with the requirements of this Part and Part 58.

§ 570.302 Program benefit to low- and moderate-income persons.

(a) *Statutory Provisions.* The Housing and Community Development Act states as its primary objective the development of viable urban communities, by providing decent housing and a suitable living environment and expanding economic opportunities, principally for persons of low- and moderate-income. The Act also requires the applicant to certify that its community development program has been developed so as to give maximum feasible priority to activities which will benefit low- and moderate-income families, or aid in the prevention or elimination of slums or blight. It also permits approval of activities which the applicant certifies and the Secretary determines are designed to meet other community development needs having a particular urgency. Consistent with the statutory objectives, the following rules govern the expenditure of program funds to insure that the program principally benefits low- and moderate-income persons.

(b) General Requirements.

(1) All projects and activities must either principally benefit low- and moderate-income persons, or aid in the prevention or elimination of slums and blight, or meet other community development needs having a particular urgency.

(2) Each annual application for funds under this subpart must provide that the applicant's program as a whole shall principally benefit low- and moderate-income persons.

(3) An application shall be presumed to principally benefit low- and moderate-income persons, absent substantial evidence to the contrary, where not less than 75 percent of the program funds to be available during the three year period covered by the applicant's Community Development and Housing Plan shall be used for projects and activities which principally benefit low- and moderate-income persons under the standards in

paragraph (d) of this section.

Applications submitted between May 1, 1978 and July 15, 1978, shall be presumed to principally benefit low- and moderate-income persons if at least 75 percent of the program funds applied for shall be used for projects and activities which meet the standards in paragraph (d).

(4) The applicant shall maintain in its files the documentation on which basis it determines that projects principally benefit low- and moderate-income persons. Such documentation may include 701 planning studies, welfare and unemployment records, local surveys, and similar generally available information. HUD will monitor the applicant's performance to ensure that the applicant's community development program principally benefits low- and moderate-income persons.

(5) In designing projects and selecting areas in which to carry out activities, the applicant shall address the needs of low- as well as moderate-income persons, given the nature and relative severity of their needs, and shall include projects suitable to meeting those needs.

(c) Review Guidelines.

(1) An application which meets the standard in paragraph (b)(3) will not be subject to further examination by HUD prior to funding with respect to benefit to low- and moderate-income persons.

(2) An application which does not meet the standard in paragraph (b)(3) shall be subject to an examination by HUD prior to funding to determine whether the activities proposed are plainly inappropriate to meeting the needs of the applicant because of the nature and severity of the needs of low- and moderate-income persons in relation to the general needs and conditions of the applicant, and whether taken as a whole, the proposed program principally benefits low- and moderate-income persons. In making this review, HUD shall consider the information in the applicant's three year Community Development and Housing Plan, its Annual Community Development Program, past expenditure patterns in areas having concentrations of lower income persons, and other generally available data.

(d) *Projects which principally benefit low- and moderate-income persons.* A project or activity will be considered to principally benefit low- and moderate-income persons if it is designed to meet identified needs of low- and moderate-income persons as described in the applicant's Community Development and Housing Plan and it meets one of the following standards:

(1) The project has income eligibility requirements that limit the benefits of

the project to low- and moderate-income persons.

(2) The project does not have income eligibility requirements but the majority of the beneficiaries are low- and moderate-income persons. The following are examples of projects which meet this standard:

(i) A neighborhood strategy area program or a public improvement activity which serves an area, delineated by the applicant, where the majority of the residents are low- and moderate-income persons. Such an area may consist of a locally defined neighborhood or planning district, one or more census tracts, enumeration districts, or parts thereof; it need not be coterminous with census boundaries.

(ii) A project designed to attract or retain neighborhood commercial facilities which provide essential services to residential areas which have a majority of low- and moderate-income residents.

(iii) Economic development projects which are designed to provide direct employment opportunities for permanent jobs, the majority of which will be for low- and moderate-income persons if the persons expected to be employed are defined as low- and moderate-income prior to employment; it is not necessary that the incomes of persons employed by economic development projects be low or moderate after the project is completed.

(iv) A facility, such as a senior center, which is used principally by persons of low- and moderate-income.

(3) Removal of architectural barriers pursuant to § 570.201(k); such projects may be assumed to principally benefit low- and moderate-income persons in the absence of substantial evidence to the contrary.

(4) A project which must be carried out prior to or as an integral part of a project which will principally benefit low- and moderate-income persons. An example is the extension of water and sewer lines to permit construction of low-income housing. The cost of such projects must not be unreasonable in relation to the low- and moderate-income benefits to be provided. The housing or other facilities on which basis the project is justified must be included in the applicant's Community Development and Housing Plan and there must be evidence acceptable to HUD that construction of the housing or other facilities will in fact be commenced within the three-year period covered by the Plan.

(5) A project which serves an area with less than a majority of low- and moderate-income persons where: (i) the applicant has no areas within its

jurisdiction where low- and moderate-income persons constitute a majority, or (ii) the applicant has so few such areas that it is inappropriate to limit the grant to projects in those areas; provided that: (A) the project serves areas having the largest proportion of low- and moderate-income residents in the locality; (B) the project is clearly designed to meet identified needs of lower income persons in those areas; and (C) the project benefits such persons at least in proportion to their share of the population of the areas served.

(e) *Projects which prevent or eliminate slums or blight.* The following projects and activities will be considered to prevent or eliminate slums or blight:

(1) A project in an area which is a slum, or a blighted, deteriorated, or deteriorating area, as defined by State or local law, and in which the applicant undertakes a Neighborhood Strategy Area program, as defined in § 570.301(c), to remedy the conditions which qualify the area as an urban renewal or similar area. In such cases the applicant may undertake any otherwise eligible activity, including economic development under § 570.203, necessary to accomplish its strategy for upgrading the area. Because State laws vary, HUD will recognize those State or local laws which authorize public actions for the purpose of slum and blight prevention and elimination. It is not necessary that an area be formally designated an urban renewal or similar area, but evidence supporting a local determination that an area meets criteria for slums and blight must be maintained in the locality's records.

(2) A project designed to eliminate detrimental conditions which are scattered or located outside slum or blighted areas. Authorized activities are only those necessary to eliminate the specific conditions of blight or physical decay, by acquisition of blighted structures, demolition, historic preservation, relocation, and rehabilitation to the extent necessary to eliminate conditions detrimental to public health and safety under § 570.202(c)(2)(i)(C).

(3) Activities necessary to complete Federally assisted urban renewal projects which do not principally benefit low- and moderate-income persons.

(f) *Projects designed to meet needs having a particular urgency.* These are projects which the applicant certifies and the Secretary determines are designed to alleviate a serious and immediate threat to the health or welfare of the community which is of recent origin where the applicant is unable to finance the projects on its

own, and other sources of funding are not available. A condition will generally be considered to be of recent origin if it developed or became critical within 18 months preceding the application for funds.

(g) *Determining benefits to low- and moderate-income persons.*

(1) In determining the amount of program funds which principally benefit low- and moderate-income persons, the costs of administration and planning cited in § 570.205 and § 570.206 may be excluded as they will generally be assumed to benefit low- and moderate-income persons in the same proportion as the remainder of the grant.

(2) The amount of any program funds to be applied to the repayment of urban renewal temporary loans may also be excluded.

(3) Funds budgeted for contingencies and/or local option activities may also be excluded; such funds shall be expended in such a manner that the program will continue to meet the requirements of this section.

(4) If a project or activity meets the definition in paragraph (d) of principally benefitting low- and moderate-income persons, the entire cost of the project or activity may be determined to benefit low- and moderate-income persons. This includes projects to prevent or eliminate slums and blight and projects designed to meet a need having a particular urgency where such projects principally benefit low- and moderate-income persons under paragraph (d).

(5) If a project is designed to prevent or eliminate slums or blight or to meet needs having a particular urgency and does not also principally benefit low- and moderate-income persons under the provisions in paragraph (d), a particular activity (such as a rehabilitation loan program with income limits) within that project may nevertheless be counted in determining the amount of program funds which benefit low- and moderate-income persons.

(6) In determining whether a proposed project will actually benefit low- and moderate-income persons, the nature of the needs identified, the relationship of the project to meeting those needs, and the net effect of the completed project shall be considered. Thus, mere location of an activity in a low- or moderate-income area does not conclusively demonstrate that a project or activity benefits lower income persons. A neighborhood revitalization effort which creates improved housing and better living environment, principally for low- and moderate-income persons, would be counted as such. Where such a program results in a change in the income characteristics of the area so that a

majority of the ultimate beneficiaries are higher income persons, the program would not be counted as principally benefitting low- and moderate-income persons.

(h) *Mitigating adverse effects.* Where the program will result in direct or indirect displacement or other hardships to low- and moderate-income persons, the applicant shall take appropriate steps to minimize such displacement or hardships. Section 570.304(b)(2) requires the applicant to include in its Community Development and Housing Plan the actions it will take to assist low- and moderate-income persons to remain in existing locations when they prefer to do so, and to mitigate adverse effects on such persons as a result of neighborhood revitalization activities.

§ 570.303 Citizen participation requirements.

(a) *General.* The applicant shall provide citizens with an adequate opportunity to participate in an advisory role in planning, implementing, and assessing the program. In so doing, the applicant shall also provide adequate information to citizens, hold public hearings to obtain views of citizens, and provide citizens an opportunity to comment on the applicant's community development performance. Nothing in these requirements, however, shall be construed to restrict the responsibility and authority of the applicant for the development of the application and the execution of its Community Development Program.

(b) *Written citizen participation plan.* The applicant shall prepare a written citizen participation plan that provides procedures by which each of the requirements set forth in the following paragraphs will be implemented. The plan shall go into effect no later than August 1, 1978. The provisions concerning citizen involvement in implementing and assessing the program apply to activities that are ongoing as of that date, as well as to all future activities. The plan shall remain in effect until all activities assisted under this Part are completed, or until it is superseded by a new plan. Upon request by HUD, the plan shall be submitted to HUD to aid in the handling of complaints and to facilitate monitoring and evaluation.

(c) *Standards of participation.* The applicant shall provide a process of citizen participation at the communitywide level with regard to the overall application and program. Applicants with populations of 50,000 or more shall also provide a process of citizen participation at the neighborhood level in areas where a significant

amount of activity is proposed or ongoing. These processes shall meet the following standards:

(1) All aspects of citizen participation shall be conducted in an open manner, with freedom of access for all interested persons;

(2) There shall be involvement of low- and moderate-income persons, members of minority groups, residents of areas where a significant amount of activity is proposed or ongoing, the elderly, the handicapped, the business community, and civic groups who are concerned about the program. Where the applicant chooses to establish, or has established, a general communitywide citizen advisory committee, there shall be substantial representation of low- and moderate-income citizens and members of minority groups. Similarly, where the applicant chooses to establish or recognize neighborhood advisory committees in areas where low- and moderate-income persons or members of minority groups reside, there shall be substantial representation of such persons;

(3) The applicant shall make reasonable efforts to ensure continuity of involvement of citizens or citizen organizations throughout all stages of the program;

(4) Citizens shall be provided adequate and timely information, so as to enable them to be meaningfully involved in important decisions at various stages of the program;

(5) Citizens, particularly low- and moderate-income persons and residents of blighted neighborhoods, shall be encouraged to submit their views and proposals regarding the Community Development Program;

(d) *Scope of participation.* The applicant shall provide for the continuity of citizen participation throughout all stages of the program. This includes citizen involvement in the development of the citizen participation plan, as well as involvement in the following areas:

(1) *Application development.* Citizens shall be involved in development of the annual application, including:

(i) The three-year Community Development and Housing Plan, including the identification of community development and housing needs, and the setting of priorities;

(ii) The Housing Assistance Plan, including the Annual Housing Action Program;

(iii) The annual Community Development Program; and

(iv) Subsequent amendments and other changes to the above, in accordance with § 570.312.

(2) *Program implementation.* The roles citizens will play in program implementation shall be indicated in the citizen participation plan. At a minimum, this shall include involvement of citizens in an advisory role in policy decisions regarding program implementation. It may also include self-help activities carried out by citizen groups and direct program operations conducted by neighborhood-based organizations and other eligible nonprofit entities.

(3) *Assessment of performance.* Citizens and citizen organizations shall be given the opportunity to assess and submit comments on all aspects of the applicant's community development performance, including the performance of the applicant's subrecipients and contractors. They shall also be given the opportunity to assess projects and activities to determine whether objectives are achieved. The methods by which such opportunities shall be made available shall be indicated in the citizen participation plan. The applicant shall include in its annual performance report: (i) Copies of comments submitted by citizens regarding the applicant's community development performance; (ii) the applicant's assessment of such comments; and (iii) a summary of any actions taken in response to the comments received.

(e) *Submission of views and proposals.* The applicant shall provide for and encourage the submission of views and proposals regarding the Community Development Program by citizens, particularly low- and moderate-income persons and residents of blighted neighborhoods. This includes submission of such views:

(1) Directly to the applicant during the planning period prior to public hearings on the application;

(2) To recognized neighborhood, project area, and communitywide citizen organizations;

(3) At neighborhood and other meetings, if scheduled by the applicant prior to formal public hearings; and

(4) At formal public hearings.

The applicant shall provide timely responses to all proposals submitted to it, including written responses to written proposals stating the reasons for the action taken by the applicant on the proposal. The citizen participation plan shall state the number of days within which responses will be provided. Whenever practicable, responses should be provided prior to the final hearing on the application.

(f) *Consideration of objections to applications.* Persons wishing to object to approval of an application by HUD may make such objection known to the

appropriate HUD Area Office. HUD will consider objections made only on the following grounds: The applicant's description of needs and objectives is plainly inconsistent with available facts and data; or the activities to be undertaken are plainly inappropriate to meeting the needs and objectives identified by the applicant; or the application does not comply with the requirements of this Part or other applicable law; or the application proposes activities which are otherwise ineligible under this Part.

Such objections should include both an identification of the requirements not met and, in the case of objections made on the grounds that the description of needs and objectives is plainly inconsistent with significant, generally available facts and data, the data upon which the persons rely. Although HUD will consider objections submitted at any time, such objections should be submitted within 30 days of the publication of the notice that the application has been submitted to HUD, as described in paragraph (i)(3) below. In order to ensure that objections submitted will be considered during the review process, HUD will not approve an application until at least 45 days after receipt of an application.

(g) *Complaints.* The plan shall provide for answering complaints in a timely and responsive manner. The applicant shall make every reasonable effort to provide written responses within 15 working days.

(h) *Technical assistance.* To facilitate citizen participation, the plan shall provide for technical assistance. The level and type of assistance determined appropriate by the applicant shall be provided to: (1) Citizen organizations, so that they may adequately participate in planning, implementing, and assessing the program; and (2) groups of low- and moderate-income persons and groups of residents of blighted neighborhoods which request assistance in developing proposals and statements of views.

It may also be directed toward assisting citizens in organizing and operating neighborhood and project area organizations and in carrying out Community Development Program activities. Technical assistance should be provided by specialists jointly selected by the applicant and the organizations and groups to be assisted. It may be provided either by the applicant directly or through arrangements with public or private entities.

(i) *Adequate information.* The applicant shall provide for full public access to program information and affirmative efforts to make adequate

information available to citizens, especially to those of low- and moderate-income and to those residing in lower-income or blighted neighborhoods.

(1) At the time the applicant begins planning for the next program year, the following program information shall be provided to citizens:

(i) The total amount of community development block grant funds available to the applicant for community development and housing activities, including planning and administrative activities,

(ii) The range of activities that may be undertaken with these funds and the kind of activities previously funded in the community,

(iii) The processes to be followed in drawing up and approving the local application and the schedule of meetings and hearings,

(iv) The role of citizens in the program, as provided under this section,

(v) A summary of other important program requirements.

(2) The applicant shall provide for full and timely disclosure of its program records and information consistent with applicable State and local laws regarding personal privacy and obligations of confidentiality. Documents relevant to the program shall be made available at the applicant's office during normal working hours for citizen review upon request (either written or oral). Such documents include the following:

(i) All mailings and promotional material,

(ii) Records of hearings,

(iii) All key documents, including all prior applications, letters of approval, grant agreements, the citizen participation plan, performance reports, evaluation reports, other reports required by HUD, and the proposed and approved application for the current year,

(iv) Copies of the regulations and issuances governing the program, and

(v) Documents regarding other important program requirements, such as contracting procedures, environmental policies, fair housing and other equal opportunity requirements, relocation provisions, and the A-95 review process.

(3) When the application is submitted to HUD upon completion of clearinghouse reviews, the applicant shall publish a notice in a newspaper of general circulation stating that the application has been submitted and is available to interested parties upon request and describing the requirements on citizen objections to applications contained in paragraph (f), above.

(4) The applicant shall make copies of the citizen participation plan, the proposed and approved application, and the annual performance report available at locations conveniently located for persons affected by the program and accessible to the handicapped.

(j) *Public hearing.* The plan shall provide for a sufficient number of hearings to obtain citizen views and to respond to citizen proposals and questions at different stages of the program. Such hearings shall be held at convenient times and locations which permit broad participation, particularly by low- and moderate-income persons and by residents of blighted neighborhoods. Hearing arrangements should make possible the full participation of handicapped citizens.

(1) *Presubmission hearings.* The applicant shall hold at least two kinds of public hearings prior to the submission of the application:

(i) To obtain views and proposals of citizens at the initial stage of application development on community development and housing needs and priorities, and to obtain comments on the applicant's community development performance;

(ii) To obtain views of citizens on the proposed application prior to submission of the application to A-95 clearinghouses.

(2) *Performance hearings.* In order to review program progress and performance, the applicant shall hold an additional public hearing or hearings thirty to sixty days prior to the start of planning for the next program year.

(3) *Notices.* In order to give adequate notice of public hearings:

(i) The applicant shall, 10 days prior to each public hearing, publish a notice in easily readable type in the nonlegal section of newspapers of general circulation, including minority and non-English language newspapers of general circulation where they exist. Such notices shall indicate the date, time, place and procedures of the hearing and topics to be considered. The applicant also shall make reasonable efforts to provide the notices, in the form of press releases, the neighborhood newspapers or periodicals serving low- and moderate-income neighborhoods.

(ii) The applicant is encouraged to take other actions to widely publicize the hearings, such as arranging for public service radio and television announcements.

(k) *Bilingual.* Wherever a significant number of low- and moderate-income persons and residents of blighted neighborhoods speak and read a primary language other than English, the plan shall provide that all notices of

public hearings and summaries of basic information be produced in such language or languages and that bilingual opportunities shall be offered at required public hearings.

(l) *Contingency and local option activities.* The plan shall provide that if the applicant sets aside funds in its application for contingencies and/or local option activities, or if it chooses to identify in its application activities that could replace any activities disapproved by HUD during its application review, the citizen participation process shall be involved in the selection of such contingency or local option activities.

(m) *Program amendments.* The plan shall provide for citizen participation in any amendments to an approved application, except those for disaster activities. If the nature of the amendment is such that prior HUD approval is required, as specified in § 570.312, the applicant shall hold public hearings on the amendment. If the amendment does not require prior HUD approval, the plan shall describe how the citizen participation process shall be involved in the amendment.

§ 570.304 Community Development and Housing Plan.

An entitlement application shall include a summary of a Community Development and Housing Plan. This document shall be submitted every third year as part of the annual application for funds beginning with the first application submitted on or after August 1, 1978. It shall summarize the community development and housing needs of the applicant, its comprehensive strategy for meeting those needs, including its long- and short-term objectives, and the projects and activities planned for the next three years.

(a) *Summary of community development and housing needs.* This shall include the following:

(1) *A community profile* on a form to be prescribed by HUD, which provides data regarding population and income characteristics of the community, the condition of the housing stock, and the economic condition of the community as a whole.

(2) *A narrative summary* of the applicant's community development and housing needs, particularly those of low- and moderate-income households and any special needs of identifiable segments of the total group of lower income persons. The narrative shall include a brief description of the major needs for neighborhood revitalization, for community facilities and public improvements, and for housing.

(b) *Comprehensive strategy.* The applicant shall describe how it proposes to meet its identified community development and housing needs, particularly those of low- and moderate-income households residing in or expected to reside in the community and any special needs of identifiable segments of the lower income population. The provision of all improved community facilities and public improvements, including supporting health, social and similar services where necessary or appropriate, shall be described in a manner that fully insures opportunity for participation by, and benefits to, the handicapped. The strategy shall include a communitywide component which describes the development strategy of the applicant, the major objectives the applicant seeks to accomplish, the priorities it has established for the use of block grant funds, and the factors it has taken into account in selecting areas for treatment and designing programs to meet identified needs. In addition, it shall include the following component strategies:

(1) *Neighborhood revitalization.* The applicant shall describe its strategy for maintaining and preserving viable neighborhoods and for upgrading neighborhoods affected by blight and deterioration.

This shall emphasize the actions to be taken that will improve conditions for low- and moderate-income persons residing in or expected to reside in the community.

(i) Areas targeted for concentrated action as Neighborhood Strategy Areas pursuant to § 570.801(c) shall be identified. For each such area the applicant shall describe:

(A) The objectives, both long-term and short-term, to be achieved, quantified wherever possible;

(B) The physical improvement programs to be carried out with block grant funds, such as code enforcement, rehabilitation, acquisition, demolition, or public improvements;

(C) Related programs proposed such as Urban Homesteading and section 8 Substantial Rehabilitation Special Procedures;

(D) Public services to be carried out in support of the physical improvement programs;

(E) An implementation schedule showing the anticipated timing of activities and the coordination of block grant funded activities and other local actions;

(F) The anticipated resources, including block grant funds, other Federal, State, or local funds, and private investment;

(G) The role of any neighborhood organizations;

(H) How the housing assistance goals and general locations in the Housing Assistance Plan, particularly the rehabilitation goals, support the applicant's neighborhood revitalization strategy.

(ii) Other neighborhood improvement efforts shall be described. This shall include specific actions designed to prevent and eliminate slums and blight where such actions are not carried out in a concentrated manner; it shall also include actions to provide improved community facilities and public improvements where they will principally benefit persons of low- and moderate-income. The strategy shall describe the activities to be carried out, the objectives to be accomplished, the anticipated timing, and the block grant and other funds to be provided.

(2) *Housing.* The applicant shall describe a communitywide strategy to improve housing conditions and to meet the housing assistance needs that have been identified. The strategy shall consist of a Housing Assistance Plan as described in § 570.306 as well as the following:

(i) A strategy for any programs to be carried out on a communitywide basis, such as provision of rehabilitation financing for low- and moderate-income persons or elimination of detrimental conditions; the strategy shall include the goals to be accomplished, a timetable of actions to be taken, and the amount of block grant and other funds to be provided;

(ii) Any regulatory and other actions proposed to foster housing maintenance and improvements. This may include: actions to eliminate redlining with respect to property insurance and the availability of credit for the purchase and rehabilitation of housing; and actions such as provision of tax incentives to promote investment in restoration of deteriorated or abandoned housing;

(iii) The applicant's strategy for increasing the choice of housing opportunities for low- and moderate-income persons, including members of minority groups and female-headed households, including efforts to achieve spatial deconcentration of such housing opportunities and actions to affirmatively further fair housing;

(iv) Any community facilities and improvements to be provided in furtherance of the applicant's housing strategy and to assure accomplishment of goals for assisted housing; and

(v) Where the community development program will result in direct or indirect displacement or other

hardships to low- and moderate-income persons, the strategy shall describe the actions the applicant will take to assist such persons to remain in their present neighborhoods when they prefer and to mitigate any adverse effects resulting from block grant funded activities.

(3) *Economic development.* A description of the applicant's strategy for economic development is required from applicants that propose block grant funded economic development activities. The strategy shall include:

(i) A description of the major needs for economic development in the locality; this shall include discussion of the needs of identifiable population groups experiencing significant unemployment or underemployment, as well as general economic needs of the applicant experiencing a stagnating or declining tax base or loss of population;

(ii) A description of the activities proposed to further economic development and to attract private investment, including the coordination of block grant funded activities with other local actions and a timetable for provision of other Federal and State resources;

(iii) The number and types of permanent jobs expected to result from economic development projects, particularly jobs for unemployed or underemployed population groups and low- and moderate-income persons and the types and extent of any job training which will be provided to such residents; and

(iv) Evidence of commitments or interest by developers of new or expanded employment facilities.

(c) *Three-year project summary.* This shall consist of a tabular summary of the projects proposed to be carried out with block grant funds during the next three years to implement the applicant's comprehensive strategy, grouped by location, the anticipated timing, the goals to be accomplished, the population benefitting, and the estimated block grant and other funds to be provided, and indicating whether the project or activity principally benefits low- and moderate-income persons, aids in the prevention or elimination of slums and blight, or meets other community development needs having a particular urgency. The requirements of this paragraph shall not apply to:

(1) Hold harmless applicants whose entitlement ends and who do not apply for small cities comprehensive grants involving multiyear funding commitments pursuant to § 570.423(b) during the same year; and (2) any applicant for a small cities grant who does not request a multiyear funding commitment.

(d) *Maps.* The plan shall include maps showing the following information. The maps shall be on a census tract or enumeration district base, but the information need not be displayed according to the tract or enumeration district boundaries.

(1) The extent and location of low- and moderate-income persons;

(2) The extent and location of minority group residents;

(3) The extent and location of substandard and deteriorated housing;

(4) The locations of block grant funded projects included in the three-year project summary.

(5) Neighborhood Strategy Areas, if any. Maps shall be clearly legible, and all required maps submitted shall be of the same scale and cover the same areas. The applicant may submit supplementary maps of a different scale, at its discretion, where this will increase clarity. More than one type of information may be combined on one map if the information is clearly legible when combined.

(e) *Interim provisions.* Applications submitted prior to August 1, 1978, shall conform to the Community Development Plan Summary requirements published in the Federal Register (41 FR 4134) on January 28, 1976. However, applicants proposing to undertake activities whose eligibility under the rules in Subpart C depends on the activities being consistent with a strategy for community development shall supplement the plan summary with a brief narrative statement containing the information required by § 570.200(h).

§ 570.305 Annual Community Development Program.

Each annual application shall contain a Community Development Program describing the projects and activities to be carried out with program year funds. Such projects and activities shall be consistent with the previously submitted three-year Community Development and Housing Plan, or an amended plan shall be submitted with the application as required by § 570.312(a). The Community Development Program shall consist of the following:

(a) *Project summary.* The following information shall be provided for each project and activity to be commenced during the program year:

(1) The name of the project or activity;

(2) A description of the project which states its purpose, the sequence of activities, duration of the project, and the entity responsible for carrying it out;

(3) The location and service area, including the census tract(s) or enumeration district(s) of the project;

(4) Whether the project or activity principally benefits low- and moderate-income persons, aids in the prevention or elimination of slums and blight, or meets other community needs having a particular urgency;

(5) A description of the activities which comprise each project, and the estimated costs and timing;

(6) The amounts and sources of other public funds and private investments anticipated to be provided;

(7) The environmental review status;

(8) Anticipated accomplishments.

(b) *Cost summary.* This will consist of a tabular summary, on a form to be prescribed, of proposed block grant expenditures in specific categories and the anticipated resources available.

(c) *A map or maps of the applicant's jurisdiction showing the locations of proposed activities, on a base map census tracts or enumeration districts, and any designated neighborhood strategy areas. The maps shall be consistent with the requirements of scale and legibility in § 570.304(d).*

§ 570.306 Housing Assistance Plan.

(a) *General Provisions.* This section contains policies, procedures, requirements and standards governing the Housing Assistance Plan (HAP).

(1) *Purpose.* The HAP is required as part of the application for assistance under this Part. The HAP serves as a measure of the conditions of the applicant's housing stock and the needs of lower (low and moderate) income persons for housing assistance. Further, the HAP serves to establish goals for assistance best suited to meet the needs of lower income persons and to further the revitalization of the community, including the restoration and rehabilitation of stable neighborhoods to the maximum extent possible, and the reclamation of the housing stock where feasible through the use of a broad range of techniques for housing restoration by local government, the private sector, or community organizations, including provisions of a reasonable opportunity for tenants displaced as a result of such activities to relocate in their immediate neighborhood. The HAP must propose general locations for assisted housing which promote greater choice of housing opportunities and avoid undue concentrations of assisted persons in areas containing a high proportion of lower-income persons, and which further fair housing and assure the availability of public facilities and services adequate to support housing facilities. In addition, all communities are expected to share in providing expanded housing opportunities for

lower-income persons and to participate in areawide solutions of housing problems through promotion of spatial deconcentration of housing opportunities for lower-income persons.

(2) *Use.* The HAP is not only a requirement for assistance under this Part, but it serves as the means for HUD to distribute assisted housing resources to applicants. The HAP offers applicants a means to implement strategies to conserve and expand its housing stock in order to provide a decent home in a suitable living environment for all persons, but principally those of lower income. The HAP should facilitate the reduction of the isolation of income groups within communities and geographic areas, affirmatively further fair housing and promote the diversity and vitality of neighborhoods.

(3) *Responsibility of applicant.* Applicants are responsible for implementation of the housing assistance plan in an expeditious manner. This includes the timely achievement of all goals for assisted housing and particularly those which address the needs of families and large families requiring rental assistance. Applicants are expected to take all actions within their control to facilitate the implementation of an approved housing assistance plan including those actions specified in §§ 570.306(b)(3)(iii) and (b)(4)(ii), as well as the development of Section 8 housing when notifications of funding availability are not responded to by private developers.

(4) *Period covered by HAP.* The HAP shall be submitted and be effective for time periods as follows:

(i) *Housing Assistance Plans* submitted to HUD after the publication date of these regulations but prior to August 1, 1978 shall be designed to complete the requirement that housing assistance provided pursuant to the three-year goals set forth in the HAP approved during 1976 shall have been provided in the same proportion as those goals by household type (elderly and handicapped, families and non-elderly individuals, and large families). Accordingly, applicants shall submit an Annual Housing Action Program pursuant to § 570.306(b)(4) which will propose goals for housing assistance to be provided in Federal Fiscal Year 1979 which, when combined with all housing assistance provided in FFY 1977 and 1978 will result in the provision of housing assistance in the same proportion as the three year goals, by household type, set forth in the HAP submitted in 1976. For the purposes of 24 CFR 891, the three-year goal for HAP's submitted prior to August 1, 1978 is the three-year goal submitted in the 1976

HAP including any amendments thereto. For example, an applicant which has provided housing assistance primarily for elderly households during FFY 1977 and 1978 is expected to establish goals this year in the annual housing action program for families and large families so that assistance provided during FFY 1977, 1978 and 1979 will be in the same proportion, by household type, as the 1978 three-year goal. In addition, the applicant shall identify general locations for new construction and substantial rehabilitation units or projects. For HAP's submitted prior to August 1, 1978, general locations shall be applicable to the housing assistance goals as described above in this paragraph; however, the requirements for identifying such locations are set forth in § 570.306(b)(3)(iii). Unless there have been substantial changes in the housing conditions and housing assistance needs, an applicant is required to submit only an annual goal and the general locations for proposed new construction and substantial rehabilitation.

(ii) *Housing Assistance Plans* submitted after August 1, 1978 shall be submitted once every three years as described in § 570.306(b) and shall cover a three year period. However, each annual application shall include an Annual housing Action program. Although some revision and updating may be necessary during this period because of the availability of new data sources or significant changes in local conditions or needs, the HAP shall be in effect for three program years. A new HAP shall be submitted every third program year thereafter.

(iii) *A Hold Harmless Entitlement* applicant submitting a HAP after August 1, 1978, but not proposing to apply for a grant under Subpart F of these regulations during its phase out year, is subject to this section except that the establishment of a three-year numerical goal as described in § 570.306(b)(3)(i) is not applicable.

(5) *Relationship to previously approved HAP's.* (Effective August 1, 1978.) Applicants are not relieved of their responsibilities to continue to address goals established to meet the needs for assisted housing identified in prior program years. Accordingly, applicants who had approved component goals designed to address the needs of a particular tenure type (owner or renter), household type, (elderly and handicapped, family and non-elderly individuals, or large family), or housing type (existing, substantial rehabilitation, or new construction), or any combination of the above, which have not been substantially met, shall

include goals to meet such needs prior to providing further assistance for tenure, household, or housing types for which established goals have been substantially met. For example, an applicant which has identified a substantial need, and established goals for families and large families, but nonetheless has met only the goals or a substantial portion of the goals, established for elderly households shall meet the goals established for families and large families before providing additional assistance to elderly households.

(b) *Housing Assistance Plan Content.* The application shall contain a housing assistance plan which includes:

(1) *Housing Conditions.* The applicant shall describe the condition of the existing housing stock in the community by providing a statistical profile by tenure type (owner and renter), which describes housing conditions by number of units in standard and in substandard condition. If a housing rehabilitation program is proposed as part of the applicant's strategy statement as set forth in § 570.304(b), the number of units which are suitable for rehabilitation shall be stated. Estimates shall be made of vacancy rates for non-seasonal available units in standard condition, using the best estimate at the time the application is prepared, but in no case including units to be vacant at a future date.

(2) *Housing Assistance Needs.* The applicant shall describe the housing assistance needs of lower income persons.

The data for such description generally shall be derived from Federal census data; except that the applicant may also utilize other more recent data generally available from public or private sources, including areawide, regional, or State planning agencies; provided that the deviations from estimates derived from the Federal census data or from areawide, regional, or State planning agency assessments are explained. All applicants which are within the jurisdiction of an areawide planning organization having an approved Areawide Housing Opportunity Plan (AHOP) must use the data presented in the Plan. Applicants which are within the jurisdiction of an areawide planning organization which does not have an approved AHOP should use the same census, areawide, or State data unless more recent, generally available data exist for an individual applicant.

(i) The applicant shall provide estimates of housing assistance needs of lower-income persons currently residing in the community, by tenure type and by

household type (lower-income households which are elderly and handicapped, families and non-elderly individuals, and large families), for all households, including those households to be displaced by public action and, where information is available, by private action during the three year program. Such estimates shall also be provided for any identifiable segment of the total group of lower-income households in the community.

(ii) the applicant shall assess the housing assistance needs of lower-income households, by household type, who could reasonably be expected to reside in the community, based on existing or projected employment. The applicant shall also assess the housing assistance needs of elderly households who could reasonably be expected to reside in the community because they are seeking housing in the community or use services, such as health facilities, in the community. The following rules shall be followed in developing estimates of needs for households who could be expected to reside.

(A) If the applicant is a participant in a State or Areawide Housing Opportunity Plan approved by the Secretary, the expected to reside estimates in the applicant's Housing Assistance Plan and those in the approved Housing Opportunity Plan shall be consistent.

(B) For all other applicants, the expected to reside estimates should be based on the following:

(1) *Expected to reside as a result of planned employment:* Estimate the total number of lower-income families with workers expected to be employed in the community in the next three years as a result of known commercial, industrial, governmental, or service employment to be generated by new or expanded development. Such estimates shall be derived from generally available data. Sources of information may include approved development plans, building permits, and awards of significant contracts. Of this total, estimate the number of these jobs which will likely be filled by persons not currently residing within the applicant's jurisdiction, but who would move into the jurisdiction as a result of the planned employment.

(2) *Expected to reside who are currently working, but not residing in the applicant's jurisdiction:* An applicant community should utilize the following methodology to derive the minimum estimate of the number of lower-income families with workers employed in the community, but living elsewhere, who can be expected to reside in the applicant community: First,

estimate the number of lower-income families with workers employed in the applicant community, but living elsewhere. Second, estimate the number of lower-income families with workers employed in the community who also live in the community. The sum of these two figures is the estimated total number of lower-income families with workers employed in the applicant community. Third, for applicants in a metropolitan area, determine an overall metropolitan area percentage of lower-income families with workers who live in the same community in which they work, based on those communities in the metropolitan area for which data are available. This percentage is calculated by dividing the total number of lower-income families with workers who work and live in all such communities, by the total number of lower-income families with workers employed in all such communities. Nonmetropolitan applicants located in a county which is contiguous to a metropolitan area should use the metropolitan area percentage described above. Other nonmetropolitan applicants should use the statewide nonmetropolitan area average. (These figures will be made available by HUD.) Fourth, multiply the overall applicable percentage by the following percentage: the number of lower-income families with workers employed in the applicant community, but living elsewhere, divided by the total number of lower-income families, both resident and non-resident, with workers employed in the applicant community. Fifth, multiply the resulting percentage by the number of lower-income families with workers employed in the applicant community, but living elsewhere, to produce the estimate of the number of such families which may be expected to reside in the applicant community.

Example. As an example, an applicant who estimates that it has 1,000 lower-income families with workers employed in the applicant community but living elsewhere, estimates that it has 2,200 lower-income families, both resident and non-resident, with workers employed in the community, and estimates the overall metropolitan percentage to be forty percent, would compute the number of families expected to reside based on workers already employed as follows:

$$40\% \times (1,000 \text{ divided by } 2,200) \times 1,000 = 182$$

Note.—For most applicants who had a 1970 population in excess of 25,000, the HUD Area Office has data for this computation. For all other communities, estimates should be developed based on the most recent applicable data available from such other

sources as State Employment Services, local planning departments, major employers in the area, or local surveys. (Documentation of any such data and the basis for estimate must be submitted to HUD.)

(3) *Expected to reside elderly households:* Where the community has assisted housing already available for the elderly, the estimate for the elderly expected to reside may be obtained from the number of qualified non-resident elderly households on the most current waiting lists for such assisted housing. Where there is either no elderly assisted housing in the community or if there is insufficient data on non-resident elderly households on waiting lists for assisted housing that is available, the estimate for this paragraph may be based on the following: Of the total number of non-resident, elderly, lower-income households known to currently use health facilities within the applicant's jurisdiction, the number which the applicant believes would move into the community if adequate housing were available at a reasonable cost.

(C)(1) Applicants shall not be required to include an estimated number of lower-income households who could be expected to reside in the community to the extent that such estimated number, together with lower-income households already residing in the community, would result in a ratio of lower-income households to total households in the community which is greater than the applicable area percentage of lower-income households to total households. In such case, applicants may reduce their estimated number of households expected to reside in the community, proportionately by household type, to the point where the resultant ratio of lower-income households to total households in the community is equal to, but not less than, the applicable area percentage.

(2) Applicants in a metropolitan area or in counties contiguous to a metropolitan area shall use data for that metropolitan area. Applicants in a county which is neither within nor contiguous to a metropolitan area shall use data for the statewide nonmetropolitan area. (These figures will be supplied by HUD.)

(D) Applicants who wish to use an alternative methodology for developing estimates of the current employment portion of the expected to reside component (§ 570.306(b)(2)(ii)(B)(2)) should contact the HUD Area Office in advance of preparing such estimates to discuss such methodologies and secure HUD approval of their usage for this purpose. Alternative methodologies must address the following statutory

requirements: (1) Estimate the number of lower-income households with workers currently employed but not residing in the jurisdiction; (2) estimate the number of these who could reasonably be expected to reside; and (3) adjust estimates to avoid implications of lower-income households.

(E) The requirements of paragraph (b)(2)(ii) of this section are not intended to preempt a State or judicial requirement that a community undertake a greater share of the responsibility in meeting the housing needs of lower-income families.

(iii) *Use of alternative methodologies for determining estimates of lower-income households expected to reside developed by State or areawide planning organizations:* (Effective August 1, 1978.) HUD may, at its option, determine that a State or an areawide planning organization has developed an alternative methodology for one or both of these elements which evidences compliance with the objectives of this Part and is a more precise means to measure such needs within the specific geographic area of its jurisdiction. The basis for such determinations are set forth in 24 CFR Part 891, Subpart E. Having so determined, HUD may, at its option, authorize the use of such methodology, in lieu of the methodology set forth in § 570.306(b)(2)(ii), by all applicants within the jurisdiction of such areawide planning organizations.

(A) HUD shall inform all affected applicants, by publication of a Notice in the Federal Register, of those State or areawide planning organizations where an alternative methodology has been approved by HUD and whether such methodology will be used in lieu of the methodology set forth in § 570.306(b)(2)(ii).

(B) In determining whether an alternative methodology developed by a State or an areawide planning organization is to be used in lieu of a methodology set forth in this Part, HUD will consider whether such alternate methodology provides the estimates required to meet the standards of acceptability set forth in paragraphs (b) and (c) of this section and is statistically and mathematically sound.

(C) HUD shall monitor the estimates developed through an approved State or areawide planning organization alternative methodology. Although areawide organizations are encouraged to develop methodologies which are innovative in scope and suited to the circumstances of the jurisdiction of the areawide planning organizations, HUD may withdraw approval of or require modification of an alternative methodology which is determined to

produce estimates which are plainly inconsistent with the objectives of this Part.

(iv) In addition, the applicant shall provide a narrative statement which summarizes any special housing conditions in the community and special housing needs found to exist in the total group of lower-income households in the community. Such summary shall include but need not be limited to, discussion of:

- (A) Female heads of households;
- (B) Individual minority groups;
- (C) Handicapped persons;
- (D) Special housing conditions such as concentrations of mobile homes; and
- (E) Special housing needs related to a community's economic base such as military housing, migrant workers, and retirement centers.

(3) *Three Year Housing Program.* (Effective August 1, 1978 except as provided in § 570.306(a)(4)(iii).) The applicant shall describe a three year housing program for implementation of its community development and housing strategy:

(i) *Goals.* The program shall specify, by tenure type, household type, and housing type, a realistic three year goal for the number of dwelling units or persons to be assisted. The statement of the three year goal for assisted dwelling units also shall take into consideration housing conditions with respect to the availability of existing units of standard quality and units suitable for rehabilitation and shall meet the standards set forth in § 570.306(c)(1).

(ii) *General Locations.* The program shall identify the general locations of proposed new construction housing units or projects, and substantial rehabilitation units or projects, for the programs subject to 24 CFR 891 and, to the extent feasible, other assisted housing programs identified in the goals for lower-income persons on maps as called for in § 570.304(d). The locations shall be identified by census tract (or enumeration districts or geographic quadrants in those jurisdictions where a census tract includes a substantial area, such as an entire community). General locations for housing projects shall contain at least one site which conforms to the site and neighborhood standards established for the appropriate HUD assisted housing program. Where an applicant proposes assisted housing resources in areas of concentration of minorities or federally assisted housing, general locations outside of such areas also shall be proposed in order to ensure the provision of assisted housing in a balanced manner.

(iii) *Actions to be taken.* The program shall describe those actions which will be necessary for the applicant to take to

address any special housing needs and conditions cited in § 570.306(b)(2)(iv), as well as any actions determined necessary, on the basis of findings of past performance reviews pursuant to Subpart O of these regulations, to achieve the housing assistance goals, and shall set forth a timetable for such actions. In addition, applicants anticipating difficulty in achieving goals in newly prepared HAPs shall set forth actions required to achieve those goals. The actions may include, but are not limited to: (A) acquisition of sites and provision of site improvements for the development of assisted housing; (B) adoption or modification of local ordinances and land use measures to facilitate the development of assisted housing including institution of local referendum actions, where necessary; (C) issuance of appropriate zoning changes, building permits, utility connections and similar administrative requirements; (D) formation of a public housing agency or execution of an agreement with a public housing agency having powers to provide assisted housing within the jurisdiction of the applicant; (E) removal of local residency preferences for assisted housing; (F) promotional and assistance activities to encourage developers to initiate assisted housing or to allocate a portion of their planned unsubsidized developments for assisted housing, and to encourage owners to make units available for Section 8 existing housing programs; and (G) measures to reduce the cost of housing development, such as tax abatement, waiver of fees and other administrative costs.

(4) *Annual Housing Action Program.* For each program year as part of the annual submission, the applicant shall describe a program of actions to carry out each program year increment in order to achieve the three year housing program. The annual action program shall:

(i) Specify, by tenure type, household type, and housing type, a realistic annual goal for the number of dwelling units or persons to be assisted, including the relative proportion of new, rehabilitated, and existing units best suited to the needs of lower-income persons identified by the applicant; and

(ii) Set forth specific actions, if any, to be undertaken during the program year to assure the implementation of the three-year housing program including those actions described in paragraph (b)(3)(iii) of this section.

(c) *Standards and criteria for approval of HAPs.* The following standards and criteria shall apply to the reviews and determinations of

acceptability of housing assistance plans and shall be effective as of the date of publication of these regulations except as otherwise noted:

(1) *Goals for assisted housing—(i) Proportionality.* The three year housing assistance goals shall address the needs of the three household types (elderly and handicapped, families and non-elderly individuals, and large families) within each tenure type (owner and renter) in the same proportion as the total lower-income housing needs identified in the HAP, of those household types, by tenure type. Certain adjustments to this requirement are permitted as follows:

(A) HUD may grant an exception from this requirement when an applicant documents special needs arising from displacement of significant numbers of households of a particular size: natural disasters; meeting the housing requirements of section 105 (f) and (h) of the U.S. Housing Act of 1949, as amended; accommodating proposals for projects of feasible size which could not otherwise be developed; or implementing the goals of a HUD-approved AHOP; or

(B) (Effective August 1, 1978.) Applicants required to emphasize a particular household type or types pursuant to § 570.306(a)(5) shall make no downward adjustment in the percentage represented by such household type, but the percentage represented by other household types may be adjusted downward as necessary. For example, an applicant which has disproportionately met the needs of elderly households in prior years would not be permitted to make any downward adjustment to the percentages represented by family and large family households, but may be required to reduce the percentage represented by elderly households to zero.

(ii) *Tenure types.* The types and quantities of housing assistance proposed by tenure type (owner and renter), shall be appropriate to meeting identified needs of both renters and owners. In this regard, unless a community can demonstrate that it can meet the needs of households expected to reside through assistance programs for homeowners, such needs shall be assumed to represent needs for rental units.

(iii) (Effective August 1, 1978.) *Minimal goals.* The goals must directly address known needs for housing assistance and contain a sufficient number of units to permit practical and economically feasible housing development. For applicants which are within the jurisdiction of a HUD-

approved AHOP, HUD will accept the goals included therein. All other applicants shall propose a three-year housing assistance goal which represents assistance for at least 15 percent of the total need unless the applicant can demonstrate to the satisfaction of HUD that such a goal would be infeasible. The standard that housing assistance plans with only minimal housing assistance goals are plainly inappropriate recognizes that communities with very substantial housing assistance needs have a responsibility to propose substantial housing assistance goals and that goals should reflect the desirability of meeting a significant percentage of identified needs at an early date.

(iv) *Vacancy rates.* In establishing goals for assisted housing, the applicant shall consider the vacancy rate established pursuant to § 570.306(b)(1) and shall estimate the number of such vacant units which would be adequate to meet the needs of lower-income households.

(A) In those cases where there exists a less than adequate vacancy rate (as determined by HUD) in housing units resulting in an insufficient number of vacant, standard, available units of appropriate size, cost, and type to meet the identified housing assistance needs for rental units for lower-income households, goals for housing assistance shall emphasize a program of new construction of rental units for households of lower-income. For example, an applicant with a significant number of lower-income households expected to reside in the community and a less than adequate rental vacancy rate, would be expected to emphasize a program of new construction of rental units to address this need. However, this does not preclude the use of a vehicle such as the Section 8 Existing Housing program to address the needs of households currently residing in the community, provided that the existing program is used in concert, during the three year program, with new construction and/or substantial rehabilitation so that the housing market will not be further imbalanced.

(B) In those cases where there exists an adequate vacancy rate as determined by HUD in standard housing units creating a sufficient number of vacant, available units of appropriate size, cost, and type to meet the identified housing assistance needs of lower-income persons for rental units, goals for housing assistance shall emphasize a program of existing housing for persons of lower-income.

(v) *Urban renewal completion.* Applicants engaged in the completion of

Urban Renewal projects and having to meet requirements of Sections 105 (f) and (h) of the U.S. Housing Act of 1949 as amended, or applicants obligated to meet such requirements under close-out agreements pursuant to § 570.804 for projects which have been settled financially, shall establish goals large enough to meet such obligations.

(vi) *Adequacy of rehabilitation.* In order to be included as goals in a Housing Assistance Plan any units proposed to be rehabilitated for either owners or renters must be units which are determined by the applicant to be substandard, and upon completion of rehabilitation, will meet, at a minimum, Section 8 Existing Housing Quality Standards pursuant to 24 CFR § 882.109, and be occupied by lower-income households. Any units proposed for rehabilitation using Federal assistance, shall upon completion meet the standards of the applicable Federal program where they exceed Section 8 Existing Housing Quality Standards.

(vii) (Effective August 1, 1978.) *Relationship to previously approved goals.* Where an applicant does not provide goals to meet unfulfilled needs in accordance with § 570.306(a)(5), such housing assistance goals will be determined to be plainly inappropriate.

(viii) *Local actions to implement goals.* An applicant shall make all efforts to meet the goals in its three year housing program. When actions such as acquisition of land, formation of a public housing agency or rezoning are necessary for the development of housing, such actions should be accomplished by the second year of the three year housing program. HUD shall consider an applicant's past performance in providing assisted housing pursuant to the performance standards for implementing housing assistance plans set forth in § 570.909 in determining whether the housing assistance goals are appropriate. In those instances where an applicant's performance in the past indicates that local actions are required to facilitate delivery of housing resources, but the applicant does not provide that such actions will be undertaken on a timely basis, the goals will be determined to be plainly inappropriate.

(ix) *Consistency with areawide housing opportunity plans.* A housing assistance plan of a community which is within the jurisdiction of an areawide planning organization, shall be consistent with the approved Areawide Housing Opportunity Plan prepared by the areawide planning organization pursuant to 24 CFR Part 891.

(2) *General locations.* The applicant shall demonstrate by its selection of

general locations that its HAP will promote greater spatial deconcentration of housing opportunities for lower-income persons, particularly minorities.

§ 570.307 Certifications.

The applicant shall submit certifications each year providing assurances that:

(a) It possesses legal authority to apply for the grant, and to execute the proposed program;

(b) Its governing body has duly adopted or passed as an official act a resolution, motion or similar action authorizing the filing of the application, including all understandings and assurances contained therein, and directing and authorizing the person identified as the official representative of the applicant to act in connection with the application and to provide such additional information as may be required;

(c) It has complied with all the requirements of OMB Circular No. A-95 as modified by this Part and that either:

(1) Any comments and recommendations made by or through clearinghouses are attached and have been considered prior to submission of the application; or

(2) The required procedures have been followed and no comments or recommendations have been received.

(d) Prior to submission of its application, the applicant has:

(1) Prepared a written citizen participation plan, which:

(i) Provides an opportunity for citizens to participate in the development of the application, encourages the submission of views and proposals, particularly by residents of blighted neighborhoods and citizens of low- and moderate-income, provides for timely responses to the proposals submitted, and schedules hearing at times and locations which permit broad participation;

(ii) Provides citizens with adequate information concerning the amount of funds available for proposed community development and housing activities, the range of activities that may be undertaken, and other important program requirements;

(iii) Provides for public hearings to obtain the views of citizens on community development and housing needs; and

(iv) Provides citizens with an opportunity to submit comments concerning the community development performance of the applicant;

(2) Followed this plan in a manner to achieve full participation of citizens in development of the application. The applicant shall also follow this plan to

achieve full citizen participation in all other stages of the program.

Note.—The above certification on citizen participation is effective August 1, 1978. For applications submitted to HUD prior to August 1, 1978, the certification requirement of § 570.303(e)(4) published in the Federal Register (41 FR 4135) on January 28, 1976, shall apply.

(e) Its chief executive officer or other officer of applicant approved by HUD:

(1) Consents to assume the status of a responsible Federal official under the National Environmental Policy Act of 1969 insofar as the provisions of such Act apply to this Part;

(2) Is authorized and consents on behalf of the applicant and himself to accept the jurisdiction of the Federal courts for the purpose of enforcement of his responsibilities as such an official.

(f) The Community Development Program has been developed so as to give maximum feasible priority to activities which will benefit low- and moderate-income families or aid in the prevention or elimination of slums or blight.

[The requirement for this certification will not preclude the Secretary from approving an application where the applicant certifies, and the Secretary determines, that all or part of the Community Development Program activities are designed to meet other community development needs having a particular urgency as specifically explained in the application in accordance with § 570.302(f).]

(g) It will comply with the regulations, policies, guidelines and requirements of OMB Circular No. A-102, Revised, and Federal Management Circular 74-4 as they relate to the application, acceptance, and use of Federal funds under this Part.

(h) It will administer and enforce the labor standards requirements set forth in § 570.605 and HUD regulations issued to implement such requirements.

(i) It will comply with all requirements imposed by HUD concerning special requirements of law, program requirements, and other administrative requirements, approved in accordance with OMB Circular No. A-102 Revised.

(j) It will comply with the provisions of Executive Order 11296, relating to evaluation of flood hazards and Executive Order 11288 relating to the prevention, control, and abatement of water pollution.

(k) It will require every building or facility [other than a privately owned residential structure] designed, constructed, or altered with funds provided under this Part to comply with the "American Standard Specifications for Making Buildings and Facilities Accessible to, and Usable by, the

Physically Handicapped." Number A-117.1-R 1971, subject to the exceptions contained in 41 CFR 101-19.604. The applicant will be responsible for conducting inspections to insure compliance with these specifications by the contractor.

(f) It will comply with:

(1) Title VI of the Civil Rights Act of 1964 (Pub. L. 88-352), and the regulations issued pursuant thereto (24 CFR Part 1), which provides that no person in the United States shall on the grounds of race, color, or national origin, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the applicant receives Federal financial assistance and will immediately take any measures necessary to effectuate this assurance. If any real property or structure thereon is provided or improved with the aid of Federal financial assistance extended to the applicant, this assurance shall obligate the applicant, or in the case of any transfer of such property, any transferee, for the period during which the real property or structure is used for a purpose for which the Federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits.

(2) Title VIII of the Civil Rights Act of 1968 (Pub. L. 90-284), as amended, administering all programs and activities relating to housing and community development in a manner to affirmatively further fair housing; and will take action to affirmatively further fair housing in the sale or rental of housing, the financing of housing, and the provision of brokerage services.

(3) Section 109 of the Housing and Community Development Act of 1974, and the regulations issued pursuant thereto (24 CFR Part 570.601), which provides that no person in the United States shall, on the grounds of race, color, national origin, or sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or in part with funds provided under this Part.

(4) Executive Order 11063 on equal opportunity in housing and nondiscrimination in the sale or rental of housing built with Federal assistance.

(5) Executive Order 11246, and the regulations issued pursuant thereto (24 CFR Part 130 and 41 CFR Chapter 60), and Section 4(b) of the Grant Agreement, which provides that no person shall be discriminated against on the basis of race, color, religion, sex or national origin in all phases of employment during the performance of

Federal or federally assisted construction contracts. Contractors and subcontractors on Federal and federally assisted construction contracts shall take affirmative action to insure fair treatment in employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination, rates of pay or other forms of compensation and selection for training and apprenticeship.

(m) It will comply with Section 3 of the Housing and Urban Development Act of 1968, as amended, requiring that to the greatest extent feasible opportunities for training and employment be given to lower-income residents of the project area and contracts for work in connection with the project be awarded to eligible business concerns which are located in, or owned in substantial part by, persons residing in the area of the project.

(n) It will:

(1) To the greatest extent practicable under State law, comply with Sections 301 and 302 of Title III (Uniform Real Property Acquisition Policy) of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 and will comply with Sections 303 and 304 of Title III, and HUD implementing instructions at 24 CFR Part 42; and

(2) Inform affected persons of their rights and of the acquisition policies and procedures set forth in the regulations at 24 CFR Part 42 and § 570.602(b).

(o) It will:

(1) Comply with Title II (Uniform Relocation Assistance) of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 and HUD implementing regulations at 24 CFR Part 42 and § 570.602(a);

(2) Provide relocation payments and offer relocation assistance as described in Section 205 of the Uniform Relocation Assistance Act to all persons displaced as a result of acquisition of real property for an activity assisted under the Community Development Block Grant Program. Such payments and assistance shall be provided in a fair and consistent and equitable manner that insures that the relocation process does not result in different or separate treatment of such persons on account of race, color, religion, national origin, sex, or source of income;

(3) Assure that, within a reasonable period of time prior to displacement, comparable decent, safe and sanitary replacement dwellings will be available to all displaced families and individuals and that the range of choices available to such persons will not vary on account of their race, color, religion, national origin, sex, or source of income; and

(4) Inform affected persons of the relocation assistance, policies and procedures set forth in the regulations at 24 CFR Part 42 and § 570.602(a).

(p) It will establish safeguards to prohibit employees from using positions for a purpose that is or gives the appearance of being motivated by a desire for private gain for themselves or others, particularly those with whom they have family, business, or other ties.

(q) It will comply with the provisions of the Hatch Act which limits the political activity of employees.

(r) It will give HUD and the Comptroller General through any authorized representatives access to and the right to examine all records, books, papers, or documents related to the grant.

(s) It will insure that the facilities under its ownership, lease or supervision which shall be utilized in the accomplishment of the program are not listed on the Environmental Protection Agency's (EPA) list of Violating Facilities and that it will notify HUD of the receipt of any communication from the Director of the EPA Office of Federal Activities indicating that a facility to be used in the project is under consideration for listing by the EPA.

(t) It will comply with the flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973. Pub. L. 93-234, 87 Stat. 975, approved December 31, 1973. Section 103(a) required, on and after March 2, 1974, the purchase of flood insurance in communities where such insurance is available as a condition for the receipt of any Federal financial assistance for construction or acquisition purposes for use in any area, that has been identified by the Secretary of the Department of Housing and Urban Development as an area having special flood hazards. The phrase "Federal financial assistance" includes any form of loan, grant, guaranty, insurance payment, rebate, subsidy, disaster assistance loan or grant, or any other form of direct or indirect Federal assistance.

(u) It will, in connection with its performance of environmental assessments under the National Environment Policy Act of 1969, comply with Section 106 of the National Historic Preservation Act of 1966 (16 U.S.C. 470), Executive Order 11593, and the Preservation of Archeological and Historical Data Act of 1966 (16 U.S.C. 469a-1, et. seq.) by (a) consulting with the State Historic Preservation Officer to identify properties listed in or eligible for inclusion in the National Register of Historic Places that are subject to

adverse effects (See 38 CFR Part 800.8) by the proposed activity, and (b) complying with all requirements established by HUD to avoid or mitigate adverse effects upon such properties.

§ 570.308 Timing of application submissions.

(a) *Submission of applications.* (1) In order to receive an entitlement grant under this Part, each applicant is required to submit an application at least 75 days, but no more than 120 days, prior to the end of its program year.

(2) An applicant which did not receive an entitlement grant in the previous fiscal year must apply no later than April 30.

(3) Notwithstanding other provisions of this section, no application will be accepted between July 15 and October 1, in any year.

(b) *Program year.* A program year shall run for a twelve month period. An applicant may, however, either shorten or lengthen its program year by as much as three calendar months, provided:

(1) It is for the purpose of conforming the program year to State or local or fiscal budgeting requirements; and

(2) HUD receives written notice of a shortened program year at least six months prior to the date the program year would have ended if it had not been shortened, or in the case of a lengthened program year, at least three months prior to the date the program year would have ended if it had not been lengthened. An applicant may not, however, receive more than one entitlement grant from a single Federal fiscal year appropriation.

§ 570.309 [Reserved]

§ 570.310 A-95 clearinghouse review and comment.

Applicants must comply with the procedures set forth in Part I of OMB Circular No. A-95 except as modified below. In addition to rules governing applications, these procedures also require that program amendments submitted to HUD in accordance with § 570.312 shall be submitted to appropriate clearinghouses for a 30-day review and comment period.

(a) *Clearinghouse notification.* The A-95 requirement that clearinghouses be notified of an applicant's intent to apply for Federal assistance will be satisfied by HUD. Each fiscal year HUD will advise the appropriate State and areawide clearinghouses, with a copy to the applicant, of those communities entitled to receive grants under this Part. This notification will be provided at least 60 days prior to the date by which the applicant must submit the completed

application to HUD. Upon receipt of its copy of the HUD notification to the clearinghouses, the applicant shall make arrangements with the clearinghouses regarding early transmittal of information describing the contents of the application. An applicant wishing to submit its application to HUD before February 1 of each year shall provide its own notice of intent to file with the appropriate clearinghouses in accordance with the usual A-95 procedures.

(b) *Clearinghouse review of application.* Unless the requirement is waived by a clearinghouse, the applicant shall provide the clearinghouses a period of 45 calendar days to review the completed application and transmit to the applicant any comments or recommendations. Clearinghouses will be of assistance to both the applicant and HUD if their reviews address the application approval criteria contained in § 570.311(c), as well as the "subject matter of comments and recommendations" in Part I, Attachment A of OMB Circular No. A-95, item 5. Emphasis should be placed on consistency among State, areawide and local plans and strategies. Compliance with environmental and civil rights laws should also be emphasized.

(c) *Applicant actions after clearinghouse review.* The applicant shall include with its application to HUD all clearinghouse comments, or when no comments are received, a statement that no comments or recommendations have been received from the clearinghouses. Where activities are determined by the areawide planning agency to be inconsistent with areawide plans, the applicant shall provide in the application to HUD an explanation of the reasons for the inconsistencies.

(d) *Application modification during clearinghouse or HUD review.* An applicant which revises its application while it is under review by a clearinghouse or by HUD shall inform the clearinghouses of the revisions and, if the application has been submitted to HUD, the number of days remaining within the 75-day review period described in § 570.311(d), for HUD to complete its review of the application.

§ 570.311 HUD review and approval of application.

(a) *Acceptance of application.* (1) Upon receipt of an application, the HUD Area Office will accept it for review, provided that:

(i) It has been received before the deadline for receipt of applications established in § 570.308(a);

(ii) All of the required component parts of the application are submitted and are properly completed;

(iii) The funds requested do not exceed the entitlement amount;

(iv) Any comments and recommendations received from clearinghouses, or a statement that no comments were received, are attached to the application; and

(v) Any additional assurances previously required as a result of monitoring, inadequate local performance, or audit findings, are included.

(2) If the application is accepted in accordance with the preceding paragraph, the date of acceptance of the application will be the date of receipt of the application in the HUD field office, and the applicant will be so notified in writing. If the application is not accepted for review, the applicant will be so notified in writing, and will be advised of the specific reasons for nonacceptance.

(b) *Scope of review.* (1) HUD will normally base its review upon the applicant's certifications, statements of facts and data, and other information. The Secretary reserves the right, however, to consider relevant evidence which challenges the certifications, and information submitted by the applicant, and to require additional information or assurances from the applicant as warranted by such evidence.

(2) The review will include, but need not be limited to, the following matters contained in the application and the grantee performance report, or derived from monitoring:

(i) Eligibility of proposed activities;

(ii) Program benefit to low- and moderate-income persons in accordance with the provisions of § 570.302;

(iii) Housing Assistance Plan conformity to the requirements of § 570.306;

(iv) Coordination of housing assistance and community development activities;

(v) Consistency of the needs stated in the plan with generally available data;

(vi) Appropriateness of proposed plans and programs to meeting the applicant's needs and objectives;

(vii) Compliance with previous contract conditions or other corrective and remedial actions required by HUD;

(viii) Experience regarding the effectiveness of the proposed activities in meeting the community development needs in the locality;

(ix) Applicant's capacity to carry out the program proposed as evidenced by its previous performance record; and

(x) Compliance with the requirements of this Part and other applicable laws and regulations.

(c) *Criteria for disapproval.* The Secretary will approve the application unless:

(1) On the basis of significant facts and data, generally available, and pertaining to community and housing needs and objectives, the Secretary determines that the applicant's description of such needs and objectives is plainly inconsistent with such facts and data. The data to be considered may be published data accessible to both the applicant and the Secretary, such as census data, or other data available to both the applicant and the Secretary, such as recent local, areawide or State comprehensive planning data.

(2) On the basis of the application, the Secretary determines that the activities to be undertaken are plainly inappropriate to meeting the needs and objectives identified by the applicant. The following are examples of situations in which activities may be determined to be "plainly inappropriate" to meeting the identified needs of the applicant:

(i) Experience over a period of time has demonstrated that the types of activities proposed have not been or are unlikely to be effective in alleviating the conditions they were designed to affect;

(ii) The applicant has identified areas containing significant concentrations of deteriorated housing and blight and does not propose to undertake a concentrated program of activities in any such areas;

(iii) The application does not meet the requirements of § 570.302(b)(2) with respect to the extent of funding proposed to principally benefit low- and moderate-income persons;

(iv) Proposed activities will have a detrimental effect on low- and moderate-income persons or members of minority groups and adequate measures to mitigate such effects are not proposed;

(v) Housing goals, locations, and strategy do not meet the criteria of § 570.306(c);

(vi) Actions essential to accomplish housing assistance goals, including supportive community development activities, are not proposed;

(vii) The proposed program does not reflect previous requirements of the Secretary for corrective or remedial actions, or activities proposed have previously been the basis of such requirements.

(3) The Secretary determines that the application does not comply with the requirements of this Part with specific regard to the primary purposes of

principally benefitting persons of low- and moderate-income or aiding in the prevention or elimination of slums or blight, or other applicable law, or proposes activities which are ineligible under this Part.

(d) *Timing.* The Secretary will notify the applicant in writing within 75 days, but not less than 45 days, of the date of receipt of the application, that the application has been either approved or disapproved. In the event the Secretary has not mailed a notification to the applicant within 75 days from the date of acceptance of a completed application the application shall be deemed to be approved. If the application is disapproved the applicant shall be informed of the specific reasons for disapproval.

(e) *Reduction of grant.* The Secretary may approve an application for an amount less than the full entitlement for the following reasons:

(1) Activities are not eligible under Subpart C and funds are not reprogrammed to eligible activities within the 75-day review period;

(2) Activities do not meet other program requirements, such as benefits to low- and moderate-income persons described in § 570.302; or

(3) The recipient's performance does not meet the standards prescribed in § 570.909 and a reduction is appropriate pursuant to § 570.911.

(f) *Conditional approval.* The Secretary may make a conditional approval, in which case the full entitlement amount will be approved but the obligation and utilization of funds for affected activities will be restricted. Conditional approvals may be made where:

(1) Local environmental reviews under § 570.603 have not yet been completed;

(2) The requirements of § 570.607 regarding the provision of public services and flood or drainage facilities have not yet been satisfied; or

(3) There is substantial evidence that there has been, or there will be, a lack of substantial progress, nonconformance, noncompliance, or a lack of continuing capacity, as described in § 570.909. In such case, the reason for the conditional approval and the actions necessary to remove the condition shall be specified. Failure to satisfy the condition may result in a reduction in the annual grant amounts pursuant to § 570.910(b)(10).

§ 570.312 Amendments.

(a) *Community Development Program amendments.* A recipient shall submit an amended application to the HUD Area Office when:

(1) The recipient proposes to use more than 10 percent of the entitlement

amount approved for the affected program year to undertake one or more new activities, other than local option activities pursuant to § 570.600 and emergency interim assistance activities pursuant to § 570.201(f)(2).

(2) The recipient proposes to alter the stated purpose, location, or class of beneficiaries of previously approved activities whose cost exceeds 10 percent of the entitlement amount approved for the affected program year.

(3) The combination of proposed new activities (other than local option activities and disaster activities) and changes in the purpose, location, or class of beneficiaries of previously approved activities involves more than 10 percent of the entitlement amount approved for the affected program year.

(4) The cumulative effect of a number of smaller changes involving new activities (other than local option activities and disaster activities) or changes in the purpose, location, or class of beneficiaries of approved activities exceeds 10 percent of the entitlement amount approved for the affected program year. In such instances, the recipient shall include in its request for amendment documentation describing the smaller changes previously made, as well as those being proposed. After the amendment is approved by HUD, the accrual of smaller changes begins again.

(5) The recipient proposes to reduce the amount of funds previously approved for completion of urban renewal projects.

When the recipient proposes to undertake activities which are not consistent with the three-year project summary included in its Community Development and Housing Plan, it shall submit an amended summary to HUD at the same time the proposed program amendment is submitted.

(b) *Housing Assistance Plan Amendments.* The recipient shall request prior HUD approval of Housing Assistance Plan amendments when any of the following conditions exist:

(1) The recipient proposes a reduction of any goal for housing assistance pursuant to § 570.306 (b)(3)(i) or § 570.306(b)(4)(i);

(2) The recipient proposes the inclusion of a goal by household type or housing type, not previously specified pursuant to § 570.306(b)(3)(i) or (b)(4)(i);

(3) The recipient proposes to exceed any three year goal by housing type or household type by the percentage cited in 24 CFR Part 891;

(4) The recipient proposes a revision of the general locations for assisted

housing established pursuant to § 570.306(b)(3)(ii); or

(5) There is a significant change in, or new data available regarding, the conditions of the housing stock or the housing needs of lower-income persons.

(c) *Scope of submission.* Only the following documentation must be submitted in support of a request for an amendment to an approved application:

(1) The elements of the approved application to be changed, such as the affected portions of the annual Community Development Program;

(2) The certifications described in § 570.307; and

(3) Documentation regarding A-95 clearinghouse reviews as described in § 570.310(c).

(d) *Response to requested amendments.* Within 30 days of the date of receipt of the proposed amendment, HUD will notify the recipient in writing that the amendment has been approved, disapproved, or conditionally approved pursuant to § 570.311(f), or, if a final decision on the amendment has not as yet been made, the date by which the recipient will be notified of the final decision. In the event HUD has not mailed a notification to the recipient within that 30-day period, the amendment shall be deemed approved. If the proposed amendment is disapproved, the recipient shall be informed of the specific reasons for disapproval.

(e) *Other changes.* Changes not covered in paragraphs (a) or (b) of this section including local option and disaster activities, do not require prior HUD approval, but shall be reported to HUD as part of the annual performance report described in § 570.906.

(f) *Citizen participation.* All amendments and other changes to the Annual Community Development Program, the Community Development and Housing Plan, and the Housing Assistance Plan require citizen participation. Formal public hearings, however, are required only when prior HUD approval of application amendments is required. Citizen participation requirements do not apply, however, to disaster activities.

(g) *A-95 review.* The recipient shall provide the State and areawide clearinghouses with 30 days for review and comment prior to submission of an application amendment for prior HUD approval.

(h) *Environment.* The recipient shall comply with applicable provisions of 24 CFR Part 58 respecting all amendments.

V. Section 570.507 is revised to read as follows:

§ 570.507. **Procurement standards.**

(a) The requirements of Attachment O

of OMB Circular No. A-102 shall apply to the procurement of materials and services, funded in whole or in part with block grant funds, by:

(1) Direct grant recipients; and
(2) States, units of general local government, Indian Tribes, public agencies or instrumentalities, and eligible entities under § 570.204(a)(2), as subgrantees or subrecipients.

(b) Except as provided in paragraph (a) of this section, the requirements of Attachment O of OMB Circular No. A-102 do not apply. For example, the procurement of materials and services by private homeowners who receive block grant assistance, such as rehabilitation loan financing, is not subject to such requirements.

VI. Section 570.602(d) is revised to read as follows:

§ 570.602. **Relocation and acquisition.**

(d) The recipient may provide relocation payments and assistance for individuals, families, businesses, nonprofit organizations and farm operations displaced by an activity that is not subject to § 570.602(a). The recipient also may provide relocation payments and other assistance at levels above those established under the Uniform Act. All such relocation assistance not required by the Uniform Act must be determined by the recipient to be appropriate to its community development program. Unless such payments and assistance are made pursuant to State or local law, the recipient shall adopt a written policy available to the public setting forth the relocation payments and assistance it elects to provide and providing for equal payments and assistance within each class of displacees.

VII. Section 570.906 is revised to read as follows:

§ 570.906. **Performance report.**

(a) *Submission requirements.* (1) Each entitlement recipient shall submit a performance report to HUD no later than the end of the eighth month of each program year. The report shall cover a twelve month period ending with the sixth month of the program year.

(2) A copy of the performance report shall be submitted to the appropriate A-95 State and areawide clearinghouses for informational purposes at the time it is submitted to HUD.

(3) The recipient shall make the report available to citizens at no charge and shall make public notice of the availability of the report at the time it is submitted.

(4) The requirements for submission of performance reports by discretionary grant recipients are set forth in § 570.400(h).

(b) *Content of report.* The report shall include the following components in a format to be prescribed:

(1) *Progress on planned activities.* The report shall describe progress on each project and activity that was to be carried out under approved applications since the inception of the applicant's block grant program, excluding projects or activities reported as completed in a previous report. The report shall list each project and activity by the program year in which it was approved and provide cumulative information on the following:

(i) Amount of funds obligated and expended;
(ii) Environmental status including the date of HUD release of funds;
(iii) The administrative unit having lead responsibility;
(iv) The steps taken to carry out the project, such as advertisement for bids, completion of a specified percentage of construction, etc.

(2) *Recipient assessment.* The report shall include the recipient's assessment of the effectiveness of the program of community development activities conducted under this Part in meeting local needs and objectives and national objectives of the block grant program.

(3) *Persons benefitting.* The report shall include an analysis of the persons actually benefitting from activities carried out under the program.

(4) *Housing assistance.* The applicant shall describe progress in carrying out the Housing Assistance Plan, including actions taken to further fair housing.

(5) *Citizen participation.* The applicant shall describe the actions it has taken to comply with the requirements of § 570.303, and include (i) copies of comments submitted by citizens regarding the applicant's community development performance; (ii) the applicant's assessment of such comments; and (iii) a summary of any actions taken in response to the comments received.

(6) *Equal opportunity.* The applicant shall present evidence of compliance with the certifications required by § 570.307(l).

[Title I. Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.); Title I. Housing and Community Development Act of 1977 (Pub. L. 95-128); and sec. 7(d). Department of Housing and Urban Development Act (42 U.S.C. 3535(d).)]

The legislative review provisions of Section 7(o) of the Department of Housing and Urban Development Act have been complied with.

Issued at Washington, D.C.

Robert C. Embry, Jr.,
Assistant Secretary for Community Planning and Development.

[FR Doc. 79-26593 Filed 8-24-79; 8:45 am]
BILLING CODE 4210-01-M

Monday
August 27, 1979

Part V

Federal Emergency Management Agency

Standards of Conduct; Production or Disclosure of Information; Implementation of Privacy Act of 1974; Rulemaking Policies and Procedures

Federal Register

**FEDERAL EMERGENCY
MANAGEMENT AGENCY****44 CFR Parts 0-10****Table of Contents for Subchapter A—
General**

AGENCY: Federal Emergency Management Agency.

ACTION: Designation of parts.

SUMMARY: The Federal Emergency Management Agency (FEMA) has established Title 44 of the Code of Federal Regulations entitled "Emergency Management and Assistance," and has established Chapter 1, thereof titled "Federal Emergency Management Agency" and Subchapter A, *General*. This action lists several of the parts within Subchapter A. It has been determined that publication of this rule as a proposal for public comment is unnecessary as it deals only with the establishment and arrangement of Subchapter A.

EFFECTIVE DATE: August 27, 1979.

ADDRESS: Federal Emergency Management Agency, Washington, DC 20472.

FOR FURTHER INFORMATION CONTACT: George W. Jett, General Counsel, Federal Emergency Management Agency, Washington, DC 20472, (202) 254-9521.

SUPPLEMENTARY INFORMATION: In the May 2, 1979 Federal Register (44 FR 25797) FEMA established Title 44 of the Code of Federal Regulations, Chapter 1, Federal Emergency Management Agency and a number of Subchapters. One of these is Subchapter A entitled "General" and this Subchapter will include a number of parts dealing with matters of general applicability to all FEMA components. This document lists some of these parts. FEMA, shortly, will issue regulations on these subjects, except for part 0. Part 0 will be reserved for publication of general policy statements pursuant to 5 USC 552(a).

Accordingly, Subchapter A, General of Chapter 1 of Title 44 shall have the following parts:

Subchapter A—General

- Part 0 General Statements of Policy
- Part 1 Rulemaking: policy, and procedures
- Part 2 Organization, functions & delegations of authority
- Part 3 Standards of conduct
- Part 4 Security
- Part 5 Production or disclosure of information
- Part 6 Implementation of the Privacy Act of 1974

- Part 7 Non Discrimination in Federally-assisted programs
- Part 8 Equal Employment Opportunity
- Part 9 Floodplain management
- Part 10 Environmental considerations (Reorganization Plan No. 3 of 1978 (43 FR 41943). Executive Order 12127 dated March 31, 1979 (44 FR 19367).)

Dated: August 9, 1979.

John W. Macy, Jr.,

Director.

[FR Doc. 79-26620 Filed 8-24-79; 8:45 am]

BILLING CODE 4210-23-M

44 CFR Part 3

[Docket No. FEMA-Gen 3]

Standards of Conduct

AGENCY: Federal Emergency Management Agency.

ACTION: Interim Regulations and Request for Comments.

SUMMARY: These interim rules establish (1) Standards of Conduct for employees, special government employees, and former employees of the Federal Emergency Management Agency (FEMA). They are issued to implement the Ethics in Government Act of 1978 (Pub. L. 95-521), Executive Order 11222 of May 8, 1965 (3 CFR 1964-1965 Comp., p. 306), 5 CFR Part 735, Employees Responsibilities and Conduct, and other laws and regulations dealing with Federal employee Standards of Conduct. In addition, the Federal Emergency Management Agency requests public comment on these interim regulations. It is necessary for FEMA to begin its operations under these regulations immediately. Thus, FEMA is issuing a regulation which serves as an operating rule and, at the same time, affords opportunity for public comment.

DATES: Effective Date August 27, 1979. Written comments should be submitted on or before October 26, 1979.

ADDRESS: Federal Emergency Management Agency, Washington, DC 20472.

FOR FURTHER INFORMATION CONTACT: George W. Jett, General Counsel, (202) 254-9521.

SUPPLEMENTARY INFORMATION: Reorganization Plan No. 3 of 1978 established the Federal Emergency Management Agency (FEMA). The plan was activated effective April 1, 1979 by Executive Order 12127 44 FR 19367. "Federal Emergency Management Agency." The plan and Executive Order 12148 44 FR 43239, effective July 15, 1979 transferred to the new agency functions of five existing agencies in four departments or parent agencies. Under

the plan, and pursuant to the order the regulations of the predecessor agencies remain in full force and effect in FEMA until those regulations are superseded.

Accordingly, to provide a single regulation on Standards of Conduct and Ethics in Government for all FEMA employees, it is necessary to adopt regulations which are interim operating rules but which also afford an opportunity for public comment.

In general, these regulations are consistent with the previous employee conduct standards of the agencies the functions of which have been transferred to FEMA, with certain additions which implement portions of the recently adopted Ethics in Government Act of 1978 and amendments thereto. The regulations in this part will hereafter be further amended to cover such matters as the exemption from scientific and technological information and the administrative enforcement proceedings for post employment restrictions.

Interested parties may participate by submitting their views, in writing, on this interim regulation to FEMA. Each comment should include the name and address of the person or organization submitting the comment and should make reference to the above-cited docket number. All comments received on or before the date set out above will be considered in promulgating final regulations on the matters addressed here. All written comments received will be docketed and made available for public inspection at FEMA.

It has been determined that the April 1, 1979 effective date of Reorganization Plan No. 3 of 1978 and the July 15 effective date for Executive Order 12148 established good cause for immediate publication of these regulations for interim effect.

Accordingly, Chapter 1 of Title 44 Code of Federal Regulation is amended by adding a new Part 3 as follows.

PART 3—STANDARDS OF CONDUCT**Subpart A—General**

Sec.

- 3.1 Purpose.
- 3.2 Applicability and scope.
- 3.3 Definitions.
- 3.4 Notification to employees and special Government employees.
- 3.5 Interpretation and advisory service.
- 3.6 Employee responsibilities.
- 3.7 Sanction for violation.
- 3.8 Disqualification procedure.

Subpart B—Conduct and Responsibilities of Employees

- 3.10 Administrative extension of statutory limitations.
- 3.11 Proscribed actions.

Sec.

- 3.12 Financial interests.
- 3.13 Outside employment and other activities.
- 3.14 Gifts and gratuities.
- 3.15 Use of Government property, vehicles, and communications systems.
- 3.16 Misuse of information.
- 3.17 Gambling, betting and lotteries.
- 3.18 Indebtedness.
- 3.19 General conduct prejudicial to the Government.
- 3.20 Intermediaries and product recommendation.
- 3.21 Membership in organizations.
- 3.22 Use of intoxicants.
- 3.23 False statements.
- 3.24 Care of official records and documents.
- 3.25 Disclosure of information about an individual.

Subpart C—Conduct and Responsibilities of Special Government Employees

- 3.40 Applicability of Subpart B.
- 3.41 Use of Government employment.
- 3.42 Use of inside information.
- 3.43 Coercion.
- 3.44 Gifts, entertainment, and favors.
- 3.45 Applicability of other provisions.

Subpart D—Disclosure of Financial Interests**General Provisions**

- 3.50 General.
- 3.51 Information not required.
- 3.52 Effect of employees' statements on other requirements.
- 3.53-3.59 [Reserved]

Financial Disclosure Under Ethics in Government Act of 1978

- 3.60 Who must file.
- 3.61 Form used to file.
- 3.62 When to file.
- 3.63 How and where to file.
- 3.64 Supervisory review of report.
- 3.65 Action on report.
- 3.66 Public release.
- 3.67-3.79 [Reserved]

Financial Disclosure Under Executive Order 11222 and 5 CFR Part 735

- 3.80 Who must file.
- 3.81 Form used to file.
- 3.82 When to file.
- 3.83 How and where to file.
- 3.84 Review of report.
- 3.85 Action on report.
- 3.86 Confidentiality of employees' statements.
- 3.87 Employees' complaint on filing requirement.
- 3.88 Employees not required to submit statements.
- 3.89 Information not known to employees.

Subpart E—Post Employment Conflicts of Interest [Reserved]**Appendix A Statutes Governing Conduct of Federal Employees**

Authority: Title II of Ethics in Government Act of 1978, Pub. L. 95-521, 92 Stat. 1836 (5 U.S.C. app); 5 CFR Parts 735, 737; EO 11222, 30 FR 6469, 3 CFR, 1964-1965 Comp., p. 306.

Subpart A—General**§ 3.1 Purpose.**

(a) The purpose of this part is to set forth Federal Emergency Management Agency (FEMA) policy and procedure relating to employee responsibilities and conduct.

(b) 5 CFR 735.101 states in part: "The maintenance of unusually high standards of honesty, integrity, impartiality, and conduct by Government employees and special Government employees is essential to assure the proper performance of the Government business and the maintenance of confidence by citizens in their Government. The avoidance of misconduct and conflicts of interest on the part of Government employees and special Government employees through informed judgment is indispensable to the maintenance of these standards".

(c) This part effectuates the requirements in Subpart A of 5 CFR 735 that FEMA issue regulations covering FEMA employees and special Government employees which (1) implement Executive Order 11222 of May 8, 1965, and 5 CFR Part 735 and (2) prescribe additional standards of ethical and other conduct appropriate to the particular functions of FEMA. This Part also effectuates the requirements placed on FEMA by the Ethics in Government Act of 1978, and implementing regulations of OPM.

§ 3.2 Applicability and scope.

(a) This part applies to all persons included within the terms "employee" and "special government employee" as defined in § 3.3. This part also applies to all former employees and special government employees of FEMA.

(b) This part prescribes general standards of conduct for FEMA employees. It is not, however, inclusive. Other FEMA regulations, instructions and issuances may include standards of ethical behavior. Employees must consult these. Among these instructions are those related to (1) the Freedom of Information Act, (2) The FEMA Employee Security Program, and (3) The FEMA Acquisition Process.

(c) This part does not apply unless there is specific provision to that effect to standards of ethical conduct required by law or regulation of FEMA contractors or grantees, nor does it apply to organizational conflicts of interest.

§ 3.3 Definitions.

For purposes of this part (a) "FEMA" means the Federal Emergency Management Agency.

(b) "Director" means the Director, FEMA.

(c) "Employee" includes every employee of FEMA, headquarters and field, but does not include a special Government employee nor does it include a member of the Executive Reserve except during such time as the member is serving as an employee of FEMA.

(d) "Special Government employee" includes an employee of FEMA who is retained, designated, appointed, or employed to perform, with or without compensation, and for not to exceed 130 days during any period of 365 consecutive days, temporary duty on either a full time or intermittent basis. See 18 U.S.C. 202.

(e) "Person" includes an individual, corporation, company, association, firm, partnership, society, joint stock company, or other organization or institution.

(f) "Ethics Counselor" means the FEMA officer designated to administer for FEMA Titles II and V of the Ethics in Government Act of 1978 (Pub. L. 95-521), and it also means the FEMA official who serves as the Agency's designee to OPM on matters covered by Parts 735 and 737 of Title 5 of the Code of Federal Regulations and who coordinates and directs the FEMA ethics counseling service. In FEMA this is the General Counsel.

(g) "OPM" means the Office of Personnel Management.

(h) "Head of Unit" as used herein includes Deputy Director, Associate Directors, Regional Directors, Federal Insurance Administrator, and the United States Fire Administrator. For purposes of this part, the Deputy Director is "Head of unit" for any organizational component of FEMA not included in the above listing of final publication.

§ 3.4 Notification to employees and special Government employees.

(a) The provisions of this part as it is revised, shall be brought to the attention of, and made available to, each employee and special Government employee by furnishing a copy at the time of final publication. The provisions of this part shall further be brought to the attention of such employees at least annually thereafter.

(b) The provisions of this part shall be brought to the attention of each new employee and new special Government employee by furnishing a copy at the time of entrance of duty, and by such other methods of information and education as the Director may prescribe.

§ 3.5 Interpretation and advisory service.

(a) The Ethics Counselor serves as FEMA's designee to OPM on matters covered by this Part and by CFR Parts 735 and 737. The Ethics Counselor is responsible for coordinating FEMA's counseling services and for assuring that counseling and interpretations on questions of conflicts of interest and other matters covered by this part are available.

(b) Such deputy counselors as may be required shall be designated by the General Counsel from among the staff of the Office of the General Counsel to give authoritative advice and guidance to current, former and prospective employees and special Government employees who seek advice and guidance on questions of conflicts of interest and on other matters covered by this Part.

(c) To assist in avoiding situations of noncompliance the Ethics Counselor shall, in accordance with section 206 (b)(7) of the Ethics in Government Act of 1978 (Pub. L. 95-521), maintain a list of those circumstances or situations which have resulted or may result in noncompliance with laws or regulations concerning conflicts of interest and shall furnish a published list to employees subject to Title II of the Ethics in Government Act of 1978.

(d) The Ethics Counselor shall provide advice promptly to former FEMA employees and special Government employees who make inquiry on any matter arising under the post employment conflict of interest regulations of OPM (5 CFR Part 737) and this Part.

§ 3.6 Employee responsibilities.

(a) Each employee and special Government employee has a positive duty to become acquainted with the numerous statutes relating to the ethical and other conduct of employees and special Government employees of FEMA and of the Government. Appendix A of this Part contains a listing of many of the more important statutory provisions of general applicability. In case of doubt on any question of statutory application to fact situations that may arise, an individual should consult the text of the statutes, Executive Orders or regulations and may consult the Ethics Counselor or Deputy Counselor. These will be made available to the employee by the Ethics Counselor or Deputy Counselor, who have available for review copies of laws, Executive Orders, agency regulations, and pertinent issuances by OPM on this subject.

(b) In any case where any employee or special Government employee,

regardless of grade or position, finds that participation in a particular matter or transaction might be considered to involve a direct or indirect financial interest, such individual shall promptly submit a request for disqualification to act in the matter or for other proposed remedial action in writing to the appropriate supervisor. This request will be acted on in accordance with § 3.8 of this Subpart.

§ 3.7 Sanction for violation.

A violation of this Part by an employee or special government employee may be cause for appropriate disciplinary action, or remedial action, which may be in addition to any penalty prescribed by law.

§ 3.8 Disqualification procedure.

(a) This section applies whether or not the conflict or apparent conflict of interest appears on any disclosure form and it applies to any employee or special government employee, regardless of grade or position. It applies to a request for disqualification to act made pursuant to paragraph (b) of this section.

(b) All disqualification or remedial action requests are referred to the Ethics Counselor. If the Ethics Counselor reaches an opinion, based on information submitted to him, that an employee or special government employee is not in compliance with applicable laws and regulations, then the Ethics Counselor shall so notify the individual of this opinion. The Ethics Counselor shall act on requests by individuals but is not required to approve the specific remedial action proposed. The individual shall be given a reasonable opportunity for an oral or written response. The Ethics Counselor may also ask for additional information.

(c) The Ethics Counselor shall consider the individual's response, and reach an opinion as to whether or not the individual is in compliance. If the opinion is that the individual is not in compliance with applicable laws and regulations, he shall notify the individual, and after consultation with the individual (if practical) determine and notify the individual of what steps if any, and the date for completion, would be appropriate for assuring compliance with the laws and regulations.

(d) These steps may include:

- (1) Divestiture,
- (2) Restitution,
- (3) The establishment of a blind trust,
- (4) Request for an exemption under section 208(b) of Title 18, United States Code, or
- (5) Voluntary request for transfer, reassignment, disqualification for a

particular assignment, or limitation of duties.

(e) If any of the remedial actions indicated in paragraph (d)(5) of this section is contemplated, appropriate personnel officers of FEMA shall be notified and shall participate in the determination of the action proposed to be effected.

(f) If steps for assuring compliance with applicable laws and regulations are not taken by the date set under paragraph (c) the matter shall be referred to the Director.

Subpart B—Conduct and Responsibilities of Employees**§ 3.10 Administrative extension of statutory limitations.**

The provisions of the statutes identified in this Part, including those in Appendix A, which relate to the ethical and other conduct of Federal employees are adopted and will be enforced as administrative regulations, violations of which may, in appropriate cases be the basis for disciplinary action, including removal. The fact that a statute which may relate to employee conduct is not identified in this Part does not mean that it may not be the basis for disciplinary action against an employee.

§ 3.11 Proscribed actions.

An employee shall avoid any action whether or not specifically prohibited by this Subpart which might result in, or create the appearance of:

- (a) Using public office for private gain;
- (b) Giving preferential treatment to any person;
- (c) Impeding Government efficiency or economy;
- (d) Losing complete independence or impartiality;
- (e) Making a Government decision outside official channels;
- (f) Affecting adversely the confidence of the public in the integrity of the Government;
- (g) Discriminating contrary to any law, rule or regulation, against any other employee, or applicant for employment, on the grounds of race, color, religion, national origin, sex, age, handicapping condition, marital status, or political affiliation.

(h) Excluding contrary to any law, rule or regulation, any person from participating in, or denying to any person the benefits of, any program or activity administered by FEMA on the grounds of race, color, religion, national origin, handicapping condition, age, sex, marital status or political affiliation;

(i) Knowingly participating, while conducting official business, in or attending any segregated meetings, or

meetings held in segregated facilities, from which persons are excluded because of race, color, religion, sex or national origin, etc.

§ 3.12 Financial interests.

(a) An employee shall not:

(1) Have a direct or indirect financial interest that conflicts substantially, or appears to conflict substantially, with the employee's Government duties and responsibilities as a Federal Employee; or

(2) Engage in, directly or indirectly, a financial transaction as a result of, or primarily relying on, information obtained through Government employment.

(b) No employee shall participate in any manner, on behalf of the United States, in the negotiation of contracts, the making of loans, and grants, the granting of subsidies, the fixing of rates, or the issuance of valuable permits or certificates, or in any investigation or prosecution, or in the transaction of any other official business which affects chiefly a person:

(1) By whom the individual has been employed or with whom the individual has had any economic interest within the preceding two years, or

(2) With whom the individual has any economic interest or any pending negotiations concerning a prospective economic interest, except with express prior authorization in writing by the Director.

(c) Contracts shall not knowingly be entered into between the Government and employees of the Government or business concerns or organizations which are substantially owned or controlled by Government employees, except for the most compelling reasons, such as cases where the needs of the Government cannot reasonably be otherwise supplied.

(d) This section does not preclude an employee from having a financial interest or engaging in financial transactions to the same extent as a private citizen not employed by the Government so long as it is not prohibited by law, Executive Order, OPM regulations (5 CFR Parts 735 and 737) or the regulation in this Part.

(e)(1) The financial (or economic) interests described below are, unless otherwise determined by the Ethics Counselor in specific cases, too remote or too inconsequential to affect the integrity of an employee's services, and are thereby exempted from the prohibitions of 18 U.S.C. 208(a), and the holding of such an interest does not exclude such employee's participation in the transaction of any official business

involving such financial or economic interests:

(i) Deposits in a bank, savings and loan association, building association, credit union or similar financial institution; or policies held with an insurance company;

(ii) Any holding in a widely held mutual fund, or regulated investment company which does not specialize in any particular industry;

(iii) Continued participation in a bona fide pension, retirement, group life, health, or accident insurance plan or other employee welfare or benefit plan that is maintained by a business or nonprofit organization by which the employee was formerly employed, to the extent that the employee's rights in the plan are vested and require no additional services by the employee or further payments to the plan by the organization with respect to the services of the employee. To the extent that such plans are profit sharing or stock bonus plans, this exemption shall not apply.

(2) These exempted financial interests should, however, be reported by employees on disclosure forms to the extent prescribed in Subpart D of this Part.

(3) For purposes of this Part unless otherwise provided in law, regulation, or on any form requesting disclosure, the interest of a spouse, dependent child, or other member of an employee's immediate household is considered to be an interest of the employee. For the purpose of this section, "member of an employee's immediate household" means those relations who are residents of the employee's household.

(f) Paragraph (b) of this section does not apply if the officer or employee first advises the Ethics Counselor in writing of the nature and circumstances of the matter, makes full disclosure of the financial interest, and receives in advance a written determination by such Ethics Counselor or Deputy Counselor that such interest is not so substantial as to be deemed likely to affect the integrity of the services which the Government may expect from such employee.

(g) The provisions of this section do not limit or add to the provisions of any disclosure requirements under Subpart D of this Part.

§ 3.13 Outside employment and other activities.

(a) An employee shall not engage in outside employment or other outside activity not compatible with the full and proper discharge of the duties and responsibilities of his or her Government employment, and which might result in a conflict or apparent

conflict between the private interests of the employee and the official Government duties and responsibilities. Incompatible activities include but are not limited to:

(1) Acceptance of a fee, compensation, gift, payment of expense, or any other thing of monetary value in circumstances where acceptance may result in, or create the appearance of, conflicts of interest;

(2) Outside employment which tends to impair the mental or physical capacity to perform Government duties and responsibilities in an acceptable manner;

(3) Outside activities that may be construed by the public to be the official acts of FEMA;

(4) Activities that establish relationships or property interests that may result in a conflict between one's private interests and official duties;

(b) Full-time employees and part-time employees with a regularly scheduled tour of duty must obtain the prior approval of the Ethics Counselor or Deputy Counselor before engaging in outside employment in the same professional field as that of the individual's official position.

(c) Although teaching, lecturing, and writing are outside employment, employees are encouraged to engage in such activities so long as they are not prohibited by law, Executive Order, OPM regulations or this Part.

(d) An employee shall not receive any salary or anything of monetary value from a private source as compensation for services to the Government.

(e) Any full-time employee mentioned in § 3.60 of this Part, whose appointment is required to be made by and with the advice and consent of the Senate, may not have earned income in any calendar year attributable to such year in excess of 15% of his or her salary.

(f) No employee, including the Director, shall receive outside compensation or anything of monetary value for any consultation, lecture, discussion, writing, or appearance, the subject matter of which is devoted substantially to the responsibilities, programs, or operations of FEMA, or which draws substantially on official data or ideas which have not become part of the body of public information.

(g) The use of an employee's name and title in connection with articles for publication which bear upon work in FEMA is permissible only if approval is obtained from the Ethics Counselor or Deputy Counselor.

(h) This section does not preclude an employee from:

(1) Participation in the activities of National or State political parties not proscribed by law.

(2) Participation in the affairs of or acceptance of an award for a meritorious public contribution or achievement given by a charitable, religious, professional, social, fraternal, nonprofit educational and recreational, public service, or civic organization.

§ 3.14 Gifts and gratuities.

(a) Except as otherwise provided in this section, an employee shall not solicit or accept, directly or indirectly, any gift, gratuity, favor, entertainment, loan, or any other thing of monetary value, from a person who:

(1) Has, or is seeking to obtain, contractual or other business or financial relations with FEMA;

(2) Conducts operations or activities that are regulated by FEMA; or

(3) Has interests that may be substantially affected by the performance or nonperformance of the employee's official duty.

(b) The prohibitions of paragraph (a) of this section do not apply in the following cases:

(1) Obvious family or personal relationships, such as those between the parents, children, or spouse of the employee and the employee, when the circumstances make it clear that it is those relationships rather than the business of the persons concerned which are the motivating factors;

(2) Acceptance of food and refreshments of nominal value on infrequent occasions in the ordinary course of a luncheon or dinner meeting or other meeting or on an inspection tour where an employee may properly be in attendance;

(3) Acceptance of loans from banks or other financial institutions on customary terms to finance proper and usual activities of employees, such as home mortgage loans; and

(4) Acceptance of unsolicited advertising or promotional materials, such as pens, pencils, note pads, calendars, and other items of nominal intrinsic value.

(5) Acceptance of a gift, gratuity, favor, entertainment, loan, payment of expenses, fees, compensation, or other thing of monetary value when such acceptance is determined in writing by the Director, to be necessary and appropriate in view of the work FEMA and the duties and responsibilities of the employee. A copy of each such determination shall be sent to the Ethics Counselor.

(c) An employee shall not solicit a contribution from another employee for a gift to an official superior, make a

donation as a gift to an official superior, or accept a gift from an employee receiving less pay than himself (5 U.S.C. 7351). However, this paragraph does not prohibit a voluntary gift of nominal value or donation in a nominal amount made on a special occasion such as marriage, illness or retirement.

(d) An employee shall not accept a gift, present, decoration, or other thing from a foreign government unless authorized by Congress as provided by the Constitution and in 5 U.S.C. 7342.

(e) Neither this section nor § 3.13 of this Part precludes an employee from receipt of bona fide reimbursement, unless prohibited by law, for actual expenses for travel and such other necessary subsistence as is compatible with this part for which no Government payment or reimbursement is made. However, this paragraph does not allow an employee to be reimbursed, or payment to be made on his behalf, for excessive personal living expenses, gifts, entertainment, or other personal benefits, nor does it allow an employee to be reimbursed by a person for travel on official business under FEMA orders when reimbursement is proscribed by decisions of the Comptroller General for such reasons as reimbursement by the person to the Agency directly.

§ 3.15 Use of Government, property, vehicles and communications systems.

(a) An employee shall not directly or indirectly use, or allow the use of, Government property of any kind, including property leased to the Government, for other than officially approved activities.

(b) Each employee shall protect and conserve Government property, including equipment, supplies, and other property entrusted or issued to the employee.

(c) An employee shall not use, or authorize the use of, Government owned or leased motor vehicles or aircraft for other than official purposes (31 U.S.C. 638a(c)).

(d) An employee shall not use the Federal Telecommunications System or similar system, or commercial telephone facilities for official long-distance calls unless specifically authorized to do so. Use of these facilities for purposes other than the conduct of official business is also prohibited.

§ 3.16 Misuse of information.

(a) Use of inside information. For the purpose of furthering a private interest, an employee shall not, except as provided in § 3.13 of this Part, directly, or indirectly use, or allow the use of, information which has been or has the appearance of having been obtained

through or in connection with Government employment and which has not been made available to the general public.

(b) *Coercion.* An employee shall not use Government employment to coerce, or give the appearance of coercing, a person to provide financial benefit to self or another person, particularly one with whom the employee has family, business, or financial ties.

(c) *Disclosure of restricted information.* Except as authorized by law, or FEMA regulation, including that related to the Freedom of Information Act, no employee shall divulge restricted commercial or economic information, or restricted information concerning the personnel or operations including procurement actions of any Government agency, or release any such information in advance of the time prescribed for its authorized release.

§ 3.17 Gambling, betting and lotteries.

An employee shall not, except as otherwise lawfully authorized, participate, while on Government-owned or leased property or while on duty for the Government, in any gambling activity, including the operation of a gambling device; in conducting a lottery or pool; in a game for money or property; or in selling or purchasing a numbers slip or ticket.

§ 3.18 Indebtedness.

(a) An employee shall pay each just financial obligation in a proper and timely manner, especially one imposed by law such as Federal, State, or local taxes. For purposes of this section, "a just financial obligation" means one acknowledged by the employee or reduced to judgment by a court, and "in a proper and timely manner" means in a manner which, in the view of FEMA, does not under the circumstances, reflect adversely on the Government as employer.

(b) In the event of dispute between an employee and an alleged creditor, this section does not require FEMA to determine the validity or amount of the disputed debt.

§ 3.19 General conduct prejudicial to the Government.

(a) Officers and employees of the Federal Government are servants of the people. Because of this, their conduct must, in many instances, be subject to more restrictions and to higher standards than may be the case in certain private employments. They are expected to conduct themselves in a manner which will reflect favorably upon their employer. Although the Government is not particularly

interested in the private lives of its employees, it does expect them to be honest, reliable, trustworthy, and of good character and reputation. They are expected to be loyal to the Government, and to the department or agency in which they are employed.

(b) An employee shall not engage in criminal, infamous, dishonest, immoral, or notoriously disgraceful conduct, or other conduct prejudicial to the Government.

(c) Each employee shall act in a manner that facilitates the effective accomplishment of the work of FEMA, observing at all times the requirements of courtesy, consideration, and promptness in dealing with the public and with persons or organizations having business with FEMA.

§ 3.20 Intermediaries and product recommendation.

Except as authorized in connection with the performance of official duties, no employee shall recommend or suggest the use of any particular or identified nongovernmental intermediary to deal with FEMA nor shall an employee recommend any device or product tested by or for, or used by FEMA, or for which FEMA provides financial assistance.

§ 3.21 Membership in organizations.

(a) An employee may not, in his or her official capacity as an employee of FEMA, serve as a member of a non-Federal or private organization except where statutory authority exists, or where the Director has determined, in writing, that such service would be beneficial to FEMA and consistent with such employee's service as a FEMA employee.

(b) The foregoing is subject to the following. An employee may, and is encouraged to serve in an individual capacity as a member of a non-Federal or private organization, particularly those engaged in civic or community affairs on a non-political, non-profit basis, provided that:

(1) Membership does not violate any restriction, law, or regulation, including this Part, and

(2) The employee's official title or organization connection is not shown on any listing or presented in any activity of the organization in such a manner as to imply that the employee is acting in an official capacity.

(c) An employee may be designated in writing to serve as a liaison representative of FEMA to a non-Federal or private organization when the Director, an Associate Director, or a Regional Director, as appropriate, has

determined that such service would be beneficial to FEMA and provided that:

(1) The activity relates to the work of FEMA;

(2) The employee does not participate by vote in the policy determinations of the organization;

(3) FEMA is in no way bound by any vote or action taken by the organization.

§ 3.22 Use of intoxicants.

An employee shall not use intoxicants habitually, to excess (5 U.S.C. 7352). Intoxicants shall not be consumed on Government-owned or leased premises. An employee found using, or under the influence of, intoxicants while at work will be subject to disciplinary action.

§ 3.23 False statements.

An employee shall not, knowingly and willfully, conceal or cover up a material fact, or make any false, or fictitious statement in connection with any official matter, document, or record (18 U.S.C. 1001, 2073).

§ 3.24 Care of official records and documents.

An employee shall not, willfully and unlawfully, conceal, remove, mutilate, falsify, or destroy any Government document or record (18 U.S.C. 285, 2071).

§ 3.25 Disclosure of information about an individual.

(a) Every employee who is involved in the design, development, operation, or maintenance of a system of records or who has access to a system of records shall familiarize himself with the requirements of the Privacy Act of 1974 (5 U.S.C. 552a) and FEMA (32 CFR Part 6) and FEMA directives issued thereunder and apply these requirements to all systems of records.

(b) No officer or employee shall disclose any record which is contained in a system of records by any means of communication to any person or to another agency, except pursuant to a written request by, or with the prior written consent of the individual to whom the record pertains, unless the disclosure is to a recipient specified in paragraph (c) of this section. The term "record", for purposes of this section, means any item, collection, or grouping of information about an individual that is maintained by an agency, including but not limited to education, financial transactions, medical history, and criminal or employment history and that contains name or the identifying number, symbol, or other identifying particular assigned to the individual, such as a fingerprint, voice-print, or photograph. The term "system of records" means a group of any records under the control of FEMA from which

information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual. The term "routine use" means, with respect to the disclosure of a record, the use of that record for a purpose which is compatible with the purpose for which it was collected. The term "individual" means a citizen of the United States or an alien lawfully admitted for permanent residence. The term "agency" is defined in 5 U.S.C. 552(e).

(c) An employee may disclose any record which is contained in a system of records without a written request by and without the prior written consent of the individual to whom the record pertains if the disclosure is:

(1) To those employees of the agency which maintains the record who have a need for the record in the performance of their duties.

(2) Pursuant to section 552 of Title 5 U.S.C. (Freedom of Information Act);

(3) For a routine use as defined in section (a)(7) of the Privacy Act of 1974 (described in paragraph (b) of this section);

(4) To the Bureau of the Census for purposes of planning or carrying out a census or survey or related activity pursuant to the provisions of Title 13 U.S.C.;

(5) To a recipient who has provided the agency with advance adequate written assurance that the record will be used solely as a statistical research or reporting record and that the record is to be transferred in a form that is not individually identifiable;

(6) To the National Archives of the United States as a record which has sufficient historical or other value to warrant its continued preservation by the United States Government, or for evaluation by the Administrator of General Services or his designee to determine whether the record has such value;

(7) To another agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States for a civil or criminal law enforcement activity if the activity is authorized by law and if the head of the agency or instrumentality has made a written request to the agency which maintains the record specifying the particular portion desired and the law enforcement activity for which the record is sought;

(8) To a person pursuant to a showing of compelling circumstances affecting the health or safety of an individual if upon such disclosure notification is transmitted to the last known address of the individual;

(9) To either House of Congress, or, to the extent of matter within its jurisdiction, any committee or subcommittee thereof, any joint committee of Congress, or a subcommittee of any such joint committee;

(10) To the Comptroller General or any authorized representatives, in the course of the performance of the duties of the General Accounting Office; or

(11) Pursuant to the order of a court of competent jurisdiction.

(d) No employee shall maintain a record describing how any individual exercises rights guaranteed by the First Amendment unless expressly authorized by statute or by the individual about whom the record is maintained or unless pertinent to and within the scope of an authorized law enforcement activity.

(e) No employee shall sell or rent an individual's name and address unless such action is specifically authorized by law.

(f) An employee—(1) Who by virtue of such employment or official position has possession of or access to agency records which contain individually identifiable information the disclosure of which is prohibited by paragraph (a) of this section or by any other rules, regulations, or directives of FEMA established under the Privacy Act of 1974, and who:

(i) Knowing that disclosure of the specific material is so prohibited, willfully discloses the material in any manner to any person or agency not entitled to receive it, or

(ii) Willfully maintains a system of records without meeting the notice requirements of the Privacy Act of 1974, or

(iii) Knowingly and willfully requests or obtains any record concerning an individual from an agency under false pretenses, is subject to criminal penalties and administrative sanctions; or (2) who—

(i) Makes a determination not to amend an individual's record in accordance with the Privacy Act of 1974; or

(ii) Refuses to comply with an individual's request to gain access to review and to obtain a copy of any information pertaining to him; or

(iii) Fails to maintain any record concerning any individual with such accuracy, relevance, timeliness, and completeness as is necessary to ensure fairness in any determination relating to the qualifications, character, rights, or opportunities of or benefits to the individual that may be made on the basis of such record and consequently a determination is made which is adverse to the individual; or

(iv) Fails to comply with any provision of the Privacy Act of 1974 or any FEMA regulation or directive implementing it, subjects to FEMA to civil penalties and self to administrative sanctions (5 U.S.C. 552a(g)(4)).

Subpart C—Conduct and Responsibilities of Special Government Employees

§ 3.40 Applicability of Subpart B.

Except as specifically provided in § 3.41–§ 3.45. Each special Government employee is subject to the provisions of Subpart B as if such individual were an employee, with the following exceptions:

(a) § 3.13 Outside employment and other outside activities;

(b) § 3.14 Gifts and gratuities;

(c) § 3.21 Membership in organizations.

§ 3.41 Use of Government employment.

A special Government employee shall not use FEMA employment for a purpose that is, or gives the appearance of being, motivated by the desire for private gain for the individual or another person, particularly one with whom the employee has family, business, or financial ties.

§ 3.42 Use of inside information.

(a) A special Government employee shall not use information obtained as a result of FEMA employment which has not become part of the body of public information for private gain for the employee or another person either by direction on the employee's part or by counsel, recommendation, or suggestion to another person, particularly one with whom the employee has family, business, or financial ties.

(b) Special Government employees may teach, lecture, or write in a manner consistent with the provisions of § 3.13.

§ 3.43 Coercion.

A special Government employee shall not use Government employment to coerce, or give the appearance of coercing, a person to provide financial benefit to the employee or another person, particularly one with whom the employee has family, business, or financial ties.

§ 3.44 Gifts, entertainment and favors.

(a) Except as provided in paragraph (b) of this section, a special Government employee, while so employed or in connection with employment, shall not receive or solicit from a person having business with FEMA anything of monetary value as a gift, gratuity, loan, entertainment, or favor for the employee or another person, particularly one with

whom the employee has family, business, or financial ties.

(b) The exceptions of § 3.14, which are applicable to employees, are also applicable to special Government employees.

§ 3.45 Applicability of other provisions.

(a) Each special Government employee shall acquaint himself with each statute, Executive Order, regulation, or similar provision listed in Appendix A to this part.

(b) A special Government employee engaged on irregular or occasional basis is bound by the political activity restrictions of the Former Hatch Act cited in Appendix A only while in an active duty status and for the entire 24 hours of any day during which the special government employee is actually employed.

Subpart D—Disclosure of Financial Interests

General Provisions

§ 3.50 General.

(a) Title II of the Ethics in Government Act of 1978 (Pub. L. 95-521), which became effective January 1, 1979, requires that certain officers and employees of the executive branch make specified financial disclosures in accordance with procedures for filing, review and public availability established by the office of Personnel Management.

(b) Section 402 of Executive Order 11222 of May 8, 1965 authorizes the Office of Personnel Management to prescribe regulations requiring submission by certain officers and employees of the executive branch of statements of employment and financial interest.

(c) This Subpart D describes for FEMA, the procedures required to implement the laws, Executive orders, and Office of Personnel Management Regulations concerning disclosure of financial and employment interests.

(d) An individual required to file a disclosure statement by virtue of the Ethics in Government Act of 1978 will not file a disclosure statement required by virtue of E.O. 11222 and Subpart D of 5 CFR Part 735.

§ 3.51 Information not required.

Subpart D does not require an employee to report information relating to a connection with, or interest in, a professional society or a charitable, religious, social, fraternal, recreational, public service, civic, or political organization or a similar organization not conducted as a business enterprise. For the purpose of this section,

educational and other institutions doing research and development or related work involving grants of money from or contracts with the Government are deemed "business enterprises" and are required to be included in disclosure statements.

§ 3.52 Effect of employees' statements on other requirements.

The statements and supplementary statements required of employees pursuant to this part are in addition to, and not in substitution for, or in derogation of, any similar requirement imposed by law, order, or regulation. The submission of a statement or supplementary statement by an employee does not permit the employee or any other person to participate in a matter in which the employee's or the other person's participation is prohibited by law, order, or regulation, including this Part.

§ 3.53–§ 3.59 [Reserved]

Financial Disclosure Under Ethics in Government Act of 1978

§ 3.60 Who must file.

The following officials of FEMA, if they have served 61 or more days during the preceding calendar year:

(a) Officers and employees (including special Government employees, as defined in 18 U.S.C. 202) whose positions are classified at GS-16 or above of the General Schedule, or whose basic rate of pay under other pay schedules is equal to or greater than the minimum rate of basic pay for GS-16. This includes all positions in the Senior Executive Service;

(b) Officers or employees in any other position determined by the Director of the Office of Government Ethics to be of equal classification to GS-16;

(c) Employees in the excepted service in positions which are of a confidential or policy-making character unless their positions have been excluded by regulations issued by the Director of the Office of Government Ethics (see 5 CFR 735.503).

(d) The Ethics Counselor.

§ 3.61 Form used to file.

The disclosure statement which must be used is Standard Form (SF) 278, "Financial Disclosure Statement for Executive Branch Personnel." Copies are available from the Ethics Counselor.

§ 3.62 When to file.

No later than May 14 annually, or 30 days after the individual assumes a position subject to the requirement in § 3.60 of this part unless the individual has within 30 days prior to assuming the

position, left another position subject to the requirement. In the event of termination of employment, if the individual has not in the interim accepted another position subject to the requirement, report must be filed no later than the 30th day after termination, covering:

(a) The preceding calendar year if the annual May 15 report has not been filed, and

(b) The portion of the present calendar year up to the date of termination.

§ 3.63 How and where to file.

(a) The SF 278, with a copy of the employee's position description, shall be submitted to the Ethics Counselor (General Counsel), who shall note on the report the date it is received. The Ethics Counselor will forward the report to the Head of Unit under whom the individual serves for review.

(b) The Forms SF 278 of heads of units shall be submitted for review to the Deputy Director. The Deputy Director's Form SF 278 will be submitted to the Director for review.

(c) Special government employees who were employed for more than 60 days during CY 1978 will be required to file an annual report (SF 278) with processing of their forms to be accomplished in the same manner prescribed in paragraph (a) of this section.

§ 3.64 Supervisory review of report.

Upon receipt of an SF 278 the head of unit will consider the reported financial interests as they relate to the individual's duties, and make recommendations. The Director of head of unit then will return the form with attachments, to the Ethics Counselor for review. The review process shall be completed within 60 days after the date of filing.

§ 3.65 Action on report.

(a) If, after review, the Ethics Counselor or Deputy Counselor is of the opinion that the individual making the report is in compliance with applicable law and regulation, he or she shall state such opinion on the report, and sign same. If additional information is required, the involved individual shall be notified as to what this information is and as to when it must be submitted.

(b) If the Ethics Counselor or Deputy Counselor is of the opinion, on the basis of information submitted that the individual is not in compliance with applicable laws and regulations, the individual shall be notified and the procedure specified in § 3.8 of this part followed. Notwithstanding § 3.8 of this

part, if steps for assuring compliance with applicable laws and regulations are not taken by the date set under § 3.8(c) by an individual appointment which requires the advice and consent of the Senate, the matter shall be referred to the President for appropriate action.

§ 3.66 Public release.

(a) No later than 15 days after any report (including SF 278) is received by FEMA, the Ethics Counselor shall permit inspection of, or furnish a copy of, such report including the position description to any person who requests inspection or a copy. The report shall be retained for six years after receipt. No fee shall be charged for furnishing a copy unless the cost of reproduction exceeds \$10 in which case the fee shall be the same as those established under the FEMA regulations implementing the Freedom of Information Act (Part 5 of this Title). The Ethics Counselor shall maintain an accurate accounting of disclosures of reports in accordance with the requirements of Part 6 of this title, which relates to implementation of the Privacy Act of 1974. These reports are part of a system of records—OPM—Govt 4 established by the Office of Personnel Management.

(b) Notwithstanding paragraph (a) a report may not be made available under this section to any person, nor may any person except upon a written application by such person stating

(1) The person's name, occupation and address,

(2) The name and address of any other person on whose behalf the inspection or copy is requested, and

(3) That such person is aware of the prohibitions on the obtaining or use of the report.

These applications shall be made available to the public throughout the period during which the report is made available to the public.

§ 3.67–§ 3.79 [Reserved]

Financial Disclosure Under Executive Order 11222 and 5 CFR Part 735

§ 3.80 Who must file.

Except as provided in § 3.88, the following categories of employees shall submit statements of employment and financial interest:

(a) Employees classified as GS-13 or above who are in a position identified as a position the incumbent of which is responsible for making a Government decision or taking a Government action in regard to:

(1) Contracting or procurement,

(2) Administering or monitoring grants or subsidies;

(3) Regulating or auditing private or other non-Federal enterprise; or
(4) Other activities where the decision or action has an economic impact on the interests of any non-Federal enterprise.

(b) Employees classified at GS-13 or above who are in a position which the Director has determined has duties and responsibilities which require the incumbent to report employment and financial interests in order to avoid involvement in a possible conflicts-of-interest situation and to carry out the purpose of law, Executive order, and this part.

(c) Employees classified below GS-13 who are in a position which otherwise meet the criteria in paragraph (a) or (b) of this section, and which position has been approved by the OPM as an exception that is essential to protect the integrity of the Government and to avoid employee involvement in a possible conflict-of-interest situation.

(d) The specific positions described in paragraph (a)-(c) of this section shall be identified in a FEMA Directive issued by the Director. A copy of this directive shall be furnished to each incumbent of a position subject to the requirement of § 3.80 of this part, and shall be made available to any person upon request. The directive shall be kept current and reviewed at least annually. Designation of a position is effective upon actual notification to the incumbent, or upon inclusion of a statement in the official job description that the position is subject to this requirement.

§ 3.81 Form used to file.

The disclosure statement which must be used under this section is FEMA Form 11-1.

§ 3.82 When to file.

An employee required to submit a FEMA Form 11-1 pursuant to § 3.80 shall submit that statement not later than:

- (a) Ninety days after the effective date of this part if employed on or before that effective date; or
- (b) Thirty days after entrance on duty, but not earlier than 90 days after the effective date, if appointed after that effective date.

§ 3.83 How and where to file.

(a) The FEMA Form 11-1 shall be submitted to the Ethics Counselor (General Counsel) for review and custody.

(b) Changes in, or additions to, the information contained in the Form 11-1 shall be reported to the Ethics Counselor in a supplementary statement of the financial interests or employment as of September 30 each year. This

supplementary statement is due by October 31. If no changes or additions occur, a negative report is required.

(c) Notwithstanding the filing of the annual report required by this section, each employee shall at all times avoid acquiring a financial interest or engaging in outside employment or other activity that could result, or taking an action that would result, in a violation of the conflict-of-interest provisions of Section 208 of Title 18, United States Code, or this Part.

§ 3.84 Review of report.

The FEMA Form 11-1 is reviewed by the Ethics Counselor, or Deputy Counselor, who shall obtain copies of the relevant job description. The counselors shall show the forms to supervisors, or other employees of FEMA only to the extent required to determine if a conflict of interest exists.

§ 3.85 Action on report.

When a statement submitted pursuant to this part or information from other sources indicates a conflict between the interests of an employee and the performance of the employee's services for the government, the employee concerned shall be provided an opportunity to explain the conflict or appearance of conflict in accordance with the procedure set out in § 3.8 of this part.

§ 3.86 Confidentiality of employees' statements.

Unlike the SF 278, each FEMA Form 11-1 and each supplementary statement shall be held in confidence by FEMA. To insure this confidentiality, the OPM regulations provide that:

(a) FEMA shall designate which officials and employees are to review and retain the statements;

(b) Officials and employees designated under paragraph (a) of this section are responsible for maintaining the statements in confidence and shall not allow access to, or allow information to be disclosed from, a statement except to carry out the purpose of this Part; and

(c) FEMA may not disclose information from a statement except as the OPM or the Director may determine for good cause shown.

§ 3.87 Employees' complaint on filing requirement.

Employees have the opportunity for review through the FEMA grievance procedures of a complaint by an employee that the position has been improperly included under these regulations as one requiring the submission of a statement of employment and financial interests.

§ 3.88 Employees not required to submit statements.

Employees in positions that meet the criteria in § 008.080 may be excluded from the reporting requirement when the Ethics Counselor determines that:

- (a) The duties of a position are such that the likelihood of the incumbent's involvement in a conflict-of-interest situation is remote;
- (b) The duties of a position are at such a level of responsibility that the submission of a statement of employment and financial interests is not necessary because of the degree of supervision and review over the incumbent or the inconsequential effect on the integrity of the Government.

§ 3.89 Information not known to employees.

If any information required to be included on a statement or supplementary statement, including holdings placed in trust, is not known to the employee but is known to another person, the employee shall request that other person to submit information in the employee's behalf.

Subpart E—Post Employment Conflicts of Interest [Reserved]

Appendix A—Statutes Governing Conduct of Federal Employees

There are numerous statutes pertaining to the ethical and other conduct of Federal employees. The important ones of general applicability are referred to in this Appendix.

A. Bribery and Graft

.01 Title 18, U.S.C., Section 201, prohibits anyone from bribing or attempting to bribe a public official by corruptly giving, offering, or promising him or any person selected by him, anything of value with intent (a) to influence any official act by him, (b) to influence him to commit or allow any fraud on the United States, or (c) to induce him to do or omit to do any act in violation of his lawful duty. As used in Section 201, "Public officials" is broadly defined to include officers, employees, and other persons carrying on activities for or on behalf of the Government.

.02 Section 201 also prohibits a public official's solicitation or acceptance of, or agreement to take a bribe. In addition, it forbids offers or payments to, and solicitations or receipt by, a public official of anything of value "for or because of" any official act performed or to be performed by him.

.03 Section 201 further prohibits the offering to or the acceptance by a witness of anything of value involving intent to influence his testimony at a trial, Congressional hearing, or agency proceeding. A similar provision applies to witnesses "for or because of" testimony given or to be given. The provisions summarized in this section do not preclude lawful witness fees, travel and subsistence expenses, or reasonable compensation for expert testimony.

B. Compensation to Officers and Employees in Matters Affecting the Government

.01 Title 18, U.S.C., Section 203, prohibits an officer or employee from receiving compensation for services rendered for others before a Federal department or agency in matters in which the Government is a party or is interested.

.02 Section 203 applies to a special Government employee as follows:

(a) If the special Government employee has served in FEMA more than 60 days during the preceding period of 365 days, Section 203 applies to him only in relation to a particular matter involving a specific party or parties (1) in which he has at any time participated personally and substantially in his governmental capacity, or (2) which is pending in FEMA, or .

(b) If the special Government employee has served in FEMA no more than 60 days during the preceding period of 365 days, section 203 applies to him only in relation to a particular matter involving a specific party or parties in which he has at any time participated personally and substantially in his governmental capacity.

.03 Section 203 does not apply to a retired officer of the uniformed services while not on active duty and not otherwise an officer or employee of the United States.

C. Activities of Officers and Employees in Claims Against and Other Matters Affecting the Government

.01 Title 18, U.S.C., Section 205, prohibits an officer or employee, otherwise than in the performance of his official duties from:

(a) Acting as agent or attorney for prosecuting any claim against the United States, or receiving any gratuity, or any share of or interest in any such claim in consideration of assistance in the prosecution of such claims; or

(b) Acting as agent or attorney for anyone before any Government agency, court, or officer in connection with any matter in which the United States is a party or has a direct and substantial interest.

.02 Section 205 applies to a special Government employee as follows:

(a) If the special Government employee has served in FEMA more than 60 days during the preceding period of 365 days, section 205 applies to him only in relation to a particular matter involving a specific party or parties (1) in which he has at any time participated personally and substantially in his governmental capacity, or (2) which is pending in FEMA.

(b) If the special Government employee has served no more than 60 days during the preceding period of 365 days, Section 205 applies to him only in relation to a particular matter involving a specific party or parties in which he has at any time participated personally and substantially in his governmental capacity.

.03 Section 205 does not preclude:

(a) An employee, if not inconsistent with faithful performance of his duties, from acting without compensation as agent or attorney for any person who is the subject of disciplinary, loyalty, or other personnel

administration proceedings, in connection with those proceedings; or

(b) An employee from giving testimony under oath or from making statements required to be made under penalty for perjury or contempt.

.04 Sections 203 and 205 do not preclude:

(a) An employee from acting as agent or attorney for his parents, spouse, child, or any person for whom, or for any estate for which he is serving as guardian, executor, administrator, trustee, or other personal fiduciary, except in those matters in which he has participated personally and substantially as a Government employee or which are the subject of his official responsibility, provided the head of the operating unit concerned approves; or

(b) A special Government employee from acting as agent or attorney for another person in the performance of work under a grant by, or a contract with, or for the benefit of, the United States provided the Director or designee shall certify in writing that the national interest so requires, and such certification shall be published in the Federal Register.

.05 Section 205 does not apply to a retired officer of the uniformed services while not on active duty and not otherwise an officer or employee of the United States.

D. Disqualification of Former Officers and Employees in Matters Connected With Former Duties or Official Responsibilities: Disqualification of Partners

Title 18 U.S.C. Section 207 deals with former employees and possible conflicts of interest.

E. Acts Affecting a Personal Financial Interest

.01 Title 18, U.S.C. Section 208 prohibits an officer or employee, including a special Government employee, from participating personally and substantially in a governmental capacity in any matter in which, to his knowledge, he, his spouse, minor child, partner, organization in which he is serving as officer, director, trustee, partner, or employee, or any person or organization with whom he is negotiating or has any arrangement concerning prospective employment, has a financial interest.

F. Salary of Government Officials and Employees

.01 Title 18, U.S.C. Section 209, prohibits:

(a) An officer or employee from receiving any salary, or any contribution to or supplementation of salary, as compensation for his services as an officer or employee of the United States from any source other than the Government of the United States, except as may be contributed out of the treasury of a State, county, or municipality, and

(b) Any person or organization from paying, contributing to, or supplementing the salary of an officer or employee under circumstances which would make its receipt a violation of subparagraph .01(a) of this section.

.02 Section 209:

(a) Does not prevent a Government employee from continuing to participate in a bona fide pension or other welfare plan maintained by a former employer;

(b) Exempts special Government employees and employees serving the Government without compensation, and grants a corresponding exemption to any outside person paying compensation to such individuals; and

(c) Does not prohibit the payment or acceptance of sums under the terms of the Government Employees Training Act.

G. Code of Ethics for Government Service

"Code of Ethics for Government Service", House Concurrent Resolution 175, 85th Congress, 2d Session, 72 Stat. B12 of July 11, 1958, which reads as follows:

"Any Person in Government Service Should:

"PUT loyalty to the highest moral principles and to country above loyalty to persons, party, or Government department. "UPHOLD the Constitution, laws, and legal regulations of the United States and all governments therein and never be a party to their evasion.

"GIVE a full day's labor for a full day's pay; giving to the performance of his duties his earnest effort and best thought.

"SEEK to find and employ more efficient and economical ways of getting tasks accomplished.

"NEVER discriminate unfairly by the dispensing of special favors or privileges to anyone, whether for remuneration or not; and never accept for himself or his family, favors or benefits under circumstances which might be construed by reasonable persons as influencing the performance of his governmental duties.

"MAKE no private promises of any kind binding upon the duties of office, since a Government employee has no private word which can be binding on public duty.

"ENGAGE in no business with the Government either directly or indirectly, which is inconsistent with the conscientious performance of his governmental duties.

"NEVER use any information coming to him confidentially in the performance of governmental duties as a means for making private profit.

"EXPOSE corruption wherever discovered.

"UPHOLD these principles, ever conscious that public office is a public trust."

H. Prohibitions

.01 The prohibition against lobbying with appropriated funds (18 U.S.C. 1913) reads as follows:

"No part of the money appropriated by any enactment of Congress shall, in the absence of express authorization by Congress, be used directly or indirectly to pay for any personal service, advertisement, telegram, telephone, letter, printed or written matter, or other device, intended or designed to influence in any manner a Member of Congress, to favor or oppose, by vote or otherwise, any legislation or appropriation by Congress, whether before or after the introduction of any bill or resolution proposing such legislation or appropriation, but this shall not prevent officers or employees of the United States or of its departments or agencies from communicating to Members of Congress on the request of any Member or to Congress, through the proper official channels, requests for legislation or

appropriations which they deem necessary for the efficient conduct of the public business.

"Whoever, being an officer or employee of the United States or of any department or agency thereof, violates or attempts to violate this section, shall be fined not more than \$500 or imprisoned not more than 1 year, or both; and after notice and hearing by the superior officer vested with the power of removing him, shall be removed from office or employment."

.02 The prohibitions against disloyalty and striking (5 U.S.C. 7311, 18 U.S.C. 1918). An individual may not accept or hold a position in the Government of the United States if he:

(a) Advocates the overthrow of our constitutional form of Government;

(b) Is a member of an organization that he knows advocates the overthrow of our constitutional form of government;

(c) Participates in a strike, or asserts the right to strike, against the Government of the United States or the government of the District of Columbia; or

(d) Is a member of an organization of employees of the Government of the United States or of individuals employed by the government of the District of Columbia that he knows asserts the right to strike against the Government of the United States or the government of the District of Columbia.

.03 The prohibitions in 2 U.S.C. 441 i, against receiving any single honorarium in excess of \$2000, or total honorariums in excess of \$25,000 in any calendar year.

.04 The prohibitions against (a) the disclosure of classified information (18 U.S.C. 798, 50 U.S.C. 788); and (b) the disclosure of confidential information (18 U.S.C. 1905). Each employee who has access to classified information, e.g. confidential, secret, or top secret, or to a restricted area is responsible for knowing and for complying strictly with the security regulations of the Federal Emergency Management Agency.

.05 The prohibition against the use of the franking privilege to avoid payment of postage on private mail (18 U.S.C. 1719).

.06 The prohibition against the use of deceit in an examination or personnel action in connection with Government employment (18 U.S.C. 1917).

.07 The prohibition against fraud or false statements in a Government matter (18 U.S.C. 1001). An employee in connection with an official matter shall not knowingly and willfully conceal or cover up a material fact or falsify official papers or documents.

.08 The prohibition against counterfeiting and forging transportation requests (18 U.S.C. 508). Falsely making, altering or forging in whole or in part, any form of transportation request is prohibited.

.09 The prohibitions against:

(a) Embezzlement of Government money or property (18 U.S.C. 641). No employee may convert any Government money or Government property to his own use or the use of another person.

(b) Failure to account for public money (18 U.S.C. 643). Any employee, who, having received public money which he is not authorized to retain, fails to render his accounts for same as provided by law, is guilty of embezzlement.

(c) Embezzlement of the money or property of another person in the possession of the employee by reason of his employment (18 U.S.C. 654). An employee is prohibited from embezzling or wrongfully converting for his own use the money or property of another which comes under his control as the result of his employment.

.10 The prohibition against unauthorized removal or use of documents relating to claims from or by the Government (18 U.S.C. 285). No employee, without authority, may remove from the place where it was kept by authority of the United States any document, record, file, or paper intended to be used to procure the payment of money from or by the United States or the allowance or payment of any claim against the United States, regardless of whether the document or paper has already been used or the claim has already been allowed or paid; and no employee may use or attempt to use any such document, record, file, or paper to procure the payment of any money from or by the United States or the allowance or payment of any claim against the United States.

.11 The prohibition against proscribed political activities, including the following, among others:

(a) Using official authority or influence for the purpose of interfering with or influencing the result of an election, except as authorized by law (5 U.S.C. 7324);

(b) Taking an active part in political management or in political campaigns, except as authorized by law (5 U.S.C. 7324);

(c) Offering or promising to pay anything of value in consideration of the use of, or promise to use, any influence to procure any appointive office or place under the United States for any person (18 U.S.C. 210);

(d) Soliciting or receiving, either as a political contribution or for personal emolument, anything of value in consideration of a promise of support or use of influence in obtaining for any person any appointive office or place under the United States (18 U.S.C. 211);

(e) Using official authority to interfere with a Federal election (18 U.S.C. 595);

(f) Promising any employment, compensation, or other benefit made possible by Act of Congress in consideration of political activity or support (18 U.S.C. 600);

(g) Action by a Federal officer or employee to solicit or receive, or to be in any manner concerned with soliciting or receiving, any contribution for any political purpose whatever from any other Federal officer or employee or from any person receiving compensation for services from money derived from the Treasury of the United States (18 U.S.C. 602);

(h) Soliciting or receiving (by any person) anything of value for any political purpose whatever on any Government premises (18 U.S.C. 603);

(i) Soliciting or receiving contributions for political purposes from anyone on Federal relief or work relief (18 U.S.C. 602);

(j) Payment of a contribution for political purposes by any Federal officer or employee to another Federal officer or employee (18 U.S.C. 607);

(k) Payment of a political contribution in excess of statutory limitations and purchase

of goods, commodities, advertising, or articles, the proceeds of which inure to the benefit of certain political candidates or organizations (18 U.S.C. 608).

.12 The prohibition against an employee acting as the agent of a foreign principal registered under the Federal Agents Registration Act (18 U.S.C. 219).

Dated: August 9, 1979.

John W. Macy, Jr.,

Director.

[FR Doc. 79-26621 Filed 8-24-79; 8:45 am]

BILLING CODE 4210-23-M

44 CFR Part 5

[Docket No. FEMA—Gen 5]

Production or Disclosure of Information

AGENCY: Federal Emergency Management Agency.

ACTION: Interim Regulation and Request for Comments.

SUMMARY: These interim rules establish policies and procedures for the Federal Emergency Management Agency (FEMA) to implement the Freedom of Information Act. In addition, FEMA requests public comment on these interim regulations. It is necessary for FEMA to initiate operations under these regulations immediately. Thus, FEMA is issuing a regulation which serves as an operating rule and at the same time affording opportunity for comment.

DATES: Effective date August 27, 1979. Written comments should be submitted on or before October 26, 1979.

ADDRESS: Send comments to Federal Emergency Management Agency, Washington, DC 20472.

FOR FURTHER INFORMATION CONTACT: George W. Jett, General Counsel, (202) 254-9521.

SUPPLEMENTARY INFORMATION: Reorganization Plan No. 3 of 1978 established the Federal Emergency Management Agency (FEMA). The plan was activated effective April 1, 1979 by Executive Order 12127 of March 31, 1979, "Federal Emergency Management Agency," 44 FR 19367. The plan, Executive Order and, subsequently, Executive Order 12148, effective July 15, 1979, 44 FR 43239, together transferred to the new agency functions of five existing agencies in four departments or parent agencies. Under the plan, and pursuant to the orders, the regulations of the predecessor agencies remain in full force and effect in FEMA as if the reorganization or transfer had not taken place until such time as those regulations are superseded. This means that FEMA employees are subject to

four different sets of Freedom of Information Act regulations.

In order to correct this situation, it is necessary to adopt regulations which serve as interim rules and, at the same time, affording opportunity for public comment.

These regulations are based upon the regulations applicable to the agencies the functions of which have been or will be transferred to FEMA.

Interested parties may participate by submitting their views, in writing, on these interim rules to FEMA. Each comment should include the name and address of the person or organization submitting the comment and should make reference to the above-cited docket number. All comments received on or before the date set out above will be considered in promulgating final regulations on the matters addressed here. All written comments received will be docketed and made available for public inspection at FEMA.

It has been determined that the April 1, 1979 effective date of Reorganization Plan No. 3 of 1979 and the July 15, 1979 effective date of Executive Order 12148 establish good cause for immediate publication of these regulations for interim effect.

Accordingly, the Federal Emergency Management Agency is amending Chapter 1 of Title 44 CFR by adding a new Part 5 as follows:

PART 5—PRODUCTION OR DISCLOSURE OF INFORMATION

Subpart A—General Provisions

- Sec.
- 5.1 Scope and purposes of part.
- 5.2 Application.
- 5.3 Definitions.
- 5.4 Availability of records.
- 5.5 Exemptions.
- 5.6 Congressional information.
- 5.7 Records of other agencies.
- 5.8 Records involved in litigation or other judicial process.
- 5.9 Inconsistent issuances of FEMA and its predecessor agencies superseded.

Subpart B—Publication of or Availability of General Agency Information, Rules, Orders, Policies, and Similar Material

- 5.20 Publication of rules and general policies.
- 5.21 Effect of failure to publish.
- 5.22 Coordination of publication.
- 5.23 Incorporation by reference.
- 5.24 Availability of opinions, orders, policies, interpretations, manuals, and instructions.
- 5.25 Available materials.
- 5.26 Rules for public inspection and copying.
- 5.27 Deletion of identifying details.
- 5.28 Indexes.
- 5.29 Effect of failure to make informational materials available.

Subpart C—Fees

- Sec.
- 5.40 Copies of FEMA records available at a fee.
- 5.41 FEMA publications.
- 5.42 Exemptions from or reduction of fee.
- 5.43 Searches.
- 5.44 Prepayment of fees over \$25.
- 5.45 Form of payment.
- 5.46 Fee schedule.
- 5.47 Appeals regarding fees.

Subpart D—Described Records

- 5.50 General.
- 5.51 Submission of requests for described records.
- 5.52 Review of requests.
- 5.53 Approval of request.
- 5.54 Denial of request for records.
- 5.55 Appeal within FEMA of denial of request.
- 5.56 Extension of time limits.
- 5.57 Exhaustion of administrative remedies.
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- 5.59 Disciplinary action against employees for "arbitrary or capricious" denial.
- 5.60 Contempt for noncompliance.

Subpart E—Exemptions

- 5.70 General.
- 5.71 Categories of records exempt from disclosure under 5 U.S.C. 552.
- 5.72 Executive privilege exemption.

Subpart F—Subpoena or Other Legal Demands for Records and Authentication of Copies of Records

- 5.80 Service of subpoena or other legal demand.
- 5.81 Compliance with subpoena or other legal demand.
- 5.82 Authentication and attestation of copies.

Authority: 5 U.S.C. 552; Reorganization Plan No. 3 of 1978, 43 FR 41943; and EO 12127 (effective April 1, 1979), 44 FR 19367.

Subpart A—General Provisions

§ 5.1 Scope and purposes of part.

This part sets forth policies and procedures concerning the availability of and disclosure of records and information held by the Federal Emergency Management Agency (FEMA) in accordance with 5 U.S.C. 552, popularly known as the "Freedom of Information Act," (FOIA).

§ 5.2 Application.

This part applies to all records and information materials generated, developed, or held by FEMA at Headquarters, in Regions, or in the field, or any component thereof.

§ 5.3 Definitions.

For purposes of the part, the following terms have the meanings ascribed to them in this section:

(a) *Records*. "Records" means all books, papers, maps, photographs, or other documentary materials, regardless of physical form or characteristics made or received by FEMA in pursuance of

Federal Law or in connection with the transaction of public business and preserved, or appropriate for preservation, as evidence of the organization, functions, policies, decisions, procedures, operations, or other activities of FEMA or because of the information value of data contained therein. The term does not include:

(1) Material made or acquired and preserved solely for reference or exhibition purposes, extra copies of documents preserved only for convenience of reference, and stocks of publications and of processed documents; or

(2) Objects or articles, such as structures, furniture, paintings, sculpture, models, vehicles or equipment; or

(3) Formulae, designs, drawings, research data, computer programs, technical data packages, and the like, which are not considered "records" within the Congressional intent of reference because of development costs, utilization, or value. These items are considered exploitable resources to be utilized in the best interest of all the public and are not preserved for informational value nor as evidence of agency functions. Requests for copies of such material shall be evaluated in accordance with policies expressly directed to the appropriate dissemination or use of these resources. Requests to inspect this material to determine its content for informational purposes shall normally be granted, unless inspection is inconsistent with the obligation to protect the property value of the material, as, for example, may be true for patent information and certain formulae, or is inconsistent with another significant and legitimate governmental purpose.

(b) *Reasonably Described*. "Reasonably described," when applied to a request record, means identifying it to the extent that it will permit the location of the particular document with a reasonable effort.

(c) *Agency*. "Agency," as defined in § 552(e) of Title 5 U.S.C., includes any executive department, military department, government corporation, or other establishment in the executive branch of the Government (including the Executive Office of the President), or any independent regulatory agency.

(d) *Headquarters FOIA Officer*. The Director, Administrative Services.

(e) *Regional FOIA Officer*. The Regional Director for Administration.

§ 5.4 Availability of records.

(a) FEMA records are available to the greatest extent possible for keeping with the spirit and intent of FOIA and will be

furnished promptly to any member of the public upon request addressed to the office designated in § 5.26. The person making the request need not have a particular interest in the subject matter, nor must he provide justification for the request.

(b) The requirement of 5 U.S.C. 552 that records be available to the public refers only to records in being at the time the request for them is made. FOIA imposes no obligation to compile a record in response to a request.

§ 5.5 Exemptions.

Requests for FEMA records may be denied if disclosure is exempted under the provisions of 5 U.S.C. 552, as outlined in Subpart E. Usually, except when a record is classified, or when disclosure would violate any other Federal statute, the authority to withhold a record from disclosure is permissive rather than mandatory. The authority for nondisclosure will not be invoked unless there is compelling reason to do so.

§ 5.6 Congressional information.

Nothing in this part authorizes withholding information from the Congress except when executive privilege is invoked by the President.

§ 5.7 Records of other agencies.

If a request is submitted to FEMA to make available current records which are the primary responsibility of another agency, FEMA will refer the request to the agency concerned for appropriate action. FEMA will advise the requester that the request has been forwarded to the responsible agency.

§ 5.8 Records involved in litigation or other judicial process.

Where there is reason to believe that any records requested may be involved in litigation or other judicial process in which the United States is a party, including discovery procedures pursuant to the Federal Rules of Civil Procedure or Federal Rules of Criminal Procedure, the request shall be referred to the General Counsel.

§ 5.9 Inconsistent issuances of FEMA and its predecessor agencies superseded.

Policies and procedures of any of FEMA's predecessor agencies inconsistent with this regulation are superseded to the extent of that inconsistency.

Subpart B—Publication of or Availability of General Agency Information, Rules, Orders, Policies, and Similar Material

§ 5.20 Publication of rules and general policies.

In accordance with 5 U.S.C. 552(a)(1), there are separately stated and currently published, or from time to time there will be published, in the Federal Register for the guidance of the public, the following general information concerning FEMA:

(a) Description of the organization of the Headquarters Office and regional and other offices and the established places at which, the employees from whom, and the methods whereby the public may obtain information, make submittals or requests, or obtain decisions.

(b) Statement of the general course and method by which FEMA functions are channeled and determined, including the nature and requirements of all formal and informal procedures available.

(c) Rules of procedure, descriptions of forms available or the places at which forms may be obtained, and instructions as to the scope and contents of all papers, reports, or examinations.

(d) Substantive rules of general applicability adopted as authorized by law, and statements of general policy or interpretations of general applicability formulated and adopted by FEMA.

(e) Each amendment, revision, or repeal of the materials described in this section. Much of this information will also be codified in this Subchapter A.

§ 5.21 Effect of failure to publish.

5 U.S.C. 552(a)(1) provides that, except to the extent that a person has actual and timely notice of the terms thereof, a person may not in any manner be required to resort to, or to be adversely affected by, a matter required to be published in the Federal Register and not so published.

§ 5.22 Coordination of publication.

The General Counsel, FEMA, is responsible for coordination of FEMA materials required to be published in the Federal Register.

§ 5.23 Incorporation by reference.

When deemed appropriate, matter covered by this Subpart, which is reasonably available to the class of persons affected thereby may be incorporated by reference in the Federal Register in accordance with standards prescribed from time to time by the Director of the Federal Register (see 1 CFR Part 51).

§ 5.24 Availability of opinions, orders, policies, interpretations, manuals, and instructions.

FEMA will make available for public inspection and copying the material described in 5 U.S.C. 552(a)(2) as enumerated in § 5.25 and an index of those materials as described in § 5.28, at convenient places and times.

§ 5.25 Available materials.

FEMA materials which are available under this Subpart are as follows:

(a) Final opinions and orders made in the adjudication of cases.

(b) Those statements of policy and interpretations which have been adopted by FEMA and are not published in the Federal Register.

(c) Administrative staff manuals and instructions to staff that affect a member of the public, unless such materials are promptly published and copies offered for sale.

§ 5.26 Rules for public inspection and copying.

(a) *Locations.* Materials are available for public inspection and copying at the following locations:

(1) Headquarters, Federal Emergency Management Agency, 1725 I Street, NW., Washington, DC 20472.

(2) Regional Offices:

(i) Region One—15 New Chardon Street, Boston, Massachusetts 02114.

(ii) Region Two—90 Church Street, Room 801-B, New York, NY 10007.

(iii) Region Three—Curtis Building, Sixth and Walnut Streets, Philadelphia, PA 19106.

(iv) Region Four—1371 Peachtree Street, NE., Atlanta, GA 30309.

(v) Region Five—One North Dearborn Street, Chicago, IL 60602.

(vi) Region Six—Earle Cabell Building, 1100 Commerce Street, Dallas, TX 75242.

(vii) Region Seven—Federal Office Building, 911 Walnut Street, Kansas City, MO 64106.

(viii) Region Eight—Room 311, 909 17th Street, Denver, CO 80202.

(ix) Region Nine—450 Golden Gate Avenue, P.O. Box 36006, San Francisco, CA 94102.

(x) Region Ten—Arcade Plaza Building, 1321 Second Avenue, Seattle, WA 98101.

(b) *Time.* Materials will be made available for public inspection and copying during the normal hours of business.

(c) *Copying.* FEMA will furnish reasonable copying services at fees specified in Subpart C. Such reproduction services, as are required, will be arranged by the Administrative Services Division in the headquarters or by regional offices as appropriate.

(d) *Handling of Materials.* The unlawful removal or mutilation of materials is forbidden by law and is punishable by fine or imprisonment or both. FEMA personnel making materials available will ensure that all materials provided for inspection and copying are returned in the same condition as provided.

§ 5.27 Deletion of identifying details.

To the extent required to prevent a clearly unwarranted invasion of personal privacy, FEMA may delete identifying details when making available or publishing an opinion, statement of policy, interpretation, or staff manual or instruction. However, the justification for each deletion will be explained fully in writing, and will require the concurrence of the General Counsel. A copy of the justification will be attached to the material containing the deletion and a copy will also be furnished to the Headquarters FOIA Officer or appropriate Regional Director.

§ 5.28 Indexes.

FEMA will maintain and make available for public inspection and copying current indexes arranged by subject matter providing identifying information for the public regarding any matter issued, adopted, or promulgated after July 4, 1967, and described in § 5.25. FEMA will publish quarterly and make available copies of each index or supplements thereto. The indexes will be maintained for public inspection at the location described in § 5.28.

§ 5.29 Effect of failure to make information materials available.

Materials requested to be made available pursuant to § 5.24 that affect a member of the public may be relied upon, used, or cited as precedent by FEMA against any private party only if (a) they have been indexed and either made available or published as required by 5 U.S.C. 552(a)(2), or (b) the private party has actual and timely notice of their terms.

Subpart C—Fees

§ 5.40 Copies of FEMA records available at a fee.

One copy of FEMA records not available free of charge will be provided at a fee as provided in § 5.46. A reasonable number of additional copies will be provided for the applicable fee where reproduction services are not readily obtainable from private commercial sources.

§ 5.41 FEMA publications.

Anyone may obtain FEMA publications without charge from the

FEMA Headquarters, Regional Officer and from the U.S. Army Publication Center, 2800 Eastern Boulevard, Baltimore, MD 21220 in accordance with standard operating procedures, including limitation on numbers of specific individual publications. FEMA Films may be obtained on loan or certain of these films may be purchased, in which case fees will be charged as set out in a FEMA catalogue. Non-exempt FEMA research reports are available from the National Technical Information Service, United States Department of Commerce which establishes its own fee schedule. Charges, if any, for these items and similar user charges are established in accordance with other provisions of law as, for example, 31 U.S.C. 483a and are not deemed search and duplication charges hereunder.

§ 5.42 Exemptions from or reduction of fee.

(a) When the Headquarters FOIA Officer or Regional Director handling the request for FEMA records determines that at least one of the following conditions exist, the fee requirement shall be waived and one copy of the FEMA records provided without charge to the requestor:

(1) When the incremental cost of collecting the fee would be an unduly large part of or an amount greater than the fee; a fee of less than \$10 is considered as meeting this requirement.

(2) When the reproduction is for a foreign, state, or local Government or international agency and furnishing it without charge is an appropriate courtesy; or

(3) When furnishing the records without charge conforms to generally established business custom, such as furnishing personal reference data to prospective employers of former employees.

(b) Records may be furnished without charge, or at a reduced charge if the Headquarters FOIA Officer or Regional Director determines that waiver or reduction of the fee is in the public interest because furnishing the information can be considered as primarily benefiting the general public.

§ 5.43 Searches.

(a) The time spent in the following activities may be computed in determining "search time" subject to applicable fees as provided in § 5.46.

(1) Time spent in trying to locate FEMA records which come within the scope of the request;

(2) Time spent either in transporting a necessary agency searcher to a place of record storage or in transporting records to the location of a necessary agency

searcher (FEMA must document in writing the necessity of transporting either the searcher or the records); and

(3) Direct costs involving the use of computer time to locate and extract requested records.

(b) The time spent in the following activities may not be computed in determining search time subject to applicable fees as provided in § 5.46.

(1) Time spent in examining a requested record for the purpose of determining whether an exemption can and should be asserted;

(2) Time spent in deleting exempt matter being withheld from records to be made available;

(3) Time spent in monitoring a requester's inspection of agency records made available; and

(4) Time spent in operating reproduction facilities.

§ 5.44 Prepayment of fees over \$25.

(a) When the Headquarters FOIA Officer or Regional FOIA Officer handling a request for FEMA records determines that the anticipated total fee (search and reproduction) is likely to exceed \$25, the requestor shall be notified of the requirement to prepay the anticipated fee prior to FEMA's commencing its search or reproduction. FEMA will remit the excess paid by the requestor or bill the requestor for an additional amount according to variations between the final fee charged and the amount prepaid.

(b) When a FEMA official notifies a requestor of the necessity of prepayment as provided in paragraph (a) of this section, the official also shall notify the requestor that the computation of the applicable time limits for FEMA's response to an initial request for records or an appeal will be suspended from the mailing date of the notification of requirement to prepay until the receipt of the prepayment.

§ 5.45 Form of payment.

Payment shall be by check or money order payable to the Treasurer of the United States and shall be addressed to the official designated by FEMA in correspondence with the requestor or to the Headquarters FOIA Officer or Regional FOIA Officer, as appropriate.

§ 5.46 Fee schedule.

In computing applicable fees, FEMA will consider only the following costs in providing the requested records.

(a) *Reproduction Fees.* (1) The fee for reproducing copies of FEMA records up to and including material 8½ x 14 inches shall be \$0.10 per page.

(2) The fee for reproducing copies of FEMA records over 8½ x 14 inches or

whose physical characteristics do not permit reproduction by routine electrostatic copying shall be the direct cost of reproducing the records through Government or commercial sources.

(b) *Search Fee.* (1) The standard search fee shall be \$4 per hour or fraction thereof beyond the initial half hour used to locate the requested records.

(2) When professional staff must be used to search for the requested records because clerical staff would be unable to locate them, the search fee shall be \$8 per hour or fraction thereof beyond the initial half hour used to locate the requested records.

(3) When the search includes non-personnel expenditures to locate and extract requested records, such as computer time or transportation expenses, the applicable fee shall be the direct cost to FEMA.

§ 5.47 Appeals regarding fees.

A requestor whose application for a fee waiver or a fee reduction is denied may appeal that decision to the Deputy Director in the manner prescribed in Subpart D.

Subpart D—Described Records

§ 5.50 General.

(a) Except for records made available pursuant to Subpart B FEMA shall promptly make records available to a requestor pursuant to a request which reasonably described such records unless FEMA invokes an exemption pursuant to Subpart E. Although the burden of reasonable description of the records rests with the requestor, FEMA will assist in identification to the extent practicable. Where requested records may be involved in litigation or other judicial proceedings in which the United States is a party, the procedures set forth under § 5.8 shall be followed.

(b) Upon receipt of a request which does not reasonably describe the records requested, FEMA may contact the requestor to seek a more specific description. The 10-day time limit set forth in § 5.52 will not start until a request reasonably describing the records is received in the office of the appropriate official identified in § 5.51.

§ 5.51 Submission of requests for described records.

(a) For records located in the FEMA Headquarters, requests shall be submitted in writing, to the Headquarters FOIA Officer, Federal Emergency Management Agency, Washington, DC 20472. For records located in the FEMA Regional Offices, requests shall be submitted to the appropriate Regional FOIA Officer, at

the address listed in § 5.26. Requests should bear the legend "Freedom of Information Request" prominently marked on both the face of the request letter and the envelope. The 10-day time limit for agency determinations set forth in § 5.52 shall not start until a request is received in the office of the appropriate official identified in this paragraph.

(b) The Headquarters FOIA Officer shall respond to questions concerning the proper office to which Freedom of Information requests should be addressed.

§ 5.52 Review of requests.

(a) Upon receipt of a request for information, the Headquarters FOIA Officer, or the Regional FOIA Officer for a regional office, will forward the request to the FEMA office which has custody of the record.

(b) Upon any request for records made pursuant to § 5.20, § 5.24, or § 5.51, the office having custody of the records shall determine within 10 days (excepting Saturdays, Sundays, and legal public holidays), after receipt of any such request in the office of the appropriate official identified in § 5.51 whether to comply with the request. If the request is approved, the office having custody of the record shall notify the requestor and the Headquarters FOIA Officer whether request originated in Headquarters, Region or field.

(c) When a request is received for a record which:

- (1) Was obtained by FEMA from a non-U.S. Government source; or
- (2) Contains information obtained by FEMA from a non-U.S. Government source; and because of the source and the nature of the records or information, there is reason to believe that the source of the information or record may object to release or may have an enforceable right to prevent release, prompt notification of intended release shall be given to the source. Release shall normally be withheld until the source has a reasonable time to comment on the proposed release. Comments received shall be considered in determining the releasability of the document. When the source advises that it is seeking a restraining order or other court action to prevent release, release will normally not be made pending the outcome of the court action.

§ 5.53 Approval of request.

When a request is approved, records will be made available promptly in accordance with the terms of the regulation. Copies may be furnished or the records may be inspected and copies as provided in § 5.26.

§ 5.54 Denial of request for records.

(a) Each of the following officials within FEMA, or any official designated to act for the official, shall have the authority to make initial denials of requests for disclosure of records within his or her custody, and shall, in accordance with 5 U.S.C. 552(a)(6)(C), be the responsible official for denials of records made under this part.

- (1) At Headquarters:
 - (i) The Director
 - (ii) The Deputy Director
 - (iii) Associate Directors or Office Directors
 - (iv) Assistant Director for Training and Education
 - (v) Federal Insurance Administrator
 - (vi) U.S. Fire Administrator
 - (vii) Director, Operations Support
 - (viii) Director, Personnel
 - (ix) Director, Finance and Administration
 - (x) Director, Program Evaluation and Research
 - (xi) General Counsel
 - (xii) Inspector General
 - (2) At Regions—Regional Directors.
- (b) If a request is denied, the appropriate official listed in paragraph (a) of this section shall except as provided in § 5.56 advise the requestor within 10 days (excepting Saturdays, Sundays, and legal public holidays) of receipt of the request by the official specified in § 5.52 and furnish written reasons for the denial. The denial will
- (1) describe the record or records requested,
 - (2) state the reasons for nondisclosure pursuant to Subpart E,
 - (3) state the name and title or position of the official responsible for the denial of such request, and
 - (4) state the requestor's appeal rights.

(c) In the event FEMA cannot locate requested records the appropriate official specified in paragraph (a) of this section will inform the requestor (1) that the agency has determined at the present time to deny the request because the records have not yet been found or examined, but (2) that the agency will review the request within a specified number of days, when the search or examination is expected to be complete. The denial letter will state the name and title or position of the official responsible for the denial of such request. In such event, the requestor may file an agency appeal immediately, pursuant to § 5.55.

§ 5.55 Appeal within FEMA of denial of request.

(a) A requestor denied access, in whole or in part, to FEMA records may appeal that decision within FEMA. All appeals should be addressed to the Headquarters FOIA Officer, Federal

Emergency Management Agency, Washington, DC regardless of whether the denial being appealed was made at Headquarters, in a field office, or by a Regional Director.

(b) An appeal must be received in the Headquarters FOIA Office no later than thirty calendar days after receipt by the requestor of the initial denial access in the case of a total denial, or thirty calendar days after receipt by the requestor of records made available in the case of a partial denial.

(c) An appeal must be in writing and should contain a brief statement of the reasons why the records should be released and enclose copies of the initial request and denial. The appeal letter should bear the legend, "FREEDOM OF INFORMATION APPEAL," conspicuously marked on both the face of the appeal letter and on the envelope. FEMA has twenty days (excepting Saturdays, Sundays, and legal public holidays) after the receipt of an appeal to make a determination with respect to such appeal. The twenty day time limit shall not begin to run until the appeal is received by the Headquarters FOIA Officer. Misdirected appeals should be promptly forwarded to that office.

(d) The Headquarters FOIA Officer will submit the appeal to the Deputy Director for final administrative determination.

(e) The Deputy Director shall be the deciding official on all appeals except in those cases in which the initial denial was made by the Director or the Deputy Director. If the Deputy Director made the initial denial, the Director shall be the deciding official on appeal. If the Director made the initial denial, there shall be no right of appeal within FEMA. In the absence of the Deputy Director the Director will be the deciding official on all appeals.

(f) If an appeal is filed in response to a tentative denial pending locating and/or examination of records, as described in § 5.53(c), FEMA will continue to search for and/or examine the requested records and will issue a response immediately upon completion of the search and/or examination. Such action in no way suspends the time for FEMA's response to the requestor's appeal which FEMA will continue to process regardless of the response under this subsection.

(g) If a requestor files suit pending an agency appeal, FEMA nonetheless will continue to process the appeal, and will furnish a response within the twenty day time limit set out in paragraph (c) of this section.

(h) If, on appeal, the denial of the request for records is in whole or in part upheld, the Deputy Director will

promptly furnish the requestor a copy of the ruling in writing within the twenty day time limit set out in paragraph (c) of this section except as provided in § 5.55. The notification letter shall contain: (1) A brief description of the record or records requested; (2) a statement of the legal basis for nondisclosure; (3) a statement of the name and title or position of the official or officials responsible for the denial of the initial request as described in § 5.54 and the denial of the appeal as described in paragraph (f) of this section, and (4) a statement of the requestor's rights of judicial review.

§ 5.56 Extension of time limits.

In unusual circumstances as specified in this section, the time limits prescribed in § 5.52 and § 5.55 may be extended by an official named in § 5.54(a) who will provide written notice to the requestor setting forth the reasons for such extension and the date on which a determination is expected. Such notice will specify no date that would result in an extension of more than ten work days. In unusual circumstances, the Headquarters FOIA Officer may authorize more than one extension, divided between the initial request stage and the appeals stage, but in no event will the combined periods of extension exceed ten work days. As used in this subsection, "unusual circumstances" include only those circumstances where extension of time is reasonably necessary to the proper processing of the particular request. Examples include:

(a) The need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request; or

(b) The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request; or

(c) The need for consultation, which shall be conducted with all practicable speed, with another agency or with a non-Federal source having a substantial interest in the determination of the request or among two or more components of FEMA having substantial subject matter interest therein.

§ 5.57 Exhaustion of administrative remedies.

Any person making a request to FEMA for records under this part shall be deemed to have exhausted his administrative remedies with respect to the request if the agency fails to comply with the applicable time limit provisions set forth in § 5.52 and § 5.55.

§ 5.58 Judicial relief available to the public.

Upon denial of a requestor's appeal by the Deputy Director the requestor may file a complaint in a district court of the United States in the district in which the complainant resides, or has his principal place of business, or in which the agency records are situated, or in the District of Columbia, pursuant to 5 U.S.C. 552(a)(4)(B).

§ 5.59 Disciplinary action against employees for "arbitrary or capricious" denial.

Pursuant to 5 U.S.C. 552(a)(4)(F), whenever the district court, described in § 5.58 orders the production of any FEMA records improperly withheld from the complainant and assesses against the United States reasonable attorney fees and other litigation costs, and the court additionally issues a written finding that the circumstances surrounding the withholding raise questions whether FEMA personnel acted arbitrarily or capriciously with respect to the withholding, the Special Prosecutor in the Merit Systems Protection Board is required to initiate a proceeding to determine whether disciplinary action is warranted against the officer or employee who primarily was responsible for the withholding. The Special Prosecutor after investigation and consideration of the evidence submitted, submits findings and recommendations to the Director of FEMA and sends copies of the findings and recommendations to the officer or employee or his or her representative. The law requires the Director to take any corrective action which the Special Prosecutor recommends.

§ 5.60 Contempt for noncompliance.

In the event of noncompliance by FEMA with an order of a district court pursuant to § 5.58, the district court may punish for contempt the FEMA employee responsible for the noncompliance, pursuant to 5 U.S.C. 552(a)(4)(G).

Subpart E—Exemptions

§ 5.70 General.

The exemptions enumerated in 5 U.S.C. 552(b), under which the provisions for availability of records and informational materials will not apply, are general in nature. FEMA will decide each case on its merits in accordance with the FEMA policy expressed in Subpart A.

§ 5.71 Categories of records exempt from disclosure under 5 U.S.C. 552.

5 U.S.C. 552(b) provides that the requirements of the statute do not apply to matters that are:

(a) Specifically authorized under criteria established by an Executive Order to be kept secret in the interest of national defense or foreign policy and are, in fact, properly classified pursuant to such Executive Order.

(b) Related solely to the internal personnel rules and practices of an agency.

(c) Specifically exempted from disclosure by statute other than section 552(b) of Title 5, provided that such statute (1) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue or (2) establishes particular criteria for withholding or refers to particular types of matter to be withheld.

(d) Trade secrets and commercial or financial information obtained from a person and privileged or confidential.

(e) Inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency.

(f) Personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(g) Investigatory records compiled for law enforcement purposes, but only to the extent that the production of such records would:

(1) Interfere with enforcement proceedings;

(2) Deprive a person of a right to a fair trial or an impartial adjudication;

(3) Constitute an unwarranted invasion of personal privacy;

(4) Disclose the identity of a confidential source and, in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source;

(5) Disclose investigative techniques and procedures; or

(6) Endanger the life or physical safety of law enforcement personnel.

(h) Contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of any agency responsible for the regulation or supervision of financial institutions.

(i) Geological and geophysical information and data, including maps, concerning wells. Any reasonable segregable portion of a record shall be

provided to any person requesting the record after deletion of the portions which are exempt under this section.

§ 5.72 Executive privilege exemption.

Where application of the executive privilege exemption is desired, the matter shall be forwarded to the Director for consideration. If the request for information is Congressional, only the President may invoke the exemption. Presidential approval is not necessarily required if the request for information is in connection with judicial or adjudicatory proceedings or otherwise. In connection with judicial proceedings, the response shall be coordinated with the Department of Justice.

Subpart F—Subpoena or Other Legal Demands for Records and Authentication of Copies of Records**§ 5.80 Service of subpoena or other legal demand.**

(a) A subpoena duces tecum or other legal demand by a court or other authority for the production of records held by FEMA should be addressed to the General Counsel, FEMA, Washington, DC 20472. For Regional records the subpoena should be addressed to the appropriate Regional Director listed in § 5.26.

(b) When such a subpoena or demand is served on any employee of FEMA other than as provided in paragraph (a) of this section, unless otherwise directed by the Director such employees shall decline respectfully to produce such records on the ground that such employee is without authority under this Subpart F to do so.

§ 5.81 Compliance with subpoena or other legal demand.

Officials serviced with subpoena will comply with the subpoena or demand insofar as it is practicable by submitting authenticated copies of the records. Original records should be provided only if necessary.

§ 5.82 Authentication and attestation of copies.

The Director, Deputy Director, Associate Directors, and heads of offices having the records, the General Counsel, and in the regions, the Regional Directors and the Regional Directors of Administration are authorized to authenticate and attest for and in the name of the Director, copies or reproductions of the records. Appropriate fees will be charged for such copies or reproduction.

Dated: August 9, 1979.

John W. Macy, Jr.,
Director.

[FR Doc. 79-26622 Filed 8-24-79; 8:45 am]
BILLING CODE 4210-23-M

44 CFR Part 6

[Docket No. FEMA—Gen 6]

Implementation of Privacy Act of 1974

AGENCY: Federal Emergency Management Agency.

ACTION: Interim Regulations and Request for Comments.

SUMMARY: These interim rules establish policies and procedures in which the Federal Emergency Management Agency (FEMA) implements the Privacy Act of 1974 and other laws and regulations relating to that Act such as OMB Circulars. In addition, FEMA requests public comment on these interim regulations. It is necessary for FEMA to begin its operations under these regulations immediately. Thus, FEMA is issuing a regulation which serves as an operating rule and also affords, at the same time, opportunity for public comment.

DATES: Effective Date August 27, 1979. Written comments should be submitted on or before October 26, 1979.

ADDRESS: Federal Emergency Management Agency, Washington, DC 20472.

FOR FURTHER INFORMATION CONTACT: George W. Jett, General Counsel. (202) 254-9521.

SUPPLEMENTARY INFORMATION: Reorganization Plan No. 3 of 1978 established the Federal Emergency Management Agency (FEMA). The plan was activated effective April 1, 1979 by Executive Order 12127 "Federal Emergency Management Agency." 44 FR 19367. The plan, Executive Order 12127, and Executive Order 12148 "Federal Emergency Management Agency," effective July 15, 1979, 44 FR 43239, together transferred to the new agency functions of five existing agencies in four departments or parent agencies. Under the plan, and pursuant to the Executive Orders, the regulations of the predecessor agencies remain in full force and effect in FEMA as if the reorganization or transfer had not taken place until such time as those regulations are superceded. This means that FEMA employees are subject to four different sets of Privacy Act regulations.

In order to correct this situation it is necessary to adopt regulations which serve a dual role as interim operating

procedures, and afford opportunity for public comment.

These regulations are based upon the regulations applicable to employees of the agencies the functions of which have been transferred to FEMA.

Interested parties may participate by submitting their views in writing on these interim regulations to FEMA. Each comment should include the name and address of the person or organization submitting the comment and should make reference to the above-cited docket number. All comments received on or before the date set out above will be considered in promulgating final regulations on the matters addressed here. All written comments received will be docketed and made available for public inspection at FEMA.

It has been determined that the April 1, 1979 effective date of Reorganization Plan No. 3 of 1979 and the July 15, 1979 effective date of Executive Order 12148 establish good cause for immediate publication of these regulations for interim effect.

Accordingly, the Federal Emergency Management Agency is amending Chapter 1 of Title 44 CFR by adding a new Part 6 as follows:

PART 6—IMPLEMENTATION OF THE PRIVACY ACT OF 1974**Subpart A—General**

Sec.

- 6.1 Purpose and scope of part.
- 6.2 Definitions.
- 6.3 Collection and use of information (Privacy Act Statements).
- 6.4 Standards of agency.
- 6.5 Rules of conduct.
- 6.6 Safeguarding systems of records.
- 6.7 Records of other agencies.
- 6.8 Subpoena and other legal demands.
- 6.9 Inconsistent issuances of FEMA and/or its predecessor agencies superseded
- 6.10 Assistance and referrals.

Subpart B—Disclosure of Records

- 6.20 Conditions of disclosure.
- 6.21 Procedures for disclosure.
- 6.22 Accounting of disclosures.

Subpart C—Individual Access to Records

- 6.30 Form of requests.
- 6.31 Special requirements for medical records.
- 6.32 Granting access.
- 6.33 Denials of access.
- 6.34 Appeal of denial of access within FEMA.

Subpart D—Requests to Amend Records

- 6.50 Submission of requests to amend records.
- 6.51 Review of requests to amend records.
- 6.52 Approval of requests to amend records.
- 6.53 Denial of requests to amend records.
- 6.54 Agreement to alternative amendments.
- 6.55 Appeal of denial of request to amend a record.

Sec.

- 6.56 Statement of disagreement.
- 6.57 Judicial review.

Subpart E—Report on New Systems and Alterations of Existing Systems

- 6.70 Reporting requirement.
- 6.71 Federal Register notice of establishment of new system or alteration of existing system.
- 6.72 Effective date of new system of records or alteration of an existing system of records.

Subpart F—Fees

- 6.80 Records available at fee.
- 6.81 Additional copies.
- 6.82 Waiver of fee.
- 6.83 Prepayment of fees over \$25.
- 6.84 Form of payment.
- 6.85 Reproduction fees.

Subpart G—Exempt System of Records (Reserved)

Authority: Privacy Act of 1974, Pub. L. 93-579; 5 U.S.C. 552a; Reorganization Plan No. 3 of 1978, 43 FR 41943; EO 12127, 44 FR 19367.

Subpart A—General**§ 6.1 Purpose and scope of part.**

This part sets forth policies and procedures concerning the collection, use and dissemination of records maintained by the Federal Emergency Management Agency (FEMA) which are subject to the provision of 5 U.S.C. 552a, popularly known as the "Privacy Act of 1974" (hereinafter referred to as the Act). These policies and procedures govern only those records as defined in § 6.2. Policies and procedures governing the disclosure and availability of records in general are in Part 5 of this chapter. This part also covers: (a) procedures for notification to individuals of a FEMA system of records pertaining to them; (b) guidance to individuals in obtaining information, including inspections of, and disagreement with, the content of records; (c) accounting of disclosure; (d) special requirements for medical records; and (e) fees.

§ 6.2 Definitions.

For the purpose of this Part:

(a) "Agency" includes any executive department, military department, Government corporation, Government controlled corporation, or other establishment in the executive branch of the Government (including the Executive Office of the President), or any independent regulatory agency (see 5 U.S.C. 552(e)).

(b) "Individual" means a citizen of the United States or an alien lawfully admitted for permanent residence.

(c) "Maintain" includes maintain, collect, use, and disseminate.

(d) "Record" means any item, collection, or grouping of information

about an individual that is maintained by an agency, including, but not limited to those concerning education, financial transactions, medical history, and criminal or employment history, and that contains the name or other identifying particular assigned to the individual, such as a fingerprint, voiceprint, or photograph.

(e) "System of records" means a group of any records under the control of an agency from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identification assigned to that individual.

(f) "Statistical record" means a record in a system of records maintained for statistical research or reporting purposes only and not used in whole or in part in making any determination about an identifiable individual, except as provided by 13 U.S.C. 8.

(g) "Routine use" means, with respect to the disclosure of a record, the use of that record for a purpose which is compatible with the purpose for which it was collected.

(h) "System manager" means the employee of FEMA who is responsible for the maintenance of a system of records and for the collection, use, and dissemination of information therein.

(i) "Subject individual" means the individual named or discussed in a record of the individual to whom a record otherwise pertains.

(j) "Disclosure" means a transfer of a record, a copy of a record, or any or all of the information contained in a record to a recipient other than the subject individual, or the review of a record by someone other than the subject individual.

(k) "Access" means a transfer of a record, a copy of a record, or the information in a record to the subject individual, or the review of a record by the subject individual.

(l) "Solicitation" means a request by an officer or employee of FEMA that an individual provide information about himself or herself.

(m) "Director" means the Director, FEMA.

(n) "Deputy Director" means the Deputy Director, FEMA.

(o) "Privacy Appeals Officer" means the Director, Finance and Administration.

§ 6.3 Collection and use of information (Privacy Act statements).

(a) *General:* Any information used in whole or in part in making a determination about an individual's rights, benefits, or privileges under FEMA programs will be collected directly from the subject individual to

the extent practicable. The system manager also shall ensure that information collected is used only in conformance with the provisions of the Act and these regulations.

(b) *Solicitation of Information:* System managers shall ensure that at the time information is solicited the solicited individual is informed of the authority for collecting that information, whether providing the information is mandatory or voluntary, the purpose for which the information will be used, the routine uses to be made of the information, and the effects on the individual, if any, of not providing the information. The Director, Finance and Administration and Regional Directors shall ensure that forms used to solicit information are in compliance with the act and these regulations.

(c) *Solicitation of Social Security Numbers:* Before an employee of FEMA requests an individual to disclose his or her social security number, the employee of FEMA shall ensure that either:

(1) The disclosure is required by Federal statute, or;

(2) The disclosure of a social security number was required under statute or regulation adopted before January 1, 1975, to verify the identity of an individual, and the social security number will become a part of a system of records in existence and operating before January 1, 1975. If solicitation of the social security number is authorized under paragraph (c) (1) or (2) of this section, the FEMA employee who requests an individual to disclose the social security account number, shall first inform that individual whether that disclosure is mandatory or voluntary, by what statutory or other authority the number is solicited, and the uses that will be made of it.

(d) *Soliciting Information From Third Parties:* An employee of FEMA shall inform third parties who are requested to provide information about another individual of the purposes for which the information will be used.

§ 6.4 Standards of accuracy.

The system manager shall ensure that all records which are used by FEMA to make determinations about any individual are maintained with such accuracy, relevance, timeliness, and completeness as is reasonably necessary to ensure fairness to the individual.

§ 6.5 Rules of conduct.

Employees of FEMA involved in the design, development, operation, or maintenance of any system of records or in maintaining any record, shall conduct

themselves in accordance with the rules of conduct concerning the protection of personal information in § 3.25 of this chapter.

§ 6.6 Safeguarding systems of records.

(a) Systems managers shall ensure that appropriate administrative, technical, and physical safeguards are established to ensure the security and confidentiality of records and to protect against any anticipated threats or hazards to their security or integrity which could result in substantial harm, embarrassment, inconvenience, or unfairness to any individual on whom information is maintained.

(b) Personnel information contained in both manual and automated systems of records shall be protected by implementing the following safeguards:

(1) Official personnel folders, authorized personnel operating or work folders and other records of personnel actions effected during an employee's Federal service or affecting the employee's status and service, including information on experience, education, training, special qualification, and skills, performance appraisals, and conduct, shall be stored in a lockable metal filing cabinet when not in use by an authorized person. A system manager may employ an alternative storage system providing that it furnished an equivalent degree of physical security as storage in a lockable metal filing cabinet.

(2) System managers, at their discretion may designate additional records of unusual sensitivity which require safeguards similar to those described in paragraph (a) of this section.

(3) A system manager shall permit access to and use of automated or manual personnel records only to persons whose official duties require such access, or to a subject individual or his or her representative as provided by this part.

§ 6.7 Records of other agencies.

If FEMA receives a request for access to records which are the primary responsibility of another agency, but which are maintained by or in the temporary possession of FEMA on behalf of that agency, FEMA will advise the requestor that the request has been forwarded to the responsible agency. Records in the custody of FEMA which are the primary responsibility of the Office of Personnel Management are governed by the rules promulgated by it pursuant to the Privacy Act.

§ 6.8 Subpoena and other legal demands.

Access to records in systems of records by subpoena or other legal process shall be in accordance with the provisions of Part 5 of this chapter.

§ 6.9 Inconsistent issuances of FEMA and/or its predecessor agencies superseded.

Any policies and procedures in any issuances of FEMA or any of its predecessor agencies which are inconsistent with the policies and procedures in this Part are superseded to the extent of that inconsistency.

§ 6.10 Assistance and referrals.

Requests for assistance and referral to the responsible system manager or other FEMA employee charged with implementing these regulations should be made to the Director, Finance and Administration, Federal Emergency Management Agency, Washington, D.C. 20472.

Subpart B—Disclosure of Records

§ 6.20 Conditions of disclosure.

No employee of FEMA shall disclose any record to any person or to another agency without the express written consent of the subject individual unless the disclosure is:

(a) To officers or employees of FEMA who have a need for the information in the official performance of their duties;

(b) Required by the provisions of the Freedom of Information Act, 5 U.S.C. 552.

(c) For a routine use as published in the annual notices in the Federal Register;

(d) To the Bureau of the Census for use pursuant to Title 13, United States Code;

(e) To a recipient who has provided FEMA with advance adequate written assurance that the record will be used solely as a statistical research or reporting record subject to the following: The record shall be transferred in a form that is not individually identifiable. The written statement should include as a minimum (1) a statement of the purpose for requesting the records; and (2) certification that the records will be used only for statistical purposes. These written statements should be maintained as accounting records. In addition to deleting personal identifying information from records released for statistical purposes, the system manager shall ensure that the identity of the individual cannot reasonably be deduced by combining various statistical records;

(f) To the National Archives of the United States as a record which has sufficient historical or other value to

warrant its continued preservation by the United States Government, or for evaluation by the Administrator of General Services or his designee to determine whether the record has such value;

(g) To another agency or instrumentality of any governmental jurisdiction within or under the control of the United States for civil or criminal law enforcement activity, if the activity is authorized by law, and if the head of the agency or instrumentality or his designated representative has made a written request to the Director specifying the particular portion desired and the law enforcement activity for which the record is sought;

(h) To a person showing compelling circumstances affecting the health and safety of an individual to whom the record pertains. (Upon such disclosure, a notification must be sent to the last known address of the subject individual.)

(i) To either House of Congress or to a subcommittee or committee (joint or of either House, to the extent that the subject matter falls within their jurisdiction;

(j) To the Comptroller General or any duly authorized representatives of the Comptroller General in the course of the performance of the duties of the General Accounting Office; or

(k) Pursuant to the order of a court of competent jurisdiction.

§ 6.21 Procedures for disclosure.

(a) Upon receipt of a request for disclosure, the system manager shall verify the right of the requestor to obtain disclosure pursuant to § 6.20. Upon that verification and subject to other requirements of this part, the system manager shall make the requested records available.

(b) If the system manager determines that the disclosure is not permitted under the provisions of § 6.20 or other provisions of this part, the system manager shall deny the request in writing and shall inform the requestor of the right to submit a request for review and final determination to the Director or designee.

§ 6.22 Accounting of disclosures.

(a) Except for disclosures made pursuant to § 6.20 (a) and (b), an accurate accounting of each disclosure shall be made and retained for 5 years after the disclosure or for the life of the record, whichever is longer. The accounting shall include the date, nature, and purpose of each disclosure, and the name and address of the person or agency to whom the disclosure is made;

(b) The system manager also shall maintain in conjunction with the accounting of disclosures;

(1) A full statement of the justification for the disclosure.

(2) All documentation surrounding disclosure of a record for statistical or law enforcement purposes; and

(3) Evidence of written consent to a disclosure given by the subject individual.

(c) Except for the accounting of disclosures made to agencies or instrumentalities in law enforcement activities in accordance with § 6.20 (g) or of disclosures made from exempt systems the accounting of disclosures shall be made available to the individual upon request. Procedures for requesting access to the accounting are in Subpart C of this part.

Subpart C—Individual Access to Records

§ 6.30 Form of requests.

(a) An individual who seeks access to his or her record or to any information pertaining to the individual which is contained in a system of records should notify the system manager at the address indicated in the Federal Register notice describing the pertinent system. The notice should bear the legend "Privacy Act Request" both on the request letter and on the envelope. It will help in the processing of a request if the request letter contains the complete name and identifying number of the system as published in the Federal Register; the full name and address of the subject individual; a brief description of the nature, time, place, and circumstances of the individual's association with FEMA; and any other information which the individual believes would help the system manager to determine whether the information about the individual is included in the system of records. The system manager shall answer or acknowledge the request within 10 workdays of its receipt by FEMA.

(b) The system manager, at his discretion, may accept oral requests for access subject to verification of identity.

§ 6.31 Special requirements for medical records.

(a) A system manager who receives a request from an individual for access to those official medical records which belong to the U.S. Office of Personnel Management and are described in Chapter 339, Federal Personnel Manual (medical records about entrance qualifications or fitness for duty, or medical records which are otherwise filed in the Official Personnel Folder),

shall refer the pertinent system of records to a Federal Medical Officer for review and determination in accordance with this section. If no Federal Medical Officer is available to make the determination required by this section, the system manager shall refer the request and the medical reports concerned to the Office of Personnel Management for determination.

(b) If, in the opinion of a Federal Medical Officer, medical records requested by the subject individual indicate a condition about which a prudent physician would hesitate to inform a person suffering from such a condition of its exact nature and probable outcome, the system manager shall not release the medical information to the subject individual nor to any person other than a physician designated in writing by the subject individual, or the guardian or conservator of the individual.

(c) If, in the opinion of a Federal Medical Officer, the medical information does not indicate the presence of any condition which would cause a prudent physician to hesitate to inform a person suffering from such a condition of its exact nature and probable outcome, the system manager shall release it to the subject individual or to any person, firm, or organization which the individual authorizes in writing to receive it.

§ 6.32 Granting access.

(a) Upon receipt of a request for access to non-exempt records, the system manager shall make these records available to the subject individual or shall acknowledge the request within 10 workdays of its receipt by FEMA. The acknowledgment shall indicate when the system manager will make the records available.

(b) If the system manager anticipates more than a 10 day delay in making a record available, he or she also shall include in the acknowledgment specific reasons for the delay.

(c) If a subject individual's request for access does not contain sufficient information to permit the system manager to locate the records, the system manager shall request additional information from the individual and shall have 10 workdays following receipt of the additional information in which to make the records available or to acknowledge receipt of the request and indicate when the records will be available.

(d) Records will be available for authorized access during normal business hours at the offices where the records are located. A requestor should be prepared to identify himself or herself by signature; i.e., to note by

signature the date of access and/or produce other identification verifying the signature.

(e) Upon request, a system manager shall permit an individual to examine the original of a non-exempt record, shall provide the individual with a copy of the record, or both. Fees shall be charged in accordance with Subpart F.

(f) An individual may request to pick up a record in person or to receive it by mail, directed to the name and address provided by the individual in the request. A system manager shall not make a record available to a third party for delivery to the subject individual except for medical records as outlined in § 6.31.

(g) An individual who selects another person to review, or to accompany the individual in reviewing or obtaining a copy of the record must, prior to the disclosure, sign a statement authorizing the disclosure of the record. The system manager shall maintain this statement with the record.

(h) The procedure for access to an accounting of disclosure is identical to the procedure for access to a record as set forth in this section.

§ 6.33 Denials of access.

(a) A system manager may deny an individual access to that individual's record only upon the grounds that FEMA has published the rules in the Federal Register exempting the pertinent system of records from the access requirement. These exempt systems of records are described in Subpart G of this part.

(b) Upon receipt of a request for access to a record which the system manager believes is contained within an exempt system of records, he or she shall forward the request to the appropriate official listed below through normal supervisory channels.

(1) At Headquarters:

- (i) The Director.
- (ii) The Deputy Director.
- (iii) Associate Directors or Office Directors.
- (iv) Assistant Director for Training and Education.
- (v) U.S. Fire Administrator.
- (vi) Federal Insurance Administrator.
- (vii) Director, Operations Support.
- (viii) Director, Personnel.
- (ix) Director, Finance and Administration.
- (x) Director, Program Evaluation and Research.
- (xi) General Counsel.
- (xii) Inspector General.

(2) At Regions: Regional Directors. The system manager shall append to the request an explanation of the determination that the requested record is contained within an exempt system of records and a recommendation that the request be denied or granted.

(c) In the event that the system manager serves in one of the positions listed in paragraph (b) of this section, he or she shall retain the responsibility for denying or granting the request.

(d) The appropriate official listed in paragraph (b) of this section shall, in consultation with the Office of General Counsel and such other officials as deemed appropriate, determine if the request record is contained within an exempt system of records and:

(1) If the record is not contained within an exempt system of records, the above official shall notify the system manager to grant the request in accordance with § 6.32, or

(2) If the record is contained within an exempt system said official shall:

(i) Notify the requester that the request is denied, including a statement justifying the denial and advising the requestor of a right to judicial review of that decision as provided in § 6.57, or

(ii) Notify the system manager to make record available to the requestor in accordance with § 6.31, notwithstanding the record's inclusion within an exempt system.

(e) The appropriate official listed in paragraph (b) of this section shall provide the Privacy Appeals Office with a copy of any denial of a requested access.

§ 6.34 Appeal of denial of access within FEMA.

A requestor denied access in whole or in part, to records pertaining to that individual, exclusive of those records for which the system manager is the Director, may file an administrative appeal of that denial. Appeals of denied access will be processed in the same manner as processing for appeals from a denial of a request to amend a record set out in § 6.55, regardless whether the denial being appealed is made at headquarters or by a regional official.

Subpart D—Requests to Amend Records

§ 6.50 Submission of requests to amend records.

An individual who desires to amend any record containing personal information about the individual should direct a written request to the system manager specified in the pertinent Federal Register notice concerning FEMA's systems of records. A current FEMA employee who desires to amend personnel records should submit a written request to the FEMA Director of Personnel, Washington, D.C. 20472. Each request should include evidence of and justification for the need to amend the pertinent record. Each request should

bear the legend "Privacy Act—Request to Amend Record" prominently marked on both the face of the request letter and the envelope.

§ 6.51 Review of requests to amend records.

(a) The system manager shall acknowledge the receipt of a request to amend a record within 10 workdays. If possible, the acknowledgment shall include the system manager's determination either to amend the record or to deny the request to amend as provided in § 6.53.

(b) When reviewing a record in response to a request to amend, the system manager shall assess the accuracy, relevance, timeliness, and completeness of the existing record in light of the proposed amendment and shall determine whether the request for the amendment is justified. With respect to a request to delete information, the system manager also shall review the request and the existing record to determine whether the information is relevant and necessary to accomplish an agency purpose required to be accomplished by statute or Executive Order.

§ 6.52 Approval of requests to amend records.

If the system manager determines that amendment of a record is proper in accordance with the request to amend, he or she promptly shall make the necessary corrections to the record and shall send a copy of the corrected record to the individual. Where an accounting of disclosure has been maintained, the system manager shall advise all previous recipients of the record of the fact that a correction has been made and the substance of the correction. Where practicable, the system manager shall advise the Privacy Appeals Officer that a request to amend has been approved.

§ 6.53 Denial of requests to amend records.

(a) If the system manager determines that an amendment of a record is improper or that the record should be amended in a manner other than that requested by an individual, he shall refer the request to amend and his determinations and recommendations to the appropriate official listed in § 6.33(b) through normal supervisory channels.

(b) If the official listed in § 6.33, after reviewing the request to amend a record, determines to amend the record in accordance with the request, said official promptly shall return the request to the system manager with instructions

to make the requested amendments in accordance with § 6.52.

(c) If the appropriate official listed in § 6.33, after reviewing the request to amend a record, determines not to amend the record in accordance with the request, the requestor shall be promptly advised in writing of the determination. The refusal letter (1) shall state the reasons for the denial of the request to amend; (2) shall include proposed alternative amendments, if appropriate; (3) shall state the requestor's right to appeal the denial of the request to amend; and (4) shall state the procedures for appealing.

(d) The appropriate official listed in § 6.33 shall furnish the Privacy Appeals Officer a copy of each initial denial of a request to amend a record.

§ 6.54 Agreement to alternative amendments.

If the denial of a request to amend a record includes proposed alternative amendments, and if the requester agrees to accept them, he or she must notify the official who signed the denial. That official immediately shall instruct the system manager to make the necessary amendments in accordance with § 6.52.

§ 6.55 Appeal of denial of request to amend a record.

(a) A requestor who disagrees with a denial of a request to amend a record may file an administrative appeal of that denial. The requestor should address the appeal to the FEMA Privacy Appeals Officer, Washington, D.C. 20472. If the requestor is an employee of FEMA and the denial to amend involves a record maintained in the employee's Official Personnel Folder, as described in Chapter 293 of the Federal Personnel Manual, the appeal should be addressed to the Director, Bureau of Manpower Information Systems, Office of Personnel Management, Washington, D.C. 20415.

(b) Each appeal to the Privacy Act Appeals Officer shall be in writing and must be received by FEMA no later than 30 calendar days from the requestor's receipt of a denial of a request to amend a record. The appeal should bear the legend "Privacy Act—Appeal," both on the face of the letter and the envelope.

(c) Upon receipt of an appeal, the Privacy Act Appeals Officer shall consult with the system manager; the official who made the denial, the General Counsel or a member of that office, and such other officials as may be appropriate. If the Privacy Act Appeals Officer in consultation with these officials, determines that the record should be amended, as requested, the system manager shall be

instructed immediately to amend the record in accordance with § 6.52 and shall notify the requestor of that action.

(d) If the Privacy Act Appeals Officer, in consultation with the officials specified in paragraph (c) of this section, determines that the appeal should be rejected, the Privacy Act Appeals Officer shall submit the file on the request and appeal, including findings and recommendations, to the Deputy Director for a final administrative determination.

(e) If the Deputy Director determines that the record should be amended as requested, he or she immediately shall instruct the system manager in writing to amend the record in accordance with § 6.52. The Deputy Director shall send a copy of those instructions to the Privacy Act Appeals Officer, who shall notify the requestor of that action.

(f) If the Deputy Director determines to reject the appeal, the requestor shall immediately be notified in writing of that determination. This action shall constitute the final administrative determination on the request to amend the record and shall include:

(1) The reasons for the rejection of the appeal.

(2) Proposed alternative amendments, if appropriate, which the requestor subsequently may accept in accordance with § 6.54.

(3) Notice of the requestor's right to file a Statement of Disagreement for distribution in accordance with § 6.56.

(4) Notice of the requestor's right to seek judicial review of the final administrative determination, as provided in § 6.57.

(g) The final agency determination must be made no later than 30 workdays from the date on which the appeal is received by the Privacy Act Appeals Officer.

(h) In extraordinary circumstances, the Director may extend this time limit by notifying the requestor in writing before the expiration of the 30 workdays. The Director's notification will include a justification for the extension.

§ 6.56 Statement of disagreement.

Upon receipt of a final administrative determination denying a request to amend a record, the requestor may file a Statement of Disagreement with the appropriate system manager. The Statement of Disagreement should include an explanation of why the requestor believes the record to be inaccurate, irrelevant, untimely, or incomplete. The system manager shall maintain the Statement of Disagreement in conjunction with the pertinent record, and shall include a copy of the

Statement of Disagreement in any disclosure of the pertinent record. The system manager shall provide a copy of the Statement of Disagreement to any person or agency to whom the record has been disclosed only if the disclosure was subject to the accounting requirements of § 6.22.

§ 6.57 Judicial review.

Within 2 years of receipt of a final administrative determination as provided in § 6.34 or § 6.55, a requestor may seek judicial review of that determination. A civil action must be filed in the Federal District Court in which the requestor resides or has his or her principal place of business or in which the agency records are situated, or in the District of Columbia.

Subpart E—Report on New Systems and Alterations of Existing Systems

§ 6.70 Reporting requirement.

(a) No later than 90 calendar days prior to the establishment of a new system of records, the prospective system manager shall notify the Director, Finance and Administration of the proposed new system. The prospective system manager shall include with the notification a completed FEMA Form 11-2, System of Records Covered by the Privacy Act of 1974, and a justification for each system of records proposed to be established. If the Director, Finance and Administration determines that the establishment of the proposed system is in the best interest of the Government, then no later than 60 calendar days prior to the establishment of that system of records, a report of the proposal shall be submitted by the Director or a designee thereof, to the President of the Senate, the Speaker of the House of Representatives, and the Director of the Office of Management and Budget for their evaluation of the probable or potential effect of that proposal on the privacy and other personal or property rights of individuals.

(b) No later than 90 calendar days prior to the alteration of a system of records, the system manager responsible for the maintenance of that system of records shall notify the Director, Finance and Administration of the proposed alteration. The system manager shall include with the notification a completed FEMA Form 11-2, System of Records Covered by the Privacy Act of 1974, and a justification for each system of records he proposes to alter. If it is determined that the proposed alteration is in the best interest of the Government, then, the Director, or a designee thereof, shall

submit, no later than 60 calendar days prior to the establishment of that alteration, a report of the proposal to the President of the Senate, the Speaker of the House of Representatives, and the Director of the Office of Management and Budget for their evaluation of the probable or potential effect of that proposal on the privacy and other personal or property rights of individuals.

(c) The reports required by this regulation are exempt from reports control.

§ 6.71 Federal Register notice of establishment of new system or alteration of existing system.

Notice of the proposed establishment or alteration of a system of records shall be published in the Federal Register, in accordance with FEMA procedures when:

(a) Notice is received that the Senate, the House of Representatives, and the Office of Management and Budget do not object to the establishment of a new system or records or to the alteration of an existing system of records, or

(b) No fewer than 30 calendar days elapse from the date of submission of the proposal to the Senate, the House of Representatives, and the Office of Management and Budget without receipt of an objection to the proposal. The notice shall include all of the information required to be provided in FEMA Form 11-2, System of Records Covered by the Privacy Act of 1974, and such other information as the Director deems necessary.

§ 6.72 Effective date of new system of records or alteration of an existing system or records.

Systems of records proposed to be established or altered in accordance with the provisions of this subpart shall be effective no sooner than 30 calendar days from the publication of the notice required by § 6.71.

Subpart F—Fees

§ 6.80 Records available at fee.

The system manager shall provide a copy of a record to a requestor at a fee prescribed § 6.98 unless the fee is waived under § 6.82.

§ 6.81 Additional copies.

A reasonable number of additional copies shall be provided for the applicable fee to a requestor who indicates that he has no access to commercial reproduction services.

§ 6.82 Waiver of fee.

The system manager shall make one copy of a record, up to 50 pages,

available without charge to a requestor who is an employee of FEMA. The system manager may waive the fee requirement for any other requestor if the cost of collecting the fee is an unduly large part of, or greater than, the fee, or when furnishing the record without charge conforms to generally established business custom or is in the public interest.

§ 6.83 Prepayment of fees over \$25.

If the system manager determines that the anticipated total fee is likely to exceed \$25, the individual will be informed that the anticipated fee must be prepaid prior to FEMA's making the records available. FEMA will remit the excess paid by the individual or bill the individual for an additional amount if there is a variation between the final fee charged and the amount prepaid.

§ 6.84 Form of payment.

Payment shall be by check or money order payable to The Federal Emergency Management Agency and shall be addressed to the system manager.

§ 6.85 Reproduction fees.

(a) The fee for reproducing a copy of a FEMA record (by routine electrostatic copying) up to and including material 8½ x 14 inches shall be \$0.10 per page.

(b) The fee for reproducing a copy of a FEMA record over 8½ x 14 inches or whose physical characteristics do not permit reproduction by routine electrostatic copying shall be the direct cost of reproducing the records through Government or commercial sources.

Subpart G—Exempt System of Records [Reserved]

Dated: August 9, 1979.

John W. Macy, Jr.,
Director.

[FR Doc. 79-26623 Filed 8-24-79; 8:45 am]

BILLING CODE 4210-23-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[44 CFR Part 1]

[Docket No. FEMA-Gen 1]

Rulemaking; Policy and Procedures

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed Rule.

SUMMARY: The FEMA proposes regulations setting forth the procedures for adoption of its rules. It is necessary that FEMA now establish procedures for rulemaking under Administrative Procedure Act and Executive Order 12044, "Improving Government Regulations." The functions of five agencies have now been transferred to it, and it will be issuing regulations.

DATE: Written comment should be submitted on or before October 26, 1979.

ADDRESS: SEND COMMENTS TO: Federal Emergency Management Agency, Washington, DC 20472.

FOR FURTHER INFORMATION CONTACT: George W. Jett, General Counsel, Federal Emergency Management Agency, Washington, DC 20472, (202) 254-9521.

SUPPLEMENTARY INFORMATION: Section 4 of the Administrative Procedure Act sets out procedures for informal, so-called notice and public comment rulemaking. There are a number of permissive exemptions from informal rulemaking, based on the type of regulation and also upon the function involved and there are also circumstances when the requirement can be waived. The Administrative Conference of the United States and others have recommended that agencies voluntarily engage in public participation rulemaking where not required and many agencies have published policies effecting this recommendation. Executive Order 12044 (43 FR 12661) "Improving Government Regulations" also places affirmative duties upon agencies to ensure that opportunity exists for early participation and comment in rulemaking by other Federal agencies, State or local governments, businesses, organizations, and individual members of the public. The Federal Emergency Management Agency was activated effective April 1, 1979 by combining the functions of The Federal Insurance Administration with The United States Fire Administration. The functions of the Federal Disaster Assistance Administration, Federal Preparedness Agency and Defense Civil Preparedness Agency have now been assigned to FEMA effective July 15,

1979. The new agency has been assigned its own Title in the Code of Federal Regulations. The policy set out in this regulation is FEMA's response to these recommendations and new developments in administrative law. FEMA will provide for public participation in rulemaking in a number of otherwise exempt areas, while continuing some exemption such as those involving procedure or internal management, and retaining the right to expedite rules when such is necessary. The regulation also establishes procedures for FEMA in handling public comments. FEMA's internal management procedures are specified in a FEMA directive, copies of which are available. Interested parties may participate in this proposed rulemaking by submitting their views, in writing, to FEMA. Each comment should include the name and address of the person or organization submitting the comment and should make reference to the docket number cited above. All comments received on or before the date set out above will be considered in promulgating final regulation on the matters addressed here. All written comments received will be docketed and made available for public inspection at FEMA. Accordingly, Chapter 1 of Title 44 of the Code of Federal Regulations is proposed to be amended by adding a new Part 1 as follows:

PART 1—RULEMAKING; POLICY AND PROCEDURES

Subpart A—General

- Sec.
- 1.1 Purpose
- 1.2 Definitions.
- 1.3 Scope.
- 1.4 Policy and procedures.
- 1.5 Rules docket.

Subpart B—Procedures for Rulemaking

- 1.10 Initiation of rulemaking.
- 1.11 Advance notice of proposed rulemaking.
- 1.12 Notice of Proposed Rulemaking.
- 1.13 Participation by interested persons.
- 1.14 Additional rulemaking proceedings.
- 1.15 Hearings.
- 1.16 Adoption of a Final Rule.
- 1.17 Petitions for reconsideration.
- 1.18 Petition for rulemaking.

Authority: 5 USC 551, 552, 553; EO 12044, 43 FR 12661.

PART 1—RULEMAKING; POLICY AND PROCEDURES

Subpart A—General

§ 1.1 Purpose.

(a) This part contains the basic policies and procedures of the Federal Emergency Management Agency (FEMA) for adoption of rules. These policies and procedures incorporate those provisions of Section 4 of the Administrative Procedure Act (APA) (5 U.S.C. 553) which FEMA will follow. This part and FEMA Manual 1120.1 implement Executive Order 12044 of March 23, 1978, "Improving Government Regulations".

(b) Rules which must be published are described in Section 3 of the APA, 5 U.S.C. 552(a) called the Freedom of Information Act. FEMA implementation of that Act, including subsection (a) is contained in 44 CFR part 5.

(c) FEMA Manual 1120.1, "The Rulemaking Process, Formulation, Drafting, Clearance, and Publication of Federal Register Documents", describes the internal procedures including policy level oversight of FEMA for

(1) Publishing the semiannual agenda of significant regulations under development and review;

(2) Making initial determinations with respect to significance of proposed rulemaking;

(3) Determining the need for regulatory analyses; and

(4) Reviewing existing regulations.

§ 1.2 Definitions.

(a) "Rule" or "regulation" means the whole or a part of any agency statement of general or particular applicability and future effect designed to (1) implement, interpret, or prescribe law or policy, or (2) describe FEMA's organization, or its procedural requirements.

(b) "Rulemaking" means the FEMA process for considering and formulating the issuance, amendment or repeal of a rule.

(c) "Director" means the Director, FEMA, or an official to whom the Director has expressly delegated authority to issue rules.

(d) "FEMA" means Federal Emergency Management Agency.

§ 1.3 Scope.

(a) This part prescribes general rulemaking procedures for the issuance, amendment, or repeal of rules in which participation by interested persons is required by 5 U.S.C. 553, by Executive Order 12044, by FEMA policy, or by § 1.4 of this part.

(b) Any delegation by the Director of authority to issue rules may not be

further redelegated, unless expressly provided for in the delegation.

(c) This part does not apply to rules issued in accordance with the formal rulemaking provisions of the Administrative Procedure Act (5 U.S.C. 556, 557).

§ 1.4 Policy and procedures.

(a) It is the policy of FEMA to provide for public participation in rulemaking regarding its programs and functions, including matters that relate to public property, loans, grants, or benefits, or contracts, even though these matters are not subject to a requirement for notice and public comment rulemaking by law or Executive policy.

(b) FEMA will publish notices of proposal rulemaking in the Federal Register and will give interested persons an opportunity to participate in the rulemaking through submission of written data, views, and arguments with or without opportunity for oral presentation.

(c) In order to give the public an early and meaningful opportunity to participate in the development of rules, for many regulations the Director will employ additional methods of inviting public participation. These methods include, but are not limited to, publishing advance Notices of Proposed Rulemaking (ANPR), holding open conferences, convening public forums or panels, sending notices of proposed regulations to publications likely to be read by those affected and soliciting comment from interested parties by such means as direct mail. An ANPR will be used to solicit public comment early in the rulemaking process for significant rules unless the Director grants an exception based upon legitimate and pressing time constraints.

(d) It is the policy of FEMA that its notices of proposed rulemaking are to afford the public at least sixty days for submission of comments unless the Director makes an exception and sets forth the reasons for the exception in the preamble to the notice of proposed rulemaking.

(e) Unless required by statute, notice and public procedure may be omitted if the Director, for good cause, determines in a particular case or class of cases that notice and public procedure is impracticable, unnecessary or contrary to the public interest and sets forth the reason for the determination in the rule or, for a class of cases in a published rule or statement of policy. In a particular case, the reasons for the determination will be stated in the rulemaking document. Notice and public procedure may also be omitted with respect to statements of policy.

interpretative rules, rules governing FEMA's organization or its own internal practices or procedures, or if a statute expressly authorizes omission.

(f) A substantive rule will be published not less than 30 days before its effective date unless it grants or recognizes an exemption or relieves a restriction or unless the rule itself states good cause for its taking effect less than 30 days after publication. Statements of policy and interpretative rules will usually be made effective on the date of publication.

§ 1.5 Rules docket.

(a) All documents which are public records and which are a part of a specific rulemaking procedure, including but not limited to, advance notices of proposed rulemaking, notices of proposed rulemaking, written comments received in response to notices, withdrawals or terminations of proposed rulemaking, petitions for rulemaking, requests for oral argument in public participation cases, requests for extension of time, grants or denials of petitions or requests, transcripts or minutes of informal hearings, final rules and general notices shall be maintained in the Rules Docket Room. All public rulemaking comments should refer to the docket number which appears in the heading of the rule and should be addressed to the Rules Docket Clerk, Federal Emergency Management Agency at the address shown in the heading.

(b) In accordance with the provisions of the Freedom of Information Act (5 U.S.C. 552), documents which are a part of a specific rulemaking proceeding are public records. After a docket is established, any person may examine docketed material at any time during established hours of business and may obtain a copy of any docketed material upon payment of the prescribed fee. (See Part 5 of this Chapter.)

Subpart B—Procedures for Rulemaking

§ 1.10 Initiation of rulemaking.

Rulemaking may be initiated on the Director's motion. Rulemaking may also be initiated on the petition of any interested person in accordance with the provisions of § 1.18. Interested person includes a Federal, State, or local government or government agency.

§ 1.11 Advance notice of proposed rulemaking.

An Advance Notice of Proposed Rulemaking issued in accordance with § 1.1 of this part will be published in the Federal Register and contains:

(a) A description of the proposed new program or program changes, and why they are needed;

(b) A presentation of the major policy issues involved;

(c) A request for comments, both specific and general, or the need for the proposed rule and the provisions that the rule might include;

(d) If appropriate, a list of questions about the proposal which seeks to bring out detailed comments;

(e) If known, an estimate of the reporting or recordkeeping requirements, if any, that the rule would impose; and

(f) An address to which comments may be, and the time within which they must be submitted.

§ 1.12 Notice of proposed rulemaking.

Each notice of proposed rulemaking required by statute, Executive Order 12044, or by § 1.4 will be published in the Federal Register and will include:

(a) The substance or terms of the proposed rule or a description of the subject matter and issues involved;

(b) A statement of how and to what extent interested persons may participate in the proceeding;

(c) Where participation is limited to written comments; a statement of the time within which such comments must be submitted;

(d) A reference to the legal authority under which the proposal is issued; and

(e) In a proceeding which has provided Advance Notice of Proposed Rulemaking, and analysis of the principal issues and recommendations raised by the comments, and the manner in which they have been addressed in the proposed rulemaking.

§ 1.13 Participation by interested persons.

(a) Unless the notice otherwise provides, any interested person may participate in rulemaking proceedings by submitting written data, views or arguments within the comment time stated in the notice. In addition, the Director may permit the filing of comments in response to original comments.

(b) In appropriate cases, the Director may provide for oral presentation of views in additional proceedings described in § 1.14.

§ 1.14 Additional rulemaking proceedings.

The Director may invite interested persons to present oral arguments, appear at informal hearings, or participate in any other procedure affording opportunity for oral presentation of views. The transcript or minutes of such meetings, as

appropriate, will be kept and filed in the Rules Docket.

§ 1.15 Hearings.

(a) The provisions of 5 U.S.C. 556 and 557, which govern formal hearings in adjudicatory proceedings, do not apply to informal rulemaking proceedings described in this part. When opportunity is afforded for oral presentation, the informal "hearing" is a nonadversary, fact-finding proceeding. Any rule issued in a proceeding under this part in which a hearing is held need not be based exclusively on the record of such hearing.

(b) When a hearing is provided, the Director will designate a representative to conduct the hearing.

§ 1.16 Adoption of a final rule.

(a) All timely comments will be considered in taking final action on a proposed rule. Each preamble to a final rule will contain a short analysis and evaluation of the relevant significant issues set forth in the comments submitted, and a clear concise statement of the basis and purpose of the rule.

(b) When determined necessary by the Director in accordance with the provisions of 1 CFR § 18.12, the preamble shall contain the following information:

(1) A discussion of the background and major issues involved;

(2) In the case of a final rule, any significant differences between it and the proposed rule;

(3) A response to substantive public comments received; and

(4) Any other information the Director considers appropriate.

§ 1.17 Petitions for reconsideration.

Petitions for reconsideration of a final rule will not be considered. Such petitions, if filed, will be treated as petitions for rulemaking in accordance with § 1.18.

§ 1.18 Petition for rulemaking.

(a) Any interested person may petition the Director for the issuance, amendment, or repeal of a rule. For purposes of this section the term "person" includes a Federal, State or local government or government agency. Each petition shall—

(1) Be submitted to the Rules Docket Clerk;

(2) Set forth the substance of the rule or amendment proposed or specify the rule sought to be repealed or amended;

(3) Explain the interest of the petitioner in support of the action sought; and

(4) Set forth all data and arguments available to the petitioner in support of the action sought.

(b) No public procedures will be held directly on the petition before its disposition. If the Director finds that the petition contains adequate justification, a rulemaking proceeding will be initiated or a final rule will be issued as appropriate. If the Director finds that the petition does not contain adequate justification, the petition will be denied by letter or other notice, with a brief statement of the ground for denial. The Director may consider new evidence at any time; however, repetitious petitions for rulemaking will not be considered.

Dated: August 9, 1979.

John W. Macy, Jr.,

Director.

[FR Doc. 79-26624 Filed 8-24-79; 8:45 am]

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Monday
August 27, 1979

Part VI

Council on Wage and Price Stability

Noninflationary Pay and Price Behavior;
Adoption of Form PAY-1

COUNCIL ON WAGE AND PRICE STABILITY

6 CFR Parts 705 and 706

Noninflationary Pay and Price Behavior; Adoption of Form PAY-1

AGENCY: Council on Wage and Price Stability.

ACTION: Adoption of reporting form and request for submission of data.

SUMMARY: The Council is adopting a reporting form designated as Form PAY-1 and requesting the submission of data by September 5, 1979.

EFFECTIVE DATE: August 27, 1979.

FOR FURTHER INFORMATION CONTACT:

Janice Murphey, Office of Pay Monitoring, Council on Wage and Price Stability, 600 17th Street N.W., Washington, D.C. 20506, 202/456-7180.

SUPPLEMENTARY INFORMATION: The Council has published voluntary standards for non-inflationary pay and price behavior applicable during the first program year. (6 CFR Part 705). To assist in monitoring compliance with the pay standard, the Council is hereby adopting Form PAY-1. Data from this form will also assist the Council in evaluating the effectiveness of the pay standard and its various components during the program year.

The Council has already requested in letters to 600-700 companies with 10,000 or more employees that Form PAY-1 be submitted to the Council by September 5, 1979. In addition, any company, as specified in the plan of company organization, with 10,000 employees or more at any time during the program year is requested to file with the Council the information specified in Form PAY-1 by September 5, 1979. If a plan of company organization has not been filed with the Council, a plan of company organization should accompany the submission of Form PAY-1.

While the submission of data is voluntary, the Council views the access to timely, uniformly defined data as essential to the effective monitoring of compliance with the standards. The data will be treated as confidential in accordance with Section 4(f) of the Council on Wage and Price Stability Act, 12 U.S.C. 1904 note, and 6 CFR Parts 702 and 704, 44 FR 5339 (January 25, 1979).

In accordance with 6 CFR 706.20, if a company has furnished the Council with any of the data requested by Form PAY-1, it need not furnish it again, although it should identify for the Council the document (including page references)

containing such data and the date on which it was submitted.

This form was submitted to the Office of Management and Budget in accordance with the Federal Reports Act, and was approved under No. 116-S79013.

(Council on Wage and Price Stability Act, Pub. L. 93-387, as amended (12 U.S.C. 1904 note); EO 12092)

Issued in Washington, D.C., August 21, 1979.

R. Robert Russell,

Acting Director, Council on Wage and Price Stability.

Instructions for Preparation of Form PAY-1—Prospective Report on Compliance With the Pay Standard

General Instructions

Purpose of Form Pay-1: As part of the President's Anti-Inflation Program, the Council on Wage and Price Stability (the Council) has issued Voluntary Standards for Noninflationary Pay and Price Behavior. These standards appear at 43 FR 60772 (December 28, 1978); 44 FR 9582 (February 13, 1979); and 44 FR 17910 (March 23, 1979). The standards are further explained by the "Pay and Price Standards—Implementation Guide" at 44 FR 5339 (January 25, 1979) and by the questions and answers appearing with these publications. Additional questions and answers appear at 44 FR 32338 (June 5, 1979). Special Procedural Rules for complying with the standards appear at 44 FR 1346 (January 4, 1979); 44 FR 5337 (January 25, 1979); 44 FR 9585 (February 13, 1979); 44 FR 17916 (March 23, 1979); and 44 FR 23777 (April 20, 1979).

The submission of data on Form PAY-1 is voluntary. However, the Council views the access to timely, uniformly defined data as essential to the effective monitoring of compliance with the standards. Form PAY-1 is used by the Council as a means for collecting data from companies. The information requested will allow the Council to meet two objectives. First, the data will be used to determine the extent to which firms have complied with the voluntary standards on pay-rate increases. Second, companies are asked to report actual pay-rate increases, as well as those chargeable under the pay standard, to enable the Council to determine the effect of the "exclusions" on total pay-rates and measure the inflationary impact of actual labor costs. This is consistent with the Council's efforts to analyze the factors influencing the rate of inflation. Analysis of the requested data will have an impact on future policy decisions regarding the voluntary pay and price standards

specifically, and the anti-inflation effort in general.

The Council on Wage and Price Stability Act, 12 U.S.C. Section 1904, note, authorizes the Council to collect data on wages, such as are requested on Form PAY-1.

Confidentiality of Information: Information furnished to the Council pursuant to this request will be treated as confidential in accordance with Section 4(f) of the Council on Wage and Price Stability Act, 12 U.S.C. 1904, note, and 6 CFR Parts 702 and 704, 44 FR 5339 (January 25, 1979).

Suggestions for Improvement: The Council welcomes suggestions for improving this form. In general, it seeks ways of obtaining the information it needs to exercise its responsibilities for monitoring compliance with the Voluntary Standards for Noninflationary Pay and Price Behavior with the minimum reporting burden on reporting companies.

Who Should File: A reporting company, as specified in the plan of company organization previously submitted to the Council, with 10,000 employees or more at any time during the program year, and any other company designated by the Council, is requested to file with the Council information specified in "What to File" below. If a plan of company organization is not on file with the Council, a plan of company organization should accompany this form.

If a parent company chooses to disaggregate a consolidated entity for compliance purposes and no separately identified entity has 10,000 employees or more, this should be noted by the parent company in Part 1, Item 1e of the form and the form returned to the Council.

What to File: Each reporting company is requested to submit a separate Form PAY-1 (one copy) for its individual employee units. However, regarding collective bargaining units, a company should file reports only for collective bargaining contracts negotiated during the program year (and not considered exempt as specified in Section 705B-3(e) of the Pay Standard) covering 500 employees or more. For management and "all other" employee units not under a multi-year pay agreement, companies should report their base period pay rates (Column A) and their projected pay rates for the end of the program year (Column B). For nonrepresented units under a multi-year pay commitment, companies should report their base period pay rates (Column A) and projected pay rates at the end of the commitment period (Column B).

For collective bargaining contracts, companies should report pay rates in effect at the expiration of the prior contract (Column A), and projected pay rates at the expiration of the current contract (Column B). For multi-year collective bargaining contracts and multi-year pay commitments for nonrepresented employee units, companies are also asked to report their projected pay rates at the end of each year (see Insert for Multi-year Agreements).

Where to File: Form PAY-1 should be addressed to: Office of Pay Monitoring, Council on Wage and Price Stability, Windler Building, 600 17th Street, N.W., Washington, D.C. 20506.

Specific Instructions: The Form PAY-1 closely follows the definition of pay given in the Voluntary Pay and Price Standards, and reference to the Standards and Implementation Guide will help clarify items on the forms. Do not include on this form overtime wages (unless overtime provisions change), employer contributions for legally mandated benefit programs. Exclude all or wages and benefits to workers earning straight-time wages of four dollars per hour or less as of October 1, 1978 as well as wages and benefits for workers hired during the program year at a straight-time wage of four dollars per hour or less. Also, exclude deferred compensation paid in the base period but earned in an earlier period. Include deferred compensation earned in the program period but not paid in the program period. Other exclusions and adjustments to pay which the Standards allow should be treated as follows: estimate the actual increase in the hourly pay rate prior to the allowable adjustments (Part III, Item 5), then list the applicable adjustments used to calculate the chargeable pay-rate increase under the Standards.

All pay rates should be calculated as pay per straight-time hour worked, per employee, carried to three decimal places (as shown on the form). When paid leave hours are incurred irregularly, these hours should be calculated according to the leave practices in effect at the end of the base quarter and at the end of the program year as though they were incurred evenly over time. Companies may use a straight-time hours-paid-for basis (e.g., for salaried workers), where paid leave is included in straight-time wage and salary pay and only changes to paid leave practices are reported as a benefit. Increases/decreases in paid leave hours during the program period affect the straight-time hours and correspondingly will increase/decrease the cost of all

benefits. These effects should be reflected in calculations for columns B-E. Beginning with Part III, indicate items which are not applicable with a "0". The Council does not require companies to make inordinate calculations to complete this form; a good faith estimate should be made when data are not available.

PART I—IDENTIFYING DATA

Item 1 a-c: Enter name and address of reporting company.

Item 1 d: Enter primary 4-digit Standard Industrial Classification Code.

Item 1 e: For parent companies: enter the number of reporting companies with 10,000 employees or more, filing as separate entities.

Item 2a: Check the appropriate box indicating the type of employee unit as defined in Section 705B-2 of the Standards.

Item 2b: Give the location for the employee unit.

Item 2c(1): Attach list if more than one union is included in unit.

Item 3: For represented units, a company should use the method of pay computation applicable to collective bargaining units, Section 705B-3. For other units a company may use either the average pay-rate change for the unit, Section 705B-4(a), called the "double snapshot" method, the pay-rate change for the fixed population of continuing employees employed in the beginning and end of the program year, Section 705B-4(b), called the "fixed population" method, or the weighted average pay-rate change of distinct functional employee subgroups, Section 705B-4(e). When using method 705B-4(b), only include on the form amounts paid to continuing employees. Check the method(s) used.

Item 4a: For represented units only complete Items 4b and 4c. For nonrepresented units, the base period may be either calendar quarter, July 1, 1978 to September 30, 1978, or the company's last complete fiscal quarter prior to October 2, 1978. If a formal annual pay plan was in operation as of October 1, 1978, the company may measure compliance by comparing the pay-rate as of the end of that plan year to the pay-rate as of the end of the next plan year. If this alternative is used, the base period should be the last quarter of the plan in operation as of October 1, 1978. Enter either the base quarter dates or the dates of the company's last customary pay period within the quarter, whichever period the company is using to determine compliance. The program period is the corresponding period one year later or at the end of the

pay agreement for a multi-year agreement.

Item 4b-e: Self-explanatory.

PART II—CERTIFICATION

Self-explanatory.

PART III—PAY RATE DATA

Item 1: Straight-time wage and salary pay should include, where applicable, payments for shift differentials, skill differentials, and cost-of-living adjustments.

Cost-of-living adjustments (COLA) should be included in the wage and salary entry, but should also be shown separately for the program period along with the company's estimated actual increase in the Consumer Price Index (CPI). Item 6c provides the opportunity to project COLA costs assuming a 6 percent annual rate of increase in the CPI.

Item 2: Incentive pay includes, where applicable, the following items (expressed as pay per straight-time hour). The Council wishes to emphasize that it does not require companies to make inordinate calculations to complete these items; a good faith estimate should be made when data are not available.

Item 2a: Sales commission and production incentive pay (not adjusted for volume increases; an adjustment may be made in Item 6b);

Item 2b: Bonuses and other annual incentive compensation charged when earned for nondiscretionary plans (that is, when the services are performed that generate the compensation) and when paid for discretionary plans;

Item 2c: Compensation from long-term incentive plans (including any spread between an option or purchase price and fair market value at time of grant for plans subject to the future-value standard, Section 705B-5(c)), new future-value incentive plans, and other similar compensation arrangements when earned or accrued.

Item 2d: Enter the sum of 2(a), 2(b), and 2(c).

Item 3: Benefits include, where applicable, employer contributions or costs for the following fringe benefit items (show the actual costs per straight-time hour; adjustments may be made to some items in Item 6).

Item 3a: Pay for time not worked (e.g., paid vacations and holidays, sick leave and other paid leave), see the introduction to the *Specific Instructions* for an alternate treatment;

Item 3b: Savings and thrift plans such as qualified stock bonus plans, qualified profit-sharing plans (including retirement plans), employee stock

ownership plans, other defined contribution plans and nonqualified plans;

Item 3c: Qualified defined-benefit retirement plans (if a company planned to exclude pension costs from its pay-rate computations and detailed costs are not available, an estimate based on available data is sufficient);

Item 3d: Health benefit plans;

Item 3e: Life insurance, accident insurance, and other insurance plans; and

Item 3f: Legal assistance, educational assistance, and other plans resulting in benefits to employees but not reported as income; and job prerequisites and other forms of compensation not covered elsewhere in the definition of pay but reported as income under the Internal Revenue Code and its interpretive regulations and rulings. Enter the total cost for these plans; list the major items.

Item 3g: Enter the sum of 3(a) to 3(f).

Item 4: The hourly pay-rate is the sum of the straight-time wage and salary rate (Item 1), the hourly cost of incentive pay (Item 2d), and the hourly cost of fringe benefits (Item 3g).

Item 5: The annual percent pay-rate increase is the percent increase from the base period pay rate (Item 4A) to the program period pay rate (Item 4B). To determine the percent increase, divide the program period pay rate by the base period pay rate, subtract 1, and multiply the result by 100. The formula for doing this would be: $\text{Percent increase} = (4B/4A - 1) \times 100$. For multi-year agreements, the total percent increase should be expressed as the annual rate taking compounding into consideration. The formula in the multi-year case for doing this is: $\text{Annual percent increase} = (\sqrt[N]{4B/4A} - 1) \times 100$.

where N is the number of years covered by the agreement, 4B is the pay rate at the end of the agreement period, 4A is the base period pay rate, and 4B/4A represents the total percent increase over the agreement. Thus, take the Nth root of the total pay increase (for example, the square root for a two-year agreement, the cube root for a three-year agreement), subtract 1, and multiply the result by 100.

Item 6: The pay standard provides exceptions, exclusions, and special treatment of some pay. Use this item to enter the amounts of pay which may be subtracted from the actual pay rate (Item 4) to yield the chargeable pay rate under the pay standard. All amounts should be calculated as pay divided by straight-time hours.

Remember to enter both the *direct* amount and also the *indirect* (rollup or creep) amounts due to the adjustments.

(See page 32 of the *Implementation Guide*, FR, January 25, 1979 for calculation of rollup.) If retirement plan costs are excluded under Item 6e(2) or Item 6f, exclude retirement plan costs when determining roll-up or creep costs where applicable.

Item 6a: Instead of the bonus amount earned in the base period, a company may use as an alternate base the average of the corresponding bonus amounts in two of the last five years. If the alternate base is chosen, enter the difference between the base period bonus and the alternate bonus (which of course is larger) on this line. Show the difference as a negative number so that when the pay adjustments are subtracted in line 7, the entry will increase the base period pay rate.

Item 6b: Under sales commission or production incentive plans, increases in compensation due to increases in the physical volume of items sold or produced are not charged to the pay standard (see the example on page 45 of the *Implementation Guide*, FR, January 25, 1979). Enter such increases in compensation on this line.

Item 6c: Nonunion as well as union employee units may use a 6 percent projected rate of inflation to cost out a COLA formula in a multi-year agreement (which must, however, be binding on the company, see II-E, Q11, FR, December 28, 1979). Use this line to enter COLA amounts paid out because the inflation rate increased, or was projected to increase, by more than 6 percent. Attach a copy of the COLA formula to the PAY-1 form. Note if the COLA provision is new; list any changes if a previous COLA provision was modified.

Item 6d: Increases in the costs of maintaining existing health benefits are only charged against the pay standard up to a 7 percent annual increase in such costs; enter increases above 7 percent on this line (see Section 705B-6 of the Pay Standard).

Item 6e(1): Enter changes in pension funding costs on this line (see Section 705B-7 of the Standards). Note that cost savings due to funding changes should be entered as well as cost increases; i.e., changes in funding methods may not offset increases in pension or other benefits.

Item 6e(2): As an alternative to the adjustment in line 6e(1), for an unaltered pay-related pension plan companies may exclude the entire pension costs from both the base period and the program period. To do so, enter on this line the amounts shown in line 3c.

Item 6f: Amounts paid under a qualified profit-sharing retirement plan in which the formula is not changed may

be excluded from pay in both the base period and the program period (See *Pay Standard, Pensions*, FR, June 5, 1979). To do so, enter these amounts (which were included in line 3b) on this line.

Item 6g: Pay rate increases above 7 percent which are dictated by the continuation of or prior announcement of a formal annual pay plan (as described in Sections 705B-4(c) and 705B-4(d) of the Standards) may be excluded in determining compliance and should be entered here.

Item 6h(1): Enter the amounts of pay for which the Council has granted an exception on this line. Exceptions are made for tandem pay-rate changes (TA), pay-rate increases traded for productivity-improving workrule changes in union agreements (WR), pay-rate increases attributable to acute labor shortages (LS), and undue hardship or gross inequity cases (WH). Enter the number of each type of exception next to the appropriate exception code.

Item 6h(2): Enter the same data as in line 6h(1) for exceptions which have been self-administered by the company (e.g., for an employee unit of less than 100 employees).

Item 6i: If the fixed population method of compliance is chosen, the amount of legitimate promotions and qualification increases may be excluded from the pay rate on these two lines. Also enter the corresponding amounts paid in the base period to demonstrate the consistency of the pay practices unless reasonable estimates of these data are not readily available, in which case attach other evidence of such consistency.

Item 6j: Under Section 705B-4(e) of the Standards, a weighted average of pay-rate changes may be used instead of a simple average, in order to adjust for changes in work-force composition. If this method is chosen, enter the difference between the two methods on this line.

Item 6k: Enter the sum of adjustments 6a-j on this line (again, be sure that line 6a is a negative number); indicate whether Item 6k, Column A, is positive or negative.

Item 7: On this line enter the difference between line 4 and line 6k.

Item 8: Calculate the annual rate of increase in pay in the same way as in line 5. The percent increase should be 7 percent or less for the employee unit to be in compliance.

PART IV—A—DATA INSERT FOR MULTI-YEAR AGREEMENTS

The data insert should be completed for any multi-year agreements for both collective bargaining units and nonrepresented units. Columns (C)–(E)

represent individual years; complete as many columns as appropriate for the agreement period.

Items 1-4, 6, and 7: Instructions for these pay-rate items are the same as for the Base Period (column A) and Program Period (column B). The projected pay-rates in effect at the end of each year (12-Month period) should be reported. For column D the adjustments in Item 6 should be cumulative for the first two years of the agreement and for column E the adjustments in Item 6 should be cumulative for the first three years of the agreement.

Item 5: Column (C) is the percent pay-rate increase from the base period (Item 4A) to the end of the first agreement year (Item 4C). Column (D) is the percent pay-rate increase from the end of the first agreement year (Item 4C) to the end of the second agreement year (Item 4D). Column (E) is the percent pay rate increase from the end of the second agreement year (Item 4D) to the end of the third agreement year (Item 4E).

Item 8: Columns C-E should be computed the same as Item 5 With Items 7A, 7C, 7D and 7E substituted for Items 4A, 4C, 4D and 4E.

PART V—FUTURE-VALUE COMPLIANCE

Complete this part separately for each of the company's future-value incentive plans.

Item 1: Name of future-value incentive plan

Item 2: Description of plan

Item 3: The pay standard for future-value incentive plans applies to existing and successor plans. Furthermore, successor plan treatment may apply to plans with a different type of unit if a company can demonstrate that the basic value of the new unit is generally equal to the value of the replaced unit (attach explanation).

Item 4: Enter the number of recipients under the plan in the base period (12 months prior to October 1, 1978) and in the program period (October 1, 1978 through September 30, 1979) if changes in the number of recipients is based on the continuation of well-established past practices with objective criteria for determining recipients. Otherwise, enter the number of employees in the employee group to which the recipients belong.

Item 5: Enter the average number of units issued per recipient or per employee in the appropriate employee group in each period.

Item 6: A company may use as an alternate base the annual average of the units granted over the last five years. If

used, enter the alternate base period average on this line.

Item 7: The percent increase in the average number of units per recipient granted or issued in the program year must be 7 percent or less of the base period for the plan to be in compliance.

BILLING CODE 3175-01-M

Form Pay-1: Report on Compliance with the Pay Standard

OMB NO: 116-S79013

Company No:

CWPS
Winder Building
600 17th Street, N.W.
Washington, D. C. 20506

Part I - Identifying Data

1. Company

- a. Name: _____
b. Street Address: _____
c. City, State, and Zip Code: _____
d. Primary SIC: _____
e. Number of separate reporting companies with 10,000 or more employees (this is to be completed by parent companies): _____

2. Employee Unit

- a. Type: ☐ Collective bargaining ☐ Management ☐ All other
b. Location (City & State): _____
c. If collective bargaining unit:
(1) Union (include Local number): _____
(2) Contract begins: _____ expires: _____ negotiated: _____

3. Method of Computation: ☐ (CB) Collective bargaining, 705B-3

- ☐ (UA) Unit average, 705B-4(a)
☐ (FP) Fixed population 705B-4(b)
☐ (WA) Weighted average, 705B-4(e)

4. a. Base period (month/day/year): from _____ to _____
b. Base period straight-time hours per employee: _____
c. Base period number of employees: _____
d. Program period straight-time hours per employee: _____
e. Program period number of employees: _____

Part II. Certification

To the best of my knowledge and belief the data submitted herewith are factually correct, complete and prepared in accordance with the applicable instructions. It is requested that the information submitted herewith be considered as confidential within the meaning of Section 4(f) of the Council on Wage and Price Stability Act, 12 U.S.C. 1904, Note, and 6 CFR Parts 702 and 704, 44 FR 5339 (January 25, 1979).

Chief Executive Officer of parent firm or other authorized designee (please type)

Name of company: _____
Name and Title: _____ Tel: () _____
Signature: _____ Date: _____

Part III - Pay Rate Data

	(A) Base Period Pay Rate	(B) Program Period Pay Rate	
1. Straight-Time Wage and Salary: (Projected COLA at ___% CPI: \$ ____)	\$ ____	\$ ____	1
2. Incentive Pay (where applicable):			
a. Sales commission and production incentive pay:	____	____	2a
b. Bonuses and other annual incentive pay:	____	____	2b
c. Long term incentive pay:	____	____	2c
d. Total hourly cost of incentive pay:	____	____	2d
3. Benefits:			
a. Pay for time not worked:	____	____	3a
b. Savings and thrift plans:	____	____	3b
c. Qualified defined-benefit retirement plans:	____	____	3c
d. Health benefit plans:	____	____	3d
e. Other insurance plans:	____	____	3e
f. Other (total):	____	____	3f
g. Total hourly cost of fringe benefits:	____	____	3g
4. Hourly Pay Rate (Sum of 1+2d+3g):	\$ ____	\$ ____	4
5. Annual Percent Pay-Rate Increase:	____%		5

IF THE ANNUAL PERCENT PAY-RATE INCREASE IS 7 PERCENT OR LESS (AND FOR MULTI-YEAR AGREEMENTS, NO INDIVIDUAL YEARLY INCREASE IS ABOVE 8 PERCENT) AND DEFINED-BENEFIT PENSION FUNDING COSTS ARE UNCHANGED, THE EMPLOYEE UNIT IS IN COMPLIANCE AND THE REST OF THE FORM NEED NOT BE COMPLETED.

	(A) Base Period Pay Rate	(B) Program Period Pay Rate	
6. Adjustments to pay rate (where applicable)			
a. Alternate base adjustment for bonus plans:	\$		6a
b. Sales commission/production incentive pay due to higher volume:		\$	6b
c. COLA payments beyond 6 percent increase in CPI (attach copy of formula):			6c
d. Maintenance of health benefits cost increase above 7 percent:			6d
e. (1) Non-chargeable changes in defined-benefit pension funding costs:			6e(1)
(2) Exclusion of unaltered pension plan:			6e(2)
f. Exclusion of qualified profit-sharing retirement plan:			6f
g. Overage from formal annual pay plans:			6g
h. Overage from pay exceptions			
(1) Approved by CWPS (TA LS WR WH):			6h(1)
(2) Self-Administered (TA LS WR WH):			6h(2)
i. Effect on average wage if fixed population method used, 705B-4(b)			
(1) Promotions (in base period \$):			6i(1)
(2) Qualification increases (in base period \$):			6i(2)
j. Effect on pay rate if weighted average method used, 705B-4(e):			6j
k. Total adjustments: Positive ☐ Negative ☐	\$	\$	6k
7. Adjusted Hourly Pay Rate (Difference 4-6k):	\$	\$	7
8. Adjusted Annual Percent Pay Rate Increase:		%	8

Part III-A - Data Insert for Multi-year Agreements

	(C) End of 1st year	(D) End of 2nd year	(E) End of 3rd Year	
1. Wage Rate:	\$	\$	\$	1
(1st year COLA: \$; 2nd year COLA: \$; 3rd year COLA: \$)				
2. Incentive Pay: a.				2a
b.				2b
c.				2c
d.				2d
3. Benefits: a.				3a
b.				3b
c.				3c
d.				3d
e.				3e
f.				3f
g.				3g
4. Hourly Pay Rate:	\$	\$	\$	4
5. Percent Increase:	%	%	%	5
6. Adjustments: b.				6b
c.				6c
d.				6d
e. 1				6e(1)
2				6e(2)
f.				6f
h. 1				6h(1)
2				6h(2)
k.	\$	\$	\$	6k
7. Adjusted Pay Rate:	\$	\$	\$	7
8. Adjusted % Increase:	%	%	%	8

Part IV - Future-Value Compliance

1. Plan Name: _____

2. Description: _____

3. Type: ☐ Existing plan
☐ Successor plan with same type of units
☐ Successor plan with different type of units
 (attach explanation showing that the basic value of the new units is generally equal to the value of the replaced units)

	(A) Base Period	(B) Program Period
4. Number of recipients:	_____	_____
5. Average number of units issued:	_____	_____
6. Alternate base period average (if used):	_____	_____
7. Percent increase $(5B/5A-1) \times 100$ or $(5B/6A-1) \times 100$:		_____ %

Monday
 August 27, 1979

Part VII

Department of
 Transportation

Federal Aviation Administration

Lithium Sulfur Dioxide Batteries Used in
 Aircraft; Technical Standard Order
 Authorization; Airworthiness Directive

federal register

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 37

(Docket No. 18889; Amendment 37-44)

Lithium Sulfur Dioxide Batteries TSO-C97; Technical Standard Order Authorization

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Technical Standard Order (TSO) that sets forth standards for Lithium Sulfur Dioxide (LiSO₂) batteries used in aircraft. The new standards are established to reduce or eliminate failures of equipment incorporating the batteries due to corrosion, venting violently, and explosion of the batteries and the leakage of harmful gases into occupied areas of aircraft.

EFFECTIVE DATE: September 26, 1979.

FOR FURTHER INFORMATION CONTACT:

Mr. Adolfo O. Astorga, Systems Branch, Aircraft Engineering Division, Office of Airworthiness, Federal Aviation Administration, 800 Independence Avenue, S.W., Washington, D.C. 20591; Telephone (202) 426-8395.

SUPPLEMENTARY INFORMATION:

Background

LiSO₂ batteries have been used primarily in general aviation Emergency Locator Transmitters (ELT's) and to a limited degree in various air carrier aircraft safety equipment. The use of this type of battery has been promoted because it has a longer shelf life and can be used at lower operating temperatures than other batteries. However, LiSO₂ batteries have vented violently, exploded and leaked harmful gases which have incapacitated pilots and corroded other equipment and airframe structures.

To provide information to the public on this subject, the FAA issued Advisory Circular AC No. 20-91 on April 11, 1975, "Lithium Batteries Used in Emergency Locator Transmitters," which warned of the possible hazards associated with the use of LiSO₂ batteries. Also, four Airworthiness Directives (AD's), numbers 74-20-10 (Amendment 39-1976, 39 FR 34513), as amended, 74-02-07 (Amendment 39-2021, 39 FR 40919), as amended 79-05-02 (Amendment 39-3422, 44 FR 10980), and 79-18-05 (Amendment 39-3549, published in this issue of the Federal Register) have been issued relating the

use of LiSO₂ batteries. Amendments 39-1976 and 39-20-21 required design changes and periodic inspections of certain LiSO₂ batteries. Amendment 39-3422 required removal of all LiSO₂ batteries and ELT's powered by LiSO₂ batteries from U.S.-registered civil aircraft. Amendment 39-3549 requires either reinstallation of ELT's powered by LiSO₂ batteries which meet new standards or installation of another ELT powered by another source. The last AD continues to require the removal from aircraft of any LiSO₂ batteries which do not meet the new standards and any ELT's powered by such batteries, and it extends the period of time in which aircraft, from which an ELT has been removed to comply with the AD's, may be operated without the required ELT. It also allows the use of LiSO₂ batteries which meet the new standard in other equipment.

At this time, if no further action were to be taken, the public would be deprived of the benefit of using LiSO₂ batteries which provide for operation of ELT's to temperatures below -40°C. Over 95 percent of the LiSO₂ battery usage in aircraft is in ELT's. Other batteries do not operate effectively below -20°C, and their use would have a detrimental effect on search and rescue (SAR) operations for downed aircraft. While the ELT is only one of the devices and techniques available to SAR forces, it continues to provide a unique and valuable means of locating crash sites. Thus, SAR forces and the National Transportation Safety Board are strongly encouraging the use of LiSO₂ batteries. Their main rationale for this position is the existence of large portions of the U.S. which experience temperatures below -20°C. Below -20°C, LiSO₂ batteries continue to operate where many other batteries cease to function.

To provide for the availability of safe LiSO₂ batteries, the FAA has determined it necessary to issue performance and environmental standards for such batteries. The standards adopted herein are based on Notice No. 79-8, published in the Federal Register on March 26, 1979 (44 FR 18038).

Interested persons have been afforded an opportunity to participate in the making of this amendment and due consideration has been given to all matter presented. A number of substantive changes and changes of an editorial and clarifying nature have been made to the proposed rules based upon relevant comments received and upon further review within the FAA. Except for minor editorial and clarifying changes and the substantive changes

discussed below, this amendment and the reasons for it are the same as those contained in Notice No. 79-8.

Discussion of General Comments

Seventeen individual sets of comments were received in response to Notice No. 79-8. All of these were in general agreement with the overall scope and intent of the notice. Three commenters supported the proposal without specific comments. The other commenters suggested various changes and clarifications.

One commenter recommended that the use of nonlithium batteries be required in all aircraft applications. The FAA disagrees. LiSO₂ batteries have performance capabilities superior to other electrochemical power sources. The final decision whether to use a LiSO₂ battery must be left to the consumer as long as safe cells can be made available.

One commenter recommended that the requirement that Emergency Locator Transmitters (ELT's) be carried on aircraft should be eliminated. The FAA disagrees. According to data collected by the U.S. Air Force, ELT's perform a useful function in saving many lives each year, and they significantly reduce search and rescue time. It should be noted that the ELT requirement is mandated by public law, and the FAA does not have the legal authority to repeal this requirement.

Numerous commenters suggested editorial changes to clarify requirements or to remove perceived inconsistencies in the proposed standard. Based on these comments and after further review, the FAA has made a number of editorial changes of non-substantive nature. In response to several other suggestions that guidance material be provided, an Appendix B is added to provide the detailed test procedures for conduct of tests required by this standard. In addition, in light of the comments received, the FAA has reconsidered the usage of the terms "cell" and "battery" in the standard and has made changes to assure that these terms are consistent with the intent of the test requirements.

Discussion of Specific Comments to § 37.209

§ 37.209(a)

One commenter objected to the term "minimum performance standards" in proposed § 37.209(a) and recommended that the term be replaced with "minimum safety standards." However, the term "performance" in connection with technical standard orders is intended to be broader than "safety".

Safety is not the only consideration in the use of LiSO₂ batteries. The majority of LiSO₂ battery applications is in ELT's where performance under extreme environmental conditions is also important. In this context, the performance standards are necessarily safety standards. Accordingly, § 37.209(a) is adopted without substantive change.

§ 37.209(b)

One commenter objected to the requirements in proposed § 37.209(b), to mark each battery with the date it will reach 50 percent of its useful life. It was indicated that this requirement, in combination with § 37.209(g)(2) for ELT's, would put an unfair restriction on the use of LiSO₂ batteries by limiting the useful life to 25 percent of the shelf life. The FAA agrees and § 37.209(b) has been changed to require that each battery be marked with the date on which it must be replaced.

In response to another comment, the date marking requirements of § 37.209(b) apply only to batteries and not to cells. The marking requirement is clearly stated in this regard.

Two commenters recommended in effect that the caution statement be broadened to allow other wording. However, while FAA recognizes that there may be other ways to word the caution statement, the standardized statement covering essential specifics is retained. Discussions held during a meeting of the Lithium Battery Safety Working Group of the Joint Logistics Chiefs Sub-Panel for Batteries and Fuel Cells indicated prolonged temperatures above 70°C will lead to significantly shorter life and possible chemical destabilization of LiSO₂ batteries. To clarify the caution statement, the words "high temperature" have been replaced with the words "temperatures above 70°C (158°F)".

§ 37.209(c)

One commenter requested clarification of the term "battery limitations" as used in proposed § 37.209(c)(1). Specific examples are maximum current, special shipping requirements, and maximum exposure temperature; however, since it is not possible to identify all such limitations they are not listed in the rule.

One commenter questioned whether proposed § 37.209(c)(2) should be directed toward the end equipment manufacturer rather than the battery supplier. However, it is the responsibility of the battery manufacturer to determine how its product is to be used. One way to do this is by carefully controlling the

battery configuration. This requirement merely requires that the battery manufacturer supply basic data to the equipment manufacturer. Accordingly, § 37.209(c)(2) is adopted without substantive change.

No comments were received on proposed § 37.209(c)(3), and the section is adopted as proposed.

Several commenters questioned the need for the process specifications that must be furnished to the FAA in proposed § 37.209(c)(4). This requirement is needed to verify that the battery on the drawings is the one tested and the one produced. However, it should be noted that the FAA may allow the data to be maintained at the manufacturer's facility. Another commenter requested clarification of what the FAA would require as process specifications. Section 37.209(c)(4), as adopted, has been clarified by including more details on the data requirements.

One commenter requested verification that cell life and battery life data would not form part of data required under proposed § 37.209(c)(5). That understanding is correct. However, the manufacturer may wish to include such data since battery capacity under differing environmental conditions and loads is important data if equipment manufacturers are to properly employ these batteries. Section 37.209(c)(5) is adopted without substantive change.

§ 37.209(d)

One commenter stated that the data and information specified in § 37.209(c)(5), as required in proposed § 37.209(d), is superfluous and should be deleted. The FAA does not agree. Another commenter recommended that this data be made available upon request of the user. The required data must be supplied to the person receiving for use one or more cells manufactured under this TSO to ensure proper utilization of LiSO₂ batteries.

In light of the comments received, and upon further consideration, the FAA has concluded that cells that vent during any of the conditions specified in tests required by the Federal Aviation Administration Standard, Lithium Sulfur Dioxide Batteries, except those of § 3.7, may be allowed to be used, provided that data on these cells are furnished to the equipment manufacturer for designing for containment in the event of an explosion and for venting of gaseous products. Section 37.209(d) has been changed accordingly.

Comments to the Federal Aviation Administration Standard, Lithium Sulfur Dioxide Batteries

§ 1.0—General

No comments were received on proposed § 1.0, and this section is adopted as proposed.

§ 2.1—Cell Isolation

One commenter suggested that a sentence be added to proposed § 2.1 to require battery protection against shorting due to rubbing and chafing. The FAA does not agree that such a provision is necessary since the vibration and shock tests required by the TSO would show up mechanical faults in the battery design.

One commenter suggested that if it were demonstrated that charging currents did not lead to a hazardous condition, charging currents should be allowed. The FAA does not agree. This condition is virtually impossible to demonstrate. Factors such as age of cell, vibration, and temperature may have played a role in the recent failures of LiSO₂ cells. Furthermore, information in a National Aeronautics and Space Administration (NASA) Report on a workshop held at Goddard Space Flight Center, November 15-17, 1977, (NASA Conference Publication 2041) shows that reverse charging of cells can lead to explosions.

Two commenters suggested that the requirements for cell isolation be revised to make it clear that each cell must be protected. In addition, one commenter suggested that cells that have charging voltages less than one cell's nominal open circuit voltage are harmless. Another commenter suggested revising the cell isolation requirement to allow cells to be used in series. The FAA agrees with all these comments and FAA has determined that when four or less cells are connected in series, there is insufficient energy to cause one cell to go into reversal and that a shunt diode is required when five or more cells are connected in series. Section 2.1 has been revised to incorporate these provisions.

§ 2.2—Cell Connection

One commenter recommended that the type of cell connection in a multicell battery should be left to the manufacturer citing, as an example, the satisfactory performance of pressure contacts in a flashlight. The FAA does not agree. The majority of LiSO₂ batteries are used in ELT's, and they are normally located in areas of the aircraft that are not easily accessible; therefore, the condition of these batteries is not checked before each flight. In addition, the aircraft operates in an environment

more severe than that to which most flashlights are exposed. Furthermore, pressure contacts are more prone to increase resistance as a result of corrosion. Accordingly, § 2.2 is adopted without substantive change.

§ 2.3—Safety Relief

One commenter pointed out that any venting of a LiSO₂ cell would release SO₂ and acetonitrile, though not in toxic concentrations. It was stated that concentrations of SO₂ would only be unpleasant. The FAA does not agree. Threshold toxicity of SO₂ is 5 ppm. Six to 12 ppm of SO₂ causes immediate irritation to the eyes, nose, throat, and lungs. Fifty to 100 ppm of SO₂ is the maximum permissible concentration for exposures of 30 to 60 minutes. This concentration may cause respiratory paralysis. Four hundred to 500 ppm of SO₂ is an immediate danger to life. The data in Garrett Manufacturing Limited Report No. 75C3053, Revision A indicates that in a small general aviation aircraft, 13 to 14 minute concentrations of over 50 ppm would be encountered if one "C" cell vented. Peak concentrations of over 170 ppm of SO₂ would be experienced. In addition, laboratory evaluation of products formed during a venting uncovered the presence of hydrogen cyanide. This is highly toxic in small concentrations. While the SO₂ may not reach fatal levels, it can and has reached levels where a pilot has been incapacitated.

One commenter suggested that the safety relief should operate well below the melting point of lithium (186°C). The FAA agrees and based on the performance of existing designs, the maximum temperature for safety relief operation has been changed to 130°C.

One commenter recommended that button cells be exempted from the requirement to have a safety relief, since button cells do not have sufficient energy to rupture the cell case. The FAA does not agree. Since no supporting data was submitted, the FAA has no basis on which to exempt button cells at the present time.

One commenter recommended that proposed § 2.3 be divided into two parts; one would cover operation of the safety relief, the other discharge of toxic substances. The commenter also recommended that if a cell vented during any of the tests prescribed, then overboard venting should be allowed. The FAA agrees and § 2.3 has been revised consistent with the recommendations.

§ 2.4—Encapsulation

Several commenters questioned the prohibition of encapsulating the battery.

It was recommended that encapsulation should be allowed if it did not prevent proper functioning of the safety relief. The FAA agrees, provided that the encapsulation material does not cause the battery to overheat. Accordingly, § 2.4 is adopted with these changes. In this connection, test requirements, § § T-2 and T-3, have been added to new Appendix B to test for any effects encapsulation may have on the battery.

§ 2.5—Seal

Several commenters recommended that a test procedure be provided to verify the performance of a hermetic seal. The FAA agrees. Section T-4 has been added to Appendix B of this standard for that purpose. As suggested by another commenter, a definition of hermetic seal has been added to Appendix A of this standard. To further clarify the definition, a specific weight loss limit has been added to § 2.5 to account for moisture losses due to the high temperatures of this test.

§ 2.6—Fuse Protection

Several commenters recommended that the fuse location relative to the battery case be more clearly defined. The FAA agrees. The intent was that the fuse, for a battery of one or more cells, would be within the battery container, but external to the cell.

Several other commenters suggested that fuse protection was not necessary for some batteries. The FAA does not agree. Service Difficulty Reports indicate that the venting violently and explosion associated with LiSO₂ batteries are time related, and fusing is one way to protect batteries over long time periods.

A number of commenters suggested that the proposed current limiting device of 150 milliamperes for the battery discharge was not appropriate for all batteries. The commenters also suggested that the rating of the device should be related to the ampere rate at which the batteries are tested in other sections of the standard. Finally, one commenter recommended changing the section title to "Current Limiting Protection". The FAA agrees. Section 2.6 as adopted, incorporates the recommended changes.

§ 2.7—Voltage-Life

Several commenters stated that the proposed voltage life characteristics requirements in § 2.7 should be eliminated because the requirement is not meaningful without specifying the rate of discharge which is dependent on the battery application. The FAA agrees and proposed § 2.7 is withdrawn.

§ 2.8—Useful Life

Two commenters stated that the 60°C proposed in § 2.8 for storage is an unrealistic environmental condition, while another commenter suggested a temperature of 24°C. The objective of this requirement is to model actual average environmental conditions. Ideally, the temperature would vary with time of day and throughout the year. As this is not practical, a compromise temperature between the extremes is sought. Therefore, 40°C is adopted as a more realistic environmental condition. To compensate for this higher than the suggested 24°C temperature, the useful life is increased to 4 years. Another commenter suggested that proposed § 2.8 be made a storage survivability test. However, to change the requirement and make it a storage survivability test misses the intent of the requirement. The problems associated with LiSO₂ batteries may be time related, and thus it is the FAA's intent to limit the life of LiSO₂ batteries until the batteries can be proven to be safe beyond the useful life.

In answer to the question of one commenter, the useful life of the battery begins on the date of manufacture. Several commenters requested a definition of useful life. To clarify the term "useful life," § T-5 of Appendix B has been added to provide a method to determine the useful life of batteries.

One commenter believed that there is a conflict between the useful life of the battery as defined in proposed § 2.8 and as defined in FAR § 37.200(g)(2) concerning ELT's. The FAA sees no conflict since the data furnished by the ELT transmitter manufacturer must be based on the data furnished by the battery manufacturer. With the changes discussed, § 2.8 is adopted and redesignated as § 2.7.

§ 2.9—Transient Response

Several commenters stated that the proposed transient response requirement in § 2.9 should be eliminated because the requirement is unattainable or not practicable to meet. The FAA agrees, and proposed § 2.9 is withdrawn.

§ 2.10—Examination of Product

No comments were received on the proposed § 2.10. Accordingly, this section is adopted without substantive change and redesignated as § 2.8.

§ 2.11.1—Open Circuit Voltage

One commenter suggested that a minimum standard of 2.9 volts per cell be utilized as the specified minimum

open circuit voltage in proposed § 2.11.1. The FAA does not agree. The objective of this test is to determine variations in cell voltage that cause charging currents. Several commenters recommended that ± 5 or ± 10 percent be used instead of the proposed ± 2.5 percent for open circuit voltage. The FAA agrees. The value ± 5 percent is more readily obtainable without compromising the objective of the test. One commenter suggested that a definition for the term "nominal" be provided in the proposed requirement. The term "nominal" as used in the proposed requirement is not needed because the tolerance in the requirement allows for an approximation. Accordingly, § 2.11.1 is adopted with the changes noted, and redesignated as § 2.9.

§ 2.11.2—Voltage Under Constant Load

Two commenters stated that the proposed voltage under constant load requirements in § 2.11.2 are not meaningful and the intent of the requirements is not clear. Other commenters recommended that proposed § 2.11.2 be deleted because the requirements are dependent on the battery application. The FAA agrees, and proposed § 2.11.2 is withdrawn.

§ 2.12—Capacity

Two commenters recommended that minimum capacity be established for each battery application. The FAA does not agree since it cannot be predicted what future applications will be made and variation in cell capacity can affect the safety of LiSO₂ batteries. Several commenters stated that the proposed " ± 2.5 percent" variation in cell capacity is not realistic and is too restrictive, and some recommended that " ± 10 percent" be used. The FAA agrees. Another commenter recommended that cell capacity be measured only down to a cell voltage of 2.0 volts. However, there are certain battery applications, as for example in ELT's, where the battery may be required to be completely discharged. One commenter suggested that capacity be clarified. This is accomplished by the addition of § T-6 to Appendix B of this standard. Accordingly, proposed § 2.12 is adopted with the changes discussed, and redesignated as § 2.10.

§ 3.1—Effects of Test

One commenter suggested that exceptions, § § 3.6, 3.9, 3.11, and 3.12 be added to those already listed. Based on these comments and upon further review the FAA has determined that only tests which may involve destruction of the cell should be listed as exceptions. Therefore, this section is

revised to include as exceptions § § 3.6, 3.7, 3.8, 3.9, and 3.10. Another commenter recommended that the tests should be performed in a specific sequence in order to reduce the time and expense in demonstrating compliance to the standard. The FAA has determined that specifying a testing sequence would reduce time and expense in demonstrating compliance to the standard. Accordingly, proposed § 3.1 is adopted with the changes discussed above and retitled "General".

§ 3.2—Shock Test

One commenter recommended the use of a military standard procedure instead of the procedure proposed in § 3.2 for the shock test. Several commentators believe that the test conditions are too severe and unrealistic and should be changed. The FAA does not agree. Batteries that meet this standard will primarily be used to power ELT's and the shock test requirements for the batteries should be compatible with the shock test requirement for ELT's. Two commenters recommended that the shock test be performed on the battery rather than individual cells since this would simultaneously evaluate the cell, intercell connections, insulation, fuse, and battery configuration to shock conditions. The FAA agrees. Furthermore, the FAA has determined that it is not necessary for the cell to meet the examination of product requirements (proposed § 2.10), voltage requirements (proposed § 2.11), and capacity requirements (proposed § 2.12) following application of the shocks as proposed. Deletion of these 3 requirements from § 3.2 will reduce the time and expense in demonstrating compliance to the standard. The same considerations apply with respect to the vibration test of § 3.3, the temperature cycle test of § 3.4, and the altitude test of § 3.5 and the post-test requirements are deleted also from these sections. Proposed § 3.2 is adopted with the changes discussed above.

§ 3.3—Vibration Test

Two commenters recommended the use of a military test procedure instead of the test procedure proposed in § 3.3. One of the commenters suggested increasing the acceleration requirement from "7G" to "40G". The FAA does not agree. The proposed test ensures compatibility with the test procedure for ELT's which is the equipment that will primarily use batteries meeting this standard. Several commenters recommended that the proposed test be performed on assembled batteries rather than on each cell as proposed. The FAA agrees. One commenter stated that if

this applied to a battery, then the battery should only be tested as part of the equipment that it is used in. However, this does not follow since the battery test demonstrates the integrity of the battery, while the equipment test demonstrates the integrity of the combination of the two items. One commenter stated that the shock and vibration tests are not compatible because the methods for securing the batteries during the tests are not the same. However, no reason has been given for requiring that the means for securing the batteries during the shock and vibration tests need to be the same. Accordingly, proposed § 3.3 is adopted with the change to make it applicable to assembled batteries and to delete the post test requirements as discussed under § 3.2.

§ 3.4—Temperature Cycle Test

One commenter recommended that U.S. Military Standard 810C Method 503.1 be used for the test in place of the requirements proposed in § 3.4. The FAA does not agree. The proposed temperature test is more severe and it is considered essential for the intended application of LiSO₂ batteries. One commenter questioned how the battery would be tested for leakage after completion of the test proposed in § 3.4. A test procedure is added to Appendix B under § T-4 to test for leakage. One commenter recommended that multiple temperature cycling be required to determine the effectiveness of the seal. The FAA agrees. Temperature cycling more closely models actual environmental conditions. One commenter suggested specifying how the battery would be returned from the high temperature to room temperature, and that proposed § 3.4 should be made consistent with other sections in the standard. The FAA agrees. The proposed temperature cycle test as adopted specifies that information. For a discussion of the deletion of § § 2.10, 2.11, and 2.12 referenced in § 3.4, see the discussion on § 3.2. Accordingly, proposed § 3.4 is adopted with the changes discussed above.

§ 3.5—Altitude Test

One commenter suggested that U.S. Military Standard 810C Method 504.1 be used for the test, instead of the requirement proposed in § 3.5. The FAA does not agree. The suggested requirement is not appropriate. One commenter recommended, for clarity, replacing the term "exhibit leakage" with the term "examined and tested for leakage." The FAA agrees; however, the requirement to test for leakage is relocated to § 3.6 in the standard. One

commenter stated that the temperature, altitude, and time requirements proposed are not realistic. However, the purpose of the test is to evaluate the integrity of the hermetic seal in low atmospheric pressure under accelerated conditions. For a discussion of the deletion of §§ 2.10, 2.11, and 2.12 referenced in § 3.5, see the discussion on § 3.2. Accordingly, proposed § 3.5 is adopted with the change discussed above.

§ 3.6.1—Verification of Vent Operation

One commenter stated that since SO_2 gas is toxic, no LiSO_2 battery could meet the requirement proposed in § 3.6.1. The intent of this requirement is not to eliminate the use of LiSO_2 batteries, but to require verification of vent operation performance. One commenter recommended that the proposed requirements not be applied to button cells. The FAA does not agree. As previously discussed, all cells are required to have a vent. One commenter recommended that this test be performed only on a cell and not on the battery. The FAA agrees that the requirements are more appropriate for the cell.

The substance of proposed § 3.6.1 with clarifying changes and with the change discussed above are incorporated in § T-1 of Appendix B of this standard. Therefore, proposed § 3.6.1 is withdrawn. The requirement for a hotplate in proposed § 3.6.1 has been replaced in § T-1 of Appendix B of this standard with electric heating tape.

§ 3.6.2—Open Flame Test

Several commenters stated that the proposed open flame test in § 3.6.2 could not be met because the flash point of acetonitrile (one of the electrolyte components of LiSO_2 batteries) is below the proposed flame test temperature. Upon further review, the FAA is withdrawing proposed § 3.6.2.

§ 3.7—Cell Deformation Test

One commenter stated that the proposed cell deformation test in § 3.7 should be eliminated because it does not simulate an internal short circuit which is the intent of the test. The FAA agrees, and proposed § 3.7 is withdrawn.

§ 3.8—Accelerated Life Test

One commenter suggested deleting the accelerated life test because it pertained to performance rather than safety standards. Another commenter suggested deleting this requirement because it seems to be of little significance to the assessment of cell usage. The FAA does not agree on deleting proposed § 3.8. From a safety

viewpoint, it is important that long-term storage not adversely affect the cell capacity. Variation in cell capacity may at some time cause charging currents to be generated, thus leading to a potentially hazardous situation. The adopted test requirements will indicate how storage affects cell capacity. Two commenters recommended that the proposed " ± 2.5 percent" variation in cell capacity requirement be replaced with " ± 10 percent." They stated that larger variance is more typical of battery capacity. The FAA agrees. Accordingly, proposed § 3.8 is redesignated as § 3.7, and adopted with change for percent variation, and retitled "High Temperature Cell Capacity Test" to more accurately describe its purpose. In addition, the section requires that the test be performed in accordance with § T-6 of Appendix B which identifies the test equipment required and test procedure to use.

§ 3.9—Reverse Discharge Test

Several commenters stated that the fuse would blow during this test, since the specified current exceeded the maximum current value of the fuse. One commenter recommended that the rate at which the cell is discharged be equal to the rating of the fuse. The FAA agrees. Another commenter suggested that the test be performed at high temperature (55°C). However, the intent of the requirement is to have the test performed at room temperature. Therefore, for clarity, a test temperature value of $24^\circ \pm 3^\circ\text{C}$ is prescribed. In addition, for clarity, the duration for observing the condition of the cell after the test should be defined, and a period of 24 hours is specified. Proposed § 3.9 is adopted with the changes discussed above and redesignated as § 3.8.

§ 3.10—Immersion Test-Salt Water

One commenter suggested deleting the reference requirements of §§ 2.11 and 2.12 in proposed § 3.10, stating that they pertain to performance rather than safety standards. Another commenter suggested that the entire section be deleted. The FAA does not agree. The adverse effects of humidity on the battery voltage and capacity are safety related and must be determined. One commenter questioned whether the test would apply to batteries or cells, or both. The test applies only to batteries. For clarification, the test requirement is revised to require compliance with § T-4 of Appendix B which identifies the test equipment and the test procedure to use. As revised, proposed § 3.10 is adopted and redesignated § 3.6.

§ 3.11—Short Circuit Test

Several commenters made recommendations to the proposed short circuit test in § 3.11 that would negate the intent of the requirement. Other commenters suggested editorial changes. In light of the comments received and upon further review, proposed § 3.11 is withdrawn.

§ 3.12—Forced Discharge Test

One commenter suggested deleting proposed § 3.12 because it was redundant. The FAA does not agree. While the forced discharge test is similar to the reverse discharge test, this test may provide different results. One commenter suggested that the term "not greater than -20°C " in proposed § 3.12 should be clarified. This is standard terminology for temperatures higher than a reference temperature and is thus retained. One commenter recommended that this test also be applied to the batteries that have completed the accelerated life test of § 3.8. Considering LiSO_2 battery service experience, the FAA agrees. One commenter suggested that this test be performed on time-expired cells (cells that have reached their useful life). The FAA does not agree. This would add an unacceptable time to qualify the batteries. Several commenters suggested that proposed § 3.12 was either unclear or had inconsistencies for fuse ampere rate vs. test ampere rate. Another commenter stated that the test was apparently aimed at one size battery and suggested that it be made applicable to all size batteries. The forced discharge test is intended to have general applicability to all size batteries and as adopted, the discharge current is revised to equal that of the rating of the fuse used in the battery for a period corresponding to the rated capacity of the battery. In addition, for clarity, the duration for monitoring the cells after the test is added. As revised, proposed § 3.12 is adopted and redesignated as § 3.9.

§ 3.13—Total Discharge Test

One commenter recommended deleting the term "vent violently". The FAA does not agree. A battery should not vent when discharged. One commenter recommended defining a time for observing the battery after the short is applied to determine if venting occurs. The FAA agrees. Twenty-four hours is believed to be a reasonable observation period. Several commenters recommended that the battery testing current levels be made consistent with the fuse value and battery capacity. The FAA agrees. The change would make these requirements consistent with the

other discharge requirement. Accordingly, proposed § 3.13 is revised and as adopted, redesignated § 3.10.

Appendix A

Several commenters requested that additional terms be defined, or suggested revision to the definitions proposed in Appendix A. Appendix A is adopted with clarifying changes and with additional definitions as discussed under the discussion of comments to this standard.

Adoption of the Amendment

Accordingly, Part 37 of the Federal Aviation Regulations (14 CFR Part 37) is amended by adding a new § 37.209 effective Sept. 28, 1979 to read as follows:

§ 37.209 Lithium sulfur dioxide batteries TSO-C97.

(a) *Applicability.* This technical standard order prescribes the minimum performance standards that lithium sulfur dioxide (LiSO_2) batteries must meet to be identified with the applicable TSO marking. Batteries that are to be so identified must meet the requirements of the "Federal Aviation Administration Standard, Lithium Sulfur Dioxide Batteries" set forth at the end of this section.

(b) *Marking.* Each battery must be marked in accordance with § 37.7 and must be marked with the month and year of manufacture and the date on which it must be replaced. In addition, each cell and battery must be marked with the phrase, "LITHIUM BATTERY CAUTION: PRESSURIZED CONTENTS; NEVER RECHARGE, SHORT CIRCUIT, OR EXPOSE TO TEMPERATURES ABOVE 70°C (158°F)".

(c) *Data requirements.* In accordance with § 37.5, the manufacturer must furnish to the Chief, Aircraft Engineering Division, Office of Airworthiness, Federal Aviation Administration (or in the case of the Western Region, the Chief, Aircraft Engineering Division) in the region in which the manufacturer is located, the following technical data:

(1) One copy of the battery limitations and operating characteristics.

(2) One copy of the installation procedures and installation limitations with applicable drawings and specifications indicating all limitations, restrictions, and conditions pertinent to the installation.

(3) One copy of the manufacturer's test report.

(4) One copy of the Master Drawing List of the battery, including identification of all drawings and applicable revision status and all

process specifications and revision status.

(5) Battery data sheets specifying, within the prescribed range of environmental conditions, the actual performance of batteries of that type with respect to each performance factor prescribed in the applicable standard.

(d) *Data to be furnished with manufactured units.* (1) One copy of the data and information specified in paragraphs (c)(1), (c)(2), and (c)(5) of this section must be furnished to each person receiving for use one or more articles manufactured under this TSO.

(2) If a cell vents from any of the tests required by the Federal Aviation Administration Standard, Lithium Sulfur Dioxide Batteries, except those of §§ T-1 and T-2 of Appendix B of the standard, one copy of the data must be furnished to each person receiving for use one or more cells manufactured under this TSO which will allow that person to design—

(i) A receptacle to contain the simultaneous violent venting or explosion of all cells within the battery; and

(ii) Provisions for venting overboard the gaseous products of the explosion.

Federal Aviation Administration Standard

Lithium Sulfur Dioxide Batteries

1.0 General.

1.1 This standard applies to cells and batteries of a nonaqueous LiSO_2 type. Batteries may consist of a single cell, cells connected in series or in parallel, or both, to obtain the necessary output for the intended application. Definitions for terms used in this standard are set forth in Appendix A of this standard.

2.0 Minimum Performance Standards Under Standard Conditions.

2.1 *Cell Isolation.* Cells in a multi-cell battery or packs of more than one battery may not be connected in parallel unless provisions are made to prevent individual cells from being exposed to charging voltages greater than the cell's nominal open circuit voltage. When five or more cells are reconnected in series, each cell must be protected by a shunt diode.

2.2 *Cell connection.* All electrical connections between cells in a battery must be soldered, welded, or brazed in accordance with an approved process specification.

2.3 Safety Relief.

2.3.1 *Safety Relief Mechanism.* Each cell used in the battery must incorporate a safety relief mechanism that will relieve internal pressure at a value and rate which will preclude venting

violently, or explosion. The safety relief must operate at a temperature below 130°C in accordance with § T-1 of Appendix B of this standard.

2.3.2 *Discharged Materials.* If a cell vents during any of the tests required by §§ 3.2, 3.3, 3.4, 3.5, 3.6, 3.7, 3.8, 3.9, and 3.10, the data requirements of § 37.209(d)(2) must be met.

2.4 *Encapsulation.* Encapsulation of the battery may not be used unless it is demonstrated, in accordance with §§ T-2 and T-3 of Appendix B of this standard, that encapsulation does not inhibit the functioning of the safety release mechanism or cause the battery to overheat.

2.5 *Seal.* Each cell must be hermetically sealed. The seal must be tested in accordance with § T-4 of Appendix B of this standard. The difference in the weight of the cell before and after this test must be less than 50 milligrams.

2.6 *Current Limiting Protection.* The battery must have a current limiting device. This device must limit the current that can be drawn from the battery to a value lower than that which it was subjected to in §§ 3.8, 3.9, and 3.10 of this standard, and must be an integral part of the battery and not susceptible to shorting or any failure causing the device to be bypassed.

2.7 *Useful life.* The useful life of the battery may not exceed 4 years unless demonstrated. The useful life must be demonstrated at a minimum temperature of 40°C . When tested at periods in excess of 4 years, the battery must retain 80 percent of its ampere-hour capacity as demonstrated in accordance with § T-5 of Appendix B of this standard, and meet the requirements of §§ 2.9, 2.10, and all sections under § 3.0 of this standard.

2.8 *Examination of Product.* When required, subsequent to a test required by § 3.0 of this standard, each of the cells must be visually examined. Special emphasis must be placed on observing signs of leakage and overall appearance of the safety relief feature.

2.9 *Open Circuit Voltage.* Open circuit voltage of the battery must be measured and be within ± 5 percent of its specified value, and the polarity must be correct.

2.10 *Capacity.* The variation in battery capacity may not vary more than ± 10 percent when compared with the capacity as demonstrated in accordance with § T-6 of Appendix B of this standard.

3.0 Minimum Performance Standards Under Environmental Conditions.

3.1 *General.* Except as provided in §§ 3.6, 3.7, 3.8, 3.9, and 3.10 of this

standard, the design of the battery must be such that subsequent to the application of the specified tests, no condition may exist that would be detrimental to the continued performance of the battery. The same battery must be used for the following tests and these tests must be performed in this order: §§ 3.2, 3.3, 3.4, 3.5, and 3.6.

3.2 Shock Test. The battery must be secured to a shock table by a mechanically secure device. The shock test machine must be capable of imparting to the battery a series of calibrated shock impulses. The shock impulse waveform must be a half sine pulse whose distortion at any point on the waveform may not be greater than 15 percent of the peak value of the shock pulse. For the purposes of this section, duration of the shock impulse is specified with reference to the zero points of the half sine wave, and shock forces are specified in terms of peak amplitude G values. The shock impulse must be measured using a calibrated accelerometer and associated instrumentation having a 3dB response over a range of at least 5 to 250 Hertz. The shock test must be conducted as follows:

(a) Mount the battery on the shock test machine in such a manner that it can be subjected to shock impulses in each direction successively along the three mutually orthogonal axes of the battery.

(b) Apply a 100G shock impulse of duration 23 ± 2 milliseconds to the battery in a direction coincident with the first orthogonal axis.

(c) Reset the activation mechanism.
(d) Repeat the procedures specified in §§ 3.2(b) and (c) applying an impulse shock in the remaining 5 axial directions.

3.3 Vibration Test. The battery must be secured to a vibration table so that sinusoidal vibratory motion can be exerted parallel to one of the three major orthogonal axes of the battery. The battery must be affixed to the vibration table by the means specified by the equipment manufacturer for service installations. The vibration frequency must be varied at a rate not to exceed 1.0 octave per minute. The vibration must exhibit a constant total excursion of 2.5mm from 5 Hertz to the frequency at which an acceleration of 7G (zero-to-peak) is reached and from that frequency to 2,000 Hertz at a constant acceleration of 7G. Continue the vibration for a minimum of 1 hour. The tests described in this section must be repeated with the vibratory motion being applied along each of the other major axes of the cell.

3.4 Temperature Cycle Test. The battery must be subjected to a temperature not greater than -65°C for a period of 20 hours. The test chamber temperature must then be raised at a rate of $5^{\circ} \pm 2^{\circ}\text{C}$ per minute to a temperature of at least $+71^{\circ}\text{C}$, and this temperature maintained for a period of 4 hours. After the 4-hour period, the test chamber temperature must be returned, at a rate of $5^{\circ} \pm 2^{\circ}\text{C}$ per minute, to a temperature not greater than -65°C , and this temperature must be maintained for 20 hours. The temperature cycle must be repeated 5 times. After completion of the temperature cycle, the battery must be returned to room temperature.

3.5 Altitude Test. The battery must be stored for 6 hours at an atmospheric pressure corresponding to an altitude of 15,000 meters at $24^{\circ} \pm 4^{\circ}\text{C}$. The pressure must then be increased to sea level pressure.

3.6 Immersion Test—Salt Water. After being immersed in salt water (3.5 ± 0.1 percent sodium chloride), with terminals insulated, for a period of at least 15 hours, the battery must be tested for leakage in accordance with § T-4 of Appendix B of this standard, and meet the requirements of §§ 2.8, 2.9, and 2.10 of this standard.

3.7 High Temperature Battery Capacity Test. After 30 days of storage at a temperature of $71^{\circ} \pm 2^{\circ}\text{C}$, the battery must be returned to room temperature and must be capable of delivering 90 percent of its rated capacity with no more than ± 10 percent variation in cell capacity. The test must be performed in accordance with § T-6 of Appendix B of this standard.

3.8 Reverse Discharge Test. The cell must not be fuse protected. The cell must be discharged in series with an external power supply at a current equal to that of the rating of the fuse used in the battery at a temperature of $24^{\circ} \pm 3^{\circ}\text{C}$. The discharge must be maintained for a time corresponding to the rated capacity of the battery that the cell will be used in or until the cell has vented. The cell condition must be monitored for 24 hours after termination of reverse discharge.

3.9 Forced Discharge Test. The battery must be operative and have the fuse removed for purposes of this test. The test must be conducted on (1) a battery that has not been discharged, and (2) a battery that has completed the high temperature battery capacity test of § 3.7. a battery must be forced discharged at a current load equal to that of the rating of the fuse used in the battery at a temperature not greater than -20°C isothermally for a period corresponding to the rated capacity of

the battery. The battery condition must be monitored for 24 hours after the rated capacity of the battery has been reached.

3.10 Total Discharge Test. The battery must be operative and have the fuse removed for purposes of this test. The battery must be discharged at a temperature of $24^{\circ} \pm 3^{\circ}\text{C}$ at a current level equal to that of the rating of the fuse used in the battery for a period corresponding to the rated capacity of the battery. Immediately thereafter, a direct short must be placed and left across the battery terminals. The battery condition must be monitored for 24 hours after the direct short has been applied.

Appendix A

The following definitions of terms are applicable to the Lithium Sulfur Dioxide Batteries Standard.

1.0 Definitions. For purposes of this standard, the following definitions apply:

"Battery" means an electrical energy source made up of one or more cells, arranged in electrical series or parallel or in a series-parallel combination.

"Capacity" means the total amount of electrical energy, measure in ampere hours, that a cell can generate.

"Cell" means an individual electrochemical unit.

"Hermetic sealed cells" means that each cell is sealed in such a manner that over the useful life of the cell there is no loss of gaseous or solid material from the cell.

"Venting" means the controlled release of the electrolyte or any chemical reactant products, or both, from a cell.

"Venting violently" means the rapid uncontrolled discharge of either harmful gases or liquid, or both, from a cell accompanied by the generation of heat.

Appendix B

The following test procedures give details for demonstrating that the requirements of the Lithium Sulfur Dioxide Batteries Standard are met.

T-1 Verification of Safety Relief Mechanism (§ 2.3.1)

Equipment Required: Calibrated iron constantan thermocouple, accurate to within $\pm 1^{\circ}\text{C}$. Electric heating tape. Recording potentiometer.

Test Procedure: a. Attach a thermocouple to the surface of the metal cell case under test and attach the thermocouple to the recording potentiometer.

b. Wrap the circumference of the cell, not covering the ends, with the electric heating tape.

c. Increase the temperature of the cell at a linear rate of $10^{\circ} \pm 3^{\circ}\text{C}$ per minute.

d. Continuously monitor the temperature of the cell case and record the temperature at which the cell(s) vent.

T-2 Operation of Safety Relief in Encapsulating Material (§ 2.4)

a. Expose the battery to environmental conditions which will cause the battery to

vent (e.g., high temperature or direct short with the current limiting device inoperative).

b. The operation of the safety relief mechanisms and the encapsulation should be observed.

c. Determine that the encapsulation material does not cause the battery to vent in a manner different than that of the cell tested in § T-1.

T-3 Heat Transfer Properties of the Encapsulation Material (§ 2.4)

Equipment Required: Two calibrated thermocouples accurate to $\pm 1^{\circ}\text{C}$. Two recording potentiometers.

Test Procedure: a. Attach a load to an encapsulated battery with the fuse removed which will draw a current equal to the ampere rating of the fuse used in the battery.

b. Attach a load to an identical battery without encapsulation and with the fuse removed which will draw a current equal to the ampere rating of the fuse used in the battery.

c. Continuously monitor the temperature of both batteries. The room ambient temperature should be $24^{\circ} \pm 3^{\circ}\text{C}$.

d. Continue the test until the ampere hour rating of the cell is reached.

T-4 Hermetic Seal Test (§ 2.5)

Equipment Required: Temperature-controlled oven. Scale (accurate to 1 milligram).

Test Procedure: a. Weigh each cell under test.

b. Place each cell in the temperature-controlled oven.

c. Raise the temperature to 71°C .

d. Maintain this temperature for 30 days.

e. Lower the temperature to ambient.

f. Remove the cells and weigh each cell.

g. Compare the weight of each cell with the weight before the test.

T-5 Useful Life (§ 2.7)

Equipment Required: Temperature-controlled oven.

Test Procedure: a. Place each battery in the temperature-controlled oven, seals pointed down so that the seal is covered by the electrolyte.

b. Raise the temperature to at least 40°C .

c. Maintain this temperature for 4 years plus the additional time for which useful life is desired to be demonstrated.

d. Lower the temperature and remove each battery.

e. Measure the remaining capacity of the cell in accordance with § T-6 of this Appendix.

T-6 Battery Capacity (§ 2.10)

Equipment Required: Resistive load. Data recorder. Digital printer. Digital voltmeter.

Test Procedure: a. Attach a resistive load to the battery under test which will initially draw a current equivalent to the value of the fuse used in the battery in which the cell under test is to be used.

b. Monitor the voltage time until the end-voltage of the battery reaches 0.5 volt.

c. Calculate the cell capacity using the timed averaged voltage method. The formula for this method is

$$\bar{V} = \frac{1}{t_{\text{co}}} \sum_{i=1}^{n-1} \frac{(V_i + V_{i+1} + 1)}{2} (t_{i+1} - t_i)$$

$$AH = \bar{V} \frac{t_{\text{co}}}{R_L}$$

where:

$\bar{V}$ = Time averaged voltage

t_{co} = Elapsed discharge time to cutoff in hours

V_i = Voltage at time t_i

V_{i+1} = Voltage at time t_{i+1}

t_i = Time in hours at which V_i was measured

t_{i+1} = Time in hours at which V_{i+1} was measured

AH = Discharged capacity

R_L = Load resistance in ohms.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).

Note.—The FAA has determined that this document involves a regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by the Department of Transportation Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). A copy of the final evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained by contacting the person identified under the caption "FOR FURTHER INFORMATION CONTACT".

Issued in Washington, D.C., on August 23, 1979.

James O. Robinson,

Acting Director, Office of Airworthiness.

[FR Doc. 79-26657 Filed 8-24-79; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

(Docket No. 18734; Amdt. 39-3549)

Lithium Sulfur Dioxide Batteries

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to all Lithium Sulfur Dioxide (LiSO_2) batteries installed in aircraft or in equipment used in aircraft, which required removal of all LiSO_2 batteries and Emergency Locator Transmitters (ELT) powered by such batteries. This amendment adopts a new AD which requires either reinstallation of ELT's powered by LiSO_2 batteries which meet new standards or installation of another ELT powered by another source. The AD requires the removal from aircraft of any LiSO_2 batteries which do not meet the new standards and any ELT's powered by such batteries. It also extends the period to time in which aircraft from which an ELT has been removed in accordance with these AD's may be operated without the required ELT.

DATES: Effective—August 24, 1979.

Compliance is required as indicated in body of AD.

FOR FURTHER INFORMATION CONTACT: Mr. Adolfo O. Astorga, Systems Branch, Aircraft Engineering Division, Office of Airworthiness, Federal Aviation Administration, 800 Independence Avenue, S.W., Washington, D.C. 20591; Telephone (202) 426-8395.

SUPPLEMENTARY INFORMATION:

Amendment 39-3422 (44 FR 10980; February 26, 1979), AD 79-05-02 required removal of all LiSO_2 batteries from U.S.-registered civil aircraft and the removal of all ELT's powered by LiSO_2 batteries installed in U.S.-registered civil aircraft. It further provided that notwithstanding FAR § 91.52, aircraft from which an ELT had been removed to comply with the AD would be permitted to operate for a period of 180 days without the ELT. This AD was prompted by reports of LiSO_2 batteries exploding, venting violently, corroding, burning, and leaking gas.

Since issuing Amendment 39-3422, AD 79-05-02, the FAA has issued TSO-C97 which sets forth the requirements which must be met for TSO approval of LiSO_2 batteries. This Technical Standard Order (TSO), FAR § 37.209, was published in the Federal Register on August 27, 1979.

This amendment adopts a new AD which requires removal from U.S.-registered civil aircraft of all LiSO_2 batteries which do not meet the requirements of TSO-C97 and all ELT's powered by such batteries. It also requires that before March 28, 1980 in those aircraft from which ELT's were removed in accordance with AD 79-05-02 or this AD that either (1) LiSO_2 batteries which meet the requirements of TSO-C97 be installed in the ELT and the ELT be reinstalled on the aircraft or (2) that another ELT powered by a source other than LiSO_2 batteries be installed in the aircraft. In either case, the ELT must meet the requirements of FAR § 37.209. Further, it requires that this action be recorded in the aircraft records and that the "ELT not installed" placard be removed. In addition, the AD extends until March 28, 1980 the period in which an aircraft from which an ELT has been removed to comply with AD 79-05-02 or this AD may be operated without the ELT required by FAR §§ 91.52(a) and (b).

The temporary extension is being provided to allow time for the testing, TSO authorization, manufacture, and distribution of LiSO_2 batteries that meet the requirements of TSO-C97. However, it should be noted that there is no certainty that LiSO_2 batteries that meet

the TSO requirements will be manufactured and commercially available. Thus, before March 28, 1980, it may be necessary for some aircraft owners to replace ELT's that were originally powered by LiSO₂ batteries. Other equipment may be required to be modified to use other power sources if LiSO₂ batteries are not available.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

Adoption of Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended effective Aug. 24, 1979 by adding the following new airworthiness directive:

Lithium Sulfur Dioxide Batteries. Applies to all Lithium Sulfur Dioxide (LiSO₂) batteries installed in aircraft or in equipment used in aircraft.

LiSO₂ batteries have been used in, but not necessarily limited to, the following Emergency Locator Transmitters (ELT's):

Communications Components Corp.

Model CIR 10, all serial numbers
Battery pack BP-60, BP-60A, BP-60B, and BP-60C

Model CIR 11-2, all serial numbers
Battery pack BP-60-11, BP-60-11A, BP-60-11B, and BP-60-11C

Cessna Aircraft Co.

Part Number C589511-0103
Part Number C589510-0202
Part Number C589510-0209
Part Number C589510-0109

Dome & Margolin

Model DMELT 6 serial number 1 to 24,999 with battery pack DMELT 6.11, except those ELT's which have been modified by the change to battery pack DMELT 6.13.

Garrett

Model No. 627-810—all serial numbers
Model No. 627-818—all serial numbers
Model No. 627-934—all serial numbers
Model No. 625-088—all serial numbers
Battery part number—616-246-1, 616-246-2

Leigh

Model SHARC 7 with a 3 or 4 cell battery pack. The ELT including battery weighs approximately 1.8 pounds.

Pathfinder

Model No. 2052

Pointer

Model 2000
Model 2000, Series Mod A
Model 3000, Series Mod A
Model 3000-2
LiSO₂ battery pack—P/N 2018, P2018, M2018, 2018 HSP, and 2018 HSM
Other aircraft equipment that have used LiSO₂ batteries:

(1) Bendix RNAV Computer Model

RNS3500 Control Display Unit CD-3501A.
(2) Emergency lighting, sliderafts, and flashlights.

Manufacturers have not used LiSO₂ batteries in the following ELT's. However, such batteries may have been substituted after manufacture.

Pacific Communication Corp.

Alert Model 50, 60, & 70

Pacific Avionic Co., Inc.

Model ELT-1

DME Corp.

Model RLB-5 (A)
Model RLB-9 (A) and (B)

Micro Electronics

Emergency Beacon Corp.

All models

LARAGO/MERL, Inc.

LARAGO 79007
MERL 1005

Dome and Margolin

Model DMELT 6 serial no. 25,000 & above

Compliance is required as indicated, unless already accomplished.

To prevent fire, venting violently, explosion, corrosion, or leakage of gas associated with certain LiSO₂ batteries, accomplish the following:

(a) Before further flight, remove all LiSO₂ batteries which do not meet the requirements of TSO-C97 from U.S.-registered civil aircraft, including any installed in equipment used in such aircraft.

Note.—This AD requires that LiSO₂ batteries used in U.S.-registered civil aircraft meet the requirements of TSO-C97. LiSO₂ batteries removed from equipment in accordance with AD 79-05-02 or this AD may be replaced by LiSO₂ batteries which meet the requirements of TSO-C97 or another power source. However, in either case the equipment must meet all applicable requirements of the Federal Aviation Regulations.

(b) Before further flight, remove from U.S.-registered civil aircraft any ELT powered by LiSO₂ batteries which do not meet the requirements of TSO-C97, and comply with the recordkeeping and placarding requirements of FAR § 91.52(f)(10)(i).

(c) For any aircraft from which an ELT has been removed to comply with AD 79-05-02 or this AD, before March 28, 1980, either—

(1) Install LiSO₂ batteries which meet the requirements of TSO-C97 in the ELT and, provided the ELT meets the requirements of FAR § 37.200, reinstall it in the aircraft; or

(2) Install in the aircraft an ELT which meets the requirements of FAR § 37.200 which is powered by a source other than LiSO₂ batteries.

(d) Upon installation of an ELT in accordance with paragraph (c) of this

AD, record in the aircraft records the action taken, and remove the placard which states "ELT not installed".

(e) Notwithstanding FAR § 91.52(f)(10)(ii), an aircraft from which an ELT has been removed in accordance with AD 79-05-02 or this AD, may operate without an ELT required by FAR § 91.52 (a) and (b) until complying with paragraph (c) of this AD but in no event later than March 28, 1980.

Note.—No further extensions of the period of time in which an aircraft may operate without an ELT installed will be granted. It should be noted that this extension allows aircraft operation without ELT's during the severe conditions of the winter months. Especially for those persons who operate in remote areas where cold temperatures are common, it is recommended that another approved power source be substituted until LiSO₂ batteries meeting TSO-C97 become available. The ELT manufacturers should be contacted directly to ascertain the availability of non-LiSO₂ battery power sources. If alternative power sources are not available a temporary replacement ELT should be considered. These comments should not be interpreted as promoting the permanent use of non-LiSO₂ powered ELT's since LiSO₂ batteries offer superior performance in cold temperatures. The FAA's concern is that during the next winter those persons who will most likely benefit from an ELT have one installed in their aircraft.

Within 3 months after the adoption of this AD the FAA expects to have definitive information on whether or not batteries that meet TSO-C97 can be manufactured. If it becomes apparent that LiSO₂ batteries that are safe for aviation will not be available, the FAA will advise the public on the necessity of replacing LiSO₂ battery-powered ELT's. This information will be made available in time to allow such replacements before March 28, 1980.

This supersedes Amendment 39-3422, AD-79-05-02.

This amendment becomes effective August 24, 1979.

(Secs. 313(a), 601, 603 Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 8(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89)

Note.—The FAA has determined that this document involves a regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and implemented by the Department of Transportation Regulatory Policies and Procedures (44 FR 11034, February 26, 1979).

Issued in Washington, D.C. on August 23, 1979.

James O. Robinson,

Acting Director, Office of Airworthiness.

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY*	USDA/ASCS		DOT/SECRETARY*	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/FHWA	USDA/FSQS		DOT/FHWA	USDA/FSQS
DOT/FRA	USDA/REA		DOT/FRA	USDA/REA
DOT/NHTSA	MSPB/OPM		DOT/NHTSA	MSPB/OPM
DOT/RSPA	LABOR		DOT/RSPA	LABOR
DOT/SLS	HEW/FDA		DOT/SLS	HEW/FDA
DOT/UMTA			DOT/UMTA	
CSA			CSA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

*NOTE: As of July 2, 1979, all agencies in the Department of Transportation, will publish on the Monday/Thursday schedule.

REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.

Rules Going Into Effect Today**FEDERAL COMMUNICATIONS COMMISSION**

43279 7-24-79 / FM broadcast station in Rosamond, Calif.; Changes made in table of assignments eff. 8-27-79

43727 7-26-79 / Private land mobile radio service

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

Education Office—

37866 6-28-79 / Adult education; implementation of State-Administered Program and Commissioner's discretionary grant program

POSTAL SERVICE

43719 7-26-79 / Overprinting of unauthorized designs, messages, or other markings on stamps

List of Public Laws

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's List of Public Laws.

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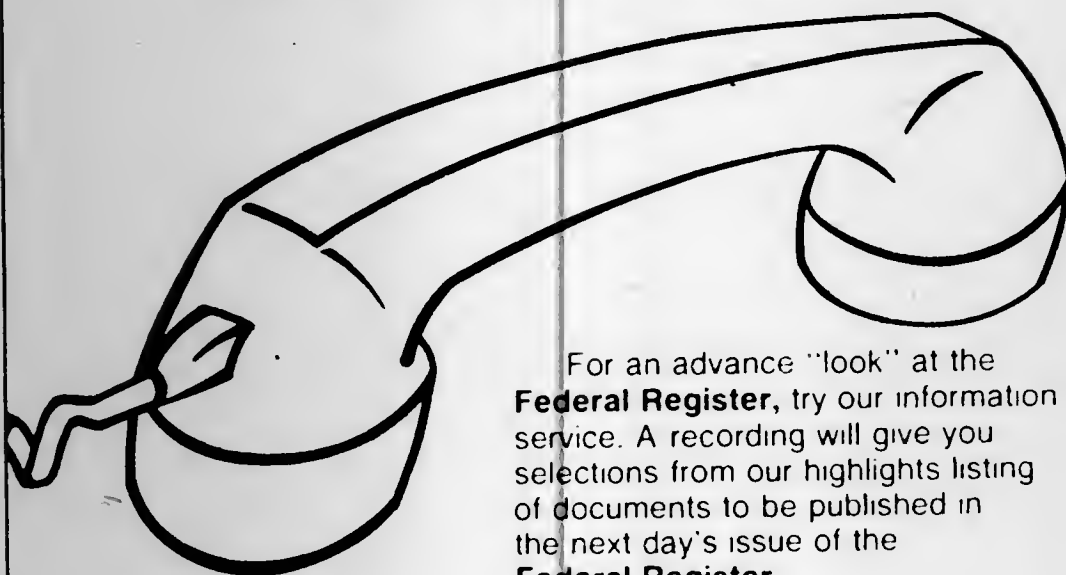
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Federal Register

Tuesday
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Highlights

- 50363 Employee Benefit Plans** Labor/P&WBP proposes regulations relating to definition of plan assets and to establishments of trust; comments by 10-29-79
- 50367 Employee Benefit Plans** Labor/P&WBP proposes regulation relating to exemption under Employee Retirement Income Security Act of 1974 for certain acquisitions, sales or leases of property, comments by 10-29-79
- 50558 Labor Organizations in the Federal Sector** Labor/Office of the Assistant Secretary for Labor—Management Relations proposes rules on standards of conduct; comments by 10-29-79 (Part V of this issue)
- 50329 Employment Taxes** Treasury/IRS adopts regulations relating to credit for household and dependent care services expenses; applicable after 12-31-75
- 50540 Allegations of Discrimination** EEOC, MSPB issue interim regulations for processing appealable actions pending before 1-10 and 1-11-79; effective 8-28-79; comments by 10-29-79 (Part III of this issue) (2 documents)
- 50384 Occupational Safety and Health** USDA/Office of Safety and Health Management solicits public views on proposed programs; comments by 10-1-79

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Highlights

- 50425 Treasury Notes** Treasury/Office of the Secretary announces interest rate on Notes of Series W-1981
 - 50326 Truth in Lending** FRS publishes official staff interpretation regarding disclosures required for credit life, accident, health or loss of income insurance, property damage or liability insurance and single interest insurance; effective 9-27-79
 - 50361 Taxation of Bingo Games** Treasury/IRS proposes regulations relating to treatment of proceeds; comments and hearing requests by 10-29-79
 - 50339 Veterans** VA amends regulation which grants service connection for disability due proximately to a service-connected disease or injury; effective 8-22-79
 - 50544 Migratory Bird Hunting** Interior/FWS prescribes final frameworks for late season hunting regulations; effective 8-29-79 (Part IV of this issue)
 - 50458-50536 Physical Medical Devices** HEW/FDA proposes general classification rules and regulations classifying individual devices for human use; comment by 10-29-79 (Part II of this issue) (83 documents)
 - 50360 Color Additives** HEW/FDA proposes additional tolerance in specifications for D & C Orange, No. 4; comments by 10-29-79
 - 50412, 50414 GRAS Substances** HEW/FDA announces opportunity for public hearing on safety of iron and iron salts, vitamin A acetate, and vitamin A palmitate; requests for oral presentation by 9-27-79 (2 documents)
 - 50324 Clinical or Laboratory Testing** NRC authorizes veterinarians to use byproduct material under general license for *in vitro* testing; effective 9-27-79
 - 50410, 50412 Drugs for Human Use** HEW/FDA revokes temporary exemption and announces marketing conditions for monobenzone topical ointment; effective 8-28-79; hearing requests by 9-27-79; supplements to NDA's by 10-29-79 (2 documents)
 - 50456 Sunshine Act Meetings**
- Separate Parts of This Issue**
- 50458** Part II, HEW/FDA
 - 50540** Part III, EEOC, MSPB
 - 50544** Part IV, Interior/FWS
 - 50558** Part V, Labor/Office of the Assistant Secretary for Labor-Management Relations
 - 50571** Part VI, Labor, MSHA

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Federal Register

Vol. 44, No. 168

Tuesday, August 28, 1979

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OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 752

Adverse Actions by Agencies

AGENCY: Office of Personnel Management.

ACTION: Final rule; correction.

SUMMARY: This document corrects a legal citation contained in final regulations implementing adverse action provisions of the Civil Service Reform Act of 1978 which were published August 10, 1979 (44 FR 37032).

DATE: Effective date: August 28, 1979.

FOR FURTHER INFORMATION CONTACT: Cynthia Field, Workforce Effectiveness and Development Group, Office of Personnel Management, (202) 632-5623.

Office of Personnel Management.

Roderick S. Spear,

Assistant Issuance System Manager.

Accordingly, the Office of Personnel Management is amending 5 CFR 752.401(b)(2) to read as follows:

§ 752.401 Coverage.

* * *

(b) * * *

(2) An employee covered by the definition in 5 U.S.C. 7511(a)(1)(B);

* * *

(5 U.S.C. 7504, 7514)

[FR Doc. 79-28714 Filed 8-27-79; 8:45 am]

BILLING CODE 6325-01-M

5 CFR Part 930

Appointment, Pay, and Removal of Administrative Law Judges

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This action amends the authority citation for the regulations on the appointment, pay, and removal of administrative law judges.

Section 5335 of title 5, United States Code, was inadvertently omitted from the authority citation of subpart B of Part 930 in the 1968 edition of the Code of Federal Regulations. To correct that omission, section 5335 is now included in the authority citation of that subpart.

The Civil Service Reform Act of 1978 renumbered 5 U.S.C. 5362. That section's new citation is 5 U.S.C. 5372. The authority citation of Part 930, Subpart B is amended to reflect that change.

FOR FURTHER INFORMATION CONTACT: Joseph A. Norris, Office of Administrative Law Judges, EPMD Office of Personnel Management, (202) 632-4638.

Office of Personnel Management.

Roderick S. Spear,

Assistant Issuance System Manager.

Accordingly, the authority citation of Part 930, subpart B is revised to read as follows:

Subpart B—Appointment, Pay, and Removal of Administrative Law Judges

Authority: 5 U.S.C. 1305, 3105, 3344, 5335, 5372, 7521.

* * *

[FR Doc. 79-28713 Filed 8-27-79; 8:46 am]

BILLING CODE 6325-01-M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1126

Milk in the Texas Marketing Area; CFR Correction

In § 1126.13, the introductory text of paragraph (e) and (e)(1) appearing on page 119 of Title 7, Code of Federal Regulations, Parts 1120 to 1199, revised as of January 1, 1979 is incorrect. The correct text is set forth below:

§ 1126.13 Producer milk.

* * *

(e) Diverted from a pool plant to a nonpool plant that is not a producer-handler plant for the account of the handler operating such pool plant or a handler described in § 1126.9(b), subject to the following conditions:

(1) Milk of a dairy farmer shall not be eligible for diversion during any month unless milk of such dairy farmer was physically received as producer milk at a pool plant and the dairy farmer has continuously retained producer status since that time and further, during each of the months of September through January not less than 15 percent of the milk of such dairy farmer is physically received as producer milk at a pool plant. If a dairy farmer loses his producer status under the order (except as a result of a temporary loss of Grade A approval), his milk shall not be eligible for diversion until milk of such dairy farmer has been physically received as producer milk at a pool plant;

* * *

BILLING CODE 6820-27-M

Animal and Plant Health Inspection Service

9 CFR Part 73

Scabies in Cattle; Area Quarantined

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final Rule.

SUMMARY: The purpose of this amendment is to quarantine a portion of Dona Ana County in New Mexico because of the existence of cattle scabies. An area of the New Mexico State University campus, consisting of 28 acres and enclosed with a chain link fence, is being used to conduct research on pesticides which are used in the scabies program. Scabies infected animals will be used to complete the study. Personnel from the National Veterinary Services Laboratories, Ames, Iowa, as well as other Veterinary Services and New Mexico State personnel will be participating in the study. Therefore, in order to prevent the dissemination of cattle scabies it is necessary to quarantine the area being used for research.

EFFECTIVE DATE: August 22, 1979.

FOR FURTHER INFORMATION CONTACT: Dr. Glen O. Schubert, Chief Staff Veterinarian, Sheep, Goat, Equine, and Ectoparasites Staff, USDA, APHIS, VS, Federal Building, Room 737, 6505 Belcrest Road, Hyattsville, MD 20742, 301-436-8322.

SUPPLEMENTARY INFORMATION: This amendment quorantined a portion of Dona Ana County, New Mexico because of the presence of cattle scabies. The restriction pertaining to the interstate movement of cattle from quarantined areas is contained in 9 CFR Part 73, as amended to apply to the quarantined area.

Accordingly, Part 9, Code of Federal Regulations is amended, restricting the interstate movement of cattle because of scabies, is hereby amended in the following respect: In § 73.1a, a new paragraph (a) relating to the State of New Mexico is added to read

§ 73.a Notice of quarantine.

(a) Notice is hereby given that cattle in a certain portion of the State of New Mexico are affected with scabies, a contagious, infectious and communicable disease and, therefore, the following area of such State is hereby quarantined because of said disease:

A 28-acre area of land containing corrals and open area enclosed with a chain link fence, being a portion of the New Mexico State University located 9 miles East and 0.1 mile South of the intersection of Interstate Highway 25 and University Avenue in Sec. 22, T. 23 S., R. 2E., in Las Cruces, Dona Ana County, New Mexico.

(Secs. 4-7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791-792, as amended; secs. 1-4, 33 Stat. 1264, 1265, as amended; secs. 3 and 11, 76 Stat. 130, 132, 211; 5 U.S.C. 111-113, 115, 117, 120, 121, 123-126, 144; 134f; 37 FR 28464, 28477; 38 FR 19141)

The amendment imposes certain further restrictions necessary to prevent the interstate spread of cattle scabies from such area and must be made effective immediately to accomplish its purpose in the public interest.

Therefore, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this final rule are impracticable and contrary to the public interest and good cause is found for making this final rule effective less than 30 days after publication of this document in the Federal Register.

Further, this final rule has not been designated as "significant," and is being published in accordance with the emergency procedures in Executive Order 12044 and Secretary's Memorandum 1955. It has been determined by J. K. Atwell, Assistant Deputy Administrator, Animal Health Programs, APHIS, VS, USDA, that the emergency nature of this final rule warrants publication without

opportunity for public comment or preparation of an impact analysis statement at this time.

This final rule implements the regulations in Part 73. It will be scheduled for review in conjunction with the periodic review of the regulations in that Part required under the provisions of Executive Order 12044 and Secretary's Memorandum 1955.

Done at Washington, D.C., this 22nd day of August 1979.

G. V. Peacock,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 79-26679 Filed 8-27-79; 8:45 am]

BILLING CODE 3410-34-M

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 31 and 32

Addition of Veterinarians to the In Vitro General License

AGENCY: U.S. Nuclear Regulatory Commission

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission is amending its regulations to add veterinarians to the groups already authorized to use byproduct material under general license for clinical or laboratory testing done outside the body. The general license is useful for the regulation of a large number of identical or similar uses under circumstances in which the safety of the use is not highly dependent upon the competence of the user or when it is practical to identify a class of users who may be assumed to have the necessary qualifications. This action is in response to a petition for rulemaking.

EFFECTIVE DATE: September 27, 1979.

FOR FURTHER INFORMATION CONTACT: Deborah A. Bozik, Office of Standards Development, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555 (Phone 301-443-5860).

SUPPLEMENTARY INFORMATION: On April 26, 1979, the Nuclear Regulatory Commission (NRC) published a proposed rule (44 FR 24570) to amend its regulations: (1) To authorize the addition of veterinarians as general licensees to § 31.11 of 10 CFR Part 31, the general license for use of byproduct material for certain *in vitro* (outside the body) clinical or laboratory testing; (2) to add veterinarians to the group of those authorized to receive, acquire, possess and use byproduct material which is manufactured and distributed by persons holding a specific license in

§ 32.71 of 10 CFR Part 32. The public was invited to submit written comments on the proposed rule by June 25, 1979. Nineteen comments were received and seventeen of these approved the proposed rule without qualification. One commenter suggested that a one year changeover period starting from the date of the effective rule should be given to manufacturers of *in vitro* reagents so that manufacturers could use up old stocks of labels and brochures printed prior to this effective rule. The commenter stated that it would be very expensive to destroy all existing labels and brochures simply to add the phrase "veterinarians in the practice of veterinary medicine" to the labels. NRC agrees and this suggestion has been incorporated into the effective rule so that labels authorized by the regulations in effect on the day before the date of this effective rule may be used until one year from the date of the effective rule.

The same commenter suggested that this general license be extended to include other categories of persons or institutions and gave as examples blood banks, poison control centers, forensic laboratories and drug abuse clinics. The NRC does not agree because one of the criteria for issuing a general license is that the user group is well defined with respect to training in ionizing radiation. Physicians and veterinarians fulfill this criterion; however, blood banks, poison control centers, forensic laboratories and drug abuse clinics do not necessarily fulfill this criterion. In discussing this point with the commenter, he stated that this was not a critical problem at this time since these groups could apply for specific licenses to operate.

Another commenter questioned the choice of the proposed wording which limited a veterinarian to "the practice of veterinary medicine." The staff believes that limiting the veterinarian's use of *in vitro* kits to the practice of veterinary medicine is essential because if someone other than a physician sets up a clinical laboratory, the NRC wants that person to apply for a specific license so that their qualifications can be reviewed. The NRC contacted the commenter and he accepted our explanation. The NRC further discussed with him the point that the phrase "veterinarians in the practice of veterinary medicine" does not exclude veterinary research in which this commenter was involved.

Currently, the veterinarian must use byproduct material under a specific license. A specific license is required for any activity in which the safety of the proposed use is highly dependent upon

such factors as the qualifications of the particular licensee and the unique characteristics of the use. Currently, physicians use byproduct material for the same type of tests as the veterinarians; however, physicians use it under a general license. A general license is effective without the filing of applications with the Commission or the issuance of licensing documents to particular persons.

Under the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and sections 552 and 553 of title 5 of the United States Code, the following amendments to Title 10, Chapter I, Code of Federal Regulations, Parts 31 and 32 are published as a document subject to codification.

PART 31—GENERAL LICENSES FOR BYPRODUCT MATERIAL

1. Section 31.11 of 10 CFR Part 31 is amended by changing the prefatory language of paragraph (a), amending paragraph (d)(2) and deleting a footnote no longer pertinent to read as follows:

§ 31.11 General license for use of byproduct material for certain *in vitro* clinical or laboratory testing.

(a) A general license is hereby issued to any physician, veterinarian in the practice of veterinary medicine, clinical laboratory or hospital to receive, acquire, possess, transfer, or use, for any of the following stated tests, in accordance with the provisions of paragraphs (b), (c), (d), (e), and (f) of this section, the following byproduct materials in prepackaged units:

(d) The general licensee shall not receive, acquire, possess, or use byproduct material pursuant to paragraph (a) of this section:

(2) Unless the following statement, or a substantially similar statement which contains the information called for in the following statement, appears on a label affixed to each prepackaged unit or appears in a leaflet or brochure which accompanies the package:

"This radioactive material may be received, acquired, possessed, and used only by physicians, veterinarians in the practice of veterinary medicine, clinical laboratories or hospitals and only for *in vitro* clinical or laboratory tests not involving internal or external administration of the material, or the radiation therefrom, to human beings or

¹ Labels authorized by the regulations in effect on September 28, 1979, may be used until one year from September 27, 1979.

DEPARTMENT OF ENERGY

Economic Regulatory Commission

10 CFR Part 211

[Docket No. ERA-R-79-23-B]

Mandatory Petroleum Allocation Regulations; Motor Gasoline Allocation Base Period and Adjustments; Deferral of Effective Date of Final Rule

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of deferral of effective date of final rule.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) is deferring the effective date of a final rule which was adopted on July 15, 1979, and which was the subject of corrective amendments issued on July 19, 1979. These amendments were to go into effect on September 1, 1979. They would establish a downward adjustment and certification procedure for wholesale purchaser-resellers of motor gasoline whose supply obligations to retail sales outlets, wholesale purchaser-consumers, or bulk purchasers decrease as a result of such purchasers going out of business or reducing their allocation entitlements. We are deferring the effective date of this rule until October 1, 1979, in order to enable us to receive the written comments already requested on this provision and to enable us to determine what modifications to this provision, if any, are appropriate.

DATES: The effective date of 10 CFR 211.107(d) is deferred until October 1, 1979. Further written comments by September 20, 1979.

ADDRESSES: Written comments to: Office of Hearings Management, Economic Regulatory Administration, Room 2313, Docket No. ERA-R-79-23-B, Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT: Robert G. Gillette (Comment Procedures), Economic Regulatory Administration, 2000 M Street NW., Room 2214B, Washington, D.C. 20461, (202) 254-5201.

William Webb (Office of Public Information), Economic Regulatory Administration, 2000 M Street NW., Room B-110, Washington, D.C. 20461, (202) 634-2170.

William Caldwell (Regulations & Emergency Planning), Economic Regulatory Administration, 2000 M Street NW., Room 2304, Washington, D.C. 20461, (202) 254-8034.

animals. Its receipt, acquisition, possession, use, and transfer are subject to the regulations and a general license of the U.S. Nuclear Regulatory Commission or of a State with which the Commission has entered into an agreement for the exercise of regulatory authority.

(Name of Manufacturer)

PART 32—SPECIFIC LICENSES TO MANUFACTURE, DISTRIBUTE OR IMPORT CERTAIN ITEMS CONTAINING BYPRODUCT MATERIAL

2. Paragraph (d) of § 32.71 of 10 CFR Part 32 is revised to read as follows:

§ 32.71 Manufacture and distribution of byproduct materials for certain *in vitro* clinical or laboratory testing under general license.

An application for a specific license to manufacture or distribute byproduct material for use under the general license of § 31.11 of this chapter will be approved if:

(d) The following statement, or a substantially similar statement which contains the information called for in the following statement, appears on a label affixed to each prepackaged unit or appears in a leaflet or brochure which accompanies the package:

"The radioactive material may be received, acquired, possessed, and used only by physicians, veterinarians in the practice of veterinary medicine, clinical laboratories or hospitals and only for *in vitro* clinical or laboratory tests not involving internal or external administration of the material, or the radiation therefrom, to human beings or animals. Its receipt, acquisition, possession, use, and transfer are subject to the regulations and a general license of the U.S. Nuclear Regulatory Commission or of a State with which the Commission has entered into an agreement for the exercise of regulatory authority.

(Name of Manufacturer)

(Secs. 81, 161, Pub. L. 83-703, 68 Stat. 935, 948 [42 U.S.C. 2111, 2201]; sec. 201, Pub. L. 93-438, 88 Stat. 1242 [42 U.S.C. 5841])

Dated at Bethesda, MD this 13th day of August 1979.

For the Nuclear Regulatory Commission.

Lee V. Gossick,

Executive Director for Operations.

[FR Doc. 79-26677 Filed 8-27-79; 8:45 am]

BILLING CODE 7590-01-M

Alan Lockard (Office of Petroleum Operations), Economic Regulatory Administration, 1000 M Street NW., Room 6222, Washington, D.C. 20461, (202) 254-7422

Joel M. Yudson (Office of General Counsel), Department of Energy, 1000 Independence Avenue SW., Washington, D.C. 20585, (202) 252-6744.

SUPPLEMENTAL INFORMATION: On July 15, 1979 we issued a final rule that, among other things, established a downward adjustment procedure for wholesale purchaser-resellers of motor gasoline whose supply obligations to retail sales outlets decrease (44 FR 42549, July 19, 1979). On July 19, 1979, we issued a corrective amendment to that rule to include wholesale purchaser-consumers and bulk purchasers as categories of customers for which wholesale purchaser-resellers of motor gasoline will be required to make downward adjustments when such resellers' supply obligations decrease. We also made a technical amendment to the rule to clarify that the downward adjustment provision applies for marketer decreases in supply obligations that have occurred since the corresponding base period month and not just to prospective decreases (44 FR 43458, July 25, 1979). We continued the rulemaking for the purpose of receiving further written comments until September 20, 1979.

Since the publication of the final rule, we have received many formal and informal comments from several gasoline marketing groups. In general, these commenters have urged that we rescind or modify the downward certification provision contained in § 211.107(d). In particular, several commenters have urged that the allocation regulations be amended to permit a gasoline marketer the flexibility to close one or more of its retail outlets and reallocate or reassign the base period volume of the closed stations among its remaining retail outlets. In light of these comments, we have decided to wait for the receipt of all written comments on the downward certification provision contained in § 211.107(d) before making the rule effective. Therefore, in order to provide adequate time to analyze these comments and to determine whether any modifications are appropriate, we are deferring the effective date of § 211.107(d) until October 1, 1979. If no further action is taken by us before October 1, § 211.107(d) will automatically go into effect on that date.

We wish to emphasize that in the interim a wholesale purchaser-reseller

will not be required to downward adjust its base period volume when its supply obligation has decreased as a result of a retail sales outlet going out of business, but it will be required under § 211.106(d)(2) and Ruling 1974-13 to use all of the supply made available by a customer going out of business to make a corresponding increase in the supply available to its remaining customers, either by increasing its allocation fraction or, if the fraction is at 1.0 or above, by declaring it as surplus product. It is unlawful under both the new downward certification rule and the existing regulations to divert volumes outside of the distribution system established by the mandatory allocation regulations and to sell such volumes on the "spot" market.

(Emergency Petroleum Allocation Act of 1973, 15 U.S.C. 751 et seq., Pub. L. 93-159, as amended, Pub. L. 93-511, Pub. L. 94-99, Pub. L. 94-133, Pub. L. 94-163, and Pub. L. 94-385; Federal Energy Administration Act of 1974, 15 U.S.C. 787 et seq., Pub. L. 93-275, as amended, Pub. L. 94-332, Pub. L. 94-385, Pub. L. 95-70, and Pub. L. 95-91; Energy Policy and Conservation Act, 42 U.S.C. 6201 et seq., Pub. L. 94-163, as amended, Pub. L. 94-385, and Pub. L. 95-70; Department of Energy Organization Act, 42 U.S.C. 7101 et seq., Pub. L. 95-91; E.O. 11790, 39 FR 23185; E.O. 12009, 42 FR 46267)

In consideration of the foregoing, the effective date of § 211.107(d) of Chapter II of Title 10 of the Code of Federal Regulations is deferred until October 1, 1979.

Issued in Washington, D.C., August 22, 1979.

David J. Bardin,
Administrator, Economic Regulatory
Administration.

[FR Doc. 79-26669 Filed 8-23-79; 12:35 pm]
BILLING CODE 6450-01-M

FEDERAL RESERVE SYSTEM

12 CFR Part 226

[Reg Z; FC-0167]

Official Staff Interpretation

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Official Staff Interpretation.

SUMMARY: The Board is publishing the following official staff interpretation of Regulation Z regarding disclosures required for credit life, accident, health or loss of income insurance, property damage or liability insurance, and single interest insurance written in connection with a credit transaction. The agency is taking this action in response to

requests for interpretation of this regulation.

EFFECTIVE DATE: On or after September 27, 1979.

FOR FURTHER INFORMATION CONTACT: Gerald Kell, Section Chief, Division of Consumer Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202-452-3867).

SUPPLEMENTARY INFORMATION: Identifying details have been deleted to the extent required to prevent a clearly unwarranted invasion of personal privacy. The Board maintains and makes available for public inspection and copying a current index providing identifying information for the public subject to certain limitations stated in 12 CFR Part 261.6.

An opportunity for public comment on an official staff interpretation may be provided upon request of interested parties and in accordance with 12 CFR Part 226.1(d)(2)(ii). As provided by 12 CFR Part 226.1(d)(3) every request for public comment must be in writing, should clearly identify the number of the official staff interpretation in question, should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 and must be post marked or received by the Secretary's office before the effective date of the interpretation. The request must also state the reasons why an opportunity for public comment would be appropriate.

(15 U.S.C. 1604(b)).

12 CFR Part 226, FC-0167—§ 226.4(a)(5), § 226.4(a)(6), and § 226.404 Disclosures required for credit life, accident, health or loss of income insurance, property damage or liability insurance, and single interest insurance written in connection with a credit transaction.

August 6, 1979.

This will reply to your letter of . . . concerning the proper disclosure to be made of the types of insurance discussed in § 226.4(a)(5) and (6) of Regulation Z. Specifically you ask whether credit sale disclosures are required when any of these types of insurance are obtained from or through the creditor in connection with a loan.

Regulation Z, implementing § 106(b) and (c) of the Truth in Lending Act, provides rules for the proper treatment of certain kinds of insurance—credit life, accident, health, or loss of income insurance (§ 226.4(a)(5)); property damage or liability insurance (§ 226.4(a)(6)); and single interest insurance (Board Interpretation § 226.404). Charges for these types of insurance, even though payable directly or indirectly by the customer and imposed directly or indirectly by the creditor as an incident to or as a condition of the extension of credit, are excludable from the finance charge to be disclosed in connection with that extension of credit if the

specific requirements of the relevant sections of the regulation are met.

Where these types of insurance are written in connection with a credit transaction, and the creditor properly excludes the insurance charges from the finance charge for that transaction and finances the purchase of the insurance as part of the transaction, the amount of the insurance charges should be disclosed as a charge included in the "amount financed." It is not necessary to provide a separate set of credit sale disclosures for the insurance premiums.

This is an official staff interpretation of Regulation Z, issued pursuant to § 226.1(d)(2) and limited to the facts and issues discussed herein. It will become effective 30 days after publication in the Federal Register unless a request for public comment, made in accordance with the Board's procedures, is received and granted. We will notify you if the effective date of the interpretation is suspended because such a request is received.

Sincerely,
Nathaniel E. Butler,
Associate Director.

Board of Governors of the Federal Reserve System, August 16, 1979.

Theodore E. Allison,
Secretary of the Board.

[FR Doc. 79-28712 Filed 8-27-79; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE Food and Drug Administration 21 CFR Part 161

[Docket No. 75P-0104]

Canned Shrimp; Stay of Standard of Identity and Standard of Fill of Container

AGENCY: Food and Drug Administration.

ACTION: Stay of final rule.

SUMMARY: This document announces that the effective date of the final regulation establishing a standard of identity for canned shrimp is stayed by the filing of objections and requests for a hearing. It also stays the fill of container standard for canned shrimp, as revised, to permit consideration of a question raised regarding the prescribed compliance procedure. The stay of the identity standard is in effect pending a determination of whether a public hearing is necessary to resolve the issues raised by the objections. A notice of hearing specifying any issues on which a hearing is justified and other pertinent information will be published in the Federal Register at a later date. The stay of the revised fill of container standard is in effect pending consideration of the merits of a comment on the procedure for determining compliance with the

drained weight requirement. A notice announcing the outcome of this determination will be published in the Federal Register at a later date.

FOR FURTHER INFORMATION CONTACT: J. David Clem, Bureau of Foods (HFF-417), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C Street SW., Washington, DC 20204, 202-245-1557.

SUPPLEMENTARY INFORMATION: In the Federal Register of May 9, 1978 (43 FR 19837), the agency issued a final regulation establishing a standard of identity (21 CFR 161.173(a)) and revising the fill of container standard (21 CFR 161.173(c)) for canned wet pack shrimp in transparent or nontransparent containers. This action, taken in response to a petition by the American Shrimp Cannery Association (ASCA), P.O. Box 50774, New Orleans, LA 70150, was intended to adopt, to the extent practicable, the provisions of the Codex Alimentarius (Codex) standard for canned shrimp.

The final regulation provided that any person who would be adversely affected could, on or before June 8, 1978, file written objections to the final regulation and, if desired, request a hearing on the specific provisions to which there were objections.

Four letters were received in response to the final regulation. They included one objection and request for a hearing from ASCA on three provisions of the standard of identity, two requests for reconsideration from Pacific Northwest shrimp cannery concerning the use of the term "cleaned" to identify a style of shrimp, and one comment from ASCA questioning the appropriateness of the procedure for determining compliance with the drained weight requirement described in the fill of container standard.

Objection and Requests for a Hearing

ASCA's objection and request for a hearing concerned:

1. The provision in § 161.173(a)(3)(ii) (21 CFR 161.173(a)(3)(ii)) which limits the tolerance for veins in deveined style shrimp to 5 percent for all sizes of shrimp. ASCA contends that despite the fact that the 5-percent tolerance is in agreement with Codex, it is out of date since it was established almost 40 years ago on large and jumbo size shrimp which were then peeled and deveined by hand. ASCA believes that tolerances based on size of shrimp and the efficiency attainable with mechanical deveining equipment are more appropriate and would be more reflective of what they contend are industry's present day practices.

2. The provision in § 161.173(a)(5)(i), which limits the use of the term

"prawns" in labeling only to shrimp of large or extra large size. ASCA sees no reason for U.S. standard to depart from the Codex standard which, ASCA notes, refers throughout to shrimp or prawns interchangeably.

3. The provision in § 161.173(a)(5)(iv), which establishes a count per 28.4 grams (1 ounce) for deveined-style shrimp on the basis of an 8-percent tolerance for weight loss as a result of the deveining process. ASCA states that this tolerance, as well as the tolerance for veins discussed previously, although in agreement with the Codex standard, was established many years ago on large and jumbo size shrimp which were blanched or cooked and then deveined by hand. ASCA believes the tolerances should be changed to be more reflective of what they contend are present-day industry practices. ASCA maintains that to remain competitive the industry must utilize mechanical deveining equipment which varies in efficiency depending upon the size shrimp being deveined.

Comments

The Washington Fish and Oyster Co., Seattle, WA and the Washington Crab Producers Inc., Westport, WA, requested reconsideration of § 161.173(a)(5)(ii), which restricts the use of the term "cleaned" in labeling to only those shrimp which have been prepared by removing the dark vein from the first five segments by deliberate cutting action. One comment said the veins of Pacific Northwest shrimp are so near the surface that the peeling operation cleans the vein from the shrimp. The comment maintained that the word "cleaned" should be allowed on the labels of Pacific shrimp packs. According to the comment, changing the description of Pacific Northwest shrimp and loss of identification with the word "cleaned" will have a great financial impact. The second comment also said its shrimp are deveined when they are peeled. The comment opposed having to omit the word "cleaned" on labels of its shrimp product because it believes the word is appropriate to its product. The comment suggested that labeling with the words "no dark veins," as permitted by § 161.173(a)(5)(iii), "would not read too well on our product" and speculated that sales would be harmed.

In the preamble to the final rule, FDA observed that "Through long usage in both the frozen and canned shrimp industries, the words 'cleaned' and 'deveined' have become synonymous and are used interchangeably to describe shrimp which have had the back split open and the dorsal tract removed." Although FDA is not persuaded by the comments that this

observation is erroneous, the agency concludes that the comments have sufficient merit to defer a final decision on this matter until such time as FDA rules on the objections received to other provisions of the standards. In the meantime, the persons who comment are invited to submit additional data and information in support of their contention that shrimp deveined by the peeling process should be permitted to be labeled "cleaned."

A letter was received from ASCA after the close of the objection period commenting on the revised fill of container standard. Both the revised standard and Codex require cutout (drained) weight for canned shrimp of not less than 60 percent of the weight of the water required to fill the container. Prior to the revision, 64 percent was required. ASCA pointed out that the procedure in § 161.173(c)(2) for determining compliance with the new drained weight requirement differs from the procedure described in the Codex standard. The revised FDA standard considers each container that falls below the required drained weight as a "defective" unit and limits the permissible number of defectives in a sample according to a prescribed sampling plan. The compliance procedure in Codex is based on the average of the drained weights of the individual containers in the sample. ASCA maintains that the compliance procedure in the revised standard is more stringent than Codex and that if averaging of individual drained weights is not allowed, the reduction from 64 to 60 percent will not be realized by the packers. According to ASCA, with the best modern technology in can filling and weighing machines, it would not be possible to meet the 60-percent drained weight requirement within the allowable tolerance for defective units unless the cans are filled to an average drained weight of 64 percent. The comment from ASCA was the only one received on the fill of container standard during this rulemaking procedure.

The agency notes that the deviation from the Codex compliance procedure was not discussed in the preamble to the proposal as were the other deviations. FDA is, therefore, on its own initiative, staying the revised fill of container standard pending a reconsideration of the procedure for determining compliance with the drained weight requirement.

Regulation Stayed

The objections filed to the final

regulations published in the Federal Register of May 9, 1978 stayed those parts of the regulation to which objections were made. Since the provisions stayed are an integral part of the regulations, the agency considers it appropriate to stay the entire identity standard. FDA is also staying the revised fill of container standard to permit reconsideration of the prescribed procedure for determining compliance with the drained weight requirement. A notice stating any issues on which a hearing is justified and setting out other pertinent information will be published in the Federal Register at a later date. In light of recent communications with ASCA, the agency is delaying a decision regarding the need for a hearing on the above issues to allow time for ASCA to develop and submit data in support of its first and third objections. Copies of these communications have been placed on file in the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857. During the period of the stay, the fill of container standard currently in the Code of Federal Regulations will be effective. However, compliance with the revised fill of container standard may have begun on July 10, 1978. Accordingly, the FDA will not take action against products meeting the drained weight requirement of the revised standard as determined by the sampling and acceptance procedure of that standard.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 401, 701(e), 52 Stat. 1046 as amended, 70 Stat. 919 as amended (21 U.S.C. 341, 371(e))) and under authority delegated to the Commissioner (21 CFR 5.1), notice is given that objections and requests for a hearing under section 701(e) of the act were received and that in § 161.173 *Canned wet pack shrimp in transparent or nontransparent containers*, paragraph (a), the identity standard, is stayed until further notice. On his own initiative, the Commissioner is also staying § 161.173(c), the revised fill of container standard, until further notice.

Dated: August 21, 1979.

Joseph P. Hila,
Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-28646 Filed 8-27-79; 8:45 am]

BILLING CODE 4110-03-M

21 CFR Part 558

[Docket No. 79N-0267]

New Animal Drugs for Use in Animal Feeds; Bambermycins

AGENCY: Food and Drug Administration.
ACTION: Final rule.

SUMMARY: The regulations are amended to reflect approval of two supplemental new animal drug applications (NADA's) providing for safe and effective use of a higher concentration bambermycins premix for manufacture of chicken and swine feeds and for a new bambermycins dosage range for swine feed. The applications were filed by American Hoechst Corp.

EFFECTIVE DATE: August 28, 1979.

FOR FURTHER INFORMATION CONTACT: Lonnie W. Luther, Bureau of Veterinary Medicine (HFV-147), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4317.

SUPPLEMENTARY INFORMATION: American Hoechst Corp., Route 202-206 North, Somerville, NJ 08878, filed two supplements to NADA 44-759 for (1) a 10-gram-per-pound bambermycins premix in manufacturing a 1-to-2-gram-per-ton chicken feed and a 2-gram-per-ton swine feed to increase the rate of weight gain and improve feed efficiency and (2) a swine feed having a dosage range of 2 to 4 grams of bambermycins per ton to increase rate of weight gain. Previous approvals provided for a 2-gram-per-pound premix to be used as in (1) above and for a 0.4-gram-per-pound premix to be used for manufacture of swine feeds containing only 2 grams per ton.

The Director of the Bureau of Veterinary Medicine concludes that approval of the supplements poses no increased human risk from exposure to residues of bambermycins. Accordingly, under the Bureau of Veterinary Medicine's supplemental approval policy, published in the Federal Register of December 23, 1977 (42 FR 64367), the approvals did not require a reevaluation of the safety data in the parent application.

In accordance with the provisions of Part 20 (21 CFR Part 20) promulgated under the Freedom of Information Act (5 U.S.C. 552) and the freedom of information regulations in § 514.11(e)(2)(ii) of the animal drug

regulations (21 CFR 514.11(e)(2)(ii)), summaries of safety and effectiveness data and information submitted to support approval of these applications are available for public examination at the office of the Hearing Clerk (HFA-305), Rm. 4-65, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) and redelegated to the Director of the Bureau of Veterinary Medicine (21 CFR 5.83), § 558.95 is amended by revising paragraphs (b), (d) and (e)(2) to read as follows:

§ 558.95 Bambermycins.

(b) *Approvals.* (1) Premix levels of 2 and 10 grams of bambermycins activity per pound and premix have been granted to 012799 in § 510.600(c) of this chapter for use as provided in paragraph (e)(1), and (e)(2)(i) and (ii) of this section.

(2) Premix level of 0.4 gram of bambermycins activity per pound of premix has been granted to 012799 for use as provided in paragraph (e)(2)(i) and (ii) of this section.

(d) *Special consideration.* The following products are not required to comply with the provisions of section 512(m) of the act:

(1) Premixes containing 0.4 or 2.0 grams of bambermycins per pound used to make complete broiler or swine feeds containing bambermycins as the sole drug and conforming to paragraph (e)(1) or (e)(2) of this section.

(2) Feed supplements containing not more than 40 grams of bambermycins per ton used to make finished growing-finishing swine feeds containing bambermycins as the sole drug and conforming to paragraph (e)(2) of this section.

(e) * * *

(2) *Growing-finishing swine feed.* It is used as follows:

(i) *Amount per ton.* 2 grams.

(a) *Indications for use.* For increased rate of weight gain and improved feed efficiency.

(b) *Limitations.* Feed continuously as sole ration.

(ii) *Amount per ton.* 2 to 4 grams.

(a) *Indications for use.* For increased rate of weight gain.

(b) *Limitations.* Feed continuously as sole ration.

Effective date. This regulation is effective August 28, 1979.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))).

Dated: August 18, 1979.

Lester M. Crawford,
Director, Bureau of Veterinary Medicine.
[FR Doc. 79-28504 Filed 8-27-79; 8:45 am]
BILLING CODE 4110-03-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1, 31, 301

[T.D. 7643]

Expenses for Household and Dependent Care Services Necessary for Gainful Employment

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document provides final regulations relating to the expenses for household and dependent care services necessary for gainful employment. Changes to the applicable tax law were made by the Tax Reform Act of 1976 and the Revenue Act of 1978. These regulations describe the circumstances under which a credit will be available for expenses for household and dependent care services.

DATE: The amendments apply, in general, to taxable years beginning after December 31, 1975.

FOR FURTHER INFORMATION CONTACT: Walter H. Woo of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C., 20224 (Attention: CC:LR:T) (202-566-3734).

SUPPLEMENTARY INFORMATION:

Background

On September 1, 1978, the Federal Register published proposed amendments to the regulations under sections 44A, 213, 214, 3402, and 6096 of the Internal Revenue Code of 1954. The amendments were proposed to conform the regulations to section 504 of the Tax Reform Act of 1976 (90 Stat. 1563). No public hearing was requested or held. After consideration of all comments regarding the proposed amendments, the attached Treasury decision is adopted.

Additionally, certain revisions in the proposed regulation amendments are made by this Treasury decision in order to conform the regulations to the amendments made to section 44A by section 121 of the Revenue Act of 1978 (92 Stat. 2279). This statutory amendment made only minor changes in the credit for expenses for household

and dependent care services and prescribes rules favorable to taxpayers. For this reason and because there is need for immediate guidance for taxpayers, the relevant provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring further notice of proposed rulemaking, opportunity for public participation, and delay in effective date are found to be inapplicable.

These regulations will be reviewed as necessary on the basis of comments received from offices within the Treasury Department and Internal Revenue Service or from the public.

In General

The Tax Reform Act of 1976 allows taxpayers to claim a credit against tax for certain household and dependent care expenses. The credit is 20 percent of the expenses paid for the care of a child under age 15 or for an incapacitated dependent or spouse, in order for the taxpayer to be gainfully employed. The employment-related expenses on which the credit is based are limited to \$2,000 for the care of one qualifying individual and \$4,000 for the care of more than one qualifying individual.

Definition of Employment-Related Expenses

In response to a comment, § 1.44A-1(a)(4) has been restated to make clear that prepaid expenses will not be deemed employment-related expenses until the services for which the expenses are incurred have been performed.

Paragraph (c) of § 1.44A-1 defines the term "employment-related expenses" contained in section 44A(c)(2). The definition of employment-related expenses is clarified and expanded to include any tax required to be paid by the taxpayer under section 3301 (relating to the Federal Unemployment Tax Act) and similar State payroll taxes.

Earned Income Limitation

Paragraph (b) of § 1.44A-2 provides that the amount of the employment-related expenses during any taxable year which may be taken into account under section 44A cannot exceed the earned income of the taxpayer, or, in the case of married individuals, the earned income of the spouse earning the smaller amount. The rule in paragraph (b)(2) (relating to the definition of earned income) requiring that wages, salaries, tips, and net earnings from self-employment be includible in the eligible individual's gross income is based on § 1.43-1(c)(3) which defines "earned income" for purposes of the earned income credit under section 43. The application of this rule has been limited

to taxable years beginning before January 1, 1979 to reflect the amendment made to section 43(c)(2)(B) (defining earned income) made by section 104(d) of the Revenue Act of 1978.

Paragraph (b)(3) of § 1.44A-2 sets forth the rule under section 44A(e)(2) that for purposes of the earned income limitation a spouse who is a full-time student at an educational institution is deemed to have earned income of not less than \$166 a month if there is one qualifying individual and \$333 a month if there are two or more qualifying individuals. One comment suggested that paragraph (b)(3)(iii) of § 1.44A-2 which provides a cross-reference to § 1.151-3(c) for the definition of "educational institution" be revised to provide instead a cross-reference to section 170(b)(1)(A)(ii) for a definition of "educational organization". This suggestion was not adopted because the term "educational institution" and not "educational organization" appears in section 44A(e)(2) which is the operative provision.

Payments to Related Individuals

Paragraph (a) of § 1.44A-4 provides special rules for determining when payments to related individuals will qualify for the credit. This paragraph is revised to include a new subparagraph (1) to reflect the amendment made to section 44A(f)(6) (relating to payments to related individuals) by section 121 of the Revenue Act of 1978. As amended, section 44A(f)(6) no longer requires that child care services performed by certain relatives constitute employment to come within the exception to the rule generally denying a credit for payments made to relatives.

One comment suggested that § 1.44A-4(a)(3)(ii)(A) be changed to substitute the words "son, daughter, stepson or stepdaughter" for the word "child" to insure inclusion of stepdaughters and stepsons. To achieve this result, the regulations have been clarified to provide that the term "child" means a child as defined in section 151(e)(3).

Drafting Information

The principal author of these regulations is Walter H. Woo of the Legislation and Regulations, Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

Adoption of amendments to the regulations

Accordingly, 26 CFR Parts 1, 31, and 301 are amended as follows:

Paragraph 1. Section 1.44A-1, as set forth in paragraph 1 of the notice of proposed rulemaking, is amended—

- (1) By revising paragraph (a)(4);
- (2) By revising paragraph (b)(2);
- (3) By revising paragraphs (c) (1)(i), (3) (i), and (5);
- (4) By revising example (3) in paragraph (c)(6);
- (5) By revising paragraphs (d) (2) and (3); and
- (6) By revising paragraph (e), all to read as follows:

§ 1.44A-1 *Expenses for household and dependent care services necessary for gainful employment.*

(a) *In general.* * * *

(4) Since an expense cannot be an employment-related expense until the services for which the expense was incurred are performed (see paragraph (c) of this section), prepaid expenses may be claimed only in the taxable year in which the services are performed.

(b) *Qualifying individual.* * * *

(2) *Special dependency test in case of divorced or separated parents.* A child (as defined in section 151(e)(3)) who—

- (i) Is under age 15 or is physically or mentally incapable of self-care.
- (ii) Receives over half of his or her support during the calendar year from his or her parents who are divorced or legally separated under a decree of divorce or separate maintenance or who are separated under a written separation agreement, and
- (iii) Is in the custody of one or both of his or her parents for more than one-half of the calendar year.

is treated for any taxable year beginning in the calendar year as a qualifying individual (described in subdivision (i) or (ii), as the case may be, of paragraph (b)(1) of this section) of that parent who has custody for a longer period during the calendar year than the other parent. Accordingly, a child may be treated as a qualifying individual of a parent even though the parent is not entitled to a dependency exemption for the child. The child cannot be treated as a qualifying individual with respect to more than one parent.

(c) *Employment-related expenses—(1) Gainful employment—(i) In general.*

Expenses are considered to be employment-related expenses only if they are incurred to enable the taxpayer to be gainfully employed and are paid for household services or for the care of one or more qualifying individuals. The expenses must be incurred while the taxpayer is gainfully employed or is in active search of gainful employment. The employment may consist of service either within or without the home of the taxpayer and may include self-employment. An expense is not considered to be employment-

related merely because it is incurred while the taxpayer is gainfully employed. The purpose of the expense must be to enable the taxpayer to be gainfully employed. Volunteer work for a nominal salary does not constitute gainful employment. Whether the purpose of an expense is to enable the taxpayer to be gainfully employed depends upon the facts and circumstances of the particular case. Any tax required to be paid by the taxpayer under sections 3111 (relating to the Federal Insurance Contributions Act) and 3301 (relating to the Federal Unemployment Tax Act), or under similar State payroll taxes, in respect of any wages which otherwise constitute employment-related expenses is considered to be an employment-related expense.

(3) *Care of qualifying individual—(i) In general.* The primary purpose of expenses for the care of a qualifying individual must be to assure that individual's well-being and protection. Not all benefits bestowed upon a qualifying individual are considered as provided for the individual's care. Accordingly, amounts paid to provide food, clothing, or education are not expenses paid for the care of a qualifying individual. However, where the manner of providing care is such that the expense which is incurred includes expenses for other benefits which are incident to and inseparably a part of the care, the full amount of the expense is considered to be incurred for care. Thus, for example, the full amount paid to a nursery school in which a qualifying child is enrolled is considered as being for the care of the child, even though the school also furnishes lunch and educational services. Educational expenses incurred for a child in the first or higher grade level are not expenses incurred for the care of a qualifying individual. Expenses incurred for transportation of a qualifying individual described in paragraph (b)(1)(i) of this section between the taxpayer's household and a place outside the taxpayer's household where services for the care of the qualifying individual are provided are not incurred for the care of a qualifying individual.

(5) *Allocation of expenses.* Where a portion of an expense is for household services or for the care of a qualifying individual and a portion of such expense is for other purposes, a reasonable allocation must be made and only the portion of the expense paid which is attributable to such household services or care is considered to be an employment-related expense. No allocation is required to be made, however, if the portion of expense for the other purpose is minimal or insignificant. An allocation must be made, for example, if a servant performs household duties, cares for the qualifying children of the taxpayer, and also performs social services for the taxpayer (for which a deduction is not allowable) or clerical services in the office of the taxpayer outside the home (for which a deduction may be allowable under section 162). Employment-related expenses include household service expenses which are provided in conjunction with the care of a qualifying individual. Thus, if an expense is in part attributable to the care of a qualifying

individual and in part to household services, no allocation is required.

(6) *Illustrations.* * * *

Example (3). The taxpayer, in order to be gainfully employed, employs a full-time housekeeper who cares for the taxpayer's two children, aged 9 and 15 years, respectively, performs regular household services of cleaning and cooking, and chauffeurs the taxpayer to and from his place of employment. The chauffeuring service never requires more than 30 minutes out of the total period of employment each day. No allocation is required for purposes of determining the portion of the expense attributable to the chauffeuring (not a household service expense) since it is *de minimis*. Further, no allocation is required for the purpose of determining the portion of the expense attributable to the care of the 15 year old child (not a qualifying individual) since the household expense is in part attributable to the care of the 9 year old child, who is a qualifying individual. Accordingly, the entire expense of employing the housekeeper is an employment-related expense. However, the total amount of employment-related expenses taken into account would be limited to the amount allowable for one qualifying individual.

(d) *Maintenance of a household.* * * *

(2) *Two or more families.* Solely for purposes of section 44A and this section, if two or more families occupy living quarters in common, each of the families is treated as constituting a separate household, and the taxpayer who provides more than one-half of the costs of maintaining such a separate household is treated as maintaining that household. Thus, for example, if two unrelated taxpayers each with children occupy living quarters in common and each taxpayer pays more than one-half of the household costs incurred by each respective family, each taxpayer will be treated as maintaining a separate household.

(3) *Costs of maintaining a household.* The costs of maintaining a household are the expenses incurred for the mutual benefit of the occupants thereof by reason of its operation as the principal place of abode of the occupants. The expenses of maintaining a household include property taxes, mortgage interest, rent, utility charges, upkeep and repairs, property insurance, and food consumed on the premises. These expenses do not include the cost of clothing, education, medical treatment, vacations, life insurance, or transportation or payments on mortgage principal or for the purchase, permanent improvement, betterment, or replacement of property. Further, the costs of maintaining a household do not include the value of services performed in the household by a qualifying individual described in paragraph (b) of this section. An expense incurred by a taxpayer which is paid or reimbursed by another is not considered as a cost of maintaining a household.

(e) *Substantiation.* A taxpayer claiming a credit under paragraph (a) of this section for employment-related expenses must substantiate by adequate records or other sufficient evidence any credit taken under this section. For example, if requested, the

taxpayer must furnish information as to the nature and period of the physical or mental incapacity of any dependent or spouse in respect of whom a credit is claimed, including necessary information from the attending physician as to the nature of the physical or mental incapacity.

Par. 2. Section 1.44A-2, as set forth in paragraph 1 of the notice of proposed rulemaking, is amended by revising paragraphs (b) (1) and (2) to read as follows:

§ 1.44A-2 *Limitations on amount creditable.* * * *

(b) *Earned income limitation—(1) In general.* The amount of employment-related expenses incurred during any taxable year which may be taken into account under § 1.44A-1(a) cannot exceed—

- (i) For an individual not married at the close of the year, the individual's earned income for the year, or
- (ii) For an individual married at the close of the year, the lesser of the individual's earned income or the earned income of his or her spouse for the year.

For purposes of this paragraph (b)(1), the earned income of only the spouse to whom the taxpayer is married at the close of the year is taken into account (and not the earned income of another spouse who died or was divorced from the taxpayer during the year). Further, the spouse's earned income for the entire year is taken into account, even though the taxpayer and his or her spouse were married for only a part of the year. For purposes of this paragraph (b), certain married individuals legally separated or living apart are treated as not married (see § 1.44A-3 (b) and (c), respectively).

Earned income. For purposes of this section, earned income means—

- (i) Wages, salaries, tips, other employee compensation, and
- (ii) Net earnings from self-employment (within the meaning of section 1402(a) and the regulations thereunder).

For taxable years beginning before January 1, 1979, earned income includes only amounts described in subdivision (i) or (ii) of this paragraph (b)(2) which are includible in the eligible individual's gross income for the taxable year of the individual in which the credit is claimed. For all taxable years, however, earned income is computed without regard to any community property laws which may otherwise be applicable. Earned income is reduced by any net loss in earnings from self-employment. Earned income does not include amounts received as a pension or an annuity, or an amount to which section 871 (a) and the regulations thereunder apply (relating to income of nonresident alien individuals not connected with United States business).

Par. 3. Section 1.44A-4, as set forth in paragraph 1 of the notice of proposed rulemaking, is amended by revising paragraph (a) to read as follows:

§ 1.44A-4 *Other special rules relating to employment-related expenses.*

(a) *Payments to related individuals—(1) Taxable years beginning after December 31, 1978.* For taxable years beginning after December 31, 1978, a credit is not allowed under section 44A with respect to the amount of any employment-related expenses paid by the taxpayer to an individual—

- (i) With respect to whom for the taxable year a deduction under section 151(e) (relating to deduction for personal exemptions for dependents) is allowable either to the taxpayer or his or her spouse, or
- (ii) Who is a child of the taxpayer (within the meaning of section 151(e)(3)) who is under age 19 at the close of the taxable year.

For purposes of this paragraph (a)(1), the term "taxable year" means the taxable year of the taxpayer in which the service is performed.

(2) *Taxable years beginning before January 1, 1979.* For taxable years beginning before January 1, 1979, except as otherwise provided in paragraph (a)(3) of this section, a credit is not allowed under section 44A with respect to the amount of any employment-related expenses paid by the taxpayer to an individual who bears to the taxpayer any relationship described in section 152(a)(1) through (8). These relationships are those of a son or daughter or descendant thereof; a stepson or stepdaughter; a brother, a sister, stepbrother, or stepsister; a father or mother or an ancestor of either; a stepfather or stepmother; a nephew or niece; an uncle or aunt; or a son-in-law, daughter-in-law, father-in-law, mother-in-law, brother-in-law, or sister-in-law. In addition, no credit is allowed with respect to the amount of any employment-related expenses paid by the taxpayer to an individual who qualifies as a dependent of the taxpayer for the taxable year within the meaning of section 152(a)(9), which relates to an individual (other than the taxpayer's spouse) whose principal place of abode for the taxable year is the home of the taxpayer and who is a member of the taxpayer's household.

(3) *Exception for payments to certain related individuals.* For taxable years beginning before January 1, 1979, a credit is allowed for the amount of any employment-related expenses paid by the taxpayer to an individual provided that neither the taxpayer nor his or her spouse is entitled to a deduction under section 151(e) (relating to deduction for personal exemptions for dependents) with respect to such individual for the taxable year in which the service is performed; and the service with respect to which the amount is paid constitutes employment within the meaning of section 3121(b). The following services performed for a taxpayer by a relative who is an employee of the taxpayer may qualify as employment within the meaning of section 3121(b):

- (i) Services performed by the taxpayer's child age 21 or over.
- (ii) Domestic services in the taxpayer's home performed by the taxpayer's parent if—
(A) The taxpayer has living in his or her home a child (as defined in section 151(e)(3)) who is under age 18 or who has a physical or mental condition requiring the personal care

of an adult during at least four continuous weeks in the calendar quarter, and

(B) The taxpayer is a widow or widower or is divorced, or has a spouse living in the home who, because of a physical or mental condition, is incapable of caring for his or her child during at least four continuous weeks in the calendar quarter in which services are rendered.

(iii) Services of all relatives other than a child, spouse, or parent of the taxpayer.

For taxable years beginning before January 1, 1979, a credit is not allowed under section 44A with respect to employment-related expenses paid by the taxpayer to a relative for services which do not constitute employment under section 3121(b). Services performed by a relative do not constitute employment if they relate to the relative's trade or business the income from which is includible in computing the relative's net earnings for purposes of the self-employment tax under section 1401.

(4) *Payments to entities or partnerships.* If the services are performed by an entity or partnership, paragraphs (a) (1) and (2) of this section is normally not applicable. If, however, the entity or partnership is established or maintained primarily to avoid the application of paragraph (a) (1) or (2) in order to permit the taxpayer to obtain the credit with respect to employment-related expenses, for purposes of this paragraph (a), the payments of employment-related expenses shall be treated as made directly to each owner of the entity or partner in proportion to his or her share of the entity or partnership. A factor to consider for purposes of determining whether an entity or partnership is so established or maintained is whether the entity or partnership is set up solely to care for the taxpayer's qualifying individual and to provide household services to the taxpayer.

(5) *Illustrations.* The application of this paragraph may be illustrated by the following examples:

Example (1). For A's taxable year ending December 31, 1978, A, a divorced taxpayer, pays \$5,000 of employment-related expenses to his mother for the care of his child age 5. A's mother cares for the child in her home. The services performed by A's mother do not constitute employment under section 3121(b). Accordingly, A is not allowed a credit with respect to the amounts paid to the mother for the care of his child.

Example (2). Assume the same facts as in example (1) except that A's taxable year under consideration begins after December 31, 1978. A is not entitled to a deduction under section 151(e) for his mother.

Accordingly, A is allowed a credit with respect to the amounts paid to the mother for the care of his child, even though the services performed by A's mother do not constitute employment under section 3121(b).

Example (3). For B's taxable year ending December 31, 1978, B, a divorced taxpayer, pays \$6,000 of employment-related expenses to his sister (who is not a dependent of the taxpayer) for the care of his child. The services performed by B's sister in the care of his child constitute a trade or business the income from which is includible in computing net earnings for purposes of the self-

employment tax under section 1401. Accordingly, B is not allowed a credit with respect to the amounts paid to the sister for the care of his child.

Example (4). Assume the same facts as in example (3) except that B's taxable year under consideration begins after December 31, 1978. B is allowed a credit with respect to the amounts paid to the sister for the care of his child, even though the services performed by B's sister do not constitute employment under section 3121(b).

(Sec. 7805, Internal Revenue Code of 1954 (68A Stat. 917; (26 U.S.C. 7805)).)

Jerome Kurtz,
Commissioner of Internal Revenue.

Approved: August 14, 1979.

Donald C. Lubick,
Assistant Secretary of the Treasury.

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Paragraph 1. The following new sections are added immediately after § 1.44-5:

§ 1.44A-1 Expenses for household and dependent care services necessary for gainful employment.

(a) *In general.* (1) This section applies only for expenses incurred in taxable years beginning after December 31, 1975. For deductibility of expenses incurred in taxable years beginning before January 1, 1972, see § 1.214-1. For deductibility of expenses incurred in taxable years beginning after December 31, 1971, and before January 1, 1976, see §§ 1.214A-1 through 1.214A-5.

(2) Section 44A allows a credit against the tax imposed by chapter 1 of the Code to an individual who maintains a household (within the meaning of paragraph (d) of this section) which includes as a member one or more qualifying individuals (as defined in paragraph (b) of this section). The amount of the credit is equal to 20 percent of the employment-related expenses (as defined in paragraph (c) of this section) paid by the individual during the taxable year (but subject to the limits prescribed in § 1.44A-2(a)). However, the credit cannot exceed the tax imposed by chapter 1, reduced by the sum of the allowable credits enumerated in section 44A(b).

(3) Generally, the credit for employment-related expenses is allowable, regardless of the taxpayer's method of accounting, only for expenses which are actually paid during the taxable year and which are incurred during the taxable year or were incurred during a prior taxable year beginning after December 31, 1975. If the expenses are incurred but not paid during the

taxable year, no credit may be taken for that year on account of those expenses. Thus, if an expense is incurred in the last month of a taxable year but not paid until the following taxable year, a credit for the expense is not allowed for the earlier taxable year but is allowed for the following taxable year. However, if an expense is incurred in a taxable year beginning before January 1, 1976, and paid in a later taxable year, no credit is allowed with respect to the expense under section 44A. Section 214 and the regulations thereunder are applicable in determining whether a deduction for the expense is allowed in the year of payment.

(4) Since an expense cannot be an employment-related expense until the services for which the expense was incurred are performed (see paragraph (c) of this section), prepaid expenses may be claimed only in the taxable year in which the services are performed.

(5) The requirements of section 44A, this section and §§ 1.44A-2 through 1.44A-4 are applied to expenses as of the time they are incurred regardless of when they are paid.

(6) For special rules relating to employment-related expenses which also qualify as medical expenses deductible under section 213, see § 1.44A-4(b).

(7) For substantiation of the credit, see paragraph (e) of this section.

(b) *Qualifying individual.*—(1) *In general.* A person is considered to be a qualifying individual if he or she is—

(i) The taxpayer's dependent who is under the age of 15 and is an individual for whom the taxpayer is entitled to a deduction for a personal exemption under section 151(e);

(ii) The taxpayer's dependent (not described in subdivision (i)) who is physically or mentally incapable of self-care; or

(iii) The taxpayer's spouse who is physically or mentally incapable of self-care.

The term "dependent," as used in this paragraph (b)(1), includes any individual who is a dependent within the meaning of section 152. However, see paragraph (b)(2) of this section for special rules for determining which parent may treat a child as a qualifying individual where the parents are divorced, legally separated, or separated under a written separation agreement.

(2) *Special dependency test in case of divorced or separated parents.* A child (as defined in section 151(e)(3)) who—

(i) Is under age 15 or is physically or mentally incapable of self-care,

(ii) Receives over half of his or her support during the calendar year from

his or her parents who are divorced or legally separated under a decree of divorce or separate maintenance or who are separated under a written separation agreement, and

(iii) Is in the custody of one or both of his or her parents for more than one-half of the calendar year.

is treated for any taxable year beginning in the calendar year as a qualifying individual (described in subdivision (i) or (ii), as the case may be, of paragraph (b)(1) of this section) of that parent who has custody for a longer period during the calendar year than the other parent. Accordingly, a child may be treated as a qualifying individual of a parent even though the parent is not entitled to a dependency exemption for the child. The child cannot be treated as a qualifying individual with respect to more than one parent.

(3) *Qualification on a daily basis.* The status of a person as a qualifying individual is determined on a daily basis. Thus, if a dependent or spouse of a taxpayer ceases to be a qualifying individual on September 16, the dependent or spouse is treated as a qualifying individual through September 15 only.

(4) *Physical or mental incapacity.* An individual is considered to be physically or mentally incapable of self-care if as a result of a physical or mental defect the individual is incapable of caring for his or her hygienical or nutritional needs, or requires full-time attention of another person for his or her own safety or the safety of others. The fact that an individual, by reason of a physical or mental defect, is unable to engage in any substantial gainful activity, or is unable to perform the normal household functions of a homemaker or to care for minor children, does not of itself establish that the individual is physically or mentally incapable of self-care.

(c) *Employment-related expenses.*—(1) *Gainful employment.*—(i) *In general.* Expenses are considered to be employment-related expenses only if they are incurred to enable the taxpayer to be gainfully employed and are paid for household services or for the care of one or more qualifying individuals. The expenses must be incurred while the taxpayer is gainfully employed or is in active search of gainful employment.

The employment may consist of service either within or without the home of the taxpayer and may include self-

employment. An expense is not considered to be employment-related merely because it is incurred while the taxpayer is gainfully employed. The purpose of the expense must be to enable the taxpayer to be gainfully employed. Volunteer work for a nominal salary does not constitute gainful employment. Whether the purpose of an expense is to enable the taxpayer to be gainfully employed depends upon the facts and circumstances of the particular case. Any tax required to be paid by the taxpayer under section 3111 (relating to the Federal Insurance Contributions Act) and 3301 (relating to the Federal Unemployment Tax Act), or under similar State payroll taxes, in respect of any wages which otherwise constitute employment-related expenses is considered to be an employment-related expense.

(ii) *Determination of period of employment on a daily basis.* An allocation of expenses is required on a daily basis when the expenses cover any period during part of which the taxpayer is gainfully employed or is in active search of gainful employment and during the other part of which there is no employment or active search for gainful employment. Thus, for example, if a taxpayer incurs during each month of the taxable year \$80 of expenses which would be employment-related if he or she were gainfully employed all year, and the taxpayer is gainfully employed, or in active search of gainful employment, for only 2 months and 10 days during such year, the amount of employment-related expenses is limited to \$140.

(2) *Household services.* Expenses are considered to be paid for household services if they are paid for the performance in and about the taxpayer's home of ordinary and usual services necessary to the maintenance of the household. However, expenses are not considered as paid for household services unless the expenses are attributable in part to the care of the qualifying individual. Thus, amounts paid for the services of a domestic maid or cook are considered to be expenses paid for household services if a part of those services is provided to the qualifying individual. Amounts paid for the services of an individual who is employed as a chauffeur, bartender, or gardener, however, are not considered to be expenses paid for household services.

(3) *Care of qualifying individual.*—(i) *In general.* The primary purpose of expenses for the care of a qualifying individual must be to assure that individual's well-being and protection.

Not all benefits bestowed upon a qualifying individual are considered as provided for the individual's care. Accordingly, amounts paid to provide food, clothing, or education are not expenses paid for the care of a qualifying individual. However, where the manner of providing care is such that the expense which is incurred includes expenses for other benefits which are incident to and inseparably a part of the care, the full amount of the expense is considered to be incurred for care. Thus, for example, the full amount paid to a nursery school in which a qualifying child is enrolled is considered as being for the care of the child, even though the school also furnishes lunch and educational services. Educational expenses incurred for a child in the first or higher grade level are not expenses incurred for the care of a qualifying individual. Expenses incurred for transportation of a qualifying individual described in paragraph (b)(1)(i) of this section between the taxpayer's household and a place outside the taxpayer's household where services for the care of the qualifying individual are provided are not incurred for the care of a qualifying individual.

(ii) *Manner of providing care.* The manner of providing the care need not be the least expensive alternative available to the taxpayer. For example, the taxpayer's mother may reside at the taxpayer's home and be available to provide adequate care at no cost for the taxpayer's wife who is physically or mentally incapable of caring for herself. Nevertheless, the expenses incurred in providing a nurse for the wife may be an expense for the care of the wife. See paragraph (c)(1)(i) of this section with respect to the requirement that the expense must be for the purpose of permitting the taxpayer to be gainfully employed.

(4) *Services outside the taxpayer's household.* The credit is allowed under section 44A with respect to employment-related expenses incurred for services performed outside the household of the taxpayer only if the expenses are incurred for the care of one or more qualifying individuals of the taxpayer who are under the age of 15. Otherwise, the credit is only allowed with respect to employment-related expenses incurred for services performed in the household of the taxpayer. Thus, for example, if a taxpayer places his or her invalid father in a nursing home, the taxpayer is not entitled to a credit with respect to employment-related expenses incurred for the father's care provided by the nursing home. If, however, the father remains in the taxpayer's

household, the taxpayer is allowed a credit with respect to employment-related expenses attributable to the care for the father.

(5) *Allocation of expenses.* Where a portion of an expense is for household services or for the care of a qualifying individual and a portion of such expense is for other purposes, a reasonable allocation must be made and only the portion of the expense paid which is attributable to such household services or care is considered to be an employment-related expense. No allocation is required to be made, however, if the portion of expense for the other purpose is minimal or insignificant. An allocation must be made, for example, if a servant performs household duties, cares for the qualifying children of the taxpayer, and also performs social services for the taxpayer (for which a deduction is not allowable) or clerical services in the office of the taxpayer outside the home (for which a deduction may be allowable under section 162). Employment-related expenses include household service expenses which are provided in conjunction with the care of a qualifying individual. Thus, if an expense is in part attributable to the care of a qualifying individual and in part to household services, no allocation is required.

(6) *Illustrations.* The application of this paragraph (c) may be illustrated by the following examples:

Example (1). The taxpayer lives with her mother who is physically incapable of caring for herself. In order to be gainfully employed the taxpayer hires a practical nurse whose sole duty consists of providing for the care of the mother in the home while the taxpayer is at work. All amounts spent for the services of the nurse are employment-related expenses.

Example (2). The taxpayer has a dependent child 10 years of age who has been attending public school. The taxpayer, who has been working part time, is offered a position involving full-time employment which she can accept only if the child is placed in a boarding school. The taxpayer accepts the position and the child is sent to a boarding school. The expenses paid to the school must be allocated between that part of the expenses which represents care for the child and that part which represents tuition for education. The part of the expense representing care of the child is incurred for the purpose of permitting the taxpayer to be gainfully employed.

Example (3). The taxpayer, in order to be gainfully employed, employs a full-time housekeeper who cares for the taxpayer's two children, aged 9 and 15 years, respectively, performs regular household services of cleaning and cooking, and chauffeurs the taxpayer to and from his place of employment. The chauffeur service never requires more than 30 minutes out of the total period of employment each day. No

allocation is required for purposes of determining the portion of the expense attributable to the chauffeuring (not a household service expense) since it is *de minimis*. Further, no allocation is required for the purpose of determining the portion of the expense attributable to the care of the 15-year-old child (not a qualifying individual) since the household expense is in part attributable to the care of the 9-year-old child, who is a qualifying individual. Accordingly, the entire expense of employing the housekeeper is an employment-related expense. However, the total amount of employment-related expenses taken into account would be limited to the amount allowable for one qualifying individual.

(d) *Maintenance of a household—(1) In general.* An individual is considered to have maintained a household for the taxable year (or lesser period) only if the individual (and his or her spouse if the individual is married) have furnished over one-half of the cost incurred for such taxable year (or lesser period) in maintaining the household. The household must actually constitute for the taxable year the principal place of abode of the taxpayer and the qualifying individual or individuals described in paragraph (b) of this section. It is not sufficient that the taxpayer maintain the household without being its occupant. A physical change in the location of the home does not, however, prevent the home from constituting the principal place of abode of the taxpayer and a qualifying individual. The fact that an individual is born or dies during the taxable year does not prevent a home from constituting his or her principal place of abode for such year. An individual is not considered to have terminated a household as his or her principal place of abode merely by reason of temporary absences therefrom by reason of illness, education, business, vacation, military service, or a custody agreement.

(2) *Two or more families.* Solely for purposes of section 44A and this section, if two or more families occupy living quarters in common, each of the families is treated as constituting a separate household, and the taxpayer who provides more than one-half of the costs of maintaining such a separate household is treated as maintaining that household. Thus, for example, if two unrelated taxpayers each with children occupy living quarters in common and each taxpayer pays more than one-half of the household costs incurred by each respective family, each taxpayer will be treated as maintaining a separate household.

(3) *Costs of maintaining a household.* The costs of maintaining a household are the expenses incurred for the mutual benefit of the occupants thereof by

reason of its operation as the principal place of abode of the occupants. The expenses of maintaining a household include property taxes, mortgage interest, rent, utility charges, upkeep and repairs, property insurance, and food consumed on the premises. These expenses do not include the cost of clothing, education, medical treatment, vacations, life insurance, or transportation or payments on mortgage principal or for the purchase, permanent improvement, betterment, or replacement of property. Further, the costs of maintaining a household do not include the value of services performed in the household by a qualifying individual described in paragraph (b) of this section. An expense incurred by a taxpayer which is paid or reimbursed by another is not considered as a cost of maintaining a household.

(4) *Monthly proration of annual costs.* In determining the cost incurred for a period of less than a taxable year in maintaining a household, the cost incurred during the entire taxable year must be prorated on the basis of the number of calendar months within such lesser period. For this purpose a period of less than a calendar month will be treated as a calendar month. Thus, for example, if the cost of maintaining a household for a taxable year is \$6,600, and the period in respect of which a determination is being made under section 44A is from June 20 to December 31, the taxpayer must furnish more than \$1,925 $(\$6,600 \times \frac{1}{2}) \times 50$ percent) in maintaining the household from June 1 to December 31.

(e) *Substantiation.* A taxpayer claiming a credit under paragraph (a) of this section for employment-related expenses must substantiate by adequate records or other sufficient evidence any credit taken under this section. For example, if requested, the taxpayer must furnish information as to the nature and period of the physical or mental incapacity of any dependent or spouse in respect of whom a credit is claimed, including necessary information from the attending physician as to the nature of the physical or mental incapacity.

§ 1.44A-2 Limitations on amount creditable.

(a) *Annual dollar limit on amount creditable.* The amount of the employment-related expenses incurred during any taxable year which may be taken into account under § 1.44A-1(a) cannot exceed—

- (1) \$2,000 if there is one qualifying individual with respect to the taxpayer at any time during the taxable year, or
- (2) \$4,000 if there are two or more qualifying individuals with respect to

the taxpayer at any one time during the taxable year.

For example, a calendar year taxpayer whose only qualifying individual reaches age 15 on April 1, 1976, is subject for 1976 to the entire annual dollar limit of \$2,000, without proration of the \$2,000 limit. However, only expenses incurred prior to the child's 15th birthday may be employment-related expenses.

(b) *Earned income limitation—(1) In general.* The amount of employment-related expenses incurred during any taxable year which may be taken into account under § 1.44A-1(a) cannot exceed—

- (i) For an individual not married at the close of the year, the individual's earned income for the year, or
- (ii) For an individual married at the close of the year, the lesser of the individual's earned income or the earned income of his or her spouse for the year.

For purposes of this paragraph (b)(1), the earned income of only the spouse to whom the taxpayer is married at the close of the year is taken into account (and not the earned income of another spouse who died or was divorced from the taxpayer during the year). Further, the spouse's earned income for the entire year is taken into account, even though the taxpayer and his or her spouse were married for only a part of the year. For purposes of this paragraph (b), certain married individuals legally separated or living apart are treated as not married (see § 1.44A-3 (b) and (c), respectively).

(2) *Earned income.* For purposes of this section, earned income means—

- (i) Wages, salaries, tips, other employee compensation, and
- (ii) Net earnings from self-employment (within the meaning of section 1402(a) and the regulations thereunder).

For taxable years beginning before January 1, 1979, earned income includes only amounts described in subdivision (i) or (ii) of this paragraph (b)(2) which are includible in the eligible individual's gross income for the taxable year of the individual in which the credit is claimed. For all taxable years, however, earned income is computed without regard to any community property laws which may otherwise be applicable. Earned income is reduced by any net loss in earnings from self-employment. Earned income does not include amounts received as a pension or an annuity or an amount to which section 871(a) and the regulations thereunder apply (relating to income of nonresident alien individuals not connected with United States business).

(3) *Special rule for spouse who is a student or incapable of self-care.* (i) For purposes of this section, a spouse is deemed, for each month during which the spouse is a full-time student or is a qualifying individual described in § 1.44A-1(b)(1)(iii), to be gainfully employed and to have earned income of not less than—

- (A) \$166, if there is one qualifying individual with respect to the taxpayer at any time during the taxable year, or
- (B) \$333, if there are two or more qualifying individuals with respect to the taxpayer at any one time during the taxable year.

However, in the case of any husband and wife, this subparagraph shall apply with respect to only one spouse for any one month.

(ii) A "full-time student" is an individual who is enrolled at and attends an educational institution during each of 5 calendar months of the taxable year of the taxpayer for the number of course hours which is considered to be a full-time course of study. The enrollment for 5 calendar months need not be consecutive. School attendance exclusively at night does not constitute a full-time course of study. However, a full-time course of study may include some attendance at night.

(iii) For the definition of "educational institution", see § 1.151-3(c).

(4) *Illustrations.* The application of this paragraph may be illustrated by the following examples:

Example (1). During the taxable year, A, a married taxpayer, incurs and pays employment-related expenses of \$4,000 for the care of a qualifying individual. A's earned income for the taxable year is \$20,000 and his wife's earned income is \$1,500. Under these circumstances, the amount of employment-related expenses for the year which may be taken into account under § 1.44A-1(a) is \$1,500, determined as follows:

Employment-related expenses incurred during taxable year (\$4,000, but limited to \$2,000 by paragraph (a)(1) of this section).....	\$2,000
Application of paragraph (b)(1)(ii) of this section (employment-related expenses, may not exceed wife's earned income of \$1,500).....	1,500
Employment-related expenses taken into account.....	1,500

Example (2). Assume the same facts as in example (1) except that A's wife is a full-time student for nine months of the taxable year and earns no income for the year. Under these circumstances, the amount of employment-related expenses for the year which may be taken into account under § 1.44A-1(a) is \$1,494, determined as follows:

Employment-related expenses incurred during taxable year (\$4,000, but limited to \$2,000 by paragraph (a)(1) of this section).....	\$2,000
Application of paragraph (b)(3) of this section (employment-related expenses may not exceed wife's earned income of \$1,494 (\$166 x 9)).....	1,494
Employment-related expenses taken into account.....	1,494

§ 1.44A-3 Special rules applicable to married individuals.

(a) *Joint return requirement.* This section applies only if the taxpayer is married at the close of a taxable year in which employment-related expenses are paid. In such a case the credit provided by section 44A with respect to employment-related expenses is allowed only if for the taxable year the taxpayer and his or her spouse file a joint return. If either spouse dies during the taxable year and a joint return may be made for the year under section 6013(a)(2) for the survivor and the deceased spouse, the credit is allowed for the year only if a joint return is made. If, however, the surviving spouse remarries before the end of the taxable year in which his or her first spouse dies, a credit is allowed on the separate return which is made for the decedent spouse. For purposes of this section, certain married individuals legally separated or living apart are treated as not married, as provided in paragraphs (b) and (c), respectively, of this section.

(b) *Marital status.* For purposes of section 44A, an individual legally separated from his or her spouse under a decree of divorce or of separate maintenance is not considered as married.

(c) *Certain married individuals living apart.* For purposes of section 44A, an individual who is married within the meaning of section 143(a) is treated as not married for the entire taxable year, if the individual—

- (1) Files a separate return for the year,
- (2) Maintains as his or her home a household which constitutes for more than one-half of the taxable year the principal place of abode of a qualifying individual, and
- (3) Furnishes over one-half of the cost of maintaining the household for the year, and if the individual's spouse is not a member of the household at any time during the last 6 months of the year. Thus for example, an individual who is married during the taxable year, but is treated as not married by reason of this paragraph, may determine the earned income limitation upon the amount of employment-related expenses without taking into account the earned income of his or her spouse under § 1.44A-2(b).

§ 1.44A-4 Other special rules relating to employment-related expenses.

(a) *Payments to related individuals—*

- (1) *Taxable years beginning after December 31, 1978.* For taxable years beginning after December 31, 1978, a credit is not allowed under section 44A with respect to the amount of any employment-related expenses paid by the taxpayer to an individual—

(i) With respect to whom for the taxable year a deduction under section 151(e) (relating to deduction for personal exemptions for dependents) is allowable either to the taxpayer or his or her spouse, or

(ii) Who is a child of the taxpayer (within the meaning of section 151(e)(3)) who is under age 19 at the close of the taxable year.

For purposes of this paragraph (a)(1), the term "taxable year" means the taxable year of the taxpayer in which the service is performed. (1943)

(2) *Taxable years beginning before January 1, 1979.* For taxable years beginning before January 1, 1979, except as otherwise provided in paragraph (a)(3) of this section, a credit is not allowed under section 44A with respect to the amount of any employment-related expenses paid by the taxpayer to an individual who bears to the taxpayer any relationship described in section 152(a) (1) through (8). These relationships are those of a son or daughter or descendant thereof; a stepson or stepdaughter; a brother, a sister, stepbrother, or stepsister; a father or mother or an ancestor, of either; a stepfather or stepmother; a nephew or niece; an uncle or aunt; or a son-in-law, daughter-in-law, father-in-law, mother-in-law, brother-in-law, or sister-in-law. In addition, no credit is allowed with respect to the amount of any employment-related expenses paid by the taxpayer to an individual who qualifies as a dependent of the taxpayer for the taxable year within the meaning of section 152(a)(9), which relates to an individual (other than the taxpayer's spouse) whose principal place of abode for the taxable year is the home of the taxpayer and who is a member of the taxpayer's household.

(3) *Exception for payments to certain related individuals.* For taxable years beginning before January 1, 1979, a credit is allowed for the amount of any employment-related expenses paid by the taxpayer to an individual provided that neither the taxpayer nor his or her spouse is entitled to a deduction under section 151(e) (relating to deduction for personal exemptions for dependents) with respect to such individual for the taxable year in which the service is performed; and the service with respect to which the amount is paid constitutes employment within the meaning of section 3121(b). The following services performed for a taxpayer by a relative who is an employee of the taxpayer may qualify as employment within the meaning of section 3121(b):

(i) Services performed by the taxpayer's child age 21 or over.

(ii) Domestic services in the taxpayer's home performed by the taxpayer's parent if—

(A) The taxpayer has living in his or her home a child (as defined in section 151(e)(3)) who is under age 18 or who has a physical or mental condition requiring the personal care of an adult during at least 4 continuous weeks in the calendar quarter, and

(B) The taxpayer is a widow or widower or is divorced, or has a spouse living in the home who, because of a physical or mental condition, is incapable of caring for his or her child during at least 4 continuous weeks in the calendar quarter in which services are rendered.

(iii) Services of all relatives other than a child, spouse, or parent of the taxpayer.

For taxable years beginning before January 1, 1979, a credit is not allowed under section 44A with respect to employment-related expenses paid by the taxpayer to a relative for services which do not constitute employment under section 3121(b). Services performed by a relative do not constitute employment if they relate to the relative's trade or business the income from which is includible in computing the relative's net earnings for purposes of the self-employment tax under section 1401.

(4) *Payments to entities or partnerships.* If the services are performed by an entity or partnership, paragraph (a) (1) and (2) of this section is normally not applicable. If, however, the entity or partnership is established or maintained primarily to avoid the application of paragraph (a) (1) or (2) in order to permit the taxpayer to obtain the credit with respect to employment-related expenses, for purposes of this paragraph (a), the payments of employment-related expenses shall be treated as made directly to each owner of the entity or partner in proportion to his or her share of the entity or partnership. A factor to consider for purposes of determining whether an entity or partnership is so established or maintained is whether the entity or partnership is set up solely to care for the taxpayer's qualifying individual and to provide household services to the taxpayer.

(5) *Illustrations.* The application of this paragraph may be illustrated by the following examples:

Example (1). For A's taxable year ending December 31, 1978, A, a divorced taxpayer, pays \$5,000 of employment-related expenses to his mother for the care of his child age 5. A's mother cares for the child in her home. The services performed by A's mother do not constitute employment under section 3121(b).

Accordingly, A is not allowed a credit with respect to the amounts paid to the mother for the care of his child.

Example (2). Assume the same facts as in example (1) except that A's taxable year under consideration begins after December 31, 1978. A is not entitled to a deduction under section 151(e) for his mother. Accordingly, A is allowed a credit with respect to the amounts paid to the mother for the care of his child even though the services performed by A's mother do not constitute employment under section 3121(b).

Example (3). For B's taxable year ending December 31, 1978, B, a divorced taxpayer, pays \$6,000 of employment-related expenses to his sister (who is not a dependent of the taxpayer) for the care of his child. The services performed by B's sister in the care of his child constitute a trade or business the income from which is includible in computing net earnings for purposes of the self-employment tax under section 1401. Accordingly, B is not allowed a credit with respect to the amounts paid to the sister for the care of his child.

Example (4). Assume the same facts as in example (3) except that B's taxable year under consideration begins after December 31, 1978. B is allowed a credit with respect to the amounts paid to the sister for the care of his child, even though the services performed by B's sister do not constitute employment under section 3121(b).

(b) *Expenses qualifying as medical expenses.* An expense which may constitute an amount otherwise deductible under section 213, relating to medical, etc., expenses, may also constitute an expense with respect to which a credit is allowable under section 44A. In such a case, that part of the amount with respect to which a credit is allowed under section 44A will not be considered as an expense for purposes of determining the amount deductible under section 213. On the other hand, where an amount is treated as a medical expense under section 213 for purposes of determining the amount deductible under that section, it may not be treated as an employment-related expense for purposes of section 44A. The application of this paragraph may be illustrated by the following examples:

Example (1). A taxpayer pays \$5,000 of employment-related expenses during the taxable year for the care of his child when the child is physically incapable of self-care. These expenses are incurred for services performed in the taxpayer's household and are of a nature which qualify as medical expenses under section 213. The taxpayer's adjusted gross income for the taxable year is \$100,000. Of the total expenses, the taxpayer may take \$2,000 into account under section 44A; the balance of the expenses, or \$3,000, may be treated as medical expenses to which section 213 applies. However, this amount does not exceed 3 percent of the taxpayer's adjusted gross income for the taxable year and is thus not allowable as a deduction under section 213.

Example (2). Assume the same facts as in example (1). It is not proper for the taxpayer first to determine his deductible medical expenses of \$2,000 (\$5,000—[\$100,000×3 percent]) under section 213 and then claim the \$3,000 balance as employment-related expenses for purposes of section 44A. This is because the \$3,000 balance has been treated as a medical expense in computing the amount deductible under section 213.

Example (3). A taxpayer incurs and pays \$12,000 of employment-related expenses during the taxable year for the care of his child. These expenses are incurred for services performed in the taxpayer's household, and they also qualify as medical expenses under section 213. The taxpayer's adjusted gross income for the taxable year is \$18,000. The taxpayer takes \$2,000 of such expenses into account under section 44A. The balance, or \$10,000, he treats as medical expenses for purposes of section 213. The allowable deduction under section 213 for the expenses is limited to the excess of the balance of \$10,000 over \$540 (3 percent of the taxpayer's adjusted gross income of \$18,000), or \$9,460.

§ 1.213 and Historical Note [Deleted]

Par. 2. Section 1.213 and the historical note are deleted.

Par. 3. Paragraph (f) of § 1.213-1 is revised to read as follows:

§ 1.213-1 Medical, dental, etc., expenses.

(f) *Exclusion of amounts allowed for care of certain dependents.* Amounts taken into account under section 44A in computing a credit for the care of certain dependents shall not be treated as expenses paid for medical care.

§ 1.214 and Historical Note [Deleted]

Par. 4. Section 1.214 and the historical note are deleted.

Par. 5. Paragraph (g) of § 1.214-1 is revised to read as follows:

§ 1.214-1 Expenses for the care of certain dependents incurred during taxable years beginning before January 1, 1972.

(a) *General rule.* This section applies only for expenses incurred during taxable years beginning before January 1, 1972. For expenses incurred in taxable years beginning after December 31, 1971, and before January 1, 1976, see §§ 1.214A-1 through 1.214A-5.

§ 1.214A and Historical Note [Deleted]

Par. 6. Section 1.214A and the historical note are deleted.

Par. 7. Section § 1.214A-1 is amended by revising the heading thereto and by revising so much of paragraph (a)(1) thereof as precedes subdivision (i) to read as follows:

§ 1.214A-1 Certain expenses to enable individuals to be gainfully employed incurred during taxable years beginning after December 31, 1971, and before January 1, 1976.

(a) *In general.* For expenses incurred during taxable years beginning after December 31, 1971, and before January 1, 1976, section 214 allows (subject to the requirements of this section and §§ 1.214A-2 through 1.214A-5) a deduction for employment-related expenses (as defined in paragraph (c) of this section) which are paid during the taxable year by an individual who maintains a household (within the meaning of paragraph (d) of this section) that includes as a member one or more qualifying individuals (as defined in paragraph (b) of this section). The deduction for expenses allowed under section 214 may be taken only as an itemized deduction and may not be taken into account in determining adjusted gross income under section 62. No deduction shall be allowed under section 214 in respect of any expenses incurred during a taxable year beginning after March 29, 1975, and before January 1, 1976, for which the taxpayer's adjusted gross income is \$44,600 or more (or incurred during a taxable year beginning after December 31, 1971, and before March 30, 1975, for which the taxpayer's adjusted gross income is \$27,600 or more). Expenses which are taken into account in determining the deduction under section 214—

Par. 8. Section 1.214A-2 is amended by revising so much of paragraph (c)(1) thereof as precedes example (3) to read as follows:

§ 1.214A-2 Limitations on deductible amounts.

(c) *Taxpayer's income limitation.*—(1) *In general.* This paragraph applies only if the adjusted gross income of the taxpayer for the taxable year exceeds the amount of \$35,000, in the case of a taxable year beginning after March 29, 1975, and before January 1, 1976 (or the amount of \$18,000 in the case of a taxable year beginning after December 31, 1971, and before March 30, 1975). In either case, in determining the deduction allowable under § 1.214A-1(a) for employment-related expenses, the amount of the expenses incurred during any calendar month of the taxable year must be reduced by an amount equal to the excess of the adjusted gross income of the taxpayer for the taxable year over the applicable income limitation (\$35,000 or \$18,000 as the case may be) divided by twice the number of calendar months in the taxable year. For purposes of

applying the taxpayer's income limitation a period of less than a calendar month will be treated as a calendar month. The limitation provided by this paragraph must be applied after making the reduction in the amount of employment-related expenses provided by paragraph (a) of § 1.214A-3 and after the application of the limitations upon the amount deductible provided by paragraph (a) of § 1.214A-3 and after the application of the limitations upon the amount deductible provided by paragraphs (a) and (b) of this section. The application of this subparagraph may be illustrated by the following examples:

Example (1). A, a single individual who uses a fiscal year ending March 31 as the taxable year, incurs (and pays) during May 1975 employment-related expenses of \$800. He has adjusted gross income of \$41,000 for the fiscal year ending March 31, 1976. Under these circumstances the amount of employment-related expenses for the month of May 1975 which may be taken into account under paragraph (a) of § 1.214A-1 is \$150, determined as follows:

Employment-related expenses incurred during May (\$800, but not to exceed \$400 under paragraph (a) of this section)	\$400
Less: Reduction under this subparagraph:	
Adjusted gross income for taxable year	\$41,000
Less: Taxpayer's income limitation applicable to taxable year beginning after March 29, 1975	\$5,000
Excess adjusted gross income over income limitation	6,000
Excess divided by twice the number of calendar months in taxable year (\$6,000 ÷ (2 × 12))	250
Employment-related expenses to be taken into account	150

Example (2). Assume the same facts as in example (1) except that A incurs employment-related expenses of only \$200 during May 1975. Under these circumstances no amount of employment-related expenses may be taken into account for the month of May under paragraph (a) of § 1.214A-1 because the expenses of \$200 for the month are fully offset by the reduction of \$250 required under this subparagraph.

PART 31—EMPLOYMENT TAXES; APPLICABLE ON AND AFTER JANUARY 1, 1955

§ 31.3402 [Amended]

Par. 19. Section 31.3402(m) and the historical note are deleted.

PART 301—PROCEDURE AND ADMINISTRATION

§ 301.6096 and Historical Note [Deleted]

Par. 10. Section 301.6096 and the historical note are deleted.

Par. 11. Paragraph (b) of § 301.6096-1 is amended to read as follows:

§ 301.6096-1 Designation by individuals for taxable years beginning after December 31, 1972.

(b) *Income tax liability.* For purposes of paragraph (a) of this section, the income tax liability of an individual for any taxable year is the amount of the tax imposed by chapter 1 on such individual for the taxable year (as shown on his or her return) reduced by the sum of the credits (as shown on his or her return) allowable under sections 33, 37, 38, 40, 41, 42, 44, and 44A.

[FR Doc. 79-26743 Filed 8-27-79; 8:45 am]
BILLING CODE 4830-01-M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1910

Occupational Safety and Health Standards; Occupational Exposure to Lead; Correction

AGENCY: Occupational Safety and Health Administration, Department of Labor.

ACTION: Correction to final standard for occupational exposure to lead.

SUMMARY: OSHA's final standard for occupational exposure to lead was published in the *Federal Register* on November 14, 1978 (43 FR 52952). Corrections to the regulation were published in the *Federal Register* on January 26, 1979 (44 FR 5446). This notice corrects the language of the standard's exemption for construction work to avoid any possible ambiguity in the scope of the exemption.

DATES: This correction is effective August 28, 1979.

FOR FURTHER INFORMATION CONTACT: Gail Brinkerhoff, OSHA Office of Compliance Programming, U.S. Department of Labor, Room N3112, Washington, D.C. 20210, telephone 202-523-8034.

SUPPLEMENTARY INFORMATION: OSHA's final standard for occupational exposure to lead, 29 CFR 1910.1025, published on November 14, 1978 (43 FR 52952), exempted the construction industry from coverage by the new standard. The preamble to the standard, at 43 FR 52986, discussed the arguments that had been made during the rule-making proceeding in support of a construction industry exemption and articulated OSHA's rationale for incorporating this exemption in the final standard. Briefly, OSHA reviewed the arguments that the

unique nature of the construction industry, rendered many of the provisions of the standard infeasible or meaningless, i.e., the mobility and transient nature of employees, worksites and working conditions. OSHA concluded that the record before it was insufficient to resolve the issues raised by the uniqueness of the construction industry and therefore exempted the industry from the standard pending submission of the issues to the Construction Advisory Committee for its recommendations.

In incorporating the construction industry exemption into the lead standard, paragraph (a)(2) provided that the section "does not apply to construction work as defined in 29 CFR 1910.12(b)." Several interested persons, including parties in the current appellate litigation concerning the lead standard, have brought to OSHA's attention that the phrase "construction work as defined in 29 CFR 1910.12(b)" may be interpreted as exempting from the protection of the standard industrial workers in a plant producing or using lead whenever they perform tasks falling under the rubric of "construction work." In view of the broad interpretation given to the term "construction work" by the Occupational Safety and Health Review Commission, there is merit to the suggestion that this term is susceptible to an interpretation which would exempt from coverage a class of employees whom OSHA never intended to exclude. It is therefore necessary to conform the language of the standard to OSHA's intent, expressed in the preamble, to exempt the "construction industry," but to provide protection for workers employed in the lead industry even when they may be performing "construction work."

Since this correction is minor and merely conforms the regulatory language to OSHA's clear intent, we find that there is no purpose or need for notice and public procedure or for a delayed effective date within the meaning of 5 U.S.C. 553(b) and (d) and 29 CFR 1911.5.

Accordingly, pursuant to section 6(b) of the Occupational Safety and Health Act of 1970 (84 Stat. 1593, 29 U.S.C. 655), 5 U.S.C. 553, Secretary of Labor's Order No. 8-76 (41 FR 25059) and 29 CFR Part 1911, paragraph (a)(2) of 29 CFR 1910.1025 is amended to read as follows:

§ 1910.1025 Lead.

(a) * * *

(2) This section does not apply to the construction industry or to agricultural operations covered by 29 CFR Part 1928.

Signed at Washington, D.C. this 23 day of August, 1979.

Eula Bingham,
Assistant Secretary of Labor.

[FR Doc. 79-26739 Filed 8-27-79; 8:45 am]
BILLING CODE 4510-26-M

DEPARTMENT OF DEFENSE

Corps of Engineers

33 CFR Part 209

[ER 1140-1-210]

Laboratory Investigations and Materials Testing

AGENCY: Corps of Engineers, DOD

ACTION: Final rule.

SUMMARY: This regulation imposes restrictions on non-Corps work that may be undertaken at Corps of Engineers laboratories other than research and development laboratories. Increasing requests from other Governmental agencies and private firms for investigation and testing services were tending to divert laboratory resources from Corps work, and improperly placing the Corps in competition with private industry. This regulation will prevent unfair competition between Government and private sector materials investigations and testing organizations.

EFFECTIVE DATE: August 31, 1979.

FOR FURTHER INFORMATION CONTACT: James A. Rhodes, Chief, Concrete Section, Office, Chief of Engineers, Washington, DC 20314, (202) 272-0219.

Accordingly, 33 CFR Part 209 is amended by revising § 209.340 to read as follows:

§ 209.340 Laboratory investigations and materials testing.

(a) *Purpose.* The purpose of this section is to define and establish policies and procedures applicable to the performance of investigations and tests at Corps of Engineers laboratory installations for other governmental agencies and private organizations.

(b) *Applicability.* This regulation applies to Corps of Engineers Divisions and Districts operating soils, concrete, water quality and hydraulic laboratories, and to the Inter-Agency Sedimentation Project.

(c) *References.* (1) AR 37-20.

(2) AR 37-27.

(3) ER 1-1-6.

(4) ER 10-1-3, Appendix XIII.

(5) ER 1110-1-8100.

(6) ER 1140-2-303.

(d) *Policy.* Subject to the authority limitations contained in paragraph (f) of

this section, laboratory investigations and materials testing may be performed for other agencies of the Federal Government, State and local units of government, foreign governments and private firms under the following conditions:

(1) The work will be performed on a cost reimbursable basis.

(2) Work may be performed for State and local units of government, foreign governments or private firms only when it is firmly established that private commercial laboratory facilities capable of performing such work are not available, or because of location or for other reasons it is clearly impractical to utilize such private commercial laboratory services. The requesting entity must further certify that such services cannot be procured reasonably and expeditiously through ordinary business channels.

(3) Performance of the work will not interfere with provisions of services essential to the mission of the Corps.

(4) Performance of the work will not require an increase in the permanent staff of the facility.

(5) Performance of the work will not require expansion of normal facilities.

(6) The work is within the scope of authorized activities of the laboratory at which the work is to be performed.

(7) Performance of the work will not be adverse to the public interest.

(8) Prior to undertaking laboratory investigations or materials testing for private firms, written certification will be obtained from such firms stating that the results of the work will not be used in litigation or for promotional purposes.

(e) *Terms of providing reimbursement for work performed.* (1) *Federal agencies.* Reimbursement for work for the Department of Defense, the Department of the Army, and other Federal Agencies will be in accordance with the procedures prescribed in AR 37-27.

(2) *State and Local units of Government.* Funds to cover the total estimated cost of the work or an initial increment of the estimated cost based on an approved schedule of payment will be deposited with the installation performing the work before any obligations or expenses in connection with the work are incurred; and when funds are being deposited on an approved schedule no obligations or expenses will be incurred in connection with the work in excess of funds on deposit.

(3) *Private concerns and foreign governments.* Funds will be deposited in advance of the work as required in paragraph (e)(2) of this section. Charges shall include a surcharge of 15 percent

of all applicable costs, except under the following conditions.

(i) When the final product will directly contribute to a specific planning, design, or construction activity which derives its principal support from Federal funds in the form of a grant or otherwise.

(ii) Where an exception is granted based on a direct benefit to the Government. Adequate justification, outlining the direct benefits which are expected to accrue to the Government, will be forwarded to HQDA (DAEN-CWE-DC) Washington, DC 20314, for review and approval prior to deletion of the surcharge.

(f) *Authority.* The following delegations of authority to perform laboratory investigations and materials testing apply.

(1) *Division materials laboratories.* Division Engineers are delegated the authority to approve laboratory work for Federal, State and local units of government when the total estimated cost of each investigation or test project is \$15,000 or less. Division Engineers are also delegated the authority to approve laboratory work for private firms and foreign Governments when the total estimated cost of each investigation or test project is \$5,000 or less. Approval is required when the estimated or actual costs exceed those delegations of authority. Requests for approval shall be addressed to DAEN-CWE-DC.

(2) *Hydraulic Laboratories.* Division Engineers and District Engineers operating hydraulic laboratories or hydraulic model laboratories are delegated the authority to approve laboratory work for others within the same limitations and in accordance with the same procedures as apply to Division Materials Laboratories.

(3) *Inter-Agency Sedimentation Project.* St. Anthony Falls Laboratory, University of Minnesota, Minneapolis, Minnesota. The District Engineer, St. Paul is authorized to perform work required in procurement, testing and calibration of specialized sediment sampling equipment developed at the Inter-Agency Sedimentation Project. Equipment of this nature will be made available to Federal, State and local governmental agencies at cost. The District Engineer, St. Paul, is also authorized to approve the performance of testing and calibration work for U.S. private firms that fabricate this specialized equipment for commercial sale when the estimated cost for services of Corps personnel is \$5,000 or less for a single order. Approval is required when the estimated single order cost for a private firm exceeds \$5,000 and when the total cost of work during a fiscal year for any one private

firm exceeds \$15,000. Requests for approval shall be addressed to HQDA (DAEN-CWE-HY) Washington, DC 20314.

(g) *Reports of testing results.* Final reports of results will be submitted in accordance with instructions provided by the sponsoring organization, with two copies to HQDA (DAEN-CWE-DC) Washington, DC 20314.

Copies of reports of scientific or technical activities of a research and development nature will be transmitted to the Defense Documentation Center as required by AR 70-31. (RCS OSD-1366).

Authority: (Sec. 3012, 70A Stat. 157; 10 U.S.C. 3012)

Source: ER 1140-1-210.

Dated: August 21, 1979.

Forrest T. Gay, III,

Colonel, Corps of Engineers, Executive Director, Engineer Staff.

[FR Doc. 79-26645 Filed 8-27-79; 8:45 am]

BILLING CODE 3710-92-M

VETERANS ADMINISTRATION

38 CFR Part 3

Pension, Compensation, and Dependency and Indemnity Compensation; Proximate Results, Secondary Conditions

AGENCY: Veterans Administration.

ACTION: Final Regulations.

SUMMARY: The Veterans Administration has amended its regulation which grants service connection for a disability which is proximately due to a service-connected disease or injury. This amendment results from a report made by the National Academy of Sciences. The effect of this action is to grant service connection for ischemic heart disease or other cardiovascular disease developing in a veteran who has a service-connected amputation of one lower extremity at or above the knee or service-connected amputations of both lower extremities at or above the ankles.

EFFECTIVE DATE: August 22, 1979.

FOR FURTHER INFORMATION CONTACT: T.H. Spindle, Jr. (202-389-3005).

SUPPLEMENTARY INFORMATION: On pages 28762-63 of the *Federal Register* of May 7, 1979, there was published a proposed amendment to 38 CFR 3.310.

Interested persons were given 30 days to submit comments, suggestions, or objections to the proposed amendment. Three comments were received.

One commentator wants us to presume that cardiovascular disease developing in veterans who have

suffered a single below-the-knee amputation is service-connected. We are unable to adopt this suggestion since the National Academy of Sciences (NAS) study shows that only unilateral above-the-knee amputations result in a significant increase in the incidence of cardiovascular disease.

Another commentator feels that service connection should be presumed for cardiovascular disease developing in a veteran who has suffered a unilateral below-the-knee amputation and who had to be hospitalized while in service for a prolonged period to treat numerous other disabilities or who has a service-connected disability evaluated as 30 percent or more disabling in the other leg. Since these situations were not dealt with in the NAS report we are unable to favorably consider these suggestions.

The third commentator expressed concern that the NAS report failed to adequately deal with the incidence of cardiovascular disease developing in veterans who suffered arm amputations or who suffered unilateral leg amputations above the ankle but below the knee. The commentator felt that it is wrong for the Veterans Administration to adopt strict regulations without more study of veterans who have suffered these kinds of amputations.

The NAS report shows that only unilateral above-the-knee amputations and amputations of both lower extremities result in a significant increase in the incidence of cardiovascular disease. The amendment of § 3.310, which implements this finding, does not, however, preclude further amendment if it is subsequently shown that other types of amputations also result in a significant increase in the incidence of cardiovascular disease. In this regard the amendment of § 3.310 is not meant to be restrictive.

The amendment of § 3.310 is adopted without change and is set forth below.

Approved: August 22, 1979.

By direction of the Administrator.
Rufus H. Wilson,
Deputy Administrator.

Section 3.310 is revised to read as follows:

§ 3.310 Proximate results, secondary conditions.

(a) *General.* Disability which is proximately due to or the result of a service-connected disease or injury shall be service connected. When service connection is thus established for a secondary condition, the secondary condition shall be considered a part of the original condition.

(b) *Cardiovascular disease.* Ischemic heart disease or other cardiovascular disease developing in a veteran who has a service-connected amputation of one lower extremity at or above the knee or service-connected amputations of both lower extremities at or above the ankles, shall be held to be the proximate result of the service-connected amputation or amputations. (38 U.S.C. 210(c), 310.331)

(FR Doc. 79-26678 Filed 8-27-79; 8:45 am)
BILLING CODE 8320-01-M

**GENERAL SERVICES
ADMINISTRATION**

41 CFR Chapter 101

**Federal Property Management
Regulations; Standard Form 149, U.S.
Government National Credit Card**

AGENCY: Transportation and Public
Utilities Service, General Services
Administration.

ACTION: Temporary regulations.

SUMMARY: These regulations modify GSA policies and procedures concerning the acquisition, use, and control of Standard Form 149, U.S. Government National Credit Card, to provide tighter management controls over the issuance, accountability, and disposition of the credit card.

DATES: Effective date: October 1, 1979.
Expiration date: July 31, 1980, unless
sooner revised or superseded.

FOR FURTHER INFORMATION CONTACT:
Lowell Stockdale, Acting Director,
Federal Fleet Management Division
(703-557-1327).

SUPPLEMENTARY INFORMATION: The
General Services Administration has
determined that these regulations will
not impose unnecessary burdens on the
economy or on individuals and,
therefore, are not significant for the
purposes of Executive Order 12044.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

**Subchapter E—Supply and
Procurement**

**Appendix—Temporary Regulations
[FPMR Temp. Reg. E-184]**

In 41 CFR Chapter 101, the following
temporary regulation is added to the
appendix at the end of Subchapter E to
read as follows:

**Federal Property Management Regulations,
Temporary Regulation E-184**

To: Heads of Federal agencies.
Subject: Standard Form 149, U.S. Government
National Credit Card.

1. *Purpose.* This regulation provides revised
policy and procedures concerning the
acquisition and use of Standard Form 149,
U.S. Government National Credit Card.

2. *Effective date.* This regulation is
effective October 1, 1979.

3. *Expiration date.* This regulation expires
on July 31, 1980, unless sooner revised or
superseded.

4. *Background.* A notice of proposed
rulemaking, published on November 3, 1978
(43 FR 51429), announced that the General
Services Administration would amend the
Federal Property Management Regulations to
revise the information concerning the
acquisition and use of Standard Form 149,
U.S. Government National Credit Card.
However, developments in the program
during the preparation of the amendment led
to a decision to issue a temporary regulation
to implement the new policies and
procedures quickly. (See attachment A.)
Before the expiration date, this regulation
will be codified in the permanent regulations
of the General Services Administration
appearing in Title 41 CFR, Public Contracts
and Property Management.

5. *Effect on other directives.* This
temporary regulation supersedes the
information contained in §§ 101-26.406-1 (a)
and (b) and 101-26.406-5.

Dated: August 15, 1979.

R. G. Freeman III,
Administrator of General Services.

**1. Use of Standard Form 149, U.S.
Government National Credit Card.**

a. Standard Form 149, U.S. Government
National Credit Card, is authorized for use by
Federal agencies to obtain authorized
services or supplies at service stations
dispensing items provided by the contractors
listed in the Defense Fuel Supply Center
publication "Your Guide to Service Stations
for Gasoline, Oil, and Lubrication" (DFSC H
4280.1). Activities requiring copies of the
publication should submit requests to:
Commander, Defense Fuel Supply Center,
Attention: DFSC:OD, Cameron Station,
Alexandria, VA 22314.

b. Standard Form 149 is the only
Government-wide credit card approved for
use by Federal agencies for the procurement
of gasoline and services at service stations
dispensing items provided by the contractors
listed in the Defense Fuel Supply Center
publication referenced in subpar. a. However,
agencies that operate motor vehicles for
purposes of which identification as
Government vehicles would interfere with
the performance of the functions for which
the vehicles were acquired and are used (see
§ 101-38.602) need not use Standard Form 149
for those specific vehicles.

**2. Methods of obtaining Standard Form 149,
U.S. Government National Credit Card.**

a. Agency requests for embossed Standard
Forms 149 shall be forwarded to the
contractor in the format specified in Federal
Supply Schedule 75 Part VII. Request should
be submitted on GSA Form 300, Purchase

Order; DD1155, Order for Supplies or
Services Request for Quotation; or the
purchase order form normally used by the
agency. In accordance with the procedures
contained in FPMR Temporary Regulation G-
144, each request shall include the following
information for each Standard Form 149
requisitioned:

- (1) The billing code;
- (2) The complete address for billing
purposes, and the name and commercial
telephone number of an employee in the
office ordering the credit card;
- (3) The vehicle tag number or serial
number. If a serial number is furnished
instead of a vehicle tag number, it shall be
restricted to four characters, all numeric, with
zeros used to fill blank positions;
- (4) The agency identifier. This is a one-line
entry with a maximum of 22 characters
identifying the agency or agency department
(no Government employee's name will be
embossed on the credit card) that is
authorized to use the Standard Form 149; and
- (5) The replacement code if the request is
for a replacement for a previously issued
Standard Form 149. The replacement code
used shall be as follows: A, address or billing
account number has changed; B, broken; C,
cracked; D, debossed; E, expired; L, lost; or S,
stolen.

b. Any order that does not include all of the
required data elements or that contains
inaccurate information will be returned to the
sender.

c. The requesting agency may furnish an
expiration date (month and year, not to
exceed 2 years from the date of the request)
for each credit card. If an expiration date is
not furnished by the agency, the contractor
will emboss an expiration date of 2 years
from the date of the request.

d. The contractor will bill the ordering
agencies directly.

e. The type font to be used when
embossing Standard Forms 149 shall conform
with the requirements of the Federal Supply
Schedule contract.

f. Instructions for requisitioning Standard
Forms 149 by means of electronic data
transmission will be made available upon
request to the General Services
Administration (TM), Washington, DC 20408.

**Subchapter G—Transportation and
Motor Vehicles**

**Appendix—Temporary Regulations
[FPMR Temp. Reg. G-144]**

In 41 CFR Chapter 101, the following
temporary regulation is added to the
appendix at the end of Subchapter G to
read as follows:

**Federal Property Management Regulations,
Temporary Regulation G-144**

To: Heads of Federal agencies.
Subject: Standard Form 149, U.S. Government
National Credit Card.

1. *Purpose.* This regulation provides revised
policy and procedures concerning the
preparation and control of Standard Form
149, U.S. Government National Credit Card.

2. *Effective date.* This regulation is
effective October 1, 1979.

3. *Expiration date.* This regulation expires
on July 31, 1980, unless sooner revised or
superseded.

4. *Background.* A notice of proposed
rulemaking, published on November 3, 1978
(43 FR 51429), announced that the General
Services Administration would amend the
Federal Property Management Regulations to
revise the information concerning the
acquisition and use of Standard Form 149,
U.S. Government National Credit Card.
However, developments in the program
during the preparation of the amendment led
to a decision to issue a temporary regulation
to implement the new policies and
procedures quickly. (See attachment A.)
Before the expiration date, this regulation
will be codified in the permanent regulations
of the General Services Administration
appearing in Title 41 CFR, Public Contracts
and Property Management.

5. *Effect on other issuances.* This
temporary regulation supersedes the
information contained in §§ 101-38.1200
through 101-38.1203.

Dated: August 15, 1979.

R. G. Freeman, III,
Administrator of General Services.

1. General information.

a. Standard Form 149, U.S. Government
National Credit Card, is authorized for use by
Federal agencies to obtain services and
supplies at service stations dispensing items
provided by contractors listed in the Defense
Fuel Supply Center publication "Your Guide
to Service Stations for Gasoline, Oil, and
Lubrication" (DFSC H 4280.1). Activities
requiring copies of the publication should
submit requests to: Commander, Defense Fuel
Supply Center, Attention: DFSC:OD,
Cameron Station, Alexandria, VA 22314.

b. Procedures for obtaining Standard Form
149, U.S. Government National Credit Card,
are in attachment A to FPMR Temporary
Regulation E-184.

2. *Billing code.* The billing code is a 10-digit
number and is embossed on the first line of
the Standard Form 149.

a. The first nine digits shall be assigned by
the using agency in accordance with the
following instructions:

(1) The first three digits of the billing code
shall always be 000 for all Federal agencies
other than the General Services
Administration, the Department of
Agriculture, and the Department of Defense.
The Department of Defense shall use 002, and
the Department of Agriculture shall use 003,
as will the General Services Administration.

(2) The fourth digit may be used by civilian
agencies to designate the vehicle class or for
other purposes to meet the agency's
requirements. If not used for any designation,
the fourth digit shall be zero. Components of
the Department of Defense shall use the
following in the fourth position: 1, Navy; 2,
Army; 3, Air Force; 4, Marine Corps; 7,
Defense Logistics Agency; and 0, all
independent Department of Defense agencies.

(3) The fifth and sixth digits for all civilian
agencies shall be the agency code unless
otherwise authorized by GSA. Agency codes
are shown in the Department of the Treasury
booklet "Federal Account Symbols and
Titles." For all Department of Defense

activities the fifth through the ninth digits
shall be the station accounting number for the
particular activity authorized to use the credit
card.

(4) For civilian agencies the seventh, eighth,
and ninth digits indicate the agency billing
address code number unless otherwise
authorized by GSA. Each agency shall assign
its own billing address code numbers when
the seventh, eighth, and ninth digits are used
for that purpose.

b. The tenth digit is the validation number
for use in automatic billing operations of the
contractor. This number is not assigned by
the agency but will be determined by the
embossing contractor listed in Federal Supply
Schedule FSC 75 Part VII. The validation
number will be computed in accordance with
American National Standard X4.13-1971,
Section 5.3.

3. *Billing address.* The billing address is the
name of the agency and the address to which
contractors should send statements or
invoices covering the purchase of supplies
and services by the user of the Standard
Form 149, U.S. Government National Credit
Card. The billing address will not be
embossed on the SF 149 but shall be
maintained on file by the contractor
providing the credit cards and by the
petroleum contractors listed in the Defense
Fuel Supply Center publication "Your Guide
to Service Stations for Gasoline, Oil, and
Lubrication" (DFSC H 4280.1).

4. *Agency identifier.* The agency identifier
is a one-line entry of a maximum of 22
characters embossed on the third line of the
Standard Form 149. It identifies the agency or
agency department which is authorized to use
the Standard Form 149. No Government
employees' name will be embossed on the
card.

5. *Administrative control of credit cards.*
a. It is essential that Federal agencies
ensure that supplies and services procured
with Standard Form 149, U.S. Government
National Credit Card, are for the official use
of the agency involved and that
administrative control is maintained to
prevent unauthorized use of credit cards.
Administrative control shall include the
following as a minimum:

(1) A replacement series mark will be
embossed on the fifth line at the extreme
right side to indicate the number of times a
credit card has been replaced as a result of
being reported lost or stolen (e.g., R-1); and

(2) The license tag number of a vehicle or a
four-digit serial number shall be embossed on
the fourth line of the credit card. When the
license tag number is embossed on the fourth
line, the card is to be used to procure supplies
and services for that vehicle only. If a serial
number is embossed, the credit card may be
used to obtain supplies and services for any
properly identified U.S. Government vehicle,
boat, small aircraft, nonvehicular equipment,
or motor vehicle that is leased or rented for
60 continuous days or more and is officially
identified in accordance with § 101-38.305.

b. Agencies shall establish procedures to
provide for the following:

(1) Prompt notification to the credit card
contractor of lost or stolen credit cards
(notifications shall include the date each card
was initially reported lost or stolen);

(2) Prompt notification to the credit card contractor of changes or deletions to billing account numbers and/or addresses;

(3) Issuance of requests for replacement of credit cards (requests shall include the reason for replacement for each credit card, indicated by use of the following replacement codes: A, address or billing account number has changed; B, broken; C, cracked; D, debossed; E, expired; L, lost; or S, stolen);

(4) Prompt and positive destruction of all credit cards that have been replaced for any reason, and of lost or stolen credit cards recovered after being reported and/or replaced; and

(5) Destruction of credit cards bearing an expiration date that has passed or credit cards bearing an invalid license tag number, e.g., the number of a tag that has been replaced or destroyed.

6. *Expiration date.* An expiration date (month and year) not to exceed 2 years will be embossed on the extreme right side of the fourth line of the credit card by the contractor. An expiration date of less than 2 years may be requested by the agency.

7. *Centralized administrative control of credit cards.*

a. GSA will provide centralized management and control of the Standard Form 149, U.S. Government National Credit Card program. Inquiries concerning the policy and administration of this program shall be directed to GSA (TMM), Washington, DC 20406.

b. Agency requests for credit cards shall be submitted to the contractor and shall conform to the requirements of this temporary regulation. Changes in billing codes and addresses shall also be furnished promptly to the contractor so that there will be proper control of billing procedures.

c. After the determination has been made that the billing code(s) and billing address(es) submitted are correct and are not duplicates, the contractor will process the request and emboss and issue the credit cards.

R. G. Freeman,
Administrator of General Services.

[FR Doc. 79-26636 Filed 8-27-79; 8:45 a.m.]
BILLING CODE 6820-AM-M

41 CFR Part 101-36

[FPMR Amdt. F-38]

Compilers and Data Standards

AGENCY: General Services Administration.

ACTION: Final rule.

SUMMARY: This regulation extends the requirement for validation of COBOL compilers to those compilers used in conjunction with the acquisition of COBOL programs and/or programming services. This action is the result of the requirement in Federal Information Processing Standards Publication (FIPS PUB) 21-1 that all COBOL compilers offered or used by vendors to meet Federal agency requirements must be

validated. This regulation also notes the change in the name of the Federal COBOL Compiler Testing Service (FCCTS) to the Federal Compiler Testing Center (FCTC) and the transfer of its operation from the Department of the Navy to the General Services Administration. The regulation also reflects the Department of Commerce revision of FIPS PUB 10-1 to FIPS PUB 10-2 and the issuance of FIPS PUBS 58 and 59 applicable to the interchange of machine processable data between and among agencies.

EFFECTIVE DATE: August 28, 1979.

FOR FURTHER INFORMATION CONTACT: L. Perlman, Procurement Policy and Regulations Branch, Policy and Evaluation Division, Office of Policy and Planning (202-566-0834).

SUPPLEMENTARY INFORMATION: The General Services Administration has determined that this regulation will not impose unnecessary burdens on the economy or on individuals and, therefore, is not significant for the purposes of Executive Order 12044.

Subpart 101-36.13—Implementation of Federal Information Processing and Federal Telecommunication Standards Into Solicitation Documents

Section 101-36.1305-1 is amended to revise paragraph (a); to revise the second clause prescribed in paragraph (b); to revise paragraphs (c), (c)(1), and (c)(3) through (c)(7); and to revise the first paragraph of the clause prescribed in paragraph (d), as follows:

§ 101-36.1305-1 FIPS PUB 21-1, Federal Standard COBOL.

(a) FIPS PUB 21-1 specifies the use of the American National Standard Programming Language COBOL X3.23-1974 as the Federal Standard COBOL. The purpose of FIPS 21-1 is to promote a high degree of interchangeability of programs for use on a wide variety of information processing systems. All COBOL compilers brought into the Federal Government inventory and those used to develop computer programs for the Government when providing programming services must be validated in accordance with paragraph (c).

(b) The standard terminology for use in solicitation documents is:

Acquisition of COBOL Compilers

* * *

Acquisition of COBOL Programs and/or Programming Services

Business-oriented computer application programs (i.e., those applications or programs that emphasize the manipulation of characters, files, and input/output as

contrasted with those concerned primarily with computation of numeric values) offered or prepared as a result of the requirements set forth in this solicitation will be written using one of the levels of Federal Standard COBOL as defined in FIPS PUB 21-1 including optional language elements, if any, as specified herein. If services provided include compilation(s), compilers used to perform these services shall be validated in accordance with Federal Property Management Regulations (FPMR) 101-36.1305-1(c).

(c) COBOL compilers that are asserted to conform with one or more levels specified in FIPS PUB 21-1 and are offered to the Federal Government for purchase or lease and those used to develop computer programs when providing programming services or compilations shall be validated. The term "validation" as used in this section is the process of testing a given COBOL compiler against predetermined conditions and specifying which, if any, conditions are not met.

(1) COBOL compilers which are offered or used by vendors as a result of requirements set forth by Federal agencies in solicitations must implement the language elements of a designated level of the Federal Standard COBOL. To confirm that an implementation meets the specifications of the designated level of the Federal Standard COBOL, test routines have been developed and approved for use in testing COBOL compilers. These routines are known as the COBOL Compiler Validation System (CCVS). A Federal Compiler Testing Center (FCTC), operated by the General Services Administration, provides a validating service for Federal agencies.

(3) Requests for and questions on validations should be sent to:

Federal Compiler Testing Center (FCTC),
General Services Administration,
Washington, DC 20405.

(4) When a request for validation service requires that compiler testing be performed, the requester is responsible for providing the necessary test facilities.

(5) In response to a request for validation service, the FCTC will provide a Validation Summary Report (VSR) summarizing the test results.

(6) Validation is performed on a cost-reimbursable basis. The FCTC will send the requester an estimate of validation costs for approval before beginning the validation process.

(7) Unresolved questions and/or any ambiguities that are identified by the FCTC or by the requester shall be referred to the NBS in accordance with FIPS PUB 29.

(d) The standard terminology for use in solicitation documents is:

Validation of COBOL Compilers

In addition to the specified mandatory COBOL compiler requirements stated in the specification portion of this solicitation, all COBOL compilers brought into the Federal inventory as a result of this solicitation and those compilers used to develop programs when providing services, the most recent release of which has not been previously tested, must be tested using the official COBOL Compiler Validation System (CCVS). Validation shall be in accordance with Federal Property Management Regulation (FPMR) 101-36.1305-1(c). The results of the validation shall be used to confirm that the compiler meets the specified requirements of the designated level of FIPS PUB 21-1, Federal Standard COBOL. To be considered responsive, the vendor shall:

* * * * *

Section 101-36.1307-1(b) is revised to read as follows:

§ 101-36.1307-1 FIPS PUBS applicable to the interchange of machine processable data between and among agencies.

* * * * *

(b) The standard terminology for use in solicitation documents is:

All application programs (software and machine sensible data) resulting from this solicitation that have been identified as those that will be interchanged with Federal agencies, State and local governments, industry, and the public must implement the following applicable approved Federal Information Processing Standards (FIPS):

FIPS PUB 4 Calendar Date.
FIPS PUB 5-1 States and Outlying Areas of the United States.

FIPS PUB 6-2 Counties and County Equivalents of the States of the United States.
FIPS PUB 8-4 Standard Metropolitan Statistical Areas.

FIPS PUB 9 Congressional Districts of the United States.

FIPS PUB 10-2 Countries, Dependencies and Areas of Special Sovereignty.

FIPS PUB 58 Representations of Local Time of the Day for Information Interchange.

FIPS PUB 59 Representations of Universal Time, Local Time Differentials, and United States Time Zone References for Information Interchange.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

Dated: August 16, 1979.

R. G. Freeman III,
Administrator of General Services.

[FR Doc. 79-26637 Filed 8-27-79; 8:45 a.m.]

BILLING CODE 6820-25-M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

43 CFR Part 2

Records and Testimony; Bureaus and Offices of the Department of the Interior

AGENCY: Department of the Interior.

ACTION: Final Rule.

SUMMARY: This action amends appendix B of 43 CFR Part 2 to reflect current offices and addresses of the Department of the Interior.

EFFECTIVE DATE: August 28, 1979.

FOR FURTHER INFORMATION CONTACT: John D. Trezise, Office of the Solicitor, U.S. Department of the Interior, Washington, DC 20240, (202) 343-5216.

SUPPLEMENTARY INFORMATION:

Background

Appendix B of 43 CFR Part 2 lists the addresses of bureau heads and offices of the Department of the Interior. It was originally published on February 19, 1975 (40 FR 7310), and has not since been revised. Changes of address and Departmental reorganization have rendered the current appendix B obsolete.

Authorship

The primary author of this document is Jane Albrecht, Office of the Solicitor, (202) 343-5216.

Significance

The Department of the Interior has determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

Waiver of 30 Day Waiting Period

Good cause exists to waive the 30 day waiting period normally allowed before a regulation takes effect. The amendments to appendix B do not implement change; they merely reflect it. The information in Appendix B, as amended, has been in effect for quite some time prior to this publication.

(5 USC 552)

Dated: August 21, 1979.

Larry E. Meierotto,
Assistant Secretary of the Interior.

Appendix B of 43 CFR Part 2, is hereby amended to read as follows:

Appendix B—Bureaus and Offices of the Department of the Interior

1. Bureaus and Offices of the Department of the Interior. (The address for all bureaus and offices, unless otherwise indicated, is

U.S. Department of the Interior, Washington, DC 20240).

Secretary of the Interior, Office of the Secretary
Commissioner, Bureau of Indian Affairs
Director, Heritage Conservation and Recreation Service, The Pension Building,
440 "G" Street, N.W., Washington, DC 20007

Director, U.S. Fish and Wildlife Service
Director, National Park Service
Commissioner, Bureau of Reclamation
Director, Bureau of Land Management
Director, Bureau of Mines, Columbia Plaza,
2401 "E" Street, N.W., Washington, D.C. 20241

Director, Geological Survey, The National Center, Reston, VA 22092

Director, Office of Surface Mining—Reclamation and Enforcement
Director, Office of Public Affairs
Director, Office of Congressional and Legislative Affairs

Director, Office of Youth Programs
Director, Office for Equal Opportunity
Director, Office of Hearings and Appeals,
4015 Wilson Blvd., Arlington, VA 22203
Director, Office of Territorial Affairs
Inspector General, Office of the Inspector General

Director, Office of Water Research and Technology

Director, Office of Coal Leasing, Planning and Coordination

Director, Office of Minerals Policy and Research Analysis

Administrator, Ocean Mining Administration
Superintendent, National Mine Health and Safety Academy, P.O. Box 1166, Beckley, WV 25801

Director, Office of ADP and Telecommunications Management

Director, Office of Aircraft Services, 3905 Vista Avenue, Boise, ID 83705

Director, Office of Administrative Services
Director, Office of Administrative and Management Policy

Director, Office of Budget

Director, Office of Environmental Project Review

Director, Office of Library and Information Services

Director, Office of Outer Continental Shelf Program Coordination

Director, Office of Personnel
Director, Office of Policy Analysis
Solicitor, Office of the Solicitor

2. Public Information Officers of the Department of the Interior. (The address for all public information officers, unless otherwise indicated, is U.S. Department of the Interior, Washington, DC 20240.)

Director, Office of Public Affairs, U.S. Department of the Interior

Director, Public Information Staff, Bureau of Indian Affairs

Chief, Office of Public Affairs, Bureau of Land Management

Chief, Office of Mineral Information, Bureau of Mines, Columbia Plaza, 2401 E Street, N.W., Washington, DC 20241

Director, Office of Public Affairs, Bureau of Reclamation

Chief, Office of Public Affairs, Heritage Conservation and Recreation Service, The

Pension Building, 440 G Street, N.W., Washington, DC 20243
 Chief, Office of Public Affairs, National Park Service
 Public Affairs Officer, Office of Surface Mining—Reclamation and Enforcement
 Assistant Director, Public Affairs, U.S. Fish and Wildlife Service
 Information Officer, U.S. Geological Survey, The National Center, Reston, VA 22092
 3. Office of Hearings and Appeals—Field Offices:

Alaska Native Claims Appeal Board, P.O. Box 2433, Anchorage, AK 99510
 Administrative Law Judge, 2020 Hurley Way, Suite 170, Sacramento, CA 95825
 Administrative Law Judge, 6432 Federal Building, Salt Lake City, UT 84138
 Administrative Law Judge, 530 Gay Street, S.W., Knoxville, TN 37902
 Administrative Law Judge, Rm. 3408A, Federal Building, 500 Quarrier Street, Charleston, WV 25301
 Administrative Law Judge, 1052C Federal Building, 600 Federal Place, Louisville, KY 40202
 Administrative Law Judge, Federal Office Building, Suite 1803, 1000 Liberty Avenue, Pittsburgh, PA 15222
 Administrative Law Judge, Indian Probate, Mayer Central Building, Suite 412, 3033 N. Central Avenue, Phoenix, AZ 85012
 Administrative Law Judge, Indian Probate, 2020 Hurley Way, Suite 150, Sacramento, CA 95825
 Administrative Law Judge, Indian Probate, Federal Building and Courthouse, Rm. 3329, 316 N. 26th Street, Billings, MT 59101
 Administrative Law Judge, Indian Probate, 301 Federal Building, Hill and 3rd Street, Gallup, NM 87301
 Administrative Law Judge, Indian Probate, P.O. Box 3064, Tulsa, OK 74101
 Administrative Law Judge, Indian Probate, 1425 N.E. Irving Street, Building 100, Suite 112, Portland, OR 97232
 Administrative Law Judge, Indian Probate, Federal Building, Rm. 874, Fort Snelling, Twin Cities, MN 55111
 Administrative Law Judge, Indian Probate, Federal Building, Rm. 688, Fort Snelling, Twin Cities, MN 55111
 4. Office of the Solicitor—Field Offices:

Anchorage Region
 Regional Solicitor, U.S. Department of the Interior, 510 L Street, Suite 406, Anchorage, AK 99501

Atlanta Region
 Regional Solicitor, U.S. Department of the Interior, Richard B. Russell Building, Rm. 1328, 75 Spring Street, S.W., Atlanta, GA 30303

Boston Region
 Regional Solicitor, U.S. Department of the Interior, Suite 306, One Gateway Center, Newton Corner, MA 02158
 Field Solicitor, U.S. Department of the Interior, 686 Federal Building, Fort Snelling, Twin Cities, MN 55111
 Field Solicitor, U.S. Department of the Interior, 950 E. Kanawha Boulevard, Charleston, WV 25301
 Field Solicitor, U.S. Department of the Interior, Suite 505, Federal Bldg. and U.S.

Courthouse, 48 East Ohio Street, Indianapolis, IN 46204

Denver Region

Regional Solicitor, U.S. Department of the Interior, P.O. Box 25007, Denver Federal Center, Denver, CO 80225
 Field Solicitor, U.S. Department of the Interior, P.O. Box 548, Aberdeen, SD 57401
 Field Solicitor, U.S. Department of the Interior, P.O. Box 1538, Billings, MT 59103

Portland Region

Regional Solicitor, U.S. Department of the Interior, Lloyd 500 Building, Suite 607, 500 N.E. Multnomah Street, Portland, OR 97232
 Field Solicitor, U.S. Department of the Interior, Box 020, Federal Building, U.S. Courthouse, 550 West Fort Street, Boise, ID 83724

Sacramento Region

Regional Solicitor, U.S. Department of the Interior, Room E-2753, 2800 Cottage Way, Sacramento, CA 95825
 Field Solicitor, U.S. Department of the Interior, Box 36064, 450 Golden Gate Avenue, Rm. 14126, San Francisco, CA 94102
 Field Solicitor, U.S. Department of the Interior, Window Rock, AZ 86515
 Field Solicitor, U.S. Department of the Interior, P.O. Box 427, Park Street, Boulder City, NV 89005
 Field Solicitor, U.S. Department of the Interior, Valley Bank Center, Suite 2080, 201 North Central Avenue, Phoenix, AZ 85073
 Field Solicitor, U.S. Department of the Interior, 3810 Central Avenue, Suite 104, Riverside, CA 92506

Salt Lake City Region

Regional Solicitor, U.S. Department of the Interior, Suite 6201, Federal Building, 125 South State Street, Salt Lake City, UT 84138

Tulsa Region

Regional Solicitor, U.S. Department of the Interior, P.O. Box 3158, Tulsa, OK 74101
 Field Solicitor, U.S. Department of the Interior, Room 7102, Federal Building and Courthouse, 500 Gold Avenue, S.W., Albuquerque, NM 87101
 Field Solicitor, U.S. Department of the Interior, Box H-4363, Herring Plaza, 317 East Third, Amarillo, TX 79101
 Field Solicitor, U.S. Department of the Interior, P.O. Box 397, W.C.D. Office Building, Route 1, Anadarko, OK 73005
 Field Solicitor, U.S. Department of the Interior, P.O. Box 1508, Room 319, Federal Building, 5th and Broadway, Muskogee, OK 74401
 Field Solicitor, U.S. Department of the Interior, c/o Osage Agency, Grandview Avenue, Pawhuska, OK 74058
 Field Solicitor, U.S. Department of the Interior, Room 224, U.S. Courthouse, Federal Place and Washington Street, Santa Fe, NM 87501

[FR Doc. 79-28693 Filed 8-27-79; 8:45 am]

BILLING CODE 4310-10-0

Bureau of Land Management

43 CFR Public Land Order 5679

[NM-28111 and NM-29710]

New Mexico; Partial Revocation of Executive Orders Nos. 6143, 6276, and 6583

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rule.

SUMMARY: This order will restore approximately 919 acres of public land to operation of the public land laws and to location for nonmetalliferous minerals.

EFFECTIVE DATE: September 25, 1979.

FOR FURTHER INFORMATION CONTACT: Louis B. Belleli, 202-343-8731.

By virtue of the authority contained in section 204 of the Act of October 21, 1976, 90 Stat. 2751, 43 U.S.C. 1714, it is ordered as follows:

1. The Executive Orders No. 6143 of May 23, 1933; No. 6276 of September 8, 1933, and No. 6583 of February 3, 1934, which withdrew public lands in New Mexico to aid the State in making exchange selections as provided by the Act of June 15, 1928, 44 Stat. 746-748, are hereby revoked so far as they affect the following described lands:

New Mexico Principal Meridian

T. 19 S., R. 13 W.,
 Sec. 27, SW $\frac{1}{4}$ NW $\frac{1}{4}$.
 T. 29 S., R. 19 W.,
 Sec. 5, lots 3, 4, S $\frac{1}{2}$ NW $\frac{1}{4}$ and E $\frac{1}{2}$ SW $\frac{1}{4}$;
 Sec. 8, S $\frac{1}{2}$ NE $\frac{1}{4}$ and NW $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 8, SW $\frac{1}{4}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$ and W $\frac{1}{2}$ SW $\frac{1}{4}$.
 T. 30 S., R. 19 W.,
 Sec. 12, NE $\frac{1}{4}$ SE $\frac{1}{4}$.
 T. 27 S., R. 20 W.,
 Sec. 21, N $\frac{1}{2}$ SE $\frac{1}{4}$;
 Sec. 24, S $\frac{1}{2}$ N $\frac{1}{2}$.

The area described aggregates 918.59 acres in Grant and Hidalgo Counties.

The land is gently rolling open grassland used for grazing.

2. At 10 a.m. on September 25, 1979, the lands shall be open to operation of the public land laws generally subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 10 a.m. on September 25, 1979, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

3. The lands have been and continue to be open to applications and offers under the mineral leasing laws and to location under the United States mining laws for metalliferous minerals. They will be open to location for

nonmetalliferous minerals at 10 a.m. on September 25, 1979.

Inquiries concerning the lands should be addressed to the Chief, Division of Technical Services, Bureau of Land Management, P.O. Box 1449, Santa Fe, New Mexico 87501.

Guy R. Martin,

Assistant Secretary of the Interior.
 August 20, 1979.

[FR Doc. 79-28694 Filed 8-27-79; 8:45 am]

BILLING CODE 4310-84-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[BC Docket No. 79-97; RM-3220]

Television Broadcast Station in Marion, Va.; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Report and order.

SUMMARY: Action taken herein assigns a first UHF television channel to Marion, Virginia, in response to a petition filed by Blue Ridge ETV Association, Inc. The proposed station could provide an unserved area in Virginia with its first noncommercial educational television service.

EFFECTIVE DATE: October 1, 1979.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Report and Order—Proceeding Terminated

Adopted: August 17, 1979.
 Released: August 23, 1979.

In the matter of amendment of § 73.606(b), *Table of Assignments*, Television Broadcast Stations. (Marion, Virginia), BC Docket No. 79-97, RM-3220.

1. The Commission herein considers the *Notice of Proposed Rule Making*, 44 FR 28029, inviting comments on a petition filed by Blue Ridge ETV Association, Inc. ("petitioner"), licensee of noncommercial educational television Stations WBRA-TV (Channel *15), Roanoke, Virginia, and WSVN-TV (Channel *47), Norton, Virginia. The petition proposed the assignment and reservation of UHF television Channel *52 to Marion, Virginia, for

noncommercial educational television use. The only comments received were from the petitioner in support of its proposal.

2. Marion (pop. 8,158), seat of Smyth County (pop. 31,349),¹ is located in western Virginia, approximately 145 kilometers (95 miles) west of Roanoke, Virginia. There are no television assignments in Marion.

3. Petitioner claims there is an area, encompassing Smyth County and parts of Washington, Tazewell, Bland, Grayson and Wythe Counties, which does not receive noncommercial educational television service. It proposes to bring service to this area by establishing a satellite of its Roanoke, Virginia, station (WBRA-TV). It states that the proposed station would essentially complete coverage in Virginia by educational television.

4. We believe the public interest would be served by assigning television Channel *52 to Marion, Virginia. The proposed station would provide the community and surrounding area with a first noncommercial educational television service.

5. Authority for the adoption of the amendment contained herein appears in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules.

6. Accordingly, it is ordered, That effective October 1, 1979, the Television Table of Assignments (§ 73.606(b) of the Commission's rules) is amended as follows for the community listed below:

City	Channel No.
Marion, Virginia	*52

7. It is further ordered, that this proceeding is terminated.

8. For further information concerning this proceeding, contact Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792.

(Secs. 4, 5, 303, 48 Stat., as amended, 1066, 1068, 1082; (47 U.S.C. 154, 155, 303).)

Federal Communications Commission.

Richard J. Shiben,

Chief, Broadcast Bureau.

[FR Doc. 79-28627 Filed 8-27-79; 8:45 am]

BILLING CODE 6712-01-M

¹ Population figures are taken from the 1970 U.S. Census.

47 CFR Part 73

[BC Docket No. 79-89; RM-3274]

Television Broadcast Station in Allen, S. Dak.; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Report and order.

SUMMARY: Action taken herein assigns a UHF television channel to Allen, South Dakota, in response to a petition filed by Oglala Sioux Broadcasting Company. The proposed station could bring a first local television service to the Pine Ridge Indian Reservation on which Allen is located.

EFFECTIVE DATE: September 29, 1979.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Report and Order—Proceeding Terminated

Adopted: August 15, 1979.

Released: August 22, 1979.

In the matter of amendment of § 73.606(b), *Table of Assignments*, Television Broadcast Stations. (Allen, South Dakota), BC Docket No. 79-89, RM-3274.

1. The Commission has before it the *Notice of Proposed Rule Making*, 44 FR 24587, in response to a petition filed by the Oglala Sioux Broadcasting Company ("petitioner"), proposing the assignment of UHF television Channel 22 to Allen, South Dakota. Supporting comments¹ were filed by petitioner in which it reaffirmed its intention to file an application for the proposed channel, if assigned. No oppositions to the proposal were received.

2. Allen (pop. 100),² an unincorporated community in Bennett County (pop. 3,088), is located on the Pine Ridge Reservation in southwest South Dakota, approximately 140 kilometers (90 miles) southeast of Rapid City, South Dakota. The only television assignment in the area is educationally reserved Channel

¹ Petitioner filed a Motion to accept late-filed comments in support of its proposal. Since there has been no objection to our acceptance of these comments, and not other parties would be affected thereby, we are granting petitioner's motion and will accept its comments.

² The community does not appear in the 1970 U.S. Census. Petitioner estimates the population to be 100 and the population of Pine Ridge Reservation to be 16,000, 2,000 of whom are non-Indians.

*8, used by Station KZSD-TV, at Martin, the seat of Bennett County. Martin is located approximately 19 kilometers (12 miles) southeast of Allen.

3. As we indicated in the *Notice*, the proposed assignment meets the distance separation requirements and other technical criteria. Petitioner submitted information with respect to Allen and its need for a first television channel assignment. Through use of the channel, television service can be brought to many residents of the Reservation.

4. In view of the foregoing, we conclude that it would be in the public interest to make the requested assignment to provide a first local television service to Allen, South Dakota.

5. Accordingly, it is ordered, That effective September 29, 1979, the Television Table of Assignments, § 73.606(b) of the Commission's rules, is amended with regard to the city listed below:

City	Channel No.
Allen, South Dakota	22*

6. Authority for the action taken herein is found in Sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules.

7. It is further ordered, that this proceeding is terminated.

8. For further information concerning this proceeding, contact Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; (47 U.S.C. 154, 303, 307).)

Federal Communications Commission.

Richard J. Shiben,
Chief, Broadcast Bureau.

[FR Doc. 79-26630 Filed 8-27-79; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 32

Hunting; National Wildlife Refuges in Idaho

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulations.

SUMMARY: The Director has determined that the opening to hunting of certain National Wildlife Refuges in Idaho is compatible with the objectives for which these areas were established, will utilize

a renewable natural resource, and will provide additional recreational opportunity to the public. This document establishes special regulations effective for the upcoming hunting seasons for migratory game birds, upland game, and big game.

DATES: September 1, 1979 to January 31, 1980.

ADDRESSES: Contact the Refuge Manager at the address and/or telephone number listed below in the body of Special Regulations. For Further Information Contact: L. A. Mehrhoff, Area Manager, U.S. Fish and Wildlife Service, 4620 Overland Road, Room 238, Boise, Idaho 83705. Phone: 208-384-1960.

SUPPLEMENTARY INFORMATION: The Refuge Recreation Act of 1962 (16 U.S.C. 460k) authorizes the Secretary of the Interior to administer such areas for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary objectives for which the area was established. In addition, the Refuge Recreation Act requires (1) that any recreational use permitted will not interfere with the primary purpose for which the area was established; and (2) that funds are available for the development, operation, and maintenance of the permitted forms of recreation.

The recreational use authorized by these regulations will not interfere with the primary purposes for which these National Wildlife Refuges were established. This determination is based upon consideration of, among other things, the Service's Final Environmental Statement on the Operation of the National Wildlife Refuge System published in November 1976. Funds are available for the administration of the recreational activities permitted by these regulations.

Hunting is permitted on the National Wildlife Refuges indicated below in accordance with 50 CFR Part 32, and the following special regulations. Portions of refuges which are open to hunting are designated by signs and/or delineated on maps. No vehicle travel is permitted except on designated roads and trails. Special conditions applying to individual refuges are listed on the reverse side of maps available at refuge headquarters and from the office of the Regional Director, Fish and Wildlife Service, Lloyd 500 Bldg., Suite 1692, 500 N.E. Multnomah Street, Portland, OR 97232.

§ 32.12 Special regulations; migratory game birds; for individual wildlife refuge areas.

1. Migratory game birds may be hunted on the following refuge areas:

Camas National Wildlife Refuge, Hamer, Idaho 83425, phone 208-662-5423.

Special Conditions: Dove hunting is prohibited.

Deer Flat National Wildlife Refuge, Snake River Island Sector, Route 1, Box 1457, Nampa, Idaho 83651, phone 208-467-9278.

Special Conditions: (1) Waterfowl and coot hunters are required to use native materials for hunting blind construction. (2) Hunting is on a first-come-first-served basis. Kootenai National Wildlife Refuge, Star route #1, Box 160, Bonners Ferry, Idaho 83805, phone 208-247-3888.

Special Conditions: (1) Hunting is permitted on Saturdays, Sundays, Tuesdays and Thursdays. (2) Dove hunting is prohibited. (3) Hunters are required to use native materials for blind construction.

2. Migratory game birds except doves and common snipe may be hunted on the following refuge areas:

Bear Lake National Wildlife Refuge, P.O. Box 9, Montpelier, Idaho 83254, phone 208-847-1757.

Special Regulations: Air-thrust boats are prohibited.

Deer Flat National Wildlife Refuge, Lake Lowell Sector, Route 1, Box 1457, Nampa, Idaho 83651, phone 208-467-9278.

Special Conditions: (1) Goose hunting is prohibited. (2) Hunters are required to use native materials for hunting blind construction.

Grays Lake National Wildlife Refuge, P.O. Box 837, Soda Springs, Idaho 83276, phone 208-547-4996.

Special Conditions: (1) Air-thrust boats are prohibited. (2) Entry to the hunting area is limited to foot travel only. Minidoka National Wildlife Refuge, Route 4, Rupert, Idaho 83350, phone 208-436-3580.

§ 32.22 Special regulations; upland game; for individual wildlife refuge areas.

Bear Lake National Wildlife Refuge, P.O. Box 9, Montpelier, Idaho 83254, phone 208-847-1757.

Camas National Wildlife Refuge, Hamer, Idaho 83425, phone 208-662-5423.

Deer Flat National Wildlife Refuge, Lake Lowell and Snake River Sectors, Route 1, Box 1457, Nampa, Idaho 83651, phone 208-467-9278.

Minidoka National Wildlife Refuge, Route 4, Rupert, Idaho 83350, phone 208-436-3589.

Special Conditions: Upland game may be hunted on the public hunting area during the waterfowl season only.

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

Deer Flat National Wildlife Refuge, Snake River Island Sector, Route 1, Box 1457, Nampa, Idaho 83651, phone 208-467-9278.

Grays Lake National Wildlife Refuge, P.O. Box 837, Soda Springs, Idaho 83276, phone 208-547-4996.

Special Conditions: (1) Entry to the hunting area is by foot travel only. (2) Horses may

only be used to retrieve bagged animals. Kootenai National Wildlife Refuge, Star route #1, Box 160, Bonners Ferry, Idaho 83805, phone 208-267-3888.

Special Conditions: Only that portion of the refuge west of the west side road is open to big game hunting.

The provisions of these special regulations supplement the regulations which govern hunting on wildlife refuge areas generally and which are set forth in Title 50, Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

Note.—The Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11494 and OMB Circular A-107.

Dated: August 20, 1979.

C. Joe Packham,
Boise Area Acting Manager.

[FR Doc. 79-26695 Filed 8-27-79; 8:45 am]

BILLING CODE 4310-55-M

50 CFR Part 32

Hunting; National Wildlife Refuges in Oregon

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulations.

SUMMARY: The Director has determined that the opening to hunting of certain National Wildlife Refuges in Oregon is compatible with the objectives for which these areas were established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public. This document establishes special regulations effective for the upcoming hunting seasons for migratory game birds, upland game, and big game.

DATES: September 1, 1979 to January 31, 1980.

ADDRESS: Contact the Refuge Manager at the address and/or telephone number listed below in the body of Special Regulations.

FOR FURTHER INFORMATION CONTACT: L. A. Mehrhoff, Area Manager, U.S. Fish and Wildlife Service, 4620 Overland Road, Room 238, Boise, Idaho 83705, 208-384-1960.

SUPPLEMENTARY INFORMATION: The Refuge Recreation Act of 1962 (16 U.S.C. 460k) authorizes the Secretary of the Interior to administer such areas for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary objectives for which the area was established. In addition, the Refuge Recreation Act

requires (1) that any recreational use permitted will not interfere with the primary purpose for which the area was established; and (2) that funds are available for the development, operation, and maintenance of the permitted forms of recreation.

The recreational use authorized by these regulations will not interfere with the primary purposes for which these National Wildlife Refuges were established. This determination is based upon consideration of, among other things, the Service's Final Environmental Statement on the Operation of the National Wildlife Refuge System published in November 1976. Funds are available for the administration of the recreational activities permitted by these regulations.

Hunting is permitted on the National Wildlife Refuges indicated below in accordance with 50 CFR Part 32, and the following special regulations. Portions of refuges which are open to hunting are designated by signs and/or delineated on maps. No vehicle travel is permitted except on designated roads and trails. Special conditions applying to individual refuges are listed on the reverse side of maps available at refuge headquarters and from the office of the Regional Director, Fish and Wildlife Service, Lloyd 500 Bldg., Suite 1692, 500 N.E. Multnomah Street, Portland, OR 97232.

§ 32.12 Special Regulations; migratory game birds; for individual wildlife refuge areas.

1. Migratory game birds may be hunted on the following refuge areas:

Ankeny National Wildlife Refuge, Route 1, Box 198, Jefferson, Oregon 97352, phone 503-327-2444.

Special Conditions: (1) Mourning dove and band-tailed pigeon hunters must check in and out of the refuge by use of self-service permits. (2) Waterfowl, coot, and snipe hunting is permitted on Wednesdays, Saturdays and Sundays from opening shooting time until 12 noon during the authorized season. (3) A Federal permit is required for waterfowl, coot, and snipe hunting and will be issued on an advanced reservation basis. Applications for reservations will be accepted between September 15 and October 15. (4) Steel shot only may be possessed or used on the refuge while hunting waterfowl, coot, and snipe. (5) Waterfowl, coot, and snipe hunters are limited to the possession and use of twenty (20) shells per day.

Baskett Slough National Wildlife Refuge, 10985 Highway 22, Dallas, Oregon 97338, phone 503-623-2749.

Special Conditions: (1) Dove and pigeon hunting is prohibited. (2) Waterfowl, coot, and snipe hunting is permitted on Wednesdays, Saturdays and Sundays from opening shooting time until 12 noon during the authorized season. (3) A Federal permit

is required for waterfowl, coot, and snipe hunting and will be issued on an advanced reservation basis. Application for reservations will be accepted between September 15 and October 15. (4) Steel shot only may be possessed or used on the refuge while hunting waterfowl, coot, and snipe. (5) Waterfowl, coot, and snipe hunters are limited to the possession and use of twenty (20) shells per day.

Deer Flat National Wildlife Refuge, Snake River Island Sector, Route 1, Box 1457, Nampa, Idaho 83651, phone 208-467-9278.

Special Conditions: (1) Waterfowl and coot hunters are required to use native materials for hunting blind construction. (2) Hunting is on a first-come-first-served basis.

Malheur National Wildlife Refuge, P.O. Box 113, Burns, Oregon 97720, phone 503-468-2323.

Special Conditions: (1) That portion of the refuge in the Blitzen Valley west of Highway 205, south of Diamond Lane will be open to dove and pigeon hunting concurrent with the regular state season, as posted. (2) Part of Malheur Lake will be open to waterfowl, coot and snipe hunting concurrent with the state season as posted. (3) Use of motors on boats, construction or use of permanent blinds and use of all terrain vehicles is prohibited.

William L. Finley National Refuge, Route 2, Box 208, Corvallis, Oregon 97330, phone 503-757-7236.

Special Conditions: (1) Band-tailed pigeon hunting is prohibited. (2) Dove hunters are required to check in and out of the refuge daily by use of self-service permits. (3) Waterfowl, coot and snipe hunting is permitted on Wednesdays, Saturdays and Sundays from opening shooting time until 12 noon during the authorized season. (4) A Federal permit is required for waterfowl, coot and snipe hunting and will be issued on an advanced reservation basis. Applications for reservations will be accepted between September 15 and October 15. (5) Steel shot only may be possessed or used on the refuge while hunting waterfowl, coot and snipe. (6) Waterfowl, coot and snipe hunters are limited to the possession and use of twenty (20) shells per day.

2. Migratory game birds, except doves, pigeons and common snipe, may be hunted on the following refuge areas:

Cold Springs National Wildlife Refuge, Hermiston, Oregon, P.O. Box 239, Umatilla, Oregon 97882, phone 503-922-3232.

Klamath Forest National Wildlife Refuge (Headquarters: Klamath Basin National Wildlife Refuges, Route 1, Box 74, Tule Lake, California 96134, phone 913-667-2231).

Special Conditions: (1) Boats with or without motors are permitted except air-thrust and inboard water-thrust are prohibited. (2) All decoys, boats and other personal property must be removed from the refuge at the close of each day. (3) No person may possess any weapon or ammunition that may not be legally used for taking waterfowl.

Lewis and Clark National Wildlife Refuge, Route 1, Box 376C, Cathlamet, Washington 98612, phone 206-795-4915.

Special Conditions: Posted portions of the refuge in Clatsop County will be closed to waterfowl and coot hunting.

Lower Klamath National Wildlife Refuge (Headquarters: Klamath Basin National Wildlife Refuge, Route 1, Box 74, Tule Lake, California 96134, phone 916-667-2231).

Special Conditions: (1) Posted retrieving zones are established on certain hunting units. Possession of firearms in these retrieving zones is prohibited, except unloaded firearms may be taken through these zones when necessary to reach or leave hunting areas. Decoys may not be set in retrieving zones. (2) Boats with or without motors are permitted. Air-thrust and inboard water-thrust boats are prohibited. (3) All decoys, boats, and other personal property must be removed at the close of each day.

McKay Creek National Wildlife Refuge, Pendleton, Oregon (Headquarters: Umatilla National Wildlife Refuge, P.O. Box 239, Umatilla, Oregon 97882, phone 503-922-3232).

Special Conditions: Hunting is permitted on Wednesdays, Saturdays, Sundays and State holidays, except Christmas.

Umatilla National Wildlife Refuge, P.O. Box 239, Umatilla, Oregon 97882, phone 503-922-3232.

Special Conditions: (1) Waterfowl and coot hunting is permitted on Wednesdays, Saturdays, Sundays and State holidays, except Christmas. (2) A Federal permit is required and will be issued on an advance reservation basis. Successful applicants may bring one guest and must arrive at check station at least one hour before shooting time or reservation is cancelled. (3) Applications will be accepted during two sign-up periods. Permits are non-transferable. (4) Steel shot only may be possessed or used during waterfowl and coot hunting. (5) Waterfowl and coot hunting will be from blinds only.

Upper Klamath National Wildlife Refuge (Headquarters: Klamath Basin National Wildlife Refuge, Route 1, Box 74, Tule Lake, California 96134, phone 916-667-2231).

Special Conditions: (1) Boats with or without motors are permitted. Air-thrust and inboard water-thrust boats are prohibited. (2) All decoys, boats and other personal property must be removed from the refuge at the close of each day. (3) No person may possess any weapon or ammunition that may not be legally used for taking waterfowl.

§ 32.22 Special Regulations; upland game, for individual wildlife refuge areas.

Upland game may be hunted on the following refuge areas:

Ankeny National Wildlife Refuge, Route 1, Box 198, Jefferson, Oregon 97352, phone 503-327-2444.

Special Conditions: (1) Only pheasant and quail may be hunted. (2) No upland game hunting is permitted after November 4, 1979. (3) All hunters must check in and out of the refuge daily by use of self-service permits. (4) Hunters on the area served by

each registration station will be limited to 50 at any one time.

Baskett Slough National Wildlife Refuge, 10995 Highway 22, Dallas, Oregon 97338, phone 503-623-2749.

Special Conditions: (1) Only pheasant and quail may be hunted. (2) No upland game hunting is permitted after November 4, 1979. (3) All hunters must check in and out of the refuge daily by use of self-service permits. (4) Hunters on the area served by each registration station will be limited to 50 at any one time.

Cold Springs National Wildlife Refuge, Hermiston, Oregon (Headquarters: Umatilla National Wildlife Refuge, P.O. Box 239, Umatilla, Oregon 97882, phone 503-922-3232).

Deer Flat National Wildlife Refuge, Snake River Island Sector, Route 1, Box 1457, Nampa, Idaho 83651, phone 208-467-9278.

Hart Mountain National Wildlife Refuge, P.O. Box 11, Lakeview, Oregon 97630, phone 503-947-3315.

Lower Klamath National Wildlife Refuge (Headquarters: Klamath Basin National Wildlife Refuge, Route 1, Box 74, Tule Lake, California 96134, phone 916-667-2231).

Malheur National Wildlife Refuge, P.O. Box 113, Burns, Oregon 97720, phone 503-493-2323.

Special Conditions: (1) Pheasant, quail and partridge hunting will be permitted on the upland game hunting area during the last nine days of the state season. (2) Pheasant, quail and partridge hunting will be permitted on the waterfowl hunting area during the waterfowl season. (3) Hunting will be permitted in the Blitzen Valley west of Highway 205 concurrent with the regular state season as posted.

McKay Creek National Wildlife Refuge, Pendleton, Oregon (Headquarters: Umatilla National Wildlife Refuge, P.O. Box 239, Umatilla, Oregon 97882, phone 503-922-3232).

Special Conditions: (1) Hunting is permitted on Wednesdays, Saturdays, Sundays and State holidays, except Christmas.

Umatilla National Wildlife Refuge, P.O. Box 239, Umatilla, Oregon 97882, phone 503-922-3232.

Special Conditions: (1) A Federal advanced reservation permit is required to hunt pheasants on the opening weekend of pheasant season. (2) Hunting is permitted from 12 noon until closing time on Wednesdays, Saturdays, Sundays and State holidays, except Christmas. (3) Pheasant hunters are required to check in and out of the refuge at check stations.

William L. Finley National Wildlife Refuge, Route 2, Box 208, Corvallis, Oregon 97330, phone 503-757-7326.

Special Conditions: (1) Only pheasant and quail may be hunted. (2) Hunters are required to check in and out of the refuge by use of self-service permits. (3) Upland game hunting is prohibited after November 4, 1979. (4) Each registration station is limited to 100 hunters at any one time.

§ 32.32 Special Regulations; big game; for individual wildlife refuge areas.

Deer Flat National Wildlife Refuge, Snake River Island Sector, Route 1, Box 1457, Nampa, Idaho 83651, phone 208-467-9278.

Hart Mountain National Wildlife Refuge, P.O. Box 111, Lakeview, Oregon 97630, phone 503-947-3315.

Special Conditions: (1) Hunters are required to check in and out of the refuge. (2) Antelope and sheep hunters are required to attend a prehunt indoctrination session.

Malheur National Wildlife Refuge, P.O. 113, Burns, Oregon 97720, phone 503-493-2323.

Special Conditions: (1) That portion of the refuge in the Blitzen Valley west of Highway 205 will be open as posted to deer hunting concurrent with the regular State season.

William L. Finley National Wildlife Refuge, Route 2, Box 208, Corvallis, Oregon 97330, phone 503-757-7326.

Special Regulations: (1) Hunters are required to check in and out of the refuge by use of self-service permits. (2) The use of rifles is prohibited.

The provisions of these special regulations supplement the regulations which govern hunting on wildlife refuge areas generally and which are set forth in Title 50, Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

Note.—The Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Dated: August 20, 1979.

C. Joe Packham,
Boise Area Acting Manager.

(FR Doc. 79-26896 Filed 8-27-79; 8:45 am)
BILLING CODE 4310-55-M

50 CFR Part 32

Hunting; National Wildlife Refuges in Washington

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special Regulations.

SUMMARY: The Director has determined that the opening to hunting of certain National Wildlife Refuges in Washington is compatible with the objectives for which these areas were established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public. This document establishes special regulations effective for the upcoming hunting seasons for migratory game birds, upland game, and big game.

DATES: September 1, 1979 to June 30, 1980.

ADDRESSES: Contact the Refuge Manager at the address and/or

telephone number listed below in the body of Special Regulations.

FOR FURTHER INFORMATION CONTACT: Joseph R. Blum, Area Manager, U.S. Fish and Wildlife Service, 2625 Parkmont Lane, Olympia, Washington 98502, Telephone: FTS 434-9578, or 9579, Com'l 206-753-9578 or 9579.

SUPPLEMENTARY INFORMATION: Hunting is permitted on the National Wildlife Refuges indicated below in accordance with 50 CFR 32 and the following Special Regulations. Portions of refuges which are open to hunting are designated by signs and/or delineated on maps. No vehicle travel is permitted except on maintained roads and trails. Special conditions applying to individual refuges are listed on the reverse side of maps available at refuge headquarters and from the office of the Regional Director, U.S. Fish and Wildlife Service, Lloyd 500 Building, 500 N.E. Multnomah Street, Portland, Oregon 97232. Hunting shall be in accordance with all applicable State regulations subject to the following conditions:

The Refuge Recreation Act of 1962 (16 U.S.C 460k) authorizes the Secretary of the Interior to administer such areas for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary objectives for which the area was established. In addition, the Refuge Recreation Act requires (1) that no area of the refuge system is used for forms of recreation not directly related to the primary purposes for which the area was established; and (2) that funds are available for the development, operation, and maintenance of the permitted forms of recreation.

The recreational use authorized by these regulations will not interfere with the primary purposes for which the National Wildlife Refuge(s) were established. This determination is based upon consideration of, among other things, the Service's Final

Environmental Statement on the Operation of the National Wildlife Refuge System published in November 1978. Funds are available for the administration of the recreational activities permitted by these regulations.

§ 32.12 Special Regulations; migratory game birds; for individual wildlife refuge areas.

1. Doves, pigeons, ducks, coots, and common snipe may be hunted on the following refuge areas:

Conboy Lake National Wildlife Refuge, Box 5, Glenwood, Washington 98619. Contact Refuge Manager at 509-364-3410

2. Ducks, geese, coots, and common snipe may be hunted on the following refuge areas:

Columbia National Wildlife Refuge, P.O. Drawer F, Othello, Washington 99344. Contact Refuge Manager at 509-488-3831

Special Conditions: (1) Hunters using field 226-227 near Royal Lake must register before hunting and may shoot from designated sites only. (2) On Crab Creek and impoundments from Goose Lake Road to Goldeneye Lake, hunting will be permitted on Wednesday and Saturday only.

Toppenish National Wildlife Refuge, Route 1, Box 1300, Toppenish, Washington 98948. Contact Refuge Manager at 509-865-2405

Special Condition: Hunters using the upper Jensen and Robbins Road areas must register at respective parking areas and may shoot from designated sites only.

Umatilla National Wildlife Refuge, P.O. Box 239, Umatilla, Oregon 97882. Contact Refuge Manager at 503-922-3232

Columbia White-Tailed Deer National Wildlife Refuge, Route 1, Box 376C, Cathlamet, Washington 98612. Contact Refuge Manager at 206-795-3915

Ridgefield National Wildlife Refuge, P.O. Box 457, Ridgefield, Washington 98642. Contact Refuge Manager at 206-887-4071

Special Conditions: (1) Hunting will be allowed on Saturday, Sunday, and Wednesday during the regular waterfowl season. Hunting will not be allowed on Federal holidays. (2) A Federal permit, available from the refuge office, is required to enter the public hunting area. Permits will be issued only by mail on a first come, first served basis. Only one regular permit may be held by a hunter at any one time. (3) Hunters may shoot only from blinds assigned by drawing at the check-in station. A recreational use fee of \$3.00 will be charged for each hunter's use of a blind. Fee for holders of Golden Age Passport is \$1.50. (4) Steel shot only may be possessed or used on the refuge hunting area. (5) Hunters may possess and use not more than twenty (20) shells on the north hunting area or twelve (12) shells on the south hunting area per hunter per day.

3. Ducks, geese, and coots may be hunted on the following refuge areas:

McNary National Wildlife Refuge, P.O. Box 308, Burbank, Washington 99323. Contact Refuge Manager at 509-547-4942

Special Conditions: (1) Hunters are required to park vehicles in designated parking areas only. (2) On Burbank Slough, hunting will be permitted on Wednesday, Saturday, Sunday and Thanksgiving Day only. No additional hunting will be permitted during the State extended goose hunting season. In the north and south one-thirds of hunting area, hunting is from marked sites only. Reservations are required for use of goose hunting sites in fields 5 and 6. (3) On the Hanford Island Division, hunting is permitted only on the five upstream islands from opposite the Hanford 300 area—Sage Moor Road upstream to BPA powerline crossing. The Hanford Island offshore from Graduate Center, Sprout Road is closed to hunting. (4) All public use

on the Strawberry Island Division is prohibited.

Willapa National Wildlife Refuge, Ilwaco, Washington 98624. Contact Refuge Manager at 206-484-3482

Lewis and Leadbetter Point Units

Special Conditions: Hunter registration is required. Leadbetter Point is the only refuge unit open to black brant hunting after close of general season.

Riekkala Unit

Special Conditions: (1) Hunter registration is required. (2) Hunting will be permitted on Wednesday and Saturday only. (3) Hunting will not be permitted on Federal holidays. (4) Hunting will be from designated blinds only with no more than three (3) hunters per blind. Blind selection is by drawing each hunt morning at check station. (5) Hunters may possess and use not more than ten (10) shells per hunter per day. (6) This area closes at the end of the regular waterfowl season. No extension of the season is provided for the hunting of black brant.

§ 32.22 Special Regulations; upland game; for individual wildlife refuge areas.

Upland game birds and rabbits may be hunted on the following refuge areas:

Columbia National Wildlife Refuge, P.O. Drawer F, Othello, Washington 99344. Contact Refuge Manager at 509-488-3831

Special Conditions: (1) Open to the hunting of rabbits in addition to game birds. (2) Upland game birds and rabbits may be hunted during State seasons running concurrently with the waterfowl season. (3) Hunters using field 226-227 near Royal Lake must register before hunting and may shoot from designated sites only. (4) On Crab Creek and impoundments from Goose Lake Road to Goldeneye Lake hunting will be permitted on Wednesday and Saturday only.

Umatilla National Wildlife Refuge, P.O. Box 239, Umatilla, Oregon 97882. Contact Refuge Manager at 503-922-3232

Special condition: No rabbit hunting permitted.

Conboy Lake National Wildlife Refuge, Box 5, Glenwood, Washington 98619. Contact Refuge Manager at 509-364-3410

Special Condition: Rabbits and upland game birds may only be hunted during that part of the State season concurrent with the waterfowl hunting season.

Toppenish National Wildlife Refuge, Route 1, Box 1300, Toppenish, Washington 98948. Contact Refuge Manager at 509-865-2405

Special Condition: Rabbits and upland game birds may only be hunted during that part of the State season concurrent with the waterfowl hunting season.

Willapa National Wildlife Refuge, Ilwaco, Washington 98624. Contact Refuge Manager at 206-484-3282

Long Island Unit

Special Conditions: (1) Archery hunting for blue and ruffed grouse only. (2) Permits for the opening weekend will be limited and obtained in advance. Applications are available from the Refuge Manager. (3) After opening weekend, hunters must possess

regular hunting permit available at refuge headquarters and at the Nahcotta Dock. (4) All nonburnable garbage must be removed from the island.

McNary National Wildlife Refuge, P.O. Box 308, Burbank, Washington 99323. Contact Refuge Manager at 509-547-4942

Special Conditions: (1) Pheasants only may be hunted during the first half of the State's split season or through November 8, whichever is earlier. (2) Pheasant hunting will be restricted to Wednesday, Saturday, and Sunday. (3) Hunters are required to park vehicles in designated parking areas only.

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

1. Big game hunting is permitted on the following refuge area:

Little Pend Oreille National Wildlife Refuge, Route 1, Box 443, Colville, Washington 99114. Contact Refuge Manager at 509-684-2824

2. Deer hunting only is permitted on the following refuge areas:

Columbia National Wildlife Refuge, P.O. Drawer F, Othello, Washington 99344.

Contact Refuge Manager at 509-488-3831

Conboy Lake National Wildlife Refuge, Box 5, Glenwood, Washington 98819. Contact Refuge Manager at 509-364-3410

Umatilla National Wildlife Refuge, P.O. Box 239, Umatilla, Oregon 97882. Contact Refuge Manager at 503-922-3232

3. Bear, deer, and elk may be hunted on the following refuge areas:

Willapa National Wildlife Refuge, Ilwaco, Washington 98624. Contact Refuge Manager at 206-484-3482

Long Island Unit

Special Conditions: (1) Archery hunting only is permitted. (2) Permits for opening weekend will be limited and obtained in advance. Applications are available from the Refuge Manager. (3) After opening weekend, hunters must possess regular hunting permit available at refuge headquarters and at the Nahcotta Dock. (4) Use of bait or baiting for bears is prohibited. (5) All non-burnable garbage must be removed from the island.

The provisions of these special regulations supplement the regulations which govern hunting on wildlife refuge areas generally and which are set forth in Title 50 Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

The Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

The primary author of this document is Joseph R. Blum, Area Manager: Telephone FTS 434-9578 or 9579, com'l 206-753-9578 or 9579.

Dated: August 21, 1979.

David L. Bartling,

Acting Area Manager, U.S. Fish and Wildlife Service.

[FR Doc. 79-28697 Filed 8-27-79; 8:45 am]

BILLING CODE 4310-35-M

Proposed Rules

Federal Register

Vol. 44, No. 168

Tuesday, August 28, 1979

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[9 CFR Part 92]

Importation of Animals From Mexico

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend certain requirements relating to the importation of certain animals into the United States from Mexico. This action is needed to clarify the requirements of the regulations and to relieve certain restrictions, which may no longer be necessary, governing the importation of such animals. The intended effect of this action is to clarify the regulations relating to the importation of poultry from Mexico for slaughter, and those relating to the importation of swine which are ineligible to enter the United States from Mexico. Additionally, the proposal would provide for cattle, otherwise qualified for entry, to be imported into the United States from any area of Mexico in lieu of restricting such imports to specific States of origin in Mexico, and would provide for horses to be imported into the United States from Mexico for slaughter without detention at the port of entry and testing for specific diseases as is required for all other horses imported into the United States from Mexico.

DATE: Comments on or before October 29, 1979.

ADDRESS: Written comments to Deputy Administrator, USDA, APHIS, VS, Room 815, Federal Building, Hyattsville, MD 20782.

FOR FURTHER INFORMATION CONTACT: Dr. D. E. Herrick, USDA, APHIS, VS, Federal Building, Room 815, Hyattsville, Maryland 20782. (301) 436-8170.

SUPPLEMENTARY INFORMATION: Notice is hereby given in accordance with the

administrative procedure provisions in 5 U.S.C. 553, that, pursuant to section 2 of the Act of February 2, 1903, as amended; and sections 2, 3, 4, and 11 of the Act of July 2, 1962 (21 U.S.C. 111, 134a, 134b, 134c, and 134f), the Animal and Plant Health Inspection Service is considering amending Part 92, Title 9, Code of Federal Regulations.

When the importation of ruminants into the United States from Mexico was resumed following the successful foot-and-mouth disease eradication program (1947-1953), only ruminants from certain specified northern States of Mexico were permitted entry into the United States because of the use of foot-and-mouth disease vaccine in southern Mexico as a part of the eradication program. Since that time, all ruminants in Mexico which may have been vaccinated with foot-and-mouth disease vaccine during the eradication program apparently have been eliminated from the livestock population. In view of this, the provision of the regulations in § 92.31(a) which provides that ruminants from specified States in northern Mexico only may be imported into the United States without an import permit at specified ports under certain conditions would be amended to provide that ruminants otherwise eligible for importation may be imported from any area of Mexico without an import permit at specified ports and in accordance with specified conditions.

Therefore, clause (1) of the proviso in § 92.31(a) would be deleted. The clause numbered (2) would be renumbered (1) and would be amended to delete the reference to "Mexican States other than those listed." Clauses (3) and (4) would be renumbered (2) and (3) respectively, and amended to delete the references to the permit requirements, as those references would no longer apply. Instead of referring to permit requirements, the regulations would be amended to refer to those countries listed in § 94.1(a)(1) as infected with foot-and-mouth disease and rinderpest. Since animals from such countries constitute a threat to transmit such diseases, ruminants coming in contact with such animals must not be permitted entry into the United States.

The provisions of § 94.10 of this chapter prohibit the importation of swine from countries where hog cholera is determined to exist. As Mexico is a country where hog cholera exists, the

references in § 92.33 for inspection at the port of entry for swine imported from Mexico would be deleted. This action would remove conflicts in the regulations of this chapter and delete procedures that are not presently applicable.

In § 92.34 the provisions in paragraph (b) relating to cattle and other ruminants would be deleted. As this rulemaking document proposes that cattle and other ruminants may be imported from all areas of Mexico without an import permit, the provisions that require cattle from Mexico which previously would have required a permit to be quarantined at the port of entry for 15 days would likewise be deleted.

Also, because Mexico is considered to be affected with VVND, the 15-day quarantine period for poultry from Mexico in § 92.34(b) conflicts with the provisions of § 92.11(c) which requires that poultry from VVND-affected countries be quarantined for not less than 30 days and be negative to specified tests for that disease.

Section 92.34(a) would be redesignated as a new § 92.35(a) and be amended by deleting the listed Mexican States, since such distinctions would no longer apply. Further, § 92.34(c) would be redesignated as a new § 92.39(b).

This rearrangement of § 92.34 is intended to clarify the regulations governing the importation of animals from Mexico, by listing the requirements by species of animals.

Paragraphs (a), (b) and (c) of § 92.35 would be redesignated as paragraphs (b), (c) and (d) respectively, because former § 92.34(a) would be designated as a new § 92.35(a). Further, the third sentence in new § 92.35(b) (former paragraph (a)) would be amended by deleting the phrase "or quarantined" because of the changes deleting the quarantine period in § 92.34 for cattle and other ruminants as noted above.

For the aforementioned reasons, and conformity with the other proposed changes in this document, § 92.40 would be amended to delete references to specific Mexican States, poultry and ruminants.

The regulations now require that all horses imported into the United States from Mexico through land border ports be held at the port of entry and tested for specific diseases before being released for importation into the United States. Since horses imported for

slaughter are required to be certified by a Mexican official as being free of evidence of communicable diseases and be moved directly to approved slaughter establishments for slaughter under Federal or State inspection within two weeks from the date of entry, no useful purpose would appear to be served by requiring that they be detained at the port of entry and tested before entry, as is required for all other horses. Therefore, all provisions of the regulations which require the detention and testing of slaughter horses imported from Mexico through land border ports would be deleted.

The regulations in § 92.11(c) provide that poultry and eggs for hatching imported in to the United States from all countries of the world, except Canada, must be quarantined for not less than 30 days and meet certain testing requirements as a condition for entry. Because of the existence of exotic Newcastle disease in Mexico, poultry and hatching eggs from that country must meet the provisions of § 92.11(c) to be eligible for entry into the United States. However, § 92.34 provides that poultry from Mexico be quarantined for not less than 15 days at the port of entry. Further, poultry from Mexico intended for immediate slaughter need not be quarantined (See § 92.40). Therefore, to remove the conflict between the provisions concerning poultry contained in §§ 92.11(c), 92.34(b) and 92.40, the references to poultry in § 92.34(b) and § 92.40 would be deleted.

The provisions for the importation of swine from Mexico would be deleted as such importations are prohibited from countries not considered free of hog cholera.

Certain other minor editorial changes have been made for clarity and ease of reading.

Accordingly, Part 92, Title 9, Code of Federal Regulations, would be amended in the following respects:

1. In § 92.31, paragraph (a) would be amended to read:

§ 92.31 Import permits and applications for inspection for animals and animal semen.

(a) For ruminants, poultry, and animal semen intended for importation from Mexico, the importer shall first apply for and obtain from Veterinary Services an import permit as provided in § 92.4; *Provided*, That an import permit is not required for a ruminant offered for entry at a land border port designated in § 92.3(c), if such animal:

(1) Was born in Mexico or the United States, and has been in no country other than Mexico or the United States, and

(2) Has not, during the preceding 60 days been corralled, pastured, or held with, or bred by, or inseminated with semen from any ruminant which has been imported into Mexico from a country designated in § 94.1(a)(1) as infected with foot-and-mouth disease or rinderpest, and

(3) Is not pregnant as a result of having been bred by, or artificially inseminated with semen from a ruminant imported into Mexico from countries designated in § 94.1(a)(1) as infected with foot-and-mouth disease or rinderpest.

§ 92.33 [Amended]

2. In § 92.33(a), the term "swine" in the first sentence and the term "and swine" in the third sentence would be deleted.

§ 92.34 [Amended]

3. All of § 92.34 would either be deleted or moved to other sections. Paragraph (b) of § 92.34 would be deleted. Paragraph (a) of § 92.34 would be redesignated as a new paragraph (a) in § 92.35. Paragraph (c) of § 92.34 would be redesignated as a new paragraph (b) in § 92.39.

4. In § 92.35, paragraphs (a), (b), and (c) would be redesignated as paragraphs (b), (c), and (d) respectively; former § 92.34(a) would be added as a new paragraph (a); and the third sentence in new paragraph (b) (former paragraph (a)) would be amended to delete the phrase "or quarantined". New § 92.35 (a) and the third sentence in new paragraph (b) would be amended to read as follows:

§ 92.35 Cattle from Mexico.

(a) Cattle and other ruminants imported from Mexico, except animals being transported in bond for immediate return to Mexico or animals imported for immediate slaughter, may be detained at the port of entry, and there subjected to such disinfection, blood tests, other tests, and dipping as required in this part to determine their freedom from any communicable disease or infection of such disease. The importer shall be responsible for the care, feed, and handling of the animals during the period of detention.

(b) * * * Notwithstanding such certificates, such cattle shall be detained as provided in paragraph (a) of this section and shall be dipped at least once, under the supervision of an inspector, in one of the permitted dips listed in § 72.13(b) of this chapter. * * *

5. Section 92.39 would be amended to read:

§ 92.39 Horses from Mexico.

(a) Horses offered for entry from Mexico shall be inspected as provided in § 92.8(a) and § 92.33; shall be accompanied by a certificate and otherwise handled as provided in § 92.17; and shall be quarantined and tested as provided in paragraph (b) of this section; *Provided*, That horses offered for importation from tick-infested areas of Mexico shall be chute inspected, unless in the judgment of the inspector a satisfactory inspection can be made otherwise. If upon inspection they are found to be apparently free from fever ticks, before entering the United States they shall be dipped once in a permitted arsenical solution or be otherwise treated in a manner approved by the Deputy Administrator, Veterinary Services.

(b) Horses intended for importation from Mexico, except horses certified for immediate slaughter, shall be quarantined at a port designated in § 92.3 until they qualify for release from such quarantine. In order to qualify for such release, all horses while so detained shall test negative to an official test for dourine, glanders, equine piroplasmiasis, equine infectious anemia,¹ and such other tests that may be required by the Deputy Administrator to determine their freedom from other communicable diseases. Such horses shall also be subjected to such other inspections and disinfections deemed necessary by the Deputy Administrator to prevent the introduction of communicable disease and they shall be released from quarantine only if found to be free from communicable disease upon inspection.

6. Section 92.40 would be amended to read:

§ 92.40 Animals for immediate slaughter.

Ruminants, other than sheep and goats, and horses may be imported from Mexico, subject to the applicable provisions of §§ 92.31, 92.32, 92.33 and 92.35(b)(2) for immediate slaughter if accompanied by a certificate of a salaried veterinarian of the Mexican Government stating that he has inspected such animals on the premises of origin and found them free of

¹In view of the fact that official tests for dourine and glanders are run exclusively at the Veterinary Services Laboratory, Beltsville, Maryland, protocols for these tests have not been published and are therefore not available; copies of "Protocol for the Complement-Fixation Test for Equine Piroplasmiasis" and "Protocol for the Immuno-Diffusion (Coggins) Test for Equine Infectious Anemia" may be obtained from the Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service, Hyattsville, Maryland 20782, filed as part of the original document.

evidence of communicable disease, and that, so far as it has been possible to determine, they have not been exposed to any such disease common to animals of their kind during the preceding 60 days, and if the animals are shipped by rail or truck, the certificate shall further specify that the animals were loaded into cleaned and disinfected cars or trucks for transportation directly to the port of entry. Such animals shall be consigned from the port of entry to a recognized slaughtering establishment and there slaughtered within 2 weeks from the date of entry. Such animals shall be moved from the port of entry in conveyances sealed with seals of the United States Government. Sheep and goats from any part of Mexico may be imported only in compliance with other applicable sections in this part.

All written submissions made pursuant to this notice will be made available for public inspection at the Federal Building, 6505 Belcrest Road, Room 824, Hyattsville, Maryland, during regular hours of business (8 a.m. to 4:30 p.m., Monday to Friday, except holidays) in a manner convenient to the public business (7 CFR 1.27(b)).

Comments submitted should bear a reference to the date and page number of this issue in the Federal Register.

Note.—This proposal has been reviewed under the USDA criteria established to implement Executive Order 12044, "Improving Government Regulations." A determination has been made that this action should not be classified "significant" under those criteria. A Draft Impact Analysis has been prepared and is available from Program Services Staff, Room 870, Federal Building, 6505 Belcrest Road, Hyattsville, Maryland 20782, 301-436-8695.

Done at Washington, D.C., this 21st day of August 1979.

G. V. Peacock,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 79-28509 Filed 8-27-79; 8:45 am]

BILLING CODE 3410-34-M

NUCLEAR REGULATORY COMMISSION

[10 CFR Part 9]

Privacy Act Regulations; Notice of Proposed Exemptions

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Commission is proposing exemptions as provided under the Privacy Act of 1974. The proposed amendment of the Commission's regulation "Public Records" would exempt from certain requirements of the

Privacy Act portions of a proposed new system of records "Document Control System."

DATE: Comments must be received by September 27, 1979.

ADDRESSES: Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch.

FOR FURTHER INFORMATION CONTACT: Ellen Whitlow, FOIA/PA Branch, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone (301)-492-8133.

SUPPLEMENTARY INFORMATION: The Commission is publishing a notice to establish a proposed new system of records, identified as Document Control System, NRC-29. The proposed new system will incorporate the existing system NRC-26 with the Document Control System. Upon establishment of the new system, the existing system NRC-26 will be deleted.

The proposed amendment of § 9.95 of 10 CFR Part 9 set forth below would exempt from certain requirements of the Privacy Act portions of the proposed system of records NRC-29.

Specific exemptions from the requirements of the Privacy Act pertaining to proposed NRC-29 are intended to prevent access to records that contain information specifically authorized under Executive Order (E.O. 12065) to be kept secret in the interest of the national defense and foreign policy.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and sections 552, 552a, and 553 of Title 5 of the United States Code, as amended, notice is hereby given that adoption of the following amendments to Title 10, Chapter I, Code of Federal Regulations, Part 9 is contemplated. All interested persons who desire to submit written comments or suggestions for consideration in connection with the proposed amendments should send them to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch by September 27, 1979. Copies of comments received will be available for public inspection and copying at the Commission's Public Document Room, 1717 H Street NW, Washington, DC.

1. Section 9.95 of 10 CFR Part 9 is amended by deleting paragraph (j) and by adding a new paragraph (j) to read as follows:

§ 9.95 Specific exemptions.

Pursuant to 5 U.S.C. 552a(k), portions of the following NRC systems of records are exempt from 5 U.S.C. 552a(c)(3); (d); (e)(1); (e)(4)(G), (H) and (I) and (f) and are subject to the provisions of § 9.61 of this part;

(j) Document Control System

(Sec. 161, Pub. L. 83-703, 68 Stat. 948 (42 U.S.C. 2201); Sec. 201, Pub. L. 93-438, 88 Stat. 1242 (42 U.S.C. 5841); 5 U.S.C. 552a).

Dated at Bethesda, Maryland this 13th day of August 1979.

For the Nuclear Regulatory Commission.

Lee V. Gossick,

Executive Director for Operations.

[FR Doc. 79-28567 Filed 8-27-79; 8:45 am]

BILLING CODE 7590-01-M

FEDERAL TRADE COMMISSION

[16 CFR Part 13]

[File No. 792 3038]

Montgomery Ward & Co., Inc.; Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order, accepted subject to final Commission approval, among other things, would require a Chicago, Ill. firm, engaged in the operation of a chain of department and catalog stores, to cease making unsubstantiated safety-related claims regarding the installation, operation or maintenance of wood-burning heaters and Franklin fireplaces; or any representation that contradicts the requirements of prevailing model building or fire protection codes. The company would be required to include in its catalogs a conspicuous notice providing minimum distances from adjacent combustible walls at which heating devices can be safely and properly installed; and advising consumers that such information has been previously misstated; that improperly installed heating devices are fire hazards and should be immediately relocated; and that Ward, at its own expense, will reinstall improperly installed heaters and provide shields for previously purchased Franklin fireplaces. Additionally, the company would have six months in which to revise and reprint promotional and instructional material as required to comply with the terms of the order, and

provide its sales personnel with corrected installation information.

DATE: Comments must be received on or before October 29, 1979.

ADDRESS: Comments should be directed to: Office of the Secretary, Federal Trade Commission, 6th St. and Pennsylvania Ave., N.W., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: Paul W. Turley, Director, 3R, Chicago Regional Office, Federal Trade Commission, 55 East Monroe St., Suite 1437, Chicago, Ill. 60603. (312) 353-4423.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist and an explanation thereof, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(14) of the Commission's Rules of Practice (16 CFR 4.9(b)(14)).

[File No. 792-3038 Agreement Containing Consent Order]

In the matter of Montgomery Ward & Co., Incorporated, a corporation.

The Federal Trade Commission having initiated an investigation of certain acts and practices of Montgomery Ward & Co., Incorporated (hereinafter "proposed respondent"), a corporation, and it now appearing that proposed respondent is willing to enter into an agreement not to engage in the acts and practices being investigated;

It is hereby agreed by and between proposed respondent, by its duly authorized officer and its counsel, and counsel for the Federal Trade Commission that:

1. Proposed respondent Montgomery Ward & Co., Incorporated is a corporation organized, existing and doing business under and by virtue of the laws of the State of Illinois, with its principal executive offices located at Montgomery Ward Plaza, Chicago, Illinois 60671.

2. Proposed respondent admits all the jurisdictional facts set forth in the draft complaint here attached.

3. Proposed respondent waives: (a) Any further procedural steps; (b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law; and (c)

All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement.

4. This agreement shall not become a part of the official record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission it, together with the draft of complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released; and such acceptance may be withdrawn by the Commission if comments or views submitted to the Commission disclose facts or considerations which indicate the order contained in the agreement is inappropriate, improper or inadequate.

5. This agreement is for settlement purposes only and does not constitute an admission by proposed respondent of any of the facts stated, or that the law has been violated as alleged, in the draft of complaint here attached.

6. This agreement contemplates that if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's Rules, then the Commission may, without further notice to the proposed respondent, (1) issue its complaint corresponding in form and substance with the draft of complaint here attached and its decision containing the following order in disposition of the proceeding and (2) make information public in respect thereto. When so entered, the order shall have the same force and effect and shall become final and may be altered, modified or set aside in the manner and within the same time provided by statute for other orders. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

7. Proposed respondent has read the proposed complaint and order contemplated hereby, and understands that once the order has been issued, it will be required to file one or more compliance reports showing that it has fully complied with the order, and that it may be liable for a civil penalty in the amount provided by law for each violation of the order after it becomes final.

8. Proposed respondent agrees that mailing of the complaint and decision containing the agreed-to-order to its address stated in this agreement constitutes service, and proposed respondent waives any right it may have

to any other manner of service. Proposed respondent further understands that the effective date of this order shall be the date of such service.

Order

I

It is ordered, That respondent Montgomery Ward & Co., Incorporated (hereinafter "respondent"), a corporation, its successors and assigns, and its officers, agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, offering for sale or distribution in or affecting commerce of any woodburning heaters or Franklin fireplaces, forthwith cease and desist from, directly or indirectly:

A. Making any representation to consumers regarding the safe or proper installation clearances for any woodburning heater or Franklin fireplace from adjacent combustible walls, where such representation contradicts the general clearance requirements from combustible walls contained in prevailing model building, mechanical and fire protection codes, unless prior to the time such representation is first made, respondent possesses and relies upon a competent scientific test which substantiates such representation. Provided, that for purposes of this Order, a "competent scientific test" shall mean:

A test in which one or more persons, qualified by professional training, education and experience, formulate and conduct a test and evaluate its results in an objective manner using testing procedures which are generally accepted in the profession to attain valid and reliable results. The test may be conducted or approved by (a) a reputable and reliable organization which conducts such tests as one of its principal functions, or (b) with the exception of the specific tests required by Paragraph III. A below, by persons employed by respondent, if they are qualified by professional training, education and experience and can conduct and evaluate the test in an objective manner.

B. Making any safety-related representation to consumers regarding the installation (other than clearances from adjacent combustible walls), operation or maintenance of any woodburning heater or Franklin fireplace, unless prior to the time such representation is first made, respondent possesses and relies upon competent and reliable evidence which substantiates such representation, including but not limited to competent scientific tests or competent and reliable opinions of scientific, engineering or other experts, including employees of

respondent, who are qualified by professional training or experience to render competent judgments in such matters.

C. Making any representation to consumers regarding any woodburning heater or Franklin fireplace, which misstates or misrepresents the results or applicability of any test, listing or approval by any third party.

II

It is further ordered, That respondent shall include as a full page located in the center of its October 1979 catalog house clearance books, and as a full page located immediately preceding the first page of the Index in its Spring & Summer 1980 semi-annual general catalog, the following notice, conspicuously displayed:

Stove model	Distance from rear	Distance from sides
5722 (circulating wood heater)	36 inches from back of stove	30 inches from sides of stove.
7377 (comfort heater)	30 inches from back of stove	36 inches from sides of stove.
7387 (parlor heater)	30 inches from back of stove	36 inches from sides of stove.
21015 (Franklin fireplace)	18 inches from back of fireplace, with heat shield installed on the inside back wall of fireplace.	36 inches from sides of firebox opening.
21017 (Franklin fireplace)	18 inches from back of fireplace, with heat shield installed on the inside back wall of fireplace.	36 inches from sides of firebox opening.

If you have installed one of the above heaters or fireplaces at less than the distances from combustible walls shown above, or without a heat shield where a heat shield is needed, Wards will help you by either relocating the heater or fireplace to the correct distance or by providing or installing the heat shield, at Wards' expense.

Clearances for models 21335, 21336, and 21337:

Stove model	Distance from rear	Distance from sides
"Little Ben" Franklin fireplace (Wards model 21335; Hearth Craft model 220).	18 inches from back of fireplace, with heat shield installed on back of fireplace.	12 inches from sides of cast iron hearth.
"Big Ben" Franklin fireplace (Wards model 21336; Hearth Craft model 280).	18 inches from back of fireplace, with heat shield installed on back of fireplace.	12 inches from sides of cast iron hearth.
"Giant Ben" Franklin fireplace (Wards model 21337; Hearth Craft model 300).	18 inches from back of fireplace, with heat shield installed on back of fireplace.	12 inches from sides of cast iron hearth.

If you have purchased one of the above three Franklin fireplaces from Wards and installed it without a heat shield, Wards will provide or install a heat shield at Wards' expense.

For further information, write: Mr. Donald C. Gutmann, Customer Relations Manager, 4-N, Montgomery Ward & Co., Incorporated, Montgomery Ward Plaza, Chicago, Illinois 60671.

To enable us to assist you promptly, please try to include the following information in your letter, if known: your name, address and telephone number, the unit you own, the distance from the back and sides of your unit to adjacent combustible walls, whether your unit is installed with a heat shield, and the address where your unit is located.

III

It is further ordered, That:

A. Respondent shall promptly submit the following of its models of woodburning heaters to one or more independent product testing laboratories

IMPORTANT SAFETY NOTICE TO OWNERS OF WARDS WOODBURNING HEATERS AND FRANKLIN FIREPLACES

Some recent Wards catalogs, fireplace booklets, descriptive manuals, owner's guides, or sales person statements understated some of the minimum recommended clearances between some Wards woodburning heaters and Franklin fireplaces and adjacent combustible walls (see the list of model numbers below). If you purchased one of these heaters or fireplaces and installed it closer to combustible walls than the distances shown in the chart below, it should be relocated IMMEDIATELY. Failure to relocate the heater or fireplace to these distances, or (if needed) to install a protective heat shield between it and combustible walls, COULD CAUSE A FIRE.

Clearances for models 5722, 7377, 7387, 21015, and 21017:

combustible walls, in any of its current or past catalogs, fireplace booklets, descriptive manuals or owner's guides, respondent shall include in the notice required by Paragraph II above notification of the clearances determined by such test and an offer to relocate the model to such clearances at respondent's expense.

IV

It is further ordered, That respondent shall take all such steps as are necessary to carry out its obligations described in the notice required by Paragraphs II and III.B above to relocate certain woodburning heaters and Franklin fireplaces, or provide or install protective heat shields where needed, at respondent's expense. *Provided,* That:

A. Respondent may, at its election, have the necessary work performed by persons selected by it, including its own employees, who are competent to perform such work.

B. Respondent shall, if relocation of a particular heater or fireplace, or installation of the necessary heat shield on its Franklin fireplace models 21335, 21336 and 21337, is not acceptable to the consumer, offer instead to remove the unit, refund the full purchase price paid by the consumer for the unit (including shipping and handling charges), and make reasonable repairs to the consumer's premises necessitated by such removal, at respondent's expense.

C. Respondent may, at its election, if it concludes that relocating a particular heater or fireplace, or installing the necessary heat shield on its Franklin fireplace model 21015, 21017, 21335, 21336 or 21337, would not be feasible, instead offer to remove the unit, refund the full purchase price paid by the consumer for the unit (including shipping and handling charges), and make reasonable repairs to the consumer's premises necessitated by such removal, at respondent's expense.

D. Respondent may, as regards its Franklin fireplace models 21335, 21336 and 21337, require the consumer to submit proof of purchase satisfactory to respondent showing that the consumer purchased his or her unit from respondent, before respondent must approve any remedy under this Order

approved for this purpose by the Federal Trade Commission or its delegates, for determination by competent scientific tests, as defined in Paragraph I.A. above, of the minimum recommended installation clearances for such models from adjacent combustible walls: models 5718, 7326 and 7336, as offered in respondent's Spring & Summer 1978 catalog, and models 7366, 7386 and 7396, as offered in respondent's Fall & Winter 1977 catalog.

B. If the results of the tests required by Paragraph III.A above on respondent's models 5718, 7326, 7336, 7366, 7386 and 7396, show that respondent has understated the minimum recommended clearances for any such model from adjacent

for said consumer, which approval by respondent shall not be unreasonably withheld.

V

It is further ordered, That:

A. Respondent shall send to each of its retail sales departments involved in the sale of any woodburning heater or Franklin fireplace, prior to or contemporaneously with the selling of such item in that department, descriptive manual pages or other written information for the department's sales personnel setting forth the clearance requirements from adjacent combustible walls, and the heat shield requirements, if any, for the installation of that item.

B. For a period of six (6) months from the effective date of this Order (plus such additional time as may be necessary to conduct competent scientific tests and to print the materials), respondent shall send to all company retail and catalog stores, as available based upon competent scientific tests, written point of sale material for distribution to consumers inquiring about any of the woodburning heaters or Franklin fireplaces which are covered by the notice requirements of Paragraphs II and III.B of this Order, and which respondent is then offering for sale to consumers, setting forth the clearance requirements from adjacent combustible walls, and the heat shield requirements, if any, for the installation of such items.

VII

It is further ordered, That respondent shall have a period of six (6) months from the effective date of this Order to revise and reprint all printed materials as required to comply with this Order, including but not limited to owner's guides, advertising copy, catalog copy and descriptive materials, and shall not be in violation of this Order because of the existence of owner's guides packaged with products prior to the effective date of this Order. Provided, that during such period, respondent shall use its best efforts to advise customers and consumers of the installation information contained in the notice required by Paragraphs II and III.B above of this Order, and to include with the woodburning heaters and Franklin fireplaces covered by such notice corrected installation information concerning recommended clearances from adjacent combustible walls.

VII

It is further ordered, That respondent shall:

A. Sixty (60) and two hundred forty (240) days after the effective date of this Order, file with the Commission reports in writing setting forth in detail the manner and form in which it has complied with this Order.

B. Maintain files of all persons making written requests to respondent to have woodburning heaters or Franklin fireplaces covered by the notice required by Paragraphs II and III.B of this Order relocated, or installed or provided with heat shields, where respondent has refused such requests, which files shall contain the names and addresses of such persons and the information on which each such refusal was based, including all correspondence from the consumer concerning the consumer's request. Such files shall be made available for inspection and copying, upon reasonable notice, by a duly authorized agent of the Commission during respondent's regular business hours.

C. Forthwith distribute a copy of this Order to each of its operating divisions which is involved in the sale or offering for sale of, or the selection, evaluation or preparation of materials regarding, woodburning heaters or Franklin fireplaces.

D. Notify the Commission at least thirty (30) days prior to any proposed change in the respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the respondent which may affect compliance obligations arising out of this Order.

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted an agreement to a proposed consent order from Montgomery Ward & Co., Incorporated, Montgomery Ward Plaza, Chicago, Illinois. The Agreement culminates an investigation conducted under FTC File 792-3038 by the Commission's Chicago Regional Office and involving Wards' sale of woodburning heaters and Franklin fireplaces.*

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the

* Woodburning heaters and Franklin fireplaces are freestanding heating appliances that burn wood to heat the rooms in which they are placed. Common examples of these devices include the "pot belly stove", the "parlor heater" and the "Ben Franklin fireplace stove."

agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

The Commission's complaint alleges that respondent, Wards, has made false, inconsistent and unsubstantiated representations to consumers with respect to the minimum distances at which woodburning heaters and Franklin fireplaces can safely and properly be installed from adjacent combustible walls and has misrepresented the results and applicability of third party product tests, listings, and approvals. The complaint further alleges that these representations, included in catalog advertising, descriptive manuals, owner's guides and oral sales presentations, had the capacity to induce consumers to install the devices in a manner contrary to established safety standards (in the form of mechanical and fire protection codes in effect in states, counties and municipalities throughout the nation), and at distances less than those determined in product safety tests run by or for the company itself. Installing the devices with insufficient clearances from combustible walls could subject consumers to potential fire loss and risks of personal injury and property damage.

Part I of the proposed order prohibits Wards from making any representation concerning installation clearances for any woodburning heater or Franklin fireplace from combustible walls that contradicts the general clearance requirements of prevailing model building, mechanical or fire protection codes, unless Wards possesses and relies upon a competent scientific test to substantiate that representation. Wards is also prohibited from making any safety-related representation to consumers regarding the installation, operation or maintenance of heaters or fireplaces, without prior substantiation by competent scientific tests, expert opinion, or other competent and reliable evidence. Finally, Part I of the order prohibits Wards from making any misrepresentation concerning the results or applicability of any third party test, listing or approval.

Part II of the proposed order requires Wards to place a conspicuous notice in its October, 1979 catalog house clearance books, and in its Spring & Summer 1980 semi-annual general catalog, informing consumers of its misstatements in the past of recommended clearances for certain of its woodburning heaters and fireplaces and of the proper installation distances required between the devices and

adjacent combustible walls. (A general notice was required in widely circulated company media because Wards does not retain records of individual past purchasers.) The notice informs consumers that the devices should be relocated immediately if they have been installed at less than required distances from adjacent combustible walls or without a protective heat shield, which is required in some instances. Furthermore, Wards must offer to compensate consumers who have installed the devices improperly by either re-installing them at the company's expense or providing or installing heat shields where appropriate. The notice also informs purchasers of three (3) models of Franklin fireplaces that if the devices have been installed without a heat shield, one will be provided by Wards at no additional cost. (Clearances for these three Franklin fireplaces that appeared in promotional and instructional materials were proper if a heat shield, which should have been included with the product but oftentimes was not, was installed on the device.)

The notice required by the proposed order does not describe Ward's additional obligation (see Part IV discussed more fully below) to offer dissatisfied consumers the option of removing the device, refunding the full purchase price and repairing any damage to the premises.

Part III of the proposed order requires Wards to submit several models of woodburning heaters to an independent product testing laboratory for testing to determine safe and proper installation clearances from adjacent combustible walls. The models included are those for which Wards has made representations concerning proper installation clearances but respecting which no scientific tests have as yet been conducted to establish minimum safe clearances. (The models specifically listed in the notice required by Part II of the order, in contrast, are those for which representations were made that were contradicted by actual scientific tests already performed on the devices.) Should the tests performed under Part III of the order determine that Wards has in fact understated the proper clearances for any of these models in any of its current or past promotional or instructional materials, the company will include the proper clearances for those models in the notice required by Part II of the order and make the same offer to relocate the devices at Wards' expense.

Part IV of the proposed order requires Wards to fulfill the redress obligations

described in the notice to consumers discussed above. Part IV provides:

(1) that the necessary work may be performed by persons selected by the company, including its own employees, so long as they are competent to perform such work;

(2) that if relocation of the device or installation of a heat shield is unacceptable to the consumer, Wards will offer to remove the unit, refund the full purchase price (including shipping and handling charges) and make repairs to the premises at Wards' expense. This offer does not apply to installation of a heat shield on two of the fireplace models because the heat shield would be located inside the unit and would have no effect on the model's appearance or location;

(3) that if relocation of the device or installation of the heat shield is not feasible (for example, there is not enough room to relocate the unit), the company will make the same refund offer described immediately above; and

(4) that Wards may require proof of purchase on three (3) Franklin fireplace models, since these models are also marketed by other retailers. Approval may not, however, be unreasonably withheld.

Part V of the proposed order requires Wards to provide materials to sales personnel setting forth the clearance or heat shield requirements for any woodburning heater or Franklin fireplace sold in applicable retail sales departments. Wards is also required to provide such information in point of sale materials for consumers for a period of six (6) months from the effective date of the order.

Part VI of the proposed order gives Wards six (6) months to revise and reprint promotional and instructional materials. It provides that the company will not be in violation of the order if owner's guides packaged with the products before the effective date of the order are distributed after the date of the order (it would not be feasible to locate and open all such packages), but requires that correct instructions be included with any unit sold.

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

James A. Tobin,
Acting Secretary.

[FR Doc. 79-28745 Filed 8-27-79; 8:45 am]

BILLING CODE 6750-01

DEPARTMENT OF LABOR

Office of the Secretary

[20 CFR Chapters I, IV, V, VI, and VII]

[29 CFR Subtitle A and Chapters II, IV, V, XVII, and XXV]

[30 CFR Ch. I]

Improving Government Regulations Schedule for Semiannual Agenda, Supplemental Agenda, and List of Regulatory Review Panel Members

AGENCY: Department of Labor.

ACTION: Schedule For the Publication of the next Semiannual Agenda, Supplemental Agenda, and Listing of Regulatory Review Panel Members.

SUMMARY: The Department of Labor's Guidelines implementing Executive Order 12044 require the Department to publish in the Federal Register, a semiannual agenda of significant regulations which will be considered for review or development during the coming six month period. The Guidelines also provide for the publication of supplemental agenda when appropriate, and give notice of the dates on which forthcoming agenda will be published. This document contains a notice of the revised dates for publication of the Department's Agenda. It also contains a Supplemental Agenda indicating which of the regulations contained in the Department's January 26, 1979 Agenda have been published in final form. And finally it contains the membership of the Regulatory Review Panel established by the Department in accordance with the Guidelines.

DATES: The next Department of Labor semiannual agenda of regulations will be published by October 1, 1979.

FOR FURTHER INFORMATION CONTACT: Dr. Judith Sorum, Special Assistant to the Secretary, Room S2018, 200 Constitution Avenue, N.W., Washington, D.C. 20210, (202) 523-8658, or Seth D. Zinman, Associate Solicitor for Legislation and Legal Counsel, Room N2428, 200 Constitution Avenue, N.W., Washington, D.C. 20210, (202) 523-8201.

SUPPLEMENTARY INFORMATION: On January 26, 1979 the Department of Labor published in the Federal Register, its Guidelines for implementing Executive Order 12044, its First Semiannual Agenda of Regulation Selected for Development and Review and a notice indicating that further agenda would be published on August 30, 1979 and at six month intervals thereafter (44 FR 5570-5590).

Following a careful review by the Department's Regulatory Review Panel of the status of all regulations listed on the January, 1979 Agenda and of the regulatory activity expected during the coming year, it has been determined that changing the date for the next semiannual agenda to October 1, 1979 will result in a more thorough and useful listing of the significant regulations to be addressed by the Department in the coming months. In addition this change in the Agenda publication date will permit the Department to coordinate the publication of the Agenda with the publication by the Regulatory Council of its Calendar of Major Regulations, thus reducing duplication of effort.

The Regulatory Review Panel also determined that the Publication of a Supplemental Agenda listing the regulatory activity completed since the January, 1979 Agenda was published, would be useful to the interested public and would indicate the progress made to July 1, 1979. Each regulation which is listed on the Supplemental Agenda has as indicated either been published in final form or has been removed from Department of Labor jurisdiction, and will not appear on the October 1, 1979 Agenda unless it is once again selected for review.

With respect to any other regulation listed on the January 26, 1979 Agenda, interested persons may determine the status of any such regulation by contacting the person whose name, address, and phone number appears following the listing of the regulation in the January, 1979 Agenda. The October 1, 1979 Agenda will detail the progress made in connection with each regulation still pending.

The Department also indicated in the January 26, 1979 Guidelines that the names of the members of the Regulatory Review Panel would be published in the Federal Register. This document sets forth the members of the Panel.

Accordingly—

A. The next Department of Labor Semiannual Agenda of Regulations Selected for Development and Review will be published by October 1, 1979 and subsequent agenda will be published at 6 month intervals thereafter.

B. The following regulations which appeared on the Department of Labor's January 26, 1979 Semiannual Agenda were published in final form or removed from Department of Labor jurisdiction on or before July 1, 1979 and are removed from the Department's Agenda.

29 CFR Parts 94-99—Comprehensive Employment and Training

Regulations which implement the Comprehensive Employment and Training Act as amended.

Basis for Action: A review of existing regulations from 29 CFR Part 94 to 29 CFR Part 99 was necessary in order to operate existing programs under the Comprehensive Employment and Training Act of 1973, as amended in 1978, to provide for a smooth transition from existing to new legislation, and to prepare new regulations under the reauthorized CETA legislation.

Contact: Robert Anderson, Administrator, Office of Comprehensive Employment Development, Employment and Training Administration, U.S. Department of Labor, Patrick Henry Building, Room 6000, 601 D Street, N.W., Washington, D.C. 20213 (202) 376-6254.

Regulatory Analysis: A regulatory analysis was not required.

Action: A final regulation was published.

29 CFR Part 800—Equal Pay for Equal Work under the Fair Labor Standards Act

Interpretations regarding the meaning and application of Equal Pay Act provisions prohibiting discrimination on the basis of sex in the payment of wages for work which is substantially equal.

Basis for Action: With respect to insurance and other employee benefit plans, the current interpretations provide that the Act is not violated where either the plan provides equal benefits to both men and women or the employer makes equal contributions to the plan. On the basis of decisions of the U.S. Supreme Court and other courts and a thorough review of the legislative history and purposes of the Equal Pay Act, the Department has determined that the "either-or-rule" is an incorrect interpretation. Thus, proposed modifications in §§ 800.110 and 800.116(d) of the Equal Pay interpretations, as proposed on August 25, 1978 in the Federal Register, would make clear that employee benefits are "wages" within the meaning of the Equal Pay Act, that any differential in such benefits based on sex-based differential in required employee contributions toward equal benefits violates the Act.

Regulatory Analysis: A regulatory analysis was not prepared.

Action: Responsibility transferred to the Equal Employment Opportunity Commission.

29 CFR Part 850—Age Discrimination in Employment—Records to be Made or Kept Relating to Age, Notices to be Posted, Administrative Exemptions

Recordkeeping and posting requirements for employers, employment agencies and labor organizations subject to the Age Discrimination in Employment Act, and administrative exemptions pursuant to Section 9 of the Act.

Basis for Action: The interpretations must be revised to implement the Age Discrimination in Employment Act Amendments of 1978. Proposed interpretations relating to employee benefit plans (Section 860.120) were published in the Federal Register on September 22, 1978, and the final version was published in the Federal Register on May 25, 1979. Proposed interpretations concerning limited exemptions affecting certain bona fide executive or high policymaking employees and tenured employees at institutions of higher education were published in the Federal Register on December 12, 1978. Proposed interpretations concerning the prohibition of mandatory retirement up until age 70 are also necessary; and to conform with changes in ADEA coverage under the Fair Labor Standards Act Amendments of 1974 and the 1978 ADEA amendments, minor proposed revisions are needed in sections of these interpretations concerning the definitions of "employer" and discrimination within the age range covered under the Act.

Contact: Francis V. LaRuffa, Chief, Branch of Age Discrimination, Wage and Hour Division, U.S. Department of Labor, 200 Constitution Avenue, N.W., Room S3502, Washington, D.C. 20210 (202) 523-7640.

Regulatory Analysis: A regulatory analysis was not prepared.

Action: Responsibility transferred to the Equal Employment Opportunity Commission.

4. 29 CFR Part 860—Age Discrimination in Employment—Interpretations

Interpretations which guide the Department in the enforcement and administration of the Age Discrimination in Employment Act of 1967.

Basis for Action: The interpretations needed to be revised to implement the Age Discrimination in Employment Act Amendments of 1978. Proposed interpretations relating to employee benefit plans (§ 860.120) were published in the Federal Register on September 22, 1978. Proposed interpretations concerning limited exemptions affecting certain bona fide executive or high

policymaking employees and tenured employees at institutions of higher education were published in the Federal Register on December 12, 1978. Proposed interpretations concerning the prohibition of mandatory retirement up until age 70 may be expected in the near future. Also to conform with changes in ADEA coverage under the Fair Labor Standards Act Amendments of 1974 and the 1978 ADEA amendments, minor proposed revisions may be expected (early next year) in sections of these interpretations concerning the definitions of "employer" and discrimination within the age range covered under the Act.

Contact: Francis V. LaRuffa, Chief, Branch of Age Discrimination, Wage and Hour Division, U.S. Department of Labor, 200 Constitution Avenue, N.W., Room S3502, Washington, D.C. 20210 (202) 523-7640.

Regulatory Analysis: A regulatory analysis was not prepared.

Action: Responsibility transferred to the Equal Employment Opportunity Commission.

29 CFR Part 2520—Elimination of Form EBS-1.

A revision of certain reporting requirements will be proposed to eliminate the need for employee benefit plans to file a Plan Description Form EBS-1 with the Department.

Basis for Action: The revision is intended to eliminate duplicative reporting and reduce the paperwork burden imposed by ERISA.

Contact: Peter Straub, Pension and Welfare Benefit Programs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Room N4472, Washington, D.C. 20210 (202) 523-8377.

Regulatory Analysis: A regulatory analysis was not required.

Action: A final regulation was published.

29 CFR 92.1-92.9—Labor Management Services Administration Regulations to be Issued Governing Employee Benefit Payments Under the Redwood National Park Expansion Act (Pub. L. 95-250)

These provisions will define the eligibility criteria which employees must meet in order to receive benefits under the Act.

Basis for action: These regulations were necessary to implement Section 102(b) and Sections 103(d)-103(i) of title I and all of title II of Pub. L. 95-250.

Contact: Ron Glass, Division of Employee Protections, Labor-Management Services Administration, U.S. Department of Labor, Room N5641, 200 Constitution Avenue, N.W., Washington, D.C. 20210 (202) 523-6495.

Regulatory Analysis: A regulatory analysis was not required.

Action: A final regulation was published.

30 CFR Part 46—State Grants Regulations

Basis for Action: To improve regulations implementing Sections 503 of FMSHA.

Contact: Frank A. White, Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Virginia 22203 (703) 235-1910.

Regulatory Analysis: A regulatory analysis was not required.

Action: A final regulation was published.

30 CFR Parts 55, 56, and 57—Miscellaneous Amendments Including Standards for Exposure to Radon Daughters (Part 57 only)

Basis for action: To implement improved safety and health standards under Section 301 of the Amendments Act.

Contact: Frank A. White, Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Virginia 22203 (703) 235-1910.

Regulatory Analysis: A regulatory analysis was not required.

Action: Final regulation was published.

C. The following officials shall serve on the Department of Labor's Regulatory Review Panel:

Chair: The Under Secretary of Labor.

Members:

The Solicitor of Labor;
The Assistant Secretary for Labor-Management Standards;
The Assistant Secretary for Employment Standards;
The Assistant Secretary for Policy Evaluation and Research;
The Assistant Secretary for Employment and Training;
The Assistant Secretary for Occupational Safety and Health;
The Assistant Secretary for Mine Safety and Health;
The Assistant Secretary for Administration and Management;
The Inspector General;
The Commissioner of Labor Statistics;
The Deputy Under Secretary for International Labor Affairs; and
The Deputy Under Secretary for Legislation and Intergovernmental Relations.

Executive Secretary: A designated Special Assistant to the Secretary.

Signed this 22nd day of August, 1979 at Washington, D.C.

Ray Marshall,
Secretary of Labor.

[FR Doc. 79-28755 Filed 8-27-79; 8:45 am]

BILLING CODE 4510-23-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Parts 16, 56, 71, 171, 180, 310, 312, 314, 320, 330, 361, 430, 431, 401, 630, 1003, and 1010]

[Docket No. 77N-0350]

Protection of Human Subjects; Standards for Institutional Review Boards for Clinical Investigations; Waiver of Requirement

AGENCY: Food and Drug Administration.
ACTION: Waiver of Requirement.

SUMMARY: The Food and Drug Administration (FDA) is waiving the requirement for submitting a summary of the presentation as part of the written notice of participation for a public hearing on "Standards for Institutional Review Boards for Clinical Investigations" for the scheduled September 18, 1979 hearing in Bethesda, MD. The agency is also correcting the date for the San Francisco hearing by changing the date from October 2, 1979 to October 3, 1979.

DATES: Public hearings on September 18, October 3, and October 18, 1979. Written notices of participation required by September 4, September 18, and October 2, 1979.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: John C. Petricciani, Bureau of Biologics (HFB-4), Food and Drug Administration, Department of Health, Education, and Welfare, 8800 Rockville Pike, Bethesda, MD 20205, 301-496-9320.

SUPPLEMENTARY INFORMATION: In the Federal Register of August 14, 1979 (44 FR 47699), FDA announced public hearings on proposed standards for institutional review boards (IRB's) for clinical investigations. One of these public hearings is scheduled for Bethesda, MD, on September 18, 1979.

Under the requirements of 21 CFR 15.21, a written notice of participation must be filed with the FDA Hearing Clerk. The written notice of participation requires the name, address, and telephone number of the

person desiring to make a statement, along with any business affiliation, a summary of the scope of the presentation with references to the appropriate subpart of the proposed regulations, and the approximate amount of time requested for the presentation. The written notices of participation were required to be submitted not later than September 4, 1979 for the Bethesda, MD, hearing.

The agency received telephoned comments from persons interested in participating in the September 18, 1979 hearing at Bethesda, MD, indicating that there is inadequate time to prepare and submit the required summary of the presentation by the September 4, 1979 deadline.

The agency agrees with these comments and is therefore waiving the requirement to submit a summary of the presentation for the September 18, 1979 hearing in Bethesda, MD, only. Because the San Francisco and Houston hearings are scheduled for October 3 and October 18, respectively, persons interested in participating in the other hearings have sufficient time to prepare a summary and will be required to submit this information with the notice of participation required for those hearings.

This action is not expected to have any adverse effect on the scheduled September 18, 1979 hearing at Bethesda, MD, for either the public or the agency.

The agency is also correcting the date for the San Francisco hearing specified in the August 14, 1979 Federal Register announcement. This announcement inadvertently identified the date for the San Francisco hearing as October 2, 1979. The correct date for this hearing is October 3, 1979.

Dated: August 23, 1979.
Joseph P. Hille,
Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-26785 Filed 8-24-79; 11:11 am]
BILLING CODE 4110-03-M

[21 CFR Part 74]

[Docket No. 77C-0276]

Listing of Color Additives Subject to Certification; D&C Orange No. 4

AGENCY: Food and Drug Administration.
ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) proposes to revise the specifications for D&C Orange No. 4 by adding a tolerance for 4,4'-(diazooamino)-dibenzenesulfonic acid. This revision is necessary because a tolerance for 4,4'-(diazooamino)-

dibenzenesulfonic acid was inadvertently omitted in the listing regulation for D&C Orange No. 4.

DATE: Comments by October 29, 1979.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Gerald L. McCowin, Bureau of Foods (HFF-334), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, DC 20204, 202-472-5740.

SUPPLEMENTARY INFORMATION: A regulation published in the Federal Register of September 30, 1977 (42 FR 52395) listed D&C Orange No. 4 for use in externally applied drugs and cosmetics (see §§ 74.1254 and 74.2254 (21 CFR 74.1254 and 74.2254)). A final rule published in the Federal Register of April 7, 1978 (43 FR 14641) confirmed the effective date of November 1, 1977 for the "permanent" listing of D&C Orange No. 4, and also revised the specifications for total color and the sum of volatile matter and chlorides and sulfates (as sodium salts) in response to two objections to the regulation. The revision became effective on April 7, 1978.

The agency has recently become aware that the specifications for D&C Orange No. 4 do not include a tolerance for 4,4'-(diazooamino)-dibenzenesulfonic acid (DAADBSA). A tolerance of not more than 0.1 percent DAADBSA was inadvertently omitted from the specifications when the final regulation was published in the Federal Register. FDA has determined, consistent with its policy on the certification of color additives, as well as with the requirement necessary to establish the safety of D&C Orange No. 4, that the tolerance of DAADBSA should be included as originally intended in the specifications for D&C Orange No. 4.

After reviewing the analytical data, FDA has concluded that a tolerance of not more than 0.1 percent for DAADBSA can be met when good manufacturing practices are employed in the production of D&C Orange No. 4.

FDA has carefully considered the environmental effects of the proposed regulation and, because the proposed action will not significantly affect the quality of the human environment, has concluded that an environmental impact statement is not required. A copy of the environmental impact assessment is on file with the Hearing Clerk, Food and Drug Administration.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 706(b), (c), and (d), 74 Stat. 399-403 as amended (21

U.S.C. 378(b), (c), and (d))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), it is proposed that Part 74 be amended in § 74.1254 by inserting, after the entry for "subsidiary colors" in the specifications in paragraph (b), a new entry to read as follows:

§ 74.1254 D&C Orange No. 4.

(b) * * *
4,4'-(diazooamino)-dibenzenesulfonic acid, not more than 0.1 percent.
* * *

Interested persons may, on or before October 29, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office, between 9 a.m. and 4 p.m., Monday through Friday.

In accordance with Executive Order 12044, the economic effects of this proposal have been carefully analyzed, and it has been determined that the proposed rulemaking does not involve major economic consequences as defined by that order. A copy of the regulatory analysis assessment supporting this determination is on file with the Hearing Clerk, Food and Drug Administration.

Dated: August 17, 1979.
William F. Randolph,
Acting Associate Commissioner for Regulatory Affairs.
[FR Doc. 79-26647 Filed 8-27-79; 8:45 am]
BILLING 4110-03-M

[21 CFR Part 184]

[Docket No. 78N-0369]

Whey, Whey Products, and Hydrogen Peroxide; Affirmation of Gras Status as Direct Human Food Ingredients; Extension of Comment Period

AGENCY: Food and Drug Administration.
ACTION: Extension of Comment Period.

SUMMARY: The agency extends the comment period on its proposal to affirm the generally recognized as safe (GRAS) status of whey and whey products as direct human food ingredients and hydrogen peroxide for use as an antimicrobial agent in cheesemaking and whey processing. This action is taken in response to a request for extension of the comment period.

DATE: Written comments by September 20, 1979.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Corbin I. Miles, Bureau of Foods (HFF-335), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, DC 20204, 202-472-4750.

SUPPLEMENTARY INFORMATION: In the Federal Register of June 22, 1979 (44 FR 36416), the Food and Drug Administration proposed to affirm the GRAS status of whey and whey products as direct human food ingredients and of hydrogen peroxide for use as an antimicrobial agent in cheesemaking and whey processing. Interested persons were invited to submit comments on the proposal by August 21, 1979.

Kraft Co., Chicago, Illinois, requested a 30-day extension of the comment period, to September 20, 1979, to allow sufficient time to prepare comments on the proposal.

The agency considers the opportunity to comment on GRAS affirmation proposals to be an important part of the GRAS review process. It has determined that an extension of the comment period for this proposal would be appropriate, and that the additional time should be extended to all interested persons.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784-1788 as amended (21 U.S.C. 321(a), 348, 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), the comment period for the GRAS affirmation proposal for whey, whey products, and hydrogen peroxide is extended to September 20, 1979.

Interested persons may, on or before September 20, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 23, 1979.

Joseph P. Hille,
Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-26786 Filed 8-24-79; 11:11 am]
BILLING CODE 4110-03-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 1]

[CC:EE-180-78]

Income tax; Treatment of Proceeds From Bingo Games

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations relating to the treatment of proceeds from bingo games. Changes to the applicable tax law were made by the Act of October 21, 1978. The regulations would provide the public with the guidance needed to comply with that Act and would affect exempt organizations and political organizations that conduct bingo games. **DATES:** Written comments and requests for a public hearing must be delivered or mailed by October 29, 1979. The amendments are proposed to be effective for exempt organizations for taxable years beginning after December 31, 1969, and for political organizations for taxable years beginning after December 31, 1974.

ADDRESS: Send comments and request for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T:EE-180-78, Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Charles Kerby of the Employee Plans and Exempt Organizations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, Attention: CC:LR:T:EE-180-78, 202-566-3422, (Not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Income Tax Regulations (26 CFR Part 1) under sections 513 and 527 of the Internal Revenue Code of 1954, as amended by sections 301 and 302 of the Act of October 21, 1978 (P.L. 95-502; 92 Stat. 1702). The amendments are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

Exempt Organizations

A tax exempt organization is generally taxed on the income received from any "unrelated trade or business" conducted by the organization. Under prior law, a bingo game conducted by an exempt organization generally constituted an unrelated trade or business. Under Pub. L. 95-502, the term "unrelated trade or business" does not include the conducting of bingo games.

Political Organizations

A political organization is taxed on the income it receives that is not "exempt function income." Under prior law, proceeds from bingo games were not exempt function income and were, therefore, included in the taxable income of a political organization. Pub. L. 95-502 redefines the term "exempt function income" to include proceeds from bingo games.

Comments and Requests for a Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably six copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the Federal Register.

Drafting Information

The principal author of these proposed regulations was Charles Kerby of the Employee Plans and Exempt Organizations Division of the Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

Proposed Amendments to the Regulations

The proposed amendments to 26 CFR Part 1 are as follows:

Paragraph 1. There is added in the appropriate place the following new section:

§ 1.513-5 Certain bingo games not unrelated trade or business.

(a) *In general.* Under section 513(f), and subject to the limitations in paragraph (c) of this section, in the case of an organization subject to the tax imposed by section 511, the term "unrelated trade or business" does not include any trade or business that

consists of conducting bingo games (as defined in paragraph (d) of this section).

(b) *Exception.* The provisions of this section shall not apply with respect to any bingo game otherwise excluded from the term "unrelated trade or business" by reason of section 513(a)(1) and § 1.513-1(e)(1) (relating to trades or businesses in which substantially all the work is performed without compensation).

(c) *Limitations.*—(1) *Bingo games must be legal.* Paragraph (a) of this section shall not apply with respect to any bingo game conducted in violation of State or local law.

(2) *No commercial competition.* Paragraph (a) of this section shall not apply with respect to any bingo game conducted in a jurisdiction in which bingo games are ordinarily carried out on a commercial basis. Bingo games are "ordinarily carried out on a commercial basis" within a jurisdiction if they are regularly carried on (within the meaning of § 1.513-1 (c)) by for-profit organizations in any part of that jurisdiction. Normally, the entire State will constitute the appropriate jurisdiction for determining whether bingo games are ordinarily carried out on a commercial basis. However, if State law permits local jurisdictions to determine whether bingo games may be conducted by for-profit organizations, or if State law limits or confines the conduct of bingo games by for-profit organizations to specific local jurisdictions, then the local jurisdiction will constitute the appropriate jurisdiction for determining whether bingo games are ordinarily carried out on a commercial basis.

(3) *Examples.* The application of this paragraph is illustrated by the following examples:

Example (1). (i) Rescue Squad X ("X") a tax-exempt organization, conducts weekly bingo games in State M. The bingo games are operated by individuals who are compensated by X for their services and are, therefore, not excluded from the term "unrelated trade or business" under section 513(a)(1).

(ii) State M has a statutory provision that prohibits all forms of gambling including bingo games. However, that law is not enforced by State officials against local charitable organizations such as X that conduct bingo games to raise funds. Since bingo games are illegal under State law, X's bingo games constitute unrelated trade or business regardless of whether, or to what degree, the State law is enforced.

Example (2). (i) Veterans' organizations Y ("Y") and X ("X"), both tax-exempt organizations, conduct weekly bingo games in State N. The bingo games are operated by individuals who are compensated for their services by Y and X and are, therefore, not

excluded from the term "unrelated trade or business" under section 513(a)(1).

(ii) State N has a statutory provision that permits bingo games to be conducted by tax-exempt organizations. In addition, State N permits bingo games to be conducted by for-profit organizations in city S, a resort community located in county R. Several for-profit organizations conduct nightly bingo games in city S. Y conducts its weekly bingo games in city S. X conducts its weekly bingo games in county R outside of city S. Since State law confines the conduct of bingo games by for-profit organizations to city S, and since bingo games are regularly carried on there by those organizations, Y's bingo games conducted in city S constitute unrelated trade or business. However, X's bingo games conducted in county R outside of city S do not constitute unrelated trade or business.

(d) *Bingo game defined.* A bingo game is a game of chance played with cards that are generally printed with five rows of five squares each. Participants place markers over randomly called numbers on the cards in an attempt to form a preselected pattern such as a horizontal, vertical, or diagonal line, or all four corners. The first participant to form the preselected pattern wins the game. As used in this section, the term "bingo game" means any game of bingo of the type described above in which wagers are placed, winners are determined, and prizes or other property is distributed in the presence of all persons placing wagers in that game. The term "bingo game" does not refer to any game of chance (including, but not limited to, keno games, dice games, card games, and lotteries) other than the type of game described in this paragraph.

(e) *Effective date.* Section 513(f) and this section apply to taxable years beginning after December 31, 1969.

Par. 2. Section 1.527-3(b)(1) is revised to read as follows:

§ 1.527-3 Political organization taxable income.

(b) *Exempt function income defined.*—(1) *In general.* For purposes of section 527 and these regulations the term "exempt function income" means any amount received as—

(i) A contribution of money or other property;

(ii) Membership dues, fees, or assessments from a member of a political organization;

(iii) Proceeds from a political fund raising or entertainment event, or proceeds from the sale of political campaign materials, which are not received in the ordinary course of any trade or business; and

(iv) Proceeds from the conduct of any bingo game (as defined in section 513 (f) (2)) unless the proceeds were held on

October 21, 1978, by the political organization that conducted the bingo game and thereafter were used by that organization to make a contribution or expenditure (as defined in section 301 (e) and (f) of the Federal Election Campaign Act of 1971; 2 U.S.C. 431 (e), (f)) in connection with an election held before January 1, 1979.

to the extent such amount is segregated for use only for the exempt function of the political organization. (See also § 1.527-4 regarding the treatment of expenditures for a judicially determined illegal activity.)

Jerome Kurtz,
Commissioner of Internal Revenue.

[FR Doc. 79-28742 Filed 8-27-79; 8:45 am]
BILLING CODE 4830-01-0

Bureau of Alcohol, Tobacco and Firearms

[27 CFR Parts 6, 8, 10, 11]

[Reference Notice 327]

Unlawful Trade Practices Under the Federal Alcohol Administration Act

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF).

ACTION: Notice of public hearing—changed date; Notice of extension of period for filing written comments.

SUMMARY: On August 1, 1979, the Bureau of Alcohol, Tobacco and Firearms published a notice of proposed rulemaking, and notice of hearing in the Federal Register (44 FR 45298). That notice proposed regulations implementing the unlawful trade practice provisions of the Federal Alcohol Administration Act, and set dates for public hearings to consider the proposed regulations, and for submitting written comments.

A number of industry members have requested more time to prepare for these public hearings, and to submit their written comments. The Director believes that extending these deadlines will give more people adequate time to prepare their written and oral comments.

DATES: Written comments must be received by December 17, 1979.

The public hearing formerly scheduled for September 6 and 7 in Washington, DC is now scheduled to be held October 22 and 23, 1979. Requests to testify at this hearing must be received no later than October 12, 1979.

Other public hearings will be held as originally scheduled as follows:

September 10, 11—Hartford, Connecticut.
September 13, 14—Atlanta, Georgia.

September 17, 18—Chicago, Illinois.
September 19, 20—San Francisco, California.

Requests to testify at these hearings must be received no later than September 4, 1979.

ADDRESSES: Send written comments and requests to testify at public hearings to: Director, Bureau of Alcohol, Tobacco and Firearms, P.O. Box 385, Washington, DC 20044. Attn: Chief, Regulations and Procedures Division.

DATES AND ADDRESSES: PUBLIC HEARINGS

Public Hearing, Hartford, CT

Dates: From 10 a.m. until 5 p.m. on September 10 and 11, 1979.

Address: Plaza Room, Hotel Sonesta, 5 Constitution Plaza.

Public Hearing, Atlanta, GA

Dates: From 10 a.m. until 5 p.m. on September 13 and 14, 1979.

Address: Holiday Hall I and II, Holiday Inn Downtown, 175 Piedmont Avenue, NE.

Public Hearing, Chicago, IL

Dates: From 10 a.m. until 5 p.m. on September 17 and 18, 1979.

Address: Monroe Ballroom, 6th Floor—(September 17); Crystal Ballroom, 3rd Floor (September 18); Palmer House Hotel, State and Monroe Streets.

Public Hearing, San Francisco, CA

Dates: From 10 a.m. until 5 p.m. on September 19 and 20, 1979.

Address: Room 503, U.S. Customs House, 555 Battery Street.

Public Hearing, Washington, DC

Dates: From 10 a.m. until 5 p.m. on October 22 and 23, 1979.

Address: Room 5041, Federal Building, 12th & Pennsylvania Avenue, NW.

Evening Public Hearings

Public hearings will be held in the evenings to accommodate persons unable to attend daytime hearings, if demand is great enough. Evening hearings will begin at 7 p.m. and be held in each city at a location to be announced. Evening hearings are scheduled as follows: Hartford, Connecticut on September 10; Atlanta, Georgia on September 13; Chicago, Illinois on September 17; San Francisco, California on September 20, and Washington, DC on October 22.

FOR FURTHER INFORMATION CONTACT: Charles N. Bacon, Research and Regulations Branch, Bureau of Alcohol, Tobacco and Firearms, Washington, DC 20226, telephone: 202-566-7626.

SUPPLEMENTARY INFORMATION:

Requests To Testify; Rules Governing Public Hearings

Persons requesting to testify at any of these hearings shall indicate the city in their request. These persons shall also indicate a preference for the date and time of day in which they request to testify; to the extent possible, ATF will

honor these preferences. The request to testify must include an outline of the topic or topics on which a person desires to speak. Testimony will be limited to 10 minutes per speaker, but additional time may be granted for answering questions. Persons testifying should be prepared to respond to questions concerning their testimony, the outline of their testimony, or to any matters relating to written comments which they may have submitted. Written comments relating to Notice of Proposed Rulemaking No. 327, or to the advance notice of proposed rulemaking will be available at each hearing for public inspection. Persons not scheduled to testify may be allowed to testify if time permits at the conclusion of each hearing.

ATF will notify all persons requesting to testify and will confirm dates and times. ATF will prepare an agenda, listing speakers and their topics, for each hearing, and will make this agenda available at the hearing.

All public hearings held pursuant to this notice will be conducted under ATF's procedural rules at 27 CFR 71.41(a)(3).

Disclosure of Comments

Comments on this notice of proposed rulemaking may be inspected in the ATF Reading Room, Office of Public Affairs, Room 4408, Benjamin Franklin Post Office Building, 12th and Pennsylvania Avenue, NW, Washington, DC during normal business hours.

Authority and Issuance

This notice is issued under the authority contained in section 5 of the Federal Alcohol Administration Act, 49 Stat. 981, as amended (27 U.S.C. 205).

Signed: August 23, 1979.

G. R. Dickerson,
Director.

[FR Doc. 28744 Filed 8-27-79; 8:45 am]
BILLING CODE 4810-31-M

DEPARTMENT OF LABOR

Pension and Welfare Benefit Programs

[29 CFR Part 2550]

Rules and Regulations for Fiduciary Responsibility; Proposed Regulations Relating to Definition of Plan Assets and to Establishment of Trust

AGENCY: Department of Labor.

ACTION: Proposed Rule Making and Withdrawal of Previous Proposed Regulation.

SUMMARY: This document contains a proposed regulation clarifying what will

be regarded as assets of an employee benefit plan under the Employee Retirement Income Security Act of 1974 (the Act). The document also (1) contains a proposed regulation providing certain exemptions from the requirement that assets of an employee benefit plan be held in trust, and (2) withdraws a previous proposed regulation concerning that subject.

DATES: Written comments concerning the proposed regulations must be received on or before October 29, 1979. The proposed regulations would be effective 30 days after they are adopted.

ADDRESSES: Interested persons are invited to submit written data, views, or arguments concerning either or both of the proposed regulations set forth in this document to: Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20216, marked to the attention of "Plan Asset Regulations," on or before the date indicated above. All such submissions will be open to public inspection in the Public Documents Room, Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Robert R. Bitticks, Esq., Office of the Solicitor, U.S. Department of Labor, Washington, D.C. (202) 523-8620.

SUPPLEMENTARY INFORMATION: Section 403(a) of the Act requires that, in general, assets of employee benefit plans be held in trust by one or more trustees. Certain exceptions to this requirement are set forth in section 403(b) of the Act. One such exception is contained in section 403(b)(4), which provides that the requirements of section 403(a) will not apply to a plan which the Secretary of Labor exempts from those requirements, and which is not subject to part 2 of Title I of the Act (relating to participation and vesting), part 3 of Title I (relating to funding), or Title IV (relating to plan termination insurance). The category of plans to which the exemptive authority extends thus includes all welfare plans and certain types of pension plans.¹

¹ The classes of pension plans which the Secretary of Labor has the authority to exempt from the trust requirement are, generally, (1) excess benefit plans; (2) plans established and maintained by a society, order, or association described in section 501(c)(3) or (9) of the Internal Revenue Code of 1954 if there are no employer contributions made to the plan; (3) trusts described in section 501(c)(18) of the Code; and (4) plans established or maintained by a labor organization described in section 501(c)(5) of the Code which do not provide for employer contributions.

Pursuant to the exemptive authority contained in section 403(b)(4), the Department of Labor (Department) published proposed regulation 29 CFR 2552.1, which would have provided an exemption from the trust requirements of section 403(a) of the Act for certain unfunded employee welfare benefit plans.² A number of the public comments received in response to that proposed regulation expressed the view that the class of welfare plans to which the exemption would apply was too limited. It was also suggested by commentators that, in connection with adopting regulations regarding the trust requirement of the Act, the Department should clarify what constitutes "assets" of an employee benefit plan within the meaning of the Act.

Upon consideration of those comments and other relevant matters, the Department has determined to withdraw the proposed regulation published in December 1974, and to propose in its stead the regulations described below. One of the regulations now being proposed, 29 CFR 2550.401b-1, would define the meaning of "plan assets" under the Act.³ The other regulation now being proposed, would in part provide, at 29 CFR 2550.403b-1(e), a limited exemption from the trust requirement of the Act with respect to welfare plans.

Proposed Regulation With Regard to What Constitutes "Assets" of a Plan

The Act does not explicitly define the types of property which will be regarded as "assets" of an employee benefit plan. However, the Act in section 401(b) describes certain types of property which will not be regarded as plan assets even though a plan might be viewed as having an interest in such property. Specifically, section 401(b) provides that, where a plan invests in a security issued by an investment company which is registered under the Investment Company Act of 1940, or where a plan invests in a contract or policy of insurance which is issued by

and funded through the general account of an insurer,⁴ the assets of the plan will be deemed to include such security, contract or policy, but will not necessarily be deemed to include any assets of the investment company or insurer.

The existence of these explicit exceptions in section 401(b) of the Act suggests that, except where such an exception is applicable, the assets of a pooled investment vehicle which is not a registered investment company or an insurer issuing certain contracts or policies of insurance would, in many cases, constitute plan assets where a plan invests in the pooled investment vehicle. Such a conclusion is consistent not only with the logical implication of the provisions of section 401(b), but also with the intent of Congress as expressed in the legislative history of the Act. That is, in enacting the exception relating to securities issued by a registered investment company, Congress relied largely upon the fact that such securities are broadly held, and that the issuers of such securities are subject to regulation under the Investment Company Act of 1940.⁵ The exception for contracts or policies issued by insurers and funded by insurers' general accounts also appears to be based upon the fact that the plan benefits provided under such contracts or policies are insured by an entity which is subject to state regulation designed to assure the entity's ability to pay benefits specified in the policies when due.⁶ Obviously, such protections are not available with respect to some other types of pooled investment.

Furthermore, a functional analysis leads to the conclusion that with respect to a wide variety of pooled investment vehicles, when a plan invests some or all of its assets in a pooled investment vehicle, the plan is, as a practical matter, retaining the management of that investment vehicle to manage the portion of the plan's assets which is so invested. It would be unreasonable to suppose that Congress intended that the protections of the fiduciary responsibility provisions of the Act which are applicable where a plan

retains a manager of its investments directly would not be applicable where the manager is retained indirectly, through investment by the plan in a pooled investment vehicle. Therefore, it seems to the Department that Congress intended that, where a plan invests in a pooled investment vehicle, the assets of that vehicle are properly viewed as plan assets, and must be managed in accordance with the fiduciary responsibility provisions of the Act, unless circumstances exist which make application of those provisions inappropriate or unnecessary.

On the other hand, it seems clear that the Act does not contemplate that its fiduciary responsibility provisions will govern the management of every business in which a plan happens to have an interest. For example, as the Department has previously recognized,⁷ investment by a plan in equity securities of a corporation or partnership which is an operating company (*i.e.*, whose primary activity is the production, provision, or sale of a product or service, rather than mere investment) does not, solely by reason of such investment, cause the assets of the company to be plan assets.⁸ Normally, a plan or other investor which purchases an interest in such a company may be thought to base its decision upon the expectation that the company's operating activity will produce a profit, and the belief that investment by the company in plant, inventory, or other items is in furtherance of its operating activity. Moreover, making the fiduciary responsibility provisions of the Act applicable to the management of an operating company in which a plan holds an interest could unreasonably restrict the operations of the company. The Department has found no basis for believing that Congress intended such a result.

Moreover, the Department is of the view that, even where a plan holds an interest in a corporation, partnership, or

² Interpretive Bulletin 75-2, issued February 8, 1975, 29 CFR 2509.75-2.

³ Interpretive Bulletin 75-2 does not explicitly state that the principles enunciated therein are confined to operating companies. However, in proposing a class exemption relating to insurance company pooled separate accounts (42 FR 54886, October 11, 1977), the Department and the Internal Revenue Service indicated their view that, where a plan invests in such an entity, the assets of that entity would constitute plan assets. The class exemption was later granted (43 FR 59915, December 22, 1978). As discussed hereinafter, the assets held by other forms of pooled investment vehicles in which employee benefit plans invest may or may not be plan assets depending on several factors. To the extent that the regulation proposed herein might be viewed as inconsistent with Interpretive Bulletin 75-2, the regulation will, if adopted, supersede the Interpretive Bulletin.

⁴ The language in section 401(b)(2) of the Act which sets forth this exception refers to a "guaranteed benefit policy." The Department has previously interpreted this provision to mean generally that assets held in an insurer's general account to support benefits under a contract purchased by a plan are not plan assets, but that assets held for the same purpose in the insurer's separate account are plan assets. See 29 CFR 2509.75-2.

⁵ See H.R. Rep. No. 93-1280, 93d Cong., 2d Sess., 296 (1974) [Conference Report]. See also S. Rep. No. 93-383, 93d Cong., 1st Sess., 103 (1973).

⁶ See Conference Report at 296.

other entity which is a pooled investment vehicle rather than an operating company, there are cases, in addition to those described in section 401(b) of the Act, where the assets of the pooled investment vehicle should not be viewed as constituting plan assets. Specifically, the Department believes that, where shares of such a company are publicly traded, freely transferable and widely held, as in the case, for example, of some real estate investment trusts (REITs), application of the fiduciary responsibility provisions of the Act to the management of the REIT could unreasonably restrict the activities of the company. In such a case it might be virtually impossible for the company's management to know whether plans hold shares of the company at any particular time, and what persons are parties in interest with respect to such plans. To this extent, application of the fiduciary responsibility provisions of the Act to publicly held REITs and other companies with similar characteristics might have the practical effect of forcing such companies to cease operation. The Department does not believe that Congress intended such a result. Moreover, the fact that shares of such companies are publicly traded would seem to afford plans investing therein some of the same protection which led Congress to provide explicitly in section 401(b) of the Act that the assets of a registered investment company do not constitute plan assets merely because a plan owns shares of the company. That is, the management of the company is generally subject to oversight by a large number of investors in addition to the plan, and such oversight is facilitated by the disclosure and reporting requirements of the Securities Act of 1933 and the Securities Exchange Act of 1934.

The Department's view that plan assets do not necessarily include the assets of operating companies or of certain types of pooled investment vehicles in which plans invest is reflected in proposed § 2550.401b-1. This proposed regulation provides in effect that plan assets include any property, tangible or intangible, in which a plan has a beneficial ownership interest, and that plan assets include the assets of a company in which a plan invests unless the company is (1) an operating company; (2) a company whose assets are not plan assets because of the provisions in section 401(b) of the Act; or (3) a company whose assets would otherwise be deemed plan assets only by virtue of a plan's ownership of the company's equity securities, when such

securities are freely transferable,⁹ widely held,¹⁰ and are either registered under section 12 of the Securities Act of 1934 or registered under the Securities Act of 1933 when sold to the plan and are thereafter registered under section 12 of the Securities Exchange Act of 1934.

Certain of the public comments filed in response to the prior proposed regulation raised the question whether the general assets of an employer or an employee organization which is the plan sponsor should be deemed to constitute plan assets when, under the terms of the plan, benefits are provided from such general assets. In the usual case, a plan would have no beneficial ownership interest in the assets of a plan sponsor, even when benefits are or may be provided from such assets, and thus the assets would not constitute plan assets under the proposed regulation.¹¹ This would be true even if the employer or the employee organization set aside some of its general assets in a segregated account for the purpose of providing benefits under the plan. However, if the employer, the employee organization or the plan took steps which caused the plan to gain a beneficial ownership interest in such assets, those assets would then be deemed plan assets under the regulation.

Furthermore, the Department believes that there are certain circumstances under which assets should be regarded as plan assets regardless of whether the plan would be deemed to have a beneficial ownership interest in those assets. Specifically, the proposed regulation provides that, if an employer or employee organization represents to participants or beneficiaries that certain assets of the employer or employee organization (respectively) will be used only for the purpose of providing benefits under the plan, then those assets are to be deemed plan assets. For example, it appears that the

⁹ Generally, the Department would not view interests to be freely transferable if there were restrictions on the transfer of such interests imposed by the issuer (*e.g.*, a right of first refusal).

¹⁰ The question of how many interest holders a company must have in order for interests in the company to be "widely held" might vary from case to case. Normally, however, the Department would not view interests in a company to be widely held for purposes of the proposed regulation if they were held by fewer than 100 persons.

¹¹ It should be noted that a transaction may be prohibited under the provisions of section 406 of the Act and section 4975 of the Code regardless of whether the transaction involves plan assets. For example, the prohibited transaction provisions may be applicable, under certain circumstances, where a plan sponsor directly pays a party in interest for services rendered by the party in interest to the plan.

constitutions and by-laws of some employee organizations provide that certain of the organization's assets will be used only to pay benefits under a plan. Such specified assets would constitute plan assets under proposed § 2550.401b-1. Under proposed § 2550.403a-1 (discussed below), such assets would have to be held in trust. The proposed regulation also provides that if the obligation of the employer or employee organization to make contributions to a plan is limited under the plan to particular assets, then those assets will be deemed plan assets. For example, if an employer's obligation to make contributions to a plan were limited under the plan to assets which were set aside in a separate bank account, that account would constitute plan assets under proposed § 2550.401b-1, and would have to be held in trust pursuant to proposed § 2550.403a-1, discussed below.

Another question raised in public comments submitted in response to the previously proposed regulation is whether employee contributions to a plan constitute plan assets when such contributions are deducted by an employer from the employees' salaries, or are otherwise received by the employer. The Department would regard a plan as obtaining a beneficial ownership interest in such contributions when they are made,¹² and the contributions would constitute plan assets at that time.¹³ Where employee contributions are made with respect to a welfare plan, a limited exemption from the trust requirement would be provided in proposed § 2550.403b-1, discussed below.

In addition to circumstances where property should be regarded as plan assets without regard to whether a plan has a beneficial ownership interest in that property, it is the Department's view that in the following circumstances certain property should not be regarded as plan assets even if a plan has or may have a beneficial ownership interest in the property: Where a plan invests in an interest-bearing security which evidences a participation in certain

¹² In the case of employee payroll deductions the contribution is made at the time payment by cash or check is made or required to be made to an employee of an amount less than that to which he would otherwise be entitled, the lesser amount being justified on the ground that a deduction is being made in respect of a plan.

¹³ It might be noted that the Department's temporary bonding regulation under section 412 of the Act, 29 CFR § 2550.412-1, accords somewhat different treatment to the question of whether employee contributions received by employers constitute plan assets for purposes of bonding. The proposed regulation would not affect the temporary bonding regulation.

underlying property and which was issued by an agency or instrumentality of the United States, and where repayment of the principal investment and payment of the interest thereon is guaranteed or otherwise assured by the United States or an agency or instrumentality thereof, even if the security conveys a beneficial ownership interest in the underlying property, the security but not the underlying property would be an asset of the plan. It appears that assurance of payment by the United States or an agency or instrumentality of the United States generally provides the basis upon which such securities are evaluated by investors. Furthermore, the consequences of considering the underlying property to be plan assets could result in impairment of the function mandated by Congress to be performed by the agency or instrumentality of the United States which issues such securities. Provision for this circumstance is set forth in proposed § 2550.401b-1(b).

Proposed Regulation Relating to Trust Requirement

Proposed § 2550.403a-1 provides that, with certain exceptions, all assets of an employee benefit plan must be held in trust by one or more trustees pursuant to a written trust instrument. The proposed regulation contains provisions regarding the powers of the trustee which are substantially identical to provisions contained in section 403(a) of the Act.¹⁴

The exceptions to the trust requirement are set forth in proposed § 2550.403b-1. Some of these exceptions are the same ones set forth in section 403(b) of the Act. That is, the proposed regulation provides that the trust requirement of the Act will not apply to (a) any assets of a plan which consist of insurance contracts or policies issued by an insurance company qualified to do business in a state, (b) any assets of such an insurance company or any assets of a plan which are held by such an insurance company, (c) a plan some or all of the participants of which are employees described in section 401(c)(1) of the Code or which consists of one or more individual retirement accounts described in section 408 of the Code where certain requirements are met, or

¹⁴In this connection, the Department has received inquiries as to whether it is permissible for securities in which a plan has invested to be registered in the name of a broker-dealer or the broker-dealer's nominee, sometimes referred to as "street name" registration. The Department would generally view such a practice under the proposed regulation as violating the requirement of section 403(a) of the Act that plan assets must be held in trust, except under those circumstances where the broker-dealer holds the securities as trustees for the plan pursuant to an executed trust agreement.

(d) a contract established and maintained under section 403(b) of the Code where certain requirements are met.

In addition, subsection (e) of the proposed regulation provides that employee contributions to a welfare plan which are temporarily held by an employer or employee organization need not be held in trust, provided that: (1) no such contributions, and no income or profits derived therefrom, are held by the employer or employee organization or any agent of the employer or employee organization for more than three months; (2) all such contributions, and any income or profits derived therefrom, are, while in the possession of the employer or employee organization, maintained in a segregated account which is clearly identified as containing assets of the plan; and (3) the employer or employee organization acknowledges in writing to the plan that it holds such assets in its capacity as a fiduciary of such plan and will be liable for any losses of such contributions or income or profits while such property is in the possession of the employer or employee organization.

The Department believes that the proposed exemption relating to welfare plans described above will avoid unnecessary expense on the part of employers, while at the same time containing conditions sufficient to protect the interests of plan participants and beneficiaries.

The regulations proposed herein do not meet the criteria for significant regulations set forth in Department of Labor guidelines (44 FR 5570, January 28, 1979) issued to implement Executive Order 12044 (43 FR 12661, March 23, 1978).

(The regulations are proposed, and the previous proposed regulation is withdrawn, pursuant to sections 401, 403, and 505 of the Act (29 U.S.C. 1101, 1103, and 1135).)

In consideration of the matters discussed above, the Department hereby withdraws proposed regulation 29 CFR 2552.1 published on December 24, 1974 at 39 FR 44456, and proposes to amend part 2550 of Chapter XXV of Title 29 of the Code of Federal Regulations in the manner set forth below.

1. Adopt regulation 29 CFR 2550.401b-1, to provide as follows:

§ 2550.401b-1 Definition of "plan assets."

(a) Except as otherwise provided in this section, the assets of an employee benefit plan shall, for purposes of Title I of the Act, include all property, tangible or intangible:

(1) In which the plan has any beneficial ownership interest;

(2) Which is the property of an employer or employee organization sponsoring the plan and which such employer or employee organization represents to plan participants or beneficiaries can or will be used only to provide plan benefits;

(3) Which constitutes an identified portion less than the whole of the assets of an employer or employee organization sponsoring the plan, and which under the terms of a plan constitutes the sole source of contributions to such plan by such employer or employee organization; or

(4) Which constitutes employee contributions to the plan.

(b) Notwithstanding the provisions of subsection (a), where an employee benefit plan invests in interest-bearing securities representing an interest in certain underlying property, which securities

(1) Are issued by an agency or instrumentality of the United States,

(2) Provide that the plan, by reason of its investment, has or may have a beneficial ownership interest in the underlying assets, and

(3) Are guaranteed or otherwise assured as to repayment of principal and payment of interest by the United States or an agency or instrumentality thereof,

then such securities shall constitute assets of the plan but the property underlying such securities shall not.

(c) Notwithstanding the provisions of subsection (a), in the case of a plan which invests in any security issued by an investment company registered under the Investment Company Act of 1940, the assets of such plan shall be deemed to include such security but shall not, solely by reason of such investment, be deemed to include any assets of such investment company.

(d) Notwithstanding the provisions of subsection (a), in the case of a plan which is funded in whole or in part by a contract or policy of insurance issued by an insurer, the assets of the plan shall include the contract or policy under which the benefits are insured but shall not, solely by reason of the issuance of such contract or policy, include the assets of the insurer issuing the contract or policy except to the extent that such assets are maintained by the insurer in one or more separate accounts and do not constitute surplus in any such account. For purposes of this paragraph, the term "insurer" means an insurance company, insurance service, or insurance organization, qualified to conduct business in a State.

(e) Notwithstanding the provisions of subsection (a), in the case of a plan

which invests in any equity security which is not issued by an investment company registered under the Investment Company Act of 1940, the assets of such plan shall be deemed to include such security and the assets of the issuer of such security, unless:

(1) The issuer of such security is engaged primarily in the provision, production, or sale of a product or service other than the investment of capital; or

(2) Such security is:

(i) Freely transferable;

(ii) Widely held; and

(iii) Either (A) registered under section 12(b) or 12(g) of the Securities Exchange Act of 1934; or (B) sold to the plan as part of an offering of such securities to the public pursuant to an effective registration statement under the Securities Act of 1933, and the security is registered under section 12(b) or 12(g) of the Securities Exchange Act of 1934 within 120 days (or such later time as may be allowed by the Securities and Exchange Commission) after the end of the fiscal year of the issuer during which the offering of such securities to the public occurred.

2. Adopt regulations 29 CFR 2550.403a-1 and 29 CFR 2550.403b-1, to provide as follows:

§ 2550.403a-1 Establishment of trust.

Except as provided in § 2550.403b-1, all assets of an employee benefit plan shall be held in trust by one or more trustees pursuant to a written trust instrument. Such trustee or trustees shall be either named in the trust instrument or in the plan instrument described in section 402(a) of the Act, or appointed by a person who is a named fiduciary (within the meaning of section 402(a)(2) of the Act), and upon acceptance of being named or appointed, the trustee or trustees shall have exclusive authority and discretion to manage and control the assets of the plan, except to the extent that:

(a) The plan instrument or the trust instrument expressly provides that the trustee or trustees are subject to the direction of a named fiduciary who is not a trustee, in which case the trustees shall be subject to proper directions of such fiduciary which are made in accordance with the terms of the plan and which are not contrary to the provisions of Title I of the Act or Chapter XXV of this Title, or

(b) Authority to manage, acquire, or dispose of assets of the plan is delegated to one or more investment managers (within the meaning of section 3(38) of the Act) pursuant to section 402(c)(3) of the Act.

§ 2550.403b-1 Exemptions from Trust Requirement.

The assets of an employee benefit plan shall not be required to be held in trust to the extent that such assets consist of:

(a) Insurance contracts or policies issued by an insurance company qualified to do business in a State;

(b) Assets held by an insurance company qualified to do business in a State;

(c) Assets of a plan—

(1) Some or all of the participants of which are employees described in section 401(c)(1) of the Internal Revenue Code of 1954 (the Code); or

(2) Which plan consists of one or more individual retirement accounts described in section 408 of the Code, to the extent that such assets are held in one or more custodial accounts which qualify under section 401(f) or 408(h) of the Code, whichever is applicable;

(d) Contracts established and maintained under section 403(b) of the Code, to the extent that the assets of the contract are held in one or more custodial accounts pursuant to section 403(b)(7) of the Code; or

(e) Employee contributions to an employee welfare benefit plan which are, pursuant to an arrangement between an employer or an employee organization and the participants in the plan, either periodically paid by such participants to such employer or employee organization or deducted by such employer from the salaries of participating employees, provided that the following conditions are met:

(1) No such contributions, and no income or profits derived therefrom, are held by the employer or employee organization or any agent of the employer or employee organization for more than three months;

(2) All such contributions, and any income or profits derived therefrom, are, while in the possession of the employer or employee organization, maintained in a segregated account which is clearly identified as containing assets of the plan; and

(3) The employer or employee organization acknowledges in writing to the plan that it holds such assets in its capacity as a fiduciary of such plan and will be liable for any losses of such contributions or income or profits while such property is in the possession of the employer or employee organization.

Signed at Washington, D.C., this 21st day of August 1979.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

(FR Doc. 79-28537 Filed 8-22-79; 12:50 pm)
BILLING CODE 4510-29-M

[29 CFR Part 2550]

Rules and Regulations for Fiduciary Responsibility; Proposed Regulation Relating to the Statutory Exemption for Certain Acquisitions, Sales, or Leases of Property

AGENCY: Department of Labor.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: This document contains a proposed regulation under the Employee Retirement Income Security Act of 1974 (Act) relating to certain acquisitions, sales, or leases of property by an employee benefit plan. The proposed regulation is intended to clarify the scope of provisions of the Act which exempt such transactions if certain conditions are met. If adopted, the regulation might affect participants and beneficiaries of employee benefit plans, plan fiduciaries, employers and other persons who engage in these transactions.

DATES: Written comments concerning the proposed regulation must be received by the Department of Labor (the Department) on or before October 29, 1979. The regulation, if adopted, would be effective as of January 1, 1975.

ADDRESS: Interested persons are invited to submit written comments concerning the proposed regulation to: Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, Washington, D.C. 20216. Attention: Proposed regulation § 2550.408e. All submissions will be open to public inspection at the Public Documents Room, Pension and Welfare Benefit Programs, Department of Labor, Room N-4677, 200 Constitution Avenue, N.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Jay S. Neuman, Plan Benefits Security Division, Office of the Solicitor, U.S. Department of Labor, Washington, D.C. 20216, telephone (202) 523-9141. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the Department proposes to adopt a regulation under section 408(e) of the Act. A discussion of the provisions of the proposed regulation are set forth below.

A. Background

Section 406(a) of the Act generally prohibits a fiduciary¹ with respect to an employee benefit plan from causing the plan to engage in certain types of transactions with a party in interest.² These prohibited transactions include, among others, loans, leases and sales or exchanges of property between a plan and a party in interest. Moreover, section 406(b) of the Act prohibits a fiduciary from, among other things, dealing with plan assets in his own interest or engaging in a transaction involving a conflict of interest.

In addition, section 406(a) of the Act, together with section 407(a), describe the circumstances under which a plan may acquire or hold real property which is leased to an employer of employees covered by the plan, and securities which are issued by such employer, without violating the prohibited transaction provisions.

However, section 408(e) of the Act provides an exemption for any acquisition or sale by a plan of "qualifying employer securities",³ and

¹ Section 3(21)(A) of the Act provides in relevant part that a person is a fiduciary with respect to a plan to the extent he (i) exercises any discretionary authority or discretionary control respecting management of such plan or exercises any authority or control respecting management or disposition of its assets, (ii) renders investment advice for a fee or other compensation, direct or indirect, with respect to any moneys or other property of such plan, or has any authority or responsibility to do so, or (iii) has any discretionary authority or discretionary responsibility in the administration of such plan.

² The term "party in interest" is defined in section 3(14) of the Act to include fiduciaries, employers of individuals covered by the plan, and persons or organizations having other relationships with the plan which are described in that section.

³ Section 407(d)(5) of the Act defines the term "qualifying employer security" to mean an "employer security" which is stock or a "marketable obligation".

Section 407(d)(1) of the Act defines the term "employer security" to mean, with certain exceptions, a security issued by an employer of employees covered by the plan, or by an affiliate of such employer. Under section 3(20) of the Act, a "security" has the same meaning as such term has under section 2(1) of the Securities Act of 1933 (15 USC 77b(1)).

Section 407(e) of the Act defines the term "marketable obligation" to mean a bond, debenture, note, or certificate, or other evidence of indebtedness (hereinafter referred to as "obligation") if—

(1) Such obligation is acquired—

(A) On the market, either (i) at the price of the obligation prevailing on a national securities exchange which is registered with the Securities and Exchange Commission, or (ii) if the obligation is not traded on such a national securities exchange, at a price not less favorable to the plan than the offering price for the obligation as established by current bid and asked prices quoted by persons independent of the issuer;

(B) From an underwriter, at a price (i) not in excess of the public offering price for the obligation as set forth in a prospectus or offering circular filed with the Securities and Exchange Commission, and

any acquisition, sale or lease by a plan of "qualifying employer real property",⁴ from or to a party in interest if certain conditions are met. These conditions are (1) the acquisition, sale or lease must be for adequate consideration, (2) no commission may be charged with respect thereto, and (3) in the case of an acquisition of qualifying employer securities and an acquisition or lease of qualifying employer real property by a plan other than an "eligible individual account plan,"⁵ such acquisition or lease must comply with the

(ii) at which a substantial portion of the same issue is acquired by persons independent of the issuer; or

(C) Directly from the issuer, at a price not less favorable to the plan than the price paid currently for a substantial portion of the same issue by persons independent of the issuer;

(2) Immediately following acquisition of such obligation—

(A) Not more than 25 percent of the aggregate amount of obligations issued in such issue and outstanding at the time of acquisition is held by the plan, and

(B) At least 50 percent of the aggregate amount referred to in subparagraph (A) is held by persons independent of the issuer; and

(3) Immediately following acquisition of the obligation, not more than 25 percent of the assets of the plan is invested in obligations of the employer or an affiliate of the employer.

⁴ Section 407(d)(2) of the Act defines the term "employer real property" to mean real property (and related personal property) which is leased to an employer of employees covered by the plan, or to an affiliate of such employer.

The term "qualifying employer real property" is defined in section 407(d)(4) of the Act to mean parcels of employer real property—

(A) If a substantial number of the parcels are dispersed geographically;

(B) If each parcel of real property and the improvements thereon are suitable (or adaptable without excessive cost) for more than one use;

(C) Even if all of such real property is leased to one lessee (which may be an employer, or an affiliate of an employer); and

(D) If the acquisition and retention of such property comply with the provisions of Part 4 of Title I of the Act (other than section 404(a)(1)(B) to the extent it requires diversification, and sections 404(a)(1)(C), 408, and section 407(a)).

⁵ Under section 407(d)(3) of the Act, the term "eligible individual account plan" means an individual account plan which is (i) a profit-sharing, stock bonus, thrift, or savings plan; (ii) an employee stock ownership plan; or (iii) a money purchase plan which was in existence on the date of enactment of the Act and which on such date invested primarily in qualifying employer securities. Such term excludes an individual retirement account or annuity described in section 408 of the Internal Revenue Code of 1954 (Code). A plan is treated as an eligible individual account plan with respect to the acquisition or holding of qualifying employer real property or qualifying employer securities only if such plan explicitly provides for the acquisition and holding of qualifying employer securities or qualifying employer real property (as the case may be). The Department has requested public comments with respect to questions which have arisen in connection with the development of a regulation to clarify the applicability of the term "eligible individual account plan" to certain arrangements. See 44 FR 34517, June 15, 1979.

requirements of section 407(a) of the Act and the regulations thereunder.⁶

B. Scope

1. Section 408(b)

Section 408(e) provides an exemption from the prohibitions of section 406(a) for certain acquisition, sale and lease transactions if the conditions in that section are satisfied.

In its consideration of the proposed regulation, it appeared to the Department that section 408(e) also provides an exemption from the restrictions of section 406(b)(1) of the Act (relating to fiduciaries dealing with the assets of plans in their own interest or for their own account) and section 406(b)(2) of the Act (relating to fiduciaries in their individual or any other capacity acting in any transaction involving the plan on behalf of party (or representing a party) whose interests are adverse to the interest of the plan or the interests of its participants or beneficiaries). This is because, in the Department's view, section 408(e), by its terms, is intended to provide relief for transactions between a plan and, among others, an employer of employees who are covered by the plan,⁷ and the employer often is a fiduciary with respect to the plan. However, the Department interprets section 408(e) as not providing an exemption from section 406(b)(3) of the Act (relating to fiduciaries receiving consideration for their own personal account from any party dealing with a plan in connection with a transaction involving assets of the plan). The Department considers the receipt of such consideration a separate transaction not described in the statutory exemption.⁸ This position is consistent with one of the requirements of section 408(e)—that no commission be charged with respect to transactions covered by the exemption. Accordingly, the proposed regulation has been drafted to reflect these views.

2. *Sales by plans other than eligible individual account plans.* The proposed regulation states that under section 408(e) and the regulation, an exemption is provided for the sale of qualifying employer securities and qualifying employer real property by all plans, including those which are not eligible individual account plans.

Section 408(e), in the Department's view, provides an exemption for the

⁶ See 29 CFR §§ 2550.407a-1 through 2550.407a-4.
⁷ See H.R. Rep. No. 93-1280, 93d Cong., 2d Sess. 318 (1974).

⁸ The Department has adopted a similar approach in regulations under other sections of the Act which provide statutory exemptions. See 29 CFR §§ 2550.408b-3(b)(1), 2550.408b-4(a), and 2550.408b-6(a).

acquisition or sale by a plan of qualifying employer securities, or the acquisition, sale, or lease of qualifying employer real property, if certain conditions are satisfied. One of the conditions is that the plan be an eligible individual account plan. Another condition, found in section 408(e)(3)(B), is that, in the case of a plan which is not an eligible individual account plan, the acquisition or lease of qualifying employer real property or the acquisition of qualifying employer securities not be prohibited by section 407(a). While section 408(e)(3)(B) could be interpreted to limit the applicability of the exemption so that it would not apply to sale transactions unless they were made by eligible individual account plans, in the Department's view the section should not be construed to limit the scope of the exemption in that manner. Rather, section 408(e)(3)(B) makes clear that, for plans which are not eligible individual account plans, no relief is provided from the percentage restrictions of section 407(a). Thus, an acquisition by such a plan which otherwise meets the requirements of section 408(e) (adequate consideration; no commission charged) must also satisfy section 407(a). Sales by such plans of qualifying employer securities and qualifying employer real property, since they would not be prohibited by section 407(a) of the Act, are not affected by the terms of section 408(e)(3).

This interpretation is consistent with the purpose of section 407(a)(2), which is to limit the acquisition of qualifying employer securities and qualifying employer real property. The restrictions in section 407(a) were designed in part to minimize an employee's dependence on the employer's financial condition for the payment of a promised benefit.⁹ It also appears to be consistent with one of the principal purposes of section 408(e), which is to facilitate the disposition of qualifying employer securities and qualifying employer real property. Since Congress intended to limited investments in qualifying employer securities and qualifying employer real property by plans other than eligible individual account plans, it is consistent with that intent to interpret section 408(e) to permit sales of such securities and property by such plans to parties in interest. Otherwise, these plans would be restricted in their ability to dispose of the very type of investment that Congress intended to discourage. It would be illogical to assume that Congress would allow eligible

⁹ See, for example, S. Rep. No. 93-383, 93d Cong., 1st Sess. 100 (1973).

individual account plans, which under certain circumstances may invest up to 100% of their assets in qualifying employer securities and qualifying employer real property, to sell freely to parties in interest, but would limit the ability of plans other than eligible individual account plans to sell such investments to parties in interest to the situations described in the transitional rule in section 414(c)(5) of the Act.¹⁰

3. Transactions not covered by section 408(e)

Section 408(e) does not exempt any separate transaction, such as an extension of credit, which is related to an exempt acquisition, sale or lease. Thus, although section 408(e) may permit a plan to sell qualifying employer securities to a party in interest if the plan receives adequate consideration and no commission is charged with respect to the sale, that section does not provide an exemption to allow the plan to accept a note or other promise to pay from the party in interest in exchange for the qualifying employer securities.¹¹ The extension of credit by the plan to the party in interest would constitute a separate transaction prohibited under section 406(a) and not exempt under section 408(e).¹²

¹⁰ Section 414(c)(5) provides that section 406 of the Act shall not apply with respect to a sale, exchange or other disposition by a plan to a party in interest of certain employer securities and employer real property, if the plan is required to dispose of such securities or property in order to comply with the provisions of section 407(a) of the Act and if the plan receives not less than adequate consideration.

¹¹ The stated general proposition is subject to an exception in the case where the obligation of the party in interest is itself a qualifying employer security (i.e., a marketable obligation), and its acquisition would not contravene the restrictions of section 407(a) of the Act.

¹² In this regard, however, section 408(a) of the Act empowers the Secretary of Labor to grant administrative exemptions from the prohibited transaction provisions of sections 406 and 407(a) of the Act if the Secretary finds that the exemption is administratively feasible, in the interest of the plan and its participants and beneficiaries and protective of the rights of plan participants and beneficiaries. Section 4975(c)(2) of the Internal Revenue Code of 1954 (Code) contains substantially similar provisions regarding administrative exemptions from the prohibited transaction provisions of section 4975(c)(1) of the Code. If a transaction does not meet the conditions, or is not within the scope, of section 408(e), but the plan fiduciary believes that an exemption would satisfy the criteria of section 408(a) of the Act and section 4975(c)(2) of the Code, an application for an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code may be filed with the Department, which has authority to grant exemptions under both the Act and the Code. It should be noted that effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue such exemptions to the Secretary of Labor. Applications for administrative exemption should be filed in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975).

Because section 408(e) refers only to transactions involving qualifying employer securities and qualifying employer real property, it does not provide any exemption (whether or not the plan involved is an eligible individual account plan) from the prohibitions of sections 406(a)(1)(E), 406(a)(2), and 407(a)(1) of the Act, insofar as they relate to the acquisition, disposition or holding of employer securities which are not qualifying employer securities, or employer real property which is not qualifying employer real property.

It should be noted that applicability of section 408(e) to a transaction does not relieve a fiduciary with respect to the plan from the general fiduciary responsibility provisions of section 404 of the Act which, among other things, require a fiduciary to discharge his duties respecting the plan solely in the interests of plan participants and beneficiaries and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act;¹³ nor does it affect the requirement of section 401(a) of the Code that a plan must be operated for the exclusive benefit of employees and their beneficiaries. The provisions of section 408(e) are further limited by section 408(d) of the Act (relating to transactions with owner-employees and related persons).

C. Other Matters

1. *Acquisition.* The proposed regulation contains a definition of the term "acquisition" for purposes of section 408(e). This definition is similar to the definition of "acquisition" for purposes of section 407(a) set forth in 29 CFR § 2550.407a-2(b).¹⁴

2. *Adequate consideration.* Under the proposed regulation, an acquisition, sale or lease must be for "adequate consideration." That term is defined, in the case of a marketable obligation, as a price not less favorable to the plan than the price determined under section 407(e)(1) of the Act. For all other property, it is a price not less favorable to the plan than the price determined under section 3(18) of the Act, which specifically defines the term "adequate

¹³ Thus, while a plan may be able to acquire qualifying employer securities under the provisions of section 408(e) and this regulation, if the acquisition were not prudent (because, for example, of the poor financial condition of the employer), the appropriate plan fiduciaries would remain liable for any loss resulting from a breach of fiduciary responsibility. See H.R. Rep. No. 93-1280, 93d Cong., 2d Sess. 320 (1974).

¹⁴ It should be noted that an acquisition of securities pursuant to a conversion of securities may also be exempt from the prohibited transaction provisions of the Act by virtue of section 408(b)(7). To date, no regulations implementing that section have been issued.

consideration." A determination as to whether a particular transaction is for adequate consideration should be made by the appropriate plan fiduciaries on the basis of relevant facts and circumstances; the Department generally will not issue advisory opinions with respect to what constitutes adequate consideration.¹⁵

3. *Commissions.* Under the proposed regulation, generally, no commission, fee, or similar charge may be paid in connection with the transaction. However, in accordance with Congressional intent,¹⁶ the proposal provides that when a purchase is made from an underwriter who assumes the risk of market fluctuations after the award date, the underwriter's margin would be specifically excluded from the definition of "commission" for purposes of section 408(e).

In this regard, the Department is considering, and invites comment on, whether there are additional types of charges which should be excluded from the definition of "commission" for purposes of section 408(e). Under one such approach, for example, the term "commission" would be defined to exclude: fees paid by a party other than the plan to a "managing dealer" in connection with a public tender or exchange offer; or the underwriter's margin in a public offering of securities registered under the Securities Act of 1933 (whether or not the offering is made pursuant to a firm commitment by the underwriter); or both. It appears to the Department that these exclusions may be appropriate because the transactions do not present the type of abuse with which the prohibition on the payment of commissions was intended to deal. The fees described above do not result from private, negotiated transactions between, for example, a plan and the sponsoring employer, where there would be no apparent justification for the payment of a commission; the transactions are public in nature, with unrelated persons participating on the same terms as the plan. Moreover, the amount paid or received by a plan generally would be unaffected by the payment of any fee described in the exclusions. Finally, the managing dealer or underwriter who would receive the fee from the offeror or issuer has a significant role in the transaction regardless of the plan's decision to acquire or dispose of

securities.¹⁷ It appears to the Department that these exclusions may be consistent with the Congressional intent underlying section 408(e) to facilitate the disposition, and, in some cases, the acquisition, by plans of qualifying employer securities; and may be consistent with the express Congressional intent regarding certain underwritings.

4. *Relationship to class exemptions.* The Department is aware that certain types of transactions which may be exempt under section 408(e) and this proposed regulation may also be exempt under Prohibited Transaction Exemption 75-1. The conditions of the class exemption, however, vary in some respects from those of the statutory exemption as interpreted by this proposed regulation. Thus, if the regulation were adopted, a transaction might be exempt by virtue of the class exemption or section 408(e), or both. In such cases, a plan fiduciary could rely upon either the statutory or administrative exemption, provided the relevant conditions are satisfied.¹⁸

5. *Relationship to transitional rules.* Certain transactions which may be exempt under section 408(e) and this proposed regulation may also be exempt under section 414(c)(3) of the Act.¹⁹ Section 414(c)(3) provides that, before July 1, 1984, section 406 of the Act shall not apply with respect to a sale, exchange or other disposition of certain property between a plan and a party in interest if certain conditions are met.

¹⁵In this latter regard, the Department notes that a soliciting dealer in a tender or exchange offer generally receives a fee per share of securities tendered through his firm and accepted by the offeror. Unlike the situation of the managing dealer, it does not appear that there would be any justification for permitting this type of charge in cases where an employee benefit plan tenders shares of qualifying employer securities.

¹⁶For example, Prohibited Transaction Exemption 75-1, Part II would exempt from section 408(a) the purchase by a plan of qualifying employer securities from a registered broker-dealer who is not a plan fiduciary if: the broker-dealer customarily purchases and sells securities for its own account in the ordinary course of its business; the transaction is at least as favorable to the plan as an arm's-length transaction with an unrelated party would be; the broker-dealer is a party in interest with respect to the plan solely by reason of section 3(14)(B) of the Act; and certain records are kept. This exemption would, therefore, permit the broker-dealer to receive a commission in connection with certain principal transactions with a plan. Section 408(e) would exempt from sections 406(a) and 406(b)(1) and (2) the purchase by a plan of qualifying employer securities from a party in interest, including a plan fiduciary, if: the purchase is for adequate consideration; no commission is charged with respect to the transaction; and the acquisition complies with the requirements of section 407(a).

¹⁷On April 27, 1979, the Department published in the Federal Register (44 FR 24876) proposed regulation 29 CFR § 2550.414c-3, which would interpret this section.

The conditions of section 414(c)(3), however, vary in some respects from those of section 408(e) as interpreted by this proposed regulation. A transaction would be exempt from relevant prohibited transaction provisions of the Act if the conditions of either section 414(c)(3) or section 408(e) were met. Similarly, certain transactions which may be exempt under section 408(e) and this proposed regulation may also be exempt under section 414(c)(5) of the Act.

This proposed regulation is not "significant" under the criteria prescribed by Executive Order 12044 and the Department's Guidelines implementing the Order (44 FR 5570, January 26, 1979).

(The proposed regulation set forth herein is issued pursuant to sections 408(e) and 505 of the Act)

Proposed Regulation: In consideration of the matters discussed above, it is proposed to amend Part 2550 of Chapter XXV of Title 29 of the Code of Federal Regulations by adding in the appropriate place the following § 2550.408e.

§ 2550.408e Statutory exemption for acquisition or sale of qualifying employer securities and for acquisition, sale or lease of qualifying employer real property.

(a) *General.* Section 408(e) of the Employee Retirement Income Security Act of 1974 (the Act) exempts from the prohibitions of sections 408(a) and 406(b)(1) and (2) of the Act any acquisition or sale by a plan of qualifying employer securities (as defined in section 407(d)(5) of the Act), or any acquisition, sale or lease by a plan of qualifying employer real property (as defined in section 407(d)(4) of the Act), from or to a party in interest, if certain conditions are met. These conditions are that

(1) The acquisition, sale or lease must be for adequate consideration (as defined in paragraph (d) of this section);

(2) No commission may be charged with respect to the transaction; and

(3) In the case of an acquisition or lease of qualifying employer real property, or an acquisition of qualifying employer securities, by a plan other than an eligible individual account plan (as defined in section 407(d)(3) of the Act), the acquisition or lease must comply with the requirements of section 407(a) of the Act.

(b) *Acquisition.* For purposes of section 408(e) and this section, an acquisition by a plan of qualifying employer securities or qualifying employer real property shall include but not be limited to, an acquisition by purchase, by the exchange of plan assets, by the exercise of warrants or

rights, by the conversion of a security, by default of a loan where the qualifying employer security or qualifying employer real property was security for the loan, or in connection with the contribution of such securities or real property to the plan. However, an acquisition of a security shall not be deemed to have occurred if a plan acquires the security as a result of a stock dividend or stock split.

(c) *Safe.* For purposes of section 408(e) and this section, a sale of qualifying employer real property or qualifying employer securities shall include any disposition for value.

(d) *Adequate Consideration.* For purposes of section 408(e) and this section, adequate consideration means:

(1) In the case of a marketable obligation, a price not less favorable to the plan than the price determined under section 407(e)(1) of the Act; and

(2) In all other cases, a price not less favorable to the plan than the price determined under section 3(18) of the Act.

(e) *Commission.* For purposes of section 408(e) and this section, the term "commission" includes any fee, commission or similar charge paid in connection with a transaction, other than the underwriter's margin when a purchase is made from an underwriter who assumes the risks of market fluctuations after the award date.

Signed at Washington, D.C., this 22nd day of August, 1979.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 79-28538 Filed 8-22-79; 12:56 pm]

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ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 52]

[FRL 1305-6]

State Implementation Plans; General Preamble for Proposed Rulemaking on Approval of Plan Revisions for Nonattainment Areas—Supplement (on Revised Schedules for Submission of Volatile Organic Compound Ract Regulations)

AGENCY: Environmental Protection Agency.

ACTION: General Preamble for proposed rulemaking—Supplement.

SUMMARY: Provisions of the Clean Air Act enacted in 1977 requires States to revise their State Implementation Plans for all areas that have not attained

National Ambient Air Quality Standards. States are to have submitted the necessary plan revisions to EPA by January 1, 1979. The Agency is now publishing proposals inviting public comment on whether each of the submittals should be approved. In the April 4, 1979 issue of the *Federal Register*, EPA published a General Preamble identifying and summarizing the major considerations that will guide EPA's evaluation of the submittals (44 FR 20372). Today's Supplement provides information on the revised schedule for adoption of regulations for source categories emitting volatile organic compounds (VOC) covered by the second set of Control Technique Guidelines (CTGs).

FOR FURTHER INFORMATION CONTACT: The appropriate EPA Regional Office listed on the first page of the General Preamble (44 FR 20372) or the following Headquarters office: G. T. Helms, Chief, Control Programs Operations Branch, Control Programs Development Division, EPA Office of Air Quality Planning and Standards (MD-15), Research Triangle Park, North Carolina 27711, (919) 541-5365 or 541-5226.

SUPPLEMENTARY INFORMATION: The background is set out at length in the April 4 General Preamble. This Supplement address an issue that needs explanation. The Administrator's memorandum of February 24, 1978, published in the *Federal Register* at 43 FR 21673 (May 19, 1978), stated that the 1979 plan submission for ozone nonattainment areas, . . . must include, as a minimum, legally enforceable regulations to reflect the application of reasonably available control technology (RACT) to those sources for which EPA has published a Control Technique Guideline (CTG) by January 1978, and provide for the adoption and submittal of additional legally enforceable RACT regulations on an annual basis beginning in January 1980 for those CTGs that have been published by January of the preceding year."

It is now apparent that the regulatory adoption process may be more lengthy than first anticipated. Additional time may be necessary to accommodate public, administrative, and legislative review. In order to realistically address this problem, yet to continue meeting our responsibilities to attain the ambient standards as expeditiously as practicable, EPA is revising by six months the deadlines for submittal of the RACT regulations for the second set of CTGs. The SIPs should now provide for the adoption and submittal of additional legally enforceable

regulations by July 1, 1980 for the following source categories:

Factory Surface Coating of Flatwood Paneling
Petroleum Refinery Fugitive Emission (Leak)
Pharmaceutical Manufacture
Rubber Tire Manufacture
Surface Coating of Miscellaneous Metal Parts and Products
Graphic Arts (Printing)
Dry Cleaning, Perchloroethylene
Gasoline Tank Trucks, Leak Prevention
Petroleum Liquid Storage, Floating Roof Tanks

If this revision to the adoption schedule of RACT regulations requires alteration of any comments on a plan for which the comment period has already ended, the commenter should contact the appropriate EPA Regional Office immediately so that the issue can be appropriately dealt with.

Note.—Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and, therefore, subject to the procedural requirements of the order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized." I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044. [Secs. 110(a), 172, Clean Air Act, as amended (42 U.S.C. 7410(a), 7502)].

Dated: August 21, 1979.

Edward F. Tuerk,

Acting Assistant Administrator for Air, Noise, and Radiation.

[FR Doc. 79-28756 Filed 8-27-79; 8:45 am]

BILLING CODE 6560-01-M

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Parts 63 and 64]

[CC Docket No. 78-95; CC Docket No. 78-96; FCC 79-481]

Graphnet Systems, Inc.; Regulatory Policies Concerning the Provision of Domestic Public Message Services by Entities Other Than the Western Union Telegraph Co.

AGENCY: Federal Communications Commission.

ACTION: Order on Reconsideration released in CC Dockets 78-95/96, Domestic Public Message Services.

SUMMARY: The Commission clarified its decision in *Domestic Public Message Services*, 71 FCC 2d 471 (1979), by saying that the earlier decision did not apply to service in Alaska. Acting on a reconsideration request, the Commission also found that certain provisions in the contracts between Graphnet Systems, Inc. and three international record

carriers were unfair and contrary to the public interest.

DATES: Non-Applicable.

ADDRESS: Office of the Secretary, Federal Communications Commission, 1919 M Street, NW., Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Leonard Sawicki, (202) 632-6363, or Thomas Casey, (202) 632-3855, Common Carrier Bureau.

SUPPLEMENTARY INFORMATION:

Order on Reconsideration

Adopted: August 1, 1979.

Released: August 23, 1979.

By the Commission: Commissioner Lee absent; Commissioner Jones not participating.

In the matter of Domestic Public Message Services, Graphnet Systems, Inc., Application to participate in the Hinterland Delivery of International Communications Messages, CC Docket No. 78-95, File No. W-P-C 1430; Regulatory Policies Concerning the Provision of Domestic Public Message Services by Entities Other than the Western Union Telegraph Company and Proposed Amendment to Parts 63 and 64 of the Commission's Rules, CC Docket No. 78-96. See also 44 FR 30188, May 24, 1979.

1. The Commission has before it a Petition for Clarification filed by RCA Alaska Communications, Inc. (RCA Alascom) and a Petition for Reconsideration filed by TRT Telecommunications Corporation (TRT) of our Order in *Domestic Public Message Services*, 71 FCC 2d 471 (1979), CC Dockets 78-95 and 78-96. Graphnet, Inc. and RCA Global Communications, Inc. (RCA Globcom) filed oppositions to the TRT Petition for Reconsideration and Western Union Telegraph Company (WU) filed a "Partial Opposition." TRT offered a Reply Memorandum to the opposition petitions and also filed a Motion to Expedite.

I. Comments of the Parties Concerning Reconsideration

2. TRT's major points are that the agreements between Graphnet and ITT and RCA¹ together constitute an "anticompetitive reciprocal dealing arrangement" and that the Commission should have imposed the international formula on Graphnet as a condition of its Section 214 application. TRT specifically requests that Graphnet's application be so conditioned. TRT alleges that the nature of the Graphnet

¹ Graphnet has also entered into a similar arrangement with Western Union International (WUI).

agreements (tying the distribution of outbound messages to inbound messages Graphnet receives from the international record carriers) creates incentives for the parties to the agreements "to deal with one another, regardless of either the price or quality of the service which they provide" (TRT Comments, p. 9). Because ITT and RCA control so much inbound message traffic, they can force Graphnet to send the vast majority of its traffic via ITT and RCA even if Graphnet desired to send it via one of the other international record carriers (IRCs). TRT continues by noting that if Graphnet ever controls a large portion of outbound traffic, it could coerce the IRC to deal with it. TRT adds that "it is inauspicious to say the least to sanction Graphnet's entry into PMTS pursuant to a scheme which systematically bars carriers from fairly competing for interconnection arrangements" (TRT Comments, p. 10). TRT argues that the Commission "must scrutinize closely anticompetitive or potentially anticompetitive practices of the entities it regulates" (TRT Comments, p. 11). Since the anticompetitive effects of the Graphnet agreements were identified by TRT, the Commission should have conditioned Graphnet's application to prevent such effects.

3. TRT avers that the Commission departed without explanation from its policy stated in the *International Formula* proceeding, 87 FCC 2d 877 (1978), with respect to WU's outbound international message traffic. The Commission erred by this departure, TRT argues, especially since the Second Circuit's decision in *RCA Global Communications Inc. v. FCC*, 574 F.2d 727 (2d Cir. 1978) found the Commission's reasons for a new formula "sound and logical." TRT contends that these reasons are "equally 'sound and logical' for applying the International Formula to the distribution of unrouted traffic originating on the Graphnet system, particularly when contrasted with the anticompetitive and unfair mechanism that Graphnet has worked out with ITT and RCA" (TRT Comments, p. 14). Because the foreign correspondents control interconnection rights as well as which IRCs handle messages originating in the foreign country, TRT argues that the Graphnet agreements with ITT and RCA result in the foreign correspondents determining who gets the U.S.-originated outbound traffic. This is because ITT and RCA have the bulk of inbound traffic and have tied the proportion of inbound traffic to Graphnet's distribution of outbound traffic. Therefore, by controlling the distribution of inbound

traffic, the foreign correspondents indirectly control the distribution of U.S. outbound message traffic.

4. Graphnet argues that TRT's petition is without merit and should be denied. It also argues that TRT's proposal is a "thinly-veiled effort to impose marketplace restraints designed for TRT's benefit," and that by proposing to subject Graphnet to the international formula, "TRT would be guaranteed a portion of all competing domestic carriers' international traffic" (Graphnet Opposition, p. 3, emphasis in original). Graphnet notes that the formula requirements may have been appropriate in a domestic monopoly environment, but they have no place in a competitive market.

5. For a number of reasons, Graphnet argues that the Commission has no proper basis for conditioning its application as TRT requests. Graphnet points out that the application in question only covered its proposal for hinterland delivery of inbound international messages, not outbound. Further, TRT's initial objections to the Graphnet agreements (the ITT Worldcom agreement has been effective since January 1, 1977) were untimely when raised in November 1977 and their reiteration at this time does not cure the initial untimeliness. Graphnet continues by contesting the TRT petition on its merits by arguing that Section 222(e)(1) applies only to a consolidated or merged carrier (WU) which Graphnet is not. Also, contrary to TRT's contentions, "there has been no Commission 'policy' with which Graphnet's interconnection arrangements is inconsistent" (Graphnet Opposition, p. 8). No formula has been imposed on domestic carriers other than WU and, Graphnet adds, "with the elimination of Western Union's monopoly, there is no need for such constraints with respect to international message traffic."

6. Graphnet avers that TRT has not given any indication that the traffic distribution approach in the Graphnet agreements is not in the public interest and in fact "the Commission has previously found . . . that an arbitrarily imposed formula designed to assure any carrier a guaranteed quota of traffic is unjust and unreasonable" (Graphnet Opposition, p. 8). Further, before the merger of WU and Postal Telegraph (analogous to today's competitive situation), each of the domestic carriers had exclusive contracts with only certain of the IRCs. TRT has failed to show why the Commission should interfere with its existing contract provisions and how TRT would be damaged by such

contracts. Graphnet views TRT's request as a plea for "Commission-sponsored strengthening of TRT's bargaining position abroad" with foreign carriers by assuring TRT the largest possible portion of outbound Graphnet traffic.

7. Calling TRT's assertions of anticompetitive reciprocal dealing "untimely and frivolous," Graphnet reproaches TRT for advancing the theory "for the first time on reconsideration." Graphnet characterizes its IRC interconnection as a "unitary, joint offering which the Commission has permitted for decades" (Graphnet Opposition, p. 11). The antitrust concept of reciprocity has no applicability in this context, says Graphnet. Graphnet notes TRT's failure to quantify any adverse affects, the freedom of IRCs to use Graphnet's services or not, Graphnet's willingness to negotiate agreements with all IRC's, and TRT's alleged voluntary choice not to explore an agreement with Graphnet, instead preferring guarantees of traffic under the formula.

8. RCA Globcom discusses the origin of the international formula and concludes that it should not be applied to Graphnet. At the time of the WU-Postal Telegraph merger, Congress saw that WU could use its domestic position to favor its own international operations and therefore required divestiture through Section 222(c)(2). Globcom continues by noting that "[I]n order to further protect the international carriers against arbitrary allocation of unrouted messages and to insure that the merged carrier divided such traffic fairly, Congress enacted Section 222(e)(1) . . ." (RCA Globcom Opposition, p. 3). The international formula which is a "highly specialized provision" of Section 222 was intended to deal with a "unique industry problem" unrelated to the present situation. The present situation is distinguishable, RCA continues, because (1) Graphnet is not a consolidated or merged carrier within the meaning of Section 222; (2) Graphnet is not in a position to favor one carrier over another, and (3) the Commission had determined in *Graphnet Systems, Inc.*, 63 FCC 2d 402, 409 (1977) that the IRCs are free to interconnect with any nonaffiliated domestic carriers.

9. RCA Globcom calls TRT's arguments unsupported, because, contrary to TRT's contentions, the Graphnet agreements specifically state that neither party is precluded from entering into agreements with other parties, the agreements are greatly concerned with service quality, and

foreign correspondents will not dictate domestic message distribution because the correspondents do not care who handles the messages in the U.S. as long as the service is timely and efficient. Globcom adds that TRT is seeking to obtain an advantage through the regulatory process which it is unable to gain in the marketplace.

10. Western Union filed a "Partial Opposition," agreeing with TRT that the Commission should have considered "formula" issues in the order, but disagreeing with TRT's request for relief. Western Union seeks amendment of the international formula so that it will have "the same flexibility as Graphnet with respect to the distribution of unrouted traffic" (WU Opposition, p. 2), that is, as competitive conditions require. It is argued that (1) the "circumstances heretofore justifying the promulgation of a detailed formula no longer exist, and (2) the continuation of such a formula would be antithetical to the Commission's findings in this proceeding" (WU Opposition, p. 5). The existing formula is no longer just, reasonable, equitable or in the public interest.

11. Reasoning that the international formula was conceived as a device to protect against anticompetitive behavior on the part of a domestic monopolist which could favor its own international arm or, after divestiture of its own international operations, play favorites among the IRCs, Western Union argues that the circumstances no longer exist which led to the adoption of Section 222(e) and the present prescribed formula. Today's situation is much like the pre-1943 merger period with two competing carriers in existence. WU adds that the "continued imposition of a detailed traffic distribution formula also would be inconsistent with the Commission's basic decision in this proceeding . . . that the public interest will best be served by reliance on the marketplace rather than competition" (WU Opposition, p. 8).

12. TRT replies to the opposition pleadings by arguing that none of the parties have refuted its "characterization of the nature of the policy established by the Commission in the *International Formula* proceeding" (TRT Reply, p. 3). The Commission does have "unquestioned authority" to apply the general policy of the *International Formula* proceeding and Graphnet and RCA did not argue why it is not applicable to Graphnet, says TRT. TRT devotes the largest portion of its Reply to the question of whether the "Graphnet-ITT/RCA contract" constitutes "an improper reciprocal

dealing arrangement." TRT argues that the Commission has an obligation to correct anticompetitive arrangements concluding that "the Graphnet-ITT/RCA arrangement represents a *per se* violation of Section 1 of the Sherman Act. By any measure, a 'not unsubstantial' amount of interstate commerce is effected by these arrangements." RCA and ITT exercise significant economic power over inbound traffic and will be in a position "to demand that Graphnet give to them, and thereby deny to TRT or other IRCs, the lion's share of the outbound traffic picked up on the Graphnet system." (TRT Reply, p. 10).

II RCA Alascom's Petition for Clarification

13. RCA Alaska Communications, Inc. (RCA Alascom) seeks clarification of our Order on the basis that "the FCC has failed to confirm that the terms and conditions governing the provision of public message services to, from and within Alaska are beyond the scope of this proceeding and are, therefore, unchanged by the Commission's decision" (RCA Alascom Petition, p. 1). RCA Alascom points out that the factual record and discussion and the analyses in the *Domestic PMS* proceeding "focus squarely and exclusively upon Western Union" (RCA Alascom Petition, p. 3) and that WU has never been authorized to serve Alaska. Alascom's authority to provide service for Alaska was the subject of entirely independent FCC proceedings and decisions, and no participant in the WU proceeding opposed Alascom's petition. Alascom requests that we clarify our Order by stating that the situation with respect to Alaskan service remains unchanged.

14. We shall grant RCA Alascom's request for clarification. The general tenor and specific wording of our order can only be read to encompass Western Union services. However, we are compelled to point out that, although our Order did not apply to Alaska service, we do not intend to foreclose the possibility of competition in Alaskan service perpetually, and we intend to examine whether such competition would be beneficial. For now, we have no reason to change our existing policy.

III. Procedural Matters

15. Graphnet argues that TRT's initial objections to the Graphnet agreements were untimely raised in November 1977 because Graphnet's agreement with ITT has been effective since January 1, 1977. Thus, Graphnet claims that reiteration in this proceeding does not cure the initial untimeliness. Even though TRT may have untimely raised its arguments, the

Commission may on its own motion consider matters that affect the public interest. Because of the importance of the allegations of anticompetitive activity, we will consider the issues raised in TRT's petition.

16. Graphnet also argues that prior to the merger of WU and Postal Telegraph, each of the domestic carriers had exclusive contracts with only certain of the IRCs and that TRT has failed to show why the Commission should interfere with Graphnet's existing contract provisions. We find that the existence of contracts over 35 years ago has no bearing on the validity of entirely different contracts existing today. Furthermore, the case law concerning unlawful voluntary reciprocal dealing arrangements is of recent vintage, see paragraph 27 below, and we must consider current dealings between carriers in the context of current legal developments.

IV. Application of the International Formula

17. The basic issue here is whether the present international formula for the distribution of outbound unrouted international messages should be applied to Graphnet as well as Western Union, only Western Union or if it should be amended to allow Western Union to distribute its unrouted traffic as competitive circumstances warrant. The other question, raised by TRT, is the Commission's alleged unexplained departure from the policy of the *International Formula* proceeding. We should point out that the basic issue of applicability of the present formula will be handled by the Commission in the Notice of Inquiry and Proposed Rulemaking in CC Docket No. 78-96, FCC No. 79-442, released July 23, 1979. In that Notice, we propose altering of the present formula and seek wider comments on TRT's proposal to expand the coverage of the international formula. We believe that the rulemaking proceeding is a more appropriate forum in which to address such issues and thereby gauge the public interest. There is no need here to reiterate our arguments in support of our proposal. However, we do wish to address TRT's petition to the fullest extent possible in this order.

18. In answer to the claim that we departed from our policy in *International Record Carriers Scope of Operation* (International Formula), 67 FCC 2d 877 (1978),² we must emphasize

² This was our order on remand from the Court of Appeals decision in *RCA Global Communications v. FCC*, 599 F.2d 881 (2d Cir.), rehearing granted, 583 F.2d 1 (1977).

that the decision did only and could only apply to the distribution of outbound unrouted international messages filed with the Western Union. This case was decided long before our findings in the instant PMS proceeding which authorized Graphnet's entry. The principles of *International Record Carriers Scope of Operation* could only have been developed in the light of the market structure of the time; that is, a Western Union domestic PMS monopoly. Faced with that market structure, the Commission did prescribe a formula which was "just, equitable, reasonable and in the public interest" which served as an incentive to the IRCs to "strive to improve service efficiency and to keep charges as low as feasible." 67 FCC 2d at 889. The market structure is no longer the same, and in any event, we did not depart from our international formula policy, for that prescription is still effective in respect to the principle parties involved; that is, WU and the IRCs.

19. As it now stands, the international formula does not apply to Graphnet, nor is it our present disposition for it to do so. However, in our rulemaking proceeding, we do wish to hear more arguments on the matter and if convinced that some sort of relief is warranted, we do have authority to impose conditions on the operations of Graphnet and the IRCs under the broad authority granted this Commission under Sections 201-205 of the Communications Act. We also reaffirm our statements in our order that we seek to treat domestic PMS carriers in the most equitable, even-handed manner possible.

20. Thus, we reject TRT's argument that the international formula should have been applied to Graphnet through a condition on its Section 214 authorization. Our regulatory control of subject carriers' terms and conditions of service does not end at the point of facility authorization. Therefore, we have the option of imposing some sort of international formula on Graphnet at a later time, if appropriate.

V. Graphnet's Agreements with the IRCs

21. As noted in the summary of comments above, TRT has characterized the "Graphnet-ITT/RCA arrangement" as an anticompetitive reciprocal dealing arrangement. TRT argues that these agreements raise issues of actual reciprocal dealing arrangements under the Sherman Act (Section 1) rather than issues of potential reciprocity raised by mergers examined under the Clayton Act (Section 7). TRT concluded that the Graphnet-ITT/RCA arrangement represents a *per se* violation of Section 1

of the Sherman Act.³ (TRT Reply, pp. 5-10.)

22. At the outset, we must observe that Graphnet has *separate* agreements (not a single "arrangement") with ITT Worldcom, RCA Globcom and, as of January 9, 1979, with Western Union International (WUI). These agreements are similar in nature, but separately reached with the three mentioned IRCs. Each of the agreements has two major parts, an inter-carrier interconnection agreement and an operating agreement which implements the inter-carrier one. The inter-carrier agreement discusses service standards in some detail either directly in the agreement or through reference to Graphnet's tariff.⁴

23. The provision of each of the agreements that TRT complains of provides that the outbound unrouted message traffic forwarded by Graphnet to each IRC shall be distributed to the IRCs in the same proportion as the amount of each IRC's unrouted inbound traffic handled by Graphnet.⁵ Thus, Graphnet's distribution of outbound traffic to the IRCs is based upon each IRC's distribution of inbound traffic to Graphnet.

24. Looking to the practical effect of this provision we note that in 1977, RCA carried 41.9 percent of the inbound traffic, ITT 29.0 percent, WUI 24.7 percent, and TRT only 2.8 percent.⁶ Thus, RCA, ITT and WUI together carried 95.6 percent of the inbound international traffic.⁷ In other words, if we allow this provision to stand, RCA, ITT, and WUI, by handling 95.6 percent of the inbound PMS traffic, can control the distribution of up to 95.6 percent of Graphnet's outbound unrouted traffic, giving them an anticompetitive advantage for Graphnet's unrouted outbound traffic.

25. TRT could be foreclosed from 95.6 percent of Graphnet's unrouted outbound traffic, even if TRT were to offer better prices or service than the

³ Section 1 of the Sherman Antitrust Act, reads in pertinent part, every contract, combination in the form of trust or otherwise, or conspiracy, in restraint of trade or commerce among the several States, or with foreign nations, is hereby declared to be illegal. . . . 15 U.S.C.A. § 1.

⁴ See, RCA-Graphnet Inter-carrier Interconnection Agreement, par. 2, pp. 2-4; ITT-Graphnet Inter-carrier Interconnection Agreement, par. 2, pp. 2-5; WUI-Graphnet Inter-carrier Interconnection Agreement, par. 2, pp. 2-5.

⁵ See, RCA-Graphnet Agreement, par. 3.b, pp. 4-5; ITT-Graphnet Agreement par. 12, pp. 11-12; WUI-Graphnet Agreement, par. 3.b, pp. 5-6.

⁶ These statistics are derived from data found in semi-annual traffic reports filed by each of the IRCs pursuant to Section 43.61 of the Commission's Rules. The reports are on file with the Commission.

⁷ The statistics are not very much different from 1976, 1975, or 1974 where the totals for the three carriers were 95.8 percent, 96.0 percent and 96.2 percent, respectively.

other carriers.⁸ This is particularly troublesome in view of the fact that in 1977 TRT handled 7.1 percent of the outbound traffic, but only 2.8 percent of the inbound traffic.⁹ Thus, if distribution of outbound unrouted traffic is based on inbound, TRT could lose some of its outbound traffic. In view of the fact that the amount of inbound traffic handled has no relationship to the price and quality that can be offered for outbound traffic, we find that the contract clauses linking outbound traffic to inbound traffic are unfair and contrary to the public interest.¹⁰

26. On the other hand, if the contract provision at issue is deleted, normal marketplace forces will assure a fair distribution of the outbound traffic. Graphnet would be able to distribute outbound unrouted traffic according to price and quality of service. Even if there was no variation in price or quality among the IRCs, Graphnet would still have an incentive to seek some method of distribution because each of the IRCs is a source of traffic (and revenues). It makes sense that Graphnet would attempt to keep all of the IRCs satisfied in some evenhanded fashion. The same is true for inbound traffic. Each IRC would be able to distribute traffic to domestic carriers according to price and quality considerations. If Graphnet's prices and service are more attractive than its competitor's the IRCs will want to use Graphnet. In each case, if price and quality of service is comparable, each carrier would be motivated to distribute traffic on a fair and equitable basis, and if any carrier uses its control over a portion of the market to unfairly obtain more than its

⁸ We recognize that these statistics are derived from data for all traffic and are not specifically for "discretionary" traffic to the hinterland. However, the differences in percentages between TRT and the other carriers is so large, that even if the data varied somewhat for "discretionary" traffic to the hinterland, we would expect similar results. "Discretionary" inbound traffic, as referred to in the agreements, is that traffic destined for the U.S. which does not designate a specific domestic carrier to deliver the message.

⁹ Although the disparity between inbound and outbound traffic was not as much in prior years as for 1977 (for 1976, TRT handled 4.8 percent of the outbound and 2.6 percent of the inbound, for 1975 it was 4.2 percent outbound and 2.4 percent inbound, and for 1974 it was 3.9 percent outbound and 2.3 percent inbound), it can nevertheless be seen that TRT consistently handles more outbound than inbound traffic.

¹⁰ We are not in any way guaranteeing a share of the market to TRT. We are taking this step to assure that TRT, and other IRCs are not foreclosed from increasing their market shares. It should be stressed that the ultimate effects on any single carrier depend on a number of things, including Graphnet's market share of total outbound traffic, the nature of Western Union's operations, the results of our gateway proceeding (Docket 19680) and the total amount of unrouted outbound messages available for distribution by all domestic carriers.

fair share of the traffic, we have authority to entertain complaints and take appropriate action. In this way the operations of the market will act to supplement our regulatory authority.

27. Our view is that the contractual provision at issue is unfair, anticompetitive, and contrary to the public interest. This finding is consistent with decisions under the antitrust laws regarding reciprocal dealing arrangements. As one antitrust court has put it:

A reciprocal dealing arrangement exists when two parties face each other as both buyer and seller. One party offers to buy the other party's goods, but only if the second party buys other goods from the first party.¹¹

That is essentially the type of arrangement we have here. Each IRC, i.e., RCA, ITT, and WUI, has agreed with Graphnet to interconnect for the delivery of domestic PMS traffic.¹² More importantly, however, Graphnet has agreed to deliver "unrouted" ¹³ outbound international PMS traffic to each IRC "in the same proportion as the amount of each such (international) carrier's discretionary inbound communications" handled by Graphnet bears to the total of such communications handled by Graphnet for all such carriers.¹⁴ In other words, there is present here the characteristic prerequisite of reciprocal dealing in the antitrust context—one party's agreement to provide business to another party only if that party provides business to it. True, the agreement here is not the sort of mutual sale/purchase agreement for goods or services typically involved in the antitrust cases, but rather a mutual arrangement to provide component elements of an interconnected international communications service. Nevertheless, the "good" or "service," so to speak,

¹¹ *Spartan Grain & Mill Co. v. Ayers*, 581 F.2d 419, 424 (5th Cir. 1978).

¹² Indeed, as an implementing provision the IRCs have agreed that so long as Graphnet's charges for domestic PMS delivery are "at least 10% below" the charges of other domestic PMS carriers, then the IRC will distribute to Graphnet a portion of the IRC's "discretionary" inbound PMS traffic "at least equal to that distributed by (the IRC) to any other domestic United States carrier." In this context, "discretionary" means that the IRC has the discretion to select a domestic U.S. carrier for PMS delivery. It refers to "those communications destined for the (U.S.) hinterland as to which the originator has not designated a domestic delivery carrier by name." See paragraphs of parties' interconnection agreements cited in footnote.⁸

¹³ *supra*. See RCA-Graphnet Inter-carrier Interconnection Agreement, par. 12, p. 10; ITT-Graphnet Inter-carrier Interconnection Agreement, par. 13, p. 12; WUI-Graphnet Inter-carrier Interconnection Agreement, par. 12, pp. 12-13.

¹⁴ In this context, "unrouted" means that Graphnet's originating customer has not specified which IRC should be used.

¹⁵ See footnote.⁸ *supra*, for citations to relevant paragraphs of parties' interconnection agreements.

which each IRC has agreed to "sell" to Graphnet, i.e., the opportunity to provide hinterland delivery of certain inbound messages for compensation, is distinctly different from the "good" or "service" which Graphnet has agreed to "sell" to the IRC's, i.e., the opportunity to provide international transmission of certain outbound messages for compensation. While the messages may be fungible as far as the carriers are concerned, the business which each party is affording the other is not substitutable *inter se*. The deemed for each type of business is different; the customers may well be different; certainly those authorized to offer the service are different as is the market structure in which the competitors function. In sum, Graphnet's assertion that "[a]ntitrust concepts of reciprocity simply have neither meaning nor applicability in this context" (Opposition, p. 11) is incorrect.

28. The antitrust cases which have considered reciprocity have done so generally in two contexts: (1) Where a conglomerate merger is challenged under Section 7 of the Clayton Act, 15 U.S.C. 18, on the ground that the combined firm will probably engage in reciprocal buying, thus lessening competition;¹⁵ and (2) where a bilateral reciprocal agreement, or a course of dealing from which such an agreement may be inferred, is challenged as a restraint of trade under Section 1 of the Sherman Act, 15 U.S.C. 1. In one merger case, *FTC v. Consolidated Foods Corp.*, 380 U.S. 592 (1965), the Supreme Court held that reciprocity

is one of the congeries of anticompetitive practices at which the antitrust laws are aimed. The practice results in "an irrelevant and alien factor" . . . intruding into the choice among competing products, creating at the least "a priority on the business at equal prices." . . . Reciprocal trading may ensure not from bludgeoning or coercion but from more subtle arrangements. A threatened withdrawal of orders if products of an affiliate cease being bought, as well as a conditioning of future purchases on the receipt of orders for products of that affiliate, is an anticompetitive practice. (380 U.S. at 594.)

Having ruled that even non-coercive reciprocity can be anticompetitive, the Court then upheld the FTC's finding that the particular merger would probably result in reciprocal practices and substantial lessening of competition. In

¹⁵ E.g., *Gulf & Western Industries, Inc. v. Great Atlantic & Pacific Tea Co.*, 476 F.2d 687, 693-94 (2d Cir. 1973); *Allis-Chalmers Mfg. Co. v. White Consolidated Industries, Inc.* 414 F.2d 506, 518-19 (3d Cir. 1969); *United States v. Int'l Tel. & Tel. Corp.*, 306 F. Supp. 766 (D. Conn. 1969), appeal dismissed, 404 U.S. 801 (1971); *United States v. Penick & Ford, Ltd.*, 242 F. Supp. 518 (D.N.J. 1965); *United States v. Ingersoll-Rand Co.*, 18 F. Supp. 530, 552 (W.D. Pa.), aff'd, 320 F.2d 509 (3d Cir. 1963).

United States v. General Dynamics, 258 F. Supp. 36 (S.D.N.Y., 1966), a district court not only invalidated a merger under Clayton § 7 because of reciprocity potential, but also found the merger agreement itself a restraint of trade under Sherman § 1 because of the parties' proven intent to employ reciprocity after the merger. While not clearly necessary to the court's result, the court found "that reciprocity, whether coercive in nature or based on mutual patronage (i.e., not based on unequal bargaining power or leverage), is an anticompetitive practice." 258 F. Supp. at 59.

29. Despite the foregoing precedents, it is still somewhat uncertain whether a non-coercive unleveraged reciprocity agreement (or course of dealing from which such an agreement can be inferred) necessarily and in every case is anticompetitive and a Sherman § 1 violation. The *General Dynamics* decision seemed to say that all reciprocal dealing agreements are *per se* unlawful by analogy to "tie-in" arrangements which are unquestionably *per se* unlawful if a not insubstantial amount of commerce is affected. 258 F. Supp. at 66, citing Supreme Court "tie-in" cases.¹⁴ The theory is that even though neither party to the mutual patronage agreement is being "forced" to buy on terms it otherwise would find unacceptable, third-party competitors are inevitably adversely affected and barriers to entry are raised. In the instant context, even if Graphnet and the three IRC's find the agreements mutually acceptable, a fourth IRC (TRT) is necessarily foreclosed from a portion of Graphnet's unrouted outbound traffic for which it (TRT) might otherwise compete, i.e., that portion already allocated to RCA, ITT, and WUI on the basis of their inbound traffic market shares. Cutting against the idea that mutual patronage reciprocity is unlawful *per se* without regard to possible redeeming virtues are several factors. First, commentators have theorized that in certain market settings, reciprocity may be a procompetitive means of achieving needed entry or real

¹⁴ Several decisions finding no antitrust violations or no right to recover damages have simply assumed that bilateral agreements to engage in mutual patronage reciprocity are *per se* Sherman § 1 violations. E.g., *Columbia Nitrogen Corp. v. Royster Co.*, 451 F. 2d 3, 14-15 (4th Cir. 1971); *Ryals v. National Car Rental System, Inc.*, 404 F. Supp. 481, 485-86 (D. Minn. 1975); *United States v. Aircor, Inc.*, 386 F. Supp. 915, 921 (S.D.N.Y. 1974). The D.C. Circuit, however, has indicated that it may still be an open question whether non-coercive reciprocity, where neither party has leverage over the other, is a *per se* violation of Sherman § 1. *Fidelity Television, Inc. v. FCC*, 515 F. 2d 604, 606 (panel majority), 720 n. 59 (Bazelon dissenting to denial of rehearing en banc) (D.C. Cir. 1975).

purchasing and selling economies.¹⁷ Second, the Supreme Court has recently cautioned against imposing a *per se* standard of illegality where the economic consequences of an arrangement in all contexts are not clear and, indeed, has overruled one of its own pronouncements of *per se* illegality.¹⁸ Third, reciprocal buying agreements have frequently been analogized to tying arrangements; but the courts have recently made it clear that economic power in the tying product is an essential feature of a *per se* unlawful tie-in.¹⁹

30. In the present case, we need not resolve whether a reciprocity arrangement may be held *per se* unlawful absent evidence that one party has unequal bargaining power relative to the other party. Here, RCA, WUI and ITT, have vastly more power than Graphnet. The international record carrier market is a tight oligopoly; the three firms together control 95.6 percent of the inbound PMS traffic. (See paragraph 22 above.) Graphnet is dependent on them for any substantial share of discretionary inbound traffic. Graphnet, as a generator of overseas-destined PMS traffic, is minuscule compared to Western Union and has no market power as yet. Plainly, the IRC's have buying power to use as leverage against Graphnet. One manifestation of this is the fact that under the agreement Graphnet has to undercut Western Union by 10 percent in order to assure mere parity with Western Union in the delivery of discretionary inbound international PMS messages. (see paragraph 27 above.) the extent to which this leveraged reciprocity arrangement would actually result in substantial detriment to TRT and other small IRC's depends, of course, on the domestic market share for outbound traffic which Graphnet might ultimately obtain. Suffice it to say, for present purposes, that the potential Graphnet share would be significant enough so that the long-run effect of the challenged

¹⁷ See Peter O. Steiner, *Mergers: Motives, Effects, Policies* (1975) at 231-32. Even "tie-ins," which are generally thought to be *per se* unlawful, may be justifiable for a time in permitting entry into a new business. *United States v. Jerrold Electronics Corp.*, 187 F. Supp. 545, 557, 560 (E.D. Pa. 1960), aff'd per curiam, 365 U.S. 567 (1961); ABA, Section of Antitrust Law, *Antitrust Law Developments* (1975) at 42.3.

¹⁸ *Continental T.V. Inc. v. GTE Sylvania, Inc.*, 433 U.S. 36 (1977); see *Broadcast Music, Inc. v. ASCAP*, 47 U.S.L.W. 4359, 4361-62 (U.S. 1979) (declining to apply *per se* rule).

¹⁹ *United States Steel Corp. v. Fortner Enterprises*, 429 U.S. 610, 619-22 (1977); *Spartan Grain & Mill Co. v. Ayers*, supra, 583 F. 2d.

reciprocity provision on TRT and other small IRC's would not be de minimis.²⁰

31. In view of the foregoing, it can be seen that the clauses in the contracts between Graphnet and RCA, WUI, and ITT that link outbound to inbound traffic constitute reciprocal trading agreements portend a violation of Section 1 of the Sherman Act and are also unfair and contrary to the public interest. Thus, we will grant TRT's request by granting Graphnet authority to domestically distribute international PMS on the condition that the clauses linking outbound to inbound traffic be deleted from the three contracts. This will allow Graphnet to go into operation and at the same time avoids enforcement of a contract provision deleterious to the public interest.

32. Accordingly, it is ordered, that the Petition for Reconsideration of our order in *Domestic Public Message Service*, CC Dockets No. 78-95 and 78-96, filed by TRT Telecommunications Corporation IS GRANTED to the extent indicated herein and in other respects IS DENIED.

33. It is further ordered, that the Petition for Clarification filed by RCA Alaska Communications, Inc. is granted to the extent indicated herein and in all other respects is denied.

34. It is further ordered, pursuant to Section 214 of the Communications Act of 1934, as amended, that our grant of authority to Graphnet Systems, Inc., as stated in *Domestic Public Message Services*, CC Dockets 78-95 and 78-96, 71 FCC 2d 471 (1979), is modified and additionally conditioned as follows:

(A) Paragraph 3.b of the RCA Globcom-Graphnet Interconnect Agreement executed on February 24, 1977 shall be deleted.

(B) Paragraph 12 of the ITT Worldcom-Graphnet Interconnect Agreement executed on June 3, 1976 shall be deleted.

(C) Paragraph 3.b of the Western Union International-Graphnet Interconnect

²⁰ We might even find the challenged provision anticompetitive and contrary to the public interest on another ground as well. Although the standard reciprocity provision appears in three separate agreements, it is obvious from the way the provision reads that the IRC's intended Graphnet to act as their intermediary to achieve a horizontal market allocation agreement between competitors (the IRC's). The provision on its face constitutes an agreement by Graphnet as to what language it will place in its agreements with other IRC's. Horizontal market allocation agreements are *per se* unlawful under Sherman § 1. *United States v. Topco Associates, Inc.*, 405 U.S. 596 (1972). Such an agreement between competitors, even though accomplished through parallel agreements or consciously parallel conduct with a third party, is unlawful. See *United States v. Sealy, Inc.*, 388 U.S. 350 (1967); *Interstate Circuit, Inc. v. United States*, 306 U.S. 208 (1939). Here Graphnet's involvement is of even greater concern because Graphnet itself is a potential entrant into international record carriage and, thus, a potential horizontal competitor of the IRC's.

Agreement executed on December 9, 1978 shall be deleted.

Such authorization is explicitly subject to possible revocation or modification as a result of any findings, rules, requirements or other actions which may result from or be promulgated by, the proceedings in Common Carrier Docket No. 78-72, In the Matter of MTS and WATS market Structure, FCC 78-144 (March 3, 1978) and in Common Carrier Docket No. 78-96, In the Matter of Domestic Public Message Services, FCC 79-442 (July 23, 1979). The grantee is afforded 30 days from the release of this order to decline this authorization as conditioned. Failure to respond within this period will constitute formal acceptance of the authorization as conditioned.

35. It is further ordered, that the hearing to investigate whether grant of the above-captioned application is in the public interest, convenience and necessity, which was instituted in our Memorandum Opinion and Order and Notice of Inquiry and Proposed Rulemaking, 67 F.C.C. 2d 1059 (1978), is hereby terminated.

Federal Communications Commission.
William J. Tricarico,
Secretary.

[FR Doc. 79-28738 Filed 8-27-79; 8:45 am]
BILLING CODE 6712-01-M

[47 CFR Parts 63 and 64]

[CC Docket No. 78-96]

Regulatory policies concerning the provision of Domestic Public Message Services by entities other than the Western Union Telegraph Company and proposed amendments to parts 63 and 64 of the Commission's Rules; Order extending time for filing comments and reply comments

AGENCY: Federal Communications Commission.

ACTION: Time limits for filing comments extended in CC Docket 78-96 (*Domestic Public Message Services*).

SUMMARY: On July 23, 1979, the Federal Communications Commission released a Notice in CC Docket No. 78-96 proposing changes in rules and policies for domestic public message services. Comments on that Notice were originally due on August 27, 1979. The date for filing comments has now been extended to September 7, 1979. Reply comments are due September 24, 1979.

ADDRESSES: Office of the Secretary, Federal Communications Commission, 1919 M Street, NW., Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Leonard Sawicki, Common Carrier Bureau (202) 632-6363.

SUPPLEMENTARY INFORMATION:

Order

Adopted: August 20, 1979.
Released: August 21, 1979.

In the matter of Regulatory Policies Concerning the Provision of Domestic Public Message Services by Entities Other than the Western Union Telegraph Company and Proposed Amendments to Parts 63 and 64 of the Commission's rules, CC Docket No. 78-96.¹

1. On August 15, 1979 Western Union International, Inc. (WUI) filed a request for an extension of time for filing comments and reply comments on the Commission's Notice of Inquiry and Proposed Rulemaking (Notice) in CC Docket 78-96, released July 23, 1979 (FCC 79-442). WUI seeks to have the filing dates extended two weeks from the release of the Order on Reconsideration in CC Dockets 78-95 and 78-96, which was adopted at the Commission's August 1, 1979 open meeting. Citing the close relationship between the two items, WUI argues that it would be allowed "a wholly insufficient period of time" to review the Order on Reconsideration before August 27, 1979 when the comments are due on the Notice.

2. Because of the relationship between the two proceedings and their importance, the request appears reasonable and in the public interest. We shall grant the request for extension of time for the filing of comments and reply comments in this matter.

3. Accordingly, it is ordered, pursuant to § 0.291 of the Commission's rules on delegation of authority, that the request for extension of time for all parties to file comments and reply comments in CC Docket No. 78-96 is granted. Comments shall be filed on or before September 7, 1979, and reply comments shall be filed on or before September 24, 1979.

Philip L. Verveer,
Acting Chief, Common Carrier Bureau.

[FR Doc. 79-28632 Filed 8-27-79; 8:45 am]
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[47 CFR Part 73]

[Docket No. 20902; RM-2642]

Rescinding Report and Order and Denying Petition for Rulemaking

AGENCY: Federal Communications Commission.

¹ See 44 FR 44184, July 27, 1979.

ACTION: Memorandum opinion and order.

SUMMARY: Action taken herein rescinds a previous action which assigned and reserved television Channel 46 at St. Louis, Missouri, for noncommercial educational use. Since then, one of the two applicants for television Channel *40 at St. Louis, has withdrawn its application. As a result, the Commission sees no need for an additional noncommercial educational television channel since the remaining applicant can be accommodated on Channel 40. **DATE:** Not applicable.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Memorandum Opinion and Order

Adopted: August 15, 1979.
Released: August 22, 1979.

In the matter of amendment of § 73.606(b), *Table of Assignments, Television Broadcast Stations*. (St. Louis, Missouri), Docket No. 20902, RM-2642.¹

1. On July 9, 1979, under delegated authority, the Chief, Broadcast Bureau, adopted a Report and Order in the above proceeding, in response to a petition filed by Double Helix Corporation ("Double Helix"), requesting the assignment of UHF television Channel *46 to St. Louis, Missouri, for noncommercial educational television use.

2. St. Louis is presently served by five commercial television stations operating on Channels 2, 4, 5, 11 and 30. It is also served by one noncommercial educational station operating on Channel *9. In addition, two competing applications were pending on Channel *40, the only vacant educational TV channel assigned to St. Louis. One was filed by Double Helix Corporation and the other was filed by St. Louis Regional Educational and Public Television Commission ("St. Louis Regional"), licensee of an educational station on TV Channel *9. Double Helix proposed assigning Channel 46 so that both proposed operations could be accommodated.

3. In the Report and Order Channel *46 was assigned to St. Louis on the basis of the showing of need for an additional noncommercial assignment in that city and the fact that an applicant was ready to provide that service. Since then, St. Louis Regional has asked for

¹ See 44 FR 42893, July 20, 1979.

dismissal of its application. This means that the remaining applicant for Channel *40, Double Helix, can be accommodated on this channel. As a consequence there is no longer a need for the assignment of an additional channel (Channel *46) to St. Louis. We will therefore rescind the Report and Order making this assignment.

4. It is ordered, That the Report and Order adopted on July 9, 1979, in Docket No. 20902 assigning Channel *46 to St. Louis, Missouri, is rescinded.

5. Accordingly, it is further ordered, That the petition filed by Double Helix Corporation for the assignment of Channel *46 to St. Louis, Missouri, is denied.

6. Authority for this action is contained in Sections 4(i), 5(d)(1) and 303(r) of the Communications Act of 1934, as amended, and §§ 1.106 and 0.281 of the Commission's rules.

7. It is further ordered, that this proceeding is terminated.

Federal Communications Commission.
Richard J. Shiben,

Chief, Broadcast Bureau.

[FR Doc. 79-26626 Filed 8-27-79; 8:45 am]

BILLING CODE 6712-01-M

[47 CFR Part 73]

[BC Docket No. 79-212; RM-3295]

FM Broadcast Stations in Manhattan, Kans.; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rule making.

SUMMARY: Action taken herein proposes the assignment of a second Class A channel to Manhattan, Kansas, in response to a petition filed by Richard H. Kaldor and Timothy A. Hawks. Petitioners state the proposed channel could bring a needed additional aural service to the community.

DATES: Comments must be filed on or before October 15, 1979, and reply comments must be filed on or before November 5, 1979.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Notice of proposed rule making

Adopted: August 15, 1979.

Released: August 22, 1979.

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Manhattan,

Kansas), BC Docket No. 79-212, RM-3295.

1. *Petitioner, Proposal, Comments.* (a) A petition for rulemaking¹ was filed on December 12, 1978, by Richard H. Kaldor and Timothy A. Hawks ("petitioners"), proposing the assignment of Channel 280A to Manhattan, Kansas, as its second Class A FM assignment. Supporting comments were filed by Taylor Communications, Inc., licensee of Station KCLY(FM), Clay Center, Kansas.

(b) The channel can be assigned without affecting any existing FM assignments in the Table.

2. *Community Data*—(a) *Location.* Manhattan, in Riley County, is located in northwest Kansas, approximately 60 kilometers (101) miles west of Kansas City, Kansas.

(b) *Population.* Manhattan—27,575; Riley County—56,788.²

(c) *Local Aural Broadcast Service.* Manhattan presently receives local service from daytime-only AM Station KMAN, and FM Station KMKF (Channel 269A).

3. *Economic Data.* Petitioners indicate that, according to the Riley County Assessors Office, Manhattan's population has increased from 26,087 in 1970 to 30,047 in 1976, and continues to increase steadily. Petitioners claim that Manhattan is one of the fastest growing retail trade areas in the State of Kansas. Petitioners note that the major employers are McCall Pattern Company, followed by Farm Bureau, Inc., Steel & Pipe Company and Guerdon Industries. Petitioners have submitted detailed economic and demographic information with respect to Manhattan in an effort to demonstrate the need for a second FM assignment. Also, letters from local citizens have been submitted in support of the proposed assignment.

4. *Preclusion Study.* Preclusion would occur on the co-channel only, since the use of all six pertinent adjacent channels is precluded by existing FM assignments. Two Kansas communities with populations greater than 1,000 are in the co-channel precluded area: Clay Center (pop. 4,963) and Osage City (pop. 2,600). Clay Center has an FM assignment and petitioners state an alternate channel is available for assignment to Osage City. Therefore, preclusion is not an impediment to the proposed assignment.

5. Comments are invited on the proposal to amend the FM Table of Assignments (§ 73.202(b) of the

¹ Public Notice of the petition was given on January 3, 1979, Report No. 1157.

² Population figures are taken from the 1970 U.S. Census.

Commission's rules) with regard to the community of Manhattan, Kansas, as follows:

City	Channel No.	
	Present	Proposed
Manhattan, Kansas	280A	280A, 280A

6. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

7. Interested parties may file comments on or before October 15, 1979, and reply comments on or before November 5, 1979.

8. For further information concerning this proceeding, contact Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792. However, members of the public should note that from the time a notice of proposed rule making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

Federal Communications Commission.

Richard J. Shiben,

Chief, Broadcast Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the Notice of Proposed Rule Making to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the Notice of Proposed Rule Making to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 79-26629 Filed 8-27-79; 8:45 am]

BILLING CODE 6712-01-M

[47 CFR Part 73]

[BC Docket No. 79-211; RM-3278]

FM Broadcast Station in Bentonville, Ark.; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rule making.

SUMMARY: Action taken herein proposes the assignment of a Class A FM channel to Bentonville, Arkansas, in response to a petition filed by JEM Broadcasting Company. The proposed channel could be used to provide a first full-time local aural broadcast service to the community.

DATES: Comments must be filed on or before October 15, 1979, and reply

comments must be filed on or before November 5, 1979.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: August 15, 1979.

Released: August 22, 1979.

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Bentonville, Arkansas), BC Docket No. 79-211, RM-3278.

1. A petition for rule making¹ was filed by JEM Broadcasting Company ("petitioner"), permittee of daytime-only AM Station KJEM, Bentonville, Arkansas, proposing the assignment of Channel 252A to Bentonville, Arkansas, as that community's first FM assignment.

2. Another petition² was filed by Robert R. Estes ("Estes"), requesting the same channel (252A) for assignment to Springdale, Arkansas. Channel 252A cannot be assigned to both Springdale and Bentonville because of spacing requirements. Estes has amended his petition to specify Channel 237A for Springdale in lieu of Channel 252A, thus eliminating the conflict. Since the conflict has been resolved, we will proceed with proposing Channel 252A for Bentonville. The Estes petition will be considered separately at a later date.

3. Bentonville (pop. 5,508), seat of Benton County (pop. 50,476),³ is located in northwest Arkansas, approximately 245 kilometers (152 miles) northwest of Little Rock. It is served locally by daytime-only AM Station KJEM.

4. Petitioner claims that Bentonville's population has increased more than 50% between 1960-1970. According to the Northwest Arkansas Population Projections, Bentonville should reach a population of 8,900 by 1980. Petitioner states that the raising of poultry and dairy production are major factors in the area's economy. In support of its proposal, petitioner has submitted detailed population and demographic data with respect to Bentonville in an effort to demonstrate a need for a first FM assignment in the community.

5. In view of the fact that the proposed FM channel assignment would provide for a first full-time aural broadcast service to Bentonville, the Commission believes it appropriate to propose

¹ Public Notice of the petition was given on December 18, 1978, Report No. 1155.

² Public Notice of the petition was given on May 4, 1979, Report No. 1176.

³ Population figures are taken from the 1970 U.S. Census.

amending the FM Table of Assignments, § 73.202(b) of the Commission's rules, with regard to Bentonville, Arkansas, as follows:

City	Channel No.	
	Present	Proposed
Bentonville, Arkansas		252A

6. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

7. Interested parties may file comments on or before October 15, 1979, and reply comments on or before November 5, 1979.

8. For further information concerning this proceeding, contact Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792. However, members of the public should note that from the time a notice of proposed rule making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

Federal Communications Commission.

Richard J. Shiben,

Chief, Broadcast Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, Section 73.202(b) of the Commission's rules and regulations, as set forth in the Notice of Proposed Rule Making to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 79-28631 Filed 8-27-79; 8:45 am]

BILLING CODE 6712-01-M

[47 CFR Part 73]

[Docket No. 20735]

Changes in the Rules relating to Noncommercial Educational FM Broadcast Stations

AGENCY: Federal Communications Commission.

ACTION: Order.

SUMMARY: Action taken herein extends the time for filing comments and reply comments indefinitely in a proceeding involving changes in the rules relating to noncommercial educational FM broadcast stations. Additional time will be needed so that the parties can respond to a Report being prepared by the Commission's staff.

DATES: Time for filing comments and reply comments extended indefinitely.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Gregory DePriest, Broadcast Bureau, (202) 632-6303.

SUPPLEMENTARY INFORMATION:

Order Extending Time for Filing Comments and Reply Comments

Adopted: August 17, 1979.

Released: August 20, 1979.

In the matter of changes in the rules relating to Noncommercial Educational FM Broadcast Stations, Docket No. 20735.¹

1. On June 7, 1978, the Commission adopted a *Further Notice of Proposed Rule Making*, 43 FR 27682, in the above-captioned proceeding. The dates for filing comments and reply comments are presently October 15, and November 30, 1979, respectively.

2. In an *Order* released April 27, 1979, the Commission extended the time to the present filing dates in order to provide an opportunity for parties to comment on a Report being prepared by the Office of Chief Scientist pertaining to Channel 6 interference considerations. However, there has been a delay in the issuance of the Report. Therefore, on the Commission's own motion, the filing dates in this proceeding will be extended indefinitely. Upon completion of the Report, new dates will be set.

3. Accordingly, it is ordered, That the dates for filing comments and reply comments in Docket No. 20735 are extended indefinitely.

4. This action is taken pursuant to authority contained in Sections 4(i), 5(d)(1) and 303(r) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules.

Federal Communications Commission

Richard J. Shiben,

Chief, Broadcast Bureau.

[FR Doc. 79-28633 Filed 8-27-79; 8:45 am]

BILLING CODE 6712-01-M

¹ See 44 FR 26772, May 7, 1979.

Notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Committee on Agency Organization and Personnel; Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given of a meeting of the Committee on Agency Organization and Personnel of the Administrative Conference of the United States, to be held at 10:00 a.m., Wednesday, September 12, 1979, in the library of the Administrative Conference, Suite 500, 2120 L Street, N.W., Washington, D.C.

The Committee will meet to discuss reports and possibly proposed recommendations from Professor Michael Cardozo on experience under the Federal Advisory Committee Act and from Professor Thomas Morgan on post-employment restrictions on former Federal employees.

Attendance is open to the interested public, but limited to the space available. Persons wishing to attend should notify this office at least two days in advance. Members of the public may be permitted to present oral statements, if deemed appropriate by the Committee Chairman. Members of the public may also file a written statement with the Committee before, during or after the meeting.

For further information concerning this meeting contact Richard K. Berg (202-254-7020). Minutes of the meeting will be available upon request.

Richard K. Berg,

Executive Secretary.

August 21, 1979.

[FR Doc. 79-28700 Filed 8-27-79; 8:45 am]

BILLING CODE 6110-01-M

Committee on Rulemaking and Public Information; Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given of a meeting of the Committee on Rulemaking and Public Information of the Administrative

Conference of the United States, to be held in the Library of the Conference, 2120 L Street, N.W., Suite 500, Washington, D.C. This meeting will be held at 2:00 p.m. on September 12, 1979.

The purpose of this meeting is to discuss a draft report and proposed recommendations concerning the administration of the Federal Trade Commission's program for compensating public participants in Magnuson-Moss trade regulation rulemakings.

Attendance is open to the interested public, but limited to the space available. Persons wishing to attend should notify this office at least two days in advance of the meeting. The Committee Chairman, if he deems it appropriate, may permit members of the public to present oral statements at the meeting; any member of the public may file a written statement with the Committee before, during or after the meeting.

For further information, contact Stephen L. Babcock (202-254-7020). Minutes of the meeting will be available on request.

Richard K. Berg,

Executive Secretary.

August 21, 1979.

[FR Doc. 79-28699 Filed 8-27-79; 8:45 am]

BILLING CODE 6110-01-M

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

Implementation of NEPA Procedures

AGENCY: Animal and Plant Health Inspection Service.

ACTION: This notice publishes the final "APHIS Guidelines Concerning Implementation of NEPA Procedures."

SUMMARY: The "APHIS Guidelines Concerning Implementation of NEPA Procedures" was written to comply with the regulations of the Council on Environmental Quality (CEQ). The CEQ NEPA Regulations (40 CFR 1500-1508) were published in the Federal Register on November 29, 1978, (43 FR 55978-56007) to implement the procedural provisions of the National Environmental Policy Act (NEPA). The purpose of this notice is to publish in final form the procedures APHIS will use to implement the provisions of NEPA.

Federal Register

Vol. 44, No. 168

Tuesday, August 28, 1979

FOR FURTHER INFORMATION CONTACT: N. E. Bedessem, Office of the Administrator, APHIS, USDA (202-447-2290).

EFFECTIVE DATE: August 28, 1979.

SUPPLEMENTARY INFORMATION: On November 13, 1974, APHIS published "Guidelines for the Preparation of Environmental Impact Statements" in the Federal Register (39 FR 40048). Recently published regulations of CEQ (43 FR 55978-56007, November 29, 1978) and final regulations of the Department of Agriculture (USDA) (44 FR 44802-44803, July 30, 1979) require USDA agencies to adopt implementation procedures for NEPA. APHIS published a proposed "APHIS Guidelines Concerning Implementation of NEPA Procedures," on July 3, 1979 (44 FR 38945-38949), and asked the public to comment by July 24, 1979.

This final APHIS issuance outlines only those Agency-specific actions needed for compliance with the NEPA process and must be read in conjunction with the CEQ NEPA Regulations and the USDA regulations.

This notice makes the final guidelines available to the public. The procedures to be used by APHIS decisionmakers should lead to decisions in which environmental concerns are fully reviewed and which ensure timely public involvement in the NEPA process. The issuance designates major decision points for Agency actions affecting the environment which are not categorically excluded by CEQ or USDA regulations. It provides procedures for Agency preparation of the EIS and supplemental statements, and includes procedures for use in emergency situations. It outlines a plan for public involvement in the decisionmaking process. It provides a comprehensive list of reference sources for use in preparing EIS's. The new "APHIS Guidelines Concerning Implementation of NEPA Procedures" supersedes the previous publication, "Guidelines for the Preparation of environmental Impact Statements," published in November of 1974.

ALTERNATIVES CONSIDERED: In developing the new procedures, there was only one alternative available to APHIS since compliance with NEPA is required of all Federal agencies. That one alternative was to require more than was needed to comply with NEPA, CEQ NEPA Regulations, and USDA regulations. This was rejected on the

grounds that the added expense would not justify the added benefits. Compliance with the letter and spirit of NEPA as envisioned in the "APHIS Guidelines" will result in appropriate measures being taken by APHIS officials to protect against unwarranted adverse environmental impact.

PUBLIC COMMENT AND GOVERNMENT REVIEW:

No public comments on the proposed "APHIS Guidelines" have been received. Several changes have been made to the proposal as a result of internal USDA review and external review by the Office of Environmental Review of the Environmental Protection Agency. The changes make the "APHIS Guidelines" more specific and are outlined below:

1. A new sentence, "APHIS officials will assure that all alternatives considered are addressed in the documents and that all alternatives in the documents are considered by the decisionmakers," has been added to Section III, "Agency Decisionmaking Procedures." This change complies with section 1505.1(e) of the CEQ NEPA Regulations which requires that the alternatives considered by the decisionmaker and the alternatives addressed in the environmental documents coincide.

2. Also in Section III, "Agency Decisionmaking Procedures," two editorial changes were made to the identification of the first decision point. In order to make it consistent with the rest of the "APHIS Guidelines," the term "programs" was changed to "plans, projects and programs" and the qualifier "environmental" was added to "adverse effects."

3. Two sentences were added to section IV-B, "Preparation of EIS for APHIS actions," paragraph 3, to address an omission in the July 3 proposal. There are in APHIS ongoing projects and programs which, because of their age and unchanging nature, have never been formally reviewed under NEPA requirements. The new sentence articulates the goal that all APHIS projects and programs be the subject of an environmental assessment at least every five years.

4. A new paragraph was added to section IV-B, "Preparation of EIS for APHIS Actions" and was designated paragraph 4. The new paragraph lists the criteria to be considered by APHIS officials in making and environmental assessment. The addition is designed to more clearly comply with Section 1507.2 (b)(3) of the CEQ NEPA regulations.

5. Section IV C, "Tiering," was changed by deleting the phrase, "when appropriate," which was not definitive, and adding, "as specified in CEQ NEPA Regulations. (1502.20, 1508.28)." the intent of the proposal was to take advantage of the tiering process as permitted in the CEQ NEPA Regulations and this change makes that clear without repeating the words of the CEQ issuance.

6. A new sentence was added to Section VII, "Public Involvement," in paragraph B to make more specific the kinds of contact the Agency intends to make in soliciting public participation.

7. A new paragraph B has been added to Section VIII, "Responsibilities." The old paragraph B has been relettered and becomes paragraph C. The new paragraph addresses the responsibility of the work groups established to review all environmental assessments prepared by APHIS officials, make recommendations concerning the need for an EIS, monitor the programs for which EIS's have been prepared to assure mitigating measures are being followed, and to call attention to those ongoing projects and programs which need environmental assessments. This addition makes more specific the Agency's compliance with Section 3100.34 of the final USDA regulations and addresses the problem of those ongoing actions which need review for NEPA compliance.

8. Editorial changes were made to Section IX, "Reference Sources for EIS Preparation," items C and G to list the most recent or more accurate titles.

9. Corrections were made to appendix I, "Processing EIS Initiated and Prepared by APHIS." The first reduced the number of copies of a "Finding of No Significant Impact" that need to be sent to EPA from five to one, as requested by EPA. The second corrected a mistake in footnote 3 which would have permitted a Record of Decision to be published before the completion of the 30-day waiting period required by Section 1506.10 (b)(2) of the NEPA Regulations.

APHIS Guidelines Concerning Implementation of NEPA Procedures

I. Purpose

These procedures comply with the Council on Environmental Quality (CEQ) Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act (NEPA) (43 FR 55978-56007, 40 CFR Parts 1500-1508) and applicable Departmental regulations (7 CFR 3100). The procedures outline those Agency-specific actions needed for compliance with the NEPA process. These procedures include requirements, guidance, and references for developing environmental impact statements (EIS's) and also designate responsible officials as required by the CEQ NEPA Regulations. Unless otherwise identified, all parenthetical numerical references are to the CEQ NEPA Regulations.

II. Terminology

Terms used in these APHIS procedures will have the same meaning as in the CEQ NEPA Regulations. (1508.1-1508.28)

III. Agency Decisionmaking Procedures

APHIS officials shall ensure that proposals for new or changes to old projects, plans, and programs not categorically excluded from the NEPA process under the Department's regulations (7 CFR 3100) have designated major decision points. All

environmental documents will accompany proposals as they are reviewed by appropriate APHIS decisionmakers at each of the decision points. APHIS officials will assure that all alternatives considered are addressed in the documents and that all alternatives addressed in the documents are considered by the decisionmakers.

Those decision points are:

1. When proposals for new changes to old projects, plans, and programs are being considered which may cause significant adverse environmental effects;
2. Upon completion of assessments;
3. At the finding of no significant impact;
4. Before preparation of an EIS is begun;
5. Upon completion of a draft EIS;
6. Upon evaluation of comments and completion of final EIS.

The decisionmaking process will not be concluded until a record of decision is prepared and made available to the public. (1502.2)

All environmental documents, including supplements, will be made part of the Administration Actions File (APHIS Directive 131.2), which is the APHIS formal administrative record. This file will be available for public evaluation of the alternatives considered. Appendix I is a flow chart which graphically portrays the decisionmaking process.

IV. EIS Preparation

A. *Requirement.* The NEPA requires an EIS with every proposal for legislation or other major Federal action which significantly affects the quality of the human environment. Executive Order 12114, January 4, 1979, extends these requirements to environmental effects abroad of major Federal actions.

B. Preparation of EIS for APHIS Actions.

1. APHIS will use no categorical exclusions from the NEPA process other than those listed in the USDA regulations (7 CFR 3100.22). (1508.4)

2. Because APHIS projects, plans and programs do not lend themselves to the kind of classification that would be necessary to designate categories of actions for which EIS's will always be prepared, no such designations will be made. (1507.3)

3. APHIS officials will make an environmental assessment for legislative proposals originating in APHIS, for each proposed new action and for each significant change to ongoing projects, plans and programs. The assessment will be the basis for the Agency's determination to prepare an EIS or to publish a finding of no significant impact. In addition, APHIS officials will schedule for environmental assessments those ongoing projects or programs

which, because of their age and unchanging nature, have not been reviewed for environmental impact in the past five years. It is the Agency goal that every project or program be reviewed for environmental impact at least every five years.

4. The following criteria will be considered by APHIS officials in making the environmental assessment:

- a. Degree of environmental disturbance; both onsite and offsite should be recognized.
- b. Irreversible effects on basic resources; short-term and long-term commitments.
- c. Cumulative effects of many small actions.
- d. Chain reactions or secondary effects of interrelated activities.
- e. National, state, and local importance.
- f. Uniqueness or rareness of resources being affected.
- g. Scope of anticipated public involvement and controversy anticipated.
- h. Interaction with other Federal projects and actions of the private sector.

C. *Tiering.* A broad EIS would be prepared for repetitive program action as specified in CEQ NEPA Regulations. (1502.20, 1508.28)

D. Supplemental Statements.

1. APHIS officials will prepare supplements to an EIS if the program for which it was prepared and approved undergoes significant changes. (7 CFR 3100.28)

2. Supplemental EIS's, when required, will be prepared according to CEQ NEPA Regulations. (1502.9(c))

V. Format

APHIS officials will follow the format recommended in the CEQ NEPA Regulations (1502.10). The cover sheet will conform to the format in Appendix II (1502.11).

VI. Emergency Procedures

Where circumstances require immediate action to prevent spread of exotic or domestic animal or plant diseases or pests, and that action has significant environmental impact, the provisions of section 1506.11 of the CEQ NEPA Regulations will take effect. APHIS officials will notify the Department's Office of Environmental Quality Activities in consulting with CEQ about alternate arrangements.

VII. Public Involvement

A. APHIS officials shall inform and involve the public when (1506.6):

1. substantive changes in programs have significant adverse effects on the human environment;
2. they intend to prepare an EIS and request participation in the scoping process; (1501.7)
3. a draft EIS, final EIS, or finding of no significant impact is available; and

4. the record of decision is available. (1505.2, 1506.1)

B. APHIS officials will maintain distribution lists of interested persons (e.g., Federal, State, and local agencies, interested industry representatives, national and local organizations, and private citizens, etc.). The lists will be amended as additional interested persons are identified. Mailings to those on the distribution list will be made early and at critical stages in the NEPA process where public input is appropriate (7 CFR 3100.29). In addition, APHIS will make timely use of direct verbal contact, meetings, printed materials, news media, public notices and hearings, and any other appropriate means of increasing public participation in evaluating the environmental impact of agency actions.

C. Whenever APHIS officials inform the public in compliance with paragraph A of this section, a specific address where additional material and information may be obtained will be published in whatever informational media is used. General inquiries concerning APHIS environmental activities may be addressed to the Administrator, Animal and Plant Health Inspection Service, USDA, Washington, D.C. 20250.

VIII. Responsibilities

A. The Deputy Administrators are responsible for preparation of EIS's within their respective functional areas.

B. Interdisciplinary work groups have been established in APHIS to review all environmental assessments prepared by APHIS officials. These work groups will make recommendations to the Deputy Administrators concerning the requirements for EIS's. The groups are also responsible for monitoring programs which have been the subject of an EIS to assure that environmental safeguards and planned mitigating factors are followed. In addition, each of these groups will bring to the attention of the appropriate APHIS official any project or program which has not been formally reviewed for environmental impact during the previous five years.

C. APHIS officials conducting field operations are responsible for reporting any unusual environmental conditions to their respective regional directors. If necessary, regional directors will obtain guidance from the responsible APHIS staff officer. Except for emergency situations, the field official should report the unusual condition before taking any action.

IX. Reference Sources for EIS Preparation

Actions taken under these supplemental procedures are subject to the provisions of applicable laws and authorities. The following authorities, directives, and regulations have been published and are the principal reference sources for preparing and processing EIS's:

- A. Section 102(2), National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321-4347).
- B. Executive Order 11514, dated March 5, 1979, as amended by Executive Order 11441, dated July 1, 1970, and as further amended by Executive Order 11991, dated May 24, 1977.
- C. Executive Order 12088, October 13, 1978, Federal Compliance with Pollution Control Standards.
- D. Environmental Protection Agency Regulations on the Preparation of Environmental Impact Statements (40 CFR 6).
- E. CEQ Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act (40 CFR 1500-1508).
- F. Clean Air Act (42 U.S.C. 1857 *et seq.*).
- G. Clean Water Act (33 U.S.C. 1251 *et seq.*).
- H. Solid Waste Disposal Act of 1976 (42 U.S.C. 3251 *et seq.*).
- I. Noise Control Act of 1972 (42 U.S.C. 4901 *et seq.*).
- J. Federal Insecticide, Fungicide, and Rodenticide Act as amended by the Federal Environmental Pesticide Control Act of 1972 (7 U.S.C. 135 *et seq.*).
- K. Secretary's Memorandum No. 1662, Supplement 8, June 28, 1978.
- L. Secretary's Memorandum No. 1695, May 24, 1970, and Supplements.
- M. Safe Drinking Act (42 U.S.C. 300f).
- N. National Historic Preservation Act (16 U.S.C. 4701).
- O. Executive Order 12044, "Improving Government Regulations"; Secretary's Memorandum No. 1955.
- P. Endangered Species Act of 1973, as amended (16 U.S.C. 1531-1543).
- Q. Executive Order 12114, "Environmental Effects Abroad of Major Federal Actions," January 4, 1979.

This notice has been reviewed under the USDA criteria established to implement Executive Order 12044, "Improving Government Regulations." A determination has been made that this notice should not be classified "significant" under those criteria. A Final Impact Analysis has been prepared and is available from the Office of the Administrator, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Washington, D.C. 20250.

Done at Washington, D.C., this 22nd day of August 1979.

James O. Lee, Jr.,
Acting Administrator, Animal and Plant
Health Inspection Service.

(FR Doc. 79-26668 Filed 8-27-79; 8:45 am)

BILLING CODE 3410-34-M

Office of Safety and Health Management

Occupational Safety and Health Program

AGENCY: Department of Agriculture,
Office of Safety and Health
Management.

ACTION: Solicitation of public comment.

SUMMARY: This document seeks public
comment on the Department of
Agriculture's proposed Occupational
Safety and Health Program.

DATES: Comments must be received by
close of business October 1, 1979.

ADDRESS: Comments should be sent to:
U.S. Department of Agriculture, Office of
Safety and Health Management, Room
48-W, 14th and Independence Avenue,
S.W., Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT:
Julius C. Jimeno, Director, OSHM, U.S.
Department of Agriculture, 14th and
Independence Avenue, S.W.,
Washington, D.C. 20250, telephone: 202-
447-8247.

SUPPLEMENTARY INFORMATION: The
proposed Occupational Safety and
Health Program responds to the
requirements of Section 19 of the
Occupational Safety and Health Act of
1970, Executive Order 11807, and 29 CFR
Part 1960. A number of resource
documents were reviewed prior to
developing this proposed program. This
resource material included: (1)
Evaluations of the safety and health
program conducted by the Office of
Federal Agency Safety and Health
Programs, Occupational Safety and
Health Administration; (2) safety and
health audits performed by the General
Accounting Office; (3) an evaluation
performed by a USDA task force
appointed by the Assistant Secretary for
Administration; (4) comments made by
the House of Representatives
Subcommittee on Health and Safety;
and (5) a draft proposed new Executive
Order on occupational safety and health
sent by OMB to agencies for review.

A task force was established to
provide guidance in developing this
proposed program. The task force was
composed of USDA safety and health
specialists, representatives of
employees, and high level management
officials. Prior to finalizing this program,

it is believed that although the policies
are internal in nature, comment from the
private sector will be beneficial.
Following public comment, the final
program will be codified in Title 13 of
the USDA Administrative Regulations
and read as follows:

Title 13—Occupational Safety and Health Management

Chapter 1—Occupational Safety and Health Section 1—General

11. *Purpose.* This Title contains the
Occupational Safety and Health Program of
the U.S. Department of Agriculture (USDA).

12. *Authority.* The authority for the USDA
occupational safety and health program is
contained in Section 19 of the Occupational
Safety and Health Act of 1970, Executive
Order 11807, and 29 CFR Part 1960.

13. *Occupational Safety and Health Act of
1970.* Section 19 of the Act contains special
provisions to assure safe and healthful
working conditions for Federal employees.
Pursuant to Section 19, it is the responsibility
of the Agency Head to establish and maintain
an effective and comprehensive occupational
safety and health program which is
consistent with the safety and health
standards promulgated by the Occupational
Safety and Health Administration (OSHA)
pursuant to Section 6 of the Act.

14. *Executive Order 11807.* Section 2 of
Executive Order 11807 defines the
responsibilities and outlines the duties of the
Agency Head for Federal occupational safety
and health programs, including observation
of "guidelines" published by the Secretary of
Labor.

15. *29 CFR Part 1960.* 29 CFR Part 1960 is
the "guidelines" of the Secretary of Labor
and contains the safety and health provisions
which the Agency Head is expected to
observe in establishing and maintaining
occupational safety and health programs for
Federal employees.

16. *Designated Safety and Health Official.*
The Secretary of Agriculture has delegated
the authority of the USDA occupational
safety and health program to the Assistant
Secretary for Administration (7 CFR 2.25.f)
who in turn has delegated the authority for
the occupational safety and health program
to the Director, Office of Safety and Health
Management (7 CFR 2.76). The Assistant
Secretary reserved the authority to exercise
final judgments in all safety and health
matters, including individual cases, that
involve the jurisdiction of more than one
General Officer in USDA.

17. *U.S. Department of Agriculture
Occupational Safety and Health Committee.*
The U.S. Department of Agriculture
Occupational Safety and Health Committee
is established to advise the Assistant
Secretary for Administration in carrying out
the responsibilities of this Title.

A. The committee consists of 12 members
appointed by the Secretary and includes 8
representatives of the Program Assistant
Secretaries and 6 employee representatives
who are full-time employees of USDA.

B. The Assistant Secretary, or a designee,
serves as the Chairperson of the committee

and prescribes rules for the conduct of
business as are necessary and appropriate.

C. The Director, Office of Safety and
Health Management, serves as Secretariat of
the committee.

18. *Explanation for use of terms agency
and agency head.* Use of the term Agency
Head in this section refers to the Head of an
Executive Department, as defined in 5 U.S.C.
101. Use of the term Agency Head beyond
section 1 of this chapter refers to the head of
USDA Agencies and staff offices.

Section 2—Office of Safety and Health Management (OSHM) Responsibilities in Occupational Safety and Health Program Management

21. *Establishment of the Office of Safety
and Health Management (OSHM).*
Secretary's Memorandum 1940 dated March
27, 1978, established OSHM as a staff office
reporting to the Assistant Secretary for
Administration. The establishment of OSHM
resulted in the transfer of the functions of the
Safety Manager, Medical Officer, and Health
Units from the Office of Personnel to OSHM.

22. *Authority.* OSHM is authorized to:
A. Adopt or develop, after consultation
with the Secretary of Labor, occupational
safety and health standards necessary to
comply with Section 19 of the OSH Act of
1970, Executive Order 11807, and 29 CFR Part
1960.

B. Grant waivers, after consultation with
the Secretary of Labor, to USDA agencies for
alternate safety and health standards which
provide equal or greater protection to USDA
employees.

C. Inspect and evaluate, without advance
notice to operating units, any installation
where USDA employees perform official
duties to determine the status of any
reported, alleged, or suspected unsafe/
unhealthful working conditions and issue
reports which include conclusions and
recommendations for action.

D. Evaluate reported acts of discrimination
or reprisal which result from an employee's
participation in the activities of the
Department's or Agency's safety and health
program and issue reports which include
conclusions and recommendations for action.

23. *Responsibilities.* OSHM provides
Department-wide leadership and
coordination of occupational safety and
health programs for USDA by:

A. Assuring that representatives of USDA
employees are consulted or negotiated with
as appropriate in the activities of USDA
occupational safety and health programs,
including but not limited to:

1. Development of safety and health
policies.

2. Development of safety and health
standards.

3. Inspections and evaluations of
installations.

4. Membership on safety and health
committees.

B. Promulgating Department-wide policies
for the uniform development and
implementation of occupational safety and
health programs.

C. Promulgating or adopting, in
consultation with the Secretary of Labor,
occupational safety and health standards

which ensure that USDA employees are
provided safe and healthful working
conditions.

D. Evaluating the occupational safety and
health programs of USDA agencies to
determine compliance with Department
policies and standards and issue reports
which include conclusions and
recommendations for action.

E. Coordinating the delivery of specialized
technical resources to Department agencies
to resolve complex safety and health
problems.

F. Coordinating the development and/or
conduct of human resources development
activities for Agency Heads, safety and
health specialists/managers, and collateral
duty safety and health personnel.

G. Coordinating the development of safety
and health program and procedure manuals
for managers, supervisors, and employees.

H. Coordinating the development and/or
conduct of safety and health training
programs and materials for managers,
supervisors, and employees.

I. Developing and maintaining a Safety and
Health Management Information System
(SHMIS) for gathering, analyzing, and
disseminating information and data on the
causes and extent of job-related injuries,
illnesses, and property damage incidents.

J. Coordinating implementation of
Department-wide promotional programs
generated by OSHA or developed by OSHM.

K. Providing Department-wide liaison of
safety and health activities with the
Department of Labor, Department of Health,
Education and Welfare, Environmental
Protection Agency, Department of Commerce,
Department of Transportation, Office of
Personnel Management, General Services
Administration, and safety and health
components of state and local governments
and universities.

L. Reporting serious incidents as defined in
para. 36B.4 to the Secretary of Labor.

Section 3—Agency Responsibilities in Occupational Safety and Health Management

31. *Purpose.* This section describes the
responsibilities of Agency Officials in the
establishment and implementation of
occupational safety and health programs.

32. *Responsibilities of agency personnel in
establishing and implementing occupational
safety and health programs.* All managers
and supervisors are to be assigned
responsibilities in the establishment and
implementation of occupational safety and
health programs. Each manager and
supervisor is to have safety and health
responsibilities considered in his/her annual
performance appraisal.

A. Agency Heads are to ensure that the
requirements of this Title are implemented in
agency program activities and design safety
and health programs specifically to reduce
the human, financial and productivity losses
due to job-related injury, illness, and property
damage incidents. To ensure the exercise of
this responsibility, each Agency Head shall
designate an Agency Safety and Health
Manager with appropriate subordinate
staffing to develop and manage these
programs (see paragraph 34).

B. Safety and Health Managers are to
develop and implement programs which are
consistent with the requirements of this Title.

C. Management and supervisory officials
are to be evaluated for their effectiveness in
providing employees safe and healthful
working conditions under their jurisdiction.
Managers and supervisors are not to subject
an employee to restraint, interference,
coercion, discrimination, or reprisal by virtue
of employee's participation in the safety and
health program.

D. Employees are to conduct their job
assignments in a safe and healthful manner
and observe all Department and agency
safety and health policies and regulations.
Employees are to report any suspected
unsafe/unhealthful working conditions to
their supervisor for corrective action.

33. *Organization of the safety and health
function.* Agency Heads are to ensure that the
safety and health of their employees are a
fundamental part of all program decisions. To
ensure proper exercise of this responsibility,
Agency Heads are to organize the safety and
health function as a staff entity which has
direct access to all top level agency officials.
Within 60 days of final publication of this
Title, Agency Heads are to submit the
Director, OSHM, the organizational plan for
placement of the safety and health functions
at Headquarters and field locations. The plan
is to identify delegations of authority for the
Agency safety and health manager,
assignment of functions to the safety and
health staff, and the Agency organizational
chart, identifying the safety and health
functions from Headquarters to the field
level. The submission must include the
rationale and justification for the
organization plan.

34. *Staffing for safety and health.* Agency
Heads are to provide appropriate
Headquarters and field staffing to effectively
develop, implement, and evaluate their
occupational safety and health programs.

A. Agencies with 1,500 or more employees
are to employ a full-time qualified safety and
health professional to manage the agency
safety and health program. By "qualified" it
is meant that he/she meets the Office of
Personnel Management's qualification
requirements of the Safety and Health
Management series (GS-018), Safety Engineer
series (GS-803), or Industrial Hygienist series
(GS-690). In addition, agencies are to employ
additional safety and health specialists based
on the agency's mission; size; potential
exposure to hazardous conditions; injury,
illness, property damage experience; and
workers' compensation costs.

B. Agencies with less than 1,500 employees
may assign the safety and health program
responsibilities to an employee on a
collateral duty basis. The employee's annual
performance appraisal must document the
amount of time spent in safety and health
duties, and the employee shall meet either the
Office of Personnel Management's
requirements for the Safety and Health
Management series (GS-018), Safety Engineer
(GS-803), or Industrial Hygienist (GS-690)
series or be provided the training in order to
qualify the individual for their safety and
health management responsibilities within 1
year of the appointment.

35. *Consultation with representatives of
employees.* Agency Heads are to consult or
negotiate as appropriate with employees and
representatives of employees and provide for
employee participation in the operation of the
agency safety and health program.

36. *Minimum requirements for
development of agency safety and health
programs.* Agency safety and health
programs shall be action oriented and geared
to the reduction of human, financial, and
productivity losses due to job-related injuries,
illnesses, and property damage incidents.

A. Investigation of Injury, Illness, and
Property Damage Incidents.

1. All job-related injury, illness, and
property damage incidents are to be
thoroughly investigated by the agency to
identify causes and initiate corrective action.

2. Boards of inquiry are to be established
by the agency to identify the causes of all
serious incidents (see para. 36B.4 for
definition of serious incidents) and to
recommend corrective actions to prevent
similar occurrences. The number of members
and makeup of the board is to be determined
by the Agency Head. A report of the findings
of the board is to be sent to the Director,
OSHM, within 15 days of the adjournment of
the board.

3. OSHM is to be provided with a copy of
the Agency's written plan for determining the
expertise and depth of investigation for all
types of injury, illness, and property damage
occurrences.

B. Reporting of Injury, Illness, and Property
Damage Incidents.

1. The AD-278, "Supervisor's Report of
Accident," is to be used for the collection and
summarization of information for injury,
illness, and property damage incidents.

2. Agencies are to establish review and
routing procedures to ensure that information
collected on the AD-278 is accurate and that
responsible management officials and field
safety and health committees review and
initiate corrective action to prevent similar
occurrences. Completed AD-278's are to be
sent to the processing center within 15
calendar days of the incident. Copies of the
completed form are to be retained by the
originating office for a period of at least 5
years beyond the calendar year of
occurrence.

3. AD-278's are completed whenever: (1) a
"Notice of Traumatic Injury and Claim for
Continuation of Pay/Compensation" (CA-1)
is completed; (2) a "Federal Employee's
Notice of Occupational Disease and Claim for
Compensation" (CA-2) is completed; or (3)
\$100 of property damage results from official
activities of the agency. This includes
accidental damage to property resulting from
fires, materials handling, etc., even though no
injury or illness occurred.

4. Serious incidents are to be reported
immediately by telephone or telegraph to
OSHM whenever there is: (1) an employee
fatality; (2) hospitalization of five or more
employees; and/or (3) \$100,000 or more
property damage (Government or private). A
followup written report shall be forwarded to
OSHM within 24 hours of notice and shall
include: (1) date of accident; (2) names of
persons involved; (3) location of accident; (4)
extent of injury or illness; (5) brief narrative

explaining how it happened; (6) type of investigation being conducted; (7) corrective actions taken; and (8) amount of property damaged. Agencies are also to report serious incidents involving non-Federal employees in the performance of agency official duties.

C. Data Analysis. Agencies are to regularly analyze data produced by the Safety and Health Management Information System (SHMIS) in order to:

1. Establish necessary management initiatives to reduce or eliminate the causes of injury, illness, or property damage incidents;
2. Determine the need for onsite safety and health inspections;
3. Establish training priorities; and
4. Allocate human and financial resources for safety and health program.

D. Safety and Health Committees.

1. Agencies are to establish a safety and health committee at the Headquarters level and include representation of employees. The committee is to advise the Agency Head in carrying out his/her responsibilities and review and evaluate the effectiveness of the agency safety and health activities. The chairperson of the committee is to submit minutes of its meetings to the Agency Head and the Director, OSHM.

2. Agencies are to establish field safety and health committees and include representation from management and employees. The field committees review safety and health inspection reports; report of findings for serious incidents; injury, illness, and property damage statistics; and safety and health management activities. The committees are to recommend preventive activities such as, but not limited to, the following:

a. Discussing safety and health information at staff meetings and developing training activities.

b. Developing awareness programs to reduce high injury, illness, and property damage losses.

c. Developing safety and health policy recommendations and evaluating effectiveness of operating policies.

3. Existing interagency committees at the state and local levels (e.g. state administrative or county administrative committees) should be utilized to address safety and health issues where this approach is most practical (e.g. for collocated offices).

E. Safety and Health Promotion.

1. Agencies are to establish a variety of methods of promoting safety and health awareness to all employees. These programs ensure that employees are aware of (a) the extent and causes of occupational injury, illnesses, and property damage incidents which are occurring in their work units, (b) procedures for requesting workplace inspections and reporting suspected safety and health hazards, (c) procedures for employee involvement in activities of agency safety and health programs, and (d) agency and Department procedures for conducting inspections and reporting/investigating injury, illness, and property damage incidents.

2. Agencies that develop safety and health awards programs are to have these programs approved by the Office of Personnel as required by Department Personnel Manual Chapter 451.

3. Agencies are to post and keep posted a notice informing employees of the protections and obligations provided for in the OSHA Act of 1970, Executive Order 11807, as well as the Department and agency safety and health programs. Posters supplied by the Department of Labor may be used to accomplish this requirement. The poster is to identify, by name and title, the agency's designated safety and health official and the safety and health coordinator for that unit.

F. Safety and Health Training.

1. Managers, supervisors, and employees are to be provided education and training activities which ensure that every employee:

- a. Can demonstrate an understanding of the operation and requirements of the Department and agency's safety and health programs.

b. Possess the skills necessary to carry out his/her responsibilities in effective management of agencies safety and health programs.

2. Collateral duty personnel and employee representatives are to be provided specialized education and training activities which ensure that they possess the skills to manage or participate in the following activities:

a. Organizing and participating in safety and health committees.

b. Scheduling, conducting, and documenting safety and health inspections.

c. Conducting investigations and documenting causes of injury, illness, and property damage incidents.

d. Developing safety and health information materials to keep employees aware of safety and health problems in their job activities.

e. Initiating corrective action for identified safety and health hazards.

f. Utilizing community resources for safety and health program activities.

G. Safety and Health Inspections.

1. Agencies are to conduct annual safety and health inspections of all its facilities and equipment. The frequency, depth of inspection, and technical expertise required for inspections of facilities and equipment is to be determined by the nature of the operation; potential and incidence of injury/illness; equipment and machinery used; and the potential exposure to toxic substances.

2. Agencies are to develop and submit to OSHM within 60 days of final publication of this Title a Safety and Health Inspection Plan which includes the following features:

a. Criteria used to determine the frequency and scheduling of inspections (announced and unannounced).

b. Technical competence and/or training of individuals who conduct inspections of high hazard operations.

c. Participation of representatives of employees in inspection activities.

d. Abatement procedures used to initiate corrective action in (i) agency-owned facilities, (ii) CSA-managed buildings, (iii) leased buildings and facilities, and (iv) private industry facilities.

e. Method of documenting the results of safety and health inspections.

f. Employees' rights to request inspection of unsafe and unhealthy working conditions.

g. Review and approval procedures of all new space and renovation projects prior to acquisition or occupancy.

h. Means to notify employees of identified safety and health hazards in their workplace.

i. Evacuating employees from facilities where imminent dangers are identified.

H. Safety and Health Standards.

1. The Department of Labor's occupational safety and health standards, as promulgated under Section 6 of the OSHA Act, are the U.S. Department of Agriculture standards. These standards are published in Title 29, Chapter XVII, Parts 1910 (Occupational Safety and Health Standards); 1925 (Safety and Health Standards for Federal Service Contracts); 1926 (Safety and Health Regulations for Construction); and 1928 (Safety and Health Standards for Agriculture).

2. Agencies may request to adopt an alternate standard that provides equal or greater protection than the applicable OSHA standard. A request for a waiver from the applicable OSHA standard is to be made in writing to the Director, OSHM. The request is to include a justification for the waiver along with the agency's proposed plan to provide safety and health protection to employees that equals or exceeds the OSHA standard. The Director, OSHM, in consultation with OSHA officials, will determine if the proposed waiver provides an acceptable level of safety and health for employees.

3. Special work situations within agencies may be outside the scope of existing or future OSHA standards. In these cases, Agency Heads will develop specific agency-wide standards which are consistent with the OSH Act requirements. Proposed standards are to be submitted to the Director, OSHM, for concurrence prior to adoption by the agency. The Director, OSHM, in consultation with OSHA officials, will determine if an adequate level of safety and health for employees is provided by the standard. Whenever an approved supplemental standard is applicable to more than one agency, it will be considered for approval as a Department-wide standard.

4. Agencies that identify conflicts in application of safety and health standards are to submit a description of these conflicts to the Director, OSHM, for interpretation and resolution.

5. Agencies may adopt such emergency standards as necessary for the safety and health of employees. The Director, OSHM, shall be notified immediately of the adoption of that standard. Emergency standards adopted by OSHA or OSHM on the same subject shall replace the agency emergency standard.

1. Field Federal Safety and Health Councils.

1. Agencies are to encourage all field safety and health specialists and collateral duty safety and health officers to support the activities of their local Field Federal Safety and Health Council.

2. Agencies are to provide representatives of agency employees the opportunity to participate in the activities of the Field Federal Safety and Health Council.

37. Responsibilities of agency heads in evaluating the effectiveness of their occupational safety and health programs. Agency Heads are to evaluate the

effectiveness of their occupational safety and health programs in field locations. Agency Heads are to submit a written report of each field evaluation to OSHM within 30 days of the evaluation visit.

38. Responsibilities of agency heads in reporting the status of their occupational safety and health programs. Agency Heads are to report to the Director, OSHM, by February 1 of each year the status of the agency's development and implementation of each requirement in Section 3, Chapter 1, Title 13, of the USDA Administrative Regulations.

Julius C. Jimeno,

Director, Office of Safety and Health Management.

[FR Doc. 79-28761 Filed 8-27-79; 8:45 am]
BILLING CODE 3410-72-M

Rural Electrification Administration

Cajun Electric Power Cooperative, Inc.; New Roads, La.; Proposed Loan Guarantee

Under the authority of Pub. L. 93-32 (87 Stat. 65) and in conformance with applicable agency policies and procedures as set forth in REA Bulletin 20-22 (Guarantee of Loans for Bulk Power Supply Facilities), notice is hereby given that the Administrator of REA will consider providing a guarantee supported by the full faith and credit of the United States of America for a loan in the amount of \$452,000,000 to Cajun Electric Power Cooperative, Inc., of New Roads, Louisiana. These loan funds will be used to finance the construction of a 540 MW coal-fired steam electric generating unit.

Legally organized lending agencies capable of making, holding, and servicing the loan proposed to be guaranteed may obtain information on the proposed project, including engineering and economic feasibility studies and proposed schedule for the advances to the borrower of guaranteed loan funds from Mr. James R. Smith, Manager, Cajun Electric Power Cooperative, Inc., P. O. Box 578, New Roads, Louisiana 70760.

In order to be considered, proposals must be submitted (on or before September 27, 1979) to Mr. Smith. The right is reserved to give such consideration and make such evaluation or other disposition of all proposals received as Cajun and REA deem appropriate. Prospective lenders are advised that the guaranteed financing for this project is available from the Federal Financing Bank under a standing agreement with the Rural Electrification Administration.

Copies of REA Bulletin 20-22 are available from the Director, Information Services Division, Rural Electrification

Administration, Washington, D. C. 20250.

Dated at Washington, D.C., this 20 day of August, 1979.

Robert W. Feragen,

Administrator, Rural Electrification Administration.

[FR Doc. 79-28667 Filed 8-27-79; 8:45 am]
BILLING CODE 3410-15-M

Science and Education Administration

Committee of Nine; Meeting

In accordance with the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 86 Stat. 770-776), the Science and Education Administration, Cooperative Research, announces the following meeting:

Name: Committee of Nine.

Dates: September 11 and 12, 1979.

Time: 8:30 a.m., both days.

Place: Conference Room, Baileys Harbor Yacht Club, Baileys Harbor, Wisconsin.

Type of Meeting: Open to the public. Persons may participate in the meeting as time and space permit.

Comments: The public may file written comments before or after the meeting with the contact person listed below.

Purpose: To evaluate and recommend proposals for cooperative research on problems that concern agriculture in two or more States, and to make recommendations for allocation of regional research funds appropriated by Congress under the Hatch Act for research at the State agricultural experiment stations. Contact Person, for Agenda and More Information: Dr. Estel H. Cobb, Recording Secretary, U.S. Department of Agriculture, Science and Education Administration, Cooperative Research, Washington, D.C. 20250, telephone: 202/447-4329.

Done at Washington, D.C., this 23rd day of August, 1979.

John D. Sullivan,

Acting Deputy Director for Cooperative Research.

[FR Doc. 79-28668 Filed 8-27-79; 8:45 am]
BILLING CODE 3410-22-M

Soil Conservation Service

Construction Area 1 of Upper Tri-County Watershed, Arkansas; Intent Not To Prepare an Environmental Impact Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for Construction Area 1 of the Upper Tri-County Watershed

Project in Sharp, Lawrence, and Independence Counties, Arkansas.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. M. J. Spears, State Conservationist, has determined that the preparation and review of an environmental impact statement is not needed for this project.

The project concerns a plan to reduce flooding and provide for watershed protection within Construction Area 1 of the Upper Tri-County Watershed. This construction area encompasses a 16,077-acre subwatershed of the 95,694-acre Upper Tri-County Watershed. Planned works of improvement include three floodwater retarding structures and technical assistance for accelerated application of land treatment measures. The Upper Tri-County Watershed project was approved for operations on August 27, 1969.

The notice of intent not to prepare an environmental impact statement has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment is on file and may be reviewed by interested parties at the Soil Conservation Service, 5029 Federal Building, 700 West Capitol, Little Rock, Arkansas. All inquiries should be addressed to M. J. Spears, State Conservationist, Soil Conservation Service, P.O. Box 2323, Little Rock, Arkansas 72203; 501-378-5445. An environmental impact appraisal has been prepared and sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the environmental impact appraisal are available to fill single copy requests.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication (September 27, 1979).

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program—Public Law 83-566, 16 U.S.C. 1001-1006.)

Joseph W. Haas,

Assistant Administrator for Water Resources, Soil Conservation Service.

[FR Doc. 79-26701 Filed 8-27-79; 8:45 am]
BILLING CODE 3410-16-M

Buffalo Creek Watershed, Ohio; Intent Not To File an Environmental Impact Statement for Deauthorization of Federal Funding

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of

1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the deauthorization of Federal funding of the Buffalo Creek Watershed, Guernsey and Noble Counties, Ohio.

The environmental assessment of this action indicates that deauthorization of Federal funding of the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Clifton A. Maguire, Acting State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this action.

Project deauthorization involves not constructing any of the structural measures which included three reservoirs, one with multipurpose uses, and 8.7 miles of channel work. The municipal water supply included in dam 1 is not crucial since the village of Sarahsville has piped water in form another source. Three hundred acres of cropland and 29 acres of woodland will not be disrupted by project construction. Two thousand and thirty-four acres of flood plain and about 400 individuals will not receive the benefits of reduced flooding. The estimated project costs would have exceeded benefits.

The notice of intent not to file an environmental impact statement has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Clifton A. Maguire, Acting State Conservationist, Soil Conservation Service, 200 North High Street, Columbus, Ohio 43215, telephone number 614-489-6932. An environmental impact appraisal has been prepared and sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the environmental impact appraisal are available to fill single copy requests at the above address.

No administrative action on implementation of the proposal will be taken until 60 days after the date of this publication in the Federal Register (October 29, 1979).

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program—Public Law 83-566, 16 U.S.C. 1001-1008.)

Dated: August 21, 1979.

Joseph W. Haas,
Assistant Administrator for Water Resources,
Soil Conservation Service.

[FR Doc. 79-26702 Filed 8-27-79; 8:45 am]

BILLING CODE 3410-16-M

CIVIL AERONAUTICS BOARD

[Docket 34242]

Florida Airlines, Inc. Fitness Investigation; Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that the hearing in the above-entitled proceeding presently scheduled to be held on September 16, 1979, is hereby postponed to September 20, 1979, at 10:00 a.m. (local time) in Room 1003, Hearing Room D, Universal Building North, 1875 Connecticut Avenue NW., Washington, D.C., before the undersigned Administrative Law Judge.

For details of the issues involved in this proceeding, interested persons are referred to the Prehearing Conference Report, served on July 26, 1979, and other documents which are in the docket of this proceeding on file in the Docket Section of the Civil Aeronautics Board.

Dated at Washington, D.C., August 22, 1979.

William H. Dapper,
Administrative Law Judge.

[FR Doc. 79-26731 Filed 8-27-79; 8:45 am]

BILLING CODE 6320-01-M

[Docket 34242]

Florida Airlines, Inc.; Fitness Investigation, Reassignment of Proceeding

This proceeding has been reassigned from Administrative Law Judge Richard J. Murphy to Administrative Law Judge William H. Dapper. Future communications should be addressed to Judge Dapper.

Dated at Washington, D.C., August 22, 1979.

Nahum Litt,
Chief Administrative Law Judge.

[FR Doc. 79-26732 Filed 8-27-79; 8:45 am]

BILLING CODE 6320-01-M

COMMISSION ON CIVIL RIGHTS

Minnesota Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights that a factfinding meeting of the

Minnesota Advisory Committee (SAC) of the Commission originally scheduled for September 20-21, 1979 has been changed, (FR Doc. 79-22532) on page 42750.

The meeting now will be held on September 27-28, 1979, beginning at 8:30 am and will end at 9:00 pm on September 27, 1979, and beginning at 8:30 am and will end at 5:00 pm on September 28, 1979, at the Minneapolis Main Post Office, 1st Avenue and Marquette, Minneapolis, Minnesota 55401.

Dated at Washington, D.C., August 23, 1979.

John I. Binkley,
Advisory Committee Management Officer.

[FR Doc. 79-26675 Filed 8-27-79; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

Bureau of the Census

Annual Surveys in Manufacturing Area; Correction

In FR Doc. 79-22677, at page 43032, appearing in the issue of Monday, July 23, 1979, correct pages 43032 and 43033, to read as follows:

Annual surveys proposed to be initiated or continued for the year 1979.

As Appeared

Major Group 22—TEXTILE MILL PRODUCTS
Broadwoven good finished
Narrow fabrics
Yarn Production

Should Read

Major Group 22—TEXTILE MILL PRODUCTS
Broadwoven goods finished
Narrow fabrics
Yarn production
Knit fabric production

Survey representing annual counterparts of monthly and quarterly surveys.

As Appeared

Major Group 22—TEXTILE MILL PRODUCTS
Finishing plant report—broadwoven fabrics
Consumption of wool and other fibers, and production of tops and noils
Carpet and rugs
Knit fabric production

Should Read

Major Group 22—TEXTILE MILL PRODUCTS
Broadwoven fabric (gray)
Consumption of wool and other fibers, and production of tops and noils
Carpet and rugs

As Appeared

Major Group 32—STONE, CLAY, AND GLASS
Glass containers

Refractories
Clay construction products

Should Read

Major Group 32—STONE, CLAY, AND GLASS
Glass containers
Refractories
Clay construction products
Flat glass

As Appeared

Major Group 36—ELECTRICAL MACHINERY, EQUIPMENT AND SUPPLIES
Fluorescent lamp ballasts

Should Read

Major Group 36—ELECTRICAL MACHINERY, EQUIPMENT AND SUPPLIES
Fluorescent lamp ballasts
Electric lamps

Dated: August 23, 1979.

Vincent P. Barabba,
Director, Bureau of the Census.

[FR Doc. 79-26736 Filed 8-27-79; 8:45 am]

BILLING CODE 3510-07-M

Industry and Trade Administration

NYS Department of Health, et al.; Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Statutory Import Programs Staff, Bureau of Trade Regulation, U.S. Department of Commerce, Washington, D.C. 20230, on or before September 17, 1979.

Regulations (15 CFR 301.9) issued under the cited Act prescribe the requirements for comments. A copy of each application is on file, and may be examined between 8:30 A.M. and 5:00 P.M., Monday through Friday, in Room 735 at 666-11th Street N.W., Washington, D.C.

Docket number: 79-00349. Applicant: NYS Department of Health, Division of Laboratories and Research, Empire State Plaza, Albany, NY 12201. Article: MS 5074/DS55 Gas Chromatographic/Mass Spectrometer Data System and Accessories. Manufacturer: Kratos Inc., United Kingdom. Intended use of article: The article is intended to be used in a variety of projects ranging from research

and development of new methods for health related compound identification to the application of some of these methods in identifying eminent biological and environmental agents threatening the health of many residents in New York State. The capabilities of the article will support research in:

1. Developing new methods of organic extraction and concentrations in the presence of interferences such as PCB.
2. Toxicologic and metabolic studies of ingestion of various tetrachlorodioxin isomers (22 isomers of varying toxicity) by mammals.
3. Identification of other dioxin isomers with one to eight chlorines, which are now overlooked.
4. Development of new mass spectrometry techniques to increase the sensitivity and specificity of the MS5074. These will include negative ion chemical ionization, and secondary ion decomposition.
5. Detection of tetrachlorodibenzofuran which has tentatively been identified in fish in the Hudson River.
6. Analysis of N-alkyl nitrosamines in vaginal fluids using both capillary column chromatography and high resolving power.
7. Metastable ion analysis of polynucleararomatics.
8. Computer acquisition of metastable spectra and matrix identification mixtures.
9. Peptide sequencing.

Application received by Commissioner of Customs: July 13, 1979.

Docket number: 79-00350. Applicant: Southern Illinois University—Edwardsville, Edwardsville, IL 62026. Article: JNM/FX-90Q(II) High Resolution Fourier Transformation Multi-Nuclear Magnetic Resonance Spectrometer System and Accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article will be used in studies entitled:

1. The Structure of Metal—Chelating Glycopeptide Antibiotics (^1H , ^{13}C , ^{55}Mn)
2. The Role of Metal Ions in the Structure and Function of Plant Lectins, (^1H , ^{13}C , ^{15}N , ^{19}F , ^{31}P).
3. The Chemistry of Natural Bithienyl Acetylenes. (^1H , ^{13}C).
4. The Chemistry of Strained-Ring Heterocycles (^1H , ^{13}C , ^{19}F , ^{15}N , ^{17}O).
5. Interpretation of Host-Guest Interactions in Macrocylic O and N Bridged Compounds (^1H , ^{13}C , ^{23}Na , ^7Li , ^{17}O , ^{15}N) which will require the determination of the molecular structure or conformational states of synthetic and natural organic molecules, metal sites of metallobiopolymers, and metal complexing materials will be sought from NMR data. In addition, the projects intend to seek information on the dynamics of conformational interchange processes, metal-ligand exchange rates, and metal-protein interactions, and some thermodynamic and structural information will be obtained in the course of the experimentation.

Application received by Commissioner of Customs: July 13, 1979.

Docket number: 79-00351. Applicant: University of North Dakota School of Medicine, Department of Anatomy, Grand Forks, North Dakota 58202. Article: Electron Microscope, Model JEM 100S and Accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The foreign article will be used for studying the ultrastructure of biological specimens to include, in part: (1) developing retina and choroid (ocular tissues), (2) brain (development, trace element deficiencies and retrograde degeneration), (3) subarachnoid space, (4) cardiac muscle, (5) tissues within regenerating limbs, (6) reproductive tract, (7) connective tissues and (8) biopsies of pathological tissues. Some experiments to be conducted involve the ultrastructural characterization of these biological specimens in normal health, under experimental conditions and during disease. The foreign article will also be used in training 12 to 16 graduate students in the basic medical sciences in the techniques of conventional transmission electron microscopy. Application received by Commissioner of Customs: July 13, 1979.

Docket number: 79-00354. Applicant: New Mexico Institute of Mining and Technology, Campus Station, Socorro, NM 87801. Article: TH 600 Fluid Inclusion Heating Stage and Control Unit. Manufacturer: Linkam Scientific Instruments, United Kingdom. Intended use of article: The foreign article will be used for microscopic study of fluid inclusions which may yield the temperature of the mineral depositing fluids, the pressure (or depth) at which deposition occurred and some knowledge of the chemistry of the depositing fluids. Fluid inclusion studies will also be used to study hydrothermal ore deposits and metamorphic rocks to determine temperature and pressure during metamorphism. The foreign article will also be used for the education of graduate students in ore deposits in their thesis research. Application received by Commissioner of Customs: July 13, 1979.

Docket number: 79-00355. Applicant: University of Texas Medical Branch, UMB 9-12970, Galveston, TX 77550. Article: LKB 2088 Ultratome V Ultramicrotome and Accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The foreign article is intended to be used for the following:

- (1) Studies on *pathologic human tissues* where it is expected that *softer tissues* (such as renal or striated muscle) as well as *harder tissues* (such as collagen-rich tendon or epidermis) will be encountered frequently.
- (2) Studies on *normal and pathologic animal tissues* which include, for example,

experimental identification, localization, and modification of the surface charge present in the capillary loops of rat kidney glomeruli, and

(3) Studies on *host-parasite interfaces* which include, for example, the progressive (in time) examination of schistosome egg maturation in liver tissue of host animals. Host animals bearing infections of known age will be periodically sacrificed and areas of suspected parasite infestation located, dissected, and prepared for various assays, including electron microscopic examination.

The objectives are to contribute to basic knowledge of cell and tissue ultrastructure in normal and pathologic tissues. One objective is to reveal what, if any, diagnostic correlates exist between light and electron microscopic examination of pathologic tissues. Moreover, the study of host-parasite interactions will reveal at the ultrastructural level morphological alterations in cellular and subcellular components as a result of parasite infestation. The objective pursued in the course of these investigations is to understand early pathological alterations in tissues (as induced in animal models) and to correlate these changes with clinical alterations seen in human pathologic tissues. By understanding early alterations we may begin to formulate preventative treatments in human diseases. The foreign article will also be used in the residency training program offered by the Pathology Department and in the graduate training program of the School of Biomedical Sciences wherein the residents and graduate students will be taught techniques of electron microscopy. Application received by Commissioner of Customs: July 13, 1979.

Docket number: 79-00358. Applicant: Johns Hopkins University, Charles and 34th Streets, Baltimore, MD. 21218. Article: Electron Microscope, Model JEM-100CX (Standard Side Entry Type) and Accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The foreign article will be used in studies of the structures of naturally occurring cells, tissues, cell organelles, macromolecules, macromolecular assemblies, and viruses which are isolated by cell fractionation and biochemical purification to relate the molecular architecture of biological specimens to their function. The foreign article will also be used for education in a course entitled "Optical Methods in Biology" and in students' thesis research. Application received by Commissioner of Customs: July 27, 1979.

Docket number: 79-00357. Applicant: The Johns Hopkins University, The Good Samaritan Hospital, Section of Orthopaedics, Charles and 31st Streets, Baltimore, Md. 21218. Article:

Microtome, Model 1140 and Accessories. Manufacturer: Waldemar Jung GmbH, West Germany. Intended use of article: The foreign article will be used in research to study cellular detail and micro vasculature of bone altered by experimentally produced ischemia on dog models. Application received by Commissioner of Customs: July 27, 1979.

Docket number: 79-00358. Applicant: Hospital for Joint Diseases—Orthopaedic Institute, 301 East 17th Street, New York, New York 10003. Article: Electron Microscope, Model JEM-100CX (Standard Side Entry Type) and Accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The foreign article is intended to be used to study human cells and tissues of skeletomuscular diseases including soft tissue, cartilage, bone and other related tissues such as blood cells and bone marrow. Ultrastructural studies of benign and neoplastic conditions of the skeletomuscular system from both human and animal specimens are included. Investigation of the morphological characteristics of the musculoskeletal tissues in different diseases of humans at the ultrastructural level, as well as comparative studies of normal tissue, will be undertaken. The foreign article will also be used in education to train pathology residents, fellows, and medical students in tissue evaluation in Pathology. Application received by Commissioner of Customs: July 27, 1979.

Docket number: 79-00359. Applicant: The Research Foundation of SUNY, Upstate Medical Center, 117 Monroe Street, Syracuse, NY 13210. Article: Cryogenic Probe. Manufacturer: Louis Rochon, France. Intended use of article: The article is intended to be used to explore systems of the brain that are related to the temporal lobe with animals trained on tasks that are used as measures of memory and that are sensitive to temporal lobe injury. An independent variable will be the different brain structures in which reversible lesions are placed by localized cooling. Application received by Commissioner of Customs: July 27, 1979.

Docket number: 79-00360. Applicant: The University of Texas Health Science Center at San Antonio, Department of Anatomy, 7703 Floyd Curl Drive, San Antonio, Texas 78284. Article: Cryoultramicrotome System, Complete; Consisting of Ultramicrotome, LKB 2088 Ultratome V, CryoKit, LKB 14800-1, Cryotools, LKB 14860-1. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used to study all kinds of tissue and

cells of interest to individual investigators. The morphology and elemental content and elemental distribution of the natural substances in the tissues will also be studied. Experiments will be conducted to prepare tissue and preserve its natural morphology and elemental content in order to subsequently be able to investigate the tissue using the technique of electron probe X-ray microanalysis. In addition, the article will be used as a teaching tool for specimen preparation in a graduate course (Anatomy 60385, X-ray Microanalysis, 3 semester hours credit). Application received by Commissioner of Customs: July 27, 1979.

Docket number: 79-00361. Applicant: University of Florida, College of Pharmacy, Box J-4, J. Hillis Miller Health Center, Gainesville, FL 32610. Article: JASCO Model MCD-1B electromagnet with power supply and Accessories. Manufacturer: JASCO, Japan. Intended use of article: The foreign article is intended to be used in two main areas (a) development of the magnetic circular dichroism technique as an analytical tool and (b) to understand drug macromolecule interactions. A variety of drugs alone and in conjunction with albumin, nucleic acid and other macromolecules will be examined. Application received by Commissioner of Customs: July 27, 1979.

Docket number: 79-00362. Applicant: University of California—Lawrence Livermore Laboratory, P.O. Box 5012, Livermore, CA 94550. Article: Imacon Model 790 Streaking and Framing Camera with extra large S-20 Photocathode and Accessories. Manufacturer: John Hadland, United Kingdom. Intended use of article: The article is intended to be used for interferometric measurements of free surface velocity of shocked surfaces, fast multiframe photography of rapid events studied in surface fluff ejection, and high-speed intensified flash X-ray diagnostics. Experiments will be conducted to measure the thermodynamic properties of materials under shock-loading conditions, and to measure very high time resolution velocity histories and surface qualities under high magnification. In addition, the article will be used to understand more fully the thermodynamic properties of matter at high pressure and temperature. Application received by Commissioner of Customs: July 27, 1979.

Docket number: 79-00363. Applicant: University of Delaware, Evans Hall, Room 229, Newark, Delaware 19711. Article: Electron Microscope, Model EM 400 HTG and Accessories.

Manufacturer: Philips Electronics Instruments NVD, The Netherlands. Intended use of article: The article is intended to be used for studies of a wide variety of metals, ceramics, polymers and marine organisms. All of the experiments to be conducted can be classified into one or more of the following types:

(1) Production of images and analyses of the internal or surface defect structure of metals, ceramics, and polymers.

(2) Normal and micro electron diffraction analyses of the constituents of metallic alloys, ceramics and polymers.

(3) Examination and photographic recording of tissue sections from marine organisms, both normal and experimentally altered.

(4) Microanalysis of constituents of metallic alloys, ceramics, polymers, and shells from marine organisms.

The article will also be used for educational purposes in the courses Metallurgy 302 Material Science for Engineers, Metallurgy 401 Structure of Materials, and Metallurgy 801 Diffraction of Radiation by Matter. Application received by Commissioner of Customs: July 27, 1979.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

Richard M. Seppa,
Director, Statutory Import Programs Staff.

[FR Doc. 79-26686 Filed 8-27-79; 8:45 am]
BILLING CODE 3510-25-M

University of Houston; Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 A.M. and 5:00 P.M. at 666-11th Street, N.W. (Room 735) Washington, D.C.

Docket number: 79-00216. Applicant: University of Houston, 4800 Calhoun, Houston, TX 77004. Article: 12kW RU-200 Constant Potential Rotating Anode X-Ray Generator and Accessories. Manufacturer: Rigaku Corp., Japan. Intended use of article: the article is intended to be used for the study of atomic arrangements in metals, semiconductors and insulators in order to understand the relation of structure to properties. The article provides a very high intensity source of x-rays incident upon weakly scattering materials. The article will also be used for individual

graduate instruction in x-ray methods. Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign article provides a high power (12 kilowatts) high intensity source. The National Bureau of Standards advises in its memorandum dated July 24, 1979 that (1) the capability of the foreign article described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

Richard M. Seppa,
Director, Statutory Import Programs Staff.

[FR Doc. 79-26687 Filed 8-27-79; 8:45 am]
BILLING CODE 3510-25-M

DHEW/NIH—National Cancer Institute; Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5:00 p.m. at 666-11th Street, N.W. (Room 735) Washington, D.C.

Docket number: 79-00217. Applicant: Dept. of Health, Education, and Welfare—National Institutes of Health, National Cancer Institute, Division of Cancer Biology and Diagnosis, Building 31, Room 3A-05, Bethesda, Maryland 20014. Article: Accessories for Small Animal Irradiator consisting of Gammacell-40 Sample Cavity Collimator, Set of 3 Attenuators and Sample Drawer Tray. Manufacturer: Atomic Energy of Canada Ltd., Canada. Intended use of article: the article is intended to be used for investigation of immunologic functions of various types from the administration of relatively low doses (200-300 rads) which permits the

transplantation of foreign neoplasms to lethal doses in the 800-900 rad range followed by the transplantation of hematopoietic cells. Since the hematopoietic system is relatively sensitive to ionizing irradiation, animals may be rendered deficient in certain types of cells by exposure to lethal irradiation and replacement of only the desired hematopoietic cell types, e.g., immunologists study various functions of the immune systems by producing T-cell or B-cell deficient animals. Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The application relates to accessories for an instrument that had been previously imported for the use of the applicant institution. The article is being furnished by the manufacturer which produced the instrument with which the article is intended to be used and is pertinent to the applicant's purposes. The National Bureau of Standards (NBS) advises in its memorandum dated July 26, 1979 that it knows of no domestic instrument of equivalent scientific value to the article for its intended uses. The Department of Commerce knows of no other similar accessories being manufactured in the United States, which are interchangeable with or can be readily adapted to the instrument with which the foreign article is intended to be used.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

Richard M. Seppa,
Director, Statutory Import Programs Staff.

[FR Doc. 79-26688 Filed 8-27-79; 8:45 am]
BILLING CODE 3510-25-M

Louisiana State University; Application for Duty Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 A.M. and 5:00 P.M. at 666-11th Street, N.W. (Room 735) Washington, D.C.

Docket No. 79-00050. Applicant: Louisiana State University, Institute for Environmental Studies, 42 Atkinson Hall, Baton Rouge, LA 70803. Article:

Triaxial Equipment, Oedometer with swelling attachment, Electric unconfined apparatus, and Lab. Penetrometer. Manufacturer: Geonor, Norway. Intended use of article: The foreign article is intended to be used in the investigation of geotechnical parameters such as density, residual stress and stress history, existence of discontinuities, temperature, time etc. requiring drained or undrained triaxial, direct shear, and consolidation tests for in situ methods evaluation on borings, standard penetration, core penetration, vane shear and pressuremeter to investigate the utility of Gulf Coast Salt Domes for the storage or disposal of radioactive wastes.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides a combination of swell potential capability, self-recording, penetrometer capability and slow testing speeds (from 2 to 8 hours per strain rate test and up to 8 hours per shearing test). The National Bureau of Standards advises in its memorandum dated June 15, 1979 that (1) combination of the capabilities of the foreign article described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

Richard M. Seppa,
Director, Statutory Import Programs Staff.

[FR Doc. 79-26690 Filed 8-27-79; 8:45 am]

BILLING CODE 3510-25-M

National Radio Astronomy Observatory—Tucson; Application for Duty Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 A.M. and 5:00 P.M. at 666-11th Street, N.W. (Room 735) Washington, D.C.

Docket No.: 79-00223. Applicant: National Radio Astronomy Observatory, Associated Universities, Inc., 2010 N. Forbes Blvds., Suite 100, Tucson, AZ 85705. Article: Repair of Klystron Model VRB2113A30 and Accessories. Manufacturer: Varian Associates of Canada Ltd., Canada. Intended use of article: The article is intended to be used as a phase-locked local oscillator in a millimeter wave radio astronomy receiver. The receiver is used in conjunction with a microwave antenna to measure the intensity, polarization, frequency and direction of cosmic radiation.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides a frequency in the range between 80-110 gigahertz. The National Bureau of Standards (NBS) advises in its memorandum dated July 25, 1979 that (1) the capability of the foreign article described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

Richard M. Seppa,
Director, Statutory Import Programs Staff.

[FR Doc. 79-26691 Filed 8-27-79; 8:45 am]

BILLING CODE 3510-25-M

National Aeronautics and Space Administration; Application for Duty Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 A.M. and 5:00 P.M. at 666-11th Street, N.W. (Room 735) Washington, D.C.

Docket No. 79-00162. Applicant: National Aeronautics and Space Administration, Langley Research Center, Mail Stop 267, Hampton, Virginia 23655. Article: Air to Water Cross Flow Heat Exchanger. Manufacturer: GEA Luftkühlergesellschaft Happel GmbH and Co., West Germany. Intended use of article: The article is intended to be used in the national Transonic Facility (NTF) for the study of High Reynolds Number Aerodynamic phenomena as related to defense and commercial aircraft.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides a low turbulence level of 2.6 percent in existing gas (dry air or nitrogen) using its elliptically shaped tubes. The National Bureau of Standards advises in its memorandum dated July 11, 1979 that (1) the capability of the foreign article described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

Richard M. Seppa,
Director, Statutory Import Programs Staff.

[FR Doc. 79-26691 Filed 8-27-79; 8:45 am]

BILLING CODE 3510-25-M

National Oceanic and Atmospheric Administration; Modification of Marine Mammals Permit

Notice is hereby given that, pursuant to the provisions of Sections 216.33(d) and (e) of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216), the Public Display Permit No. 227 issued to Mystic Marineland Aquarium on March 28, 1978, is modified in the following manner:

Section B is modified by deleting Section B-8 and substituting therefor the following: "8. This Permit is valid with respect to the taking authorized herein until December 31, 1981."

This modification is effective on the date of publication of this Notice in the Federal Register.

The permit, as modified, and documentation pertaining to the modification is available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.; Regional Director, National Marine Fisheries Service, Northeast Region, Federal Building, 14 Elm Street, Gloucester, Massachusetts 01930; Regional Director, National Marine Fisheries Service, Northwest Region, 1700 Westlake Avenue North, Seattle, Washington 98109; and Regional Director, National Marine Fisheries Service, Alaska Region, P.O. Box 1668, Juneau, Alaska 99802.

Dated: August 21, 1979.

Winfred H. Meibohm,
Associate Director, National Marine Fisheries Service.

[FR Doc. 79-26692 Filed 8-27-79; 8:45 am]

BILLING CODE 3510-22-M

Correction of Notice of Public Meeting

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The Federal Register notices of August 17, 1979, found on pages 48313-48314, announcing public meetings on the Mollusk Fishery Management Plan and Deep-Water Reef Fishes Fishery Management Plan should be amended to reflect that they are being conducted as "scoping meetings" under NEPA and satisfy the Notice of Intent to Prepare Environmental Impact Statements. Work plans, as indicated, will be prepared as a result of the scoping meeting.

EFFECTIVE DATE: This correction is effective August 23, 1979.

FOR FURTHER INFORMATION CONTACT: Caribbean Fishery Management Council, Suite 1108, Banco de Ponce Building, Hato Rey, Puerto Rico 00918, Telephone: (809) 753-4926.

Signed at Washington, D.C., this 23rd day of August 1979.

Winfred H. Meibohm,
Executive Director, National Marine Fisheries Service.

[FR Doc. 79-26734 Filed 8-27-79; 8:45 am]

BILLING CODE 3510-22-M

Pacific Fishery Management Council's Groundfish Advisory Subpanel; Amended Meeting Notice

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The Pacific Fishery Management Council, established by Section 302 of the Fishery Conservation and Management Act of 1976 (Public Law 94-265), has established a Groundfish Advisory Subpanel (AP) which has changed its meeting location (FR Vol. 44, No. 163, dated August 21, 1979).

ADDRESS: The AP will meet at the Cosmopolitan Motor Hotel, 1030 N.E. Union, Portland, Oregon.

FOR FURTHER INFORMATION CONTACT: Pacific Fishery Management Council, 526 S.W. Mill Street, Second Floor, Portland, Oregon 97201, Telephone: (503) 221-6352.

Dated: August 22, 1979.

Winfred H. Meibohm,
Executive Director, National Marine Fisheries Service.

[FR Doc. 79-26733 Filed 8-27-79; 8:45 am]

BILLING CODE 3510-22-M

DEPARTMENT OF DEFENSE

Department of the Army

Chief of Engineers Environmental Advisory Board; Open Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that the next meeting of the Environmental Advisory Board (EAB) of the Chief of Engineers will be held September 19-20, 1979 in the Commonwealth Room, (Center) of the Olde Colony Motor Lodge at the corner of North Washington and First Streets, Alexandria, Virginia 22313. All 19-20 September sessions of the meeting are open to the public. Time and subjects of each session follow:

P.M. Session, 19 September

1330-1350 hours—Opening remarks.
1350-1420 hours—Review of corps plan formulation process.
1420-1435 hours—Discussion.
1435-1535 hours—The integration of environmental considerations in the plan formulation and decisionmaking process.
1550-1630 hours—Discussion.
1630-1645 hours—Summary of discussion.
1645 hours—Meeting adjourned.

A.M. Session, 20 September

0830 hours—Meeting reconvenes.
0830-1130 hours—Previous day's discussion continued.

P.M. Session

1300-1500 hours—Workshop to draft conclusions and recommendations.
1515-1600 hours—Workshop to scope future meetings
1600 hours—Meeting adjourns.

Seating in the meeting room is limited to approximately 20 persons. Written statements, to be made part of the minutes, may be submitted prior to, or up to 10 days following, the meeting. Persons planning to attend or desiring further information should contact LTC George F. Boone, Assistant Director of Civil Works, Environmental Programs, Office of the Chief of Engineers, telephone 202 272-0103.

By authority of the Secretary of the Army.
Dated: August 22, 1979.

George A. Bailey,
Colonel, U.S. Army, Director, Administrative Management, TAGCEN.

[FR Doc. 79-26643 Filed 8-27-79; 8:45 am]

BILLING CODE 3710-08-M

Coastal Engineering Research Board; Open Meeting

Pursuant to section 10(a) (2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given of a meeting of the Coastal Engineering Research Board to be held on 25-27 September 1979.

The meeting will be held in the President's Room, University Towers Hotel, 4507 Brooklyn, NE., Seattle, Washington, from 0800 hours to 1430 hours on 25 September 1979 and from 0800 hours to 1200 hours on 27 September 1979. The entire day of 26 September will be devoted to an aerial inspection of various projects in the North Pacific Division.

The 25 September session will be devoted to a report on action items from previous meeting; Status Report on the Field Research Facility, Duck, N.C.; Wave Data Collection Program on the West Coast; Navigation Channel Design; the Danish Hydraulic Institute Agreement; presentations on projects in the North Pacific Division; and North Pacific Division Research Needs.

The 27 September session will be devoted to CERB discussion of the field inspection trip; CERB's FY 80, 81, and 82 Budget; the Field Monitoring Program; the West Coast Ecological Program; Status of Civil Works; and CERB recommendations.

Participation by the public is scheduled for 0810 to 0840 hours on 27 September. The meeting will be open to the public subject to the following limitations:

a. As the seating capacity of the conference room is limited, it is desired

that advance notice of intent to attend be provided. This will assure adequate and appropriate arrangements for all attendants.

b. Written statements, to be made a part of the minutes, may be submitted prior to, or up to 30 days following the meeting, but oral participation by the public is limited because of the time schedule. Inquiries may be addressed to Colonel Ted E. Bishop, Executive Secretary, U.S. Army Coastal Engineering Research Board, Kingman Building, Fort Belvoir, Virginia 22060, telephone (202) 325-7000.

By Authority of the Secretary of the Army.

Dated: August 23, 1979.

George A. Bailey,
Colonel, U.S. Army, Director, Administrative Management, TAGCEN.

[FR Doc. 79-28644 Filed 8-27-79; 8:45 am]

BILLING CODE 3710-06-M

Military Traffic Management Command

Military Personal Property Symposium; Open Meeting

Announcement is made of a meeting of the Military Personal Property Symposium. This meeting will be held on 27 September 1979 at the Ramada Inn, 1-395 and Seminary Road East, Alexandria, VA, and will convene at 0900 hours and adjourn at approximately 1500 hours.

PROPOSED AGENDA: The purpose of the Symposium is to provide an open discussion and free exchange of ideas with the public on procedural changes to the Personal Property Traffic Management Regulation (DOD 4500.34-R), and the handling of other matters of mutual interest relating to the movement and/or storage of household goods and unaccompanied baggage, as well as proposed changes and innovations in the Department of Defense Personal Property Movement and Storage Program.

All interested persons desiring to submit topics to be discussed should submit them in writing to the Commander, Military Traffic Management Command, ATTN: MT-PPM, Washington, DC 20315. Topics to be discussed should be received on or before 20 September 1979.

Dated: August 23, 1979.

John J. Durant,
Colonel, GS, Director of Personal Property.

[FR Doc. 79-28642 Filed 8-27-79; 8:45 am]

BILLING CODE 3710-06-M

Corps of Engineers

Intent to Prepare a Draft Environmental Impact Statement (DEIS) for Proposed Flood Control and Related Water Resource Problems as Part of the Sacramento-San Joaquin Delta Investigation in Alameda, Contra Costa, Sacramento, San Joaquin, Solano, and Yolo Counties, California.

AGENCY: U.S. Army Corps of Engineers, Department of Defense.

ACTION: Notice of Intent to prepare a draft environmental impact statement (DEIS).

SUMMARY: 1. *Proposed Action.*—At the request of the State of California and in response to resolutions of the Congress of the United States, the Corps of Engineers and the California Department of Water Resources are jointly investigating the feasibility of providing flood control, recreation facilities, and water quality improvement in the Sacramento-San Joaquin River Delta.

2. *Alternatives.*—Alternatives being considered include: no action, non-structural measures, and structural measures. The structural measures consist of: Rehabilitation of individual island levees, construction of master levees (polders), construction of downstream barriers, and construction of upstream dams. Each structural measure is being further evaluated at three levels of flood protection and two levels of levee freeboard. Three levels of recreation development are being evaluated for each flood control plan.

3. *Scoping of the DEIS.*—All interested parties are being invited to participate in a public meeting and scoping conference to be held at 7:30 p.m. on August 30, 1979 in the South Hall, Civic Memorial Auditorium, Civic Center, Fremont and Center Streets, Stockton, California. The purpose of the meeting is to present the alternatives under investigation and to identify significant environmental concerns to be presented in detail in the environmental impact statement and less significant issues to be presented in less detail.

4. *Estimated Date of DEIS.*—A DEIS is expected to be circulated for public review in August 1980.

ADDRESS: Questions about the proposed action and DEIS can be answered by Mr. Ray Williams, Planning Engineer, Sacramento District, Corps of Engineers, 650 Capitol Mall, Sacramento, CA 95814, telephone (916) 440-3429 (FTS-448-3429).

Dated: August 16, 1979.

Paul F. Kavanaugh,

Colonel, CE District Engineer.

[FR Doc. 79-28698 Filed 8-27-79; 8:45 am]

BILLING CODE 3710-04-M

Office of the Secretary

Per Diem, Travel and Transportation Allowance Committee

AGENCY: Per Diem, Travel and Transportation Allowance Committee, DoD.

ACTION: Publication of Changes in Per Diem Rates.

SUMMARY: The Per Diem, Travel and Transportation Allowance Committee is publishing Civilian Personnel Per Diem Bulletin Number 88. This bulletin lists changes in per diem rates prescribed for U.S. Government employees for official travel in Alaska, Hawaii, Puerto Rico, the Canal Zone, and possessions of the United States. Bulletin Number 88 is being published in the Federal Register to assure that travelers are paid per diem at the most current rates.

EFFECTIVE DATE: August 21, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Frederick W. Weiser, 325-8330.

SUPPLEMENTARY INFORMATION: This document gives notice of changes in per diem rates prescribed by the Per Diem, Travel and Transportation Allowance Committee for non-foreign areas outside the continental United States. Distribution of Civilian Per Diem Bulletins by mail was discontinued effective June 1, 1979. Per Diem Bulletins published periodically in the Federal Register now constitute the only notification of changes in per diem rates to agencies and establishments outside the Department of Defense.

The text of the Bulletin follows:

Civilian Personnel Per Diem Bulletin Number 88

To the Heads of Executive Departments and Establishments

SUBJECT: Table of Maximum Per Diem Rates in Lieu of Subsistence for United States Government Civilian Officers and Employees for Official Travel in Alaska, Hawaii, the Commonwealth of Puerto Rico, the Canal Zone, and Possessions of the United States

1. This bulletin is issued in accordance with Memorandum for Heads of Executive Departments and Establishments from the Deputy Secretary of Defense dated August 17, 1966, SUBJECT: Executive Order 11294, August 4, 1966, "Delegating Certain Authority of the President to Establish

Maximum Per Diem Rates for Government Civilian Personnel in Travel Status" in which this Committee is directed to exercise the authority of the President (5 U.S.C. 5702(a)(2)) delegated to the Secretary of Defense for Alaska, Hawaii, the Commonwealth of Puerto Rico, the Canal Zone, and possessions of the United States. When appropriate and in accordance with regulations issued by competent authority, lesser rates may be prescribed.

2. The maximum per diem rates shown in the following table are continued from the preceding Bulletin Number 87 except in the case identified by an asterisk which rate is effective on the date of this Bulletin. The date of this Bulletin shall be the date the last signature is affixed hereto.

3. Each Department or Establishment subject to these rates shall take appropriate action to disseminate the contents of this Bulletin to the appropriate headquarters and field agencies affected thereby.

4. The maximum per diem rates referred to in this Bulletin are:

Locality	Maximum rate
Alaska:	
Udak	\$9.85
Anchorage	62.00
Annette	61.00
Barrow	94.00
Bethel	84.00
College	60.00
Cordova	76.00
Deadhorse	110.00
Delta Junction	58.00
* Dillingham	83.00
Dutch Harbor	62.00
Eielson AFB	60.00
Elmendorf	62.00
Fairbanks	60.00
Fl. Greeley	58.00
Fl. Richardson	62.00
Fl. Wainwright	60.00
Galena	52.00
Juneau	60.00
Ketchikan	61.00
King Salmon	62.00
Kodiak	68.00
Kotzebue	91.00
Murphy Dome	60.00
Nastak	91.00
Nome	90.00
Noonvik	91.00
Petersburg	61.00
Shemya AFB	11.00
Shungnak	91.00
Sitka-Mt. Edgecombe	61.00
Skagway	61.00
Spruce Cape	68.00
Tanana	90.00
Valdez	70.00
Wainwright	79.00
Wrangell	61.00
Other	62.00
American Samoa	54.00
Canal Zone	50.00
Guam, M.I.	54.00
Hawaii:	
Hawaii	59.00
Kauai	55.00
Maui	54.00
Molokai	54.00
Oahu	70.00
Other	54.00
Johnston Atoll	15.00
Midway Islands	9.85

Locality	Maximum rate
Puerto Rico:	
Aguadilla (Incl. CG Air Station Borinquen)	60.00
Bayamon:	
12-16-5-15	66.00
5-16-12-15	52.00
Dorado:	54.00
Fajardo:	
12-16-5-15	66.00
5-16-12-15	52.00
Fl. Buchanan (Incl. GSA Service Center, Guaynabo):	
12-16-5-15	66.00
5-16-12-15	52.00
Mayaguez:	60.00
Ponce (Incl. Fl. Allen NCS):	58.00
Roosevelt Roads:	
12-16-5-15	66.00
5-16-12-15	52.00
Sabana Seca:	
12-16-5-15	66.00
5-16-12-15	52.00
San Juan (Incl. San Juan Coast Guard Units):	
12-16-5-15	66.00
5-16-12-15	52.00
Other	52.00
Virgin Islands of U.S.:	
12-1-4-30	66.00
5-1-11-30	54.00
Wake Island	17.00
Other Localities	15.00

* Commercial facilities are not available. This per diem rate covers charges for meals in available facilities plus an additional allowance for incidental expenses and will be increased by the amount paid for Government quarters by the traveler.

* Commercial facilities are not available. Only Government-owned and contractor-operated quarters and mess are available at this locality. This per diem rate is the amount necessary to defray the cost of lodging, meal, and incidental expenses.

Dated: August 23, 1979.

H. E. Lofdahl,
Director, Correspondence & Directives,
Washington Headquarters Services,
Department of Defense.

[FR Doc. 79-28711 Filed 8-27-79; 8:45 am]

BILLING CODE 3810-70-M

Petitioner's name/generating station	Unit identification	Maximum quantity of oil displaced (thousands of barrels)/type of oil displaced (distillate/residual)	Maximum Quantity of coal displaced (tons)
City of Tallahassee:			
(Purdum)	GT-1	8 Distillate	0
(Hopkins)	GT-2	9 Distillate	0
Louisiana Power & Light:			
(Sterlington)	CC-7	4 Distillate	0
Mississippi Power Co.:			
(Sweet)	CT-A	22 Distillate	0
(Watson)	CT-A	22 Distillate	0
Omaha Public Power District:			
(Sarpy County)	CT-1	98 Distillate	0
(Jones Street)	CT-2	64 Distillate	0
(#11)	#12		
Power Authority of the State of New York:			
(Astoria)	#6	650 Residual	0
San Diego Gas & Electric Company:			
(Encina)	#1	4,343 Residual	0
(#2)			
(#3)			
(#4)			
(El Cajon)	CT-1	.5 Residual	0
(Miramar)	CT-1	7 Distillate	0
(Silver Gate)	GT-1A-01	21 Distillate	0
(#1)	GT-1B-02	233 Distillate	0
(#2)			
(#3)			
(#4)			
San Diego Gas & Electric Company:			
(Keamy)	GT-1A-01	53 Distillate	0
	GT-2A-02		
	GT-2B-03		
	GT-2C-04		
	GT-2D-05		
	GT-3A-06		
	GT-3B-07		
	GT-3C-08		
	GT-3D-09		

Petitioner's name/generating station	Unit identification	Maximum quantity of oil displaced (thousands of barrels)/type of oil displaced (distillate/residual)	Maximum quantity of coal displaced (tons)
(South Bay).....	#1 #2 #3 #4	5,444 Residual.....	0
(Station 8).....	#21 #23 #24 #25 #26 #27 #28 #31 #32 #33	83 Distillate.....	0
South Carolina Public Service Authority: (Myrtle Beach).....	#2	8 Distillate.....	0
Illinois Power Company: (Stallings).....	GT-1 GT-2 GT-3 GT-4	35 Distillate.....	0
(Oglesby).....	GT-1 GT-2 GT-3 GT-4	25 Distillate.....	0
Lafayette Utilities System: (Doc Bonin).....	#1 #2	1,103 Distillate.....	0
(Rodemacher).....	#1 #2 #3 #4	101 Distillate.....	0
Los Angeles Department of Water and Power: (Scattergood).....	#1 #2	186 Residual.....	0
(Haynes).....	#1 #2 #3 #4 #5 #6	35 Residual.....	0
Iowa Public Service Company: (Kirk).....	#1 #2 #4 #5 #6	31 Distillate.....	0
(Maynard).....	#12	4 Distillate.....	0
(Electriform).....	#1 #2 #3	93 Distillate.....	0
(Parr).....	CT-1 CT-2	76 Distillate.....	0
Georgia Power Co. (McManus).....	CT-3A CT-3B CT-3C	165 Distillate.....	0
City of Grand Island: (Burdick).....	CT-1	1 Distillate.....	0
Applied Energy, Inc. (North Island).....	CT-2	124 Distillate.....	0
Shelby Municipal Electric: (Shelby Municipal).....	#1 #2 #3 #4	336 Distillate.....	0
Springfield Municipal Utilities: (Springfield Municipal).....	#1 #4 #5	.05 Distillate.....	0
Carolina Power & Light Company: (H.B. Robinson).....	#1 CT-1	43 Distillate.....	0
Cambridge Electric Light Company: (Kendall Square).....	#1 #2 #3	268 Residual.....	0
(Blackstone Street).....	#1 #3 #4	131 Residual.....	0
Arizona Electric Power Company: (Apache).....	CT-1 CT-2 CT-3	234 Distillate.....	0
Detroit Edison Company: (Conners Creek).....	#8 #9 #10 #12 #13 #14	26 Distillate.....	0
(Beacon).....	#11	17 Distillate.....	0
(St. Clair).....	CT-11	19 Distillate.....	0

FUA became effective on May 8, 1979. FUA prohibits the use of natural gas as a primary energy source in certain existing powerplants and also authorizes an exemptions procedure in regard to that and other prohibitions.

ERA intends to issue proposed orders which would grant temporary public interest exemptions to all of the petitioners enumerated above. These proposed orders would grant a temporary exemption from the prohibition against natural gas use, contained in Section 301(a)(2) and (3) of FUA, to the subject powerplants. Those proposed orders to grant temporary public interest exemptions are issued under the authority of Section 311(e) of FUA and 10 CFR 508, published by ERA on April 9, 1979, (44 FR 21230).

ERA is publishing this notice of petitions filed and its proposed order to grant these exemptions, to invite interested persons to submit written comments pursuant to the requirements of FUA. In addition, any interested person may request that a public hearing be convened in regard to these petitions under the provisions of Section 701(d) of FUA.

DATES: Written comments relating to these petitions and the proposed order are due on or before October 10, 1979. Requests for a public hearing are also due on or before October 10, 1979.

ADDRESSES: Requests for a public hearing and/or 10 copies of written comments shall be submitted to: Department of Energy, Case Control Unit, Box 4629, Room 2313, 2000 M Street, NW., Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

William L. Webb (Office of Public Information), Economic Regulatory Administration, Department of Energy, Room B-110, 2000 M Street, NW., Washington, D.C. 20461, (202) 634-2170.
Elmer Lee (Office of Fuels Conversion), Economic Regulatory Administration, Department of Energy, Room 7219-F, 2000 M Street, NW., Washington, D.C. 20461, (202) 254-5436.

Robert L. Davies (Office of Fuels Conversion), Economic Regulatory Administration, Department of Energy, Room 3128, 2000 M Street, NW., Washington, D.C. 20461, (202) 254-7442.
James H. Heffernan (Office of General Counsel), Department of Energy, Room 7134, 12th & Pennsylvania Avenue, NW., Washington, D.C. 20461, (202) 633-8820.

SUPPLEMENTARY INFORMATION: On April 9, 1979, ERA issued a final rule implementing the authority granted to DOE by Section 311(e) of FUA. This final rule, set forth in 10 CFR Part 508, establishes the policy ERA has adopted in implementing its authority under

Section 311(e) of FUA and the eligibility criteria, which petitioners for the temporary exemption must demonstrate. This temporary exemption will allow certain existing electric powerplants to use natural gas as a primary energy source in excess of the amounts which are mandated by Section 301(a)(2) and (3) of FUA.

The use of natural gas, permitted under these temporary exemptions, will allow existing electric powerplants to displace distillate and residual fuel oils as their primary energy source.

This expanded use of natural gas in these powerplants will be a significant step toward reducing our short term oil consumption and will help the United States in meeting its goals to reduce its demand for imported oil, protect the Nation from the effects of any oil

shortages, and will serve to cushion the impact of increasing world oil prices.

The above listed owners/operators have filed petitions with ERA to request a temporary public interest exemption for their existing electric powerplants. ERA has reviewed their petitions and has found that the powerplants meet the eligibility criteria established in Part 508.2 of the final rule (44 FR 21230).

ERA, intends in its proposed order, to grant temporary public interest exemptions for the above listed powerplants.

This is not the final notice of petitions and proposed orders under the special rule. ERA will continue to comply with the requirements of Section 701(c) of FUA and will publish further notices as petitions are received.

Issued in Washington, D.C. on August 21, 1979.

Robert L. Davies,
Acting Assistant Administrator, Office of Fuels Conversion, Economic Regulatory Administration.

[FR Doc. 79-28672 Filed 8-27-79; 8:45 am]

BILLING CODE 6450-01-M

Proposed Order Granting Special Temporary Public Interest Exemptions

The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby sets forth its Order proposing to grant a special temporary public interest exemption from the prohibitions of Section 301(a)(2) and (3) of the Powerplant and Industrial Fuel Use Act of 1978 (FUA or the Act), 42 U.S.C. 8301 *et seq.*, pursuant to Section 311(e) of FUA, 10 CFR 501.68, and 10 CFR 508, to the following powerplant(s):

Case control number	Petitioner's name	Generating station	Unit ident.	Location
52875-0688-21-41, 52875-0688-22-41	City of Tallahassee	Purdum	GT-1 GT-2	St. Marks, Florida
52875-0689-21-41, 52875-0689-22-41		Hopkins	GT-1 GT-2	Tallahassee, Florida
51694-1404-57-41	Louisiana Power & Light	Starlington	CC-7	Starlington, Louisiana
51888-2048-21-41	Mississippi Power Company	Sweet	CT-A	Meridian, Mississippi
51888-2049-21-41		Watson	CT-A	Gulfport, Mississippi
52172-2292-21-41, 52172-2292-22-41	Omaha Public Power District	Sarpy County	CT-1 CT-2	Omaha, Nebraska
52172-2290-11-41, 52172-2290-12-41		Jones Street	#11 #12	Omaha, Nebraska
52375-9096-06-41	Power Authority of the State of New York	Astoria	#6	Astoria, New York
52570-0302-01-41, 52570-0302-02-41, 52570-0302-03-41, 52570-0302-04-41, 52570-0302-21-41	San Diego Gas & Electric Company	Encina	#1 #2 #3 #4	Carlsbad, California
52570-0301-21-41		El Cajon	CT-1A CT-1A	El Cajon, California
52570-0305-21-41, 52570-0305-22-41		Miramar	GT-1A-01 GT-1B-02	San Diego, California
52570-0309-01-41, 52570-0309-02-41, 52570-0309-03-41, 52570-0309-04-41		Silver Gate	#1 #2 #3 #4	San Diego, California
52570-0303-21-41, 52570-0303-22-41, 52570-0303-23-41, 52570-0303-24-41, 52570-0303-25-41, 52570-0303-26-41, 52570-0303-27-41, 52570-0303-28-41, 52570-0303-29-41		Keamy	GT-1A-01 GT-2A-02 GT-2B-03 GT-2C-04 GT-2D-05 GT-3A-06 GT-3B-07 GT-3C-08 GT-3D-09	San Diego, California
52570-0310-01-41, 52570-0310-02-41, 52570-0310-03-41, 52570-0310-04-41		South Bay	#1 #2 #3 #4	Chula Vista, California
52570-0311-01-41, 52570-0311-03-41, 52570-0311-04-41, 52570-0311-05-41, 52570-0311-06-41, 52570-0311-07-41, 52570-0311-08-41, 52570-0311-11-41, 52570-0311-12-41, 52570-0311-13-41		Station 8	#21 #23 #24 #25 #26 #27 #28 #31 #32 #33	San Diego, California
52633-3320-02-41	South Carolina Public Service Authority	Myrtle Beach	#2	Myrtle Beach, South Carolina
52385-0895-21-41, 52385-0895-22-41, 52385-0895-23-41, 52385-24-41	Illinois Power Company	Stallings	GT-1 GT-2 GT-3 GT-4	Stallings, Illinois
52385-0894-21-41, 52385-0894-22-41, 52385-0894-23-41, 52385-0894-24-41		Oglesby	GT-1 GT-2 GT-3 GT-4	Oglesby, Illinois
51549-1443-01-41, 51549-1443-02-41	Lafayette Utilities System	Doc Bonin	#1 #2	Lafayette, Louisiana

Case control number	Petitioner's name	Generating station	Unit ident.	Location
51549-1445-01-41, 51549-1445-02-41, 51549-1445-03-41, 51549-1445-04-41.	Rodemacher		#1 #2 #3 #4	Lafayette, Louisiana
51691-0404-01-41, 51691-0404-02-41	Los Angeles Department of Water & Power.	Scattergood	#1 #2	Playa Del Rey, California
51691-0400-01-41, 51691-0400-02-41, 51692-0400-03-41, 51691-0400-04-41, 51691-0400-05-41, 51691-0400-06-41.	Haynes		#1 #2 #3 #4 #5 #6	Long Beach, California
51408-1095-01-41, 51408-1095-02-41, 51408-1095-04-41, 51408-1095-05-41, 51408-1095-06-41.	Iowa Public Service Company	Kirk	#1 #2 #3 #4 #5 #6	Sioux City, Iowa
51408-1096-12-41.	Maynard		#12	Waterloo, Iowa
51408-6063-01-41, 51408-6063-02-41, 51408-6063-03-41	Electriform		#1 #2 #3	Waterloo, Iowa
51408-9066-21-41, 51408-9066-22-41	Parr		CT-1 CT-2	Charles City, Iowa
51100-0713-21-41, 51100-0713-22-41, 51100-0713-23-41	Georgia Power Company	McManus	CT-3A CT-3B CT-3C	Brunswick, Georgia
51150-2241-21-41.	City of Grand Island	Burdick	CT-1	Grand Island, Nebraska
61007-9050-22-41.	Applied Energy, Incorporated	North Island	CT-2	San Diego, California
52637-2493-01-41, 52637-2493-02-41, 52637-2493-03-41, 52637-2493-04-41.	Shelby Municipal Electric	Shelby Municipal	#1 #2 #3 #4	Shelby, Ohio
67008-9089-01-41, 67008-9089-04-41, 67008-9089-05-41	Springfield Municipal Utilities	Springfield Municipal	#1 #4 #5	Springfield, Colorado
50441-9063-01-41, 50441-9063-21-41	Carolina Power & Light Company	H. B. Robinson	#1 CT-1	Harrieville, South Carolina
50412-1595-01-41, 50412-1595-02-41, 50412-1595-03-41	Cambridge Electric Light Company.	Kendall Square	#1 #2 #3	Cambridge, Massachusetts
50412-1594-01-41, 50412-1594-03-41, 50412-1594-04-41		Blackstone Street	#1 #3 #4	Cambridge, Massachusetts
50099-0161-51-41, 50099-0161-22-41, 50099-0161-23-41	Arizona Electric Power	Apache	CC-1 CT-2 CT-3	Cochise County, Ariz.
50782-1726-08-41, 50782-1726-09-41, 50782-1726-10-41, 50782-1726-12-41, 50782-1726-13-41, 50782-1726-14-41.	Detroit Edison	Conners Creek	#8 #9 #10 #12 #13 #14	Detroit, Michigan
50782-1724-01-41, 50782-1724-02-41		Beacon	#1 #2	Detroit, Michigan
50782-1743-31-41.		St. Clair	CT-11	East China Township, Mich.

I. The above listed powerplants are prohibited by Section 301(a)(2) of FUA from using natural gas as a primary energy source, or are prohibited from using natural gas as a primary energy source in excess of the average base year proportions allowed in Section 301(a)(3) of the Act.

II. *Eligibility.* The existing powerplants listed above have submitted petitions to ERA for a Special Temporary Public Interest Exemption and have asserted that:

- (a) Each existing powerplant is:
- (1) Prohibited on May 8, 1979 from using natural gas as a primary energy source by

Section 301(a)(2) of FUA, or

(2) Prohibited from using natural gas in excess of the average base year proportions allowed in Section 301(a)(3) of FUA.

(b) The proposed use of natural gas as a primary energy source, to the extent that such use would be prohibited by Section 301(a) (2) or (3) of FUA:

(1) Will displace consumption of middle distillate or residual fuel oil; and

(2) Will not displace the use of coal or any other alternate fuel in any facility of the owner/operator utility system, including the powerplant for which the exemption was submitted.

III. *Rationale.* To the extent that the near-term choice of fuels for certain existing powerplants is limited to petroleum or natural gas, the use of natural gas is preferred over petroleum. The expanded use of natural gas in these powerplants will be a significant step toward reducing our short-term oil consumption. This increased use of natural gas will help the United States meet its commitment to reduce its demand for imported petroleum products, protect the Nation from the effects of any oil shortages, and will cushion the impact of increasing world oil prices, which have had a detrimental effect on the Nation's balance of payments and domestic inflation rate.

To the extent that this increased use of natural gas will accomplish these goals, it will reduce the importation of petroleum and further the goal of national energy self-sufficiency. This is in keeping with purposes of FUA and is in the public interest.

Since the increased use of natural gas is in keeping with the purposes of FUA and is in the public interest, and since the petitioners have demonstrated that they have met the eligibility criteria established in Section 508.2 of the Special Rule (April 9, 1979, 44 FR 21230), ERA proposes to grant the exemptions.

IV. *Duration.* ERA proposes to grant these temporary public interest exemptions generally for a period of two years and may extend them from one to three additional years. Certain petitioners have requested that they be granted exemptions for a period of greater than two years but less than five

years, the maximum period allowed under FUA, and to the extent that these requests are in the public interest ERA will consider them.

These proposed exemptions are subject to termination by ERA, upon six months written notice, if ERA determines such termination to be in the public interest.

V. *Terms and Conditions.* Pursuant to the authority of Section 314 of FUA and 10 CFR 508.6, ERA will require the order recipient upon issuance of a final order to: (1) Complete a Form ERA 316 (Temporary Public Interest Exemption for Use of Natural Gas by Existing Powerplants Form), (2) report the actual monthly volumes of natural gas used in each exempted powerplant and the estimated number of barrels of each type of fuel oil displaced during the exemption period, (3) submit a system-wide fuel conservation plan to include the two-year period covered by the temporary exemption, and (4) submit annually to ERA a report on progress achieved in implementing the system-wide fuel conservation plan.

Issued in Washington, D.C., on August 21, 1979.

Robert L. Davies,
Acting Assistant Administrator, Office of Fuels Conversion, Economic Regulatory Administration.

[FR Doc. 79-26870 Filed 8-27-79; 8:45 am]
BILLING CODE 6450-01-M

Office of Energy Research

Price of Americium-241

AGENCY: Department of Energy;

ACTION: Additional Information on Price Increase for Americium-241.

A notice effecting a price increase for Americium-241 was published in the

Federal Register on July 26, 1979 (44 FR 43806). One comment was received in response to the proposed price increase notice published on May 16, 1979 (44 FR 28707), suggesting that the price increase be instituted in increments over a 2-year period. This comment was rejected because to adopt such a proposal would not be consistent with the Department of Energy policy of full recovery of costs.

FOR FURTHER INFORMATION CONTACT:
Dr. John L. Burnett, Division of Nuclear Sciences, ER-14, Office of Basic Energy Sciences, U.S. Department of Energy, Washington, DC 20545, MS J-309 (301) 353-3613.

Issued in Washington, DC., August 20, 1979.

Charles E. Cathey,
Director, Division of Budgets and Program Coordination, Office of Energy Research.

[FR Doc. 79-26671 Filed 8-27-79; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[Docket No. ECAO-CD-78-2; FRL 1006-2]

Air Quality Criteria Document for Oxides of Nitrogen; Extension of Comment Period for Second External Review Draft

The deadline for receipt of comments on the second external review draft, announced in 44 FR 40559 (July 11, 1979), is extended from August 31 to September 30, 1979.

Dated: August 23, 1979.

Steven R. Reznick,
Acting Assistant Administrator for Research and Development.

[FR Doc. 79-26754 Filed 8-27-79; 8:45 am]

BILLING CODE 6560-01-M

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 1189]

Petitions for Reconsideration of Actions in Rulemaking Proceedings Filed

August 20, 1979.

Docket or RM No.	Rule No.	Subject	Date received
21211	73.202(b)	Amendment of Section 73.202(b), Table of Assignments, FM Broadcast Stations. (Knoxville, Clinton, Sweetwater, Cleveland, LaFollette and Oneida, Tennessee). (Filed by Grover C. Cooper and Richard J. Bordoff, Attorneys for Clinton Broadcasters, Inc., (WYSH-FM).	Aug. 9, 1979.

Note.—Oppositions to petitions for reconsideration must be filed within 15 days after publication of this Public Notice in the Federal Register. Replies to an opposition must be filed within 10 days after time for filing oppositions has expired.

William J. Tricarico,
Secretary.

[FR Doc. 79-26840 Filed 8-27-79; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL MARITIME COMMISSION

Agreements Filed

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of each of the agreements and the justifications offered therefor at the Washington Office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10423; or may inspect the agreements at the Field Offices located at New York, N.Y.; New Orleans, Louisiana; San Francisco, California; Chicago, Illinois; and San Juan, Puerto Rico. Interested parties may submit comments on each agreement, including requests for hearing, to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before September 17, 1979. Comments should include facts and arguments concerning the approval, modification, or disapproval of the proposed agreement. Comments shall discuss with particularity allegations that the agreement is unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or operates to the detriment of the commerce of the United States, or is contrary to the public interest, or is in violation of the Act.

A copy of any comments should also be forwarded to the party filing the agreements and the statement should indicate that this has been done.

Agreement No. T-3775-2, T-2885-13, T-2884-10, T-3553-2 and T-2880-17.

Filing Party: Mr. John C. Barnett, Assistant Chief, Leases & Operating Agreements Division, The Port Authority of NY and NJ, One World Trade Center, New York, New York 10048.

Summary: The above agreements, between the Port Authority of NY and NJ and respective lessees, viz: Farrell Lines, Inc. (T-3775-2), Universal Maritime Service Corp. (T-2885-13 and T-2884-10), International Terminal Operating Co., Inc. (T-3553-2), and John W. McGrath Corporation (T-2880-17), amend the basic lease agreements by

providing for an increase in the rate per revenue ton payable by the lessees under a minimum-maximum rental formula. Each of the agreements also changes the definition of "revenue ton" with respect to certain specifically enumerated types of cargo.

Agreement No. T-3738-1.

Filing Party: H. H. Wittren, Manager, Waterfront Real Estate, Port of Seattle, P.O. Box 1209, Seattle, Washington, 98111.

Summary: Agreement T-3787-1, between the Port of Seattle (Port) and Hapag-Lloyd AG, Hamburg, Bremen (HL), modifies the parties' basic agreement which provides for the Port's lease to HL of certain premises at Terminal 18, Seattle, Washington, together with the preferential use of ships' berth and pier apron, two Port-owned container cranes and eight straddle carriers. The purpose of the modification is to amend paragraph 45(a) of the basic agreement, "use of Premises," to include Evergreen Line vessels in addition to the lines already permitted to use the facilities.

Agreement No. T-3844.

Filing Party: H. H. Wittren, Manager, Waterfront Real Estate, Port of Seattle, P.O. Box 1209, Seattle, Washington 98111.

Summary: Agreement No. T-3844, between the Port of Seattle (Port) and Associated Transportations, Inc. (Associated) provides for the month-to-month lease of 56,882 square feet of warehouse space and an office trailer at Terminal 106-W in the Port of Seattle for use in container freight station activities. As compensation, Associated will pay the monthly rental of \$9,251.12, plus any applicable taxes. By Order of the Federal Maritime Commission.

Dated: August 22, 1979.

Francis C. Harvey,
Secretary.

[FR Doc. 79-26806 Filed 8-27-79; 8:45 am]
BILLING CODE 5730-01-M

FEDERAL RESERVE SYSTEM

Bank Holding Companies; Proposed De Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. § 1843(c)(8)) and section 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest,

or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than September 17, 1979.

A. Federal Reserve Bank of Boston, 33 Pearl Street, Boston, Massachusetts 02106:

Old Stone Corporation, Providence, Rhode Island (consumer finance and credit-related insurance activities; Florida): to engage *de novo*, through its indirect subsidiary, UniCredit Corporation; in the origination, acquisition and servicing of consumer finance installment contracts; and in connection with extensions of credit by UniCredit, making available to borrowers credit-related life insurance. These activities will be conducted from an office in Miami, Florida, serving Dade and Broward Counties.

B. Federal Reserve Bank of Richmond, 701 East Byrd Street, Richmond, Virginia 23261:

Union Trust Bancorp., Baltimore, Maryland (consumer finance and insurance activities; North Carolina): to engage, through its subsidiary Landmark Financial Services, Inc., in making personal installment loans; purchasing sales finance contracts executed in connection with the sale of personal, family or household goods and services; acting as agent in the sale of credit life and credit accident and health insurance directly related to its extensions of credit; acting as agent in the sale of insurance protecting collateral held against the extensions of credit; and making second mortgage loans secured in whole or part by mortgage or other lien on real estate. These activities would be conducted from offices in Winston-Salem, North Carolina, serving the City of Winston-Salem and its adjacent environs.

C. Federal Reserve Bank of San Francisco, 400 Sansome Street, San Francisco, California 94120:

1. Orbanco, Inc., Portland, Oregon (finance company, loan servicing, personal property leasing, and insurance activities; Connecticut, Delaware, District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, and West Virginia): to engage, through its subsidiary, Northwest Acceptance Corporation, in making or acquiring loans or other extensions of credit such as would be made or acquired by a commercial finance company; servicing loans or participations in loans and other extensions of credit; leasing personal property in accordance with the Board's Regulation Y; and acting as broker or agent for the sale of life insurance in connection with such extensions of credit. The loans and other extensions of credit will be secured by machinery and equipment, inventory, accounts receivable, or other assets. The proposed activities would be conducted from an office in Lake Success, New York, serving Connecticut, Delaware, District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, and West Virginia.

2. First Hawaiian, Inc., Honolulu, Hawaii (insurance activities; Hawaii): to engage, through its subsidiary Hawaii Thrift and Loan, Inc., in selling as agent or broker, property damage and liability insurance directly related to extensions of credit by Hawaii Thrift and Loan. This activity will be conducted from the offices of Hawaii Thrift and Loan, located in: Honolulu, Haleiwa, Kahala, Keeaumoku, Moiliili, Kailua, Waipahu and Kaneohe, serving the island of Oahu; Lihue, serving the island of Kauai; Kahului, serving the island of Maui; and Hilo, serving the island of Hawaii.

D. Other Federal Reserve Banks: None.

Board of Governors of the Federal Reserve System, August 17, 1979.

Edward T. Mulrenin,
Assistant Secretary of the Board.

[FR Doc. 79-26715 Filed 8-27-79; 8:45 am]
BILLING CODE 6210-01-M

Blackburn Bancshares, Inc.; Formation of Bank Holding Company

Blackburn Bancshares, Inc., Blackburn, Missouri, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares (less directors' qualifying shares) of Blackburn Bank, Blackburn, Missouri.

The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than September 17, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, August 18, 1979.

Edward T. Mulrenin,
Assistant Secretary of the Board.

[FR Doc. 79-26708 Filed 8-27-79; 8:45 am]
BILLING CODE 6210-01-M

Capital Bancshares, Inc.; Formation of Bank Holding Company

Capital Bancshares, Inc., Baton Rouge, Louisiana, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of Capital Bank & Trust Company, Baton Rouge, Louisiana. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than September 17, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, August 18, 1979.

Edward T. Mulrenin,
Assistant Secretary of the Board.

[FR Doc. 79-26707 Filed 8-27-79; 8:45 am]
BILLING CODE 6210-01-M

Clover Bottom Estates, Inc.; Formation of Bank Holding Company

Clover Bottom Estates, Inc., Hendersonville, Tennessee, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 per cent of the voting shares of Bank of Hendersonville, Hendersonville, Tennessee. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received no later than September 20, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, August 20, 1979.

Edward T. Mulrenin,
Assistant Secretary of the Board.

[FR Doc. 79-26705 Filed 8-27-79; 8:45 am]
BILLING CODE 6210-01-M

Corpus Christi Bankshares, Inc.; Formation of Bank Holding Company

Corpus Christi Bankshares, Corpus Christi, Texas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares of First State Bank of Corpus Christi, Corpus Christi, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than September 17, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing

the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, August 16, 1979.

Edward T. Mulrenin,
Assistant Secretary of the Board.

[FR Doc. 79-26700 Filed 8-27-79; 8:45 am]
BILLING CODE 6210-01-M

Farmers Bancshares, Inc.; Formation of Bank Holding Company

Farmers Bancshares, Inc., Douglas, Georgia, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares of The Farmers State Bank, Caldwell, Georgia. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than September 17, 1979. Any comment on an application that requests a hearing must include a statement or why a written presentation would not suffice in lieu of a hearing. Identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, August 17, 1979.

Edward T. Mulrenin,
Assistant Secretary of the Board.

[FR Doc. 79-26704 Filed 8-27-79; 8:45 am]
BILLING CODE 6210-01-M

Federal Open Market Committee; Domestic Policy Directive of July 11, 1979

In accordance with § 271.5 of its rules regarding availability of information, there is set forth below the Committee's Domestic Policy Directive issued at its meeting held on July 11, 1979.¹

The information reviewed at this meeting suggests that real output of goods and services declined somewhat in the second quarter, as slackening in demands was intensified by reduced supplies and sharply higher prices of motor fuels. During the quarter, the dollar value of retail sales

¹The Record of Policy Actions of the Committee for the meeting of July 11, 1979, is filed as part of the original document. Copies are available on request to the Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

declined, and in real terms, sales in June were substantially below those of last December. Growth in nonfarm payroll employment slowed during the quarter to a pace considerably below that in the preceding six months, but the unemployment rate in June, at 5.6 percent, was somewhat lower than earlier in the year. Industrial production recovered in May, after having declined in April in large part because of a work stoppage. Over the first half of this year, broad measures of prices increased at a much faster pace than during 1978, although producer prices of foods declined in the second quarter. The rise in the index of average hourly earnings has slowed in recent months.

Downward pressure on the dollar in foreign exchange markets emerged in mid-June after several months of strength, and since then the trade-weighted value of the dollar against major foreign currencies has declined about 3 percent. The U.S. trade deficit for April and May combined widened somewhat from the first-quarter rate.

M-1 expanded sharply in June, after having increased little in May, and M-2 and M-3 also grew rapidly. Inflows of interest-bearing deposits included in M-2 grew rapidly in June, as net flows into money market certificates at commercial banks expanded further and savings deposits increased for the first time since last September. At nonbank thrift institutions, inflows of deposits picked up from the sharply reduced pace in May. On a quarterly average basis, M-1 grew at an annual rate of about 7½ percent in the second quarter, compared with a decline at a rate of about 2 percent in the first quarter; M-2 and M-3 grew at rates of about 8½ percent and 7½ percent respectively in the second quarter, compared with rates of about 1½ percent and 4½ percent in the first quarter. Market interest rates in general have declined substantially over the past several weeks, but mortgage interest rates have risen further.

Taking account of past and prospective developments in employment, unemployment, production, investment, real income, productivity, international trade and payments, and prices, it is the policy of the Federal Open Market Committee to foster monetary and financial conditions that will resist inflationary pressures while encouraging moderate economic expansion and contributing to a sustainable pattern of international transactions. The Committee agreed that these objectives would be furthered by growth of M-1, M-2, and M-3 from the fourth quarter of 1978 to the fourth quarter of 1979 within ranges of 1½ to 4½ percent, 5 to 8 percent, and 6 to 9 percent respectively, the same ranges that had been established in February. Having established the range for M-1 in February on the assumption that expansion of ATS and NOW accounts would dampen growth by about 3 percentage points over the year, the Committee also agreed that actual growth in M-1 might vary in relation to its range to the extent of any deviation from that estimate. The associated range for bank credit is 7½ to 10½ percent. The Committee anticipates that for the period from the fourth quarter of 1979 to the fourth quarter of 1980, growth may be

within the same ranges, depending upon emerging economic conditions and appropriate adjustments that may be required by legislation or judicial developments affecting interest-bearing transactions accounts. These ranges will be reconsidered at any time as conditions warrant.

In the short run, the Committee seeks to achieve bank reserve and money market conditions that are broadly consistent with the longer-run ranges for monetary aggregates cited above, while giving due regard to the program for supporting the foreign exchange value of the dollar and to developing conditions in domestic financial markets. Early in the period before the next regular meeting, System open market operations are to be directed at maintaining the weekly average federal funds rate at about the current level. Subsequently, operations shall be directed at maintaining the weekly average federal funds rate within the range of 9½ to 10½ percent. In deciding on the specific objective for the federal funds rate the Manager shall be guided mainly by the relationship between the latest estimates of annual rates of growth in the July-August period of M-1 and M-2 and the following ranges of tolerance: 2½ to 6½ percent for M-1 and 6½ to 10½ percent for M-2. If, with approximately equal weight given to M-1 and M-2, their rates of growth appear to be close to or beyond the upper or lower limits of the indicated ranges, the objective for the funds rate is to be raised or lowered in an orderly fashion within its range.

If the rates of growth in the aggregates appear to be above the upper limit or below the lower limit of the indicated ranges at a time when the objective for the funds rate has already been moved to the corresponding limit of its range, the Manager will promptly notify the Chairman, who will then decide whether the situation calls for supplementary instructions from the Committee.

Note: On July 27, the Committee modified the domestic policy directive adopted at its meeting on July 11, 1979, by raising the upper limit of the intermeeting range for the federal funds rate to 10½ percent and by instructing the Manager to aim for a weekly average rate within a range of 10½ to 10½ percent, depending on subsequent projections of growth of M-1 and M-2 over the July-August period, on conditions in foreign exchange markets, and on the current Treasury financing.

By order of the Federal Open Market Committee, August 17, 1979.

Murray Altmann,
Secretary.

[FR Doc. 79-26715 Filed 8-27-79; 8:45 am]
BILLING CODE 6210-01-M

First American Bancshares, Inc.; Formation of Bank Holding Company

First American Bancshares, Inc., Baytown, Texas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 percent of the voting shares (less

directors' qualifying shares) of the successor by merger to First American Bank & Trust of Baytown, Baytown, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than September 20, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, August 20, 1979.

Edward T. Mulrenin,
Assistant Secretary of the Board.

[FR Doc. 79-26706 Filed 8-27-79; 8:45 am]
BILLING CODE 6210-01-M

First Antlers Bancshares, Inc.; Formation of Bank Holding Company

First Antlers Bancshares, Inc., Antlers, Oklahoma, has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares (less directors' qualifying shares) of The First National Bank at Antlers, Antlers, Oklahoma. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

First Antlers Bancshares, Inc., Antlers, Oklahoma, has also applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. § 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR § 225.4(b)(2)), for permission to engage *de novo* through its indirect subsidiary, First Antlers Insurance Agency, Inc., Antlers, Oklahoma. First Antlers Insurance Agency, Inc., is a wholly-owned subsidiary of First Antlers Business Trust, Antlers, Oklahoma which is a wholly-owned subsidiary of Applicant.

Applicant states that the proposed subsidiary would engage in the sale of credit life and accident and health insurance in connection with extensions of credit by Bank. These activities would be performed from offices of Applicant's subsidiary in Antlers, Oklahoma, and the geographic area to be served is the same as that area to be served by Bank which is approximated

by Pushmataha County, Oklahoma. Such activities have been specified by the Board in section 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of section 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than September 21, 1979.

Board of Governors of the Federal Reserve System, August 21, 1979.

Edward T. Mulrenin,
Assistant Secretary of the Board.

[FR Doc. 79-26721 Filed 8-27-79; 8:45 am]
BILLING CODE 6210-01-M

First Waukegan Corporation; Formation of Bank Holding Company

First Waukegan Corporation, Chicago, Illinois, has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of The First National Bank of Waukegan, Waukegan, Illinois. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than September 20, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation

would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, August 20, 1979.

Edward T. Mulrenin,
Assistant Secretary of the Board.

[FR Doc. 79-26722 Filed 8-27-79; 8:45 am]
BILLING CODE 6210-01-M

GAB Company; Formation of Bank Holding Company

TIGAB Company, Dallas, Texas, has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of Grand Avenue Bank, Dallas, Texas. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than September 21, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, August 22, 1979.

Edward T. Mulrenin,
Assistant Secretary of the Board.

[FR Doc. 79-26723 Filed 8-27-79; 8:45 am]
BILLING CODE 6210-01-M

Landmark Bancshares Corp.; Acquisition of Bank

Landmark Bancshares Corporation, Clayton, Missouri, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 90 percent or more of the voting shares of Ladue Bank and Trust Company, Ladue, Missouri. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of St. Louis. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve

System, Washington, D.C. 20551, to be received not later than September 17, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, August 16, 1979.

Edward T. Mulrenin,
Assistant Secretary of the Board.

[FR Doc. 79-26710 Filed 8-27-79; 8:45 am]
BILLING CODE 6210-01-M

Lone Rock Investments, Inc.; Formation of Bank Holding Company

Lone Rock Investments, Inc., Lone Rock, Wisconsin, has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding company by acquiring 99.4 per cent or more of the voting shares of State Bank of Lone Rock, Lone Rock, Wisconsin. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than September 20, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, August 20, 1979.

Edward T. Mulrenin,
Assistant Secretary of the Board.

[FR Doc. 79-26724 Filed 8-27-79; 8:45 am]
BILLING CODE 6210-01-M

Pender State Corp.; Formation of Bank Holding Company

Pender State Corporation; Pender, Nebraska, has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of Pender State Bank, Pender, Nebraska. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received not later than September 21, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, August 22, 1979.

Edward T. Mulrenin,
Assistant Secretary of the Board.

[FR Doc. 79-26725 Filed 8-27-79; 8:45 am]
BILLING CODE 6210-01-M

Port City Bancshares, Inc.; Formation of Bank Holding Company

Port City Bancshares, Inc., Houston, Texas, has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding company by acquiring 100 percent, less directors' qualifying shares, of the voting shares of Port City State Bank, Houston, Texas. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than September 21, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, August 22, 1979.

Edward T. Mulrenin,
Assistant Secretary of the Board.

[FR Doc. 79-26726 Filed 8-27-79; 8:45 am]
BILLING CODE 6210-01-M

Rocky Mountain Bancorporation; Formation of Bank Holding Company

Rocky Mountain Bancorporation, Salt Lake City, Utah, has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C.

§ 1842(a)(1)) to become a bank holding company by acquiring 100 percent of the voting shares (less directors' qualifying shares) of Rocky Mountain State Bank-East Millcreek, Salt Lake City, Utah, and of Rocky Mountain State Bank of Bountiful, Bountiful, Utah. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of San Francisco. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than September 21, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, August 22, 1979.

Edward T. Mulrenin,
Assistant Secretary of the Board.

[FR Doc. 79-26727 Filed 8-27-79; 8:45 am]
BILLING CODE 6210-01-M

Security Bancshares of Montana, Inc.; Acquisition of Bank

Security Bancshares of Montana, Inc., Billings, Montana, has applied for the Board's approval under § 3(a)(3) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(3)) to acquire 100 percent of the voting shares (less directors' qualifying shares) of Pioneer Bank, Billings, Montana. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the board of governors or at the Federal Reserve Bank of Minneapolis. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than September 21, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, August 22, 1979.

Edward T. Mulrenin,
Assistant Secretary of the Board.

[FR Doc. 79-26728 Filed 8-27-79; 8:45 am]
BILLING CODE 6210-01-M

Bank Holding Companies; Proposed De Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. § 1843(c)(8)) and section 225.4(b)(1) of the Board's Regulation Y (12 CFR § 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than September 21, 1979.

A. Federal Reserve Bank of San Francisco, 400 Sansome Street, San Francisco, California 94120:

First Hawaiian, Inc., Honolulu, Hawaii (industrial loan and insurance activities; Hawaii): to engage, through a *de novo* office of its subsidiary, Hawaii Thrift and Loan, Incorporated, in operating an industrial loan company as authorized by Hawaii law, with activities including lending money upon individual credit, or the pledge or mortgage of real or personal property.

and issuing and selling certificates for the payment of money at any time; and selling, as agent or broker, property, casualty, life, accident and health insurance, directly related to extensions of credit by Hawaii Thrift and Loan, Incorporated. These activities will be conducted from an office to be located in Pearl City, Hawaii, serving the towns of Pearl City and Aiea on the island of Oahu, Hawaii.

B. Other Federal Reserve Banks:
None.

Board of Governors of the Federal Reserve System, August 21, 1979.

Edward T. Mulrenin,
Assistant Secretary of the Board.

[FR Doc. 79-26717 Filed 8-27-79; 8:45 am]
BILLING CODE 6210-01-M

Citicorp; Proposed Acquisition of Citishare Corp.

Citicorp, New York, New York, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. § 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR § 225.4(b)(2)), for permission to acquire voting shares of Citishare Corporation, New York, New York.

Applicant states that the proposed subsidiary would:

1. Provide data processing for the internal operations of applicant and its subsidiaries;
2. Engage in developing, assembling, storing, processing, and distributing financial, economic and banking data, such as selected income statement and balance sheet items, economic time-series, securities prices, and foreign exchange rates;
3. Engage in computer "time sharing" activities, which involve providing customers with access to data of the type listed in (2) above and packaged financial systems via computer terminals in the customers' offices. According to Applicant, such packaged financial systems would permit customers to obtain the benefit of its financial information systems and financial analysis expertise with respect to such applications as financial modeling, loan analysis, accounting and bookkeeping, budget and profitability analysis, portfolio recordkeeping and analysis, foreign exchange exposure, general ledger, and bond analysis;
4. Provide packaged financial systems for installation at a customer's site and packaged systems for installation at other financial institutions;
5. Make available to others excess computer processing capacity as may from time to time be available, on the condition that the only involvement by

Citishare is furnishing the facility and necessary operating personnel, and perform other incidental activities necessary to carry on the permissible activities in this area, as specified by the Board in its interpretation on data processing activities in 12 CFR § 225.123.

Applicant states that these activities have been specified by the Board, in section 225.4(a)(8) of Regulation Y (12 CFR § 225.4(a)(8)), as being permissible for bank holding companies as activities "so closely related to banking or managing or controlling banks as to be a proper incident thereto," within the meaning of section 4(c)(8) of the Bank Holding Company Act, or, in a Board interpretation (12 CFR § 225.123(e)), as incidental activities necessary to carry on such activities. These activities would be performed from offices of applicant's subsidiaries in New York, New York, and the geographic areas to be served are the continental United States, Puerto Rico, and various cities in Australia, Canada, England, France, and Mexico.

Interested persons may express their views on the question of whether the proposed activities are "so closely related to banking or managing or controlling banks as to be a proper incident thereto," or are incidental to "closely related" activities.

Interested persons may also express their views on the question of whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices."

Any request for a hearing on these questions must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of New York.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than September 21, 1979.

Board of Governors of the Federal Reserve System, August 21, 1979.

Edward T. Mulrenin,

Assistant Secretary of the Board.

[FR Doc. 79-26716 Filed 8-27-79; 8:45 am]

BILLING CODE 6210-01-M

Community Bancorporation, Inc.; Formation of Bank Holding Company

Community Bancorporation, Inc., Bristow, Oklahoma, has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding company by acquiring 80 percent of the voting shares (less directors' qualifying shares) of Community Bank, Bristow, Oklahoma. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

Community Bancorporation, Inc., Bristow, Oklahoma, has also applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. § 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR § 225.4(b)(2)), for permission to acquire 100 percent of the voting shares of Community Business Trust, Bristow, Oklahoma, which will own 100 percent of Community Insurance Agency, Inc., Bristow, Oklahoma.

Applicant states that the proposed subsidiary would engage *de novo* in the activities of selling credit life insurance and credit accident and health insurance. These activities would be performed from offices of Applicant's subsidiary in Bristow, Oklahoma serving the Bristow area. Such activities have been specified by the Board in section 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of section 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party

commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than September 20, 1979.

Board of Governors of the Federal Reserve System, August 21, 1979.

Edward T. Mulrenin,

Assistant Secretary of the Board.

[FR Doc. 79-26719 Filed 8-27-79; 8:45 am]

BILLING CODE 6210-01-M

Farmer City Agency, Inc.; Acquisition of Additional Shares of Bank

Farmer City Agency, Inc., Farmer City, Illinois, has applied for the Board's approval under § 3(a)(3) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(3)) to acquire additional voting shares of Farmer City State Bank, Farmer City, Illinois, thereby increasing Farmer City Agency, Inc.'s ownership from 40.75 percent to 50.05 percent of the voting shares of Farmer City State Bank. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than September 21, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, August 21, 1979.

Edward T. Mulrenin,

Assistant Secretary of the Board.

[FR Doc. 79-26720 Filed 8-27-79; 8:45 am]

BILLING CODE 6210-01-M

Turon Banc Shares, Inc.; Formation of Bank Holding Company

Turon Banc Shares, Inc., Turon, Kansas, has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding

company by acquiring 94 per cent of the voting shares (less directors' qualifying shares) of The Turon State Bank, Turon, Kansas. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

Turon Banc Shares, Inc., Turon, Kansas, has also applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. § 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR § 225.4(b)(2)), for permission to engage, *de novo*, as agent or broker, in the sale of credit life and credit accident and health insurance that is directly related to extensions of credit by Bank. These activities would be performed from offices of Applicant's subsidiary in Turon, Kansas, and the geographic areas to be served are Turon, Kansas, and surrounding areas. Such activities have been specified by the Board in section 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of section 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than September 20, 1979.

Board of Governors of the Federal Reserve System, August 20, 1979.

Edward T. Mulrenin,

Assistant Secretary of the Board.

[FR Doc. 79-26728 Filed 8-27-79; 8:45 am]

BILLING CODE 6210-01-M

UBT Bancorp, Inc.; Formation of Bank Holding Company

UBT Bancorp, Inc., Bartlesville, Oklahoma, has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding company by acquiring 80 percent, or more, less directors' qualifying shares of the voting shares of Union Bank & Trust ("Bank"), Bartlesville, Oklahoma. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

UBT Bancorp, Inc., Bartlesville, Oklahoma, has also applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. § 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR § 225.4(b)(2)), for permission to acquire indirectly voting shares of UBT Insurance Agency, Inc.

Applicant states that the proposed subsidiary would engage in the activities of selling credit life and credit accident and health insurance directly related to extensions of credit of Bank. These activities would be performed from offices of Applicant's subsidiary in Bartlesville, Oklahoma, and the geographic areas to be served are the cities of Bartlesville and Dewey in Oklahoma. Such activities have been specified by the Board in section 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of section 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve

System, Washington, D.C. 20551, not later than September 21, 1979.

Board of Governors of the Federal Reserve System, August 22, 1979.

Edward T. Mulrenin,

Assistant Secretary of the Board.

[FR Doc. 79-26730 Filed 8-27-79; 8:45 am]

BILLING CODE 6210-01-M

GENERAL SERVICES ADMINISTRATION

[E-79-3]

Delegation of Authority to the Secretary of Defense

1. *Purpose.* This delegation authorizes the Secretary of Defense to represent, in conjunction with the Administrator of General Services, the consumer interests of the executive agencies of the Federal Government in proceedings before the New Jersey Board of Public Utilities involving an energy adjustment clause and the establishment of a new energy adjustment factor.

2. *Effective date.* This delegation is effective immediately.

3. *Delegation.*

a. Pursuant to the authority vested in me by the Federal Property and Administrative Service Act of 1949, 63 Stat. 377, as amended, particularly sections 201(a)(4) and 205(d) (40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Secretary of Defense to represent the consumer interests of the Federal executive agencies before the New Jersey Board of Public Utilities involving the application of the Jersey Central Power and Light Company for an establishment of a new energy adjustment factor. The authority delegated to the Secretary of Defense shall be exercised concurrently with the Administrator of General Services.

b. The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

c. This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration, and shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

Dated: August 16, 1979.

R. G. Freeman III,

Administrator of General Services.

[FR Doc. 79-26638 Filed 8-27-79; 8:45 am]

BILLING CODE 6820-25-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Center for Disease Control

Mine Health Research Advisory Committee; Meeting

Correction

In FR Doc. 79-25959, published at page 49012, on Tuesday, August 21, 1979, the following corrections should be made:

1. On page 49012, in the eleventh line, "Place: Conference Room C . . ." should be corrected to read "Place: Conference Room G . . .";

2. On page 49013, in the first column, the File Line after the signature, [FR Doc. 79-25969 . . .] should be corrected to read [FR Doc. 79-25959 . . .].

BILLING CODE 1505-01-M

Office of Education

Graduate and Professional Opportunities Program; Closing Date for Transmittal of Applications for Fiscal Year 1980

Applications are invited for new projects under the Graduate and Professional Opportunities Program.

Authority for this program is contained in Title IX Parts A and B of the Higher Education Act of 1965, as amended.

(20 U.S.C. 1134 et seq.)

This program issues awards to individual institutions of higher education or to combinations of these institutions.

The purpose of the awards is to develop training programs at institutions of higher education by providing fellowships for graduate and professional study to members of groups, particularly minorities and women, that have traditionally been underrepresented among recipients of graduate and professional degrees.

Closing Date for Transmittal of Applications: An application for a grant must be mailed or hand delivered by October 17, 1979.

Applications Delivered by Mail: An application sent by mail must be addressed to the U.S. Office of Education, Application Control Center, Attention: 13.580, Washington, D.C. 20202.

An applicant must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service Postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the U.S. Commissioner of Education.

If an application is sent through the U.S. Postal Service, the Commissioner does not accept either of the following as proof of mailing: (1) a private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail. Each late applicant will be notified that its application will not be considered.

Applications Delivered by Hand: An application that is hand delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, S.W., Washington, D.C.

The Application Control Center will accept a hand delivered application between 8 a.m. and 4:30 p.m. (Washington, D.C., time) daily, except Saturdays, Sundays, and Federal holidays.

An application that is hand delivered will not be accepted after 4:30 p.m. on the closing date.

Program Information: Preference will be given to training programs that speak directly to those academic or professional studies of high national priority in which minorities and women are most particularly underrepresented (except those, such as medicine, which receive substantial funding under other Federal programs). Generally, no fewer than three to five new fellowships will be allocated to each approved program; institutions may receive support in a total of no more than five such program areas. In instances where only one academic or professional area is approved for support, this area should have the capacity to accept no fewer than 5 fellowships. Institutional grant awards under Part A are intended to be used in conjunction with fellowship awards to augment or provide special services in such related fields as recruitment, orientation programs before or during the academic year, and efforts at retention which include a variety of supportive services.

Subject to the availability of funds, requests for the renewal of fellowship support to those continuing Fellows in good academic standing are not subject to the competitive process and will, therefore, be automatically granted.

Available Funds: A budget request of \$15.0 million was made to continue this

program during 1980-1981. If appropriated, this amount would provide support for those individuals in good standing to continue their studies and for approximately 925 new fellowships at some 125 institutions. Of the total amount, about \$1.5 million would be used to support institutional grants at 55 institutions of higher education where evidence indicates strong ties with the fellowship program, especially in such areas as recruitment and retention. A smaller appropriated amount would reduce these estimates proportionately.

These estimates, however, do not bind the U.S. Office of Education to a specific number of grants or to the amount of any grant unless that amount is otherwise specified by statute or regulations.

Application Forms: Application forms and program information packages are available and may be obtained by writing to the Graduate Training Branch, U.S. Office of Education (Room 3060, Regional Office Building 3), 400 Maryland Avenue, S.W., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages. The Commissioner strongly urges that the narrative portion of the application not exceed 40 pages in length. The Commissioner further urges that applicants not submit information that is not requested.

Special Procedures: An application for an institutional grant shall provide assurance that the institution has notified the appropriate State Commissioner (established or designated under Section 1202 of the Higher Education Act of 1965, as amended) and that the State Commission has been given the opportunity to offer recommendations on the application to the institution and to the Commissioner.

Applicable Regulations: Regulations applicable to this program include the following:

- (a) Regulations governing the Graduate and Professional Opportunities Program (45 CFR Part 179); and
- (b) General Provisions Regulations for Office of Education Programs (45 CFR Parts 100 and 100a).

Note.—The proposed Education Division General Administrative Regulations (EDGAR) were published in the Federal Register on May 4, 1979 (44 FR 26298). When EDGAR becomes effective, it will supersede the General Provisions Regulations for Office of Education Programs.

If EDGAR takes effect before grants are made under this program, those grants will be subject to the following provision of EDGAR:

Subpart A (General); Subpart E (What Conditions Must be Met by a Grantee?); Subpart F (What Are the Administrative Responsibilities of a Grantee?);

Subpart G (What Procedures Does the Education Division Use to Get Compliance?).

Applicants should note that an amendment to §§ 179.50(a) and 179.51 is contemplated. A notice of the proposed change will be published in the Federal Register soon.

Further Information: For further information contact Dr. Donald N. Bigelow, Bureau of Higher and Continuing Education, U.S. Office of Education, (Room 3060, Regional Office Building 3) 400 Maryland Avenue, S.W., Washington, D.C. 20202. Telephone: (202) 245-2347.

(20 U.S.C. 1134 et seq.)
(Catalog of Federal Domestic Assistance Number 13.580 Graduate Professional Opportunities Program)

Dated: August 23, 1979.

John Ellis,
Executive Deputy Commissioner for Educational Programs.

[FR Doc. 79-26741 Filed 8-27-79; 8:45 am]
BILLING CODE 4110-02-M

Food and Drug Administration

Consumer Participation; Open Meeting

AGENCY: Food and Drug Administration.
ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces a forthcoming consumer exchange meeting to be chaired by Robert O. Bartz, District Director, New Orleans District Office, New Orleans, LA.

DATE: The meeting will be held at 1:30 p.m., Thursday, September 13, 1979.

ADDRESS: The meeting will be held at the Arkansas State Department of Health, 4815 W. Markham St., 4th floor conference room, Little Rock, AR 72201.

FOR FURTHER INFORMATION CONTACT: Francis G. Brysson, Consumer Affairs Officer, Food and Drug Administration, Department of Health, Education, and Welfare, 4298 Elysian Fields Ave., New Orleans, LA 70122, 504-589-2420.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to encourage dialogue between consumers and FDA officials, to identify and set priorities for current and future health concerns, to enhance relationships between local

consumers and FDA's New Orleans District Office, and to contribute to the agency's policymaking decisions on vital issues.

Dated: August 17, 1979.

William F. Randolph,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-26500 Filed 8-27-79; 8:45 am]
BILLING CODE 4110-03-M

Consumer Participation; Open Meeting

AGENCY: Food and Drug Administration.
ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces a forthcoming consumer exchange meeting to be chaired by Robert O. Bartz, District Director, New Orleans District Office, New Orleans, LA.

DATE: The meeting will be held at 1:30 p.m., Thursday, September 20, 1979.

ADDRESS: The meeting will be held at the Food and Drug Administration, 4298 Elysian Fields Ave., New Orleans, LA 70122.

FOR FURTHER INFORMATION CONTACT: Louise W. Arnolite or Francis G. Brysson, Consumer Affairs Officers, Food and Drug Administration, Department of Health, Education, and Welfare, 4298 Elysian Fields Ave., New Orleans, LA 70122, 504-589-2420.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to encourage dialogue between consumers and FDA officials, to identify and set priorities for current and future health concerns, to enhance relationships between local consumers and FDA's New Orleans District Office, and to contribute to the agency's policymaking decisions on vital issues.

Dated: August 17, 1978.

William F. Randolph,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-26499 Filed 8-27-79; 8:45 am]
BILLING CODE 4110-03-M

Consumer Participation; Open Meeting

AGENCY: Food and Drug Administration.
ACTION: Notice.

SUMMARY: This document announces a forthcoming consumer exchange meeting to be chaired by Abraham I. Kleks, District Director, Los Angeles Office, Los Angeles, CA.

DATE: The meeting will be held at 9 a.m., Monday, September 10, 1979.

ADDRESS: The meeting will be held at the Los Angeles District Office,

Conference Rm., 1521 W. Pico Blvd., Los Angeles, CA 90015.

FOR FURTHER INFORMATION CONTACT: Gordon L. Scott, Consumer Affairs Officer, Food and Drug Administration, Department of Health, Education, and Welfare, 1521 W. Pico Blvd., Los Angeles, CA 90015, 213-688-4395.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to encourage dialogue between consumers and FDA officials, to identify and set priorities for current and future health concerns, to enhance relationships between local consumers and FDA Los Angeles District Office, and to contribute to the agency's policymaking decisions on vital issues.

Dated: August 17, 1979.

William F. Randolph,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-26497 Filed 8-27-79; 8:45 am]
BILLING CODE 4110-03-M

Consumer Participation; Open Meeting

AGENCY: Food and Drug Administration.
ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces a forthcoming consumer exchange meeting to be chaired by LeRoy Gomez, District Director, Denver District Office, Denver, CO.

DATE: The meeting will be held at 9:30 a.m., Thursday, September 20, 1979.

ADDRESS: The meeting will be held at the Federal Bldg., Rm. 239 (2d floor conference room), 19th and Stout Sts., Denver, CO 80202.

FOR FURTHER INFORMATION CONTACT: Kathy Brunner, Consumer Affairs Officer, Food and Drug Administration, Department of Health, Education, and Welfare, 500 U.S. Customhouse, Denver, CO 80202, 303-827-4915.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to encourage dialogue between consumers and FDA officials, to identify and set priorities for current and future health concerns, to enhance relationships between local consumers and FDA's Denver District Office, and to contribute to the agency's policymaking decisions on vital issues.

Dated: August 17, 1979.

William F. Randolph,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-26510 Filed 8-27-79; 8:45 am]
BILLING CODE 4110-03-M

Consumer Participation; Open Meeting

AGENCY: Food and Drug Administration.
ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces a forthcoming consumer exchange meeting to be chaired by Kenneth A. Hansen, District Director, Seattle District Office, Seattle, WA.

DATE: The meeting will be held 1:30 p.m. to 4 p.m., Tuesday, September 18, 1979.

ADDRESS: The meeting will be held at the Seattle Center, Conference Rm. B, 305 Harrison St., Seattle, WA 98109.

FOR FURTHER INFORMATION CONTACT: Susan J. Hutchcroft, Consumer Affairs Officer, Food and Drug Administration, Department of Health, Education, and Welfare, 909 1st Ave., Seattle, WA 98174, 206-442-5258.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to encourage dialogue between consumers and FDA officials, to identify and set priorities for current and future health concerns, to enhance relationships between local consumers and FDA's Seattle District Office, and to contribute to the agency's policymaking decisions on vital issues.

Dated: August 17, 1978.

William F. Randolph,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-26496 Filed 8-27-79; 8:45 am]
BILLING CODE 4110-03-M

Isocarboxazid; Drugs for Human Use; Drug Efficacy Study Implementation; Permission for Drugs to Remain on the Market; Amendment

AGENCY: Food and Drug Administration.
ACTION: Notice.

SUMMARY: This notice amends the previously published conditions for marketing isocarboxazid, a drug used in the treatment of depression.

DATE: Protocols due on or before September 27, 1979. Studies must be completed by August 28, 1981.

ADDRESS: Communications in response to this notice should be identified with the NDA number (if any) and the following in a box in the upper portion of the cover letter: "PARAGRAPH XIV DRUG—CATEGORY XX 'ISOCARBOXAZID'," and directed to the attention of the appropriate office name below.

Abbreviated new drug applications: Division of Generic Drug Monographs (HFD-530), Bureau of Drugs, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

Requests for opinion of the applicability of this notice to a specific drug product: Division of Drug Labeling Compliance (HFD-310), Bureau of Drugs, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

All other submissions required by this notice: Division of Neuropharmacological Drug Products, Psychopharmacology Unit (HFD-120), Rm. 10B-40, Bureau of Drugs, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Mary E. Catchings, Bureau of Drugs (HFD-32), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3650.

SUPPLEMENTARY INFORMATION: A notice published in the Federal Register of July 14, 1978 (43 FR 30351) specified the conditions under which isocarboxazid and tranlycypromine sulfate may remain on the market pending completion and review of clinical studies to determine effectiveness in the treatment of depression. Among the conditions for marketing was that each manufacturer label its product as "probably effective for severe reactive or endogenous depression in hospitalized or closely supervised patients who have not responded to other antidepressant therapy." Inadvertently, the notice failed to state the correct labeling requirement for isocarboxazid; the notice is now being amended to include that labeling. The July 14, 1978 notice is not otherwise changed by this amendment except that the time limits for submitting protocols and for completing studies on isocarboxazid are extended:

Accordingly, section A. of the July 14, 1978 notice as it pertains to isocarboxazid is amended to read as follows:

A. Requirements for Products now Subjects of Approved NDA's

Proceedings to withdraw approval of any NDA that has a "deemed-approved" status on August 28, 1979, will not be initiated provided that:

1. The drug is labeled as probably effective for the treatment of depressed patients who are refractory to tricyclic antidepressants or electroconvulsive therapy and depressed patients in whom tricyclic antidepressants are contraindicated.

2. On or before September 27, 1979, any applicant who intends to conduct clinical studies of effectiveness has submitted protocols to the Division of Neuropharmacological Drug Products, Psychopharmacology Unit (HFD-120) for at least two adequate and well-

controlled studies by independent investigators or a multiclinic study in which the data of at least three investigators can be evaluated independently, to determine whether or not the product is effective. The Bureau of Drugs will review the submitted protocols within a 30-day period and will provide the applicant notice of approval or comments.

3. Within 60 days after receipt of the Bureau's approval or comments on the protocol, studies are in progress and the applicant so notifies the Division of Neuropharmacological Drug Products in writing.

4. At 6-month intervals after studies have begun, the applicant submits a progress report stating the number of patients and investigators in the studies, the number of studies completed, and the number continuing.

5. By August 28, 1981, the applicant submits data on the completed studies to the Division of Neuropharmacological Drug Products. If the studies are completed before the time, the applicant submits the results within 30 days after their completion.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 505, 701, 52 Stat. 1052-1053), as amended, 1055-1056, as amended (21 U.S.C. 355, 371) the Administrative Procedure Act (5 U.S.C. 553, 554), and under authority delegated to the Commissioner (21 CFR 5.1).

Dated August 22, 1979.

Joseph P. Hile,
Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-20652 Filed 8-27-79; 8:45 am]
BILLING CODE 4110-03-M

[Docket No. 79N-0252; DESI 8173]

Monobenzene Topical Ointment; Drugs for Human Use; Drug Efficacy Study Implementation; Followup Notice and Opportunity for Hearing

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice states the conditions for marketing monobenzene topical ointment for the indication for which it is not regarded as effective and offers an opportunity for a hearing concerning other indications reclassified to lacking substantial evidence of effectiveness. The drug is used for depigmentation in extensive vitiligo.

DATES: Hearing requests due on or before September 27, 1979, supplements to new drug applications and data in support of hearing requests due on or before October 29, 1979.

ADDRESSES: Communications in response to this notice should be identified with the reference number DESI 8173, directed to the attention of the appropriate office named below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

Supplements to full new drug applications (identify with NDA number): Division of Anti-Infective Drug Products (HFA-140), Rm. 12B-45, Bureau of Drugs.

Original abbreviated new drug applications and supplements thereto (identify as such): Division of Generic Drug Monographs (HFD-530), Bureau of Drugs.

Requests for hearing (identify with docket number appearing in the heading of this notice): Hearing Clerk, Food and Drug Administration (HFD-305), Rm. 4-65.

Requests for the report of the National Academy of Sciences-National Research Council: Public Records and Documents Center (HFI-35), Rm. 12A-12.

Requests for opinion of the applicability of this notice to a specific product: Division of Drug Labeling Compliance (HFD-310), Bureau of Drugs.

Other communications regarding this notice: Drug Efficacy Study Implementation Project Manager (HFD-501), Bureau of Drugs.

FOR FURTHER INFORMATION CONTACT: John H. Hazard, Jr., Bureau of Drugs (HFD-32), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3650.

SUPPLEMENTARY INFORMATION: In a notice (DESI 8173), published in the Federal Register of September 18, 1970 (35 FR 14629), the Food and Drug Administration (FDA) announced that monobenzene is possibly effective for its recommended use in the treatment of severe freckling, hyperpigmentation from photosensitization following the use of certain perfumes, melasma of pregnancy, and hyperpigmentation following skin inflammation, and for final depigmentation in disseminated vitiligo.

Subsequently, in a notice published in the Federal Register of July 11, 1973 (38 FR 18477), monobenzene topical preparations were temporarily exempted (as Category XIII) from the time limits established for completing certain phases of the Drug Efficacy Study Implementation (DESI) program. The exemption was granted because no alternative depigmenting agents are available. Benoquin Lotion and Ointment were permitted to remain on

the market pending completion of scientific studies. After the sponsor informed FDA that studies were not being conducted on Benoquin Lotion, the agency revoked the exemption for that product in a notice published in the Federal Register of March 21, 1975 (40 FR 12829) and withdraw approval of the application September 15, 1975 (40 FR 42590), leaving only the following product exempted in Category XIII:

NDA 8-173; Benoquin Ointment containing 20 percent monobenzene; Elder Pharmaceuticals, 705 East Mulberry St., P.O. Box 31, Bryan, OH 43508.

Two clinical studies submitted by Elder support the effectiveness of Benoquin Ointment in extensive vitiligo. Accordingly the September 18, 1970 notice is amended to read as follows with respect to Benoquin Ointment.

Such drugs are regarded as new drugs (21 U.S.C. 321(p)). Supplemental new drug applications are required to revise the labeling in and to update previously approved applications providing for such drugs. An approved new drug application is a requirement for marketing such drug products.

In addition to the product specifically named above, this notice applies to any drug product that is not the subject of an approved new drug application and is identical to the product named above. It may also be applicable, under 21 CFR 310.6, to a similar or related drug product that is not the subject of an approved new drug application. It is the responsibility of every drug manufacturer or distributor to review this notice to determine whether it covers any drug product that the person manufactures or distributes. Such person may request an opinion of the applicability of this notice to a specific drug product by writing to the Division of Drug Labeling Compliance (address given above.)

A. Effectiveness classification. The Food and Drug Administration has reviewed all available evidence and concludes that the drug product is effective for the indication in the labeling conditions below. The drug product now lacks substantial evidence of effectiveness for all other indications.

B. Conditions for approval and marketing. The Food and Drug Administration is prepared to approve abbreviated new drug applications and supplements to previously approved new drug applications under conditions described herein.

1. *Form of drug.* The drug product is in ointment form suitable for topical administration.

2. *Labeling conditions.* a. The label bears the statement, "Caution: Federal

law prohibits dispensing without prescription."

b. The drug is labeled to comply with all requirements of the act and regulations, and the labeling bears adequate information for safe and effective use of the drug. The Indication is as follows:

For depigmentation in extensive vitiligo.

3. *Marketing status.* a. Marketing of such drug products that are now the subject of an approved or effective new drug application may be continued provided that, on or before October 29, 1979, the holder of the application has submitted (i) a supplement for revised labeling as needed to be in accord with the labeling conditions described in this notice, and complete container labeling if current container labeling has not been submitted, and (ii) a supplement to provide full updating information with respect to items 6 (components), 7 (composition), and 8 (methods, facilities, and controls) of new drug application form FD-356H (21 CFR 314.1(c)).

b. Approval of an abbreviated new drug application (21 CFR 314.1(f)) containing full information with respect to items 6 (components), 7 (composition), and 8 (methods, facilities, and controls) of new drug application form FD-356H must be obtained before marketing such product. Marketing before approval of an abbreviated new drug application will subject such products, and those persons who caused the products to be marketed, to regulatory action.

C. Notice of opportunity for hearing. On the basis of all the information available to him, the Director of the Bureau of Drugs is unaware of any adequate and well-controlled clinical investigation conducted by experts qualified by scientific training and experience, meeting the requirements of section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) and 21 CFR 314.111(a)(5), that demonstrates the effectiveness of the drug for the indications lacking substantial evidence of effectiveness referred to in paragraph A of this notice.

Notice is given to the holder of the new drug application and to all other interested persons that the Director of the Bureau of Drugs proposes to issue an order under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)), withdrawing approval of the new drug application and all amendments and supplements thereto providing for the indications lacking substantial evidence of effectiveness referred to in paragraph A of this notice on the ground that new information before him with respect to the drug

product, evaluated together with the evidence available to him when the application was approved, shows there is a lack of substantial evidence that the drug product will have all the effects it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling. An order withdrawing approval will not issue with respect to any application supplemented, in accord with this notice, to delete the claims lacking substantial evidence of effectiveness.

In addition to the ground for the proposed withdrawal of approval stated above, this notice of opportunity for hearing encompasses all issues relating to the legal status of the drug products subject to it (including identical, related, or similar drug products as defined in 21 CFR 310.6) e.g., any contention that any such product is not a new drug because it is generally recognized as safe and effective within the meaning of section 201(p) of the act or because it is exempt from part or all of the new drug provisions of the act under the exemption for products marketed before June 25, 1938, contained in section 201(p) of the act, or under section 107(c) of the Drug Amendments of 1962 or for any other reason.

In accordance with section 505 of the act (21 U.S.C. 355) and the regulations promulgated thereunder (21 CFR Parts 310, 314), the applicant and all other persons who manufacture or distribute a drug product which is identical, related, or similar to the drug product named above (21 CFR 310.6), are hereby given an opportunity for a hearing to show why approval of the new drug application should not be withdrawn and an opportunity to raise, for administrative determination, all issues relating to the legal status of the drug product named above and of all identical, related, or similar drug products.

An applicant or any other person subject to this notice under 21 CFR 310.6 who decides to seek a hearing shall file (1) on or before September 27, 1979, a written notice of appearance and request for hearing, and (2) on or before October 29, 1979, the data, information, and analyses relied on to justify a hearing, as specified in 21 CFR 314.200. Any other interested person may also submit comments on this notice. The procedures and requirements governing this notice of opportunity for hearing, a notice of appearance and request for hearing, a submission of data, information, and analyses to justify a hearing, other comments, and a grant or

denial of hearing, are contained in 21 CFR 314.200.

The failure of an applicant or any other persons subject to this notice under 21 CFR 310.6 to file timely written appearance and request for hearing as required by 21 CFR 314.200 constitutes and election by the person not to make use of the opportunity for a hearing concerning the action proposed with respect to the product and constitutes a waiver of any contentions concerning the legal status of any such drug product. Any such drug product labeled for the indications lacking substantial evidence of effectiveness referred to in paragraph A of this notice may not thereafter lawfully be marketed, and the Food and Drug Administration will initiate appropriate regulatory action to remove such drug products from the market. Any new drug product marketed without an approved NDA is subject to regulatory action at any time.

A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analysis in the request for hearing that there is no genuine and substantial issue of fact which precludes the withdrawal of approval of the application, or when a request for hearing is not made in the required format or with the required analyses, the Commissioner of Food and Drugs will enter summary judgement against the person(s) who requests the hearing, making findings and conclusions, denying a hearing.

All submissions pursuant to this notice must be filed in quintuplicate. Such submissions, except for information prohibited from public disclosure under 21 U.S.C. 331(j) or 18 U.S.C. 1905, may be seen in the office of the Hearing Clerk between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1052-1053 as amended (21 U.S.C. 355)), and under the authority delegated to the Director of the Bureau of Drugs (21 CFR 5.82).

Dated: August 14, 1979.

Jerome A. Halperin,
Acting Director, Bureau of Drugs.
[FR Doc. 79-26651 Filed 8-27-79; 8:45 am]
BILLING CODE 4110-03-M

[Docket No. 79N-0252; DESI 8173]

Monobenzene Topical Ointment; Drugs for Human Use; Drug Efficacy Study Implementation; Revocation of Exemption

AGENCY: Food and Drug Administration.
ACTION: Notice.

SUMMARY: This notice revokes the temporary exemption for continued marketing of monobenzene topical ointment. The exemption is no longer needed because the question of the drug's effectiveness has been resolved. The drug has now been found to be effective. Under the exemption, the drug was allowed to remain on the market for continued study beyond the time limit scheduled for implementation of the Drug Efficacy Study.

EFFECTIVE DATE: August 28, 1979.

FOR FURTHER INFORMATION CONTACT: John H. Hazard, Jr., Bureau of Drugs (HFD-32), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3650.

SUPPLEMENTARY INFORMATION: In a notice appearing elsewhere in this issue of the Federal Register, the Food and Drug Administration is reclassifying one of the possibly effective indications for monobenzene topical ointment described below to be effective and the remaining indications to lacking substantial evidence of effectiveness. This product has been allowed to remain on the market beyond the time limit established for implementing the Drug Efficacy Study (DESI) on the condition that the manufacturer undertake additional clinical studies to determine the product's effectiveness. The temporary exemption to permit continued marketing as exempt Category XIII was announced in a notice published in the Federal Register July 11, 1973 (38 FR 18477).

The agency has reviewed data that the manufacturer submitted for the ointment form of monobenzene, and the question of the product's effectiveness has now been resolved. Therefore, the temporary exemption granted by the July 11, 1973 notice, as it pertains to the following product in the Drug Efficacy Study is hereby revoked.

NDA 8-173: Benoquin Ointment containing 20 percent monobenzene; Elder Pharmaceuticals, 705 East Mulberry St., P.O. Box 31, Bryan, OH 43506.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050-1053 as amended (21 U.S.C. 352, 355)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1).

Dated: August 22, 1979.

Joseph P. Hile,
Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-26650 Filed 8-27-79; 8:45 am]
BILLING CODE 4110-03-M

[Docket No. 79N-0322]

Safety of Certain Food Ingredients; Opportunity for Public Hearing

AGENCY: Food and Drug Administration.
ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces an opportunity for public hearing on the safety of vitamin A, vitamin A acetate, and vitamin A palmitate to determine if they are generally recognized as safe (GRAS) or subject to a prior sanction. This action accords with procedures of a comprehensive safety review that the agency is conducting. Interested persons are invited to give their views on the safety of these substances.

DATE: Requests to make oral presentations at the public hearing must be received by or postmarked on or before September 27, 1979.

ADDRESSES: Written requests to the Select Committee on GRAS Substances, Life Sciences Research Office, Federation of American Societies for Experimental Biology, 9650 Rockville Pike, Bethesda, MD 20014, and to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Corbin I. Miles, Bureau of Foods (HFF-335), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, DC 20204, 202-472-4750.

SUPPLEMENTARY INFORMATION: In the Federal Register of July 26, 1973 (38 FR 20053), FDA issued a notice advising the public that an opportunity would be provided for oral presentation of data, information, and views at public hearings to be conducted by the Select Committee on GRAS Substances of the Life Sciences Research Office, Federation of American Societies for Experimental Biology (the Select Committee), about the safety of ingredients used in food to determine if they are GRAS or subject to a prior

sanction. The agency now announces that the Select Committee is prepared to conduct a public hearing on the following categories of food ingredients: vitamin A, vitamin A acetate, and vitamin A palmitate for direct food use. The public hearing will provide an opportunity, before the Select Committee reaches its final conclusions, for any interested person(s) to present scientific data, information, and views on the safety of these substances, in addition to those previously submitted in writing under notices published in the Federal Register of July 26, 1973 (38 FR 20051, 20053), April 17, 1974 (39 FR 13798), and March 28, 1978 (43 FR 12941).

The Select Committee has reviewed all the available data and information on the categories of food ingredients listed above and has reached one of the five following tentative conclusions on the status of each:

1. There is no evidence in the available information that demonstrates or suggests reasonable grounds to suspect a hazard to the public when it is used at levels that are now current or that might reasonably be expected in the future. (This finding does not apply to the substances covered by this notice.)

2. There is no evidence in the available information that demonstrates or suggests reasonable grounds to suspect a hazard to the public when it is used at levels that are now current and in the manner now practiced. However, it is not possible to determine, without additional data, whether a significant increase in consumption would constitute a dietary hazard.

3. Although no evidence in the available information demonstrates a hazard to the public when it is used at levels that are now current and in the manner now practiced, uncertainties exist

requiring that additional studies be conducted. (This finding does not apply to the substances covered by this notice.)

4. The evidence is insufficient to determine that the adverse effects reported are not deleterious to the public health when it is used at levels that are now current and in the manner now practiced. (This finding does not apply to the substances covered by this notice.)

5. The information available is not sufficient to make a tentative conclusion. (This finding does not apply to the substances covered by this notice.)

The following table lists each ingredient, the Select Committee's tentative conclusion (keyed to the five types of conclusions listed above), and the available information on which the Select Committee based its conclusions:

Substance	Select Committee tentative conclusion	Scientific literature review (order No.; price code; price)*	Animal study report (order No.; price code; price)*	Other information (order No.; price code; price)*
Vitamin A.....	2	PB-241-849/AS (vitamin A).....	Mutagenicity evaluation of FDA 75-79 vitamin A acetate crystals submitted by Lito Bionetics, Inc. (PB-278-479/AS; A03; \$4.50).	1. Wade, M. J. 1977. Review of the recent literature on the health aspects of vitamin A, vitamin A acetate and vitamin A palmitate as food ingredients. (PB-275-754/AS; A03; \$4.50.)
Vitamin A Acetate.....	2	A-99; \$27.75.....		2. Human intake data taken from "A Comprehensive Survey of Industry on the Use of Food Chemicals Generally Recognized as Safe (GRAS)," available from the National Technical Information Service, PB-Nos. 221-921 through 221-949; —.
Vitamin A Palmitate.....	2			3. Letters January 16, February 2, and March 7, 1979, from K. R. Fulton, National Research Council, Washington, DC.

Reports in the table with "PB" Prefixes may be obtained from the National Technical Information Service, U.S. Department of Commerce, 5285 Port Royal Road, Springfield, VA 22161.

In addition to the information contained in the documents listed in the table above, the Select Committee supplemented, where appropriate, its reviews with specific information from specialized sources as announced in a previous hearing opportunity notice published in the Federal Register of September 23, 1974 (39 FR 34218).

The Select Committee's tentative report on vitamin A, vitamin A acetate, and vitamin A palmitate is available for review at the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-56, 5600 Fishers Lane, Rockville, MD 20857, and also at the Public Information Office, Food and Drug Administration, Rm. 3807, 200 C St. SW., Washington, DC 20204. In addition, all reports and documents used by the Select Committee to review the

ingredients are available for review at the office of the Hearing Clerk.

To schedule the public hearing, the Select Committee must be informed of the number of persons who wish to attend and the time requested to give their views. Accordingly, any interested person who wishes to appear at the public hearing to make an oral presentation should inform the Select Committee in writing addressed to The Select Committee on GRAS Substances, Life Sciences Research Office, Federation of American Societies for Experimental Biology, 9650 Rockville Pike, Bethesda, MD 20014. A copy of each request will be sent to the Hearing Clerk (address above) and all requests will be placed on public display in that office. Any such request must be received by or postmarked on or before September 27, 1979, must state the substance(s) on which an opportunity to present oral views is requested, and must state how much time is requested for the presentation. Requests should specify the docket number found in

brackets in the heading of this notice. As soon as possible after the request deadline, a notice announcing the date, time, place, and scheduled presentations for any public hearing that may be requested will be published in the Federal Register.

The purpose of the public hearing is to receive data, information, and views not previously available to the Select Committee about the substances listed above. Information already contained in the scientific literature reviews and in the tentative Select Committee report shall not be duplicated, although views on the interpretation of this material may be presented.

Depending on the number of requests for opportunity to make oral presentations, the Select Committee may reduce the time requested for any presentation. Because of time limitations, individuals and organizations with common interests are urged to consolidate their presentations.

Any interested person may, in lieu of an oral presentation, submit written views, which will be considered by the Select Committee. Three copies of such written views identified with the docket number found in brackets in the heading of this notice, are to be addressed to the Select Committee at the address noted above, and must be received by or postmarked not later than 10 days before the scheduled date of the hearing. A copy of any written views is to be sent to the Hearing Clerk, Food and Drug Administration, and will be placed on public display in that office.

A public hearing will be presided over by a member of the Select Committee. Hearings will be transcribed by a reporting service, and a transcript of such hearing may be purchased directly from the reporting service and will be placed on public display in the office of the Hearing Clerk (HFA-305), Food and Drug Administration.

Dated: August 22, 1979.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-26649 Filed 8-27-79; 8:45 am]

BILLING CODE 4110-03-M

[Docket No. 79N-0269]

Safety of Iron and Iron Salts; Opportunity for Public Hearing

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces an opportunity for public hearing on the safety of iron and iron salts to determine whether they are generally recognized as safe (GRAS) or subject to a prior sanction. This action is in accordance with procedures of a comprehensive safety review that the agency is conducting. Interested persons are invited to give their views on the safety of these substances.

DATE: Requests to make oral presentations at the public hearing must be received by or postmarked on or before September 27, 1979.

ADDRESS: Written requests to the Select Committee on GRAS Substances, Life Sciences Research Office, Federation of American Societies for Experimental Biology, 9650 Rockville Pike, Bethesda, MD 20014, and to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Corbin I. Miles, Bureau of Foods (HFF-335), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, DC 20204, 202-472-4750.

SUPPLEMENTARY INFORMATION: In the Federal Register of July 26, 1973 (38 FR 20053), FDA issued a notice advising the public that an opportunity would be provided for oral presentation of data, information, and views at public hearings to be conducted by the Select Committee on GRAS Substances of the Life Sciences Research Office, Federation of American Societies for Experimental Biology (hereinafter, the Select Committee), about the safety of ingredients used in food to determine whether they are GRAS or subject to a prior sanction.

FDA now gives notice that the Select Committee is prepared to conduct a public hearing on the following categories of food ingredients: Reduced iron, electrolytic iron, carbonyl iron, ferric citrate, ferric phosphate, ferric pyrophosphate, ferrous fumarate, ferrous carbonate, ferrous ascorbate, ferrous citrate, ferrous gluconate, ferrous lactate, ferric ammonium citrate, iron peptonate, iron polyvinyl pyrrolidone, sodium ferric EDTA, sodium ferricitropyrophosphate, and sodium ferric pyrophosphate for direct food use; ferrous sulfate and ferric oxide for direct food use and for use in paper and paperboard products; elemental iron, ferric chloride, ferric sulfate, iron caprylate, iron linoleate, iron tallate, and oxides of iron for use in paper and paperboard products; and iron naphthenate for use as a drier in can coatings. The public hearing will provide an opportunity, before the Select Committee reaches its final conclusions,

for any interested person(s) to present scientific data, information, and views on the safety of these substances, in addition to those previously submitted in writing under notices published in the Federal Register of July 26, 1973 (38 FR 20053), April 17, 1974 (39 FR 13798), and March 28, 1978 (43 FR 12941).

The Select Committee has reviewed all the available data and information on the categories of food ingredients listed above and has reached one of the five following tentative conclusions on the status of each:

1. There is no evidence in the available information that demonstrates or suggests reasonable grounds to suspect a hazard to the public when it is used at levels that are now current or that might reasonably be expected in the future.

2. There is no evidence in the available information that demonstrates or suggests reasonable grounds to suspect a hazard to the public when it is used at levels that are now current and in the manner now practiced. However, it is not possible to determine, without additional data, whether a significant increase in consumption would constitute a dietary hazard.

3. Although no evidence in the available information demonstrates a hazard to the public when it is used at levels that are now current and in the manner now practiced, uncertainties exist requiring that additional studies be conducted. (This finding does not apply to the substances covered by this notice.)

4. The evidence is insufficient to determine that the adverse effects reported are not deleterious to the public health when it is used at levels that are now current and in the manner now practiced. (This finding does not apply to the substances covered by this notice.)

5. The information available is not sufficient to make a tentative conclusion.

The following table lists each ingredient, the Select Committee's tentative conclusion (keyed to the five types of conclusions listed above), and the available information on which the Select Committee based its conclusions:

Substance	Select Committee tentative conclusion	Scientific literature review (order No., price code, price)*	Animal study report (order No., price code, price)*	Other information (order No., price code, price)*
Iron and iron salts.....		BP-221-236; A06; \$6.50.....		
Direct food ingredient.....				
Reduced iron.....	2		a. Mutagenic evaluation of compound 00299-296 (ferrous gluconate) by Litton Bionetics, Inc., under FDA contract. PB-245-477/AS; A03; \$4.50.	a. Letter dated January 29, 1976, from E. Coleman, FDA, Washington, DC
Electrolytic iron.....	2			
Carbonyl iron.....	2			
Ferrous sulfate.....	2			
Ferric citrate.....	2			
Ferric phosphate.....	2			
Ferric pyrophosphate.....	2			
Ferrous fumarate.....	2		b. Letter dated January 6, 1976, from G. W. Irving, Jr., FASEB, Bethesda, MD	
Ferrous carbonate.....	2			
Ferrous ascorbate.....	5			

Substance	Select Committee tentative conclusion	Scientific literature review (order No., price code, price)*	Animal study report (order No., price code, price)*	Other information (order No., price code, price)*
Ferrous citrate.....	6		c. Mutagenic evaluation of compound FDA 71-64 (ferrous sulfate) by Litton Bionetics, Inc., under FDA contract. PB-245-435/AS; A03; \$4.50.	c. Memorandum dated September 18, 1976 by H. C. Chinn, FASEB, Bethesda, MD
Ferrous gluconate.....	5			
Ferrous lactate.....	5			
Ferric ammonium citrate.....	5			
Ferric oxide.....	5			
Iron peptonate.....	5			
Iron polyvinyl pyrrolidone.....	5			
Sodium ferric EDTA.....	5			
Sodium ferricitropyrophosphate.....	5			
Sodium ferric pyrophosphate.....	5			
Paper and paperboard materials:				
Elemental iron.....	1		d. Mutagenic evaluation of compound FDA 73-84 010045860 (ferric orthophosphate) by Litton Bionetics, Inc., under FDA contract. PB-245-514/AS; A03; \$4.50.	d. Letter dated December 19, 1974, from E. Tweedy, General Mills Chemical Inc., Minneapolis, MN
Ferrous sulfate.....	1			
Ferric chloride.....	1			
Ferric oxide.....	1			
Ferric sulfate.....	1		e. Mutagenic evaluation of compound FDA 75-36 (ferric pyrophosphate) by Litton Bionetics, Inc., under FDA contract. PB-257-876/AS; A03; \$4.50.	e. Human intake data taken from "A comprehensive survey of industry on the use of food chemicals generally recognized as safe (GRAS)," available from the National Technical Information Service, PB-221-920 (set); E-99; \$173.00.
Iron caprylate.....	1			
Iron linoleate.....	1			
Iron tallate.....	1			
Oxides of iron.....	1			
Drier in can coatings:				
Iron naphthenate.....	5		f. Mutagenic evaluation of compound FDA 73-82 (sodium ferric pyrophosphate) by Litton Bionetics, Inc., under FDA contract. PB-245-495/AS; A03; \$4.50.	f. Committee on GRAS List Survey Phase III, Estimating distribution of daily intakes of certain GRAS substances.
			g. Teratologic evaluation of FDA 73-82 (ferric sodium pyrophosphate) in mice and rats by Food and Drug Research Laboratories, Inc., under FDA contract. PB-245-524/AS; A03; \$4.50.	g. Letter dated March 12, 1976, from E. Coleman, FDA, Washington, DC
				h. International Nutritional Anemia Consultative Group. 1977. Guidelines for the eradication of iron deficiency anemia.
				i. Letter dated October 26, 1976, from R. W. Harkins, Grocery Manufacturers of America, Inc., Washington, DC
				j. Motzok, I., M. D. Pennell and M. I. Davies. 1973. Factors affecting the biological availability of iron from foodgrade supplements.
				k. Evaluation of the health aspects of acid, sodium citrate, citric, ammonium citrate, triethyl citrate, isopropyl citrate and stearyl citrate as food ingredients (SCOGS-84). Submitted to FDA by FASEB. PB-280-954/AS; A03; \$4.50.
				l. Evaluation of the health aspects of sodium, potassium, magnesium and zinc gluconates as food ingredients (SCOGS-78). Submitted to FDA by FASEB. PB-288-675/AS; A02; \$4.00.
				m. Oster, I. I. 1978. Technical progress report on continuation of contract FDA 223-74-2107.
				n. Verrett, M. J. 1973. Investigations of the toxic and teratogenic effects of GRAS substances to the developing chicken embryo: ferrous gluconate. FDA in-house investigation.
				o. Evaluation of the health aspects of lactic acid and calcium lactate, as food ingredients (SCOGS-116). Submitted to FDA by FASEB. PB-283-713/AS; A03; \$4.50.
				p. Alterman, E. 1978. Investigation of the toxic and teratogenic effects of GRAS substances to the developing chick embryo: ferrous lactate. FDA in-house investigation.
				q. Verrett, M. J. 1973. Investigation of the toxic and teratogenic effects of GRAS substances to developing embryo (ferrous sulfate). FDA in-house investigation.
				r. Verrett, M. J. 1977. Investigation of the toxic and teratogenic effects of GRAS substances to the developing chick embryo: ferric pyrophosphate.
				s. Evaluation of the health aspects of coconut oil, peanut oil, and oleic acid as they may migrate to food from packaging materials, and linoleic acid as a food ingredient (SCOGS-65). Submitted to FDA by FASEB. PB-274-475/AS; A02; \$4.00.
				t. Evaluation of the health aspects of caprylic acid as a food ingredient (SCOGS-29). Submitted to FDA by FASEB. PB-254-530/AS; A02; \$4.00.
				u. Hercules (Inc.) N.D. Pale rosin (gum, wood and tall oil); summary of toxicological investigations.

Reports in the table with "PB" prefixes may be obtained from the National Technical Information Service, U.S. Department of Commerce, 5285 Port Royal Rd., Springfield, VA 22161.

In addition to the information contained in the documents listed in the table above, the Select Committee supplemented its reviews, where appropriate, with specific information from specialized sources as announced in a previous hearing opportunity notice published in the *Federal Register* of September 23, 1974 (39 FR 34218).

The Select Committee's tentative report on ingredients that are the subject of this notice of opportunity for a hearing is available for review at the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-56, 5600 Fishers Lane, Rockville, MD 20857, and also at the Public Information Office, Food and Drug Administration, Rm. 3807, 200 C St. SW., Washington, DC 20204. In addition, all reports and documents used by the Select Committee to review the ingredients are available for review at the office of the Hearing Clerk.

To schedule the public hearing, the Select Committee must be informed of the number of persons who wish to attend and the amount of time requested to give their views. Accordingly, any interested person who wishes to appear at the public hearing to make an oral presentation should inform the Select Committee in writing addressed to: The Select Committee on GRAS Substances, Life Sciences Research Office, Federation of American Societies for Experimental Biology, 9650 Rockville Pike, Bethesda, MD 20014. A copy of each such request will be sent to the Hearing Clerk, address noted above, and all requests shall be placed on public display in that office. Any such request must be received by or postmarked on or before September 27, 1979, shall state the substance(s) on which an opportunity to present oral views is requested, and shall state how much time is requested for the presentation. Requests shall specify the docket number found in brackets on the heading of this notice. As soon as possible after the request deadline, a notice announcing the date, time, place, and scheduled presentations for any public hearing that may be requested will be published in the *Federal Register*.

The purpose of the public hearing is to receive data, information, and views not previously available to the Select Committee about the substances listed above. Information already contained in the scientific literature reviews and in the tentative Select Committee report shall not be duplicated, although views on the interpretation of this material may be presented.

Depending on the number of requests for opportunity to make oral presentations, the Select Committee may reduce the time requested for any presentation. Because of time limitations, individuals and organizations with common interests are urged to consolidate their presentations. Any interested person may, in lieu of an oral presentation, submit written views, which shall be considered by the Select Committee. Three copies of such written views identified with the docket number found in brackets in the heading of this notice shall be addressed to the Select Committee at the address noted above, and must be received by or postmarked not later than 10 days before the scheduled date of the hearing. A copy of any written views shall be sent to the Hearing Clerk, Food and Drug Administration, and shall be placed on public display in that office.

A public hearing will be presided over by a member of the Select Committee. Hearings will be transcribed by a reporting service, and a transcript of each hearing may be purchased directly from the reporting service and will be placed on public display in the office of the Hearing Clerk (HFA-305), Food and Drug Administration.

Dated: August 22, 1979.

Joseph P. Hile,
Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-26643 Filed 8-27-79; 8:45 am]
BILLING CODE 4110-03-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[M 44302-M 44303]

Montana; Right-of-Way Applications for Pipeline

August 20, 1979.

Notice is hereby given that pursuant

to Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), Continental Pipe Line Company has filed two (2) applications for rights-of-way for a 3-inch crude oil pipeline to hook up Manning and May S&L 23-24 and Juniper 12-X oil wells across 0.12 miles of public land in Musselshell County:

Principal Meridian, Montana
T. 8 N., R. 24 E., Sec. 1, Lot 5.
T. 9 N., R. 25 E., Sec. 34, NE 1/4 SW 1/4.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, Drawer 1160, Lewistown, Montana 59457.

Roland F. Lee,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79-26685 Filed 8-27-79; 8:45 am]

BILLING CODE 4310-84-M

Bureau of Reclamation

[INT FES 79-35]

Proposed Enlargement of Bumping Lake, Yakima Project, Washington; Availability of Final Environmental Statement

Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a final environmental statement for the Enlargement of Bumping Lake, Yakima Project, Washington.

The environmental statement concerns replacing the existing Bumping Lake Dam with a larger structure and creating an enlarged Bumping Lake with an active capacity of 458,000 acre-feet for the purpose of providing (a) improved streamflows and new passage and hatchery facilities for enhancement of resident and anadromous fish resources, (b) supplemental water supplies for irrigated lands, (c) flexibility in the Yakima Project storage system to strengthen flood control operations, (d) opportunity to develop recreational potential of the Bumping Lake area in a manner compatible with adjacent

natural values, and (e) modification of the spillway gates in Tieton Dam to improve winter operation for flood control.

Copies are available for inspection at the following locations:

Office of Environmental Affairs, Department of the Interior, Bureau of Reclamation, Room 7622, Washington, DC 20240, Telephone (202) 343-4991.

Division of Management Support, General Services, Denver Federal Center, E&R Center, Library Section, Code 950, Denver, CO 80225, Telephone (303) 234-3019.

Office of the Regional Director, Bureau of Reclamation, 550 West Fort Street, Box 043, Boise, ID 83724, Telephone (208) 384-1208.
Yakima Project Office, Bureau of Reclamation, 1917 Marsh Road, Box 1377, Yakima, WA 98901, Telephone (509) 575-5848.

Single copies of the final environmental statement may be obtained on request to the Commissioner of Reclamation or the Regional Director. Copies will also be available for inspection in libraries in south-central Washington. Please refer to the statement number above.

Dated: August 23, 1979.

Larry E. Meierotto,
Assistant Secretary of the Interior.

[FR Doc. 79-26682 Filed 8-27-79; 8:45 am]

BILLING CODE 4310-09-M

Heritage Conservation and Recreation Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the Heritage Conservation and Recreation Service before August 17, 1979. Pursuant to § 60.13 of 36 CFR Part 60, written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, Heritage Conservation and Recreation Service, U.S. Department of the Interior, Washington, DC 20243. Written comments or a request for additional time to prepare comments should be submitted by September 7, 1979.

Charles A. Herrington,
Acting Keeper of the National Register.

ALASKA

Sitka Division

Sitka, *Sitka Pioneers' Home*, Katlian Ave. and Lincoln St.

CALIFORNIA

Shasta County

Whiskeytown vicinity, *Lower Clear Creek Archeological District.*

CONNECTICUT

Hartford County

Plainville vicinity, *New Haven District Campground*, Off CT 177.

Tolland County

Mansfield Center vicinity, *Spring Hill Historic District*, 928-989 Storrs Rd., 3 East Rd., 3 and 4 Beebe Lane.

DELAWARE

New Castle County

Christiana, *Lewden, John, House*, 107 E. Main St.
Christiana, *Public School No. 111-C*, DE 7

Sussex County

Georgetown vicinity, *Pepper, Carlton David*, Farm, SR 469.

INDIANA

DeKalb County

Garrett, *Mountz House*, 507 E. Houston St.

St. Joseph County

Misawaka, *Kamm and Schellinger Brewery*, 100 Center St.

Vanderburgh County

Evansville, *Alhambra Theatre*, 50 Adams Ave.

Evansville, *Greyhound Bus Terminal*, 102 N.W. 3rd St.

Evansville, *McCurdy Building (Sears, Roebuck and Company Building)*, 101 N.W. 4th St.

KENTUCKY

Fayette County

Lexington, *Central Christian Church*, 207 E. Short St.

Lexington vicinity, *Rogers, Joseph Hale, House*, E of Lexington on Bryan Station Pike

Jefferson County

Louisville, *Crescent Hill Reservoir*, Reservoir Ave.

Laurel County

London, *Bennett, Sue, Memorial School Building*, College St.

MAINE

Androscoggin County

Lisbon vicinity, *Cushman Tavern*, NE of Lisbon on ME 9.

Kennebec County

Sidney vicinity, *Powers House*, Off ME 104.

Lincoln County

Medomak vicinity, *Weston, Daniel, Homestead*, W of Medomak On ME 32.
Waldoboro vicinity, *Ludwig, Godfrey, House*, N of Waldoboro On ME 32.

Penobscot County

Bangor, *Hamlin, Hannibal, House*, 15 5th St.

Piscataquis County

Guilford, *Hudson, H., Law Office*, Hudson Ave.

York County

North Berwick, *Hurd, Mary R., House*, Elm St.

Maryland

Allegany County

Cumberland, *Canada Hose Company*, 400-402 N. Mechanic St.

Baltimore (independent city)

Public School No. 25 (Capt. Henry Flante School), S. Bond St.

Public School No. 37 (Patrick Henry School)

E. Biddle St. and N. Patterson Park Ave.

Public School No. 99 (Columbus School) E.

North Ave. and N. Washington St.

Public School No. 109 (Broadway School) N.

Broadway and Ashland Ave.

School No. 111 (Francis Ellen Harper School)

N. Carrollton Ave. and Riggs Rd.

Baltimore County

Reisterstown, *Reisterstown Historic District*, U.S. 140 and MD 30.

Washington County

Beaver Creek vicinity, *Doub's Mill Historic District*, SW of Beaver Creek on Beaver Creek Rd.

Hagerstown, *South Prospect Street Historic District*, 18-278 S. Prospect St.

Massachusetts

Essex County

Beverly, *Beverly Depot*, Park St.

Middlesex County

Newton, *Winslow-Haskell Mansion*, 33 Vista Ave.

Suffolk County

Boston, *Commonwealth Pier Five*, 165 Northern Ave.

Nebraska

Nineteenth Century Terraced Houses Thematic Resources. Reference—see individual listings under Lancaster County.

Lancaster County

Lincoln, *Baldwin Terrace (Nineteenth Century Terrace Houses Thematic Resources)* S. 12th St. and K St.

Lincoln, *Borr Terrace (Nineteenth Century Terrace Houses Thematic Resources)* S. 11th St. and H St.

Lincoln, *Helmer-Winnett-White Flats (Nineteenth Century Terrace Houses Thematic Resources)* 1022-1028 K St.

Lincoln, *Lyman Terrace (Nineteenth Century Terrace Houses Thematic Resources)* 1111-1119 H St.

New Hampshire

Hillsborough County

Manchester, *Zimmerman House*, 223 Heather St.

New Jersey

Morris County

Fayson Lakes, *Fredericks House*, 6 Duchess Dr.

New York

Montgomery County
Fort Plain, Fort Plain Conservation Area.

NORTH CAROLINA

Caswell County
Yanceyville vicinity, Poteat House, N of Yanceyville on NC 82.

Greene County

Snow Hill, St. Barnabas Episcopal Church, SE. 4th St., and St. Barnabas Rd.

Martin County

Williamston, Biggs, Asa, House and Site, 100 E. Church St.

Vance County

Kittrell vicinity, Crudup, Josiah, House, S of Kittrell on U.S. 1.

OREGON**Coos County**

Bandon vicinity, Philpott Site (35 CS 1).

Hood River County

Hood River vicinity, Columbia Gorge Hotel, W. of Hood River at 9000 Westcliffe Dr.

Marion County

St. Paul, St. Paul Roman Catholic Church, Off OR 219.

PENNSYLVANIA**Bucks County**

Erwinna, Stover Mill, PA 32.

Centre County

Philipsburg, Rowland Theatre, Front St.

Lancaster County

Lancaster, Germania Turnverein Building, 33-35 N. Market St.
Lancaster, Hager Building, 25 W. King St.
Lancaster, Sprenger Brewery, 125-131 E. King St.
Lancaster, Steinman Hardware Store, 26-28 W. King St.
Lancaster, Yeates, Jasper, House, 24-46 S. Queen St.

TEXAS**Guadalupe County**

Seguin, Saffold Dam, Off TX 123.

San Patricio County

San Patricio vicinity, McGloin, James, Homestead, NW of San Patricio (boundary increase).

Shackelford County

Fort Griffin vicinity, Fort Griffin Brazos River Bridge, NE of Fort Griffin.

Tarrant County

Fort Worth, Eddleman-McFarland House, 1110 Penn St.

Wise County

Chico, Brown, J.T., Hotel, E. Decatur St.

UTAH**Cache County**

Wellsville, Howell-Theurer House, 30 S. 100 East.

Juab County

Nephi, Booth, Edwin Robert, House, 94 W. 300 South St.

VIRGIN ISLANDS**St. John Island**

Cruz Bay, Keating's Inn, (7-6-78) (proposed move).

VIRGINIA**Fairfax County**

Great Falls vicinity, Patowmack Canal Historic District, E of Great Falls within Great Falls Park (also in Montgomery County, MD).

Hopewell (independent city)

City Point Historic District.

[FR Doc. 79-26391 Filed 8-27-79; 8:46 am]
BILLING CODE 4310-03-M

DEPARTMENT OF JUSTICE**Drug Enforcement Administration**

[Docket No. 79-13]

Thomas W. Moore, Jr., M.D.; Bronx, New York: Hearing

Notice is hereby given that on June 18, 1979, the Drug Enforcement Administration, Department of Justice, issued to Thomas W. Moore, Jr., M.D., Bronx, New York, an Order to Show Cause as to why the Drug Enforcement Administration should not deny Respondent's application for registration under the Controlled Substances Act, executed on or about February 16, 1979.

Thirty days having elapsed since the said Order to Show Cause was received by Respondent, and written request for a hearing having been filed with the Drug Enforcement Administration, notice is hereby given that a hearing in this matter will be held commencing at 10:00 a.m., on Tuesday, September 18, 1979, in the Hearing Room, Room 1210, Drug Enforcement Administration, 1405 I Street, N.W., Washington, D.C.

Dated: August 21 1979.

Peter B. Bensinger,
Administrator, Drug Enforcement Administration.

[FR Doc. 79-26735 Filed 8-27-79; 8:46 am]
BILLING CODE 4110-09-M

DEPARTMENT OF LABOR**Occupational Safety and Health Administration****Advisory Committee on Construction Safety and Health Subgroup on Health Standards; Cancellation of Meeting**

The meeting of the subgroup on Health Standards of the Advisory

Committee on Construction Safety & Health scheduled for August 29 and 30, 1979 in Washington, D.C., is hereby cancelled. Notice of this meeting was published on August 10, 1979 (44 FR 156). The meeting will be rescheduled at a later date. Details will be published in the Federal Register.

Signed at Washington, D.C. this 23rd day of August, 1979.

Eula Bingham,

Assistant Secretary of Labor.

[FR Doc. 79-26780 Filed 8-27-79; 8:46 am]
BILLING CODE 4510-26-M

NUCLEAR REGULATORY COMMISSION**Privacy Act of 1974; New System of Records**

AGENCY: U.S. Nuclear Regulatory Commission (NRC).

ACTION: Notification of proposed new system of records.

SUMMARY: The NRC is proposing to establish a new system of records, subject to the Privacy Act. The purpose of the system is to enable the agency to maintain document control for all documents originated by and received by the NRC and to serve as an information source for these documents. The system will incorporate existing system NRC-26. Upon publication of the new system, existing system NRC-26 will be deleted.

COMMENT DATE: Comments are due on or before September 27, 1979.

ADDRESS: Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch.

FOR FURTHER INFORMATION CONTACT: Ellen Whitlow, FOIA/PA Branch, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone (301) 492-8133.

SUPPLEMENTARY INFORMATION: The new system is identified as Document Control System. It will consist of correspondence and related documents originated by or received by the NRC.

A new system report was filed with the President of the Senate, the Speaker of the House and the Office of Management and Budget on August 20, 1979. The Prefatory Statement containing General Routine Uses applicable to the NRC's systems of records was published at 42 FR 49082, 9/26/77.

All interested persons who desire to submit written comments or suggestions for consideration in connection with the

proposed new system of records should send them to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing & Service Branch, by September 27, 1979. Copies of comments received will be available for inspection and copying at the Commission's Public Document Room, 1717 H Street NW., Washington, DC.

Dated at Bethesda, MD, this 13th day of August 1979.

For the Nuclear Regulatory Commission,
Lee V. Gossick,
Executive Director for Operations.

NRC-29**SYSTEM NAME:**

Document Control System—NRC.
Pursuant to 5 U.S.C. 552a(k), the Commission has exempted portions of this system of records from 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), (I), and (f). This exemption rule is contained in section 9.95 of the NRC regulation (10 CFR 9.95).

SYSTEM LOCATION:

Primary system—
Record Facilities Branch, Office of Administration, NRC, 7920 Norfolk Avenue, Bethesda, Maryland.
Duplicate System—duplicate systems exist, in whole or in part, at the locations listed in Addendum I, Parts 1 and 2, the NRC Local Public Document Rooms (LPDR's) and at the TERA Advanced Services Corporation, 7101 Wisconsin Avenue, Suite 1400, Bethesda, Maryland.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

NRC staff, contractors, and sub-contractors licensees, Congressional offices, and other correspondents with the NRC.

CATEGORIES OF RECORDS IN THE SYSTEM:

Documents both received by and originated by the NRC.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

a. 44 U.S.C. 3101;
b. Sec. 201, Energy Reorganization Act of 1974, 42 U.S.C. 5841.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

a. To refer, where appropriate, inquiries to Federal agencies or persons for their reply or action;
b. To provide information to persons or agencies requesting this information, including provision of Daily Accession Lists in the NRC and Local Public Document Rooms.

c. To prepare a monthly "Title List of Documents Made Publicly Available", and

d. For any of the routine uses specified in the Prefatory Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**STORAGE:**

Maintained on microfiche, disks, tapes, and paper in file folders. Classified documents are maintained in locked safes; proprietary and sensitive safeguards documents are maintained in secured facilities.

RETRIEVABILITY:

Accessed by name (author or recipient), corporate source, title of document, subject matter, or other identifying document or control number.

SAFEGUARDS:

Access to and use of these records are limited to those persons whose official duties required such access. Information not exempt from disclosure under the Freedom of Information Act (FOIA) will be publicly available in the PDR and LPDR's.

RETENTION AND DISPOSAL:

Retained and destroyed in accordance with approved records disposal schedules for the various types of records involved.

SYSTEM MANAGER(S) AND ADDRESSES:

Director, Division of Technical Information and Document Control, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

NOTIFICATION PROCEDURE:

Director, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

RECORD ACCESS PROCEDURES:

Same as "Notification procedure". Information which is classified or otherwise exempt from public disclosure under the FOIA and will not be disclosed.

CONTESTING RECORD PROCEDURES:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

Information in this system of records comes from the correspondence to and from the NRC, contractors, and NRC employees.

SYSTEMS OF RECORDS EXEMPT FROM CERTAIN PROVISIONS OF THE ACT:

Pursuant to 5 U.S.C. 552a(k), the Commission has exempted portions of this system of records from 5 U.S.C.

552a(c)(3), (d), (e)(1), (e)(4) (G), (H), (I), and (f). This exemption rule is contained in section 9.95 of the NRC regulation (10 CFR 9.95).

[FR Doc. 79-26596 Filed 8-27-79; 8:45 am]
BILLING CODE 7590-01-M

[Docket No. PRM-140-1]

Public Citizen Litigation Group Critical Mass Energy Project; Filing of Petition for Rule Making

Notice is hereby given that representatives of the Public Citizen Litigation Group and the Critical Mass Energy Project, by petition dated July 24, 1979, have requested that the Nuclear Regulatory Commission (NRC) find, pursuant to the procedures and criteria in the NRC's regulation's (Subpart E of 10 CFR Part 140), that the nuclear accident commencing on March 28, 1979 at the Three Mile Island, Unit 2 nuclear power plant constitutes an "extraordinary nuclear occurrence" (ENO). The petition also requested that the NRC amend Subpart E of 10 CFR Part 140 to make less stringent the criteria used by the Commission for determination of whether or not an ENO has occurred.

The Commission intends to treat the first part of the petition as a response to its July 23, 1979, Federal Register notice (44 FR 43128) announcing its decision to initiate "the making of a determination as to whether or not the recent accident at Three Mile Island constitutes an extraordinary nuclear occurrence" and inviting interested persons to submit to the Commission on or before August 22, 1979 "any information in their possession relevant to this determination."

The Commission intends to treat the second part of the petition as being a petition for rule making filed in accordance with 10 CFR 2.802 of the Commission's regulations. This part of the petition states, in relevant part, as follows:

Whether or not the Commission finds that the criteria currently set out in its regulations indicate that the accident at Three Mile Island was an extraordinary nuclear occurrence, petitioners request that the Commission alter or amend those criteria to bring them more into line with the clear intent of Congress on this matter.

Under these criteria, there is no question that the accident at Three Mile Island is of the size and type Congress was led to believe would be considered an extraordinary nuclear occurrence. However, from the inception of the concept of an extraordinary nuclear occurrence, the Commission also contemplated criteria establishing an accident of much smaller proportions than Three Mile Island as an extraordinary nuclear occurrence.

Inasmuch as the Commission has the power and discretion to make the definition of an extraordinary nuclear occurrence responsive to the circumstances and needs of the public, and inasmuch as accidents of far smaller size could be designated extraordinary nuclear occurrences in conformity with the legislative intent of the Price-Anderson Act as amended, it is appropriate and necessary that the criteria for the determination of an extraordinary nuclear occurrence be revised, altered or amended so as to respond effectively to those circumstances and demonstrated needs. In order that the assurances to the public and to Congress not prove to be empty promises, petitioners urge the Commission to alter or amend its criteria for an extraordinary occurrence through appropriate rulemaking procedures, whether or not the current criteria are satisfied by the accident at Three Mile Island.

A copy of the petition for rule making is available for public inspection in the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. A copy of the petition may be obtained by writing to the Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

All persons who desire to submit written comments or suggestions concerning the petition for rule making should send their comments to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555 Attention: Docketing and Service Branch by October 29, 1979.

FOR FURTHER INFORMATION CONTACT: Joseph M. Felton, Director, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Telephone: 301-492-7211.

Dated at Washington, DC this 22nd day of August, 1979.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 79-26676 Filed 8-27-79; 8:45 am]

BILLING CODE 7590-01-M

POSTAL RATE COMMISSION

[Docket No. MC79-4]

Mail Classification Schedule— Merchandise Return Service, 1979; U.S. Postal Service Filing of Request for Recommended Decision on Establishing a Special Service for Merchandise Return

August 22, 1979.

Notice is hereby given that on August 13, 1979, the United States Postal

Service ("Postal Service"), pursuant to section 3623 of the Postal Reorganization Act (39 U.S.C. 3623), filed a request with the Postal Rate Commission for a recommended decision on establishing a special service for merchandise return. This filing has been assigned Docket No. MC79-4.

The Postal Service states that its request contains such information and data which explain the nature, scope, significance and impact of the proposed special service for merchandise return. Further, the Postal Service states that this proposed service would answer the need of businesses to permit customers to return merchandise without prepaying the postage. The proposed service is to be available to mailers of all classes;¹ however, the Postal Service anticipates that the special service will be used primarily for single piece third-class, special rate fourth-class and parcel post mail.

The merchandise return service would utilize a two-part label printed by the business shipper.² If the customer recipient wishes to return merchandise that has been shipped, the customer would notify the shipper who would then send the customer the two-part label. The customer would re-wrap the parcel and take it to the post office. An employee at the post office would compute the postage, writing it on both parts of the label; that employee would separate the parts of the label, affixing the top portion to the parcel and putting the bottom portion in the first-class mailstream. When the bottom portion arrived at the destination post office, the amount due for each shipper would be computed and the trust-fund account adjusted. The merchandise-return labels, together with the appropriate billing forms, would be put in an envelope for delivery to the shipper.

Hearings will be held on the proposal submitted by the Postal Service in Docket No. MC79-4. Any person desiring to be heard with reference thereto and to become a party to the proceeding, or to participate as a party in any hearing thereon, should file a petition for leave to intervene. Petitions for leave to intervene must be filed with the Secretary, Postal Rate Commission, Washington, D.C. 20268 on or before September 11, 1979, and must be in

accordance with § 20 of the Commission's rules of practice (39 CFR 3001.20). We direct specific attention to § 20(b) which provides that petitions for leave to intervene shall affirmatively state whether or not petitioner requests a hearing or, in lieu thereof, a conference; and further, whether or not the petitioner intends to participate actively in the hearing.³ Alternatively, persons seeking limited participation, but who do not wish to become parties may, on or before September 11, 1979, file a written request for leave to be heard as a "limited participant," pursuant to § 19a of the Commission's rules of practice (39 CFR 3001.19a). In addition, persons wishing to express their views informally, and not desiring to become a party or limited participant, may file comments pursuant to § 19b of the Commission's rules, 39 CFR 3001.19b.

At the same time as it filed its Proposal, the Postal Service, under Commission rule 64(h)(3), filed a motion for "waiver of rule 64(e), of rule 64(h)(2)(i) insofar as it incorporates rules 54(f) (2), (3) and 54(j) (5), (6), and of rule 64(d) (ii), (iii)." The Postal Service says that rule 64(h)(2)(i) insofar as it incorporates rules 54(f) (2), (3) and 54(j) (5), (6), and rule 64(d) (ii), (iii) should be waived because the Postal Service's rates and fees and the cost-revenue relationship would not be significantly affected. The Postal Service further argues that waiver should be granted because no accurate volume forecast of the proposed service can be projected. Finally, the Postal Service says rule 64(e) should be waived because no interclass changes are contemplated. Parties who wish to address the Postal Service's motion should file their answers by September 11, 1979.

The request of the Postal Service for a recommended decision on establishing a special service for merchandise return and the motion for waiver of certain filing provisions of the rules of practice and procedure are on file with the Commission and are available for public inspection during regular business hours.

³ In this regard, parties who intend to participate actively in this proceeding are encouraged informally and promptly to inform the Postal Service of desired preliminary clarifications of the Postal Service's presentation wherever the participant believes such clarification will expedite this proceeding.

¹ The specific additions to the mail classification schedule are set out, in legislative format, in Attachment A to the Postal Service's Request.

² The service would be available to all shippers. The Postal Service predicts that only businesses would incur the expenses involved.

Further, the Commission designates Stephen L. Sharfman, Assistant General Counsel, Litigation, as the Officer of the Commission in Docket No. MC79-4.

David F. Harris,

Secretary.

[FR Doc. 79-26653 Filed 8-27-79; 8:45 am]

BILLING CODE 7715-01-M

PRESIDENTIAL COMMISSION ON WORLD HUNGER

Meeting

The eighth meeting of the Presidential Commission on World Hunger will be held on Friday, September 7, 1979, in Room 2010 of the New Executive Office Building, 726 Jackson Place, N.W., Washington, D.C. The meeting will begin at 9:30 a.m. and conclude at approximately 4:30 p.m.

The agenda for the meeting will include discussion of draft portions of the Commission's Report.

The meeting will be open to observation by the public to the extent space is available. Reservations are required and requests should be addressed to Presidential Commission on World Hunger, 734 Jackson Place, N.W., Washington, D.C. 20006. Reservations will be honored on the basis of the earliest postmarks of requests.

Donald B. Harper,

Administrative Officer, Presidential
Commission on World Hunger.

[FR Doc. 79-26854 Filed 8-27-79; 8:45 am]

BILLING CODE 6820-97-M

SMALL BUSINESS ADMINISTRATION

Region I Advisory Council Meeting; Public Meeting

The Small Business Administration Region I Advisory Council, located in the geographical area of Concord, New Hampshire, will hold a public meeting at 10:00 a.m., Wednesday, September 19, 1979, in the conference room #404 on the fourth floor of the Concord Federal Building, 55 Pleasant Street, Concord, New Hampshire, to discuss such business as may be presented by members, the staff of the U.S. Small Business Administration, and others attending.

For further information, write or call Bert Teague, District Director, U.S. Small Business Administration, 55 Pleasant Street, Concord, New Hampshire, 03301 (603) 224-5588.

Dated: August 21, 1979.

K Drew,

Deputy Advocate for Advisory Councils.

[FR Doc. 79-26751 Filed 8-27-79; 8:45 am]

BILLING CODE 8025-01-M

Region I Advisory Council Meeting; Public Meeting

The Small Business Administration Region I Advisory Council, located in the geographical area of Providence, Rhode Island, will hold a public meeting at 12:00 noon, Monday, October 15, 1979, at the Governor Dyer's Buffet House, Providence, Rhode Island, to discuss such business as may be presented by members, the staff of the U.S. Small Business Administration, and others attending.

For further information, write or call Charles J. Fogarty, District Director, U.S. Small Business Administration, 57 Eddy Street, Providence, Rhode Island 02903—(401) 528-4580.

Dated: August 21, 1979.

K Drew,

Deputy Advocate for Advisory Councils.

[FR Doc. 79-26749 Filed 8-27-79; 8:45 am]

BILLING CODE 8025-01-M

Region IV Advisory Council Meeting; Public Meeting

The Small Business Administration Region IV Advisory Council, located in the geographical area of Charlotte, North Carolina, will hold a public meeting at 2:00 p.m., Wednesday, September 19, 1979, and Thursday, September 20, 1979, at Fairfield Harbour, New Bern, North Carolina, to discuss such business as may be presented by members, the staff of the U.S. Small Business Administration, and others attending.

For further information, write or call George W. Marschall, District Director, U.S. Small Business Administration, 230 South Tryon Street, Suite 700, Charlotte, North Carolina 28202—(704) 371-6561.

Dated: August 21, 1979.

K Drew,

Deputy Advocate for Advisory Councils.

[FR Doc. 79-26747 Filed 8-27-79; 8:45 am]

BILLING CODE 8025-01-M

Region IV Advisory Council Meeting; Public Meeting

The Small Business Administration Region IV Advisory Council, located in the geographical area of Jackson, Mississippi, will hold a public meeting

at 9:00 a.m., Friday, September 28, 1979, at Howard Johnson Motor Lodge, Tom Bailey Drive, Meridian, Mississippi, to discuss such business as may be presented by members, the staff of the U.S. Small Business Administration, and others attending.

For further information, write or call Ardis Jones, District Director, U.S. Small Business Administration, Suite 322 Federal Building, 100 West Capitol Street, Jackson, Mississippi 39201—(601) 969-4363.

Dated: August 21, 1979.

K Drew,

Deputy Advocate for Advisory Councils.

[FR Doc. 79-26746 Filed 8-27-79; 8:45 am]

BILLING CODE 8025-01-M

Region IX Advisory Council Meeting; Public Meeting

The Small Business Administration Region IX Advisory Council, located in the geographical area of San Diego, California, will hold a public meeting at 11:30 a.m., through 2:30 p.m., Thursday, September 27, 1979, at the Little America Westgate Hotel, San Diego, California, to discuss such business as may be presented by members, the staff of the U.S. Small Business Administration, and others attending.

For further information, write or call Robert B. Strauss, District Director, U.S. Small Business Administration, 880 Front Street, Suite 4-S-33, San Diego, California 92188—(714) 895-5430.

Dated: August 21, 1979.

K Drew,

Deputy Advocate for Advisory Councils.

[FR Doc. 79-26750 Filed 8-27-79; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF STATE

Office of the Secretary

(CM-8/219)

Study Group 1 of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT); Meeting

The Department of State announces that Study Group 1 of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT) will meet on September 19, 1979 at 9:30 a.m. in Room A-110 (Annex) of the Federal Communications Commission, 1229 20th Street, NW., Washington, D.C. This Study Group deals with U.S. Government regulatory aspects of international telegraph and telephone operations and tariffs.

The Study Group will discuss international telecommunications questions relating to telegraph, telex, new record services, data transmission and leased channel services in order to develop U.S. positions to be taken at international CCITT meetings.

Members of the general public may attend the meeting and join in the discussion subject to instructions of the Chairman. Admittance of public members will be limited to the seating available.

Requests for further information should be directed to Richard H. Howarth, State Department, Washington, D.C. 20520, telephone (202) 632-1007.

Richard H. Howarth,

Chairman, U.S. CCITT National Committee.

August 17, 1979.

[FR Doc. 79-26683 Filed 8-27-79; 8:45 am]

BILLING CODE 4710-07-M

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

[Notice No. 79-6]

Commerce in Explosives; List of Explosive Materials

Pursuant to the provisions of section 841(d) of Title 18, United States Code, and 27 CFR 181.23, the Director, Bureau of Alcohol, Tobacco, and Firearms, must publish and revise at least annually in the Federal Register a list of explosives determined to be within the coverage of 18 U.S.C. Chapter 40, Importation, Manufacture, Distribution and Storage of Explosive Materials. This Chapter covers not only explosives, but also blasting agents and detonators, all of which are defined as explosive materials in section 841(c) of Title 18, United States Code.

Accordingly, the following is the 1979 List of Explosive Materials subject to regulation under 18 U.S.C. Chapter 40, which includes both the list of explosives (including detonators) required to be published in the Federal Register and blasting agents. The list is intended to also include any and all mixtures containing any of the materials in the list. Materials constituting blasting agents are marked by an asterisk. While the list is comprehensive, it is not all inclusive. The fact that an explosive material may not be on the list does not mean that it is not within the coverage of the law if it otherwise meets the statutory definitions in Section 841 of Title 18, United States Code. Explosive materials are listed alphabetically by their

common names followed by chemical names and synonyms in brackets. This revised list supersedes the List of Explosive Materials dated July 27, 1978 (43 FR 32492).

List of Explosive Materials

A

Acetylides of heavy metals.
Aluminum containing polymeric propellant.
Aluminum ophorite explosive.
Amatex.
Amatol.
Ammonal.
Ammonium nitrate explosive mixtures (cap sensitive).
*Ammonium nitrate explosive mixtures (non cap sensitive).
Aromatic nitro-compound explosive mixtures.
Ammonium perchlorate having particle size less than 15 microns.
Ammonium perchlorate composite propellant.
Ammonium picrate [picrate of ammonia, Explosive D].
Ammonium salt lattice with isomorphously substituted inorganic salts.
*ANFO [ammonium nitrate-fuel oil].

B

Baratol.
Baronol.
BEAF [1, 2-bis (2, 2-difluoro-2-nitroacetoxyethane)].
Black powder.
Black powder based explosive mixtures.
*Blasting agents, nitro-carbo-nitrates, including non cap sensitive slurry and water-gel explosives.
Blasting caps.
Blasting gelatin.
Blasting powder.
BTNEC [bis (trinitroethyl) carbonate].
BTNEN [bis (trinitroethyl) nitramine].
BTTN [1,2,4 butanetriol trinitrate].
Butyl tetryl.

C

Calcium nitrate explosive mixture.
Cellulose hexanitrate explosive mixture.
Chlorate explosive mixtures.
Composition A and variations.
Composition B and variations.
Composition C and variations.
Copper acetylide.
Cyanuric triazide.
Cyclotrimethylenetrinitramine [RDX].
Cyclotetramethylenetetranitramine [HMX].
Cyclotol.

D

DATB [diaminotrinitrobenzene].
DDNP [diazodinitrophenol].
DEGDN [diethyleneglycol dinitrate].
Detonating cord.
Detonators.
Dimethylol dimethyl methane dinitrate composition.
Dinitroethylenurea
Dinitroglycerine [glycerol dinitrate].
Dinitrophenol.
Dinitrophenolates.
Dinitrophenyl hydrazine.
Dinitroresorcinol.
Dinitrotoluene-sodium nitrate explosive mixtures.

DIPAM.

Dipicryl sulfone.
Dipicrylamine.
DNBP [dinitropentano nitrile].
DNPA [2, 2-dinitropropyl acrylate].
Dynamite.

E

EDNA.
Ednatol.
EDNP [ethyl 4, 4-dinitropentanoate].
Erythritol tetranitrate explosives.
Esters of nitro-substituted alcohols.
EDGN [ethylene glycol dinitrate].
Ethyl-tetryl.
Explosive conitrates.
Explosive gelatins.
Explosive mixtures containing oxygen releasing inorganic salts and hydrocarbons.
Explosive mixtures containing oxygen releasing inorganic salts and nitro bodies.
Explosive mixtures containing oxygen releasing inorganic salts and water insoluble fuels.
Explosive mixtures containing oxygen releasing inorganic salts and water soluble fuels.
Explosive mixtures containing sensitized nitromethane.
Explosive mixtures containing tetranitromethane (nitro form).
Explosive nitro compounds of aromatic hydrocarbons.
Explosive organic nitrate mixtures.
Explosive liquids.
Explosive powders.

F

Fulminate of mercury.
Fulminate of silver.
Fulminating gold.
Fulminating mercury.
Fulminating platinum.
Fulminating silver.
Gelatinized nitrocellulose.
Gem-dinitro aliphatic explosive mixtures.
Guanyl nitrosamino guanyl tetrazene.
Guanyl nitrosamino guanylidene hydrazine.
Guncotton.

H

Heavy metal azides.
Hexanite.
Hexanitrodiphenylamine.
Hexanitrostilbene.
Hexogen or octogene and a nitrated H-methylaniline.
Hexolites.
HMX [cyclo-1, 3, 5, 7-tetramethylene-2, 4, 6, 8-tetranitramine; Octogen].
Hydrazinium nitrate/hydrazine/aluminum explosive system.
Hydrazoic acid.

I

Igniter cord.
Igniters.

K

KDNBF [potassium dinitrobenzo-furoxane].

L

Lead azide.
Lead mannite.
Lead mononitroresorcinol.
Lead picrate.
Lead salts, explosive.

Lead styphnate [styphnate of lead, lead trinitroresorcinol].
Liquid nitrated polyol and trimethylolethane.
Liquid oxygen explosives.

M

Magnesium ophorite explosives.
Mannitol hexanitrate.
MDNP [methyl 4, 4-dinitropentanoate].
Mercuric fulminate.
Mercury oxalate.
Mercury tartrate.
Minol-2 [40% TNT, 40% ammonium nitrate, 20% aluminum].
Mononitrotoluene-nitroglycer in mixture.
Monopropellants.

N

NIBTN [nitroisobutametrial trinitrate].
Nitrate sensitized with gelled nitroparaffin.
Nitrated carbohydrate explosive.
Nitrated glucoside explosive.
Nitrated polyhydric alcohol explosives.
Nitrates of soda explosive mixtures.
Nitric acid and a nitro aromatic compound explosive.
Nitric acid and carboxylic fuel explosive.
Nitric acid explosive mixtures.
Nitro aromatic explosive mixtures.
Nitro compounds of furane explosive mixtures.
Nitrocellulose explosive.
Nitroderivative of urea explosive mixture.
Nitrogelatin explosive.
Nitrogen trichloride.
Nitrogen tri-iodide.
Nitroglycerine [NG, RNG, nitro, glyceryl trinitrate, trinitroglycerine].
Nitroglycide.
Nitroglycol [ethylene glycol dinitrate, EGDN].
Nitroguanidine explosives.
Nitroparaffins and ammonium nitrate mixtures.
Nitronium perchlorate propellant mixtures.
Nitrostarch.
Nitro-substituted carboxylic acids.
Nitrourea.

O

Octogen [HMX].
Octol [75 percent HMX, 25 percent TNT].
Organic amine nitrates.
Organ nitramines.

P

PBX [RDX and Plasticizer].
Pellet powder.
Penthrinite composition.
Pentolite.
Perchlorate explosive mixtures.
Peroxide based explosive mixtures.
PETN [nitropentaerythrite, pentaerythrite tetranitrate, pentaerythritol tetranitrate].
Picramic acid and its salts.
Picramide.
Picrate of potassium explosive mixtures.
Picratol.
Picric acid (explosive grade).
Picryl chloride.
Picryl fluoride.
PLX [95 percent nitromethane, 5 percent ethylenediamine].
Polynitro aliphatic compounds.
Polyolpolynitrate-nitrocellulose explosive gels.
Potassium chlorate and lead sulfocyanate explosive.

Potassium nitrate explosive mixtures.
Potassium nitroaminotetrazole.

R

RDX [cyclonite, hexogen, T4, cyclo-1,3,5-trimethylene-2,4,6-trinitramine; hexahydro-1,3,5-trinitro-S-triazine].

S

Safety fuse.
Salts of organic amino sulfonic acid explosive mixture.
Silver acetylide.
Silver azide.
Silver fulminate.
Silver oxalate explosive mixtures.
Silver styphnate.
Silver tartrate explosive mixtures.
Silver tetrazene.
Slurried explosive mixtures of water, inorganic oxidizing salt, gelling agent, fuel and sensitizer (cap sensitive).
Smokeless powder.
Sodatol.
Sodium amatol.
Sodium dinitro-ortho-cresolate.
Sodium nitrate-potassium nitrate explosive mixture.
Sodium picramate.
Squibs.
Styphinc acid.

T

Tacot [tetranitro-2,3,5,6-dibenzo-1,3a,4,6a-tetrazapentalene].
TATB [Triaminotrinitrobenzene].
TEGDN [triethylene glycol dinitrate].
Tetrazene [tetracene, tetrazine, 1(5-tetrazolyl)-4-guanyl tetrazene hydrate].
Tetranitrocarbazole.
Tetryl [2,4,6 tetranitro-N-methylaniline].
Tetrytol.
Thickened inorganic oxidizer salt slurried explosive mixture.
TMETN (trimethylolethane trinitrate).
TNEF [trinitroethyl formal].
TNEOC [trinitroethylorthocarbonate].
TNEOF [trinitroethyl orthoformate].
TNT [trinitrotoluene, trotyl, trilit, trilon].
Torpex.
Tridite.
Trimethylol ethyl methane trinitrate composition.
Trimethylolthane trinitrate-nitrocellulose.
Trimonite.
Trinitroanisole.
Trinitrobenzene.
Trinitrobenzoic acid.
Trinitrocresol.
Trinitro-meta-cresol.
Trinitronaphthalene.
Trinitrophenol.
Trinitrophenolglucoside.
Trinitroresorcinol.
Tritonal.

U

Urea nitrate.

W

Water bearing explosives having salts of oxidizing acids and nitrogen bases, sulfates, or sulfamates (cap sensitive).

X

Xanthamons hydrophilic colloid explosive mixture.

Signed: July 11, 1979.
J. R. Dickerson,
Director.
[FR Doc. 79-26655 Filed 8-27-79; 8:45 am]
BILLING CODE 4810-31

Customs Service

Malleable Pipe Fittings of Iron From Japan; Receipt of Countervailing Duty Petition and Initiation of Investigation

AGENCY: United States Customs Service, Treasury Department.

ACTION: Initiation of Countervailing Duty Investigation.

SUMMARY: This notice is to advise the public that a satisfactory petition has been received and that a countervailing duty investigation has been initiated to determine if benefits which constitute the payment of a bounty or grant within the meaning of the countervailing duty law are conferred by the Government of Japan upon the manufacture, production or exportation of malleable pipe fittings of iron. A preliminary determination will be made no later than December 26, 1979, and a final determination in accordance with section 102(a)(2) of the Trade Agreements Act of 1979, will be made no later than March 17, 1980.

EFFECTIVE DATE: August 28, 1979.

FOR FURTHER INFORMATION CONTACT: Stephen Nyschot, Duty Assessment Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229, telephone (202) 566-5492.

SUPPLEMENTARY INFORMATION: A petition in satisfactory form was received on June 26, 1979, on behalf of the American Pipe Fittings Associates alleging that benefits conferred by the Government of Japan upon the manufacture, production or exportation of malleable pipe fittings of iron from Japan constitute the payment or bestowal of a bounty or grant within the meaning of section 303, Tariff Act of 1930 as amended (19 U.S.C. 1303).

The products covered by this investigation are malleable pipe fittings of iron used as fittings and junctions in water, steam and gas piping systems. These products are classified under item no. 610.7400, TSUSA, as cast iron fittings, malleable, advanced in condition by operations or processes subsequent to the casting process.

The petitioner alleges that financial assistance for small and medium sized enterprises under legislation enacted February 14, 1978 entitled "Law Concerning Temporary Measures for Medium and Small Enterprises Related to Steep Revaluation of Yen Rates" (High Yen Measures Law) constitutes

bounties or grants. Under this law, qualified enterprises have access to low interest loans for the stabilization of business and for the establishment of facilities required for a change of business, liberalized repayment terms for loans used for modernization, liberalized terms for government sponsored credit guarantees and extended carry forward and carry back periods for net losses when computing taxable corporate income.

Other programs which petitioner alleges constitute bounties or grants are:

- (1) Access to a special credit fund sponsored by the government of Japan for the disposition of idle facilities in depressed industries.

- (2) Tax deferral on part of previous year's export earnings and current year deduction of all outlays for new market development under the Overseas Market and Development Reserve Program (OMDR).

- (3) Export promotion assistance through overseas market research, introductory advertising, foreign credit investigations and overseas trade fairs by the Japan External Trade Organization (JETRO).

- (4) Loans granted on concessionary terms by the Japan Development Bank (JDB).

The high yen measures and the tax deferral aspects of OMDR listed above been found to constitute a bounty or grant in prior investigations.

The alleged bounty concerning Government of Japan guarantees of repayment of certain loans to depressed industries has not been the subject of prior countervailing duty determinations. It is currently under investigation in the case of *Valves and Parts Thereof from Japan*, 44 FR 18780 (1979). While this program on its face is not export oriented, its effect could be to provide bounties or grants and therefore will be investigated with respect to the malleable pipe fitting industry.

The assistance rendered by JETRO is general in nature and not oriented towards the export promotion of specific products. Treasury has, in past determinations, concluded that this program results in the payment or bestowal of a bounty or grant on the grounds that these activities, at least indirectly, defray costs which would otherwise be incurred by the exporters involved and to that extent may subsidize the industry under consideration. However, information has been presented indicating that JETRO has altered its activities to include the promotion of imports into Japan. The changed nature of JETRO's overall mission, particularly its activities relating to import assistance

and promotion, has led Treasury to reconsider whether JETRO expenditures are countervailable. Pending resolution of this question, this program will be included in the investigation, and the Treasury invites public comment as to the appropriate resolution of this issue.

Preferential financing by the JDB (No. 4) was found to constitute a bounty or grant in *Certain Consumer Electronic Products from Japan*, 41 FR 1298 (1976), although in that case its effect was found to be *de minimis* in size.

Each of these programs will, therefore, be investigated in the proceedings hereby initiated.

Pursuant to section 303(a)(4) of the Tariff Act of 1930, as amended (19 U.S.C. 1303(a)(4)), the Secretary of the Treasury is required to issue a preliminary determination as to whether or not any bounty or grant is being paid or bestowed within the meaning of the statute within 6 months of receipt, in satisfactory form, of a petition alleging the payment or bestowal of a bounty or grant. Under section 102(a)(2) of the Trade Agreements Act of 1979, a final determination will be made within 75 days of the coming into force of the law on January 1, 1980.

Therefore, a preliminary determination regarding this petition will be made no later than December 26, 1979, as to whether or not the alleged payments or bestowals conferred by the Government of Japan upon the manufacture, production, or exportation of the merchandise described above constitute a bounty or grant within the meaning of section 303, Tariff Act of 1930, as amended. A final determination will be made no later than March 17, 1980.

This notice is published pursuant to section 303(a)(3) of the Tariff Act of 1930, as amended (19 U.S.C. 1303(a)(3)), and § 159.47(c) of the Customs Regulations (19 CFR 159.47(c)).

Pursuant to Reorganization Plan No. 26 of 1950 and Treasury Department Order No. 101-5, May 16, 1979, the provisions of Treasury Department Order No. 165, revised, November 2, 1954, and § 159.47 of the Customs Regulations (19 CFR 159.47), insofar as they pertain to the initiation of a countervailing duty investigation by the Commissioner of Customs, are hereby waived.

David R. Brennan,
Acting General Counsel of the Treasury.

August 21, 1979.
[FR Doc. 79-26681 Filed 8-27-79; 8:45 am]
BILLING CODE 4810-22-M

Office of the Secretary

[Supplement to Department Circular Public Debt Series—No. 19-79]

Series W-1981 Notes; Interest Rate

August 23, 1979.

The Secretary announced on August 22, 1979, that the interest rate on the notes designated Series W-1981, described in Department Circular—Public Debt Series—No. 19-79, dated August 15, 1979, will be 9% percent. Interest on the notes will be payable at the rate of 9% percent per annum.

Paul H. Taylor,
Fiscal Assistant Secretary.

[FR Doc. 79-26703 Filed 8-27-79; 8:45 am]
BILLING CODE 4810-40-M

Office of Revenue Sharing

Final Date of Adjustments; Demands for Entitlement Period Nine

AGENCY: Office of Revenue Sharing, Department of the Treasury.

ACTION: Data Notice.

SUMMARY: This notice announces that allocation payments to State and local governments for Entitlement Period Nine (October 1, 1977—September 30, 1978) of general revenue sharing will be final unless a demand for adjustment has been received by September 30, 1979.

FOR FURTHER INFORMATION CONTACT: Matthew Butler, Manager, Data and Demography Division, Office of Revenue Sharing, 2401 E Street, N.W., Washington, D.C. 20226, telephone 202-634-5166.

SUPPLEMENTARY INFORMATION: Section 102(b) of the State and Local Fiscal Assistance Amendments of 1976(e)(2) of the State and Local Fiscal Assistance Amendments of 1976 (Pub. L. 94-488; 90 Stat. 2347; 31 U.S.C. 1221) provides that for entitlement periods beginning after December 31, 1976, no adjustment shall be made in a government's payments for an entitlement period unless a demand for adjustment has been made by the recipient government or the Secretary of the Treasury within one year after the end of that entitlement period. A demand by the Director or the Deputy Director of the Office of Revenue Sharing will be treated as a demand for adjustment by the Treasury.

An entry in the Federal Register of April 20, 1977 (42 FR 20525) originally gave notice that the Office of Revenue Sharing will honor adjustment demands for Entitlement Period Nine received from a government or the Secretary of the Treasury by September 30, 1979. Thus, this notice finalizes the

Entitlement Period Nine allocations to recipient governments for which demands for adjustment are not pending with the Office of Revenue Sharing on September 30, 1979. A demand accompanied by adequate supporting documentation pending at the close of business on the September 30, 1979 deadline will be researched and a written decision on the data challenge will be rendered. Any resulting adjustment to a government's allocation due to a pending adjustment will be made by the Office of Revenue Sharing.

Dated: August 22, 1979.
Bernadine Denning,
Director, Office of Revenue Sharing.
[FR Doc. 79-26635 Filed 8-27-79; 8:45 am]
BILLING CODE 4810-28-M

VETERANS ADMINISTRATION

Voluntary Service National Advisory Committee; Meeting

The Veterans Administration gives notice that the annual meeting of the Veterans Administration Voluntary Service National Advisory Committee, composed of representatives of 45 national voluntary organizations, will be held at the Ramada Inn Rosslyn, 1900 North Fort Myer Drive, Arlington, Va., October 24-26, 1979.

Registration of the conferees and preliminary meetings on procedural matters will be held beginning at 8:30 a.m. on October 24, 1979. The meeting will officially convene with a Plenary Session at 9 a.m., October 25, in the Rosslyn Room A and B of the hotel and will conclude at noon on October 26, 1979.

The purposes of the meeting are to instruct committee members and officials of their organizations in obligations they have accepted for volunteer recruitment, communications and program interpretation, and to seek the advice of the committee in further developing volunteer participation in the care and treatment of veteran patients throughout the Agency's nationwide medical program.

Dated: August 20, 1979.
By direction of the Administrator:
John J. Leffler,
Associate Deputy Administrator.
[FR Doc. 79-26673 Filed 8-27-79; 8:45 am]
BILLING CODE 8320-01-M

INTERSTATE COMMERCE COMMISSION

[Notice No. 125]

Assignment of Hearings

August 22, 1979

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 138882 (Sub-180F), Wiley Sanders Truck Lines, Inc., MC-138882 (Sub-183F), Wiley Sanders Truck Lines, Inc., now assigned for hearing on September 11, 1979 (2 days), in Room 13216-C, 450 Golden Gate Avenue, San Francisco, CA.

MC 145633F, Walter B. Maki, DBA Maki International & Company, now assigned for hearing on October 15, 1979 (1 week), at Miami, Florida in a hearing room to be later designated.

MC 31389 (Sub-271F), McLean Trucking Company, now assigned for hearing on October 15, 1979 (1 week), at Chicago, IL, in a hearing room to be later designated.

MC 129537 (Sub-24F), Reeves Transportation Co., now assigned for hearing on October 15, 1979 (1 week), at Montgomery, AL, in a hearing room to be later designated.

MC 138100 (Sub-2F), Mellow Truck Express, Inc., now being assigned for hearing on November 27, 1979 (2 days), at Portland, OR in a hearing room to be designated later.

MC 146231 F, Seaton Smithson Flegel and Jerry Dean Flegel, DBA S. S. Flegel Trucking, now being assigned for hearing on November 29, 1979 (2 days), at Portland, OR in a hearing room to be designated later.

MC 83635 (Sub-153F), Wales Transportation, Inc., now being assigned for hearing on December 3, 1979 (1 week), at Portland, OR in a hearing room to be designated later.

MC 103926 (Sub-86F), W.T. Mayfield Sons Trucking Company, a Corporation, now being assigned for hearing on October 15, 1979 (1 day), at Atlanta, GA in a hearing room to be designated later.

MC 146102 F, Tamway Corporation, now being assigned for hearing on October 17, 1979 (1 day), at Atlanta, GA in a hearing room to be designated later.

MC 116254 (Sub-250F), Chem-Haulers, Inc., now being assigned for hearing on October 18, 1979 (1 day), at Atlanta, GA in a hearing room to be designated later.

MC 41404 (Sub-156F), Argo-Collier Truck Lines, Corporation, now being assigned for hearing on October 19, 1979 (1 day), at

Atlanta, GA in a hearing room to be designated later.
 MC 730 (Sub-428), Pacific Intermountain Express Co., a Nevada Corporation, now being assigned for hearing on October 16, 1979 (9 days), at Hawthorne, CA will be held at the Cockatoo Inn, 4334 West Imperial Highway, Hawthorne, CA.
 MC-C-10300 Fogarty Van Lines, Inc.—Investigation and Revocation of Certificates, now assigned for hearing on September 10, 1979 at Atlanta, GA will be held in Conference Room No. 556, 275 Peachtree Street.

MC 144041 (Sub-19F), Downs Transportation Co., Inc., now assigned for hearing on September 5, 1979, Atlanta, GA will be held in Conference Room No. 556, 275 Peachtree Street.

MC-F-12184, Nebraska-Iowa Xpress, Inc.—Control Chappell Freight Lines, Inc., now assigned for hearing on September 6, 1979 at Denver, CO is postponed indefinitely.

AB-102 (Sub-8F), Missouri-Kansas-Texas Railroad Company Abandonment at Burkburnett, TX and Altus, OK in Wichita County, TX and Cotton, Tillman, and Jackson Counties, OK now assigned for hearing on September 8, 1979 at Wichita Falls, TX, will be held at the City Hall, City Council Chambers, 1300-6th Street.

MC 115904 (Sub-130F), Grover Trucking Co., now assigned September 11, 1979 at Salt Lake City, UT is cancelled and transferred to Modified Procedure.

MC 46829 (Sub-12F), Allard Express, Inc., now being assigned for hearing on November 27, 1979 (2 weeks) at Chicago, IL, location of hearing room will be designated later.

MC 116254 (Sub-224F), Chem-Haulers, Inc., now assigned for hearing September 11, 1979 at Nashville, TN is cancelled and transferred to Modified Procedure.

MC 141804 (Sub-161F), Western Express, Division of Interstate Rental, Inc. A Nevada Corporation, now assigned for hearing on September 17, 1979 at Los Angeles, CA will be held in Room No. 8544, Federal Bldg, 300 N. Los Angeles St. Los Angeles, CA.

MC 141804 (Sub-162F), Western Express, Division of Interstate Rental, Inc., now assigned for hearing on September 18, 1979 at Los Angeles, CA will be held in Room No. 8544, Federal Bldg, 300 N. Los Angeles St. Los Angeles, CA.

MC 134501 (Sub-34F), Incorporated Carriers, Ltd., now assigned for hearing on September 19, 1979 at Los Angeles, CA will be held in Room No. 8544, Federal Bldg, 300 N. Los Angeles St. Los Angeles, CA.

MC 103490 (Sub-75F), Provan Transport Corp., transferred to Modified Procedure.

MC 115841 (Sub-655F), Colonial Refrigerated Transportation, Inc., now assigned September 17, 1979 (5 days), at Los Angeles, CA is canceled and reassigned to September 17, 1979 (2 days) at Los Angeles, CA, in Room 203, U.S. County Court House, 111 North Hill Street and September 19, 1979 (3 days) at the Monterey Civic Center, Fisherman's Wharf, Monterey, Calif.

MC 127840 (Sub-84F), Montgomery Tank Lines, Inc., now being assigned for continued hearing on October 16, 1979 (4

days) at Chicago, IL, location of hearing room will be by subsequent notice.
 AB-6 (Sub-60F), Burlington Northern, Inc. Abandonment near St. Joseph, MO, and Humeston, IA, in Buchanan, Andrew, DeKalb, Gentry and Harrison Counties, MO and Decatur and Wayne Counties, IA, now being assigned for hearing on October 15, 1979 (1 week) at Chicago, IL, location of hearing room will be by subsequent notice.
 MC 117786 (Sub-48F), Riley Whittle, Inc., transfer to Modified Procedure.

Agatha L. Mergenovich,
 Secretary.

[FR Doc. 79-26663 Filed 8-27-79; 8:45 am]
 BILLING CODE 7035-01

[Finance Docket No. 28934 F]

Chicago and North Western Transportation Company Construction of a Line of Railroad in Niobrara and Gosheen Counties, WY and Sioux and Scotts Bluff Counties, NE

AGENCY: Interstate Commerce Commission, Office of Policy and Analysis, Energy and Environment Branch.

ACTION: Notice that in considering the above-entitled application for approval of a planned rail construction project, the Interstate Commerce Commission's Energy and Environment Branch will entertain any comments made at public hearings recently scheduled by the Federal Railroad Administration.

SUMMARY: The Federal Railroad Administration's (FRA) Office of Federal Assistance recently announced that it would hold two public hearings to receive oral comments on the draft environmental impact statement prepared jointly by FRA, the ICC and other agencies with respect to the Chicago and North Western Transportation Company's proposed Coal Line Project. These hearings will be held at Niobrara County High School Auditorium, Lusk, Wyoming on August 28, 1979 at 8:00 p.m. and at Gering High School Auditorium, Gering, Nebraska on August 28, 1979 at 7:00 p.m. Comments will be received from persons who indicate to FRA by August 27, 1979 an intention to testify. The purpose of this notice is to indicate that the Commission's Energy and Environment Branch will give consideration to any comments made at these hearings to the extent that they bear on the application for approval of construction now pending before the Commission.

FOR FURTHER INFORMATION CONTACT: Steve Botts, Energy and Environment Branch, Interstate Commerce Commission, 12th and Constitution

Avenue, Washington, DC 20423, Tel. (202) 275-7917.

[FR Doc. 79-26661 Filed 8-27-79; 8:45 am]
 BILLING CODE 7035-01-M

[Docket No. AB 7 (Sub No. 86 F)]

Stanley Hillman, Trustee of the Property of Chicago, Milwaukee, St. Paul and Pacific Railroad Company—Abandonment—Portions of Pacific Coast Extension in Montana, Idaho, Washington, and Oregon

AGENCY: Interstate Commerce Commission, Office of Policy and Analysis, Energy and Environment Branch.

ACTION: Notice of intent to prepare an environmental impact statement in the above-entitled proceeding.

SUMMARY: The Commission's Energy and Environment Branch (Branch) intends to prepare an environmental impact statement (EIS) with respect to the action contemplated in the above-entitled proceeding. Although, in light of the expedited procedure adopted by the Commission, no formal scoping meeting has been held, a proposed outline for the Draft Environmental Impact Statement (DEIS) is set forth as an appendix. Comments on the proposed outline are invited.

COMMENTS AND DATES: Written comments should be submitted to the Energy and Environment Branch (Room 5377), Interstate Commerce Commission, 12th and Constitution Ave., NW., Washington, DC, 20423 on or before September 21, 1979.

FOR FURTHER INFORMATION CONTACT: Paul S. Mushovic, telephone nos. 202-275-7916 or 202-347-5298.

Agatha L. Mergenovich,
 Secretary.

Appendix—Preliminary Outline

- i. Cover Sheet.
- ii. Summary (ICC Responsibility).
- iii. Table of Contents.
- iv. List of Appendices.
- 1.0 Description of Proposed Action.
- 1.1 Introduction—General Background.
- 1.11 General Description Entire MILW System.
- 1.12 Reason for Action.
- 1.121 General Update—Status in Court.
- 1.123 BN Inclusion.
- 1.124 UP Acquisition.
- 1.2 Description of Action—Miles City West.
- 1.21 History of Pacific Coast Extension.
- 1.22 Rationale for Development of Regional & Sub-Regional Analysis.¹

¹ The environmental description and analysis will be broken down into four major regions. Sub-regional analyses will be conducted where applicable. The four regions include: Miles City to

Footnotes continued on next page

- 1.221 Cedar Falls & West.
- 1.222 Plummer Jct. to Garcia.
- 1.223 Butte to Spokane.
- 1.224 Miles City to Newcomb.
- 2.0 Discussion of Alternatives to the Proposed Action.

2.1 Introduction to Types of Alternatives Available.

- 2.2 Milwaukee Alternatives.
- 2.21 Continued Operation of Subject Line.
- 2.22 Partial Abandonment.
- 2.23 Liquidation.
- 2.24 Continued Operation of Subject Line and sale/abandonment of other Milwaukee lines.

2.3 Other Alternatives.

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- 2.311 SORE.
- 2.312 Other Carriers.
- 2.3121 UP.
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- 2.31 Trackage Rights.
- 2.32 Subsidy.
- FRA—State Shipper Interaction.
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- 2.34 USRA—nationalization.
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- 3.11 Old West—Montana.
- 3.12 Pacific Northwest—Idaho and Washington.
- 3.2 General Discussion of Transportation Within Entire Region.

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- 3.22 Highway.
- 3.23 Barge.
- 3.3 Cedar Falls and West.
- 3.31 Description of Lines.
- 3.311 Condition of line (lengths and weights).

- 3.312 Right-of-Way Acreage.
- 3.313 Communities and Stations.
- 3.314 Significant Structures.
- 3.32 Description of Service (Frequency and Type of Operation).

- 3.33 Discussion of Traffic.
- 3.331 Commodities Moved.
- 3.332 O&D Origin and Destination (General).

3.333 Traffic Volumes (Detailed where appropriate).

- 3.334 Interchange and Overhead Traffic.
- 3.34 Regional and Local Environment.
- 3.341 Socio-Economic.
- 3.3411 Economic Base or Principal Activity.

- 3.3412 Direct Employment From Railroads.
- 3.3413 Taxes by Region—(County Local).
- 3.342 Land Use.

- 3.3421 General by Region or Line Segment.
- 3.3422 Discussion of Public Lands, Parks, etc.

- 3.343 Transportation System.
- 3.3431 Relationship to Other Railroads.
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- 3.344 Natural Environment.
- 3.3441 Major Regional Environmental Concerns.

[FR Doc. 79-26662 Filed 8-27-79; 8:45 am]
 BILLING CODE 7035-01-M

Permanent Authority Decisions Applications; Decision-Notice

The following applications, filed on or after March 1, 1979, are governed by Special Rule 247 of the Commission's Rules of Practice (49 CFR 1100.247).

- 3.3442 Endangered Flora and Fauna.
- 3.3443 Major Waterways.
- 3.3444 Significant Aquatic and Terrestrial Habitats.

3.4 Plummer Jct to Garcia.

3.5 Butte to Spokane (Same Detail as Above).

3.6 Miles City to Newcomb.

4.0 Description of Impacts of Proposed Action (by Region).

4.1 Introduction—Types of Impacts to be Anticipated.

4.2 Discussion of Cumulative Transportation Impacts.

4.21 General Overview of Energy Impacts.

4.3 Cedar Falls and West (Specific Impact Section).

4.311 Land Use and Development Plans.

4.312 Transportation.

4.313 Employment.

4.314 Economic Base—Taxes, Etc.

4.315 Historic Archaeological and Cultural Resources.

4.32 Natural Environment.

4.321 Air Quality.

4.322 Sound Levels/Noise.

4.323 Water Quality and Waterways.

4.324 Significant Aquatic and Terrestrial Habitats—Endangered Flora and Fauna.

4.4 Plummer Jct to Garcia.

4.5 Butte to Spokane (Same Detail as Above).

4.6 Miles City to Newcomb.

5.0 Alternatives—Discussions of Detailed Impacts.

5.1 MILW's Alternatives.

5.11 Continued Operation of Subject Line.

5.12 Partial Abandonment.

5.121 Contiguous to Core.

5.122 Truncated from Core.

5.2 Other Alternatives.

5.21 Acquisition.

5.211 SORE.

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5.22 Trackage Rights.

5.3 Subsidy.

FRA State Shipper.

5.4 401 Market Swaps.

6.0 Mitigating Measures.

6.1 Introduction.

6.2 Directed Service.

6.3 Other Mitigating Measures.

6.31 Suitability for Alternative Public Use.

6.32 Rail Banking, etc.

7.0 Discussion of Adverse Impacts Which Cannot be avoided.

8.0 Relationship Between Short Term Uses and Long Term Productivity.

9.0 Irreversible and Irrecoverable Commitment of Resources.

10.0 List of Preparers.

Name-Title-Area of expertise and section responsibility.

[FR Doc. 79-26662 Filed 8-27-79; 8:45 am]
 BILLING CODE 7035-01-M

These rules provide, among other things, that a petition for intervention, either in support of or in opposition to the granting of an application, must be filed with the Commission within 30 days after the date notice of the application is published in the Federal Register. Protests (such as were allowed to filings prior to March 1, 1979) will be rejected. A petition for intervention without leave must comply with Rule 247(k) which requires petitioner to demonstrate that it (1) holds operating authority permitting performance of any of the service which the applicant seeks authority to perform, (2) has the necessary equipment and facilities for performing that service, and (3) has performed service within the scope of the application either (a) for those supporting the application, or, (b) where the service is not limited to the facilities of particular shippers, from and to, or between, any of the involved points.

Persons unable to intervene under Rule 247(k) may file a petition for leave to intervene under Rule 247(l) setting forth the specific grounds upon which it is made, including a detailed statement of petitioner's interest, the particular facts, matters, and things relied upon, including the extent, if any, to which petitioner (a) has solicited the traffic or business of those supporting the application, or, (b) where the identity of those supporting the application is not included in the published application notice, has solicited traffic or business identical to any part of that sought by applicant within the affected marketplace the extent to which petitioner's interest will be represented by other parties, the extent to which petitioner's participation may reasonably be expected to assist in the development of a sound record, and the extent to which participation by the petitioner would broaden the issues or delay the proceeding.

Petitions not in reasonable compliance with the requirements of the rules may be rejected. An original and one copy of the petition to intervene shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named.

Section 247(f) provides, in part, that an applicant which does not intend to timely prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

If an applicant has introduced rates as an issue it is noted. Upon request, an applicant must provide a copy of the tentative rate schedule to any protestant.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broader amendments will not be accepted after the date of this publication.*

Any authority granted may reflect administrative acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each common carrier applicant has demonstrated that its proposed service is required by the present and future public convenience and necessity, and that each contract carrier applicant qualifies as a contract carrier and its proposed contract carrier service will be consistent with the public interest and the transportation policy of 49 U.S.C. 10101. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, subtitle IV, United States Code, and the Commission's regulations. Except where specifically noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a petitioner, that the proposed dual operations are consistent with the public interest and the transportation policy of 49 U.S.C. 10101 subject to the right of the Commission, which is expressly reserved, to impose such terms, conditions or limitations as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. 10930(a) [formerly section 210 of the Interstate Commerce Act].

In the absence of legally sufficient petitions for intervention, filed within 30 days of publication of this decision-notice (September 26, 1979) (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of the decision-notice. To the extent that

the authority sought below may duplicate an applicant's other authority, such duplication shall be construed as conferring only a single operating right.

Applicants must comply with all specific conditions set forth in the grant or grants of authority within 90 days after the service of the notification of the effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

[Volume No. 111]

Decided: June 29, 1979.

By the Commission, Review Board Number 1, Members Carleton, Joyce and Jones.

MC 25869 (Sub-150F), filed March 23, 1979. Applicant: NOLTE BROS. TRUCK LINE, INC., 6217 Gilmore Avenue, Omaha, NE 68107. Representative: Irwin Schwartz, P.O. Box 7184 South Omaha Sta., Omaha, NE 68107. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except articles of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, in tank vehicles, and those requiring special equipment), from the facilities of Montgomery Ward and Company, at or near Chicago, IL, to Kansas City, MO, Albuquerque, NM, and points in IA, restricted to the transportation of traffic destined to the facilities of Montgomery Ward and Company. (Hearing site: Chicago, IL, or Omaha, NE.)

MC 78118 (Sub-43F), filed March 28, 1979. Applicant: W. H. JOHNS, INC., 35 Witmer Road, Lancaster, PA 17602. Representative: Christian V. Graf, 407 North Front Street, Harrisburg, PA 17101. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *iron and steel articles*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, between Downingtown and Coatesville, PA, on the one hand, and, on the other, points in MD, restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Washington, D.C.)

MC 78118 (Sub-44F), filed April 3, 1979. Applicant: W. H. JOHNS, INC., 35 Witmer Road, Lancaster, PA 17602. Representative: Christian V. Graf, 407 North Front St., Harrisburg, PA 17101. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *thermal blankets, undergarments, and cotton underwear*, from Tamaqua, Tower City,

Williamstown, Phoenixville, Gilbertsville, and Hometown, PA, to points in NJ, DE, PA, MD, VA, NC, SC, OH, and DC; and (2) *thread, yarn, elastic, and polyethylene bags*, in the reverse direction, restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Washington, DC, or Harrisburg, PA.)

MC 108119 (Sub-134F), filed April 4, 1979. Applicant: E. L. MURPHY TRUCKING COMPANY, a corporation, P.O. Box 43010, St. Paul, MN 55164. Representative: Andrew R. Clark, 1000 First National Bank Building, Minneapolis, MN 55402. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *vehicle wheel alignment equipment*, between Englewood, CO, on the one hand, and, on the other, points in the United States (except AK and HI); and (2) *parts and attachments* for the commodities in (1) above, from Englewood, CO, to points in the United States (except AK and HI). (Hearing site: Denver, CO, or Minneapolis, MN.)

MC 113528 (Sub-39F), filed April 3, 1979. Applicant: MERCURY FREIGHT LINES, INC., P.O. Box 1247, Mobile, AL 36601. Representative: Joy Stephenson (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *iron and steel articles* (except those which because of size or weight require the use of special equipment), from points in Georgetown County, SC, to points in GA, KY, NC, MS, TN, and those in AL on and north of U.S. Hwy 278. (Hearing site: Columbia, SC, or Birmingham, AL.)

MC 113678 (Sub-78F), filed March 28, 1979. Applicant: CURTIS, INC., 4810 Pontiac Street, Commerce City, CO 80022. Representative: Roger M. Shaner (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *foodstuffs* (except commodities in bulk), and (2) *meats, meat products, meat byproducts, and articles distributed by meat-packing houses*, except foodstuffs and commodities in bulk, from points in CO, to points in the United States (except AK, HI, and CO). (Hearing site: Denver, CO.)

Note.—By this application applicant seeks, in part, to consolidate its existing certificates, and, in part, to convert present joint-line service to single-line service. Not a "substitution" application under Ex Parte MC-109.

MC 117439 (Sub-2F), filed March 28, 1979. Applicant: BULK TRANSPORT,

INC., 550 Florida Boulevard, P.O. Box 1429, Baton Rouge, LA 70821. Representative: Edward A. Winter, 235 Rosewood Drive, Metairie, LA 70005. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *dry fertilizer*, from the facilities of Monsanto Company, at or near Luling, LA, to points in AL, GA, and MS. (Hearing site: Baton Rouge or New Orleans, LA.)

MC 118959 (Sub-207F), filed March 28, 1979. Applicant: JERRY LIPPS, INC., 130 South Frederick Street, Cape Girardeau, MO 63701. Representative: Donald B. Levine, 39 South LaSalle Street, Chicago, IL 60603. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *such merchandise* as is dealt in or used by grocery and food business houses, between the facilities of Ralston Purina Company, at or near Clinton and Davenport, IA, on the one hand, and, on the other, points in IL, IN, KS, MI, MN, MO, ND, NE, OH, SD, and WI. (Hearing site: St. Louis, MO, or Chicago, IL.)

MC 118959 (Sub-208F), filed March 28, 1979. Applicant: JERRY LIPPS, INC., 130 South Frederick Street, Cape Girardeau, MO 63701. Representative: Donald B. Levine, 39 South LaSalle Street, Chicago, IL 60603. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *canned and preserved foodstuffs*, from the facilities of Heinz USA, at or near Muscatine and Iowa City, IA, to points in KS, MO, and IL, restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Washington, DC, or Pittsburgh, PA.)

MC 119789 (Sub-564F), filed March 27, 1979. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 226188, Dallas, TX 75266. Representative: James K. Newbold, Jr. (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *candy and chewing gum* (1) from Holland, MI, to Dallas, TX, Kansas City, MO, San Jose, CA, Milwaukee, OR, Atlanta, GA, Charlotte, NC, Jacksonville, FL, Baltimore, MD, and North Bergen, NJ and (2) between Holland, MI, and Canajoharie, NY. (Hearing site: New York, NY.)

MC 119789 (Sub-565F), filed April 3, 1979. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 226188, Dallas, TX 75266. Representative: James K. Newbold, Jr.

(same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *such commodities* as are dealt in by grocery stores, drug stores, and hardware stores (except commodities in bulk), and (2) *materials and supplies* used in the manufacture of the commodities in (1) above, (except commodities in bulk), between the facilities of Boyle-Midway, at or near (a) Atlanta, GA, and (b) Dallas, TX (Hearing site: New York, NY.)

MC 119789 (Sub-601F), filed April 3, 1979. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 226188, Dallas, TX 75266. Representative: James K. Newbold, Jr. (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *electrical capacitors and parts for electrical capacitors*, from Pickens, SC, to points in NE. (Hearing site: Greenville, SC.)

MC 125708 (Sub-160F), filed March 27, 1979. Applicant: THUNDERBIRD MOTOR FREIGHT LINES, INC., 425 West 152d Street, East Chicago, IN 46312. Representative: Anthony C. Vance, 1307 Dolley Madison Boulevard, McLean, VA 22101. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *fertilizer and fertilizer materials*, between points in IL, IN, MO, KY, and TN. (Hearing site: St. Louis, MO.)

MC 127579 (Sub-19F), filed April 4, 1979. Applicant: HAULMARK TRANSFER, INC., 1100 North Macon Street, Baltimore, MD 21205. Representative: Glenn M. Heagerty (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *books*, between points in CT, MD, NJ, NY, and PA, on the one hand, and, on the other, points in AZ, CA, CO, CT, ID, MD, MT, NJ, NY, NV, NM, OR, PA, UT, TX, WA, and WY. (Hearing site: Washington, DC.)

Note.—Dual operations may be involved.

MC 133689 (Sub-266F), filed April 2, 1979. Applicant: OVERLAND EXPRESS, INC., 719 First Street, Southwest, New Brighton, MN 55112. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, packing-house products, and commodities used by packing houses*, as described in Appendix I to the report in *Descriptions in Motor Carrier*

Certificates, 61 M.C.C. 209 and 769 (except commodities in bulk), between the facilities of Lauridsen Foods Inc., at or near Britt, IA, on the one hand, and, on the other, those points in the United States in and east of ND, SD, NE, KS, OK, AR, and LA, restricted to the transportation of traffic originating at or destined to the named facilities. (Hearing site: St. Paul, MN.)

MC 134319 (Sub-9F), filed April 3, 1979. Applicant: BRAAFLADT TRANSPORT CO., a corporation, 301 North Broadway, P.O. Box 1065, Dimmitt, TX 79027. Representative: John C. Sims, P.O. Box 10236, Lubbock, TX 79408. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *anhydrous ammonia*, in tank vehicles, from the facilities of NAPCO Pipeline, at or near Moline, OK, to points in KS, TX, and CO. (Hearing site: Amarillo or Lubbock, TX.)

MC 136818 (Sub-69F), filed March 30, 1979. Applicant: SWIFT TRANSPORTATION CO., INC., 335 West Elwood Road, P.O. Box 3902, Phoenix, AZ 85030. Representative: Donald E. Fernaays, 4040 East McDowell Road, suite 320, Phoenix, AZ 85008. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *charcoal, charcoal briquets, fireplace logs, wood chips, and lighter fluid* (except in bulk, in tank vehicles), (1) from Branson, MO, to points in AR, LA, MS, TN, IN, IL, OH, TX, OK, KY, NE, IA, WV, PA, NM, AL, CO, CA, KS, UT, and NV, (2) from Pachuta, MS, to points in TX, AK, TN, KY, VA, WV, NC, SC, LA, and FL, (3) from Waupaca, WI, to points in OH, MI, IL, and IN, (4) from Dickinson, ND, to points in MN, ND, SD, IA, NE, MO, AK, LA, TX, OK, KS, MT, ID, WA, OR, WY, CA, NV, AZ, CO, and NM, (5) from White City, OR, to points in CA, AZ, NV, WA, ID, MT, UT, and WY, and (6) from Ocala, FL, to points in GA, AL, NC, SC, TN, KY, and LA. (Hearing site: Phoenix, AZ.)

Note.—Dual operations may be involved.

MC 138109 (Sub-11F), filed March 28, 1979. Applicant: RAY J. FORNEY, INC., P.O. Box 207, Ashton, IL 61006. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 11th Street NW., Washington, DC 20001. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *salt and salt products, pepper, and food seasoning compounds*, (except commodities in bulk) and (2) *materials, equipment, and supplies* used in the manufacture, sale, and

distribution of the commodities in (1) above, (except commodities in bulk), between the facilities of Morton Salt Company, Division of Morton-Norwich Incorporated, at or near Newark, CA, on the one hand, and, on the other, points in the United States (except AK and HI), under a continuing contract(s) with Morton Salt Company, Division of Morton-Norwich, of Chicago, IL, Incorporated. (Hearing site: Chicago, IL.)

MC 138109 (Sub-12F), filed March 28, 1979. Applicant: RAY J. FORNEY, INC., P.O. Box 207, Ashton, IL 61006. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 11th Street NW., Washington, DC 20001. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *salt and salt products, pepper, and food seasoning compounds*, (except commodities in bulk) and (2) *materials, equipment, and supplies* used in the manufacture, sale, and distribution of the commodities in (1) above, (except commodities in bulk), between the facilities of Morton Salt Company, Division of Morton-Norwich Incorporated, at or near Manistee, MI, on the one hand, and, on the other, points in the United States (except AK and HI), under a continuing contract(s) with Morton Salt Company, division of Morton-Norwich, of Chicago, IL, Incorporated. (Hearing site: Chicago, IL.)

MC 138109 (Sub-13F), filed March 28, 1979. Applicant: RAY J. FORNEY, INC., P.O. Box 207, Ashton, IL 61006. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 11th Street NW., Washington, DC 20001. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *salt and salt products, pepper, and food seasoning compounds*, (except commodities in bulk) and (2) *materials, equipment, and supplies* used in the manufacture, sale, and distribution of the commodities in (1) above, (except commodities in bulk), between the facilities of Morton Salt Company, Division of Morton-Norwich Incorporated, at or near Fairport Harbor, OH, on the one hand, and, on the other, points in the United States (except AK and HI), under a continuing contract(s) with Morton Salt Company, Division of Morton-Norwich, of Chicago, IL, Incorporated. (Hearing site: Chicago, IL.)

MC 140829 (Sub-212F), filed April 3, 1979. Applicant: CARGO, INC., P.O. Box 206, Sioux City, IA 51102. Representative: William J. Hanlon, 55 Madison Avenue, Morristown, NJ 07960. To operate as a *common carrier*, by motor vehicle, in interstate or foreign

commerce, over irregular routes, transporting *chemicals* (except in bulk, in tank vehicles), from the facilities of Athea Laboratories Incorporated, at or near Milwaukee, WI, to points in CT, IA, KS, MA, MO, NE, NH, NJ, NY, OK, PA, RI, TX and VT, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations. (Hearing site: Washington, DC.)

Note.—Dual operations may be involved. MC 142508 (Sub-59F), filed March 19, 1979. Applicant: NATIONAL TRANSPORTATION, INC., P.O. Box 37465, 10810 South Street, Omaha, NE 68137. Representative: Lanny N. Fauss, P.O. Box 37096, Omaha, NE 68137. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs and materials, equipment, and supplies* used in the manufacture, distribution and sale of foodstuffs (except commodities in bulk), between the facilities of Ocean Spray Cranberries, Inc., at or near (a) Montgomery, AL, (b) Yuba City and Stockton, CA, (c) Chicago, IL, (d) Bordentown, Burlington, and Morristown, NJ, (e) Middleboro, MA, (f) North East, PA, (g) Sulphur Springs, TX, (h) Markham, WA, (i) Kenosha, WI, (j) Eau Claire, MI, and (k) Clackamas, OR, on the one hand, and, on the other, points in the United States (except AK and HI), restricted to the transportation of traffic originating at or destined to the named facilities. (Hearing site: Boston, MA, or Washington, DC.)

MC 142508 (Sub-70F), filed April 4, 1979. Applicant: NATIONAL TRANSPORTATION, INC., P.O. Box 37465, 10810 South Street, Omaha, NE 68137. Representative: Lanny N. Fauss, P.O. Box 37096, Omaha, NE 68137. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *breeding and batter*, from the facilities of Modern Maid Food Products, Inc., at (a) Evansville, IN, and (b) Los Angeles, CA, to points in CA, LA, MA, NJ, NY, TX, OH, PA, and WI. (Hearing site: New York, NY, or Washington, DC.)

MC 143059 (Sub-72F), filed March 29, 1979. Applicant: MERCER TRANSPORTATION CO., a corporation, 12th and Main Streets, P.O. Box 35610, Louisville, KY 40232. Representative: James L. Stone (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *steel bars*, from the facilities of North Star Steel Co., at or near Wilton, IA, to points in the United

States (except AK and HI), restricted to transportation of traffic originating at the named origin. (Hearing site: Louisville, KY, or Washington, DC.)

MC 144119 (Sub-2F), filed April 3, 1979. Applicant: HANSEN CONSOLIDATORS, INC. 16121 Canary Street, La Mirada, CA 90638. Representative: Miles L. Kavaller, 315 South Beverly Drive, Suite 315, Beverly Hills, CA 90212. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such plastic articles* as are dealt in by grocery, drug, and variety stores, and (2) *hair care products*, (except commodities in bulk), from the facilities of (a) Wilson Manufacturing Corporation and (b) Hugh H. Wilson Company, at Sunbury, PA, to La Mirada, CA, and Carrollton, TX. (Hearing site: Los Angeles, CA, or Harrisburg, PA.)

MC 146948 (Sub-1F), filed March 30, 1979. Applicant: ROBERT L. MAHER AND LOWELL R. JOSLIN, a partnership, d.b.a. HEALTH FOOD CARRIERS, 147 North 10th Avenue, Upland, CA 91786. Representative: Milton W. Flack, 4311 Wilshire Boulevard, Suite 300, Los Angeles, CA 90010. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in by health food stores, (except commodities in bulk), from points in the United States (except AK and HI), to (a) the facilities of Landstrom Distributors, at or near South San Francisco, CA, (b) the facilities of Collegedale Distributors, at or near Chattanooga and Ooltewah, TN, (c) the facilities of Keene Distributors, at Keene, TX, and (d) the facilities of Dairy Distributors, at or near City of Industry, CA, under continuing contract(s) in (a) above with Landstrom Distributors, or South San Francisco, CA, in (b) above with Collegedale Distributors, of Collegedale, TN, in (c) above with Keene Distributors, of Keene, TX, and in (d) above with Dairy Distributors, of City of Industry, CA. (Hearing site: Los Angeles, CA.)

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Decided: July 12, 1979.

By the Commission, Review Board Number 2. Members Boyle, Eaton and Liberman, Member Liberman not participating.

MC 200 (Sub-341F), filed March 22, 1979. Applicant: RISS INTERNATIONAL CORPORATION, a Delaware corporation, 903 Grand Ave., Kansas City, MO 64106. Representative: Ivan E. Moody (same address as applicant). To operate as a *common carrier*, by motor

vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *gypsum* (except in bulk, in tank vehicles), (2) *building materials* (except commodities in bulk, in tank vehicles), and (3) *materials, equipment, and supplies* used in the manufacture, installation, and distribution of the commodities in (1) and (2) above, (except commodities in bulk, in tank vehicles), between the facilities of Georgia-Pacific Corporation, at or near (a) Akron and Buchanan, NY, (b) Milford, VA, and (c) Wilmington, DE, on the one hand, and, on the other, points in CT, DE, MA, MD, ME, MI, NC, NH, NJ, NY, OH, PA, RI, TN, VA, VT, WV, and DC. (Hearing site: Kansas City, MO.)

MC 720 (Sub-65F), filed April 2, 1979. Applicant: BIRD TRUCKING COMPANY, INC., P.O. Box 227, Waupun, WI 53963. Representative: Tom Westerman (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *paper and paper products* (except commodities in bulk), between the facilities used by Scott Paper Company, at or near Marinette, Oconto Falls, Green Bay, and Fond du Lac, WI, on the one hand, and, on the other, points in AR, IA, IL, IN, KS, MI, MN, MO, NE, and OH, restricted to the transportation of traffic originating at and destined to the above-named points. (Hearing site: Milwaukee, WI, or Chicago, IL.)

MC 720 (Sub-66F), filed April 2, 1979. Applicant: BIRD TRUCKING COMPANY, INC., P.O. Box 227, Waupun, WI 53963. Representative: Tom Westerman (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in or used by drugstores, hospitals, discount and variety stores, and grocery and food business houses (except commodities in bulk), from Bedford Park, IL, to Milwaukee, WI, restricted to the transportation of traffic originating at the facilities of Bristol-Myers, Inc., at Bedford Park, IL. (Hearing site: Chicago, IL, or Milwaukee, WI.)

MC 2900 (Sub-366F), filed March 30, 1979. Applicant: RYDER TRUCK LINES, INC., 2050 Kings Road, P.O. Box 2408, Jacksonville, FL 32203. Representative: S. E. Somers, Jr. (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the

Commission, commodities in bulk, and those requiring special equipment), serving the facilities of Acme Tube, Inc., at Mansfield, LA, as an off-route point in connection with the carrier's otherwise authorized regular-route operations. (Hearing site: Shreveport, LA, or Jacksonville, FL.)

MC 13651 (Sub-17F), filed March 12, 1979. Applicant: PEOPLES TRANSFER, INC., 1430 West 11th St., Long Beach, CA 90813. Representative: Edward J. Hegarty, 100 Bush St., San Francisco, CA 94104. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in or used by (i) grocery and food business houses, and (ii) discount and variety houses, between points in CA, on the one hand, and, on the other, points in AZ, NV, OR, and WA, restricted to the transportation of traffic originating at or destined to the facilities of (a) Amstar Corp., (b) The Kingsford Company, (c) Patterson Frozen Foods, (d) The Procter & Gamble Distributing Company and (e) United Grocers, Ltd. (Hearing site: San Francisco or Sacramento, CA.)

MC 29910 (Sub-211F), filed April 2, 1979. Applicant: ARKANSAS-BEST FREIGHT SYSTEM, INC., 301 South 11th St., Fort Smith, AR 72901. Representative: Don A. Smith, P.O. Box 43, 510 North Greenwood, Fort Smith, AR 72902. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of MTD Products, Inc., at or near Brownsville, TN, as an off-route point in connection with applicant's otherwise authorized regular-route operations. (Hearing site: Memphis, TN, or Washington, DC.)

MC 29910 (Sub-213F), filed April 2, 1979. Applicant: ARKANSAS-BEST FREIGHT SYSTEM, INC., 301 South 11th St., Fort Smith, AR 72901. Representative: Don A. Smith, P.O. Box 43, 510 North Greenwood Avenue, Fort Smith, AR 72902. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of Continental Warehouse of MO, Inc., at New Madrid

and Lilbourn, MO, as intermediate or off-route points in connection with the carrier's otherwise authorized regular-route operations between St. Louis, MO and Memphis, TN. (Hearing site: St. Louis, MO, or Memphis, TN.)

MC 35320 (Sub-245F), filed April 2, 1979. Applicant: T.I.M.E.-DC, INC., P.O. Box 2550, Lubbock, TX 79408. Representative: Kenneth G. Thomas, (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, ammunition, parts for ammunition, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of the Osceola Shoe Company, Inc., at or near Manial and Osceola, AR, as off-route points in connection with the carrier's otherwise authorized regular-route operations. (Hearing site: Memphis, TN, or Washington, DC.)

MC 35320 (Sub-254F), filed March 30, 1979. Applicant: T.I.M.E.-DC, INC., P.O. Box 2550, Lubbock, TX 79408. Representative: Kenneth G. Thomas, (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, ammunition, parts for ammunition, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of Jockey International, Inc., at or near Belzoni, MS, as an off-route point in connection with the carrier's otherwise authorized regular-route operations. (Hearing site: Memphis, TN, or Washington, DC.)

MC 35320 (Sub-283F), filed March 30, 1979. Applicant: T.I.M.E.-DC, INC., P.O. Box 2550, Lubbock, TX 79408. Representative: Kenneth G. Thomas, (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, ammunition, parts for ammunition, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of Cutter-Hammer, Inc., at or near Bowling Green, KY, as an off-route point in connection with the carrier's otherwise authorized regular-route operations. (Hearing site: Nashville, TN, or Washington, DC.)

MC 41240 (Sub-20F), filed March 30, 1979. Applicant: NELSON TRUCKING SERVICE, INC., Mediapolis, IA 52637. Representative: Kenneth F. Dudley, P.O. Box 279, 611 Church Street, Ottumwa, IA 52501. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *adhesives, building materials, gypsum, and gypsum products* (except commodities in bulk), and (2) *materials and supplies* used in the manufacture, installation, and distribution of the commodities named in (1) above (except commodities in bulk), between the facilities of the United States Gypsum Company, at or near Mediapolis, IA, on the one hand, and, on the other, points in IL, IN, MN, MO, and WI. (Hearing site: Chicago, IL.)

MC 47171 (Sub-125F), filed March 26, 1979. Applicant: COOPER MOTOR LINES, INC., P.O. Box 2820, Greenville, SC 29602. Representative: Harris G. Andrews, (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *electric storage batteries, spent batteries, and materials and supplies* used in the manufacture and distribution of electric storage batteries (except commodities in bulk), (1) from Selma, AL, to Framingham, MA, and Fleetwood, PA; and (2) from Framingham, MA, to Reading, PA. (Hearing site: Washington, DC.)

MC 52921 (Sub-35F), filed March 29, 1979. Applicant: RED BALL, INC., P.O. Box 520, Sapulpa, OK 74066. Representative: Wilburn L. Williamson, Suite 615-East, The Oil Center, 2801 Northwest Expressway, Oklahoma City, OK 73112. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *glass*, from Sapulpa, OK, to points in AZ, CA, ID, MT, NV, OR, UT, WA, and WY; and (2) *equipment, materials, and supplies* used in the manufacture and distribution of glass (except commodities in bulk, and those requiring the use of special equipment), in the reverse direction. (Hearing site: Tulsa, OK.)

MC 67450 (Sub-83F), filed April 2, 1979. Applicant: PETERLIN CARTAGE CO., a corporation, 9651 S. Ewing Avenue, Chicago, IL 60617. Representative: Joseph Winter, 29 South LaSalle Street, Chicago, IL 60603. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *grain products*, in bulk, from Milwaukee, WI, to points in the United States (except AK and HI). (Hearing site: Chicago, IL.)

MC 88380 (Sub-35F), filed April 2, 1979. Applicant: REB TRANSPORTATION, INC., P.O. Box 4309, Fort Worth, TX 76106. Representative: Clint Oldham, 1108 Continental Life Building, Fort Worth, TX 76102. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1)(a) *iron and steel articles*, and (b) *pipe*, from Conroe, TX, to points in the United States (including AK, but excluding HI); and (2) *materials, equipment, and supplies* used in the manufacture or distribution of the commodities named in (1) above, in the reverse direction. (Hearing site: Dallas or Houston, TX.)

MC 95490 (Sub-47F), filed April 4, 1979. Applicant: UNION CARTAGE COMPANY, INC., 9A Southwest Cutoff, Worcester, MA 01604. Representative: Edward J. Kiley, 1730 M Street, N.W., Suite 501, Washington, DC 20036. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *glass containers and plastic containers*, from Bridgeton, Yardville, and Millville, NJ, to Boston Methuen, Lawrence, Amesbury, and Ayer, MA, and Providence, RI. (Hearing site: Boston, MA, or Washington, DC.)

MC 95540 (Sub-1099F), filed April 2, 1979. Applicant: WATKINS MOTOR LINES, INC., 1144 West Griffin Road, P.O. Box 1636, Lakeland, FL 33802. Representative: Benjy W. Fincher (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *tea and tea dust*, from Houston, TX, Seattle, WA, and San Francisco and Los Angeles, CA, to Denver, CO. (Hearing site: Denver, CO, or Washington, DC.)

MC 110191 (Sub-33F), filed April 3, 1979. Applicant: TURNER'S EXPRESS, INCORPORATED, 1300 Shelton Avenue, Norfolk, VA 23502. Representative: D. L. Turner, P.O. Box 1006, Norfolk, VA 23501. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving Williamsburg, VA, as an off-route point in connection with the carrier's otherwise authorized regular-route operations. (Hearing site: Norfolk, VA.)

MC 110420 (Sub-805F), filed March 28, 1979. Applicant: QUALITY CARRIERS, INC., P.O. Box 186, Pleasant Prairie, WI 53158. Representative: John R. Sims, Jr.,

915 Pennsylvania Bldg., 425 13th St., NW., Washington, DC 20004. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *plastics, plastic articles, and synthetic resins*, in bulk, in tank vehicles, from the facilities of E. I. DuPont de Nemours & Co., at Seneca, IL, to points in AL, AR, CT, DE, FL, GA, IA, IN, KS, KY, LA, MA, MD, MI, MN, MO, MS, NC, NJ, NY, OH, OK, PA, RI, SC, TN, TX, VA, WI, and WV. (Hearing site: Chicago, IL, or Washington, DC.)

MC 110420 (Sub-810F), filed March 30, 1979. Applicant: QUALITY CARRIERS, INC., P.O. Box 186, Pleasant Prairie, WI 53158. Representative: John R. Sims, Jr., 915 Pennsylvania Bldg., 425 13th St., NW., Washington, DC 20004. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *petroleum and petroleum products*, in bulk, in tank vehicles, from Chicago, IL, to points in DE, IN, IA, KY, MD, MA, MI, MN, MO, NE, NJ, NY, OH, PA, and WI. (Hearing site: Chicago, IL, or Washington, DC.)

MC 111231 (Sub-260F), filed March 29, 1979. Applicant: JONES TRUCK LINES, INC., 610 East Emma Avenue, Springdale, AR 72764. Representative: Don A. Smith, P.O. Box 43, 510 North Greenwood, Fort Smith AR 72902. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *asphalt building materials, and insulation materials*, and (2) *materials and supplies* used in the installation of the commodities named in (1) above, between the facilities of GAF Corporation, at or near Dallas, TX, on the one hand, and, on the other, points in AL, AR, CO, GA, KS, LA, MO, MS, NM, and OK. (Hearing site: Dallas, TX.)

MC 111320 (Sub-72F), filed March 22, 1979. Applicant: KERN TRANSPORT, INC., 2001 Barlow Road, Hudson, HO 44236. Representative: Michael Spurlock, 275 East State St., Columbus, OH 43215. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *construction equipment and earth-moving equipment*, and (2) *parts* for the commodities named in (1) above, from the facilities used by Fiat-Allis Construction Machinery, Inc., at or near Portsmouth, VA, to points in CT, DE, IL, IN, KY, MA, MD, ME, MO, NH, NJ, NY, OH, PA, RI, VT, and WI. (Hearing site: Columbus, OH.)

MC 111401 (Sub-558F), filed April 4, 1979. Applicant: GROENDYKE TRANSPORT, INC., P.O. Box 832, 2510 Rock Island Blvd., Enid, OK 73701.

Representative: Victor R. Comstock (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *chemicals*, in bulk, in tank vehicles, from Colwich, KS, to points in CO, NM, OK, TX, and WY. (Hearing site: Kansas City, KS, or Dallas, TX.)

MC 112520 (Sub-364F), filed March 16, 1979. Applicant: McKENZIE TANK LINES, INC., P.O. Box 1200, Tallahassee, FL 32302. Representative: Thomas F. Panebianco (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *source and special radioactive materials*, from the facilities of International Minerals and Chemical Corporation, and New Wales Chemicals, Inc., at New Wales, FL, to points in the United States (except AK and HI). Condition: Any certificate issued in this proceeding shall be limited in point of time to a period expiring 5 years from the date of issuance. (Hearing site: Atlanta, GA, or Tampa, FL.)

MC 114211 (Sub-403F), filed March 15, 1979. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, IA 50704. Representative: Adolor J. Warren (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *irrigation systems*, (2) *parts* for irrigation systems, (3) *solar energy systems and fuel burning heating appliances*, and (4) *parts and accessories* used in the installation, operation, and maintenance of the commodities in (1), (2), and (3) above, (5)(a) *pipe and poles*, and (b) *materials, equipments, and supplies* used in the installation and maintenance of pipe and poles, (6) *iron and steel articles*, and (7) *materials, equipment, and supplies* used in the manufacture of the commodities in (1), (2), (3), (4), 5(a), 5(b), and (6) above, between the facilities of Valmont Industries, Inc., at or near Valley, NE, on the one hand, and, on the other, those points in the United States in and east of ND, SD, NE, KS, OK, and TX. (Hearing site: Omaha or Lincoln, NE.)

MC 115331 (Sub-492F), filed March 27, 1979. Applicant: TRUCK TRANSPORT INCORPORATED, 29 Clayton Hills Lane, St. Louis, MO 63131. Representative: J.R. Ferris, 230 St. Clair Avenue, East St. Louis, IL 62201. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *non-alcoholic*

beverages, in containers, from St. Louis, MO, to points in GA and WI; and (2) *materials and supplies* used in the production and distribution of the commodities named in (1) above, (except commodities in bulk), from points in AL, AR, GA, IL, IN, IA, KS, KY, NE, MS, LA, OH, OK, PA, TN, TX, and WI, to St. Louis, MO. (Hearing site: St. Louis, MO.)

MC 115730 (Sub-70F), filed March 29, 1979. Applicant: THE MICKOW CORP., P.O. Box 1774, 531 S. W. Sixth St., Des Moines, IA 50306. Representative: Cecil L. Goettsch, 1100 Des Moines Bldg., Des Moines, IA 50309. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *iron and steel articles*, from the facilities of Nucor Steel Co., at Jewett, TX, to points in CO, IA, IL, IN, KS, MI, MN, MO, NE, OH, and WI. (Hearing site: Dallas, TX, or Washington, DC.)

MC 115730 (Sub-8F), filed March 26, 1979. Applicant: THE MICKOW CORP., 531 S. W. Sixth St., P.O. Box 1774, Des Moines, IA 50306. Representative: Cecil L. Goettsch, 1100 Des Moines Bldg., Des Moines, IA 50309. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *iron and steel articles*, from the facilities of North Star Steel Company, at Newport, MN, to points in the United States (except AK and HI); and (2) *materials, equipment, and supplies* used in the manufacture of iron and steel articles, (except commodities in bulk), in the reverse direction. (Hearing site: St. Paul, MN, or Chicago, IL.)

MC 117940 (Sub-324F), filed April 2, 1979. Applicant: NATIONWIDE CARRIERS, INC., P.O. Box 104, Maple Plain, MN 55359. Representative: Allan L. Timmerman, 5300 Highway 12, Maple Plain, MN 55359. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in by book stores, between points in NJ, on the one hand, and, on the other, the facilities of B. Dalton Bookseller, at points in CA. (Hearing site: Minneapolis or St. Paul, MN.)

MC 117940 (Sub-325F), filed April 2, 1979. Applicant: NATIONWIDE CARRIERS, INC., P.O. Box 104, Maple Plain, MN 55359. Representative: Allan L. Timmerman, 5300 Highway 12, Maple Plain, MN 55359. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *iron and steel tubing* (except commodities requiring special equipment), from the

facilities of Markin Tubing, Inc., at or near Pearl Creek, NY, to Canton, SD and Galesburg, IL, restricted to the transportation of traffic originating at the named origin facilities and destined to the named destinations. (Hearing site: Buffalo, NY.)

MC 117940 (Sub-328F), filed April 2, 1979. Applicant: NATIONWIDE CARRIERS, INC., P.O. Box 104, Maple Plain, MN 55359. Representative: Allan L. Timmerman, 5300 Highway 12, Maple Plain, MN 55359. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in by retail department stores (except foodstuffs, commodities in bulk, and household goods as defined by the Commission), from points in IL, MA, MO, NJ, NY, and PA, to the facilities of Nordstrom's Inc., at points in CA and OR, restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Seattle, WA.)

MC 119630 (Sub-21F), filed March 28, 1979. Applicant: VAN TASSEL, INC., 5th and Grand, Pittsburg, KS 66762. Representative: Wilburn L. Williamson, Suite 615-East, The Oil Center, 2801 Northwest Expressway, Oklahoma City, OK 73112. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1)(a) *plastic pipe, vinyl plastic siding, extruded plastic products, and fittings*, and (b) *accessories* for the commodities in (1)(a) above, from the facilities of Vinylplex, Inc., at or near Pasadena, TX, to points in the United States (except AK and HI); and (2) *materials, equipment, and supplies* used in the manufacture of the commodities named in (1) (a) and (b) above, between the facilities of Vinylplex, Inc., at or near (a) Pasadena, TX, and (b) Pittsburg, KS. (Hearing site: Kansas City, MO.)

Note.—Dual operations may be involved.

MC 119641 (Sub-164F), filed March 30, 1979. Applicant: RINGLE EXPRESS, INC., 450 E. Ninth St., Fowler, IN 47944. Representative: Alki E. Scopelitis, 1301 Merchants Plaza, Indianapolis, IN 46204. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *iron and steel articles*, from the facilities of Wheeling-Pittsburgh Steel Corporation, at (a) Canfield, Martins Ferry, Mingo Junction, Steubenville, and Yorkville, OH, (b) Allentown and Monessen, PA, and (c) Beechbottom, Benwood, Follansbee, and Wheeling, WV, to points in IL, IN, MI,

and WI. (Hearing site: Indianapolis, IN, or Chicago, IL.)

MC 119641 (Sub-165F), filed March 30, 1979. Applicant: RINGLE EXPRESS, INC., 450 E. Ninth St., Fowler, IN 47944. Representative: Alki E. Scopelitis, 1301 Merchants Plaza, Indianapolis, IN 46204. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *lumber, lumber products, lumber mill products, forest products, and wood products*, from Holly Hill and Walterboro, SC, to those points in the United States in and east of ND, SD, NE, KS, OK, and TX. (Hearing site: Indianapolis, IN, or Chicago, IL.)

MC 119641 (Sub-166F), filed April 2, 1979. Applicant: RINGLE EXPRESS, INC., 450 E. Ninth St., Fowler, IN 47944. Representative: Alki E. Scopelitis, 1301 Merchants Plaza, Indianapolis, IN 46204. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *composition board* and (2) *materials, supplies, and accessories* used in the installation of composition board, from the facilities of Abitibi Corporation, at (a) Blountstown, FL, and (b) Roaring River (Wilkes County), NC, to points in IL, IN, IA, KY, MI, MN, MO, NE, NY, ND, OH, PA, SD, and WI. (Hearing site: Indianapolis, IN, or Chicago, IL.)

MC 119741 (Sub-155F), filed March 30, 1979. Applicant: GREEN FIELD TRANSPORT COMPANY, INC., 1515 Third Avenue NW., P.O. Box 1235, Fort Dodge, IA 50501. Representative: D. L. Robson (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *scrap metal*, from the facilities of Webster, City Iron and Metal Co., Inc., at Webster City, IA, to Chicago, IL, and St. Louis, MO, restricted to the transportation of traffic originating at the named origin facilities and destined to the indicated destinations. (Hearing site: Fort Dodge, IA.)

MC 119741 (Sub-156F), filed March 30, 1979. Applicant: GREEN FIELD TRANSPORT COMPANY, INC., 1515 Third Avenue NW., P.O. Box 1235, Fort Dodge, IA 50501. Representative: D. L. Robson (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *bakery goods* (except frozen), (1) from the facilities of Interbake Foods Inc., at Richmond, VA, to points in AR, CO, IL, IA, KS, MN, MO, NE, ND, OK, SD, TX, and WI; and (2) from the facilities of Interbake Foods

Inc., at North Sioux City, SD, to points in AR, CT, DE, IL, IN, IA, KY, MD, MA, MI, MO, NJ, NY, OH, PA, RI, VA, WV, and DC, restricted to the transportation of traffic originating at the named origin facilities and destined to the indicated destinations. (Hearing site: Richmond, VA.)

MC 119741 (Sub-165F), filed April 2, 1979. Applicant: GREEN FIELD TRANSPORT COMPANY, INC., 1515 Third Avenue NW., P.O. Box 1235, Fort Dodge, IA 50501. Representative: D. L. Robson (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *bakery goods* (except frozen), from the facilities of Interbake Foods Inc., at Battle Creek, MI, to points in AR, CO, LA, MN, ND, SD, TX, and WI, restricted to the transportation of traffic originating at the named origin facilities and destined to the indicated destinations. (Hearing site: Battle Creek, MI.)

MC 124951 (Sub-41F), filed April 2, 1979. Applicant: WATHEN TRANSPORT, INC., P.O. Box 237, Henderson, KY 42420. Representative: Louis J. Amato, P.O. Box E, Bowling Green, KY 42101. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *malt beverages*, in containers, and empty *malt beverage containers*, (1) between the facilities of Olympia Brewing Company, at St. Paul, MN, on the one hand, and, on the other, Owensboro, KY, and (2) between the facilities of G. Heileman Brewing Company, at Evansville, IN, on the one hand, and, on the other, Bowling Green KY. (Hearing site: Evansville, IN, or Louisville, KY.)

MC 127840 (Sub-94F), filed April 2, 1979. Applicant: MONTGOMERY TANK LINES, INC., 17550 Fritz Drive, P.O. Box 382, Lansing, IL 60438. Representative: William H. Towle, 180 North LaSalle Street, Chicago, IL 60601. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *chemicals*, in bulk, in tank vehicles, from Meredosia, IL, to points in AR and TX. (Hearing site: New York, NY.)

MC 129401 (Sub-14F), filed March 6, 1979. Applicant: DOUGLAS & BESS, INC., Box 238, Statesville, NC 28677. Representative: Charles Ephraim, Suite 600, 1250 Connecticut Ave., NW., Washington, DC, 20036. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *feed and feed ingredients* (except commodities in bulk), from Decatur, IL, to points in NC,

under continuing contract(s) with A. E. Staley Manufacturing Company, of Decatur, IL. (Hearing site: Charlotte, NC.)

MC 133591 (Sub-66F), filed April 2, 1979. Applicant: WAYNE DANIEL TRUCK, INC., Post Office Box 303, Mount Vernon, MO 65712. Representative: Charles A. Daniel (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities as are dealt in or used by grocery and feed business houses*, (1) between the facilities of Ralston Purina Co., at or near Sparks, NV, on the one hand and on the other, points in CA, OR, and WA, and (2) between the facilities of Ralston Purina Co., at or near (a) San Diego, CA, and (b) Flagstaff, AZ, on the one hand, and, on the other, Memphis, TN, and points in AR, CO, KS, LA, MN, MO, NE, ND, OK, SD, and TX. (Hearing site: St. Louis or Kansas City, MO.)

Note.—Dual operations may be involved.

MC 134131 (Sub-8F), filed April 2, 1979. Applicant: R & S TRANSIT, INC., 1323 W. Locust, Springfield, MO 65803. Representative: Tom B. Kretzinger, 20 East Franklin, Liberty, MO 64068. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *drugs, toilet preparations, and shampoos*, (except commodities in bulk), from the facilities of Bristol-Myers Products Inc., at or near St. Louis, MO, to La Mirada and Oakland, CA, and Portland, OR. (Hearing site: St. Louis or Kansas City, MO.)

Note.—The purpose of this application is to substitute single-line for joint-line operations.

MC 134300 (Sub-38F), filed April 2, 1979. Applicant: TRIPLE R EXPRESS, INC., 496 First St., NW., New Brighton, MN 55112. Representative: Samuel Rubenstein, 301 North Fifth St., Minneapolis, MN 55403. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products and meat byproducts, and articles distributed by meat-packing houses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), between the facilities of Lauridsen Foods, Inc., at or near Britt, IA, on the one hand, and, on the other, points in CT, DE, MA, MD, ME, NH, NJ, NY, PA, RI, VT, and DC, restricted to the transportation of traffic originating at the named origin facilities and destined

to the indicated destinations. (Hearing site: Minneapolis or St. Paul, MN.)

MC 134501 (Sub-48F), filed March 30, 1979. Applicant: INCORPORATED CARRIERS, LTD., P.O. Box 3128, Irving, TX 75061. Representative: T. M. Brown, P.O. Box 1540, Edmond, OK 73034. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce over irregular routes, transporting *new furniture*, from Vernon, AL, to those points in TX south and east of a line beginning at the TX-AR State line and extending along U.S. Hwy 67 to Dallas, TX, then along Interstate Hwy 35E to Waco, TX, then along U.S. Hwy 81 to junction U.S. Hwy 84, then along U.S. Hwy 84 to junction U.S. Hwy 67, then along U.S. Hwy 67 to junction U.S. Hwy 290, then along U.S. Hwy 290 to junction U.S. Hwy 80, and then along U.S. Hwy 80 to the TX-MN State line, points in TN (except Shelby County), and points in ME, VT, NH, CT, MA, RI, NY, PA, VA, DE, MD, NJ, WV, NC, SC, GA, FL, LA, MS, KY, OH, IN, MI, IL, MO, and DC. (Hearing site: Atlanta, GA, or Washington, DC.)

MC 134921 (Sub-4F), filed March 29, 1979. Applicant: MID AMERICA TRANSPORT, INC., P.O. Drawer 370, Madisonville, KY 42431. Representative: Louis J. Amato, P.O. Box E, Bowling Green, KY 42101. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce over irregular routes, transporting *material, equipment, and supplies*, used in the manufacture, sale, and distribution of non-alcoholic beverages, from points in AL, AR, IL, IN, KY, MI, MS, MO, OH, and TN, to Madisonville, KY, under continuing contract(s) with Mid America Canning Corporation, of Madisonville, KY. (Hearing site: Evansville, IN, or Louisville, KY.)

MC 136511 (Sub-34F), filed March 30, 1979. Applicant: VIRGINIA APPALACHIAN LUMBER CORPORATION, 9640 Timberlake Rd., Lynchburg, VA 24502. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh Street NW., Washington, DC. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce over irregular routes, transporting *foodstuffs* (except in bulk), from Kent City, MI, to points in the United States (except AK and HI). (Hearing site: Richmond, VA, or Washington, DC.)

MC 136511 (Sub-35F), filed March 30, 1979. Applicant: VIRGINIA APPALACHIAN LUMBER CORPORATION, 9640 Timberlake Rd., Lynchburg, VA 24502. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh Street NW., Washington, DC. To operate as a

common carrier, by motor vehicle, in interstate or foreign commerce over irregular routes, transporting *frozen prepared foods*, from the facilities of Banquet Foods Corporation, at or near Carrollton, Marshall, Macon, and Moberly, MO, to points in AL, GA, KY, NC, SC, TN, VA, and WV. (Hearing site: St. Louis, Mo.)

MC 140460 (Sub-7F), filed April 2, 1979. Applicant: COAST REFRIGERATED TRUCKING CO., INC., P.O. Box 188, Holly Ridge, NC 28445. Representative: Herbert Alan Dubin, 1320 Fenwick Lane, Silver Spring, MD 20910. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *bananas*, from Hampton, Portsmouth, and Norfolk, VA, to points in IL, IN, IA, KY, MI, NE, NY, OH, PA, WV, and WI, restricted to the transportation of traffic having a prior movement by water. (Hearing site: Washington, DC.)

Note.—Dual operations may be involved.

MC 140601 (Sub-12F), filed March 29, 1979. Applicant: BILLY FRANK, d.b.a., FRANK BROS., 349 Abbott Avenue, Hillsboro, TX 76645. Representative: Charles E. Munson, 500 West Sixteenth Street, P.O. Box 1945, Austin, TX 78767. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1)(a) *plastic pipe, vinyl plastic siding, extruded plastic products, and fittings*, and (b) *accessories* for the commodities named in (1)(a) above, from the facilities of Vinylplex, Inc. at or near Pasadena, TX, to points in the United States (except AK and HI) and (2) *materials, equipment, and supplies* used in the manufacture of the commodities named in (1)(a) and (b) above, between the facilities of Vinylplex, Inc., at or near (a) Pittsburg, KS, and (b) Pasadena, TX, under continuing contract(s) with Vinylplex, Inc., of Pittsburg, KS. (Hearing site: Dallas, TX.)

MC 141921 (Sub-54F), filed April 2, 1979. Applicant: SAV-ON TRANSPORTATION, INC., 143 Frontage Road, Manchester, NH 03108. Representative: John A. Sykas (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products, and meat byproducts, and articles distributed by meat-packing houses*, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), (1) from Fremont, NE, to Baltimore, MD,

and points in NY and (2) from Newark, NJ, Mount Airy, MD, Philadelphia, PA, Wilmington, DE, and Boston, MA, to points in PA and KY. (Hearing site: Boston, MA, or Concord, NH)

Note.—Dual operations may be involved.

MC 143210 (Sub-15F), filed April 2, 1979. Applicant: H. O. WOLDING, INC., Box 56, Nelsonville, WI 54458. Representative: Wayne W. Wilson, 150 E. Gilman Street, Madison, WI 53703. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities as are manufactured, used or dealt in by manufacturers, converters, and printers of paper and paper products* (except commodities in bulk), from points in Portage and Wood Counties, WI, to points in AZ, CA, CO, ID, MT, NM, NV, OR, UT, WA, and WY. (Hearing site: Madison or Stevens Point, WI)

MC 143031 (Sub-14F), filed March 28, 1979. Applicant: LLOYD PAUL MURPHY, JAMES EDWARD MURPHY, TIMOTHY PAUL MURPHY, AND ERNEST STEWART MURPHY, MURPHY AND SONS, a Partnership, Route 2, Box 139, Spring City, TN 37381. Representative: Stan Guthrie, Suite 500, Dome Building, 736 Georgia Avenue, Chattanooga, TN 37402. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *stainless steel sinks, and materials, and supplies* used in the manufacture of stainless steel sinks, (a) from the facilities of Dayton Products, Inc., at Dayton, TN, to points in IL, and to Dayton Ogden Corporation, at Ogden, UT, and (b) from the facilities of Elkay Manufacturing Company, at Chicago, IL, and the facilities of Dayton Ogden Corporation, at Ogden, UT, to the facilities of Dayton Products, Inc., at Dayton, TN; (2) *materials, equipment, and supplies* used in the manufacture of stainless steel sinks, from the facilities of Mortell Corporation, at Griffin, GA, and the facilities of International Chemical Corporation, at Philadelphia, PA, to the facilities of Dayton Products Inc., at Dayton, TN; and (3) *garbage disposal units*, from the facilities of Elkay Disposal Corporation, at Chatsworth, CA, to the facilities of Dayton Products, Inc., at Dayton, TN, under continuing contract(s) in (1), (2), and (3) above with Dayton Products, Inc., of Dayton, TN. (Hearing site: Nashville or Chattanooga, TN.)

MC 143110 (Sub-7F), filed March 29, 1979. Applicant: K&B EXPRESS INC., P.O. Box 841, Union City, NJ 07083. Representative: Stuart R. Mandel, 315 S. Beverly Drive, Suite 315, Beverly Hills, CA 90212. To operate as a *contract*

carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *agricultural fertilizers, and agricultural chemicals* (except commodities in bulk); and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities named in (1) above (except commodities in bulk), between points in AL, AR, CA, FL, GA, LA, MD, MS, NC, NJ, NY, OK, PA, SC, TN, TX, VA, and WV, under continuing contracts(s) with Helena Chemicals Company, of Memphis, TN. (Hearing site: New York, NY.)

MC 144051 (Sub-7F), filed March 29, 1979. Applicant: ALFORD-LOGSTON, INC., 1714 Tabor, Houston, TX 77009. Representative: Michael Connelly, Esperson Buildings, Houston, TX 77002. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *home care products*, between Memphis, TN, and points in MS, under continuing contract(s) with Stanley Home Products, Inc., of Easthampton, MA. (Hearing site: Houston or Fort Worth, TX.)

MC 145390 (Sub-1F), filed April 2, 1979. Applicant: WILLIAM SMITH, d.b.a. ALCOTT TRUCKING, 59 Alcott Road, Mahwah, NJ 07430. Representative: Joseph R. Siegelbaum, Seventeen Academy St., Newark, NJ 07102. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *malt beverages and empty containers* used in the distribution of malt beverages, from Newark, NJ and Cranston, RI, to Malone and Plattsburgh, NY, under continuing contract(s) with (1) Lapans & Sons, of Plattsburgh, NY, and (2) Malone Beverages, Inc., of Malone, NY. (Hearing site: New York, NY.)

MC 145441 (Sub-30F), filed March 26, 1979. Applicant: A.C.B. TRUCKING, INC., P.O. Box 5130, North Little Rock, AR 72119. Representative: E. Lewis Coffey (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *rubber articles, plastic articles, and housewares*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities named in (1) above, between Wooster, OH, on the one hand, and, on the other, points in AZ, AR, CA, CO, FL, GA, ID, KS, LA, NV, NM, OK, OR, SC, TX, UT, and WA. (Hearing site: Columbus, OH, or Little Rock, AR.)

Note.—Dual operations may be involved.

MC 145481 (Sub-8F), filed March 28, 1979. Applicant: COYOTE TRUCK LINE, INC., P.O. Box 756, Thomasville, NC 27360. Representative: John T. Wirth, 717 17th St., Suite 2600, Denver, CO 80202. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *drugs, cosmetics, plastic articles, weed killing compounds, and animal and poultry feed supplements* (except commodities in bulk), and (2) *materials, supplies, and equipment* used in the manufacture, and distribution of the commodities named in (1) above, (except commodities in bulk), (a) between the facilities use by Eli Lilly & Co., at or near (a) Roanoke, VA, and (b) West Helena, AR, on the one hand, and, on the other points in CA and IN, and (b) between the facilities of Eli Lilly & Co., at or near Indianapolis, Lafayette, and Clinton, IN, on the one hand, and, on the other, Atlanta, GA, Raleigh, NC, Memphis, TN, and Norfolk, VA. (Hearing site: Indianapolis, IN.)

Note.—Dual operations may be involved.

MC 145701 (Sub-2F), filed March 28, 1979. Applicant: D. C. TRANSPORT, INC., 916 South Riverside Ave., St. Clair, MI 48079. Representative: James J. Sheehan (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *salt and salt products*, (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, and (3) *restaurant supplies*, in mixed loads with the commodities in (1) above, between points in the United States (except AK and HI), restricted to the transportation of traffic originating at or destined to the facilities of Diamond Crystal Salt Company. (Hearing site: Detroit, MI, or Washington, DC.)

MC 145981 (Sub-5F), filed March 30, 1979. Applicant: ACE TRUCKING CO., INC., 1 Hackensack Ave., South Kearny, NJ 07032. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *zinc dust* (except in bulk); and (2) *materials, equipment, and supplies* used in the manufacture and sale of zinc dust (except commodities in bulk), from the facilities of L D L Technology, Inc., at or near Paterson, NJ, to points in the United States (except AK and HI), restricted to the transportation of traffic originating at the named origin facilities and destined to the indicated destinations. (Hearing site: New York, NY, or Washington, DC.)

Note.—Dual operations may be involved.

MC 146090 (Sub-2F), filed March 5, 1979. Applicant: WESTERN MOTOR EXPRESS, a Corporation, d.b.a. WESTERN TRANSPORT, 7843 Chatfield St., Whittier, CA 90606. Representative: Robert Fuller, Suite 310, Whittier Square, Whittier, CA 90601. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *wrought steel pipe*, the transportation of which because of size of weight requires the use of special equipment, from points in Los Angeles, San Bernardino, and Riverside Counties, CA, to points in AZ. (Hearing site: Los Angeles or San Francisco, CA.)

MC 146140 (Sub-3F), filed April 3, 1979. Applicant: MELVIN SALES COMPANY, a Corporation, 901 North Vermillion, Streator, IL 61364. Representative: Paul J. Maton, Suite 1620, 10 south LaSalle Street, Chicago, IL 60603. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *silica sand*, in bulk, from points in LaSalle County, IL, to Lawrenceburg, IN. (Hearing site: Chicago, IL.)

MC 146291 (Sub-2F), filed March 26, 1979. Applicant: LARRY WILSON, d.b.a. WILSON TRUCKING CO., P.O. Box 581, Plainview, TX 79072. Representative: Richard Hubbert, P.O. Box 10236, Lubbock, TX 79408. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *farm equipment*, from the facilities of Tye Sales Company, at or near Lockney, TX, to points in the United States (except AK and HI); and (2) *equipment, materials, and supplies* used in the manufacture of farm equipment in the reverse direction. (Hearing site: Lubbock or Dallas, TX.)

MC 146640F, filed April 4, 1979. Applicant: M & S TRUCKING, INC., 1589 East Fifth Avenue, Columbus, OH 44216. Representative: Michael L. Moushey, 275 East State St., Columbus, OH 43215. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *wooden pallets*; and (2) *materials, equipment, and supplies* used in the manufacture of wooden pallets, between the facilities used by B. F. Goodrich Company, at Columbus, OH, on the one hand, and, on the other, points in IN, PA, AL, IL, TX, KS, CA, OK, and KY, under continuing contract(s) with B. F. Goodrich Company, of Akron, OH. (Hearing site: Columbus or Cleveland, OH.)

MC 146660 (Sub-2F), filed April 2, 1979. Applicant: GRANT'S TRUCKING SERVICE, INC., Post Office Box 10158, Goldsboro, NC 27532. Representative: Ralph McDonald, Post Office Box 2246, Raleigh, NC 27602. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *wood residuals*, from points in NC, to points in VA. (Hearing site: Raleigh, NC.)

MC 146701 (Sub-1F), filed April 2, 1979. Applicant: WEAVER TRUCKING CO., INC., P.O. Box 45, Eton, GA 30724. Representative: Archie B. Culbreth, Suite 202, 2200 Century Parkway, Atlanta, GA 30345. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *aluminum hydrate* (except in bulk), from Chatsworth, GA, to points in CA, and to those points in the United States in and east of MN, IA, MO, AR, and LA, under continuing contract(s) with North Georgia Minerals and Chemicals, Inc., of Chatsworth, GA. (Hearing site: Atlanta, GA.)

MC 146701 (Sub-2F), filed April 2, 1979. Applicant: WEAVER TRUCKING CO., INC., P.O. Box 45, Eton, GA 30724. Representative: Archie B. Culbreth, Suite 202, 2200 Century Parkway, Atlanta, GA 30345. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products, and meat byproducts, and articles distributed by meat-packing houses*, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), in vehicles equipped with mechanical refrigeration, from points in CO, IL, IA, KS, MN, NE, NM, ND, OK, and TX, to points in AL, FL, GA, KY, NC, SC, TN, and VA, under continuing contract(s) with Missouri Valley Foods, Inc., of Omaha, NE. (Hearing site: Atlanta, GA.)

Passenger Authority

MC 143140 (Sub-3F), filed April 2, 1979. Applicant: SEYMOUR BUS LINES, INC., Route #3, Maynardville, TN 37807. Representative: Lewis S. Witherspoon, 83 East Broad St., Columbus, OH 43215. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *passengers and their baggage*, in the same vehicle with passengers, in special round-trip operations, beginning and ending at points in Anderson, Blount, Campbell, Clairborne, Jefferson, Knox, and Union

Counties, TX, and extending to points in the United States (including AK, but excluding HI). Hearing site: Knoxville, TN.)

Note.—Applicant has introduced the issue of rates in support of its application.

Passenger Authority

MC 146941 (Sub-1F), filed March 30, 1979. Applicant: CRAWFORD TRANSIT, INC., 43 National Avenue, Staunton, VA 24401. Representative: Leonard A. Jaskiewicz, 1730 M Street NW., Suite 501, Washington, DC 20036. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *passengers and their baggage*, in the same vehicle with passengers, in round-trip charter operations, beginning and ending at Staunton, Waynesboro, Harrisonburg, Lexington, Clifton Forge, Covington, Buena Vista, and Charlottesville, VA, and points in Albemarle, Alleghany, Amherst, Augusta, Bath, Greene, Highland, Nelson, Page, Rockbridge, and Rockingham Counties, VA, and extending to those points in the United States in and east of MN, IA, MO, AR, and LA. (Hearing site: Charlottesville, VA.)

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Decided: July 19, 1979.

By the Commission, Review Board Number 3, Members Parker, Fortier, and Hill.

MC 531 (Sub-388F), filed April 6, 1979. Applicant: YOUNGER BROTHERS, INC., 4904 Griggs Road, P.O. Box 14048, Houston, TX 77021. Representative: Wray E. Hughes (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *chemicals*, in bulk, in tank vehicles, from Meredosia, IL, to points in AR and TX. (Hearing site: St. Louis, IL, or Houston, TX.)

MC 531 (Sub-389F), filed April 6, 1979. Applicant: YOUNGER BROTHERS, INC., 4904 Griggs Road, P.O. Box 14048, Houston, TX 77021. Representative: Wray E. Hughes (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *liquid plastics*, in bulk, in tank vehicles, from San Carlos, CA, to Oak Creek, WI. (Hearing site: San Francisco, CA.)

MC 3581 (Sub-23F), filed April 5, 1979. Applicant: THE MOTOR CONVOY, INC., 2175 Parklake Drive, N.E., Suite 107, Atlanta, GA 30345. Representative: Paul M. Daniell, P.O. Box 872, Atlanta, GA 30301. To operate as a *common carrier*, by motor vehicle, in interstate or

foreign commerce, over irregular routes, transporting *automobiles, trucks, and tractors*, in initial and secondary movements, in driveway and truckaway service, from Hapeville, GA, to points in the United States (except AK and HI). (Hearing site: Atlanta, GA, or Detroit, MI.)

MC 19311 (Sub-59F), filed March 30, 1979. Applicant: CENTRAL TRANSPORT, INC., 34200 Mound Road, Sterling Heights, MI 48077. Representative: Elmer J. Maue, Suite 1200, 755 West Big Beaver Rd., Troy, MI 48064. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *voting machines and equipment, materials, and supplies* used in the manufacture and distribution of voting machines, between points in New York, on the one hand, and, on the other, points in IL, IN, and OH; and (2) *new furniture, new household, office and store fixtures, and furnishings, and equipment, materials, and supplies* used in the manufacture and distribution of new furniture, new office and store fixtures, and furnishings, between points in CT, ME, MD, MA, NH, NJ, NY, PA, RI, and VT, on the one hand, and, on the other, points in IL, IN, OH, and WI. (Hearing site: Washington, DC.)

MC 29910 (Sub-212F), filed April 2, 1979. Applicant: ARKANSAS-BEST FREIGHT SYSTEM, Inc., 301 South 11th Street, Fort Smith, AR 72901. Representative: Don A. Smith, P.O. Box 43, 510 North Greenwood Avenue, Fort Smith, AR 72902. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the commission, commodities in bulk, and those requiring special equipment), Between junction U.S. Hwy 30 and Interstate Hwy 79, and Dayton, OH: From junction U.S. Hwy 30 and Interstate Hwy 79, then over Interstate Hwy 79 to junction Interstate Hwy 70, then over Interstate Hwy 70 to junction Interstate Hwy 75, then over Interstate Hwy 75 to Dayton, OH, and return over the same route, serving the termini as points of joinder only, as an alternate route for operating convenience only. (Hearing site: Washington, DC.)

MC 29910 (Sub-214F), filed April 2, 1979. Applicant: ARKANSAS-BEST FREIGHT SYSTEM, Inc., 301 South 11th Street, Fort Smith, AR 72901. Representative: Don A. Smith, P.O. Box 43, 510 North Greenwood Avenue, Fort Smith, AR 72902. To operate as a *common carrier*, by motor vehicle, in

MC 35320 (Sub-277F), filed April 6, 1979. Applicant: T.I.M.E.—DC, Inc., P.O. Box 2550, Lubbock, TX 79408. Representative: Kenneth G. Thomas (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, ammunition, parts of ammunition, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment),

serving the facilities of William L. Bonnell Company, Inc., at or near Newnan, GA, and Carthage, TN, as off-route points in connection with the carrier's otherwise authorized regular-route operations. (Hearing site: Atlanta, GA, or Washington, DC.)

MC 35320 (Sub-278F), filed April 6, 1979. Applicant: T.I.M.E.-DC, INC., P.O. Box 2550, Lubbock, TX 79408. Representative: Kenneth G. Thomas (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, ammunition, parts of ammunition, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of Ben Pearson Archery, Inc., at or near Pine Bluff, AR, as an off-route point in connection with the carrier's otherwise authorized regular-route operations. (Hearing site: Little Rock, AR, or Tulsa, OK.)

MC 35320 (Sub-284F), filed April 6, 1979. Applicant: T.I.M.E.-DC, INC., P.O. Box 2550, Lubbock, TX 79408. Representative: Kenneth G. Thomas (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, ammunition, parts of ammunition, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of A. J. King Lumber Company, Inc., at or near Sevierville, TN, as an off-route point in connection with the carrier's otherwise authorized regular-route operations. (Hearing site: Knoxville, TN, or Washington, DC.)

MC 35320 (Sub-285F), filed April 6, 1979. Applicant: T.I.M.E.-DC, INC., P.O. Box 2550, Lubbock, TX 79408. Representative: Kenneth G. Thomas (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, ammunition, parts of ammunition, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of Brown & Root, at or near Ashdown, AR, as an off-route point in connection with the carrier's otherwise authorized regular-route operations. (Hearing site: Little Rock, AR, or Tulsa, OK.)

MC 42011 (Sub-46F), filed February 26, 1979. Applicant: D. Q. WISE & CO., INC., P.O. Drawer L, Tulsa, OK 74112. Representative: J. G. Dail, Jr., P.O. Box LL, McLean, VA 22101. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *castings, shipping containers, electrical cable, switchboards, transformers, motors, pumps, motor parts, and pump parts*, and (2) *accessories for pumps and motors*, and (3) *equipment, materials and supplies* used in the maintenance, operation, repair, manufacture, removal and installation of the commodities named in (1) and (2) above, between the facilities of Centrilit, Inc., at or near Claremore, OK, on the one hand, and, on the other, points in the United States (including AK, but excluding HI), restricted to the transportation of traffic originating at or destined to the above-named facilities. (Hearing site: Tulsa, OK.)

MC 53841 (Sub-24F), filed April 4, 1979. Applicant: W. H. CHRISTIE & SONS, INC., Box 517, East State St., Knoxville, PA 16232. Representative: John A. Pillar, 1500 Bank Tower, 307 Fourth Ave., Pittsburgh, PA 15222. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *iron powder* (except in bulk), from Riverton, NJ, to points in PA and NY. (Hearing site: Pittsburgh, PA, or New York, NY.)

MC 59680 (Sub-225F), filed March 29, 1979. Applicant: STRICKLAND TRANSPORTATION CO., INC., 11353 Reed Hartman Hwy, Cincinnati, OH 45241. Representative: Edward G. Bazelon, 39 South LaSalle Street, Chicago, IL 60603. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between San Antonio, TX, and Round Rock, TX, over Interstate Hwy 35, as an alternate route for operating convenience only, serving no intermediate points, and serving Round Rock, TX for purposes of joinder only. (Hearing site: Cincinnati, OH, or Washington, DC.)

Note.—Applicant intends to interline at San Antonio, TX, and intends to tack the authority sought herein with other authority held by applicant.

MC 75320 (Sub-210F), filed January 23, 1979. Applicant: CAMPBELL SIXTY-SIX EXPRESS, INC., P.O. Box 807, Springfield, MO 65801. Representative:

Phineas Stevens, 17th Floor, Deposit Guaranty Plaza, P.O. Box 25567, Jackson, MS 39205. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Memphis and Nashville, TN, over Interstate Hwy 40, serving no intermediate points, but serving Jackson and Nashville, TN, for purposes of joinder only, (2) between Birmingham, AL, and Nashville, TN, over Interstate Hwy 65, serving no intermediate points, but serving Nashville, TN, for purposes of joinder only, (3) between Atlanta, GA, and Nashville, TN, from Atlanta, GA, over Interstate Hwy 75 and U.S. Hwy 41 to Chattanooga, TN, then over Interstate Hwy 24 to Nashville, TN, and return over the same route, serving no intermediate points and serving Chattanooga and Nashville, TN, for purposes of joinder only, (4) between Nashville, TN, and Louisville, KY, over Interstate Hwy 65, serving no intermediate points, but serving Nashville for purpose of joinder only, (5) between Louisville, KY and Indianapolis, IN, over Interstate Hwy 65, serving no intermediate points, but serving the function of Interstate Hwy 65 and U.S. Hwy 50 at or near Seymour, IN, for purposes of joinder only, NOTE: Service at Louisville and points within its commercial zone is restricted against the transportation of traffic originating at, destined to or interlined with connecting carriers at Indianapolis and points within its commercial zone. (6) between St. Louis, MO and Cincinnati, OH, over U.S. Hwy 50, serving the junction of U.S. Hwy 50 and Interstate Hwy 65, at or near Seymour, IN, for purposes of joinder only, (7) between Louisville, KY and Cincinnati, OH, over Interstate Hwy 71, serving no intermediate points.

Note.—Service at Louisville and points within its commercial zone is restricted against the transportation of traffic originating at, destined to or interlined with connecting carriers at Cincinnati and points within its commercial zone.

(8) between Cincinnati and Cleveland, OH, over Interstate Hwy 71, serving no intermediate points, but serving Columbus, OH, for purposes of joinder only, (9) between Chattanooga, TN and Cincinnati, OH, over Interstate Hwy 75, serving no intermediate points, but serving Chattanooga, TN for purpose of

*Applicant holds authority required in Docket No. MC-F-12713.

joinder only, (10) between Tupelo, MS and Jackson, TN, over U.S. Hwy 45, serving no intermediate points, but serving Jackson, TN, for purpose of joinder only, (11) between Indianapolis and Richmond, IN, over Interstate Hwy 70, serving no intermediate points, NOTE: Service at Richmond and points within its commercial zone is restricted against the transportation of traffic originating at, destined to or interlined with connecting carriers at Indianapolis and points within its commercial zone. (12) between Columbus and Zanesville, OH, over Interstate Hwy 70, serving no intermediate points, but serving Zanesville for purpose of joinder only, (13) between Cincinnati, OH and Pittsburgh, PA, over U.S. Hwy 22, serving Zanesville, OH, for purpose of joinder only, (14) between Indianapolis, IN and Chicago, IL, from Indianapolis, IN over Interstate Hwy 65 to junction Interstate Hwy 94, then over Interstate Hwy 94 to Chicago, IL, and return over the same route, serving no intermediate points. (Hearing site: Indianapolis, IN.)

Note.—Service at Indianapolis and points within its commercial zone is restricted against the transportation of traffic originating at, destined to or interlined with connecting carriers at Chicago and points within its commercial zone.

Note.—Applicant indicates intention to tack with existing authority at points in AL, GA, IL, IN, KY, MS, OH, and TN.

MC 83850 (Sub-11F), filed April 2, 1979. Applicant: JOHNSONS TRANSFER, INC., 6951 Norwitch Drive, Philadelphia, PA 19153. Representative: Harold P. Boss, 1100 Seventeenth Street NW., Washington, DC 20036. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, foodstuffs, and those requiring special equipment), between points in CT, DE, ME, MD, MA, NH, NJ, NY, NC, OH, PA, RI, VT, VA, WV, and DC, restricted to the transportation of traffic originating at or destined to the facilities of the United States Gypsum Company. (Hearing site: Washington, DC, or Philadelphia, PA.)

MC 95540 (Sub-1097F), filed April 2, 1979. Applicant: WATKINS MOTOR LINES, INC., 1144 West Griffin Road, P.O. Box 1636, Lakeland, FL 33802. Representative: Benjy W. Fincher (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in by wholesale, and retail department stores

(except those of unusual value, classes A and B explosives, and commodities in bulk), from points in GA, NC, SC, and AL, to points in MN. (Hearing site: Minneapolis, MN, or Washington, DC.)

MC 97310 (Sub-32F), filed April 2, 1979. Applicant: SHARRON MOTOR LINES, INC., P.O. Box 31066, 3730 First Avenue South, Birmingham, AL 35222. Representative: Bruce E. Mitchell, 3390 Peachtree Rd. 5th Floor, Atlanta, GA 30326. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) Between, Memphis, TN, and New Orleans, LA, over U.S. Hwy 61, serving intermediate points in MS on and south of U.S. Hwy 80, and all intermediate points in LA, (2) between Memphis, TN, and Kenner, LA: From Memphis, TN over U.S. Hwy 51 or Interstate Hwy 55 to junction U.S. Hwy 61, at or near Kenner, LA, and return over the same route, serving all intermediate points in MS on and south of U.S. Hwy 80, and all intermediate points in LA, (3) between Memphis, TN, and New Orleans, LA: From Memphis, TN over U.S. Hwy 78 to junction U.S. Hwy 45, then over U.S. Hwy 45 to junction U.S. Hwy 11, then over U.S. Hwy 11 to New Orleans, LA, and return over the same route, serving all intermediate points in MS on and south of U.S. Hwy 80, and all intermediate points in LA, (4) Between Birmingham, AL, and New Orleans, LA: From Birmingham, AL over U.S. Hwy 31 to Montgomery, AL, then over Interstate Hwy 65 to Mobile, AL, then over U.S. Hwy 90 to New Orleans, LA, and return over the same route, serving all intermediate points, (5) Between Meridian, MS, and Mobile, AL, over U.S. Hwy 45, serving all intermediate points, (6) Between Jackson, MS, and Mobile, AL: From Jackson, MS over U.S. Hwy 49 to junction U.S. Hwy 98, then over U.S. Hwy 98 to Mobile, AL, and return over the same route, serving all intermediate points, (7) Between Jackson, MS, and Gulfport, MS, over U.S. Hwy 49, serving all intermediate points, (8) Between Natchez, MS, and Mobile, AL, over U.S. Hwy 98, serving all intermediate points, (9) Between Natchez, MS, and junction U.S. Hwy 84 and U.S. Hwy 45, over U.S. Hwy 84, serving all intermediate points, and (10) Between Baton Rouge, LA, and junction U.S. Hwy 190 and U.S. Hwy 90, over U.S. Hwy 190, serving all intermediate points, service is authorized at all points in MS south of

U.S. Hwy 80 as off-route points in connection with operation over the routes described above. (Hearing site: Birmingham, AL, Jackson, MS, and New Orleans, LA.)

MC 104881 (Sub-7F), filed March 29, 1979. Applicant: GAY TRUCK LINE, INC., Post Office Box 134, Falkner, MS 38629. Representative: John A. Crawford, 17th Floor, Deposit Guaranty Plaza, Post Office Box 22567, Jackson, MS 39205. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) Between Walnut, MS, and the MS-AL State line, over U.S. Hwy 72, serving all intermediate points, (2) Between the MS-TN State line, and Baldwin, MS: From the MS-TN State line over U.S. Hwy 45 and U.S. Hwy 45 By-pass to Baldwin, MS, and return over the same route, serving all intermediate points, and (3) Between Booneville, MS, and Ripley, MS, over MS Hwy 4, serving all intermediate points, serving points in Alcorn and Prentiss Counties, MS, and the Yellow Creek Port Terminal and Industrial Area in Tishomingo and Alcorn Counties, MS, and the Nuclear Power Plant facilities in Tishomingo County, MS as off-route points in parts (1), (2), and (3). (Hearing site: Memphis, TN, and Corinth, MS.)

MC 106920 (Sub-79F), filed April 4, 1979. Applicant: RIGGS FOOD EXPRESS, INC., P.O. Box 26, New Bremen, OH 45869. Representative: David C. Venable, 805 McLachlen Bank Building, 666 Eleventh Street NW., Washington, DC 20001. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs and supplies and equipment* used in the production of foodstuffs, between the facilities of Anderson Clayton Foods, Inc., at Jacksonville, IL, on the one hand, and on the other, points in FL, GA, TN, IN, KY, and MI. (Hearing site: Dallas, TX.)

MC 106920 (Sub-80F), filed April 4, 1979. Applicant: RIGGS FOOD EXPRESS, INC., P.O. Box 26, New Bremen, OH 45869. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh Street NW., Washington, DC 20001. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs* (except in bulk), from Napolen, OH, to points in IL, IN, MI, MO, NJ, NY, PA,

VA. and WI. (Hearing site: Columbus, OH, or Chicago, IL.)

MC 108631 (Sub-11F), filed March 15, 1979. Applicant: BOB YOUNG TRUCKING, INC., Schoenersville Road at Industrial Drive, Bethlehem, PA 18017. Representative: Alan Kahn, 1920 Two Penn Center Plaza, Philadelphia, PA 19102. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *boilers, furnaces, heat transfer units, forgings, castings, weldments, filter presses, material handling and processing equipment*, and commodities, the transportation of which because of size or weight require the use of special equipment, from the facilities of The Bethlehem Corporation, in Palmer Township, PA (Northampton County), to points in the United States (except AK, HI, and PA), and (2) *materials and equipment* used in the manufacture of the commodities in (1) above, in the reverse direction. (Hearing site: Philadelphia, PA, or Washington, DC.)

MC 109490 (Sub-10F), filed March 29, 1979. Applicant: HEDING TRUCK SERVICE, INC., P.O. Box 43, Union Center, WI 53962. Representative: Richard A. Westley, 4506 Regent Street, Suite 100, Madison, WI 53705. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *feed and feed ingredients*, from the facilities of Milk Specialties Division of General Host Corporation, at or near Dundee, IL, and Boscobel and New Holstein, WI, to points in the United States (except AK and HI); and (2) (a) *caseinate*, (b) *blends* consisting of soy flour and dairy products, and (c) *commodities* otherwise exempt from economic regulation, when moving in mixed loads with the commodities named above, from the facilities of Elroy Community Dairy, Inc., at or near Elroy, WI, to points in the United States (except AK and HI). (Hearing site: Chicago, IL, or Milwaukee, WI.)

MC 110380 (Sub-11F), filed March 23, 1979. Applicant: BERSCHENS OF MADISON, INC., 120 West Verona Avenue, Verona, WI 53593. Representative: Rolfe E. Hanson, 121 West Doty Street, Madison, WI 53703. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *plastic pipe, conduit, and materials, supplies, and tools* (except commodities in bulk), used in the installation of plastic pipe and conduit, from points in Dane and Rock Counties, WI, to points in NE, ND, SD, KS, TN, KY,

WV, PA, and MN. (Hearing site: Madison or Milwaukee, WI.)

MC 119641 (Sub-163F), filed March 30, 1979. Applicant: RINGLE EXPRESS, INC., 450 E. Ninth St., Fowler, IN 47944. Representative: Alki E. Scopelitis, 1301 Merchants Plaza, Indianapolis, IN 46204. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *sewerage treatment plants, aerators, lift stations, and accessories* thereof, from the facilities of Clow Corporation, near Richwood, KY, to points in the United States (except AK and HI); and (2) *pipe, fittings, valves, hydrants, and accessories* used in the installation thereof, from the facilities of Clow Corporation, at points in Jefferson and Talladega Counties, AL, and at Columbia, MO, to points in IL, IN, IA, MI, MN, NE, OH, and WI. (Hearing site: Indianapolis, IN, or Chicago, IL.)

MC 119741 (Sub-164F), filed April 2, 1979. Applicant: GREEN FIELD TRANSPORT COMPANY, INC., 1515 Third Avenue, NW., P.O. Box 1235, Fort Dodge, IA 50501. Representative: D. L. Robson (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *food, food products, and food ingredients* (except commodities in bulk, in tank vehicles), from points in CO, KS, and MO, to the facilities of Archer Daniels Midland Company, at Decatur, IL, restricted to the transportation of traffic originating at the named origins and destined to the indicated destination. (Hearing site: Chicago, IL.)

MC 119741 (Sub-166F), filed April 6, 1979. Applicant: GREEN FIELD TRANSPORT COMPANY, INC., 1515 Third Avenue, NW., P.O. Box 1235, Fort Dodge, IA 50501. Representative: D. L. Robson (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *animal drugs or medicines, animal feed and supplemental powder*; and (2) *material, equipment, and supplies* used in the conduct of business of (1) above, between the facilities of Salisbury Laboratories, at or near Charles City, IA, on the one hand, and, on the other, points in AR, DE, GA, MD, NJ, and NY, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations. (Hearing site: Mason City, IA.)

MC 121470 (Sub-22F), filed April 4, 1979. Applicant: TANKSLEY TRANSFER COMPANY, a Corporation, 801 Cowan Street, Nashville, TN 37207.

Representative: John M. Nader, 1600 Citizens Plaza, Louisville, KY 40202. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *composition board, hardboard, flakeboard, particle board, and lumber mill products*, from Bluegrass Industrial Park, at or near Louisville, KY, and from Sellersburg, IN, to points in the United States (except AK and HI), restricted to the transportation of traffic originating at the named points. (Hearing site: Louisville, KY, or Nashville, TN.)

MC 129121 (Sub-4F), filed April 5, 1979. Applicant: GEORGE W. CARMEAN, INC., P.O. Box 129, Georgetown, DE 19947. Representative: J. Michael May, Suite 508, 1447 Peachtree St. NE., Atlanta, GA 30309. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *feed ingredients*, in bulk, from the facilities of International Bakerage, Inc., at Carteret, NJ, to points in DE, MD, NC, and VA, under continuing contract(s) with International Bakerage, of Carteret, NJ. (Hearing site: Atlanta, GA, or Washington, DC.)

MC 135430 (Sub-2F), filed April 4, 1979. Applicant: LEAVITTS FREIGHT SERVICE, INC., 3855 Marcola Road, Springfield, OR 97447. Representative: David C. White, 2400 SW Fourth Ave., Portland, OR 97201. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *laminated wood products, prefabricated wooden timbers, trusses, and beams and lumber*, from points in OR, to points in WA, OR, CA, ID, NV, MT, WY, CO, UT, AZ, and NM; (2) *treated poles, pilings, and posts*, (a) from points in OR and WA, to points in WA, OR, ID, CA, and NV, and (b) from Weed, CA, to points in OR and NV; and (3) *lumber*, from those points in CA in and north of Mendocino, Lake, Yolo, Sacramento, and El Dorado Counties, and points in ID, WA, and OR, to points in OR. (Hearing site: Portland, OR.)

Note.—Condition for issuance of certificate: Coincidental cancellation at applicant's written request of its permits in MC-116474 and subs.

MC 138000 (Sub-46F), filed April 4, 1979. Applicant: ARTHUR H. FULTON, INC., P.O. Box 86, Stephens City, VA 22655. Representative: Edward N. Button, 1329 Pennsylvania Ave., P.O. Box 1417, Hagerstown, MD 21740. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *bakery goods*, from

Richmond, VA, to points in MT. (Hearing site: Washington, DC.)

Note.—Dual operations may be involved.

MC 138741 (Sub-76F), filed April 6, 1979. Applicant: AMERICAN CENTRAL TRANSPORT, INC., 2005 North Broadway, Joliet, IL 60435. Representative: Tom B. Kretsinger, 20 East Franklin, Liberty, MO 64068. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *plastic pipe and fittings*, from the facilities of Some Industries, Inc., a Division of Robintech, Inc., at or near Rolla, MO, to points in AR, IL, IN, KS, KY, MI, OH, OK, TN, and WI. (Hearing site: Kansas City, MO.)

MC 139960 (Sub-1F), filed April 4, 1979. Applicant: WESTERN PACIFIC TRANSPORT COMPANY, a Corporation, 528 Mission Street, San Francisco, CA 94105. Representative: Stephen T. Rudman (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except classes A and B explosives, commodities in bulk, and used household goods), (1) Between Woodland, CA, and Sacramento, CA, over Interstate Hwy 5, serving all intermediate points, (2) Between San Jose, CA, and Oakland, CA, over CA Hwy 17, serving all intermediate points, (3) Between Salinas, CA, and San Jose, CA, over U.S. Hwy 101, serving all intermediate points, (4) Between Santa Clara, CA, and Oakland, CA: From Santa Clara, CA over U.S. Hwy 101 to junction Interstate Hwy 80 to Oakland, CA, and return over the same route, serving all intermediate points, (5) Between Stockton, CA, and Oakland, CA: From Stockton, CA over Interstate Hwy 5, to junction Interstate Hwy 205, then over Interstate Hwy 205 to junction Interstate Hwy 580, then over U.S. Hwy 580 to Oakland, CA, and return over the same route, serving all intermediate points, (6) Between Oakland, CA, and Sacramento, CA over U.S. Hwy 80, serving all intermediate points, (7) Between Milpitas, CA, and junction Interstate Hwys 80 and 680: From Milpitas, CA over CA Hwy 237 to junction Interstate Hwy 680, then over Interstate Hwy 680 to junction Interstate Hwys 80, and return over the same route, serving junction Interstate Hwy 80 and 680 for purposes of joinder only, and serving all intermediate points and the off-route points of Crockett, Pittsburg, and Antioch, CA, (8) Between Oroville, CA, and Sacramento, CA: From Oroville, CA over CA Hwy 70 to junction CA Hwy 99, then over CA Hwy

99 to Sacramento, CA, and return over the same route, serving all intermediate points and the off-route points of Yuba City, CA and Beale Air Force Base, CA, (9) Between Fresno, CA, and Sacramento, CA, over CA Hwy 99, serving all intermediate points and the off-route points of Lathrop and Escalon, CA, (10) Between Sacramento, CA, and Reno, NV, over Interstate Hwy 80, serving the intermediate points of Auburn and Newcastle, CA, and the off-route points of Rocklin and Sunset-Whitney Ranch, CA, (11) Between Reno, NV, and Salt Lake City, UT, over Interstate Hwy 80 and U.S. Hwy 40, serving no intermediate points, (12) Between Tooele, UT, and Salt Lake City, UT: From Tooele, UT over UT Hwy 36 to junction Interstate Hwy 80, then over Interstate Hwy 80 to Salt Lake City, UT, and return over the same route, serving the intermediate point of Lake Point, UT, and the off-route point of Tooele Army Depot, UT, (13) Between Salt Lake City, UT, and Payson, UT, over Interstate Hwy 15, serving all intermediate points, (14) Between Salt Lake City, UT, and Ontario, OR: From Salt Lake City, UT, over Interstate Hwy 15 to junction Interstate Hwy 80-N (Interstate Hwy 80-N will be redesignated Interstate Hwy 84 on or about May 1, 1980), then over Interstate Hwys 15 and 80-N to Tremonton, UT, then over Interstate Hwy 80-N to Glenns Ferry, ID, then over U.S. Hwys 26 and 30 from Glenns Ferry, ID, to junction Interstate Hwy 80-N near Hammett, ID, then over Interstate Hwy 80-N to Ontario, OR, and return over the same route, serving all intermediate points, and the off-route points of Rupert, Paul, Burley, Buhl, Twin Falls, Jerome, Mountain Home, and Mountain Home Air Force Base, ID, (15) Between Ogden, UT, and St. Anthony, ID: From Ogden, UT over U.S. Hwy 89 to junction U.S. Hwy 91, then over U.S. Hwys 89 and 91 to Logan, UT, then over U.S. Hwy 91 to junction Interstate Hwy 15, then over Interstate Hwy 15 to Idaho Falls, ID, then from Idaho Falls, ID over U.S. Hwy 191 to St. Anthony, ID, and return over the same route, serving all intermediate points, and Shelley, ID, and the facilities of Basic American Food Company, near Blackfoot, ID, as off-route points, (16) Between Pocatello, ID, and Ogden, UT, over Interstate Hwy 15, serving no intermediate points as an alternate route for operating convenience only, (17) Between Pocatello, ID, and junction Interstate Hwys 86 and 80-N (Interstate Hwy 80-N will be redesignated Interstate Hwy 84 on or about May 1, 1980): From Pocatello, ID over Interstate Hwy 86 to junction U.S. Hwy 30, then over

Interstate Hwy 86 and U.S. Hwy 30 to junction Interstate Hwys 86 and 80-N, and return over the same route, serving no intermediate points, and serving junction Interstate Hwys 86 and 80-N for purposes of joinder only, and serving the off-route point of American Falls, ID, (18) Between Jerome, ID, and Twin Falls, ID: From Jerome, ID, over ID Hwy 79 to junction Interstate Hwy 80-N (Interstate Hwy 80-N will be redesignated Interstate Hwy 84 on or about May 1, 1980), then over Interstate Hwy 80-N to junction U.S. Hwy 93, then over U.S. Hwy 93 to Twin Falls, ID, and return over the same route, serving no intermediate points, (19) Between Twin Falls, ID, and Reno, NV: From Twin Falls, ID, over U.S. Hwy 93 to Wells, NV, then over Interstate Hwy 80 to Reno, NV, and return over the same route, serving no intermediate points as an alternate route for operating convenience only, and (20) Between Caldwell, ID, and Reno, NV: From Caldwell, ID over ID Hwy 55 to junction U.S. Hwy 95, then over U.S. Hwy 95 to junction Interstate Hwy 80, then over Interstate Hwy 80 to Reno, NV, and return over the same route, serving no intermediate points as an alternate route for operating convenience only. (Hearing site: San Francisco, CA, Reno, NV, or Sacramento, CA.)

MC 141450 (Sub-14F), filed April 4, 1979. Applicant: OLIN WOOTEN TRANSPORT CO., INC., P.O. Box 731, Hazlehurst, GA 31539. Representative: Sol H. Proctor, 1101 Blackstone Bldg., Jacksonville, FL 32202. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *glass containers*, from Cliffwood, NJ, Warner Robbins, GA, Henryetta, OK, Terre Haute, IN, and Shakopee, MN, to points in TX, KS, NE, NM, IA, WI, MO, IL, AR, LA, MS, AL, FL, GA, SC, TN, KY, NC, VA, WV, OH, IN, MI, PA, DE, MD, NJ, NY, CT, and RI; and (2) *materials and supplies* used in the manufacture and distribution of glass containers, in the reverse direction, under continuing contract(s) with Midland Glass Co., Inc., of Cliffwood, NJ. (Hearing site: Jacksonville, FL, or Atlanta, GA.)

MC 141781 (Sub-17F), filed February 28, 1979. Applicant: LARSON TRANSFER AND STORAGE CO., INC., 10700 Lyndale Ave., South, Minneapolis, MN 55420. Representative: Samuel Rubenstein 301 North Fifth St., Minneapolis, MN 55403. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *metal containers and container ends*, and *materials and supplies* used in the

manufacture and distribution of containers, from Chicago, IL, and Gary, IN, to points in IA, MN, and WI. (Hearing site: Minneapolis or St. Paul, MN.)

Note.—Dual operations may be involved.

MC 141921 (Sub-34F), filed November 27, 1978. Applicant: SAV-ON TRANSPORTATION, INC., 143 Frontage Rd., Manchester, NH 03108. Representative: John A. Sykas (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products and meat byproducts, and articles distributed by meat-packing houses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the facilities of Illini Packers, Inc., at or near Geneseo, IL, to points in CT, ME, MA, NH, VT, RI, and NY, restricted to the transportation of traffic originating at the named facilities and destined to the above-indicated destinations (except traffic moving in foreign commerce). (Hearing site: Concord, NH, or Boston, MA.)

Note.—Dual operations may be involved.

MC 142901 (Sub-6F), filed April 6, 1979. Applicant: TMI TRANSPORT CORP., 050, 3rd Avenue West, Dickinson, ND 58601. Representative: Gene P. Johnson, P.O. Box 2471, Fargo, ND 58108. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *Skis and storage tanks*, from the facilities of Steffes & Son Manufacturing, Inc., at or near Dickinson, ND, to points in the United States (except AK and HI); and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities named in (1) above, in the reverse direction. (Hearing site: Bismarck, ND.)

Note.—Dual operations may be involved.

MC 142920 (Sub-2F), filed April 4, 1979. Applicant: OLIVER TRUCKING CORP., 2203 W. Oliver Avenue, Indianapolis, IN 46221. Representative: Morton E. Kiel, Suite 6193, 5 World Trade Center, New York, NY 10048. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in or used by manufacturers and distributors of sound, communications, educational, and entertainment materials (except in bulk), (1) between points in CT, NY, NJ, and CA, on the one

hand, and, on the other, points in IN and IL, (2) between points in CT, on the one hand, and, on the other, points in NJ, and (3) between points in CA, on the one hand, and, on the other, points in CT, NY, and NJ, under continuing contract(s) with CBS, Inc., of New York, NY. (Hearing site: New York, NY.)

MC 143500 (Sub-5F), filed April 4, 1979. Applicant: R. B. CARRIERS, INC., P.O. Box 92, Jeffersonville, IN 47130. Representative: James E. Savitz, Suite 145, 4 Professional Drive, Gaithersburg, MD 20760. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *household appliances, parts for household appliances, and cabinets*, between Mansfield and Ontario, OH, Murray, KY, Springfield and Nashville, TN, and Dalton, GA, on the one hand, and, on the other, points in AZ, AR, CA, CO, FL, GA, ID, KY, LA, MO, MT, NV, NM, OH, OK, OR, TN, TX, UT, WA, WI, and WY, under continuing contract(s) with The Tappan Co., of Mansfield, OH. (Hearing site: Louisville, KY.)

MC 144630 (Sub-16F), filed April 4, 1979. Applicant: STOOPS EXPRESS, INC., 2239 Malibu Court, Anderson, IN 46011. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *extruded or injection molder rubber and plastic products*, from the facilities of Entek Corporation of America, at Irving, TX, to points in the United States (except AK and HI), and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, (except commodities in bulk), in the reverse direction. (Hearing site: Dallas, TX.)

Note.—Dual operations may be involved.

MC 145011 (Sub-3F), filed April 4, 1979. Applicant: R. F. WESTBURY, 1617 Willis Road, Richmond, VA 23224. Representative: Carroll B. Jackson, 1810 Vincennes Road, Richmond, VA 23229. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *fiber yarn, plastic, and plastic products*; and (2) *materials, supplies, and equipment* used in the manufacture, distribution, and storage of the commodities named in (1) above (except commodities in bulk, in tank vehicles), between Bermuda Hundred, VA, on the one hand, and, on the other, points in CA, IL, MI, OK, and TX, under continuing contract(s) with Allied Chemical Corporation, Fibers Division,

of New York, NY. (Hearing site: New York, NY, or Washington, DC.)

MC 145131 (Sub-2F), filed April 3, 1979. Applicant: O. E. PONDER, d.b.a. PONDER FARM SUPPLY, P.O. Box 100, Bremen, AL 35033. Representative: James R. Knight, Griffith Building, P.O. Drawer M, Cullman, AL 35055. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *dry fertilizer*, (1) from Hanceville, AL, to the facilities of Gold Kist Associations, at points in Jackson, Holmes, and Gadsden Counties, FL, and points in GA, and (2) from Tyner, TN, to the facilities of Gold Kist Associations, at points in GA and AL, under continuing contract(s) with Gold Kist, Inc., of Atlanta, GA. (Hearing site: Birmingham, AL.)

MC 145701 (Sub-1F), filed March 29, 1979. Applicant: D.C. TRANSPORT, INC., 916 South Riverside Avenue, St. Clair, MI 48079. Representative: John W. Bryant, 900 Guardian Building, Detroit, MI 48228. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *fabrics, textiles, and urethane foam*; and (2) *laminations* for the commodities named in (1) above, from Cornelius, Greensboro, and Wallace, NC, and Stoughton, MA, to the facilities of Inmont Corporation, at Port Huron, MI. (Hearing site: Detroit, MI.)

MC 145921 (Sub-2F), filed April 4, 1979. Applicant: AIR COURIERS, INC., 9338 Woodson Terrace Industrial Court, Woodson Terrace, MO 63134. Representative: Clyde W. Jenkins (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and articles requiring special equipment), between Lambert Field, St. Louis, MO, O'Hare International Airport, Chicago, IL, and points in Adams, Brown, Schuyler, Pike, Cook, Scott, Morgan, Cass, Mason, Menard, Logan, DeWitt, Macon, Piatt, Champaign, Vermillion, Sangamon, Christian, Moultrie, Douglas, Edgar, Coles, Shelby, Clark, Cumberland, Montgomery, Macoupin, Greene, Calhoun, Jersey, Bond, Madison, Fayette, Effingham, Jasper, Crawford, Clay, Richland, Lawrence, Marion, Clinton, St. Clair, Monroe, Randolph, Washington, Jefferson, Wayne, Edwards, Wabash, Perry, Franklin, Hamilton, White, Jackson, Williamson, Saline, Gallatin, Union, Johnson, Pope, Hardin, Alexander, Pulaski, and Massac

Counties, IL, and Warren, St. Louis, St. Charles, Franklin, Jefferson, Ste. Genevieve, St. Francois, Perry, Iron, Reynolds, Madison, Bollinger, Cape Girardeau, Wayne, Stoddard, Scott, Mississippi, New Madrid, Dunkin, Pemiscot, Butler, Ripley, Carter, Washington, Crawford, Phelps, Maries, Miller, Gasconade, Osage, Cole, Morgan, Moniteau, Callaway, Cooper, Boone, Montgomery, Lincoln, Pike, Audrain, Saline, Howard, Chariton, Macon, Randolph, Shelby, Monroe, Marion, Ralls, Lewis, Jackson, Platte, Clay, Lafayette, and Clark Counties, MO, restricted in all the above to the transportation of traffic having a prior or subsequent movement by air. (Hearing site: St. Louis, MO.)

MC 145950 (Sub-11F), filed April 5, 1979. Applicant: BAYWOOD TRANSPORT, INC., P.O. Box 2611, Waco, TX 76710. Representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 Eleventh St. NW., Washington, DC 20001. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *canned and preserved foodstuffs*, from the facilities of Heinz USA, at or near Pittsburgh, PA, to points in AR, OK, and TX, restricted to the transportation of traffic originating at the named origin facilities and destined to the indicated destinations. (Hearing site: Washington, DC.)

Note.—Dual operations may be involved.

MC 146041 (Sub-3F), filed April 4, 1979. Applicant: CAL-TEX, INC., 2300 Harbor Blvd. No. 8, Costa Mesa, CA 92626. Representative: Robert G. Egerton (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *frozen boxed meat*, from the facilities of Landmark Beef Processors, at or near Los Angeles, CA, to points in NC, NJ, SC, and VA. (Hearing site: Los Angeles, CA, or Washington, DC.)

Note.—Dual operations may be involved.

MC 146520 (Sub-1F), filed April 4, 1979. Applicant: QUALITY TRANSPORT, INC., 4404 West Berneau, Chicago, IL 60641. Representative: William J. Boyd, 600 Enterprise Drive, Suite 222, Oak Brook, IL 60521. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products and meat byproducts, and articles distributed by meat-packing houses*, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C.

209 and 766 (except hides and commodities in bulk), between the facilities of Lauridsen Foods, Inc., at or near Britt, IA, and Armour and Company, at or near Mason City, IA, on the one hand, and, on the other, points in CT, DE, KY, IL, IN, MA, MD, ME, MI, NH, NJ, NY, OH, PA, RI, VA, VT, WV, and DC, restricted to the transportation of traffic originating at or destined to the named facilities. (Hearing site: Chicago, IL, or Washington, DC.)

Note.—Dual operations may be involved.

MC 146690 (Sub-1F), filed March 29, 1979. Applicant: NORTHEAST TOWING, INC., 7618 Glencoe Street, Philadelphia, PA 19111. Representative: Robert M. Rubin, 600 Penn Square Building, Philadelphia, PA 19107. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *partially completed trucks*, in Truckaway service; (2) *wrecked and disabled trucks and trailers*, in Truckaway service; and (3) *replacement vehicles* for wrecked and disabled trucks and trailers, in Truckaway service, between points in AL, CT, DE, FL, GA, IL, IN, KY, LA, ME, MD, MA, MI, MN, MS, NH, NJ, NY, NC, OH, PA, RI, SC, TN, VT, VA, WV, WI, and DC. (Hearing Site: Philadelphia, PA, or Washington, DC.)

MC 146701 (Sub-3F), filed April 4, 1979. Applicant: WEAVER TRUCKING CO., INC., P.O. Box 45, Eton, GA 30724. Representative: Archie B. Culbreth, Suite 202, 2200 Century Parkway, Atlanta, GA 30345. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *carpeting*, from Eton and Chatsworth, GA, to points in the United States (except AK and HI), under continuing contract(s) with (1) Kimberly Carpet Mills, of Chatsworth, GA, and (2) Diamond Carpet and Rug Mills, Inc., and Lanas Carpet, Co., Inc., both of Eton, GA. (Hearing site: Atlanta, GA.)

MC 146971F, filed April 4, 1979. Applicant: CONTRANS, INC., Arch Street, Erving, MA 01344. Representative: David M. Marshall, 101 State Street, Suite 304, Springfield, MA 01103. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *paper and paper articles, plastic and plastic articles, metal articles*; and (2) *materials and supplies* used in the manufacture of the commodities named in (1) above (except commodities in bulk, in tank vehicles), between the facilities of Erving Paper Mills, and its wholly owned

subsidiaries, Baldwinville Products, Inc., of Baldwinville, MA, Flamingo Products, Incorporated, of Hialeah, FL, Fox Paper Incorporated, of Lockland, OH, Hinsdale Products Company, Inc., of Hinsdale, NH, LaGrange Paper Products Co., of LaGrange, GA, and Sorg Products, Inc., of Ligonier, IN, at or near Brattleboro, VT, Hinsdale, NH, Erving and Baldwinville, MA, Lockland, OH, Ligonier, IN, Hialeah, FL, and LaGrange and Mount Vernon, GA, on the one hand, and, on the other, points in the United States (except AK and HI), under a continuing contract(s) with Erving Paper Mills, or said wholly owned subsidiaries. (Hearing site: Albany, NY, or Boston, MA.)

MC 146890 (Sub-4F), filed March 12, 1979. Applicant: C & E TRANSPORT, INC., C. E. ZUMSTEIN CO., P.O. Box 27, Moore St., Lewisburg, OH 45338. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh Street, NW., Washington, DC 20001. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *chemicals, chemical compounds, antifreeze, plastics, and plastic products* (except commodities in bulk); and (2) *materials, equipment, and supplies* used in the manufacture, distribution, or sale of the commodities named in (1) above (except commodities in bulk), between the facilities of Northern Petrochemical Company, at or near Mankato, MN, Newark, OH, Clinton, MA, Chicago, Morris, and Mapleton, IL, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Chicago, IL, or Washington, DC.)

MC 146080 (Sub-2F), filed March 30, 1979. Applicant: MCKINLEY MUNCY, JR., CARDINAL BUS LINES, P.O. Box 7831, Huntington, WV 25778. Representative: John M. Friedman, 2930 Putnam Avenue, Hurricane, WV 25528. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *passengers and their baggage, express and newspapers*, in the same vehicle with passengers, between Williamson, WV, and Huntington, WV: From Williamson, WV to Moses Fork Mountain over U.S. Hwy 52, then over WV Hwy 152 to Echo, WV, then over U.S. Hwy 52 to Huntington, WV, and return over the same route, serving all intermediate points. (Hearing site: Charleston, WV.)

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Decided: July 25, 1975.

By the Commission, Review Board Number 1, Members Carleton, Joyce and Jones.

MC 5470 (Sub-186F), filed April 12, 1979. Applicant: TAJON, INC., R.D. 5, Mercer, PA 16137. Representative: Brian L. Troiano, 918 16th St. NW., Washington, DC 20006. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *coke and coke breeze*, in bulk, in dump vehicles, from Erie, PA, and Toledo, OH, to points in CT, DE, IA, IL, IN, KY, MA, MD, ME, MI, MN, MO, NH, NJ, NY, OH, PA, RI, VA, VT, WI, WV, and DC. (Hearing site: Washington, DC, or Pittsburgh, PA.)

MC 5470 (Sub-189F), filed April 9, 1979. Applicant: TAJON, INC., R.D. 5, Mercer, PA 16137. Representative: Brian L. Troiano, 918 16th St. NW., Washington, DC 20006. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, transporting *bauxite ore*, in bulk, in dump vehicles, from Baltimore, MD, to Gary, IN and Sproul, PA. (Hearing site: Washington, DC, or Philadelphia, PA.)

MC 35320 (Sub-225F), filed March 16, 1979, previously noticed in the Federal Register issue of July 18, 1979, as Sub-226F. Applicant: T.I.M.E.-DC, INC., P.O. Box 2550, Lubbock, TX 79408. Representative: Kenneth G. Thomas (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, those requiring special equipment, ammunition, and parts of ammunition), serving the facilities of American Electrical Industries, at or near Sedalia, MO, as an off-route point in connection with applicant's otherwise authorized regular-route operations. (Hearing site: Kansas City, MO, or Washington, DC.)

Note.—This republication states the correct Sub-Number.

MC 35320 (Sub-226F), filed March 16, 1979, previously noticed in the Federal Register issue of July 18, 1979. Applicant: T.I.M.E.-DC, INC., P.O. Box 2550, Lubbock, TX 79408. Representative: Kenneth G. Thomas (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, those requiring special equipment, ammunition, and parts of ammunition), serving the facilities of Danver Shoe Company, at or near Blytheville, AR, as an off-route point in connection with

applicant's otherwise authorized regular-route operations. (Hearing site: Memphis, TN, or Washington, DC.)

Note.—This republication states the correct Sub-Number.

MC 35320 (Sub-262F), filed April 6, 1979. Applicant: T.I.M.E.-DC, INC., P.O. Box 2550, Lubbock, TX 79408. Representative: Kenneth G. Thomas (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, transporting *general commodities* (except those of unusual value, classes A and B explosives, ammunition, parts of ammunition, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of Polyguard Corp., at or near Pryor, OK, as an off-route point in connection with the carrier's otherwise authorized regular-route operations. (Hearing site: Tulsa, OK, or Dallas, TX.)

MC 35320 (Sub-270F), filed April 6, 1979. Applicant: T.I.M.E.-DC, INC., P.O. Box 2550, Lubbock, TX 79408. Representative: Kenneth G. Thomas (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, transporting *general commodities* (except those of unusual value, classes A and B explosives, ammunition, parts of ammunition, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of Medart, Inc., at or near Greenwood, MS, as an off-route point in connection with the carrier's otherwise authorized regular-route operations. (Hearing site: Memphis, TN, or Washington, DC.)

MC 35320 (Sub-279F), filed April 9, 1979. Applicant: T.I.M.E.-DC, INC., P.O. Box 2550, Lubbock, TX 79408. Representative: Kenneth G. Thomas (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, those requiring special equipment, ammunition, and parts of ammunition), serving the facilities of Don P. Smith Chair Co., Inc., at or near Loudon, TN, as an off-route point in connection with the applicant's otherwise authorized regular-route operations. (Hearing site: Knoxville, TN, or Washington, DC.)

MC 35320 (Sub-280F), filed April 9, 1979. Applicant: T.I.M.E.-DC, INC., P.O. Box 2550, Lubbock, TX 79408. Representative: Kenneth G. Thomas (same address as applicant). To operate

as a *common carrier*, by motor vehicle, in interstate or foreign commerce, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, those requiring special equipment, ammunition, and parts of ammunition), serving the facilities of Arvin Automotive, Inc., at or near Columbus and Franklin, IN, as off-route points in connection with the applicant's otherwise authorized regular-route operations. (Hearing site: Louisville, KY, or Washington, DC.)

MC 35320 (Sub-281F), filed April 9, 1979. Applicant: T.I.M.E.-DC, INC., P.O. Box 2550, Lubbock, TX 79408. Representative: Kenneth G. Thomas (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, those requiring special equipment, ammunition, and parts of ammunition), serving the facilities of Koehring-Atomaster Division, at or near Bowling Green, KY, as an off-route point in connection with applicant's otherwise authorized regular-route operations. (Hearing site: Louisville, KY, or Washington, DC.)

MC 35320 (Sub-282F), filed April 9, 1979. Applicant: T.I.M.E.-DC, INC., P.O. Box 2550, Lubbock, TX 79408. Representative: Kenneth G. Thomas (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, transporting *general commodities* (except those of unusual value, classes A and B explosives, ammunition, parts of ammunition, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of Arnold-Sub. Magnetics Electronics, Inc., at or near Sevierville, TN, as an off-route point in connection with the carrier's otherwise authorized regular-route operations. (Hearing site: Chattanooga, TN, or Washington, DC.)

MC 35320 (Sub-286F), filed April 6, 1979. Applicant: T.I.M.E.-DC, INC., P.O. Box 2550, Lubbock, TX 79408. Representative: Kenneth G. Thomas (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, transporting *general commodities* (except those of unusual value, classes A and B explosives, ammunition, parts of ammunition, household goods as defined by the Commission, commodities in bulk, and those requiring

special equipment), serving the facilities of Kagan Dixon Wire Corp., at or near Osceola, AR as an off-route point in connection with the carrier's otherwise authorized regular-route operations. (Hearing site: Memphis, TN, or Washington, DC.)

MC 35320 (Sub-287F), filed April 6, 1979. Applicant: T.I.M.E.-DC, INC., P.O. Box 2550, Lubbock, TX 79408. Representative: Kenneth G. Thomas (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, transporting *general commodities* (except those of unusual value, classes A and B explosives, ammunition, parts of ammunition, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of Bruner Ivory Handle, Inc., at or near Hope, AR, as an off-route point in connection with the carrier's otherwise authorized regular-route operations. (Hearing site: Little Rock, AR, or Tulsa, OK.)

MC 35320 (Sub-288F), filed April 6, 1979. Applicant: T.I.M.E.-DC, INC., P.O. Box 2550, Lubbock, TX 79408. Representative: Kenneth G. Thomas (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, transporting *general commodities* (except those of unusual value, classes A and B explosives, ammunition, parts of ammunition, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of Leggs Products, Inc., at or near (a) Rockingham, NC, and (b) Marion and Hartsville, SC, as off-route points in connection with the carrier's otherwise authorized regular-route operations. (Hearing site: Atlanta, GA, or Washington, DC.)

MC 35320 (Sub-289F), filed April 9, 1979. Applicant: T.I.M.E.-DC, INC., P.O. Box 2550, Lubbock, TX 79408. Representative: Kenneth G. Thomas (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, transporting *general commodities* (except those of unusual value, classes A and B explosives, ammunition, parts of ammunition, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of Dow Corning Corporation, at or near Elizabethtown, and Carrollton, KY, as off-route points in connection with the carrier's otherwise authorized regular-route operations. (Hearing site: Louisville, KY, or Washington, DC.)

MC 35320 (Sub-290F), filed April 9, 1979. Applicant: T.I.M.E.-DC, INC., P.O. Box 2550, Lubbock, TX 79408. Representative: Kenneth G. Thomas (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, transporting *general commodities* (except those of unusual value, classes A and B explosives, ammunition, parts of ammunition, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of Tupelo Coffee Company, at or near Tupelo, MS, as an off-route point in connection with the carrier's otherwise authorized regular-route operations. (Hearing site: Memphis, TN, or Washington, DC.)

MC 35320 (Sub-291F), filed April 9, 1979. Applicant: T.I.M.E.-DC, INC., P.O. Box 2550, Lubbock, TX 79408. Representative: Kenneth G. Thomas (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, transporting *general commodities* (except those of unusual value, classes A and B explosives, ammunition, parts of ammunition, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of Dowell Division of Dow Chemical Co., at or near Wichita Falls, TX, as an off-route point in connection with the carrier's otherwise authorized regular-route operations. (Hearing site: Tulsa, OK, or Dallas, TX.)

MC 35320 (Sub-292F), filed April 9, 1979. Applicant: T.I.M.E.-DC, INC., P.O. Box 2550, Lubbock, TX 79408. Representative: Kenneth G. Thomas (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, transporting *general commodities* (except those of unusual value, classes A and B explosives, ammunition, parts of ammunition, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of Volume Shoe Corporation, at or near Topeka, KS, as an off-route point in connection with the carrier's otherwise authorized regular-route operations. (Hearing site: Kansas City, MO, or Washington, DC.)

MC 35320 (Sub-293F), filed April 9, 1979. Applicant: T.I.M.E.-DC, INC., P.O. Box 2550, Lubbock, TX 79408. Representative: Kenneth G. Thomas (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, transporting *general commodities*

(except those of unusual value, classes A and B explosives, ammunition, parts of ammunition, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of Aeroquip Gustin-Bacon Division, at or near Lawrence, KS, as an off-route point in connection with the carrier's otherwise authorized regular-route operations. (Hearing site: Kansas City, MO, or Washington, DC.)

MC 35320 (Sub-294F), filed April 9, 1979. Applicant: T.I.M.E.-DC, INC., P.O. Box 2550, Lubbock, TX 79408. Representative: Kenneth G. Thomas (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, transporting *general commodities* (except those of unusual value, classes A and B explosives, ammunition, parts of ammunition, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of Borg Textiles, at or near Delavan and Jefferson, WI, as an off-route point in connection with the carrier's otherwise authorized regular-route operations. (Hearing site: Milwaukee, WI, or Washington, DC.)

MC 35320 (Sub-296F), filed April 9, 1979. Applicant: T.I.M.E.-DC, INC., P.O. Box 2550, Lubbock, TX 79408. Representative: Kenneth G. Thomas (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, transporting *general commodities* (except those of unusual value, classes A and B explosives, ammunition, parts of ammunition, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of Potlatch, point at or near Sikeston, MO, as an off-route Packagins, in connection with the carrier's otherwise authorized regular-route operations. (Hearing site: Memphis, TN, or Washington, DC.)

MC 35320 (Sub-297F), filed April 9, 1979. Applicant: T.I.M.E.-DC, INC., P.O. Box 2550, Lubbock, TX 79408. Representative: Kenneth G. Thomas (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, transporting *general commodities* (except those of unusual value, classes A and B explosives, ammunition, parts of ammunition, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of Fashion Pillows, Inc., at or near Jackson, GA, as an off-route point in

connection with the carrier's otherwise authorized regular-route operations. (Hearing site: Atlanta, GA, or Washington, DC.)

MC 35320 (Sub-295F), filed April 9, 1979. Applicant: T.I.M.E.-DC, INC., P.O. Box 2550, Lubbock, TX 79408. Representative: Kenneth G. Thomas (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, transporting *general commodities* (except those of unusual value, classes A and B explosives, ammunition, parts of ammunition, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of Colson Equipment Co., at or near Caruthersville, MO, as an off-route point in connection with the carrier's otherwise authorized regular-route operations. (Hearing site: Memphis, TN or Washington, DC.)

MC 35320 (Sub-298F), filed April 9, 1979. Applicant: T.I.M.E.-DC, INC., P.O. Box 2550, Lubbock, TX 79408. Representative: Kenneth G. Thomas (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, transporting *general commodities* (except those of unusual value, classes A and B explosives, ammunition, parts of ammunition, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of Packer Plastics, Incorporated, at or near Lawrence, KS, as an off-route point in connection with the carrier's otherwise authorized regular-route operations. (Hearing site: Kansas City, MO or Washington, DC.)

MC 35320 (Sub-299F), filed April 9, 1979. Applicant: T.I.M.E.-DC, INC., P.O. Box 2550, Lubbock, TX 79408. Representative: Kenneth G. Thomas (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, those requiring special equipment, ammunition, and parts of ammunition), serving the facilities of Southern Paper Box Company, at or near Benton, AR, as an off-route point in connection with applicant's otherwise authorized regular-route operations. (Hearing site: Little Rock, AR, or Tulsa, OK.)

MC 35320 (Sub-300F), filed April 9, 1979. Applicant: T.I.M.E.-DC, INC., P.O. Box 2550, Lubbock, TX 79408. Representative: Kenneth G. Thomas

(same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, those requiring special equipment, ammunition, and parts of ammunition), serving the facilities of Essex Group, Inc., at or near Pauline and Ellsworth, KS, as off-route points in connection with applicant's otherwise authorized regular-route operations. (Hearing site: Kansas City, MO, or Washington, DC.)

MC 35320 (Sub-301F), filed April 9, 1979. Applicant: T.I.M.E.-DC, INC., P.O. Box 2550, Lubbock, TX 79408. Representative: Kenneth G. Thomas (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, transporting *general commodities* (except those of unusual value, classes A and B explosives, ammunition, parts of ammunition, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of Facet Enterprises (Campbell Filter Company), at or near Dexter, MO, as an off-route point in connection with the carrier's otherwise authorized regular-route operations. (Hearing site: Memphis, TN, or Washington, DC.)

MC 35320 (Sub-304F), filed April 10, 1979. Applicant: T.I.M.E.-DC, INC., P.O. Box 2550, Lubbock, TX 79408. Representative: Kenneth G. Thomas (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities*, (except those of unusual value, classes A and B explosives, ammunition and parts for ammunition, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between the facilities of American Sandpaper Company, at or near Rockland, MA on the one hand, and, on the other, points in MS. (Hearing site: Boston, MA, or Washington, DC.)

MC 35320 (Sub-305F), filed April 10, 1979. Applicant: T.I.M.E.-DC, INC., P.O. Box 2550, Lubbock, TX 79408. Representative: Kenneth G. Thomas (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, ammunition and parts for ammunition, household goods as defined by the Commission, commodities in bulk, and

those requiring special equipment), between the facilities of Olin Corporation, at or near Charleston, TN, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Chattanooga, TN, or Washington, DC.)

MC 35320 (Sub-310F), filed April 9, 1979. Applicant: T.I.M.E.-DC, INC., P.O. Box 2550 Lubbock, TX 79408. Representative: Kenneth G. Thomas (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, those requiring special equipment, ammunition, and parts of ammunition), serving the facilities of Arvin Industries, Inc., at or near Princeton, KY, as an off-route point in connection with applicant's otherwise authorized regular-route operations. (Hearing site: Louisville, KY, or Washington, DC.)

MC 38481 (Sub-18F), filed April 9, 1979. Applicant: FARRUGGIO'S BRISTOL AND PHILADELPHIA AUTO EXPRESS, INC., 1419 Radcliffe St., Bristol, PA 19007. Representative: Alan Kahn, 1920 Two Penn Center Plaza, Philadelphia, PA 19102. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *sponge rubber carpet padding and carpet adhesives*, and (2) *materials and supplies* used in the manufacture and distribution of the commodities in (1) above, between the facilities of General Felt Industries, Inc., at or near Philadelphia, PA, on the one hand, and, on the other, points in DE, MD, NJ, NY, PA, and DC. (Hearing site: Washington, DC, or Philadelphia, PA.)

MC 56270 (Sub-27F), filed April 9, 1979. Applicant: LEICHT TRANSFER & STORAGE CO., a Corporation, 1401-55 State St., P.O. Box 2385, Green Bay, WI 54306. Representative: Dennis L. Sedlacek (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in or used by manufacturers and distributors of laminated plastic and wood products (except commodities in bulk), between Oconomowoc, WI, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Chicago, IL, or Washington, DC.)

MC 61231 (Sub-141F), filed April 9, 1979. Applicant: EASTER ENTERPRISES, INC., d.b.a. ACE LINES,

INC., P.O. Box 1351, Des Moines, IA 50309. Representative: William L. Fairbank, 1980 Financial Center, Des Moines, IA 50309. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *insulation and vermiculite products*, and (2) *materials, equipment, and supplies* used in the manufacture, distribution, and installation of the commodities in (1) above, (a) between Commerce City and Pueblo, CO, on the one hand, and, on the other, points in IA, KS, MN, MO, NE, ND, OK, and SD, and (b) between Minneapolis, MN, on the one hand, and, on the other, points in AR, AZ, CO, IN, KS, KY, MO, MT, NM, OH, OK, TX, and WY. (Hearing site: St. Paul, MN, or Denver, CO.)

MC 61231 (Sub-142F), filed April 12, 1979. Applicant: EASTER ENTERPRISES, INC., d.b.a. ACE LINES, INC., P.O. Box 1351, Des Moines, IA 50305. Representative: William L. Fairbank, 1980 Financial Center, Des Moines, IA 50309. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *iron and steel articles*, from the facilities of Armco, Inc., at Ashland, KY, and Middletown, OH, to points in AR, CO, IA, KS, MN, MO, NE, OK, and TX, restricted to the transportation of traffic originating at the named origins. (Hearing site: Columbus, OH, or Chicago, IL.)

MC 61231 (Sub-143F), filed April 6, 1979. Applicant: EASTER ENTERPRISES, INC., d.b.a. ACE LINES, INC., P.O. Box 1351, Des Moines, IA 50305. Representative: William L. Fairbank, 1980 Financial Center, Des Moines, IA 50309. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *steel pipe*, from Springfield, IL, to points in AZ, AR, CO, IN, IA, KS, KY, MI, MN, MO, MT, NE, NM, ND, OH, OK, SD, TX, WI, and WY. (Hearing site: St. Paul, MN, or Chicago, IL.)

MC 80430 (Sub-172F), filed April 6, 1979. Applicant: GATEWAY TRANSPORTATION CO., INC., 455 Park Plaza Drive, La Crosse, WI 54601. Representative: Lem Smith (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Cincinnati, OH, and Evansville,

IN, from Cincinnati, over Interstate Hwy 75 to junction Interstate Hwy 71, then over Interstate Hwy 71 to junction Interstate Hwy 64, then over Interstate Hwy 64 to junction IN Hwy 57, then over IN Hwy 57 to Evansville, and return over the same route, serving no intermediate points as an alternate route for operating convenience only. (Hearing site: Chicago, IL.)

MC 82841 (Sub-250F), filed April 10, 1979. Applicant: HUNT TRANSPORTATION, INC., 10770 "I" St., Omaha, NE 68127. Representative: Donald L. Stern, 610 Xerox Building, 7171 Mercy Road, Omaha, NE 68106. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *pipe, pipe fittings, valves, and hydrants*, from the facilities of Clow Corporation, at or near Columbia, MO, to those points in the United States in and east of CO, MT, NM, and WY. (Hearing site: Chicago, IL.)

Note.—Dual operations may be involved.

MC 93980 (Sub-81F), filed April 9, 1979. Applicant: VANCE TRUCKING COMPANY, INC., P.O. Box 1119, Henderson, NC 27536. Representative: Edward G. Villalon, 1032 Pennsylvania Bldg., Pennsylvania Ave. & 13th St. NW., Washington, DC 20004. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *lumber and composition board*, from points in AL and FL, to those points in the United States in and east of WI, IL, KY, TN, MS, and LA. (Hearing site: Atlanta, GA, or Washington, DC.)

MC 95540 (Sub-1098F), filed April 6, 1979. Applicant: WATKINS MOTOR LINES, INC., 1144 West Griffin Road, P.O. Box 1636, Lakeland, FL 33802. Representative: Benjy W. Fincher (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving those points in TN, within the Chattanooga, TN, commercial zone as off-route points in connection with the carrier's otherwise authorized regular-route authority from and to Chattanooga, TN. (Hearing Site: Chattanooga, TN, or Washington, DC.)

MC 106401 (Sub-68F), filed April 9, 1979. Applicant: JOHNSON MOTOR LINES, INC., P.O. Box 31577, Charlotte, NC 28231. Representative: Roger W. Rash (same address as applicant). To operate as a *common carrier*, by motor

vehicle, in interstate or foreign commerce, over irregular routes, transporting *drugs* (except in bulk), from the facilities of Glenbrook Laboratories, Division of Sterling Drug, Inc., at or near Gulfport, MS, to Dallas, TX. (Hearing site: Gulfport, MS, or Dallas, TX.)

MC 108341 (Sub-143F), filed April 9, 1979. Applicant: MOSS TRUCKING COMPANY, INC., 3027 N. Tryon St., P.O. Box 28125, Charlotte, NC 28213. Representative: Jack F. Counts (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *zinc, zinc alloy, and zinc products*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, (except commodities in bulk), between the facilities of St. Joe Zinc Company, at or near Josephstown, PA, on the one hand, and, on the other, those points in the United States in and east of MN, IA, MO, AR, and LA. (Hearing site: Pittsburgh, PA, or Washington, DC.)

MC 109490 (Sub-11F), filed April 9, 1979. Applicant: HEDING TRUCK SERVICE, INC., P.O. Box 43, Union Center, WI 53962. Representative: Richard A. Westley, 4506 Regent St., Suite 100, Madison, WI 53705. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *feed and feed ingredients*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, between the facilities of American Feeds & Livestock Co., Inc., at or near Howard Lake, MN, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Chicago, IL.)

MC 109490 (Sub-12F), filed April 12, 1979. Applicant: HEDING TRUCK SERVICE, INC., P.O. Box 43, Union Center, WI 53962. Representative: Richard A. Westley, 4506 Regent St., Suite 100, Madison, WI 53705. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *Dairy products*, from the facilities of Golden Guernsey Dairy, Hiawatha Valley Division, at or near Sparta and Pigeon Falls, WI, to points in the United States (except AK and HI), and (2) *materials, equipment, and supplies* used in the manufacture and distribution of dairy products, in the reverse direction. (Hearing site: Milwaukee, WI, or Chicago, IL.)

MC 110420 (Sub-811F), filed April 6, 1979. Applicant: QUALITY CARRIERS, INC., P.O. Box 186, Pleasant Prairie, WI

53158. Representative: John R. Sims, Jr., 915 Pennsylvania Building, 425 13th Street NW., Washington, D.C. 20004. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *liquid chemicals*, in bulk, between points in Lake County, IN, and Cook, DuPage, Grundy, Kane, Kendall, Lake, McHenry, and Will Counties, IL, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Chicago, IL, or Washington, DC.)

MC 110420 (Sub-812F), filed April 13, 1979. Applicant: QUALITY CARRIERS, INC., P.O. Box 188, Pleasant Prairie, WI 53158. Representative: John R. Sims, Jr., 915 Pennsylvania Building, 425 13th Street NW., Washington, D.C. 20004. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *liquid chemicals*, in bulk, in tank vehicles, from Lake Charles, LA, to points in the United States (except AK and HI). (Hearing site: Chicago, IL, or Washington, DC.)

MC 111201 (Sub-41F), filed April 9, 1979. Applicant: J. N. ZELLNER & SON TRANSFER COMPANY, a Corporation, P.O. Box 91247, East Point, GA 30364. Representative: Archie B. Culbreth, Suite 202, 2200 Century Parkway, Atlanta, GA 30345. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *metal containers and tin plate*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above (except commodities in bulk), between the facilities of Crown Cork and Seal Company, Inc., at or near Atlanta, GA, on the one hand, and, on the other, points in AL, FL, NC, SC, and TN. (Hearing site: Atlanta, GA.)

MC 111401 (Sub-556F), filed April 10, 1979. Applicant: GROENDYKE TRANSPORT, INC., P.O. Box 632, 2510 Rock Island Blvd., Enid, OK 73701. Representative: Victor R. Comstock (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *flour*, in bulk, in tank vehicles, from Enid, OK, to points in IN. (Hearing site: Minneapolis, MN, or Kansas City, KS.)

MC 111401 (Sub-557F), filed April 6, 1979. Applicant: GROENDYKE TRANSPORT, INC., P.O. Box 632, 2510 Rock Island Blvd., Enid, OK 73701. Representative: Victor R. Comstock (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over

irregular routes, transporting (1) *petroleum products*, in bulk, in tank vehicles, from Woodriver, IL, to points in AR, OK, LA, MS, and TX; (2) *petroleum lubricating oil*, in bulk, in tank vehicles, from Good Hope, LA, to Price, UT; and (3) *inedible tallow*, in bulk, in tank vehicles, from Roswell, NM, to Houston, TX. (Hearing site: New Orleans, LA, or Houston, TX.)

MC 115181 (Sub-38F), filed April 9, 1979. Applicant: HAROLD M. FELTY, INC., R. D. #1, Box 148, Pine Grove, PA 17963. Representative: John W. Dry, 541 Penn St., Reading, PA 19601. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *coal*, from points in Schuylkill and Northumberland Counties, PA, to points in Charles, Calvert, and St. Marys Counties, MD, VA, and DC; (2) *coal*, from points in Dauphin, Carbon, and Luzerne Counties, PA, to points in MD, VA, and DC; (3) *cinders*, from points in Schuylkill, Lebanon, Lancaster, Berks, Northumberland, and Snyder Counties, PA, to points in DE, MD, NJ, NY, VA, and DC; (4) *brick and clay products*, from Gonic, NH, to points in DE, MD, NJ, PA, VA, and DC; (5) *brick*, from Perry Township (Berks County), PA, to points in WV; and (6) *brick*, from Wyomissing, PA, to points in MD, ME, NH, RI, VA, VT, WV, and DC. (Hearing site: Reading or Philadelphia, PA.)

MC 115311 (Sub-350F), filed April 9, 1979. Applicant: J. & M. TRANSPORTATION CO., INC., P.O. Box 488, Milledgeville, GA 31061. Representative: K. Edward Wolcott, P.O. Box 872, Atlanta, GA 31061. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *plastic pipe and plastic fittings*, and (2) accessories used in the installation of the commodities in (1) above, from the facilities of Phillips Driscopipe, Inc., at or near Startex, SC, to those points in the United States in and east of MI, IL, KY, TN, AR and LA; and (3) *materials and supplies* used in the manufacture and distribution of the commodities in (1) and (2) above (except commodities in bulk), in the reverse direction. (Hearing site: Atlanta, GA.)

MC 119741 (Sub-168F), filed April 11, 1979. Applicant: GREEN FIELD TRANSPORT COMPANY, INC., 1515 Third Ave. NW., P.O. Box 1235, Fort Dodge, IA 50501. Representative: D. L. Robson (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs* (except in bulk, in tank vehicles), from the facilities of

Lloyd J. Harris Pie Co., at Louisville, KY, to points in CO, IA, KS, MN, MO, NE, ND, OK, and SD, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations. (Hearing site: Detroit, MI.)

MC 124170 (Sub-119F), filed April 9, 1979. Applicant: FROSTWAYS, INC., 3000 Chrysler Service Dr., Detroit, MI 48207. Representative: William J. Boyd, 600 Enterprise Dr., Suite 222, Oak Brook, IL 60521. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, packing-house products, and commodities used by packing houses*, as described in Appendix I to the Report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except dairy products, hides, and commodities in bulk), between the facilities of (a) Lauridsen Foods, Inc., at or near Britt, IA, and (b) Armour and Company, at or near Mason City, IA, on the one hand, and, on the other, points in AL, CT, DE, FL, GA, IL, IN, KY, LA, MA, MD, ME, MI, MS, NH, NJ, NY, NC, OH, PA, RI, SC, TN, VA, VT, WV, and DC, restricted to the transportation of traffic originating at or destined to the named facilities. (Hearing site: Chicago, IL, or Washington, DC.)

MC 126111 (Sub-10F), filed April 6, 1979. Applicant: SCHAETZEL TRUCKING COMPANY, INC., 520 Sullivan Drive, Fond du Lac, WI 54935. Representative: Richard C. Alexander, 710 N. Plankinton Ave., Milwaukee, WI 53203. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *sweetened condensed milk*, from Fond du Lac, WI, to points in IL and IN, under continuing contract(s) with Galloway-West Company, a division of Borden Company, Inc., of Fond du Lac, WI. (Hearing site: Milwaukee, WI.)

MC 135070 (Sub-44F), filed April 9, 1979. Applicant: JAY LINES, INC., P.O. Box 30180, Amarillo, TX 79120. Representative: Gailyn L. Larsen, P.O. Box 82816, Lincoln, NE 68501. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs*, from (a) Kansas City, MO, and (b) the facilities of Banquet Foods Corporation, at or near Milan, Carrollton, Macon, and Marshall, MO, to points in AR, LA, NM, OK, and TX. Hearing site: Kansas City or St. Louis, MO.)

Note.—Dual operations may be involved.

MC 135410 (Sub-54F), filed April 12, 1979. Applicant: COURTNEY J.

MUNSON, d.b.a. MUNSON TRUCKING, P.O. Box 266, Monmouth, IL 61462. Representative: Stephen H. Loeb, Suite 200, 205 West Touhy Ave., Park Ridge, IL 60068. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products and meat byproducts, and articles distributed by meat-packing houses*, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the facilities of Fischer Packing Co., a subsidiary of Wilson Foods Corporation, at Louisville, KY, to points in CT, DE, MA, MD, ME, NH, NJ, NY, PA, RI, VT, VA, and DC, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations. (Hearing site: Dallas, TX, or Kansas City, MO.)

MC 138420 (Sub-35F), filed April 13, 1979. Applicant: CHIZEK ELEVATOR & TRANSPORT, INC., P.O. Box 147, Cleveland, WI 53063. Representative: Wayne W. Wilson, 150 East Gilman St., Madison, WI 53703. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *paper and paper products*, from Ashland, Green Bay, Menasha, Neenah, and Wausau, WI, to points in IN, KY, MI, MN, MO, OH, and those in IL on and south of U.S. Hwy 136, restricted to the transportation of traffic originating at the facilities of American Can Company. (Hearing site: Madison or Neenah, WI.)

MC 139171 (Sub-4F), filed April 6, 1979. Applicant: CONTROLLED DELIVERY SERVICE, INC., P.O. Box 1299, City of Industry, CA 91749. Representative: Patricia M. Schnegg, 707 Wilshire Boulevard, Suite 1800, Los Angeles, CA 90017. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and articles requiring special equipment), between points in CA, UT, and TX, on the one hand, and, on the other, points in the United States (except AK and HI), under continuing contract(s) with Wasatch Shippers Association, Inc., of Salt Lake City, UT. (Hearing site: Los Angeles, CA.)

MC 143701 (Sub-8F), filed April 9, 1979. Applicant: HODGES FREIGHT LINES, INC., 5733 Airline Highway OFC 805, Metairie, LA 70003. Representative: Lester C. Arvin, 814 Century Plaza Bldg.,

Wichita, KS 67202. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *prepared animal food and pet supplies*, and (2) *materials and supplies* used in the manufacture and distribution of the commodities in (1) above (except commodities in bulk), between the facilities of Hills Division of Riviana Foods, Inc., at or near (a) Topeka, KS, (b) Commerce City and Hayward, CA, and (c) Miami, FL, on the one hand, and, on the other, points in the United States (except AK, CT, DE, HI, ME, NH, NY, MA, and VT). (Hearing site: Kansas City, MO, or New Orleans, LA.)

MC 145330 (Sub-1F), filed April 9, 1979. Applicant: GILMER ALLISON, d.b.a. ALLISON TRUCKING, Route 3, Box 123A, Lawndale, NC 28090. Representative: W. C. Mauldin, 417 Old Post Rd., Cherryville, NC 28021. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *bone meal, meat meal, fish meal, crab meal, cracker meal, gluten meal, and soybean meal*, between points in GA, MD, NC, SC, and VA. (Hearing site: Charlotte or Raleigh, NC.)

MC 145601 (Sub-2F), filed March 29, 1979. Applicant: MORGAN COUNTY TRUCKING, INC., 1010 East Nutter Street, Martinsville, IN 46151. Representative: Warren C. Moberly, 777 Chamber of Commerce Building, 320 North Meridian Street, Indianapolis, IN 46204. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *brick, clay, sewer pipe and fittings, and clay products*, (a) from points in Warren, Tippecanoe, Clinton, Hamilton, Madison, Henry, Rush, Hancock, Marion, Boone, Hendricks, Montgomery, Fountain, Putnam, Parke, Vermillion, Vigo, Clay, Owen, Morgan, Johnson, Shelby, Decatur, Bartholomew, Brown, Monroe, Greene, Sullivan, Knox, Daviess, Martin, Lawrence, Jackson, Jennings, Scott, Washington, Orange, Dubois, Pike, Gibson, Posey, Vanderburgh, Warrick, Spencer, and Crawford Counties, IN, to points in OH, PA, IL, MI, KY, NC, SC, VA, TN, GA, AL, AR, CT, DE, IA, KS, MD, MA, MN, MS, MO, NE, NH, NJ, NY, ND, OK, RI, SD, VT, WV, and WI, and (b) from points in PA, IL, OH, IA, GA, KS, KY, NE, NC, SC, TN, VA, and WV, to the origin points named in (1)(a) above, and (c) from points in AL, KY, MS, TN, and VA, to points in IL; and (2) *sand*, in bags, from Ottawa, IL, to Brazil, IN. (Hearing site: Indianapolis, IN, Chicago, IL, or Washington, DC.)

MC 146631 (Sub-2F), filed April 9, 1979. Applicant: WILLIAM W. BLAUVELT, d.b.a. BILLY B TRUCKING COMPANY, P.O. Box 1304, Oshkosh, WI 54901. Representative: Michael S. Varda, 121 South Pinckney St., Madison, WI 53703. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *paper and paper articles*, from Oshkosh, WI, to points in AZ, CA, NV, OR, and WA, under continuing contract(s) with Hoffmaster Co., Inc., of Oshkosh, WI. (Hearing site: Milwaukee, WI, or Chicago, IL.)

MC 146970 (Sub-1F), filed April 13, 1979. Applicant: J & J GUTIERREZ, INC., Box 336, Elsa, TX 78543. Representative: Thomas F. Sedberry, 801 Vaughn Building, Austin, TX 78701. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs* (except in bulk), from the facilities of Texsun Corporation, in Hidalgo and Cameron Counties, TX, to those points in the United States in and west of NM, CO, WY, and MT (except AK and HI). (Hearing site: McAllen or San Antonio, TX.)

MC 147140F, filed April 10, 1979. Applicant: MARK RENNER, d.b.a. MT. HOOD TIMBER PRODUCTS, P.O. Box 17370, Portland, OR 97217. Representative: Mark Renner (same address as applicant). To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *wood chips, sawdust, and hog fuel*, from Clatskanie, OR, to Longview, WA; and (2) *lumber*, from Clatskanie, OR, to Kalama, WA, under continuing contract(s) in (1) and (2) above with Beaver Lumber Company of Clatskanie, Inc., of Clatskanie, OR. (Hearing site: Portland, OR.)

Agatha L. Mergenovich, Secretary.

[FR Doc. 79-26665 Filed 8-27-79; 8:45 am]
BILLING CODE 7035-01-M

[Permanent Authority Decisions Volume No. 116]

Permanent Authority Decisions Applications; Decision-Notice

Decided: July 19, 1979.

The following applications filed on or before February 28, 1979, are governed by Special Rule 247 of the Commission's *Rules of Practice* (49 CFR § 1100.247). For applications filed before March 1, 1979, these rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the

date notice of the application is published in the Federal Register. Failure to file a protest, within 30 days, will be considered as a waiver of opposition to the application. A protest under these rules should comply with rule 247(e)(3) of the Rules of Practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (as specifically noted below), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. A protestant should include a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describe in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the commission, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named. If the protest includes a request for oral hearing, such request shall meet the requirements of section 247(e)(4) of the special rules and shall include the certification required in that section.

On cases filed on or after March 1, 1979, petitions for intervention either with or without leave are appropriate.

Section 247(f) provides, in part, that an applicant which does not intend timely to prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

If applicant has introduced rates as an issue it is noted. Upon request an applicant must provide a copy of the tentative rate schedule to any protestant.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication.*

Any authority granted may reflect administratively acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exceptions of those applications involving duly noted

problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each common carrier applicant has demonstrated that its proposed service is required by the public convenience and necessity, and that each contract carrier applicant qualifies as a contract carrier and its proposed contract carrier service will be consistent with the public interest and the transportation policy of 49 U.S.C. § 10101. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a protestant, that the proposed dual operations are consistent with the public interest and the transportation policy of 49 U.S.C. § 10101 subject to the right of the Commission, which is expressly reserved, to impose such conditions as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. § 10930(a) [formerly section 210 of the Interstate Commerce Act].

In the absence of legally sufficient protests, filed within 30 days of publication of this decision-notice (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice, to the extent that the authority sought below may duplicate an applicant's existing authority, such duplication shall not be construed as conferring more than a single operating right.

Applicants must comply with all specific conditions set forth in the grant or grants of authority within 90 days after the service of the notification of the effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

By the Commission, Review Board Number 3 Members Parker, Fortner and Hill.
Agatha L. Mergenovich,
Secretary.

MC 112801 (Sub-223F), filed January 30, 1979, previously noticed in the

Federal Register issue of May 9, 1979. Applicant: TRANSPORT SERVICE CO., a Corporation, 2 Salt Creek Lane, Hinsdale, IL 60521. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh Street NW., Washington, DC 20001. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting commodities, in bulk, in tank vehicles, (1) between points in IL, IN, IA, KS, KY, MI, MN, MO, NE, OH, TN, and WI, and (2) between points in the United States (except AK and HI). (Hearing site: Chicago, IL, or Washington, DC.)

Note.—Insofar as the transportation of hazardous materials is authorized the certificate shall expire in 5 years.

Note.—this republication includes WI in part (1).

[FR Doc. 79-26659 Filed 8-27-79; 8:45 am]

BILLING CODE 7035-01-M

[No. 33374 (Sub-1)]

Petition To Vacate Order Prescribing Divisions on Textiles; Notice of Proceeding

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Proceeding.

SUMMARY: A petition was filed by the Catawba Trucking Co., Inc., (Catawba), requesting that the Commission vacate its decision in No. 33374, *Divisions—Textiles, South Carolina to the East*, served March 28, 1963 and amended May 15, 1974. Catawba argues that the decision is obsolete and unduly inhibits its operations and services. The Commission is instituting this proceeding to address this issue and decide whether our prior decision in No. 33374 should be retained, modified or vacated.

DATES: Interested parties are asked to submit a statement of intent to participate 20 days after the date of publication of this notice. Parties should indicate whether they intend to actively participate or whether they merely wish to receive copies of the decision and releases of the Commission. An original and one copy of the statement regarding intent to participate must be filed.

Active participants must serve copies of their statement on all parties on the service list. An original and six copies of written statements must be filed with the Commission.

The filing and service of statements shall be as follows:

(a) Opening statement of facts and arguments by petitioners and any parties supporting petitioners within 40 days from the service date of this order.

(b) 30 days after that date, statement of facts and argument by persons opposing the proposed relief.

(c) Reply by petitioners and any supporting parties 20 days thereafter.

ADDRESSES: Statements and replies should be sent to: Office of Proceedings, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT: Janice M. Rosenak or Harvey Gobetz, Washington, D.C. 20423 (202-275-7893).

Copies of the decision being issued concurrently with this notice may be obtained by calling: 275-7428.

Issued in Washington, D.C., _____, 1979.

By the Commission, Chairman O'Neal.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 79-26860 Filed 8-27-79; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 29022]

Southwest Forest Industries, Inc., and SWF Gulf Coast, Inc. Control the Atlanta and St. Andrews Bay Railway Co.

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts the acquisition of control of the Atlanta & St. Andrews Bay Railway Company by Southwest Forest Industries, Inc., and its wholly owned subsidiary SWF Gulf Coast, Inc., from the requirements of 49 U.S.C. 11343-11347, which requires prior consideration and approval of the transaction by the Commission.

DATE: Effective on August 28, 1979.

FOR FURTHER INFORMATION CONTACT: Michael Erenberg, (202) 275-7545.

SUPPLEMENTARY INFORMATION:

Background

Southwest Forest Industries, Inc. (SWF), SWF Gulf Coast, Inc. (Gulf), and the Atlanta & St. Andrews Bay Railway Co. (Bay Railway), filed a petition for exemption under 49 U.S.C. 10505 on April 17, 1979, requesting that the proposed control of Bay Railway by SWF and Gulf be exempted from the requirements of obtaining prior Commission approval under 49 U.S.C. 11343-11347. We published a notice in the Federal Register on May 17, 1979, 44 FR 29816 (1979) requesting comments on the proposed exemption be received on or before 30 days after publication of the notice. Comments were filed in favor and in opposition to the exemption.

The Transaction

SWF, a non carrier engaged in manufacturing and marketing paper, paper products, packaging and building materials, and its wholly owned subsidiary Gulf seek to acquire control of the Bay Railway, a Class III railroad, as the result of a purchase of a paper mill from the International Paper Company (IP). SWF currently controls the Apache Railway Co. (Apache), a Class III railroad, located in Arizona. Apache operates 74.4 miles of main line between Holbrook and McNary, AZ, and also serves Snowflake and Bell, AZ. It connects with the Atchison, Topeka and Santa Fe Railway Company at Holbrook, AZ.

Bay Railway owns and operates approximately 81 miles of main line, 7.16 miles of Branch line, and 50.38 miles of yard and passing track, from Panama City, FL to Dothan, AL with a branch from Campbellton to Graceville, FL. Bay Railway connects with the Louisville and Nashville Railroad at Cottondale and Graceville, FL, and with the Seaboard Coast Line Railroad Company, Central of Georgia Railroad Company Inc., and the Hartford and Slocumb Railroad Company at Dothan, AL. Bay Railway has been a historically profitable railroad, deriving 85 to 75 percent of its operating revenues in the IP paper mill operations at Panama City. It had assets of \$14,240,569 as of December 31, 1978, and gross revenues of \$8,127,406 for 1978 with net income of \$1,785,941.

On March 1, 1979, SWF and Gulf agreed to acquire Bay Railway in conjunction with the acquisition of the paper mill, associated facilities, and 425,000 acres of timberland in Alabama, Florida, and Georgia, from IP. Gulf is accomplishing the purchase with \$150 million in cash plus 350,000 shares of SWF's 9 percent cumulative preferred stock (valued at \$70 million).

The purpose of the transactions is to preserve the paper mill operations in Panama City, FL, which are Bay Railway's sustaining source of freight revenue, and to preserve Bay Railway's existing services for the benefit of paper operations, shippers, and receivers who rely on Bay Railway service.

Parties to the Proceeding

Comments in opposition where filed by J.C. Holden Construction Co., Antoinett Fashions and Florists, A.E. Shipes Garden Shops, Hunts Excavating Service, Helen Ingram, and the Railway Labor Executives' Association. Holden, Antoinett and Hunt's allege no benefit from Gulf and SWF's control of Bay Railway. Shipes and Hunt's both request

a hearing. Shipes explains it can have no knowledge of the future operations without a public hearing. Ingram and RLEA both contend control will harm employees of the Bay Railway.

Thirty-one comments were filed in support of the exemption. These include comments filed by Governors Bob Graham of Florida and Fob James of Alabama, United States Senators Lawton Chiles and Richard (Dick) Stone, United States Congressmen William L. Dickinson and Earl Hutto, the State of Alabama Highway Department, the Florida Department of Transportation, and the State of Florida Public Service Commission. From Panama City, FL support was expressed by Daffin Merchantile Company, Empiregas, Inc. of Panama City, Fillette, Green & Co., Inc., Gulf Asphalt Corporation, North Florida Brick Co., Panama City Port Authority, Panama Machinery and Supply Co., Ryan-Walsh Stevedoring Co., Inc., Sykes Concrete Pipe Co., Sunshine-Jr. Stores, Inc., and Superior Propane Gas Company. From Dothan, AL, support was indicated by the Central Bank of Dothan, N.A., the First Alabama Bank, the Hartford and Slocumb Railroad Company, and Red Fox Fertilizers, Inc. Support was also expressed by Alimenta (U.S.A.) Inc., of Atlanta, GA; Gold Kist, Inc., of Campbellton, FL; Great Southern Paper of Cedar Springs, GA; Pate Stevedore Company of Pensacola, FL; Southern Railway System of Washington, DC; and Sylvachem Corporation of Port St. Jose, FL.

The parties supporting the exemption all make the same general arguments. They point out that the acquisition of the IP paper mill by SWF and Gulf will save approximately 1,000 jobs since IP intended to close the paper mill. Keeping the paper mill open will also preserve approximately 60 percent of Bay Railway's freight revenue. This will result in Bay Railway's viability and existing services being preserved. It is stated that Bay Railway will benefit from its relationship with SWF and Gulf because they are strong companies with the ability to attract financing and management talent.

The supporting parties also point out that we will retain jurisdiction over Bay Railway, that no questions of public interest are raised requiring protracted proceedings, and that Bay Railway will assume no financial obligations. The employees point out that they will not be affected, no environmental impact will ensue, and that no other carriers will be affected or involved. Additionally they argue that this proposed exemption is within the

purpose and intent of the Railroad Revitalization and Regulatory Reform Act of 1976, Pub. L. 94-210.

Statutory Criteria

As pertinent here, 49 U.S.C. 10505 provides that we shall exempt a rail carrier transaction because of its limited scope if we find that application of a provision of 49 U.S.C. Subtitle IV, (1) is not necessary to carry out the national transportation policy, (2) would place an unreasonable burden on a person, class of persons, or interstate and foreign commerce, and (3) serve little or no useful public purpose. We may act under 49 U.S.C. 10505 only after an opportunity for a proceeding. The petition engaged our jurisdiction and the notice and request for comments on the petition for exemption provided the opportunity for a proceeding. We must now determine whether the proposed exemption meets the statutory requirements.

Scope of the transaction. The threshold inquiry is whether the transaction is limited in scope. SWF and Gulf are non-carriers. They own Apache which only operates in Arizona. They are seeking to control Bay Railway which only operates in Florida and Alabama. The tracks of Apache and Bay Railway are geographically distant from each other.

In its petition, and the application filed for authority under 49 U.S.C. 11344, SWF, Gulf, and Bay Railway state that there would be no operational changes resulting from SWF's control of Bay Railway, and that no employees of Bay Railway would be adversely affected. The comments support this. Bay Railway would continue to be used as the railway to originate the shipments from the former IP paper mill.

The record demonstrates that the proposal would not change operations, or affect competitors or employees. We conclude that acquisition of control of Bay Railway by SWF and Gulf, while they control Apache, would constitute a transaction of limited scope.

National Transportation Policy. In order to insure the development, coordination, and preservation of a transportation system that meets the transportation needs of the United States, Congress has declared that it is the policy of the United States Government to provide for the impartial regulation of the modes of transportation subject to 49 U.S.C. Subtitle IV. See 49 U.S.C. 10101. Impartial regulation is achieved through (1) recognizing and preserving inherent advantages of each mode; (2) promoting safe, adequate, economical, and efficient transportation; (3) encouraging sound

economic conditions in transportation, including sound economic conditions among carriers; (4) encouraging the establishment and maintenance of reasonable rates for transportation without unreasonable discrimination or unfair destructive competitive practices; (5) cooperating with each State and official of each state on transportation matters; and (6) encouraging fair wages and working conditions in the transportation industry.

Regulation of SWF's and Gulf's control of Bay Railway is not necessary to carry out the goals of the national transportation policy. The proposed transactions have no effect on any of the policy considerations since the only change involves indirect control of a minor Southeastern rail carrier by a non-carrier corporation which controls another minor Southwestern rail carrier.

Burden. SWF, Gulf, and Bay Railway have filed an application under 49 U.S.C. 11344, complying with the I.C.C. *Railroad Acquisition, Control, Merger, Consolidation Coordination Project, Trackage Rights, and Lease Procedures*, 49 C.F.R. Part 1111 (1978). Although this application has been filed, the proceeding is governed by the time limits of 49 U.S.C. 11345. Since the contract between SWF and IP calls for daily interest payments, the statutory time delays inherent in the processing of the application create an unreasonable burden. Where, as here, there is minimal opposition to, and massive public support of the proposal, and the transaction is of limited scope and minimal national transportation importance, the development of a massive record on which to base a decision would place a grave strain on the applicants and the scarce resources of the Commission. We believe that requiring SWF, Gulf, and Bay Railway to prosecute the application would place an unreasonable burden on them and on interstate and foreign commerce.

Public Purpose. Our function under 49 U.S.C. 11343-11347 is to determine whether a proposed transaction is consistent with the public interest. There is minimal opposition, apparently based on a lack of understanding of the transaction. Additionally, there has been support for the transaction by governmental agencies as well as many shippers who would be affected by the acquisition of the Bay Railway by SWF and Gulf.

The control of Bay Railway by SWF and Gulf is of limited scope and the regulation of it would be both unnecessary and an unreasonable burden. Our review of the application indicates that any further evidence would be minimal and of little provable

value at best (based on the comments which were received). Therefore, we conclude that our review of this matter would serve little or no useful public purpose.

The Application

SWF, Gulf and Bay Railway filed an application under 49 U.S.C. 11344 concurrently with their petition for exemption. Since we have determined to exempt this transaction from the requirements of 49 U.S.C. 11343-11347, further prosecution of the application filed on April 17, 1979, is not necessary. We shall dismiss the application.

We find: (1) The application of the requirements of 49 U.S.C. 11343-11347 to the control of the Atlanta & St. Andrews Bay Railway Company by Southwest Forest Industries, Inc., and its wholly owned subsidiary, SWF Gulf Coast, Inc., is of a limited scope and (a) is not necessary to carry out the national transportation policy of section 10101(b), would be an unreasonable burden on SWF, Gulf, and Bay Railway, and (c) would serve little or no useful public purpose.

(2) This decision is not a major Federal action significantly affecting energy consumption or quality of the human environment.

It is ordered: (1) The acquisition of control of the Atlanta & St. Andrews Bay Railway Company by Southwest Forest Industries, Inc., and SWF Gulf Coast, Inc., is exempted under 49 U.S.C. 10505 from the requirements of 49 U.S.C. 11343-11347 for the limited purpose of SWF and Gulf obtaining control of Bay Railway.

(2) If SWF and Gulf obtain control of Bay Railway, SWF and Gulf shall, within 60 days of obtaining control submit three copies of a sworn statement confirming, immediately after consummation, the date on which consummation has actually taken place.

(3) The exemption authorized by this decision shall remain in effect for three months following the effective date. Consummation to this exemption must take place during that time.

(4) The application filed on April 17, 1979, under 49 U.S.C. 11344 for SWF and Gulf to acquire control of Bay Railway, is dismissed.

(5) Public notice of our action in this proceeding shall be given to the general public by depositing a copy of this decision in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register, for publication therein.

(6) This decision shall be effective August 28, 1979.

Dated: August 21, 1979.

By the Commission. Chairman O'Neal, Vice Chairman Stafford, Commissioners Gresham, Clapp, Christian, Trantum and Gaskins.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 79-26664 Filed 8-27-79; 8:45 am]

BILLING CODE 7035-01-M

Sunshine Act Meetings

Federal Register
Vol. 44, No. 168
Tuesday, August 28, 1979

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

FEDERAL RESERVE SYSTEM, BOARD OF GOVERNORS.

TIME AND DATE: 11:00 a.m., Friday, August 31, 1979.

PLACE: 20th Street and Constitution Avenue, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Proposed purchase, under competitive bidding, of power supply equipment for the Miami Branch of the Federal Reserve Bank of Atlanta.

2. Proposed modifications to the plans for the new building under consideration for the Federal Reserve Bank of San Francisco.

3. Proposed purchases, under competitive bidding, of automation equipment by the Federal Reserve Bank of New York.

4. Proposed disposition of property by a Federal Reserve Bank.

5. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

6. Any agenda items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE

INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204.

Dated: August 23, 1979.

Griffith L. Garwood,

Deputy Secretary of the Board.

[S-1682-79 Filed 8-23-79; 4:14 pm]

BILLING CODE 6210-01-M

Tuesday
August 28, 1979

Part II

Department of
Health, Education,
and Welfare

Food and Drug Administration

Classification of Physical Medicine
Devices; Development of General
Provisions

federal register

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 890]

[Docket No. 78N-1182]

Classification of Physical Medicine Devices; Development of General Provisions

AGENCY: Food and Drug Administration.
ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing general rules applicable to the classification of all physical medicine devices. The Medical Device Amendments of 1976 require FDA to classify all medical devices intended for human use into three categories: Class I, general controls; class II, performance standards; and class III, premarket approval. This proposal describes the development of the proposed regulations classifying individual physical medicine devices, which are being published elsewhere in this issue of the Federal Register. This document also describes the activities of the Physical Medicine Device Classification Panel, and FDA advisory committee, that makes recommendations to FDA concerning the classification of physical medicine devices.

DATES: Comments by October 29, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Johnnie W. Bailey, Bureau of Medical Devices (HFK-410), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910 301-427-7238.

SUPPLEMENTARY INFORMATION:

Device Classification System

The Medical Device Amendments of 1976 (the amendments) (Pub. L. 94-295) establish a comprehensive system for the regulation of medical devices intended for human use. One provision of the amendments, section 513 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360c) establishes three categories (classes) of devices, depending on the regulatory controls

needed to provide reasonable assurance of their safety and effectiveness. The three categories are: class I, general controls; class II, performance standards; and class III, premarket approval.

Most devices are not classified under section 513 of the act until after FDA has (1) received a recommendation from a device classification panel (an FDA advisory committee); (2) published the panel's recommendation for comment, along with a proposed regulation classifying the device; and (3) published a final regulation classifying the device. These steps must precede the classification of any device that was in commercial distribution before May 28, 1976 (the date of enactment of the amendments) and that was not previously regarded by FDA as a new drug under section 505 of the act (21 U.S.C. 355). A device that is first offered for commercial distribution after May 28, 1976 and that is substantially equivalent to a device classified under this scheme is classified in the same class as the device to which it is substantially equivalent.

A device that FDA previously regarded as a new drug, or a newly offered device that is not substantially equivalent to a device that was in commercial distribution before the amendments, is classified by statute into class III. These two types of devices are classified into class III without any FDA rulemaking proceedings. The agency determines whether new devices are substantially equivalent to previously offered devices by means of the premarket notification procedure in section 510(k) of the act (21 U.S.C. 360(k)) and Part 807 of the medical device regulations (21 CFR Part 807).

Related Regulations

In the Federal Register of July 28, 1978 (43 FR 32988), the agency issued final regulations describing the procedures for classifying devices intended for human use. These regulations, which were proposed in the Federal Register of September 13, 1977 (42 FR 46028), supplement the agency's regulations in Part 14 (21 CFR Part 14) governing the use of advisory committees. The agency also issued interim device classification procedures in a notice published in the Federal Register of May 19, 1975 (40 FR 21848).

Activities of Panel

Anticipating enactment of the amendments, FDA established several advisory committees to make preliminary recommendations on device classification. The Physical Medicine Device Classification Panel (the Panel)

was originally chartered on October 15, 1974 as the Panel on Review of Physical Medicine (Physiatry) Devices. On January 26, 1976, FDA filed a report of the Panel's tentative classification recommendations with the office of the Hearing Clerk, Food and Drug Administration, and announced the availability of the report to the public by notice published in the Federal Register of June 25, 1976 (41 FR 26245).

On August 9, 1978, the Panel and other preamendment device classification panels were rechartered to reflect their new responsibilities under the amendments. The agency directed each panel to reconsider its preamendments classification recommendations in light of the new requirements. In 1976 and 1977, the Panel reviewed all devices that FDA had referred to it to ensure that its recommendations were in accord with the amendments.

Throughout the Panel's deliberations, interested persons were given an opportunity to present their views, data, and other information concerning the classification of physical medicine devices. The Panel also invited experts to testify and sought information on many devices from the published literature.

In November 1977, the Panel submitted to FDA a preliminary report of its recommendations. The report included a roster of current and former Panel members and consultants and listed all meeting dates. The agency placed a copy of the report in the office of the Hearing Clerk, Food and Drug Administration, and announced its availability to the public by notice published in the Federal Register of November 29, 1977 (42 FR 60792). Also available in the office of the Hearing Clerk are summary minutes from all Panel meetings, verbatim transcripts of meetings held after May 28, 1976 (the date of enactment of the amendments), and all references cited in individual physical medicine device proposed classification regulations. Interested persons may review these documents in the office of the Hearing Clerk (address above), between 9 a.m. and 4 p.m., Monday through Friday.

List of Physical Medicine Devices

In 1972 FDA surveyed device manufacturers to identify the devices that would require classification regulations. Following this survey, FDA developed a list of physical medicine devices. The Panel supplemented the list, utilizing its members' knowledge of physical medicine devices in use. Devices that were solely for experimental or investigational use or

that were not generally available were not included.

FDA is proposing to establish a new Part 890 in Title 21 of the Code of Federal Regulations. Part 890 will consist of sections identifying each physical medicine device or a generic category of devices with a brief narrative description and stating the classification of those devices. A list of the physical medicine devices appears elsewhere in this preamble.

Individual Physical Medicine Device Classification Regulations

Elsewhere in this issue of the Federal Register, the agency is issuing 82 individual proposed regulations to classify each physical medicine device or generic category of devices. The agency is proposing to classify 32 physical medicine devices into class I (general controls), 43 physical medicine devices into class II (performance standards), 2 physical medicine devices into class III (premarket approval), and 5 physical medicine devices into class II for some uses and class III for other uses. The powered finger exerciser was reclassified into class II following a petition for reclassification (under section 513(f) of the act), a notice announcing the reclassification was published in the Federal Register of November 11, 1977 (42 FR 58787). The final order will be published later in another issue of the Federal Register. The agency also is publishing the recommendations of the Panel regarding these devices, as required by section 513(c)(2) and (d)(1) of the act.

Published Panel Recommendations

Each published Panel recommendation concerning a physical medicine device includes the information described below.

1. Identification. Both the Panel recommendation and proposed FDA classification regulation include a brief narrative identification of the device. The identification statement is necessarily broad because it applies to a category or type of device rather than to a specific device. As explained in proposed § 890.1 (21 CFR 890.1), any manufacturer of a newly offered device who files a premarket notification submission under section 510(k) of the act and Part 807 of the regulations cannot show merely that the device is accurately described by the section title and identification provisions of a classification regulation. Although a new device may be described accurately by the title and identification in a classification regulation, it is nevertheless in class III under section 513(f) of the act if it is not substantially

equivalent to a preamendment device (or to a postamendment device that has already been reclassified from class III into class I or class II). It is not practical for FDA to publish an identification of each type of device that is so detailed as to anticipate every product feature that may be relevant in determining whether a new device is substantially equivalent to previous devices classified by the regulation. The agency believes that this problem was recognized in, and addressed by, the premarket notification procedures in section 510(k) of the act.

Accordingly, any manufacturer who submits a premarket notification submission should state why the manufacturer believes that the device is substantially equivalent to other devices in commercial distribution, as required by § 807.87 (21 CFR 807.87), and whether the device is described in a classification regulation.

2. Recommended classification. Each Panel's recommendation describes whether the device is recommended for classification into class I (general controls), class II (performance standards), or class III (premarket approval).

For each device recommended for classification into Class I, the Panel considered whether the device should be exempt from any requirements under certain sections of the act: section 510 (21 U.S.C. 360, registration), section 519 (21 U.S.C. 360i, records and reports), and section 520(f) (21 U.S.C. 360(f), good manufacturing practice requirements). The Panel recommended that the manufacturers of a few class I devices be exempt from section 510, section 519, and section 520(f) of the act. The agency's policy concerning these exemption recommendations is discussed below in the section "Exemptions for Class I Devices."

A Panel recommendation that a device be classified into class II includes the Panel's recommended priority (high or low) for establishing a performance standard for the device. Similarly, each Panel recommendation that a device be classified into class III includes the Panel's recommended priority (high or low) for application of premarket approval requirements to that device. As explained below in the section of this notice concerning "Priorities for Class II and III Devices," the agency is not proposing the establishment of FDA priorities at this time.

3. Summary of reasons for recommendation. The summary of reasons for the Panel's recommendation explains why the Panel believes that a particular device meets the statutory

criteria for classification into class I, II, or III.

Except in those instances in which FDA's classification proposal differs from the Panel's recommendation, the agency is adopting the Panel's summary of reasons as the agency's statement of the reasons for issuing the regulations, as required by section 517(f) of the act (21 U.S.C. 360g(f)).

The summary of reasons for a recommendation identifies any device that is an implant or a life-supporting or life-sustaining device. The summary of reasons for any implant or life-supporting or life-sustaining device that is not recommended for classification into class III also explains why the Panel determined that classification of the device into class III is not necessary to provide reasonable assurance of its safety and effectiveness. The agency provides a similar explanation in the "Proposed Classification" section of the preamble to any proposal to classify an implant or a life-supporting or life-sustaining device into a class other than class III.

4. Summary of data on which the recommendation is based. In many cases, the Panel based its recommendations on the Panel members' personal knowledge of, and clinical experience with, the devices under review. The Panel particularly relied on clinical experience and judgment when considering a simple device that had been used extensively and was accepted widely before the amendments were enacted. The legislative history of the amendments makes clear that the term "data" has a special meaning in section 513(a)(2) of the act, which requires that a Panel recommendation summarize the data on which a recommendation is based. As used in that section, "data" refers not only to the results of scientific experiments, but also to less formal evidence, other scientific information, or judgments of experts (House Committee on Interstate and Foreign Commerce, Medical Device Amendments of 1976, H. Rept. No. 94-853, 94th Congress, 2d Session (1976)). The agency has determined that clinical experience and judgment constitute valid scientific evidence for classifying certain devices.

In many cases, FDA sought more data and information concerning the classification of a device than were cited by the Panel. References to these data and information are found in the "Proposed Classification" section of the preamble to individual physical medicine device regulations. FDA is adopting, as the agency's statement of the basis for issuing the regulation under section 517(f) of the act, the Panel's

summary of the data on which a recommendation to classify a device is based, together with any additional data and information cited in the preamble to the proposed classification regulation.

5. *Risks to health.* In identifying the risks to health presented by physical medicine devices, the Panel recognized that few devices are completely free of risk. The Panel listed the risks it considered most significant, especially those that are unique to the individual device. In some cases, FDA has identified additional risks to health presented by a device. These additional risks are stated in the section of the preamble concerning the "Proposed Classification" of a particular device.

Because the Panel classification recommendations and FDA classification regulations do not identify all risks to health presented by physical medicine devices, future regulations establishing performance standards under section 514 of the act (21 U.S.C. 360d) or requiring premarket approval under section 515(b) of the act (21 U.S.C. 360e(b)) may identify additional risks to health to be addressed by FDA requirements.

Proposed Classification

Each proposed regulation to classify a physical medicine device states whether FDA agrees with the Panel's recommendation, describes the agency's proposed classification of the device, and proposes a new section in Part 890 in which the device classification will be codified.

FDA cautions that the final classification of a device may differ from the proposal. Factors that may cause such a change include comments, the agency's reconsideration of existing data and information, and the agency's consideration of new data and information.

Priorities for Class II and Class III Devices

For a device that the Panel recommends be classified into class II or class III, section 513(c)(2)(A) of the act requires that the Panel recommendation include, to the extent practicable, a recommendation for the assignment of priorities for application to the device of performance standards or premarket approval requirements. In developing its advice concerning priorities (high or low) of devices recommended for classification into class II or class III, the Panel compared the device with other physical medicine devices, based on information available to the Panel members concerning the relative importance of use of the device and the relative risks presented by the device.

The Panel recommended assignment of a high priority only to those class II or class III devices that the Panel believed should receive the agency's immediate attention.

FDA is not proposing at this time to establish priorities for development of performance standards for class II devices or application of premarket approval requirements to class III devices. Section 513(d)(3) of the act authorizes, but does not require, establishment of these priorities. At a later date, however, the agency will establish priorities for the development of standards for class II devices and the application of premarket approval requirements to class III devices. These priorities will be based on the classification panels' recommendations, available resources, and other relevant factors. The agency's priorities will be reflected in the agency's annual budget request and other publicly available documents and may be published in the Federal Register.

The agency intends to proceed as quickly as the statute and classification panel resources permit to require premarket approval of devices classified into class III. Two factors affect the length of time necessary before FDA requires submission of premarket approval applications for any particular device that is classified by an FDA regulation into class III: the number of devices reviewed by a panel and the priority of a particular device in relation to other class III devices considered by a classification panel. For example, where FDA classifies into class III only a few devices within a panel's specialty area, FDA may at the same time also publish regulations under section 515(b) of the act requiring premarket approval for many of the class III devices considered by the panel, regardless of a high or a low priority. Where practical, FDA will publish these section 515(b) regulations during the grace period (30 months) following classification, during which a device classified into class III by FDA regulation may lawfully remain on the market without a premarket approval application. The grace period is provided for in section 501(f) of the act (21 U.S.C. 351(f)).

Exemptions For Class I Devices

Section 513 of the Federal Food, Drug, and Cosmetic Act provides that FDA may exempt a device recommended for classification into class I from a requirement under the following sections of the act: section 510, registration; section 519, records and reports; and section 520(f), good manufacturing practices.

Under section 510 of the act, a person "engaged in the manufacture, preparation, propagation, compounding or processing of . . . a device or devices" must register with FDA (section 510(b) through (j)), file a list of devices (section 510(j)), and notify FDA at least 90 days before beginning commercial distribution of a device (section 510(k)). (See 21 CFR Part 807.) Section 510(g)(4) authorizes the agency to exempt a device from section 510 if it finds that compliance with that section is not necessary for the protection of the public health. In § 807.65 (21 CFR 807.65), FDA has exempted certain classes of persons from section 510 of the act. Several device classification panels have recommended that manufacturers of certain class I devices also be exempted from all or some of the requirements of section 510. The agency has determined that protection of the public health requires that manufacturers of medical devices, other than those already exempt under § 807.65, register and list their products with FDA to ensure that the agency can identify these manufacturers and their products and conduct necessary inspections.

The agency has determined, however, for certain devices, that it is not necessary for the protection of the public health that FDA receive premarket notification submissions. Thus, the agency has proposed to exempt certain devices from Subpart E of Part 807 of the regulations, which implements section 510(k) of the act. The agency does not, at this time, anticipate that premarket approval will be required for these devices. The agency believes that the semiannual updating of device listing under section 510(j)(2) will provide FDA with adequate notice of new products within these generic types of devices.

Section 519 of the act authorizes FDA to issue regulations requiring device manufacturers, importers, and distributors to establish and maintain such records, make such reports, and provide such information as the agency may reasonably require to assure that devices are not adulterated or misbranded and to otherwise assure their safety and effectiveness. The records and reports requirements in several of FDA's present device regulations are authorized, wholly or in part, by section 519. The most extensive of these requirements are found in the device good manufacturing practice (GMP) regulation (21 CFR Part 820), published in the Federal Register of July 21, 1978 (43 FR 31508). In the future, FDA will publish other regulations in

accordance with section 519 of the act, including regulations requiring reports to FDA of experience with medical devices. Until these regulations are issued, FDA believes that it cannot properly issue exemptions from them. In the future, whenever the agency proposes device regulations that include records and reports requirements, interested persons may submit comments requesting that certain classes of manufacturers or other persons be exempted from the requirements, and FDA will issue exemptions that are appropriate.

The only type of exemption from records and reports requirements that FDA is proposing now, in device classification regulations, is an exemption of certain manufacturers from most requirements of the device GMP regulation. As explained below, the exemption will not extend to two device GMP records requirements.

The device GMP regulation was published in final form in the Federal Register of July 21, 1978. At the time of the Panel's recommendations, the GMP regulation had not yet been promulgated, and the agency had not yet developed criteria for exempting a class I device from GMP requirements. The agency has now decided that, if any one of the following criteria is met, FDA will consider exempting from the GMP regulation a class I device that is not labeled or otherwise represented as sterile. The agency will not, however, exempt a device from § 820.180 (21 CFR 820.180), with respect to general requirements concerning records, or § 820.198 (21 CFR 820.198), with respect to complaint files. The criteria are:

1. FDA has determined, based on adequate information about current practices in the manufacture of the device and about user experience with the device, that application of the GMP regulation is unlikely to improve the safety and effectiveness of the device.

2. FDA has determined that all possible defects relating to the safety and effectiveness of the device are readily detectable before use, either through visual examination by the user or routine testing before use, e.g., testing a clinical laboratory reagent with positive and negative controls.

3. FDA has determined that any defect in the device that is not readily detectable will not result in a device failure that could have an adverse effect on the patient or other user.

FDA has determined that no device that is labeled or otherwise represented as sterile will be exempted from the device GMP regulation. Such a device must be subject to the entire GMP regulation to ensure that manufacturers

adequately reduce the bioburden (number of microorganisms) on the device and its components during the manufacturing process. This reduction is accomplished through adherence to a comprehensive quality assurance program as required by the GMP regulation, with adequate environmental controls, trained personnel, appropriate maintenance and calibration of sterilization equipment, recordkeeping concerning lot sterility, strict packaging and labeling controls, and other quality assurance measures.

The agency also has determined that no exemption from the device GMP regulation will extend to § 820.180, with respect to general requirements concerning records, or § 820.198, with respect to complaint files. The agency believes that granting exemptions from these sections would not be in the public interest, and that compliance with these sections is not unduly burdensome for device manufacturers. To ensure that device manufacturers have adequate systems for complaint investigation and followup, all such manufacturers are required to comply with the complaint file requirements of § 820.198. All device manufacturers also are required to comply with the general requirements concerning records in § 820.180 to ensure that FDA has access to complaint files, can investigate device-related injury reports and complaints about product defects, may determine whether the manufacturer's corrective actions are adequate, and may determine whether the exemption from other sections of the GMP regulation is still appropriate.

In general, FDA has not initiated proposals to exempt manufacturers of class I devices from requirements under section 510, 519, or 520(f) but has acted on the basis of exemption recommendations of the device classification panels. Manufacturers and other interested persons may submit comments on the appropriateness of

exemptions of manufacturers of class I devices that are not the subject of panel exemption recommendations. FDA will consider granting exemptions from the requirement of premarket notification and from the GMP regulation (other than §§ 820.180 and 820.198) according to the policies and criteria discussed above. Comments requesting additional exemptions should be supported by information showing that the exemption of manufacturers of a device from the premarket notification requirement or the GMP regulation (other than §§ 820.180 and 820.198), or both, is consistent with the policies and criteria discussed above.

At the February 7, 1979 meeting of the Physical Medicine Device Classification Panel, representatives from the American Orthotic and Prosthetic Association (AOPA) requested exemptions from premarket notification (section 510(k) of the act), records and reports (section 519 of the act), and good manufacturing practices (section 520(f) of the act) for 40 orthotic/prosthetic devices. The 40 orthotic/prosthetic devices are included in the proposed regulations published in this issue under the following Hearing Clerk docket numbers: 78N-1194, 78N-1200, 78N-1201, 78N-1203, 78N-1204, 78N-1209, and 78N-1210. The Panel members recommended that FDA accept AOPA's request for these exemptions. This recommendation for exemptions will be considered as part of the comments received on the physical medicine device proposed regulations.

List of Physical Medicine Devices

The following is a list showing the physical medicine devices that FDA is proposing to classify, the section and subpart of Part 890 in the Code of Federal Regulations under which the regulation classifying the device will be codified, the docket number of the proposed classification regulation, and the proposed classification of each device.

Section	Device	Docket No.	Class
SUBPART B—PHYSICAL MEDICINE DIAGNOSTIC DEVICES			
890.1100	Powered myoelectric biofeedback equipment	78N-1183	II
890.1175	Electrode cable	78N-1184	I
890.1225	Chronometer	78N-1185	II
890.1375	Diagnostic electromyograph	78N-1186	II
890.1385	Diagnostic electromyograph needle electrode	78N-1187	II
890.1450	Powered reflex hammer	78N-1188	II
890.1575	Force-measuring platform	78N-1189	II
890.1600	Intermittent pressure measurement system	78N-1190	II
890.1615	Miniature pressure transducer	78N-1191	II
890.1850	Diagnostic muscle stimulator	78N-1192	II
890.1925	Isokinetic testing and evaluation system	78N-1193	II
SUBPART C (RESERVED)			
SUBPART D—PHYSICAL MEDICINE PROSTHETIC DEVICES			
890.3025	Prosthetic and orthotic accessories	78N-1194	I
890.3075	Cane	78N-1195	I
890.3100	Mechanical chair	78N-1196	I

Section	Device	Docket No.	Class
SUBPART D—PHYSICAL MEDICINE PROSTHETIC DEVICES —Continued			
890.3110	Electric positioning chair	78N-1187	II
890.3150	Crutch	78N-1188	I
890.3175	Flotation cushion	78N-1189	I
890.3410	External limb orthotic components	78N-1200	I
890.3420	External limb prosthetic components	78N-1201	I
890.3450	Mechanical hand and foot driving controls	78N-1202	II
890.3475	Limb orthosis	78N-1203	I
890.3490	Truncal orthosis	78N-1204	I
890.3500	External assembled limb prosthesis	78N-1205	II
890.3520	Plinth	78N-1206	I
890.3610	Rigid pneumatic structure orthosis	78N-1207	III
890.3640	Arm sling	78N-1208	I
890.3665	Congenital hip dislocation abduction splint	78N-1209	I
890.3675	Dennis Brown splint	78N-1210	I
890.3690	Powered wheeled stretcher	78N-1211	II
890.3700	Nonpowered communication system	78N-1212	I
890.3710	Powered communication system	78N-1213	II
890.3725	Powered environmental control system	78N-1214	II
890.3750	Mechanical table	78N-1215	I
890.3760	Powered table	78N-1218	II
890.3790	Cane, crutch, and walker tips	78N-1217	I
890.3800	Motorized 3-wheeled vehicle	78N-1218	II
890.3825	Mechanical walker	78N-1219	I
890.3850	Mechanical wheelchair	78N-1220	I
890.3860	Powered wheelchair	78N-1221	II
890.3880	Special grade wheelchair	78N-1222	II
890.3890	Stair-climbing wheelchair	78N-1223	III
890.3900	Standup wheelchair	78N-1224	II
890.3910	Wheelchair accessory	78N-1225	I
890.3920	Wheelchair components	78N-1226	I
890.3930	Wheelchair elevator	78N-1227	II
890.3940	Wheelchair platform scale	78N-1228	I
SUBPART E [RESERVED]			
SUBPART F—PHYSICAL MEDICINE THERAPEUTIC DEVICES			
890.5050	Daily activity assist devices	78N-1229	I
890.5100	Immersion hydrobath	78N-1230	II
890.5110	Paraffin bath	78N-1231	II
890.5125	Nonpowered sitz bath	78N-1232	I
890.5150	Powered patient transport	78N-1233	II
890.5180	Air fluidized bed	78N-1234	I
890.5170	Powered flotation therapy bed	78N-1235	II
890.5180	Manual patient rotation bed	78N-1236	I
890.5225	Powered patient rotation bed	78N-1237	II
890.5250	Moist steam cabinet	78N-1238	II
890.5275	Microwave diathermy	78N-1239	II, III
890.5290	Shortwave diathermy	78N-1241	II, III
890.5300	Ultrasonic diathermy	78N-1242	II, III
890.5350	Exercise component	78N-1243	I
890.5360	Measuring exercise equipment	78N-1244	II
890.5370	Nonmeasuring exercise equipment	78N-1245	I
890.5380	Powered exercise equipment	78N-1246	II
890.5500	Infrared lamp	78N-1248	II
890.5525	Iontophoresis device	78N-1249	II, III
890.5575	External limb overload warning device	78N-1250	I
890.5650	Powered inflatable tube massager	78N-1251	II
890.5660	Physical therapy muscle relaxer	78N-1252	II
890.5700	Cold pack	78N-1253	I
890.5710	Hot or cold disposable pack	78N-1254	I
890.5720	Water circulating hot or cold pack	78N-1255	II
890.5730	Moist heat pack	78N-1256	I
890.5740	Powered heating pad	78N-1257	II
890.5765	Pressure applying device	78N-1258	I
890.5850	Powered muscle stimulator	78N-1259	II
890.5860	Therapeutic ultrasound and muscle stimulator	78N-1260	II, III
890.5880	Multi-function physical therapy table	78N-1261	II
890.5900	Powered traction equipment	78N-1262	II
890.5925	Traction accessories	78N-1263	I
890.5940	Chilling unit	78N-1264	II
890.5950	Powered heating unit	78N-1265	II
890.5975	Physical therapy pulsator	78N-1266	II

Devices Considered by Two or More Panels

Many devices were reviewed by two or more device classification panels. For these devices, FDA will publish each panel's recommendations and a single proposed classification regulation. The following devices were considered by the Physical Medicine Device

Classification Panel and by other panels:

1. The Neurological Device Classification Panel and the Physical Medicine Device Classification Panel recommended that the chronaximeter be classified into class II. The devices reviewed by the two Panels are essentially the same. Therefore, the agency is proposing a single regulation

classifying the chronaximeter into class II and is publishing the two Panels' recommendations in a proposal appearing elsewhere in this issue of the Federal Register.

2. The Neurological Device Classification Panel and the Anesthesiology Device Classification Panels recommended that the electromyograph and electromyograph monitor be classified into class II. The Physical Medicine Device Classification Panel recommended that the diagnostic electromyograph be classified into class II. These devices are essentially the same. Therefore, the agency is proposing a single regulation classifying the diagnostic electromyograph device into class II and is publishing the three Panels' recommendations in the proposal appearing elsewhere in this issue of the Federal Register.

3. The General Hospital and Personal Use Device Classification Panel recommended that the wheeled geriatric chair be classified into class I. The Physical Medicine Device Classification Panel recommended that the mechanical chair be classified into class I. The agency has determined that these devices are essentially the same. Therefore, the agency is proposing a single regulation classifying the mechanical chair into class I and is publishing the two Panels' recommendations in a proposal appearing elsewhere in this issue of the Federal Register.

4. The General Hospital and Personal Use Device Classification Panel recommended that the silicone chair cushion be classified into class I. The Physical Medicine Device Classification Panel recommended that the flotation cushion be classified into class I. The agency has determined that these devices are essentially the same. Therefore, the agency is proposing a single regulation classifying the flotation cushion into class I and is publishing the two Panels' recommendations in a proposal appearing elsewhere in this issue of the Federal Register.

5. The Gastroenterology Device Classification Panel recommended that the abdominal belt be classified into class II. The Physical Medicine Device Classification Panel recommended that the truncal orthosis be classified into class I. The agency has determined that these devices are essentially the same. Therefore, the agency is proposing a single regulation classifying the truncal orthosis into class I and is publishing the two Panels' recommendations in a proposal appearing elsewhere in this issue of the Federal Register.

6. The Obstetrics/Gynecological Device Classification Panel

recommended that the manual sitz bath kit (not heated) be classified into class I. The Physical Medicine Device Classification Panel recommended that the nonpowered sitz bath be classified into class I. The agency has determined that these devices are essentially the same. Therefore, the agency is proposing a single regulation classifying the nonpowered sitz bath into class I and is publishing the two Panels' recommendations in a proposal appearing elsewhere in this issue of the Federal Register.

7. The General Hospital and Personal Use Device Classification Panel recommended that the AC-powered water flotation bed be classified into class II. The Physical Medicine Device Classification Panel recommended that the powered flotation therapy bed be classified into class II. The agency has determined that these devices are essentially the same. Therefore, the agency is proposing a single regulation classifying the powered flotation bed into class II and is publishing the two Panels' recommendations in a proposal appearing elsewhere in this issue of the Federal Register.

8. The General Hospital and Personal Use Device Classification Panel recommended that the heat lamp (infrared) be classified into class I. The Physical Medicine Device Classification Panel recommended that the infrared lamp be classified into class II. The agency has determined that these devices are essentially the same. Therefore, the agency is proposing a single regulation classifying the infrared lamp into class II and is publishing the two Panels' recommendations in a proposal appearing elsewhere in this issue of the Federal Register.

9. The General Hospital and Personal Use Device Classification Panel recommended that the chemical hot pack and chemical cold pack be classified into class I. The Physical Medicine Device Classification Panel recommended that disposable hot and cold packs be classified into class II. The agency has determined that these devices are essentially the same. Therefore, the agency is proposing a single regulation classifying the disposable hot or cold pack into class I and is publishing the two Panels' recommendations in a proposal appearing elsewhere in this issue of the Federal Register.

10. The General and Plastic Surgery Device Classification Panel recommended that the GPS muscle stimulator be classified into class II. The Physical Medicine Device Classification Panel recommended that the powered muscle stimulator be classified into

class II. The agency has determined that these devices are essentially the same. Therefore, the agency is proposing a single regulation classifying the powered muscle stimulator into class II and is publishing the two Panels' recommendations in a proposal appearing elsewhere in this issue of the Federal Register.

11. The Anesthesiology Device Classification Panel recommended that the bicycle ergometer and treadmill ergometer be classified into class II. The Physical Medicine Device Classification Panel recommended that powered exercise equipment be classified into class II. The agency has determined that these devices are essentially the same. Therefore, the agency is proposing a single regulation classifying powered exercise equipment into class II and is publishing the two Panels' recommendations in a proposal appearing elsewhere in this issue of the Federal Register.

12. The Dental Device Classification Panel recommended that the iontophoretic device be classified into class I. The Ear, Nose, and Throat Device Classification Panel recommended that the iontophoretic anesthetic be classified into class II. The Physical Medicine Device Classification Panel recommended that the iontophoresis device be classified into class II. The agency has determined that these devices are essentially the same. Therefore, the agency is proposing a single regulation classifying the iontophoresis device into class II for its use in the diagnosis of cystic fibrosis, for the acceleration of fluoride in dentistry, and for the local anesthesia of the intact tympanic membrane, and into class III for any other uses. The agency is publishing the three Panels' recommendations in a proposal appearing elsewhere in this issue of the Federal Register.

13. The Physical Medicine Device Classification Panel and the other panels listed below made classification recommendations concerning the following devices:

Device	Other panel
Composite surface biopotential electrode	Neurological.
Metallic surface biopotential electrode	Neurological.
Metallic electrode with soft pad covering	Neurological.
Electrode gel	Neurological.
Physical medicine dynamometer	Orthopedic.
Touch discriminator esthesiometer	Neurological.
Two-point discriminator esthesiometer	Neurological.
AC-powered goniometer	Orthopedic.
Mechanical goniometer	Orthopedic.
AC-powered skin resistance meter	Neurological.

Device Classification Panel concurs with the Neurological Device Classification Panel's class II

recommendation for these devices. The recommendation appears in a proposed regulation in the November 28, 1978 Federal Register (43 FR 55650, 55648).

Environmental Impact

FDA has carefully considered the environmental effects of proposed §890.1 and of the proposed physical medicine device classification regulations and has concluded that an environmental impact statement is not required because the proposed actions will not significantly affect the quality of the human environment. A copy of the environmental impact assessment is on file with the Hearing Clerk, Food and Drug Administration (address above).

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513 and 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 U.S.C. 5.1), the Commissioner of Food and Drugs proposes that Chapter I of Title 21 of the Code of Federal Regulations be amended by adding new Part 890, Subpart A, to read as follows:

PART 890—PHYSICAL MEDICINE DEVICES

Subpart A—General Provisions

Sec.
890.1 Scope.

Authority: Secs. 513 and 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c and 701(a)).

Subpart A—General Provisions

§ 890.1 Scope.

(a) This part sets forth the classification of physical medicine devices intended for human use.

(b) The identification of a device in a regulation in this part is not a precise description of every device that is, or will be, subject to the regulation. A manufacturer who submits a premarket notification submission for a device under Part 807 of this chapter cannot show merely that the device is accurately described by the section title and identification provision of a regulation in this part, but shall state why the device is substantially equivalent to other devices, as required by § 807.87 of this chapter.

(c) To avoid duplicative listings, a physical medicine device that has two or more types of uses (e.g., use both as a diagnostic device and as a therapeutic device) is listed in the subpart representing one use of the device, rather than in two or more subparts.

Interested persons may, on or before October 29, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers

Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

In accordance with Executive Order 12044, the economic effects of this proposal have been carefully analyzed, and it has been determined that the proposed rulemaking does not involve major economic consequences as defined by that order. A copy of the regulatory analysis assessment supporting this determination is on file with the Hearing Clerk, Food and Drug Administration.

Dated: August 14, 1979.
William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.
[FR Doc. 79-26290 Filed 8-27-79; 8:45 am]
BILLING CODE 4110-03-M

[21 CFR Part 890]

[Docket No. 78N-1183]

Medical Devices; Classification of Powered Myoelectric Biofeedback Equipment

AGENCY: Food and Drug Administration.
ACTION: Proposed Rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying powered myoelectric biofeedback equipment into class II (performance standards). This proposed classification applies to all powered myoelectric biofeedback equipment whether powered by alternating current (AC) or batteries. The FDA is also publishing the recommendation of the Physical Medicine Device Classification Panel that the device be classified into class II if powered by alternating current and classified into class I if battery powered. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by October 29, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Johnnie W. Bailey, Bureau of Medical Devices (HFK-410), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7238.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the Federal Register provides background information concerning the development of the proposed regulation. The Physical Medicine Device Classification Panel, an FDA advisory committee, made the following recommendation with respect to the classification of powered myoelectric biofeedback equipment:

1. Identification: Powered myoelectric biofeedback equipment is a device that monitors certain bodily functions (e.g., muscle contraction/relaxation, skin temperature, and electrical resistance of skin) and displays the output of the device to the patient and is used to decrease psychophysiological symptoms and aid in muscle training performance. The device may be powered by alternating current (AC), or it may be battery powered.

2. Recommended classification: The Panel recommends that myoelectric biofeedback equipment that is powered by AC be classified into class II (performance standards) and that establishing a performance standard for this device be a low priority. The Panel also recommends that devices of this type that are battery powered be classified into class I (general controls), with no exemptions.

3. Summary of reasons for recommendation: The Panel recommends that powered myoelectric biofeedback equipment be classified into class II if AC powered because the Panel believes that a standard is necessary to control electrical current to prevent shock and burns. The device applies an electrical current to the body to measure the intrinsic electrical properties of muscles and nerves, and to measure skin temperature and resistance. The Panel believes that the measurement limitations inherent in this technique should be clearly specified by the manufacturers of the device. The Panel believes that general controls will not provide sufficient control over the electrical characteristics of the AC-powered version of this device. The Panel believes that a performance standard would provide reasonable assurance of the safety and effectiveness of the device and that there is

sufficient information to establish a standard to provide such assurance.

The Panel believes that general controls would provide reasonable assurance of the safety and effectiveness of battery-powered models of this device because the risks of electrical shock and burns for such a device are minimal. Therefore, the Panel recommends that battery-powered models of this device be classified into class I.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the potential hazards associated with AC-powered devices; the Panel members' personal knowledge of, and familiarity with, the device; a review of the pertinent literature (Refs. 1 through 4); and information presented during a Panel meeting. The Panel recommends that the device be restricted in use to professionally qualified persons recognized as experienced in the diagnosis, evaluation and/or treatment of the specific condition involved. At the Panel meeting of December 6, 1976, Dr. Kenneth Gaarder, University of Texas (Ref. 1), discussed the "Clinical use of Electromyography (EMG) in Biofeedback." He presented methods and indications of treatment and various other aspects of biofeedback. Dr. Gaarder stated that the procedures are safe with carefully made instruments and that standards could assure the production of high quality instruments.

5. Risks to health: (a) Electrical shock: The patient may receive an electrical shock because the device is electrically powered and connected to the patient by means of electrodes.

(b) Misdiagnosis and inappropriate therapy: Inaccurate measurement function of the device could lead to misdiagnosis and subsequent inappropriate therapy.

Proposed Classification

The Commissioner has reviewed the Panel recommendation on powered myoelectric biofeedback equipment and three studies in the literature, the results of which support the effectiveness and therapeutic value of biofeedback in rehabilitation (Refs. 2, 3, and 4). The Commissioner has concluded that all powered biofeedback equipment, whether battery powered or AC powered, should be subject to performance standards. The Commissioner believes that the battery-powered device, as well as the AC-powered device, presents a risk of electrical shock injuries. Therefore, the Commissioner is proposing that all powered myoelectric biofeedback equipment be classified into class II (performance standards). The Commissioner believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard will provide reasonable assurance of the safety and effectiveness of the device. The Commissioner also believes that there is

sufficient information to establish a performance standard for this device.

References

The following information has been placed in the office of the Hearing Clerk (address above), and may be seen by interested persons, from 9 a.m. to 4 p.m., Monday through Friday.

1. Gaarder, K., "Clinical Use of Electromyography (EMG) in Biofeedback," Unpublished Paper, Attachment A to Summary Minutes of the Second Meeting of the Electrodiagnostic Subcommittee of the Physical Medicine Device Classification Panel, December 6, 1976.
2. Canter, A., et al., "A Comparison of EMG Feedback and Progressive Muscle Relaxation Training in Anxiety Neurosis," *British Journal of Psychiatry*, 127:470-477, 1975.
3. Brudny, J., et al., "EMG Feedback Therapy: Review of Treatment of 114 Patients," *Archives of Physical Medicine and Rehabilitation*, 57:55-61, 1977.
4. Cox, D. J., et al., "Differential Effectiveness of Electromyograph Feedback, Verbal Relaxation Instructions, and Medication Placebo with Tension Headaches," *Journal of Consulting and Clinical Psychology*, 43, (6):892-898, 1978.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes to amend Part 890 by adding new Subpart B and § 890.1100, to read as follows:

Subpart B—Physical Medicine Diagnostic Devices

§ 890.1100 Powered myoelectric biofeedback equipment.

(a) **Identification.** Powered myoelectric biofeedback equipment is a device that monitors certain bodily functions (e.g., muscle contraction/relaxation, skin temperature, and electrical resistance of skin) and displays the output of the device to the patient and is used to decrease psychophysiological symptoms and aid in muscle training performance. The device may be powered by alternating current (AC), or it may be battery powered.

(b) **Classification.** Class II (performance standards).

Interested persons may, on or before October 29, 1979, submit to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found

in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 14, 1979.

William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.

[FR Doc. 79-26261 Filed 8-27-79; 8:45 am]
BILLING CODE 4110-03-M

[21 CFR Part 890]

[Docket No. 78N-1184]

Medical Devices; Classification of Electrode Cables

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying electrode cables into class I (general controls). The FDA is also publishing the recommendation of the Physical Medicine Device Classification Panel that the device be classified into class I. The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by October 29, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Johnnie W. Bailey, Bureau of Medical Devices (HFK-410), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7238.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the Federal Register provides background information concerning the development of the proposed regulation. The Physical Medicine Device Classification Panel, an FDA advisory committee, made the following

recommendation with respect to the classification of electrode cables:

1. Identification: An electrode cable is a device composed of strands of insulated electrical conductors laid together around a central core and used to connect an electrode from a patient to a diagnostic machine.

2. Recommended classification: Class I (general controls). The Panel recommends that there be no exemptions.

3. Summary of reasons for recommendation: The Panel recommends that electrode cables be classified into class I because this is a simple device that presents no undue risks to health when used in a normal manner and for the purpose recommended. The Panel believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and familiarity with, this device.

5. Risks to health: None identified.

Proposed Classification

The Commissioner agrees with the Panel recommendation and is proposing that electrode cables be classified into class I (general controls), with no exemptions. The Commissioner believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes to amend Part 890 in Subpart B by adding new § 890.1175, to read as follows:

§ 890.1175 Electrode cable.

(a) *Identification.* An electrode cable is a device composed of strands of insulated electrical conductors laid together around a central core and used to connect an electrode from a patient to a diagnostic machine.

(b) *Classification.* Class I (general controls).

Interested persons may, on or before October 29, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk document number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 14, 1979.

William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.

[FR Doc. 79-26262 Filed 8-27-79; 8:45 am]
BILLING CODE 4110-03-M

[21 CFR Part 890]

[Docket No. 78N-1185]

Medical Devices; Classification of Chronaximeters

AGENCY: Food and Drug Administration.

ACTION: Proposed Rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying chronaximeters into class II (performance standards). The FDA is also publishing the recommendation of the Physical Medicine Device Classification Panel and the Neurological Device Classification Panel that the device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the medical Device Amendments of 1976.

DATES: Comments by October 29, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Johnnie W. Bailey, Bureau of Medical Devices (HFK-410), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7238.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the Federal Register provides background information concerning the development of the proposed regulation. The Physical Medicine Device Classification Panel and the Neurological Device Classification Panel, FDA advisory committees, made the following recommendations with

respect to the classification of chronaximeters:

1. Identification: A chronaximeter is a device that measures neuromuscular excitability by means of a strength-duration curve that provides a basis for diagnosis and prognosis of neurological dysfunction.

2. Recommended classification: Class II (performance standards). The Panels recommend that the establishment of a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panels recommend that the chronaximeter be classified into class II because the device is electrically powered and applies an electric current through the skin. The Panels believe that a performance standard is needed to control electrical leakage current to prevent electrical shock and burns. The chronaximeter provides a measurement function, and the Panels believe that the measurement limitations of this device should be clearly specified by the manufacturers of the device. They also believe that general controls will not provide sufficient control over these characteristics. The Panels believe that a performance standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the potential hazards associated with this device; the Panel members' personal knowledge of, and familiarity with, the device; and a review of the available literature (Refs. 1 and 2). Harris (Ref. 1) describes the procedure to be followed in recording chronaxy, and Parry (Ref. 2) explains the plotting of the strength-duration curve and what the curve represents. The literature supports the need for accuracy of the prognostic and diagnostic data supplied by the chronaximeter.

5. Risks to health: (a) Electrical shock: The patient may receive an electrical shock because the device is electrically powered and connected to the patient by means of electrodes. (b) Burns: Skin burns could result from an excessive direct current component of the output. (c) Misdiagnosis and inappropriate therapy: An inaccurate measurement function could lead to misdiagnosis and subsequent inappropriate therapy.

Proposed Classification

The Commissioner agrees with the recommendations of the Physical Medicine Device Classification Panel and the Neurological Device Classification Panel and is proposing that chronaximeters be classified into class II (performance standards). The Commissioner believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and

effectiveness of the device. The Commissioner also believes that there is sufficient information to establish a performance standard for this device.

References

The following information has been placed in the office of the Hearing Clerk (address above) and may be seen by interested persons, from 9 a.m. to 4 p.m., Monday through Friday.

1. Harris, R., "Chronaxy," in "Electrodiagnosis and Electromyography," 3d Ed., Edited by Licht, S., Waverly Press, Inc., Baltimore, MD, pp. 218-240, 1971.
2. Parry, C. B. W., "Strength-Duration Curves," in "Electrodiagnosis and Electromyography," 3d Ed., Edited by Licht, S., Waverly Press, Inc., Baltimore, MD, pp. 241-271, 1971.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes to amend Part 890 in Subpart B by adding new § 890.1225, to read as follows:

§ 890.1225 Chronaximeter.

(a) *Identification.* A chronaximeter is a device that measures neuromuscular excitability by means of a strength-duration curve that provides a basis for diagnosis and prognosis of neurological dysfunction.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before October 29, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 14, 1979.

William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.

[FR Doc. 79-26263 Filed 8-27-79; 8:45 am]
BILLING CODE 4110-03-M

[21 CFR Part 890]

[Docket No. 78N-1186]

Medical Devices; Classification of Diagnostic Electromyographs

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying diagnostic electromyographs into class II (performance standards). The FDA is also publishing the recommendation of the Physical Medicine Device Classification Panel, the Neurological Device Classification Panel, and the Anesthesiology Device Classification Panel that the device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by October 29, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Johnnie W. Bailey, Bureau of Medical Devices (HFK-410), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7238.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the Federal Register provides background information concerning the development of the proposed regulation. The Physical Medicine Device Classification Panel, the Neurological Device Classification Panel, and the Anesthesiology Device Classification Panel, FDA advisory committees, made the following recommendation with respect to the classification of diagnostic electromyographs:

1. Identification: A diagnostic electromyograph is a device used to monitor and display the bioelectric signals produced by muscles, to stimulate peripheral nerves, and to monitor and display the electrical activity produced by nerves for the diagnosis and prognosis of neuromuscular disease.

2. Recommended classification: Class II (performance standards). The Panels recommend that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Physical Medicine

Device Classification Panel recommends that diagnostic electromyographs be classified into class II because the device is electrically powered, and the Panel believes a performance standard is needed to control leakage of electrical current to prevent electrical shock and burns. Also, because the device applies an electrical current to the body to measure the intrinsic electrical properties of skeletal muscle, the Panel believes that the measurement limitations inherent in this technique should be clearly specified by the manufacturers of the device. The Panel also recommends that the device be restricted to use by a physician trained in diagnostic electromyography. The Neurological Device Classification Panel recommends that the device be classified into class II because the Panel believes that the characteristics of the electric current applied to the body should be controlled to prevent injury. The Panel also believes that the measurement limitations of this device should be controlled to prevent misdiagnosis. The Anesthesiology Device Classification Panel recommends that the device be classified into class II because the Panel believes that a performance standard is needed to control electrical leakage current to prevent electrical shock. The Physical Medicine Device Classification Panel, the Neurological Device Classification Panel, and the Anesthesiology Device Classification Panel believe that general controls will not provide sufficient control over these characteristics. The Panels believe that a performance standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance.

4. Summary of data on which the recommendation is based: The Panels based their recommendations on the potential hazards associated with this device; the Panel members' personal knowledge of, and familiarity with, the device; and a review of the available literature (Refs. 1 and 2). Guld, Rosenfalck, and Willison report that "... clinical electromyographers * * * must appreciate that electrodes, amplifiers, and recording apparatus need careful design and maintenance to avoid distortion severe enough to affect experimental results." The authors expand on this topic and report the main sources of error and distortion and the problems of safety and interference in the use of electromyographs (Ref. 1). The Electrodiagnostic Subcommittee of the Physical Medicine Device Classification Panel discussed the problem areas with the use of clinical electrodiagnostic equipment in a presentation by Dr. Joseph Goodgold, Department of Rehabilitation, New York University Medical Center, New York City (Ref. 2). The Subcommittee also discussed some of the general technical requirements of electromyographic equipment in a presentation by Stewart Reiner, Teca Corp., White Plains, New Jersey (Ref. 2). Dr. Goodgold identified the possible problem areas in the clinical use of electrodiagnostic equipment. General concepts for use of the device were presented (Ref. 2). Reiner presented for discussion the technical requirements, standard recommendations,

and specific device problems of the electromyograph (Ref. 2).

5. Risks to health: The Physical Medicine Device Classification Panel, the Neurological Device Classification Panel, and the Anesthesiology Device Classification Panel identified the following risks to health. (a) Electrical shock: The patient may receive an electrical shock because the device is electrically powered and connected to the patient by means of electrodes. (b) Misdiagnosis and inappropriate therapy: Inaccurate measurement function of the device could lead to misdiagnosis and subsequent inappropriate therapy. (c) Local burns and tissue damage: Excessive stimulation current could cause local burns and tissue damage to the patient.

Proposed Classification

The Commissioner agrees with the Panel recommendations and is proposing that diagnostic electromyographs be classified into class II (performance standards). The Commissioner believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard will provide reasonable assurance of the safety and effectiveness of the device. The Commissioner also believes that there is sufficient information to establish a performance standard for this device.

References

The following information has been placed in the office of the Hearing Clerk (HFA-305), (address above) and may be seen by interested persons, from 9 a.m. to 4 p.m., Monday through Friday.

1. Guld, C., A. Rosenfalck, and R. G. Willison, "Technical Factors in Recording," in *Electrodiagnosis and Electromyography*, 3d Ed., Edited by S. Licht, Waverly Press, Inc., Baltimore, MD, pp. 452-478, 1971.

2. Summary Minutes of the First Meeting of the Electrodiagnostic Subcommittee of the Physical Medicine Device Classification Panel, October 7, 1975.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513 and 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 U.S.C. 5.1), the Commissioner proposes to amend Part 890 in Subpart B by adding new § 890.1375, to read as follows:

§ 890.1375 Diagnostic electromyograph.

(a) *Identification.* A diagnostic electromyograph is a device used to monitor and display the bioelectric signals produced by muscles, to stimulate peripheral nerves, and to monitor and display the electrical activity produced by nerves for the diagnosis and prognosis of neuromuscular disease.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before October 29, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 14, 1979.

William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.

[FR Doc. 79-28264 Filed 8-27-79; 8:45 am]

BILLING CODE 4110-03-M

[21 CFR Part 890]

[Docket No. 78N-1187]

Medical Devices; Classification of Diagnostic Electromyograph Needle Electrodes

AGENCY: Food and Drug Administration.
ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying diagnostic electromyograph needle electrodes into class II (performance standards). The FDA is also publishing the recommendation of the Physical Medicine Device Classification Panel that the device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA would issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by October 29, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Johnnie W. Bailey, Bureau of Medical Devices (HFK-410), Food and Drug

Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7238.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the Federal Register provides background information concerning the development of the proposed regulation. The Physical Medicine Device Classification Panel, an FDA advisory committee, made the following recommendation with respect to the classification of diagnostic electromyograph needle electrodes:

1. *Identification:* A diagnostic electromyograph needle electrode is a monopolar or bipolar needle that is inserted into muscle or nerve tissue to sense bioelectric signals. The device is used in conjunction with diagnostic electromyography (recording the intrinsic electrical properties of skeletal muscle).
2. *Recommended classification:* Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.
3. *Summary of reasons for recommendation:* The Panel recommends that diagnostic electromyograph needle electrodes be classified into class II because the Panel believes the hazards associated with this device warrant a performance standard. Also, the Panel believes that a performance standard will assure that the performance characteristics of the device are maintained at a satisfactory level. The Panel believes that the materials of which the device is made should be controlled to prevent tip or shaft failure and a loss of insulation. The Panel believes that the materials should allow proper sterilization of the device. The Panel believes that general controls would not provide sufficient control over these characteristics. The Panel believes that a performance standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance.

4. *Summary of data on which the recommendation is based:* The Panel based its recommendation on the potential hazards associated with this device and on the Panel members' personal knowledge of, and familiarity with, the device.

5. *Risks to health:* (a) *Toxicity:* The materials used could produce toxicity. (b) *Infection:* Infection may result if the device cannot be adequately sterilized. (c) *Misdiagnosis:* Spontaneous noise generation and/or impedance may cause invalid clinical observations in electromyography. (d) *Inappropriate therapy:* Loss of needle insulation or tip failure could cause misdiagnosis, resulting in inappropriate therapy.

Proposed Classification

The Commissioner agrees with the Panel recommendation and is proposing that diagnostic electromyograph needle

electrodes be classified into class II (performance standards). Two studies on monopolar electromyographic needles were review (Refs. 1 and 2). Mikolich and Waylonis (Ref. 1) studied the durability of teflon-coated needle electrodes over a 2-year period. Their study concluded that the durability of electrode needles varies. It was found, however, that the most common causes of failure of the needle electrode were teflon failure, tip failure, wire pin failure, and electrical artifact and wire bending. Smith and Schulte (Ref. 2) studied the effects of defective insulation of monopolar electrode needles. They concluded that "loss of insulation from a monopolar electrode can appreciably reduce action-potential amplitude." This reduction of action-potential amplitude leaves the tip excessively exposed and may result in altered waveforms leading to misdiagnosis. The Commissioner believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The Commissioner also believes that there is sufficient information to establish a performance standard for this device.

References

The following information has been placed in the office of the Hearing Clerk (address above) and may be seen by interested persons, from 9 a.m. to 4 p.m., Monday through Friday.

1. Mikolich, L. M. and G. W. Waylonis, "Durability of Monopolar Teflon-Coated Electromyographic Needles," *Archives of Physical Medicine and Rehabilitation*, 58: 448-451, 1977.

2. Smith, E. M. and H. F. Schulte, "Effects of Defective Insulation of Monopolar Electrodes in Electromyography," *Archives of Physical Medicine and Rehabilitation*, 47:2-475, July 1965.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a)) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes to amend Part 890 in Subpart B by adding new § 890.1385, to read as follows:

§ 890.1385 Diagnostic electromyograph needle electrode.

(a) *Identification.* A diagnostic electromyograph needle electrode is a monopolar or bipolar needle that is inserted into muscle or nerve tissue to sense bioelectric signals. The device is used in conjunction with diagnostic electromyography (recording the

intrinsic electrical properties of skeletal muscle).

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before October 29, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 14, 1979.

William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.

[FR Doc. 79-28265 Filed 8-27-79; 8:45 am]

BILLING CODE 4110-03-M

[21 CFR Part 890]

[Docket No. 78N-1188]

Medical Devices; Classification of Powered Reflex Hammers

AGENCY: Food and Drug Administration.
ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying powered reflex hammers into class II (performance standards). The FDA is also publishing the recommendation of the Physical Medicine Device Classification Panel that the device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by October 29, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Johnnie W. Bailey, Bureau of Medical

Devices (HFK-410), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7238.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the Federal Register provides background information concerning the development of the proposed regulation. The Physical Medicine Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of powered reflex hammers:

1. Identification: A powered reflex hammer is a motorized device used to elicit and determine controlled deep tendon reflexes.
2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that powered reflex hammers be classified into class II because the Panel believes that the electrical properties of the device must be controlled to avoid the potential electrical hazards of shock and burns and to prevent injury to soft tissues. The Panel believes that the measurement limitations of this device should be clearly specified by the manufacturers of the device. The Panel believes that general controls will not provide sufficient control over these characteristics. The Panel believes that a performance standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the potential hazards associated with this device and on the Panel members' personal knowledge of, and familiarity with, the device.

5. Risks to health: (a) Electrical shock: Excessive leakage current could result in injury, or a malfunction of the device could result in electrical shock. (b) Bodily injury: Injury to soft tissues could result from excessive power of impact and from excursion. (c) Misdiagnosis: Inaccurate measurement function could lead to misdiagnosis.

Proposed Classification

The Commissioner agrees with the Panel recommendation and is proposing that powered reflex hammers be classified into class II (performance standards). The Commissioner believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of

the safety and effectiveness of the device. The Commissioner also believes that there is sufficient information to establish a performance standard for this device.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes to amend Part 890 in Subpart B by adding new § 890.1450 to read as follows:

§ 890.1450 Powered reflex hammer.

(a) *Identification.* A powered reflex hammer is a motorized device used to elicit and determine controlled deep tendon reflexes.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before October 29, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 14, 1979.

William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.

[FR Doc. 79-26266 Filed 8-27-79; 8:45 am]

BILLING CODE 4110-03-M

[21 CFR Part 890]

[Docket No. 78N-1189]

Medical Devices; Classification of Force-Measuring Platforms

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying force-measuring platforms into class II (performance standards). The FDA is also publishing the recommendation of the Physical Medicine Device Classification Panel that the device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying

the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by October 29, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Johnnie W. Bailey, Bureau of Medical Devices (HFK-410), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7238.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the Federal Register provides background information concerning the development of the proposed regulation. The Physical Medicine Device Classification Panel, an FDA advisory committee, made the following recommendation with respect to the classification of force-measuring platforms:

1. Identification: A force-measuring platform is a device that converts pressure applied upon a planar surface into analog mechanical or electrical signals. This device is used to determine ground reaction force, centers of percussion, centers of torque, and their variations in both magnitude and direction with time.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that force-measuring platforms be classified into class II to require that the performance characteristics be maintained at a satisfactory level. The function of the device is to provide diagnostic data; therefore, the Panel believes the device should provide accurate and replicable measurements. The Panel also recommends that FDA require that the device labeling indicate its diagnostic limitations. The Panel believes that general controls will not provide sufficient control over these characteristics. The Panel believes that a performance standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the potential hazards associated with this device and on the Panel members' personal knowledge of, and familiarity with, the device; a review of the

pertinent literature (Ref. 1); and a presentation by Dr. Thomas P. Andriacchi (Ref. 2): Dr. Andriacchi (Ref. 2) states that the force-measuring platform is useful in gait analysis, postural control studies, and sports activities. However, the device is still used by most physicians as a research tool.

5. Risks to health: Misdiagnosis: Misdiagnosis may result from inaccurate measurement and from the current diagnostic limitations of the device.

Proposed Classification

The Commissioner agrees with the Panel recommendation and is proposing that force-measuring platforms be classified into Class II (performance standards). The Commissioner believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The Commissioner also believes that there is sufficient information to establish a performance standard for this device.

References

The following information has been placed in the office of the Hearing Clerk (address above) and may be seen by interested persons, from 9 a.m. to 4 p.m., Monday through Friday.

1. Andriacchi, T. P., J. A. Ogle, and J. O. Gacante, "Walking Speed as a Basis for Normal and Abnormal Gait Measurements," *Journal of Biomechanics*, 10(4) 261-268, 1977.
2. Andriacchi, T. P., "The Use of the Force-Measuring Platform in Gait Analysis," unpublished paper, Attachment A to Summary Minutes of the Fourth Meeting of the Orthotic/Prosthetic Subcommittee of the Physical Medicine Device Classification Panel, October 13, 1977.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes to amend Part 890 in Subpart B by adding new § 890.1575, to read as follows:

§ 890.1575 Force-measuring platform.

(a) *Identification.* A force-measuring platform is a device that converts pressure applied upon a planar surface into analog mechanical or electrical signals. This device is used to determine ground reaction force, centers of percussion, centers of torque, and their variations in both magnitude and direction with time.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before October 29, 1979, submit to the Hearing

Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 14, 1979.

William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.

[FR Doc. 79-26267 Filed 8-27-79; 8:45 am]

BILLING CODE 4110-03-M

[21 CFR Part 890]

[Docket No. 78N-1190]

Medical Devices; Classification of Intermittent Pressure Measurement Systems

AGENCY: Food and Drug Administration.
ACTION: Proposed Rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying intermittent pressure measurement systems into class II (performance standards). The FDA is also publishing the recommendation of the Physical Medicine Device Classification Panel that this device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by October 29, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Johnnie W. Bailey, Bureau of Medical Devices (HFK-410), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7238.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the Federal Register provides background information concerning the development of the proposed regulation. The Physical Medicine Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of intermittent pressure measurement systems:

1. Identification: An intermittent pressure measurement system is an evaluative device used to measure the actual pressure between the body surface and the supporting media.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that intermittent pressure measurement systems be classified into class II because the Panel believes that a standard is necessary to control the electrical properties of this device to avoid the potential hazards of shock and burns. The Panel believes that the measurement limitations of this device should be clearly specified by the manufacturers of the device. The Panel believes that malfunction of the measurement gauge could result in inaccurate determination of the media surface, thereby causing soft tissue injury to the patient. The Panel believes that a performance standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the potential hazards associated with this device and on the Panel members' personal knowledge of, and familiarity with, the device.

5. Risks to health: (a) Electrical shock: Electrical leakage current due to improper grounding or faulty circuitry could result in electrical shock to the patient. (b) Soft tissue injury: An inappropriate surface resulting from inaccurate measurement function could cause skin ulcers.

Proposed Classification

The Commissioner agrees with the Panel recommendation and is proposing that intermittent pressure measurement systems be classified into class II (performance standards). The Commissioner believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The Commissioner also believes that there is sufficient information to establish a performance standard for this device.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes to amend Part 890 in Subpart B by adding new § 890.1600, to read as follows:

§ 890.1600 Intermittent pressure measurement system.

(a) *Identification.* An intermittent pressure measurement system is an evaluative device used to measure the actual pressure between the body surface and the supporting media.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before October 29, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 14, 1979.

William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.

[FR Doc. 79-26269 Filed 8-27-79; 8:45 am]
BILLING CODE 4110-03-M

[21 CFR Part 890;

[Docket No. 78N-1191]

Medical Devices; Classification of Miniature Pressure Transducers

AGENCY: Food and Drug Administration.
ACTION: Proposed Rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying miniature pressure transducers into class II (performance standards). The FDA is also publishing the recommendation of the Physical Medicine Device Classification Panel that the device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by October 29, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the Office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Johnnie W. Bailey, Bureau of Medical Devices (HFK-410), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7238.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the Federal Register provides background information concerning the development of the proposed regulation. The Physical Medicine Device Classification Panel, an FDA advisory committee, made the following recommendations regarding the classification of miniature pressure transducers:

1. *Identification:* A miniature pressure transducer is a device used to measure the pressure between a device and soft tissue by converting mechanical inputs to analog electrical signals.

2. *Recommended classification:* Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. *Summary of reasons for recommendation:* The Panel recommends that miniature pressure transducers be classified into class II because the Panel believes that the electrical properties associated with the device should be controlled to avoid a potential shock hazard. The Panel believes that general controls will not provide sufficient control over this characteristic. The Panel believes that a performance standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance.

4. *Summary of data on which the recommendation is based:* The Panel based its recommendation on the potential hazards associated with this device and on the Panel members' personal knowledge of, and familiarity with, the device.

5. *Risks to health:* Electrical shock: Excessive leakage current could result in injury, or a malfunction of the device could result in electrical shock.

Proposed Classification

The Commissioner agrees with the Panel recommendation and is proposing that miniature pressure transducers be classified into class II (performance

standards). The Commissioner believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The Commissioner also believes that there is sufficient information to establish a performance standard for this device.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes to amend Part 890 in Subpart B by adding new § 890.1615, to read as follows:

§ 890.1615 Miniature pressure transducer.

(a) *Identification.* A miniature pressure transducer is a device used to measure the pressure between a device and soft tissue by converting mechanical inputs to analog electrical signals.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before October 29, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 14, 1979.

William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.

[FR Doc. 79-26269 Filed 8-27-79; 8:45 am]
BILLING CODE 4110-03-M

[21 CFR Part 890]

[Docket No. 78N-1192]

Medical Devices; Classification of Diagnostic Muscle Stimulators

AGENCY: Food and Drug Administration.
ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying diagnostic muscle stimulators into class II (performance standards). The FDA is also publishing the recommendation of the Physical

Medicine Device Classification Panel that the device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by October 29, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Johnnie W. Bailey, Bureau of Medical Devices (HFK-410), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7238.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the Federal Register provides background information concerning the development of the proposed regulation. The Physical Medicine Device Classification Panel, an FDA advisory committee, made the following recommendations regarding the classification of diagnostic muscle stimulators:

1. *Identification:* A diagnostic muscle stimulator is a device used mainly with an electromyograph machine to initiate muscle activity and is used to diagnose and/or treat motor nerve or sensory neuromuscular disorders and neuromuscular function.

2. *Recommended classification:* Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a high priority.

3. *Summary of reasons for recommendation:* The Panel recommends that diagnostic muscle stimulators be classified into class II because the Panel believes that a standard is necessary to control electrical current to prevent shock and burns. The device applies an electrical current to the body to measure the intrinsic properties of muscles. The Panel believes that the measurement limitations inherent in this technique should be clearly specified by the manufacturers of the device. The Panel believes that general controls will not provide sufficient control over these characteristics. The Panel believes that a performance standard would provide reasonable assurance of the safety and effectiveness of the device and that there is

sufficient information to establish a standard to provide such assurance.

4. *Summary of data on which the recommendation is based:* The Panel based its recommendation on the potential hazards associated with this device; the Panel members' personal knowledge of, and familiarity with, the device; and a review of the pertinent literature (Ref. 1). Guld, Rosenfalck, and Willison (Ref. 1) describe the procedures used in diagnostic stimulation. The authors stress safety procedures that should be followed in using stimulators. The safety procedures include labeling of controls and sockets, "on-off warning lamp," close proximity of electrodes to localize excessive current flow, and restriction of the use of the device to trained personnel.

5. *Risks to health:* (a) Electrical shock: The patient may receive an electrical shock because the device is connected to the patient by means of electrodes. Also equipment used with this device might cause a hazardous leakage current that could be dangerous to the patient. (b) Burns: High current density in tissue could, over time, cause burns. (c) Cardiac arrhythmia: Excessive electrical current passing through the heart could cause irregular heartbeat or cardiac arrest. (d) Misdiagnosis: Misdiagnosis may result from inaccurate measurement function.

Proposed Classification

The Commissioner agrees with the Panel recommendation and is proposing that diagnostic muscle stimulators be classified into class II (performance standards). The Commissioner believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The Commissioner also believes that there is sufficient information to establish a performance standard for this device.

References

The following information has been placed in the office of the Hearing Clerk (address above) and may be seen by interested persons, from 9 a.m. to 4 p.m., Monday through Friday.

1. Guld, C., A. Rosenfalck, and R. G. Willison, "Technical Factors in Recording" in "Electrodiagnosis and Electromyography," 3d. Ed., Edited by S. Licht, Waverly Press, Inc., Baltimore, MD, pp. 452-478, 1978.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes to amend Part 890 in Subpart B by adding new § 890.1850, to read as follows:

§ 890.1850 Diagnostic muscle stimulator.

(a) *Identification.* A diagnostic muscle stimulator is a device used mainly with an electromyograph machine to initiate muscle activity and is used to diagnose and/or treat motor nerve or sensory neuromuscular disorders and neuromuscular function.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before October 29, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 14, 1979.

William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.

[FR Doc. 79-26270 Filed 8-27-79; 8:45 am]
BILLING CODE 4110-03-M

[21 CFR Part 890]

[Docket No. 78N-1193]

Medical Devices; Classification of Isokinetic Testing and Evaluation Systems

AGENCY: Food and Drug Administration.
ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying isokinetic testing and evaluation systems into class II (performance standards). The FDA is also publishing the recommendation of the Physical Medicine Device Classification Panel that the device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by October 29, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Johnnie W. Bailey, Bureau of Medical Devices (HFK-410), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7238.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the Federal Register provides background information concerning the development of the proposed regulation. The Physical Medicine Device Classification Panel, an FDA advisory committee, made the following recommendation with respect to the classification of isokinetic testing and evaluation systems:

1. Identification: An isokinetic testing and evaluation system is a rehabilitative exercise device used to measure, evaluate, and increase the strength of muscles and the range of motion of joints.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that isokinetic testing and evaluation systems be classified into class II because the Panel believes that a standard is necessary to control the electrical properties of this device to avoid the potential hazards of shock and burns. The Panel believes that the measurement limitations of this device should be clearly specified by the manufacturers of the device. The Panel also recommends this device be used by trained personnel under the supervision of a physician. The Panel believes that general controls will not provide sufficient control over these characteristics. The Panel believes that a performance standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the potential hazards associated with this device; the Panel members' personal knowledge of, and familiarity with, the device; and a review of the pertinent literature (Refs. 1, 2, and 3). At the Panel meeting of March 21 through 22, 1978, Ridgeway (Ref. 1) discussed the use of the isokinetic testing and evaluation system and supported the use of this system in rehabilitation, particularly in knee rehabilitation. However, he stressed that "each patient must be individually evaluated" in order to teach an effective exercise regime. Ridgeway reported a "great need for further research into the clinical application . . ." of this device, and that the

units presently on the market can and should be improved.

5. Risks to health: (a) Shock and burns: Electrical leakage current due to improper grounding or faulty circuitry could result in electrical shock or burns to the patient. (b) Misdiagnosis: Inaccurate measurement function could lead to misdiagnosis.

Proposed Classification

The Commission agrees with the Panel recommendation and is proposing that isokinetic testing and evaluation systems be classified into class II (performance standards). The Commissioner believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The Commissioner also believes that there is sufficient information to establish a performance standard for this device.

References

The following information has been placed in the office of the Hearing Clerk (address above) and may be seen by interested persons, from 9 a.m. to 4 p.m., Monday through Friday.

1. Ridgeway, R. K., "Presentation of an Isokinetic Knee Rehabilitation Program Using Orthotron Instrumentation," unpublished paper, Appendix C to Summary Minutes of the Seventh Meeting of the Physical Medicine Device Classification Panel, March 21-22, 1978.

2. Savander, G. R., "Use of the Kinetron in the Training of the Below-Knee Amputee," *Physical Therapy*, 52(3), March 1972.

3. Coplin, T. H., "Isokinetic Exercise: Clinical Usage," *Journal of the Noto*, 1971.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes to amend Part 890 in Subpart B by adding new § 890.1925 as follows:

§ 890.1925 Isokinetic testing and evaluation system.

(a) *Identification.* An isokinetic testing and evaluation system is a rehabilitative exercise device used to measure, evaluate, and increase the strength of muscles and the range of motion of joints.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before October 29, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four

copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 14, 1979.

William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.

[FR Doc. 79-26271 Filed 8-27-79; 8:45 am]

BILLING CODE 4110-03-M

[21 CFR Part 890]

[Docket No. 78N-1194]

Medical Devices; Classification of Prosthetic and Orthotic Accessories

AGENCY: Food and Drug Administration.
ACTION: Proposed Rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying prosthetic and orthotic (brace) accessories into class I (general controls). The FDA is also publishing the recommendation of the Physical Medicine Device Classification Panel that the device be classified into class I. The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by October 29, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Johnnie W. Bailey, Bureau of Medical Devices (HFK-410), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7238.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the Federal Register provides background information concerning the development of the proposed regulation.

The Physical Medicine Device Classification Panel, an FDA advisory committee, made the following recommendation with respect to the classification of prosthetic and orthotic accessories.

1. Identification: A prosthetic and orthotic accessory is a device used to support, protect, or aid in the use of a cast, orthosis (brace), or prosthesis. Examples of prosthetic and orthotic accessories include the following: A pelvic support band and belt, a cast shoe, a limb cover, a prosthesis alignment device, a postsurgical pylon, a transverse rotator, or a temporary training splint.

2. Recommended classification: Class I (general controls). The Panel recommends that there be no exemptions.

3. Summary of reasons for recommendations: The Panel recommends that a prosthetic and orthotic accessory be classified into class I because this is a simple device that presents no undue risks to health when used in a normal manner for the purpose recommended. The Panel believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and familiarity with, the device.

5. Risks to health: None identified.

Proposed Classification

The Commissioner agrees with the Panel recommendation and is proposing that prosthetic and orthotic accessories be classified into class I (general controls), with no exemptions. The Commissioner believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-545 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes to amend Part 890 by adding Subpart C, which is reserved, and adding new Subpart D and § 890.3025, to read as follows:

Subpart C [Reserved]

Subpart D—Physical Medicine Prosthetic Devices

§ 890.3025 Prosthetic and orthotic accessory.

(a) *Identification.* A prosthetic and orthotic accessory is a device used to support, protect, or aid in the use of a cast, orthosis (brace), or prosthesis. Examples of orthotic accessories include the following: A pelvic support band and belt, a cast shoe, a limb cover, a prosthesis alignment device, a postsurgical prosthesis alignment device, a postsurgical pylon, a

transverse rotator, or a temporary training splint.

(b) *Classification.* Class I (general controls).

Interested persons may, on or before October 27, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 14, 1979.

William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.

[FR Doc. 79-26272 Filed 8-27-79; 8:45 am]

BILLING CODE 4110-03-M

[21 CFR Part 890]

[Docket No. 78N-1195]

Medical Devices; Classification of Canes

AGENCY: Food and Drug Administration.
ACTION: Proposed Rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying canes into class I (general controls). The FDA is also publishing the recommendation of the Physical Medicine Device Classification Panel that the device be classified into class I. The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by October 29, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Johnnie W. Bailey, Bureau of Medical Devices (HFK-410), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia

Ave., Silver Spring, MD 20910, 301-427-7238.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the Federal Register provides background information concerning the development of the proposed regulation. The Physical Medicine Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of canes:

1. Identification: A cane is a device used to provide minimum weight support while walking. Examples of canes include the following: a standard cane, a forearm cane, and a cane with a tripod, quad, or retractable stud on the ground end.

2. Recommended classification: Class I (general controls). The Panel recommends that there be no exemptions.

3. Summary of reasons for recommendation: The Panel recommends that a cane be classified into class I because this is a simple device that presents no undue risks to health when used in a normal manner and for the purpose recommended. The Panel believes that general controls are sufficient to assure the safety and effectiveness of the device.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and familiarity with, this device.

5. Risks to health: None identified.

Proposed Classification

The Commissioner agrees with the Panel recommendation and is proposing that canes be classified into class I (general controls), with no exemptions. The Commissioner believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes to amend Part 890 in Subpart D by adding new § 890.3075, to read as follows:

§ 890.3075 Cane.

(a) *Identification.* A cane is a device used to provide minimum weight support while walking. Examples of canes include the following: a standard cane, a forearm cane, and a cane with a tripod, quad, or retractable stud on the ground end.

(b) *Classification.* Class I (general controls).

Interested persons may, on or before October 29, 1979 submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers

Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 14, 1979.

William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.

[FR Doc. 79-28273 Filed 8-27-79; 8:45 am]
BILLING CODE 4110-03-M

[21 CFR Part 890]

[Docket No. 78N-1196]

Medical Devices; Classification of Mechanical Chairs

AGENCY: Food and Drug Administration.

ACTION: Proposed Rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying mechanical chairs into class I (general controls). The FDA is also publishing the recommendations of the Physical Medicine Device Classification Panel and the General Hospital and Personal Use Device Classification Panel that this device be classified into class I. The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by October 29, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Johnnie W. Bailey, Bureau of Medical Devices (HFK-410), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7238.

SUPPLEMENTARY INFORMATION: Panel Recommendation

A proposal elsewhere in this issue of the Federal Register provides background information concerning the development of the proposed regulation. The Physical Medicine Device Classification Panel and the General Hospital and Personal Use Device Classification Panel, FDA advisory committees, made the following recommendations regarding the classification of mechanical chairs:

1. Identification: A mechanical chair is a manually operated device used to assist a disabled person in performing an activity that the person would otherwise find difficult to do or be unable to do. Examples of mechanical chairs include the following: a chair with an elevating seat used to raise a person from a sitting position to a standing position, and a chair with casters used by a person to move from one place to another while sitting.

2. Recommended classification: Class I (general controls). The Panels recommend that there be no exemptions.

3. Summary of reasons for recommendation: The Panels recommend that a mechanical chair be classified into class I because this is a simple device that presents no undue risks to health when used in a normal manner and for the purpose recommended. The Panels believe that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

4. Summary of data on which the recommendation is based: The Panels based their recommendations on the Panel members' personal knowledge of, and familiarity with, the device.

5. Risks to health: None identified.

Proposed Classification

The Commissioner agrees with the Panel recommendations and is proposing that mechanical chairs be classified into class I (general controls), with no exemptions. The Commissioner believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes to amend Part 890 in Subpart D by adding new § 890.3100, to read as follows:

§ 890.3100 Mechanical chair.

(a) *Identification.* A mechanical chair is a manually operated device used to assist a disabled person in performing an activity that the person would otherwise find difficult to do or be unable to do. Examples of mechanical chairs include the following: a chair with an elevating seat used to raise a

person from a sitting position to a standing position and a chair with casters used by a person to move from one place to another while sitting.

(b) *Classification.* Class I (general controls).

Interested persons may, on or before (October 29, 1979) submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 14, 1979.

William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.

[FR Doc. 79-28274 Filed 8-27-79; 8:45 am]
BILLING CODE 4110-03-M

[21 CFR Part 890]

[Docket No. 78N-1197]

Medical Devices; Classification of Electric Positioning Chairs

AGENCY: Food and Drug Administration.

ACTION: Proposed Rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying electric positioning chairs into class II (performance standards). The FDA is also publishing the recommendation of the Physical Medicine Device Classification Panel that this device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by October 29, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Johnnie W. Bailey, Bureau of Medical Devices (HFK-410), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7238.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the Federal Register provides background information concerning the development of the proposed regulation. The Physical Medicine Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of electric positioning chairs:

1. Identification: An electric positioning chair is a device with a motorized positioning control that can be adjusted to various positions. The device is used to provide stability for patients with athetosis (involuntary spasms) and to alter postural positions for therapeutic purposes.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that an electric positioning chair be classified into class II because the Panel believes that the electrical properties of the device must be controlled to avoid the potential hazard of electrical shock. The Panel believes that general controls would not provide sufficient control over this characteristic. The Panel believes that a performance standard will provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the potential hazards associated with this device and on the Panel members' personal knowledge of, and familiarity with, the device.

5. Risks to health: (a) Electrical shock: Improper grounding or a malfunction of the device may result in an electric shock to the patient or operator. (b) Bodily injury: The lack of an antitipping mechanism or locks on the casters, or a structural failure of the harness belt, could result in bodily injury to the patient.

Proposed Classification

The Commissioner agrees with the Panel recommendation and is proposing that electric positioning chairs be classified into class II (performance standards). The Commissioner believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard will provide reasonable assurance of the safety and effectiveness of the device.

The Commissioner also believes that there is sufficient information to establish a standard for this device.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes to amend Part 890 in Subpart D by adding new § 890.3110, to read as follows:

§ 890.3110 Electric positioning chair.

(a) *Identification.* An electric positioning chair is a device with a motorized positioning control that can be adjusted to various positions. The device is used to provide stability for patients with athetosis (involuntary spasms) and to alter postural positions for therapeutic purposes.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before October 29, 1979 submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 14, 1979.

William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.

[FR Doc. 79-28275 Filed 8-27-79; 8:45 am]
BILLING CODE 4110-03-M

[21 CFR Part 890]

[Docket No. 78-1198]

Medical Devices; Classification of Crutches

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying crutches into class I (general controls). The FDA is also publishing the recommendation of the Physical Medicine Device Classification Panel that the device be classified into class I. The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. After considering public comments, FDA will issue a final regulation classifying the device. These

actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by October 29, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Johnnie W. Bailey, Bureau of Medical Devices (HFK-410), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7238.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the Federal Register provides background information concerning the development of the proposed regulation. The Physical Medicine Device Classification Panel, an FDA advisory committee, made the following recommendation with respect to the classification of crutches:

1. Identification: A crutch is a device used by disabled persons to provide minimal to moderate weight support while walking.

2. Recommended classification: Class I (general controls). The Panel recommends that there be no exemptions.

3. Summary of reasons for recommendation: The Panel recommends that a crutch be classified into class I because this is a simple device that presents no undue risks to health when used in a normal manner and for the purpose recommended. The Panel believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and familiarity with, this device.

5. Risks to health: None identified.

Proposed Classification

The Commissioner agrees with the Panel recommendation and is proposing that crutches be classified into class I (general controls), with no exemptions. The Commissioner believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 53 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the commissioner proposes to amend Part

890 in Subpart D by adding new § 890.3150, to read as follows:

§ 890.3150 Crutch.

(a) *Identification.* A crutch is a device used by disabled persons to provide minimal to moderate weight support while walking.

(b) *Classification.* Class I (general controls).

Interested persons may, on or before October 29, 1979 submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 14, 1979.

William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.

[FR Doc. 79-26276 Filed 8-27-79; 8:45 am]
BILLING CODE 4110-03-M

[21 CFR Part 890]

[Docket No. 78N-1199]

Medical Devices; Classification of Flotation Cushions

AGENCY: Food and Drug Administration.

ACTION: Proposed Rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying flotation cushions into class I (general controls). The FDA is also publishing the recommendations of The Physical Medicine Device Classification Panel and the General Hospital and Personnel Use Device Classification Panel that this device be classified into class I. The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by October 29, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305),

Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Johnnie W. Bailey, Bureau of Medical Devices (HFK-410), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7238.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the Federal Register provides background information concerning the development of the proposed regulation. The Physical Medicine Device Classification Panel and the General Hospital and Personnel Use Device Classification Panel, FDA advisory committees, made the following recommendation regarding the classification of flotation cushions:

1. *Identification:* A flotation cushion is a device made of plastic filled with water, air, gel, or mud and is used on a seat to lessen the likelihood of skin ulcers.

2. *Recommended classification:* Class I (general controls). The Panels recommend that there be no exemptions.

3. *Summary of reasons for recommendation:* The Physical Medicine Device Classification Panel and the General Hospital and Personnel Use Device Classification Panel recommend that a flotation cushion be classified into class I because this is a simple device that presents no undue risks to health when used in a normal manner and for the purpose recommended. The Panels believe that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

4. *Summary of data on which the recommendation is based:* The Panels based their recommendation on the Panel members' personal knowledge of, and familiarity with, this device.

5. *Risks to health:* None identified.

Proposed Classification

The Commissioner agrees with the Panel recommendations and is proposing that flotation cushions be classified into class I (general controls), with no exemptions. The Commissioner believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes to amend Part 890 in Subpart D by adding new § 890.3175, to read as follows:

§ 890.3175 Flotation cushion.

(a) *Identification.* A flotation cushion is a device made of plastic filled with water, air, gel, or mud and is used on a seat to lessen the likelihood of skin ulcers.

(b) *Classification.* Class I (general controls).

Interested persons may, on or before October 29, 1979 submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk Docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 14, 1979.

William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.

[FR Doc. 79-26277 Filed 8-27-79; 8:45 am]
BILLING CODE 4110-03-M

[21 CFR Part 890]

[Docket No. 78N-1200]

Medical Devices; Classification of External Limb Orthotic Components

AGENCY: Food and Drug Administration.

ACTION: Proposed Rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying external limb orthotic (brace) components into class I (general controls). The FDA is also publishing the recommendation of the Physical Medicine Device Classification Panel that the device be classified into class I. The effect of device meet only the general controls applicable to all devices. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by October 29, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Johnnie W. Bailey, Bureau of Medical Devices (HFK-410), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7238.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the Federal Register provides background information concerning the development of the proposed regulation. The Physical Medicine Device Classification Panel, an FDA advisory committee, made the following recommendation with respect to the classification of external limb orthotic components:

1. *Identification:* An external limb orthotic component is a device used in conjunction with an orthosis (brace) to increase the function of the orthosis for a patient's particular needs. Examples of external limb orthotic components include the following: a brace-setting twister and an external brace stirrup.

2. *Recommended classification:* Class I (general controls). The Panel recommends that there be no exemptions.

3. *Summary of reasons for recommendation:* The Panel recommends that an external limb orthotic component be classified into class I because it is a simple device that presents no undue risks to health when used in a normal manner and for the purpose recommended. The Panel believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

4. *Summary of data on which the recommendation is based:* The Panel based its recommendation on the Panel members' personal knowledge of, and familiarity with, this device.

5. *Risks to health:* None identified.

Proposed Classification

The Commissioner agrees with the Panel recommendation and is proposing that external limb orthotic components be classified into class I (general controls), with no exemptions. The Commissioner believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner proposed to amend Part 890 in Subpart D by adding new § 890.3410, to read as follows:

§ 890.3410 External limb orthotic component.

(a) *Identification.* An external limb orthotic component is a device used in

conjunction with an orthosis (brace) to increase the function of the orthosis for a patient's particular needs. Examples of external limb orthotic components include the following: a brace-setting twister and an external brace stirrup.

(b) *Classification.* Class I (general controls).

Interested persons may, on or before October 29, 1979 submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 14, 1979.

William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.

[FR Doc. 79-26278 Filed 8-27-79; 8:45 am]
BILLING CODE 4110-03-M

[21 CFR Part 890]

[Docket No. 78N-1201]

Medical Devices; Classification of External Limb Prosthetic Components

AGENCY: Food and Drug Administration.

ACTION: Proposed Rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying external limb prosthetic components into class I (general controls). The FDA is also publishing the recommendation of the Physical Medicine Device Classification Panel that this device be classified into class I. The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by October 29, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Johnnie W. Bailey, Bureau of Medical Devices (HFK-410), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7238.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the Federal Register provides background information concerning the development of the proposed regulation. The Physical Medicine Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of external limb prosthetic components:

1. *Identification:* An external limb prosthetic component is a device that when put together with other appropriate components constitutes a total prosthesis. Examples of external limb prosthetic components include the following: ankle, foot, hip, knee, and socket components; mechanical or powered hand, hook, wrist unit, elbow joint, and shoulder joint components; and cable and prosthesis suction valves.

2. *Recommended classification:* Class I (general controls). The Panel recommends that there be no exemptions.

3. *Summary of reasons for recommendation:* The Panel recommends that an external limb prosthetic component be classified into class I because this is a simple device that presents no undue risks to health when used in a normal manner and for the purpose recommended. The Panel believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

4. *Summary of data on which the recommendation is based:* The Panel based its recommendation on the Panel members' personal knowledge of, and familiarity with, this device.

5. *Risks to health:* None identified.

Proposed Classification

The Commissioner agrees with the Panel recommendation and is proposing that external limb prosthetic components be classified into class I (general controls) with no exemptions. The Commissioner believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes to amend Part 890 in Subpart D by adding new § 890.3420, to read as follows:

§ 890.3420 External limb prosthetic component.

(a) *Identification.* An external limb prosthetic component is a device that when put together with other appropriate components constitutes a total prosthesis. Examples of external limb prosthetic components include the following: ankle, foot, hip, knee, and socket components; mechanical or powered hand, hook, wrist unit, elbow joint, and shoulder joint components; and cable and prosthesis suction valves.

(b) *Classification.* Class I (general controls).

Interested persons may, on or before October 29, 1979 submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 14, 1979.

William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.

[FR Doc. 79-28279 Filed 8-27-79; 8:45 am]

BILLING CODE 4110-03-M

[21 CFR Part 890]

[Docket No. 78N-1202]

Medical Devices; Classification of Mechanical Automobile Hand and Foot Driving Controls

AGENCY: Food and Drug Administration.
ACTION: Proposed Rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying mechanical automobile hand and foot driving controls into class II (performance standards). The FDA is also publishing the recommendation of the Physical Medicine Device Classification Panel that the device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA would issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976. **DATES:** Comments by October 29, 1979. The Commissioner of Food and Drugs

proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Johnnie W. Bailey, Bureau of Medical Devices (HFK-410), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7238.

SUPPLEMENTARY INFORMATION:**Panel Recommendation**

A proposal elsewhere in this issue of the Federal Register provides background information concerning the development of the proposed regulation. The Physical Medicine Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of mechanical automobile hand and foot driving controls:

1. *Identification:* A mechanical automobile hand and foot driving control is a device used to enable persons who have limited use of their arms and legs to drive. This device allows the hand operation of the gas, brake, and clutch pedals or the foot operation of the steering and gear shift.

2. *Recommended classification:* Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a high priority.

3. *Summary of reasons for recommendation:* The Panel recommends that mechanical automobile hand and foot driving controls be classified into class II because the Panel believes that the design and materials of the device must be controlled to assure that there are adequate mechanical safety features to prevent malfunction or breakage of the driving controls and to avoid a potential injury to the driver and the public. The Panel believes that general controls would not provide sufficient control over these characteristics. The Panel believes that a performance standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance.

4. *Summary of data on which the recommendation is based:* The Panel based its recommendation on the potential hazards associated with this device and on the Panel members' personal knowledge of, and familiarity with, the device, and a review of the pertinent literature (Refs. 1 and 2). At the Panel meeting of March 21-22, 1976, Wilfred G. Holsberg, Acting Deputy Director for Prosthetics, Surgical Service, Veterans Administration, discussed the Veterans Administration's standard for hand driving controls (Ref. 1). Mr. Holsberg reported that a driving simulator was used to evaluate the

effectiveness of the various adaptive driving aids, and a computer was used to yield data on patient requirements to operate the device in the laboratory under simulated driving conditions. Mr. Holsberg stated that the VA is "providing eligible veterans with tested and standardized adaptive equipment so they can operate motor vehicles in safety and comfort." Representatives from the American Automobile Association, Department of Transportation, and Sharpe Health School's Handicapped Driver Education (Ref. 2) discussed with the Panel the hazards resulting from faulty devices available for use. The greatest concern is that there may be faulty installation or poor-grade materials used which could result in serious injury. A performance standard to control the parts used in the device would decrease the likelihood of device breakage and accidents.

5. *Risks to health:* (a) *Bodily injury:* Injury to the driver or public could result from a lack of adequate mechanical safety features causing a malfunction in the driving controls.

Proposed Classification

The Commissioner agrees with the Panel recommendation and is proposing that mechanical automobile hand and foot driving controls be classified into class II (performance standards). The Commissioner believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The Commissioner also believes that there is sufficient information to establish a standard for this device.

References

The following information has been placed in the office of the Hearing Clerk (address above) and may be seen by interested persons, from 9 a.m. to 4 p.m., Monday through Friday.

1. Holsberg, W., "White Paper on Adaptive Equipment," Unpublished Paper, Attachment F to Summary Minutes of the Seventh Meeting of the Physical Medicine Device Classification Panel, March 21-22, 1976.

2. Summary Minutes of the Seventh Meeting of the Physical Medicine Device Classification Panel, March 21-22, 1976.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes to amend Part 890 in Subpart D by adding new § 890.3450, to read as follows:

§ 890.3450 Mechanical automobile hand and foot driving control.

(a) *Identification.* A mechanical automobile hand and foot driving control is a device used to enable persons who have limited use of their

arms or legs to drive. The device allows the hand operation of the gas, brake, and clutch pedals or the foot operation of the steering and gear shift.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before October 29, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 14, 1979.

William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.

[FR Doc. 79-28280 Filed 8-27-79; 8:45 am]

BILLING CODE 4110-03-M

[21 CFR Part 890]

[Docket No. 78N-1203]

Medical Devices; Classification of Limb Orthoses

AGENCY: Food and Drug Administration.
ACTION: Proposed Rule.

SUMMARY: The Food Drug Administration (FDA) is issuing for public comment a proposed regulation classifying limb orthoses (braces) into class I (general controls). The FDA is also publishing the recommendation of the Physical Medicine Device Classification Panel that the device be classified into class I. The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976. **DATES:** Comments by October 29, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Johnnie W. Bailey, Bureau of Medical

Devices (HFK-410), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7238.

SUPPLEMENTARY INFORMATION:**Panel Recommendation**

A proposal elsewhere in this issue of the Federal Register provides background information concerning the development of the proposed regulation. The Physical Medicine Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of limb orthoses:

1. *Identification:* A limb orthosis (brace) is a device that is worn on the upper or lower extremities to support, to correct, or to prevent deformities or to align body structures for functional improvement. Examples of limb orthoses include the following: a whole limb and joint brace, a hand splint, an elastic stocking, a knee cage, and a corrective shoe.

2. *Recommended classification:* Class I (general controls). The Panel recommends that there be no exemptions.

3. *Summary of reasons for recommendation:* The Panel recommends that a limb orthosis be classified into class I because this is a simple device that presents no undue risks to health when used in a normal manner and for the purpose recommended. The Panel believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

4. *Summary of data on which the recommendation is based:* The Panel based its recommendation on the Panel members' personal knowledge of, and familiarity with, the device.

5. *Risks to health:* None identified.

Proposed Classification

The Commissioner agrees with the Panel recommendation and is proposing that limb orthoses be classified into class I (general controls) with no exemptions. The Commissioner believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes to amend Part 890 in Subpart D by adding new § 890.3475, to read as follows:

§ 890.3475 Limb orthosis.

(a) *Identification.* A limb orthosis (brace) is a device that is worn on the upper or lower extremities to support, to correct, or to prevent deformities or to align body structures for functional improvement. Examples of limb orthoses

include the following: a whole limb and joint brace, a hand splint, an elastic stocking, a knee cage, and a corrective shoe.

(b) *Classification.* Class I (general controls).

Interested persons may, on or before October 29, 1979 submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 14, 1979.

William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.

[FR Doc. 79-28281 Filed 8-27-79; 8:45 am]

BILLING CODE 4110-03-M

[21 CFR Part 890]

[Docket No. 78N-1204]

Medical Devices; Classification of Truncal Orthoses

AGENCY: Food and Drug Administration.
ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying truncal orthoses (braces for the trunk of the body) into class I (general controls). The FDA is also publishing the recommendation of the Physical Medicine Device Classification Panel that this device be classified into class I and the recommendation of the Gastroenterological-Urological Device Classification Panel that abdominal orthoses be classified into class II. The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by October 29, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30

days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Johnnie W. Bailey, Bureau of Medical Devices (HFK-410), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7238.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the Federal Register provides background information concerning the development of the proposed regulation. The Physical Medicine Device Classification Panel and the Gastroenterological-Urological Device Classification Panel, FDA advisory committees, made the following recommendations regarding the classification of truncal orthoses:

1. Identification: A truncal orthosis is a device used to support and/or to immobilize fractures, strains, and sprains of the neck and/or trunk of the body. Examples of truncal orthoses are the following: abdominal, cervical, cervical-thoracic, lumbar, lumbo-sacral, rib fracture, sacroiliac, and thoracic orthoses and clavicle splints.

2. Recommended classification: The Physical Medicine Device Classification Panel recommends that a truncal orthosis be classified into class I (general controls) and that there be no exemptions. The Gastroenterological-Urological Device Classification Panel recommends that an abdominal orthosis be classified into class II (performance standards) and that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Physical Medicine Device Classification Panel recommends that a truncal orthosis be classified into class I because it is a simple device that presents no undue risks to health when used in a normal manner and for the purpose recommended. The Panel believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device. The Gastroenterological-Urological Device Classification Panel recommends that an abdominal orthosis be classified into Class II because the Panel believes that a standard is necessary to control the amount of pressure applied by the device to avoid venous congestion (an increased tendency for thrombosis in veins) and pressure sores. The Panel states, however, that this device is simple in concept and that hazards are very rare or even theoretical. The Panel believes that a performance standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance.

4. Summary of data on which the recommendation is based: The Panels based their recommendations on the Panel members' personal knowledge of, and familiarity with, the device.

5. Risks to health: None were identified by the Physical Medicine Device Classification Panel. The Gastroenterological-Urological Device Classification Panel identified the following risks to health regarding abdominal orthoses: (a) Possible pulmonary emboli (the sudden blocking of a blood vessel in the lungs so as to obstruct circulation) and pressure sores: Excessive pressure due to abdominal compression could result in possible pulmonary emboli or pressure sores. (b) Contact dermatitis (skin irritation): The materials used in the construction of the device may cause a local skin irritation.

Proposed Classification

The Commissioner agrees with the recommendation of the Physical Medicine Device Classification Panel and is proposing that truncal orthoses be classified into class I (general controls), with no exemptions. The Commissioner believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of these devices. The Commissioner disagrees with the recommendation of the Gastroenterological-Urological Device Classification Panel that abdominal orthoses be classified into class II (performance standards). The Commissioner believes that the hazards associated with the device, as stated by the Gastroenterological-Urological Device Classification Panel, result from improper use and sizing of orthoses. The Panel states that the hazards are rare, and the Commissioner believes that if the device is used in a normal manner and for the purpose recommended, the device presents no undue risks to health.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-548 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes to amend Part 890 in Subpart D by adding new § 890.3490, to read as follows:

§ 890.3490 Truncal orthosis.

(a) *Identification.* A truncal orthosis is a device used to support and/or to immobilize fractures, strains, and sprains of the neck and/or trunk of the body. Examples of truncal orthoses are the following: abdominal, cervical, cervical-thoracic, lumbar, lumbo-sacral, rib fracture, sacroiliac, and thoracic orthoses and clavicle splints.

(b) *Classification.* Class I (general controls).

Interested persons may, on or before October 29, 1979 submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 14, 1979.

William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.

[FR Doc. 79-26282 Filed 8-27-79; 8:45 am]

BILLING CODE 4110-03-M

[21 CFR Part 890]

[Docket No. 78N-1205]

Medical Devices; Classification of External Assembled Lower Limb Prostheses

AGENCY: Food and Drug Administration.
ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying external assembled lower limb prostheses into class II (performance standards). The FDA is also publishing the recommendation of the Physical Medicine Device Classification Panel that the device be classified into class II. The effect of classifying into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by October 29, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Johnnie W. Bailey, Bureau of Medical Devices (HFK-410), Food and Drug

Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7238.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the Federal Register provides background information concerning the development of the proposed regulation. The Physical Medicine Device Classification Panel, and FDA advisory committee, made the following recommendation regarding the classification of external assembled lower limb prostheses:

1. Identification: An external assembled lower limb prosthesis is a preassembled external artificial limb for the lower extremity. Examples of external assembled lower limb prostheses are the following: knee/shank/ankle/foot assembly and thigh/knee/shank/ankle/foot assembly.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device by a low priority.

3. Summary of reasons for recommendation: The Panel recommends that external assembled lower limb prostheses be classified into class II because the Panel believes that the structural strength of this device must be controlled to prevent a potential injury to the patient. The Panel believes that general controls would not provide sufficient control over this characteristic. The Panel believes that a performance standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the potential hazard associated with this device and the Panel members' personal knowledge of, and familiarity with, the device.

5. Risks to health: Bodily injury: Injury from falling could result from breakage of the unit due to inadequate structural strength, particularly of the set screws.

Proposed Classification

The Commissioner agrees with the Panel recommendation and is proposing that external assembled lower limb prostheses be classified into class II (performance standards). The Commissioner believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The Commissioner also believes that there is sufficient information to establish a standard for this device.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes to amend Part 890 in Subpart D by adding new § 890.3500, to read as follows:

§ 890.3500 External assembled lower limb prosthesis.

(a) *Identification.* An external assembled lower limb prosthesis is a preassembled external artificial limb for the lower extremity. Examples of external assembled lower limb prostheses are the following: knee/shank/ankle/foot assembly and thigh/knee/shank/ankle/foot assembly.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before October 29, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 14, 1979.

William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.

[FR Doc. 79-26283 Filed 8-27-79; 8:45 am]

BILLING CODE 4110-03-M

[21 CFR part 890]

[Docket No. 78N-1206]

Medical Devices; Classification of Plinths

AGENCY: Food and Drug Administration.
ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying plinths (a flat padded table or board) into class I (general controls). The FDA is also publishing the recommendation of the Physical Medicine Device Classification Panel that the device be classified into class I. The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. After considering public comments, FDA will issue a final regulation classifying the device. These

actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by October 29, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Johnnie W. Bailey, Bureau of Medical Devices (HFK-410), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7238.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the Federal Register provides background information concerning the development of the proposed regulation. The Physical Medicine Device Classification Panel, and FDA advisory committee, made the following recommendation regarding the classification of plinths:

1. Identification: A plinth is a flat, padded board with legs on which a patient is placed for treatment or examination.

2. Recommended classification: Class I (general controls). The Panel recommends that plinths be exempt from registration, device listing, and premarket notification under section 510 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360), records and reports requirements under section 519 of the act (21 U.S.C. 360i), and good manufacturing practice regulations under section 520(f) of the act (21 U.S.C. 360(f)).

3. Summary of reasons for recommendation: The Panel recommends that plinths be classified into class I and that manufacturers of this device should not be required to comply with registration, device listing, premarket notification, records and reports, or good manufacturing practice regulations because this is a simple device that presents no undue risks to health when used in a normal manner and for the purpose recommended. The Panel believes that general controls are sufficient to assure the safety and effectiveness of the device.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and familiarity with, this device.

5. Risks to health: None identified.

Proposed Classification

The Commissioner agrees with the Panel recommendation and is proposing that plinths be classified into class I (general controls). The Commissioner believes that general controls are

sufficient to provide reasonable assurance of the safety and effectiveness of the device. In response to the Panel's recommendation that manufacturers of a plinth be exempt from section 510 of the act, FDA is proposing that these manufacturers be subject to registration and device listing under section 510(a) through (j) of the act, but exempt from premarket notification under section 510(a) through (j) of the act, but exempt from premarket notification under section 510(k) of the act and Subpart E of Part 807 of the regulations. Under section 510(g)(4) of the act, the agency may exempt a manufacturer from section 510 only if it finds that compliance with this section is not necessary for the protection of the public health. In the case of registration and listing by manufacturers of a plinth, the agency cannot make the required finding. To protect the public health, the agency needs to be able to identify the firms manufacturing this device and to conduct necessary inspections. The agency has determined, however, that it is not necessary for the protection of the public health that FDA receive premarket notification submissions concerning a plinth. The agency does not, at this time, anticipate that premarket approval will be required for this device. The agency believes that the semiannual updating of device listing under section 510(j)(2) will provide FDA with adequate notice concerning new products within this generic type of device.

FDA disagrees with the Panel's recommendation that manufacturers of a plinth be exempt from records and reports regulations under section 519 of the act. The records and reports requirements in several of FDA's present device regulations are authorized, wholly or in part, by section 519. The most extensive of these requirements are found in the device good manufacturing practice (GMP) regulation, published in the *Federal Register* of July 21, 1978 (43 FR 31508). In the future, FDA will publish other regulations under section 519, including regulations requiring reports to FDA of experience with medical devices. Until these regulations are issued, FDA believes that it cannot properly issue exemptions from them. In the future, whenever the agency proposes device regulations that include records and reports requirements, interested persons may submit comments requesting that certain classes of manufacturers or other persons be exempt from the requirements, and FDA will issue exemptions that are appropriate. The only type of exemption from records and

reports requirements that FDA is proposing now, in device classification regulations, is an exemption of certain manufacturers from requirements of the device GMP regulation. The exemption will not extend to two device GMP requirements, § 820.180 (21 CFR 820.180), with respect to general requirements concerning records, and § 820.198 (21 CFR 820.198), with respect to complaint files.

In response to the Panel's recommendation that manufacturers of a plinth be exempt from the device GMP regulation under section 520(f) of the act, FDA is proposing that a manufacturer of this device be exempt, in the manufacture of the device, from all requirements in the GMP regulation except § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files. Based on available information about current practices used in the manufacture of the device and user experience with the device, the agency has determined that application of the GMP regulation, other than §§ 820.180 and 820.198, is unlikely to improve the safety and effectiveness of the device. The agency believes, however, that manufacturers of a plinth must still be required to comply with the complaint file requirements of § 820.198 to ensure that these manufacturers have adequate systems for complaint investigation and followup. The agency also believes that manufacturers of a plinth must still be required to comply with the general requirements concerning records in § 820.180 to ensure that FDA has access to complaint files, can investigate device-related injury reports and complaints about product defects, may determine whether the manufacturer's corrective actions are adequate, and may determine whether the exemption from other sections of the GMP regulation is still appropriate.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540546 (21 U.S.C. 360, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes to amend Part 890 in Subpart D by adding new § 890.3520 to read as follows:

§ 890.3520 Plinth.

(a) *Identification.* A plinth is a flat, padded board with legs on which a patient is placed for treatment or examination.

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in Subpart E of Part 807 of this chapter. The device also is exempt from the good manufacturing practice regulation in

Part 820 of this chapter, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

Interested persons may, on or before October 29, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 14, 1979.

William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.

[FR Doc. 79-26284 Filed 8-27-79; 8:45 am]
BILLING CODE 4110-03-M

[21 CFR Part 890]

[Docket No. 78N-1207]

Medical Devices; Classification of Rigid Pneumatic Structure Orthoses

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying rigid pneumatic structure orthoses (whole body braces) into class III (premarket approval). The FDA is also publishing the recommendation of the Physical Medicine Device Classification Panel that the device be classified into class III. The effect of classifying a device into class III is to provide for each manufacturer of the device to submit to FDA a premarket approval application at a date to be set in a future regulation. Each application includes information concerning safety and effectiveness tests of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by October 29, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the *Federal Register*.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-

65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Johnnie W. Bailey, Bureau of Medical Devices (HFK-410), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7238.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the *Federal Register* provides background information concerning the development of the proposed regulation. The Physical Medicine Device Classification Panel, and FDA advisory committee, made the following recommendation with respect to the classification of rigid pneumatic structure orthoses:

1. Identification: A rigid pneumatic structure orthosis is a device used to provide whole body support by means of a pressurized suit to help thoracic paraplegics walk.

2. Recommended classification: Class III (premarket approval). The Panel recommends that premarket approval of this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that the rigid pneumatic structure orthosis be classified into class III because the Panel believes that satisfactory performance of this device has not been demonstrated and, therefore, that it is not possible to establish an adequate performance standard for the device. Therefore, the device should be subject to premarket approval to assure that manufacturers demonstrate satisfactory performance of the device and thus ensure its safety and effectiveness.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the literature concerning the device (Refs. 1 and 2). The literature evaluation did not demonstrate that the device was safe or effective (Ref. 1). The rigid pneumatic structure orthosis was also evaluated as requested by the Veterans' Administration and the Rehabilitation Services Administration, Department of Health, Education, and Welfare (Ref. 2), and did not meet adequate performance standards for safety and effectiveness.

5. Risks to health: (a) Bodily injury: The device could collapse and the patient could fall, resulting in bodily injury, if inflation is lost or the zippers fail. (b) Tissue trauma and/or pressure sores: Tissue trauma and/or pressure sores could result if the support beams overinflate and cause excessive pressure on the skin of the patient.

Proposed Classification

The Commissioner agrees with the Panel recommendation and is proposing that rigid pneumatic structure orthoses be classified into class III (premarket approval). The Commissioner has reviewed the Panel recommendation

and the evaluations of rigid pneumatic structure orthoses (Refs. 1 and 2). The problems found with this device, as stated in the literature, are (1) zipper failure, (2) deflation or overinflation, (3) pressure over bony prominences, causing sores, (4) inability of the patient to climb stairs independently, (5) inability of the patient to move as stated, and (6) difficulty in the patient regaining a standing position after a fall. Future improvements and studies were recommended for rigid pneumatic structure orthoses because a potential exists for their use in early rehabilitation. The Commissioner believes that the device presents a potential unreasonable risk of injury to the patient because satisfactory performance has not been demonstrated. He agrees with the Panel conclusion that insufficient information exists to determine that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device, and he believes that insufficient information exists to establish a performance standard which would provide such assurance.

References

The following information has been placed in the office of the Hearing Clerk (HFA-305) and may be seen by interested persons, from 9 a.m. to 4 p.m., Monday through Friday.

1. Peizer, E. "Special Programs: VA Prosthetics Center Research, Development, and Evaluation Program," *Bulletin of Prosthetics Research*, 10-22: 465-477, Fall, 1974.

2. "Evaluation of the Ortho-Walk Type B Pneumatic Orthosis on Thirty-Seven Paraplegic Patients," Report by the Committee on Prosthetics Research and Development/Committee on Prosthetic-Orthotic Education, National Academy of Sciences, Washington, DC, 1976. Supported by the Veterans Administration and the Social Rehabilitation Service, HEW.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes to amend Part 890 in Subpart D by adding new § 890.3610, to read as follows:

§ 890.3610 Rigid pneumatic structure orthosis.

(a) *Identification.* A rigid pneumatic structure orthosis is a device used to provide whole body support by means of a pressurized suit to help thoracic paraplegics walk.

(b) *Classification.* Class III (premarket approval).

Interested persons may, on or before October 29, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk document number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 14, 1979.

William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.

[FR Doc. 79-26285 Filed 8-27-79; 8:45 am]
BILLING CODE 4110-03-M

[21 CFR Part 890]

[Docket No. 78N-1208]

Medical Devices; Classification of Arm Slings

AGENCY: Food and Drug Administration.
ACTION: Proposed Rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying arm slings into class I (general controls). The FDA is also publishing the recommendation of the Physical Medicine Device Classification Panel that the device be classified into class I. The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by October 29, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the *Federal Register*.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Johnnie W. Bailey, Bureau of Medical Devices (HFK-410), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7238.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the *Federal Register* provides background information concerning the development of the proposed regulation. The Physical Medicine Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of arm slings:

1. Identification: An arm sling is a device used to immobilize the arm, by means of a fabric band suspended from around the neck.

2. Recommended classification: Class I (general controls). The Panel recommends that an arm sling be exempt from registration, device listing, and premarket notification under section 510 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360), records and reports requirements under section 519 of the act (21 U.S.C. 360i), and good manufacturing practice regulations under section 520(f) of the act (21 U.S.C. 360j(f)).

3. Summary of reasons for recommendation: The Panel recommends that an arm sling be classified into class I and that manufacturers of this device not be required to comply with registration, device listing, premarket notification, records and reports, or good manufacturing practice regulations because this is a simple device that presents no undue risks to health when used in a normal manner and for the purpose recommended. The Panel believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and familiarity with, this device.

5. Risks to health: None identified.

Proposed Classification

The Commissioner agrees with the Panel recommendation and is proposing that arm slings be classified into class I (general controls). The Commissioner believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device. In response to the Panel's recommendation that manufacturers of an arm sling be exempt from section 510 of the act, FDA is proposing that these manufacturers be subject to registration and device listing under section 501 (a) through (j) of the act, but exempt from premarket notification under section 510(k) of the act and Subpart E of Part 807 of the regulations. Under section 510(g)(4) of the act, the agency may exempt a manufacturer from section 510 only if it finds that compliance with this section is not necessary for the protection of the public health. In the case of registration and listing by manufacturers of an arm

sling, the agency cannot make the required finding. To protect the public health, the agency needs to be able to identify the firms manufacturing this device and to conduct necessary inspections. The agency has determined, however, that it is not necessary for the protection of the public health that FDA receive premarket notification submissions concerning an arm sling. The agency does not, at this time, anticipate that premarket approval will be required for this device. The agency believes that the semiannual updating of device listing under section 510(j)(2) will provide FDA with adequate notice concerning new products within this generic type of device.

FDA disagrees with the Panel's recommendation that manufacturers of an arm sling be exempt from records and reports regulations under section 519 of the act. The records and reports requirements in several of FDA's present device regulations are authorized, wholly or in part, by section 519. The most extensive of these requirements are found in the device good manufacturing practice (GMP) regulation, published in the *Federal Register* of July 21, 1978 (43 FR 31508). In the future, FDA will publish other regulations under section 519, including regulations requiring reports to FDA of experience with medical devices. Until these regulations are issued, FDA believes that it cannot properly issue exemptions from them. In the future, whenever the agency proposes device regulations that include records and reports requirements, interested persons may submit comments requesting that certain classes of manufacturers or other persons be exempt from the requirements, and FDA will issue exemptions that are appropriate. The only type of exemption from records and reports requirements that FDA is proposing now, in device classification regulations, is an exemption of certain manufacturers from requirements of the device GMP regulation. The exemption will not extend to two device GMP requirements, § 820.180 (21 CFR 820.180), with respect to general requirements concerning records, and § 820.198 (21 CFR 820.198), with respect to complaint files.

In response to the Panel's recommendation that manufacturers of an arm sling be exempt from the device GMP regulation under section 520(f) of the act, FDA is proposing that a manufacturer of this device be exempt, in the manufacture of the device, from all requirements in the GMP regulation except § 820.180, with respect to general requirements concerning records, and

§ 820.198, with respect to complaint files. Based on available information about current practices used in the manufacture of the device and user experience with the device, the agency has determined that application of the GMP regulation, other than §§ 820.180 and 820.198, is unlikely to improve the safety and effectiveness of the device. The agency believes, however, that manufacturers of an arm sling must still be required to comply with the complaint file requirements of § 820.198 to ensure that these manufacturers have adequate systems for complaint investigation and followup. The agency also believes that manufacturers of an arm sling must still be required to comply with the general requirements concerning records in § 820.180 to ensure that FDA has access to complaint files, can investigate device-related injury reports and complaints about product defects, may determine whether the manufacturer's corrective actions are adequate, and may determine whether the exemption from other sections of the GMP regulation is still appropriate.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes to amend Part 890 in Subpart D by adding new § 890.3640, to read as follows:

§ 890.3640 Arm sling.

(a) *Identification.* An arm sling is a device used to immobilize the arm, by means of a fabric band suspended from around the neck.

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in Subpart E of Part 807 of this chapter. The device also is exempt from the good manufacturing practice regulation in Part 820 of this chapter, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

Interested persons may, on or before October 29, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the

above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 14, 1979.

William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.

[FR Doc. 79-26286 Filed 8-27-79; 8:45 am]

BILLING CODE 4110-03-M

[21 CFR Part 890]

[Docket No. 78N-1209]

Medical Devices; Classification of
Congenital Hip Dislocation Abduction
Splints

AGENCY: Food and Drug Administration.
ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying congenital hip dislocation abduction splints into class I (general controls). The FDA is also publishing the recommendation of the Physical Medicine Device Classification Panel that the device be classified into class I. The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by October 29, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the *Federal Register*.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Johnnie W. Bailey, Bureau of Medical Devices (HFK-410), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7238.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the *Federal Register* provides background information concerning the development of the proposed regulation. The Physical Medicine Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of congenital hip dislocation abduction splints:

1. Identification: A congenital hip dislocation abduction splint is a device used to stabilize the hips of a young child with dislocated hips in an abducted position (away from the midline).

2. Recommended classification: Class I (general controls). The Panel recommends that there be no exemptions.

3. Summary of reasons for recommendation: The Panel recommends that a congenital hip dislocation abduction splint be classified into class I because this is a simple device that presents no undue risk to health when used in a normal manner and for the purpose recommended. The Panel recommends that the device be used under the direct supervision of a physician, therapist, or orthotist/prosthetist (makers or fitters of orthotic or prosthetic devices). The Panel believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and familiarity with, this device.

5. Risks to health: None identified.

Proposed Classification

The Commissioner agrees with the Panel recommendation and is proposing that congenital hip dislocation abduction splints be classified into class I (general controls), with no exemptions. The Commissioner believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes to amend Part 890 in Subpart B by adding new § 890.3665, to read as follows:

§ 890.3665 Congenital hip dislocation
abduction splint.

(a) *Identification.* A congenital hip dislocation abduction splint is a device used to stabilize the hips of a young child with dislocated hips in an abducted position (away from the midline).

(b) *Classification.* Class I (general controls).

Interested persons may, on or before October 29, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the

above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 14, 1979.

William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.

[FR Doc. 79-26287 Filed 8-27-79; 8:45 am]

BILLING CODE 4110-03-M

[21 CFR Part 890]

[Docket No. 78N-1210]

Medical Devices; Classification of
Denis Brown Splints

AGENCY: Food and Drug Administration.
ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying Denis Brown splints into class I (general controls). The FDA is also publishing the recommendation of the Physical Medicine Device Classification Panel that the device be classified into class I. The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by October 29, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the *Federal Register*.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Johnnie W. Bailey, Bureau of Medical Devices (HFK-410), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7238.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the *Federal Register* provides background information concerning the development of the proposed regulation. The Physical Medicine Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of Denis Brown splints:

1. Identification: A Denis Brown splint is a device used to immobilize the feet. It is used

on young children with tibial torsion (excessive rotation of the lower leg) or club foot.

2. Recommended Classification: class I (general controls). The Panel recommends that there be no exemptions.

3. Summary of reasons for recommendation: The Panel recommends that Denis Brown splints be classified into class I because this is a simple device that presents no undue risks to health when used in a normal manner and for the purpose recommended. The Panel believes that general controls are sufficient to assure the safety and effectiveness of the device.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and familiarity with, this device.

5. Risks to health: None identified.

Proposed Classification

The Commissioner agrees with the Panel recommendation and is proposing that Denis Brown splints be classified into class I (general controls), with no exemptions. The Commissioner believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes to amend Part 890 in Subpart D by adding new § 890.3675, to read as follows:

§ 890.3675 Denis Brown splint.

(a) *Identification.* A Denis Brown splint is a device used to immobilize the feet. It is used on young children with tibial torsion (excessive rotation of the lower leg) or club foot.

(b) *Classification.* Class I (general controls).

Interested persons may, on or before October 29, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 14, 1979.

William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.

[FR Doc. 79-28286 Filed 8-27-79; 8:45 am]

BILLING CODE 4110-03-M

[21 CFR Part 890]

[Docket No. 78N-1211]

Medical Devices; Classification of Powered Wheeled Stretchers

AGENCY: Food and Drug Administration.
ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying powered wheeled stretchers into class II (performance standards). The FDA is also publishing the recommendation of the Physical Medicine Device Classification Panel that the device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to ensure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by October 29, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Johnnie W. Bailey, Bureau of Medical Devices (HFK-410), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7238.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the Federal Register provides background information concerning the development of the proposed regulation. The Physical Medicine Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of powered wheeled stretchers:

1. Identification: A powered wheeled stretcher is a battery-powered table with wheels that is used by patients who are unable to propel themselves independently and who must maintain a prone or supine position for prolonged periods of time because of skin ulcers or contractures (muscle contractions).

2. Recommended classification: Class II (performance standards). The Panel

recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The panel recommends that powered wheeled stretchers be classified into class II because the Panel believes that if there is a malfunction of the device, serious harm to the patient could result. The Panel also believes that the electrical properties of the battery must be controlled to avoid the potential hazard of shock or malfunction. The Panel believes that general controls would not provide sufficient control over these characteristics. The Panel believes that a standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the potential hazards associated with this device and on the Panel members' personal knowledge of, and familiarity with, the device.

5. Risks to health: (a) Bodily injury: Bodily injury could result from defective controls, battery malfunction, or use of the device on inclined surfaces. (b) Electrical shock: Excessive leakage current or malfunction of the device could result in electric shock.

Proposed Classification

The Commissioner agrees with the Panel recommendation and is proposing that powered wheeled stretchers be classified into class II (performance standards). The Commissioner believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. Performance standard would provide reasonable assurance of the safety and effectiveness of the device. The Commissioner also believes that there is sufficient information to establish a standard for this device.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes to amend Part 890 in Subpart D by adding new § 890.3690, to read as follows:

§ 890.3690 Powered wheeled stretcher.

(a) *Identification.* A powered wheeled stretcher is a battery-powered table with wheels that is used by patients who are unable to propel themselves independently and who must maintain a prone or supine position for prolonged periods because of skin ulcers or contractures (muscle contractions).

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before October 29, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers

Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document.

Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 14, 1979.

William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.

[FR Doc. 79-28286 Filed 8-27-79; 8:45 am]

BILLING CODE 4110-03-M

[21 CFR Part 890]

[Docket No. 78N-1212]

Medical Devices; Classification of Nonpowered Communication Systems

AGENCY: Food and Drug Administration.
ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying nonpowered communication systems into class I (general controls). The FDA is also publishing the recommendation of the Physical Medicine Device Classification Panel that the device be classified into class I. The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by October 29, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Johnnie W. Bailey, Bureau of Medical Devices (HFK-410), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-27-7238.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the Federal Register provides

background information concerning the development of the proposed regulation. The Physical Medicine Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of nonpowered communication systems:

1. Identification: A nonpowered communication system is a mechanical device used to assist a patient in communicating when physical impairment prevents writing, telephone use, reading, or talking. Examples of nonpowered communications systems include the following: an alphabet board, a telephone holder, and a page turner.

2. Recommended classification: Class I (general controls). The Panel recommends that there be no exemptions.

3. Summary of reasons for recommendation: The Panel recommends that a nonpowered communication system be classified into class I because this is a simple device that presents no undue risks to health when used in a normal manner and for the purpose recommended. The Panel believes that general controls are sufficient to assure the safety and effectiveness of the device.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and familiarity with, this device.

5. Risks to health: None identified.

Proposed Classification

The Commissioner agrees with the Panel recommendation and is proposing that nonpowered communication systems be classified into class I (general controls), with no exemptions. The Commissioners believe that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes to amend part 890 in Subpart D by adding new § 890.3700, to read as follows:

§ 890.3700 Nonpowered communication system.

(a) *Identification.* A nonpowered communication system is a mechanical device used to assist a patient in communicating when physical impairment prevents writing, telephone use, reading, or talking. Examples of nonpowered communications systems include the following: An alphabet board, a telephone holder, and a page turner.

(b) *Classification.* Class I (general controls).

Interested persons may, on or before October 29, 1979, submit to the Hearing

Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 14, 1979.

William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.

[FR Doc. 79-28290 Filed 8-27-79; 8:45 am]

BILLING CODE 4110-03-M

[21 CFR Part 890]

[Docket No. 78N-1213]

Medical Devices; Classification of Powered Communication Systems

AGENCY: Food and Drug Administration.
ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying powered communication systems into class II (performance standards). The FDA is also publishing the recommendation of the Physical Medicine Device Classification Panel that this device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by October 29, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Johnnie W. Bailey, Bureau of Medical Devices (HFK-410), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7238.

**SUPPLEMENTARY INFORMATION:
Panel Recommendation**

A proposal elsewhere in this issue of the Federal Register provides background information concerning the development of the proposed regulation. The Physical Medicine Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of powered communication systems:

1. Identification: A powered communication system is an electrical or battery powered device used to transmit or receive information. It is used by persons unable to use their hands because of physical impairment. Examples of powered communication systems include the following: a specialized typewriter, a reading machine, and a video picture and word screen.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that a powered communication system be classified into class II because the Panel believes that the electrical properties of this device must be controlled to avoid the potential hazard of electric shock. The Panel believes that general controls will not provide sufficient control over this characteristic. The Panel believes that a performance standard will provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the potential hazards associated with this device and on the Panel members' personal knowledge of, and familiarity with, the device.

5. Risks to health: Electrical shock: Excessive leakage current could result in injury, and a malfunction of the device could result in electric shock.

Proposed Classification

The Commissioner agrees with the Panel recommendation and is proposing that powered communication systems be classified into class II (performance standards). The Commissioner believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard will provide reasonable assurance of the safety and effectiveness of the device. The Commissioner also believes that there is sufficient information to establish a standard for this device.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the

Commissioner proposes to amend Part 890 in Subpart D by adding new § 890.3710, to read as follows:

§ 890.3710 Powered communication system.

(a) *Identification.* A powered communication system is an electrical or battery-powered device used to transmit or receive information. It is used by persons unable to use their hands because of physical impairment. Examples of powered communication systems include the following: a specialized typewriter, a reading machine, and a video picture and word screen.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before October 29, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 14, 1979.

William F. Randolph,
*Acting Associate Commissioner for
Regulatory Affairs.*

[FR Doc. 79-26291 Filed 8-27-79; 8:45 am]

BILLING CODE 4110-03-M

[21 CFR Part 890]**[Docket No. 78N-1214]****Medical Devices; Classification of
Powered Environmental Control
Systems**

AGENCY: Food and Drug Administration.
ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying powered environmental control systems into class II (performance standards). The FDA is also publishing the recommendation of the Physical Medicine Device Classification Panel that the device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These

actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by October 29, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Johnnie W. Bailey, Bureau of Medical Devices (HFK-410), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7238.

SUPPLEMENTARY INFORMATION:**Panel Recommendation**

A proposal elsewhere in this issue of the Federal Register provides background information concerning the development of the proposed regulation. The Physical Medicine Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of powered environmental control systems:

1. Identification: A powered environmental control system is an electrical or battery-powered device used by a patient to operate an environmental control function. Examples of environmental control functions include the following: to control room temperature, to answer a doorbell or telephone, or to sound an alarm for assistance.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that a powered environmental control system be classified into class II because the Panel believes that the electrical properties of this device must be controlled to avoid the potential hazard of electric shock. The Panel believes that general controls would not provide sufficient control over this characteristic. The Panel believes that a standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the potential hazards associated with this device and on the Panel members' personal knowledge of, and familiarity with, the device.

5. Risks to health: Electrical shock: Excessive leakage current could result in injury, and a malfunction of the device could result in electric shock.

Proposed Classification

The Commissioner agrees with the Panel recommendation and is proposing that powered environmental control systems be classified into class II (performance standards). The Commissioner believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The Commissioner also believes that there is sufficient information to establish a standard for this device.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes to amend Part 890 in Subpart D by adding new § 890.3725, to read as follows:

§ 890.3725 Powered environmental control system.

(a) *Identification.* A powered environmental control system is an electrical or battery-powered device used by a patient to operate an environmental control function. Examples of environmental control functions include the following: to control room temperature, to answer a doorbell or telephone, or to sound an alarm for assistance.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before October 29, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 14, 1979.

William F. Randolph,
*Acting Associate Commissioner for
Regulatory Affairs.*

[FR Doc. 79-26292 Filed 8-27-79; 8:45 am]

BILLING CODE 4110-03-M

[21 CFR Part 890]**[Docket No. 78N-1215]****Medical Devices; Classification of
Mechanical Tables**

AGENCY: Food and Drug Administration.
ACTION: Proposed Rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying mechanical tables into class I (general controls). The FDA is also publishing the recommendation of the Physical Medicine Device Classification Panel that the device be classified into class I. The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by October 29, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Johnnie W. Bailey, Bureau of Medical Devices (HFK-410), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7238.

SUPPLEMENTARY INFORMATION:**Panel Recommendation**

A proposal elsewhere in this issue of the Federal Register provides background information concerning the development of the proposed regulation. The Physical Medicine Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of mechanical tables:

1. Identification: A mechanical table is a device that has a flat surface that can be inclined or adjusted to various positions. It is used by patients with circulatory, neurological, or musculoskeletal conditions to increase tolerance to an upright or standing position.

2. Recommended classification: Class I (general controls). The Panel recommends that mechanical tables be exempt from registration, device listing, and premarket notification regulations under section 510 of the Federal Food, Drug, and Cosmetic Act (21

U.S.C. 360), records and reports under section 519 of the act (21 U.S.C. 360i), and good manufacturing practice (GMP) regulations under section 520(f) of the act (21 U.S.C. 360j(f)).

3. Summary of reasons for recommendation: The Panel recommends that a mechanical table be classified into class I and that the manufacturers of this device should not be required to comply with registration, device listing, premarket notification, records and reports, or GMP regulations because this is a simple device that presents no undue risks to health when used in a normal manner and for the purpose recommended. The Panel believes that general controls are sufficient to assure the safety and effectiveness of the device and that a performance standard is not necessary.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and familiarity with, this device.

5. Risks to health: None identified.

Proposed Classification

The Commissioner agrees with the Panel recommendation and is proposing that mechanical tables be classified into class I (general controls). The Commissioner believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device. The Commissioner disagrees with the Panel recommendation that manufacturers of mechanical tables be exempt from registration, device listing, and premarket notification under section 510 of the act. Under section 510(g)(4) of the act, the Commissioner may exempt a manufacturer from section 510 only upon a finding that compliance with this section is not necessary for the protection of public health. In the case of the mechanical table, the Commissioner cannot make the required finding. To protect the public health, the agency needs to require manufacturers of this device to register and to list their products with FDA, so that the agency is able to identify the firms manufacturing this device and to conduct necessary inspections. Premarket notification by these manufacturers assures that FDA learns of new products, and of significant modifications of existing products, for which premarket approval is required.

The Commissioner disagrees with the Panel's recommendation that manufacturers of a mechanical table be exempt from records and reports regulations under section 519 of the act (21 U.S.C. 360i). The records and reports requirements in several of FDA's present device regulations are authorized, wholly or in part, by section 519. The most extensive of these requirements are found in the device

good manufacturing practice (GMP) regulation, published in the Federal Register of July 21, 1978 (43 FR 31508). In the future, FDA will publish other regulations under section 519, including regulations requiring reports to FDA of experience with medical devices. Until these regulations are issued, FDA believes that it cannot properly issue exemptions from them. In the future, whenever the agency proposes device regulations that include records and reports requirements, interested persons may submit comments requesting that certain classes of manufacturers or other persons be exempt from the requirements, and FDA will issue exemptions that are appropriate. The only type of exemption from records and reports requirements that FDA is proposing now, in device classification regulations, is an exemption of certain manufacturers from requirements of the device GMP regulation. The exemption will not extend to two device GMP requirements, § 820.180 (21 CFR 820.180), with respect to general requirements concerning records, and § 820.198 (21 CFR 820.198), with respect to complaint files.

The Commissioner disagrees with the Panel recommendation that manufacturers of the mechanical table be exempt from the good manufacturing practice regulation under section 520(f) of the act. The Commissioner believes that compliance with this regulation is necessary to assure the quality of this device and thus its safety, effectiveness, and compliance with adulteration and misbranding provisions of the act. Compliance with the GMP regulation will help prevent production of a mechanical table having defects that could harm users.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes to amend Part 890 in Subpart D by adding new § 890.3750, to read as follows:

§ 890.3750 Mechanical table.

(a) *Identification.* A mechanical table is a device that has a flat surface that can be inclined or adjusted to various positions. It is used by patients with circulatory, neurological, or musculoskeletal conditions to increase tolerance to an upright or standing position.

(b) *Classification.* Class I (general controls).

Interested persons may, on or before October 29, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers

Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 14, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-26293 Filed 8-27-79; 8:45 am]

BILLING CODE 4110-03-M

[21 CFR Part 890]

[Docket No. 78N-1216]

Medical Devices; Classification of Powered Tables

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying powered tables into class II (performance standards). The FDA is also publishing the recommendation of the Physical Medicine Device Classification Panel that the device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by October 29, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Johnnie W. Bailey, Bureau of Medical Devices (HFK-410), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7238.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the Federal Register provides background information concerning the development of the proposed regulation. The Physical Medicine Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of powered tables:

1. Identification: A powered table is an electrically operated flat surface table that can be adjusted to various positions. It is used by patients with circulatory, neurological, or musculoskeletal conditions to increase tolerance to an upright or standing position.
2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.
3. Summary of reasons for recommendation: The Panel recommends that a powered table be classified into class II because the Panel believes that the electrical properties of this device must be controlled to avoid injury. The Panel believes that general controls would not provide sufficient control over this characteristic. The Panel believes that a performance standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance.
4. Summary of data on which the recommendation is based: The Panel based its recommendation on the potential hazards associated with the electrical properties of the device and on the Panel members' personal knowledge of, and familiarity with, the device.
5. Risks to health: Electrical shock: Excessive leakage current could result in injury, and malfunction of the device could result in an electric shock.

Proposed Classification

The Commissioner agrees with the Panel recommendation and is proposing that powered tables be classified into class II (performance standards). The Commissioner believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The Commissioner also believes that there is sufficient information to establish a standard for this device.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes to amend Part 890 in Subpart D by adding new § 890.3760, to read as follows:

§ 890.3760 Powered table.

(a) *Identification.* A powered table is an electrically operated flat surface table that can be adjusted to various positions. It is used by patients with circulatory, neurological, or musculoskeletal conditions to increase tolerance to an upright or standing position.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before October 29, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 14, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-26294 Filed 8-27-79; 8:45 am]

BILLING CODE 4110-03-M

[21 CFR Part 890]

[Docket No. 78N-1217]

Medical Devices; Classification of Cane, Crutch, and Walker Tips

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying cane, crutch, and walker tips into class I (general controls). The FDA is also publishing the recommendation of the Physical Medicine Device Classification Panel that the device be classified into class I. The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by October 29, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305),

Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Johnnie W. Bailey, Bureau of Medical Devices (HFK-410), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7238.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the Federal Register provides background information concerning the development of the proposed regulation. The Physical Medicine Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of cane, crutch, and walker tips:

1. Identification: Cane, crutch, and walker tips are rubber accessories applied to the ground end of mobility aids to prevent skidding.
2. Recommended classification: Class I (general controls). The Panel recommends that there be no exemptions.
3. Summary of reasons for recommendation: The Panel recommends that these devices be classified into class I because they are simple devices that present no undue risks to health when used in a normal manner and for the purpose recommended. The Panel believes that general controls are sufficient to assure the safety and effectiveness of these devices.
4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and familiarity with, these devices.
5. Risks to health: None identified.

Proposed Classification

The Commissioner agrees with the Panel recommendation and is proposing that cane, crutch, and walker tips be classified into class I (general controls), with no exemptions. The Commissioner believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes to amend Part 890 in Subpart D by adding new § 890.3790, to read as follows:

§ 890.3790 Cane, crutch, and walker tips.

(a) *Identification.* Cane, crutch, and walker tips are rubber accessories applied to the ground end of mobility aids to prevent skidding.

(b) *Classification.* Class I (general controls).

Interested persons may, on or before October 29, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 14, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-26295 Filed 8-27-79; 8:45 am]

BILLING CODE 4110-03-M

[21 CFR Part 890]

[Docket No. 78N-1218]

Medical Devices; Classification of Motorized Three-Wheeled Vehicles

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying motorized three-wheeled vehicles for outdoor use into class II (performance standards). The FDA is also publishing the recommendation of the Physical Medicine Device Classification Panel that the device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by October 29, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Johnnie W. Bailey, Bureau of Medical Devices (HFK-410), Food and Drug Administration, Department of Health,

Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7238.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the *Federal Register* provides background information concerning the development of the proposed regulation. The Physical Medicine Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of motorized three-wheeled vehicles:

1. Identification: A motorized three-wheeled vehicle is a gasoline-fueled or battery-powered device that is used for outside transportation by disabled persons.
2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a medium priority.
3. Summary of reasons for recommendation: The Panel recommends that a motorized three-wheeled vehicle be classified into class II because the Panel believes that the design and materials of the device must be controlled to assure that there are adequate mechanical safety features to prevent the patient from falling from the device. The Panel believes that general controls would not provide sufficient control over these characteristics. The Panel believes that performance standard will provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the potential hazards associated with this device, on the Panel members' personal knowledge, of and familiarity with, the device, and a review of the pertinent literature (Refs. 1 and 2). Staros and Peizer (Ref. 1) state that good bilateral hand, arm, and shoulder strength and excursion are needed to drive three-wheeled vehicles. The authors report that there have been frequent accidents from the use of these vehicles, caused by excessive speeds and fast turns.

5. Risks to health: Bodily injury: The patient could fall as a result of instability of the vehicle, fast turning, or tipping over of the vehicle while the patient mounts or dismounts. Lack of foot guard rails could cause the patient's feet to become entangled and thus cause injury.

Proposed Classification

The Commissioner agrees with the Panel recommendation and is proposing that motorized three-wheeled vehicles be classified into class II (performance standards). The Commissioner believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard

would provide reasonable assurance of the safety and effectiveness of the device. The Commissioner also believes there is sufficient information to establish a performance standard for this device.

References

The following information has been placed in the office of the Hearing Clerk (address above) and may be seen by interested persons, from 9 a.m. to 4 p.m., Monday through Friday.

1. Staros, A. and E. Peizer, "VA Prosthetic Center Research Report," *Bulletin of Prosthetics Research*, 10-23:230-235, Spring 1975.
2. Lipskin, R., "Trends in Nonlicensed Mobility Aids," *Bulletin of Prosthetics Research*, 10-22:41-52, Fall 1974.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 [21 U.S.C. 360c, 371(a)]) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes to amend Part 890 in Subpart D by adding new § 890.3800, to read as follows:

§ 890.3800 Motorized three-wheeled vehicle.

(a) *Identification.* A motorized three-wheeled vehicle is a gasoline-fueled or battery-powered device that is used for outside transportation by disabled persons.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before October 29, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 14, 1979.

William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.

[FR Doc. 79-26296 Filed 8-22-79; 8:45 am]
BILLING CODE 4110-03-M

[21 CFR Part 890]

[Docket No. 78N-1219]

Medical Devices; Classification of Mechanical Walkers

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying mechanical walkers into class I (general controls). The FDA is also publishing the recommendation of the Physical Medicine Device Classification Panel that the device be classified into class I. The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by October 29, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the *Federal Register*.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Johnnie W. Bailey, Bureau of Medical Devices (HFK-410), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7238.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the *Federal Register* provides background information concerning the development of the proposed regulation. The Physical Medicine Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of mechanical walkers:

1. Identification: A mechanical walker is a four-legged device used to provide moderate weight support while walking by means of a metal frame. It is used by disabled persons who lack strength, good balance, or endurance.
2. Recommended classification: Class I (general controls). The Panel recommends that there be no exemptions.

3. Summary of reasons for recommendation: The Panel recommends that a mechanical walker be classified into class I because this is a simple device that presents no undue risks to health when used in a normal manner and for the purpose recommended. The Panel believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel member's

personal knowledge of, and familiarity with, this device.

5. Risks to health: None identified.

Proposed Classification

The Commissioner agrees with the Panel recommendation and is proposing that mechanical walkers be classified into class I (general controls), with no exemptions. The Commissioner believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 [21 U.S.C. 360c, 371(a)]) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes to amend Part 890 in Subpart D by adding new § 890.3825, to read as follows:

§ 890.3825 Mechanical walker.

(a) *Identification.* A mechanical walker is a four-legged device used to provide moderate weight support while walking by means of a metal frame. It is used by disabled persons who lack strength, good balance, or endurance.

(b) *Classification.* Class I (general controls).

Interested persons may, on or before October 29, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 14, 1979.

William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.

[FR Doc. 79-26297 Filed 8-27-79; 8:45 am]
BILLING CODE 4110-03-M

[21 CFR Part 890]

[Docket No. 78N-1220]

Medical Devices; Classification of Mechanical Wheelchairs

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying mechanical wheelchairs into class I (general controls). The FDA is also publishing the recommendation of

the Physical Medicine Device Classification Panel that the device be classified into class I. The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by October 29, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the *Federal Register*.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Johnnie W. Bailey, Bureau of Medical Devices (HFK-410), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7238.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the *Federal Register* provides background information concerning the development of the proposed regulation. The Physical Medicine Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of mechanical wheelchairs:

1. Identification: A mechanical wheelchair is a manually operated device with wheels used to provide mobility to persons restricted to a sitting position.
2. Recommended classification: Class I (general controls). The Panel recommends that there be no exemptions.
3. Summary of reasons for recommendation: The Panel recommends that a mechanical wheelchair be classified into class I because this device presents no undue risks to health when used in a normal manner and for the purpose recommended. The Panel believes that general controls are sufficient to assure the safety and effectiveness of the device.
4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and familiarity with, this device.
5. Risks to health: None identified.

Proposed Classification

The Commissioner agrees with the Panel recommendation and is proposing that mechanical wheelchairs be classified into class I (general controls)

with no exemptions. The Commissioner believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 [21 U.S.C. 360c, 371(a)]) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes to amend Part 890 in Subpart D by adding new § 890.3850, to read as follows:

§ 890.3850 Mechanical wheelchair.

(a) *Identification.* A mechanical wheelchair is a manually operated device with wheels used to provide mobility to persons restricted to a sitting position.

(b) *Classification.* Class I (general controls).

Interested persons may, on or before October 29, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 14, 1979.

William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.

[FR Doc. 79-26298 Filed 8-27-79; 8:45 am]
BILLING CODE 4110-03-M

[21 CFR Part 890]

[Docket No. 78N-1221]

Medical Devices; Classification of Powered Wheelchairs

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying powered wheelchairs into class II (performance standards). The FDA is also publishing the recommendation of the Physical Medicine Device Classification Panel that the device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA

will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by October 29, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Johnnie W. Bailey, Bureau of Medical Devices (HFK-410), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7238.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the Federal Register provides background information concerning the development of the proposed regulation. The Physical Medicine Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of powered wheelchairs:

1. Identification: A powered wheelchair is a battery-operated device with wheels used to provide mobility to persons restricted to a sitting position.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a high priority.

3. Summary of reasons for recommendation: The Panel recommends that a powered wheelchair be classified into class II because this device is widely used by handicapped persons in numerous public places, both indoors and outdoors. The Panel believes that if the device should malfunction, serious harm to the patient or public could result. The Panel believes that the structural strength of the device must be controlled to prevent the wheelchair from collapsing. The Panel also believes that the control mechanism and power system should be controlled to prevent malfunction and a loss of control of the device and injury to the patient or public. The Panel believes that general controls would not provide sufficient control over these characteristics. The Panel believes that a performance standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the potential hazards associated with this device and on the Panel members' personal knowledge of, and familiarity with, the device and a review of the pertinent literature (Refs. 1 and 2).

5. Risks to health: Bodily injury: Defective controls, battery malfunction, poor structural materials, or use of the device on inclined surfaces could result in bodily injury.

Proposed Classification

The Commissioner agrees with the Panel recommendation and is proposing that powered wheelchairs be classified into class II (performance standards). The relevant literature on powered wheelchairs has been reviewed (Refs. 1 and 2). There is a limited amount of literature generated by the Veterans Administration (VA) program evaluating nonlicensed mobility aids. The parameters for a standard to control the hazards associated with the use of this device have been evaluated at the VA Prosthetic Center in New York. The Commissioner believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The Commissioner also believes that there is sufficient information to establish a standard for this device.

References

The following information has been placed in the office of Hearing Clerk (address above) and may be seen by interested persons, from 9 a.m. to 4 p.m., Monday through Friday.

1. Lipskin, R., "VAPC Program for Electric Wheelchairs and Other Nonlicensed Mobility Aids," *Bulletin of Prosthetics Research*, 10-22:326-336, Fall 1974.

2. Lipskin, R., "Trends in Nonlicensed Mobility Aids," *Bulletin of Prosthetics Research*, 10-22:41-52, Fall 1974.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes to amend Part 890 in Subpart B by adding new § 890.3860, to read as follows:

§ 890.3860 Powered wheelchair.

(a) *Identification.* A powered wheelchair is a battery-operated device with wheels used to provide mobility to persons restricted to a sitting position.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before October 29, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing

Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 14, 1979.

William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.

[FR Doc. 79-26390 Filed 8-27-79; 8:45 am]
BILLING CODE 4110-03-M

[21 CFR Part 890]

[Docket No. 78N-1222]

Medical Devices; Classification of Special Grade Wheelchairs

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying special grade wheelchairs into class II (performance standards). The FDA is also publishing the recommendation of the Physical Medicine Device Classification Panel that the device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by October 29, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Johnnie W. Bailey, Bureau of Medical Devices (HFK-410), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7238.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the Federal Register provides background information concerning the development of the proposed regulation. The Physical Medicine Device Classification Panel, an FDA advisory

committee, made the following recommendation regarding the classification of special grade wheelchair:

1. Identification: A special grade wheelchair is a device with wheels that provides mobility for those persons restricted to a sitting position and that is designed for long term use to be used in all environments (e.g., for paraplegics, quadraplegics, and amputees).

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a high priority.

3. Summary of reasons for recommendation: The Panel recommends that a special grade wheelchair be classified into class II because the Panel believes that the design and structural strength of the device must be controlled to assure that there are adequate safety features to prevent the wheelchair from tipping over or collapsing, thus causing injury to the patient. The Panel believes that general controls would not provide sufficient control over these characteristics. The Panel believes that a performance standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the potential hazards associated with this device and on the Panel members' personal knowledge of, and clinical experience with, the device.

5. Risks to health: Bodily injury: Poor structural materials, mechanical breakdown, or instability of the device could result in bodily injury to the patient.

Proposed Classification

The Commissioner agrees with the Panel recommendation and is proposing that special grade wheelchairs be classified into class II (performance standards). The Commissioner believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The Commissioner also believes that there is sufficient information to establish a standard for this device.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes to amend Part 890 in Subpart D by adding new § 890.3880, to read as follows:

§ 890.3880 Special grade wheelchair.

(a) *Identification.* A special grade wheelchair is a device with wheels that provides mobility for those persons

restricted to a sitting position and is designed to be used in all environments for long term uses (e.g., for paraplegics, quadraplegics, and amputees).

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before October 29, 1979 submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 14, 1979.

William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.

[FR Doc. 79-26300 Filed 8-27-79; 8:45 am]
BILLING CODE 4110-03-M

[21 CFR Part 890]

[Docket No. 78N-1223]

Medical Devices; Classification of Stair-Climbing Wheelchairs

AGENCY: Food and Drug Administration.
ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying stair-climbing wheelchairs into class III (premarket approval). The FDA is also publishing the recommendation of the Physical Medicine Device Classification Panel that the device be classified into class III. The effect of classifying a device into class III is to provide for each manufacturer of the device to submit to FDA a premarket approval application at a date to be set in a future regulation. Each application includes information concerning safety and effectiveness tests of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by October 29, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after date of publication in the Federal Register.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-

65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Johnnie W. Bailey, Bureau of Medical Devices (HFK-470), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7238.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the Federal Register provides background information concerning the development of the proposed regulation. The Physical Medicine Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of stair-climbing wheelchairs:

1. Identification: A stair-climbing wheelchair is a mobility assist device used by a disabled person to climb stairs in a sitting position. The device functions by means of two endless belt tracks that are lowered from under the chair and adjusted to the angle of the stairs.

2. Recommended classification: Class III (premarket approval). The Panel recommends that premarket approval of this device be a high priority because of the large number of potential users and the risk to health involved.

3. Summary of reasons for recommendation: The Panel recommends that stair-climbing wheelchairs be classified into class III because the Panel believes that satisfactory performance of this device has not been demonstrated and, therefore, that it is not possible to establish an adequate performance standard for the device. The design of the device is experimental and data to support its safe and effective use are not available. Therefore, the device should be subject to premarket approval to assure that manufacturers demonstrate satisfactory performance of the device and thus assure its safety and effectiveness.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the potential hazards associated with the device and on the Panel members' familiarity with stair-climbing wheelchairs and the lack of sufficient data to support the safety and effectiveness of the device. Seybold's article (Ref. 1), describes the device and its use and states that a need for further development, testing, and evaluation of the stair-climbing wheelchair is necessary.

5. Risks to health: Bodily injury: If the device fails the disabled patient could fall and be seriously or fatally injured.

Proposed Classification

The Commissioner agrees with the Panel recommendation and is proposing that stair-climbing wheelchairs be classified into class III (premarket approval). The Commissioner believes

that premarket approval is necessary for the device because general controls and performance standards are insufficient to control the risk to health described above and thus to provide reasonable assurance of the safety and effectiveness of the device. The Commissioner believes the device presents a potential unreasonable risk of injury because satisfactory performance has not been demonstrated. The Commissioner also believes that there is not sufficient information to establish a performance standard for this device.

Reference

1. Seybold, James E., "Staircat Awarded R&D Funds by PVA," *Paraplegia News*, p. 40, September 1976.

The following information has been placed in the office of the Hearing Clerk (address above) and may be seen by interested persons, from 9 a.m. to 4 p.m., Monday through Friday.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes to amend Part 890 in Subpart D by adding new § 890.3890, to read as follows:

§ 890.3890 Stair-climbing wheelchair.

(a) *Identification.* A stair-climbing wheelchair is a mobility assist device used by a disabled person to climb stairs in a sitting position. The device functions by means of two endless belt tracks that are lowered from under the chair and adjusted to the angle of the stairs.

(b) *Classification.* Class III (premarket approval).

Interested persons may, on or before October 29, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 14, 1979.

William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.

[FR Doc. 79-26301 Filed 8-27-79; 8:45 am]

BILLING CODE 4110-03-M

[21 CFR Part 890]

[Docket No. 78N-1224]

Medical Devices; Classification of Standup Wheelchairs

AGENCY: Food and Drug Administration.
ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying standup wheelchairs (that assist a person to stand) into class II (performance standards). The FDA is also publishing the recommendation of the Physical Medicine Device Classification Panel that the device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976. **DATES:** Comments by October 29, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.
FOR FURTHER INFORMATION CONTACT: Johnnie W. Bailey, Bureau of Medical Devices (HFK-410), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7238.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the Federal Register provides background information concerning the development of the proposed regulation. The Physical Medicine Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of standup wheelchairs:

1. Identification: A standup wheelchair is a wheeled mobility-assist device that also operates as an external manually controlled mechanical system that enables a paraplegic to stand by means of an elevating seat.
2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.
3. Summary of reasons for recommendation: The Panel recommends that

a standup wheelchair be classified into class II because the Panel believes that the design and materials of the device must be controlled to assure that there are adequate mechanical safety features to prevent the patient from falling while arising to the standing position or while in the standing position. The Panel believes that general controls would not provide sufficient control over these over these characteristics. The Panel believes that a performance standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the potential hazards associated with this device, on the Panel members' personal knowledge of, and familiarity with, the device and on a review of the pertinent literature (Refs. 1 and 2). Staros and Peizer (Ref. 1) have identified the following benefits that standup wheelchairs offer: (1) Achieving the upright position early in treatment, (2) prevention of contractures (muscle shortening) and pressure sores, and (3) possible improvements in circulation, urinary drainage, respiration, and other vital functions.

5. Risks to health: Bodily injury: Poor structural materials or instability of the device may cause the patient to fall, resulting in bodily injury.

Proposed Classification

The Commissioner agrees with the Panel recommendation and is proposing that standup wheelchairs be classified into class II (performance standards). The Commissioner believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The Commissioner also believes that there is sufficient information to establish a standard for this device.

References

The following information has been placed in the office of the Hearing Clerk (address above) and may be seen by interested persons, from 9 a.m. to 4 p.m., Monday through Friday.

1. Staros, A. and E. Peizer, "Veterans Administration Prosthetics Center Research Report," *Bulletin of Prosthetics Research*, 10-24:185-188, Fall 1975.
2. Lipskin, R., "Trends in Nonlicensed Mobility Aids," *Bulletin of Prosthetics Research*, 10-22:41-52, Fall 1974.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes to amend Part 890 in Subpart D by adding new § 890.3900, to read as follows:

§ 890.3900 Standup wheelchair.

(a) *Identification.* A standup wheelchair is a wheeled mobility-assist device that also operates as an external manually controlled mechanical system that enables a paraplegic to stand by means of an elevating seat.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before October 29, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 14, 1979.

William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.

[FR Doc. 79-26302 Filed 8-27-79; 8:45 am]

BILLING CODE 4110-03-M

[21 CFR Part 890]

[Docket No. 78N-1225]

Medical Devices; Classification of Wheelchair Accessories

AGENCY: Food and Drug Administration.
ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying wheelchair accessories into class I (general controls). The FDA is also publishing the recommendation of the Physical Medicine Device Classification Panel that the devices be classified into class I. The effect of classifying the devices into class I is to require that the devices meet only the general controls applicable to all devices. After considering public comments, FDA will issue a final regulation classifying the devices. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by October 29, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-

65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Johnnie W. Bailey, Bureau of Medical Devices (HFK-410), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7238.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the Federal Register provides background information concerning the development of the proposed regulation. The Physical Medicine Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of wheelchair accessories:

1. Identification: A wheelchair accessory is a device that is sold separately from the wheelchair and is used for the specific needs of a patient who uses a wheelchair. Examples of wheelchair accessories are the following: armboard, lapboard, pusher cuff, crutch and cane holder, restraint, overhead suspension sling, head and trunk support, blanket and leg rest strap.

2. Recommended classification: Class I (general controls). The Panel recommends that wheelchair accessories be exempt from registration, device listing, and premarket notification regulations under section 510 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360), records and reports under section 519 of the act (21 U.S.C. 360i), and good manufacturing practice regulations under section 520(f) of the act (21 U.S.C. (360)(f)).

3. Summary of reasons for recommendation: The Panel recommends that wheelchair accessories be classified into class I and that manufacturers of these devices should not be required to comply with registration, device listing, premarket notification, records and reports, or good manufacturing practice regulations because they are simple devices that pose no undue risks to health when used in a normal manner and for the purpose recommended. The Panel believes that general controls are sufficient to assure the safety and effectiveness of the devices.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and familiarity with, these devices.

5. Risks to health: None identified.

Proposed Classification

The Commissioner agrees with the Panel recommendation and is proposing that wheelchair accessories be classified into class I (general controls). The Commissioner believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the devices. In response to the Panel's recommendation that manufacturers of a wheelchair

accessory be exempt from section 510 of the act, FDA is proposing that these manufacturers be subject to registration and device listing under section 510 (a) through (j) of the act, but exempt from premarket notification under section 510(k) of the act and Subpart E of Part 807 of the regulations. Under section 510(g)(4) of the act, the agency may exempt a manufacturer from section 510 only if it finds that compliance with this section is not necessary for the protection of the public health. In the case of registration and listing by manufacturers of a wheelchair accessory, the agency cannot make the required finding. To protect the public health, the agency needs to be able to identify the firms manufacturing this device and to conduct necessary inspections. The agency has determined, however, that it is not necessary for the protection of the public health that FDA receive premarket notification submissions concerning a wheelchair accessory. The agency does not, at this time, anticipate that premarket approval will be required for this device. The agency believes that the semiannual updating of device listing under section 510(j)(2) will provide FDA with adequate notice concerning new products within this generic type of device.

FDA disagrees with the Panel's recommendation that manufacturers of a wheelchair accessory be exempt from records and reports regulations under section 519 of the act. The records and reports requirements in several of FDA's present device regulations are authorized, wholly or in part, by section 519. The most extensive of these requirements are found in the device good manufacturing practice (GMP) regulation, published in the Federal Register of July 21, 1978 (43 FR 31508). In the future, FDA will publish other regulations under section 519, including regulations requiring reports to FDA of experience with medical devices. Until these regulations are issued, FDA believes that it cannot properly issue exemptions from them. In the future, whenever the agency proposes device regulations that include records and reports requirements, interested persons may submit comments requesting that certain classes of manufacturers or other persons be exempt from the requirements, and FDA will issue exemptions that are appropriate. The only type of exemption from records and reports requirements that FDA is proposing now, in device classification regulations, is an exemption of certain manufacturers from requirements of the device GMP regulation. The exemption will not extend to two device GMP

requirements, § 820.180 (21 CFR 820.180), with respect to general requirements concerning records, and § 820.198 (21 CFR 820.198), with respect to complaint files.

In response to the Panel's recommendation that manufacturers of a wheelchair accessory be exempt from the device GMP regulation under section 520(f) of the act, FDA is proposing that a manufacturer of this device be exempt, in the manufacture of the device, from all requirements in the GMP regulation except § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files. Based on available information about current practices used in the manufacture of the device and user experience with the device, the agency has determined that application of the GMP regulation, other than §§ 820.180 and 820.198, is unlikely to improve the safety and effectiveness of the device. The agency believes, however, that manufacturers of a wheelchair accessory must still be required to comply with the complaint file requirements of § 820.198 to ensure that these manufacturers have adequate systems for complaint investigation and followup. The agency also believes that manufacturers of a wheelchair accessory must still be required to comply with the general requirements concerning records in § 820.180 to ensure that FDA has access to complaint files, can investigate device-related injury reports and complaints about product defects, may determine whether the manufacturer's corrective actions are adequate, and may determine whether the exemption from other sections of the GMP regulation is still appropriate.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes to amend Part 890 in Subpart D by adding new § 890.3910, to read as follows:

§ 890.3910 Wheelchair accessory.

(a) *Identification.* A wheelchair accessory is a device that is sold separately from the wheelchair and is used for the specific needs of a patient who uses a wheelchair. Examples of wheelchair accessories are the following: armboard, lapboard, pusher cuff, crutch and cane holder, restraint, overhead suspension sling, head and trunk support, blanket and leg rest strap.

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in Subpart E of Part 807 of this chapter.

The device also is exempt from the good manufacturing practice regulation in Part 820 of this chapter, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

Interested persons may, on or before October 29, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 14, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-26303 Filed 8-27-79; 8:45 am]

BILLING CODE 4110-03-M

[21 CFR Part 890]

[Docket No. 78N-1226]

Medical Devices; Classification of Wheelchair Components

AGENCY: Food and Drug Administration.
ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying wheelchair components into class I (general controls). The FDA is also publishing the recommendation of the Physical Medicine Device Classification Panel that the device be classified into class I. The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by October 29, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Johnnie W. Bailey, Bureau of Medical Devices (HFK-410), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7238

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the Federal Register provides background information concerning the development of the proposed regulation. The Physical Medicine Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of special grade wheelchair components:

1. *Identification:* A wheelchair component is a device that is generally sold as an integral part of a wheelchair, but may also be sold separately as a replacement part. Examples of wheelchair components are the following: armrest, narrowing attachment, belt, extension brake, curb climber, cushion, antitip device, footrest, handrim, hill holder, leg rest, heel loops, and toe loops.
2. *Recommended classification:* Class I (general controls). The Panel recommends that there be no exemptions.
3. *Summary of reasons for recommendation:* The Panel recommends that wheelchair components be classified into class I because they are simple devices that present no undue risks to health when used in a normal manner and for the purpose recommended. The Panel believes that general controls are sufficient to assure the safety and effectiveness of the devices.
4. *Summary of data of which the recommendation is based:* The Panel based its recommendation on the Panel members' personal knowledge of, and familiarity with, these devices.
5. *Risks to health:* None identified.

Proposed Classification

The Commissioner agrees with the Panel recommendation and is proposing that wheelchairs components be classified into class I (general controls), with no exemptions. The Commissioner believes that a general controls are sufficient to provide reasonable assurance of the safety and effectiveness of these devices.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes to amend Part 890 in Subpart D by adding new § 890.3920, to read as follows:

§ 890.3920 Wheelchair component.

(a) *Identification.* A wheelchair component is a device that is generally sold as an integral part of a wheelchair,

but may also be sold separately as a replacement part. Examples of wheelchair components are the following: Armrest, narrowing attachment, belt, extension brake, curb climber, cushion, antitip device, footrest, handrim, hill holder, leg rest, heel loops, and toe loops.

(b) *Classification.* Class I (general controls).

Interested persons may on or before October 29, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857. Written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 14, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-26304 Filed 8-27-79; 8:45 am]

BILLING CODE 4110-03-M

[21 CFR Part 890]

[Docket No. 78N-1227]

Medical Devices; Classification of Wheelchair Elevators

AGENCY: Food and Drug Administration.
ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying wheelchair elevators into class II (performance standards). The FDA is also publishing the recommendation of the Physical Medicine Device Classification Panel that the device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by October 29, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Johnnie W. Bailey, Bureau of Medical Devices (HFK-410), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7238.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the Federal Register provides background information concerning the development of the proposed regulation. The Physical Medicine Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of wheelchair elevators:

1. *Identification:* A wheelchair elevator is a motorized lifting device used by a disabled person to move a wheelchair from one level to another.
2. *Recommended classification:* Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.
3. *Summary of reasons for recommendation:* The Panel recommends that wheelchair elevators be classified into class II because the Panel believes that the electrical properties of the device must be controlled to avoid the potential hazard of bodily injury and strain in case of an electrical malfunction. The Panel believes that general controls will not provide sufficient control over this characteristic. The Panel believes that a performance standard will provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance.
4. *Summary of data on which the recommendation is based:* The Panel based its recommendation on the potential hazards associated with this device and on the Panel members' personal knowledge of, and familiarity with, the device.
5. *Risks to health:* Bodily injury: An electrical malfunction of the device or insufficient protection by the guardrails could result in strain or injury to the patient.

Proposed Classification

The Commissioner agrees with the Panel recommendation and is proposing that wheelchair elevators be classified into class II (performance standards). The Commissioner believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard will provide reasonable assurance of the safety and

effectiveness of the device. The Commissioner also believes that there is sufficient information to establish a standard for this device.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes to amend Part 890 in Subpart D by adding new § 890.3930, to read as follows:

§ 890.3930 Wheelchair elevator.

(a) *Identification.* A wheelchair elevator is a motorized lift device used by a disabled person to move a wheelchair from one level to another.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before October 29, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 14, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-26305 Filed 8-27-79; 8:45 am]

BILLING CODE 4110-03-M

[21 CFR Part 890]

[Docket No. 78N-1228]

Medical Devices; Classification of Wheelchair Platform Scales

AGENCY: Food and Drug Administration.
ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying wheelchair platform scales into class I (general controls). The FDA is also publishing the recommendation of the Physical Medicine Device Classification Panel that the device be classified into class II. The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device.

After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by October 29, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Johnnie W. Bailey, Bureau of Medical Devices (HFK-410), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7238.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the Federal Register provides background information concerning the development of the proposed regulation. The Physical Medicine Device Classification Panel, and FDA advisory committee, made the following recommendation regarding the classification of wheelchair platform scales:

1. Identification: A wheelchair platform scale is a device with a base designed to accommodate a wheelchair and is used to weigh a person who is confined to a wheelchair.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that wheelchair platform scales be classified into class II because the Panel believes that the measurement function of this device should be controlled to lessen the likelihood of misdiagnosis due to inaccurate measurement readings. The Panel believes that general controls would not provide sufficient control over this characteristic. The Panel believes that a performance standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and familiarity with, the device and on a review of the pertinent literature. Madorsky (Ref. 1) states that significant inaccuracies and inefficiencies in recording weights have occurred due to the varying sizes of wheelchairs, time of day, and different clothing weights. The inconsistencies as stated in the literature and

the possible diagnostic or prognostic use of the weight measured by the scale demands accuracy of the measurement function of the device.

5. Risks to health: Misdiagnosis: Inaccurate information may result if the measurement function is faulty.

Proposed Classification

The Commissioner disagrees with the Panel recommendation that wheelchair platform scales be classified into class II (performance standards). The Commissioner believes that general controls are sufficient to require that the degree of accuracy of a platform scale be described in labeling accompanying the device. Section 502 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 352) requires information under authority of this act to appear on the labeling and that the labeling be prominently placed on the device. Therefore, the Commissioner is proposing that wheelchair platform scales be classified into class I (general controls) with no exemptions. The Commissioner believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

References

The following information has been placed in the office of the Hearing Clerk (address above) and may be seen by interested persons, from 9 a.m. to 4 p.m., Monday through Friday.

1. Madorsky, A., "Weighing of Wheelchair-Bound Patients," *Archives of Physical Medicine and Rehabilitation*, 57:594, December 1976.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes to amend Part 890 in Subpart D by adding new § 890.3940, to read as follows:

§ 890.3940 Wheelchair platform scale.

(a) *Identification:* A wheelchair platform scale is a device with a base designed to accommodate a wheelchair and is used to weigh a person who is confined to a wheelchair.

(b) *Classification.* Class I (general controls).

Interested persons may, on or before October 29, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets

in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 14, 1979.

William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.

[FR Doc. 79-26306 Filed 8-27-79; 8:45 am]

BILLING CODE 4110-03-M

[21 CFR Part 890]

[Docket No. 78N-1229]

Medical Devices; Classification of Daily Activity Assist Devices

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying daily activity assist devices into class I (general controls). The FDA is also publishing the recommendation of the Physical Medicine Device Classification Panel that the device be classified into class I. The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by October 29, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Johnnie W. Bailey, Bureau of Medical Devices (HFK-410), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7238.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the Federal Register provides background information concerning the development of the proposed regulation. The Physical Medicine Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the

classification of daily activity assist devices:

1. Identification: Daily activity assist devices are modified adaptors and utensils (e.g., dressing, grooming, recreational activity, transfer, eating, and homemaking aids) that are used to assist a patient in performing a specific function.

2. Recommended classification: Class I (general controls). The Panel recommends that daily activity assist devices be exempt from registration, device listing, and premarket notification under section 510 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360), records and reports requirements under section 519 of the act (21 U.S.C. 360i), and the good manufacturing practice regulation under section 520(f) of the act (21 U.S.C. 360j(f)).

3. Summary of reasons for recommendation: The Panel recommends that daily activity assist devices be classified into class I and that manufacturers of these devices not be required to comply with registration, device listing, premarket notification, records and reports, or good manufacturing practice regulations, because they are simple devices that present no undue risks to health when used in a normal manner and for the purpose recommended. The Panel believes that general controls are sufficient to assure the safety and effectiveness of the devices.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and familiarity with, these devices.

5. Risks to health: None identified.

Proposed Classification

The Commissioner agrees with the Panel recommendation and is proposing that daily activity assist devices be classified into class I (general controls). The Commissioner believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the devices. In response to the Panel's recommendation that manufacturers of daily activity assist devices be exempt from section 510 of the act, FDA is proposing that these manufacturers be subject to registration and device listing under section 510 (a) through (j) of the act, but exempt from premarket notification under section 510(k) of the act and Subpart E of Part 807 of the regulations. Under section 510(g)(4) of the act, the agency may exempt a manufacturer from section 510 only if it finds that compliance with this section is not necessary for the protection of the public health. In the case of registration and listing by manufacturers of daily activity assist devices, the agency cannot make the required finding. To protect the public health, the agency needs to be able to identify the firms manufacturing these devices and to conduct necessary inspections. The agency has determined,

however, that it is not necessary for the protection of the public health that FDA receive premarket notification submissions concerning daily activity assist devices. The agency does not at this time anticipate that premarket approval will be required for these devices. The agency believes that the semiannual updating of device listing under section 510(j)(2) will provide FDA with adequate notice concerning new products within this generic type of device.

FDA disagrees with the Panel's recommendation that manufacturers of daily activity assist devices be exempt from records and reports regulations under section 519 of the act. The Records and reports requirements in several of FDA's present device regulations are authorized, wholly or in part, by section 519. The most extensive of these requirements are found in the device good manufacturing practice (GMP) regulation, published in the Federal Register of July 21, 1978 (43 FR 31508). In the future, FDA will publish other regulations under section 519, including regulations requiring reports to FDA of experience with medical devices. Until these regulations are issued, FDA believes that it cannot properly issue exemptions from them. In the future, whenever the agency proposes device regulations that include records and reports requirements, interested persons may submit comments requesting that certain classes of manufacturers or other persons be exempt from the requirements, and FDA will issue exemptions that are appropriate. The only type of exemption from records and reports requirements that FDA is proposing now, in device classification regulations, is an exemption of certain manufacturers from requirements of the device GMP regulation. The exemption will not extend to two device GMP requirements, § 820.180 (21 CFR 820.180), with respect to general requirements concerning records, and § 820.198 (21 CFR 820.198), with respect to complaint files.

In response to the Panel's recommendation that manufacturers of daily activity assist devices be exempt from the device GMP regulation under section 520(f) of the act, FDA is proposing that a manufacturer of these devices who does not label or otherwise represent them as sterile be exempt, in the manufacture of the devices, from all requirements in the GMP regulation except § 820.180 (21 CFR 820.180), with respect to general requirements concerning records, and § 820.198 (21 CFR 820.198), with respect to complaint

files. Based on available information about current practices used in the manufacture of the devices and user experience with the devices, the agency has determined that application of the GMP regulation, other than §§ 820.180 and 820.198, is unlikely to improve the safety and effectiveness of the devices. The agency believes, however, that manufacturers of daily activity assist devices, even when they are not labeled or otherwise represented as sterile, must still be required to comply with the complaint file requirements of § 820.198 to ensure that these manufacturers have adequate systems for complaint investigation and followup. The agency also believes that manufacturers of daily activity assist devices must still be required to comply with the general requirements concerning records in § 820.180 to ensure that FDA has access to complaint files, can investigate device-related injury reports and complaints about product defects, may determine whether the manufacturer's corrective actions are adequate, and may determine whether the exemption from other sections of the GMP regulation is still appropriate. A manufacturer of daily activity assist devices that are labeled or otherwise represented as sterile is, in the manufacture of these devices, subject to the GMP regulation in its entirety.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a)) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes to amend Part 890 by reserving Subpart E and adding new Subpart F and § 890.5050, to read as follows:

Subpart E [Reserved]

Subpart F—Physical Medicine Therapeutic Devices

§ 890.5050 Daily activity assist devices.

(a) *Identification.* Daily activity assist devices are modified adaptors and utensils (e.g., dressing, grooming, recreational activity, transfer, eating, and homemaking aids) that are used to assist a patient to perform a specific function.

(b) *Classification.* Class I (general controls). The devices are exempt from the premarket notification procedures in Subpart E of Part 807 of this chapter. If the devices are not labeled or otherwise represented as sterile, they also are exempt from the good manufacturing practice regulation in Part 820 of this chapter, with the exception of § 820.180, with respect to general requirements

concerning records, and § 820.198, with respect to complaint files.

Interested persons may, on or before October 29, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 14, 1979.

William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.

[FR Doc. 79-26307 Filed 8-27-79; 8:45 am]
BILLING CODE 4110-03-M

[21 CFR Part 890]

[Docket No. 78N-1230]

Medical Devices; Classification of Immersion Hydrobaths

AGENCY: Food and Drug Administration.
ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying immersion hydrobaths into class II (performance standards). The FDA is also publishing the recommendation of the Physical Medicine Device Classification Panel that the device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by October 29, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Johnnie W. Bailey, Bureau of Medical Devices (HFK-410), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia

Ave., Silver Spring, MD 20910, 301-427-7238.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the Federal Register provides background information concerning the development of the proposed regulation. The Physical Medicine Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of immersion hydrobaths:

1. Identification: An immersion hydrobath (e.g., whirlpool) consists of water agitators and may include a tub to be filled with water. The water temperature may be measured by a gauge. It is used in hydrotherapy to relieve pain and itching and as an aid in the healing process of inflamed and traumatized tissue, and it serves as a setting for removal of contaminated tissue.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a high priority.

3. Summary of reasons for recommendation: The Panel recommends that immersion hydrobaths be classified into class II because the Panel believes that a standard is necessary to control the electrical properties of this device to avoid the potential hazards of electrical shock. The Panel believes that the temperature control should be sufficiently accurate to prevent burns, and that the materials and design of the device should enable proper cleaning to prevent infection. The Panel believes that general controls would not provide sufficient control over these characteristics. The Panel believes that a performance standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the potential hazards associated with this device and on the Panel members' personal knowledge of, and familiarity with, the device.

5. Risks to health: (a) Electrical shock: Excessive leakage current could result in injury, or a malfunction of the device could result in electrical shock. (b) Thermal burns: A faulty temperature control could result in burns. (c) Bodily injury: If the surface of the device is slippery, the patient could sustain bodily injury by falling. (d) Infection: The accumulation of debris in drains and faucets could cause infection.

Proposed Classification

FDA agrees with the Panel recommendation and is proposing that immersion hydrobaths be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance

standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard to provide this assurance.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Foods and Drugs proposes to amend Part 890 in Subpart F by adding new § 890.5100, to read as follows:

§ 890.5100 Immersion hydrobath.

(a) *Identification.* An immersion hydrobath (e.g., whirlpool) consists of water agitators and may include a tub to be filled with water. The water temperature may be measured by a gauge. It is used in hydrotherapy to relieve pain and itching and as an aid in the healing process of inflamed and traumatized tissue, and it serves as a setting for removal of contaminated tissue.

(b) *Classification.* Class II (performance standard).

Interested persons may, on or before October 29, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 15, 1979.

William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.

[FR Doc. 79-26308 Filed 8-27-79; 8:45 am]
BILLING CODE 4110-03-M

[21 CFR Part 890]

[Docket No. 78N-1231]

Medical Devices; Classification of Paraffin Baths

AGENCY: Food and Drug Administration.
ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying paraffin baths into class II (performance standards). The FDA is also publishing the recommendation of the Physical Medicine Device

Classification Panel that the device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by October 29, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Johnnie W. Bailey, Bureau of Medical Devices (HFK-410), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7238.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the Federal Register provides background information concerning the development of the proposed regulation. The Physical Medicine Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of paraffin baths:

1. Identification: A paraffin bath is a metal tub to be filled with liquid paraffin (wax) maintained at an elevated temperature in which the appendages (e.g., hands or fingers) are placed to relieve pain and stiffness.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that paraffin baths be classified into class II because the Panel believes that the electrical properties of the device must be controlled to avoid the potential hazards of shock and burns to the operator and/or patient. The Panel believes that the temperature control should be sufficiently accurate to avoid an inappropriate temperature level that may cause burns. The Panel believes that general controls would not provide sufficient control over these characteristics. The Panel believes that a standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the potential hazards associated with this device and on the Panel

members' personal knowledge of, and familiarity with, the device.

5. Risks to health: (a) Electrical shock: Excessive leakage current could result in patient injury, or a malfunction of the device could result in electrical shock. (b) Burns: Hot wax burns to a patient may result from a faulty temperature control.

Proposed Classification

FDA agrees with the Panel recommendation and is proposing that paraffin baths be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard to provide this assurance.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs proposes to amend Part 890 in Subpart F by adding new § 890.5110, to read as follows:

§ 890.5110 Paraffin bath.

(a) *Identification.* A paraffin bath is a metal tub to be filled with liquid paraffin (wax) maintained at an elevated temperature in which the appendages (e.g., hands or fingers) are placed to relieve pain and stiffness.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before October 29, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 14, 1979.

William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.

[FR Doc. 79-26309 Filed 8-27-79; 8:45 am]
BILLING CODE 4110-03-M

[21 CFR Part 890]

[Docket No. 78N-1232]

Medical Devices; Classification of Nonpowered Sitz Baths

AGENCY: Food and Drug Administration.
ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying nonpowered sitz baths into class I (general controls). The FDA is also publishing the recommendation of the Physical Medicine Device Classification Panel and the Obstetrical and Gynecological Device Classification Panel that the device be classified into class I. The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by October 29, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Johnnie W. Bailey, Bureau of Medical Devices (HFK-410), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7238.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the Federal Register provides background information concerning the development of the proposed regulation. The Physical Medicine and the Obstetrical and Gynecological Device Classification Panel, FDA advisory committees, made the following recommendation with respect to the classification of nonpowered sitz baths:

1. Identification: A nonpowered sitz bath is a tub to be filled with water that is used in external hydrotherapy to relieve pain or pruritis and to accelerate the healing of inflamed or traumatized tissues of the perianal and perineal areas.

2. Recommended classification: Class I (general controls). The Panels recommend that there be no exemptions.

3. Summary of reasons for recommendation: The Panels recommend that this device be classified into class I (general controls) because this is a simple device that

presents no risks to health or undue hazards when used in a normal manner for the purpose recommended. The Panels believe that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

4. Summary of data on which the recommendation is based: The Panels based their recommendations on the Panel members' personal knowledge of, and familiarity with, this device.

5. Risks to health: None identified.

Proposed Classification

FDA agrees with the Panels' recommendation and is proposing that nonpowered sitz baths be classified into class I (general controls) with no exemptions because the agency believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs proposes to amend Part 890 in Subpart F by adding new § 890.5125, to read as follows:

§ 890.5125 Nonpowered sitz bath.

(a) *Identification.* A nonpowered sitz bath is a tub to be filled with water that is used in external hydrotherapy to relieve pain or pruritis and to accelerate the healing of inflamed or traumatized tissues of the perianal and perineal areas.

(b) *Classification.* Class I (general controls).

Interested persons may, on or before October 29, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 14, 1979.

William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.

[FR Doc. 79-26310 Filed 8-27-79; 8:45 am]

BILLING CODE 4110-03-M

[21 CFR Part 890]

[Docket No. 78N-1233]

Medical Devices; Classification of Powered Patient Transports

AGENCY: Food and Drug Administration.
ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying powered patient transports into class II (performance standards). The FDA is also publishing the recommendation of the Physical Medicine Device Classification Panel that the device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by October 29, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Johnnie W. Bailey, Bureau of Medical Devices (HFK-410), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7238.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the Federal Register provides background information concerning the development of the proposed regulation. The Physical Medicine Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of powered patient transports:

1. Identification: A powered patient transport is a motorized device used to assist patient transfers to and from the bath, beds, chairs, treatment modalities, transport vehicles, and up and down flights of stairs.
2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a high priority.
3. Summary of reasons for recommendation: The Panel recommends that

powered patient transports be classified into class II because the Panel believes that the electrical properties of this device must be controlled to avoid the potential hazard of electrical shock. The Panel also believes that the structural strength of this device should be controlled to prevent a potential injury hazard to the patient. The Panel believes that general controls would not provide sufficient control over these characteristics. The Panel believes that a standard will provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the potential hazards associated with this device and on the Panel members' personal knowledge of, and familiarity with, the device.

5. Risks to health: (a) Electrical shock: Excessive leakage current could result in injury, and malfunction of the device could result in electrical shock. (b) Bodily injury: Injury could result from the patient falling due to structural failure of the device.

Proposed Classification

FDA agrees with the Panel recommendation and is proposing that powered patient transports be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard to provide this assurance.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs proposes to amend Part 890 in Subpart F by adding new § 890.5150, to read as follows:

§ 890.5150 Powered patient transport.

(a) *Identification.* A powered patient transport is a motorized device used to assist patient transfers to and from the bath, beds, chairs, treatment modalities, transport vehicles, and up and down flights of stairs.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before October 29, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may

submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 14, 1979.

William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.

[FR Doc. 79-26311 Filed 8-27-79; 8:45 am]

BILLING CODE 4110-03-M

[21 CFR Part 890]

[Docket No. 78N-1234]

Medical Devices; Classification of Air-Fluidized Beds

AGENCY: Food and Drug Administration.
ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying air-fluidized beds into class II (performance standards). The FDA is also publishing the recommendation of the Physical Medicine Device Classification Panel that the device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by October 29, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Johnnie W. Bailey, Bureau of Medical Devices (HFK-410), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7238.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the Federal Register provides background information concerning the development of the proposed regulation. The Physical Medicine Device Classification Panel, an FDA advisory

committee, made the following recommendation regarding the classification of air-fluidized beds:

1. Identification: An air-fluidized bed is a device employing the circulation of filtered air through ceramic spherules (small round ceramic objects) to treat decubitus ulcers (bedsores), severe and extensive burns, and aid circulation.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that air-fluidized beds be classified into class II because the Panel believes that the electrical properties associated with the device must be controlled to prevent the potential hazard of electrical shock. The Panel believes that general controls would not provide sufficient control over this characteristic. The Panel believes that a standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the potential hazards associated with this device and on the Panel members' personal knowledge of, and familiarity with, the device and a review of the pertinent literature (Refs. 1 through 5). At the Panel meeting of March 18, 1975 (Ref. 1), the Physical Medicine Device Classification Panel recommended that the device be classified into class III (premarket approval) because the Panel at that time believed that there was the possibility of patient infection and that data were insufficient to write an adequate standard for efficacy. However, at the Panel meeting of March 21 through 22, 1976, Sharbaugh (Ref. 2) discussed data on the microbiological aspect of air-fluidized beds. He presented studies in which air-fluidized beds were contaminated with bacteria and fungi. The number of organisms steadily decreased with no fungi or bacteria remaining 24 hours following this initial higher level of contamination. Sharbaugh also stated that the nature of the beds protects the patient from any sudden temperature changes. Newsome et al. (Ref. 3) conducted a study using air-fluidized beds. The investigators concluded that this device "has proven to be a useful adjunct in the care of extensively burned patients." They found that decubitus ulcers did not form, and old ulcers healed, when the beds were used. The authors stated that patients found this bed more comfortable than conventional beds, in which the patient had to change positions frequently. Sharbaugh and Hargest (Ref. 4) and Sharbaugh, Hargest, and Wright (Ref. 5) stated that air-fluidized beds have been found to remain "uncontaminated" and "essentially bacteria-free." These studies demonstrate the efficacy of air-fluidized beds, and the Panel recommends a class II classification only to assure electrical safety.

5. Risks to health: Electrical shock: Excessive leakage current could result in injury, or a malfunction of the device could result in electrical shock.

Proposed Classification

FDA agrees with the Panel recommendation and is proposing that air-fluidized beds be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risk to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard to provide this assurance.

References

The following information has been placed in the office of the Hearing Clerk (address above) and may be seen by interested persons, from 9 a.m. to 4 p.m., Monday through Friday.

1. Summary Minutes of the Fourth Meeting of the Physical Medicine Device Classification Panel, March 18, 1975.
2. Sharbaugh, R. J., "Microbiological Aspects of the Air-Fluidized Bed," unpublished paper. Appendix A to Summary Minutes of the Seventh Meeting of the Physical Medicine Device Classification Panel, March 21 through 22, 1976.
3. Newsome, T. W., L. A. Johns, and M. A. Pruitt, "Use of an Air-Fluidized Bed in the Care of Patients with Extensive Burns," *The American Journal of Surgery*, 124:52-56, July 1972.
4. Sharbaugh, R. J. and T. S. Hargest, "Bactericidal Effect of the Air-Fluidized Bed," *The American Surgeon*, 37:583-586, September 1971.
5. Sharbaugh, R. J., T. S. Hargest, and F. A. Wright, "Further Studies on the Bactericidal Effect of the Air-Fluidized Bed," *The American Surgeon*, 39(5): 253-256, May 1973.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs proposes to amend Part 890 in Subpart F by adding new § 890.5160 as follows:

§ 890.5160 Air-fluidized bed.

(a) *Identification.* An air-fluidized bed is a device employing the circulation of filtered air through ceramic spherules (small, round ceramic objects) to treat decubitus ulcers (bedsores), severe and extensive burns, and aid circulation.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before October 29, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may

submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 14, 1979.
William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.
[FR Doc. 79-26312 Filed 8-27-79; 8:45 am]
BILLING CODE 4110-03-M

[21 CFR Part 890]

[Docket No. 78N-1235]

Medical Devices; Classification of Powered Flotation Therapy Beds

AGENCY: Food and Drug Administration.
ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying powered flotation therapy beds into class II (performance standards). The FDA is also publishing the recommendation of the Physical Medicine Device Classification Panel and the General Hospital and the Personal Use Device Classification Panel, that the device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by October 29, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Johnnie W. Bailey, Bureau of Medical Devices (HFK-410), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7238.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the Federal Register provides background information concerning the

development of the proposed regulation. The Physical Medicine Device Classification Panel and the General Hospital and the Personal Use Device Classification Panel, FDA advisory committees, made the following recommendation regarding the classification of powered flotation therapy beds:

1. Identification: A powered flotation therapy bed is a device that may have an electrically heated mattress and is designed to accommodate a large volume of constantly moving water, air, mud, or sand in its mattress. This device is used as an aid to nursing care for the acceleration of healing or prevention of decubitus ulcers (bedsores), for patients with severe or extensive burns, or to aid circulation.

2. Recommended classification: Class II (performance standards). The Physical Medicine Device Classification Panel recommends that establishing a performance standard for this device be a high priority. The General Hospital and Personal Use Device Classification Panel recommends that establishing a performance standard for this device be a medium priority.

3. Summary of reasons for recommendation: The Panels recommend that powered flotation therapy beds be classified into class II because the Panels believe that the electrical properties of the device must be controlled to avoid the potential hazard of electrical shock and to prevent injury to soft tissues. The Panels believe that general controls will not provide sufficient control over these characteristics. The Panels believe that a standard will provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance.

4. Summary of data on which the recommendation is based: The Panels based their recommendation on the potential hazards associated with this device, the Panels members' personal knowledge of, and familiarity with, the device, and a review of the pertinent literature. The literature supports the efficacy of flotation therapy for the treatment and prevention of decubitus ulcers (Refs. 1 and 2). Harper et al. (Ref. 2) state that flotation therapy used during a patient's stay in the hospital would be effective in preventing the formation of decubitus ulcers.

5. Risks to health: The Physical Medicine and the General Hospital and Personal Use Device Classification Panels identified the following risks to health: (a) Electrical shock: Excessive leakage current could result in injury, or a malfunction of the device could result in electrical shock. (b) Bodily injury: Soft tissue breakdown could result from electrical failure of the device and/or failure to turn the patient when necessary because of overreliance on the device by the therapist or nurse. The general nature of the device is conducive to over-reliance on its purported efficacy, and this could lead to bodily injury. The water in the mattress could leak onto the floor, resulting in a slippery surface, causing patients and/or personnel to slip or fall. (c)

Cross-infection: If it is improperly cleaned, the device could spread infection to patients.

Proposed Classification

FDA agrees with the Panels' recommendations and is proposing that powered flotation therapy beds be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard will provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard to provide such assurance.

References

The following information has been placed in the office of the Hearing Clerk (address above) and may be seen by interested persons, from 9 a.m. to 4 p.m., Monday through Friday.

1. Lewis, L., et al., "Treatment of Decubitus Ulcers by Use of a Water Mattress," *Archives of Physical Medicine and Rehabilitation*, 49:290-293, 1968.

2. Harper, P. J., et al., "Experience with A Flotation Unit for Prevention of Decubitus Ulcers," *Journal of the Medical Society*, 72(10):824-826, October 1975.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs proposes to amend Part 890 in Subpart F by adding new § 890.5170 as follows:

§ 890.5170 Powered flotation therapy bed.

(a) *Identification.* A powered flotation therapy bed is a device with a motorized bed that may have an electrically heated mattress and is designed to accommodate a large volume of constantly moving water, air, mud, or sand in its mattress. This device is used as an aid to nursing care, for the acceleration of healing or prevention of decubitus ulcers (bedsores), for patients with severe or extensive burns, or to aid circulation.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before October 29, 1979 submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document.

Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 14, 1979.

William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.
[FR Doc. 79-26313 Filed 8-27-79; 8:45 am]
BILLING CODE 4110-03-M

[21 CFR Part 890]

[Docket No. 78N-1236]

Medical Devices; Classification of Manual Patient Rotation Bed

AGENCY: Food and Drug Administration.
ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying manual patient rotation beds into class I (general controls). The FDA is also publishing the recommendation of the Physical Medicine Classification Panel that the device be classified into class I. The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by October 29, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Johnnie W. Bailey, Bureau of Medical Devices (HFK-410), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Avenue, Silver Spring, MD 20910, 301-427-7238.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the Federal Register provides background information concerning the development of the proposed regulation. The Physical Medicine Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of manual patient rotation beds:

1. Identification: A manual patient rotation bed is a device that turns a patient who is restrained to a reclining position. This manually operated bed is used to treat patients with severe and extensive burns or decubitus ulcers (bedsores), and to aid circulation.

2. Recommended classification: Class I (general controls). The Panel recommends that there be no exemptions.

3. Summary of reasons for recommendation: The Panel recommends that manual patient rotation beds be classified into class I because this is a simple device that presents no undue risks to health when used in a normal manner and for the purpose recommended. The Panel believes that general controls are sufficient to assure the safety and effectiveness of the device.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' knowledge of, and familiarity with, this device.

5. Risks to health: None identified.

Proposed Classification

FDA agrees with the Panel recommendation and is proposing that manual patient rotation beds be classified into class I (general controls), with no exemptions, because the agency believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs proposes to amend Part 890 in Subpart F by adding new § 890.5180, to read as follows:

§ 890.5180 Manual patient rotation bed.

(a) *Identification.* A manual patient rotation bed is a device that turns a patient who is restrained to a reclining position. This manually operated bed is used to treat patients with severe and extensive burns or decubitus ulcers (bedsores), and to aid circulation.

(b) *Classification.* Class I (general controls).

Interested persons may, on or before October 29, 1979 submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 20, 1979.

William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.
[FR Doc. 79-26314 Filed 8-27-79; 8:45 am]
BILLING CODE 4110-03-M

[21 CFR Part 890]

[Docket No. 78N-1237]

Medical Devices; Classification of Powered Patient Rotation Bed

AGENCY: Food and Drug Administration.
ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying powered patient rotation beds into class II (performance standards). The FDA is also publishing the recommendation of the Physical Medicine Device Classification Panel that the device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by October 29, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Johnnie W. Bailey, Bureau of Medical Devices (HFK-410), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7238.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the Federal Register provides background information concerning the development of the proposed regulation. The Physical Medicine Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of powered patient rotation beds:

1. Identification: A powered patient rotation bed is a device that turns a patient

who is restrained to a reclining position. It is used to treat patients with decubitus ulcers (bedsores), severe and extensive burns, and urinary tract blockage, and to aid circulation.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a high priority.

3. Summary of reasons for recommendation: The Panel recommends that powered patient rotation beds be classified into class II because the Panel believes that the electrical properties of the device must be controlled to avoid the potential hazard of electrical shock. The Panel believes that general controls would not provide sufficient control over this characteristic. The Panel believes that a standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the potential hazards associated with this device, and on the Panel members' personal knowledge of, and familiarity with, the device and a review of the pertinent literature (Refs. 1). Hilt and Schmitt (Ref. 2) describe the procedures to follow in using patient rotation beds. The authors support the use of this device in rehabilitation; however, they emphasize that "the bed should be maintained properly and the motor checked," and that it should be unplugged when the bed is not in use. Thus, the electrical properties of this device should be controlled to lessen the likelihood of malfunction and possible bodily injury to the patient and/or operator.

5. Risks to health: (a) Electrical shock: Excessive leakage current could result in injury, or a malfunction of the device could result in electrical shock. (b) Decubitus ulcers (bedsores): Decubitus ulcers or other injury to soft tissues may develop if there is overreliance by the therapist on the device. (c) Bodily injury: The patient may fall out of the bed if he or she is not stabilized or restrained properly.

Proposed Classification

FDA agrees with the Panel recommendation and is proposing that powered patient rotation beds be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes there is sufficient information to establish a performance standard to provide such assurance.

References

The following information has been placed in the office of the Hearing Clerk (address above) and may be seen by interested persons, from 9 a.m. to 4 p.m., Monday through Friday.

1. Hilt, N. E. and E. W. Schmitt, "Use of Special Beds in Nursing Care," in "Pediatric Orthopedic Nursing," C. V. Mosby Co., St. Louis, pp. 48-54, 1975.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs proposes to amend Part 890 in Subpart F by adding new § 890.5225, to read as follows:

§ 890.5225 Powered patient rotation bed.

(a) *Identification.* A powered patient rotation bed is a device that turns a patient who is restrained to a reclining position. It is used to treat patients with decubitus ulcers (bedsores), severe and extensive burns, and urinary tract blockage, and to aid circulation.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before October 29, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 14, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-28315 Filed 8-27-79; 9:45 am]

BILLING CODE 4110-03-M

[21 CFR Part 890]

[Docket No. 78N-1238]

Medical Devices; Classification of Moist Steam Cabinets

AGENCY: Food and Drug Administration.
ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying moist steam cabinets into class II (performance standards). The FDA is also publishing the recommendation of the Physical Medicine Device Classification Panel that the device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the

safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by October 29, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Johnnie W. Bailey, Bureau of Medical Devices (HFK-410), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Avenue, Silver Spring, MD 20910, 301-427-7238.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the Federal Register provides background information concerning the development of the proposed regulation. The Physical Medicine Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of moist steam cabinets:

1. Identification: A moist steam cabinet is a device that delivers a flow of heated, moisturized air to a patient in an enclosed unit to treat arthritis and fibrosis (a formation of fibrous tissue) and to increase local blood flow.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a high priority.

3. Summary of reasons for recommendation: The Panel recommends that moist steam cabinets be classified into class II because the Panel believes that the electrical properties of the device must be controlled to avoid the potential hazards of electrical shock and burns. The Panel believes that the temperature control should be sufficiently accurate to avoid burns. The Panel believes that general controls would not provide sufficient control over these characteristics. The Panel believes that a standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance.

4. Summary of data on which the recommendation is based: The Panel members based their recommendation on the potential hazards associated with this device and their personal knowledge of, and familiarity with, the device.

5. Risks to health: (a) Electrical shock: Excessive leakage current could result in injury or a malfunction of the device could

result in electrical shock. (b) Burns: Hot steam burns could result from a faulty temperature control.

Proposed Classification

FDA agrees with the Panel recommendation and is proposing that moist steam cabinets be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard to provide such assurance.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs proposes to amend Part 890 in Subpart F by adding new § 890.5250, to read as follows:

§ 890.5250 Moist steam cabinet.

(a) *Identification.* A moist steam cabinet is a device that delivers a flow of heated, moisturized air to a patient in an enclosed unit to treat arthritis and fibrosis (a formation of fibrous tissue) and to increase local blood flow.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before October 29, 1979 submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 14, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-28316 Filed 8-27-79; 9:45 am]

BILLING CODE 4110-03-M

[21 CFR Part 890]

[Docket No. 78N-1239]

Medical Devices; Classification of Microwave Diathermies

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying microwave diathermies into class II (performance standards) for use in applying therapeutic deep heat and into class III (premarket approval) for all other uses. The FDA is also publishing the recommendation of the Physical Medicine Device Classification Panel that the device be classified into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. The effect of classifying a device into class III is to provide for each manufacturer of the device to submit to FDA a premarket approval application at a date to be set in a future regulation. Each application includes information concerning safety and effectiveness tests of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by October 29, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Johnnie W. Bailey, Bureau of Medical Devices (HFK-410), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7238.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the Federal Register provides background information concerning the development of the proposed regulation. The Physical Medicine Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of microwave diathermies:

1. Identification: A microwave diathermy for use in applying therapeutic deep heat is a device that applies high-frequency energy at microwave frequencies (915 megahertz to 2450 megahertz) to specific areas of the body. Such tissue heating is used as adjunctive therapy for the relief of pain in medical conditions such as muscle spasms and joint contractures.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a high priority.

3. Summary of reasons for recommendation: The Panel recommends that microwave diathermies be classified into class II because the Panel believes that, even though more information is needed on microwave diathermy and its biologic effects, the development and application of standards based on the present level of information would improve the safety and effectiveness of the device by providing for electrical standards, minimal and maximal energy output control limits and adequate labeling. The Panel believes that general controls would not provide sufficient control over these characteristics. The Panel also believes that a performance standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a performance standard to provide such assurance. The Panel also recommends that these devices be restricted to use by or under the supervision of a physician.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the potential hazards associated with the device, on the Panel members' knowledge of and clinical experience with the device, and on a review of the pertinent literature (Refs. 1 through 4). Michaelson (Refs. 1 and 2) summarizes the physiologic effects of microwaves, the potential hazards of microwaves, and presents data on which proposed environmental safety standards are based. Guy et al. (Ref. 3) present estimates of power absorption and thermal measurements that suggest that beneficial physiologic responses occur with tissue temperature in the range of 40° C to 45° C. Krusen (Ref. 4) summarizes the background of therapeutic microwave diathermy applications, listing specific indications and contraindications. The Panel noted that the Bureau of Radiological Health of the FDA is preparing a proposed draft of a microwave safety standard for therapeutic devices and that the Federal Communications Commission has radiofrequency transmitting requirements for medical diathermy.

5. Risks to health: (a) Adverse tissue response: The devices may cause adverse tissue response that can result in possible cataract formation and central nervous system injury. (b) Electrical shock: Excessive leakage current from improper grounding or a device malfunction can lead to electrical shock. (c) Burns: Contact with uncovered parts of the body at the instrument output terminal or with cables and electrodes that are inadequately insulated may lead to burns.

Proposed Classification

FDA agrees with the Panel recommendation and is proposing that microwave diathermies be classified into class II (performance standards) for use in delivering therapeutic deep heat. The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health

presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Like the shortwave diathermy, which is the subject of a proposed classification regulation published elsewhere in this issue of the Federal Register, the microwave diathermy is used for therapeutic deep heat. It is also used for additional purposes for which it has not been shown to be safe and effective. Accordingly, although the Panel considered only one use for the microwave diathermy—the delivery of therapeutic deep heat—the agency believes that the device also should be classified with respect to all other intended uses. Therefore, the agency is proposing that microwave diathermy devices be classified into class III (premarket any use other than delivering therapeutic deep heat). The agency believes that microwave diathermy, when it is used for any purpose other than applying therapeutic deep heat, presents a potential unreasonable risk of injury without proven benefit to the patient because substantial data and clinical investigations do not exist to support these other claims. The agency believes that insufficient information exists to determine that general controls would provide reasonable assurance of the safety and effectiveness of the device when it is used for any purpose other than applying deep therapeutic heat, and that insufficient information exists to establish a performance standard to provide this assurance.

References

1. Michaelson, S. M., "Microwave Exposure Safety Standards—Physiologic and Philosophic Aspects," *American Industrial Hygiene Association*, 33(3):156, 1972.
2. Michaelson, S. M., "Human Exposure to Non-ionizing Radiant Energy, Potential Hazards and Safety Standards," *Proceedings IEEE*, 60(4):389-421, 1972.
3. Guy, A. W., J. F. Lehmann, and J. B. Stonebridge, "Therapeutic Applications of Electromagnetic Power," *Proceedings IEEE*, 62(1):55-75, 1974.
4. Krusen, F. H. (editor), "Handbook of Physical Medicine and Rehabilitation," W. B. Saunders Co., 2d Ed., 1971.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs proposes to amend Part 890 in Subpart F by adding new § 890.5275, to read as follows:

§ 890.5275 Microwave diathermy.

(a) *Microwave diathermy for use in applying therapeutic deep heat—(1) Identification.* A microwave diathermy for use in applying therapeutic deep heat is a device that applies high frequency energy at microwave frequencies (915 megahertz to 2450 megahertz) to specific areas of the body. Such tissue heating is used as adjunctive therapy for the relief of pain in medical conditions such as muscle spasms and joint contractures.

(2) *Classification.* Class II (performance standards).

(b) *Microwave diathermy for any use other than applying therapeutic deep heat—(1) Identification.* A microwave diathermy for any use other than applying therapeutic deep heat is a device that applies high frequency energy (915 megahertz to 2450 megahertz) to the body for any purpose other than applying therapeutic deep heat for the relief of pain.

(2) *Classification.* Class III (premarket approval).

Interested persons may, on or before October 29, 1979 submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 14, 1979.

William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.

(FR Doc. 79-26317 Filed 8-27-79; 8:45 am)
BILLING CODE 4110-03-M

[21 CFR Part 890]

[Docket No. 78N-1241]

Medical Devices; Classification of Shortwave Diathermies

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying short wave diathermies into class II (performance standards) for use in applying therapeutic deep heat and into class III (premarket approval) for all other uses. FDA is also publishing the recommendation of the Physical Medicine Device Classification Panel that shortwave diathermy (i.e., devices

claiming therapeutic effects through the heating of tissue) be classified into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. The effect of classifying a device into class III is to provide for each manufacturer of the device to submit to FDA a premarket approval application at a date to be set in a future regulation. Each application includes information concerning safety and effectiveness tests of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by October 29, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Johnnie W. Bailey, Bureau of Medical Devices (HFK-410), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Avenue, Silver Spring, MD 20910, 301-427-7238.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the Federal Register provides background information concerning the development of the proposed regulation. The Physical Medicine Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of shortwave diathermy:

1. Identification: A shortwave diathermy for use in applying therapeutic deep heat is a device that applies the electromagnetic energy of pulsed and/or continuous radiowaves in the radiofrequency bands of 13 megahertz to 27.12 megahertz to provide therapeutic deep heat in specific areas of the body. Such tissue heating is used as adjunctive therapy for the relief of pain in selected medical conditions such as muscle spasms and joint contractures.

2. Recommended classification: The Panel recommends that shortwave devices that are claimed to be capable of generating therapeutic heat in specific areas of the body be classified into class II (performance standards) and that establishing a performance standard for these devices be a high priority.

3. Summary of reasons for recommendation: The Panel recommends that

shortwave diathermy devices that produce an increase in internal body tissue temperature be classified into class II because the Panel believes that these devices have demonstrated therapeutic effectiveness. The Panel believes that, even though more information is needed on shortwave diathermy and its biological effects, the development and application of standards based on the present level of information would improve the safety and effectiveness of the device by providing for electrical standards, minimal and maximal energy output control limits, and adequate labeling. The Panel believes that general controls would not provide sufficient control over these characteristics. The Panel also believes that a performance standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a preliminary standard that would require periodic updating as data become available. The Panel also recommends that shortwave devices be restricted to use by or under the supervision of a physician.

4. Summary of data on which the recommendation is based: The Panel based its recommendations on the Panel members' professional knowledge of shortwave devices, a review of the literature, a report by the University of Washington's Department of Rehabilitation Medicine (Ref. 1), and a GAO report addressing the safety and effectiveness of diathermy (Ref. 2). Some of the Panel members have evaluated the clinical application of the devices and tested the performance of the equipment. These devices were discussed by the Panel members at the Panel and Subcommittee meetings of August 14 and 15, 1975, March 21 and 22, 1976, March 18, 1977, October 14, 1977, and March 17, 1978 (Refs. 3 through 7). It was stated that the therapeutic benefits of diathermy are related to a temperature rise (thermal effect) in the body tissues. (Ref. 3). The Panel recognizes that some shortwave devices cannot provide a sufficient increase in tissue temperature and thus are considered therapeutically ineffective. In particular, many of these ineffective devices have used pulsed radiofrequency outputs (Ref. 3). Diathermy is only used for its thermal effects, and the Panel could find no therapeutic value in the nonthermal effects of shortwave treatment (Ref. 4). The Panel noted that the Federal Communications Commission has radiofrequency transmitting requirements for medical diathermy that must be met.

5. Risks to health: (a) Cellular or tissue injury: Nonthermal biological effects of nonionizing radiation may cause cellular or tissue injury. (b) Pacemaker interference: The electromagnetic fields generated by the device may interfere with the circuitry of a cardiac pacemaker. (c) Tissue necrosis (death) and burns: Excessive energy deposition into the tissue may cause excessive heating that results in tissue damage. (d) Electrical shock: Excessive leakage current could result in injury, or a malfunction of the device could result in electrical shock.

Proposed Classification

FDA agrees with the Panel recommendation and is proposing that

shortwave diathermy devices be classified into class II (performance standards) for use in delivering therapeutic deep heat. The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

The Panel noted that the shortwave diathermy is capable of being, and has been offered for use for other than the thermal effects of diathermy. Accordingly, the agency is proposing that shortwave diathermy devices be classified into class III (premarket approval) for any use other than delivering therapeutic deep heat. The agency believes that shortwave diathermy, when it is used for any purpose other than applying therapeutic deep heat, presents a potential unreasonable risk of injury without proven benefit to the patient because substantial data and clinical investigations do not exist to support additional claims made. The agency believes that insufficient information exists to determine that general controls would provide reasonable assurance of the safety and effectiveness of the device when it is used for any purpose other than applying therapeutic deep heat, and that insufficient information exists to establish a performance standard to provide this assurance.

References

The following information has been placed in the office of the Hearing Clerk (address above) and may be seen by interested persons, from 9 a.m. to 4 p.m., Monday through Friday.

1. The Department of Rehabilitation Medicine, University of Washington, Report No. PB 243-747, Contract No. FDA 74-32, "Review of Evidence for Indications, Techniques of Application, Contraindications, Hazards, and Clinical Effectiveness for Shortwave Diathermy," University of Washington, Seattle, WA, 1974.
2. Food and Drug Administration, Department of Health, Education, and Welfare, "Stronger Measures Needed to Insure that Medical Diathermy Devices are Safe and Effective," A Report to the Senate Committee on Government Operations by the Comptroller General of the United States, Washington, DC, 1976.
3. Summary Minutes of the First Meeting of the Diathermy Subcommittee of the Physical Medicine Device Classification Panel, August 14-15, 1975.
4. Summary Minutes of the Seventh Meeting of the Physical Medicine Device Classification Panel, March 21-22, 1976.

5. Summary Minutes of the Second Meeting of the Electrotherapeutic Subcommittee of the Physical Medicine Device Classification Panel, March 18, 1977.

6. Summary Minutes of the Tenth Meeting of the Physical Medicine Device Classification Panel, October 14, 1977.

7. Summary Minutes of the Eleventh Meeting of the Physical Medicine Device Classification Panel, March 17, 1978.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs proposes to amend Part 890 in Subpart F by adding new § 890.5290, to read as follows:

§ 890.5290 Shortwave diathermy.

(a) *Shortwave diathermy for use in applying therapeutic deep heat—(1) Identification.* A shortwave diathermy for use in applying therapeutic deep heat is a device that applies the electromagnetic energy of pulsed and/or continuous radiowaves in the radiofrequency bands of 13 megahertz (MHz) to 27.12 MHz to provide therapeutic deep heat in specific areas of the body. Such tissue heating is used as adjunctive therapy for the relief of pain in selected medical conditions such as muscle spasms and joint contractures.

(2) *Classification.* Class II (performance standards).

(b) *Shortwave diathermy for any use other than applying therapeutic deep heat—(1) Identification.* A shortwave diathermy for any use other than applying therapeutic deep heat is a device that applies the electromagnetic energy of pulsed and/or continuous radiowaves in the radiofrequency bands of 13 megahertz to 27.12 megahertz to the body for any purpose other than applying therapeutic deep heat for the relief of pain.

(2) *Classification.* Class III (premarket approval).

Interested persons may, on or before October 29, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of any comments shall be submitted, except that individuals may submit one copy. Comments are to be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 14, 1979.
William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.
[FR Doc. 79-26318 Filed 8-27-79; 8:45 am]
BILLING CODE 4110-03-M

[21 CFR Part 890]

[Docket No. 78N-1242]

Medical Devices; Classification of Ultrasonic Diathermies

AGENCY: Food and Drug Administration.
ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying ultrasonic diathermies into class II (performance standards) for use in applying therapeutic deep heat and into class III for all other uses. The FDA is also publishing the recommendation of the Physical Medicine Device Classification Panel that the device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. The effect of classifying a device into class III is to provide for each manufacturer of the device to submit to FDA a premarket approval application at a date to be set in a future regulation. Each application includes information concerning safety and effectiveness tests of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by October 29, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Johnnie W. Bailey, Bureau of Medical Devices (HFK-410), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Avenue, Silver Spring, MD 20910, 301-427-7238.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in the issue of the Federal Register provides background information concerning the

development of the proposed regulation. The Physical Medicine Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of ultrasonic diathermies:

1. Identification: An ultrasonic diathermy for use in applying therapeutic deep heat is a device that applies ultrasonic energy at a frequency beyond 20,000 cycles per second to provide therapeutic deep heat in specific areas of the body. Such tissue heating is used as adjunctive therapy for the relief of pain in selected medical conditions such as muscle spasms and joint contractures.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a high priority.

3. Summary of reasons for recommendation: The Panel recommends that ultrasonic diathermies be classified into class II because the electrical current used to provide ultrasound should be controlled to prevent injury. The Panel believes that the measurement limitations inherent in the use of the device should be clearly specified by manufacturers in the device labeling. The Panel also recommends that the device be restricted to use by or under the supervision of a physician. The Panel believes that general controls would not provide sufficient control over these characteristics. The Panel believes that a performance standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a performance standard to provide such assurance.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the potential hazards associated with this device, on the Panel members' knowledge of, and experience with, the device, and on a review of the pertinent literature (Refs. 1 and 2). Lehmann (Ref. 1) stated that ultrasound has been found to be of established value in treating joint contractures, muscle spasms, and periarthritis (inflammation of tissue around the joints). Lehmann stated that ultrasound is a very powerful and effective heating agent but that there are contraindications for use of the device. If used improperly, ultrasound can cause cavitation (cellular destruction), resulting in possible irreversible damage. The Panel noted that the Bureau of Radiological Health of FDA has promulgated performance safety standards for ultrasonic therapeutic products (21 CFR 1050.10) and that the Federal Communications Commission has radio-frequency transmitting requirements for medical diathermy that must be met.

5. Risks to health: (a) Electrical shock: Faulty design or a malfunction of the device could result in electrical shock. (b) Burns: High current density over time could result in burns to tissues. (c) Inappropriate therapy: Inappropriate therapy could result from inaccurate measurement of applied energy. (d) Cavitation (cellular destruction): Inadequate uniform field distribution or lack of sufficient external pressure on the device applied to the skin could lead to tissue cavitation.

Proposed Classification

FDA agrees with the Panel recommendation and is proposing that ultrasonic diathermies be classified into class II (performance standards) for use in delivering therapeutic deep heat. The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard for this device.

Like the shortwave diathermy, which is the subject of a proposed classification regulation published elsewhere in this issue of the Federal Register, the ultrasonic diathermy is used for therapeutic deep heat. It is also used for additional purposes in which it has not been shown to be safe and effective. Accordingly, although the Panel considered only one use for the device—the delivery of therapeutic deep heat—the agency believes that the device should also be classified with respect to all other intended uses. Therefore, the agency is proposing that ultrasonic diathermy devices be classified into class III (premarket approval) for any use other than delivering therapeutic deep heat. The agency believes that ultrasonic diathermy, when it is used for any purpose other than applying therapeutic deep heat, presents a potential unreasonable risk of injury without proven benefit to the patient because substantial data and clinical investigations do not exist to support those other claims. The agency believes that insufficient information exists to determine that general controls would provide reasonable assurance of the safety and effectiveness of the device, when it is used for a purpose other than applying therapeutic deep heat, and that insufficient information exists to establish a performance standard to provide this assurance.

References

The following information has been placed in the office of the Hearing Clerk (address above) and may be seen by interested persons, from 9 a.m. to 4 p.m., Monday through Friday.

1. Lehmann, J. F., "Diathermy" in "Handbook of Physical Medicine and Rehabilitation," 2d Ed., Edited by Krusen, F. H., F. J. Kottke, and P. M. Ellwood, W. B. Saunders Co., Philadelphia, PA, pp. 297-321, 1971.

2. Rusk, H. A., "Principles of Physical Medicine," in "Rehabilitation Medicine," 4th

Ed., Edited by Taylor, E. J. and C. V. Mosby, St. Louis, MO, pp. 75-80, 1977.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs proposes to amend Part 890 in Subpart F by adding new § 890.5300, to read as follows:

§ 890.5300. Ultrasonic diathermy.

(a) *Ultrasonic diathermy for use in applying therapeutic deep heat—(1) Identification.* An ultrasonic diathermy for use in applying therapeutic deep heat is a device that applies ultrasonic energy at a frequency beyond 20,000 cycles per second to provide therapeutic deep heat in specific areas of the body. Such tissue heating is used as adjunctive therapy for the relief of pain in selected medical conditions such as muscle spasms and joint contractures.

(1) *Classification.* Class II (performance standards).

(b) *Ultrasonic diathermy for any use other than applying therapeutic deep heat—(1) Identification.* An Ultrasonic diathermy for any use other than applying therapeutic deep heat is a device that applies ultrasonic energy at a frequency beyond 20,000 cycles per second to the body for any purpose other than applying therapeutic deep heat for the relief of pain.

(2) *Classification.* Class III (premarket approval).

Interested persons may, on or before October 29, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 14, 1979.

William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.

[FR Doc. 79-26318 Filed 8-27-79; 8:45 am]
BILLING CODE 4110-03-M

[21 CFR Part 890]

[Docket No. 78N-1243]

Medical Devices; Classification of Exercise Components

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying exercise components into class I (general controls). The FDA is also publishing the recommendation of the Physical Medicine Device Classification Panel that these devices be classified into class I. The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by October 29, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Johnnie W. Bailey, Bureau of Medical Devices (HFK-410), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7238.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the Federal Register provides background information concerning the development of the proposed regulation. The Physical Medicine Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of exercise components:

1. Identification: An exercise component is a device that is used in conjunction with exercise equipment or with other forms of exercise. Examples of an exercise component include a weight, a dumbbell, a strap, and a hand mitt.

2. Recommended classification: Class I (general controls). The Panel recommends that exercise components be exempt from registration, device listing, and premarket notification regulations under section 510 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360), records and reports requirements under section 519 of the act (21 U.S.C. 360j), and good manufacturing practice regulations under section 520(f) of the act (21 U.S.C. 360j(f)).

3. Summary of reasons for recommendation: The Panel recommends that these devices be classified into class I and that manufacturers of these devices should

not be required to comply with registration, records and reports, or good manufacturing practice regulations because they are simple devices that present no undue risks to health when used in a normal manner for the purpose recommended. The Panel believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of these devices.

4. Summary of data on which the recommendation is based: The Panel members based their recommendation on their personal knowledge of, and familiarity with, these devices.

5. Risks to health: None identified.

Proposed Classification

The Commissioner agrees with the Panel recommendation and is proposing that exercise components be classified into class I (general controls). The Commissioner believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of these devices. In response to the Panel's recommendation that manufacturers of an exercise component be exempt from section 510 of the act, FDA is proposing that these manufacturers be subject to registration and device listing under section 510(a) through (j) of the act, but exempt from premarket notification under section 510(k) of the act and Subpart E of Part 807 of the regulations. Under section 510(g)(4) of the act, the agency may exempt a manufacturer from section 510 only if it finds that compliance with this section is not necessary for the protection of the public health. In the case of registration and listing by manufacturers of an exercise component, the agency cannot make the required finding. To protect the public health, the agency needs to be able to identify the firms manufacturing this device and to conduct necessary inspections. The agency has determined, however, that it is not necessary for the protection of the public health that FDA receive premarket notification submissions concerning an exercise component. The agency does not, at this time, anticipate that premarket approval will be required for this device. The agency believes that the semiannual updating of device listing under section 510(j)(2) will provide FDA with adequate notice concerning new products within this generic type of device.

FDA disagrees with the Panel's recommendation that manufacturers of an exercise component be exempt from records and reports regulations under section 519 of the act. The records and reports requirements in several of FDA's present device regulations are authorized, wholly or in part, by section 519. The most extensive of these requirements are found in the device

good manufacturing practice (GMP) regulation, published in the Federal Register of July 21, 1978 (43 FR 31508). In the future, FDA will publish other regulations under section 519, including regulations requiring reports to FDA of experience with medical devices. Until these regulations are issued, FDA believes that it cannot properly issue exemptions from them. In the future, whenever the agency proposes device regulations that include records and reports requirements, interested persons may submit comments requesting that certain classes of manufacturers or other persons be exempt from the requirements, and FDA will issue exemptions that are appropriate. The only type of exemption from records and reports requirements that FDA is proposing now, in device classification regulations, is an exemption of certain manufacturers from requirements of the device GMP regulation. The exemption will not extend to two device GMP requirements, § 820.180 (21 CFR 820.180), with respect to general requirements concerning records, and § 820.198 (21 CFR 820.198), with respect to complaint files.

In response to the Panel's recommendation that manufacturers of an exercise component be exempt from the device GMP regulation under section 520(f) of the act, FDA is proposing that a manufacturer of this device be exempt, in the manufacture of the device, from all requirements in the GMP regulation except § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files. Based on available information about current practices used in the manufacture of the device and user experience with the device, the agency has determined that application of the GMP regulation, other than §§ 820.180 and 820.198, is unlikely to improve the safety and effectiveness of the device. The agency believes, however, that manufacturers of an exercise component must still be required to comply with the complaint file requirements of § 820.198 to ensure that these manufacturers have adequate systems for complaint investigation and followup. The agency also believes that manufacturers of an exercise component must still be required to comply with the general requirements concerning records in § 820.180 to ensure that FDA has access to complaint files, can investigate device-related injury reports and complaints about product defects, may determine whether the manufacturer's corrective actions are adequate, and may determine whether the exemption

from other sections of the GMP regulation is still appropriate.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes to amend Part 890 in Subpart F by adding new § 890.5350, to read as follows:

§ 890.5350 Exercise component.

(a) *Identification.* An exercise component is a device that is used in conjunction with exercise equipment or with other forms of exercise. Examples of an exercise component include a weight, a dumbbell, a strap, and a hand mitt.

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in Subpart E of Part 807 of this chapter. The device also is exempt from the good manufacturing practice regulation in Part 820 of this chapter, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

Interested persons may, on or before October 29, 1979 submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 14, 1979.

William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.

[FR Doc. 79-26320 Filed 8-27-79; 8:45 am]

BILLING CODE 4110-03-M

[21 CFR Part 890]

[Docket No. 78N-1244]

Medical Devices; Classification of Measuring Exercise Equipment

AGENCY: Food and Drug Administration.
ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying measuring exercise equipment into class II (performance standards). The FDA is also publishing the recommendation of the Physical

Medicine Device Classification Panel that these devices be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by October 29, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Johnnie W. Bailey, Bureau of Medical Devices (HFK-410), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Avenue, Silver Spring, MD 20910, 301-427-7238.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the Federal Register provides background information concerning the development of the proposed regulation. The Physical Medicine Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of measuring exercise equipment:

1. *Identification:* Measuring exercise equipment consists of manual devices used to redevelop muscles, restore motion to joints, and provide general conditioning. These devices display, by means of a gauge, the amount of exercise performed. Examples of measuring exercise equipment are the therapeutic exercise bicycle, the manually propelled treadmill, and the rowing machine.

2. *Recommended classification:* Class II (performance standards). The Panel recommends that establishing a performance standard for these devices be a low priority.

3. *Summary of reasons for recommendation:* The Panel recommends that measuring exercise equipment be classified into class II because the devices perform measurement functions that indicate the strength or endurance of a patient. Accurate exercise measurements are necessary for the proper diagnosis and prognosis of a patient's condition, the development of the correct treatment regimen, and the therapeutic evaluation of a patient's progress. The Panel believes that general controls would not provide sufficient control over this characteristic. The Panel believes that a standard would provide reasonable

assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance. The Panel also recommends that the measurement limitations inherent in the use of these devices should be clearly specified in the labeling.

4. *Summary of data on which the recommendation is based:* The Panel members based their recommendation on the potential hazards associated with these devices and their personal knowledge of, and familiarity with, the devices.

5. *Risks to health:* Inappropriate therapy: Inaccurate determination of the patient's strength or endurance due to a faulty measurement gauge could lead to inappropriate therapy.

Proposed Classification

FDA agrees with the Panel recommendation and is proposing that measuring exercise equipment be classified into class II (performance standards). The agency believes that a performance standard is necessary for these devices because general controls alone are insufficient to control the risks to health presented by these devices. A performance standard would provide reasonable assurance of the safety and effectiveness of the devices. The agency also believes there is sufficient information to establish a standard to provide such assurance.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs proposes to amend Part 890 in Subpart F by adding new § 890.5360, to read as follows:

§ 890.5360 Measuring exercise equipment.

(a) *Identification.* Measuring exercise equipment consists of manual devices used to redevelop muscles, restore motion to joints, and provide general conditioning. These devices display, by means of a gauge, the amount of exercise performed. Examples of measuring exercise equipment are the therapeutic exercise bicycle, the manually propelled treadmill, and the rowing machine.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before October 29, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the Hearing Clerk docket number found in brackets in the heading

of this document. Received comments may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 14, 1979.

William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.

[FR Doc. 79-26321 Filed 8-27-79; 8:45 am]

BILLING CODE 4110-03-M

[21 CFR Part 890]

[Docket No. 78N-1245]

Medical Devices; Classification of Nonmeasuring Exercise Equipment

AGENCY: Food and Drug Administration.
ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying nonmeasuring exercise equipment into class I (general controls). The FDA is also publishing the recommendation of the Physical Medicine Device Classification Panel that the device be classified into class I. The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by October 29, 1979. The Commissioner of Food and Drugs proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Johnnie W. Bailey, Bureau of Medical Devices (HFK-410), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7238.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the Federal Register provides background information concerning the development of the proposed regulation. The Physical Medicine Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the

classification of nonmeasuring exercise equipment:

1. *Identification:* Nonmeasuring exercise equipment consists of devices used to redevelop muscles, restore motion to joints, and provide general physical conditioning. Examples of nonmeasuring exercise equipment are prone scooter boards, parallel bars, mechanical treadmills, and exercise tables.

2. *Recommended classification:* Class I (general controls). The Panel recommends that nonmeasuring exercise equipment be exempt from registration under section 510 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360), records and reports under section 519 of the act (21 U.S.C. 360j), and good manufacturing practice regulation under section 520(f) of the act (21 U.S.C. 360(f)).

3. *Summary of reasons for recommendation:* The Panel recommends that these devices be classified into class I and that the manufacturers of these devices not be required to comply with registration, records and reports, or good manufacturing practice regulations because these are simple devices that present no undue risks to health when used in a normal manner and for the purposes recommended. The Panel believes that general controls are sufficient to assure the safety and effectiveness of the devices.

4. *Summary of data on which the recommendation is based:* The Panel members based their recommendation on their personal knowledge of, and familiarity with, these devices.

5. *Risks to health:* None identified.

Proposed Classification

The Commissioner agrees with the Panel recommendation and is proposing that nonmeasuring exercise equipment be classified into class I (general controls). The Commissioner believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the devices. In response to the Panel's recommendation that manufacturers of nonmeasuring exercise equipment be exempt from section 510 of the act, FDA is proposing that these manufacturers be subject to registration and device listing under section 510(a) through (j) of the act, but exempt from premarket notification under section 510(k) of the act and Subpart E of Part 807 of the regulations. Under section 510(g)(4) of the act, the agency may exempt a manufacturer from section 510 only if it finds that compliance with this section is not necessary for the protection of the public health. In the case of registration and listing by manufacturers of nonmeasuring exercise equipment, the agency cannot make the required finding. To protect the public health, the agency needs to be able to identify the firms manufacturing these devices and to conduct necessary inspections. The agency has determined, however, that it is not necessary for the protection of the

public health that FDA receive premarket notification submissions concerning nonmeasuring exercise equipment. The agency does not, at this time, anticipate that premarket approval will be required for these devices. The agency believes that the semiannual updating of device listing under section 510(j)(2) will provide FDA with adequate notice concerning new products within this generic type of device.

FDA disagrees with the Panel's recommendation that manufacturers of nonmeasuring exercise equipment be exempt from records and reports regulations under section 519 of the act. The records and reports requirements in several of FDA's present device regulations are authorized, wholly or in part, by section 519. The most extensive of these requirements are found in the device good manufacturing practice (GMP) regulation, published in the Federal Register of July 21, 1978 (43 FR 31508). In the future, FDA will publish other regulations under section 519, including regulations requiring reports to FDA of experience with medical devices. Until these regulations are issued, FDA believes that it cannot properly issue exemptions from them. In the future, whenever the agency proposes device regulations that include records and reports requirements, interested persons may submit comments requesting that certain classes of manufacturers or other persons be exempt from the requirements, and FDA will issue exemptions that are appropriate. The only type of exemption from records and reports requirements that FDA is proposing now, in device classification regulations, is an exemption of certain manufacturers from requirements of the device GMP regulation. The exemption will not extend to two device GMP requirements, § 820.180 (21 CFR 820.180), with respect to general requirements concerning records, and § 820.198 (21 CFR 820.198), with respect to complaint files.

In response to the Panel's recommendation that manufacturers of nonmeasuring exercise equipment be exempt from the device GMP regulation under section 520(f) of the act, FDA is proposing that a manufacturer of these devices be exempt, in the manufacture of the devices, from all requirements in the GMP regulation except § 820.180 (21 CFR 820.180), with respect to general requirements concerning records, and § 820.198 (21 CFR 820.198), with respect to complaint files. Based on available information about current practices used in the manufacture of the devices and user experience with the devices, the

agency has determined that application of the GMP regulation, other than §§ 820.180 and 820.198, is unlikely to improve the safety and effectiveness of the devices. The agency believes, however, that manufacturers of nonmeasuring exercise equipment must still be required to comply with the complaint file requirements of § 820.198 to ensure that these manufacturers have adequate systems for complaint investigation and followup. The agency also believes that manufacturers of nonmeasuring exercise equipment must still be required to comply with the general requirements concerning records in § 820.180 to ensure that FDA has access to complaint files, can investigate a device-related injury reports and complaints about product defects, may determine whether the manufacturer's corrective actions are adequate, and may determine whether the exemption from other sections of the GMP regulation is still appropriate.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes to amend Part 890 in Subpart F by adding new § 890.5370, to read as follows:

§ 890.5370 Nonmeasuring exercise equipment.

(a) *Identification.* Nonmeasuring exercise equipment consists of devices used to redevelop muscles, restore motion to joints, and provide general physical conditioning. Examples of nonmeasuring exercise equipment are prone scooter boards, parallel bars, mechanical treadmills, and exercise tables.

(b) *Classification.* Class I (general controls). The devices are exempt from the premarket notification procedures in Subpart E of Part 807 of this chapter. The devices also are exempt from the good manufacturing practice regulation in Part 820 of this chapter, with the exception of § 820.180, with respect to general requirements concerning records, and § 820.198, with respect to complaint files.

Interested persons may, on or before October 29, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the

above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 14, 1979.

William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.

[FR Doc. 79-28322 Filed 8-27-79; 8:45 am]
BILLING CODE 4110-03-M

[21 CFR Part 890]

[Docket No. 78N-1246]

**Medical Devices; Classification of
Powered Exercise Equipment**

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying powered exercise equipment into class II (performance standards). The FDA is also publishing the recommendation of the Physical Medicine Device Classification Panel and the Anesthesiology Device Classification Panel that the devices be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by October 29, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Johnnie W. Bailey, Bureau of Medical Devices (HFK-410), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7238.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the Federal Register provides background information concerning the development of the proposed regulation. The Physical Medicine Device Classification Panel and the Anesthesiology Device Classification Panel, FDA advisory committees, made the following recommendation regarding

the classification of powered exercise equipment:

1. *Identification:* Powered exercise equipment consists of motorized devices used to redevelop muscles, restore motion to joints, and provide general physical conditioning. Examples of powered exercise equipment are the powered treadmill, the powered bicycle, and powered parallel bars.

2. *Recommended classification:* The Physical Medicine Device Classification Panel and the Anesthesiology Device Classification Panel recommend that powered exercise equipment be classified into class II (performance standards). The Panels recommend that establishing a performance standard for this device be a low priority.

3. *Summary of reasons for recommendation:* The Panels recommend that powered exercise equipment be classified into class II because the Panels believe that the electrical properties of these devices must be controlled to avoid the potential hazards of electrical shock and burns. Powered exercise equipment provide a measurement function, and the Physical Medicine Device Classification Panel believes that the measurement limitations of these devices should be clearly specified by the manufacturers of the devices. The Anesthesiology Device Classification Panel believes that the design and materials of these devices must be controlled to assure that there are adequate mechanical safety features to prevent bodily injury to the patient. The Panels believe that general controls would not provide sufficient control over these characteristics. The Panels believe that a standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance.

4. *Summary of data on which the recommendation is based:* The Panels based their recommendation on the potential hazards associated with these devices and the Panel members' personal knowledge of, and familiarity with, the devices.

5. *Risks to health:* The Physical Medicine Device Classification Panel and the Anesthesiology Device Classification Panel identified the following risks to health: (a) Electrical shock: Excessive leakage current could result in injury, or a malfunction of the device could result in electrical shock. (b) Misdiagnosis or inappropriate therapy: Misdiagnosis or inappropriate therapy could result from faulty gauges causing inaccurate measurements. (c) Bodily injury: Sudden starts or stops of the device, or lack of mechanical safety features, may result in bodily injury.

Proposed Classification

FDA agrees with the Panels' recommendation and is proposing that powered exercise equipment be classified into class II (performance standards). The agency believes that a performance standard is necessary for these devices because general controls alone are insufficient to control the risks to health presented by these devices. A

performance standard would provide reasonable assurance of the safety and effectiveness of the devices. The agency also believes that there is sufficient information to establish a performance standard to provide such assurance.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs proposes to amend Part 890 in Subpart F by adding new § 890.5380, to read as follows:

§ 890.5380 Powered exercise equipment.

(a) *Identification.* Powered exercise equipment consists of motorized devices used to redevelop muscles, restore motion to joints, and provide general physical conditioning. Examples of powered exercise equipment are the powered treadmill, the powered bicycle, and powered parallel bars.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before October 29, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 14, 1979.

William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.

[FR Doc. 79-28323 Filed 8-27-79; 8:45 am]
BILLING CODE 4110-03-M

[21 CFR Part 890]

[Docket No. 78N-1248]

**Medical Devices; Classification of
Infrared Lamps**

AGENCY: Food and Drug Administration.
ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public summary a proposed regulation classifying infrared lamps into class II (performance standards). The FDA is also publishing the recommendation of the Physical Medicine Device Classification Panel that the device be classified into class II and of the General Hospital and Personal Use

Device Classification Panel that the device be classified into class I. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. The effect of classifying a device into class I (general controls) is to require that the device meet only the general controls applicable to all devices. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by October 29, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 56 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Johnnie W. Bailey, Bureau of Medical Devices (HFK-410), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7238.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the Federal Register provides background information concerning the development of the proposed regulation. The Physical Medicine Device Classification Panel and the General Hospital and Personal Use Device Classification Panel, FDA advisory committees, made the following recommendations regarding the classification of infrared lamps:

1. *Identification:* An infrared lamp is a device used to provide topical heating for therapeutic purposes by means of either a tungsten or carbon filament heated to emit a high level of incandescence (approximately 10,000 angstroms) or a solid rod or resistance wire heated to red heat (approximately 20,000 to 40,000 angstroms).

2. *Recommended classification:* The Physical Medicine Device Classification Panel recommends that this device be classified into class II (performance standards), and that establishing a performance standard for this device be a low priority. The General Hospital and Personal Use Device Classification Panel recommends that this device be classified into class I (general controls) with no exemptions.

3. *Summary of reasons for recommendation:* The Physical Medicine Device Classification Panel recommends that infrared lamps be classified into class II because the Panel believes that the electrical properties of the device must be controlled to

avoid the potential hazard of electrical shock. The Panel believes that the radiant intensity of this device must be controlled to avoid pain, blistering, burns, and/or heatstroke caused by overexposure. The desired radiant intensity of this device, as stated by Stoner (Ref. 1) is 0.07 to 0.49 watts/cm² to produce hyperemia (increased local blood flow) during a 1-minute to 20-minute exposure. An increased intensity, with a 3-minute exposure, results in pain and blistering. The Panel also recommends the need for a warning to read "when used therapeutically consult your physician or therapist." The Panel believes that general controls would not provide sufficient control over these characteristics. The Panel believes that a standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance. The General Hospital and Personal Use Device Classification Panel recommends that infrared lamps be classified into class I because the Panel believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of this device.

4. Summary of data on which the recommendation is based: The Physical Medicine Device Classification Panel based its recommendation on the potential hazards associated with this device, the Panel members' personal knowledge of, and familiarity with, the device, and a review of the pertinent literature (Ref. 1). Stoner (Ref. 1) stated that "exposure to infrared and luminous radiation produces superficial hyperemia, sweating, counterirritation and relaxation of muscles." The author further states that "blistering, burns and heatstroke" may be caused by an "overdosage of infrared radiation." The General Hospital and Personal Use Device Classification Panel based its recommendation on the Panel members' personal knowledge of, and familiarity with, the device.

5. Risks to health: The Physical Medicine Device Classification Panel and the General Hospital and Personal Use Device Classification Panel identified the following risks to health: (a) Contact burns: Contact burns could result from an unprotected heat element. (b) Radiation burns: Overexposure could lead to radiation burns. (c) Electrical shock: Excessive leakage current could result in injury, or a malfunction of the device could result in electrical shock. The General Hospital and Personal Use Device Classification Panel identified the following additional risk to health: (d) Glass cuts: Bursting of the lamp due to liquid contact with the lamp could result in glass cuts.

Proposed Classification

FDA agrees with the Physical Medicine Device Classification Panel and is proposing that infrared lamps be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A

performance standard would provide reasonable assurance of the safety and effectiveness of the device. The Commissioner also believes that there is sufficient information to establish a performance standard to provide such assurance.

FDA disagrees with the General Hospital and Personal Use Device Classification Panel recommendation that infrared lamps be classified into class I (general controls). The agency believes that the device presents a risk to health and that the device should be subject to performance standards.

References

The following information has been placed in the office of the Hearing Clerk (address above) and may be seen by interested persons, from 9 a.m. to 4 p.m., Monday through Friday.

1. Stoner, E. K., "Luminous and Infrared Heating," in "Therapeutic Heat and Cold," 2d Ed., Edited by Licht, S., Waverly Press, Inc., Baltimore, MD, pp. 252-265, 1965.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs proposes to amend Part 890 in Subpart F by adding new § 890.5500, to read as follows:

§ 890.5500 Infrared lamp.

(a) *Identification.* An infrared lamp is a device used to provide topical heating for therapeutic purposes by means of either a tungsten or carbon filament heated to emit a high level of incandescence (approximately 10,000 angstroms) or a solid rod or resistance wire heated to red heat (approximately 20,000 to 40,000 angstroms).

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before October 29, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 14, 1979.

William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.

[FR Doc. 79-26324 Filed 8-27-79; 8:46 am]

BILLING CODE 4110-03-M

[21 CFR Part 890]

[Docket No. 78N-1249]

Medical Devices; Classification of Iontophoresis Devices

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying iontophoresis devices for the specialized uses (for the diagnosis of cystic fibrosis, and for fluoride uptake acceleration in dentistry, and for local anesthesia of the intact tympanic membrane) into class II (performance standards) and for all other uses into class III. The FDA is also publishing the recommendation of the Physical Medicine Device Classification Panel and the Ear, Nose, and Throat Device Classification Panel that the device be classified into class II and the recommendation of the Dental Device Classification Panel that the device be classified into class I for fluoride uptake acceleration. The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. The effect of classifying a device into class III is to provide for each manufacturer of the device to submit to FDA a premarket approval application at a date to be set in a future regulation. Each application includes information concerning safety and effectiveness tests of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by October 29, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

Johnsie W. Bailey, Bureau of Medical Devices (HFK-410), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7238.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the Federal Register provides background information concerning the development of the proposed regulation. The Physical Medicine Device Classification Panel, the Ear, Nose, and Throat Device Classification Panel and the Dental Device Classification Panel, FDA advisory committees, made the following recommendation regarding the classification of iontophoresis devices:

1. Identification: An iontophoresis device is a device used to introduce ions of soluble salts (i.e., medications), by use of a direct current, into the tissues of the body for therapeutic or diagnostic purposes. An iontophoresis device for the diagnosis of cystic fibrosis is a device that induces sweating by the introduction of pilocarpine through the use of a direct current. The sweat is collected and its composition and weight are used in the diagnosis of cystic fibrosis. An iontophoresis device for dental application of fluoride is a device used to accelerate the introduction (diffusion) of fluoride ions into tooth structures to reduce hypersensitivity and for fluoride uptake in cavity prevention. An iontophoresis device for the local anesthetizing of the intact tympanic membrane is a device used to induce ions of lidocaine and epinephrine into the tympanic membrane of the ear to cause an anesthetizing effect.

2. Recommended classification: The Physical Medicine Device Classification Panel recommends that iontophoresis devices be classified into class II and that establishing a performance standard for this device be a high priority. The Ear, Nose, and Throat Device Classification Panel recommends that iontophoresis devices be classified into class II and that establishing a performance standard for this device be a high priority. The Dental Device Classification Panel recommends that this device be classified into class I and that it be exempt from premarket notification under section 510(k) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360), records and reports under section 519 of the act (21 U.S.C. 360i), and good manufacturing practice (GMP) regulations under section 520(f) of the act (21 U.S.C. 360(f)).

3. Summary of reasons for recommendation: The Physical Medicine Device Classification Panel recommends that iontophoresis devices be classified into class II because the Panel believes that the electrical current, which is applied to deliver ions through the skin, should be controlled to prevent injury. The Panel also believes that the measurement limitations inherent in the use of the device should be clearly specified

by manufacturers in the device labeling. The Ear, Nose, and Throat Device Classification Panel recommends that iontophoresis devices be classified into class II because the Panel believes that the design and materials of the electrode must be controlled to prevent trauma to the patient. The Panels believe that general controls would not provide sufficient control over these characteristics. The Panels believe that a standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance. The Dental Device Classification Panel recommends that this device be classified into class I and that manufacturers of this device not be required to comply with premarket notifications, records and reports, or GMP regulations because the Panel believes that the electrical voltage is low and the direct current involved is sufficiently small not to be of danger to the patient. The Dental Device Classification Panel believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

4. Summary of data on which the recommendation is based: The Physical Medicine Device Classification Panel considered only the device and not the safe and effective use of the drug used with the device in making its classification recommendation. The Panel based its recommendation on the potential hazards associated with this device, the Panel members' personal knowledge of, and familiarity with, the device, and a review of the pertinent literature (Ref. 1). Harris (Ref. 1) describes the techniques used in iontophoresis for various indications. He states that "iontophoresis has been widely used in clinical practice for many years," and it is of "theoretical and practical value." Harris states, however, that more controlled studies should be conducted to produce therapeutic applications that are soundly based on clinical studies. The Ear, Nose, and Throat Device Classification Panel based its recommendation on the potential hazards associated with this device and the Panel members' personal knowledge of, and familiarity with, the device and a presentation by Dr. Robert Brummett (Ref. 2). At the Panel meeting of November 6 and 7, 1978, Dr. Brummett (Ref. 2) discussed the use of iontophoresis in the anesthetizing process of the tympanic membrane. He summarized various studies (Refs. 8 through 12) and concluded that "the procedure of inducing anesthesia of the tympanic membrane by use of iontophoresis and the appropriate drug is safe and satisfactory." The Dental Device Classification Panel based its recommendation on the Panel members' personal knowledge of, and familiarity with, this device and on its history of use in dentistry without significant problems.

5. Risks to health: The Physical Medicine Device Classification Panel identified the following risks to health:

(a) Electrical shock: Excessive leakage current could result in injury, or a malfunction of the device could result in electrical shock. (b) Burns: High current densities in tissue over time could result in burns. (c) Cardiac arrest: Cardiac arrest may

be caused by an excessive electrical current passing through the heart. (d) Inappropriate therapy: Inappropriate therapy could result from inaccurate current measurement function. The Ear, Nose, and Throat Device Classification Panel identified the following risks to health: (a) Trauma: Trauma to the ear may be caused by the use of an improperly designed electrode. (b) Bodily injury: Bodily injury may be caused by the use of an inappropriate drug or use of the procedure with a perforated tympanic membrane. The Dental Device Classification Panel identified no risks to health.

Proposed Classification

FDA agrees with the recommendation of the Ear, Nose, and Throat Device Classification Panel and in part with the recommendation of the Physical Medicine Device Classification Panel, and is proposing that iontophoresis devices be classified into class II (performance standards) for use in the diagnosis of cystic fibrosis, in accelerating fluoride introduction to the teeth, and for local anesthesia of the intact tympanic membrane. The agency disagrees with the Dental Device Classification Panel recommendation that iontophoresis devices for fluoride uptake acceleration be classified into class I (general controls). The agency believes that the device presents the risk of electrical shock and that the measurement limitations inherent in the use of the device should be controlled. The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device.

The agency also believes that there is sufficient information to establish a standard to provide reasonable assurance of the safety and effectiveness of the device for use in the diagnosis of cystic fibrosis, in accelerating fluoride introduction to the teeth in dentistry, and for local anesthesia of the intact tympanic membrane. The agency has reviewed the pertinent available literature on iontophoresis (Refs. 1 through 14). Harris (Ref. 1) states that "many forms of iontophoresis have no other value other than as simple counter-irritants or as psychotherapeutic measures." There is a lack of scientific data supporting the use of iontophoresis for any of the claims being made, and Harris states that "therapeutic applications are not based soundly on clinical experiments Subcutaneous injection of drugs is quicker, more reliable and more exact and is usually to be preferred." Stillwell (Ref. 3) contends that the therapeutic

value of iontophoresis is limited, and the disadvantages "include the difficulty of estimating the dosage of the drug and, particularly of estimating how much of the drug may act systemically." Limited uses (for the diagnosis of cystic fibrosis, for fluoride uptake acceleration in dentistry and for the local anesthesia of the intact tympanic membrane) off iontophoresis have been studied, documented, and accepted as being safe and effective. Kopito and Shwachman (Ref. 4) state that "the stimulation of sweat by pilocarpine iontophoresis followed by a chemical analysis of sodium and chloride is currently the preferred method for confirming the diagnosis of cystic fibrosis." Steinrud et al. (Ref. 5) concur that "sweat stimulation with pilocarpine iontophoresis followed by sodium-potassium analysis of a measured amount of sweat has proved most valuable in determining the high sweat electrolytes of cystic fibrosis children." Tocci and McKey (Ref. 6) describe the Gibson-Cooke quantitative pilocarpine iontophoresis test as currently being "the most reliable diagnostic test for cystic fibrosis." The authors state that any laboratory can perform this test with accuracy "if there has been proper attention to detail in collecting and preparing the sweat specimen." In a study performed by Tocci and McKey (Ref. 6) with 1,270 subjects, 203 of whom were cystic fibrosis patients, the investigators found that the sweat test was 84 percent reliable with 16 percent false-positive on the first test and 93 percent reliable with 7 percent false-positive results on the retest.

Gargarosa and Park (Ref. 7) conclude that fluoride iontophoresis results in the most rapid and effective relief of dentin hypersensitivity during topical application of fluoride. The use of fluoride iontophoresis has a broad application in dental practice.

Comeau and Brummett (Ref. 8) state that following 12 investigations, using three subjects, the techniques of iontophoresis to produce tympanic anesthesia is safe, effective, and easy. Echols (Ref. 9) demonstrated that lidocaine in the middle ear space does not have any major toxic effects on the eighth nerve. Epley (Ref. 10) finds that the iontophoresis procedure followed by an injection of additional anesthesia enables the surgical procedure to be carried out with ease. Epley (Ref. 10) studied the effectiveness of the anesthetic method in 100 children tympanostomy candidates. He found very little substantial difference between the effectiveness of the iontophoretic anesthesia (pain being the

criterion) with and without the additional anesthesia. However, those children operated on under general anesthesia alone reported post-operative bleeding more often than those children operated on under iontophoresis alone. Epley (Ref. 10), Schleuning, et al. (Ref. 11), and Comeau and Brummett (Ref. 12) attribute the absence of bleeding to the vasoconstricting effect of epinephrine, and the authors cite this hemostasis as an important advantage of iontophoresis. Comeau and Brummett (Ref. 12) state that this vasoconstriction ultimately results in "rapid healing and less chance of infection" * * *. The FDA has determined that iontophoresis used in the diagnosis of cystic fibrosis, in the acceleration of fluoride introduction to the teeth, and in the local anesthetizing of the intact tympanic membrane has been shown to be both safe and effective. The agency is proposing, therefore, that iontophoresis devices for these uses be classified into class II (performance standards). The agency recognizes that the Physical Medicine Device Classification Panel members recommended a classification for the device only and did not consider the specific use of the device. The agency believes, however, that the intended use of the device and the device itself cannot be separated. Therefore, the agency is proposing that iontophoresis devices be classified into class III (premarket approval) for any uses except those described above. The agency believes that iontophoresis devices, when used for purposes other than those specifically considered, present a potential unreasonable risk of injury without benefit to the patient because substantial data and clinical investigations do not exist to support the claims made for the devices. The agency believes that insufficient information exists to determine that general controls would provide reasonable assurance of the safety and effectiveness of the device, and that insufficient information exists to establish a performance standard to provide this assurance with respect to use of the device purposes other than those specifically considered.

References

The following information has been placed in the office of the Hearing Clerk (address above) and may be seen by interested persons, from 9 a.m. to 4 p.m., Monday through Friday.

1. Harris, R., "Iontophoresis" in "Therapeutic Electricity and Ultraviolet Radiation," 2d Ed., Edited by Licht, S., Waverly Press, Inc., Baltimore, MD, pp. 150-176, 1967.
2. Brummett, R., "Iontophoretic Anesthesia of the Tympanic membrane," Unpublished

paper, Appendix B to Summary Minutes of the Eighteenth Meeting of the ENT Device Classification Panel, November 6 and 7, 1978.

3. Stillwell, G. K., "Electrical Stimulation and Iontophoresis" in "Physical Medicine and Rehabilitation," W. B. Saunders Co., Philadelphia, PA, pp. 353-359, 1965.
4. Kopito, L. and H. Schwachman, "Studies in Cystic Fibrosis: Determination of Sweat-Electrolytes in Situ with Direct Reading Electrodes," *Pediatrics*, 43:794-798, 1969.
5. Steinrud, J. et al., "Screening for Cystic Fibrosis with Chloride Electrode," *British Medical Bulletin*, 21(6):251-255, October 1974.
6. Tocci, P. M. and R. M. McKey, "Laboratory Confirmation of the Diagnosis of Cystic Fibrosis," *Clinical Chemistry*, 22(11):1841-1844, 1976.
7. Gargarosa, L. P. and N. H. Park, "Practical Considerations in Iontophoresis of Fluoride for Desensitizing Dentin," *Journal of Prosthetic Dentistry*, 39(2):173-178, February 1978.
8. Comeau, M. and R. Brummett, "Local Anesthesia of the Ear by Iontophoresis," *Archives of Otolaryngology*, 98:114-120, August 1973.
9. Echols, F. et al., "Anesthesia of the Ear by Iontophoresis of Lidocaine," *Archives of Otolaryngology*, 101:418-421, July 1975.
10. Epley, J. M., "Modified Technique of Iontophoretic Anesthesia for Myringotomy in Children," *Archives of Otolaryngology*, 103:358-360, June 1977.
11. Schleuning, A. J. et al., "Local Anesthesia of the Tympanic Membrane by Iontophoresis," *Transactions of the American Academy of Ophthalmology and Otolaryngology*, 78:433-457, 1974.
12. Comeau, M. and R. Brummett, "Anesthesia of the Human Tympanic Membrane by Iontophoresis of a Local Anesthetic," *Laryngoscope*, 88:277-285, February 1978.
13. Srinivasan, S. et al., "Enhanced Fluoride Uptake by Teeth Through Use of Iontophoretic Techniques," *Pharmacology and Therapeutics in Dentistry*, 2(3-4):253-256, 1975.
14. Gibson, L. E., P. A. di Sant'Agnes, and H. Shwachman, "Procedure for the Quantitative Iontophoretic Sweat Test for Cystic Fibrosis," Cystic Fibrosis Foundation, 1975.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes to amend Part 890 in Subpart F by adding new § 890.5525, to read as follows:

§ 890.5525 Iontophoresis device.

(a) Iontophoresis device for the diagnosis of cystic fibrosis:

- (1) *Identification.* An iontophoresis device for the diagnosis of cystic fibrosis is a device that induces sweating by the introduction of pilocarpine through the use of a direct current. The sweat is collected and its composition and weight are used in the diagnosis of cystic fibrosis.

(2) *Classification.* Class II (performance standards).

(b) Iontophoresis device for dental application of fluoride:

- (1) *Identification.* An iontophoresis device for dental application of fluoride is a device used to accelerate introduction (diffusion) of fluoride ions into tooth structures to reduce hypersensitivity and for fluoride uptake in cavity prevention.

(2) *Classification.* Class II (performance standards).

(c) Iontophoresis device for the local anesthetizing of the intact tympanic membrane:

- (1) *Identification.* An iontophoresis device for the local anesthetizing of the intact tympanic membrane is a device used to induce ions of lidocaine and epinephrine into the tympanic membrane of the ear to cause an anesthetizing effect.

(2) *Classification.* Class II (performance standards).

(d) Iontophoresis device for all other purposes:

- (1) *Identification.* An iontophoresis device is a device used to introduce ions of soluble salts (i.e., medications), by use of a direct current, into the tissues of the body for therapeutic or diagnostic purposes.

(2) *Classification.* Class III (premarket approval).

Interested persons may, on or before October 29, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 14, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-26325 Filed 8-27-79; 8:45 am]

BILLING CODE 4110-03-M

[21 CFR Part 890]

[Docket No. 78N-1250]

Medical Devices; Classification of Powered External Limb Overload Warning Devices

AGENCY: Food and Drug Administration.
ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying powered external limb overload warning devices into class II (performance standards). The FDA is also publishing the recommendation of the Physical Medicine Device Classification Panel that the device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by October 29, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Johnnie W. Bailey, Bureau of Medical Devices (HFK-410), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7238.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the Federal Register provides background information concerning the development of the proposed regulation. The Physical Medicine Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of powered external limb overload warning devices:

1. A powered external limb overload warning device is a device used to warn a patient of an overload or an underload in the amount of pressure placed on a leg.
2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.
3. Summary of reasons for recommendation: The Panel recommends that powered external limb overload warning devices be classified into class II because the Panel believes that a standard is necessary to control the electrical properties of this device to avoid the potential hazard of electrical shock. The Panel recommends that the load measurement accuracy and limitations of this device should be clearly specified by the manufacturers in the device labeling. The Panel believes that general controls would not provide sufficient control over these

characteristics. The Panel believes that a standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance.

4. Summary of data on which the recommendation is based: The Panel members based their recommendation on the potential hazards associated with this device, on their personal knowledge of, and familiarity with, the device, and on a review of the pertinent literature (Ref. 1). Warren and Lehmann (Ref. 1) state that "adequate accuracy in limb loading was achieved when the target for limb loading was set at 30% of the body weight." However, when the target loading was increased to 70 percent of body weight, accuracy was reduced. Load overshoots can occur with the use of this device.

5. Risks to health: (a) Electrical shock: Excessive leakage current could result in injury, or a malfunction of the device could result in electrical shock. (b) Injury to lower limb: Load control adjustment inaccuracy regarding the set weight or load limit could result in injury to the lower limb.

Proposed Classification

FDA agrees with the Panel recommendation and is proposing that powered external limb overload warning devices be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by this device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a standard to provide such assurance.

References

The following information has been placed in the office of the Hearing Clerk (address above) and may be seen by interested persons, from 9 a.m. to 4 p.m., Monday through Friday.

1. Warren, C. G. and J. F. Lehmann, "Auditory Feedback from Limb and Crotch Use to Control Weight Bearing During Ambulation," *Archives of Physical Medicine and Rehabilitation*, 56:567, December 1975.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes to amend Part 890 in Subpart F by adding new § 890.5575, to read as follows:

§ 890.5575 Powered external limb overload warning device.

- (a) *Identification.* A powered external limb overload warning device is a device used to warn a patient of an

overload or an underload in the amount of pressure placed on a leg.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before October 29, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 15, 1979.

William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.

[FR Doc. 79-26326 Filed 8-27-79; 8:45 am]
BILLING CODE 4110-03-M

[21 CFR Part 890]

[Docket No. 78N-1251]

Medical Devices; Classification of Powered Inflatable Tube Massagers

AGENCY: Food and Drug Administration.
ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying powered inflatable tube massagers into class II (performance standards). The FDA is also publishing the recommendation of the Physical Medicine Device Classification Panel that the device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by October 29, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD-20857.

FOR FURTHER INFORMATION CONTACT: Johnnie W. Bailey, Bureau of Medical Devices (HFK-410), Food and Drug

Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7238.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the Federal Register provides background information concerning the development of the proposed regulation. The Physical Medicine Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of inflatable tube massagers:

1. Identification: A powered inflatable tube massager is a powered device used to relieve minor muscle aches and pains. It simulates kneading and stroking of tissues with the hands by use of an inflatable pressure cuff.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. Summary of reasons for recommendation: The Panel recommends that inflatable tube massagers be classified into class II because the Panel believes that the electrical properties of the device must be controlled to avoid the potential hazard of electrical shock. The Panel believes that general controls will not provide sufficient control over this characteristic. The Panel believes that a standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the potential hazards associated with this device and the Panel members' personal knowledge of, and familiarity with, the device.

5. Risks to health: Electrical shock: Excessive leakage current could result in injury, or a malfunction of the device could result in electrical shock.

Proposed Classification

FDA agrees with the Panel recommendation and is proposing that inflatable tube massagers be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by this device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard to provide such assurance.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the

Commissioner of Food and Drugs proposes to amend Part 890 in Subpart F by adding new § 890.5650, to read as follows:

§ 890.5650 Powered inflatable tube massager.

(a) *Identification.* A powered inflatable tube massager is a powered device used to relieve minor muscle aches and pains. It simulates kneading and stroking of tissues with the hands by use of an inflatable pressure cuff.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before October 29, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 14, 1979.

William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.

[FR Doc. 79-26327 Filed 8-27-79; 8:45 am]
BILLING CODE 4110-03-M

[21 CFR Part 890]

[Docket No. 78N-1252]

Medical Devices; Classification of Physical Therapy Muscle Relaxers

AGENCY: Food and Drug Administration.
ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying physical therapy muscle relaxers, whether powered by alternating current (AC) or battery powered, into class II (performance standards). The FDA is also publishing the recommendation of the Physical Medicine Device Classification Panel that the device be classified into class II if powered by alternating current and into class I (general controls) if battery powered. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. After considering public

comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by October 29, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Johnnie W. Bailey, Bureau of Medical Devices (HFK-410), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7238.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the Federal Register provides background information concerning the development of the proposed regulation. The Physical Medicine Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of physical therapy muscle relaxers:

1. Identification: A physical therapy muscle relaxer is a motorized device used to relieve minor muscle aches and pains. This generic type of device was reviewed by the Panel under the name "powered massager."

2. Recommended classification: Class II (performance standards) if the device is powered by alternating current (AC), class I (general controls) if the device is powered by a battery. The Panel recommends that establishing a performance standard for the AC-powered device be a low priority and that there be no exemptions for the battery-powered device.

3. Summary of reasons for recommendation: The Panel recommends that AC-powered physical therapy muscle relaxers be classified into class II because the Panel believes that the electrical properties of the device must be controlled to prevent potential shock and burn hazards to the patient or user. The Panel believes that general controls would not provide sufficient control over these characteristics. The Panel believes that a standard would provide reasonable assurance of the safety and effectiveness of the AC-powered device and that there is sufficient information to establish a standard to provide such assurance. The Panel recommends that battery-powered physical therapy muscle relaxers be classified into class I because the Panel believes that the risks of electrical shock and burns are minimal with battery-powered devices, and that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and familiarity with, the device and on the potential hazards associated with the AC-powered device.

5. Risks to health: The Panel identified the following risk to health for AC-powered physical therapy muscle relaxers: Electrical shock: Excessive leakage current could result in injury, or a malfunction of the device could result in electrical shock. The Panel identified no risks to health for battery-powered physical therapy muscle relaxers.

Proposed Classification

FDA has reviewed the Panel recommendation for powered massagers and has concluded that all physical therapy muscle relaxers, whether battery powered or AC powered, should be subject to performance standards. The agency believes that the battery powered device, as well as the AC-powered device, presents a risk of electrical shock injuries. Although there is less risk of electrical shock from a battery-powered device than from an AC-powered device, there is still enough of a risk of electrical shock from the battery-powered device to justify the application of a performance standard. Therefore, the agency is proposing that all physical therapy muscle relaxers be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard to provide such assurance.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs proposes to amend Part 890 in Subpart F by adding new § 890.5660, to read as follows:

§ 890.5660 Physical therapy muscle relaxer.

(a) *Identification.* A physical therapy muscle relaxer is a motorized device used to relieve minor muscle aches and pains.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before October 29, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four

copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 14, 1979.

William R. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.

[FR Doc. 79-26328 Filed 8-27-79; 8:45 am]
BILLING CODE 4110-03-M

[21 CFR Part 890]

[Docket No. 78N-1253]

Medical Devices; Classification of Cold Packs

AGENCY: Food and Drug Administration.
ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying cold packs into class I (general controls). The FDA is also publishing the recommendation of the Physical Medicine Device Classification Panel that the device be classified into class I. The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by October 29, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Johnnie W. Bailey, Bureau of Medical Devices (HFK-410), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7238.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the Federal Register provides background information concerning the development of the proposed regulation. The Physical Medicine Device

Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of cold packs:

1. Identification: A cold pack is a device consisting of a compact fabric envelope containing a specially hydrated (chemically combined with water) pliable silicate gel capable of forming to the contour of the body. It is used when cold therapy is indicated for body surfaces.
2. Recommended classification: Class I (general controls). The Panel recommends that there be no exemptions.
3. Summary of reasons for recommendation: The Panel recommends that this device be classified into class I (general controls) because this is a simple device that presents no undue risks to health when used in a normal manner and for the purpose recommended. The Panel believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.
4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and familiarity with, this device.
5. Risks to health: None identified.

Proposed Classification

FDA agrees with the Panel recommendation and is proposing that cold packs be classified into class I (general controls) with no exemptions because the agency believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-548 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs proposes to amend Part 890 in Subpart F by adding new § 890.5700, to read as follows:

§ 890.5700 Cold pack.

(a) *Identification.* A cold pack is a device consisting of a compact fabric envelope containing a specially hydrated (chemically combined with water) pliable silicate gel capable of forming to the contour of the body. It is used when cold therapy is indicated for body surfaces.

(b) *Classification.* Class I (general controls).

Interested persons may, on or before October 29, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing

Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 14, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-26329 Filed 8-27-79; 8:45 am]

BILLING CODE 4110-03-M

[21 CFR Part 890]

[Docket No. 78N-1254]

Medical Devices; Classification of Hot or Cold Disposable Packs

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying hot or cold disposable packs into class I (general controls). The FDA is also publishing the recommendation of the Physical Medicine Device Classification Panel that the device be classified into class II, and the General Hospital and Personal Use Device Classification Panel that the device be classified into class I. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by October 29, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Johnnie W. Bailey, Bureau of Medical Devices (HFK-410), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Avenue, Silver Spring, MD 20910, 301-427-7238.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the Federal Register provides background information concerning the development of the proposed regulation. The Physical Medicine Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of hot or cold disposable packs:

1. Identification: A hot or cold disposable pack is a device consisting of a sealed plastic bag incorporating chemicals that, upon activation, produces heat or cold. It is used when hot or cold therapy is indicated for body surfaces.
2. Recommended classification: The General Hospital Panel recommends that the device be classified into class I (general controls) with no exemptions. The Physical Medicine Device Classification Panel recommends that this device be classified into class II (performance standards), and that establishing a performance standard for this device be a high priority.
3. Summary of reasons for recommendation: The General Hospital and Personal Use Device Classification Panel recommends that this device be classified into class I because the Panel believes that there are no known risks to health and that general controls alone are sufficient to provide reasonable assurance of the safety and effectiveness of the device. The Physical Medicine Device Classification Panel recommends that this device be classified into class II because the Panel believes that the temperatures achieved and chemicals used are critical and must be controlled to prevent injury to tissue and to minimize the hazards associated with toxic chemicals. At the Panel meeting of October 14, 1977 (Ref. 1), the Physical Medicine Device Classification Panel recommended that the device be classified into class III (premarket approval) because the Panel at that time believed that the labeling of most of these devices lacked sufficient information on temperatures achieved, and lacked chemical hazard warnings. However, at the Panel meeting of March 17, 1978, Dr. Margaret Kenrick (Ref. 2) presented guidelines for the labeling of hot and cold disposable packs and recommended that the Panel change its recommended classification to class II. The standard should include labeling requirements for storage, temperatures achieved, and necessary warnings. The Panel reassessed its previous recommendation on this device and recommended that it be classified into class II with the appropriate labeling requirements. The Panel believes that the minimum and maximum temperatures reached when the chemicals are activated should be clearly stated by manufacturers in the device labeling, and also a warning statement for the hazards associated with the chemicals used should be prominently placed on the label. The Panel believes that general controls alone will not provide sufficient control over these characteristics. The Panel believes that a performance standard will provide reasonable assurance of the safety and

effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance.

4. Summary of data on which the recommendation is based: The General Hospital and Personal Use Device Classification Panel based its recommendation on chemical toxicity data obtained from one manufacturer whose test results showed that no primary irritation was produced by the hot and cold pack tested, and the chemicals used were classed as nonirritant. The Physical Medicine Device Classification Panel based its recommendation on the hazards associated with this device, a review of labeling from five different manufacturers, and inspection of several commercially available hot and cold disposable packs. The Panel also reviewed an evaluation made by the Emergency Care Research Institute of 10 different manufacturers (Ref. 3). In this study, all hot packs tested reached at least 10° C above the skin pain threshold. Four cold packs obtained temperatures of 5.5° C below the skin-freezing threshold. Smith and Stetson (Ref. 4) state that at "4° C, a local erythema is produced first and then the skin is anesthetized." They also state that "there is a danger of local necrosis or sclerema" when cooling the skin.
5. Risks to health: The Physical Medicine Device Classification Panel identified the following risks to health: (a) Burns and freezing of tissue: Uncontrolled levels and/or duration of temperatures could lead to burns or freezing of tissues. (b) Skin irritation: Leakage of toxic chemical used in the device onto the skin may result in skin irritation.

Proposed Classification

FDA agrees with the General Hospital and Personal Use Device Classification Panel recommendation and is proposing that hot or cold disposable packs be classified into class I (general controls) with no exemptions. The agency believes that general controls alone are sufficient to provide reasonable assurance of the safety and effectiveness of the device. The agency disagrees with the Physical Medicine Device Classification Panel recommendation that hot or cold disposable packs be classified into class II (performance standards) because the agency believes that general controls are sufficient to require the needed labeling under section 502 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 352), as requested by the Panel. Section 502 of the act requires information under authority of this act to appear on the labeling and that the labeling be prominently placed on the device. The labeling information must include adequate directions for use, adequate warnings against misuse and warnings against unsafe methods or duration of application.

References

The following information has been placed in the office of the Hearing Clerk (address above) and may be seen by interested persons, from 9 a.m. to 4 p.m., Monday through Friday.

1. Summary Minutes of the Tenth Meeting of the Physical Medicine Device Classification Panel, October 14, 1977.
2. Summary Minutes of the Eleventh Meeting of the Physical Medicine Device Classification Panel, March 17, 1978.
3. "Evaluation: Hot and Cold Pack," *Health Devices*, Volume 3, No. 6, pp. 135-150, April 1974.
4. Smith, R. M. and J. B. Stetson, "Therapeutic Hypothermia," in "Therapeutic Heat and Cold," 2d Ed., Edited by S. Licht, Waverly Press, Baltimore, MD, pp. 502-537, 1965.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs proposes to amend Part 890 in Subpart F by adding new § 890.5710, to read as follows:

§ 890.5710 Hot or cold disposable pack.

(a) *Identification.* A hot or cold disposable pack is a device consisting of a sealed plastic bag incorporating chemicals that, upon activation, produces heat or cold. It is used when hot or cold therapy is indicated for body surfaces.

(b) *Classification.* Class I (general controls).

Interested persons may, on or before October 29, 1979 submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 14, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-26330 Filed 8-27-79; 8:45 am]

BILLING CODE 4110-03-M

[21 CFR Part 890]

[Docket No. 78N-1255]

Medical Devices; Classification of Water Circulating Hot or Cold Packs

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying water circulating hot or cold packs into class II (performance standards). The FDA is also publishing the recommendation of the Physical Medicine Device Classification Panel that the device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by October 29, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Johnnie W. Bailey, Bureau of Medical Devices (HFK-410), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Avenue, Silver Spring, MD 20910, 301-427-7238.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the Federal Register provides background information concerning the development of the proposed regulation. The Physical Medicine Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of water circulating hot or cold packs:

1. Identification: A water circulating hot or cold pack is a device used on body surfaces for heat or cold therapy that operates by pumping heated or chilled water through a plastic bag.
2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.
3. Summary of reasons for recommendation: The Panel recommends that water circulating hot or cold packs be classified into class II because the Panel believes that the electrical properties of the device must be controlled to avoid the potential hazard of electrical shock. The Panel believes that the temperature control should be sufficiently accurate to prevent burning or freezing of tissues. The Panel

believes that general controls would not provide sufficient control over these characteristics. The Panel believes that a standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and familiarity with, the device and on the potential hazards associated with this device.

5. Risks to health: (a) Shock: Electrical leakage current due to improper grounding or faulty circuitry could result in electrical shock. (b) Tissue damage: Burning or freezing of tissue could result from a faulty temperature control.

Proposed Classification

FDA agrees with the Panel recommendation and is proposing that water circulating hot or cold packs be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard to provide such assurance.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs proposes to amend Part 890 in Subpart F by adding new § 890.5720, to read as follows:

§ 890.5720 Water circulating hot or cold pack.

(a) *Identification.* A water circulating hot or cold pack is a device used on body surfaces for heat or cold therapy that operates by pumping heated or chilled water through a plastic bag.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before October 29, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 14, 1979.

William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.

[FR Doc. 79-26331 Filed 8-27-79; 8:45 am]
BILLING CODE 4110-03-M

[21 CFR Part 890]

[Docket No. 78N-1256]

Medical Devices; Classification of Moist Heat Packs

AGENCY: Food and Drug Administration.
ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying moist heat packs into class I (general controls). The FDA is also publishing the recommendation of the Physical Medicine Device Classification Panel that the device be classified into class I. The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by October 29, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Johnnie W. Bailey, Bureau of Medical Devices (HFK-410), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7238.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the Federal Register provides background information concerning the development of the proposed regulation. The Physical Medicine Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of moist heat packs:

1. *Identification:* A moist heat pack is a device consisting of silica gel in a fabric container used to retain an elevated temperature for moist heat therapy of body surfaces.

2. *Recommended classification:* Class I (general controls). The Panel recommends that there be no exemptions.

3. *Summary of reasons for recommendation:* The Panel recommends that this device be classified into class I (general controls) because this is a simple device that presents no undue risks to health when used in a normal manner for the purpose recommended. The Panel believes that general controls are sufficient to assure the safety and effectiveness of the device.

4. *Summary of data on which the recommendation is based:* The Panel based its recommendation on the Panel members' personal knowledge of, and familiarity with, this device.

5. *Risks to health:* None identified.

Proposed Classification

FDA agrees with the Panel recommendation and is proposing that moist heat packs be classified into class I (general controls) with no exemptions because the agency believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs proposes to amend Part 890 in Subpart F by adding new § 890.5730, to read as follows:

§ 890.5730 Moist heat pack.

(a) *Identification.* A moist heat pack is a device consisting of silica gel in a fabric container used to retain an elevated temperature for moist heat therapy of body surfaces.

(b) *Classification.* Class I (general controls).

Interested persons may, on or before October 29, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 14, 1979.

William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.

[FR Doc. 79-26332 Filed 8-27-79; 8:45 am]
BILLING CODE 4110-03-M

[21 CFR Part 890]

[Docket No. 78N-1257]

Medical Devices; Classification of Powered Heating Pads

AGENCY: Food and Drug Administration.
ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying powered heating pads into class II (performance standards). The FDA is also publishing the recommendation of the Physical Medicine Device Classification Panel that the device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by October 29, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Johnnie W. Bailey, Bureau of Medical Devices (HFK-410), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7238.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the Federal Register provides background information concerning the development of the proposed regulation. The Physical Medicine Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of powered heating pads:

1. *Identification:* A powered heating pad is an electrical device used for dry heat therapy of body surfaces. It is capable of maintaining an elevated temperature during use.

2. *Recommended classification:* Class II (general standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. *Summary of reasons for recommendation:* The Panel recommends that powered heating pads be classified into class II because the Panel believes that the

electrical properties of the device must be controlled to prevent the potential hazard of electrical shock. The Panel believes that general controls would not provide sufficient control over this characteristic. The Panel believes that a standard would provide a reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance.

4. *Summary of data on which the recommendation is based:* The Panel based its recommendation on the Panel members' personal knowledge of, and familiarity with, the device and the potential hazards associated with this device.

5. *Risks to health:* (a) Electrical shock: Excessive leakage current could result in injury, or a malfunction of the device could result in electrical shock. (b) Burns: Skin burns could result from a faulty thermostatic control or improper use of the device.

Proposed Classification

FDA agrees with the Panel recommendation and is proposing that powered heating pads be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard will provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard to provide such assurance.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs proposes to amend Part 890 in Subpart F by adding new § 890.5740, to read as follows:

§ 890.5740 Powered heating pad.

(a) *Identification.* A powered heating pad is an electrical device used for dry heat therapy of body surfaces. It is capable of maintaining an elevated temperature during use.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before October 29, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the

above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 14, 1979.

William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.

[FR Doc. 79-26333 Filed 8-27-79; 8:45 am]
BILLING CODE 4110-03-M

[21 CFR Part 890]

[Docket No. 78N-1258]

Medical Devices; Classification of Pressure-Appling Devices

AGENCY: Food and Drug Administration.
ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying pressure-applying devices into class I (general controls). The FDA is also publishing the recommendation of the Physical Medicine Device Classification Panel that the device be classified into class I. The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by October 29, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Johnnie W. Bailey, Bureau of Medical Devices (HFK-470), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7238.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the Federal Register provides background information concerning the development of the proposed regulation. The Physical Medicine Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of the pressure-applying device:

1. *Identification:* A pressure-applying device is a table with an adjustable overhead weight

attached. In place of the therapist's hands, a weight is placed on the back of a prone patient. It is used to apply continuous pressure to the paravertebral tissues, with the intended purpose of providing muscular relaxation and neuro-inhibition.

2. Recommended classification: Class I (general controls). The Panel recommends that there be no exemptions.

3. Summary of reasons for recommendation: The Panel recommends that the pressure-applying devices be classified into class I because this is a simple device that presents no risks to health or undue hazards when used in a normal manner for the purpose recommended. The Panel believes that general controls are sufficient to assure the safety and effectiveness of the device.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and familiarity with, the device and a review of the pertinent literature (Refs. 1 and 2). Waecker and Thomas (Ref. 1) and Waecker et al. (Ref. 2) found that inhibition and facilitation in sympathetic response were produced and were able to be reproduced in "particular subjects."

5. Risks to health: None identified.

Proposed Classification

FDA agrees with the Panel recommendation and is proposing that pressure-applying devices be classified into class I (general controls) with no exemptions because the agency believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

References

The following information has been placed in the office of the Hearing Clerk (address above) and may be seen by interested persons, from 9 a.m. to 4 p.m., Monday through Friday.

1. Waecker, H. F. and P. E. Thomas, "The Modification of Sympathetic Activity by Sustained Pressure on Paravertebral Tissues," *Journal of the American Osteopathic Association*, 60:686-699, April 1961.

2. Waecker, H. F., P. E. Thomas, and D. Simpson, "Further Studies on the Influence of Sustained Paravertebral Pressure on Sympathetic Activity," *Journal of the American Osteopathic Association*, 61:677, April 1962.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 [21 U.S.C. 360c, 371(a)]) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes to amend Part 890 in Subpart F by adding new § 890.5765, to read as follows:

§ 890.5765 Pressure-applying device.

(a) *Identification.* A pressure-applying device is a table with an adjustable overhead weight attached. In place of the therapist's hands, a weight is placed

on the back of a prone patient. It is used to apply continuous pressure to the paravertebral tissues, with the intended purpose of providing muscular relaxation and neuro-inhibition.

(b) *Classification.* Class I (general controls).

Interested persons may, on or before October 29, 1979 submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 14, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-26334 Filed 8-27-79; 9:45 am]

BILLING CODE 4110-03-M

[21 CFR Part 890]

[Docket No. 78N-1259]

Medical Devices; Classification of Powered Muscle Stimulators

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying powered muscle stimulators into class II (performance standards). The FDA is also publishing the recommendation of the Physical Medicine Device Classification Panel and the General and Plastic Surgery Device Classification Panel that the device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by October 29, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-

65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Johnnie W. Bailey, Bureau of Medical Devices (HFK-410), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7238.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the Federal Register provides background information concerning the development of the proposed regulation. The Physical Medicine Device Classification Panel and the General and Plastic Surgery Device Classification Panel, FDA advisory committees, made the following recommendation regarding the classification of powered muscle stimulators:

1. *Identification:* A powered muscle stimulator is a motorized device used to repeatedly contract muscles by passing electrical currents through electrodes contacting the affected body area.

2. *Recommended classification:* Class II (performance standards). The Physical Medicine Device Classification Panel recommends that establishing a performance standard for this device be a high priority. The General and Plastic Surgery Device Classification Panel recommends that establishing a performance standard for this device be a low priority.

3. *Summary of reasons for recommendation:* The Panels recommend that powered muscle stimulators be classified into class II because the Panels believe that the electrical properties of the device must be controlled to avoid the potential hazard of electrical shock and to prevent bodily injury. The Physical Medicine Device Classification Panel recommends that the measurement limitations of this device be clearly specified by the manufacturers in the device labeling. The Panels believe that general controls will not provide sufficient control over these characteristics. The Panels believe that a standard will provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance.

4. *Summary of data on which the recommendation is based:* The Panel based its recommendation on the Panel members' personal knowledge of, and familiarity with, the device and on the potential hazards associated with this device.

5. *Risks to health:* The Physical Medicine and the General and Plastic Surgery Device Classification Panels identified the following risks to health: (a) Electrical shock: Excessive leakage current could result in injury, or a malfunction of the device could result in electrical shock. (b) Cardiac arrest: Excessive electrical current passing through the heart could result in cardiac arrest. (c) Inappropriate therapy: Inappropriate therapy

could result from inaccurate measurement function.

Proposed Classification

FDA agrees with the Panels' recommendations and is proposing that powered muscle stimulators be classified into class II. The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard will provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard to provide such assurance.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 [21 U.S.C. 360c, 371(a)]) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs proposes to amend Part 890 in Subpart F by adding new § 890.5850, to read as follows:

§ 890.5850 Powered muscle stimulator.

(a) *Identification.* A powered muscle stimulator is a motorized device used to repeatedly contract muscles by passing electrical currents through electrodes contacting the affected body area.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before October 29, 1979 submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 14, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-26335 Filed 8-27-79; 9:45 am]

BILLING CODE 4110-03-M

[21 CFR Part 890]

[Docket No. 78N-1260]

Medical Devices; Classification of Ultrasound and Muscle Stimulators

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying ultrasound and muscle stimulator into class II (performance standards) for applying therapeutic deep heat and muscle stimulation and into class III for all other uses. FDA is also publishing the recommendation of the Physical Medicine Device Classification Panel that the device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. The effect of classifying a device into class III is to provide for each manufacturer to the device to submit to FDA a premarket approval application at a date to be set in a future regulation. Each application includes information concerning safety and effectiveness tests of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by October 29, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Johnnie W. Bailey, Bureau of Medical Devices (HFK-410), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7238.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the Federal Register provides background information concerning the development of the proposed regulation. The Physical Medicine Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of ultrasound and muscle stimulators:

1. *Identification:* An ultrasound and muscle stimulator for use in applying therapeutic deep heat and muscle stimulation is a device that applies ultrasonic energy at a frequency beyond 20,000 cycles per second to provide therapeutic deep heat in specific areas of the body, and passes electrical currents through the affected body area to relax muscles. Such tissue heating and muscle stimulation is used as adjunctive therapy for the relief of pain in

selected medical conditions such as muscle spasms and joint contractures.

2. *Recommended classification:* Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a high priority.

3. *Summary of reasons for recommendation:* The Panel recommends that ultrasound and muscle stimulators be classified into class II because the electrical current used to provide ultrasound and muscle stimulation should be controlled to prevent injury. The Panel believes that the measurement limitations in the use of the device should be clearly specified by manufacturers in the device labeling. The Panel also recommends that the device be restricted to use by or under the supervision of a physician. The Panel believes that general controls would not provide sufficient control over these characteristics. The Panel believes that a performance standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a performance standard to provide such assurance.

4. *Summary of data on which the recommendation is based:* The Panel based its recommendation on the Panel members' knowledge of, and experience with, the device, on a review of the pertinent literature (Refs. 1, 2, and 3), and on the potential hazards associated with this device. Lehmann (Ref. 1) states that ultrasound has been found to be of established value in treating joint contractures, muscle spasm, and periarthritis (inflammation of tissue around the joints). He states that ultrasound is a very powerful and effective heating agent but that there are contraindications for use of the device. Ultrasound, if used improperly, can cause cavitation (cellular destruction), resulting in possible irreversible tissue damage. The Panel noted that the Bureau of Radiological Health of FDA has promulgated performance safety standards for ultrasonic therapeutic products (21 CFR 1050.10) and that the Federal Communications Commission has radiofrequency transmitting requirements for medical diathermy that must be met.

5. *Risks to health:* (a) Electrical shock: Excessive leakage current could result in injury, or a malfunction of the device could result in electrical shock. (b) Burns: High current density over time could cause burns to tissues. (c) Cardiac arrest: Excessive electrical current passing through the heart could lead to cardiac arrest. (d) Inappropriate therapy: Inappropriate therapy could result from inaccurate measurement function. (e) Cavitation (cellular destruction): Inadequate uniform field distribution of ultrasound source, or lack of sufficient external pressure on the device sound head applied to the skin could lead to cavitation in tissues.

Proposed Classification

FDA agrees with the Panel recommendation and is proposing that ultrasound and muscle stimulators be classified into class II (performance standards) for use in delivering therapeutic deep heat and muscle

stimulation. The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a standard for this device.

Like the shortwave diathermy, which is the subject of a proposed classification regulation published elsewhere in this issue of the Federal Register, the ultrasound and muscle stimulator is used for therapeutic deep heat. It is also used for additional purposes for which it has not been shown to be safe and effective. Accordingly, although the Panel considered only two related uses for the device—the delivery of therapeutic deep heat and muscle stimulation—the agency believes that the device should be classified with respect to all other intended uses. Therefore, the agency is proposing that ultrasound and muscle stimulator devices be classified into class III (premarket approval) for any use other than delivering therapeutic deep heat and muscle stimulation. The agency believes that the ultrasound component of the ultrasound and muscle stimulator, when it is used for any purpose other than applying therapeutic deep heat and muscle stimulation, presents a potential unreasonable risk of injury without proven benefit to the patient because substantial data and clinical investigations do not exist to support those other claims. The agency believes that insufficient information exists to determine that general controls would provide reasonable assurance of the safety and effectiveness of the ultrasound component of the device, when it is used for a purpose other than applying therapeutic deep heat, and that insufficient information exists to establish a performance standard to provide this assurance.

References

The following information has been placed in the office of the Hearing Clerk (HFA-305) (address above) and may be seen by interested persons, from 9 a.m. to 4 p.m., Monday through Friday.

1. Lehmann, J. F., "Diathermy" in "Handbook of Physical Medicine and Rehabilitation," 2d Ed., Edited by Krusen, F. H., F. J. Kotke, and P. M. Ellwood, W. B. Saunders Co., Philadelphia, PA, pp. 297-321, 1971.

2. Rusk, H. A., "Principles of Physical Medicine" in "Rehabilitation Medicine," 4th Ed., Edited by Taylor, E. J., C. V. Mosby Co., St. Louis, MO., pp. 75-80, 1977.

3. Stillwell, G. K., "Clinical Electric Stimulation" in "Therapeutic Electricity and

Ultraviolet Radiation," 2d Ed., Edited by Licht, S., Waverly Press, Inc., Baltimore, MD, pp. 105-148, 1976.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs proposes to amend Part 890 in Subpart F by adding new § 890.5860, to read as follows:

§ 890.5860 Ultrasound and muscle stimulator.

(a) *Ultrasound and muscle stimulator for use in applying therapeutic deep heat and muscle stimulation*—(1) *Identification.* An ultrasound and muscle stimulator for use in applying therapeutic deep heat and muscle stimulation is a device that applies ultrasonic energy at a frequency beyond 20,000 cycles per second to provide therapeutic deep heat in specific areas of the body, and passes electrical currents through the affected body area to relax muscles. Such tissue heating and muscle stimulation is used as an adjunctive therapy for the relief of pain in selected medical conditions such as muscle spasms and joint contractures.

(2) *Classification.* Class II (performance standards).

(b) *Ultrasound and muscle stimulator for any use other than applying therapeutic deep heat and muscle stimulation*—(1) *Identification.* An ultrasound and muscle stimulator for any use other than applying therapeutic deep heat and muscle stimulation is a device that applies ultrasonic energy at a frequency beyond 20,000 cycles per second to the body and passes electrical currents through the affected body area, for any purpose other than therapeutic deep heat and muscle stimulation for the relief of pain.

(2) *Classification.* Class III (premarket approval).

Interested persons may, on or before October 29, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 15, 1979.
William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.
[FR Doc. 79-26336 Filed 8-27-79; 8:45 am]
BILLING CODE 4110-03-M

[21 CFR Part 890]

[Docket No. 78N-1261]

Medical Devices; Classification of Multi-Function Physical Therapy Tables

AGENCY: Food and Drug Administration.
ACTION: Proposed Rules.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying multi-function physical therapy tables into class II (performance standards). The FDA is also publishing the recommendation of the Physical Medicine Device Classification Panel that the device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by October 29, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Johnnie W. Bailey, Bureau of Medical Devices (HFK-410), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7238.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the Federal Register provides background information concerning the development of the proposed regulation. The Physical Medicine Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of multi-function physical therapy tables:

1. *Identification:* A multi-function physical therapy table is a device consisting of a motorized table equipped to provide patients with heat, traction, and muscle relaxation therapy. This generic type of device was reviewed by the Panel under the name "powered vibration, massage, heat, and traction table."

2. *Recommended classification:* Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.

3. *Summary of reasons for recommendation:* The Panel recommends that multi-function physical therapy tables be classified into class II because the Panel believes that a standard is necessary to control the electrical properties of this device to avoid the potential hazard of electrical shock and to prevent burns or tissue injury. The Panel believes that general controls would not provide sufficient control over these characteristics. The Panel believes that a standard will provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance.

4. *Summary of data on which the recommendation is based:* The Panel based its recommendation on the Panel members' personal knowledge of, and familiarity with, the device and on the potential hazards associated with this device.

5. *Risks to health:* (a) Electrical shock: Excessive leakage current or a malfunction of the device could result in electrical shock. (b) Burns: Excessive heat from the device could cause thermal burns to the patient. (c) Bodily injury: Soft tissue trauma could result from a malfunction of the traction component.

Proposed Classification

FDA agrees with the Panel recommendation and is proposing that multi-function physical therapy tables be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard to provide such assurance.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513; 710(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs proposes to amend Part 890 in Subpart F by adding new § 890.5880, to read as follows:

§ 890.5880 Multi-function physical therapy table.

(a) *Identification.* A multi-function physical therapy table is a device consisting of a motorized table equipped

to provide patients with head, traction, and muscle relaxation therapy.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before October 29, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 14, 1979.

William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.
[FR Doc. 79-26337 Filed 8-27-79; 8:45 am]
BILLING CODE 4110-03-M

[21 CFR Part 890]

[Docket No. 78N-1262]

Medical Devices; Classification of Powered Traction Equipment

AGENCY: Food and Drug Administration.
ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying powered traction equipment into class II (performance standards). The FDA is also publishing the recommendation of the Physical Medicine Device Classification Panel that the device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by October 29, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Johnnie W. Bailey, Bureau of Medical Devices (HFK-410), Food and Drug

Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7238.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the Federal Register provides background information concerning the development of the proposed regulation. The Physical Medicine Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of powered traction equipment:

1. *Identification:* Powered traction equipment consists of devices used in conjunction with belts and harnesses to exert therapeutic tensile (pulling) forces on the body.
2. *Recommended classification:* Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.
3. *Summary of reasons for recommendation:* The Panel recommends that powered traction equipment be classified into class II because the Panel believes that the electrical properties of the devices must be controlled to avoid the potential hazard of electrical shock. The Panel believes that general controls would not provide sufficient control over this characteristic. The Panel believes that a standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance.
4. *Summary of data on which the recommendation is based:* The Panel based its recommendation on the Panel members' personal knowledge of, and familiarity with, the device and on the potential hazards associated with this device.
5. *Risks to health:* Electrical shock: Excessive leakage current could result in injury, or a malfunction of the device could result in electrical shock.

Proposed Classification

FDA agrees with the Panel recommendation and is proposing that powered traction equipment be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard to provide such assurance.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority

delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs proposes to amend Part 890 in Subpart F by adding new § 890.5900, to read as follows:

§ 890.5900 Powered traction equipment.

(a) *Identification.* Powered traction equipment consists of devices used in conjunction with belts and harnesses to exert therapeutic tensile (pulling) forces on the body.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before October 29, 1979 submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 14, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-26338 Filed 8-27-79; 8:45 am]

BILLING CODE 4110-03-M

[21 CFR Part 890]

[Docket No. 78N-1263]

Medical Devices; Classification of Traction Accessories

AGENCY: Food and Drug Administration.
ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying traction accessories into class I (general controls). The FDA is also publishing the recommendation of the Physical Medicine Device Classification Panel that the device be classified into class I. The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. After considering public comments, FDA will issue a final regulation classifying these devices. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by October 29, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Johnnie W. Bailey, Bureau of Medical Devices (HFK-410), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7238.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the Federal Register provides background information concerning the development of the proposed regulation. The Physical Medicine Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of traction accessories:

1. Identification: Traction accessories are manual devices used with traction equipment to aid in exerting proper tensile (pulling) forces on the body. Examples of traction accessories are pulleys, straps, head halters, and pelvic belts.

2. Recommended classification: Class I (general controls). The Panel recommends that traction accessories be exempt from registration, device listing, and premarket notification regulations under section 510 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360), records and reports regulations under section 519 of the act (21 U.S.C. 360i), and good manufacturing practice regulations under section 520(f) of the act (21 U.S.C. 360j(f)).

3. Summary of reasons for recommendation: The Panel recommends that these devices be classified into class I (general controls) and that the manufacturers of these devices should not be required to comply with registration, records and reports, or good manufacturing practice regulations because they are simple devices that present no undue risks to health when used in a normal manner for the purpose recommended. The Panel believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the devices.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and familiarity with, these devices.

5. Risks to health: None identified.

Proposed Classification

FDA agrees with the Panel recommendation and is proposing that traction accessories be classified into class I (general controls) because the agency believes that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of these devices. The

agency disagrees with the Panel recommendation that manufacturers of traction accessories be exempt from registration, device listing, and premarket notification under section 510 of the act. Under section 510(g)(4) of the act, the agency may exempt a manufacturer from compliance with section 510 of the act only upon a finding that compliance is not necessary for the protection of public health. In the case of traction accessories, the agency cannot make the required finding. To protect the public health, the agency needs to require manufacturers of these devices to register and to list their products with FDA so that the agency can identify the firms and products that is regulates and can conduct necessary inspections and investigations concerning safety, effectiveness, adulteration, or misbranding. Premarket notification by these manufacturers assures that FDA learns of new products and of a significant modifications of existing products for which premarket approval is required.

The agency disagrees with the Panel recommendation that manufacturers of traction accessories be exempt from records and reports regulations under section 519 of the act (21 U.S.C. 360i). The agency believes that it cannot properly issue exemptions from regulations that have not yet been promulgated. Whenever the agency proposes device regulations that include records and reports requirements, interested persons can submit comments requesting that certain classes of manufacturers be exempt from those requirements, and FDA will issue any exemptions that are appropriate. The agency disagrees with the Panel recommendation that manufacturers of traction accessories be exempt from the good manufacturing practice (GMP) regulation. The agency believes that compliance with this regulation is necessary to assure the quality of this device and thus its safety, effectiveness, and compliance with adulteration and misbranding provisions of the act. Compliance with the GMP regulation will help prevent production of traction accessories having defects that could cause harm to users.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs proposes to amend Part 890 in Subpart F by adding new § 890.5925, to read as follows:

§ 890.5925 Traction accessories.

(a) *Identification.* Traction accessories are manual devices used with traction equipment to aid in exerting proper tensile (pulling) forces on the body. Examples of traction accessories are pulleys, straps, head halters, and pelvic belts.

(b) *Classification.* Class I (general controls).

Interested persons may, on or before October 29, 1979 submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 14, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-26339 Filed 8-27-79; 8:45 am]

BILLING CODE 4110-03-M

[21 CFR Part 890]

[Docket No. 78N-1264]

Medical Devices; Classification of Chilling Units

AGENCY: Food and Drug Administration.
ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying chilling units into class II (performance standards). The FDA is also publishing the recommendation of the Physical Medicine Device Classification Panel that the device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by October 29, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-

65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Johnnie W. Bailey, Bureau of Medical Devices (HFK-410), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7238.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the Federal Register provides background information concerning the development of the proposed regulation. The Physical Medicine Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of chilling units:

1. Identification: A chilling unit is a refrigerative device used to chill and maintain cold packs at a reduced temperature.

2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a high priority.

3. Summary of reasons for recommendation: The Panel recommends that chilling units be classified into class II because the Panel believes that the electrical properties of the device must be controlled to avoid the potential hazards of electrical shock and burns to the user. The Panel believes that the temperature control should be sufficiently accurate to avoid freezing of tissues. The Panel believes that general controls will not provide sufficient control over these characteristics. The Panel believes that a standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and familiarity with, the device and on the potential hazards associated with this device.

5. Risks to health: (a) Electrical shock: Excessive leakage current or a malfunction of the device could result in electrical shock. (b) Freezing of tissues: A faulty temperature control could result in freezing of tissues, causing trauma.

Proposed Classification

FDA agrees with the Panel recommendation and is proposing that chilling units be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that

there is sufficient information to establish a standard to provide such assurance.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs proposes to amend Part 890 in Subpart F by adding new § 890.5940, to read as follows:

§ 890.5940 Chilling unit.

(a) *Identification.* A chilling unit is a refrigerative device used to chill and maintain cold packs at a reduced temperature.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before October 29, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 14, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-26340 Filed 8-27-79; 8:45 am]

BILLING CODE 4110-03-M

[21 CFR Part 890]

[Docket No. 78N-1265]

Medical Devices; Classification of Powered Heating Units

AGENCY: Food and Drug Administration.
ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying powered heating units into class II (performance standards). The FDA is also publishing the recommendation of the Physical Medicine Device Classification Panel that the device be classified into class II. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being

taken under the Medical Device Amendments of 1976.

DATES: Comments by October 29, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Johnnie W. Bailey, Bureau of Medical Devices (HFK-410), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7238.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the Federal Register provides background information concerning the development of the proposed regulation. The Physical Medicine Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of powered heating units:

1. Identification: A powered heating unit is a device consisting of an encased cabinet containing hot water used to heat and maintain hot packs at an elevated temperature.
2. Recommended classification: Class II (performance standards). The Panel recommends that establishing a performance standard for this device be a low priority.
3. Summary of reasons for recommendation: The Panel recommends that powered heating units be classified into class II because the Panel believes that the electrical properties of the device must be controlled to avoid the potential hazard of electrical shock to the user. The Panel believes that general controls would not provide sufficient control over this characteristic. The Panel believes that a performance standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance.
4. Summary of data on which the recommendation is based: The Panel based its recommendation on the Panel members' personal knowledge of, and familiarity with, the device and on the potential hazards associated with this device.
5. Risks to health: Electrical shock: Electrical leakage current due to improper grounding or faulty circuitry could result in electrical shock.

Proposed Classification

FDA agrees with the Panel recommendation and is proposing that powered heating units be classified into

class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard to provide such assurance.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs proposes to amend Part 890 in Subpart F by adding new § 890.5950, to read as follows:

§ 890.5950 Powered heating unit.

(a) *Identification.* A powered heating unit is a device consisting of an encased cabinet containing hot water used to heat and maintain hot packs at an elevated temperature.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before October 29, 1979 submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4065, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 14, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-26341 Filed 8-27-79; 8:45 am]

BILLING CODE 4110-03-M

[21 CFR Part 890]

[Docket No. 78N-1266]

Medical Devices; Classification of Physical Therapy Pulsators

AGENCY: Food and Drug Administration.
ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment a proposed regulation classifying physical therapy pulsators, whether powered by alternating current or battery powered, into class II (performance standards). The FDA is

also publishing the recommendation of the Physical Medicine Device Classification Panel that the device be classified into class II if powered by alternating current (AC) and classified into class I (general controls) if battery powered. The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. The effect of classifying a device into class I is to meet only the general controls applicable to all devices. After considering public comments, FDA will issue a final regulation classifying the device. These actions are being taken under the Medical Device Amendments of 1976.

DATES: Comments by October 29, 1979. It is proposed that the final regulation based on this proposal become effective 30 days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Johnnie W. Bailey, Bureau of Medical Devices (HFK-410), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7238.

SUPPLEMENTARY INFORMATION:

Panel Recommendation

A proposal elsewhere in this issue of the Federal Register provides background information concerning the development of the proposed regulation. The Physical Medicine Device Classification Panel, an FDA advisory committee, made the following recommendation regarding the classification of physical therapy pulsators:

1. Identification: A physical therapy pulsator is a motorized device incorporated in various kinds of pads, that is held in the hand or attached to the hand or to a table to relax muscles and thereby relieve minor aches and pains. This generic type of device was reviewed by the Panel under the name "powered vibrator."
2. Recommended classification: The Panel recommends that this device be classified into class II (performance standards) if powered by alternating current (AC) and that establishing a performance standard for this device be a low priority. The Panel recommends that the device be classified into class I (general controls) with no exemptions, if it is battery powered.
3. Summary of reasons for recommendation: The Panel recommends that AC-powered physical therapy pulsators be classified into class II because the Panel

believes that the electrical properties of the device should be controlled to prevent electrical shock, and the mechanical intensity should be controlled to prevent trauma to tissue. The Panel believes that general controls would not provide sufficient control over these characteristics. The Panel believes that a standard would provide reasonable assurance of the safety and effectiveness of the device and that there is sufficient information to establish a standard to provide such assurance. The Panel recommends that battery-powered physical therapy pulsators be classified into class I because the Panel believes that the risk of electrical shock and burns are minimal with battery-powered devices, and that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

4. Summary of data on which the recommendation is based: The Panel based its recommendation on the potential hazards associated with the AC-powered device and on the Panel members' personal knowledge of, and familiarity with, the AC-powered and battery-powered device.

5. Risks to health: The Panel identified the following risks to health for AC-powered physical therapy pulsators: (a) Electrical shock: Excessive current could result in injury, or a malfunction of the device could result in electrical shock. (b) Trauma to tissues: Excessive mechanical intensity could cause tissue trauma. The Panel identified no risks to health for battery-powered physical therapy pulsators.

Proposed Classification

FDA disagrees with the Panel recommendation that battery-powered physical therapy pulsators be classified into class I (general controls). The agency believes that the risks of electrical shock and tissue trauma exist with battery-powered physical therapy pulsators as well as with AC-powered physical therapy pulsators. The agency is therefore proposing that all physical therapy pulsators be classified into class II (performance standards). The agency believes that a performance standard is necessary for this device because general controls alone are insufficient to control the risks to health presented by the device. A performance standard would provide reasonable assurance of the safety and effectiveness of the device. The agency also believes that there is sufficient information to establish a performance standard to provide such assurance.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs proposes to amend Part 890 in Subpart F by adding new § 890.5975, to read as follows:

§ 890.5975 Physical therapy pulsator.

(a) *Identification.* A physical therapy pulsator is a motorized device incorporated in various kinds of pads, that is held in the hand or attached to the hand or to a table to relax muscles and thereby relieve minor aches and pains.

(b) *Classification.* Class II (performance standards).

Interested persons may, on or before October 29, 1979 submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 14, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-26342 Filed 8-27-79; 8:45 am]

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Federal Register

Tuesday
August 28, 1979

Part III

**Merit Systems
Protection Board
Equal Employment
Opportunity
Commission**

Discrimination; Interim Rules

MERIT SYSTEMS PROTECTION BOARD**5 CFR Part 1200****Interim Regulations for Processing Appealable Actions, Alleging Prohibited Discrimination, Pending Before January 11, 1979**

AGENCY: Merit Systems Protection Board.

ACTION: Interim Regulations, request for comments.

SUMMARY: These regulations, published for immediate effect provide interim operating instructions for the processing of certain cases pending before the Merit Systems Protection Board (MSPB) involving allegations of discrimination.

The issuance of preliminary determinations by the board in these cases is authorized by delegation of authority from the EEOC pursuant to Reorganization Plan No. 1 of 1978. In addition the Board requests public comment on these regulations.

DATES: Effective date: August 28, 1979. Comment date: Written comments should be submitted on or before October 29, 1979.

ADDRESS: Comments should be addressed to the Office of the Secretary of the Merit Systems Protection Board, 1717 H Street, N.W., Washington, D.C. 20419.

FOR FURTHER INFORMATION CONTACT: Donald Cox, Deputy General Counsel, Merit Systems Protection Board, Washington, D.C. 20419 (202-653-7157).

SUPPLEMENTARY INFORMATION: On January 1, 1979, certain federal employment enforcement responsibilities, previously vested in the Civil Service Commission under four different statutes, were transferred to the Equal Employment Opportunity Commission (EEOC) pursuant to Reorganization Plan No. 1 of 1978. The enforcement responsibilities transferred were those specified in section 717 of Title VII of the Civil Rights Act of 1964, as amended, section 6(d) of the Fair Labor Standards Act (the Equal Pay Act), section 501 of the Rehabilitation Act of 1973, as amended, and sections 12 and 15 of the Age Discrimination in Employment Act of 1967, as amended. Reorganization Plan No. 1 specifically permitted the EEOC to delegate back to the Civil Service Commission or its successor agency the authority to make preliminary determinations on issues of discrimination prohibited by Section 717 of Title VII of the Civil Rights Act of 1964, as amended, whenever such issues were raised in the course of an appeal

before that agency on other grounds (for example, in an adverse action appeal). The MSPB is the adjudicatory successor to the Civil Service Commission. The EEOC has delegated Title VII authority back to the Board so that the Board may make preliminary decisions on race, color, sex, religion, or national origin issues, when such issues are raised in cases otherwise appealable to the Board. The EEOC has determined that it is within its general powers also to delegate similar authority to the Board to decide age and handicap issues, and has done so. (The Commission did not consider it appropriate to delegate its authority with regard to the Equal Pay Act.) This delegation and accompanying regulations are published elsewhere in this issue of the *Federal Register*.

The regulations of the Board provide for a preliminary determination, on issues of discrimination prohibited by the statutes mentioned above, in any type of case arising before the Board which is covered by the provisions of Reorganization Plan No. 1 of 1978. Basically there are two types of cases which fall within the scope of these regulations. First, there are cases which were previously handled initially by the former Federal Employee Appeals Authority (FEAA) and which were appealable to the former Appeals Review Board (ARB) under the procedures of 5 CFR Part 772 (as in effect prior to January 11, 1979). These organizations were merged into the MSPB. Included in this group are a number of cases which were pending both in the FEAA and the ARB on the effective date of Reorganization Plan No. 1. Second, there are cases previously within the original jurisdiction of the ARB, including those cases arising under 5 CFR Part 713, which involved issues otherwise appealable to the Board.

It should be noted that these regulations are applicable only to those cases pending prior to the effective date of the Civil Service Reform Act of 1978, January 11, 1979 (Pub. L. 95-454). Cases initiated on or after that date will be processed under the new Act and the regulations issued pursuant thereto. That Act establishes a process whereby the Board will render a determination where allegations of discrimination are raised in cases otherwise appealable to the Board ("mixed cases"). Appellants dissatisfied with that determination may then petition the EEOC to review the Board's disposition of these issues. (See Section 205 of the Act, 5 U.S.C. 7702.)

It is the intention of EEOC and MSPB in establishing these regulations and these delegations to process cases

pending before the effective date of the Civil Service Reform Act of 1978 in a manner as consistent as possible with the procedures established by that Act.

Inasmuch as there are presently before the Board a large number of cases to which these regulations and delegations pertain and in view of the fact that many of these cases have been pending for several months, the Commission and the Board recognize that good cause exists to make these regulations immediately effective so that there will be no further delay in case processing.

Issued: August 22, 1979.

By Order of the Board.

Ersa H. Poston,

Vice Chair, Merit Systems Protection Board.

Accordingly, it is proposed Part 1200 be amended to add § 1201.165 as follows:

§ 1201.165 Mixed cases governed by Reorganization Plan No. 1 of 1978.

(a) *Definitions.* (1) *Prohibited discrimination* as used in this section means discrimination prohibited by Section 717 of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000e-16(c)); Section 501 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 791); and Sections 12 and 15 of the Age Discrimination in Employment Act of 1967, as amended (29 U.S.C. 631, 633a).

(2) *Initial decision* as used in this section means decision on an appeal rendered by a presiding official of the MSPB pursuant to 29 CFR 1613 or 5 CFR Part 772 (as in effect prior to January 11, 1979) in which issues of prohibited discrimination have been raised.

(3) *Preliminary decision as used in this section means:* (i) An initial decision within the meaning of § 1201.165(a)(2) which has not been reopened by a Board member or as to which no petition to reopen was filed by a party within 35 days after issuance of the decision.

(ii) A decision by the Board itself pursuant to 29 CFR Part 1613 or 5 CFR Part 772, in which issues of prohibited discrimination are addressed, on a decision by the Board denying all petitions to reopen.

(b) *Contents of petition.* A petition for appeal raising issues of prohibited discrimination shall state there was discrimination and provide specific examples of how the appellant was discriminated against.

(c) *Procedures.* (1) Appeals under 29 CFR Part 1613 (43 FR 60901, formerly 5 CFR Part 713) shall be processed by the Board consistent with the provisions set forth in that part. Such appeals shall be

filed in writing with the appropriate Board Field Office.

(2) Appeals under the procedures of 5 CFR Part 772, shall be processed as provided therein, except that under 5 CFR 772.306(b) the discrimination investigation shall be completed and the investigative file and report sent to the Board, within 120 days. Except when this time has been extended upon a verified showing of good cause, the Board may impose the sanctions provided in 5 CFR 1201.43 if an agency fails to timely complete and file the result of such an investigation.

(3) An initial decision on an appeal which includes issues of prohibited personnel discrimination shall be rendered by an employee of the Board, pursuant to 29 CFR 1613 or 5 CFR Part 772, on all issues raised in the appeal.

(4) Unless a petition to reopen is filed with the Board or unless a Board member reopens on his/her own motion, within 35 days from issuance of an initial decision, the initial decision shall become the preliminary decision of the Board.

(d) *Review by EEOC.* (1) *Time for filing.* A petition to review the preliminary decision of the Board on issues of prohibited discrimination shall be filed with the EEOC within 35 days after the initial decision of the Board becomes the preliminary decision.

(2) *Petition filed.* In the event a petition for review is filed with the EEOC, the Board decision shall become final on all issues, other than issues of prohibited discrimination, on the date EEOC's decision on these issues becomes final.

(3) *Petition not filed.* If a petition for review is not filed with the EEOC the decision of the Board shall become final on all issues.

(5 U.S.C. 1203(g))

(FR Doc. 79-26539 Filed 8-27-79; 8:45 am)

BILLING CODE 6325-20-M

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION**29 CFR Part 1613****Interim Regulations for Processing Appealable Actions, Alleging Prohibited Discrimination, Pending on or Before January 10, 1979**

AGENCY: Equal Employment Opportunity Commission.

ACTION: Interim Regulations; request for comments.

SUMMARY: These regulations, published for immediate effect, provide delegations of authority to the Merit

Systems Protection Board to issue preliminary determinations in certain federal EEO cases governed by Reorganization Plan No. 1 of 1978, and temporary operating instructions for the further processing of such cases by EEOC. In addition the Commission requests public comment on these regulations.

DATES: Effective date: August 28, 1979. Comment date: Written comments should be submitted on or before October 29, 1979.

ADDRESS: Comments should be addressed to the Office of the Executive Secretariat, Room 4096, Equal Employment Opportunity Commission, 2401 E Street, Northwest, Washington, D.C. 20506.

FOR FURTHER INFORMATION CONTACT: Constance L. Dupre, Associate General Counsel, Legal Counsel Division, Office of the General Counsel, Room 2254, EEOC, 2401 E Street, Northwest, Washington, D.C. 20506, (202) 634-6595.

SUPPLEMENTARY INFORMATION: On January 1, 1979, certain federal equal employment enforcement responsibilities, previously vested in the Civil Service Commission under four different statutes, were transferred to the Equal Employment Opportunity Commission (EEOC) pursuant to Reorganization Plan No. 1 of 1978. The enforcement responsibilities transferred were those specified in Section 717 of Title VII of the Civil Rights Act of 1964, as amended, Section 6(d) of the Fair Labor Standards Act, as amended (the Equal Pay Act), Section 501 of the Rehabilitation Act of 1973 and Sections 12 and 15 of the Age Discrimination in Employment Act of 1967 as amended. Reorganization Plan No. 1 specifically permitted the EEOC to delegate back to the Civil Service Commission or its successor agency the authority to make a preliminary determination on issues of discrimination prohibited by Section 717 of Title VII of the Civil Rights Act of 1964, whenever such issues were raised before that agency in the course of an appeal on other grounds (for example, in an adverse action appeal). The Merit Systems Protection Board (the Board) is the adjudicatory successor to the Civil Service Commission. The EEOC has delegated Title VII authority back to the Board so that the Board may make preliminary decisions on issues of race, color, sex, religion, or national origin, when such issues are raised in appeals otherwise before the Board. The EEOC has determined that it is within its general powers also to delegate similar authority to the Board to decide age and handicap issues, and has done so. (The Commission did not consider it

appropriate to delegate its authority with regard to the Equal Pay Act.) Its regulations to this effect are published below. The complementary regulations of the Board are published elsewhere in this issue of the *Federal Register*.

It should be noted that these regulations are applicable only to those cases pending before January 11, 1979, the effective date of the Civil Service Reform Act of 1978, Pub. L. 95-454. That Act establishes a process whereby the Board will render a determination where allegations of discrimination are raised in cases before it and dissatisfied appellants can then petition the Equal Employment Opportunity Commission to review the Board's disposition of those issues. See Section 205 of the Act, codified in pertinent part at 5 U.S.C. 7702. It was the intention of the EEOC and the Board in establishing these regulations and these delegations to process cases pending before the effective date of the Civil Service Reform Act of 1978 in a manner as consistent as possible with the procedures established by that Act.

Inasmuch as there are presently pending before the Board a large number of cases to which these regulations and delegations pertain, and in view of the fact that many of these cases have been pending for several months, the Commission and the Board recognize that good cause exists to make these regulations immediately effective so that there will be no further delay in case processing.

These regulations have been reviewed in accordance with Executive Order 12044. They do not require regulatory analysis under Section 3 of that Order.

Issued on August 21, 1979.

For the Commission.

Eleanor Holmes Norton,

Chair.

Therefore, Part 1613 of Title 20 of the Code of Federal Regulations is amended by adding a new Subpart H to read as follows:

Subpart H—Regulations for Processing Appealable Actions, Alleging Prohibited Discrimination, Pending on or Before January 10, 1979

Sec.

1613.801 Scope.

1613.802 Definitions.

1613.803 Election.

1613.804 Election of Part 1613.

1613.805 Election of Part 772.

1613.806 Petition to EEOC; finality of decisions.

Authority: 42 U.S.C. 2000e-16; 29 U.S.C. 633a; 29 U.S.C. 791; Reorganization Plan No. 1 of 1978.

Subpart H—Regulations for Processing Appealable Actions, Alleging Prohibited Discrimination, Pending on or Before January 10, 1979

§ 1613.801 Scope.

This subpart establishes regulations for the processing of an allegation that an action otherwise appealable to the Merit Systems Protection Board (the Board) was based in whole or in part on discrimination because of race, color, religion, sex, national origin, age, or handicap. This subpart applies only to administrative procedures pending before January 11, 1979, to which Section 205 of the Civil Service Reform Act of 1978, 5 U.S.C. 7702, is inapplicable.

§ 1613.802 Definitions.

(a) As used in this section, the term "prohibited discrimination" means discrimination prohibited by Section 717 of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000c-16); Section 501 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 791); and Sections 12 and 15 of the Age Discrimination in Employment Act of 1967, as amended (29 U.S.C. 631 and 633a).

(b) As used in this section, the term "initial decision" means a decision on an appeal, rendered by a presiding official of the Board pursuant to 29 CFR Part 1613 or 5 CFR Part 772 (as in effect prior to January 11, 1979), in which issues of prohibited discrimination have been raised.

(c) As used in this section, the term "preliminary decision" means (1) an initial decision within the meaning of § 1613.802(b), which has not been reopened by a Board member or as to which no petition to reopen was filed by a party within 35 days after issuance of the decision; or (2) a decision by the Board itself pursuant to 29 CFR Part 1613 or 5 CFR Part 772 (as in effect prior to January 11, 1979), in which issues of prohibited discrimination are addressed, or a decision by the Board denying all petitions to reopen.

§ 1613.803 Election.

An appellant who alleges that an action otherwise appealable to the Board was based in whole or in part on prohibited discrimination shall elect to proceed under 29 CFR Part 1613 (43 FR 60901, formerly 5 CFR 713) or under 5 CFR Part 772 (as in effect prior to January 11, 1979). This section is applicable only to persons who had not previously made an election under regulations of the former Civil Service Commission.

§ 1613.804 Election of Part 1613.

(a) When an appellant elects or has elected to proceed under 29 CFR Part 1613 (43 FR 60901, formerly 5 CFR Part 713) the provisions of Part 1613 are applicable to that proceeding.

(b) The Commission hereby delegates to the Merit Systems Protection Board the authority to make initial and preliminary decisions on issues of prohibited discrimination in appeals from final agency decisions under 29 CFR Part 1613 (43 FR 60901, formerly 5 CFR Part 713).

§ 1513.605 Election of Part 772.

(a) When a complainant elects or has elected to proceed under 5 CFR Part 772, the allegations of discrimination shall be referred to the EEO Officer of the agency for investigation in accordance with 29 CFR 1613.216 (43 FR 60901, formerly 5 CFR 713.216).

(b) The Commission hereby delegates to the Merit Systems Protection Board the authority to make initial and preliminary decisions on issues of prohibited discrimination in appeals from final agency decisions under 5 CFR Part 772.

§ 1613.806 Petition to EEOC; finality of decisions.

(a) A petition to review the preliminary decision of the Board shall be filed in writing with the Office of Review and Appeals, EEOC, 2401 E Street, N.W., Washington, D.C. 20506 (1) within 35 days after the initial decision of the Board becomes a preliminary decision (as contemplated in § 1613.802(c)(1)) or (2) within 35 days after the issuance of a preliminary decision by the Board.

(b) A decision of the EEOC on a petition to review the preliminary decision of the Board shall be final when issued.

(c) If a petition to review is not timely filed with the EEOC, the preliminary decision of the Board shall become final on all issues on the day after the expiration of the 35-day period for filing with EEOC, unless the EEOC chooses to exercise its discretion under the standards of 29 CFR 1613.233(b) and accept the late petition.

[FR Doc. 79-26540 Filed 8-27-79; 8:45 am]
BILLING CODE 6570-06-M

Tested
Federal Register

Tuesday
August 28, 1979

Part IV

Department of the Interior

Fish and Wildlife Service

Final Frameworks for Late Season
Migratory Bird Hunting

DEPARTMENT OF THE INTERIOR

50 CFR Part 20

Final Frameworks for Late Season Migratory Bird Hunting Regulations

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: This rule prescribes final frameworks, that is, the outer limits for both the early and the late seasons. Initial regulatory proposals are first announced in mid-February, and opened to public comment. As additional information becomes available, and comments are received and considered to the initial proposals, supplemental proposed rulemakings are announced in the Federal Register. At the termination of the comment periods and following a public hearing, the Service develops and publishes the proposed frameworks for times of seasons, season lengths, shooting hours, daily bag and possession limits, and other regulatory restraints or options. Following another public comment period, and after consideration of additional comments, the Service publishes in the Federal Register the final frameworks. Using these frameworks, State conservation agencies select hunting season dates and offered options. States may select more restrictive seasons, limits, and options than those offered in the Service's frameworks. The final regulations, reflected in amendments to Subpart K of 50 CFR 20 then appear in the Federal Register, and become effective upon publication.

EFFECTIVE DATE: August 29, 1979.

FOR FURTHER INFORMATION CONTACT:

John P. Rogers, Chief, Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240, telephone 202-254-3207.

SUPPLEMENTARY INFORMATION: The Migratory Bird Treaty Act of July 3, 1918 (40 Stat. 755; 16 U.S.C. 703 et seq.), as amended, authorizes and directs the Secretary of the Interior, having due regard for the zones of temperature and for the distribution, abundance, economic value, breeding habits, and times and lines of flight of migratory game birds to determine when, to what extent, and by what means such birds or any part, nest, or egg thereof may be taken, hunted, captured, killed, possessed, sold, purchased, shipped, carried, exported, or transported.

In the annual process for developing migratory game bird hunting regulations, "early" seasons are separated from "late" seasons. Early seasons are those which may open before September 29 while late seasons open on or after September 29. Regulations are developed independently for early and late seasons. The early season regulations cover mourning doves, white-winged doves, band-tailed pigeons, rails, gallinules, woodcock, common snipe, sea ducks in the Atlantic Flyway, teal in September in the Central and Mississippi Flyways, sandhill cranes in North and South Dakota, an early duck season opening in Iowa, doves in the Virgin Islands and Hawaii,

all migratory game birds in Puerto Rico and Alaska, and some extended falconry seasons. Late seasons include the general waterfowl seasons; special seasons for scaup and goldeneyes; extra scaup and teal in regular seasons; most sandhill crane seasons in the Central Flyway; coots, gallinules, and snipe in the Pacific Flyway; and other special falconry seasons.

Certain general procedures are followed in developing regulations for both the early and the late seasons. Initial regulatory proposals are first announced in mid-February, and opened to public comment. As additional information becomes available, and comments are received and considered to the initial proposals, supplemental proposed rulemakings are announced in the Federal Register. At the termination of the comment periods and following a public hearing, the Service develops and publishes the proposed frameworks for times of seasons, season lengths, shooting hours, daily bag and possession limits, and other regulatory restraints or options. Following another public comment period, and after consideration of additional comments, the Service publishes in the Federal Register the final frameworks. Using these frameworks, State conservation agencies select hunting season dates and offered options. States may select more restrictive seasons, limits, and options than those offered in the Service's frameworks. The final regulations, reflected in amendments to Subpart K of 50 CFR 20 then appear in the Federal Register, and become effective upon publication.

This year the process was implemented as follows. On February 15, 1979, the Service published for public comment in the Federal Register (44 FR 9928) proposals to amend 50 CFR 20, with a comment period ending May 16, 1979. That document dealt with the establishment of seasons, limits and shooting hours for migratory birds under §§ 20.101 through 20.107 of Subpart K. On June 13, 1979, the Service published for public comment in the Federal Register (44 FR 34082) the second document in the series consisting of a supplemental proposed rulemaking dealing specifically with a number of supplemental or modified proposals arising from comments received on the initial proposals, or from new information.

On June 21, 1979, a public hearing was held in Washington, D.C., to review the status of mourning doves, woodcock, band-tailed pigeons, white-winged doves, and sandhill cranes. The meeting was announced in the Federal Register

on February 15, 1979 (44 FR 9928) and June 13, 1979 (44 FR 34082). Proposed hunting regulations for these species were discussed plus those for common snipe; rails; gallinules; migratory game birds in Alaska, Puerto Rico, and the Virgin Islands; mourning doves in Hawaii; September teal seasons in the Mississippi and Central Flyways; and early duck season in Iowa; special sea duck seasons in the Atlantic Flyway; and falconry seasons. Statements or comments were invited.

On June 28, 1979, the Service also published for public comment in the Federal Register (44 FR 37857) the third document in the series consisting of supplemental proposed rulemaking dealing specifically with proposed frameworks for early season migratory bird hunting regulations from which, when finalized, States may select season dates, shooting hours, and daily bag and possession limits for the 1979-80 season. On June 28, 1979, the Service published in the Federal Register (44 FR 37854) the fourth document in the series of proposed and final rulemakings dealing specifically with final frameworks for the 1979-80 season from which wildlife conservation agency officials in Alaska, Puerto Rico, and the Virgin Islands could select season dates for hunting certain migratory birds in their respective jurisdictions during the 1979-80 season. On July 24, 1979, the Service published in the Federal Register (44 FR 43420) the fifth document in the series of proposed and final rulemakings dealing specifically with final frameworks for early season migratory game bird hunting regulations from which State wildlife conservation agency officials selected season dates and daily bag and possession limits for the 1979-80 early season.

On August 2, 1979, a public hearing was held in Washington, D.C., as announced in the Federal Register on February 15, 1979 (44 FR 9928) and June 13, 1979 (44 FR 34082) to review information on population status and proposed hunting regulations for waterfowl, coots, and gallinules; sandhill cranes in Colorado, New Mexico, Oklahoma, Texas, Montana and Wyoming; common snipe in the Pacific Flyway; and special falconry regulations. Statements or comments were invited.

On August 8, 1979, the Service published in the Federal Register (44 FR 46462) the sixth document in the series of proposed and final rulemakings dealing specifically with a correction to the final frameworks published on July 24, 1979 (44 FR 43420) to include in the final frameworks a page of text

inadvertently omitted from that document.

On August 10, 1979, the Service published for comment in the Federal Register (44 FR 47246) the seventh document in the series of proposed and final rulemakings dealing specifically with proposed regulations frameworks for 1979-80 late hunting seasons on certain migratory game birds. On August 20, 1979, the Service published in the Federal Register (44 FR 48846) the eighth document in the series of proposed and final rulemakings dealing specifically with amending Subpart K of 50 CFR 20 to set open hunting seasons, certain closed areas, shooting and hawking hours and bag and possession limits for mourning doves, white-winged doves, band-tailed pigeons, rails, woodcock, snipe, and gallinules; September teal seasons; sea ducks in certain defined areas of the Atlantic Flyway; ducks in late September in Iowa; sandhill cranes in designated portions of North Dakota and South Dakota; and migratory game birds in Alaska, Hawaii, Puerto Rico, and the Virgin Islands.

This final rulemaking document is the ninth in the series of proposed, supplemental, and final rulemakings for migratory game bird hunting regulations and deals specifically with final regulations frameworks for 1979-80 late hunting seasons on certain migratory game birds.

These final frameworks also reflect clarifications or corrections to the frameworks which were proposed in the Federal Register (44 FR 47246) dated August 10, 1979. These include: a restoration of the goose bag and possession limits in the Lac Qui Parle quota area of Minnesota to those effective during the 1978-79 season, clarification of the canvasback limits in North and South Dakota, and a minor change in the description of waterfowl zones in Massachusetts.

Review of Public Comments and the Service's Response

Various public comments on the proposed late season regulations have been considered during the regulatory development period. The Service replied to public comments on regulations proposed in the Federal Register (44 FR 9928) dated February 15, 1979, in the Federal Register (44 FR 34082) dated June 13, 1979. Subsequent public comments, including those made at the public hearing held in Washington, D.C., on August 2, 1979, were considered, and responded to in the Federal Register (44 FR 47246) dated August 10, 1979, which dealt with proposed frameworks for late season migratory bird hunting. That publication advised that additional

public comments on proposed late season frameworks would be considered through August 20, 1979.

Thirteen additional public comments were received by the Service through August 20, 1979. These originated from 3 Flyway Councils (one submitted two comments), 5 States, 2 sportsmen's clubs, a national conservation organization, and a law institute. The comments from the Atlantic, Mississippi, and Central Flyway Councils were received prior to the public hearing on proposed waterfowl regulations held in Washington, D.C., on August 2, 1979. They were again presented by the Councils at the public hearing. Most of the Councils' recommendations were responded to in the Federal Register (44 FR 47246) dated August 10, 1979, and are reflected in the final frameworks. Those recommendations which were not accepted by the Service were discussed in that or prior issues of the Federal Register.

The State conservation agencies of Arkansas and Missouri recommended regulatory wording designed to alleviate confusion about the waterfowl season applicable on the St. Francis River, which separates the two States. The boundary is poorly defined, and different hunting seasons are usually selected by Arkansas and Missouri. The two State agencies jointly recommended that the problem area be defined for regulatory purposes, and that the waterfowl season selected by Missouri also apply to the Arkansas portion of the St. Francis River.

Response. The Service concurs with the recommendations. The final frameworks define the area and provide that the waterfowl seasons selected by Missouri shall also apply to the defined Arkansas portion of the river.

Wisconsin opposed the proposal that the opening framework date for waterfowl seasons in the Upper Region of the Mississippi Flyway coincide with the Saturday closest to October 1. Wisconsin considers Saturday waterfowl season openings undesirable because of the heavy hunting pressure placed on local waterfowl and because of crowded hunting conditions. The State recommended that the option be offered only to States interested in the option, and that the change be on an experimental basis.

Response. The Service notes that the proposal was requested by the Upper Region of the Mississippi Flyway Council. States are not obligated to select Saturday opening dates if local situations favor other opening days.

A sportsmen's club in Mississippi urged that the hunting of Canada geese

at Sardis Lake (Reservoir) not be prohibited this year as the Service has proposed.

Response. Canada geese which winter at Sardis Lake are part of the Mississippi Valley Population (MVP) which once wintered in southern parts of the Mississippi Flyway. Both the Service and the Mississippi Flyway Council believe it is desirable that MVP geese be encouraged to reoccupy former wintering areas in the southern part of the Mississippi Flyway. This is an objective of a management plan for MVP geese which has been approved by the Service and the Mississippi Flyway Council. As part of a cooperative effort to meet this objective, hunting of Canada geese is being suspended this season in Arkansas, Louisiana, Mississippi, and southwestern Tennessee. It is believed important that complete protection be given to the remnant flocks of Canada geese which still winter in southern areas such as Sardis Reservoir.

A Michigan duck hunters' association recommended that the waterfowl season in Zones 2 and 3 of Michigan open on October 17, 1979.

Response. The Service establishes frameworks, or time periods, within which State conservation agencies may select hunting season dates. The selection of specific hunting dates within the framework is a State prerogative.

On August 20, 1979, the Institute for Public Representation (IPR), Georgetown University Law Center, Washington, D.C., submitted a comment on behalf of Defenders of Wildlife (Defenders). The comment asserted that consultations and communications between the Service and the four flyway councils during preparation of the hunting regulations were contrary to the Federal Advisory Committee Act, 5 U.S.C., App. I, and to several court decisions related to *ex parte* communications in informal rulemaking. Similar comments had been submitted by IPR on behalf of Defenders on May 18, 1979, and by Defenders themselves on January 17, 1979.

The Department's Associate Solicitor for Conservation and Wildlife responded to these assertions in a letter to Defenders dated May 7, 1979. This letter was published by the Service in the Federal Register of June 13, 1979 (44 FR 34082). The Associate Solicitor concluded that the flyway councils are not functioning as advisory committees and that the Service's contacts with the councils are in compliance with the requirements applicable to *ex parte* communications during informal rulemaking.

The advisory committee and *ex parte* questions were discussed again in a meeting held on August 20, 1979, between the Associate Solicitor and representatives from IPR and Defenders. A memorandum of this meeting has been placed in the public file for these regulations. At the meeting, the Associate Solicitor pointed out that procedural subjects such as advisory committee and *ex parte* communications might be dealt with more effectively in a rulemaking proceeding that is separate from the present proceedings being utilized to develop the substantive content of the hunting regulations. The Associate Solicitor then suggested that Defenders and IPR might wish to petition the Service for the issuance of such procedural rules. The Service agrees with the Associate Solicitor's suggestion.

A comment was received from Defenders of Wildlife (Defenders) contending that black duck regulations were inconsistent with the status of the species based on winter counts and harvest levels. Defenders also contended that the limited data concerning breeding populations suggested a downward trend, and that information was lacking to support status quo regulations.

Response. The winter survey population index for black ducks shows a gradual but steady decline. However, the contention that this decline is related directly to hunting regulations and to the size of the black duck harvest is doubtful. Many factors, such as the unusually severe winters which occurred along the Atlantic Coast the past three years, affect black duck harvests, food availability, and distribution. Data in Service files show no correlation between size of black duck harvests and the subsequent winter survey index. The 1978-79 U.S. black duck harvest (343,000) increased 20 percent over the previous year, but was 14 percent below the average harvest (400,000) of the past 11 years. The 1978-79 harvest was slightly below the average harvest of the previous 4 seasons, a period of stable regulations for black duck daily bag and possession limits and season lengths. Harvests during this 4-year period ranged from a low of 281,000 to a high of 430,000, strongly suggesting that factors other than hunting regulations were affecting harvest size. The best and most voluminous waterfowl banding and harvest data available are for the mallard, the species most closely allied with the black duck. Recent studies by Anderson and Burnham (1975), based on an analysis of 700,000 mallard bandings,

failed to demonstrate a direct relationship between harvest levels and population survival rates. Defenders' implication that this relationship exists for black ducks as shown by winter survey indices is unsupported by available data.

Defenders expressed concern about breeding population data derived from surveys in Nova Scotia and New Brunswick. While the 1979 population was lower than the previous year, it equaled or exceeded the average population for the previous 5-year period, and populations measured in the late 1950's and the early 1960's. This suggests that the breeding population in this portion of Maritime Canada is maintaining itself at a satisfactory level.

Defenders contends that data upon which to base a continuation of status quo regulations are inadequate, and were unavailable to them until late in the comment period. The Service is attempting to evaluate changes in black duck hunting regulations according to the plan detailed in an Environmental Assessment titled "Proposed Hunting Regulations on Black Ducks." A 4-year period of stabilized black duck hunting regulations is being conducted in conjunction with a major banding study to evaluate harvest rates and related matters of importance in managing the continental black duck population. Availability of an environmental assessment outlining this study was announced in the *Federal Register* dated July 8, 1978, at page 27987.

Twenty-two States, 5 Provinces, the Canadian Wildlife Service, and the U.S. Fish and Wildlife Service are participating in the banding program. Over 25,000 bands have been placed on black ducks to date. The introduction of different regulations for black ducks at this time would negate much of the effort by these agencies to acquire better information upon which to base future black duck management plans, including regulatory measures. Based on data from previous years, there is no reason to believe that continuing this study to its completion will either jeopardize or adversely affect the black duck.

Virginia reiterated the Atlantic Flyway Council's request for a 15-day subseason during which a daily bag of 4 drake canvasbacks could be taken in "traditional" canvasback hunting areas of Delaware, Maryland, New Jersey, New York, North Carolina, and Virginia.

Response. The Service considered proposal for a special canvasback season in the Atlantic Flyway and responded in the *Federal Register* dated February 15 (44 FR 9826), June 13 (44 FR 34082), and August 10 (44 FR 47246), 1979. The Service notes that population

objectives and harvest management strategies for the canvasback are guided by an Environmental Assessment titled "Proposed Hunting Regulation on Canvasback and Redhead Ducks," issued in August 1978. A special subseason for canvasbacks is not among the strategies listed in the EA. However, in the light of additional information accumulated since the EA was prepared, the Service believes it desirable to reassess population objectives and management strategies for canvasbacks, and intends to do so prior to the 1980-81 season. Part of this reassessment will involve evaluation of data from a canvasback banding program currently underway in the Maryland portion of Chesapeake Bay. In reviewing the Atlantic Flyway Council proposal, note was made of the need for more detailed planning to evaluate effects of the proposed subseason. Recognizing that a proposal for an experimental season must meet requirements of the National Environmental Policy Act and the Administrative Procedure Act, the Service reiterates its willingness to consider an experimental season in traditional hunting areas. Prior to the 1980-81 season, further consideration will be given to canvasback harvest regulations proposals that are supportive of an updated canvasback-redhead environmental assessment.

Steel Shot Regulations

Non-toxic shot requirements in some geographical areas apply to waterfowl regulations being finalized here. On July 17, 1979, the Service published in the *Federal Register* (44 FR 41461) final regulations regarding zones in all flyways in which shotshells loaded with steel shot will be required for waterfowl hunting in seasons commencing in 1979. Minor corrections to the final regulations appeared in the *Federal Register* dated August 10, 1979 (44 FR 47093). The intended effect of establishing these steel shot regulations is to reduce the number of waterfowl deaths caused by ingesting spent lead pellets.

The regulations appear under 50 CFR §§ 20.21 and 20.10b, and will also be summarized in the Service's regulations leaflets to be published late this summer.

NEPA Consideration

The "Final Environmental Statement for the Issuance of Annual Regulations Permitting the Sport Hunting of Migratory Birds (FES 75-54)" was filed with the Council on Environmental Quality on June 6, 1975 and notice of availability was published in the *Federal Register* on June 13, 1975 (40

CFR 25241). A number of environmental assessments have been issued by the Service to supplement the above FES. Shooting hours, dove hunting in September, black ducks, canvasbacks and redheads, Atlantic Flyway brant, and greater snow geese are among the subjects of these assessments. The 1975 FES is now out of print but copies of the environmental assessments are available from the Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240.

Endangered Species Act Consideration

Section 7 of this act provides that, "The Secretary shall review other programs administered by him and utilized such programs in furtherance of the purposes of this Act," and "by taking such action necessary to insure that actions authorized, funded, or carried out * * * do not jeopardize the continued existence of such endangered or threatened species or result in the destruction or modification of habitat of such species * * * which is determined to be critical."

As in the past, hunting regulations this year are designed, among other things, to remove or alleviate chances of conflict between seasons for migratory game birds and the protection and conservation of endangered and threatened species.

The Service reviewed all migratory bird regulations frameworks being contemplated this year for the early seasons (season lengths, limits, shooting hours, and outside dates) within which States may select seasons for mourning doves, white-winged doves, band-tailed pigeons, rails, woodcock, snipe, and gallinules; for September teal seasons (including the extra teal option during regular seasons), for sea ducks in certain defined areas of the Atlantic Flyway; for a portion of the regular duck season in Iowa to be taken in late September; for sandhill cranes in designated portions of North Dakota and South Dakota; and special falconry regulations. As a result of intra-Service Section 7 consultation, Acting Director Robert S. Cook concluded in a biological opinion dated July 9, 1979, that the proposed 1979-80 early season migratory bird hunting regulations are not likely to jeopardize the continued existence of the five Endangered species considered, or destroy or adversely modify their Critical Habitat or habitat that might be determined critical in the future. Several actions were recommended as means for furthering the conservation of listed species.

The proposed late season regulatory frameworks were likewise subjected to

careful study to insure that they complied with section 7 of the Endangered Species Act. Special attention was given the Aleutian Canada goose (*Branta canadensis leucopareia*), Everglade kite (*Rostrhamus sociabilis plumbeus*), whooping crane (*Grus americana*), bald eagle (*Haliaeetus leucocephalus*), and peregrine falcon (*Falco peregrinus*). A biological opinion reviewed and evaluated the population and habitat status and trends of these endangered species; factors affecting their status and welfare; management programs underway or planned to enhance the status of the species; and the impacts, if any, of the proposed late season hunting regulations. On August 21, 1979, Director Lynn A. Greenwalt concluded:

"Based on all the information available to me, it is my biological opinion that the migratory bird late hunting seasons are not likely to jeopardize the continued existence of the above listed species or result in destruction or adverse modification of any designated Critical Habitat."

The Service's biological opinion resulting from its consultation under Section 7 is considered a public document and is available for inspection in the Office of Endangered Species and the Office of Migratory Bird Management, Department of the Interior, Washington, D.C. 20240. Copies may also be supplied by mail upon request.

Authorship

The primary author of this final rule is Henry M. Reeves, Office of Migratory Bird Management, working under the direction of John P. Rogers, Chief.

Exception from Executive Order 12044 and 43 CFR Part 14

As discussed in the *Federal Register* dated February 15, 1979 (44 FR 9929), the Assistant Secretary for Fish and Wildlife and Parks has concluded that the ever decreasing time frames in the regulatory process are mandated by the Migratory Bird Treaty Act and the Administrative Procedure Act. The regulatory process simply has no remaining slack in its timetable between the accumulation of critical summer survey data and the publication of the revised sets of proposed rulemakings. Compliance with the determination of significance and regulatory analysis criteria established under Executive Order 12044 would simply not be possible if the fall hunting season deadlines are to be achieved.

Consequently, the Assistant Secretary for Fish and Wildlife and Parks has approved the exemption of these regulations from the procedures of

Executive Order 12044 and 43 CFR 14 which is provided for in section 6(b)(6) and § 14.3(f), respectively.

Regulations Promulgation

The rulemaking process for migratory game bird hunting, must, by its nature, operate under severe time constraints. However, the service is of the view that every attempt should be made to give the public the greatest possible opportunity to comment on the regulations. Thus, when the proposed rulemakings were published on February 15, June 13, June 28, and August 10, the Service established what it believed were the longest periods possible for public comment. In doing this, the Service recognized that at the periods' close, time would be of the essence. That is, if there were a delay in the effective date of these regulations after this final rulemaking, the Service is of the opinion that the States would have insufficient time to select their season dates, and bag limits; to communicate those selections to the Service, and finally to establish and publicize the necessary regulations and procedures to implement their decisions. The Service therefore finds that "good cause" exists, within the terms of 5 U.S.C. 553(d)(3) and these frameworks will, therefore, take effect immediately upon publication.

Accordingly, the Service prescribes the final frameworks setting forth the species to be hunted, daily bag and possession limits, season dates, shooting hours, and special closures from which State conservation agency officials may select open season dates. Upon receipt of season selections from State officials, the Service will publish in the *Federal Register* final rulemaking amending certain sections of subpart K of 50 CFR Part 20 to reflect seasons, limits and shooting hours for the contiguous United States for the 1979-80 season.

Final Regulations Frameworks for 1979-80 Late Hunting Seasons on Certain Migratory Game Birds

Pursuant to the Migratory Bird Treaty Act, the Secretary of the Interior has approved final frameworks for season lengths, shooting hours, bag and possession limits, and outside dates within which States may select seasons for hunting waterfowl, coots, and gallinules; sandhill cranes in parts of New Mexico, Texas, Colorado, Oklahoma, Montana, and Wyoming; and common snipe in the Pacific Flyway. Frameworks are summarized below. States may be more restrictive in selecting season regulations, but may not exceed the framework provisions.

General

States in the Pacific, Central and Mississippi Flyways may split their season for ducks or geese into two segments of equal or unequal lengths. States in the Atlantic Flyway may, in lieu of zoning, split their season for ducks or geese into two or three segments of equal or unequal lengths. Exceptions are noted in appropriate sections.

Shooting and hawking hours in all States, on all species, and for all seasons are ½ hour before sunrise until sunset, except that during September teal season the hours are sunrise until sunset.

States in the Mississippi and Central Flyways selecting neither a September teal season nor the point system may select an extra daily bag and possession limit of 2 and 4 blue-winged teal, respectively, for 9 consecutive days designated during the regular duck season. These extra limits are in addition to the regular duck bag and possession limits.

States in the Atlantic Flyway not selecting the point system may select an extra teal limit for 9 consecutive hunting days during the regular duck season of no more than 2 blue-winged teal or 2 green-winged teal or 1 of each daily and no more than 4 singly or in the aggregate in possession.

States in the Atlantic, Mississippi and Central Flyways may select a special scaup-only hunting season not to exceed 16 consecutive days, with daily bag and possession limits of 5 and 10 scaup, respectively, subject to the following conditions:

1. The season must fall between October 1, 1979, and January 31, 1980, all dates inclusive.
2. The season must fall outside the open season for any other ducks except sea ducks.
3. The season must be limited to areas mutually agreed upon between the State and the Service prior to September 1, 1979.
4. These areas must be described and delineated in State hunting regulations.

Or

As an alternative, States in the Atlantic, Mississippi, and Central Flyways, except those selecting a point system, may select an extra daily bag and possession limit of 2 and 4 scaup, respectively, during the regular duck hunting season, subject to conditions 3 and 4 listed above. These extra limits are in addition to the regular duck limits and apply during the entire regular duck season.

Selection of the point system for any State entirely within a flyway must be

on a statewide basis, except if New York selects the point system, conventional regulations may be retained for the Long Island Area. New York may not select the point system within the Upstate zoning option, and Maine, Connecticut, and North Carolina may not select the point system pending completion of zoning studies currently under way.

States that did not select their rail, woodcock, snipe, gallinule, or sea duck seasons in July should do so at the time they make their waterfowl selections.

Frameworks for open seasons and season lengths, bag and possession limit options, and other special provisions are listed below by Flyway.

Atlantic Flyway

Between October 1, 1979, and January 20, 1980, States in this Flyway may select open seasons on ducks, coots, and mergansers of: (a) 50 days, with basic daily bag and possession limits of 4 and 8 ducks, respectively, of which no more than 2 in the daily bag and 4 in possession may be black ducks; or (b) 50 days, with basic daily bag and possession limits of 5 and 10 ducks, respectively, of which no more than 1 in the daily bag and 2 in possession may be black ducks.

Except in closed areas, the limit on canvasbacks and redheads is 1 canvasback daily and 1 in possession or 1 redhead daily and 1 in possession. Under the point system, canvasbacks count 100 points each and redheads count 70 points each, except in closed areas. Areas closed to canvasback and redhead hunting are:

New York—Upper Niagara River between the Peace Bridge at Buffalo, New York, and the Niagara Falls. All waters of Lake Cayuga.

New Jersey—Those portions of Monmouth County and Ocean County lying east of the Garden State Parkway.

Maryland, Virginia and North Carolina—Those portions of each State lying east of U.S. Highway 1.

Under conventional and point system options, the daily bag and possession limits may not include more than 2 and 4 wood ducks, respectively, except that Virginia, North Carolina, South Carolina, Georgia and Florida may split their regular hunting season so that a hunting season not to exceed 9 consecutive days occurs between October 1 and October 15. During this period under conventional regulations, no special restrictions within the regular daily bag and possession limits established for the flyway in 1979 shall apply to wood ducks. Under the point system, the point value of wood ducks shall be 25. For other ducks, daily bag

and possession limits shall be the same as established for the flyway under conventional or point system regulations. For those States using conventional regulations, the 9 consecutive days extra teal option may be selected concurrent with the early wood duck season option. This exception to the daily bag and possession limits for wood ducks shall not apply to that portion of the duck hunting season that occurs after October 15.

The daily bag limit on mergansers is 5, only 1 of which may be a hooded merganser. The possession limit is 10, only 2 of which may be hooded mergansers.

The daily bag and possession limits of coots are 15 and 30, respectively.

The Lake Champlain Area of New York must follow the waterfowl seasons, daily bag and possession limits, and shooting hours selected by Vermont. This area includes that part of New York lying east and north of a boundary running south from the Canadian border along U.S. Highway 9 to New York Route 22 south of Keeseville along New York Route 22 to South Bay, along and around the shoreline of South Bay to New York Route 22, along New York Route 22 to U.S. Highway 4 at Whitehall, and along U.S. Highway 4 to the Vermont border.

In lieu of a special scaup season, Vermont may, for the Lake Champlain Area, select a special scaup and goldeneye season not to exceed 16 consecutive days, with a daily bag limit of 3 scaup or 3 goldeneyes or 3 in the aggregate and a possession limit of 6 scaup or 6 goldeneyes or 6 in the aggregate, subject to the same provisions that apply to the special scaup season elsewhere.

New York may, for Long Island, select season dates and daily bag and possession limits which differ from those in the remainder of the State.

Upstate New York (excluding the Lake Champlain area) may be divided into three zones (West, North, South) on an experimental basis for the purpose of setting separate duck, coot and merganser seasons. Option (a) and (b) for seasons and bag limits is applicable to the zones in the Upstate area within the Flyway framework; only conventional regulations may be selected. Each zone will be permitted the full number of days offered under options (a) or (b). In addition, a two-segment split season without penalty may be selected in each zone. The basic daily bag limit on ducks in each zone and the restrictions applicable to options (a) and (b) of the regular season for the Flyway also apply. Teal and

scaup bonus bird options shall be applicable to the Upstate zones, but the 16-day special scaup season will not be allowed.

The zones are defined as follows:

The West Zone is that portion of Upstate New York lying west of a line commencing at the north shore of the Salmon River and its junction with Lake Ontario and extending easterly along the north shore of the Salmon River to its intersection with Interstate Highway 81, then southerly along Interstate Highway 81 to the Pennsylvania border.

The North and South Zones are bordered on the west by the boundary described above and are separated from each other as follows:

Starting at the intersection of Interstate Highway 81 and New York Route 49 and extending easterly along Route 49 to its junction with Route 8 in Utica, then southerly along Route 8 to its intersection with U.S. Highway 20 in Bridgewater, then easterly along U.S. Highway 20 to the Massachusetts border.

Maine, Massachusetts, Connecticut, Pennsylvania, and North Carolina each may be divided into two zones on an experimental basis for the purpose of setting separate duck, coot and merganser seasons. Option (a) or (b) for seasons and bag limits is applicable to the zones within the Flyway framework; only conventional regulations may be selected in Maine, Connecticut and North Carolina. Both zones will be permitted the full number of days offered under options (a) or (b). In addition, a two-segment split season without penalty may be selected. The basic daily bag limit on ducks in each zone and the restrictions applicable to options (a) and (b) of the regular season for the Flyway also apply. Teal and scaup bonus bird options and the 16-day special scaup season shall be allowed.

The zones are defined as follows:

Maine: North Zone—Game Management Zones 1, 2 and 3. South Zone—Game Management Zones 4 through 8.

Massachusetts: Coastal Zone—Beginning at the New Hampshire-Massachusetts border, that portion of the State east and south of a boundary formed by Interstate 95, south to U.S. Route 1, south to Interstate 93, south to Route 3, south to U.S. Route 6, southwest to Route 28, northwest to Interstate 195, and west to the Rhode Island line. Inland Zone—That portion of the State west and north of the above boundary.

Connecticut: North Zone—That portion of the State north of Interstate 95. South Zone—That portion of the State south of Interstate 95.

Pennsylvania: North Zone—The Lake Erie waters of Pennsylvania and a shoreline margin along Lake Erie from New York on the east to Ohio on the west extending 150 yards

inland, but including all of Presque Isle Peninsula. South Zone—The remainder of the State.

North Carolina: East Zone—That portion of the State east of U.S. Highway 1. West Zone—That portion of the State west of U.S. Highway 1.

As an alternative to conventional bag limits for ducks, a 50-day season with a point-system bag limit may be selected by States in the Atlantic Flyway during the framework dates prescribed. Point values for species and sexes taken are as follows: in Florida only, the fulvous tree duck counts 100 points each; in all States the canvasback counts 100 points each (except in closed areas); the female mallard, black duck, mottled duck, wood duck (except in Virginia, North Carolina, South Carolina, Georgia and Florida during the early wood duck season option), redhead (except in closed areas) and hooded merganser count 70 points each; the blue-winged teal, green-winged teal, pintail, gadwall, wigeon, shoveler, scaup, sea ducks, and mergansers (except hooded) count 10 points each; the male mallard, the wood duck during the early wood duck season option in Virginia, North Carolina, South Carolina, Georgia and Florida, and all other species of ducks count 25 points each. The daily bag limit is reached when the point value of the last bird taken, added to the sum of the point values of the other birds already taken during that day, reaches or exceeds 100 points. The possession limit is the maximum number of birds which legally could have been taken in 2 days.

In any State in the Atlantic Flyway selecting both point-system regulations and a special sea duck season, sea ducks count 10 points each during the point-system season, but during any part of the regular sea duck season falling outside the point-system season, regular sea duck daily bag and possession limits of 7 and 14, respectively, apply.

Coots have a point value of zero, but the daily bag and possession limits are 15 and 30, respectively, as under the conventional limits.

Between October 1, 1979, and January 20, 1980, Maine, New Hampshire, Vermont, Massachusetts, Connecticut, Rhode Island, New York, Pennsylvania, West Virginia, Maryland, and Virginia (excluding those portions of the cities of Virginia Beach and Chesapeake lying east of Interstate 64 and U.S. Highway 17) may select 70-day seasons on Canada geese; the daily bag and possession limits are 3 and 6 geese, respectively. However, in the area comprised of New Jersey, Delaware, the Delmarva Peninsula portions of Maryland and Virginia, and that portion of Pennsylvania lying east and south of

a boundary beginning at Interstate Highway 83 at the Maryland border and extending north to Harrisburg, then east on U.S. Highway 22 to the New Jersey border, the Canada goose season length will be 90 days with the closing framework date extended to January 31, 1980. The daily bag limit within this area will be 4 birds with a possession limit of 8 birds. North Carolina and those portions of the cities of Virginia Beach and Chesapeake lying east of Interstate 64 and U.S. Highway 17 in Virginia may select 50-day seasons on Canada geese within the October 1, 1979, to January 20, 1980, framework; the daily bag and possession limits are 2 and 4 Canada geese, respectively. South Carolina may select a 50-day season on Canada geese within the October 1, 1979, to January 20, 1980, framework; the daily bag and possession limits are 1 and 2 Canada geese, respectively.

The season is closed on Canada geese in Florida and Georgia.

Between October 1, 1979, and January 31, 1980, States in the Atlantic Flyway may select 70-day seasons on snow geese (including blue geese); the daily bag and possession limits are 4 and 8 geese, respectively.

The season is closed on Atlantic brant.

Mississippi Flyway

Between September 29, 1979, and January 20, 1980, States in this Flyway may select concurrent 50-day seasons on ducks, coots, and mergansers, except that in Iowa the framework opening date is September 22 and in Mississippi the framework closing date is January 31. The daily bag limit for ducks is 5, and may include no more than 3 mallards, no more than 2 of which may be female mallards; 1 black duck; and 2 wood ducks (except as noted below). The possession limit is 10, including no more than 6 mallards, no more than 4 of which may be female mallards; 2 black ducks; and 4 wood ducks (except as noted below).

Except in closed areas, the limit on canvasbacks and redheads is 1 canvasback daily and 1 in possession or 1 redhead daily and 1 in possession. Under the point system, canvasbacks count 100 points each and redheads count 70 points each, except in closed areas. Areas closed to canvasback and redhead hunting are:

Mississippi River—Entire river, both sides, from Alton Dam upstream to Prescott, Wisconsin, at confluence of St. Croix River.

Alabama—Baldwin and Mobile Counties.

Louisiana—Caddo, St. Charles, and St.

Mary Parishes; that portion of Ward 1 formerly designated as Ward 6 of St. Martin

Parish; and Catahoula Lake in LaSalle and Rapides Parishes.

Michigan—Arenac, Bay, Huron, Macomb, Monroe, St. Clair, Tuscola, and Wayne Counties, and those adjacent waters of Saginaw Bay south of a line extending from Point au Gres in Sec. 6, T18N, R7E (Arenac County) to Sand Point in Sec. 11, T17N, R9E (Huron County), the St. Clair River, Lake St. Clair, the Detroit River and Lake Erie, under jurisdiction of the State of Michigan.

Minnesota—Douglas, Mahanomen, Polk, Pope and Sibley Counties. Where the county line of any of the above counties crosses any portion of a lake, that entire lake is closed. In addition, all land in Sec. 13, T130N, R31W (i.e., land between Lake Christina and Pelican Lake) is closed.

Ohio—Land and water areas comprising Erie, Ottawa and Sandusky Counties.

Tennessee—Kentucky Lake lying north of Interstate Highway 40.

Wisconsin—In the Mississippi River Zone, all that part of Wisconsin west of the Burlington-Northern Railroad in Grant, Crawford, Vernon, LaCrosse, Trempealeau, Buffalo, Pepin and Pierce Counties. Also, the following lakes and waters, including a strip of land 100 yards wide adjacent to the shorelines thereof: Lake Poygan in Winnebago and Waushara Counties and Lakes Winneconne and Butte des Morts, including the connecting waters thereof, in Winnebago County.

The daily bag limit on mergansers is 5, only 1 of which may be a hooded merganser. The possession limit is 10, only 2 of which may be hooded mergansers.

The daily bag and possession limits on coots are 15 and 30, respectively.

As an alternative to conventional bag limits for ducks, a 50-day season with point-system bag and possession limits may be selected by States in the Mississippi Flyway during the framework dates prescribed. Point values for species and sexes taken are as follows: except in closed areas, the canvasback counts 100 points; the redhead (except in closed areas), female mallard, wood duck (except as noted below), black duck and hooded merganser count 70 points each; the pintail, blue-winged teal, cinnamon teal, wigeon, gadwall, shoveler, scaup, green-winged teal and mergansers (except hooded merganser) count 10 points each; the male mallard and all other species of ducks count 25 points each. The daily bag limit is reached when the point value of the last bird taken, added to the sum of the point values of the other birds already taken during that day, reaches or exceeds 100 points. The possession limit is the maximum number of birds which legally could have been taken in 2 days.

Coots have a point value of zero, but the daily bag and possession limits are 15 and 30, respectively, as under the conventional limits.

Kentucky, Arkansas, Tennessee, Louisiana, Mississippi and Alabama may split their regular duck hunting seasons in such a way that a hunting season not to exceed 9 consecutive days may occur between October 1 and October 15. During this period, under conventional regulations, no special restrictions within the regular daily bag and possession limits established for the Flyway shall apply to wood ducks, and under the point system, the point value for wood ducks shall be 25 points. For other species of ducks, daily bag and possession limits shall be the same as established for the Flyway under conventional or point system regulations. In addition, the extra blue-winged teal option available to States in this Flyway that select conventional regulations and do not have a September teal season may be selected during this period. This exception to the daily bag and possession limits for wood ducks shall not apply to that portion of the duck hunting season that occurs after October 15.

In that portion of Louisiana west of a boundary beginning at the Arkansas-Louisiana border on Louisiana Highway 3; then south along Louisiana Highway 3 to Shreveport; then east along Interstate 20 to Minden; then south along Louisiana Highway 7 to Ringgold; then east along Louisiana Highway 4 to Jonesboro; then south along U.S. Highway 167 to Lafayette; then southeast along U.S. Highway 90 to Houma; then south along the Houma Navigation Channel to the Gulf of Mexico through Cat Island Pass—the season on ducks, coots and mergansers may extend 5 additional days, provided that the season opens no later than on November 3, 1979. If the 5-day extension is selected, and if point-system regulations are selected for the State, point values will be the same as for the rest of the State.

The waterfowl seasons, limits, and shooting hours in the Pymatuning Reservoir area of Ohio will be the same as those selected by Pennsylvania. The area includes Pymatuning Reservoir and that part of Ohio bounded on the north by County Road 306 known as Woodward Road, on the west by Pymatuning Lake Road, and on the south by U.S. Highway 322.

Michigan, Illinois, Indiana, Ohio, Missouri, Alabama and Tennessee may select hunting seasons on ducks, coots and mergansers by zones described as follows:

Michigan: *North Zone*—The Upper Peninsula. *South Zone*—The Lower Peninsula.

Illinois: *North Zone*—That portion of the State north of U.S. Highway 50. *South Zone*—The remainder of Illinois.

Indiana: *North Zone*—That portion of Indiana north of State Highway 18. *South Zone*—The remainder of Indiana.

Ohio: *North Zone*—The counties of Darke, Miami, Clark, Champaign, Union, Delaware, Licking, Miskinung, Guernsey, Harrison and Jefferson and all counties north thereof. In addition, the North Zone also includes that portion of the Buckeye Lake area in Fairfield and Perry Counties bounded on the west by State Highway 37, on the south by State Highway 204, and on the east by State Highway 13. *South Zone*—The remainder of Ohio.

Ohio may split its season in each zone into two segments.

Missouri: *North Zone*—That portion of Missouri north of a line running easterly from the Kansas-Missouri border along U.S. Highway 160 to the junction of U.S. Highway 60 in Springfield, along U.S. Highway 60 to the junction of State Highway 21, along State Highway 21 to the junction of State Highway 34, and along State Highway 34 to the Illinois-Missouri border along the Mississippi River at Cape Girardeau. *South Zone*—The remainder of Missouri.

Alabama: *South Zone*—Mobile and Baldwin Counties. *North Zone*—The remainder of Alabama.

Tennessee: *Reelfoot Zone*—Lake and Obion Counties, or a designated portion of that area. *State Zone*—The remainder of Tennessee.

Within each State: (1) the same bag limit option must be selected for both zones; (2) if a special, scaup season is selected for a zone, it shall not begin until after the regular season closing date in that zone.

The waterfowl seasons, limits, and shooting hours in the lower St. Francis River area of Arkansas and Missouri shall be the same as those selected by Missouri. The area is defined as that part of the St. Francis River south of U.S. Highway 62 where it is the boundary between Arkansas and Missouri and all sloughs and chutes (but not tributaries) connected to it.

Between September 29, 1979, and January 20, 1980, States in this Flyway, except Louisiana, may select 70-day seasons on geese, with daily bag and possession limits of 5 geese, to include no more than 2 white-fronted geese. Regulations for Canada geese are shown below by State.

Between September 29, 1979, and February 14, 1980, Louisiana may select 70-day seasons on snow (including blue) and white-fronted geese by zones established for duck hunting seasons, with daily bag and possession limits of 5 geese, to include no more than 2 white-fronted geese.

The season on Canada geese is closed in Arkansas, Louisiana and Mississippi. In Minnesota, in the:

(a) *Lac Qui Parle Zone* (described in State regulations)—the season on Canada geese closes after 50 days or when 7,000 birds have been harvested, whichever occurs first. The daily bag limit is 2 Canada geese or 2 white-fronted geese, or 1 of each; the possession limit is 4 Canada and white-fronted geese in the aggregate, of which no more than 2 may be white-fronted geese.

(b) *Southeastern Zone* (described in State regulations)—The season for Canada geese may extend for 70 consecutive days. The daily bag limit is 2 Canada geese or 2 white-fronted geese or 1 of each; the possession limit is 4 Canada and white-fronted geese in the aggregate, of which no more than 2 may be white-fronted geese.

(c) *Remainder of the State*—the season on Canada geese will be concurrent with the duck season. The daily bag limit is 2 Canada geese or 2 white-fronted geese or 1 of each; the possession limit is 4 Canada and white-fronted geese in the aggregate, of which no more than 2 may be white-fronted geese.

In Iowa, the season for Canada geese may extend for 70 consecutive days. The daily bag limit is 2 Canada geese. The possession limit is 4 Canada and white-fronted geese in the aggregate, of which no more than 2 may be white-fronted geese.

In Missouri, in the:

(a) *Swan Lake Zone* (described in State regulations)—the season on Canada geese closes after 70 days or when 25,000 birds have been harvested, whichever occurs first. Through November 25, the daily bag limit is 1 Canada goose or 2 white-fronted geese or 1 of each; the possession limit is 2 Canada and 2 white-fronted geese. After November 25, the daily bag limit is 2 Canada geese or 2 white-fronted geese or 1 of each; the possession limit is 4 Canada and white-fronted geese in the aggregate, of which no more than 2 may be white-fronted geese.

(b) *Southeastern Area* (east of U.S. Highway 67 and south of Crystal City)—the State may select a 45-day season on Canada geese between December 1, 1979, and January 20, 1980, with a daily bag limit of 2 Canada geese or 2 white-fronted geese or 1 of each; and a possession limit of 4 Canada and white-fronted geese in the aggregate, of which no more than 2 may be white-fronted geese.

(c) *Remainder of the State*—the season on Canada geese may not exceed 45 days. The daily bag limit is 2 Canada geese or 2 white-fronted geese or 1 of each; the possession limit is 4 Canada and white-fronted geese in the

aggregate, of which no more than 2 may be white-fronted geese.

In Wisconsin, the harvest of Canada geese is limited to 35,000. In the Horicon Zone, during the first hunting period, the daily bag limit is 1 Canada goose or 2 white-fronted geese or 1 of each, and the possession limit is 1 Canada goose and 2 white-fronted geese; thereafter, the daily bag limit is 2 Canada geese or 2 white-fronted geese or 1 of each, and the possession limit is 2 Canada and 2 white-fronted geese. In the Central Zone, the daily bag limit is 2 Canada geese or 2 white-fronted geese or 1 of each, and the possession limit is 2 Canada geese and 2 white-fronted geese. Elsewhere in Wisconsin, the daily bag limit is 1 Canada goose or 2 white-fronted geese or 1 of each, and the possession limit is 2 Canada geese and 2 white-fronted geese. In the Horicon Zone and the Central Zone, Canada goose hunting is restricted to those persons holding valid Canada goose hunting permits issued by the State. The Horicon Zone is defined as those portions of the counties of Fond du Lac, Green Lake, Washington and Dodge enclosed by a line beginning at the intersection of State Highway 175 and State Highway 23 in Fond du Lac County, then southerly on State Highway 175 to its intersection with State Highway 33, then westerly on State Highway 33 to the City of Beaver Dam, then northerly on State Highway 33 to its intersection with County Highway A, then northerly on County Highway A to its intersection with County Highway S, then easterly on County Highway S and continuing easterly on County Highway AS to its intersection with County Highway E, then northerly on County Highway E to its intersection with State Highway 23, then easterly on County Highway 23 to the point of beginning.

The Central Zone is defined as those portions of Fond du Lac, Winnebago, Green Lake, Marquette, Columbia and Dodge Counties enclosed by a line beginning in Winnebago County at the intersection of State Highway 21 and U.S. Highway 45, then southerly on U.S. Highway 45 to its intersection with State Highway 175, then southerly on State Highway 175 to its intersection with State Highway 23, then westerly on State Highway 23 to its intersection with County Highway E, then southerly on County Highway E to its intersection with County Highway AS, then westerly on County Highway AS and continuing westerly on County Highway S to its intersection with County Highway A, then southerly on County Highway A to its intersection with State Highway 33,

then southeasterly on State Highway 33 to its intersection with U.S. Highway 151, then southwesterly on U.S. Highway 151 to its intersection with State Highway 73, then northerly on State Highway 73 to its intersection with State Highway 33, then westerly on State Highway 33 to its intersection with State Highway 22, then northerly on State Highway 22 to its intersection with State Highway 23, then northeasterly on State Highway 23 to its intersection with State Highway 49, then northerly on State Highway 49 to its intersection with State Highway 116, then easterly on State Highway 116 to State Highway 21, then easterly on State Highway 21 to the point of beginning.

In Illinois, 70-day seasons on geese may be selected by zones established for duck hunting seasons. The harvest of Canada geese is limited to 35,000, with 29,000 birds allocated to the Southern Illinois Zone (described in State regulations). The daily bag limit is 2 Canada geese or 2 white-fronted geese or 1 of each; the possession limit is 4 Canada and white-fronted geese in the aggregate, of which no more than 2 may be white-fronted geese. The season on Canada geese may open at a later date in the Southern Illinois Zone and extend to January 20, 1980, or until the Zone's quota of 29,000 birds is reached, whichever occurs first.

In Michigan, in the:

(a) Counties of Baraga, Dickinson, Delta, Gogebic, Houghton, Iron, Keweenaw, Marquette, Menominee and Ontonagon—the daily bag limit is 2 Canada geese or 2 white-fronted geese or 1 of each; the possession limit is 2 Canada and 2 white-fronted geese.

(b) *Southeastern Canada Goose Management Area* (described in State regulations)—the Canada goose season will open with the duck season and extend through December 9. Through November 14, the daily bag limit will be 1 Canada goose and 2 white-fronted geese or 1 of each; the possession limit is 2 Canada and 2 white-fronted geese. From November 15 through December 9, the daily bag limit will be 2 Canada geese or 2 white-fronted geese or 1 of each; the possession limit is 2 Canada and 2 white-fronted geese.

(c) *Remainder of the State*—the daily bag limit is 1 Canada goose or 2 white-fronted geese or 1 of each; the possession limit is 1 Canada goose and 2 white-fronted geese.

In Ohio, the daily bag limit is 2 Canada geese or 2 white-fronted geese or 1 of each and the possession limit is 2 Canada and 2 white-fronted geese, except that in the counties of Ashland, Trumbull, Marion, Wyandot, Lucas, Ottawa, Erie, Sandusky, Mercer and

Auglaize, the daily bag limit is 1 Canada goose or 2 white-fronted geese or 1 of each.

In Indiana, the daily bag limit is 2 Canada geese or 2 white-fronted geese or 1 of each; the possession limit is 2 Canada and 2 white-fronted geese.

In Kentucky, the daily bag limit is 2 Canada geese or 2 white-fronted geese or 1 of each; the possession limit is 4 Canada and white-fronted geese in the aggregate, of which no more than 2 may be white-fronted geese. In the Ballard County Zone (described in State regulations), the harvest of Canada geese is limited to 15,000.

In Tennessee, the daily bag limit is 1 Canada goose and the possession limit is 2 Canada geese, except in that portion of the State west of State Highway 13, where the daily bag and possession limits are 2 Canada geese. The season on Canada geese is closed in that portion of Tennessee bounded on the north by State Highways 20 and 104, and on the east by U.S. Highways 45W and 45.

In Alabama, the season is closed on all geese in the counties of Henry, Russell and Barbour. Elsewhere in Alabama, the daily bag limit is 2 Canada geese or 2 white-fronted geese or 1 of each; the possession limit is 4 Canada and white-fronted geese in the aggregate, of which no more than 2 may be white-fronted geese.

When it has been determined that the quota of Canada geese allotted to the Southern Illinois Zone, the Swan Lake Zone of Missouri, and the Ballard County Zone of Kentucky will have been filled, the season for taking Canada geese in the respective area will be closed by the Director upon giving public notice through local information media at least 48 hours in advance of the time and date of closing.

Geese taken in Illinois and Missouri and in the Kentucky counties of Ballard, Hickman, Fulton, and Carlisle may not be transported, shipped, or delivered for transportation or shipment by common carrier, the Postal Service, or by any person except as the personal baggage of the hunter taking the birds.

Central Flyway

Seasons on ducks (including mergansers) and coots may be selected between September 29, 1979, and January 20, 1980, inclusive, in Central Flyway States and portions of States.

The basic season may include no more than 60 days. Conventional limits on ducks (including mergansers), singly or in the aggregate, are 5 daily and 10 in possession. The aggregate daily bag limit on ducks (including mergansers) may include no more than 1 redhead or

1 canvasback (note areas closed to canvasback hunting), 1 female mallard, 1 hooded merganser, and 2 wood ducks. The possession limit may include no more than 1 redhead or 1 canvasback (note areas closed to canvasback hunting), 2 female mallards, 2 hooded mergansers, and 4 wood ducks. The daily bag and possession limits on coots are 15 and 30, respectively.

North Dakota—that portion lying east of State Highway 3, including all or portions of 27 counties.

South Dakota—all of Marshall County; that portion of Day County east of State Highway 25; that portion of Codington County south of State Highway 20 and west of U.S. Highway 81; that portion of Hamlin County west of U.S. Highway 81; and that portion of Kingsbury County east of State Highway 25 and north of U.S. Highway 14.

As an alternative to conventional bag and possession limits for ducks, point-system regulations may be selected for States and portions of States in this Flyway. The point system season length in the High Plains Mallard Management Unit is 83 days provided that the last 23 days of such season must begin on or after December 8, 1979. The High Plains Unit, roughly defined as that portion of the Central Flyway which lies west of the 100th meridian, shall be described in State regulations. The season length for the Low Plains Unit (those portions of North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, and Texas not included in the High Plains Mallard Management Unit) may not exceed 60 days.

The point values for species and sexes taken in the Central Flyway are: canvasbacks count 100 points each (note areas closed to canvasback hunting); female mallards, Mexican-like ducks, wood ducks, redheads and hooded mergansers count 70 points each; blue-winged teal, green-winged teal, cinnamon teal, scaup, pintails, gadwalls, wigeon, shovellers, and mergansers (except the hooded merganser) count 10 points each; all other species and sexes of ducks count 20 points each. The daily bag limit is reached when the point value of the last bird taken, when added to the sum of the point values of other birds already taken during that day, reaches or exceeds 100 points. The possession limit is the maximum number of birds which legally could have been taken in 2 days.

Coots have a point value of zero, but the daily bag and possession limits are 15 and 30, respectively, as under conventional limits.

Those portions of Colorado and Wyoming lying west of the Continental Divide, that portion of New Mexico

lying west of the Continental Divide plus the entire Jicarilla Apache Indian Reservation, and that portion of Montana which includes the counties of Hill, Chouteau, Cascade, Meagher, and Park and all counties west thereof, must select open seasons on waterfowl and coots in accordance with the framework for the Pacific Flyway.

States in this Flyway may select goose seasons between September 29, 1979, and January 20, 1980, inclusive.

Montana, Wyoming and Colorado may select, for the Central Flyway portions, seasons of 93 days, with daily bag and possession limits of 2 and 4 geese, respectively.

New Mexico (for the Central Flyway portion) and Texas (for that portion west of U.S. Highway 81) may select seasons of 93 days with a daily bag limit of 5 geese which may include no more than 2 dark (Canada and white-fronted) geese and a possession limit of 5 geese which may include no more than 4 dark geese.

North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, and Texas (for that portion east of U.S. Highway 81) may select seasons of 86 days for light (snow, including blue and Ross') geese and seasons of 72 days for dark (Canada and white-fronted) geese subject to the following:

Seasons for light and dark geese need not be concurrent.

The daily bag and possession limits may not exceed 5 geese during periods when such light and dark goose seasons may be concurrent.

The daily bag and possession limits may include no more than 5 light geese.

The daily bag limit may include no more than 2 dark geese and the possession limit may include no more than 4 dark geese subject to the following:

In North Dakota, the daily bag limit may include no more than 1 Canada goose and 1 white-fronted goose or 2 white-fronted geese. The possession limit may include no more than 2 Canada or 2 white-fronted geese or 1 of each. The season on dark geese may not extend beyond November 18, 1979.

In South Dakota, the daily bag limit may include no more than 1 Canada goose and 1 white-fronted goose and the possession limit may include no more than 2 Canada geese or 2 white-fronted geese or 1 of each. The season on dark geese may not extend beyond November 25, 1979, in the counties of Buffalo, Brule, Hughes, Hyde, Lyman, Potter, Stanley, and Sully.

In Nebraska, the season on dark geese may not extend beyond December 16, 1979. The daily bag limit may include no more than 1 Canada goose and 1 white-

fronted goose and the possession limit may include no more than 2 Canada geese or 2 white-fronted geese or 1 of each except that, in that portion of the State west of U.S. Highway 183, prior to November 19, the daily bag limit may include no more than 2 Canada geese and the possession limit no more than 4 Canada geese.

In Kansas, the season on dark geese may not extend beyond December 23, 1979. The daily bag limit may include no more than 1 Canada and 1 white-fronted goose and the possession limit may include no more than 2 Canada geese or 2 white-fronted geese or 1 of each.

In the Oklahoma counties of Alfalfa, Bryan, Johnston, and Marshall, the State may select either:

(a) A season of 72 days with a daily bag limit of no more than 1 Canada goose and 1 white-fronted goose, and a possession limit of no more than 2 Canada geese or 2 white-fronted geese or 1 of each.

OR

(b) A season of 53 days (within the 72-day period selected for the remainder of the State) with a daily bag limit of no more than 2 Canada geese or 1 Canada goose and 1 white-fronted goose, and a possession limit of no more than 2 Canada geese or 2 white-fronted geese or 1 of each.

In the remainder of Oklahoma, the daily bag limit may include no more than 2 Canada geese or 1 Canada goose and 1 white-fronted goose and the possession limit no more than 2 Canada geese or 2 white-fronted geese or 1 of each.

In that portion of Texas east of U.S. Highway 81, the daily bag limit may include no more than 1 Canada goose or 1 white-fronted goose and the possession limit no more than 2 Canada geese or 2 white-fronted geese or 1 of each.

Colorado, Montana, New Mexico, Oklahoma, Texas, and Wyoming may select a sandhill crane season with daily bag and possession limits of 3 and 6, respectively, within a September 29, 1979-January 31, 1980, framework as follows:

(a) 37 consecutive days from September 29 through November 18, 1979, in the Central Flyway portion of Colorado except the San Luis Valley area, and in the Wyoming counties of Crook, Goshen, Laramie, Niobrara, Platte and Weston.

(b) 93 consecutive days between October 20, 1979, and January 31, 1980, in the New Mexico counties of Chaves, Curry, De Baca, Eddy, Lea, Quay, and Roosevelt, and in that portion of Texas west of a boundary from the Oklahoma border along U.S. Highway 287 to U.S.

Highway 87 at Dumas, along U.S. Highway 87 (including all of Howard and Lynn Counties) to U.S. Highway 277 at San Angelo, and along U.S. Highway 277 to the International Toll Bridge in Del Rio.

(c) 58 consecutive days on or after November 24, 1979, in that portion of Oklahoma west of U.S. Highway 81, and in that portion of Texas east of a boundary from the Oklahoma border along U.S. Highway 287 to U.S. Highway 87 at Dumas, then along U.S. Highway 87 to San Angelo, and west of a line running north from San Angelo along U.S. Highway 277 to Abilene, along State Highway 351 to Albany, along U.S. Highway 283 to Vernon, and then along U.S. Highway 183 east to the Oklahoma border.

(d) 37 consecutive days, to open with the goose season, in all of the Central Flyway portion of Montana except Sheridan County and that area south and west of Interstate Highway 90 and the Big Horn River.

All persons hunting sandhill cranes in the above designated areas of the Central Flyway must obtain and possess valid Federal permits issued by the appropriate State conservation agency on an equitable basis without charge.

Emergency closures of hunting seasons will be considered whenever portions of either the Grays Lake or Aransas flocks of whooping cranes are found in areas where there is risk to their taking by hunters.

Pacific Flyway

Between September 29, 1979, and January 20, 1980, concurrent 93-day seasons on ducks, mergansers, coots, and gallinules may be selected in Pacific Flyway States and portions of States, except as subsequently noted. Basic daily bag and possession limits on ducks are 7 and 14, respectively.

No more than 2 redheads or 2 canvasbacks or 1 of each may be taken daily and no more than 4 singly or in the aggregate may be possessed.

The daily bag and possession limits on mergansers are 5 and 10, respectively, of which no more than 1 daily and 2 in possession may be hooded mergansers.

The daily bag and possession limits on coots and gallinules are 25 singly or in the aggregate.

Waterfowl season dates for the Colorado River Zone of California must coincide with season dates selected by Arizona for waterfowl. Waterfowl season dates for the Northeastern Zone of California must coincide with season dates selected by Oregon for waterfowl, except that the season on geese may differ according to prescribed options

described later. For the Southern Zone of California (as described in Title 14 California Fish and Game Code, Section 502), the State may designate season dates differing from those in the remainder of the State.

For Nevada, county of Clark, the State may designate season dates for waterfowl differing from those in the remainder of the State.

In the Idaho counties of Ada, Bannock, Benewah, Blaine, Bonner, Boundary, Camas, Canyon, Cassia, Elmore, Gem, Gooding, Jerome, Kootenai, Latah, Lewis, Lincoln, Minidoka, Nez Perce, Owyhee, Payette, Power, Shoshone, Twin Falls, Washington, and that portion of Bingham County lying outside the Blackfoot Reservoir drainage; the Oregon counties of Baker, Gilliam, Malheur, Morrow, Sherman, Umatilla, Union, Wallowa, and Wasco; and in Washington all areas lying east of the summit of the Cascade Mountains and east of the Big White Salmon River in Klickitat County (all formerly identified as the Columbia Basin Area for ducks), between September 29, 1979, and January 20, 1980, the season lengths for ducks, mergansers, coots and gallinules may be 100 days with all seasons to run concurrently.

Between September 29, 1979, and January 20, 1980, 93-day seasons on geese may be selected in States or portions of States in this Flyway, except as subsequently noted. The basic daily bag and possession limits are 6, provided, that the daily bag limit includes no more than 3 white geese (snow, including blue, and Ross' geese) and 3 dark geese (Canada and white-fronted geese); the daily bag and possession limits are proportionately reduced in those areas where special restrictions apply to Canada geese. In Washington and Idaho, the daily bag and possession limits are 3 and 6 geese, respectively.

The season is closed on the Aleutian Canada goose.

Three areas in California, described as follows, are restricted to the hunting of dark geese (Canada and white-fronted geese) in order to protect the Aleutian Canada goose for which no hunting is allowed and to temporarily reduce harvests on white-fronted geese and cackling Canada geese:

(1) In the counties of Del Norte and Humboldt there will be no open season on dark geese during the 1979-80 waterfowl hunting season.

(2) In the Sacramento Valley in the area described as follows: beginning at Willows in Glenn County proceeding south on Interstate Highway 5 to the junction with Hahn Road north of

Arbuckle in Colusa County; then easterly on Hahn Road and the Grimes-Arbuckle Road to Grimes on the Sacramento River; then south on the Sacramento River to the Tisdale By-pass; then easterly on the Tisdale By-pass to where it meets O'Banion Road; then easterly on O'Banion Road to State Highway 99; then northerly on State Highway 99 to its junction with the Gridley-Colusa Highway in Gridley in Butte County; then westerly on the Gridley-Colusa Highway to its junction with the River Road; then northerly on the River Road to the Princeton Ferry; then westerly across the Sacramento River to State Highway 45; then northerly on State Highway 45 to its junction with State Highway 162; then continuing northerly on State Highway 45-162 to Glenn; then westerly on State Highway 162 to the point of beginning in Willows; the hunting season for taking dark geese will not open until December 15, 1979, and will then continue to the end of the 1979-80 waterfowl hunting season.

(3) In the San Joaquin Valley in the area described as follows: beginning at Modesto in Stanislaus County proceeding west on State Highway 132 to the junction of Interstate 5; then southerly on Interstate 5 to the junction of State Highway 152 in Merced County; then easterly on State Highway 152 to the junction of State Highway 59; then northerly on State Highway 59 to the junction of State Highway 99 at Merced; then northerly and westerly to the point of beginning; the hunting season for taking dark geese will close on November 23, 1979.

Emergency closures may be invoked for all Canada geese should Aleutian Canada goose distribution patterns or other circumstances justify such actions.

In the Washington counties of Adams, Benton, Douglas, Franklin, Grant, Kittitas, Klickitat, Lincoln, Walla Walla, and Yakima, and in the Oregon counties of Gilliam, Morrow, Sherman, Umatilla, Union, Wallowa, and Wasco, the goose season may be of 100 days duration and must run concurrently with the duck season; and the bag limits for geese are to be the same as in the general goose season in their respective States.

Oregon, for Lake and Klamath Counties, and California, for the Northeastern Zone and the Balance-of-the-State Zone, may select frameworks for season and limits among the following listed seven options. The selected season must occur within that selected for ducks.

For Lake and Klamath Counties, Oregon, and the Northeastern Zone of California:

Option 1. A season of not more than 79 days between November 3, 1979, and January 20, 1980, with a basic goose bag of 6 per day and 6 in possession of which not more than 3 dark and 3 white geese may be in the daily bag.

Option 2. A season of not more than 86 days between October 27, 1979, and January 20, 1980, with a basic goose bag of 4 per day and 4 in possession, of which not more than 2 dark and 2 white geese may be in the daily bag.

Option 3. A season of 93 days between September 29, 1979, and January 20, 1980, with a basic goose bag of 2 per day and 2 in possession of which not more than 1 dark and 1 white goose may be in the daily bag.

For the Balance-of-the-State Zone in California:

Option 4. A season of not more than 88 days between September 29, 1979, and December 25, 1979, with a basic goose bag of 6 per day and 6 in possession of which not more than 3 dark and 3 white geese may be in the daily bag.

Option 5. A season of not more than 93 days between September 29, 1979, and January 1, 1980, with a basic goose bag of 4 per day and 4 in possession of which not more than 2 dark and 2 white geese may be in the daily bag.

Option 6. A season of not more than 93 days between September 29, 1979, and January 20, 1980, with a basic goose bag of 2 per day and 2 in possession of which not more than 1 dark and 1 white goose may be in the daily bag.

For Lake and Klamath Counties, Oregon (only):

Option 7. A season of not more than 93 days between September 29, 1979, and January 20, 1980, with a goose limit the same as that of Option #3, except that any time beginning or after October 27, 1979, the goose limit of Option #1 may be adopted.

In that portion of Idaho lying west of the line formed by U.S. Highway 93 north from the Nevada border to Shoshone, thence northerly on Idaho State Highway 75 (formerly U.S. Highway 93) to Challis, thence northerly on U.S. Highway 93 to the Montana border (except Boundary, Bonner, Kootenai, Benewah, Shoshone, Latah, Nez Perce, Lewis, Clearwater and Idaho Counties); in the Oregon counties of Baker and Malheur; and in that portion of Montana and Wyoming in the Pacific Flyway, the daily bag and possession limit is 2 Canada geese and the season on Canada geese may not extend beyond January 1, 1979.

In that portion of Idaho lying east of the line formed by U.S. Highway 93 north from the Nevada border to Shoshone, thence northerly on Idaho

State Highway 75 (formerly U.S. Highway 93) to Challis, thence northerly on U.S. Highway 93 to the Montana border; in that portion of Colorado in the Pacific Flyway; and in Utah except Washington County, the daily bag and possession limits are 2 Canada geese, and the season on Canada geese may be no more than 72 days and may not extend beyond December 23, 1979.

For Nevada the State may experimentally designate season dates on geese in Clark County and on geese in Elko County and that portion of White Pine County within Ruby Lakes National Wildlife Refuge differing from those in the remainder of the State. The daily bag and possession limits are 2 Canada geese throughout the State.

In Arizona, except in the counties of Mohave and Yuma; in that portion of New Mexico in the Pacific Flyway; in Clark County, Nevada; in Washington County, Utah; and in the Southern Zone, except that portion in California Department of Fish and Game District 22, of California, the season on Canada geese may be no more than 72 days. The daily bag and possession limit is 2 Canada geese and the season on Canada geese may not extend beyond January 20, 1980.

In California, the balance of California Fish and Game District 22 in the Southern Zone (that portion of District 22 lying outside the Colorado River Zone), the daily bag limit is 1 Canada goose with 2 in possession and the season on Canada geese may be no more than 72 days and may not extend beyond January 6, 1980.

In the Arizona counties of Mohave and Yuma and in the Colorado River Zone of California, the seasons on Canada geese may be no more than 72 days and may not extend beyond January 6, 1980. The daily bag and possession limits on Canada geese are 2 and 2, respectively, in these areas. The season on geese in the Colorado River Zone of California must be the same as that selected by Arizona.

In the Washington counties of Island, Skagit, Snohomish, and Whatcom, the seasons on snow geese may not extend beyond January 1, 1980; and the daily bag and possession limits on snow geese are 2 and 4, respectively.

Between October 20, 1979, and February 20, 1980, States in this Flyway may select an open season on brant of 93 days with daily bag and possession limits of 4 and 8 brant, respectively.

In Utah, Nevada and Montana, an open season for taking a limited number of whistling swans may be selected subject to the following conditions: (a) the season must run concurrently with the duck season; (b) in Utah, no more

than 2,500 permits may be issued, authorizing each permittee to take 1 whistling swan; (c) in Nevada, no more than 500 permits may be issued, authorizing each permittee to take 1 whistling swan in Churchill County; (d) in Montana, no more than 500 permits may be issued authorizing each permittee to take 1 whistling swan in Teton County; (e) permits and correspondingly numbered metal locking seals must be issued by the appropriate State conservation agency on an equitable basis without charge.

For all States entirely in the Pacific Flyway, open seasons on common snipe must coincide with the duck season locally in effect. For other States partially within the Pacific Flyway seasons between September 1, 1979, and February 28, 1980, and not to exceed 93 days, may be selected. The daily bag and possession limits are 8 and 16, respectively. Any State may split its snipe season without penalty.

Special Falconry Frameworks

Falconry is a permitted means of taking migratory game birds in any State.

Any State listed in 50 CFR 21.29(k) as meeting Federal Falconry Standards may select an extended season for taking migratory game birds in accordance with the following:

1. Seasons must fall within the regular season framework dates and, if offered, other special season framework dates for hunting.

2. Season lengths for all permitted methods of hunting within a given area may not exceed 107 days for any species.

3. Hunting hours shall not exceed ½ hour before sunrise to sunset.

4. Falconry daily bag and possession limits for all permitted migratory game birds shall not exceed 3 and 8 birds, respectively, singly or in the aggregate, during both regular hunting seasons and extended falconry seasons.

5. Each State selecting extended seasons shall report to the Service the results of the special falconry season by March 15, 1980.

6. Each State selecting the special season must inform the Service of the season dates and publish said regulations.

General hunting regulations, including seasons, hours, and limits, apply to falconry in each State listed in 50 CFR 21.29(k) which does not select an extended falconry season.

Dated: August 23, 1979.

Lynn A. Greenwalt,
Director, U.S. Fish and Wildlife Service.

[FR Doc. 79-26680 Filed 8-27-79; 8:45 am]

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federal register

Tuesday
August 28, 1979

Part V

Department of Labor

**Office of the Assistant Secretary for
Labor-Management Relations**

**Standards of Conduct for Labor
Organizations in the Federal Sector**

DEPARTMENT OF LABOR

Office of the Assistant Secretary for Labor-Management Relations

[29 CFR Chapter II]

Standards of Conduct for Labor Organizations in the Federal Sector

AGENCY: Office of the Assistant Secretary for Labor-Management Relations, Department of Labor.

ACTION: Notice of Proposed Regulations.

SUMMARY: The proposed regulations, Parts 207-209 of Title 29 of the Code of Federal Regulations, implement section 7120 of the Civil Service Reform Act of 1978. Section 7120 sets forth standards of conduct for labor organizations in the Federal sector and supersedes the standards of conduct provisions of section 18 of Executive Order 11491, as amended.

The proposed Parts 207-209 adopt with few revisions the portions of the regulations issued under the Executive Order in Parts 201-206 which relate to standards of conduct matters. These portions of Parts 201-206 remain in effect until the adoption of final regulations by the Assistant Secretary implementing section 7120 of the Civil Service Reform Act. The portions of Parts 201-206 which relate to matters other than standards of conduct will remain in effect to the extent that they are incorporated in regulations issued by the Federal Labor Relations Authority, the General Counsel of the Authority, and the Federal Service Impasses Panel implementing the other provisions of Title VIII of the Act.

DATE: Written comments on the proposed regulations must be received on or before October 29, 1979.

ADDRESS: Written comments should be submitted to the Assistant Secretary for Labor-Management Relations, Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

FOR FURTHER INFORMATION CONTACT: Herbert Raskin, (202) 523-7373.

SUPPLEMENTARY INFORMATION: The Federal labor-management relations program of Executive Order 11491, as amended, has been replaced by the statutory program set forth in Title VII of the Civil Service Reform Act of 1978. Under section 7120 of the Act, the Assistant Secretary for Labor-Management Relations retains the responsibility for administering the standards of conduct requirements for labor organizations in the Federal sector previously set forth in section 18 of the Executive Order. The responsibility for

administering other areas of the Federal labor-management relations program (which under the Executive Order were assigned to the Assistant Secretary) have been delegated to the Federal Labor Relations Authority (the Authority), the General Counsel of the Authority, and the Federal Service Impasses Panel (the Panel), agencies which are independent of the Department of Labor.

Under the Executive Order, the Assistant Secretary issued implementing regulations in Parts 201-206 of Title 29 of the Code of Federal Regulations (CFR). The portions of these regulations which relate to the standards of conduct are proposed to be transferred with a few revisions to new Parts 207-209 and remain in effect until the adoption of final regulations by the Assistant Secretary. The portions of Parts 201-206 which relate to matters other than standards of conduct remain in effect to the extent that they are incorporated into the transition rules and regulations of the Authority and the Panel published in the Federal Register of January 2, 1979 (44 FR 5) and 5 CFR Chapter XIV, Part 2400 et. seq. (revised as of July 1, 1979).

The regulations proposed by the Assistant Secretary in Parts 207-209 incorporate with few changes the standards of conduct provisions of the current regulations. In particular, the proposed Part 207 contains definitions and essentially tracks the present Part 201. The proposed Part 208 contains substantive and enforcement provisions and essentially tracks the present Part 204. The proposed Part 209 contains miscellaneous provisions and essentially tracks the present Part 206.

Most of the changes made by the proposed Parts 207-209 are editorial in nature and are necessary in order to eliminate provisions which do not relate to standards of conduct matters, reflect changes in the titles of U.S. Government personnel and agencies, and change references from the Executive Order to the Act. The other changes which are set forth in detail below expand upon the procedures followed in implementing the standards of conduct requirements, extend the time limits with regard to certain enforcement procedures, renumber and consolidate various sections, and make a few other miscellaneous changes. A few revisions were also made in order to ensure that the regulations clearly conform generally to the principles applied to labor organizations in the private sector under the Labor-Management Reporting and Disclosure Act of 1959, as Amended. The primary changes are as follows:

1. The proposed § 208.64 is identical to § 204.64 except that a new subsection (c) has been added to provide for a request for a review by the Assistant Secretary when a complaint of a union officer election is dismissed by the Director of the Office of Labor-Management Standards Enforcement (LMSE). The review is limited to determining whether the dismissal was arbitrary and capricious.

2. Section 208.65 is identical to § 204.65 except that a new subsection (c) has been added to provide for certification to the Assistant Secretary of the results of a union officer election which was supervised pursuant to his order.

3. Section 208.66 is identical to section 204.66 except that a new provision has been added to clarify that a failure to abide by all the terms of a voluntary compliance agreement may result in either the filing of a complaint with the Chief Administrative Law Judge of the Department of Labor for a hearing or referral to the Assistant Secretary for other appropriate action.

4. Section 208.70 is identical to § 204.68 except that a provision has been added to clarify the jurisdiction of the Assistant Secretary in certain cases. Under that provision, when an agreement to take remedial action is reached after a complaint has been filed with the Chief Administrative Law Judge of the Department and the agreement has been approved by the Administrative Law Judge assigned to the case, the matter will be referred to the Assistant Secretary for the issuance of an order.

5. Section 208.91 is identical to § 204.91 except that a provision has been added whereby the Assistant Secretary may, in all standards of conduct matters, adopt without discussion the recommended decision and order of the Administrative Law Judge if timely and proper exceptions have not been filed. Under the current regulations set forth in §§ 203.26 and 204.91, the Assistant Secretary may adopt without discussion the recommended decision and order of the Administrative Law Judge only with regard to violations of the provisions concerning prohibited discipline and members' bill of rights.

6. Section 208.92 is identical to § 204.92 except for a change in the last sentence whereby the Assistant Secretary, when he finds that the remedial action he has ordered has not been taken shall refer the matter to the Federal Labor Relations Authority for appropriate action.

The proposed regulations also make a number of miscellaneous changes in procedures as follows:

1. Section 208.60 provides that when a Regional Administrator of the Labor-Management Services Administration finds that there is a reasonable basis for a complaint concerning an alleged violation of the provisions concerning members' bill of rights or prohibited discipline, he shall refer the matter to the Chief Administrative Law Judge of the Department of Labor for the issuance of a notice of hearing. Currently, under § 204.60 the Regional Administrator shall himself issue the notice of hearing. Accordingly, the provisions of section 208.61 are unnecessary and are proposed to be deleted.

2. Section 208.90(b) provides that a party may file within ten days answering briefs to exceptions taken to the recommended decision and order of an Administrative Law Judge. Presently, under § 204.90(b) answering briefs may only be filed at the discretion of the Assistant Secretary.

3. The time periods during which a party may take certain actions with regard to the enforcement of alleged violations of the standards of conduct has been extended. The current time periods of five, seven and ten days are proposed to be extended to seven, ten and fifteen days, respectively. These extensions are contained in the following proposed sections: §§ 208.59, 208.66, 208.69, 208.72, 208.82, 208.86, 208.87, and 208.88.

4. The requirement that a party to an enforcement proceeding file multiple copies of various documents has been eliminated in the following proposed sections: §§ 208.72, 208.82, 208.86 and 208.88.

5. Two provisions of the current Part 206 have been placed in the proposed Part 208 rather than the proposed Part 209. Section 206.6 is proposed to be renumbered as § 208.61 and § 206.7(g) is proposed to be renumbered as § 208.72(c).

The proposed regulations also eliminate the portions of the current regulations which do not pertain to standards of conduct or which are otherwise unnecessary or repetitious. The eliminated portions include the definitions of certain terms in Part 201, all of Parts 202, 203 and 205, and the following provisions of Part 206 ("Miscellaneous"): §§ 206.3(b), 206.4(c), 206.5 through 206.8, and 206.10.

Finally, the proposed regulations consolidate the two sets of hearing procedures contained in the current regulations into one set applicable to all standards of conduct matters. Under the

current regulations, there is one set of hearing procedures in Part 203 for alleged violations of the bill of rights and prohibited discipline requirements and another set in Part 204 for alleged violations of other standards of conduct requirements. Since the two sets of hearing procedures are virtually identical, the proposed regulations adopt the hearing procedures contained in Part 204 with a few necessary modifications based upon the procedures contained in Part 203.

Under the authority of sections 7120 and 7134 of the Civil Service Reform Act of 1978, — Stat. —, — U.S.C. —, the Assistant Secretary for Labor-Management Relations hereby proposes to withdraw Parts 201 through 206 of Title 29 of the Code of Federal Regulations and issue Parts 207 through 209 to read as follows:

PART 207—GENERAL

Subpart A—Purpose and Scope

- Sec.
207.1 Purpose and Scope.
207.10 Act; LMRDA.
207.11 Agency, employee, labor organization, dues.
207.12 Authority.
207.13 Assistant Secretary
207.14 Standards of conduct for labor organizations.
207.15 Regional Administrator
207.16 Area Administrator
207.17 Director.
207.18 Administrative Law Judge.
207.19 Chief Administrative Law Judge.
207.20 Party.
207.21 Intervenor.
Authority: Secs. 7120, 7134 of the Civil Service Reform Act of 1978 (— Stat. —, — U.S.C. —).

Subpart A—Purpose and Scope

§ 207.1 Purpose and scope.

The regulations contained in this chapter are issued pursuant to section 7134 of the Civil Service Reform Act of 1978 and are designed to implement the provisions of section 7120 of that Act. They prescribe procedures and basic principles which the Assistant Secretary of Labor will utilize in effectuating the standards of conduct required of labor organizations composed of federal government employees, in accordance with section 7120 of the Act. (Regulations implementing the other provisions of Title VII of the Civil Service Reform Act are issued by the Federal Labor Relations Authority, the General Counsel of the Federal Labor Relations Authority, and the Federal Service Impasses Panel in Title 5 of the Code of Federal Regulations.)

Subpart B—Meaning of Terms as Used in This Chapter

§ 207.10 Act; LMRDA.

"Act" means the Civil Service Reform Act of 1978; "LMRDA" means the Labor-Management Reporting and Disclosure Act of 1959, As Amended.

§ 207.11 Agency, employee, labor organization, dues.

"Agency," "employees," "labor organization," and "dues" have the meanings set forth in section 7103 of the Act.

§ 207.12 Authority.

"Authority" means the Federal Labor Relations Authority as described in sections 7104 and 7105 of the Act.

§ 207.13 Assistant Secretary.

"Assistant Secretary" means the Assistant Secretary of Labor for Labor-Management Relations.

§ 207.14 Standards of conduct for labor organizations.

"Standards of conduct for labor organizations" shall have the meaning as set forth in section 7120 of the Act as amplified in Part 208 of this chapter.

§ 207.15 Regional Administrator.

"Regional Administrator" means the Administrator of a region of the Labor-Management Services Administration, with geographical boundaries as fixed by the Assistant Secretary.

§ 207.16 Area Administrator.

"Area Administrator" means the Administrator of an area office within a region of the Labor-Management Services Administration, with geographical boundaries as fixed by the Assistant Secretary.

§ 207.17 Director.

"Director" means the Director of the Office of Labor-Management Standards Enforcement with the Labor-Management Services Administration of the Department of Labor.

§ 207.18 Administrative Law Judge.

"Administrative Law Judge" means the Chief Administrative Law Judge or any Administrative Law Judge designated by the Chief Administrative Law Judge to conduct a hearing in cases under section 7120 of the Act, as interpreted by Part 208 of this chapter, and such other matters as may be assigned.

§ 207.19 Chief Administrative Law Judge.

"Chief Administrative Law Judge" means the Chief Administrative Law Judge, U.S. Department of Labor, Washington, D.C. 20210.

§ 207.20 Party.

"Party" means any person, employee, group of employees, labor organization, activity or agency: (a) filing a complaint petition, request, or application; (b) named in a complaint, petition, request, or application; or (c) whose intervention in a proceeding has been permitted or directed by the Assistant Secretary, Chief Administrative Law Judge, or Administrative Law Judge, as the case may be.

§ 207.21 Intervenor.

"Intervenor" means a party in a proceeding whose intervention has been permitted or directed by the Assistant Secretary, Chief Administrative Law Judge, or Administrative Law Judge, as the case may be.

PART 208—STANDARDS OF CONDUCT**Subpart A—Substantive Requirements Concerning Standards of Conduct**

- Sec.
- 208.1 General.
- 208.2 Bill of Rights of members of Labor organizations.
- 208.3 Application of LMRDA labor organization reporting requirements.
- Trusteeships**
- 208.26 Purposes for which a trusteeship may be established.
- 208.27 Prohibited acts relating to subordinate body under trusteeship.
- 208.28 Presumption of validity.
- Elections**
- 208.29 Election of officers.
- Additional Provisions Applicable**
- 208.30 Removal of elected officers.
- 208.31 Maintenance of fiscal integrity in the conduct of the affairs of labor organizations.
- 208.32 Provision for accounting and financial controls.
- 208.33 Prohibition of conflicts of interest.
- 208.34 Loans to officers or employees.
- 208.35 Bonding requirements.
- 208.36 Prohibitions against certain persons holding office or employment.
- 208.37 Prohibition of certain discipline.
- 208.38 Deprivation of rights under the Act by violence or threat of violence.

Subpart B—Proceedings for Enforcing Standards of Conduct**General**

- 208.50 Investigations.
- 208.51 Inspection of records and questioning.
- 208.52 Report of investigation.
- 208.53 Filing of complaints.

Procedures Involving Bill of Rights or Prohibited Discipline

- 208.54 Complaints alleging violations of § 208.2, Bill of Rights of members of labor organizations or § 208.37, prohibition of certain discipline.

- Sec.
- 208.55 Content of complaint.
- 208.56 Service on respondent.
- 208.57 Additional information and report.
- 208.58 Dismissal of complaint.
- 208.59 Review of dismissal.
- 208.60 Actionable complaint.
- 208.61 Transfer and consolidation of cases.
- 208.62 Hearing procedures.

Procedures Involving Election of Officers

- 208.63 Complaints alleging violations of § 208.29, election of officers.
- 208.64 Investigations; dismissal of complaint.
- 208.65 Procedures following actionable complaint.

Procedures Involving Matters Other Than Bill of Rights and Prohibited Discipline

- 208.66 Procedures for institution of enforcement proceedings.
- 208.67 Standards complaint; initiation of proceedings.
- 208.68 Answer.

Subpart C—Hearing and Related Matters

- 208.69 Notice of hearing.
- 208.70 Administrative Law Judge.
- 208.71 Procedure upon admission of facts.
- 208.72 Motions and requests.
- 208.73 Prehearing conferences.
- 208.74 Conduct of hearing.
- 208.75 Intervention.
- 208.76 Duties and powers of the Administrative Law Judge.
- 208.77 Rights of parties.
- 208.78 Rules of evidence.
- 208.79 Burden of proof.
- 208.80 Unavailability of Administrative Law Judges.
- 208.81 Objection to conduct of hearing.
- 208.82 Motions after a hearing.
- 208.83 Waiver of objections.
- 208.84 Oral argument at the hearing.
- 208.85 Transcript.
- 208.86 Filing of brief.
- 208.87 Proposed findings and conclusions.
- 208.88 Submission of the Administrative Law Judge's recommended decision and order to the Assistant Secretary; exceptions.
- 208.89 Contents of exceptions to Administrative Law Judge's recommended decision and order.
- 208.90 Briefs in support of exceptions.
- 208.91 Action by the Assistant Secretary.
- 208.92 Compliance with decisions and orders of the Assistant Secretary.
- 208.93 Stay of remedial action.
- Authority: Secs. 7105, 7111, 7120, 7134 of the Civil Service Reform Act of 1978 (— Stat. —, — U.S.C. —).

Subpart A—Substantive Requirements Concerning Standards of Conduct**§ 208.1 General.**

The term "LMRDA" means the Labor-Management Reporting and Disclosure Act of 1959, as amended (29 U.S.C. 401 et seq.). Unless otherwise provided in this part or in the order, any term in any section of the LMRDA, which is incorporated into this part by reference and any term in this part which is also

used in the LMRDA, shall have the meaning which that term has under the LMRDA, unless the context in which it is used indicates that such meaning is not applicable. In applying the standards contained in this subpart the Assistant Secretary will be guided by the interpretations and policies followed by the Department of Labor in applying the provisions of the LMRDA and by applicable court decisions.

§ 208.2 Bill of rights of members of labor organizations.

(a)(1) *Equal rights.* Every member of a labor organization shall have equal rights and privileges within such organization to nominate candidates, to vote in elections or referendums of the labor organization, to attend membership meetings and to participate in the deliberations and voting upon the business of such meetings, subject of reasonable rules and regulations in such organization's constitution and bylaws.

(2) *Freedom of speech and assembly.* Every member of any labor organization shall have the right to meet and assemble freely with other members; and to express any views, arguments or opinions; and to express at meetings of the labor organization his views, upon candidates in an election of the labor organization or upon any business properly before the meeting, subject to the organization's established and reasonable rules pertaining to the conduct of meetings: *Provided*, That nothing herein shall be construed to impair the right of a labor organization to adopt and enforce reasonable rules as to the responsibility of every member toward the organization as an institution and to his refraining from conduct that would interfere with its performance of its legal or contractual obligations.

(3) *Dues, initiation fees, and assessments.* Except in the case of a federation of national or international labor organizations, the rates of dues and initiation fees payable by members of any labor organization in effect on the date this section is published shall not be increased, and no general or special assessment shall be levied upon such members, except—

(i) In the case of a local organization, (a) by majority vote by secret ballot of the members in good standing voting at a general or special membership meeting, after reasonable notice of the intention to vote upon such question, or (b) by majority vote of the members in good standing voting in a membership referendum conducted by secret ballot; or

(ii) in the case of a labor organization, other than a local labor organization or a federation of national or international

labor organizations, (A) by majority vote of the delegates voting at a regular convention, or at a special convention of such labor organization held upon not less than 30 days written notice to the principal office of each local or constituent labor organization entitled to such notice, or (B) by majority vote of the members in good standing of such labor organization voting in a membership referendum conducted by secret ballot, or (C) by majority vote of the members of the executive board or similar governing body of such labor organization, pursuant to express authority contained in the constitution and bylaws of such labor organization: *Provided*, That such action on the part of the executive board or similar governing body shall be effective only until the next regular convention of such labor organization.

(4) *Protection of the right to sue.* No labor organization shall limit the right of any member thereof to institute an action in any court, or in a proceeding before any administrative agency, irrespective of whether or not the labor organization or its officers are named as defendants or respondents in such action or proceedings, or the right of any member of a labor organization to appear as a witness in any judicial, administrative, or legislative proceeding, or to petition any legislature or to communicate with any legislator: *Provided*, That any such member may be required to exhaust reasonable hearing procedures (but not to exceed a 4-month lapse of time) within such organization, before instituting legal or administrative proceedings against such organizations or any officer thereof.

(5) *Safeguards against improper disciplinary action.* (a) No member of any labor organization may be fined, suspended expelled, or otherwise disciplined, except for nonpayment of dues by such organization or by any officer thereof unless such member has been (i) served with written specific charges; (ii) given a reasonable time to prepare his defense; (iii) afforded a full and fair hearing.

(b) Any provision of the constitution and bylaws of any labor organization which is inconsistent with the provisions of this section shall not be a defense to any proceeding instituted against the labor organization under this part of under the Act.

(c) Nothing contained in this section shall limit the rights and remedies of any member of a labor organization under any State or Federal law or before any court or other tribunal, or under the constitution and bylaws of any labor organization.

(d) It shall be the duty of the secretary or corresponding principal officer of each labor organization, in the case of a local labor organization, to forward a copy of each agreement made by such labor organization with any activity or agency to any employee who requests such a copy and whose rights as such employee are directly affected by such agreement, and in the case of a labor organization other than a local labor organization, to forward a copy of any such agreement to each constituent unit which has members directly affected by such agreement; and such officer shall maintain at the principal office of the labor organization of which he is an officer, copies of any such agreement made or received by such labor organization, which copies shall be available for inspection by any member or by any employee whose rights are affected by such agreement. An employee's rights under this paragraph shall be enforceable in the same manner as the rights of a member.

§ 208.3 Application of LMRDA labor organization reporting requirements.

The reporting provisions of Parts 402, 403, and 408 of Chapter IV of this title shall apply to labor organizations subject to the requirements of the Civil Service Reform Act of 1978.

Trusteeships**§ 208.26 Purposes for which a trusteeship may be established.**

Trusteeships shall be established and administered by a labor organization over a subordinate body only in accordance with the constitution and bylaws of the organization which has assumed trusteeship over the subordinate body and for the purpose of (a) correcting corruption or financial malpractice, (b) assuring the performance of negotiated agreements or other duties of a representative of employees, (c) restoring democratic procedures, or (d) otherwise carrying out the legitimate objects of such labor organization.

§ 208.27 Prohibited acts relating to subordinate body under trusteeship.

During any period when a subordinate body of a labor organization is in trusteeship, (a) the votes of delegates or other representatives from such body in any convention or election of officers of the labor organization shall not be counted unless the representatives have been chosen by secret ballot in an election in which all the members in good standing of such subordinate body were eligible to participate; and (b) no current receipts or other funds of the subordinate body except the normal per

capita tax and assessments payable by subordinate bodies not in trusteeship shall be transferred directly or indirectly to the labor organization which has imposed the trusteeship; *Provided, however*, That nothing contained in this section shall prevent the distribution of the assets of a labor organization in accordance with its constitution and bylaws upon the bona fide dissolution thereof.

208.28 Presumption of validity.

In any proceeding involving § 208.26, a trusteeship established by a labor organization in conformity with the procedural requirements of its constitution and bylaws and authorized or ratified after a fair hearing either before the executive trusteeship established by a labor organization board or before such other body as may be provided in accordance with its constitution and bylaws shall be presumed valid for a period of 18 months from the date of its establishment and shall not be subject to attack during such period except upon clear and convincing proof that the trusteeship was not established or maintained in good faith for purposes allowable under § 208.26. After the expiration of 18 months the trusteeship shall be presumed invalid in any such proceeding, unless the labor organization shall show by clear and convincing proof that the continuation of the trusteeship is necessary for a purpose allowable under § 208.26.

Elections**§ 208.29 Election of officers.**

Every labor organization subject to the order shall conduct periodic elections of officers in a fair and democratic manner. All elections of officers shall be governed by the standards prescribed in sections 401 (a), (b), (c), (d), (e), (f) and (g) of the LMRDA to the extent that such standards are relevant to elections held pursuant to the provisions of section 7120 of the Act.

Additional Provisions Applicable**§ 208.30 Removal of elected officers.**

When an elected officer of a local labor organization is charged with serious misconduct and the constitution and bylaws of such organization do not provide an adequate procedure meeting the standards of § 417.2(e) of this title for removal of such officer, the labor organization shall follow a procedure which meets those standards. A labor organization which has adequate procedures in its constitution and bylaws shall follow those procedures.

§ 208.31 Maintenance of fiscal integrity in the conduct of the affairs of labor organizations.

The standards of fiduciary responsibility prescribed in section 501(a) of the LMRDA are incorporated into this subpart by reference and made a part hereof.

§ 208.32 Provision for accounting and financial controls.

Every labor organization shall provide accounting and financial controls necessary to assure the maintenance of fiscal integrity.

§ 208.33 Prohibition of conflicts of interest.

(a) No officer or agent of a labor organization shall, directly or indirectly through his spouse, minor child, or otherwise (1) have or acquire any pecuniary or personal interest which would conflict with his fiduciary obligation to such labor organization, or (2) engage in any business or financial transaction which conflicts with his fiduciary obligation.

(b) Actions prohibited by paragraph (a) of this section include, but are not limited to, buying from, selling, or leasing directly or indirectly to, or otherwise dealing with the labor organization, its affiliates, subsidiaries, or trusts in which the labor organization is interested, or having an interest in a business any part of which consists of such dealings, except bona fide investments of the kind exempted from reporting under section 202(b) of the LMRDA. The receipt of salaries and reimbursed expenses for services actually performed or expenses actually incurred in carrying out the duties of the officer or agent is not prohibited.

§ 208.34 Loans to officers or employees.

No labor organization shall directly or indirectly make any loan to any officer or employee of such organization which results in a total indebtedness on the part of such officer or employee to the labor organization in excess of \$2,000.

§ 208.35 Bonding requirements.

Every officer, agent, shop steward, or other representative or employee of any labor organization subject to the order (other than a labor organization whose property and annual financial receipts do not exceed \$5,000 in value), or of a trust in which a labor organization is interested, who handles funds or other property thereof shall be bonded in accordance with the principles of section 502(a) of the LMRDA. In enforcing this requirement the Assistant Secretary will be guided by the interpretations and policies followed by the Department of Labor in applying the

provisions of section 502(a) of the LMRDA.

§ 208.36 Prohibitions against certain persons holding office or employment.

The prohibitions against holding office or employment in a labor organization contained in section 504(a) of the LMRDA are incorporated into this subpart by reference and made a part hereof. The prohibitions shall also be applicable to any person who has been convicted of, or who has served any part of a prison term resulting from his conviction of, violating 18 U.S.C. 1001 by making a false statement in any report required to be filed pursuant to this subpart, or who has been determined by the Assistant Secretary after an appropriate proceeding pursuant to §§ 208.66 through 208.92 to have willfully violated § 208.27: *Provided, however*, That the duties and responsibilities of the Parole Commission of the U.S. Department of Justice under section 504(a) of the LMRDA shall be assumed under this section by the Assistant Secretary or such other person as he may designate for the purpose of determining whether it would not be contrary to the Act and this section to permit a person barred from holding office or employment to hold such office or employment.

§ 208.37 Prohibition of certain discipline.

No labor organization or any officer, agent, shop steward, or other representative or any employee thereof shall fine, suspend, expel, or otherwise discipline any of its members for exercising any right to which he is entitled under the provisions of the Act or this chapter.

§ 208.38 Deprivation of rights under the Act by violence or threat of violence.

No labor organization or any officer, agent, shop steward, or other representative or any employee thereof shall use, conspire to use, or threaten to use force or violence to restrain, coerce, or intimidate, or attempt to restrain, coerce, or intimidate any member of a labor organization for the purpose of interfering with or preventing the exercise of any right to which he is entitled under the provisions of the Act or of this chapter.

Subpart B—Proceedings for Enforcing Standards of Conduct

General

§ 208.50 Investigations.

When he believes it necessary in order to determine whether any person has violated or is about to violate any provisions of this part (other than

§ 208.2 Bill of Rights of members of labor organizations or § 208.37, Prohibition of certain discipline) the Director shall have the authority to cause an investigation to be conducted. The authority to investigate possible violations of this part (other than §§ 208.2 or 208.37) shall not be contingent upon receipt of a complaint.

§ 208.51 Inspection of records and questioning.

In connection with such investigation an Area Administrator or his representative may inspect such records and question such persons as he may deem necessary to enable him to determine the relevant facts. Every labor organization, its officers, employees, agents, or representatives shall cooperate fully in any investigation and shall testify and produce the records or other documents requested in connection with the investigation. This section shall be enforced in accordance with the procedures in §§ 208.66 through 208.92.

§ 208.52 Report of investigation.

The Area Administrator's report of investigation (except those relating to complaints under § 208.2, Bill of Rights of members of labor organizations or 208.37, Prohibition of certain discipline) shall be submitted through the Regional Administrator to the Director, who may report to interested persons concerning any matter which he deems to be appropriate as a result of such an investigation.

§ 208.53 Filing of complaints.

A complaint alleging violations of this part may be filed with any area office, or any other office of the Labor-Management Services Administration.

Procedures Involving Bill of Rights or Prohibited Discipline

§ 208.54 Complaints alleging violations of § 208.2, Bill of Rights of members of labor organization or § 208.37, prohibition of certain discipline.

Any member of a labor organization whose rights under the provisions of § 208.2 or § 208.37 are alleged to have been infringed or violated, may file a complaint in accordance with § 208.53. *Provided, however*, That such member may be required to exhaust reasonable hearing procedures (but not to exceed a 4-month lapse of time) within such organization.

§ 208.55 Content of complaint.

(a) The complaint shall contain appropriate identifying information and a clear and concise statement of the facts constituting the alleged violation.

(b) The complainant shall submit with his complaint a statement setting forth the procedures, if any, invoked to remedy the alleged violation, including the dates when such procedures were invoked and copies of any written ruling or decision which he has received.

§ 208.56 Service on respondent.

Upon the filing of a complaint, a copy of the complaint shall be served upon the respondent, and a written statement of such service shall be furnished to the Administrator.

§ 208.57 Additional information and report.

Upon the filing a complaint pursuant to §§ 208.54–208.56, the Area Administrator shall obtain such additional information as he deems necessary and shall report the essential facts, the positions of the parties, and any offers of settlement to the Regional Administrator.

§ 208.58 Dismissal of complaint.

If the Regional Administrator after receipt of a report of the Area Administrator pursuant to § 208.57, determines that a reasonable basis for the complaint has not been established, or that an offer of settlement satisfactory to the complainant has been made, he may dismiss the complaint. If he dismisses the complaint, he shall furnish the complainant with a written statement of the grounds for dismissal, sending a copy of the statement to the respondent.

§ 208.59 Review of dismissal.

The complainant may obtain a review of such action by filing a request for review with the Assistant Secretary within fifteen (15) days of service of the notice of dismissal. A copy of such request shall be served on the Regional Administrator and the respondent, and a statement of service shall be filed with the Assistant Secretary. The request for review shall contain a complete statement of the facts and reasons upon which a request is based.

§ 208.60 Actionable complaint.

If it appears to the Regional Administrator that there is a reasonable basis for the complaint, and that no offer of settlement satisfactory to the complainant has been made, he shall refer the matter to the Chief Administrative Law Judge, U.S. Department of Labor, for the issuance of a notice of hearing as set forth in § 208.69.

§ 208.61 Transfer and consolidation of cases.

In any matter arising pursuant to the regulations in this chapter, whenever it appears necessary in order to effectuate the purposes of the order or to avoid unnecessary costs or delay, the Regional Administrator may consolidate cases within his own region or may transfer such cases to any other region, for the purpose of consolidation with any proceedings which may have been instituted in, or transferred to, such region.

§ 208.62 Hearing procedures.

The proceedings following issuance of the notice of hearing shall be as provided in §§ 208.69 through 208.92 of this chapter.

Procedures Involving Election of Officers

§ 208.63 Complaints alleging violations of § 208.29, election of officers.

(a) A member of a labor organization may file a complaint alleging violations of § 208.29 within 1 calendar month after he has (1) exhausted the remedies available under the constitution and bylaws of the labor organization and of any parent body, or (2) invoked such available remedies without obtaining a final decision within 3 calendar months of such invocation.

(b) The complaint shall contain a clear and concise statement of the facts constituting the alleged violation(s) and a statement of what remedies have been invoked under the constitution and bylaws of the labor organization and when such remedies were invoked.

(c) The complainant shall submit with his complaint a copy of any ruling or decision he has received in connection with the subject matter of his complaint.

§ 208.64 Investigations; dismissal of complaint.

(a) If it is determined after preliminary inquiry that a complaint is deficient in any of the following respects, the Area Administrator shall conduct no investigation: (1) The complainant is not a member of the labor organization which conducted the election being challenged; (2) the labor organization is not subject to the Civil Service Reform Act of 1978; (3) the election was not a regular periodic election of officers; (4) the allegations, if true, do not constitute a violation or violations of § 208.29; (5) the complainant has not complied with the requirements of § 208.63(a).

(b) If investigation discloses (1) that there has been no violation or (2) that a violation has occurred but could not have affected the outcome or (3) that a violation has occurred but has been

remedied, the Director shall issue a determination dismissing the complaint and stating the reasons for his action.

(c) A determination dismissing the complaint may be reviewed by the Assistant Secretary, but only on the basis of deciding whether the Director's decision was arbitrary and capricious. The request for review must be made within fifteen (15) days after service of notice of dismissal.

§ 208.65 Procedures following actionable complaint.

(a) If the Director concludes that there is probable cause to believe that a violation has occurred and has not been remedied and may have affected the outcome of the election, he shall proceed in accordance with §§ 208.66 through 208.92.

(b) The challenged election shall be presumed valid pending a final decision thereon by the Assistant Secretary, and in the interim the affairs of the organization shall be conducted by the officers elected or in such other manner as its constitution and bylaws may provide.

(c) When the Director supervises an election pursuant to an order of the Assistant Secretary issued under § 208.68 or § 208.91, he shall certify to the Assistant Secretary the names of the persons elected. The Assistant Secretary shall thereupon issue an order declaring such persons to be the officers of the labor organization.

Procedures Involving Matters Other Than Bill of Rights and Prohibited Discipline

§ 208.66 Procedures for institution of enforcement proceedings.

Whenever it appears to the Director that a violation of this part (other than § 208.2, Bill of Rights of members of labor organizations or § 208.37, Prohibition of certain discipline) has occurred and has not been remedied, he shall immediately notify any appropriate person and labor organization. Within fifteen (15) days following receipt of such notification, any such person or labor organization may request a conference with the Director or his representatives concerning such alleged violation. At any such conference, the Director may enter into an agreement providing for appropriate remedial action. If no person or labor organization requests such a conference, or upon failure to reach agreement following any such conference, the Director shall institute enforcement proceedings by filing a complaint with the Chief Administrative Law Judge, U.S. Department of Labor, and shall cause a copy of the complaint

to be served on each respondent named therein. If an agreement is reached and the Director concludes that there has not been compliance with all the terms of the agreement, he may refer the matter to the Assistant Secretary for appropriate enforcement action or file a complaint with the Chief Administrative Law Judge.

§ 208.67 Standards complaint; initiation of proceedings.

A complaint filed under § 208.66 shall constitute the institution of a formal enforcement proceeding in the name of the Director, who shall be the only complaining party in the proceeding and shall, where he believes it appropriate, refrain from disclosing the identity of any person who called the violation to his attention (except in proceedings involving violations of section 208.29, Election of Officers). The complaint shall include the following:

- (a) The name and identity of each respondent.
- (b) A clear and concise statement of the facts alleged to constitute violations of the Act or of this part.
- (c) A statement of the relief requested.
- (d) In any complaint filed by the Director on the basis of a complaint received from a member of a labor organization pursuant to § 208.63, a statement setting forth the procedures, if any, followed to invoke available remedies, including the dates when such procedures were invoked, and the substance of any ruling or decision received by the complaining member from the labor organization or any parent body.

§ 208.68 Answer.

(a) Within twenty (20) days from the service of the complaint the respondent shall file an answer thereto with the Chief Administrative Law Judge and shall serve a copy on all parties. The answer shall be signed by the respondent or his attorney.

(b) The answer (1) shall contain a statement of the facts which constitute the grounds of defense, and shall specifically admit, explain, or deny each of the allegations of the complaint unless the respondent is without knowledge, in which case the answer shall so state; or (2) shall state that the respondent admits all of the allegations in the complaint. Failure to file an answer to or plead specifically to any allegation in the complaint shall constitute an admission of such allegation.

Subpart C—Hearing and Related Matters

§ 208.69 Notice of hearing.

The Chief Administrative Law Judge shall issue and cause to be served upon each of the parties a notice of hearing. The notice of hearing shall include the following:

- (a) The name and identity of each party and the case number.
- (b) A statement of the authority and jurisdiction under which the hearing is to be held.
- (c) A statement of the time and place of the hearing which shall be not less than fifteen (15) days after service of the notice of hearing.

§ 208.70 Administrative Law Judge.

Each enforcement proceeding instituted pursuant to this part shall be conducted before an Administrative Law Judge designated by the Chief Administrative Law Judge for the Department of Labor except, however, that when the Administrative Law Judge approves a stipulated agreement for appropriate remedial action, he shall prepare his recommended decision and order adopting that agreement and transfer the case to the Assistant Secretary. The Assistant Secretary may order the remedial action set forth in the stipulation agreement or take such action as he deems appropriate.

§ 208.71 Procedure upon admission of facts.

The admission of all the material allegations of fact in the complaint shall constitute a waiver of hearing. Upon such admission, the Administrative Law Judge without further hearing shall prepare his recommended decision and order in which he shall adopt as his proposed findings of fact the material facts alleged in the complaint.

§ 208.72 Motions and requests.

(a) Motions and requests made prior to the hearing shall be filed with the Chief Administrative Law Judge. The moving party shall serve a copy of all motions and requests on all other parties. Motions during the course of the hearing may be stated orally or filed in writing and shall be made part of the record. Each motion shall state the particular order, ruling, or action desired, and the grounds therefor. The Administrative Law Judge is authorized to rule upon all motions made prior to the filing of his report.

(b) A party may request the attendance of witnesses and/or the production of documents at a hearing held pursuant to this part, by written application before the hearing or orally

during the hearing. Copies of an application filed before the opening of the hearing shall be served on the other parties, who may file written objections to the request within seven (7) days after such service. The Administrative Law Judge after consideration of any objections, shall grant the request provided the specified testimony and/or documents appear to be necessary to the matters under investigation. If the Administrative Law Judge denies the request he shall set forth the basis for his ruling. Upon the failure of any party or officer or employee of any party to comply with such a request which has been granted by the Administrative Law Judge, the Administrative Law Judge and the Assistant Secretary may disregard all related evidence offered by the party failing to comply with the request or take such other action as may be appropriate.

(c) Employees who have been determined to be necessary as witnesses at a hearing shall be granted official time only for such participation as occurs during their regular work hours and when they would otherwise be in a work or paid leave status. Participation as witnesses includes the time necessary to travel to and from the site of a hearing, and the time spent giving testimony and waiting to give testimony, when such time falls during regular work hours. In addition, necessary transportation and per diem expenses shall be paid by the employing activity or agency.

§ 208.73 Prehearing conferences.

(a) Upon his own motion or the motion of the parties, the Administrative Law Judge may direct the parties or their counsel to meet with him for a conference to consider:

- (1) Simplification of the issues;
- (2) Necessity or desirability of amendments to pleadings for purposes of clarification simplification, or limitations;
- (3) Stipulations, admissions of fact, and of contents and authenticity of documents;
- (4) Limitation of the number of expert witnesses; and
- (5) Such other matters as may tend to expedite the disposition of the proceeding.

(b) The record shall show the matters disposed of by order and by agreement in such prehearing conferences. The subsequent course of the proceeding shall be controlled by such action.

§ 208.74 Conduct of hearing.

Hearings shall be conducted by an Administrative Law Judge and shall be open to the public unless otherwise

ordered by the Administrative Law Judge.

§ 208.75 Intervention.

Any person desiring to intervene in a hearing shall file a motion in writing in accordance with the procedures set forth in § 208.72 or, if made at the hearing, may move orally on the record, stating the grounds upon which such person claims an interest. Such a motion shall be filed.

§ 208.76 Duties and powers of the Administrative Law Judge.

It shall be the duty of the Administrative Law Judge to inquire fully into the facts as they relate to the matter before him and to prepare, serve and submit his recommended decision and order pursuant to § 208.88. Upon assignment to him and before transfer of the case to the Assistant Secretary, the Administrative Law Judge shall have the authority to:

- (a) Grant requests for appearance of witnesses or production of documents;
- (b) Rule upon offers of proof and receive relevant evidence;
- (c) Take or cause depositions to be taken whenever the ends of justice would be served thereby;
- (d) Limit lines of questioning or testimony which are immaterial, irrelevant, or unduly repetitious;
- (e) Regulate the course of the hearing and if appropriate, exclude from the hearing persons who engage in misconduct and strike all related testimony of witnesses refusing to answer any questions ruled to be proper;
- (f) Hold conferences for the settlement or simplification of the issues by consent of the parties or upon his own motion;
- (g) Dispose of procedural requests, motions, or similar matters which shall be made part of the record of the proceeding, including motions to amend pleadings; also to recommend dismissal of cases or portions thereof, and to order hearings reopened prior to issuance of his recommended decision and order;
- (h) Examine and cross-examine witnesses and to introduce into the record documentary or other evidence;
- (i) Request the parties at any time during the hearing to state their respective positions concerning any issue in the case or theory in support thereof;
- (j) Continue, at his discretion, the hearing from day-to-day, or adjourn it to a later date or to a different place, by announcement thereof at the hearing or by other appropriate notice;
- (k) Take official notice of any material fact not appearing in evidence in the

record, which is among the traditional matters of judicial notice and also concerning which the Department by reason of its functions is presumed to be expert: *Provided*, That the parties shall be given adequate notice, at the hearing or by reference in the Administrative Law Judge's recommended decision and order of the matters so noticed, and shall be given adequate opportunity to show the contrary.

(l) Correct or approve proposed corrections of the official transcript when deemed necessary.

(m) Take any other action necessary under the foregoing and not prohibited by these regulations.

§ 208.77 Rights of parties.

Any party shall have the right to appear at such hearing in person, by counsel, or by other representative, to examine and cross-examine witnesses, and to introduce into the record documentary or other relevant evidence, except that the participation of any party shall be limited to the extent prescribed by the Administrative Law Judge. Two (2) copies of documentary evidence shall be submitted and a copy furnished to each of the other parties. Stipulations of fact may be introduced in evidence with respect to any issue.

§ 208.78 Rules of evidence.

The technical rules of evidence do not apply. Any evidence may be received, except that an Administrative Law Judge may exclude any evidence or offer of proof which is immaterial, irrelevant, unduly repetitious, or customarily privileged. Every party shall have a right to present his case by oral and documentary evidence and to submit rebuttal evidence.

§ 208.79 Burden of proof.

In a hearing concerning an alleged violation of § 208.2 (Bill of rights of members of labor organizations) or § 208.37 (Prohibition of certain discipline), the complainant shall have the burden of proving the allegations of the complaint by a preponderance of the evidence. In a hearing concerning an alleged violation of other standards of conduct matters, the Director shall have the burden of proof.

§ 208.80 Unavailability of Administrative Law Judges.

In the event the Administrative Law Judge designated to conduct the hearing becomes unavailable, the Chief Administrative Law Judge shall designate another Administrative Law Judge for the purpose of further hearing or issuance of a recommended decision

and order on the record as made, or both.

§ 208.81 Objection to conduct of hearing.

(a) Any objection with respect to the conduct of the hearing, including any objection to the introduction of evidence, may be stated orally or in writing accompanied by a short statement of the grounds for such objection and included in the record. No such objection shall be deemed waived by further participation in the hearing. Such objection shall not stay the conduct of the hearing.

(b) Automatic exceptions will be allowed to all adverse rulings. Rulings by the Administrative Law Judge shall not be appealed prior to the transfer of the case to the Assistant Secretary, but shall be considered by the Assistant Secretary only upon the filing of exceptions to the Administrative Law Judge's recommended decision and order in accordance with § 208.84.

§ 208.82 Motions after a hearing.

All motions made after the transfer of the case to the Assistant Secretary, except motions to correct the record under § 204.76(l), shall be made in writing to the Assistant Secretary. The moving party shall serve a copy of all motion papers on all other parties. A statement of service shall accompany the motion. Answers, if any, must be served on all parties and the original thereof, together with a statement of service, shall be filed with the Assistant Secretary after the hearing, within seven (7) days after service of the moving papers unless it is otherwise directed.

§ 208.83 Waiver of objections.

Any objection not duly urged before an Administrative Law Judge shall be deemed waived.

§ 208.84 Oral argument at the hearing.

Any party shall be entitled, upon request, to a reasonable period prior to the close of the hearing for oral argument, which shall be included in the official transcript of the hearing.

§ 208.85 Transcript.

An official reporter shall make the only official transcript of such proceedings. Copies of the official transcript will be provided to the parties, in accordance with the provisions of 29 CFR 70.62(c), or they may be examined in the Area Office in whose geographic jurisdiction the hearing has been held.

§ 208.86 Filing of brief.

Any party desiring to submit a brief to the Administrative Law Judge shall file the original within ten (10) days after the

close of the hearing: *Provided, however,* That prior to the close of the hearing and for good cause, the Administrative Law Judge may grant a reasonable extension of time. Copies of such brief shall be served on all of the parties to the proceeding. Requests for additional time in which to file a brief under authority of this section made after the hearing shall be made in writing to the Administrative Law Judge and copies thereof served on the other parties. A statement of such service shall be furnished. A request for extension of time shall be received not later than three (3) days before the date such briefs are due. In the absence of the Administrative Law Judge such requests shall be ruled upon by the Chief administrative Law Judge. No reply brief may be filed except by permission of the Administrative Law Judge.

§ 208.87 Proposed findings and conclusions.

Within fifteen (15) days following the close of the hearing, the parties may submit proposed findings and conclusions to the Administrative Law Judge, together with supporting reasons therefor, which shall become part of the record.

§ 208.88 Submission of the Administrative Law Judge's recommended decision and order to the Assistant Secretary; exceptions.

(a) After the close of the hearing, and the receipt of briefs, or findings and conclusions, if any, the Administrative Law Judge shall prepare his recommended decision and order expeditiously. The recommended decision and order shall contain findings of fact, conclusions, and the reasons or basis therefor including credibility determinations, and recommendations as to the disposition of the case including the remedial action to be taken.

(b) The Administrative Law Judge shall cause his recommended decision and order to be served promptly on all parties to the proceeding. Thereafter, the Administrative Law Judge shall transfer the case to the Assistant Secretary including his recommended Decision and order and the record. The record shall include the complaint, the notice of hearing, motions, rulings, orders, official transcript of the hearing, stipulations, objections, depositions, exhibits, documentary evidence and any briefs or other documents submitted by the parties.

(c) Exceptions to the Administrative Law Judge's recommended decision and order may be filed by any party with the Assistant Secretary within fifteen (15)

days after service of the recommended decision and order: *Provided, however,* That the Assistant Secretary may for good cause shown extend the time for filing such exceptions. Requests for additional time in which to file exceptions shall be in writing, and copies thereof shall be served on the other parties. Requests for extension of time must be received no later than three (3) days before the date the exceptions are due. Copies of such exceptions and any supporting briefs shall be served on all other parties, and a statement of such service shall be furnished to the Assistant Secretary.

§ 208.89 Contents of exceptions to Administrative Law Judge's recommended decision and order.

(a) Exceptions to an Administrative Law Judge's recommended decision and order shall:

(1) Set forth specifically the questions upon which exceptions are taken;

(2) Identify that part of the Administrative Law Judge's recommended decision and order to which objection is made;

(3) Designate by precise citation of page the portions of the record relied on, state the grounds for the exceptions and include the citation of authorities unless set forth in a supporting brief.

(b) Any exception to a ruling, finding, conclusion, or recommendation which is not specifically urged shall be deemed to have been waived. Any exception which fails to comply with the foregoing requirements may be disregarded.

§ 208.90 Briefs in support of exceptions.

(a) Any brief in support of exceptions shall contain only matters included within the scope of the exceptions and shall contain, in the order indicated, the following:

(1) A concise statement of the case containing all that is material to the consideration of the questions presented;

(2) A specification of the questions involved and to be argued;

(3) The argument, presenting clearly the points of fact and law relied on in support of the position taken on each question, with specific page reference to the transcript and the legal or other material relied on.

(b) Answering briefs to the exception may be filed with the Assistant Secretary within ten (10) days after service of the exceptions.

208.91 Action by the Assistant Secretary.

(a) After considering the Administrative Law Judge's recommended decision and order, the record, and any exceptions filed, the

Assistant Secretary shall issue his decision affirming or reversing the Administrative Law Judge, in whole, or in part, or making such other disposition of the matter as he deems appropriate: *Provided, however,* That unless exceptions are filed which are timely and in accordance with § 208.89, the Assistant Secretary may, at his discretion, adopt without discussion the recommended decision and order of the Administrative Law Judge, in which event the findings, conclusions, and recommendations of the Administrative Law Judge, as contained in his recommended decision and order shall, upon appropriate notice to the parties, automatically become the decision of the Assistant Secretary.

(b) Upon finding a violation of the Act, the Assistant Secretary may order the respondent to cease and desist from such violative conduct and may require the respondent to take such affirmative action as he deems appropriate to effectuate the policies of the Act.

(c) Upon finding no violation of the Act, the Assistant Secretary shall dismiss the complaint.

208.92 Compliance with decisions and orders of the Assistant Secretary.

When remedial action is ordered, the respondent shall report to the Assistant Secretary, within a specified period that the required remedial action has been effected. When the Assistant Secretary finds that the required remedial action has not been effected, he shall refer the matter to the Federal Labor Relations Authority for appropriate action.

208.93 Stay of remedial action.

In cases involving violations of this part, the Assistant Secretary may direct, subject to such conditions as he deems appropriate, that the remedial action ordered be stayed.

PART 209—MISCELLANEOUS

Sec.

209.1 Computation of time for filing papers.

209.2 Additional time after service by mail.

209.3 Documents in a proceeding.

209.4 Service of pleading and other papers under this chapter.

209.5 Rules to be construed liberally.

Authority: Secs. 7120, 7134 of the Civil Service Reform Act of 1978 (— Stat.—; — U.S.C. —).

§ 209.1 Computation of time for filing papers.

In computing any period of time prescribed by or allowed by the regulations contained in Part 208 of this chapter, the day of the act, event, or default after which the designated period of time begins to run, shall not be included. The last day of the period so

computed is to be included unless it is a Saturday, Sunday or Federal legal holiday in which event the period shall run until the end of the next day which is neither a Saturday, Sunday, or a Federal legal holiday. When the period of time prescribed or allowed is seven (7) days, or less, intermediate Saturdays, Sundays, and Federal legal holidays shall be excluded from the computations. When these regulations require the filing of any paper, such document must be received by the Assistant Secretary or the officer or agent designated to receive such matter before the close of business of the last day of the time limit, if any, for such filing or extension of time that may have been granted.

§ 209.2 Additional time after service by mail.

Whenever a party has the right or is required to do some act pursuant to these regulations within a prescribed period after service of a notice or other paper upon him and the notice or paper is served on him by mail, five (5) days shall be added to the prescribed period: *Provided, however,* That five (5) days shall not be added if any extension of time may have been granted.

§ 209.3 Documents in a proceeding.

(a) *Title.* Documents in any proceeding under Part 208 of this chapter, including correspondence, shall show the title of the proceeding and the case number, if any.

(b) *Signature.* The original of each document required to be filed under these regulations shall be signed by the party or by an attorney or representative of record for the party, or by an officer of the party, and shall contain the address and telephone number of the person signing it.

§ 209.4 Service of pleading and other papers under this chapter.

(a) *Method of service.* Notices of hearing, decisions, orders and other papers may be served personally or by registered or certified mail or by telegraph. When service is by mail, the date of service shall be the day when the matter served is deposited in the United States mail.

(b) *Upon whom served.* All papers, except as herein otherwise provided, shall be served upon all counsel of record and upon parties not represented by counsel or by their agents designated by them or by law and upon the Assistant Secretary, or his designated officer, or agent or Administrative Law Judge where appropriate. Service upon such counsel or representative shall constitute service upon the party, but a

copy also shall be transmitted to the party.

§ 209.5 Rules to be construed liberally.

(a) The regulations in this chapter may be construed liberally to effectuate the purposes and provisions of the Act.

(b) When an act is required or allowed to be done at or within a specified time, the Assistant Secretary may at any time order the period altered where it shall be manifest that strict adherence will work surprise or injustice or interfere with the proper effectuation of the Act.

Signed at Washington, D.C. this 26th day of July 1979.

R. C. DeMarco,

Acting Assistant Secretary of Labor for Labor-Management relations.

(FR Doc. 79-26737 Filed 8-27-79; 8:45 am)

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federal register

Tuesday
August 28, 1979

Part VI

Department of Labor

Mine Safety and Health Administration

**Metal and Nonmetal Mine Safety;
Correction**

DEPARTMENT OF LABOR

Mine Safety and Health Administration

30 CFR 55, 56, and 57

Metal and Nonmetal Mine Safety;
Correction

AGENCY: Mine Safety and Health Administration, Department of Labor.

ACTION: Final Rule; Correction.

SUMMARY: This action corrects the Mine Safety and Health Administration's final rules amending 30 CFR Parts 55, 56 and 57 which were published in the Federal Register on June 1, 1979 (44 FR 31908-31920). The final rules added new or revised mandatory safety and health standards for radon daughter exposure; fire protection and control; ventilation; loading, hauling and dumping; travelways and escapeways; hoisting, and sanitary facilities. The corrections are necessary to assure that preamble statements are consistent with the rule itself and to further clarify the application of the rule.

EFFECTIVE DATE: August 28, 1979.

FOR FURTHER INFORMATION CONTACT: Thomas J. Shepich, Administrator, Metal and Nonmetal Mine Safety and Health, Mine Safety and Health Administration, Ballston Tower, No. 3, Room 702, 4015 Wilson Boulevard, Arlington, Virginia 22203, (703) 235-1565.

The following changes are made to correct errors in FR Doc. 79-17078:

1. On page 31910, column 1, paragraph 3, line 7 is corrected to read, "described in § 14.3 of ANSI N 13.8-1973".

2. On page 31910, column 2, line 3, insert "and" between "areas" and "in". This line is corrected to read, "areas and in any other location where".

3. On page 31910, column 2, paragraph 1, line 4, delete "still" and substitute "every 2 weeks" with "monthly". This line is corrected to read, "must be sampled monthly".

4. On page 31910, column 2, delete paragraph 2, and substitute the following:

In the event that air samplings reveal a radon daughter concentration in excess of 0.3 WL in the active working area, concentrations must be determined weekly in that area (whether or not uranium is mined) until the weekly determinations are 0.3 WL or less for five consecutive weeks. In addition, this final rule requires air testing in a uranium mine very two weeks when the radon daughter concentration is between 0.1 WL and 0.3 WL. The proposed standard specified monthly testing under like circumstances. The

agency and parties stipulated to the language of the final rule.

5. On page 31910, column 2, delete paragraph 3.

6. On page 31911, column 1, line 6, replace "0.8" with "1/12 WLM". This line is corrected to read "1/12 WLM (e.g. January—08; February—)".

7. On page 31911, column 2, paragraph 1, line 13, insert "non-duplicated" after "However, the". This line is corrected to read, "individual exposures. However, the non-duplicated".

8. On page 31911, column 3, 4th paragraph, delete 3rd sentence and correct 2nd sentence to read:

"The mine operator must provide either a second multipurpose dry-chemical extinguisher or equipment with the equivalent extinguishing capacity appropriate for the particular hazard involved where these same operations occur in close proximity to:

(1) Specific quantities of combustible liquids (other than those enclosed in noncombustible metal containers); (2) specific quantities of non-fire-retardant wood; (3) specific quantities of combustible plastic; (4) a mine shaft where there is a risk that combustible materials may be ignited by falling sparks or heated material; and (5) a raise or winze where there is a risk that combustible materials may be ignited by falling sparks or heated material [57.4-77(a), 57.4-78(a)]".

9. On page 31913, column 1, paragraph 3, line 11, delete "planned or". This line is corrected to read, "unplanned fan shutdowns".

10. On page 31913, column 2, paragraph 1, delete the entire paragraph and substitute the following:

"The revised standards, like the proposed standard establishes procedures to be followed in the event of fan failure. The language has been changed to provide the mine operator with a guide as to what is considered adequate monitoring of air quality. The revised standard requires such monitoring to consist of testing the air quality within 2 hours of discovery of fan failure for compliance with section 57.5 and 57.21 and every 4 hours thereafter until normal ventilation is restored."

11. On page 31913, 3rd paragraph, delete the first two sentences and substitute the following:

The principal concern at the hearing was a periodic 2-hour testing requirement contained in the proposed rule rather than the continuous operation of main, booster and auxiliary fans. Testing is essential and the agency and all parties agreed that a periodic 4-hour testing provision would be both workable and understandable and

would provide operators with specific and uniform direction with respect to the frequency of testing.

12. On page 31915, column 3, "Hoisting Buckets", line 15, delete "the" after "at" and substitute "a". This line is corrected to read "at a minimum speed for the hoist".

13. On page 31916, column 2, mandatory standard 55.19-78, line 2, 1st sentence, insert "about" between "raised" and "3 feet". The corrected sentence reads, "All buckets shall be stopped after being raised about 3 feet above the shaft bottom".

14. On page 31916, column 3, mandatory standard 56.19-78, line 2, 1st sentence, insert "about" between "raised" and "3 feet". The corrected sentence reads, "All buckets shall be stopped after being raised about 3 feet above the shaft bottom".

15. On page 31918, column 2, mandatory standard 57.5-37(b), replace "therefore:" with "thereafter:". This sentence is corrected to read, "(b) If concentrations of radon daughters less than 0.1 WL are found in an exhaust mine air sample, thereafter:".

Dated: August 24, 1979.

Robert B. Lagather,

Assistant Secretary for Mine Safety and Health.

[FR Doc. 79-26945 Filed 8-27-79; 8:45 am]

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1978.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY*	USDA/ASCS		DOT/SECRETARY*	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/FHWA	USDA/FSQS		DOT/FHWA	USDA/FSQS
DOT/FRA	USDA/REA		DOT/FRA	USDA/REA
DOT/NHTSA	MSPB/OPM		DOT/NHTSA	MSPB/OPM
DOT/RSPA	LABOR		DOT/RSPA	LABOR
DOT/SLS	HEW/FDA		DOT/SLS	HEW/FDA
DOT/UMTA			DOT/UMTA	
CSA			CSA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

*NOTE: As of July 2, 1979, all agencies in the Department of Transportation, will publish on the Monday/Thursday schedule.

REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.

Rules Going Into Effect Today

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

Health Care Financing Administration—

8-28-79 / Medicaid programs; exclusion of physicians or practitioner convicted of a criminal offense related to the programs.

List of Public Laws

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's List of Public Laws.

Last Listing August 17, 1979

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Energy Report

Wednesday
August 29, 1979

Highlights

- 50605 **Crude Oil** DOE/ERA proposes amendments to the pricing regulations; comments by 10-5-79; hearing 10-16-79 and 10-24-79
- 50788 **Weatherization Assistance for Low-Income Persons** DOE sets forth final rule on State developed list of weatherization measures; effective 11-27-79 (Part IV of this issue)
- 50656 **Developmental Disabilities Program** HEW/HDS provides notice of intent to reallocate funds; comments by 9-28-79
- 50601 **Genetic Diseases Testing and Counseling** HEW/PHS establishes final regulations for administration of project grants; effective 4-23-79
- 50604 **Aliens** Justice/INS proposes to amend regulations requiring nonimmigrant professional nurses to pass screening examination; comments by 10-29-79
- 50607 **Federal Credit Unions** NCUA prints a notice of determination concerning the regulation of debt collection practices; effective 8-29-79
- 50607 **Air Carriers** CAB proposes removal of limitations on cargo charters; comments by 10-29-79

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FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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Area Code 202-523-5240

Highlights

- 50591, 50596, 50597 Air Carriers** CAB promulgates final amending regulations to allow split cargo charters; effective 9-28-79 (3 documents)
- 50668 Countertop Microwave Ovens from Japan** Treasury gives notice of initiation of investigation on antidumping proceedings
- 50626 Grants** Commerce/NTIA prints notice of an addendum to list of applications accepted for filing; comments by 9-28-79
- 50801 Energy** DOE solicits comments on regulations intending to prevent or impede development of renewable resources; comments by 10-15-79 (Part V of this issue)
- 50663 Antidumping** ITC issues notice of investigation on titanium dioxide being sold from Belgium, France, the United Kingdom, and the Federal Republic of Germany; hearing on 9-27-79
- 50785 Oil and Hazardous Substances** EPA and Transportation/CG publishes memorandum of understanding concerning the assessment of civil penalties (Part III of this issue)
- 50783 Hazardous Substances** EPA intend to remove calcium oxide and calcium hydroxide from list under the Clean Water Act; comments by 9-28-79 (Part III of this issue)
- 50780 National Pollutant Discharge Elimination System** EPA proposes rule to establish consolidated permit program requirements; additional comments by 9-12-79 (Part III of this issue)
- 50732 Water Pollution** EPA adopts guidelines on control technology; effective 9-28-79
- 50766 Water Pollution** EPA issues rules on designated hazardous substances under the Clean Water Act; effective 9-28-79 (Part III of this issue)
- 50576 Environmental Protection** USDA/SCS issues final regulations prescribing the general procedures for compliance with the National Environmental Policy Act; effective 8-29-79
- 50727 Sunshine Act Meetings**
- Separate Parts of This Issue**
- 50732 Part II, EPA**
50766 Part III, EPA
50788 Part IV, DOE
50801 Part V, DOE

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Federal Register

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Wednesday, August 29, 1979

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510. The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE Agricultural Marketing Service 7 CFR Part 46

Regulations (Other Than Rules of Practice) Under the Perishable Agricultural Commodities Act, 1930

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final Rule.

SUMMARY: The Department of Agriculture amends 7 CFR Part 46, Regulations (Other Than Rules of Practice) issued pursuant to the Perishable Agricultural Commodities Act. The primary purpose of the amendments is to bring the Regulations into conformity with and to implement amendments to the Act enacted in Pub. L. 95-562, approved November 1, 1978, 92 Stat. 2381.

EFFECTIVE DATE: October 1, 1979.

FOR FURTHER INFORMATION CONTACT: Wilbur A. Rife, Head, License Section, Regulatory Branch, Fruit and Vegetable Division, AMS, USDA, Washington, D.C. 20250, Phone (202) 447-2189.

SUPPLEMENTARY INFORMATION: Notice was published in the May 31, 1979 Federal Register (44 FR 31186-31189) that the Department was considering amending §§ 46.2, 46.4, 46.5, 46.6, 46.9, 46.13, 46.14, 46.17, and 46.43 of the Regulations (Other Than Rules of Practice) (7 CFR Part 46.1-46.45) issued pursuant to the Perishable Agricultural Commodities Act, as amended (7 U.S.C. 499a et seq.). Interested parties were afforded 60 days to file written comments on the proposed revisions. Four of these comments, submitted by large shipping organizations, were in complete agreement with the proposed revisions of the Regulations. The other four commentors raised questions concerning the proposed amendment to § 46.2. These comments are dealt with below.

The Perishable Agricultural Commodities Act was enacted in 1930, after representatives of the produce industry recognized and convinced Congress that there was a need for a code of fair trading standards to curb abuses in the marketing of perishable agricultural commodities in interstate or foreign commerce. It establishes a means for the enforcement of marketing contracts by providing for the collection of damages from anyone who fails to live up to contractual obligations. Licenses are the key to the enforcement of the Act, and can be suspended or revoked for violations of the law. The Act has been amended numerous times to keep it up to date with changes in trading practices. The latest amendment was enacted on November 1, 1978.

Public hearing and considerations by the House and Senate Subcommittees on the 1978 legislation amending the Act can be found in House Report No. 95-1620 and Senate Report No. 95-1156. These reports show that there were extensive discussions on the proposed legislation and that all segments of the industry were heard in the public hearing regarding the proposal to amend the Act.

The recent amendments to the Act (Pub. L. 95-562), increased the exemption, effective January 1, 1979, on purchases of produce by retailers and sales of frozen food brokers from \$100,000 to \$200,000 during a calendar year, before they are subject to a license under the Act; authorized a change in the manner in which license fees are assessed from the current uniform fee, regardless of size or volume of business, to a variable basis; increased the maximum annual license fee from \$100 to \$150, and permitted an assessment of up to \$50 per branch for each branch operation exceeding nine, provided that the aggregate annual license fees that can be assessed a firm operating under the Act cannot exceed \$1,000; authorized inspection of the accounts, records, and memoranda of any commission merchant, dealer, or broker, who has been determined, in a formal disciplinary proceeding, to have violated the prompt payment provisions of Section 2(4) of the Act to insure that this provision is not being further violated; and authorized the Secretary to require that any commission merchant, dealer, or broker who has been determined, in a formal disciplinary proceeding, to have

violated the prompt payment provision of Section 2(4) of the Act, furnish, maintain, and from time to time adjust a surety bond in a form and amount satisfactory to the Secretary as assurance that the commission merchant, dealer, or broker will pay all reparation awards subject to its right of appeal under Section 7(c) of the Act.

(a) License fees and collateral matters. As noted above, the 1978 amendments to the Act affect license fees in two ways. First, the amendment authorizes annual assessments of up to \$50 per branch for each branch operation exceeding nine providing that the aggregate annual license fee cannot exceed \$1,000, and authorizes a maximum annual basic license fee of \$150. The authority to assess a fee on branch operations establishes a more equitable assessment of license fees by having the larger volume firms pay a fairer share of the cost of administering the program. Because of this authority to assess license fees on branches or additional business facilities operated by firms subject to the Act, § 46.2 of the Regulations is amended to include a definition of the term "Branch or additional business facility." This additional definition is necessary in order to establish, for fee assessment purposes, which business operations fall within the purview of the newly assessable category.

Additionally, §§ 46.4(b), 46.13 and 46.14(b) are amended to reflect that records and memoranda regarding the number and address of any branches or additional business facilities must be kept and preserved by the commission merchant, dealer, or broker and reported to the Secretary.

Two commentors raised questions regarding the proposed definition of "Branch or additional business facility." Their questions particularly concerned a cooperative's operation under the proposed definition. Cooperatives which operate as a commission merchant, dealer, or broker are regulated in the same manner as any other business enterprise in that same category. If a cooperative is operating at various locations in the buying and/or selling of commodities, or negotiating such purchases and/or sales, it will be treated in the same manner as other types of operators who conduct business through such additional facilities.

One of these commentors also raised several other questions. First, it raised a question concerning the use of the term "includes, but is not limited to," in the portion of the proposed section 7 CFR 46.2(gg) in which examples of branches or other business facilities are used. The purpose of the questioned term is to ensure that persons are notified that the examples in the definition are not intended to be exclusive. The examples given are broad enough to encompass most business operations, but they do not anticipate all possible situations. Therefore, the term "includes, but is not limited to," is used in prefacing the list of examples.

The second question asked was whether "packing sheds" are included in the definition of "branches or other business facilities." If personnel in the shed are authorized to purchase, sell, or otherwise effect contracts, the "packing shed" is considered to be a "branch or other business facility." The fact that all purchases are paid for through, or all sales are invoiced and proceeds received by, a headquarter's office is immaterial.

The second effect of the amendments is to raise the maximum basic annual license fee which may be assessed by the Secretary. These license fees and assessments provide the revenue through which the cost of administration of the Perishable Agricultural Commodities Act program is financed. The statutory maximum license fee was last increased by Congress in 1969, to \$100. The recent amendments increased the maximum basic annual license fee to \$150.

The increased fee structure was needed to maintain the financial solvency of the program, caused by a decline in the number of firms subject to a license during the 1970's. This decline was due primarily to mergers, consolidations, and closures of small firms. During the same period, the cost of administering the Act increased sharply, even though the number of employees in the program has remained relatively stable, or been slightly reduced over the past decade, while the workload has shown a slight increase.

As a result, the present annual license fee of \$100 is not producing sufficient revenue to meet administrative expenses. Therefore, § 46.6 of the regulations is amended to increase the basic annual license fee to \$135. Additionally, licensees with multiple branches pay an annual fee of \$35 per branch for each branch in excess of nine, subject to the aforementioned \$1,000 limit. This new fee structure is effective October 1, 1979.

One comment raised a question as to how the license fee of retail business with more than one location would be computed. If a retailer has a headquarters location plus ten retail outlets at different locations, its fee would be \$170 (\$135 plus \$35 for the one branch facility in excess of nine); if the retailer, on the other hand, had located its headquarters at one of the ten retail outlets, its fee would only be \$135 since it would only have nine branches.

(b) *Retailer exclusion.* The amendments to the Act increase the amount of perishable agricultural commodities retailers are permitted to buy without being considered a "dealer" from \$100,000 to \$200,000 in any calendar year. Section 46.2(m) of the regulations is amended to make the definition of the term "dealer" in the regulations consistent with that in the Act.

(c) *Broker exclusion.* The amendments to the Act increase the exempted amount of frozen fruits and vegetables for which a person acting as an independent agent may negotiate a sale on behalf of a vendor from \$100,000 in any calendar year to \$200,000 in any calendar year. Section 46.2(n) of the regulations is amended to make the definition of the term "broker" in the regulations consistent with that in the Act.

(d) *Bond.* The amendments to the Act authorize the Secretary to require that any commission merchant, dealer or broker, who has been determined, in a formal disciplinary proceeding, to have violated the prompt payment provisions of Section 2(4) of the Act to furnish, maintain and from time to time adjust a surety bond in a form and amount satisfactory to the Secretary as an assurance that the commission merchant, dealer or broker will pay all reparation awards subject to its right of appeal under Section 7(c) of the Act. Section 46.5 of the regulations is amended to reflect that Section 13(b) of the Act permits the Secretary to require the posting of a bond. Also, the regulations are amended to provide that the minimum bond acceptable, under any provision of the Act be increased to \$10,000.

(e) *License suspension.* The amendments to the Act authorized the suspension of the license of a commission merchant, dealer or broker who, after having been determined in a formal disciplinary proceeding to have violated the prompt payment provisions of Section 2(4) of the Act, refuses to permit inspection of its accounts, records and memoranda or fails or refuses to furnish, maintain, or adjust the surety bond required by the

Secretary. Section 46.9(h) of the regulations is amended to reflect this added authority.

(f) *Commercial Unit.* Several recent reparation cases, brought pursuant to the Act, have raised the questions as to what constituted a "commercial unit." Inasmuch as this has not heretofore been a problem, no definition of the term had been included in the regulations. In order to forestall any further difficulties from arising, a definition of the term "commercial unit" is added to § 46.43 of the regulations. This definition does not modify the parties existing contractual rights and responsibilities.

One Commentor objected to the proposed definition of "commercial unit." Its basis for objection stemmed from its view that the proposed definition was biased in favor of a receiver. This erroneous viewpoint resulted from the commentor's belief that a receiver would be able to reject an entire load of produce when only one container would be susceptible to rejection. The Commentor suggested that rather than a whole truckload, the "commercial unit" be limited to one commodity.

The definition sets down for use as a trade term, a policy which has been consistently followed in the administration of the Act. The objective is to clarify the rights and responsibilities of buyers and sellers so that they will be better able to avoid unjustified rejection of goods. The failure of one container to meet contract requirements would not be cause for rejection of a shipment. Also, if the definition of a commercial unit were to be confined to each commodity lot, the rejection problem could be aggravated. Assume a sale of five commodities tendered for delivery as one shipment. The buyer could accept any one or group of the commodities which met contract and reject the others. The seller would then have the problem of disposing of the goods left on a trailer without having control over the carrier.

Applying the principle of one contract and one shipment making a commercial unit eliminates some problem areas. The total number of packages of one or more commodities tendered for delivery to a buyer under one sales contract would be a commercial unit. Failure of one commodity, or a group which make up a minor portion of the total shipment, to meet contract requirements would not be a cause for rejection of the commercial unit (the entire shipment). In these circumstances, a buyer would be expected to accept the shipment and negotiate a new agreement with the

seller for disposition of the goods that did not meet contract.

If a seller tenders a shipment to a buyer which consists of two commodities, each of which makes up a substantial portion of the shipment and one commodity does not meet contract requirements, the buyer could reject the entire shipment or he could accept the entire shipment and recover damages resulting from the breach of contract. The buyer could not accept the commodity which meets contract and reject the other. Both commodities make up the commercial unit which must be accepted in its entirety.

Where a seller contracts with three buyers for goods which are moved in the same carrier, the goods tendered under each contract of sale make up a commercial unit. The rights and responsibilities accrue to each unit including the right to reject.

(g) *Miscellaneous.* Section 46.4(b)(4) of the regulations currently provides that responsibly connected female married persons furnish the full legal name of their husbands on the application for a license. Inasmuch as no requirement is made that male married persons furnish the full legal name of their wives on the application, the requirement that a female provide the name of her spouse may be construed as discriminatory. Section 46.4(b)(4) is amended to delete the requirement.

Additionally, § 46.13 of the regulations is amended to require that licensees using trade names report the deletion or addition of any trade name to the Director. Currently, licensees are only required to obtain approval of the Secretary before using a trade name. It is believed that knowing which trade names are being used, at any point in time, will be useful in administering the Act.

After due consideration of the comments presented concerning the proposed revisions of the Regulations and pursuant to the authority contained in § 15, 46 Stat. 537 as amended; 7 U.S.C. 499o, the Regulations (Other Than Rules of Practice) (7 CFR Part 46) under the Perishable Agricultural Commodities Act, 1930, are hereby amended as follows:

1. Amend § 46.2 by revising paragraphs (m)(2) and (n) and adding new paragraph (gg) to read as follows:

§ 46.2 Definitions.

The terms defined in the first Section of the Act shall have the same meaning as stated therein. Unless otherwise defined, the following terms whether used in the regulations, in the Act, or in the trade shall be construed as follows:

(m) "Dealer" means any person engaged in the business of buying or selling produce in wholesale or jobbing quantities in commerce, and includes:

(2) Retailers, when the invoice cost of all purchases of produce exceeds \$200,000 during a calendar year. In computing dollar volume, all purchases of fresh and frozen fruits and vegetables are to be counted, without regard to quantity involved in a transaction or whether the transaction was in intrastate, interstate or foreign commerce;

(n) "Broker" means any person engaged in the business of negotiating sales and purchases of produce in commerce for or on behalf of the vendor or the purchaser, respectively, except that no person shall be deemed to be a "broker" within the meaning of the Act if such person is an independent agent negotiating sales for or on behalf of the vendor and if the only sales of such commodities negotiated by such person are sales of frozen fruits and vegetables having an invoice value not in excess of \$200,000 in any calendar year.

(gg) "Branch or additional business facility," as used in Section 3(b) of the Act, means an office or outlet in a location other than that of the principal or main office of a firm, out of which or through which the firm purchases, sells, negotiates contracts, solicits, or handles consignments, or otherwise contracts in perishable agricultural commodities including seasonal, part-time and full-time operations. As used in this paragraph, "branch or additional business facility" includes, but is not limited to, the following:

(1) Jobbers, Wholesalers, Distributors—Each location through which commodities are bought, sold or otherwise contracted;

(2) Retailers—Each outlet through which retail sales of commodities are made and each office which purchases commodities;

(3) Trucker/Dealer—A truck is a "branch" office if the driver is authorized to buy, sell or otherwise contract for commodities on behalf of the firm;

(4) Shippers—On-the-ground representatives making purchases, sales or otherwise contracting for commodities;

(5) Brokers—Each office conducting contract negotiations including on-the-ground representatives negotiating contracts for commodities;

(6) Processors—Each location at which commodities are purchased, sold or contracted to be purchased or sold;

(7) Cooperatives—Each operation away from the main office that has responsibility to account for proceeds received from sales of commodities; or

(8) Seasonal/Part-Time Operations—Any facility with on-the-ground representatives making purchases, sales, or otherwise contracting for commodities.

2. Amend § 46.4(b) by revising paragraphs (b)(1) and (b)(4) to read as follows:

§ 46.4 Application for license.

(b) The applicant shall furnish the following information:

(1) Name or names in which business is conducted; place of business; mailing address; name, location and number of branches or additional business facilities, divisions or affiliates; name of firm succeeded and whether the applicant assumes responsibility of settling any complaints filed under the Act against the firm succeeded.

(4) Full legal name, all other names used, if any, and home address of the owner. If a partnership, the applicant shall furnish the full legal names, all other names used, if any, and home address of all partners, indicating whether general, limited or special partners; or if an association or corporation the applicant shall furnish the full legal names, all other names used, if any, and home address of all officers, directors and holders of more than 10 per centum of the outstanding stock and percentage of stock held by each such person. Minors shall also furnish the full name and home address of their guardian. If the applicant is a trust the name of the trust and full name and home address of the trustee shall be furnished.

3. Revising § 46.5 to read as follows:

§ 46.5 Bonds.

Bonds prescribed in Section 4(c), 4(e), 8(b), and 13(b) of the Act shall be in the form of cash or surety bonds in the form and amount satisfactory to the Director and shall not be less than \$10,000. When cash is posted as surety, it shall be deposited into a special account of the United States Treasury and no interest is to accrue or be paid the licensee. When surety bonds are furnished, the surety shall be a company holding a certificate of authority from the Secretary of the Treasury under Act of Congress approved July 30, 1947 (6 U.S.C. secs. 6-13) as acceptable surety on Federal bonds.

4. Revising § 46.6 to read as follows:

§ 46.6 License fee.

The annual license fee is one hundred and thirty-five (135) dollars plus thirty-five (35) dollars for each branch or additional business facility operated by the applicant exceeding nine. In no case shall the aggregate annual fees paid by any applicant exceed one thousand (1,000) dollars. The Director may require that the fee be submitted in the form of a money order, bank draft, cashier's check, or certified check made payable to Agricultural Marketing Service. Authorized representatives of the Division may accept fees and issue receipts therefor.

5. Revising § 46.9(h) to read as follows:

§ 46.9 Termination, suspension, revocation, cancellation of licenses; notices; renewal.

(h) Under Section 13 of the Act a license can be suspended:

(1) if the licensee refuses to permit inspection of his records or of any lot of produce under his ownership or control; or

(2) if the licensee, subsequent to a determination in a formal disciplinary proceeding that it has violated the prompt payment provision of Section 2(4) of the Act, refuses to permit an inspection of its accounts, records and memoranda to insure that it is in compliance with the prompt payment provision of Section 2(4) of the Act or fails or refuses to furnish, maintain, or adjust a surety bond in a form and amount satisfactory to the Secretary.

6. Amend § 46.13 to read as follows:

§ 46.13 Address, ownership, changes in trade name, changes in number of branches, changes in members of partnership, and bankruptcy.

The licensee shall:

(a) promptly report to the Director in writing:

(1) any change of address;

(2) any change in officers, directors, and holders of more than ten percent of the outstanding stock of a corporation, with the percentage of the stock held by each such person;

(3) any deletions or additions of trade names;

(4) any change in the number and address of any branches or additional business facilities; and

(5) when the licensee, or if the licensee is a partnership, any partner is subject to proceedings under the bankruptcy laws. A new license is required in case of a change in the ownership of a firm, an addition or

withdrawal of members of a partnership, or in case business is conducted under a different corporate charter from that under which the license was originally issued.

(b) obtain approval from the Director prior to using any trade name.

7. Amend § 46.14(b) to read as follows:

§ 46.14 General.

(b) Every commission merchant, dealer, and broker shall prepare and preserve records and memoranda required by the Act which shall fully and correctly disclose the true ownership and management of such business during the preceding four years. Such records shall include the number and location of all branches or additional business facilities operated by or for the commission merchant, dealer or broker. In the case of a corporation, such records shall include the corporate charter, record of stock subscription and stock issued, the amounts paid in for stock and minutes of stockholders' and directors' meetings showing the election of directors and officers, resignations and other pertinent corporate actions. In the case of a partnership, the records shall contain a copy of the partnership agreement showing the type of partnership, the full names and addresses of all partners including general, special or limited partners, the partnership interest of each individual, and any other pertinent records of the partnership.

8. Revise § 46.17 to read as follows:

§ 46.17 Inspection of records.

Each licensee shall, during ordinary business hours, promptly upon request, permit any duly authorized representative of the Department to enter his place of business and inspect such accounts, records, and memoranda as may be material (a) in the investigation of complaints under the Act, or (b) to the determination of ownership, control, packer, or State, country, or region or origin in connection with commodity inspections, or (c) to ascertain whether there is compliance with Section 9 of the Act, or (d) in administering the licensing and bonding provisions of the Act, or (e) if the licensee has been determined in a formal disciplinary proceeding to have violated the prompt payment provision of Section 2(4) of the Act, to determine whether, at the time of the inspection, there is compliance with that Section. Any necessary facilities for such inspection shall be extended to such

representative by the licensee, his agents, and employees.

9. Amend § 46.43 by adding new paragraph (ii) to read as follows:

§ 46.43 Terms construed.

(ii) "Commercial Unit" means a single shipment of one or more perishable agricultural commodities tendered for delivery on a single contract, such commercial unit must be accepted or rejected in its entirety. Acceptance of a commercial unit does not modify the parties' existing contractual rights and responsibilities.

Note. The amendments to these regulations have been reviewed under the USDA criteria established to implement Executive Order 12044, "Improving Government Regulations," and has been classified "significant." A copy of an approved Final Impact Analysis is available from Wilbur A. Rife, Head, License Section, Regulatory Branch, Fruit and Vegetable Division, AMS, USDA, Washington, D.C. 20250, Phone (202) 447-2189.

This becomes effective October 1, 1979.

Dated: August 24, 1979.

William T. Manley,
Deputy Administrator, Marketing Program Operations.

[FR Doc. 79-26984 Filed 8-28-79; 8:45 am]

BILLING CODE 3410-02-M

Soil Conservation Service**7 CFR Part 650****Compliance With NEPA**

AGENCY: Soil Conservation Service (SCS), U.S. Department of Agriculture, (USDA).

ACTION: Final rule.

SUMMARY: This revised rule prescribes the general procedures for compliance with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 et seq.) and the Council on Environmental Quality's (CEQ) National Environmental Policy Act Regulations (40 CFR 1500-1508) issued November 29, 1978. This revised rule expands Part 650, Subpart A, to include all programs administered by SCS. The SCS rule adopts the CEQ regulations in total. The CEQ regulations will be distributed with the final SCS procedures.

EFFECTIVE DATE: August 29, 1979.

FOR FURTHER INFORMATION CONTACT: Dr. Gary A. Margheim, Acting Director, Environmental Services Division, U.S. Department of Agriculture, Soil Conservation Service, P.O. Box 2890, Washington, D.C. 20013, (202) 447-3839.

SUPPLEMENTARY INFORMATION: On May 2, 1979, the Soil Conservation Service

published revised rules for implementation of NEPA in SCS-assisted project actions.

This rule is a total revision of the procedures for implementing NEPA used by SCS to comply with the regulations of the Council on Environmental Quality, 40 CFR 1500-1508, published November 29, 1978. These rules are expanded to include procedures for implementing NEPA in all SCS-assisted programs. Several data-gathering and inventorying programs of SCS are categorically excluded from requirements to prepare an environmental impact statement (EIS).

SCS is introducing a new phrase, "environmental evaluation (EE)," to describe the interdisciplinary planning that is carried out before SCS takes action in any program it administers. The phrase "environmental assessment (EA)" was formerly used by SCS to describe this part of the planning process. The definition "environmental assessment" in the new CEQ regulations 40 CFR 1508.9 depicts a document rather than a process, making it necessary for SCS to use a new phrase.

These rules have been developed in consultation with the staff of the Council on Environmental Quality and are consistent with the NEPA procedures of the Secretary of Agriculture.

These proposed rules have been determined to be significant under Executive Order 12044 "Improving Government Regulations." An approved impact analysis is available by contacting Dr. Gary A. Margheim, Acting Director, Environmental Services Division, U.S. Department of Agriculture, Soil Conservation Service, P.O. Box 2890, Washington, D.C. 20013, (202) 447-3839.

During the 45-day commenting period, seven letters of comment were received on the proposed rules. Two letters were from Federal agencies, one letter was from a State agency, two letters were from State conservation associations, and two letters were from individuals. All written comments were considered in developing the final rules. In addition, a national briefing on the proposed revised rules was conducted on Monday, May 21, 1979. The full text of all comments received is on file and available for public inspection in Room 6105, South Agriculture Building, Environmental Services Division, SCS, USDA, Washington, D.C. 20013.

The principal points raised by those submitting written comments and the SCS response to each are as follows:

Comment 1: One comment suggested that SCS's rules should clearly state how NEPA compliance applies to SCS's Emergency Assistance Program under

Section 216 of the Flood Control Act of May 17, 1950.

Response: Actions under Section 216 of Pub. L. 81-516 are treated no different from other actions administered by SCS. Because potential effects of this program on the human environment are at least cumulatively significant, SCS has filed a final program EIS. If an individual environmental evaluation of a proposed action under this act indicates that it will not meet the circumstances considered in the program EIS, additional environmental documentation would be required. Only very unusual actions under any program would require exceptions under 40 CFR 1506.11. The program EIS provides information on environmental compliance procedures. Special treatment in these actions is therefore not warranted.

Comment 2: One agency requested nonstructural alternatives also be discussed in § 650.7(b)(3), Alternatives.

Response: SCS does not believe that a requirement for discussions of nonstructural alternatives for all situations should be included in the NEPA rules. The discussion of environmental evaluation in § 650.5(a)(3) states: "In SCS-assisted project actions, nonstructural, water conservation, and other alternatives that are in keeping with the Water Resources Council's Principles and Standards are to be considered if appropriate." This statement adequately reflects SCS procedural guidance for consideration of alternatives.

Comment 3: One agency indicated that in § 650.3(b)(8), SCS environmental policy, SCS should require, rather than encourage, local project sponsors to review with interested publics the operation and maintenance (O&M) of practices and programs specified in the contracts for projects. SCS should also indicate the details of O&M needed in a plan, as well as discuss mitigation.

Response: SCS monitors its programs to ensure compliance with the requirements of NEPA and to cooperate with other agencies in determining that environmental safeguards are carried out according to plans and project agreements. As part of specific NEPA documents such as an EIS, O&M is described in the same detail as other installation features. This information is available at public meetings to discuss with interested publics and is included in review drafts.

SCS has no authority to require sponsors to hold additional specific public participation activities for completed projects. However, SCS would do the appropriate inspections and monitoring of completed projects to

see that planned works operate as indicated in specific environmental documents. SCS does not believe that it is appropriate in these implementing procedures to present the details of O&M needed for all actions. These details are appropriate in the O&M plans for individual projects or in agency O&M manuals. SCS should not specifically discuss mitigation (§ 1505.3) in the policy section of its procedures.

Comment 4: One agency suggested that SCS remove the word "significant" in § 650.7(a)(1), and insert the phrase "or wildlife" after the words "aquatic."

Response: Section 650.7(a)(1) reflects § 1501.4(a)(1) of the CEQ rule concerning agency proposals that normally require an environmental impact statement. SCS has stated in these rules, which actions normally require an EIS, and which are exempted from an automatic EIS.

Actions along channels where no significant aquatic habitat exists are exempted from an automatic EIS. SCS feels the word "significant" is important in this rule because there are many channels, particularly the dry ephemeral streams in the West, that support a very limited aquatic habitat. In these cases, the environmental evaluation will provide the data to determine whether an EA or an EIS is prepared. The words "or wildlife" after the word "habitat" have been inserted in § 650.7(a)(1).

Comment 5: One agency requested that SCS substitute the word "identified" for "major" in the discussion of alternatives (§ 650.7(b)(3)).

Response: SCS agrees that the word "major" should be deleted.

Comment 6: One agency requested that the phrase "wetlands as well as fish and wildlife habitat" should be inserted after the word "farmlands" in § 650.7(b)(5).

Response: We agree and have made this change.

Comment 7: One agency disagreed with how scoping was presented in the SCS procedures. They stated that by comparing § 650.9(c) to the flow chart (Figure 1), it appears that scoping occurs immediately before the preparation of a notice of intent. They indicated that better planning would be fostered by including scoping as part of environmental evaluation.

Response: We agree that scoping should begin at the start of environmental evaluation. This has been clarified in the procedure § 650.9(c)(1). Formalized scoping, including scoping meetings, will not normally take place until the environmental evaluation indicates that an EIS may be needed. Once the need to prepare an EIS is established, SCS will publish a notice of intent to prepare an EIS.

Comment 8: One comment suggested that SCS's Guide for Environmental Assessment be highlighted to point out how environmental evaluation criteria will be used.

Response: The SCS Guide for Environmental Assessment describes the relationship between environmental evaluation and planning. The importance of this document has been highlighted in the SCS implementation regulations by describing its function at the beginning of § 650.5.

Comment 9: Another comment suggested that public participation be shown on the flow chart.

Response: The suggestion was considered, but because public participation occurs throughout planning, it cannot be portrayed at a single position on the flow chart.

Comment 10: One comment suggested that § 650.12 explain more clearly how its environmental evaluation process will culminate in a preferred alternative.

Response: The wide range of programs and projects administered by SCS results in an equally wide range of criteria that must be considered in each environmental evaluation. These criteria vary according to the problems and objectives of the applicant and the availability of natural resources to solve problems and meet objectives. Criteria include the rules and regulations for compliance with NEPA, and other resource preservation acts. It is not practical to include all such criteria in these rules. We believe that § 650.12, which details steps of program decisionmaking, responds to part 1505 of the CEQ regulations, and that public participation in decisionmaking ensures a wise choice of evaluatory procedures.

Comment 11: Another comment suggested that § 650.12 include a description of the content of the record of decision (ROD).

Response: The content of the ROD is noted in § 650.12(c) to serve as the public record of decision described in 40 CFR 1505.2. Because these rules are supplemental to the CEQ regulations, it was considered unnecessary to repeat the primary regulation (see 7 CFR 650.1(b)).

Comment 12: One comment suggested that draft EIS's should be sent to organizations, groups, and individuals noted in § 650.9(d)(3)(i).

Response: The public cited in both subsections is the same. This has been clarified by referring to § 650.9(d)(3)(i) in section 650.13, Review and Comment.

Comment 13: One comment suggested that SCS use a "supplement" instead of a "revision" of an EIS and that the rules also should provide for withdrawal of an EIS.

Response: SCS uses both terms, "revised" and "supplemented" to clarify the position of the action in the planning process. The term "revised" (§ 650.13(d)) is used in the planning process for actions in which substantial change has occurred. "Supplements" are made to the final EIS if a substantial project change has occurred that significantly affects the quality of the human environment or if it is necessary to clarify a point of concern. Provisions for withdrawal or rescission of an EIS are described in EPA's "Guidelines for Implementing Section 1506.9 of the CEQ Regulations." These guidelines will be distributed throughout SCS when they have been finalized.

Comment 14: Another comment suggested that SCS's 30-day public availability period for final EIS's be included in § 650.13(e).

Response: The provision for the public availability period is described in § 650.12(c)(3), but a reference to this substitution has been included as § 650.13(e)(3), to clarify the concern.

Comment 15: Two individuals suggested that SCS use the term "environmental analysis" instead of "environmental evaluation."

Response: For some years SCS has used the term "environmental assessment" (EA) to apply to the part of planning that inventories and estimates the potential effects of alternate solutions to resource problems on the human environment. CEQ has defined EA differently. In the search for a new term SCS decided on "environmental evaluation (EE)." The term "environmental analysis" was considered; however, its acronym would be EA, the same as for environmental assessment. It seems desirable to use the least confusing term.

Comment 16: Another comment suggested that the only way an action covered by a program EIS can be shown on the flow chart to need a site-specific EIS is by doing an EA. The comment suggested the flow chart be revised to require an EA at this point.

Response: The CEQ regulations, in § 1501.3, indicate that an EA is not always necessary to decide to prepare an EIS. SCS has the option to prepare an EA if appropriate. However, we do not believe this option needs to be shown in Fig. 1.

Comment 17: One comment suggested that the environmental assessment should not include any of the information required by § 650.11(b)(3). An appendix to the EIS should include only that information required by CEQ regulations. The last sentence of § 650.11(b)(5)(iii) should be deleted.

Response: A resource plan may be developed for an area without preparing an EIS. In the absence of an EIS, the environmental document forming the basis for the Finding of No Significant Impact (FNSI) is an EA and should include all the information necessary to reach a decision. All the information required by § 650.11(3) is needed by SCS to prepare a proper resource plan. The last sentence § 650.11(b)(5)(iii) is in conformance with § 1502.23 of the CEQ regulations.

Comment 18: One comment stated that social values cannot be judged to be significant in determining environmental impact.

Response: The CEQ regulations, in § 1508.14, indicate that social effects are not intended to be used by themselves to determine environmental impact. However, social values must be considered where they interrelate with other environmental effects on the human environment.

Comment 19: Another comment suggested that "or create controversies" be deleted from § 650.7(b)(1) because there was no basis in NEPA or the CEQ rules for considering that the creation of controversy may have a significant effect on the quality of the human environment.

Response: We agree and have deleted the phrase, but we should point out that CEQ rules do include considerations for "controversies" in their definition of "significantly."

Comment 20: One comment expressed concern over the criteria that will be used to determine if there is "significant" aquatic habitat that would require preparation of EIS for channel realignment. It was recommended that criteria be included to determine "significant" aquatic habitat.

Response: The definition of "significantly" verbatim from CEQ rules 40 CFR 1508.27, has been included in § 650.4. This definition will be used by the interdisciplinary team in determining if "significant" aquatic habitat exists. The determination of "no significant aquatic habitat" will not be the only factor used in determining whether an EIS will be prepared. In any event, this decision will be a part of the reviewable record.

Comment 21: One comment from a state conservation agency suggested that SCS has exceeded the requirements of complying with the NEPA process as outlined by CEQ in their rules and regulations published in the Federal Register on November 29, 1978. As an example they indicate that SCS is making the record of decision (ROD) a part of the environmental documents

and publishing a notice of its availability in the Federal Register.

Response: SCS has developed its NEPA implementing procedures in consultation with the Council of Environmental Quality as required in § 102(2)(b) of NEPA and § 1507.3(a) of the CEQ-NEPA rules. As part of this consultation, SCS learned that CEQ considers the ROD to be an environmental document. Therefore SCS did not exceed the requirements of the CEQ rules by considering the ROD as an environmental document. SCS may use whatever document it needs to complete its formal record. SCS has used a statement of findings (SOF) to document its decision since 1977 in compliance with its rule of August 1977. The ROD is an extension of the SOF with the name changed to correspond to the uniformity of terminology mandated by 40 CFR 1500-1508.

Similarly, SCS is not exceeding the intent of the CEQ rules if it publishes the notice of availability of the record of decision in the Federal Register. SCS consulted with CEQ to clarify the requirement (§ 1506.1) that an agency issues a record of decision. CEQ's intent is that the agency affirmatively make the record of decision available to the public, but leaves it up to the agency to decide how to affirmatively make the record of decision available. SCS has rewritten § 650.12(c) to clarify the timing and notification of both the ROD and the FNSI. Our intent in publishing the notice of availability of the ROD in the Federal Register and in local newspapers is to affirmatively call to the public's (§ 1505.2) attention that a decision has been made.

Comment 22: One comment stated, "Much of the SCS activity with which the local Conservation Districts are closely concerned is a succession of relatively minor individual actions taken within the limits of defined programs. Most or perhaps all of these activities in turn involve only the offering of technical advice to farmers, local government bodies, and other land occupiers, and to consulting specialists dealing with land and conservation problems—they do not involve SCS in any decisionmaking function, control responsibility, or financial support of the projects involved. There would seem to be no need for SCS filing on these individual projects, as the NEPA requirements, if any, should be met by the parties responsible for the respective projects. Thus, these activities as a whole might be covered by an SCS "Program EIS" applicable nation-wide, perhaps with appropriate subdivisions to identify particular classes of activity."

Response: We agree. It is SCS's intent to prepare program EIS's for such activities. The need for preparing program EIS's is addressed in § 650.7(b). We feel that SCS has a responsibility to call attention to legislated environmental constraints to those being provided technical assistance. These constraints such as wetlands, floodplains, and cultural resources will be addressed during the environmental evaluation. In its rules, SCS has included definitions of project and nonproject actions to emphasize that most SCS assistance is technical assistance to nonproject actions largely on nonfederal lands.

Comment 23: Another comment stated, that a similar approach might be appropriate where SCS or a conservation district has approval authority, such as the technical features of farm projects for which ASCS grants cost-sharing funds. Obviously the main NEPA filing on this should be by ASCS.

Response: Agriculture Stabilization and Conservation Service (ASCS) has a program EIS on the Agricultural Conservation (ACP) cost-sharing program. The NEPA filing referred to involves cost sharing only where ASCS is the lead agency and SCS is a cooperating agency. SCS is the lead agency for the technical assistance portion of the ACP cost sharing program and plans to prepare a program EIS for its technical assistance program. The roles of the lead agency and cooperating agencies are further addressed in § 650.9.

Comment 24: One comment indicated that where a project sponsor is required to file an EIS under state environmental policy rules, a Federal agency should not have to duplicate the process.

Response: We have revised § 650.10(a) to include adoption of an EIS by another Federal or State agency if it meets the requirements of the CEQ regulations and SCS-NEPA procedures. Further guidance on the Adoption of EIS's is given in 40 CFR 1506.3.

Having considered the comments reviewed and other relevant information, the SCS Administrator concludes that the proposed rules, with changes should be adopted as set forth below. Accordingly Title 7, Chapter VI, Subchapter F, Part 650, Subpart A is hereby amended and will be effective August 29, 1979.

(Catalog of Federal Domestic assistance programs numbered 10.900 through 10.908 National Archive Reference Services)

Dated: August 13, 1979.

R. M. Davis,
Administrator, Soil Conservation Service.

Subpart A—Procedures for SCS-Assisted Programs

- Sec.
- 650.1 Purpose.
 - 650.2 Applicability.
 - 650.3 Policy.
 - 650.4 Definition of terms.
 - 650.5 Environmental evaluation in planning.
 - 650.6 Categorical exclusions.
 - 650.7 When to prepare an EIS.
 - 650.8 When to prepare an environmental assessment (EA).
 - 650.9 NEPA and interagency planning.
 - 650.10 Adoption of an EIS prepared by a cooperating agency.
 - 650.11 Environmental documents.
 - 650.12 SCS decisionmaking.
 - 650.13 Review and comment.
- Authority: 42 U.S.C. 4321 et seq.; Executive Order 11514 (Rev.); 16 U.S.C. 1001-1006; 7 U.S.C. 1010-1011; 16 U.S.C. 590 a-f, q; 7 CFR 2.62.

Subpart A—Procedures for SCS-Assisted Programs

§ 650.1 Purpose.

(a) This rule prescribes procedures by which SCS is to implement the provisions of NEPA. The Soil Conservation Service recognizes NEPA as the national charter for protection, restoration, and enhancement of the human environment. NEPA establishes policy, sets goals (Section 101), and provides means (Section 102) for carrying out this policy.

(b) The procedures included in this rule supplement CEQ's NEPA regulations, 40 CFR 1500-1508. CEQ regulations that need no additional elaboration to address SCS-assisted actions are not repeated in this rule, although the regulations are cited as references. The procedures include some overlap with CEQ regulations. This is done to highlight items of importance for SCS. This does not supersede the existing body of NEPA regulations.

(c) These procedures provide that—

- (1) Environmental information is to be available to citizens before decisions are made about actions that significantly affect the human environment;

- (2) SCS-assisted actions are to be supported to the extent possible by accurate scientific analyses that are technically acceptable to SCS;

- (3) SCS-prepared NEPA documents are to be available for public scrutiny; and

- (4) Documents are to concentrate on the issues that are timely and significant to the action in question rather than amassing needless detail.

(d) Procedures for implementing NEPA are designed to insure that environmental consequences are considered in decisionmaking. They allow SCS to assist individuals and nonfederal public entities to take actions that protect, enhance, and restore environmental quality.

(e) These procedures make possible the early identification of actions that have significant effects on the human environment to avoid delays in decisionmaking.

§ 650.2 Applicability.

This rule applies to all SCS-assisted programs including the uninstalled parts of approved projects that are not covered by environmental documents prepared under previous rules for compliance with NEPA. It is effective on the date of publication of the final rule. SCS is to consult with CEQ in the manner prescribed by 40 CFR 1506.11 if it is necessary to take emergency actions.

§ 650 Policy.

(a) *SCS mission.* The SCS mission is to provide assistance that will allow use and management of ecological, cultural, natural, physical, social, and economic resources by striving for a balance between use, management, conservation, and preservation of the Nation's natural resource base. The SCS mission is reemphasized and expanded to carry out the mandate of § 101(b) of NEPA, within other legislative constraints, in all its programs of Federal assistance. SCS will continue to improve and coordinate its plans, functions, programs, and recommendations on resource use so that Americans, as stewards of the environment for succeeding generations—

(1) Can maintain safe, healthful, productive, and esthetically and culturally pleasing surroundings that support diversity of individual choices; and

(2) Are encouraged to attain the widest range of beneficial uses of soil, water, and related resources without degradation to the environment, risk to health or safety, or other undesirable and unintended consequences.

(b) *SCS environmental policy.* SCS is to administer Federal assistance within the following overall environmental policies:

(1) Provide assistance to Americans that will motivate them to maintain equilibrium among their ecological, cultural, natural, physical, social, and economic resources by striving for a balance between conserving and

preserving the Nation's natural resource base.

(2) Provide technical and financial assistance through a systematic interdisciplinary approach to planning and decisionmaking to insure a balance between the natural, physical, and social sciences.

(3) Consider environmental quality equal to economic, social, and other factors in decisionmaking.

(4) Insure that plans satisfy identified needs and at the same time minimize adverse effects of planned actions on the human environment through interdisciplinary planning before providing technical and financial assistance.

(5) Counsel with highly qualified and experienced specialists from within and outside SCS in many technical fields as needed.

(6) Encourage broad public participation in defining environmental quality objectives and needs.

(7) Identify and make provisions for detailed survey, recovery, protection, or preservation of unique cultural resources that otherwise may be irrevocably lost or destroyed by SCS-assisted project actions, as required by Historic Preservation legislation and/or Executive Order.

(8) Encourage local sponsors to review with interested publics the operation and maintenance programs of completed projects to insure that environmental quality is not degraded.

(9) Advocate the retention of important farmlands and forestlands, prime rangeland, wetlands, or other lands designated by State or local governments whenever proposed conversions are caused or encouraged by actions or programs of a Federal agency, licensed by or require approval by a Federal agency, or are inconsistent with local or State government plans. Provisions are to be sought to insure that such lands are not irreversibly converted to other uses unless other national interests override the importance of preservation or otherwise outweigh the environmental benefits derived from their protection. In addition, the preservation of farmland in general provides the benefits of open space, protection of scenery, wildlife habitat, and in some cases, recreation opportunities and controls on urban sprawl.

(10) Advocate actions that reduce the risk of flood loss; minimize effects of floods on human safety, health, and welfare; and restore and preserve the natural and beneficial functions and values of flood plains.

(11) Advocate and assist in the reclamation of abandoned surface-

mined lands and in planning for the extraction of coal and other nonrenewable resources to facilitate restoration of the land to its prior productivity as mining is completed.

(12) Advocate the protection of valuable wetlands, threatened and endangered animal and plant species and their habitats, and designated ecosystems.

(13) Advocate the conservation of natural and manmade scenic resources to insure that SCS-assisted programs or activities protect and enhance the visual quality of the landscape.

(14) Advocate and assist in actions to preserve and enhance the quality of the Nation's waters.

§ 650.4 Definition of terms.

Definition of the following terms or phrases appear in 40 CFR 1508, CEQ regulations. These terms are important in the understanding and implementation of this rule. These definitions are not repeated in the interest of reducing duplication:

Categorical exclusion. (40 CFR 1508.4)

Cooperating agency. (40 CFR 1508.5)

Cumulative impact. (40 CFR 1508.7)

Environmental impact statement (EIS). (40 CFR 1508.11)

Human environment. (40 CFR 1508.14)

Lead agency. (40 CFR 1508.16)

Major Federal action. (40 CFR 1508.18)

Mitigation. (40 CFR 1508.20)

NEPA process. (40 CFR 1508.21)

Scope. (40 CFR 1508.25)

Scoping. (40 CFR 1501.7)

Tiering. (40 CFR 1508.28)

(a) *Channel realignment.* Channel realignment includes the construction of a new channel or a new alignment and may include the clearing, snagging, widening, and/or deepening of the existing channel. (Channel Modification Guidelines, 43 FR 8276).

(b) *Environmental assessment (EA).* (40 CFR 1508.9)

(1) An environmental assessment is a concise public document for which a Federal agency is responsible that—

(i) Briefly provides sufficient evidence and analysis for determining whether to prepare an environmental impact statement or a finding of no significant impact.

(ii) Aids an agency's compliance with the Act when no environmental impact statement is necessary.

(iii) Facilitates preparation of an environmental impact statement when one is necessary.

(2) An environmental assessment includes brief discussions of the need for the proposal, alternatives as required by section of the environmental impacts of the proposed action and alternatives,

and a list of agencies and persons consulted.

(c) *Environmental evaluation.* The environmental evaluation (EE) (formerly referred to by SCS as an environmental assessment) is the part of planning that inventories and estimates the potential effects on the human environment of alternative solutions to resource problems. A wide range of environmental data together with social and economic information is considered in determining whether a proposed action is a major Federal action significantly affecting the human environment. The environmental evaluation for a program, regulation, or individual action is used to determine the need for an environmental assessment or an environmental impact statement. It also aids in the consideration of alternatives and in the identification of available resources.

(d) *Federally-assisted actions.* These actions are planned and carried out by individuals, groups, or local units of government largely on nonfederal land with technical and/or financial assistance provided by SCS.

(e) *Interdisciplinary planning.* SCS uses an interdisciplinary environmental evaluation and planning approach in which specialists and groups having different technical expertise act as a team to jointly evaluate existing and future environmental quality. The interdisciplinary group considers structure and function of natural resource systems, complexity of problems, and the economic, social, and environmental effects of alternative actions. Public participation is an essential part of effective interdisciplinary planning. Even if an SCS employee provides direct assistance to an individual land user, the basic data used is a result of interdisciplinary development of guide and planning criteria.

(f) *Nonproject actions.* Nonprofit actions consist of technical and/or financial assistance provided to an individual, group, or local unit of government by SCS primarily through a cooperative agreement with a local conservation district, such as land treatment recommended in the Conservation Operations, Great Plains Conservation, Rural Abandoned Mine, and Rural Clean Water Programs. These actions may include consultations, advice, engineering, and other technical assistance that land users usually cannot accomplish by themselves. Nonproject technical and/or financial assistance may result in the land user installing field terraces, waterways, field leveling, onfarm drainage systems, farm ponds, pasture management,

conservation tillage, critical area stabilization, and other conservation practices.

(g) *Notice of intent (NOI)* (40 CFR 1508.22). A notice of intent is a brief statement inviting public reaction to the decision by the responsible Federal official to prepare an EIS for a major Federal action. The notice of intent is to be published in the Federal Register, circulated to interested agencies, groups, individuals, and published in one or more newspapers serving the area of the proposed action.

(h) *Project actions.* A project action is a formally planned undertaking that is carried out within a specified area by sponsors for the benefit of the general public. Project sponsors are units of government having the legal authority and resources to install, operate, and/or maintain works of improvement.

(i) *Record of Decision.* (ROD) (40 CFR 1505.2). A record of decision is a concise written rationale by the RFO regarding implementation of a proposed action requiring an environmental impact statement. This was previously defined by SCS as a Statement of Findings (SOF).

(j) *Responsible Federal official (RFO).* The SCS Administrator is the responsible Federal official (RFO) for compliance with NEPA regarding proposed legislation, programs, legislative reports, regulations, and program EIS's. SCS state conservationists (STC's) are the RFO's for compliance with the provisions of NEPA in other SCS-assisted actions.

(k) *Significantly.* (40 CFR 1508.27) "Significantly" as used in NEPA requires considerations of both context and intensity:

(1) *Context.* This means that the significance of an action must be analyzed in several contexts such as society as a whole (human, national), the affected region, the affected interests, and the locality. Significance varies with the setting of the proposed action. For instance, for a site-specific action, significance usually depends on the effects in the locale rather than in the world as a whole. Both short- and long-term effects are relevant.

(2) *Intensity.* This refers to the severity of impact. Responsible officials must bear in mind that more than one agency may make decisions about partial aspects of a major action.

The following should be considered in evaluating intensity:

(i) Impacts that may be both beneficial and adverse. A significant effect may exist even if the Federal agency believes that on balance the effect will be beneficial.

(ii) The degree to which the proposed action affects public health or safety.

(iii) Unique characteristics of the geographic area such as proximity to historic or cultural resources, park lands, prime farmlands, wetlands, wild and scenic rivers, or ecologically critical areas.

(iv) The degree to which the effects on the quality of the human environment are likely to be highly controversial.

(v) The degree to which the possible effects on the human environment are highly uncertain or involve unique or unknown risks.

(vi) The degree to which the action may establish a precedent for future actions with significant effects or represents a decision in principle about a future consideration.

(vii) Whether the action is related to other actions with individually insignificant but cumulatively significant impacts. Significance exists if it is reasonable to anticipate a cumulatively significant impact on the environment. Significance cannot be avoided by terming an action temporary or by breaking it down into small component parts.

(viii) The degree to which the action may adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places or may cause loss or destruction of significant scientific, cultural, or historical resources.

(ix) The degree to which the action may adversely affect an endangered or threatened species or its habitat that has been determined to be critical under the Endangered Species Act of 1973 as amended.

(x) Whether the action threatens a violation of Federal, State, or local law or requirements imposed for the protection of the environment.

(l) *Finding of no significant impact (FNSI).* (40 CFR 1508.13) "Finding of No Significant Impact" means a document by a Federal agency briefly presenting the reasons why an action not otherwise excluded (§ 1508.4) will not have a significant effect on the human environment, and an environmental impact statement therefore will not be prepared. It shall include the environmental assessment or a summary of it and shall note any other environmental documents related to it (§ 1501.7(a)(5)). If the assessment is included, the finding need not repeat any of the discussion in the assessment but may incorporate it by reference.

§ 650.5 Environmental evaluation in planning.

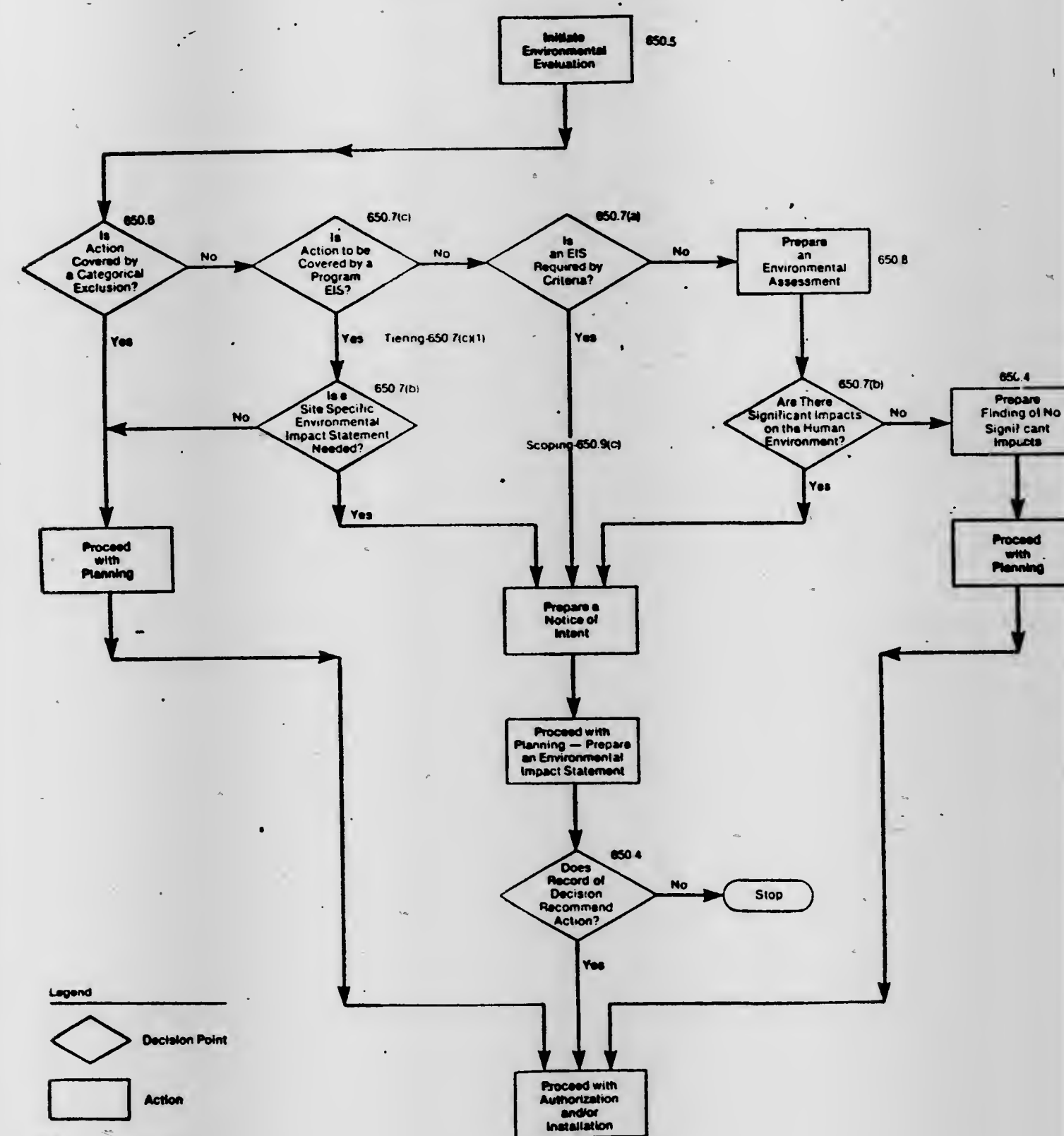
(a) *General.* Environmental evaluation (EE) integrates environmental concerns throughout the planning, installation, and operation of SCS-assisted projects. The EE applies to all assistance provided by SCS, but planning intensity, public involvement, and documentation of actions vary according to the scope of the action. SCS begins consideration of environmental concerns when information gathered during the environmental evaluation is used:

- (1) To identify environmental concerns that may be affected, gather baseline data, and predict effects of alternative courses of actions;
- (2) To provide data to applicants for use in establishing objectives commensurate with the scope and complexity of the proposed action;
- (3) To assist in the development of alternative courses of action; (40 CFR 1502.14). In SCS-assisted project actions, nonstructural, water conservation, and other alternatives that are in keeping with the Water Resources Council's Principles and Standards are considered, if appropriate.
- (4) To perform other related investigations and analyses as needed, including economic evaluation, engineering investigations, etc.
- (5) To assist in the development of detailed plans for implementation and operation and maintenance.

(b) *Procedures.* SCS's Guide for Environmental Assessment issued in March 1977 and published in the Federal Register on August 8, 1977, provides guidance for conducting an environmental evaluation. (42 FR 40123-40167).

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(c) *Decision points.* Figure 1 illustrates the decision points for compliance with NEPA in SCS decisionmaking.

§ 650.6 Categorical exclusions.

(a) Some SCS programs or parts of programs do not normally create significant individual or cumulative impacts on the human environment. Therefore, an EA or EIS is not needed. These are data gathering and interpretation programs and include—

- (1) Soil Survey—7 CFR 611;
- (2) Snow Survey and Water Supply Forecasts—7 CFR 612;
- (3) Plant Materials for Conservation—7 CFR 613;
- (4) Inventory and Monitoring—Catalog of Federal Domestic Assistance—10.908; and
- (5) River Basin Studies under Section 6 of Pub. L. 83-566 as amended—7 CFR 621.

(b) The environmental evaluation performed by the RFO when any new action under these programs is planned is to identify extraordinary circumstances that might lead to significant individual or cumulative impacts. Actions that have potential for significant impacts on the human environment are not categorically excluded.

§ 650.7 When to prepare an EIS.

The following are categories of SCS action used to determine whether or not an EIS is to be prepared.

(a) *An EIS is required for—*

- (1) Projects that include stream channel realignment or work to modify channel capacity by deepening or widening where significant aquatic or wildlife habitat exists. The EE will determine if the channel supports significant aquatic or wildlife habitat;
- (2) Projects requiring Congressional action;
- (3) Broad Federal assistance programs administered by SCS when the environmental evaluation indicates there may be significant cumulative impacts on the human environment (§ 650.7(c)); and
- (4) Other major Federal actions that are determined after environmental evaluation to affect significantly the quality of the human environment (§ 650.7(b)). If it is difficult to determine whether there is a significant impact on the human environment, it may be necessary to complete the EE and prepare an EA in order to decide if an EIS is required.

(b) The RFO is to determine the need for an EIS for each action, program, or regulation. An environmental evaluation, using a systematic interdisciplinary analysis and

evaluation of data and information responding to the five provisions of Section 102(2)(C) of NEPA, will assist the RFO in deciding if the action requires the preparation of an EIS. In analyzing and evaluating environmental concerns, the RFO will answer the following questions:

- (1) *Environmental impact.* Will the proposed action significantly affect the quality of the human environment (40 CFR 1508.14)? For example, will it significantly alter or destroy valuable wetlands, important farmlands, cultural resources, or threatened and endangered species? Will it affect social values, water quality, fish and wildlife habitats, or wilderness and scenic areas?
- (2) *Adverse environmental effects that cannot be avoided.* What are the important environmental amenities that would be lost if the proposed action were implemented?
- (3) *Alternatives.* Are there alternatives that would achieve the planning objectives but avoid adverse environmental effects?
- (4) *Short-term uses versus long-term productivity.* Will the proposed actions, in combination with other actions, sacrifice the enhancement of significant long-term productivity as a tradeoff for short-term uses?
- (5) *Commitment of resources.* Will the proposed action irreversibly and irretrievably commit the use of resources such as important farmlands, wetlands, and fish and wildlife habitat?

(c) *Criteria for determining the need for a program EIS:*

- (1) A program EIS is required if the environmental evaluation reveals that actions carried out under the program have individually insignificant but cumulatively significant environmental impacts.
- (2) A project EIS, in lieu of a program EIS, is required if the environmental evaluation reveals that actions carried out under the program will have both individually and cumulatively significant environmental impacts. (7 CFR 620-623 and 640-643).
- (d) The RFO, through the process of tiering, is to determine if a site-specific EA or EIS is required for an individually significant action that is included in a program EIS.

(e) *When to prepare an environmental assessment (EA).*

An environmental assessment (EA) is to be prepared for—

- (a) Land and water resource projects that are not included in § 650.7(a) (1) through (4) for which State and local units of government receive Federal

technical and financial assistance from SCS (7 CFR 620-623; and 640-643); and

(b) Other actions not included in a program EIS nor categorically excluded that the EE reveals may be a major Federal action significantly affecting the quality of the human environment.

§ 650.9 NEPA and interagency planning.

- (a) *Lead agency.* (1) SCS is to be the lead agency for actions under programs it administers. If the actions affect more than one State, the SCS Administrator is to designate one SCS state conservationist as the RFO.
- (2) SCS normally takes the role of lead agency in actions that share program responsibilities among USDA agencies if SCS provides the majority of funds for the actions. If the lead agency role is in question, the role of SCS and other USDA agencies is to be determined by the USDA Environmental Coordinator, Office of Environmental Quality Activities.
- (3) If SCS and Federal agencies outside USDA cannot agree on which will be the lead agency and which will be the cooperating agencies, the procedures in 40 CFR 1501.5(e) are to be followed.
- (4) SCS, as lead agency, is to coordinate the participation of all concerned agencies in developing the EIS according to the provisions of 40 CFR 1501.6(a).
- (b) *Cooperating agencies.* (1) SCS is to request, as appropriate, the assistance of cooperating agencies in preparing the environmental evaluation. This assistance will broaden the expertise in the planning and help to avoid future conflict. SCS is to request assistance in determining the scope of issues to be addressed and identifying the significant issues related to a proposed action from Federal agencies that have jurisdiction by law or special expertise.
- (2) SCS is to act as a cooperating agency if requested. SCS may request to be designated as a cooperating agency if proposed actions may affect areas of SCS expertise, such as prime farmlands, soils, erosion control, and agricultural sources of nonpoint pollution. SCS, as a cooperating agency, is to comply with the requirements of 40 CFR 1501.6(b) to the extent possible depending on funds, personnel, and priority. If insufficient funds or other resources prevent SCS from participating fully as a cooperating agency, SCS is to request the lead agency to provide funds or other resources which will allow full participation.
- (c) *Scoping.* See 40 CFR 1501.7 for a definition of scoping.
- (1) SCS is to use scoping to identify and categorize significant environmental

issues in its environmental evaluation. Formalized scoping is used to insure that an analytical EIS can be prepared that will reduce paperwork and avoid delay. Scoping allows SCS to obtain the assistance and consultation of affected agencies that have special expertise or legal jurisdiction in the proposed action. If early environmental evaluation identifies a need for an EIS, SCS is to publish a notice of intent (NOI) to prepare an EIS. The NOI is to request the assistance of all interested agencies, groups, and persons in determining the scope of the evaluation of the proposed action.

(2) Normally a scoping meeting is held and Federal, State, or local agencies that have special expertise or legal jurisdiction in resource values that may be significantly affected are requested to participate. The scoping meeting will identify agencies that may become cooperating agencies.

(3) In the scoping meeting, the range of actions, alternatives, and impacts to be evaluated and included in the EIS as defined in (40 CFR 1508.25) are to be determined. Tiering (40 CFR 1508.28) may be used to define the relation of the proposed statement to other statements.

(4) Periodic meetings of the cooperating agencies are to be held at important decisionmaking points to provide timely interagency, interdisciplinary participation.

(5) Scoping is to include the items listed in 40 CFR 1501.7(a) and may also include any of the activities in 40 CFR 1501.7(b). Appropriate, timely requests and notification are to be made to promote public participation in scoping in accordance with (d) of this section.

(6) The RFO through the scoping process will set time and page limits as prescribed in 40 CFR 1501.8. Time and page limits are established by SCS in consultation with sponsors and others according to the projected availability of resources. The RFO is to make the applicant aware of the possible need for revising time and page limits because of changes in resources.

(d) *Public participation.* (1) *General.* Public participation activities begin early in the EE and are to be appropriate to the proposed action. For example, extensive public participation activities are required in the implementation of new programs and project actions, but limited public participation is appropriate for nonproject technical and financial assistance programs on nonfederal land.

(2) *Early public involvement.* The public is to be invited and encouraged to participate in the early stages of planning, including the consideration of the potential effects of SCS-assisted

actions on significant environmental resources such as wetlands, flood plains, cultural values, endangered species, important farmland.

(3) *Project activities.* The following are general considerations for providing opportunities for public participation:

- (i) *Identification of interested public.* The interested public consisting of but not limited to individuals, groups, organizations, and government agencies are to be identified, sought out, and encouraged to participate in and contribute to interdisciplinary planning and environmental evaluation.
- (ii) *Public notices.* (40 CFR 1506.6) If the effects of an action are primarily of local concern, notice of each public meeting or hearing should be: Submitted to State and areawide clearinghouses pursuant to OMB Circular A-95 (revised); submitted to Indian tribes if they are interested; published in local newspapers; distributed through other local media; provided to potentially interested community organizations including small business associations; published in newsletters that may be expected to reach potentially interested persons; mailed directly to owners and occupants of nearby or affected property; and posted onsite and offsite in the area where the action is to be located.
- (iii) *State statutes.* If official action by the local units of government cooperating in the proposal is governed by State statute, the public notice and mailing requirement of the statute is to be followed. If the effects of an action are of national concern, notice is to be published in the Federal Register and mailed to national organizations reasonably expected to be interested.
- (iv) *Public meetings.* The RFO, after consultation with the sponsors, is to determine when public meetings or hearings are to be held. Public meetings may be in the form of a workshop, tour, open house, etc. Public involvement will include early discussion of flood-plain management and protection of wetlands, where appropriate. Environmental information is to be presented and discussed along with other appropriate information. To the extent practical, pertinent information should be made available before the meetings.
- (v) *Documentation.* The RFO is to maintain a reviewable record of public participation in the environmental evaluation process.
- (4) *Nonproject activities.* Public participation in the planning and application of conservation practices with individual land users is accomplished primarily through conservation districts. These districts

are governed by boards of supervisors directors, commissioners, etc., who are elected and/or appointed to insure that soil, water, related resources, and environmental qualities in the district are maintained and improved. The public is to be encouraged to participate in the development of long-range district programs and district annual plans. The district keeps the public informed through public meetings, district newsletters, news stories, radio and television programs, and annual reports.

§ 650.10 Adoption of an EIS prepared by a cooperating agency.

(40 CFR 1506.3)

(a) If SCS adopts an EIS prepared by another Federal or State agency, the RFO is to review the document to insure that it meets the requirements of the CEQ regulations and SCS-NEPA procedures.

(b) If the actions included in the EIS are substantially the same as those proposed by SCS, the RFO is to recirculate the EIS as "final." The final EIS is to include an appropriate explanation of the action. If these actions are not substantially the same, the EIS is to be supplemented and recirculated as a draft EIS. The RFO is to inform the preparing agency of the proposed action.

(c) If the adopted EIS is not final, if it is the subject of a referral under 40 CFR 1504, or if the statement's adequacy is in litigation, the RFO is to include an appropriate explanation in the EIS.

(d) The RFO is to take appropriate action to inform the public and appropriate agencies of the proposed action.

§ 650.11 Environmental documents.

(a) SCS is to use the following documents in compliance with NEPA (see § 650.4):

- (1) Environmental assessments (EA)
- (2) Environmental impact statements (EIS)
- (3) Notice of intent (NOI)
- (4) Finding of no significant impact (FNSI)
- (5) Record of decision (ROD)
- (b) The format and content of each document is to be appropriate to the action being considered and consistent with the CEQ regulations.
- (1) To reduce duplication, SCS may combine environmental documents with other planning documents of the same proposal, as appropriate. For example, SCS, in consultation with CEQ and the office of the Secretary of Agriculture, has determined that each EIS is to satisfy the requirements for a regulatory impact analysis as required by Executive Order 12044. This may

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(d) The RFO is to take appropriate action to inform the public and appropriate agencies of the proposed action.

necessitate modifying the recommended CEQ format. If documents are combined, the RFO is to include the information and sections required by the CEQ regulations (40 CFR 1502.10). The environmental impact statement should indicate those considerations, including factors not related to environmental quality, that are likely to be relevant to a decision.

(2) The RFO is to establish the format and content of each document giving full consideration to the guidance and requirements of the CEQ regulations. The SCS technical service center director is to provide guidance and concurrence on the format and content if the SCS state conservationist is the RFO. The results of scoping are to determine the content of the EA or the EIS and the amount of detail needed to analyze the impacts.

(3) In addition to the minimum requirements of the CEQ regulations (40 CFR 1502.10), environmental assessments and environmental impact statements are to include—

(i) A brief description of public participation activities of agencies, groups, and individuals during the environmental evaluation;

(ii) A description of the hazard potential of each alternative, including an explanation of the rationale for dam classification and the risk of dam failure from overtopping for other causes;

(iii) Information identifying any approved regional plans for water resource management in the study area (40 CFR 1506.2(d)) and a statement on whether the proposed project is consistent with such plans;

(iv) All Federal permits, licenses, and other entitlements that must be obtained (40 CFR 1502.25(b)); and

(v) A brief description of major environmental problems, conflicts, and disagreements among groups and agencies and how they were resolved. Unresolved conflicts and the SCS's proposal for resolving the disagreements before the project is implemented are to be summarized.

(4) *Letters of comment and responses.* (40 CFR 1503.4, 1502.9(b)) Letters of comment that were received and the responses to these comments are to be appended to the final EIS. Opposing views and other substantive comments that were not adequately discussed in the draft EIS are to be incorporated in the final EIS.

(5) *Appendix.* The RFO may use an appendix to an EA or EIS. If an appendix is too voluminous to be circulated with the EIS, the RFO is to make it available on request. If an appendix is included it is to—

(i) Meet the requirements of 40 CFR 1502.18;

(ii) Identify any methodologies used (40 CFR 1502.24) and make explicit reference to other sources relied on for conclusions; and

(iii) Briefly describe the relationship between the benefit-cost analysis and any analyses of unquantified environmental impacts, values, and amenities. "For purposes of complying with the Act, the weighing of the merits or drawbacks of the various alternatives need not be displayed in a monetary cost benefit and should not be when these are important qualitative considerations." (40 CFR 1502.23).

§ 650.12 SCS decisionmaking.

(a) *General.* The purpose of these procedures is to insure that environmental information is provided to decision makers in a timely manner. The NEPA process is a part of SCS decisionmaking. The RFO is to insure that the policies and purposes of NEPA and CEQ regulations are complied with in SCS decisionmaking by:

(1) Including in all decision documents and supporting environmental documents a discussion of all alternatives considered in the decision. Alternatives to be considered in reaching a decision will be available to the public.

(2) Submitting relevant environmental documents, comments, and responses with other decision documents through the review process.

(3) Including in the record of formal rulemaking or adjudicatory proceedings relevant environmental documents, comments and responses.

(4) Providing for pre- and post-project monitoring (40 CFR 1505.2(c), 1505.3) and evaluation in representative projects to insure that planning and evaluation procedures are performed according to sound criteria.

(b) *Decision points in SCS-assisted projects.* SCS administers programs that may have a significant effect on the human environment. Program procedures incorporate provisions for compliance with NEPA and for providing environmental information to the public, other agencies, and decision makers in a timely manner. SCS provides technical and financial assistance for projects under the Watershed Protection and Flood Prevention and the Resource Conservation and Development (RC&D) programs. These usually require the preparation of project EA's or EIS's. The major decisionmaking points and their relation to NEPA compliance are as follows:

(1) For Watershed Protection and Flood Prevention projects:

(i) Application for assistance by the sponsoring local organization (SLO).

(ii) A preauthorization report identifying goals, alternatives, and effects of alternatives (including environmental impacts) prepared by the RFO and submitted to the applicant for decision. It is circulated to local, State, and Federal agencies and public comment is solicited. A decision is made to stop planning assistance or to develop a watershed plan.

(iii) Granting of planning authorization by the Administrator. The RFO must provide an evaluation of the potential environmental impacts to obtain the authorization.

(iv) A watershed agreement between the SLO and SCS. The agreement is based on a completed watershed plan and associated environmental documents, which have been adequately reviewed within SCS.

(v) A project agreement between the SLO and the RFO executed after the NEPA process is complete and the watershed plan has been approved and final plans and specifications have been developed.

(2) For RC&D measure plans:

(i) A request for assistance (measure proposal) is reviewed by the RC&D council to insure that the proposal is in accordance with the RC&D area plan. The proposal is then referred to SCS.

(ii) A preliminary report is prepared by the RFO to identify goals, alternatives, and effects (including environmental impacts). The report is submitted to the sponsor for review. The sponsor may then apply to SCS for planning assistance for measures considered in the preliminary report.

(iii) An authorization for planning assistance is granted by the RFO.

(iv) The RC&D measure plan is signed by the applicant and the RFO after the preparation and review of the measure plan and environmental documents.

(v) A project agreement is signed between the applicant and the RFO after the NEPA process is complete, the measure plan has been approved, and final plans and specifications have been prepared.

(c) *Record of decision.* (1) *EIS's.* The RFO is to prepare a concise record of decision (ROD) for actions requiring an EIS. The record of decision is to be prepared and signed by the RFO following the 30-day administrative action period initiated by the EPA's publication of the notice of availability of the final EIS in the Federal Register. It is to serve as the public record of decision as described in 40 CFR 1505.2 of the CEQ regulations. The ROD is to

be distributed to all who provided substantive comments on the draft EIS and all others who request it. A notice of availability of the ROD will be published in the Federal Register and local newspaper(s) serving the project area. The RFO may choose to publish the entire ROD.

(2) *Environmental Assessments (EA).* If the EA indicates that the proposed action is not a major Federal action significantly affecting the quality of the human environment, the RFO is to prepare a finding of no significant impact (FNSI).

(3) *Distribution and publication of the FNSI (§ 1506.6(b)).* The RFO is to distribute the FNSI to interested agencies and individuals. Notice of its availability is to be published in the Federal Register and in one or more newspapers serving the area of the proposed action. Single copy requests for the document are to be filled without charge. A charge may be made for multiple copies. Implementing action is not to be initiated for 30 days after the notice of availability of the FNSI has been published in the Federal Register.

(d) *Changes in actions.* When it appears that a project or other action needs to be changed, the RFO will perform an environmental evaluation of the authorized action before making a change.

§ 650.13 Review and comment.

In addition to the requirements of 40 CFR 1503, 1506.10 and 1506.11, SCS will take the following steps in distributing EIS's for review and comment:

(a) *Draft EIS's.* Five copies of the draft EIS are to be filed by the RFO with the Office of Environmental Review, A-104, Environmental Protection Agency (EPA), Washington, D.C. At the same time, the RFO is to send copies of the draft EIS to the following:

(1) *Other Federal agencies.* The regional office of EPA and other agencies that have jurisdiction by law or special expertise with respect to any environmental effect, other Federal agencies (including appropriate field and regional offices), and affected Indian tribes.

(2) *State and local agencies.* OMB Circular No. A-95 (Revised), through its system of State and areawide clearinghouses, provides a means for obtaining the views of State and local environmental agencies that can assist in the preparation and review of EIS's.

(3) *Organizations, groups, and individuals.* A copy of the draft EIS is to be sent to the appropriate official of each organization or group and each individual of the interested public (§ 650.9(d)(3)(i)) and to others as

requested. A charge may be made for multiple copy requests.

(b) *Time period for comment.* The time period for review ends 45 days after the date EPA publishes the notice of public availability of the draft in the Federal Register. A 15-day-extension of time for review and comment is to be considered by the RFO when such requests are submitted in writing. If neither comments nor a request for an extension is received at the end of the 45-day period, it is to be presumed that the agency or party from whom comments were requested has no comments to make.

(c) *News releases.* In addition to the notice of availability published in the Federal Register by EPA, the RFO is to announce the availability of the draft EIS in one or more newspapers serving the area.

(d) *Revising a draft EIS.* If significant changes in the proposed action are made as a result of comments on the draft EIS, a revised draft EIS may be necessary. The revised draft EIS is to be recirculated for comment in the same manner as a draft EIS.

(e) *Final EIS's.* After the review period for the draft EIS, the RFO is to prepare a final EIS, making adjustments where necessary by taking into consideration and responding to significant comments and opposing viewpoints received on the draft EIS. The following steps are to be taken in filing and distributing the final EIS:

(1) Letters of comment are to be appended to the final EIS. If numerous repetitive responses are received, summaries of the repetitive comments and a list of the groups or individuals who commented may be appended in lieu of the actual letter.

(2) The RFO is to send five copies of the final EIS to EPA's Office of Environmental Review, and a copy of the final EIS to each State and Federal agency, organization, group, and individual who commented on the draft EIS. Single copy requests for copies of the final EIS will be provided without charge. A charge may be made for multiple copy requests.

(3) During the 30-day administrative action period noted in § 650.12(c), SCS will make its final EIS available to the public (40 CFR 1506.10).

(f) *Supplements to EIS's.* (1) If SCS determines that it is necessary to clarify or amplify a point of concern raised after the final EIS is filed, appropriate clarification or amplification is to be sent to EPA with information copies furnished to those who received copies of the final EIS. The waiting periods do not apply.

(2) If the RFO determines that the final EIS or supplement to the original EIS previously filed becomes inadequate because of a major change in the plan for the proposed action that significantly affects the quality of the human environment, a new EIS is to be prepared, filed, and distributed as described in this section.

[FR Doc. 79-28221 Filed 8-28-79; 8:45 am]
BILLING CODE 3410-16-M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 103

Designation of Aircraft Pilots and Helicopter Pilots as Immigration Officers

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This order amends the regulations of the Immigration and Naturalization Service to add aircraft pilots and helicopter pilots to the listing of Service personnel who are designated as immigration officers. The amendment is necessary and intended to add those officers to the listing of Service employees who are designated as immigration officers which is published in the Code of Federal Regulations.

EFFECTIVE DATE: August 29, 1979.

FOR FURTHER INFORMATION CONTACT: James G. Hoofnagle, Jr., Instructions Officer, Immigration and Naturalization Service, Telephone: (202) 633-3048.

SUPPLEMENTARY INFORMATION: This is an amendment to 8 CFR 103.1(q) to add aircraft pilots and helicopter pilots to the list of immigration officers contained in the Service regulations. These officers are being listed because when they are not piloting airplanes and/or helicopters, they are engaged in performing other functions in connection with enforcement of the Immigration and Nationality Act for which this designation is necessary. Therefore, Chapter I of Title 8 of the Code of Federal Regulations is hereby amended as set forth below.

PART 103—POWERS AND DUTIES OF SERVICE OFFICERS; AVAILABILITY OF SERVICE RECORDS

In Part 103, § 103.1(q) is amended by adding "aircraft pilot" and "helicopter pilot" to the listing of officers enumerated in that paragraph. As amended, 8 CFR 103.1(q) reads as follows:

§ 103.1 Delegations of authority.

(q) *Immigration officer.* Any immigration inspector, immigration examiner, border patrol agent, aircraft pilot, airplane pilot, helicopter pilot, deportation officer, detention officer, detention guard, investigator, general attorney (nationality), paralegal specialist, trial attorney (immigration), general attorney (immigration), or supervisory officer of such employees is hereby designated as an immigration officer authorized to exercise the powers and duties of such officer as specified by the Act, or this chapter.

(Sec. 103 (8 U.S.C. 1103))

The amendment set forth in this order is published pursuant to section 552 of Title 5 of the United States Code (80 Stat. 383) as amended by Pub. L. 93-502 (88 Stat. 1561), and the authority contained in section 103 of the Immigration and Nationality Act (8 U.S.C. 1103), 28 CFR 0.105(b) and 8 CFR 2.1. Compliance with the provisions of 5 U.S.C. 553 as to notice of proposed rulemaking and delayed effective date is unnecessary in this instance because the amendment pertains to agency organization and management.

Effective date: This amendment becomes effective on August 29, 1979.

Dated: August 24, 1979.

Leonel J. Castillo,
Commissioner of Immigration and Naturalization.

[FR Doc. 79-20872 Filed 8-28-79; 8:45 am]
BILLING CODE 4410-10-M

DEPARTMENT OF ENERGY**10 CFR Part 205****Administrative Procedures and Sanctions; 1979 Interpretations of the General Counsel**

AGENCY: Department of Energy.

ACTION: Notice of Interpretations.

SUMMARY: Attached are the interpretations and responses to petitions for reconsiderations issued by the Office of General Counsel of the Department of Energy under 10 CFR Part 205, Subpart F, during the period July 1, 1979, through July 31, 1979. Appendix C identifies those requests for interpretation which have been dismissed during the same period.

FOR FURTHER INFORMATION CONTACT:

Diane Stubbs, Office of General Counsel, Department of Energy, 12th & Pennsylvania Avenue, NW., Room 1121, Washington, D.C. 20461 (202) 633-9070.

SUPPLEMENTARY INFORMATION:

Interpretations issued pursuant to 10 CFR Part 205, Subpart F, are published in the Federal Register in accordance with the editorial and classification criteria set forth in 42 FR 7923 (February 8, 1977), as modified in 42 FR 46270 (September 15, 1977).

These interpretations depend for their authority on the accuracy of the factual statement used as a basis for the interpretation (10 CFR 205.84(a)(2)) and may be rescinded or modified at any time (§ 205.85(d)). Only the persons to whom interpretations are addressed and other persons upon whom interpretations are served are entitled to rely on them (§ 205.85(c)). An interpretation is modified by a subsequent amendment to the regulation(s) or ruling(s) interpreted thereby to the extent that the

interpretation is inconsistent with the amended regulation(s) or ruling(s) (§ 205.85(e)). The interpretations published below are not subject to appeal.

The responses to petitions for reconsideration published herein have been issued in accordance with the provisions set forth in 10 CFR 205.85(f). It should be emphasized that the reconsideration procedure is not the equivalent of an administrative appeal, but merely provides a mechanism to insure that no inadvertent errors are made which affect the validity of the interpretation.

Issued in Washington, D.C., August 17, 1979.

Everard A. Marseglia, Jr.,
Assistant General Counsel for Interpretations and Rulings, Office of General Counsel.

Appendix A.—Interpretations

No.	To	Date	Category	File No.
1979-15	Ethyl Corp.	July 30	Allocation	A-411
1979-16	Semarc California, Inc. and LIG-California, Inc.	July 31	Pricing & Allocation	A-373

Interpretation 1979-15

To: Ethyl Corporation
Regulations Interpreted: 10 CFR 211.103(c)(1), 211.51

Code: GCW—AI—Allocation Levels, Definition of "Energy Production"

Facts

The Ethyl Corporation (Ethyl) is a firm engaged in, among other things, the development and manufacture of additives for motor gasoline. Ethyl has filed a request for interpretation of the Mandatory Petroleum Allocation Regulations, 10 CFR Part 211, which relates to the characterization of certain of Ethyl's activities as "energy production" and the firm's entitlement to purchase motor gasoline. In order to conduct extensive automobile fleet tests of new "energy-extending antiknock mixtures," Ethyl states that its Detroit Research Laboratories would require 165,000 gallons of motor gasoline which have been certified as having met certain quality specifications. This motor gasoline is needed to conduct emission studies and to test the performance of its "energy extender." The volume of gasoline which Ethyl seeks is a considerable increase over its purchases during the base period (November 1977–October 1978).

Ethyl is a "bulk purchaser" of motor gasoline as that term is defined in 10 CFR 211.102. The allocation levels applicable to bulk purchasers of motor gasoline are governed by § 211.103,¹ which provides that

¹ At the time that Ethyl submitted its request for interpretation firms engaged in priority uses were entitled to an allocation level of 100 percent of total current requirements of motor gasoline as reduced

such firms are entitled to purchase motor gasoline for certain specified uses under an allocation level in reference to usage during the applicable base period. The first priority uses give rise to an entitlement to receive an allocation level not subject to an allocation fraction, and the second priority uses give rise to an allocation level subject to an allocation fraction.

A firm engaged in "energy production," as that term is defined in § 211.51, is a first priority use and is entitled to receive from its supplier 100 percent of base period use for that activity. Section 211.103(c)(2) sets forth four other motor gasoline uses that qualify for 100 percent of base period use as reduced by application of an allocation fraction.

Ethyl asserts that the "energy-extender" additive boosts the octane of motor gasoline without consuming as much refinery fuel as is normally consumed in the refining process and without unnecessarily reducing the refinery gasoline yield in its manufacture. Therefore, the firm contends that its use of testing gasoline qualifies as energy production as defined at § 211.51.

Issue

Does the use of motor gasoline by the Ethyl Corporation's Detroit Research Laboratories for fleet testing of "energy-extending antiknock mixtures" constitute "energy

by application of the allocation fraction. Effective August 1, 1979, the allocation regulations provide that priority uses entitle a firm to receive from its supplier 100 percent of base period use. See 44 FR 42545 (July 19, 1979).

production" as that term is defined in § 211.51?

Discussion

For the reasons discussed below, the Department of Energy (DOE) concludes that Ethyl's use of motor gasoline for fleet testing of "energy-extending antiknock mixtures" does not constitute "energy production" as that term is defined in § 211.51.

"Energy production" is defined in § 211.51 as [t]he exploration, drilling, mining, refining, processing, production and distribution of coal, natural gas, geothermal energy, petroleum or petroleum products, shale oil, nuclear fuels and electrical energy. It also includes the construction of facilities and equipment and similar capital goods. Excluded from this definition are synthetic natural gas manufacturing, electrical generation whose power source is petroleum based, gasoline blending and manufacturing and refinery fuel use.

The only rationale advanced by Ethyl for the proposition that the testing of its product qualifies as energy production is that the product may ultimately be used to conserve refinery fuel and thereby abate losses in refinery gasoline yield. While we appreciate the conservation potential of Ethyl's product, we are unable to conclude that the firm's usage of gasoline in the manufacturing process comports with either a common sense understanding of the term "energy production" or a plain reading of its definition. These arguments presented by Ethyl regarding the ultimate value of the product being tested are unpersuasive as to the proper legal construction of § 211.51.

Finally, Ethyl has requested an "Advisory Opinion" as to which allocation level is applicable to the use described in its request. However, Ethyl has not provided sufficient information to permit us to make a precise determination as to its proper allocation level category. The firm should be aware, however, that either of the two most likely categories, i.e., "commercial use" or "industrial use" would entitle Ethyl, pursuant to § 211.103(c)(2), to one hundred percent of base period use as reduced by application of the allocation fraction.

Issued in Washington, D.C., on July 30, 1979.

Everard A. Marseglia, Jr.,

Assistant General Counsel for Interpretations and Rulings.

Interpretation 1979-16

To: Semarc California, Inc. and LIG-California, Inc.

Regulations Interpreted: 10 CFR 211.51, 211.62, 212.31 and 212.82

Code: GCW—AI and PI—Def. of Firm, Refiner; Entitlements Program

² Section 211.51 contains the following definitions: "Commercial use" means usage by those purchasers engaged primarily in the sale of goods or services and for uses other than those involving industrial activities and electrical generation.

"Industrial use" means usage by those firms primarily engaged in a process which creates or changes raw or unfinished materials into another form or product.

Facts

Semarc California, Inc. (Semarc) and LIG-California, Inc. (LIG) are considering the formation of a partnership to construct and manage a crude oil refinery in California, the Independent Valley Energy Company (Independent Valley). Semarc is a consulting firm based in Houston, Texas and Los Angeles, California. It provides technical, financial and project management services for development of capital projects and, when appropriate, participates in such projects using its own equity capital. Semarc does not own or control any existing refinery. LIG is a utility with plant and operations in Louisiana. It is a wholly owned subsidiary of Central Louisiana Electric Company, Inc. (Central Louisiana). Central Louisiana also is the sole owner of South Louisiana Production Company, Inc. (South Louisiana), which owns and operates a 13,500 barrel per day (bpd) refinery in Jefferson Davis Parish, Louisiana. This refinery began operations in October 1978.

Semarc and LIG have provisionally entered into a joint venture to develop and operate a 20,000 bpd refinery in Bakersfield, California. The joint venture will be known as the Independent Valley Energy Company (Independent Valley). Under the proposed joint venture, LIG would hold an 80 percent equity interest in the refinery; Semarc would hold a 20 percent equity interest. Semarc would act as "manager" of the operations of the refinery for at least the first 2 years of the enterprise, and LIG would provide nearly 100 percent of the capital investment in the refinery.

Under the terms of the partnership agreement,¹ the following decisions would require the approval of both partners: (1) refinery financing, (2) selection of a principal contractor, (3) selection of major subcontractors, (4) refinery site selection, (5) major crude oil suppliers, (6) major refined product purchasers, (7) all filings and submissions made with U.S. Government agencies, and (8) all long-term contracts or agreements. Partnership Agreement, ¶ 3.5. Many other decisions related to the management of the partnership must also be approved by both parties. They include (1) acquisitions outside the scope of the partnership, (2) financing decisions, (3) sale of or encumbrance upon assets, (4) expenditures and incurring obligations over \$250,000, (5) settlement of claims or suits over \$10,000, (6) substantial deviations from budget, (7) substantial refinancing, and (8) filings with the U.S. Government. Partnership Agreement ¶ 5.4. In other words, Semarc would manage the refinery subject to the requirement that both partners would have to agree on any and all of these decisions.

Issues

1. Under the Mandatory Petroleum Allocation and Priced Regulations, would Independent Valley be a separate firm from LIG and its affiliated entities?

2. Would Independent Valley be a small refiner, as defined in 10 CFR 211.62, and therefore qualify for small refiner bias

¹ The requesting parties provided a copy of the agreement with the request.

entitlements benefits under the domestic crude oil allocation program for the proposed refinery without regard to the refining capacity of LIG and its affiliated entities?

Interpretation

For the reasons set forth below, the Department of Energy (DOE) has determined that Independent Valley and LIG and all of its affiliated entities, including South Louisiana, would constitute a single firm (hereafter called the Central Louisiana firm) for the purposes of the Mandatory Petroleum Allocation and Price Regulations. This means that Independent Valley would not be eligible for small refiner bias entitlements for its refinery without reference to the refinery capacity of South Louisiana.² Consequently, the Central Louisiana firm would be able to claim such entitlements only if it qualified in reference to all of the refineries which it controlled.

Discussion

10 CFR 211.62, defines "small refiner" for the purpose of determining which refineries are entitled to bias benefits and reads as follows: "Small refiner" means a refiner, the sum of the capacity of the refineries of which (including the capacity of any person who controls, or is controlled by, or is under common control with such refiner) does not exceed 175,000 barrels per day. (Emphasis added.)

Accordingly, a determination that the Independent Valley Refinery and the refinery in Jefferson Davis would be controlled by the same entity is dispositive of the issue whether Independent Valley is a refiner separate from the Central Louisiana firm, because this definition requires the aggregation of the capacities of all refineries under common control of one firm. Based upon the facts presented for our review, the Independent Valley refinery and the refinery in Jefferson Davis Parish, Louisiana, would be under the common control of the Central Louisiana firm, since Independent Valley would be controlled by LIG, the 80 percent partner in the joint venture, and LIG and South Louisiana are wholly owned subsidiaries controlled by Central Louisiana. Consequently, entitlements benefits under the small refiner bias may only be earned by the Central Louisiana firm, based upon the refinery capacity of all of the refineries controlled by that firm.³

² The requesting parties sought "separate firm" identification for purposes of (1) a determination of their status as small or independent refiners, 10 CFR 211.67(e); (2) the operation of the domestic crude oil allocation (buy/sell) program, 10 CFR 211.65; (3) the establishment of maximum lawful selling prices in sales of covered products, 10 CFR 212.83; and (4) the monthly reporting and calculation of "old pill" under the entitlements program. However, the requesting parties also recognized that as some of these regulations have little effect on their joint venture because neither party uses imported crude oil or sells covered products, the primary importance of the requested separate firm treatment concerns the entitlements program and the small refiner bias.

³ On April 27, 1978, the Economic Regulatory Administration (ERA) of DOE amended the small refiner bias to reduce the level of benefits available to small refiners under the bias and provide for the calculation of the bias on an individual plant basis.

Footnotes continued on next page

The element of control, an integral part of the firm concept, has been accorded a broad meaning which includes both actual or potential control. LIG has the potential, or power, of control by means of exercising its vote on all "major" decisions defined in the tentative agreement. There need not be any *de facto* exercise of this potential control by LIG to require the conclusion that Independent Valley is part of the Central Louisiana firm. As we stated in the Tesoro Interpretation, the administrative determination of whether one firm is controlled by another must be a factual and legal determination based upon possession of the power of control and not upon the happenstance of exercise of that power.⁵ Because substantial questions concerning maximum price levels and supply entitlements obligations are at stake, the determination must be one that is based on objective and well established criteria.⁶ In the present case, LIG has stated that it intends in fact to exercise that right of control over Independent Valley. Request, pp. 3, 5-6, 8, 12; Partnership Agreement ¶¶ 3.5 and 5.4. Thus, as a result of Central Louisiana's 100 percent ownership of South Louisiana and LIG, and the latter's 80 percent ownership interest in Independent Valley and associated voting rights and contribution of almost all of Independent Valley's capital, Central Louisiana controls all of those entities within the meaning of the DOE regulations.⁷ Based on the Tesoro criteria, all

Footnotes continued from last page rather than on an aggregate basis. Under the new rule, the daily average volume of crude oil runs to stills attributable to a particular plant would be equal to the same percentage of that small refiner's total daily average volume of crude oil runs to stills which a given plant bears to the total refining capacity of the small refiner. 44 FR 25621 (May 2, 1979). Nevertheless, a determination as to whether the "firm" under consideration constitutes a small refiner must still be made.

⁵ See *Tesoro Petroleum Corp.*, Interpretation 1975-32, 42 FR 23743, (August 21, 1975) where FEA found that Tesoro, a refiner, controlled CORCO, a refiner in Puerto Rico, after Tesoro acquired 38 percent of CORCO's outstanding shares. The FEA noted the widely dispersed ownership of the remaining shares outstanding: *Enterprise Products Co.*, Interpretation 1975-3, 42 FR 23724 (February 12, 1973) where Enterprise, a propane reseller, and two retailers affiliated with Enterprise were found to constitute a single firm because the common owners of the firms protected their control by the veto power they held over any attempts the majority of the board might take toward independent action; and *Boll Marketing Enterprise*, Interpretation 1977-18, 42 FR 39960, (June 13, 1977) in which a producer of crude oil and a refinery constituted a single firm based on the producer's greater than 50 percent ownership interest in the refinery.

⁶ *Tesoro* at 23744.

⁷ *Id.*

⁸ The main authority cited by the parties, *Commonwealth Oil Refining Co. (CORCO)*, Interpretation 1977-45, 43 FR 1480, (November 30, 1977), does not support the contention that LIG does not control Independent Valley. In *CORCO*, DOE found that the Puerto Rico Olefins Company (PRO), the result of a 50/50 joint venture between CORCO and PPG Industries, were separate firms because the PRO facility operated under an independent management committee made up equally of PPG and CORCO delegates and neither PPG nor CORCO could individually control the operations of PRO.

of the affiliated entities in this case must be considered together in determining whether the single firm qualifies as a "small refiner."

The definition of "small refiner" in § 211.62 is consistent with the definition of "firm" in 10 CFR 212.31, a section which contains the definitions generally applicable to the Mandatory Petroleum Price Regulations. That definition reads as follows:

"Firm" means any association, company, corporation, estate, individual, joint-venture, partnership, or sole proprietorship or any other entity however organized including charitable, educational, or other eleemosynary institutions, and the Federal government including corporations, departments, Federal agencies, and other instrumentalities, and State and local governments. The DOE may, in regulations and forms issued in this part, treat as a firm: (1) A parent and the consolidated and unconsolidated entities (if any) which it directly or indirectly controls, (2) a parent and its consolidated entities, (3) an unconsolidated entity, or (4) any part of a firm.

For general price control purposes, DOE has selected the first and most expansive of the four meanings listed above,⁹ and has implemented that meaning in, *inter alia*, § 212.82 (which states that "firm" means a parent and the consolidated and unconsolidated entities (if any) which it directly or indirectly controls), as well as the report forms required to be filed by all refiners. See instructions to Forms FEO-96 and P-110-M-1. *E.g.*, *Northern Natural Gas Co.*, Interpretation 1978-63, 44 FR 3023 (January 15, 1979).

The definition of "firm" in 10 CFR 211.51, a section which contains definitions relating to the Mandatory Petroleum Allocation

However, the basic ownership in the present case is completely distinguished from that in *CORCO*. The ownership arrangement proposed in this case is 80 percent/20 percent. LIG has also admitted that it intends in fact to exercise its majority ownership to control the operations of Independent Valley. Request, pp. 3, 5-6, 8, 12; Partnership Agreement ¶¶ 3.5 and 5.4. Whether that control extends only to major decisions and not to the minor decisions of day-to-day operations is irrelevant to the determination of a firm's scope:

A decision which would depend upon a judgmental determination by FEA regarding the degree of Tesoro's actual supervision of CORCO's day-to-day operations, and which might be subject to review according to the changing circumstances of managerial intervention by Tesoro, would be both administratively unfeasible and too arbitrary and indefinite to permit coherent application of the price and allocation regulations to Tesoro. *Tesoro* at 23744.

Appendix B.—Responses to Petitions for Reconsideration

Petitioner	Interpretation	Date of response
Mobil Oil Corp.	Mobil Oil Corp. and Gulf Oil Corp., 1979-7, 44 FR 29433 (May 21, 1979)	July 9.
The Gulf Companies	Mobil Oil Corp. and Gulf Oil Corp., 1979-7, 44 FR 29433 (May 21, 1979)	July 9.

Regulations, similarly permits DOE to treat as a firm (a) a parent and the consolidated and unconsolidated entities (if any) which it directly or indirectly controls, (b) a parent and its consolidated entities, (c) an unconsolidated entity, or (d) any part of a firm. While for some purposes under the Allocation Regulations DOE has expressly chosen to apply this definition restrictively, *e.g.*, § 211.106(b), it has generally applied this definition in the expansive sense set forth in the definition of small refiner in § 211.62, quoted above.

Finally, Semarck and LIG contend that since Independent Valley would be constructed specifically to process California heavy crude oil, which is presently an under-utilized resource, its development should be encouraged. Request, pp. 13-15. While such a consideration may be cognizable in the context of a request for exception relief, that the financial incentive of additional small refiner bias entitlements is necessary to construct and operate the proposed refinery is not relevant to the proper interpretation of DOE regulations.

For the reasons set forth above, we have determined that the proper application of the DOE's Mandatory Petroleum Allocation and Price Regulations to the facts presented by Semarck and LIG is as follows:

(1) Under the Mandatory Petroleum Allocation and Price Regulations, Independent Valley is not a separate firm from LIG and its affiliated entities, but is part of the Central Louisiana firm; and
(2) The Central Louisiana firm may not determine its eligibility for small refiner bias entitlements benefits under the domestic crude oil allocation program for the proposed refinery of Independent Valley without regard to the refining capacity of other entities that are part of the firm.

Issued in Washington, D.C. on July 31, 1979.
Everard A. Marseglia, Jr.,
Assistant General Counsel for Interpretations and Rulings.

⁹ That Independent Valley and South Louisiana would not directly compete with each other or use each other's marketing facilities, and that these entities may be treated separately under State and Federal laws (Request, pp. 11-12), are irrelevant to the determination that we make in this case.

¹⁰ The second and third meanings under the general definition in § 212.31 were used by the Cost of Living Council and the Federal Energy Administration primarily in connection with profit margin regulations no longer effective. The fourth meaning has been used only in special circumstances, in connection with the granting of exceptions. *Boll Marketing Enterprise*, Interpretation 1977-18, 42 FR 39960 (June 13, 1977) at 39961.

Petition for Reconsideration of Mobil Oil Corp. and Gulf Oil Corporation 1979-7

Petitioner: The Gulf Companies
Date: July 9

This responds to the petitions submitted on behalf of The Gulf Companies (Gulf) and Mobil Oil Corporation (Mobil), seeking reconsideration of *Mobil Oil Corporation*, Interpretation 1979-7, 44 FR 29433 (May 21, 1979). In evaluating the petitions for reconsideration, the materials submitted by the petitioners prior to the issuance of the Interpretation have been reviewed. For the reasons discussed below, I have concluded that the request for reconsideration must be denied.

Interpretations issued by the Office of General Counsel of the Department of Energy (DOE) may be reconsidered in certain limited circumstances. In these cases the burden is upon the petitioners to demonstrate that the interpretation was erroneous in fact or in law, or that the result reached in the Interpretation was arbitrary or capricious. 10 CFR 205.85(f)(3).

In the Interpretation which was issued to Gulf and Mobil, the DOE determined that the provisions of § 212.83(c)(2)(iii)(E), which govern a crude oil refiner's computation of increased non-product costs, require refiners to calculate the "marketing cost increase" by computing the difference between the total cost of marketing covered products in the month of measurement and the total cost of marketing covered products in the month of May 1973. Marketing cost increases may be allocated to particular products by volume or by sales. This conclusion was based upon the express provisions of § 212.83(c)(2)(iii)(E) and a review and analysis of its historical background.

Gulf referenced a DOE study entitled *Analysis of Refiners' No. 2 Distillate Costs and Revenues* (March 30, 1979) and contends that this study requires reconsideration of this Interpretation, since the study employed the volume method to determine increased marketing costs for No. 2 distillate sales. This argument is unpersuasive. This study was not a formal legal interpretation of the refiner price formula but was intended only to serve the special analytical purposes of the Office of Fuels Regulations.

In other respects the petitions for reconsideration reiterate the arguments presented in the initial interpretation requests and raise no new substantive arguments of fact or of law. Accordingly, since the petitioners have failed to demonstrate that the Interpretation is erroneous in fact or in law, or that the Interpretation is arbitrary or capricious, the petitions for reconsideration are hereby denied. The denial of these petitions for reconsideration is a final order of the Department of Energy from which the petitioners may seek judicial review.

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Petitioner: Mobil Oil Corp.
Date: July 9

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Mobil Oil Corporation (Mobil), seeking reconsideration of *Gulf Oil Corporation*, Interpretation 1979-7, 44 FR 29433 (May 21, 1979). In evaluating the petitions for reconsideration, the materials submitted by the petitioners prior to the issuance of the Interpretation have been reviewed. For the reasons discussed below, I have concluded that the request for reconsideration must be denied.

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allocated to particular products by volume or by sales. This conclusion was based upon the express provisions of § 212.83(c)(2)(iii)(E) and a review and analysis of its historical background.

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In other respects the petitions for reconsideration reiterate the arguments presented in the initial interpretation requests and raise no new substantive arguments of fact or of law. Accordingly, since the petitioners have failed to demonstrate that the Interpretation is erroneous in fact or in law, or that the Interpretation is arbitrary or capricious, the petitions for reconsideration are hereby denied. The denial of these petitions for reconsideration is a final order of the Department of Energy from which the petitioners may seek judicial review.

Appendix C.—Cases Dismissed

File No.	Requestor	Category	Date dismissed
A-422	Foster Oil Co.	Allocation	July 13.
A-398	Triad Oil Co.	Allocation	July 16.

[FR Doc. 79-26986 Filed 8-28-79; 8:45 am]
BILLING CODE 6450-01-M

CIVIL AERONAUTICS BOARD

14 CFR Part 207

[Regulation ER-1145; Amendment No. 21; Docket 31788]

Split All-Cargo Charters and Split Passenger/Cargo Charters

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., August 23, 1979.

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: This amendment allows more than one person to charter the entire capacity of an aircraft for air freight, and to charter the unused belly capacity of a passenger charter flight. The amendments are intended to spur competition in the air cargo industry, and could lead to lower shipping rates and to increased charter opportunities for small shippers. This action is in response to a petition for rulemaking by two charter air carriers, Trans International Airlines and World Airways.

DATES: Effective: September 28, 1979. Adopted: August 23, 1979.

FOR FURTHER INFORMATION CONTACT: Mark Frisbie, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428, 202-673-5442.

SUPPLEMENTARY INFORMATION: In December 1977, Trans International Airlines and World Airways, U.S. charter carriers, filed a petition for rulemaking to amend the Board's Economic Regulations (14 CFR Parts 207, 208, 212 and 214) to allow split all-cargo charters and split passenger/cargo charters. They proposed a 5,000-pound minimum shipment, a limit on the maximum number of charterers permitted to engage an all-cargo aircraft, and that only one charterer be allowed to engage the belly cargo capacity on a passenger charter flight. The Board issued Notice of Proposed Rulemaking EDR-351 (43 FR 14519, April 6, 1978) asking for comment on a revision of the rules for split cargo charters and cargo charter service. We further asked how to define a split cargo charter so that the shippers would have maximum

flexibility in its use, the direct air carriers would not be hobbled by unnecessary regulations, and the public's need for scheduled cargo service would be met. The Board suggested the petitioners' proposed restrictions as a possible format, and tentatively decided that these changes are permitted under the Act. Comments and reply comments in response to the notice have been filed by numerous shippers, scheduled and charter carriers, and air freight forwarders.¹

The primary issues in this rulemaking are: whether there is a need for split cargo charters in domestic and international transportation; whether they would threaten the viability of international scheduled service; and whether they are permitted under the Federal Aviation Act.

Opponents of the rule, all of them scheduled combination or all-cargo carriers, argue that there is no need for split cargo charters in domestic markets because of the availability of section 418 cargo certificates allowing unregulated cargo carriage, or in international markets because the cargo market has been rapidly expanding and small-capacity aircraft are available for a small shipper to charter on a plane-load basis. Also, they claim, in international markets split cargo charters would cause disastrous diversion from scheduled service, undermining its economic base. These commenters contend that by eliminating the requirement that the entire capacity of the aircraft be chartered by one person, and by setting the minimum shipment at only 5,000 pounds, there would be no practical distinction between charter and individually waybilled service.

Supporters of the rule—including shippers, freight forwarders, charter carriers, and two foreign scheduled combination carriers—cited the

¹ Comments and/or reply comments have been received from: Civil Aeronautics Board Office of the Consumer Advocate (subsequently made part of the Bureau of Consumer Protection), National Air Carrier Association (on behalf of Evergreen International Airlines, Trans International Airlines, World Airways), International Aviation Services (U.K.), Lan-Chile Airlines, TAP Portuguese Airways, International Airforwarder and Agents Association (on behalf of 23 air freight forwarder members), Fourteen Electronics Shippers (Advanced Micro Devices, American Microsystems, Data General Corp., Electronic Memories and Magnetics Corp., Fairchild Camera-Instrument Corp., General Instrument Corp., Hewlett-Packard Co., Intel Corp., Intersil, Litronix, National Semiconductor Corp., RCA Corp., Rockwell Microelectronics, Signetics Corp.), Motor Vehicle Manufacturers Association, Rich International Airways, Polaroid, Certain Trunkline Carriers (American Airlines, Pan American World Airways, Trans World Airlines, Western Airlines), The Flying Tiger Line, China Airlines, British Airways, Seaboard World Airlines, Scandinavian Airlines System, Airlift International, and F.H. Fenderson, Inc.

efficiencies and attractiveness of split cargo charters, especially in the use of now-empty belly space on passenger charters. Shippers were interested in the lower rates and greater accessibility to charter service they expected from a split cargo charter rule.

After review of all the comments received, and in view of the changes in policy made by the Airline Deregulation Act of 1978 (Pub. L. 95-504), the Board has decided to permit split all-cargo charters with no minimum contract size, and with no restriction on the number of charterers, as long as the entire capacity of the aircraft is engaged in the aggregate. The reason for retaining the latter restriction at this time is that it was not proposed to be eliminated. We are also authorizing cargo charters in the unused belly capacity of passenger charters, with no restriction on contract size or number of charterers. EDR-351 proposed, as a possible format, a limitation on the number of charterers and a minimum contract size for each charterer, but the Board also asked the public to consider and suggest other possible rules, including the possibility of having no limitations. We have decided that a restriction on contract size or number of charterers is not legally necessary, and that the fewest restrictions would best promote competition and serve the needs of the public.

In Supplemental Notice of Proposed Rulemaking EDR-351B, issued simultaneously with this amendment, the Board is proposing to eliminate the requirement that the entire aircraft be engaged in the aggregate, and to allow any mix of cargo and passenger charters on an aircraft, including the carriage of cargo on the main deck with passengers. We are also proposing that notice of any limits on baggage space be placed in the participant contract, and that part charters of cargo be allowed on scheduled flights.

Need For Split Cargo Charters

We have concluded that split cargo charters will allow more efficient use of aircraft capacity and will allow smaller shippers to use cargo charter services. It seems probable that these new efficiencies will promote competition between cargo carriers, both charter and scheduled. We believe that this competition will benefit consumers.

Opponents of split cargo charters claim that they are not needed in either domestic or international markets. Domestically, charter air carriers were granted authority to receive all-cargo certificates under the grandfather provision of section 418 of the Act (Pub. L. 95-245), and these certificates have

been open to all applicants since November 1978. They argue that section 418 service will provide shippers with any benefits otherwise available from split all-cargo charters. For example, there will be an unlimited number of carriers and almost unhindered discretion in pricing and in the number of price/quality options available. In addition, they state that charters will remain available for those shippers who want the entire capacity of an aircraft for particular point-to-point service at specific times.

We agree that this rule will have no impact on domestic cargo service, which has already been deregulated by Congress and the Board. Since all carriers are exempted from our charter regulations for the purposes of domestic cargo service (14 CFR 291.24), this rule will affect only international cargo service. But in that realm, split cargo charters will still be a useful competitive force, stimulating greater efficiencies and variety of service. As we recently pointed out in another context,² the demand for cargo charter service to many countries has not been fully met. The rules we are adopting here will permit charter carriers to respond more quickly and efficiently to shippers' needs in those international markets. Furthermore, we consider it a weak argument against removing regulatory restrictions that further liberalization is not needed. The important question is whether the restrictions are needed. If they are not, the policies under which the Board is now acting call for their removal, so that the industry structure will be unhampered in changing to meet any new needs that might arise in the future.

Effect on Scheduled Service

The scheduled all-cargo and combination carriers claim that such substantial diversion will occur from traffic in international air cargo transportation that important scheduled service to many markets could be reduced or eliminated. Seaboard and FTL in particular argue that split cargo charters have no traffic generating potential in international aircraft. They state that since the cost of surface transportation is so much less than air transportation in the transatlantic and transpacific markets, even the expected decrease in cargo rates through split cargo charter competition will not cause any significant shift of traffic from surface modes.

² Order 78-12-80, December 8, 1978, in which the Board granted multiple exemption applications for all-cargo charter authority in transatlantic markets. See also *Transatlantic Cargo Service Case*, Order 78-12-59, December 8, 1978.

Opponents argue further that the anticipated diversion would lead to declining load factors and higher scheduled rates. For instance, Flying Tiger Lines predicts that it would have to lower prices for large-volume shippers in primary markets and raise rates for small shippers and in secondary markets. Other opponents warn that the shift in scheduled cargo traffic from secondary markets to major break-weight centers by shippers to take advantage of volume discounts would work to the detriment of shippers who desire scheduled service in the secondary markets. As a result, they argue, many shippers who now depend on the regularity and convenience of scheduled all-cargo service would find that service either prohibitively expensive, inconvenient, or unavailable.

The Board does not, however, consider diversion from one type of air transportation to another as something to be avoided. The policy question is not whether removal of regulatory restrictions causes a shift in market share, but rather, whether the range of needed services will be available to the public by competitive parts of the air transportation industry. There is nothing in the statute that favors limits on competition between charter and scheduled service, or that restricts charter service to traffic found unattractive by the scheduled carriers. While impairment of scheduled service is a public interest factor to be considered, the revenues from this service need not be maintained at the level, or under the conditions, desired by the scheduled carriers.

We are not persuaded that charter service under this rule will impair availability of scheduled cargo service in international markets for those who desire it. None of the shippers who commented seemed concerned about this possibility. It was raised only by the scheduled carrier opponents of the rule. Our experience shows that increased competition from charters often leads to lower scheduled rates while still allowing consumers a choice between charter and scheduled service. If less expensive charter service is attractive to many shippers who now must use scheduled service, there is no reason why those shippers should be forced to pay for the convenience of scheduled service that they neither need nor want. As Seaboard pointed out, the scheduled all-cargo carriers provide highly efficient service at acceptable cost. These carriers, especially with expanded off-route authority, should be able to withstand charter competition wherever

there is enough demand for the special advantages of scheduled service.

Legality

Another question is whether these rules are permitted by the Act. The opponents argue that split cargo charters are indistinguishable from individually-waybilled service, and that the Federal Aviation Act requires a clear distinction to be maintained. They contend that past court cases on split passenger charters do not support split charters in cargo service, and that Board precedent is also against such rules. These commenters cite the Board statement that elimination of the plane-load requirement would delete the only rule that inhibits supplementals from offering individually-waybilled service in derogation of their statutory function (ER-659), *Extension of Charter Regulations*, 36 FR 2486, January 29, 1971).

According to these commenters, there are no restrictions on split cargo charters that would differentiate them from individually-waybilled service. They make several points: There is no requirement of a middleman between the charter carrier and the shipper, as the courts have found important in split passenger charters. The logistical difficulties of coordinating multiple shipments and backhaul imbalances are substantially reduced by readily available surface transportation at each terminal, and by the availability of split passenger/cargo charters to prevent empty return flights. The restriction that the entire capacity be chartered is substantially weakened due to the number of different shippers possible on the aircraft, and because the significant rate advantage of charters makes the use of split cargo charters always in the interest of the shipper. They argue that the elimination of charter tariffs³ would make even the minimum restrictions in the Board rules unenforceable. For all of these reasons, they claim that the Board has no legal authority to adopt these rules, and cannot show any economic change that warrants reversal of its long-standing rejection of split cargo charters.

Congress has indicated a preference for the broadest charter rules consistent with the public interest by amending section 401(n)(2) of the Federal Aviation Act (by Pub. L. 95-504, the Airline Deregulation Act of 1978) to read, "No rule, regulation, or order issued by the Board shall restrict the marketability,

³ Charter tariffs were eliminated by ER-1125, 1126, 1127, 1128, 1129, 1130 and SPR-150, and 160 (44 FR 33056, June 8, 1979), adopted after comments were due in this proceeding.

flexibility, accessibility, or variety of charter trips provided under a certificate issued under this section, except to the extent required by the public interest. . . ." Also, the Deregulation Act changes the definition of charter air transportation (formerly "supplemental air transportation") to read: "Charter air transportation means charter trips, including inclusive tour charter trips, in air transportation, rendered pursuant to authority conferred under this Act under regulations prescribed by the Board." (section 101 (15)) The former definition read: ". . . rendered pursuant to a certificate of public convenience and necessity issued pursuant to section 401(d)(3) of this title to supplement the scheduled service authorized by certificates of public convenience and necessity issued pursuant to sections 401(d)(1) and (2) of this title." (Former section 101 (37).) Because charter service by definition was limited to "supplemental" air transportation, the Board was required to fashion charter rules that insured that the service would be distinct from scheduled transportation. Although the Conference Report is silent about the reason for this definitional change, we believe it indicates Congress's intent that no formal distinction between charter and scheduled service need be maintained. The present definition places full discretion with the Board to define charter service by regulation, and it omits the reference in the former definition to the distinct role of "supplementing" scheduled service. The change indicates that Congress realized that charter service should not be limited as it had in the past, and it changed the definition accordingly. This was consistent with the overriding purpose of the Deregulation Act to remove unnecessary restrictions and barriers to competition.

In light of these changes and policies, we believe that the Act does not require us to maintain more restrictive conditions for cargo charter service than for individually-waybilled service. The judicial interpretations that required charter service to be distinct from individually-ticketed service were based on legislative history and regulatory policies that are now outdated and have been superseded by new law. We believe that charter service should not be subject to special conditions that inhibit its responsiveness to consumer needs, and that the statute permits us to define charter service so that it may be used as a competitive alternative to waybilled service. We wish to permit both types of service, in unrestricted competition with each other, to be

available to satisfy consumer preferences.

The essence of charter service is its contractual, *ad hoc* nature. It is more flexible, because it can be arranged to suit the consumer's individual needs. It may also involve more risks for the shipper, and charter flights are typically less regular and less routinely available than scheduled service. The distinction, between charter and individually-waybilled service, if one is somehow needed, is primarily in the contrast between the flexible, individualized service characteristic of charters, and the routine, predictable service characteristic of scheduled flights. In addition, the existing requirement that the entire capacity of the plane must be engaged for charters is a clear distinction, since scheduled service is not subject to a "full-plane" restriction. Thus, charter service includes a risk that the flight will not take place if enough joint charterers cannot be found. We emphasize, however, that we do not consider this restriction to be especially characteristic of charters or required by statute.

We have decided that the public interest is served by a wider range of available air transportation modes, allowing more efficient operations, not by protection of scheduled service at the expense of competitive opportunities. This is consistent with the language and purpose of the Airline Deregulation Act. We affirm our tentative decision in EDR-351 that split cargo charters are permitted under the Act.

Split Passenger/Cargo Charters

EDR-351 asked for comment on permitting the unused belly capacity of a passenger charter to be engaged for cargo charters, although the text of the proposed rule arguably allows cargo charters on the main deck of the aircraft as well as in the belly. To assure adequate notice to the public of the full extent of our proposal, we are issuing simultaneously a supplemental notice of proposed rulemaking, EDR-351B, proposing explicitly to allow the carriage of both passenger and cargo charters on the main deck. In the amendments adopted now, we are permitting any number of cargo charters in the belly capacity of a passenger charter, with no minimum weight limit.

There is no reason to limit the number of cargo charterers of the belly capacity when there is no limit to the number of charterers on either split all-passenger charters or split all-cargo charters. To do so would restrict the flexibility of split charters and reduce public options.

Seaboard argued that only one cargo charterer should be allowed for the belly

capacity of a passenger charter, so that charter carriers would not be encouraged to reduce the baggage allowances of passengers on such combination flights. The Board recognizes that there could be some problems in regard to passenger baggage allowances with the introduction of cargo charters on passenger flights, and is proposing in EDR-351B that passengers be notified in the participant contract of the amount of baggage allowed. In the meantime, this is not sufficient reason to warrant delaying the adoption of this part of the rule.

The Board's former Office of Consumer Advocate suggested that the Board may wish to examine whether the rule should require that on split passenger/cargo charters both cargo and passengers be destined for the same airport, to prevent the value of the passenger ticket being diluted by diversion of the flight to a cargo destination. We have carefully considered this suggestion, and conclude that there is no practical need for such a provision. The direct carrier will be governed by its contract with the passenger charter operator(s), which prescribes the route that the aircraft will take. If the direct carrier wishes to modify the route (for example, include an extra stop) to accommodate a potential cargo charterer, it will have to obtain the charter operator's consent. Thus, the carrier will not be able to impose arbitrary route changes. Split passenger charters are currently operated without any necessity of informing passengers of intermediate stops, and we are aware of no significant problems with unexpected stops on those flights. If problems arise, there will be time to consider remedial rules. In any case, there appears little economic incentive for the carrier to divert a passenger flight to add a partial belly-load of cargo. The additional revenue from the cargo would seldom be enough to cover the extra mileage and landing costs of making the additional stop.

In EDR-351, we proposed that cargo charters in the belly of a passenger flight be made permissive, so that a full passenger flight would not be canceled for lack of cargo to fill the belly space. Thus, a plane will be considered to be "fully engaged" when the entire main deck is engaged. The Trunkline Carriers objected that the Board cannot arbitrarily define "fully engaged" to mean something less than engagement of all available space, including belly space. However, the definition of "charter" need not depend on engagement of the entire plane, and it is

wasteful and inefficient to have available cargo capacity on passenger charters go empty unless the belly is engaged in full. The new rule will allow more efficient usage of cargo space. It will not change the requirements for passenger charters.

Suggested Changes

Numerous commenters suggested various restrictions to be placed on split cargo charters, including a minimum shipment size, a maximum number of charterers, and prevention of split cargo operations between points where there are scheduled all-cargo operations. Each of these restrictions would, however, unnecessarily limit the flexibility of split cargo charters, in effect defeating the purpose of these charters.

The scheduled all-cargo carriers asked for compensating rights, such as the grant of unrestricted scheduled and charter passenger authority. We recently issued a proposal to eliminate all restrictions on off-route charters for U.S. certificated carriers.⁴ The request to allow all-cargo carriers to carry passengers, in addition to property and mail, on their regular scheduled flights requires amending the certificates of these carriers, and is better handled in that type of proceeding. All-cargo carriers wishing to apply for such certificate amendments may do so.

International Aviation Services (IAS), a foreign charter carrier, has requested that the Board amend Part 214, which governs passenger charters by foreign charter carriers, to allow them to carry cargo charters. Since we did not propose to amend Part 214 in EDR-351, we cannot issue a final rule at this time. However, in EDR-351B, issued simultaneously with this final rule, we are proposing to amend Part 214 to allow split cargo charters for foreign charter carriers.

British Airways argued that EDR-351 only sought comment on the desirability of redefining cargo charters, and made only vague proposals on the definition. It said that the public should be given an opportunity to be heard with respect to more specific proposals before adoption of a final rule. It is our opinion that EDR-351 did give sufficient notice of the Board's thinking and tentative decisions on the structure of a final rule for split cargo charters. A suggested format was given, and the Board's rationale was clearly stated. A notice of proposed rulemaking should be sufficiently descriptive of the issues so that the parties may offer informed criticism, but need not contain in precise form each proposal that the agency may eventually

⁴EDR-383, 44 FR 4182, July 18, 1979

adopt as a rule. *Ethyl Corporation v. Environmental Protection Agency*, 541 F. 2d 1 (D.C. Cir. 1976). Issues not discussed in EDR-351 are being proposed in a supplemental notice.

Technical Changes

We are renumbering and revising the organization of § 207.11, § 208.6, and § 212.8 to improve readability, make the wording of related sections parallel, and incorporate the new provisions we are adopting here. No substantive changes are being made in former § 207.11(a) and (b), § 208.6(a) and (b), and § 212.8(a). The existing provisos following § 207.11(c), 208.6(c), and 212.8(b) are being renumbered as § 207.11(b)(1), § 208.6(b)(1), and § 212.8(b)(1) respectively, and the rest of those sections are being organized under new § 207.11(a), 208.6(a) and 212.8(a), with appropriate subdivisions. Other substantive changes adopted here are being given their own paragraph numbers. We also are correcting an error made in the Public Charter rule (SPR-149, 43 FR 36604, August 18, 1978). The contract seat size for passenger charters on small aircraft was inadvertently changed in the Public Charter rulemaking to apply to aircraft of less than 80 seats. It should apply to aircraft of 80 or fewer, and we are changing the text accordingly.

Finally, we are amending § 207.13, § 208.32, and § 212.10 to conform references to former § 207.11(c), § 208.6(c), and § 212.8(b) to the new renumbering described above. These sections currently require 10-day advance payment of the charter price by all charterers on a split charter. The 10-day advance payment is designed for the protection of charter passengers from last-minute cancellations by other charterers on the same flight. However, cargo charters in the bellies of passenger flights are permissive, so cancellation by a cargo charterer will not result in cancellation of the whole flight. Therefore, the 10-day advance payment requirement has been made applicable only to passenger charterers.

Final Rule

The Civil Aeronautics Board amends 14 CFR Part 207, *Charter trips and special services*, as follows:

1. Section 207.11 is renumbered and amended to read as follows:

§ 207.11 Charter flight limitations.

(a) Charter flights (trips) in air transportation shall be limited to the following:

(1) Air transportation of persons and/or property pursuant to contracts with the Department of Defense where the

entire capacity of one or more aircraft has been engaged by the Department;

(2) Air transportation performed on a time, mileage, or trip basis where the entire capacity of one or more aircraft has been engaged for the movement of persons and their baggage and/or the movement of property:

(i) By a person for his own use (including a direct air carrier or a direct foreign air carrier when such aircraft is engaged solely for the transportation of company personnel or company property, or in cases of emergency, of commercial traffic, except that emergency charters for commercial traffic shall be reported in accordance with § 207.10);

(ii) By a person (no part of whose business is the formation of groups or the consolidation of shipments for transportation or the solicitation or sale of transportation services) for the transportation of a group of persons, as agent or representative of such group;

(iii) By an air freight forwarder, or cooperative shippers association registered under Part 296 of this subchapter; with respect to flights from the United States in foreign air freight forwarder holding effective Board authority; or, with respect to flights to the United States in foreign air freight forwarder.

(iv) By an overseas military personnel charter operator as defined in Part 372 of this chapter;

(v) By a charter operator or foreign charter operator as defined in part 380 of this chapter:

(3) Air transportation performed on a time, mileage or trip basis where less than the entire capacity of an aircraft has been engaged for the movement of persons and their personal baggage and/or the movement of property by two or more of the following persons, except that such persons in the aggregate must engage the entire capacity of the aircraft in accordance with paragraph (b) of this section:

(i) By a person for his own use (including a direct air carrier or a direct foreign air carrier when such aircraft is engaged solely for the transportation of company personnel and their personal baggage, or company property, or in cases of emergency, of commercial traffic; except that emergency charters for commercial traffic shall be reported in accordance with § 207.10);

(ii) By a person (no part of whose business is the formation of groups or the consolidation of shipments for transportation or the solicitation or sale of transportation services), for the

transportation of a group of persons as agent or representative of such group;

(iii) By an overseas military personnel charter operator as defined in Part 372 of this chapter;

(iv) By a charter operator or foreign charter operator as defined in Part 380 of this chapter.

(v) By an air freight forwarder or cooperative shippers association registered under Part 296 of this subchapter; with respect to flights from the United States in foreign air transportation, by a foreign air freight forwarder holding effective Board authority; and with respect to flights to the United States in foreign air transportation, by any foreign air freight forwarder.

(b)(1) Each person engaging less than the entire capacity of an aircraft for the movement of persons and their personal baggage pursuant to paragraph (a)(3)(iv) of this section shall contract and pay for 20 or more seats. Each person engaging less than the entire capacity of an aircraft for the movement of persons and their personal baggage pursuant to paragraph (a)(3)(i), (a)(3)(ii), or (a)(3)(iii) of this section shall contract and pay for 40 or more seats, except that if the main deck capacity of an aircraft having 80 or fewer seats is engaged by no more than two persons described in paragraph (a)(3)(i), (a)(3)(ii), or (a)(3)(iii) of this section for the movement of persons and their baggage, then either one of such persons may contract and pay for a minimum of 20 seats.

(2) Carriers shall not transport both persons and property on the main deck of a chartered aircraft.

(3) The entire capacity of an aircraft shall be considered as engaged if its main deck capacity is engaged, regardless of whether the remaining belly or other capacity is also engaged.

2. Section 207.13 is amended to read as follows:

§ 207.13 Terms of service.

(a) [Reserved]

(b) The carrier shall require full payment of the total charter price, including payment for the return portion of a round trip, or the posting of a satisfactory bond for full payment, prior to the commencement of any portion of the air transportation:

Provided, however, That in the case of a passenger charter for less than the entire capacity of an aircraft pursuant to § 207.11(a)(3), the carrier shall require full payment of the total charter price, including payment for the return portion of a round trip, from the passenger charterers not less than 10 days prior to the commencement of any portion of the transportation, and such payment shall

not be refundable unless the charter is canceled by the carrier or unless the carrier accepts a substitute charterer for one which has canceled a charter, in which case the amount paid by the latter shall be refunded. For the purpose of this paragraph payment to the carrier's depository bank, as designated in the charter contract, shall be deemed payment to the carrier.

(c) Where four or more round trip flights per calendar year are conducted on behalf of a chartering organization by a carrier or carriers, one-way passengers shall not be carried except that up to 5 percent of the charter group may be transported one way in each direction, there shall be no intermingling of passengers and each planeload group, or less than planeload group (see § 207.11(a)(3)), shall move as a unit in both directions, except as provided in § 207.14. This provision shall not be construed as permitting knowing participation in any plan whereby each leg of a round trip is chartered separately in order to avoid the 5-percent limitation aforesaid.

(Secs. 102, 204, 401 of the Federal Aviation Act of 1958, as amended, 92 Stat. 1706, 72 Stat. 743, 92 Stat. 1710 49 U.S.C. 1302, 1324, 1371.)

By the Civil Aeronautics Board:
Phyllis T. Kaylor,
Secretary.

[FR Doc. 79-26965 Filed 8-29-79; 8:45 am]
BILLING CODE 6320-01-M

14 CFR Part 208

[Regulation ER-1146; Amendment No. 21; Docket 31788]

Terms, Conditions and Limitations of Certificates To Engage in Charter Air Transportation; Split All-Cargo Charters and Split Passenger/Cargo Charters

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., August 23, 1979.

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: This rule allows more than one person to charter the entire capacity of an aircraft for air freight, and to charter the unused belly capacity of a passenger charter flight. The rule should spur competition in the air cargo industry, leading to lower shipping rates and to increased charter opportunities for small shippers. This action is in response to a petition for rulemaking by two charter air carriers, Trans International Airlines and World Airways.

DATES: Effective: September 28, 1979. Adopted: August 23, 1979.

FOR FURTHER INFORMATION CONTACT: Mark Frisbie, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428, 202-673-5442.

SUPPLEMENTARY INFORMATION: For the reasons explained in ER-1145, dated August 23, 1979, issued simultaneously, the Board is amending its charter regulations to allow split cargo charters. The Civil Aeronautics Board amends 14 CFR Part 208, *Terms, conditions, and limitations of certificates to engage in supplemental air transportation*, as follows:

1. Section 208.6 is renumbered and amended to read as follows:

§ 208.6 Charter flight limitations.

(a) Charter flights in air transportation performed by supplemental air carriers shall be limited to the following:

(1) Air transportation of persons and/or property pursuant to contracts with the Department of Defense where the entire capacity of one or more aircraft has been engaged by the Department;

(2) Air transportation performed on a time, mileage or trip basis where the entire capacity of one or more aircraft has been engaged for the movement of persons and/or property;

(i) By a person for his own use (including a direct air carrier or a direct foreign air carrier when such aircraft is engaged solely for the transportation of company personnel or company property or in cases of emergency, of commercial traffic, except that emergency charters for commercial traffic shall be reported in accordance with § 208.5);

(ii) By a person (no part of whose business is the formation of groups or the consolidation of shipments for transportation or the solicitation or sale of transportation services) for the transportation of a group of persons, as agent or representative of such group;

(iii) By an overseas military personnel charter operator as defined in Part 372 of this chapter; or

(iv) By a charter operator or foreign charter operator as defined in Part 380 of this chapter.

(v) By an air freight forwarder or cooperative shippers association registered under Part 296 of this subchapter, with respect to flights from the United States in foreign air transportation, by a foreign air freight forwarder holding effective Board authority; and with respect to flights to the United States in foreign air transportation, by any foreign air freight forwarder.

(3) Air transportation performed on a time, mileage or trip basis where less than the entire capacity of an aircraft has been engaged for the movement of persons and their personal baggage and/or the movement of property by two or more of the following persons, except that such persons in the aggregate must engage the entire capacity of the aircraft in accordance with paragraph (b) of this section:

(i) By a person for his own use (including a direct air carrier or a direct foreign air carrier when such aircraft is engaged solely for the transportation of company personnel and their personal baggage, or company property, or in cases of emergency, of commercial traffic; except that emergency charters for commercial traffic shall be reported in accordance with § 208.5);

(ii) By a person (no part of whose business is the formation of groups or the consolidation of shipments for transportation or the solicitation or sale of transportation services), for the transportation of a group of persons, as agent or representative of such group;

(iii) By an overseas military personnel charter operator as defined in Part 372 of this chapter;

(iv) By a charter operator or foreign charter operator as defined in Part 380 of this chapter;

(v) By an air freight forwarder or cooperative shippers association registered under Part 296 of this subchapter, with respect to flights from the United States in foreign air transportation, by a foreign air freight forwarder holding effective Board authority; and with respect to flights to the United States in foreign air transportation, by any foreign air freight forwarder.

(b)(1) Each person engaging less than the entire capacity of an aircraft for the movement of persons and their personal baggage pursuant to paragraph (a)(3)(iv) of this section shall contract and pay for 20 or more seats. Each person engaging less than the entire capacity of an aircraft for the movement of persons and their personal baggage pursuant to paragraph (a)(3)(i), (a)(3)(ii), or (a)(3)(iii) of this section shall contract and pay for 40 or more seats, except that if the main deck capacity of an aircraft having 80 or fewer seats is engaged by no more than two persons described in paragraph (a)(3)(i), (a)(3)(ii), or (a)(3)(iii) of this section for the movement of persons and their baggage, then either one of such persons may contract and pay for a minimum of 20 seats.

(2) Carriers shall not transport both persons and property on the main deck of a chartered aircraft.

(3) The entire capacity of an aircraft shall be considered as engaged if its main deck capacity is engaged, regardless of whether the remaining belly or other capacity is also engaged.

2. Section 208.32 is amended to read as follows:

§ 208.32 Tariffs and terms of service.

(e) The carrier shall require full payment of the total charter price, including payment for the return portion of a round trip, or the posting of a satisfactory bond for full payment, prior to the commencement of any portion of the air transportation:

Provided, however, That in the case of a passenger charter for less than the entire capacity of an aircraft pursuant to § 208.6(a)(3), the carrier shall require full payment of the total charter price, including payment for the return portion of a round trip, from the passenger charterers not less than 10 days prior to the commencement of any portion of the transportation, and such payment shall not be refundable unless the charter is canceled by the carrier or unless the carrier accepts a substitute charterer for one which has canceled a charter, in which case the amount paid by the latter shall be refunded. For the purpose of this paragraph, payment to the carrier's depository bank, as designated in the charter contract, shall be deemed payment to the carrier.

(f) Where four or more round trip flights per calendar year are conducted on behalf of a chartering organization by a carrier or carriers, one-way passengers shall not be carried except that up to 5 percent of the charter group may be transported one way in each direction, there shall be no intermingling of passengers and each planeload group, or less than planeload group (see § 208.6(a)(3)), shall move as a unit in both directions, except as provided in § 208.36. This provision shall not be construed as permitting knowing participation in any plan whereby each leg of a round trip is chartered separately in order to avoid the 5-percent limitation aforesaid.

(Secs. 102, 204, 401 of the Federal Aviation Act 1958, as amended, 92 Stat. 1706, 72 Stat. 743, 92 Stat. 1710; 49 U.S.C. 1302, 1324, 1371.)

By the Civil Aeronautics Board:

Phyllis T. Kaylor,
Secretary.

[FR Doc. 79-26968 Filed 8-29-79; 8:45 am]
BILLING CODE 6320-01-M

14 CFR Part 212

[Regulation ER-1147; Amendment No. 29; Docket 31788]

Split All-Cargo Charters and Split Passenger/Cargo Charters

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., August 23, 1979.

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: This rule allows more than one person to charter the entire capacity of an aircraft for air freight, and to charter the unused belly capacity of a passenger charter flight. The rule should spur competition in the air cargo industry, leading to lower shipping rates and to increased charter opportunities for small shippers. This action is in response to a petition for rulemaking by two charter air carriers, Trans International Airlines and World Airways.

DATES: Effective: September 28, 1979. Adopted: August 23, 1979.

FOR FURTHER INFORMATION CONTACT: Mark Frisbie, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428, 202-673-5442.

SUPPLEMENTARY INFORMATION:

For the reasons explained in ER-1145, dated August 23, 1979, issued simultaneously, the Board is amending its charter regulations to allow split cargo charters.

Accordingly, the Civil Aeronautics Board amends 14 CFR Part 212, *Charter trips by foreign air carriers*, as follows:

1. Section 212.8 is renumbered and amended to read as follows:

§ 212.8 Charter flight limitations.

(a) Charter flights (trips) shall be limited to foreign air transportation performed by a foreign air carrier holding a foreign air carrier permit issued pursuant to section 402 of the Act authorizing such carrier to engage in foreign air transportation on an individually ticketed or individually waybilled basis—

(1) Where the entire capacity of one or more aircraft has been engaged for the movement of persons and their baggage and/or for the movement of property, on a time, mileage or trip basis—

(i) By a person for his own use (including a direct air carrier or direct foreign air carrier when such aircraft is engaged solely for the transportation of company personnel and their personal baggage or company property, or in cases of emergency, of commercial traffic; except that emergency charters

of commercial traffic shall be reported in accordance with § 212.14);

(ii) By a person (no part of whose business is the formation of groups for transportation or the consolidation of shipments for transportation or solicitation or sale of transportation services) for the transportation of a group of persons as agent or representative of such group;

(iii) By an air freight forwarder or cooperative shippers association registered under Part 296 of this subchapter, with respect to flights from the United States in foreign air transportation, by a foreign air freight forwarder holding effective Board authority; or, with respect to flights to the United States in foreign air transportation, by any foreign air freight forwarder;

(iv) By an overseas military personnel charter operator as defined in Part 372 of this chapter; or

(v) By a charter operator or foreign charter operator as defined in part 380 of this chapter.

(2) Where less than the entire capacity of an aircraft has been engaged for the movement of persons and their personal baggage and/or for the movement of property, on a time, mileage or trip basis, by two or more of the following persons; except that such persons in the aggregate must engage the entire capacity of the aircraft in accordance with paragraph (b) of this section:

(i) By a person for his own use (including a direct air carrier or a direct foreign air carrier when such aircraft is engaged solely for the transportation of company personnel and their personal baggage, or company property, or in cases of emergency, of commercial passenger traffic; except that emergency charters of commercial traffic shall be reported in accordance with § 212.14);

(ii) By a person (no part of whose business is the formation of groups or the consolidation of shipments for transportation or the solicitation or sale of transportation services), for the transportation of a group of persons as agent or representative of such group;

(iii) By an overseas military personnel charter operator as defined in Part 372 of this chapter;

(iv) By a charter operator or foreign charter operator as defined in Part 380 of this chapter.

(v) By an air freight forwarder or cooperative shippers association registered under Part 296 of this subchapter, with respect to flights from the United States in foreign air transportation, by a foreign air freight forwarder holding effective Board authority; and, with respect to flights to

the United States in foreign air transportation, by and foreign air freight forwarder.

(b)(1) Each person engaging less than the entire capacity of an aircraft for the movement of persons and their personal baggage pursuant to paragraph (a)(2)(iv) of this section shall contract and pay for 20 or more seats. Each person engaging less than the entire capacity of an aircraft for the movement of persons and their personal baggage pursuant to paragraph (a)(2)(i), (a)(2)(ii), or (a)(2)(iii) of this section shall contract and pay for 40 or more seats, except that if the main deck capacity of an aircraft having 80 or fewer seats is engaged by no more than two persons described in paragraph (a)(2)(i), (a)(2)(ii), or (a)(2)(iii) of this section for the movement of persons and their baggage, then either one of such persons may contract and pay for a minimum of 20 seats.

(2) Carriers shall not transport both persons and property on the main deck of a chartered aircraft.

(3) The entire capacity of an aircraft shall be considered as engaged if its main deck capacity is engaged, regardless of whether the remaining belly or other capacity is also engaged.

2. Section 212.10 is amended to read as follows:

§ 212.10 Terms of service.

(a) [Reserved]

(b) The carrier shall require full payment of the total charter price, including payment for the return portion of a round trip, or the posting of a satisfactory bond for full payment, prior to the commencement of any portion of the air transportation:

Provided, however. That in the case of a passenger charter for less than the entire capacity of an aircraft pursuant to § 212.8(a)(2), the carrier shall require full payment of the total charter price, including payment for the return portion of a round trip, from the passenger charterers not less than 10 days prior to the commencement of any portion of the transportation, and such payment shall not be refundable unless the charter is canceled by the carrier or unless the carrier accepts a substitute charterer for one which has canceled a charter, in which case the amount paid by the latter shall be refunded. For the purpose of this section, payment to the carrier's depository bank, as designated in the charter contract, shall be deemed payment to the carrier.

(c) Where four or more round trip flights per calendar year are conducted on behalf of a chartering organization by a carrier or carriers, one-way passengers shall not be carried except that up to 5 percent of the charter group

may be transported one way in each direction, there shall be no intermingling of passengers and each planeload group, or less than planeload group (see § 212.8(a)(2)), shall move as a unit in both directions, except as provided in § 212.11. This provision shall not be construed as permitting knowing participation in any plan whereby each leg of a round trip is chartered separately in order to avoid the 5-percent limitation aforesaid.

(Secs. 102, 204, 401, 402 of the Federal Aviation Act of 1958, as amended, 92 Stat. 1706, 72 Stat. 743, 92 Stat. 1710, 72 Stat. 757; 49 U.S.C. 1302, 1324, 1371, 1372.)

By the Civil Aeronautics Board:

Phyllis T. Kaylor,
Secretary.

[FR Doc. 79-26963 Filed 8-29-79; 8:45 am]
BILLING CODE 6320-01-M

14 CFR Part 324

[Regulation PR-212; Amendment No. 1]

Procedures for Compensating Air Carriers for Losses; Approval by the General Accounting Office

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., August 23, 1979.

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: This final rule gives notice that the General Accounting Office has approved the reporting requirements contained in the subject regulation (PR-209, 44 FR 42171, July 19, 1979). This approval is required under the Federal Reports Act, and was transmitted to the Civil Aeronautics Board by letter dated August 17, 1979.

DATES: Adopted: August 23, 1979.
Effective: August 23, 1979.

FOR FURTHER INFORMATION CONTACT: Clifford M. Rand, Chief, Data Requirements Division, Office of Economic Analysis, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428, (202) 673-6044.

Part 324 [Amended]

Accordingly, the Civil Aeronautics Board amends Part 324 of its Procedural Regulations (14 CFR 324) by adding the following note at the end of Part 324:

Note.—The reporting requirements contained in §§ 324.2 and 324.9 have been approved by the U.S. General Accounting Office under B-180226 (R0654).

This amendment is issued by the undersigned pursuant to the delegation of authority from the Board to the Secretary in 14 CFR 385.24(b). (Sec. 204

of the Federal Aviation Act of 1958, as amended, 72 Stat. 743; 49 U.S.C. 1324).

By the Civil Aeronautics Board.

Phyllis T. Kaylor,
Secretary.

[FR Doc. 79-26964 Filed 8-29-79; 8:45 am]
BILLING CODE 6320-01-M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 211

[DoD Directive 5100.64]¹

DoD Foreign Tax Relief Program

AGENCY: Office of the Secretary of Defense.

ACTION: Final rule.

SUMMARY: This rule defines the tax relief program of the Department of Defense and delineates DoD responsibilities to implement and monitor the program. This rule outlines procedures to effect relief from tax burdens and clarifies statistical reporting.

EFFECTIVE DATE: June 12, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Benjamin Forman, telephone 697-8343, Counselor on International Law, Office of the DoD General Counsel, The Pentagon, Room 3E963, Washington, D.C. 20301.

SUPPLEMENTARY INFORMATION: In FR Doc. 70-15847 appearing in the Federal Register on November 25, 1970 (35 FR 18045), the Department of Defense published Part 211. In FR Doc. 72-7177 appearing in the Federal Register on May 11, 1972 (37 FR 9457), the Department of Defense published an amendment to Part 211. This is an administrative revision of Part 211.

Accordingly, Chapter I, 32 CFR, Subchapter M, Part 211, is revised, reading as follows:

PART 211—DOD FOREIGN TAX RELIEF PROGRAM

Sec.

211.1 Reissuance and purpose.

211.2 Applicability and scope.

211.3 Definitions.

211.4 Policy.

211.5 Responsibilities.

211.6 Country tax law studies.

211.7 Information requirements.

Authority: The provisions of this Part 211 issued under Title 5, U.S.C. 301 and Title 10, U.S.C. 133.

¹Copies may be obtained, if needed, from the U.S. Naval Publications and Forms Center, 5801 Tabor Avenue, Philadelphia, PA 19120. Attention: Code 301.

§ 211.1 Reissuance and Purpose.

This Part (a) is reissued without substantive change, to correct superseded references; and (b) defines the tax relief policy of the Department of Defense, designates the organizational element which has continuing responsibility for the overall direction of the DoD Foreign Tax Relief Program, delineates the responsibilities of other organizational elements to implement and monitor the program, and requires the preparation and maintenance of specified foreign country tax law studies in order to facilitate the institution of statistical reporting procedures.

§ 211.2 Applicability and scope.

(a) The provisions of this Part apply to the Office of the Secretary of Defense, the Military Departments, the Organization of the Joint Chiefs of Staff, the Unified Command, and the Defense Agencies (hereafter referred to as "DoD Components").

(b) The policy set forth in this Part applies to:

(1) Military functions expenditures by the Department of Defense, and

(2) Expenditures by nonappropriated fund activities of the Department of Defense that are subject to taxes imposed by:

(i) Foreign countries in which U.S. military forces are regularly stationed (other than *attache* and other military personnel assigned to a U.S. diplomatic mission); and

(ii) Any other foreign country in which all or most U.S. defense activities, in a collective sense, are conducted in the interest of the common defense or otherwise significantly improve the military security of that country.

(c) The policy set forth in this Part also applies to Military Assistance Program (MAP) expenditures in all countries.

§ 211.3 Definitions.

(a) Regardless of how a charge is denominated in foreign law or regulation, the words "tax" and "taxes" include all direct or indirect foreign customs duties, import and export taxes, excises, fees and other charges imposed at the national, local or intermediate level of a foreign country other than charges for services rendered or for other consideration received.

(b) For example, taxes include but are not limited to purchase tax, sales tax, use tax, gross receipts tax, stamp tax, transfer tax, transaction tax, turnover tax, value added tax, service tax, trade tax, business tax, license tax, transportation tax, circulation tax, luxury tax, possession tax, production tax, registration tax, consumption tax,

gasoline tax, real property tax, personal property tax, and gross income tax.

(c) The word "relief" includes any method, technique, or procedure by which the ultimate economic burden of a tax on DoD funds may be avoided or otherwise remedied, such as exemption, refund, or drawback.

§ 211.4 Policy.

It is the policy of the Department of Defense to secure, to the maximum extent practicable, effective relief from all foreign taxes wherever the ultimate economic burden of those taxes would, in the absence of such relief, be borne by funds appropriated or allocated to the Department of Defense (including MAP appropriations) or under the control of its nonappropriated fund activities. In those cases in which the total economic burden of a tax not readily identifiable in the normal course of business is so small that it may be considered a *de minimis* matter, or in which the administrative burden of securing effective relief from a tax in a particular instance would be out of proportion to the amount of the relief obtained, tax relief shall be considered impracticable.

§ 211.5 Responsibilities.

(a) The General Counsel of the Department of Defense shall:

(1) Provide overall supervision and direction of the DoD Foreign Tax Relief Program.

(2) Resolve any significant issues relating to the program.

(3) Designate those countries that come within § 211.2(b)(2)(ii) of this Part.

(4) Direct the preparation of country tax law studies for countries not within the scope of § 211.2(b) of this Part.

(5) Designate the DoD member of the Inter-Agency Committee on Foreign Tax Relief, established by the Department of State.

(b) The Assistant Secretary of Defense (International Security Affairs) shall monitor the negotiation and conclusion of international agreements subject to the Secretary's approval authority under DoD Instruction 2050.1 Delegated Approval Authority to Negotiate and Conclude International Agreements, July 6, 1977,¹ to ensure that such agreements are compatible with the policy set forth in this Part and any implementing guidance concerning that policy issued by the General Counsel of the Department of Defense.

(c) The Chairman, Defense Acquisition Regulatory Council, shall coordinate with the General Counsel of the Department of Defense before the issuance, amendment, or revision of any portion of the Defense Acquisition

Regulatory System (or regulation, directive, circular, or other publication within the scope of 32 CFR 160 that pertains to the implementation of the DoD Foreign Tax Relief Program.

(d) The Assistant Secretary of Defense (Comptroller) shall perform such fiscal functions as may be required to implement the DoD Foreign Tax Relief Program, including advice and assistance in the institution of procedures for collecting data, compiling reports, and performing internal audits.

(e) The Secretary of each of the Military Departments and the Director of each of the Defense Agencies shall issue instructions or regulations that charge a single office within the respective Military Department of Defense Agency (referred to as the "Cognizant Office") with continuing responsibility for supervising and monitoring the implementation of the DoD Foreign Tax Relief Program within such Department or Agency. Such instructions or regulations shall delegate to the Cognizant Office authority commensurate with its responsibility.

(f) Commanders of Unified Commands, as appropriate, shall promulgate management procedures to guide and coordinate the administration of the DoD Foreign Tax Relief Program throughout their respective area commands.

(g) For each foreign country that comes within the scope of subsection B.2. of this Directive, a single Military Commander shall be designated by the Commander of the Unified Command. The designated Military Commander shall be the same designated under the procedures in § 151.3(c) of 32 CFR 151. The designated Military Commander shall:

(1) Make and maintain a current country tax law study in accordance with § 211.6 of this Part.

(2) Be the single point of contact for U.S. contracting officers and activities for the investigation and resolution of specific matters that relate to the foreign tax relief program within the country for which the Military Commander is designated and for the forwarding of major problems affecting that program through proper channels to the General Counsel of the Department of Defense.

(3) Provide liaison with the responsible U.S. diplomatic mission on current tax relief problems and, where appropriate, with local foreign tax authorities.

§ 211.6 Country tax law studies.

(a) The taxes covered by each country tax law study shall be limited to those which in the absence of tax relief, would affect, or would appear to affect, U.S.

Government expenditures, even as a *de minimis* matter. (All such taxes are hereafter referred to as "applicable taxes.") The formats of the studies for all countries shall be similar within each Unified Command insofar as practicable, and designed to facilitate statistical reporting procedures. The studies shall be prepared and maintained with a view to the practical utilization of the studies by U.S. contracting officers and activities for purposes of making reliable estimates of the total amount of taxes applicable to any particular contract and the amount thereof for which tax relief is available.

(b) Each country tax law study shall consist of the following:

(1) A general survey of all applicable taxes, together with translations, as appropriate, of the salient features of the law or regulations imposing those taxes.

(2) For each applicable tax, a summary statement containing: its name; its rate (or rates); the taxing authority (national, provincial, or municipal); the legal incidence of the tax (the nature of the taxpayer or other entity liable for the payment of the tax to the taxing authority under the law of the country); its description (including the base or bases on which the tax is imposed); the applicability of the tax to various types of contracts (supplies, services, or construction) in the event the tax is applicable to only one or several of such types of contracts; the applicability of the tax to the prime contract, as well as to any subcontracts or purchase orders issued by the prime contractor or subcontractor; the applicability of the tax to contractor and subcontractor personnel; the variation, if any, of the applicability of the tax depending upon the domicile of the contractor or contractor personnel, such as United States, host country, or third country; any applicable exemptions or deductions of significance; and the method of collection of the tax.

(3) The basis upon which it is concluded that each applicable tax, in absence of tax relief, would affect, or would appear to affect, U.S. Government expenditures; and any evidence of the degree to which its ultimate economic burden would, in absence of tax relief, be borne by the U.S. Government rather than be absorbed by others.

(4) The substantive tax relief, if any, from each applicable tax that is available to the U.S. Government either by international agreements in force or under the tax law or other regulation of the country; the procedures which may be used to obtain any such relief; the requirement, if any, for the issuance of a tax exemption certificate by the military procuring agency or by an agency of the

country to secure an exemption; the entitlement, if any, of the taxpayer to interest on any tax refund made by the host country; the credits, if any, that may be available against any other taxes otherwise payable by the taxpayer resulting from the payment of the tax under analysis; the approximate amount of the tax that should be involved in a particular case, if such can be estimated, taking into account the costs of filing a claim for refund by a contractor to warrant filing such a claim; and a brief narration of any significant problems which have occurred in attempting to obtain relief in particular cases.

(5) A conclusion with regard to the adequacy of current tax relief measures; and such recommendations as may be appropriate for more efficient implementation of the policy set forth in this Part.

(c) Appended to each country tax law study shall be a verbatim quotation of all provisions relating to tax relief afforded by the country that are contained in international agreements in force.

(d) One copy of each country tax law study shall be forwarded to the General Counsel of the Department of Defense and to each of the Cognizant Offices of the Military Departments and Defense Agencies within 30 days after its approval by the designated Military Commander. The information contained in the studies shall be disseminated by the Cognizant Offices to U.S. contracting officers and activities when required.

(e) Country tax law studies shall be subject to continuing review. When there is a significant change in country tax laws, regulations, tax relief procedures, or in pertinent international agreements in force, the corresponding revision shall be promptly forwarded by the designated Military Commander to each of the offices referred to in § 211.6(d).

§ 211.7 Information Requirements.

(a) The reporting requirement contained in § 211.6 relating to the submission of country tax law studies and revisions thereof is assigned Report Control Symbol DDSD (AR) 1036.

(b) Each January a summary of significant activities during the preceding year in implementation of the DoD Foreign Tax Relief Program shall be furnished by the Heads of Cognizant Offices to the General Counsel of the Department of Defense. The summary, in narrative form, shall include actions taken by the Cognizant Office to discharge its responsibility for supervising and monitoring the implementation of the foreign tax relief program within its Military Department

or Defense Agency, and for disseminating the information contained in country tax law studies to U.S. contracting officers and activities. The reporting requirement contained in this subsection is assigned Report Control Symbol DDGC (A) 1198.

(c) Each January a summary of significant activities during the preceding year of the administration of the foreign tax relief program shall be furnished by Commanders of the Unified Commands to the General Counsel of the Department of Defense. The summary, in narrative form, shall include actions taken by the Unified Command to discharge its responsibility to supervise and coordinate the preparation and maintenance of country tax law studies. The reporting requirement contained in this subsection is assigned Report Control Symbol DDGC (A) 1199.

August 24, 1979.

H. E. Lofdahl,

Deputy Director, Correspondence and Directives Washington Headquarters Services, Department of Defense.

[FR Doc. 79-26907 Filed 8-28-79; 8:45 am]

BILLING CODE 3810-70-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL 1306-3]

Approval and Promulgation of Implementation Plans; Minnesota

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This notice announces approval of a request by the State of Minnesota for an eighteen month extension of the statutory timetable for submittal of the portion of its State Implementation Plan (SIP) revision implementing the National Secondary Ambient Air Quality Standards for total suspended particulates. The portion of the Minnesota SIP addressing particulate secondary nonattainment areas must be submitted by July 1, 1980 for the United States Environmental Protection Agency's (USEPA) approval or disapproval by January 1, 1981. The following five nonattainment areas are the subject of the extension: Cloquet, East Grand Forks, the Iron Range, Red Wing, and Silver Bay.

EFFECTIVE DATE: August 29, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Jay Bortzer, Minnesota State Specialist, Air Programs Branch, United

States Environmental Protection Agency Region V, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 886-6066.

SUPPLEMENTARY INFORMATION: On January 8, 1979, the Executive Director of the Minnesota Pollution Control Agency submitted to the Regional Administrator Region V, a request for a twelve month extension of the statutory submittal date for the portion of the Minnesota State Implementation Plan implementing the National Secondary Ambient Air Quality Standard for total suspended particulates. On March 9, the Executive Director of the Minnesota Pollution Control Agency submitted additional information and requested that the extension be for eighteen months. These requests were made pursuant to section 110(b) of the Clean Air Act. The United States Environmental Protection Agency published a document in the Federal Register (44 FR 30378) on May 25, 1979 proposing to approve the request of the State of Minnesota for an eighteen month extension of the January 1, 1979 deadline for submittal of the SIP revision and the July 1, 1979 deadline for its approval by USEPA. Interested parties were given until June 25, 1979, to submit written comments on the request for an extension and on USEPA's proposed approval. No comments were received.

The United States Environmental Protection Agency has determined that the request satisfies the requirements of 40 CFR 51.31 since a showing has been made by Minnesota that attainment cannot be achieved without emission reductions greater than those that can be achieved through the application of Reasonably Available Control Technology (RACT). Further, Minnesota has properly given notice of the requested extension to the States of Wisconsin and North Dakota which adjoin some of the air quality control regions which are the subject of this extension. Accordingly, the Administrator approves the extension request. The portion of the Minnesota SIP implementing the National Secondary Ambient Air Quality Standards for particulates in Cloquet, East Grand Forks, the Iron Range, Red Wing, and Silver Bay must be submitted to USEPA by July 1, 1980 for USEPA approval or disapproval by January 1, 1981.

During this extension, the Emission Offset Interpretative Ruling published January 16, 1979 (44 FR 3274) will apply to the five secondary nonattainment areas which are all areas violating only a Secondary National Ambient Air Quality Standard. If during the

extension, however, the State submits and USEPA approves a SIP revision containing preconstruction review provisions which satisfy the requirements of Part D of the Act, the preconstruction review provisions of the revised SIP rather than the interpretative ruling will apply to the five secondary nonattainment areas.

Under Executive Order 12044 EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized." I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

Dated: August 22, 1979.

Douglas Costle,

Administrator.

Title 40 of the Code of Federal Regulations, Chapter 1, Part 52, is amended as follows:

1. Section 52.1220(c) is amended by adding a new paragraph (13) to read as follows:

§ 52.1220 Identification of plan

(c) * * *

(13) A request for an extension of the statutory timetable for the submittal of the portion of the Minnesota State Implementation Plan implementing the National Secondary Ambient Air Quality Standards for total suspended particulates was submitted by the Executive Director of the Minnesota Pollution Control Agency on January 8, 1979 and was supplemented with additional information on March 9, 1979.

2. A new § 52.1235 is added as follows:

§ 52.1235 Extensions.

The Administrator hereby extends for eighteen months the statutory timetable for submission of Minnesota's plan for attainment and maintenance of the National Secondary Ambient Air Quality Standards for total suspended particulates in Cloquet, East Grand Forks, the Iron Range, Red Wing, and Silver Bay. The plan is due by July 1, 1980.

[FR Doc. 79-26987 Filed 8-28-79; 8:45 am]

BILLING CODE 6560-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Public Health Service

42 CFR Part 511

Project Grants for Genetic Diseases Testing and Counseling Programs

AGENCY: Public Health Service, HEW.

ACTION: Confirmation of final rule.

SUMMARY: This document confirms provisions of a final regulation for the administration of project grants for genetic diseases testing and counseling services, as authorized by Title XI of the Public Health Service Act. The regulation provides program requirements for grantees and potential grantees.

EFFECTIVE DATE: April 23, 1979.

FOR FURTHER INFORMATION CONTACT:

Audrey Manley, M.D., Acting Chief, Genetic Services Branch, Office of Maternal and Child Health, Bureau of Community Health Services, Room 6-40, 5600 Fishers Lane, Rockville, MD 20857. Phone: (301) 443-1080.

SUPPLEMENTARY INFORMATION: On April 23, 1979, the Secretary published a final rule to implement the Genetic Diseases Act, Part A, Title XI of the Public Health Service Act (Act) (42 U.S.C. 300b), as amended by section 205 of Public Law 95-626 (November 10, 1978).

The original legislation, enacted in April 1976, authorized grants only for projects to establish and operate genetic diseases testing and counseling programs (section 1101(a) of the Act). The statutory amendments of November 1978 added language which authorizes grants for projects *to plan*, as well as to establish and operate, these programs. Since the amendments authorizing "planning" activities were enacted after publication of a Notice of Proposed Rulemaking (NPRM) on May 5, 1978, the Secretary decided to afford an additional comment period of 45 days regarding the implementation of this authority in the final regulation. The Secretary further indicated that the final rule would be revised as warranted by the comments received.

No comments were received by the close of the comment period, June 7, 1979. Therefore, this issuance notifies the interested public that the final rule governing the administration of grants for projects to plan, establish, and operate genetic diseases testing and counseling programs remains effective as originally published on April 23, 1979.

Dated: August 1, 1979.
Julius B. Richmond
Assistant Secretary for Health.

Approved: August 21, 1979.
Patricia Roberts Harris,
Secretary.

[FR Doc. 79-20908 Filed 8-28-79; 8:45 am]
BILLING CODE 4110-04-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 90

[Docket No. 21348]

Private Land Mobile Radio Service; Providing a New Part 90 That Reregulates and Consolidates Parts 89, 91 and 93; Correction

AGENCY: Federal Communications Commission.

ACTION: Final rule; correction.

SUMMARY: In an effort to set forth a simple and more manageable set of rules for use by applicants, licensees, and industry users, the Federal Communications Commission published regulations at 43 FR 54788, November 22, 1978 providing for the consolidation and updating of the private land mobile radio services provisions. This document makes necessary corrections because of omissions and inaccuracies which occurred in preparation and printing.

EFFECTIVE DATE: January 2, 1979.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Arthur C. King, Rules Division, Private Radio Bureau, (202) 632-6497.

In the matter of amendment of the Commission's rules governing the private land mobile radio service to provide a new Part 90 that reregulates and consolidates Parts 89, 91, and 93. Second Errata.

Released: August 24, 1979.

The appendix to the Report and Order in this proceeding (FCC 78-799, 43 FR 54788), contained a new Part 90 which consolidated the Rules and Regulations formerly contained in Parts 89, 91, and 93. In the process of consolidating, a number of omissions and inaccuracies occurred which are the subject of this errata.

§ 90.17 [Corrected]

1. In § 90.17(b) on page 54795, correct the Local Government Radio Service frequency table entry below to read as follows:

72-76 — Operational fixed — 6

§ 90.19 [Corrected]

2. (a) On page 54797, in § 90.19(d) correct the Police Radio Service frequency table as follows:

37.10 — do. — 9

(b) In § 90.19(d) delete "38.18 — do. — 9" and insert

39.18 — do. — 9

§ 90.21 [Corrected]

3. On page 54800, in § 90.21(b) correct the Fire Radio Service frequency entries below to read as follows:

45.88 — do. — 2

450-470 — fixed — 6

§ 90.23 [Corrected]

4. In § 90.23(b) on page 54801, correct the Highway Maintenance Radio Service frequency table as follows:

450-470 — fixed — 7

§ 90.25 [Corrected]

5. In § 90.25(b) on page 54802, correct the Forestry-Conservation Radio Service frequency table as follows:

450-470 — fixed — 13

470-512 — Base or Mobile — 15

6. In § 90.55, on page 54807, correct the first sentence to read as follows:

§ 90.55 Paging operations.

Effective August 15, 1974, paging operations may be authorized in the Special Emergency Radio Service only on frequencies assigned under the provisions of §§ 90.53(b)(4) and 90.53(b)(25).

7. In § 90.61, on page 54807, correct the second sentence to read as follows:

§ 90.61 General eligibility.

Eligibility is also provided, except in the Business and Special Industrial Radio Services, for a non-profit corporation or association that is organized for the purpose of furnishing a radio communications service to persons actually engaged in any of the eligibility activities set forth in the particular service involved subject to the cooperative use provisions of § 90.181.

§ 90.63 [Amended]

8. In § 90.63(c) on page 54808, correct the Power Radio Service frequency table as follows:

154.45625 — fixed or mobile — 7, 21, 22, 23

9. In § 90.65(a) on page 54809, correct the final sentence to read as follows:

§ 90.65 Petroleum Radio Service.

(a) *Eligibility.* * * * However, persons engaged solely in the containment or cleanup of oil spills will only be assigned those frequencies designated by limitations (6) or (9) in this section.

10. In § 90.65(b) on page 54809, correct the Petroleum Radio Service frequency table as follows:

25.10 — do. — 3, 4, 7

406-413 — operational fixed — 23

11. In § 90.65(c) on page 54810, correct paragraph (1) to read as follows:

(1) Frequencies below 25 MHz will be assigned to base or mobile stations in this service only upon a satisfactory showing that, from a safety of life standpoint, frequencies above 25 MHz will not meet the operational requirements of the applicant.

12. In § 90.65(d) on page 54811, correct paragraph (1) as follows:

(1) Frequencies may be substituted for those available below 25 MHz in accordance with the provisions of § 90.263.

§ 90.73 [Corrected]

13. In § 90.73(c), Frequencies available, on page 54815 delete 27.69 from the Special Industrial Radio Service frequency table and correct the frequency table as follows:

72-76 — Operational fixed — 6

§ 90.79 [Corrected]

14. In § 90.79(c) on page 54822, Frequencies available, correct the Manufacturers Radio Service frequency table as follows:

Delete the 351.375 — do. — 13 entry in its entirety. Insert in proper numerical sequence:

451.375 — do. — 13

451.425 — do. — 13

15. In § 90.79(d), correct paragraph (9) on page 54823, to read:

(9) This frequency is available on a shared basis with other Industrial Radio

Services as follows: Power, Forest Products, Special Industrial, Petroleum, Business, and the Local Government Radio Service and may be used in this service only for the purpose of remote control and telemetering.

§ 90.81 [Corrected]

16. In § 90.81(f), Limitation on number of frequencies assignable, correct paragraph (3) on page 54824, to read:

(3) Frequencies in the 25-50 MHz, 150-170 MHz, and 450-512 MHz bands and the frequency bands 903-904 MHz, 904-912 MHz, 918-926 MHz, and 926-927 MHz may be assigned for the operation of automatic vehicle monitoring (AVM) systems in accordance with § 90.239, notwithstanding this limitation.

§ 90.87 [Corrected]

17. In § 90.87 on page 54824, General Eligibility, correct the final sentence to read:

Eligibility is also provided for a non-profit corporation or association that is organized for the purpose of furnishing a radio communications service to persons actually engaged in any of the eligibility activities set forth in the particular service involved subject to the cooperative use provisions of § 90.183.

§ 90.175 [Corrected]

18. In § 90.175, Frequency coordination requirements, correct paragraph (a)(2) on page 54834 to read:

(2) A statement from a frequency coordinating committee recommending the frequency which, in the opinion of the committee, will result in the least amount of interference to all existing stations operating in the particular area. The Committee's recommendations may appropriately include comments on technical factors such as power, antenna height and gain, terrain, and other factors which may serve to mitigate any contemplated interference. The Committee shall not recommend any adjacent channel frequency 15 kHz removed to existing stations which would result in a separation of less than 10 miles. The frequency advisory committee must be so organized that it is representative of all persons who are eligible for radio facilities in the service concerned in the area the committee purports to serve. The functions of such committees are purely advisory in character, and their recommendations cannot be considered as binding upon either the applicant or the Commission, and must not contain statements which would imply that frequency advisory committees have any authority to grant or deny applications. If the frequency

recommended is in the 150-170 MHz band, is 15 kHz removed from a frequency which is available to another radio service, and is assignable only after coordination, the committee's statement shall affirmatively show that coordination with a similar committee for the other service has been accomplished.

19. In § 90.175(b), correct paragraph (b)(1) on page 54834, to read:

(1) A report showing that the frequencies applied for are available for assignment in accordance with the applicable loading and separation standards, as specified in §§ 90.303 and 90.307, or;

20. In § 90.175, correct paragraph (e)(10) to read:

(10) Applications in the Business Radio Service for a frequency below 450 MHz where both frequencies immediately adjacent (± 20 or 30 kHz) are available for assignment in that service.

§ 90.181 [Corrected]

21. In § 90.181, correct paragraph (b) on page 54835, to read:

(b) A base station licensee who enters into a cooperative arrangement in accordance with the provisions of paragraph (a)(2) of this section shall obtain prior approval from the Commission for each person who proposes to enter into said arrangement.

§ 90.183 [Corrected]

22. In § 90.183, on page 54836, correct the second sentence of the opening paragraph to read:

The installation and use of mobile units, operated under the licensee's station authorization, in the vehicles of other persons furnishing the licensee, under contract, services or facilities within the purview of the established scope of the service in which the station is authorized, in accordance with the provisions of § 90.421 (i) and (j) shall not be considered the rendition of a private radiocommunication service when the communications involved relate solely to the furnishing of such services or facilities to the licensee.

§ 90.233 [Corrected]

23. In § 90.233 on page 54841, correct the first sentence of the opening paragraph to read:

On a secondary basis to voice operations, the use of A2, A9, F2, F9 (audio frequency toneshift or tone phase shift) or F9Y emission may be

authorized to base/mobile operations in accordance with the following limitations and requirements.

§ 90.421 [Corrected]

24. In § 90.421 on page 54867, add a new paragraph (j) as follows:
(j) Mobile units licensed to an eligible in the Railroad Radio Service may be installed in vehicles operated by organizations providing, under contract, facilities or service in connection with railroad operation or maintenance including pickup, delivery, or transfer between stations of property shipped, continued in, or destined for shipment by railroad common carrier: Provided, that the parties to the contract comply with the provisions of § 90.183.

§ 90.425 [Corrected]

25. In § 90.425, correct paragraph (d)(1) on page 54869, to read:

(1) It is a mobile station operating on the transmitting frequency of the associated base station.

Federal Communications Commission,
William J. Tricarico,
Secretary.

[FR Doc. 79-20954 Filed 8-28-79; 8:45 am]
BILLING CODE 6712-01-M

Proposed Rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

[8 CFR Part 214]

Nonimmigrant Alien (H-1) Nurses; Proposed Examination Requirement

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Proposed rule.

SUMMARY: This is a proposal to amend the Immigration and Naturalization Service regulations to require nonimmigrant professional nurses to pass the screening examination given by the Commission on Graduates of Foreign Nursing Schools in order to qualify for the "H-1" nonimmigrant visa classification. This amendment is necessary because at this time there is no way to determine, prior to adjudication of the visa petition, the probability of the nurse beneficiary being able to pass the state licensure examination in the United States. This amendment is intended to provide a test of the capabilities of foreign professional nurses in all the areas of nursing for which American nurse graduates are responsible and thereby to afford an objective estimate of their ability to pass state licensure examinations in the United States and to perform services here of the "exceptional nature" required by the statute.

DATES: Representations must be received on or before October 29, 1979.

ADDRESSES: Please submit written representations, in duplicate, to the Commissioner of Immigration and Naturalization, Room 7100, 425 Eye Street, N.W., Washington, DC 20536.

FOR FURTHER INFORMATION CONTACT: James C. Hoofnagle, Jr., Instructions Officer, Immigration and Naturalization Service, Washington, DC 20536. Telephone: (202) 633-3048.

SUPPLEMENTARY INFORMATION: Section 101(a)(15)(H)(i) of the Immigration and Nationality Act in part defines as a

nonimmigrant an alien having a residence in a foreign country which he has no intention of abandoning, "who is of distinguished merit and ability and who is coming temporarily to the United States to perform services of an exceptional nature requiring such merit and ability." By regulation the Service has provided that the alien professional nurse may meet this definition if, among other things, it is established that he or she is fully qualified under the laws of the place of intended employment in the United States to perform the desired services, e.g., practice professional nursing. This is most often accomplished by a showing that the State in which the nurse is to practice issues temporary permits or licenses to foreign nurses to engage in their profession pending their taking and passing the examination for permanent licensure. Many foreign nurse graduates who have been admitted as nonimmigrants, however, fail the examinations for permanent licensure and then are not permitted to continue practicing professional nursing. Since they can no longer perform the professional services for which they were admitted, they lose their nonimmigrant status and should depart the United States. Those who do not leave are relegated to working in jobs, sometimes menial, and much below the professional status under which they were admitted to the United States. In fairness to nonimmigrant nurses and to achieve a more equitable administration the immigration laws with respect to them, a better means was needed to determine in advance of adjudicating a petition the probability of the nurse-beneficiary being able to pass the State licensure examination and to perform services here of the "exceptional nature" required by the statute. Such a means is now available in the screening examination given both abroad and in the United States by the Commission on Graduates of Foreign Nursing Schools (CGFNS).

The CGFNS is an independent, non-profit organization established at the behest of the Division of Nursing, Bureau of Health Manpower, Department of Health, Education and Welfare, which also had become concerned over the increasing number of foreign nurse graduates in the United States, who could not achieve State licensure. The CGFNS developed this examination to test the capabilities of

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foreign professional nurses in all the areas of nursing for which American nurse graduates are responsible, and to afford an objective estimate of their ability to pass licensure examinations in the United States. This proposed regulation adds the requirement to pass this examination as a condition for approval of a petition to classify a professional nurse as a nonimmigrant under section 101(a)(15)(H)(i) of the Act.

The examination is given in April and October of each year, in the United States and approximately 30 other countries throughout the world.

Further information may be obtained from the Commission on Graduates of Foreign Nursing Schools (CGFNS), 3624 Market Street, Philadelphia, PA 19104.

In the light of the foregoing, it is proposed to amend Chapter I of Title 8 of the Code of Federal Regulations by revising 8 CFR 214.2(h)(2)(iv) as set forth below.

PART 214—NONIMMIGRANT CLASSES

In Part 214, it is proposed to revise § 214.2(h)(2)(iv) as set forth below:

§ 214.2 Special requirements for admission, extension, and maintenance of status.

(h) *Temporary employees.* . . .
(2) *Petition for alien of distinguished merit and ability.* . . .

(iv) *Nurses.* A petitioner seeking to accord a nurse a classification as a nonimmigrant under section 101(a)(15)(H)(i) of the Act shall attach to the petition (Form I-129B), (A) evidence that the beneficiary has obtained a full and unrestricted license to practice professional nursing in the country where she/he obtained her/his nursing education, or that such education was obtained in the United States or Canada; (B) evidence that the beneficiary has passed the examination given by the Commission on Graduates of Foreign Nursing Schools, Philadelphia, PA 19104; and (C) a statement by the petitioner certifying that the beneficiary is fully qualified and eligible under the laws governing the place of intended employment to engage in the practice of professional nursing immediately upon admission to the United States, and that under those laws the petitioner is authorized to employ the beneficiary to perform services as a professional nurse. If the laws governing the place where the services will be

performed place any limitations on the services to be rendered by the beneficiary, the statement should contain details as to the limitations. The district director shall consider any such limitations in determining whether the services which the beneficiary would perform are of the exceptional nature required by the Act.

(Sec. 103, 8 U.S.C. 1103, Interpret or apply sec. 214, 8 U.S.C. 1184)

Public Comment Invited

Members of the interested public are invited to submit relevant data, views and arguments relative to the provisions of this proposed rule. All relevant comments received on or before October 29, 1979 will be considered.

Dated: August 24, 1979.

Leonel J. Castillo,
Commissioner of Immigration and Naturalization.

[FR Doc. 79-26973 Filed 8-28-79; 8:45 am]

BILLING CODE 4410-10-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[10 CFR Part 211]

[Docket No. ERA-R-79-41]

Phased Deregulation of Upper Tier Crude Oil

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of Proposed Rulemaking and Public Hearing.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) is proposing amendments to the crude oil pricing regulations to implement the President's decision to gradually deregulate domestic upper tier crude oil prices, beginning January 1, 1980 and reaching full decontrol on October 1, 1981, when existing authority to control petroleum prices expires. The proposal would permit market prices to be charged for first sales of a steadily increasing percentage of what would otherwise be upper tier crude oil produced from each property. Comments are requested on this or alternative means of achieving the objective of gradually decontrolling all domestic crude oil prices by October 1, 1981.

DATES: Proposed effective date: January 1, 1980. All requests to speak at a hearing by October 5, 1979, 4:30 p.m. Albuquerque hearing date: October 16, 1979, 9:30 a.m. Washington hearing date:

October 24, 1979, 9:30 a.m. All written comments by October 31, 1979, 4:30 p.m.

ADDRESSES: All written comments and requests to speak at the Washington hearing to: Economic Regulatory Administration, Office of Public Hearings Management, Docket No. ERA-R-79-41, Room 2313, 2000 M Street, NW., Washington, D.C. 20461. All requests to speak at the Albuquerque hearing to: Department of Energy, 2626 West Mockingbird Lane, P.O. Box 352228, Dallas, Texas 75235, Attention: Mack L. Laceyfield. Albuquerque hearing location: Navaho Nambé Room, Albuquerque Inn, Second and Marquette Streets, Albuquerque, New Mexico 87103 (Telephone: (505) 247-3344). Washington hearing location: Room 2105, 2000 M Street, NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Robert C. Gillette (Comment Procedures), Economic Regulatory Administration, Room 2222-A, 2000 M Street, NW., Washington, D.C. 20461, (202) 254-5201. William L. Webb (Office of Public Information), Economic Regulatory Administration, Room B-110, 2000 M Street, NW., Washington, D.C. 20461, (202) 634-2170.

William Carson (Regulations and Emergency Planning), Economic Regulatory Administration, Room 2310, 2000 M Street, NW., Washington, D.C. 20461, (202) 254-7477.

Jack Kendall or Ben McRae (Office of General Counsel), Department of Energy, Room 6A127, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252-6739.

SUPPLEMENTARY INFORMATION:

- I. Introduction
- II. Proposed Amendments
- III. Written Comment and Public Hearing Procedures
 - A. Written Comments
 - B. Public Hearings
- IV. Procedural Requirements

I. Introduction

The President has announced his intention to deregulate all domestic crude oil. He has also submitted to the Congress an initiative to impose a windfall profits tax on oil producer profits generated by OPEC-controlled increases in world market prices and in excess of amounts needed to encourage domestic exploration and development. The program to decontrol crude oil is not dependent, however, on Congressional action on the windfall profits tax.

In order that the national economy may adjust to the effects of deregulation in an orderly fashion, the President's schedule calls for the deregulation of domestic crude oil prices to be phased in gradually so as to be complete by October 1, 1981, the expiration date of

our authority to regulate prices for crude oil and refined petroleum products under the Emergency Petroleum Allocation Act of 1973 (15 U.S.C. 751 *et seq.*, Pub. L. 93-159, as amended). Several steps have already been taken to carry out this schedule. As a result of these steps, producers may currently charge market prices for all production from properties which qualify as newly discovered properties (44 FR 25828, May 2, 1979) or heavy oil properties (Executive Order No. 12153, 44 FR 48949, August 21, 1979). Market prices may also be received for the incremental production resulting from a tertiary project (43 FR 33679, August 1, 1978). In addition, we have provided for the gradual conversion of most lower tier crude oil to upper tier crude oil by October 1, 1979 (44 FR 25168, April 27, 1979).

As the final step in the President's program, we are proposing amendments to the price regulations which would provide, as explained below, for the gradual deregulation of upper tier crude oil between January 1, 1980, and October 1, 1981. The proposal would apply not only to current upper tier production, but also to all lower tier production that is gradually being converted to upper tier levels. On October 1, 1981, the price regulations on all domestic crude oil production will expire.

II. Proposed Amendments

The phased deregulation of domestic crude oil prices could be accomplished either by gradually decreasing the volume of crude oil subject to price controls or by gradually increasing the ceiling price for first sales of price controlled crude oil until that price equals the market price. We believe that a gradual decrease in the volume of crude oil subject to price controls would be simpler and surer; would ease industry's transition to the rigors of unregulated dealings; and would involve less administrative burden than ceiling price adjustments, particularly in view of the uncertainty as to what world market prices for crude oil will be on October 1, 1981. In addition, such action would permit the prices for first sales of an increasing amount of domestic crude oil to be determined by actual market factors without reference to the crude oil pricing regulations, and, thus, ease the transition to a market in which prices are determined solely by market factors. Finally, gradual release of increasing volumes of upper tier oil to market levels would not create an incentive to withhold production, as a gradual increase of upper tier prices to market levels might.

Accordingly, we are proposing that, beginning January 1, 1980, market prices be permitted for first sales of a specified percentage of the crude oil produced from properties that would otherwise be subject to upper tier ceiling prices. This percentage would reflect the gradual phased decontrol of upper tier crude oil production for the 22 months beginning in January 1980 and ending on October 1, 1981. For January 1980 the specified percentage would be 4.6 percent (approximately one twenty-second), and in each succeeding month the specified percentage would be increased by an additional 4.6 percent. Consequently, by October 1, 1981, market price would be permitted for the first sales of all upper tier crude oil.

The above proposal deals with the phased deregulation of upper tier crude oil. We believe this concentration on upper tier crude oil to be appropriate since almost all increased production is either upper tier crude oil or is released to market levels under existing rules. Moreover, as noted, the existing regulations already provide for the gradual conversion of lower tier crude oil to upper tier crude oil.

Comments are requested on this proposal. We will also give consideration in this rulemaking to variant proposals, provided commenters are able to suggest the means by which such alternatives can be implemented without either causing the withholding of production until higher prices can be obtained or having to predict what world oil prices will be at some future date. Comments should address such factors as whether this proposal or some other alternative would provide the greater incentive for increased domestic production, would be easier for DOE to administer and producers to comply with, and would cause the lesser disruption of the economy. Finally, we request comments on other provisions of the crude oil pricing and allocation regulations which should be amended to conform to these amendments.

III. Written Comment and Public Hearing Procedures

A. Written Comments

You are invited to participate in this proceeding by submitting data, views or arguments with respect to any matters relevant to this notice. Comments should be submitted by 4:30 p.m., October 31, 1979 to the address indicated in the "Addresses" section of this notice and should be identified on the outside envelope and on the document with the docket number and the designation: "Crude Oil

Deregulation." Ten copies should be submitted.

Any information or data submitted which you consider to be confidential must be so identified and submitted in writing, one copy only. We reserve the right to determine the confidential status of such information or data and to treat it according to our determination.

B. Public Hearings

1. *Procedure for Requests to make Oral Presentation.* If you have any interest in the matters discussed in this notice, or represent a group or class of persons that has an interest, you may make an oral request by 4:30 p.m., October 5, 1979, for an opportunity to make oral presentation at either the Albuquerque or Washington hearing on today's amendments. You should provide a phone number where you may be contacted through the day before the hearing.

If you are selected to be heard at a hearing, you will be so notified before 4:30 p.m., October 11, 1979, and will be required to submit one hundred copies of your statement to the Washington hearing location before 4:30 p.m., October 24, 1979 or the Albuquerque hearing location before 9:30 a.m. on the day of the hearing.

2. *Conduct of the Hearings.* We reserve the right to select the persons to be heard at the hearings, to schedule their respective presentations, and to establish the procedures governing the conduct of the hearings. The length of each presentation may be limited, based on the number of persons requesting to be heard.

An ERA official will be designated to preside at each of the hearings. These will not be judicial-type hearings. Questions may be asked only by those conducting the hearings. At the conclusion of all initial oral statements, each person who has made an oral statement will be given the opportunity to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

If you wish to ask a question at a hearing, you may submit the question, in writing, to the presiding officer. The ERA or, if the question is submitted at a hearing, the presiding officer will determine whether the question is relevant, and whether time limitations permit it to be presented for answer. The question will be asked of the witness by the presiding officer.

Any further procedural rules needed for the proper conduct of a hearing will be announced by the presiding officer.

Transcripts of the hearings will be made and the entire records of the hearings, including the transcripts, will be retained by the ERA and made available for inspection at the DOE Freedom of Information Office, Room GA-152, James Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. You may purchase a copy of the transcript of either hearing from the reporter.

IV. Procedural Requirements

We are preparing a regulatory analysis which carefully examines today's proposal and possible alternative actions. Upon completion of a draft of this analysis, we will publish a notice announcing its availability.

As required by section 7(a) of the Federal Energy Administration Act of 1974 (15 U.S.C. 787 *et seq.*) a copy of this notice has been submitted to the Administrator of the Environmental Protection Agency (EPA) for his comments concerning the impact of this proposal on the quality of the environment. The EPA Administrator has responded that EPA does not have any comments on the environmental effects of this proposal at this time.

Pursuant to the requirements of section 404(a) of the Department of Energy Organization Act (42 U.S.C. 7101 *et seq.*) we have referred this proposal, concurrently with the issuance hereof, to the Federal Energy Regulatory Commission for a determination as to whether it would significantly affect any matter within the Commission's jurisdiction.

(Emergency Petroleum Allocation Act of 1973, 15 U.S.C. 751 *et seq.*, Pub. L. 93-159, as amended, Pub. L. 93-511, Pub. L. 94-99, Pub. L. 94-133, Pub. L. 94-163, and Pub. L. 94-385; Federal Energy Administration Act of 1974, 15 U.S.C. 787 *et seq.*, Pub. L. 93-275, as amended, Pub. L. 94-332, Pub. L. 94-385, Pub. L. 95-70, and Pub. L. 95-91; Energy Policy and Conservation Act, 42 U.S.C. 6201 *et seq.*, Pub. L. 94-163, as amended, Pub. L. 94-385, and Pub. L. 95-70; Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.*, Pub. L. 95-91; E.O. 11790, 39 FR 23185; E.O. 12009, 42 FR 46267)

In consideration of the foregoing, Part 212 of Chapter II of Title 10 of the Code of Federal Regulations is proposed to be amended as set forth below, effective January 1, 1980.

Issued in Washington, D.C., August 22, 1979.

David J. Bardin,
Administrator, Economic Regulatory
Administration.

§ 212.72 [Amended]

1. Section 212.72 is revised by the addition between the definitions of "Marginal property" and "New crude oil" of the following new definition of "Market level new crude oil":

"Market level new crude oil" means, with respect to a particular property during a particular month, the product of the market level factor for that month and the volume of new crude oil produced and sold from that property during that month. The market level factor for January 1980 shall be four and six-tenths percent (4.6%) and shall be increased by four and six-tenths percent (4.6%) in each succeeding month.

§ 212.74 [Amended]

2. Section 212.74(a) is revised to read as follows:

(a) Notwithstanding the provisions of § 212.73(a), a producer may in any month charge a price not to exceed the upper tier ceiling price in first sales of new crude oil, except that first sales of market level new crude oil are not subject to the ceiling price limitations of this subpart.

[FR Doc. 79-28918 Filed 8-28-79; 8:45 am]
BILLING CODE 6450-01-M

NATIONAL CREDIT UNION ADMINISTRATION

[12 CFR Part 701]

Organization and Operations of Federal Credit Unions; Debt Collection Practices

AGENCY: National Credit Union Administration.

ACTION: Notice of Intent.

SUMMARY: After examining the comments received in response to its Advance Notice of Proposed Rulemaking, the National Credit Union Administration has decided not to propose a regulation governing the debt collection practices of Federal credit unions at this time.

EFFECTIVE DATE: August 29, 1979.

ADDRESS: National Credit Union Administration, 2025 M Street, N.W., Washington, D.C. 20456.

FOR FURTHER INFORMATION CONTACT: John L. Culhane, Jr., Attorney Advisor,

Office of General, or Joseph F. Myers, Consumer Affairs Specialist, Division of Examination and Insurance, National Credit Union Administration, 2025 M Street, N.W., Washington, D.C. 20456. Telephone numbers: (202) 254-8760 (Mr. Myers), (202) 632-4870 (Mr. Culhane).

SUPPLEMENTARY INFORMATION: On April 5, 1979, NCUA published in the Federal Register an Advance Notice of Proposed Rulemaking, 44 FR 20447 (1979). Comments were requested so that NCUA could determine the nature and degree of any abusive debt collection practices and so that NCUA could determine if Federal credit unions were having problems complying with the diverse Federal and state laws and regulations governing debt collection. Comments were also requested as to what NCUA should do, assuming that further actions were warranted. NCUA suggested three alternatives: (1) continue the present practice of investigating and attempting to resolve all complaints, while referring to the FTC cases which suggest that unfair or deceptive practices have been employed; (2) publish a statement of policy stating that certain debt collection practices are considered by the Administration to be unsafe and unsound practices justifying an administrative cease and desist action (This would put Federal credit unions on notice of the collection practices NCUA would challenge, but would leave NCUA with the burden of proving the practices to be unsafe and unsound ones); and (3) publish a regulation. NCUA welcomed suggestions as to other alternatives.

In order to allow all interested persons sufficient opportunity to comment, and to clarify the nature of the steps being taken, the comment period on the Advance Notice was extended from May 15, 1979 to June 30, 1979. 44 FR 32230 (1979). At the same time, a questionnaire was prepared and mailed to all state and selected local consumer affairs offices to determine whether complaints about the collection practices of Federal credit unions were being made to those organizations instead of NCUA.

A total of 95 questionnaires were sent. Thirty-nine responses were received. Five stated that no statistics were kept on the number of complaints received concerning Federal credit unions. Nineteen reported that no complaints had been received. The fifteen remaining commenters reported very few complaints. Most of the responses indicated that the number of complaints about the collection practices of Federal credit unions was substantially less than

the number of complaints received about the practices of other financial institutions.

Based on these responses, the Administration agrees with the assertions made by several commenters that a regulation is not warranted at this time. However, a number of commenters stated that NCUA guidelines as to acceptable collection practices would be welcome. Debt collection guidelines are therefore being prepared, and will be distributed to all Federal credit unions.

Lawrence Connell,
Chairman.

August 23, 1979.

[FR Doc. 79-28983 Filed 8-28-79; 8:45 am]
BILLING CODE 7535-01-M

CIVIL AERONAUTICS BOARD

[EDR-351B/SPDR-73, Docket 31788, dated August 23, 1979]

[14 CFR Parts 207, 208, 212, 214, and 380]

Proposed Removal of Limitations on Cargo Charters

AGENCY: Civil Aeronautics Board.
ACTION: Supplemental Notice of Proposed Rulemaking.

SUMMARY: This proposal would allow cargo to be carried on the main deck of the aircraft on split passenger/cargo charters, would eliminate for cargo charters the requirement that the entire aircraft be engaged in the aggregate, and would allow part charters of cargo on scheduled cargo or combination flights. It would also require passenger charter operators to state in their contracts with individual participants, in boldface type, the baggage allowance and charges for each passenger. The proposal is made at the Board's own initiative.

DATES: Comments by: October 29, 1979.

Comments and other relevant information received after this date will be considered by the Board only to the extent practicable.

Requests to be put on the Service List: September 10, 1979. Docket Section prepares the Service List and sends it to each person listed, who then serves his comments on others on the list.

ADDRESSES: Twenty copies of comments should be sent to Docket 31788, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Individuals may submit their views as consumers without filing multiple copies. Comments may be examined in Room 711, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. as soon as they are received.

FOR FURTHER INFORMATION CONTACT: Mark Frisbie, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428, 202-673-5442.

SUPPLEMENTARY INFORMATION: On December 5, 1977, Trans International Airlines and World Airways (TIA/World) filed a petition for rulemaking to amend 14 CFR Parts 207, 208, 212, and 214 to permit split all-cargo charters (use of the aircraft by two or more charterers) and also to permit carriage of cargo in the excess belly space of passenger charters. The petition did not request that cargo be allowed on the main deck along with passengers.

The Board issued a Notice of Proposed Rulemaking, EDR-351 (43 FR 14519, April 8, 1978), asking for public comments on the TIA/World petition, and inviting a general examination of the restrictions on charter cargo service. A final rule dealing with split all-cargo charters and split passenger/cargo charters in which cargo is restricted to the belly of the plane is being adopted simultaneously with this proposal.¹ This supplemental notice proposes to allow the carriage of cargo together with passengers on the main deck, to eliminate the requirement that the aircraft be fully engaged in the aggregate, and to allow shippers to charter space on a flight carrying individually-ticketed passengers or individually-waybilled cargo. The notice also proposes a consumer protection provision prompted by some of the comments in response to EDR-351.

Cargo Charter Limitations

As we explained in ER-1145, issued today, we are under no compulsion to maintain special limitations on cargo charters. We favor allowing shippers to choose whatever mix of charter and individually-waybilled service meets their needs. We would therefore remove the requirement that on cargo charters the entire aircraft be engaged, by making the charter flight limitations in 14 CFR § 207.11, 208.6, 212.8, and 214.7 applicable only to passenger charters. Thus, split cargo charters could be operated without all the available space being contracted for. This change would encourage the availability of charter flights in secondary markets and reduce charter cancellations.

Although the question was not raised explicitly by EDR-351, Seaboard World Airlines and Airlift International urged that cargo not be allowed on the main deck along with passengers on split

¹ ER-1145, adopted August 23, 1979, permits split all-cargo charters, and the carriage of cargo charters in the belly of passenger charter flights.

passenger/cargo charters. They did not elaborate on their reasons for this position.

The Board is not aware at this time of any good reason why cargo should not be permitted on the main deck in split passenger/cargo charters. The same considerations favoring split all-cargo charters and split all-passenger charters appear to justify split passenger/cargo charters, without regard to the proportion of passengers to cargo or whether cargo is carried on the main deck or in the belly of the aircraft. Unrestricted passenger/cargo splits will promote fuller use of aircraft capacity, and hence more efficient operations. Consistent with our proposal to eliminate the "full plane" requirement for cargo charters, this proposal provides that the portion of the main deck configured for cargo carriage would not have to be fully engaged.

Since off-route charter restrictions on scheduled carriers are the subject of a separate notice of proposed rulemaking,² we are not proposing to deal with them here.

In EDR-351, we did not propose to amend Part 214, governing charter trips by foreign charter air carriers, to allow split cargo charters. Since the Board has issued permits authorizing cargo charters by foreign charter carriers, we see no reason to restrict the carriers governed by Part 214 to a greater extent than those governed by Parts 207, 208, and 212 with respect to cargo charters, and indeed, granting them comparable freedom should enhance competition and consumer benefits. We are proposing to amend Part 214 to allow split all-cargo charters and split passenger-cargo charters to the same extent as permitted for other carriers in ER- , and to allow the same flexibility as proposed for other carriers in this issuance. Some foreign charter carriers would require an amendment to their permits to take advantage of the proposed change to Part 214, since their permits now make no reference to Part 214. Carriers wishing permit changes should apply for them.

Baggage Allowances

Several of the comments on EDR-351 warned that carriers might restrict free baggage allowances for passengers on split passenger/cargo charters in order to accommodate more cargo. The Board's former Office of the Consumer Advocate suggested in its comment that passengers on the split passenger/cargo charters be guaranteed by regulation a certain minimum baggage allowance, and that cargo on such flights be

² EDR-363, 44 FR 41828, July 18, 1979.

restricted to the residual capacity of the aircraft. It may be true that there will be some incentive for carriers to cut down free baggage allowances so that more cargo can be carried. However, our tentative decision is that the allocation of baggage space is better left to the market, provided that passengers have adequate notice of their baggage limits. Baggage limits will be negotiated between the charter operators and the carriers, and the charter operators will have an interest in assuring their passengers adequate baggage space.

The Board has recently adopted consumer protection provisions for Public Charters in SPR-158, 44 FR 12971, March 9, 1979. Under SPR-156, certain information must be disclosed in the individual participant's contract with the charterer. These items of information are listed in 14 CFR 380.32. This supplemental proposal would add baggage allowances and excess baggage charges for each passenger to that list. The Public Charter rules (14 CFR 380.31(e)) require some of the items listed in § 380.32 to be printed in bold-face type at least 50 percent larger than the type used for the rest of the contract. This proposal includes the baggage allowances and charges in the larger type requirement. Since effectiveness of larger type decreases as more items are printed that way, however, we ask for comments specifically on this aspect of the proposal.

The Federal Aviation Administration has promulgated safety regulations for the carriage of cargo and passengers on the same aircraft (14 CFR 121.285 and 121.286). The Board specifically requests comments about any safety hazard which might result from carrying cargo on the main deck with passengers instead of in the belly.

Part Charters

The Board is proposing to allow part charters of cargo on scheduled flights, which would allow even greater flexibility in offering reduced rates and service alternatives in international cargo transportation. Because we have eliminated the minimum shipment size for cargo charters in ER-1145, a part charter of cargo would be much like a bulk shipment of cargo under a scheduled service tariff. The difference is that with a charter the parties would have a contract in which they could tailor their rights and duties to fit a specific situation. Since cargo charter tariffs have been removed both domestically (ER-1080) and internationally (ER-1125 through 1130, SPR-159, 160), carriers could offer prices and services for charter traffic different from these specified in their scheduled

tariffs. Part charters of cargo would of course have virtually no effect on the domestic cargo market, which is already deregulated and permits a full range of pricing and service options.

Proposed Rules

Accordingly, the Civil Aeronautics Board proposes to amend 14 CFR Parts 207, 208, 212, 214, 380 as follows:

PART 207—CHARTER TRIPS AND SPECIAL SERVICES

1. The Table of Contents would be amended to read as follows:

207.11 Passenger charter flight limitations

207.18 Part charters of cargo.

2. The definitions of "charter trip" and "charter flight" would be deleted from § 207.11. *Definitions*, and the definition of "special services" would be amended to read as follows:

§ 207.1 Definitions.

As used in this part, unless the context otherwise requires:

"Special services" are all services * * * other than (1) services rendered in air transportation over the route or routes designated in its certificate(s), (2) charter services, and (3) services authorized by special exemption under section 416(b) of the Act.

3. Section 207.10 would be amended by revising the introductory paragraph to read as follows:

§ 207.10 Reports of emergency commercial charters for other direct carriers.

Each air carrier that performs an emergency charter transporting commercial traffic for another direct carrier shall file a report with the Bureau of Domestic Aviation within 30 days following each charter trip, containing the following information:

4. Section 207.11 would be revised to read as follows:

§ 207.11 Passenger charter flight limitations.

(a) Passenger charter flights (trips) in air transportation shall be limited to the following:

(1) Air transportation pursuant to contracts with the department of Defense where the entire capacity of one or more aircraft has been engaged by the Department;

(2) Air transportation performed on a time, mileage, or trip basis where the

entire capacity of one or more aircraft has been engaged:

(i) By a person for his own use (including a direct air carrier or a direct foreign air carrier when such aircraft is engaged slowly for the transportation of company personnel and their personal baggage, or in cases of emergency, of commercial traffic; *Provided*, That emergency charters for commercial traffic shall be reported in accordance with § 207.10);

(ii) By a person (no part of whose business is the formation of groups or the consolidation of shipments for transportation or the solicitation or sale of transportation services) for the transportation of a group of persons, as agent or representative of such group;

(iii) [Reserved]

(iv) By an overseas military personnel charter operator as defined in Part 372 of this chapter;

(v) By a charter operator or foreign charter operator as defined in Part 380 of this chapter.

(3) Air transportation performed on a time, mileage or trip basis where less than the entire capacity of an aircraft has been engaged by each of two or more of the following persons, except that such persons in the aggregate must engage the entire capacity of the aircraft in accordance with paragraph (b) of this section:

(i) By a person for his own use (including a direct air carrier or a direct foreign air carrier when such aircraft is engaged solely for the transportation of company personnel and their personal baggage, or in cases of emergency, of commercial traffic; except that emergency charters for commercial traffic shall be reported in accordance with § 207.10);

(ii) By a person (no part of whose business is the formation of groups or the consolidation of shipments for transportation or the solicitation or sale of transportation services), for the transportation of a group of persons as agent or representative of such group;

(iii) By an overseas military personnel charter operator as defined in Part 372 of this chapter;

(iv) By a charter operator or foreign charter operator as defined in Part 380 of this chapter.

(b)(1) Each person engaging less than the entire capacity of an aircraft for the movement of persons and their personal baggage pursuant to paragraph (a)(3)(iv) of this section shall contract and pay for 20 or more seats. Each person engaging less than the entire capacity of an aircraft for the movement of persons and their personal baggage pursuant to paragraph (a)(3)(i), (a)(3)(ii), or (a)(3)(iii) of this section shall contract and pay for

40 or more seats, except that if the main deck capacity of an aircraft having 80 or fewer seats is engaged by no more than two persons described in paragraph (a)(3)(i), (a)(3)(ii), or (a)(3)(iii) of this section for the movement of persons and their baggage, then either one of such persons may contract and pay for a minimum of 20 seats.

(2) [Reserved]

(3) The entire capacity of an aircraft shall be considered as engaged if all of the main deck capacity configured for passenger carriage is engaged, regardless of whether the remaining belly or other capacity is also engaged.

5. A new § 207.18 would be added to read as follows:

§ 207.18 Part charters of cargo.

Cargo may be chartered on any flight for which an air carrier is authorized, either by certificate or by exemption, to carry individually-ticketed or individually-waybilled traffic.

PART 208—TERMS, CONDITIONS, AND LIMITATIONS OF CERTIFICATES TO ENGAGE IN CHARTER AIR TRANSPORTATION

1. The Table of Contents would be amended to read as follows:

208.6 Passenger charter flight limitations.

§ 208.3 [Amended]

2. The definition of "charter flight" in § 208.3(s) would be deleted and the paragraph reserved.

3. Section 208.5(a) introductory text would be revised to read as follows:

§ 208.5 Reports of emergency commercial charters for other direct carriers.

Each supplemental air carrier that performs an emergency charter transporting commercial traffic for another direct carrier shall file a report with the Bureau of Domestic Aviation within 30 days following each charter flight, containing the following information:

4. Section 208.6 would be revised to read as follows:

§ 208.6 Passenger charter flight limitations.

(a) Passenger charter flights in air transportation performed by supplemental air carriers shall be limited to the following:

(1) All transportation pursuant to contracts with the Department of Defense where the entire capacity of one or more aircraft has been engaged by the Department;

(2) Air transportation performed on a time, mileage or trip basis where the entire capacity of one or more aircraft has been engaged:

(i) By a person for his own use (including a direct air carrier or a direct foreign air carrier when such aircraft is engaged solely for the transportation of company personnel and their personal baggage, or in cases of emergency, of commercial traffic; *Provided*, That emergency charters for commercial traffic shall be reported in accordance with § 208.5);

(ii) By a person (no part of whose business is the formation of groups or the consolidation of shipments for transportation or the solicitation or sale of transportation services) for the transportation of a group of persons and/or their property, as agent or representative of such group;

(iii) By an overseas military personnel charter operator as defined in Part 372 of this chapter; or

(iv) By a charter operator or foreign charter operator as defined in Part 380 of this chapter.

(3) Air transportation performed on a time, mileage or trip basis where less than the entire capacity of an aircraft has been engaged by each of two or more of the following persons, except that such persons in the aggregate must engage the entire capacity of the aircraft in accordance with paragraph (b) of this section:

(i) By a person for his own use (including a direct air carrier or a direct foreign air carrier when such aircraft is engaged solely for the transportation of company personnel and their personal baggage, or in cases of emergency, of commercial traffic; except that emergency charters for commercial traffic shall be reported in accordance with § 208.5);

(ii) By a person (no part of whose business is the formation of groups or consolidation of shipments for transportation or the solicitation or sale of transportation services), for the transportation of a group of persons and their personal baggage, as agent or representative of such group;

(iii) By an overseas military personnel charter operator as defined in Part 372 of this chapter; or

(iv) By a charter operator or foreign charter operator as defined in Part 380 of this chapter.

(b)(1) Each person engaging less than the entire capacity of an aircraft for the movement of persons and their personal baggage pursuant to paragraph (a)(3)(iv) of this section shall contract and pay for 20 or more seats. Each person engaging less than the entire capacity of an aircraft for the movement of persons

and their personal baggage pursuant to paragraph (a)(3)(i), (a)(3)(ii), or (a)(3)(iii) of this section shall contract and pay for 40 or more seats, except that if the main deck capacity of an aircraft having 80 or fewer seats is engaged by no more than two persons described in paragraph (a)(3)(i), (a)(3)(ii), or (a)(3)(iii) of this section for the movement of persons and their baggage, then either one of such persons may contract and pay for a minimum of 20 seats.

(2) [Reserved]

(3) The entire capacity of an aircraft shall be considered as engaged if all the main deck capacity configured for, passenger carriage is engaged, regardless of whether the remaining belly or other capacity is also engaged.

PART 212—CHARTER TRIPS BY FOREIGN AIR CARRIERS

1. The Table of Contents would be amended to read as follows:

212.8 Passenger charter flight limitations.

212.16 Part charters of cargo.

§ 212.01 [Amended]

2. The definitions of "charter trip" and "charter flight" would be deleted from § 212.1. *Definitions*.

3. Section 212.8 would be amended to read as follows:

§ 212.8 Passenger charter flight limitations.

(a) Passenger charter flights (trips) shall be limited to foreign air transportation performed by a foreign air carrier holding a foreign air carrier permit issued pursuant to section 402 of the Act authorizing such carrier to engage in foreign air transportation on an individually-ticketed or individually-waybilled basis—

(1) Where the entire capacity of one or more aircraft has been engaged on a time, mileage or trip basis—

(i) By a person for his own use (including a direct air carrier or direct foreign air carrier when such aircraft is engaged solely for the transportation of company personnel and their personal baggage, or in cases of emergency, of commercial traffic, except that emergency charters of commercial traffic shall be reported in accordance with § 212.14);

(ii) By a person (no part of whose business is the formation of groups for transportation or solicitation or sale of transportation services) for the transportation of a group of persons as agent or representative of such group;

(iii) [Reserved]

(iv) By an overseas military personnel charter operator as defined in Part 372 of this chapter; or

(v) By a charter operator or foreign charter operator as defined in Part 380 of this chapter.

(2) Where less than the entire capacity of an aircraft has been engaged on a time, mileage or trip basis, by each of two or more of the following persons, except that such persons in the aggregate must engage the entire capacity of the aircraft in accordance with paragraph (b) of this section:

(i) By a person for his own use (including a direct air carrier or a direct foreign air carrier when such aircraft is engaged solely for the transportation of company personnel and their personal baggage, or in cases of emergency, of commercial traffic);

(ii) By a person (no part of whose business is the formation of groups or the consolidation of shipments for transportation or the solicitation or sale of transportation services), for the transportation of a group of persons as agent or representative of such group;

(iii) By an overseas military personnel charter operator as defined in Part 372 of this chapter;

(iv) By a charter operator or foreign charter operator as defined in Part 380 of this chapter.

(b)(1) Each person engaging less than the entire capacity of an aircraft for the movement of persons and their personal baggage pursuant to paragraph (a)(2)(iv) of this section shall contract and pay for 20 or more seats. Each person engaging less than the entire capacity of an aircraft for the movement of persons and their personal baggage pursuant to paragraph (a)(2)(i), (a)(2)(ii), or (a)(2)(iii) of this section shall contract and pay for 40 or more seats, except that if the main deck capacity of an aircraft having 80 or fewer seats is engaged by no more than two persons described in paragraph (a)(2)(i), (a)(2)(ii), or (a)(2)(iii) of this section for the movement of persons and their baggage, then either one of such persons may contract and pay for a minimum of 20 seats.

(2) [Reserved]

(3) The entire capacity of an aircraft shall be considered as engaged if all the main deck capacity configured for passenger carriage is engaged, regardless of whether the remaining belly or other capacity is also engaged.

4. A new § 212.16 would be added to read as follows:

§ 212.16 Part charters of cargo.

Cargo may be chartered on any flight for which a foreign air carrier is authorized to carry individually-ticketed or individually-waybilled traffic.

PART 214—TERMS, CONDITIONS, AND LIMITATIONS OF FOREIGN AIR CARRIER PERMITS AUTHORIZING CHARTER TRANSPORTATION ONLY

1. The Table of Contents would be amended to read as follows:

214.7 Passenger charter flight limitations.

2. Section 214.1 would be revised to read as follows:

§ 214.1 Applicability.

This part establishes the terms, conditions, and limitations applicable to charter foreign air transportation pursuant to foreign air carrier permits authorizing the holder to engage in charter transportation only.

3. Section 214.2 would be amended by revising paragraph (a) and reserving paragraph (b) to read as follows:

§ 214.2 Definitions.

(a) "Charter foreign air transportation" means charter flights of persons or property in air transportation

(b) [Reserved]

4. Section 214.5 would be amended by revising the introductory paragraph and paragraph (d) to read as follows:

§ 214.5 Reports of emergency commercial charters for other direct carriers.

Each foreign charter air carrier that performs an emergency charter transporting commercial traffic for another direct carrier shall file a report with the Bureau of Domestic Aviation within 30 days following each charter flight, containing the following information:

(d) Number of passengers and/or tons of cargo transported;

5. Section 214.7 would be renumbered and revised to read as follows:

§ 214.7 Passenger charter flight limitations.

(a) Passenger charter flights shall be limited to foreign air transportation performed by a direct foreign air carrier on a time, mileage, or trip basis where—

(1) The entire capacity of one or more aircraft has been engaged;

(i) By a person for his own use (including a direct air carrier or direct foreign air carrier when such aircraft is engaged solely for the transportation of company personnel and their personal baggage, or in cases of emergency, of commercial traffic; except that emergency charters of commercial

traffic shall be reported in accordance with § 214.5);

(ii) By a person (no part of whose business is the formation of groups or the consolidation of shipments for transportation or the solicitation or sale of transportation services) for the transportation of a group of persons, as agent or representative of such group;

(iii) By an overseas military personnel charter operator as defined in Part 372 of this chapter; or

(iv) By a charter operator or foreign charter operator as defined in Part 380 of this chapter.

(2) Less than the entire capacity of an aircraft has been engaged by each of two or more of the following persons except that such persons in the aggregate must engage the entire capacity of the aircraft in accordance with paragraph (b) of this section:

(i) By a person for his own use (including a direct air carrier or direct foreign air carrier when such aircraft is engaged solely for the transportation of company personnel and their personal baggage, or in cases of emergency, of commercial traffic; *Provided*, That emergency charters for commercial traffic shall be reported in accordance with § 214.5);

(ii) By a person (no part of whose business is the formation of groups or the consolidation of shipments for transportation or the solicitation or sale of transportation services) for the transportation of a group of persons, as agent or representative of such group;

(iii) By an overseas military personnel charter operator as defined in Part 372 of this chapter; or

(iv) By a charter operator or foreign charter operator as defined in Part 380 of this chapter.

(b)(1) Each person engaging less than the entire capacity of an aircraft for the movement of persons and their personal baggage pursuant to paragraph (a)(2)(iv) of this section shall contract and pay for 20 or more seats. Each person engaging less than the entire capacity of an aircraft for the movement of persons and their personal baggage pursuant to paragraph (a)(2)(i), (a)(2)(ii), or (a)(2)(iii) of this section shall contract and pay for 40 or more seats, except that if the main deck capacity of an aircraft having 80 or fewer seats is engaged by no more than two persons described in paragraph (a)(2)(i), (a)(2)(ii), or (a)(2)(iii) of this section for the movement of persons and their baggage, then either one of such persons may contract and pay for a minimum of 20 seats.

(2) The entire capacity of an aircraft shall be considered as engaged if all the main deck capacity configured for passenger carriage is engaged.

regardless of whether the remaining belly or other capacity is also engaged.

6. Section 214.9a (a) and (b) would be amended to read as follows:

§ 214.9a Statement of Authorization application.

(a) A foreign air carrier shall not perform any charter for the transportation of commercial traffic for another direct air carrier or direct foreign air carrier unless . . .

(b) Application for a Statement of Authorization shall be submitted . . . *Provided, however*, that an application for the performance of a charter transporting commercial traffic for another direct air carrier or direct foreign air carrier must be submitted . . .

PART 380—PUBLIC CHARTERS

1. Section 380.1(e) would be revised to read as follows:

§ 380.31 General requirements for operator-participant contracts

(c) The contract form shall be printed in 7-point or larger type. The statements required by paragraphs (a), (f), (h), (l), (r), (s), and (y) of § 380.32 shall be printed so as to contrast with the rest of the contract, by the use of bold-faced type, capital letters, or a type size that is at least 50 percent larger than that used for the rest of the contract.

2. Section 380.32 would be amended by adding paragraph (y) to read as follows:

§ 380.32 Specific requirements for operator-participant contracts.

Contracts between charter operators and charter participants shall state:

(y) The baggage allowances and excess baggage charges for each passenger. (Secs. 102, 204, 401, and 402 of the Federal Aviation Act of 1958, as amended, 92 Stat. 1706, 72 Stat. 743, 92 Stat. 1710, 72 Stat. 757; 49 U.S.C. 1302, 1324, 1371, 1372.)

By the Civil Aeronautics Board:

Phyllis T. Kaylor,

Secretary.

[FR Doc. 79-29962 Filed 8-28-79; 8:45 am]

BILLING CODE 6320-01-M

FEDERAL TRADE COMMISSION

[16 CFR Part 13]

(File No. 771 0034)

Gant, Inc.; Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order, accepted subject to final Commission approval, among other things, would require a New Haven, Conn. manufacturer of wearing apparel and related accessories, to cease fixing, maintaining or compelling adherence to suggested resale prices and sales periods for its products. The firm would be prohibited from soliciting the identity of dealers who fail to conform to such prices, and from taking any adverse action against them. Additionally, the firm would be prohibited from restricting the use of product trademarks or other identification in the sale or advertising of its products; and barred from suggesting retail prices and sales periods for its products for a period of two years.

DATE: Comments must be received on or before October 29, 1979.

ADDRESS: Comments should be directed to: Office of the Secretary, Federal Trade Commission, 6th St. and Pennsylvania Ave., NW., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: William A. Arbitman, Director, 9R, San Francisco, Regional Office, Federal Trade Commission, 450 Golden Gate Ave., San Francisco, Calif. 94102. (415) 556-1270.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6 (f) of the Federal Trade Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's rules of practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist and an explanation thereof, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with

§ 4.9(b)(14) of the Commission's rules of practice (16 CFR 4.9(b)(14)).

(File No.

Gant, Inc.,

Agreement Containing Consent Order to Cease and Desist

The Federal Trade Commission having initiated an investigation of certain acts and practices of Gant, Inc., a corporation, and it now appearing that Gant, Inc., a corporation, hereinafter sometimes referred to as proposed respondent, is willing to enter into an agreement containing an order to cease and desist from the use of the acts and practices being investigated.

It is hereby agreed by and between Gant, Inc., by its duly authorized officer and its attorney, and counsel for the Federal Trade Commission that:

1. Proposed respondent Gant, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Connecticut, with its office and principal place of business located at 40 Sargent Drive, in the City of New Haven, State of Connecticut.

2. Proposed respondent admits all the jurisdictional facts set forth in the draft of complaint here attached.

3. Proposed respondent waives:

(a) Any further procedural steps;

(b) The requirement that the

Commission's decision contained a statement of findings of fact and conclusions of law; and

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement.

4. This agreement shall not become a part of the public records of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission it, together with the draft of the complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify the proposed respondent, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding.

5. This agreement is for settlement purposes only and does not constitute an admission by proposed respondent that the law has been violated as alleged in the draft of complaint here attached.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's Rules, the Commission may, without further notice to proposed respondent, (1) issue its complaint corresponding in form and substance with the draft of complaint here attached and its decision containing the following order to cease and desist in disposition of the proceeding and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the complaint and decision containing the agreed-to order to proposed respondent's address as stated in this agreement shall constitute service. Proposed respondent waives any right it may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

7. Proposed respondent has read the proposed complaint and order contemplated hereby. It understands that once the order has been issued, it will be required to file one or more compliance reports showing that it has fully complied with the order, and that it may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

Order

For the purposes of this Order, the following definitions shall apply:

"Product" is defined as any item of wearing apparel or related accessory which is manufactured, offered for sale or sold by respondent.

"Dealer" is defined as any person, partnership, corporation or firm which sells any product in the course of its business.

"Resale Price" is defined as any price, price floor, price ceiling, price range, or any mark-up, formula or margin of profit used by any dealer for pricing any product. Such term includes, but is not limited to, any suggested, established or customary resale price as well as the retail price in effect at any dealer.

"Sale Period" is defined as any time during which any dealer offers to sell any product at resale prices lower than

those in effect during the usual and ordinary course of said dealer's business; or any suggested, authorized or customary time for selling or advertising any product at prices lower than the suggested, established or customary resale prices.

It is ordered, That respondent Gant, Inc., a corporation, its successors and assigns, and respondent's officers, agents, representatives and employees, directly or indirectly, or through any corporation, subsidiary, division or other device, in connection with the manufacture, advertising, offering for sale, sale or distribution of any product in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Fixing, establishing, controlling or maintaining, directly or indirectly, the resale price at which any dealer may advertise, promote, offer for sale or sell any product, or the sale period of any dealer.

2. Requesting, requiring or coercing, directly or indirectly, any dealer to maintain, adopt or adhere to any resale price or sale period.

3. Requesting or requiring, directly or indirectly, any dealer to report the identity of any other dealer who deviates from any resale price or sale period; or acting on any reports or information so obtained by threatening, intimidating, coercing or terminating said dealer.

4. Requesting or requiring that any dealer refrain from or discontinue selling or advertising any product at any resale price.

5. Hindering or precluding the lawful use by any dealer of any brand name, trade name or trademark of respondent in connection with the sale or advertising of any product at any resale price.

6. Making any payment or granting any consideration, service or benefit to any dealer because of the resale price at which any other dealer has advertised or sold any product.

7. Conducting any surveillance program to determine whether any dealer is advertising, offering for sale or selling any product at any resale price, where such surveillance program is conducted to fix, maintain, control or enforce the resale price at which any product is sold or advertised.

8. Terminating or taking any other action to restrict, prevent or limit the sale of any product by any dealer because of the resale price at which said dealer has sold or advertised, is selling

or advertising, or is suspected of selling or advertising any product.

9. Threatening to withhold or withholding earned cooperative advertising credits or allowances from any dealer, or limiting or restricting the right of any dealer to participate in any cooperative advertising program for which it would otherwise qualify, because of the resale price at which said dealer advertises or sells any product, or proposes to sell or advertise any product.

II

1. For a period of two (2) from the date of service of this Order, orally suggesting or recommending any resale price or sale period to any dealer.

2. For a period of two (2) years from the date of service of this Order, communicating in writing any resale price or sale period to any dealer; provided, however, that after said two (2) period, respondent shall not suggest any resale price or sale period on any list, or in any advertising, book, catalogue or promotional material, unless it is clearly and conspicuously stated on each page where any suggested resale price or sale period appears, the following:

The [resale prices or sale periods] quoted herein are suggested only. You are free to determine your own [resale prices or sale periods].

III

It is further ordered, That respondent shall:

1. Within thirty (30) days after service of this Order, mail under separate cover a copy of the enclosure set forth in the attached Exhibit A to each of its present accounts. An affidavit shall be sworn to by an official of the respondent verifying that the attached Exhibit A was so mailed.

2. Mail under separate cover a copy of the enclosure set forth in the attached Exhibit A to any person, partnership, corporation or firm that becomes a new account within three (3) years after service of this Order.

IV

It is further ordered, That respondent shall forthwith distribute a copy of this order to all operating divisions of said corporation, and to present or future personnel, agents or representatives having sales, advertising or policy responsibilities with respect to the subject matter of this order, and that respondent secure from each such person a signed statement acknowledging receipt of said order.

V

It is further ordered, That respondent notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent, such as dissolution, assignment or sale resulting in the emergency of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of the order.

VI

It is further ordered, That respondent shall within sixty (60) days after service upon it of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which it has complied with this order.

Exhibit A

Dear Retailer: Without admitting any violation of the law, Gant, Inc. has agreed to the entry of an Order of the Federal Trade Commission regulating certain distribution practices. In connection therewith, the Company is required to send you this letter describing the Order. The Order provides, among other things, as follows:

1. You can advertise and sell Gant products at any price you choose.

2. Gant will not take any action against you, including termination, because of the price at which you advertise or sell Gant products.

3. Gant will not suggest retail prices for any product until [2 years from the date of service of the Order].

4. The price at which you sell or advertise Gant products will not affect your right to use Gant trademarks or other identification in your sale or advertising of products bearing Gant trademarks or identification.

5. You are free to participate in any cooperative advertising program sponsored by Gant for which you would otherwise qualify, and to receive any advertising credit or allowance allowed thereunder regardless of the price at which you advertise the Gant product.

If you have any questions regarding the Order or this letter, please call _____.

for Gant, Inc.

Agreement by Gant Corporation, the Proposed Successor to Proposed Respondent Gant, Inc.

IT IS HEREBY AGREED by and between Gant Corporation, by its duly authorized officer and its attorney, and counsel for the Federal Trade Commission that:

1. Gant Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its office and principal place of business located at 400 Pike Street, in the City of Cincinnati, State of Ohio.

2. Gant Corporation proposes to purchase the business and certain of the assets of proposed respondent Gant, Inc.

3. For purposes of the "Agreement Containing Consent Order To Cease And Desist" as executed between Gant, Inc. and Counsel for the Federal Trade Commission on April 24, 1979, hereinafter referred to as "said Order," and for no other purpose, Gant Corporation, upon completion of said purchase:

(a) Will be a successor to proposed respondent Gant, Inc.

(b) Shall refrain from performing any act which proposed respondent Gant, Inc., is prohibited from performing by said Order; and shall perform all acts which proposed respondent Gant, Inc. is required to perform by said Order.

(c) Will be required to file one or more compliance reports showing that it has fully complied with said Order, and may be liable for civil penalties in the amount provided by law for each violation by it of said Order.

4. A copy of said Order served upon Gant, Inc. shall be mailed by the Federal Trade Commission to Gant Corporation at its above stated address simultaneously with such service on Gant, Inc.

Analysis of Proposed Consent Order to Aid Public Comment

The Federal Trade Commission has accepted an agreement to a proposed consent order from Gant, Inc., a prominent shirt manufacturer.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

The complaint in this matter alleges that Gant, Inc. has restrained trade by fixing the resale prices at which its dealers advertise, offer for sale and sell Gant, Inc. products.

The consent agreement provides as follows:

1. Gant, Inc. cannot fix or otherwise control the resale prices at which its products are sold or advertised.

2. Gant, Inc. cannot take any action against any dealer, including termination, because of the resale prices at which the dealer sells or advertises any Gant, Inc. product.

3. As to products which bear any of its trademarks or other identifications, Gant, Inc. cannot restrict any dealer from lawfully using any such trademark

or other identification in the sale or advertising of such products.

4. Gant, Inc. cannot suggest retail prices for any product for two years from service of the order.

On June 29, 1979, Gant Corporation, a newly formed Delaware corporation, purchased the business and certain of the assets of Gant, Inc. As part of the consent agreement, and solely for purposes of that agreement, Gant Corporation has agreed to:

1. Be bound as a successor to Gant, Inc.

2. Refrain from performing any act which Gant, Inc. is prohibited by the order from performing.

3. Perform all acts which Gant, Inc. is required by the order to perform.

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

James A. Tobin,

Acting Secretary.

[FR Doc. 79-28956 Filed 8-29-79; 8:45 am]

BILLING CODE 6750-01-M

[16 CFR Part 13]

[File No. 771 0034]

Jaymar-Ruby, Inc.; Consent Agreement with Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order, accepted subject to final Commission approval, among other things, would require a Michigan City, Ind. manufacturer of wearing apparel and related accessories, to cease fixing, maintaining or compelling adherence to suggested resale prices and sale periods for its products. The company would be prohibited from soliciting the identity of dealers who fail to conform to suggested prices; and from taking any adverse action against them. Additionally, the firm would be prohibited from restricting the use of product trademarks or other identification in the advertising and sale of its products; and barred from suggesting retail prices and sales periods for its products for a period of two years.

DATE: Comments must be received on or before October 29, 1979.

ADDRESS: Comments should be directed to: Office of the Secretary, Federal

Trade Commission, 6th St. and Pennsylvania Ave., NW., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: William A. Arbitman, Director, 9R, San Francisco Regional Office, Federal Trade Commission, 450 Golden Gate Ave., San Francisco, Calif. 94102. (415) 556-1270.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's rules of practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist and an explanation thereof, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(14) of the Commission's rules of practice (16 CFR 4.9(b)(14)).

[File No.]

Jaymar-Ruby, Inc.

Agreement Containing Consent Order To Cease and Desist

The Federal Trade Commission having initiated an investigation of certain acts and practices of Jaymar-Ruby, Inc., a corporation, and it now appearing that Jaymar-Ruby, Inc., a corporation, hereinafter sometimes referred to as proposed respondent, is willing to enter into an agreement containing an order to cease and desist from the use of the acts and practices being investigated.

It is hereby agreed by and between Jaymar-Ruby, Inc., by its duly authorized officer and its attorney, and counsel for the Federal Trade Commission that:

1. Proposed respondent Jaymar-Ruby, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Indiana, with its office and principal place of business located at 5000 South Ohio Street, in the City of Michigan City, State of Indiana.

2. Proposed respondent admits all the jurisdictional facts set forth in the draft of complaint here attached.

3. Proposed respondent waives:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law; and

(c) All rights to seek judicial review or otherwise to challenge or contest the

validity of the order entered pursuant to this agreement.

4. This agreement shall not become a part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission, it, together with the draft of the complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify the proposed respondent, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding.

5. This agreement is for settlement purposes only and does not constitute an admission by proposed respondent that the law has been violated as alleged in the draft of complaint here attached.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's rules, the Commission may, without further notice to proposed respondent, (1) issue its complaint corresponding in form and substance with the draft of complaint here attached and its decision containing the following order to cease and desist in disposition of the proceeding and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the complaint and decision containing the agreed-to order to proposed respondent's address as stated in this agreement shall constitute service. Proposed respondent waives any right it may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

7. Proposed respondent has read the proposed complaint and order contemplated hereby. It understands that once the order has been issued, it will be required to file one or more compliance reports showing that it has

fully complied with the order, and that it may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

Order

For the purposes of this Order, the following definitions shall apply:

"Product" is defined as any item of wearing apparel or related accessory which is manufactured, offered for sale or sold by respondent Jaymar-Ruby, Inc.

"Dealer" is defined as any person, partnership, corporation or firm which sells any product in the course of its business.

"Resale Price" is defined as any price, price floor, price ceiling, price range, or any mark-up, formula or margin of profit used by any dealer for pricing any product. Such term includes, but is not limited to, any retail price suggested or established by respondent, any customary resale price or the retail price in effect at any dealer.

"Sale Period" is defined as any time during which any dealer offers to sell any product at resale prices lower than those in effect during the usual and ordinary course of said dealer's business; or any suggested, authorized or customary time for selling or advertising any product at prices lower than the suggested, established or customary resale prices.

It is ordered, That respondent Jaymar-Ruby, Inc., a corporation, its successors and assigns, and respondent's officers, agents, representatives and employees, directly or indirectly, or through any corporation, subsidiary, division or other device, in connection with the manufacture, advertising, offering for sale, sale or distribution of any product in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1.

1. Fixing, establishing, controlling or maintaining, directly or indirectly, the resale price at which any dealer may advertise, promote, offer for sale or sell any product, or the sale period of any dealer.

2. Requesting, requiring or coercing, directly or indirectly, any dealer to maintain, adopt or adhere to any resale price or sale period.

3. Requesting or requiring, directly or indirectly, any dealer to report the identity of any other dealer who deviates from any resale price or sale period; or acting on any reports or information so obtained by threatening, intimidating, coercing or terminating said dealer.

4. Requesting or requiring that any dealer refrain from or discontinue selling or advertising any product at any resale price.

5. Hindering or precluding the lawful use by any dealer of any brand name, trade name or trademark of respondent in connection with the sale or advertising of any product at any resale price.

6. Conducting any surveillance program to determine whether any dealer is advertising, offering for sale or selling any product at any resale price, where such surveillance program is conducted to fix, maintain, control or enforce the resale price at which any product is sold or advertised.

7. Terminating or taking any other action to restrict, prevent or limit the sale of any product by any dealer, because of the resale price at which said dealer has sold or advertised, is selling or advertising, or is suspected of selling or advertising any product.

8. Threatening to withhold or withholding earned cooperative advertising credits or allowances from any dealer, or limiting or restricting the right of any dealer to participate in any cooperative advertising program for which it would otherwise qualify, because of the resale price at which said dealer advertises or sells any product, or proposes to sell or advertise any product.

9. Threatening to withhold or withholding earned cooperative advertising credits or allowances from any dealer, or limiting or restricting the right of any dealer to participate in any cooperative advertising program for which it would otherwise qualify, because said dealer has advertised or sold, or proposes to advertise or sell, any product using or featuring any resale price comparison.

II

1. For a period of three (3) years from the date of service of this Order, orally suggesting or recommending any resale price or sale period to any dealer.

2. For a period of three (3) years from the date of service of this Order, communicating in writing any resale price or sale period to any dealer: *Provided, however,* That after said three (3) year period, respondent shall not suggest any resale price or sale period on any list, or in any advertising, book, catalogue or promotional material, unless it is clearly and conspicuously stated on each page where any suggested resale price or sale period appears, the following:

"The [Resale Prices or Sale Periods] Quoted Herein Are Suggested Only. You Are

Free To Determine Your Own [Resale Prices or Sale Periods]."

III

It is further ordered. That respondent shall:

1. Within thirty (30) days after service of this Order, mail under separate cover a copy of the enclosure set forth in the attached Exhibit A to each of its present accounts. An affidavit shall be sworn to by an official of respondent verifying that the attached Exhibit A was so mailed.

2. Mail under separate cover a copy of the enclosure set forth in the attached Exhibit A to any person, partnership, corporation or firm that becomes a new account within three (3) years after service of this Order.

IV

It is further ordered. That respondent shall forthwith distribute a copy of this Order to all operating divisions of said corporation, and to present or future personnel, agents or representatives having sales, advertising or policy responsibilities with respect to the subject matter of this Order, and that respondent secure from each such person a signed statement acknowledging receipt of said Order.

V

It is further ordered. That respondent notify the Commission at least thirty (30) days prior to any proposed change in respondent, such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of the Order.

VI

It is further ordered. That respondent shall within sixty (60) days after service upon it of this Order, file with the Commission a report, in writing, setting forth in detail the manner and form in which it has complied with this Order.

Exhibit A

Dear Customer:

Jaymar-Ruby, Inc. has agreed with the Federal Trade Commission to the entry of an order concerning certain distribution practices. Our agreement was solely for the purpose of settling a dispute with the Commission, and does not constitute any admission on our part that we have violated any law. The agreed-to order provides, among other things, as follows:

1. You are free to charge whatever retail prices you deem appropriate for Jaymar-Ruby products, including Sansabelt, and you may advertise those prices as you see fit.

2. You can be assured that Jaymar-Ruby will not take any action against you for any prices which you may charge or advertise.

3. Jaymar-Ruby will continue not to suggest retail prices for any product until 3 years from the date of service of the Order).

4. You may continue to use our trademarks or tradenames in any legal and lawful manner in your sale or advertising of our products.

5. You continue to be free to participate in our cooperative advertising programs regardless of the prices at which you advertise Jaymar-Ruby products.

If you wish a copy of the full text of the agreed-to order, or if you have any questions concerning it, please call _____. As always, we appreciate your business and we will continue providing you with the finest merchandise available.

for Jaymar-Ruby, Inc.

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted an agreement to a proposed consent order from Jaymar-Ruby, Inc., a prominent manufacturer of men's dress and sport slacks.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

The complaint in this matter alleges that Jaymar-Ruby restrained trade by fixing the resale prices at which its dealers advertise, offer for sale and sell Jaymar products.

The consent agreement provides as follows:

1. Jaymar-Ruby cannot fix or otherwise control the resale prices at which its products are sold or advertised.

2. Jaymar-Ruby cannot take any action against any dealer, including termination, because of the resale prices at which the dealer sells or advertises any Jaymar-Ruby product.

3. As to products which bear any of its trademarks or other identifications, Jaymar-Ruby cannot restrict any dealer from lawfully using any such trademark or other identification in the sale or advertising of such products.

4. Jaymar-Ruby cannot suggest retail prices for any product for three years from service of the order.

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not intended to constitute an official interpretation of

the agreement and proposed order or to modify in any way their terms.

James A. Tobin,
Acting Secretary.

[FR Doc. 79-26955 Filed 8-29-79; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF DEFENSE

Office of the Secretary

[32 CFR Part 65]

Nomination of Chaplains for the Armed Forces

AGENCY: Office of the Secretary of Defense.

ACTION: Proposed rule.

SUMMARY: This rule provides for selection of chaplains in the Armed Forces of the United States and sets forth a definition using a set of criteria to determine a religious faith group's eligibility to provide chaplains to the Armed Forces. Education requirements are clearly stated. It is the responsibility of the Armed Forces Chaplains Board to recognize a religious faith group and the Military Services to select the nominated chaplains.

DATE: Written comments must be received on or before September 28, 1979.

ADDRESS: Armed Forces Chaplains Board, OASD (MRA&L), Room 3B936, Pentagon, Washington, D.C. 20301.

FOR FURTHER INFORMATION CONTACT: Chaplain Samuel G. Powell, Colonel, USAF, Telephone: 697-9015 or 697-9911.

SUPPLEMENTARY INFORMATION: In Federal Register Doc. 78-2339 appearing in the Federal Register on February 8, 1978 (43 FR 4858) the Department of Defense published Part 65. This proposes the reissue Part 65 to establish criteria to determine a religious group's eligibility for the chaplaincy of the Military Services and to define clearly education requirements.

Accordingly, we propose to revise Chapter I, 32 CFR Part 65, reading as follows:

Sec.

65.1 Reissuance and purpose.

65.2 Applicability.

65.3 Policy.

65.4 Criteria.

65.5 Responsibilities.

Enclosure 1—DD Form 2088, Ecclesiastical Endorsement/Approval.

Authority: Secs. 3293, 5576, and 8293 of 10 U.S. Code and Executive Order 11390.

PART 65—NOMINATIONS OF CHAPLAINS FOR THE ARMED FORCES

§ 65.1 Reissuance and Purpose.

This part is reissued to establish (a) criteria to determine a Religious Group's eligibility for the chaplaincy of the Military Services; and (b) the minimum educational and ecclesiastical endorsement requirements for appointment in the chaplaincy of the Military Services.

§ 65.2 Applicability.

The provisions of this Part apply to the Office of the Secretary of Defense, the Military Departments, and the Organization of the Joint Chiefs of Staff (hereafter referred to as "DoD Components"). As used herein, the term "Military Services" refers to the Army, Navy, Air Force and Marine Corps.

§ 65.3 Policy.

It is DoD policy that military personnel receive direction and guidance in matters of spiritual, moral, religious, and personal well-being in ways and on occasions appropriate to their respective, chosen religious groups. Whenever possible, such guidance should be provided by a chaplain of the military person's religious group. When a chaplain of a religious group cannot be provided, this guidance should be met through the cooperative efforts of other chaplains, civilian clergy, or lay leaders.

§ 65.4 Criteria.

(a) Religious groups of the United States that seek to become ecclesiastical agencies in order to endorse candidates for the chaplaincy must obtain recognition from the Armed Forces Chaplains Board. As a prerequisite to receiving such recognition, each religious group must:

(1) Have ecclesiastical authority to prepare and designate clergy for the chaplaincy.

(2) Have enough adherents to warrant the effective use of chaplains.

(3) Provide ecclesiastical validation, support, and supervision of its chaplains.

(4) Provide chaplains who are willing to respect the integrity of and work in cooperation with other religious groups.

(5) Abide by the regulations and policies of the Armed Forces Chaplains Board and the Military Services.

(b) The Armed Forces Chaplains Board may revoke its recognition of an approved ecclesiastical endorsing agency that fails to comply with any provisions of this Directive by providing the agency with a notice of the reasons for the revocation and a reasonable opportunity to respond in writing.

(c) The following are the educational requirements for chaplain appointments. The applicant shall:

(1) Possess 120 semester hours of undergraduate credits (or the equivalent) from a college or university that is in the *Education Directory—Colleges and Universities* (hereafter referred to as the "Directory"); or have completed 120 semester hours of credit (or the equivalent) from a school not in the Directory but from which credits could be transferred to a school listed in the Directory; and

(2) Possess a Master of Divinity (or an equivalent theological degree) or have completed 3 resident years of graduate-level study in theology or related subjects that lead to ordination and ecclesiastical endorsement and that qualify the applicant to perform professional functions as a chaplain. The applicant must complete professional educational work at a graduate school:

(i) That is (a) a member of the American Association of Theological Schools; (b) listed in the Official Catholic Directory; or (c) independent of a college or university but accredited by a regional accrediting agency or association listed in the Directory; or

(ii) If the graduate school is not included in § 65.4(c)(1) the applicant may be accepted if all other educational requirements are met and if a statement is submitted by a school referred to in § 65.4(c)(1) that the applicant's credits are transferrable to the school issuing the statement.

(d) *Ecclesiastical Endorsement of Chaplains.* As a prerequisite to appointment as a chaplain, an applicant must receive endorsement from an ecclesiastical endorsing agency recognized by the Armed Forces Chaplains Board. In granting ecclesiastical endorsement ecclesiastical endorsing agents are requested to use DD Form 2088.¹ Additional copies of this form may be obtained from the Executive Director, Armed Forces Chaplains Board. This endorsement shall certify that the applicant is:

(1) A fully ordained or qualified priest, rabbi, or minister of religion;

(2) Actively engaged in a denominationally approved vocation; and

(3) Recommended as being spiritually, morally, intellectually, and emotionally qualified to represent the applicant's religious body in the chaplaincy of the Armed Forces.

¹ May be obtained by writing to the Executive Director, Armed Forces Chaplain Board, OASD (MRA&L), The Pentagon, Washington, D.C. 20301.

§ 65.5 Responsibilities.

The Chief of Chaplains of each Military Service shall implement this part.

Dated: August 24, 1979.

H. E. Lofdahl,

Deputy Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

BILLING CODE 3810-70-M

Enclosure 1

ECCLESIASTICAL ENDORSEMENT/APPROVAL	
TO: CHIEF OF CHAPLAINS	DATE
NAME OF APPLICANT	
ADDRESS (include ZIP Code)	TELEPHONE NUMBER
SECTION A - CHAPLAINS	
HAS BEEN GRANTED ECCLESIASTICAL ENDORSEMENT FOR:	
☐ APPOINTMENT AS A CHAPLAIN RESERVE OFFICER OF THE USAF / USAFR / USNR ☐ EXTENDED ACTIVE DUTY, DEFINITE TERM (3 YEARS) ☐ APPOINTMENT TO THE REGULAR USA / USAF / USN ☐ EXTENDED ACTIVE DUTY, INDEFINITE TERM ☐ AUXILIARY CHAPLAIN	
THIS ENDORSEMENT CERTIFIES THAT	
a. IS A FULLY ORDAINED MEMBER OF THE CLERGY OF THE _____ (Name) _____ (Denomination) AND WAS ORDAINED AT _____ (City, State) ON _____ (Day, Month) 19 ____.	
b. IS PROFESSIONALLY QUALIFIED AND AUTHORIZED TO BE APPOINTED AS A CHAPLAIN, AND RECOMMENDED AS BEING QUALIFIED SPIRITUALLY, MORALLY, INTELLECTUALLY, AND EMOTIONALLY TO REPRESENT OUR DENOMINATION.	
c. IS ACTIVELY ENGAGED IN A DENOMINATIONALLY APPROVED RELIGIOUS VOCATION.	
d. HAS COMPLETED _____ YEARS OF ACTIVE PROFESSIONAL EXPERIENCE AFTER COMPLETION OF THE EDUCATIONAL REQUIREMENTS FOR THE CHAPLAINCY AND ORDINATION.	
SECTION B - STUDENTS	
IS ATTENDING _____ (School) AND WILL, UPON COMPLETION OF THEOLOGICAL STUDIES AND FULFILLMENT OF DENOMINATIONAL REQUIREMENTS, BECOME ELIGIBLE FOR ORDINATION. HAS BEEN GRANTED ECCLESIASTICAL APPROVAL FOR:	
☐ STAFF SPECIALIST (SEMINARIAN PROGRAM), USAF ☐ CHAPLAIN CANDIDATE PROGRAM, USAFR ☐ THEOLOGICAL STUDENT PROGRAM, USNR	
SECTION C - LAY LEADERS	
HAS BEEN GRANTED ECCLESIASTICAL APPROVAL FOR:	
☐ MILITARY LAY LEADER ☐ CIVILIAN LAY LEADER	
THIS APPROVAL CERTIFIES THAT _____ (Name) IS A LICENSED/RECOGNIZED LAY LEADER.	
COMMENTS	
NAME AND ADDRESS OF ENDORSING AGENCY	
SIGNATURE	TELEPHONE NUMBER

[FR Doc. 79-28906 Filed 8-28-79; 8:45 am]
 BILLING CODE 3810-70-C

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 52]

[FRL 1306-7]

State and Federal Administrative Orders Revising the State Implementation Plan

AGENCY: U.S. Environmental Protection Agency.

ACTION: Proposed Rulemaking; Proposed Approval of Revision to State Implementation Plan.

SUMMARY: U.S. Environmental Protection Agency proposes to approve an Illinois Pollution Control Board Order submitted by the Illinois Environmental Protection Agency (IEPA) as a revision to the State Implementation Plan (SIP). The Order was issued to Shell Oil Company on December 14, 1978 and extends the date that the company is required to bring sulfur dioxide emissions at its petroleum refinery located in Wood River, Madison County, Illinois into compliance with certain regulations contained in the federally-approved Illinois SIP. The Order extends the date to November 11, 1979. Because the Order has been issued to a major source and extends the date for meeting the sulfur dioxide emissions limitations contained in the SIP, it must be approved by USEPA before it becomes effective as a SIP revision under the Clean Air Act, 42 U.S.C. 7410. If approved by USEPA the extension will constitute a revision to the SIP. The purpose of this notice is to invite public comment on USEPA's proposed approval of the Order.

DATE: Written comments on this proposed revision to the Illinois SIP must be received on or before September 28, 1979.

ADDRESS: send comments to: Steve Rothblatt, Chief, Air Programs Branch, Air and Hazardous Materials Division, U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604.

The State Order, supporting material and public comments received in response to this Notice may be inspected and copied (for appropriate charges) at the above address during normal business hours or at: Illinois Environmental Protection Agency, 2200 Churchill Road, Springfield, Illinois 62706.

FOR FURTHER INFORMATION CONTACT: David Lueck, Air and Hazardous Materials Division, Air Programs Branch, U.S. Environmental Protection

Agency, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 886-6056.

SUPPLEMENTARY INFORMATION: In April, 1978 Shell Oil Company (Shell) purchased the Anlin Company plant which included one operating sulfur recovery unit, a sulfuric acid plant, and a new sulfur recovery plant under construction at that time. The new plant utilized a Claus Sulfur Recovery Unit (SRU-2), a unique process which was supposed to control tail-gas so as not to exceed the sulfur dioxide emissions limitations contained in Rule 204(f)(1)(A) of the Illinois Air Pollution Control Regulations, Chapter 2. Shell found the system to be mechanically unsound and made substantial modifications in an attempt to meet the sulfur dioxide (SO₂) emission limitation of two thousand parts per million on a dry basis. When tests revealed that in spite of the modifications the plant could not meet the emission limitation, Shell decided to install a Shell Claus Off-Gas Treatment Unit (SCOT Unit). Because installation of this unit takes approximately eighteen months, Shell petitioned the Illinois Pollution Control Board (IPCB) for a variance from Rule 204(f)(1)(A) until November 11, 1979, which would allow time for the construction of the SCOT unit.

A public hearing was held on October 30, 1978 in conformity with a notice and hearing requirements set forth in 40 CFR 51.4. The only individuals testifying at the hearing were those who testified on behalf of the petitioners.

After considering all the testimony and the support material, the IPCB granted the variance on December 14, 1978, by issuing IPCB Order PCB 78-190, which found that operation of the SRU-2 for the duration of the requested variance would not prevent attainment or maintenance of the ambient air quality standards for sulfur dioxide. The Order granting the variance contained the following conditions:

1. This variance shall terminate on July 1, 1979 if it is not submitted to and approved by the U.S. Environmental Protection Agency as a revision to the Illinois State Implementation Plan.
2. Shell Oil Co. shall within 45 days of the date of this Order furnish to the Illinois Environmental Protection Agency a performance surety bond in the amount of \$50,000, to be released upon timely completion of the project on November 1, 1979.
3. Shell Oil Co. shall, by November 1, 1979, apply for an operating permit for SRU-2 and submit to the Agency stack test results which show compliance with the standard.
4. Shell Oil Co. shall at least five days prior to the stack tests notify the Manager, Illinois Environmental Protection Agency Region III, 115A West Main Street,

- Collinsville, Illinois (phone number 618-345-0700) of the dates and times of the stack tests and permit Agency personnel to be present during the stack tests.
5. Shell Oil Co. shall submit progress reports on October 1, 1978; January 1, 1979; April 1, 1979; July 1, 1979; and October 1, 1979 to the Agency's Region III at Collinsville at the address mentioned in paragraph 4 above.
6. Shell Oil Co. is hereby notified that, if compliance is not achieved by July 1, 1979, it may be subject to noncompliance penalties pursuant to Section 120 of the Clean Air Act of 1977.
7. Within forty-five (days) of after (sic) the date of this Board Order Shell Oil Co. shall execute and send to: Mr. John D. Williams, Technical Advisor, 2200 Churchill Road, Springfield, Illinois 62706, a certification of acceptance of this variance by which it agrees to be bound by its terms and conditions.

On March 21, 1979, the Illinois Environmental Protection Agency submitted the Order to USEPA as a proposed revision to the Illinois SIP. Pursuant to section 110 of the Clean Air Act, the Administrator of the United States Environmental Protection Agency must approve the order of the Illinois Pollution Control Board before it may become effective. 42 U.S.C. 7410.

Whenever a State proposes to relax its State Implementation Plan by either increasing allowable emissions or by extending the date by which a source must be in final compliance, the proposed SIP revision must be supported by an air quality demonstration which shows that the relaxation will not interfere with attainment and maintenance of the National Ambient Air Quality Standards (NAAQS).

The more potential the SIP revision has for negatively impacting ambient air quality, the more rigorous the air quality demonstration must be. In determining the acceptability of the air quality demonstration, USEPA considers the following factors: the attainment status of an area in question; the increase in actual emissions, if any, which would result from the revision; the adequacy of ambient air monitoring data; and the use of supplemental control systems or other illegal dispersion enhancement techniques within the impact area of the source in question. Where the revision calls for an extension of a source's final compliance date, the duration of the proposed extension is also a factor.

The air quality demonstration submitted by the Illinois EPA in support of the Order consists of a report detailing monitored ambient air quality data from the Metropolitan St. Louis Air Quality Control Region (AQCR). The monitored data shows that NAAQS have not been exceeded in the Illinois

portion of the AQCR since 1976. USEPA considers this demonstration adequate in light of the limited duration of the Order and the absence of any proposed increase in actual emissions. Today's actions therefore proposes approval of the Order as a revision to the Illinois SIP.

All interested persons are invited to submit written comments on the proposed SIP revision and its proposed approval by USEPA. Written comments received by the date specified will be considered in determining whether EPA will approve the revision. After the public comment period, the Administrator of EPA will publish in the Federal Register the Agency's final action on the Order. (42 U.S.C. 7413, 7601).

Dated: August 20, 1979.

John McGuire,
Regional Administrator.

[FR Doc. 79-26986 Filed 8-28-79; 8:45 am]
BILLING CODE 6560-01-M

[40 CFR Part 52]

[FRL 1306-6]

Receipt of Implementation Plan Revision For the State of Rhode Island

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Receipt and Advance Notice of Proposed Rulemaking.

SUMMARY: This notice is to announce the receipt of the Inspection and Maintenance Program portion of the State Implementation Plan revision for the State of Rhode Island which is available for public review and comment.

The Inspection and Maintenance Program is an additional element to the measures for the control of air pollution contained in prior submittals of revisions to the Rhode Island SIP which were described in notices published in the Federal Register on May 29, 1979 (44 FR 30702) and on June 29, 1979 (44 FR 37960).

A Notice of Proposed Rulemaking describing the prior submittals in addition to the Inspection and Maintenance Program, and EPA's intended approval or disapproval action will be published in the Federal Register at a later date.

DATES: See Supplementary Information.

ADDRESSES: Copies of the Inspection and Maintenance Program portion of the SIP revision are available for inspection at the following addresses: Environmental Protection Agency, Region I, Air Branch, Room 1903, J.F.K.

Federal Building, Boston, Massachusetts 02203; Environmental Protection Agency, Public Information Reference Unit, 401 M Street, SW., Washington, DC 20460; and the Rhode Island Department of Environmental Management, Division of Air Resources, Cannon Building, 75 Davis Street, Providence, Rhode Island 02908.

Written comments should be sent to: Frank J. Ciavattieri, Chief, Air Branch, Environmental Protection Agency, Region I, J.F.K. Federal Building, Room 1903, Boston, Massachusetts 02203.

FOR FURTHER INFORMATION CONTACT: Frank J. Ciavattieri, Chief, Air Branch, Environmental Protection Agency, Region I, J.F.K. Federal Building, Room 1903, Boston, Massachusetts 02203, Telephone: (617)223-5609.

SUPPLEMENTARY INFORMATION: On March 3, 1978 (43 FR 8962) and on September 11, 1978, pursuant to the requirements of Section 107 of the Clean Air Act, EPA designated areas in each state as non-attainment with respect to the criteria air pollutants.

Part D of the Clean Air Act requires each state to revise its SIP to meet specific requirements in the non-attainment areas. The State of Rhode Island submitted to EPA on May 14, 1979 and June 11, 1979 revisions to its SIP for areas designated as not attaining the NAAQS for certain pollutants, and described in notices published in the Federal Register on May 29, 1979 (44 FR 30702) and on June 29, 1979 (44 FR 37960). On August 13, 1979 received the Inspection and Maintenance Program portions of the revision, as an additional element to the transportation control strategies for the control of air pollution contained in the prior submissions. EPA is currently reviewing the Inspection and Maintenance Program plan. At the completion of the review a Notice of Proposed Rulemaking describing the prior submittals in addition to the Inspection and Maintenance Program, will be published in the Federal Register proposing approval or disapproval of the revision.

All interested persons are advised that the proposed revision is available for review at the locations listed, and are invited to comment on its approvability. A file of documents explaining EPA's criteria for approval is also available at EPA offices. The proposed notice referred to above will announce the last day for public comment. This public comment period will end not less than 60 days from this date and not less than 30 days from the published date of EPA's proposal for approval or disapproval.

Dated August 20, 1979.

Rebecca W. Hanmer, Acting
Regional Administrator, Region I.

[FR Doc. 79-26986 Filed 8-28-79; 8:45 am]
BILLING CODE 6560-01-M

Notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Federal Grain Inspection Service

Official Agency Termination

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Notice and Request for Comments.

SUMMARY: This notice announces that the West Virginia Department of Agriculture's previous designation as an official inspection agency expired November 19, 1978. The Federal Grain Inspection Service requests comments from interested persons on the need for designation of a replacement agency to provide official services in West Virginia.

DATE: Comments by October 29, 1979.

FOR FURTHER INFORMATION CONTACT: J. T. Abshier, United States Department of Agriculture, Federal Grain Inspection Service, Compliance Division, 1400 Independence Avenue, SW., Room 2405, Auditors Building, Washington, D.C. 20250, (202) 447-8262.

SUPPLEMENTARY INFORMATION: Pub. L. 94-582, enacted on October 21, 1976, to amend the United States Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*) (hereinafter the "Act"), provides in Section 27 that any interior inspection agency providing service on November 20, 1976, the date on which the Act became effective, could continue to do so without a designation under the Act until the expiration of a period as determined by the Administrator, but not to exceed two years after the Act's effective date (7 U.S.C. 74 note).

The West Virginia Department of Agriculture (State) chose not to pursue meeting requirements for designation as an official agency under the Act, and accordingly the State's designation to provide official grain inspection services within the State, expired November 19, 1978.

The Administrator, Federal Grain Inspection Service (FGIS) is authorized under the provisions of the Act, to provide official inspection services where the Administrator determines official inspection is needed. (7 U.S.C. 79(h)). In recent years demand for official inspection services in West Virginia have been extremely low. FGIS requests comments from the interested public regarding the need for continuing to provide official grain inspection services in West Virginia through designation of a replacement agency. All comments should be submitted in writing and postmarked no later than October 29, 1979 to the Office of the Director, Compliance Division, Federal Grain Inspection Service, 1400 Independence Avenue, S.W., Room 2405, Auditors Building, Washington, D.C. 20250.

Official inspection services have been and will be provided by the FGIS in the area previously serviced by the State of West Virginia until such time as the necessity of a replacement agency is determined. Persons desiring official inspection services should contact Mr. Harry F. Schadlich, Field Office Supervisor, United States Department of Agriculture, Federal Grain Inspection Service, 200 Granby Mall, Room 425, Norfolk, Virginia 23510, (804) 441-3117.

In making a final determination as to the need for a replacement agency in West Virginia, consideration will be given to all comments filed and to all other information available to the Administrator. All comments submitted pursuant to this notice will be made available for public inspection at the above Office of the Director during regular hours (7 CFR 1.27b) (Sec. 8, Pub. L. 94-582, 90 Stat. 2870, (7 U.S.C. 79) Sec. 27, Pub. L. 94-582, 90 Stat. 2889 (7 U.S.C. 74 Note)).

Done in Washington, D.C. on August 24, 1979.

L. E. Bartelt,

Administrator.

[FR Doc. 79-26894 Filed 8-28-79; 8:45 am]
BILLING CODE 3410-02-M

Science and Education Administration

National Agricultural Research and Extension Users Advisory Board; Meeting

According to the Federal Advisory Committee Act of October 6, 1972 (Pub.

Federal Register

Vol. 44, No. 169

Wednesday, August 29, 1979

L. 92-463, 86 Stat. 770-776), the Science and Education Administration announces the following meeting:

Name: National Agricultural Research and Extension Users Advisory Board.

Date: September 17-19, 1979.

Time: 9:00 a.m.-12:00 Noon—September 17, 9:00 a.m.-5:00 p.m.—September 18 & 19.

Place: Farmers Union Central Exchange (CENEX) Corporate Board Room, 1185 N. Concord, South St. Paul, Minnesota.

Type of meeting: Open to the public. Persons may participate in the meeting as time and space permit.

COMMENTS: Time will be made for non-member statements on September 17, or the public may file written comments before or after the meeting with the contact person below.

PURPOSE: On September 17 the Board will hold an open forum to hear statements by food and agricultural research and extension users regarding the allocations of funds and responsibilities for research and extension for consideration in preparing its October report.

On September 18 and 19 the Board will be drafting its report to the Secretary of Agriculture regarding its recommendations as to levels of funding and allocations of responsibility in food and agricultural research and extension.

CONTACT PERSON FOR AGENDA AND MORE INFORMATION: Mr. James Meyers, Executive Secretary of the Users Advisory Board, Science and Education Administration, U.S. Department of Agriculture, Washington, D.C. 20250, telephone 202-447-3684.

Done at Washington, D.C., this 23rd day of August 1979.

James Nielson,

Executive Director, National Agricultural Research and Extension Users Advisory Board.

[FR Doc. 79-26895 Filed 8-28-79; 8:45 am]
BILLING CODE 3410-03-M

Joint Council on Food and Agricultural Sciences; Executive Committee Meeting

According to the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 86 Stat. 770-776), the Science and Education Administration announces the following meeting:

Name: Executive Committee of the Joint Council on Food and Agricultural Sciences.
Date: September 12, 1979.

Time and place: 8:30 a.m.-4:00 p.m., Room 336-A, Administration Building, U.S. Department of Agriculture, Washington, D.C.

Type of meeting: Open to the public. Persons may participate in the meeting as time and space permit.

Comments: The public may file written comments before or after the meeting with the contact person below.

Purpose: To review and discuss preparation and agenda items for the October 10-12, 1979, meeting of the Joint Council; to discuss mechanisms for setting priorities; to assess the progress in setting into place the organizational structure for planning and coordination adopted by the Joint Council; and to review plans for Joint Council efforts in integrated pest management and other priority areas.

Contact person: Dr. J. C. Torio, Executive Secretary, Joint Council on Food and Agricultural Sciences, Science and Education Administration, U.S. Department of Agriculture, Room 351-A, Administration Building, Washington, D.C. 20250, telephone (202) 447-6651.

Done at Washington, D.C., this 24th day of August 1979.

James Nielson,

Executive Director, Joint Council on Food and Agricultural Sciences.

[FR Doc. 79-26973 Filed 8-28-79; 8:45 am]

BILLING CODE 3410-03-M

CIVIL AERONAUTICS BOARD

[Order 79-8-124]

Portland-San Jose/Sacramento/San Francisco Nonstop Authority

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order to Show Cause (79-8-124).

SUMMARY: The Board is proposing to grant Portland-San Jose/Sacramento/San Francisco nonstop authority to Hughes Airwest, to grant Portland-San Jose/Reno/Sacramento/San Francisco authority to USAir (formerly Allegheny Airlines), to grant Portland-Reno/Sacramento/San Jose nonstop authority to Western Air Lines, to grant Portland-San Jose/Oakland/Reno/Sacramento/San Francisco nonstop authority to Air California, and to grant nonstop authority in any of the above markets to any other fit, willing and able applicants whose fitness can be established by officially noticeable data. The complete text of this order is available as noted below.

DATES: Objections: All interested persons having objections to the Board issuing the proposed authority shall file, and serve upon all persons listed below, no later than September 26, 1979, a statement of objections, together with a summary of testimony, statistical data,

and other material expected to be relied upon to support the stated objections. Additional Data: All existing and would-be applicants who have not filed (a) illustrative service proposals, (b) environmental evaluations, and (c) an estimate of fuel to be consumed in the first year are directed to do so no later than September 11, 1979.

ADDRESSES: Objections or Additional Data should be filed in Docket 36441, which we have entitled the *Portland-San Jose/Oakland/Reno/Sacramento/San Francisco Show-Cause Proceeding*. They should be addressed to Docket Section, Civil Aeronautics Board, Washington, D.C. 20428.

FOR FURTHER INFORMATION CONTACT: Arthur B. Wells, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428, (202) 673-5352.

SUPPLEMENTARY INFORMATION: Objections should be served upon the following persons: Air California; USAir; Hughes Airwest; Western Air Lines; the Oregon State Department of Transportation, Aeronautics Division; the California Public Utilities Commission; the Nevada Public Service Commission; the California Department of Transportation, Division of Aeronautics; and the Mayors and airport managers of Portland, San Jose, Oakland, Reno, Sacramento, and San Francisco.

The complete text of Order 79-8-124 is available from the Distribution Section, Room 516, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 79-8-124 to that address.

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 79-26961 Filed 8-29-79; 8:45 am]

BILLING CODE 6320-01-M

[Order 79-8-118]

Rich International Airways, Inc.; New Cargo and Passenger Charter Authority

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order to Show Cause: Order 79-8-118.

SUMMARY: Docket 36439. The Board proposes to grant Rich International Airways, Inc. new cargo and passenger charter authority: (1) Between points in the United States (excluding Alaska); (2) between points in the United States, on the one hand, and points in Canada,

Mexico, the Caribbean, Central America, South America, the Transpacific area, and the transatlantic area (limited to passenger authority), on the other hand; and (3) for overseas and foreign air transportation pursuant to contract with the Department of Defense. This authority is at issue in the *Former Large Irregular Air Service Investigation*, Docket 33362.

OBJECTIONS: All interested persons having objections to the Board's tentative findings and conclusions that the authority described in the order cited above should be granted, shall, no later than October 10, 1979 file a statement of such objections, accompanied by 19 copies, with the Civil Aeronautics Board. A statement of objections must cite the docket number and must include a summary of testimony, statistical data or other supporting evidence.

ADDRESS FOR OBJECTIONS: Docket, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428.

To get a copy of the complete order, request it from the C.A.B. Distribution Section, Room 516, 1825 Connecticut Ave., NW., Washington, D.C. 20428. Requests may be made by postcard.

FOR FURTHER INFORMATION CONTACT: James Casey, Office of the General Counsel, Civil Aeronautics Board, (202) 673-5792.

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 79-26960 Filed 8-28-79; 8:45 am]

BILLING CODE 6320-01-M

COMMISSION ON CIVIL RIGHTS

District of Columbia Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the District of Columbia Advisory Committee (SAC) of the Commission will convene at 10:00 am and will end at 12:30 pm, on September 14, 1979, at 2120 L Street, Washington, D.C. 20037.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Mid-Atlantic Regional Office of the Commission, 2120 L Street, NW., Room 510, Washington D.C. 20037.

The purpose of this meeting is for program planning for new projects.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington D.C., August 23, 1979.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 79-28911 Filed 8-28-79; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

Industry and Trade Administration

University of Arkansas; Consolidated Decision on Applications for Duty-Free Entry of Electron Microscopes

The following is a consolidated decision on applications for duty-free entry of electron microscopes pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301). (See especially Section 301.11(e).)

A copy of the record pertaining to each of the applications in this consolidated decision is available for public review between 8:30 a.m. and 5:00 p.m. at 666-11th Street, N.W. (Room 735), Washington, D.C.

Docket No. 79-00255. Applicant: University of Arkansas, 325 Administration Building, Fayetteville, AR 72701. Article: Electron Microscope, Model JEM-100CX with Side Entry Goniometer and Accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used to study the structure and function of biological cells and tissues. Included among these will be normal as well as diseased cells or tissues of various animals, plants, and insects; the supramolecular structure of various virus particles; serial sections of virus-induced inclusion bodies; and ultrastructural cytochemistry of diseased cells. Studies of pathogen-specific cytopathological structures and/or inclusion bodies which can be used then as a diagnostic tool are sample objectives that will be pursued. The article will also be used in the course "Introduction to Electron Microscopy" which introduces students to standard preparative techniques for both scanning and transmission electron microscopy. The emphasis is practical, with students preparing and examining their own material throughout the course. Article ordered: March 5, 1979.

Docket No. 79-00262. Applicant: University of Kentucky, Plant Pathology Department, S-305 Agricultural Science Center, N., Lexington, Kentucky 40546. Article: Electron Microscope, Model EM 400 and Accessories. Manufacturer: Philips Electronics Instruments NVD, The Netherlands. Intended use of article:

The article is intended to be used for the study of the ultrastructural aspects of plant pathogenesis. Pathogenic agents to be studied will include fungi, bacteria and viral pathogens of plants and toxins produced by these pathogens. Experiments will involve analysis of the sequence of events during infection of plants by pathogens and host responses to infection including changes in cells, subcellular organelles, and membranes. Article ordered: March 13, 1979.

Docket No. 79-00263. Applicant: National Naval Medical Center, Department of Pathology, Bethesda, Maryland 20814. Article: Electron Microscope, Model EM 10B and Accessories. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article is intended to be used for studies of the ultrastructure of diseased cells and tissues. Experiments will be conducted on diseased material to determine if there is any alteration from the normal morphology. Both qualitative measurements are to be used. Morphometric analysis of cell and organelle dimensions will serve as a basis of comparison. In addition, the article will be used in a residency training course in the Department of Pathology designed to (1) familiarize residents with the most up to date procedures and instrumentation available for diagnostic electron microscopy, (2) train residents in the basic operation of the electron microscope, (3) teach residents the skill of interpreting the information available in electron micrographs, (4) review the basic ultrastructure of normal and diseased states of specific cells tissues. Article ordered: December 28, 1978.

Docket No. 79-00265. Applicant: Letterman Army Medical Center—Department of Pathology, Building 1100, Presidio of San Francisco, San Francisco, CA 94120. Article: Electron Microscope, Model EM 10A and Accessories. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article will be used to study human tissues removed surgically or at autopsy. Research will involve studying ultrastructurally all unusual tumors and many other pathologic states. In addition, the article will be used for post doctoral training of ten residents in the medical specialty of pathology. Article ordered: March 30, 1979.

Comments: No comments have been received with respect to any of the foregoing applications.

Decision: Applications approved. No instrument or apparatus of equivalent scientific value to the foreign articles for such purposes as these articles are intended to be used, was being

manufactured in the United States at the time the articles were ordered.

Reasons: Each foreign article to which the foregoing applications relate is a conventional transmission electron microscope (CTEM). The description of the intended research and/or educational use of each article establishes the fact that a comparable CTEM is pertinent to the purposes for which each is intended to be used. We know of no CTEM which was being manufactured in the United States either at the time of order of each article described above or at the time of receipt of application by the U.S. Customs Service.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to any of the foreign articles to which the foregoing applications relate, for such purposes as these articles are intended to be used, which was being manufactured in the United States either at the time of order or at the time of receipt of application by the U.S. Customs Service.

(Catalog of Federal Domestic Assistance, Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

Richard M. Seppa,

Director, Statutory Import Programs Staff.

[FR Doc. 79-26936 Filed 8-28-79; 8:45 am]

BILLING CODE 3510-25-M

University of California—Los Alamos; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 A.M. and 5:00 P.M. at 666-11th Street, N.W., (Room 735) Washington, D.C.

Docket No. 79-00226. Applicant: University of California—Los Alamos Scientific Laboratory, P.O. Box 990, Los Alamos, NM 87545.

Article: Line Tunable Multigas Laser Model TEA 801A and Accessories.

Manufacturer: Lumonics Research Ltd., Canada. Intended use of article: The article is intended to be used for the study of multiple photodissociation cross section. The experiment to be conducted is the irradiation of polyatomic molecules with extremely high irradiation fluences. The article is to produce the required extremely high ir fluences.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides a pulse energy of 1.2 joules per line and multigas (nitrons oxide and carbon monoxide) operation. The National Bureau of Standards advises in its memorandum dated August 2, 1979 that (1) the capability of the foreign article described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Richard M. Seppa,

Director, Statutory Import Programs Staff.

[FR Doc. 79-26939 Filed 8-28-79; 8:45 am]

BILLING CODE 3510-25-M

University of California—Los Alamos; Decision on Application for Duty Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 A.M. and 5:00 P.M. at 666-11th Street, N.W. (Room 735) Washington, D.C.

Docket No.: 79-00227. Applicant: University of California—Los Alamos Scientific Laboratory, P.O. Box 990, Los Alamos, NM 87545. Article: Extended Interaction Oscillator Model VKE 249OG and Accessories. Manufacturer: Varian Associates of Canada, Canada. Intended use of article: The article is intended to be used to cause spin transitions in the electron free radical of cr^+ and thereby to induce proton spin polarization in the hydrogen content of the 1,2 propane dial. The development of proton polarization will allow the propane dial to be used as a polarized target in medium energy neutron-proton scattering experiments such as these

have not been attempted before at these energies.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides power of five watts and a frequency range of 50.0-79.9 gigahertz. The National Bureau of Standards advises in its memorandum dated August 3, 1979 that (1) the capability of the foreign article described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

Richard M. Seppa,

Director, Statutory Import Programs Staff.

[FR Doc. 79-26940 Filed 8-28-79; 8:45 am]

BILLING CODE 3510-25-M

Department of Energy; Decision on Application for Duty Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5:00 p.m. at 666-11th Street, N.W. (Room 735) Washington, D.C.

Docket No. 79-00230. Applicant: U.S. Department of Energy, EG&G Idaho, Inc., P.O. Box 1625, Idaho Falls, ID 83401. Article: Micro-Metallograph, Model MM5RT and Accessories. Manufacturer: E. Leitz Inc., West Germany. Intended use of article: The article is intended to be used for the study of radiation effects, mechanical stress, the microstructural properties and parameters of materials and their relationship to temperature and other factors. Experiments will be conducted to improve the performance and power burst reactor fuel elements through the

quantitative analysis of their microstructure and correlation with the reactor environment factors and variables.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides a gas tight, remote operating hot cell and hardness tester. The National Bureau of Standards advises in its memorandum dated July 13, 1979 that (1) the combination of capabilities of the foreign article described above is pertinent to the applicant's intended purpose and (2) it knows of no combination of domestic instruments or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Richard M. Seppa,

Director, Statutory Import Programs Staff.

[FR Doc. 79-26941 Filed 8-28-79; 8:45 am]

BILLING CODE 3510-25-M

Environmental Protection Agency; Decision on Application for Duty Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 A.M. and 5:00 P.M. at 666-11th Street, N.W. (Room 735) Washington, D.C.

Docket No. 79-00239. Applicant: U.S. Environmental Protection Agency, Environmental Sciences Research Laboratory, Environmental Research Center, Research Triangle Park, N.C. 27711. Article: Piezoelectric Aerosol Centrifuge. Manufacturer: Fraunhofergesellschaft Institute for Aerobiology, West Germany. Intended use of article: The article is intended to be used for studies of airborne pollution particles. Experiments will be carried

out to study particles emitted from stationary sources (e.g., power plants) and mobile sources (e.g., diesel-power vehicles) as well as particles in the ambient air.

These experiments will be conducted to determine variations in airborne particle size distributions and their dependence on source operating and atmospheric conditions.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign articles provides the capability to record mass distribution of aerosol particles from (0.3 to 5 microns in diameter) on a real time bases. The National Bureau of Standards advises in its memorandum dated August 6, 1979 that (1) the capability of the foreign article described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Richard M. Seppa,

Director, Statutory Import Programs Staff.

[FR Doc. 79-26943 Filed 8-28-79; 8:45 am]

BILLING CODE 3510-25-M

Geological Survey/Menlo Park; Decision on Application for Duty Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5:00 p.m. at 666-11th Street, N.W. (Room 735) Washington, D.C.

Docket No. 79-00188. Applicant: U.S. Geological Survey, 345 Middlefield Road, Menlo Park, California 94025. Article: Magnetic Susceptibility Meter. Manufacturer: Ustav uzite geofyziky,

Brno, Czechoslovakia (Geophysical Instrumentation Institute). Intended use of the article: The article is intended to be used to distinguish between the magnetite-free and magnetite-bearing intrusive rocks which are impossible to differentiate in the field by any other means.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides the capability for on site measurements directly on rocks without the need for drill core or crushed rock samples. The National Bureau of Standards advises in its memorandum dated July 12, 1979 that (1) the capability of the foreign article described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Richard M. Seppa,

Director, Statutory Import Programs Staff.

[FR Doc. 79-26937 Filed 8-28-79; 8:45 am]

BILLING CODE 3510-25-M

NBS—Washington, D.C.; Decision on Application for Duty Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 A.M. and 5:00 P.M. at 666-11th Street, N.W. (Room 735) Washington, D.C.

Docket No. 79-00249. Applicant: National Bureau of Standards, Washington, D.C. 20234. Article: Automatic Ratio Arm Bridge. Manufacturer: Automatic Systems Laboratories Ltd., United Kingdom. Intended use of article: The article is intended to be used for studies of the

thermodynamic properties of: standard reference materials (SRM's) issued by the National Bureau of Standards as secondary energy standards to calibrate (or check) reaction and heat capacity calorimeters; and key compounds (in the sense that their thermodynamic properties play a critical role in selecting values for the properties of other compounds). The experiments conducted in reaction calorimeters involve measurement of the corrected temperature rise (i.e., corrected for heat absorbed from the environment) of the calorimeter, ΔO_1 caused by the change in interval energy associated with a chemical reaction, ΔU .

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides automatic operation, high resolution (one part in 10^9 , accuracy 3 parts in 10^4 in the range 1,000 to 10,000 ohm range) and a stability of 10 times the accuracy figure. The National Bureau of Standards advises in its memorandum dated August 9, 1979 that (1) the capability of the foreign article described above is pertinent to the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Richard M. Seppa,

Director, Statutory Import Programs Staff.

[FR Doc. 79-26944 Filed 8-28-79; 8:45 am]

BILLING CODE 3510-25-M

Purdue University; Decision on Application for Duty Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5:00 p.m. at 666-11th Street, N.W. (Room 735) Washington, D.C.

Docket No. 79-00238. Applicant: Purdue University, West Lafayette, Indiana 47909. ARTICLE: Three (3) Model HI-1-00 Loading Frames, Three (3) HI-100-1 Weights, and Three (3) 1-200 Consolidometers. Manufacturer: Geonor A/S, Norway. Intended use of article: The article is intended to be used for teaching purposes in the courses CE 383 Geotechnical Engineering I, CE 582 Soil Properties and their Measurement and CE 681 Engineering Properties of Soil. Students will use the equipment for standard and quasi standard incremental loading consolidation tests. The article will also be used for the study of the consolidation properties of soft clay soil (compression index, coefficient of compressibility, and other parameters) for supplemental usage when not scheduled for teaching purposes.

Comments: No comments have been received with respect to this application.

"Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides a combination wide range (up to 1000 kilograms) loading frame and consolidometer. The National Bureau of Standards advises in its memorandum dated July 20, 1979 that (1) the combination of capabilities of the foreign article described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Richard M. Seppa,

Director, Statutory Import Programs Staff.

[FR Doc. 79-26942 Filed 8-28-79; 8:45 am]

BILLING CODE 3510-25-M

Surgical Neurology Branch NINCDS/NIH; Decision on Application for Duty Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the

regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5:00 p.m. at 666-11th Street, N.W. (Room 735) Washington, D.C.

Docket No. 79-00200. Applicant: Surgical Neurology Branch NINCDS/ National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20014. Article: LKB 2088 Ultratome V Ultramicrotome and Accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used for studies of various biological materials including normal, neoplastic and injured (post traumatic and ischemic) neurons and glia. Scientific problems to be studied will include:

1. The ultrastructural characteristics of gliomas and other types of brain tumors.

2. Quantitative ultrastructural surface and cytoplasmic characteristics of chromatolytic and regenerating neurons and quiescent, hypertrophic and mitotic post-injury microglia, oligodendroglia and astroglia.

3. Quantitative ultrastructural surface and cytoplasmic characteristics of arachnoidal cells under quiescent and various experimental conditions.

4. Surface membrane characterization of gliomas and other brain tumors.

5. Analysis of lectin and other receptor movement after alterations of membrane fluidity and cytoskeletal organization; surface and cytoplasmic events in transformation as well as nerve regeneration.

6. Quantitative analysis of fine structural changes in glioma cells after treatment with various chemotherapeutic agents such as CCNU, BCNU, phenytoin, procarbazine, methotrexate (TEM with quantitative image analysis).

Post-doctoral fellows as well as medical students and neurological and neurosurgical residents will be trained to use the instrument as part of the research training in the laboratory.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, was being manufactured in the United States at the time the foreign article was ordered (December 22, 1978).

Reasons: The foreign article has a cutting speed range of 0.1 to 50 millimeters/second (mm/sec). The MT/5000 ultramicrotome manufactured domestically by the DuPont/Sorvall Division of the DuPont Company

(Sorvall) became available on April 24, 1979. The MT/5000 has a cutting speed range of 0.1 to 38 mm/sec. However, at the time the foreign article was ordered, the most closely comparable domestic instrument was Sorvall's Model MT-2B ultramicrotome. The Sorvall Model MT-2B ultramicrotome has a cutting speed range of 0.09 to 3.2 mm/sec.

We are advised by the National Bureau of Standards in its memorandum dated June 27, 1979 that (1) cutting speeds in the excess of 4mm/sec. are pertinent to the applicant's research studies and (2) the domestic instrument does not provide the pertinent feature. We, therefore, find that the Model MT-2B ultramicrotome is not of equivalent scientific value to the foreign article for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which was being manufactured in the United States at the time the foreign article was ordered.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Richard M. Seppa,

Director, Statutory Import Programs Staff.

[FR Doc. 79-26938 Filed 8-28-79; 8:45 am]

BILLING CODE 3510-25-M

National Telecommunications and Information Administration

Grants for Planning and Construction of Public Telecommunications Facilities Program; Addendum to List of Applications Accepted for Filing

Notice is hereby given that the application of National Public Radio (NPR) for a construction grant has been accepted for filing under the provisions of Title III, Part IV of the Communications Act of 1934, as amended (47 U.S.C. 390-394, 397), and accordance with 15 CFR Part 2301.

National Public Radio, 2025 M Street, NW., Washington, D.C. 20036, File No. 568R/C790132R to improve production and distribution facilities at National Public Radio, Washington, D.C. Proposal determined acceptable: August 22, 1979. Estimated total project costs: \$556,210. Grant requested: \$417,158. Application signed by: Thomas Warnock, Executive Vice President.

This notice is an addendum to the list of applications accept for filing announced on August 8, 1979. 44 FR 46712-734. It was initially determined that NPR was ineligible for the project

proposed. Upon reviewing that decision on our own motion, it was determined that NPR is an eligible entity.

The acceptance of applications for filing is a procedure designed for making preliminary determinations of eligibility, and for providing the opportunity for public comment on applications. Acceptance of an application does not preclude subsequent return or disapproval of an application if it is found to be not in accordance with the provisions of 15 CFR Part 2301, or if the applicant fails to file any additional information requested by the Administrator, National Telecommunications and Information Administration. Acceptance for filing does not assure an application of being funded; it merely qualifies it to compete for funding with other applications which have also been accepted for filing.

Pursuant to 15 CFR 2301.11 applicants are required to publish in a newspaper of general circulation in the community to be served by the applicant, a notice that such application has been tendered to the National Telecommunications and Information Administration. The notice shall be published once a week for two consecutive weeks within the three week period following the date of this publication in the Federal Register. The notice shall contain substantially the same information concerning the application that is published in this notice of acceptance. In addition, it will include (1) information as to where within the community to be served a copy of the application, and any amendments thereto, may be inspected by the public during normal business hours, and (2) an invitation for parties supporting or opposing the application to file comments with the Administrator, National Telecommunications and Information Administration, Public Telecommunications Facilities Program, Washington, D.C. 20005, under the terms of 15 CFR 2301.14.

Section 2301.14 provides that interested parties may file comments on applications accepted for filing within 30 days of the publication in the Federal Register of the notice of acceptance.

Section 2301.37, permits the Administrator, NTIA, to waive the agency's regulations if good cause exists for the waiver. NTIA believes that good cause exists to shorten the 30 day comment period of § 2301.14 to September 13, 1979. This determination is based on the fact that in order for the NPR application to be considered in the current funding round, NTIA must evaluate and rate the application against the others that have already been accepted. Since the announcement

of grant awards and the acceptance of grants must be made before September 30, 1979, it is imperative that any comments on the applications be received promptly. Adhering to the 30 day standard of § 2301.14 would make such consideration impossible. Additionally, the late notice of acceptance was solely due to internal NTIA review of NPR's eligibility. More specifically, we initially had read section 393(b)(4) of the Act (which corresponds to Priorities III and IV of the Program) to limit improvement and augmentation grants to enhancements to the facilities of individual existing public broadcast stations. Since NPR is not a station, it was ineligible under this construction. Upon closer analysis, however, it was determined that that reading of section 393(b)(4) was too restrictive and that an applicant which is comprised stations was eligible to complete for consideration for improvement and augmentation grants.

Parties wishing to comment on the application are advised that their comments must be accompanied by a certificate demonstrating that a copy of the comments have been mailed to NPR.

(47 U.S.C. 390-394, 397)

(Catalog of Federal Domestic Assistance Program No. 11.550, Public Telecommunications Facilities Program.)

This notice issued in Washington, D.C. on August 23, 1979.

William A. Lucas,

Associate Administrator, National Telecommunications and Information Administration.

[FR Doc. 79-26957 Filed 8-28-79; 8:45 am]

BILLING CODE 3510-60-M

DEPARTMENT OF DEFENSE

Department of the Army

Intent To Prepare a Draft Environmental Impact Statement on the Congressionally Authorized Beach Erosion Control and Hurricane Protection Project from Fire Island Inlet to Montauk Point, N.Y.

AGENCY: U.S. Army Engineer District, New York, DOD.

ACTION: Notice of Intent to Prepare a Draft Environmental Impact Statement (DEIS) on the Congressionally authorized BE-HUR project along the south shore of Long Island from Fire Island Inlet to Montauk Point, New York. The DEIS will be based on reformulation studies of the authorized Federal project which were requested by CEQ.

SUMMARY: 1. History of Authorization: The project, as authorized by the Congress in 1960, would provide beach erosion control and hurricane protection along approximately 80 miles of the Atlantic coast of the south shore of Long Island. Protection would be provided by placement of sand in the form of dunes, 20 feet above Mean Sea Level, suitably planted with vegetation and placement of a berm 14 feet above mean sea level with a naturally sloped forebeach. Up to 50 groins were authorized, if conditions indicated they were necessary.

2. Currently identified alternatives for reformulation include:

- Variations in dune/berm height;
- Various geographic boundaries of protection and control;
- Placement of seawalls;
- Ring levee or enclave protection;
- Offshore breakwaters (for beach erosion only);
- Sand by-passing (for beach erosion only);
- Various levels of evacuation/condemnation;
- Flood proofing/raising structures;
- Various coastal structures;
- Various combinations of the above.

3. Corps' Scoping Process:
a. *Background.* In January 1976 the New York District, Corps of Engineers published a Final Environmental Impact Statement for the Congressionally authorized project. In March 1978, the Department of the Interior, supported by Department of Commerce and U.S.E.P.A., referred the EIS to the Council on Environmental Quality (CEQ) as unacceptable. On 6 June 1978 the CEQ sustained the referral and referred the project back to the Corps for reformulation. The main reasons cited were that plan formulation did not address all alternatives and certain environmental impacts, including geomorphic and impacts due to development were inadequately stated.

b. *Federal Interagency Coordination.* In September 1978 and February and July 1979, in-depth meetings were held at the New York District, Corps of Engineers offices with representatives of Department of the Interior, Department of Commerce, and U.S.E.P.A. attending. Departmental differences were explored at the meetings and by interim correspondence and a series of meetings, scopes of work were produced.

c. *Proposed Public Involvement Program.* A series of frameworks for scoping of the Draft EIS have been produced with a view towards avoiding an agency referral to the CEQ in the future. It is now possible to present these to affected Federal, State and local agencies, and other interested

organizations and parties and invite their input and participation. Specifically, the frameworks of the various sets of scopes of work will be presented to all interested parties, requesting constructive criticism and input. Assistance will be requested in determining what the central issues are, which alternatives are real alternatives, which proposed studies are required to concentrate on the real alternatives, which matters are peripheral only and do not warrant in-depth treatment, where most case assumptions may adequately substitute for studies, whether study time limits are desirable, and how responsibilities for portions of study should be assigned to the various interested agencies.

The first stage of the public review shall be public scoping meetings which are coincidental with the reformulation study initiation meetings. Public notices sent to addresses on a comprehensive mailing list will contain an outline of issues, alternatives and potential studies. These will also be presented at the meetings and public input shall be sought. All input shall be carefully considered by the lead agency (Corps of Engineers) and recommended course(s) of action shall be reviewed by the coordinating Federal agencies and the local cooperating agency (State of New York).

From time to time during the study, additional public meetings or mailings may be accomplished.

d. Significant Issues. The significant issues which the referring agencies have indicated should be analyzed in depth in the DEIS are synopsized below:

(1) Geomorphic Analysis. A four phase study to determine if the barrier island system of the south shore of Long Island is migrating towards the mainland.

(2) Design Reanalysis. Complete reanalysis of studies previously performed by the Corps in determining littoral drift, storm performance and design. Purpose is to verify previous work and current state of art.

(3) Fish and Wildlife Studies. Inventories, sampling, and analysis of marine (borrow area), terrestrial, and back-bay life forms to determine potential impacts.

(4) Man's Impact on Barrier Island. Various real estate and design studies oriented towards development impacts.

(5) Water Quality Studies. Groundwater and surface water studies.

(6) Aeolian (Wind) Study. The role of the wind in the sand transport system.

(7) Alternative Studies. To expand alternatives to be studied.

(8) Relationship of any project to the U.S. Department of Interior Fire Island National Seashore Area.

e. Assignment of Work. Possible assignments for input into the EIS include offers of assistance from the Department of the Interior, and the Department of Commerce, National Marine Fisheries Service. Schedules for tentative assignments of work are available upon request.

f. Time Limits. Although no time limits have officially been set, the reformulation study to follow current requirements by Federal agencies could take 4 to 8 years concluding with an EIS to EPA and also to CEQ. Input on the desirability of a time limit is solicited. Specific recommendations should address the following parameters in regard to study length:

(1) Potential for environmental harm.
(2) State of the art of analytic techniques.

(3) Public need, including consequence of delay.

(4) Availability of data and time required for obtaining additional data.

g. Other Environmental Review and Consultation Requirements.

(1) **Review by the CEQ.** In view of the June 8, 1978 CEQ referral, the recommended course(s) of action mutually agreed upon by participants shall be returned early in the study to the CEQ, requesting advice as to whether the course(s) of action fulfill CEQ directive as contained in the June 1978 referral.

(2) **Review by Local Cooperating Agency.** The local cooperating agency in this project is the State of New York, specifically, the New York State Department of Environmental Conservation (NYSDEC). The Water Resource Development Act of 1974 establishes cost sharing for the project first cost as 70 percent Federal and 30 percent non-Federal to be borne by the local cooperating agency. Since post-authorization studies, such as the proposed reformulation study, are part of the project first cost, 30 percent of the cost associated with the same is a responsibility of NYSDEC. Accordingly, a review of the course of study, identified to date is necessary by the NYSDEC.

4. Scoping Meetings: Two scoping meetings have been scheduled because of the large geographical area to be covered (approximately 80 miles E to W) and to reduce the necessary travel to the meetings. These meetings will cover the same subject matter and will be held as follows:

9 October 1979, 8:00 p.m. (Tuesday), South Hampton College, Montauk Highway, Southampton, New York.

10 October 1979, 8:00 p.m. (Wednesday), Hauppauge High School, Veterans Memorial Highway, Hauppauge, New York.

Should residual differences on scopes remain after the above meetings, it may be necessary to hold workshop sessions with the proponents of the issues in question to resolve positions.

5. Availability of DEIS: The exact date that the DEIS will be made available to the public cannot be determined at this time, since the scoping effort is not yet complete. Best estimates to the present time range from 1983 to 1986, depending on final scope.

ADDRESS: Should additional information about the proposed action (DEIS) be desired, contact the following:

Ms. Linda Monte, NANEN-E or Mr. Bruce Bergmann, Project Manager
NANEN-Cy
New York District, U.S. Army Corps of Engineers, 28 Federal Plaza, New York, New York 10007.

Dated: August 22, 1979.

Clark H. Benn,
Colonel, Corps of Engineers, District Engineer.

[FR Doc. 79-28952 Filed, 8-28-79; 8:45 am]
BILLING CODE 3710-06-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

Domestic Crude Oil Allocation Program; Entitlement Notice for June 1979

AGENCY: Department of Energy, Economic Regulatory Administration.
ACTION: June 1979 Entitlement Notice.

SUMMARY: Under the Department of Energy's (DOE) domestic crude oil allocation (entitlements) program, this is the monthly entitlement notice which sets forth the entitlement purchase or sale requirements of domestic refiners for June 1979.

DATES: Payments for entitlements required to be purchased under this notice must be made by August 31, 1979. The monthly transaction report specified in § 211.66(i) shall be filed with the DOE by September 10, 1979.

FOR FURTHER INFORMATION CONTACT: Douglas McIver (Entitlements Program Office), Economic Regulatory Administration, 2000 M Street, N.W., Room 6128I, Washington, D.C. 20461. (202) 254-8660.

Kristina Clark (Office of General Counsel), Department of Energy, Forrestal Building, 1000 Independence Avenue, S.W., Room 6A-127, Washington, D.C. 20585, (202) 252-6744.

SUPPLEMENTAL INFORMATION: In accordance with the provisions of 10

CFR § 211.67 relating to the domestic crude oil allocation program of the Department of Energy (DOE), administered by the Economic Regulatory Administration (ERA), the monthly notice specified in § 211.67(i) is hereby published.

Based on reports for June 1979 submitted to the DOE by refiners and other firms as to crude oil receipts, crude oil runs to stills, eligible product imports, middle distillate imports, and imported naphtha utilized as a petrochemical feedstock in Puerto Rico; application of the entitlement adjustment for residual fuel oil production shipped in foreign flag tankers for sale in the East Coast market provided in § 211.67(d)(4); application of the entitlement adjustments for California lower tier and upper tier crude oil provided in § 211.67(a)(4); July 1979 deliveries of crude oil for storage in the Strategic Petroleum Reserve; and application of the entitlement adjustment for small refiners provided in § 211.67(e), the national domestic crude oil supply ratio for June 1979 is calculated to be .220033.

In accordance with § 211.67(b)(2), to calculate the number of barrels of deemed old oil included in a refiner's adjusted crude oil receipts for the month of June 1979, each barrel of old oil is equal to one barrel of deemed old oil and each barrel of upper tier crude oil is equal to .474601 of a barrel of deemed old oil.

The issuance of entitlements for the month June 1979 to refiners and other firms is set forth in the Appendix to this notice. The Appendix lists the name of each refiner or other firm to which entitlements have been issued, the number of barrels of deemed old oil included in each such refiner's adjusted crude oil receipts, the number of entitlements issued to each such refiner or other firm, and the number of entitlements required to be purchased or sold by each such refiner or other firm.

Pursuant to 10 CFR § 211.67(i)(4), the price at which entitlements shall be sold and purchased for the month of June 1979 is hereby fixed at \$13.70, which is the exact differential as reported for the month of May between the weighted average per barrel costs to refiners of old oil and of imported and exempt domestic crude oil, less the sum of 21 cents.

In accordance with 10 CFR § 211.67(b) each refiner that has been issued fewer entitlements for the month of June 1979 than the number of barrels of deemed old oil included in its adjusted crude oil receipts is required to purchase a number of entitlements for the month of June 1979 equal to the difference

between the number of barrels of deemed old oil included in those receipts and the number of entitlements issued to and retained by that refiner. Refiners which have been issued a number of entitlements for the month of June 1979 in excess of the number of barrels of deemed old oil included in their adjusted crude oil receipts for that month and other firms issued entitlements shall sell such entitlements to refiners required to purchase entitlements. In addition, certain refiners are required to purchase or sell entitlements to effect corrections for reporting errors for the months September 1975 through May 1979 pursuant to 10 CFR § 211.67(j)(1).

The listing of refiners' old oil receipts contained in the Appendix reflects any adjustments made by ERA pursuant to § 211.67(h).

The listing contained in the Appendix identifies in a separate column labeled "Exceptions and Appeals" additional entitlements issued to refiners pursuant to relief granted by the Office of Hearings and Appeals (prior to March 30, 1978, the Office of Administrative Review of the Economic Regulatory Administration). Also set forth in this column are adjustments for relief granted by the Office of Hearings and Appeals for 1975 and 1976, which adjustments are reflected in monthly installments. The number of installments is dependent on the magnitude of the adjustment to be made. For a full discussion of the issues involved, see *Beacon Oil Company, et al.*, 4 FEA par. 87,024 (November 5, 1976).

The listing contained in the Appendix continues the "Consolidated Sales" entry initiated in the October 1977 entitlement notice. The "Consolidated

Sales" entry is equal to the June 1979 entitlement purchase requirement of Arizona Fuels. The purpose of providing for the "Consolidated Sales" entry is to ensure that Arizona Fuels is not relieved of its June 1979 entitlement purchase requirement and that no one firm will be unable to sell its entitlements by reason of a default by Arizona Fuels. For a full discussion of the issues involved, see *Entitlement Notice for October 1977* (42 FR 64401, December 23, 1977).

For purposes of § 211.67(d) (6) and (7), which provide for entitlement issuances to refiners or other firms for sales of imported crude oil to the United States Government for storage in the Strategic Petroleum Reserve, the number of barrels sold to the Government totaled 1,520,879 barrels.

For the month of June 1979, imports of residual fuel oil eligible for entitlements issuances totaled 20,107,680 barrels.

For the month of June 1979, imports of middle distillates eligible for entitlement issuances totaled 1,231,388 barrels.

In accordance with § 211.67(a)(4), the number of barrels of California lower tier and upper crude oil as reported by refiners to the DOE, and the weighted average gravity thereof are as follows:

	Volumes	Weighted average gravity
California Lower Tier Crude Oil	7,821,715	18*
California Upper Tier Crude Oil	8,060,219	20*

The total number of entitlements required to be purchased and sold under this notice is 21,325,107.

Based on reports submitted to the DOE by refiners as to their adjusted crude oil receipts for June 1979, the pricing composition and weighted average costs thereof are as follows:

	Volumes	Weighted average cost	Percent of total volumes*
Lower Tier	70,356,093	\$6.47	14.8
Upper Tier	93,651,625	13.66	19.7
Exempt Domestic:			
Alaskan	32,258,891	16.48	6.8
Stripper	45,818,315	20.29	9.6
Naval Petroleum Reserve	3,156,746	18.06	0.7
Tertiary	38,574	13.48	0.01
Newly Discovered	1,407,538	22.23	0.3
Total Domestic	246,787,782	13.29	51.6
Total Imported (incl. SPR)	229,622,658	21.00	48.2
Total Reported Crude Oil Receipts	476,410,440	17.00	100.0
Total Reported Crude Oil Runs to Stills	467,731,749		
Total Uncontrolled (Exempt Domestic and Imported)	312,402,722	\$0.37	65.6

*Volumes may not add due to rounding.

Payment for entitlements required to be purchased under 10 CFR § 211.67(b) for June 1979 must be made by August 31, 1979.

On or prior to September 10, 1979,

each firm which is required to purchase or sell entitlements for the month of June 1979 shall file with the DOE the monthly transaction report specified in 10 CFR § 211.66(i) certifying its purchases and sales of entitlements for the month of

June. The monthly transaction report forms for the month June have been mailed to reporting firms. Firms that have been unable to locate other firms for required entitlement transactions by August 31, 1979 are requested to contact the ERA at (202) 254-3336 to expedite consummation of these transactions. For firms that have failed to consummate

required entitlement transactions on or prior to August 31, 1979, the ERA may direct sales and purchases of entitlements pursuant to the provisions of 10 CFR § 211.67(k). This notice is issued pursuant to Subpart G, 10 CFR Part 205. Any person aggrieved hereby may file an appeal with the Office of Hearings and Appeals

in accordance with Subpart H of 10 CFR Part 205. Any such appeal shall be filed on or before September 28, 1979.

Issued in Washington, D.C., on August 20, 1979.

Barton R. House,
Deputy Administrator for Operations and
Emergency Management, Economic
Regulatory Administration.

Appendix.—Entitlements for Domestic Crude Oil, June 1979

Reporting firm short name	Deemed old oil adjusted receipts	Total issued	Exceptions and appeals	Entitlement position		Required to buy	Required to sell
				Product	California		
Consolid-Sales	\$67,466	0	0	0	0	0	167,466
A-Johnson	0	121,450	0	0	0	0	121,450
Allied	50,971	60,549	0	0	0	0	9,578
Amer Petrofina	1,228,074	927,266	0	0	0	300,808	0
Amerada-Hess	1,242,931	3,820,151	0	175,908	0	2,877,220	0
Amoco	9,907,100	7,066,936	0	0	0	2,840,164	0
Anchor	8,621	58,945	0	0	2,474	0	50,224
Arco	3,363,248	5,136,447	0	0	20,426	0	1,773,199
Arizona	98,007	30,541	0	0	0	67,466	0
Asamera	49,099	118,710	0	0	0	0	69,611
Ashland	1,336,038	2,642,812	0	0	0	0	1,306,774
Basin	33,782	107,915	0	0	6,614	0	74,133
Bayou	37,965	96,362	0	0	0	1,583	0
Beacon	183,288	106,302	-12,435	0	17,765	76,998	0
Belcher	0	119,849	0	119,849	0	0	119,849
Bi-Petro	69,081	189,793	0	0	0	0	120,712
Brun	50,105	106,627	0	0	0	0	56,722
C&H	434	211	0	0	0	223	0
Calcasieu	100,134	63,571	0	0	0	36,563	0
Calumet	17,854	20,598	0	0	0	0	2,744
Canal	90,848	46,590	0	0	0	44,258	0
Carbonit	78,638	65,652	0	0	0	12,986	0
Caribou	68,214	50,158	0	0	6,104	18,058	0
Champion	1,556,765	1,149,774	0	0	22,975	406,991	0
Charter	698,331	506,506	54,308	0	0	191,825	0
Chevron	6,335,035	6,891,261	55,343	13,774	246,271	0	556,226
Cibro	0	201,918	0	33,696	0	0	201,918
Cirgo	1,594,535	1,740,735	0	0	0	146,200	0
Claborne	64,158	27,393	0	0	0	36,783	0
Clark	362,880	641,307	0	0	0	0	278,427
Coastal	274,338	1,454,580	139,596	58,544	0	0	1,180,242
Colonial	0	60,100	0	60,100	0	0	60,100
Conoco	2,861,610	2,427,241	0	23,958	92,748	434,369	0
Consumers Power	0	63,434	0	63,434	0	0	63,434
Coral	0	194,681	0	0	0	0	194,681
Corco	0	1,191,816	1301,506	315,575	0	0	1,191,816
CRA-Farmland	401,376	590,204	0	0	0	0	188,828
Cross	54,011	87,741	0	0	0	0	13,730
Crown	319,215	671,933	0	0	0	0	353,718
Crystal-Oil	119,515	95,696	0	0	0	23,819	0
Crystal-Ref	0	18,103	0	0	0	0	18,103
Delta	175,526	327,203	0	0	0	0	151,577
Demingo	18,919	70,443	0	0	4,431	0	51,524
Detroit-Ed	0	38,988	0	38,988	0	0	38,988
DFSC	0	711	0	711	0	0	711
Diamond	571,830	312,722	0	0	0	259,159	0
Dillman	0	465	0	0	0	0	465
Dorchester	14,643	175,345	0	0	0	0	160,702
Dow	68,998	38,160	0	0	0	30,838	0
E-Seaboard	0	48,252	0	48,252	0	0	48,252
ECO	43,751	63,007	0	0	8,391	0	19,256
Eddy	47,522	30,605	0	0	0	16,917	0
Energy Coop	0	689,176	6,979	0	0	0	689,176
Enterprise	0	3,521	0	3,521	0	0	3,521
Ergon	19,762	75,698	0	0	0	0	55,924
Enckson	3,400	79,934	0	0	0	0	75,534
Evangeline	43,013	26,345	0	0	0	18,068	0
Exxon	9,072,472	9,570,272	237,326	475,342	0	0	497,800
EZ-Serve	16,485	31,706	0	0	0	0	15,221
Farmers Un	209,607	232,894	0	0	0	0	63,087
Fletcher	26,927	216,383	0	0	4,481	0	189,458
Flint	3,962	8,163	0	0	0	0	2,201
Friendswood	76,101	54,941	0	0	0	21,160	0
Funding	68,811	38,382	0	0	0	30,429	0
Gary	183,407	98,154	0	0	0	85,253	0
Getty	1,304,425	1,282,964	0	0	0	21,461	0
Giant	44,224	41,841	0	0	0	2,383	0
Glacier Park	102,596	36,145	0	0	0	66,441	0
Gladieux	49,615	50,408	0	0	0	0	873

Appendix.—Entitlements for Domestic Crude Oil, June 1979—Continued

Reporting firm short name	Deemed old oil adjusted receipts	Total issued	Exceptions and appeals	Entitlement position		Required to buy	Required to sell
				Product	California		
Golden-Eagle	0	112,851	0	0	0	0	112,851
Golding	224,472	123,332	0	0	0	101,140	0
Good-Hope	64,382	229,976	0	0	0	0	165,594
Guam	0	225,010	0	0	0	0	225,010
Gulf	7,871,983	5,912,815	3,649	31,049	48,677	1,959,168	0
Hall-Dist	0	29	129	0	0	0	29
Hin	0	300,328	0	0	0	0	300,328
Howell	247,701	241,802	0	0	0	6,899	0
Hudson-Oil	33,999	135,127	0	0	0	0	101,128
Hunt	240,295	220,744	0	0	0	19,551	0
Husky	576,355	576,355	236,405	0	0	0	0
Independent-Ref	0	103,326	0	0	0	0	103,326
Indiana-Farm	36,751	154,220	0	0	0	0	115,469
Inter-Fuel	2,915	19,762	0	0	0	0	16,867
Irving	0	153,606	0	0	0	0	153,606
Kenco	0	27,142	0	27,142	0	0	27,142
Kentucky	50,426	38,693	0	0	0	11,733	0
Kern	17,022	8,147	0	0	0	8,875	0
Kerr-McGee	313,349	265,763	78,765	0	25,943	47,586	0
Koch	1,208,688	867,840	0	0	0	340,848	0
Laguna	580,368	815,345	0	47,182	0	0	234,977
Lakeside	398,198	288,257	0	0	0	110,931	0
Laketon	36,981	24,934	0	0	0	12,047	0
Little-Amer	186,334	183,610	104,925	0	0	2,724	0
Louisiana-Land	1,621,239	514,180	40,649	0	0	1,107,059	0
Macmillan	556,093	290,190	0	0	0	267,903	0
Marathon	76,957	106,484	0	0	7,419	0	29,527
Marion	5,148,045	3,171,619	0	0	0	1,576,426	0
Metropolitan	74,428	154,083	0	0	0	79,655	0
Mid-Amer	0	77,039	0	77,039	0	0	77,039
Mobile Bay	1,014	28,478	0	0	0	0	22,464
Mobil	6,189,188	5,882,732	0	22,522	245,860	1,848,406	0
Monterey	0	158,612	0	0	0	0	158,612
Motilman	24	92,315	0	0	0	0	52,291
Pencho-Ref	8,428	10,156	0	0	0	0	1,728
Raymal	8,104	17,904	0	0	0	0	8,800
Richards	188	66,063	0	0	0	0	66,860
Road-Oil	0	84	0	0	0	0	84
Rock-Island	114,568	272,270	0	0	0	0	157,737
Seber-Tex	34,288	146,302	0	0	0	0	108,034
Sebro-Cal	48,028	73,871	0	0	5,466	0	25,848
Sage Creek	4,689	2,781	0	0	0	1,916	0
San-Joaquin	245,583	188,188	0	0	59,258	36,565	0
Scallops	0	217,184	0	217,184	0	0	217,184
Scanlon	0	30,741	0	30,741	0	0	30,741
Schutze	16,152	10,591	0	0	0	7,561	0
Seaview	0	64,839	0	0	0	0	64,839
Sector	46,852	26,619	0	0	0	20,233	0
Seminole	5,416	92,504	0	0	0	0	83,086
Sentry	20,907	206,590	110,080	0	1,585	0	185,683
Shell	9,123,100	6,336,280	0	0	265,708	2,786,820	0
Shepherd	528	65,545	0	0	0	0	65,017
Sigmar	15,024	162,087	0	0	0	0	147,063
Silver-Eagle	1,139	720	0	0	0	419	0
Slapco	144,089	76,760	0	0	0	67,329	0
So-Hampton	11,126	74,884	0	0	0	0	63,758
Sohio	1,281,018	2,944,255	0	0	0	0	1,663,237
Somerset	23,377	24,779	0	0	0	0	1,402
Sound	21,838	65,283	0	0	5,015	0	43,445
Southern-Union	214,683	229,706	0	0	0	0	15,023
Southland	428,170	234,090	51,693	0	0	184,080	0
Southwestern	5,904	5,219	0	0	0	685	0
Sprague	0	79,079	0	79,079	0	0	79,079
Sunland	15,574	93,592	0	0	3,892	0	78,018
Sunoco	3,739,030	3,648,826	8,296	0	0	80,204	0
Swann	0	22,012	0	22,012	0	0	22,012
T&S	36,715	41,370	0	0	0	0	4,655
Tahawk	425,912	283,998	54,806	0	36,482	141,914	0
Monoco	0	8,302	0	8,302	0	0	8,302
Monsanto	186,856	245,287	0	0	0	0	58,431
Morrison	22,852	8,790	0	0	0	14,062	0
Mountaineer	5,027	1,990	0	0	0	3,037	0
Mt-Airy	134,965	115,268	0	0	0	18,697	0
Murphy	1,050,897	762,632	0	0	0	286,265	0
N-Amer-Petro	118,408	204,077	0	0	31,175	0	84,669
Natl-Coop	238,449	386,572	0	0	0	0	148,123
Nevajo	369,828	217,436	0	0	0	152,480	0
Nevada	36,520	23,690	0	0	0	0	0
New-Edginton	487,556	328,394	45,782	0	92,399	159,162	0
New-Engl-Petro	0	296,215	0	296,215	0	0	296,215
Newhall	149,382	136,060	0	0	17,778	13,322	0
Northeast-Petro	0	2,433	0	2,433	0	0	2,433
Northland	36,456	36,456	25,294	0	0	0	0
Northville	0	51,843	0	51,843	0	0	51,843

Appendix.—Entitlements for Domestic Crude Oil; June 1979—Continued

Reporting firm short name	Deemed old oil adjusted receipts	Total issued	Exceptions and appeals	Entitlement position		Required to buy	Required to sell
				Entitlements	Product		
OKC	149,839	169,424	0	0	0	0	19,585
Okla-Ref	90,783	100,393	0	0	0	0	9,605
Oxnard	13,752	29,237	0	0	3,111	0	15,485
Peerless	0	42,074	0	0	0	0	42,074
Pemex	0	334,844	0	0	0	0	334,844
Pennzoil	419,112	353,990	0	0	0	65,152	0
Pester	162,324	192,748	0	0	0	0	30,424
Phillips	2,641,641	1,935,858	0	0	0	735,763	0
Phillips-PR	0	193,834	0	193,834	-103	0	193,834
Pioneer	73,891	49,611	0	0	0	24,070	0
Placid	548,191	301,300	0	0	0	246,891	0
Plateau	204,173	177,171	0	0	0	27,002	0
Port	12,305	13,365	0	0	0	0	1,060
Powerline	232,031	278,823	0	0	38,925	0	46,792
Prude	165,247	97,614	0	0	0	67,633	0
Quad	0	31,514	0	0	90	0	31,138
Quaker-St	51,840	204,221	0	0	0	0	152,581
Tennco	1,310,617	818,230	0	0	9,073	692,397	0
Tesoro	287,252	492,704	0	0	0	0	205,452
Texaco	8,289,395	6,715,602	177,118	152,264	172,625	1,572,793	0
Texas-American	97,403	65,165	0	0	0	32,243	0
Texas-Aspen	36,941	8,317	0	0	0	29,624	0
Texas-City	579,168	652,739	0	0	0	0	73,571
Thagard	193,233	134,169	4,538	0	33,776	56,064	0
Thriftway	56,053	35,492	0	0	0	20,571	0
Thunderbird	61,679	75,138	0	0	0	0	13,457
Tipperary	70,292	45,837	0	0	0	24,645	0
Tonkawa	81,832	53,465	0	0	0	28,387	0
Tosco	1,881,237	1,398,301	0	0	250,510	432,338	0
Total-Petroleum	416,102	605,874	0	0	0	0	189,772
UCC-Caribee	0	172,223	0	172,223	0	0	172,223
Un-Ref	0	196,645	0	0	0	0	196,645
Unon-Oil	4,098,773	3,070,344	0	0	167,019	1,026,429	0
Unid-Ref	111,674	215,832	0	0	0	0	104,153
US-Oil	21,883	146,998	0	0	3,370	0	125,115
USA-Petrochem	38,358	152,891	0	0	5,140	0	114,533
Val-Verde	4,858	3,471	0	0	0	1,387	0
Vickers	191,725	433,762	0	0	0	0	248,036
Vicksburg	7,056	50,323	0	0	0	0	43,267
Waller	0	10,782	0	10,782	0	0	10,782
Warrior	64,852	32,740	10,715	0	0	32,112	0
West-Coast	65,530	64,744	0	0	16,034	836	0
Western	95,432	67,585	0	0	0	27,847	0
Winston	99,782	117,431	0	0	0	0	17,649
Wireback	0	523	0	0	0	0	523
Witco	63,150	160,830	0	0	9,385	0	97,680
Wyatt	0	20,317	0	20,317	0	0	20,317
Wyoming	50,301	124,961	0	0	0	0	74,660
Yetter	0	493	0	0	0	0	493
Young	63,789	44,171	19,471	0	0	19,618	0
Total	112,451,135	112,451,135	1,594,838	2,893,614	1,988,069	21,325,107	21,325,107

See discussion in Notice.

Entitlements issued pursuant to the regulation issued July 24, 1979 (44 FR 31162 May 31, 1979) which provides entitlements benefits for imports of middle distillates for the months May 1979 through August 1979.

Authorization to sell these entitlements to subject to conditions set forth in a DOE Decision and Order issued to Commonwealth Oil and Refining Company on March 20, 1978.

This is consistent with the court's order prohibiting any further entitlement purchase requirements by this firm pursuant to the terms of the court's judgment in *Husky Oil Co. v. DOE, et al.*, Civ. Action No. C77-190-B (D. Wyo., filed March 14, 1978), remanded, F.2d (No. 10-18 TECA, August 10, 1978).

Includes entitlements issued for sales of imported crude oil to the United States Government for storage in the Strategic Petroleum Reserve.

This does not include the purchase obligation stayed by court order in *Texas Asphalt & Refinery Co. v. FEA*, Civ. Action No. 4-75-268 (N.D. Tex., filed October 31, 1975).

[FR Doc. 79-26641 Filed 8-23-79, 10:05 am]

BILLING CODE 6450-01-M

[ERA Docket No. 79-CERT-070]

Anchor Hocking Corp.

Certification of Eligible Use of Natural Gas To Displace Fuel Oil

Anchor Hocking corporation (Anchor Hocking) filed an application for certification of an eligible use of natural gas to displace fuel oil at its glass manufacturing plant in Winchester,

Indiana, with the Administrator of the Economic Regulatory Administration pursuant to 10 CFR Part 595 on July 23, 1979. Notice of that application was published in the Federal Register (44 FR 45938, August 6, 1979) and an opportunity for public comment was provided for a period of ten (10) calendar days from the date of publication. No comments were received.

The Administrator has carefully reviewed Anchor Hocking's application in accordance with 10 CFR Part 595 and

the policy considerations expressed in the Interim-Final Rulemaking Regarding Procedures for Certification of the Use of Natural Gas for Fuel Oil Displacement (44 FR 20398, April 5, 1979). The Administrator has determined that Anchor Hocking's application satisfies the criteria enumerated in 10 CFR Part 595, and, therefore, has granted the certification and transmitted that certification to the Federal Energy Regulatory Commission. A copy of the transmittal letter and the actual certification are appended to this notice.

Issued in Washington, D.C. August 20, 1979.

Barton R. House,
Deputy Administrator, Economic Regulatory Administration.

Appendix I

Certification by the Economic Regulatory Administration to the Federal Energy Regulatory Commission of the Use of Natural Gas for Fuel Oil Displacement by the Anchor Hocking Corporation

ERA Docket No. 79-CERT-070

Application for Certification

Pursuant to 10 CFR Part 595, Anchor Hocking Corporation (Anchor Hocking) filed an application for certification of an eligible use of up to 3,200 Mcf of natural gas per day at its glass manufacturing plant in Winchester, Indiana, with the Administrator of the Economic Regulatory Administration (ERA) on July 23, 1979. The application states that the eligible sellers of the gas are the Gas Transport, Inc. and Carl E. Smith, Inc. and that the gas will be transported by the Columbia Gas Transmission Corporation and Panhandle Eastern Pipeline Company. The application and supplemental information indicate, among other things, that the natural gas will be used to displace approximately 198,400 barrels of No. 2, No. 4, and No. 6 fuel oil (.3 to 2.7 percent sulfur) per year and that neither the gas nor the displaced fuel oil will be used to displace coal in the applicant's facilities.

Certification

Based upon a review of the information contained in the application, as well as other information available to ERA, the Administrator hereby certifies, pursuant to 10 CFR Part 595, that the use of up to 3,200 Mcf of natural gas per day at Anchor Hocking's glass manufacturing plant in Winchester, Indiana, purchased from Gas Transport, Inc. and Carl E. Smith, Inc. is an eligible use of gas within the meaning of 10 CFR Part 595.

Effective Date

This certification is effective upon the date of issuance, and expires one year from that date, unless a shorter period of time is required by 18 CFR Part 284, Subpart F. It is effective during this period of time for the use of up to the same certified volume of natural gas at the same facilities purchased from the same eligible sellers.

Issued in Washington, D.C. on August 20, 1979.

Barton R. House,
Deputy Administrator, Economic Regulatory Administration.

[FR Doc. 79-26786 Filed 8-28-79, 8:45 am]

BILLING CODE 6450-01-M

[ERA Docket No. 79-CERT-062]

Gulf States Utilities Co.,

Certification of Eligible Use of Natural Gas To Displace Fuel Oil

Gulf States Utilities Company (Gulf States) filed an application for certification of an eligible use of natural gas to displace fuel oil at its Roy S. Nelson Generating Station in Westlake, Louisiana, with the Administrator of the Economic Regulatory Administration pursuant to 10 CFR Part 595 on July 10, 1979. Notice of that application was published in the Federal Register (44 FR 45239, August 1, 1979) and an opportunity for public comment was provided for a period of ten (10) calendar days from the date of publication. No comments were received.

The Administrator has carefully reviewed Gulf States' application in accordance with 10 CFR Part 595 and the policy considerations expressed in the Interim-Final Rulemaking Regarding Procedures for Certification of the Use of Natural Gas for Fuel Oil Displacement (44 FR 20398, April 5, 1979). The Administrator has determined that Gulf States' application satisfies the criteria enumerated in 10 CFR Part 595, and, therefore, has granted the certification and transmitted that certification to the Federal Energy Regulatory Commission. A copy of the transmittal letter and the actual certification are appended to this notice.

Issued in Washington, D.C. August 17, 1979.

Barton R. House,
Deputy Administrator, Economic Regulatory Administration.

Appendix I

Certification by the Economic Regulatory Administration to the Federal Energy Regulatory Commission of the Use of Natural Gas for Fuel Oil Displacement by the Gulf States Utilities Company

ERA Docket No. 79-CERT-062

Application for Certification

Pursuant to 10 CFR Part 595, Gulf States Utilities Company (Gulf States) filed an application for certification of an eligible use of up to 40,000 Mcf of natural gas per day at its Roy S. Nelson Generating Station in Westlake, Louisiana, with the Administrator of the

Economic Regulatory Administration (ERA) on July 10, 1979. The application states that the eligible sellers of the gas are the Louisiana Resources Company and the Louisiana Intrastate Gas Corporation and that the gas will be transported by the United Gas Pipeline Company. The application and supplemental information indicate, among other things, that the natural gas will be used to displace approximately 8,425 barrels of No. 6 fuel oil (.7% sulfur) per day, and that neither the gas nor the displaced fuel oil will be used to displace coal in the applicant's facilities.

Certification

Based upon a review of the information contained in the application, as well as other information available to ERA, the Administrator hereby certifies, pursuant to 10 CFR Part 595, that the use of up to 40,000 Mcf of natural gas per day at Gulf States' Roy S. Nelson Generating Station purchased from the Louisiana Resources Company and the Louisiana Intrastate Gas Corporation is an eligible use of gas within the meaning of 10 CFR Part 595.

Effective Date

This certification is effective upon the date of issuance, and expires one year from that date, unless a shorter period of time is required by 18 CFR Part 284, Subpart F. It is effective during this period of time for the use of up to the same certified volume of natural gas at the same facilities purchased from the same eligible sellers.

Issued in Washington, D.C. on August 17, 1979.

Barton R. House,
Deputy Administrator, Economic Regulatory Administration.

[FR Doc. 79-26784 Filed 8-28-79, 8:45 am]

BILLING CODE 6450-01-M

[ERA Docket No. 79-CERT-068]

PPG Industries, Inc.

Certification of Eligible Use of Natural Gas To Displace Fuel Oil

PPG Industries, Inc. (PPG) filed an application for certification of an eligible use of natural gas to displace fuel oil at its Lexington Plant, Lexington, North Carolina, and its Shelby Plant, Shelby, North Carolina, with the Administrator of the Economic Regulatory Administration pursuant to 10 CFR Part 595 on July 16, 1979. Notice of that application was published in the Federal Register (44 FR 45989, August 6, 1979) and an opportunity for public comment was provided for a period of ten (10) calendar days from the date of

publication. No comments were received.

The Administrator has carefully reviewed PPC's application in accordance with 10 CFR Part 595 and the policy considerations expressed in the Interim-Final Rulemaking Regarding Procedures for Certification of the Use of Natural Gas for Fuel Oil Displacement (44 FR 20398, April 5, 1979). The Administrator has determined that PPC's application satisfies the criteria enumerated in 10 CFR Part 595, and, therefore, has granted the certification and transmitted that certification to the Federal Energy Regulatory Commission. A copy of the transmittal letter and the actual certification are appended to this notice.

Issued in Washington, D.C., August 17, 1979.

Barton R. House,

Deputy Administrator, Economic Regulatory Administration.

Appendix I

Certification by the Economic Regulatory Administration to the Federal Energy Regulatory Commission of the Use of Natural Gas for Fuel Oil Displacement by the PPG Industries, Inc.—ERA Docket No. 79-CERT-068

Application for Certification

Pursuant to 10 CFR Part 595, PPC Industries, Inc. (PPC) filed an application for certification of an eligible use of up to 1,000 Mcf of natural gas per day at its Lexington Plant, Lexington, North Carolina, and up to 1,000 Mcf of natural gas per day at its Shelby Plant, Shelby, North Carolina, with the Administrator of the Economic Regulatory Administration (ERA) on July 16, 1979. The application states that the eligible seller of the gas is David S. Towner Enterprises and that the gas will be transported by the Columbia Gulf Transmission Company, the Columbia Gas Transmission Company, and the Transcontinental Gas Pipe Line Corporation. The application and supplemental information indicate, among other things, that the combined use of natural gas at both plants will displace approximately 3,000,000 gallons of No. 2 fuel oil (less than .5% sulfur) per year and that neither the gas nor the displaced fuel oil will be used to displace coal in the applicant's facilities.

Certification

Based upon a review of the information contained in the application, as well as other information available to ERA, the Administrator hereby certifies, pursuant to 10 CFR Part 595, that the use of up to 1,000 Mcf of natural gas per day at PPC's Lexington Plant and up to 1,000 Mcf of natural gas per day at PPC's Shelby Plant purchased from David S. Towner Enterprises is an eligible

use of gas within the meaning of 10 CFR Part 595.

Effective Date

This certification is effective upon the date of issuance, and expires one year from that date, unless a shorter period of time is required by 18 CFR Part 284, Subpart F. It is effective during this period of time for the use of up to the same certified volumes of natural gas at the same facilities purchased from the same eligible seller.

Issued in Washington, D.C. on August 20, 1979.

Barton R. House,

Deputy Administrator, Economic Regulatory Administration.

[FR Doc. 79-26785 Filed 8-28-79; 8:45 am]

BILLING CODE 6450-01-M

[ERA Docket No. 79-CERT-045]

Western Massachusetts Electric Co.

Certification of Eligible Use of Natural Gas To Displace Fuel Oil

Western Massachusetts Electric Company (Western Mass) filed an application for certification of an eligible use of natural gas to displace fuel oil at its West Springfield Station, West Springfield, Massachusetts, with the Administrator of the Economic Regulatory Administration pursuant to 10 CFR Part 595 on June 15, 1979. Notice of that application was published in the Federal Register (44 FR 45438, August 2, 1979) and an opportunity for public comment was provided for a period of ten (10) calendar days from the date of publication. No comments were received.

The Administrator has carefully reviewed Western Mass' application in accordance with 10 CFR Part 595 and the policy consideration expressed in the Interim-Final Rulemaking Regarding Procedures for Certification of the Use of Natural Gas for Fuel Oil Displacement (44 FR 20398, April 5, 1979). The Administrator has determined that Western Mass' application satisfies the criteria enumerated in 10 CFR Part 595, and, therefore, has granted the certification and transmitted that certification to the Federal Energy Regulatory Commission. A copy of the transmittal letter and the actual certification are appended to this notice.

Issued in Washington, D.C. August 17, 1979.

Barton R. House,

Deputy Administrator, Economic Regulatory Administration.

Appendix I

Certification by the Economic Regulatory Administration to the Federal Energy Regulatory Commission of the Use of Natural Gas for Fuel Oil Displacement by the Western Massachusetts Electric Co.—ERA Docket No. 79-CERT-045

Application for Certification

Pursuant to 10 CFR Part 595, Western Massachusetts Electric Company (Western Mass) filed an application for certification of an eligible use of up to 450,000 Mcf of natural gas at its West Springfield Station, West Springfield, Massachusetts, with the Administrator of the Economic Regulatory Administration (ERA) on June 15, 1979. The application states that the eligible seller of the gas is the Fitchburg Gas and Electric Light Company (Fitchburg) and that the gas will be transported by the Tennessee Gas Pipeline Company. The application and supplemental information indicate, among other things, that the natural gas will be used to displace approximately 73,500 barrels of No. 6 fuel oil (2.2% sulfur) from July 15, 1979–October 31, 1979 and that neither the gas nor the displaced fuel oil will be used to displace coal in the applicant's facilities.

Certification

Based upon a review of the information contained in the application, as well as other information available to ERA, the Administrator hereby certifies, pursuant to 10 CFR Part 595, that the use of up to 450,000 Mcf of natural gas at Western Mass' West Springfield Station purchased from Fitchburg is an eligible use of gas within the meaning of 10 CFR Part 595.

Effective Date

This certification is effective upon the date of issuance, and expires one year from that date, unless a shorter period of time is required by 18 CFR Part 284, Subpart F.

Issued in Washington, D.C. on August 17, 1979.

Barton R. House,

Deputy Administrator, Economic Regulatory Administration.

[FR Doc. 79-26783 Filed 8-28-79; 8:45 am]

BILLING CODE 6450-01-M

[ERA Docket No. 79-CERT-073]

Consolidated Edison Co. of New York, Inc.; Certification of Eligible Use of Natural Gas To Displace Fuel Oil

Consolidated Edison Company of New York, Inc. (Con Ed) filed an application for certification of an eligible use of natural gas to displace fuel oil at six of its steam and electric generating facilities in New York City, New York, with the Administrator of the Economic Regulatory Administration

pursuant to 10 CFR Part 595 on July 24, 1979. Notice of that application was published in the Federal Register (44 FR 45988, August 6, 1979) and an opportunity for public comment was provided for a period of ten (10) calendar days from the date of publication. No comments were received.

The Administrator has carefully reviewed Con Ed's application in accordance with 10 CFR Part 595 and the policy considerations expressed in the Interim-Final Rulemaking Regarding Procedures for Certification of the Use of Natural Gas for Fuel Oil Displacement (44 FR 20398, April 5, 1979). The Administrator has determined that Con Ed's application satisfies the criteria enumerated in 10 CFR Part 595, and, therefore, has granted the certification and transmitted that certification to the Federal Energy Regulatory Commission. A copy of the transmittal letter and the actual certification are appended to this notice.

Issued in Washington, D.C., August 20, 1979.

Barton R. House,

Deputy Administrator, Economic Regulatory Administration.

Appendix I—Certification by the Economic Regulatory Administration to the Federal Energy Regulatory Commission of the Use of Natural Gas for Fuel Oil Displacement by the Consolidated Edison Company of New York, Inc.

[ERA Docket No. 79-CERT-073]

Application for Certification

Pursuant to 10 CFR Part 595, Consolidated Edison Company of New York, Inc. (Con Ed) filed an application for certification of an eligible use of up to 10,000 dekatherms of natural gas per day at six of its steam and electric generating facilities in New York City, New York, with the Administrator of the Economic Regulatory Administration (ERA) on July 24, 1979. The application states that the eligible seller of the gas is UGI Corporation and that the gas will be transported by the Texas Eastern Transmission Corporation, the Consolidated Gas Supply Corporation and the Transcontinental Gas Pipeline Corporation. The application and supplemental information indicate, among other things, that the natural gas will be used to displace approximately 483,000 barrels of residual fuel oil (.3% sulfur) from July 1, 1979–June 1, 1980 and that neither the gas nor the displaced fuel oil will be used to displace coal in the applicant's facilities.

Certification

Based upon a review of the information contained in the application, as well as other information available to ERA, the Administrator hereby certifies, pursuant to 10 CFR Part 595, that the use of up to 10,000 dekatherms of natural gas per day at Con Ed's Astoria, East River, Narrows,

Ravenswood, Waterside, and 60th Street steam and electric generating facilities purchased from UGI Corporation is an eligible use of gas within the meaning of 10 CFR Part 595.

Effective Date

This certification is effective upon the date of issuance, and expires one year from that date, unless a shorter period of time is required by 18 CFR Part 284, Subpart F. It is effective during this period of time for the use of up to the same certified volume of natural gas at the same facilities purchased from the same eligible seller.

Issued in Washington, D.C. on August 20, 1979.

Barton R. House,

Deputy Administrator, Economic Regulatory Administration.

[FR Doc. 79-26787 Filed 8-28-79; 8:45 am]

BILLING CODE 6450-01-M

[ERA-R79-40]

Inquiry Regarding Prescription of Voluntary Guidelines for Solar Energy and Renewable Resources Respecting the Federal Standards Under the Public Utility Regulatory Policies Act of 1978

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of Inquiry.

SUMMARY: On June 20, 1979, the President directed the Department of Energy (DOE) to develop and publish within 120 days voluntary guidelines, applying specifically to solar energy and renewable resources, for the ratemaking and other regulatory policy standards established under Title I of the Public Utility Regulatory Policies Act of 1978 (PURPA). This Notice is intended to solicit public comments for consideration by DOE in developing these guidelines.

DATES: Comments must be received by September 28, 1979.

ADDRESS: All comments should be forwarded to: Office of Public Hearings Management, Department of Energy, 2000 M Street, NW. (Room 2313), Docket ERA-R-79-40, Washington, D.C. 20461. Ten (10) copies of each should be submitted.

FOR FURTHER INFORMATION CONTACT:

Dr. Stephen S. Skjel, Office of Utility Systems, Economic Regulatory Administration, Department of Energy, 2000 M Street, N.W. (Room 4016), Washington, D.C. 20461. Telephone: (202) 254-8209.

Mary Ann Masterson, Department of Energy, Office of the General Counsel, 20 Massachusetts Avenue, N.W. Room 3224, Washington, D.C. 20585.

SUPPLEMENTARY INFORMATION: I. Background

On June 20, 1979, the President directed DOE to develop and publish within 120 days voluntary guidelines, applying specifically to solar energy and renewable resources, for the eleven standards established in the Public Utility Regulatory Policies Act of 1978 (PURPA), Pub. L. 95-617, 92 Stat. 3117 *et seq.* (16 U.S.C. 2601 *et seq.*). Solar energy is broadly defined in the President's Domestic Policy Review of Solar Energy (DPR) to be energy received from the sun directly in the form of radiant energy, and indirectly in the form of stored radiant energy in biomass (i.e., wood, vegetation and organic solid wastes), heated surface waters, the potential and kinetic energy of water elevated via the hydrological cycle, and the kinetic energy of the wind.

The eleven standards, established by sections 111(d) and 113(b) of PURPA, relate to ratemaking and other regulatory policy matters. The standards generally provide that:

- (1) Rates to each class of consumer shall be designed to the maximum extent practicable to reflect the costs of providing service to that class;
 - (2) Declining block energy charges that are not cost-based shall be eliminated;
 - (3) Time-of-day rates shall be established, if cost-effective where costs vary by time of day;
 - (4) Seasonal rates shall be established where costs vary by season;
 - (5) Interruptible rates based on the costs of providing interruptible service shall be offered to commercial and industrial customers;
 - (6) Load management techniques shall be offered to consumers where practicable, cost-effective, reliable and useful to the utility for energy or capacity management;
 - (7) Master metering shall be prohibited or restricted for new buildings to the extent necessary to carry out the purposes of Title I of PURPA;
 - (8) Automatic adjustment clauses shall not be allowed unless they provide efficiency incentives and are reviewed in a timely manner;
 - (9) All consumers shall receive and clear and concise explanation of applicable rate schedules;
 - (10) Service shall not be terminated except pursuant to certain enumerated procedures; and
 - (11) Political or promotional advertising shall not be charged to ratepayers.
- PURPA requires each State regulatory authority and certain nonregulated electric utilities to consider the

standards within the time frames, procedures and other requirements established by PURPA. Section 131 of PURPA gives the Secretary of Energy the authority to prescribe voluntary guidelines respecting consideration of the standards. DOE has [recently] issued a Notice of Intent setting forth, among other things, its intentions with respect to the exercise of its authority under PURPA to promulgate voluntary guidelines for the standards.

In light of the President's directive and the determinations set forth in the Notice of Intent, DOE is issuing this Notice of Inquiry to solicit public comments for consideration by DOE in developing guidelines for applying the PURPA standards to solar energy and renewable resources.

II. Comments on Issues Relating to Voluntary Guidelines for Solar/Renewable Resource Applications

Interested persons are invited to participate in this inquiry by submitting data, views or arguments on any aspect of developing guidelines for solar and renewable resources. DOE, however, specifically invites comment on the following questions:

Is the definition of solar energy in the DPR appropriate as a definition of "solar and renewable resources" for the purposes of the guidelines?

What factors should be considered by a regulatory body in determining cost-of-service for solar/renewable resource customers?

What factors should be considered by a regulatory body in assessing the impact of solar/renewable resource loads on other customers?

Should customers with solar/renewable resource assisted end-use loads be treated as a separate tariff class?

What factors should be considered by a regulatory body in assessing the impact of time-of-day, seasonal interruptible and declining block rates on solar/renewable resource customers?

What factors should be considered by a regulatory body in assessing the use of solar/renewable devices for load management?

What factors should be considered by a regulatory body in assessing the impact of master meeting on solar/renewable resource applications in multi-occupant facilities?

What other factors pertinent to solar/renewable resource applications should be addressed in the guidelines?

What interrelationships between these factors are significant enough to merit inclusion in the guidelines?

III. Development and Publication Procedures

All comments should be sent to the Office of Public Hearings Management, Department of Energy, 2000 M Street, NW., Room 2313, Docket Number ERA-R-79-40, Washington, D.C. 20481. Comments should be identified on the outside of the envelope and on the document with the designation "Solar Guidelines, Docket No. ERA-R-79-40." Ten copies should be submitted.

All comments received by DOE by September 28, 1979, and all other relevant information, will be considered by DOE in the development of the guidelines. All comments received by DOE will be retained by DOE and made available for inspection in the DOE Reading Room, Room GA-152, James Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday.

Pursuant to the provisions of 10 CFR 1004.11, any person submitting information which he or she believes to be confidential and which may be exempt by law from public disclosure should submit one complete copy, and ten copies from which information claimed to be confidential has been deleted. In accordance with the procedures established at 10 CFR 1004.11, DOE shall make its own determination with regard to any claim that information submitted be exempt from public disclosure.

DOE plans to issue proposed solar and renewable resource voluntary guidelines for public comment by October 15, 1979. The guidelines will be published in the Federal Register for comment and a public hearing will be

held in Washington, D.C. The date for this public hearing will be announced in the preamble to the proposed guidelines. The final voluntary guidelines will be published in the Federal Register and will also be mailed directly to State regulatory authorities and nonregulated and regulated electric utilities covered by Title I of PURPA.

(Public Utility Regulatory Policies Act of 1978, Pub. L. 95-617 (16 U.S.C. 2601 et seq.); Department of Energy Organization Act, Pub. L. 95-91 (42 U.S.C. 7101 et seq.))

Issued in Washington, D.C., on August 22, 1979.

Richard E. Weiner,
Assistant Administrator for Utility Systems,
Economic Regulatory Administration.

(FR Doc. 79-28610 Filed 8-29-79; 8:45 am)
BILLING CODE 6450-01-M

(ERA Case No. 50653-2490-01-82, 50653-2490-02-82)

Consolidated Edison Co. of New York, Inc., Issuance of Proposed Prohibition Order

The Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice pursuant to Section 701(b) of the Powerplant and Industrial Fuel Use Act of 1978 (FUA), 42 U.S.C. 8301 et seq., of the issuance of the following proposed prohibition order which would prohibit the powerplants named below from burning natural gas or petroleum as their primary energy source.

Proposed Prohibition Order

Pursuant to the authorities granted it by Section 301(b) of FUA, ERA issues this proposed prohibition order to the following powerplants owned by the Consolidated Edison Company of New York, Inc. (Con Ed):

ERA No.	Generating station	Powerplant No.	mW	Location
50653-2490-01-82	Arthur Kill	20	335	Staten Island, New York
50653-2490-02-82	Arthur Kill	30	491	Staten Island, New York

Statement of Basis and Rationale for Proposed Prohibition Order

ERA has issued regulations applicable to existing facilities (Regulations) 10 CFR Part 504, to implement the prohibitions contained in Section 301(b)

of Title III of FUA. Section 504.5 of the regulations sets forth the basis upon which ERA will propose to prohibit by order the use of natural gas or petroleum as a primary energy source by a

powerplant where ERA finds that the powerplant has or previously had the technical capability to use an alternate fuel as a primary energy source.

Con Ed reported to the Federal Energy Regulatory Commission (FPC Form 67), for year ending December 31, 1978, that Arthur Kill 20 and 30 burned 13,643 barrels of oil per day (4,980,000 barrels annually) which represents the potential oil displacement in converting Arthur Kill to an alternate fuel.

Finding of Technical Capability

In accordance with Section 301(b) of Title III of FUA, this proposed order is based on a finding by ERA that Con Ed's Arthur Kill powerplants 20 and 30 have or previously had the technical capability to use an alternate fuel (coal) as a primary energy source. This finding is based upon the following facts obtained from Con Ed:

- (1) The boilers at Arthur Kill 20 and 30 were designed and constructed to burn coal as a primary energy source; and
- (2) Arthur Kill burned coal during 1971.

The finding is also based upon information provided by Con Ed to ERA at a meeting in New York on July 5, 1979. In addition, Con Ed reported to the Federal Energy Regulatory Commission (FPC Form 67) that it burned coal at Arthur Kill 20 and 30 during 1971.

The technical capability finding is made in accordance with the requirements of Section 504.5(d) of the Regulations, taking into consideration the ability of the units, from the point of fuel intake, to physically sustain combustion of coal and maintain heat transfer as evidenced by the burning of coal at Arthur Kill during 1971. This finding recognizes, in accordance with Section 504.5(d), that the Arthur Kill units 20 and 30 are capable of burning coal, notwithstanding any required refurbishment of plant equipment in order to burn coal as a primary energy source in the units, or any required installation of air pollution control equipment to meet air quality standards.

Other Required Findings

Section 301(b) of FUA states that prior to the issuance of a final prohibition order ERA must also find that (1) the powerplant has the technical capability to use coal or another alternate fuel as a primary energy source, or it could have such capability without (A) substantial modification of the powerplant or (B) substantial reduction in the rated capacity of the powerplant; and (2) it is financially feasible for the powerplant to use coal or another alternate fuel as its primary energy source in such powerplant.

Proposed Prohibition Under Title III of FUA

Subject to the other required findings that ERA must make, ERA hereby proposes to prohibit Con Ed's Arthur Kill powerplants 20 and 30 from burning petroleum or natural gas as their primary energy source.

Description of Prohibition Order Proceedings

Pursuant to Section 301 of the FUA, ERA has promulgated regulations applicable to the issuance of prohibition orders to existing facilities, a summary of which follows:

(1) ERA has performed its initial information gathering with respect to the question of technical capability to burn alternate fuels (coal) and has informed Con Ed that it is considering issuance of a proposed prohibition order. ERA has also had informal discussions with Con Ed concerning the issuance of a proposed prohibition order.

(2) ERA has made a finding that Con Ed's Arthur Kill 20 and 30 powerplants have or previously had the technical capability of using coal as their primary energy source. ERA is publishing this finding and proposed prohibition order in the Federal Register as required by Section 701(b) of FUA. In accordance with Section 301(b) of FUA, the proposed prohibition order is not required to contain, at this point in the proceeding, the other pertinent findings that ERA must make before a final prohibition order can be issued. These are (1) that the powerplant has the technical capability to use coal or another alternate fuel as a primary energy source, or it could have such capability without (A) substantial physical modification of the powerplant, or (B) substantial reduction in the rated capacity of the powerplant; and (2) that it is financially feasible for Con Ed to use coal or another alternate fuel as a primary energy source in such powerplant.

(3) After publication of this proposed order, a three-month comment period will commence, during which Con Ed will be given an opportunity to challenge ERA's initial finding of technical capability, and to present evidence relevant to financial feasibility. During this three-month public comment period, ERA will request that Con Ed furnish it with such additional evidence as is necessary to enable ERA to make the other statutory findings set forth above, which are required to be made by ERA prior to issuance of a final prohibition order. Con Ed will also be required, during this period, to identify, but not to

demonstrate its entitlement to, any exemptions for which the unit in question may qualify.

(4) Subsequent to the end of the three-month comment period, ERA will issue a notice of whether ERA intends to proceed with the prohibition order proceeding. Within three months of the issuance of the notice of intention to proceed with the prohibition order, an owner or operator of a powerplant that may be subject to an order may demonstrate prior to issuance of a final prohibition order that the powerplant would qualify for an exemption if the prohibition had been established by rule.

(5) Subsequent to the end of the second three month period, ERA will, if it intends to issue a final prohibition order, prepare and publish notice of availability of a tentative staff decision.

(6) Under the provisions of Section 701(d) of FUA, any interested person may request a public hearing on the proposed prohibition order and tentative staff decision. Interested persons wishing a hearing must request a hearing within 45 days after publication of the notice of availability of the tentative staff decision. If a hearing has been requested, ERA shall provide interested persons with an opportunity to present oral data, views and arguments at a public hearing held in accordance with Subpart C of 10 CFR Part 501.

(7) At the hearing, if any, interested persons will have the opportunity to question the parties about ERA's proposed order and tentative staff decision. Con Ed's showing on exemptions and rebuttal of ERA's proposed order, and ERA's rebuttal to any showing of potential qualification for exemption.

(8) After the hearing, if any, and comment period, ERA shall determine whether a final prohibition order will be issued based upon a review of the entire administration record. A final prohibition order, if issued, will be published in the Federal Register. Final orders become effective sixty days after publication.

Comment and Public Hearing Procedures

ERA hereby also gives notice of the opportunity to submit written comments, views, and arguments by interested persons regarding this proposed prohibition order. Comments need not be limited to ERA's technical capability finding, but may include a discussion of all three statutory findings.

The initial comment period shall remain open until November 27, 1979. Comments should make reference to the

docket number set forth in this notice and proposed order. Comments should address the adequacy and validity of the findings and any other aspects or impacts of the proposed prohibition order believed to be relevant. Written comments on the proposed prohibition order should be directed to Public Hearing Management (Case Nos. 50653-2490-01-82 and 50653-2490-02-82), U.S. Department of Energy, Box 4629, Room 3214, 2000 M Street, N.W., Washington, D.C. 20461, and should be received before 4:30 p.m. on November 30, 1979.

In accordance with 10 CFR 501.34, any interested person may request a public hearing on the proposed order. The request must include a description of the person's interest in the proposed prohibition order, an outline of the anticipated content of the presentation to be made at the public hearing, and an address and telephone where the person requesting the public hearing may be reached.

Comments and other documents submitted to DOE Public Hearing Management should be identified on the outside of the envelope in which they are transmitted and on the document itself with the designation "Proposed Prohibition Order for the Arthur Kill Powerplants." Fifteen copies should be submitted. All written comments, all oral presentations, and all other relevant information submitted to or available to ERA will be considered by ERA. Any information or data considered to be confidential by the person furnishing it must be so identified in writing in accordance with 10 CFR 303.9(f). ERA reserves the right to determine the confidential status of the information or data and to treat it in accordance with that determination.

FOR FURTHER INFORMATION CONTACT:

William L. Webb (Office of Public

Information), Economic Regulatory Administration, Department of Energy, 2000 M Street, N.W., Room B-110, Washington, D.C., 20461, (202) 634-2170. Robert L. Davies (Fuels Conversion-Program Office), Economic Regulatory Administration, Department of Energy, 2000 M Street, N.W., Room 3128L, Washington, D.C. 20461, (202) 254-7442. G. Randolph Comstock (Office of General Counsel), Department of Energy, 12th & Pennsylvania Avenue, N.W., Room 7134, Washington, D.C., 20461, (202) 633-8820. Issued in Washington, D.C., August 22, 1979.

Robert L. Davies,
Acting Assistant Administrator, Office of
Fuels Conversion, Economic Regulatory
Administration.

[FR Doc. 79-28789 Filed 8-29-79; 8:45 am]

BILLING CODE 6450-01-01

[ERA Case No. 50653-2500-01-82, 50653-2500-02-82]

Consolidated Edison Co. of New York, Inc.; Issuance of Proposed Prohibition Order 1978

The Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice pursuant to Section 701(b) of the Powerplant and Industrial Fuel Use Act of 1978 (FUA), 42 U.S.C. 8301 et seq., of the issuance of the following proposed prohibition order which would prohibit the powerplants named below from burning natural gas or petroleum as their primary energy source.

Proposed Prohibition Order

Pursuant to the authorities granted it by Section 301(b) of FUA, ERA issues this proposed prohibition order to the following powerplants owned by the Consolidated Edison Company of New York, Inc. (Con Ed).

ERA No.	Generating station	Powerplant No.	mW	Location
50653-2500-01-82	Ravenswood	30N	454	Queens, N.Y.
50653-2500-02-82	Ravenswood	30S	464	Queens, N.Y.

Statement of Basis and Rationale for Proposed Prohibition Order

ERA has issued regulations applicable to existing facilities (Regulations) 10 CFR Part 504, to implement the prohibitions contained in Section 301(b) of Title III of FUA. Section 504.5 of the

regulations sets forth the basis upon which ERA will propose to prohibit by order the use of natural gas or petroleum as a primary energy source by a powerplant where ERA finds that the powerplant has or previously had the

technical capability to use an alternate fuel as a primary energy source.

Con Ed reported to the Federal Energy Regulatory Commission (FPC Form 67), for year ending December 31, 1978, that Ravenswood 30N and 30S burned 7,937 barrels of oil per day (2,897,000 barrels annually) which represents the potential oil displacement in converting Ravenswood to an alternate fuel.

Finding of Technical Capability

In accordance with Section 301(b) of Title III of FUA, this proposed order is based on a finding by ERA that Con Ed's Ravenswood powerplants 30N and 30S have or previously had the technical capability to use an alternate fuel (coal) as a primary energy source. This finding is based upon the following facts obtained from Con Ed:

- (1) The boilers at Ravenswood 30N and 30S were designed and constructed to burn coal as a primary energy source; and
- (2) Ravenswood burned coal during 1971.

The finding is also based upon information provided by Con Ed to ERA at a meeting in New York on July 5, 1979. In addition, Con Ed reported to the Federal Energy Regulatory Commission (FPC Form 67) that it burned coal at Ravenswood 30N and 30S during 1971.

The technical capability finding is made in accordance with the requirements of Section 504.5(a) of the Regulations, taking into consideration the ability of the units, from the point of fuel intake, to physically sustain combustion of coal and maintain heat transfer as evidenced by the burning of coal at Ravenswood during 1971. This finding recognizes, in accordance with Section 504.5(d), that the Ravenswood units 30N and 30S are capable of burning coal, notwithstanding any required refurbishment of plant equipment in order to burn coal as a primary energy source in the units, or any required installation of air pollution control equipment to meet air quality standards.

Other Required Findings

Section 301(b) of FUA states that prior to the issuance of a final prohibition order ERA must also find that (1) the powerplant has the technical capability to use coal or another alternate fuel as a primary energy source, or it could have such capability without (A) substantial modification of the powerplant or (B) substantial reduction in the rated capacity of the powerplant; and (2) it is financially feasible for the powerplant

to use coal or another alternate fuel as its primary energy source in such powerplant.

Proposed Prohibition Under Title III of FUA

Subject to the other required findings that ERA must make, ERA hereby proposes to prohibit Con Ed's Ravenswood powerplants 30N and 30S from burning petroleum or natural gas as their primary energy source.

Description of Prohibition Order Proceedings

Pursuant to Section 301 of FUA, ERA has promulgated regulations applicable to the issuance of prohibition orders to existing facilities, a summary of which follows:

(1) ERA has performed its initial information gathering with respect to the question of technical capability to burn alternate fuels (coal) and has informed Con Ed that it is considering issuance of a proposed prohibition order. ERA has also had informal discussions with Con Ed concerning the issuance of a proposed prohibition order.

(2) ERA has made a finding that Con Ed's Ravenswood 30N and 30S powerplants have or previously had the technical capability of using coal as their primary energy source. ERA is publishing this finding and proposed prohibition order in the Federal Register as required by Section 701(b) of FUA. In accordance with Section 301(b) of FUA, the proposed prohibition order is not required to contain, at this point in the proceeding, the other pertinent findings that ERA must make before a final prohibition order can be issued. These are (1) that the powerplant has the technical capability to use coal or another alternate fuel as a primary energy source, or it could have such capability without (A) substantial physical modification of the powerplant, or (B) substantial reduction in the rated capacity of the powerplant, and (2) that it is financially feasible for Con Ed to use Coal or another alternate fuel as a primary energy source in such powerplant.

(3) After publication of this proposed order, a three-month comment period will commence, during which Con Ed will be given an opportunity to challenge ERA's initial finding of technical capability, and to present evidence relevant to financial feasibility. During this three-month public comment period, ERA will request that Con Ed furnish it with such additional evidence as is necessary to enable ERA to make the other statutory findings set forth above, which are required to be made by ERA prior to

issuance of a final prohibition order. Con Ed will also be required, during this period, to identify, but not to demonstrate its entitlement to, any exemptions for which the unit in question may qualify.

(4) Subsequent to the end of the three-month comment period, ERA will issue a notice of whether ERA intends to proceed with the prohibition order proceeding. Within three months of the issuance of the notice of intention to proceed with the prohibition order, an owner or operator of a powerplant that may be subject to an order may demonstrate prior to issuance of a final prohibition order that the powerplant would qualify for an exemption if the prohibition had been established by rule.

(5) Subsequent to the end of the second three month period, ERA will, if it intends to issue a final prohibition order, prepare and publish notice of availability of a tentative staff decision.

(6) Under the provisions of Section 701(d) of FUA, any interested person may request a public hearing on the proposed prohibition order and tentative staff decision. Interested persons wishing a hearing must request a hearing within 45 days after publication of the notice of availability of the tentative staff decision. If a hearing has been requested, ERA shall provide interested persons with an opportunity to present oral data, views and arguments at a public hearing held in accordance with Subpart C of 10 CFR Part 501.

(7) At the hearing, if any, interested persons will have the opportunity to question the parties about ERA's proposed order and tentative staff decision, Con Ed's showing on exemptions and rebuttal of ERA's proposed order, and ERA's rebuttal to any showing of potential qualification for exemption.

(8) After the hearing, if any, and comment period, ERA shall determine whether a final prohibition order will be issued based upon a review of the entire administrative record. A final prohibition order, if issued, will be published in the Federal Register. Final orders become effective sixty days after publication.

Comment and Public Hearing Procedures

ERA hereby also gives notice of the opportunity to submit written comments, views, and arguments by interested persons regarding this proposed prohibition order. Comments need not be limited to ERA's technical capability finding, but may include a discussion of all three statutory findings.

The initial comment period shall remain open for a period of 90 days after publication of this proposed order in the Federal Register (November 27, 1979). Comments should make reference to the docket numbers set forth in this notice and proposed order. Comments should address the adequacy and validity of the findings and any other aspects or impacts of the proposed prohibition order believed to be relevant. Written comments on the proposed prohibition order should be directed to Public Hearing Management (Case Nos. 50653-2500-01-82 and 50653-2500-02-82), U. S. Department of Energy, Box 4629, Room 3214, 2000 M Street, NW., Washington, D.C. 20461, and should be received before 4:30 p.m. on November 30, 1979.

In accordance with 10 CFR 501.34, any interested person may request a public hearing on the proposed order. The request must include a description of the person's interest in the proposed prohibition order, an outline of the anticipated content of the presentation to be made at the public hearing, and an address and telephone where the person requesting the public hearing may be reached.

Comments and other documents submitted to DOE Public Hearing Management should be identified on the outside of the envelope in which they are transmitted and on the document itself with the designation "Proposed Prohibition Order for the Ravenswood Powerplants." Fifteen copies should be submitted. All written comments, all oral presentations, and all other relevant information submitted to or available to ERA will be considered by ERA. Any information or data considered to be confidential by the person furnishing it must be so identified in writing in accordance with 10 CFR 303.9(r). ERA reserves the right to determine the confidential status of the information or data and to treat it in accordance with that determination.

FOR FURTHER INFORMATION CONTACT:

William L. Webb (Office of Public Information), Economic Regulatory Administration, Department of Energy, 2000 M Street, NW., Room B-110, Washington, D.C., 20461, (202) 634-2170. Robert L. Davies (Fuels Conversion-Program Office), Economic Regulatory Administration, Department of Energy, 2000 M Street, NW., Room 3128L, Washington, D.C. 20461, (202) 254-7442. G. Randolph Comstock (Office of General Counsel), Department of Energy, 12th & Pennsylvania Avenue, NW., Room 7134, Washington, D.C. 20461, (202) 633-8820.

Issued in Washington, D.C., August 22, 1979.

Robert L. Davies,
Acting Assistant Administrator, Office of
Fuels Conversion, Economic Regulatory
Administration.

[FR Doc. 79-28870 Filed 8-28-79; 8:45 am]

BILLING CODE 6450-01-M

Designation of Inactive Uranium Mill Tailings Sites for Remedial Action

Correction

In FR Doc. 79-25431 appearing on
page 48319 in the issue of Friday, August
17, 1979, second column, first line of the
third paragraph, insert "not" after "do".

BILLING CODE 1505-01-M

Proposed Subsequent Arrangements

Pursuant to Section 131 of the Atomic
Energy Act of 1954, as amended (42
U.S.C. 2160), notice is hereby given of
proposed "subsequent arrangements"
under the Agreements for Cooperation
Between the Government of the United
States of America and the Government
of Thailand and with the International
Atomic Energy Agency, and the
Additional Agreement Between the
Government of the United States of
America and the European Atomic
Energy Community (EURATOM)
Concerning the Peaceful Uses of Atomic
Energy.

The subsequent arrangements to be
carried out under the above mentioned
agreements involve conversion of Long-
Term, Fixed-Commitment Uranium
Enrichment contracts to the new
Adjustable, Fixed-Commitment
contracts at the customers option.

Contract No.	Customer	Facility
TH-100	Electricity Generating Authority of Thailand.	Ao-Phai-Nuc-1
YU-100	Savsko Elektrane Ljubljana and Elektropivreda Zagreb.	KRSKO-1
EU-106	European Atomic Energy Community.	ENEL-II.
EU-149	European Atomic Energy Community.	Netherlands III.

In accordance with Section 131 of the
Atomic Energy Act of 1954, as amended,
it has been determined that the
conversion of these contracts to the
Adjustable, Fixed-Commitment contract
form will not be inimical to the common
defense and security.

This subsequent arrangement will
take effect no sooner than fifteen days
after the publication of this notice.

For the Department of Energy.

Dated: August 24, 1979.

Robert N. Slawson,

Acting Director for Nuclear Affairs,
International Nuclear and Technical
Programs.

[FR Doc. 79-27050 Filed 8-28-79; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL 1306-8]

Water Quality/Water Allocation Coordination Study; Draft Report

Notice is hereby given that a draft
report to Congress, entitled "Water
Quality/Water Allocation Coordination
Study" is available for review.

The draft report, prepared in response
to Section 102(d) of the Clean Water
Act, analyzes the relationship between
water quality programs under this Act
and State and Federal water allocation
programs. The report includes a
discussion of the legislative background,
a summary of the Clean Water Act, and
a summary of the State and Federal
water allocation programs. The analysis
of quality/quantity relationships and
conflicts focuses on four major issue
areas: (1) instream flow; (2) irrigated
agriculture; (3) consumptive waste
treatment technologies; and (4) ground
water and surface water relationships.
Draft alternatives and recommendations
to Congress are also presented.

EPA encourages written comments on
the draft report. Comments will be
accepted until close of business
November 1, 1979. The draft report will
be available from the Project Officer,
Jerry Kotas, Environmental Protection
Agency, Water Planning Division (WH-
554), Washington, D.C. 20460 (202-426-
2474).

Dated: August 23, 1979.

Thomas C. Jorling,

Assistant Administrator for Water and Waste
Management.

[FR Doc. 79-27003 Filed 8-28-79; 8:45 am]

BILLING CODE 6560-01-M

[PF-148; FRL 1307-1]

Pesticide Programs; Filing of Pesticide Petition

Phostoxin Sales, Inc., 2221 Poplar
Blvd., Alhambra, CA 91802, has
submitted a petition (PP 9F2239) to the
Environmental Protection Agency (EPA)
which proposes that 40 CFR 180.225 be
amended by establishing a tolerance for
residues of the fumigant phosphine in or
on the raw agricultural commodity
sesame seed at 0.1 part per million
(ppm) resulting from postharvest

treatment of the commodity with
aluminum phosphide. The proposed
analytical method for determining
residues is a modification of the
procedures of R. B. Bruce, et al., J. Agri.
and Food Chem. 10, 18-21, 1962, in
which the phosphine residues is
oxidized by bromine to phosphate and
determined colorimetrically. Notice of
this submission is given pursuant to the
provisions of section 408(d)(1) of the
Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to
submit written comments on this
petition. Comments may be submitted,
and inquiries directed, to Product
Manager (PM) 16, Room E-343,
Registration Division (TS-767), Office of
Pesticide Programs, EPA, 401 M St., SW,
Washington, DC 20460, telephone
number 202/426-9458. Written
comments should bear a notation
indicating the petition number "PP
9F2239". Comments may be made at any
time while a petition is pending before
the Agency. All written comments filed
pursuant to this notice will be available
for public inspection in the Product
Manager's office from 8:30 a.m. to 4:00
p.m., Monday through Friday, excluding
holidays.

Dated: August 22, 1979.

Herbert S. Harrison,

Acting Director, Registration Division.

[FR Doc. 79-27002 Filed 8-28-79; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1307-2]

General Motors Corp.; Pontiac, Mich.; Final Determination

In the matter of the applicability of
Title I, Part C of the Clean Air Act (Act),
as amended, 42 U.S.C. 7401 et seq., and
the Federal regulations promulgated
thereunder at 40 CFR 52.21 [43 FR 26388,
June 19, 1978] for Prevention of
Significant Deterioration of Air Quality
(PSD), to General Motors Corporation
(GMC), Central Foundry Division,
Pontiac, Michigan.

On November 19, 1979, GMC, Central
Foundry Division submitted an
application to the United States
Environmental Protection Agency (U.S.
EPA), Region V office, for an approval to
expand the rated melting capacity of the
two existing grey iron cupolas. The
application was submitted pursuant to
the regulations for PSD.

On December 19, 1979, GMC Central
Foundry Division was notified that its
application was complete and
preliminary approval was granted.

On May 9, 1979, U.S. EPA published
notice of its decision to grant a
preliminary approval to Martin Marietta

Aggregates. No comments or requests
for a public hearing were received.

After review and analysis of all
materials submitted by GMC, Central
Foundry Division, the Company was
notified on November 24, 1978, that U.S.
EPA had determined that the proposed
new construction in Pontiac, Michigan,
would be utilizing the best available
control technology and that emissions
from the facility will not adversely
impact air quality, as required by
Section 165 of the Act.

This approval to construct does not
relieve GMC, Central Foundry Division
of the responsibility to comply with the
control strategy and all local, State and
Federal regulations which are part of the
applicable State Implementation Plan,
as well as all other applicable Federal,
State and local requirements.

This determination may now be
considered final agency action which is
locally applicable under Section
307(b)(1) of the Act and therefore a
petition for review may be filed in the
U.S. Court of Appeals for the Seventh
Circuit by any appropriate party. In
accordance with Section 307(b)(1),
petition for review must be filed sixty
days from the date of this notice.

For further information contact Eric
Cohen, Chief, Compliance Section,
Region V, U.S. EPA, 230 South Dearborn
Street, Chicago, Illinois 60604. (312) 353-
2090.

Dated: August 14, 1979.

John McGuire,

Regional Administrator, Region V.

In the Matter of General Motors
Corporation, Central Foundry Division,
Pontiac, Michigan.

Proceeding Pursuant to the Clean Air Act
as amended. Approval to Construct EPA-5-
A-79-18

Authority

The approval to construct is issued
pursuant to the Clean Air Act, as amended,
42 U.S.C. 7401 et seq., (the Act), and the
Federal regulations promulgated thereunder
at 40 CFR 52.21 for the Prevention of
Significant Deterioration of Air Quality
(PSD).

Findings

1. The General Motors Corporation (GMC)
proposes to expand the rated melting
capacity of the two existing grey iron cupolas
from 35 tons to 45 tons hourly, at their
Central Foundry Division in Pontiac,
Michigan.

2. The proposed modification of the two
cupolas is subject to the requirements of 40
CFR 52.21 and the applicable sections of the
Act.

3. GMC submitted a completed PSD
application on December 19, 1978. On May 9,
1979, notice was published in the Oakland
Press seeking comments from the public and
giving an opportunity to request a public

hearing on the application and U.S. EPA's
review and preliminary determination to
approve construction of the above-cited
source. No comments or requests for a public
hearing were received.

4. After a thorough review of all the
materials submitted by GMC, U.S. EPA has
determined that emissions from the increased
rated melting capacity of the two cupolas will
not violate the National Ambient Air Quality
Standards nor violate the air quality
increments.

5. GMC presently utilizes high energy
scrubbers and an afterburning system to
control particulate matter and carbon
monoxide respectively. GMC proposes to
retain these controls subsequent to the
modification. The scrubber would be
operated at a pressure drop in excess of 100
inches w.g. The gases would be heated to
approximately 1350°F. in the upper stack with
a retention time of not less than 0.3 seconds.
The control systems as outlined represent
best available control technology. (BACT).

6. A screening analysis indicated that the
actual increases in ground level
concentration for particulate matter would be
insignificant. For carbon monoxide, the one
hour concentration would be approximately 2
micrograms per cubic meter (ug/m³). The
increase is small compared to the national
ambient air quality standards which are 10
and 40 ug/m³ for 8-hour and 24-hour
averages, respectively.

Conditions

7. The particulate matter emission rate
from each of the two cupolas shall not exceed
0.47 pounds per ton of any metal charged.

8. Visible emissions shall be limited to an
opacity of not greater than 20 percent.

9. Input feed to the cupolas shall cease
immediately upon initiation of collector or
afterburner bypass or malfunction. Input feed
to the cupolas shall not be restarted until the
collectors and afterburners are back on line
and operating properly.

10. GMC shall install, operate and maintain
a temperature sensor in the upper stack of the
cupolas. The sensor shall be connected to an
audiovisual system that will monitor and
indicate and afterburner malfunction
whenever the temperature drops below
1350°F.

11. Any such incidence of malfunction in
excess of 15 minutes shall be reported within
10 calendar days to the Director, Enforcement
Division, U.S. EPA, Region V, 230 South
Dearborn, Chicago, Illinois 60604.

12. This report shall include the corrective
measures taken, an estimate of the emissions,
duration of time of the malfunction and an
estimate of the impact on air quality.

13. GMC shall not cause or permit to be
discharged into the atmosphere any visible
fugitive dust emissions from any operation
associated with these cupolas, or building
enclosing these operations. A visible fugitive
dust emission of density not greater than 10
percent opacity may be emitted for not more
than 2 minutes in any 60 minute period. This
includes charging, tapping, pouring, casting
and shakeout.

Approval

14. This approval to construct does not
relieve GMC of the responsibility to comply

with the control strategy and all local, State
and Federal regulations which are part of the
applicable Implementation Plan, as well as
other applicable local, State and Federal
requirements.

15. This approval is effective immediately.
This approval to construct shall become
invalid, if construction or expansion is not
commenced within 18 months after receipt of
this approval or if construction is
discontinued for a period of 18 months or
more. The Administrator may extend such
time period upon a satisfactory showing that
an extension is justified. Notification shall be
made to U.S. EPA 5 days after construction is
commenced.

16. A copy of this approval has been
forwarded for public inspection to the
Pontiac Public Library, 60 East Pike, Pontiac,
Michigan 48058.

17. In addition, the United States Court of
Appeals for the D.C. Circuit has issued a
ruling in the case of *Alabama Power Co. vs.
Douglas M. Costle* (78-1006 and consolidated
cases) which has significant impact on the
EPA Prevention of Significant Deterioration
(PSD) program and approvals issued
thereunder. Although the court has stayed its
decision pending resolution of petitions for
reconsideration, it is possible that the final
decision will require modification of the PSD
regulations and could affect approvals issued
under the existing program. Examples of
potential impact areas include the scope of
Best Available Control Technology (BACT),
source applicability, the amount of increment
available (baseline definition), and the extent
of preconstruction monitoring that a source
may be required to perform. The applicant is
hereby advised that this approval may be
subject to reevaluation as a result of the final
court decision and its ultimate effect.

Dated: July 25, 1979.

John McGuire,

Regional Administrator.

[FR Doc. 79-27001 Filed 8-28-79; 8:45 am]

BILLING CODE 6560-01-M

[OPP-180352; FRL 1307-8]

Crisis Exemption To Use Acephate To Control Citrus Blackfly on Citrus

AGENCY: Environmental Protection
Agency (EPA), Office of Pesticide
Programs.

ACTION: Notice of temporary crisis
exemption.

SUMMARY: EPA gives notice that the
Plant Protection and Quarantine
Programs, Animal and Plant Health
Inspection Service, U.S. Department of
Agriculture, (hereafter referred to as the
"Applicant") has availed itself of a crisis
exemption to use acephate to control the
citrus blackfly on approximately 1,200
acres of citrus in Lee County, Florida.
Since treatment was expected to exceed
fifteen days, the Applicant submitted a
request for a specific exemption for
continuation of this use of acephate.

FOR FURTHER INFORMATION CONTACT:

Emergency Response Section, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street, S.W., Room E-124, Washington, D.C. 20460, Telephone: 202/426-0223. It is suggested that interested persons telephone before visiting EPA Headquarters, so that the appropriate files may be made conveniently available for review purposes.

SUPPLEMENTARY INFORMATION: The citrus blackfly (*Aleurocanthus woglumi*) poses a serious threat to the United States citrus production. According to the Applicant, an outbreak of the citrus blackfly was located, identified, and confirmed in the Bonita Springs area of Lee County, Florida. There are no pesticides registered or other means of control presently available to control or eradicate the citrus blackfly. The Applicant claimed that the time element regarding commencement of applications of acephate was so critical that sufficient time was not available to request a specific exemption.

Acephate was used at the rate of 0.5 pound active ingredient (a.i.) per 100 gallons of water applied to wet the foliage thoroughly, using hydraulic sprayers. Continuing treatment will be made using acephate and/or malathion. Malathion is registered for use on citrus, but not for control of the blackfly. The following methods and rates to host trees scattered throughout the urban areas will be used:

1. Three applications of acephate (0.5 pound a.i. in 100 gallons of water) sprayed to the point of run-off, using hydraulic equipment; or

2. Three applications of acephate (1.0 pound a.i. per 100 gallons of water) sprayed throughout, using backpack mist blowers. Applications will not exceed 21-day intervals or 3 pounds a.i. per acre per year; and

3. Repeat applications of malathion at 20 ounces a.i. per 100 gallons of water applied to run-off, using hydraulic sprayers, or 40 ounces a.i. per 100 gallons of water using backpack mist blowers. Malathion may be used where additional treatments are required following applications of acephate, and where potential residues may be a problem, or phytotoxicity or other problems may exist from the use of acephate.

The Applicant stated that all pesticidal applications will be made under the supervision of personnel who meet or exceed the requirements of "knowledgeable experts." The Applicant anticipated that no adverse

effects to man or the environment would occur from this use of acephate. The Applicant advised that all applicable precautions on the EPA-registered labels will be followed and that residents in the treatment area will be notified and procedures implemented to protect pets and livestock.

Since treatment is to exceed fifteen days, the Applicant has submitted a request for a specific exemption for continuation of this program.

(Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended in 1972, 1975, and 1978 (92 Stat. 819, 7 U.S.C. 1361).)

Dated: August 21, 1979.

James M. Conlon,
Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 79-26896 Filed 8-28-79; 8:45 am]

BILLING CODE 6560-01-M

[Docket No. 407]

Herbicides: Dinitro Technical and Ancrack Herbicide

[FRL 1307-6]

On November 1, 1978, the Assistant Administrator for Toxic Substances published (43 FR No. 212 at 5095-66) Notice of Intent to Hold a Hearing pursuant to Sec. 6(b) of the Federal Insecticide, Fungicide and Rodenticide Act, as amended, to determine whether the registrations of the herbicides Dinitro Technical, EPA Reg. No. 148-213, and Ancrack Herbicide, EPA Reg. No. 19713-23, should be cancelled. The Notice was in response to petitions, dated August 8, 1977 and March 29, 1978, wherein The Dow Chemical Company (Dow) petitioned the Administrator to cancel the registrations of Dinitro Technical, issued to Thompson-Hayward Chemical Company on June 9, 1975, and the registration of Ancrack Herbicide, issued to the Ansul Company on August 20, 1976, but held at the time of the Notice by Drexel Chemical Company. Grounds for cancellation alleged in the petitions were essentially that information, research and test data previously submitted by Dow had been utilized by the Administrator in granting the registrations in question, that no determination had been made as to whether this data was entitled to protection from disclosure in accordance with Sec. 10(b) of FIFRA, that to the extent the data was entitled to confidential treatment in accordance with Sec. 10(b) it could not legally be utilized to issue other registrations

without Dow's consent which had neither been sought nor obtained, and that as to other data, it was incumbent on Thompson-Hayward and Ansul to submit evidence that they had made offers to pay reasonable compensation for the use of such data directly to Dow in accordance with Sec. 3(c)(1)(D) of FIFRA or to obtain Dow's consent, neither of which had been accomplished.

Drexel Chemical Co., Thompson-Hayward Chemical Co. and Gilmore, Inc., on behalf of A. H. Marks and Co. Ltd. responded to the Notice of Intent to Hold a Hearing within the 30-day period specified in the Notice. Registration No. 19713-23, issued to the Ansul Co. on August 20, 1976, concerned control of annual grasses and broad-leaf weeds in soybeans by Ancrack/Surfian tank-mix and Drexel has amended its label to delete that use. Dow has withdrawn its petition for the cancellation of Ancrack Herbicide.

As a result of actions instituted by Dow in the United States District Court for the Eastern District of Michigan, Northern Division (styled *The Dow Chemical Company v. Douglas M. Costle and Thompson-Hayward Chemical Company*, No. 78-10109 and *The Dow Chemical Company v. Douglas M. Costle and The Ansul Company*, No. 78-108110) the time in which interested persons could respond to the Notice of Intent to Hold a Hearing was extended to April 1, 1979 (44 FR 11111, February 27, 1979) and ultimately to August 1, 1979. Dow has now filed a response to the Notice. Thompson-Hayward has filed a motion to dismiss the proceeding asserting that none of the grounds alleged by Dow in its petition afford a legal basis for the Administrator to cancel Thompson-Hayward's registration. Dow and Respondent have filed answers to the motion.

For complete information on the issues involved and the current status of this proceeding, interested persons may examine the file (Herbicides: Dinitro Technical and Ancrack Herbicide, FIFRA Docket No. 407) in the Hearing Clerk's Office, Room 3708, Waterside Mall, 401 M Street, S.W., Washington, D.C. 20460.

Dated: August 23, 1979.

Spencer T. Nissen,
Administrative Law Judge.

[FR Doc. 79-26897 Filed 8-28-79; 8:45 am]

BILLING CODE 6560-01-M

[OPP-180349; FRL 1307-8]

Michigan Department of Agriculture; Issuance of Specific Exemption To Use Acephate To Control European Corn Borer on Peppers

AGENCY: Environmental Protection Agency (EPA), Office of Pesticide Programs.

ACTION: Issuance of a specific exemption.

SUMMARY: EPA has granted a specific exemption to the Michigan Department of Agriculture (hereafter referred to as the "Applicant") to use a total of 2,500 pounds of acephate to control the European corn borer on a maximum of 500 acres of peppers (other than bell peppers) in Michigan. The specific exemption expires on September 28, 1979.

FOR FURTHER INFORMATION CONTACT: Emergency Response Section, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street, S.W., Room E-124, Washington, D.C. 20460, Telephone 202/426-0223. It is suggested that interested persons telephone before visiting EPA Headquarters, so that the appropriate files may be made conveniently available for review purposes.

SUPPLEMENTARY INFORMATION: According to the Applicant, the European corn borer is the most significant pest affecting pepper production in Michigan. The first generation of European corn borers begins to emerge the last week of May or the first week of June. The populations peak about the second week of June and then drop sharply through the first two weeks of July. The second generation begins emerging in mid-July and reaches a peak about the second week of August. The second generation moths lay their eggs and the larva bore into the fruit of peppers. Since the hot pepper processors can not sort borer-infested peppers from clean peppers, any shipment received with one percent or greater borer infestation is rejected in total. Shipments of peppers which can not be sold to the processors are generally considered a total loss. The Applicant estimates that 20 percent of the acreage has been lost in past years due to European corn borer infestation. The Applicant estimates that the use of acephate could prevent a loss of \$111,563 to pepper growers. According to the Applicant, the chemicals registered for use on peppers, other than bell peppers, do not give a high enough degree of efficacy to be acceptable.

Acephate is currently registered for use on bell peppers, and permanent tolerances have been established for combined residues of acephate and its metabolite (methamidophos) at 4 parts per million (ppm) in or on bell peppers (of which no more than 1 ppm is the metabolite). EPA has determined that available residue data indicated that the proposed use pattern should not result in residues of acephate in excess of this level in or on peppers other than bell peppers. No unreasonable adverse effects to the environment are expected to result from the proposed use.

The Applicant proposed to make four applications at a rate of 1.0 pound active ingredient per acre at 7- to 10-day intervals until 21 days prior to harvest, beginning when egg masses of the first generation moths appear. Two additional applications will be made within 21 days of harvest at a rate of 0.5 pound active ingredient per acre.

After reviewing the application and other available information, EPA has determined that (a) a pest outbreak of the European corn borer has occurred or is likely to occur; (b) there is no effective pesticide presently registered and available for use to control the European corn borer on peppers in Michigan; (c) there are no alternative means of control, taking into account the efficacy and hazard; (d) significant economic problems may result if the pest is not controlled; and (e) the time available for action to mitigate the problems posed is insufficient for a pesticide to be registered for this use. Accordingly, the Applicant has been granted a specific exemption to use the pesticide noted above until September 28, 1979, to the extent and in the manner set forth in the application. The specific exemption is subject to the following conditions:

1. The product Orthene 75S Soluble Powder, EPA Registration No. 239-2418, will be used;

2. Acephate will be applied at a rate of 1.0 pound active ingredient per acre at 7- to 10-day intervals. A maximum of 4 applications may be applied at this rate until 21 days before harvest. A maximum of 2 additional applications may be applied at a rate of 0.5 pound active ingredient per acre prior to 7 days of harvest;

3. A maximum of 500 acres may be treated;

4. A maximum of 2,500 pounds active ingredient may be applied;

5. Applications will be made with air and ground equipment, using a minimum spray mixture volume of 25 gallons of water;

6. All applications will be made by State-licensed commercial or certified private applicators;

7. Application will not be made within 7 days of harvest;

8. A residue level of 5 ppm acephate (of which no more than 1 ppm is O,S-dimethyl phosphoramidothioate) in or on peppers has

been judged adequate to protect the public health. The Food and Drug Administration, U.S. Department of Health, Education, and Welfare, has been advised of this action:

9. All applicable directions and restrictions on the product label must be followed;

10. Every precaution shall be taken to avoid or minimize spray drift to non-target areas;

11. The EPA shall be immediately informed of any adverse effects resulting from the use of this pesticide in connection with this exemption; and

12. The applicant shall be responsible for assuring that all of the provisions of this specific exemption are met and must submit a report summarizing the results of this program by February 15, 1980.

(Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 1361).)

Dated: August 21, 1979.

James M. Conlon,
Acting Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 79-26894 Filed 8-28-79; 8:45 am]

BILLING CODE 6560-01-M

[OPP-180350; FRL 1308-1]

Oklahoma Department of Agriculture; Issuance of Specific Exemption To Use Botran 75W To Control Sclerotinia Blight of Peanuts

AGENCY: Environmental Protection Agency (EPA), Office of Pesticide Programs.

ACTION: Issuance of specific exemption.

SUMMARY: EPA has granted a specific exemption to the Oklahoma Department of Agriculture (hereafter referred to as the "Applicant") to use Botran 75W for the control of *Sclerotinia* blight on 15,000 acres of peanuts in ten counties in Oklahoma. The specific exemption expires on September 30, 1979.

FOR FURTHER INFORMATION CONTACT: Emergency Response Section, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street, S.W., Room E-124, Washington, D.C. 20460, Telephone: 202/426-0223. It is suggested that interested persons telephone before visiting EPA Headquarters, so that the appropriate files may be made conveniently available for review purposes.

SUPPLEMENTARY INFORMATION: According to the Applicant, *Sclerotinia* blight, which is caused by the plant pathogen *Sclerotinia sclerotiorum* (syn. *S. minor*), is a relatively new disease on peanuts in the United States, having been first reported in 1971. *S. sclerotiorum* invades the tap root, lateral branches, and pegs at the soil line and

eventually causes rotting of the peanut pods.

There are no EPA-registered fungicides for the control of *S. sclerotiorum* on peanuts. Several fungicides have been tested and shown to be effective for the control of *Sclerotinia* blight on peanuts. Pentachloronitrobenzene (PCNB) when used at maximal label rates did control *S. sclerotiorum* in some instances, but not in others. Multiple applications of benomyl also provided adequate control. Neither of these fungicides is registered for this use although PCNB has a registration for peanut pod rot complex. Botran 75W was chosen by the Applicant because it was considered to be most efficacious for control of *S. sclerotiorum*. In addition, Botran 75W is registered for the control of *Sclerotinia* on several vegetable crops (beans, celery, cucumbers, lettuce, onions, potatoes, and snap beans).

The Applicant proposed to use Botran 75W, containing the active ingredient 2, 6-dichloro-4-nitroaniline, once, at a dosage rate of 4 to 5 pounds of product per acre, or twice, at a dosage rate of 2 to 2.5 pounds per product per acre. If two applications are made, they will be made 10-14 days apart. Applications of Botran will be made by peanut growers on a maximum of 15,000 acres of peanuts in the counties of Bryan, Caddo, Carter, Grady, Hughes, Johnson, Lincoln, Love, Marshall, and Stephens.

The Applicant estimates that peanut yield losses due to *S. Sclerotiorum* infection could reach \$2,264,850 without a suitable control program.

This use of Botran 75W is not expected to have any adverse effects on the environment. Treated peanut vines or hay may not be use as livestock feed items.

After reviewing the applications and other available information, EPA has determined that (a) a pest outbreak of *Sclerotinia* blight has occurred or is about to occur; (b) there is no effective pesticide presently registered and available for use to control this pest in Oklahoma; (c) there are no alternative means of control, taking into account the efficacy and hazard; (d) significant economic problems may result if the pest is not controlled; and (e) the time available for action to mitigate the problems posed is insufficient for a pesticide to be registered for this use. Accordingly, the Applicant has been granted a specific exemption to use the pesticide noted above until September 30, 1979, to the extent and in the manner set forth in the application. The specific exemption is also subject to the following conditions.

1. Botran 75W (EPA Reg. No. 1023-36) may be applied in the first 30 minutes of an overhead irrigation system set at a dosage rate of 4 pounds product (3 pounds active ingredient) per acre, or by ground equipment at a dosage rate of 4 to 5 pounds of product (3-3.75 pounds active ingredient) per acre or as a split application, 14 days apart, at a dosage rate of 2-2.5 pounds of product (1.5-1.88 pounds active ingredient) per acre. When ground equipment is used, the product should be applied in 30-50 gallons of water over the row, using a flat type spray nozzle that produces large droplets rather than a mist and with sufficient pressure to drive the fungicide to the soil surface;

2. A maximum of 56,250 pounds of active ingredient may be applied;

3. A maximum of 15,000 acres of peanuts located in the counties named above may be treated;

4. All tail water must be contained when Botran 75W is used in irrigation systems; 15. Growers may apply this pesticide provided pesticide dealers disseminate copies of the proper procedures to be followed in applying Botran 75W under this specific exemption. Agricultural Extension agents, plant pathologists, and peanut specialists shall be available to assist growers;

6. All label precautions, directions, and restrictions must be adhered to;

7. Botran 75W-treated peanut fields must not be grazed nor shall the treated vines or hay be used as feed items;

8. A pre-harvest interval of 30 days shall be observed;

9. A residue level of 2,6-dichloro-4-nitroaniline in or on peanut meat and hulls not exceeding 0.1 part per million has been deemed adequate to protect the public health. The Food and Drug Administration, U.S. Department of Health, Education, and Welfare, has been advised of this action;

10. Botran 75W is toxic to fish. Care must be taken to prevent contamination of water by cleaning of equipment or disposal of waste or containers. It may not be applied under conditions favoring sheet run-off;

11. The EPA shall be immediately informed of any adverse effects resulting from the use of Botran 75W in connection with this specific exemption; and

12. A full report summarizing the results of this program must be submitted to the EPA by the end of March, 1980. This report should include, but is not limited to the following information:

a. Actual data on the residues of 2,6-dichloro-4-nitroaniline in or on the whole green peanut plant and peanut hay from application of Botran 75W via irrigation systems, and

b. Efficacy data developed using standard research methods and techniques. Particular emphasis should be placed on determining the most effective method of applying the pesticide through sprinkler systems to provide adequate and uniform coverage, to prevent contamination of water sources with the pesticide, and to prevent drift.

Statutory authority: Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136).

Dated: August 21, 1979.

James M. Conlon,
Acting Deputy Assistant Administrator for
Pesticide Programs

(FR Doc. 79-26993 Filed 8-28-79; 8:45 am)

BILLING CODE 6560-01-M

[OPP-180260A; FRL 1308-2]

U.S. Department of Agriculture; Amendment To Specific Exemption To Use Permethrin Coated Bags

AGENCY: Environmental Protection Agency (EPA), Office of Pesticide Programs.

ACTION: Issuance of amendment to a specific exemption.

SUMMARY: EPA has issued an amendment to a specific exemption granted to the Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, (hereafter referred to as the "Applicant") to use permethrin in the treatment of multiwall paper bags used for shipment and storage of processed grain products. The amendment extends the expiration date of the specific exemption to December 19, 1979.

FOR FURTHER INFORMATION CONTACT: Emergency Response Section, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street, Room: E-124, Washington, D.C. 20460. Telephone: 202/426-0223. It is suggested that interested persons telephone before visiting EPA Headquarters, so that the appropriate files may be made conveniently available for review purposes.

SUPPLEMENTARY INFORMATION: On Wednesday, April 11, 1979 (44 FR 21704), EPA published a notice in the Federal Register which announced the granting of a specific exemption to the Applicant to use pemethrin in the treatment of multiwall paper bags used for shipment and storage of processed grain products. Since then the Applicant has requested that the expiration date be extended. According to the Applicant, due to unforeseen production formulation problems by the permethrin manufacturer, specification production and delivery of treated containers to the milling industry did not start until June 1, 1979. The Applicant had anticipated a February 15, 1979 commencement date.

After review the application and other available information, EPA has determined that the requested amendment would not significantly change the specific exemption originally granted and would not result in any additional environmental risks. Accordingly, EPA has granted the

amendment to change the expiration date to December 19, 1979. The Applicant must submit a report summarizing the results of this program by February 28, 1980. All of the remaining provisions and restrictions concerning the use of permethrin under the specific exemption granted on December 20, 1978 remain in force.

(Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136)).

Dated: August 21, 1979.

James M. Conlon,
Acting Deputy Assistant Administrator for
Pesticide Programs.

(FR Doc. 79-26991 Filed 8-28-79; 8:45 am)

BILLING CODE 6560-01-M

[OPP-30171; FRL 1307-7]

Pesticide Programs; Receipt of Application To Register Pesticide Product Containing New Active Ingredient

U.S. Borax Research Corp., 412 Crescent Way, Anaheim, CA 92801, has submitted to the Environmental Protection Agency (EPA) an application to register the pesticide product RYDEX (EPA File Symbol 1624-RRU), containing 50% of the active ingredient prodiamine [2,4-dinitro-N³,N³-dipropyl-6-(trifluoromethyl)-1,3-benzenediamine] which has not been included in any previously registered pesticide product. The application proposes that the pesticide be classified for general use for preemergence control of annual grasses and broadleaf weeds. Notice of this application is given pursuant to the provisions of Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (92 Stat. 819; 7 U.S.C. 136) as amended and the regulations thereunder (40 CFR 162). Notice of receipt of this application does not indicate a decision by the Agency on the application.

Interested persons are invited to submit written comments on this petition. Comments may be submitted, and inquiries directed, to Product Manager (PM) 23, Room E-351, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M St., SW, Washington, DC 20460, telephone number 202/755-1397.

The comments must be received within 30 days from the date of publication of this notice in the Federal Register and should bear a notation indicating the EPA File Symbol "1624-RRU." Comments received within the specified time period will be considered before a final decision is made; comments received after the specified time period will be considered only to

the extent possible without delaying processing of the application. The label furnished by U.S. Borax Research Corp., as well as all written comments filed pursuant to this notice, will be available for public inspection in the Product Manager's office from 8:30 a.m. to 4 p.m., Monday through Friday, excluding holidays.

Notice of approval or denial of this application to register RYDEX will be announced in the Federal Register. Except for such material protected by section 10 of FIFRA, the test data and other information submitted in support of registration as well as other scientific information deemed relevant to the registration decision may be made available after approval under the provisions of the Freedom of Information Act. The procedures for requesting such data will be given in the Federal Register if an application is approved.

Dated: August 24, 1979.

Herbert S. Harrison,
Acting Director, Registration Division.

(FR Doc. 79-26995 Filed 8-28-79; 8:45 am)

BILLING CODE 6560-01-M

[FRL 1307-5]

General Motors Corp.; Three Rivers, Mich.; Final Determination

In the matter of the applicability of Title 1, Part C of the Clean Air Act (Act), as amended, 42 U.S.C. 7401 *et seq.*, and the Federal regulations promulgated thereunder at 40 CFR 52.21 (43 FR 26388, June 19, 1978) for Prevention of Significant Deterioration of Air Quality (PSD), to General Motors Corporation (GMC), Hydra-matic Division, Three Rivers, Michigan.

On August 7, 1978, GMC, Hydra-matic Division submitted an application to the United States Environmental protection Agency (U.S. EPA), Region V office, for an approval to construct two new coal-fired boilers. The application was submitted pursuant to the regulations for PSD.

On April 24, 1979, GMC, Hydra-matic Division was notified that its application was complete and preliminary approval was granted.

On May 10, 1979, U.S. EPA published notice of its decision to grant a preliminary approval to GMC, Hydra-matic Division. No comments or request for a public hearing were received.

After review and analysis of all materials submitted by GMC, Hydra-matic Division, the Company was notified on July 27, 1979, that U.S. EPA had determined that the proposed new construction in Three Rivers, Michigan,

would be utilizing the best available control technology and that emissions from the facility will not adversely impact air quality, as required by Section 165 of the Act.

This approval to construct does not relieve GMC, Hydra-matic Division of the responsibility to comply with the control strategy and all local, State and Federal regulations which are part of the applicable State Implementation Plan, as well as all other applicable Federal, State and local requirements.

This determination may now be considered final agency action which is locally applicable under Section 307(b)(1) of the Act and therefore a petition for review may be filed in the U.S. Court of Appeals for the Seventh Circuit by any appropriate party. In accordance with Section 307(b)(1), petitions for review must be filed on or before October 29, 1979.

For further information contact Eric Cohen, Chief, Compliance Section, Region V, U.S. EPA, 230 South Dearborn Street, Chicago, Illinois 60604 (312) 353-2090.

John McGuire,
Regional Administrator Region V.

In the Matter of The General Motors Corporation Hydra-matic Division, Three Rivers, Michigan.

Proceeding Pursuant to the Clean Air Act, as amended: approval to construct EPA-5-A-79-20.

Authority

The approval to construct is issued pursuant to the Clean Air Act, as amended, 42 U.S.C. 7401 *et seq.* (the Act), and the Federal regulations promulgated thereunder at 40 CFR 52.21 for the Prevention of Significant Deterioration Of Air Quality (PSD).

Findings

1. The General Motors Corporation (GMC) proposes to construct two new coal-fired spreader stoker boilers at its Hydra-matic Division in Three Rivers, Michigan.

2. The proposed construction of the two new coal-fired boilers is subject to the requirements of 40 CFR 52.21 and the applicable sections of the Act.

3. GMC submitted a completed application on April 24, 1979. On May 10, 1979, notice was published in the *Three Rivers Commercial* seeking comments from the public and giving an opportunity to request a public hearing on the application and U.S. EPA's review and preliminary determination to approve construction of the above-cited source. No comments or requests for a public hearing were received.

4. After a thorough review of all the materials submitted by GMC, U.S. EPA has determined that emissions from the two coal-fired boilers will not violate the National Ambient Air Quality Standards nor will they violate the air quality increments.

5. The two new coal-fired boilers will have a heat input of 72.8 million BTU per hour and

will provide steam and compressed air to the Hydra-matic plant. A steam-operated pneumatic ash handling system will be installed for the boilers. A coal handling system capable of unloading crushed coal from railroad cars will also be built.

6. The Hydra-matic plant is located in St. Joseph County, Michigan and is designated attainment for all criteria pollutants. GMC proposes to use low sulfur coal with a sulfur content not greater than 1% and to employ a particulate control system of cyclonic dust collectors in series with a fabric filter to achieve the allowable emission rate. The baghouse system will have an air to cloth ratio of 3.08:1 with pressure-drop of 6 inches w.g. across the system. The system will handle 27,200 cubic feet of air per minute. The baghouse will have 3 modules with 168 fiberglass bags in each module. The bags will be cleaned by reverse pulsed air. GMC will employ best available technology (BACT) for fugitive particulate emissions from their coal storage handling facilities. Unloading of coal rail cars will be done in an enclosed building. Coal handling and processing such as the crusher, transfer points and coal bunker will be enclosed. The storage pile will be sprayed with a surfactant to control fugitive emissions.

Conditions

7. Particulate emissions from the new boilers shall not exceed 0.06 pounds per million BTU heat input.

8. Sulfur dioxide emissions from the new boilers shall not exceed 1.6 pounds per million BTU heat input, based on a 24-hour average.

9. Nitrous oxide emissions from the new boilers shall not exceed 0.6 pounds per million BTU heat input.

10. No waste oil from the plant process shall be fired in the new boilers unless specifically approved by U.S. EPA. Such approval cannot be granted to GMC unless the following information is provided:

- An ultimate analysis of waste oil to be stored and fired.
- An estimate of the quantity of waste oil to be stored and fired.
- An assessment of the air quality impact of the waste oil firing.

11. The unloading of coal rail cars shall be executed in an enclosed building. Coal handling and processing (crushers, conveyors, transfer points and coal bunker) will be enclosed.

12. The coal storage pile(s) shall be sprayed with a surfactant on a regular basis as needed to minimize fugitive dust.

13. A low sulfur coal with a sulfur content not greater than 1% will be utilized to reduce sulfur dioxide emissions.

14. There shall be no visible emissions from the coal conveyor or coal elevators.

15. Visible emissions from the rail car receiving hopper shall not exceed 5 percent opacity.

The control measures stated in conditions 7 through 15 above represent BACT as required by 40 CFR 52.21(d)(i).

Approval

16. Approval to construct two coal-fired spreader stoker boilers is hereby granted to

GMC, subject to the conditions expressed herein and consistent with the materials and dates included in the application filed by the Corporation. Any departure from the conditions of this approval or the terms expressed in GMC's application must receive the prior written authorization of U.S. EPA.

17. This approval to construct does not relieve GMC of the responsibility to comply with the control strategy and all local, State, and Federal regulations which are part of the applicable Implementation Plan, as well as other applicable local, State and Federal requirements.

18. This approval is effective immediately. This approval to construct shall become invalid, if construction or expansion is not commenced within 18 months after receipt of this approval or if construction is discontinued for a period of 18 months or more. The Administrator may extend such time period upon a satisfactory showing that an extension is justified. Written notification shall be made to U.S. EPA 5 days after construction is commenced.

19. A copy of this approval has been forwarded for public inspection to the Three Rivers Public Library, 109 Portage, Three Rivers, Michigan.

20. In addition, the United States Court of Appeals for the D.C. Circuit has issued a ruling in the case of *Alabama Power Co. vs. Douglas M. Costle* (78-1006 and consolidated cases) which has significant impact on the EPA prevention of significant deterioration (PSD) program and approvals issued thereunder. Although the court has stayed its decision pending resolution of petitions for reconsideration, it is possible that the final decision will require modification of the PSD regulations and could affect permits issued under the existing program. Examples of potential impact areas include the scope of best available control technology (BACT), source applicability, the amount of increment available (baseline definition), and the extent of preconstruction monitoring that a source may be required to perform. The applicant is hereby advised that this approval may be subject to reevaluation as a result of the final court decision and its ultimate effect.

Dated: July 27, 1979.

John McGuire,

Regional Administrator.

[FR Doc. 79-26999 Filed 8-28-79; 8:45 am]

BILLING CODE 5560-01-M

[FRL 1307-4]

General Motors Corp., Pontiac, Mich.; Final Determination

In the matter of the applicability of Title 1, Part C of the Clean Air Act (Act), as amended, 42 U.S.C. 7401 *et seq.*, and the Federal regulations promulgated thereunder at 40 CFR 52.21 (43 FR 26388, June 19, 1978) for Prevention of Significant Deterioration of Air Quality (PSD), to General Motors Corporation (GMC), Fisher Body Assembly Plant, Pontiac, Michigan.

On August 9, 1978, GMC, Fisher Body Assembly Plant submitted an

application to the United States Environmental Protection Agency (U.S. EPA), Region V office, for an approval to construct two new coal-fired spreader stoker boilers. The application was submitted pursuant to the regulations for PSD.

On April 23, 1979, GMC, Fisher Body Assembly Plant was notified that its application was complete and preliminary approval was granted.

On May 15, 1979, U.S. EPA published notice of its decision to grant a preliminary approval to GMC, Fisher Body Assembly Division. No comments or request for a public hearing were received.

After review and analysis of all materials submitted by GMC, Fisher Body Assembly Plant, the Company was notified on July 27, 1979, that U.S. EPA had determined that the proposed new construction in Pontiac, Michigan, would be utilizing the best available control technology and that emissions from the facility will not adversely impact air quality, as required by Section 165 of the Act.

This approval to construct does not relieve GMC, Fisher Body Assembly Plant of the responsibility to comply with the control strategy and all local, State and Federal regulations which are part of the applicable State Implementation Plan, as well as all other applicable Federal, State and local requirements.

This determination may now be considered final agency action which is locally applicable under Section 307(b)(1) of the Act and therefore a petition for review may be filed in the U.S. Court of Appeals for the Seventh Circuit by any appropriate party. In accordance with Section 307(b)(1), petitions for review must be filed on or before October 29, 1979.

For further information contact Eric Cohen, Chief, Compliance Section, Region V, U.S. EPA, 230 South Dearborn Street, Chicago, Illinois 60604 (312) 353-2090.

Dated: August 14, 1979.

John McGuire,

Regional Administrator, Region V.

In the Matter of The General Motors Corporation, Fisher Body Assembly Plant, Pontiac, Michigan. Proceeding Pursuant to the Clean Air Act, as amended. Approval to Construct EPA-5-A-79-19.

Authority

The approval to construct is issued pursuant to the Clean Air Act, as amended, 42 USC 7401 *et seq.* (the Act), and the Federal regulations promulgated thereunder at 40 CFR 52.21 for the Prevention of Significant Deterioration of Air Quality (PSD).

Findings

1. The General Motors Corporation (GMC) proposes to construct two new coal-fired spreader stoker boilers at its Fisher Body Assembly plant in Pontiac, Michigan.

2. The proposed construction of the two new coal-fired boilers is subject to the requirements of 40 CFR 52.21 and the applicable sections of the Act.

3. GMC submitted a completed application on April 23, 1979. On May 15, 1979, notice was published in the *Oakland Press* seeking comments from the public and giving an opportunity to request a public hearing on the application and U.S. EPA's review and preliminary determination to approve construction of the above-cited source. No comments or requests for a public hearing were received.

4. After a thorough review of all the materials submitted by GMC, U.S. EPA has determined that emissions from the two coal-fired boiler will not violate the National Ambient Air Quality Standards nor violate the air quality increments.

5. The two new coal-fired boilers will have a heat input of 245 million BTU per hour respectively and will replace two existing 80,000 pounds steam per hour boilers.

6. The Fisher Body Assembly plant is located in Oakland County, Michigan which is an attainment area for total suspended particulates (TSP) and sulfur dioxide emissions. The plant is located adjacent to and impacts on, a nonattainment area for TSP and is therefore subject to Lowest Achievable Emission Rate (LAER) as well as offsets for TSP.

7. GMC proposes to achieve LAER by employing a particulate control system of cyclonic dust collectors in series with a fabric filter to achieve the allowable emission rate. GMC proposes to also employ LAER controls for fugitive emissions from their coal storage and handling facilities. Unloading of coal cars will be executed in an enclosed building. Coal handling such as the crushers, conveyors, and transfer points will be enclosed. The storage pile(s) will be sprayed with a surfactant to control the fugitive emissions. Offsets will be obtained through shut down of the two existing boilers.

8. GMC proposes to achieve best available control technology (BACT) by utilizing low sulfur coal with a sulfur content not greater than 1%. To meet BACT, GMC proposes to apply combustion modification techniques that will include excess air and overfire air control.

Conditions

9. Particulate matter emissions from the boiler stack shall not exceed 0.03 pounds per million BTU actual heat input.

10. Sulfur dioxide emissions from the boiler stack shall not exceed 1.6 pounds per million BTU actual heat input on a 24-hour basis.

11. Nitrous oxide emissions from the stack shall not exceed 0.6 pounds per million BTU actual heat input.

12. A low sulfur coal with a sulfur content not greater than 1% will be utilized to reduce sulfur dioxide emissions.

13. The unloading of coal rail cars shall be executed in an enclosed building. Coal handling and processing (crushers,

conveyors, transfer points, and bunkers) will be enclosed.

14. The coal pile(s) shall be sprayed with a surfactant on a regular basis as needed to minimize fugitive dust emissions.

15. Visible emissions from the car dumper facility shall not exceed 5% opacity.

16. There shall be no visible emissions from the coal conveyors or coal elevators.

17. Ash shall be wetted as it is loaded on the trucks utilized for disposal. The trucks utilized for ash disposal shall be covered.

18. The operation of the two existing 80,000 pound steam per hour boilers shall cease prior to start-up of the two new coal-fired spreader stoker boilers.

Conditions 9 through 18 represent application of the appropriate control measures as specified in 40 CFR 52.21.

Approval

19. This approval to construct the two new coal-fired spreader stoker boilers is hereby granted to GMC, subject to the conditions expressed herein and consistent with the materials and dates included in the application filed by the Corporation. Any departure from the conditions of this approval or the terms expressed in GMC's application must receive the prior written authorization of U.S. EPA.

20. This approval to construct does not relieve GMC of the responsibility to comply with the control strategy and all local, State and Federal regulations which are part of the applicable Implementation Plan, as well as other applicable local, State and Federal requirements.

21. This approval is effective immediately. This approval to construct shall become invalid, if construction or expansion is not commenced within 18 months after receipt of this approval, or if construction is discontinued for a period of 18 months or more. The Administrator may extend such time period upon a satisfactory showing that an extension is justified. Written notification shall be made to U.S. EPA 5 days after construction is commenced.

22. A copy of this approval has been forwarded for public inspection to the Pontiac Public Library, 60 East Pike, Pontiac, Michigan 48058.

23. In addition, the United States Court of Appeals for the D.C. Circuit has issued a ruling in the case of *Alabama Power Co. vs. Douglas M. Costle* (78-1006 and consolidated cases) which has significant impact on the EPA prevention of significant deterioration (PSD) program and approvals issued thereunder. Although the court has stayed its decision pending resolution of petitions for reconsideration, it is possible that the final decision will require modification of the PSD regulations and could affect approvals issued under the existing program. Examples of potential impact areas include the scope of best available control technology (BACT), source applicability, the amount of increment available (baseline definition), and the extent of preconstruction monitoring that a source may be required to perform. The applicant is hereby advised that this approval may be subject to reevaluation as a result of the final court decision and its ultimate effect.

Dated: July 27, 1979.

John McGuire,

Regional Administrator.

[FR Doc. 79-26999 Filed 8-28-79; 8:45 am]

BILLING CODE 5560-01-M

[FRL 1307-3]

Upjohn Co., Kalamazoo, Mich.; Final Determination

In the matter of the applicability of Title 1, Part C of the Clean Air Act (Act), as amended, 42 U.S.C. 7401 *et seq.*, and the Federal regulations promulgated thereunder at 40 CFR 52.21 (43 FR 26388, June 19, 1978) for Prevention of Significant Deterioration of Air Quality (PSD), to Upjohn Company, Kalamazoo, Michigan.

On August 8, 1978, Upjohn Company submitted an application to the United States Environmental Protection Agency (U.S. EPA), Region V office, for an approval to construct a gas/oil fired boiler. The application was submitted pursuant to the regulations for PSD.

On April 2, 1979, Upjohn Company was notified that its application was complete and preliminary approval was granted.

On May 4, 1979, U.S. EPA published notice of its decision to grant a preliminary approval to Upjohn Company. No comments or request for a public hearing were received.

After review and analysis of all materials submitted by Upjohn Company, the Company was notified on July 12, 1979, that U.S. EPA had determined that the proposed new construction in Kalamazoo, Michigan, would be utilizing the best available control technology and that emissions from the facility will not adversely impact air quality, as required by Section 165 of the Act.

This approval to construct does not relieve Upjohn Company of the responsibility to comply with the control strategy and all local, State and Federal regulations which are part of the applicable State Implementation Plan, as well as all other applicable Federal, State and local requirements.

This determination may now be considered final agency action which is locally applicable under Section 307(b)(1) of the Act and therefore a petition for review may be filed in the U.S. Court of Appeals for the Seventh Circuit by any appropriate party. In accordance with Section 307(b)(1), petitions for review must be filed on or before October 29, 1979.

For further information contact Eric Cohen, Chief, Compliance Section, Region V, U.S. EPA, 230 Dearborn

Street, Chicago, Illinois 60604 (312) 353-2090.

Dated: August 14, 1979.

John McGuire,

Regional Administrator, Region V.

In the Matter of The Upjohn Company, Kalamazoo, Michigan. Proceeding Pursuant to the Clean Air Act, as amended. Approval to Construct EPA-5A-79-16.

Authority

The approval to construct is issued pursuant to the Clean Air Act, as amended, 42 U.S.C. 7401 et seq., (the Act), and the Federal regulations promulgated thereunder at 40 CFR 52.51 for the Prevention of Significant Deterioration of Air Quality (PSD).

Findings

1. The Upjohn Company (Upjohn) proposes to construct a gas/oil fired boiler (Boiler #8) in Kalamazoo, Michigan.

2. The section of Kalamazoo in which Upjohn proposes to construct is a Class II area as determined pursuant to the Act and has been designated an attainment area for all criteria pollutants except oxidants by the State of Michigan pursuant to Section 107 of the Act.

3. The proposed Boiler #8 is subject to the requirements of 40 CFR 52.21 and the applicable sections of the Act. The application also includes the installation of two 50,000 gallon oil storage tanks to store the #5 fuel oil used in Boiler #8.

4. Upjohn submitted a completed PSD application on April 2, 1979. On May 4, 1979, notice was published in the Kalamazoo Gazette seeking written comments from the public and giving an opportunity to request a public hearing on the application and U.S. EPA's review and preliminary determination to approve construction of the above-cited source. No comments or requests for a public hearing were received.

5. After a thorough review of all the materials submitted by Upjohn, U.S. EPA has determined that emissions from the construction and operation of Boiler #8 will not violate the National Ambient Air Quality Standards, nor exceed the PSD increments.

6. Best Available Control Technology (BACT) for NO_x emissions from a gas or oil fired boiler (rated capacity 120,000 pounds steam per hour) will result in emissions of 0.2 or 0.3 pounds per million BTU respectively. For SO₂, BACT for oil firing corresponds to an emission rate of 0.8 pounds per MMBTU based on a 24-hour average. A low sulfur fuel (#5 fuel oil) with a sulfur content of 0.72% must be fired to attain the emission rate of 0.8 pounds per MMBTU.

Conditions

7. Boiler #8 will be gas fired 245 days per year and oil fired 90 days per year. For the remaining 30 days in the year, Boiler #8 will be shut down for maintenance.

8. The use of proper boiler design and burner placement will be maintained. The burner will be placed in a water cooled combustion chamber and excess air will be limited.

9. A low sulfur #5 fuel oil with a sulfur content not to exceed 0.72% will be used in firing.

10. NO_x emissions from Boiler #8 shall not exceed 0.20 or 0.30 pounds per MMBTU heat input when fired with natural gas or oil, respectively.

11. SO₂ emissions from Boiler #8 shall not exceed 0.80 pounds per MMBTU heat input on a 24-hour average when fired with oil.

12. When Boiler #8 is being fired with a combination of oil and natural gas, the allowable emission rates for NO_x and SO₂ shall be calculated on the basis of the prorated heat input for each fuel consistent with the conditions stated above. In calculating the allowable SO₂ emission rate, the emission rate when natural gas only is used shall be taken to be 0.00 pounds per MMBTU heat input.

The control measures stated above represent BACT [40 CFR 52.21(d)(ii)].

Approval

13. This approval to construct a gas/oil fired boiler (Boiler #8) is hereby granted to the Upjohn Company subject to the conditions expressed herein and consistent with the materials and dates included in the application filed by the Company. Any departure from the conditions of this approval or the terms expressed in Upjohn's application must receive the prior written authorization of U.S. EPA.

14. This approval to construct does not relieve Upjohn of the responsibility to comply with the control strategy and all local, State and Federal regulations which are part of the applicable Implementation Plan, as well as other applicable local, State and Federal requirements.

15. This approval is effective immediately. This approval to construct shall become invalid, if construction or expansion is not commenced within 18 months after receipt of this approval or if construction is discontinued for a period of 18 months or more. The administrator may extend such time period upon a satisfactory showing that an extension is justified. Notification shall be made to U.S. EPA 5 days after construction is commenced.

16. A copy of this approval has been forwarded for public inspection to the Kalamazoo Public Library, 315 South Rhodes, Kalamazoo, Michigan 49007.

In addition, the United States Court of Appeals for the D.C. Circuit has issued a ruling in the case of *Alabama Power Co. vs. Douglas M. Costle* (79-1006 and consolidated cases) which has significant impact on the EPA Prevention of Significant Deterioration (PSD) program and permits issued thereunder. Although the court has stayed its decision pending resolution of petitions for reconsideration, it is possible that the final decision will require modification of the PSD regulations and could affect permits issued under the existing program. Examples of potential impact areas include the scope of Best Available Control Technology (BACT), source applicability, the amount of increment available (baseline definition), and the extent of preconstruction monitoring that a source may be required to perform. The applicant is hereby advised that this permit may be

subject to reevaluation as a result of the final court decision and its ultimate effect.

Dated: July 12, 1979.

John McGuire,

Regional Administrator.

[FR Doc. 79-27000 Filed 8-28-79; 8:45 am]

BILLING CODE 5560-01-M

[FRL 1308-3]

Water Programs; Determination of Primary Enforcement Responsibility; State of Illinois

This public notice is issued under Section 1413 of the Safe Drinking Water Act of 1977, Pub. L. 95-190, (Amending 42 U.S.C. 300f et seq.), and 40 CFR 142.10, National Interim Primary Drinking Water Regulations, published at 41 FR 2918 (January 20, 1976).

An application, dated June 28, 1978, has been received from the Director of the Illinois Environmental Protection Agency, requesting that the Illinois Environmental Protection Agency be granted primary enforcement responsibility for public water systems in the State of Illinois, in accordance with the provisions of this Act.

In response, I have determined, as Regional Administrator of the U.S. Environmental Protection Agency, Region V, that the Illinois Environmental Protection Agency has met all conditions of the Safe Drinking Water Act and subsequent regulations for the assumption of primary enforcement responsibility for public water systems in the State of Illinois.

The State—

(1) has adopted drinking water regulations which are no less stringent than the National Interim Primary Drinking Water Regulations;

(2) has adopted and will implement adequate procedures for the enforcement of such State regulations, including adequate monitoring and inspections;

(3) will keep such records and make such reports as required;

(4) will issue variances and exemptions in accordance with the provisions of the National Interim Primary Drinking Water Regulations and;

(5) has adopted and can implement an adequate plan for the provision of safe drinking water under emergency circumstances.

This determination is based on the understanding that the Illinois Pollution Control Board will follow the Federal variance and exemption regulations set forth at 40 CFR Part 142, Subparts E and F (41 FR 2923-2926, January 20, 1976).

All documents relating to this determination are available for public inspection between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, at the following offices:

Division of Public Water Supplies

Illinois Environmental Protection

Agency

2200 Churchill Road

Springfield, Illinois 62706

Water Supply Branch

U.S. Environmental Protection Agency,

Region V

230 South Dearborn Street

Chicago, Illinois 60604

All interested parties are invited to submit written comments on this determination. Written comments must be received on or before September 28, 1979.

Further information may be obtained by writing the Water Supply Branch of the U.S. Environmental Protection Agency, Region V, or the Division of Public Water Supplies, Illinois Environmental Protection Agency, or by calling Joseph F. Harrison at (312) 353-2151 or Ira Markwood at (217) 782-9470.

A public hearing may be requested by any interested person. Frivolous or insubstantial requests for a public hearing may be denied; however, if a substantial request is received within 30 days, a public hearing will be held and notice will be given in the Federal Register and newspapers of general circulation. Such requests shall be addressed to me, Regional Administrator, U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604, and shall include the following information:

(1) The name, address, and telephone number of the individual, organization or other entity requesting a hearing

(2) A brief statement of the requesting person's interest in my determination and information that the requesting person intends to submit at such hearing.

(3) The signature of the individual making the request; or, if the request is made on behalf of an organization or other entity, the signature of a responsible official of the organization or other entity.

If no timely request for a hearing is received, my determination shall become effective 30 days after this notice is issued.

Please bring this notice to the attention of any persons known by you to have an interest in this determination.

Dated: August 23, 1979.

John McGuire,

Regional Administrator, U.S. Environmental Protection Agency, Region V.

[FR Doc. 79-26990 Filed 8-28-79; 8:45 am]

BILLING CODE 5560-01-M

[FRL 1308-4]

Region II; Groundwater System for the Aquifers of Queens and Kings Counties, New York; Request for EPA Determination Regarding Aquifers

A petition has been submitted by the Jamaica Water Supply Company, Lake Success, New York, pursuant to Section 1424(e) of the Safe Drinking Water Act, P.L. 93-523, requesting the Administrator of the Environmental Protection Agency to make a determination that the aquifer underlying Queens and Kings Counties, New York is the sole or principal drinking water source of Queens County, New York which, if contaminated, would create a significant hazard to public health.

This petition is reprinted in full below:

BEFORE THE U.S. ENVIRONMENTAL PROTECTION AGENCY

Douglas M. Costle, Administrator

Petition

In the Matter of the Petition of the Jamaica Water Supply Company Under Section 1424(e) of the 1974 Safe Drinking Water Act with Respect to the Aquifers of Queens and Kings Counties, New York.

1. Section 1424(e) of the 1974 Safe Drinking Water Act provides as follows:

"(e) If the Administrator determines, on his own initiative or upon petition, that an area has an aquifer which is the sole or principal drinking water source for the area and which, if contaminated, would create a significant hazard to public health, he shall publish notice of that determination in the Federal Register. After the publication of any such notice, no commitment for Federal financial assistance (through a grant, contract, loan guarantee, or otherwise) may be entered into for any project which the Administrator determines may contaminate such aquifer through a recharge zone so as to create a significant hazard to public health, but a commitment for Federal financial assistance may, if authorized under another provision of law, be entered into plan or design the project to assure that it will not so contaminate the aquifer."

2. The aquifers which underlie Queens County, New York City, are the sole drinking water source for approximately 650,000 people in the southeastern part of Queens County. These aquifers are extensions of the aquifers underlying Nassau and Suffolk Counties, which have already been declared "sole source aquifers". Numerous publications by federal and state agencies, including "An Atlas of Long Island Water Resources," New York Water Resources Commission Bulletin No. 62; "Ground Water and Geohydrologic Conditions in Queens County, Long Island, New York," by Julian Soren, United States Geological Survey Water Supply Paper 2001-A, pages A-19 through A-26 establish the interrelationship between the aquifers underlying Queens County and those underlying Nassau, Suffolk and Kings Counties.

3. The southeastern portion of Queens County has a population of approximately 650,000 people located within an area of approximately 30 square miles. These people are supplied all of their water, both for domestic use and public fire protection, from wells which are operated by the Jamaica Water Supply Company, (the "Company") a private company franchised within the State of New York. Even though the Company has interconnections with the water system maintained by the City of New York, less than 30% of the area's normal daily requirements can be met by the use of City water. There is no expectation that the Company will be able to increase the quantity of water it takes from New York City in the foreseeable future. The Company provides for iron removal, chlorination, fluoridation and corrosion control of most of the water pumped.

4. The area has four principal aquifers, the upper glacial aquifer (the top aquifer), the Jameco aquifer, the Magothy aquifer and the Lloyd aquifer, all of which are utilized for a potable water supply in the southwestern portion of Queens County. Recharge to the aquifers is from precipitation or from adjacent rocks.

5. Since the population of the entire southeastern portion of Queens County is dependent upon these aquifers and since these aquifers are not only contiguous with, but also hydraulically connected to the aquifers in the rest of Queens County, Kings County and Nassau County, contamination of these aquifers would create a significant hazard to public health.

6. Contamination of the upper glacial aquifer, already a problem in Nassau and Suffolk Counties, could become a reality at any time in Queens and Kings Counties where it would pose a far more serious problem to their residents because of greater urbanization and a higher concentration of industrial areas.

7. Preservation of the potability of water in aquifers underlying Queens and Kings Counties will benefit not only present residents but also future generations, because it is the source of approximately 60 million gallons per day required for the Company's customers in Queens and Nassau Counties.

8. Therefore we request that you amend the Nassau/Suffolk designation of June 21, 1978 (FR Vol. 43, No. 120) by adding the determination that Queens and Kings Counties are underlain by aquifers which are "the sole or principal drinking water source for the southeastern part of Queens and if contaminated would create a significant hazard to public health," and that you therefore publish notice of this determination in the Federal Register.

Respectfully submitted,
Jamaica Water Supply Company.

Andrew T. Dwyer,

President.

Jamaica Water Supply Company

410 Lakeville Road
Lake Success, New York 11042
516-468-4600

June 18, 1979.

EPA intends to decide whether to make the requested determination at the earliest time consistent with a complete review of the relevant data and information, and a full opportunity for public participation. In this regard, the Agency is developing a full factual record, and solicits comments, data and references to additional sources of information relevant to the determination required by Section 1424(e). In particular, information is sought concerning the hydrogeology of the Queens and Kings Aquifer System, the boundaries of the aquifer and its recharge areas. In addition, EPA requests information concerning the area or areas dependent upon the aquifer for drinking water, the significance of current or anticipated projects receiving federal financial assistance that may result in contamination of the aquifer, the prospects that such contamination will occur as a result of current activities or even to that may be anticipated, and any other relevant information.

Comments, data, and references in response to this notice should be submitted in writing to Eckardt C. Beck, Regional Administrator, Environmental Protection Agency, Region II, 26 Federal Plaza, New York, NY 10007, attention: Queens and Kings Aquifer, within 60 days of this Notice. Information and maps submitted by the Jamaica Water Supply Company concerning the Queens and King Aquifer System will be available for inspection in the Water Supply Branch office at the above address.

In addition to considering public comments sent to EPA, the Agency will hold a Public Hearing on the afternoon (2:00 pm to 5:00 pm) and evening (7:00 pm to 10:00 pm) of Thursday October 4, 1979, at the Queens Boro Hall, Room 213, 120-55 Queens Blvd., Kew Gardens, N.Y.

Persons who wish to present prepared statements at the public hearing are urged to give notice to Mr. John S. Malleck, Water Supply Branch, Environmental Protection Agency, Region II, 26 Federal Plaza, New York, N.Y. 10007, (212) 264-1347. Written copies of these statements should be submitted at the hearing for inclusion in the record.

Eckardt C. Beck,

Regional Administrator.

[FR Doc. 79-26992 Filed 8-28-79; 8:45 am]

BILLING CODE 6560-01-M

FEDERAL MARITIME COMMISSION

Security for the Protection of the Public, Financial Responsibility To Meet Liability Incurred for Death or Injury To Passengers or Other Persons on Voyages; Issuance of Certificate (Casualty)

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility to Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages pursuant to the provisions of Section 2, Public Law 89-777 (80 Stat. 1356, 1357) and Federal Maritime Commission General Order 20, as amended (46 CFR 540): Hellenic American Cruises, Ltd., 22 East 40th Street, New York, New York 10016.

Dated: August 23, 1979

Francis C. Hurney,

Secretary.

[FR Doc. 79-25746 Filed 8-28-79; 8:45 am]

BILLING CODE 6730-01-M

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for review and approval, if required, pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10423; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California, and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before September 10, 1979. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Agreement No.: T-3323-1.

Filing Party: Mr. Michael Joseph, Esq., Kominers, Fort, Schlefer & Boyer, 1776 F Street, N.W., Washington, D.C. 20006.

Summary: Agreement No. T-3323-1, among Holt Handling & Warehousing System Inc. (Holt), Retla Steamship Company (Retla) and Pierpoint Management Company, Inc. (Pierpoint), modifies the parties' basic agreement providing for Holt's lease to Pierpoint and Pierpoint's guarantor, Retla, the Pier Seven terminal facility at Gloucester City, New Jersey. The purpose of the modification is to provide 1) that Retla pay Holt the sum of \$500,000, 2) that Agreement No. T-3323 be cancelled, 3) that the proceedings in FMC Docket No. 78-44 be terminated, and 4) that Pierpoint surrender the lease of Pier Seven to Holt.

By Order of the Federal Maritime Commission.

Dated: August 23, 1979.

Francis C. Hurney,

Secretary.

[FR Doc. 79-26764 Filed 8-28-79; 8:45 am]

BILLING CODE 6730-01-M

GENERAL SERVICES ADMINISTRATION

[GSA Bulletin FPR 37]

Federal Procurement; Companies not in Compliance with the Voluntary Wage and Price Standards

To: Heads of Federal agencies.

1. *Purpose.* This bulletin provides, for the information of executive agencies, the names of companies that have been determined to be in noncompliance with the Voluntary Wage and Price Standards formulated pursuant to Executive Order (EO) 12092.

2. *Expiration date.* This bulletin contains information of a continuing nature and will remain in effect until canceled.

3. *Background.* EO 12092, dated November 1, 1978, encourages voluntary noninflationary pay and price behavior by private industry and labor. It also directs Federal agencies to procure personal property and services at prices and wage rates which are noninflationary and consistent with (a) Sections 1-102, 1-103, and 1-104 of EO 12092 and (b) the voluntary wage and price standards formulated pursuant to EO 12092. Further, Section 1-101(c) directs that the names of individuals or companies be published which are determined by the Council on Wage and Price Stability (CWPS) to be in noncompliance with the Voluntary

Wage and Price Standards requirements of EO 12092.

OFPP Policy Letter No. 78-6,

December 27, 1978, which implements Executive Order 12092, provides that companies determined by the CWPS to be in noncompliance shall be ineligible for contract awards anticipated to exceed \$5 million resulting from solicitations or other actions issued on or after February 15, 1979, unless the determination of ineligibility is waived by the agency head.

4. *Substance.* On the effective dates shown below, the Council on Wage and Price Stability has determined that the following companies are not in compliance with the Voluntary Wage and Price Standards formulated pursuant to EO 12092 and are ineligible to be awarded contracts which are expected to exceed 5 million dollars unless the determination of ineligibility is waived by the agency head.

Effective July 17, 1979

Ideal Basic Industries, Inc., Cement Division, P.O. Box 8789, Denver Colorado 80201. The Charter Company, 208 Laura Street, Jacksonville, Florida 32231.

Effective July 24, 1979

Northwestern Steel and Wire Company, 121 Wallace Street, Sterling, Illinois 61081. Mason Contractors of DuPage County, P.O. Box 129, Mount Prospect, Illinois 60056.

Dated: August 17, 1979.

Dale R. Babione

Assistant Administrator for Acquisition Policy.

[FR Doc. 79-26946 Filed 8-28-79; 8:45 am]

BILLING CODE 6820-01-M

[GSA Bulletin FPR 38]

Federal Procurement; Current Interest Rate of 10 1/4 Percent Pursuant to Public Law 92-41

To: Heads of Federal agencies.

1. *Purpose.* This bulletin provides, for the information of executive agencies, the current interest rate established by the Secretary of the Treasury pursuant to Pub. L. 92-41 (85 Stat. 97) for the Renegotiation Board.

2. *Expiration date.* This bulletin expires December 31, 1979, unless sooner revised or superseded.

3. *Background.* The interest rate determined by the Secretary of the Treasury, as required by Pub. L. 92-41 for Renegotiation Act purposes, has been applied to various interest payment requirements in the FPR. For the January 1-June 30, 1979, period, the interest rate was announced in GSA; Bulletin FPR 35. Use of the Renegotiation Act rates will be continued for the present. However, the

propriety of this arrangement is being discussed with the Department of the Treasury.

4. *Agency information.* The Secretary of the Treasury has established an interest rate of 10 1/4 percent as applicable to the 6-month period beginning on July 1, 1979, and ending on December 31, 1979. The following sections of the Federal Procurement Regulations are affected by the interest rate: Sections 1-7.203-15, 1-8.212-1(f), 1-8.701, 1-8.702, 1-8.703, 1-8.704-1, 1-8.706, 1-8.804-2(b), 1-8.806-4, 1-30.403, 1-30.414-2(k)(2), and 1-30.414-2(k)(2), and 1-30.414-2(n)(3).

Dated: August 17, 1979.

Dale R. Babione,

Assistant Administrator for Acquisition Policy.

[FR Doc. 79-26947 Filed 8-28-79; 8:45 am]

BILLING CODE 6820-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Care Financing Administration

Pharmaceutical Reimbursement Board; Final Maximum Allowable Cost Determinations

AGENCY: Health Care Financing Administration (HCFA), HEW.

ACTION: Final Maximum Allowable Cost Determinations.

SUMMARY: In accordance with 45 CFR 19.5, the Pharmaceutical Reimbursement Board announces the following Final Maximum Allowable Cost (MAC) determinations:

Drug and MAC limit

Diphenoxylate hydrochloride/atropine sulfate 2.5 mg/0.025 mg tablet, \$0.491. Methocarbamol, 500 mg tablet \$0.496. Methocarbamol, 750 mg tablet, \$0.640. Sulfisoxazole, 500 mg tablet, \$0.273. Oxyphenbutazone, 100 mg table, \$0.847. Tetracycline HCl, 125 mg/5 ml syrup, \$0.104. Doxepin, 100 mg capsule, \$2.900. Chlordiazepoxide HCl, 5 mg capsule, \$0.140. Chlordiazepoxide HCl, 10 mg capsule, \$0.211. Chlordiazepoxide HCl, 25 mg capsule, \$0.438. Penicillin G, 400 mu tablet, \$0.237. Penicillin G, 800 mu table, \$0.640.

Note.—These MAC limits do not apply to unit dose packaging.

DATES: The effective date of these MAC limits is October 15, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Charles Spalding, Acting Executive Secretary, Pharmaceutical Reimbursement Board, 6401 Security Boulevard, 1-C-5 East Low Rise, Baltimore, Maryland 21235, (301) 594-5403.

SUPPLEMENTARY INFORMATION: The Pharmaceutical Reimbursement Board has been established within the Health Care Financing Administration to set limits on payment or reimbursement for drug products under HCFA and other HEW programs. On April 10, 1979, the Board proposed MAC limits on 17 drug products. (See 44 FR 21367.) The Board has received written comments and held a public hearing concerning MAC limits on these drugs. The Board now announces final MAC determinations for the products listed above. A summary of the written comments, the presentations at the hearings, other material on which the Board relied in determining each MAC limit, and the Board's reasons for its determinations, follows:

1. General Comments

We received a number of general comments on the proposed MAC limits. One commenter suggested that the April 10, 1979, notice was a significant departure from the previous practice of the Board, in that some of the proposed MACs are based on direct purchase prices and the *Red Book* advertised prices. We note that, by regulation, the Board is to determine the lowest unit price at which a particular multiple source drug is widely and consistently available. The exact method or details of making these determinations are not specified. The Board has relied and continues to rely on the HCFA survey,¹ which shows invoice prices of actual pharmacy transactions. We also believe that *Red Book* advertised prices are an important tool in determining the price levels at which drugs are available in the marketplace; however, the Board has never relied solely on *Red Book* prices. Even where *Red Book* prices are the only figures available for a drug when a MAC is proposed, the Board has not established any MAC limits on such a drug in the absence of supporting information received during the comment period indicating the availability of the drug. With regard to direct prices, the Board will use a direct price only if it is clear that a product is widely and consistently available at the direct price. We do not simply choose the lowest price found. The Board, therefore, does not consider its April 10, 1979 notice to be a departure from its earlier policies.

Another comment claimed that the MAC program was making Medicaid patients "second-class citizens" since

¹The HCFA survey is a summary of pharmacy invoice prices obtained by HCFA under contract with IMS America. The survey price is based on the 70th percentile of invoice prices. The survey is updated monthly.

pharmacists would turn them down on their prescriptions. The underlying premise of the MAC program is that, for those drugs for which FDA has provided the required assurance, the generic products are the equivalent of the brand name products. Thus, the MAC program does not jeopardize the quality of drug therapy for Medicaid recipients. As for availability at the MAC levels, we believe that the MAC procedures, which include a significant element of public participation, provide assurance that MAC limits established are not so low that the product is not widely and consistently available. We do not claim that all sales of a drug are within MAC limits, but rather that there is sufficient availability of the drug at MAC levels and that it can be readily obtained at those levels.

Several comments suggested that the proposed MAC limits should not apply to drug purchased in unit dose packages, since the product costs for these products often exceed the MAC limits, and are often available from only one source in this form. The Board acknowledges that the MAC limits can be inappropriate for drugs purchased in unit dose packaging and has determined that these MAC limits will not apply to unit dose packaging.

A pharmacist asked how frequently MAC limits would be updated. To this point, we have already lowered four existing MACs based on changes in market data, and suspended four other announced limits when it became clear that our information was in error. We will continue to review the market data on all existing MACs, and will adjust the limits as necessary.

A wholesaler from Florida, Lawrence Pharmaceuticals, provided a report on the availability of drugs at the proposed MAC limits. The report gathered information from nine wholesalers and 241 pharmacies in Florida. The findings of this report are included in the comments on specific drugs in this notice.

One pharmacist expressed reluctance to dispense a generic product for which he did not know the manufacturer. This pharmacist expressed the view that the name of the manufacturer should be on each label. The Board itself supports, but does not have the authority to require, manufacturer labeling. In the absence of such labeling, the Board accepts and confidently relies on FDA's assurances that there are no bioequivalence problems with the marketed drug products. As for the practicing pharmacist, if the name of the manufacturer is not on the drug label, he is always free to contact his supplier to ascertain the product manufacturer.

2. Diphenoxylate HCl/atropine sulfate, 2.5 mg/0.025 mg tablet

On February 28, 1979, in response to the Board's request, the Food and Drug Administration notified the Board that all approved manufacturers of diphenoxylate HCl/atropine sulfate, 2.5 mg/0.025 mg tablets had submitted bioequivalence data and that there were no bioequivalence or quality issues which would delay or prevent the establishment of a MAC limit for the product. On April 10, 1979, the Board announced in the *Federal Register* a proposed MAC limit of \$0.491 per tablet.

At \$0.491, this tablet is advertised in the *Red Book* as being available from Smithkline, the sixth largest ethical Pharmaceutical manufacturer in the United States. There are 12 other distributors who advertise this product in the *Red Book* at or below the proposed MAC limit. In addition, three of the six State MAC limits currently in effect are at or below the MAC limit proposed by the Board.

We received the following written comments concerning diphenoxylate HCl/atropine sulfate. Three distributors sent us their price lists, and all of the lists indicated that the product was available below the proposed MAC limit. A wholesaler informed us that it sold the product to hospitals and pharmacies in its trading area below the proposed MAC level. A pharmacist wrote that he could obtain the drug at the MAC level.

Smithkline confirmed that its product was generally available from wholesalers at the proposed MAC price, as was indicated in the notice. The report from Lawrence Pharmaceuticals indicated that eight of the nine wholesalers surveyed stock the product, within the MAC limit, from at least one supplier. One hospital wrote that its purchases of the product were above the proposed MAC levels. However, in view of the strong supporting comments and our original information concerning availability, we are convinced that the product is widely and consistently available at the proposed levels.

Two comments called attention to the fact that the product is a "controlled substance," subject to rules of the Federal Drug Enforcement Administration because of its abuse potential. These comments claimed that the cost of dispensing a controlled substance is greater than the cost of dispensing other drugs because additional records must be kept and certain security requirements must be met. These comments seemed to suggest that a higher dispensing fee should be set for controlled substances. We note

that it is the responsibility of the individual States, rather than the Federal Government, to set dispensing fees for Medicaid programs. (See 42 CFR 447.333.) In establishing these dispensing fees, States are to take into account the costs of handling all of the different types of prescriptions dispensed in pharmacies including both those which require much time, skill and handling and those for which dispensing is more easily handled. The dispensing fee, which is finally established by the State, may well be excessive for some prescriptions, inadequate for those at the other end of the scale but, on balance, will cover the costs the pharmacist incurs in dispensing the total of his prescriptions. Since the MAC program limits the acquisition cost of a drug rather than the dispensing fee, and since it is the responsibility of the State agencies to establish adequate dispensing fees, we do not believe that the "controlled substance" issue should prevent us from establishing a MAC limit on diphenoxylate HCl/atropine sulfate.

Searle Company expressed concern regarding bioequivalence problems, specifically that "diphenoxylate hydrochloride and atropine sulfate clearly meet two of FDA's criteria for bioequivalence. These are (1) that the active drug ingredient has low solubility in water and (2) that this drug product has a high ratio of excipients to active ingredients." Searle claimed that, based upon these facts FDA was obligated to presume bioequivalence with the diphenoxylate HCl/atropine sulfate combination.

In a response dated June 18, 1979, the FDA stated: "We have reviewed the Searle letter and find nothing in it which causes us to change our original recommendation to the Board dated February 28, 1979. Searle's conclusion that FDA erred in its description of the diphenoxylate/atropine drug as therapeutically equivalent in our proposed List of Approved Drug Products with Therapeutic Equivalence Evaluations and as not posing a known or potential bioequivalence problem appears to be based upon a misinterpretation of the agency's bioequivalence regulations (21 CFR 320.52). We will not discuss the validity of Searle's assertion that the product in question meets two of the 12 factors stated in the regulation. However, the presence of these factors, even if substantiated, does not require FDA to presume bioequivalence. Contrary to the suggestion in the Searle letter, the regulation clearly states that the Commissioner shall consider these

factors to identify drugs having potential bioequivalence problems and hence to propose or promulgate bioequivalence requirements. The fact that a drug may meet one or more of the 12 criteria does not necessarily mandate its inclusion as a bioequivalence drug.

"It should also be noted that there are procedures for petitioning the FDA to add drugs in our list of those presenting bioequivalence issues. Searle has not availed itself of these procedures.

"We continue to advise the Board that we know of no reason to delay or prevent the establishment of a MAC limit on diphenoxylate HCl/atropine sulfate tablets."

On June 19, 1979, after reviewing the entire record, the Board voted to establish a proposed final MAC limit of \$0.491 per tablet of diphenoxylate HCl/atropine sulfate, 2.5 mg/0.025 mg. On August 23, 1979, the Administrator of HCFA concurred.

3. Methocarbamol, 500 and 750 mg tablets

On February 28, 1979, in response to the Board's request, regarding methocarbamol, 500 mg and 750 mg tablets, the Food and Drug Administration notified the Board that. "This drug requires an approved new drug application for marketing. We are aware of no known or potential bioequivalence problem with this drug, and no bioequivalence requirement regulation is anticipated. There is a compendial standard for methocarbamol tablets, but we regard the methodology as poor and not as sensitive to the detection of contaminants as is desirable. There are differences of opinion in the Bureau as to the appropriateness of establishing MAC limits for this drug. In the absence of evidence of a known problem with the drug products themselves, we will not recommend against the establishment of a MAC." On April 10, 1979, the Board published in the *Federal Register* the following proposed MAC limits (44 FR 21367).

For the methocarbamol 500 mg tablet, the Board proposed a MAC limit of \$0.0496 per tablet. At this price, the HCFA survey reveals that the product is available from Lederle Laboratories, the 18th largest ethical pharmaceutical manufacturer in the United States. In addition, the product is advertised in the *Red Book* as being available at or below the proposed price from 21 other suppliers. For the methocarbamol 750 mg tablet, the Board proposed a MAC limit of \$0.0595 per tablet. At this price, the HCFA survey reveals that the product is available from Lederle Laboratories, and 18 additional

suppliers advertise this product in the *Red Book* at or below the proposed MAC limit.

We received the following comments concerning methocarbamol tablets. Lederle Laboratories stated that it "will be able to adequately distribute and supply such portions of the methocarbamol (500 and 750 mg) market for those who wish to purchase these products from Lederle." Lederle further stated that it would be able, if deemed appropriate and necessary, to increase capacity to distribute methocarbamol, consistent with its other business commitments and product demands. According to Lederle's submission, the major portion of its products are distributed directly to retailers.

Three wholesalers provided information indicating that the 500 and 750 mg strengths of methocarbamol could be provided at or below the proposed MAC limits. A pharmacist wrote that he could obtain both strengths of methocarbamol at the proposed MAC limit. On the other hand, two wholesalers, three pharmacists, one manufacturer, and one State agency commented that neither strength of methocarbamol tablets was available at or below the proposed MAC limit. The results of the survey from Lawrence Pharmaceuticals were mixed. For the 500 mg tablet, only one of the nine wholesalers and 72 of the 241 pharmacies stocked Lederle's product. Lawrence's study also purported to show that the single unit price of the Lederle product was above the proposed MAC. For the 750 mg tablet, the Lawrence report indicated that four of the nine wholesalers stocked the product at or below the proposed MAC and all pharmacies in the sample stocked one of six available generic brands.

A. H. Robin's Company, a manufacturer of methocarbamol, argued against the establishment of MAC levels on the drug for a number of reasons. Robins raised questions concerning the purity and stability of methocarbamol raw material and claimed that additional testing required of Robins, by FDA, put them at a competitive disadvantage. FDA responded to Robins' contentions as follows:

"(Robin's) letter does raise three points regarding drug quality . . . 1. The currently marketed products contain varying levels of substances which are artifacts of the synthesis or degradation of methocarbamol.

2. Robins has done more work on the chemistry of these substances than other manufacturers, and only the Robins product is subject to testing requirements not imposed on other

manufacturers. As yet, the issues presented by these substances have not been resolved by FDA.

3. The current compendial method for methocarbamol is not adequate to detect these impurities.

"In essence we would agree with all of these points but not with Robins' conclusion that the MAC limits should not be established.

For quite some time we have been aware of some problems with the compendial methodology for methocarbamol. . . . The problem of improving the assay methods to make it stability indicating and to detect artifacts of synthesis is actively being addressed in the context of the Bureau's compendial testing program. There are, so far as we presently know, only three contaminants associated with methocarbamol. The major one, which appears to be a degradation product, is guaifenesin. This chemical is generally at levels below 1 percent and poses no health significance, since it is a commonly used ingredient in non-prescription expectorants (in dosages of 100 mg to 300 mg). It is this 1 percent level that Robins refers to as "additional requirements" imposed by FDA on its products. We do not contemplate instituting across-the-board requirements on all products until we have completed the methods development and survey phase of our compendial testing program for methocarbamol.

"The other major components . . . have been identified, but there is no indication of toxicity from published sources. We have no reason to believe that the secondary isomers, which appear to be artifacts of the methocarbamol synthesis, pose any significant toxicity. In any event, our survey, using preliminary methods which are currently being improved, shows the contaminants to be distributed in all of the raw material tested, including methocarbamol used by Robins.

"In light of these results, it appears that there is no cause for concern regarding the public health consequences of impurities in methocarbamol, and that whatever new requirements may be imposed as a result of our compendial testing program will affect all suppliers of methocarbamol to the same degree.

"Therefore, we do not believe the Robin's letter is persuasive, and we see no reason to delay or prevent the establishment of a MAC limit for methocarbamol tablets."

Robins also argued that the MAC program would stifle future innovations in health care by A. H. Robins. We note

that a major federal incentive towards pharmaceutical innovation is the patent system, and that Robins has already received the benefits of its research and development through its patent on methocarbamol (now expired).

The Medicare and Medicaid programs were established to finance health care for the aged, the disabled, and the poor, not to finance pharmaceutical research. The Board continues to believe that its proper function is to take advantage of existing price differences in the marketplace in order that Medicare and Medicaid patients will continue to receive quality care at competitive prices.

Robins claimed that the Board had overestimated the savings to be gained from the establishment of MAC limits on methocarbamol, since "methocarbamol is not a product which would be indicated for any extensive use by typical Title XIX program recipients." The Board does not believe that there is any evidence whatever that the use of methocarbamol, a muscle relaxant, by Medicaid recipients is different from its use by the general public, and thus we stand by our annual savings estimates of \$29,800 for the 500 mg tablet, and \$323,000 for the 750 mg tablet. Even if these figures were overestimated to some degree, the savings to the government, and to the taxpayers, would still be significant. Robins attempted to break down these savings estimates to a "per pharmacy" figure, and concluded that the savings per pharmacy would be minimal. We consider the overall figure to be the more relevant and consider \$350,000 a year to be a significant amount.

Robins also noted that there had been recent market shifting from the Robins products to a newly introduced, patented, higher priced muscle relaxant. Robins attempted to fix some relationship between the MACing of methocarbamol and the shift to a higher priced alternative. The Board sees no relationship between MAC limits on methocarbamol and this market shift, and does not consider it necessary that it be the protector of Robins' market.

On June 19, 1979, after reviewing the entire record on methocarbamol tablets, the Board voted to establish a proposed final MAC limit of \$.0496 for the 500 mg tablet. At this price the Board is convinced that the 500 mg tablet is widely and consistently available. Also on June 19, 1979, after reviewing the record, the Board voted to increase the MAC limit on the 750 mg tablet to \$.0640 per tablet. The Board believes that this level assures wide and consistent availability and is one which includes

the Lederle product. The Administrator concurred on August 23, 1979.

4. Sulfisoxazole, 500 mg tablet

On February 28, 1979, in response to the Board's request, the Food and Drug Administration notified the Board that, "In a survey three years ago, all marketed products tested were shown to be bioequivalent. All approved firms except one have submitted acceptable bioequivalence data. There is a compendial standard for the drug which appears adequate. We know of no pending regulatory or quality problems which should delay or prevent the establishment of a MAC limit for sulfisoxazole, 500 mg tablets."

On April 10, 1979, the Board proposed a MAC limit of \$.0240 per tablet. At that price, the HCFA survey revealed that the product was available from Smithkline. It was also advertised in the *Red Book* as being available from 14 other suppliers.

During the comment period, Smithkline informed us that it had increased its price since the period of the latest HCFA survey. While its average wholesale price had been \$.0236, a price within the proposed MAC limit, the current AWP was \$.0273 per tablet. In order to assure availability of the product at the MAC level, the Board's proposed final determination of the MAC levels took this information into account, and established the MAC at \$.0273 per tablet.

The Lawrence Pharmaceuticals report indicated that one of the nine wholesalers stocked the product at the proposed level, and that three others stocked the Smithkline product, but above the proposed limit. We believe that the final MAC, which takes into account the Smithkline increase, will cover the Smithkline product at these warehouses. One distributor, three wholesalers, five pharmacists and one hospital commented that the product was available at or below the proposed MAC limit. Another wholesaler stated that the product was available at the proposed price level only with quantity purchases.

On June 19, 1979, after considering the entire record, the Board voted to establish a proposed final MAC determination of \$.0273 per 500 mg tablet. The Administrator of HCFA concurred on August 23, 1979.

5. Oxyphenbutazone, 100 mg tablets

On February 28, 1979, in response to the Board's request, the Food and Drug Administration notified the Board that bioequivalence is not an issue for this drug since only one manufacturer held an approved application for marketing

of the drug. Additionally, FDA knew of no pending regulatory or quality problems which would prevent or delay the establishment of a MAC limit for oxyphenbutazone, 100 mg tablets.

On April 10, 1979, the Board proposed MAC limits of \$.0799 per tablet. At this price, the HCFA survey revealed that the product was available from USV, the 20th largest pharmaceutical manufacturer in the United States.

During the comment period, we received notice from USV Laboratories that, as a result of a price increase effective April 2, 1979, the suggested wholesaler resale price of the product was \$.0847 per tablet, rather than \$.0799 per tablet. The report from Lawrence Pharmaceuticals showed that eight of the nine wholesalers, and 172 of 241 pharmacies, stock the USV product. A wholesaler and one pharmacist commented that the product was available at the MAC level. Six wholesalers, seven pharmacists, and one hospital wrote that the product was not available at the proposed price. However, since the Board has taken into account the USV price increase in its final determination, we believe that the product is widely and consistently available at the higher priced level.

On June 29, 1979, after reviewing the entire record, the Board voted to establish a proposed final MAC limit of \$.0847 per 100 mg oxyphenbutazone tablet. The Administrator of HCFA concurred on August 23, 1979.

6. Tetracycline HCl, 125 mg/5 ml syrup

On February 28, 1979, in response to the Board's request, the Food and Drug Administration notified the Board that tetracycline is a certifiable antibiotic requiring both premarketing approval and batch certification. All approved manufacturers have submitted bioequivalence data on their products. FDA knew of no pending regulatory or quality problem which would prevent or delay the establishment of a MAC limit for tetracycline HCl, 125 mg/5 ml syrup.

On April 10, 1979, the Board proposed a MAC limit of \$.0081 per ml. At this price, the HCFA survey revealed that the product was available from Upjohn, the tenth largest pharmaceutical manufacturer in the United States and that the Upjohn product accounts for 5.8 percent of the market for this drug. Additionally, the product is advertised in the *Red Book* as being available from 22 other suppliers at or below this price.

Several comments claimed that the MAC limit was too low. Two wholesalers and two pharmacists stated that the product was unavailable at the proposed levels. Smithkline stated that the proposed MAC limit appeared to be

based upon the direct deal or volume purchase price of Upjohn, that the proposed price was lower than Upjohn's direct price and that it is inappropriate to set a MAC price that is encumbered by a volume purchase condition. The survey by Lawrence Pharmaceuticals also showed that the proposed limit might be too low.

Although three wholesalers and one hospital did indicate that the product was available at the MAC price, the Board determined that a higher level was necessary to insure wide and consistent availability. The HCFA survey revealed that the Pfipharmecs and Smithkline products would be within the MAC limit if it were raised to \$.0104. The Lawrence survey showed that seven of the nine wholesalers stocked the Pfipharmecs product at or below \$.0104, and five of the nine wholesalers stocked Smithkline's product at or below that price.

On June 19, 1979, the Board voted to establish a proposed final MAC determination of \$.0104 per ml of tetracycline HCl, 125 mg/5 ml syrup. The Administrator of HCFA concurred on August 23, 1979.

7. Doxepin, 100 mg capsules

On October 25, 1978, in response to the Board's request, the Food and Drug Administration notified the Board that the marketed products of doxepin, 100 mg capsules, met bioequivalence requirements. Therefore, FDA saw no problems which would prevent or delay the establishment of a MAC for this drug. On February 28, 1979, in response to an additional request from the Board, the Food and Drug Administration notified the Board that it was not aware of any regulatory or quality issues which would affect the existing MAC limits for doxepin HCl, 100 mg capsules.

The Board proposed a MAC limit of \$.2900 per capsule for doxepin HCl, 100 mg capsules. At this price, the HCFA survey reveals that the product is available from Pennwalt and that the Pennwalt product accounts for 2.9 percent of the market for this drug.

Pfizer, Inc. submitted a statement arguing that a MAC limit should not be set on 100 mg doxepin HCl capsules. Pfizer supported its claim by reference to the extensive materials it had earlier submitted to the Board in opposition to the establishment of MAC limits on 10, 25, and 50 mg doxepin capsules. The Board rejects Pfizer's arguments, for the reasons set forth at 43 FR 57972 (Dec. 11, 1978), where the Board established MAC limits on 10, 25, and 50 mg doxepin capsules.

Two wholesalers and one pharmacist wrote that the product was available at

the proposed MAC limit. However, several other wholesalers and several pharmacists questioned the availability of the product at the MAC limit, since Pennwalt and Pfizer were the only distributors of doxepin HCl and this availability was entirely dependent on the Pennwalt price. The Lawrence Pharmaceuticals survey indicated that all nine wholesalers stock the Pennwalt product, but only three were at the proposed MAC limit while six were above. Two wholesalers wrote that the pricing policy of Pennwalt leaves the establishment of wholesale prices to the wholesaler, and claimed that the product price at \$29.00 per 100 capsules is a minimum price from the wholesalers, based on a minimum gross margin, not average wholesale price.

The Board remains convinced that the Pennwalt product is widely and consistently available; the only question is whether it is available at \$.2900 per 100 mg capsule. Based on the HCFA survey and the supporting comments, we continue to believe that the product is available at that price.

On June 29, 1979, after considering the entire record, the Board voted to establish a proposed final MAC limit of \$.2900 per 100 mg doxepin HCl capsule. The Administrator of HCFA concurred on August 23, 1979.

8. Chlordiazepoxide HCl, 5, 10, and 25 mg capsules

Final MAC limits on chlordiazepoxide HCl, 5, 10, and 25 mg capsules went into effect on May 18, 1978. Since that time, a number of lower prices have appeared in the marketplace, and in response, the Board began proceedings to lower the existing MAC limits on chlordiazepoxide.

On March 5, 1979, FDA notified the Board that it was not aware of any regulatory or quality problem which should affect the MAC limits for chlordiazepoxide HCl 5, 10, and 25 mg capsules. On April 10, 1979, the Board proposed MAC limits for chlordiazepoxide as follows.

For the 5 mg chlordiazepoxide HCl capsules, the Board proposed a MAC limit of \$.0140 per capsule. At this price, the HCFA survey reveals that the product is available from Lederle Laboratories, the 19th largest pharmaceutical manufacturer in the United States. In addition, 13 other suppliers advertise the product in the *Red Book* at prices below the recommended MAC limit.

For the 10 mg chlordiazepoxide HCl capsules, the Board proposed a MAC limit of \$.0211 per capsule. At this price, the HCFA survey reveals the product is available from Lederle Laboratories. In

addition, the proposed MAC limits would cover the HCFA survey prices from Parke Davis, Purepac, Rachele and Generix as well as the advertised *Red Book* prices from 15 additional suppliers.

For 25 mg chlordiazepoxide capsules, the Board proposed a MAC limit of \$.0438 per capsule. At this price, the HCFA survey reveals the product is available from Smithkline, the 18th largest pharmaceutical manufacturer in the United States, as well as from Generix Drug. In addition, 19 other distributors advertise this product in the *Red Book* at prices lower than the proposed MAC limit.

We received the following comments. The Lawrence survey showed that two of the nine wholesalers stock the 5 mg capsule at the MAC price, one stocks the 10 mg capsule at that price, and eight of nine stock the 25 mg capsule at the proposed price. Smithkline stated that its 25 mg capsule was available through wholesalers at the proposed price, but questioned the availability of 5 and 10 mg capsules. Several pharmacists and wholesalers claimed that the drug was available at the proposed levels only when purchased in quantity, or that it was not available at all at the proposed prices. On the other hand, one wholesaler commented that it could supply all three strengths of the product at the proposed level. The Board reviewed the conflicting evidence of availability, and determined that the three strengths of chlordiazepoxide were widely and consistently available at the proposed limit.

Three comments noted that chlordiazepoxide is a controlled substance and expressed concern that the Board had used the 500 count package size rather than the 100 count package size. Although the 500 size is the most frequently purchased, these comments insisted that the Board's action was inconsistent with the Drug Enforcement Administration's recommendation that pharmacies maintain minimal inventories of controlled substances. Although we are sympathetic to this concern, we note that the 500 package is the most frequently purchased package size, so that bottles of 500 are not at all infrequently found in the marketplace. In addition, the MAC regulations require the Board to use the most frequently purchased package size in determining the unit price of a drug. We do not believe that the imposition of MAC limits on a controlled substance will substantially increase the possibilities for its abuse.

On June 19, 1979, after considering the entire record, the Board voted to establish proposed final MAC

determinations of \$.0140, \$.0211, and \$.0438 for the 5, 10, and 25 mg chlorthalidone HCl capsules respectively. The Administrator of HCFA concurred on August 23, 1979.

9. Penicillin G Potassium, 400 and 800 mu tablets

On July 27, 1978, in response to the Board's request, FDA notified the Board with regard to penicillin G potassium 400 and 800 mu tablets: "This drug is a certifiable antibiotic and is subject to the batch certification requirements of the Federal Food, Drug and Cosmetic Act. All but one of the eight approved manufacturers have submitted bioequivalence data. That manufacturer has been asked to submit such data, but we have no reason to believe that any of the marketed products has a bioequivalence problem. In the unlikely event that the bioequivalence study shows a problem, we will notify the Board immediately, but in the interim we see no reason to delay the establishment of MAC limits for this drug.

For the 400 mu tablets, the Board proposed a MAC limit of \$.0237 per tablet. At this price, the product was advertised in the *Red Book* as being available from Smithkline; a later HCFA survey also revealed that the Smithkline product was being sold at this price. For the 800 mu tablet, the Board proposed a MAC limit of \$.0528 per tablet. At this price, the product was advertised in the *Red Book* as being available from Smithkline.

We received the following comments. Smithkline stated that both the 400 mu and 800 mu tablets were available at the proposed MAC level. The Lawrence survey indicated that seven of the nine wholesalers stock the 400 mu Smithkline product at the proposed MAC levels, and all nine wholesalers stock the 800 mu Smithkline tablets at the proposed level. A wholesaler and a pharmacist wrote that both strengths of the product were available at the proposed limit; on the other hand, several pharmacists and a hospital insisted that at least one of the strengths was not available at the proposed price.

On June 19, 1979, the Board voted to establish a proposed final MAC limit of \$.0237 per 400 mu tablet. In order to assure wide and consistent availability of the 800 mu tablet at the MAC level, the Board raised the limit from the proposed price to \$.0640 per tablet, a price which also included the Phipharmecs product. Also on June 19, 1979, the Board voted to establish a proposed final MAC limit of \$.0640 per 800 mu tablet. The Administrator of

HCFA concurred with the 400 and 800 mu tablet limits on August 23, 1979.

10. Erythromycin Ethylsuccinate, 200 mg/5 ml and 400 mg/5 ml oral liquid

On April 10, 1979, the Board proposed MAC limits on 200 mg/5 ml and 400 mg/5 ml erythromycin ethylsuccinate oral liquid. We received 29 comments from pharmacists, wholesalers, manufacturers, and a hospital on the proposed MAC limits. All of the comments stated that the products were not available at the proposed levels. On June 19, 1979, the Board voted not to establish MAC limits on erythromycin ethylsuccinate oral liquid at this time.

11. Hydralazine 25 and 50 mg tablets

On April 10, 1979, the Board proposed MAC limits on 25 and 50 mg hydralazine tablets. A hearing on these proposed MAC's was held on May 30. On May 29, Ciba Geigy Corporation submitted information concerning possible clinical failures of generic hydralazine. Although the comment period for the drug had already closed on May 15, 1979, the Board accepted this submission because it raised the possibility of some danger to the public health. FDA is now reviewing Ciba Geigy's submission. The Board has left open the record on this drug.

12. Minocycline, 100 mg capsules

On April 10, 1979, the Board proposed MAC limits on 100 mg minocycline capsule. Our information indicated that the product was available from two sources—Lederle and Parke Davis. We proposed a MAC limit at the lower (Parke Davis) price.

Lederle has informed us that it is the patent holder for minocycline, that its supply agreement with Parke Davis has been cancelled pursuant to its terms and that Lederle is now the sole source for this product.

On June 19, 1979, the Board voted not to establish MAC limits on minocycline at this time.

Dated: August 9, 1979.

Charles S. Spalding,

Acting Executive Secretary, Pharmaceutical Reimbursement Board.

Approved: August 23, 1979.

Leonard D. Schaeffer,

Administrator, Health Care Financing Administration.

[FR Doc. 79-28977 Filed 8-28-79; 8:45 am]

BILLING CODE 4110-35-M

Human Development Services

Developmental Disabilities Program; Intention to Reallocate Funds

Section 132(d) of the Developmental Disabilities Services and Facilities Construction Act, (the Act) as amended by Pub. L. 95-602, provides that the amount of a State's fiscal year allotment which will not be required by that State shall be available for reallocation to other States.

However, reallocations cannot be made until September 28, 1979.

Notice is hereby given that the following allotments reserved for American Samoa, the Northern Mariana Islands and Trust Territory will not be required. The available funds will be reallocated in accordance with the provisions of Section 132(d) of the Act.

Reprogrammed Funds

Basic support	Protection and advocacy
\$150,000	\$30,000

It is the intention of the Secretary that the above amounts be reallocated as follows:

State	Basic support	State	Protection and advocacy
Alabama	\$3,366	Alaska	\$449
Arizona	1,580	Arizona	449
Arkansas	1,899	Arkansas	449
California	12,769	California	1,947
Colorado	1,641	Colorado	449
Connecticut	1,867	Connecticut	449
Delaware	1,196	Delaware	449
Dist. of Col.	1,196	Dist. of Col.	449
Florida	5,623	Florida	876
Georgia	3,820	Hawaii	449
Hawaii	1,196	Idaho	449
Illinois	6,892	Indiana	820
Indiana	3,854	Iowa	449
Iowa	2,132	Kansas	449
Kansas	1,554	Kentucky	524
Kentucky	3,178	Louisiana	534
Louisiana	3,291	Maine	449
Maine	1,196	Maryland	449
Maryland	2,530	Massachusetts	637
Massachusetts	3,880	Michigan	967
Michigan	8,155	Minnesota	456
Minnesota	2,761	Mississippi	449
Mississippi	2,375	Missouri	591
Missouri	3,594	Montana	449
Montana	1,196	Nebraska	449
Nebraska	1,196	Nevada	449
New Hampshire	1,196	New Hampshire	449
New Jersey	4,432	New Jersey	726
New Mexico	1,196	New Mexico	449
New York	11,778	New York	1,927
North Carolina	4,643	North Dakota	449
North Dakota	1,196	Ohio	1,211
Oklahoma	2,161	Oklahoma	449
Pennsylvania	8,698	Oregon	449
Rhode Island	1,196	Pennsylvania	1,444
South Dakota	1,196	Rhode Island	449
Tennessee	3,816	South Carolina	449
Texas	8,818	South Dakota	449
Utah	1,196	Tennessee	580
Vermont	1,196	Texas	1,427
Virginia	3,580	Utah	449
West Virginia	2,100	Vermont	449
Wisconsin	3,418	Virginia	591
Wyoming	1,196	Washington	449
Guam	478	West Virginia	449
Puerto Rico	4,220	Wisconsin	562

State	Basic support	State	Protection and advocacy
Virgin Islands	478	Wyoming	449
		Puerto Rico	621
		Virgin Islands	269

Consideration will be given to any comments on this proposed reallocation of funds if received on or before September 28, 1979. Comments must be in writing and submitted to the Director, Bureau of Developmental Disabilities, Department of Health, Education, and Welfare, 330 C Street, SW., Washington, D.C. 20201.

(Catalog of Federal Domestic Assistance Program No. 13.630 Developmental Disabilities—Basic Support.)

Dated: July 5, 1979.

Evelyn Provitt,

Acting Commissioner of Rehabilitation Services Administration.

Dated: August 23, 1979.

Arabella Marinuz,

Assistant Secretary for Human Development Services.

[FR Doc. 79-26896 Filed 8-23-79; 8:45 am]

BILLING CODE 4110-92-M

National Institutes of Health

Annual NIH Instrumentation Symposium

Notice is hereby given that the Division of Research Services, Biomedical Engineering and Instrumentation Branch, National Institutes of Health, will hold the Annual NIH Instrumentation Symposium October 3-5 1979, at the Masur Auditorium, Building 10 Clinical Center, NIH, Bethesda, Maryland. The symposium consists of a morning and an afternoon session each day. The purpose of the symposium is to acquaint NIH researchers with the state-of-the-art in selected areas of research instrumentation development. Each session has three or four speakers discussing related aspects of a particular type of instrumentation, including design and application. The sessions for this year are on Positron Scanning, Particle Separation Methods, Physical Methods of Structure Determination, Picosecond Spectroscopy, Ultrasonic and Field Ionization Microscopy, and Applications of Energy Loss Spectroscopy.

Request for information should be directed to Dr. John I. Peterson, DRS, BEIB, National Institutes of Health, Building 13, Room 3W-13, Bethesda, Maryland, 20014, Telephone: (301) 496-5771.

Dated: August 21, 1979.

Suzanne L. Freneau,
Committee Management Officer, National Institutes of Health.

[FR Doc. 79-26773 Filed 8-28-79; 8:45 am]

BILLING CODE 4110-08-M

Arteriosclerosis, Hypertension, and Lipid Metabolism Advisory Committee; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Arteriosclerosis, Hypertension, and Lipid Metabolism Advisory Committee, National Heart, Lung, and Blood Institute, October 12, 1979, Conference Room 6C-01, 6th Floor, Federal Building, 7550 Wisconsin Avenue, Bethesda, MD. The entire meeting will be open to the public from 9:00 a.m. to 5:00 p.m. on Friday, October 12, to evaluate program support in Arteriosclerosis, Hypertension, and Lipid Metabolism. Attendance by the public will be limited on a space available basis.

Mr. York Onnen, Chief, Public Inquiries and Reports Branch, NHLBI, Room 4A-21, Building 31, National Institutes of Health, Bethesda, Maryland 20205, Phone (301) 496-4236, will provide summaries of the meeting and rosters of committee members.

Dr. Gardner C. McMillan, Associate Director for Etiology of Arteriosclerosis and Hypertension Program, NHLBI, Room 4C-12, Federal Building, National Institutes of Health, Bethesda, Maryland 20205, Phone (301) 496-1613, will furnish substantive program information.

Dated: August 21, 1979.

Suzanne L. Freneau,

Committee Management Officer, National Institutes of Health.

[FR Doc. 79-26776 Filed 8-23-79; 8:45 am]

BILLING CODE 4110-08-M

Biotechnology Resources Review Committee; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Biotechnology Resources Review Committee, Division of Research Resources, September 24-25, 1979, The Gazebo, Department of Chemistry, Stanford University, Stanford, California 94305. This meeting will be open to the public September 24 from 9:00 a.m. to 5:00 p.m. and on September 25 from 9:00 a.m. to adjournment for (1) introductory remarks, (2) Program status reports, and (3) discussion of the Program. Attendance by the public will be limited to the space available.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and Section

10(d) of Pub. L. 92-463, the meeting will be closed to the public on September 24 from 5:00 p.m. until recess and September 25 from 8:30 to 9:00 a.m. for the review, discussion, and evaluation of individual research prospectuses submitted by organizations seeking access to PROPHET System services. These prospectuses and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the prospectuses, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. James Augustine, Information Officer, Division of Research Resources, Bldg. 31, Room 5B-13, National Institutes of Health, Bethesda, Maryland 20205, telephone area code 301 496-5545, will provide summaries of meetings and rosters of Committee members.

Dr. Charles L. Coulter, Executive Secretary, Biotechnology Resources Review Committee, Division of Research Resources, Bldg. 31, Rm. 5B-41, National Institutes of Health, Bethesda, Maryland 20205, telephone area code 301 496-5411, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.371, National Institutes of Health.)

Dated: August 20, 1979.

Mrs. Suzanne L. Freneau,

Committee Management Officer, National Institutes of Health.

[FR Doc. 79-26771 Filed 8-28-79; 8:45 am]

BILLING CODE 4110-08-M

Blood Diseases and Resources Advisory Committee; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Blood Diseases and Resources Advisory Committee, National Heart, Lung, and Blood Institute, October 15 and 16, 1979, National Institutes of Health, Building 31, Conference Room 8, Bethesda, Maryland 20205.

The entire meeting will be open to the public from 9:00 AM-5:00 PM, October 15, and from 8:30 AM-4:30 PM, October 16, 1979, to discuss the status of the Blood Diseases and Resources program, needs, and opportunities. Attendance by the public will be limited to space available.

Mr. York Onnen, Chief, Public Inquiries and Reports Branch, National Heart, Lung, and Blood Institute, Building 31, Room 4A21, National Institutes of Health, Bethesda, Maryland 20205, phone: (301) 496-4236, will

provide summaries of the meeting and rosters of the committee members.

Dr. Fann Harding, Special Assistant to the Director, Division of Blood Diseases and Resources, National Heart, Lung, and Blood Institute, Federal Building, Room 514, National Institutes of Health, Bethesda, Maryland 20205, phone: (301) 496-1817, will furnish substantive program information.

Dated: August 21, 1979.

Suzanne L. Freneau,
Committee Management Officer, National Institutes of Health.

[FR Doc. 79-26777 Filed 8-28-79; 8:45 am]

BILLING CODE 4110-08-M

Board of Regents' Subcommittee for the Review of Competitive Regional Medical Library Contract Proposals; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Board of Regents' Subcommittee for the Review of Competitive Regional Medical Library Contract Proposals on September 28, 1979, from 1:00 p.m. to 5:00 p.m., in Conference Room "B" of the National Library of Medicine, 8600 Rockville Pike, Bethesda, Maryland.

In accordance with provisions set forth in Sections 552b(c)(4), 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92-463, the entire meeting will be closed to the public from 1:00 p.m. to 5:00 p.m. on September 28 for the review, discussion and evaluation of individual contract proposals. These proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications.

Mr. Sheldon Kotzin, Regional Medical Library Program Coordinator, National Library of Medicine, 8600 Rockville Pike, Bethesda, Maryland 20209, Telephone Number: 301-496-4671, will furnish a summary of the meeting, rosters of Subcommittee members, and other information pertaining to the meeting.

(Catalog of Federal Domestic Assistance Program No. 13-879—National Institutes of Health.)

Dated: August 22, 1979.

Suzanne Freneau,
Committee Management Officer, National Institutes of Health.

[FR Doc. 79-26770 Filed 8-28-79; 8:45 am]

BILLING CODE 4110-08-M

Board of Regents; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Board of Regents of the National Library of

Medicine on October 4-5, 1979, in the Board Room of the National Library of Medicine, 8600 Rockville Pike, Bethesda, Maryland, and the meeting of the Extramural Programs Subcommittee of the Board of Regents on the preceding day, October 3, 1979, from 2:00 p.m. to 4:00 p.m., in Conference Room "B" of the Library.

The meeting of the Board will be open to the public from 8:30 a.m. to 5:00 p.m. on October 4 and from 9:00 a.m. to 11:00 a.m. on October 5 for administrative reports and program discussions. Attendance by the public will be limited to space available.

In accordance with provisions set forth in Sections 552b(c)(4), 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92-463, the entire meeting of the Subcommittee on October 3 will be closed to the public, and the regular Board meeting on October 5 will be closed from 11:00 a.m. to adjournment for the review, discussion, and evaluation of individual grant applications. These applications and the discussion could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. Robert B. Mehnert, Chief, Office of Inquiries and Publications Management, National Library of Medicine, 8600 Rockville Pike, Bethesda, Maryland 20209, Telephone Number: 301-496-6308, will furnish a summary of the meeting, rosters of Board members, and other information pertaining to the meeting.

(Catalog of Federal Domestic Assistance Program No. 13-879—National Institutes of Health.)

Dated: August 22, 1979.

Suzanne Freneau,
Committee Management Officer, National Institutes of Health.

[FR Doc. 79-26769 Filed 8-28-79; 8:45 am]

BILLING CODE 4110-08-M

Board of Scientific Counselors; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Board of Scientific Counselors, National Institute of Allergy and Infectious Diseases, October 11, 1979, in Building 10, Room 11N232, and on October 12, 1979, in Building 31, Room 7A-24, National Institutes of Health, Bethesda, Maryland.

This meeting will be open to the public on October 11, from 8:30 a.m.

until 10:00 a.m. During this open session, the permanent staff of the Laboratory of Clinical Investigation will present and discuss their immediate past, and present research activities.

In accordance with the provisions set forth in Section 552b(c)(6), Title 5, U.S. Code, and Section 10(d) of Pub. L. 92-463, the meeting of the Board will be closed to the public on October 11 from 10:30 a.m. to adjournment on October 12 for the review, discussion, and evaluation of individual intramural programs and projects conducted by the National Institute of Allergy and Infectious Diseases, including consideration of personal qualifications and performance, and the competence of individual investigators, and similar items, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. Robert L. Schreiber, Chief, Office of Research Reporting and Public Response, National Institute of Allergy and Infectious Diseases, Building 31, Room 7A-32, National Institutes of Health, Bethesda, Maryland 20205, telephone (301) 496-5717, will provide summaries of the meeting and rosters of the Board members.

Dr. Kenneth W. Sell, Executive Secretary, Board of Scientific Counselors, NIAID, NIH, Building 5, Room 137, telephone (301) 496-2144, will provide substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13-301, National Institutes of Health.)

Dated: August 22, 1979.

Suzanne L. Freneau,
Committee Management Officer, National Institutes of Health.

[FR Doc. 79-26768 Filed 8-28-79; 8:45 am]

BILLING CODE 4110-08-M

Board of Scientific Counselors, NIDR; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Board of Scientific Counselors, National Institute of Dental Research, on September 24-25, 1979, in Conference Room 117, Building 30, National Institutes of Health, Bethesda, MD. This meeting will be open to the public from 9:00 a.m. to 5:00 p.m. on September 24, and from approximately 9:00 a.m. to 10:00 a.m. on September 25, to discuss program policies and issues. Attendance by the public is limited to space available.

In accordance with the provisions set forth in Section 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92-463, the meeting will be closed to the public

from approximately 10:00 a.m. on September 25 to adjournment for review, discussion, and evaluation of individual programs and projects conducted by the National Institute of Dental Research, NIH, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dr. Marie U. Nylén, Director of Intramural Research, National Institute of Dental Research, National Institutes of Health, Building 30, Room 132, Bethesda, MD 20205 (telephone 301 496-1483), will provide summaries of meeting, rosters of committee members, and substantive program information.

Dated: August 22, 1979.

Suzanne L. Freneau,
Committee Management Officer, NIH.

[FR Doc. 79-26772 Filed 8-28-79; 8:45 am]

BILLING CODE 4110-08-M

National Advisory Allergy and Infectious Diseases Council; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the National Advisory Allergy and Infectious Diseases Council, National Institute of Allergy and Infectious Diseases, October 23 and 24, 1979, at Linden Hill Hotel, the Linden Room, Bethesda, Maryland.

On October 22 the Subcommittee on Manpower Development will meet in open session from 2:00 p.m. until recess in Building 31, Room 7A-24. The full Council meeting will be open to the public on October 23 from 9:00 a.m. until 9:30 a.m., and from 1:30 p.m. until recess, and on October 24 from 9:00 a.m. until 1:00 p.m., to discuss program policies and issues. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code, and Section 10(d), of Pub. L. 92-463, the meeting of the Council will be closed to the public on October 23 from 9:30 a.m. until 1:30 p.m., and on October 24 from 2:00 p.m. until adjournment, for the review, discussion, and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. Robert L. Schreiber, Chief, Office of Research Reporting and Public

Response, National Institute of Allergy and Infectious Diseases, Building 31, Room 7A32, National Institutes of Health, Bethesda, Maryland 20205, telephone (301) 496-5717, will provide summaries of the meetings and rosters of the Council members.

Dr. William I. Gay, Director, Extramural Activities Program, NIAID, NIH, Westwood Building, Room 703, telephone (301) 496-7291, will provide substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.855 and 13.856 National Institutes of Health.)

Dated: August 22, 1979.

Suzanne L. Freneau,
Committee Management Officer, National Institutes of Health.

[FR Doc. 79-26778 Filed 8-28-79; 8:45 am]

BILLING CODE 4110-08-M

National Advisory Child Health and Human Development Council; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the National Advisory Child Health and Human Development Council, October 11-12, 1979, Building 1, Wilson Hall, National Institutes of Health, Bethesda, Maryland.

This meeting will be open to the public on October 11 from 9:00 a.m. to 5:00 p.m. and October 12 from 9:00 a.m. to 10:00 a.m. with current status reports, review of the Social and Behavioral Sciences Branch, and scientific presentations. Attendance by the public will be limited to space available.

In accordance with provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on October 12 from 10:00 a.m. to adjournment for the review, discussion, and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Marjorie Neff, Council Secretary, NICHD, Building 31, Room 2A-04, National Institutes of Health, Bethesda, Maryland 20205, Area Code 301, 496-1848, will provide a summary of the meeting and a roster of Council members as well as substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.864 and 13.865, National Institutes of Health.)

Dated: August 22, 1979.

Suzanne L. Freneau,
Committee Management Officer, National Institutes of Health.

[FR Doc. 79-26775 Filed 8-28-79; 8:45 am]

BILLING CODE 4110-08-M

National Advisory Council on Aging; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the National Advisory Council on Aging, National Institute of Aging, on October 10, 11, and 12, 1979, in Building 31C, Conference Room 6, National Institutes of Health, Bethesda, Maryland.

The meeting will be open to the public from 9:00 a.m. until adjournment on October 10, and 11. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Section 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on October 12, 1979, for the review, discussion and evaluation of grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. June McCann, Council Secretary, National Institute on Aging, Building 31, Room 5C-05, National Institutes of Health, Bethesda, Maryland 20205, (Area Code 301, 496-5345), will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.866, National Institutes of Health.)

Dated: August 22, 1979.

Suzanne L. Freneau,
Committee Management Officer, National Institutes of Health.

[FR Doc. 79-26774 Filed 8-28-79; 8:45 am]

BILLING CODE 4110-08-M

Sickle Cell Disease Advisory Committee; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Sickle Cell Disease Advisory Committee, National Heart, Lung, and Blood Institute, October 31, 1979. The meeting will be held at the Jack Tar Hotel, San Francisco, California. The entire meeting will be open to the public from 9:00 a.m. to 5:00 p.m., to discuss recommendations on the implementation and evaluation of the Sickle Cell Disease Program. Attendance by the public will be limited to space available.

Mr. York Onnen, Chief, Public Inquiries and Reports Branch, NHLBI, NIH, Building 31, Room 4A-29, (301) 496-4236, will provide summaries of the meeting and roster of the Committee members.

Clarice D. Reid, M.D., Chief, Sickle Cell Disease Branch, DBDR, NHLBI, NIH, Federal Building, Room 504, (301) 496-8931, will furnish substantive program information.

Dated: August 14, 1979.

Suzanne L. Fremneau,
Committee Management Officer, National Institutes of Health.

[FR Doc. 79-26779 Filed 8-28-79; 8:45 am]
BILLING CODE 4110-08-M

Symposium on Molecular Approaches to Vaccine Development

Notice is hereby given to the Symposium on Molecular Approaches to Vaccine Development, National Institute of Allergy and Infectious Diseases (NIAID), October 10, 1979, in Building 1, Wilson Hall, National Institutes of Health, Bethesda, Maryland.

This Symposium will be open to the public from 9:00 a.m. until adjournment. The tentative agenda follows:

- 9:00 a.m.—Welcome by Dr. Richard Krause, Director, NIAID.
- 9:15 a.m.—Introductory Remarks by Dr. Kenneth Sell, Scientific Director, NIAID.
- 9:30 a.m.—Problems of Vaccine Development—Sir Charles Stuart-Harris, University of Sheffield, England.
- 10:00 a.m.—Recombinant DNA Technology and Influenza—Dr. Ching-Juh Lai, Laboratory of Infectious Diseases (LID), NIAID.
- 10:20 a.m.—Recombinant DNA Technology and Hepatitis—Dr. William Robinson, Stanford University.
- 10:40 a.m.—Coffee.
- 11:00 a.m.—Recombinant DNA Technology and Bacterial Diseases—Dr. Stanley Falkow, University of Washington.
- 11:20 a.m.—Eucaryotic Vector Systems—Dr. Dean Hamer, Recombinant DNA Section, NIAID.
- 11:40 a.m.—Discussion.
- 12:40 a.m.—Lunch.
- 1:00 p.m.—Molecular approaches to Immunization—Round Table—Dr. Bernard Fields, Harvard University; Dr. Philip Leder, National Institute of Child Health and Human Development (NICHD), NIH; Dr. Malcolm Martin, NIAID, NIH; Dr. Maclyn McCarty, Rockefeller University; Dr. Daniel Nathans, Johns Hopkins University.
- 2:30 p.m.—Discussion.
- 3:00 p.m.—Coffee.
- 3:30 p.m.—Closing Remarks—Dr. John Seal, Deputy Director, NIAID.

This Symposium is being held in conjunction with the meeting of the Board of Scientific Counselors on October 11 and 12, 1979.

Dr. Kenneth W. Sell, Executive Secretary, Board of Scientific Counselors, NIAID, NIH, Building 5, Room 137, telephone (301) 496-2144, will provide substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13301, National Institutes of Health.)

Dated: August 13, 1979.

Suzanne L. Fremneau,
Committee Management Officer, National Institutes of Health.

[FR Doc. 79-26767 Filed 8-28-79; 8:45 am]
BILLING CODE 4110-08-M

Office of the Assistant Secretary for Health

National Council on Health Care Technology; Announcement Soliciting Comments on Health Care Technology and Technology Assessment

Announcement is made that the National Council on Health Care Technology is soliciting the views and comments of professional health societies and organizations regarding the Department's focus in the field of health care technology and technology assessment. Organizations wishing to make formal presentations to the Council may do so at the October 10 afternoon meeting to be held in Room 800 of the Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, D.C. 20201. Participants should plan to limit their presentations to 10 minutes. However, written statements may be filed with the staff before or after the meeting.

Interested parties should contact Mr. Dwight Blankenbaker, Acting Executive Secretary, Office of Health Research, Statistics, and Technology, National Center for Health Care Technology, 5600 Fishers Lane, Rockville, Maryland 20857 (202) 472-4248.

Dated: August 23, 1979.

Marilyn McCarroll,
Acting Executive Secretary Office of Health Research, Statistics, and Technology

[FR Doc. 79-26675 Filed 8-28-79; 8:45 am]
BILLING CODE 4110-05-M

Office of Education

National Advisory Council on the Education of Disadvantaged Children; Meeting

Notice is hereby given, pursuant to Pub. L. 92-463, that the next meeting of the National Advisory Council on the Education of Disadvantaged Children will be held on Friday, September 14 and on Saturday, September 15, 1979.

The Council will meet on September 14 from 9 a.m. until 5 p.m., and on September 15 from 9 a.m. until 12 noon. The two-day meeting will be held at 425 13th Street, NW., Suite 1012, Washington, D.C. 20004.

The National Advisory Council on the Education of Disadvantaged Children is established under section 148 of the Elementary and Secondary Act (20 U.S.C. 2411) to advise the President and the Congress on the effectiveness of compensatory education to improve the educational attainment of disadvantaged children.

The purpose of the meeting will be to finalize Council's comments and recommendations on the ESEA, Title I Notice of Proposed Rule Making; review and adopt a Council special report on ESEA, Title I technical assistance and evaluation activities; and, review and comment on a summary of previous council activities and recommendations in the area of compensatory education.

The entire meeting will be open to the public. Because of limited space, all persons wishing to attend should call for reservations by September 10, 1979, area code 202/724-0114 and speak with Mrs. Lisa Haywood.

Records shall be kept of all Council proceedings and shall be available for public inspection at the office of the National Advisory Council on the Education of Disadvantaged Children located at 425 13th Street, NW., Suite 1012, Washington, D.C. 20004.

Signed at Washington, D.C. on August 27, 1979.

Gloria B. Strickland,
Acting Executive Director.

[FR Doc. 79-27093 Filed 8-28-79; 8:45 am]
BILLING CODE 4110-02-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Final Decision on Initial Wilderness Inventory of Public Lands in Oregon and Washington

Authority

This decision is issued under the authority of Section 603 of the Federal Land Policy and Management Act of October 21, 1976, and in accordance with the guidelines in the "Wilderness Inventory Handbook," issued by the U.S. Department of the Interior, Bureau of Land Management, on September 27, 1978.

Background

The intent of the initial wilderness inventory is to identify public lands which clearly and obviously do not meet

the criteria for wilderness study areas. These lands are to be released from further consideration in the wilderness review and from the constraints of interim management prescribed by Section 603(c) of the Federal Land Policy and Management Act. Other public lands are to be more intensively inventoried to determine whether they should be designated wilderness study areas or removed from further consideration in the wilderness review.

Public lands are defined as any land and interest in land owned by the United States within the several States and administered by the Secretary of the Interior through the Bureau of Land Management, except lands (a) located on the Outer Continental Shelf, (b) held for the benefit of Indians, Aleuts, and Eskimos, and (c) where the United States retains the minerals but the surface is privately owned.

The beginning of the initial wilderness inventory in Oregon and Washington was announced in the Federal Register on November 3, 1978.

All public lands in the two states which are eligible for wilderness review, and which have not previously been eliminated from wilderness consideration were reviewed. Where there was a possibility of meeting the minimum size criteria listed in the "Wilderness Inventory Handbook", the lands were identified as inventory units. These lands, and all islands of any size, were shown on maps as inventory units, and an initial inventory form (situation evaluation) was prepared for each unit. On the basis of the analysis each unit was placed in one of two categories:

1. Units which clearly and obviously do not meet the criteria for establishment as wilderness study areas.
2. Units in which it appeared more intensive field work was needed to determine whether they should be designated wilderness study areas or eliminated from further wilderness review.

Maps showing these proposed inventory decisions were distributed to over 2,000 individuals, organizations and agencies on April 6, 1979. An accompanying report described the units proposed for elimination from further wilderness review and explained that, in addition, all public lands which were not contained in inventory units because they did not meet the minimum size criteria because of roads or land ownership patterns were also proposed for elimination from further wilderness review. A notice was published in the Federal Register on April 6, 1979, announcing the availability of the maps and report presenting the proposed decision. News releases were sent to

newspapers and radio stations to publicize the availability of the maps and report.

The April 6 announcement opened a 90-day public comment period. Twenty public meetings were held to inform the public of the wilderness review process and receive comments on the proposed initial inventory decision. Approximately 435 comments on the proposed decision were received. Comments which provided information on the presence or absence of wilderness characteristics in specific inventory units were used in developing the final decision on the initial inventory.

Decision

Public lands indicated in paragraphs (a) and (b), below, are eliminated from further consideration as wilderness study areas and are removed from the interim management constraints of Section 603 (c) of the Federal Land Policy and Management Act.

(a) Inventory units shown as being eliminated from further review on maps and a report entitled "Final Decision on Public Lands Obviously Lacking Wilderness Characteristics and Announcement of Public Lands to be Intensively Inventoried for Wilderness Characteristics—Oregon and Washington", dated August 1979 are eliminated from further consideration as wilderness study areas. All lands in this category were proposed on April 6, 1979, for elimination from further wilderness review except Unit 3-204 (9,040 acres) and a portion of Unit 3-157 (12,280 acres) in the Vale District and a portion of Unit 13-1 (700 acres) in the Spokane District. Public comments and a re-examination of these lands verified that they clearly and obviously do not have wilderness characteristics.

(b) All public lands in Oregon and Washington which do not meet the minimum size criteria of the "Wilderness Inventory Handbook" and are not included in inventory units shown on the maps and listed in the report referred to in paragraph (a), above, are eliminated from further consideration as wilderness study areas. These lands do not meet the minimum size criteria either because they are roaded or because they are isolated parcels surrounded by lands not administered by the Bureau of Land Management.

Certain inventory units shown on maps and listed in the August 1979 report referred to in the previous section are identified as units to be intensively inventoried to determine whether they have wilderness characteristics. The interim management provisions of

Section 603(c) of the Federal Land Policy and Management Act remain in effect on these lands. These units will be evaluated under the procedures set forth in Step 4 of the "Wilderness Inventory Handbook."

The above are the State Director's final decisions on the initial wilderness inventory and will not be effective for 30 days subject to appeal under Departmental regulations (Part 4, Subtitle A, Title 43 CFR).

Additional Information

The final decision maps and report mentioned above have been sent to more than 2,400 individuals, organizations, and agencies. You may obtain a copy by writing the Public Affairs Room, Bureau of Land Management, Oregon State Office, P.O. Box 2965, Portland, Oregon 97208.

Muriel W. Storms,
State Director.

[FR Doc. 79-26684 Filed 8-28-79; 8:45 am]
BILLING CODE 4310-84-M

Oregon; Five Instant Wilderness Study Areas in Oregon Do Not Have Wilderness Characteristics

Section 603 of the Federal Land Policy and Management Act of 1976 requires the Secretary of the Interior to report to the President by July 1, 1980, his recommendations on whether primitive and natural areas designated as such prior to November 1, 1975, and administered by the Bureau of Land Management are suitable or unsuitable for preservation as wilderness. These areas have been termed "instant wilderness study areas."

Five instant study areas are located in Oregon. They are:

Area	BLM District	Acres
Lost Forest Research Natural Area.	Lakeview	8,960
Western Juniper Research Natural Area.	Prineville	600
Little Sink Research Natural Area.	Salem	80
Brewer Spruce Research Natural Area.	Medford	210
Douglas Fir Research Natural Area.	Cooze Bay	590

Using procedures prescribed in the Bureau of Land Management's September 27, 1978, "Wilderness Inventory Handbook," a preliminary determination was made that none of the five areas has wilderness characteristics. This was announced in the Federal Register on April 26, 1979, and in a report distributed to over 2,000 individuals, organizations, and agencies on the same date. A 60-day public comment period followed.

After reviewing public comments received, I have concluded that the five areas, in and of themselves, do not have wilderness characteristics. I have also concluded that 1,500 acres of roadless land contiguous to the Brewer Spruce area and 50 acres of roadless land contiguous to the Douglas Fir area do not have wilderness characteristics. However, the Western Juniper Instant Study Area and portions of the Lost Forest Instant Study Area have been included in larger wilderness inventory units which have yet to be inventoried to determine whether they possess wilderness characteristics. Therefore, I will propose, through the Director of the Bureau of Land Management, that the Secretary of the Interior (a) recommend to the President that the Little Sink, Brewer Spruce, and Douglas Fir Instant Study Areas are not suitable for preservation as wilderness; and (b) report to the President that recommendations on the wilderness suitability or nonsuitability of Western Juniper and Lost Forest areas will be deferred until it has been determined whether contiguous inventory units have wilderness characteristics.

A report describing the five areas and summarizing public comments received may be obtained by writing the Public Affairs Rooms, Oregon State Office, Bureau of Land Management, P.O. Box 2965, Portland, OR 97208.
Murl W. Storms,
State Director.

[FR Doc. 79-28544 Filed 8-28-79; 8:45 am]
BILLING CODE 4310-04-M

Colorado: Instant Wilderness Study Report; Public Comment Period on Recommendations for Needlerock and High Mesa Grassland

SUMMARY: Notice is hereby given that pursuant to the Federal Land Policy and Management Act of 1976 (Pub. L. 94-579), a 30-day public comment period will begin immediately after publication of this notice on the results of the wilderness characteristics evaluation of the Needlerock and High Mesa Grasslands Instant Study Areas administered by BLM in Colorado.

Comments will be accepted by the Montrose District Office during this 30-day public review regarding the recommendation that the 80 acre Needlerock Natural Area, located near Crawford in Delta County, Colorado, does not meet the wilderness criteria defined by Section 2(c) of the Wilderness Act of 1964 (Pub. L. 88-577).

Comments will be accepted by the Canon City District Office during this 30-day public review regarding the

recommendation that the 680 acre High Mesa Grassland Natural Area, located northwest of Canon City in Fremont County, Colorado, does not meet the wilderness criteria defined by the Wilderness Act of 1964.

A copy of the Needlerock report can be obtained from the Montrose District Office, Bureau of Land Management, P.O. Box 1269, Highway 550 South, Montrose, Colorado 81401; phone 303-249-7791.

A copy of the High Mesa Grasslands report can be obtained from the Canon City District Office, Bureau of Land Management, 3080 East Main Street, Canon City, Colorado 81212; phone: 303-275-7494.

Dated: August 21, 1979.

Dale R. Andrus,
State Director.

[FR Doc. 79-28948 Filed 8-28-79; 8:45 am]
BILLING CODE 4310-04-M

Bureau of Reclamation

Contract Negotiations With Laguna Water District, Calif.; Intent to Begin Negotiation of a Water Service Contract

The Department of the Interior, through the Bureau of Reclamation, intends to negotiate a contract with Laguna Water District, Los Banos, California, for the furnishing of 800 acre-feet of water annually for agricultural use from the Central Valley Project (CVP). This supply is part of the Delta-Mendota Canal total water delivery program of 1,555,000 acre-feet, excluding losses, established on February 5, 1973. The proposed contract will be written pursuant to section 9(e) of the Reclamation Project Act of 1939. The initial water rate will be \$8.10 per acre-foot and will be adjustable at 5-year intervals.

Laguna Water District is in the trough of the San Joaquin Valley in southwestern Merced County, California, just southwest of the community of Dos Palos. There are about 427 gross acres in the district of which about 370 acres have been irrigated under temporary CVP contracts and by use of other non-firm water supplies. The provision of this long-term CVP water supply contract will supplement the other non-firm supplies of water. The principal district crops consist of cotton, corn, milo, and barley.

All meetings between the Bureau of Reclamation and Laguna Water District for the purpose of negotiating the proposed water service contract shall be open to the general public as observers. Advance notice of any meeting shall be

furnished only to those parties having previously furnished a written request for such notice to the office identified below at least 1 week prior to the meeting. The public is invited to submit written comments on the form of the proposed agreement not later than 30 days after the completed draft is declared to be available to the public. All written correspondence concerning the proposed contract shall be made available to the general public pursuant to the terms and procedures of the Freedom of Information Act (80 Stat. 383), as amended.

For further information about scheduled meetings and copies of the proposed contract, please contact Mr. A. J. Thayer, Repayment Branch, Division of Water and Power Resources Management, Bureau of Reclamation, 2800 Cottage Way, Sacramento, California 95825, telephone No. (916) 484-4498.

Dated: August 22, 1979.

Clifford L. Barrett,
Assistant Commissioner of Reclamation.

[FR Doc. 79-28611 Filed 8-28-79; 8:45 am]
BILLING CODE 4310-09-M

Salmon Falls Division, Upper Snake River Project, Idaho-Wyoming; Intent to Prepare an Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior intends to prepare an environmental statement on the proposed Salmon Falls Division. The proposal is to construct an irrigation and wildlife enhancement project, and the necessary support facilities, south of the Snake River in Twin Falls and Cassia Counties, Idaho. The Salmon Falls Division was authorized by Congress in Public Law 92-514, October 20, 1972. To be implemented, the proposal will require the authorization of construction funding. If constructed, the Salmon Falls Division would supply water to approximately 57,210 acres of cropland. Wildlife habitat would be upgraded on about 1,570 acres of land, and 20 watering areas would be constructed to enhance local wildlife populations.

An environmental statement on the project was filed with the Council on Environmental Quality before authorization; however, due to the evolving nature of the environmental statement process since that time, the decision has been made to prepare an updated statement in conjunction with the definite planning report. The new environmental statement will address the impacts of constructing the operating

facilities in the project area, the impacts associated with alternative locations for a well field to pump water from the Snake Plain aquifer, and other alternatives considered to meet the water-related needs of the project area.

Environmental studies and preparation and processing of an environmental impact statement for this proposed project will be in accordance with provisions of the National Environmental Policy Act of 1969, and will be accomplished under the new Council on Environmental Quality (CEQ) regulations published in the Federal Register on November 29, 1978.

No specific scoping meeting is planned. Pertinent issues have been discussed with various groups and agencies on several occasions. Letters have also been sent to known interested parties and agencies indicating that an environmental statement is being prepared and inviting their comments.

To assure that the full range of issues related to this proposal are discussed in the statement and all significant issues are identified, comments and suggestions are invited. Anyone with suggestions as to significant environmental issues associated with this project should contact: Robert A. Adair, Environmental Specialist, Pacific Northwest Region, Bureau of Reclamation, Box 043, 550 W. Fort Street, Boise, Idaho 83724, Telephone: (208) 384-1209.

Dated: August 22, 1979.

R. Keith Higginson,
Acting Commissioner.

[FR Doc. 79-28610 Filed 8-28-79; 8:45 am]
BILLING CODE 4310-09-M

INTERNATIONAL TRADE COMMISSION

[AA1921-206, AA1921-207, AA1921-208, and AA1921-209]

Titanium Dioxide From Belgium, France, the United Kingdom, and the Federal Republic of Germany; Investigations and Hearing

Having received advice from the Department of the Treasury on August 7, 1979, that titanium dioxide (provided for in item 473.70 of the Tariff Schedules of the United States (TSUS)) from Belgium, France, the United Kingdom, and the Federal Republic of Germany, with the exception of that sold by Bayer AG of the Federal Republic of Germany and ceramic grades of titanium dioxide sold by LaPorte Industries of the United Kingdom,¹ is being, or is likely to be,

¹ For purposes of the Department of the Treasury's determination, ceramic grades of

sold at less than fair value, the United States International Trade Commission, on August 23, 1979, instituted investigations Nos. AA1921-206, AA1921-207, AA1921-208, and AA1921-209, under section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)), to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States.

Public hearing. A public hearing in connection with these investigations will be held on Thursday, September 27, 1979, in the Commission's Hearing Room, U.S. International Trade Commission Building, 701 E Street, NW., Washington, D.C. 20436, beginning at 10 a.m., e.d.t. All interested persons will be afforded an opportunity to be present, to appear by counsel or in person, to provide information, and to be heard at such hearing. Requests to appear at the hearing should be received in writing in the office of the Secretary to the Commission, United States International Trade Commission, 701 E Street NW., Washington, D.C., not later than noon, Friday, September 21, 1979.

Written statements. Interested parties may submit statements in writing in lieu of, or in addition to, appearing at the public hearing. A signed original and 19 true copies of such statements should be submitted. Requests for confidential treatment should be directed to the attention of the Secretary. Any business information which a submitter wishes the Commission to treat as confidential should be clearly marked "Confidential Business Data." Submitters seeking confidential treatment must conform with the requirements of § 201.6 of the Commission's *Rules of Practice and Procedure* (19 CFR 201.6). Should a request for confidential treatment be denied, the submission will be returned to the submitting party.

All written submissions, except for confidential business data, will be made available for inspection by interested persons. To assure that such statements are given due consideration by the Commission, such statements should be received not later than the close of business, Friday, October 5, 1979.

Issued: August 24, 1979.

titanium dioxide are titanium dioxide pigments (provided for in TSUS item 473.70), having an average minimum primary particle size exceeding eight microns in diameter.

By order of the Commission.

Kenneth R. Mason,
Secretary.

[FR Doc. 79-27004 Filed 8-28-79; 8:45 am]
BILLING CODE 7020-02-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Humanities Panel; Meeting

August 10, 1979.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, as amended), notice is hereby given that a meeting of the Humanities Panel will be held at 806 Fifteenth Street, N.W., Washington, D.C. 20506, in room 807, from 9:00 a.m. to 5:30 p.m. on September 13 and 14, 1979.

The purpose of the meeting is to review Higher Education Projects applications submitted to the National Endowment for the Humanities for projects beginning after December 1, 1979.

Because the proposed meeting will consider financial information and disclose information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated January 15, 1978, I have determined that the meeting would fall within exemptions (4) and (6) of 5 U.S.C. 552b(c) and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with operation of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. Stephen J. McCleary, 806 Fifteenth Street, N.W., Washington, D.C. 20506, or call area code 202-724-0367.

Stephen J. McCleary,

Advisory Committee Management Officer.

[FR Doc. 79-28978 Filed 8-28-79; 8:45 am]
BILLING CODE 7530-01-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Subcommittee on Fluid Dynamics; Meeting

The ACRS Subcommittee on Fluid Dynamics will hold a meeting on September 13 and 14, 1979, at the Quality Inn, 5249 West Century Boulevard, Los Angeles, CA 90045 to review NRC acceptance criteria for the

Boiling-Water Reactor (BWR) Mark I and II Containment Systems. Notice of this meeting was published August 23, 1979.

In accordance with procedures outlined in the Federal Register, Oct. 4, 1978 (43 FR 45926), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The agenda for subject meeting shall be as follows:

Thursday and Friday, September 13 and 14, 1979.

8:30 a.m. until the conclusion of business each day.

The Subcommittee may meet in Executive Session, with any of its consultants who may be present, to explore and exchange their preliminary opinions regarding matters which should be considered during the meeting and to formulate a report and recommendations to the full committee.

At the conclusion of the Executive Session, the Subcommittee will hear presentations by and hold discussions with representatives of the NRC Staff, and their consultants, pertinent to this review. The Subcommittee may then caucus to determine whether the matters identified in the initial session have been adequately covered and whether the project is ready for review by the full Committee.

In addition, it may be necessary for the Subcommittee to hold one or more closed sessions for the purposes of exploring matters involving proprietary information. I have determined, in accordance with Subsection 10(d) of Public Law 92-463, that, should such sessions be required, it is necessary to close these sessions to protect proprietary information (5 U.S.C. 552b(c)(4)).

Further information regarding topics to be discussed, whether the meeting has been canceled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the Designated Federal Employee for this meeting, Dr. Andrew L. Bates, (telephone 202/634-3267) between 8:15 a.m. and 5:00 p.m., EDT.

Dated: August 22, 1979.

John C. Hoyle,
Advisory Committee Management Officer.

[FR Doc. 79-26674 Filed 8-23-79; 8:45 am]
BILLING CODE 7590-01-M

[Docket No. 50-289]

Metropolitan Edison Co. (Three Mile Island Nuclear Station, Unit No. 1); Order

On August 9, 1979 (44 FR 47821, August 15, 1979), the Commission issued an Order and Notice of Hearing in this proceeding and provided that the licensee's answer to the Order and any petitions to intervene were to be filed with the Secretary of the Commission by September 4, 1979. Pursuant to 10 CFR 2.772, those deadlines are hereby extended until September 14, 1979.

It is so ordered.

Dated at Washington, D.C., this 23d day of August, 1979.

Samuel J. Chilk,
Secretary of the Commission.

[FR Doc. 79-26915 Filed 8-23-79; 8:45 am]
BILLING CODE 7590-01-M

OFFICE OF MANAGEMENT AND BUDGET

Privacy Act; Notice of New Systems

August 24, 1979.

The purpose of this notice is to give members of the public an opportunity to comment on Federal agency proposals to establish or alter personal data systems subject to the Privacy Act of 1974.

The Act states that "each agency shall provide adequate advance notice to Congress and the Office of Management and Budget of any proposal to establish or alter any system of records in order to permit an evaluation of the probable or potential effect on such proposal on the privacy and other personal or property rights of individuals * * *"

OMB policies implementing this provision require agencies to submit reports on proposed new or altered systems to Congress and OMB 60 days prior to the issuance of any data collection forms or instructions, 60 days before entering any personnel information into the new or altered systems, or 60 days prior to the issuance of any requests for proposals for computer and communications systems or services to support such systems—whichever is earlier.

The following reports on new or altered systems were received by OMB between July 23, 1979 and August 17, 1979. Inquiries or comments on the

proposed new systems or changes to existing systems should be directed to the designated agency point-of-contact and a copy of any written comments provided to OMB. The 60 day advance notice period begins on the report date indicated.

Department of Defense

System Name: Losses of Public Funds Files.

Report Date: July 23, 1979.

Point-of-Contact: Mr. William T. Cavaney, Executive Secretary, Defense Privacy Board, 1735 N. Lynn Street, Arlington, VA 22209.

Summary: The Navy Department proposes this new system as a means of controlling the liquidation of losses of public funds by accountable disbursing personnel. The system will include a file on each accountable individual, maintained until losses have been repaid or relief has been granted and the case closed.

System Names: (1) Work Measurement Labor Distribution Card. (2) Marine Corps Locator Files.

Report Date: August 7, 1979.

Point-of-Contact: Mr. William T. Cavaney, Executive Secretary, Defense Privacy Board, 1735 N. Lynn Street, Arlington, VA 22209.

Summary: Both of these are existing systems maintained by the Marine Corps. The first system, currently used to provide a data base on Marine Corps work activities, will be used not only to determine labor distribution, but also to produce productivity reports. The second system will be altered to include additional information about USMC officer, enlisted, and civilian personnel.

System Name: Recruiting Research and Analysis System.

Report Date: August 9, 1979.

Point-of-Contact: Mr. William T. Cavaney, Executive Secretary, Defense Privacy Board, 1735 N. Lynn Street, Arlington, VA 22209.

Summary: The Air Force proposes this system as a statistical tool for the management, monitoring, and analysis of Air Force recruiting. The information will be used to determine the need for procedural and policy changes in recruiting.

System Name: Automated Systematic Recruiting Support System.

Report Date: August 7, 1979.

Point-of-Contact: Mr. William T. Cavaney, Executive Secretary, Defense Privacy Board, 1735 N. Lynn Street, Arlington, VA 22209.

Summary: The Marine Corps proposes this new system of records, which is intended to provide a data of the recruiting information to keep track of

recruits, including those who join, the Marines on a delayed entry basis.

Office of Administration, Executive Office of the President

System Name: Interagency Information Exchange.

Report Date: August 1, 1979.

Point-of-Contact: Ms. Carol L. Caldwell, Information Systems Development Division, Office of Administration, Washington, D.C. 20500.

Summary: This new system of records is to be a subsystem of an information system called Congressional Liaison Activities Status System (CLASS). CLASS is intended to track the progress of important Administration issues through the legislative, budgetary, and implementation stages. The Interagency Exchange subsystem will provide information on key figures in the process, such as Members of Congress, Executive Branch officials, and State and local government officials.

Department of Energy

System Names:

(1) Time and Accountability Records. (2) Emergency Locator Records.

(3) Automatic Data Processing (ADP) Management Records.

(4) Congressional Profiles.

(5) Environmental Impact Document Monitoring, Processing, and Correspondence Tracking System.

(6) Historical Files—Published Information Concerning Selected Persons in the Energy Field.

(7) Energy Extension Service Records. (8) Minority Energy Technical Assistance Program Records.

Report Date: August 8, 1979.

Point-of-Contact: Milton Jordan, Director, Division of FOI and Privacy Act Activities, Department of Energy, Washington, DC 20585.

Summary: In this report DOE presents a consolidation of all of its systems of records, including those transferred from DOE's predecessor agencies and the eight new systems listed above. The first three systems will be internal management tools for the Department. The fourth Congressional Profiles, will be used by DOE staff to facilitate dealings with the Congress by making available information on Members' views on energy issues and other background information. All information in the system will be drawn from public sources. The next system will be used by DOE in carrying out its role under the National Environmental Policy Act, including the distribution of copies of environmental impact statements, reviewing comments and evaluating such statements. The DOE Historical Files will maintain records on the

history of the Federal role in U.S. energy development. Energy Extension Service records will be used to account for State contacts with EES clients under the Energy Extension Service program. Finally, the Minority Energy Technical Assistance Program records will be used in the administration of a DOE funded program intended to encourage energy conservation programs by minority and low-income persons and to educate State and local officials in energy conservation.

Waiver Requests

OMB procedures permit a waiver of the advance notice requirement when the agency can show that the delay caused by the 60 day advance notice would not be in the public interest. It should be noted that a waiver of the 60 day advance notice period does not relieve an agency of the obligation to publish notice describing the system and to allow 30 days for public comment on the proposed routine uses of the personal information to be collected. A waiver of the 60 day advance notice provision was requested by agencies for the following reports received between July 23, 1979 and August 17, 1979. Public inquiries or comments on the proposed new or altered systems should be directed to the designated agency point-of-contact and a copy of any written comments provided to OMB. Comments on the operation of the waiver procedure should be directed to OMB.

Nuclear Regulatory Commission

System Name: Special Inquiry File.

Report Date: July 25, 1979.

Point-of-Contact: J. M. Felton, Director, Division of Rules and Records, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

Summary: This system is to be established to facilitate the investigation of the accident at the Three Mile Island Nuclear Plant and any similar incidents which may occur. It will include correspondence, audit reports and data interview, questionnaires, etc., which may be accessed by individual name or identifier.

Status: Granted, August 3, 1978.

David R. Leuthold,

Acting Assistant to the Director for Administration.

[FR Doc. 79-26958 Filed 8-28-79; 8:45 am]

BILLING CODE 3110-01-M

SMALL BUSINESS ADMINISTRATION

[License No. 02/02-0370]

AMEV Capital Corp.; Issuance of a License to Operate as a Small Business Investment Company

On June 18, 1979, a Notice was published in the Federal Register (44 FR 35071) stating that AMEV Capital Corporation, 5 World Trade Center—Suite 6281, New York, New York 10048, had filed an application with the Small Business Administration pursuant to § 107.102 of the SBA Rules and Regulations governing small business investment companies (13 CFR 107.120 (1979)), for a license to operate as a small business investment company.

Interested parties were given until the close of business July 3, 1979, to submit their comments. No comments were received.

Notice is hereby given that, having considered the application and all other pertinent information, SBA, on August 14, 1979, issued License No. 02/02-0370 to AMEV Capital Corporation pursuant to Section 301(c) of the Small Business Investment Act of 1958, as amended.)

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: August 20, 1979.

Peter F. McNeish,

Acting Associate Administrator for Financing and Investment.

[FR Doc. 79-26971 Filed 8-28-79; 8:45 am]

BILLING CODE 8025-01-M

[Proposed License No. 02/02-5376]

Intergroup Funding Corp.; Application for License To Operate as a Small Business Investment Company

An application for a license to operate as a small business investment company under the provisions of Section 301(d) of the Small Business Investment Act of 1958, as amended (15 U.S.C. 661 et seq.), has been filed by Intergroup Funding Corporation (applicant), with the Small Business Administration (SBA), pursuant to 13 CFR 107.102 (1979).

The officers and directors of the applicant are as follows:

Ben Hauben, president and director, 876 Park Avenue, New York, New York 10021.

Oscar Hauben, vice president and director, 306 West 236th Street, Bronx, New York 10463.

Cyla S. Goodman, secretary, treasurer, director, 81 Penn Road, Scarsdale, New York 10583.

The applicant will maintain its principal place of business at 230 Park Avenue, New York, New York 10017.

It will begin operations with \$510,000 of private capital derived from the sale of 1,500 shares to Benco International Importing Corporation (Benco) at the same address as the applicant. Ben Hauben owns 75 percent and Cyla S. Goodman has a 25 percent beneficial interest in Benco.

The applicant will conduct its operations principally in the State of New York.

As a small business investment company under Section 301(d) of the Act, the applicant has been organized and chartered solely for the purpose of performing the functions and conducting the activities contemplated under the Small Business Investment Act of 1958, as amended, from time to time, and will provide assistance solely to small business concerns which will contribute to a well-balanced national economy by facilitating ownership in such concerns by persons whose participation in the free enterprise system is hampered because of social or economic disadvantages.

Matters involved in SBA's consideration of the applicant include the general business reputation and character of the proposed owners and management, and the probability of successful operation of the applicant under their management, including adequate profitability and financial soundness, in accordance with the Small Business Investment Act and the SBA Rules and Regulations.

Notice is hereby given that any person may, on or before September 13, 1979, submit to SBA written comments on the proposed applicant. Any such communications should be addressed to the Acting Associate Administrator for Finance and Investment, Small Business Administration, 1441 L Street, N.W., Washington, D.C. 20416.

A copy of this notice shall be published in a newspaper of general circulation in New York, New York.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: August 23, 1979.

Arthur P. Cyr,
Acting Associate Administrator for Finance and Investment.

[FR Doc. 79-28467 Filed 8-28-79; 8:45 am]
BILLING CODE 8025-01-M

[Proposed License No. 04/04-5161]

First Florida Capital Corp.; Application for License To Operate as a Small Business Investment Company

An application for a license to operate as a small business investment company

under the provisions of Section 301(d) of the Small Business Investment Act of 1958, as amended (15 U.S.C. 661 *et seq.*), has been filed by the First Florida Capital Corporation (applicant), with the Small Business Administration (SBA), pursuant to 13 CFR 107.102 (1979).

The officers, directors and stockholders are as follows:

Stanley L. Seligman, president and director, 125 North 46th Avenue, Hollywood, Florida 33021, 40 percent.

Sol Klein, secretary, treasurer and director, 4052 Estepona Avenue, Miami, Florida 33166, 8.57 percent.

Joel A. Pinsky, vice president and director, 1 Westmount Square, Suite 1212, Montreal, Quebec, Canada.

Shai Calvert Kogan, 157 Edgehill, Westmount, Quebec, Canada, 8.57 percent.

Commercial Investments Corp., c/o Joel A. Pinsky, 1 Westmount Square, Suite 1212, Montreal, Quebec, Canada, 12.86 percent.

John Alper, 33 Glenmore, Hampstead, Quebec, Canada, 10 percent.

Bernard Palevsky, 72 Summit Crescent, Westmount, Quebec, Canada, 10 percent.

Paul Hubscher, 5703 Whitehorn Avenue, Westmount, Quebec, Canada, 10 percent.

The applicant will maintain its principal place of business at 125 North 46th Avenue, Hollywood, Florida 33021.

It will begin operations with \$500,000 of private capital derived from the sale of 50,500 shares to stockholders shown above.

The applicant will conduct its operations in the Dade and Broward Counties of Florida.

As a small business investment company under Section 301(d) of the Act, the applicant has been organized and chartered solely for the purpose of performing the functions and conducting the activities contemplated under the Small Business Investment Act of 1958, as amended, from time to time, and will provide assistance solely to small business concerns which will contribute to a well-balanced national economy by facilitating ownership in such concerns by persons whose participation in the free enterprise system is hampered because of social or economic disadvantages.

Matters involved in SBA's consideration of the applicant include the general business reputation and character of the proposed owners and management, and the probability of successful operation of the applicant under their management, including adequate profitability and financial soundness, in accordance with the Small Business Investment Act and the SBA Rules and Regulations.

Notice is hereby given that any person may, on or before September 13, 1979, submit to SBA written comments on the proposed applicant. Any such

communication should be addressed to the Acting Associate Administrator for Finance and Investment, Small Business Administration, 1441 L Street, N.W., Washington, D.C. 20416.

A copy of this notice shall be published in a newspaper of general circulation in Hollywood, Florida.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: August 23, 1979.

Arthur P. Cyr,
Acting Associate Administrator for Finance and Investment.

[FR Doc. 79-28606 Filed 8-28-79; 8:45 am]
BILLING CODE 8025-01-M

[Proposed License No. 01/01-0292]

Great Northern Capital Corp.; Application for a License To Operate as a Small Business Investment Company

Notice is hereby given that an Application has been filed with the Small Business Administration, pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1979)), under the name of Great Northern Capital Corporation (Applicant) for a License to operate as a Small Business Investment Company under the provisions of the Small Business Investment Act of 1958, as amended (Act), and the Rules and Regulations promulgated thereunder.

The Applicant was incorporated on March 2, 1978, under the laws of the State of Maine and under the name of First Maine Capital Corporation. At a meeting of shareholders held on August 13, 1979, it was resolved that the Corporation change its name from First Maine Capital Corporation to Great Northern Capital Corporation and its Articles of Incorporation have been amended accordingly, effective August 16, 1979.

The Applicant will commence operations with a capitalization of \$504,000, which amount has been raised through the sale of its issued and outstanding Common Stock, No Par Value, and its issued and outstanding Preferred Stock, No Par Value, to Barry M. Goldman, President and Director of the Applicant, and to C.G.T. Trust, c/o Clickman and Fuller, P.C., 14 Howard Street, Worcester, Massachusetts 01608, respectively.

The Applicant will have its principal place of business at 97A Exchange Place, Portland, Maine 04111, and it intends to conduct its operations principally in the States of Maine,

Massachusetts, New Hampshire and Vermont.

The officers and directors of the Applicant will be:

Nome, address, and title

Barry M. Goldman, 30 Spruce Hill Ave., Boston, Mass., president, secretary, and director.

Alexander S. Goldman, 15 Vannah Ave., Portland, Maine, clerk and director.

Alan R. Atkins, 19 Rocky Hill Road, Cape Elizabeth, Maine, director.

Matters involved in SBA's consideration of the Applicant include the general business reputation and character of the proposed owners and management, and the probability of successful operations of the Applicant under their management, including adequate profitability and financial soundness in accordance with the Act and SBA Regulations.

Notice is hereby given that any person may, on or before September 13, 1979, submit written comments on the Applicant to the Acting Associate Administrator for Finance and Investment, Small Business Administration, 1441 L Street, N.W., Washington, D.C. 20416.

A copy of this Notice shall be published by the Applicant in a newspaper of general circulation in Portland, Maine.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: August 22, 1979.

Edwin T. Holloway,
Acting Associate Administrator for Finance and Investment.

[FR Doc. 79-28609 Filed 8-28-79; 8:45 am]
BILLING CODE 8025-01-M

Producers Investment Corp., et al., License Surrender

Notice is hereby given that the corporations listed below which have been in the process of surrender for diverse periods of time, have surrendered their licenses to operate as small business investment companies, under the Small Business Investment Act of 1958, (Act), as amended, (15 U.S.C. 661 *et seq.*).

Name	Location	Date licensed	License No.
Producers investment corporation.	Beverly Hills, CA.	Jan. 18, 1978	09/09-0207
Landers capital corporation.	Los Angeles, CA.	Aug. 16, 1978	09/09-0220

Under the authority vested by the Act and pursuant to the Regulations promulgated thereunder, the surrender

of the licenses is accepted herewith and, accordingly, all rights, privileges, and franchises derived therefrom have been terminated.

(Catalog of Federal Domestic Assistance Programs No. 59.011, Small Business Investment Companies)

Dated: August 23, 1979.

Arthur P. Cyr,

Acting Associate Administrator for Finance and Investment.

[FR Doc. 79-28674 Filed 8-28-79; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF STATE

Agency for International Development

Advisory Committee on Voluntary Foreign Aid; Meeting

Pursuant to Executive Order 11769 and the provisions of Section 10(a)(2), Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given of the meeting of the Advisory Committee on Voluntary Foreign Aid which will be held on September 17 and 18, 1979, from 9:30 a.m. to 5:00 p.m., at Tarrytown House Executive Conference Center, East Sunnyside Lane, Tarrytown, New York 10591.

The Committee will be examining the relationship between the Agency for International Development and the private and voluntary organizations. It will examine all aspects of the present relationship with the view to arriving at conclusions and making suggestions for use in an Executive Branch report to the Congress required by House Report 96-79 and Senate Report 96-137 in the International Development Cooperation Act of 1979.

The meeting will be open to the public. Any interested person may attend, appear before, or file statements with the Committee in accordance with procedures established by the Committee. Written statements should be filed prior to the meeting and should be available in twenty copies.

Mr. John A. Ulinski will be the A.I.D. representative at the meeting. It is suggested that those desiring further information contact Mr. Ulinski at 202-632-8937, or by mail c/o the Advisory Committee on Voluntary Foreign Aid, Agency for International Development, Washington, D.C. 20523.

Frederick F. Simmons

Acting Assistant Administrator, Bureau for Private and Development Cooperation.

August 10, 1979

[FR Doc. 79-28651 Filed 8-28-79; 8:45 am]

BILLING CODE 4710-02-M

[Redelegation of Authority No. 41.7]

Director, Office of Contract Management; Redelegation of Authority Regarding Furnishing of Commodities

A. Pursuant to the authority delegated to me by Delegation of Authority No. 41, May 8, 1964, as amended, from the Administrator of the Agency for International Development, I hereby redelegate to the Director, Office of Contract Management the following authority:

To execute transfer or transfer/trust agreements with respect to the furnishing of commodities to international organizations having a membership consisting primarily of foreign governments, the American Red Cross, and voluntary nonprofit agencies registered with and approved by the Advisory Committee on Voluntary Foreign Aid pursuant to determinations made under section 607(a) of the Foreign Assistance Act of 1961, as amended.

B. The authority herein redelegated to the officer named above may not be redelegated further by that officer, but may be exercised by persons authorized by that officer to perform the functions of that office in an "Acting" capacity.

C. This redelegation of authority shall be effective immediately.

Dated: August 16, 1979.

D. G. MacDonald,

Assistant Administrator, Bureau for Program and Management Services.

[FR Doc. 79-28650 Filed 8-28-79; 8:45 am]

BILLING CODE 4710-02-M

Office of the Secretary

[Public CM-8/220]

Shipping Coordinating Committee; Subcommittee on Safety of Life at Sea; Meeting

The panel on bulk cargoes of the Working Group on Subdivision and Stability—a component of the Shipping Coordinating Committee's Subcommittee on Safety of Life at Sea (SOLAS)—will conduct an open meeting at 11 a.m. on Thursday, September 13, 1979 at the University of Michigan, Ann Arbor, Michigan. The meeting will convene in the Naval Architecture—Marine Engineering Building on the North Campus of the University.

The purpose of the meeting will be to: Review the report of the last session of the IMCO Subcommittee on Containers and Cargoes pertaining to bulk cargoes and to witness research on shifting angle determination of bulk cargoes.

Requests for further information

should be directed to Mr. Edward H. Middleton, U.S. Coast Guard (G-MM/TP24), Washington, D.C. 20590, telephone (202) 428-2170, or Captain S. Fraser Sammis, National Cargo Bureau, Inc., Suite 2757, One World Trade Center, New York, New York 10048, telephone (212) 432-1280.

The Chairman will entertain comments from the public as time permits.

James Ferrer,
Acting Deputy Assistant Secretary for
Transportation Affairs, Department of State.
August 21, 1979.

[FR Doc. 79-26049 Filed 8-28-79; 8:45 am]
BILLING CODE 4710-10-M

DEPARTMENT OF THE TREASURY

Countertop Microwave Ovens From Japan; Antidumping Proceeding Notice

AGENCY: U.S. Treasury Department.

ACTION: Initiation of Antidumping Investigation.

SUMMARY: This notice is to advise the public that a petition in proper form has been received and an antidumping investigation is being initiated for the purpose of determining whether imports of countertop microwave ovens from Japan are being, or are likely to be, sold at less than fair value within the meaning of the Antidumping Act of 1921, as amended. There is substantial doubt that imports of the subject merchandise, allegedly at less than fair value, are causing, or are likely to cause, injury to an industry in the United States. Therefore, the case is being referred to the U.S. International Trade Commission for a determination as to whether there is no reasonable indication of injury because of such imports.

EFFECTIVE DATE: August 29, 1979.

FOR FURTHER INFORMATION CONTACT: Richard Rimlinger, Duty Assessment Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202-566-5492).

SUPPLEMENTARY INFORMATION: On July 23, 1979, a petition was received in proper form pursuant to §§ 153.26 and 153.27, Customs Regulations (19 CFR 153.26, 153.27), from counsel representing the Association of Home Appliance Manufacturers, Chicago, Illinois, alleging that countertop microwave ovens from Japan are being, or are likely to be, sold at less than fair value within the meaning of the Antidumping Act of 1921, as amended (19 U.S.C. 160 *et seq.*) (hereinafter referred to as "the Act").

Countertop microwave ovens are

electronic cooking devices which heat food by the application of very high frequency energy. For purposes of this investigation, the term "countertop microwave ovens" means countertop microwave ovens classifiable under item 684.3010, Tariff Schedules of the United States Annotated.

Most Japanese microwave oven manufacturers are related, within the meaning of the Act, to the U.S. importing companies. Therefore, it will be necessary to establish the exporter's sales price of the merchandise in the U.S. market.

Based upon the information supplied by the petitioner through a descriptive presentation of similar models sold in both the U.S. and home market, it appears that the margins of dumping may range from 27 percent to 107 percent.

The petitioner has presented information to substantiate the allegation that the U.S. microwave oven industry is being injured or is likely to be injured from the less than fair value imports from Japan.

The petition cites a substantial loss of market share, price suppression or depression, underemployment, declining profitability, underutilization of capacity, declining capital investment and a static industry structure.

The information presented, however, does not clearly establish that the alleged injury has taken place or is threatened or that it is by reason of the alleged sales at less than fair value.

The claim of a loss of market share depends largely upon the choice of base year and period of comparison. While higher now than in 1975, the Japanese share of the market is now lower than either in 1972, when the product was relatively new on the market, or 1978, U.S. manufacturers' share of the market is below historic highs but above both 1972 and 1978 levels.

Similarly, evidence concerning lower prices of both U.S. and Japanese microwave ovens appears attributable to lower costs of production due to increases in worker productivity, technological advances, standardization of production and the capture of economies of scale due to greater volumes of production. Decreases in employment appears to reflect greater productivity of labor in the microwave oven industry.

Although the U.S. industry's capacity utilization rate has apparently declined, it has been accompanied by an expansion in capacity and heavy capital investment. Finally, a number of large, Japanese manufacturers of microwave ovens intend to begin production in the

U.S. in the near future. Some facilities will begin production as early as December 1979. The effect should be a sharp decline in microwave oven imports as U.S. made models substitute for Japanese produced ovens.

Therefore, on the basis of the information currently available, there is substantial doubt of injury or likelihood of injury to an industry in the United States by reason of such imports from Japan. Accordingly, the U.S. International Trade Commission is being advised of such doubt pursuant to section 201(c)(2) of the Act (19 U.S.C. 160(c)(2)).

Having conducted a summary investigation as required by § 153.29 of the Customs Regulations (19 CFR 153.29), and having determined as a result thereof that there are grounds for so doing, the U.S. Customs Service is instituting an inquiry to verify the information submitted and to obtain the facts necessary to enable the Secretary of the Treasury to reach a determination as to the fact or likelihood of sales at less than fair value. Should the U.S. International Trade Commission, within 30 days of receipt of this referral, advise the Secretary that there is no reasonable indication that an industry in the United States is being, or is likely to be, injured by reason of the importation of such merchandise into the United States, this investigation will be terminated. Otherwise, the investigation will continue to conclusion.

This notice is published pursuant to § 153.30, Customs Regulations (19 CFR 153.30).

David R. Brennan,
Acting General Counsel of the Treasury.

[FR Doc. 79-26953 Filed 8-28-79; 8:45 am]
BILLING CODE 4810-22-M

U.S. RAILWAY ASSOCIATION

[Docket 211-22]

Consolidated Rail Corp.; Application for a Loan

Subsection (h) of Section 211 of the Regional Rail Reorganization Act of 1973, as amended (45 U.S.C. 721) (the Act), authorizes the United States Railway Association (Association) to enter into loan agreements with the Consolidated Rail Corporation (Conrail), the National Railroad Passenger Corporation, and any profitable railroad to which rail properties are transferred or conveyed pursuant to Section 303(b)(1) of the Act under conditions and for purposes set forth in this Subsection. Subsection (b) of Section

211 requires that the Association publish notice of the receipt of any application thereunder in the Federal Register and afford interested parties an opportunity to comment thereon.

Conrail submitted two Borrowing Applications dated August 23, 1979 requesting new borrowings of \$1,193,365.80 in one and \$300,000 in the other. Conrail states that it will use the \$300,000 to pay wage claims of The Penn Central Transportation Company, and that it will use the \$1,193,365.80 to pay the following: (i) \$700,000 of Federal Employer's Liability Act (FELA) Claims of The Penn Central Transportation Company, (ii) \$324,788.80 of FELA claims of the Lehigh Valley Railroad Company, and (iii) \$168,577.00 of FELA claims of the Erie Lackawanna Railroad Company.

The Borrowing Application includes the certification and exhibits required by the Loan Procedures.

Interested parties are invited to submit written comments relevant to this application. Any such submissions must identify, by its Docket No., the application to which it relates, and must be filed with the Office of General Counsel, United States Railway Association, 955 L'Enfant Plaza North, SW., Washington, D.C. 20595, on or before September 10, 1979, to enable timely consideration by USRA. The docket containing the original application will be available for public inspection at that address Monday through Friday (holidays excepted) between 8:30 a.m. and 5:00 p.m.

Dated at Washington, D.C. this 24th day of August, 1979.

David Kleypas,
Assistant Secretary, U.S. Railway Association.

[FR Doc. 79-26973 Filed 8-28-79; 8:45 am]
BILLING CODE 3410-03-M

INTERSTATE COMMERCE COMMISSION

[No. MC-123048 (Sub-No. 412) F]

Operating Rights Application; Diamond Transportation System, Inc., Extension—Bay Saint Louis, MS (Racine, WI)

Decided: August 10, 1979.

Applicant seeks a certificate of public convenience and necessity authorizing the transportation of (1) aluminum articles, and (2) materials, equipment, and supplies used in their manufacture, distribution, and sale, between Tucker, GA, and Bay Saint Louis, MS, on the one hand, and, on the other, points in the United States (except Alaska and

Hawaii). The evidence has been considered under the modified procedure. Protestant Bowman Transportation, Inc., a motor common carrier, filed a statement in opposition. Applicant submitted a reply statement.

Pertinent Facts

Alcan Aluminum Corporation of Cleveland, OH, the supporting shipper, is the fourth largest aluminum fabricator in the United States. It has recently acquired a facility at Bay Saint Louis, MS, and it produces at this facility and its Tucker, GA, facility, electrical cable and aluminum rods. The Bay Saint Louis facility also produces various other unidentified aluminum articles. The aluminum rods are 3/4 inches in diameter and shipped in coil form. The electrical cable, which may be made of aluminum or copper, is similar to the rods, but of small dimension. The cable may be shipped bare or covered with a polyethylene coating. The cable is shipped as a coil or on a reel; reels average 14,000 to 20,000 pounds each.

Shipper receives a wide variety of commodities used in the manufacture, distribution, and sale of its products.

The Tucker facility had a total production in 1978 of 20.18 million pounds. The Bay Saint Louis facility is new, but production of 12 million pounds a year is projected. These figures are expected to increase substantially. Alcan's inbound tonnage is approximately 10 percent less than the outbound. A representative list of product destination points and supply material origin points in all contiguous States was provided. Shipper's traffic also moves wholly within Mississippi prior or subsequent to a movement in foreign commerce.

Shipper is now using a combination of rail carriers, and common, contract, and private motor carriage. Rail has been found unsatisfactory because of delays. The contract carrier and common carriers serving shipper have been unable to provide it with sufficient equipment, and, with the exception of the contract carrier, no carrier possesses the broad geographic authorization sought here. Alcan requires a carrier with broad territorial coverage, capable of providing timed deliveries, as well as multiple stopoff delivery service. Carriers must be able to protect shipper's products from the elements by providing van trailers, sided trailers with covers, or, in some instances, tarpaulined flat-bed equipment.

¹ Shipper indicates it is referred to as "aluminum coil." In order to avoid any misunderstanding, we will refer to these commodities as "aluminum rods and coil."

If this application is granted, applicant will be tendered three to four outbound truckloads a week from each of the two facilities. Shipper was unable to estimate the inbound volume, but will use applicant to the extent possible. Alcan's business is continually expanding, and it will continue to use existing carriers.

Bowman is a general commodities carrier operating primarily over regular routes. It is authorized to provide service between Alcan's Tucker facility, on the one hand, and, on the other, points in six southern States, Indiana, Illinois, Ohio, Massachusetts, Rhode Island, the District of Columbia, and other specified points in 14 eastern and southern States over a combination of regular and irregular routes. Bowman stands ready to provide service, but has been tendered "little" of the traffic. It offers both less-than-truckload (LTL) and truckload service under tariffs permitting multiple stopoff deliveries.

Bowman argues that authorizing service to Tucker, will allow applicant to serve shippers located throughout the Atlanta, GA, commercial zone. It asserts that this, in combination with the broad commodity description sought, requires the imposition of a restriction limiting any grant to traffic originating at or destined to the facilities of shipper.

Bowman also directs our attention to applicant's equipment, claiming applicant is not primarily a van service carrier and operates few van trailers in comparison with the flat-bed and lowboy trailers operated. Protestant further argues that the grant of this authority will allow applicant to divert profitable traffic which is essential to protestant's policy of having truckload and large LTL shipments subsidize small LTL shipments.

Discussion and Conclusions

The application will be granted to the extent set forth in the appendix. The supporting shipper has demonstrated a need for the outbound transportation of electrical cable and aluminum rods and coil and for the inbound transportation of the materials and supplies used in the manufacture, distribution, and sale of those commodities. Alcan has been unable to obtain an adequate supply of motor vehicle equipment capable of providing a flexible, geographically broad expedited service with timed deliveries, and multiple stopoff deliveries.

Applicant has demonstrated its ability to meet shipper's service requirements through its service to one of shipper's other facilities. Applicant has sufficient equipment capable of providing

shipper's product with the proper degree of protection.

Bowman is unable to provide the geographically comprehensive service being sought. Its combination of regular and irregular routes will impede its ability to provide the shipper with the multiple stopoff service required. Protestant has been tendered little of this traffic, and shipper will continue to use existing carriers to the extent possible.

Contrary to Bowman's contention, authorizing service to Tucker, will not allow applicant to serve shippers located throughout the Atlanta, commercial zone. While Tucker, is within the Atlanta commercial zone, Atlanta is not within the Tucker commercial zone and applicant may not back the two zones to serve shippers located outside the Tucker zone. Compare 49 CFR 1041.20. Furthermore, the evidence in support warrants a more detailed, but narrowed commodity description. In view of the above, we will not restrict the grant to traffic originating at or destined to the facilities of shipper and we conclude that this will not materially adversely affect protestant contrary to the public interest.

Alcan has demonstrated a need only for the transportation of the identified aluminum articles which it produces at its Bay Saint Louis facility. Further, it has not demonstrated a need for the movement to its facilities of aluminum rods and coil, and electrical cable. Therefore, we have limited the grant set forth in the appendix to the transportation for which a need has been shown. However, need has been shown for the transportation of both copper and aluminum electrical cable. Because copper electrical cable is not within the scope of the commodity description in the **Federal Register** notice of the application, it is possible persons who relied upon the notice of the application as published may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the appendix. Accordingly, a notice of the authority actually granted will be published in the **Federal Register** and any interested person prejudiced by the lack of proper notice may file a petition to intervene in this proceeding during the 30 days following the new publication and no certificate will be issued until the extension of the 30 day period and disposition of any petition filed with that time.

Finally, we note that electrical cable and aluminum rods and coil are not susceptible to bulk handling and the

restriction against bulk commodities will not be imposed with respect to these commodities in part (1) of the appendix.

We find:

The present and future public convenience and necessity require operation by applicant, performing the service described in the appendix. Applicant is fit, willing, and able properly to perform the granted service and to conform to the requirements of Title 49, Subtitle IV, U.S. Code, and the Commission's regulations. An appropriate certificate should be granted subject to the republication condition in the appendix. This decision does not significantly affect the quality of the human environment.

It is ordered:

The application is granted to the extent set forth in the appendix.

Operations may begin only following service of *certificate* which will be issued if applicant complies with the following requirements set forth in the Code of Federal Regulations: insurance (49 CFR 1043), designation of process agent (49 CFR 1044), and tariffs (49 CFR 1310).

Compliance with these requirements must be made within 90 days after the date of service of this decision or the grant of authority shall be void.

By the Commission, Review Board Number 2, Members Boyle, Eaton, and Liberman.
Agatha L. Mergenovich,
Secretary.

Appendix

Authority to conduct the following operations will be issued in an appropriate document. This decision does not constitute authority to operate.

To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular route, transporting: (1) *aluminum rods and coil, and electrical cable*, from Tucker, GA, and Bay Saint Louis, MS, to points in the United States (except Alaska and Hawaii), and, (2) *materials, equipment, and supplies used in the manufacture, distribution, and sale of the commodities in (1) above*, (except commodities in bulk), from points in the United States (except Alaska and Hawaii) to Tucker, GA, and Bay Saint Louis, MS.

Special Condition:

Issuance of a certificate in this proceeding is conditioned on prior publication in the **Federal Register** of a notice of the authority actually granted. Issuance of a certificate will be delayed until 30 days after such publication and the disposition of any petitions for leave to intervene filed within that time.

[FR Doc. 79-26404 Filed 8-29-79, 8:45 am]
BILLING CODE 7035-01-M

[Amdt. 6, Exemption No. 149]

Exemption Under Provision of Rule 19 of the Mandatory Car Service Rules Ordered in Ex Parte No. 241.

Upon further consideration of Exemption No. 149 issued April 28, 1978.

It is ordered, That under authority vested in me by Car Service Rule 19, Exemption No. 149 to the Mandatory Car Service Rules ordered in Ex Parte No. 241 is amended to expire November 30, 1979.

This amendment shall become effective August 15, 1979.

Issued at Washington, D.C., August 14, 1979.

Interstate Commerce Commission.

Joel E. Burns,
Agent.

[FR Doc. 79-26869 Filed 8-28-79, 8:45 am]
BILLING CODE 7035-01-M

Fourth Section Application for Relief

August 24, 1979

This application for long-and-short-haul relief has been filed with the I.C.C. Expedited handling of the application has been granted.

FSA 43740, Southwestern Freight Bureau, Agent No. B-23, reduced rates on furniture from stations in Southern Territory to stations in Southwestern Territory published in Supplement 251 to Tariff ICC SWFB 2007-H to be effective September 19, 1979 and to expire with September 30, 1979. Grounds for relief—motor competition and improved car utilization. Authority has been requested to advance effective date to earliest date possible. Protests against grant of relief are due at the offices of the Commission, Suspension and Fourth Section Board, in Washington, D.C., not later than noon, September 6, 1979. Telegraphic filing with indication of notarization is acceptable.

By the Commission,
Agatha L. Mergenovich,
Secretary.

[FR Doc. 79-26400 Filed 8-28-79, 8:45 am]
BILLING CODE 7035-01-M

[No. MC-129701 (Sub-No. 7) F]

Operating Rights Application; Jasper Furniture Forwarding, Inc., Extension—Santa Claus, IN (Huntingburg, IN)

Decided: August 16, 1979.

Applicant seeks a certificate of public convenience and necessity transporting general commodities (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in

bulk, and those requiring special equipment), between Evansville and Indianapolis, IN, Louisville, Owensboro, and Princeton, KY, Cincinnati, OH, Chicago, IL, and the facilities of Soundesign Corp., at or near Santa Claus, IN, restricted to the transportation of traffic having a prior or subsequent movement by rail. The application is opposed by Intermodal Transportation Services, Inc., and R-W Service System, Inc., motor common carriers.

The application is supported by Soundesign Corp. of Santa Claus, a major manufacturer of phonographs and stereo systems. Soundesign requires the services of a carrier to transport its finished products from its Santa Claus plant to rail facilities at Evansville, Indianapolis, Louisville, Owensboro, Princeton, Cincinnati, and Chicago (hereinafter rail facilities). From these points the goods are moved in trailer-on-flatcar or container-on-flatcar service to points throughout the country. Similarly, shipper requires the movement of supplies and materials from these rail facilities to its Santa Claus plant.

Shipper estimates that 1,200 trailer loads of supplies and materials will move to its facility in 1979 and an equal number of trailer loads of product will move outbound. If this application is granted, applicant will be tendered 80 to 90 percent of this traffic, which is now moving by a combination of motor common carrier, private carriage, and rail. Shipper argues existing motor carriers lack either the capacity or the willingness to satisfy its requirements. Regular-route common carriers are reluctant to transport traffic having a prior or subsequent rail movement, and shipper's private carriage operation is burdened. Shipper has previously supported carriers seeking authority between applicant's facility and Cincinnati and Louisville.

Applicant will provide a short-haul shuttle service moving containers and piggyback trailers both empty and loaded from shipper's facility to the rail facilities and vice-versa.

A large percentage of shipper's inbound materials arrive in foreign owned containers which may not be used for domestic movements. In addition, the number of inbound loads moving in piggyback trailers is insufficient to provide shipper with an adequate supply of piggyback trailers for outbound movements. Because of these equipment imbalances and the need to return equipment to the railroads as expeditiously as possible, applicant argues it requires the authority to transport general commodities between the points for which authority is sought. This broad grant would allow applicant the flexibility of filling empty

equipment with the freight of other shippers, thus preventing empty, unproductive movements.

Protestant Intermodal is authorized, as here pertinent, to transport general commodities, with named exceptions, having a prior or subsequent movement by rail between points in Indiana, on the one hand, and, on the other, Cincinnati. It also holds temporary authority between Louisville and points in Indiana. Intermodal has not "recently" been serving shipper, and has no objection to a grant of radial authority from and to shipper's facility at Santa Claus. Protestant argues shipper has not demonstrated the movement of any traffic other than that moving from and to its plant.

Protestant R-W is authorized, as here pertinent, to transport the involved commodities between Chicago and Indianapolis, and between Chicago and Cincinnati. Protestant is not authorized to serve Santa Claus. Protestant is ready to serve shipper within the confines of its authority, but argues applicant is seeking "non-radial" authority when the only support is for "radial" authority.

Applicant has demonstrated that shipper has a substantial volume of phonographs, stereo systems, and stereo components moving from shipper's Santa Claus plant to railroad facilities at the named cities, and materials and supplies used in the manufacture of the above commodities moving from the rail facilities, in the reverse direction. Shipper has demonstrated the inadequacy of existing service and applicant has, through its service under temporary authority, demonstrated its ability to provide the required service.

Applicant justifies its request for general commodity, non-radial authority by arguing its must have the flexibility to balance the flow of equipment moving to shipper's plant. However, applicant has failed to present evidence of any traffic other than that of the supporting shipper.

While we recognize that authorizing general commodity, non-radial authority will allow applicant greater flexibility and present the possibility of more efficient and economical operations, applicant has failed to present a prima facie case with respect to the broad authorization sought. Accordingly, we have limited the grant of authority set forth in the appendix to that for which a need has been shown; that is, generally, the outbound movement of shipper's products, and inbound movement of the supplies and equipment used in the manufacture of those products, and the movement of empty containers, trailers, and trailer chassis between the shipper's plant and the rail facilities.

Because the authority granted does not conflict with that of protestant R-W

System and because protestant Intermodal has no objection to a grant of radial authority from and to the shipper's plant, we need not discuss protestants' evidence.

Applicant has demonstrated a need for the movement of empty containers, trailers, and trailer chassis between shipper's plant and the rail facilities. Because these commodities are not embraced by the "general commodities" with exceptions description employed in the **Federal Register** publication of the authority sought, and because it is possible persons who have relied upon the notice as published may have an interest in and would be prejudiced by the lack of notice of the authority described in the appendix, a notice of the authority actually granted will be published in the **Federal Register** and issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of such publication. During that period, any proper party in interest may file an appropriate petition for leave to intervene in this proceeding setting forth in detail the precise manner in which it has been so prejudiced.

We find:

The present and future public convenience and necessity require operation by applicant, performing the service described in the appendix. Applicant is fit, willing, and able properly to perform such service and to conform to the requirements of Title 49, Subtitle IV, U.S. Code, and the Commission's regulations. This decision does not not significantly affect the quality of the human environment. An appropriate certificate should be granted.

It is ordered:

The application is granted to the extent set forth in the appendix. Operations may begin only following the service of a *certificate* which will be issued if applicant complies with the following requirements set forth in the Code of Federal Regulations: insurance (49 CFR 1043), designation of process agent (49 CFR 1044), and tariffs (49 CFR 1310).

Compliance with these requirements must be made within 90 days after the date of service of this decision or the grant of authority shall be void.

By the Commission, Review Board Number 1, Members Carleton, Joyce, and Jones (Member Carleton did not participate).
Agatha L. Mergenovich,
Secretary.

APPENDIX

Authority to conduct the following operations will be issued in an appropriate document. This decision does not constitute authority to operate.

To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *phonographs, stereo systems, and stereo components* from the facilities of Soundesign Corp., at or near Santa Claus, IN, to Evansville and Indianapolis, IN, Louisville, Owensboro, and Princeton, KY, Cincinnati, OH, and Chicago, IL, (2) *materials and supplies used in the manufacture of the commodities in (1) above*, in the reverse direction, and (3) *empty containers, trailers, and chassis* between the facilities of Soundesign Corp., at or near Santa Claus, IN, on the one hand, and, on the other, Evansville and Indianapolis, IN, Louisville, Owensboro, and Princeton, KY, Cincinnati, OH, and Chicago, IL, restricted in (1), (2), and (3) above to the transportation of traffic having a prior or subsequent movement by rail.

Condition:

The above service is subject to prior publication in the *Federal Register* of a notice of the authority actually granted by this decision.

[FR Doc. 79-26902 Filed 8-29-79; 8:45 am]
BILLING CODE 7035-01-M

Petitions, Applications, Finance Matters (Including Temporary Authorities), Alternate Route Deviations, Intrastate Applications, Gateways, and Pack & Crate.

North Shore & Central Illinois Freight Co.—Purchase—D. F. Giammetta d.b.a. B&G Transfer Co.

Action by Division 2, Acting as an Appellate Division, in finance docket No. MC-F-13982 North Shore & Central Illinois Freight Co.—Purchase—D. F. Giammetta d.b.a. B&G Transfer Company.

Application for authority under 49 U.S.C. 11349 by North Shore & Central Illinois Freight Co. (lessee) of Hickory Hills, IL, for temporary operation of the motor-carrier rights and properties of D. F. Giammetta d.b.a. B&G Transfer Company (lessor) of Davenport, IA, granted August 24, 1979, provided within 30 days from that date North Shore & Central Illinois Freight Co. shall have (1) complied with 49 U.S.C. 10927, 10762 and 10339, and rules and regulation prescribed thereunder; (2) instituted operations pursuant to the authority granted; and (3) confirmed, in writing, to the Commission, immediately upon

commencement of operations, the date operations were commenced.

Agatha L. Mergenovich,
Secretary.

Applicant's representative will be notified by telephone: James C. Hardman and William F. Murphy, 33 North LaSalle Street, Chicago, IL 60602. Telephone: (312) 236-5944.

[FR Doc. 79-26903 Filed 8-29-79; 8:45 am]
BILLING CODE 7035-01-M

[Volume No. 29]

Petitions, Applications, Finance Matters (Including Temporary Authorities), Alternate Route Deviations, Intrastate Applications, Gateways, and Pack & Crate.

Dated: August 17, 1979.

Petitions for Modification, Interpretation or Reinstatement of Motor Carrier Operating Rights Authority

The following petitions seek modification or interpretation of existing motor carrier operating rights authority, or reinstatement of terminated motor carrier operating rights authority.

All pleadings and documents must clearly specify the suffix numbers (e.g., M1 F, M2 F) where the docket is so identified in this notice.

The following petitions, filed on or after March 1, 1979, are governed by Special Rule 247 of the Commission's General Rules of Practice (49 CFR 1100.247). These rules provide, among other things, that a *petition to intervene either with or without leave* must be filed with the Commission within 30 days after the date of publication in the *Federal Register* with a copy being furnished the applicant. Protests to these applications will be *rejected*.

A petition for intervention without leave must comply with Rule 247(k) which requires petitioner to demonstrate that if (1) holds operating authority permitting performance of any of the service which the applicant seeks authority to perform, (2) has the necessary equipment and facilities for performing that service, and (3) has performed service within the scope of the application either (a) for those supporting the application, or, (b) where the service is not limited to the facilities of particular shippers, from and to, or between, any of the involved points.

MC 29643 (Sub-7) (M1F), filed March 19, 1979. (Notice of filing of petition to modify certificate.) Petitioner: WALSH TRUCKING SERVICE, INC., 50 Burney Avenue, Massena, NY 13662. Representative: Morton E. Kiel, Suite 6193, 5 World Trade Center, New York,

NY 10048. Petitioner holds motor *common carrier* certificate in MC 29643 (Sub-7), issued April 28, 1978, which authorizes, as pertinent, the transportation of *general commodities* (usual exceptions), between points in St. Lawrence and Franklin Counties, NY, on the one hand, and, on the other, points in Connecticut, Maryland, Massachusetts, New Jersey, New York, Rhode Island, Delaware, New Hampshire, Vermont, and those points in Pennsylvania on and east of a line beginning at the New York-Pennsylvania State line and extending along U.S. Hwy 11 to junction U.S. Hwy 15, then along U.S. Hwy 15 to the Pennsylvania-Maryland State line, restricted against the transportation (1) of traffic originating at or destined to points in Canada, (2) of milk and milk products, except those in hermetically sealed containers, from and to designated points, and (3) of food and food products, in vehicles equipped with mechanical refrigeration, between designated points. By the instant petition, petitioner seeks to eliminate the first restriction, "restricted against the transportation of traffic originating at or destined to points in Canada."

MC 107403 (Sub-744) (M1F), filed May 7, 1979. (Notice of filing of petition to modify certificate.) Petitioner: MATLACK, INC., 10 W. Baltimore Avenue, Lansdowne, PA 19050. Representative: Allen H. Knouft (same address as petitioner). Petitioner holds motor *common carrier* certificate in MC 107403 (Sub 744) issued October 2, 1968, and revised June 17, 1970, which authorizes the transportation, as pertinent, of *acids and chemicals* (not including liquefied petroleum gases), in bulk, from Lake Charles, LA, and points within 5 miles thereof, to points in Alabama, Arkansas, Florida, Georgia, Mississippi, Oklahoma, Tennessee (except Kingsport), Texas, restricted against the transportation of (1) paints, paint materials, and resins, to Garland, TX, (2) new catalyst, in covered-hopper vehicles, to points in Arkansas, Oklahoma, and Texas, (3) spent catalyst, in covered-hopper vehicles, to points in Arkansas and Oklahoma, (4) soda ash, in hopper-type vehicles, to the plant site of Jefferson Chemical Company, Inc., at Port Neches, TX, (5) barite ore, in tank or hopper-type vehicles, to points in Texas, and (6) nitric acid, to points in Texas within 350 miles of Lake Charles, LA. By the instant petition, petitioner seeks to remove restriction (6) which restricts against the transportation of nitric acid, to points in Texas within 350 miles of Lake Charles,

LA. (Hearing site: Washington, DC, or Philadelphia, PA.)

MC 114552 (Sub-32) (M1F), filed April 17, 1979. (Notice of filing of petition to modify certificate.) Petitioner: SENN TRUCKING COMPANY, P.O. Box 220, Newberry, SC 29108. Representative: William P. Jackson, Jr., 3426 N. Washington Blvd., P.O. Box 1240, Arlington, VA 22210. Petitioner holds motor *common carrier* certificate in MC 114552 (Sub-32), issued April 2, 1968, and reissued August 6, 1975, which authorizes the transportation of *citrus pulp, citrus meal, shells, and shell products*, (1) from points in Florida to points in Alabama, South Carolina, those in North Carolina west of U.S. Hwy 1, points in Georgia (except Atlanta, Macon, and Waycross and points in their commercial zones as defined by the Commission), and Tennessee (except Chattanooga and Nashville and points in their commercial zones as defined by the Commission), restricted against the transportation of oyster shells, crushed, from Jacksonville, FL, to those points in Georgia on and north of U.S. Hwy 80, and (2) from points in Mobile county, AL, to points in Georgia, North Carolina, South Carolina, and Tennessee. By the instant petition, petitioner seeks to eliminate the exceptions against serving particular points and also to eliminate the restriction, and make the certificate read as follows: *citrus pulp, citrus meal, shells, shell products*, (1) from points in Florida to points in Alabama, Georgia, North Carolina, South Carolina, and Tennessee, and (2) from points in Mobile County, AL, to points in Georgia, North Carolina, South Carolina, and Tennessee.

MC 114552 (Sub-158) (M1F) (Notice of filing of petition to modify certificate), filed May 21, 1979. Petitioner: SENN TRUCKING COMPANY, a corporation, Newberry, SC 29108. Representative: Gerald E. Jessup, 3426 North Washington Boulevard, P.O. Box 1240, Arlington, VA 22210. Petitioner holds a motor *common carrier* Certificate in MC 114552 (Sub-158F) issued March 13, 1979, to transport in interstate or foreign commerce, over irregular routes, *Commodities of the type dealt in by retail home improvement and home furnishing and lumber stores* (except in bulk), Between points in AL, AR, DE, FL, GA, IL, IN, KY, LA, MD, MS, NJ, NC, OH, PA, SC, TN, VA, WV and DC, restricted to the transportation of traffic originating at or destined to the facilities of the Wickes Corporation in the above-named territories. By the instant petition, petitioner seeks to modify the

authority as follows: removal of the above restriction.

MC 115215 (Sub-13) (M1F) (Notice of filing of petition to modify certificate), filed March 1, 1979. Petitioner: NEW TRUCK LINES, INC., P.O. Box 639, Perry, FL 32347. Representative: Sol H. Proctor, 1101 Backstone Bldg., Jacksonville, FL 32202. Petitioner holds *common carrier* authority in MC 115215 (Sub-13), served August 11, 1975, and expires March 7, 1980. Said certificate authorizes the transportation over irregular routes, of (1) *explosives, explosive components, and explosive products* (except commodities in bulk and commodities because of their size or weight require the use of special equipment), from the plant site of Martin Electronics, Inc., at or near Perry, FL, to points in AL, AZ, AR, CA, CO, DE, FL, GA, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, OH, OK, OR, PA, RI, SC, TN, TX, UT, VA, WA, WV, and WI; and (2) *Materials and supplies* used in the manufacture of the above-named commodities (except commodities in bulk and commodities because of their size or weight require the use of special equipment), in the reverse direction. By this instant petition, petitioner seeks to modify the territorial description in (1) above to read "from points in Taylor County, FL," in lieu of from the plant site of Martin Electronics, Inc., at or near Perry, FL.

MC 116323 (M1F), filed April 9, 1979. (Notice of filing of petition to modify certificate.) Petitioner: STECALL MILLING CO., INC., P.O. Box 607, Marshville, NC 28103. Representative: Sol H. Proctor, 1101 Blackstone Bldg., Jacksonville, FL 32202. Petitioner holds motor *common carrier* certificate in MC 116323, issued June 10, 1957, and reissued November 17, 1975, which authorizes, as pertinent, *lumber and forest products*, except veneer and veneer products and plywood and plywood products, (1) from those points in North Carolina on and west of U.S. Hwy 301 to points in Georgia, Florida, Alabama, and South Carolina, and (2) from points in South Carolina to points in Georgia, Florida, Alabama, and those points in North Carolina on and west of U.S. Hwy 301. By the instant petition, petitioner seeks to remove the restriction as to the transportation of veneer and veneer products and plywood and plywood products.

MC 123233 (Sub-11) (M1F), filed March 15, 1979. (Notice of filing of petition to modify certificate.) Petitioner: PROVOST CARTAGE INC., 7887, Rue Grenache, Ville D'Anjou, Quebec, Canada H1J 1C4. Representative: J. P.

Vermette (same address as petitioner.) Petitioner holds motor *common carrier* certificate in MC 123233 (Sub-11), issued October 19, 1964, which authorizes the transportation of *zinc slabs and ingots*, from the port of entry on the United States-Canada Boundary line located at or near Fort Covington, NY, to Massena, NY. By the instant petition, petitioner seeks to have his certificate modified to read as follows: *zinc slabs and ingots*, from the ports of entry on the international boundary line between the United States and Canada, to Massena, NY.

MC 123233 (Sub-12) (M1F), filed March 15, 1979. (Notice of filing of petition to modify certificate.) Petitioner: PROVOST CARTAGE INC., 7887, Rue Grenache, Ville D'Anjou, Quebec, Canada H1J 1C4. Representative: J. P. Vermette (same address as petitioner.) Petitioner holds motor *common carrier* certificate in MC 123233 (Sub-12), issued August 25, 1965, which authorizes the transportation of *alcoholic beverages*, in bulk, in tank vehicles, from the ports of entry on the United States-Canada Boundary line at Champlain, Trout River, Ogdensburg, Alexandria Bay, and Buffalo, NY, and Detroit, MI, to Pekin, IL, Owensboro and Bardstown, KY, Pennington, NJ, and New York, NY, restricted to the transportation of traffic originating at points in the Province of Quebec, Canada. By the instant petition, petitioner seeks to modify his certificate to read as follows: *alcoholic beverages*, in bulk, in tank vehicles, from the ports of entry on the international boundary line between the United States and Canada to Pekin, IL, Owensboro, KY, Bardstown, KY, Pennington, NJ, and New York, NY.

MC 123233 (Sub-16) (M1F), filed March 15, 1979. (Notice of filing of petition to modify certificate.) Petitioner: PROVOST CARTAGE INC., 7887, Rue Grenache, Ville D'Anjou, Quebec, Canada H1J 1C4. Representative: J. P. Vermette (same address as petitioner.) Petitioner holds motor *common carrier* certificate in MC 123233 (Sub-16), issued February 11, 1966, which authorizes the transportation of *limestone*, in bulk, in tank and hopper vehicles, from points in VT to ports of entry on the United States-Canada Boundary line located at or near Champlain and Rouses Point, NY, and Highgate Springs, Derby Line, and Norton, VT, restricted to the transportation of traffic destined to points in the Province of Quebec, Canada. By the instant petition, petitioner seeks to modify the certificate to read as follows: *limestone*, in bulk, in tank vehicles, from points in VT to the ports of entry on the international

boundary line between the United States and Canada.

MC 123233 (Sub-20) (M1F), filed March 15, 1979. (Notice of filing of petition to modify certificate.) Petitioner: PROVOST CARTAGE INC., 7887, Rue Grenache, Ville D'Anjou, Quebec, Canada H1J 1C4. Representative: J. P. Vermette (same address as petitioner). Petitioner holds motor *common carrier* certificate in MC 123233 (Sub-20), issued November 25, 1968, which authorizes the transportation of *starch*, in bulk, in tank vehicles, from Massena, NY, to the port of entry on the United States-Canada boundary line located at or near Roosevelttown, NY. By the instant petition, petitioner seeks to modify the certificate to read as follows: *starch*, in bulk, in tank vehicles, from Massena, NY, to the ports of entry on the international boundary line between the United States and Canada.

MC 123233 (Sub-25) (M1F), filed March 15, 1979. (Notice of filing of petition to modify certificate.) Petitioner: PROVOST CARTAGE INC., 7887, Rue Grenache, Ville D'Anjou, Quebec, Canada H1J 1C4. Representative: J. P. Vermette (same address as petitioner). Petitioner holds motor *common carrier* certificate in MC 123233 (Sub-25), issued May 11, 1971, which authorizes the transportation of *chemicals*, in bulk, in tank vehicles, from ports of entry on the United States-Canada Boundary line at or near Trout River, Alexandria Bay, Roosevelttown, Ogdensburg, and Champlain, NY, Highgate Springs, Derby Line, and Norton, VT, Jackman, Van Buren, Houlton, Vanceboro, and Calais, ME, to Livermore Falls, Rumford, Lincoln, Great Works, and Cumberland Mills, ME, and points in VT, NH, MA, CT, RI, NY, NJ, DE, MD, PA, and OH, restricted to the transportation of traffic originating at the plant site of Brockville Chemical Industries, Limited, at Maitland, Ontario, Canada. By the instant petition, petitioner seeks to modify the certificate to read as follows: *chemicals*, in bulk, in tank vehicles, from the ports of entry on the international boundary line between the United States and Canada, to Livermore Falls, Rumford, Lincoln, Great Works, and Cumberland Mills, ME, and points in VT, NH, MA, CT, RI, NY, NJ, DE, MD, PA, and OH.

MC 123233 (Sub-50) (M1F), filed March 15, 1979. (Notice of filing of petition to modify certificate.) Petitioner: PROVOST CARTAGE INC., 7887, Rue Grenache, Ville D'Anjou, Quebec, Canada H1J 1C4. Representative: J. P. Vermette (same address as applicant). Petitioner holds motor *common carrier* certificate in MC 123233 (Sub-50), issued

September 11, 1974, which authorizes the transportation of *liquid chemicals*, in bulk, in tank vehicles, from ports of entry on the United States-Canada Boundary line located in ME, NY, and VT, to points in CT, DE, ME, MD, MA, NH, NJ, NY, PA, OH, RI, and VT, restricted to the transportation of traffic originating at the plant site of Canadian Industries Limited or Cornwall Chemicals Limited at Cornwell, Ontario, Canada.

By the instant petition, petitioner seeks to modify the certificate to read as follows: *liquid chemicals*, in bulk, in tank vehicles, from the ports of entry on the international boundary line between the United States and Canada to points in CT, DE, ME, MD, MA, NH, NJ, NY, PA, OH, RI, and VT.

MC 133532 (Sub-1) (M1F) (Notice of filing of petition to modify permit) filed May 29, 1979. Petitioner: BENRUS TRUCKING DIVISION, INC., Box 2665, Newburgh, NY 12550. Representative: Ronald I. Shapps, Esq., 450 Seventh Avenue, New York, NY 10001. Petitioner holds a motor *contract carrier* Permit in MC 133532 (Sub-1), issued February 18, 1970, to transport in interstate or foreign commerce, over irregular routes, (1) *Pallet and storage racks, shelving, and shelving sections*, (2) *Metal tubing, panels, grating, and angles*, (3) *accessories, supplies and equipment* used in the installation and erection of the commodities described in (1) and (2) above, and (4) *advertising materials and displays* used in connection with the commodities described in (1) and (2) above, from Newburgh, NY, and points in the New York, NY Commercial Zone, as defined in the fifth supplemental report in *Commercial Zones and Terminal Areas*, 53 M.C.C. 451, within which local operations may be conducted under the exemption provided by section 203(b)(8) of the Act (the exempt zone), to points in AL, CT, DE, FL, GA, IL, IN, KY, MD, MA, MI, MS, NJ, NY, NC, OH, PA, RI, SC, TN, VA, WV, WI, and DC, with no transportation for compensation on return except as otherwise authorized.

Restriction: The operations authorized herein are limited to a transportation service to be performed, under a continuing contract, or contracts, with the following shippers: Dexion Incorporated, and Dexion Manufacturing Co., Inc.

By the instant petition, petitioner seeks to modify the authority as follows: (1) to allow for the means of production (materials and supplies), to be brought in the reverse direction of what is now strictly outbound freight, and (2) to indicate that Dexion, Inc., the contract

shipper is now a wholly owned subsidiary of Interlake, Inc.

Republications of Grants of Operating Rights Authority Prior to Certification

The following grants of operating rights authorities are republished by order of the Commission to indicate a broadened grant of authority over that previously noticed in the Federal Register.

An original and one copy of a petition for leave to intervene in the proceeding must be filed with the Commission on or before September 28, 1979. Such pleading shall comply with Special Rule 247(e) of the Commission's *General Rules of Practice* (49 CFR 1100.247) addressing specifically the issue(s) indicated as the purpose for republication, and including copies of intervenor's conflicting authorities and a concise statement of intervenor's interest in the proceeding setting forth in detail the precise manner in which it has been prejudiced by lack of notice of the authority granted. A copy of the pleading shall be served concurrently upon the carrier's representative, or carrier if no representative is named.

MC 128273 (Sub-299F) (Republication), filed April 14, 1978, published in the FR issue of July 27, 1978, and republished this issue: Applicant: OLYMPIC FREIGHTWAYS, INC., 1801 West 31st Place, Chicago, IL 60608. Applicant's representative: Elden Corban (Same as above). A Decision of the Commission, *Review Board No. 3*, decided March 26, 1979, and served April 18, 1979, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce, as a *common carrier*, by motor vehicle, over irregular routes, transporting *animal food and animal food ingredients* (except commodities in bulk, in tank vehicles), from the facilities Star-Kist Foods, Inc., at Perham, MN, and Muscatine, IA, to points in the United States (except Alaska and Hawaii), restricted to the transportation of shipments originating at the named facilities of the shipper; that applicant is fit, willing, and able properly to perform the granted service and to conform to the requirements of Title 49, Subtitle IV, U.S. Code, and the Commission's regulations. The purpose of this republication is to change the route description and add the restriction.

MC 139673 (Sub-4F) (Republication), filed July 17, 1978, published in the FR issue of September 12, 1978, and republished this issue: Applicant: JAMES H. STEGER, d.b.a. STEGER BUS LINES, 4150 Aldebaran Way, Mobile, AL 36609. Representative: Robert E.

Tate, P.O. Box 517, Evergreen, AL 36401. A decision of the Commission, *Review Board No. 2*, decided May 23, 1979, and served June 22, 1979, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce, over irregular routes, as a *common carrier*, by motor vehicle, transporting passengers and their baggage, in charter operations, beginning and ending at Mobile and Prichard, AL, and extending to points in the United States in and east of North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, and Texas (except Alabama); that applicant is fit, willing, and able properly to perform the granted service and to conform to the requirements of Title 49, Subtitle IV, U.S. Code, and the Commission's regulations. The purpose of this republication is to add "Prichard, AL" to the route description.

MC 142692 (Sub-4F) (Republication), filed March 13, 1978, published in the FR issue of May 11, 1978, and republished in this issue: Applicant: OHIO VALLEY REGIONAL TRANSPORTATION AUTHORITY, a public transit operator, P.O. Box 311, Wheeling, WV 26003. Representative: Terry A. LaBar, P.O. Box 311, Wheeling, WV 26003. A Decision of the Commission, *Review Board No. 3*, decided April 9, 1979, and served April 25, 1979, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce, as a *common carrier*, by motor vehicle, over irregular routes, transporting passengers and their baggage, in charter operations, beginning and ending at Wheeling, WV, and points in its commercial zone, and extending to points in Pennsylvania, Ohio, and West Virginia; that applicant is fit, willing, and able properly to perform this service and to conform to the requirements of Title 49, Subtitle IV, U.S. Code, and the Commission's regulations. The purpose of this republication is to change the commodity and route descriptions.

MC 143456 (Sub-3F) (Republication), filed September 11, 1978, published in the FR issue of November 28, 1978, and republished in this issue: Applicant: THEODORE ROSSI TRUCKING CO., INC., P.O. Box 332, Barre, VT, 05641. Representative: William L. Rossi (same address as applicant). A Decision of the Commission, *Review Board No. 3*, decided August 1, 1979, and served August 8, 1979, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign

commerce, as a *contract carrier*, by motor vehicle, over irregular routes, transportation of (1) *stone, stone working materials, stone working equipment, and stone working supplies*, between the facilities of Rock of Ages Corporation, at Barre, Bethel, and Graniteville, VT, and the facilities of Rock of Ages Building Granite Corporation at Concord, NH, (2) *building stone* (a) from the facilities of Rock of Ages Corporation, at Barre, Bethel, and Graniteville, VT, to points in Maryland, Ohio, Pennsylvania, Virginia, and the District of Columbia, and (b) from the facilities of Rock of Ages Building Granite Corporation, at Concord, NH, to points in Texas, and those in the United States in and east of Wisconsin, Illinois, Kentucky, Tennessee, Mississippi, and Louisiana, and (3) *rough granite and stone working manufacturing materials, equipment, and supplies*, from points in Texas, and those in the United States in and east of Wisconsin, Illinois, Kentucky, Tennessee, Mississippi, and Louisiana, to the facilities of Rock of Ages Corporation, at Barre, Bethel, and Graniteville, VT, and the facilities of Rock of Ages Building Granite Corporation at Concord, NH, restricted in (1), (2), and (3) to service under a continuing contract(s) with Rock of Ages Corporation, of Barre, VT, or Rock of Ages Building Granite Corporation, of Concord, NH, will be consistent with the public interest and the national transportation policy. The purpose of this republication is to modify the authority as originally published.

Motor Carrier Operating Rights Applications

The following applications, filed on or after March 1, 1979, are governed by Special Rule 247 of the Commission's *General Rules of Practice* (49 CFR 1100.247). These rules provide, among other things, that a *petition to intervene either with or without leave* must be filed with the Commission within 30 days after the date of publication in the Federal Register with a copy being furnished the applicant. Protests to these applications will be rejected.

A petition for intervention without leave must comply with Rule 247(k) which requires petitioner to demonstrate that it (1) holds operating authority permitting performance of any of the service which the applicant seeks authority to perform, (2) has the necessary equipment and facilities for performing that service, and (3) has performed service within the scope of the application either (a) for those supporting the application, or, (b) where the service is not limited to the facilities

of particular shippers, from and to, or between, any of the involved points.

Persons unable to intervene under Rule 247(k) may file a petition for leave to intervene under Rule 247(l). In deciding whether to grant leave to intervene, the Commission considers, among other things, whether petitioner has (a) solicited the traffic or business of those persons supporting the application, or, (b) where the identity of those supporting the application is not included in the published application notice, has solicited traffic or business identical to any part of that sought by applicant within the affected marketplace. Another factor considered is the effects of any decision on petitioner's interests.

Samples of petitions and the text and explanation of the intervention rules can be found at 43 FR 50908, as modified at 43 FR 60277. Petitions not in reasonable compliance with these rules may be rejected. Note that Rule 247(e), where not inconsistent with the intervention rules, still applies. Especially refer to Rule 247(e) for requirements as to supplying a copy of conflicting authority, serving the petition on applicant's representative, and oral hearing requests.

Superhighway

MC 1515 (Sub-262F), filed April 2, 1979. Applicant: GREYHOUND LINES, INC., Greyhound Tower, Phoenix, AZ 85077. Representative: W. L. McCracken (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *passengers and their baggage, and express and newspapers*, in the same vehicle with passengers, (1) between Elmhurst, IL, and Madison, WI, from Elmhurst, IL over Interstate Hwy 90 to junction U.S. Hwy 12, then over U.S. Hwy 12 to Madison, WI, and return over the same route, (2) between junction IL Hwy 25 and Interstate Hwy 90 north of Elgin, and junction IL Hwy 31 and Interstate 90 north of Elgin, from junction IL Hwy 25 and Interstate Hwy 90 over IL Hwy 25 to Elgin, IL, then over IL Hwy 31 to junction Interstate Hwy 90, and return over the same route, (3) between junction unnumbered hwy and Interstate Hwy 90 south of Belvidere, IL, and Belvidere, IL, over unnumbered hwy, (4) between junction unnumbered hwy and Interstate Hwy 90 north of Cherry Valley, IL and Cherry Valley, IL, over unnumbered hwy, (5) between junction unnumbered hwy and Interstate Hwy 90 east of Rockford, IL and Rockford, IL, over unnumbered hwy, (6) between junction IL Hwy 75 and Interstate Hwy 90 near the IL-WI State

line and Beloit, WI, from junction IL Hwy 75 and Interstate Hwy 90 over IL Hwy 75 to junction U.S. Hwy 51, then over U.S. Hwy 51 to Beloit, WI, and return over the same route, and (7) between junction WI Hwy 11 and Interstate Hwy 90 east of Janesville, WI and Janesville, WI, over WI Hwy 11, serving in (1) through (7) above all intermediate points.

Note.—Applicant requests that MC 1515 Deviation No. 163 be coincidentally cancelled upon grant of the requested authority. Common control may be involved.

Permanent Authority Decisions; Decision-Notice

Decided: August 15, 1979.

The following broker, freight forwarder or water carrier applications are governed by Special Rule 247 of the Commission's *Rules of Practice* (49 CFR § 1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date notice of the application is published in the Federal Register. Failure to file a protest within 30 days will be considered as a waiver of opposition to the application. A protest under these rules shall comply with Rule 247(e)(3) of the Rules of Practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding, as specifically noted below), and specify with particularity the facts, matters, and things relied upon. The protest shall not include issues or allegations phrased generally. A protestant shall include a copy of the specific portion of its authority which it believes to be in conflict with that sought in the application, and describe in detail the method whether by joinder interline, or other means—by which protestant would use this authority to provide all or part of the service proposed. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission. A copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named. If the protest includes a request for oral hearing, the request shall meet the requirements of section 247(e)(4) of the special rules and shall include the certification required in that section.

Section 247(f) provides, in part, that an applicant which does not intent timely to prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an

application under the procedures of the Commission will result in its dismissal. Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication.*

Any authority granted may reflect administratively acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

Findings: With the exceptions of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each applicant has demonstrated that its proposed service is either (a) required by the public convenience and necessity, or, (b) will be consistent with the public interest and the transportation policy of 49 U.S.C. § 10101. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where specifically noted, this decision is neither a major Federal action significantly noted, this decision is neither a major environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests, filed within 30 days of publication of this decision-notice (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision notice. To the extent that the authority sought below may duplicate an applicant's existing authority, such duplication shall not be construed as conferring more than a single operating right.

Applicants must comply with all specific conditions set forth in the grant or grants of authority within 90 days after the service of the notification of the effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

By the Commission, Review Board Number 1, Members Carlson, Jones, and Joyce. Member Jones not participating.

Freight Forwarder Authority

FF-515F, filed March 30, 1979. Applicant: CAL HONO FREIGHT FORWARDERS, INC., 3532 Katella Ave., Los Alamitos, CA 90720. Representative:

David P. Christianson, 707 Wilshire Blvd., Suite 1800, Los Angeles, CA 90017. Authority granted to operate as a *freight forwarder*, in interstate commerce of food, between points in the United States, including HI, but excluding AK, restricted to the use of facilities of common carriers by rail and motor vehicle. (Hearing site: Honolulu, HI.)

Broker Authority

MC 130199 (Sub-9F), filed June 15, 1979. Applicant: GADABOUT TOURS, INC., d.b.a. ANDERSON TRAVEL SERVICE, 700 East Tahquitz-McCallum Way, Palm Springs, CA 92262. Representative: L. C. Major, Jr., Overlook Building, Suite 400, 6121 Lincoln Road, Alexandria, VA 22312. To engage in operations, in interstate or foreign commerce, as a *broker*, at Phoenix, AZ, and Oceanside, CA, in arranging for the transportation, by motor vehicle, of *passengers and their baggage*, in special and charter operations, in round-trip tours, between points in the United States, including AK and HI. (Hearing site: Phoenix, AZ, or Palm Springs, CA.)

MC 130578F, filed June 13, 1979. Applicant: KARL STORCH, d.b.a. SUN TOURS, 2420 Broadway, NE, Albuquerque, NM 87103. Representative: Michael Casey, 313 Sixth Street, Albuquerque, NM 87103. To engage in operations, in interstate or foreign commerce, as a *broker*, at Albuquerque, NM, in arranging for the transportation, by motor vehicle, of *passengers and their baggage*, in special and charter operations, beginning and ending at points in Bernalillo and Sante Fe Counties, NM, and extending to points in the United States, including AK and HI. (Hearing site: Albuquerque, NM.)

MC 130579F, filed June 13, 1979. Applicant: MARILYN M. POTTER, d.b.a. VAGABOND COACH TOURS, 3725 3rd Street, NW, Rochester, MN 55901. To engage in operations, in interstate or foreign commerce, as a *broker*, at Rochester, MN, in arranging for the transportation by motor vehicle, of *passengers and their baggage*, in round-trip charter operations, beginning and ending at points in that part of MN bounded by a line beginning at the WI-MN State line, and extending over U.S. Hwy 61 to junction MN Hwy 19, then over MN Hwy 19 to junction MN Hwy 13, then over MN Hwy 13 to Albert Lea, then over U.S. Hwy 69 to the MN-IA to points in the United States including AK, but excluding HI. (Hearing site: Minneapolis, MN.)

MC 144537 (Republication), filed April 5, 1978, published in the FR August 17, 1978 and July 16, 1979, and republished

this issue. Applicant: MARVIN Y. NEELEY and NANCY B. NEELEY, a partnership d.b.a. SHUN PIKE TOURS, 100 South County Line Road, Telford, PA. 18969. Representative: Dennis Helf, Sixth and Chestnut Streets, Perkasie, PA. 18944. A decision of the Commission, Administrative Law Judge, dated April 6, 1979, and served April 13, 1979, finds that the present and future public convenience and necessity require operations by applicant in interstate and foreign commerce as a *common carrier*, by motor vehicle, over irregular routes, transporting, passengers, including baggage of passengers when transported in the same vehicle, in non-scheduled, door to door service in charter operations, limited to the transportation of not more than twelve passengers in any one vehicle, not including the driver thereof, between points in Bucks, Montgomery, Lehigh and Northampton Counties, PA., on the one hand, and, on the other, La Guardia Airport and John F. Kennedy International Airport, New York, NY, that applicant is fit, willing and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to modify the commodity and territorial description.

Finance Applications

The following applications seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control through ownership of stock, of rail carriers or motor carriers pursuant to Sections 11343 (formerly Section 5(2)) or 11349 (formerly Section 210a(b)) of the Interstate Commerce Act.

An original and one copy of protests against the granting of the requested authority must be filed with the Commission on or before September 28, 1979. Such protest shall comply with Special Rules 240(c) or 240(d) of the Commission's *General Rules of Practice* (49 CFR 1100.240) and shall include a concise statement of protestant's interest in the proceeding. A copy of the protest shall be served concurrently upon applicant's representative, or applicant, if no representative is named.

Each applicant states that approval of its application will not significantly affect the quality of the human environment nor involve a major regulatory action under the Energy Policy and Conservation Act of 1975.

MC F-14005F, Applicants: BOWMAN TRANSPORTATION, INC., P.O. Box 17744, Atlanta, GA 30316 and

CONNECTICUT FAST FREIGHT, INC., 1441 No. Colony Road, Meriden, CT 06450. Representative: Maurice F. Bishop, 601-09 Frank Nelson Bldg., Birmingham, AL 35203. Application under Section 5(1) of the Interstate Commerce Act for approval of an agreement for the pooling of services and traffic in interstate commerce to and from points in CT. Each of the applicants is a certificated motor common carrier. Connecticut Fast Freight, Inc. holds and operates under Certificate MC-120152 and subs, authorizing transportation of general commodities, with usual exceptions, serving multiple points in CT. Bowman Transportation, Inc. holds certificate MC-94201 and subs, authorizing transportation of general commodities, with usual exceptions, in the States of MA, RI, CT, NY, NJ, PA, KY, DE, VA, NC, SC, GA, FL, AL, TN, OH, IA, IL, MO, AR, MS, LA, KS, OK, TX and DC, and special commodities in states east of the Mississippi River. Applicants propose that traffic will be interlined or pooled at Meriden, CT and at other terminal points served by the parties as may be agreed. The proposal contemplates that Connecticut Fast Freight, Inc. will generally pickup and deliver freight in CT, but Bowman Transportation, Inc. has the right and will also originate and deliver freight, as is feasible. Copy of the application and the pooling agreement are on file in the Offices of the Commission for inspection of any interested party. Any party desiring to intervene in this proceeding must file a petition under Rule 247. Petitions not in compliance with the requirements of the rules will be rejected. An original and one copy of petitions to intervene shall be filed with the Commission and one copy shall be served concurrently upon applicant's representative. The application states that it does not involve a major action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975. In the absence of legally sufficient petitions for intervention filed within 30 days of publication, approval of the application will be entered.

MC F-14007F, Applicants: BOWMAN TRANSPORTATION, INC., P.O. Box 17744, Atlanta, GA 30316 and ART LOU TRUCKING, INC., Wood End Road, Stratford, CT 06497. Representative: Maurice F. Bishop, 601-09 Frank Nelson Bldg., Birmingham, AL 35203.

Application under Section 5(1) of the Interstate Commerce Act for approval of an agreement for the pooling of services and traffic in interstate commerce to

and from points in CT. Each of the applicants is a certificated motor common carrier. Art Lou Trucking, Inc., holds and operates under Certificate MC-98998 and subs, authorizing transportation of general commodities, with usual exceptions, serving multiple points in CT. Bowman Transportation, Inc. holds certificate MC-94201 and subs, authorizing transportation of general commodities, with usual exceptions, in the States of MA, RI, CT, NY, NJ, PA, KY, DE, VA, NC, SC, GA, FL, AL, TN, OH, IA, IL, MO, AR, MS, LA, KS, OK, TX and DC, and special commodities in states east of the Mississippi River. Applicants propose that traffic will be interlined or pooled at Stratford, CT and at other terminal points served by the parties as may be agreed. The proposal contemplates that Art Lou Trucking, Inc. will generally pickup and deliver freight in CT, but Bowman Transportation, Inc. has the right and will also originate and deliver freight, as is feasible. Copy of the application and the pooling agreement are on file in the Offices of the Commission for inspection of any interested party. Any party desiring to intervene in this proceeding must file a petition under Rule 247. Petitions not in compliance with the requirements of the rules will be rejected. An original and one copy of petitions to intervene shall be filed with the Commission and one copy shall be served concurrently upon applicant's representative. The application states that it does not involve a major action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975. In the absence of legally sufficient petitions for intervention filed within 30 days of publication, approval of the application will be entered.

Proposed Federal Register Notice

MC F-14040F. Authority sought for acquisition of control of EAST SOUTH EXPRESS, INC., 3070 Nicholas Drive, N.E., Statesman Industrial Park, Roanoke, Virginia 24034, through acquisition of its capital stock by United Transport Industries, Inc., Post Office Box 1161, Akron, Ohio 44306, and control of such rights and properties by John J. Brutvan through the acquisition. Applicants' attorney: A. Charles Tell, 100 East Broad Street, Columbus, Ohio 43215. Operating rights sought to be controlled under MC 138773 authorize *common carrier service*, over irregular routes, transporting *electric controllers and instruments* requiring special equipment or special handling by reason of size or weight, and *parts and*

attachments therefor when moving in connection therewith, from points in Roanoke County, VA to points in the U.S. (except AK, HI, VA, NC, SC, GA, WA, OR, CA, MT, ID, UT, NV, and FL); and authority sought in pending applications in MC 138773 Sub 2 F and MC 138773 Sub 3 F. United Transport Industries, Inc. is a non-carrier which controls Miller Transfer & Rigging Co., an irregular route common and contract carrier of specified commodities in 48 states. Application has not been filed for temporary authority.

MC F-14060F, filed June 15, 1979.

Authority sought for control by NATIONAL FREIGHT, INC., 57 West Park Avenue, Vineland, NJ, 08360, of Northeastern Trucking Company, P.O. Box 26276, Charlotte, North Carolina, 28213. Applicant's attorney: Peter J. Nickles, 888 Sixteenth Street, N.W., Washington, D.C. 20006. Operating rights sought to be controlled: *general commodities*, except those of unusual value and except Class A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, between points in Philadelphia, Pa.; between Philadelphia, Pa., on the one hand, and, on the other, Rahway and Newark, N.J., and New York, N.Y.; between points and specified parts of North Carolina and Baltimore, Md., Bridgeton, N.J., certain points in Virginia and Pennsylvania. *General commodities*, except those of unusual value, Class A and B explosives, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, between Philadelphia, Pa., and certain points in Connecticut; and certain points in New Jersey and Pennsylvania; between Spartanburg, S.C. and Darlington, S.C. serving specified intermediate and off-route points; between the North Carolina-South Carolina state line on U.S. highway 521 and Lancaster, S.C., serving no intermediate points. *General commodities*, except those requiring special equipment, household goods as defined by the Commission, cement in bulk, and unmanufactured leaf tobacco; between points in specified parts of North Carolina; *general commodities*, except those of unusual value, Class A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading; between points within 50 miles of Fairmont, N.C.; *general commodities*, except those of unusual value, and except dangerous explosives, household

goods (when transported as a separate and distinct service in connection with so-called "household movings"), commodities in bulk, commodities requiring special equipment and those injurious or contaminating to other lading; between points and places in Sumter County, S.C., and Augusta, Atlanta and Columbus, Ga.; *general commodities*, except those of unusual value, and except dangerous explosives, household goods as defined in *Practices of Motor Common Carriers of Household Goods*, 17 M.C.C. 467, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, over irregular routes: between points and places in Georgia within fifteen miles of Savannah, Ga.; including Savannah. *Pianos*, other than pianos included within the description of household goods, as defined by the Commission, from Chicago, Ill., New York, N.Y., Newark, N.J., and Philadelphia, Pa., to points in South Carolina; *cotton textiles*, from Yadkin, Norwood, Albemarle, and Salisbury, N.C., to Baltimore, Md., and points in Pennsylvania on and east of U.S. Highway 15; *lawn mowers*, from Primos, Pa., to points in North Carolina and South Carolina; *used pianos*, other than used pianos included within the description of household goods as defined by the Commission, from points in Pennsylvania (except Philadelphia) to points in South Carolina; *fertilizer and fertilizer materials* (other than in bulk), from Charlotte, N.C., to points in that part of Tennessee on and east of U.S. Highway 127 except Knoxville, Tenn. *Pulpboard and Fiberboard*, not corrugated or indented, from the plant site of the Riegel Paper Corp., at Riegelwood, N.C., to Fayetteville, Laurinburg, Raleigh, and Rocky Mount, N.C.; *fertilizer*, from points in Charleston County, S.C., to points in Chesterfield, Darlington, Dillon, Marion and Marlboro Counties, S.C. *Cotton in bales and livestock*, between points in South Carolina; *textile machinery, equipment and supplies*, between points in Spartanburg County, S.C., and between points in Spartanburg County, S.C. and other points in South Carolina; *unfinished cotton piece goods*, between points in South Carolina and certain plants in Aiken, Anderson, Darlington, Greenville, Greenwood, Spartanburg and York Counties, S.C.; *plywood*, from Weldon, N.C., to Nashua, N.H.; *textiles* from Farmville, N.C. to Pen Argyl, Pa.; *paper*, from Plymouth, N.C., to points in Connecticut, Massachusetts, Rhode Island, New Jersey, New York (except those points on Long Island east of the

New York, N.Y., commercial zone as defined by the Commission), and certain points in Pennsylvania; *animal and pet food* (except in bulk, in tank vehicles), from Woburn, Boston and Lawrence, Mass., to points in Virginia, Tennessee, and Kentucky; *animal feed*, except in bulk, from the plant site at or near Golden Meadow, La., and storage facilities at or near Lockport, La., to points in Alabama, Georgia, Florida, North Carolina, South Carolina, Virginia, Tennessee, Kentucky, Ohio, Indiana, West Virginia, Maryland, Pennsylvania, and the District of Columbia; *paper*, from Plymouth, N.C. to Concord, N.H., and Portland, Maine; *candy and confectionery products*, except in bulk, *advertising materials and premium merchandise*, moving and mixed loads with candy and confectionery products, except commodities in bulk, *and materials and supplies* used in the manufacture, sale and/or distribution of candy and confectionery products except commodities in bulk; between plant sites and storage facilities at or near Campbellsville, Ky., and points in Alabama, Connecticut, Florida, Georgia, Illinois, Indiana (except Anderson, Evansville, Fort Wayne, Indianapolis, and Marion), Louisiana, Maine, Massachusetts, Michigan (except Detroit, Flint, Lansing, Pontiac, and Saginaw), Minnesota, Mississippi, Missouri, New Hampshire, New Jersey, New York, North Carolina, Ohio (except Cincinnati and Dayton), Pennsylvania, Rhode Island, South Carolina, Tennessee (except Memphis and Knoxville), Texas, Vermont, Virginia, and the District of Columbia. *Malt beverages and related advertising materials*, from Newark, N.J., to Bristol and Norton, Va.; *petroleum and petroleum products*, in containers, from the plant site and storage facilities of Exxon Corporation at Baton Rouge, La., to points in North Carolina; *paper bags*, from Richmond, Va., to Champaign, Ill.; *paper*, from Riegelwood and Roanoke Rapids, N.C., to points in Connecticut, Massachusetts, Rhode Island, New Jersey, certain points in Pennsylvania, Concord, N.H., Portland, Maine, and certain points in New York; *groceries*, from Asheville, N.C., to Copperhill, Tenn., from Richmond and Norfolk, Va., Chattanooga, Tenn., Charleston, Greenville and Columbia, S.C., Cincinnati, Ohio, Louisville, Ky., Indianapolis, Ind., and Chicago, Ill., to Asheville, N.C., and certain points in North Carolina; *paper and paper products*, from Canton and Asheville, N.C., to certain specified points in Virginia, Ohio, Tennessee, and South

Carolina; from Cincinnati, Hamilton, Middletown and Troy, Ohio and Richmond and Norfolk, Va., to Asheville, N.C.; from Chicago, Ill. and Halltown, W. Va., to points in that part of North Carolina on and west of U.S. Highway 29; from Roanoke Rapids, N.C. to points in Illinois, Indiana, Kentucky, Michigan, Ohio, and Wisconsin, and to St. Louis, Missouri; such merchandise as is dealt in by wholesale grocery and food business houses, except fresh meat, eggs, poultry, and products of food-processing and meat packinghouses, and packinghouse by-products, and advertising material and premiums for food-processing and meat packinghouses, from Charleston, S.C., Wilmington, N.C., and Norfolk, Va., to Charlotte, N.C.; from Charlotte, N.C. to points in South Carolina; *pipe, machinery, and machinery parts*, from Charlotte, N.C., to points in South Carolina; *animal feed*, in containers, from the storage facilities of Lipton Pet Foods, Inc., at or near New Orleans, La., to points in Alabama, Georgia, Florida, North Carolina, South Carolina, Virginia, Tennessee, Kentucky, Ohio, Indiana, West Virginia, Maryland, and Pennsylvania, and the District of Columbia; *Forest products*, from Scotland Neck, N.C., to points in Connecticut, New Jersey and Virginia and certain points in New York and Pennsylvania; *fabricated sheet metal products* (except commodities which because of size and weight require the use of special equipment), from the plant site and storage facilities of Acme Manufacturing Co., at Philadelphia, Pa., to points in that part of Tennessee located on and east of U.S. Highway 27 and points in Virginia; from the plant site and storage facilities of Acme Manufacturing Co., at Atlanta, Ga., to points in Alabama, Kentucky, Mississippi and Tennessee. Application has been filed for temporary authority under Section 11349.

MC F-14084F. Authority sought for control by NATIONAL FREIGHT, INC., 57 West Park Avenue, Vineland, NJ 08360, of CROSS TRANSPORTATION, INC., Carl's Corners, Bridgeton, N.J. 08302, and for acquisition by BERNARD A. BROWN, also of Vineland, N.J. of control CROSS TRANSPORTATION, INC., through the acquisition by NATIONAL FREIGHT, INC. Applicant's Attorney: Peter J. Nickles, 888 16th Street, Washington, D.C. 20006. Operating rights sought to be controlled: *General commodities*, except those of unusual value, and except liquors, dangerous explosives, household goods as defined in *Practices of Motor Common Carriers of Household Goods*,

17 M.C.C. 467, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, as a *common carrier* over regular routes, between Philadelphia, Pa., and Bridgeton, N.J.; *general commodities*, except those of unusual value, and except dangerous explosives, bakery products and containers, household goods as defined in *Practices of Motor Common Carriers of Household Goods*, 17 M.C.C. 467, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, between New Brunswick, N.J., and Philadelphia, Pa.; *general commodities*, except those of unusual value, livestock, Classes A and B explosives, household goods, as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, between Boston, Mass., and Newark, N.J., serving all intermediate points in Massachusetts, and the off-route points of Salem, and Fall River, Mass., Staffordville, Conn., and Trenton, and Farmingdale, N.J., between Boston, Mass., and Newark, N.J., serving no intermediate points, between Lawrence, Mass., and Boston, Mass., serving all intermediate points, and the off-route points of Lowell, Haverhill, and Methuen, Mass.; *General commodities*, except livestock, Classes A and B explosives, inflammables, commodities in bulk other than fertilizer, articles of unusual size or value, and household goods as defined by the Commission, between Richmond, Va., and New York, N.Y., with service to and from the intermediate and off-route points of Washington, D.C., Baltimore, Md., Philadelphia, Pa., Trenton, Newark, Carleer, and North Bergen, N.J., restricted to traffic moving to or from Richmond; *excelsior*, from Montross, Va., to New York, N.Y., serving the intermediate points of Washington, D.C., Baltimore, Md., and Philadelphia, Pa., from Montross, Va., to New York, serving the intermediate points Baltimore, Md., and Philadelphia, Pa., and the off-route point of Washington, D.C.; *general commodities*, with exceptions specified, over irregular route, between Elizabeth, N.J., and points within 30 miles of Elizabeth, on the one hand, and on the other, Philadelphia, Pa., New York, N.Y., points in New Jersey, and those in Nassau and Westchester Counties, N.Y.; *general commodities*, excepting among other Classes A and B explosives, household goods, and commodities in bulk, between Boston, Mass., and certain

specified points in New York and New Jersey; *general commodities*, except those of unusual value, liquors, Classes A and B explosives, bakery products and containers, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, between Bridgeton, N.J., on the one hand, and, on the other, points in New Jersey (except those within 30 miles of Elizabeth, N.J.), with restriction; *general commodities*, except those of unusual value, and except Classes A and B explosives, furs, alcoholic beverages, household goods as defined by the Commission, livestock, silk, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, between New York, N.Y., and certain specified points in New Jersey, on the one hand, and, on the other, Baltimore, Md., and Washington, D.C.; *glass containers*, from New York, N.Y., and Hoboken, N.J., to certain specified points in New York, and New London Counties, Conn., from Bridgeton, N.J., to certain specified points in Delaware, Boston, and Roxbury, Mass., and Relay, Md., from Bridgeton, N.J., to Bridgeport, Conn., Philadelphia, Pa., Wilmington, Del., Yonkers, and New York, N.Y., Baltimore, Md., and the District of Columbia; *boxes (with or without partitions), paper fiberboard or pulpboard in sheets or rolls and paper, fiberboard or pulpboard lines or fillers*, from Bridgeton, N.J., to certain specified points in New York, Seaford, Del., Boston, and Roxbury, Mass., and Relay, Md., from Bridgeton, N.J., to certain specified points in New York; *boxes*, from Baltimore, Md., to Salem, N.J., from Bridgeton, N.J., to Philadelphia, Pa., between Bridgeton, N.J., and Baltimore, Md.; *caps and closures for glass containers*, from Glassboro, N.J., to certain specified points in New York, Seaford, Del., and Boston, Roxbury, Mass., and Relay, Md.; *Materials and supplies necessary for the manufacture and packing of glass containers*, from Philadelphia, Pa., to Bridgeton, N.J.; *canned goods*, from Bridgeton, N.J., to Philadelphia, Pa., Baltimore, Md., Hartford, Conn., Somerville, Mass., and points in the New York, N.Y., commercial zone, as defined by the Commission in 1 M.C.C. 665; *malt beverages*, from New York, N.Y., to certain specified points in Connecticut; *drugs*, from New York, N.Y., to Bridgeport and Stamford, Conn.; *tin plate*, from Baltimore, Md., to Paulsboro, N.J.; *fertilizer, fertilizer materials, seeds, and insecticides*, from New York, N.Y.,

and Hoboken, N.J., to Bridgeport and Stamford, Conn., Spring Valley, N.Y., and points on Long Island, N.Y., except those in Nassau County; *glass bottles, glass jars and packing glasses, bottle carrying boxes with or without partitions, corrugated fiber- and pulpboard paper in sheets or rolls, and fiberboard and pulpboard paper liners and fillers*, from Bridgeton, N.J., to certain specified points in Delaware, Maryland, Massachusetts, New York, Pennsylvania, and Virginia; *caps and closures* for glass containers, from Glassboro, N.J. to the destination points specified; cans, not exceeding 1 gallon capacity, and boxes not exceeding 1 quart capacity, from Baltimore, Md., to Hammonton and Minotola, N.J.; *glass containers and boxes* (with or without partitions), *paper, fiberboard or pulpboard in sheets or rolls and paper, fiberboard or pulpboard liners and fillers*, from Bridgeton, N.J., to points in Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, and Virginia, and the District of Columbia; *caps, closures, and accessories* for same, from Glassboro, N.J., to points in the above-described destination territory; *wooden pallets*, from points in Massachusetts, Rhode Island, and that part of New York which is located west of U.S. Highway 15 from the New York-Pennsylvania State line to Springwater, N.Y., and New York Highway 15-A from Springwater to Rochester, but not including Rochester, to Bridgeton, N.J.; *glass containers*, and, when moving as part loads in connection therewith, *corrugated boxes, knocked down, caps and closures*, from Jersey City, N.J., to certain specified points in New York and Connecticut; *wooden pallets*, from points in Connecticut and New York, except New York, N.Y., and those in Nassau and Westchester Counties, N.Y., to Jersey City, N.J.; *plastic containers, plastic caps, plastic closures, and accessories* for the aforementioned commodities, from Glassboro, N.J., to points in Massachusetts, Rhode Island, Connecticut, New York, Pennsylvania, Delaware, Maryland, Virginia, and the District of Columbia; *wooden pallets*, from the above-specified destination points to Glassboro, N.J.; *malt beverages, brewers' supplies, and empty containers*, excepting malt beverages and brewers' supplies, in bulk, in tank vehicles, between points in the described New York-New Jersey territory, on the one hand, and, on the other, points in Massachusetts, between Lawrence, and Boston, Mass., on the one hand, and, on the other, points in Connecticut, Rhode Island, and

Massachusetts; *glass and plastic containers, carboys, demijohns, jars, bottles, packing glasses, caps, covers, stoppers, closures, or tops, boxes, paper, fiberboard or pulpboard in sheets or rolls, fiberboard or pulpboard liners and fillers, and empty containers*, from Bridgeton and Glassboro, N.J., to points in Maine, New Hampshire, and Vermont; *glass containers and paper, fiberboard, or pulpboard boxes, liners, fillers, sheets and rolls*, from the plantsites, warehouses, or other facilities of Owens-Illinois, Inc., at North Bergen, N.J., to points in that part of Pennsylvania on the east of U.S. Highway 15 (except points in the Philadelphia, Pa., commercial zone as defined by the Commission, and York, Pa.), over one alternate route for operating convenience only. National Freight, Inc., is authorized to operate as a common carrier in New Jersey, Pennsylvania, Connecticut, New York, Massachusetts, Rhode Island, Delaware, Maryland, Florida, New Hampshire, Ohio, Vermont, Virginia, West Virginia, Wisconsin, Illinois, Indiana, Maine, Michigan, Minnesota, Missouri, North Carolina, South Carolina, Georgia, Arkansas, Iowa, Kansas, Kentucky, Nebraska, Louisiana, Alabama, Mississippi, Oklahoma, Texas, Tennessee, and the District of Columbia. Application has been filed for temporary authority under section 11349.

MC F-14085F. Applicants: CRST, INC., 3930 16th Avenue S.W. P.O. Box 68, Cedar Rapids, IA 52406, and WESTERN TRANSPORTATION COMPANY, 1300 West 35th Street, Chicago, IL 60609. Applicants' representatives: Robert E. Konchar, 2720 First Avenue N.E., P.O. Box 1943, Cedar Rapids, IA 52406, and Carl L. Steiner, 39 South LaSalle Street, Chicago, IL 60603. Authority sought for CRST, Inc. of Cedar Rapids, IA, to purchase a portion of the operating rights of Western Transportation Company, of Chicago, IL, and for acquisition of control of such rights through the transaction by Herald A. Smith, Jr. and Miriam G. Smith, both of Cedar Rapids, IA. The operating rights sought to be purchased involve general commodities with the usual exceptions over the following regular routes: (1) From Chicago, IL, over U.S. Hwy. 34 to junction IL Hwy. 65, then over IL Hwy. 65 to Aurora, IL, then over IL Hwy. 31 to Oswego, IL, then over U.S. Hwy. 34 to junction IL Hwy. 92, then over IL Hwy. 92 to Moline, IL, then across the Mississippi River to Davenport, IA, and return over the same route; then over U.S. Hwy. 61 to junction IA Hwy 92, then over Hwy 92 to junction U.S. Hwy 218, then over U.S. Hwy 218 to Mt.

Pleasant, IA, then over U.S. Hwy. 34 to Ottumwa, IA, then over U.S. Hwy. 63 to Oskaloosa, IA, and then over IA Hwy. 63 to Oskaloosa, IA, and then over IA Hwy. 163 to Des Moines, and return over the same route. (2) From Waterloo over U.S. Hwy. 218 to junction U.S. Hwy. 18, then over U.S. Hwy. 18 to Mason City, IA, and return over the same route. Service is not authorized to or from intermediate points. (3) Between Keokuk, IA and Mt. Pleasant, IA, serving all intermediate points; from Keokuk over U.S. Hwy. 61 to junction U.S. Hwy. 218, then over U.S. Hwy. 218 to Mt. Pleasant, and return over the same route. (4) Serving Farmington, Bonaparte, Cantril, Milton, Keosauqua, Birmingham, Fairfield, Stockport, Hillsboro, Salem, Houghton, West Point, Fort Madison, Denmark, Douds, Pilot Grove, and Argyle, IA as off-route points in connection with the regular route authority in (3) above between Keokuk, IA and Mt. Pleasant, IA, over U.S. Hwy. 61 and 218. Vendee is authorized to operate pursuant to certificate MC 114273 and various subs thereunder as a common carrier in the states of CO, CT, DE, IL, IN, IA, KS, KY, MD, ME, MA, MI, MN, MO, NE, NH, NJ, NY, ND, OH, OK, PA, RI, SD, VA, VT, WV, and WI. Application has been filed for temporary authority under Section 210a(b).

MC F-14087F. Authority sought for purchase by North Iowa Express, Inc., 1921 N.E. 58th Ave., Des Moines, IA 50313, of a portion of the operating rights of Western Transportation Company, 1300 West 35th Street, Chicago, IL 60609, and for acquisition of control of such rights by Donald E. Schneider, 1921 N.E. 58th Ave., Des Moines, IA 50313 through the purchase. Applicant's Attorney: Carl L. Steiner, 39 South LaSalle St., Chicago, IL 60603. Operating rights sought to be transferred are as a common carrier, over regular routes, as follows: *General Commodities*, with the usual exceptions, between Waterloo, IA and Ft. Dodge, IA, over U.S. 20, serving all intermediate points. Application has been filed for temporary authority under Section 210a(b).

Note.—North Iowa Express, Inc. proposes to tack the authority sought to be acquired with its existing authority.

MC F-14088F. Authority sought for purchase by Sunderman Transfer Inc., Box 63, Windom, MN 56101, of a portion of the operating rights of LTL Perishables, Inc., 550 East 5th Street South, South St. Paul, MN 55075, and for acquisition by Sunderman Transfer Inc., of control of such rights through acquisition. Applicants representatives: Carl E. Munson, 469 Fischer Building,

Dubuque, IA 52001, and Paul Nelson, 550 East 5th Street So., So. St. Paul, MN 55075. Operating rights sought to be purchased are those contained in MC 135874 Sub No. 16, which authorize the transportation of: *Meats, meat products, meat by-products, and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk and hides). From Minneapolis, MN, to points in IA, NE and SD, restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations. No duplicating authority involved but possible dual operations. Application has been filed for temporary authority under 49 U.S.C. 11349. (Hearing Site: Minneapolis, MN.)

MC FC-14089, F, Transferee: ADAMS LINES, INC., 2619 "N" Street, Omaha, NE 68107. Transferor: Pennsylvania & Illinois, Ltd., 654 West 21st Street, Chicago, IL 60600. Representative: D. Douglas Titus, of Titus, Holman, Myers & Teichgraber, 510 Benson Building, Sioux City, IA 51101. Attorney for Transferor: A. Charles Tell, George, Greek, King, McMahon & McConaughy, 110 East Broad Street, Columbus, OH 43215. Authority sought for purchase by transferee of operating rights of transferor as common carrier as follows: MC-129176 regular routes: *General Commodities* with the usual exceptions, From New Castle, PA and points within 20 miles of New Castle, to Gary, IN and Chicago and Cranston, IL, with no transportation for compensation on return except as otherwise authorized. MC-129176 (Sub-No. 1) *General Commodities*, except livestock. Between Chicago, IL and Joliet, IL: From Chicago over U.S. Hwy 66 and Alternate U.S. Hwy 66 to Joliet and return over the same route, serving all intermediate points and off-route points of Rockdale, Mokena, and Lemont, IL from Chicago over U.S. Hwy 66 to Cicero then IL Hwy 50 to junction IL Hwy 7, then over IL Hwy 7 to junction U.S. Hwy 8, then over IL Hwy 8 to Joliet and return over the same route; From Chicago over IL Hwy 4-A to Joliet and return over the same route. *General Commodities*, with the usual exceptions. Between Pittsburgh, PA and Toronto, OH: From Pittsburgh over U.S. Hwy 30 to East Liverpool, OH then over OH Hwy 7 to Toronto and return over the same route, serving all intermediate points and off-route points of Beaver Falls, Monaca and New Kensington, PA and points in Allegheny County, PA. Between Chicago, IL and McKeesport, PA serving all intermediate and off-route points and those in

Allegheny County, PA restricted to eastbound traffic: From Chicago over U.S. Hwy 20 to Gary, IN then over U.S. Hwy 6 to junction IN Hwy 130, then over IN Hwy 130 to Valpariso, then over U.S. Hwy 30 to Delphos, OH then over U.S. Hwy 30 to Mansfield, then over U.S. Hwy 250 to Jefferson, then over U.S. Hwy 30 to Canton, then over U.S. Hwy 62 to Salem, then over OH Hwy 45 to Lisbon, then over U.S. Hwy 30 to East Liverpool, then over OH Hwy 39 to the OH-PA State line, then over PA Hwy 68 to Rochester, PA then over PA Hwy 65 (Formerly PA Hwy 88) to Pittsburgh, then over PA Hwy 837 to McKeesport and return over same route with no transportation for compensation except as otherwise authorized. *Earthenware*. Between Beaver Falls, PA to Chicago, IL serving intermediate and off-route points, restricted to westbound traffic: From Beaver Falls over PA Hwy 18 to Rochester, PA, then to Chicago for compensation except as otherwise authorized. *General Commodities*, with the usual exceptions. Between Pittsburgh, PA serving all intermediate points and all off-route points within 10 miles of Pittsburgh: From Pittsburgh over U.S. Hwy 19 to Washington and return over the same route: Between Canonsburg, PA and Waynesburg, PA serving all intermediate points: From Cannonsburg over unnumbered hwy's via Houston and Meadow Lands to Washington, then over PA Hwy 18 to Waynesburg and return over the same route. Irregular routes: *General Commodities*, with the usual exceptions, From Washington, PA to points in Washington and Green Counties, PA except Allentown, Charleroi, Daisytown, Elco, Elrama, Coal Center, Monongahela, New Eagle, North Charleroi, Roscoe, Speers, Stockdale, and West Brownsville, PA and points on the regular routes described under the commodity description next above, *Returned, refused, rejected, or damaged shipments* of commodities specified immediately above From the destination points immediately above to Washington, PA *General Commodities* except livestock Between Chicago, IL and Chicago Heights, IL and points in IL in the Chicago Commercial Zone as defined by the Commission. *Sewer Pipe, draishtile, flue lining and wall coping* From Toronto, Empire, Stration, Poet, Homer, and Lisbon, OH and points within 1 mile of Lisbon to Chantanooga and Erie Counties, NY, Monroe and Wayne Counties, WV, Allen, Hancock, Henry, Marion and Wayne Counties, IN and Allegheny, Beaver, Crawford, Erie, Lawrence, Mercer and Washington Counties, PA, with no transportation for

compensation on return except as otherwise authorized. *Frozen Foods*, From Darien, WI to points in OH and PA with no transportation for compensation on return except as otherwise authorized. Restriction: The operations authorized under the commodity description next above are restricted against tacking with any authority granted under above. The operations authorized under the commodity description next above are restricted against the interlining at Darien, WI: Irregular routes: *Meats, meat products, and meat by-products, and articles distributed by meat packinghouses* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, restricted against transportation of commodities in bulk, in tank vehicles, and hides. From the facilities of Swift & Company at Grand Island, NE to points in OH, PA, IN, MA and with no transportation for compensation on return except as otherwise authorized. Restriction: The operations authorized under the commodity description next above are restricted to traffic originating at the plant site of Swift & Company. *Meats, meat products and meat by-products and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 706. From the facilities of Wilson & Co., Inc., at Monmouth, IL, to points in OH and PA, with no transportation for compensation on return except as otherwise authorized. Restriction: The service authorized under the commodity description next above is subject to the following conditions: The authority granted under the commodity description next above is restricted to Wilson & Co., Inc., at Monmouth, IL. The authority granted under the commodity description next above is restricted against the transportation of commodities, in bulk, in tank vehicles. Any duplication of authority granted herein or to the extent that such authority duplicates any theretofore granted to or now held by carrier shall not be construed as conferring more than one operating right. Application has been filed for temporary authority under Section 11349 of the Act. Hearing Site: Chicago, IL.

MC-F-14090F. Authority sought for the purchase of ROADWAY EXPRESS, INC., 1077 Gorge Blvd., P.O. Box 471, Akron, OH 44309 of the operating rights of West Tennessee Motor Express, Inc. 1221 Faydur Court, P.O. Box 7265, Nashville, TN 37210, and for acquisition

by The Roush Voting Trust, 1077 Gorge Blvd., Akron, OH 44309, of control of such rights through this transaction. Applicants' representatives: William O. Turney, Suite 1010, 7101 Wisconsin Avenue, Washington, DC 20014, and Robert H. Cowan, 500 Court Square Building, 300 James Robertson Parkway, Nashville, TN 37201. Operating rights sought to be purchased: *General Commodities*, with the usual exceptions, over regular routes between (1) Nashville, TN and Humboldt, TN, serving Bruceton, TN and all intermediate points between Bruceton and Humboldt, TN; (2) Huntington, TN and South Fulton, TN; (3) South Fulton, TN and Troy, TN; (4) Troy, TN and Tiptonville, TN; (5) Tiptonville, TN and Dyersburg, TN; (6) Dyersburg, TN and Brownsville, TN; (7) Junction TN Hwy 54 and TN Hwy 20 and Bells, TN; (8) Dyersburg, TN and Troy, TN; (9) Dyersburg, TN and Milan, TN; (10) Trenton, TN and Union City, TN; (11) Newbern, TN and Dyer, TN; (12) Milan, TN and Martin, TN; (13) Trenton, TN and Bradford, TN; (14) Greenfield, TN and McKenzie, TN; (15) McKenzie, TN and Atwood, TN; (16) Camden, TN and Buchanan, TN; (17) Paris, TN and Dresden, TN; (18) Paris, TN and McKenzie, TN; (19) Trenton, TN and Alamo, TN; (20) Memphis, TN and Paris Landing, TN serving all points in Carroll and Henry Counties, TN as intermediate or off-route points; and (21) Memphis, TN and Big Sandy, TN, serving all intermediate points on routes (2) through (19) above; and, alternate routes for operating convenience only between (22) Nashville, TN and junction U.S. Hwy 70 and TN Hwy 46 for purpose of joinder only; (23) Nashville, TN and Camden, TN, for purpose of joinder only; (24) Nashville, TN and Milan, TN, for purpose of joinder only; (25) Nashville, TN and junction of TN Hwy 20 and TN Hwy 54; and, (26) Humboldt, TN and Bells, TN and, Roadway Express, Inc. is authorized to operate in all states except AK and HI. Application has been filed for temporary authority under section 11349.

MC F-14092F. Applicant: RYDER TRUCK LINES, INC., 2050 Kings Road, Jacksonville, FL 32209. Applicant's Representatives: Roland Rice, Esq., 501 Perpetual Bldg., 1111 E Street, N.W., Washington, DC 20004, and H. Beatty Chadwick, Esq., 1500 Walnut Street, Philadelphia, PA 19102. Authority sought for the purchase by RYDER TRUCK LINES, INC., 2050 Kings Road, Jacksonville, FL 32209, of the operating rights of Shippers Imperial, Inc., 2277 Seventh Street, Oakland, CA 94607, and for acquisition by I.U. Transportation

Services, 1105 N. Market Street, The Wilmington Tower, Wilmington, DE 19801, and in turn, by I.U. International Corp., 1500 Walnut Street, Philadelphia, PA 19102, of control of such rights through the transaction. Operating rights sought to be transferred: (1) *General Commodities* (with the usual exceptions and except livestock and motor vehicles), as a common carrier over regular routes: Between San Francisco Bay Territory, Los Angeles Basin-San Diego Territory, and Sacramento Territory as defined in MC-99127 (Sub-No. 3), restricted against service between points in the San Francisco Bay Territory, on the one hand, and on the other, points in the Sacramento Territory, serving intermediate and off-route points as specified, including authority for alternate routes for operating convenience only, as specified; (2) *General Commodities* (except automobiles, trucks or buses; classes A and B explosives, commodities of unusual value, household goods as defined by the Commission, petroleum products in bulk, in tank vehicles, metal cans and parts thereof, and fresh fruit and vegetables when moving in mixed loads with the commodities authorized to be transported herein), over irregular routes: Between those points in that part of California on and within a boundary line beginning at the west boundary of the San Francisco-San Mateo County line at the Pacific Ocean shore line and extending east along the San Francisco-San Mateo County line to junction California Highway 82, then southeasterly along California Highway 82 to junction California Highway 17, at San Jose, CA, then northeasterly along California Highway 17 to junction California Highway 21 at or near Warm Springs, CA, then north along California Highway 21 to the south shoreline of Suisun Bay, then west and south along the continuous shoreline of Suisun Bay, San Pablo Bay, San Francisco Bay and the Pacific Ocean to the point of beginning, including points on the indicated portions of the highways specified; (3) *Bananas*, over irregular routes: From points in the Los Angeles Harbor, CA, Commercial Zone, as defined by the Commission, to points in the Los Angeles, CA, Commercial Zone, as defined by the Commission, and to San Diego, CA, with no transportation for compensation on return except as otherwise authorized; (4) *General Commodities*, with the usual exceptions and except motor vehicles, over regular routes (a) Between Los Angeles, CA and San Ysidro, CA, (b) Between San Diego, CA and Winterhaven, CA, (c) Between

Los Angeles, CA, and Indio, CA, (d) Between Indio, CA, and Calexico, CA, (e) Between junction Interstate Highway 10 and California Highway 111 near White Water, and Calexico, CA, (f) Between Los Angeles, CA, and Beaumont, CA, (g) Between Long Beach, CA, and Riverside, CA, (h) Between San Bernardino, CA, and San Diego, CA, (i) Between Oceanside, CA, and Escondido, CA, (j) Between Los Angeles, CA, and points in the Los Angeles Harbor Commercial Zone, as defined by the Commission, with service to intermediate and off-route points as specified, with restrictions; (5) *General Commodities*, with the usual exceptions and except motor vehicles, serving the United States Navy ammunition Depot at or near Fallbrook, CA, as an off-route point in connection with carrier's presently authorized regular-route operations. Vendee is authorized to operate pursuant to Certificate No. MC-2900 and Subs as a common carrier of general and specified commodities in the states of AL, AR, CT, DE, FL, GA, IL, IN, KY, LA, MA, MD, ME, MI, MO, MS, NC, NH, NJ, NY, OH, OK, PA, RI, SC, TN, TX, VA, WI, WV and DC. Application has been filed for temporary authority under Section 210a(b). (Hearing site: Los Angeles, CA and Atlanta, GA.)

MC F-14094F. Authority sought to purchase by Don Paffile d.b.a. Paffile Truck Lines, an individual, 4119 South Geiger Boulevard, Spokane, Washington 99204, certain operating rights of Mitchell Bros. Truck Lines, 3841 North Columbia Boulevard, Portland, Oregon 97217. Transferor's Attorney: George R. LaBissoniere, 1100 Norton Building, Seattle, WA 98104. Transferee's Attorney: George R. LaBissoniere, 1100 Norton Building, Seattle, WA 98104. Operating rights to be purchased: *General Commodities*, except those of unusual value, Class A & B explosives, household goods as defined by the Commission, commodities requiring special equipment and those injurious or contaminating to other lading, between points in Jackson County, Oregon, on the one hand, and, on the other, points including Hiltz, California and that part of Siskiyou County, California on and West of U.S. Highway 99. Vendee holds authority under MC-117304 (Sub 8 and Sub 19 and other subs) to transport heavy machinery, mining equipment, mining supplies, miners not including coal, such commodities as are dealt in by wholesale and retail grocery stores, such commodities as are dealt in by wholesale and retail hardware stores, and contractors equipment, material and supplies between points in Idaho,

Washington, Oregon and that part of Montana west of a line extending in a northerly direction from Monida Pass, Montana to the United States/Canada boundary line near Babb, Montana. Also hides, pelts and tallow from Wallace, Idaho to Spokane, Washington with no transportation and compensation on return. Applicant also holds authority to transport wine and beer from certain points in California to certain points in Idaho. Application has been filed to tack and join the authority of vendee with that of vendor at the common point of Jackson County, Oregon and any points therein. There is also a companion gateway elimination application concurrently filed with this finance application seeking to eliminate the gateway of Jackson County in connection with operations from Idaho and Montana to Siskiyou County, California. Application has been filed for temporary authority under Section 210a(b).

MC F-14096F. Transferee: GARRETT BROS., INC., 13900 South Meridian, Oklahoma City, OK 73144. Transferor: J & M Trucking, Inc., P.O. Box 583, Mills, WY 82645. Representative: G. Timothy Armstrong, 200 North Choctaw, P.O. Box 24, El Reno, OK 73036. Authority sought for purchase by transferee of a portion of the operating rights of transferor set forth in Certificate No. MC 128674 (Sub No. 1), issued effective March 4, 1971, as follows: *machinery, equipment, materials and supplies* used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, and *machinery, equipment, materials and supplies* used in, or in connection with, the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, including the stringing and picking up thereof; (1) between points in KS, OK, NE and WY; and, (2) between points in KS and OK, on the one hand, and, on the other, points in CO and UT. Restriction: The operations authorized under the commodity description above shall be restricted against any through service to or from points in WY, by tacking the operating rights next above separately stated. Transferee holds authority from this Commission under Docket No. MC 74346. Application has been filed for temporary authority under 49 U.S.C. § 11349.

MC F-14098F. Authority sought for purchase by Polar Express, Inc., Ark. Highway 68 West, P.O. Box 845, Springdale, Arkansas 72764, of a portion of the operating rights of Cox

Refrigerated Express, Inc., 10606 Goodnight Lane, Dallas, Texas 75245, and for acquisition by William L. Ferguson, P.O. Box 845, Springdale, AR 72764, of control of such rights through the purchase. Transferee's Attorney: Charles M. Williams, Kimball, Williams & Wolfe, P.C., 350 Capitol Life Center, 1600 Sherman Street, Denver, CO 80203, (303) 839-5858. Transferor's Attorney: D. Paul Stafford, P.O. Box 45538, Dallas, Texas 75245. Operating rights sought to be transferred is authority in Transferor's MC-140033 (Sub-No. 60) F, authorizing operations as a common carrier by motor vehicle over irregular routes transporting: Confectionery and cough drops from the facilities of Ludens, Inc., at or near Reading, PA, to points in AL, AR, LA, MS, OK, TN, and TX. Polar Express, Inc. operates as a common carrier in MC-134467 and Subs thereto and is controlled by William L. Ferguson who also controls Interstate Transport, Inc., which operates as a common carrier in MC-134064 and Subs thereto. They, collectively, have authority to operate in all points in the United States (except AK and HI). An application for temporary authority under 49 U.S.C. § 11349 (formerly Section 210a(b)) has been filed. (Hearing site: Dallas, TX.)

No. MC-F-14099F. Authority sought for purchase by ARLEDGE TRANSFER, INCORPORATED, Box 157, Burlington, IA 52601, of a portion of the operating rights of WESTERN TRANSPORTATION COMPANY, 1300 West 35th Street, Chicago, IL 60609, and for acquisition of control of such rights by Arnold G. Arledge, 1100 West Arnold Drive, W. Burlington, IA 52655, through such purchase. Applicant's Attorney: Carl L. Steiner, 39 South LaSalle Street, Chicago, IL 60603. Operating rights sought to be transferred are as a common carrier, over regular routes, as follows: *General Commodities*, with the usual exceptions, between Cedar Rapids, IA and Waterloo, IA, from Cedar Rapids over U.S. Hwy 150 to Independence, IA, then to Waterloo and return over the same route, serving all intermediate points. Application has been filed for temporary authority under Section 210a(b).

Note.—Arledge Transfer, Incorporated proposes to tack the authority sought to be acquired with its existing authority.

Caption Summary

MC-F-14100F. Authority sought for purchase by LA SALLE TRUCKING, INC., P.O. Box 46, Peru, IL 61354 to purchase a portion of the operating rights of WESTERN TRANSPORTATION COMPANY, 1300

West 35th Street, Chicago IL 60609, and for acquisition of control of such rights by Jack E. Boehm, Jr., P.O. Box 46, Peru, IL 61354, through the purchase. Applicant's attorney: Carl L. Steiner, 39 South LaSalle Street, Chicago, IL 60603. Operating rights sought to be transferred are as a common carrier, over regular routes, as follows: *General Commodities*, with the usual exceptions, between Batavia, IL and Chicago, IL, from Batavia, IL over unnumbered highway to junction alternate U.S. 30, then over alternate U.S. 30 to Chicago, and return over the same route. Application has been filed for temporary authority under Section 210a(b).

MC-F-14101F. Authority sought for purchase by GEORGIA HIGHWAY EXPRESS, INC. 2090 Jonesboro Road, S.E., Atlanta, Georgia 30315 of a portion of the operating rights of WESTERN TRANSPORTATION, CO., 1300 W. 35th Street, Chicago, Illinois 60609. Applicant's representative: Fritz R. Kahn, 1660 L Street, N.W., Suite 1000, Washington, DC 20038. Certificate of Public Convenience and Necessity sought to operate a freight service, as follows: Transportation of general commodities with the usual exceptions as a common carrier over irregular routes. 1. Between points and places in the Chicago, IL Commercial Zone, as defined by the Commission in 1 M.C.C. 673. 2. Between points in Cook, Lake, DuPage, Kane and Will Counties, IL and Coal City, IL. Vendee is authorized to operate as a common carrier over regular routes under Certificate No. MC-58923 (Sub-39) between Chicago, IL and Waukegan, Libertyville and Barrington, IL. An application for temporary authority under 49 USC Sec. 11349 has been filed. (Hearing site: Chicago, IL or Washington, DC).

Motor carrier Intrastate Applications(s)

The following application(s) for motor common carrier authority to operate in intrastate commerce seek concurrent motor carrier authorization in interstate or foreign commerce within the limits of the intrastate authority sought, pursuant to Section 10931 (formerly Section 206(a)(6) of the Interstate Commerce Act. These applications are governed by Special Rule 245 of the Commission's *General Rules of Practice* (49 CFR 1100.245), which provides, among other things, that protests and requests for information concerning the time and place of State Commission hearings or other proceedings, and any other related matters shall be directed to the State Commission with which the application is filed and shall not be addressed to or

filed with the Interstate Commerce Commission.

Montana Docket No. T-4530, filed July 2, 1979. Applicant: MOLERWAY FREIGHT LINES, INC., 2707 Beartooth Drive, Billings, MT 59102. Representative: JOHN L. MOHR, 111 West Main, P.O. Box 217, Laurel, MT 59044. Certificate of Public Convenience and Necessity sought to operate a freight service, as follows: Transportation of: *General commodities*, except those of unusual value, dangerous explosives, commodities in bulk and those injurious or contaminating to other lading from and to or between the following points or areas: Serving all points and places along US Hwy No. 90 between Bozeman, MT, and Miles City, MT, excluding Laurel, MT; all points and places along US Hwy No. 89 between the junction of US Hwy No. 89 and US Hwy No. 90 and the junction of US Hwy No. 89 and US Hwy No. 12; all points and places along US Hwy No. 12 between the junction US Hwy No. 89 and US Hwy No. 12 and Roundup, MT; all places and points along US Hwy No. 191 between Big Timber, MT, and Moore, MT; all points and places along US Hwy No. 87 between Moore, MT and Roundup, MT; all points and places along Hwy No. 3 between Lavina, MT and Billings, MT; and all points and places along US Hwy No. 90 between Billings, MT, and Hardin, MT, and serving Colstrip, MT, over Road No. 384, and State Hwy No. 30. Intrastate, interstate, and foreign commerce authority sought. HEARING: date, time and place not yet fixed. Requests for procedural information should be addressed to Montana Public Service Commission, 1227 11th Avenue, Helena, MT 59601, and should not be directed to the Interstate Commerce Commission.

New York Docket No. T-2989, filed July 24, 1979. Applicant: McDONALD'S EXPRESS LINE INC., Trenton, NY. Representative: MURRAY J. S. KIRSHEIN, ESQ., 118 Bleecker Street, Utica, NY 13501. Certificate of Public Convenience and Necessity sought to operate a freight service, as follows: Transportation of: *General commodities*, between all points in the Counties of Herkimer and Oneida. Intrastate, interstate and foreign commerce authority sought. HEARING: Date, time and place not yet fixed. Requests for procedural information should be addressed to S. C. Duckor, Department of Transportation, 1220 Washington Ave., State Campus Building #4, Room G-21, Albany, NY 12232, and should not be directed to the Interstate Commerce Commission.

Irregular-Route Motor Common Carriers of Property—Elimination of Gateway Letter Notices

The following letter-notices of proposals to eliminate gateways for the purpose of reducing highway congestion, alleviating air and noise pollution, minimizing safety hazards, and conserving fuel have been filed with the Interstate Commerce Commission under the Commission's *Gateway Elimination Rules* (49 CFR 1065), and notice thereof to all interested persons is hereby given as provided in such rules.

An original and two copies of protests against the proposed elimination of any gateway herein described may be filed with the Interstate Commerce Commission on or before September 10, 1979. A copy must also be served upon applicant or its representative. Protests against the elimination of a gateway will not operate to stay commencement of the proposed operation.

Successively filed letter-notices of the same carrier under these rules will be numbered consecutively for convenience in identification. Protests, if any, must refer to such letter-notices by number.

The following applicants seek to operate as a *common carrier*, by motor vehicles, over irregular routes.

MC 4406 (Sub-E-22) (correction), filed June 4, 1974, published in the *Federal Register*, issue of October 28, 1975, and republished, as corrected, this issue. Applicant: Dealers Transit, Inc., 522 South Boston Avenue, Tulsa, OK 74103. Applicant's representative: Roger D. Smith (same as above). *Commodities* which because of size or weight require the use of special equipment, and *self-propelled articles* each weighing 15,000 pounds or more, and *related machinery, tools, parts and supplies* moving in connection therewith, between points in New Mexico, on the one hand, and, on the other, points in CA (except between points in New Mexico north and west of U.S. Hwy 54, on the one hand, and, on the other, points in California south of the northern boundaries of Mono, Tuolumne, Stanislaus, Santa Clara, and Santa Cruz Counties). (Gateways eliminated: points in California and New Mexico.) Purpose of republication: clarify restriction.

MC 22254 (Sub-E2), filed May 14, 1974. Applicant: TRANS-AMERICAN VAN SERVICE, INC., P.O. Box 12608, Ft. Worth, TX 76116. Representative: Elliott Beene, Suite 618, Perpetual Building, Washington, DC 20004. *Pianos*, uncrated, (A) between points in Connecticut, Idaho, Maine, Massachusetts, Michigan, New Hampshire, New York, North Dakota,

Oregon, Rhode Island, Vermont, Washington, Wisconsin, and points, in New Jersey on and north of a line beginning at the Atlantic Ocean extending along New Jersey Hwy 33 to junction New Jersey Hwy 571, then along New Jersey Hwy 571 to junction U.S. Hwy 206, then along U.S. Hwy 206 to junction New Jersey Hwy 546, then along New Jersey Hwy 546 to Washingtons Crossing, then along New Jersey Hwy 29 to the New Jersey-Pennsylvania State line; points in Pennsylvania on and north of a line beginning at the Pennsylvania-New Jersey State line extending along U.S. Hwy 202 to junction Pennsylvania Turnpike, then along Pennsylvania Turnpike to junction U.S. Hwy 322, then along U.S. Hwy 322 through Harrisburg to Lewistown, then along U.S. Hwy 22 to junction Pennsylvania Turnpike, then along the Pennsylvania Turnpike to the Ohio-Pennsylvania State line extending along Ohio Hwy 170 to junction U.S. Hwy 30, then along U.S. Hwy 30 to junction U.S. Hwy 224, then along U.S. Hwy 224 to the Ohio-Indiana State line; points in Indiana on and north of a line beginning at the Ohio-Indiana State line extending along U.S. Hwy 224 to junction U.S. Hwy 24, then along U.S. Hwy 24 to the Indiana-Illinois State line; points in Illinois on and north of a line beginning at the Indiana-Illinois State line extending along U.S. Hwy 24 to junction Illinois Hwy 88, then along Illinois Hwy 88 to junction Interstate Hwy 80 to the Illinois-Iowa State line; points in Iowa on and north of a line beginning at the Iowa-Illinois State line extending along Interstate Hwy 80 to junction Iowa Hwy 38, then along Iowa Hwy 38 to junction U.S. Hwy 30, then along U.S. Hwy 30 to junction Iowa Hwy 21, then along Iowa Hwy 21 to Waterloo, then along U.S. Hwy 20 to Fort Dodge, then along U.S. Hwy 189 to junction Iowa Hwy 9, then along Iowa Hwy 9 to junction U.S. Hwy 59, then along U.S. Hwy 59 to the Iowa-Minnesota State line; points in Minnesota on and east of a line beginning at the Iowa-Minnesota State line extending along U.S. Hwy 59 to junction U.S. Hwy 14, then along U.S. Hwy 14 to the Minnesota-South Dakota State line; points in South Dakota on and north of a line beginning at the South Dakota-Minnesota State line extending along U.S. Hwy 14 to junction South Hwy 34, then along South Dakota Hwy 34 to junction South Dakota Hwy 47, then along South Dakota Hwy to Chamberlain, then along U.S. Hwy 16 to junction South Dakota Hwy 73, then along South Dakota Hwy 73 to junction U.S. Hwy 18, then along U.S. Hwy 18 to the South Dakota-Wyoming State line;

points in Wyoming and north of a line beginning at the Wyoming-South Dakota State line extending along U.S. Hwy 18 to Douglas, then along U.S. Hwy 20 to Casper, then along Wyoming Hwy 220 to Raevlins, then along Interstate Hwy 80 to the Wyoming-Utah State line; points in Utah on and north of a line beginning at the Utah-Nevada State line extending along Interstate Hwy 80 to Ogden, then along U.S. Hwy 89 to Salt Lake City, then along Interstate Hwy to the Utah-Nevada State line; points in Nevada on and north of a line beginning at the Utah-Nevada State line; extending along U.S. Hwy Alternate 50 to junction U.S. Hwy 6, then along U.S. Hwy 6 to the Nevada-California State line; points in California on and north of a line beginning at the California-Nevada State line extending along U.S. Hwy 6 to junction California Hwy 120, then along California Hwy 120 to Manteca, then along California Hwy 99 to Lodi, then along California Hwy 12 to junction California Hwy 160, then along California Hwy 160 to Pittsburg, then along California Hwy 24 to Oakland, then along U.S. Hwy 40 to San Francisco, *on the one hand, and, on the other*, points in California on and south of a line beginning at the Pacific Ocean extending California Hwy 1 to junction California Hwy 37, then along California Hwy 37 to junction Interstate Hwy 80, then along Interstate Hwy 80 to junction California Hwy 16, then along California Hwy 16 to junction California Hwy 49, then along California Hwy 49 to junction California Hwy 120, then along U.S. Hwy 6 to the California-Nevada State line; points in Nevada on and south of a line beginning at the California-Nevada State line extending along U.S. Hwy 6 to junction Nevada Hwy 25, then along Nevada Hwy 25 to the Nevada, Utah State line; points in Arizona on and south of a line beginning at the Arizona-Utah State line extending along Arizona Hwy 389 to junction U.S. Hwy Alternate 89, then along U.S. Hwy Alternate 89 to junction U.S. Hwy 89, then along U.S. Hwy 89 to junction U.S. Hwy 10, then along U.S. Hwy 160 to Teec Nos Pas, then along Arizona Hwy 504 to the Arizona-New Mexico State line; points in New Mexico on and south of a line beginning at the Arizona-New Mexico State line extending along New Mexico Hwy 504 to junction U.S. Hwy 550, then along U.S. Hwy 550 to Farmington, then along New Mexico Hwy 17 to junction U.S. Hwy 84, then along U.S. Hwy 84 to junction New Mexico Hwy 110, then along New Mexico Hwy 110 to junction New Mexico Hwy 111, then along New Mexico Hwy 111 to Iaas, then along U.S. Hwy 64 to the Texas-New Mexico State

line extending along U.S. Hwy 87 to Hartley, then along Texas Hwy 152 to the Texas Oklahoma State line; points in Oklahoma on and south of a line beginning at the Oklahoma-Texas State line extending along Oklahoma Hwy 6 to junction Interstate Hwy 40, then along Interstate Hwy 40 to junction U.S. Hwy 59 to the Oklahoma-Arizona State line; points in Arizona on and south of a line beginning at the Oklahoma-Arizona State line extending along Arizona Hwy 18 to Shirley, then along Arizona Hwy 9 to Brockwell, then along Arizona Hwy 56 to Ash Flat, then along U.S. Hwy 62 to the Arizona-Missouri State line; points in Tennessee on and south of a line beginning at the Missouri-Tennessee State line extending along Tennessee Hwy 20 to junction U.S. Hwy 43, then along U.S. Hwy 43 to Lawrenceburg, then along U.S. Hwy 64 to junction Interstate Hwy 65, then along Interstate Hwy 65 to the Tennessee-Alabama State line; points in Alabama on and south of a line beginning at the Alabama-Tennessee State line extending along U.S. Hwy 231 to Gadsden, then along U.S. Hwy 431 to Lafayette, then along Alabama Hwy 50 to the Alabama-Georgia State line; points in Georgia on and south of a line beginning at the Alabama-Georgia State line extending along Georgia Hwy 18 to junction U.S. Hwy 23, then along U.S. Hwy 23 to junction Interstate Hwy 280, then along U.S. Hwy 280 to junction U.S. Hwy 80, then along U.S. Hwy 80 to the Atlantic Ocean; and points in California, Mississippi, and Florida. (Gateway eliminated: Chicago, Illinois or Memphis, TN.) (B) between points in California on and south of a line beginning at Bolinas extending along California Hwy 1 to junction U.S. Hwy 101, then along U.S. Hwy 101 to junction California Hwy 37, then along California Hwy 37 to Vallejo, then along Interstate Hwy 80 to Sacramento, then along California Hwy 16 to junction California Hwy 49, then along California Hwy 49 to junction California Hwy 120, then along California Hwy 120 to Benton Station, then along U.S. Hwy 6 to the California-Nevada State line; points in Nevada on and south of a line beginning at the California-Nevada State line extending along U.S. Hwy 6 to Tonopah, then along Nevada Hwy 25 to Panaca, then along Nevada Hwy 25-56 to the Nevada-Utah State line; points in Arizona on and south of a line beginning at the Arizona-Utah State line extending along Arizona Hwy 389 to Fredonia, then along U.S. Hwy Alt 89 to junction U.S. Hwy 89, then along U.S. Hwy 89 to junction U.S. Hwy 160, then along U.S. Hwy 160 to Teec Nos Pas, then along

Arizona Hwy 504 to the Arizona-New Mexico State line; points in New Mexico on and south of a line beginning at the Arizona-New Mexico State line extending along New Mexico Hwy 504 to junction U.S. Hwy 550, then along U.S. Hwy 550 to Farmington, then along New Mexico Hwy 17 to junction U.S. Hwy 84, then along U.S. Hwy 84 to junction New Mexico Hwy 111, then along New Mexico Hwy 111 to Taos, then along U.S. Hwy 64 to the New Mexico-Texas State line; points in Texas on and south of a line beginning at the Texas-New Mexico State line extending along U.S. Hwy 87 to Hartley, then along Texas Hwy 152 to the Texas-Oklahoma State line; points in Oklahoma on and south of a line beginning at the Oklahoma-Texas State line extending along Interstate Hwy 40 to junction U.S. Hwy 59, then along U.S. Hwy 59 to the Oklahoma-Arizona State line; points in Arizona on and south of a line beginning at the Arizona-Oklahoma State line extending along Arizona Hwy 18 to Shirley, then along Arizona Hwy 9 to Brockwell, then along Arizona Hwy 56 to Ash Flat, then along U.S. Hwy 62 to the Arizona-Missouri State line; points in Tennessee on and south of a line beginning at the Missouri-Tennessee State line extending along Tennessee Hwy 20 to junction U.S. Hwy 43, then along U.S. Hwy 43 to Lawrenceburg, then along U.S. Hwy 64 to junction Interstate Hwy 65, then along Interstate Hwy 65 to the Tennessee-Alabama State line; points in Alabama on and south of a line beginning at the Alabama-Tennessee State line extending along Alabama Hwy 53 to Huntsville, then along U.S. Hwy 231 to junction U.S. Hwy 278, then along U.S. Hwy 278 to Gadsden, then along U.S. Hwy 431 to Lafayette, then along Alabama Hwy 50 to the Alabama-Georgia State line; points in Georgia on and south of a line beginning at the Georgia-Alabama State line extending along Georgia Hwy 18 to junction U.S. Hwy 23, then along U.S. Hwy 23 to Macon, then along Interstate Hwy 75 to Cordele, then along U.S. Hwy 240 to junction U.S. Hwy 80, then along U.S. Hwy 80 to Savannah Beach, points in California, Mississippi, and Florida, *on the one hand, and, on the other*, points in California, Idaho, Nevada, Oregon, and Washington. (Gateways Eliminated: Logan, UT and Memphis, TN); and (C) between points in Maine, New Hampshire, Vermont, Massachusetts, Connecticut, Rhode Island, New Jersey, Maryland, District of Columbia, Delaware, Virginia, Kentucky, Tennessee, North Carolina, South Carolina, Georgia, Florida, Alabama,

Mississippi, points in California on and south of a line beginning at the Logansport extending along U.S. Hwy 84 to junction U.S. Hwy 71, then along U.S. Hwy 71 to Shreveport, then along U.S. Hwy 79 to the California-Arizona State line; points in Arizona beginning at the California-Arizona State line extending along U.S. Hwy 79 to junction Arizona Hwy 19, then along Arizona Hwy 19 to junction U.S. Hwy 67, then along U.S. Hwy 67 to junction Arizona Hwy 7, then along Arizona Hwy 7 to Harrison, then along U.S. Hwy 62 to junction U.S. Hwy 63, then along U.S. Hwy 63 to the Arizona-Missouri State line; points in Indiana on and south of a line beginning at the Illinois-Indiana State line extending along Indiana Hwy 64 to junction Indiana Hwy 135, then along Indiana Hwy 135 to junction U.S. Hwy 50, then along U.S. Hwy 50 to the Indiana-Ohio State line; points in Ohio on and south of a line beginning at the Indiana-Ohio State line extending along Ohio Hwy 129 to Hamilton, then along Ohio Hwy 4 to Middletown, then along Ohio Hwy 73 to junction U.S. Hwy 22, then along U.S. Hwy 22 to Washington Court House, then along U.S. Hwy 62 to Columbus, then along U.S. Hwy 40 to Cambridge, then along U.S. Hwy 22 to the Ohio-West Virginia State line; points in West Virginia on the south of U.S. Hwy 22; points in Pennsylvania on and south of a line beginning at the West Virginia-Pennsylvania State line extending along U.S. Hwy 22 to junction U.S. Hwy 219, then along U.S. Hwy 219 to junction Interstate Hwy 80, then along Interstate Hwy 80 to junction U.S. Hwy 220, then along U.S. Hwy 220 to the Pennsylvania-New York State line; points in New York on and east of a line beginning at the Pennsylvania-New York State line extending along New York Hwy 13 to Chittenango, then along New York Hwy 5 to junction New York Hwy 10, then along New York Hwy 10 to junction New York Hwy 8, then along New York Hwy 8, to junction New York Hwy 30, then along New York Hwy 30 to Tupper Lake, then along New York Hwy 3 to junction New York Hwy 38, then along New York Hwy 38 to the United States-Canada International Boundary line, on the one hand, and, on the other, points in California on and north of a line beginning at Santa Barbara extending along U.S. Hwy 101 to Ventura, then along California Hwy 33 to junction California Hwy 119, then along California Hwy 119 to junction California 99, then along California 99 to junction California Hwy 63, then along California Hwy 63 to junction California Hwy 180, then along California Hwy 180 to junction U.S. Hwy 395, then along

U.S. Hwy 395 to Olancha, then along California Hwy 190 to Amargosa, then along California Hwy 127 to the California-Nevada State line; points in Nevada on and north of a line extending along Nevada Hwy 29 to junction U.S. Hwy 95 to Las Vegas, then along U.S. Hwy 95 to Las Vegas, then along U.S. Hwy 91 to the Nevada-Arizona State line; points in Utah on and north of a line beginning at the Arizona-Utah State line extending along U.S. Hwy 91 to junction Utah Hwy 15, then along Utah Hwy 15 to junction U.S. Hwy 89, then along U.S. Hwy 89 to junction Interstate Hwy 70, then along Interstate Hwy 70 to junction U.S. Hwy 6-50, then along U.S. Hwy 6-50 to junction Utah Hwy 53, then along Utah Hwy 40 to Vernal, then along Utah Hwy 44 to the Utah-Wyoming State line; points in Montana on and west of a line beginning at the Wyoming-Montana State line extending along U.S. Hwy 212 to junction U.S. Hwy 10, then along U.S. Hwy 10 to junction Hwy 191, then along U.S. Hwy 191 to Lewistown, then along Montana Hwy 236 to junction U.S. Hwy 87, then along U.S. Hwy 87 to Havre, then along Montana Hwy 233 to the United States-Canada International Boundary line; and points in Idaho, Oregon, and Washington. (Gateways eliminated: Logan, UT, and Memphis, TN.)

MC 107012 (Sub-E684), filed May 13, 1974. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Representatives: David D. Bishop and Gary M. Crist (same as above). *Commercial and Institutional Fixtures and Store and Office Equipment, Crated*, (1) From points in DC, to points in AZ, AR, CA, CO, ID, NV, NM, OK, OR, TX, UT, and WA. (2) From points in District of Columbia to points in Clark, Comanche, Edwards, Finney, Ford, Grant, Gray, Hamilton, Haskell, Hodgeman, Kearny, Kiowa, Meade, Morton, Pawnee, Seward, Stanton, Stevens, Cheyenne, Decatur, Ellis, Graham, Greeley, Gove, Lane, Logan, Ness, Norton, Phillips, Rawlins, Rooks, Rush, Scott, Sheridan, Sherman, Thomas, Trego, Wallace, Wichita, Allen, Anderson, Bourbon, Butler, Chautauqua, Cherokee, Coffey, Cowley, Crawford, Elk, Greenwood, Labette, Linn, Lyon, Montgomery, Neosho, Wilson, Woodson, Barber, Barton, Chase, Clay, Cloud, Dickinson, Ellsworth, Geary, Harper, Harvey, Jewell, Kingman, Lincoln, Marion, McPherson, Mitchell, Morris, Osborne, Ottawa, Pratt, Reno, Republic, Rice, Riley, Russell, Saline, Sedgwick, Smith, Stafford, Sumner and Washington Counties, KS; Avoyelles, Catahoula, Concordia, Evangeline, Grant, LaSalle,

Rapids, Saint Landry, Vernon, Acadia, Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis, Lafayette, Vermilion, Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll, Winn, Bienville, Bossier, Caddo, Claiborne, DeSoto, Natchitoches, Reo River, Sabine and Webster Parishes, LA; Bolivar, Carroll, Coahoma, Grenada, Holmes, Humphreys, Issaquena, Leflore, Montgomery, Quitman, Sharkey, Sunflower, Tallahatchie, Warren, Washington and Yazoo Counties, MS; Barry, Barton, Camden, Cedar, Christian, Dade, Dallas, Douglas, Greene, Hickory, Howell, Jasper, Laclede, Lawrence, McDonald, Newton, Ozark, Polk, Stone, Taney, Texas, Vernon and Webster Counties, MO; Chester, Crockett, Dyer, Fayette, Gibson, Hardeman, Haywood, Lake, Lauderdale, McNairy, Madison, Obion, Shelby and Tipton Counties, TN; Park, Teton Yellowstone National Park, Lincoln, Sublette, Sweetwater and Uinta Counties, WY. (Gateway eliminated: Greene County, AR.)

MC 107012 (Sub-E685), filed May 13, 1974. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Representatives: David D. Bishop and Gary M. Crist (same as above). *Commercial and Institutional Fixtures and Store and Office Equipment, Crated*, (1) From points in DC, to points in AZ, AR, CA, CO, ID, NV, NM, OK, OR, TX, UT, and WA; (2) From points in District of Columbia to points in Clark, Comanche, Edwards, Finney, Ford, Grant, Gray, Hamilton, Haskell, Hodgeman, Kearny, Kiowa, Meade, Morton, Pawnee, Seward, Stanton, Stevens, Cheyenne, Decatur, Ellis, Graham, Greeley, Gove, Lane, Logan, Ness, Norton, Phillips, Rawlins, Rooks, Rush, Scott, Sheridan, Sherman, Thomas, Trego, Wallace, Wichita, Allen, Anderson, Bourbon, Butler, Chautauqua, Cherokee, Coffey, Cowley, Crawford, Elk, Greenwood, Labette, Linn, Lyon, Montgomery, Neosho, Wilson, Woodson, Barber, Barton, Chase, Clay, Cloud, Dickinson, Ellsworth, Geary, Harper, Harvey, Jewell, Kingman, Lincoln, Marion, McPherson, Mitchell, Morris, Osborne, Ottawa, Pratt, Reno, Republic, Rice, Riley, Russell, Saline, Sedgwick, Smith, Stafford, Sumner and Washington Counties, KS; Avoyelles, Catahoula, Concordia, Evangeline, Grant, LaSalle, Rapids, Saint Landry, Vernon, Acadia, Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis, Lafayette, Vermilion, Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union,

West Carroll, Winn, Bienville, Bossier, Caddo, Claiborne, DeSoto, Natchitoches, Reo River, Sabine and Webster Parishes, LA; Bolivar, Carroll, Coahoma, Grenada, Holmes, Humphreys, Issaquena, Leflore, Montgomery, Quitman, Sharkey, Sunflower, Tallahatchie, Warren, Washington and Yazoo Counties, MS; Barry, Barton, Camden, Cedar, Christian, Dade, Dallas, Douglas, Greene, Hickory, Howell, Jasper, Laclede, Lawrence, McDonald, Newton, Ozark, Polk, Stone, Taney, Texas, Vernon and Webster Counties, MO; Chester, Crockett, Dyer, Fayette, Gibson, Hardman, Haywood, Lake, Lauderdale, McNairy, Madison, Obion, Shelby and Tipton Counties, TN; Park, Teton Yellowstone National Park, Lincoln, Sublette, Sweetwater and Uinta Counties, WY. (Gateway eliminated: Greene County, AR.)

MC 107012 (Sub-E686), filed May 13, 1974. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Representatives: David D. Bishop and Gary M. Crist (same address as above). *Commercial and Institutional Fixtures and Store and Office Equipment, Crated*, (1) From points in CA, to points in AL, CT, DE, DC, FL, GA, KY, ME, MD, MA, NH, NJ, NY, NC, PA, RI, SC, TN, VT, VA and WV; (2) From points in Butte, Lassen, Modoc, Nevada, Plumas, Shasta, Sierra, Siskiyou and Yuba Counties, CA, to points in Ashley, Bradley, Calhoun, Chicot, Cleveland, Columbia, Dallas, Desha, Drew, Lincoln, Quachita, Union, Arkansas, Cleburne, Conway, Faulkner, Garland, Grant, Hot Springs, Jefferson, Lee, Lonoke, Monroe, Perry, Phillips, Prairie, Pulaski, Saline and White Counties, AR; Bond, Calhoun, Christian, Clinton, Effingham, Fayette, Greene, Jersey, Macoupin, Madison, Monroe, Montgomery, Morgan, Pike, Saint Clair, Sangamon, Scott, Shelby, Alexander, Clay, Edwards, Franklin, Gallatin, Hamilton, Hardin, Jackson, Jefferson, Johnson, Marion, Massac, Perry, Pope, Pulaski, Randolph, Saline, Union, Washington, Wayne, White, Williamson, Champaign, Clark, Coles, Crawford, Cumberland, DeWitt, Douglas, Edgar, Ford, Grundy, Iriquois, Jasper, Kankakee, Lawrence, Livingston, Macon, McLean, Moultrie, Piatt, Richland, Vermillion and Wabash Counties, IL; Crawford, Clay, Daviess, Dubois, Gibson, Greene, Knox, Lawrence, Martin, Monroe, Orange, Owen, Parke, Perry, Pike, Posey, Putnam, Spender, Sullivan, Vangerburgh, Vermillion, Vigo, Warrick, Boone, Clinton, Hamilton, Hancock, Hendricks, Johnson, Madison, Marion, Morgan, Shelby and Tipton Counties, IN;

Avoyelles, Catahoula, Concordia, Evangeline, Grant, LaSalle, Rapids, Saint Landry, Vernon, Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll, Winn, Ascension, Assumption, East Baton Rouge, East Feliciana, Iberia, Iberville, Jefferson, Lafourche, Livingston, Orleans, Plaquemines, Pointe Coupee, Saint Bernard, Saint Charles, Saint Helena, Saint James, Saint John the Baptist, Saint Martin, Saint Mary, Saint Tammany, Tangipahoa, Terrebonne, Washington, West Baton Rouge and West Feliciana Parishes, LA; points in MS; Bollinger, Butler, Cape Girardeau, Carter, Dunklin, Iron, Madison, Mississippi, New Madrid, Oregon, Pemiscot, Perry, Reynolds, Ripley, St. Francois, Ste. Genevieve, Scott, Shannon, Stoddard and Wayne Counties, MO; Adams, Brown, Butler, Champaign, Clark, Clermont, Clinton, Darke, Greene, Hamilton, Highland, Miami, Montgomery, Preble, Shelby, Warren, Ashland, Ashtabula, Carroll, Columbiana, Cuyahoga, Erie, Geauga, Harrison, Holmes, Huron, Jefferson, Lake, Lorain, Mahoning, Medina, Portage, Stark, Summit, Trumbull, Tuscarawas, Wayne, Coshocton, Crawford, Delaware, Fairfield, Fayette, Franklin, Knox, Licking, Logan, Madison, Marion, Morrow, Pickaway, Richland, Union, Athens, Belmont, Gallia, Guernsey, Hocking, Jackson, Lawrence, Meigs, Monroe, Morgan, Muckingum, Noble, Perry, Pike, Ross, Scioto, Vinton and Washington Counties, OH; (3) From points in Inyo, Fresno, Kings and Tulare Counties, CA, to points in Arkansas, Cleburne, Conway, Faulkner, Garland, Grant, Hot Springs, Jefferson, Lee, Lonoke, Monroe, Perry, Phillips, Prairie, Pulaski, Saline and White Counties, AR; Bond, Calhoun, Christian, Clinton, Effingham, Fayette, Greene, Jersey, Macoupin, Madison, Monroe, Montgomery, Morgan, Pike, Saint Clair, Sangamon, Scott, Shelby, Alexander, Clay, Edwards, Franklin, Gallatin, Hamilton, Hardin, Jackson, Jefferson, Johnson, Marion, Massac, Perry, Pope, Pulaski, Randolph, Saline, Union, Washington, Wayne, White, Williamson, Champaign, Clark, Coles, Crawford, Cumberland, DeWitt, Douglas, Edgar, Ford, Grundy, Iriquois, Jasper, Kankakee, Lawrence, Livingston, Macon, McLean, Moultrie, Piatt, Richland, Vermillion and Wabash Counties, IL; Crawford, Clay, Daviess, Dubois, Gibson, Greene, Knox, Lawrence, Martin, Monroe, Orange, Owen, Parke, Perry, Pike, Posey, Putnam, Spender, Sullivan, Vangerburgh, Vermillion, Vigo, Warrick,

Adams, Allen, Blackford, DeKalb, Delaware, Elkhart, Grant, Huntington, Jay, Kosciusko, Lagrange, Noble, Randolph, Steuben, Wabash, Wells, Whitley, Boone, Clinton, Hamilton, Hancock, Hendricks, Johnson, Madison, Marion, Morgan, Shelby and Tipton Counties, IN; Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll, Winn, Ascension, Assumption, East Baton Rouge, East Feliciana, Iberia, Iberville, Jefferson, Lafourche, Livingston, Orleans, Plaquemines, Pointe Coupee, Saint Bernard, Saint Charles, Saint Helena, Saint James, Saint John the Baptist, Saint Martin, Saint Mary, Saint Tammany, Tangipahoa, Terrebonne, Washington, West Baton Rouge and West Feliciana Parishes, LA; Bay, Clinton, Genesee, Gratiot, Hillsdale, Huron, Ingham, Jackson, Lapeer, Lenawee, Livingston, Macomb, Midland, Monroe, Oakland, Saginaw, Saint Clair, Sanilac, Shiawassee, Tuscola, Washtenaw and Wayne Counties, MI; points in MS; Bollinger, Butler, Cape Girardeau, Carter, Dunklin, Iron, Madison, Mississippi, New Madrid, Oregon, Pemiscot, Perry, Reynolds, Ripley, St. Francois, Ste. Genevieve, Scott, Shannon, Stoddard and Wayne Counties, MO; points in OH; (4) From points in Glenn, Humboldt, Lake, Mendicino, Tehama and Trinity Counties, CA, to points in AR; Bond, Calhoun, Christian, Clinton, Effingham, Fayette, Greene, Jersey, Macoupin, Madison, Monroe, Montgomery, Morgan, Pike, Saint Clair, Sangamon, Scott, Shelby, Alexander, Clay, Edwards, Franklin, Gallatin, Hamilton, Hardin, Jackson, Jefferson, Johnson, Marion, Massac, Perry, Pope, Pulaski, Randolph, Saline, Union, Washington, Wayne, White, Williamson, Champaign, Clark, Coles, Crawford, Cumberland, DeWitt, Douglas, Edgar, Ford, Grundy, Iriquois, Jasper, Kankakee, Lawrence, Livingston, Macon, McLean, Moultrie, Piatt, Richland, Vermillion and Wabash Counties, IL; Crawford, Clay, Daviess, Dubois, Gibson, Greene, Knox, Lawrence, Martin, Monroe, Orange, Owen, Parke, Perry, Pike, Posey, Putnam, Spender, Sullivan, Vangerburgh, Vermillion, Vigo, Warrick, Adams, Allen, Blackford, DeKalb, Delaware, Elkhart, Grant, Huntington, Jay, Kosciusko, Lagrange, Noble, Randolph, Steuben, Wabash, Wells, Whitley, Boone, Clinton, Hamilton, Hancock, Hendricks, Johnson, Madison, Marion, Morgan, Shelby and Tipton Counties, IN; points in LA; Bay, Clinton, Genesee, Gratiot, Hillsdale, Huron, Ingham, Jackson, Lapeer, Lenawee,

Livingston, Macomb, Midland, Monroe, Oakland, Saginaw, Saint Clair, Sanilac, Shiawassee, Tuscola, Washtenaw and Wayne Counties, MI; points in MS; Bollinger, Butler, Cape Girardeau, Carter, Dunklin, Iron, Madison, Mississippi, New Madrid, Oregon, Pemiscot, Perry, Reynolds, Ripley, St. Francois, Ste. Genevieve, Scott, Shannon, Stoddard, Wayne, Boone, Callaway, Cole, Crawford, Dent, Franklin, Gasconade, Jefferson, Lincoln, Maries, Miller, Moniteau, Montgomery, Osage, Phelps, Pulaski, Saint Charles, Saint Louis, St. Louis City, Warren and Washington Counties, MO; points in OH; Anderson, Angelina, Bowie, Camp, Cass, Cherokee, Collin, Dallas, Delta, Ellis, Fannin, Franklin, Freestone, Grayson, Gregg, Harrison, Henderson, Hopkins, Hunt, Kaufman, Lamar, Marion, Morris, Nacogdoches, Navarro, Panola, Rains, Red River, Rockwall, Rusk, Sabine, San Augustine, Shelby, Smith, Titus, Upshur, Van Zandt and Wood Counties, TX; (5) From points in Kern, Los Angeles, Orange, San Luis Obispo, Santa Barbara and Ventura Counties, CA, to points in Arkansas, Cleburne, Conway, Faulkner, Garland, Grant, Hot Springs, Jefferson, Lee, Lonoke, Monroe, Perry, Phillips, Prairie, Pulaski, Saline and White Counties, AR; points in IL; points in IN; points in MI; points in MS; Bollinger, Butler, Cape Girardeau, Carter, Dunklin, Iron, Madison, Mississippi, New Madrid, Oregon, Pemiscot, Perry, Reynolds, Ripley, St. Francois, Ste. Genevieve, Scott, Shannon, Stoddard and Wayne Counties, MO; points in OH; Columbia, Dane, Dodge, Green, Jefferson, Kenosha, Milwaukee, Ozaukee, Racine, Rock, Walworth, Washington, Waukesha, Door, Florence, Forest, Kewaunee, Langlade, Lincoln, Marinette, Menominee, Oconto, Oneida, Buffalo, Crawford, Grant, Iowa, Jackson, Juneau, LaCrosse, Lafayette, Monroe, Richland, Saulke, Trempealeau, Vernon, Adams, Brown, Calumet, Clark, Fond Du Lac, Green Lake, Manitowoc, Marathon, Marquette, Outagamie, Portage, Shawano, Sheboygan, Waupaca, Waushara, Winnebago and Wood Counties, WI; (6) From points in San Bernardino County, CA, to points in Arkansas, Cleburne, Conway, Faulkner, Garland, Grant, Hot Springs, Jefferson, Lee, Lonoke, Monroe, Perry, Phillips, Prairie, Pulaski, Saline and White Counties, AR; points in IL; points in IN; points in MI; points in MS; Bollinger, Butler, Cape Girardeau, Carter, Dunklin, Iron, Madison, Mississippi, New Madrid, Oregon, Pemiscot, Perry, Reynolds, Ripley, St. Francois, Ste. Genevieve, Scott, Shannon, Stoddard and Wayne Counties, MO; points in OH; Columbia, Dane, Dodge, Green, Jefferson, Kenosha, Milwaukee, Ozaukee, Racine, Rock, Walworth, Washington, Waukesha, Door, Florence, Forest, Kewaunee, Langlade, Lincoln, Marinette, Menominee, Oconto, Oneida, Buffalo, Crawford, Grant, Iowa, Jackson, Juneau, LaCrosse, Lafayette, Monroe, Richland, Saulke, Trempealeau, Vernon, Adams, Brown, Calumet, Clark, Fond Du Lac, Green Lake, Manitowoc, Marathon, Marquette, Outagamie, Portage, Shawano, Sheboygan, Waupaca, Waushara, Winnebago and Wood Counties, WI; (7) From points in Imperial, Riverside and San Diego Counties, CA, to points in Arkansas, Cleburne, Conway, Faulkner, Garland, Grant, Hot Springs, Jefferson, Lee, Lonoke, Monroe, Perry, Phillips, Prairie, Pulaski, Saline and White Counties, AR; points in IL; points in IN; Benton, Cedar, Clinton, Davis, Des Moines, Dubuque, Henry, Iowa, Jackson, Jefferson, Johnson, Jones, Keokuk, Lee, Linn, Louisa, Muscatine, Scott, Van Buren, Wapello and Washington Counties, IA; Bay, Clinton, Genesee, Gratiot, Hillsdale, Huron, Ingham, Jackson, Lapeer, Lenawee, Livingston, Macomb, Midland, Monroe, Oakland, Saginaw, Saint Clair, Sanilac, Shiawassee, Tuscola, Washtenaw, Wayne, Alcona, Alpena, Antrim, Arenac, Benzie, Charlevoix, Cheboygan, Clare, Crawford, Emmet, Gladwin, Grand Traurse, Iosco, Isabella, Kalkaska, Lake, Leelanau, Manistee, Mason, Mecosta, Missaukee, Montmorency, Newaygo, Oceana, Ogemaw, Osceola, Oscoda, Otsego, Presque Isle, Roscommon, Wexford, Alger, Delta, Dickinson, Marquette, Menominee, Schoolcraft, Allegan, Barry, Berrien, Branch, Calhoun, Cass, Eaton, Ionia, Kalamazoo, Kent, Montcalm, Muskegon, Ottawa, Saint Joseph, Van Buren, Chippewa, Luce and Mackinac Counties, MI; points in MS; Bollinger, Butler, Cape Girardeau, Carter, Dunklin, Iron, Madison, Mississippi, New Madrid, Oregon, Pemiscot, Perry, Reynolds, Ripley, St. Francois, Ste. Genevieve, Scott, Shannon, Stoddard, Wayne, Adair, Audrain, Clarke, Knox, Lewis, Linn, Macon, Marion, Monroe, Pike, Putnam,

Ralls, Randolph, Schuyler, Scotland, Shelby, Sullivan, Boone, Callaway, Cole, Crawford, Dent, Franklin, Gasconade, Jefferson, Lincoln, Maries, Miller, Moniteau, Montgomery, Osage, Phelps, Pulaski, Saint Charles, Saint Louis, St. Louis City, Warren and Washington Counties, MO; points in OH; Columbia, Dane, Dodge, Green, Jefferson, Kenosha, Milwaukee, Ozaukee, Racine, Rock, Walworth, Washington, Waukesha, Door, Florence, Forest, Kewaunee, Langlade, Lincoln, Marinette, Menominee, Oconto, Oneida, Buffalo, Crawford, Grant, Iowa, Jackson, Juneau, LaCrosse, Lafayette, Monroe, Richland, Saulke, Trempealeau, Vernon, Adams, Brown, Calumet, Clark, Fond Du Lac, Green Lake, Manitowoc, Marathon, Marquette, Outagamie, Portage, Shawano, Sheboygan, Waupaca, Waushara, Winnebago and Wood Counties, WI; (6) From points in San Bernardino County, CA, to points in Arkansas, Cleburne, Conway, Faulkner, Garland, Grant, Hot Springs, Jefferson, Lee, Lonoke, Monroe, Perry, Phillips, Prairie, Pulaski, Saline and White Counties, AR; points in IL; points in IN; points in MI; points in MS; Bollinger, Butler, Cape Girardeau, Carter, Dunklin, Iron, Madison, Mississippi, New Madrid, Oregon, Pemiscot, Perry, Reynolds, Ripley, St. Francois, Ste. Genevieve, Scott, Shannon, Stoddard and Wayne Counties, MO; points in OH; Columbia, Dane, Dodge, Green, Jefferson, Kenosha, Milwaukee, Ozaukee, Racine, Rock, Walworth, Washington, Waukesha, Door, Florence, Forest, Kewaunee, Langlade, Lincoln, Marinette, Menominee, Oconto, Oneida, Buffalo, Crawford, Grant, Iowa, Jackson, Juneau, LaCrosse, Lafayette, Monroe, Richland, Saulke, Trempealeau, Vernon, Adams, Brown, Calumet, Clark, Fond Du Lac, Green Lake, Manitowoc, Marathon, Marquette, Outagamie, Portage, Shawano, Sheboygan, Waupaca, Waushara, Winnebago and Wood Counties, WI; (7) From points in Imperial, Riverside and San Diego Counties, CA, to points in Arkansas, Cleburne, Conway, Faulkner, Garland, Grant, Hot Springs, Jefferson, Lee, Lonoke, Monroe, Perry, Phillips, Prairie, Pulaski, Saline and White Counties, AR; points in IL; points in IN; Benton, Cedar, Clinton, Davis, Des Moines, Dubuque, Henry, Iowa, Jackson, Jefferson, Johnson, Jones, Keokuk, Lee, Linn, Louisa, Muscatine, Scott, Van Buren, Wapello and Washington Counties, IA; points in MI; Bolivar, Carroll, Coahoma, Grenada, Holmes, Humphreys, Issaquena, Leflore, Montgomery, Quitman, Sharkey, Sunflower, Tallahatchie, Warren, Washington,

Yazoo, Covington, Forrest, George, Greene, Hancock, Harrison, Jackson, Jones, Lamar, Pearl River, Perry, Stone, Wayne, Attala, Clairborne, Clarke, Copiah, Hinds, Jasper, Kemper, Lauderdale, Leake, Madison, Neshoba, Newton, Noxubee, Rankin, Scott, Simpson, Smith, Winston, Alcorn, Benton, Calhoun, Chickasaw, Choctaw, Clay, Desoto, Itawamba, Lafayette, Lee, Lowndes, Marshall, Monroe, Oktibbeha, Panola, Pontotoc, Prentiss, Tate, Tippah, Tishomingo, Tunica, Union, Webster and Yalobusha Counties, MS; Bollinger, Butler, Cape Girardeau, Carter, Dunklin, Iron, Madison, Mississippi, New Madrid, Oregon, Pemiscot, Perry, Reynolds, Ripley, St. Francois, Ste. Genevieve, Scott, Shannon, Stoddard, Wayne, Adair, Audrain, Clarke, Knox, Lewis, Linn, Macon, Marion, Monroe, Pike, Putnam, Ralls, Randolph, Schuyler, Scotland, Shelby, Sullivan, Boone, Callaway, Cole, Crawford, Dent, Franklin, Gasconade, Jefferson, Lincoln, Maries, Miller, Moniteau, Montgomery, Osage, Phelps, Pulaski, Saint Charles, Saint Louis, St. Louis City, Warren and Washington Counties, MO; points in OH; Columbia, Dane, Dodge, Green, Jefferson, Kenosha, Milwaukee, Ozaukee, Racine, Rock, Walworth, Washington, Waukesha, Door, Florence, Forest, Kewaunee, Langlade, Lincoln, Marinette, Menominee, Oconto, Oneida, Buffalo, Crawford, Grant, Iowa, Jackson, Juneau, LaCrosse, Lafayette, Monroe, Richland, Saulke, Trempealeau, Vernon, Adams, Brown, Calumet, Clark, Fond Du Lac, Green Lake, Manitowoc, Marathon, Marquette, Outagamie, Portage, Shawano, Sheboygan, Waupaca, Waushara, Winnebago and Wood Counties, WI; (8) From points in Alameda, Alpine, Amador, Calaveras, Colusa, Contra Costa, Eldorado, Madera, Marin, Mariposa, Merced, Mono, Monterey, Napa, Placer, San Benito, Sacramento, San Francisco, San Joaquin, San Mateo, Santa Clara, Santa Cruz, Solano, Sonoma, Stanislaus, Sutter, Tuolumne and Yolo Counties, CA, to points in Ashley, Bradley, Calhoun, Chicot, Cleveland, Columbia, Dallas, Desha, Drew, Lincoln, Quachita, Union, Arkansas, Cleburne, Conway, Faulkner, Garland, Grant, Hot Springs, Jefferson, Lee, Lonoke, Monroe, Perry, Phillips, Prairie, Pulaski, Saline and White Counties, AR; Bond, Calhoun, Christian, Clinton, Effingham, Fayette, Greene, Jersey, Macoupin, Madison, Monroe, Montgomery, Morgan, Pike, Saint Clair, Sangamon, Scott, Shelby, Alexander, Clay, Edwards, Franklin, Gallatin, Hamilton, Hardin, Jackson, Jefferson, Johnson, Marion, Massac, Perry, Pope, Pulaski, Randolph, Saline,

Union, Washington, Wayne, White, Williamson, Champaign, Clark, Coles, Crawford, Cumberland, DeWitt, Douglas, Edgar, Ford, Grundy, Iriquois, Jasper, Kankakee, Lawrence, Livingston, Macon, McLean, Moultrie, Piatt, Richland, Vermilion and Wabash Counties, IL; points in IN; Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll, Winn, Ascension, Assumption, East Baton Rouge, East Feliciana, Iberia, Iberville, Jefferson, Lafourche, Livingston, Orleans, Plaquemines, Pointe Coupee, Saint Bernard, Saint Charles, Saint Helena, Saint James, Saint John the Baptist, Saint Martin, Saint Mary, Saint Tammany, Tangipahoa, Terrebonne, Washington, West Baton Rouge and West Feliciana Parishes, LA; Bay, Clinton, Genesee, Gratiot, Hillsdale, Huron, Ingham, Jackson, Lapeer, Lenawee, Livingston, Macomb, Midland, Monroe, Oakland, Saginaw, Saint Clair, Sanilac, Shiawassee, Tuscola, Washtenaw, Wayne, Allegan, Barry, Berrien, Branch, Calhoun, Cass, Eaton, Ionia, Kalamazoo, Kent, Montcalm, Muskegon, Ottawa, Saint Joseph and Van Buren Counties, MI; points in MS; Bollinger, Butler, Cape Girardeau, Carter, Dunklin, Iron, Madison, Mississippi, New Madrid, Oregon, Pemiscot, Perry, Reynolds, Ripley, St. Francois, Ste. Genevieve, Scott, Shannon, Stoddard, Wayne, Boone, Callaway, Cole, Crawford, Dent, Franklin, Gasconade, Jefferson, Lincoln, Maries, Miller, Moniteau, Montgomery, Osage, Phelps, Pulaski, Saint Charles, Saint Louis, St. Louis City, Warren and Washington Counties, MO; points in OH; Gateway eliminated: Greene County, AR.)

MC 107012 (Sub-E687), filed May 13, 1974. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Representatives: David D. Bishop and Gary M. Crist (same as above). *Commercial and Institutional Fixtures and Store and Office Equipment, Uncreated.* (1) From points in CO, to points in AL, FL, GA, MS, NC, RI, SC, and TN. (2) From points in Garfield, Mesa, Moffat, Rio Blanco and Routt Counties, CO, to points in Ashley, Bradley, Calhoun, Chicot, Cleveland, Columbia, Dallas, Desha, Drew, Lincoln, Quachita, Union, Arkansas, Cleburne, Conway, Faulkner, Garland, Grant, Hot Springs, Jefferson, Lee, Lonoke, Monroe, Perry, Phillips, Prairie, Pulaski, Saline and White Counties, AR; points in CT; points in DE; points in DC; Alexander, Clay, Edwards, Franklin, Gallatin, Hamilton, Hardin, Jackson, Jefferson, Johnson, Marion,

Massac, Perry, Pope, Pulaski, Randolph, Saline, Union, Washington, Wayne, White and Williamson Counties, IL; Crawford, Clay, Daviess, Dubois, Gibson, Greene, Knox, Lawrence, Martin, Monroe, Orange, Owen, Parke, Perry, Pike, Posey, Putnam, Spender, Sullivan, Vanderburgh, Vermillion, Vigo and Warrick Counties, IN; points in KY; Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll, Winn, Ascension, Assumption, East Baton Rouge, East Feliciana, Iberia, Iberville, Jefferson, Lafourche, Livingston, Orleans, Plaquemines, Pointe Coupee, Saint Bernard, Saint Charles, Saint Helena, Saint James, Saint John the Baptist, Saint Martin, Saint Mary, Saint Tammany, Tangipahoa, Terrebonne, Washington, West Baton Rouge and West Feliciana Parishes, LA; points in ME; points in MD; points in MA; Bollinger, Butler, Cape Girardeau, Carter, Dunklin, Iron, Madison, Mississippi, New Madrid, Oregon, Pemiscot, Perry, Reynolds, Ripley, St. Francois, Ste. Genevieve, Scott, Shannon, Stoddard and Wayne Counties, MO; points in NH; points in NJ; Albany, Bronx, Columbia, Dutchess, Greene, Kings, Nassau, New York, Orange, Putnam, Queens, Rensselaer, Richmond, Rockland, Sullivan, Ulster, Westchester, Herkimer, Jefferson, Lewis, Oneida, Oswego, St. Lawrence, Clinton, Essex, Franklin, Fulton, Hamilton, Montgomery, Saratoga, Schenectady, Warren, Washington and Suffolk Counties, NY; Athens, Belmont, Gallia, Guernsey, Hocking, Jackson, Lawrence, Meigs, Monroe, Morgan, Muskingum, Noble, Perry, Pike, Ross, Scioto, Vinton and Washington Counties, OH; Adams, Bedford, Blair, Cambria, Centre, Clearfield, Clinton, Cumberland, Dauphin, Franklin, Fulton, Huntingdon, Juniata, Lycoming, Mifflin, Montour, Northumberland, Perry, Snyder, Tioga, Union, Berks, Bucks, Chester, Delaware, Lancaster, Lebanon, Lehigh, Montgomery, Northampton, Philadelphia, Schuylkill, York, Bradford, Carbon, Columbia, Lackawanna, Luzerne, Monroe, Pike, Sullivan, Susquehanna, Wayne, Wyoming, Allegheny, Armstrong, Beaver, Butler, Fayette, Greene, Indiana, Lawrence, Somerset, Washington and Westmoreland Counties, PA; points in VT; points in VA; points in WV. (3) From points in Adams, Arapahoe, Boulder, Cedar Creek, Chaffee, Denver, Douglas, Eagle, Elbert, El Paso, Fremont, Gilpin, Grand, Jackson, Jefferson, Lake, Larimer, Park, Pitkin, Summit and Teller Counties, CO, to points in Ashley,

Bradley, Calhoun, Chicot, Cleveland, Columbia, Dallas, Desha, Drew, Lincoln, Quachita, Union, Arkansas, Cleburne, Conway, Faulkner, Garland, Grant, Hot Springs, Jefferson, Lee, Lonoke, Monroe, Perry, Phillips, Prairie, Pulaski, Saline and White Counties, AR; points in CT; points in DE; points in DC; Alexander, Clay, Edwards, Franklin, Gallatin, Hamilton, Hardin, Jackson, Jefferson, Johnson, Marion, Massac, Perry, Pope, Pulaski, Randolph, Saline, Union, Washington, Wayne, White and Williamson Counties, IL; Crawford, Clay, Daviess, Dubois, Gibson, Greene, Knox, Lawrence, Martin, Monroe, Orange, Owen, Parke, Perry, Pike, Posey, Putnam, Spender, Sullivan, Vanderburgh, Vermillion, Vigo and Warrick Counties, IN; points in KY; Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll, Winn, Ascension, Assumption, East Baton Rouge, East Feliciana, Iberia, Iberville, Jefferson, Lafourche, Livingston, Orleans, Plaquemines, Pointe Coupee, Saint Bernard, Saint Charles, Saint Helena, Saint James, Saint John the Baptist, Saint Martin, Saint Mary, Saint Tammany, Tangipahoa, Terrebonne, Washington, West Baton Rouge and West Feliciana Parishes, LA; points in ME; points in MD; points in MA; Bollinger, Butler, Cape Girardeau, Carter, Dunklin, Iron, Madison, Mississippi, New Madrid, Oregon, Pemiscot, Perry, Reynolds, Ripley, St. Francois, Ste. Genevieve, Scott, Shannon, Stoddard and Wayne Counties, MO; points in NH; points in NJ; Albany, Bronx, Columbia, Dutchess, Greene, Kings, Nassau, New York, Orange, Putnam, Queens, Rensselaer, Richmond, Rockland, Sullivan, Ulster, Westchester, Herkimer, Jefferson, Lewis, Oneida, Oswego, St. Lawrence, Clinton, Essex, Franklin, Fulton, Hamilton, Montgomery, Saratoga, Schenectady, Warren, Washington and Suffolk Counties, NY; Athens, Belmont, Gallia, Guernsey, Hocking, Jackson, Lawrence, Meigs, Monroe, Morgan, Muskingum, Noble, Perry, Pike, Ross, Scioto, Vinton and Washington Counties, OH; Adams, Bedford, Blair, Cambria, Centre, Clearfield, Clinton, Cumberland, Dauphin, Franklin, Fulton, Huntingdon, Juniata, Lycoming, Mifflin, Montour, Northumberland, Perry, Snyder, Tioga, Union, Bradford, Carbon, Columbia, Lackawanna, Luzerne, Monroe, Pike, Sullivan, Susquehanna, Wayne, Wyoming, Berks, Bucks, Chester, Delaware, Lancaster, Lebanon, Lehigh, Montgomery, Northampton, Philadelphia, Schuylkill and York

Counties, PA; points in VT; points in VA; Greenbrier, McDowell, Mercer, Monroe, Pocahontas, Raleigh, Summers, Wyoming, Braxton, Clay, Fayette, Kanawha, Nicholas, Webster, Barbour, Berkeley, Doddridge, Grant, Hampshire, Hardy, Harrison, Jefferson, Lewis, Marion, Mineral, Monongalia, Morgan, Pendleton, Preston, Randolph, Taylor, Tucker, Tyler, Upshur, Wetzel, Calhoun, Gilmer, Jackson, Mason, Pleasants, Ritchie, Roane, Wirt, Wood, Boone, Cabell, Lincoln, Logan, Mingo, Putnam and Wayne Counties, WV; (4) From points in Alamogosa, Arculeta, Conejos, Delta, Dolores, Gunnison, Hinsdale, La Plata, Mineral, Montezuma, Montrose, Qurray, Rio Grande, Saguache, San Juan and San Miguel Counties, CO, to points in Arkansas, Cleburne, Conway, Faulkner, Garland, Grant, Hot Springs, Jefferson, Lee, Lonoke, Monroe, Perry, Phillips, Prairie, Pulaski, Saline and White Counties, AR; points in CT; points in DE; points in DC; Alexander, Clay, Edwards, Franklin, Gallatin, Hamilton, Hardin, Jackson, Jefferson, Johnson, Marion, Massac, Perry, Pope, Pulaski, Randolph, Saline, Union, Washington, Wayne, White, Williamson, Champaign, Clark, Coles, Crawford, Cumberland, Dewitt, Douglas, Edgar, Ford, Grundy, Iriquois, Jasper, Kankakee, Lawrence, Livingston, Macon, McLean, Moultrie, Piatt, Richland, Vermilion and Wabash, Counties, IL; Crawford, Clay, Daviess, Dubois, Gibson, Greene, Knox, Lawrence, Martin, Monroe, Orange, Owen, Parke, Perry, Pike, Posey, Putnam, Spender, Sullivan, Vanderburgh, Vermillion, Vigo, Warrick, Adams, Allen, Blackford, DeKalb, Delaware, Elkhart, Grant, Huntington, Jay, Kosciusko, Lagrange, Noble, Randolph, Steuben, Wabash, Wells, Whitley, Boone, Clinton, Hamilton, Hancock, Hendricks, Johnson, Madison, Marion, Morgan, Shelby and Tipton Counties, IN; points in KY; Assension, Assumption, East Baton Rouge, East Feliciana, Iberia, Iberville, Jefferson, Lafourche, Livingston, Orleans, Plaquemines, Pointe Coupee, Saint Bernard, Saint Charles, Saint Helena, Saint James, Saint John the Baptist, Saint Martin, Saint Mary, Saint Tammany, Tangipahoa, Terrebonne, Washington, West Baton Rouge and West Feliciana Parishes, LA; points in ME; points in MD; points in MA; Bay, Clinton, Genesee, Gratiot, Hillsdale, Huron, Ingham, Jackson, Lapeer, Lenawee, Livingston, Macomb, Midland, Monroe, Oakland, Saginaw, Saint Clair, Sanilac, Shiawassee, Tuscola, Washtenaw and Wayne Counties, MI; Bollinger, Butler, Cape Girardeau, Carter, Dunklin, Iron, Madison, Mississippi, New Madrid, Oregon, Pemiscot, Perry, Reynolds, Ripley, St. Francois, Ste. Genevieve, Scott, Shannon, Stoddard and Wayne Counties, MO; points in NH; points in NJ; points in NY; points in OH; points in PA; points in VT; points in VA; points in WV; (6) From points in Kit Carson, Logan, Morgan, Phillips, Sedgwick, Washington, Weld and Yuma Counties, CO, to points in Ashley, Bradley, Calhoun, Chicot, Cleveland, Columbia,

Gladwin, Grand Traurse, Iosco, Isabella, Kalkaska, Lake, Leelanau, Manistee, Mason, Mecosta, Missaukee, Montmorency, Newaygo, Oceana, Ogemaw, Osceola, Oscoda, Otsego, Presque Isle, Roscommon and Wexford Counties, MI; Bollinger, Butler, Cape Girardeau, Carter, Dunklin, Iron, Madison, Mississippi, New Madrid, Oregon, Pemiscot, Perry, Reynolds, Ripley, St. Francois, Ste. Genevieve, Scott, Shannon, Stoddard and Wayne Counties, MO; Points in NH; points in NJ; points in NY; points in OH; points in PA; points in VT; points in VA; points in WV; (5) From points in Baca, Bent, Cheyenne, Costilla, Crowley, Custer, Huerfano, Kiowa, Las Animas, Lincoln, Otero, Prowers and Pueblo Counties, CO, to points in Arkansas, Cleburne, Conway, Faulkner, Garland, Grant, Hot Springs, Jefferson, Lee, Lonoke, Monroe, Perry, Phillips, Prairie, Pulaski, Saline and White Counties, AR; points in CT; points in DE; points in DC; Alexander, Clay, Edwards, Franklin, Gallatin, Hamilton, Hardin, Jackson, Jefferson, Johnson, Marion, Massac, Perry, Pope, Pulaski, Randolph, Saline, Union, Washington, Wayne, White and Williamson Counties, IL; Crawford, Clay, Daviess, Dubois, Gibson, Greene, Knox, Lawrence, Martin, Monroe, Orange, Owen, Parke, Perry, Pike, Posey, Putnam, Spender, Sullivan, Vanderburgh, Vermillion, Vigo and Warrick Counties, IN; points in KY; Assension, Assumption, East Baton Rouge, East Feliciana, Iberia, Iberville, Jefferson, Lafourche, Livingston, Orleans, Plaquemines, Pointe Coupee, Saint Bernard, Saint Charles, Saint Helena, Saint James, Saint John the Baptist, Saint Martin, Saint Mary, Saint Tammany, Tangipahoa, Terrebonne, Washington, West Baton Rouge and West Feliciana Parishes, LA; points in ME; points in MD; points in MA; Bay, Clinton, Genesee, Gratiot, Hillsdale, Huron, Ingham, Jackson, Lapeer, Lenawee, Livingston, Macomb, Midland, Monroe, Oakland, Saginaw, Saint Clair, Sanilac, Shiawassee, Tuscola, Washtenaw and Wayne Counties, MI; Bollinger, Butler, Cape Girardeau, Carter, Dunklin, Iron, Madison, Mississippi, New Madrid, Oregon, Pemiscot, Perry, Reynolds, Ripley, St. Francois, Ste. Genevieve, Scott, Shannon, Stoddard and Wayne Counties, MO; points in NH; points in NJ; points in NY; points in OH; points in PA; points in VT; points in VA; points in WV; (6) From points in Kit Carson, Logan, Morgan, Phillips, Sedgwick, Washington, Weld and Yuma Counties, CO, to points in Ashley, Bradley, Calhoun, Chicot, Cleveland, Columbia,

Dallas, Desha, Drew, Lincoln, Quachita, Union, Arkansas, Cleburne, Conway, Faulkner, Garland, Grant, Hot Springs, Jefferson, Lee, Lonoke, Monroe, Perry, Phillips, Prairie, Pulaski, Saline and White Counties, AR; New London County, CT; Kent and Sussex Counties, DE; District of Columbia; Alexander, Clay, Edwards, Franklin, Gallatin, Hamilton, Hardin, Jackson, Jefferson, Johnson, Marion, Massac, Perry, Pope, Pulaski, Randolph, Saline, Union, Washington, Wayne, White and Williamson Counties, IL; Allen, Barren, Breckinridge, Bullitt, Butler, Christian, Edmonson, Grayson, Hardin, Hart, Henry, Jefferson, LaRue, Logan, Meade, Muhlenberg, Nelson, Ohio, Oldham, Shelby, Simpson, Spencer, Todd, Trimble, Warren, Adair, Anderson, Boyle, Casey, Clinton, Cumberland, Fayette, Gerrard, Green, Jessamine, Lincoln, Madison, Marion, Mercer, Metcalfe, Monroe, Pulaski, Rockcastle, Russell, Taylor, Washington, Wayne, Woodford, Bell, Breathitt, Clay, Estill, Floyd, Harlan, Jackson, Knott, Knox, Laurel, Lee, Leslie, Letcher, McCreary, Owsley, Perry, Pike, Whitley, Ballard, Caldwell, Calloway, Carlisle, Crittenden, Daviess, Fulton, Graves, Hancock, Henderson, Hickman, Hopkins, Livingston, Lyon, Marshall, McCracken, McLean, Trigg, Union and Webster Counties, KY; Avoyelles, Catahoula, Concordia, Evangeline, Grant, LaSalle, Rapids, Saint Landry, Vernon, Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll, Winn, Ascension, Assumption, East Baton Rouge, East Feliciana, Iberia, Iberville, Jefferson, Lafourche, Livingston, Orleans, Plaquemines, Pointe Coupee, Saint Bernard, Saint Charles, Saint Helena, Saint James, Saint John the Baptist, Saint Martin, Saint Mary, Saint Tammany, Tangipahoa, Terrebonne, Washington, West Baton Rouge and West Feliciana Parishes, LA; Aroostook, Penobscot, Piscataquis, Somerset, Hancock, Knox, Waido and Washington, Counties, ME; Anne Arundel, Calvert, Caroline, Charles, Montgomery, Prince Georges, Queen Annes, St. Marys, Talbot, Dorchester, Somerset, Wicomico and Worcester Counties, MD; Barnstable, Bristol, Dukes and Plymouth Counties, MA; Bollinger, Butler, Cape Girardeau, Carter, Dunklin, Iron, Madison, Mississippi, New Madrid, Oregon, Pemiscot, Perry, Reynolds, Ripley, St. Francois, Ste. Genevieve, Scott, Shannon, Stoddard and Wayne Counties, MO; Suffolk County, NY; Arlington, Caroline, Culpeper, Essex,

Fairfax, Fauquier, King, George, Orange, Prince Williams, Spotsylvania, Stafford and Westmoreland Counties, and the Independent Cities of: Alexander, Fairfax, Falls Church and Fredericksburg; Allegheny, Amherst, Appomattox, Augusta, Bath, Bedford, Bland, Botetourt, Buchanan, Campbell, Carroll, Charlotte, Craig, Dickenson, Floyd, Franklin, Giles, Grayson, Halifax, Henry, Highland, Lee, Montgomery, Nelson, Patrick, Pittsylvania, Pulaski, Roanoke, Rockbridge, Russell, Scott, Smyth, Tazewell, Washington, Wise and Wythe Counties, and the Independent Cities of: Bedford, Bristol, Buena Vista, Clifton Forge, Covington, Danville, Galax, Lexington, Lynchburg, Martinsville, Norton, Radford, Roanoke, Salem, So. Boston and Staunton; Accomack, Gloucester, Greensville, Isle of Wight, Lancaster, Mathews, Middlesex, Nansemond, Northampton, Northumberland, Richmond, Southampton, Surry, Sussex and York Counties, and the Independent Cities of: Chesapeake, Emporia, Franklin, Hampton, Newport News, Norfolk, Portsmouth, Suffolk, Virginia Beach and Williamsburg; Albermarle, Amelia, Brunswick, Buckingham, Charles City, Chesterfield, Cumberland, Dinwiddie, Fluvanna, Goochland, Hanover, Henrico, James City, King and Queen, King Williams, Louisa, Lunenburg, Mecklenburg, New Kent, Nottoway, Powhatan, Prince Edward and Prince George Counties, and the Independent Cities of: Charlottesville, Colonial Heights, Hopewell, Petersburg, Richmond and Waynesboro, VA; Greenbrier, McDowell, Mercer, Monroe, Pocahontas, Raleigh, Summers, Wyoming, Braxton, Clay, Fayette, Kanawha, Nicholas, Webster, Boone, Cabell, Lincoln, Logan, Mingo, Putnam and Wayne Counties, WV. (Gateway Eliminated: Greene County, AR.)

MC 107012 (Sub-E688), filed May 13, 1974. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Representatives: David D. Bishop and Gary M. Crist (same as above). *Commercial and Institutional Fixtures and Store and Office Equipment, Crated*, (1) From points in CO, to points in AL, FL, GA, MS, NC, RI, SC and TN; (2) From points in Garfield, Mesa, Moffat, Rio Blanco and Routt Counties, CO, to points in Ashley, Bradley, Calhoun, Chicot, Cleveland, Columbia, Dallas, Desha, Drew, Lincoln, Quachita, Union, Arkansas, Cleburne, Conway, Faulkner, Garland, Grant, Hot Springs, Jefferson, Lee, Lonoke, Monroe, Perry, Phillips, Prairie, Pulaski, Saline and White Counties, AR; points in CT; points in DE;

points in DC; Alexander, Clay, Edwards, Franklin, Gallatin, Hamilton, Hardin, Jackson, Jefferson, Johnson, Marion, Massac, Perry, Pope, Pulaski, Randolph, Saline, Union, Washington, Wayne, White and Williamson Counties, IL; Crawford, Clay, Daviess, Dubois, Gibson, Greene, Knox, Lawrence, Martin, Monroe, Orange, Owen, Parke, Perry, Pike, Posey, Putnam, Spender, Sullivan, Vanderburgh, Vermillion, Vigo and Warrick Counties, IN; points in KY: Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll, Winn, Ascension, Assumption, East Baton Rouge, East Feliciana, Iberia, Iberville, Jefferson, Lafourche, Livingston, Orleans, Plaquemines, Pointe Coupee, Saint Bernard, Saint Charles, Saint Helena, Saint James, Saint John the Baptist, Saint Martin, Saint Mary, Saint Tammany, Tangipahoa, Terrebonne, Washington, West Baton Rouge and West Feliciana Parishes, LA; points in ME; points in MD; points in MA: Bollinger, Butler, Cape Girardeau, Carter, Dunklin, Iron, Madison, Mississippi, New Madrid, Oregon, Pemiscot, Perry, Reynolds, Ripley, St. Francois, Ste. Genevieve, Scott, Shannon, Stoddard and Wayne Counties, MO; points in NH; points in NJ; Albany, Bronx, Columbia, Dutchess, Greene, Kings, Nassau, New York, Orange, Putnam, Queens, Rensselaer, Richmond, Sullivan, Ulster, Westchester, Herkimer, Jefferson, Lewis, Oneida, Oswego, St. Lawrence, Clinton, Essex, Franklin, Fulton, Hamilton, Montgomery, Saratoga, Schenectady, Warren, Washington and Suffolk Counties, NY; Athens, Belmont, Callia, Guernsey, Hocking, Jackson, Lawrence, Meigs, Monroe, Morgan, Muskingum, Noble, Perry, Pike, Ross, Scioto, Vinton and Washington Counties, OH; Adams, Bedford, Blair, Cambria, Centre, Clearfield, Clinton, Cumberland, Dauphin, Franklin, Fulton, Huntingdon, Juniata, Lycoming, Mifflin, Montour, Northumberland, Perry, Snyder, Tioga, Union, Berks, Bucks, Chester, Delaware, Lancaster, Lebanon, Lehigh, Montgomery, Northampton, Philadelphia, Schuylkill, York, Bradford, Carbon, Columbia, Lackawanna, Luzerne, Monroe, Pike, Sullivan, Susquehanna, Wayne, Wyoming, Somerset, Washington and Westmoreland Counties, PA; points in VT; points in VA; points in WV; (3) From points in Adams, Arapahoe, Boulder, Cedar Creek, Chaffee, Denver, Douglas, Eagle, Elbert, El Paso, Fremont,

Gilpin, Grand, Jackson, Jefferson, Lake, Larimer, Park, Pitkin, Summit and Teller Counties, CO, to points in Ashley, Bradley, Calhoun, Chicot, Cleveland, Columbia, Dallas, Desha, Drew, Lincoln, Quachita, Union, Arkansas, Cleburne, Conway, Faulkner, Garland, Grant, Hot Springs, Jefferson, Lee, Lonoke, Monroe, Perry, Phillips, Prairie, Pulaski, Saline and White Counties, AR; points in CT; points in DE; points in DC; Alexander, Clay, Edwards, Franklin, Gallatin, Hamilton, Hardin, Jackson, Jefferson, Johnson, Marion, Massac, Perry, Pope, Pulaski, Randolph, Saline, Union, Washington, Wayne, White and Williamson Counties, IL; Crawford, Clay, Daviess, Dubois, Gibson, Greene, Knox, Lawrence, Martin, Monroe, Orange, Owen, Parke, Perry, Pike, Posey, Putnam, Spender, Sullivan, Vanderburgh, Vermillion, Vigo and Warrick Counties, IN; points in KY: Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll, Winn, Ascension, Assumption, East Baton Rouge, East Feliciana, Iberia, Iberville, Jefferson, Lafourche, Livingston, Orleans, Plaquemines, Pointe Coupee, Saint Bernard, Saint Charles, Saint Helena, Saint James, Saint John the Baptist, Saint Martin, Saint Mary, Saint Tammany, Tangipahoa, Terrebonne, Washington, West Baton Rouge and West Feliciana Parishes, LA; points in ME; points in MD; points in MA: Bollinger, Butler, Cape Girardeau, Carter, Dunklin, Iron, Madison, Mississippi, New Madrid, Oregon, Pemiscot, Perry, Reynolds, Ripley, St. Francois, Ste. Genevieve, Scott, Shannon, Stoddard and Wayne Counties, MO; points in NH; points in NJ; Albany, Bronx, Columbia, Dutchess, Greene, Kings, Nassau, New York, Orange, Putnam, Queens, Rensselaer, Richmond, Rockland, Sullivan, Ulster, Westchester, Herkimer, Jefferson, Lewis, Oneida, Oswego, St. Lawrence, Clinton, Essex, Franklin, Fulton, Hamilton, Montgomery, Saratoga, Schenectady, Warren, Washington and Suffolk Counties, NY; Athens, Belmont, Callia, Guernsey, Hocking, Jackson, Lawrence, Meigs, Monroe, Morgan, Muskingum, Noble, Perry, Pike, Ross, Scioto, Vinton and Washington Counties, OH; Adams, Bedford, Blair, Cambria, Centre, Clearfield, Clinton, Cumberland, Dauphin, Franklin, Fulton, Huntingdon, Juniata, Lycoming, Mifflin, Montour, Northumberland, Perry, Snyder, Tioga, Union, Bradford, Carbon, Columbia, Lackawanna, Luzerne, Monroe, Pike, Sullivan, Susquehanna, Wayne, Wyoming, Berks, Bucks, Chester, Delaware, Lancaster, Lebanon, Lehigh,

Montgomery, Northampton, Philadelphia, Schuylkill and York Counties, PA; points in VT; points in VA; Greenbrier, McDowell, Mercer, Monroe, Pocahontas Raleigh, Summers, Wyoming, Braxton, Clay, Fayette, Kanawha, Nicholas, Webster, Barbour, Berkeley, Doddridge, Grant, Hampshire, Hardy, Harrison, Jefferson, Lewis, Marion, Mineral, Monongalia, Morgan, Pendleton, Preston, Randolph, Taylor, Tucker, Tyler, Upshur, Wetzell, Calhoun, Gilmer, Jackson, Mason, Pleasants, Ritchie, Roane, Wirt, Wood, Boone, Cabell, Lincoln, Logan, Mingo, Putnam and Wayne Counties, WV: (4) From points in Alamosa, Archuleta, Conejos, Delta, Dolores, Gunnison, Hinsdale, La Plata, Mineral, Montezuma, Montrose, Quay, Rio Grande, Saguache, San Juan and San Miguel Counties, CO, to points in Arkansas, Cleburne, Conway, Faulker, Garland, Grant, Hot Springs, Jefferson, Lee, Lonoke, Monroe, Perry, Phillips, Prairie, Pulaski, Saline and White Counties, AR; points in CT; points in DE; points in DC; Alexander, Clay, Edwards, Franklin, Gallatin, Hamilton, Hardin, Jackson, Jefferson, Johnson, Marion, Massac, Perry, Pope, Pulaski, Randolph, Saline, Union, Washington, Wayne, White, Williamson, Champaign, Clark, Coles, Crawford, Cumberland, DeWitt, Douglas, Edgar, Ford, Grundy, Iriquois, Jasper, Kankakee, Lawrence, Livingston, Macon, McLean, Moultrie, Piatt, Richland, Vermilion and Wabash Counties, IL; Crawford, Clay, Daviess, Dubois, Gibson, Greene, Knox, Lawrence, Martin, Monroe, Orange, Owen, Parke, Perry, Pike, Posey, Putnam, Spender, Sullivan, Vanderburgh, Vermillion, Vigo, Warrick, Adams, Allen, Blackford, DeKalb, Delaware, Elkhart, Grant, Huntington, Jay, Kosciusko, Lagrange, Noble, Randolph, Steuben, Wabash, Wells, Whitley, Boone, Clinton, Hamilton, Hancock, Hendricks, Johnson, Madison, Marion, Morgan, Shelby and Tipton Counties, IN; points in KY: Ascension, Assumption, East Baton Rouge, East Feliciana, Iberia, Iberville, Jefferson, Lafourche, Livingston, Orleans, Plaquemines, Pointe Coupee, Saint Bernard, Saint Charles, Saint Helena, Saint James, Saint John the Baptist, Saint Martin, Saint Mary, Saint Tammany, Tangipahoa, Terrebonne, Washington, West Baton Rouge and West Feliciana Parishes, LA; points in ME; points in MD; points in MA; Bay, Clinton, Genesee, Gratiot, Hillsdale, Huron, Ingham, Jackson, Lapeer, Lenawee, Livingston, Macomb, Midland, Monroe, Oakland, Saginaw, Saint Clair, Sanilac, Shiawassee, Tuscola, Washtenaw, Wayne, Alcona, Alpena,

Antrim, Arenac, Benzie, Charlevoix, Cheboygan, Clare, Crawford, Emmet, Gladwin, Grand Traurse, Iosco, Isabella, Kalkaska, Lake, Leelanau, Manistee, Mason, Mecosta, Missaukee Montmorency, Newaygo, Oceana, Ogemaw, Osceola, Oscoda, Otsego, Presque Isle, Roscommon and Wexford Counties, MI; Bollinger, Butler, Cape Girardeau, Carter, Dunklin, Iron, Madison, Mississippi, New Madrid, Oregon, Pemiscot, Perry, Reynolds, Ripley, St. Francois, Ste. Genevieve, Scott, Shannon, Stoddard and Wayne Counties, MO; points in NH; points in NJ; points in NY; points in OH; points in PA; points in VT; points in VA; points in WV; (5) From points in Baca, Bent, Cheyenne, Costilla, Crowley, Custer, Huerfano, Kiowa, Las Animas, Lincoln, Otero, Prowers and Pueblo Counties, CO, to points in Arkansas, Cleburne, Conway, Faulker, Garland, Grant, Hot Springs, Jefferson, Lee, Lonoke, Monroe, Perry, Phillips, Prairie, Pulaski, Saline and White Counties, AR; points in CT; points in DE; points in DC; Alexander, Clay, Edwards, Franklin, Gallatin, Hamilton, Hardin, Jackson, Jefferson, Johnson, Marion, Massac, Perry, Pope, Pulaski, Randolph, Saline, Union, Washington, Wayne, White and Williamson Counties, IL; Crawford, Clay, Daviess, Dubois, Gibson, Greene, Knox, Lawrence, Martin, Monroe, Orange, Owen, Parke, Perry, Pike, Posey, Putnam, Spender, Sullivan, Vanderburgh, Vermillion, Vigo and Warrick Counties, IN; points in KY: Ascension, Assumption, East Baton Rouge, East Feliciana, Iberia, Iberville, Jefferson, Lafourche, Livingston, Orleans, Plaquemines, Pointe Coupee, Saint Bernard, Saint Charles, Saint Helena, Saint James, Saint John the Baptist, Saint Martin, Saint Mary, Saint Tammany, Tangipahoa, Terrebonne, Washington, West Baton Rouge and West Feliciana Parishes, LA; points in ME; points in MD; points in MA; Bay, Clinton, Genesee, Gratiot, Hillsdale, Huron, Ingham, Jackson, Lapeer, Lenawee, Livingston, Macomb, Midland, Monroe, Oakland, Saginaw, Saint Clair, Sanilac, Shiawassee, Tuscola, Washtenaw and Wayne Counties, MI; Bollinger, Butler, Cape Girardeau, Carter, Dunklin, Iron, Madison, Mississippi, New Madrid, Oregon, Pemiscot, Perry, Reynolds, Ripley, St. Francois, Ste. Genevieve, Scott, Shannon, Stoddard and Wayne Counties, MO; points in NH; points in NJ; points in NY; points in OH; points in PA; points in VT; points in VA; points in WV. (6) From points in Kit Carson, Logan, Morgan, Phillips, Sedgwick, Washington, Weld and Yuma Counties,

CO, to points in Ashley, Bradley, Calhoun, Chicot, Cleveland, Columbia, Dallas, Desha, Drew, Lincoln, Quachita, Union, Arkansas, Cleburne, Conway, Faulker, Garland, Grant, Hot Springs, Jefferson, Lee, Lonoke, Monroe, Perry, Phillips, Prairie, Pulaski, Saline and White Counties, AR; New London County, CT; Kent and Sussex Counties, DE; District of Columbia; Alexander, Clay, Edwards, Franklin, Gallatin, Hamilton, Hardin, Jackson, Jefferson, Johnson, Marion, Massac, Perry, Pope, Pulaski, Randolph, Saline, Union, Washington, Wayne, White and Williamson Counties, IL; Allen, Barren, Breckinridge, Bullitt, Butler, Christian, Edmonson, Grayson, Hardin, Hart, Henry, Jefferson, LaRue, Logan, Meade, Muhlenberg, Nelson, Ohio, Oldham, Shelby, Simpson, Spencer, Todd, Trimble, Warren, Adair, Anderson, Boyle, Casey, Clinton, Cumberland, Fayette, Gerrard, Green, Jessamine, Lincoln, Madison, Marior, Mercer, Metcalfe, Monroe, Pulaski, Rockcastle, Russell, Taylor, Washington, Wayne, Woodford, Bell, Breathitt, Clay, Estill, Floyd, Harlan, Jackson, Knott, Knox, Laurel, Lee, Leslie, Letcher, McCreary, Owsley, Perry, Pike, Whitley, Ballard, Calwell, Calloway, Carlisle, Crittenden, Daviess, Fulton, Graves, Hancock, Henderson, Hickman, Hopkins, Livingston, Lyon, Marshall, McCracken, McLean, Trigg, Union and Webster Counties, KY; Avoyelles, Catahoula, Concordia, Evangeline, Grant, LaSalle, Rapids, Saint Landry, Vernon, Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll, Winn, Ascension, Assumption, East Baton Rouge, East Feliciana, Iberia, Iberville, Jefferson, Lafourche, Livingston, Orleans, Plaquemines, Pointe Coupee, Saint Bernard, Saint Charles, Saint Helena, Saint James, Saint John the Baptist, Saint Martin, Saint Mary, Saint Tammany, Tangipahoa, Terrebonne, Washington, West Baton Rouge and West Feliciana Parishes, LA; Aroostook, Penobscot, Piscataquis, Somerset, Hancock, Knox, Waldo and Washington Counties, ME; Anne Arundel, Calvert, Caroline, Charles, Montgomery, Prince Georges, Queen Annes, St. Marys, Talbot, Dorchester, Somerset, Wicomico and Worcester Counties, MD; Barnstable, Bristol, Dukes and Plymouth Counties, MA; Bollinger, Butler, Cape Girardeau, Carter, Dunklin, Iron, Madison, Mississippi, New Madrid, Oregon, Pemiscot, Perry, Reynolds, Ripley, St. Francois, Ste. Genevieve, Scott, Shannon, Stoddard and Wayne Counties, MO; Suffolk County, NY; Arlington, Caroline, Culpeper, Essex,

Fairfax, Fauquier, King, George, Orange, Prince William, Spotsylvania, Stafford and Westmoreland Counties, and the Independent Cities of: Alexandria, Fairfax, Falls Church and Fredericksburg; Alleghany, Amherst, Appomattox, Augusta, Bath, Bedford, Bland, Botetourt, Buchanan, Campbell, Carroll, Charlotte, Craig, Dickenson, Floyd Franklin, Giles, Grayson, Halifax, Henry, Highland, Lee, Montgomery, Nelson, Patrick, Pittsylvania, Pulaski, Roanoke, Rockbridge, Russell, Scott, Smyth, Tazewell, Washington, Wise and Wythe Counties, and the Independent Cities of: Bedford, Bristol, Buena Vista, Clifton Forge, Covington, Danville, Galax, Lexington, Lynchburg, Martinsville, Norton, Radford, Roanoke, Salem, So. Boston and Staunton; Accomack, Gloucester, Greensville, Isle of Wight, Lancaster, Mathews, Middlesex, Nansemond, Northampton, Northumberland Richmond, Southampton, Surry, Sussex and York Counties, and the Independent Cities of: Chesapeake, Emporia, Franklin, Hampton, Newport News, Norfolk, Portsmouth, Suffolk, Virginia Beach and Williamsburg; Albemarle, Amelia, Brunswick, Buckingham, Charles City, Chesterfield, Cumberland, Dinwiddie, Fluvanna, Goochland, Hanover, Henrico, James City, King and Queen, King William, Louisa, Lunenburg, Mechenburg, New Kent, Nottoway, Powhatan, Prince Edward and Prince George Counties, and the Independent Cities of: Charlottesville, Colonial Heights, Hopewell, Petersburg, Richmond and Waynesboro, VA; Greenbrier, McDowell, Mercer, Monroe, Pocahontas, Raleigh, Summers, Wyoming, Braxton, Clay, Fayette, Kanawha, Nicholas, Webster, Boone, Cabell, Lincoln, Logan, Mingo, Putnam and Wayne Counties WV (Gateway eliminated: Greene County, AR.)

MC 107403 (Sub-E-751), filed March 22, 1979. Applicant: MATLACK, INC., 10 W. Baltimore Avenue, Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr., (same as above). *Liquid chemicals*, in bulk, in tank vehicles, from Muskegan, MI, to Billings and Sheridan, MT, Pocateilo and Burley, ID, Salt Lake City, UT, and points in CO and WY. (Gateway eliminated: Chicago, IL.)

MC 107403 (Sub-E-752), filed March 22, 1979. Applicant: MATLACK, INC., 10 W. Baltimore Avenue, Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr., (same as above). *Liquid chemicals*, in bulk, in tank vehicles, from the facilities of Kaiser Aluminum and Chemical Corp. at Gramercy, LA, to points in CA. (Gateway eliminated: Cedar City, UT.)

MC 10743 (Sub-E-753), filed March 22, 1979. Applicant: MATLACK, INC., 10 W. Baltimore Avenue, Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr., (same as above). *Polystyrene granules*, from the facilities of United States Steel Corp. at Haverhill, OH, to points in MT, WA, OR, CA, NV, UT, NM, CO, and ID. (Gateway eliminated: Charleston, WV.)

MC 107403 (Sub-E-754) filed March 22, 1979. Applicant: MATLACK, INC., 10 W. Baltimore Avenue, Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same as above). *Liquid chemicals*, in bulk, in tank vehicles, (except liquified petroleum gases), from the facilities of American Cynamid Co. at Avondale, LA, to points in CA. (Gateway eliminated: Cedar City, UT.)

MC 107403 (Sub-E-755), filed March 22, 1979. Applicant: MATLACK, INC., 10 W. Baltimore Avenue, Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same as above). *Liquid chemicals*, in bulk, in tank vehicles, from Good Hope, LA, to points in WA, OR, ID, points in NV on and north of U.S. Hwy 50, and points in CA on and north of U.S. Hwy 80. (Gateway eliminated: St. Louis, MO.)

MC 107403 (Sub-E-756), filed March 22, 1979. Applicant: MATLACK, INC., 10 W. Baltimore Avenue, Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same as above). *Liquid chemicals*, in bulk, in tank vehicles, from the facilities of Kaiser Aluminum and Chemical Corp. at Gramercy, LA, to points in WA, OR, ID, and points in NV on and north of U.S. Hwy 50. (Gateway eliminated: St. Louis, MO.)

MC 107403 (Sub-E-757), filed March 22, 1979. Applicant: MATLACK, INC., 10 W. Baltimore Avenue, Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same as above). *Dry chemicals*, in bulk, in tank vehicles, from the facilities of Hooker Chemical Corp., R.U.C.O. Division, at Burlington, NJ, to points in MT, WA, OR, CA, NV, UT, NM, CO, and ID. (Gateway eliminated: Charleston, WV.)

MC 107403 (Sub-E-758), filed March 22, 1979. Applicant: MATLACK, INC., 10 W. Baltimore Avenue, Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same as above). *Liquid chemicals*, in bulk, in tank vehicles, from Baton Rouge, LA, to points in WA, OR, ID, and points in NV on and north of U.S. Hwy 50. (Gateway eliminated: St. Louis, MO.)

MC-107403 (Sub-E-759), filed March 22, 1979. Applicant: MATLACK, INC., 10 W. Baltimore Avenue, Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same as above). *Liquid chemicals*, in bulk, in tank vehicles, (except liquified

petroleum gases), from the facilities of American Cynamid Co., at Avondale, LA, to points in WA, OR, ID, and points in NV on and north of U.S. Hwy 50. (Gateway eliminated: St. Louis, MO.)

MC-107403 (Sub-E-760), filed March 22, 1979. Applicant: MATLACK, INC., 10 W. Baltimore Avenue, Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same as above). *Liquid chemicals*, in bulk, in tank vehicles, (except liquified petroleum gases), from Baton Rouge, LA, to points in CA. (Gateway eliminated: Cedar City, UT.)

MC-107403 (Sub-E-761), filed March 22, 1979. Applicant: MATLACK, INC., 10 W. Baltimore Avenue, Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same as above). *Benzic Acid*, in bulk, in tank vehicles, from Kalma, WA, to points in ME, NH, CT, MA, RI, MD, WV, OH, PA, NJ, and points in DE north of the Chesapeake and Delaware Canal. (Gateway eliminated: Niagara Falls, NY.)

MC-107403 (Sub-E-762), filed March 22, 1979. Applicant: MATLACK, INC., 10 W. Baltimore Avenue, Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same as above). *Fatty Acid Esters*, in bulk, in tank vehicles, from Santa Fe Springs, CA, to points in NY within 10 miles of Columbus Circle including New York, NY. (Gateway eliminated: Andover, MA.)

MC 107403 (Sub-E-763), filed March 22, 1979. Applicant: MATLACK, INC., 10 W. Baltimore Avenue, Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr., (same as above). *Alcohol and alcohol products*, in bulk, in tank vehicles; in foreign commerce only (a) from ports of entry on the United States-Canada Boundary line in ID and MT to points in CA; (b) from ports of entry on the United States-Canada Boundary line in ID, MT, and ND, to points in AL and FL, and (c) from ports of entry on the United States-Canada Boundary line in ID, to points in NC. (Gateway eliminated: Baton Rouge, LA.)

MC 107403 (Sub-E-764), filed March 22, 1979. Applicant: MATLACK, INC., 10 W. Baltimore Avenue, Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr., (same as above). *Coloring syrup*, in bulk, in tank vehicles; in foreign commerce, from ports of entry on the United States-Canada Boundary line in MT, ID, and ND, to points in VA, GA, AL, SC, NC, OH, IN, and WV. (Gateway eliminated: Louisville, KY.)

MC 107403 (Sub-E-765), filed March 22, 1979. Applicant: MATLACK, INC., 10 W. Baltimore Avenue, Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr., (same as above). *Lime*, in bulk, in

tank or hopper vehicles; in foreign commerce, from ports in entry on the United States-Canada Boundary line in ND, ID, and MT to points in VA, GA, AL, SC, NC, OH, WV, and ID. (Gateway eliminated: Louisville, KY.)

MC 10743 (Sub-E-766), filed March 22, 1979. Applicant: MATLACK, INC., 10 W. Baltimore Avenue, Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same as above). *Lards, greases and fats* (except vegetable oils and except hydrolized and stabilized fats), in bulk, in tank vehicles; from ports of entry on the United States-Canada Boundary line in ID, ND, MT to points in VA, GA, AL, SC, NC, OH, and WV. (Gateway eliminated: Louisville, KY.)

MC 114019 (Sub-480), filed May 16, 1974. Applicant: MIDWEST EMERY FREIGHT SYSTEMS, INC., 700 S. Pulaski Rd., Chicago, IL 60629. Representative: Arthur J. Sibik (same as above). (1) *Wire, wire fencing, and other iron and steel articles*, from points in Cook County, IL, and Lake County, IN, to points in WI bounded on the east of U.S. Hwy 45, on the north by WI Hwy 60, on the west by U.S. Hwy 12 and Wisconsin Hwy 69, and on the south by the WI-IL State line; (2) *Structural, architectural and ornamented iron, steel and metal work*, from points in Cook County, IL, and Lake County, IN, to points in WI listed in (1) above, and to points in IA on north and east of a line beginning at the Mississippi River extending along U.S. Hwy 18 to junction U.S. Hwy 69, then along U.S. Hwy 69 to junction U.S. Hwy 20, then along U.S. Hwy 20 to junction U.S. Hwy 71, then along U.S. Hwy 71 to junction IA Hwy 175, then along Iowa Hwy 175 to the Missouri River.

(3) *Roofing and siding, roof and siding materials and equipment, and insulating materials*, from points in Cook County, IL, and Lake County, IN, to points in WI on and bounded by a line beginning at the IL-WI State line extending along U.S. Hwy 45 to junction WI Hwy 100, then along WI Hwy 100 to junction WI Hwy 32, then along WI Hwy 32 to junction WI Hwy 60, then along WI Hwy 60 to junction U.S. Hwy 12, then along U.S. Hwy 12 to Madison, then along WI Hwy 69 to the WI-IL State line to point of beginning. (Gateway eliminated: Milwaukee, WI, and Waukegan, IL.) Purpose of republication: clarify all 3 parts.

MC 114019 (Sub-E-484) filed May 16, 1974. Applicant: MIDWEST EMERY FREIGHT SYSTEMS, INC., 700 S. Pulaski Rd., Chicago, IL 60629. Representative: Arthur J. Sibik (same as above). *Mineral mixtures*, in containers, (1) from New York, NY, Philadelphia,

PA, and points within 30 miles thereof, and Baltimore, MD, to Louisville, KY, Covington and Newport, KY, and points in MI, IN, WI, IL, MN, IA, MO, ND, SD, NE, KS, WY, and CO; (2) from points in NY on and west of a line beginning at Windsor Beach extending to Rochester, then along U.S. Hwy 15 to Wayland, then along NY Hwy 245 to Dansville, then along NY Hwy 38 to junction NY Hwy 21, then along NY Hwy 21 to Andover, then along NY Hwy 17 to the NY-PA State line, and points in PA, and points in WV north of U.S. Hwy 50, to points in MI, WI, MN, IA, ND, SD, NE, KS, WY, CO, points in MO on and north of a line beginning at the MO-IL State line extending along U.S. Hwy 24 to junction U.S. Hwy 63, then along U.S. Hwy 63 to junction U.S. Hwy 40, then along U.S. Hwy 40 to junction U.S. Hwy 65, then along U.S. Hwy 65 to junction U.S. Hwy 54, then along U.S. Hwy 54 to junction MO Hwy 13, then along MO Hwy 13 to junction U.S. Hwy 160, then along U.S. Hwy 160 to the MO-AR State line, points in IL on and north of U.S. Hwy 40, points in IN on and north of a line beginning at the IL-IN state line extending along U.S. Hwy 40 to junction IN Hwy 67, then along IN Hwy 67 to junction IN Hwy 37, then along IN Hwy 37 to junction IN Hwy 32, then along IN Hwy 32 to junction IN Hwy 67, then along IN Hwy 67 to junction IN Hwy 26, then along IN Hwy 26 to the IN-ON State line, and St. Louis, MO, and Newport, Louisville, and Covington, KY; (3) from points in OH and WV within 2 miles of the Ohio River northerly from Sistersville, WV, and Fly, OH, to the WV-OH-PA State line, to the District of Columbia, points in DE, points in MD on and east of U.S. Hwy 15, and points in NY on and east of NY Hwy 14; (4) from Atica, IL, to points in DE, the District of Columbia, points in MD on and east of U.S. Hwy 15, and points in NY, on and east of NY Hwy 14. (Gateways eliminated—points in Ohio.)

By the Commission.
Agatha L. Mergenovich,
Secretary.

[FR Doc. 79-26901 Filed 8-28-79; 8:45 am]
BILLING CODE 7035-01-M

[Exception No. 12 to Revised Service Order No. 1312]

Soo Line Railroad Company

Because of the inability of the railroad to assemble the cars, a movement of thirty-six (36) loaded covered hopper cars will be seriously delayed on Soo Line Railroad Company enroute to Buffalo, New York, for unloading. Standard Milling desires to ship a sixty (60) car unit-grain-train at Buffalo, New

York, routed Soo Line-ConRail. The consignee at Buffalo is badly in need of the wheat, but only 36 covered hoppers have arrived at Minneapolis. Section (a) of Revised Service Order No. 1312 authorizes any railroad which is unable to supply the number of covered hopper cars required by its tariffs to transport unit-grain-trains of fewer cars in accordance with the scale in Section (b).

Pursuant to the authority vested in the Director, Bureau of Operations, by Section (h) of Revised Service Order No. 1312, Soo Line Railroad Company is authorized to operate a sixty (60) car unit-grain-train from Minneapolis, Minnesota, to Buffalo, New York, comprised of sixty (60) railroad owned covered hoppers, on a one trip basis, with a minimum of 36 loaded cars operated in the first movement, and the remaining cars of the unit-train operated together in the final movement of this unit-grain-train. The total tariff minimum weight will be transported as required except if the railroad is unable to move all of the empty covered hoppers to the loading point on the final movement, the train can be reduced by the allowable number of cars or allowable weight percentage, as set forth in Section (b) of this Service Order.

This exception applies to railroad owned covered hopper cars.

The bills of lading and waybills shall bear the following endorsement: "Unit-grain-train of () tons or () cars. Partial movement of () tons or () cars forwarded authority Exception No. 12 to ICC Revised Service Order No. 1312. () tons or () cars to follow."

Demurrage rules will be treated as if each of the movements of the unit-train is a complete movement in itself.
Effective August 9, 1979.
Expires 11:59 p.m., August 17, 1979.
Issued at Washington, D.C., August 9, 1979.

Joel E. Burns,
Director.

[FR Doc. 79-26906 Filed 8-28-79; 8:45 am]
BILLING CODE 7035-01-M

Fourth Section Application for Relief

August 24, 1979.

This application for long-and-short-haul relief has been filed with the I.C.C. Protests are due at the I.C.C. on or before September 13, 1979.

FSA No. 43738, Southwestern Freight Bureau, Agent No. B-21, sulphur (brimstone) and molten sulphur, in carloads, from origins in Southwestern Territory to destinations in Southern Territory, in Supp. 12 to its Tariff ICC SWFB 4317-A, effective September 15,

1979. Grounds for relief—need for increased revenue.

By the Commission.
Agatha L. Mergenovich,
Secretary.

[FR Doc. 79-26907 Filed 8-28-79; 8:45 am]
BILLING CODE 7035-01-M

Motor Carrier Temporary Authority Applications; Notice

The following are notices of filing of applications for temporary authority under Section 210(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the Federal Register publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the Federal Register. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

[Notice No. 145]

August 14, 1979.

MC 1074 (Sub-20TA), filed May 10, 1979. Applicant: ALLEGHENY FREIGHT LINES, INC., P.O. Box 2080, Winchester, VA 22601. Representative: Frank B. Hand, Jr., P.O. Drawer C, Berryville, VA 22611. *Common; regular: General*

Commodities, except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment serving the facilities of Cello Chemical Co., Inc., at Havre de Grace as an off-route point in connection with carrier's existing regular route authority. Authority is sought to tack this authority and to interline with other motor carriers for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Transportation Bureau of Baltimore, For Acct. of Cello Chemical Co. Executive Plaza No. 1, Suite 305, Hunt Valley, MD 21031. Send protests to: Cello Chemical Co., 1354 Old Post Rd., Havre de Grace, MD 21078. ICC, Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 1334 (Sub-29TA), filed July 12, 1979. Applicant: RITEWAY TRANSPORT, INC., 2131 W. Roosevelt, Phoenix, AZ 85005. Representative: Robert R. Digby, P.O. Box 6849, Phoenix, AZ 85005. *Furniture, furniture parts, baskets, containers, lamps, decorative ornaments, and commodities, materials and supplies used in and useful in the manufacture, distribution and sale of furniture, furniture parts, baskets, containers, lamps and decorative ornaments*, between Pinal County, AZ and points in the United States (except AK and HI), for 180 days. An underlying ETA seeks 90 days authority. Applicant intends to interline with other carriers. Supporting shipper(s): Wudlite, Inc., P.O. Box 1256, Coolidge, AZ 85228. Send protests to: Ronald R. Mau, District Supervisor, 2020 Federal Bldg., 230 N. 1st Ave., Phoenix, AZ 85025.

MC 1824 (Sub-102TA), filed July 18, 1979. Applicant: PRESTON TRUCKING COMPANY, INC., 151 Easton Blvd., Preston, MD. 21655. Representative: Thomas M. Auchincloss, Jr., 700 World Center Bldg., 918 Sixteenth St., NW., Washington, DC 20006. Authority sought to operate as a common carrier over regular routes transporting General commodities, except those of unusual value, classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, (1) between Canton, OH and Wooster, OH, from Canton over US Hwy 30 to Wooster, and return over the same route, (2) between Canton, OH and Salem, OH, from Canton over I-77 to junction US Hwy 62, then over US Hwy 62 to junction OH Hwy 173, then over OH Hwy 173 to Salem, and return over the same route, (3) between Canton, OH and Minerva, OH, from Canton over US Hwy 30 to Minerva, and

return over the same route, (4) between Canton, OH and New Philadelphia, OH, from Canton over I-77 to junction OH Hwy 39, then over OH Hwy 39 to New Philadelphia, and return over the same route, (5) between Wooster, OH and junction US Hwy 250 and I-77, from Wooster over US Hwy 250 to junction I-77, and return over the same route, serving all intermediate points on the above specified routes, and points in Carroll, Columbiana, Holmes, Mahoning, Stark, Tuscarawas and Wayne Counties, OH, as off-route points. An underlying ETA seeks 90 days. Applicant does intend to tack this authority with authority it presently holds in MC-1824. Supporting shipper(s): There are 24 statements in support of this application. They may be reviewed at Headquarters or at the office listed below. Send protests to: W. L. Hughes, DS, ICC, 1025 Federal Bldg., Baltimore, Md 21201.

MC 2934 (Sub-30TA), filed May 11, 1979. Applicant: AERO MAYFLOWER TRANSIT CO., INC., 9998 N. Michigan Road, Carmel, IN 46032. Representative: James L. Beatley, 130 E. Washington St., Suite 1000, Indianapolis, IN 46204. *Baby strollers, car seats, and related baby or infant furniture and products from the plantsite of Stroelee of California, at or near Compton, CA, to points in the United States for 180 days. Supporting shipper: Stroelee of California, 19067 Reyes Avenue, Compton, CA 90220. Send protests to: Beverly J. Williams, Transportation Assistant, ICC, 46 E. Ohio Street, Rm 429, Indianapolis, IN 46204.*

MC 2934 (Sub-31TA), filed July 13, 1979. Applicant: AERO MAYFLOWER TRANSIT CO., INC., 9998 N. Michigan Road, Carmel, IN 46032. Representative: James L. Beatley, 130 E. Washington St., Suite 1000, Indianapolis, IN 46204. *Appliances, home entertainment equipment, and related articles*, from the J. C. Penney facilities at or near Anderson, IN, to points and places in AL, AR, CT, DE, DC, FL, GA, IL, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, NH, NJ, NY, NC, OH, OK, PA, RI, SC, TN, TX, VT, VA, WV and WI, for 180 days. Supporting shipper: J. C. Penney Company, Inc., 1301 Avenue of the Americas, New York, NY 10019. Send protests to: Beverly J. Williams, Transportation Assistant, ICC, 46 E. Ohio St., Rm 429, Indianapolis, IN 46204.

MC 4024 (Sub-7TA), filed June 18, 1979. Applicant: HORN TRUCKING CO., 300 Schmetter Rd., Highland, IL 62249. Representative: Edward D. McNamara, Jr., 907 S. Fourth, Springfield, IL 62703. *Iron and steel articles and ferrous and non-ferrous metals, zinc ingots, slabs,*

bars, aluminum ingots, pigs, sows, copper cathodes and ingots, between Gerald, MO and points in MO located along U.S. 50 and Interstate 44 and St. Louis and its commercial zone and the states of IL, MO, AK, TN, KY, LA, MI, AL, GA, TX, IN, OH, IA, WI, FL, OK, and MS; Between Chicago, IL and its commercial zone and the states of IN, OH, WI, MI, and IA; between E. St. Louis, IL Chicago, Oldenburg commercial zone and the states of IN, AL, IL, MI, AK, OH, MO, and GA, for 180 days. Supporting shippers: Three supporting shippers. Send protests to: Annie Booker, TA, Rm. 1386, 219 S. Dearborn St., Chicago, IL 60604.

MC 5285 (Sub-7TA), filed June 7, 1979. Applicant: BAYSE TRANSPORTATION SERVICE, INC., P.O. Box 1002, Salem, VA 24153. Representative: Charles W. Bayse (same as applicant). *Foodstuffs and/or materials and supplies used in the production or distribution of foodstuffs* between points in Newport, Sevierville, Tellico Plains, and Jefferson City, TN and points in VA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Stokely-Van Camp, Inc., 941 N. Meridian St., Indianapolis, IN 46206. Send protests to: ICC, Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Philadelphia, PA 19106.

MC 14215 (Sub-56TA), filed July 5, 1979. Applicant: SMITH TRUCK SERVICE, INC., P.O. Box 1329, Steubenville, OH 43952. Representative: John L. Alden, Stiverson and Alden, 1396 West Fifth Avenue, Columbus, OH 43212. *Iron and steel and iron and steel articles*, (1) from the facilities of Wheeling-Pittsburgh Steel Corporation located at Canfield, Martins Ferry, Mingo Junction, Steubenville and Yorkville, OH, Beech Bottom, Benwood, Follansbee and Wheeling, WV and Monessen, PA to points in the states of IL, IN, KY, MD, MI (Lower Peninsula), NY, OH, PA, VA, WV and WI; (2) from the facilities of Wheeling-Pittsburgh Steel Corporation located at Allenport, PA to points in the states of KY, MI (Lower Peninsula), MD, NY, PA, VA, WV and WI for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Wheeling-Pittsburgh Steel Corporation, P.O. Box 118, Pittsburgh, PA 15230. Send protest to: ICC, Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Philadelphia, PA 19106.

MC 19945 (Sub-73TA), filed July 11, 1979. Applicant: BEHNKEN TRUCK SERVICE, INC., Route 13, New Athens, IL 62264. Representative: Joseph R. Behnken, Route 13, New Athens, IL 62264. *Coke* in bulk, from the plantsite and storage facilities of Great Lakes Carbon Corp., MO Coke and Chemical

Division, to points in IL, IN, IA, MI, MN and WI for 180 days. Supporting shipper(s): Great Lakes Carbon Corporation, 299 Park Avenue, New York, NY 10017. Send protests to: Annie Booker, TA, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 31675 (Sub-25TA), filed July 12, 1979. Applicant: NORTHERN FREIGHT LINES, INC., P.O. Box 34303, Charlotte, NC 28234. Representative: Garland V. Moore, (same as applicant). *Iron or steel articles* from Brookville, PA to Spartanburg, SC, for 180 days. Supporting shipper(s): Beverage Air Corp., Hwy. I-85, Spartanburg, SC. Send protests to: Terrell Price, 800 Briar Creek Rd-Rm CC516, Charlotte, NC 28205.

MC 44605 (Sub-53TA), filed June 14, 1979. Applicant: MILNE TRUCK LINES, INC., 2500 West California Avenue, Salt Lake City, UT 84104. Representative: Henry A. Dahn (same address as applicant). *Common carrier*: regular routes: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, between Reno, NV, and Las Vegas, NV; from Reno over Interstate Hwy 80 to junction Alternate U.S. Hwy 95, then over Alternate U.S. Hwy 95, then over U.S. Hwy 95 to Las Vegas, and return over the same routes, serving no intermediate points except as otherwise authorized, including commercial zones, for 180 days. An underlying ETA seeks 90 days authority. Note: Applicant proposes to tack the authority sought here with MC-44605 and to interline with other carriers at Las Vegas and Reno, NV. Supporting shipper(s): There are 57 statements in support attached to this application which may be examined at the ICC in Washington, D.C., or copies of which may be examined at the field office named below. Send protests to: L. D. Helfer, DS, ICC, 5301 Federal Bldg., Salt Lake City, UT 84138.

MC 45194 (Sub-25TA), filed June 29, 1979. Applicant: LATTAVO BROTHERS, INC., P.O. Box 6270, Canton, OH 44706. Representative: James W. Muldoon, 50 W. Broad St., Columbus, OH 43215. *Lumber*, from Prosperity, SC to points in OH, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Stark Truss, Inc., 1556 Perry Dr., SW., Canton, OH 44706. Send protests to: ICC, Fed. Res. Bank Bldg., 101 N. 7th St., Room 620, Philadelphia, PA 19106.

MC 45764 (Sub-32TA), filed June 22, 1979. Applicant: ROBBINS MOTOR TRANSPORTATION, INC., Industrial Highway and Saville Ave., Eddystone, PA 19013. Representative: Edward Kells,

(same as address as applicant). *Flat glass*, from the facilities of Libbey-Owens-Ford Co., at or near Toledo, OH to pts. in TX. (representative pts, but not all inclusive pts are Dallas, Ft. Worth, Houston and San Antonio, for 180 days). An underlying ETA seeks 90 days authority. Supporting shipper(s): Libbey-Owens-Ford Company, 811 Madison, Toledo, OH 43695. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 49304 (Sub-35TA), filed June 18, 1979. Applicant: BOWMAN TRUCKING CO., INC., P.O. Box 6, Stephens City, VA 22655. Representative: Gary E. Thompson, 4304 East-West Hwy, Washington, DC 20014. *Waste residue of coal-burning boiler systems* from Washington, DC to points in Frederick County, MD and Frederick County, VA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Flintkote Co., 11350 McCormick Rd., Hunt Valley, MD 21031. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 60014 (Sub-131TA), filed July 13, 1979. Applicant: AERO TRUCKING, INC., Box 308, Monroeville, PA 15140. Representative: A. Charles Tell, 100 E. Broad St., Columbus, OH 43215. *Wallboard, fiberboard, pulpboard, or strawboard* from the facilities of Boise Cascade Corp. at or near Cicero, IL to points in IN, KY, MI, NY, OH, and PA, for 180 days. Supporting shipper(s): Boise Cascade Corp., P.O. Box 2885, Portland, OR 97208. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 94265 (Sub-313TA), filed July 2, 1979. Applicant: BONNEY MOTOR EXPRESS, INC., P.O. Box 305—Route 460 West, Windsor, VA 23487. Representative: Clyde W. Carver, Attorney, P.O. Box 720434, Atlanta, GA 30328. *Meat products, meat by-products, articles distributed by meat packinghouses and such commodities as are used by meat packers in the conduct of their business when destined to and for use by meat packers, as described in Sections A, C, and D of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk)* between the facilities of Lauridsen, Foods, Inc., at or near Britt, IA, and Armour & Co., at or near Mason City, IA, on the one hand, and, on the other, points in the states of NY, NJ, PA, DE, VA, WV, NC, SC, GA, FL, AL, MD, KY, TX and DC, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Armour & Company, Greyhound Tower, Phoenix, AZ 85077. Send protests to: I.C.C., Fed.

Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 94265 (Sub-314TA), filed July 9, 1979. Applicant: BONNEY MOTOR EXPRESS, INC., P.O. Box 305, Rt. 460 West, Windsor, VA 23487. Representative: Clyde W. Carver, P.O. Box 720434, Atlanta, GA 30328. *Foodstuffs (except in bulk) in vehicles equipped with mechanical refrigeration* from points in Fulton County, GA, to all points in the states of DE, IN, KY, MD, NC, OH, PA, TN, VA, WV, and DC. Restricted to the transportation of traffic originating at the facilities of Munford Refrigerated Warehouses, Division of Munford, Inc. for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Munford Refrigerated Warehouses, Division of Munford, Incorporated, 6150 Xavier Drive, S.W., Atlanta, GA 30336. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 98255 (Sub-4TA), filed July 12, 1979. Applicant: LAWRENCEBURG TRANSFER, INC., U.S. Hwy. 127 North, Lawrenceburg, KY 40342. Representative: Robert H. Kinker, Atty., P.O. Box 464, Frankfort, Ky. 40602. *Electric motors, electric gear motors, power transmission equipment, and machinery and controllers or controller parts and parts and accessories therefor, weighing machinery and parts and accessories, tele-communication equipment and parts and accessories, and castings for forgings, between the facilities of Reliance Electric Co., at Lawrenceburg, KY, and Columbus, IN, and the commercial zones thereof.* Supporting shipper(s): Reliance Electric Company, Highway 127 North, Lawrenceburg, KY 40342. Send protests to: Mrs. Linda H. Sypher, D/S, ICC, 426 Post Office Bldg., Louisville, Ky. 40202.

MC 98614 (Sub-14TA), filed May 2, 1979. Applicant: ARKANSAS TRANSPORT COMPANY, P.O. No. 702, Little Rock, AR 72203. Representative: Roland M. Lowell, 618 United American Bank Building, Nashville, TN 37219. *Petroleum and petroleum products*, in bulk, from Fort Smith, AR and its commercial zone to points in OK on and East of Interstate Highway 35, for 180 days. A corresponding ETA (R-12) is filed. Supporting shipper(s): There are seven supporting shippers whose statements may be examined at the Little Rock Office or at Headquarters. Send protests to: William H. Land, Jr., 3108 Federal Building, 700 West Capitol, Little Rock, AR 72201.

MC 102295 (Sub-36TA), filed July 11, 1979. Applicant: GUY HEAVENER, INC., 480 School Lane, Harleysville, PA 19438. Representative: Maxwell A. Howell,

1100 Investment Building, 1511 K Street, N.W., Washington, DC 20005. *Slag*, from points in Cape May County, NJ to points in Baltimore County, MD, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Metals Development Company, 400 West Glenwood Ave., Phila., PA 19140. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 106674 (Sub-405TA), filed May 18, 1979. Applicant: SCHILLI MOTOR LINES, INC., P.O. Box 123, U.S. Highway 24 West, Remington, IN 47977. Representative: Jerry L. Johnson, P.O. Box 123, U.S. Highway 24 West, Remington, IN 47977. *Iron and steel articles* from the facilities of Armco Inc., Ashland, KY to points in the states of IL and IN; and from the facilities of Armco Inc., Middletown, OH to points in the states of KY, IL and IN for 180 days. Restricted to traffic originating at the above facilities. Supporting shipper: Armco, Inc., 703 Curtis St., Middletown, OH 45043.

MC 106674 (Sub-406TA), filed May 2, 1979. Applicant: SCHILLI MOTOR LINES, INC., P.O. Box 123, U.S. Highway 24 West, Remington, IN 47977. Representative: Jerry L. Johnson, (same address as applicant). *Particleboard, fiberboard, and built-up woods including faced or finished*, Stuart and Waverly, VA and Spring Hope, NC to PA, TN, IN, KY, OH, NY, MD, NJ, CT, W, DE, MA and RI for 180 days. Supporting shipper: Masonite Corporation, P.O. Box 378, Waverly, VA 23890. Send protests to: Beverly J. Williams, Transportation Assistant, ICC, 46 E. Ohio Street, Room 429, Indianapolis, IN 46204.

MC 106674 (Sub-407TA), filed April 27, 1979. Applicant: SCHILLI MOTOR LINES, INC., P.O. Box 123, U.S. Highway 24 West, Remington, IN 47977. Representative: Jerry L. Johnson, (same address as applicant). *Sand, gravel and stone, in bulk, in dump vehicles*, from bullitt County, KY, to Chicago, IL and Detroit, MI, for 180 days. Supporting shipper: Old Dutch Materials Co., 350 Pfingsten, North Brook, IL 60062. Send protests to: Beverly J. Williams, Transportation Assistant, ICC, 46 E. Ohio St., Rm. 429, Indianapolis, IN 46204.

MC 107295 (Sub-933TA), filed July 12, 1979. Applicant: PRE-FAB TRANSIT CO., P.O. Box 146, Farmer City, IL 61842. Representative: Richard Vollmer, P.O. Box 146, Farmer City, IL 61842. (1) *Insulation materials*, from Sanford, ME to points in DE, DC, KY, MD, NJ, NY, NC, OH, PA, VA and WV and (2) *materials, equipment and supplies used in the manufacture distribution and application of insulation materials*

except commodities in bulk, from points in DE, DC, KY, MD, NJ, NC, OH, PA, VA and WV to Sanford, ME for 180 days. An underlying ETA was granted for 90 days authority. Supporting shipper(s): NFG Barriers, Inc., P.O. Box 30, Sanford, ME 04073. Send protests to: Annie Booker, TA, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 107295 (Sub-932TA), filed June 1, 1979. Applicant: PRE-FAB TRANSIT CO., P.O. Box 146, Farmer City, IL 61842. Representative: Duane Zehr, P.O. Box 146, Farmer City, IL 61842. *Iron and steel and iron and steel articles*; from exchange from Madison, IN to destinations in the states of IL, IN and MI for 180 days. An underlying ETA was granted 90 days authority. Supporting shipper(s): Wheeling-Pittsburgh Steel Corporation, P.O. Box 118, Pittsburgh, PA 15230. Send protests to: Annie Booker, TA, Room 1386, 219 South Dearborn Street, Chicago, IL 60604.

MC 109124 (Sub-89TA), filed May 18, 1979. Applicant: SENTLE TRUCKING CORP., P.O. Box 7850, Toledo, OH 43619. Representative: James M. Burtch, 100 East Broad St., Columbus, OH 43215. *Sand*, from Porter, Laporte, Jasper, and Newton Counties, IN to points in IL, MI, and OH for 180 days. Supporting shipper(s): Crisman Sand Co., Inc., 6480 Melton Road, Portage, IN 46368. Send protests to: ICC, Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 111274 (Sub-48TA), filed July 11, 1979. Applicant: SCHMIDGALL TRANSFER INC., P.O. Box 356, Morton, IL 61550. Representative: Frederick C. Schmidgall, P.O. Box 356, Morton, IL 61550. *Contract carrier*: irregular routes: *Materials and components used or useful in the manufacture, erection and completion of metal building and metal buildings*, between El Paso, IL, FL, Collins, CO, and Houston, TX and points in AL, AR, CO, CT, DE, FL, GA, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NH, NJ, NY, NC, ND, OH, OK, PA, RI, SD, TN, TX, VT, VA, WV, WI, and WY for 180 days. An underlying ETA was granted for 90 days authority. Supporting shipper(s): Marathon Metallic Bldg. Co., P.O. Box 8, Route 24 E., El Paso, IL. Send protests to: Annie Booker, TA, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 111274 (Sub-49TA), filed July 12, 1979. Applicant: SCHMIDGALL TRANSFER INC., P.O. Box 356, Morton, IL 61550. Representative: Frederick C. Schmidgall (same address as applicant). *Contract carrier*: irregular routes: *Material handler, material handler parts, and material handler trailer*, from Crystal Lake, IL to points in KS, MO, SD, PA, MI, CO, OH, NY, and WA. Points of

entry on the U.S.-Canadian boundary in MT, ND, MN, MI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Foxcroft Development Associates, 5402 Edgewood Rd., Crystal Lake, IL 60014. Send protests to: David Hunt, Rm. 1386, 219 S. Dearborn St., Chicago, IL 60604.

MC 112304 (Sub-199TA), filed June 13, 1979. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock St., Cincinnati, OH 45223. Representative: John D. Herbert (same as applicant). *Iron and steel articles* from Springfield, MO to Drakesboro, KY and Georgetown, SC for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Acme Structural, Inc., 2101 N. Packer Rd., Springfield, MI 65803. Send protests to: ICC, Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 112304 (Sub-200TA), filed June 25, 1979. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock St., Cincinnati, OH 45223. Representative: John D. Herbert (same as applicant). *Steel buildings, NOI, KD and/or component parts* from the facilities of Republic Buildings Corp., at or near Rainsville, AL, to pts. in AR, FL, GA, KY, LA, MS, MO, NC, OK, SC, TN, VA and WV, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Republic Buildings Corp., 1202 Industrial Ave., Van Wert, OH 45891. Send protests to: ICC, Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 112304 (Sub-201TA), filed June 25, 1979. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock Street, Cincinnati, OH 45223. Representative: A. Charles Tell, 100 East Broad St., Columbus, OH 43215. *Commodities, the transportation of which because of size or weight require the use of special equipment; metal articles; and self-propelled articles, each weighing 15,000 pounds or more; and related machinery, tools, parts and supplies moving in connection therewith*, (1) between CT, DC, IL, IN, KY, MD, MA, MI, MO, NH, NJ, NY, OH, PA, RI, TX, VT, VA, WV, and WI, on the one hand, and, on the other, AL, AZ, AR, CA, CO, DE, FL, GA, ID, IA, KS, LA, ME, MN, MS, MT, NE, NV, NM, NC, ND, OK, OR, SC, SD, TN, UT, WA, and WY; and (2) between CT, DC, IL, IN, KY, MD, MA, MI, MO, NH, NJ, NY, OH, PA, RI, TX, VT, VA, WV, and WI for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): There are sixteen (16) statements of support attached to this application which may be examined at the ICC in Washington, D.C. or copies of which may be

examined in the field office named below. Send protests to: ICC, Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 112304 (Sub-202TA), filed July 2, 1979. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock Street, Cincinnati, OH 45223. Representative: John D. Herbert (same as applicant). *Iron and steel articles* from the facilities of Lukens Steel Co., at or near Coatesville and Conshohocken, PA to the states of AL, GA, MD, MO, NC, OK, SC, VA, and WV for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Lukens Steel Co., Coatesville, PA 19320. Send protests to: ICC, Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 112595 (Sub-89TA), filed June 18, 1979. Applicant: FORD BROTHERS, INC., 510 Riverside Dr., P.O. Box 727, Ironton, OH 45638. Representative: Richard T. Trettin (same as applicant). *Petroleum products*, in bulk, in tank vehicles from Dayton, OH to points in KY (on and west of U.S. 31W) and IN for 180 days. Supporting shipper(s): Sun Petroleum Products Co., a Division of Sun Oil Co. of Pennsylvania, P.O. Box 920, Toledo, OH 43693. Send protests to: ICC, Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 113434 (Sub-140TA), filed July 19, 1979. Applicant: GRA-BELL TRUCK LINE, INC., A5253 144th Avenue, Holland, MI 49423. Representative: Roger Van Wyk, A 5253, 144th Avenue, Holland, MI 49423. *Glass containers and equipment, supplies and accessories* Between Marion, IN and the states of MI and OH. Restricted to traffic originating at or destined to the facilities of Foster Forbes Glass Company and restricted to traffic originating at the named origins and destined to the named destinations. For 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): National Can Corporation, 8101 West Higgins Road, Chicago, IL 60631. Send protests to: C. R. Flemming, D/S, ICC, 225 Federal Building, Lansing, MI 48933.

MC 113974 (Sub-60TA), filed July 12, 1979. Applicant: PITTSBURGH & NEW ENGLAND TRUCKING CO., 211 Washington Ave., Dravosburg, PA 15034. Representative: James D. Porterfield, 211 Washington Ave., Dravosburg, PA 15034. *Iron and steel articles*, from Marietta, GA to points in AL, DE, KS, KY, LA, MS, MO, NE, NJ, OK, TX, WV, WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Pacesetter Steel Service, Inc., P.O. Box 6865, 980 Marietta Ind. Dr., Marietta, GA 30065. Send protests to: ICC, Fed. Res. Bank Bldg.,

101 N., 7th St., Room 620, Phila., PA 19106.

MC 114604 (Sub-80TA), filed July 9, 1979. Applicant: CAUDELL TRANSPORT, INC., P.O. Drawer I, Forest Park, GA 30050. Representative: Frank D. Hall, Suite 713, 3384 Peachtree Rd., NE., Atlanta, GA 30326. *Such commodities as are dealt in by grocery and food business houses (except commodities in bulk, in tank vehicles) in vehicles equipped with mechanical refrigeration* from the facilities of Kraft, Inc., at Decatur and Doraville, GA to points in FL from 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Kraft, Inc., International Bank Bldg., Suite 963, 315 W. Ponce de Leon, Decatur, GA 30030. Send protests to: Sara K. Davis, T/A, ICC, 1252 W. Peachtree St., NW., Rm. 300, Atlanta, GA 30309.

MC 114604 (Sub-81TA), filed July 9, 1979. Applicant: CAUDELL TRANSPORT, INC., P.O. Drawer I, Forest Park, GA 30050. Representative: Frank D. Hall, Suite 713, 3384 Peachtree Rd., NE., Atlanta, GA 30326. *Frozen bakery products* from the facilities of Tennessee Donut Corp. located at or near Nashville, TN to all points in AR for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Tennessee Donut Corp., 2975 Armory Dr., Nashville, TN 37204. Send protests to: Sara K. Davis, T/A, ICC, 1252 W. Peachtree St., NW., Rm. 300, Atlanta, GA 30309.

MC 117765 (Sub-269TA), filed July 13, 1979. Applicant: HAHN TRUCK LINE, INC., 1100 S. MacArthur, P.O. Box 75218, Oklahoma City, OK 73147. Representative: R. E. Hagan (same address as applicant). *Malt beverages, in containers and related advertising material*, from Evansville, IN, to KS and OK, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): G. Heileman Brewing Company, Inc., 925 S. Third Street, La Crosse, WI 54601. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 119834 (Sub-41TA), filed July 2, 1979. Applicant: ROBERT N. TOOMEY TRUCKING CO., 1516 S. George St., York PA 17403. Representative: Charles E. Creager, 1329 Pennsylvania Ave., P.O. Box 1417, Hagerstown, MD 21740. *Contract; Irregular: Refractory brick and refractory products* from York, PA, including its commercial zone to points in the continental United States in and west of MN, IA, MO, AR, and LA for 180 days. Supporting shipper(s): Dolomite Brick Corp of America, P.O. Box 2028, York, PA 17405. Send protests to: ICC,

Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 119974 (Sub-84TA), filed June 27, 1979. Applicant: L.C.L. TRANSIT COMPANY, 949 Advance St., Green Bay, WI 54304. Representative: L.F. Abel, P.O. Box 949, Green Bay, WI 54305. *Liquid sugar, in bulk, in tank vehicles*, from facilities of American Crystal Sugar Co. at Chaska, MN to points in WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): American Crystal Sugar Co., 101 N. 3rd St., Moorehead, MN 56560. Send protests to: Gail Daugherty, T/A, ICC, 517E, Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 120364 (Sub-24TA), filed July 25, 1979. Applicant: A & B FREIGHT LINE, INC., 2800 Falund Street, Rockford, IL 61109. Representative: Robert M. Kaske (address same as applicant). *General commodities, except Class A and B explosives, household goods as defined by the Commission, commodities in bulk and those commodities requiring the use of special equipment, between Monroe and Brodhead, WI and northern Illinois territory* it is presently authorized to serve, for 180 days. Supporting shipper(s): Six supporting shippers. Send protests to: Annie Booker, T/A, Interstate Commerce Commission, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 121664 (Sub-77TA), filed July 12, 1979. Applicant: HORNADY TRUCK LINES, INC., P.O. Box 846, Monroeville, AL 36460. Representative: W. E. Grant, 1702 1st Avenue South, Birmingham, AL 35233. *Lumber, lumber products, and pallets*; from Tuscaloosa, AL to points in WI, IL, IN, OH, PA, WV, VA, TX, MI, KY, AR, TN, NC, SC, GA, MS, LA, FL, and AL. For 180 days. Supporting shipper(s): Newton Lumber Co., P.O. Box 2181, Tuscaloosa, AL 35401. Send protests to: Mabel E. Holston, T/A, ICC, Room 1616, 2121 Building, Birmingham, AL 35203.

MC 121664 (Sub-79TA), filed July 17, 1979. Applicant: HORNADY TRUCK LINE, INC., P.O. Box 846, Monroeville, AL 36460. Representative: W. E. Grant, 1702 1st Avenue South, Birmingham, AL 35233. *Lumber and pallets* from Moundville, AL to points in and east of TX, OK, MO, IA, and MN, for 180 days. Supporting shipper(s): Newton Brothers Lumber Co., Inc., P.O. Box 487, Moundville, AL 35474. Send protests to: Mabel E. Holston, T/A, ICC, Room 1616, 2121 Building, Birmingham, AL 35230.

MC 121664 (Sub-80TA), filed July 17, 1979. Applicant: HORNADY TRUCK LINE, INC., P.O. Box 846, Monroeville, AL 36460. Representative: W. E. Grant,

1702 1st Avenue South, Birmingham, AL 35233. *Lumber*, (1) from MS, LA, FL, GA, and TX to Russellville, AL. (2) From Russellville, AL to points in WI, IL, IN, OH, PA, MI, KY, TN, and TX, for 180 days. Supporting shipper(s): Bullington Wholesale Lumber Company, Inc., P.O. Box E, Russellville, AL 35653. Send protests to: Mabel E. Holston, T/A, ICC, Room 1616, 2121 Building, Birmingham, AL 35203.

MC 123675 (Sub-7TA), filed July 13, 1979. Applicant: SOLDIER BROS. A B T LINE, INC., 614 Paine Ave., Toledo, OH 43605. Representative: Arthur R. Cline, 420 Security Bldg., Toledo, OH 53604. *Automobile parts* from Fort Wayne, IN to Toledo, OH for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): The City Auto Stamping Co., Div. of Sheller-Globe Co., Lint and Dura Aves., Toledo, OH 43612. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 124144 (Sub-21TA), filed June 27, 1979. Applicant: ROBERT N. TOOMEY TRUCKING CO., 1516 S. George St., York, PA 17403. Representative: Charles E. Creager, 1329 Pennsylvania Ave., P.O. Box 1417, Hagerstown, MD 21740. *Contract; irregular: (1) Agricultural chemicals, insecticides and adhesives (except in bulk)*, from Hanover, PA and its commercial zone, to points in ID and ND; and (2) adhesives, from Hanover, PA and its commercial zone, to points in CA, WA, NV, OR and AZ for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Miller Chemical & Fertilizer Corp., P.O. Box 333, Hanover, PA 17331. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 124774 (Sub-115TA), filed July 17, 1979. Applicant: MIDWEST REFRIGERATED EXPRESS, INC., 4440 Buckingham Avenue, Omaha, NE 68107. Representative: Arlyn L. Westergren, Suite 106, 7171 Mercy Road, Omaha, NE 68106. *Iron and steel articles* from New York City, NY; Philadelphia, PA; Cleveland, OH; Greenfield, IN and their commercial zones to the facilities of Phillips Manufacturing Co., Inc., at Omaha, NE for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Phillips Manufacturing Co., Inc., 4601 South 76th St., Omaha, NE 68127. Send protests to: D/S Carroll Russell, ICC, Suite 620, 110 North 14th Street, Omaha, NE 68102.

MC 124835 (Sub-15TA), filed June 27, 1979. Applicant: PRODUCERS TRANSPORT CO., P.O. Box 4022, Chattanooga, TN 37405. Representative: Sam Speer (same address as applicant). *Limestone and limestone products* from

Luttrell, TN to points in AL, FL, GA, IL, IN, TN, KY, MS, NC, OH, PA, SC, VA and WV for 180 days. Supporting shipper(s): Tenn-Luttrell Lime Company, 9047 Executive Park Dr. Suite 210, Knoxville, TN 37919. Send protests to: Glenda Kuss, T/A, ICC, Suite A-412, U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 124964 (Sub-45TA), filed July 5, 1979. Applicant: J. M. BOOTH TRUCKING, INC., P.O. Box 907, Rustis, FL 32726. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. *Contract carrier, irregular routes, transporting sugar (except in bulk)*, from Gramercy, LA, to points in AL, FL, GA, NC, and SC for 180 days. Under a continuing contract or contracts with Borden, Inc., Columbus, OH. Supporting shipper(s): Colonial Sugars, Div. of Borden Foods, 180 E. Broad Street, Columbus, OH 43215. Send protests to: G. H. Fauss, Jr., DS, ICC, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

MC 126904 (Sub-31TA), filed July 16, 1979. Applicant: H. C. PARRISH TRUCK SERVICE, INC., R.R. 2, Box 264, Freeburg, IL 62243. Representative: James W. Patterson, 1200 Western Savings Bank Bldg., Philadelphia, PA 19107. *Pre-cast concrete products and modular mausoleum crypt units*, from Denver, CO; Dade City, FL; Laurel, MD; Bluffton, OH and Oshkosh, WI, to points in the United States (except AL and HI), for 180 days. Supporting shipper(s): Duwe Precast Products, P.O. Box 2068, Oshkosh, WI 54901. Send protests to: David Hunt, T/A, Rm. 1386, 219 S. Dearborn St., Chicago, IL 60604.

MC 127705 (Sub-90TA), filed April 26, 1979. Applicant: KREYDA BROS. EXPRESS, INC., P.O. Box 68, Gas City, IN 46933. Representative: Donald W. Smith, 9000 Keystone Crossing, Indianapolis, IN 46240. *Fiberboard boxes*, from the facilities of Longview Fiber Company at Milwaukee, WI to points in IL, IN, OH, NY, NJ, WV and PA for 180 days. Restriction: Restricted to traffic originating at the named origins and destined to the named destination states. Supporting shipper: Longview Fiber Company, 3822 N. Third Street, Milwaukee, WI 53132. Send protests to: Beverly J. Williams, Transportation Assistant, ICC, 46 E. Ohio St., Rm. 429, Indianapolis, IN 46204.

MC 127705 (Sub-91TA), filed April 30, 1979. Applicant: KREYDA BROS. EXPRESS, INC., P.O. Box 68, Gas City, IN 46933. Representative: Donald W. Smith, Suite 945—9000 Keystone Crossing, Indianapolis, IN 46240. *Foodstuffs viz. sauces, salt, food curing, preserving compounds (except commodities in bulk and those requiring*

mechanical refrigeration equipment), from the facilities of Ragu' Foods, at Rochester, NY to points in IL, MD, MI, OH, PA, WI and WV for 180 days. Supporting shipper: Ragu' Foods, Inc., 33 Benedict Place, Greenwich, CT 06830. Send protests to: Beverly J. Williams, Transportation Assistant, ICC, 48 E. Ohio Street, Rm. 429, Indianapolis, IN 46204.

MC 127705 (Sub-92TA), filed April 30, 1979. Applicant: KREVDA BROS. EXPRESS, INC., P.O. Box 68, Gas City, IN 46933. Representative: Donald W. Smith, Suite 945—9000 Keystone Crossing, Indianapolis, IN 46240. *Canned and preserved foodstuffs*, from the facilities of Heinz USA at or near Pittsburgh, PA to points in KY and MI for 180 days. RESTRICTION: Restricted to traffic originating at the named destination and destined to the named destination states. Supporting shipper: H. J. Heinz Company, P.O. Box 57, Pittsburgh, PA 15230. Send protests to: Beverly J. Williams, Transportation Assistant, ICC, 48 E. Ohio St., Rm. 429, Indianapolis, IN 46204.

MC 129994 (Sub-36TA), filed June 27, 1979. Applicant: RAY BETHERS TRUCKING, INC., 176 West Central Avenue, Murray, UT 84107. Representative: Lon Rodney Kump, 333 East Fourth South, Salt Lake City, UT 84111. *Sand* (except in bulk) from CO to CA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Colorado Silica Sand, P.O. Box 15615, Colorado Springs, CO. Send protests to: L. D. Helfer, DS, ICC, 5301 Federal Bldg., Salt Lake City, UT 84138.

MC 129994 (Sub-37TA), filed June 27, 1979. Applicant: RAY BETHERS TRUCKING, INC., 176 West Central Avenue, Murray, UT 84107. Representative: Marilyn McNeil (same address as applicant). *Iron and steel articles* from points in Los Angeles, Orange, Riverside, San Bernardino, and Contra Costa Counties, CA, to points in UT, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Cottonwood Steel, 1235 So. 2350 West, Salt Lake City, UT; Steelco, 162 No. 400 West, Salt Lake City, UT 84110. Send protests to: L. D. Helfer, DS, ICC, 5301 Federal Bldg., Salt Lake City, UT 84138.

MC 133604 (Sub-8TA), filed July 17, 1979. Applicant: LYNN TRANSPORTATION COMPANY, INC., 712 South 11th Street, Oskaloosa, IA 52577. Representative: Kenneth F. Dudley, P.O. Box 279, Ottumwa, IA 52501. *Meat, meat products, meat by-products, and articles distributed by meat packinghouses as described in Sections A and C of Appendix I to the*

report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the facilities of Geo. A. Hormel & Co. at Ft. Dodge, IA to all points in Alabama and Louisiana, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Geo. A. Hormel & Co., P.O. Box 800, Austin, MN 55912. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 133805 (Sub-31TA), filed July 5, 1979. Applicant: LONE STAR CARRIERS, INC., Rt. 1, Box 48, Tolar, TX 76476. Representative: Harry F. Horak, Suite 115, 5001 Brentwood Stair Rd., Fort Worth, TX 76112. *Meats, meat products, meat by-products and articles distributed by meat packinghouses, as described in Sections A, B and C of Appendix I to the report in Descriptions of Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk)*, from Hereford, TX, to points in NC, GA, FL, MD, AL, SC, TN, MS, and RI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Armour Fresh Meat Company, 111 W. Clarendon, Greyhound Tower, Phoenix, AZ 85077. Send protests to: Martha A. Powell, T/A, I.C.C., Room 9A27 Federal Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 134234 (Sub-22TA), filed July 18, 1979. Applicant: KUHNLE BROTHERS, INC., P.O. Box 375, Newbury, OH 44065. Representative: Kenneth T. Johnson and Ronald W. Malin, Bankers Trust Bldg., Jamestown, NY 14701. *Construction drainage systems and parts and components therefor*, from the plant site of Aco Drain, Inc., located at or near Chardon, OH to points in the states of LA, AR, IA, MN, TX, ND, SD, NE, KS, OK, NM, CO, WY, ID, UT, AZ, CA, NV, OR, and WA, for 180 days. Supporting shipper(s): Aco Drain, Inc., 29525 Chagrin Blvd., Cleveland, OH 44122. Send protests to: D/S, ICC., 101 N. 7 St., Philadelphia, PA 19106.

MC 135385 (Sub-6TA), filed June 21, 1979. Applicant: J. C. BANGERTER & SONS, INC., 1265 North Main Street, Bountiful, UT 84010. Representative: Harry D. Pugsley, Attorney, 1283 East South Temple #501, Salt Lake City, UT 84102. *Contract Carrier: Irregular routes: Such merchandise as is dealt in by wholesale, retail and chain grocers from the facilities and warehouses of Smith's Management Corporation at Layton, UT and its division, Intermountain Souralls at Salt Lake City, UT to points in TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Smith's Management Corporation, 1550 So. Redwood Rd., Salt Lake City, UT.*

Send protests to: L. D. Helfer, DS, ICC, 5301 Federal Bldg., Salt Lake City, UT 84138.

MC 136384 (Sub-19TA), filed July 11, 1979. Applicant: PALMER MOTOR EXPRESS, INC., P.O. Box 103, Savannah, GA 31402. Representative: W. W. Palmer, Jr. (same address as applicant). *Drugs, medicines, and such commodities as are dealt in by wholesale and retail food chains, cosmetic dealers, drugstores, hospitals, discount variety stores, and grocery chains*, from facilities utilized by Bristol-Myers, Inc., in Atlanta, GA to points in Florida, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Bristol-Myers Company, 5626 Fulton Industrial Boulevard, Atlanta, GA 30338. Send protests to: G. H. Fauss, Jr., DS, ICC, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

MC 136644 (Sub-10TA), filed July 12, 1979. Applicant: WESTERN DRYWALL TRANSPORT, INC. d.b.a. WESTERN DIRECT TRANSPORT, 2001 Broadway, Vallejo, CA 94590. Representative: R. D. Davis (same address as applicant), Phone (707) 552-8777. *Contract carrier, irregular routes: Gypsum Wallboard and materials used in the installation and application of Gypsum Wallboard*, from the plant site of Gold Bond Building Products division of National Gypsum Company at or near Phoenix, AZ to points in CA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Gold Bond Building Products Division of National Gypsum Company, P.O. Box 1888, Long Beach, CA 90801. Send protests to: A. J. Rodriguez, 211 Main Street, Suite 500, San Francisco, CA 94105.

MC 138104 (Sub-80TA), filed July 16, 1979. Applicant: MOORE TRANSPORTATION CO., INC., 3509 N. Grove Street, Fort Worth, TX 76106. Representative: Bernard H. English, 6270 Firth Road, Fort Worth, TX 76116. *Trailers and trailer chassis, other than those designed to be drawn by passenger automobiles, in initial movements, cargo containers, and truck bodies*, from the facilities of Pullman Trailmobile, Division of Pullman, Inc., Longview, TX, to points in AL, AR, CO, DE, FL, GA, IA, IL, IN, KS, KY, LA, MD, MI, MN, MO, MS, NE, NC, NJ, NY, OH, OK, PA, RI, SC, SD, TN, VA, WV, WI, and DC, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Pullman Trailmobile-Division of Pullman, Inc., 200 E. Randolph Dr., Chicago, IL 60601. Send protests to: Martha A. Powell, T/A, I.C.C., Room 9A27, Federal Bldg., 819 Taylor Street, Fort Worth, TX 76102.

MC 138575 (Sub-11TA), filed July 12, 1979. Applicant: GWINNER OIL CO., INC., P.O. Box 38, Gwinner, ND 58040. Representative: William J. Gambucci, 414 Gate City Building, P.O. Box 1680, Fargo, ND 58107. *Contract carrier: irregular routes: (1) Agricultural, industrial and construction machinery, and parts and attachments therefor*, from the facilities of Clark Equipment Co., Melroe Division at or near Gwinner, ND, to points in CA, MD, NV, PA, SD, UT and WY; and (2) *Materials, parts and supplies used in the manufacture of the commodities named in (1) above* from points in CA, IA, IL, IN, MD, MI (except the port of entry of Sault Sainte Marie, MI), MN, OH, OR, PA, SD, UT, WA and WI to the facilities of Clark Equipment Co., Melroe Division, at or near Gwinner, ND, restricted to a transportation service under a continuing contract or contracts with Clark Equipment Co., Melroe Division, Gwinner, ND, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Clark Equipment Co., Melroe Division, Gwinner, ND 58040. Send protests to: H. E. Farsdale, DS, ICC, Bureau of Operations, Room 268, Fed. Bldg. and U.S. Post Office, 657 2nd Avenue North, Fargo, ND 58102.

MC 138875 (Sub-215TA), filed June 21, 1979. Applicant: SHOEMAKER TRUCKING COMPANY, 11900 Franklin Road, Boise, ID 83705. Representative: F. L. Sigloh (same address as above). *Such products as are dealt in by tile, floor, ceiling, wall and counter covering distributors, except commodities in bulk*, from Salem, NJ to Spokane, WA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Inland NW Dist. Co., Box 2964, Spokane, WA 99202. Send protests to: Barney L. Hardin, D/S, ICC, Suite 110, 1471 Shoreline Dr., Boise, ID 83702.

MC 138875 (Sub-216TA), filed June 21, 1979. Applicant: SHOEMAKER TRUCKING COMPANY, 11900 Franklin Road, Boise, ID 83705. Representative: F. L. Sigloh (same address as above). *Frozen foods and potato products other than frozen, except commodities in bulk*, from points in Ada, Canyon, Cassia and Payette Counties, ID and Malheur County, OR to points in AZ, for 180 days. An underlying ETA seeks 90 day authority. Supporting shipper(s): Ore-Ida Foods, Inc., P.O. Box 10, Boise, ID 83707. Send protests to: Barney L. Hardin, D/S, ICC, Suite 110, 1471 Shoreline Dr., Boise, ID 83702.

MC 138875 (Sub-217TA), filed June 21, 1979. Applicant: SHOEMAKER TRUCKING COMPANY, 11900 Franklin Road, Boise, ID 83705. Representative: F. L. Sigloh (same address as above). (1)

Chemicals and (2) prepared food and beverage mixes in containers, except commodities in bulk, from (1) Clinton, IA to points in CA, OR and WA; (2) Gallipolis Ferry, WV, to Grand Junction, CO; and (3) Wilmington, CA to Lovell, KY, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Foremost-McKesson, Inc., Crocker Plaza, One Post Street, San Francisco, CA 94104. Send protests to: Barney L. Hardin, D/S, ICC, Suite 110, 1471 Shoreline Dr., Boise, ID 83702.

MC 138875 (Sub-224TA), filed July 18, 1979. Applicant: SHOEMAKER TRUCKING COMPANY, 11900 Franklin Road, Boise, ID 83705. Representative: F. L. Sigloh (same address as above). *Wallboard*, from Heath, MT to points in ID, OR and WA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): U.S. Gypsum Company, 525 S. Virgil Ave., Los Angeles, CA 90020. Send protests to: Barney L. Hardin, D/S, ICC, Suite 110, 1471 Shoreline Dr., Boise, ID 83702.

MC 139495 (Sub-476TA), filed July 10, 1979. Applicant: NATIONAL CARRIERS, INC., P.O. Box 1358, Liberal, KS 67901. Representative: Herbert Alan Dubin, 1320 Fenwick Lane, Silver Spring, MD 20910. *Paper and paper products*, from West Point, VA to points in DE, MD, PA, NY, NJ, CT, MA, RI, NH, VT, ME, MI, OH, IN, IL, IA, KY, TN, MO, KS, AR, OK, TX, WI and MN (restricted to traffic originating at and designated to), for 180 days, common, irregular. Supporting shipper(s): The Chesapeake Corp. of VA, P.O. Box 311, West Point, VA 23181. Send protests to: M. E. Taylor, DS, ICC, 101 Litwin Bldg., Wichita, KS 67202.

MC 139504 (Sub-4TA), filed June 15, 1979. Applicant: SHEA/RUSTIN TRANSPORT CO., P.O. Box 93567, Martech Sta., Atlanta, GA 30318. Representative: E. Stephen Heasley, 805 McLachlen Bank Bldg., 666 Eleventh St., N.W., Washington, DC 20001. *Contract carrier: irregular routes: (1) tempered flat glass from the facilities of Temp Glass Eastern at or near Norcross, GA to points in FL, GA, SC, NC, AL, KY, VA, TN, AR, TX, MO, MI, OH, MS, LA and NY, (2) materials, equipment and supplies used in the manufacture, distribution and sale of tempered flat glass (except in bulk)*, from points in PA, MO, TX, NC, OH, TN, OK and MI to the facilities of Temp Glass Eastern at or near Norcross, GA, restricted to the transportation performed under a continuing contract or contracts with Temp Glass Eastern of Norcross, GA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Temp Glass Eastern, P.O. Box 928, Blue

Ridge Industrial Park, Norcross, GA 30091. Send protests to: T/A Sara K. Davis, ICC, 1252 W. Peachtree St., N.W., Rm. 300, Atlanta, GA 30309.

MC 139934 (Sub-5TA), filed July 12, 1979. Applicant: ALL SOUTHERN TRUCKING, INC., 1909 East Hemlock Ave., P.O. Box 2698, Tampa, FL 33601. Representative: Anthony T. Manlaci (same address as applicant). *General commodities* (except commodities of unusual value, Class A & B explosives, household goods, and commodities requiring special equipment) in containers or trailers and empty containers and trailers having an immediately prior or subsequent movement by water between Savannah, GA, on the one hand, and points in GA and FL, on the other hand; and between Jacksonville and Miami, FL, on the one hand, and points in FL, on the other hand for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): There are five supporting shippers. Their statements may be examined at the office listed below and Headquarters. Send protests to: Donna M. Jones, T/A, ICC—BOp, Monterey Bldg., Suite 101, 8410 N.W. 53rd Ter., Miami, FL 33166.

MC 140024 (Sub-155TA), filed July 16, 1979. Applicant: J. B. MONTGOMERY, INC., 5565 East 52nd Ave., Commerce City, CO 80022. Representative: Don Bryce (same address as applicant). *Fresh meats from Cactus, TX to points in NJ and NY for 180 days. Underlying ETA filed seeking 30 days only. Supporting shipper(s): Swift and Company, 115 W. Jackson Blvd., Chicago, IL 60604. Send protests to: R. Buchanan, 492 U.S. Customs House, Denver, CO 80202.*

MC 140104 (Sub-10TA), filed June 11, 1979. Applicant: TOLEDO FREIGHT LINES, INC., 4060 Fitch Rd., Toledo, OH 43613. Representative: Jerry B. Sellman, 50 Broad St., Columbus, OH 43215. *Contract carrier: irregular routes: Such merchandise as is dealt in by wholesale, retail, chain grocery and food business houses, except commodities in bulk*, from Indianapolis, IN to points in AR, CA, GA, IL, IN, KY, MI, MO, OH, PA on and west of US Hwy 219, TN, TX, VA and WV, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): The Kroger Co., 1014 Vine St., Cincinnati, OH 45202. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 140334 (Sub-2TA), filed July 16, 1979. Applicant: AM-CAN TRANSPORT SERVICE, INC., P.O. Box 859, Anderson, SC 29621. Representative: John T. Wirth, 717 17th Street, Suite 2600, Denver, CO

80202. *Contract carrier; irregular routes; tires, and materials, equipment, and supplies used in the manufacture, distribution and production of tires (except commodities in bulk, in tank vehicles).* (1) Between the Dothan, AL commercial zone on the one hand, and, on the other, Spartanburg, Greenville, Sandy Springs and Charleston, SC; Atlanta, GA; Jacksonville, FL and Ports of Entry on the United States-Canada Boundary Line located in ME; (2) Between the Spartanburg, SC commercial zone on the one hand, and, on the other, Ports of Entry on the United States-Canada Boundary Line located in Maine. RESTRICTIONS: (1) Restricted to the transportation of traffic originating at or destined to the facilities of Michelin Tire Corporation. (2) Restricted to a transportation service to be performed under a continuing contract, or contracts with Michelin Tire Corporation of New York, NY. Supporting shipper(s): Michelin Tire Corporation, P.O. Box 2846, Greenville, SC 29602. Send protests to: E. E. Strotheid, D/S, ICC, Rm. 302, 1400 Bldg., 1400 Pickens St., Columbia, SC 29201.

MC 140484 (Sub-50TA), filed July 18, 1979. Applicant: LESTER COGGINS TRUCKING, INC., 2671 E. Edison Ave., P.O. Box 69, Fort Myers, FL 33902. Representative: Frank T. Day (same address as applicant). *Computing scales (except commodities which because of size or weight requires heavy and specialized equipment) from the facilities of Reliance Electric Company at or near Columbus and Worthington, OH to Charlotte, NC and Spartanburg, SC for 180 days. Supporting shipper(s): Reliance Electric Company, 220 Eastview Dr., Brooklyn Heights, OH 44131. Send protests to: Donna M. Jones, T/A, ICC—BOP, Monterey Bldg., Suite 101, 8410 N.W. 53rd Ter., Miami, FL 33166.*

MC 140744 (Sub-14TA), filed July 18, 1979. Applicant: ARCTIC AIR TRANSPORT, INC., 103 N. Eau Claire St., Mondovi, WI 54755. Representative: Stanley Olsen, Jr., 4601 Excelsior Blvd., Minneapolis, MN 55416. *Meat, meat products, meat by-products and articles distributed by meat packinghouses (except hides) and frozen prepared foods, between Eau Claire, WI on the one hand, and on the other, points in the Chicago, IL, Commercial Zone, for 180 days. Supporting shipper(s): Armour & Company, 313 N. Hastings Way, Eau Claire, WI 54701. Send protests to: Judy Olson, T/A, ICC, 414 Federal Bldg., 110 S. 4th St., Minneapolis, MN 55401.*

MC 140755 (Sub-66TA), filed July 13, 1979. Applicant: BRAY TRANSPORTS, INC., 1401 N. Little Street, P.O. Box 270,

Cushing, OK 74023. Representative: Dudley G. Sherrill (same address as applicant). *Liquid sugar and blends of liquid sugar and corn syrup, in bulk, in tank vehicles, from Muncie, KS, to points in OK, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): The Amalgamated Sugar Company, P.O. Box 1520, Ogden, UT 84402. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.*

MC 140484 (Sub-49TA), filed July 18, 1979. Applicant: LESTER COGGINS TRUCKING, INC., 2671 E. Edison Ave., P.O. Box 69, Fort Myers, FL 33902. Representative: Frank T. Day (same address as applicant). (1) *Malt beverages (except in bulk in tank vehicles) and related advertising materials, from the facilities of Miller Brewing Company at or near Albany, GA to points in AL, FL, NC, and SC; (2) Empty bottles, cans, cases, and cartons, from points in IN, OH, PA, NJ, and NY to the facilities of Miller Brewing Company at or near Albany, GA for 180 days. Supporting shipper(s): Miller Brewing Company, 3939 West Highland Blvd., Milwaukee, WI 53208. Send protests to: Donna M. Jones, T/A, ICC—BOP, Monterey Bldg., Suite 101, 8410 N.W. 53rd Ter., Miami, FL 33166.*

MC 141054 (Sub-6TA), filed July 19, 1979. Applicant: B & B PACKING TRANSPORT, LTD., 2608 South 24th Street, Council Bluffs, Iowa 51501. Representative: J. Michael May, Suite 508, 1447 Peachtree Street, N.E., Atlanta, Georgia 30309. *Contract carrier, over irregular routes: Meat and Packinghouse products from the facilities of Iowa Beef Processors, Inc. at or near Denison, Fort Dodge and Sioux City, IA; Dakota City and West Point, NE; and Luverne, MN to points in AL, FL, IL, IN, MD, ME, MI, MN, NY, OH, PA, SC, SD and WI for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Iowa Beef Processors, Inc., Dakota City, NE 68731. Send protests to: D/S Carroll Russel, Suite 620, ICC, 110 North 14th St., Omaha, NE 68102.*

MC 141124 (Sub-46TA), filed May 10, 1979. Applicant: EVANGELIST COMMERCIAL CORPORATION, P.O. Box 15000, Wilmington, DE 19850. Representative: Muldoon, Pemberton & Ferris, 50 W. Broad St., Columbus, OH 43215. *Such commodities as are dealt in or used by manufacturers or converters of paper and paper products, except in bulk, between Coston, MA, on the one hand, and on the other, points in the United States (except AK and HI) for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Diamond International, 733 Third Ave.,*

New York, NY 10017. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 141804 (Sub-254TA), filed July 13, 1979. Applicant: WESTERN EXPRESS, Division of Interstate Rental, Inc., P.O. Box 3488, Ontario, CA 91761. Representative: Frederick J. Coffman (same address as applicant). *Cleaning compounds, soaps, bleaches, and washing detergents (except in bulk), from Edgewater, Lynhurst and Patterson, NJ, to Los Angeles County, CA, for 180 days. Restricted to traffic originating at the facilities of Pariser Industries. An underlying ETA seeks up to 90 days operating authority. Supporting shipper(s): Pariser Industries, 1010 Clifton Avenue, Clifton, NJ 07013. Send protests to: Irene Carlos, T/A, ICC, P.O. Box 1551, Los Angeles, CA 90053.*

MC 141804 (Sub-255TA), filed July 17, 1979. Applicant: WESTERN EXPRESS, DIVISION OF INTERSTATE RENTAL, INC., P.O. Box 3488, Ontario, CA 91761. Representative: Frederick J. Coffmann (same address as applicant). *Hand tools, drill presses, vises bench grinders (except commodities which because of their size and weight require special equipment), from the facilities of Allied Wholesale, Inc., in Van Nuys, CA to all points in and east of ND, SD, NE, KS, OK, and TX, for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting shipper(s): Allied Wholesale, Inc., d.b.a. Allied International, 15071 Keswick Street, Van Nuys, CA 91405. Send protests to: Irene Carlos, T/A, ICC, P.O. Box 1551, Los Angeles, CA 90053.*

MC 141804 (Sub-256TA), filed July 20, 1979. Applicant: WESTERN EXPRESS, DIVISION OF INTERSTATE RENTAL, INC., P.O. Box 3488, Ontario, CA 91761. Representative: Frederick J. Coffmann (same address as applicant). *Bakery products, from Nabisco Distribution Centers, Chicago, IL, to destinations in the states of CA, OR, WA, AZ, and NV, for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting shipper(s): Nabisco Inc., East Hanover, NJ 07936. Send protests to: Irene Carlos, T/A, ICC, P.O. Box 1551, Los Angeles, CA 90053.*

MC 141804 (Sub-257TA), filed July 13, 1979. Applicant: WESTERN EXPRESS, DIVISION OF INTERSTATE RENTAL, INC., P.O. Box 3488, Ontario, CA 91761. Representative: Frederick J. Coffmann (same address as applicant). *Glass and glass products, from the facilities of PPG Industries, Inc., located at or near South Greensburg, PA, to WA, OR, CA, AZ, NV, WY, UT, MT, ID, NM, and CO, for 180 days. An underlying ETA seeks up to 90 days operating authority.*

Supporting shipper(s): PPG Industries, Inc., One Gateway Center, Pittsburgh, PA 15222. Send protests to: Irene Carlos, T/A, ICC, P.O. Box 1551, Los Angeles, CA 90053.

MC 141804 (Sub-258TA), filed July 13, 1979. Applicant: WESTERN EXPRESS, DIVISION OF INTERSTATE RENTAL, INC., P.O. Box 3488, Ontario, CA 91761. Representative: Frederick J. Coffmann (same address as applicant). *Foodstuffs, materials, equipment and supplies used in the manufacture of foodstuffs, between the plant site of Douglas Foods, Inc., at or near Douglas, GA, on the one hand, and, on the other, points in the U.S. in and west of ND, SD, NE, KS, OK, and TX (except AK and HI), for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting shipper(s): Douglas Foods, Inc., P.O. Box 1208, Douglas, CA 91533. Send protests to: Irene Carlos, T/A, ICC, P.O. Box 1551, Los Angeles, CA 90053.*

MC 141945 (Sub-1TA), filed July 17, 1979. Applicant: LOWER FULTONVILLE TRUCKING COMPANY, INC., 120 Ashford Street Allston, MA 02134. Representative: Robert Rothberg, Choate, Hall & Stewart, 60 State Street, Boston, MA 02109. *Contract carrier; irregular routes; malt beverages, in containers from Radisson (Syracuse), NY to Lynn, Haverhill & Shirley, MA. For 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Bay State Beverages, Inc., 189 Alley Street, Lynn, MA 01905. Send protests to: John B. Thomas, District Supervisor, Interstate Commerce Commission, 150 Causeway Street, Boston, MA 02114.*

MC 142215 (Sub-1TA), filed May 25, 1979. Applicant: DUKE TRANSPORTATION, INC., 1106 N. University, Lafayette, LA 70506. Representative: Justin P. Duke (same address as applicant). Applicant is seeking authority to operate as a common carrier over irregular routes transporting oilfield equipment and supplies pursuant to the Mercer description between points in LA, TX, and MS on the one hand, and on the other, points in the above named states, for 180 days. Applicant has filed an underlying ETA for 90 days. Supporting shipper(s): Power Rig Drilling Co., Inc., 503 Pinhook St., P.O. Box 52808, Lafayette, LA 70505. Send protests to: Robert J. Kirspe, DS, ICC, T-9038 Federal Bldg., 701 Loyola Ave., New Orleans, LA 70113.

MC 142464 (Sub-6TA), filed May 4, 1979. Applicant: JOHN M. CHRISTOPHER, 3444 McCarty Lane, Lafayette, IN 47905. Representative: Brent E. Clary, 68 Lafayette Bank and Trust Bldg., Lafayette, IN 47902.

Contract carrier; irregular routes; iron and steel articles, between points in IN, IL, that portion of St. Louis Commercial Zone which is in MO, KY, MI, except the upper peninsula and OH, for 180 days. Under contract with Midwest Division of National Steel Corporation at Portage, IN. Supporting shipper: Midwest Division of National Steel Corporation, P.O. Box 1, Portage, IN 46368. Send protests to: Beverly J. Williams, Transportation Assistant, ICC, 46 E. Ohio St., Rm 429, Indianapolis, IN 46204.

MC 142545 (Sub-3TA), filed May 17, 1979. Applicant: DICK TAZER TRUCKING, INC., 1635 N. W. Mall, Issaquah, WA 98027. Representative: Henry C. Winters, 525 Evergreen Bldg., Renton, WA 98055. *Contract carrier; irregular routes; shortening, from Vernon, CA to points in OR and WA for the account of Continental Commodities, Inc., for 180 days. Supporting shipper(s): Continental Commodities, Inc., 2750 Jewel Ave., Vernon, CA 90058. Send protests to: Shirley M. Holmes, T/A, ICC, 858 Federal Bldg., Seattle, WA 98174.*

MC 142715 (Sub-60TA), filed July 5, 1979. Applicant: LENERTZ, INC., P.O. Box 479, South St. Paul, MN 55075. Representative: K. O. Petrick (same address as applicant). *Fresh and frozen meat (except commodities in bulk from south St. Paul, MN to New York, NY and points in its commercial zone, Cohoes, NY and Philadelphia, PA and points in its commercial zone, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Sunstar foods, Inc., Beef Division, 425 South Concord Street, St. Paul, MN 55075. Send protests to: District Supervisor, ICC, 414 Federal Building and U.S. Courthouse, 110 South 4th Street, Minneapolis, MN 55401.*

MC 142715 (Sub-61TA), filed July 3, 1979. Applicant: LENERTZ, INC., P.O. Box 479, South St. Paul, MN 55075. Representative: K. O. Petrick (same as applicant). *Foodstuffs (except commodities in bulk, from Beloit, WI, to Austin MN, for 180 days. Restricted to traffic originating at Beloit, WI, and destined to Austin, MN. An underlying ETA seeks 90 days authority. Supporting shipper(s): George A. Hormel and Company, Supervisor, Motor Carrier Services, P.O. Box 800, Austin MN 55912. Send protests to: District Supervisor, ICC, 414 Federal Building, and U.S. Courthouse, 110 South 4th Street, Minneapolis, MN 55401.*

MC 142715 (Sub-65TA), filed July 10, 1979. Applicant: LENERTZ INC., P.O. Box 479, South St. Paul, MN 55075. Representative: K. O. Petrick (same address as applicant). *Meat, meat products, meat by-products, articles*

distributed by meat packinghouses (except hides and commodities in bulk) and materials and supplies used by meat packers in the conduct of their business (except commodities in bulk) from Postville, Cherokee, Storm Lake and Sioux City, IA and Omaha, NE to points in the U.S. in and east of WI, IL, KY, TN and AL, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Hygrade Food Products Corporation, P.O. Box 4771, Detroit, MI 48219. Send protests to: Judith L. Olson, T/A, ICC, 414 Federal Building and U.S. Courthouse, 110 South 4th Street, Minneapolis, MN 55401.

MC 142864 (Sub-22TA), filed July 9, 1979. Applicant: RAY E. BROWN TRUCKING, INC., 1635 N. W. Mall, Massillon, OH 44646. Representative: Jerry B. Sellman, 50 West Broad St., Columbus, OH 43215. *Foodstuffs, (except in bulk) in vehicles equipped with mechanical refrigeration, from the facilities of Kraft, Inc. at Allentown, PA to points in OH and WV for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Kraft, Inc., 500 Peshtigo Court, Chicago, IL 60690. Send protests to: ICC, Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.*

MC 142965 (Sub-3TA), filed April 5, 1979. Applicant: R. C. CORPORATION, 100 California Avenue, Reno, NV 89509. Representative: Reese H. Taylor, Esq., 402 North Division Street, Carson City, NV 89701. *Contract carrier; irregular routes: beer, wine, alcoholic beverages and related items from points in Los Angeles, San Francisco, San Mateo, Napa, Sonoma, San Joaquin, Fresno, and Alameda Counties, CA to Reno, NV, and rejected or returned shipments from Reno, NV to the above-listed counties in the state of CA for the account of Lucie & Son, Inc., for 180 days. Supporting shipper(s): Luce & Son, Inc., 670 E. 6th Street, Reno, NV 89502. Send protests to: W. J. Huetig, DS, ICC, 203 Federal Bldg., 705 N. Plaza St., Carson City, NV 89701.*

MC 143154 (Sub-6TA), filed July 11, 1979. Applicant: ARTHUR E. PAMIN, JR. and STEVEN V. BIDLAK d.b.a., A & S TRUCKING, 1408 Lakeside Drive, Lolo, MT 59847. Representative: Charles A. Murray, Jr., 207 Behner Bldg., 2822 Third Ave. North, Billings, MT 59101. *Malt beverages, in containers, from points in OR to points in WA, ID, NV, CA, AZ, UT, CO, WY, MT, NM and those points in OR requiring a movement across Washington State line, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): There are 10 supporting shippers. Their statements may be examined at the office listed below and Headquarters. Send protests*

to: Paul J. Labane, DS, ICC, 2602 First Avenue North, Billings, MT 59101.

MC 143374 (Sub-4TA), filed July 5, 1979. Applicant: DENNIS J. DURBIN, d.b.a. DURBIN TRANSPORT, 12400 Goodhill Rd., Wheaton, MD 20906. Representative: H. Neil Carson, 3251 Old Lee Hwy., Suite 400, Fairfax, VA 22030. *Contract carrier; irregular routes; brick, firebrick, flue lining, from Waynesboro, Midvale and Malvern, OH to points in Anne Arundel, Baltimore, Frederick, Howard, Montgomery and Prince George Counties, MD and Fauquier, Loudoun, Prince William, Stafford, Arlington, and Fairfax Counties, VA and Washington, DC for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Masonry Materials & Services, Inc., 13119 Collinswood Ter., Silver Spring, MD. Thomas W. Perry, Inc., 8519 Conn. Ave., Chevy Chase, MD. L. C. Smith, Inc., 5920 Farrington Ave., Alexandria, VA 22304. United Materials & Ser. Inc., 129 Park St., NE., Vienna, VA 22180. Entwistle's Conc. Block, Inc., 3709 Forestville, Rd., Forestville, MD. Send protests to: ICC, Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.*

MC 143374 (Sub-5TA), filed July 5, 1979. Applicant: DENNIS J. DURBIN, d.b.a. DURBIN TRANSPORT, 12400 Goodhill Rd., Wheaton, MD 20906. Representative: H. Neil Carson, 3251 Old Lee Hwy., Suite 400, Fairfax, VA 22030. *Contract carrier; irregular routes; bricks, from Gary Ferry Brick Co., at Franklinville, NJ to points in Montgomery, Prince Georges, Queen Annes, Calvert, Frederick, Anna Arundel, Baltimore Counties, MD; Arlington, Fairfax, Fauquier, Loudoun, Prince William Counties, VA; and Washington, DC, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Masonry Materials & Service, Inc., 13119 Collingwood Terrace, Silver Spring, MD 20904. Send protests to: ICC, Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.*

MC 143995 (Sub-20TA), filed June 22, 1979. Applicant: SLOAN TRANSPORTATION, INC., 6522 W. River Dr., Davenport, IA 52802. Representative: James M. Hodge, 1980 Financial Center, Des Moines, IA 50309. *Contract authority—Such merchandise as is dealt in by wholesale, retail, chain grocery and food business houses (except commodities in bulk), from Davenport, IA to points in the St. Louis, MO commercial zone, under continuing contract(s) with Ralston Purina Company for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Ralston Purina Company,*

Checkerboard Square, St. Louis, MO 63188. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 144315 (Sub-4TA), filed May 22, 1979. Applicant: PORT CITY LEASING, INC., 602 20th Street N., Lewiston, ID 83501. Representative: Boyd Hartman, P.O. Box 3641, Bellevue, WA 98009. *Lumber and lumber products, from points in Benewah, Bonner, Boundary, Clearwater, Kootenai, Latah, Lewis and Nez Perce, Counties, IA and Asotin, Spokane and Stevens Counties, WA to points in MN, MT, NE, ND, SD, and WI for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Clearwater Forest Industries, P.O. Box 98, Kooskia, ID 83539; Giddings Lumber Company, Inc., P.O. Box 18363, Denver, CO 80218; Bennett Lumber Products, P.O. Box 49, Princeton, ID 83857; Del Daley Forest Products, P.O. Box 2346, Portland, OR 97228. Send protests to: Shirley M. Holmes, T/A, ICC, 858 Federal Bldg., Seattle, WA 98174.*

MC 144484 (Sub-6TA), filed June 27, 1979. Applicant: FREIGHTWAYS, INC., 438 East 2nd Street, Eldon, MO 65028. Representative: Larry D. Knox, 600 Hubbell Bldg., Des Moines, IA 50309. (1) Electric motors, (2) electric motors with blowers, (3) materials and supplies (except commodities in bulk) used in the manufacture and distribution of the commodities in (1) and (2), and (4) iron and steel articles, between Eldon, MO, on the one hand, and on the other, points in AL, AR, CA, IL, IA, IN, KS, MI, MS, NE, NY, OH, OK, PA, TN, TX and WI, for 180 days. Supporting shipper(s): Fasco Industries, Inc., 1600 West Jackson, Ozark, MO 65721. Send protests to: John V. Barry, D/S, Interstate Commerce Commission, Room 600 Federal Bldg., 911 Walnut Street, Kansas City, MO 64108.

MC 144884 (Sub-4TA), filed May 23, 1979. Applicant: ARTHUR E. JOHNSTON AND MICHAEL A. JOHNSTON, d.b.a. JOHNSTON TRUCKING, P.O. Box 325, Spearfish, SD 57783. Representative: J. Maurice Andren, 1734 Sheridan Lake Road, Rapid City, SD 57701. *Iron and steel articles from the facilities of Jones & Laughlin Steel Corp. at Youngstown, OH to points in CO, ID, IA, MN, ND, SD, UT, and WY for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Jones & Laughlin Steel Corp., Room 121, 1600 W. Carson St., Pittsburgh, PA 15263. Send protests to: J. L. Hammond, DS, ICC, Room 455, Federal Bldg., Pierre, SD 57501.*

MC 145005 (Sub-3TA), filed May 31, 1979. Applicant: U & I INCORPORATED d.b.a. U & I INCORPORATED

TRUCKING DIVISION, 709 East South Temple, P.O. Box 2010, Salt Lake City, UT 84110. Representative: Floyd W. Johnson (same address as applicant). *Contract carrier: Irregular routes: Items manufactured and/or processed by Gourmet Food Products, Inc., and items and supplies used in the operation, expansion and repair of its facilities; and potatoes, between points in OR and WA. Supporting shipper(s): Gourmet Food Products, Inc., P.O. Box 2385, Pasco, WA 99301. Send protests to: L. D. Helfer, DS, ICC, 5301 Federal Bldg., Salt Lake City, UT 84138.*

MC 145054 (Sub-24TA), filed July 11, 1979. Applicant: COORS TRANSPORTATION COMPANY, 5101 York Street, Denver, CO 80218. Representative: David E. Driggers, 1660 Lincoln Street, Denver, CO 80264. *Foodstuffs and materials and supplies used in the sale and distribution thereof, from Houston, TX to (1) Albuquerque, NM and (2) Denver and Colorado Springs, CO, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Nabisco, Inc.—Biscuit Division, East Hanover, NJ 07936. Send protests to: H. Ruoff, 492 U.S. Customs House, Denver, CO 80202.*

MC 145054 (Sub-25TA), filed July 19, 1979. Applicant: COORS TRANSPORTATION COMPANY, 5101 York Street, Denver, CO 80218. Representative: David E. Driggers, 1660 Lincoln Street, Denver, CO 80264. *Chilled juices, from Anaheim, CA to Denver and Grand Junction, CO, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Doric Foods Corporation, Division of Coca-Cola, P.O. Box 986, Robie Avenue, Mt. Dora, FL 32757. Send protests to: H. Ruoff, 492 U.S. Customs House, Denver, CO 80202.*

MC 145054 (Sub-26TA), filed June 27, 1979. Applicant: COORS TRANSPORTATION COMPANY, 5101 York Street, Denver, CO 80218. Representative: Leslie R. Kehl, 1660 Lincoln Street, Denver, CO 80264. *Foodstuffs and pet food, from the facilities of Carnation Company at Elwood, KS and St. Joseph, MO to points in the State of CO, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Carnation Company, 5045 Wilshire Blvd., Los Angeles, CA 90038. Send protests to: H. Ruoff, 492 U.S. Customs House, Denver, CO 80202.*

MC 145054 (Sub-27TA), filed June 25, 1979. Applicant: COORS TRANSPORTATION COMPANY, 5101 York Street, Denver, CO 80218. Representative: Leslie R. Kehl, 1660

Lincoln Street, Denver, CO 80264. *Foodstuffs (except in bulk) from the facilities of Sunmark, Inc. located at St. Louis, MO to Kansas City, KS, Lincoln and Omaha, NE and points in CO, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): The Sunmark Companies, 10795 Watson Rd., St. Louis, MO 63127. Send protests to: H. Ruoff, 492 New Customs House, Denver, CO 80202.*

MC 145224 (Sub-3TA), filed April 12, 1979. Applicant: ALL-CAL TOURS, INC., 3638 Primrose Avenue, Santa Rosa, CA 95401. Representative: Eldon M. Johnson, 650 California Street, Suite 2808, San Francisco, CA 94108. Telephone (415) 986-8696. *Passengers and their baggage, in the same vehicle with passengers, in charter operations, beginning and ending at points in Placer, Sacramento and Yolo Counties, CA, and extending to points in Douglas and Washoe Counties, NV, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Nationwide Travel, 5311 Elkhorn Blvd, Sacramento, CA 95842; Bestway Travel, 8917 Greenback Lane, Orangevale, CA 95662. Send protests to: A. J. Rodriguez, DS, ICC, 211 Main Street, Suite 500, San Francisco, CA 94105.*

MC 145224 (Sub-4TA), filed April 24, 1979. Applicant: ALL-CAL TOURS, INC., 3638 Primrose Ave., Santa Rosa, CA 95401. Representative: E. M. Johnson, Attorney at Law, 650 California St., Rm 2808, San Francisco, CA 94108. Telephone 415-986-8696. 180 days temporary authority, as common carrier by motor vehicle, over irregular routes, transport passengers and their baggage, in the same vehicle with passengers, in charter operations. Beginning and ending at Gridley, CA., and points in El Dorado, Nevada, Sutter and Yuba counties, CA, and extending to points in Douglas and Washoe counties, NV. Supporting shipper(s): Nationwide Travel, 5311 Elkhorn Blvd., Sacramento, CA 95842. Send protests to: A. J. Rodriguez, I.C.C. 211 Main St., suite 500, San Francisco, CA 94105.

MC 145224 (Sub-5TA), Filed June 21, 1979. Applicant: ALL-CAL TOURS, INC., 1415 Sebastopol Road, Santa Rosa, CA 95401. Representative: Eldon M. Johnson, 650 California Street, Suite 2808, San Francisco, CA 94108. Phone (415) 986-8696. *Passengers and their baggage, in the same vehicle with passengers, in charter operations, beginning and ending at points in Lake and Mendocino counties, CA, and extending to points in Douglas and Washoe counties, NV, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): After "40" Fun*

Club, 328 Jones, Ukiah, CA 95482. Send protests to: A. J. Rodriguez, 211 Main Street, Suite 500, San Francisco, CA 94105.

MC 145224 (Sub-6TA), filed June 29, 1979. Applicant: ALL-CAL TOURS, INC., 1415 Sebastopol Road, Santa Rosa, CA 95401. Representative: Eldon M. Johnson, 650 California Street, Suite 2808, San Francisco, CA 94108. Phone: (415) 986-8696. *Passengers and their baggage, in the same vehicle with passengers, in special operations, beginning and ending at points in Sacramento County, CA and extending to points in Douglas and Washoe Counties, NV, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Mark Hoffman d.b.a. Sports Travel, 1257 Fulton Ave., #38, Sacramento, CA 95825. Send protests to: A. J. Rodriguez, 211 Main Street, Suite 500, San Francisco, CA 94105.*

MC 145375 (Sub-4TA), filed July 18, 1979. Applicant: H. D. EDGAR TRUCKING COMPANY, INC., Route 1, Box 48, Opp, AL 36487. Representative: Chester A. Zyblut, 366 Executive Building, 1030 15th Street NW., Washington, DC 20005. *Foodstuffs and materials, supplies and equipment used in the manufacture and distribution of foodstuffs (except in bulk) between Douglas, GA on the one hand and on the other, points in TX, NM, AZ, CA, NV, UT, WA, OR, MT, ID, CO, OK, KS, NE, MO, IL, IN, MI, and OH, for 180 days. Supporting shipper(s): Douglas Foods Inc., P.O. Box 1208, Douglas, GA 31533. Send protests to: Mabel E. Holston, T/A, ICC, Room 1616, 2121 Building, Birmingham, AL 35203.*

MC 145664 (Sub-8TA), filed June 15, 1979. Applicant: STALBERGER, INC., 223 South 50th Avenue West, Duluth, MN 55806. Representative: Robert L. Kalenda, Hall, Byers, Hanson, Steil & Weinberger, 921 First Street North, St. Cloud, MN 56301. *Building material and cement pipe containing asbestos fibre and insulation board from the plantsite of Johns Manville Sales Corp. at or near Waukegan, IL and from the plantsite of Johns Manville Perlite Corp. at or near Rockdale, IL to points in ND and SD, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Johns-Manville Sales Corp., 2222 Kensington Court, Oak Brook, IL 60521. Send protests to: District Supervisor, ICC, 414 Federal Building and U.S. Courthouse, 110 South 4th Street, Minneapolis, MN 55401.*

MC 145474 (Sub-1TA), filed July 20, 1979. Applicant: STAR SYSTEMS, INC., 12302 E. Wardman Street, Whittier, CA 90602. Representative: Miles L. Kavalier,

Mandel & Kavalier, 315 So. Beverly Drive, Suite 315, Beverly Hills, CA 90212. *Contract; irregular; vinyl and film sheeting, from Lodi and Jamesburg, NJ and Everett, WA to Phoenix, AZ, Dallas, TX; and to the facilities of Goss Plastic Film Corporation in Los Angeles, CA, for 180 days. Supporting shipper(s): Goss Plastic Film Corporation, 107 W. 132nd Street, Los Angeles, CA 90061. Send protests to: Irene Carlos, TA, ICC, P.O. Box 1551, Los Angeles, CA 90053.*

MC 145715 (Sub-3TA), filed April 26, 1979. Applicant: BELL TRUCKING, INC., 2504 Industrial Park Road, Van Buren, AR 72956. Representative: Elaine M. Conway, 10 S. LaSalle St., Suite 1600, Chicago, IL 60603. 1. *Meats, meat products, meat by-products and articles distributed by meat packing houses, (except hides and commodities in bulk), from the facilities of Land O'Frost, Inc. at or near Searcy, AR, to points in AZ, CA and CO; and 2. (a) Plastic film; (b) food processing machinery, and parts and attachments therefor, and (c) meats and meat products (except hides and commodities in bulk), when moving in mixed truckloads with the commodities described in (a) and (b) above, between the facilities of Land O'Frost, Inc. at or near Lansing, IL and Hammond, IN on the one hand, and on the other hand the facilities of Land O'Frost, Inc. at or near Searcy, AR, for 180 days as a common carrier over irregular routes. Supporting shipper(s): Land O'Frost, Inc., 16850 Chicago Avenue, Lansing, IL 60438. Send protests to: William H. Land, Jr., D/S, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.*

MC 145904 (Sub-13TA), filed July 16, 1979. Applicant: SOUTH WEST LEASING, INC., P.O. Box 152, Waterloo, IA 50704. Representative: Jack H. Blanshan, 205 West Touhy Avenue, Park Ridge, IL 60068. *Meats, meat products, meat by-products, and articles distributed by meat packinghouses as described in Sections A and C of Appendix I to the report in Descriptions of Motor Carrier certificates, 61 MCC 209 and 766 (except hides and commodities in bulk), from the facilities of Wilson Foods Corp. located at (1) Cedar Rapids, IA, and points in its commercial zone, to points in KS, MO, and NE (2) Marshall, MO and points in its commercial zone, to points in IL and (3) Omaha, NE, and points in its commercial zone, to points in IL and IA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Wilson Foods Corporation, 4545 Lincoln Blvd., Oklahoma City, OK 73105. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.*

MC 145914 (Sub-2TA), filed July 18, 1979. Applicant: COASTAL TRUCK LINE, INC., How Lane, New Brunswick, NJ 08903. Representative: Herbert Burstein, Esq., One World Trade Center, New York, NY 10048. *Contract carrier*, irregular routes for 180 days. *Metal containers* from the facilities of Reynolds Metals Company at or near Woodbridge and Carteret, NJ to the facilities of Miller Brewing Co. at or near South Volney, NY. Supporting shipper(s): Reynolds Metals Company, P.O. Box 27003, Richmond, VA 23261. Send protests to: Irwin Rosen, TS, ICC, 744 Broad Street, Room 522, Newark, NJ 07102.

MC 145935 (Sub-3TA), filed July 9, 1979. Applicant: ALL STATES TRANSPORTATION, INC., Rt. 1, Box 27, Fort Worth, TX 76179. Representative: Harry F. Horak, Suite 115, 5001 Brentwood Stair Rd., Fort Worth, TX 76112. *Meats, meat products, meat by-products, and articles distributed by meat packinghouses* as described in Sections A, B and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 768 (except hides and commodities in bulk), from the facilities of Swift & Company at or near Clovis NM; Guymon, OK; and Cactus, TX, to points in AL, FL, GA, NC, SC, and TN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Swift & Company, 115 W. Jackson Blvd., Chicago, IL 60604. Send protests to: Martha A. Powell, T/A, ICC, Room 9A27, Federal Bldg., 819 Taylor Street, Fort Worth, TX 76102.

MC 146055 (Sub-3TA), filed July 12, 1979. Applicant: JOHN H. SCHUEMAN AND DENNY SCHUEMAN, d.b.a. DOUBLE "S" TRUCK LINE, 425 Livestock Exchange Building, Omaha, NE 68107. Representative: James F. Crosby, P.O. Box 37205, I-80 and Highway 50, Omaha, NE 68137. *Meats and packinghouse products* from Omaha, NE to points in CA, FL, GA, KS, LA, MD, MA, MI, MO, NH, NJ, NY, OH, OK and PA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Union Packing Company of Omaha, 4501 South 37th Street, Omaha, NE 68107. Send protests to: D/S Carroll Russell, ICC, Suite 620, 110 North 14th Street, Omaha, NE 68102.

MC 145974 (Sub-4TA), filed July 12, 1979. Applicant: HIDATCO, INC., P.O. Box 356, New Town, ND 58763. Representative: Richard P. Anderson, 502 1st National Bank Bldg., Fargo, ND 58126. *Contract carrier*, irregular routes: *Lumber and wood products*, (1)(a) From North St. Paul, MN, to ND and SD, and (b) from WA, OR, ID, MT and CA to ND, SD and MN, under contract with Gibbs

Lumber Co., and (2) from WA, OR, ID, MT and CA to MN, under contract with Midwest Lumber Associates, Inc., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Midwest Lumber Associates, Inc., 6875 Washington Avenue South, Minneapolis, MN, 55435; Gibbs Lumber Co., 2831 University Avenue, St. Paul, MN 55114. Send protests to: H. E. Farsdale, DS, ICC, Bureau of Operations, Room 268 Fed. Bldg. and U.S. Post Office, 657 2nd Avenue North, Fargo, ND 58102.

MC 146395 (Sub-3TA), filed July 11, 1979. Applicant: W. C. PITTS CONSTRUCTION CO., INC., Hwy 84W., P.O. Box 112, Waynesboro, MS 39637. Representative: Donald B. Morrison, P.O. Box 22628, Jackson, MS 39205. *Contract carrier*, irregular routes: *Lumber, poles, piling, timbers, cross-ties and wood residuals* from the facilities of Longleaf Forest Products, Inc., at Waynesboro, MS to points in Texas, for the account of North Pacific Lumber Co., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): North Pacific Lumber Co., P.O. Box 3915, Portland, OR 97208. Send protests to: Alan C. Tarrant, D/S, ICC, Rm 212, 145 E. Amite Bldg., Jackson, MS 39201.

MC 146535 (Sub-1TA), filed April 2, 1979. Applicant: NEAR TRUCKING, INC., P.O. Box 53, Fort Bridger, WY 82933. Representative: James E. Phillips, Attorney at Law, Evanston, WY 82930. *Mine and mill supplies, equipment, materials and machinery*, between points in Salt Lake, Davis, Utah and Weber Counties, UT, and Unita, Lincoln, Sweetwater and Sublette Counties, WY, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): There are eight shippers. Their statements may be examined at the office listed below, or at Headquarters. Send protests to: District Supervisor Paul A. Naughton, Interstate Commerce Commission, Rm. 105, Federal Bldg. and Court House, 111 South Wolcott, Casper, WY 82601.

MC 146774 (Sub-1TA), filed July 13, 1979. Applicant: ARTHUR F. COOPER, d.b.a. COOPER BOAT MOVING CO., 1664 W. 9th Street, Long Beach, CA 90813. Representative: Milton W. Flack, 4311 Wilshire Blvd., Suite 300, Los Angeles, CA 90010. *Yachts, boats and component parts and equipment related to yachts and boats*, between points in CA, WA and OR, for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting shipper(s): Broad Avenue Boat Works, 543 North Broad Avenue, Wilmington, CA; Radovich Boat Works, Inc., 843 Watson Avenue, Wilmington, CA;

Yorktown Yachts, Inc., 701 Sanford Ave., Wilmington, CA. Send protests to: Irene Carlos, TA, ICC, P.O. Box 1551, Los Angeles, CA 90053.

MC 146704 (Sub-3TA), filed July 16, 1979. Applicant: FALCON MOTOR TRANSPORT, INC., 1250 Kelly Ave., Akron, OH 44316. Representative: Michael L. Moushey, 275 E. State St., Columbus, OH 43215. *Contract carrier*, irregular routes: *Such commodities as are dealt in and sold by do-it-yourself home centers and materials, equipment, and supplies used in the conduct of such business*, between Akron, Canton, Cleveland, Columbus, Hudson, Kent, Macedonia, and Mentor, OH, on the one hand, and, on the other, points in CT, MA, MD, NJ, NY, PA, RI, and WV, for 180 days, under continuing contract(s) with Forest City Products, Division of Forest City Enterprises, Inc. An underlying ETA seeks 90 days authority. Supporting shipper(s): Forest City Division of Forest City Enterprises, Inc., 10800 Brookpark Rd., Cleveland, OH 44130. Send protests to: D/S, ICC, 101 N. 7 St., Philadelphia, PA 19106.

MC 146804 (Sub-2TA), filed May 3, 1979. Applicant: ROYCE WRIGHT d.b.a. R. J. WRIGHT & SONS, RR 3, Box 259, Portland, IN 47371. Representative: Royce Wright (same address as applicant). *Fertilizer and fertilizer ingredients* to, from and between points in Indiana and Ohio for 180 days. Supporting shipper(s): Vistron Corporation, 314 Midland Bldg., Cleveland, OH 44115, Ridgeville Farms Service, 101 East 5th, Ridgeville, IN, and USS Agri-Chemical, Box 69, Saratoga, IN 47382. Send protests to: Beverly J. Williams, Transportation Assistant, ICC, 46 E. Ohio St., Indianapolis, IN 46204.

MC 146854 (Sub-1TA), filed May 21, 1979. Applicant: MIDWESTERN AIR FREIGHT EXPRESS, INC., 5200 S. Yale, Tulsa, OK 74135. Representative: Fred Leatherland (same address as applicant). *General commodities*, air freight only, between Tulsa and Oklahoma City, OK and Dallas and Houston, TX and commercial zones thereof, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Arthur J. Fritz & Co., 1555 N. 107th E. Ave., Tulsa, OK 74116; Behring International, Inc., 1871 N. 106th E. Ave., Tulsa, OK 74116; Rea-Tan, Inc., 10544 E. Pine, Tulsa, OK 74116; Circle Airfreight Corp., P.O. Box 51084, Tulsa, OK 74151. Send protests to: Connie Stanley, Transportation Assistant, Interstate Commerce Commission, Room 240, Old Post Office and Court House Bldg., 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 146855 (Sub-3TA), filed June 26, 1979. Applicant: JOEL WEHRMAN, Rt. 2, Box 2011, Selah, WA 98942. Representative: Henry C. Winters, 525 Evergreen Bldg., Renton, WA 98055. *Contract, irregular, plastic packaging articles and materials and supplies used in the production of plastic packaging articles* between points in UT on the one hand, and on the other, points in AR, CA, IA, ID, MT, OR, and WA restricted to the transportation of traffic originating at or destined to the facilities of Western Foam Pak, Inc., of Yakima, WA. Supporting shipper(s): Western Foam Pak, Inc., 1111 N. 20th Ave., Yakima, WA 98902. Send protests to: R. V. Dubay, D/S, ICC, 114 Pioneer Courthouse, Portland, Oregon 97204.

MC 146874 (Sub-1TA), filed June 1, 1979. Applicant: PALWOOD TRANSPORTATION, INC., 4017 Sunnyside Rd., Woodstock, IL 60098. Representative: Robert H. Levy, 29 S. LaSalle St., Suite 740, Chicago, IL 60603. (1) *sand, gravel, limestone and limestone products, building materials and contractor's supplies*, from points in WI to points in IL; (2) *waste and scrap materials*, between points in IL, IN, WI, MO, KY, MN, IA and OH for 180 days. An E.T.A. has been granted for 90 days. Supporting shipper(s): Eight Supporting Shippers.. Send protests to: Dave Hunt, T/A, 219 S. Dearborn St., Room 1386, Chicago, IL 60604.

MC 147105 (Sub-1TA), filed May 15, 1979. Applicant: GERSHMAN PRODUCE CO., LTD., 792 Campbell Street, Winnipeg, Manitoba, Canada R3N 1C6. Representative: Gene P. Johnson, P.O. Box 2471, Fargo, ND 58108. (1) *Agricultural commodities*, the transportation of which is otherwise exempt from economic regulation under Subtitle IV of 49 USC 10526 (formerly Section 203(b)(6) of the Interstate Commerce Act), when moving at the same time and in the same vehicle with the commodities named in (2) below, and (2) *Boats*, when moving at the same time and in the same vehicle with the commodities named in (1) above, from Little Rock, AR and Vivian, LA, to points on the International Boundary Line between the United States and Canada at points in MN and ND, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Dufort Distributors Ltd., 15 Bannister Road, Winnipeg, MB, Canada R2R 0P2. Send protests to: Harold E. Farsdale, DS, ICC, Room 268, Fed. Bldg., 657 2nd Avenue North, Fargo, ND 58102.

MC 147225 (Sub-1TA), filed July 9, 1979. Applicant: BOBBY RAYMOND TRUCKING, INC., 2202 W. McDowell Rd., Phoenix, AZ 85005. Representative:

Doug W. Sinclair (same address as applicant). *Foodstuffs, including candy, breakfast bars, and snack food items*, from the facilities of the Sunmark Companies (1) from Itasca, IL and St. Louis, MO to points in the states of AZ, CA, CO, NM, NV, OR, TX, UT, WA, and (2) from Itasca, IL to St. Louis, Mo (See Exhibit III), for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: The Sunmark Companies, 10795 Watson Rd., St. Louis, MO 63127. Send protests to: Ronald R. Mau, District Supervisor, 2020 Federal Bldg., 230 N. 1st Ave., Phoenix, AZ 85025.

MC 147234 (Sub-1TA), filed July 9, 1979. Applicant: J & J TRUCKING CO., 2841 S. 6th St., Ironton, OH 45638. Representative: Stephen C. Fitch, 140 E. Town St., Columbus, OH 43215. *Contract-carrier*, irregular routes: *Bark, sawdust, woodchips, and residue*, from Man and Kenova, WV to Chillicothe, OH, along West Virginia Route 10 to I-64 to U.S. 52 to U.S. 23 and return under continuing contract(s) with Hamer Lumber Co., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Hamer Lumber Co., P.O. Box 418, Kenova, WV 25530. Send protests to: D/S ICC, 101 N. 7 St., Philadelphia, PA 19106.

MC 147255 (Sub-1TA), filed June 20, 1979. Applicant: RAYMOND LOUIS WISEMAN AND LUCILLE WISEMAN, d.b.a. WISEMAN AUTO SALES, P.O. Box 349, Eldon, MO 65026. Representative: James M. Duckett, 927 Pyramid Life Bldg., Little Rock, AR 72201. *Used cars and trucks, by truck-away method*, between all points in AR, MO, OK, TX, LA, GA, AL, MS, TN, KY, IN, IL, KS and FL, for 1980 days. Supporting shipper(s): Supporting shippers' statements can be viewed in Washington, DC or in District Office. Send protests to: John V. Barry, D/S, Interstate Commerce Commission, Room 600 Federal Bldg., 911 Walnut Street, Kansas City, MO 64108.

MC 147275 (Sub-1TA), filed May 14, 1979. Applicant: K W EXPRESS, INC., 6576 Belding Road. Representative: Edwin M. Snyder, Sullivan & Leavitt, 22375 Haggerty Road, P.O. Box 400, Northville, MI 48167. *New Electrical and gas appliances and materials, equipment and supplies used in the manufacturing of these products*; between the facilities of White Consolidated Industries Inc. located at or near Belding, Greenville, and Grand Rapids, MI on the one hand and on the

other, points in the states of OH, IN, IL, and KY. For 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Greenville Products Corporation, 635 West Charles Street, Greenville, MI 48838. Send protests to: C. R. Flemming, D/S ICC, 225 Federal Building, Lansing, MI 48933.

MC 147305 (Sub-1TA), filed June 25, 1979. Applicant: CAPITAL CITY COACH CO., INC., 1341 G Street, N.W., Washington, D.C. 20005. Representative: Walter T. Evans, 7961 Eastern Ave., Silver Springs, MD 20910. *Passengers and their baggage in the same vehicle with passengers, in charter operations*, beginning and ending at points in the DC commercial zone and extending to points in AL, CT, DE, FL, GA, IN, IL, KY, LA, MA, MD, ME, MI, MS, NC, NJ, NH, NY, OH, PA, RI, SC, TN, VA, WV, & WI for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Creative Bus Tours, Inc., 1341 G Street N.W., Washington, D.C. 20005. Send protests to: ICC, Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila, PA 19106.

MC 147334 (Sub-1TA), filed July 12, 1979. Applicant: ROBERT J. SALZ, 3446 Longview Road, Erie, CO 80516. Representative: Raymond M. Kelley, Esq., 450 Capitol Life Center, Denver, CO 80203. *Malt beverages in containers and empty containers and pallets on return from points in St. Paul, MN; St. Louis, MO; Omaha, NE and Peoria, IL to Laramie, WY and Pueblo, CO* for 180 days. Underlying ETA filed seeking 90 days authority. Supporting shipper(s): Smith Beverages, P.O. Box 1206, 201 Harney St., Laramie, WY 82070; Pueblo Bottling, Inc., 1600 N. Erie, Pueblo, CO 81001. Send protests to: R. Buchanan, 492 U.S. Customs House, Denver, CO 80202.

MC 147344 (Sub-1TA), filed July 5, 1979. Applicant: RED'S EXPRESS, INC., 309 Beach St., Modesto, CA 95354. Representative: T. Ravey, 518 Santa Clara Ave., Alameda, CA 94501. *Common carrier*, regular routes: *General commodities except*: (1) Automobiles, trucks and buses (2) Livestock (3) Liquids or compressed gases in bulk or in tank trucks (4) Bulk commodities in dump trucks (5) Logs: from, to, and between all points and places located on the following described routes: On State Hwy 99 from Merced, CA to Yuba City, CA; On State Hwy 59 to Merced, CA to State Hwy 152; On State Hwy 152 from jct. State Hwys 59/152 to Los Banos, CA; On State Hwy 33 from Los Banos, CA to Tracy, CA; On US Interstate Hwy 5 from Tracy, CA to Stockton, CA; On State Hwy 108 from Modesto, CA to Mi-Wuk Village, CA; On State Hwy 49 from Moccasin, CA to

Nevada City, CA; On State Hwy 4 from Altaville, CA to Stockton, CA; On State Hwy 88 from Jackson, CA to Stockton, CA; On State Hwy 104 from Ione, CA to State Hwy 88; On US Hwy 50 from Sacramento, CA to Stateline, NV; On State Hwy 89 from Truckee, CA to Jct. Hwys 50/89; On State Hwy 28 from Tahoe City, CA to Crystal Bay, NV; On US Interstate Hwy 80 from Sacramento, CA to Truckee, CA; On State Hwy 20 from Grass Valley, CA to Yuba City, CA; On State Hwy 65 from Marysville, CA to Roseville, CA, for 180 days. Supporting shipper(s): Jack Coe's Diagnostic & Tune Up, Highway 50, South Lake Tahoe, CA. Send protests to: D/S N. C. Foster, 211 Main—Suite 500, San Francisco, CA 94105.

MC 147414 (Sub-1TA), filed July 9, 1979. Applicant: GARY A. REESE, d.b.a. GARY REESE TRUCKING, RR 3, Albert City, IA 50510. Representative: D. Douglas Titus, Suite 510, Benson Building, Sioux City, IA 51101. *Sand, gravel, ag-lime, aggregates, crushed stone and road and dam building materials* from Gilmore City, IA to Sioux Falls, SD for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Midwest Limestone Co., Inc., Box 281, Gilmore City, IA 50541. Send protests to: D/S Carroll Russell, ICC, Suite 620, 110 North 14th Street, Omaha, NE 68102.

MC 147425 (Sub-1TA), filed May 22, 1979. Applicant: LLOYD CHRISTENSEN, d.b.a. LLOYD'S TIRE SERVICE, E. 503—Second, Spokane, WA 99202. Representative: Donald A. Ericson, 708 Old National Bank Bldg., Spokane, WA 99201. *Contract carrier: irregular routes: (1) Plastic scraps, from the facilities of Sound Manufacturing, Inc., at Kent, WA to McMinnville, OR, and Pico Rivera, Redlands, Carson, and LaMirada, CA; (2) plastic sheets, from McMinnville, OR, Pico Rivera, Redlands, Carson, and LaMirada, CA to the facilities of Sound Manufacturing, Inc., at Kent, WA and (3) finished plastic products, from the facilities of Sound Manufacturing, Inc. at Kent, WA to Portland, Salem and McMinnville, OR, for 180 days. Supporting shipper(s): Sound Manufacturing, Inc., 5438 South 228th, Kent, WA 98031. Send protests to: Shirley M. Holmes, T/A, ICC, 858 Federal Bldg., Seattle, WA 98174.*

MC 147454 (Sub-1TA), filed June 18, 1979. Applicant: JAMES CONDOSTA, 807 Exeter Ave., West Pittston, PA 18643. Representative: Joseph F. Hoary, 121 S. Main St., Taylor, PA 18517. *Scrap metal in dump type vehicles* from Ellenville, NY to Easton and Milton, PA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s):

Ellenville Scrap & Iron, Ellenville, NY, and Wagner Trading, Box 31, Milton, PA. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 No. 7th St., Rm. 620, Phila., PA 19106.

MC 147524 (Sub-1TA), filed June 22, 1979. Applicant: SINED LEASING, INC., 108 High Street, Mt. Holly, NJ 08060. Representative: John Francis Gough, Esquire, Messrs. White and Williams, 17th Floor, 1234 Market Street, Philadelphia, PA 19107. *Contract, irregular. In Bulk: invert cane sugar (liquid), fructose (liquid), sucrose (liquid), corn syrup (liquid) and flour (dry); the following commodity in bags: flour (dry).* Between Boston, MA; Buffalo, NY; Brooklyn, NY; New York, NY; Baltimore, MD; Cincinnati, OH; Decatur, IL; Chicago, IL; Indianapolis, IN; Lafayette, IN; St. Louis, MO; New Orleans, LA; Hammond, IN; Decatur, AL; and Detroit, MI; on the one hand and Athens, OH; Akron, OH; Columbus, OH; Dayton, OH; Cincinnati, OH; Youngstown, OH; Detroit, MI; Seymour, IN; Vincennes, IN; State of MA; State of CT; State of NY; State of NJ; State of PA; Washington, DC; Lynchburg, VA; Hollins, VA; Roanoke, VA; Winston-Salem, NC; Greensboro, NC; Elkin, NC; Atlanta, GA; Savannah, GA; Athens, GA; Charleston, WV and the State of MD on the other hand, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Beverage Management, Inc., 1001 Kingsmill Parkway, Columbus, OH 43299; GCC Beverages, Inc., Palmetto Expressway, Miami, FL 33157; Standard Milling Company, 1009 Central Street, Kansas City, MO 64105; Revere Sugar Corp., 240 Richards Street, Brooklyn, NY 11231; F & M Schaefer Brewing, Inc., Interstate 78, Fogelsville, PA; American Maize Products Co., Indianapolis Blvd., Hammond, IN 46326. Send protests to: Joel Morrows, D/S, ICC, 744 Broad St., Room 522, Newark, NJ 07102.

MC 147544 (Sub-1TA), filed June 25, 1979. Applicant: CARL MEDLIN TRUCKING, an individual, 5890 Wood Sorrel Drive, Littleton, CO 80123. Representative: Carl Medlin, same address as applicant. *Meats* from Denver, CO and its commercial zone to points in NJ, NY and PA. Supporting shipper(s): Wilson Foods Corp., 4950 Washington, Denver, CO 80216. Send protests to: R. Buchanan, 492 U.S. Customs House, Denver, CO 80202.

MC 147554 (Sub-1TA), filed July 5, 1979. Applicant: ARAB CARTAGE AND EXPRESS, CO, INC., P.O. Box 427, Arab, AL 35016. Representative: John R. Frawley, Jr., 5506 Crestwood Blvd., Birmingham, AL 35212. *Electrical appliances, equipment and parts;*

hydraulic cylinders, materials and components used in the manufacture of hydraulic cylinders; motorcycle parts, vehicle braking systems, materials and components used in the manufacture of motorcycle parts and vehicle braking systems, between Arab, AL on the one hand and, on the other, points in WI, OH, MS, MI, TX, MN, GA, IL, AR, and NC, for 180 days. Supporting shipper(s): Heil Corporation, Arab—Thompson Rd., Arab, AL; Cutler-Hammer, Inc., 8th Avenue SE, Arab, AL; Syncro Corp., 7th Avenue NW, Arab, AL. Send protests to: Mabel E. Holston, T/A, ICC, Room 1616—2121 Building, Birmingham, AL 35203.

MC 147555 (Sub-1TA), filed June 27, 1979. Applicant: L & B Cartage, Inc., P.O. Box 388, Freeland, MI 48263. Representative: Robert E. McFarland, 999 W. Big Beaver Road, Suite 1002, Troy, MI 48064. *General Commodities* (except articles of unusual value, classes A & B explosives, house hold goods as defined by the Commission, commodities in bulk, and those requiring special equipment); between Tri-City Airport, at or near Freeland, MI on the one hand, and on the other, Detroit Metropolitan Wayne County Airport, at or near Romulus, MI and Willow Run Airport at or near Ypsilanti, MI restricted to shipments having a prior or subsequent movement by air. For 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Airborne Freight Corporation, Tri-City Airport, Freeland, MI 48263. Send protests to: C. R. Flemming, D/S, ICC, 225 Federal Building, Lansing, MI 48933.

MC 147565 (Sub-1TA), filed July 3, 1979. Applicant: PALMETTO TRANSPORTATION SERVICES, INC., P.O. Box 4932, Hilton Head Island, SC 29928. Representative: Tom Durston, same as applicant. *Passengers and baggage in charter and special service,* between Hilton Head Island, SC and Chatham County, GA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Historic Savannah Foundation, Inc., P.O. Box 1733, Savannah, GA 31402; Sea Pines Plantation Company, Hilton Head Island, SC 29948; Hyatt, P.O. Box 6167, Hilton Head Island, SC 29928. Send protests to: E. E. Strotheid, D/S, ICC, Rm. 302, 1400 Bldg., 1400 Pickens St., Columbia, SC 29201.

MC 147644 (Sub-1TA), filed July 5, 1979. Applicant: J.M.C. TRANSPORT, INC., 900 W. Stephen Foster Blvd., Bardstown, Ky. 40004. Representative: Gerald K. Gimmel, Suite 145, 4 Professional Drive, Gaithersburg, MD. 20780. (1) Wine and Brandy, from points in CA. to the facilities of House of

Nelson, Inc., Kentucky Liquor and Wine, Inc., and Willett Distilling Company, in Louisville, Bardstown, Covington, and Paducah, Ky. (2) Pallet stretch-wrap machinery, from Louisville, Ky. to points in CA. (3) Ceramic Decanters, from Los Angeles, CA, to Bardstown, Ky. Supporting shipper(s): Wilbro, Inc., Bardstown, Ky.; LanTech, Inc., Louisville, Ky.; Willett Distilling Co., Bardstown, Ky.; Ky. Liquor & Wine Co., Louisville, Ky.; and House of Nelson, Inc., Louisville, Ky. Send protests to: Mrs. Linda H. Sypher, D/S, ICC, 426 Post Office Bldg., Louisville, Ky. 40202.

MC 147684 (Sub-1TA), filed July 9, 1979. Applicant: TRANSCONTINENTAL REFRIGERATED EXPRESS, INC., 145 Crispin Boulevard, Brunswick, GA 31520. Representative: W. Eugene Caldwell, P.O. Box 1496, Brunswick, GA 31520. (1) *Frozen and canned foodstuffs and (2) materials, supplies and equipment used in the manufacturing and distribution of foodstuffs (except in bulk),* between the facilities of Douglas Foods, Inc. at Douglas, GA on the one hand, and on the other hand, points in the United States, except AK and HI for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Douglas Foods Service Co., P.O. Box 1208, Douglas, GA 31533. Send protests to: G. H. Fauss, Jr., DS, ICC, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

MC 147695 (Sub-1TA), filed July 16, 1979. Applicant: ONAHU TRANSPORTATION CO., INC., P.O. Box 822, 1445 Spencer St., Longmont, CO 80501. Representative: Doyle W. Bloder, same address as applicant. *Malt beverages and related advertising materials* from Jefferson County, CO to points in MO; and *empty kegs, bottles and cans for recycling* from points in MO to Jefferson County, CO for 180 days. Underlying ETA filed seeking 90 days authority. Supporting shipper(s): Adolph Coors Company, Golden, CO. Send protests to: R. Buchanan, 492 U.S. Customs House, Denver, CO 80202.

MC 147885 (Sub-1TA), filed March 6, 1979. Applicant: MANUEL AND AMY VEGA d.b.a. VEGA CONSTRUCTION AND TRUCKING, P.O. Box 1630, Elko, NV 89801. Representative: John R. Ross II, Esq., P.O. Box 635, Carson City, NV 89701. *Ore and General Commodities,* between points and places situated within the counties of Elko, Eureka and Lander, State of NV, for 180 days. Supporting shipper(s): Chromalloy American Corp., P.O. Box 1003, Elko, NV 89801. Send protests to: W. J. Huetig, DS, ICC, 203 Federal Building, 705 North Plaza St., Carson City, NV 89701.

MC 147925 (Sub-TA), filed June 18, 1979. Applicant: JACK SHAWEL AND ARTHUR C. ROSS, d.b.a. ROSS TRUCKING, 8253 Lincoln Ave., Skokie, IL 60077. Representative: Jack Schawel, 111 W. Washington St., Chicago, IL 60602. *General commodities,* to and from all points and places inside the states of IL, WI, MN, MI, IN, OH, IA, MO and KY, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Stanislaus Foods, P.O. Box 3951, Modesto, CA 95352. Send protests to: David Hunt, TA, Room 1386, 219 S. Dearborn St., Chicago, IL 60604.

Note.—Applicant request authority to interline.

[Notice No. 148]

August 16, 1979.

MC 59583 (Sub-173TA), filed July 23, 1979. Applicant: THE MASON AND DIXON LINES, INC., P.O. Box 969, Kingsport, TN 37662. Representative: D. W. Penland (same address as above). *Foodstuffs, other than in Bulk, in controlled temperature vehicles,* from facilities of J. H. Filbert, Inc., in Clayton, Cobb, DeKalb and Douglas Counties, Georgia to points and places in IL and IN for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): J. H. Filbert Inc., 3701 Southwestern Blvd., Baltimore, Maryland 21229. Send protests to: Glenda Kuss, TA, ICC, Suite A-422 U.S. Courthouse, 801 Broadway, Nashville, TN 37203.

MC 81592 (Sub-463TA), filed May 24, 1979. Applicant: JENKINS TRUCK LINE, INC., P.O. Box 697, Jeffersonville, IN 47130. Representative: Don W. Smith, Suite 945-9000 Keystone Crossing, Indianapolis, IN 46240. *Agricultural machinery, implements, equipment and parts and accessories and materials, equipment and supplies used in the manufacture of agricultural machinery, implements, equipment, parts and accessories* from Kaukauna, WI to points in the U.S. in and east of MT, WY, CO and NM and from points in the U.S. in and east of MT, WY, CO and NM to Kaukauna, WI for 180 days. Supporting shipper: Badger Northland, Inc., 1215 Hyland Avenue, Kaukauna, WI 54130. Send protests to: Beverly J. Williams, Transportation Assistant, ICC, 48 E. Ohio Street, Rm. 429, Indianapolis, IN 46204. An underlying ETA seeks 90 days authority.

MC 81133 (Sub-4TA), filed July 26, 1979. Applicant: CORKERY FUEL & MATERIALS COMPANY, 1017 Mary Candace Ln., St. Louis, MO 63125. Representative: Michael W. O'Hara, Atty., 300 Reichs Bldg., Springfield, IL 62701. *Coal* from DuQuoin, W. Frankfort

and Sparta, IL to Festus, MO, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Royal Fuel Corporation, 1211 W. 22nd St., Rm. 417, Oakbrook, IL 60521. Send protests to: P. E. Binder, DS, ICC, Rm. 1463, 210 N. 12th St., St. Louis, MO 63101.

MC 87103 (Sub-40TA), filed June 29, 1979. Applicant: MILLER TRANSFER AND RIGGING CO., P.O. Box 6077, Akron, OH 44312. Representative: Edward P. Bocko (same address as applicant). (1) *Commodities which, because of size or weight, require the use of special handling or special equipment (2) selfpropelled articles each weighing 15,000 pounds or more (3) commodities which, because of size or weight do not require special handling or special equipment (4) machinery (5) machine parts (6) heavy machinery (7) iron or steel or iron or steel articles (8) contractors equipment, materials and supplies (1) BETWEEN pts. and places in CT, DE, IL, IN, ME, MD, MA, MI, NH, NJ, NY, NC, OH, PA, RI, VT, VA, WV, and DC (2) BETWEEN pts. in CT, DE, IL, IN, ME, MD, MA, MI, NH, NJ, NY, NC, OH, PA, RI, VT, VA, WV, and DC on the one hand, and, on the other, pts. and places in the US (except AK and HI), for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Applicant's statement of facts. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.*

MC 98952 (Sub-72TA), filed July 25, 1979. Applicant: GENERAL TRANSFER COMPANY, 2880 North Woodford Street, Decatur, Illinois 62526. Representative: Charles Carnahan, Jr., 2880 North Woodford Street, Decatur, Illinois 62526. *Foodstuffs, from the facilities of Anderson Clayton Foods at Jacksonville, Illinois to points in the states of IN, IA, KY, MI, MN, MO, OH, TN, and WI for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Anderson Clayton Foods Inc., P.O. Box 226165, Dallas, Texas 75266. Send protests to: Cheryl G. Livingston, T/A, 219 S. Dearborn St., Room 1386, Chicago, Illinois 60604.*

MC 103993 (Sub-975TA), filed June 13, 1979. Applicant: MORGAN DRIVE-AWAY, INC., 28651 U.S. 20 West, Elkhart, IN 46515. Representative: James B. Buda (same address as applicant). *Buildings, building panels, building parts and materials, accessories, and supplies used in the installation, erection, and construction of buildings, building panels, and building parts (except commodities in bulk), from the facilities of Republic Building Corporation at or near Rainville, AL to points in the United States in and east of the states of ND, SD, NE, KS, OK and*

TX for 180 days. Supporting shipper: Republic Buildings Corporation, 1202 Industrial Avenue, Van Wert, OH 45891. Send protests to: Beverly J. Williams, Transportation Assistant, ICC, 46 E. Ohio Street, Rm. 429, Indianapolis, IN 46204. An underlying ETA seeks 90 days authority.

MC 103993 (Sub-976TA), filed April 27, 1979. Applicant: MORGAN DRIVE-AWAY, INC., 28651 U.S. 20 West, Elkhart, IN 46515. Representative: James B. Buda (same address as applicant). *Iron and steel articles* from the plantsite of Gregory Galvanizing and Metal Processing, Inc., at or near Canton, OH to points in the United States in and east of the states of ND, SD, NE, KS, OK and TX for 180 days. Supporting shipper: Gregory Galvanizing & Metal Processing, Inc., 1723 Cleveland Ave., SW., Canton, OH 44706. Send protests to: Beverly J. Williams, Transportation Asst., ICC, 46 E. Ohio Street, Rm. 429, Indianapolis, IN 46204. An underlying ETA seeks 90 days authority.

MC 107012 (Sub-407TA), filed June 20, 1979. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Ft. Wayne, IN 46801. Representative: Gerald A. Burns (same address as applicant). *Commodities used in the manufacture of computers and computer equipment, in mixed loads with household goods* between points in AZ, CA, CO, CT, IL, IN, ME, MA, MN, NH, NJ, NM, NY, NC, OK, OR, PA, RI, SC, TX, VT, and WA for 180 days. Supporting shipper: Digital Equipment Corp., 444 Whitney Street, Northboro, MA 01532. Send protests to: Beverly J. Williams, Transportation Assistant, ICC, 46 E. Ohio St., Rm. 429, Indianapolis, IN 46204.

MC 115523 (Sub-188TA), filed July 20, 1979. Applicant: CLARK TANK LINES COMPANY, 1450 Beck Street, Salt Lake City, UT 84110. Representative: Melvin J. Whitear (same address as applicant). *Lime and lime products*, in bulk, from Caselton, NV to the Delamar Mine near Silver City, ID, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Sierra Chemical Company, 1490 E. 2nd Street, Reno, NV 89502. Send protests to: L. D. Helfer, DS, ICC, 5301 Federal Bldg., Salt Lake City, UT 84138.

MC 115242 (Sub-17TA), filed July 19, 1979. Applicant: DONALD MOORE, 601 N. Prairie St., Prairie Du Chien, WI 53821. Representative: Michael Varda, 121 S. Pinckney St., Madison, WI 53703. *Malt beverages* from LaCrosse, WI to Dubuque, IA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Dubuque Holiday Sales, Inc., 1270 E. 12th St., Dubuque, IA

52001. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 118202 (Sub-129TA), filed June 1, 1979. Applicant: SCHULTZ TRANSIT, INC., P.O. Box 406, 323 Bridge Street, Winona, MN 55987. Representative: Robert S. Lee, 1000 First National Bank Building, Minneapolis, MN 55402. *Iron and steel articles* from Chicago, IL and points in its Commercial Zone to Winona, MN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Badger Construction Equipment Company, Airport Industrial Park, Winona, MN 55987. Send protests to: Delores A. Poe, TA, ICC, 414 Federal Building & U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 118263 (Sub-86TA), filed May 22, 1979. Applicant: COLDWAY CARRIERS, INC., P.O. Box 2038, Clarksville, IN 47130. Representative: William L. Willis, Suite 708, McClure Bldg., Frankfort, KY 40601. *Meats, meat products, and meat by-products, and articles distributed by meat packing houses (except inedible hides and skins and commodities in bulk)* from the plantsite and warehouse facilities of Armour Processed Meats Co. at Louisville, KY, on the one hand, and, on the other, points in AR, GA, IL, IN, IA, ME, MS, MO, NH, RI, VA and WI for 180 days. Supporting shipper: Armour Processed Meats Co., 1200 Story Avenue, Louisville, KY 40206. Send protests to: Beverly J. Williams, Transportation Assistant, ICC, 46 E. Ohio St., Rm. 429, Indianapolis, IN 46204. An underlying ETA seeks 90 days authority.

MC 119702 (Sub-70TA), filed July 27, 1979. Applicant: STAHLY CARTAGE CO., 119 S. Main St., P.O. Box 486, Edwardsville, IL 62025. Representative: Carl R. Wetzel (same address as applicant). *Petroleum Naphtha & Aromatic Solvents*, from Cyril, OK to St. Louis, MO for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Missouri Solvents & Chemical Co., 419 DeSoto Ave., St. Louis, MO 63147. Send protests to: Cheryl Livingston, TA, 219 S. Dearborn, Rm. 1386, Chicago, IL 60604.

MC 123272 (Sub-38TA), filed July 25, 1979. Applicant: FAST FREIGHT, INC., 9651 Ewing Avenue, Chicago, IL 60617. Representative: James C. Hardman, 33 North LaSalle Street, Chicago, IL 60602. *Bottles and bottling supplies*, from points in NY, NJ, WV, IN, IL, MI and OH to the facilities of James Beam Distilling Co., at/near Clermont and Louisville, KY for 180 days. Supporting shipper(s): James B. Beam Distilling Co., Clermont, KY 40110. Send protests to: Annie

Booker, TA, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 123272 (Sub-40TA), filed July 23, 1979. Applicant: FAST FREIGHT, INC., 9651 Ewing Avenue, Chicago, IL 60617. Representative: James C. Hardman, 33 North LaSalle Street, Chicago, IL 60602. *Cheese and cheese products and materials and supplies used in the manufacture of cheese and cheese products: Between the facilities of Pace Dairy at/near Rochester, MN on the one hand, and on the other, Atlanta, GA, Charleston, WV, Cincinnati, Cleveland and Columbus, OH, Dallas and Houston, TX, Detroit and Grand Rapids, MI, Indianapolis, Ft. Wayne and Greensburg, IN, Little Rock, AR, Louisville, KY, Memphis and Nashville, TN, Peoria, IL, Pittsburgh, PA, Roanoke, VA, and St. Louis, MO for 180 days. Supporting shipper(s): The Kroger Company, 1014 Vine Street, Cincinnati, OH 45201. Send protests to: Annie Booker, TA, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.*

MC 123872 (Sub-107TA), filed July 24, 1979. Applicant: W & L MOTOR LINES, INC., P.O. Box 3487, Hickory, NC 28601. Representative: Allen E. Bowman (same as applicant). *Meat, meat products and meat by-products and articles distributed by meat packing houses as described in Sections A, B and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except hides and commodities in bulk in tank vehicles)* from the facilities utilized by John Morrell & Co. at or near Amarillo, TX; Arkansas City, KS; East St. Louis, IL; El Paso, TX; Estherville, IA; Sioux City, IA; Sioux Falls, SD; and St. Paul, MN to points in GA, NC, SC, VA and TN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): John Morrell & Co., 208 S. LaSalle St., Chicago, IL 60604. Send protests to: Sheila Reece, Transportation Assistant, 800 Briar Creek Rd., Rm. CC516, Charlotte, NC 28205.

MC 126542 (Sub-11TA), filed July 23, 1979. Applicant: B. R. WILLIAMS TRUCKING, INC., P.O. Box 3310, Oxford, AL 36201. Representative: John W. Cooper, 200 Woodward Bldg., 1927 1st Avenue North, Birmingham, AL 35203. *Contract, irregular: (1) Plastic and rubber articles*, from Lineville, AL, to points in the United States except AK and HI; and *(2) Materials, supplies and equipment used or consumed in the manufacture and shipping of plastic and rubber articles*, except in bulk in tank vehicles, from points in the United States except AK and HI, to Lineville, AL, for 180 days. An underlying ETA seeks 90 days authority. Supporting

shipper(s): Wheel Products Division Amerace Corporation, Lineville, AL 36268. Send protests to: Mabel E. Holston, T/A, ICC, Room 1616, 2121 Building, Birmingham, AL 35203.

MC 127303 (Sub-66TA), filed July 26, 1979. Applicant: ZELMER TRUCK LINES, INC., P.O. Box 343, Granville, IL 61326. Representative: Dwight L. Koerber, Jr., 805 McLachlen Bank Building, 666 Eleventh Street NW., Washington, D.C. 20001. *Non-alcoholic beverages*, from Omaha, NB and Granite City, IL to points in MN, WI, ND, and SD for 180 days. An underlying ETA seeking 90 days authority was filed. Supporting shipper(s): Shasta Beverages, Inc., 26901 Industrial Blvd., Hayward, CA 94545. Send protests to: Annie Booker, TA, Interstate Commerce Commission, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 135052 (Sub-30TA), filed April 27, 1979. Applicant: ASHCRAFT TRUCKING, INC., 875 Webster Street, Shelbyville, IN 46176. Representative: Warren C. Moberly, 320 N. Meridian Street, Rm. 777, Indianapolis, IN 46204. *(1) Paper and paper products (except commodities in bulk), and (2) materials and supplies used in the manufacture and distribution of paper and paper products (except commodities in bulk)*, (1) from the plantsites of Inland Container Corporation in Indianapolis and Crawfordsville, IN, to points in the states of OH, MI, IL, IA and KY and (2) from points in the states of OH, MI, IL, IA and KY, to the plantsites of Inland Container Corporation in Indianapolis and Crawfordsville, IN, for 180 days. Supporting shipper: Inland Container Corporation, 151 N. Delaware Street, Indianapolis, IN 46204. Send protests to: Beverly J. Williams, Transportation Assistant, ICC, 46 E. Ohio St., Rm. 429, Indianapolis, IN 46204. An underlying ETA seeks 90 days authority.

MC 135732 (Sub-39TA), filed July 25, 1979. Applicant: AUBREY FREIGHT LINES, INC., P.O. Box 503, Elizabeth, NJ 07207. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. *Foodstuffs (except in bulk)*, from the facilities of the C. F. Mueller Co. located at or near Jersey City, NJ to points in the states of OH, IN, MI, IL, WI and IA, for 180 days. Supporting shipper(s): C. F. Mueller Co., 180 Baldwin Avenue, Jersey City, NJ 07306. Send protests to: Robert E. Johnston, D/S, ICC, 744 Broad St., Room 522, Newark, NJ 07102.

MC 135732 (Sub-40TA), filed July 19, 1979. Applicant: AUBREY FREIGHT LINES, INC., P.O. Box 503, Elizabeth, NJ 07207. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. *Chemicals and compounds, and*

materials, equipment, and supplies used in the manufacture and sale of chemicals and compounds (except commodities in bulk) between Boonton, Kearny and Harrison, NJ; Chicago, IL; and Houston, TX, on the one hand, and, on the other, Los Angeles, and San Francisco, CA; Portland, OR; Pocatello, ID; Seattle, WA; and Green River, WY, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Drew Chemical Corp., 1 Drew Chemical Plaza, Boonton, NJ 07005. Send protests to: Robert E. Johnston, DS, ICC, 744 Broad Street, Room 522, Newark, NJ 07102.

MC 138253 (Sub-13TA), filed June 22, 1979. Applicant: MONFORT TRANSPORTATION COMPANY, P.O. Box G, Greeley, CO 80631. Representative: John T. Wirth, 717 17th St. Suite 2600, Denver, CO 80202. *Contract carrier: irregular routes: (1) Chemicals and (2) Laboratory, graphic arts, electroplating, laundry, dry cleaning and swimming pool supplies and equipment, and (3) Materials used in the manufacture, sale and distribution thereof* from points in CA, DE, IL, IN, MD, MI, NJ, NY, OH, PA, WA and WV to Denver, CO for 180 days. Underlying ETA filed seeking 90 days authority. Supporting shipper(s): Chemical Sales Company, 4661 Monaco St., Denver, CO 80216. Send protests to: R. Buchanan, 492 U.S. Customs House, Denver, CO 80202.

MC 138322 (Sub-11TA), filed July 23, 1979. Applicant: BHY TRUCKING, INC., 9231 Whitmore Street, El Monte, CA 91733. Representative: Robert Fuller, 13215 E. Penn Street, Suite 310, Whittier, CA 90602. *Fabricated steel beams*, from Carlsbad, NM to Anaheim, CA, for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting shipper(s): Southwestern Engineering and Machinery Corp., P.O. Box Drawer LL—Hobbs Highway at East Orchard Lane, Carlsbad, NM 88220. Send protests to: Irene Carlos, TA, ICC, P.O. Box 1551, Los Angeles, CA 90053.

MC 138432 (Sub-16TA), filed July 20, 1979. Applicant: GARLAND GEHRKE, 1800 N. Jefferson, Lincoln, IL 62756. Representative: James R. Madler, 120 W. Madison St., Chicago, IL 60602. *Commodities as dealt in by wholesale and retail grocery and chain stores, restricted to traffic originating at the facilities or Dry Storage Corp., in the Chicago, IL Commercial Zone* to points in IA, lower peninsula of MI, and the St. Louis, MO Commercial Zone, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Dry Storage Corp., 2005 W. 43rd, Chicago, IL 60609. Send protests to: Annie Booker,

TA, Rm. 1386, 219 S. Dearborn St., Chicago, IL 60604.

MC 138762 (Sub-42TA), filed July 16, 1979. Applicant: MUNICIPAL TANK LINES LIMITED, P.O. Box 3500, Calgary, AB, Canada T2P 2P9. Representative: Richard H. Streeter, 1729 H Street NW., Washington, DC 20006. *Molten sulphur*, in tank type vehicles, from ports of entry on the U.S.-Canada International Boundary line in MI to Detroit and Bay City, MI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Pressure Vessel Services, Inc., 6473 Anstell Ave., Detroit, MI 48213. Send protests to: Paul J. Labane, DS, ICC, 2602 First Avenue North, Billings, MT 59101.

MC 141402 (Sub-37TA), filed May 24, 1979. Applicant: LINCOLN FREIGHT LINES, INC., P.O. Box 427, Lapel, IN 46051. Representative: Norman Garvin, 1301 Merchants Plaza, Indianapolis, IN 46204. *Contract carrier, irregular routes: (1) Iron, steel, zinc, lead, and articles or products thereof (except in bulk); springs; and construction materials, supplies and equipment (except in bulk)*, from the facilities of or used by Penn-Dixie Industries, Inc., Penn-Dixie Steel Corp., and Steven Spring, Inc., at or near Blue Island and Joliet, IL; Cicero, Elkhart, Fort Wayne and Kokomo, IN; Centerville, IA; Grand Rapids and Lansing, MI; Jackson, MS; Columbus and Toledo, OH to points in AL, AR, GA, IL, IN, KY, MI, MS, MO, NC, IA, PA, TN, WV, OH, VA, MD and WI. (2) *Materials, supplies and equipment (except in bulk)*, used in the manufacture and distribution of commodities named in (1) above, from points in the destination States named in (1) above, to the facilities of or used by Penn-Dixie Industries, Inc., Penn-Dixie Steel Corp., and Steven Spring, Inc., located at or near points in (1) above, under a contract or continuing contracts with Penn-Dixie Steel Corp. for 180 days. Supporting shipper: Penn-Dixie Steel Corp., P.O. Box 744, Kokomo, IN 46901. Send protests to: Beverly J. Williams, Transportation Assistant, ICC, 46 E. Ohio St., Rm. 429, Indianapolis, IN 46204. An underlying ETA seeks 90 days authority.

MC 138882 (Sub-277TA), filed February 20, 1979, refilled July 2, 1979. Applicant: WILEY SANDERS TRUCK LINES, INC., P.O. Box 707, Troy, AL 36081. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. *Paper and paper products and wood pulp* between Scott Paper facilities in the Commercial zones of Mobile, AL; Philadelphia, PA; Marinette, WI; Oconto Falls, WI; Green Bay, WI; Fort Edward, NY; Albany, NY; Brunswick, GA, for 180

days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Scott Paper Company, Scott Plaza, Philadelphia, PA 19113. Send protests to: Mabel E. Holston, T/A, ICC, Room 1618, 2121 Building, Birmingham, AL 35203.

MC 141252 (Sub-9TA), filed July 3, 1979. Applicant: PAN WESTERN CORPORATION, 4105 Las Lomas, Las Vegas, NV 89102. Representative: Richard Truman (same as applicant). *Clay pipe, fittings and related material*, from Corona, CA to Clark and Nye Counties, NV, Washington and Iron Counties, UT, Mohave, Coconino and Navajo Counties, AZ, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Mission Clay Products, P.O. Box 549, Corona, CA 91720. Gladding McBean, P.O. Box 578, Corona, CA 91720. Send protests to: DS W. J. Huetig, ICC, 203 Federal Bldg., Carson City, NV 89701.

MC 142673 (Sub-2TA), filed July 25, 1979. Applicant: SPEEDY DELIVERY SERVICE, INC., 2010 N.E. Perry Street, Peoria, IL 61601. Representative: Robert T. Lawley, 300 Reisch Bldg., Springfield, IL 62701. *Building materials and floor coverings* from Chicago, IL to Davenport, IA and from East Peoria, IL to Clinton, Davenport and Keokuk, IA and *imitation brick and stone* from Ft. Wayne, IN to East Peoria, IL and; from Sterling, IL to Clinton, IA for 180 days. Applicant has filed an underlying ETA seeking 90 days authority. Supporting shipper(s): Bramlet and Company, No. 1 Altorfer Lane, East Peoria, IL 61611. Send protests to: Annie Booker, TA, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 145102 (Sub-35TA), filed July 18, 1979. Applicant: FREYMLER TRUCKING INC., P.O. Box 188, Shullsburg, WI 53586. Representative: Wayne Wilson, 150 E. Gilman St., Madison, WI 53703. *Cheese and cheese products* from Rochester, MN and points in WI to points in NV, AZ & CA, restricted to traffic originating at the facilities used by N.C.D. Corp., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): N.C.D. Corp., 3200 W. Temple St., Los Angeles, CA 90026. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 145402 (Sub-7TA), filed July 18, 1979. Applicant: LAKE LINE EXPRESS, INC., P.O. Box 1021, Appleton, WI 54912. Representative: Nancy Johnson, 103 E. Washington St., Crandon, WI 54520. (1) *Internal combustion engines and accessories thereto*, from facilities of Teledyne Continental Motors, Industrial Products Div., at or near Muskegon, MI to Appleton, Kohler, Butler, Milwaukee,

Waupaca, Brillion and Racine, WI and (2) *Materials, equipment and supplies used in the manufacture and distribution of internal combustion engines and accessories thereto*, from Waupaca, Brillion, Appleton, Berlin and Slinger, WI to facilities of Teledyne Continental Motors, Industrial Products Div., at or near Muskegon, MI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Teledyne Continental Motors, 700 Terrace St., Muskegon, MI 49443. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 145772 (Sub-7TA), filed July 18, 1979. Applicant: LANG CARTAGE CORP., P.O. Box 1465, Waukesha, WI 53187. Representative: Richard Alexander, 710 N. Plankinton Ave., Milwaukee, WI 53203. *Such merchandise as is dealt in by retail mail order houses (except furniture)* from facilities of Unity Buying Service Co., Inc. at Schaumburg, IL to points in MN, WI & UP of MI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Unity Buying Service Co., Inc., 905 E. Gulf Rd., Schaumburg, IL 60196. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 146162 (Sub-4TA), filed July 26, 1979. Applicant: TRANSPORT EQUIPMENT CORP., 240 E. 112th Street, Hammond, IN 46320. Representative: Joseph Winter, 29 South LaSalle Street, Chicago, IL 60603. (1) *Metal articles*, and (2) *building materials and building supplies*, between points in the Chicago, IL commercial zone, restricted to the transportation of traffic having a prior or subsequent movement by water, for 180 days. An underlying ETA seeks 90 days authority has been filed. Supporting shipper(s): Master Jobbers, Inc., 240 112th Street, Hammond, IN 46320. Send protests to: Annie Booker, TA, Interstate Commerce Commission, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 146353 (Sub-2TA), filed February 22, 1979. Applicant: THORP BROS., INC., 4361 Raleigh, Denver, CO 80212. Representative: Richard S. Mandelson, Jones, Meiklejohn, Kehl & Lyons, 1600 Lincoln Center Bldg., 1660 Lincoln St., Denver, CO 80264. (1) *Malt beverages* from Jefferson, County, CO to points in CA and WA; and (2) *empty containers and materials for recycling* from points in CA to Jefferson, County, CO for 180 days. Underlying ETA filed seeking 90 days authority. SUPPORTING SHIPPER: Adolph Coors Co., Golden, CO. SEND PROTESTS TO: D/S Roger L. Buchanan,

ICC, 492 U.S. Customs House, 721 19th St., Denver, CO 80202. Supporting shipper(s): Adolph Coors Co., Golden, CO. Send protests to: D/S Roger L. Buchanan, Interstate Commerce Commission, 721 19th St., 492 U.S. Customs House, Denver, CO 80202.

MC 146752 (Sub-2TA), filed March 5, 1979. Applicant: DLC TRANSPORT, INC., 12 Raymond Avenue, Poughkeepsie, NY 12603. Representative: James M. Burns, Johnson's Bookstore Building, 1383 Main Street—Suite 413, Springfield, MA 01103. *Contract Carrier: Irregular routes: (1) Lumber, Lumber Products and Building Materials*, between points in ME, NH, VT, CT, MA, RI, NY, MI, NJ, PA, MD, DE, DC, TN, NC, SC, GA, AL, MS and FL; (2) *Fencing*: from ME, NH, VT and Coalton, WV to points in CT, MA, RI, NY, MI, NJ, PA, MD, DE, DC, OH, IN, WV, VA, KY, TN, NC, SC, AL, MS, and FL; (3) *Particle Board*: from VA, NC, and SC, to points in ME, NH, VT, CT, MA, RI, NY, MI, NJ, PA, MD, DE, DC, OH, IN, WV, KY, TN, NC, SC, AL, MI and FL, for 180 days, under a continuing contract or contracts with the A. C. Dutton Lumber Corporation of Poughkeepsie, NY. SUPPORTING SHIPPER: A. C. Dutton Lumber Corporation, 12 Raymond Avenue, Poughkeepsie, NY 12603. SEND PROTESTS TO: Robert Radler, Interstate Commerce Commission, Post Office Box 1167, Albany, NY 12201. Supporting shipper(s): A. C. Dutton Lumber Corporation, 12 Raymond Avenue, Poughkeepsie, NY 12603. Send protests to: David Miller, ICC, 338-342 Fed Bldg., 438 Dwight Street, Springfield, MA 01103.

MC 147032 (Sub-2TA), filed June 22, 1979. Applicant: GENERAL MOTOR LINES, INC., P.O. Box 9583, Baltimore, MD 21237. Representative: Edmond N. Button, P.O. Box 1417, Hagerstown, MD 21740. *General commodities (except Classes A & B explosives)*, between Baltimore, MD, and its commercial zone, and Alexandria, VA, and its commercial zone, restricted to traffic having a prior or subsequent movement by water, for 90 days. An underlying ETA seeks 90 days, for 180 days. Supporting shipper(s):

Dominic C. Obrigkeit, Hansen Tidemann, 623 World Trade Center, Baltimore, MD 21202. Paul Cox, Lavino Shipping Company, 32 Water St., Baltimore, MD 21202. William Pudifin, Harper Robinson & Company, Suite 800, 1st National Bank Bldg., Baltimore, MD 21202. Send protests to: W. L. Hughes, DS, ICC, 1025 Federal Bldg., Baltimore, MD 21201.

MC 147682 (Sub-1TA), filed July 26, 1979. Applicant: ELOY MONTANO, 2438 Indiana School Road NW., Albuquerque,

NM 87106. Representative: Roger V. Eaton, P.O. Box Drawer 965, Albuquerque, NM 87103. *Contract carrier: irregular routes: Broken down, prefabricated buildings, including component parts thereof and equipment incidental to the erection and completion of the same*, (1) from Bernalillo, NM to points in WY, AZ, NV, WA, KS, and CO; (2) from Grapevine, Lubbock and Houston, TX and Pueblo, CO to Bernalillo, NM, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Apache Industries, Inc., P.O. Box 1710, 80 Hwy. 85, Bernalillo, NM 87004. Send protests to: D/S ICC, 1106 Federal Office Building, 517 Gold Avenue SW., Albuquerque, NM 87101.

MC 147723 TA, filed July 3, 1979. Applicant: E. B. COMPANY, INC., 5100 West 164th St., Brook Park, OH 44142. Representative: Paul F. Beery, 275 East State St., Columbus, OH 43215. (1) *Petroleum products*, except in bulk, from the plantsites of Tradco Chemical Corporation at Akron, OH, to points in and east of ND, SD, NE, KS, OK and TX; (2) *Empty containers such as are commonly used in the transportation of petroleum products* from points in and east of ND, SD, NE, KS, OK and TX to the plantsite of Tradco Chemical Corporation at Akron, OH; (3) *Materials, equipment and supplies used in the manufacture and transportation of petroleum products* between the plantsite of Tradco Chemical Corporation at Akron, OH, on the one hand, and points in and east of ND, SD, NE, KS, OK and TX, on the other, for 180 days. Supporting shipper(s): Tradco Chemical Corp., 1178 Triplett Blvd., Akron, OH 44306. Send protests to: D/S ICC, 101 N. 7th St., Philadelphia, PA 19106.

MC 147862 TA, filed July 17, 1979. Applicant: G. L. NICHOLS TRUCKING, INC., P.O. Box 86, Flora, IL 62839. Representative: Michael W. O'Hara, 300 Reisch Bldg., Springfield, IL 62701. *Contract carrier: irregular routes: Commodities as are dealt in by food, chain, discount, drug, grocery and hardware stores (except in bulk) for the account of S. C. Johnson and Son, Inc.*, from Sturtevant and Racine, WI to points in FL and GA; and from Jacksonville, FL and Atlanta, GA to Sturtevant and Racine, WI, for 180 days. Supporting shipper(s): S. C. Johnson and Son, Inc., 1525 Howe St., Racine, WI 53403. Send protests to: Annie Booker, TA, Rm. 1386, 219 S. Dearborn St., Chicago, IL 60604.

MC 147900 TA, filed June 26, 1979. Applicant: COLLINS WHOLESALE SUPPLY, INC., 4073 Hooker Road,

Roseburg, Oregon 97470. Representative: Kerry D. Montgomery, 400 Pacific Building, Portland, OR 97204, 503-228-5275. *Cement, in sacks, including masonry, white and hydraulic* from the plantsite and facility of Riverside Cement Company, Riverside, CA, to points in Oregon, Washington, Idaho and Utah; and from the producing plants of Oregon Portland Cement Co of Lake Oswego, Lime and Durkee, OR and Inkam, ID, to its distribution plants at Auburn and Kennewick, WA, Boise, Twin Falls, Heyburn, Pocatello and Idaho Falls, Idaho for 180 days. Supporting shipper(s): Mr. James W. Bryan, Riverside Cement Company, P.O. Box 4078, South Colby, Washington 98384. Send protests to: A. E. Odoms, D/S ICC, 114 Pioneer Courthouse, 555 S. W. Yamhill Street, Portland, OR 97204.

MC 147922 TA, filed July 20, 1979. Applicant: B. A. MURPHY, P.O. Box 245, Cary, MS 39054. Representative: William G. Beanland, P.O. Box 991, Vicksburg, MS 39180. *Contract carrier: irregular routes: Steel and iron articles, I Beams, H Beams, RE-Bar and Sheet Steel* from Gulfport, MS, New Orleans, LA, and Houston, TX, to Vicksburg, Yazoo City and Greenville, MS, for the account of Universal Steel Company, Vicksburg, MS, for 180 days. Supporting shipper(s): Universal Steel Company, P.O. Box 1125, Vicksburg, MS 39180. Send protests to: Alan Tarrant, D/S ICC, Federal Building, Suite 1441, 100 West Capitol St., Jackson, MS 39201.

[Notice No. 152]

August 20, 1979

MC 120419 (Sub-7TA), filed July 20, 1979. Applicant: SERVICE TRANSFER, INC., 1501 West Main Street, Henryetta, OK 74437. Representative: Clifford Neal (same address as applicant). (1) *glass containers and closures therefore*; and (2) *materials, equipment and supplies used in the manufacture, sale and distribution of glass containers*, (1) from Okmulgee, OK, to points in AR, IA, IL, KS, LA, MO, NE, and TN; and (2) from points in AR, IA, IL, KS, LA, MO, NE, and TN, to Okmulgee, OK, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Ball Corporation, 345 South High Street, Muncie, IN 47302. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 120618 (Sub-21TA), filed May 3, 1979. Applicant: SCHALLER TRUCKING CORPORATION, 5700 W. Minnesota Street, Indianapolis, IN 46241. Representative: John R. Bagileo, 700 World Center Bldg., 918 16th St. NW, Washington, DC 20006. *Aluminum and aluminum products*, from the plantsite of

Aluminum Company of America at or near Massena, NY, to IL, IN, MI and OH, for 180 days. Supporting shipper: Aluminum Company of America, 1501 Alcoa Bldg., Pittsburgh, PA 15219. Send protests to: Beverly J. Williams, Transportation Assistant, ICC, 46 E. Ohio St., Rm. 429, Indianapolis, IN 46204. An underlying ETA seeks 90 days authority.

MC 120618 (Sub-22TA), filed May 31, 1979. Applicant: SCHALLER TRUCKING CORP., 5700 W. Minnesota Street, Indianapolis, IN 46241. Representative: John R. Bagileo, 918 16th St. NW, Washington, DC 20006. 1. *Brass, bronze, copper and Cupro-Nickel*, from the facilities of Olin Corporation located at or near East Alton, IL, and the facilities of Bridgeport Brass located at or near Indianapolis, IN to the facilities of Harrison Radiator, a Div. of General Motors Corp., located at Buffalo and Lockport, NY.

2. *Aluminum articles, aluminum plate or steel, aluminum coils, aluminum foil, aluminum extrusions, aluminum pipe, and aluminum flux*, from the facilities of Anaconda Aluminum Company located at or near Terre Haute, IN to the facilities of Harrison Radiator, a Div. of General Motors Corp., located at Buffalo and Lockport, NY.

3. *Auto Parts and accessories*, from the facilities of Delco-Remy, a Div. of General Motors Corp., located at or near Anderson, IN to the facilities of Harrison Radiator, a Div. of General Motors Corp., located at Buffalo and Lockport, NY, for 130 days. Supporting shipper: Harrison Radiator, 200 Upper Mountain Road, Lockport, NY 14094. Send protests to: Beverly J. Williams, Transportation Asst., ICC, 46 E. Ohio St., Rm. 429, Indianapolis, IN 46204. An underlying ETA seeks 90 days authority.

MC 120728 (Sub-6TA), filed July 6, 1979. Applicant: MOJAVE TRANSPORTATION CO., 14410 South Avalon Blvd., Gardena, CA 90248. Representative: Robert Fuller, 13215 E. Penn Street, Suite 310, Whittier, CA 90602. *Agricultural tractors, industrial and construction equipment, excavating and material handling equipment, parts and attachments*, from San Joaquin and Los Angeles Counties, CA to points in AZ, ID, OR and UT, for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting shipper: J. I. Case Company, 700 State Street, Racine, WI 53404. Send protests to: Irene Carlos, TA, ICC, P.O. Box 1551, Los Angeles, CA 90053.

MC 121568 (Sub-13TA), filed July 5, 1979. Applicant: HUMBOLDT EXPRESS, INC., 345 Hill Avenue, Nashville, TN 37211. Representative: James G.

Caldwell (same address as applicant). *Hardwood flooring*, from the facilities utilized by Bruce Hardwood Floors at or near Center, TX to points in the states of AR, MS, & TN. Applicant intends to interline with other carriers at Memphis and Nashville, TN. For 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Bruce Hardwood Floors, Inc., 4255 LBJ Freeway, Dallas, TX 75234. Send protests to: Glenda Kuss, T/A, ICC, A-422 U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 121658 (Sub-20TA), filed July 16, 1979. Applicant: Steve D. Thompson Trucking, Inc., P.O. Drawer 149, Winnsboro, LA 71295. Representative: Donald B. Morrison, P.O. Box 22628, Jackson, MS 39205. (1) *Insulated copper wire and empty reels* from the facilities of Belden Corporation at or near Jena, LA to the facilities of Belden Corporation at or near Dumas, AR and (2) *Insulated copper wire and insulated copper scrap*, in the reverse direction, for 180 days. Underlying ETA sought corresponding authority for 90 days. Supporting shipper(s): Belden Corporation, 2000 S. Batavia Ave., Geneva, IL 60134. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 123048 (Sub-461TA), filed June 22, 1979. Applicant: DIAMOND TRANSPORTATION SYSTEM, INC., 5021 21st St., Racine, WI 53406. Representative: John Bruemmer, 121 W. Doty St., Madison, WI 53703. *Iron and steel conduit pipe* between Osceola, AR and points in KS, NE, IA & MO for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Southwire Co., P.O. Box 1000, Carrollton, GA 30117. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 124078 (Sub-976TA), filed July 5, 1979. Applicant: SCHWERTMAN TRUCKING CO., 611 S. 28th St., Milwaukee, WI 53215. Representative: Richard Prevette, 611 S. 28 St., Milwaukee, WI 53215. *Phosphatic fertilizer solutions & spent phosphoric acid*, in bulk, in tank vehicles, from Cullman, AL to points in AL, AR, FL, GA & IL (except points in St. Louis, MO-East St. Louis, IL commercial zone) KY, LA, MS & TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Mobil Chemical Co., P.O. Box 26683, Richmond, VA. 23261. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 124078 (Sub-977TA), filed July 5, 1979. Applicant: SCHWERTMAN

TRUCKING CO., 611 S. 28 St., Milwaukee, WI 53215. Representative: Richard Prevette (same address as applicant). *Cement* from facilities of Missouri Portland Cement Co. at Memphis, TN to points in AR & MS, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Missouri Portland Cement, 7711 Carondelet Ave., St. Louis, MO 63105. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 124078 (Sub-980TA), filed July 16, 1979. Applicant: SCHWERTMAN TRUCKING CO., 611 S. 28 St., Milwaukee, WI 53215. Representative: Richard H. Prevette (same address as applicant). *Cement* from Decatur, AL to points in GA, MS and TN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Missouri Portland Cement Co., 7711 Carondelet Ave., St. Louis, MO 63105. Send protests to: J. E. Ryden, DS, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 124078 (Sub-981TA), filed July 16, 1979. Applicant: SCHWERTMAN TRUCKING CO., 611 S. 28 St., Milwaukee, WI 53215. Representative: Richard H. Prevette (same address as applicant). *Clay*, in bulk, from Ripley, MS, to IL, IN, IA, MN, MO and WI, for 180 days. Supporting shipper(s): Oil-Dri Corporation of America, 520 N. Michigan Ave., Chicago, IL 60611. Send protests to: J. E. Ryden, DS, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 124078 (Sub-982TA), filed July 24, 1979. Applicant: SCHWERTMAN TRUCKING CO., 611 S. 28 St., Milwaukee, WI 53215. Representative: Richard Prevette (same address as applicant). *Corn products*, in bulk, from Kankakee, IL and Mt. Vernon, IN to points in the US in and east of KS, ND, NE, OK, SD & TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): J. R. Short Milling Co., 233 S. Wacker Dr., Sears Tower, Chicago, IL 60606. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 124078 (Sub-983TA), filed July 11, 1979. Applicant: SCHWERTMAN TRUCKING CO., 611 S. 28 St., Milwaukee, WI 53215. Representative: Richard Prevette, same address as applicant. *Edible tallow*, in bulk, from Anderson, IN to Janesville, WI for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): EMGE Packing Co., Inc., P.O. Box 2070, 2000 W. 8th St., Anderson, IN 46011. Send protests to: Gail Daugherty, TA, ICC, 517

E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 124078 (Sub-984TA), filed July 19, 1979. Applicant: SCHWERTMAN TRUCKING CO., 611 S. 28 St., Milwaukee, WI 53215. Representative: Richard Prevette, same address as applicant. *Cement*, in bulk, from Evansville, PA to Pleasant Prairie, WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Wisconsin Associates, P.O. Box 74, Pleasant Prairie, WI 53158. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 124078 (Sub-985TA), filed July 24, 1979. Applicant: SCHWERTMAN TRUCKING CO., 611 S. 28 St., Milwaukee, WI 53215. Representative: Richard Prevette, same address as applicant. *Slag*, in bulk, from Warner, PA to Wilson, NC, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Kerr Glass Mfg. Corp., P.O. Box 97, Sand Springs, OK 74063. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 124078 (Sub-986TA), filed July 31, 1979. Applicant: SCHWERTMAN TRUCKING CO., 611 S. 28 St., Milwaukee, WI 53215. Representative: Richard Prevette, 611 S. 28 St., Milwaukee, WI 53215. *Cement*, in bulk, from Universal, PA to Cleveland, TN, for 180 days. Supporting shipper(s) U.S. Steel Corp., 600 Grant St., Pittsburgh, PA 15230. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 124679 (Sub-101TA), filed July 3, 1979. Applicant: C. R. ENGLAND & SONS, INC., 975 West 2100 South, Salt Lake City, UT 84119. Representative: Daniel E. England, same address as applicant. *Foodstuffs*, except in bulk, from Ashton, RI, points in CT, DE, and those in NY on and east of New York Highway 34 (except New York, NY, and points in its commercial zone and those in Suffolk County), to points in AZ, CA, CO, ID, MT, NB, NM, OR, UT, and WA; and (2) from New York, NY, points in MD (except those points east of the Chesapeake Bay and south of the Chesapeake and Delaware canal), NJ, Suffolk County, NY, those in PA on and east of U.S. Highway 15 and those in MA on and east of Massachusetts Highway 12 to points in the United States (except AK, HI, KS, LA, NE, ND, OK, SD, SC, AL, TN, and TX), restricted against the transportation of foodstuffs from Downingtown, PA, and points in its commercial zone, to points in DE, NJ, NY, OH, PA, MI, VA, WV, and DC, for 180 days. An underlying ETA seeks 90

days authority. Supporting shipper(s): There are 36 statements in support attached to this application which may be examined at the I.C.C. in Washington, D.C. or copies of which may be examined in the field office named below. Send protests to: L. D. Helfer, DS, ICC, 5301 Federal Bldg., Salt Lake City, UT 84138.

MC 124679 (Sub-102TA), filed July 10, 1979. Applicant: C. R. ENGLAND & SONS, INC., 975 West 2100 South, Salt Lake City, UT 84119. Representative: Daniel E. England, same address as applicant. *Frozen bakery goods*, from Richmond, UT to Salisbury, MD and Milford, DE, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Pepperidge Farm, Incorporated, 595 Westport Avenue, Norwalk, CT 06856. Send protests to: L. D. Helfer, DS, ICC, 5301 Federal Bldg., Salt Lake City, UT 84138.

MC 124939 (Sub-21TA), filed May 14, 1979. Applicant: FOOD HAUL, INC., 1215 W. Mound St. Rear, Box 1309, Columbus, OH 43223. Representative: Michael Spurlock, 275 E. State St., Columbus, OH 43215. *Contract; irregular: Such merchandise as is dealt in by wholesale, retail and chain grocery and food business houses (except commodities in bulk)* from Columbus, OH to points in NE, ND, SD, OK, and TX for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Borden, Inc., 180 E. Broad St., Columbus, OH 43215. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 125299 (Sub-8TA), filed July 18, 1979. Applicant: WITTE BROTHERS EXCHANGE, INCORPORATED, 690 E. Cherry St., Troy, MO 63379. Representative: Harold C. Witte, address same as applicant. *Foodstuffs*, (except in bulk), from Atlanta, GA and St. Louis, MO to points in the US including AL, AR, CN, DE, FL, GA, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, NE, NH, NJ, NY, NC, ND, OH, OK, PA, RI, SC, SD, TN, TX, VT, VA, WV and WI; and *foodstuffs, materials, equipment and supplies* used in the manufacture of foodstuffs from the above named destination states to Atlanta, GA and St. Louis, MO, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Wetterau Incorporated, 8920 Pershall Rd., Hazelwood, MO 63042. Send protests to: P. E. Binder, DS, ICC, Rm. 1465, 210 N. 12th St., St. Louis, MO 63101.

MC 125368 (Sub-75TA), filed June 29, 1979. Applicant: CONTINENTAL COAST TRUCKING CO., INC., P.O. Box 26, Holly Ridge, NC 28445.

Representative: C. W. Fletcher, same as applicant. *Meats, meat products, meat by-products and articles distributed by meat packinghouses, as described in sections A, B, and C of Appendix I to the Report in the Descriptions In Motor Carriers Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk)* from facilities of Swift & Company, Cactus, TX to AL, FL, GA, LA, MS, NC, SC and TN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Swift & Company, 115 West Jackson Blvd., Chicago, IL 60604. Send protests to: Terrell Price, 800 Briar Creek Rd-Rm CC516, Mart Office Building, Charlotte, NC 28205.

MC 125368 (Sub-76TA), filed July 2, 1979. Applicant: CONTINENTAL COAST TRUCKING COMPANY, INC., P.O. Box 26, Holly Ridge, NC 28445. Representative: C. W. Fletcher, P.O. Box 26, Holly Rdige, NC 28445. *Fresh meats and packinghouse products as described in Sections A, B, and C of Appendix I to the report in description in Motor Carriers Certificates 61 MCC 209 and 766 (except hides, skins, and commodities in bulk)* from Estherville and Sioux City, IA and Sioux Falls, SD and Memphis, TN to points in AL, CT, DE, FL, MD, MA, ME, MI, MS, GA, NJ, NY, NC, OH, PA, RI, SC, TN, VA and DC, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): John Morrell & Co., 208 S. LaSalle St., Chicago, IL 60604. Send protests to: Terrell Price, 800 Briar Creek Rd-Rm CC516, Charlotte, NC 28205.

MC 125368 (Sub-77TA), filed July 5, 1979. Applicant: CONTINENTAL COAST TRUCKING COMPANY, INC., P.O. Box 26, Holly Ridge, NC 28445. Representative: C. W. Fletcher, same as above. *Plastic bottles* from Carolina Canners, Inc., Cheraw, SC to Pepsi Cola Company, Abilene, TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Pepsi Cola Company, Anderson Hill Rd., Purchase NY 10577. Send protests to: District Supervisor Terrell Price, 800 Briar Creek Rd-Rm CC516, Mart Office Building, Charlotte, NC 28205.

MC 125368 (Sub-78TA), filed July 6, 1979. Applicant: CONTINENTAL COAST TRUCKING COMPANY, INC., P.O. Box 26, Holly Ridge, NC 28445. Representative: C. W. Fletcher, same as above. *Meats, meat products and supplies used in the manufacture of meat products* between the facilities of Frederick and Herrud and subsidiaries of Frederick and Herrud in MI and NC, on the one hand, and on the other, points in the US, except AK and HI; (Restricted to traffic originating and/or

destined to Frederick and Herrud, Crown Packing, Herco, Carolina Meat Processor and other subsidiaries of Frederick and Herrud), for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Frederick & Herrud, Herco, Carolina Meat Processors, Crown and Other Subsidiaries, 1487 Farnsworth, Detroit, MI 48211. Send protests to: Terrell Price, 800 Briar Creek Rd-Rm CC516, Charlotte, NC 28205.

MC 125368 (Sub-79TA), filed July 10, 1979. Applicant: CONTINENTAL COAST TRUCKING COMPANY, INC., P.O. Box 26, Holly Ridge, NC 28445. Representative: C. W. Fletcher, same as above. *Beverages, plastic bottles and cans, beverage supplies and machinery used by Carolina Canners, Inc. and Carolina Packaging, Inc. and subsidiaries* between the facilities of Carolina Canners, Inc. and Carolina Packaging, Inc. and subsidiaries, on the one hand, and, on the other, points in AL, AR, FL, GA, KY, LA, MI, MO, TN, TX, VA and WV, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Carolina Canners, Inc., P.O. Box 965, Cheraw, SC 29520. Send protests to: Terrell Price, 800 Briar Creek Rd., Rm. CC516, Charlotte, NC 28205.

MC 125368 (Sub-80TA), filed July 3, 1979. Applicant: CONTINENTAL COAST TRUCKING COMPANY, INC., P.O. Box 26, Holly Ridge, NC 28445. Representative: C. W. Fletcher, same as above. *Fresh meat and packinghouse products as described in Sections A, B, and C, of Appendix I to the report in descriptions in Motor Carriers Certificates 61 M.C.C. 209 and 766 (except hides and skins and commodities in bulk)* from Amerillo and Lubbock, TX and destined to points in AL, CT, DE, DC, FL, GA, MD, MA, ME, MI, MS, NJ, NY, NC, OH, PA, RI, SC, TN, and VA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): John Morrell & Company, 208 S. LaSalle St., Chicago, IL 60604. Send protests to: Terrell Price, 800 Briar Creek Rd., Rm. CC516, Charlotte, NC 28205.

MC 125368 (Sub-81TA), filed July 24, 1979. Applicant: CONTINENTAL COAST TRUCKING COMPANY, INC., P.O. Box 26, Holly Ridge, NC 28445. Representative: C. W. Fletcher, same as above. *Meat, meat products and supplies used in the manufacture of meat products* between the facilities of Dinner Bell Foods at or near Defiance, Archibold, and Troy, OH on the one hand, and, on the other, points in CT, DE, DC, KY, ME, MD, MA, NH, NJ, NY, SC, TN, VT, WV and WI, for 180 days. An underlying ETA seeks 90 days

authority. Supporting shipper(s): Dinner Bell Foods, P.O. Box 388, Defiance, OH 43512. Send protests to: Sheila Reece, Transportation Assistant, 800 Briar Creek Rd., Rm. CC516, Mart Office Building, Charlotte, NC 28205.

MC 125368 (Sub-82TA), filed July 26, 1979. Applicant: CONTINENTAL COAST TRUCKING COMPANY, INC., P.O. Box 26, Holly Ridge, NC 28445. Representative: C. W. Fletcher, same as above. *Meats, meat products, and meat by-products and articles distributed by meat packinghouses as described in Motor Carriers Certificate 61, MCC 209 and 768 (except hides and commodities in bulk)*, from the facilities of Swift and Company at or near, Bradley, IL, East St. Louis, IL, Rochelle, IL, St. Charles, IL, and Chattanooga, TN to points in AL, AR, CO, CT, DE, FL, GA, IA, IL, IN, KS, KY, LA, MA, ME, MD, MI, MN, MO, MS, NJ, NH, NM, NY, NC, OH, OK, PA, RI, SC, SD, TN, TX, VA, VT, WV and WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Swift and Company, 115 West Jackson Blvd., Chicago, IL 60604. Send protests to: Sheila Reece, Transportation Assistant, 800 Briar Creek Rd., Rm. CC516, Charlotte, NC 28205.

MC 125708 (Sub-177TA), filed June 27, 1979. Applicant: THUNDERBIRD MOTOR FREIGHT LINES, INC., 1473 Ripley, Lake Station, IN 46405. Representative: Edward Pietrowski, 109 Velma, South Roxana, IL 62087. *Particle board, hardboard, plywood and lumber*, from points in AL, AR, GA, MS and SC on the one hand and on the other points in the United States (except AL and HA) for 180 days. Supporting shipper(s): Jim McCormick Co., Inc., P.O. Box 50342, Indianapolis, IN 46250. Send protests to: Annie Booker, TA, Interstate Commerce Commission, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 125708 (Sub-179TA), filed June 26, 1979. Applicant: THUNDERBIRD MOTOR FREIGHT LINES, INC., 1473 Ripley, P.O. Box 5216, Lake Station, IN 46405. Representative: Edward F. Pietrowski, Esq., 109 Velma, South Roxana, IL 62087. *Lumber*, from Rudyard, MI to points in IL, IN, MI, & OH; and from Toledo, OH to Kalamazoo, Niles, Lansing, Traverse City, Rudyard, MI for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Schultz, Snyder & Steele Lumber Co., P.O. Box 42128, Lansing, MI 48909. Send protests to: Cheryl Livingston, TA, 219 S. Dearborn Street, Rm. 1386, Chicago, IL 60604.

MC 125708 (Sub-180TA), filed June 25, 1979. Applicant: THUNDERBIRD MOTOR FREIGHT LINES, INC., 1473 Ripley, P.O. Box 5216 Lake Station,

Indiana 46405. Representative: Edward F. Pietrowski, Esq., 109 Velma, South Roxana, IL 62087. *Iron and Steel Articles* as described in 61-MCC 209 from Huntington, West Virginia, to points in California, Georgia, Illinois, Indiana, Iowa, Kentucky, Michigan, New York, North Carolina, Ohio, Pennsylvania, Tennessee, Texas, West Virginia, and Wisconsin for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Connors Steel Company, P.O. Box 118, Huntington, West Virginia 25706. Send protests to: Cheryl G. Livingston, TA, 219 S. Dearborn Street, Rm. 1386, Chicago, IL 60604.

MC 126139 (Sub-8TA), filed June 14, 1979. Applicant: AARON SMITH TRUCKING COMPANY, INC., US #117 South, Dudley, NC 28333. Representative: John N. Fountain, 1010 Insurance Bldg., Fayetteville St., Raleigh, NC 27602. *Manufactured forest products* from facilities of Weyerhaeuser Corp. at Jacksonville, Plymouth, Lewiston and Weyco, NC to points in VA, MD, DE, DC, NJ, PA, OH, NY, CT, RI, MA, VT, NH, ME, TN, SC, GA, FL, WV and IL, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Weyerhaeuser Company, PO Box 787, Plymouth, NC 27962. Send protests to: Terrell Price, 800 Briar Creek Rd-Rm CC516, Mart Office Building, Charlotte, NC 28205.

MC 126679 (Sub-14TA), filed July 13, 1979. Applicant: DENNIS TRUCK LINE, INC., P.O. Box 189, Vidalia, GA 30474. Representative: Virgil H. Smith, Suite 12, 1587 Phoenix Boulevard, Atlanta, GA 30349. *Iron and steel articles*, from Savannah, GA to Marietta, GA for 180 days. Supporting shipper(s): Pacesetter Steel Service, Inc., 980 Marietta Industrial Drive, Marietta, GA 30065. Send protests to: G. H. Fauss, Jr., DS, ICC, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

MC 127478 (Sub-19TA), filed July 13, 1979. Applicant: WILLIAM M. HAYES, d.b.a. HAYES TRUCKING CO., P.O. Box 31, Winterville, GA 30683. Representative: Virgil H. Smith, Suite 12, 1587 Phoenix Blvd., Atlanta, GA 30349. (1) *Frozen and canned foodstuffs* and (2) *materials, supplies and equipment used in the manufacture and distribution of foodstuffs* between the facilities of Douglas Foods, Inc. at Douglas, GA on the one hand, and points in the U.S. (except AK & HI) on the other hand, restricted to the transportation of traffic originating at or destined to the facility of Douglas Foods, Inc. For 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Douglas foods, Inc., P.O. Box 1208, Douglas, GA 31533. Send protests to: Sara K. Davis, T/A,

ICC, 1252 W. Peachtree St., NW, Rm 300, Atlanta, GA 30309.

MC 127579 (Sub-25TA), filed May 29, 1979. Applicant: HAULMARK TRANSFER, INC., 1100 North Macon St., Baltimore, MD 21205. Representative: Glenn M. Heagerty (same address as applicant). *Books*, from the facilities of Ingram Book Co., at or near Jessup, MD to Los Angeles, CA and its commercial zone and Seattle, WA and its commercial zone, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Ingram Book Co., 347 Reedwood Drive, Nashville, TN 37217. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Philadelphia, PA 19106.

MC 127579 (Sub-26TA), filed July 9, 1979. Applicant: HAULMARK TRANSFER, INC., 1100 North Macon St., Baltimore, MD 21205. Representative: Glenn M. Heagerty (same as applicant). *Paper and paper products* from the facilities of Union Camp Corp. at or near Richmond, VA to NJ, NY, PA, DE, MD, DC, ME, NH, VT, MA, CT, and RI for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Union Camp Corp., 1600 Valley Rd., Wayne, NJ 07470. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 128409 (Sub-6TA), filed July 18, 1979. Applicant: HAROLD A. MILLER, P.O. Box 623, Moorhead, MN 56560. Representative: Richard P. Anderson, 502 First National Bank Bldg., Fargo, ND 58126. *Contract carrier*; irregular routes: *Liquid sugar*, in bulk, in tank vehicles, from the facilities of American Crystal Sugar Company at or near Chaska, MN to points in ND and IA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): American Crystal Sugar Company, 101 3rd Street, Moorhead, MN 56560. Send protests to: H. E. Farsdale, DS, ICC, Bureau of Operations, Room 268 Fed. Bldg. & U.S. Post Office, 657 2nd Avenue North, Fargo, ND 58102.

MC 128449 (Sub-11TA), filed July 9, 1979. Applicant: JIMMIE TUCKER TRUCKING, INC., P.O. Box 428, Broken Bow, OK 74728. Representative: Rufus H. Lawson, Attorney, 2753 Northwest 22nd Street, Oklahoma City, OK 73107. (1) *Metal roofing and siding and fabricated metal products*; and (2) *materials and supplies used in the manufacture of commodities named in (1) above*, (1) from Idabel, OK, to points in AL, AR, GA, IL, KS, KY, LA, MS, MO, NM, OK, TN, and TX, and (2) from the destination states named in (1) above, to Idabel, OK, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Alcan Building Products, Div.

of Alcan Aluminum Corp., 3449 Hempland Road, Lancaster, PA 17601. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 129149 (Sub-15TA), filed June 29, 1979. Applicant: JOHN W. HIEL, R.R. #2, Prairie City, IL 61470. Representative: Robert Lawley, 300 Reisch Bldg., Springfield, IL 62701. *Contract carrier*; irregular routes: *Animal and poultry feed, feed ingredients, for the account of Allied Mills, Inc.*, between Peoria and Bushnell, IL on the one hand, and on the other, points in IA, KY, MI, MO, OH, WI, and from Mendota, IL to points in IN and OH, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Allied Mills, Inc., 10 S. Riverside Plaza, Chicago, IL 60606. Send protests to: David Hunt, TA, Rm. 1386, 219 S. Dearborn, Chicago, IL 60604.

MC 129219 (Sub-20TA), filed July 3, 1979. Applicant: CMD TRANSPORTATION, INC., 12340 S.E. Dumolt Road, Clackamas, OR 97015. Representative: Philip G. Skofstad, P.O. Box 594, Gresham, OR 97030. *Contract*, irregular, plastic roll film and plastic sheeting from Torrance, CA to Medford, Eugene, Corvallis, Portland, Bend, Pendleton, and LaGrande, OR; Vancouver, Tacoma, Seattle, Bellingham, Port Angeles, Yakima, Richland, Walla Walla, Pullman, Wenatchee and Spokane, WA for 180 days. A corresponding ETA was Granted 7/2/79 for 30 + 2, expires 9/29/79. A permanent will be filed. Supporting shipper(s): Armin Corp., 414 Alaska Avenue, Torrance, CA 90500. Send protests to: A. E. Odoms, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 114 Pioneer Courthouse, Portland, Oregon 97204.

MC 129759 (Sub-29TA), filed July 2, 1979. Applicant: TRIANGLE TRUCKING CO., P.O. Box 490, McKees Rocks, PA 15136. Representative: A. Charles Tell, 100 E. Broad St., Columbus, OH 43215. *Contract*; irregular: (1) *Transformers and transformer parts*, from the facilities of RTE Corp. at or near Waukesha, WI to points in and east of NM, IA, MO, AR, and LA, and (2) *materials, equipment, and supplies* used in the manufacture of transformers and transformer parts, from points in the destination states specified in (1) above to the facilities of RTE Corp. at or near Waukesha, WI for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): RTE Corp., 1900 E. North St., Waukesha, WI 53186. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 129768 (Sub-4TA), filed May 30, 1979. Applicant: H. R. KESTERSON, d.b.a. GALAXY LIMOUSINE SERVICE, 948 McDowell Dr., Dover, DE 19901. Representative: Chester A. Zyblut, 1030, 15th St. NW., Washington, DC 20005. *Passengers and their baggage, transporting not more than 11 passengers in any one vehicle, in special operations*, between Seaford and Dover, DE, on the one hand, and, on the other, Baltimore, MD and points in its commercial zone, for 90 days. An underlying ETA seeks 90 days. Supporting shipper(s): R. P. White, SFCUSA, U.S. Army Recruiting Service, Blue Hen Mall, Dover, DE 19901; W. F. Plack, Jr., PNC USNR, Navy Recruiting Service, 210 Blue Hen Mall, Dover, DE 19901; and Gary M. Morris, Tsgt. U.S. Air Force Recruiting Svc., 217 Blue Hen Mall, Dover, DE. Send protests to: W. L. Hughes, DS, ICC, 1025 Federal Bldg., Baltimore, MD 21201.

MC 133189 (Sub-28TA), filed May 23, 1979. Applicant: VANT TRANSFER, INC., 5075 Northeast Mulcare Drive, Minneapolis, MN 55421. Representative: John B. Van de North, Jr., c/o Briggs and Morgan, 2200 First National Bank Building, St. Paul, MN 55101. *Iron and steel articles* from St. Louis, MO, East St. Louis and Cahokia, IL to the facilities of FMC Corporation located at Cedar Rapids, IA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): F. M. C. Corporation, 1201 6th Street, Southwest, Cedar Rapids, IA 52406. Send protests to: Delores A. Poe, TA, ICC, 414 Federal Building, 110 South 4th Street, Minneapolis, MN 55401.

MC 133189 (Sub-29TA), filed July 12, 1979. Applicant: VANT TRANSFER, INC., 1229 Osborne Road, Minneapolis, MN 55432. Representative: John B. Van de North, Jr., c/o Briggs and Morgan, 2200 First National Bank Building, St. Paul, MN 55101. (1) *Roofing and insulating materials*, from the facilities of G.A.F. Corporation located at Minneapolis, MN, to points in MT, ND, SD, NE, and IA, and from the facilities of G.A.F. Corporation located at Mount Vernon, IN and Joliet, IL, to points in MN, WI, IA, MI, and OH, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): GAF Corporation, General Traffic Manager, 1361 Alps Road, Wayne, NJ 07470. Send protests to: Judith L. Olson, TA, ICC, 414 Federal Building and U.S. Courthouse, 110 South 4th Street, Minneapolis, MN 55401.

MC 133689 (Sub-286TA), filed June 29, 1979. Applicant: OVERLAND EXPRESS,

INC., 719 First Street Southwest, New Brighton, MN 55112. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. *Such commodities as are dealt in or used by a producer of canned goods (except commodities in bulk and frozen food)*, between the plantsites and/or facilities of Friday Canning Corporation at or near Richmond, Oakfield, Eden, Fond Du Lac, Gillett, Coleman, Sussex, and Shawano, WI, and points in the Continental United States in and east of ND, SD, NE, KS, OK, and TX, for 180 days. Supporting shipper(s): Friday Canning Corporation, 660 North Second Street, New Richmond, WI 54017. Send protests to: District Supervisor, ICC, 414 Federal Building and U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 133689 (Sub-287TA), filed July 2, 1979. Applicant: OVERLAND EXPRESS, INC., 719 First Street Southwest, New Brighton, MN 55112. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. *Pharmaceuticals, toilet preparations, materials, equipment and supplies used in the manufacture and distribution thereof (except commodities in bulk)* between the facilities of American Home Products at or near Atlanta, GA, Andover, MA, Baltimore, MD, Buena Park, CA, Chicago, IL, Cleveland, OH, Dallas, TX, Kansas City, MO, Kent, WA, Lenexa, KS, Los Angeles, CA, Memphis, TN, Rouses Point, NY, Seattle, WA, Secaucus, NJ, South Plainfield, NJ, St. Paul, MN, Strongsville, OH, and Whiteland Township, PA, for 180 days. Supporting shipper(s): Ayerst Laboratories, Assistant Manager, Physical Dist., 685 Third Avenue, New York, NY 10017. Send protests to: District Supervisor, ICC, 414 Federal Building & U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 133689 (Sub-291TA), filed July 6, 1979. Applicant: OVERLAND EXPRESS, INC., 719 First Street Southwest, New Brighton, MN 55112. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. *Paper and paper products, of natural or synthetic fibers, and equipment, materials and supplies used in the manufacture or distribution of paper and paper products (except in bulk)*, (1) between Green Bay, Fond du Lac, Marinette and Oconto Falls, WI, and points in their commercial zones and points in the states of AL, AR, DE, GA, IA, IL, IN, KS, MI, MN, MO, ND, NE, NJ, NY, OH, OK, PA, SD, and TX; and (2) between Chicago, IL, and points in its commercial zone, and points in AL, AR, DE, GA, IA, IN, KS, MI, MN, MO, ND, NE, NJ, NY, OH, OK, PA, SD, TX, and

WI, for 180 days. Supporting shipper(s): Scott Paper Company, Senior Transportation Project Manager, Scott Plaza, Philadelphia, PA 19113. Send protests to: District Supervisor, ICC, 414 Federal Building and U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 133689 (Sub-292TA), filed July 10, 1979. Applicant: OVERLAND EXPRESS, INC., 719 First Street, Southwest, New Brighton, MN 55112. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. *Wallpaper pulp coloring, in drums, from Camden, NJ to Defiance, OH, for 180 days. Supporting shipper(s): Borden Chemical, Division of Borden, Inc., 180 East Broad Street, Columbus, OH 43215. Send protests to: Judith L. Olson, TA, ICC, 414 Federal Building & U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.*

MC 133689 (Sub-293TA), filed July 10, 1979. Applicant: OVERLAND EXPRESS, INC., 719 First Street, Southwest, New Brighton, MN 55112. Representative: Robert P. Sack, P.O. Box 6010, South St. Paul, MN 55118. *Meat, meat products, meat by-products and articles distributed by meat packinghouses as described in Sections A and C of Appendix 1 to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk) from the facilities of Armour Processed Meats Co. at or near Louisville, KY and Pittsburgh, PA to points in the United States in and east of ND, SD, NE, KS, OK and TX, for 180 days. Supporting shipper(s): Armour Food Company, 111 West Clarendon Avenue, Greyhound Tower, Phoenix, AZ 85077. Send protests to: Judith L. Olson, TA, ICC, 414 Federal Building & U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.*

MC 133689 (Sub-297TA), filed July 11, 1979. Applicant: OVERLAND EXPRESS, INC., 719 First Street Southwest, New Brighton, MN 55112. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. *Glass containers, caps and enclosures for glass containers, from the facilities of Brockway Glass Company, Inc., at or near Rosemount, MN, to IL, IA, MO, and WI, for 180 days. Supporting shipper(s): Brockway Glass Company, Inc., Traffic Manager, Rosemount, MN 55068. Send protests to: Judith L. Olson, TA, ICC, 414 Federal Building and U.S. Courthouse, 110 South 4th Street, Minneapolis, MN 55401.*

MC 133689 (Sub-295TA), filed July 5, 1979. Applicant: OVERLAND EXPRESS, INC., 719 First Street, Southwest, New Brighton, MN 55112. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. *Electric ranges and*

microwave ovens from Sioux Falls, SD to points in and east of ND, SD, NE, KS, OK and TX, for 180 days. Supporting shipper(s): Litton Microwave Cooking Products, Litton Systems, Inc., 1405 Xenium Lane North, Minneapolis, MN 55441. Send protests to: District Supervisor, ICC, 414 Federal Building & U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 133689 (Sub-296TA), filed July 6, 1979. Applicant: OVERLAND EXPRESS, INC., 719 First Street Southwest, New Brighton, MN 55112. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. *(1) Containers, container enclosures, paper, paper products, printed matter and packaging and packaging materials (except commodities in bulk); (2) Equipment, materials and supplies used in the manufacture, sale, service and distribution of the commodities described in Part I above (except commodities in bulk), between Chicago and Shelbyville, IL, Fort Worth, TX, Louisville, KY and Millville, NJ, on the one hand, and, on the other, points in and east of ND, SD, NE, KS, OK, & TX, restricted to shipments originating at or destined to Continental Bondware for 180 days. Supporting shipper(s): Continental Bondware, Div. Manager of Traffic, Methods, & Controls, 800 East Northwest Highway, Palatine, IL 60067. Send protests to: District Supervisor, ICC 414 Federal Building and U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.*

MC 133689 (Sub-297TA), filed June 27, 1979. Applicant: OVERLAND EXPRESS, INC., 719 First Street, Southwest, New Brighton, MN 55118. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. *Such merchandise as is dealt in by wholesale, retail and chain grocery and food business houses and in connection therewith equipment, materials and supplies used in the conduct of such business (except commodities in bulk) from Ottawa, OH, Muncie and Decatur, IN, and Hoopston, IL to Eau Claire and LaCrosse, WI, St. Paul, St. Cloud, Rochester, Mankato, Willmar, Duluth, Minneapolis and Hibbing, MN, Fargo, Grand Forks, Devils Lake, Williston, Minot and Bismarck, ND, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Pacific Gamble Robinson, P.O. Box 3687, Seattle, WA 98124. Send protests to: D/S, ICC, 414 Federal Building, 110 South 4th Street, Minneapolis, MN 55401.*

MC 133689 (Sub-298TA), filed June 27, 1979. Applicant: OVERLAND EXPRESS, INC., 719 First Street, Southwest, New Brighton, MN 55112. Representative:

Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. *Trailers, boat or recreational vehicle carrying, and parts and accessories thereto from West St. Paul, MN to Jacksonville, FL and points in IL, MI, NJ, NY, OH and PA, for 180 days. Supporting shipper(s): Spartan Trailer Company, Marie Avenue, West St. Paul, MN 55118. Send protests to: D/S, ICC, 414 Federal Building, 110 South 4th Street, Minneapolis, MN 55401.*

MC 134319 (Sub-11TA), filed July 13, 1979. Applicant: BRAAFALDT TRANSPORT COMPANY, 501 N. Broadway, P.O. Box 1065, Dimmitt, TX 79027. Representative: Richard Hubbert, P.O. Box 10236, Lubbock, TX 79408. *Anhydrous ammonia, in bulk, in tank vehicles, from the facilities of Center Plains Industries, Inc., at or near Sheerin, TX, to points in OK, KS, CO, and NM, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Center Plains Industries, Inc., P.O. Box 7970, Amarillo, TX 79109. Send protests to: Martha A. Powell, T/A, ICC, Room 9A27 Federal Bldg., 819 Taylor St., Fort Worth, TX 76102.*

MC 134319 (Sub-12TA), filed July 14, 1979. Applicant: BRAAFALDT TRANSPORT COMPANY, 501 N. Broadway, Dimmitt, TX 79027. Representative: Richard Hubbert, P.O. Box 10236, Lubbock, TX 79408. *Anhydrous ammonia and ammonia nitrates from the facilities of N-Ren Corporation at or near Carlsbad, NM, to points in AZ, TX, CO and NM, for 180 days. An underlying ETA seeks 90 days authority filed. Supporting shipper(s): N-Ren Corporation, Drawer H, Carlsbad, NM 88220. Send protests to: Martha A. Powell, Trans. Asst., ICC, Room 9A27 Fed. Bldg., 819 Taylor St., Fort Worth, TX 76102.*

MC 134319 (Sub-13TA), filed July 25, 1979. Applicant: BRAAFALDT TRANSPORT COMPANY, P.O. Box 1065, Dimmitt, TX 79027. Representative: Richard Hubbert, P.O. Box 10236, Lubbock, TX 79408. *Anhydrous ammonia, in bulk, in tank vehicles, from the facilities of NAPCO Pipeline, at or near Mocane, OK to points in KS, TX, and CO for the account of Agrico Chemical Co., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Agrico Chemical Co., P.O. Box 3166, Tulsa, OK 74101. Send protests to: Martha A. Powell, TA, Room 9A27 Federal Bldg., 819 Taylor St., Fort Worth, TX 76102.*

MC 134349 (Sub-29TA), filed June 18, 1979. Applicant: B.L.T. CORPORATION, 405 Third Avenue, Brooklyn, NY 11215. Representative: Eugene M. Malkin, Suite 1832—2 World Trade Center, New York, NY 10048. *Contract carrier, irregular*

routes: Iron and steel pipe fittings (except those which because of size or weight require the use of special equipment), from the facilities of Tube-Line Corporation at or near Long Island City, NY, to points in AL, AZ, CA, CO, FL, GA, ID, IL, IA, KY, LA, MI, MN, MO, MT, NE, NV, NM, NC, OH, OK, OR, PA, SC, TN, TX, UT, VA, WA, WV, WI, and WY, under a continuing contract(s) with Tube Line Corporation of Long Island City, NY; for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Tube-Line Corporation, 48-11, 20th Avenue, Long Island City, NY 11105. Send protests to: Maria B. Kejss, Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, NY 10007.

MC 135078 (Sub-56TA), filed July 9, 1979. Applicant: AMERICAN TRANSPORT, INC., 7850 "F" Street, Omaha, NE 68127. Representative: Arthur J. Cerra, 2100 TenMain Center, P.O. Box 19251, Kansas City, MO 64141. *Felt base carpet vinyl samples and adhesives (except in bulk) from the facilities of G. A. F. Corporation at Whitehall (Lehigh County), PA to points in AR, AZ, CO, IA, KS, LA, MS, NE, NM, OK, TX, UT and WY for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): G. A. F. Corporation, 1361 Alps Road, Wayne, NJ 07470. Send protests to: D/S Carroll Russell, ICC, Suite 620, 110 North 14th Street, Omaha, NE 68102.*

MC 135078 (Sub-57TA), filed July 9, 1979. Applicant: AMERICAN TRANSPORT, INC., 7850 "F" Street, Omaha, NE 68127. Representative: Arthur J. Cerra, 2100 TenMain Center, P.O. Box 19251, Kansas City, MO 64141. *Floor tile and materials and supplies used in the installation and maintenance thereof from the facilities of G. A. F. Corporation at Vails Gate, NY to points in CO, IA, KS, LA, MO, NE, OK and TX for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): G. A. F. Corporation, 1361 Alps Road, Wayne, NJ 07470. Send protests to: D/S Carroll Russell, ICC, Suite 620, 110 North 14th Street, Omaha, NE 68102.*

MC 135078 (Sub-58TA), filed July 9, 1979. Applicant: AMERICAN TRANSPORT, INC., 7850 "F" Street, Omaha, NE 68127. Representative: Arthur J. Cerra, 2100 TenMain Center, P.O. Box 19251, Kansas City, MO 64141. *Floor coverings and materials and supplies used in the installation and maintenance thereof from the facilities of G. A. F. Corporation at Whitehall (Lehigh County), PA to points in IA, MO, and NE for 180 days. An underlying ETA seeks 90 days authority. Supporting*

shipper(s): G. A. F. Corporation, 1361 Alps Road, Wayne, NJ 07470. Send protests to: D/S Carroll Russell, ICC, Suite 620, 110 North 14th Street, Omaha, NE 68102.

MC 135598 (Sub-26TA), filed June 14, 1979. Applicant: SHARKEY TRANSPORTATION, INC., P.O. Box 3156, Quincy, IL 62301. Representative: Carl L. Steiner, 39 S. LaSalle St., Chicago, IL 60603. *Air compressors, air compressor parts, power pumps, power pump parts, machine parts I/S, engines internal combustion and rough castings, from the facilities of Gardner-Denver Company at or near Quincy, IL to points in the states of CO, KS, NE, OK, TX, MN, MO, IA, LA, AR, MS, WI, TN, MI, IN, KY, AL, GA, SC, NC, VA, DC, WV, OH, PA, NY, NJ, MD, CT, and MA; and materials used in the manufacture of air compressors, air compressor parts, power pumps, power pump parts, machine parts, I/S, engines internal combustion and rough castings, in return for 180 days. An ETA has been granted for 90 days. Supporting shipper(s): Gardner-Denver Company, 1800 Garner Expressway, Quincy, IL 62301. Send protests to: Dave Hunt, T/A, 219 S. Dearborn St., Room 1386, Chicago, IL 60604.*

MC 135598 (Sub-28TA), filed June 29, 1979. Applicant: SHARKEY TRANSPORTATION, INC., P.O. Box 3156, Quincy, IL 62301. Representative: Carl L. Steiner, 39 S. LaSalle St., Chicago, IL 60603. *Chemicals, cleaning or scouring compounds, buffing or polishing compounds, in containers, from Pearl, MS to points in IL, IA, IN, MI, MO, OH, and WI; restricted to traffic originating at the facility of American Cyanamid Company, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): American Cyanamid Company, Berdan Avenue, Wayne, NJ 07470. Send protests to: David Hunt, TA, Rm. 1386, 219 S. Dearborn, Chicago, IL 60604.*

MC 135598 (Sub-29TA), filed July 17, 1979. Applicant: SHARKEY TRANSPORTATION, INC., P.O. Box 3156, Quincy, IL 62301. Representative: Carl L. Steiner, 39 S. LaSalle St., Chicago, IL 60603. *Iron and steel and iron and steel articles, from the facilities of Bethlehem Steel Corp., Burns Harbor, IN, and the facilities of United States Steel Corp., Gary, IN, to points in IL on and south of U.S. Hwy 30, and points in IN on and south of U.S. Hwy 30 and east of Interstate Hwy 35, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): United States Steel Corp., 1000 E. 80th Place, Merrillville, IN 46410. Send protests to:*

David Hunt, TA, Rm. 1386, 219 S. Dearborn St., Chicago, IL 60604.

MC 135989 (Sub-8TA), filed July 3, 1979. Applicant: COAST EXPRESS, INC., P.O. Box 1215, Whittier, CA 90609. Representative: William J. Lippman, 50 South Steele Street, Suite 330, Denver, CO 80209. *Contract: irregular: Frozen beef, in boxes, from New York, NY; Philadelphia, PA; and Wilmington, DE, to points in PA, OH, IN, KY, IL, MI, WI, MN, IA, AR, and to Kansas City, KS and St. Louis, MO, for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting shipper(s): A. J. Cunningham Packing Corp., 1776 Heritage Drive, Quincy, MA 02171. Send protests to: Irene Carlos, TA, ICC, P.O. Box 1551, Los Angeles, CA 90053.*

MC 136008 (Sub-115TA), filed July 19, 1979. Applicant: JOE BROWN COMPANY, INC., 20 Third Street, N.E., Ardmore, OK 73401. Representative: John Tipsword, 2900 N. Shields Ave., Moore, OK 73153. *Alumina, in bulk, in tank vehicles, from Gramercy, LA, to Emporia, KS, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Sauder Industries, Inc., 221 Weaver, Emporia, KS 66801. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.*

MC 136168 (Sub-40TA), filed June 11, 1979. Applicant: WILSON CERTIFIED EXPRESS, INC., P.O. Box 3326, Des Moines, IA 50316. Representative: Donald L. Stern, Suite 610, 7171 Mercy Rd., Omaha, NE 68106. *Contract authority—Meats, meat products, meat by-products and articles distributed by meat packinghouses, as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the facilities of Briggs and Company, a subsidiary of Wilson Foods Corporation, at Landover, MD, to points in IA, KS, MN, MO, NE and WI for 180 days. Restricted to the transportation of traffic originating at the above named origins and destined to the named destinations. An underlying ETA seeks 90 days authority. Supporting shipper(s): Wilson Foods Corporation, 4545 Lincoln Blvd., Oklahoma City, OK 73105. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.*

MC 136618 (Sub-83TA), filed July 3, 1979. Applicant: SWIFT TRANSPORTATION CO., INC., 335 W. Elwood Rd., Phoenix, AZ 85030. Representative: Donald Fernsays, 4040 E. McDowell Rd., Phoenix, AZ. *Detergents, fabric softeners and pool chemicals, from the facilities of Georgia-*

Pacific Corp. in Los Angeles County, CA to Houston, TX and Demopolis, AL, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Georgia-Pacific Corp., 2425 Malt Ave., City of Commerce, CA 90040. Send protests to: Ronald R. Mau, District Supervisor, 2020 Federal Bldg., 230 N. 1st Ave., Phoenix, AZ 85025.

MC 136818 (Sub-84TA), filed July 11, 1979. Applicant: SWIFT TRANSPORTATION CO., INC., 335 W. Elwood Rd., Phoenix, AZ 85030. Representative: Donald Fernaays, 4040 E. McDowell Rd., Phoenix, AZ. *Iron and steel articles*, from Pueblo, CO to points in ID, KS, OK, NV, NM, MT, OR, TX, WA, WY and UT, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): C F & I Steel Corp., P.O. Box 316, Pueblo, CO 81002. Send protests to: Ronald R. Mau, District Supervisor, 2020 Federal Bldg., 230 N. 1st Ave., Phoenix, AZ 85025.

MC 136818 (Sub-85TA), filed August 1, 1979. Applicant: SWIFT TRANSPORTATION CO., INC., 335 W. Elwood Rd., Phoenix, AZ 85030. Representative: Donald Fernaays, 4040 E. McDowell Rd., Phoenix, AZ. *Bastnasite ore*, from the facilities of Molycorp located at Mountain Pass, CA to Beverly, Philo, Circleville, OH and York, PA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Ohio Ferro Alloys Corp., P.O. Box 8228, Canton, OH 44711, Interlake Inc., 135th & Perry Ave., Chicago, IL 60627, R C A Picture Tube Division, 24200 S. U.S. 23, Circleville, OH 43113 and Molycorp, 350 N. Sherman St., York, PA 17403. Send protests to: Ronald R. Mau, District Supervisor, 2020 Federal Bldg., 230 N. 1st Ave., Phoenix, AZ 85025.

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MC 135598 (Sub-27TA), filed June 22, 1979. Applicant: SHARKEY TRANSPORTATION, INC., P.O. Box 3156, Quincy, IL 62301. Representative: Carl L. Steiner, 39 S. LaSalle St., Chicago, IL 60603. *Dry animal and poultry feed, dry animal and poultry mineral mixtures, animal and poultry tonics and medicines, insecticides, pesticides, livestock and poultry feeders and equipment (except liquid commodities in bulk)*, from Quincy, IL to points in AK, LA and MS, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Moorman Mfg. Co., 1000 N. 30th St., Quincy, IL 62301. Send protests to: David Hunt, TA, Rm. 1386, 219 S. Dearborn St., Chicago, IL 60604.

MC 136818 (Sub-78TA), filed June 29, 1979. Applicant: SWIFT TRANSPORTATION CO., INC., 335 W. Elwood Rd., Phoenix, AZ 85030. Representative: Donald Fernaays, 4040 E. McDowell Rd., Phoenix, AZ. *Meat, Meat products, meat by-products and articles distributed by meat packinghouses*, from commercial zone of Phoenix, AZ to points in CA, NV, UT, NM, CO, KS, OK, MO, TX, OR, WA, AR, LA and MS, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Evans Meat Co., Rt. "L" Box 234 "B", Laveen, AZ 85339. Send protests to: Ronald R. Mau, District Supervisor, 2020 Federal Bldg., 230 N. 1st Ave., Phoenix, AZ 85025.

MC 136818 (Sub-79TA) filed July 3, 1979. Applicant: SWIFT TRANSPORTATION CO., INC., 335 W. Elwood Rd., Phoenix, AZ 85030. Representative: Donald Fernaays, 4040 E. McDowell Rd., Phoenix, AZ. *Bananas and agriculture commodities exempt from regulation under Section 10526A6 of the Interstate Commerce Act with the transportation of mixed loads with bananas*, from Gulf Port, MS and Galveston, TX to points in MO, KS, IA, OK, NB, MN, WI, TX, CO, AR and IL, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Castle and Cook Foods, P.O. Box 8743, Metairie, LA 70011. Send protests to: Ronald R. Mau, District Supervisor, 2020 Federal Bldg., 230 N. 1st Ave., Phoenix, AZ 85025.

MC 136818 (Sub-80TA), filed July 3, 1979. Applicant: SWIFT TRANSPORTATION CO., INC., 335 W. Elwood Rd., Phoenix, AZ 85030. Representative: Donald Fernaays, 4040 E. McDowell Rd., Phoenix, AZ. *Salt*, from Salt Lake County, UT to points in CO and NM, for 180 days. Supporting shipper(s): Morton Salt Division, Morton-Norwich Products, Inc., 110 N. Wacker Dr., Chicago, IL 60606. Send protests to: Ronald R. Mau, District Supervisor, 2020 Federal Bldg., 230 N. 1st Ave., Phoenix, AZ 85025.

MC 136819 (Sub-3TA), filed June 11, 1979. Applicant: SPIVEY, INC., P.O. Box 674, Franklin, VA 23851. Representative: Carroll B. Jackson, 1810 Vincennes Road, Richmond, VA 23229. Contract—irregular. *Lumber, and building materials* between Petersburg, VA and points in Dinwiddie County, VA on the one hand, and on the other, points in DE, MD, NJ, NC, PA, SC, WV and DC for 180 days. Applicant seeks 90 days authority in underlying ETA. Supporting shipper(s): Roper Bros. Lumber Co., Inc., 130 Pocahontas Street, Petersburg, VA 23803. Send protests to: Paul D. Collins,

DS, ICC, Room 10-502 Federal Bldg., 400 North 8th Street, Richmond, VA 23240.

MC 136819 (Sub-4TA), filed June 11, 1979. Applicant: SPIVEY, INC., P.O. Box 674, Franklin, VA 23851. Representative: Carroll B. Jackson, 1810 Vincennes Road, Richmond, VA 23229. Contract—irregular. *Lumber and Plywood* from Petersburg, Richmond and Suffolk, VA (and points in the commercial zones thereof) and those in Brunswick, Chesterfield, Dinwiddie, Hanover, Henrico, Louisa, Surry, and Sussex Counties, VA, and points in Beaufort, Bertie, Craven, Cumberland, Franklin, Gates, Halifax, Hertford, Nash, Northampton, and Wake Counties, NC, on the one hand, and, on the other, New York, NY (and points in the commercial zone thereof), points in Nassau and Suffolk Counties, NY, and points in DE, MD, NC, NJ, PA, VA, and DC for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Payne & Gunderson Lumber Company, Inc., 20 East Tabb Street, Petersburg, VA 23803. Ron Auton, Assistant Treasurer. Send protests to: Paul D. Collins, DS, ICC, Room 10-502 Federal Bldg., 400 North 8th Street, Richmond, VA 23240.

MC 138328 (Sub-94TA), filed June 28, 1979. Applicant: CLARENCE L. WERNER, d.b.a. WERNER ENTERPRISES, I-80 and Highway 50, Omaha, NE 68137. Representative: J. F. Crosby, P.O. Box 37205, Omaha, NE 68137. *Tires, tubes and articles used in the distribution and installation of tires and tubes* from Des Moines, IA to points in AZ, CA, NV, and UT for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): R. J. Mitchell, General Traffic Manager, Armstrong Rubber Corp., 500 Sargent Drive, New Haven, CT 06507. Send protests to: District Supervisor Carroll Russell, ICC, Suite 620, 110 North 14th Street, Omaha, NE 68102.

MC 138328 (Sub-95TA), filed July 2, 1979. Applicant: CLARENCE L. WERNER, d.b.a. WERNER ENTERPRISES, P.O. Box 37308, I-80 and Highway 50, Omaha, NE 68137. Representative: J. F. Crosby, P.O. Box 37205, I-80 and Highway 50, Omaha, NE 68137. *Lubricating oil* from the facilities of Texstar Automotive, Distribution Group, Quaker State Refining Corp. at or near St. Louis, MO to the facilities of Western Auto Supply Co. at Salina, KS and Temple, TX for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Western Auto Supply Company, 2107 Grand Ave., Kansas City, MO 64108. J. W. Dobyns, Traffic Manager. Send protests to: District Supervisor Carroll Russell, ICC,

Suite 620, 110 North 14th Street, Omaha, NE 68102.

MC 140829 (Sub-281TA), filed June 27, 1979. Applicant: CARGO, INC., P.O. Box 206, U.S. Highway 20, Sioux City, Iowa 51102. Representative: William J. Hanlon, Esq., 55 Madison Avenue, Morristown, New Jersey 07960. *Commodities as dealt in by wholesale and retail grocery and chain stores, plastic articles, chemicals and compressed gas in cylinders* from the facilities utilized by Dry Storage Corporation in Chicago, IL to points in CO, IA, KS, MA, MO, NE, NJ, NY, and PA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): William H. Maund, Manager, Traffic & Distribution, Dry Storage Corporation, 2005 West 43rd Street, Chicago, IL 60609. Send protests to: District Supervisor Carroll Russell, ICC, Suite 620, 110 North 14th Street, Omaha, NE 68102.

MC 140829 (Sub-282TA), filed June 28, 1979. Applicant: CARGO, INC., P.O. Box 206, US Hwy 20, Sioux City, IA 51102. Representative: William J. Hanlon, Esq., 55 Madison Ave., Morristown, NJ 07960. *Coffee and beverage preparations (except in bulk, in tank vehicles)*, from Edgewater, NJ to points in IN, MN, and WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Hills Bros. Coffee, Inc., Edgewater, NJ 07020. Send protests to: Carroll Russell, ICC, Suite 620, 110 No. 14th St., Omaha, NE 68102.

MC 140829 (Sub-283TA), filed June 28, 1979. Applicant: CARGO, INC., P.O. Box 206, U.S. Highway 20, Sioux City, Iowa 51102. Representative: William J. Hanlon, Esq., 55 Madison Avenue, Morristown, New Jersey 07960. *Fresh and frozen meat* from Palestine, TX to points in the states of IL, IA, MO, NY, OH and PA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Vernon V. Fritze, Jr., Calhoun Pkg. Co., Box 709, Palestine, TX 75801. Send protests to: District Supervisor Carroll Russell, ICC, Suite 620, 110 North 14th Street, Omaha, NE 68102.

MC 140829 (Sub-284TA), filed July 10, 1979. Applicant: CARGO, INC., P.O. Box 206, U.S. Highway 20, Sioux City, IA 51102. Representative: David L. King, same as above. *Meat, meat by-products used in the manufacturing of pet food* from Amarillo, TX to points in IL, IN, KS and OH for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Consolidated Pet Food Inc., P.O. Box 30488, Amarillo, TX 79120. Send protests to: D/S Carroll Russell, ICC, Suite 620, 110 North 14th Street, Omaha, NE 68102.

MC 140829 (Sub-285TA), filed July 12, 1979. Applicant: CARGO, INC. (formerly Cargo Contract Carrier Corp.), P.O. Box 206, U.S. Highway 20, Sioux City, IA 51102. Representative: David L. King, Vice President, same address as applicant. *Paper and paper products* from the facilities of Federal Envelope at Dallas, TX to points in IL, NJ, OK, and PA for 180 days. An underlying ETA seeks 90 days authority. Restricted to traffic originating at the named origins and destined to the named destination states. Supporting shipper(s): Federal Envelope, 14001 Inwood Road, Dallas, TX 75234. Send protests to: D/S Carroll Russell, ICC, Suite 620, 110 North 14th St., Omaha, NE 68102.

MC 140829 (Sub-286TA), filed July 12, 1979. Applicant: CARGO, INC. (formerly Cargo Contract Carrier Corp.), P.O. Box 206, U.S. Highway 20, Sioux City, IA 51102. Representative: David L. King, Vice President, same address as applicant. *Paper and paper products* from Dallas, TX to points in IL, MA, MI, NJ, NY, OH and PA for 180 days. An underlying ETA seeks 90 days authority. Restricted to traffic originating at the named origins and destined to the named destinations. Supporting shipper(s): Drawing Board Greeting Cards, Inc., P.O. Box 220355, Dallas, TX 75222. Send protests to: D/S Carroll Russell, ICC, Suite 620, 110 North 14th St., Omaha, NE 68102.

MC 140829 (Sub-287TA), filed July 16, 1979. Applicant: CARGO, INC. (formerly Cargo Contract Carrier Corp.), P.O. Box 206, U.S. Highway 20, Sioux City, IA 51102. Representative: David L. King, Vice President, same address as applicant. *Wire, cable and tape, and materials, equipment and supplies utilized in the manufacture and distribution of wire, cable, and tape (except in bulk in tank vehicles)* from the facilities utilized by Brand-Rex Company at or near Willimantic, CT to points in AR, IL and WI for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Brand-Rex Company, Willimantic, CT 06226. Send protests to: D/S Carroll Russell, ICC, Suite 620, 110 North 14th St., Omaha, NE 68102.

MC 140829 (Sub-288TA), filed July 17, 1979. Applicant: CARGO, INC. (formerly Cargo Contract Carrier Corp.), P.O. Box 206, U.S. Highway 20, Sioux City, IA 51102. Representative: David L. King, Vice President, same address as applicant. *Metal shelving, tables, check-out counters, and display cases* from the facilities of Maytex Manufacturing Company at or near Terrell, TX to points in IA, IL, MI, MN, NY, OH, and WI for 180 days. An underlying ETA seeks 90

days authority. Restricted to traffic originating at the named origins and destined to the named destination points. Supporting shipper(s): Maytex Manufacturing Company, 1210 Airport Road, Terrell, TX 75160. Send protests to: D/S Carroll Russell, ICC, Suite 620, 110 North 14th St., Omaha, NE 68102.

MC 140869 (Sub-13TA), filed June 19, 1979. Applicant: KERRI TRUCKING, INC., 240 South River Street, Hackensack, NJ 07601. Representative: David Olsen, 118 Williams Avenue, Old Tappan, NJ. Contract, irregular. *Metal swimming pools and cabinets*, from Carlstadt, NJ to all points in the US, except AK and HI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Kero Metals, Delta Industries, Inc., 99 Kero Road, Carlstadt, NJ. Send protests to: Joel Morrows, D/S, ICC, 744 Broad St., Room 522, Newark, NJ 07102.

MC 140889 (Sub-14TA), filed July 23, 1979. Applicant: KERRI TRUCKING, INC., 240 South River Street, Hackensack, NJ 07601. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Contract, irregular. *Flour, grains, beverage preparations, syrups, bread crumbs, and bakery products, and materials, equipment and supplies* used in the manufacture and sale of the foregoing commodities (except commodities in bulk), between Ponchatula, LA; Vernon, CA; and Evansville, IN on the one hand, and on the other, points in the US (except AK and HI) under a continuing contract or contracts with Modern Maid Food Products, Inc., Garden City, NY, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Modern Maid Food Products, 200 Garden City Plaza, Garden City, NY 11530. Send protests to: D/S Joel Morrows, ICC, 744 Broad St., Room 522, Newark, NJ 07102.

MC 142059 (Sub-82TA), filed June 18, 1979. Applicant: CARDINAL TRANSPORT, INC., 1830 Mound Road, Joliet, IL 60436. Representative: Jack Riley, address same as applicant. *Iron and steel pipe*; from (1) Joliet, IL to Jackson and Detroit, MI and (2) Canton, OH to Joliet, IL for 180 days. An underlying ETA was granted for 90 days. Supporting shipper(s): Universal Pipe and Supply, Inc., P.O. Box 404, Joliet, IL 60434. Send protests to: Annie Booker, TA, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 142059 (Sub-83TA), filed June 18, 1979. Applicant: CARDINAL TRANSPORT, INC., 1830 Mound Road, Joliet, IL 60436. Representative: Jack Riley, address same as applicant. *Enameled steel silos, loading and unloading devices, waste storage tanks,*

livestock feed bunkers, forage metering devices, animal waste spreader systems, manure spreaders and parts and accessories for the above named commodities from DeKalb and Eureka, IL and Vinton, IA to points in MN, IA, MO, AR, LA and all states east thereof for 180 days. Supporting shipper(s): A. O. Smith Harvestore Products Co., 345 Harvestore Drive, DeKalb, IL 60115. Send protests to: Annie Booker, TA, ICC, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 142059 (Sub-84TA), filed June 28, 1979. Applicant: CARDINAL TRANSPORT, INC., 1830 Mound Road, Joliet, IL 60436. Representative: Jack Riley, 1830 Mound Road, Joliet, IL 60436. *Lehrs* (ovens, glass annealing or decorating) or parts thereof from Uniontown, PA to Winchester, IN; Lancaster, Niles and Cleveland, OH; Lakeland, FL; Montgomery, AL; Englewood and Wharton, NJ; Toano, VA and Henryetta, OK for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): E. W. Bowman, Inc., Route 51 North, P.O. Box 849, Uniontown, PA 15401. Send protests to: Annie Booker, TA, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 142059 (Sub-85TA), filed July 11, 1979. Applicant: CARDINAL TRANSPORT, INC., 1830 Mound Rd., Joliet, IL 60436. Representative: Jack Riley, same address as applicant. *Steel fencing*, from Monessen, PA to points in VA, KY, IL, IA, MN and states east and north thereof, for 180 days. Supporting shipper(s): Acco Industries, Page Fence Division, 1st & River St., Monessen, PA 15062. Send protests to: Annie Booker, TA, Rm. 1386, 219 S. Dearborn St., Chicago, IL 60604.

MC 142059 (Sub-86TA), filed June 19, 1979. Applicant: CARDINAL TRANSPORT, INC., 1830 Mound Road, Joliet, IL 60436. Representative: Jack Riley, address same as applicant. *Aluminum and aluminum articles* from McCook, IL to points in CT, DE, MA, ME, MD, NH, NJ, NY, OH, PA, RI, WV, VA and VT for 180 days. Supporting shipper(s): Reynolds Metals Co., Richmond, VA 23261. Send protests to: Annie Booker, TA, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 142398 (Sub-3TA), filed June 21, 1979. Applicant: FAST FORWARD, INC., 17 Delaware Avenue, West Long Branch, NJ 07764. Representative: Eugene M. Malkin, Suite 1832-2 World Trade Center, New York, NY 10048. Contract, irregular. *Such merchandise as is dealt in or used by retail department stores (except commodities in bulk)*, from Ridgefield, NJ to New York, NY, Philadelphia, PA and

Washington, DC and points in the commercial zones thereof, under a continuing contract (s) with S. H. Kress & Company of New York, NY, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): S. H. Kress & Company, 114 Fifth Avenue, New York, NY 10011. Send protests to: Robert J. Latarewicz, TR&TS, ICC, 744 Broad St., Room 522, Newark, NJ 07102.

MC 142508 (Sub-92TA), filed June 25, 1979. Applicant: NATIONAL TRANSPORTATION, INC., P.O. Box 37465, 10810 So. 144th St., Omaha, NE 68137. Representative: L. N. Fauss, P.O. Box 37096, Omaha, NE 68137. *Fruit and berry products (except in bulk)*, from the facilities utilized by Diamond Sunsweet at Grawn, MI to Bordontown, NJ; Middleboro, MA; N. Chicago, IL; Northeast, PA; and points in CA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Diamond Sunsweet, P.O. Box 1727, Stockton, CA 95201. Send protests to: Carroll Russell, ICC, Suite 620, 110 No. 14th St., Omaha, NE 68102.

MC 142508 (Sub-93TA), filed June 25, 1979. Applicant: NATIONAL TRANSPORTATION, INC., P.O. Box 37465, 10810 So. 144th St., Omaha, NE 68137. Representative: Lanny N. Fauss, P.O. Box 37096, Omaha, NE 68137. *Fruit and berry products (except in bulk)*, from the facilities of Diamond Sunsweet at Union City, CA to points in AZ, MN, ND, SD, OK, TX, UT, WI, CO, IL, IA, KS, MO, and NE, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Diamond Sunsweet, P.O. Box 1727, Stockton, CA 95201. Send protests to: Carroll Russell, ICC, Suite 620, 110 No. 14th St., Omaha, NE 68102.

MC 142508 (Sub-94TA), filed June 28, 1979. Applicant: NATIONAL TRANSPORTATION, INC., 10810 So. 144th St., P.O. Box 37465, Omaha, NE 68137. Representative: Lanny N. Fauss, P.O. Box 37096, Omaha, NE 68137. *Such commodities as are dealt in by wholesale, retail and chain grocery and food business houses (except frozen commodities and commodities in bulk)* from the facilities of The Clorox Company at Kansas City, MO to points in NE and SD, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): The Clorox Company, 1221 Broadway Street, Oakland, CA 94612. Beverly Ruth Mitchell, Staff Traffic Manager. Send protests to: District Supervisor Carroll Russell, ICC, Suite 620, 110 North 14th St., Omaha, NE 68102.

MC 142508 (Sub-95TA), filed June 28, 1979. Applicant: NATIONAL TRANSPORTATION, INC., 10810 South

144th Street, P.O. Box 37465, Omaha, NE 68137. Representative: Lanny N. Fauss, P.O. Box 37096, Omaha, NE 68137. *Frozen fruit and berry product (except in bulk)* from the facilities utilized by J. M. Smuckers Company in Los Angeles, CA and its commercial zone, Oxnard and Watsonville, CA to Bettendorf, IA; Kansas City, MO and its commercial zone; Memphis, TN; Orrville, OH; and points in IL, IN and WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Rosalie Cranford, Distribution Manager, The J. M. Smucker Company, California Farm Products Div., 423 Salinas Road, Watsonville, CA 95078. Send protests to: District Supervisor Carroll Russell, ICC, Suite 620, 110 North 14th St., Omaha, NE 68102.

MC 142508 (Sub-96TA), filed July 2, 1979. Applicant: NATIONAL TRANSPORTATION, INC., P.O. Box 37465, 10810 South 144th Street, Omaha, NE 68137. Representative: Lanny N. Fauss, P.O. Box 37096, Omaha, NE 68137. *Pourable salad dressing (except frozen commodities and commodities in bulk)* from the facilities of Swiss Chalet Products Company (a wholly owned subsidiary of The Clorox Company) at Wichita, KS to Fredericksburg, VA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): The Clorox Company, 1221 Broadway St., Oakland, CA 94612. Beverly Ruth Mitchell, Staff Traffic Manager. Send protests to: District Supervisor Carroll Russell, ICC, Suite 620, 110 No. 14th St., Omaha, NE 68102.

MC 142508 (Sub-97TA), filed July 5, 1979. Applicant: NATIONAL TRANSPORTATION, INC., 10810 South 144th Street, P.O. Box 37465, Omaha, NE 68137. Representative: Lanny N. Fauss, P.O. Box 37096, Omaha, NE 68137. *Automotive parts (except in bulk)* from the facilities of Corning Distribution Company at Corning, AR to Reno, NV for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Corning Distribution Co., 9668 Olive St., St. Louis, MO 63132. Send protests to: D/S Carroll Russell, Suite 620, ICC, 110 North 14th Street, Omaha, NE 68102.

MC 142508 (Sub-98TA), filed July 9, 1979. Applicant: NATIONAL TRANSPORTATION, INC., P.O. Box 37465, 10810 South 144th Street, Omaha, NE 68137. Representative: Lanny N. Fauss, P.O. Box 37096, Omaha, NE 68137. *Paper and paper products, of natural or synthetic fibers, and materials, equipment and supplies used in the manufacture or distribution of paper and paper products* between Fond du Lac, Green Bay, Marinette and Oconto Falls, WI and Chicago, IL on the

one hand, and on the other, points in CO, IA, KS, MN, MO, ND, NE, OK and SD for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Scott Paper Company, Scott Plaza, Philadelphia, PA 19113. Send protests to: D/S Carroll Russell, ICC, Suite 620, 110 North 14th Street, Omaha, NE 68102.

MC 142508 (Sub-99TA), filed July 11, 1979. Applicant: NATIONAL TRANSPORTATION, INC., P.O. Box 37465, 10810 South 144th Street, Omaha, NE 68137. Representative: Lanny N. Fauss, P.O. Box 37096, Omaha, NE 68137. *Frozen foods* from Los Angeles, CA and its commercial zone and Oxnard, CA to points in CO, CT, DC, IL, IN, IA, KS, MD, MA, MI, MN, MO, NE, NJ, NY, OH, PA and WI for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Oxnard Frozen Foods Cooperative, P.O. Box 1427, Oxnard, CA 93032. Send protests to: D/S Carroll Russell, ICC, Suite 620, 110 North 14th Street, Omaha, NE 68102.

MC 142508 (Sub-100TA), filed July 12, 1979. Applicant: NATIONAL TRANSPORTATION, INC., P.O. Box 37465, 10810 South 144th St., Omaha, NE 68137. Representative: Lanny N. Fauss, P.O. Box 37096, Omaha, NE 68137. *Frozen foods* from Watsonville, Salinas and San Jose, CA to points in GA, MA, MO, MN, NY, ND, PA, SD, VA and WI for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Naturipe Berry Growers, 305 Industrial Road, Watsonville, CA 95076. Send protests to: D/S Carroll Russell, ICC, Suite 620, 110 North 14th St., Omaha, NE 68102.

MC 142508 (Sub-101TA), filed July 13, 1979. Applicant: NATIONAL TRANSPORTATION, INC., P.O. Box 37465, 10810 South 144th St., Omaha, NE 68137. Representative: Lanny N. Fauss, P.O. Box 37096, Omaha, NE 68137. *Fruit and berry products (except commodities in bulk)* (1) From Markham, WA to points in CA; (2) From North East, PA to points in ND and SD; (3) From Erie, PA and Boston, MA and its commercial zone to points in CO, IL, IA, IN, KS, KY, LA, MI, MO, MN, NE, ND, OH, OK, SD, TN, TX, and WI; (4) From Middleboro, MA to points in LA, OK, and TX, and (5) From Bordontown, NJ to points in LA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Ocean Spray Cranberries, Inc., Water Street, Plymouth, MA 02360. Send protests to: D/S Carroll Russell, ICC, Suite 620, 110 North 14th St., Omaha, NE 68102.

MC 142508 (Sub-102TA), filed July 18, 1979. Applicant: NATIONAL TRANSPORTATION, INC., P.O. Box

37465, 10810 South 144th St., Omaha, NE 68137. Representative: Lanny N. Fauss, P.O. Box 37096, Omaha, NE 68137. *Egg containers and related packaging materials* from Hammond, IN; Frankfort, IL; Chicago, IL and its commercial zone; Shakopee, MN; Red Bluff, CA; Cincinnati, OH; and Natchez, MS to Wakefield, NE for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Milton G. Waldbaum Company, 501 North Main St., Wakefield, NE 68784. Send protests to: D/S Carroll Russell, ICC, Suite 620, 110 North 14th St., Omaha, NE 68102.

MC 143059 (Sub-99TA), filed July 3, 1979. Applicant: MERCER TRANSPORTATION CO., P.O. Box 35610, Louisville, Ky. 40232. Representative: John N. Nader, Atty., 1600 Citizens Plaza, Louisville, Ky. 40202. Lumber and wood products and accessories used in the installation thereof, from Eugene, Junction City, and Hillsboro, OR, to points in the U.S., in and east of ND, SD, NE, KS, OK, and TX; restricted to traffic originating at the facilities of Trus-Joist Corp. For 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Earl W. Quarles, Mgr. Customer Service, Trus Joist Corp., 195 NO. Bertelsen Road, Eugene, OR 97402. Send protests to: Mrs. Linda H. Sypher, D/S, ICC, 426 Post Office Bldg., Louisville, Ky. 40202.

MC 143059 (Sub-100TA), filed July 17, 1979. Applicant: MERCER TRANSPORTATION CO., P.O. Box 35610, Louisville, Ky. 40232. Representative: John M. Nader, Atty., 1600 Citizens Plaza, Louisville, Ky. 40292. Lumber and wood products and accessories used in the installation thereof, from Eugene, Junction City, and Hillsboro, OR, to points in the U.S., in and east of ND, SD, NE, KA, OK, and TX, restricted to traffic originating at the facilities of Trus-Joist Corp. For 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Earl W. Quarles, Trus Joist Corp., 195 No. Bertelsen Rd., Eugene, OR 97402. Send protests to: Ms. Clara L. Eyl, T/A, ICC, 426 Post Office Bldg., Louisville, Ky. 40202.

MC 143059 (Sub-101TA), filed July 18, 1979. Applicant: MERCER TRANSPORTATION CO., P.O. Box 35610, Louisville, Ky. 40232. Representative: John M. Nader, Atty., 1600 Citizens Plaza, Louisville, Ky. 40402. Iron and Steel Articles, from the facilities of Century Tube, Inc., at or near Pine Bluff, AR to points in AL, AZ, CO, FL, GA, IA, KS, KY, LA, MN, MS, MO, NE, NM, NC, ND, OK, SC, SD, TN, TX, VA, and WV, restricted to the transportation of traffic originating at

the named facilities and destined to the said points. For 180 days. Supporting shipper(s): Don Woodruff, Century Tube, Inc., P.O. Box 7812, Pine Bluff, AR 71611. Send protests to: Ms. Clara L. Eyl, T/A, ICC, 426 Post Office Bldg., Louisville, Ky. 40202.

MC 143478 (Sub-12TA), filed May 22, 1979. Applicant: G. P. THOMPSON ENTERPRISES, INC., P.O. Box 146, Midway, AL 35653. Representative: Terry P. Wilson, 420 So. Lawrence Street, Montgomery, AL 36104. Contract, irregular. *Malt beverages (except in bulk)*, from Jacksonville, FL and its commercial zone, to the facilities of Capital City Beverage Co., of Troy, Inc., at or near Brundidge, AL, under contract with Capital City Beverage Co., of Troy, Inc., of Brundidge, AL; for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Capital City Beverage Co. of Troy, Inc., P.O. Box 38, Brundidge, AL 36010. Send protests to: Mabel E. Holston, T/A, ICC, Room 1616, 2121 Building, Birmingham, AL 35203.

MC 143499 (Sub-3TA), filed July 13, 1979. Applicant: DOUBLE NICKEL TRANSPORT LTD., 50 South Main St., Pearl River, NY 10965. Representative: John L. Alfano, Esq. & Ray A. Jacobs, Esq., Alfano & Alfano, P.C., 550 Mamaroneck Avenue, Harrison, NY 10528. Contract carrier, irregular routes: *Chemicals, resins, and plastics, and supplies, materials and equipment used in their production (except in bulk and plastic pipe)*, (a) between McIntosh, Montgomery, Birmingham and Mobile, AL, on the one hand, and, on the other, all points in the US except AK, HI, ID, MT, NM, UT, and WY; and (b) between Farmingdale and Toms River, NJ, on the one hand, and, on the other, Los Angeles and San Francisco, CA; Portland and Milwaukee, OR, for 180 days; an underlying ETA seeks 90 days authority. Supporting shipper(s): Ciba-Geigy Corporation, Ardsley, NY 10502. Send protests to: Maria B. Kejss, Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, N.Y. 10007.

MC 143739 (Sub-22TA), filed June 26, 1979. Applicant: SHURSON TRUCKING CO., INC., P.O. Box 147, New Richland, MN 56072. Representative: Michael L. Carter (same address as applicant). *Foodstuffs (except in bulk)* from the facilities of Anderson Clayton Foods TN, TX, UT and WI; from the facilities of Anderson Clayton Foods located at Jacksonville, IL to points in FL, GA, IN, IA, KY, MI, MN, NE, ND, OH, SD, TN, TX, UT and WI; and from the facilities of Anderson Clayton Foods located at Sherman, TX to points in AR, CA, FL, GA, IL, KS MN, MO, NE, OH, TN and

UT, for 180 days. Supporting shipper(s): Anderson Clayton Foods Inc., P.O. Box 226165, Dallas, TX 75268. Send protests to: District Supervisor, ICC, 414 Federal Building & U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 143739 (Sub-23TA), filed July 2, 1979. Applicant: SHURSON TRUCKING CO., INC., P.O. Box 147, New Richland, MN 56072. Representative: Michael L. Carter (same address as applicant). *Paper and paper products, of natural or synthetic fiber, and materials, equipment and supplies used in the manufacture or distribution of paper and paper products (except in bulk)*, between Marinette, Green Bay, Oconto Falls, and Fond du Lac, WI, on the one hand, and, on the other, points in the states of IL, IN, IA, KS, MI, MN, MO, NE, ND, OH, and SD, for 180 days. Supporting shipper(s): Scott Paper Company, Senior Transportation Project Manager, Scott Plaza I, Philadelphia, PA 19113. Send protests to: District Supervisor, ICC, 414 Federal Building and U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 143909 (Sub-8TA), filed June 20, 1979. Applicant: KIRBY TRANSPORT, INC., Sola Drive and East End Drive, P.O. Box 17, Gilberts, IL 60136. Representative: Stuart R. Mandel, 315 S. Beverly Drive, Suite 315, Beverly Hills, CA 90212. *Contract carrier: irregular routes: Equipment and supplies used by clinical, industrial, educational and research laboratories (except in bulk)*, from Gurnee, IL to Charlotte, NC, Stone Mountain, GA and Ocala and Miami, FL under a continuing contract with Scientific Products Division, American Hospital Supply Corp. for 180 days. Supporting shipper(s): American Hospital Supply Corp., 1430 Waukegan Road, McGaw Park, IL 60085. Send protests to: Annie Booker, T/A, 219 South Dearborn Street, Room 1388, Chicago, IL 60604.

MC 1440008 (Sub-2TA), filed July 8, 1979. Applicant: STORE TRANSFER & DELIVERY SERVICES, INC., 226 Mill Street, Poughkeepsie, New York 12601. Representative: Ronald I. Shapss, Esq., 450 Seventh Avenue, New York, NY 10001. *Contract carrier: irregular routes: Such merchandise as is dealt in by retail department stores (excluding commodities in bulk)*, between points in the New York, NY commercial zone, on the one hand, and, on the other, points in Columbia, SC; Flint and Lansing, MI; Evansville and Vincennes, IN; and Huntington, WV, for 180 days. An underlying ETA was granted for 90 days authority. Supporting shipper(s): J. W. Knapp, 300 S. Washington Ave., Lansing, MI 48914, Interstate Dept.

Stores Inc., P.O. Box 825, Latham, NY 12110, A. H. Brennon, P.O. Box 247, Columbia, SC. Send protests to: David M. Miller, DS, ICC, 438 Dwight Street, Springfield, MA 01103.

MC 144549 (Sub-7TA), filed June 29, 1979. Applicant: PITTSVILLE SERVICES INC., 146 Daniels Avenue, Pittsfield, MA 01201. Representative: David M. Marshall, Marshall and Marshall, 101 State Street, Suite 304, Springfield, MA 01103. *Contract carrier: irregular routes: Wood flour, between the facilities of Genal Products Business Section, Plastics Division, General Electric Company located at Pittsfield, MA and the port of entry on the International Boundary Line located at Rouses Point, NY, restricted to shipments originating at or destined to Ste. Agathe, Quebec, Canada, under a continuing contract with Genal Products Business Section, Plastics Division, General Electric Company, for 180 days. An underlying ETA seeks authority for 90 days.* Supporting shipper(s): Genal Products Business Section, Plastics Division, General Electric Company, 100 Woodlawn Avenue, Pittsfield, MA 01201. Send protests to: David M. Miller, DS, ICC, 438 Dwight Street, Springfield, MA 01103.

MC 144609 (Sub-7TA), filed June 28, 1979. Applicant: ADAN J. DOMINGUEZ, d.b.a. DOMINGUEZ BROS., 1500 South Zarzamora Street, San Antonio, TX 78207. Representative: Kenneth R. Hoffman, 801 Vaughn Building, Austin, TX 78701. *Cement, in bags from points in TX to points in CA for 180 days. An underlying ETA seeking 90 days authority filed.* Supporting shipper(s): T. L. Adams Enterprises, 17232 Foley Dr., Yorba Linda, CA 92686. Send protests to: Opal M. Jones, Trans., Asst., I.C.C. Room 9A27 Fed. Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 144688 (Sub-27TA), filed June 18, 1979. Applicant: READY TRUCKING, INC., 4722 Lake Mirror Place, Forest Park, GA 30050. Representative: Lavern R. Holdeman, 521 South 14th St., Suite 500, Lincoln, NE 68501. *Animal and poultry feed, fish feed and corn products (except in bulk) from the facilities of The Jim Dandy Company and its subsidiaries at or near Birmingham and Decatur, AL and Springfield, TN to points in the states of CA, LA, MS, NC, SC and TN (except points in TN from Springfield, TN) for 180 days. An underlying ETA seeks 90 days authority.* Supporting shipper(s): The Jim Dandy Company, P.O. Box 10687, Birmingham, AL 35202. Send protests to: Sara K. Davis, T/A, ICC, 1252 W. Peachtree St., NW., Rm. 300, Atlanta, GA 30309.

MC 144688 (Sub-27TA), filed June 18, 1979. Applicant: READY TRUCKING, INC., 4722 Lake Mirror Place, Forest Park, GA 30050. Representative: Lavern R. Holdeman, 521 South 14th St., Suite 500, Lincoln, NE 68501. *Scrap Plastics from Birmingham, AL, Miami, FL and Murfreesboro, TN and points in their respective commercial zones to the facilities of ABC Polymers, Inc. at or near Atlanta, GA for 180 days. An underlying ETA seeks 90 days authority.* Supporting shipper(s): ABC Polymers, Inc., 2561 S. Ponte Vedra Blvd., Ponte Vedra Beach, FL 32082. Send protests to: Sara K. Davis, T/A, ICC, 1252 W. Peachtree St., NW., Rm. 300, Atlanta, GA 30309.

MC 144688 (Sub-29TA), filed June 25, 1979. Applicant: READY TRUCKING, INC., 4722 Lake Mirror Place, Forest Park, GA 30050. Representative: Lavern R. Holdeman, 521 S. 14th St., Suite 500, Lincoln, NE 68501. *Animal feed and animal feed ingredients (except in bulk) from the facilities of Sunshine Mills, Inc. at or near Red Bay, AL and Tupelo, MS to points in the states of FL, GA, KY, OH and TN for 180 days.* Supporting shipper(s): Sunshine Mills, Inc., P.O. Drawer S., Red Bay, AL 35582. Send protests to: Sara K. Davis, T/A, ICC, 1252 W. Peachtree St., NW, Rm 300, Atlanta, GA 30309.

MC 144688 (Sub-30TA), filed July 12, 1979. Applicant: READY TRUCKING, INC., 4722 Lake Mirror Place, Forest Park, GA 30050. Representative: Lavern R. Holdeman, 521 S. 14th St., (P.O. Box 81849), Lincoln, NE 68501. *Sugar from the facilities of Godchaux Hendersen Sugar Co., Inc. at or near Kenner and Reserve, LA to points in AL, AR, FL, GA, MS, NC, SC and TN for 180 days.* Supporting shipper(s): Godchaux Hendersen Sugar Co., Inc., P.O. Drawer AM, Reserve, LA 70084. Send protests to: Sara K. Davis, T/A, ICC, 1252 W. Peachtree St., NW, Rm 300, Atlanta, GA 30309.

MC 144888 (Sub-8TA), filed May 25, 1979. Applicant: BIL-RIC TRANSPORT SYSTEMS, INC., 130 Somerset Street, Somerville, NJ 08876. Representative: Joel J. Nagel, 19 Back Drive, Edison, NJ 08817. *Contract carrier, irregular routes for 180 days. Office equipment, supplies and plastic articles and materials used in their manufacture.* (1) From St. Petersburg, FL to Park Ridge, NJ with a stop off at Bardstown, KY. (2) Between Park Ridge, NJ on the one hand, and, on the other, Rochester, NY. An underlying ETA seeks 90 days authority. Supporting shipper(s): Burroughs Corporation, 76 Park Avenue, Park Ridge, NJ 07656. Send protests to: Irwin Rosen, TS, ICC, 744

Broad Street, Room 522, Newark, NJ 07102.

MC 145428 (Sub-2TA), filed July 5, 1979. Applicant: CLIFF REED, Rt. 1, Box 510, Corvallis, MT 59828. Representative: John D. Greef, Recht & Greef, P.O. Box 149, Hamilton, MT 59840. *Contract carrier-irregular routes: Lumber from MT, ID, WA, and OR to points in ND and SD, for 180 days. An underlying ETA seeks 90 days authority.* Supporting shipper(s): Fox Lumber Sales, Inc., P.O. Box 1021, Hamilton, MT 59840. Send protests to: Paul J. Labane, DS, ICC., 2002 First Avenue North, Billings, MT 59101.

MC 145869 (Sub-3TA), filed June 22, 1979. Applicant: WILLIS TRUCKING CO., INC., Route 2, Willis, VA 24380. Representative: Terrell C. Clark, P.O. Box 25, Stanleytown, VA 24168. (1) *New Furniture and Pictures from the facilities of Bassett Mirror Company, Inc., at Bassett and Philport, VA to points in AZ and NV for 180 days and; (2) Glass, from the facilities of PPG Industries at or near Cumberland, MD; Mt. Holly Springs, PA, and Wichita Falls, TX to the facilities of Bassett Mirror Company, Inc. at Bassett and Philport, VA for 180 days. An underlying ETA seeks 90 days authority.* Supporting shipper(s): Bassett Mirror Company Inc., P.O. box 827, Bassett, VA 24055. Send protest to: Charles F. Myers, DS, ICC, Room 10-502 Federal Bldg., 400 North 8th Street Richmond, VA 23240.

MC 145869 (Sub-4TA), filed July 12, 1979. Applicant: WILLIS TRUCKING CO., INC., Route 2, Willis, VA 24380. Representative: Terrell C. Clark, P.O. Box 25, Stanleytown, VA 24168. *New Furniture, from the facilities of Pulaski Furniture Corp. at Dublin, Martinsville, and Pulaski, VA to points in AZ, CA, CO, NV, OR, UT and WA for 180 days. An underlying ETA seeks 90 days authority.* Supporting shipper(s): Pulaski Furniture Corp. Pulaski, VA. Send protests to: Charles F. Myers, DS, ICC, Room 10-502, Federal Bldg., 400 North 8th Street, Richmond, VA 23240.

MC 145999 (Sub-4TA), filed July 3, 1979. Applicant: WESTERN DRYWALL TRANSPORT, INC. d.b.a. WESTERN DIRECT TRANSPORT 2001 Broadway, Vallejo, CA 94590. Representative: Ronald D. Davis (same address as applicant). Ph (707) 552-8777. *Gypsum Wallboard and materials and supplies used in the installation of Gypsum Wallboard, from Sigurd, UT to points in CA and NV, for 180 days. An underlying ETA seeks 90 days authority.* Supporting shipper(s): UWS Materials & Supply Co., Inc., 2001 Broadway, Vallejo, CA 94590. Send protests to: A. J. Rodriguez, 211 Main Street, Suite 500, San Francisco, CA 94105

MC 146218 (Sub-1TA), filed June 22, 1979. Applicant: REMO G. RICCI d.b.a. RICCI BROTHERS TRUCKING, 600 Stage Gulch Road, Petaluma, CA 94952. Representative: Raymond A. Greene, Jr., 100 Pine Street, Suite 2550, San Francisco, CA 94111. Ph (415) 986-1414. *Agricultural commodities in bulk between points in CA and North of San Luis Obispo, Kern and San Bernardino counties, on the one hand and, on the other, points in Douglas, Lyon, Churchill, Storey, Humboldt, Pershing and Washoe counties, NV, for 180 days.* Supporting shipper(s): Ivy Branches, Inc., Yerington, NV. Cockeye Ranches, Orivada, NV. Send protests to: A. J. Rodriguez/ 211 Main Street, Suite 500, San Francisco, CA 94105.

MC 146329 (Sub-8TA), filed July 2, 1979. Applicant: W-H TRANSPORTATION CO., INC., P.O. Box 1222, Wausau, WI 54401. Representative: Wayne Wilson, 150 E. Gilman St., Madison, WI 53703. *Animal and poultry feeding equipment from facilities of Klein Mfg. Corp. at Burlington, IA to points in AL, FL, GA, IL, IN, KS, KY, LA, MN, MO, NE, OH, OK, TN and WI, for 180 days. An underlying ETA seeks 90 days authority.* Supporting shipper(s): Klein Mfg. Corp., P.O. Box 807, Burlington, IA 52601. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 146389 (Sub-1TA), filed June 15, 1979. Applicant: RENO & SONS, INC., Route 1, Box 324, Warrior, AL 35180. Representative: E. S. Reno, Jr., 1854 Fultondale Apt. Road, Fultondale, AL 35068. *Ground Fire Clay in dump vehicles, from Birmingham, AL to Cordele, GA, VIA I-65, I-85, and HWY 280. From Andersonville, GA to Birmingham, AL, VIA HWY 26, 280, I-85, and I-65. For 180 days. An underlying ETA seeks 90 days authority.* Supporting shipper(s): National Cupola & Foundry Service Corp., 2910 Crescent Avenue, Birmingham, AL 35209. Send protests to: Mabel E. Holston, T/A, ICC, Room 1616-2121 Building, Birmingham, AL 35203.

MC 146518 (Sub-2TA), filed June 6, 1979. Applicant: OWEN MOTOR FREIGHT LINES, INC., P.O. Box 7516, Alexandria, LA 71306. Representative: B. J. Owen (same address as applicant). Applicant is seeking authority to operate as a *common carrier over irregular routes transporting Acrylics, and plastic resins, in bags, boxes, or sheets, not in liquid bulk, from points in AL, AR, CT, DE, DC, FL, GA, IL, IN, IA, KY, LA, ME, MD, MA, MI, MN, MS, MO, NH, NJ, NY, NC, OH, PA, RI, SC, TN, TX, VT, VA, WV, WI to points in CT, GA, IN, IL, KY,*

LA, MD, MA, MI, NJ, NC, NY, OH, PA, SC, and TX, for 180 days. Applicant has filed an underlying ETA seeking 90 days. Supporting shipper(s): Plexchem International, Inc., 5 Beechwood Court, Dix Hill, NY 11746. Send protests to: Robert J. Kirspe, DS, ICC, T-9038 Federal Bldg., 701 Loyola Ave., New Orleans, LA 70113.

MC 146518 (Sub-3TA), filed June 22, 1979. Applicant: OWEN MOTOR FREIGHT LINE, INC., P.O. Box 7516, Alexandria, LA 71306. Representative: Bruce E. Mitchell, SERBY & MITCHELL, P.C., 3390 Peachtree Road, N.E., Atlanta, GA 30326. *Chemicals, wood fillers, patching compound and preservatives, except commodities in bulk, in tank vehicles, from Pineville, LA and Lithonia, GA to St. Louis, MO; Doe Run, KY; and points in NC, SC, GA, AL, MS, LA, TX, and FL and (2) materials, equipment and supplies used in the production and distribution of plywood, on return, for 180 days.* Applicant has filed an underlying ETA seeking 90 days. Supporting shipper(s): Willamette Company, P.O. Box 1183, Pineville, LA 71360. Send protests to: Robert J. Kirspek, DS, ICC, T-9038 Federal Bldg., 701 Loyola Ave., New Orleans, LA 70113.

MC 146578 (Sub-7TA), filed July 2, 1979. Applicant: PALMETTO MOTOR LINES, INC., 7153 Lone Oak Road, Spartanburg, SC 29303. Representative: Nina G. Shults, P.O. Box 6445, Spartanburg, SC 29304. *Foodstuffs, from the facilities of Bruce Foods, Inc. at or near Lozes, LA to points in MS, AL, FL, GA, NC, and TN, for 180 days. An underlying ETA seeks 90 days authority.* Supporting shipper(s): Bruce Foods, Inc., P.O. Drawer 1030, New Iberia, LA 70560. Send protests to: E. E. Strotheid, D/S, ICC, Rm. 302, 1400 Bldg., 1400 Pickens St., Columbia, SC 29201.

MC 146858 (Sub-3TA), filed June 25, 1979. Applicant: AMHERST ENTERPRISES, INC., 9 East Pleasant Street, Amherst, Massachusetts 01002. Representative: Patrick A. Doyle, 40 Robbins Road, Springfield, MA 01104. *Contract carrier: irregular routes: Beer, from Newark, NJ and Philadelphia, PA to points in ME, NH, VT, MA, CT and RI, for 180 days. An underlying ETA was granted for 90 days.* Supporting shipper(s): Lion Distributors, Inc., 54 Hermon Street, Worcester, MA 01100. Send protests to: David M. Miller, DS, ICC, 438 Dwight Street, Springfield, MA 01103.

MC 146918 (Sub-1TA), filed June 6, 1979. Applicant: N & N CHARTER TOURS d.b.a. CAREFREE BUS SERVICE, P.O. Box 8152, Haledon, NJ 07508. Representative: Edward F. Bowes,

Esq., 167 Fairfield Road, P.O. Box 1409, Fairfield, NJ 07006. Common, regular. *Passengers and their baggage in same vehicle with passengers.* Between Lyndhurst, NJ and New York, NY from Lake Ave. and Orient Way in Lyndhurst over Orient Way to Rutherford Avenue, then over Rutherford Avenue and ramps to NJ 3, then over NJ 3 to Int. 495 and Lincoln Tunnel ramps to Lincoln Tunnel, then via the Lincoln Tunnel to New York, NY and return over the same routes, serving no intermediate points and serving Lyndhurst, NJ for the purpose of joinder only at Lake Avenue and Orient Way, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): None. Send protests to: Joel Morrows, D/S, ICC, 744 Broad St., Room 522, Newark, NJ 07102.

MC 147128 (Sub-1TA), filed June 12, 1979. Applicant: IRISH TRANSPORTATION, INC., P.O. Box 741, Dublin, GA 31021. Representative: Virgil H. Smith, Suite 12, 1587 Phoenix Blvd., Atlanta, GA 30349. *Newsprint paper, waste newspapers, cores and other supplies, materials and equipment, excluding materials in bulk, used in the manufacture or distribution of newsprint* from Laurens County, GA to points in AL, AR, FL, GA, IL, IN, KY, LA, MD, MS, MO, NC, OH, OK, PA, SC, TN, TX, VA and WV and from the points above to Laurens County, GA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Southeast Paper Manufacturing Co., P.O. Box 1169, Dublin, GA 31021. Send protests to: Sara K. Davis, T/A, ICC, 1252 W. Peachtree ST., N.W., Rm. 300, Atlanta, GA 30309.

MC 147288 (Sub-1TA), filed June 29, 1979. Applicant: FREIGHT OPERATIONS, INC., 165 Campus Plaza, Raritan Center, Edison, NJ 08817. Representative: Henry J. Capro, Esq., 1585 Morris Avenue, Union, NJ 07083. *Contract carrier, irregular routes for 180 days. Tires, tire tubes, rims and wheels, batteries, battery acid, oil, oil filters, shock absorbers (except commodities in bulk or tank vehicles) from NJ to points in CT, DE, MD, NJ, NY, PA, MA and Washington, DC. An underlying ETA seeks 90 days authority.* Supporting shipper(s): Delta Tire Corp. 65 Brunswick Avenue, Edison, NJ 08817. Send protests to: Irwin Rosen, TS, ICC, 744 Broad Street, Room 522, Newark, NJ 07102.

MC 147319 (Sub-1TA), filed March 28, 1979. Applicant: LUCKEY TRUCKING, INC., RR 5, Streator, IL 61364. Representative: James R. Madler, 120 West Madison Street, Chicago, IL 60602. *Sand, in bulk, from Troy Grove, IL and Bridgman, MI to points in IL, IN, OH, MI and Louisville, KY, for 180 days.* Supporting shipper(s): Manley Bros.,

P.O. Box 538, Chesterton, IN 46304. Send protests to: Annie Booker, Interstate Commerce Commission, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 147328 (Sub-1TA), filed May 17, 1979. Applicant: CLIFTON TRUCKING CORPORATION, 101 Broad Avenue—P.O. Box 146, Fairview, NJ 07022. Representative: Robert B. Pepper, 168 Woodbridge Avenue, Highland Park, NJ 08904. *Contract, irregular. Swimming pools, file and storage cabinets, and radiator enclosures and convectors, and materials and supplies used in the manufacture and sales thereof on return, from Carlstadt, NJ to all points in the U.S. East of the Mississippi River, and LA, MN, OK & TX, for 180 days. An underlying ETA will be filed seeking 90 days authority.* Supporting shipper(s): Kero Metal Products Company, Delta Metal Products Co., Inc., Aqualine Industries, Inc., 99 Kero Road, Carlstadt, NJ 07072. Send protests to: Joel Morrows, D/S, ICC, 744 Broad St., Room 522, Newark, NJ 07102.

MC 147328 (Sub-2TA), filed July 5, 1979. Applicant: CLIFTON TRUCKING CORPORATION, 101 Broad Avenue, Fairview, NJ 07022. Representative: Robert B. Pepper, 168 Woodbridge Avenue, Highland Park, NJ 08904. *Contract carrier, irregular routes for 180 days. Candy and confectionery from Champlain, NY to Atlanta, GA, Jacksonville, FL, Chicago, IL, Indianapolis, IN, Los Angeles, CA, Minneapolis, MN, and Memphis and Chattanooga, TN. An underlying ETA seek 90 days authority.* Supporting shipper(s): Dalt International, Inc., 360 Sylvan Avenue, Englewood Cliff, NJ 07632. Send protests to: Joel Morrows, DS, ICC, 744 Broad Street, Room 522, Newark, NJ 07102.

MC 147329 (Sub-1TA), filed May, 15, 1979. Applicant: ALL STATE TRANSPORT, INC., 16854 Mooncrest Dr., Encino, CA 91436. Representative: William Davidson, 2455 E. 27th St., Los Angeles, CA 90058. *Contract: Irregular: Ferrous & non-ferrous metals raw, in ingots, blanks & other unfinished shapes, and metal articles ferrous & non-ferrous, between California, Colorado, Idaho, Montana, New Mexico, Nevada, Oregon, Texas, Utah, Washington and Arizona, for 180 days.* Supporting shipper(s):

Capitol Metals Co., Inc., 261 South Vasco Road, Livermore, CA 94550. California Steel Works, Inc., 5723 Naylor Avenue, Livermore, CA 94550.

Send protests to: Irene Carlos, P.O. Box 1551, Los Angeles, CA 90053.

MC 147339 (Sub-2TA), filed May 9, 1979. Applicant: MID-NORTHERN TRANSFER CO., Box 141, Grand Ridge, IL 61325. Representative: Michael W.

O'Hara, 300 Reisch Building, Springfield, IL 62701. *Sand, in bulk, from points in LaSalle County, IL to the facilities of Thatcher Glass Manufacturing Co., Division of Dart Industries, at Lawrenceburg, IN for 180 days.* Supporting shipper(s): Thatcher Glass Manufacturing Co., P.O. Box 265, Elmira, NY 14902. Send protests to: David Hunt, Transportation Assistant, 219 S. Dearborn St., Room 1386, Chicago, IL 60604.

MC 147348 (Sub-1TA), filed June 19, 1979. Applicant: SOUTHWEST FREIGHT DISTRIBUTORS, INC., 1320 Henderson, North Little Rock, AR 72114. Representative: James M. Duckett, 927 Pyramid Life Bldg., Little Rock, AR 72201. *Underlying ETA seeks corresponding authority for 90 days. General commodities (with the usual exceptions) between Little Rock, AR and all points in Clark, Sebastian, Hot Spring, Garland, Saline, Jefferson, Arkansas, Lonoke, Perry, Monroe, White, Jackson, Faulkner, Pope, Johnson, Conway, Crawford, Craighead, Union, Drew, Bradley, Calhoun, St. Francis, Cross, Benton, Washington, Sevier, Carroll, Boone, Baxter, Van Buren, Cleburne, Independence, Lawrence, Clay, Green, Mississippi, Crittenden, Woodruff, Prairie, Desha, Lincoln, Chicot, Ouachita, Nevada, Hempstead, Miller, Dallas, Columbia, Franklin, and Phillips Counties, AR, restricted to traffic having a prior or subsequent movement by rail in piggyback service for 180 days.* Supporting shipper(s): Approximately 10 shippers. Send protests to: William H. Land, Jr., DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 147399 (Sub-1TA), filed June 26, 1979. Applicant: JACK B. ROBERTSON d.b.a. J. R. TRANSPORT, 1946 Davis Street, San Leandro, CA 94577. Representative: Jack Robertson (same address as applicant). *Contract carrier, irregular routes: Such commodities as are dealt in by department stores or mail order houses (except commodities in bulk, and commodities requiring special equipment) between San Leandro and Oakland, CA on the one hand and Portland, OR on the other, for 180 days. RESTRICTED to service performed under a continuing contract with Montgomery Ward. An underlying ETA seeks 90 days authority.* Supporting shipper(s): Montgomery Ward & Co., 2825 E. 14th Street, Oakland, CA. Send protests to: A. J. Rodriguez, 211 Main Street, Suite 500, San Francisco, CA 94105.

By the Commission.
Agatha L. Mergenovich,
Secretary.

[FR Doc. 79-28905 Filed 8-28-79; 8:45 am]
BILLING CODE 7035-01-M

Sunshine Act Meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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[M-239 amd. 7; August 23, 1979]

CIVIL AERONAUTICS BOARD.

Notice of deletion of items from the August 23, 1979 Meeting Agenda.

TIME AND DATE: 9 a.m., August 23, 1979.

PLACE: Room 1027 (Open). Room 1011 (Closed). 1825 Connecticut Avenue, N.W., Washington, D.C. 20428.

SUBJECT:

11. Dockets 35464 and 34650: Final guidelines and procedures for essential air service determinations. (Memo #8753-B, OGC, BDA).
- 22A. Docket 30332. Agreements CAB 27769-R5 and -R6; Docket 30777, Agreements CAB 27770-R10 and -R11: Agreements among members of IATA setting interline service charges. (Memo #9048, BDA, OGC, BIA, BCP).

STATUS: Open (Item 11). Closed (Item 22a).

PERSON TO CONTACT: Phyllis T. Kaylor, The Secretary, (202) 673-5068.

SUPPLEMENTARY INFORMATION: Item 11 was deleted from the August 23, 1979 meeting in order that the Board may have additional time to consider this item. This item will be rescheduled for August 31, 1979 meeting. Item 22a was deleted from the August 23 Board meeting because the issues raised in the proposed order were similar to those raised by the Petitions for Reconsideration of Order 78-8-87, IATA Agreements, Docket 28672. It was decided that both cases should be considered at the same time. Accordingly, the following Members have voted that Items 11 and 22a be deleted from the August 23, 1979 agenda and that no earlier announcement of these deletions was possible:

Chairman Marvin S. Cohen
Member Richard J. O'Melia
Member Elizabeth E. Bailey

[S-1687-79 Filed 8-27-79; 3:14 pm]

BILLING CODE 6320-01-M

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[M-240; August 24, 1979]

CIVIL AERONAUTICS BOARD.

TIME AND DATE: 9 a.m., August 31, 1979.

PLACE: Room 1027 (Open). Room 1011 (Closed). 1825 Connecticut Avenue, N.W., Washington, D.C. 20428.

SUBJECT:

1. Ratification of items adopted by notation.
2. Amendment to Part 385 delegation to the Director, BCP, which makes explicit the authority to terminate investigations conducted under Part 305. (Memo #9070, BCP)
3. Docket 35284. Application of Chilcotin-Cariboo Aviation Ltd. for an initial foreign carrier permit to operate charters between Canada and the U.S. using small aircraft. (Memo #9074, BIA, OGC, BAL)
4. Docket 35578, (Texas International Airlines, Inc., Enforcement Proceeding) Order 79-5-127—TXI's motion to disqualify the Board Members and to dismiss proceeding (OGC)
5. Dockets 35464 and 34650, Final guidelines and procedures for essential air service determinations. (Memo #8753-B, OGC, BDA)
6. Docket 25563. Termination of rulemaking on conformity between charter contracts and charter tariffs. (OGC)
7. Dockets 32836 and 33362: *Former Large Irregular Air Service Investigation* (Zantop International Airlines, Inc.)—Order on Discretionary Review. (Memo #9063, OGC)
8. Dockets 34582, 32711, and 33019: *Southwest Airlines Automatic Market Entry Investigation, et al.*, Petition of Southwest Airlines for reconsideration of Order 79-7-106. (Memo #8987-A, OGC)
9. Docket 33019, *Chicago-Midway Expanded Service Investigation*. (OGC)
10. Docket 32830, *Florida-Mexico City Service Investigation*—Draft order. (Memo #7994-A, OGC)
11. Dockets 35707, 35890, 35919, 35897, and 35941: Houston-Brownsville Show Cause Proceeding and Applications of Continental, National, Ozark and Republic in Dockets 35890, 35919, 35897 and 35941, respectively. (Memo #8844-A, BDA)
12. Dockets 35746, 35954, 35960, 35681, 35746, 35957, and 35963: Corpus Christi-Houston/San Antonio Show Cause Proceeding and applications of Frontier, National, Ozark, Republic and USAir in Dockets 35954, 35960, 35681, 35746, 35957 and 35963 respectively. (Memo #8871-A, BDA)
13. Dockets 35836, 36000, 36012, 36013, and 36027: *Dallas/Fort Worth-Little Rock Show Cause Proceeding*. (Memo #8896-A, BDA)
14. Dockets 35579, 35761, 35762, 35769, 35772, 35774, 35775, 35776, 35780, and 35796: *Denver-Sacramento-Fresno Show-Cause Proceeding*, Continental, Western, Republic, Hughes Airwest, Ozark, Braniff, Northwest, Frontier, Trans World, Air California, Eastern, USAir, and Pacific Southwest Applications for Denver-Fresno/Sacramento and Fresno-Sacramento Authority. (Memo #8778-A, BDA)
15. Dockets 34623, 34890, 34975, 35055, 35065, and 35557: United's application for Denver/Chicago-Orlando-Tampa-Sarasota-Fort Myers-West Palm Beach-Miami/Fort Lauderdale nonstop authority; Ozark's application for Denver/Chicago-Orlando/Tampa/Sarasota/Fort Myers/West Palm Beach/Fort Lauderdale/Miami nonstop authority and motion to consolidate; Continental's application for Denver-Orlando/Sarasota/Fort Myers/West Palm Beach and Chicago-Orlando/Tampa/Sarasota/Fort Myers/West Palm Beach/Miami/Fort Lauderdale nonstop authority and motion to consolidate; Western's application for Denver/Chicago-Orlando-Tampa-Sarasota-Fort Myers-West Palm Beach-Miami-Fort Lauderdale nonstop authority and motion to consolidate; National's application for Denver/Colorado Springs-Fort Lauderdale/Miami/Orlando/Tampa nonstop authority and motion to consolidate; Trans International's application (in part) for Chicago-Orlando/Tampa/Miami-Ft. Lauderdale nonstop authority and motion to consolidate (BDA)
16. Dockets 35597, 35598, 35599, 35600, 35601, and 35602: Applications of National Airlines for certificate authority under Subpart Q. (BDA)
17. Dockets 31651, 31783, 31896, 31905, 31911, and 31919: Meridian Air Cargo, Inc.; Pacific Aero, Inc., Nor-Cal Aviation, Inc., Georgia Air Freight, Inc., Air Trans Commuter, Inc., and Commercial Air Transport, Inc.—Revocation of Section 418 All-Cargo Air Service Certificates. (Memo #9073, BDA, OGC, BCP)
18. Dockets 34203 and 34668: USAir's and Ransome's Notices to Terminate Service at Catskill/Sullivan County, New York. (Memo #8535-F, BDA, OCC)
19. Dockets 34934, 36002, and 36273: Piedmont's 60- and 90-day notices to suspend service at New Bern/Morehead City, NC. (BDA)
20. Docket 34681, Interim Essential Air Transportation at Massena, Ogdensburg, Plattsburgh, Saranac Lake/Lake Placid, Watertown, New York and Rutland, Vermont. (BDA)
21. Docket 36358, Application of Air Florida, Inc., for an emergency exemption from section 401(j) to temporarily suspend service at Panama City on less than 90 days notice, and to suspend service in single-plane markets on less than 60 days notice. (BDA)

22. Dockets 32985, Agreement CAB 27458; Docket 34511, Agreement CAB 27794; Docket 31092, Agreements CAB 23870, 23870-A4, and 23870-A6; Agreements CAB 18923, 18923-A1, and 18923-A2; Agreements among members of the Air Traffic Conference of America concerning automated services provided to travel agents and customers. (Memo #9072, BDA, OGC)

23. Dockets 31290 and 21866-4; Notice of Proposed Rulemaking proposing options for eliminating the mandatory joint fare program established in Phase 4 of the DFFI. (Memo #9053, BDA, OGC, OEA, BIA, OCCR, BCP)

24. Docket 34138, In the Matter of Commuter/Certificated Joint Fares. (Memo #8311-F, OGC)

25. Agreement CAB 27337, *et al.*, Agreements for intercarrier division of joint fares. (BDA, OGC, BIA, BCP)

26. Section 302.300 *et seq.*—Notice of Proposed Rulemaking to amend the procedures under which the Board establishes interstate, overseas and foreign service mail rates. (BDA, OGC)

27. General five percent fuel-related cargo rate increases proposed by Braniff in its international markets. (BIA)

28. Docket 33886, Part 223 of the Board's Economic Regulations—Final Rule Allowing Unrestricted Free or Reduced-Rate Transportation for Travel Agents. (Memo No. 8737-A, OGC, OM, BDA)

29. Dockets 15359 and 16750; Redetermination of subsidy refunds under Class Rate III pursuant to the provisions of P.L. 95-504 (October 24, 1978). (Memo No. 1551-C, BDA, OC, OGC)

30. Docket 34071, Southeast Airlines, Inc.—request for waiver of certain provisions of section 291.11 of the Economic Regulations. (Memo No. 9069, BDA, OGC)

31. International passenger fares proposed by Pan American and TWA. (BIA)

STATUS: Open (Items 1-30). Closed (Item 31).

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary. (202) 673-5068.

SUPPLEMENTARY INFORMATION: This meeting will involve discussion of commercially sensitive data provided to the Board in confidence. This material is within exemption 4 and disclosure might violate the Criminal Trade Secrets Act as well as possibly diminish the Board's ability to obtain this kind of information in the future. Additionally, this meeting may affect present or future bilateral negotiations. Disclosure of U.S. positions, particularly to foreign governments could seriously compromise the United States Government's ability to achieve future bilateral understandings which would be in the best interests of the United States. Accordingly, the following Members have voted that public observation would reveal commercial or financial information obtained from a person and privileged or confidential within the meaning of exemption 9, could significantly frustrate future

action within the meaning of the exemptions provided under 5 U.S.C. 552b(c)(4)(9)(B) and 14 CFR 310b.5(4)(9)(B) and that the meeting will be closed:

Chairman Marvin S. Cohen
Member Richard J. O'Melia
Member Elizabeth E. Bailey

Persons Expected To Attend

Board Members.—Chairman, Marvin S. Cohen; Member, Richard J. O'Melia; Member, Elizabeth E. Bailey; and Member, Gloria Schaffer.

Assistants to Board Members.—Mr. David Kirstein, Mr. James L. Deegan, Mr. Daniel M. Kasper, and Mr. Stephen H. Lachter. Managing Director.—Mr. Cressworth Lander.

Executive Assistant to the Managing Director.—Mr. John R. Hancock. Office of the General Director.—Mr. Michael E. Levine, Mr. Steven A. Rothenberg, and Mr. Mark S. Kahan.

Bureau of International Aviation.—Mr. Sanford Rederer, Mr. Jerry Nelson, Mr. Douglas V. Leister, Mr. Ivars V. Mellups, Mr. Richard M. Loughlin, Mr. Herbert P. Aswall, and Mr. John H. Kiser.

Office of the General Counsel.—Mr. Philip J. Bakes, Jr., Mr. Gary J. Edles, Mr. Kenneth G. Caplan, Ms. Carol Light, Mr. Michael Schopf, and Mr. Glen M. Bendixsen.

Office of Economic Analysis.—Mr. Robert H. Frank and Mr. Larry Manheim.

Bureau of Consumer Protection.—Mr. Reuben B. Robertson.

Office of the Secretary.—Mrs. Phyllis T. Kaylor, Ms. Deborah A. Lee, and Ms. Louise Patrick.

General Counsel Certification

I certify that this meeting may be closed to the public under 5 U.S.C. 552b(c)(4)(9)(B) and 14 CFR 310b.5(4)(9)(B) and that the meeting may be closed to public observation.

Phil Bakes, Jr.,

General Counsel.

[S-1688-79 Filed 8-27-79, 3:14 pm]

BILLING CODE 6320-01-M

3

COMMODITIES FUTURES TRADING COMMISSION.

TIME AND DATE: 11:00 a.m., September 7, 1979.

PLACE: 2033 K Street, N.W., Washington, D.C., 8th floor conference room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Briefing.

CONTACT PERSON FOR MORE

INFORMATION: Jane Stuckey, 254-6314.

[S-1684-79 Filed 8-27-79, 10:33 am]

BILLING CODE 6351-01-M

4

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION.

August 23, 1979.

TIME AND DATE: 2:00 p.m., August 30, 1979.

PLACE: Room 600, 1730 K Street, N.W., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. Knox County Stone Co., Inc., Docket No. DENV 79-359-PM (Petition for Discretionary Review).

2. United States Steel Corporation, Docket No. PITT 76-160-P, PITT 76-162-P (IBMA 77-33).

CONTACT PERSON FOR MORE

INFORMATION: Jean Ellen, 202-653-5632.

[S-1683-79 Filed 8-27-79, 10:33 am]

BILLING CODE 6820-12-M

5

HARRY S. TRUMAN SCHOLARSHIP FOUNDATION

Proposed Agenda for Meeting of the Board of Trustees.

DATE AND TIME: Monday, September 10, 1979, 10:00 a.m.

PLACE: 712 Jackson Place, N.W., Washington, D.C. 20006.

1. The call to order; Check quorum.
2. Adoption of Proposed Agenda.
3. Approval of Minutes of April 9, 1979 meeting.
4. Report of the Chairman.
 - a. Remarks on Annual Report, FY ending September 30, 1979.
 - b. Discussion of ETS.
 - c. Discussion of Doremus.
 - d. Status of Awards Ceremony and speaker, Sunday, May 4, 1980 at Harry S. Truman Library, Independence, Missouri.
 - e. Discussion of proposed date of next Board meeting, Monday, April 14, 1980 at 10:00 a.m. at the Foundation.
 - f. Resolution to empower Chairman to renew service contracts and conclude other Foundation business.
5. Report of the Executive Secretary.
 - a. Current status of Truman Scholars.
 - b. Selecting the Class of 1980.
 - c. Report on work-experience program.
 - d. Foundation operations.
6. New Business.
7. Date and place of next Board meeting.
8. Adjournment.

[S-1686-79 Filed 8-27-79, 12:12 pm]

BILLING CODE 6115-01-M

6

INTERSTATE COMMERCE COMMISSION.

TIME AND DATE: 9:30 a.m., Wednesday, September 5, 1979.

PLACE: Hearing Room "A", Interstate Commerce Commission Building, 12th

Street and Constitution Avenue, N.W., Washington, D.C. 20423.

STATUS: Open Special Conference.

MATTERS TO BE CONSIDERED:

Motor Carrier Regulation:

- a. Motor Carrier Task Force Report (Discussion of conceptual approach)
- b. Proposed procedures, Bulk Material Carriers (Master Certificate)
- c. Other proposals which will facilitate processing of operating rights cases
- d. Zone of Reasonableness

CONTACT PERSON FOR MORE

INFORMATION: Douglas Baldwin, Director, Office of Communications, Telephone: (202) 275-7252.

The Commission's professional staff will be available to brief news media representatives on conference issues at the conclusion of the meeting.

[S-1685-79 Filed 8-27-79, 11:40 am]

BILLING CODE 7035-01-M

federal register

Wednesday
August 29, 1979

Part II

Environmental Protection Agency

**Best Conventional Pollutant
Control Technology; Reasonableness of
Existing Effluent Limitation Guidelines**

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 405, 406, 407, 408, 409, 411, 412, 418, 422, 424, 426, 427, 432

(FRL 1305-1)

Best Conventional Pollutant Control Technology; Reasonableness of Existing Effluent Limitation Guidelines**AGENCY:** Environmental Protection Agency.**ACTION:** Final rules.

SUMMARY: EPA publishes the results of its review of effluent limitations on conventional pollutants in certain industries. In some industries, effluent limitations representing "best conventional pollutant control technology" (BCT) are promulgated. These limitations will replace limitations representing "best available technology economically achievable" (BAT) previously established for conventional pollutants. In other industries, BAT limitations on conventional pollutants are withdrawn, and BCT limitations will be promulgated at a later date.

EPA initially proposed BCT limitations on August 23, 1978. At that time, the public was invited to comment on the proposed regulations, and a public meeting was held. The comments received from the public have all been reviewed and evaluated by EPA. They have been incorporated into this final rulemaking package.

DATE: The effective date of these regulations will be September 28, 1979.

FOR FURTHER INFORMATION CONTACT: Ms. Emily Hartnell, Office of Analysis and Evaluation (WH-586), EPA, 401 M Street S.W., Washington D.C. 20460, 202-755-2484.

SUPPLEMENTARY INFORMATION:**1. Background***Legal Basis*

On August 23, 1978, EPA published proposed "best conventional pollutant control technology" (BCT) for selected industries. The proposed regulations were developed in response to Section 304(b)(4)(B) of the 1977 Amendments to the Clean Water Act (CWA). Section 304(b)(4)(B) instructs EPA to determine BCT through an analysis of:

The reasonableness of the relationship between the costs of attaining a reduction in effluents and the effluent reduction benefits derived, and the comparison of the cost and level of reduction of such pollutants from the

discharge of publicly owned treatment works to the cost and level of reduction of such pollutants from a class or category of industrial sources.

The Act also specifies that additional consideration be given in making BCT determinations to the age of equipment, production process, energy requirements, and other appropriate factors.

BCT is not an additional effluent limitation for industrial dischargers, but rather it replaces "best available technology economically achievable" (BAT) for the control of conventional pollutants. BAT will remain in force for all non-conventional and toxic pollutants. Effluent limitations representing BCT may not be more stringent than BAT. However, BCT, like BAT, is subject to periodic review, and progress in waste treatment technology may warrant subsequent revision. In no case will BCT limitations be less stringent than limitations representing "best practicable technology currently available" (BPT).

Section 73 of the CWA of 1977 directs the Agency to review, immediately, all existing final or interim final BAT effluent guidelines for conventional pollutants in those industries not covered in the Settlement Agreement reached in *NRDC v. Train*, 8 ERC 2120 (D.D.C. 1976). These industries are often referred to as "secondary industries." This review was to be completed within 90 days of enactment of the Act.

2. Industries Covered by This Review

As directed by Congress, EPA has evaluated all BAT regulations for conventional pollutants which apply to industries not covered by the NRDC Settlement Agreement (those not listed in Table 2 of Committee Print No. 95-30 of the Committee on Public Works and Transportation of the House of Representatives). Thirteen secondary industry categories have final or interim final BAT effluent guidelines. These are listed in Tables 1 and 2. Complete analysis has not been carried out on all of the subcategories in these industries. In those cases where conventional pollutant BAT limitations are equivalent to BPT, no further analysis is necessary. Since BPT constitutes a floor below which BCT may not be established, all BAT limitations set at that point are reasonable, and are being promulgated as BCT. The 20 subcategories which fall into this group are listed in Table 1.

The 93 subcategories in Table 2 were studied further. Of the 93 subcategories, BAT regulations for 45 are not finally promulgated or are withdrawn for a variety of other reasons. BCT limitations will be set at a later date, and BPT alone

will remain in effect. In some instances, industry studies currently underway are expected to result shortly in the necessary data to establish new standards (the seafoods industry, the cane sugar subcategories of the sugar processing industry, and three subcategories in the fruit and vegetable processing industry). In other instances, data submitted by industry warrants further consideration (four subcategories in the meat processing industry, the beet sugar subcategory of the sugar processing industry, the frozen potato subcategory, and parts of the condensed milk and condensed whey subcategory). Adequate information is not currently available on industry operations to conduct the necessary analysis for duck feedlots. In a final case, some limitations in certain meat products subcategories have been remanded by a court for reconsideration, and BPT will be set at the conclusion of that process.

EPA expects to use the methodology employed in this BCT review when an analysis of conventional pollutant treatment requirements is conducted for the primary industries (those industries to be covered by the Consent Agreement). National BCT limitations will be proposed and promulgated along with BAT, pretreatment, and new source standards. The explicit application of the BCT methodology to each industry will be detailed at the time each regulation is proposed.

3. Pollutants Covered by the Review

Section 304(a)(4) of the Act specifies that conventional pollutants should include, but not be limited to, biochemical oxygen demanding pollutants (BOD₅), total suspended solids (TSS), fecal coliform, and pH. The Agency, in a separate action, has designated oil and grease as a conventional pollutant (44 FR 44501, July 30, 1979) and this review of BAT effluent guidelines includes oil and grease in the analysis of reasonableness where appropriate. In the case of both fecal coliform and pH, the BAT regulations under review were in all cases equivalent to BPT regulations. Therefore, no further analysis has been performed on these pollutants, and BCT controls of pH and fecal coliform will be the same as BPT. Consequently, the pollutants considered in this review are BOD₅, TSS, and oil and grease. If, at any time, pollutants are added or deleted from the conventional pollutant list, the Agency will reevaluate all effluent guidelines affected by such revisions.

4. Methodology for Determining Reasonableness of BAT Regulations

(a) *Background.* The objective of this review is to evaluate existing BAT limitations for the "secondary" industries to determine if they satisfy the criteria for BCT contained in section 304(b)(4)(B). That section, which requires a consideration of the "cost reasonableness" of effluent limitations for conventional pollutants, has necessitated the development of a wholly new methodology for evaluating existing effluent limitations and for developing subsequent BCT limitations.

In developing the methodology for this regulation, EPA was guided both by the statutory language of section 304(b)(4)(B) and by Congress' underlying objectives in establishing BCT. The legislative history makes it clear that Congress was concerned that requirements for the control of conventional pollutants beyond BPT may, in some cases, be unreasonably expensive. Congress recognized that at some point costs for such control begin to exceed associated "effluent reduction benefits", and thus established BCT to ensure that any limitations controlling conventional pollutants at a level more stringent than BPT were "reasonable".

This regulation satisfies those objectives. The core of the Agency's BCT methodology is a comparison of the costs of removing additional pounds of conventional pollutants for industry with comparable costs of removal for an average publicly owned treatment works (POTW). This cost figure for the POTW constitutes the basic measure of "reasonableness" established by the Act. As Senator Muskie noted:

The Administrator must determine whether or not the cost of achieving reductions of conventional pollutants bears a reasonable relationship to the amount of effluent reduction achieved. In making this determination, the Administrator is to compare the costs of industrial effluent reduction to the cost of municipal waste treatment.

There are, however, a range of additional factors which are significant in establishing BCT. EPA interprets and applies these factors as follows.

(1) BPT is the base point for evaluation of limitations on conventional pollutants. All costs beyond BPT associated with the control of conventional pollutants are used in the BCT evaluation. No limitation more stringent than BPT can be established as BCT if it fails the cost reasonableness comparison.

(2) Effluent reduction benefits, calculated in terms of additional pounds of conventional pollutants removed, are

directly incorporated in the cost per pound comparison.

(3) A uniform measure of reasonableness is established for all industries throughout the country. This ensures that no industry will be required to exceed a specified cost per pound for removal of conventional pollutants. In consequence, industries with high costs for removal of conventional pollutants, in many cases, will be subject to less stringent effluent limitations.

(4) A greater proportion of the total costs for control of conventional pollutants will now be allocated to industries and segments of industries comprised of large facilities. These facilities are able to remove conventional pollutants at the lowest cost.

(5) The final methodology results in the relief which Congress intended for control of conventional pollutants, and resolves the uneven impact of existing BAT limitations. Of the 93 industry subcategories evaluated in detail in this review, 22 have reasonable BAT limitations, 13 have unreasonable limitations, 6 have split determinations depending on the size of plant, 7 are not affected by this review because the BAT limitations in those cases are designed to control toxic pollutants, while the remaining 45 as noted above will require further analysis. For those subcategories in which BAT was found to be unreasonable, or requiring further analysis, EPA will undertake further study to develop appropriate BCT limitations.

These new limitations will result in a substantial reduction in expenditures for control of conventional pollutants. While this regulation covers only secondary industries, when the methodology is applied to the development of BCT limitations for the control of conventional pollutants in the primary industries, substantial additional savings will be realized.

(b) *The BCT Test.* The BCT test compares the cost for industry to remove a pound of conventional pollutants to the cost incurred by a POTW for removing a pound of conventional pollutants. If the industry cost for a specific technology is lower than the POTW cost, the test is passed and the level of control of conventional pollutants is considered reasonable. If the industry costs of removal are higher than the POTW costs, the test is failed, and BCT cannot be set at that level.

In the case of this Section 73 secondary industry review, the BCT test is applied to existing BAT requirements to determine if the existing promulgated regulations are reasonable. If the existing BAT limitation passes the test,

BCT is being promulgated as equivalent to the former BAT. If the BAT standard does not pass the test, the existing BAT is being withdrawn until an appropriate BCT can be set.

(1) *Calculation of Industrial Costs:* The incremental annual costs are calculated by determining the difference between the annual costs for a model plant representing an industrial subcategory to achieve BPT and the annual costs to achieve the candidate BCT for conventional pollutants. Annual costs include operation and maintenance expenses, capital costs, and depreciation. The data used by EPA in determining industrial costs for this review are drawn from the Agency Development Documents which were prepared for each of the affected industries (See Appendix A). The data are updated to 1976 dollars, so that they can be compared on a consistent basis.

(2) *Calculation of Industrial Pollutant Removal:* The incremental removal of conventional pollutants is calculated by determining the difference between the annual pounds of conventional pollutants removed after compliance with BPT and the pounds removed after compliance with the candidate BCT. The conventional pollutants subject to this review fall into two categories: suspended solids (TSS), and oxygen-demanding substances (BOD₅ and oil and grease). To avoid "double counting" of the amount of pollutants removed, the incremental pounds removed from BPT to candidate BCT are calculated using only one pollutant from each group. In those cases where both BOD₅ and oil and grease are subject to limitations, the pollutant with the greater amount of removal is included in the calculation. If a group is not represented in the effluent limitation guideline for the subcategory, then it is not included in the evaluation. Table 3 details the pollutants to be used in the calculation.

(3) *Calculation of the Industrial Ratio:* The ratio of incremental annual costs to incremental conventional pollutant removal is calculated as follows: (candidate BCT annual costs-BPT annual costs)/(candidate BCT pounds of conventional pollutants removed-BPT pounds of conventional pollutants removed)

This ratio represents the annual incremental cost to remove a pound of conventional pollutants beyond BPT in terms of dollars per pound.

(4) *Calculation of the Industrial Ratios in the Absence of BAT:* For those subcategories in which BAT limitations are unreasonable, and in those subcategories in which BAT has not been promulgated, the Agency will be

considering several candidate technologies for BCT. In evaluating the reasonableness of these candidates, EPA will use BPT as a starting point and determine the incremental costs and levels of pollutant removal from BPT to each of the candidate technologies. BCT will be promulgated based on the most stringent technology option which passes the reasonableness test, as well as the other factors specified in the Act.

(5) *Calculation of POTW Cost-Effectiveness Ratio:* A single cost reasonableness ratio for a POTW of average size was developed for comparison with industrial ratios. This figure was based on the costs of a POTW with a flow of two million gallons per day to upgrade its facility from secondary treatment (30 milligrams per liter (mg/l) of TSS, 30 mg/l of BOD₅) to advanced secondary treatment (10 mg/l of TSS, 10 mg/l of BOD₅). The resulting POTW cost reasonableness ratio is \$1.15 per pound (1976 dollars). This figure will be updated periodically to account for inflation. A detailed discussion of the calculation of the POTW ratio is contained in Appendix B.

(6) *Comparison of Industrial and POTW Ratios:* In order to determine whether or not the industrial regulation under review meets the BCT test, the ratio for the industrial subcategory is compared to the POTW ratio. This single POTW ratio is used for all industrial comparisons. In this review, if the industrial ratio is less than the POTW ratio, then a BCT limitation is promulgated at the BAT level. No further analysis is required. If the industrial ratio is greater than the POTW ratio, then the BAT requirements are determined to be unreasonable and are withdrawn. BCT limitations will be promulgated in such cases after further analysis of alternative, less stringent technologies.

5. Summary of Determinations

Table 4 summarizes the results of the review, and detailed discussion of the determinations for each industrial subcategory is presented in Appendix C.

Based on this review the Agency has determined that the BAT control of conventional pollutants for 22 subcategories are reasonable and BCT for these 22 subcategories are being promulgated as equal to the current BAT guidelines. Most of the subcategories that have been determined to be reasonable are in the Dairy, Grain Mills, and Fruits and Vegetable industries.

Thirteen of the subcategory regulations are judged unreasonable, and consequently, the Agency will withdraw the BAT effluent guidelines for conventional pollutants until the

proper levels of control can be determined. Regulations that are unreasonable are found in the Glass and Ferroalloys industries.

There are six industry subcategories where the limitations for one size model plant are reasonable, but unreasonable for another size, or where a portion of the subcategory is withdrawn pending further study. The BCT regulations will only cover the size range of plants where the limitations are reasonable, and exclude those plants where the limits are unreasonable. This was found in the Dairy and Fruit and Vegetable industries.

The Agency is suspending all 28 of the subcategories in the Seafood category. In a separate action, the limitations for these twenty-eight subcategories are being reviewed, and final BCT limitations will be promulgated at a later date.

Also in a separate action, the Agency has agreed with Fruit and Vegetable industry representatives to withdraw the three canned and preserved fruit and vegetable processing subcategories. This notice was published on June 20, 1979. 44 FR 36033 BCT limitations will be promulgated at a later date.

For one subcategory in the Feedlots industry (duck feedlots) the Agency does not have the necessary data to perform the cost test. As a result, the Agency is withdrawing the BAT limitation for the ducks subcategory until further analysis can be performed.

For four Meat industry subcategories (meat packing), portions of the BAT limitations not applying to conventional pollutants have been remanded by the courts. In one of these subcategories, the TSS limitations were also remanded. In response to this remand, these limitations are currently being reviewed. In the interim, the Agency is now withdrawing the remaining BAT limitations for BOD₅ and TSS. However, limitations for fecal coliform and pH in these subcategories are being retained because controls of these pollutants are the same at BPT and BAT. In the case of four additional Meat industry subcategories (meat processing), the Agency is conducting a review of the limitations beyond BPT, so BCT is not being promulgated at this time. The final limitations will be promulgated at a later date.

The two regulations for cane sugar refining are currently being reviewed as part of a court stipulation. Therefore, the Agency will not promulgate the final BCT determinations at this time.

Spokesmen for the beet sugar industry, the frozen potato processors, and portions of condensed whey and condensed milk producers have

submitted data on costs of BPT level treatment technology and the performance of that technology. On the basis of that data, the Agency wishes to conduct further review of potential limitations for this subcategory, and will not promulgate BCT limitations at this time.

Seven subcategories in the Asbestos industry are not affected by this review. The BAT limitations for these subcategories require that facilities achieve zero discharge of pollutants. These limitations are designed to control the discharge of toxic pollutants and are thus not subject to a BCT analysis.

6. Modifications to the Proposal

Since the publication of the proposed regulations in August of 1978, EPA has been reviewing the regulations in response to comments from the public and to new information that has become available to the Agency. Comments were received from 78 parties including many industrial groups, the Council on Wage and Price Stability, and several State governments. The commenters raised significant concerns with the approach taken by EPA in developing the proposed regulations. The comments fall into two general categories: those pertaining to the overall methodology, including the POTW and industrial calculations; and, those concerning the individual industry data used. Detailed responses to the comments regarding the individual industry data are presented in Appendix C, and responses to the major public comments regarding the overall methodology are presented in Appendix D.

In conjunction with the public comment review, EPA has reevaluated its methodology and its data base and concluded that certain changes in approach are appropriate. The more important modifications in the methodology used by EPA which affect final BCT regulations are described below.

(a) *POTW Cost and Operational Data.* In its initial BCT proposal in developing the POTW cost comparison figure, EPA relied on a document entitled "An Analysis of Cost Experience for Wastewater Treatment Plants." Since that time, EPA has published two new documents, "Construction Costs for Municipal Wastewater Treatment Plants, 1973-77" and "Analysis of Operations and Maintenance Costs for Municipal Wastewater Treatment Systems." These provide more accurate and up-to-date information on municipal treatment costs and hence are more appropriate for use in the POTW industry comparisons. EPA announced that it was considering the use of these

two documents in a Federal Register notice of April 2, 1979. 44 Fed. Reg. 19214. Appendix B describes in detail how the municipal treatment costs used in the BCT evaluation is derived from the documents. Responses to comments on the April 2 notice are included in Appendix D.

(b) *Using a Single, POTW Cost Reasonableness Figure.* The BCT standards are based on a comparison of industry and POTW treatment costs and levels of removal. In the proposed methodology, industries were compared to POTW's having comparable rates of flow. Costs for these POTW's ranged from \$.36 to \$1.72 per pound of pollutant removed. This approach resulted in some industries with relatively high treatment costs being judged to have reasonable BAT limitations because they were compared to a POTW with a high cost. Other industries, however, with relatively low costs, were determined to have unreasonable BAT limitations because the POTW they were measured against had low costs. To rectify this inequity, EPA is now employing a single POTW comparison figure based on an average size POTW of 2 mgd. This approach will result in a more "economically efficient" solution. Those subcategories that can cheaply achieve stringent limitations will continue to do so, but for those where it is relatively expensive, some relief will be given. The single cost figure approach has the additional advantage of being far easier to apply. A discussion of the specific calculation of the POTW figure is contained in Appendix B.

(c) *The Concentration Test.* The methodology used by EPA in developing the proposed BCT regulations included a second, "concentration test", that was applied to any industry regulation which did not pass the BCT test. In cases where an industry's effluent had an significantly higher pollutant concentration than a POTW, BAT requirements were retained as BCT. This test was uniformly opposed by commenters, who argued that it discourages water conservation, and is arbitrary and one-sided. EPA agrees, and has decided that the concentration test will not be used in making BCT determinations.

(d) *Calculation of POTW Cost Comparison Figure.* In its initial proposal, EPA calculated its POTW cost comparison figures based on the difference in costs and levels of removal between a POTW constructed to have an effluent of 25 mg/l of BOD; 25 mg/l of TSS and one constructed to achieve 12 mg/l of BOD and 12 mg/l of TSS. The Agency is now calculating the POTW

cost comparison figure based on the incremental costs and levels of removal associated with the upgrading of an existing POTW from secondary treatment (30 mg/l BOD, 30 mg/l TSS) to advanced secondary treatment (10 mg/l BOD, 10 mg/l TSS).

Although Congress specifically required a comparison of the "cost and levels of reduction" of conventional pollutants from POTW's with those of industry, nowhere in the Act or its legislative history is there specific direction as to how the POTW cost comparison figure is to be derived. It is clear, however, that the POTW costs are to provide a benchmark for judging the "reasonableness" of industry limitations.

One appropriate measure of POTW costs is the marginal costs of removal at secondary treatment. Although Congress did not state that the secondary treatment level was significant in determining BCT, it is the current legal requirement for most POTW's and the level at which the bulk of existing POTW's are now operating. Calculation of the costs per pound of conventional pollutant removal based on the increment from secondary to advanced secondary yields the best approximation of such marginal costs. Although an increment which narrowly straddles secondary treatment would have been preferable in identifying marginal costs, adequate data on such an increment do not exist.

In establishing the POTW cost comparison figure, Congress may also have been concerned with identifying the "knee-of-the-curve" for POTW costs and effluent reduction benefits. The Agency has submitted to Congress analyses which indicate that costs for pollution control to achieve pollutant concentrations lower than 10 mg/l of BOD and 10 mg/l of TSS begin to rise sharply in relation to effluent reduction benefits. Essentially, advanced secondary treatment marks the "knee-of-the-curve" with respect to POTW costs. Use of the secondary to advanced secondary increment thus effectively determines the cost per pound to achieve this maximum, cost-effective level of control.

Finally, basing the comparison figure on the cost of a POTW to upgrade from secondary to advanced secondary treatment roughly parallels the industrial increment under consideration. Congress, in establishing BCT, was concerned about the reasonableness of the requirement that industry progress from BPT to BAT. Similarly, focusing on the costs to upgrade existing POTW's beyond secondary treatment is appropriate.

In selecting this narrow increment the Agency is aware that the parallel in legal requirements for industry and POTW is not exact. Industries are required to meet BAT, and now BCT, by July 1, 1984. The comparable requirement for POTW's is achievement of "best practicable wastewater treatment technology" ("BPWTT") by July 1, 1983. However, BPWTT has never been precisely defined by EPA, and most POTW's will continue to operate at secondary treatment. Nonetheless, Congress has not modified the obligation of POTW's to achieve more stringent levels. Although concerned with funding of expensive advanced wastewater treatment systems, Congress has continued to fund construction of POTW's at better than secondary levels. EPA has judged that funding for construction of POTW's employing advanced secondary treatment is reasonable, and not subject to special intensified review.

(e) *Calculation of Conventional Pollutant Removal.* EPA originally proposed that if BOD₅ and oil and grease were both regulated, only the pounds of BOD₅ were to be included in the calculation of the incremental pounds of conventional pollutants removed. This has been modified and where both are regulated, the pollutant with the greater amount of removal will be included in the calculation. The Agency feels that the total effluent reduction benefits are best identified by using the pollutant in a given category which has the greater amount of removal in the calculation. However, a single pollutant in a category will continue to be used in the calculation because of the difficulty of allocating costs of removal between pollutants.

Additionally, total phosphorus and chemical oxygen demand were proposed as conventional pollutants, and they were included in the Agency's proposed BCT methodology. However, the proposal to designate these pollutants as conventional has been withdrawn, and they have been excluded from consideration in this rulemaking.

7. Information Available

Copies of the Federal Register notice can be obtained, without charge, by contacting: Sandra Jones, Environmental Protection Agency, 401 M Street, S.W. (WH-586), Washington, D.C. 20460, 202-426-2617.

The costs and pollutants removal data used in this review are taken from the development documents and economic analyses that were published in the development of BAT guidelines. The documents are available for public inspection at all EPA regional libraries

and the EPA headquarters library in Washington, D.C. Also, a 200 page summary of cost and removal data is open to public inspection at the above libraries.

In consideration of the foregoing, affected 40 CFR Parts 400-460 are hereby amended as set forth below.

Dated: July 31, 1979.

Barbara Blum,
Acting Administrator.

Table 1.—Industries and Subcategories Which Did Not Require Further Analysis

Grain Mills (4):	Normal Wheat Flour Milling—Animal Feed.
	Normal Rice Milling—Hot Cereal.
Cement Manufacturing (2):	Non-Leaching—Materials Storage Pile Runoff.
Feedlots (1): All Subcategories Except Ducks.	
Fertilizer (4):	Phosphate—Ammonium Sulfate Production.
	Ammonia—Mixed and Blend Fertilizer Production.
Phosphate Manufacturing (2):	Defluorinated Phosphate Rock—Defluorinated Phosphoric Acid.
Ferroalloys Manufacturing (1): Other Calcium Carbide Furnaces.	
Glass Manufacturing (2):	Sheet Glass Manufacturing—Rolled Glass Manufacturing.
Asbestos Manufacturing (4):	Asbestos Millboard—Solvent Recovery.
	Coating or Finishing of Asbestos Textiles—Vapor Absorption.

Table 2.—Industries and Subcategories Which Were Studied

Dairy Products Processing (12):	Receiving Stations.
	Fluid Products.
	Cultured Products.
	Butter.
	Cottage Cheese and Cultured Cream Cheese.
	Natural and Processed Cheese.
	Fluid Mix for Ice Cream and other Frozen Desserts.
	Ice Cream, Frozen Desserts Novelties and other Dairy Desserts.
	Dry Milk.
	Condensed Whey.
	Dry Whey.
	Condensed Milk.
Grain Mills (6):	Corn Wet Milling.
	Corn Dry Milling.
	Bulgur Wheat Flour Milling.
	Parboiled Rice Processing.
	Ready-to-eat Cereal.
	Wheat Starch and Gluten.
Canned and Preserved Fruits and Vegetables Processing (8):	Apple Juice.
	Apple Products.
	Citrus Products.
	Frozen Potato Products.
	Dehydrated Potato Products.
	Canned and Preserved Fruits.
	Canned and Preserved Vegetables.
	Canned and Miscellaneous Specialties.

Canned and Preserved Seafood Processing (28):

Farm Raised Catfish.
 Conventional Blue Crab.
 Tuna Processing.
 Fish Meal Processing.
 Mechanized Blue Crab.
 Non-Remote Alaskan Crab Meat.
 Remote Alaskan Crab Meat.
 Non-Remote Alaskan Whole Crab and Crab Section.
 Non-Alaskan Scallop Processing.
 Remote Alaskan Whole Crab and Crab Section.
 Dungeness and Tanner Crab Processing in the Contiguous States.
 Non-Remote Alaskan Shrimp.
 Remote Alaskan Shrimp.
 Northern Shrimp Processing in the Contiguous States.
 Southern Non-Breaded Shrimp Processing in the Contiguous States.
 Non-Alaskan Whole Crab and Crab Section Processing.
 Breaded Shrimp Processing in the Contiguous States.
 West Coast Hand Butchered Salmon Processing.
 West Coast Mechanized Salmon Processing.
 Non-Alaskan Conventional Bottom Fish.
 Non-Alaskan Mechanized Bottom Fish Processing.
 Hand-Shucked Clam Processing
 Mechanized Clam Processing.
 Pacific Coast Hand-Shucked Oyster Processing.
 Atlantic and Gulf Coast Hand-Shucked Oyster Processing.
 Steamed and Canned Oyster Processing.
 Sardine Processing.
 Non-Alaskan Herring Fillet Processing.
 Abalone Processing.
 Sugar Processing (3):
 Beet Sugar Processing.
 Crystalline Cane Sugar Refining.
 Liquid Cane Sugar Refining.
 Cement Manufacturing (1):
 Leaching.
 Feedlots (1):
 Ducks.
 Phosphate Manufacturing (1):
 Sodium Phosphates.
 Ferroalloys Manufacturing (6):
 Open Electric Furnaces with Wet Air Pollution Control Devices.

Covered Electric Furnaces and other Smelting Operations with Wet Air Pollution Control Devices.

Slag Processing.

Covered Calcium Carbide with Wet Air Pollution Control Devices.

Electrolytic Manganese Products.

Electrolytic Chromium.

Glass Manufacturing (10):

Insulation Fiberglass.

Plate Glass Manufacturing.

Float Glass Manufacturing.

Automotive Glass Tempering.

Automotive Glass Laminating.

Glass Container Manufacturing.

Glass Tubing (Danner) Manufacturing.

Television Picture Tube Envelope Manufacturing.

Incandescent Lamp Envelope Manufacturing.

Hand Pressed and Blown Glass Manufacturing.

Asbestos Manufacturing (7):

Asbestos-Cement Pipe.

Asbestos-Cement Sheet.

Asbestos Paper (Starch Binder).

Asbestos Paper (Elastomeric Binder).

Asbestos Roofing.

Asbestos Floor Tile.

Wet Dust Collection.

Meat Products (10):

Simple Slaughterhouse.

Complex Slaughterhouse.

Low Processing Packinghouse.

High Processing Packinghouse.

Small Processor.

Meat Cutter.

Sausage and Luncheon Meats Processor.

Ham Processor.

Canned Meats Processor.

Renderer.

Table 3

Pollutants regulated	Pollutants considered in industrial calculation
BOD ₅	BOD ₅
BOD ₅ and TSS.....	BOD ₅ and TSS.
BOD ₅ , Oil and Grease.....	BOD ₅ or Oil and Grease
TSS ¹	TSS.
TSS, Oil and Grease.....	TSS, Oil and Grease.
TSS, BOD ₅ , Oil and Grease.....	TSS, BOD ₅ (or Oil and Grease ¹)
Oil and Grease.....	Oil and Grease.

¹ EPA will use the one pollutant (BOD₅ or oil and grease) which has the most incremental removal.

Table 4

Industry and subcategory	(CFR Part)	(A) BCT=BAT	(B) BAT unreasonable, BAT withdrawn	(C) Withdrawn pending further study	(D) BAT withdrawn in response to litigation	(E) BAT analysis not required, no action
Dairy						
1. Receiving stations.....	(405.13)	1 X	1 X			
2. Fluid produce.....	(405.23)	X				
3. Cultured produce.....	(405.33)	X				
4. Butter.....	(405.43)	X				
5. Cottage, cream cheese.....	(405.53)	X				
6. Natural, processed cheese.....	(405.63)	2 X	2 X			
7. Fluid mix ice cream.....	9405.73	X				
8. Ice cream, frozen desserts.....	(405.83)	X				
9. Condensed milk.....	(405.93)	2 X		2 X		
10. Dry milk.....	(405.103)	4 X	4 X			
11. Condensed whey.....	(405.113)	2 X		2 X		
12. Dry whey.....	(405.123)	X				

Table 4—Continued

Industry and subcategory	(CFR Part)	(A) BCT=BAT	(B) BAT unreasonable, BAT withdrawn	(C) Withdrawn pending further study	(D) BAT withdrawn in response to litigation	(E) BAT analysis not required, no action
Feedlots						
59. Ducks.....	(412.23)		1 X			
Ferroalloys						
60. Open electric furnaces wet.....	(424.13)	X				
61. Covered electric and smelting wet.....	(424.23)	X				
62. Slag processing.....	(424.33)	X				
63. Covered calcium carbide wet.....	(424.43)		X X			
64. Electrolytic manganese.....	(424.63)		X X			
65. Electrolytic chromium.....	(424.73)		X X			
Glass						
66. Insulation fiberglass.....	(426.13)	X				
67. Plate.....	(426.43)	X				
68. Float.....	(426.53)					
69. Auto tempering.....	(426.63)	X	X			
70. Auto laminating.....	(426.73)	X	X			
71. Container.....	(426.83)	X	X			
72. Tubing.....	(426.103)	X	X			
73. TV picture tube.....	(426.113)	X	X			
74. Incandescent lamp envelope.....	(426.123)	X	X			
75. Hand pressed and blown.....	(426.133)	X	X			
Asbestos						
76. Cement pipe.....	(427.13)				X X	
77. Cement sheet.....	(427.23)				X X	
78. Paper (starch binder).....	(427.33)				X X	
79. Paper (elastomeric binder).....	(427.43)				X X	
80. Roofing.....	(427.63)				X X	
81. Floor tile.....	(427.73)				X X	
82. Wet dust collection.....	(427.113)				X X	
Meat products						
83. Simple slaughterhouse.....	(432.13)				X X	
84. Complex slaughterhouse.....	(432.23)				X X	
85. Low Processing packinghouse.....	(432.33)				X X	
86. High Processing packinghouse.....	(432.43)	X				
87. Small processing.....	(432.53)					
88. Meat cutter.....	(432.63)			X		
89. Sausage and luncheon.....	(432.73)			X		
90. Ham processing.....	(432.83)			X		
91. Canned meats.....	(432.93)	X				
92. Renderers.....	(432.103)					
Phosphates						
93. Sodium phosphates.....	(422.63)	X				

COLUMN EXPLANATIONS:
(A) BAT control of conventional pollutants has been determined to be reasonable. The Agency is promulgating that BAT be equal to the BAT control of conventional pollutants. The Agency is also withdrawing the BAT control of conventional pollutants. (B) The BAT control of conventional pollutants (except for pH) has been determined to be unreasonable. The Agency is withdrawing the BAT control of conventional pollutants except for pH until such time that BAT standards can be developed. The Agency is also promulgating that the BAT control of pH be equal to the BAT control. (C) The Agency is either currently studying the BAT limitations in the industry (Sealed, Cane Sugar) or has received data sufficient to warrant a study of the industry (Beet Sugar). The Agency is withdrawing the BAT conventional pollutant limitations and will promulgate BAT after the completion of the studies. (D) The BAT regulations for these subcategories are currently under judicial review. Consequently, the Agency is suspending the BAT regulations for these subcategories. (E) These BAT regulations were removed from the review because it was determined that the BAT limitation of zero discharge controlled toxic pollutants, not conventional pollutants. ¹Receiving Stations—Small plants (processing less than 150,000 pounds per day of milk equivalent) are found reasonable. Large plants (over 150,000 pounds per day of milk equivalent) are found unreasonable. The subcategory regulation has been rewritten to cover only those plants processing 150,000 pounds per day or less of milk equivalent.

Table 4—Continued

Industry and subcategory	(CFR Part)	(A) BCT=BAT	(B) BAT unreasonable, BAT withdrawn	(C) Withdrawn pending further study	(D) BAT withdrawn in response to litigation	(E) BAT analysis not required, no action
Grain mills						
13. Corn wet.....	(406.13)	X				
14. Corn dry.....	(406.23)	X				
15. Bulgar wheat.....	(406.43)		X			
16. Parboiled rice.....	(406.63)	X				
17. Ready-to-eat.....	(406.83)	X				
18. Wheat starch and Gluten.....	(406.103)	X				
Canned and preserved fruits and vegetables						
19. Apple juice.....	(407.13)	1 X	1 X			
20. Apple products.....	(407.23)	X				
21. Citrus products.....	(407.33)	X				
22. Frozen potato.....	(407.43)			X		
23. Dehydrated potato.....	(407.53)			X		
24. Canned and preserved fruits.....	(407.63)			X		
25. Canned and preserved vegetables.....	(407.73)			X		
26. Canned and miscellaneous specialties.....	(407.83)					
Canned and preserved seafoods						
27. Farm raised catfish.....	(408.13)					
28. Conventional blue crab.....	(408.23)					
29. Mechanized blue crab.....	(408.33)					
30. Nonremote Alaskan crab meat.....	(408.43)					
31. Remote Alaskan crab meat.....	(408.53)					
32. Nonremote Alaskan whole crab.....	(408.63)					
33. Remote Alaskan whole crab.....	(408.73)					
34. Dungeness and Tanner crab.....	(408.83)					
35. Nonremote Alaskan shrimp.....	(408.93)					
36. Northern shrimp.....	(408.103)					
37. Southern nonbreaded shrimp.....	(408.113)					
38. Breaded shrimp.....	(408.123)					
39. Tuna.....	(408.133)					
40. Fish meal.....	(408.143)					
41. Fish meal.....	(408.153)					
42. West coast hand-buttered salmon.....	(408.163)					
43. West coast mechanized salmon.....	(408.173)					
44. Non-Alaskan conventional bottom fish.....	(407.213)					
45. Non-Alaskan mechanized bottom fish.....	(408.223)					
46. Hand-shucked clam.....	(408.233)					
47. Mechanized clam.....	(408.243)					
48. Pacific hand-shucked oyster.....	(408.253)					
49. Atlantic and Gulf hand-shucked oyster.....	(408.263)					
50. Steamed and canned.....	(408.273)					
51. Sardine.....	(408.283)					
52. Non-Alaskan scallop.....	(408.293)					
53. Non-Alaskan herring fillet.....	(408.303)					
54. Abalone processing.....	(408.313)					
Sugar processing						
55. Beet sugar.....	(409.13)					
56. Crystalline cane sugar.....	(409.23)					
57. Liquid cane sugar.....	(409.33)					
Cement						
58. Leaching.....	(411.23)		X			

²Natural, Processed Cheese—Small plants (processing 100,000 lbs/day or less of milk equivalent) are reasonable. Large plants (processing over 100,000 lbs/day of milk equivalent) are unreasonable. The limitations have been rewritten to cover only the small plants.

³Condensed Milk—Small plants (processing less than 100,000 pounds per day of milk equivalent) are being withdrawn pending further study. Large plants (processing over 100,000 pounds per day of milk equivalent) are reasonable. The limitations have been rewritten to cover only the large plants.

⁴Dry Milk—Small plants (processing 145,000 pounds per day or less of milk equivalent) are found unreasonable. Large plants (over 145,000 pounds per day of milk equivalent) are reasonable. The subcategory regulation has been rewritten to cover only those plants processing more than 145,000 pounds per day of milk equivalent.

⁵Condensed Whey—Small plants (processing 300,000 pounds per day or less of raw fluid whey input) are withdrawn pending further study. Large plants (processing over 300,000 pounds per day of raw fluid whey input) are unreasonable. All plants are therefore, in effect, unreasonable.

⁶Apple Juice—Small plants (processing 100 tons per day) are found unreasonable. Large plants (processing 500 tons per day) are found reasonable. The limitations are rewritten to cover only those plants processing 500 tons per day or over.

⁷Apple Products—Small plants (processing under 10 tons per day) were found to be unreasonable. Large plants (over 100 tons per day) were found reasonable. The proposed subcategory regulation has been rewritten to cover only those plants processing over 100 tons per day. All plants processing less than 100 tons per day, therefore, are, in effect, unreasonable.

⁸Ducks—There is insufficient data available to evaluate the BAT limitations for this subcategory. The limitations are being withdrawn until such time that BAT limitations can be developed.

PART 405—EFFLUENT LIMITATIONS GUIDELINES FOR STANDARDS OF PERFORMANCE AND PRETREATMENT STANDARDS FOR NEW SOURCES FOR THE DAIRY PRODUCTS PROCESSING INDUSTRY POINT SOURCE CATEGORY

40 CFR Subchapter N Part 405 for the Dairy Products Processing Industry Point Source Category is amended as follows:

1. (a) The sections listed below are redesignated as follows and the original section numbers reserved for future use.

Subcategory	Original section designation (40 CFR)	Revised section designation (40 CFR)
Fluid products.....	405.23	405.27
Cultured products.....	405.33	405.37
Butter.....	405.43	405.47
Cottage, cream cheese.....	405.53	405.57
Fluid mix ice cream.....	405.73	405.77
Ice cream, frozen desserts, novelties and other dairy desserts.....	405.83	405.87
Dry whey.....	405.123	405.127

(b) The title and first paragraph of the sections redesignated above are amended to read as follows:

§ — Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best conventional pollutant control technology.

2. The sections listed below are withdrawn and the section numbers reserved for future use.

Subcategory	Section designation (40 CFR)
Receiving stations.....	405.13
Natural and processed cheese.....	405.63
Condensed milk.....	405.93
Dry milk.....	405.103
Condensed whey.....	405.113

3. A new § 405.17 for the Receiving Stations subcategory is added as follows:

§ 405.17 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology.

The following limitations establish the quantity or quality of pollutants or pollutant properties controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best conventional pollutant control technology.

(a) For receiving stations receiving more than 150,000 lb/day of milk equivalent (more than 15,600 lb/day of BOD₅ input).

Effluent characteristic	Effluent limitations
pH.....	Within the range 6.0 to 9.0.

(b) For receiving stations receiving 150,000 lb/day or less of milk equivalent (under 15,600 lb/day of BOD₅ input).

Effluent limitations		
Effluent characteristic	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
Metric units (kilograms per 1,000 kg of BOD ₅ input)		
BOD ₅	0.150	0.075
TSS.....	.188	.064

English units (pounds per 100 lb of BOD5 input)		
pH.....	Within the range 6.0 to 9.0.	
English units (pounds per 100 lb of BOD5 input)		
BOD5.....	0.015	0.008
TSS.....	.019	.009
pH.....	Within the range 6.0 to 9.0.	

4. A new § 405.67 for the Natural and Processed Cheese subcategory is added as follows:

§ 405.67 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best conventional pollutant control technology.

(a) For plants processing more than 100,000 lb/day of milk equivalent (more than 10,390 lb/day of BOD₅ input).

Effluent characteristic	Effluent limitations
pH.....	Within the range 6.0 to 9.0.

(b) For plants processing 100,000 lb/day or less of milk equivalent (less than 10,390 lb/day of BOD₅ input).

		Effluent limitations	
Effluent characteristic	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—	
Metric units (kilograms per 1,000 kg of BOD5 input)			
BOD5.....	0.250	0.125	
TSS.....	.312		.156
pH.....	Within the range 6.0 to 9.0.		
English units (pounds per 100 lb of BOD5 input)			
BOD5.....	0.025	0.013	
TSS.....	.031		.016
pH.....	Within the range 6.0 to 9.0.		

5. A new § 405.97 for the Condensed Milk subcategory is added as follows:

§ 405.97 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best

conventional pollutant control technology.

(a) For plants processing more than 100,000 lb/day of milk equivalent (more than 10,390 lb/day of BOD₅ input).

Effluent limitations		
Effluent characteristic	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
Metric units (kilograms per 1,000 kg of BOD5 input)		
BOD5.....	0.760	0.380
TSS.....	.950	.475
pH.....	Within the range 6.0 to 9.0.	
English units (pounds per 100 lb of BOD5 input)		
BOD5.....	0.076	0.038
TSS.....	.095	.048
pH.....	Within the range 6.0 to 9.0.	

(b) For plants condensing 100,000 lbs/day or less of milk equivalent (less than 10,390 lbs/day of BOD₅ input).

Effluent characteristic	Effluent limitations
pH.....	Within the range 6.0 to 9.0.

6. A new § 405.107 for the Dry Milk subcategory is added as follows:

§ 405.107 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best conventional pollutant control technology.

(a) For milk drying plants with an input equivalent to more than 145,000 lb/day of milk equivalent (more than 15,070 lb/day of BOD₅ input).

Effluent limitations		
Effluent characteristic	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
Metric units (kilograms per 1,000 kg of BOD ₅ input)		
BOD ₅	0.380	0.180
TSS.....	.450	.225
pH.....	Within the range 6.0 to 9.0.	
English units (pounds per 100 lb of BOD ₅ input)		
BOD ₅	0.038	0.018
TSS.....	.045	.023
pH.....	Within the range 6.0 to 9.0.	

(b) For milk drying plants with an input equivalent to 145,000 lb/day or less of milk equivalent (15,070 lb/day or less of BOD₅ input).

Effluent characteristic	Effluent limitations
pH.....	Within the range 6.0 to 9.0.

7. A new § 405.117 for the Condensed Whey subcategory is added as follows:

§ 405.117 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best conventional pollutant control technology.

Effluent characteristic	Effluent limitations
pH.....	Within the range 6.0 to 9.0.

PART 406—GRAIN MILLS POINT SOURCE CATEGORY

40 CFR Subchapter N Part 406 for the Grain Mills Point Source Category is amended as follows:

1. (a) The sections listed below are redesignated as follows and the original section numbers reserved for future use.

Subcategory	Original section designation (40 CFR)	Revised section designation (40 CFR)
Corn wet milling.....	406.13	406.17
Corn dry milling.....	406.23	406.27
Parboiled rice processing.....	406.63	406.67
Ready to eat cereal.....	406.93	406.97
Wheat starch and gluten.....	406.103	406.107

(b) The title and first paragraph of the sections redesignated above are amended to read as follows:

§ — Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best conventional pollutant control technology.

• • • • •

2. The new sections listed below are added as follows:

§ — Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology.

The following limitations establish the quantity or quality of pollutants or pollutant properties, which may be discharged by a point source subject to the provisions of this subpart after application of the best conventional pollutant control technology: There shall be no discharge of process waste water pollutants to navigable waters.

Subcategory	Section designation (40 CFR)
Normal wheat flour milling.....	406.37
Normal rice milling.....	406.57
Animal feed.....	406.77
Hot cereal.....	406.87

§ 406.43 [Reserved]

3. The following section is withdrawn and the section number reserved for future use.

Subcategory	Section designation (40 CFR)
Bulgar wheat flour milling.....	406.43

4. A new § 406.47 for the Bulgar Wheat Flour Milling Subcategory is added as follows:

§ 406.47 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best conventional pollutant control technology.

Effluent characteristic	Effluent limitations
pH.....	Within the range 6.0 to 9.0.

PART 407—CANNED AND PRESERVED FRUITS AND VEGETABLES PROCESSING POINT SOURCE CATEGORY

40 CFR, Subchapter N, Part 407, for the Canned and Preserved Fruits and Vegetables Processing Point Source Category is amended as follows:

1. The sections listed below are withdrawn and the section number reserved for future use.

Subcategory	Section designation (40 CFR)
Apple juice	407.13
Apple products	407.23
Frozen potato products	407.43

2. (a) The sections listed below are redesignated as follows and the original section numbers reserved for future use.

Subcategory	Original section designation	Revised section designation
Citrus products	407.33	407.37
Dehydrated potato products	407.53	407.57

(b) The title and first paragraph of the sections redesignated above are amended to read as follows:

§ — Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best conventional pollutant control technology.

3. A new § 407.17 for the Apple Juice subcategory is added as follows:

§407.17 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best conventional pollutant control technology:

(a) For plants processing 500 tons per day or more of raw material.

Effluent limitations		
Effluent characteristic	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
Metric units (kilograms per 1,000 kg of raw material)		
BOD ₅	0.20	0.10
TSS.....	.20	.10
pH.....	Within the range 6.0 to 9.0.	
English units (pounds per 1,000 lb of raw material)		
BOD ₅	0.20	0.10
TSS.....	.20	.10
pH.....	Within the range 6.0 to 9.0.	

(b) For plants processing less than 500 tons per day of raw material.

Effluent characteristic	Effluent limitations
pH	Within the range 6.0 to 9.0.

4. A new § 407.27 is added to the Apple Products Subcategory and reads as follows:

§ 407.27 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology.

(a) The following limitations apply to plants producing more than 100 tons per day of final product and establish the quantity or quality of pollutants or pollutant properties, which may be discharged by a point source subject to the provisions of this subpart after application of the best conventional pollutant control technology:

Effluent limitations		
Effluent characteristic	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
Metric units (kilograms per 1,000 kg of raw material)		
BOD ₅	0.20	0.10
TSS.....	.20	.10
pH.....	Within the range 6.0 to 9.0.	
English units (pounds per 1,000 lb of raw material)		
BOD ₅	0.20	0.10
TSS.....	.20	.10
pH.....	Within the range 6.0 to 9.0.	

(b) The following limitations apply to plants producing less than 100 tons per day of final product and establish the quantity or quality of pollutants or pollutant properties, which may be discharged by a point source subject to the provisions of this subpart after application of the best conventional pollutant control technology:

Effluent characteristic	Effluent limitations
pH	Within the range 6.0 to 9.0.

5. A new § 407.47 is added to the Frozen Potato Products subcategory and reads as follows:

§ 407.47 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology.

The following limitations establish the quantity or quality of pollutants or

pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best conventional pollutant control technology.

Effluent characteristic	Effluent limitations
pH	Within the range 6.0 to 9.0.

PART 408—CANNED AND PRESERVED SEAFOOD PROCESSING POINT SOURCE CATEGORY

40 CFR, Subchapter N, Part 408, for the Canned and Preserved Seafood Processing Point Source Category is amended as follows:

1. The sections listed below are withdrawn, and the section numbers reserved for future use.

Subcategory	Section designation (40 CFR)
Farm Raised Catfish Processing	408.13
Conventional Blue Crab Processing	408.23
Mechanized Blue Crab Processing	408.33
Non-Remote Alaskan Crab Meat Processing	408.43
Remote Alaskan Crab Meat Processing	408.53
Non-Remote Alaskan Whole Crab and Crab Section Processing	408.63
Remote Alaskan Whole Crab and Crab Section Processing	408.73
Dungeness and Tanner Crab Processing in the Contiguous States	408.83
Non-Remote Alaskan Shrimp Processing	408.93
Remote Alaskan Shrimp Processing	408.103
Northern Shrimp Processing in the Contiguous States	408.113
Southern Non-Breaded Shrimp Processing in the Contiguous States	408.123
Breaded Shrimp Processing in the Contiguous States	408.133
Tuna Processing	408.143
Fish Meal Processing	408.153
West Coast Hand-Butchered Salmon Processing	408.163
West Coast Mechanized Salmon Processing	408.173
Non-Alaskan Conventional Bottom Fish Processing	408.213
Non-Alaskan Mechanized Bottom Fish Processing	408.223
Hand Shucked Clam Processing	408.233
Mechanized Clam Processing	408.243
Pacific Coast Hand-Shucked Oyster Processing	408.253
Atlantic Gulf Coast Hand-Shucked Oyster Processing	408.263
Steam and Canned Oyster Processing	408.273
Sardine Processing	408.283
Non-Alaskan Scallop Processing	408.303
Non-Alaskan Herring Fillet Processing	408.323
Abalone Processing	408.333

PART 409—SUGAR PROCESSING POINT SOURCE CATEGORY

40 CFR, Subchapter N, Part 409, for the Sugar Processing Point Source Category is amended as follows:

§ 409.13 [Amended]

1. (a) The following § 409.13 of the Beet Sugar Processing Subcategory is amended to read as follows:

(a) * * *

(1) The following limitations establish the maximum permissible discharge of

process waste water pollutants when the process waste water discharge results from barometric condensing operations only.

Effluent characteristics	Effluent limitations
Temperature	Temperature not to exceed the temperature of cooled water acceptable for return to the heat producing process and in no event greater than 32° C (90° F).

(2) The following limitations establish the maximum permissible discharge of process waste water pollutants when the process waste water discharge results, in whole or in part, from barometric condensing operations and any other beet sugar processing operation.

Effluent characteristics	Effluent limitations
Temperature	Not to exceed 32° C (90° F).

(b) Paragraph (b) of § 409.13 is withdrawn.

2. The sections listed below are withdrawn and the section numbers reserved for future use.

Subcategory	Section designation
Crystalline Cane Sugar Refining	409.23
Liquid Cane Sugar Refining	409.33

3. The new sections listed below are added as follows:

§ — Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best conventional pollutant control technology.

Effluent characteristic	Effluent limitations
pH	Within the range 6.0 to 9.0.

Subcategory	Section designation
Beet Sugar Refining	409.17
Crystalline Cane Sugar Refining	409.27
Liquid Cane Sugar Refining	409.37

PART 411—CEMENT MANUFACTURING POINT SOURCE CATEGORY

40 CFR Subchapter N Part 411 for the Cement Manufacturing Point Source Category is amended as follows:

§§ 411.13, 411.23 [Amended]

1. Section 411.13 of the Nonleaching Subcategory and § 411.23 of the Leaching Subcategory are amended to read as follows:

§ — Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable.

Effluent characteristics	Effluent limitations (maximum for any 1 day)
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Temperature (heat)	Not to exceed 3° C rise above inlet temperature.
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2. A new § 411.17 is added for the Nonleaching Subcategory and reads as follows:

§ 411.17 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best conventional pollutant control technology.

Effluent characteristics		Effluent limitations	
		(Maximum for any 1 day)	
		Metric units (kg/kg of product)	
TSS		0.005	
pH		Within the range 6.0 to 9.0	
		English units (lb/1,000 lbs of product)	
TSS		0.005	
pH		Within the range 6.0 to 9.0	

3. A new § 411.27 for the Leaching Subcategory is added as follows:

§ 411.27 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best conventional pollutant control technology.

Effluent characteristic	Effluent limitations
pH	Within the range 6.0 to 9.0

4. (a) The section listed below is redesignated as follows and the original section number reserved for future use.

Subcategory	Original section designation	Revised section designation
Materials Storage Piles Runoff	411.33	411.37

(b) The title and first paragraph of the sections redesignated above are amended to read as follows:

§ 411.37 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best conventional pollutant control technology.

PART 412—FEEDLOTS POINT SOURCE CATEGORY

40 CFR Subchapter N Part 412 for the Feedlots Point Source Category is amended as follows:

1. A new § 412.17 for All Subcategories Except Ducks is added as follows:

§ 412.17 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology.

(a) Subject to the provisions of paragraph (b) of this section, the following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best conventional pollutant control technology. There shall be no discharge of process waste water pollutants to navigable waters.

(b) Process waste pollutants in the overflow may be discharged to navigable waters whenever rainfall events, either chronic or catastrophic, cause an overflow of process waste water from a facility designed, constructed and operated to contain all process generated waste waters plus the runoff from a 25 year, 24 hour rainfall event for the location of the point source.

§ 412.23 [Reserved]

2. Section 412.23 for the Ducks Subcategory is withdrawn and the section number reserved for future use.

PART 418—FERTILIZER MANUFACTURING POINT SOURCE CATEGORY

40 CFR Subchapter N Part 418 for the Fertilizer Manufacturing Point Source Category is amended as follows:

1. Section 418.13 of the Phosphate Subcategory is amended as follows:

§ 418.13 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

(c) The concentration of pollutants discharged in process wastewater pursuant to the limitations of paragraph (b) of this section shall not exceed the values listed in the following table:

Effluent limitations (mg/l)		
Effluent characteristics	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
Total Phosphorus (as P).....	105	35
Fluoride.....	75	25

The total suspended solid limitations set forth in this paragraph shall be waived for process wastewater from a calcium sulfate storage pile runoff facility, operated separately or in combination with a water recirculation system, which is chemically treated and then clarified or settled to meet the other pollutant limitations set forth in this paragraph.

(d) The concentration of pollutants discharged in contaminated non-process wastewater shall not exceed the values listed in the following table:

Effluent limitations (mg/l)		
Effluent characteristics	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed
Total Phosphorus (as P).....	105	35
Fluoride.....	75	25

2. A new § 418.17 for the Phosphate Subcategory is added as follows:

§ 418.17 Effluent limitations and guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology.

The following limitations establish the quantity or quality of pollutants or pollutant properties which may be discharged by a point source subject to

the provisions of this subpart after application of the best conventional pollutant control technology:

(a) Subject to the provision of paragraphs (b) and (c) of this section, the following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best conventional pollutant control technology: There shall be no discharge of process wastewater pollutants to navigable waters.

(b) Process wastewater pollutants from a calcium sulfate storage pile runoff facility operated separately or in combination with a water recirculation system designed, constructed and operated to maintain a surge capacity equal to the runoff from the 25-year, 24-hour rainfall event may be discharged, after treatment to the standards set forth in paragraph (c) of this section, whenever chronic or catastrophic precipitation events cause the water level to rise into the surge capacity. Process wastewater must be treated and discharged whenever the water level equals or exceeds the midpoint of the surge capacity.

(c) The concentration of pollutants discharged in process wastewater pursuant to the limitations of paragraph (b) of this section shall not exceed the values listed in the following table:

Effluent limitations (mg/l)		
Effluent characteristics	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed
TSS.....	150	50

The total suspended solid limitations set forth in this paragraph shall be waived for process wastewater from a calcium sulfate storage pile runoff facility, operated separately or in combination with a water recirculation system, which is chemically treated and then clarified or settled to meet the other pollutant limitations set forth in this paragraph.

3. A new § 418.27 for the Ammonia Subcategory is added as follows:

§ 418.27 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best

conventional pollutant control technology.

Effluent characteristic	Effluent limitations
pH.....	Within the range 6.0 to 9.0

4. The sections listed below are added as follows:

§ — Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology.

The following limitations establish the quantity or quality of pollutants or pollutant properties, which may be discharged by a point source subject to the provisions of this subpart after application of the best conventional pollutant control technology: There shall be no discharge of process waste water pollutants to navigable waters.

Subcategory	Section designation
Ammonium Sulfate Production.....	418.67
Mixed and Blend Fertilizer Production.....	418.77

PART 422—PHOSPHATE MANUFACTURING POINT SOURCE CATEGORY

40 CFR Subchapter N Part 422 for the Phosphate Manufacturing Point Source Category is amended as follows:

1. Section 422.43 of the Defluorinated Phosphate Rock Subcategory is amended as follows:

§ 422.43 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

(c) The concentration of pollutants discharged in process waste water pursuant to the limitations of paragraph (b) of this section shall not exceed the values listed in the following table:

(Milligrams per liter)		
Effluent characteristics	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed
Total Phosphorus (as P).....	105	35
Fluoride (as F).....	75	25

(d) The concentration of pollutants discharged in contaminated non-process wastewater shall not exceed the values listed in the following table:

Effluent limitations (mg/l)		
Effluent characteristics	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed
Total Phosphorus (as P).....	105	35
Fluoride.....	75	25

2. A new § 422.47 for the Defluorinated Phosphate Rock Subcategory is added as follows:

§ 422.47 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology.

The following limitations establish the quantity or quality of pollutants or pollutant properties, which may be discharged by a point source subject to the provisions of this subpart after application of the best conventional pollutant control technology:

(a) Subject to the provisions of paragraphs (b), (c) and (d) of this section, the following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best conventional pollutant control technology: There shall be no discharge of process waste water pollutants to navigable waters.

(b) Process waste water pollutants from a cooling water recirculation system designed, constructed and operated to maintain a surge capacity equal to the runoff from the 25-year, 24-hour rainfall event may be discharged, after treatment to the standards set forth in paragraph (c) of this section, whenever chronic or catastrophic precipitation events cause the water level in the pond to rise into the surge capacity. Process waste water must be treated and discharged whenever the water level equals or exceeds the midpoint of the surge capacity.

(c) The concentration of pollutants discharged in process waste water pursuant to the limitations of paragraph (b) of this section shall not exceed the values listed in the following table:

(Milligrams per liter)		
Effluent characteristics	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed
TSS.....	150	50
pH.....	Within the range 6.0 to 9.5.	

The total suspended solid limitation set forth in this paragraph shall be waived for process waste water from a calcium sulfate storage pile runoff facility, operated separately or in combination with a water recirculation system, which is chemically treated and then clarified or settled to meet the other pollutant limitations set forth in this paragraph.

(d) The concentration of pollutants discharged in contaminated non-process waste water shall not exceed the values listed in the following table:

(Milligrams per liter)		
Effluent characteristics	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed
pH.....	Within the range 6.0 to 9.5.	

3. Section 422.53 of the Defluorinated Phosphoric Acid Subcategory is amended as follows:

§ 422.53 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

(c) The concentration of pollutants discharged in process waste water pursuant to the limitations of paragraph (b) of this section shall not exceed the values listed in the following table:

(Milligrams per liter)		
Effluent characteristics	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed
Total Phosphorus (as P).....	105	35
Fluoride (as F).....	75	25

(d) The concentration of pollutants discharged in contaminated non-process wastewater shall not exceed the values listed in the following table:

(Milligrams per liter)		
Effluent characteristics	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed
Total Phosphorus (as P).....	105	35
Fluoride (as F).....	75	25

4. A new § 422.57 for the Defluorinated Phosphoric Acid Subcategory is added as follows:

§ 422.57 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology.

The following limitations establish the quantity or quality of pollutants or pollutant properties, which may be discharged by a point source subject to the provisions of this subpart after application of the best conventional pollutant control technology:

(a) Subject to the provisions of paragraphs (b), (c) and (d) of this section, the following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best conventional pollutant control technology: There shall be no discharge of process waste water pollutants to navigable waters.

(b) Process waste water pollutants from a cooling water recirculation system designed, constructed and operated to maintain a surge capacity equal to the runoff from the 25-year, 24-hour rainfall event may be discharged, after treatment to the standards set forth in paragraph (c) of this section, whenever chronic or catastrophic precipitation events cause the water level in the pond to rise into the surge capacity. Process waste water must be treated and discharged whenever the water level equals or exceeds the midpoint of the surge capacity.

(c) The concentration of pollutants discharged in process waste water pursuant to the limitations of paragraph (b) of this section shall not exceed the values listed in the following table:

(Milligrams per liter)		
Effluent characteristics	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed
TSS.....	150	50
pH.....	Within the range 6.0 to 9.5.	

The total suspended solid limitation set forth in this paragraph shall be waived for process waste water from a calcium sulfate storage pile runoff facility, operated separately or in combination with a water recirculation system, which is chemically treated and then clarified or settled to meet the other pollutant limitations set forth in this paragraph.

(d) The concentration of pollutants discharged in contaminated non-process waste water shall not exceed the values listed in the following table:

(Milligrams per liter)		
Effluent characteristics		Effluent limitations
pH	Within the range 6.0 to 9.5.	

5. Section 422.63 of the Sodium Phosphate Subcategory is amended as follows:

§ 422.63 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable:

Metric units, kg/kg of product: English units, lb/1,000 lb of product		
Effluent limitations		
Effluent characteristics	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed
Total Phosphorus (as P).....	0.56	0.26
Fluoride (as F).....	0.21	0.11

6. A new § 422.67 for the Sodium Phosphate Subcategory is added as follows:

§ 422.67 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best conventional pollutant control technology:

Effluent limitations		
Effluent characteristics	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed
(Metric units kg/kg of finished product: English units, lb/1,000 lb of product)		
TSS.....	0.35	0.18
pH.....	Within the range 6.0 to 8.5.	

PART 424—FERROALLOY MANUFACTURING POINT SOURCE CATEGORY

40 CFR Subchapter N Part 424 for the Ferroalloy Manufacturing Point Source Category is amended as follows:

1. Section 424.13 of the Open Electric Furnaces with Wet Air Pollution Control Devices Subcategory is amended as follows:

§ 424.13 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable:

Effluent limitations		
Effluent characteristics	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed
Metric units kg/Mwh		
Chromium total.....	.0008	.0004
Chromium VI.....	.00008	.00004
Manganese total.....	.008	.0039
English units lb/Mwh		
Chromium total.....	.0017	.0009
Chromium VI.....	.0002	.0001
Manganese total.....	.017	.0086

2. A new § 424.17 for the Open Electric Furnaces with Wet Air Pollution Control Devices Subcategory is added as follows:

§ 424.17 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best conventional pollutant control technology:

Effluent limitations		
Effluent characteristics	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed
Metric units kg/Mwh		
TSS.....	0.024	0.012
pH.....	Within the range 6.0 to 9.0.	

English units lb/Mwh		
TSS.....	0.062	0.026
pH.....	Within the range 6.0 to 9.0.	

3. Section 424.23 of the Covered Electric Furnaces and Other Smelting Operations with Wet Air Pollution Control Devices Subcategory is amended as follows:

§ 424.23 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable:

Effluent limitations		
Effluent characteristics	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed
Metric units kg/Mwh		
Chromium total.....	.001	.0005
Chromium VI.....	.0001	.00005
Manganese total.....	.011	.005
Cyanide total.....	.0005	.0003
Phenols.....	.0004	.0002
English units lb/Mwh		
Chromium total.....	.002	.0012
Chromium VI.....	.0002	.0001
Manganese total.....	.023	.012
Cyanide total.....	.001	.0006
Phenols.....	.0009	.0005

Provided, however, That for nonelectric furnace smelting processes, the units of effluent limitations set forth in this section shall be read as "kg/kg of product" rather than "kg/Mwh," and the limitations (except for pH) shall be 3.3 times those listed in the table in this section (or, for English units, "lb/ton of product" rather than "lb/Mwh," and the limitations (except for pH) shall be three times those listed in the table).

4. A new § 424.27 for the Covered Electric Furnaces and Other Smelting Operations with Wet Air Pollution Control Devices Subcategory is added as follows:

§ 424.27 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best

conventional pollutant control technology:

Effluent limitations		
Effluent characteristics	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
Metric units kg/Mwh		
TSS.....	0.032	0.016
pH.....	Within the range 6.0 to 9.0.	
English units lb/Mwh		
TSS.....	0.071	0.035
pH.....	Within the range 6.0 to 9.0.	

Provided, however, That for nonelectric furnace smelting processes, the units of effluent limitations set forth in this section shall be read as "kg/kg of product" rather than "kg/Mwh," and the limitations (except for pH) shall be 3.3 times those listed in the table in this section (or, for English units, "lb/ton of product" rather than "lb/Mwh," and the limitations (except for pH) shall be three times those listed in the table).

5. Section 424.33 of the Slag Processing Subcategory is amended as follows:

§ 424.33 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable:

Effluent limitations		
Effluent characteristics	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
Metric units kg/kg processed		
Chromium total.....	.0054	.0027
Manganese total.....	.054	.027
English units lb/ton of raw material		
Chromium total.....	.011	.0054
Manganese total.....	.108	.054

6. A new § 424.37 for the Slag Processing Subcategory is added as follows:

§ 424.37 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best conventional pollutant control technology:

Effluent limitations		
Effluent characteristics	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units kg/Mwh	
TSS.....	0.271	0.136
pH.....	Within the range 6.0 to 9.0.	
English units lb/Mwh		
TSS.....	0.542	0.271
pH.....	Within the range 6.0 to 9.0.	

7. Section 424.43 of the Covered Calcium Carbide Furnaces with Wet Air Pollution Control Devices Subcategory is amended as follows:

§ 424.43 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable:

Effluent limitations		
Effluent characteristics	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
(Metric units) kg/kg of product		
Total Cyanide.....	0.0056	0.0028
(English units) lb/1,000 lb of product		
Total Cyanide.....	0.0056	0.0028

8. A new § 424.57 for the Other Calcium Carbide Furnaces Subcategory is added as follows:

§ 424.57 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology.

The following limitations establish the quantity or quality of pollutants or

pollutant properties, which may be discharged by a point source subject to the provisions of this subpart after application of the best conventional pollutant control technology: There shall be no discharge of process waste water pollutants to navigable waters.

9. Section 424.63 of the Electrolytic Manganese Products Subcategory is amended as follows:

§ 424.63 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

(a) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart producing electrolytic manganese after application of the best available technology economically achievable:

Effluent limitations		
Effluent characteristics	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
(Metric units) kg/kg of product		
Manganese.....	0.678	0.339
Ammonia-N.....	6.778	3.389
(English units) lb/1,000 lb of product		
Manganese.....	0.678	0.339
Ammonia-N.....	6.778	3.389

(b) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart producing electrolytic manganese dioxide after application of the best available technology economically achievable:

Effluent limitations		
Effluent characteristics	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
(Metric units) kg/kg of product		
Manganese.....	0.176	0.088
Ammonia-N.....	1.762	.881
(English units) lb/1,000 lb of product		
Manganese.....	0.176	0.088
Ammonia-N.....	1.762	.881

10. Section 424.73 of the Electrolytic Chromium Subcategory is amended as follows:

§ 424.73 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable:

Effluent limitations		
Effluent characteristics	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
(Metric units) kg/kg of product		
Manganese.....	0.530	0.265
Chromium.....	.053	.027
Ammonia-N.....	5.297	2.649
(English units) lb/1000 lb of product		
Manganese.....	0.530	0.265
Chromium.....	.053	.027
Ammonia-N.....	5.297	2.649

11. The new sections listed below are added as follows:

§ — Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best conventional pollutant control technology.

Effluent characteristic	Effluent limitations
pH.....	Within the range 6.0 to 9.0.
Subcategory	Section designation
Covered calcium carbide furnaces with wet air pollution control devices.....	424.47
Electrolytic manganese products.....	424.67
Electrolytic chromium.....	424.77

PART 426—GLASS MANUFACTURING POINT SOURCE CATEGORY

40 CFR Subchapter N Part 426 for the Glass Manufacturing Point Source Category is amended as follows:

1. The sections listed below are added as follows:

§ — Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology.

The following limitations establish the quantity or quality of pollutants or pollutant properties, which may be discharged by a point source subject to the provisions of this subpart after application of the best conventional pollutant control technology: There shall be no discharge of process waste water pollutants to navigable waters.

Subcategory	Section designation (40 CFR)
Insulation fiberglass.....	426.17
Sheet glass.....	426.27
Roller glass manufacturing.....	426.37

§ 426.43 [Reserved]

2.(a) Section 426.43 of the Plate Glass Manufacturing Subcategory is redesignated as § 426.47 and the original section number reserved for future use.

(b) The title and first paragraph of the section redesignated above is amended to read as follows:

§ 426.47 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best conventional pollutant control technology.

3. The regulations listed below are withdrawn and the section numbers reserved for future use.

Subcategory	Section designation
Automotive glass tempering.....	426.63
Glass container manufacturing.....	426.83
Glass tubing (Danner) manufacturing.....	426.103

4. The regulations listed below are added as follows:

§ — Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best

conventional pollutant control technology.

Effluent characteristic	Effluent limitation
pH.....	Within the range 6.0 to 9.0.
Subcategory	Section designation (40 CFR)
Float glass manufacturing.....	426.57
Automotive glass tempering.....	426.67
Automotive glass laminating.....	426.77
Glass container manufacturing.....	426.87
Glass tubing (Danner) manufacturing.....	426.107
Television picture tube.....	426.117
Envelope manufacturing.....	426.127
Incandescent lamp.....	426.127
Envelope manufacturing hand pressed and blown glass manufacturing.....	426.137

5. Section 426.53 for the Float Glass Manufacturing subcategory is amended as follows:

§ 426.53 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

* * * * *

Effluent limitations		
Effluent characteristics	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
Metric units (g/kg of product)		
Phosphorus.....	0.05	0.05
English units (lb/ton of product)		
Phosphorus.....	0.0001	0.0001

6. Section 426.73 for the Automotive Glass Laminating subcategory is amended as follows:

§ 426.73 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

* * * * *

Effluent limitations		
Effluent characteristics	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
Metric units (g/kg of product)		
Phosphorus.....	.30	.30
English units (lb/ton of product)		
Phosphorus.....	.06	.06

7. Section 426.113 of the Television Picture Tube Envelope Manufacturing Subcategory is amended as follows:

§ 426.113 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable. These limitations are applicable to the abrasive polishing and acid polishing waste water streams.

Effluent limitations		
Effluent characteristics	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
(Metric units) g/kg of furnace pull		
Fluoride.....	120.0	60.0
Lead.....	0.9	0.45
(English units) lb/1000 lb of furnace pull		
Fluoride.....	0.12	0.06
Lead.....	0.0009	0.00045

8. Section 426.123 of the Incandescent Lamp Envelope Manufacturing Subcategory is amended as follows:

§ 426.123 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable:

(a) Any manufacturing plant which frosts incandescent lamp envelopes shall meet the following limitations with regard to the finishing operations.

Effluent limitations		
Effluent characteristics	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
(Metric units) g/kg of product frosted		
Fluoride.....	104.0	52.0
Ammonia.....	240.0	120.0
(English units) lb/1000 lb of product frosted		
Fluoride.....	0.104	0.052
Ammonia.....	0.24	0.12

9. Section 426.133 of the Hand Pressed and Blown Glass Manufacturing Subcategory is amended as follows:

§ 426.133 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable:

(a) Any plant which melts raw materials, produces hand pressed or blown leaded glassware, discharges greater than 50 gallons per day of process waste water, and employs hydrofluoric acid finishing techniques shall meet the following limitations.

Effluent limitations		
Effluent characteristics	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
mg/l		
Lead.....	0.2	0.1
Fluoride.....	26.0	13.0

(b) Any plant which melts raw materials, produces non-leaded hand pressed or blown glassware, discharges greater than 50 gallons per day of process waste water, and employs hydrofluoric acid finishing techniques shall meet the following limitations.

Effluent limitations		
Effluent characteristics	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
mg/l		
Fluoride.....	26.0	13.0

PART 427—ASBESTOS MANUFACTURING POINT SOURCE CATEGORY

40 CFR Subchapter N Part 427 for the Asbestos Manufacturing Point Source Category is amended as follows:

1. Section 427.93 of the Solvent Recovery Subcategory is amended to read as follows:

§ 427.93 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of

this subpart after application of the best available technology economically achievable.

Effluent limitations		
Effluent characteristics	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
(Metric units) kg/kg of finished asbestos products		
COD.....	0.30	0.15
(English units) lb/1,000 lb of finished asbestos products		
COD.....	0.30	0.15

2. A new § 427.97 is added to the Solvent Recovery Subcategory as reads below:

§ 427.97 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best conventional pollutant control technology.

Effluent limitations		
Effluent characteristics	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
(Metric units) kg/kg of finished asbestos products		
TSS.....	0.18	0.09
pH.....	Within the range 6.0 to 9.0.	
(English units) lb/1,000 lb of finished asbestos products		
TSS.....	0.18	0.09
pH.....	Within the range 6.0 to 9.0.	

PART 432—MEAT PRODUCTS POINT SOURCE CATEGORY

40 CFR Subchapter N Part 432 for the Meat Products Points Source Category is amended as follows:

1. The sections listed below are withdrawn and the section numbers reserved for future use.

Subcategory	Section designation (40 CFR)
Simple Slaughterhouse.....	432.13
Complex Slaughterhouse.....	432.23
Low Processing Packinghouse.....	432.33
High Processing Packinghouse.....	432.43

2. The new sections listed below are added as follows:

§ — Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology.

(a) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section and attributable to on-site slaughter or subsequent meat, meat product or byproduct processing of carcasses of animals slaughtered on-site, which may be discharged by a point source subject to the provisions of this subpart after application of the best conventional pollutant control technology.

Effluent characteristic	Effluent limitations
Fecal coliform pH.....	Maximum at any time 400 mpn/100 ml. Within the range of 6.0 to 9.0.

Subcategory	Section designation
Simple Slaughterhouse.....	432.17
Complex Slaughterhouse.....	432.27
Low Processing Packinghouse.....	432.37
High Processing Packinghouse.....	432.47

§ 432.53 [Reserved]

3. (a) Section 432.53 of the Small Processor Subcategory is redesignated as Section 432.57 and the original section number reserved for future use.

(b) The title and first paragraph of the section redesignated above is amended to read as follows:

§ 432.57 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best conventional pollutant control technology.

4. Section 432.63 of the Meat Cutter Subcategory is amended as follows:

§ 432.63 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best

available technology economically achievable:

Effluent characteristics	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed
	Milligrams per liter—effluent	
Ammonia.....	8.0 mg/l	4.0

5. Section 432.73 of the Sausage and Luncheon Meats Processor Subcategory is amended as follows:

§ 432.73 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable:

Effluent characteristics	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed
	Milligrams per liter—effluent	
Ammonia.....	8.0 mg/l	4.0

6. Section 432.83 of the Ham Processor Subcategory is amended as follows:

§ 432.83 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable:

Effluent characteristics	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed
	Milligrams per liter—effluent	
Ammonia.....	8.0 mg/l	4.0

7. Section 432.93 of the Canned Meats Processor Subcategory is amended as follows:

§ 432.93 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable:

Effluent characteristics	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed
	Milligrams per liter—effluent	
Ammonia.....	8.0 mg/l	4.0

8. Section 432.103 of the Renderer Subcategory is amended as follows:

§ 432.103 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

(a) Subject to the provisions of paragraph (b) of this section, the following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable:

Effluent characteristics	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed
	(Metric units) kg/kg of raw material	
Ammonia.....	0.14	0.07
	English units lb/1,000 lb of raw material	
Ammonia.....	0.14	0.07

9. A new § 432.107 for the Renderer Subcategory is added as follows:

§ 432.107 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology.

(a) Subject to the provisions of paragraph (b) of this section, the following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of

this subpart after application of the best conventional technology pollutant control technology:

Effluent characteristics	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed
	(Metric units) kg/kg of finished product	
BOD5.....	0.18	0.09
TSS.....	0.22	0.11
Oil & grease.....	0.10	0.05
pH.....	Within the range 6.0 to 9.0	
Fecal coliforms.....	Maximum at any time 400 mpn/100 ml.	
	(English units) lb/1,000 lb of finished product	
BOD5.....	0.18	0.09
TSS.....	0.22	0.11
Oil & grease.....	0.10	0.05
pH.....	Within the range 6.0 to 9.0	
Fecal coliforms.....	Maximum at any time 400 mpn/100 ml.	

(b) The limitations given in paragraph (a) of this section for BOD5 and TSS are derived for a renderer which does not cattle hide curing as part of the plant activities. If a renderer does conduct hide curing, the following empirical formulas should be used to derive an additive adjustment to the effluent limitations for BOD5 and TSS.

$$\begin{aligned} \text{BOD5 Adjustment (kg/kg RM)} &= 3.6 \times (\text{number of hides}) \\ &\quad \text{kg of raw material} \\ (\text{lb/1,000 lb RM}) &= 7.9 \times (\text{number of hides}) \\ &\quad \text{lbs of raw material} \\ \text{TSS Adjustment (kg/kg RM)} &= 6.2 \times (\text{number of hides}) \\ &\quad \text{kg of raw material} \\ (\text{lb/1,000 lb RM}) &= 13.6 \times (\text{number of hides}) \\ &\quad \text{lbs of raw material} \end{aligned}$$

10. The new sections listed below are added as follows:

§ — Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best conventional pollutant control technology:

Effluent characteristic	Effluent limitations
Fecal coliform.....	Maximum at any time 400 mpn/100 ml.
pH.....	Within the range of 6.0 to 9.0

Subcategory and section designation

Meat Cutter, 432.67.
Sausage and Luncheon Meats Processor, 432.77.
Ham Processor, 432.87.
Canned Meats Processor, 432.97.

Appendix A—Documents Used in the Analysis

The data for each of the industry categories were taken from the documents listed below:

1. Dairy Products

Dairy Products Processing, EPA 440/1-74-021-a.

2. Grain Mills

Grain Processing, EPA 440/1-74-028-a.
Animal Feed, Breakfast Cereal and Wheat Starch, EPA 440/1-74-039-a.
Corn Wet Milling, EPA 440/1-78/028-b. Supplement.

3. Fruits and Vegetables

Apple, Citrus and Potato Products, EPA 440/1-74-027-a.
Economic Analysis of the Fruits and Vegetables Category (Phase II), EPA 230/1-75-036, Supplement, April 1976.

4. Seafood

Fish Meal, Salmon, Bottom Fish, Clam, Oyster, Sardine, Scallop, Herring, and Abalone, EPA 440/1-75/041-a.
Catfish, Crab, Shrimp and Tuna, EPA-440/1-74-020-a.

5. Sugar Processing

Beet Sugar Processing, EPA 440/1-74-002-b.
Cane Sugar Processing, EPA 440/1-74-002-c.

6. Cement Manufacturing

Cement Manufacturing, EPA 440/1-74-005-a.

7. Feedlots

Feedlots, EPA 440/1-74/004-a.

8. Phosphate Manufacturing

Other Non-Fertilizer Phosphate Chemicals, EPA 440/1-75/043-a.

9. Ferroalloys

Smelting and Slag Processing, EPA 440/1-74/008-a.
Calcium Carbide, EPA 440/1-75/038.
Electrolytic Ferroalloys, EPA 440/1-75/038-a.

10. Glass Manufacturing

Pressed and Blown Glass, EPA 440/1-75-034-a.
Flat Glass, EPA 440/1-74/001-c.
Insulation Fiberglass, EPA 440/1-74-001-b.

11. Meat Products

Red Meat Processing, EPA 440/1-74-102-a.
Processor, EPA 440/1-74/031.
Independent Rendering, EPA 440/1-77/031-e, Supplement.

Appendix B—The Cost of Pollutant Removal By Publicly Owned Treatment Works

Background. In order to develop an effluent limitation which meets BCT requirements,

Congress requires that the cost and level of reduction of conventional pollutants by industrial dischargers be compared with the cost and level of reduction to remove the same type of pollutants by publicly owned treatment works (POTWs). The POTW comparison figure has been calculated by evaluating the change in costs and removals between secondary treatment (30 mg/l BOD and 30 mg/l TSS) and advanced secondary treatment (10 mg/l BOD and 10 mg/l TSS). The difference in cost is divided by the difference in pounds of conventional pollutants removed, resulting in an estimate of the "dollar per pound" of pollutant removed.

The following details the specific calculation of this POTW cost figure. This involves four basic steps: first, the average size POTW is determined; second, the total annual costs for secondary and advanced secondary treatment are estimated; third, the pollutant removal of the systems is calculated; fourth, the additional costs are divided by the additional pounds of pollutants removed.

All the costs have been indexed to third quarter 1976 dollars to make them comparable to the industry costs which are in September 1976 dollars. The specific indices used are presented in the discussion below. The POTW cost figure can be updated to current year dollars by use of these indices.

Average sized POTW. The POTW cost figure is based on the average flow size POTW for the Nation. This average size is calculated by dividing the total national daily flow of sewage by the number of POTWs in the country. There are 26,205 mgd of sewage discharged by 14,592 POTWs which results in an average size POTW of 2 mgd.¹

Total annual POTW costs. The Agency based its estimates of annual POTW costs on information from two documents: The Construction Cost Document² and the O & M Cost Document³ both issued by EPA's Office of Water Program Operations. These documents provide the most up-to-date information regarding the costs of constructing and operating POTWs.

¹"1978 Survey of Needs, Conveyance and Treatment of Municipal Wastewater. Summaries of Technical Data," EPA 430/9-79-002, February 1979, at 9 and 13.

²"Construction Costs for Municipal Wastewater Treatment Plants: 1973-1977," EPA 430/9-77-013, January 1978 (hereinafter cited as "Construction Cost Document").

³"Analysis of Operations and Maintenance Costs for Municipal Wastewater Treatment Systems," EPA 430/9-77-015, May 1978 (hereinafter cited as "O & M Cost Document").

The POTW costs used in estimating the cost of pollutant removal are the total annual costs of upgrading a secondary treatment system to advanced secondary treatment (AST). This is done by estimating the total annual costs for a new advanced secondary treatment system and deducting the savings that are expected if secondary treatment is already in place. Total annual costs include capital charges and operations and maintenance expenses.

The annual capital cost for a new AST system is equal to:

$$\frac{\text{capital cost of AST}}{\text{capital recovery factor}} \times \text{price deflator}$$

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This is specifically calculated as follows.

$$\begin{aligned} (1) \text{ capital cost of AST }^4 &= (3.5 \times 10^6)(Q^{.91}), \text{ where } Q \text{ is flow in mgd.} \\ &= (3.5 \times 10^6)(2^{.91}) \\ &= \$6.61 \text{ million} \end{aligned}$$

$$(2) \text{ capital recovery factor }^5 = 9.427, \text{ based on a 30 year amortization at a 10 percent interest rate.}$$

$$\begin{aligned} (3) \text{ price deflator }^6 &= \frac{\text{LCAT index, third quarter 1976}}{\text{LCAT index, first quarter 1978}} \\ &= \frac{129}{143} \\ &= .902 \end{aligned}$$

$$\begin{aligned} (4) \text{ annual capital cost of AST} &= \frac{\text{capital costs of AST}}{\text{capital recovery factor}} \times \text{price deflator.} \\ &= \frac{\$6.61 \text{ million}}{9.427} \times .902 \\ &= \$.633 \text{ million a year} \end{aligned}$$

The annual savings from having secondary treatment in-place are equal to:

$$\frac{\text{capital savings of in-place secondary}}{\text{capital recovery factor}} \times \text{price deflator}$$

⁴ Construction Cost Document. *Supra* note 2, Figure 7.1, curve 2.

⁵ *Management Accounting*, Robert Anthony and James Reece, June 1975, Appendix Tables, Table B (hereinafter cited as "Management Accounting").

⁶ "Construction Cost Index Quarterly Recap," Office of Water Program Operations, EPA, first quarter 1976 *et seq* (hereinafter cited as "Construction Cost Index")

This is specifically calculated as follows.

- (1) capital savings of in-place secondary⁷ = $(2.145 \times 10^6)(Q^{.89})$, where Q is flow in mgd
 $= (2.145 \times 10^6)(2^{.89})$
 $= \$3.98 \text{ million}$
- (2) capital recovery factor⁸ = 9.427, based on a 30 year amortization at a 10 percent interest rate.
- (3) price deflator⁹ = $\frac{\text{SCCT index, third quarter 1976}}{\text{SCCT index, first quarter 1978}}$
 $= \frac{119}{132}$
 $= .902$
- (4) annual capital savings of in-place secondary = $\frac{\text{capital savings of in-place secondary}}{\text{capital recovery factor}} \times \text{price deflator}$
 $= \frac{\$3.98 \text{ million}}{9.427} \times .902$
 $= \$381 \text{ million a year.}$

The O&M costs for an AST are equal to: O&M cost for AST x price deflator.

This is specifically calculated as follows.

- (1) O&M cost¹⁰ = $(6.85 \times 10^4)(Q^{1.44})$, where Q is flow in mgd
 $= (6.85 \times 10^4)(2^{1.44})$
 $= \$186 \text{ million a year}$

⁷ Construction Cost Document. Supra note 2, Figure 7.1, curve B.

⁸ Management Accounting, Supra note 5, Appendix Tables, Table B.

⁹ Construction Cost Index, Supra note 6.

¹⁰ O&M Cost Document, Supra note 3, Figure E. 2-4.

- (2) price deflator¹¹ = $\frac{\text{O\&M index third quarter 1976}}{\text{O\&M index, first quarter 1978}}$
 $= \frac{206}{230}$
 $= .896$

- (3) O&M for an AST = O&M cost x price deflator
 $= \$186 \text{ million a year} \times .896$
 $= .167 \text{ million a year}$

The O&M costs for secondary treatment are equal to:

O&M cost for secondary treatment x price deflator.

This is specifically calculated as follows.

- (1) O&M cost¹² = $(8.25 \times 10^4)(Q^{.96})$, where Q is flow in mgd.
 $= (8.25 \times 10^4)(2^{.96})$
 $= \$160 \text{ million a year}$
- (2) price deflator¹³ = $\frac{\text{O\&M index, third quarter 1976}}{\text{O\&M index, first quarter 1978}}$
 $= \frac{206}{230}$
 $= .896$
- (3) O&M for secondary treatment = O&M cost x price deflator
 $= \$160 \text{ million a year} \times .896$
 $= \$143 \text{ million a year}$

¹¹ "O&M Cost Index Quarterly Recap," Office of Water Program Operations, EPA, first quarter 1976 et seq (hereinafter cited as "O&M Cost Index").

¹² O&M Cost Document, Supra note 3, Figure E. 2-3.

¹³ O&M Cost Index, Supra note 11.

The incremental total annual cost of upgrading in-place secondary treatment to AST is equal to:

(annual capital cost of new AST + O&M for AST) -

(annual capital savings of having in-place secondary treatment + O&M for secondary treatment).

This is specifically calculated as follows, using the results of the previous calculations.

$$\begin{aligned}\text{Incremental total annual cost} &= (\$.633 \text{ million a year} + \$.167 \text{ million a year}) - \\ &\quad (\$.381 \text{ million a year} + \$.143 \text{ million a year}) \\ &= (\$.800 \text{ million a year}) - (\$.524 \text{ million a year}) \\ &= \$.276 \text{ million a year}\end{aligned}$$

Pollutant Removal by POTWs. The other half of calculating the cost per pound of pollutant removed requires the determination of the number of pounds of conventional pollutants removed by advanced secondary treatment beyond secondary treatment. The pounds of pollutants removed equal the flow of the POTW times the change in concentrations of the pollutants as they pass through the system. For the calculations presented here the influent concentration is 210 mg/l for BOD and 230 mg/l for TSS.¹⁴ For a 2 mgd POTW that treats BOD to 30 mg/l and TSS to 30 mg/l the pounds of BOD and TSS removal equal:

$$\begin{aligned}&= \text{flow} \times \text{change in concentration} \\ &= \frac{(2 \text{ million gallons})}{\text{day}} \times \frac{((210 + 230) - (30 + 30)) \text{ mg}}{\text{liter}} \\ &= \frac{(2 \text{ million gallons})}{\text{day}} \times \frac{(380) \text{ mg}}{\text{liter}} \\ &= \frac{(2 \text{ million gallons})}{\text{day}} \times \frac{(380 \text{ mg})}{\text{liter}} \times \frac{(365 \text{ days})}{\text{year}} \times \frac{(3.785 \text{ l})}{\text{gallon}} \times \frac{(1 \text{ lb})}{454,000 \text{ mg}} \\ &= 2.31 \text{ million pounds of BOD and TSS removed per year.}\end{aligned}$$

¹⁴ "Areawide Assessment Procedures Manual, Appendix H, Point Source Control Alternatives," EPA Laboratories, Cincinnati, Ohio, at H-14.

For an advanced secondary treatment plant that treats to 10 mg/l BOD and 10 mg/l TSS the removal is:

$$\begin{aligned}&= \frac{(2 \text{ million gallons})}{\text{day}} \times \frac{((210 + 230) - (10 + 10)) \text{ mg}}{\text{liter}} \\ &= \frac{(2 \text{ million gallons})}{\text{day}} \times \frac{(420) \text{ mg}}{\text{liter}} \times \frac{(365 \text{ days})}{\text{year}} \times \frac{(3.785 \text{ l})}{\text{gallon}} \times \frac{(1 \text{ lb})}{454,000 \text{ mg}} \\ &= 2.55 \text{ million pounds a year}\end{aligned}$$

The incremental removal equals (2.55 million pounds a year) - (2.31 million pounds a year) = .24 million pounds a year.

The effluent characteristics of 30 mg/l BOD and 30 mg/l TSS for secondary treatment were selected, because this is the legal requirement for POTWs as established by EPA. Effluent characteristics of 10 mg/l BOD and 10 mg/l TSS for advanced secondary treatment are used since they represent the best performance for advanced secondary treatment. Using the best recognized performance gives the POTWs credit for removing the most pollutants and therefore tends to bias the per pound cost of pollutant removal downward. This will result in the greatest possible relief for industries. Appendix D discusses this in additional detail. Both the 30 mg/l and the 10 mg/l performance levels correspond to the maximum 30-day average performance of the POTW.

Incremental Cost of Removal. To calculate the cost of pollutant removal of upgrading secondary treatment to advanced secondary treatment, the additional costs must be divided by the additional removal of BOD and TSS. Specifically the calculation is:

$$\begin{aligned}&= \frac{\text{incremental total annual costs}}{\text{incremental annual pollutant removal}} \\ &= \frac{\$.276 \text{ million a year}}{.24 \text{ million pounds a year}} \\ &= \$1.15 \text{ a pound}\end{aligned}$$

This cost is indexed for various time periods below:

Cost of Pollutant Removal

	First Quarter	Second Quarter	Third Quarter	Fourth Quarter
1976	\$1.10	\$1.14	\$1.15	\$1.17
1977	\$1.18	\$1.20	\$1.25	\$1.26
1978	\$1.27	\$1.30	\$1.34	\$1.41

Appendix C—Industrial Category Discussion Summary Table of Data

Following is a category-by-category discussion of the analysis of each of the guidelines reviewed. Included in the discussion are responses to the industry specific comments made by representatives of each industry on the August 23, 1978 proposal.

Following the discussion, Table C1 summarizes the data used in the determination of the reasonableness of the guidelines. The table lists the model plants that were considered for each subcategory for each industry in this review. Column 1 shows the size (small, medium, large) of the model plants. Column 2 shows the cost per pound of conventional pollutant removed.

Dairy Products Processing (40 CFR Part 405)

Pollutants controlled: In all subcategories the only conventional pollutants controlled are BOD₅, total suspended solids, and pH. Nonconventional and toxic pollutants are not controlled.

Methodology: Costs and pollutant removals for model plants in each subcategory are constructed from information contained in the development document. This information is based on production, waste water flow, waste loading and waste load reduction at the BPT and BAT levels, and the costs to achieve those levels. In all of the subcategories, there are different limitations for small and large plants. The limitations for the small plants are less stringent than those for the large plants in the subcategory. Each set of model plants is constructed so as to test the two sets of limitations in each subcategory. The small plant is assumed to receive one-half the level of milk equivalent specified in each subcategory regulation, while the large plant is assumed to receive twice the level of milk equivalent specified in each subcategory regulation. For example, if the size cutoff specified between the different regulations in a subcategory is 100,000 pounds per day of milk equivalent, it is assumed that the small plant receives 50,000 pounds per day and the large plant receives 200,000 pounds per day.

Results: Controls of pH are reasonable because the BAT guidelines do not require stricter control than what is required under BPT, therefore the pH level at BCT is being promulgated equal to BPT control. For all subcategories except the receiving stations, natural and processed cheese, dry milk and condensed whey subcategories, controls of BOD₅ and TSS are reasonable because the model plants exhibit lower costs than a POTW to remove a pound of BOD₅ and TSS. Therefore, those eight BAT regulations for the dairy products processing industry are being withdrawn and identical BCT limitations are being promulgated.

In the receiving stations subcategory, the large model plant is found to have unreasonable costs and the small model plant reasonable costs. Therefore, the Agency is promulgating BCT limitations equal to BAT for small plants processing 150,000 pounds or less of milk equivalent per day and withdrawing the limitations for plants larger than this size cutoff.

In the natural and processed cheese subcategory, the limitations for small plants

are reasonable and the limitations for large plants unreasonable. Therefore, the Agency is promulgating BCT limitations for small plants processing 100,000 lbs/day or less of milk equivalent equal to BAT. The limitations for large plants are being withdrawn.

In the dry milk subcategory, the small plants are found unreasonable and the large plants reasonable. Therefore, the Agency is promulgating the BCT limitations equal to BAT for large plants processing more than 145,000 pounds per day of milk equivalent, and withdrawing the limitations for smaller plants.

In the condensed whey subcategory, the limitations for large plants processing 300,000 pounds per day of fluid raw whey are found unreasonable and are being withdrawn.

For two subcategories, condensed milk (Subpart I) and condensed whey (Subpart K), discharges of barometric condenser water for small plants are allowed for BPT, while no discharge of barometric condenser water is assumed for BAT. The Agency is reviewing comments submitted on the costs for conversion from barometric condensers. The BAT limitations for the small plants (less than 100,000 per day of milk equivalent for condensed milk, and less than 300,000 pounds per day of fluid raw whey for condensed whey) in these subcategories are being withdrawn and BCT limitations will be promulgated after further review.

Industry Comments:

The Agency used data from old development documents which may be outdated and inaccurate.

The Agency has reviewed the existing BAT limitations for this, and all other, secondary industries on the basis of the information in the Agency record supporting those limitations. The gathering of new data would have unduly delayed the completion of the review and was not contemplated by the Congress.

The Dairy industry representatives, with only one exception, did not provide any new data. The data provided by one spokesman was plant specific and not sufficient to represent the industry or the subcategory affected.

The Agency should consider the effects of other government regulations on the costs to the industry of achieving the effluent guidelines.

The limitations are evaluated based on information in the existing record. The effects of other government regulations on the pollutant load or costs of an industry were taken into account as part of the original regulatory development and contained in that record. No new consideration of those effects is warranted.

The Agency should include the costs of treating barometric condenser water in its evaluation of the limitations.

As mentioned above, this factor is being evaluated in the condensed milk and condensed whey subcategories.

The BAT limitations are not technologically achievable.

This review is limited to determining the cost reasonableness of existing regulations. It is not intended to reopen issues of technology which were properly addressed at the time BAT was promulgated.

Grain Mills (40 CFR Part 406)

Pollutants Controlled: In all subcategories tested, the only conventional pollutants controlled are BOD₅, TSS, and pH. Nonconventional and toxic pollutants are not controlled.

Methodology: Data for all sizes of model plants used are taken from the development documents for the industry. The data are based on production, waste water flow, waste loading and waste load reduction at the BPT and BAT levels of control and the costs to achieve those levels of control. In those instances where more than one model plant has been developed to represent the subcategory, the cost test is applied to all model plants.

Results: Controls of pH are reasonable because the BAT guidelines do not require stricter control than required under BPT. Consequently, the pH regulations for all subcategories are being promulgated equal to the pH control at BPT.

Four of the subcategories (normal wheat flour milling, normal rice milling, animal feed, and hot cereal) are subject to a BPT and BAT regulation of zero discharge and therefore do not require any further analysis. BCT will call for a zero discharge limitation for these four subcategories. BAT is being kept in force because the zero discharge limitation applies to all pollutants, not only conventional pollutants.

Of the six remaining subcategories in this category, only one (bulgur wheat flour milling) is determined to be unreasonable. The cost per pound of BOD₅ and TSS removed exceeds the POTW costs. The BAT control of BOD₅ and TSS for this subcategory is being withdrawn.

The remaining five subcategories have reasonable BAT limitations for conventional pollutants. Therefore, the Agency is promulgating the BCT effluent guidelines limitations for the remaining five subcategories (corn wet milling, corn dry milling, parboiled rice processing, ready-to-eat cereal and wheat starch and gluten) equal to the existing BAT effluent limitations guidelines for conventional pollutants.

Industry Comments:

The Agency uses cost figures which are inaccurate and understated.

Data submitted by industry spokesmen showed total costs to be significantly higher than those used by EPA. An analysis of these submitted costs shows, however, that several of the treatment component costs included in the figures are those of technologies required under BPT. The data submitted is not sufficient for the Agency to change its determination of reasonableness since only costs above those required for BPT are appropriate to consider.

Canned and Preserved Fruits and Vegetables Processing (40 CFR Part 407)

Pollutants Controlled: In all subcategories, BOD₅, TSS and pH are controlled. Toxic and nonconventional pollutants are not controlled in any of the subcategories.

Methodology: Data for model plants in all of the subcategories are taken from the development document and economic analysis for the industry. This data includes information on production, waste water flow,

pollutant load concentration, pollutant load reduction at the BPT and BAT levels of control, and costs to achieve those levels of control.

Results: (1) Citrus products, and dehydrated potato products: The limitation of pH is reasonable because it is the same at both BPT and BAT. Therefore, the BCT pH limitation is being promulgated equal to BPT. The BAT guidelines for two of these subcategories for TSS and BOD₅, are determined to be reasonable and are redesignated as BCT.

(2) Apple juice: Two model plants are tested in this subcategory. The large model plant (500 tons per day) is reasonable. The small plant (100 tons per day) is unreasonable. Therefore, the Agency has determined that the BAT limitations for plants processing less than 500 tons per day of raw material will be withdrawn and that BCT limitations for plants processing 500 tons per day or more of raw material will be promulgated equal to BAT.

(3) Apple products: Two model plants are tested in this subcategory. The BAT effluent guideline for the large plant (100 tons per day) is reasonable, while the BAT effluent guideline for the small plant (10 tons per day) is unreasonable. The Agency is promulgating BCT equal to BAT for all plants that have a production of at least 100 tons per day of raw material processed. Additionally, the Agency is withdrawing the BAT limitation for plants processing less than 100 tons per day of raw material.

(4) Canned and preserved fruits, canned and preserved vegetables, canned and miscellaneous specialties: In a separate action, pursuant to an agreement between the Agency and the National Food Processors Association, the BAT limitations for these subcategories have been withdrawn. 44 FR 36033 (June 20, 1979). BCT limitations will be promulgated after further review.

(5) Frozen potato products: The Agency is reviewing data submitted during the comment period. The BAT limitations are withdrawn and BCT limitations will be promulgated after further review.

EPA used outdated and inaccurate data in determining the reasonableness of BAT for the potato processing industry.

Potato processing industry spokesmen submitted data on current operating conditions. As discussed above EPA is reviewing the data submitted.

Sugar Processing (40 CFR Part 409)

Pollutants Controlled: In all subcategories, BOD₅, TSS and pH are controlled. In the beet processing subcategory, fecal coliform is also controlled. No nonconventional or toxic pollutants are controlled.

Methodology: Data for model plants in all of the subcategories are taken from the development documents published pursuant to the promulgation of BAT guidelines. The data includes information on production, waste water flow, pollutant load concentrations, pollutant load reduction at the BPT and BAT levels of control, and the costs to achieve those levels of control.

Results: Three subcategories were considered in this review: beet sugar processing, crystalline cane sugar refining,

and liquid cane sugar refining. The Hilo-Hamakua Coast of the Island of Hawaii raw cane sugar processing subcategory, the Louisiana raw cane sugar processing subcategory, and the Puerto Rican raw cane sugar processing subcategory do not have any BAT regulations in effect. The Florida and Texas raw cane sugar processing subcategory and the Hawaiian raw cane sugar processing subcategory have a BPT effluent limitation of zero discharge. Consequently, no test of reasonableness is required.

For the three subcategories originally tested, controls of pH and fecal coliform are reasonable because the BAT guidelines do not require any additional control beyond BPT.

The Agency is not promulgating its determination of reasonableness in the beet sugar and cane sugar refining subcategories. In the proposed rulemaking, the limitations for all subcategories were found reasonable. In the cane sugar refining subcategories, the Agency is currently reviewing the BAT limitations pursuant to a court agreement with the industry. See *California & Hawaiian Sugar Co. v. EPA*, 553 F. 2d 280, 282, n.3. (2 Cir. 1977). The BCT limitations will be established as part of this review. In the interim, the BAT limitations for conventional pollutants are withdrawn. In the beet sugar subcategory, the industry submitted data sufficient to warrant a reevaluation of the Agency's determination of reasonableness.

Industry Comments:

The Agency failed to use current data on costs and pollutant removals to determine the reasonableness of the limitations.

Representatives of the beet sugar industry have provided industrywide data on costs and pollutant loadings. The Agency is still evaluating this data and will promulgate its determination of reasonableness when the evaluation is complete.

Canned and Preserved Seafoods (40 CFR Part 408)

The Agency, in a separate action, is reviewing the BAT limitations for the seafoods industry. When that review is complete, the BCT limitations for this industry will be promulgated. Until that time, the Agency is withdrawing all BAT limitations in the seafood industry.

Cement Manufacturing (40 CFR Part 411)

Pollutants Controlled: In all subcategories the conventional pollutants controlled are total suspended solids and pH. The nonleaching and leaching subcategories also have a temperature limitation.

Methodology: The data for the subcategory model plant are taken from the development document. The data includes information on production, waste water flow, pollutant loads and concentrations, pollutant load reduction at the BPT and BAT levels, and the costs to achieve those treatment levels.

Results: The leaching subcategory is the only subcategory which is tested and is found to have unreasonable limitations for TSS at the BAT level. The Agency is withdrawing the BAT control of TSS for this subcategory, but is retaining the control for pH, redesignating that control as BCT.

The subcategories of nonleaching and materials storage piles runoff were not tested because both are under equal limitations at BPT and BAT. The Agency is promulgating the BCT limitations equal to the BAT limitations.

Industry Comments:

Industry disputed EPA's statement that the BCT limitations for the Nonleaching and Material Runoff Subcategories were to be set at zero discharge.

In Appendix E of its proposed regulation, EPA stated that the BPT and BAT limitations were zero discharge. This was an error; discharge is allowed in these subcategories. However, BPT and BAT limitations are identical, and, in the proposed regulation itself, BCT was set at the correct level. This rulemaking promulgates those limitations as BCT.

Feedlots (40 CFR Part 412)

Pollutants Controlled: The pollutants BOD₅ and fecal coliform are controlled under BPT in the ducks subcategory. The BAT limitation is no discharge of process wastewater. In the other subcategory (all subcategories except ducks) the BPT and BAT limitations are zero discharge. There are no nonconventional or toxic pollutant controls.

Methodology: The only subcategory which has stricter limitations at BAT than BPT is the ducks subcategory. However, the information on the costs and technologies necessary to achieve BAT is not available. Because of this, the BAT limitation for this subcategory is being withdrawn until information becomes available to properly evaluate the limitation.

Results: Subcategory A (all subcategories except ducks) is excluded from the analysis because both BPT and BAT limitations are zero discharge of process wastewater. This limitation will also be used as the BCT regulation.

The BAT limitations for the ducks subcategory are being withdrawn. The BCT limitations for this subcategory will be promulgated after further information is developed to evaluate the subcategory.

Industry Comments:

The Agency improperly found the ducks subcategory to be reasonable without performing the required cost test.

The Agency recognizes this inconsistency and is withdrawing those limitations.

Fertilizer Manufacturing (40 CFR Part 418)

The phosphate subcategory has zero discharge limitations at both BPT and BAT. The effluent resulting from storm runoff also must be treated to certain levels of concentration. These concentration limits are equal at BPT and BAT. Therefore, the BCT limitation is being promulgated equal to BAT.

The ammonium sulfate production and mixed and blend fertilizer production subcategories have zero discharge limitations at BPT and BAT. This same limitation is being promulgated for BCT.

The urea and ammonium nitrate subcategories are being dealt with in a separate rulemaking.

The nitric acid subcategory has no limitations on conventional pollutants.

Industry Comments: No comments were received concerning this industry.

Phosphate Manufacturing (40 CFR Part 422)

Pollutants Controlled: Total suspended solids, total phosphorus, and pH are the controlled conventional pollutants in this point source category. Fluoride, a nonconventional pollutant, is also controlled.

Methodology: Model plant data for the sodium phosphate subcategory (the only subcategory tested) is taken from the development document. The data includes information in production, waste water flow, pollutant loading, pollutant load reduction at the BPT and BAT levels, and the costs associated with achieving those levels of control.

Results: The sodium phosphates subcategory is found to have reasonable BAT limitations for conventional pollutants. Although the incremental costs to meet BAT are not specified, the costs are estimated to be less than 5% of the costs to comply with BPT. Based on this estimate, the cost per pound of TSS removed, if all costs were applied to the removal of TSS, is less than the cost of removal for POTWs. Therefore the BCT control of TSS and pH is being equated to BAT control.

The defluorinated phosphate rock and defluorinated phosphoric acid subcategories have BAT limitations which are equal to their BPT limitation. The Agency is therefore promulgating the BCT limitations equal to the BAT limitations for conventional pollutants. No other subcategories have regulations which are in effect.

Industry Comments: No comments were received concerning this industry.

Ferroalloy Manufacturing (40 CFR Part 424)

Pollutants Controlled: In all subcategories tested, the controlled conventional pollutants are total suspended solids and pH. Toxic pollutants, including chromium, manganese, cyanide and phenols are also controlled in most subcategories.

Methodology: The data for a model plant for each subcategory are from the development documents. All data on model plant production, waste water flow, and pollutant loading, and pollutant control levels are taken from those development documents.

Results: Of the six subcategories analyzed as to the reasonableness of their respective conventional pollutant BAT limitations, three are reasonable and three unreasonable. The three reasonable subcategories are: Subpart A, open electric furnaces and other smelting operations with wet air pollution control devices; Subpart B, covered electric furnaces and other smelting operations with wet air pollution control devices; and Subpart C, slag processing. The BCT limitations for these subcategories are set equal to BAT. The three unreasonable subcategories are: Subpart D, covered calcium carbide furnaces with wet air pollution control devices; Subpart F, electrolytic manganese products; and Subpart G, electrolytic chromium. The BAT limitations for the unreasonable subcategories are therefore withdrawn and BCT limitations will be set at a later date.

Subpart E, other calcium carbide furnaces, has a BPT and BAT limitation of zero discharge and is, therefore, not included in the analysis. The BCT limitation is being

promulgated as zero discharge for this subcategory.

Industry Comments:

The industry does not believe TSS to be an indicator of toxic pollutants. If it is designated such, then costs attributable to the Resource Conservation and Recovery Act should also be considered in the BCT cost test.

The designation of TSS as an indicator of toxic pollutants in this industry is only a possibility. If the TSS limitation in this industry is called a toxic indicator, the TSS parameter would also be controlled under BAT.

The Agency used model plants which vary considerably in size from those found in the development document.

Model plants in the industry were developed to find a flow size for the cost comparison to a POTW in the proposed methodology. The revised methodology eliminates the need to develop flow sizes for model plants. The development document indicates a constant cost per megawatt-hour (Mwhr) of power use. The effluent limitations are set on a pounds per Mwhr basis. The cost per pound is calculated by dividing the cost per Mwhr by the pounds of removal per Mwhr. The result is the same as that stated in the proposed rules.

Glass Manufacturing (40 CFR Part 426)

Pollutants Controlled: Total suspended solids and pH are controlled in all subcategories. Three subcategories have increased controls for oil. Additionally, three subcategories have controls of other pollutants such as fluoride and lead.

Methodology: Data for a model plant for each subcategory tested are from the industry development documents. The data includes information on production, waste water flow, pollutant concentrations, and treatment costs to achieve the BPT and BAT limitations, as well as the pollutant load reductions for each level of control.

Results: The BPT and BAT limitation for process water in the insulation fiberglass subcategory is zero discharge. Specific limitations are established at BPT on the discharge of conventional pollutants and phenols from wet air pollution control devices. The BAT limitation is zero discharge from all sources. Since the zero discharge limitation controls phenols, a toxic pollutant, no BCT analysis is required. A BCT limitation of zero discharge from all sources is being promulgated.

The sheet glass and rolled glass subcategories are not analyzed because the BPT limitation is zero discharge. BCT is also being promulgated as zero discharge for these subcategories.

The plate glass subcategory is the only subcategory of those tested to be found reasonable. The Agency is promulgating the BCT control of conventional pollutants equal to the BAT control of conventional pollutants in this subcategory.

All other subcategories (float glass manufacturing, automotive glass tempering, automotive glass laminating, glass container manufacturing, television picture tube envelope manufacturing, incandescent lamp envelope manufacturing and hand pressed

and blown glass manufacturing) are found to be unreasonable and the BAT control of conventional pollutants is being withdrawn. In the hand pressed and blown glass subcategory, no cost information is available for the analysis. However, the technology and pollutant loads are similar to the rest of the unreasonable subcategories. On this basis, it is assumed that costs would be similar, and unreasonable.

Industry Comments: No comments were received concerning specific industry issues.

Meat Products (40 CFR Part 432)

Pollutants Controlled: In all subcategories tested, the conventional pollutants controlled are TSS, BOD5, oil and grease and pH. Ammonia, a nonconventional pollutant, is also controlled in all subcategories. However, the ammonia limitation has been remanded in the simple slaughterhouse, complex slaughterhouse, low processing packinghouse and high processing packinghouse subcategories.

Methodology: The data for model plants for each subcategory are from the development documents for the regulations. The data includes information on production, waste water flow, pollutant concentrations, pollutant reductions at the BCT and BAT levels of control, and the costs to achieve those levels of control for each model plant.

Results: For subparts A through D, portions of the BAT limitations not applying to conventional pollutants have been remanded by the courts. In one of these subcategories, the TSS limitations were also remanded. In response to this removal, these limitations are currently being reviewed. In the interim, the Agency is withdrawing the remaining BAT limitations for BOD5 and TSS. The limitations for fecal coliform and pH in these subcategories are being retained because controls of these pollutants are the same at BPT and BAT.

In the case of four additional meat industry subcategories, subparts E through I, the Agency is conducting a review of the limitations beyond BPT, so BCT is not being promulgated at this time. The final limitations will be promulgated at a later date.

In the small processor subcategory, there are minimal costs associated with the BAT limitations. The costs of such additional removal are reasonable and the Agency is promulgating BCT equal to BAT.

The limitations in the renderer subcategory are reasonable. The waste water flow allows the existing end-of-pipe treatment system to remove ammonia and conventional pollutants. This technology was chosen as the most cost-effective means of controlling ammonia, a nonconventional pollutant. The costs are totally attributable to ammonia control in this case.

Industry Comments:

A substantial portion of the costs of treatment are attributable to conventional pollutant control. Not all costs should be allocated to ammonia control.

The Agency is reviewing its determination of reasonableness for the meat cutter, sausage and luncheon meats, ham processor and canned meats subcategories based on this comment. These subcategory regulations include extensive added and

treatment beyond BPT, part of which could be attributable to conventional pollutant control. In the renderer subcategory, there is no added end-of-pipe treatment beyond BPT, part of which could be listed above. For the reasons stated above, the Agency is promulgating the BCT regulations for the renderer subcategory equal to BAT.

Other Industries

There are industrial categories and subcategories, other than those listed previously, that are not tested for reasonableness. These categories were excluded from the analysis because they do not have any regulations in effect, or have only BPT regulations in effect.

The industrial categories which have no regulations in effect are: water supply; miscellaneous foods and beverages; transportation; fish hatcheries and farms; steam supply; clay, gypsum, refractory, and ceramic production; concrete products; and shore receptors and bulk terminals.

Three additional industrial categories have in effect only the BPT limitations. These are offshore oil and gas extraction, hospitals, and mineral mining and processing. The mineral mining and processing category also has some subcategories which have no limitations in effect.

The Asbestos industrial category has a BAT limitation of zero discharge in seven subcategories. These subcategories are not analyzed because the zero discharge limit is for the control of toxic pollutants and is not subject to review.

Table C1.—Summary of Data

Industry and subcategory	1 Model Plant size	2 Model* Plant \$/lb.
Dairy		
1. Receiving stations.....	s	0.58
2. Fluid produce.....	l	1.55
3. Cultured produce.....	s	.12
4. Butter.....	l	.76
5. Cottage, cream cheese....	s	.29
6. Natural, processed cheese	l	.99
7. Fluid mix for ice cream....	s	.26
8. Ice cream, frozen	l	.59
9. Condensed milk.....	s	.35
10. Dry milk.....	l	1.06
11. Condensed whey.....	s	.81
12. Dry whey.....	l	1.21
13. Corn wet milling.....	s	.38
14. Corn dry milling.....	l	.98
15. Bulgar wheat.....	s	.31
16. Parboiled rice.....	l	.92
17. Ready-to-eat cereal.....	s	1.09
18. Wheat starch and gluten...	l	1.63
Canned and preserved fruits and vegetables	s	1.05
20. Apple products.....	l	1.30
21. Citrus products.....	s	.39
22. Frozen potato.....	l	.76
23. Dehydrated potato.....	s	.26
24. Canned and preserved fruits.....	l	.59
25. Canned and preserved vegetables.....	s	.35
26. Canned and miscellaneous specialties.....	l	1.06
27. Farm raised catfish.....	s	.81
28. Conventional blue crab.....	l	1.21
29. Mechanized blue crab.....	s	.38
30. Nonremote Alaskan crab....	l	.98
31. Remote Alaskan crab.....	s	.31
32. Nonremote Alaskan whole crab.....	l	.92
33. Remote Alaskan whole crab.....	s	1.09
34. Dungeness and Tanner crab.....	l	1.63
35. Nonremote Alabama shrimp.....	s	.39
36. Remote Alabama shrimp....	l	.76
37. Northern shrimp.....	s	.29
38. Southern nonbreaded shrimp.....	l	.99
39. Breaded shrimp.....	s	.26
40. Tuna.....	l	.59
41. Fish meal w/out solubles plant.....	s	.35
42. West coast butchered salmon.....	l	1.06
43. West coast mechanized salmon.....	s	.81
44. Non-Alaskan Conventional bottom fish.....	l	1.21
45. Non-Alaskan Mechanized bottom fish.....	s	.38
46. Handshucked clam.....	l	.98
47. Mechanized clam.....	s	.31
48. Pacific handshucked oyster.....	l	.92
49. Atlantic and Gulf hand- shucked oyster.....	s	1.09
50. Steamed and canned oyster.....	l	1.63
51. Sardine.....	s	.39
52. Non-Alaskan scallop.....	l	.76
53. Non-Alaskan herring fillet..	s	.29
54. Abalone Processing.....	l	.99
55. Beet sugar.....	s	.26
56. Crystalline cane sugar.....	l	.59
57. Liquid cane sugar.....	s	.35
58. Cement manufacturing.....	l	1.06
59. Leaching.....	s	.81
60. Open electric furnaces wet.....	l	1.21
61. Covered electric and smelting wet.....	s	.38
62. Slag Processing.....	l	.98
63. Covered calcium carbide wet.....	s	.31
64. Electrolytic manganese....	l	.92
65. Electrolytic chromium.....	s	1.09
66. Ins. Fiberglass.....	l	1.63
67. Plate.....	s	.39
68. Float.....	l	.76
69. Auto tempering.....	s	.29

Table C1.—Summary of Data—Continued

Industry and subcategory	1 Model Plant size	2 Model* Plant \$/lb.
19. Apple juice.....	s	1.16
20. Apple products.....	l	1.79/3.74
21. Citrus products.....	s	.35
22. Frozen potato.....	l	.39
23. Dehydrated potato.....	s	.13
24. Canned and preserved fruits.....	l	.20
25. Canned and preserved vegetables.....	s	.13
26. Canned and miscellaneous specialties.....	l	
27. Farm raised catfish.....	s	
28. Conventional blue crab.....	l	
29. Mechanized blue crab.....	s	
30. Nonremote Alaskan crab....	l	
31. Remote Alaskan crab.....	s	
32. Nonremote Alaskan whole crab.....	l	
33. Remote Alaskan whole crab.....	s	
34. Dungeness and Tanner crab.....	l	
35. Nonremote Alabama shrimp.....	s	
36. Remote Alabama shrimp....	l	
37. Northern shrimp.....	s	
38. Southern nonbreaded shrimp.....	l	
39. Breaded shrimp.....	s	
40. Tuna.....	l	
41. Fish meal w/out solubles plant.....	s	
42. West coast butchered salmon.....	l	
43. West coast mechanized salmon.....	s	
44. Non-Alaskan Conventional bottom fish.....	l	
45. Non-Alaskan Mechanized bottom fish.....	s	
46. Handshucked clam.....	l	
47. Mechanized clam.....	s	
48. Pacific handshucked oyster.....	l	
49. Atlantic and Gulf hand- shucked oyster.....	s	
50. Steamed and canned oyster.....	l	
51. Sardine.....	s	
52. Non-Alaskan scallop.....	l	
53. Non-Alaskan herring fillet..	s	
54. Abalone Processing.....	l	
55. Beet sugar.....	s	
56. Crystalline cane sugar.....	l	
57. Liquid cane sugar.....	s	
58. Cement manufacturing.....	l	
59. Leaching.....	s	
60. Open electric furnaces wet.....	l	
61. Covered electric and smelting wet.....	s	
62. Slag Processing.....	l	
63. Covered calcium carbide wet.....	s	
64. Electrolytic manganese....	l	
65. Electrolytic chromium.....	s	
66. Ins. Fiberglass.....	l	
67. Plate.....	s	
68. Float.....	l	
69. Auto tempering.....	s	

Table C1.—Summary of Data—Continued

Industry and subcategory	1 Model Plant size	2 Model* Plant \$/lb.
70. Auto laminating.....	l	5.56
71. Container.....	l	3.80
72. Tubing.....	l	2.78
73. TV picture tube.....	l	8.56
74. Incandescent Lamp envelope.....	l	26.29
75. Hand pressed and blown... Asbestos.....	s	Costs unknown.
76. Cement Pipe.....	l	Not part of BCT review because pollutants are toxic.
77. Cement sheet.....	s	Do.
78. Paper starch binder.....	l	Do.
79. Paper (elastomeric binder)	s	Do.
80. Roofing.....	l	Do.
81. Floor Film.....	s	Do.
82. Wet Dust Collection.....	l	Do.
83. Simple slaughterhouse.....	s	Regulations remanded by the court, regulations suspended.
84. Complex slaughterhouse...	l	Do.
85. Low Processed packinghouse.....	s	Do.
86. High processed packinghouse.....	l	Do.
87. Small Processed.....	s	No costs associated with meeting BAT.
88. Meat cutter.....	l	Withdrawn pending further study.
89. Sausage and luncheon.....	s	Do.
90. Ham processing.....	l	Do.
91. Canned meats.....	s	Do.
92. Renderers.....	l	0
93. Sodium phosphates.....	s	Minimal costs associated with meeting BAT.

xs=Extra small size model plants.
s=Small size model plants.
m=Medium size model plants.
l=Large size model plants.
l=Typical size model plants.

*The model plant \$/lb. is compared to a POTW cost of \$1.15 to determine reasonableness.
†BAT technology applies to wastewater of wet scrubbers only, costs and removals not available.

Appendix D—Responses to Comments

1. **Comment**—Several comments state that the Act requires the application of two tests in determining an appropriate BCT. Two supplemental tests are suggested by commenters. One involves some measure of water quality benefits, while the other calls for an examination of the cost-effectiveness of pollutant removal within an industry subcategory.

Response—Commenters base their assertion that the Act requires the use of two tests in establishing BCT on the specific language of Section 304(b)(4)(B). This subsection requires the Administrator to consider:

The reasonableness of the relationship between the costs of attaining a reduction in effluent and the effluent reduction benefits derived, and the comparison of the cost and level of reduction of such pollutants from the discharge from publicly owned treatment works to the cost and level of reduction of such pollutants from a class or category of industrial sources * * * (emphasis added).

Although many commenters assert that this section requires the use of two tests, most simply point to the conjunctive nature of the clause contained in that section. Few suggest alternative tests.

In developing the proposed BCT methodology, EPA carefully examined the language of the statute and its legislative history. The Agency has fully and exhaustively looked at a number of alternative approaches and believes that the methodology detailed here fully satisfies Congressional intent.

The range of other tests which have been considered independently or as a supplement to the promulgated approach are detailed in the proposal (see 44 Fed. Reg. 37606-07). In fact, EPA did apply a second test, the "concentration test", in the proposed rulemaking, but for reasons explained elsewhere, this test is not being included in the final methodology.

Several commenters argue that, in addition to any POTW comparison, the local water quality benefits of applying BCT must be examined. They rely on that portion of section 304(b)(4)(B) which requires that BCT include consideration of "effluent reduction benefits." Consideration of "effluent reduction benefits" is already required in setting BPT limitations, and EPA has consistently interpreted this phrase as requiring an evaluation of the total incremental amount of pollutants removed by application of the effluent limitations. Courts have agreed that the phrase does not require an assessment of the benefits to local water quality. See, e.g., *Weyerhaeuser Co. v. Costle*, 590 F.2d 1011 (D.C. Cir. 1978); *American Petroleum Institute v. EPA*, 540 F.W.2d 1023 (10th Cir. 1976). As in the case of BPT and BAT, BCT limitations are nationally applicable technology-based limitations for which it is impossible to identify localized water quality benefits. However, EPA does consider "effluent reduction benefits" when the total quantity of pollutants removed is calculated and a cost per pound determined.

Several commenters argue that a "knee-of-the-curve" assessment be made which would identify the point at which the rate of increasing costs drastically begins to exceed pollutant removal rates. EPA agrees that the "knee-of-the-curve" analysis could conceptually be a valid consideration in determining BCT, and indeed one factor in assessing POTW costs was such an analysis. Nonetheless, the Agency found this concept impossible to apply in determining industry cost ratios. First, any determination of "knee-of-the-curve" requires large amounts of data about the performance of various levels of treatment technology. Such data is

not now available and, in industries with limited technology options, cannot be developed. More fundamentally, this assessment involves the presumption that there is, in fact, some point where costs dramatically begin rise in relation to effluent reduction benefits. In virtually no case can such a point be identified for industrial sources. First, limited data do not yield sufficient information to plot any accurate graph of "cost to benefits". Second, in some cases, costs do not rise exponentially; certain later stages of treatment may in fact be more cost-effective than the necessary preliminary steps. In the absence of any "knee-of-the-curve" benchmark, there is no point at which costs can be said to be unreasonable in relation to benefits.

Some commenters suggest that a "knee-of-the-curve" be determined based on the ratio of the average cost of achieving BPT to the cost to progress from BPT to BAT. No suggestion is made, however, as to what ratio should be considered unreasonable. Again, this approach provides no benchmark for determining a point at which BCT costs are reasonable. Congress, however, established the POTW cost comparison which provides just such a benchmark.

2. *Comment*—Several commenters state that EPA should use BPT as a starting point in evaluating the reasonableness of existing limitations. They point to statements in the legislative history of the 1977 Amendments indicating that BPT was to be the starting point in determining BCT limitations. This statement is supported by citations of the legislative history which indicate that certain Members of Congress believed that BPT was generally an adequate level of control, and that BAT was probably unreasonably stringent.

EPA agrees that the purpose of establishing BCT is to insure that requirements beyond BPT are not unreasonable. EPA will allow only BPT to remain in-effect where further controls are appropriate. The POTW comparison establishes the maximum point at which costs are reasonable in relation to benefits. The Agency uses BPT as the base for determining the reasonableness of incremental levels of control.

3. *Comment*—EPA's proposed "concentration test" has no statutory basis and, moreover, fails to account for variation in influent pollutant concentrations and penalizes industries which practice water conservation.

Response—In order to provide for greater flexibility in conducting the industry BCT reviews, EPA proposed that a concentration test be performed where industries that had treatment costs higher than POTW costs. In this

test, the effluent concentration of the industry subcategory was compared to the effluent of a POTW at secondary treatment, and, if the industrial effluent showed significantly higher concentrations of pollutants, BAT for the industry was determined to still be reasonable.

EPA agrees with many of the criticisms of the concentration test. Although the legislative history indicates that, in some cases, industries failing the POTW test may still have reasonable limitations, the use of this concentration test present problems. It may actually be a disincentive to water conservation, and it fails to account for differences in influent concentrations. Further, it may not be a good measure of treatment efficiencies. The test is therefore being dropped.

4. *Comment*—Several commenters assert that EPA, in establishing its cost comparison methodology, fails to consider additional factors specified by Congress.

Response—Section 304(b)(4)(B) provides that in establishing BCT the Administrator must consider a range of factors in addition to the cost reasonableness assessment. Such factors include, among others, the age of equipment, production processes and energy requirements. These factors are, however, identical to those which must be considered in establishing BAT, and have already been evaluated for those BAT limitations which have been found to be reasonable. When new BCT limitations are promulgated, these factors will be assessed when evaluating candidate technologies.

5. *Comment*—EPA should use a single number POTW cost figure for comparison with industry costs.

Response—In its proposed methodology, EPA compared the cost per pound of removal for industries with those of POTWs of comparable flow. Costs for these POTWs ranged from \$0.36 to \$1.72 per pound. This approach resulted, in some cases, in industries with low costs for removal being found to have unreasonable limitations, while limitations on industries with high costs were found to be reasonable. To remedy this problem, EPA now will use a single POTW cost figure for comparison with all industries. As discussed in Appendix B, this single number is based on costs for removal at a 2 mgd POTW. This size facility was selected based on a flow weighted average of existing POTWs.

6. *Comment*—Several commenters argue that EPA's use of the increment from BPT to BAT in its cost calculation underestimates the marginal costs of removal at BCT. These costs are underestimated, it is argued, because

costs are likely to rise at a much steeper rate as treatment levels reach BAT.

Response—EPA believes that use of the BPT to BAT increment appropriately reflects the costs per pound to achieve increased levels of control. For purposes of this review of the secondary industries no other increment could have been used. For most of these industries cost data was only available for the BPT and BAT technologies, and, since Congress did not intend that EPA undertake extensive new analyses, this was the only increment available for calculating BCT costs.

For any industry which BCT is established in the future, including the primary industries, EPA will evaluate the increment from BPT to the candidate BCT technology. This increment most accurately reflects the costs to upgrade existing facilities from BPT to BCT. Only such increased levels of control which pass the cost reasonableness assessment may be established as BCT.

The increment of BPT to BAT is suitable for several reasons. First, this increment does approximate the marginal costs of removal at the BCT candidate level. While use of narrower increments based on intermediate levels of technology might yield better approximations, none would accurately reflect marginal costs and thus, even these increments would be subject to the same criticism. Second, it is difficult to select the intermediate technologies to calculate costs and removals, since selection of intermediate technologies is, of necessity, arbitrary. If an intermediate increment were used, alternative increments could in all cases be identified which would affect the cost per pound calculation. Lastly a methodology which employed the suggested approach could not feasibly be employed by permit writers to set BCT limitations on a case-by-case basis.

Use of the increment from BPT to the candidate technology avoids these problems. Although various candidates might be evaluated, calculations of the cost per pound for each is certain since they are based on a fixed interval from BPT to the candidate level.

7. *Comment*—Several commenters argue that EPA should calculate POTW cost per pound of removal based on the increment from primary to secondary treatment or from raw waste load to secondary treatment.

Response—As discussed in the preamble section, "Modifications to the Proposal", EPA believes that for purposes of the BCT comparison, the increment from secondary to advanced secondary most accurately reflects costs per pound of pollutant removal at POTWs. This increment approximates

marginal costs at secondary treatment, represents a narrow, cost-effective increment beyond secondary treatment, and parallels the increment used in the industry calculation.

Commenters suggest that EPA should calculate the POTW cost comparison figure to emphasize the initial cheapest pounds of pollutants removed by POTWs. EPA believes that this is clearly contrary to Congress' intent in this matter. Congress acknowledged that current BPT treatment requirements are reasonable, and that costs to achieve BPT were not to be included in industrial calculations. Inclusion of costs to go from raw waste load or primary treatment to secondary treatment in calculating POTW costs, however, would be comparable to calculation of BCT based on the costs to industry to progress from no control to BCT. Nor do any such increments have any conceptual value in identifying the marginal costs of treatment. Use of such increments biases the POTW figure and obviously leads to a very low POTW cost comparison figure.

8. *Comment*—Commenters argue that the POTW calculation is based on treatment practices that are peculiar to POTWs and not typical of industrial treatment. They notice that industry generally removes a greater percentage of pollutants and that industries generally have higher influent concentrations.

Response—The POTW/industry cost comparison was established by Congress. It is not intended to compare technology practices; rather, the costs to POTWs for treatment, regardless of the type of treatment, serve as a benchmark for measuring the reasonableness of costs to industry.

9. *Comment*—Several commenters feel that it is improper for EPA to include COD and oil and grease in the BCT analysis because these parameters had not been officially determined to be conventional pollutants at the time of the BCT proposal last August.

Response—EPA has withdrawn its proposal to designate COD as a conventional pollutant, and therefore it is not used in the BCT calculations. Oil and grease has, however, been designated as a conventional pollutant and will continue to be included in the BCT methodology.

10. *Comment*—One commenter states that the addition of the pounds of TSS and BOD might, in some cases, result in the "double counting" of pollutants removed. Other commenters object to the substitution of oil and grease or COD for BOD.

Response—In developing its methodology, EPA was aware of the

difficulties of calculating total pounds of conventional pollutants removed. In many cases treatment equipment removes more than one pollutant, and, in some cases, a pollutant can be properly classed as more than one type of pollutant. To minimize this problem EPA has divided into two classes the pollutants which may tend to be double counted. These classes are solids (TSS), and oxygen demanding substances (BOD and oil and grease). Only one pollutant from each class will be included in the calculation. Thus, if both BOD and oil and grease are removed by an industry, only the parameter with the greater amount of removal will be used. This methodology helps ensure that an industry is not attributed artificially low cost per pound of removal because of the double counting of these pollutants. Additionally, any problem of double counting between classes is greatly reduced by the fact that the same methodology is employed in both the POTW and industry cost per pound calculations. Any decrease in cost per pound attributable to such double counting will occur on both sides of the cost comparison.

11. *Comment*—Several respondents express concerns that the treatment costs they would bear at the BAT level would result in severe economic hardships. They request that EPA give greater attention in the BCT review to assessing the magnitude of possible economic impacts and that the Agency consider these impacts when making the BCT determinations.

Response—The purpose of this review was to determine whether existing regulations were "cost reasonable." EPA addressed the question of overall economic impacts during the initial development of BAT regulations. When these BAT limitations were established, the economic impacts were considered along with the other necessary factors. Regardless, no additional impacts will result from these BCT limitations, and for many industries some cost savings will occur.

12. *Comment*—Some commenters state that the methodology employed to calculate conventional pollutants removed should be based on the long-term performance of a treatment system rather than the maximum average effluent quality allowable over any 30 day period. They argue that use of the 30 day maximum allowable discharge in the BCT calculation inappropriately biases the costs of removal downward.

Response—EPA continues to believe that calculations of total pollutant removal should be based on the maximum levels allowed for the average

of any 30 day period. These 30 day limitations are contained in all effluent limitations guidelines and are the primary limitation relied on for enforcement of the Act. Long term average limitations have been written for only a very small number of subcategories, and data on such long term compliance is not, in most cases, collected.

EPA recognizes that variability in pollutant concentrations can affect the calculation of long term removal rates based on 30 day averages. Nonetheless, such variability exists with respect to POTWs as well as industrial effluents, and use of the same time period to calculate pollutant removals for industries and the POTWs should minimize the problem.

13. *Comment*—New Source Performance Standards (NSPS) should be subject to the BCT cost reasonableness assessment.

Response—EPA believes that BCT only applies to existing sources and that NSPS is not affected by BCT decisions. This is supported by both the language and legislative history of section 304(b)(4)(B). First, section 304(b)(4)(B) is, on its face, limited in application to existing sources; section 306 contains the requirements applicable to new sources. Further, Congress was quite explicit in stating that BCT was designed to replace BAT for industrial sources. There is no indication in the legislative history that Congress was dissatisfied with, or intended to modify, the NSPS applicable to new sources. Finally, new sources may, in permits subsequent to their first, be subject to BCT. New sources receive NSPS limitations only in their initial permit. Any subsequent, and more stringent, limitations on conventional pollutants will be subject to the BCT cost reasonableness analysis. Such limitations could not be imposed until after the expiration of the exemption period specified in section 306(d).

14. *Comment*—Several commenters note that a variety of factors, particularly climate, can affect the cost of compliance with effluent limitations.

Response—Although technology-based limitations are to be set on a national basis, EPA does consider whether variation with respect to factors such as climate affects the ability of industrial dischargers to achieve such limitations. Thus, the effects of climate and similar factors were included in the original assessment of BAT limitations.

15. *Comment*—Several respondents suggest that EPA consider lessening the stringency of pH requirements so as to reduce treatment costs and improve

treatment efficiencies. These respondents note that pH ranges slightly below 8 or above 9 have no significant water quality impact and, moreover, in other BAT regulations, EPA allows for pH in excess of 9.

Response—The purpose of this rulemaking is to review existing BAT regulations that are more stringent than BPT. In all cases, the pH regulations for secondary industries are the same at both BPT and BAT. Therefore, there is no basis for changing the pH limitations as a result of the BCT review. The validity of the Agency's pH limitations were subject to challenge when the original BPT limitations were promulgated. The Agency has received petition for modification of certain pH limitations. That petition is currently under review.

16. *Comment*—The definition of contaminated nonprocess wastewater implicitly condones poor maintenance, careless operation and/or lack of preventive maintenance.

Response—The definition of nonprocess wastewater was developed as the result of a court suit which required EPA to define more precisely the different types of wastewater. The purpose of the BCT review is to evaluate the "cost reasonableness" of regulations as they exist, not to reassess any existing terminology or treatment. EPA will not at this time reconsider the definition.

17. *Comment*—Commenters raise a range of technical issues regarding EPA's use of the documents identified in the April 2, 1979 Federal Register (40 CFR 405 through 432). Such issues include the validity of the underlying data base, inconsistencies in presentation of data in two documents relied on by the Agency, the statistical techniques employed, and the validity of the results.

Response—EPA has evaluated each of these criticisms at length. Although detailed responses to each of these comments are not included here the Agency has carefully considered these comments and believes that it has employed a sound methodological approach and that the results are valid.

18. *Comment*—EPA annualized POTW capital costs at a 10 percent interest rate, yet EPA has previously used a 6% percent rate for evaluating the costs of new POTWs. The former rate results in POTW costs being higher than is appropriate.

Response—EPA considers the 10 percent interest rate to be proper in determining total annual POTW costs. The 10 percent rate is cited in the Office of Management and Budget Circular A-94 for use in Agency programs not

covered by the Water Resources Council principles and standards. Although the 6% percent rate has been used by the Agency to achieve the goal of emphasizing capital intensive projects such as land treatment, this same notice states that "use of the 10-percent discount rate would help produce a more economically efficient distribution of construction grant funds." 40 Fed. Reg. 44022, 44032 (September 27, 1978).

19. *Comment*—Several commenters assert that the POTW data used by EPA was both inaccurate and overstated.

Response—Since proposal, EPA has improved its POTW cost data. After proposal of the BCT methodology EPA identified new data provided in two EPA documents, "Construction Costs for Municipal Wastewater Treatment Plants: 1973-1977" and "Analysis of Operations and Maintenance Costs for Municipal Wastewater Treatment Systems." Both of these documents represent empirical and bid data on POTW costs. EPA published a notice of its intention to use this data and public comment was solicited 44 FR 19214 (April 12, 1979). No commenter recommended more current or complete references than these.

20. *Comment*—Many commenters complain that EPA used old, out-dated information on industries in performing its BCT evaluation.

Response—In performing the review of secondary industry BAT guidelines, the Agency restricted its gathering of data to the development documents and the economic analyses documents which were published in support of the promulgation of the BAT guidelines for each industrial category. Congress, when it established BCT in the 1977 Clean Water Act Amendments, required the Agency to perform an immediate "90 day" review of BAT guidelines for secondary industries. Therefore, Congress seems to have intended that EPA rely on existing data and not undertake extensive and time consuming new analyses of industries.

Obviously, EPA has not managed to complete this review in the short time asked by Congress. This delay has resulted from the complexity of the issues involved and review of the extensive comments received. Although this rulemaking is late, any requirement to gather data on each of the many subcategories evaluated here would require several additional years of study, and this would be far more time consuming than the Agency believes Congress intended.

EPA has, however, reviewed all data submitted by industry. In several cases, where such data seriously question the accuracy of the data used in this review,

the Agency has delayed promulgation of BCT limitations to allow a more thorough investigation. Regardless, the Act provides that BCT will be subject to periodic reexamination and review.

21. *Comment*—Some commenters disagree with EPA's statement (made in the August 23, 1978 proposed rules) that Executive Order 12044, "Improving Government Regulations," does not apply to the proposed action because the proceeding was pending at the time the order was issued; some also say that regulatory analysis is required because this regulation will result in an annual effect on the economy of \$100 million or more and because the regulations will result in a major increase in costs and/or prices; some further comment that an economic impact statement must be prepared in accordance with Executive Order 11821 and 11949, if the proceeding was pending when Executive Order 12044 was issued.

Response—EPA continues to assert that Executive Order 12044 does not apply to this action because the BCT rulemaking proceedings were pending on March 23, 1978, the date Executive Order 12044 was issued.

However, even if the Executive Order did apply, the Agency sees no necessity for performing a regulatory analysis in this case. EPA's criteria for conducting regulatory analysis states that regulatory analysis will be performed when the impacts of the regulations cause additional annual costs of compliance in excess of \$100 million or production cost increases result in price increases of 5% or more. 44 Fed. Reg. 30988 (May 29, 1979). However, this action decreases costs of compliance from those required by existing regulations. BCT requirements are in no case more stringent than original BAT regulations and, for most subcategories, existing regulations are being withdrawn. The Agency also does not believe that an economic impact statement must be prepared in accordance with Executive Orders 11821 and 11949. The economic impacts of the regulations were examined when the original BAT standards were established, and no greater impacts will result from this action. The sole purpose is to determine if the BAT standards meet the additional BCT test.

Appendix E—Public Comments

The following parties responded with comments regarding the August 23, 1978 BCT proposed rules: Alto Cooperative Creamery; American Crystal Sugar Company; American Farm Bureau Federation; American Iron and Steel Institute; American Paper Institute; American Petroleum Institute; Anheuser-Busch, Inc.; Arnold and Porter, Inc.; Atlantic Corporation; Boise Cascade; California and

Hawaiian Sugar Company; Cannery League of California; CF Industries; Cleary, Gottlieb, Steen and Hamilton; Clinton Corn Processing Company; Collier, Shannon, Rill, Edwards and Scott; Consolidated Badger Cooperative; Council on Wage and Price Stability; Corn Refiners Association, Inc.; CPC International; Dairy Industry Committee; Dean Foods Company; Dow Chemical; East Bay Municipal Utility District; Ronald J. Eberhard; Eli Lilly and Company; The Ferroalloys Association; Ford Motor Company; Frito-Lay, Inc.; Galloway Company; General Electric Company; H. J. Heinz Company; Holly Sugar Corporation; Tom Holmes; H. P. Hood, Inc.; Kaiser Aluminum and Chemical Corporation; Kraft, Inc.; Lake to Lake Dairy Cooperative; Land O'Lakes, Inc.; Mary Lewis; Lone Star Industries, Inc.; Long Island Duck Growers Association; Manufacturing Chemists Association; Mead Corporation; Michigan Sugar Company; Mobil Oil Corporation; Keith Montombe; National Fisheries Institute, Inc.; National Food Processors Association; National Milk Producers Federation; National Renderers Association, Inc.; National Steel Corporation; New York State Department of Environmental Conservation; Offshore Operators Committee; Olin Chemicals Group; Pacific Seafood Processors Association; E. B. Pugsley; Reynolds Aluminum; Scott Paper Company; Shellfish Institute of North America; Shell Oil Company; Snokist Growers; State of Florida; State of Oregon; State of Washington; State of Wisconsin; Tenneco, Inc.; Texaco, Inc.; Texas Department of Water Resources; U and I, Inc.; Union Carbide Corporation; U.S. Brewer's Association, Inc.; U.S. Cane Sugar Refiners Association; U.S. Department of Interior; Warners Duck Farm; Wells Engineers, Inc.; Donald Williams; Wisconsin Dairies; Wisconsin Dairy Products Association, Inc.

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federal register

Wednesday
August 29, 1979

Part III

Environmental Protection Agency

Hazardous Substances; Determination of Reportable Quantities; Designation; Memorandum of Understanding Between EPA and Coast Guard on Assessment of Civil Penalties for Discharges of Oil and Designated Hazardous Substances; Proposed Removal of Lime from List and Proposed Application Requirements for NPDES Permits

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 117**

[FRL 1305-2]

Water Programs; Determination of Reportable Quantities for Hazardous Substances**AGENCY:** Environmental Protection Agency.**ACTION:** Final rulemaking.

SUMMARY: This regulation establishes reportable quantities for substances designated as hazardous under section 311(b)(2)(A) of the Clean Water Act and sets forth requirements for notification in the event of such discharges. This regulation should be read in conjunction with 40 CFR Part 116: Designation of Hazardous Substances, as well as "Memorandum of Understanding Between the Environmental Protection Agency and the United States Coast Guard Concerning the Assessment of Civil Penalties for Discharges of Oil and Designated Hazardous Substances Under Section 311 of the Clean Water Act"; Proposed Regulations to Delete Lime from the List of 299 Hazardous Substances; and Request for additional Comments on Proposed Application Requirements for National Pollutant Discharge Elimination System (NPDES) Permits and on Proposed Rules for Regulating Indicator Parameters, which are being published in this Federal Register issue, and which directly relate to the implementation of these regulations.

EFFECTIVE DATES: These regulations will be effective September 28, 1979, except for discharges of hazardous substances which have been offered to common carriers who are required to accept such substances for shipment in compliance with applicable tariffs. EPA will publish notice in the Federal Register announcing the effective date of these regulations to such discharges.

FOR FURTHER INFORMATION CONTACT: Kenneth M. Mackenthun, Director, Criteria and Standards Division (WH-585), Office of Water Planning and Standards, EPA, 401 M Street SW., Washington, D.C. 20460, (202) 755-0100.

SUPPLEMENTARY INFORMATION:**Background**

On March 13, 1978, the Environmental Protection Agency ("EPA") issued regulations under section 311 of the Clean Water Act ("CWA" or "the Act") to control the discharge of hazardous substances. (43 FR 10474). Part 116 in Title 40 designated 271 substances as hazardous; Part 117 determined the removability of each of these

substances; Part 118 determined the harmful quantity for each substance; and Part 119 set forth the Agency's determination of units of measurement and rates of penalty for each hazardous substance. On the same day, EPA proposed regulations designating an additional 28 substances as hazardous.

Prior to their effective date, the regulations were challenged in several law suits. One such suit resulted in an Order declaring EPA's determinations of removability (Part 117) and harmful quantities (Part 118) invalid and resulted indirectly in the invalidation of the determinations of units of measurement and rates of penalty (Part 119). The designation of hazardous substances (Part 116) was not affected by the Court's action. See *Manufacturing Chemists Association, et al. v. Costle, et al.*, 455 F. Supp. 968 (W. D. La., 1978).

On November 2, 1978, section 311 of the Clean Water Act was amended by Pub. L. 95-576. The amended statute no longer requires the Agency to make determinations of removability or units of measurement for computing penalties. Therefore, Parts 117 and 119 of the March 13, 1978 regulations were revoked on February 16, 1979 (44 FR 10269). The basis for determining reportable quantities, formerly termed "harmful quantities", was simplified by the recent amendment and, therefore, Part 118 of the March 13, 1978 regulations was also revoked and reportable quantities were repropose as a new Part 117 on February 16, 1979 (44 FR 10271). At the same time, the designation of 28 additional substances as hazardous was promulgated (44 FR 10266).

These regulations are authorized by section 311(b)(4) of the amended Act, which requires the Administrator to determine by regulation those quantities of "any hazardous substances the discharge of which may be harmful to the public health or welfare of the United States, including but not limited to shellfish, wildlife, and public and private property, shorelines, and beaches."

The Part 117 regulations promulgated today consist primarily of the following four changes from the regulations proposed on February 16, 1979: (1) The reportable quantity of one substance, calcium hypochlorite, has been changed; (2) The regulations no longer require the addition of fractions of reportable quantities in determining whether the discharge of a mixture or solution must be reported. (3) The applicability of the regulations to facilities permitted under the National Pollutant Discharge Elimination System (NPDES) has been clarified further, and (4) An exclusion from these regulations has been

established for activities permitted under the section 404 (Dredge and Fill) of the Clean Water Act. Each of these changes is explained in detail in the appropriate section of the preamble which follows.

Relationship to Other Hazardous Pollutant Control Programs

The promulgation of these regulations governing the discharge of substances designated as hazardous under section 311 of the CWA, is a major step in the Agency's strategy to regulate the discharge to the Nation's waters of toxic and hazardous substances. The statute requires notification where discharges of hazardous substances occur in "reportable quantities", provides for civil penalties for such discharges, and imposes liability on dischargers for the costs of government clean-up. The 1978 amendments to the Act (Pub. L. 95-576) excluded from section 311 jurisdiction certain discharges from point sources permitted under section 402. It should be emphasized that discharges excluded from these regulations will be subject to stringent control under other regulatory authority. This section discusses current and contemplated regulations under separate authority which address discharges not subject to these section 311 regulations.

(A) Regulation Under Section 402 of the Act. On June 7, 1979, EPA published regulations governing the National Pollutant Discharge Elimination System (NPDES) program under section 402 of the Act (44 FR 32854). On June 14, 1979, EPA proposed consolidated permit regulations, including draft NPDES permit application requirements and forms (44 FR 34416). As explained elsewhere in this Federal Register, the Agency intends to broaden those application requirements to ensure proper control of hazardous substances through the NPDES program. The Agency is soliciting comments on this expanded approach.

Basically, control of hazardous substances under section 402 would be similar to that of toxic pollutants under section 307 and 402 of the Act. Certain permittees would be required to sample, analyze for, and report discharges of hazardous substances in their process wastewater. In many cases, estimates would be acceptable in lieu of analysis. Although most section 311 hazardous substances will not be regulated by effluent limitations guidelines issued under sections 301 and 304 of the Act, such substances may be regulated in an NPDES permit on a case-by-case basis. Regulation may be through the use of "indicator" parameters (44 FR 34397-99), or application-based limitations (44 FR

34404-07). Variability in discharges caused by upsets and bypasses are subject to 40 CFR 122.14 (k) and (l).

Discharges covered by section 402 rather than by section 311 are subject to reporting requirements, civil penalty liability, and liability for clean-up cost, which are similar to those found in section 311. NPDES regulations require reporting of discharges of section 311 substances in violation of permit conditions (40 CFR 122.14(i)). Discharges of hazardous substances which violate permit conditions are subject to a civil penalty of up to \$10,000 per day (Section 309(d) of the Act). Permittees are liable for any clean-up costs resulting from certain discharges of hazardous substances from their facility (Sections 311(b)(6)(D), 309(b), and 504(b)). In short, discharges of hazardous substances from permitted sources will be subject to stringent control.

(B) Requirements for pollution prevention pursuant to 311(j)(1)(C). Section 311(j)(1)(C) of the Act requires promulgation of regulations to prevent the discharges of oil and hazardous substances from vessels and onshore and offshore facilities. Regulations have been promulgated by EPA to prevent oil spills from non-transportation related facilities (40 CFR Part 112) and by the Coast Guard to prevent oil spills from some transportation related facilities (33 CFR Part 154). The EPA regulation requires subject facilities to prepare and implement spill-prevention control and countermeasure (SPCC) plans to prevent spills to navigable waters.

Similar regulations for prevention of hazardous substance spills from non-transportation related facilities are now being developed by EPA. When promulgated, these regulations will apply to any non-transportation related facility which, due to its location, could reasonably be expected to discharge a hazardous substance in violation of section 311(b)(3). Permitted facilities will be required to comply with pollution prevention regulations issued under the authority of section 311(j)(1)(C).

(C) Regulation under Section 404. Discharges of hazardous substances in compliance with "dredge and fill" permits issued under section 404 of the Act are exempt from coverage under section 311. The Agency will soon publish substantive guidelines governing issuance of section 404 permits. Permits will not be issued where the dredge and fill activity will have an unreasonable adverse impact on the waters of the United States. Where hazardous substances are likely to be present in dredged material, testing may be required. Thus, section 404 permits will be granted only where evidence

indicates that hazardous substances will not result in unreasonable harm.

Method for Determining Reportable Quantities

The method for determining reportable quantities is the same as that used in determining harmful quantities in the March 13, 1978 regulations. Basically, designated hazardous substances are classified by relative acute toxicity to aquatic organisms into one of five categories with assigned reportable quantities of one, ten, one hundred, one thousand or five thousand pounds. (For a more detailed discussion of that methodology, see 43 FR 10489-92 and 40 FR 59982-89.)

Toxicological data for individual substances used in determining reportable quantities were derived from the compendium of information fact sheets entitled, *Hazardous Substances Facts Sheets, 1977*, which are available from the Environmental Protection Agency. In addition, other primary sources of data were: "Water Quality Criteria", Federal Water Pollution Control Administration, 1968, "Water Quality Criteria", EPA, March 1973, and "Quality Criteria for Water", EPA 440/9-76-023, July 1976.

The Agency is aware that the quantities promulgated today are the same as those which a federal district court concluded were "arbitrary and capricious and contrary to the statutory mandate" (455 F. Supp. 965, 978). However, Congress subsequently changed the applicable statutory mandate (Pub. L. 95-576). In so doing, Congress made it clear that it expected EPA to "promulgate the same 271 designations and quantities without change as soon as possible" (Congressional Record of October 14, 1978 (S19259)). Thus, the reportable quantities promulgated today are consistent with the amended statutory mandate.

EPA has changed the applicability of these regulations to discharges of mixtures and solutions. As proposed, the regulations applied in some circumstances to discharges of mixtures or solutions, where less than a reportable quantity of a given hazardous substance was discharged. For example, a discharge of a mixture containing 70% of a reportable quantity of substance A and 60% of a reportable quantity of substance B, would have been subject to the proposed rules. The Agency has re-evaluated its assumption that the toxic properties of different substances can be considered additive and concluded that the assumption is not valid for all combinations of designated hazardous substances. Based on this review, as

well as on the unnecessarily difficult calculations and reporting requirements, the regulations have been revised. Discharges of mixtures and solutions are subject to these regulations only where a component hazardous substance of the mixture or solution is discharged in a quantity equal to or greater than its reportable quantity.

In the proposed February 16, 1979 regulations, calcium hypochlorite was assigned to toxicity Category A as it was in the original March 13, 1978 regulations. However, after those regulations were published, further information was submitted to the EPA indicating that it actually belonged in toxicity Category B. This correction was noted in the Federal Register of June 26, 1978 (43 FR 27534) but was not carried over to the proposed regulations. Therefore, these regulations have been changed to reflect the original correction.

Applicability

These regulations apply to quantities of designated substances equal to or greater than reportable quantities, when discharged into or upon the navigable waters of the United States, adjoining shorelines, into or upon the contiguous zone, or beyond the contiguous zone as provided in section 311(b)(3) of the Act. This section of the preamble explains in greater detail when a discharge from a NPDES permitted facility is excluded from section 311 coverage. These exclusions are discussed in greater detail under the heading "Applicability to Discharges from Facilities with NPDES Permits".

In addition, a determination has been made regarding applicability to discharges associated with dredging and filling activities (applicability was reserved in the regulations proposed on February 16, 1979). Such discharges will now be excluded as long as a valid permit issued under section 404 of the Clean Water Act has been obtained. More information is provided below in "Applicability to Discharges Associated with Dredging and Filling Activities".

In the proposed regulations, the Agency discussed in some detail the issues relating to the applicability of section 311 to Publicly Owned Treatment Works (POTWs) and discharges which may enter navigable waters after passing through a sewer system. Numerous comments were received on this issue in the proposed regulations and are discussed in more detail below under the heading "Applicability to Discharges from Publicly Owned Treatment Works and Their Users".

The Administrator of the Environmental Protection Agency may allow the discharge of a substance, above the reportable quantity, on a case by case basis. The Administrator will allow such a discharge only after significant evidence has been provided to the Administrator to show that the discharge will occur in connection with research or demonstration projects relating to the prevention, removal, control or abatement of hazardous substances, and that the results of the study will outweigh the environmental hazard created as a result of the discharge (as provided for in section 104(i) of the Clean Water Act).

Applicability to Discharges From Facilities With National Pollutant Discharge Elimination System (NPDES) Permits

The rules proposed on February 16, 1979, added a section concerning the applicability of these regulations to discharges of hazardous substances from point sources with NPDES permits issued under section 402 of the Act. The preamble to those regulations discussed the applicable legislative history of section 311, including the effects of the 1978 amendments to the Act (Pub. L. 95-576). (44 FR 10272-74). Those amendments excluded: (1) Discharges in compliance with a permit under section 402 of the Act, (2) discharges resulting from circumstances identified and reviewed and made a part of the public record with respect to a permit issued or modified under section 402 of the Act, and subject to a condition in such permit, and (3) continuous or anticipated intermittent discharges from a point source, identified in a permit or a permit application under section 402 of the Act, which are caused by events occurring within the scope of relevant operating or treatment systems.

Basically, the amendments provide that discharges from permitted point sources which are associated with manufacturing and treatment will be regulated under sections 402 and 309. Spill situations will be subject to section 311, regardless of whether they occur at a facility with a 402 permit.

(A) Summary of Exclusions from Section 311. In the proposed regulations, the first exclusion was applied to discharges of a hazardous substance which did not exceed an effluent limitation specifically applicable to such substance. The second exclusion was available where a permit application identified the source and amounts of the substance to be discharged, as well as the treatment or containment to be provided, and where the discharge was subject to a condition in a permit. The

third exclusion applied to chronic, process related discharges resulting from periodic upsets in the manufacturing and treatment systems. These chronic, process-related discharges were excluded in the proposed regulations until the next permit revision when the permittee had the opportunity to become eligible for the first or second exclusion.

In response to comments and after a re-evaluation of the legislative history and the statute, the Agency has revised the regulations implementing these exclusions. The Agency generally agrees with those commenters who stated that the proposed rules had interpreted the three exclusions too narrowly and in a manner inconsistent with Congressional intent. As proposed, the regulations would have covered under section 311, some discharges occurring within the scope of manufacturing and treatment processes, discharges which are better regulated under sections 402 and 309. The regulations promulgated today are consistent with Congress' intent and ensure that discharges excluded from section 311 are controlled under other authority.

The first exclusion will apply to discharges in compliance with a permit limitation specifically applicable to the hazardous substance, including any limitation designated by the permitting authority as an indicator of that substance and any application-based limitation. (See 44 FR 34397 and proposed 40 CFR 122.68(a)(2), 44 FR 34415). The second exclusion applies to discharges from a point source: *Provided*, That the substance, amount, source, and treatment system are identified in the public record, and the substance to be discharged is subject to a permit condition requiring treatment of the discharge. The third exclusion applies to chronic and anticipated intermittent discharges from a point source identified in a permit or permit application. The third exclusion will remain applicable after permit reissuance or revision.

Discharges which are not subject to a limitation and which are not covered by the second or third exclusion will be subject to the notification, civil penalty, and removal cost provisions of section 311. Each of the exclusions is explained in greater detail below.

(B) Exclusion 1. In some cases, permit effluent limitations representing an appropriate waste treatment technology level exceed the section 311 reportable quantity for a hazardous substance. Thus, a permittee may be in compliance with his permit while discharging a hazardous substance in amounts greater than the reportable quantity. Under

these regulations, if a discharge is in compliance with a permit issued under section 402, such discharge is excluded from section 311. This exclusion applies when the permit contains either a limitation specifically applicable to the hazardous substance or a limitation designated by the permitting authority as an indicator parameter for such a substance.

The scope of this exclusion as proposed has been expanded to cover limitations which may not specifically limit hazardous substances, but which are designed to act as control parameters for such substances. For instance, the Agency may, in some circumstances, control discharges of some hazardous substances by placing limits upon traditional pollutant parameters, such as BOD or COD. (Such parameters may be referred to as "indicator" pollutant parameters. See the discussion accompanying proposed NPDES application requirements, 44 FR 34396-99, June 14, 1979, and preamble to the proposed effluent limitations guidelines for leather tanning, 44 FR 38746, 38757-38758, July 2, 1979.) Where effluent guidelines, a permit, or fact sheets prepared in conjunction with permits identify hazardous substances as being controlled by "indicator" limitations, such limitations would be considered permit limitations for purposes of these regulations, and discharges complying with such limits would be excluded from section 311. Similarly, in cases where specific technology based effluent limits are not applicable, permits may contain effluent limitations based on discharge amounts (or some multiple of these amounts) reported in permit applications. (See, Proposed 40 CFR 122.68(a) 44 FR 34415, 34404-07 (June 14, 1979).) Such limits (known as application-based limits) would also be considered permit limitations for purposes of these regulations, and discharges from point sources complying with such limits would be excluded from section 311.

(C) Exclusion 2. Some discharges of hazardous substances from permitted point sources may result from circumstances which were identified and considered in the issuance of a permit, but are not subject to any specific effluent limitations. The second exclusion addresses these situations, and applies where the source, nature, and amount of a potential discharge was identified and made a part of the public record, and a treatment system demonstrated as capable of preventing that potential discharge was made a permit requirement.

The "public record" has been defined to include the permit application and any supplemental documents contained in the "record for final permit" as defined in 40 CFR 124.122. The public record must identify the substance to be excluded, as well as the amount and origin or source of the substance.

The second exclusion exempts discharges "resulting from circumstances identified, reviewed and made a part of the public record (of a permit) . . . and subject to a condition in [a] permit." On its face, this exclusion applies to a broad range of discharges, including those resulting from on-site spills to the treatment system as well as to chronic process discharges originating in the operating or treatment systems, provided they are subject to a specific permit condition. However, due to overlap between the 2nd and 3rd exclusion, certain continuous and anticipated intermittent discharges are exempted by the 3rd exclusion, regardless of the existence of an applicable permit condition. Thus, the second exclusion will, as a practical matter, cover principally those discharges resulting from onsite spills to the permitted treatment system.

The legislative history makes it clear that Congress intended discharges caused by on-site spills to be excluded from section 311 (and subject to section 402) only where it could be demonstrated that such on-site spills had been contemplated and had been processed through a treatment system which should have been capable of preventing a reportable discharge. (See Congressional Record of October 14, 1978 (S19259 and H13599)). Thus, the "condition" contemplated in 311(a)(2)(B) will be placed in permits to exclude discharges caused by spills only where the permittee demonstrates that the treatment system is in fact sufficient to treat the potential spill identified. For example, if a discharger has a drainage system which will route spilled material from a broken hose connection to a holding tank or basin for subsequent treatment and discharge at a specified rate, documentation must be submitted with the application. The proposed permit condition must be sufficient to treat the maximum potential spill from the identified source. This exclusion will not exempt a discharge which results from an on-site spill larger or more concentrated than the spill contemplated in the public record.

(D) Exclusion 3. Exclusion 3 applies to all continuous or anticipated intermittent discharges originating in the manufacturing or treatment systems, including chronic discharges and those

caused by upsets and treatment system failures. The exclusion is not dependent on the scope of the permit, so long as a permit application has been submitted, or a permit exists, covering the point source in question. Discharges caused by spills or episodic events which release hazardous substances to the manufacturing or treatment systems are not covered by this exclusion.

The Agency intends to require additional information under section 402 concerning those discharges subject to the third exclusion. Such information is not required under section 311 and is not a requisite for exclusion from section 311. However, the Agency does intend to require such information in the NPDES application forms. Elsewhere in this Federal Register, additional information is published concerning EPA's proposed requirements.

Applicability to Discharges From Publicly Owned Treatment Works and Their Users

The February 16, 1979, proposal of 40 CFR Part 117 sought public comment on several options described in the preamble for clarifying jurisdiction among sections 307 (b) and (c) and section 311 for chronic discharges and spills from industrial sources which reach navigable waters through publicly owned treatment works (POTWs). The Agency received a number of thoughtful comments. Due to the complexity of the issues, the diversity of issues raised in public comments, and the potential impact of any decision on the thousands of facilities which regularly discharge hazardous substances to POTWs, EPA is reserving regulation of such discharges from industrial facilities to POTWs at this time.

Another principal question addressed in EPA's February 16 proposal, involved the role and responsibility of the POTW when a hazardous substance is introduced to its treatment system and then discharged into navigable waters. The Agency believes that the 1978 amendment excluding from section 311 certain discharges by sources with NPDES permits applies to some discharges of hazardous substances a permitted POTW may make to navigable waters. In particular, the exclusions may be appropriate for chronic or anticipated intermittent discharges of hazardous substances such as chlorine, which are used by the POTW in the operation of its treatment system. Of course, classic spills by the POTW of hazardous substances it may use or store on its premises are subject to section 311, unless a condition in the permit providing for treatment of the

spilled substance qualifies the discharge for exclusion two.

The problem is in determining the applicability of the exclusion provisions and defining the role and responsibility of a POTW when it discharges hazardous substances as a result of influent received from an indirect discharger. Application of Congress' intent is less clear in this case.

The three exclusions for discharges from permitted sources presuppose that the permitted source knows of the presence of the hazardous substance and has made or will make provisions to treat the particular substance prior to discharge. However, unless notified that a hazardous substance has been introduced to its system, a POTW may not be aware of the presence of the substance.

For this reason, § 117.12(a)(4) of the proposed regulations excluded from section 311 "discharges from a POTW of substances received as influent at the treatment works". EPA agrees with commenters who stressed that it is unreasonable to hold the POTW liable for discharges from users, or under circumstances which it is unaware of, or unable to control. Therefore, POTWs will not be held responsible for discharges of hazardous substances received as influent. EPA also recognizes the merits of State comments stressing that, nevertheless, discharges to navigable waters resulting from influent received at the POTW should not, as proposed in paragraph (a)(4), be totally excluded from section 311. Therefore, the promulgated regulations have been revised to delete paragraph (a)(4).

Applicability of these regulations to discharges of hazardous substances received as influent by a POTW is reserved in § 117.13(a) and therefore, POTWs will not be subject to 311 civil penalties or liabilities for government costs of clean-up of such discharges. However, POTWs are encouraged to report any known discharges of hazardous substances in excess of reportable quantities so that the provisions and funds of section 311(k) may be used to clean-up and mitigate the effects of these discharges to navigable waters. Of course, the Agency believes that hazardous substances which are used by the POTW in the operation of its treatment system and which are discharged to navigable waters in reportable quantities are subject to the provisions of section 311 unless the discharge has been exempted under one of the three exclusions of the 1978 amendments to section 311.

In some cases a POTW may become aware that a spill to its system has

occurred. This could occur when the POTW is notified by the source of the spill or where it becomes aware of an incident, as through news broadcasts. The Agency believes that if the POTW knows that a spill has occurred, it should make the fastest and, under the circumstances, best assessment that it can concerning the most effective action to take. The goals should be twofold. First, to protect itself from serious damage or upset, and second, to mitigate the damage to the environment to the maximum extent possible. Measures a POTW might take could include partial or complete treatment of the hazardous substance, or a diversion or bypass of flows containing the substance and notification of downstream users where only such action would prevent even more significant environmental damage.

Further, EPA encourages POTWs to immediately notify the Coast Guard when a reportable quantity of a hazardous substance has been discharged, or will be discharged, to navigable waters so that appropriate mitigation can begin at once and downstream users of the water can be warned. If, on the other hand, the POTW is certain it can prevent such a discharge, the Agency encourages the POTW to report to the Coast Guard that a spill to the POTW's system has occurred, but that it will be contained or treated by the POTW's treatment system.

Applicability to Unauthorized Mobile Source Discharges Through POTWs

There is one case where today's promulgated regulations apply to discharges of designated hazardous substances to navigable waters through POTWs. Discharges will be subject to section 311 where a discharge of a reportable quantity of a designated hazardous substance is made to a sewer system from a truck, train, or other mobile source which has not contracted or otherwise received written permission to discharge the designated substance into the POTW. For example, a waste hauler who contracts to discharge specific hazardous substances to the sewer would not be required to report under section 311 of these regulations. However, an illegal discharge, or "midnight dump", as well as any accidental discharge by a mobile source into a POTW's sewer system, would be reportable and subject to all applicable provisions of these regulations.

The Agency believes such a rule is necessary because unexpected discharges from mobile sources to navigable waters through sewer systems

present problems which are significant and distinct from discharges to sewer systems from industrial facilities. As several commenters noted, mobile sources which have made no advance arrangements with public authorities for such discharges of hazardous substances are not subject to NPDES permits, industry specific effluent limitations or pretreatment standards. Neither can the treatment works be designed or operated by the POTW so as to assure that the discharge of unanticipated hazardous substances by a mobile source will not reach navigable waters. As several commenters stressed, POTWs may not even know of the presence of a hazardous substance unless notified by the mobile source creating the discharge.

The problems brought about by unexpected discharges to POTWs by mobile sources were exemplified in March of 1977 when an unknown hazardous substance entered Louisville, Kentucky's Morris Foreman Sewage Treatment Plant. Toxic fumes from the mystery substance sickened 32 employees of the plant and forced a complete shutdown of the facility. Subsequent investigations determined that the substance, a mixture of two rare and highly toxic industrial chemicals (octa and hexachlorocyclopentadiene) had been illicitly dumped into the city sewer system from an industrial waste hauler's tank truck. In addition to endangering downstream water supplies, the effects of this "midnight dump" on the POTW were devastating. For three months the plant discharged 105 million gallons per day of untreated sewage to the Ohio River while the facility was decontaminated. Clean-up of the approximately three miles of sewer which had carried the chemicals continues today, almost two and one-half years after the incident occurred. Clean-up and disposal of residues containing the chemicals have cost millions of dollars.

Commenters pointed out additional problems unique to unexpected discharge by mobile sources. In some instances POTWs lack any authority to control such discharges, as where State-enabling legislation provides for control to be exercised through a contract or permit to use the sewer system. Even where POTWs have sufficient authority in enabling statutes, they often lack a means of implementing and enforcing such authority for unexpected discharges from mobile sources, whereas they generally do have such capability for enforcing sewer use ordinances and pretreatment standards for fixed facilities. Out-of-town carriers

of intra- and interstate commerce, unlike fixed facilities, may not be aware of the existence of local requirements for notification, pretreatment, or clean-up in the event of a spill to the sewers. Although unauthorized discharges to sewers from fixed facilities can also occur, means are available to minimize such occurrences. In contrast, spills involving mobile sources are more difficult to anticipate in advance and prevent.

Since EPA lacks authority under section 311 to require mobile sources who spill to POTWs to notify the POTW, these regulations require only that the Coast Guard be notified. Mobile sources which spill hazardous substances to a sewer are, of course, strongly urged to report the discharge to the POTW at the same time they report it to the Coast Guard so that the POTW can protect its sewer system and take any available mitigating actions.

Applicability to Discharges Associated with Dredging and Filling Activities

Comments were received on how designated hazardous substances are to be controlled when present in discharges of dredged or fill materials, and on the relationship in this regard of section 311 requirements and section 404 requirements. Commenters generally supported the concept of using the section 404 permit process to ensure compliance with section 311 requirements, providing there is a means for determining whether discharges of dredged or fill material contain hazardous substances and providing that a level of testing is required that would preclude the discharge of dredged or fill material containing designated hazardous substances in quantities that violate the spirit and intent of section 311.

On September 5, 1975, EPA published interim final guidelines establishing the substantive criteria for permit decisions for the discharge of dredged or fill material under section 404 (40 CFR Part 230). Experience in the implementation of these guidelines and the results of ongoing research both have indicated the need to revise and clarify the 1975 guidelines. Such revisions have been prepared in draft and the Agency expects to propose revised section 404(b)(1) guidelines in the near future. The Agency's position is that the section 404(b)(1) guidelines will protect the environment from designated hazardous substances when such are contained in discharges of dredged or fill material.

The Agency believes that discharges of dredged or fill material should not be permitted if the discharge will have an unacceptable adverse impact on the

waters of the United States. The Agency recognizes the difficulty in measuring the exact amount of particular hazardous substances in dredged or fill material. Moreover, the amount of a hazardous substance contained in dredged or fill material which actually may be harmful may be vastly different from a similar amount of hazardous substance that is spilled or discharged directly into water. The section 404(b)(1) guidelines will ensure that the impact of any discharge of dredged or fill material will be fully understood before a decision is made to permit such discharge. The permitting authority will be required to make a determination of the potential for adverse effects on aquatic and wetland organisms and ecosystems, including bioaccumulation, as a result of the availability of any pollutant (including designated hazardous substances) in the solid, liquid, or suspended particulate phase of the discharged material.

In assessing the potential for adverse effect, the permitting authority must consider the likelihood that the dredged or fill material proposed to be discharged is a carrier of pollutants. If this determination indicates that pollutants, such as section 311 designated hazardous substances, are likely to be present, then the permitting authority is required to undertake tests to determine the effect of the proposed discharge on the receiving environment at the proposed disposal site. Depending upon the circumstances, testing required in the guidelines may include chemical analyses of liquids or solids, bioassays, bioaccumulation tests, or biologic ecosystem evaluations. The guidelines will state explicitly that a circumstance will be considered in assessing the needs for testing of dredged or fill material is a history of spills of substances designated as hazardous under section 311.

The Agency believes that adequate protection from section 311 designated hazardous substances will be provided through the section 404(b)(1) guidelines. Because of their requirement for implicit consideration of the potential impact of such substances when they are contained within dredged or fill material proposed to be discharged, these regulations will not deal with the discharge of dredged or fill materials. Such activities will be controlled through the section 404 EPA guidelines.

Procedure for Giving Notice of Discharge

Procedures for giving notice of discharges above the reportable quantities are explained in 33 CFR 153.203, "Procedure for the Notice of

Discharge". A copy of that regulation appears as Attachment I to this preamble.

Penalties

The proposed section 311 regulations provide two methods for penalizing dischargers of hazardous substances. The first, which already existed as section 311(b)(6) of the statute prior to the amendment of November 2, 1978, provides for the assessment by the United States Coast Guard of a civil penalty not to exceed \$5,000 for the discharge of oil or a designated hazardous substance (section 311(b)(6)(A)). The second option, created by the new amendment, provides that the EPA, through the Department of Justice, may initiate a civil action in Federal district court for penalties not to exceed \$50,000 per discharge unless such discharge is the result of willful negligence or willful misconduct, in which case the penalty shall not exceed \$250,000 (section 311(b)(6)(B)). The final regulations show no change from those proposed on February 16, 1979.

Factors to be considered by EPA in determining whether a higher penalty is warranted are described in these regulations. Prompt mitigation of a discharge is encouraged by making mitigation an important consideration in establishing the size of the penalty. This is particularly significant in discharges of hazardous substances which are capable of actual removal. A discharger of a designated hazardous substance can be penalized under section 311(b)(6)(A) or section 311(b)(6)(B), but not both. The EPA and the United States Coast Guard have developed an agreement regarding those cases which shall be referred to EPA for consideration of the higher penalty. This Memorandum of Understanding is published in this Federal Register. In those cases where EPA determines to bring action for a civil penalty, administrative penalty assessment under section 311(b)(6)(A), which would otherwise be initiated by the United States Coast Guard, will be withheld.

Civil penalties will not be assessed under both section 311 and 309 for the same discharge. The Memorandum of Understanding between the Coast Guard and EPA sets forth procedures for determining when a discharge of a hazardous substance is subject to section 311 (and thus section 311(b)(6) penalties) and when such a discharge is excluded from section 311 and subject to section 402 (and thus section 309 penalties). The two agencies are developing a similar Memorandum of Understanding which will provide procedures for determining when a

discharge of oil is subject to section 311 (and thus section 311(b)(6) penalties), and when a discharge of oil is excluded from section 311, and subject to section 402 (and thus penalties assessed under section 309). The latter Memorandum of Understanding will be published together with modifications of current regulations addressing oil discharges under section 311.

It should also be noted that any costs of removal incurred in connection with a discharge excluded by section 311 (a)(2)(C) (40 CFR 117.12(a)(3)) will be recoverable from the owner, operator or person in charge of the source of the discharge in an action brought under section 309(b) of the Clean Water Act.

Economic Impact Statement

These regulations are intended to encourage a high standard of care in handling hazardous substances by requiring the reporting and clean-up of discharges of such substances in reportable quantities. These regulations do not require the construction or purchase of equipment to treat or prevent discharges. They do not require spill prevention measures, nor do they prohibit the manufacture, use or transport of any substance. Where such measures are required by regulation, any associated economic impacts must be analyzed in connection with those regulations.

The intent of these regulations is not to establish a permit program for the discharge of spills of hazardous substances. The exclusions identified for NPDES permitted facilities are established to cover those facilities that use or generate one or more of the hazardous substances in their operation and, as a result, are discharging those substances in a manner that is approved by the EPA, although that discharge might be above the reportable quantities established by these regulations.

These regulations do not require a technology based treatment system to treat classical spills of hazardous substances, nor do they require spill prevention measures. While the possibility could exist that an owner, operator or person in charge of a facility might have to make some adjustment in his treatment system if he wishes to have a discharge caused by an on-site spill of a particular substance excluded from these regulations, these regulations in no way require such action. Thus, compliance with these regulations will not result in any direct costs to the regulated parties. The Agency has examined the incremental treatment costs for those seeking to comply with section 402 and avoid section 311 liability. This investigation has

indicated that in the majority of cases, the same treatment used to control the toxic pollutants in a particular discharge will also be capable of controlling the hazardous substances in the discharge. Incremental treatment costs in such cases for the hazardous substances would be insignificant. The costs of adjustments to treatment systems for control of hazardous substances under section 402 regulations are discussed in the Request for Additional Comments on Proposed Application Requirements for National Pollutant Discharge Elimination System (NPDES) Permits.

However, two types of expenses may be incurred because of violations of these regulations: Civil penalties and clean-up costs. Since economic impacts are generally based on compliance costs, not costs resulting from failure to comply, these two factors are not considered as direct impacts. This is particularly appropriate since in the absence of mandatory reporting of discharges of hazardous substances, there are little data on discharge events (i.e. number and size of discharges, types of materials spilled, resulting penalties, and associated clean-up costs). It is therefore very difficult to estimate the frequency of violations or the resulting costs.

As a result of the amendments to the statute, the potential penalties to be assessed under the proposed regulations are considerably simplified and reduced from those in the previous statute. The maximum penalty for a discharge from a land-based facility was set at \$500,000 while a discharge from a vessel could result in a \$5 million penalty. The penalty structure has now been both simplified and moderated (the maximum penalty for any discharge is now set at \$50,000 unless it is the result of willful negligence or willful misconduct, where the penalty can reach \$250,000). Therefore, the potential amounts of civil penalties will be substantially less than projected in the March 13, 1978 promulgation (43 FR 10479).

Response to Comments

(1) *Comment:* Several commenters objected to the Agency's assumption that reportable quantities for different hazardous substances should be considered additive in their toxic effects (proposed § 117.3), citing lack of scientific support.

Response: The Agency agrees that the toxicity of hazardous substances is not necessarily additive or synergistic, and has therefore modified the regulations. The discharge of a mixture or solution is, however, subject to these regulations if a quantity equal to or greater than a

reportable quantity of a specific hazardous substance is discharged.

(2) *Comment:* Several commenters believe that the reportable quantities were complicated, arbitrary, and inadequate. They stated that the quantities would not be harmful in all instances, and urged that concentration in receiving waters be considered.

Response: The Agency's system of utilizing five reportable quantity categories based on relative toxicity is anything but complicated, and is in fact designed to make it easier for a discharger to determine which incidents he must report. The reportable quantity determinations cannot be considered arbitrary because they comply with the recent amendments which report quantities to be those which may be harmful. In enacting those amendments, Congress was aware of and endorsed the reportable quantities promulgated today. (Congressional Record of October 14, 1978 (S 19259)). Congress also made it clear that the determination of reportable quantities does not require an assessment of actual harm in the variety of circumstances in which substances might be discharged, *id* at § 19258. Finally, Congress did not intend that circumstances surrounding the release (such as receiving water concentration) should be a factor in determining reportable quantities.

(3) *Comment:* One commenter asked that discharges of copper sulfate be excluded from the regulations when intentionally made to reservoirs to control algae.

Response: Copper sulfate is registered as a pesticide for controlling algae. When applied according to pesticide label directions, the discharge is exempted by § 117.11(c). This exclusion has been expanded to provide that the use of pesticides pursuant to state pesticide permits, experimental use permits, and emergency exemptions are excluded from these regulations.

(4) *Comment:* One commenter objected to the use of "vinegar acid" as a synonym for acetic acid.

Response: The term "vinegar acid" is a well known synonym and was included to aid the public. The synonym "vinegar acid" was obtained from "The Condensed Chemical Dictionary," 7th ed., G.C. Hanley, editor, published by Van Nostrand Reinhold Company.

(5) *Comment:* One commenter suggested that the discharge of calcium oxide (lime) be excluded from regulation when used to protect oyster farms from predators. Another commenter challenged the reportable quantities for calcium oxide and calcium hydroxide, and petitioned the Agency to remove

lime from the list of hazardous substances.

Response: In response to the petition, the Agency is proposing elsewhere in this Federal Register to delete lime from 40 CFR Parts 116 and 117. Further information can be found in that notice.

(6) *Comment:* Several commenters contended that all discharges from facilities with 402 permits should be excluded from section 311.

Response: The 1978 amendments to section 311 do not authorize the broad exclusions requested by these commenters. The statutory distinction between discharges subject to section 311 and those subject to 402 is based not on the location of the discharge, but rather on the source and circumstances surrounding that discharge. Classic spills to navigable waters, regardless of whether they occur at permitted facilities, are clearly subject to 311 unless such discharges are subject to a permit condition requiring processing through a treatment system which was demonstrated capable of treating the spill.

(7) *Comment:* A few commenters suggested that the statute provides sufficient distinction between discharges subject to section 311 and those subject to 402, and that regulations were therefore unnecessary.

Response: The statute alone, without implementing regulations, simply will not provide sufficient information and guidance to regulated parties or state and federal officials. The regulations as revised, meet the intent of Congress, while providing more detailed information on their applicability.

(8) *Comment:* A few commenters suggested that EPA withhold issuance of these regulations until NPDES regulations, Best Management Practices (BMP) regulations, and Spill Prevention Control and Countermeasure (SPCC) regulations are promulgated.

Response: NPDES and BMP regulations have been promulgated (44 FR 32854, June 14, 1979). SPCC regulations were proposed last year (43 FR 39276, September 1, 1978). Revised NPDES application forms were proposed on June 14, 1979 (44 FR 34346; 44 FR 34393) and are further discussed elsewhere in this Federal Register. All Congressionally-mandated regulatory requirements which affect permitted facilities are being coordinated to the maximum extent possible. These regulations have been revised to make them compatible with related existing requirements and independent of proposed or contemplated requirements.

(9) *Comment:* Several commenters urged that applicability of these regulations be "phased-in" during the

permit process, and that time for compliance be provided.

Response: These regulations do not require time for compliance because their effect is to prohibit spills and other episodic discharges, not to prescribe required levels of treatment or other permit conditions. Chronic, anticipated intermittent discharges originating in the operating or treatment systems are exempt from these regulations, but will be regulated under section 402 of the CWA. A phase-in period is not appropriate for spill discharges, since on-site spills cannot be excluded unless and until the discharger demonstrates the capability to treat such spills.

(10) *Comment:* One commenter recommended that EPA headquarters review all permit applications at major facilities before excluding any dischargers from section 311.

Response: Such a review is unnecessary, and would inject an unwarranted layer of red tape into the permitting process, resulting in delays and overlapping responsibilities. The permitting authority, be it a state or regional EPA office, is better able to make any site-specific determinations required by these regulations.

(11) *Comment:* Several commenters contended that the first exclusion was too narrow, and should be interpreted to apply to permits which limit only conventional pollutants but do not limit hazardous substances.

Response: The amendments to section 311 were intended to distinguish between classic spills and discharges associated with manufacturing and treatment. The interpretation urged by these commenters would frustrate this intent in cases where a "classic spill" of hazardous substance occurred, but did not result in a violation of a traditional pollutant parameter. Moreover, certain discharges associated with manufacturing and treatment, but which are not specifically limited in a permit, would be exempt from section 311 under the third exclusion (§ 117.12(b)(3)). In addition, the first exclusion has been expanded, so that discharges in compliance with EPA designated "indicator" pollutant parameters (44 FR 34396-99) and discharges in compliance with "application-based limits" (44 FR 34404-07) will be exempt from section 311. Thus, the Agency believes that § 117.12(b) as promulgated is consistent with Congress' intent.

(12) *Comment:* Several commenters were concerned that EPA had interpreted the second exclusion too narrowly, resulting in coverage under 311 of the discharges which should be subject to section 402. For example, a number of commenters noted that the

statute calls for identification of the "circumstances" surrounding a discharge, but does not require a particular level of treatment, an issue they felt should be dealt with under section 402; some believed the definition of "public record" was too narrow; others stated that waste characterization (substance and amount) was inappropriate, technically impossible in some cases, and costly in terms of monitoring; a few commenters asked that the term "condition" be further explained and expanded.

Response: The Agency has revised the second exclusion in several respects. The regulations require treatment only where a permittee wishes to have on-site spills excluded from section 311 and covered by section 402. The level of such treatment would then be a section 402 matter. The definition of "public record" has been rewritten to include additional information considered in the issuance of the permit. Characterization of discharge waste streams will not be required where such streams result from manufacturing and treatment sources, since such discharges will already be covered by the third exclusion. Thus, the technical and analytical and economic problems which commenters stated would be associated with sampling and monitoring should not arise under these final regulations. However, identification of the "circumstances" surrounding a discharge does require identification of substances and amount of substances where a permittee wishes to make potential spill situations subject to a permit condition, and thus subject to section 402, not 311. For example, if a permittee believes he can treat an on-site spill, for example, a ruptured hose connection, he must provide the permitting authority all relevant information, including substance, amount, and proposed treatment. Based on this information, the permit writer will determine whether existing treatment is adequate, and whether the potential discharge can be excluded from section 311 coverage should it occur. Thus, a permittee does not have an unlimited right to a permit condition (and the resulting exclusion from section 311) for a discharge caused by an on-site spill unless he has demonstrated that his treatment system is actually capable of preventing the discharge.

In addition, a discharge resulting from an on-site spill, larger or more concentrated than the spill contemplated in the public record and made subject to a permit condition requiring treatment, will not be excluded from section 311. For example, discharges caused by leaks and minor

spills from a large storage tank may be identified, reviewed, and made subject to a treatment requirement, and excluded from section 311. But a major failure of such tank, with resulting spill discharge, would be subject to the provisions of section 311.

(13) *Comment:* A number of commenters argued that EPA had interpreted the third exclusion too narrowly, particularly because it addressed primarily anticipated intermittent discharges and not continuous discharges, and because the exclusion ended upon promulgation of NPDES regulations and receipt of a new permit.

Response: The Agency has revised the third exclusion, which will no longer expire after promulgation of NPDES regulations. The Agency intends, however, to require more detailed information concerning continuous and anticipated intermittent discharges of hazardous substances caused by events occurring within the scope of relevant operating and treatment systems. (See notice in this Federal Register). Discharges caused by upsets, bypasses, and contamination of noncontact cooling waters are considered anticipated intermittent discharges and are excluded from section 311. However, on-site spills to cooling water and storm water will be subject to section 311 if discharged. Congress was aware of the possibility that such spills might be funneled through an outfall to avoid section 311, and intended the amendments to deter such avoidance schemes (Congressional Record, October 14, 1978 (S19259)).

(14) *Comment:* A few commenters objected to the comment which followed § 117.12(b)(3)(ii)(C) on the grounds that it was inconsistent with the statute.

Response: The Agency agrees and has deleted the comment. However, discharges caused by on-site spills of hazardous substances will not be considered "anticipated intermittent" discharges, but will be subject to section 311.

(15) *Comment:* Several commenters requested deletion of the comment following § 117.12(b)(3)(iii)(B) because it encouraged "second-guessing" regarding the type of discharge which occurred.

Response: The comment has been deleted. The reporting of discharges subject to section 402 are subject to the requirements in the NPDES regulations, not these regulations.

(16) *Comment:* Two commenters believed that the regulations permitted assessment of civil penalties under both sections 309 and 311.

Response: The statute (§ 311(f)(6)(E)) flatly prohibits assessment of two civil

penalties under sections 309 and 311 for the same discharge, and the Agency will not seek to assess dual penalties.

(17) *Comment:* Two commenters urged that the regulations give credit to permitted facilities for any hazardous substance present in their intake water.

Response: Permittees will not be responsible under these regulations for the presence of hazardous substances in the discharge of water received as intake water, unless such water is collected and later spilled in amounts greater than reportable quantities for those hazardous substances.

(18) *Comment:* A few commenters requested that EPA clarify that "reportable quantities" would not be used as a basis for determining permit effluent limitations.

Response: Effluent limitations for discharges subject to section 402 will continue to be based on technology factors and water quality criteria. Reportable quantities will play no role in permit limitations under section 402.

(19) *Comment:* A few commenters stated that the applicability of the regulations was unclear when they pertained to facilities which have submitted permit applications, but are adjudicating permits.

Response: The exclusions apply generally to any facility which has applied for a permit. If adjudication involves a permit condition as defined in the second exclusion, such a contested condition will not be deemed in effect, and the exclusion will not apply.

(20) *Comment:* Several commenters stated that the regulations did not specify whether discharges to land and air are subject to section 311.

Response: The issue is clarified in these final regulations, which apply to discharges into or upon the navigable waters of the United States, adjoining shorelines, or into or upon the contiguous zone, or seaward from the contiguous zone, as provided in section 311(b)(3). Discharges to land or air which do not reach the previously mentioned waters and shorelines are not subject to section 311, but may be subject to section 504 of the act or other law. Of course where hazardous substances seep, leak, or wash into navigable waters or adjoining shorelines, the discharger must notify the Coast Guard.

(21) *Comment:* One commenter suggested that the requirement to notify the Coast Guard of a discharge (section 311(b)(5); 40 CFR 117.21) should be the responsibility of the dispatcher in the case of a discharge from a train or truck. The commenter pointed out that a train engineer or truck driver may not have

immediate access to a telephone, but may have alternate means of contacting his dispatcher, who in turn could phone the Coast Guard.

Response: The Act requires notification by the "person in charge" of the facility or vessel from which the discharge occurs. The term "person in charge" may include individuals, firms, corporations or partnerships. Because the purpose of the notification requirement is to ensure quick response and clean-up of discharged hazardous substances, the requirement is fulfilled when notification is made in the most expeditious manner possible. EPA recognizes that the fastest means of notification may, in some circumstances, be accomplished by having a person present at the discharge site (e.g., a truck driver) contact a third party within the firm or corporation (e.g., a dispatcher), who in turn will notify the Coast Guard. This procedure would comply with the statutory requirement if it results in notification of the Coast Guard in the fastest means possible under the circumstances.

(22) *Comment:* A few commenters objected to the requirement as proposed in § 117.22 that discharges be reported "immediately", stating that it was unfair to require reporting prior to the time that the person in charge had knowledge of the discharge.

Response: The Agency agrees with the comment and has revised the regulation accordingly. Notification must be made immediately upon learning of the discharge.

(23) *Comment:* One commenter asked that the criminal penalty for failure to report a discharge be deleted.

Response: The statute itself calls for the criminal penalty, and EPA cannot delete a statutory penalty.

(24) *Comment:* One commenter suggested that the section 311(b)(6)(B) penalty be applied to discharges of oil as well as hazardous substances.

Response: The legislative history clearly indicates that the section 311(b)(6)(B) penalty option only be used for discharges of hazardous substances.

(25) *Comment:* One commenter inquired whether neutralizing an acid spill with a basic material constituted and additional spill.

Response: The Agency believes that it would be contrary to the spirit of the law to penalize persons for undertaking mitigation actions which are encouraged under section 311. At the same time, the Agency believes that care must be exercised in carrying out mitigation actions. The Agency intends to promulgate removal regulations at a later date. Accordingly, § 117.11(e) provides that mitigation actions

undertaken on the instructions or with the approval of the Federal On-Scene Coordinator pursuant to 40 CFR Part 1510 (The National Oil and Hazardous Substance Contingency Plan), or pursuant to 33 CFR 153.105(c) (Pollution by Oil or Hazardous Substances), or in accordance with applicable section 311(j)(1)(A) regulations, when promulgated, do not violate section 311.

(26) *Comment:* One commenter suggested that hazardous spills reporting be kept at a local level, specifically at the State NPDES level.

Response: Notwithstanding any other reporting arrangements, for purposes of section 311, any discharge of an oil or hazardous substance in reportable quantities must be reported immediately to the appropriate Federal agency. Executive Order 11735 designated the U.S. Coast Guard as the appropriate agency to receive such notices. Failure to report carries a criminal penalty.

(27) *Comment:* One commenter expressed concern that regulations to report every spill encourage non-reporting.

Response: Spills in reportable quantities must be reported if they reach navigable waters, adjoining shorelines, the contiguous zone, or other waters described in section 311(b)(3) of the Act. The Agency from historical experience has found that regulations requiring the reporting of sheens of oil did not encourage non-reporting.

(28) *Comment:* One commenter, an insurance syndicate, states that the Act actually discourages quick clean-up by the discharger in the case of a large spill, where the clean-up costs exceed the maximum liability limits of section 311(f). The commenter indicated that it advised its insureds not to commence clean-up in such a situation, since expenses of clean-up may not be repaid or set-off against the statutory liability limits. The commenter was concerned because a discharger's failure to assist in clean-up is a factor to be considered in initiating a higher civil penalty.

Response: As noted by the commenter, the situation complained of is called for by the statute and does not arise from these regulations. The purpose of section 311 is to prohibit the discharge of oil and hazardous substances. The perceived "predicament" arises only when the discharger has violated the Act by discharging a hazardous substance. The Agency believes that it is irresponsible and clearly contrary to the spirit of the Act for a discharger to refuse to clean-up a discharge of his own making. This is the apparent reason for Congress' emphasis on mitigation as a factor in civil penalty assessment. The Agency

intends to follow the Congressional mandate and seek higher civil penalties where a discharger has not taken appropriate mitigation action.

(29) *Comment:* A few commenters requested that civil penalties be assessed only where a discharge resulted in demonstrable harm, and that absence of harm be considered defense in any penalty proceeding. The commenters stated that *United States v. Chevron Oil*, 583 F. 2d. 1357 (5th Cir., 1978) required such an interpretation.

Response: The *Chevron* decision interpreted the statute prior to the 1978 amendments, when the statute prohibited discharges that "will be harmful". The amendments changed this language to "may be harmful", to "make it clear that the determination of reportable quantities" * * * does not require an assessment or actual harm in the variety of circumstances in which such substances might be discharged" (Congressional Record of October 14, 1978 (H 13599)). Since actual harm need not be proved in order for the discharge prohibition to attach, it would be inconsistent with Congressional intent to allow a defendant to try to disprove actual harm in a civil penalty proceeding.

It should be noted, however, that gravity of the offense will be considered in penalty proceedings; accordingly, the size of the discharge and degree of harm will be a factor.

(30) *Comment:* Several commenters stated that the recent amendments to section 311 require changes to existing regulations governing the discharge of oil.

Response: The regulations promulgated today apply only to hazardous substances. The Agency intends to make appropriate revisions to regulations concerning oil in the near future.

(31) *Comment:* One commenter stated that § 117.32 should be revised to delete the last sentence dealing with liability for clean-up costs arising from discharges excluded from section 311 and these regulations.

Response: The Agency agrees that the provision is not appropriate in these regulations. However, section 311(b)(6)(D) provides that any clean-up costs associated with certain discharges regulated under section 402 are recoverable from the discharger in an action brought under section 309(d) of the Act. The Agency will bring such actions in appropriate circumstances.

(32) *Comment:* A few commenters objected to the fact that the regulation applies to discharges of reportable quantities "in any 24-hour period". Most commenters requested the time be

shortened, arguing that a "shock load" effect would occur only if the discharge occurred very quickly.

Response: Reportable quantities have little meaning unless a time period for discharge of that quantity is specified. Neither section 311 or its legislative history provide a time limit for the applicability of reportable quantities. Thus, implementing regulations may be applied to any discharge over any period of time. The primary thrust of these regulations has been directed toward the control of short-term nonroutine discharges of hazardous substances. In addition, the definition of discharge explicitly includes such things as "leaking", which may encompass considerable time. The association of a maximum time limit over which the discharge of a reportable quantity must occur to result in a violation will provide additional definition to the reporting requirement under section 311(b)(5). For the purpose of this regulation a maximum time period associated with the discharge of a harmful quantity has been established as 24 hours. It is believed that this time period will permit regulatory control over such discharges of hazardous substances and provide an additional degree of resolution to the reporting requirement.

(33) *Comment:* One commenter suggested that § 117.11(d) be amended to provide that discharges in compliance with permit conditions issued under section 3005 of the Resource Conservation and Recovery Act (RCRA) be excluded from these regulations. Although the proposed regulations excluded discharges in compliance with regulations under section 3004, the commenter noted that section 3005 permit conditions will not necessarily be identical to the requirements of the section 3004 regulations.

Response: The Agency agrees with this comment and has modified these regulations accordingly. Section 3005 permits may only be issued to a facility upon a showing that it meets the requirements of section 3004 and 3005 for treatment, storage, or disposal of hazardous wastes. Thus, the permit issues that all activities will be conducted in an environmentally acceptable manner. However, section 3005 does authorize the Administrator (or a State) to incorporate a compliance schedule in a permit. Permits may also allow variances from certain section 3004 requirements. The revised regulations are consistent with the Agency policy of excluding from section 311 only those discharges which are properly regulated under other authority. At the same time, it clarifies

that a discharge in accordance with a section 3005 permit (which may contain a compliance schedule or a variance from a 3004 requirement) also is excluded from section 311.

(34) *Comment:* One commenter suggested that these regulations should not apply to mixtures or solutions which contain a hazardous substance in low concentrations, since such concentrations will not necessarily be harmful.

Response: The amended statute requires the determination of quantities which "may be harmful" and the legislative history makes it clear that such quantities need not be harmful in all cases. Moreover, the statute contains no exemption for solutions or mixtures but calls for absolute quantities. It cannot be assumed that the discharge of a dilute concentration of a hazardous substance may not result in some harm.

Evaluation Plan

Under the amendment to section 311, the Agency is required to "conduct a study and report to the Congress on methods, mechanisms, and procedures to create incentives to achieve a higher standard of care in all aspects of the management and movement of hazardous substances * * *. The Administrator shall include in such a study (1) limits of liability, (2) liability of third party damages, (3) penalties and fees, (4) spill prevention plans, (5) current practices in the insurance and banking industries, and (6) whether the penalty enacted in subclause (bb) of clause (iii) of subparagraph (B) of subsection (b)(2) of section 311 of Pub. L. 92-500 should be enacted." (Pub. L. 95-576.)

This study will provide the Agency with a more complete picture of the effectiveness of these regulations and possible economic impacts, and will allow the Agency to evaluate any procedural difficulties encountered in implementing the regulations. The Agency is required to complete this study by May 1980. Plans are now being completed for the conduct of this study and the Agency will solicit assistance from interested parties in the performance of this study.

Deferral of Regulations as They Apply to Discharges From Common Carriers

In the February 16, 1979 proposed regulations, EPA published notice that it would defer implementing these regulations as they apply to discharges from common carriers. This is because common carriers are required to accept for transport those shipments offered in compliance with applicable tariffs. Currently, not all hazardous substances

are adequately identified by existing tariffs. Thus, in some circumstances, common carriers may have no means of determining when they are transporting hazardous substances. In other words, common carriers may not refuse to accept a shipment which may contain unidentified hazardous substances, nor could they report a spill of a hazardous substance unless they had knowledge of its presence.

Private and contract carriers, on the other hand, may request the shipper to identify any shipments containing hazardous substances, and may then elect either to transport or to refuse to do so. In any case, they have the means to determine if hazardous substances are on board, and thus the ability to take actions to prevent a spill, and the knowledge to report a spill should it occur. Therefore, these regulations will be applicable in thirty days to the discharge of hazardous substances transported under private or contract carriage.

With respect to common carriers, tariff changes can be accomplished by the common carriers themselves. Since designation of hazardous substances was promulgated six months ago, it is anticipated that common carriers have already taken steps to initiate appropriate tariff changes. Therefore, the Agency expects that these tariff changes can be made effective within four (4) months. EPA will publish notice in the Federal Register announcing the effective date of these regulations as they apply to discharges of hazardous substances which have been offered to common carriers who are required to accept such substances for shipment in compliance with applicable tariffs.

The Agency recognizes that this deferral of effective date for certain discharges may result in some unreported spills, and the inability of the government to assess civil penalties or removal cost liabilities for some spills. However, it would be unreasonable to attach such liabilities to carriers who are otherwise effectively precluded by Federal law from obtaining knowledge of whether their cargoes include hazardous substances. Moreover, the Agency believes that common carriers and shippers will act in good faith to do all in their power to bring about tariff changes.

Dated: August 20, 1979.

Douglas A. Costle,
Administrator.

Part 117 is added as follows:

PART 117—DETERMINATION OF REPORTABLE QUANTITIES FOR HAZARDOUS SUBSTANCES

Subpart A—General Provisions

Sec.

- 117.1 Definitions.
117.2 Abbreviations.
117.3 Determination of reportable quantities.

Subpart B—Applicability

- 117.11 General applicability.
117.12 Applicability to discharges from facilities with NPDES permits.
117.13 Applicability to discharges from publicly owned treatment works and their users.
117.14 Demonstration projects.

Subpart C—Notice of Discharge of a Reportable Quantity

- 117.21 Notice.
117.22 Penalties.
117.23 Liabilities for removal.

Authority: Secs. 311 and 501(a), Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), ("the Act") and Executive Order 11735.

Subpart A—General Provisions

§ 117.1 Definitions.

As used in this part, all terms shall have the meanings stated in 40 CFR Part 116.

(a) "Reportable quantities" means quantities that may be harmful as set forth in § 117.3, the discharge of which is a violation of section 311(b)(3) and requires notice as set forth in § 117.21.

(b) "Administrator" means the Administrator of the Environmental Protection Agency ("EPA").

(c) "Mobile source" means any vehicle, rolling stock, or other means of transportation which contains or carries a reportable quantity of a hazardous substance.

(d) "Public record" means the NPDES permit application or the NPDES permit itself and the "record for final permit" as defined in 40 CFR 124.122.

(e) "National Pretreatment Standard" or "Pretreatment Standard" means any regulation containing pollutant discharge limits promulgated by the EPA in accordance with section 307 (b) and (c) of the Act, which applies to industrial users of a publicly owned treatment works. It further means any State or local pretreatment requirement applicable to a discharge and which is incorporated into a permit issued to a publicly owned treatment works under section 402 of the Act.

(f) "Publicly Owned Treatment Works" or "POTW" means a treatment works as defined by section 212 of the Act, which is owned by a State or municipality (as defined by section 502(4) of the Act). This definition

includes any sewers that convey wastewater to such a treatment works, but does not include pipes, sewers or other conveyances not connected to a facility providing treatment. The term also means the municipality as defined in section 502(4) of the Act, which has jurisdiction over the indirect discharges to and the discharges from such a treatment works.

(g) "Remove" or "removal" refers to removal of the oil or hazardous substances from the water and shoreline or the taking of such other actions as may be necessary to minimize or mitigate damage to the public health or welfare, including, but not limited to, fish, shellfish, wildlife, and public and private property, shorelines, and beaches.

(h) "Contiguous zone" means the entire zone established by the United States under Article 24 of the Convention on the Territorial Sea and Contiguous Zone.

(i) "Navigable waters" means "waters of the United States, including the territorial seas." This term includes:

- (1) All waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide;
- (2) Interstate waters, including interstate wetlands;
- (3) All other waters such as intrastate lakes, rivers, streams, (including intermittent streams), mudflats, sandflats, and wetlands, the use, degradation or destruction of which would affect or could affect interstate or foreign commerce including any such waters;

(i) Which are or could be used by interstate or foreign travelers for recreational or other purposes;

(ii) From which fish or shellfish are or could be taken and sold in interstate or foreign commerce;

(iii) Which are used or could be used for industrial purposes by industries in interstate commerce;

(4) All impoundments of waters otherwise defined as navigable waters under this paragraph;

(5) Tributaries of waters identified in paragraphs (i)(1)–(4) of this section, including adjacent wetlands; and

(6) Wetlands adjacent to waters identified in paragraphs (i)(1)–(5) of this section ("Wetlands" means those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally

included playa lakes, swamps, marshes, bogs, and similar areas such as sloughs, prairie potholes, wet meadows, prairie river overflows, mudflats, and natural ponds): *Provided*, That waste treatment systems (other than cooling ponds meeting the criteria of this paragraph) are not waters of the United States.

(j) "Process waste water" means any water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, byproduct, or waste product.

§ 117.2 Abbreviations.

NPDES equals National Pollutant Discharge Elimination System. RQ equals reportable quantity.

§ 117.3 Determination of reportable quantities.

The quantity listed with each substance in Table 117.3 is determined to be the reportable quantity for that substance.

Table 117.3—Reportable Quantities of Hazardous Substances

Note.—The first number under the column headed "RQ" is the reportable quantity in pounds. The number in parentheses is the metric equivalent in kilograms. For convenience, the table contains a column headed "Category" which lists the code letters "X", "A", "B", "C" and "D" associated with reportable quantities of 1, 10, 100, 1000 and 5000 pounds respectively.

Material	Category	RQ in pounds (kilograms)
Acetaldehyde.....	C	1,000 (454)
Acetic acid.....	C	1,000 (454)
Acetic anhydride.....	C	1,000 (454)
Acetone cyanohydrin.....	A	10 (4.54)
Acetyl bromide.....	D	5,000 (2,270)
Acetyl chloride.....	D	5,000 (2,270)
Acrolein.....	X	1 (0.454)
Acrylonitrile.....	B	100 (45.4)
Adipic acid.....	D	5,000 (2,270)
Aldrin.....	X	1 (0.454)
Allyl alcohol.....	B	100 (45.4)
Allyl chloride.....	C	1,000 (454)
Aluminum sulfate.....	D	5,000 (2,270)
Ammonia.....	B	100 (45.4)
Ammonium acetate.....	D	5,000 (2,270)
Ammonium benzoate.....	D	5,000 (2,270)
Ammonium bicarbonate.....	D	5,000 (2,270)
Ammonium bichromate.....	C	1,000 (454)
Ammonium bifluoride.....	D	5,000 (2,270)
Ammonium bisulfite.....	D	5,000 (2,270)
Ammonium carbamate.....	D	5,000 (2,270)
Ammonium carbonate.....	D	5,000 (2,270)
Ammonium chloride.....	D	5,000 (2,270)
Ammonium chromate.....	C	1,000 (454)
Ammonium citrate.....	D	5,000 (2,270)
Ammonium fluoroborate.....	D	5,000 (2,270)
Ammonium fluoride.....	D	5,000 (2,270)
Ammonium hydroxide.....	C	1,000 (454)
Ammonium oxalate.....	D	5,000 (2,270)
Ammonium silicofluoride.....	C	1,000 (454)
Ammonium sulfamate.....	D	5,000 (2,270)
Ammonium sulfide.....	D	5,000 (2,270)
Ammonium sulfite.....	D	5,000 (2,270)
Ammonium tartrate.....	D	5,000 (2,270)
Ammonium thiocyanate.....	D	5,000 (2,270)
Ammonium thiosulfate.....	D	5,000 (2,270)
Amyl acetate.....	C	1,000 (454)
Aniline.....	C	1,000 (454)
Antimony pentachloride.....	C	1,000 (454)

Material	Category	RQ in pounds (kilograms)	Material	Category	RQ in pounds (kilograms)
Antimony potassium tartrate.....	C	1,000 (454)	Epichlorohydrin.....	C	1,000 (454)
Antimony tribromide.....	C	1,000 (454)	Ethion.....	A	10 (4.54)
Antimony trichloride.....	C	1,000 (454)	Ethylbenzene.....	C	1,000 (454)
Antimony trifluoride.....	C	1,000 (454)	Ethylenediamine.....	C	1,000 (454)
Antimony trioxide.....	D	5,000 (2,270)	Ethylene dibromide.....	C	1,000 (454)
Arsenic disulfide.....	D	5,000 (2,270)	Ethylene dichloride.....	D	5,000 (2,270)
Arsenic pentoxide.....	D	5,000 (2,270)	EDTA.....	D	5,000 (2,270)
Arsenic trichloride.....	D	5,000 (2,270)	Ferric ammonium citrate.....	C	1,000 (454)
Arsenic trioxide.....	D	5,000 (2,270)	Ferric ammonium oxalate.....	C	1,000 (454)
Arsenic trisulfide.....	D	5,000 (2,270)	Ferric chloride.....	C	1,000 (454)
Barium cyanide.....	A	10 (4.54)	Ferric fluoride.....	B	100 (45.4)
Benzene.....	C	1,000 (454)	Ferric nitrate.....	C	1,000 (454)
Benzoic acid.....	D	5,000 (2,270)	Ferric sulfate.....	C	1,000 (454)
Benzonitrile.....	C	1,000 (454)	Ferrous ammonium sulfate.....	C	1,000 (454)
Benzoyl chloride.....	C	1,000 (454)	Ferrous chloride.....	B	100 (45.4)
Benzyl chloride.....	B	100 (45.4)	Ferrous sulfate.....	C	1,000 (454)
Beryllium chloride.....	D	5,000 (2,270)	Formaldehyde.....	C	1,000 (454)
Beryllium fluoride.....	D	5,000 (2,270)	Formic acid.....	D	5,000 (2,270)
Beryllium nitrate.....	D	5,000 (2,270)	Fumaric acid.....	D	5,000 (2,270)
Butyl acetate.....	D	5,000 (2,270)	Guthion.....	C	1,000 (454)
n-Butyl phthalate.....	B	100 (45.4)	Heptachlor.....	X	1 (0.454)
Butylamine.....	C	1,000 (454)	Heptachlor.....	X	1 (0.454)
Butyric acid.....	D	5,000 (2,270)	Hexachlorocyclopentadiene.....	X	1 (0.454)
Cadmium acetate.....	B	100 (45.4)	Hydrochloric acid.....	D	5,000 (2,270)
Cadmium bromide.....	B	100 (45.4)	Hydrofluoric acid.....	D	5,000 (2,270)
Cadmium chloride.....	B	100 (45.4)	Hydrogen cyanide.....	A	10 (4.54)
Calcium arsenate.....	C	1,000 (454)	Hydrogen sulfide.....	B	100 (45.4)
Calcium arsenite.....	C	1,000 (454)	Isoprene.....	C	1,000 (454)
Calcium carbide.....	D	5,000 (2,270)	Isopropanolamine.....	C	1,000 (454)
Calcium chromate.....	C	1,000 (454)	dodecylbenzenesulfonate.....		
Calcium cyanide.....	A	10 (4.54)	Kelthane.....	D	5,000 (2,270)
Calcium.....	C	1,000 (454)	Kepon.....	X	1,000 (454)
dodecylbenzenesulfonate.....			Lead acetate.....	D	5,000 (2,270)
Calcium hydroxide.....	D	5,000 (2,270)	Lead arsenate.....	D	5,000 (2,270)
Calcium hypochlorite.....	B	100 (45.4)	Lead Chloride.....	D	5,000 (2,270)
Calcium oxide.....	D	5,000 (2,270)	Lead fluoborate.....	D	5,000 (2,270)
Captan.....	A	10 (4.54)	Lead fluoride.....	C	1,000 (454)
Carbaryl.....	B	100 (45.4)	Lead iodide.....	D	5,000 (2,270)
Carbofuran.....	A	10 (4.54)	Lead nitrate.....	D	5,000 (2,270)
Carbon disulfide.....	D	5,000 (2,270)	Lead stearate.....	D	5,000 (2,270)
Carbon tetrachloride.....	D	5,000 (2,270)	Lead sulfate.....	D	5,000 (2,270)
Chlordane.....	X	1 (0.454)	Lead sulfide.....	D	5,000 (2,270)
Chlorine.....	A	10 (4.54)	Lead thiocyanate.....	D	5,000 (2,270)
Chlorobenzene.....	B	100 (45.4)	Lindane.....	X	1 (0.454)
Chloroform.....	D	5,000 (2,270)	Lithium chromate.....	C	1,000 (454)
Chlorpyrifos.....	X	1 (0.454)	Malathion.....	A	10 (4.54)
Chlorosulfonic acid.....	C	1,000 (454)	Maleic acid.....	D	5,000 (2,270)
Chromic acetate.....	C	1,000 (454)	Maleic anhydride.....	D	5,000 (2,270)
Chromic acid.....	C	1,000 (454)	Mercaptodimethylur.....	B	100 (45.4)
Chronic sulfate.....	C	1,000 (454)	Mercuric cyanide.....	X	1 (0.454)
Chromous chloride.....	C	1,000 (454)	Mercuric nitrate.....	A	10 (4.54)
Cobaltous bromide.....	C	1,000 (454)	Mercuric sulfate.....	A	10 (4.54)
Cobaltous formate.....	C	1,000 (454)	Mercuric thiocyanate.....	A	10 (4.54)
Cobaltous sulfamate.....	C	1,000 (454)	Mercurous nitrate.....	A	10 (4.54)
Coumaphos.....	A	10 (4.54)	Methoxychlor.....	X	1 (0.454)
Cresol.....	C	1,000 (454)	Methyl mercaptan.....	B	100 (45.4)
Crotonaldehyde.....	B	100 (45.4)	Methyl methacrylate.....	D	5,000 (2,270)
Cupric acetate.....	B	100 (45.4)	Methyl parathion.....	B	100 (45.4)
Cupric arsenite.....	B	100 (45.4)	Mevinphos.....	X	1 (0.454)
Cupric chloride.....	A	10 (4.54)	Mexcarbarte.....	C	1,000 (454)
Cupric nitrate.....	B	100 (45.4)	Monomethylamine.....	C	1,000 (454)
Cupric oxalate.....	B	100 (45.4)	Monomethylamine.....	C	1,000 (454)
Cupric sulfate.....	A	10 (4.54)	Naled.....	A	10 (4.54)
Cupric sulfate ammoniated.....	B	100 (45.4)	Naphthalene.....	D	5,000 (2,270)
Cupric tartrate.....	B	100 (45.4)	Naphthenic acid.....	B	100 (45.4)
Cyanogen chloride.....	A	10 (4.54)	Nickel ammonium sulfate.....	D	5,000 (2,270)
Cyclohexane.....	C	1,000 (454)	Nickel chloride.....	D	5,000 (2,270)
2,4-D Acid.....	B	100 (45.4)	Nickel hydroxide.....	C	1,000 (454)
2,4-D Esters.....	B	100 (45.4)	Nickel nitrate.....	D	5,000 (2,270)
DDT.....	X	1 (0.454)	Nickel sulfate.....	D	5,000 (2,270)
Diazinon.....	X	1 (0.454)	Nitric acid.....	C	1,000 (454)
Dicamba.....	C	1,000 (454)	Nitrobenzene.....	C	1,000 (454)
Dichlobenil.....	C	1,000 (454)	Nitrogen dioxide.....	C	1,000 (454)
Dichlorone.....	X	1 (0.454)	Nitrophenol.....	C	1,000 (454)
Dichlorobenzene.....	B	100 (45.4)	Nitrotoluene.....	C	1,000 (454)
Dichloropropane.....	D	5,000 (2,270)	Paraformaldehyde.....	C	1,000 (454)
Dichloropropene.....	D	5,000 (2,270)	Parathion.....	X	1 (0.454)
Dichloropropene.....	D	5,000 (2,270)	Pentachlorophenol.....	A	10 (4.54)
Dichloropropene.....	D	5,000 (2,270)	Phenol.....	C	1,000 (454)
2,2-Dichloropropionic acid.....	D	5,000 (2,270)	Phosgene.....	D	5,000 (2,270)
Ochlorvos.....	A	10 (4.54)	Phosphoric acid.....	D	5,000 (2,270)
Deidrin.....	X	1 (0.454)	Phosphorus.....	X	1 (0.454)
Diethylamine.....	C	1,000 (454)	Phosphorus oxychloride.....	D	5,000 (2,270)
Dimethylamine.....	C	1,000 (454)	Phosphorus pentasulfide.....	B	100 (45.4)
Dinitrobenzene.....	C	1,000 (454)	Phosphorus trichloride.....	D	5,000 (2,270)
Dinitrophenol.....	C	1,000 (454)	Polychlorinated biphenyls.....	A	10 (4.54)
Dinitrotoluene.....	C	1,000 (454)	Potassium arsenate.....	C	1,000 (454)
Diquat.....	C	1,000 (454)	Potassium arsenite.....	C	1,000 (454)
Disulfoton.....	X	1 (0.454)	Potassium bichromate.....	C	1,000 (454)
Diuron.....	B	100 (45.4)	Potassium chromate.....	C	1,000 (454)
Dodecylbenzenesulfonic acid.....	C	1,000 (454)	Potassium cyanide.....	A	10 (4.54)
Endosulfan.....	X	1 (0.454)	Potassium hydroxide.....	C	1000(454)
Endrin.....	X	1 (0.454)	Potassium permanganate.....	B	100 (45.4)

Material	Category	RQ in pounds (kilograms)
Propargite	A	10 (4.54)
Propionic acid	D	5,000 (2,270)
Propionic anhydride	D	5,000 (2,270)
Propylene oxide	D	5,000 (2,270)
Pyrethrins	C	1,000 (454)
Quinoline	C	1,000 (454)
Resorcinol	C	1,000 (454)
Selenium oxide	C	1,000 (454)
Silver nitrate	X	1 (0.454)
Sodium	C	1,000 (454)
Sodium arsenate	C	1,000 (454)
Sodium arsenite	C	1,000 (454)
Sodium bichromate	C	1,000 (454)
Sodium bifluoride	D	5,000 (2,270)
Sodium bisulfite	D	5,000 (2,270)
Sodium chromate	C	1,000 (454)
Sodium cyanide	A	10 (4.54)
Sodium	C	1,000 (454)
dodecylbenzenesulfonate	D	5,000 (2,270)
Sodium fluoride	D	5,000 (2,270)
Sodium hydrosulfide	D	5,000 (2,270)
Sodium hydroxide	C	1,000 (454)
Sodium hypochlorite	B	100 (45.4)
Sodium methylate	C	1,000 (454)
Sodium nitrite	D	100 (45.4)
Sodium phosphate, dibasic	D	5,000 (2,270)
Sodium phosphate, tribasic	D	5,000 (2,270)
Sodium selenite	C	1,000 (454)
Sodium chromate	C	1,000 (454)
Strychnine	A	10 (4.54)
Styrene	C	1,000 (454)
Sulfuric acid	C	1,000 (454)
Sulfur monochloride	C	1,000 (454)
2,4,5-T acid	B	100 (45.4)
2,4,5-T amine	B	100 (45.4)
2,4,5-T esters	B	100 (45.4)
2,4,5-T salts	B	100 (45.4)
2,4,5-TP acid	B	100 (45.4)
2,4,5-TP acid esters	B	100 (45.4)
TDE	X	1 (0.454)
Tetraethyl lead	B	100 (45.4)
Tetraethyl pyrophosphate	B	100 (45.4)
Thallium sulfate	C	1,000 (454)
Toluene	C	1,000 (454)
Toxaphene	X	1 (0.454)
Trichlorfon	C	1,000 (454)
Trichloroethylene	C	1,000 (454)
Trichlorophenol	A	10 (4.54)
Trisethanolamine	C	1,000 (454)
dodecylbenzenesulfonate	D	5,000 (2,270)
Trimethylamine	C	1,000 (454)
Uranium acetate	D	5,000 (2,270)
Uranium nitrate	D	5,000 (2,270)
Vanadium pentoxide	C	1,000 (454)
Vanadyl sulfate	C	1,000 (454)
Vinyl acetate	C	1,000 (454)
Vinylidene chloride	D	5,000 (2,270)
Xylene	C	1,000 (454)
Xylenol	C	1,000 (454)
Zinc acetate	C	1,000 (454)
Zinc ammonium chloride	D	5,000 (2,270)
Zinc borate	C	1,000 (454)
Zinc bromide	D	5,000 (2,270)
Zinc carbonate	C	1,000 (454)
Zinc chloride	D	5,000 (2,270)
Zinc cyanide	A	10 (4.54)
Zinc fluoride	C	1,000 (454)
Zinc formate	C	1,000 (454)
Zinc hydrosulfite	C	1,000 (454)
Zinc nitrate	D	5,000 (2,270)
Zinc phenolsulfonate	D	5,000 (2,270)
Zinc phosphide	C	1,000 (454)
Zinc silicofluoride	D	5,000 (2,270)
Zinc sulfate	C	1,000 (454)
Zirconium nitrate	D	5,000 (2,270)
Zirconium potassium fluoride	D	5,000 (2,270)
Zirconium sulfate	D	5,000 (2,270)
Zirconium tetrachloride	D	5,000 (2,270)

Subpart B—Applicability

§ 117.11 General applicability.

This regulation sets forth a determination of the reportable quantity for each substance designated as hazardous in 40 CFR Part 116. The regulation applies to quantities of designated substances equal to or

greater than the reportable quantities, when discharged into or upon the navigable waters of the United States, adjoining shorelines, into or upon the contiguous zone, or beyond the contiguous zone as provided in section 311(b)(3) of the Act, except to the extent that the owner or operator can show such that discharges are made:

(a) In compliance with a permit issued under the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1401 et seq.);

(b) In compliance with approved water treatment plant operations as specified by local or State regulations pertaining to safe drinking water;

(c) Pursuant to the label directions for application of a pesticide product registered under section 3 or section 24 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (7 U.S.C. 136 et seq.), or pursuant to the terms and conditions of an experimental use permit issued under section 5 of FIFRA, or pursuant to an exemption granted under section 18 of FIFRA;

(d) In compliance with the regulations issued under section 3004 or with permit conditions issued pursuant to section 3005 of the Resource Conservation and Recovery Act (90 Stat. 2795; 42 U.S.C. 6901);

(e) In compliance with instructions of the On-Scene Coordinator pursuant to 40 CFR 1510 (the National Oil and Hazardous Substances Pollution Plan) or 33 CFR 153.10(e) (Pollution by Oil and Hazardous Substances) or in accordance with applicable removal regulations as required by section 311(j)(1)(A);

(f) In compliance with a permit issued under § 165.7 of Title 14 of the State of California Administrative Code;

(g) From a properly functioning inert gas system when used to provide inert gas to the cargo tanks of a vessel;

(h) From a permitted source and are excluded by § 117.12 of this regulation;

(i) To a POTW and are specifically excluded or reserved in § 117.13; or

(j) In compliance with a permit issued under section 404(a) of the Clean Water Act or when the discharges are exempt from such requirements by section 404(f) or 404(r) of the Act (33 U.S.C. 1344(a), (f), (r)).

§ 117.12 Applicability to discharges from facilities with NPDES permits.

(a) This regulation does not apply to:

(1) Discharges in compliance with a permit under section 402 of this Act;

(2) Discharges resulting from circumstances identified, reviewed and made a part of the public record with respect to a permit issued or modified

under section 402 of this Act, and subject to a condition in such permit;

(3) Continuous or anticipated intermittent discharges from a point source, identified in a permit or permit application under section 402 of this Act, which are caused by events occurring within the scope of the relevant operating or treatment systems; or

(b) A discharge is "in compliance with a permit issued under section 402 of this Act" if the permit contains an effluent limitation specifically applicable to the substance discharged or an effluent limitation applicable to another waste parameter which has been specifically identified in the permit as intended to limit such substance, and the discharge is in compliance with the effluent limitation.

(c) A discharge results "from circumstances identified, reviewed and made a part of the public record with respect to a permit issued or modified under section 402 of the Act, and subject to a condition in such permit," whether or not the discharge is in compliance with the permit, where:

(1) The permit application, the permit, or another portion of the public record contains documents that specifically identify:

(i) The substance and the amount of the substance; and

(ii) The origin and source of the substance; and

(iii) The treatment which is to be provided for the discharge either by:

(A) An on-site treatment system separate from any treatment system treating the permittee's normal discharge; or

(B) A treatment system designed to treat the permittee's normal discharge and which is additionally capable of treating the identified amount of the identified substance; or

(C) Any combination of the above; and

(2) The permit contains a requirement that the substance and amounts of the substance, as identified in

§ 117.12(c)(1)(i) and § 117.12(c)(1)(ii) be treated pursuant to § 117.12(c)(1)(iii) in the event of an on-site release; and

(3) The treatment to be provided is in place.

(d) A discharge is a "continuous or anticipated intermittent discharge from a point source, identified in a permit or permit application under section 402 of this Act, and caused by events occurring within the scope of the relevant operating or treatment systems," whether or not the discharge is in compliance with the permit, if:

(1) The hazardous substance is discharged from a point source for

which a permit application has been submitted; and

(2) The discharge of the hazardous substance results from:

(i) The contamination of noncontact cooling water or storm water, provided that such cooling water or storm water is not contaminated by an on-site spill of a hazardous substance; or

(ii) A continuous or anticipated intermittent discharge of process waste water, and the discharge originates within the manufacturing or treatment systems; or

(iii) An upset or failure of a treatment system or of a process producing a continuous or anticipated intermittent discharge where the upset or failure results from a control problem, an operator error, a system failure or malfunction, an equipment or system startup or shutdown, an equipment wash, or a production schedule change, provided that such upset or failure is not caused by an on-site spill of a hazardous substance.

§ 117.13 Applicability to discharges from publicly owned treatment works and their users.

(a) [Reserved], with the exception of § 117.13(b) below.

(b) These regulations apply to all discharges of reportable quantities to a POTW, where the discharge originates from a mobile source, except where such source has contracted with, or otherwise received written permission from the owners or operators of the POTW to discharge that quantity, and the mobile source can show that prior to accepting the substance from an industrial discharger, the substance had been treated to comply with any effluent limitation under sections 301, 302 or 306 or pretreatment standard under section 307 applicable to that facility.

§ 117.14 Demonstration projects.

Notwithstanding any other provision of this part, the Administrator of the Environmental Protection Agency may, on a case-by-case basis, allow the discharge of designated hazardous substances in connection with research or demonstration projects relating to the prevention, control, or abatement of hazardous substance pollution. The Administrator will allow such a discharge only where he determines that the expected environmental benefit from such a discharge will outweigh the potential hazard associated with the discharge.

Subpart C—Notice of Discharge of a Reportable Quantity

§ 117.21 Notice.

Any person in charge of a vessel or an onshore or an offshore facility shall, as soon as he has knowledge of any discharge of a designated hazardous substance from such vessel or facility in quantities equal to or exceeding in any 24-hour period the reportable quantity determined by this Part, immediately notify the appropriate agency of the United States Government of such discharge. Notice shall be given in accordance with such procedures as the Secretary of Transportation has set forth in 33 CFR 153.203. This provision applies to all discharges not specifically excluded or reserved by another section of these regulations.

§ 117.22 Penalties.

(a) Any person in charge of a vessel or an onshore or offshore facility who fails to notify the United States Government of a prohibited discharge pursuant to § 117.21 (except in the case of a discharge beyond the contiguous zone, where the person in charge of a vessel is not otherwise subject to the jurisdiction of the United States) shall be subject to a fine of not more than \$10,000 or imprisonment for not more than one year, or both, pursuant to section 311(b)(5).

(b) The owner, operator or person in charge of a vessel or an onshore or offshore facility from which is discharged a hazardous substance designated in 40 CFR Part 116 in a quantity equal to or exceeding in any 24-hour period, the reportable quantity established in this Part (except in the case of a discharge beyond the contiguous zone, where the person in charge of a vessel is not otherwise subject to the jurisdiction of the United States), shall be assessed a civil penalty of up to \$5,000 per violation under section 311(b)(6)(A). Alternatively, upon a determination by the Administrator, a civil action will be commenced under section 311(b)(6)(B) to impose a penalty not to exceed \$50,000 unless such discharge is the result of willful negligence or willful misconduct within the privity and knowledge of the owner, operator, or person in charge, in which case the penalty shall not exceed \$250,000.

Note: The Administrator will take into account the gravity of the offense and the standard of care manifest by the owner, operator, or person in charge in determining whether a civil action will be commenced under section 311(b)(6)(B). The gravity of the offense will be interpreted to include the size of the discharge, the degree of danger or harm

to the public health, safety, or the environment, including consideration of toxicity, degradability, and dispersal characteristics of the substance, previous spill history, and previous violation of any spill prevention regulations. Particular emphasis will be placed on the standard of care and the extent of mitigation efforts manifest by the owner, operator, or person in charge.

§ 117.23 Liabilities for removal.

In any case where a substance designated as hazardous in 40 CFR Part 116 is discharged from any vessel or onshore or offshore facility in a quantity equal to or exceeding the reportable quantity determined by this Part, the owner, operator or person in charge will be liable, pursuant to sections 311 (f) and (g) of the Act, to the United States Government for the actual costs incurred in the removal of such substance, subject only to the defenses and monetary limitations enumerated in sections 311 (f) and (g) of the Act.

The Administrator may act to mitigate the damage to the public health or welfare caused by a discharge and the cost of such mitigation shall be considered a cost incurred under section 311(c) for the removal of that substance by the United States Government.

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ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 122]

[FRL 1305-4]

Draft Application Forms for EPA Programs Regarding National Pollutant Discharge Elimination System Permits

AGENCY: Environmental Protection Agency.

ACTION: Request for additional comments on proposed application requirements for National Pollutant Discharge Elimination System permits and on proposed rules for regulating indicator parameters.

SUMMARY: Elsewhere in today's Federal Register, EPA has published final regulations concerning the control of spills and other discharges of substances designated as hazardous by the Administrator under section 311 of the Clean Water Act ("CWA"). Those regulations clarify that certain discharges of hazardous substances are to be regulated under the section 402 permit program (the National Pollutant Discharge Elimination System) rather than under section 311 of the Clean Water Act. As a result, the Agency will be required to amend its proposed application requirements (see proposed § 122.64(d), 44 FR 34393, June 14, 1979 and EPA's draft NPDES application form, 44 FR 34346, June 14, 1979) by requiring applicants for NPDES permits to submit information concerning the presence of hazardous substances in their discharges.

In addition, the Agency intends to expand its proposal of 40 CFR 125.3, proposed at 44 FR 34416 (June 14, 1979), that limitations on "indicators" (pollutants whose limitation will result in control of other pollutants) for pollutants listed as toxic under section 307(a) of CWA may be more stringent than the best conventional pollutant control technology ("BCT") and shall not be subject to section 301 (c) or (g) modifications. The proposal would be expanded to address the situation where a conventional pollutant is used as an indicator to control hazardous substances. Proposed § 125.3 would be expanded to provide that a limitation for a conventional pollutant which is used as an indicator for a hazardous substance not listed as a toxic pollutant may be set at a level more stringent than BCT.

The Agency is soliciting comments on these new proposed requirements.

DATES: Comments on the proposed application requirements and EPA's draft NPDES application form (44 FR 34346-34416, June 14, 1979) are due no later than September 12, 1979. The

application requirements for hazardous substances proposed here are intimately tied to the requirements and the form. However, to afford the public an opportunity to comment upon the approach now being considered by the Agency, the deadline for all comments on application requirements for hazardous substances is extended to September 28, 1979.

The June 14, 1979 proposal and notice of the draft application form contains detailed discussion concerning the times and places of several public meetings which have already been or will be held throughout the United States to receive public comments (44 FR 34346 and 34393). They also contain information on the availability of pamphlets which summarize and explain the proposed requirements and draft form.

Comments should be addressed to: Edward A. Kramer (A-1), Permits Division (EN-336), Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, (202) 755-0750. **FOR FURTHER INFORMATION CONTACT:** Dov Weitman, Permits Division (EN-336), Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, (202) 426-9441.

SUPPLEMENTARY INFORMATION: Section 311 of the Clean Water Act ("CWA") provides for the regulation of spills and other discharges of substances designated as hazardous by the Administrator of EPA. On November 2, 1978, the President signed certain amendments to section 311 of CWA. In response to those amendments, the Agency proposed certain amendments to its regulations governing hazardous substances on February 16, 1979 (44 FR 10266). Elsewhere in today's Federal Register, the Agency has published final regulations.

A major component of the 1978 Amendments to section 311 was the exclusion of certain discharges from coverage by section 311, because these discharges are more appropriately covered under the National Pollutant Discharge Elimination System ("NPDES") permit program established by section 402 of CWA. In its February 16, 1979 proposed section 311 regulations, the Agency would have required any facility seeking an exemption of particular hazardous substance discharges from section 311 coverage to identify such discharges when it applied for an NPDES permit and to either demonstrate adequate control of the discharge or obtain an NPDES permit condition controlling the discharge.

The Agency has reevaluated this proposal and concluded that continuous

or anticipated intermittent discharges which are caused by events occurring within the scope of relevant operating or treatment systems are exempt from section 311 coverage whenever a permit application identifying the point source is submitted. This is consistent with the Congressional intent that such discharges would be more appropriately covered by the NPDES program and should be exempt from section 311 whenever an NPDES permit is applied for. A more detailed discussion of this subject is contained in the preamble to 40 CFR Part 117 (published elsewhere in today's Federal Register).

On June 14, 1979, the Agency proposed NPDES application requirements for existing industrial dischargers (44 FR 34393) and published a draft application form consistent with those requirements (44 FR 34346). The proposal reflected the proposed hazardous substance regulations of February 16, 1979. As mentioned above, under those requirements, an NPDES applicant's hazardous substance discharges would have been covered by section 311 unless the applicant identified the discharged hazardous substance in the NPDES application and sought NPDES coverage of those discharges. Therefore, the NPDES proposal of June 14 provided to the applicant an option of reporting any hazardous substance discharge for which section 311 exclusion is sought. See proposed 40 CFR 122.64(d)(19) and draft NPDES application form, 44 FR 34359-60 and 34415. However, the Agency saw no need to require such reporting where the applicant did not seek such an exclusion and was willing to have its hazardous substance discharges remain subject to the requirements of section 311.

Today's final promulgation of section 311 regulations requires a reevaluation of the proposed application requirements for hazardous substances. As noted above, the promulgated section 311 regulations now recognize the Congressional intent to exclude continuous or anticipated intermittent discharges which are caused by events occurring within the scope of relevant operating or treatment systems. To insure, as Congress intended, that such discharges remain subject to appropriate environmental controls, they must now be regulated in permits under the NPDES program. This in turn requires that such discharges be reported in NPDES applications.

The proposed June 14, 1979 application regulations would require all applicants from "Group I" industries to sample and analyze for and report

discharges of pollutants listed as toxic under section 307(a) of CWA in their process wastewater outfalls. These industries include the 34 industries identified in the Consent Decree in *Natural Resources Defense Council v. Troin*, 8 ERC 2120 (D.D.C. 1976), amended on March 9, 1979, plus the Ferroalloys and Asbestos Manufacturing industries. The basis for this requirement is explained in detail at 44 FR 34394-34404. In addition, all "Group II" dischargers (those not listed in Group I) must report any known toxic pollutant discharges in all their outfalls, and Group I dischargers must report such discharges in their non-process wastewater outfalls. However, such reporting may be based upon estimates in lieu of sampling and analysis.

To properly regulate hazardous substances under the NPDES program, the Agency believes that it will be necessary to require applicants for NPDES permits to report hazardous substances discharges. However, the approach will differ, at least initially, from that used for toxic pollutants as described in the preceding paragraph. In formulating reporting requirements for hazardous substances, the Agency addressed two issues: Which hazardous substances should be reported, and in what manner should they be reported?

First, it should be noted that many hazardous substances are contained on the section 307(a) list of toxic pollutants; thus they are already required to be reported under the June 14 proposed application requirements for toxic pollutants. In addition, many of the dissociated ions of other hazardous substances already are required to be reported under the proposed requirements. For example, one hazardous substance, ammonium chromate, dissociates into the "nonconventional" pollutant ammonium ion and the toxic pollutant chromate ion. Ammonia and total chromium are already required by the June 14 proposal to be reported.

The Agency has therefore reviewed only those hazardous substances which would not be reported under the June 14 proposed requirements to determine which substances should now be added to the list of reportable pollutants. This determination is based in turn on an estimation of the significance of these substances as related to the considerations underlying the NPDES program. These considerations differ from those which were used to designate substances as hazardous. Thus, certain hazardous pollutants need not be reported in the NPDES applications.

For example, acetyl chloride in a highly concentrated form is harmful to aquatic life; in the context of a spill, which section 311 is intended to address, acetylchloride can cause harm due to shock effect. However, acetyl chloride is rapidly converted in water to acetate ion and chloride ion, which are much less harmful. In the context of discharges through outfalls, then, acetyl chloride does not pose a significant threat to aquatic life. Therefore, neither the compound nor its ions would be required to be reported in NPDES applications.

Other exclusions follow the logic of the June 14 proposed requirements which delete from present reporting requirements certain pollutants "such as chloride, calcium, potassium and sodium, because they are relatively non-toxic and the levels and amounts found in industrial discharges are generally not of concern." 44 FR 34400. A number hazardous substances and dissociated ions are not required to be reported for the same reasons.

Tables I and II list the hazardous substances and dissociated ions (other than those which are toxic pollutants and thus already covered by the June 14 proposed application requirements) which the Agency presently proposes to add to the list of reported pollutants. The Agency requests comments on these proposed reporting requirements, including data on the toxicity of hazardous substances or ions, stability in water, or any other factors which might indicate whether particular substances should be reported.

The manner in which hazardous substances listed in Tables I and II would be reported is presently limited by the lack of promulgated test methods for many of these substances. Due to the priority which the Agency has set on developing test methods for toxic pollutants, the Agency has not promulgated test methods (under Section 304(h) of CWA) for many of the hazardous substances or their ions. Therefore, apart from the testing requirements proposed on June 14, Group I applicants would be required under today's expanded approach to test their process wastewater outfalls only for the 16 hazardous substances (including 13 pesticides, 2 chlorinated hydrocarbons and 1 metal) for which test methods have been promulgated. (These pesticides are starred in Tables I and II.) As more test methods are developed in the future, the testing requirements would be expanded accordingly.

Table I—Hazardous Substances To Be Reported

Acetaldehyde
Allyl Alcohol
Allyl Chloride
Amyl acetate
Aniline
Benzonitrile
*Benzyl chloride
Butyl acetate
Butylamine
*Captan
*Carbaryl
Carbofuran
Carbon disulfide
Chlorpyrifos
Coumaphos
Cresol
Crotonaldehyde
Cyclohexane
*2,4-D (Total)
*Diazinon
*Dicamba
Dichlobenil
Dichloro
2,2-dichloropropionic acid
Dichlorvos
Diethyl amine
Dimethyl amine
Dinitrobenzene
Diquat
*Disulfoton
*Diuron
*Epichlorohydrin
*Ethion
Ethylene diamine
Ethylene dibromide
Formaldehyde
Furfural
Guthion
Isoprene
Kelthane
Kepone
*Malathion
Mercaptodimetur
Methoxychlor
Methyl mercaptan
Methyl methacrylate
*Methyl parathion
Mevinphos
*Mexacarbate
Monethyl amine
Monomethyl amine
Naled
Napthenic acid
Nitrotoluene
*Parathion
Phosgene
Propargite
Propylene oxide
Pyrethrins
Quinoline
Resorcinol
Strychnine
Styrene
*2,4,5-T (Total)
2,4,5-TP (Total)
TDE
Trichlorofon
Triethylamine
Trimethylamine
Vinyl acetate
Vinylidene Chloride

*Test method has been promulgated under section 304(h).

Xylene
Xylenol

Table II—Dissociation Products of Hazardous Substances to be Reported

Isopropanolamine¹
Strontium
Ethanolamine²
Uranium
Vanadium
Phenolsulfonate³
Zirconium

Even in the case of the 16 substances for which test methods have been promulgated, the testing requirements for Group I industries would be more limited than in the case of toxic pollutants. This is based on two considerations. First, most Group I industries are not likely to have most of these substances in their discharges. For example, most Group I industries do not discharge any pesticides. Second, the promulgated test methods for the 15 organic substances use gas chromatography (GC), rather than GC/mass spectrometry (GC/MS). The use of GC/MS would allow analysis for all these organics at little incremental cost over the analysis for toxic pollutants. In contrast, the use of GC could result in incremental analytic costs of \$2,000, because samples might have to be run on two or more GC columns to provide complete identification.

The Agency has tentatively concluded that until GC/MS methods are promulgated for the 15 organic hazardous substances, Group I applicants should be required to test for only those substances which they know or have reason to believe may be present in their discharges. Where an applicant believes that it does not discharge a measurable quantity of one of these 15 substances, it may so state in its application without testing for the pollutant. However, where an applicant knows or has reason to believe that a substance is present, it must test for the substance and report the measured level. Of course, the application-based limit of proposed 40 CFR 122.68(a) (discussed at 44 FR 34404) remains applicable in either case.

Unlike in the case of the 15 organic hazardous substances, incremental testing costs for vanadium are small, since its sampling and analysis may be conducted together with that for metals on the toxic pollutant list, which are already required to be tested. Therefore, all Group I applicants would be required

¹ Test method has been promulgated under section 304(h).

² From isopropanolamine dodecylbenzenesulfonate.

³ From triethanolamine dodecylbenzenesulfonate.

⁴ From zinc phenolsulfonate.

to test for vanadium in their process wastewater outfalls.

In the case of the other hazardous substances in Tables I and II for which official test methods do not exist, the Agency intends to require Group I dischargers simply to indicate the presence or absence of hazardous substances in their discharges. If present, they would be required to indicate briefly (several words) the source of the discharge. Due to the lack of promulgated test methods for these substances, the Agency believes that this approach is reasonable. Of course, when the Agency promulgates test methods for these substances, the testing requirements would be expanded accordingly.

In the cases of discharges by Group II industries or non-process wastewater discharges by Group I industries, the Agency will require applicants to indicate only the presence or absence of hazardous substance discharges (whether or not test methods have been promulgated for those substances) and, if present, to indicate the source of discharge.

Where applicants are required to report only presence or absence, the application-based limits (proposed on June 14, 1979 in 40 CFR 122.68(a)) would not apply. However, where an applicant reports that it does not discharge a hazardous substance, and later learns or has reason to believe that it is discharging the substance, it would be required to report this fact to the permitting authority. If necessary, the permit would then be modified to reflect the changed circumstances.

Upon receipt of an NPDES application, the Agency will use the information on hazardous substance discharges, together with treatability information which the Agency is now assembling, to set appropriate permit limits to control the discharges. The method of using such information to set permit limits is fully discussed (with a particular emphasis on toxic pollutants, but equally applicable to hazardous substances) at 44 FR 34396-99, June 14, 1979.

As explained in the June 14 preamble, the basic approach to setting technology-based permit limits under section 301(b)(2) of CWA is to apply promulgated effluent limitations guidelines when they are available and, when they are not available, to set permit limits on a case-by-case basis under section 402(a)(1) of the CWA. See 40 CFR 125.3 (44 FR 32448, June 7, 1979). In either case, the goal is to establish a set of permit limits which will reflect the discharger's installation, operation and maintenance of treatment technology

which provides the level of treatment required by the relevant subsections of section 301(b) of CWA.

Unlike in the case of toxic pollutants, which have been the prime focus of the Agency's new application requirements and permitting strategy, most hazardous substances will generally not be covered by effluent guidelines to be promulgated over the next several years. As explained in the June 14 preamble, resource constraints have required the Agency to focus both its guidelines and test method development activities upon toxic pollutants.

However, the absence of guidelines covering hazardous substances does not preclude control of these substances through permits. The Agency is gathering treatability information relating to the substances, which will afford to permit writers the opportunity to set limits for them. Furthermore, the Agency anticipates that the organic hazardous substances which are not on the toxics list, as well as certain ions of other hazardous substances which may be found in waste streams, will in the majority of cases be adequately controlled by the equipment which is installed to control the toxic pollutants in a discharge. (For example, most of the organic hazardous substances will be susceptible to biological treatment.) Therefore, the burden of setting case-by-case limitations on hazardous substances is greatly mitigated.

In those instances where the treatability information indicates that a hazardous substance present in the discharge at significant levels will not be adequately controlled (i.e., to BAT or other applicable standards) by the limitation of the toxic pollutants, permit limits must be set for the hazardous substances. As explained in detail at 44 FR 34397-9, the substances may be limited either directly or indirectly through the limitation of "indicator" parameters, whose limitation will insure installation and operation of equipment or methods which will control the hazardous substances.

Where a pollutant is used as an indicator to control toxic pollutants, proposed 40 CFR 125.3(g) has clarified that the limitation on that pollutant must reflect the best available technology economically achievable ("BAT") for the toxic pollutant discharge. Thus a conventional pollutant indicator limit for toxics would not be subject to the cost test for best conventional pollutant control technology ("BCT") under section 304(b)(4)(B) of CWA. This reasoning applies equally where a conventional pollutant is used as an indicator for hazardous substances, which are all subject to BAT (since they

are all toxic or nonconventional pollutants). Thus the Agency intends to expand § 125.3 by similarly providing that a limit placed upon a conventional pollutant indicator for hazardous substances is not subject to the BCT cost test.

Since economic or water quality related variances are available for nonconventional (not listed as toxic or conventional) pollutants under sections 301(c) and 301(g) of CWA, such variances may be applied for whenever a conventional or nonconventional indicator is used to control a hazardous substance, unless the hazardous substance is a toxic pollutant. Of course, if the indicator is a conventional pollutant, no variance may result in a limitation which is less stringent than BCT for the conventional pollutant.

The Agency seeks comments upon the approach outlined above.

Economic Impact of Reporting Requirements

The Agency has considered the costs which will result from the proposed reporting requirements for hazardous substances. The reporting which does not require testing (determining the presence and source of the 64 hazardous substances which do not have promulgated test methods) would require no more resources than the reporting requirements originally proposed. (See 44 FR 34410.) The testing required for the 16 hazardous pollutants with promulgated test methods would have a small impact, except on those industries (such as the pesticides category) which are likely to have a number of hazardous substances present. The new requirement that all Group I industries test for vanadium, at an average cost of \$20 per sample, adds about 0.4% to the total cost of testing for Group I applicants.

As noted above, the test methods for 15 of the 16 hazardous substances use GC. The Agency has previously estimated this cost to be \$50-\$100 per pollutant. The cost of GC for the 15 hazardous pollutants is likely to be at the high end of this range, because in some cases more than one GC column will have to be run to provide complete identification of the pollutant. (GC/MS methods, which generally provide conclusive identification, have not yet been promulgated for these 15 pollutants.) The Agency is assuming that no costs are added from sampling for the hazardous pollutants, because the sample (72-hour composite) can be collected at the same time as the one for toxic pollutants. Thus the total incremental testing cost is about \$100 per hazardous substance. The Agency

does not have sufficient information on the expected presence of these pollutants to make an estimate of the number of applicants who will be required to do this testing and the number of pollutants for which they will test. The thirteen reportable hazardous substances which are pesticides are unlikely to be present in effluents except in certain industry categories such as pesticides manufacturing. Thus it is likely, therefore, that most applicants will not test for any of the 13 pesticides; and so they will not incur additional costs for these analyses. A few applicants may be required to test for many of these substances and expend up to a possible maximum of \$1300 per outfall. The Agency solicits information on the expected presence of the hazardous substances in effluents, and on the costs of their analytical methods.

Treatment Costs For Hazardous Substances

As described above, permit writers will in some circumstances set limits on a case-by-case basis on hazardous substances which will require the installation of additional treatment equipment. The Agency anticipates that such installation will not be necessary in most cases, because many dischargers do not discharge hazardous substances in significant quantities and because in most cases the BAT-level treatment required to treat toxic and nonconventional pollutants will also remove hazardous substances.

In most cases applicants with discharges of hazardous substances will have installed or be required to install treatment systems to control toxic and other pollutants. If additional treatment is required, one type of treatment which is likely to be added to control hazardous substances (when they are present in a discharge) is carbon adsorption, which removes many organic compounds which are not hydrolyzed or precipitated by other treatment systems such as biological treatment. Thus, where an applicant discharges hazardous substances but has not installed carbon adsorption equipment to control other pollutants, incremental treatment cost may be involved with respect to the hazardous substances.

Table III summarizes the capital and annual costs of adding a carbon adsorption unit for various sizes of plants. The table is based upon information contained in EPA's Development Document for Final BPT Effluent Limitations Guidelines for the Pesticide Chemicals Manufacturing Point Source Category, April, 1978 (EPA 440/1-78/060-e).

TABLE III—Capital and Annual Costs for Carbon Treatment System—750 Minutes Detention Time

	Large plant	Medium plant	Small plant
Flow, mgd.....	0.3	0.067	0.015
Capital Cost	\$6,219,250	\$1,820,190	\$791,150
Annual Cost (including capital recovery)	2,442,560	770,540	336,880

Applicants who are most likely to have one or more of the hazardous substances in their effluents are those in the pesticides manufacturing and formulating categories. These applicants will be required to install BAT-level treatment by the Effluent Limitations Guidelines, which cover a large number of pesticides, including the 13 reportable hazardous pesticides. The costs of installing treatment for permittees covered by effluent guidelines is considered in developing the guidelines. Therefore, even in the pesticides industry, the reporting requirements for the hazardous substances will generally not lead to increased treatment requirements. The Agency requests any information on the number of permittees which might be required to install additional treatment, and on the costs of such treatment systems.

Dated: August 15, 1979.

Marvin B. Durning,

Assistant Administrator for Enforcement,
United States Environmental Protection Agency.

[FR Doc. 79-26760 Filed 8-28-79; 8:45 am]

BILLING CODE 6560-01-M

[40 CFR Parts 116, 117]

[FRL 1305-5]

Proposed Removal of Calcium Oxide and Calcium Hydroxide From Hazardous Substance List

AGENCY: Environmental Protection Agency.

ACTION: Proposed amendment to rule.

SUMMARY: On March 13, 1978, (43 FR 10474) EPA listed calcium oxide and calcium hydroxide ("lime") as hazardous substances under section 311 of the Clean Water Act. In response to a petition, EPA has tentatively concluded that these compounds are not hazardous within the meaning of section 311. EPA is therefore proposing to remove these chemicals from its hazardous substance list.

DATES: Public comments on this proposed action must be submitted on or before September 28, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Kenneth M. Mackenthun, Director, Criteria and Standards Division (WH-

585). Office of Water Planning and Standards, Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460. (202-755-0100).

SUPPLEMENTARY INFORMATION: Section 311(b)(2)(A) of the Clean Water Act (the Act) requires the Administrator to promulgate regulations designating as hazardous substances those elements and compounds which, when discharged in any quantity to surface waters or adjoining shorelines, present an imminent and substantial danger to the public health or welfare. Section 311(b)(4) of the Act requires the Administrator to assign to each designated hazardous substance a quantity which, if discharged, gives rise to reporting requirements and civil penalty and clean-up cost liability.

Pursuant to this authority, on March 13, 1978, EPA promulgated regulations designating 271 substances as hazardous. 43 FR 10474. EPA designated substances as hazardous on the basis of their acute toxicity to aquatic organisms. See discussion at 43 FR 10474-79. Calcium oxide and calcium hydroxide ("lime") were among the substances designated. Because laboratory tests indicate that both compounds are acutely toxic in concentrations greater than 100 mg/l and less than 500 mg/l, EPA placed them in Category D, the least toxic category, and assigned them "harmful quantities" of 5,000 pounds. See 43 FR 10489-94.

On February 16, 1979, the designation regulations were amended, and lime was retained as a hazardous substance. 44 FR 10266, 40 CFR Part 116. At the same time, the former harmful quantity regulations were revoked (44 FR 10269) and replaced by proposed determinations of reportable quantities. 44 FR 10271, 40 CFR Part 117. These regulations are published in final form elsewhere in today's Federal Register.

On April 3, 1979, the Mississippi Lime Company (MLC) petitioned EPA for reconsideration of the regulation designating lime as a hazardous substance. The petition contends that lime does not present an "imminent and substantial" danger to the environment for two reasons: (1) Because of the beneficial uses of lime and because of the alleged absence of conclusive historical evidence that lime discharges have in the past resulted in environmental damage ("Ground One"); and (2) because the unique chemistry of lime and its reaction with water precludes the acutely toxic effects relied on by EPA for designation ("Ground Two"). Ground One lacks merit, but EPA has tentatively concluded that Ground Two is good cause for removing

lime from the list of designated hazardous substances.

Ground One

The Act does not limit the list of hazardous substances to those which have already conclusively demonstrated their danger by virtue of a catastrophic discharge. The statutory standard of "imminent and substantial danger" is precautionary and preventative in nature. The statute contemplates designation of substances based on their hazardous properties, and makes no mention of consideration of past environmental damage.

Congress sought through section 311 to avoid environmental insult before it occurred. Moreover, since there has been no requirement that discharges of hazardous substances be reported, the lack of a discharge history is no basis for concluding that a substance has not in fact been discharged and resulted in "imminent and substantial danger" to the environment.

Similarly, the fact that lime is an important commercial chemical which has a number of beneficial uses does not preclude its listing as a hazardous substance. All chemical produced commercially, including those designated as hazardous substances, are apparently meeting a market demand and must therefore be assumed to have beneficial uses. Designation under section 311 does not prohibit the manufacture, transport or use of a substance, but rather restricts the discharge of the substance. Accordingly, past discharge history and beneficial uses of a substance are not relevant to designation of that substance as hazardous.

Ground Two

The issues concerning the chemistry of the reaction of lime and water are more persuasive. Information submitted by MLC indicates that the amount of lime that is available for solution in water in case of a spill (i.e., the amount which can contribute to potential fish toxicity) is only a small percentage of the total amount spilled. The principal reason for this phenomenon is that lime is a dry bulk solid that undergoes rapid hydration upon exposure to moisture or water forming a gel-like cover which protects most of the lime from reaction with water. The hydrated or "slaked" lime in the gel-like cover reacts quickly with available carbonate ions to form a relatively insoluble calcium carbonate covering.

MLC also presented information that the small amount of lime which does go into solution reacts quickly with carbonate ions (or bicarbonates) in the

water to form calcium carbonate (limestone), which is toxic to fish only at concentrations much greater than 500 mg/l.

Therefore, upon consideration of the evidence submitted, EPA proposes to delete calcium hydroxide and calcium oxide from 40 CFR Parts 116 and 117, because EPA has tentatively concluded that these substances do not present an imminent and substantial danger to the environment when discharged.

It should be emphasized that this proposed determination does not affect the validity of EPA's acute aquatic toxicity criterion. Rather, based on the documents provided by petitioner MLC, it appears that the unique chemistry of lime is such that lime would not exceed the section 311 acute toxicity criterion when discharged in the environment.

Comments

This proposed action affects the designation of only two of the 299 hazardous substances. Because the issues concerning designation have been fully ventilated in previous comment periods, the Agency has determined that a comment period of thirty (30) days will be sufficient to address the issues raised in this proposed action.

Date: August 20, 1979.

Douglas M. Costle,
Administrator.

PART 116—DESIGNATION OF HAZARDOUS SUBSTANCES

Part 116 is amended as follows:

1. Delete from § 116.4, Table 116.4A, the term Calcium hydroxide, CAS No. 1305620, Lime, hydrated, slaked lime, Calcium hydrate.
2. Delete from § 116.4, Table 116.4A, the term Calcium hydroxide, CAS No. 1305788, Lime, quicklime.
3. Delete from § 116.4, Table 116.4B, CAS No. 1305620, Calcium hydroxide.
4. Delete from § 116.4, Table 116.4B, CAS No. 1305788, Calcium oxide.

PART 117—DETERMINATION OF REPORTABLE QUANTITIES

Part 117 is amended as follows:

1. Delete from § 117.3, Table 117.3, the term Calcium hydroxide, Category D, RQ in pounds (kilograms), 5,000 (2270).
2. Delete from § 117.3, Table 117.3, the term Calcium oxide Category D, RQ in pounds (kilograms), 5,000 (2270).

[FR Doc. 79-26757 Filed 8-29-79; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

DEPARTMENT OF TRANSPORTATION

Coast Guard

[FRL 1305-3]

Memorandum of Understanding Between the Environmental Protection Agency and the U.S. Coast Guard Concerning the Assessment of Civil Penalties for Discharges of Oil and Designated Hazardous Substances

The United States Environmental Protection Agency (EPA) and the United States Coast Guard (USCG) have determined that it is necessary to establish procedures pursuant to which decisions may be made:

(1) Whether a discharge of a designated hazardous substance is excluded from the application of the civil penalty procedures prescribed by section 311(b)(6) of the Clean Water Act (CWA); and

(2) Whether action will be taken under paragraph (A) or under paragraph (B) of section 311(b)(6) CWA to impose a penalty for the discharge of a designated hazardous substance not so excluded.

The EPA and the USCG agree that decisions as to whether a discharge of a designated hazardous substance is excluded from the application of section 311(b)(6) CWA will be made initially by the EPA in cases evidencing particular potential violation gravity, i.e., meeting criteria set out in section III of this memorandum. In all other cases the decision will be made initially by the agency providing the On Scene Coordinator to the discharge incident. When a decision is made that a discharge is excluded, penalty action under section 311(b)(6) CWA will be withheld.

The EPA and the USCG agree that decisions as to whether action will be initiated to impose civil penalties under paragraph (B) of section 311(b)(6) CWA, will be made by the EPA. Cases involving USCG responses, which evidence particular potential violation gravity, i.e., meeting criteria set out in section III of this memorandum, will be transmitted to the EPA for its consideration. In all cases where EPA determines that it is appropriate to initiate civil penalty action under paragraph (B) of section 311(b)(6) CWA, the USCG will withhold the initiation of civil penalty action under paragraph (A) of section 311(b)(6) CWA.

This memorandum establishes

policies, procedures, and guidelines concerning the responsibilities of the EPA and the USCG in carrying out the foregoing agreement.

The respective responsibilities of each agency specified in this memorandum may be delegated to their respective subordinates consistent with established procedures.

The EPA and the USCG will review the implementation of this memorandum at least one year from the effective date of 40 CFR Part 117 or sooner if agreed to by both agencies, and will make any changes to the policy, procedures, and guidelines set forth herein which are agreed to by both agencies.

Section 1—General

The amendment of 2 November 1978 to section 311 CWA (Pub. L. 95-576) excluded certain discharges of hazardous substances from the application of section 311(b)(6) CWA. The discharges so excluded are: (a) discharges in compliance with a section 402 CWA permit, (b) discharges resulting from circumstances identified and reviewed and made a part of the public record with respect to a permit issued or modified under section 402 CWA, and subject to a condition in such permit, and (c) continuous or anticipated intermittent discharges from a point source, identified in a permit or permit application under section 402 CWA, which are caused by events occurring within the scope of relevant operating or treatment systems.

In addition, this amendment created two methods for penalizing discharges of hazardous substances. The first, which already existed as section 311(b)(6) CWA prior to the amendment, authorizes the USCG to assess a civil penalty not to exceed \$5,000 for the discharge of oil or a designated hazardous substance (section 311(b)(6)(A)). The second method, created by the new amendment, provides that the EPA, through the Department of Justice, may initiate a civil action in Federal district court for penalties not to exceed \$50,000 per spill of hazardous substance, unless such discharge is the result of willful negligence or willful misconduct, in which case the penalty shall not exceed \$250,000 (section 311(b)(6)(B)).

The legislative history accompanying the amendment makes clear that Congress intended to create a dual option system for penalizing discharges of hazardous substances under section 311(b)(6) CWA. A discharger of a designated hazardous substance can be penalized under paragraph (A) or paragraph (B), but not both. The EPA

and the USCG agree that paragraph (B) does not apply to oil discharges. The USCG will continue to assess oil discharge penalties administratively under paragraph (A).

Section II—Coordination

When a spill of a designated hazardous substance occurs, the On Scene Coordinator (OSC) will prepare a factual report of the incident. At the minimum, the report will address those criteria set forth in section III, of this memorandum.

The OSC will submit this report within 60 days of the spill incident. The OSC will submit the report to the District Commander when he is a USCG OSC, and to the Regional Administrator, when he is an EPA OSC.

When the District Commander reviews the USCG OSC's report and determines that one or more of the criteria set forth in section III, below is applicable to that case, the entire record of that case will be referred to the EPA Regional Administrator for review. In addition the District Commander will refer the entire record of:

(a) Any other case involving a discharge of a designated hazardous substance from a point source subject to a section 402 permit or permit application, which, prior to or after the commencement of penalty action, the USCG determines is excluded from the application of section 311(b)(6) CWA; and

(b) Any other case which, the District Commander considers appropriate for possible application of section 311(b)(6)(B) CWA.

When the Regional Administrator receives a case, either from an EPA OSC or upon referral from the District Commander, he will determine:

(a) Whether the case is excluded from the application of section 311(b)(6) CWA, and, if not,

(b) Whether a civil penalty action under section 311(b)(6)(B) CWA will be initiated.

The Regional Administrator will make these determinations within 90 days of his receipt of referral documents and will notify the District Commander promptly of the determinations in cases which have been referred. If the Regional Administrator determines that an action under section 311(b)(6)(B) CWA will be initiated, the case will be prepared in the EPA Regional Office and forwarded to the Department of Justice (DOJ) in accordance with established EPA case referral procedures.

If the Regional Administrator determines that the discharge is not excluded from the application of section

311(b)(6) CWA and that paragraph (B) action is inappropriate, or if EPA Headquarters declines to refer a Regional case, EPA will return the case to the USCG for appropriate action under paragraph (A).

Upon request, each Agency will make available to the other any or all cases, files, and records, including OSC reports and official determinations, regarding decisions concerning exclusions or the imposition of section 311(b)(6)(A) or (B) penalties. Where there is disagreement as to the disposition of a particular case, the District Commander and the Regional Administrator will consult to resolve the matter. If necessary, the matter will be submitted to the respective Agency Headquarters for final resolution.

Section III—Criteria

The USCG and the EPA agree that if one or more of the following criteria exists, the District Commander will refer

the case to the Regional Administrator in accordance with section II of this memorandum:

a. Any indication of misconduct or lack of reasonable care on the part of the owner, operator, or person in charge with respect to the discharge or with respect to the failure on the part of the owner, operator, or person in charge to adhere to the guidance of the OSC regarding clean-up or any policies, procedures, guidelines, or regulations applicable to clean-up;

b. Any discharge incident other than a threat for which payments are made or to be made from the section 311(k) fund pursuant to 33 CFR 153.407, except where no discharge has been identified;

c. Any indication of prior violations by the discharger of any provision of the CWA, or violations of provisions of the CWA other than section 311(b)(6) CWA occurring at the time of the discharge, such as violations of a section 402 permit;

d. Any discharge incident (other than a threat) as defined in 40 CFR 1510.5 (l) which requires activation (by full or limited assembly, or by telephone) of the Regional Response Team as required by 40 CFR 1510.34(d), as amended; and

e. Any discharge involving human injury or evacuation, damage to plant or animal life, or contamination of water supply or underground aquifers.

Other referrals to the EPA may be made on a discretionary basis.

Dated: August 15, 1979.

Marvin B. Durning,

Assistant Administrator for Enforcement,
United States Environmental Protection
Agency.

Dated: August 17, 1979.

R. H. Searborough,

Acting Commandant, United States Coast
Guard.

[FR Doc. 79-26759 Filed 8-28-79; 8:45 am]

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federal register

Wednesday
August 29, 1979

Part IV

Department of Energy

Weatherization Assistance For Low-
Income Persons

DEPARTMENT OF ENERGY

10 CFR Part 440

[Docket No. CAS-RM-79-503]

AGENCY: Department of Energy.

ACTION: Final rule.

SUMMARY: This notice of final rulemaking amends the regulations of the Department of Energy for the program of weatherization assistance for low-income persons to carry out the requirements of Section 231(b)(1) of the National Energy Conservation Policy Act, Pub. L. 95-619, 92 Stat. 3224 *et seq.* These changes revise and simplify the approach to weatherization required by Project Retro-Tech, a four volume conservation paper issued by the Department of Energy. The changes require a State to develop, as part of a State plan, a list of weatherization measures, by building type, ranked in order of cost-effectiveness. Upon approval by the DOE Regional Representative, a State is required to include the list in copies of Project Retro-Tech to be used by program operators in the State.

Project Retro-Tech has been revised to provide a calculation method for the evaluation of the cost-effectiveness of weatherization measures. Program operators are required to use either the list developed by the State to determine which measures to use to weatherize a dwelling unit or to complete the Project Retro-Tech calculation method for a dwelling unit. The regulation also amends the administrative provisions to require grantees to comply with the DOE Assistance Regulations, 10 CFR Part 600.

To facilitate use of a current version of the program regulations, a copy incorporating all revisions made to date is provided later in this notice.

EFFECTIVE DATE: November 27, 1979.

FOR FURTHER INFORMATION:

Mary M. Bell, Director, Office of Weatherization Assistance, Department of Energy, Room 4121, 20 Massachusetts Avenue NW., Washington D.C. 20585, (202) 376-9481.

Richard F. Kessler, Office of General Counsel, Department of Energy, Room 3228, 20 Massachusetts Avenue NW., Washington, D.C. 20585, (202) 376-4543.

SUPPLEMENTARY INFORMATION:

- I. Introduction.
- II. Discussion of Comments and Changes.
 - A. Set of Procedures.
 - B. Prioritizing the Measures.
 1. State Selection Measures.
 2. Role of the Program Operator.
 3. Alternative Procedure.
 - C. The Project Retro-Tech Job Book.
 1. The Calculation Process.

2. Weatherization Measures Considered.
 - D. Coordination with Federal Agencies.
 - E. Coordination with the DOE Residential Conservation Services Program.
 - III. Comments Beyond the Scope of this Rulemaking.
 - IV. Environmental and Other Review.

I. Introduction

The Department of Energy ("DOE") administers a State grant program of weatherization assistance for low-income persons under the Energy Conservation in Existing Buildings Act of 1976 ("Act"), 42 U.S.C. 6851 *et seq.*

The changes contained in this issuance amend the regulations for the program, 10 CFR Part 440, to meet certain requirements of Section 231(b)(1) of the National Energy Conservation Policy Act ("NECPA"), 92 Stat. 3224 *et seq.* On May 24, 1979, DOE issued a Final Rulemaking in the Federal Register, 44 FR 31570 (May 31, 1979), making changes to accommodate all NECPA amendments to the Act except section 231(b)(1).

On April 6, 1979, DOE issued a Notice of Proposed Rulemaking, 44 FR 22608 (April 16, 1979), to respond to the NECPA's provisions concerning a set of procedures for determining the optimum set of cost-effective measures, within the cost guidelines of the program, for weatherizing each dwelling unit under the program.

Today's final rule is in response to the requirements of section 231(b)(1) of NECPA to develop such "a set of procedures." DOE is amending § 440.14(b) to require a State, as part of the State weatherization program plan, to develop, by building type, a list of weatherization measures ranked in order of cost-effectiveness. DOE further amends § 440.15(a) to require a State to develop and publish procedures to assure that program operators are provided with suitable copies of the list. To accomplish this, DOE has revised the four volumes which comprise Project Retro-Tech. The procedure to be followed by a State to evaluate cost-effectiveness is contained in the revised Job Book, one of the four volumes. Project Retro-Tech may be obtained by contacting the following DOE Regional personnel:

Region I

Edward Finigan, Department of Energy, 150 Causeway Street, Room 700, Boston, Massachusetts 02114.

Region II

Barbara Merritt Butler, Department of Energy, 26 Federal Plaza, Room 3206, New York, New York 10007.

Region III

Rollie Clifton, Department of Energy, 1421 Cherry Street, Philadelphia, Pennsylvania 19102.

Region IV

Ron Easton, Department of Energy, 1655 Peachtree Street, NE., Atlanta, Georgia 30309.

Region V

Tom Sanders, Department of Energy, 175 West Jackson Boulevard, Room A-333, Chicago, Illinois 60604.

Region VI

Chuck Royston, Department of Energy, P.O. Box 35228, Dallas, Texas 75235.

Region VII

Beatrice Chabie, Department of Energy, 324 East 11th Street, Kansas City, Missouri 64106.

Region VIII

Tom Stroud, Department of Energy, P.O. Box 26247, Belmar Branch, Lakewood, Colorado 80226.

Region IX

Fred King, Department of Energy, 111 Pine Street, 4th Floor, San Francisco, California 94111.

Region X

Tom Haller, Department of Energy, 1923 Federal Building, Seattle, Washington 98174.

Or:

Mary M. Bell, Director, Office of Weatherization Assistance, Department of Energy, 20 Massachusetts Avenue, NW., Washington, D.C. 20585.

II. Discussion of Comments and Changes

DOE received 27 comments on the proposed amendments during and after the 30-day comment period, in addition to the testimony of four speakers at the public hearing held on April 30, 1979. Consideration of these comments resulted in certain changes in the final rule which are discussed below.

A. Set of Procedures.—Section 231(b)(1) of NECPA requires DOE to promulgate procedures to determine the optimum set of cost-effective weatherization measures to be installed in each dwelling unit. These procedures are to be applied to each dwelling unit, be within cost guidelines, 10 CFR 440.16, for the weatherization program, and take into consideration the following factors: (1) The cost of weatherization materials (2) variation in climate and (3) the value of energy saved by application of the weatherization material. The changes to Project Retro-Tech are designed to reflect the requirements of Section 231(b)(1) of NECPA and to simplify the procedures for identifying cost-effective measures for particular dwelling units.

Under Project Retro-Tech prior to today's changes, the program operator completed a 12-page data questionnaire and analysis for each dwelling unit weatherized. Today's rule modifies this procedure. Under § 440.14(b)(3), the State, as part of the State plan, calculates the cost-effectiveness of weatherization measures and ranks them by priority for different types of dwelling units by using the procedures and tables in the revised Job Book. The State will select standard types of dwelling units representative of the types of units to be weatherized under the State plan. The State will also determine the fuel prices and installation costs to be used in the calculation. The Job Book identifies specific weatherization measures for evaluation. However, the State may evaluate other weatherization measures if it chooses to do so. A list of weatherization measures ranked in order of cost-effectiveness is developed for each standard dwelling type and submitted to DOE for approval as part of the State plan.

In addition, § 440.15(a) requires the State to develop procedures to assure that the list of measures, after approval by the Regional Representative, is included in copies of Project Retro-Tech which are furnished by the State to subgrantees.

Twelve comments were received with respect to the set of procedures contained in proposed § 440.14(b)(3) and § 440.15(a). One commenter agreed with and supported the proposal without exception. Another disagreed with the proposal and recommended that it be abandoned. Two others expressed general disapproval of the procedures, and two recommended field testing of the proposed system in advance of promulgation of this rule. The time for revision of the regulation prescribed by section 231 of NECPA does not allow time for field testing, and DOE believes the absence of field testing will not prove harmful. Project Retro-Tech in various forms has been used in conjunction with actual weatherization projects for over three years. The revised Project Retro-Tech which is the subject of this rule reflects the experience gained through field usage.

Another commenter feared the proposed system would not be responsive to divergent climate and building types. Based on the recommended procedure, the State in developing the prioritized measures will determine the standard building types within climate zones shown on the map included on page 12 of the Retro-Tech Job Book. Where divergent climates

exist, a State may develop a list of prioritized measures appropriate to each climate zone and standard building types within each zone. DOE believes, moreover, that high priority measures will remain relatively the same regardless of climate variations and standard building types, although lower priority items might be more sensitive to temperature changes. DOE anticipates that these differences in climate will usually not affect the priority list because the \$800 ceiling for expenditures per home will generally necessitate the application of only high priority measures.

Three commenters complained that the prescribed system would prove burdensome to local program sponsors as a result of increased paperwork. DOE believes, instead, that the revised procedures will both reduce the total amount of paperwork and transfer much of it, including the calculation function, from the local program level to the State office, unless the subgrantee elects to apply the Retro-Tech Job Book to a dwelling in lieu of using the predetermined list of prioritized measures provided by the State. Two commenters requested that adequate time be allowed (one suggested 75 days) for the transition from the current system to the one promulgated here today. DOE agrees and has provided for the rule to become effective 90 days from the date of publication in the Federal Register, instead of the usual 30-day period.

B. Prioritizing the Measures for Sample Homes.—1. *State Selection of Measures.* In order for a State to develop a prioritized list of weatherization measures, a Retro-Tech Job Book is applied to each of the typical or standard building types within the climate zone or zones of the State. The resulting recommended measures are then used in priority sequence, beginning with the most cost-effective, to develop a State's measures list. In most instances the listing of measures will not vary within the State. However, as discussed above, priorities may vary at the lower end of the list for different climates within a State (e.g. Northern and Southern California) and in that event more than one listing may be used.

2. *Role of the Program Operator.* The local program operator will apply the measures to an individual dwelling unit in priority sequence after an inspection to determine their appropriateness for the dwelling unit. For example, suppose the second item on the State's prioritized list is attic insulation and an inspection of the house to be

weatherized reveals that there is already adequate insulation in the attic, as determined by the State for that climate zone. The program operator omits adding further insulation and proceeds to the third item. Alternatively, a program operator may elect to apply the Retro-Tech Job Book to each dwelling unit rather than apply the State developed list of prioritized measures.

One Community Action Agency ("CAA") comments that it wants to develop its own priority listing rather than adopt one developed by the State. This option is open to local program operators if they elect to apply the Retro-Tech Job Book on a house-by-house basis in lieu of using the list of measures developed by the State. Another commenter would like to have the State seek local input in developing the priority measures list. DOE encourages the States to confer with the subgrantees in the development of State lists. The public hearing process provides an ideal forum for this exchange.

3. *Alternative Procedure.* In the Federal Register notice of proposed rulemaking, 44 FR 22608 at 22611, DOE proposed to cease to permit the use of approaches to weatherization not contained in Project Retro-Tech. This proposal would be a departure from provisions in § 440.17 permitting the DOE Regional Representative to approve for use, upon the written request of a grantee, any other approach which is judged equal to or exceeding Project Retro-Tech. Fifteen commenters strongly urged DOE to retain this provision. Many of the commenters wanted to continue to use alternate approaches which were approved by DOE and already in place. In a few cases, commenters noted they were in the midst of developing an alternative system, an undertaking representing significant time, effort and expense, which could not be used under the proposed revision.

DOE is required by NECPA to develop "a set of procedures to determine the optimum set of cost-effective measures" to be used as a uniform approach for weatherization programs conducted by DOE, the Community Services Administration ("CSA") and the Farmers Home Administration ("FmHA"). Based upon program experience and coordination with other agencies involved, DOE believes that Project Retro-Tech as revised meets the statutory requirements of NECPA and incorporates sufficient flexibility for weatherization activities in general and to tailor the program to fit conditions at the State and local levels. Accordingly,

DOE has decided to require exclusive use of the Project Retro-Tech approaches to weatherization.

Technical Note: Section 440.17 was cited in the proposal as § 420.17 and § 420.7. Moreover, the final rule published on May 31, 1979, contained a technical error in not deleting § 440.17(b) and making related conforming changes. Today's notice corrects this technical error and also deletes provisions in § 440.17 regarding approaches to weatherization inconsistent with Project Retro-Tech.

C. The Project Retro-Tech Job Book.—The majority of the comments received addressed the Retro-Tech Job Book (including the Building Check and Job Order Sheet). As discussed below, certain changes have been made in this document as a result of comments received.

Six comments addressed in various ways the design of the format contained in the job book and particularly in the section called the "Building Check and Job Order Sheet." Some wanted it to be expanded and others contracted. Several complained of duplication of information required on other program forms. DOE believes that the format is appropriate for use at this time. However, field experience gained from use of this document in succeeding months will undoubtedly result in future format changes.

1. The Calculation Process. Three comments indicated uncertainty concerning how to handle retrofit measures other than those addressed directly in the Project Retro-Tech Job Book. If a State wishes to consider an item not specifically analyzed in the Job Book (e.g., storm doors), the job book methodology may be applied to determine the item's relative priority in the list of measures developed. It is important to note, however, that only measures defined in § 440.3 which meet the standards prescribed in Appendix A may be purchased for the program.

Another commenter requested that the procedure prescribed give specific attention to reducing energy demands arising from the use of air conditioning. While air conditioning is not found to be a priority consideration in the program nationally, DOE agrees that it may be important in some sections of the country. DOE will, therefore, continue to consider the need to reduce air-conditioning loads and may deal with this issue in a future rulemaking.

Three comments were received requesting clarification of the term "standard dwelling types." Specific terms such as "colonial" were found to be either inappropriate or confusing. DOE recognizes that standard dwelling types vary throughout the country, and,

for this reason, each State is required to determine its own standard types based on local housing stock.

Six comments were directed to the sections on ceilings. Two commenters objected to the inclusion of roof deck materials in the calculation of total R-value. DOE believes its inclusion is appropriate. This approach is also used by the American Society of Heating, Refrigeration and Air-Conditioning Engineers ("ASHRAE") and the National Bureau of Standards ("NBS"), and it has been retained in the final rule.

Several commenters recommended that the sections on uninsulated and partially insulated ceilings be combined. These sections have been kept separate because of the need to prioritize weatherization measures properly. The additional insulation of a partially insulated ceiling will not save as much energy and therefore should not be ranked as high as insulating an uninsulated ceiling. However, these sections have been modified somewhat to achieve greater clarity.

One commenter stated that the values, taken from an ASHRAE source for R-values on page 9 of the job book were incorrect. The values are generally accepted values currently used in text books and other reference materials. The same commenter states that the information in the ASHRAE Guide and Data Book is more than 12 years old, the implication being that the figures are out of date. However, the data is considered timely by many professionals as evidenced by its inclusion in current references and texts.

One commenter stated that no weatherization measure with a ratio of less than one (value cost) should be placed on the prioritized list. While DOE agrees with the spirit of the comment, it appears unnecessary because of the limited funds available for expenditure on any given home, it is unlikely that any such measure would be employed by a State or program operator.

One commenter contends that the Job Book needs to be applied to each dwelling unit if heat savings are to be calculated. DOE believes such an approach would not be cost-effective. A statewide list of priority items will generally provide the optimum set of cost-effective measures. A house-by-house calculation is not required by Project Retro-Tech unless the house to be weatherized does not fit the "standard type" evaluated by the State or the local program operator elects to apply the Job Book to every house.

One commenter disagrees with the contention that the size of a house does not affect the list of measures produced by using the Retro-Tech Job Book. Size

does not affect the priority of the measures which is the object of this procedure, but it does affect how many items on the list can be performed within the \$800 per dwelling unit ceiling. For instance, the available funds could be exhausted for the first two measures leaving other necessary measures untouched. In this connection, another comment received addresses this very issue by recommending a "comfort zone concept" as a new approach to weatherization. Under this concept, only a portion of a large home is retrofitted as a living area and maintained at a comfort level. DOE intends to consider this "comfort zone concept" further to determine whether it may be appropriate as a means of weatherizing large homes. DOE believes that the low-income elderly may frequently occupy such homes.

One commenter voiced his disapproval of the District Heating Factor used in Project Retro-Tech, favoring the use of heating degree days. The District Heating Factor is the result of dividing heating degree days by 4000. Project Retro-Tech retains use of the District Heating Factor because it simplifies the arithmetic necessary to perform the heating degree day calculations.

Three commenters addressed the term "installation factor." One inquired as to the purpose of the information, another said it was too difficult to calculate and the other recommended that a single national installation factor be established.

The comments received in this area indicated that more questions must be answered before an installation factor is prescribed for mandatory use. Rather than delay the program which would deny the benefits of weatherization assistance to those in need now, an optional labor cost factor has been substituted which the State may use, at its discretion, if appropriate. DOE will consider the use of a required installation factor at a future time based on experience gained through use of the current system. Accordingly, the column on the Summary Table for Priority Rating previously titled "Installation Factor" has been redesignated "Labor Cost to Install (If Appropriate)."

Finally one commenter strongly urged DOE to require a safety inspection of each attic before insulating to guard against potential hazards, particularly those of an electrical nature. Because of its concern for safety, DOE has already issued policy guidance on this subject to its Regional Offices and Program grantees.

2. Weatherization Measures Considered. Three comments related to

the insulation of floors, perimeters, crawl spaces and basements. The comments contended that the approach to insulation was inadequate, the calculations to compute the cost/benefit of insulation too complex, and the recommended minimum of R-4 insulation for perimeters inappropriate. While analysis of these weatherization measures in the Job Book could be either more or less sophisticated and complex than proposed, DOE agrees with the recommendation of NBS and other participants in the process leading to the development of the Job Book that a simple and workable approach was imperative. DOE believes the proposal represents such an approach and is retaining it as proposed. With regard to insulation with an R-value of 4, DOE's experience indicated it to be a standard value for duct insulation, readily available and well-suited for use in unheated areas.

Ten comments addressed the insulation and priority given to retrofitting hot water heaters. Some commenters felt it was not cost-effective, some that it was very cost-effective and several pointed to potential hazards in the retrofit of gas or oil-fired hot water heaters. DOE recommends insulating only electric hot water heaters in the Retro-Tech Job Book for two reasons. First, the generally higher operating cost of an electric water heater provides significant cost savings from retrofitting. Secondly, both gas and oil-fired water heaters need combustion air, and improper installation of insulation on such units could pose potential safety hazards. One commenter calculated the cost of retrofitting a hot water heater at \$65 for the insulation kit and the labor to install it. DOE's own analysis, however, indicates that the average cost of kits is closer to \$17, and many local programs presently make their own jackets of fiber glass insulation for less.

Another commenter stated that there is a possible policy conflict in recommending the retrofit of hot water heaters but not the installation of clock thermostats. Clock thermostats are eligible under the program but are not considered a high priority item because installation does not necessarily achieve permanent heat savings. The setting of the clock thermostat may be changed by the occupant of the dwelling therefore eliminating the savings projected. The retrofit of a hot water heater, by way of contrast, provides heat savings not dependent upon actions taken by occupants.

One commenter feels the heat savings from the application of storm windows

is overstated, and another recommends the use of "inside" storm windows. DOE does not agree with the first comment because the approach utilized is based on standard procedures widely applied, and no convincing information has been produced which would justify a change. The use of inside storm windows, while not specifically addressed in the Job Book, is permissible as a weatherization measure if such windows meet the standards prescribed in Appendix A.

Three of the comments received addressed the use of weatherstripping. One recommended weatherstripping all primary windows not receiving storm windows. This is considered in the General Heat Waste Section. Another recommends weatherstripping storm windows as well. While there is no specific prohibition against it, DOE cannot agree with this recommendation because it would not be cost-effectively used in addition to a properly installed storm window. The third comment addressed the weatherstripping of the attic hatch even if insulation is placed on the upper side. Because this measure acts to reduce infiltration, DOE agrees with the commenter, and the measure has been included in the Job Book.

D. Coordination with Federal Agencies.—DOE has coordinated this final rule with the Secretary of Housing and Urban Development, Secretary of Health, Education and Welfare, the Secretary of Agriculture, the Director of NBS and the Director of CSA.

E. Coordination with the DOE Residential Conservation Service Program.—In the proposed rulemaking, DOE specifically requested comments on how best to accomplish coordination between the weatherization program and DOE's Residential Conservation Service (RCS) Program.

Four comments were received suggesting what the coordination might consist of and how it could be handled. They ranged from keeping the programs "distinctly separate" to advising that the RCS program provide audit services for the weatherization program. One utility commented that utilities should not get too involved with the weatherization program; particularly in the case of multi-unit dwellings. A State took the position that the most effective coordination would be accomplished at regional (DOE), State and local levels including mutual participation in meetings, training sessions and the like, and that such coordination should be actively encouraged by DOE through joint regional level cooperative agreements and activities. DOE agrees that coordination between the two programs is essential and that it must take steps to foster communication

between the States and DOE regions and headquarters offices. Both RCS and weatherization program staff are meeting to determine how coordination between the programs can best be accomplished. It is anticipated that a coordination process will be developed in the near future.

III. Comments Beyond the Scope of this Rulemaking

DOE received several comments which did not address the proposed rulemaking—

A. Weatherization Materials.—One request was received to add polystyrene rigid board insulation to the list of eligible materials for use in the weatherization program. This product is already an eligible material but the likelihood of its being used is small because of the limitation on expenditures per dwelling unit effectively precludes its use in most cases.

B. Labor and Travel Funds.—Two comments were addressed to the need for sufficient resources to provide program labor, including training, in addition to additional travel funds to monitor the program at the grantee level. Resource requirements are not the subject of today's rule and have been discussed at length in two recent amendments to the program regulations published in the Federal Register on January 2, 1979, 44 FR 31 and on May 31, 1979, 44 FR 31570.

C. Broader Issues.—One commenter expressed a need for a communications network for addressing the energy needs of the poor, a second said that consumer education on saving energy was more important than prioritizing weatherization measures, a third recommended the addition of "window quilts" to the list of measures eligible under the program and a fourth offered a variety of general energy conservation techniques outside the scope of housing retrofit. While each of these concerns and suggestions has merit, they are not within the scope of this issuance and may be considered in future rulemakings.

IV. Environmental and Other Reviews

The environmental impacts associated with the implementation of the weatherization program as amended by NECPA were analyzed in a programmatic environmental assessment ("EA"). Notice of the public availability of the EA and of DOE's negative determination, based on that EA that the program regulations including the amendments promulgated by this rule did not constitute a major Federal action significantly affecting the

quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969, as amended, 42 U.S.C. 4321 *et seq.*, was published in the Federal Register on April 10, 1979, 44 FR 21323. That notice solicited comments on the EA and DOE's negative determination. No comments have been received to date. Accordingly, DOE reaffirms its negative determination, but, at the same time, re-emphasizes the commitment made in the EA that appropriate environmental evaluation will be made on a site-specific basis.

This rule was developed in accordance with Executive Order 12044, "Improving Government Regulations." Receipt and analysis of public comment occurred for a period in excess of 30 days, and a regulatory analysis was determined not to be necessary.

This rulemaking has been reviewed in accordance with DOE Order 2030 which sets forth procedures for implementing Executive Order 12044, 43 FR 1266 (May 1, 1978). Under these procedures, DOE has determined that the rulemaking is "significant" but not "major" and therefore does not require regulatory analysis. The anticipated effects of the rule would be primarily to simplify program procedures. None of the substantive changes taken individually or collectively is expected to have major economic impacts requiring regulatory analysis.

A public comment period of 30-days was provided after the publication of the proposed rulemaking. The Deputy Secretary waived the requirement for a 60-day comment period to avoid a substantial delay of DOE's ability to put into operation changes mandated by NECPA, which are important to the program's operation, such as the revisions to Project Retro-Tech.

(Energy Conservation in Existing Buildings Act of 1976, as amended, 42 U.S.C. 6851 *et seq.*; Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.*)

In consideration of the foregoing, Part 440 of Chapter II of Title 10 of the Code of Federal Regulations is amended as set forth below, effective November 27, 1979.

Issued in Washington, D.C., August 21, 1979.

Omi G. Walden,
Assistant Secretary, Conservation and Solar Applications, Department of Energy.

A compilation of current regulations for the weatherization program, current through amendments issued on August 29, 1979, including this amendment is reproduced below to assist individuals involved in the program and also to

assist those seeking information about it.

PART 440—WEATHERIZATION ASSISTANCE FOR LOW-INCOME PERSONS

- Sec.
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Appendix A.—Standards for Weatherization Materials.

Authority.—Energy Conservation in Existing Buildings Act of 1976, as amended, 42 U.S.C. 6851 *et seq.*; Department of Energy Organization Act, 42 U.S.C. 1701 *et seq.*

§ 440.1 Purpose and scope.

This part contains the regulations adopted by the Department of Energy to carry out a program of weatherization assistance for low-income persons established by Part A of the Energy Conservation in Existing Buildings Act of 1976, 42 U.S.C. 6861 *et seq.*, enacted as Title IV of the Energy Conservation and Production Act, Pub. L. 94-385, 90 Stat. 1125 *et seq.*, and amended by Title II, Part 2, of the National Energy Conservation Policy Act, Pub. L. 95-619, 92 Stat. 3206 *et seq.*

§ 440.2 Administration of grants.

(a) Grant awards under this part shall be administered in accordance with the following—

- (1) Federal Management Circular 73-2, 34 CFR Part 251, entitled "Audit on Federal Operations and Programs by Executive Branch Agencies;"
- (2) Federal Management Circular 74-4, 34 CFR Part 256 entitled "Cost Principles Applicable to Grants and Contracts with State and Local Governments;"
- (3) Federal Management Circular 74-7, 34 CFR Part 256, entitled "Uniform Administrative Requirements for Grants-in-Aid to State and Local Governments;"
- (4) Office of Management and Budget Circular A-89, entitled "Catalog of Federal Domestic Assistance;"
- (5) Office of Management and Budget Circular A-95, entitled "Evaluation, Review and Coordination of Federal and Federally Assisted Programs and Projects;"
- (6) Office of Management and Budget Circular A-97, entitled "Rules and Regulations Permitting Federal Agencies to

Provide Specialized or Technical Services to State and Local Units of Government under Title III of the Intergovernmental Coordination Act of 1968;"

(7) Treasury Circular 1082, entitled "Notification to States of Grant-in-Aid Information;"

(8) DOE Assistance Regulations (10 CFR Part 600); and

(9) Such procedures applicable to this part as DOE may from time to time prescribe for the administration of grants.

(b) Tools and equipment acquired with grant funds provided under this part shall be the property of the grantee, as more particularly provided for by paragraph (a)(3) of this section.

§ 440.3 Definitions.

As used in this part—

"Act" means the Energy Conservation in Existing Buildings Act of 1976, as amended, 42 U.S.C. 6851 *et seq.*

"CAA" means a Community Action Agency.

"CETA" means the Comprehensive Employment and Training Act of 1973, 42 U.S.C. 2781 *et seq.*

"Community Action Agency" means a private corporation or public agency established pursuant to the Economic Opportunity Act of 1964, Pub. L. 88-452, which is authorized to administer funds received from Federal, State, local or private funding entities to assess, design, operate, finance and oversee antipoverty programs.

"Cooling degree days" means a population-weighted annual average of the climatological cooling degree days for each weather station within a State, as determined by DOE.

"Director" means the Director of the Community Services Administration.

"DOE" means the Department of Energy.

"Dwelling unit" means a house, including a stationary mobile home, an apartment, a group of rooms, or a single room occupied as separate living quarters.

"Elderly Person" means a person who is 60 years of age or older.

"Eligible State" means any of the forty-eight contiguous States, Alaska, or the District of Columbia.

"Family unit" means all persons living together in a dwelling unit.

"Governor" means the chief executive officer of a State, including the Mayor of the District of Columbia.

"Grantee" means the State or other entity named in the Notification of Grant Award as the recipient.

"Handicapped person" means any individual (1) who is a handicapped individual as defined in section 7(8) of the Rehabilitation Act of 1973, (2) who is under a disability as defined in section 1614(a)(3)(A) or 223(d)(1) of the Social Security Act or in section 102(7) of the Developmental Disabilities Services and Facilities Construction Act, or (3) who is receiving benefits under chapter 11 or 15 of Title 38, United States Code.

"Heating degree days" means a population-weighted seasonal average of the climatological heating degree days for each weather station within a State, as determined by DOE.

"Indian tribe" means any tribe, band, nation or other organized group or community or Native Americans, including any Alaska native village, or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act, Pub. L. 92-203, 65 Stat. 688, which (1) is recognized as eligible for the special programs and services provided by the United States to Native Americans because of their status as Native Americans; or (2) is located on, or in proximity to a Federal or State reservation or rancheria.

"Local applicant" means a CAA or unit of general purpose local government.

"Low income" means that income relation to family size which—

- (1) is at or below 125 percent of the poverty level determined in accordance with criteria established by the Director of the Office of Management and Budget, except that the Secretary may establish a higher level if the Secretary, after consulting with the Secretary of Agriculture and the Director of the Community Services Administration, determines that such a higher level is necessary to carry out the purposes of this part and is consistent with the eligibility criteria established for the weatherization program under section 222(a)(12) of the Economic Opportunity Act of 1964; or
- (2) is the basis on which cash assistance payments, have been paid during the preceding 12-month period under Titles IV and XVI of the Social Security Act or applicable State or local law.

"Native American" means a person who is a member of an Indian tribe.

"Number of low-income, owner-occupied dwelling units in the State" means the number of such dwelling units in a State, as determined by DOE.

"Number of low-income, renter-occupied dwelling units in the State" means the number of such dwelling units in a State, as determined by DOE.

"Percentage of total residential energy used for space cooling" means the national percentage of total energy used for space cooling, as determined by DOE.

"Percentage of total residential energy used for space heating" means the national percentage of total energy used for space heating, as determined by DOE.

"Regional Representative" means a Regional Representative of DOE.

"Rental dwelling unit" means a dwelling unit occupied by a person who pays rent for the use of the dwelling unit.

"Repair materials" means items necessary for the effective performance or preservation of weatherization materials. Repair materials include, but are not limited to lumber used to frame or repair windows and doors which could not otherwise be caulked or weatherstripped, and protective materials, such as paint, used to seal materials installed under this program.

"Secretary" means the Secretary of the Department of Energy.

"Separate living quarters" means living quarters in which the occupants do not live and eat with any other persons in the structure and which have either (1) direct access from the outside of the building or through a common hall, or (2) complete kitchen facilities for the exclusive use of the occupants. The occupants may be a single family, one person living alone, two or more families living together, or any other group of related or unrelated persons who share living arrangements.

"Single-family dwelling unit" means a structure containing no more than one dwelling unit.

"Skirting" means material used to border the bottom of a dwelling unit to prevent infiltration.

"State" means each of the states and the District of Columbia.

"Sub-grantee" means a weatherization project which receives a grant of funds awarded under this part from a grantee.

"Tribal organization" means the recognized governing body of any Indian tribe, or any legally established organization of Native Americans which is controlled, sanctioned, or chartered by such governing body.

"Unit of general purpose local government" means any city, county, town, parish, village, or other general purpose political subdivision of a State.

"Weatherization materials" means—

- (1) Caulking and weatherstripping of doors and windows;
- (2) Furnace efficiency modifications limited to—
 - (i) Replacement burners designed to substantially increase the energy efficiency of the heating system;
 - (ii) Devices for modifying flue openings which will increase the energy efficiency of the heating system; and
 - (iii) Electrical or mechanical furnace ignition systems which replace standing gas pilot lights;
- (3) Clock thermostats;
- (4) Ceiling, attic, wall, floor, and duct insulation;
- (5) Water heater insulation;
- (6) Storm windows and doors, multiglazed windows and doors, heat-absorbing or heat-reflective window and door materials; and
- (7) The following insulating or energy conserving devices or technologies—
 - (i) Skirting;
 - (ii) Items to improve attic ventilation;
 - (iii) Vapor barriers; and
 - (iv) Materials used as a patch to reduce infiltration through the building envelope.

§ 440.10 Allocation of funds.

(a) DOE shall provide financial assistance, from sums appropriated for any fiscal year, only upon annual application.

(b) DOE shall determine the allocation for each State from available funds as follows—

(1) The first five million dollars appropriated shall be divided equally among the eligible States; an additional one hundred thousand dollars shall be allocated to Alaska.

(2) The percentage of the remaining available funds allocated to each eligible State shall be determined by the following formula—

(i) The square of the number of heating degree-days in a State multiplied by the percentage of total residential energy used for space heating;

(ii) Plus the square of the number of cooling degree-days in the State multiplied by the percentage of total residential energy used for space cooling;

(iii) Multiplied by the sum of the number of low-income, owner-occupied dwelling units in the State and one-half of the number of low-income, renter-occupied dwelling units in the State;

(iv) Divided by the sum of the results produced for all States by the computation outlined in subparagraphs (2)(i), (ii), and (iii) of this paragraph; and

(v) Multiplied by 100.

(c) The Secretary shall notify each eligible State of the amount of grant funds for which that State is eligible to apply.

§ 440.11 Native Americans.

(a) Notwithstanding any other provision of this part, the Regional Representative may determine, after taking into account the amount of funds made available to a State to carry out the purposes of this part, that—

(1) The low-income members of an Indian tribe are not receiving benefits under this part equivalent to the assistance provided to other low-income persons in the State under this part, and

(2) The members of such tribe would be better served by means of a grant made directly to provide such assistance.

(b) In any State for which the Regional Representative shall have made the determination referred to in paragraph (a) of this section, the Regional Representative shall reserve from the sums that would otherwise be allocated to the State under this part not less than 100 percent, nor more than 150 percent, of an amount which bears the same ratio to the State's allocation for the fiscal year involved as the population of all low-income Native Americans for whom a determination under paragraph (a) of this section has been made bears to the populations of all low-income persons in the State.

(c) The Regional Representative shall make the determination prescribed in paragraph (a) of this section in the event a State shall—

(1) Not apply within the 90-day time period prescribed in § 440.14(a)(2);

(2) Recommend that direct grants be made for low-income members of an Indian tribe as provided in § 440.12(b)(10);

(3) File an application which DOE determines, in accordance with the procedures in § 440.30, not to make adequate

provision for the low-income members of an Indian tribe residing in the State, or

(4) Have received grant funds, and DOE determines, in accordance with the procedures in § 440.30, that the State has failed to implement the procedures required by § 440.15(a)(7).

(d) Any sums reserved by the Regional Representative pursuant to paragraph (b) of this section shall be granted to the tribal organization serving the individuals for whom the determination has been made, or where there is no tribal organization, to such other entity as the Regional Representative determines is able to provide adequate weatherization assistance pursuant to this part. Where the Regional Representative intends to make a grant to an organization to perform services benefiting more than one Indian tribe, the approval of each Indian tribe shall be a prerequisite for the issuance of a notice of grant award.

(e) Within 30 days after the Regional Representative has reserved funds pursuant to paragraph (b) of this section, the Regional Representative shall give written notice to the tribal organization or other qualified entity of the amount of funds reserved and its eligibility to apply therefor.

(f) Such tribal organization or other qualified entity shall thereafter be treated as a unit of general purpose local government eligible to apply for funds hereunder, pursuant to the provisions of § 440.13.

§ 440.12 State applications.

(a) To be eligible for financial assistance under this part, a State shall submit an application to DOE in conformity with the requirements of § 440.15 not later than 90 days after the date of publication of this part. The Regional Representative shall review each timely State application and, if the submission otherwise complies with the applicable provisions of this part, approve a final budget and issue a notice of grant award.

(b) Each application shall include—

(1) The name and address of the State agency or office responsible for administering the program;

(2) A copy of the final State plan prepared after notice and a public hearing in accordance with § 440.14(a), except that an application by a local applicant need not include a copy of the final State plan;

(3) A detailed description of the manner in which the minimum program requirements of § 440.15 will be met;

(4) The budget for total funds applied for under the Act which shall include a justification and explanation of any amounts requested for expenditure pursuant to § 440.16;

(5) The total number of dwelling units proposed to be weatherized with grant funds during the budget period for which assistance is to be awarded;

(6) A schedule for implementation which shall indicate the number of dwelling units which are expected to be weatherized by calendar quarter;

(7) An estimate of the number of single-family and multi-family dwelling units to be weatherized;

(8) An estimate of the minimum number of dwelling units to be weatherized where elderly persons reside;

(9) An estimate of the minimum number of dwelling units to be weatherized where handicapped persons reside;

(10) An estimate of the minimum number of dwelling units to be weatherized where Native Americans reside, or a recommendation that a tribal organization be treated as a local applicant eligible to submit an application pursuant to § 440.12(b);

(11) An estimate by percentage of the Federal manpower programs or other labor sources to be used in implementing each proposed weatherization project;

(12) Any determination made in accordance with § 440.14(d) not to provide funds and the reasons for such determination, except that an application by a local applicant need not include this information; and

(13) Any further information which the Secretary finds necessary to determine whether an application meets the requirements of this part.

§ 440.13 Local applications.

(a) The Regional Representative shall give written notice to all local applicants throughout a State of their eligibility to apply for financial assistance under this part in the event—

(1) A State, within which a local applicant is situated, fails to submit an application within 90 days of the publication of this part; or

(2) The Regional Representative finally disapproves the application of a State pursuant to § 440.30.

(b) To be eligible for financial assistance, a local applicant shall submit an application pursuant to § 440.12(b) to the Regional Representative within 30 days after receiving the notice referred to in paragraph (a) of this section.

(c) In the event one or more local applicants submit a timely application, the Regional Representative shall combine the hearing on the proposed plan pursuant to § 440.14(a) with a hearing on the intention to deny the timely application of one or more local applicants, as provided in § 440.30, to the maximum extent practicable. Based upon the final plan developed by the Regional Representative, the hearing and information submitted by a local applicant and other interested persons, the Regional Representative shall determine whether or not to award a grant to a local applicant and the amount thereof. The Regional Representative may provide financial assistance to a local applicant to carry out one or more weatherization projects.

§ 440.14 Administrative requirements.

(a) Before submitting an application, a State shall give not less than 10 days notice of hearing, reasonably calculated to inform prospective sub-grantees, and shall conduct one or more public hearings for the purpose of receiving comments on a proposed State plan. The proposed State plan, which shall identify and describe proposed weatherization projects including a statement of proposed sub-grantees and the amount

each will receive, shall be published and made available throughout the State prior to the hearing. The notice for the hearing shall specify that copies of the plan are available and how they may be obtained. A transcript of the hearings shall be prepared and written submission of views and data shall be accepted for the record.

(b) Subsequent to the hearing, the State shall prepare a final plan which shall identify and describe—

(1) Each area to be served by a weatherization project within the State and shall include for each area—

(i) The number of dwelling units to be weatherized;

(ii) The climatic conditions;

(iii) The type of weatherization work to be done;

(iv) The need for weatherization assistance among low-income persons;

(v) The amount of energy to be conserved;

(vi) Mechanisms for providing sources of labor;

(vii) An estimate of the number of eligible dwelling units in which the elderly reside; and

(viii) An estimate of the number of eligible dwelling units in which the handicapped reside.

(2) The manner in which the plan is to be implemented and shall include—

(i) An analysis of the existence and effectiveness of any weatherization project being carried out by a CAA;

(ii) An explanation of the method used to select each area to be served by a weatherization project;

(iii) The extent to which priority will be given to weatherization of single-family dwelling units for the elderly and handicapped;

(iv) The amount of non-Federal resources to be applied to the program;

(v) The amount of Federal resources, other than DOE weatherization grant funds, to be applied to the program;

(vi) The amount of weatherization grant funds allocated to the State under this part;

(vii) The expected average cost per dwelling to be weatherized, taking into account the total number of dwellings to be weatherized and the total amount of funds. Federal and non-Federal, expected to be applied to the program; and

(viii) The number of rental dwelling units to be weatherized by project, if any.

(3) The approach, including a list of measures to weatherize a dwelling unit, developed by the State in accordance with Project Retro-Tech, Conservation Paper Number 28, as revised July 1979, which shall be applied to each dwelling unit by a subgrantee to determine the optimum set of cost-effective measures, within the allowable expenditures prescribed in § 440.16, to be installed in such dwelling unit.

(c) The plan shall insure that funds received under the Act will be allocated to a CAA carrying out a program under Title II of the Economic Opportunity Act of 1964, 42 U.S.C. 2809, as amended, or to other appropriate and qualified entities in the State geographical area so that—

(1) Funds will be allocated to areas on the basis of the relative need for a

weatherization project by low-income persons, taking into account the factors referred to in paragraph (b)(1) of this section; and

(2)(i) Funds allocated to a geographical area served by an emergency energy conservation program carried out by a CAA under section 222(a)(12) of the Economic Opportunity Act of 1964, shall be allocated to the CAA, and (ii) priority in the allocation of funds will be given to the CAA in so much of the geographical area served by it as is not served by the emergency energy conservation program.

(d) Paragraph (c)(2) of this section shall not apply if the Governor, or the Regional Representative acting on behalf of the Governor pursuant to § 440.13(c), determines on the basis of the public hearing provided under paragraph (a) of this section that an emergency energy conservation program carried out by a CAA—

(1) Has been ineffective in meeting the purpose of the Act; or

(2) Is clearly not of sufficient size and cannot in timely fashion develop the capacity to support the scope of the project to be carried out in the area with funds to be granted under this part.

(e) In making a determination pursuant to paragraph (d) of this section, the Governor, or the Regional Representative acting on behalf of the Governor pursuant to § 440.13(c), shall evaluate the performance of the CAA and shall consider—

(1) The extent to which the emergency energy conservation program being carried out achieves the goals of the program in a timely fashion;

(2) The quality of work performed;

(3) The number, qualifications and experience of staff members; and

(4) The ability to secure volunteers, training participants and public service employment workers, pursuant to CETA.

(f) Any eligible local applicant may request in its application that the Regional Representative determine that the allocation requirement and priority set forth in paragraph (c)(2) of this section shall not be applied. In this event, the Regional Representative shall decide whether to make the determination as part of the notice and public hearing procedure required by § 440.30, which hearing may be consolidated by the Regional Representative with the public hearing required by paragraph (a) of this section.

§ 440.15 Minimum program requirements.

(a) Prior to the expenditure of any grant funds, each grantee shall develop, publish and implement procedures to insure that—

(1) No dwelling unit may be weatherized without documentation that the dwelling unit is an eligible dwelling unit as provided in § 440.18;

(2) Priority is given to identifying, and providing weatherization assistance to elderly and handicapped low-income persons and such priority as the applicant determines is appropriate is given to single-family or other, high-energy-consuming dwelling units;

(3) Financial assistance provided under this part will be used to supplement, and not supplant, State or local funds, and, to the

maximum extent practicable as determined by DOE, to increase the amounts of these funds that would be made available in the absence of Federal funds provided under this part;

(4) To the maximum extent practicable, the grantee will secure the services of volunteers, training participants and public service employment workers, pursuant to CETA, to work under the supervision of qualified supervisors and foremen;

(5) The limitations set forth in § 440.14(c) shall be complied with;

(6) To the maximum extent practicable, the use of weatherization assistance shall be coordinated with other Federal, State, local or privately funded programs in order to improve thermal efficiency and to conserve energy;

(7) The low-income members of an Indian tribe shall receive benefits equivalent to the assistance provided to other low-income persons within a State unless the grantee has made the recommendation provided in § 440.12(b)(10); and

(8) The list of measures to weatherize a dwelling unit, developed by the State in accordance with § 440.14(b)(3), after approval by the Regional Representative, is included in copies of Project Retro-Tech which are furnished by the State to subgrantees.

(b) If a grantee decides to weatherize rental dwelling units—

(1) No rental dwelling unit shall be weatherized without first obtaining the written permission of the owner of the dwelling units or his agent; and

(2) The grantee shall establish procedures to be approved by the Regional Representative to insure that—

(i) The benefits of weatherization assistance shall accrue primarily to low-income tenants;

(ii) Rents shall not be raised because of the increased value of dwelling units due solely to weatherization assistance provided under this part; and

(iii) No undue or excessive enhancement shall occur to the value of the dwelling units.

(c) Prior to the expenditure of any grant funds, a State policy advisory council shall be established by a State, or by the Regional Representative if a State does not participate in the program, which—

(1) Has special qualifications and sensitivity with respect to solving the problems of low-income persons, including the weatherization and energy conservation problems of these persons;

(2) Is broadly representative of organizations and agencies, including consumer groups, that represent low-income persons, particularly elderly and handicapped low-income persons and low-income Native Americans, in the State or geographical area in question; and

(3) Has responsibility for advising the appropriate official or agency administering the allocation of financial assistance in the State or area with respect to the development and implementation of a weatherization assistance program.

(d) No person in the United States shall, on the ground of race, color, national origin, or sex, or on the ground of any other factor specified in any Federal law prohibiting

discrimination, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program, project, or activity supported in whole or in part with financial assistance under this part. Whenever the Secretary determines that a recipient of financial assistance under this part has failed to comply with this paragraph or an applicable regulation, he shall notify the recipient to secure compliance. If within a reasonable period of time the recipient fails to comply, the Secretary shall (1) refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted; (2) exercise the power and functions provided by Title VI of the Civil Rights Act of 1964 and any other applicable Federal nondiscrimination law; or (3) take such other action as may be provided by law.

§ 440.16 Allowable expenditures.

(a) To the maximum extent practicable, the grant funds provided under this part shall be used for the purchase of weatherization materials and related matter described in paragraph (a)(1) of this section. Allowable expenditures under this part include only—

(1) A maximum of \$800 for any dwelling unit, except as provided in paragraph (d) of this section, for—

(i) The cost of purchase, delivery, and storage of weatherization materials;

(ii) The cost, determined by a grantee, which shall not exceed an average for any subgrantee of \$240 per dwelling unit, of—

(A) Transportation of weatherization materials, tools, equipment, and work crews to a storage site and to the site of weatherization work;

(B) Maintenance, operation, and insurance of vehicles used to transport weatherization materials;

(C) Maintenance of tools and equipment;

(D) Purchase or annual lease of tools, equipment, and vehicles, except that any purchase of vehicles shall be referred to DOE for prior approval in every instance; and

(E) Employment of on-site supervisory personnel; and

(iii) The cost, not to exceed \$100 per dwelling unit, of incidental repairs, including repair materials and repairs to the heating source necessary to make the installation of weatherization materials effective.

(2) The cost of liability insurance for weatherization projects for personal injury and for property damage; and

(3) [Reserve]; and

(4) Allowable administrative expenses under paragraph (b) of this section.

(b) Not more than 5 percent of each grant made pursuant to this part may be used for the administrative expenses of the grantee, and not more than 5 percent of each amount allocated to a sub-grantee under this part may be used for administrative expenses of the sub-grantee. Allowable administrative expenses shall not include any costs of labor to carry out a weatherization project, except for supervisors and foremen.

(c) No grant funds awarded under this part shall be used for any of the following purposes—

(1) To weatherize a dwelling unit which has been weatherized previously with grant

funds authorized under this part unless such dwelling unit has been damaged by fire, flood, or act of God and repair of the damage to weatherization materials is not paid for by insurance; or

(2) To weatherize a dwelling unit which is vacant or designated for acquisition or clearance by a Federal, State, or local program within twelve months from the date weatherization of the dwelling unit would be scheduled to be completed.

(d) The limitation of \$800 described in paragraph (a) of this section shall not apply if the State policy advisory council requests a greater amount be provided for specific categories of units or materials in the State, and the Regional Representative approves the request.

§ 440.17 Standards and techniques for weatherization.

(a) Only weatherization materials which meet or exceed standards prescribed in Appendix A shall be purchased with funds provided under this part.

(b) A weatherization project shall utilize the approaches to weatherization contained in Project Retro-Tech, Conservation Paper Number 28, as revised July 1979, including the energy conservation techniques therein.

§ 440.18 Eligible dwelling units.

No dwelling unit shall be eligible for weatherization assistance under this part unless it is occupied by a family unit—

(a) Whose income is at or below 125 percent of the poverty level determined in accordance with criteria established by the Director of the Office of Management and Budget; or

(b) Which contains a member who has received cash assistance payments under Title IV or XVI of the Social Security Act or applicable State or local law during the 12-month period preceding the determination of eligibility for weatherization assistance.

§ 440.20 Oversight, training, and technical assistance.

(a) The Secretary and the appropriate Regional Representative, in coordination with the Director, shall monitor and evaluate the operation of projects carried out by CAA's receiving financial assistance under this part through on-site inspections, or through other means, in order to insure the effective provision of weatherization assistance for the dwelling units of low-income persons.

(b) DOE shall also carry out periodic evaluations of a program and weatherization projects that are not carried out by a CAA, and that are receiving financial assistance under this part.

(c) The Secretary and the appropriate Regional Representative, the Comptroller General of the United States, and for a weatherization project carried out by a CAA, the Director or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, information, and records of any weatherization project receiving financial assistance under the Act.

(d) Each grantee shall conduct, on an annual basis, an audit of the pertinent records

of any sub-grantee receiving financial assistance under this part.

(e) The Secretary may reserve from the funds appropriated for any fiscal year an amount, not to exceed 10 percent, to provide, directly or indirectly, training and technical assistance to any grantee or sub-grantee.

§ 440.21 Recordkeeping.

Each grantee or sub-grantee receiving Federal financial assistance under this part shall keep such records as DOE shall require, including records which fully disclose the amount and disposition by each grantee and sub-grantee of the funds received, the total cost of a weatherization project or the total expenditure to implement the State plan for which such assistance was given or used, the source and amount of funds for such project or program not supplied by DOE and such other records as DOE deems necessary for an effective audit and performance evaluation. Such recordkeeping shall be in accordance with Federal Management Circular 74-7 and any further requirements of this regulation or which DOE may otherwise establish under the terms and conditions of a grant.

§ 440.22 Quarterly reports.

Each grantee receiving financial assistance under this part shall submit a quarterly program performance report and a quarterly financial report to the appropriate Regional Representative. The program performance report shall contain such information as the Secretary may prescribe in order effectively to monitor the progress of a grantee.

§ 440.30 Administrative review.

(a) If a timely application submitted by a State fails to meet the requirements of this part and the Regional Representative intends to deny the application, the Regional Representative shall return the application to the State together with a written statement of reasons therefor.

(b) The State will have a reasonable period, as determined by the Regional Representative, to amend its application and to resubmit it by a specified date for reconsideration.

(c) The Regional Representative shall give notice to the applicant in the event that the Regional Representative determines that—

(1) Any application resubmitted by a State in accordance with paragraph (b) of this section fails to comply with this regulation;

(2) Any application returned to a State pursuant to paragraph (a) of this section is not timely resubmitted as provided in, paragraph (b); or

(3) The Regional Representative intends to deny the application of a local applicant.

(d) The Regional Representative shall give notice to a grantee in the event the Regional Representative finds there is a failure by the grantee to comply substantially with the provisions of this part.

(e) The Regional Representative shall issue such notice in the form of written notice mailed by registered mail, return receipt

requested, to the State, local applicant or grantee and other interested parties, including—

(1) A statement of reasons for a determination referred to in paragraph (c) or (d) of this section which the Regional Representative intends to make including an explanation whether any amendments or other actions would result in compliance with the regulation;

(2) The date, place, and time of public hearing to be held by the Secretary, one subject of which shall be the proposed determination, which hearing shall in no event be later than 15 working days after the receipt of such notice; and

(3) The manner in which views may be presented.

(f) A party which has received notice under paragraph (e) of this section—

(1) May make a written submission of its views with supporting data and arguments to the Regional Representative on or prior to the date of the public hearing; and

(2) Shall be afforded an opportunity to make an oral presentation at the public hearing.

(g) The Regional Representative shall consider all relevant views and data including arguments and other submissions made at the public hearing. The Regional Representative shall make, not later than 5 working days after the public hearing, a final determination in writing stating the reasons for the determination.

(h) A State or local applicant or grantee may appeal in writing from an adverse final determination made by the Regional Representative under paragraph (g) of this section to the Secretary not later than 10 working days after receipt of the Regional Representative's determination. The Secretary shall have 21 working days to consider the appeal and take any action with respect thereto which he deems appropriate. Any action taken by the Secretary shall be the final determination of DOE. If no action has been taken by the Secretary after the expiration of the 21-working-day period, the Secretary shall be deemed to have approved the determination of the Regional Representative.

(i) Anything herein to the contrary notwithstanding, the public hearing referred to in paragraph (e)(2) of this section may be combined, at the discretion of the Regional Representative, with any other public hearing in the State conducted pursuant to this part.

(j) Upon issuance of the notice provided in paragraph (d) of this section, the Regional Representative may suspend payments to any grantee pending a final determination. If the Regional Representative makes a final determination of failure to comply, the grantee will be ineligible to participate in the program unless and until the Regional Representative is satisfied that there is no longer a failure to comply.

Appendix A.—Standards for Weatherization Materials

Material or product	Standards
Insulation—Mineral fiber:	
Blanket/batt	Conformance to F.S. 1 HH-1-521E and ASTM C665-70.
Board	Conformance to F.S. HH-1-526C and ASTM C612-70 or C726-72.
Duct material	Conformance to F.S. HH-1-558B.
Loose fill	Conformance to F.S. HH-1-1030A and ASTM C764-73.
Insulation—Mineral cellular:	
Aggregate board	Conformance to F.S. HH-1-529B.
Cellular glass	Conformance to F.S. HH-1-551E and ASTM C552-73.
Perlite	Conformance to F.S. HH-1-574A and ASTM C549-73.
Vermiculite	Conformance to F.S. HH-1-585B and ASTM C516-67.
Insulation—Organic fiber:	
Cellulose—Type I	Conformance to F.S. HH-1-515C and ASTM C739-73 (loose fill).
Cellulose—Type II	Conformance to ASTM C739-73 (loose fill) and fire safety requirements.*
Vegetable	Conformance to F.S. HH-1-526B and fire safety requirements.
Board and block	Conformance to F.S. LLL-1-535A and ASTM C208-72 and fire safety requirements.
Insulation—Organic cellular:	
Polystyrene board	Conformance to F.S. HH-1-524B and ASTM C578-69 and fire safety requirements.
Urethane board	Conformance to F.S. HH-1-530A and ASTM C591-69 and fire safety requirements.
Flexible unicellular	Conformance to F.S. HH-1-573B and ASTM C534-70 and fire safety requirements.
Insulation—Air Spaces: Reflective	Conformance to F.S. HH-1-1252A.
Storm Windows:	
Aluminum frame	Equivalent to ANSI A134.3-1972.
Wood frame	Conformance to Sec. 3 of NWMA Industry Standard I.S.2-73.
Rigid vinyl frame	Conformance to NBS Product Standard PS26-70 and performance guarantee.
Frameless plastic glazing	Required minimum thickness 6 mil (0.006 in.).
Storm doors:	
Aluminum	Equivalent to ANSI A134.4-1972.
Wood:	
Pine	Conformance to Sec. 3 of NWMA I.S.5-73.
Fir, hemlock, spruce	Conformance to Sec. 3 of FHDA/5-75.
Hardwood veneered	Conformance to Sec. 3 of NWMA I.S.1-73.
Rigid vinyl	Conformance to NBS Product Standard PS 26-70 and performance guarantee.
Caulks and sealants	Commercial availability.
Weatherstripping	Commercial availability.
Vapor barriers	Commercial availability.
Clock thermostats	Commercial availability.
Skirting	Commercial availability.
Items to improve attic ventilation	Commercial availability.
Materials used as a patch to reduce infiltration through the building envelope.	Commercial availability.

* F.S. Means Federal specifications as cited, copies of which may be obtained from Specifications Sales, Building 197, Washington Naval Yard, General Services Administration, Washington, D. C. 20407.

* For fire safety requirements, see Sec. 2.1.3.1 of NBSIR 75-795 which may be obtained from DOE.

PART 440—WEATHERIZATION ASSISTANCE FOR LOW-INCOME PERSONS

Provisions of 10 CFR Part 440 are amended as follows:

§ 440.2 [Amended]

1. Paragraph 440.2(a) is amended to delete the "and" following subparagraph

(7), to redesignate subparagraph (8) as subparagraph (9), and to add a new subparagraph (8) as follows:

(a) * * *

(8) DOE Assistance Regulations (10 CFR Part 600); and

* * * * *

§ 440.14 [Amended]

2. Paragraph 440.14(b) is amended to add a new subparagraph (3) to read as follows:

(b) * * *

(3) The approach, including a list of measures to weatherize a dwelling unit, developed by the State in accordance with Project Retro-Tech, Conservation Paper Number 28, as revised July 1979, which shall be applied to each dwelling unit by a subgrantee to determine the optimum set of cost-effective measures, within the allowable expenditures prescribed in § 440.16, to be installed in such dwelling unit.

§ 440.15 [Amended]

3. Paragraph 440.15(a) is amended to delete the "and" following subparagraph (6), to strike the period at the end of subparagraph (7) and add "; and", and to add a new subparagraph (8) to read as follows:

(a) * * *

(8) The list of measures to weatherize a dwelling unit, developed by the State in accordance with § 440.14(b)(3), after approval by the Regional Representative, is included in copies of Project Retro-Tech which are furnished by the State to subgrantees.

§ 440.17 [Amended]

4. Section 440.17 is amended by deleting paragraphs (b), (c), (d) and (e) and by adding a new paragraph (b) to read as follows:

(b) A weatherization project shall utilize the approaches to weatherization contained in Project Retro-Tech, Conservation Paper Number 28, as revised July 1979, including the energy conservation techniques therein.

[FR Doc. 79-26962 Filed 8-27-79; 10:01 am]
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Test Report Federal Report

Wednesday
August 29, 1979

Part V

Department of Energy

Renewable Energy Resources; Inquiry to
Identify any Federal Regulations Which
Might Prevent or Impede Development

DEPARTMENT OF ENERGY

[Docket No. CAS-RM-79-403]

[10 CFR Ch. II, III, and X]

Renewable Energy Resources; Inquiry To Identify Any Federal Regulations Which Might Prevent or Impede Development of Renewable Energy Resources

AGENCY: Department of Energy.

ACTION: Notice of Inquiry

SUMMARY: The Department of Energy (DOE) invites interested parties to submit written comments identifying any Federal regulations which commenters believe might interfere with the development and widespread use of renewable energy resources, or which might add to the cost of their development and use. Renewable energy is defined to be energy received from the sun directly in the form of radiant energy, and indirectly in the form of radiant energy stored in biomass (i.e., wood, vegetation and organic solid wastes), heated surface waters, the potential and kinetic energy of water elevated via the hydrological cycle, and the kinetic energy of the wind.

DATE: Written comments are due by October 29, 1979.

ADDRESS: Send comments to: Ms. Carol Snipes, Office of Conservation and Solar Applications, Department of Energy, Room 2221-C, 20 Massachusetts Avenue, N.W., Washington, D.C. 20585, telephone 202/376-1651.

FOR FURTHER INFORMATION CONTACT: Mr. John Schuler, Office of Conservation and Solar Applications, Department of Energy, Room 3114, 20 Massachusetts Avenue, N.W., Washington, D.C. 20585, telephone 202/376-9630.

SUPPLEMENTARY INFORMATION:**I. Background**

DOE administers a number of programs and activities whose objective is to facilitate the development of renewable energy resources and to accelerate their introduction and widespread use in the marketplace. DOE is particularly interested in removing economic, technical, regulatory and institutional barriers which prevent or impede the achievement of this objective.

To this end, DOE invites interested persons to submit comments identifying any Federal regulations prescribed by DOE, or by any other Federal agency, which commenters believe might create impediments to the use of renewable energy resources. DOE also invites

comments which recommend amendments to existing regulations, or the drafting of new regulations, which would promote the use of renewable energy resources.

II. Specific Comments Invited.

DOE invites comments on the following: (1) Which specific Federal regulations, in the opinion of the commenter, prevent or impede the introduction into the marketplace of designs, systems or products which make use of renewable energy resources to provide heating, cooling, electric or mechanical power for residential, commercial, industrial, agricultural or utility applications? What specific economic, regulatory or institutional barriers are created, perpetuated, or not addressed by the regulations identified? Specifically, how do these regulations interfere with research, development, manufacture and sales of renewable energy designs, systems or products by the private sector? Specifically, how do these regulations place impediments in the way of individual and corporate consumers who wish to purchase, install and operate renewable energy designs, systems and products?

(2) Which specific Federal regulations impede competition amongst business firms engaged in research, development, manufacture, sales or servicing renewable energy products and systems?

(3) Consistent with the basic purpose of the Federal regulation in question, what specific regulatory provision or language could be added, deleted, or modified to stimulate market acceptance and demand for renewable energy designs, systems or products? What specific regulatory provisions could be added, deleted, or modified to promote increased private sector investment for research, development, mass-production, distribution, sales and servicing of designs, products and systems which use renewable energy resources?

III. Comment Procedures.**A. Written Comments**

Comments should be submitted in an envelope marked "Regulatory Reform—Renewable Energy Resources" to Ms. Carol Snipes, Room 2221-C, Department of Energy, 20 Massachusetts Avenue, N.W., Washington, D.C. 20585 before 4:30 p.m., October 29, 1979. Fifteen copies are requested to be submitted, but alternative arrangements may be made by contacting Ms. Snipes at the address given above.

Except as provided below, all comments will be made available for

public inspection in DOE's Freedom of Information Office, Room GA-152, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C., from 8:00 a.m. to 4:30 p.m. on any working day.

Any information or data considered by the person furnishing it to be confidential must be identified and submitted in writing, one copy only. In accordance with agency regulations, DOE reserves the right to determine the confidential status of the information or data and to treat it according to its determination.

Issued in Washington, D.C., August 21, 1979.

Ms. Omi Walden,

Assistant Secretary, Conservation and Solar Applications.

[FR Doc. 79-26980 Filed 8-27-79 12 10 pm]

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Reader Aids

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY*	USDA/ASCS		DOT/SECRETARY*	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/FHWA	USDA/FSQS		DOT/FHWA	USDA/FSQS
DOT/FRA	USDA/REA		DOT/FRA	USDA/REA
DOT/NHTSA	MSPB/OPM		DOT/NHTSA	MSPB/OPM
DOT/RSPA	LABOR		DOT/RSPA	LABOR
DOT/SLS	HEW/FDA		DOT/SLS	HEW/FDA
DOT/UMTA			DOT/UMTA	
CSA			CSA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

*NOTE: As of July 2, 1979, all agencies in the Department of Transportation, will publish on the Monday/Thursday schedule.

REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.

Rules Going Into Effect Today

- ENVIRONMENTAL PROTECTION AGENCY
44499 7-30-79 / California Plan Revision; San Diego County Air Pollution Control District
HEALTH, EDUCATION, AND WELFARE DEPARTMENT
38330 Food and Drug Administration—
6-29-79 / Polychlorinated Biphenyls (PCB's); reduction of tolerances
INTERIOR DEPARTMENT
44846 7-31-79 / Wyoming: Powersite restoration No. 742; Partial revocation of powersite reserve No. 5

Next Week's Deadlines for Comments on Proposed Rules

- AGRICULTURE DEPARTMENT
55605 8-3-79 / Ante-mortem inspection of meat; residue program; comments by 9-3-79
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- 49994 8-24-79 / HUD / CP&D—Community development block grants; categorical program settlement fund; effective 10-1-79

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- 49488 8-23-79 / Commerce / MBEO—Business opportunities in new and/or expanded markets; apply by 9-14-79
49574 8-23-79 / HEW / OE—Direct grant programs; application notices for FY 1980; various dates

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- 51160 Community Development Block Grants** HUD adopts rules concerning loan guarantees; effective 10-5-79 (Part VIII of this issue)
- 50982 Community Action Agencies** CSA proposes rule to implement a program management system that sets forth basic minimum requirements for planning, grant application, reporting and evaluation of program operation; comments by 11-28-79 (Part II of this issue)
- 50824-50827 Air Carriers** CAB adopts rules to permit the direct marketing of charters to the public; effective 9-28-79 (5 documents)
- 51172 Budget Deferrals** OMB issues report of President to Congress (Part X of this issue)
- 50923 Crude Oil Transportation Systems** Interior gives notice of availability of environmental statement; comments by 9-30-79
- 50148 Tertiary Incentive Crude Oil** DOE/ERA issues rule to permit higher prices; effective 10-1-79 (Part VII of this issue)
- 51148 Mandatory Petroleum Price Regulations** DOE/ERA solicits comments by 10-26-79 on refiner investment incentives; hearings on 10-2 and 10-4-79

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- 50850 Federal Credit Unions** NCUA proposes rule to permit a Federal credit union to act as an agent for a mortgage lender granting long term real estate loans to members; comments by 11-7-79
- 50865 Disposal of Property for Educational and Public Health Purposes** GSA withdraws proposal; effective 8-30-79
- 50810 National Environmental Policy Act Procedures** Eximbank adopts final rule; effective 9-4-79
- 50804 Industrial Radiography** NRC publishes rules to improve safety; effective 2-29-79
- 51141 Reporting Requirements—Railroads** DOT/FRA proposes rules concerning procedures for reporting of traffic density data by railroads; comments by 10-15-79
- 50866 MTS and WATS Market Structure** FCC proposes rules; comments by 2-15-80
- 51128 Rail Service Assistance** DOT/FRA issues interim rule to establish procedures and requirements for receipt of; effective 8-30-79; comments by 10-15-79 (Part IV of this issue)
- 50879 Squid Fisheries of the Northwestern Atlantic** Commerce/NOAA proposes amendment to preliminary fishery management plan; comments by 9-26-79

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 908

[Valencia Orange Reg. 627; Valencia Orange Reg. 626, Amdt. 1]

Valencia Oranges Grown in Arizona and Designated Part of California; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action establishes the quantity of fresh California-Arizona Valencia oranges that may be shipped to market during the period August 31-September 6, 1979, and increases the quantity of such oranges that may be so shipped during the period August 24-30, 1979. Such action is needed to provide for orderly marketing of fresh Valencia oranges for the periods specified due to the marketing situation confronting the orange industry.

DATES: The regulation becomes effective August 31, 1979, and the amendment is effective for the period August 24-30, 1979.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, 202-447-5975.

SUPPLEMENTARY INFORMATION: Findings. This regulation and amendment are issued under the marketing agreement, as amended, and Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The action is based upon the recommendations and information submitted by the Valencia Orange Administrative Committee and upon other available information. It is

hereby found that the action will tend to effectuate the declared policy of the act by tending to establish and maintain, in the interests of producers and consumers, an orderly flow of oranges to market and avoid unreasonable fluctuations in supplies and prices. The action is not for the purpose of maintaining prices to farmers above the level which is declared to be the policy of Congress under the act.

The Committee met on August 28, 1979, to consider supply and market conditions and other factors affecting the need for regulation, and recommended quantities of Valencia oranges deemed advisable to be handled during the specified weeks. The committee reports the demand for Valencia oranges has shown improvement.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the Federal Register (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation and amendment are based and the effective date necessary to effectuate the declared policy of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting, and the amendment relieves restrictions on the handling of Valencia oranges. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

Further, the emergency nature of this regulation warrants publication without opportunity for further public comment, in accord with emergency procedures in Executive Order 12044. The regulation has not been classified significant under USDA criteria for implementing the Executive Order. An impact analysis is available from Malvin E. McGaha, (202) 447-5975.

§ 908.927 Valencia Orange Regulation 627.

Order. (a) The quantities of Valencia oranges grown in Arizona and California which may be handled during the period August 31, 1979, through September 6, 1979, are established as follows:

- (1) District 1: 324,000 cartons;
- (2) District 2: 276,000 cartons;
- (3) District 3: Unlimited.
- (b) As used in this section, "handled" "District 1", "District 2", District 3", and "carton" mean the same as defined in the marketing order.

§ 908.926 [Amended].

2. Paragraph (a)(1) and (2) in § 908.926 Valencia Orange Regulation 626 (44 FR 49415), is hereby amended to read:

- (1) District: 351,000 cartons.
- (2) District: 299,000 cartons.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: August 29, 1979

Charles R. Brader,

Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 79-27386 Filed 8-29-79; 11:11 am]

BILLING CODE 3410-02-M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 238

Contracts With Transportation Lines; Addition of VARIG S. A. (Brazilian Airlines) to Listing

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This is an amendment of the regulations of the Immigration and Naturalization Service to add a carrier to the list of transportation lines which have entered into agreements with the Commissioner of Immigration and Naturalization to guarantee the passage through the United States in immediate and continuous transit of aliens destined to foreign countries. This amendment is necessary because transportation lines which have signed such agreements are published in the Service's regulations.

EFFECTIVE DATE: August 2, 1979.

FOR FURTHER INFORMATION CONTACT: James G. Hoofnagle, Jr., Instructions Officer, Immigration and Naturalization Service. Telephone: (202) 633-3048.

SUPPLEMENTARY INFORMATION: This amendment to 8 CFR 238.3 is published pursuant to section 552 of Title 5 of the United States Code (80 Stat. 383), as amended by Pub. L. 93-502 (88 Stat. 1561), and the authority contained in

section 103 of the Immigration and Nationality Act (8 U.S.C. 1103), 28 CFR 0.105(b), and 8 CFR 2.1. Compliance with the provisions of section 553 of Title 5 of the United States Code as to notice of proposed rule making and delayed effective date is unnecessary in this instance because the amendment contained in this order adds a transportation line to the listing and is editorial in nature.

On August 2, 1979, the Commissioner of Immigration and Naturalization concluded an agreement with VARIG S. A. (Brazilian Airlines) to guarantee the passage through the United States in immediate and continuous transit of aliens destined to foreign countries pursuant to section 238(d) of the Immigration and Nationality Act and 8 CFR 238. Accordingly, 8 CFR 238.3(b) will be amended by adding "VARIG S. A. (Brazilian Airlines)" to the listing in alphabetical sequence.

In the light of the foregoing, the following amendment is hereby prescribed to Chapter I to Title 8 of the Code of Federal Regulations.

PART 238—CONTRACTS WITH TRANSPORTATION LINES

§ 238.3 [Amended]

In § 238.3 *Aliens in immediate and continuous transit*, the listing of transportation lines in paragraph (b) *Signatory lines* is amended by adding in alphabetical sequence, "VARIG S. A. (Brazilian Airlines)".

(Sec. 103 and 238(d), (8 U.S.C. 1103 and 1228(d)))

Effective date. The amendment contained in this order becomes effective on August 2, 1979.

Dated: August 24, 1979.

Leonel J. Castillo,
Commissioner of Immigration and Naturalization.

[FR Doc. 79-27099 Filed 8-29-79; 8:45 am]
BILLING CODE 4410-10-M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 9

Amendments to Appendix A—Requests for Declassification Review

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its regulations to substitute references to a new Executive Order (E.O. 12065) and its implementing directive (Information Security Oversight Office (ISOO)

Directive No. 1) for the replaced Executive Order (E.O. 11652) and its implementing National Security Council (NSC) Directive. The amendments reflect E.O. 12065's availability of mandatory document declassification review procedures at anytime after classification rather than the previous 10-year period as well as other conforming changes. This action is being taken by NRC to reflect E.O. 12065's intent to increase openness in government by limiting classification and accelerating declassification while improving protection of national security interests.

EFFECTIVE DATE: August 30, 1979.

FOR FURTHER INFORMATION CONTACT: J. M. Felton, Director, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Phone: 301-492-7211.

SUPPLEMENTARY INFORMATION: Notice is hereby given of the amendment of the Nuclear Regulatory Commission's Regulation, "Appendix A—Requests for Declassification Review," 10 CFR Part 9.

On June 28, 1978 the President issued Executive Order 12065 which supersedes a prior Executive Order (E.O. 11652). The new order is intended to increase openness in government by limiting classification and accelerating declassification. The Executive Order also establishes an Information Security Oversight Office (ISOO) to assume the previous responsibilities of the Interagency Classification Review Committee (ICRC).

The Nuclear Regulatory Commission is amending its regulations to substitute reference to E.O. 12065 and its implementing directive (ISOO Directive No. 1) for previous E.O. 11652 and its implementing NSC directive references. The minor amendments also reflect E.O. 12065's availability of mandatory document declassification review procedures at anytime after classification rather than the previous 10-year period. Likewise, the amendments change certain language in the regulation, to conform to the new Executive Order.

Finally, the new Executive Order abolishes a former appeal right under E.O. 11652 whereby a requester could have appealed to the ICRC. As a result, the appeal right formerly contained in section 3 of Appendix A, 10 CFR Part 9, has been deleted, with one exception. A right of appeal to the ISOO still exists with respect to decisions on declassification requests of information over 10 years old originated by the President, the White House Staff, committees or commissions appointed

by the President, or by others acting on behalf of the President, including such information in the possession and control of the Administrator of the General Services Administration pursuant to 44 U.S.C. 2107 or 2107 note (E.O. 12065 section 3-503). Other minor changes have been made in Appendix A to improve the clarity of the regulation.

Because these amendments relate solely to minor procedural matters, and do not impose obligations on persons other than the Nuclear Regulatory Commission, good cause exists for omitting notice of proposed rulemaking, and public procedure thereon, as unnecessary, and for making the amendments effective on August 30, 1979, without the customary 30 days notice.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and Sections 552 and 553 of Title 5 of the United States Code, the following amendments to Title 10 Chapter I, Code of Federal Regulations, Part 9 are published as a document subject to codification.

§ 9.61 [Amended]

1. Section 9.61 of 10 CFR Part 9 is amended by deleting "Executive Order 11652" and substituting therefor "Executive Order 12065" in the title of paragraph (b)(1), and by deleting "sections 1 and 5 (B), (C), (D), and (E) of Executive Order 11652," and substituting therefor "section 1-301 of Executive Order 12065" in the text of paragraph (b)(1).

2. Appendix A of 10 CFR Part 9 is revised to read as follows:

Appendix A—Request for Declassification Review

The following guidance is provided for members of the public desiring a classification review of a document of the Nuclear Regulatory Commission (NRC) pursuant to sections 3-5 of Executive Order 12065 (43 FR 28949, July 3, 1978), and section III.D of the Information Security Oversight Office Directive No. 1 Covering the Classification, Downgrading, Declassification and Safeguarding of National Security Information, (43 FR 46280, October 5, 1978). A Freedom of Information Act request for a classified document may also be made in accordance with the procedures set forth in 10 CFR 9.8.

1. Request for Declassification Review of Documents. a. Any person desiring a declassification review of an NRC document containing information classified as National Security Information by reason of the provisions of Executive Order 12065 (or any predecessor Executive Order) should address such requests to the Director, Division of

Security, U.S. Nuclear Regulatory Commission, Washington, DC, 20555.

b. Requests need not be made on any special form but shall, as specified in the Executive Order, reasonably describe the document to enable NRC personnel to identify and obtain the document from NRC records without expending more than a reasonable amount of effort.

c. Charges for locating and reproducing copies of records will be made in accordance with § 9.14 of this part.

2. Action on Requests for Declassification Review. a. Every effort will be made to complete action on each request within thirty (30) days of receipt of the request. If action cannot be completed within thirty (30) days, the requester shall be so advised by the Director, Division of Security, along with the reasons for the need for additional time. If the requester does not receive a decision on the request within sixty (60) days from the date of receipt of the request by NRC, the requester may appeal to the Chairman of the NRC Classification Review Committee for a decision on the request.

b. In the event the Director, Division of Security, determines that requested information must remain classified by reason of the provisions of Executive Order 12065, the requester shall be given prompt notification of that decision and shall be provided with a statement as to why the information or material cannot be declassified. Classified sections of the document will be identified, and the requester will be advised that a "sanitized" document can be provided with an appropriate unclassified description of the deleted information. Unclassified portions of the document will be made available to the requester unless withholding is warranted for some other reason under the provision of applicable law. If information is denied, the requester will be advised that the decision may be appealed to the NRC Classification Review Committee. An appeal should be made in writing addressed to the Chairman, Classification Review Committee, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Any such appeal should include a statement as to why the requester disagrees with the decision which is being appealed.

c. The NRC Classification Review Committee will normally render a decision within 30 days of the receipt of an appeal. If a longer period is likely to be required because of the need for consultations with other agencies or the requester, the requester will be advised of the time needed to complete review of the matter.

d. In the event the Director, Division of Security, or the Classification Review Committee, determines that the record is unclassified but the information appears to be of the type exempt from public disclosure under § 9.5 of this part, the requester shall be so notified in writing as provided in § 9.10 of this part.

3. Suggestions and complaints. Any person may make suggestions or complaints with respect to NRC's administration of the provisions of Executive Order 12065 and the ISOO Directive by writing to the Chairman, Classification Review Committee, U.S.

Nuclear Regulatory Commission, Washington, DC 20555.

4. Other Material. NRC Manual Chapters covering the NRC's classification and declassification policies and procedures are available for inspection and copying in the NRC's Public Document Room, 1717 H Street, NW., Washington, DC.

5. Classification Advice in General. These procedures are intended to supplement the policies and practices of the NRC to provide classification guidance with respect to information originated by persons working in the nuclear energy field. The NRC will respond as promptly as available resources permit to questions about the proper classification of information and material.

Dated at Bethesda, Md. this 20th day of August 1979.

For the Nuclear Regulatory Commission.

Lee V. Gossick,

Executive Director for Operations.

[FR Doc. 79-27142 Filed 8-29-79; 8:45 am]

BILLING CODE 7590-01-M

10 CFR Part 34

Licenses for Radiography and Radiography Safety Requirements for Radiographic Operations; Amendments of Radiography Regulations

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission is publishing as effective rules several changes in its regulations on industrial radiography. The rule changes were originally published for public comment on March 27, 1978, and have been revised after consideration of the comments received. These amendments require several procedural changes intended to improve radiography safety. The changes are also intended to formalize as regulations current licensing practices. The amendments apply to industrial radiography operations using radioactive isotope sources licensed by the Nuclear Regulatory Commission.

EFFECTIVE DATE: March 3, 1980.

Note.—The Nuclear Regulatory Commission has submitted this rule to the Comptroller General for such reviews as may be appropriate under the Federal Reports Act, as amended, 44 U.S.C. 3512. The date on which the reporting requirement of this rule becomes effective, unless advised to the contrary, accordingly reflects inclusion of the 45-day period which that statute allows for such review (44 U.S.C. 3512(c)(2)).

FOR FURTHER INFORMATION CONTACT: Dr. Stephen A. McGuire, Office of Standards Development, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, (301) 443-5970.

SUPPLEMENTARY INFORMATION: On March 27, 1978, the Nuclear Regulatory Commission published for public comment amendments to Part 34 of its regulations (43 FR 12715). Forty-nine public comments were received. In response to these comments, some of the proposed amendments have been deleted or substantially reworded. The individual amendments are discussed by section below.

§ 34.2 [Amended].

New definitions for "source changer," now used in § 34.22 and § 34.28 and "permanent radiographic installation," now used in § 34.29, are given.

§ 34.11(d) [Amended].

The proposed amendment specified that internal inspections would be required at intervals not to exceed three months. The predominant comment was that this frequency was too restrictive. The NRC believes the proposed frequency is appropriate in view of the importance of management audits of radiographer performance. The NRC has consistently observed that a strong management commitment to safety is necessary if radiographic operations are to be conducted safely. Frequent checks of the performance of radiographers are a necessary part of that commitment. The effective rule therefore retains the proposed frequency for internal inspections.

§ 34.22 [Amended].

The proposed amendment specified securing (not necessarily locking) the sealed source in its shielded position in crankout radiographic exposure devices each time the source is returned to that position. Some commenters questioned the effectiveness of such a requirement. Other commenters thought the requirement should not be limited to crankout devices only. On consideration, the NRC believes the small effort to secure the source is worthwhile since this prevents the source from moving out of its shielded position if the device or the crank is moved. The NRC also has extended the requirement to devices other than crankout devices since the safety considerations with such devices are similar to those for crankout devices.

§ 34.28 [Amended].

The proposed amendment specified that radiographic exposure devices, storage containers, and source changers be maintained at intervals not to exceed three months. The main comment was that this schedule was too restrictive. The NRC agrees that more flexibility in scheduling can be permitted with little

or no loss in effectiveness of the regulation. In response the schedule is changed to "at intervals not to exceed three months or prior to the first use thereafter." This allows somewhat more flexibility for equipment which may be used only infrequently.

§ 34.29 [Amended].

The proposed amendment specified the requirement of audible and visible alarms on entrances to permanent radiographic installations. Commenters did not object particularly to having the alarm. However, commenters objected strongly to requiring that the alarm alert another individual besides the individual attempting entry. The NRC agrees that warning another individual is not necessary for radiography sources if other means of limiting access of unauthorized personnel are provided. The rule has been rewritten so that a second person besides the radiographer is not required if the licensee chooses to limit access of unauthorized personnel into the high radiation area by locking or maintaining direct surveillance as required by § 20.203(c) (2)(iii) or (4) and § 34.41. Note that personnel access may be controlled by direct surveillance under § 20.203(c)(4) since a permanent radiographic installation does not mean that there is a permanent high radiation area (i.e., 30 days or more).

Some commenters objected to not allowing an automatic source retraction device to substitute for the alarm. As written in effective form, the new § 34.29 allows an automatic source retraction device to substitute for the alarm system. If the installation has a source retraction device meeting the requirements of § 20.203(c)(2)(i), § 34.29 does not apply.

Other commenters objected to not allowing locked entrances to the installation as a substitute for the alarm. The NRC does not agree with this comment. Many overexposures have occurred when a radiographer unlocked the door to an installation and approached an exposed source without using a survey meter. Therefore, permanent installations must have an alarm even if locking of all entrances is planned. It should be noted that the alarm system required in § 34.29 is aimed more at protecting the radiographer himself than at unauthorized personnel. For this reason, the requirements in § 20.203(c) and § 34.41 on preventing such access by unauthorized personnel remain completely unchanged.

§ 34.31 [Amended]

The amendment proposed to require written and field examinations for both

radiographers and radiographers' assistants. The comment was made that oral examinations should be adequate for radiographers' assistants. In view of the high degree of supervision required for an assistant in the new § 34.44, the final rule has been changed to permit oral testing of assistants. The final rule also requires that copies of written tests and the dates of oral and field examinations be retained for three years.

§ 34.33 [Amended]

The NRC proposed to amend § 34.33 to require annual accuracy checks on pocket dosimeters, with a $\pm 30\%$ accuracy criterion. The NRC also proposed to state that after an individual's pocket dosimeter had gone off-scale, the individual would be prohibited from further radiographic operations until the magnitude of the exposure had been evaluated.

Commenters said the accuracy check has little purpose and would not reduce radiation exposures. Commenters thought that since the pocket dosimeters are being manufactured to the stringent requirements of American National Standard N13.5-1972, "Performance Specifications for Direct Reading and Indirect Reading Pocket Dosimeters for X- and Gamma Radiation," that the proposed regulation is not necessary, particularly since defects in the dosimeters are generally either in a safe direction or else render the dosimeter completely unusable. The Commission, however, believes that some assurance of accuracy is necessary for pocket dosimeters and has decided to retain the proposed requirement. Thus, pocket dosimeters must be checked annually. To be acceptably accurate, the dose measured during the test must be within $\pm 30\%$ of the dose delivered during the test.

Commenters strongly objected to requiring that an individual with an off-scale dosimeter be removed from work since such action would be very costly and since dropping causes most dosimeters to go off-scale. The NRC has decided to delete this proposed requirement since it would do little to improve worker safety because the worker would not be restricted from work until after the exposure had already occurred. In addition, it would be quite burdensome. Licensees should note, however, that under § 20.201, "Surveys," they are required to make evaluations of the radiation hazards incident to the use of a radioactive source. Thus it is required that the licensee evaluate the situation to determine the cause of the off-scale dosimeter before allowing the worker to resume work in a restricted area. If an

overexposure has occurred, the important thing is to correct the hazard to prevent a repeat of the incident. So that this requirement is clearly understood, the Commission has decided to amend § 34.32, "Operating and Emergency Procedures," to specifically require licensees to have a procedure with steps that must be taken by radiography personnel in the event that a pocket dosimeter is found to be off-scale.

§ 34.41 [Amended]

The existing wording of this section will not be changed. The proposed wording would have eliminated locking of doors as a substitute for direct surveillance to prevent unauthorized personnel from entering high radiation area. The comment was made that locking is a very practical means of limiting access by unauthorized personnel in many instances such as shipbuilding. The NRC agrees that locking can be more effective than direct surveillance in preventing unauthorized entry into a high radiation area. In many cases, such as areas that have multiple entry points, a momentary lapse of attention could allow someone to walk into the high radiation area unnoticed. Locks are a mechanical means not dependent on the constant attention of the radiographer. Therefore, the NRC will permit locking as an acceptable alternative. The section therefore will not be changed.

§ 34.43 [Amended]

The proposed amendment of this section explicitly stated that the radiation survey to determine that a sealed source has returned to its shielded position after a radiographic exposure must include a survey of the source guide tube. Commenters said that such action is impractical in some situations, for example, when the cable runs through a shielded wall as in a permanent installation, through conduits between different areas, or when the device or guide tube is suspended on scaffolding. The NRC recognizes that sometimes the entire guide tube may not be accessible and that there are other survey techniques to demonstrate adequately that the source has returned to its shielded position.

The requirement to survey the guide tube does not mean that inaccessible portions must be surveyed. For example, if the guide tube runs through a thick concrete wall at a shielded facility, one need only survey to the wall. There would be no need to pull the guide tube out of the wall to make the survey. If the guide tube runs through a cable tray in a submarine under construction, it is only

necessary to survey to the point where the guide tube enters the wall. If the guide tube is suspended on a scaffold, it is not necessary to climb up to the guide tube. The survey can be made from the ground.

A requirement to survey the entire circumference of the radiographic exposure device remains. This requirement means that the survey instrument should completely circle the device, especially the front of the device. It does not mean that the bottom of the device need be surveyed.

The proposed amendment of this section would also have added a specific requirement for surveying the perimeter of the restricted area. Numerous commenters said that the proposed wording was too inflexible for many situations, too vague, and potentially hazardous. The NRC has accepted this view. The requirement to survey restricted area boundaries will remain within the more general requirements of § 20.201, "Surveys." The proposed change is deleted.

§ 34.44 [Amended]

The proposed amendment defined in § 34.2 the supervision that a radiographer must give a radiographer's assistant. This proposed change met with stronger opposition than any other of the proposed changes. Many commenters expressed their belief that radiographers' assistants should be allowed to conduct routine surveys such as those of restricted area and radiation area boundaries without being watched by a radiographer. The NRC agrees that an assistant radiographer can quickly be trained to use a survey meter competently and can safely perform many of the less critical surveys, such as a survey of the boundary of the restricted area. The NRC also recognizes that prohibiting an assistant from independently performing such surveys would greatly decrease the usefulness of the assistant and place a large economic burden on licensees. Therefore, the amendment has been reworded so that the only survey during which the radiographer must watch the assistant is the survey to determine that the sealed source has returned to its shielded position after use. The radiographer should be watching the assistant to the extent that he is able to see that the assistant is carrying out his assigned functions in accordance with the instruction he has received. The requirements are being placed in a new § 34.44. It is more appropriate to include these requirements in a new section rather than with the definitions in § 34.2 as was proposed.

Appendix A [Amended]

No commenters objected to a proposed requirement that radiographers be instructed in case histories of radiography accidents. A recent NRC report, NUREG-0495, "Public Meeting on Radiation Safety for Industrial Radiographers," discusses such case histories.

Anyone wishing more detail on the development of these amendments may obtain an "Analysis of Public Comments on Proposed Amendments of 10 CFR Part 34" or a "Value/Impact Statement on Amendments of 10 CFR Part 34" by writing to Dr. Stephen A. McGuire, Occupational Health Standards Branch, Office of Standards Development, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555 within twelve months of this notice, or writing the NRC's Public Document Room thereafter.

In addition, a complete set of the public comments is available for inspection in the Public Document Room.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and Sections 552 and 553 of Title 5 of the United States Code, the following amendments of Title 10, Chapter I, Code of Federal Regulations, Part 34 are published as a document subject to codification.

1. In § 34.2, new paragraphs (g) and (h) are added to read as follows:

§ 34.2 Definitions.

(g) "Source changer" means a device designed and used for replacement of sealed sources in radiographic exposure devices, including those also used for transporting and storage of sealed sources;

(h) "Permanent radiographic installation" means a shielded installation or structure designed or intended for radiography and in which radiography is regularly performed.

2. Paragraph (d) of § 34.11 is amended to read as follows:

§ 34.11 Issuance of specific licenses for use of sealed sources in radiography.

(d) The applicant will have an internal inspection system adequate to assure that Commission regulations, Commission license provisions, and the applicant's operating and emergency procedures are followed by radiographers and radiographers' assistants; the inspection system shall include the performance of internal inspections at intervals not to exceed three months and the retention of

records of such inspections for two years;

3. Section 34.22 is amended to read as follows:

§ 34.22 Locking of radiographic exposure devices, storage containers, and source changers.

(a) Each radiographic exposure device shall have a lock or outer locked container designed to prevent unauthorized or accidental removal of the sealed source from its shielded position. The exposure device or its container shall be kept locked when not under the direct surveillance of a radiographer or a radiographer's assistant or as otherwise may be authorized in § 34.41. In addition, during radiographic operations the sealed source assembly shall be secured in the shielded position each time the source is returned to that position.

(b) Each sealed source storage container and source changer shall have a lock or outer locked container designed to prevent unauthorized or accidental removal of the sealed source from its shielded position. Storage containers and source changers shall be kept locked when containing sealed sources except when under the direct surveillance of a radiographer or a radiographer's assistant.

4. Section 34.28 is amended to read as follows:

§ 34.28 Inspection and maintenance of radiographic exposure devices, storage containers, and source changers.

(a) The licensee shall check for obvious defects in radiographic exposure devices, storage containers, and source changers prior to use each day the equipment is used.

(b) The licensee shall conduct a program for inspection and maintenance of radiographic exposure devices, storage containers, and source changers at intervals not to exceed three months or prior to the first use thereafter to assure proper functioning of components important to safety. Records of these inspections and maintenance shall be kept for two years.

5. A new § 34.29 is added to read as follows:

§ 34.29 Permanent radiographic installations.

(a) Permanent radiographic installations having high radiation area entrance controls of the types described in § 20.203(c) (2)(ii), (2)(iii), or (4) shall also meet the following special requirement.

(b) Each entrance that is used for personnel access to the high radiation area in a permanent radiographic

installation to which this section applies shall have both visible and audible warning signals to warn of the presence of radiation. The visible signal shall be actuated by radiation whenever the source is exposed. The audible signal shall be actuated when an attempt is made to enter the installation while the source is exposed.

(c) The alarm system shall be tested at intervals not to exceed three months or prior to the first use thereafter of the source in the installation. Records of the tests shall be kept for two years.

6. Section 34.31 is amended to read as follows:

§ 34.31 Training.

(a) The licensee shall not permit any individual to act as a radiographer until such individual:

(1) Has been instructed in the subjects outlined in Appendix A of this part;

(2) Has received copies of and instruction in NRC regulations contained in this part and in the applicable sections of Parts 19 and 20 of this chapter, NRC license(s) under which the radiographer will perform radiography, and the licensee's operating and emergency procedures;

(3) Has demonstrated competence to use the licensee's radiographic exposure devices, sealed sources, related handling tools, and survey instruments; and

(4) Has demonstrated understanding of the instructions in this paragraph (a) by successful completion of a written test and a field examination on the subjects covered.

(b) The licensee shall not permit any individual to act as a radiographer's assistant until such individual:

(1) Has received copies of and instruction in the licensee's operating and emergency procedures;

(2) Has demonstrated competence to use, under the personal supervision of the radiographer, the radiographic exposure devices, sealed sources, related handling tools, and radiation survey instruments that the assistant will use; and

(3) Has demonstrated understanding of the instructions in this paragraph (b) by successfully completing a written or oral test and a field examination on the subjects covered.

(c) Records of the above training, including copies of written tests and dates of oral tests and field examinations, shall be maintained for three years.

7. A new paragraph (k) is added to § 34.32 to read as follows:

§ 34.32 Operating and emergency procedures.

(k) Steps that must be taken immediately by radiography personnel in the event a pocket dosimeter is found to be off-scale.

8. Section 34.33 is amended to read as follows:

§ 34.33 Personnel monitoring.

(a) The licensee shall not permit any individual to act as a radiographer or a radiographer's assistant unless, at all times during radiographic operations, each such individual wears a direct reading pocket dosimeter and either a film badge or a thermoluminescent dosimeter (TLD). Pocket dosimeters shall have a range from zero to at least 200 milliroentgens and shall be recharged at the start of each shift. Each film badge and TLD shall be assigned to and worn by only one individual.

(b) Pocket dosimeters shall be read and exposures recorded daily.

(c) Pocket dosimeters shall be checked at periods not to exceed one year for correct response to radiation. Acceptable dosimeters shall read within plus or minus 30 percent of the true radiation exposure.

(d) If an individual's pocket dosimeter is discharged beyond its range, his film badge or TLD shall be immediately sent for processing.

(e) Reports received from the film badge of TLD processor and records of daily pocket dosimeter readings shall be kept for inspection by the Commission until it authorizes their disposal.

9. Section 34.43 is amended to read as follows:

§ 34.43 Radiation surveys.

(a) At least one calibrated and operable radiation survey instrument shall be available at the location of radiographic operations whenever radiographic operations are being performed.

(b) A survey with a radiation survey instrument shall be made after each radiographic exposure to determine that the sealed source has been returned to its shielded position. The entire circumference of the radiographic exposure device shall be surveyed. If the radiographic exposure device has a source guide tube, the survey shall include the guide tube.

(c) A record of the survey required in paragraph (b) shall be maintained for two years when the survey is the last survey prior to locking the radiographic exposure device and ending direct surveillance of the operation.

10. A new § 34.44 is added to read as follows:

§ 34.44 Supervision of radiographers' assistants.

Whenever a radiographer's assistant uses radiographic exposure devices, uses sealed sources or related source handling tools, or conducts radiation surveys required by § 34.43(b) to determine that the sealed source has returned to the shielded position after an exposure, he shall be under the personal supervision of a radiographer. The personal supervision shall include (a) the radiographer's personal presence at the site where the sealed sources are being used, (b) the ability of the radiographer to give immediate assistance if required, and (c) the radiographer's watching the assistant's performance of the operations referred to in this section.

11. Appendix A is amended to read as follows:

Appendix A

I. Fundamentals of Radiation Safety

- Characteristics of gamma radiation.
- Units of radiation dose (mrem) and quantity of radioactivity (curie).
- Hazards of exposure to radiation.
- Levels of radiation from licensed material.
- Methods of controlling radiation dose:
 - Working time.
 - Working distances.
 - Shielding.

II. Radiation Detection Instrumentation To Be Used

- Use of radiation survey instruments:
 - Operation.
 - Calibration.
 - Limitations.
- Survey techniques.
- Use of personnel monitoring equipment:
 - Film badges and thermoluminescent dosimeters (TLD's).
 - Pocket dosimeters.

III. Radiographic Equipment To Be Used

- Remote handling equipment.
- Radiographic exposure devices.
- Storage containers.

IV. Inspection and Maintenance Performed by the Radiographers

V. Case Histories of Radiography Accidents

12. The second sentence of the citation of authority is amended to read as follows:

Authority: . . . For the purposes of Sec. 223, 68 Stat. 958 as amended; 42 U.S.C. 2273 34.11(d), 34.25(c), 34.26, 34.27, 34.28(b), 34.29(c), 34.31(c), 34.33(b), and 34.43(c) issued under sec. 1610., 68 Stat. 950, as amended, 42 U.S.C. 2201(o).

(Sec. 81, 161, Pub. L. 93-703, 69 Stat. 935, 946; sec. 201, Pub. L. 93-438, 68 Stat. 1242 (42 U.S.C. 2201, 5341).)

Dated at Washington, D.C., this 24th day of August, 1979.

For the Nuclear Regulatory Commission.
Samuel J. Chilk,
Secretary of the Commission.
[FR Doc. 79-27143 Filed 8-29-79; 8:45 am]
BILLING CODE 7590-01-M

FEDERAL RESERVE SYSTEM

12 CFR Part 226

(Reg. Z; FC-0164)

Truth in Lending; Official Staff Interpretation; Suspension of Effective Date and Republication for Public Comment

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Effective date of official staff interpretation suspended; its text reprinted for public comment.

SUMMARY: The Board is suspending the effective date of official staff interpretation FC-0164, regarding the application of § 226.6(d) to § 226.7 (a) and (b) disclosures, published July 18, 1979 (44 FR 41760) and is republishing it for public comment. The agency is taking this action in response to a request for public comment submitted in accordance with 12 CFR Part 226.1(d)(3). The letter requesting a comment period is published below and immediately precedes the text of the official staff interpretation.

DATES: The effective date of FC-0164 is suspended until further notice. Comments must be received on or before October 1, 1979.

ADDRESS: Comments (including reference to FC-0164) to Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

FOR FURTHER INFORMATION CONTACT: Maureen P. English, Senior Attorney, Division of Consumer Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202-452-3667).

SUPPLEMENTARY INFORMATION: (1) The effective date, August 17, 1979, of official staff interpretation FC-0164 is suspended in accordance with 12 CFR Part 226.1(d)(2)(ii). The text of the letter requesting the opportunity for public comment appears below. This interpretation will not go into effect until final action is taken. Notice of such action will be published in the Federal Register in approximately 60 days and will become effective upon publication.

(2) The text of official staff interpretation FC-0164 is republished for comment with the exception of language pertaining to its former effective date.

Identifying details have been deleted to the extent required to prevent a clearly unwarranted invasion of personal privacy. The Board maintains and makes available for public inspection and copying a current index providing identifying information for the public subject to certain limitations stated in 12 CFR Part 261.6.

(3) Interested persons are invited to submit relevant comments. All material should be submitted in writing to: Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, and should be received not later than October 1, 1979. Comments will be made available for inspection and copying upon request, except as provided in § 261.6(a) of the Board's Rules Regarding Availability of Information (12 CFR 261.6(a)).

(4) After comments are considered, this official staff interpretation may be amended, may be rescinded or may remain unchanged. Final action regarding this official staff interpretation will appear in the Federal Register.

(5) Authority: 15 U.S.C. 1640(f).

Re: Federal Reserve Board Proposed Official Staff Interpretation No. FC-0164—
Published 44 Fed. Reg. 41,760 (July 18, 1979).

Federal Trade Commission
Bureau of Consumer Protection,
Washington, D.C. 20580. August 17, 1979.

Theodore E. Allison,
Secretary, Board of Governors of the Federal Reserve System, Washington, D.C.

Dear Mr. Allison: The Division of Credit Practices staff respectfully requests that the effective date of proposed Federal Reserve Board Official Staff Interpretation No. FC-0164 ("FC-0164") be suspended and that the interpretation be republished in the Federal Register for public comment, pursuant to § 226.1(d)(2)(ii) of Regulation Z, 12 CFR 226.1(d)(2)(ii). FC-0164 would interpret § 226.6(d) of Regulation Z, 12 CFR 226.6(d), to exempt open end credit plans in which there is more than one creditor from that subsection's general disclosure requirement that each creditor in a consumer credit transaction involving multiple creditors be clearly identified. Thus, neither the initial disclosures nor the periodic statements provided in connection with such open end credit plans pursuant to § 226.7 (a) and (b) of Regulation Z, 12 CFR 226.7 (a) and (b), would be required to identify the creditors. For the reasons that follow, we feel republication for public comment is necessary and appropriate.

1. *The Creditor Identification Provisions of § 226.6(d) Are Clearly Intended to Apply to Open End As Well As Other Than Open End Credit Transactions.*

Pursuant to § 226.6(d), Truth in Lending disclosures made in connection with consumer credit transactions involving multiple creditors must: (1) Include a clear identification of each creditor; and (2) be made separately by each creditor, according

to their knowledge and the purview of their relationship with the customer. Section 226.6(d) allows multiple creditors to make a joint disclosure, but only if each creditor is clearly identified. The remainder of § 226.6(d) clarifies which other than open end credit or lease disclosures are to be made by sellers that extend or arrange credit.

We believe FC-0164 misconstrues the scope of § 226.6(d). In our view, both the creditor identification and shared disclosure provisions of § 226.6(d) prescribe general disclosure requirements equivalent to those found throughout § 226.6 (a) to (k), and accordingly apply equally to open end and other than open end consumer credit transactions. This reading is based largely upon the nature of the format used in Regulation Z, which was designed to separate disclosure requirements of general applicability § 226.6 from specific disclosure requirements applicable to open end credit (§ 226.7) and other than open end credit (§ 226.8). If the Regulation had intended that the creditor identification provisions codified in § 226.6(d) apply only to other than open end transactions, it would have incorporated them into § 226.8. We conclude that there is no ambiguity, and that § 226.6(d) applies equally to open end credit transactions and other than open end transactions.

We also see no reason for eliminating the requirement that each creditor be identified in open end transactions involving multiple creditors, while retaining the closely related requirement that each creditor make all appropriate required disclosures. FC-0164 seems to suggest that since the last two sentences of § 226.6(d) "clearly have no applicability in the case of open end credit," any of the provisions of § 226.6(d) are fair game for excepting open end credit. However, the last two sentences of § 226.6(d) are not intended to delineate the scope of 226.6(d). On the contrary, they clarify the manner in which the subsection's general requirements, including identification of creditors, are to be applied in other than open end transactions where the creditor must choose whether to make credit sale or loan disclosures. The inclusion of this clarification in § 226.6(d) does not support FC-0164's conclusion that the creditor identification requirement does not apply to open end credit transactions, where there is only one form of required disclosure and, hence, no reason to distinguish between credit sales and loans.

FC-0164 also suggests that since neither § 226.7 (a) nor (b) requires identification of the creditor in an open end plan in which there is only one creditor, § 226.6(d) does not require that each creditor be identified in connection with § 226.7 (a) or (b) disclosures where there is more than one creditor. Although § 226.7 does not expressly require that a single open end creditor be identified, the general disclosure requirements codified in § 226.6 do not turn upon whether parallel requirements are included in the specific disclosure requirements that appear elsewhere in Regulation Z. Here, the Regulation appears to require that open end creditors be identified only in transactions involving more than one creditor. This was accomplished by requiring identification of

creditors in all consumer credit transactions involving multiple creditors, in § 226.6(d), supplemented by the additional requirement, in § 226.6(a), that such identification should also be made in other than open end transactions involving a single creditor.

Creditor identification is particularly important in credit transactions involving more than one creditor, since the consumer will only be dealing directly with one creditor, usually the arranger. Thus, where credit is arranged, the consumer would have no way of knowing the identity of the entity actually extending credit in the absence of § 226.6(d).

2. *By Further Relaxing Open End Credit Disclosure Requirements, FC-0164 Will Help To Encourage the Replacement of Other Than Open End Credit By Open End Credit.*

Since the Truth in Lending Act was passed, open end credit has increasingly replaced other than open end credit as a means of financing large-ticket purchases, and the original distinctions between the two types of credit have become increasingly less clear. The Commission and its staff have often expressed concern about the movement away from offering other than open end credit for the purchase of such items as furniture, sets of encyclopedias, and even automobiles, although such open end accounts, commonly "opened" at the point of sale, are, in function, the exact equivalent of traditional closed end credit. As a result, open end credit disclosures are provided in what used to be considered other than open end transactions. The nonspecificity of open end disclosures make them easier to provide and this reduced compliance burden is one express reason for the movement to "hybrid" open end credit by traditional closed end creditors. In fact, the two forms of credit are practically interchangeable for most merchants and creditors today. Since the majority of these "hybrid" credit transactions involve multiple creditors, only continued application of § 226.6(d)'s creditor identification provisions to open end credit will ensure that consumers continue to be provided with the identity of the creditors at the point of sale. Even S. 108, the Truth in Lending Simplification and Reform Act, would continue to require that the identity of the creditor be disclosed in other than open end credit transactions, thus indicating Congress' intent to ensure that consumers continue to receive such information.

Rather than reject the clear application of § 226.6(d) to open end credit transactions, we think the Board staff should consider advocating amendment of § 226.7(a) to require that the creditor be identified even in open end transactions where there is only one creditor. Recent regional and national credit card marketing programs make it more important than ever for consumers to be able to identify which creditor is offering, for example, a particular Master Charge or VISA account. Moreover, because of the division of enforcement jurisdiction among several agencies, it is all the more necessary for the consumer to know the identity of the creditor issuing open end accounts so that proper enforcement agency can be identified and consulted if necessary.

For all of the foregoing reasons, we strongly advocate withdrawal of FC-0164. Your cooperation is appreciated. Sincerely,

Lewis H. Goldfarb,
Assistant Director.
George J. Zweibel,
Attorney, Division of Credit Practices.

Hand Delivered.

§ 226.6(d) Application of § 226.6(d) to § 226.7(a) and (b) disclosures. (Modifies Letter 597 and FC-0042).
§ 226.7(a) Application of § 226.6(d) to § 226.7(a) and (b) disclosures. (Modifies Letter 597 and FC-0042).
§ 226.7(b) Application of § 226.6(d) to § 226.7(a) and (b) disclosures. (Modifies Letter 597 and FC-0042).

June 28, 1979.

This is in response to your letter of * * * in which you request an official staff interpretation of § 226.6(d) of Regulation Z. Section § 226.6(d) prescribes general Truth in Lending disclosure requirements and responsibilities when "there is more than one creditor * * * in a transaction." You are concerned with the application of § 226.6(d) to the disclosures required for open end credit plans by § 226.7(a) and (b) of Regulation Z.

Your question arises in relation to open end credit card accounts for which both a card issuing bank and its agent bank are creditors under Regulation Z. You indicate that currently both the card issuing bank and the agent bank are identified as creditors on the initial disclosures provided to customers pursuant to § 226.7(a) and on the periodic statements required by § 226.7(b). You ask whether § 226.6(d) requires this identification. Section § 226.6(d) provides:

If there is more than one creditor or lessor in a transaction, *each creditor or lessor shall be clearly identified* and shall be responsible for making only those disclosures required by this Part which are within his knowledge and the purview of his relationship with the customer or lessee. If two or more creditors or lessors make a joint disclosure, *each creditor or lessor shall be clearly identified*. The disclosures required under paragraphs (b) and (c) of § 226.8 shall be made by the seller if he extends or arranges for the extension of credit. Otherwise disclosures shall be made as required under paragraphs (b) and (d) of § 226.8 or paragraph (b) of § 226.15. (Emphasis added.)

The staff is of the opinion that, although § 226.6(d) does not explicitly differentiate between open end credit and credit other than open end, not all of the requirements of that section apply to open end credit plans. For example, the requirements set forth in the last two sentences of § 226.6(d) specifying disclosures to be made under § 226.8 for credit transactions other than open end involving more than one creditor or under § 226.15 for consumer lease transactions involving more than one lessor clearly have no applicability in the case of open end credit. Additionally, the staff believes that since neither § 226.7(a) nor § 226.7(b) requires identification of the creditor of an open end plan in which there is only one creditor, § 226.6(d) does not require that each creditor

be identified in connection with the § 226.7(a) or (b) disclosures for open end plans in which there is more than one creditor.

Although in connection with the disclosures required by § 226.7(a) and (b) there need be no identification of the creditors of an open end account in which there is more than one creditor, each such creditor is responsible under § 226.6(d) for making all required disclosures which are within the knowledge of that creditor and the purview of its relationship with a customer. Such creditors may of course, make joint disclosures. Furthermore, one or more of the creditors of an open end account may be identified in connection with the disclosures required by § 226.7(a) and/or § 226.7(b) as additional information in accordance with § 226.6(c) of Regulation Z.

Public Information Letter 597 indicates, and Official Staff Interpretation FC-0042 could be read to imply, that § 226.6(d) requires identification of each creditor of an open end credit plan in which there is more than one creditor. Upon reconsideration, however, the staff believes that the opinions expressed in this letter constitute the correct interpretation of the requirements of the regulation. Therefore, Public Information Letter 597 and Official Staff Interpretation FC-0042 are hereby modified to coincide with the views expressed herein.

In accordance with your request, this is an official staff interpretation of Regulation Z, issued pursuant to § 226.1(d)(2) of the regulation and limited to the facts and issues discussed above.

Sincerely,
Nathaniel E. Butler,
Associate Director.

Board of Governors of the Federal Reserve System, August 24, 1979.

Griffith L. Garwood,
Deputy Secretary of the Board.
[FR Doc. 79-27079 Filed 8-29-79; 8:45 am]
BILLING CODE 6210-01-M

EXPORT-IMPORT BANK OF THE UNITED STATES

12 CFR Part 408

National Environmental Policy Act Procedures

August 27, 1979.

AGENCY: Export-Import Bank of United States.

ACTION: Adoption of Final Rule.

SUMMARY: These procedures have been prepared pursuant to the National Environmental Policy Act of 1969 and regulations issued by the Council on Environmental Quality.

EFFECTIVE DATE: September 4, 1979.

FOR FURTHER INFORMATION CONTACT: Warren W. Glick; General Counsel (202-566-8334); Export-Import Bank of the United States, 811 Vermont Ave. NW., Washington, D.C. 20571.

SUPPLEMENTARY INFORMATION: These procedures were proposed on May 17, 1979 and printed in the Federal Register on that date, 44 FR No. 97, page 28823. The final date for comment was June 15, 1979. The Council on Environmental Quality (CEQ) has given final approval to the procedures and except for certain stylistic changes, the procedures set forth below are adopted as proposed.

Eximbank received only a few comments on the procedures, centering around two major points—first, the need to establish separate procedures for environmental effects within the United States (covered by this Part 408) and environmental effects overseas (to be covered by a new Part 409), and second, the degree of detail to be provided in the procedures. After a careful review of the comments, Eximbank has determined that no change in the procedures is warranted.

Regarding the establishment of separate procedures, a bifurcated approach is advisable in view of the fact that the authority which is the source for the procedures covering environmental effects within the United States—i.e., NEPA—is separate from the authority which is the source for the procedures covering environmental effects overseas—i.e., Executive Order No. 12114, issued January 4, 1979. Equally important, the procedures foreseen by NEPA and Executive Order 12114 differ significantly. For example, the Executive Order contains various exemptions, modifications and other provisions which are not contained in NEPA.

Regarding the degree of detail contained in the procedures, the CEQ has stated in its implementation regulations, 40 CFR Parts 1500-1503, that their intent is "to allow each agency flexibility in adapting its implementing procedures as required by Sec. 1507.3 to the requirement of other applicable laws." Sec. 1507.1. In view of the Bank's sole statutory function of providing financial assistance in support of the export of U.S. goods and services and, therefore, the low probability of any significant adverse impact upon the environment within the United States resulting from any transaction for which Eximbank may be asked to provide assistance, Eximbank has concluded that the procedures as drafted do not need to contain additional detail. In the exceptional circumstance where there may be significant adverse impacts upon the environment of the United States, Eximbank expects to consult closely with the CEQ.

These procedures apply to applications received by the Bank on or after September 4, 1979 for a preliminary commitment or a final commitment for

which a preliminary commitment has not been approved prior to such date.

Accordingly, Chapter IV of Title 12 of the Code of Federal Regulations is amended by adding a new Part 408, to read as follows:

PART 408—PROCEDURES FOR COMPLIANCE WITH THE NATIONAL ENVIRONMENTAL POLICY ACT

Subpart A—General

Sec.

- 408.1 Background.
- 408.2 Purpose and scope.
- 408.3 Applicability.

Subpart B—Eximbank Implementing Procedures

- 408.4 Early involvement in foreign activities for which Eximbank financing may be requested.
 - 408.5 Ensuring environmental documents are actually considered in Eximbank decision-making.
 - 408.6 Typical classes of action requiring similar treatment under NEPA.
 - 408.7 Environmental information.
- Authority: National Environmental Policy Act of 1969; 42 U.S.C. 4321 et seq.

Subpart A—General

§ 408.1 Background.

(a) The National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321 et seq.) establishes national policies and goals for the protection of the environment. Section 102(2) of NEPA contains certain procedural requirements directed toward the attainment of such goals. In particular, all Federal agencies are required to give appropriate consideration to the environmental effects of their proposed actions in their decision-making and to prepare detailed environmental statements on recommendations or reports on proposals for legislation and other major Federal Actions significantly affecting the quality of the human environment.

(b) Executive Order 11991 of May 24, 1977, directed the Council on Environmental Quality (CEQ) to issue regulations to implement the procedural provisions of NEPA (NEPA Regulations). Accordingly, CEQ issued final NEPA Regulations which are binding on all Federal agencies as of July 30, 1979 (40 CFR Parts 1500-1508) on November 29, 1979. These Regulations provide that each Federal agency shall as necessary adopt implementing procedures to supplement the NEPA Regulations. Section 1507.3(b) of the NEPA Regulations identifies those sections of the NEPA Regulations which must be addressed in agency procedures.

§ 408.2 Purpose.

The purpose of this part is to establish procedures which supplement the NEPA Regulations and provide for the implementation of those provisions identified in § 1507.3(b) of the NEPA Regulations.

§ 408.3 Applicability.

Historically, virtually all financing provided by Eximbank has been in aid of U.S. exports which involve no effects on the quality of the environment within the United States, its territories or possessions. Eximbank has separate procedures for conducting environmental reviews where such reviews are required by E.O. 12114 (January 4, 1979) because of potential effects on the environment of global commons areas or on the environment of foreign nations. The procedures set forth in this part apply to the relatively rare cases where Eximbank financing of U.S. exports may affect environmental quality in the United States, its territories or possessions.

Subpart B—Eximbank Implementing Procedures**§ 408.4 Early involvement in foreign activities for which Eximbank financing may be required.**

(a) Section 1501.2(d) of the NEPA Regulations requires agencies to provide for early involvement in actions which, while planned by private applicants or other non-Federal entities, require some form of Federal approval. Pursuant to the Export-Import Bank Act of 1945, as amended, Eximbank is asked to provide

financing for transactions involving exports of U.S. goods and services for projects in foreign countries which are planned by non-U.S. entities (Transactions).

(b) To implement the requirements of § 1501.2(d) with respect to these Transactions, Eximbank—

(1) Will provide on a project-by-project basis to applicant seeking financing from Eximbank guidance as to the scope and level of environmental information to be used in evaluating a proposed Transaction where (i) the proposed Eximbank financing would be a major action and (ii) a Transaction may significantly affect the quality of the human environment in the United States, its territories or possessions.

(2) Upon receipt of an application for Eximbank financing or notification that an application will be filed, will consult as required with other appropriate parties to initiate and coordinate the necessary environmental analyses.

These responsibilities will be performed by the General Counsel and the Engineers of Eximbank.

(c) To facilitate Eximbank review of Transactions for which positive determinations have been made under paragraph (b)(1)(i) and (ii) of this section, applicants should—

(1) Consult with the Engineer as early as possible in the planning process for guidance on the scope and level of environmental information required to be submitted in support of their application;

(2) Conduct any studies which are deemed necessary and appropriate by Eximbank to determine the impact of the

proposed action on the quality of the human environment;

(3) Consult with appropriate U.S. (Federal, regional, State and local) agencies and other potentially interested parties during preliminary planning stages to ensure that all environmental factors are identified;

(4) Submit applications for all U.S. (Federal, regional, State and local) approvals as early as possible in the planning process;

(5) Notify Eximbank as early as possible of all other applicable legal requirements for project completion so that all applicable Federal environmental reviews may be coordinated; and

(6) Notify Eximbank of all known parties potentially affected by or interested in the proposed action.

§ 408.5 Ensuring environmental documents are actually considered in Agency decisionmaking.

Section 1505.1 of the NEPA Regulations contains requirements to ensure adequate consideration of environmental documents in agency decision-making. To implement these requirements, Eximbank officials will—

(a) Consider all relevant environmental documents in evaluating applications for Eximbank financing;

(b) Ensure that all relevant environmental documents, comments and responses accompany the application through Eximbank's review processes;

(c) Consider only those alternatives encompassed by the range of alternatives discussed in the relevant environmental documents when evaluating an application which is the subject of an EIS.

Eximbank actions	Start of NEPA process	Completion of NEPA process	Key officials or offices required to consider environmental documents
Issuance of Preliminary Commitment (P.C.).	When application is received.	When the Board of Directors meets to consider application. The Board may notify applicant that environmental effects will be considered when final commitment is requested and request information on environmental matters.	Under § 408.4(b)(1) (i) and (ii), General Counsel to determine whether requested Eximbank financing is a major action and Engineer to determine whether proposed Transaction may significantly effect the quality of the human environment in the United States, its territories or possessions.
Issuance of Final Commitment.	When application is received.	When the Board of Directors meets to consider application.	(If no P.C. has been issued, key offices will make determinations mentioned above.) Engineer to collect, prepare or arrange for preparation of all environmental documents.

§ 408.6 Typical classes of action

(a) Section 1507.3(c)(2) of the NEPA Regulations in conjunction with § 1508.4

thereof requires agencies to establish three typical classes of action for similar treatment under NEPA. These typical classes of action are set forth below:

Actions normally requiring EIS's	Actions normally requiring assessments but not necessarily EIS's	Actions normally not requiring assessments or EIS's
None.	Applications for Eximbank financing under the direct lending program in support of Transactions for which determinations under § 408.4(b)(1) (i) and (ii) above may be affirmative.	Applications for Eximbank financing in the form of insurance or guarantees.

(b) Eximbank will independently determine whether an EIS or an environmental assessment is required where—

(1) A proposal for agency action is not covered by one of the typical classes of action above; or

(2) For actions which are covered, the presence of extraordinary circumstances indicates that some other level of environmental review may be appropriate.

§ 408.7 Environmental information.

Interested persons may contact the General Counsel regarding Eximbank's compliance with NEPA.

Warren W. Glick,
General Counsel.

[FR Doc. 79-27066 Filed 8-29-79; 8:45 am]

BILLING CODE 6690-01-M

12 CFR Part 409**Environmental Effects Abroad of Major Eximbank Actions; Policies and Procedures**

AGENCY: Export-Import Bank of the United States.

ACTION: Final rule.

SUMMARY: These procedures have been prepared to implement Executive Order 12114, "Environmental Effects Abroad of Major Federal Actions," signed by the President on January 4, 1979, 44 FR 1957. The procedures will enable the Board of Directors of the Bank to take into account pertinent environmental considerations when taking actions under the Bank's direct lending program which are encompassed by the Executive Order.

EFFECTIVE DATE: September 4, 1979.

FOR FURTHER INFORMATION CONTACT: Warren W. Glick, General Counsel (202-556-8334), Export-Import Bank of the United States, 811 Vermont Ave., N.W., Washington, D.C. 20571.

SUPPLEMENTARY INFORMATION: These procedures apply to applications received by the Bank on or after September 4, 1979, for a preliminary commitment or a final commitment for which a preliminary commitment has not been approved prior to such date.

Any comments on these procedures should be directed to Warren W. Glick, General Counsel, at the address set forth above.

Accordingly, Chapter IV of Title 12 of the Code of Federal Regulations is amended by adding a new Part 409, to read as follows:

PART 409—PROCEDURES FOR COMPLIANCE WITH EXECUTIVE ORDER 12114 (JANUARY 4, 1979)**Subpart A—General**

Sec.

409.1 Background.

409.2 Purpose.

409.3 Policy.

409.4 Applicability.

Subpart B—Eximbank Procedures

409.5 Applicant's early involvement where Eximbank financing under the direct lending program is contemplated.

409.6 Information from applicants.

409.7 Responsibilities of Eximbank officials.

409.8 Determinations.

409.9 Types of environmental documents.

409.10 Content of environmental document.

409.11 Notification of availability of environmental document.

409.12 Exemptions and categorical exclusions.

409.13 Modification of procedures.

409.14 Rights of action.

409.15 Appendix A.

Authority: EO 12114, 44 FR 1957.

Subpart A—General**§ 409.1 Background.**

Executive Order 12114 (January 4, 1979), entitled *Environmental Effects Abroad of Major Federal Actions*, 44 FR 1957, (Executive Order) establishes policies and requirements for Federal agencies to be informed of pertinent environmental considerations and to take such considerations into account when authorizing or approving actions encompassed by the Order which may have environmental effects outside the United States. The Executive Order is based on the President's independent authority and furthers the purposes and policies of the National Environmental Policy Act (NEPA) and other statutes consistent with the foreign policy and national security policy of the United States.

§ 409.2 Purpose.

These procedures set forth Eximbank's policy, duties and responsibilities required by the Executive Order, and satisfy the requirement for issuance of procedures under Section 2-1 of the Executive Order. All terms used in these procedures shall have the meanings assigned to them under the Executive Order.

§ 409.3 Policy.

Eximbank's primary statutory function is to "aid in financing and to facilitate exports," as provided by Section 2(a)(1) of the Export Import Bank Act of 1945, as amended. To the maximum extent possible consistent with this statutory mandate, it is Eximbank's policy to identify the environmental effects on the global commons and on foreign countries of export transactions covered by the Executive Order and supported under the Eximbank direct lending program, to work cooperatively with the applicant and foreign country involved, and to take environmental effects into consideration before approving requests for financing for such transactions. It is further Eximbank's policy to encourage users of Eximbank's direct lending program (a) to be aware of the environmental effects of their physical projects and (b) to take effective measures for protecting environmental quality in physical projects where Eximbank financing may be sought and which are covered by the Executive Order.

§ 409.4 Applicability.

(a) These procedures apply to any major action involving Eximbank financing under the direct lending program regarding a physical project which:

- (1) Significantly affects the environment of the global commons outside the jurisdiction of any nation (e.g., the oceans or Antarctica);
- (2) Significantly affects the environment of a foreign nation not participating with Eximbank and not otherwise involved in the action;
- (3) Significantly affects the environment of a foreign nation and provides to that nation a product, or physical project producing a principal product or an emission or effluent, which is prohibited or strictly regulated by Federal law in the United States because its toxic effects on the environment create a serious public health risk (an illustrative list of the

principal products, emissions or effluents produced by physical projects financed under the direct lending program which would be subject to these procedures, as well as an illustrative list of the principal products, emissions or effluents which would not be subject to these procedures are set forth in Appendix A); or

(4) Significantly affects natural or ecological resources of global importance designated for protection by the President or by the Secretary of State pursuant to Section 2-3(d) of the Executive Order.

(b) Eximbank compliance with the Executive Order with respect to financing under the direct lending program for a physical project which in the United States is prohibited or strictly regulated by Federal law to protect the environment against radioactive substances will be governed by the *Unified Procedures Applicable to Major Federal Actions Relating to Nuclear Activities Subject to Executive Order 12114*,—FR—. Any environmental document (Environmental Document) prepared pursuant to such procedures shall also address all other actions for which an Environmental Document would otherwise be prepared pursuant to these procedures.

Subpart B—Eximbank Procedures**§ 409.5 Applicant's early involvement where Eximbank financing under the Direct Lending Program is contemplated.**

(a) Pursuant to the Export-Import Bank Act of 1945, as amended, Eximbank provides financing under its direct lending program for transactions (1) which involve exports of U.S. goods and services for physical projects in foreign countries that are proposed and planned by foreign purchasers and (2) which may be covered by the Executive Order (Transaction(s)).

(b) To expedite Eximbank review of Transactions, applicants are encouraged:

- (1) To consult with Eximbank's Engineers as early as possible in the formulation of their applications for financing in order to obtain guidance on the applicability of these procedures and the scope and degree of environmental information to accompany their application; and
- (2) To notify Eximbank as to the existence of and compliance with applicable environmental laws and requirements in the country in which the project is located.

§ 409.6 Information from applicants.

(a) In applying for a preliminary or final commitment under the direct lending program with regard to a physical project, applicants should provide Eximbank with sufficient information to enable Eximbank to make the determinations under § 409.8. The application should address the following:

- (1) Purpose of project;
- (2) Description of project; and
- (3) Description and location of area in which project will be located.

(b) Applicants may be requested to supply information regarding:

- (1) Proposed alterations to the environment;
- (2) Any principal product, emission or effluent which will result from the project and may be detrimental to the environment; and
- (3) Any efforts which will be undertaken to mitigate environmental degradation.

(c) Applicants may also be requested to provide copies of any relevant technical environmental information or studies which are readily available as well as copies of any environmental laws or regulations in effect in the project area.

§ 409.7 Responsibilities of Eximbank officials.

(a) The *Engineer* is responsible, using an interdisciplinary analysis (including informal consultation with appropriate Federal agencies with expertise), for determining whether the physical project for which the financing is requested may have significant environmental effects.

The Engineer is also responsible for ensuring that a statement regarding the determinations and Environmental Document (if any is required) accompany the Memorandum to the Board of Directors.

(b) The *Chief Engineer* is responsible for reviewing and concurring in the adequacy of the Engineer's determination.

(c) The *General Counsel*, in consultation with the *Chief Engineer* and the *Vice President* for the geographical area in which the physical project is located, is responsible for determining whether the financing requested may constitute a major action by Eximbank. The General Counsel is also responsible for authorizing appropriate modifications in the contents, timing and availability of Environmental Documents and for authorizing exemptions, including those necessary to meet emergency circumstances, situations involving exceptional foreign policy and national

security sensitivities and other such special circumstances.

(d) The *Board of Directors* is responsible for taking into account environmental effects of a Transaction in determining whether to approve the Transaction, as well as for specifying the terms and conditions upon which financing will be made available. The Board will also give special consideration to Transactions involving exports of U.S. goods and services which are intended to protect or improve environmental quality.

§ 409.8 Determinations.

(a) Upon receipt of a request for a preliminary or final commitment under the direct lending program with regard to a physical project, the application will be evaluated to determine if the financing requested from Eximbank constitutes a major action which may have significant effects on the environment of the United States, the global commons or foreign nations. The provisions of the Procedures for Compliance with NEPA, Part 408, will be followed, in order to determine whether the financing requested from Eximbank constitutes a major action which may have significant effects on the environment of the United States. With respect to other environmental effects, the procedures set forth in (b) through (f) of this section will be followed.

(b) The General Counsel, in consultation with the Chief Engineer and the Vice President for the geographical area in which the physical project is located, shall determine whether the financing requested from Eximbank constitutes a major action. In making such determination, the following factors may be considered:

- (1) The percentage that financing under the Eximbank direct lending program represents of the total cost of the physical project;
- (2) The percentage that financing under the Eximbank direct lending program represents of the total financing for U.S. goods and services being purchased;
- (3) The function of the procurement for which Eximbank financing is requested as viewed against the overall purpose and operation of the physical project;
- (4) The likelihood that the physical project will go forward whether or not Eximbank provides financing; and
- (5) The degree of control and responsibility that Eximbank has over the planning and execution of the physical project.

If the General Counsel determines that the financing requested from Eximbank would not constitute a major action, a

brief statement of supporting reasons will be provided in the Board Memorandum.

(c) The Engineer will evaluate the application to determine whether the physical project:

(1) May have significant effects on the global commons;

(2) May have significant effects on the environment of a foreign nation not participating or otherwise involved in the action;

(3) Produces a principal product, emission or effluent which is prohibited or strictly regulated by Federal law in the United States because its toxic effects on the environment create a serious public health risk; or

(4) May have significant effects on natural or ecological resources of global importance designated for protection under Section 2-3(d) of the Executive Order.

If the Engineer determines that the physical project would not have a significant effect on (c) (1), (2) or (4) of this section or would not produce products, emissions or effluents of the kind referred to in (c)(3) of this section, a brief statement of supporting reasons will be provided in the Board Memorandum.

(d) The order in which the determinations are made under (b) and (c) of this section shall be decided on a case by case basis by the General Counsel in consultation with the Chief Engineer. In the event that either determination is negative, the other determination will not be made.

(e) In making the determinations under (b) and (c) of this section, all data supplied in connection with the Transaction shall be used, as well as any other relevant technical information already possessed by Eximbank or otherwise readily available from other Federal agencies with relevant expertise or other sources. Furthermore, such determinations shall be made on the basis of a systematic, inter-disciplinary approach. In most cases, information available at the time a preliminary commitment under the direct lending program is requested will be considerably less complete than what may be available when a request for a final commitment is received. In addition, in most cases the time available to analyze environmental effects when a preliminary commitment is requested will be considerably shorter than the time available when a request for a final commitment is received. Furthermore, in most cases preliminary commitments are not converted into requests for final commitments under the direct lending program. For these

reasons, at the time a preliminary commitment is requested, an Environmental Document may not be prepared or if it is prepared, it is likely to be less detailed than what may be prepared when a request for a final commitment is received.

(f) If a preliminary commitment has previously been issued with respect to a Transaction at the time a request for a final commitment is received, the determinations will be reviewed to decide whether or not such determinations remain valid. In carrying out such re-evaluation, the information specified in (e) of this section should be used. When a request for financing under the direct lending program is received and there is insufficient information upon which to make the determinations in (b) and (c) of this section, the General Counsel, in consultation with the Chief Engineer and the Vice President for the geographical area in which the physical project is located, shall decide whether additional information should be requested from the applicant and/or whether the application should continue to be processed. Such decision shall be based upon the factors specified in § 409.13. The Board Memorandum for any Transaction as to which there is insufficient information to make the determinations under (b) and (c) of this section shall contain a brief statement to that effect, together with the reasons for continuing to process the application.

§ 409.9 Types of environmental document.

(a) If the determinations under §§ 409.8(b) and (c)(1) are positive, an Environmental Document in the form of an environmental impact statement (including, as appropriate, generic, program and specific statements) should be prepared.

(b) If the determinations under §§ 409.8(b) and (c)(2), (3) or (4) are positive, either of the following types of Environmental Document should be prepared:

(1) A bilateral or multilateral environmental study, relevant or related to the proposed action, prepared by the United States and the nation or group of nations that is the proposed recipient of the export or by an international body or organization in which the United States is a member or participant; or

(2) A concise environmental review of the environmental issues involved, including an environmental assessment, a summary environmental analysis, or other appropriate document.

§ 409.10 Content of environmental document.

An Environmental Document will concisely review the anticipated significant environmental effects of the physical project. In particular, it will include, where feasible:

(1) A summary of the major findings and conclusions of any environmental review that has been undertaken in the foreign nation for the physical project; and

(2) To the extent not adequately covered in (1) of this section:

(i) A brief review of the existing environment that would be affected by the physical project;

(ii) A statement as to the significant foreseeable environmental effects of the physical project;

(iii) A statement as to whether there are in effect any relevant environmental regulations or laws in the physical project area; and

(iv) A statement as to whether the applicant or any foreign governmental entity will be taking into account adverse environmental effects of the physical project.

§ 409.11 Notification of availability of environmental document.

Promptly upon completion of an Environmental Document, the Engineer will notify where feasible and appropriate all Federal agencies with relevant expertise and any affected nation of the availability of such document. Any consultations with or notifications to foreign nations will be coordinated with the State Department.

§ 409.12 Exemptions and categorical exclusions.

(a) *Exemptions Provided by Section 2-5(a) of the Executive Order.* Any action which falls within the categories listed in sections 2-5(a)(i) through (vii) (as limited by Section 2-5(d)), as determined by the General Counsel, are exempt from these procedures.

(b) *Exemptions Provided by Section 2-5(c) of the Executive Order.*

Any action by Eximbank may be exempt from these procedures, as determined by the General Counsel, where necessary to meet emergency circumstances, situations involving exceptional foreign policy and national security sensitivities and other such special circumstances (except where limited by Section 2-5(d) of the Executive Order). If the General Counsel determines under this subsection that a Transaction is exempt from these procedures, Eximbank will consult as soon as feasible with the Department of State and the Council on Environmental Quality.

(c) *Categorical Exclusions Provided by Section 2-5(c) of the Executive Order.* (1) Eximbank actions under the following programs are categorically excluded from these procedures:

(i) Exporter Credit Insurance and Guarantees;

(ii) Discount Loans; and

(iii) Cooperative Financing Facility and similar general purpose lines of credit.

(2) Such actions are categorically excluded from these procedures because Eximbank has determined that:

(i) U.S. exports and services financed under such programs are not likely to have significant effects on the environment; and

(ii) Eximbank's minimal involvement and inability to affect decisions prevent Eximbank from applying these procedures to such programs.

§ 409.13 Modifications of procedures.

Except where limited by Section 2-5(d) of the Executive Order, modifications to these procedures with respect to any Transaction, including changes in the contents, timing and availability of Environmental Documents, may be made upon a written determination by the General Counsel that a modification is necessary:

(1) To enable Eximbank to decide and act promptly as and when required;

(2) To avoid adverse impacts on foreign relations or infringement in fact or appearance of other nations' sovereign responsibilities; or

(3) To ensure appropriate reflection of

(i) diplomatic factors;

(ii) international commercial, competitive and export promotion factors;

(iii) needs for governmental or commercial confidentiality;

(iv) national security considerations;

(v) difficulties of obtaining information and Eximbank's ability to analyze meaningfully environmental effects; and

(vi) the degree to which Eximbank is involved in or able to affect the design, construction or operation of a physical project.

§ 409.14 Rights of action.

Section 3-1 of the Executive Order provides that it is solely for the purpose of establishing internal procedures for Federal agencies to consider the significant effects of their actions on the environment outside the United States, its territories and possessions. Nothing in these procedures shall be construed to create a cause of action.

§ 409.15 Appendix A

I. Illustrative list of principal products, emissions or effluents produced by physical projects financed under Eximbank's direct lending program, which would be subject to the Procedures set forth in Part 409:

asbestos
vinyl chloride
acrylonitrile
isocyanates
polychlorinated biphenyls
pesticides
mercury
beryllium
arsenic
cadmium
benzene

II. Illustrative list of principal products, emissions or effluents produced by physical projects financed under Eximbank's direct lending program which would not be subject to the Procedures set forth in Part 409:

chlorine
caustic soda
ammonia
sulphuric acid
phosphoric acid
nitric acid
sulfur dioxide
nitrogen oxides
sulfate
sulfite liquors

August 27, 1979.

Warren W. Glick,
General Counsel.

[FR Doc. 79-27065 Filed 8-29-79; 8:45 am]

BILLING CODE 6690-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 79-EA-7; Amdt. 39-3546]

Airworthiness Directives; Bendix

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment issues a new airworthiness directive applicable to Bendix D-2000 and D-2200 series magnetos installed on 4, 6, or 8 cylinder engines and requires an inspection and alteration where necessary. Incidents of over-torqued magneto housing covers have led to deformation of the block pilot bore. This has in turn caused rotor rub which can result in partial or total loss of power. The amendment also requires the replacement of a coil retaining mechanism which has tended to loosen, thus becoming a potential cause for destruction of the magneto and therefore loss of power.

EFFECTIVE DATE: September 17, 1979. Compliance is required as set forth in the AD.

ADDRESSES: Bendix Service Bulletins may be acquired from the manufacturer at the Electrical Components Division, Sidney, New York 13838.

FOR FURTHER INFORMATION CONTACT: A. Farrar, Propulsion Section, AEA-214, Engineering and Manufacturing Branch, Federal Building, J.F.K. International Airport, Jamaica, New York 11430; Tel. 212-995-2894.

SUPPLEMENTARY INFORMATION: Since these deficiencies can exist or develop in other magnetos of similar design, an airworthiness directive is being issued requiring inspections and replacement where necessary. In view of the air safety problem, notice and public procedure hereon are impractical and the amendment may be made effective in less than 30 days.

Adoption of the Amendment

Accordingly, and pursuant to the authority delegated to me by the Administrator, Section 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended, by issuing a new airworthiness directive, as follows:

Bendix: Applies to Bendix D-2000 and D-2200 series magnetos installed on 4, 6, or 8 cylinder reciprocating engines.

To preclude the loss of ignition, accomplish the following within the next ten hours after the effective date of this AD unless previously accomplished.

(a) *Housing Distortion*
For any of the following magnetos, accomplish Detailed Instructions, Part I of Bendix Service Bulletin No. 605 by means of any one of Methods I, II or III and Information Parts I-C and I-D or FAA approved equivalent procedures.
(1) Red nameplate magnetos, Serial Numbers below 25001.
(2) Blue nameplate magnetos, Serial Numbers below 901001.
(3) Dual Ignition Systems with broken torque seals or no torque seals on four middle cover screws.

(4) Dual Ignition Systems not having the letter "K" stamped on the magneto nameplate following the serial number and without a caution decal on the magneto cover.

(b) *Coil Securing Kit*
For the following magnetos, accomplish Detailed Instructions of Part II of Bendix Service Bulletin No. 605 or FAA approved equivalent procedures.

(1) Red nameplate magnetos, Serial Numbers below Serial Number 17818 not having the letter, "C", stamped approximately in the center of the magneto nameplate bottom line.

(2) Blue nameplate magnetos, Serial Numbers below 806001 not having the letter, "C", stamped approximately in the center of the magneto nameplate bottom line.

(Bendix Service Bulletin No. 584B incorporated by reference in Service Bulletin No. 605.)

(c) Identification
After accomplishing the instructions of the Airworthiness Directive, metal stamp the letter, "K", after the magneto serial number on the magneto nameplate, the letter, "C", approximately centered on the magneto nameplate bottom line, and make an engine log book entry of compliance including magneto serial number.

Equivalent inspections and procedures must be approved by the Chief of the Engineering and Manufacturing Branch, AEA-210, Federal Aviation Administration (FAA), Eastern Region. As permitted by FAR 21.197, aircraft may be flown to a base where maintenance required by this Airworthiness Directive can be accomplished.

Effective Date: This amendment is effective September 3, 1979.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended, 49 U.S.C. 1354(a), 1421, and 1423; Sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c); and 14 CFR 11.89.)

Issued in Jamaica, New York, on August 20, 1979.

Louis J. Cardinali,
Acting Director, Eastern Region.

[FR Doc. 79-26918 Filed 8-29-79; 8:45 am]
BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 79-EA-31; Amdt. 39-3547]

Airworthiness Directives; Mooney Aircraft

AGENCY: Federal Aviation Administration (FAA), DOT.
ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) applicable to Mooney M-18, M-18C, M-18C55, M-18L, and M-18LA type airplanes and requires an inspection of the various area of the wooden airframe for wood deterioration such as woodrot and delamination. Also welds at rudder and elevator hinges and control horns will be inspected. The purpose of the requirement is to preclude failure of structural areas.

EFFECTIVE DATE: September 3, 1979. Compliance is required as set forth in the AD.

FOR FURTHER INFORMATION CONTACT: A. Maila, Airframe Section, AEA-212, Engineering and Manufacturing Branch, Federal Building, J.F.K. International Airport, Jamaica, New York 11430; Tel. 212-995-2875.

SUPPLEMENTARY INFORMATION: There had been reports of wood and weld deterioration in these aircraft. Since this deficiency can exist in similar designed

aircraft and affects air safety, notice and public procedure hereon are impractical and good cause exists for making the rule effective in less than 30 days.

Adoption of the Amendment

Accordingly, and pursuant to the authority delegated to me by the Administrator, Section 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended, by issuing a new airworthiness directive, as follows:

Mooney: Applies to Mooney Mite Models M-18L S/N's 2 and up, M-18C S/N's 201 and up, M-18LA S/N's 100 through 200, M-18C55 S/N's 323 and up, certificated in all categories.

Compliance required as indicated:
To prevent failure of structural areas due to wood deterioration and to detect other wood and glue joint deterioration in the fuselage and wood wing, accomplish the following within the next 30 days after the effective date of this AD, unless already accomplished within the last 35 months, and thereafter at intervals not to exceed 36 months from the last inspection.

(1) Remove the fabric inboard of station 12 on both wings over the main and auxiliary wing spars. Inspect spars for cracks and delaminations especially at all bolt hole locations and in the area of the landing gear attachments.

(2) If not already provided, apply a water resistant cloth or plastic adhesive such as duct tape at the wing to fuselage joint from the wing leading edge to the wing trailing edge under the metal fairing strip, to prevent entry of water at this point.

(3) Inspect all wood and glue joints in the wheel well area for cracks and wood deterioration.

(4) Remove fabric between fuselage stations 29 to 35.5. Inspect plywood joints for wood deteriorations.

(5) Apply hand pressure on top of plywood turtleback in the area of fuselage station 105. If softness is detected, remove fabric and inspect for wood cracks.

(6) Inspect welds for cracks and welds which do not completely fill fillet cross section area at rudder and elevator hinges and control horns with a 10-power glass.

(7) Inspect the fuel tank attachment points to the fuselage in the areas of the attachment bolts for deterioration.

(8) Inspect glue joints in the area of the battery for separation and deterioration.

(9) Clear all drain holes in fuselage.

(10) If any defects noted in paragraphs (1) through (8) above are detected, repair in accordance with FAA Advisory Circular AC 43.13-1A or approved equivalent, or replace with an identical new part or equivalent, prior to further flight. Equivalent repairs or parts must be approved by the Chief, Engineering and Manufacturing Branch, FAA, Eastern Region.

(11) Upon submission of substantiating data by an owner or operator through an FAA Maintenance Inspector, the Chief, Engineering and Manufacturing Branch, FAA, Eastern Region, may adjust the inspection time in this airworthiness directive.

Effective Date: This amendment is effective September 3, 1979.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended, 49 U.S.C. 1354(a), 1421, and 1423; Sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c); and 14 CFR 11.89.)

Issued in Jamaica, New York, on August 20, 1979.

Louis J. Cardinali,
Acting Director, Eastern Region.

[FR Doc. 79-26917 Filed 8-29-79; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 79-EA-26; Amdt. 39-3543]

Airworthiness Directives; Fairchild Aircraft

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule amends AD 73-12-05 applicable to Fairchild F-27 and FH-227 type airplanes which requires repetitive inspection of certain vertical stabilizer fittings for cracks and replacement where necessary. This amendment provides an alternate method of inspection and how visual and dye penetrant inspections should be performed. These cracks, if failure occurs, could be the source of an accident.

EFFECTIVE DATE: August 29, 1979. Compliance is required as set forth in the AD.

ADDRESSES: Fairchild Service Bulletins may be acquired from the manufacturer at Fairchild Industries, Inc., Fairchild Republic Company, Hagerstown, Maryland 21740.

FOR FURTHER INFORMATION CONTACT: L. Lipsius, Airframe Section, AEA-212, Engineering and Manufacturing Branch, Federal Building, J.F.K. International Airport, Jamaica, New York 11430; Tel. 212-995-2875.

SUPPLEMENTARY INFORMATION: Since this amendment is clarifying in nature and does not impose any substantial additional burden on any person, notice and public procedure hereon are unnecessary and the amendment may be made effective in less than 30 days.

Adoption of the Amendment

Accordingly, and pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended, by amending AD 73-12-05, as follows:

Amend AD 73-12-05 as follows:

Amend paragraphs 1, 1a, 1b, 2a, and 2b to read as follows:

1. As to the vertical stabilizer attachment fitting assemblies for both front and rear spars, P/N's 27-233000-11, -12, -31, -32, -41 and -42 which have accumulated 2500 hours or more in service.

a. Within the next 30 days, unless accomplished within the last 11 months, inspect all surfaces of the lugs of the fittings for cracks using an ultrasonic method in accordance with paragraph 2, Accomplishment Instructions, Part I, of Fairchild Service Bulletins F-27-55-20 and FH-227-55-11, reissued June 15, 1979, or an approved equivalent inspection. Inspect other areas of the fittings for cracks using a dye penetrant and a 10-power glass or an approved equivalent inspection.

b. Within the next 60 days, unless accomplished within the last 10 months, inspect the fittings around the flanges and inner cavity for corrosion in accordance with paragraph 2, Accomplishment Instructions, Part II, of Fairchild Service Bulletins F-27-55-20 and FH-227-55-11, reissued June 15, 1979, or in accordance with an approved equivalent procedure.

2. Cracked parts shall be replaced and corroded parts shall be replaced or repaired prior to further flight.

a. Parts replacement shall be in accordance with paragraph 2 of Fairchild Service Bulletins F-27-55-20 and FH-227-55-11, reissued June 15, 1979, and they shall be the same part number or approved equivalent parts.

b. Parts repair shall be in accordance with paragraph 2 and Figures 2 and 3 of Fairchild Service Bulletins F-27-55-20 and FH-227-55-11, reissued June 15, 1979, or an approved equivalent repair.

EFFECTIVE DATE: This amendment is effective August 29, 1979.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended, 49 U.S.C. 1354(a), 1421, and 1423; Sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c); and 14 CFR 11.89.)

Issued in Jamaica, New York, on August 15, 1979.

Murray E. Smith,
Director, Eastern Region.

[FR Doc. 79-26932 Filed 8-29-79; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 79-EA-33; Amdt. 39-3544]

Airworthiness Directives; Grumman Aircraft

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule amends AD 73-19-10 applicable to Grumman G-164A and G-164B type airplanes which requires a repetitive inspection of the bolts attaching the elevator control horn for torque and corrosion. This amendment discontinues such inspection where the airplane has been modified in accordance with Grumman Service Note No. 23 of August 1, 1978. The modification requires larger end fittings and closer tolerance bolts.

EFFECTIVE DATE: August 29, 1979.

Compliance is required as set forth in the AD.

ADDRESSES: Grumman Service Bulletins may be acquired from the manufacturer at P.O. Box 147, Elmira, N.Y. 14902.

FOR FURTHER INFORMATION CONTACT: A. Maila, Airframe Section, AEA-212, Engineering and Manufacturing Branch, Federal Building, J.F.K. International Airport, Jamaica, New York 11430; Tel. 212-995-2875.

SUPPLEMENTARY INFORMATION: In view of the fact that the amendment is relaxatory, notice and public procedure hereon are unnecessary and the amendment may be made effective in less than 30 days.

Adoption of the Amendment

Accordingly, and pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended, amending AD 73-19-10, as follows:

Amend AD 73-19-10 as follows:

(a) Delete the applicability paragraph and substitute the following:

Applies to G-164A S/N's 1 through 1659A and G-164B S/N's 1B through 56B certificated in all categories and all G-164A and G-164B aircraft in which the elevator control horn assembly and torque tube end fittings have not been modified per Gulfstream American Service Note No. 23 or FAA-approved equivalent.

(b) Insert "unless already accomplished within the last 75 hours in service", in paragraph 1 between the words "first" and "inspect".

(c) Add a number 6 and 7 paragraph as follows:

6. The repetitive inspection intervals required by paragraph 1 may be discontinued upon accomplishment of the modification in Grumman Gulfstream Service Note No. 23 dated 8/1/76, or an FAA-approved equivalent.

7. Any equivalent parts or alterations must be approved by the Chief, Engineering and Manufacturing Branch, FAA, Eastern Region.

EFFECTIVE DATE: This amendment is effective August 29, 1979.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended, 49 U.S.C. 1354(a), 1421, and 1423; Sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c); and 14 CFR 11.89.)

Issued in Jamaica, New York, on August 15, 1979.

Murray E. Smith,
Director, Eastern Region.

[FR Doc. 79-26933 Filed 8-29-79; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 79-EA-38; Amdt. 39-3545]

Airworthiness Directives; Piper Aircraft

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule amends AD 79-11-06 applicable to Piper PA-23 type airplanes which requires a replacement of landing gear selector lever P/N 752303. In order to assure that airplanes not presently incorporating P/N 752303 will not, in the future, be altered so as to incorporate the defective part, the amendment will now apply to all PA-23 series aircraft.

EFFECTIVE DATE: August 29, 1979. Compliance is required as set forth in the AD.

ADDRESSES: Piper Service Bulletins may be acquired from the manufacturer at Piper Aircraft Corporation, 820 East Bald Eagle Street, Lock Haven, Pennsylvania 17745.

FOR FURTHER INFORMATION CONTACT: A. Maila, Airframe Section, AEA-212, Engineering and Manufacturing Branch, Federal Building, J.F.K. International Airport, Jamaica, New York 11430; Tel. 212-995-2875.

SUPPLEMENTARY INFORMATION: Since this deficiency can exist or develop in other airplanes of similar type design, and in view of the air safety problem, notice and public procedure hereon are impractical and the amendment may be made effective in less than 30 days.

Adoption of the Amendment

Accordingly, and pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended, by amending AD 79-11-06, as follows:

Delete the applicability paragraph in AD 79-11-06 and insert the following:

Applies to all PA-23 series aircraft, certificated in all categories, which have

landing gear selector lever, P/N 752303, installed.

EFFECTIVE DATE: This amendment is effective August 29, 1979.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended, 49 U.S.C. 1354(a), 1421, and 1423; Sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c); and 14 CFR 11.89)

Issued in Jamaica, New York, on August 15, 1979.

Murray E. Smith,
Director, Eastern Region.

[FR Doc. 79-26934 Filed 8-29-79; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 79-EA-36]

Designation of Federal Airways, Area Low Routes, Controlled Airspace, and Reporting Points; Designation of Temporary Control Zone: Saranac Lake, N.Y.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The rule will designate a Saranac Lake, N.Y., Temporary Control Zone. The 1980 Winter Olympics will be held in Lake Placid, N.Y., from February 13, 1980 through February 24, 1980. Considerable increase in aviation activity is anticipated to begin January 2, 1980 through March 1, 1980 at Adirondack Airport because of its close proximity to the Olympic Games. The anticipated increase in aviation activity in and around Adirondack Airport generated by the 1980 Winter Olympics necessitates formalizing and instituting a temporary control zone to enhance safety to the flying public to be effective January 2, 1980 through March 1, 1980.

EFFECTIVE DATE: 0901 GMT October 4, 1979.

FOR FURTHER INFORMATION CONTACT: Charles J. Bell, Airspace and Procedures Branch, AEA-530, Air Traffic Division, Federal Aviation Administration, Federal Building, J.F.K. International Airport, Jamaica, New York 11430, Telephone (212) 995-3391.

SUPPLEMENTARY INFORMATION: A Notice of Proposed Rule Making was published in the Federal Register on Monday, July 16, 1979, on page 41208, so as to designate a Saranac Lake, N.Y., Temporary Control Zone. Interested parties were given an opportunity to submit comments in writing. There were no objections.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart F of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective 0901 GMT October 4, 1979, as published in the NPRM except as follows:

1. In the description delete the words "Primary Airport" and insert in lieu thereof "Saranac Lake, N.Y."
2. In the description delete the first "Adirondack Airport (44°23'03" N., 74°12'21" W.)."
3. In the description delete the word "VORTAC" and insert in lieu thereof "VOR" wherever it appears.

(Sections 307(a), and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(c)); Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89)

Issued in Jamaica, New York, on August 10, 1979.

Irving Mark,
Acting Director, Eastern Region.

Proposed Designation of Saranac Lake, New York Temporary Control Zone

Saranac Lake, N.Y.

Within a 7-mile radius of the center of Adirondack Airport (44°23'03" N., 74°12'21" W.): within 4 miles each side of the Saranac Lake, N.Y. VOR 231° radial extending from the 7-mile radius zone to 9.5 miles southwest of the Saranac Lake VOR within 4 miles each side of the Saranac Lake VOR 028° radial extending from the 7-mile radius zone to 17 miles northeast of the Saranac Lake VOR within 4 miles each side of the Saranac Lake, N.Y. ILS Localizer northeast course extending from the 7-mile radius zone to 9 miles northeast of Briel, N.Y. LOM (44°28'36" N.), 74°07'28" W.).

This temporary control zone is effective during the specific dates and times established in advance by a Notice to Airman. The effective dates and times will thereafter be continuously published in the Airport/Facility Directory.

[FR Doc. 79-26929 Filed 8-29-79; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 79-EA-42]

Designation of Federal Airways, Area Low Routes, Controlled Airspace, and Reporting Points; Alteration of Transition Area: Berlin, N.J.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule will alter the Berlin, N.J., Transition Area by changing the name of Kettlerun Airpark to Camden-Burlington County Airport. This change is editorial and results from a local change to the name of the airport.

EFFECTIVE DATE: August 29, 1979.

FOR FURTHER INFORMATION CONTACT: Charles J. Bell, Airspace and Procedures Branch, AEA-530, Air Traffic Division, Federal Aviation Administration, Federal Building, J.F.K. International Airport, Jamaica, New York 11430, Telephone (212) 995-3391.

SUPPLEMENTARY INFORMATION: The rule is editorial and does not impose any additional burden on any person. In view of the foregoing, notice and public procedure hereon are unnecessary and the rule may be made effective in less than 30 days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective upon publication in the Federal Register, as follows:

1. Amend § 71.181 of Part 71, Federal Aviation Regulations, by altering the description of the Berlin, New Jersey, 700-foot floor transition area as follows: In the text, delete "Kettlerun Airpark" and substitute therefor "Camden-Burlington County Airport."

(Sections 307(a), and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(c)); Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69)

Issued in Jamaica, New York, on August 15, 1979.

Murray E. Smith,
Director, Eastern Region.

[FR Doc. 79-26928 Filed 8-29-79; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 79-CE-16]

Designation of Federal Airways, Area Low Point Routes, Controlled Airspace and Reporting Points; Alteration of Transition Area—Crete, Nebraska

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this federal action is to alter the 700-foot transition area at Crete, Nebraska, to provide additional controlled airspace for aircraft executing a new instrument approach procedure to the Crete, Nebraska Municipal Airport, utilizing the Lincoln VHF Omni-Directional

Range as a navigational aid. The intended effect of this action is to ensure segregation of aircraft using the new approach procedure under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR).

EFFECTIVE DATE: November 29, 1979.

FOR FURTHER INFORMATION CONTACT: Benny J. Kirk, Airspace Specialist, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE-538, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64108, Telephone (816) 374-3408.

SUPPLEMENTARY INFORMATION: A new instrument approach procedure to the Crete Municipal Airport, Crete, Nebraska, is being established utilizing the Lincoln VHF Omni-Directional Range as a navigational aid. The establishment of an instrument approach procedure based on this approach aid entails the alteration of the transition area at Crete, Nebraska, at and above 700 feet above the ground (AGL) within which aircraft are provided air traffic control service. The intended effect of this action is to ensure segregation of aircraft using the new approach procedure under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR).

Discussion of Comments

On pages 38568 and 38569 of the Federal Register dated July 2, 1979, the Federal Aviation Administration published a Notice of Proposed Rule Making which would amend Section 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the transition area at Crete, Nebraska. Interested persons were invited to participate in this rule making proceeding by submitting written comments on the proposal to the FAA. No objections were received as a result of the Notice of Proposed Rule Making.

Accordingly, Subpart G, § 71.181 of the Federal Aviation Regulations (14 CFR 71.181) as republished on January 2, 1979 (44 FR 442), is amended effective 0901 GMT November 29, 1979, by adding the following new transition area:

Crete, Nebraska

That airspace extending upward from 700 feet above the surface within a 6½ mile radius of the Crete Municipal Airport (latitude 40°37'30" N, longitude 96°55'45" E); excluding that portion within the Lincoln, Nebraska transition area.

(Sec. 307(a), Federal Aviation Act of 1958 as amended (49 U.S.C. 1348); Sec. 6(c), Department of Transportation Act (49 U.S.C.

1655(c)); Sec. 11.69 of the Federal Aviation Regulations (14 CFR 11.69))

Note—The FAA has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Kansas City, Missouri, on August 17, 1979.

John E. Shaw,
Acting Director, Central Region.

[FR Doc. 79-26922 Filed 8-29-79; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket Number 79-CE-10]

Designation of Federal Airways, Area Low Point Routes, Controlled Airspace and Reporting Points; Designation of Transition Area—Iola, Kansas

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this federal action is to designate a 700-foot transition area at Iola, Kansas, to provide controlled airspace for aircraft executing a new instrument approach procedure to the Allen County Airport, Iola, Kansas, based on the Non-Directional Radio Beacon (NDB), a navigational aid installed on the airport by the City of Iola, Kansas. The intended effect of this action is to ensure segregation of aircraft using the new approach procedure under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR).

EFFECTIVE DATE: November 29, 1979.

FOR FURTHER INFORMATION CONTACT: Benny J. Kirk, Airspace Specialist, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE-538, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64108, Telephone (816) 374-3408.

SUPPLEMENTARY INFORMATION: A new instrument approach procedure to the Allen County Airport, Iola, Kansas, is being established utilizing a Non-Directional Radio Beacon, a navigational aid installed on the airport by the City of Iola, Kansas. The establishment of a new instrument approach procedure based on this

navigational aid, entails designation of a transition area at Iola, Kansas, at and above 700 feet above ground level (AGL) within which aircraft are provided air traffic control service. The intended effect of this action is to ensure segregation of aircraft using the approach procedures under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR).

Discussion of Comments

On pages 32002 and 32003 of the Federal Register dated June 4, 1979, the Federal Aviation Administration published a Notice of Proposed Rule Making which would amend Section 71.181 of Part 71 of the Federal Aviation Regulations so as to designate a transition area at Iola, Kansas. Interested persons were invited to participate in this rule making proceeding by submitting written comments on the proposal to the FAA. No objections were received as a result of the Notice of Proposed Rule Making.

Accordingly, subpart G, § 71.181 of the Federal Aviation Regulations (14 CFR 71.181) as republished on January 2, 1979, (44 FR 442), is amended effective 0901 G.m.t. November 29, 1979, by adding the following new transition area:

Iola, Kansas

That airspace extending upwards from 700 feet above the surface, within a 5-mile radius of the Allen County Airport (latitude 37°52'22" N.; longitude 95°22'58" W.); and within 2 miles each side of the 019° bearing from the NDB facility (latitude 37°47'29" N.; longitude 95°24'53" W.); extending from the 5-mile radius to the NDB.

(Sec. 307(a), Federal Aviation Act of 1958 as amended (49 U.S.C. 1348); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); Sec. 11.69 of the Federal Aviation Regulations (14 CFR 11.69).)

Note—The FAA has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Kansas City, Missouri, on August 17, 1979.
John E. Shaw,
Acting Director, Central Region.
[FR Doc. 79-26921 Filed 8-29-79; 8:45 am]
BILLING CODE 4910-13-M

14 CFR Part 71**(Airspace Docket Number 79-CE-14)****Designation of Federal Airways, Area Low Point Routes, Controlled Airspace and Reporting Points; Alteration of Transition Area—Kearney, Nebraska**

AGENCY: Federal Aviation Administration (FAA), DOT.
ACTION: Final rule.

SUMMARY: The nature of this federal action is to alter the 700-foot transition area at Kearney, Nebraska, to provide additional controlled airspace for aircraft executing a new instrument approach procedure to the Kearney, Nebraska Municipal Airport based on a Non-Directional Radio Beacon (NDB), a navigational aid, which has been installed 5.13 miles south of the Kearney Municipal Airport. The intended effect of this action is to ensure segregation of aircraft using the new approach procedure under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR).

EFFECTIVE DATE: November 29, 1979.

FOR FURTHER INFORMATION CONTACT: Benny J. Kirk, Airspace Specialist, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE-538, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374-3408.

SUPPLEMENTARY INFORMATION: A new instrument approach procedure to the Kearney Municipal Airport, Kearney, Nebraska, is being established based on a Non-Directional Radio Beacon (NDB), a navigational aid, installed 5.13 miles south of the Kearney Municipal Airport. The establishment of an instrument approach procedure based on this approach aid, entails the alteration of the transition area at Kearney, Nebraska, at and above 700-feet above the ground (AGL) within which aircraft are provided air traffic control service. The intended effect of this action is to ensure segregation of aircraft using the new approach procedure under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR).

Discussion of Comments

On page 34967 of the Federal Register dated June 18, 1979, the Federal Aviation

Administration published a Notice of Proposed Rule Making which would amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the transition area at Kearney, Nebraska. Interested persons were invited to participate in this rule making proceeding by submitting written comments on the proposal to the FAA. No objections were received as a result of the Notice of Proposed Rule Making.

Accordingly, Subpart G, § 71.181 of the Federal Aviation Regulations (14 CFR 71.181) as republished on January 2, 1979 (44 FR 442), is amended effective 0901 G.m.t. November 29, 1979, by altering the following transition area:

Kearney, Nebraska

That airspace extending upward from 700-feet above the surface within a 9.5 mile radius of Kearney Municipal Airport (latitude 40°43'37" N., longitude 99°00'04" W.).

(Sec. 307(a), Federal Aviation Act of 1958 as amended (49 U.S.C. 1348); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); sec. 11.69 of the Federal Aviation Regulations (14 CFR 11.69).)

Note—The FAA has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Kansas City, Missouri, on August 17, 1979.

John E. Shaw,
Acting Director, Central Region.

[FR Doc. 79-26925 Filed 8-29-79; 8:45 am]
BILLING CODE 4910-13-M

14 CFR Part 71**(Airspace Docket No. 78-EA-120)****Designation of Federal Airways, Area Low Routes, Controlled Airspace, and Reporting Points; Alteration of Transition Area and Control Zone: Calverton, N.Y.**

AGENCY: Federal Aviation Administration (FAA), DOT.
ACTION: Final rule.

SUMMARY: This rule will alter the Calverton, N.Y., Control Zone & Transition Area, over Peconic River Plant (Grumman) Airport, Calverton, N.Y. A new VOR Rwy 5 instrument approach procedure has been developed

for the airport. This alteration will provide protection to aircraft executing the new instrument approach by increasing the controlled airspace. An instrument approach procedure requires the designation of controlled airspace to protect instrument aircraft utilizing the instrument approach. The airport geographical coordinates have also been revised.

EFFECTIVE DATE: 0901 GMT November 29, 1979.

FOR FURTHER INFORMATION CONTACT: Charles J. Bell, Airspace and Procedures Branch, AEA-530, Air Traffic Division, Federal Aviation Administration, Federal Building, J.F.K. International Airport, Jamaica, New York 11430, Telephone (212) 995-3391.

SUPPLEMENTARY INFORMATION: The alteration will add a control zone extension to the southwest of about 3.5 miles and a width of six miles. The alteration to the transition area will note the new coordinates. The FAA published a Notice of Proposed Rule Making in the Federal Register on Thursday, February 15, 1979, on page 9765. Interested parties were given an opportunity to submit written comments. There were no objections.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Subparts F & G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) are amended, effective 0901 GMT November 29, 1979, as published.

(Section 307(a), and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(c)); Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69.)

Issued in Jamaica, New York, on August 14, 1979.

Louis J. Cardinali,
Acting Director, Eastern Region.

1. Amend § 71.171 of Part 71 of the Federal Aviation Regulations by deleting the description of the Calverton, N.Y. control zone and by inserting the following in lieu thereof:

"Within a 5-mile radius of the center, 40°54'55" N., 72°47'43" W., of Peconic River Plant (Grumman) Airport, Calverton, N.Y.; within 3 miles each side of the Calverton, N.Y. VORTAC 210° radial, extending from the 5-mile radius zone to 8.5 miles southwest of the VORTAC. This control zone is effective from 0800 to 1630 hours, local time, Monday through Friday."

2. Amend § 71.181 of Part 71 of the Federal Aviation Regulations by deleting the description of the Calverton, N.Y. 700-foot floor transition area and by inserting the following in lieu thereof:

"That airspace extending upward from 700 feet above the surface within an 8.5-mile

radius of the center, 40°54'55" N., 72°47'43" W., of Peconic River Plant (Grumman) Airport, Calverton, N.Y."
[FR Doc. 79-26927 Filed 8-29-79; 8:45 am]
BILLING CODE 4910-13-M

14 CFR Part 71**(Airspace Docket No. 79-EA-44)****Designation of Federal Airways, Area Low Routes, Controlled Airspace, and Reporting Points; Alteration of Transition Area and Control Zone: Latrobe, Pa.**

AGENCY: Federal Aviation Administration (FAA), DOT.
ACTION: Final rule.

SUMMARY: This rule alters the Latrobe, Pa., Control Zone and Transition Area by changing the name of the Latrobe RBN to BENJE RBN. This change is the result of operational requirements.

EFFECTIVE DATE: 0901 GMT October 4, 1979.

FOR FURTHER INFORMATION CONTACT: Charles J. Bell, Airspace and Procedures Branch, AEA-530, Air Traffic Division, Federal Aviation Administration, Federal Building, J.F.K. International Airport, Jamaica, New York 11430, Telephone (212) 995-3391.

SUPPLEMENTARY INFORMATION: The rule is editorial and does not impose any additional burden on any person. In view of the foregoing, notice and public procedure hereon are unnecessary and the rule may be made effective in less than 30 days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Subparts F & G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) are amended, effective 0901 GMT October 4, 1979, as follows:

1. Amend § 71.171 of Part 71 of the Federal Aviation Regulations so as to amend the description of the Latrobe, Pennsylvania, Control Zone by deleting, "Latrobe RBN" wherever it appears in the Control Zone description and by substituting, "BENJE RBN" therefor.

2. Amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to amend the description of the Latrobe, Pennsylvania, 700-foot floor transition area by deleting, "Latrobe RBN" wherever it appears in the transition area description and by substituting, "BENJE RBN" therefor.

(Section 307(a), and 313(a) Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(c)); Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69)

Issued in Jamaica, New York, on August 10, 1979.

Irving Mark,
Acting Director, Eastern Region.
[FR Doc. 79-26930 Filed 8-29-79; 8:45 am]
BILLING CODE 4910-13-M

14 CFR Part 71**(Airspace Docket Number 79-CE-15)****Designation of Federal Airways, Area Low Point Routes, Controlled Airspace and Reporting Points; Alteration of Transition Area—Estherville, Iowa**

AGENCY: Federal Aviation Administration (FAA), DOT.
ACTION: Final rule.

SUMMARY: The nature of this federal action is to alter the 700-foot transition area at Estherville, Iowa, to provide additional controlled airspace for aircraft executing a new instrument approach procedure to the Estherville, Iowa Municipal Airport utilizing the Estherville VOR as a navigational aid. The intended effect of this action is to ensure segregation of aircraft using the new approach procedure under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR).

EFFECTIVE DATE: November 29, 1979.

FOR FURTHER INFORMATION CONTACT: Dwaine E. Hiland, Airspace Specialist, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE-537, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374-3408.

SUPPLEMENTARY INFORMATION: A new instrument approach procedure to the Estherville Municipal Airport, Estherville, Iowa, is being established utilizing the Estherville VOR as a navigational aid. The establishment of an instrument approach procedure based on this approach aid, entails the alteration of the transition area at Estherville, Iowa, at and above 700 feet above the ground (AGL) within which aircraft are provided air traffic control service. The intended effect of this action is to ensure segregation of aircraft using the new approach procedure under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR).

Discussion of Comments

On pages 38587 and 38588 of the Federal Register dated July 2, 1979, the Federal Aviation Administration published a Notice of Proposed Rule Making which would amend Section 71.181 of Part 71 of the Federal Aviation

Regulations so as to alter the transition area at Estherville, Iowa. Interested persons were invited to participate in this rule making proceeding by submitting written comments on the proposal to the FAA. No objections were received as a result of the Notice of Proposed Rule Making.

Accordingly, Subpart G, Section 71.181 of the Federal Aviation Regulations (14 CFR 71.181) as republished on January 2, 1979, (44 FR 442), is amended effective 0901 GMT November 29, 1979, by altering the following transition area:

Estherville, Iowa

That airspace extending upward from 700 feet above the surface within a 6½ mile radius of the Estherville Municipal Airport (Latitude 43°24'15" N; Longitude 94°44'45" W); and within 3 miles each side of the 175° radial from the Estherville VOR (Latitude 43°24'37" N; Longitude 94°44'20" W), extending from the 6½ mile radius area to 8½ miles south of the VOR; and within 3 miles each side of the 340° radial from the Estherville VOR extending from the 6½ mile radius area to 8½ miles north of the VOR.

(Sec. 307(a), Federal Aviation Act of 1958 as amended (49 U.S.C. 1348); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); Sec. 11.69 of the Federal Aviation Regulations (14 CFR 11.69).)

The FAA has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Kansas City, Missouri, on August 20, 1979.

John E. Shaw,
Acting Director, Central Region.

[FR Doc. 79-27055 Filed 8-29-79; 8:45 am]
BILLING CODE 4910-13-M

CIVIL AERONAUTICS BOARD**14 CFR Part 207****(Reg. ER-1141; Amdt. No. 20)****Direct Marketing of Charters by Air Carriers**

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., August 23, 1979.

AGENCY: Civil Aeronautics Board.

ACTION: Final Rule.

SUMMARY: This rule will permit direct air carriers and foreign air carriers to sell charter trips to the public through their own in-house operations or through affiliated charter operators, a practice which has previously been prohibited. These sales would have to be made at least 7 days before departure. The rule will also permit direct carriers and charter operators to combine their security agreement and depository arrangements to reduce expense and eliminate duplication. These changes are intended to allow direct carriers to compete in the charter industry and, it is hoped, benefit consumers by stimulating competition.

DATES: Adopted: August 23, 1979.
Effective: September 28, 1979.

FOR FURTHER INFORMATION CONTACT: Mark Frisbie, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428; 202-673-5442.

For the reasons stated in SPR-166, issued simultaneously, the Board is amending its charter regulations to allow direct marketing of charters by air carriers.

Accordingly, the Civil Aeronautics Board amends 14 CFR Part 207 as follows:

1. The Table of Contents is amended by adding a new Subpart E, to read:

PART 207—CHARTER TRIPS AND SPECIAL SERVICES

Sec.
* * * * *

Subpart E—Direct Sales by Air Carriers

207.70 Applicability of subpart.
207.71 Terms of service.
207.72 Board powers.

2. A new paragraph (a)(4) is added to § 207.11, to read:

§ 207.11 Charter flight limitations.

(a) Charter flights (trips) in air transportation shall be limited to the following:

(4) Air transportation of persons performed on a time, mileage, or trip basis by a direct air carrier in accordance with Subpart E. Any person may engage all or any portion of an aircraft from a direct carrier. However, the direct carrier must specify in its charter prospectus (§ 380.28) the number of seats available for sale directly to the general public, and if that number is less than the entire capacity of the aircraft, the remaining seats must be engaged as provided in paragraph (a)(3) of this section.

3. A new Subpart E is added, to read:

Subpart E—Direct Sales by Air Carriers**§ 207.70 Applicability of subpart.**

This subpart applies to direct air carriers that provide charter trips, including trips with ground accommodations and services, directly to individuals.

§ 207.71 Terms of service.

(a) Charter trips under this subpart shall bear only such characteristics as are permitted for Public Charters under Part 380 of this chapter, except:

(1) They may be arranged and sold by a direct air carrier;
(2) There is no minimum contract size; and

(3) Each participant contract shall be signed by or on behalf of the participant not less than 7 days before departure of the outbound flight.

(b) Each direct air carrier operating a charter trip under this subpart shall comply with all the requirements and limitations of Part 380 of this chapter, *Public Charters*, applicable to direct carriers and to charter operators except that:

(1) Those provisions of Part 380 of this chapter relating to the existence of a contract between a charter operator and a direct carrier do not apply;

(2) Section 380.34 does not apply except as specified in paragraph (b)(4) of this section.

(3) If a depository agreement is used, it shall comply with § 380.34a(d) and (f); and

(4) If a security agreement is used, it shall comply with § 380.34 (c) and (d), and:

(i) If no depository agreement is used, protect charter participant deposits (including those for ground accommodations and services) and assure the direct air carrier's contractual and regulatory responsibilities to charter participants in an unlimited amount (except that the liability of the securer with respect to any charter participant may be limited to the charter price paid by or on behalf of such participant);

(ii) If used in combination with a depository agreement, protect charter participant deposits (including those for ground accommodations and services) and assure the direct air carrier's contractual and regulatory responsibilities to charter participants in the amount of at least \$10,000 times the number of flights, except that the amount need not be more than \$200,000. The liability of the securer with respect to any charter participant may be limited to the charter price paid by or on behalf of such participant.

(c) For the purposes of this section, "charter trip" includes charter tours with or without ground accommodations and services.

§ 207.72 Board powers.

The Board retains, with respect to charters under this subpart, all powers that it has under Part 380 of this chapter with respect to Public Charters.

(Secs. 102, 204, 401, 416, of the Federal Aviation Act of 1958, as amended, 92 Stat. 1706, 72 Stat. 743, 754, 92 Stat. 1731; (49 U.S.C. 1302, 1324, 1371, 1386).)

By the Civil Aeronautics Board.

Phyllis T. Kaylor,
Secretary.

[FR Doc. 79-27144 Filed 8-29-79; 8:45 am]
BILLING CODE 6320-01-M

14 CFR Part 208

[Reg. ER-1142; Amdt. No. 20]

Direct Marketing of Charters by Air Carriers

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., August 23, 1979.

AGENCY: Civil Aeronautics Board.

ACTION: Final Rule.

SUMMARY: This rule will permit direct air carriers and foreign air carriers to sell charter trips to the public through their own in-house operations or through affiliated charter operators, a practice which has previously been prohibited. These sales would have to be made at least 7 days before departure. The rule will also permit direct carriers and charter operators to combine their security agreement and depository arrangements to reduce expense and eliminate duplication. These changes are intended to allow direct carriers to compete in the charter industry and, it is hoped, benefit consumers by stimulating competition.

DATES: Adopted: August 23, 1979.
Effective: September 28, 1979.

FOR FURTHER INFORMATION CONTACT: Mark Frisbie, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428; 202-673-5442.

For the reasons stated in SPR-166, issued simultaneously, the Board is amending its charter regulations to allow direct marketing of charters by air carriers.

Accordingly, the Civil Aeronautics Board amends 14 CFR Part 208 as follows:

1. The Table of Contents is amended by adding new §§ 208.37 and 208.38, and Subpart F to read:

PART 208—TERMS, CONDITIONS, AND LIMITATIONS OF CERTIFICATES TO ENGAGE IN CHARTER AIR TRANSPORTATION

Sec.
* * * * *
208.37 Exemption.
208.38 Suspension of exemption authority.
* * * * *

Subpart F—Direct Sales by Air Carriers

208.500 Applicability of subpart.
208.501 Terms of service.
208.502 Board powers.

2. A new paragraph (a)(4) is added to § 208.6, to read:

§ 208.6 Charter flight limitations.

(a) Charter flights in air transportation performed by supplemental air carriers shall be limited to the following:

(4) Air transportation of persons performed on a time, mileage, or trip basis by a direct air carrier in accordance with Subpart F. Any person may engage all or any portion of an aircraft from a direct carrier. However, the direct carrier must specify in its charter prospectus (§ 380.28) the number of seats available for sale directly to the general public, and if that number is less than the entire capacity of the aircraft, the remaining seats must be engaged as provided in paragraph (a)(3) of this section.

3. New § 208.37 and § 208.38 are added, to read:

§ 208.37 Exemption.

Charter air carriers are hereby exempted from section 401(n)(4) of the Act.

§ 208.38 Suspension of exemption authority.

The Board reserves the power to suspend the exemption authority of any charter air carrier, without hearing, if it finds that such action is necessary in order to protect the rights of the traveling public.

4. A new Subpart F is added, to read:

Subpart F—Direct Sales by Air Carriers**§ 208.500 Applicability of subpart.**

This subpart applies to direct air carriers that provide charter trips, including trips with ground accommodations and services, directly to individuals.

§ 208.501 Terms of service.

(a) Charter trips under this subpart shall bear only such characteristics as are permitted for Public Charters under Part 380 of this chapter, except:

(1) They may be arranged and sold by a direct air carrier;

(2) There is no minimum contract size; and

(3) Each participant contract shall be signed by or on behalf of the participant not less than 7 days before scheduled departure of the outbound flight.

(b) Each direct air carrier operating a charter trip under this subpart shall comply with all the requirements and limitations of Part 380 of this chapter, *Public Charters*, applicable to direct carriers and to charter operators except that:

(1) Those provisions of Part 380 relating to the existence of a contract between a charter operator and a direct carrier do not apply;

(2) Section 380.34 does not apply except as specified in paragraph (b)(4) of this section.

(3) If a depository agreement is used, it shall comply with § 380.34a (d) and (f); and

(4) If a security agreement is used, it shall comply with § 380.34 (c) and (d), and:

(i) If no depository agreement is used, protect charter participant deposits (including those for ground accommodations and services) and assure the direct air carrier's contractual and regulatory responsibilities to charter participants in an unlimited amount (except that the liability of the securer with respect to any charter participant may be limited to the charter price paid by or on behalf of such participant);

(ii) If used in combination with a depository agreement, protect charter participant deposits (including those for ground accommodations and services) and assure the direct air carrier's contractual and regulatory responsibilities to charter participants in the amount of at least \$10,000 times the number of flights, except that the amount need not be more than \$200,000. The liability of the securer with respect to any charter participant may be limited to the charter price paid by or on behalf of such participant.

(c) For the purposes of this section, "charter trip" includes charter tours with or without ground accommodations and services.

§ 208.502 Board powers.

The Board retains, with respect to charters under this subpart, all powers that it has under Part 380 of this chapter with respect to Public Charters.

(Secs. 102, 204, 401, 416 of the Federal Aviation Act of 1958, as amended, 92 Stat. 1706, 72 Stat. 743, 754, 92 Stat. 1731; (U.S.C. 1302, 1324, 1371, 1386))

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 79-27145 Filed 8-29-79; 8:45 am]

BILLING CODE 6320-01-M

14 CFR Part 212

[Reg. ER-1143; Amdt. No. 28]

Direct Marketing of Charters by Air Carriers

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., August 23, 1979.

AGENCY: Civil Aeronautics Board.

ACTION: Final Rule.

SUMMARY: This rule will permit direct air carriers and foreign air carriers to sell charter trips to the public through their own in-house operations or through affiliated charter operators, a practice which has previously been prohibited. These sales would have to be made at least 7 days before departure. The rule will also permit direct carriers and charter operators to combine their security agreement and depository arrangements to reduce expense and eliminate duplication. These changes are intended to allow direct carriers to compete in the charter industry and, it is hoped, benefit consumers by stimulating competition.

DATES:

Adopted August 23, 1979.

Effective: September 28, 1979.

FOR FURTHER INFORMATION CONTACT: Mark Frisbie, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428; 202-673-5442.

For the reasons stated in SPR-166, issued simultaneously, the Board is amending its charter regulations to allow direct marketing of charters by air carriers.

Accordingly, the Civil Aeronautics Board amends 14 CFR Part 212 as follows:

1. The Table of Contents is amended by adding a new Subpart E, to read:

PART 212—CHARTER TRIPS BY FOREIGN AIR CARRIERS

Sec.
* * * * *

Subpart E—Direct Sales by Foreign Air Carriers

212.70 Applicability of subpart.
212.71 Terms of service.
212.72 Board powers.

2. A new paragraph (a)(3) is added to § 212.8, to read:

§ 212.6 Charter flight limitations.

(a) Charter flights (trips) shall be limited to foreign air transportation performed by a foreign air carrier holding a foreign air carrier permit issued pursuant to section 402 of the Act authorizing such carrier to engage in foreign air transportation on an individually ticketed or individually waybilled basis—

(3) Where persons are transported in accordance with Subpart E. Any person may engage all or any portion of an aircraft from a direct foreign carrier. However, the direct carrier must specify in its charter prospectus (§ 380.28) the number of seats available for sale directly to the general public, and if that number is less than the entire capacity of the aircraft, the remaining seats must be engaged as provided in paragraph (a)(2) of this section.

3. A new Subpart E is added, to read:

Subpart E—Direct Sales by Foreign Air Carriers**§ 212.70 Applicability of subpart.**

This subpart applies to direct foreign air carriers that provide charter trips, including trips with ground accommodations and services, directly to individuals.

§ 212.71 Terms of service.

(a) Charter trips under this subpart shall bear only such characteristics as are permitted for Public Charters under Part 380 of this chapter, except:

(1) They may be arranged and sold by a direct foreign air carrier;

(2) There is no minimum contract size; and

(3) Each participant contract shall be signed by or on behalf of the participant not less than 7 days before scheduled departure of the outbound flight.

(b) Each direct foreign air carrier operating a charter trip under this subpart shall comply with all the requirements and limitations of Part 380 of this chapter, *Public Charters*, applicable to direct foreign air carriers and to foreign charter operators except that:

(1) Those provisions of Part 380 relating to the existence of a contract between a charter operator and a direct carrier do not apply;

(2) Section 380.34 does not apply except as specified in paragraph (b)(4) of this section.

(3) If a depository agreement is used, it shall comply with § 380.34a(d) and (f); and

(4) If a security agreement is used, it shall comply with § 380.34(c) and (d), and:

(i) If no depository agreement is used, protect charter participant deposits (including those for ground accommodations and services) and assure the direct foreign air carrier's contractual and regulatory responsibilities to charter participants in an unlimited amount (except that the liability of the securer with respect to any charter participant may be limited to the charter price paid by or on behalf of such participant);

(ii) If used in combination with a depository agreement, protect charter participant deposits (including those for ground accommodations and services) and assure the direct air carrier's contractual and regulatory responsibilities to charter participants in the amount of at least \$10,000 times the number of flights, except that the amount need not be more than \$200,000. The liability of the securer with respect to any charter participant may be limited to the charter price paid by or on behalf of such participant.

(c) For the purposes of this section, "charter trip" includes charter tours with or without ground accommodations and services.

§ 212.72 Board powers.

The Board retains, with respect to charters under this subpart, all powers that it has under Part 380 of this chapter with respect to Public Charters.

(Secs. 102, 204, 402, 416 of the Federal Aviation Act of 1958, as amended, 92 Stat. 1706, 72 Stat. 743, 757, 92 Stat. 1731; (49 U.S.C. 1302, 1324, 1372, 1386).)

By the Civil Aeronautics Board,
Phyllis T. Kaylor,
Secretary.

[FR Doc. 79-27146 Filed 8-29-79; 8:45 am]
BILLING CODE 6320-01-M

14 CFR Part 214

[Reg. ER-1144; Amdt. No. 26]

Direct Marketing of Charters by Air Carriers

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., August 23, 1979.

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: This rule will permit direct air carriers and foreign air carriers to sell charter trips to the public through their own in-house operations or through affiliated charter operators, a practice which has previously been prohibited. These sales would have to be made at least 7 days before departure. The rule will also permit direct carriers and charter operators to combine their

security agreement and depository arrangements to reduce expense and eliminate duplication. These changes are intended to allow direct carriers to compete in the charter industry and, it is hoped, benefit consumers by stimulating competition.

DATES: Adopted: August 23, 1979.
Effective: September 28, 1979.

FOR FURTHER INFORMATION CONTACT: Mark Frisbie, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428; 202-673-5442.

For the reasons stated in SPR-166, issued simultaneously, the Board is amending its charter regulations to allow direct marketing of charters by air carriers.

Accordingly, the Civil Aeronautics Board amends 14 CFR Part 214 as follows:

1. The Table of Contents is amended by adding a new Subpart D, to read:

PART 214—TERMS, CONDITIONS, AND LIMITATIONS OF FOREIGN AIR CARRIER PERMITS AUTHORIZING CHARTER AIR TRANSPORTATION ONLY

Sec.

Subpart D—Direct Sales by Foreign Air Carriers

214.60 Applicability of subpart.

214.61 Terms of service.

214.62 Board powers.

2. A new paragraph (c) is added to § 214.7, to read:

§ 214.7 Charter flight limitations.

Charter flights shall be limited to air transportation performed by a direct foreign air carrier on a time, mileage, or trip basis where—

(c) Persons are transported in accordance with Subpart D. Any person may engage all or any portion of an aircraft from a direct foreign air carrier. However, the direct carrier must specify in its charter prospectus (§ 380.28) the number of seats available for sale directly to the general public, and if that number is less than the entire capacity of the aircraft, the remaining seats must be engaged as provided in paragraph (b) of this section.

3. A new Subpart D is added, to read:

Subpart D—Direct Sales by Foreign Air Carriers**§ 214.60 Applicability of subpart.**

This subpart applies to direct foreign air carriers that provide charter trips, including trips with ground

accommodations and services, directly to individuals.

§ 214.61 Terms of service.

(a) Charter trips under this subpart shall bear only such characteristics as are permitted for Public Charters under Part 380 of this title, except:

(1) They may be arranged and sold by a direct foreign air carrier;

(2) There is no minimum contract size; and

(3) Each participant contract shall be signed by or on behalf of the participant not less than 7 days before scheduled departure of the outbound flight.

(b) Each direct foreign air carrier operating a charter trip under this subpart shall comply with all the requirements and limitations of Part 380 of this chapter, *Public Charters*, applicable to foreign air carriers and to foreign charter operators except that:

(1) Those provisions of Part 380 relating to the existence of a contract between a charter operator and a direct carrier do not apply;

(2) Section 380.34 does not apply, except as specified in paragraph (b)(4) of this section;

(3) If a depository agreement is used, it shall comply with § 380.34a (d) and (f); and

(4) If a security agreement is used, it shall comply with § 380.34 (c) and (d), and:

(i) If no depository agreement is used, protect charter participant deposits (including those for ground accommodations and services) and assure the direct foreign air carrier's contractual and regulatory responsibilities to charter participants in an unlimited amount (except that the liability of the securer with respect to any charter participant may be limited to the charter price paid by or on behalf of such participant);

(ii) If used in combination with a depository agreement, protect charter participant deposits (including those for ground accommodations and services) and assure the direct air carrier's contractual and regulatory responsibilities to charter participants in the amount of at least \$10,000 times the number of flights, except that the amount need not be more than \$200,000. The liability of the securer with respect to any charter participant may be limited to the charter price paid by or on behalf of such participant.

(c) For the purposes of this section, "charter trip" includes charter tours with or without ground accommodations and services.

§ 214.62 Board powers.

The Board retains, with respect to charters under this subpart, all powers that it has under Part 380 of this chapter with respect to Public Charters.

(Secs. 102, 204, 402, 416 of the Federal Aviation Act of 1958, as amended, 92 Stat. 1706, 72 Stat. 743, 757, 92 Stat. 1731; (49 U.S.C. 1302, 1324, 1372, 1386).)

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 79-27147 Filed 8-29-79; 8:45 am]

BILLING CODE 6320-01-M

14 CFR Part 380

[Reg. SPR-166; Amdt. No. 8]

Public Charters; Direct Marketing of Charters by Air Carriers

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., August 23, 1979.

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: This rule will permit direct air carriers and foreign air carriers to sell charter trips to the public through their own in-house operations or through affiliated charter operators, a practice which has previously been prohibited. These sales would have to be made at least 7 days before departure. The rule will also permit direct carriers and charter operators to combine their security agreement and depository arrangements to reduce expense and eliminate duplication. These changes are intended to allow direct carriers to compete in the charter industry and, it is hoped, benefit consumers by stimulating competition.

DATES: Adopted: August 23, 1979.
Effective: September 28, 1979.

FOR FURTHER INFORMATION CONTACT: Mark Frisbie, Office of General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428, (202) 673-5442.

SUPPLEMENTARY INFORMATION: Historically, direct air carriers have not been allowed to market charter tours directly to the public or through affiliated tour operators. Before the Airline Deregulation Act of 1978, section 101(37) of the Federal Aviation Act (the Act), prohibited the issuance of certificate authority to sell inclusive tour charters. The Deregulation Act moved the prohibition to section 401(n)(4), where it is subject to the Board's exemption power. The Deregulation Act also added section 105, requiring the Board to report to Congress on the desirability of permitting direct sales.

Before submitting its report, the Board surveyed the major issues and solicited written public comments on its analysis (44 FR 14609, March 13, 1979). It also held open oral argument on the issues. The results of these inquiries were considered in preparing the report to Congress, which favored removing all prohibitions on direct sales of charters by air carriers or their affiliates. The report was published in the Federal Register, along with a request for comments on the final product (44 FR 31245, May 31, 1979). A discussion of those comments, and additional analysis by the Board, is being sent to Congress simultaneously with issuance of the final rule.

This rule follows a notice of proposed rulemaking, EDR-374/SPDR-68 (44 FR 26121, May 4, 1979), proposing to allow, by exemption, direct sales and vertical integration for charter tours sold at least 7 days in advance of the flight. The proposal also suggested changes in the security agreement¹ and depository protection requirements, which will allow charter operators and air carriers to use a single combined protection scheme rather than the separate arrangements now required. For the reasons discussed below, we are adopting these proposals in a final rule.

Comments

One hundred one comments were filed.² Comments from six tour operators and travel agents (all except MTI and Intervac), ASTA, and USTOA opposed the measure, arguing that it would impair competition, decrease the variety of charter offerings, and increase prices, that the Board has no legal authority to take the action, and that there is no need for vertical integration in the charter industry. United opposed the proposal, arguing that Congress did not

¹ Recently the financial protection rules were amended to allow the use of security devices other than bonds, such as trust agreements, as alternatives to a bond. SPR-165 (Adopted, August 23, 1979). Therefore, "security agreement" is used to signify the same sort of protection represented by the term "bond" in EDR-374. "Securer" is used in place of "surety."

² American Airlines, American Automobile Association (AAA), American Society of Travel Agents (ASTA), Capitol International Airways (Capitol), A. V. Costantini, FM Custom Travel and A&P Tours (jointly), Grand Circle Tours, H. B. Avery and Associates, International Vacations (Intervac), International Weekends Charter Tours (International Weekends), Laker Airways, MTI Vacations (MTI), National Air Carrier Association (NACA) (on behalf of Evergreen International Airlines, Trans International Airlines, and World Airways), Pan American (Pan Am), Sunflight Holidays (Sunflight), United Air Lines (United), United States Tour Operators Association (USTOA), Wide World Travel Service. Eighty-one individuals sent comments in their own behalf. Intervac and Trans International Airlines filed reply comments.

intend to allow direct sales until after 1981. Wide World Travel Service, a travel agency, felt that air carriers lacked the experience and organizational capabilities to efficiently market charter tours.

NACA, five air carriers, MTI, and Intervac supported the measure, saying that it would improve competition and lower prices, that the Board clearly has legal authority, and that the change is needed to make charters more competitive with scheduled service. They also argued for omitting the 7-day advance purchase restriction as an unnecessary and discriminatory limitation.

Private individuals supported the proposal almost unanimously, arguing most often that direct sales would encourage lower prices and more competition, and that airlines would offer more reliable and efficient service than tour operators or travel agents. However, many seemed to misunderstand the proposed change, assuming that the rule would enable them to avoid paying travel agent commissions. Four individuals opposed the measure. One thought that service from travel agents and tour operators would be better than from airlines. Another thought that strict rules were needed to protect passengers from cancellations and route changes by air carriers, and that direct sales should not be permitted in the absence of such rules. A third individual doubted that the airlines could handle the added administrative complications of a new form of service without detriment to other important responsibilities, such as safety inspections. Dr. A. V. Costantini argued that the proposal would allow carriers to obtain and maintain control over tour activities through improper means, such as illegal rebates, improper cost accounting, and conversion of tour-operator-developed programs.

Opposing commenters predicted that allowing vertical integration would permit financially powerful air carriers to invade the most lucrative charter markets, driving most independent operators out of business. The alleged high cost of entry would, it was argued, limit the number of charter operators in the business, reducing competition and raising prices. In addition, they claimed that the present shortage of aircraft capacity would lead to preferential treatment for affiliated or inhouse-charter operations, unfairly depriving independent operators of the essential ingredient of their business, airplane seats. It was alleged that the Board's resources are too limited and its standards too imprecise to permit

prompt and effective enforcement, and in any case that inherent delay in the enforcement process would prove fatal to independents as their businesses died in the meantime from lack of seats to sell. Sunflight suggested that, if the Board decides to allow direct sales and vertical integration, it should at least institute definite standards of unfair and anticompetitive practices and expedited procedures to facilitate enforcement. AAA thought the Board should set guidelines to measure the effects of vertical integration, and it suggested stronger provisions to prevent arbitrary cancellations of directly-sold charters. International Weekends asked the Board, if it adopted the proposal, to recommend to Congress an employee protection program for charter operators similar to the one for direct air carriers incorporated in the Airline Deregulation Act.

Most of the opposing commenters also argued that the Board's proposed use of its exemption power was improper. Several interpreted the requirement in section 105 of the Act of a formal report on the issue of direct sales as evidence that Congress wished to decide the matter for itself, and that the Board should not act until Congress had spoken. They argued that the movement of the direct sales prohibition from section 101, the definitions section, to section 401(n)(4), by the Deregulation Act, was not an invitation to eliminate the prohibition by a blanket exemption. They read the words of the Conference Report explaining that the shift "permits the Board to exercise its exemption authority with respect to this prohibition" ³ to intend only selective use of the exemption power in exceptional circumstances, such as where the Board has permitted a U.S. air carrier to acquire a tour operator to compete with a vertically integrated foreign carrier in foreign air transportation. Also, those opposing the move asserted that the changes would eliminate any meaningful distinction between individually ticketed and charter air transportation, in violation of the alleged need to maintain a distinction under the Federal Aviation Act. Finally, United argued that the proposal went against Congress's intent to defer competition between the scheduled and charter industries until 1982, when regulation of routes will end for domestic air transportation.

Supporters of the proposal felt that vertical integration of the charter industry would not mean the demise of

³ H.R. Report No. 95-1779, 95th Cong., 2d Sess. 68 (1978), reprinted in [1978] U.S. Code Cong. & Ad. News 5523, 5536.

independent tour operators, but on the contrary that independents would successfully compete wherever they provided superior service. They argued that the costs of entry are low enough to insure a healthy level of competition in the industry, keeping prices low and product variety high. Moreover, they said, vertical integration would allow planning and operating efficiencies that would reduce the costs of charters, permitting a reduction in prices for consumers. In addition, Capitol argued that vertical integration was needed to help charter carriers compete with deeply-discounted scheduled services.

On the issue of legal authority, supporting commenters read the Conference Report language broadly as contemplating the use of a blanket exemption to permit direct sales of charters. NACA noted that section 416, containing the Board's exemption power, was broadened by the Deregulation Act to permit its use where "consistent with the public interest," inviting a more vigorous exercise of the power. NACA also questioned whether any distinction is still required between scheduled and charter service, but maintained that, even if a distinction is still required, it is provided by the complex of consumer protection requirements that attach to charters but not to scheduled flights.

Many supporters of direct sales urged that the 7-day advance purchase restriction be omitted from the final rule. They argued that the restriction was not needed to maintain any distinction between scheduled and charter service, and that it would be anticompetitive and discriminatory, since it would not apply to charters arranged by independent operators. Several supporters discounted the possibility that unrestricted directly sold charters would lead to an accelerated deregulation of the route system through use as a close substitute for scheduled service. They said that, with the new expeditious procedures for obtaining route certification, deregulation is already well underway, and carriers therefore have no incentive to use charter authority as a substitute for scheduled route certification. Pan Am thought that the 7-day restriction would be difficult to enforce and would require needless paperwork. MTI argued that the restriction, if it were retained, should not apply where a tour operator controls a direct air carrier, since those operators would allegedly have no interest in ordinary scheduled operations. Finally, NACA suggested that if a 7-day advance purchase restriction is retained carriers should at least be given the choice of

substituting some other restriction, such as a required ground package.

A few comments referred to the changes in bonding and depository requirements proposed in EDR-374. Capitol supported substituting its escrow arrangements for that of a charter operator, but opposed any requirement that it also substitute a bond, since it does not presently use a bond and would not want to incur the additional expense of obtaining one. ASTA and Intervac both recommended that the Board adopt alternative plans for protection of participant monies.

Economic Issues

We tentatively concluded in the report to Congress that direct sales and vertical integration would be unlikely to produce the unfavorable consequences predicted by opponents of this rule. The comments submitted have not changed that conclusion. The near-extinction of independent charter operators forecast by some is inconsistent with experience overseas and at home. In Canada and Great Britain, numerous independent tour operators do business alongside affiliated tour operators. Sunflight alleges that there are less than 12 charter operators in Canada, presumably meaning those dealing primarily in charter tours as distinguished from scheduled tours, and apparently not counting those tour operators who offer a limited number of charter programs. It does not seem to consider the smaller operators competitively significant. We disagree. Even small operators contribute to competition by providing alternatives to consumers, and we do not discount their importance. Clearly, charter operations remain profitable to many independent entrepreneurs despite competition from direct carriers and their affiliates. Domestically, vertical integration has long been accepted in the scheduled tour industry, yet many independent operators organize and market that service in competition with air carriers or affiliated operations. The economics of the scheduled tour industry are similar enough to that of the charter tour industry that it seems most probable that the same pattern of mixed independent and affiliated operators will emerge under this rule.

Competition from air carriers is certainly a threat that charter operators have not traditionally had to face, and some of them may not be able to meet it. However, a reduction of the number of independents would not necessarily mean a reduction in employment in the industry, if the overall level of charter business did not decline. If, as appears likely, vertical integration would allow

more efficient operations, the industry should not be prevented from reorganizing itself because some businesses would drop out of the competition. We find no evidence that the status of a business as independent or affiliated, by itself, makes it any more or less imaginative or competitive or capable of serving the public needs effectively. We cannot justify limiting potential public benefits merely to protect independents as a class.

A reduction in the number of independents also would not necessarily mean a reduction in the level of competition in the industry. As noted, we believe that many independent operators will continue in the business, and in addition there may be many air-carrier-affiliated operations competing with each other. Even in a more concentrated industry, the number of competitors and the relatively low cost of entry should maintain a high level of competition.

Sunflight disputed our contention that entry into the charter tour business is relatively easy, arguing that the cost of entry is at least \$500,000. Although the cost of entry has risen over the past decade, it is still less than for many other businesses. There are few capital equipment outlays, no licensing requirements, and few requirements for advanced technical skills. Sunflight's estimate would seem to be within the reach of many entrepreneurs who might wish to start a tour business, considering the various ways that start-up capital can be raised. Thus, whether Sunflight's dollar figure is correct or not, we disagree with their implication that entry costs will prohibit an ample supply of potential competitors in the industry.

Some opposing commenters claimed that direct carriers and their affiliates would have no incentive to innovate and open new markets as the independents have done in the past. It was asserted that carriers will use their charter marketing authority only to strengthen their existing route structure, using convenient on-line facilities. These bare assertions, however, are not supported by economic evidence or logic. If a new market is profitable, a carrier ignores it at the risk that a competitor will enter and reap the profits for itself. And costs of entry are low enough that a small entrepreneur would not be prevented from entering by start-up costs. So direct carriers will have an incentive to develop promising new markets wherever they are.

Many comments argued that independent operators would suffer from preferential treatment given to affiliates. This concern seems to be

magnified by the current general shortage of aircraft capacity. Independents saw themselves being barred from obtaining airplane seats as carriers allocated capacity to their affiliates in an attempt to establish market recognition. Other factors, such as a desire to favor affiliated suppliers of ground services (for instance, hotels), were seen as motivations for preferential treatment. The proposal to allow a combined bonding and escrow arrangement was criticized on this ground, and opponents claimed that carriers will unfairly subsidize the advertising and market development costs of their affiliates.

We recognize the independents' concerns that they will be unfairly discriminated against and that the enforcement process will be too little and too late. However, we must also consider the public benefits that may be achieved under this rule. Inevitably, any change brings with it new problems that cannot be answered in advance to everyone's satisfaction. We believe that whatever problems arise from vertical integration will not be so widespread as to prevent independents from doing business.

Our conclusion that preferential treatment will not be a major problem is based in two factors. First, we note again that many independent tour operators exist in other countries, such as Canada and Great Britain, alongside integrated operations. If preferential treatment were as much a problem as opponents claim, we would expect few if any independents to have survived in those countries. The aircraft shortage may add pressure in the short run, but on balance, the problems do not seem so great that the potential public benefits of vertical integration should be denied.

Second, preferential treatment would seem to work against carriers in this industry. Unfair treatment would probably not succeed in eliminating all competition from the field, since the low cost of entry would make it possible for other competitors to enter. It would be uneconomic for a carrier to prefer its own affiliate if another (better or more efficient) operator could offer more for available capacity. If a carrier refused to do business with the independent, a competing carrier would have the benefit of the independent's business, and the first carrier would be in a disadvantageous competitive position. Of course, if vertical integration allowed greater efficiencies, it would be perfectly reasonable for a carrier to prefer its affiliate, and the public would benefit. But the fact that an affiliate is allied with a carrier that may have some

temporary short-term market power in aircraft capacity does not mean that the tour operator will have market power in the tour industry. It will still be in the carriers' interest to use those operators who can offer the most for available capacity. In procuring capacity, the most efficient operators will have an advantage. Thus competition is a powerful force against preferential treatment of affiliates.

We do not pretend that motivations for business transactions in the real world are always simple and clear-cut, or that the Board can always provide an immediate response to someone who feels unjustly treated. But we do not think that problems will be so hard to detect that the Board cannot generally keep abreast of them, or that carriers will be wholly undeterred by the threat of enforcement action. We conclude that the enforcement concerns are not severe enough to outweigh the overall importance of this rule.

Some commenters argued against direct sales on the grounds that air carriers would not be able to handle the added business, or offer the same quality of service that tour operators now provide. We are not persuaded by these arguments, simply because no one will be forced to purchase their charter trips directly from air carriers. Anyone who feels that tour operators will provide better service can use them. If air carriers cannot handle the new business efficiently, they will not be able to compete against their more efficient rivals. We adhere to our belief that free choice for producers and consumers of charter services, rather than prescription by a regulatory agency, is the best way of maximizing overall satisfaction. Also, we have no reason to think that providing charter service will cause air carriers to neglect any of their legal responsibilities, such as safety inspections. And carriers will be subject to the same consumer protection rules, governing cancellation and itinerary changes, as tour operators now are. We have received Dr. Constantini's claims of improper conduct by air carriers in another proceeding, and we are in the process of reviewing them there. Our rule here would not approve the sorts of activities he alleged, and it would not confer antitrust immunity as he thought. We have already noted that our enforcement powers are adequate to deal with the situations he discussed. Therefore, we do not find his opposition persuasive.

Exemption Authority

Opponents argued that Congress intended the Board to use its exemption power only selectively, in special

circumstances, and not broadly to eliminate section 401(n)(4) in its entirety. This is really a challenge to the scope of the Board's exemption power itself, since it is clear from the legislative history that Congress intended the exemption power to be applicable to the direct sales prohibition. We believe that the exemption power is intended to be very broad, though it is most frequently used in non-routine cases. It has been used for a wide variety of purposes ever since it was enacted as part of the original Civil Aeronautics Act of 1938, Pub. L. 75-706. The status of entire classes of air carriers, such as air taxis, air freight forwarders, and charter operators, is predicated on exemption power. Exemptions by rulemaking have relieved carriers from specific antitrust provisions of the Act. For example, 14 CFR Part 299 exempts carriers from the prior approval requirement for purchases and leases of aircraft under section 408 of the Act, Part 289 relieves certain filing requirements for agreements under section 412, and Part 287 treats interlocking relationships under section 409.

An explicit consideration of the breadth of the Board's exemption power in *American Airlines v. CAB*, 235 F.2d 845, 849-851 (D.C. Cir. 1956) concluded that the power was broad enough to allow the establishment of an entire class of supplemental air carriers without formal certification procedures, provided the proper exemption procedures are followed. The court ruled that, while the Board could not use the exemption power to destroy the basic requirements of the Act, it could adopt very broad measures that did not unduly impinge on the statutory system. That opinion has special force as applied to the present situation, since it was decided on the basis of an exemption provision that was much narrower than the present version, established by the Deregulation Act. The changes we are adopting here are rational and consistent with Congressional policy to "(make available) a variety of adequate, economic, efficient, and low-price services by air carriers without unjust discriminations, undue preferences or advantages, or unfair or deceptive practices," "(place) maximum reliance on competitive market forces and on actual and potential competition * * *" and "(encourage, develop, and maintain) an air transportation system relying on actual and potential competition to provide efficiency, innovation, and low prices, and to determine the variety, quality, and price of air transportation services." (Section 102). Removal of the prohibition does not destroy the basic

fabric of the statutory system. Indeed, it enhances the new emphasis on competition by removing a needless barrier to entry into the charter industry. Therefore, this exercise of the exemption power is within its proper scope.

The 7-Day Restriction

Several of the commenters who supported vertical integration opposed the 7-day advance purchase restriction. Some appeared to assume that the purpose of the restriction was to maintain a distinction between individually ticketed (scheduled) service and charter service. This assumption was incorrect. We believe that no distinction need be maintained, in light of recent changes in the Act and Congressional policy, but in any case the combination of prospectus-filing and consumer protection requirements for charter flights would seem to reflect the difference between the two forms of service. The 7-day restriction would not be needed for that purpose.

The reason for the restriction was to maintain the integrity of the route system during the Congressionally mandated period of phased transition to a deregulated system. The consumer protection and prospectus-filing requirements, especially if used by a direct air carrier, are not particularly expensive and would not present a barrier to the use of charter flights as a close substitute for traditional scheduled service. There may be many reasons why a carrier would want to use charter service as a substitute for route service. Certificated service carries with it a number of obligations that do not apply to charter service. Among these are the duty to file tariffs, to pay denied boarding compensation, and to give notice of terminations or reductions of service. A carrier wishing to establish new service between two points on an experimental basis may well decide that it would be quicker and easier to operate charter flights on a regular basis than to add the route to its certificate, even with simplified procedures. However attractive such a possibility might be to carriers, the consumer protection rules that we have established for scheduled service on the basis of perceived public need would be undercut, and we do not wish to make it so easy to circumvent the Congressionally mandated route certification procedures.

NACA complained that the restriction would put it at a disadvantage in competing with unaffiliated operators, who would not be subject to the restriction. It asked for a choice of alternative restrictions, specifically

suggesting a land package option. In considering this point, it should be remembered that it is only by this action that NACA and other carriers are being allowed for the first time to compete with independent charter operators at all, either directly or through affiliates. They are indeed being given a slight "disadvantage" by the 7-day restriction (although that is not its primary purpose). In our judgment, however, the disadvantage will be more than compensated for by the inherent "advantage" stemming from the affiliation itself, with its economic and administrative efficiencies.

The report to Congress discussed various options, including the land packages, and concluded that advance purchase would be most workable. The vast majority of potential charter travelers make their arrangements 7 days in advance, so the 7-day restriction carries a minimal burden. Required land packages are more likely to create artificiality in the sales offerings, along with regulatory problems in deciding what are the minimum requirements for a qualifying package. Therefore we consider them unsatisfactory alternatives.

MTI recommended that the 7-day restriction not be applied to tour operators who control air carriers. It seemed to argue that the affiliated air carrier would be used only to provide dependable aircraft capacity for the tour operator, and not to undertake scheduled service. However, we see no basis for the assumption that a direct carrier would be uninterested in scheduled service if it were controlled by a tour operator, and we see no other good reason to accord special treatment to the situation described by MTI.

Financial Protection Provisions

The notice of proposed rulemaking proposed to permit the direct carriers and tour operators, at their option, to arrange to integrate their respective surety bond and escrow depository protection requirements. Currently, the charter operator must maintain a security agreement or a security-agreement-and-escrow combination for the protection of participant payments.⁴ If an escrow is used, money paid by participants is held in the account until payment is transmitted to vendors of services. If no escrow is used, the funds are protected under the security agreement. Direct carriers must maintain either an escrow account or a security agreement. When a carrier receives payment for the charter from the charter operator, and an escrow is

⁴See footnote 1.

used, the funds must be placed in the escrow account until the flight is operated. Thus, money often passes through two escrow accounts before it is finally disbursed to the air carrier. There is no need for this duplication if both parties would prefer to combine their accounts and if consumers receive no less protection. Since none of the comments disputed this point, we are adopting the proposed changes, with one difference.

The proposal contemplated that, if the combination option were used, the direct carrier would take over both the security agreement and the escrow requirements for the charter operator. Capitol commented, however, that it might wish to substitute only its escrow arrangement for that of the charter operator, but to leave the security agreement obligation with the charter operator, since Capitol does not now have a security agreement and does not wish to obtain one. Capitol's request is a reasonable one, as there is no apparent need to have the direct carrier obtain the security agreement simply because the escrow arrangement has been combined. The rule therefore provides that an air carrier may substitute its escrow account for that of the charter operator, leaving the charter operator with the responsibility of obtaining the required security agreement.

The proposal provided that, as a condition to using this substitution scheme, the carrier would have to state in writing that it took responsibility for the charter operator's contractual and regulatory obligations to participants. This requirement was included so that the carrier's security agreement, if it used one, would cover not only the carrier's obligations but also those of the charter operator, since the charter operator was being relieved of its security requirement. If, however, the carrier substitutes only its escrow arrangement, the charter operator must still obtain a security agreement, and there is no need for the carrier to assume responsibility for the charter operator's obligations. The charter operator's own agreement will cover them.

Thus the carrier may substitute either an existing security agreement or a new one for all the charter operator's arrangements, provided it assumes responsibility for the contractual and regulatory obligations of the charter operator that would otherwise be covered by the latter's security agreement. Whether or not it supplies a security agreement, it may substitute its escrow arrangement for that of the charter operator. If an escrow

arrangement only is substituted, the charter operator must supply the security agreement that is ordinarily required of it.

Currently the carrier's security agreement and escrow protect only the air portion of the payment. If a carrier substitutes its security agreement or escrow for the charter operator's, it must restructure these protective devices so that they protect the non-air portion of participants' payments (ground services and profit). In order to protect the non-air portion under an escrow arrangement, the ground and profit portion of each payment must be allocated to the return flight account. Funds are distributed to the carrier or charter operator from each flight account after the flight departs. (Refunds will be made from the flight accounts directly to the charter participants in accordance with the operator-participant contracts. In the event of a flight cancellation, the charter operator can receive a refund of its own funds, as opposed to participants' deposits, that may be in the account.) By placing the non-air portion in the return flight account, we insure that it is not disbursed before all ground accommodations and services have been paid for.

Under existing rules for charter operators, the air carrier must be paid before funds from the escrow may be disbursed to vendors of ground services and accommodations. We are maintaining this limitation in the combined escrow situation by prohibiting disbursements from the account that would reduce the balance below the charter cost of the flight.

ASTA recommended that the Board adopt its consumer protection plan as an alternative to the present escrow and security provisions. The ASTA plan would require each charter operator to contribute \$.50 per one-way seat sold into a fund to be administered by a five-member committee. The committee would decide disputes and, if necessary, reimburse participants from the fund. Intervac recommended an alternative based on a charter flight performance insurance contract. A sample policy was attached to their comments.

We are not adopting either of these suggestions, because they are outside the scope of the rulemaking. We wished only to suggest making the escrow and security system more efficient by allowing the combination of separate arrangements, not to consider totally new financial protection arrangements. A reevaluation of the basic financial protection devices should be dealt with in a separate proceeding.

Technical Changes

The proposed rule suggested the creation of a new Part 381 to govern direct sales by air carriers. Since charter regulations governing air carriers more logically belong in Parts 207, 208, 212, and 214, the proposed language for Part 381 has been added as a new subpart to each of those four parts. Also, terms have been changed to make clear that vertical integration and direct sales apply to foreign air carriers as well as to U.S. air carriers. However, foreign air carriers may not acquire U.S. charter operators and foreign charter operators may not acquire U.S. air carriers without prior Board approval. The exemptions granted from sections 408, 409, and 412 of the Act to allow for vertical integration do not, of course, confer exemption under section 414 from the general antitrust laws.

It should be noted that, although there is no *minimum* number of seats that a direct carrier must offer for sale to the general public, it must specify in its prospectus the number of seats it is offering. The number of seats offered for direct sale by the air carriers plus the number of seats otherwise chartered on a split charter must equal the total capacity of the aircraft.

The paragraphs of §§ 207.11, 208.6, and 212.8, governing charter flight limitations, were renumbered in ER-1145, 1146, 1147, adopted August 23, 1979. The numbering used for those sections in this rule conforms to the new pattern. The portions of those sections governing direct sales to individuals have been put in separate paragraphs for clarity. The construction used in the proposal seemed potentially confusing, as it referred to engagement of aircraft "by a direct carrier" to mean direct sales.

The proposed rule also included a section expressly applying to direct carriers the same provision that § 380.12 has always applied to charter operators, generally prohibiting cancellation of Public Charters within 10 days of scheduled departure. No comments have been filed with respect to this proposal, and we are making it final.

Thus, a charter operator's breach of a charter contract hereafter executed (as, for example, by failing to make timely payment of the charter price) will not constitute grounds for the direct air carrier's cancellation of the Public Charter within 10 days of scheduled departure,⁵ regardless of any legal rights

⁵ Whether the direct air carrier is already subject to this prohibition is one of the issues involved in a pending lawsuit, *I.L.T.A. v. CAB*, No. 79-1429 (D.C. Cir. Ct. of Ap.).

or remedies that may otherwise be available to the direct air carrier.

Accordingly, the Civil Aeronautics Board amends 14 CFR Part 380 as follows:

1. The Table of Contents is amended by adding new sections and an appendix, to read:

PART 380—PUBLIC CHARTERS

Sec.	
380.25a	Charters by direct air carrier affiliates.
380.34a	Substitution of direct air carrier's security or depository agreement.
380.43	Cancellations by direct air carriers.
380.44	Exemption.
380.45	Suspension of exemption authority.
Appendix F	

§ 380.10 [Amended]

2. Section 380.10(a) is revoked and reserved.

3. Section 380.20 is amended to read:

§ 380.20 Exemption.

(a) Charter operators (other than foreign charter operators) are hereby relieved from the following provisions of Title IV of the Federal Aviation Act of 1958, as amended, only if and so long as they comply with the provisions of this part and the conditions imposed herein, and to the extent necessary to permit them to organize and arrange Public Charters.

(1) Section 401.

(2) Section 403.

(3) Section 404(a), except the requirement to provide adequate service in connection with Public Charters operated hereunder.

(4) Section 405(b).

(5) Section 407 (b) and (c).

(b) Charter operators (other than foreign charter operators) are hereby relieved from sections 408(a), 409, and 412 of the Federal Aviation Act of 1958, as amended, only if and so long as they comply with the provisions of this part and the conditions imposed herein.

4. A new § 380.25a is added, to read:

§ 380.25a Charters by direct air carrier affiliates.

A charter operator controlling, controlled by, or under common control with a direct air carrier shall not enter into any operator-participant contract for a charter trip provided by the affiliated direct carrier that is signed by or on behalf of the participant less than 7 days before the scheduled departure date. For the purposes of this section, "control" means any ownership,

common management, debtor-creditor, or other relationship between the two entities by which one entity could influence the other's business decisions other than by arms-length business transactions.

5. A new § 380.34a is added, to read:

§ 380.34a Substitution of direct air carrier's security or depository agreement.

(a) A direct air carrier may substitute its own security agreement and/or depository arrangements, as specified in this section, for those required of the charter operator under § 380.34, but only for charter trips in which all the air transportation is provided by one direct air carrier. Charter operators are relieved from § 380.34 to the extent that the direct carrier substitutes its own arrangements.

(b) The direct air carrier may substitute its security agreement for all of the arrangements required of the charter operator under § 380.34 (a) or (b). Alternatively, it may substitute its depository agreement for the depository agreement required of the charter operator under § 380.34(b)(2). If the direct carrier substitutes its depository agreement, it may also obtain and substitute a security agreement for the one otherwise required of the charter operator under § 380.34(b)(1). If the direct carrier substitutes its depository agreement only, the charter operator must supply the security agreement required under § 380.34(b)(1).

(c) If the direct carrier substitutes a security agreement for all the charter operator's requirements under § 380.34, the charter operator shall include in the charter prospectus, in place of the information in § 380.28(a)(2) regarding the charter operator's security agreement—

(1) A statement in the form set out in Appendix F of this part by the direct air carrier that it will take responsibility for all charter participant deposits (including those for ground accommodations and services) and for the fulfillment of all the charter operator's contractual and regulatory obligations to the charter participants.

(2) A statement from the direct air carrier and its securer (under §§ 207.17, 208.40, 212.15, or § 214.9c), in the form set out in Appendix C of this part, that they have entered into a security agreement assuring the direct air carrier's responsibilities to charter participants under this section in an unlimited amount (except that the liability of the securer with respect to any charter participant may be limited to the charter price paid by or on behalf of such participant), and that the securer has received a copy of the proposed

flight schedule identified by the schedule number assigned by the charter operator under this part.

(d) A substitute depository agreement under this section shall be signed by the direct air carrier, the charter operator, and the depository bank, and shall provide, in addition to existing requirements under §§ 207.17, 208.40, 212.15, or § 214.9c, that:

(1) Deposits by charter participants shall be allocated to the flight accounts matching the participant's itinerary in the following way: Each account shall have allocated to it the charter cost of the participant's air transportation on that flight. The portion of each deposit not intended for air transportation services shall be allocated to the account for the return flight in the participant's itinerary. If there is only one flight in the itinerary, the entire payment shall be allocated to that account.

(2) The bank shall pay funds from a flight account directly to the hotels, sightseeing enterprises, or other persons or companies furnishing ground accommodations and services, if any, in connection with the charter flight, upon presentation to the bank of vendor's bills and upon certification by the person who contracted for the ground accommodations or services of the amounts payable and the persons or companies to whom payment is to be made, except that no disbursement shall be made that would reduce the balance in the account below the charter cost of the flight.

(3) On sales made to participants by a person other than a retail travel agent, the participant shall pay by check or money order payable to the bank. On sales made to participants by a retail travel agent, payments shall be made in the same manner unless the agent deducts its commission and remits the balance to the bank by check or money order. The agent may deduct its commission only if it agrees in writing with its principal (the charter operator or direct air carrier, as applicable) that, if the charter is canceled, the agent shall remit to the bank the full amount of the commission previously deducted or received within 10 days after receipt of notification of the cancellation. The depository bank shall pay refunds directly to participants according to the terms of the operator-participant contract and the terms of this rule.

(e) If the direct carrier substitutes a security agreement in addition to substituting a depository agreement, the charter prospectus information must include all the information required by paragraphs (c) and (d) of this section, except for the amount of the security

agreement. That agreement shall be in an amount of at least \$10,000 times the number of flights, except that the amount need not be more than \$200,000.

(f) A copy of the depository agreement under paragraph (d) of this section shall be filed with the Board, and it shall not be effective until approved by the Board.

(g) A copy of the security agreement under paragraph (c) or paragraph (e) of this section shall be filed with the Board. It shall insure the financial responsibility of the direct air carrier for supplying the transportation and all other accommodations, services, and facilities in accordance with the contracts between the charter operator and the charter participants. Such security agreement shall meet all the other requirements of § 380.34 (c) and (d).

6. Section 380.35 is amended by adding "or direct air carrier" so that it reads:

§ 380.35 Disbursements from depository account.

No charter operator or direct air carrier shall cause its agents or the depository bank to make disbursements or payments from deposits except in accordance with the provisions of this part.

7. New §§ 380.43, 380.44, and 380.45 are added, to read:

§ 380.43 Cancellations by direct air carriers.

The direct air carrier shall not cancel any charter under this part less than 10 days before the scheduled departure date, except for circumstances that make it physically impossible to perform the charter trip.

§ 380.44 Exemption.

Air carriers (other than foreign air carriers) are hereby relieved from section 408(a), 409, and 412 of the Federal Aviation Act of 1958, as amended, to the extent necessary to permit them to acquire, control, have interlocking relationships with, or market charter tours in conjunction with charter operators, but only so long as they comply with the provisions of this part and the conditions imposed herein.

§ 380.45 Suspension of exemption authority.

The Board reserves the power to suspend the exemption authority of any air carrier, without hearing, if it finds that such action is necessary in order to protect the rights of the traveling public.

8. Appendices B, C and D are amended and a new Appendix F is added, to read as set forth below.

(Secs. 102, 204, 401, 402, 416 of the Federal Aviation Act of 1958, as amended, 82 Stat. 1706, 72 Stat. 743, 754, 757, 92 Stat. 1731; (49 U.S.C. 1302, 1324, 1371, 1372, 1386).)

By the Civil Aeronautics Board.

Phyllis T. Kaylor,
Secretary.

Appendix B—Statement of Charter Operator and Direct Air Carrier Flight Schedule Number—

1. Name and address of charter operator.
2. Name and address of direct air carrier.
3. Proposed date and routing of each flight.
4. Type of aircraft and number of seats engaged:
5. Charter price for each flight.
6. Tour itinerary (if any) including hotels (names and length of stay at each), and other ground accommodations and services:
We, _____ (charter operator) and _____ (direct air carrier), certify that we have entered into a charter contract on _____ (date) that covers the flight schedule described above.

A copy of the flight schedule has been sent to (complete applicable blanks and write "N.A." in those not applicable):

(charter operator's securer)

(charter operator's depository bank)

(direct carrier's securer)

(direct carrier's depository bank)

Charter Operator

By: _____
(Signature and date)

(Title)

Direct Air Carrier

By: _____
(Signature and date)

(Title)

Appendix C—Statement of Charter Operator or Direct Air Carrier and Securer

We, _____ (charter operator) (direct air carrier) and _____ (securer), certify that we have entered into a security agreement, No. _____, in the amount of \$_____, on _____ (date). This agreement covers proposed flight schedule number _____, a copy of which has been received by _____ (securer). This agreement complies with (§ 380.34)(§ 380.34a) of the Civil Aeronautics Board's Special Regulations (14 CFR § 380.34 or § 380.34a). This agreement is a:

—surety bond

—surety trust agreement

—(specify type of agreement if other than a bond or surety trust agreement)

(check one, unless agreement is in unlimited amount)

—There are no outstanding claims against this agreement.

—There are outstanding claims against this agreement in the amount of \$_____. We have executed a rider to the agreement on

_____(date) increasing the coverage by this amount.¹

Charter operator

By: _____
(Signature and date)

(Title)

(Address)

Direct Air Carrier

By: _____
(Signature and date)

(Title)

(Address)

Securer

By: _____
(Signature and date)

(Title)

(Address)

Appendix D—Statement of Charter Operator, Direct Air Carrier and Depository Bank

We, _____ (charter operator, if any) ², _____ (direct air carrier), and _____ (depository bank) certify that we have entered into a depository agreement on _____ (date). This depository agreement covers proposed flight schedule number _____, a copy of which has been received by _____ (depository bank). The depository agreement complies with (§ 380.34)(§ 380.34a) of the Civil Aeronautics Board's Special Regulations (14 CFR § 380.34 or § 380.34a).

Charter Operator

By: _____
(Signature and date)

(Title)

(Address)

Depository Bank

By: _____
(Signature and date)

(Title)

(Address)

Direct Air Carrier

By: _____
(Signature and date)

(Title)

(Address)

Appendix F—Statement of Direct Air Carrier

I, _____ (direct air carrier), hereby promise that I will take responsibility for all

¹ In place of this sentence, the following statement may be used: "_____ (securer) will separately pay any claims for which it may be liable without impairing the security agreement or reducing the amount of coverage."

² Write "N.A." if there is no charter operator.

obligations owed by _____ (charter operator) to participants on charter flight schedule No. _____ (or other designation of charter trip), including obligations for ground services and accommodations.

Direct Air Carrier

(Signature and date)

(Title)

(Address)
[FR Doc. 79-27158 Filed 8-29-79; 8:45 am]
BILLING CODE 6320-01-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 200, 202, 203, 230, 240, 250 and 260

[Release Nos. 33-6111; 34-16129; 35-21197; 39-539; IC-10637; IA-695]

Relationship Between Commission and Its Staff and Members of Other Governmental Agencies

AGENCY: Securities and Exchange Commission.

ACTION: Final rules.

SUMMARY: The Commission is amending its regulations to provide notice that settlement of a Commission enforcement action does not extend to pending or possible criminal prosecutions; to clarify the Commission's practices with respect to referrals and grants of access to its files and the initiation of administrative proceedings and other enforcement activities in individual cases; to provide expressly that Commission officials may discuss non-public investigations with officials of other governmental agencies and self-regulatory organizations; and to delegate to the Director of the Division of Enforcement, with the concurrence of the General Counsel in matters in which the Commission has entered a formal order of investigation, authority to grant requests by domestic and foreign governmental authorities and self-regulatory organizations for access to the Commission's investigative files.

EFFECTIVE DATE: August 30, 1979.

FOR FURTHER INFORMATION CONTACT: James R. Farrand, Office of the General Counsel, Securities and Exchange Commission, Room 723, 500 North Capitol Street, Washington, D.C. 20549, (202) 755-1144.

SUPPLEMENTARY INFORMATION: These amendments are promulgated for the purpose of assisting the Commission in the effective and efficient carrying out of its administrative responsibilities; they are not intended for the benefit of any individual or organization, and they do

not confer any rights upon any such person. The Commission finds, in accordance with the Administrative Procedure Act ("APA"), 5 U.S.C. 553(b)(A) and 553(d), that these amendments relate solely to agency organization, procedure, or practice and do not relate to a substantive rule. Thus, notice and opportunity for public comment pursuant to the APA are not necessary, and the foregoing action becomes effective immediately upon the publication of these rules in the Federal Register (August 30, 1979).

The Commission is adopting these amendments pursuant to its authority under Sections 19 and 20 of the Securities Act of 1933 (15 U.S.C. 77s and 77t); Sections 21 and 23 of the Securities Exchange Act of 1934 (15 U.S.C. 78u and 78w); Sections 18 and 20 of the Public Utility Holding Company Act of 1935 (15 U.S.C. 79r and 79t); Sections 319 and 321 of the Trust Indenture Act of 1939 (15 U.S.C. 77sss and 77uuu); Sections 38 and 42 of the Investment Company Act of 1940 (15 U.S.C. 80a-37 and 80a-41); Sections 209 and 211 of the Investment Advisers Act of 1940 (15 U.S.C. 80b-9 and 80b-11); and Section 1 of Pub. L. 87-592 (15 U.S.C. 78d-1).

Chapter II of Title 17 of the Code of Federal Regulations is amended as follows:

PART 200—ORGANIZATION; CONDUCT AND ETHICS; AND INFORMATION AND REQUESTS

1. By amending § 200.19b to read as follows:

§ 200.19b Director of the Division of Enforcement.

The Director of the Division of Enforcement is responsible to the Commission for the supervision and conduct of all of the enforcement activities under each of the acts administered by the Commission and the investigations relating thereto. The Director is responsible also for recommending the institution of administrative and injunctive actions arising out of such investigations and enforcement activities and for the determination of whether the available evidence supports the allegations in the proposed complaint. In addition, the Director is responsible, in collaboration with the General Counsel, for the review of cases to be referred to the Department of Justice with a recommendation for criminal prosecution and for granting or denying requests by domestic and foreign governmental authorities and self-regulatory organizations for access to

the Commission's files concerning non-public investigations.

2. By amending paragraph (a) of § 200.21 to read as follows:

§ 200.21 The General Counsel.

(a) The General Counsel is the chief legal officer of the Commission. He or she is responsible for the representation of the Commission in judicial proceedings in which it is involved as a party or as amicus curiae, for directing and supervising all civil litigation involving the Commission in the United States District Courts, and for representing the Commission in all cases in appellate courts. The General Counsel is responsible for the review of cases which the Division of Enforcement recommends be referred to the Department of Justice with a recommendation for criminal prosecution and for the review of requests by domestic and foreign governmental authorities and self-regulatory organizations for access to materials contained in Commission files concerning a non-public investigatory proceeding in which a formal order of investigation has been entered. In addition, he or she is responsible for advising the Commission at its request or at the request of any division director or office head, or on his or her own motion, with respect to interpretations involving questions of law; for reviewing and advising the Commission upon the legal aspects and policy implications of pre-argument memorandums and draft Commission opinions prepared by the Office of Opinions and Review; for the conduct of administrative proceedings relating to the disqualification of professional persons from practice before the Commission; for the preparation of Commission comments to the Congress on pending legislation; and for the drafting, in conjunction with appropriate divisions and offices, of legislative proposals to be sponsored by the Commission. The General Counsel is also responsible for the review and clearance of the form and content of articles, treatises, and prepared speeches and addresses by members of the staff relating to the Commission or to the statutes and rules administered by the Commission and is responsible for investigating any claims of staff improprieties. Additionally, he or she has responsibility with the Office of Opinions and Review for dealing with general problems arising under the Administrative Procedure Act, including (with the Office of Opinions and Review) the revision or adoption of rules of practice. He or she is responsible (with the Director of Personnel) for

administering and interpreting the Commission's Conduct Regulation. He or she serves as Counselor to the Commission and its staff with regard to ethical and conflicts of interest questions and acts as the Commission's liaison on such matters with the Office of Personnel Management and the Department of Justice. The General Counsel also is responsible for coordinating and reviewing the interpretative positions of the various divisions and offices. In addition, he or she is responsible for preparing and recommending to the Commission appropriate dispositions of all Freedom of Information Act appeals and is the Commission's advisor with respect to legal problems arising under the Freedom of Information Act, the Privacy Act, the Federal Reports Act, the Federal Advisory Committee Act, the Civil Service laws and regulations, the statutes and rules applicable to the Commission's procurement, contracting, fiscal and related administrative activities, and other statutes and regulations of a similar nature applicable to a number of Government agencies.

3. By amending § 200.30-4 by adding paragraph (a)(7) to read as follows:

§ 200.30-4 Delegation of authority to Director of Division of Enforcement.

(a) * * *

(7) To grant requests for access to, or copies of, materials in the Commission's files concerning a non-public investigation upon written request for such access submitted by domestic and foreign governmental authorities and self-regulatory organizations: *Provided* That, in matters in which the Commission has entered a formal order of investigation, such access shall be granted only with the concurrence of the General Counsel or his or her delegate.

PART 202—INFORMAL AND OTHER PROCEDURES

By amending § 202.5 by amending paragraph (b) and by adding paragraph (f) to read as follows:

§ 202.5 Enforcement activities.

(b) After investigation or otherwise, the Commission may in its discretion take one or more of the following actions: institution of administrative proceedings looking to the imposition of remedial sanctions, initiation of injunctive proceedings in the courts, and, in the case of a willful violation,

reference of the matter to the Department of Justice for criminal prosecution. The Commission may also, on some occasions, refer the matter to, or grant requests for access to its files made by, domestic and foreign governmental authorities or self-regulatory organizations such as the stock exchanges or the National Association of Securities Dealers, Inc.

(f) In the course of the Commission's investigations, civil lawsuits, and administrative proceedings, the staff, with appropriate authorization, may discuss with persons involved the disposition of such matters by consent, by settlement, or in some other manner. It is the policy of the Commission, however, that the disposition of any such matter may not, expressly or impliedly, extend to any criminal charges that have been, or may be, brought against any such person or any recommendation with respect thereto. Accordingly, any person involved in an enforcement matter before the Commission who consents, or agrees to consent, to any judgment or order does so solely for the purpose of resolving the claims against him in that investigative, civil, or administrative matter and not for the purpose of resolving any criminal charges that have been, or might be, brought against him. This policy reflects the fact that neither the Commission nor its staff has the authority or responsibility for instituting, conducting, settling, or otherwise disposing of criminal proceedings. That authority and responsibility are vested in the Attorney General and representatives of the Department of Justice.

PART 203—RULES RELATING TO INVESTIGATIONS

By revising § 203.2 to read as follows:

§ 203.2 Information obtained in investigations and examinations.

Information or documents obtained by the Commission in the course of any investigation or examination, unless made a matter of public record, shall be deemed non-public, but the Commission approves the practice whereby officials of the Division of Enforcement at the level of Assistant Director or higher, and officials in Regional Offices at the level of Assistant Regional Administrator or higher, may engage in, and may authorize members of the Commission's staff to engage in, discussions with representatives of domestic or foreign governmental authorities and self-regulatory organizations concerning information obtained in individual investigations, including examinations

and formal investigations conducted pursuant to Commission order.

PART 230—GENERAL RULES AND REGULATIONS, SECURITIES ACT OF 1933

By amending § 230.122 to read as follows:

§ 230.122 Nondisclosure of information obtained in the course of examinations and investigations.

Information or documents obtained by officers or employees of the Commission in the course of any examination or investigation pursuant to section 8(e) or 20(a) (48 Stat. 80, 86; 15 U.S.C. 77h(e), 77i(a)) shall, unless made a matter of public record, be deemed confidential. Except as provided by 17 CFR 203.2, officers and employees are hereby prohibited from making such confidential information or documents or any other non-public records of the Commission available to anyone other than a member, officer, or employee of the Commission, unless the Commission authorizes the disclosure of such information or the production of such documents as not being contrary to the public interest. Any officer or employee who is served with a subpoena requiring the disclosure of such information or the production of such documents shall appear in court and, unless the authorization described in the preceding sentence shall have been given, shall respectfully decline to disclose the information or produce the documents called for, basing his or her refusal upon this section. Any officer or employee who is served with such a subpoena shall promptly advise the Commission of the service of such subpoena, the nature of the information or documents sought, and any circumstances which may bear upon the desirability of making available such information or documents.

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

By amending § 240.0-4 to read as follows:

§ 240.0-4 Nondisclosure of information obtained in examinations and investigations.

Information or documents obtained by officers or employees of the Commission in the course of any examination or investigation pursuant to section 17(a) (48 Stat. 897, sec. 4, 49 Stat. 1379; 15 U.S.C. 78q(a)) or 21(a) (48 Stat. 899; 15 U.S.C. 78u(a)) shall, unless made a matter of public record, be deemed confidential. Except as provided by 17 CFR 203.2, officers and employees are

hereby prohibited from making such confidential information or documents or any other non-public records of the Commission available to anyone other than a member, officer or employee of the Commission, unless the Commission authorizes the disclosure of such information or the production of such documents as not being contrary to the public interest. Any officer or employee who is served with a subpoena requiring the disclosure of such information or the production of such documents shall appear in court and, unless the authorization described in the preceding sentence shall have been given, shall respectfully decline to disclose the information or produce the documents called for, basing his or her refusal upon this section. Any officer or employee who is served with such a subpoena shall promptly advise the Commission of the service of such subpoena, the nature of the information or documents sought, and any circumstances which may bear upon the desirability of making available such information or documents.

PART 250—GENERAL RULES AND REGULATIONS, PUBLIC UTILITY HOLDING COMPANY ACT OF 1935

By amending § 250.104 by amending paragraph (c) to read as follows:

§ 250.104 Public disclosure of information and objections thereto.

(c) Information obtained in the course of examinations, studies, and investigation. Information or documents obtained by officers or employees of the Commission in the course of any examination, study or investigation pursuant to section 13(g), section 15(f) (49 Stat. 825, 828; 15 U.S.C. 79m, 79o), or paragraph (a) or (d) of section 18 (49 Stat. 831; 15 U.S.C. 79r) shall, unless made a matter of public record, be deemed confidential. Except as provided by 17 CFR 203.2, officers and employees are hereby prohibited from making such confidential information or documents or any other non-public records of the Commission available to anyone other than a member, officer, or employee of the Commission, unless the Commission authorizes the disclosure of such information or the production of such documents as not being contrary to the public interest. Any officer or employee who is served with a subpoena requiring the disclosure of such information or the production of such documents shall appear in court and, unless the authorization described in the preceding sentence shall have been given, shall respectfully decline to disclose the

information or produce the documents called for, basing his or her refusal upon this rule.

Any officer or employee who is served with such a subpoena, shall promptly advise the Commission of the service of such subpoena, the nature of the information or documents sought, and any circumstances which may bear upon the desirability of making available such information or documents.

PART 260—GENERAL RULES AND REGULATIONS, TRUST INDENTURE ACT OF 1939

By amending § 260.0-6 to read as follows:

§ 260.0-6 Nondisclosure of information obtained in the course of examinations and investigations.

Information or documents obtained by officers or employees of the Commission in the course of any examination or investigation under section 8(e) of the Securities Act of 1933 (48 Stat. 79; 15 U.S.C. 77h), pursuant to section 307(c) of the Trust Indenture Act of 1939 (53 Stat. 1156; 15 U.S.C. 77ggg), or any examination or investigation under section 20(a) of the Securities Act of 1933 (48 Stat. 86; 15 U.S.C. 77i), pursuant to section 321(a) of the Trust Indenture Act of 1939 (53 Stat. 1174; 15 U.S.C. 77uuu), shall, unless made a matter of public record, be deemed confidential. Except as provided by 17 CFR 203.2, officers and employees are hereby prohibited from making such confidential information or documents or any other non-public records of the Commission available to anyone other than a member, officer, or employee of the Commission, unless the Commission authorizes the disclosure of such information or the production of such documents as not being contrary to the public interest. Any officer or employee who is served with a subpoena requiring the disclosure of such information or the production of such documents shall appear in court and, unless the authorization described in the preceding sentence shall have been given, shall respectfully decline to disclose the information or produce the documents called for, basing his or her refusal upon this section. Any officer or employee who is served with such a subpoena shall promptly advise the Commission of the service of such subpoena, the nature of the information or documents sought, and any circumstances which may bear upon the desirability of making available such information or documents.

(Sec. 19, 48 Stat. 85; sec. 20, 48 Stat. 88; sec. 21, 48 Stat. 899; sec. 23, 48 Stat. 901; sec. 18, 49

Stat. 831; sec. 20, 49 Stat. 833; sec. 319, 53 Stat. 1173; sec. 321, 53 Stat. 1174; sec. 38, 54 Stat. 841; sec. 42, 54 Stat. 842; sec. 209, 54 Stat. 853; sec. 211, 54 Stat. 855; sec. 1, 78 Stat. 394. (15 U.S.C. 77s, 77t, 78u, 78w, 79r, 79t, 77sss, 77uuu, 80a-37, 80a-41, 80b-9, 89b-11, 78d-1))

By the Commission.
George A. Fitzsimmons,
Secretary.

August 23, 1979.

[FR Doc. 79-27027 Filed 8-29-79; 8:45 am]

BILLING CODE 8010-01-M

PANAMA CANAL

35 CFR Part 253

Regulations of the Secretary of the Army; Compensation and Allowances

AGENCY: Secretary of the Army

ACTION: Final rule.

SUMMARY: Title VIII of the Civil Service Reform Act established pay and grade retention rules for Federal employees to whom Chapter 51 (Classification) of Title 5, U.S. Code, applies and to prevailing rate employees, as defined in 5 U.S.C. § 5342(a)(2). Employees of an agency who are stationed in the Canal Zone are excluded from the coverage of Chapter 51 and from the definition of prevailing rate employees. Such employees are, therefore, excluded from the coverage of Title VIII of the Civil Service Reform Act. This rule provides that the pay and grade regulations in effect for these employees in the Federal service in the United States shall apply to Federal employees in the Canal Zone. This rule is promulgated pursuant to 2 Canal Zone Code § 142(b)(2), 76A Stat. 16, and section 2(a)(2) of Executive Order 11171 (Aug. 18, 1964), 3 CFR 234 (1964-65 Comp.).

EFFECTIVE DATE: September 1, 1979.

ADDRESS: Department of the Army, Washington, D.C. 20310.

FOR FURTHER INFORMATION CONTACT: Colonel Michael Rhode, Jr. Office of the Assistant Secretary of the Army (CW), Washington, D.C. 20310; telephone (202) 695-1370.

SUPPLEMENTARY INFORMATION:

Adoption of the amendment.

Accordingly, effective September 1, 1979, 35 CFR 253.154 is amended to read as follows:

§ 253.154 Individual pay determinations.

(a) Except as provided in subsection (b), pay determinations in connection with personnel actions such as promotions, demotions, and transfers shall be made in accordance with regulations generally in effect for

employees in the Federal service as follows:

(1) Nonmanual category. Salary changes and retention for employees in this category shall be in general conformity with Subparts B and C of 5 CFR Part 531.

(2) Manual category. Wage determinations for employees in this category shall be made in accordance with regulations published by the Board. Such regulations shall generally conform to regulations published in 5 CFR Part 532.

(3) Special category. Salary and wage changes for employees in this category shall be made in accordance with regulations promulgated by the Panama Canal Company/Canal Zone Government or, after 1 October 1979, the Panama Canal Commission. In those cases where departments other than the Panama Canal Company/Canal Zone Government or, after 1 October 1979 the Panama Canal Commission employ persons in positions in this category, the regulations will be developed jointly by the interested departments.

(b) The pay and grade retention regulations in effect for employees to whom Chapter 51 of Title 5, U.S. Code, applies, which are set forth in 5 CFR Part 536, shall, in general, apply to reductions in the pay or grade of employees to whom this section applies, except that the provisions of 5 CFR Part 536 pertaining to retroactivity and to appeals to the Office of Personnel Management shall not apply. An employee to whom this section and 35 CFR 253.156 apply shall be entitled to the benefit of the section which is more beneficial to him but shall not be entitled to the benefit of both.

(2 Canal Zone Code § 142(b)(2), 76 A Stat. 18,

and section 2(a)(2) of E.O. 11171 (Aug. 18, 1964), 3 CFR 234 (1964-65 Comp.)

Clifford L. Alexander, Jr.,
Secretary of the Army.

[FR Doc. 79-27062 Filed 8-29-79; 8:45 am]

BILLING CODE 3710-06-M

POSTAL SERVICE

39 CFR Part 10

International Express Mail Rates; Rates to Bermuda

AGENCY: Postal Service.

ACTION: Final International Express Mail Rates.

SUMMARY: Pursuant to its authority under 39 U.S.C. 407 the Postal Service is beginning International Custom Designed Express Mail Service with Bermuda at rates indicated in the table below.

EFFECTIVE DATE: September 1, 1979.

FOR FURTHER INFORMATION CONTACT: Patricia M. Gibert, (202) 245-5624.

SUPPLEMENTARY INFORMATION: On July 31, 1979 the Postal Service published for comment in the *Federal Register* a notice proposing rates of postage for International Express Mail to Bermuda, 44 FR 44893. The notice invited interested persons to submit written data, views or arguments concerning these rates. However, no comments were received. Accordingly, the Postal Service adopts without change the rates of postage for International Express Mail set out in the following table. This table will be included as table 8-10 of Publication 42, International Mail, incorporated by reference, 39 CFR 10.1.

(39 U.S.C. 401, 403, 404(a)(2), 407, 410(a); Universal Postal Convention, Lausanne, 1974, T.I.A.S. No. 8231, Art. 6)

W. Allen Sanders,
Acting Deputy General Counsel.

Table 8-10.—Bermuda International Express Mail, Custom Designed Service

Pounds (up to and including)	Zone to International Exchange Office								
	3	4	5	6	7	8	9		
1.....	26.48	26.51	26.55	26.59	26.63	26.68	26.73		
2.....	27.16	27.24	27.32	27.40	27.48	27.58	27.68		
3.....	27.86	27.97	28.09	28.21	28.33	28.48	28.63		
4.....	28.58	28.70	28.88	29.02	29.16	29.36	29.58		
5.....	29.28	29.43	29.63	29.83	30.03	30.28	30.53		
6.....	29.98	30.16	30.40	30.64	30.88	31.18	31.48		
7.....	30.68	30.89	31.17	31.45	31.73	32.06	32.43		
8.....	31.38	31.62	31.94	32.26	32.58	32.96	33.36		
9.....	32.08	32.35	32.71	33.07	33.43	33.88	34.33		
10.....	32.78	33.08	33.48	33.88	34.26	34.78	35.26		
11.....	33.48	33.81	34.25	34.68	35.13	35.68	36.23		
12.....	34.18	34.54	35.02	35.50	35.96	36.58	37.18		
13.....	34.88	35.27	35.79	36.31	36.83	37.48	38.13		
14.....	35.58	36.00	36.56	37.12	37.68	38.38	39.08		
15.....	36.28	36.73	37.33	37.93	38.53	39.28	40.03		
16.....	36.98	37.46	38.10	38.74	39.36	40.18	40.98		
17.....	37.68	38.19	38.87	39.55	40.23	41.08	41.93		
18.....	38.38	38.92	39.64	40.36	41.06	41.96	42.88		
19.....	39.08	39.65	40.41	41.17	41.93	42.88	43.83		

Table 8-10.—Bermuda International Express Mail, Custom Designed Service—Continued

Pounds (up to and including)	Zone to International Exchange Office						
	3	4	5	6	7	8	9
20.....	39.78	40.38	41.18	41.98	42.78	43.78	44.78
21.....	40.48	41.11	41.95	42.79	43.63	44.68	45.73
22.....	41.18	41.84	42.72	43.60	44.48	45.58	46.68
23.....	41.88	42.57	43.49	44.41	45.33	46.48	47.63
24.....	42.58	43.30	44.26	45.22	46.18	47.38	48.58
25.....	43.28	44.03	45.03	46.03	47.03	48.28	49.53
26.....	43.98	44.76	45.80	46.84	47.88	49.18	50.48
27.....	44.68	45.49	46.57	47.65	48.73	50.08	51.43
28.....	45.38	46.22	47.34	48.46	49.58	50.98	52.38
29.....	46.08	46.95	48.11	49.27	50.43	51.88	53.33
30.....	46.78	47.68	48.83	50.08	51.28	52.78	54.28
31.....	47.48	48.41	49.65	50.89	52.13	53.68	55.23
32.....	48.18	49.14	50.42	51.70	52.98	54.58	56.18
33.....	48.88	49.87	51.18	52.51	53.83	55.46	57.13

NOTES: (1) Rates in this table are applicable to each piece of International Custom Designed Express Mail shipped under a Service Agreement providing for tender by the customer at a Designated Post Office.
(2) Pick-up is available under a Service Agreement for an added charge of \$5.25 for each pick-up stop, regardless of the number of pieces picked up. Domestic and International Express Mail picked up together under the same Service Agreement incurs only one pick-up charge.
(3) If tendered at origin airport mail facility, deduct \$3.00 from these rates.

[FR Doc. 79-27026 Filed 8-29-79; 8:45 am]
BILLING CODE 7710-12-M

GENERAL SERVICES ADMINISTRATION

41 CFR Ch. 101

(FPMR Temp. Reg. F-491)

Listening-In and Recording of Telephone Conversations by Federal Agencies; Temporary Regulation

AGENCY: Automated Data and
Telecommunications Service, General
Services Administration.

ACTION: Temporary regulation.

SUMMARY: This regulation describes the
circumstances under which listening-in
or recording of telephone conversations
may be performed in Government
operations and prescribes policies that
limit the practice within the Federal
Government.

DATES: Effective date: October 1, 1979.
Expiration date: October 1, 1980.
Comments due by: October 29, 1979.

ADDRESS: Comments should be
addressed to: General Services
Administration (CPEP), Washington, DC
20405.

FOR FURTHER INFORMATION CONTACT:
Robert R. Johnson, Policy and
Evaluation Division (202-566-0834).

SUPPLEMENTARY INFORMATION: The
General Services Administration has
determined that this regulation will not
impose unnecessary burdens on the
economy or on individuals and,
therefore, is not significant for the
purposes of Executive Order 12044.

(Sec. 205(c), 63 Stat. 390 (40 U.S.C. 486(c)).)

In 41 CFR Chapter 101, the following

temporary regulation is listed in the
appendix at the end of Subchapter F.

**General Services Administration,
Washington, D.C. 20405.**

Federal Property Management Regulations

Temporary Regulation F-491

TO: Heads of Federal agencies.

SUBJECT: Listening-in and recording of
telephone conversations by Federal agencies.

1. *Purpose.* This temporary regulation
describes the circumstances under which
listening-in or recording of telephone
conversations may be performed in
Government operations and prescribes
policies that limit the practice within the
Federal Government. The provisions of this
regulation do not apply to
telecommunications monitoring conducted in
accordance with Executive Order 12036.

2. *Effective date.* This regulation is
effective October 1, 1979.

3. *Expiration date.* This temporary
regulation expires 1 year from the effective
date.

4. *Definitions.* For the purposes of this
temporary regulation the words and items are
defined as follows:

a. "Consensual" means that one party to a
telephone conversation has given prior
consent to the interception or recording of the
conversation.

b. "Nonconsensual" means that none of the
parties to a telephone conversation has given
prior consent to the interception or recording
of the conversation.

c. "Listening-in devices" means items such
as: Tape recorders, transmitter cut-off
switches, and service monitoring equipment.

5. *Nonconsensual listening-in or recording.*
Nonconsensual listening or recording of
telephone conversations shall be authorized
and handled in accordance with the
requirements of the Omnibus Crime Control
and Safe Streets Act of 1968, as amended (18
U.S.C. 2510 et seq.), and the Foreign
Intelligence Surveillance Act of 1978 (50
U.S.C. 1801 et seq.).

6. *Consensual listening-in or recording.*
Consensual listening-in or recording of
telephone conversations on the Federal

Telecommunications System or any other
telephone system approved in accordance
with the Federal Property and Administrative
Services Act of 1949, section 201(a) (1) and (3)
(40 U.S.C. 481(a)(1)), and implementing
regulations thereof is prohibited except under
the following cited conditions:

a. When performed for law enforcement
purposes in accordance with procedures
established by the agency head as required
by the Attorney General's Guidelines for
Administration of the Omnibus Crime
Control and Safe Streets Act of 1968, and
pursuant to procedures established by the
Attorney General.

Note.—The General Services
Administration recommends that at a
minimum agency procedures provide:

(1) The identity of an agency official who is
authorized to approve the actions in advance;
(2) An emergency procedure when advance
approval is not possible;

(3) Adequate documentation on all actions
taken;

(4) Records administration and
dissemination procedures; and
(5) Reporting requirements.

b. When performed for counter-intelligence
purposes and approved by the Attorney
General or his or her designee.

c. When performed by any Federal
employee for public safety purposes and
when documented by a written determination
of the agency head or the designee citing the
public safety needs. The determination must
identify the segment of the public needing
protection and the specific hurt, injury,
danger, or risks that the public is to be
protected from. Examples would be police
and fire department operations, air traffic
safety control, and marine rescue operations.

d. When performed by a Federal
handicapped employee, provided a physician
has certified (and the head of the agency or
designee concurs) that the employee is
physically handicapped and the head of the
agency or designee determines that the use of
a listening-in or recording device is required
to fully perform the duties of the official
position description. Equipment shall be for
the exclusive use of the handicapped
employee. The records of any interceptions
by handicapped employees shall be used,
safeguarded, and destroyed pursuant to
appropriate agency records management and
disposition systems.

e. By any Federal agency for service
monitoring only after analysis of alternatives
and a determination by the agency head or
the agency head's designee that monitoring is
required to effectively perform the agency
mission. Procedures shall be established
which at a minimum contain these provisions:

(1) No telephone call shall be monitored
unless the Federal agency has taken
continuous positive action to inform the
public of the monitoring.

(2) No data identifying the caller shall be
recorded by the monitoring party.

(3) The number of calls to be monitored
shall be kept to the minimum necessary to
comprise a statistically valid sample.

(4) Any telephone instrument used by the
agency which is subject to being monitored

shall be conspicuously labeled with a
statement to that effect.

(5) Since no identifying data of the calling
party will be recorded, information obtained
by the monitoring shall not be used against
the calling party.

f. When performed by any Federal
employee with the express consent of all
parties for each specific instance.

7. *Documentation requirements.* Copies of
agency documentation, determinations, and
procedures for listening-in or recording of
telephone conversations in support of
conditions cited in paragraphs 6c, 6d, and 6e
shall be certified by the agency head or the
designee and forwarded to the
Commissioner, Automated Data and
Telecommunications Service (mailing
address: General Services Administration
(C), Washington, DC 20405).

8. *Installed listening-in and recording
devices.* Devices presently installed must be
determined to be necessary under one of the
conditions cited in paragraph 6 or removed or
disabled from service within 60 days from the
effective date of this regulation.

9. *Reevaluation.* The need and
determination concerning listening-in or
recording of telephone conversations shall be
reevaluated at least every 2 years.

10. *Use restriction.* Nothing in this
temporary regulation shall be construed as
authorization for the listening-in or recording
of any telephone conversation for the
purpose of committing any criminal or
tortious act in violation of the Constitution or
the laws of the United States.

11. *Agency assistance.* GSA will provide
assistance to agencies in determining what
communications devices and practices fall
within the listening-in or recording category;
i.e., have the capacity to listen in, monitor, or
intercept telephone conversations. GSA will
also help develop administrative alternatives
to the listening-in or recording of telephone
conversations. Requests for assistance shall
be addressed to the Commissioner,
Automated Data and Telecommunications
Service (mailing address: General Services
Administration (C), Washington, DC 20405).

12. *Comments.* Comments concerning this
regulation should be sent to: General Services
Administration (CPEP) Washington, DC
20405.

13. *Information.* Further information
concerning this regulation may be obtained
from the General Services Administration
(CPEP), Washington, DC 20405, or call Mr.
Robert R. Johnson on 202-566-0834.

14. *Effect on other directives.* Section 101-
37.311 is revoked. All deviations ordered or
approved under the guidelines of § 101-37.311
are revoked.

Dated: August 24, 1979.

R. G. Freeman III,
Administrator of General Services.

[FR Doc. 79-27170 Filed 8-29-79; 8:45 am]

BILLING CODE 6820-25-M

COMMUNITY SERVICES ADMINISTRATION

45 CFR Part 1069

[CSA Instruction 6910-1b, Ch. 1]

Grantee Personnel Management; Travel Regulations for CSA Grantees and Delegate Agencies

AGENCY: Community Services
Administration.

ACTION: Final rule.

SUMMARY: The Community Services
Administration is revising its mileage
rates for CSA grantees and delegate
agencies from 17 cents per mile to 18.5
cents per mile for use of a privately-
owned automobile. On June 29, 1979 the
General Services Administration filed
changes to the Federal Register
increasing the mileage reimbursement
rate effective on or after July 1, 1979.
Since CSA grantees are required to
comply with the Federal Travel
Regulations, this rule will inform them of
the change thereto.

EFFECTIVE DATE: This rule is effective
August 30, 1979.

FOR FURTHER INFORMATION CONTACT:
Ms. Maryann J. Fair, Community
Services Administration, 1200 19th
Street NW., Washington, D.C. 20506,
Telephone: 202-254-5047,
Teletypewriter: 202-254-6218.

SUPPLEMENTARY INFORMATION: This rule
will inform grantees of the change and
permit grantees to implement the
regulation retroactively to July 1, 1979,
the effective date of the amended
Federal Travel Regulations.

CSA does not deem this revision
significant.

(Sec. 602, 78 Stat. 530, (42 U.S.C. 2942))

Graciela (Grace) Olivarez,
Director.

45 CFR 1069.3-4(a)(1)(ii) is amended to
read as follows:

§ 1069.3-4 General travel regulations.

(a) * * * (1) * * *

(ii) The mileage costs for use of
privately-owned automobiles shall be
paid in accordance with prevailing rates
in a community. In no event, however,
may the rates paid exceed 18.5 cents a
mile. (Effective for travel performed on
or after July 1, 1979.)

* * * * *

[FR Doc. 79-27067 Filed 8-29-79; 8:45 am]

BILLING CODE 6315-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 0

[FCC 79-514]

National Security Information; Classification, Downgrading, Declassification, and Safeguarding

AGENCY: FCC.

ACTION: Rule revision.

SUMMARY: The Commission is
publishing this revision of the rules to
comply with Executive Order 12065,
relating to the classification,
downgrading, declassification and
safeguarding of national security
information. This rule revision is
intended to increase openness in
Government by limiting classification
and accelerating declassification but at
the same time, providing protection
against unauthorized disclosure for that
information that requires such
protection in the interests of national
security.

EFFECTIVE DATE: August 31, 1979.

ADDRESSES: Federal Communications
Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:
Fred J. Goldsmith, Office of Executive
Director, 632-7143.

SUPPLEMENTARY INFORMATION:

Order

Adopted: August 20, 1979.

Released: August 23, 1979.

By the Commission: Commissioners Lee
and Fogarty absent.

In the matter of revision of Part 0,
rules and regulations, pertaining to
National Security Information.

1. Executive Order 12065, National
Security Information, requires that
agencies that handle classified
information adopt regulations
identifying the information to be
protected, to prescribe classification,
downgrading, declassification and
safeguarding procedures, and to
establish a monitoring system to ensure
compliance.

2. We are hereby adopting a revision
of Subpart D, Part 0, of the rules
pertaining to Public Availability of
Classified Material to comply with the
requirements of the Executive Order.

3. The revision is set out in the
attached Appendix. Because it concerns
only Commission policies and
procedures and implements Executive
Order 12065, the prior notice and
effective date provisions of 5 U.S.C. 553
are inapplicable. Authority for adoption
of this revision is contained in Sections
4(i) and 303(r) of the Communications

Act of 1934, as amended, 47 U.S.C. 154(i) and 303(r).

4. Accordingly, it is ordered, effective August 31, 1979 that Part 0 of the rules and regulations is revised as set out in the Appendix hereto.

Federal Communications Commission.
William J. Tricarico,
Secretary.

Appendix

Subpart D, Part 0 of Chapter I of Title 47 of the Code of Federal Regulations is revised as follows:

PART 0—COMMISSION ORGANIZATION

Subpart D—Public Availability of Classified Material

General

Sec.

- 0.501 Purpose.
- 0.502 Program oversight.
- 0.503 Classification Review Committee.
- 0.504 Original classification.
- 0.505 Derivative classification.

Downgrading and Declassification

- 0.520 Introduction.
- 0.521 Mandatory declassification review.
- 0.530 Access to classified materials.
- 0.531 Access by historical researchers and former Presidential appointees.
- 0.540 Fees and charges.

Authority: Secs. 4(i), 303(r), Communications Act of 1934, as amended (47 U.S.C. 154(i) and 303(r)).

Subpart D—Public Availability of Classified Material

General

§ 0.501 Purpose.

Pursuant to Executive Order 12065 and Information Security Oversight Office Directive No. 1, the Commission prescribes the following regulations to insure that classified information and material is protected, but only to the extent and for such period as is necessary. The regulations identify the information to be protected, prescribe classification, downgrading, declassification and safeguarding procedures to be followed, and establish a monitoring system to ensure the regulations' effectiveness.

§ 0.502 Program oversight.

The Chief, Internal Review and Security Division will be responsible for conducting an oversight program that ensures effective implementation of Executive Order 12065, to include:

- (a) Conducting security training and education programs.
- (b) Encouraging Commission personnel to challenge those

classification decisions they believe to be improper.

(c) Issuing directives that ensure classified information is used, processed, stored, reproduced and transmitted only under conditions that will provide adequate protection and prevent access by unauthorized persons.

(d) Recommending to the Chairman appropriate administrative action to correct abuse or violation of any provision of these regulations, including notification by warning letters, formal reprimand, and, to the extent permitted by law, suspension without pay and removal.

§ 0.503 Classification Review Committee.

The Executive Director will chair the Commission's Classification Review Committee which shall have authority to act on all suggestions and complaints with respect to the Commission's administration of these regulations. The General Counsel, or a senior member of his staff designated by him, and the Chief, Internal Review and Security Division will serve as members of the Committee. All suggestions and complaints including those regarding overclassification, failure to classify, or delay in declassifying not otherwise resolved, shall be referred to the Committee for resolution. The Committee shall establish procedures to review and act within 30 days upon all appeals regarding requests for declassification. The Committee shall be authorized to overrule previous determinations in whole or in part when, in its judgment, continued protection is no longer required. If the Committee determines that continued classification is required under the criteria of the Executive Order, it shall promptly so notify the requester and advise him that he may file an application for review with the Commission. In addition, the Committee shall review all appeals of requests for records under Section 552 of Title 5 U.S.C. (Freedom of Information Act) when the proposed denial is based on their continued classification under Executive Order 12065.

§ 0.504 Original classification.

Executive Order 12065 removed the Commission's prior authority for original classification of national security information as "SECRET" and "CONFIDENTIAL." In any instance where a Commission employee develops information that appears to warrant classification because of its national security character, the material will be afforded protection and sent to the Internal Review and Security Division (IRSD). Upon determination that classification is warranted, IRSD will

submit such material to the agency which has appropriate subject matter interest and classification authority.

§ 0.505 Derivative classification.

(a) Distinct from "original" classification is the determination that a document must be classified because it contains paraphrases, restatements, or summaries of, or incorporates in new form, information previously classified by proper authority. Authority to apply derivative classification is granted to Commissioners and Bureau and Office Chiefs, who may delegate this responsibility to the Division level. Original classification decisions must be respected, and to the extent practicable, the current level of classification should be verified through the original classification authority. Declassification or review instructions will be carried forward from the source material or, where available, the classification guide of the originator.

(b) Any document that derives its classification from information classified on or after December 1, 1978, shall be marked with the date or event assigned to the source information for its continued need for classification. If derived from an older document with a declassification date or event 20 years or less from the date of its original classification, that date will be carried forward to the derivative document. Documents derived from source documents without declassification date or event, or with a date 20 years or more from the date of original classification, will be given a declassification date 20 years from the date of original classification of the source document.

Downgrading and Declassification

§ 0.520 Introduction.

(a) Executive Order 12065 is intended to improve protection against unauthorized disclosure of national security information or material while increasing openness in Government by limiting classification and accelerating declassification. Declassification shall be given emphasis comparable to that accorded classification, with declassification action taken as early as national security considerations permit. The loss of the information's sensitivity with the passage of time or on the occurrence of a declassification event shall form the basis for the decision to declassify. Commission documents given original classification prior to December 1, 1978 may be declassified by the authorizing official, a successor, or by a supervisory official of either.

(b) Those permanent records given original classification by the

Commission prior to December 1, 1978, and not in the possession and control of the General Services Administration, must receive a systematic review for declassification prior to becoming twenty years old. Any record considered to require extension of classification must be submitted to an official authorized under E.O. 12065 as original classification authority. Absent such approval, or a prior automatic declassification date, the information is declassified automatically at the end of twenty years from the date of original classification. Exempt from such automatic declassification and the twenty year systematic review is foreign government information. Such information, unless declassified earlier, will be given a declassification review thirty years from its date of origin. As used herein, "foreign government information" is information provided to the United States by a foreign government or international organization of governments in the expectation, express or implied, that the information is to be kept in confidence; or information produced by the United States pursuant to a written joint agreement with a foreign government or international organization of governments requiring that either the information or the arrangements, or both, be kept in confidence.

§ 0.521 Mandatory declassification review.

(a) The Office of the Executive Director is hereby designated as the office to which members of the public or Departments may direct requests for mandatory review for declassification under this provision. In the case of documents originally classified by the Commission, this office shall, in turn, assign the request to the appropriate office for action within 60 days. In each instance, receipt of the request will be acknowledged in writing immediately by the office which has been assigned action. A request for classification review must reasonably describe the document.

(b) Whenever a request is deficient in its description of the record sought, the requester should be asked to provide additional identifying information to the extent possible. Whenever a request does not reasonably describe the information sought, the requester shall be notified that unless additional information is provided or the scope of the request is narrowed, no further action will be undertaken. Upon a determination that the requested material no longer warrants classification, it shall be declassified and made promptly available to the requester, if not otherwise exempt from

disclosure under 5 U.S.C. 552(b) (Freedom of Information Act) or other provision of law. If the information may not be released in whole or in part, the requester shall be given a brief statement as to the reasons for denial, a notice of the right to appeal the determination to the Classification Review Committee, and a notice that such an appeal must be filed with the Commission within 60 days in order to be considered.

(c) When the request relates to a document given derivative classification by the Commission, the request and the document will be forwarded to the originator of the source document, and the requester notified of such referral.

(d) Employees presently cleared for access to classified information are encouraged to challenge classification in cases where there is reasonable cause to believe that information is classified unnecessarily, improperly, or for an inappropriate period of time. Such challenges should be brought to the attention of the Executive Director who will act thereon within 30 days, informing the challenger of actions taken. Requests for confidentiality will be honored.

§ 0.530 Access to classified materials.

No person may be given access to classified information (a) Unless that person has been determined to be trustworthy and (b) Unless access is necessary for the performance of official duties.

§ 0.531 Access by historical researchers and former presidential appointees

The requirements of § 0.530 may be waived for persons who are engaged in historical research projects, or who previously served as FCC Commissioners, provided they execute written agreements to safeguard the information and written consent to the Commission's review of their notes and manuscripts solely for the purpose of determining that no classified information is disclosed. A precondition to any such access is the favorable completion of an appropriate investigative inquiry.

§ 0.540 Fees and charges.

(a) The Commission has designated a contractor to make copies of Commission records and offer them for sale (See § 0.465).

(b) An hourly fee is charged for recovery of the direct costs of searching for the documents (See § 0.466). No search fee will be charged if:

- (1) The records are not located
- (2) The records are located but not declassified

(3) The search does not exceed one hour in duration.

[FR Doc. 79-27141 Filed 8-29-79; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 19

[RM-2961; FCC 79-507]

Petition for Adoption of Policy and Rule on Employee Service After Acceptance of Outside Employment in Communications Field

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: FCC adopts internal procedures to assure against any conflict of interest when an employee is negotiating for, or has accepted, employment with any organization having business with the Commission, but rejects proposal to require that an employee's services be terminated immediately upon acceptance of outside employment.

EFFECTIVE DATE: October 3, 1979.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Upton Guthery, Office of General Counsel, (202) 632-6990.

Order

Adopted: August 16, 1979.

Released: August 21, 1979.

By the Commission: Commissioners Lee and Washburn dissenting. In the matter of petition for adoption of policy and rule on employee service after acceptance of outside employment in Communications field, RM-2961.

1. The Commission has before it a petition for rulemaking filed by Citizens Communications Center (Citizens) on August 22, 1977. Citizens requests our adoption of a rule requiring Commission employees¹ to terminate their governmental employment immediately upon accepting an offer of future employment with any firm or organization having communications business with the FCC. Public Notice of the filing of the petition was given on September 19, 1977. No statements supporting or opposing the petition were filed.

2. The concern expressed by petitioner is for safeguarding the integrity of the Commission's processes during an FCC employee's transition from public to private employment. At present, an employee may continue in

¹ Citizens also urges adoption of a policy, tracking the proposed rule, to apply to Commissioners.

his federal capacity for a period of time after accepting another job. Citizens believes that during this time of transition the employee is placed in a position of divided allegiance between continuing to maintain the public trust and wishing to protect or further the interests of his future employer. Adoption of the proposed rule is thus urged to preclude such conflict from arising.

3. We do not think that the immediate termination of an employee's services is required to safeguard the integrity of the Commission's processes. An FCC employee who is negotiating regarding future private employment is prohibited from participating in his governmental capacity in any matter in which a person with whom he is negotiating has a financial interest. 18 U.S.C. 208(a); 47 CFR 19.735-204(e)(2). The same prohibition obviously applies if the employee has accepted private employment but remains temporarily with the Commission. Commission employees are also prohibited from disclosing non-public information to any person outside the Commission.

4. In practice, employees who have accepted private employment are expected to complete their FCC responsibilities as quickly as possible. Allowing them a brief period of time to remain in government service permits an orderly transition of work and fosters the proper conduct of the Commission's business.

5. It does appear, however, that procedural arrangements to assure there is no conflict of interest should be tightened. We are therefore amending § 19.735-204(e) of the rules as follows: Immediately upon entering into negotiations with a prospective employer, a Commission employee shall notify his immediate supervisor. The supervisor shall review the employee's assignments and responsibilities and discharge him from any that could affect the interests of the prospective employer. Thereupon, the employee shall file a statement of disqualification and non-participation pursuant to § 19.735-412(e). This employee's disqualification naturally continues if the employee remains with the Commission temporarily after accepting private employment.

6. Authority for this amendment is contained in Sections 4(i) and 303(r), of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303(r), and in 18 U.S.C. 208. Because the amendment involves a matter of internal procedure, the prior notice provisions of 5 U.S.C. 553 are inapplicable.

7. Accordingly, it is ordered, effective October 3, 1979, that the Petition for

Rule Making (RM-2961) is denied, that § 19.735-204 is amended as set out in the attached Appendix, and that this proceeding is terminated.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; (47 U.S.C. 154, 303))

Federal Communications Commission,
William J. Tricarico,
Secretary.

Appendix

In Part 19 of Chapter I of Title 47 of the Code of Federal Regulations, § 19.735-204 is amended as follows:

1. That portion of § 19.735-204(e)(2) preceding subdivision (i) is revised; a new § 19.735-204(e)(3) is added; and present § 19.735-204(e)(3) is redesignated § 19.735-204(e)(4), to read as follows:

§ 19.735-204 Financial Interests.

• • • • •

(e) • • •

(2) An employee may not participate in his governmental capacity in any matter in which he, his spouse, minor child or outside business associate has a financial interest (18 U.S.C. 208).

• • • • •

(3) An employee may not participate in his governmental capacity in any matter in which a person from whom he has accepted employment, or with whom he is negotiating for employment, has a financial interest. At the outset of negotiations with such a prospective employer, the employee shall notify his immediate supervisor. The supervisor shall review the employee's current assignments and responsibilities and discharge him from any that could affect the interests of the prospective employer. The employee shall thereupon file a statement of disqualification and non-participation pursuant to § 19.735-412(e). The statement shall continue in effect until such time (if any) as the negotiations are unsuccessfully terminated.

(4) [text of old (e)(3) redesignated (e)(4)]

[FR Doc. 79-27140 Filed 8-29-79; 8:45 am]
BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

Materials Transportation Bureau

49 CFR Part 192

[Amendment 192-34; Docket PS-54]

Transportation of Natural and Other Gas by Pipeline; Joining of Plastic Pipe

AGENCY: Materials Transportation Bureau.

ACTION: Extension of comment period.

SUMMARY: This notice extends the comment period to September 30, 1979, for comments to be submitted on certain issues regarding the final rule on joining of plastic pipe as published in the Federal Register, Volume 44, No. 142, page 42968, on July 23, 1979.

DATES: Comments due by September 30, 1979.

ADDRESS: Communications should refer to the docket and amendment number and should be sent to: Docket Branch, Materials Transportation Bureau, Department of Transportation, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Paul J. Cory, 202-426-2392.

SUPPLEMENTARY INFORMATION: In a letter of July 31, 1979, the American Gas Association (AGA) requests that the comment period on Amendment 192-34; Docket PS-54, Joining of Plastic Pipe, be extended for an additional 30 days. As justification for this request AGA points out that the limited time for response, based on the publication date of the amendment and the closing date for reply, does not permit time for distribution of the amendment and a thorough review by individuals in the industry having expertise in this area.

Based on the above request, MTB is extending the comment period to September 30, 1979, on Amendment 192-34, Docket PS-54, Joining of Plastic Pipe. (49 U.S.C. 1672; 49 U.S.C. 1804; 49 CFR 1.53 and Appendix A of Part 1).

Issued in Washington, D.C. on August 27, 1979.

Cesar De Leon,
Associate Director for Pipeline Safety
Regulation, Materials Transportation Bureau.

[FR Doc. 79-27193 Filed 8-29-79; 8:45 am]
BILLING CODE 4910-60-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 32

Opening of Pocasse National Wildlife Refuge, South Dakota, to Upland Game Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to upland game hunting of Pocasse National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will

provide additional recreational opportunity to the public.

DATES: November 17, 1979 through December 9, 1979.

FOR FURTHER INFORMATION CONTACT: Sam Waldstein, Refuge Manager, Sand Lake NWR, Columbia, South Dakota 57433 (605) 885-6320.

SUPPLEMENTARY INFORMATION:

§ 32.22 Special regulations: Upland game hunting; for individual wildlife refuge areas.

Upland game hunting is permitted on the Pocasse National Wildlife Refuge, South Dakota, only on the areas designated by signs as being open to hunting. These areas comprising 2540 acres are delineated on maps available at the refuge headquarters and from the office of the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 25486, Denver Federal Center, Denver, Colorado 80225. Upland Game Hunting shall be in accordance with all applicable State regulations subject to the following conditions:

1. The open season for hunting pheasants on the refuge is from November 17, 1979 through December 9, 1979.

2. Hunters will not be allowed to drive on the refuge, but may park their vehicles outside the refuge and hunt on foot.

The provisions of this special regulation supplement the regulations which govern upland game hunting on wildlife refuge areas generally which are set forth in Title 50 Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

(Sec. 2, 33 Stat. 614, as amended; sec. 5, 43 Stat. 651; sec. 5, 45 Stat. 449; sec. 10, 45 Stat. 1224; sec. 4, 48 Stat. 402, as amended; sec. 4, 46 Stat. 451, as amended; sec. 2, 48 Stat. 1270; sec. 4, 80 Stat. 927; 5 U.S.C. 301, 16 U.S.C. 685, 725, 690d, 715i, 664, 718d, 43 U.S.C. 315a; 16 U.S.C. 460k, 668dd; sec. 2, 80 Stat. 928; 16 U.S.C. 668bb)

Dated: August 17, 1979.

Sam Waldstein,
Refuge Manager, Sand Lake National
Wildlife Refuge.

[FR Doc. 79-27036 Filed 8-29-79; 8:45 am]
BILLING CODE 4310-55-M

50 CFR Part 32

Opening of Pocasse National Wildlife Refuge, South Dakota, to Big Game Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special Regulation.

SUMMARY: The Director has determined that the opening to big game hunting of Pocasse National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: November 24, 1979 through December 2, 1979.

FOR FURTHER INFORMATION CONTACT: Sam Waldstein, Refuge Manager, Sand Lake NWR, Columbia, SD 57433 (605) 885-6320.

SUPPLEMENTARY INFORMATION:

§ 32.32 Special regulations: big game hunting; for individual wildlife refuge areas.

Big game hunting is permitted on the Pocasse National Wildlife Refuge, South Dakota, only on the areas designated by signs as being open to hunting. These areas comprising 2400 acres are delineated on maps available at the refuge headquarters and from the office of the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 25486, Denver Federal Center, Denver, Colorado 80225. Big game hunting shall be in accordance with all applicable State regulations subject to the following conditions:

1. The open season for hunting deer on the refuge is from November 24, 1979 through December 2, 1979.

2. Hunters will not be allowed to drive on the refuge, but may park their vehicles outside the refuge and hunt on foot.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50 Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

(Sec. 2, 33 Stat. 614, as amended; sec. 5, 43 Stat. 651; sec. 5, 45 Stat. 449; sec. 10, 45 Stat. 1224; sec. 4, 48 Stat. 402, as amended; sec. 4, 46 Stat. 451, as amended; sec. 2, 48 Stat. 1270; sec. 4, 80 Stat. 927; 5 U.S.C. 301, 16 U.S.C. 685, 725, 690d, 715i, 664, 718d, 43 U.S.C. 315a; 16 U.S.C. 460k, 668dd; sec. 2, 80 Stat. 928; 16 U.S.C. 668bb)

Dated: August 17, 1979.

Sam Waldstein,
Refuge Manager, Sand Lake National
Wildlife Refuge.

[FR Doc. 79-27037 Filed 8-29-79; 8:45 am]

BILLING CODE 4310-55-M

50 CFR Part 32

Opening of Sand Lake National Wildlife Refuge, South Dakota, to Big Game Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special Regulation.

SUMMARY: The Director has determined that the opening to big game hunting of Sand Lake National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: November 1, 1979 through December 31, 1979.

FOR FURTHER INFORMATION CONTACT: Sam Waldstein, Refuge Manager, Sand Lake NWR, Columbia, SD 57433 (605) 885-6320.

SUPPLEMENTARY INFORMATION:

§ 32.32 Special regulations: big game hunting; for individual wildlife refuge areas.

Big game hunting is permitted on the Sand Lake National Wildlife Refuge, South Dakota, only on the areas designated by signs as being open to hunting. These areas comprising 20,000 acres are delineated on maps available at the refuge headquarters and from the office of the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 25486, Denver Federal Center, Denver, Colorado 80225. Big game hunting shall be in accordance with all applicable State regulations subject to the following conditions:

1. The open seasons for hunting deer on the refuge are:

a. Archery season—November 1, 1979 through November 18, 1979 and December 10, 1979 through December 31, 1979.

b. Firearms season.—1. Muzzle loading rifles—November 17, 1979 through November 23, 1979.

2. Rifle and other legal firearms—November 24, 1979 through November 27, 1979; November 28, 1979 through December 2, 1979; and December 3, 1979 through December 9, 1979.

2. All hunters must exhibit their license, deer tag and vehicle contents to Federal or State Officers upon request.

3. Hunters are allowed to drive in the refuge only at times designated by the

refuge manager. A list of the regulations is available at Refuge Headquarters.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50 Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

(Sec. 2, 33 Stat. 614, as amended; sec. 5, 43 Stat. 651; sec. 5, 45 Stat. 449; sec. 10, 45 Stat. 1224; sec. 4, 48 Stat. 402, as amended; sec. 4, 48 Stat. 451, as amended; sec. 2, 48 Stat. 1270; sec. 4, 80 Stat. 927; 5 U.S.C. 301, 16 U.S.C. 685, 725, 690d, 715i, 664, 718d, 43 U.S.C. 315a; 16 U.S.C. 460k, 668dd; sec. 2, 80 Stat. 926; 16 U.S.C. 668bb.)

Dated: August 17, 1979.

Sam Waldstein,

Refuge Manager, Sand Lake National Wildlife Refuge.

[FR Doc. 79-27038 Filed 8-29-79; 8:45 am]

BILLING CODE 4310-55-M

50 CFR Part 32

Opening of Sand Lake National Wildlife Refuge, South Dakota to Migratory Game Bird Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special Regulation.

SUMMARY: The director has determined that the opening to migratory game bird hunting of Sand Lake National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: September 29, 1979 through December 23, 1979.

FOR FURTHER INFORMATION CONTACT: Sam Waldstein, Refuge Manager, Sand Lake NWR, Columbia, SD (605) 885-6320.

SUPPLEMENTARY INFORMATION:

§ 32.12 Special regulations: migratory game birds; for individual wildlife refuge areas

Migratory game bird hunting is permitted on the Sand Lake National Wildlife Refuge, South Dakota, only on the areas designated by signs as being open to hunting. These areas comprising 275 acres are delineated on maps available at the refuge headquarters and from the office of the Regional Director, U.S. Fish and Wildlife Service, P.O. Box

25486, Denver Federal Center, Denver, Colorado 80225. Migratory game bird hunting shall be in accordance with all applicable State regulations subject to the following conditions:

1. The open season for hunting geese on the refuge is from September 29, 1979 through December 23, 1979.

2. The open season for hunting ducks and coots on the refuge is from October 6, 1979 through November 25, 1979 and from December 1, 1979 through December 9, 1979.

3. Hunting will be from established blinds only, without cost, with each site restricted to no more than two hunters, on a first come, first served basis. Blind sites and their use are more specifically described on a map and a list of regulations available at Refuge Headquarters and at each of the hunting sites.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50 Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

(Sec. 2, 33 Stat. 614, as amended; sec. 5, 43 Stat. 651; sec. 5, 45 Stat. 449; sec. 10, 45 Stat. 1224; sec. 4, 48 Stat. 402, as amended; sec. 4, 48 Stat. 451, as amended; sec. 2, 48 Stat. 1270; sec. 4, 80 Stat. 927; 5 U.S.C. 301, 16 U.S.C. 685, 725, 690d, 715i, 664, 718d, 43 U.S.C. 315a; 16 U.S.C. 460k, 668dd; sec. 2, 80 Stat. 926; 16 U.S.C. 668bb.)

Dated: August 17, 1979

Sam Waldstein,

Refuge Manager, Sand Lake National Wildlife Refuge.

[FR Doc. 79-27032 Filed 8-29-79; 8:45 am]

BILLING CODE 4310-55-M

50 CFR Part 32

Opening of Sand Lake National Wildlife Refuge, South Dakota, to Upland Game Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special Regulation.

SUMMARY: The Director has determined that the opening to upland game hunting of Sand Lake National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: December 10, 1979 through December 31, 1979.

FOR FURTHER INFORMATION CONTACT: Sam Waldstein, Refuge Manager, Sand Lake NWR, Columbia, South Dakota 57433 (605) 885-6320.

SUPPLEMENTARY INFORMATION:

§ 32.22 Special regulations: upland game hunting; for individual wildlife refuge areas

Upland game hunting is permitted on the Sand Lake National Wildlife Refuge, South Dakota, only on the areas designated by signs as being open to hunting. These areas comprising 20,000 acres are delineated on maps available at the refuge headquarters and from the office of the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 25486, Denver Federal Center, Denver, Colorado 80225. Upland Game Hunting shall be in accordance with all applicable State regulations subject to the following conditions:

1. The open season for hunting pheasants on the refuge is from December 10, 1979 through December 31, 1979.

2. Hunters will not be allowed to drive on the refuge, but may park their vehicles outside the refuge and hunt on foot.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50 Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

(Sec. 2, 33 Stat. 614, as amended; sec. 5, 43 Stat. 651; sec. 5, 45 Stat. 449; sec. 10, 45 Stat. 1224; sec. 4, 48 Stat. 402, as amended; sec. 4, 48 Stat. 451, as amended; sec. 2, 48 Stat. 1270; sec. 4, 80 Stat. 927; 5 U.S.C. 301, 16 U.S.C. 685, 725, 690d, 715i, 664, 718d, 43 U.S.C. 315a; 16 U.S.C. 460k, 668dd; sec. 2, 80 Stat. 926; 16 U.S.C. 668bb.)

Dated: August 17, 1979.

Sam Waldstein,

Refuge Manager, Sand Lake National Wildlife Refuge.

[FR Doc. 79-27033 Filed 8-29-79; 8:45 am]

BILLING CODE 4310-55-M

50 CFR Part 33

Opening of Flint Hills National Wildlife Refuge, Kansas to Sport Fishing

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special Regulation.

SUMMARY: The Director has determined that the opening to sport fishing of Flint Hills National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: As determined by applicable state laws.

FOR FURTHER INFORMATION CONTACT: The Area Manager or Refuge Manager at the address or telephone number listed below:

Tom A. Saunders, Area Office Manager, U.S. Fish and Wildlife Service, 2701 Rockcreek Parkway, Suite 106, North Kansas City, MO 64116, Telephone: (816) 374-6166.

Mike Long, Refuge Manager, Flint Hills National Wildlife Refuge, P.O. Box 128, Hartford, Kansas 66854, Telephone: (316) 392-5553.

SUPPLEMENTARY INFORMATION: The Refuge Recreation Act of 1962 (16 U.S.C. 460k) authorizes the Secretary of the Interior to administer such areas for recreation as an appropriate incidental or secondary use only to the extent that is practicable and not inconsistent with the primary objectives for which the area was established. In addition, the Refuge Recreation Act requires (1) that any recreational use permitted will not interfere with the primary purpose for which the area was established; (2) that funds are available for the development, operation, and maintenance of the permitted forms of recreation.

The recreational use authorized by these regulations will not interfere with the primary purposes for which the Flint Hills National Wildlife Refuge was established. This determination is based upon consideration of, among other things, the Service's final Environmental Statement on the Operation of the National Wildlife Refuge System published in November 1976. Funds are available for the administration of the recreational activities permitted by these regulations.

§ 33.5 Special regulations; sport fishing; for individual wildlife refuge areas.

Sport fishing, including the taking of frogs, on the Flint Hills National Wildlife Refuge, Kansas, is permitted only on the areas designated as open to fishing. These open areas, comprising 1,500 acres of reservoir waters and approximately 28 miles of river and stream channel, are delineated on maps available at refuge headquarters or from the Office of the Area Manager (addresses listed above).

Sport fishing shall be in accordance with all applicable State regulations

subject to the following special conditions:

1. Beginning one week before the opening of the 1979-80 Regular Waterfowl Season, as determined by State and Federal Law, and thru the close of this season, Only Eagle Creek, the Neosho River and impoundments in the Eagle Creek and Hartford hunting units are open to public fishing. Except the Neosho River Oxbow northeast of the Strawn Townsite is closed, as marked by buoys.

2. Immediately following the close of the 1979-80 Waterfowl Season, as determined by State and Federal Law, all waters within the Flint Hills Refuge are open to sport fishing and the taking of bullfrogs.

3. Vehicle access shall be confined to existing roads and trails not otherwise marked as closed to vehicle use.

4. All man-made water impoundments within the refuge may be fished with pole and line and bow and arrow only. The 15-inch minimum length for black bass, as defined by Kansas Law applies to all refuge man-made impoundments.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50 Code of Federal Regulations, Part 33. The public is invited to offer suggestions and comments at any time.

(Sec. 2, 33 Stat. 614, as amended; sec. 5, 43 Stat. 651, sec. 5, 10, 45 Stat. 449, 1224, sec. 4, 2, 48 Stat. 402, as amended, 451, 1270, sec. 4, 78 Stat. 654; 5 U.S.C. 301, 16 U.S.C. 685, 725, 690d, 715i, 664, 718d, 43 U.S.C. 315a, 16 U.S.C. 460k; sec. 2, 80 Stat. 926; 16 U.S.C. 668bb.)

Dated: August 23, 1979.

Jefferson L. Fountain,
Acting Area Manager.

[FR Doc. 79-27035 Filed 8-29-79; 8:45 am]

BILLING CODE 4310-55-M

50 CFR Part 33

Opening of Wildlife Management Areas 10, 11, and 12 to Public Pheasant Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special Regulation.

SUMMARY: The Director has determined that the opening of parts of the Lacreek National Wildlife Refuge, Martin, South Dakota, to public hunting of cock pheasants is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will supply additional recreational opportunities to the public. These special regulations describe the conditions under which

pheasant hunting will be permitted on portions of Lacreek National Wildlife Refuge.

DATES: October 20, 1979 through December 9, 1979.

FOR FURTHER INFORMATION CONTACT: Rolf H. Kraft, Refuge Manager, Lacreek National Wildlife Refuge, Martin, South Dakota 57551 or Telephone 605-685-6508.

SUPPLEMENTARY INFORMATION:

General

The Refuge Recreation Act of 1962 (16 U.S.C. 460k) authorizes the Secretary of the Interior to administer this area for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary objectives for which the area was established. In addition, the Refuge Recreation Act requires (1) that such recreational use will not interfere with the primary purpose for which the area was established, and (2) that funds are available for the development, operation, and maintenance of permitted forms of recreation.

The recreational use authorized by these regulations will not interfere with the primary purpose for which the Lacreek National Wildlife Refuge was established. This determination is based upon consideration of the Service's Final Environmental Statement on the Operation of the National Wildlife Refuge System published in November 1976. Funds are available for the administration of the recreational activities permitted by these regulations.

§ 33.5 Special regulations; hunting ring-necked pheasant; for individual wildlife refuge areas.

Public hunting of cock ring-necked pheasant on the Lacreek National Wildlife Refuge, South Dakota, is permitted in those parts of Wildlife Management Areas 10, 11, and 12 (3,850 acres) delineated on maps available at designated registration stations and Refuge Headquarters. Hunting shall be according to State and Federal Regulations governing the hunting of cock pheasants subject to the following special conditions:

a. Hunters must check in and check out each day.

b. A special daily permit is required and must be in possession while hunting. The permits are available at self-service registration stations.

c. Motor vehicle use is restricted to designated access roads and parking areas.

d. Parking is permitted only in designated parking areas.

e. Discharging of firearms from, upon, or across any public roadway, or within 50 feet of the center line of any public roadway, or within the confines of parking areas, is prohibited.

The provisions of this special regulation supplements the regulations which govern hunting on wildlife refuge areas generally, which are set forth in Title 50 Code of Federal Regulations, Part 33, and are effective through December 31, 1979. The public is invited to offer suggestions and comments at any time.

The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

(Sec. 2, 33 Stat. 614, as amended, sec. 5, 43 Stat. 651 secs. 5, 10, 45 Stat. 449, 1224, secs. 4, 2, 48 Stat. 402, as amended, 451, 1270 sec. 4, 76 Stat. 654; 5 U.S.C. 301, 16 U.S.C. 685, 725, 690d, 715i, 664, 718d, 43 U.S.C. 315a, 16 U.S.C. 460k; sec. 2, 80 Stat. 926; 16 U.S.C. 668bb.)

Dated: August 20, 1979.

Rolf H. Kraft,

Refuge Manager, Lacreek National Wildlife Refuge, Martin, South Dakota.

[FR Doc. 79-27034 Filed 8-29-79; 8:45 am]

BILLING CODE 4310-55-M

Proposed Rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

COST ACCOUNTING STANDARDS BOARD

[4 CFR Parts 403, 410, and 422]

Promulgation of Standards; Public Meeting

AGENCY: Cost Accounting Standards Board.

ACTION: Notice of public meeting.

SUMMARY: This notice is issued in furtherance of the decision of the Cost Accounting Standards Board to invite the public to observe meetings at which the Board considers the merits of Standards, rules and regulations, including modifications, which are proposed for final promulgation. The Board will consider a proposal to promulgate a Cost Accounting Standard on "Accounting for Independent Research and Development Costs and Bid and Proposal Costs." The Standard to be considered is based on the proposed Standard on this subject published for comment in the Federal Register on May 25, 1979, (44 FR 30347) and on the response to that publication. The meeting will be open to the public.

DATE: 2:30 p.m., September 14, 1979.

ADDRESS: General Accounting Office, Room 7315, 441 G Street, NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Arthur Schoenhaut, Executive Secretary, 202-275-6111.

Arthur Schoenhaut,
Executive Secretary.

[FR Doc. 79-27014 Filed 8-29-79; 8:45 am]

BILLING CODE 1620-01-M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[9 CFR Part 202]

Proposed Revocation of Rules of Practice Applicable to Rate Proceedings

AGENCY: Packers and Stockyards,

Agricultural Marketing Service, U.S. Department of Agriculture.

ACTION: Proposed Amendment.

SUMMARY: This proposed rule revokes the rules of practice governing proceedings under the Packers and Stockyards Act (9 CFR, Part 202) which apply to rate proceedings.

DATE: Comments must be received on or before October 29, 1979.

ADDRESS: Send comments to Hearing Clerk, United States Department of Agriculture, Washington, D.C. 20250. All comments received may be reviewed in the Hearing Clerk's office, Room 1077, South Agriculture Building, 14th and Independence Avenue SW., Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Jack W. Brinckmeyer, Livestock Marketing Division, Agricultural Marketing Service, USDA, Washington, D.C. 20250, 202-447-4366.

SUPPLEMENTARY INFORMATION: On February 1, 1977, rules of practice governing formal adjudicatory proceedings (7 CFR 1.130 *et seq.*) superseded the rules of practice applicable to disciplinary proceedings under the Packers and Stockyards Act. The rules of practice currently applicable to rate proceedings should be revoked because they incorporate by reference certain sections of old rules applicable to disciplinary proceedings which have been superseded.

In October 1978 the Department's control of rates and charges at posted stockyards was reduced to the point that it is unlikely a rate proceeding will be instituted in the immediate future. Therefore, issuance of new rules at this time would be inappropriate. If, however, in the future it becomes necessary to institute a rate proceeding, rules will be adopted at that time.

§§ 202.1-202.38 and 202.60 [Revoked]

Accordingly, it is proposed to amend Title 9, Code of Federal Regulations by revoking § 202.1 through 202.38 inclusive, and § 202.60. (See 407, 42 Stat. 169, as amended, 72 Stat. 1750, 77 Stat. 79, and 90 Stat. 1252.3; (7 U.S.C. 228)).

This proposal has been reviewed under the USDA criteria established to implement Executive Order 12044, "Improving Government Regulations." A determination has been made that this action should not be classified "significant" under those criteria. A

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Thursday, August 30, 1979

Draft Impact Analysis has been prepared and is available from: Jack, W. Brinckmeyer, Livestock Marketing Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, Phone: 202-447-4366.

Done at Washington, D.C., August 24, 1979.

Chas. B. Jennings,

Deputy Administrator, Packers and Stockyards-AMS.

[FR Doc. 79-27039 Filed 8-29-79; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[10 CFR Part 212]

[Docket No. ERA-R-79-42]

Mandatory Petroleum Price Regulations; Refiner Investment Incentives

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of inquiry and of public hearings on requests for rulemaking.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives notice of a public hearing and solicits comments regarding requests by certain refiners for a rulemaking regarding refiner investment incentives. These refiners propose that the refiner price rule be amended to permit refiners to recoup as a nonproduct cost increase an annual rate of return on new investments designed to increase refinery capacity. DOE specifically invites comments and data on the need for an investment incentive and on several unresolved substantive issues regarding any proposed amendments. DOE will consider the information produced in response to this notice in determining whether it should issue a notice of proposed rulemaking.

The purpose of any such proposed rulemaking would be to create an economic incentive for refiners to increase and upgrade refinery capacity.

DATES: Comments by October 26, 1979, 4:30 p.m. Requests to speak by September 24, 1979, 4:30 p.m. Hearing Dates: New York hearing, October 2, 1979, 9:30 a.m.; Houston hearing, October 4, 1979, 9:30 a.m.

ADDRESSES: All comments to Public Hearing Management; Docket No. ERA-

R-79-42, Department of Energy, Room 2313, 2000 "M" Street, N.W., Washington, D.C. 20461. Requests to speak at New York hearing to Department of Energy, Attn: Eugene Hennessy, 26 Federal Plaza, NY, NY 10012. Requests to speak at Houston hearing to Department of Energy, 2626 West Mockingbird Lane, P.O. Box 352228, Attn: Mac L. Lacefield, Dallas, Texas 75235.

HEARING LOCATIONS:

New York: Federal Building, 26 Federal Plaza, Room 305C, New York, New York 10007.

Houston: Allen Park Inn, 2121 Allen Parkway, Houston, Texas 77019.

FOR FURTHER INFORMATION:

Robert C. Gillette (Hearing Procedures), Economic Regulatory Administration, Room 2222-A, 2000 M Street, N.W., Washington, D.C. 20461, (202) 254-5201.

William L. Webb (Office of Public Information), Economic Regulatory Administration, Room B-110, 2000 M Street, N.W., Washington, D.C. 20461, (202) 634-2170.

Ed Mampe or Chuck Boehl (Regulations and Emergency Planning), Economic Regulatory Administration, Room 2304, 2000 M Street, N.W., Washington, D.C. 20461, (202) 254-7200.

William Mayo Lee (Office of General Counsel), Department of Energy Room 6A-127, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 252-6754.

SUPPLEMENTARY INFORMATION:

- I. Proposed Amendment
- II. Comments Requested
- III. Written Comments and Public Hearing Procedures

I. Proposed Amendment

The DOE and its predecessor agencies have, since 1973, regulated the prices which refiners may charge for controlled products under a scheme which generally limits the refiner's nominal cents per gallon markup while allowing the pass-through of many increased costs. This mode of regulation has been criticized for failing to address adequately the effects of diminishing rates of returns over time on new refinery investments, given their higher costs and in the absence of significant increases in productivity.

Several refiners have requested DOE to amend the refiner price rules to permit refiners to recoup as an increased cost a return (at some specified rate) on new equity investments designed to increase or upgrade refinery capacity. In response to these requests, DOE is issuing this notice of inquiry to allow refiners and the general public the opportunity to

present to DOE arguments and information on whether such an amendment to the price rules is appropriate and necessary and to offer ideas and suggestions regarding the substantive provisions of any proposed amendment DOE might issue.

In general, it is DOE's policy that the price regulations provide reasonable incentives to refiners to make the most efficient possible use of crude oil. Currently the refiner price regulations provide various mechanisms for the recovery of certain investment costs in order to encourage refiners to install equipment to increase the production of light products. For example, the capital costs of new refining capacity can be depreciated, and those depreciation costs can be passed through in the form of higher product prices. In addition, the cost of borrowed capital, insofar as it is reflected in the interest paid on such borrowings, may be passed through. In addition, certain provisions in the price rules were included in order to provide incentives for certain types of investments. For example, the so-called gasoline tilt rule, adopted March 1, 1979, provides refiners with the opportunity to pass through a greater than volumetric proportion of their costs on gasoline under a general formula that is intended to allow for full recovery of investments in expanded gasoline production facilities. An amendment is pending that would provide an incentive to increase unleaded gasoline production. The regulations do not explicitly provide, however, for the explicit pass-through in product prices of an amount which reflects a fair rate of return on equity investments or which allow refiners to take advantage of decreased crude costs because such investments allow them to process lower quality crude oil. The requests at issue in this proceeding suggest that provisions for such pass-through be included in the refiner price rule.

In general, the proposal made by the petitioners would permit refiners to recoup as a non-product cost increase an annual return (possibly expressed as a percentage rate of return) on new investments designed to increase refinery capacity. DOE invites comments on the need for such an amendment to the price rules and on the substantive provisions which should be included in a proposed amendment. DOE will issue a notice of proposed rulemaking only after the comments have been evaluated and if they indicate

a sufficient factual basis upon which to initiate a formal rulemaking on this subject.

II. Comments Requested

DOE requests comments in two general areas: (1) the economic justification for adopting any amendment permitting refiners to recoup as an increased nonproduct cost a rate of return on investment; and, (2) the substantive provisions of any amendment DOE may propose. All comments should to the maximum possible extent be documented with economic data.

A. Economic Justification

1. Would the adoption of any amendment similar to the one suggested today encourage new investments in increased refinery capacity? If so, describe the investments and the rate of return needed to make such investments. Would such investments be made irrespective of the adoption of any amendments to the rules? Would the adoption of the proposed amendment result in greater incentives to upgrade facilities to a) desulfurize crude oil; b) produce greater quantities of light clean products from given quantities of crude oil; c) provide greater incentives to increase unleaded production or upgrade unleaded gasoline octanes?

2. Did the gasoline tilt rule adopted by DOE on March 1, 1979 (44 F.R. 15600, March 14, 1979) increase refiners' incentives to increase and upgrade refining capacity? Describe any refinery expansions or upgrading planned that would not likely have been approved in the absence of the tilt regulation. Why is the tilt regulation alone adequate or not adequate, as the case may be, to provide incentives to refiners to increase or upgrade their refining capacity? If we were to adopt the proposal suggested by some refiners, would there be an overlap with the profit incentives created by the tilt?

3. Describe all decisions made by your company since January 1, 1979 to increase or upgrade refinery capacity. During 1978? What is the estimated capital cost of each?

4. Does your company anticipate during the next twelve months reviewing and deciding upon future refinery expansions or upgrading? If so, describe the potential investments and the costs.

5. Describe and give examples of the various sources of investment capital used by your firm to increase or upgrade

refinery capacity. What factors determine the manner in which you raise funds? Would they be affected by a rulemaking explicitly allowing a return on investment capital?

6. Will a return on investment in new refinery capacity unfairly discriminate against some refiners?

7. What would be the amount of increased cost you would have incurred and what portion, if any, of this amount could you have recouped if the suggested amendment had been in effect during the last 6 months? During 1978?

8. What do you anticipate will be the effect of the suggested amendment on retail gasoline prices? Other regulated product prices? On the prices of unregulated products?

9. DOE has estimated that each one cent increase in the price of gasoline reduces consumption by 20,000 barrels per day. Recent large increases in petroleum product prices may therefore have reduced consumption of gasoline by up to 500,000 barrels per day.

(1) What is the extent of the reduction in consumption attributable to recent large product price increases? What is your estimate of short-term elasticity?

(2) Do these reductions in consumption obviate the need for the investment incentives? How might they affect the need for any investment incentives?

B. Substantive Provisions

1. What rate of return on investment should DOE propose?

(a) Should the return be based on the industry average return on equity or on company specific rates of return? Does it make more sense to base any return on refining investments, as opposed to the return on all investments (production, marketing, distribution, and non-petroleum activities)? What is the historic average return of the refining segment of the petroleum industry?

(b) Should the return vary depending on the type and cost of the investment? If so, how and why?

(c) Should the return vary depending on prevailing conditions in the money market? For example, should it change with the average bank prime lending rate?

(d) Should the return be computed on a pre-tax or a post-tax basis? If the incentive were computed on a pre-tax basis, what would the after-tax benefit be for your company?

2. How should a proposed regulation describe the types of investments which would qualify as investments to increase or upgrade refinery capacity? Which investments should be disallowed? Should it be necessary for refiners to demonstrate the need for

such investments prior to allowing them to pass through such increased costs?

3. What investments should be considered "new" investments? Those made after January 1, 1979? Since August 1, 1979?

4. When should an investment be considered to be made? When construction or installation of the project is begun or completed? As funds are expended?

5. Should any amendments be made to the current nonproduct cost increase categories (such as depreciation and interest) to prevent firms from recovering a cost increase more than once?

6. For how long a time period should a return be permitted on a particular investment? Should any allowable return vary with the type of product being produced because of such investment, i.e., a lower cost passthrough for investments to produce uncontrolled products (e.g., residual fuel oil) and a higher cost passthrough for investments to produce controlled products (e.g., gasoline)? Does this approach make sense given the fact refiners can obtain a return on investments to produce decontrolled products? How would such a mechanism work?

7. Comment on any accounting problems you might have in calculating an increased cost based on rate of return. Should DOE establish standard accounting procedures to be used by all firms in calculating rates of return? If so, what method would you endorse?

8. As an alternative to allowing refiners a return on new fixed capital investments, would it make better sense to fund such increased costs out of the entitlements program? Would such an approach result in additional investments? Should such a mechanism be limited to needed investments, such as unleaded gasoline capacity additions? How might such a mechanism work?

9. In the alternative or in conjunction with this proposal, where such investments allow use of a lower quality, lower priced crude oil (while still producing the same product slate), should refiners be able to retain all or part of the reduced crude oil acquisition cost? How would such a mechanism work?

10. Should any additional allowable nonproduct cost increase as a result of such a regulatory change be passed through to product prices only after all current month's costs are passed through? Should they be non-bankable? Alternatively, should a time limit be imposed on the recoupment of such increased costs?

11. Should this proposal be limited to petroleum refiners or should it be extended to natural gas processors? Specifically, do the current natural gas price regulations provide adequate incentives for modernization and upgrading of existing plants? Does the absence of a return on gas plant investment inhibit investment in gas plant facilities where the percentage of NGL's is small?

12. To what extent has the refinery fuel incentive encouraged investment for fuel economy? Has this incentive been gradually diminished by higher fuel costs? Should the refinery fuel incentive be deleted if a return on investment is adopted? If it is not adopted, should the base period for refinery fuel cost calculation be updated? What new investments would be likely if this were done and what fuel economy would be achieved?

13. If the refiners' proposal or an alternative is adopted, what other changes in the price rules would be appropriate? If no specific incentive change is adopted, what changes in the price rules would be appropriate with or without reference to incentive mechanisms?

III. Written Comment and Public Hearing Procedures

A. Written Comments

You are invited to participate in this Notice of Inquiry by submitting data, views or arguments with respect to the issues set forth in this Notice. Comments should be identified on the outside envelope and on documents submitted with the designation "Refiner Investment Incentives," Docket No. ERA-R-79-42. Ten copies should be submitted. All comments received will be available for public inspection in the DOE Freedom of Information Office, Room GA-145, James Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. Comments should be received by October 26, 1979, 4:30 p.m. in order to be considered.

Confidential information and data should be designated as "confidential." DOE retains the authority to determine if information and data submitted is of a confidential nature and to treat it accordingly.

B. Public Hearing

1. *Procedure for Requesting Participation.* The times and places for the hearings are indicated in the "Dates" and "Addresses" section of this Notice. If necessary to present all testimony, hearings will be continued at 9:30 a.m.

on the next business day following the first day of the hearing.

You may make a written request for an opportunity to make an oral presentation at the hearings. The requests should contain a phone number where you may be contacted through the day before the hearing.

We will notify each person selected to be heard before 4:30 p.m., September 26, 1979. Persons scheduled to speak at the hearings must provide 100 copies of their statement to the hearing location by 9:30 a.m. on the date of the hearing.

2. Conduct of the Hearing. We reserve the right to select the persons to be heard at the hearing, to schedule their respective presentations, and to establish the procedures governing the conduct of the hearing. The length of each presentation may be limited, based on the number of persons requesting to be heard.

A DOE official will be designated to preside at the hearings, which will not be judicial in nature. Questions may be asked only by those conducting the hearing. At the conclusion of all initial oral statements, each person who has made an oral statement will be given the opportunity to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

You may submit questions to be asked by the presiding officer of any person making a statement at the hearings. Such questions should be submitted to the address indicated above for requests to speak, for the location concerned, before 4:30 p.m. on the day prior to the hearing. If at the hearing you decide that you would like to ask a question of a witness, you may submit the question, in writing, to the presiding officer. In either case the presiding officer will determine whether the time limitations permit it to be presented for a response.

Any further procedural rules needed for the proper conduct of a hearing will be announced by the presiding officers.

Transcripts of the hearings will be made, and the entire record of the hearings, including the transcripts, will be retained by the DOE and made available for inspection at the Freedom of Information Office, Room GA-145, James Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. Any person may purchase a copy of the transcript from the reporter.

In the event that it becomes necessary for us to cancel a hearing, we will make every effort to publish advance notice in the *Federal Register* of such cancellation. Moreover, we will give

actual notice to all persons scheduled to testify at the hearings. However, it is not possible to give actual notice of cancellations or changes to persons not identified to us as participants. Accordingly, persons desiring to attend a hearing are advised to contact DOE on the last working day preceding the date of the hearing to confirm that it will be held as scheduled.

(Emergency Petroleum Allocation Act of 1973, 15 U.S.C. § 751 *et seq.*, Pub. L. 93-159, as amended, Pub. L. 93-511, Pub. L. 94-99, Pub. L. 94-133, Pub. L. 94-163, and Pub. L. 94-385; Federal Energy Administration Act of 1974, 15 U.S.C. § 787 *et seq.*, Pub. L. 93-275, as amended Pub. L. 94-332, Pub. L. 94-385, Pub. L. 95-70, and Pub. L. 95-91; Energy Policy and Conservation Act, 42 U.S.C. § 6201 *et seq.*, Pub. L. 94-163, as amended, Pub. L. 94-385, and Pub. L. 95-70; Department of Energy Organization Act, 42 U.S.C. § 7101 *et seq.*, Pub. L. 95-91; E.O. 11790, 39 FR 23185; E.O. 12009, 42 FR 46267.)

Issued in Washington, D.C., August 23, 1979.

David J. Bardin,
Administrator, Economic Regulatory
Administration.

[FR Doc. 79-27060 Filed 8-29-79; 8:45 am]
BILLING CODE 6450-01-M

Office of Leasing Policy Development

[10 CFR Parts 212, 375 and 391]

Leasing; Cancellation of Regional Hearing on Proposed Rulemaking Regarding the Acquisition and Disposition of Federal Royalty Oil

AGENCY: Department of Energy.

ACTION: Cancellation of Regional Hearing in New Orleans, Louisiana on September 5, 1979.

SUMMARY: On July 28, 1979, the Department of Energy (DOE) proposed regulations entitled "Proposed Rulemaking and Public Hearing Regarding the Acquisition and Disposition of Federal Royalty Oil" (44 FR 45900, August 3, 1979). On August 1, 1979, a supplemental notice was also issued (44 FR at 45909, August 3, 1979) which announced proposed regional hearings in Denver, Colorado on August 30, 1979 and New Orleans, Louisiana on September 5, 1979. Requests to speak at these regional hearings were due by August 22, 1979.

Due to a lack of interest in speaking at the regional hearing in New Orleans, DOE has decided that the September 5 hearing shall be cancelled. The hearing in Denver on August 30 and the Washington, D.C. hearing on September 12 will be held, as scheduled, at the

times and locations given in the *Federal Register* notice of August 3.

Issued in Washington, D.C. on August 4, 1979.

George S. McIsaac,
Assistant Secretary, Resource Applications.
[FR Doc. 79-27060 Filed 8-29-79; 8:45 am]
BILLING CODE 6450-01-M

NATIONAL CREDIT UNION ADMINISTRATION

[12 CFR Part 701]

Proposed Rule—Agency Relationship With Approved Mortgage Lender

AGENCY: National Credit Union Administration.

ACTION: Proposed rule.

SUMMARY: This proposed rule would permit a Federal credit union to act as an agent for a mortgage lender, approved by the National Credit Union Administration, granting long term real estate loans to members of the Federal credit union. The rule is necessary so that a Federal credit union which is unable to meet its members' demand for mortgage loans will nonetheless be able to provide this important service to its membership. Under the proposed rule, members would be able to obtain loans through their Federal credit union on the terms and conditions that would apply if the Federal credit union granted the loans.

DATE: Comments must be received on or before November 7, 1979.

ADDRESS: Send comments to: Robert S. Monheit, Senior Attorney/Regulatory Development Coordinator, Office of General Counsel, National Credit Union Administration, 2025 M Street, NW, Washington, DC 20456.

FOR FURTHER INFORMATION CONTACT: Robert M. Fenner, Assistant General Counsel, Edward J. Dobranski, Senior Attorney, or John L. Culhane, Jr., Attorney-Advisor, Office of General Counsel, at the above address, telephone: (202) 632-4870.

SUPPLEMENTARY INFORMATION:

Background

Prior to the April 19, 1977 amendments to the Federal Credit Union Act (Pub. L. 95-22, 91 Stat. 49) Federal credit unions were only authorized to grant loans with maturities of 10 years or less. This made it difficult for Federal credit unions to grant conventional mortgage loans. Pub. L. 95-22 amended the Act to permit Federal credit unions to grant residential real estate loans with maturities of 30 years or less. This power was to be implemented by regulations adopted by

NUCA. Congress indicated that NCUA should use its discretion in determining how Federal credit unions should provide this service without adversely affecting their primary function of providing low cost consumer loans to their members. See H.R. Rep. No. 23, 95th Cong., 1st Sess. 9 (1977). In adopting Public Law 95-22 Congress also intended Federal credit unions to take greater advantage of secondary mortgage market programs, such as those operated by state and Federal housing authorities. See H.R. Rep. No. 23, 95th Cong., 1st Sess. 12, 16-17 (1977).

The Administration has monitored FCU mortgage lending since the adoption of § 701.21-6 of its Rules and Regulations (12 CFR 701.21-6), which implemented the power to grant 30-year mortgage loans. It has become apparent that the vast majority of Federal credit unions are not able to provide this service to their members because of insufficient funds and due to their inability to participate effectively in the secondary mortgage market.

Since § 701.21-6 was adopted, different organizations have requested that NCUA permit Federal credit unions to act as agents for other lenders granting long term real estate loans to credit union members. These requests came from the CUNA Mortgage Corporation, state housing authorities (many of which traditionally operate in this manner), and a Pension Fund of a Federal credit union's sponsor.

Consequently, the Administration approved, as an experiment, the participation of a Federal credit union as an agent for the Pension Fund granting long term real estate loans to the members of the Credit Union. The Administration now proposes to permit Federal credit unions to act as agents for mortgage lenders. This will allow Federal Credit unions to channel needed capital to housing markets without affecting either their liquidity or their ability to provide low cost consumer loans to their members. It will also allow Federal credit unions and their members to take greater advantage of programs operated by state and Federal housing authorities.

Scope

The proposed regulation would only permit a Federal credit union to contract to act as an agent for a lender who grants "long term real estate loans" to the members of the Federal credit union. A Federal credit union could not act as an agent for a lender unless the provisions of this regulation are complied with. Thus, for example, a Federal credit union could not act as an

agent for a lender with respect to other loans, such as automobile loans.

A "long term real estate loan" is basically a loan that a Federal credit union could grant under § 701.21-6 of NCUA's rules and regulations. It is defined as a loan granted to finance or refinance the acquisition of a one-to-four family dwelling for the principal residence of the borrower, the sales price of which is not more than 150 percent of the median sales price of residential real property situated in the geographical area in which the property is located. By definition, a "long term real estate loan" must also be secured by a first lien upon such dwelling, and it must have a maturity in excess of twelve but not exceeding thirty years.

As proposed, this regulation would apply whenever a Federal credit union performs any of the following acts on behalf of a mortgage lender granting long term real estate loans to the FCU's members: (1) Accepting and forwarding loan applications from its members; (2) processing loan applications from its members and recommending either granting or denying loans or offering loans on different terms and conditions than those requested; (3) providing a site for closings; (4) distributing the loan proceeds provided by the mortgage lender; and (5) servicing long term real estate loans granted by the mortgage lender.

Approved Mortgage Lender

Any institution, if authorized to grant long term real estate loans on the terms and conditions that apply when Federal credit unions make such loans, may apply to the Administration for designation as an approved mortgage lender. In recognition of the fact that their programs are designed to serve special social policies, approval is granted automatically to state and Federal housing authorities. The proposed rule would not require them to file applications with the Administration, however, their programs would still have to comply with this regulation as a condition of Federal credit union participation.

Under this proposed rule, if approved, the mortgage lender would agree: (1) That certain terms would be in the contract between any Federal credit union agent and the mortgage lender; (2) that no officials or employees of the Federal credit union agent would have any financial interest in or receive monies from the mortgage lender; (3) that the mortgage lender would be subject to a limited examination by NCUA (except that this requirement would not apply to state and Federal Housing authorities); (4) that it would

pay interest on escrow accounts at a rate at least equal to that the Federal credit union would pay; and (5) that a disclaimer would be used in the event the lender advertises that it is an "approved mortgage lender."

The rule requires that specific terms be part of the contract between a Federal credit union and the mortgage lender. One set of terms is designed to assure that the loan process will resemble as closely as possible that used by the Federal credit union, as that process provides substantial protections for the borrower. These terms include the prohibition on membership fees (§ 701.21-6A(c)(1)(A)), the requirement that the credit union follow standard procedures for reviewing loan applications (§ 701.21-6A(c)(1)(B)), the requirement that transactions be kept confidential (§ 701.21-6A(c)(1)(C)), and the requirement that the mortgage lender be subject to the same proscriptions against discriminating against any class of members that apply to the Federal credit union (§ 701.21-6A(c)(1)(D)).

The confidentiality provision warrants further explanation. The requirement that the officers, directors, committee members, and employees of the mortgage lender keep all transactions confidential is based on Article XIX, Section 2 of the standard Federal Credit Union Bylaws. This bylaw requires that information be kept confidential, except to the extent deemed necessary in connection with the making of loans and the collection of those loans. Thus, this requirement would prohibit the mortgage lender from releasing information regarding accounts or from making lists of borrowers available to third parties or to other lending divisions of the mortgage lender. (A standard amendment to this bylaw which permits the release of information to a credit reporting agency is available.)

A second set of terms in the contract between the mortgage lender and the Federal credit union will assure that the Federal credit union does not exceed the scope of its incidental powers in participating as an agent for a mortgage lender. These terms include the provision limiting reimbursement by the mortgage lender to actual costs incurred by the credit union (§ 701.21-6A(c)(1)(E)), the requirement that the loans be made on the same terms and conditions that would apply if the Federal credit union granted the loans (§ 701.21-6A(c)(1)(F)), and the restrictions on loans which the Federal credit union may service (§ 701.21-6A(c)(1)(G)).

The additional term is essentially administrative. The proposed requirement that records be retrievable by the name of the Federal credit union agent should enhance the accessibility of the records in the event the Federal credit union or NCUA needs to obtain copies of them.

The Administration has proposed to reserve the right to terminate the designation of a lender as an approved mortgage lender if, in operating under this regulation, the mortgage lender or its officials act in such a fashion as would warrant administrative action against a Federal credit union. Consequently, under this proposed rule the Administration could terminate the designation of a lender as an approved mortgage lender: (1) If the program is operated in an unsafe and unsound manner; (2) if the mortgage lender, when requested to do so by NCUA, fails to remove or suspend any official whose conduct would warrant removal or suspension if the official were an official of a Federal credit union; (3) if the mortgage lender violates any conditions of its approval; or (4) if it violates this regulation.

FCU Agent

The proposed regulation requires that the board of directors specifically determine that the credit union will enter into an agency relationship with another lender. The Administration would not review this decision, as it believes that this is a matter for the board's discretion. It should be noted, however, that NCUA does not view the choice to enter into an agency relationship with another mortgage lender as excluding a Federal credit union from granting its own long term real estate loans.

Although NCUA does not intend to review the decision of a credit union's board of directors to enter into an agency relationship with another lender, the proposed regulation would require the credit union to notify the appropriate Regional Director before the agency relationship begins. This will permit NCUA to monitor those Federal credit unions participating as agents for other lenders.

This notice is also designed to assure that the board of directors has considered certain significant factors. Those factors include the designation of the lender as an approved mortgage lender, the existence of appropriate surety bond coverage, the payment of interest on escrow accounts held by the credit union, and compliance with applicable consumer laws.

Loan Terms

Loans granted by a mortgage lender to members of a Federal credit union agent must be made on the terms and conditions that would apply if the Federal credit union granted the loan. Consequently, the significant provisions of § 701.21-6 (12 CFR 701.21-6), the regulation governing long term real estate loans granted by Federal credit unions, will apply. In addition, NCUA's non-discrimination regulation, Section 701.31 (12 CFR 701.31), would apply, as would certain provisions of NCUA's flood insurance regulation, § 760.2 and Appendix A thereto (12 CFR 760.2, Appendix A).

Included in the terms and conditions are those terms dealing with late charges. Under the proposed rule, the mortgage lender will be responsible for complying with the provisions of Article XII, Section 8 of the Federal credit union's bylaws. Federal credit unions are therefore advised to adopt the standard bylaw amendment to Article XII, Section 8 so that the provisions of the bylaw will not conflict with the provisions of the FNMA/FHLMC Uniform Instrument, which would have to be used by the mortgage lender under § 701.21-6A(g)(1) and 701.21-6(b)(7).

The standard amendment should be adopted because under Article XII, Section 8 of the standard bylaws, the late charge would be calculated as a percentage of the interest due. Under the provisions of the Uniform Instrument, the late charge would be calculated as a percentage of the overdue payment, which would include principal and interest. Consequently, if the Federal credit union agent operates under the standard bylaw provision, the approved mortgage lender could not assess a late charge in accordance with the Uniform Instrument. However, the standard bylaw amendment to Article XII, Section 8 permits a Federal credit union to assess a late charge not to exceed 5 percent of the principal and interest payment which is late. Thus, if it is adopted by the Federal credit union agent, the mortgage lender could assess a late charge.

Accordingly, NCUA proposes to amend its rules and regulations by adopting a new § 701.21-6A as set forth below.

Lawrence Connell,

Chairman.

August 23, 1979.

(Sec. 107(5)(A)(i), (15) (12 U.S.C. 1757(5)(A)(i), (15)); sec. 120(a) (12 U.S.C. 1760(a)); sec. 209(a)(11) (12 U.S.C. 1789(a)(11))).

§ 701.21-6A Agency relationship with approved mortgage lender.

(a) This regulation permits a Federal credit union to enter into an agency relationship with a mortgage lender, approved by the Administration, granting long term real estate loans to members of the Federal credit union.

(b) For purposes of this section:

(1) "Federal Credit Union Agent" means a Federal credit union that has entered into an agency relationship with an approved mortgage lender;

(2) "Approved Mortgage Lender" means a bank, savings and loan association, Federal credit union, state chartered credit union, private mortgage corporation, pension fund, or other institution, which applies to and is approved by the Administration as an institution with which a Federal credit union agent may enter into an agency relationship. In addition, state and Federal housing authorities whose programs are operated in accordance with this regulation are deemed to be approved mortgage lenders and therefore do not have to file written applications with the Administration;

(3) "Agency Relationship" means the relationship between a Federal credit union agent and an approved mortgage lender where, by contract, the approved mortgage lender agrees to grant long term real estate loans to creditworthy borrowers/members of the Federal credit union agent, and the Federal credit union agent agrees to perform any of the following acts on behalf of the approved mortgage lender: To accept and forward loan applications from its members, to process loan applications from its members and to recommend either granting or denying the loans or offering loans on different terms and conditions than those requested, to provide a site for closings, to distribute the loan proceeds provided by the approved mortgage lender, and to service long term real estate loans granted by the approved mortgage lender; and

(4) "Long Term Real Estate Loan" or "Loan" means a loan granted to finance or refinance the acquisition of a one-to-four family dwelling for the principal residence of the borrower, the sales price of which is not more than 150 percent of the median sales price of residential real property situated in the geographical area in which the property is located, which is secured by a first lien upon such dwelling, and which has a maturity in excess of twelve but not exceeding thirty years.

(c) Any institution authorized to grant long term real estate loans on the terms and conditions specified in paragraph (g) of this section may apply to the

Administration for designation as an approved mortgage lender. The application shall consist of a written agreement:

(1) That the contract to be entered into between any Federal credit union agent and the mortgage lender will explicitly provide:

(i) That no membership fee will be charged by the mortgage lender to any prospective borrower/member of any Federal credit union agent as a condition of eligibility for a loan;

(ii) That a Federal credit union processing loan applications and recommending either granting or denying the loan or offering a loan on different terms and conditions than those requested shall follow the procedures of Article IX, Section 4 of its bylaws, as though the loan applicant sought a loan from the Federal credit union, i.e., that a loan officer may recommend approval of any application to the mortgage lender but may not recommend disapproval, and that the credit committee will act upon all applications or requests on which the loan officer has not recommended approval;

(iii) That the mortgage lender will comply with Article XIX, Section 2 of the bylaws of any Federal credit union agent, i.e., that the officers, directors, members of committees, and employees of the mortgage lender shall hold in confidence all transactions between the mortgage lender and borrower/members of any Federal credit union agent, except to the extent deemed necessary in connection with the making of loans and the collection thereof;

(iv) That in granting loans to borrowers/members of any Federal credit union agent, the mortgage lender will be subject to the proscriptions covering discrimination against any class of members of the Federal credit union agent, which would otherwise apply if the loan were granted by the Federal credit union agent;

(v) That any Federal credit union agent will be reimbursed only for the actual costs of any actions performed on behalf of the mortgage lender, which costs will be estimated and specified in the contract. Reimbursement may not be based on a percentage of the amount of any loan;

(vi) That all loans granted to borrowers/members of any Federal credit union agent shall comply with the requirements of paragraph (g) of this section;

(vii) That the Federal credit union agent shall not service any loan granted by the mortgage lender if the Federal credit union agent recommended denying the loan and that the Federal

credit union agent shall not service any loan if the terms and conditions of the loan are different from those recommended by the Federal credit union agent; and

(viii) That records maintained by the mortgage lender with respect to loans granted to members of any Federal credit union agent will be accessible by the name of the Federal credit union agent;

(c) That no official or employee of any Federal credit union agent shall have any direct or indirect pecuniary interest in the approved mortgage lender and no official of a Federal credit union agent shall receive any salary, fee, or other compensation from the mortgage lender;

(3) That the mortgage lender will be subject to examination, limited to its actions as an approved mortgage lender, by the Administration, to the extent that this requirement does not conflict with applicable Federal law (except that this requirement shall not apply to State and Federal housing authorities);

(4) That in the event any borrower/member of a Federal credit union agent is required to maintain an escrow account with an institution other than the Federal credit union agent, that account will earn either interest or dividends at a rate at least equal to the rate paid by the Federal credit union agent on a regular share account as defined in § 701.35(a)(1)(i) of the National Credit Union Administration Rules and Regulations (12 CFR 701.35(a)(1)(i)); and

(5) That any advertisement that states that the mortgage lender has been designated as an approved mortgage lender by the Administration shall also contain the following statement: "The Designation of _____ as an approved mortgage lender by the National Credit Union Administration means only that a Federal credit union may act as an agent for the mortgage lender when it is granting long term real estate loans to the Federal credit union's members. This does not indicate approval of the financial condition of the mortgage lender or of the merits of any loan from the mortgage lender."

(d) The Administration may terminate the designation of any approved mortgage lender if, in operating under this regulation, it operates in an unsafe and unsound manner; fails, when requested by NCUA, to remove or suspend any official whose conduct would warrant removal or suspension, in accordance with the provisions of the Federal Credit Union Act, if the official were an official of a Federal credit union; violates the conditions of its approval; or violates any applicable provision of this regulation. When such

designation is terminated, any Federal credit union agent shall be required to terminate the agency relationship in a manner and within a time frame appropriate to individual circumstances as determined by the Administration.

(e)(1) Requests for approval shall be submitted to the appropriate Regional Director in writing, with a copy of all necessary documents, no later than 45 days prior to the proposed implementation of approval. Any mortgage lender that proposes to enter into agency relationships with Federal credit union agents in more than one Region shall submit its request for approval in writing, with a copy of all necessary documents, to the Washington Office no later than 45 days prior to the proposed implementation of approval. In the latter case, copies of the request shall also be sent to the appropriate Regional Directors.

(2) The Regional Director, in the case of a mortgage lender that plans to enter into agency relationships with Federal credit union agents in only one Region, and the Washington Office, in the case of a mortgage lender that plans to enter into agency relationships with Federal credit union agents in more than one Region, will investigate each request and will make a recommendation as to whether it should be approved or disapproved. The request, supporting documents, and the recommendation shall be submitted to the Board, which will approve or disapprove the request. The Regional Director, or the Washington Office, as appropriate, will be informed of the Board's decision and will promptly notify the mortgage lender.

(3) An application for approval shall be acted upon by the Administration within a 45 day period that begins on the date of receipt by the Regional Office or the Washington Office, as appropriate, of the complete written record constituting the application. In the event the Administration fails to act upon the application within 45 days, the application shall be deemed to be approved. Action on any application shall be deemed to have been taken when written notice of the Board's decision is received by the applicant;

(f) A Federal credit union that plans to act as a Federal credit union agent and enter into an agency relationship with an approved mortgage lender shall submit a written notice to the Regional Director at least 45 days prior to the proposed date the agency relationship will begin. The notice shall include:

(1) An official copy of the minutes of the board of directors authorizing the Federal credit union to enter into an

agency relationship with an approved mortgage lender;

(2) A statement that the prospective mortgage lender has been designated an approved mortgage lender;

(3) A statement that the board of directors has determined that its surety bond covers its officers and employees when it is acting as an agent for an approved mortgage lender;

(4) An official copy of a board resolution acknowledging that in the event any borrower/member is required to maintain an escrow share account at the Federal credit union, the rate of interest paid on such account shall be equal to the dividend rate paid on a regular share account as defined in § 701.35(a)(1)(i) of the National Credit Union Administration Rules and Regulations (12 CFR 701.35(a)(1)(i)); and

(5) A statement that the board of directors will assure that the Federal credit union complies with all consumer laws and regulations which apply as a result of the functions it performs as an agent for the approved mortgage lender, including the Truth in Lending Act and Regulation Z, the Real Estate Settlement Procedures Act, the Equal Credit Opportunity Act and Regulation B, and § 701.31 of the National Credit Union Administration's Rules and Regulations (12 CFR 701.31).

(g) All loans granted by an approved mortgage lender to members of a Federal credit union agent shall comply with:

(1) The following provisions of the National Credit Union Administration Rules and Regulations, which would otherwise apply if the loans were granted by the Federal credit union agent: §§ 701.21-6(b)(1), (2), (3), (5), (6), (7), and (11) (12 CFR 701.21-6(b)(1), (2), (3), (5), (6), (7), and (11)), §§ 701.21-6(c)(1), (2), (3), (4), (5), and (6) (12 CFR 701.21-6(c)(1), (2), (3), (4), (5), (6)), sections 701.31(a), (b), (c) and (e) (12 CFR 701.31(a), (b), (c) and (e)), and § 760.2 and Appendix A thereto (12 CFR 760.2); and

(2) The provisions on late charges of Article XII, Section 8 of the bylaws of the Federal credit union agent, which would otherwise apply if the loans were granted by the Federal credit union agent.

[FR Doc. 79-27178 Filed 8-29-79; 8:45 am]
BILLING CODE 7535-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 79-EA-35]

Proposed Alteration of Transition Area: Binghamton, N.Y.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rule Making.

SUMMARY: This notice proposes to alter the Binghamton, N.Y., Transition Area over Broome County Airport, Binghamton, N.Y. This alteration will provide protection to aircraft executing the new VOR RWY 10 instrument approach which has been developed for the airport. An instrument approach procedure requires the alteration of controlled airspace to protect instrument aircraft utilizing the instrument approach.

DATES: Comments must be received on or before October 22, 1979.

ADDRESSES: Send comments on the proposal in triplicate to: Chief, Airspace & Procedures Branch, AEA-530, Eastern Region, Federal Aviation Administration, Federal Building, Jamaica, New York 11430. The docket may be examined at the following location: FAA, Office of Regional Counsel, AEA-7, Federal Building, J.F.K. International Airport, Jamaica, New York 11430.

FOR FURTHER INFORMATION CONTACT: Charles J. Bell, Airspace & Procedures Branch, AEA-530, Air Traffic Division, Federal Aviation Administration, Federal Building, J.F.K. International Airport, Jamaica, New York 11430, Telephone (212) 995-3391.

Comments Invited

Interested parties may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Eastern Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, J.F.K. International Airport, Jamaica, New York 11430. All communications received on or before October 22, 1979, will be considered before action is taken on the proposed amendment. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments,

in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Chief, Airspace & Procedures Branch, AEA-530, Eastern Region, Federal Aviation Administration, Federal Building, Jamaica, New York 11430, or by calling (212) 995-3391.

Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

The Proposal

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the transition area over Broome County Airport. It is proposed to add a triangular shape of airspace 6x6x10 miles, to the present northwesterly edge of the transition area.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend Section 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

§ 71.181 [Amended]

1. Amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to amend the description of the Binghamton, N.Y., 700-foot floor transition area as follows:

In the text delete, "within 2 miles each side of the Binghamton VOR 066°-246° radial extending SW from the 7-mile radius area for 8 miles from the VOR"; and substitute therefor, "within 4 miles each side of the Binghamton VOR 066°-246° radial extending SW from the 7-mile radius area for 11 miles from the Binghamton VOR."

(Section 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348(a)) and of Section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65.)

Note.—The FAA has determined that this document involves a proposed regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by interim Department of Transportation guidelines (43 FR 9582; March 8, 1978).

Issued in Jamaica, New York, on August 14, 1979.

L. J. Cardinali,

Acting Director, Eastern Region.

[FR Doc. 79-26928 Filed 8-29-79; 8:45 am]

BILLING CODE 4910-13-M

[14 CFR Part 71]

[Airspace Docket No. 79-CE-25]

Proposed Alteration Transition Area; New Madrid, Mo.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rule Making (NPRM).

SUMMARY: This notice proposes to alter the 700-foot transition area at New Madrid, Missouri, to provide additional controlled airspace for aircraft executing a new instrument approach procedure to the County Memorial Airport, New Madrid, Missouri, utilizing the Malden, Missouri VOR as a navigational aid.

DATES: Comments must be received on or before October 4, 1979.

ADDRESSES: Send comments on the proposal to: Federal Aviation Administration, Chief, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE-530, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374-3408.

The official docket may be examined at the Office of the Regional Counsel, Central Region, Federal Aviation Administration, Room 1558, 601 East 12th Street, Kansas City, Missouri.

An informal docket may be examined at the Office of the Chief, Operations, Procedures and Airspace Branch, Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Dwaine E. Hiland, Airspace Specialist, Operations, Procedures, and Airspace Branch, Air Traffic Division, ACE-537, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374-3408.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rule making by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number, and be submitted in duplicate to the Operations, Procedures and Airspace Branch, Air Traffic Division, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106. All communications received on or before October 4, 1979, will be

considered before action is taken on the proposed amendment. The proposal contained in this Notice may be changed in light of the comments received. All comments received will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Operations, Procedures and Airspace Branch, 601 East 12th Street, Kansas City, Missouri 64106 or by calling (816) 374-3408. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for further NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to Subpart G, § 71.181 of the Federal Aviation Regulations (14 CFR 71.181) by altering the 700-foot transition area at New Madrid, Missouri. To enhance airport usage, an additional instrument approach procedure to the County Memorial Airport, New Madrid, Missouri, has been established utilizing the Malden, Missouri VOR as a navigational aid. The establishment of a new instrument approach procedure based on these facilities entails alteration of the transition area at and above 700 feet above ground level (AGL) within which aircraft will be provided additional controlled airspace protection. The intended effect of this action is to ensure segregation of aircraft using the new approach procedure under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR).

Accordingly, Federal Aviation Administration proposes to amend Subpart G, § 71.181 of the Federal Aviation Regulations (14 CFR 71.181) as republished on January 2, 1979, (44 FR 442) by altering the following transition area:

New Madrid, Missouri

That airspace extending upward from 700 feet above the surface within a five mile radius of County Memorial Airport (latitude 36°32'10" N., longitude 89°35'50" W.); within 2.5 miles each side of the 360° bearing from Runway 18, extending from the five mile radius area to six miles north of the airport; within 3.0 miles each side of the 008° bearing from the New Madrid NDB (latitude 36°32'11" N., longitude 89°36'06" W.) extending from the five mile radius area

to 8.5 miles north of the airport; and within two miles each side of the Malden, Missouri, VOR 94° radial, extending from the five mile radius area to 8 miles east of the VOR, excluding the portion which overlies the Malden, Missouri transition area.

(Sec. 307(a), Federal Aviation Act of 1958 as amended (49 U.S.C. 1348); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); Sec. 11.65 of the Federal Aviation Regulations (14 CFR 11.65).)

Note.—The FAA has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Kansas City, Missouri, on August 17, 1979.

John E. Shaw,

Acting Director, Central Region.

[FR Doc. 79-26923 Filed 8-29-79; 8:45 am]

BILLING CODE 4910-13-M

[14 CFR Part 71]

[Airspace Docket No. 79-EA-45]

Proposed Alteration of Transition Area: Pittsburgh, Pa.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rule Making.

SUMMARY: This notice proposes to alter the Pittsburgh, Pa., Transition Area over Greater Pittsburgh International Airport, Pittsburgh, Pa. This alteration will provide protection to aircraft executing the proposed amended ILS Runway (10L) instrument approach which has been developed for the airport. An instrument approach procedure requires the designation of controlled airspace to protect instrument aircraft utilizing the instrument approach.

DATES: Comments must be received on or before October 22, 1979.

ADDRESSES: Send comments on the proposal in triplicate to: Chief, Airspace & Procedures Branch, AEA-530, Eastern Region, Federal Aviation Administration, Federal Building, Jamaica, New York 11430. The docket may be examined at the following location: FAA, Office of Regional Counsel, AEA-7, Federal Building, J.F.K. International Airport, Jamaica, New York 11430.

FOR FURTHER INFORMATION CONTACT: Charles J. Bell, Airspace & Procedures Branch, AEA-530, Air Traffic Division, Federal Aviation Administration, Federal Building, J.F.K. International Airport, Jamaica, New York 11430, Telephone (212) 995-3391

Comments Invited

Interested parties may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Eastern Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, J.F.K. International Airport, Jamaica, New York 11430. All communications received on or before October 22, 1979, will be considered before action is taken on the proposed amendment. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Availability of NPRM

1. Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Chief, Airspace & Procedures Branch, AEA-530, Eastern Region, Federal Aviation Administration, Federal Building, Jamaica, New York 11430, or by calling (212) 995-3391.

Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

The Proposal

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the Pittsburgh, Pa., Transition Area. The airport is at present overlaid by a 700-foot area to which will be added a portion of airspace approximately one mile deep and five miles wide at the western side of the area.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

§ 71.181 [Amended]

1. Amend § 71.181 of the Federal Aviation Regulations so as to amend the description of the Pittsburgh, Pennsylvania 700-foot floor transition area as follows:

In the text delete, "of Greater Pittsburgh International Airport, Pittsburgh Pa.; within an 8.5-mile radius of the Center," and substitute therefor, "of Greater Pittsburgh International Airport, Pittsburgh, Pa.; and within 3.5-miles each side of the Greater Pittsburgh ILS Runway 10L Localizer Course extending from the 12-mile radius area to 6.5 miles west of the OM; within an 8.5-mile radius of the center,".

(Section 307(a) of the Federal Aviation Act of 1958 72 Stat. 749; 49 U.S.C. 1348(a)) and of Section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65.)

Note.—The FAA has determined that this document involves a proposed regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by interim Department of Transportation guidelines (43 FR 9582; March 8, 1978).

Issued in Jamaica, New York, on August 15, 1979.

Murray E. Smith,
Director, Eastern Region.

[FR Doc. 79-26931 Filed 8-29-79; 8:45 am]

BILLING CODE 4910-13-M

[14 CFR Part 71]

[Airspace Docket No. 79-CE-24]

Proposed Designation of Transition Area: Waverly, Iowa

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rule Making (NPRM).

SUMMARY: This notice proposes to designate a 700-foot transition area at Waverly, Iowa, to provide controlled airspace for aircraft executing a new instrument approach procedure to the Waverly, Iowa Municipal Airport based on the Waterloo, Iowa VOR, a navigational aid.

DATES: Comments must be received on or before October 4, 1979.

ADDRESSES: Send comments on the proposal to: Federal Aviation Administration, Chief, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE-530, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374-3408.

The official docket may be examined at the Office of the Regional Counsel, Central Region, Federal Aviation

Administration, Room 1558, 601 East 12th Street, Kansas City, Missouri.

An informal docket may be examined at the Office of the Chief, Operations, Procedures and Airspace Branch, Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Dwaine E. Hiland, Airspace Specialist, Operations, Procedures, and Airspace Branch, Air Traffic Division, ACE-537, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374-3408.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rule making by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number, and be submitted in duplicate to the Operations, Procedures and Airspace Branch, Air Traffic Division, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106. All communications received on or before October 4, 1979, will be considered before action is taken on the proposed amendment. The proposal contained in this Notice may be changed in light of the comments received. All comments received will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Operations, Procedures and Airspace Branch, 601 East 12th Street, Kansas City, Missouri 64106 or by calling (816) 374-3408. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for further NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to Subpart G, § 71.181 of the Federal Aviation Regulations (14 CFR, § 71.181) by designating a 700-foot transition area at Waverly, Iowa. To enhance airport usage, a new instrument approach procedure is being established for the Waverly, Iowa Municipal Airport, utilizing the Waterloo, Iowa VOR as a navigational aid. The establishment of a new instrument approach procedure based on this navigational aid entails designation of a transition area at Waverly, Iowa, at and above 700 feet above ground level (AGL)

within which aircraft are provided air traffic control service. The intended effect of this action is to ensure segregation of aircraft using the approach procedure under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR). Accordingly, Federal Aviation Administration proposes to amend Subpart G, § 71.181 of the Federal Aviation Regulations (14 CFR 71.181) as republished on January 2, 1979, (44 FR 442) by adding the following new transition area:

Waverly, Iowa

That airspace extending upward from 700 feet above the surface within a six mile radius of the Waverly Municipal Airport (latitude 42°44'33" N., longitude 92°30'26" W.) excluding that portion that overlies the Waterloo, Iowa transition area.

(Sec. 307(a), Federal Aviation Act of 1958 as amended (49 U.S.C. 1348); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); Sec. 11.65 of the Federal Aviation Regulations (14 CFR 11.65).)

Note.—The FAA has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 28, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Kansas City, Missouri, on August 17, 1979.

John E. Shaw,
Acting Director, Central Region.

[FR Doc. 79-26924 Filed 8-29-79; 8:45 am]

BILLING CODE 4910-13-M

[14 CFR Part 71]

[Airspace Docket No. 79-CE-13]

Transition Area—Forest City, Iowa; Proposed Alteration

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rule Making (NPRM).

SUMMARY: This Notice proposes to alter the 700-foot transition area at Forest city, Iowa, to provide additional airspace for aircraft executing a new instrument approach procedure to the Forest City, Iowa Municipal Airport, which is based on a Non-Directional Radio Beacon, a navigational aid being

installed on the airport by the City of Forest City, Iowa.

DATES: Comments must be received on or before October 6, 1979.

ADDRESSES: Send comments on the proposal to: Federal Aviation Administration, Chief, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE-530, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374-3408.

The official docket may be examined at the Office of the Regional Counsel, Central Region, Federal Aviation Administration, Room 1558, 601 East 12th Street, Kansas City, Missouri.

An informal docket may be examined at the Office of the Chief, Operations, Procedures and Airspace Branch, Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Dwaine E. Hiland, Airspace Specialist, Operations, Procedures, and Airspace Branch, Air Traffic Division, ACE-537, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374-3408.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rule making by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number, and be submitted in duplicate to the Operations, Procedures and Airspace Branch, Air Traffic Division, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106. All communications received on or before October 6, 1979, will be considered before action is taken on the proposed amendment. The proposal contained in this Notice may be changed in light of the comments received. All comments received will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Operations, Procedures and Airspace Branch, 601 East 12th Street, Kansas City, Missouri 64106 or by calling (816) 374-3408. Communications must identify the notice number of this NPRM.

Persons interested in being placed on a mailing list for further NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to Subpart G, Section 71.181

of the Federal Aviation Regulations (14 CFR 71.181) by altering the 700-foot transition area at Forest City, Iowa. To enhance airport usage, a new instrument approach procedure is being developed for the Forest City, Iowa Municipal Airport based on a Non-Directional Radio Beacon being installed on the airport. The establishment of an instrument approach procedure based on this navigational aid entails alteration of the transition area at forest City, Iowa, at and above 700 feet above ground level (AGL) within which aircraft are provided additional air traffic control service. The intended effect of this action is to ensure segregation of aircraft using the new approach procedure under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR).

Accordingly, Federal Aviation Administration proposes to amend Subpart G, Section 71.181 of the Federal Aviation Regulations (14 CFR 71.181) as republished on January 2, 1979 (44 FR 442) by altering the following transition area:

Forest City, Iowa

That airspace extending upward from 700 feet above the surface within a 6½ mile radius of the Forest City Municipal Airport (latitude 43°14'00"N, longitude 93°37'30"W). Excluding that portion overlying the Mason City, Iowa, 700 foot transition area.

(Sec. 307(a), Federal Aviation Act of 1958 as amended (49 U.S.C. 1348); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); Sec. 11.65 of the Federal Aviation Regulations (14 CFR 11.65).)

The FAA has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 28, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Kansas City, Missouri, on August 20, 1979.

John E. Shaw,
Acting Director, Central Region.

[FR Doc. 79-27056 Filed 8-29-79; 8:45 am]

BILLING CODE 4910-13-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[14 CFR Part 1214]

Space Transportation System; Procurement of Spinning Solid Upper Stages

AGENCY: National Aeronautics and Space Administration.

ACTION: Proposed rule.

SUMMARY: NASA proposes to issue a policy defining general guidelines for user procurement of Spinning Solid Upper Stages (SSUS). This policy applies only to the procurement of those Spinning Solid upper Stages developed under the provisions of commercial development agreements established between NASA and SSUS supplier(s). Because commercial source(s) of SSUS are available, it is NASA policy that users should procure from these source(s) without NASA involvement. However, NASA will in certain limited circumstances act as the procurement agent for SSUS users.

DATE: Comments or suggestions regarding the proposed policy should be submitted in writing not later than October 29, 1979.

ADDRESS: STS Operations, Office of Space Transportation Systems, National Aeronautics and Space Administration, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: George D. Ojalehto, STS Operations, National Aeronautics and Space Administration, Washington, DC 20546 (202-755-2344).

PART 1214—SPACE TRANSPORTATION SYSTEM

1. 14 CFR Part 1214 is amended by adding a new Subpart 1214.10 reading as follows:

Subpart 1214.10—Procurement of Spinning Solid Upper Stages

Sec.

1214.1000 Scope.

1214.1001 Definitions.

1214.1002 Procurement process.

1214.1003 Reimbursement procedures.

Authority: Sect. 203, Pub. L. 85-568, 72 Stat. 429, as amended (42 U.S.C. 2473).

Subpart 1214.10—Procurement of Spinning Solid Upper Stages

§ 1214.1000 Scope.

This Subpart 1214.10 sets forth the NASA policy on procurement of Spinning Solid Upper Stages (SSUS). It does not cover Shuttle launch services defined in Subpart 1214.1 and Subpart 1214.2.

§ 1214.1001 Definitions.

(a) *SSUS*. A generic acronym for a Spinning Solid Upper Stage developed commercially under NASA-SSUS supplier agreements to be used as a perigee stage for certain Shuttle payloads. This generic definition encompasses upper stages for Delta-class (SSUS-D) and Atlas-Centaur-class (SSUS-A) payloads.

(b) *SSUS Supplier*. A commercial organization providing SSUS hardware and related services.

(c) *NASA-SSUS Supplier Agreement*. An agreement between NASA and a SSUS supplier delineating technical and operational requirements and financial conditions regarding the commercial development and supplying of SSUS and related services to a user.

(d) *SSUS Launch Site Services*. Those launch site services provided by NASA to the SSUS supplier for the SSUS suppliers use in preparing a SSUS as a part of a Shuttle Payload for a user.

§ 1214.1002 Procurement policy.

(a) NASA has entered into agreement(s) with commercial source(s) for the commercial development and supply of Spinning Solid Upper Stages (SSUS) for both Delta-class and Atlas-Centaur-class payloads. SSUS services, therefore, are available to the STS user community at large and their availability is not contingent upon, nor does it require, a NASA involvement for their procurement. Accordingly, NASA's general policy is not to act as a procuring agent for the user community, but to encourage the user community to procure required SSUS and related services from the commercial source(s).

(b) Normally, users requiring a SSUS shall procure the SSUS hardware and related services from a SSUS supplier.

(c) Within its discretion and capability, NASA will undertake SSUS procurement in circumstances where:

(1) NASA is acting upon the request of a U.S. Government user under the terms of an interagency agreement in behalf of the Federal Government, or

(2) A non-U.S. Government user does not have and cannot reasonably obtain the expertise needed to manage a SSUS procurement and requests NASA to perform this function as a procurement agent for the user, or

(3) A non-U.S. Government user does have or can reasonably obtain the expertise needed to manage a SSUS procurement but still explicitly requests and NASA agrees to perform this function as a procurement agent for the user.

(d) Users utilizing NASA as their procurement agent for SSUS

procurement shall contract directly with NASA for such procurement services.

(e) All users shall enter into a Launch Service Agreement with NASA for SSUS launch site services.

(f) The United States shall not be liable for costs or damages directly or indirectly arising from a delayed mission, or an unsuccessful performance of the SSUS.

§ 1214.1003 Reimbursement procedure.

(a) Within the guidelines of the NASA-SSUS supplier agreements, a user procuring a SSUS from a SSUS supplier shall:

(1) Reimburse the SSUS supplier for the SSUS and related services.

(2) Reimburse NASA for all SSUS launch site services provided to the SSUS supplier.

(b) A user who has entered into a Launch Services Agreement with NASA which calls for NASA to act as a procurement agent for SSUS and related services shall reimburse NASA an amount which is the sum of:

(1) The contract price of the SSUS and related services.

(2) A fee for NASA activities associated with a SSUS procurement.

(3) The price for all NASA-provided SSUS launch site services.

August 20, 1979.

Robert A. Frosch,
Administrator.

[FR Doc 79-27011 Filed 8-29-79; 8:45 am]

BILLING CODE 7510-01-M

FEDERAL TRADE COMMISSION

[16 CFR Part 13]

[File No. 741 0026]

Hartz Mountain Corp.; Consent Agreement with Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order, accepted subject to final Commission approval, among other things, would require a Harrison, N.J. manufacturer of pet supplies to cease entering into any agreement or arrangement having the tendency to fix resale prices for pet products, or restrict interbrand and intrabrand competition in the pet supply industry. The firm would be specifically prohibited from entering into any exclusive or preferential dealing arrangement; and using price incentives, refusals to deal, and threats

of termination to induce and maintain such arrangements. The firm would be further prohibited from engaging in price discrimination; restricting sales territories and allocating customers; disparaging financial status of competitors or disfavoring distributors; suggesting resale prices for pet supplies; and refusing to deal with recalcitrant distributors. Additionally, the firm would be required to publish the terms of the order in the *Supermarket News*, and maintain specified records for a designated period.

DATE: Comments must be received on or before October 29, 1979.

ADDRESS: Comments should be directed to: Office of the Secretary, Federal Trade Commission, 6th St. and Pennsylvania Ave., NW., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: Paul W. Turley, Director, 3R Chicago Regional Office, Federal Trade Commission, 55 East Monroe St., Suite 1437, Chicago, Ill. 60603. (312) 353-4423.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6 (f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's rules of practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist and an explanation thereof, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(14) of the Commission's rules of practice (16 CFR 4.9(b)(14)).

[File No. 741-0026]

Hartz Mountain Corporation

Agreement Containing Consent Order to Cease and Desist

The Federal Trade Commission having initiated an investigation of certain acts and practices of The Hartz Mountain Corporation (hereinafter Hartz Mountain), a corporation, and it now appearing that Hartz Mountain is willing to enter into an agreement not to engage in the acts and practices being investigated;

It is hereby agreed by and between Hartz Mountain, by its duly authorized officer and its counsel for the Federal Trade Commission that:

1. Hartz Mountain is a corporation organized, existing and doing business under and by virtue of the laws of the

State of New Jersey, with its office and principal place of business located at 700 South Fourth Street, Harrison, New Jersey.

2. Hartz Mountain admits all the jurisdictional facts set forth in the draft complaint here attached.

3. Hartz Mountain waives:

(a) Any further procedural steps;

(b) The requirement that the

Commission's decision contain a statement of findings of fact and conclusions of law; and

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the Order entered pursuant to this agreement.

4. This agreement shall not become a part of the official record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission it, together with the draft of complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released; and such acceptance may be withdrawn by the Commission if comments or views submitted to the Commission disclose facts or considerations which indicate the Order contained in the agreement is inappropriate, improper or inadequate.

5. This agreement is for settlement purposes only and does not constitute an admission by respondent that the law has been violated as alleged in the draft of complaint here attached.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's rules, the Commission may, without further notice to Hartz Mountain, (1) issue its complaint corresponding in form and substance with the draft of complaint here attached and its decision containing the following Order in disposition of the proceeding and (2) make information public in respect thereto. When so entered, the Order shall have the same force and effect and shall become final and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The complaint may be used in construing the terms of the Order, and no agreement, understanding, representation or interpretation not contained in the Order or agreement may be used to vary or contradict the terms of the Order.

7. Hartz Mountain has read the proposed complaint and Order contemplated hereby, and understands that once the Order has been issued, it will be required to file one or more compliance reports showing that it has

fully complied with the Order, and that it may be liable for a civil penalty in the amount provided by law for each violation of the Order after it becomes final.

8. Hartz Mountain agrees that mailing of the complaint and decision containing the agreed-to Order to its address stated in this agreement constitutes service and Hartz Mountain waives any right it may have to any other manner of service.

Order

For the purposes of this Order the following definitions shall apply:

A. "Pet supply" means a product that it utilized in the everyday maintenance, care and enjoyment of common household pets and includes, but is not limited to, such items as pesticide collars, shampoos, medicinals, rawhide and rubber chewing toys, leashes, feeding dishes, books, bird and small animal cages, cat litter, aquariums, aquarium pumps, heaters, filters and ornaments, dog and cat treats and biscuits, small animal treats, pet and wild bird seed, fish foods and aquarium remedies.

B. "Manufacturer" means any person engaged in production, assembly or packaging of pet supplies or which causes production, assembly or packaging of pet supplies to be done for it. Manufacturer shall not include any person engaged primarily as a retailer, which uses its own trademark in connection with pet supplies.

C. "Distributor" means any person which sells pet supplies for its own account to retailers.

D. "Service distributor" means a distributor which provides a retailer with service ancillary to the sale of pet supplies.

E. "Service" means setting up displays and fixtures, marking individual products with prices designated by a retailer, delivering to individual retail outlets, stocking the displays or fixtures with less than case lots, setting up promotions and floor displays, cleaning and otherwise maintaining displays and fixtures, and removing damaged, shopworn and slow moving pet supplies.

F. "Retailer" means any person which sells pet supplies primarily for its own account to consumers.

G. "Consumer" means any person who uses pet supplies on a noncommercial basis.

H. "Person" means any individual, partnership, firm, association, corporation or other legal or business entity (other than a corporation in which The Hartz Mountain Corporation owns or controls 50% or more of the outstanding shares of stock representing

the right to vote for the election of directors).

I. "United States" means the states of the United States of America, its territories or possessions, the District of Columbia and the Commonwealth of Puerto Rico.

J. "General marketing area" means the most recent available Nielsen Station Index Designated Market Area.

I

It is ordered, That The Hartz Mountain Corporation (hereinafter referred to as Hartz Mountain), its successors and assigns, and its officers, agents, representatives and employees, directly or indirectly, or through any corporation, subsidiary, division, or other device, in connection with the offering for sale or sale of any pet supply in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, shall forthwith cease and desist from:

1. Entering into or enforcing any condition, agreement or understanding with any distributor or retailer that such distributor or retailer must refrain from the purchase of any pet supply of any manufacturer other than Hartz Mountain.

2. Charging or offering to charge a price to a distributor or retailer, granting or offering to grant to a distributor or retailer any discount from or rebate upon such price, or paying or offering to pay anything of value to or for the benefit of a distributor or retailer, on the condition, agreement or understanding with such distributor or retailer that such distributor or retailer must refrain from the purchase of any pet supply of any manufacturer other than Hartz Mountain.

3. Refusing to sell any pet supply to any distributor or retailer because such distributor or retailer has refused to enter into any contract, agreement or understanding that such distributor or retailer must refrain from the purchase of any pet supply of any manufacturer other than Hartz Mountain.

4. Purchasing from any retailer all or part of such retailer's existing inventories of any competitive brand of any pet supply, unless (1) the retailer so requests in writing, (2) a competitor of Hartz Mountain is then making a comparable offer to purchase all or part of such existing pet supply inventories from such retailer, and (3) Hartz Mountain pays no more than such retailer's cost when so purchasing any competitive brand of pet supply, or unless, commencing one year from the date of service of this Order, the competitor whose pet supply is to be purchased by Hartz Mountain is then

making a comparable offer to purchase all or part of any Hartz Mountain pet supply in the general marketing area and such competitor is not subject to an effective order of the Federal Trade Commission with a provision similar to paragraph 1.4 of this Order.

5. Entering into or enforcing any contract, agreement or understanding with any distributor that such distributor must resell any Hartz Mountain pet supply only from a designated warehouse location or must refrain from expanding its facilities or adding new facilities in existing or new locations: *Provided however*, That nothing in this Order shall require Hartz Mountain to ship for the account of a distributor to a location other than a warehouse of such distributor.

6. Falsely disparaging in any manner the financial status of any distributor or manufacturer of any pet supply.

It is further ordered, That Hartz Mountain shall:

7. For a period of five (5) years, commencing with the date of service of this Order, offer to sell in the ordinary course of business reasonable quantities of any part or all of its pet supplies at its usual prices, terms and conditions of sale to any person engaged primarily as a retailer located in the United States or to any service distributor located in the United States who is a service distributor for Hartz Mountain pet supplies pursuant to a continuing contract, agreement or understanding on the date of service of this Order (a) which requests in writing to purchase any pet supply from Hartz Mountain; (b) which is neither owned nor controlled by nor is an agent for a manufacturer of pet supplies; (c) which has not brought a pending suit nor is threatening in writing to bring suit against Hartz Mountain; and (d) which satisfies Hartz Mountain's reasonable credit, minimum quantity and delivery standards, which minimum quantity and delivery standards shall be made available on request in writing to any such retailer or service distributor: *Provided however*, That nothing in this Order shall be construed to prevent Hartz Mountain from terminating any distributor or retailer in a manner that does not violate this Order, and that nothing in this Order shall be construed to require Hartz Mountain to offer to sell in a period of scarcity any pet supply that is not available in reasonably sufficient quantities to meet the reasonable requirements of Hartz Mountain's existing customers.

8. For a period of five (5) years, commencing with the date of service of this Order, establish and maintain a file of all records referring or relating to Hartz Mountain's refusal to sell any pet

supply to any prospective distributor or retailer located in the United States whose request in writing is received at the principal office of Hartz Mountain, which file shall contain a record of a written communication to each such prospective distributor or retailer explaining the reason for Hartz Mountain's refusal to sell and which file shall be made available for Federal Trade Commission inspection on reasonable notice; and, annually, for a period of five (5) years, commencing with the date of service of this Order, submit a report to the Federal Trade Commission listing the names and addresses of all such prospective distributors or retailers to whom Hartz Mountain has refused to sell during the preceding year, a description of the reason for each such refusal, and the date of each such refusal.

II

It is further ordered, That Hartz Mountain, its successors and assigns, and its officers, agents, representatives and employees, directly or indirectly or through any corporation, subsidiary, division or other device, in connection with the offering for sale or sale of any pet supply in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, shall forthwith cease and desist from:

1. Entering into or enforcing any contract, agreement or understanding with any distributor requiring that such distributor provide service in connection with any pet supply sold by it to retailers that have not requested such service: *Provided however*, That nothing in this Order shall be construed to prevent Hartz Mountain from (a) requiring any distributor to sell to any retailer or to service and display Hartz Mountain pet supplies in the manner and quantity designated by such retailer, unless otherwise advised by such retailer, (b) requiring any distributor to maintain reasonable facilities, including warehouse facilities, trucks and service personnel so that service ancillary to the sale of pet supplies can be performed if requested by a retailer, or (c) refusing to sell pet supplies to any distributor which does not sell to, service and display Hartz Mountain pet supplies in the manner and quantity so designated by a retailer, unless otherwise advised by such retailer.

2. Entering into or enforcing any contract, agreement or understanding with any distributor that such distributor must not resell or offer to resell any pet supply purchased from Hartz Mountain to one or more

designated persons or outside one or more geographic areas.

3. Refusing to sell any pet supply to any distributor because such distributor will not agree that it must not resell or offer to resell any pet supply purchased from Hartz Mountain to one or more designated persons or outside one or more geographic areas.

III

It is further ordered, That Hartz Mountain, its successors and assigns, and its officers, agents, representatives and employees, directly or indirectly, or through any corporation, subsidiary, division or other device, in connection with the offering for sale or sale of any pet supply in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, shall cease and desist from:

1. Requiring any distributor to sell, offer to sell or promote any pet supply at a price fixed, established, maintained or suggested by Hartz Mountain.

2. Refusing to sell any pet supply to any distributor because such distributor will not sell, offer to sell or promote any pet supply at a price fixed, established, maintained or suggested by Hartz Mountain.

3. Suggesting in writing to any distributor or retailer any price at which any distributor may or will sell, offer to sell or promote any pet supply: *Provided however*, That if subsequent to three (3) years after the date of service of this Order Hartz Mountain makes any such price suggestion, each such suggestion must include a clear and conspicuous statement that such price is suggested only.

4. For a period of three (3) years, commencing with the date of service of this Order, suggesting orally to any retailer the price at which any distributor may sell or resell, offer to sell or promote any pet supply unless any such suggestion directed to a retailer is accompanied by a clear statement that such price is suggested only for informational purposes and that the distributor is free to sell at whatever price it may choose, and is accompanied by a list of all of Hartz Mountain's service distributors with warehouse facilities in the general marketing area of the retailer.

5. For a period of three (3) years, commencing with the date of service of this Order, suggesting orally to any distributor who buys directly from Hartz Mountain the price at which such distributor may sell or resell, offer to sell or promote any pet supply to a retailer: *Provided however*, That any price suggestion made to a retailer in conformance with the preceding

paragraph may be orally reported to a distributor if all distributors whose names appear on the submitted list are so informed: *And provided further*, That any oral price suggestion is accompanied by a clear statement that prices are provided only for informational purposes and that the distributor is free to resell at whatever price it may choose.

IV

It is further ordered, That Hartz Mountain, its successors and assigns, and its officers, agents, representatives and employees, directly or indirectly, or through any corporation, subsidiary, division or other device, in connection with the sale of any pet supply in commerce, as "commerce" is defined in the Clayton Act, as amended, shall forthwith cease and desist from:

For a period of ten (10) years, commencing with the date of service of this Order, discriminating, directly or indirectly, in the price of Hartz Mountain's pet supplies of like grade and quality by selling any such pet supply to any purchaser (who is not a manufacturer) at a net price lower than the net price charged to any other purchaser competing with the former purchaser in the resale of any such pet supply, unless Hartz Mountain has, in fact, made such lower net price functionally available to all such competing purchasers.

It is further ordered, That nothing in this Order shall be construed to prevent any of the following which Hartz Mountain may raise as defenses to be proved by it in any enforcement action brought to enforce Part IV of this Order: Price discrimination which makes only due allowance for differences in the cost of manufacture, sale or delivery resulting from differing methods or quantities in which such pet supplies are sold or delivered to such purchasers, or which is made in good faith to meet an equally low price of a competitor, or where the purchaser is an agency of the United States of America; nor shall anything in this Order be construed to prevent price changes from time to time where in response to changing conditions affecting the market for or the marketability of the pet supply concerned, such as, but not limited to, actual or imminent deterioration of perishable goods, obsolescence of seasonal goods, distress sales under court process or sales in good faith in discontinuance of business in the pet supply concerned: *And provided further*, That nothing in this Order shall be construed to prevent Hartz Mountain from asserting any other defenses available to it under the law to a charge

of price discrimination: *And provided further*, That for a period of ten (10) years, commencing with the date of service of this Order, Hartz Mountain shall maintain a separate file at its principal office containing accurate documentation of: (a) each published price of Hartz Mountain for the sale by it of a pet supply showing the period during which such published price was in effect; and (b) each variation in price in which Hartz Mountain sells any pet supply at a net price other than that prescribed in the applicable published price, showing the net price charged to such purchaser and the justification for such variation from the published price. Such file shall be made available for Federal Trade Commission inspection on reasonable notice.

V

It is further ordered, That:

1. This Order shall not apply to activities outside the United States which do not directly affect the foreign or domestic commerce of the United States.

2. Nothing in this Order shall be construed to prevent Hartz Mountain itself from selling pet supplies as a service distributor or otherwise to any retailer.

VI

It is further ordered, That Hartz Mountain shall:

1. Provide a copy of this Order to its officers, directors, sales representatives and all distributors and retailers located in the United States who buy Hartz Mountain brand or Delta brand pet supplies directly from Hartz Mountain. Within sixty (60) days of the date of service of this Order, Hartz Mountain shall cause to be published in *Supermarket News* the provisions of this Order or shall provide a copy of this Order to current subscribers of *Supermarket News*. For a period of five (5) years, commencing with the date of service of this Order, all new distributors and retailers located in the United States who buy pet supplies directly from Hartz Mountain are to be furnished a copy of this Order.

2. Notify the Commission at least thirty (30) days prior to any proposed change in Hartz Mountain which may affect compliance obligations arising out of the Order, such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other such change.

3. File with the Federal Trade Commission, within sixty (60) days of the date of service of this Order, a report, in writing, setting forth in detail

the manner and form in which it has complied with this Order.

Analysis to Facilitate Public Comment on Proposed Consent Order

The Federal Trade Commission has accepted an agreement containing a consent order that prohibits The Hartz Mountain Corporation from engaging in several anticompetitive practices involving the pet supply industry. The agreement culminates an investigation conducted under File No. 741 0026 by the Commission's Chicago Regional Office.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

The respondent, The Hartz Mountain Corporation, is a New Jersey Corporation headquartered in Harrison, New Jersey. It is the largest producer of pet supplies in the United States. It sells its lines of pet supplies under the Hartz, Hartz Mountain, Delta and Longlife brands.

The complaint alleges that the respondent engaged in illegal conduct in four broad areas that form the counts of the complaint. Count I alleges that the respondent engaged in various practices that excluded competition in the sale and distribution of pet supplies. Count II alleges that the respondent imposed various restrictions upon its licensed distributors that prevented intrabrand competition. Count III alleges that the respondent fixed the resale prices of its brands of pet supplies. Count IV alleges that the respondent engaged in price discrimination.

The proposed consent order is designed to enhance competitive opportunity in the production, distribution and sale of pet supplies by addressing particular practices that have restricted or prevented interbrand and intrabrand competition in the industry. Part I of the proposed consent order prohibits the use of various practices which have the effect of preventing respondent's competitors from gaining effective distribution for their products. Such practices include:

1. Exclusive or preferential dealing arrangements;
2. Inducing exclusive or preferential dealing arrangements through granting price concessions, discounts, rebates or allowances or by paying anything of value to any distributor or retailer—

sometimes referred to as "buying the business";

3. Using terminations or refusals to deal to coerce exclusive or preferential dealing arrangements;

4. Locational and similar requirements which hinder or prevent a distributor from expanding his business and taking on competitive lines or new lines; and

5. Impugning the financial integrity of a competitor or disfavored distributor.

Part I of the proposed consent order also imposes a limited duty to deal. This was included to insure that respondent's distribution network is free to handle competitive merchandise if its constituent distributors or retailers elect to do so. Various record keeping provisions are also included to aid in implementing compliance with the limited duty to deal.

Part II of the proposed consent order prohibits the use of various practices which suppress intrabrand competition. These practices are:

1. Requiring licensed distributors to sell pet supplies only on a full service basis, instead of offering programs which reflect cost savings and innovative marketing;
2. Customer restrictions and territorial allocations; and
3. Refusals to deal with distributors who refuse to abide by or to agree to customer restrictions or territorial allocations.

Part III of the proposed consent order is addressed to practices that either fix or have a tendency to fix the resale prices of Hartz Mountain's pet supplies. Those practices which would fix Hartz Mountain's resale prices include the dictating or establishing the prices a distributor will charge a retailer, either unilaterally or after negotiations with a retailer, and refusing or threatening to refuse to deal with distributors who will not agree to abide by such prices.

Practices which have a tendency to fix resale prices include the use of oral and written price suggestions. Written price suggestions are banned for a period of 3 years. Certain oral price suggestions are also banned for 3 years and the use of other oral price suggestions is limited or can only be made in conjunction with certain affirmative duties by Hartz Mountain.

Part IV of the proposed consent order prohibits the respondent from engaging in direct or indirect price discrimination in the sale of pet supplies. Although the prohibition follows the usual wording in orders of this nature, a somewhat unusual record keeping provision has been added to facilitate compliance with the general prohibition.

Part V of the proposed consent order delineates the jurisdictional reach of the

order and clarifies Hartz Mountain's rights under the order to integrate forward or change its method of distribution of its products to do so.

Part VI of the proposed order sets out the notice requirements and compliance obligations under the order. Under the notice requirements, Hartz Mountain will be required to provide a copy of the order to its officers, directors, sales representatives, distributors, and direct and indirect buying retailers. In addition it is also required to provide a copy of the order to a class of prospective customers by either causing the provisions of the order to be published in *Supermarket News* or by mailing each subscriber of that publication a copy of the order.

This analysis is intended to encourage public comment. It does not constitute an official interpretation of the agreement and proposed order or a modification of their terms.

James A. Tobin,
Acting Secretary.

FR Doc. 79-27083 Filed 8-29-79; 8:45 am)
BILLING CODE 6750-01-M

[16 CFR Part 13]

[File No. 771 0049]

Roofing Contractors Association; Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.
ACTION: Consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order, accepted subject to final Commission approval, among other things, would require a Seattle, Wash. roofing association to cease entering into agreements with others to establish and maintain terms of guarantees, prices, or other conditions of sale in connection with the sale of roofs and related services; suggesting or urging adherence to particular prices, guarantees, or other conditions of sale; or restricting by any means a member's right to give any guarantee, price or other condition of sale to its customers. The order would additionally bar the association from investigating and/or policing its members with regard to prices charged or guarantees imposed in the sale of their products and services.

DATE: Comments must be received on or before October 29, 1979.

ADDRESS: Comments should be directed to: Office of the Secretary, Federal Trade Commission, 6th St. and

Pennsylvania Ave., NW, Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: Thomas Armitage, Director, IOR, Seattle Regional Office, Federal Trade Commission, 28th Floor, Federal Bldg., 915 Second Ave., Seattle, Wash. 98174. (206) 442-4655.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's rules of practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist and an explanation thereof, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(14) of the Commission's rules of practice (16 CFR 4.9(b)(14)).

[File No. 771 0049]

Roofing Contractors Association

Agreement Containing Consent Order to Cease and Desist

The Federal Trade Commission having initiated an investigation of certain acts and practices of the Roofing Contractors Association, a non-profit corporation, and it now appearing that the Roofing Contractors Association, a non-profit corporation, hereinafter sometimes referred to as proposed respondent, is willing to enter into an agreement containing an order to cease and desist from the use of the acts and practices being investigated,

It is hereby agreed by and between the Roofing Contractors Association, by its duly authorized officer and its attorney, and counsel for the Federal Trade Commission that:

1. Proposed respondent Roofing Contractors Association is a non-profit corporation organized, existing and doing business under and by virtue of the laws of the State of Washington, with its office and principal place of business located at 1000 Aurora Avenue North, in the City of Seattle, State of Washington.

2. Proposed respondent admits all the jurisdictional facts set forth in the draft of complaint here attached.

3. Proposed respondent waives:

(a) Any further procedural steps;

(b) The requirement that the

Commission's decision contain a statement of findings of fact and conclusions of law; and

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to the agreement.

4. This agreement shall not become a part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission it, together with the draft of complaint contemplated thereby and related material pursuant to Rule 2.34, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify the proposed respondent, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding.

5. This agreement is for settlement purposes only and does not constitute an admission by proposed respondent that the law has been violated as alleged in the draft of complaint here attached.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's rules, the Commission may, without further notice to proposed respondent, (1) issue its complaint corresponding in form and substance with the draft of complaint here attached and its decision containing the following order to cease and desist in disposition of the proceeding, and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Mailing of the complaint and decision containing the agreed-to order to proposed respondent's address as stated in this agreement shall constitute service. Proposed respondent waives any right it may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

7. Proposed respondent has read the proposed complaint and order contemplated hereby. It understands that once the order has been issued, it

will be required to file one or more compliance reports showing that it has fully complied with the order, and that it may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

Order

I

A. Definitions established for the purpose of the following order provisions are:

1. "Other related services" includes but is not limited to, repairing of roofs, inspecting of roofs, waterproofing and dampproofing of roofs, and estimating costs of repair or installation of roofs.
2. "Others not party hereto" means any individual, individual proprietorship, partnership, firm, corporation, association or any other form of legal or business entity.

II

A. It is ordered, That respondent Roofing Contractors Association, a non-profit corporation, its successors and assigns, and its agents, representatives, and employees, directly or through any corporation, subsidiary, division or any other device, in connection with the advertising, offering for sale, sale and installation of new or replacement roofs or other related services in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, as amended, do forthwith cease and desist from:

1. Entering into any contract, agreement, course of conduct, or understanding between itself and others not party hereto to fix, establish, stabilize, or maintain, the length or other term of any guarantee;
2. Entering into any contract, agreement, course of conduct, or understanding between itself and others not party hereto to fix, establish, stabilize or maintain any price or other term or condition of sale in connection with the sale and installation of new or replacement roofs or for performing other related services.

III

A. It is further ordered, That respondent Roofing Contractors Association, a non-profit corporation, its successors and assigns, and its agents, representatives, and employees, directly or through any corporation, subsidiary, division or any other device, in connection with the advertising, offering for sale, sale and installation of new or replacement roofs or other related services in or affecting commerce, as "commerce" is defined in the Federal

Trade Commission Act, as amended, do forthwith cease and desist from:

1. Urging, recommending, or suggesting that any of its members or any other person adopt or adhere to any particular guarantee or to any price or other term or condition of sale in connection with the sale and installation of new or replacement roofs or for performing other related services;

2. Adopting, adhering to, maintaining, enforcing or claiming any rights under any bylaw, rule, regulation, plan or program which limits in any way a member's right to give or offer, a guarantee or any price or other term or condition of sale to any customer or prospective customer in connection with the sale or installation of a new or replacement roof or for performing other related services;

3. Investigating and/or policing a price or guarantee term charged or imposed by any member of the association or any other person in connection with the installation of new or replacement roofs.

IV

A. It is further ordered, That respondent Roofing Contractors Association shall within sixty (60) days after the date of service of this Order, mail a copy to each of its existing members and to each person who was a member at any time from June 30, 1973 to date of service of this Order, and furnish a copy of this Order to each prospective member for a period of five (5) years after the date of service of this Order.

B. It is further ordered, That respondent notify the commission at least thirty (30) days prior to any proposed change in the respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation or association, the creation or dissolution of subsidiaries or any other change in the association which may affect compliance obligations arising out of the Order.

C. It is further ordered, That the respondent herein shall within sixty (60) days after service on it of this Order, file with the Commission a report, in writing, setting forth in detail the manner and form in which it has complied with this Order.

Analysis of Proposed Consent Order to Aid Public Comment

The Federal Trade Commission has accepted an agreement to a proposed consent order from the Roofing Contractors Association of Seattle.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by

interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

The Roofing Contractors Association is a non-profit corporation organized and doing business under the laws of the state of Washington with its principal place of business at 1000 Aurora Avenue North, Seattle, Washington 98109.

In its complaint the Commission alleges that the Association fixed the length of guarantees for new and replacement roofs. The complaint also alleges that the Association agreed not to offer any guarantees for damage caused by certain wind conditions.

Pursuant to the consent order, the Association has agreed to cease fixing, stabilizing or maintaining terms of guarantees. It has also agreed not to fix, stabilize or maintain any price or other term or condition of sale for new and replacement roofs. Present and future members of the Association are to be bound by the terms of the order.

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

James A. Tobin,
Acting Secretary.

[FR Doc. 79-27084 Filed 8-29-79; 8:45 am]
BILLING CODE 6750-01-M

VETERANS ADMINISTRATION

[38 CFR Parts 14, 36]

VA Home Loans; Delegation of Authority

AGENCY: Veterans Administration.

ACTION: Proposed Rule.

SUMMARY: The Administrator is proposing to revoke the section which provides for the use of recorded powers of attorney in connection with the execution of documents conveying or affecting title to property acquired under the Veterans Administration (VA) home loan program. Other sections currently delegate to employees occupying the positions of field station Director, Loan Guaranty Officer, and Assistant Loan Guaranty Officer, the authority to exercise many of the powers of the Administrator under the home loan program including the power to convey or otherwise affect the title to property

acquired under such a program. The sections which contain the delegation of authority in connection with the VA guaranteed home loan program, guaranteed mobile home program, and direct home loan program would be amended to require that each field station maintain and keep current a list of all employees of that office who have occupied the positions of Director, Loan Guaranty Officer, Assistant Loan Guaranty Officer, and any other employees who have been redelegated authority to execute documents conveying or affecting title to property. The present policy of using powers of attorney has proven to be quite costly both in terms of personnel time needed to prepare and process the powers of attorney and subsequently process a revocation whenever there was a change of personnel, and also in terms of fees paid to county or other local recorders of deeds or similar officials to place the powers of attorney and revocations in the public records. It is the belief of the VA that the proposal will reduce Federal paperwork and produce a significant cost savings.

DATES: Comments must be received on or before November 28, 1979.

ADDRESSES: Send written comments to: Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue NW., Washington, D.C. 20420.

Comments will be available for inspection at the address shown above during normal business hours until December 10, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. James P. Kane, Assistant General Counsel (021), Veterans Administration, 810 Vermont Avenue NW., Washington, D.C. 20420, Telephone: (202) 389-2189.

SUPPLEMENTARY INFORMATION: Under the present § 14.620, Title 38, Code of Federal Regulations, the Administrator executes powers of attorney (VA Form 2-23) which are recorded in the land records of the various counties around the Nation where the Administrator purchases and sells real property in connection with the Veterans Administration home loan program (chapter 37 of title 38, United States Code). This procedure has proven to be costly both in terms of personnel processing time and recording fees. Powers of attorney were originally developed by the Veterans Administration to provide title companies and attorneys with evidence that an employee executing an instrument affecting an interest in real property on behalf of the Administrator possessed actual authority to take such action. Research by the Veterans

Administration has shown, however, that the Department of Housing and Urban Development has not found it necessary to use powers of attorney. The Veterans Administration is, therefore, proposing to cease using powers of attorney, but instead to rely upon the delegation of authority to field station Directors, Loan Guaranty Officers, and Assistant Loan Guaranty Officers contained in §§ 36.4221, 36.4342, and 36.4520. In order to provide notice as to the names of employees who occupy these positions, and any other employees who have been redelegated authority to execute instruments affecting title to property, Regional Offices will maintain a cumulative listing of such persons. This list will be available at the field station for public inspection and copying. It is the belief of the Veterans Administration that this proposal will reduce Federal paperwork and produce a significant cost savings, while still affording title companies, attorneys, and purchasers with sufficient assurance that employees executing documents conveying or affecting title on behalf of the Administrator possess actual authority for such action.

Additional Comment Information

Interested persons are invited to submit written comments, suggestions, or objections regarding these documents to the Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue, NW., Washington D.C. 20420. All written comments received will be available for public inspection at the above address only between the hours of 8 am and 4:30 pm, Monday through Friday (except holidays), until December 10, 1979. Any person visiting Central Office for the purpose of inspecting any such comments will be received by the Central Office Veterans Services Unit in Room 132. Such visitors to any Veterans Administration field station will be informed that the records are available for inspection only in Central Office and furnished the above address and room number.

Approved: August 23, 1979.

By direction of the Administrator:

John J. Leffler,

Associate Deputy Administrator.

PART 14—LEGAL SERVICES, GENERAL COUNSEL

§ 14.620 [Revoked].

1. Section 14.620 is revoked and the center title "Power of Attorney and Delegation of Authority in the Making

and the Guaranty and Insurance of Loans" is deleted.

PART 36—LOAN GUARANTY

2. In § 36.4221, paragraph (d) is added to read as follows:

§ 36.4221 Delegation of authority.

(d) Each Regional Office, VA Center, and Medical and Regional Office Center, shall maintain and keep current a cumulative list of all employees of that Office or Center who, since the effective date of this paragraph, have occupied the positions of Director, Loan Guaranty Officer, and Assistant Loan Guaranty Officer. In addition, the list will include all additional employees who, pursuant to paragraph (b) of this section, have been redelegated authority to execute and deliver, on behalf of the Administrator, deeds, satisfactions, releases, and other instruments in connection with the acquisition, ownership, management, sale, transfer, assignment, encumbrance, rental and other disposition of real and personal property, or any right, title or interest therein. This list will include each employee's name, title, date the employee assumed the position or was redelegated such authority, and the termination date, if applicable, of the employee's tenure in such position or holding of such authority. The list shall be available for public inspection and copying at the Regional Office, or Center, during normal business hours. (38 U.S.C. 210(c)(1), 1820(a)(5))

3. In § 36.4342, paragraph (d) is added to read as follows:

§ 36.4342 Delegation of authority.

(d) Each Regional Office, VA Center, and Medical and Regional Office Center, shall maintain and keep current a cumulative list of all employees of that Office or Center who, since the effective date of this paragraph, have occupied the positions of Director, Loan Guaranty Officer, and Assistant Loan Guaranty Officer. In addition, the list will include all additional employees who, pursuant to paragraph (b) of this section, have been redelegated authority to execute and deliver, on behalf of the Administrator, deeds, satisfactions, releases, and other instruments in connection with the acquisition, ownership, management, sale, transfer, assignment, encumbrance, rental and other disposition of real and personal property, or any right, title or interest therein. This list will include each employee's name, title, date the employee assumed the position or was redelegated such authority, and the

termination date, if applicable, of the employee's tenure in such position or holding of such authority. The list shall be available for public inspection and copying at the Regional Office, or Center, during normal business hours. (38 U.S.C. 210(c)(1), 1820(a)(5))

4. In § 36.4520, paragraph (d) is added to read as follows:

§ 36.4520 Delegation of authority.

(d) Each Regional Office, VA Center, and Medical and Regional Office Center, shall maintain and keep current a cumulative list of all employees of that Office or Center who, since the effective date of this paragraph, have occupied the positions of Director, Loan Guaranty Officer, and Assistant Loan Guaranty Officer. In addition, the list will include all additional employees who, pursuant to paragraph (b) of this section, have been redelegated authority to execute and deliver, on behalf of the Administrator, deeds, satisfactions, releases, and other instruments in connection with the acquisition, ownership, management, sale, transfer, assignment, encumbrance, rental and other disposition of real and personal property, or any right, title or interest therein. This list will include each employee's name, title, date the employee assumed the position or was redelegated such authority, and the termination date, if applicable, of the employee's tenure in such position or holding of such authority. The list shall be available for public inspection and copying at the Regional Office, or Center, during normal business hours. (38 U.S.C. 210(c)(1), 1820(a)(5))

FR Doc. 79-27083 Filed 8-29-79; 8:45 am]
BILLING CODE 8320-01-M

GENERAL SERVICES ADMINISTRATION

[41 CFR Part 101-47]

Disposal of Property for Educational and Public Health Purposes; Withdrawal of Proposed Rule

AGENCY: General Services Administration.

ACTION: Withdrawal of proposed rulemaking.

SUMMARY: On January 2, 1979, at 44 FR 70, the General Services Administration published a proposed rule governing the disposal of surplus real property for educational and public health use to require that all of these conveyances and notices of no objections be subject to perpetual use restrictions. The

purpose of this notice is to withdraw the proposed rule.

EFFECTIVE DATE: August 30, 1979.

FOR FURTHER INFORMATION CONTACT: James H. Pitts, Office of Real Property, Special Programs Division (202-566-0003).

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c).)

Dated: August 23, 1979

William R. Campbell, Jr.,

Acting Commissioner, Federal Property Resources Service.

[FR Doc. 79-27078 Filed 8-29-79; 8:45 am]

BILLING CODE 9820-04-M

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 63]

[CC Docket No. 78-72; FCC 79-515]

MTS and WATS Market Structure

AGENCY: Federal Communications Commission.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: This Supplemental Notice of Proposed Rulemaking requests comments which: (1) Describe the existing economic characteristics of the MTS and WATS market; (2) define the rules, orders, practices, and/or policies which the Federal Communications Commission should adopt, if any, to institute and maintain the industry structure which the participant prefers; (3) describe the changes which would result in the economic characteristics of the MTS and WATS market if the Federal Communications Commission were to adopt the recommendation(s) which the participant advanced; (4) evaluate the changes in the economic characteristics of the MTS-WATS market which would result from the adoption of the recommendation against criteria which are derived from the Communications Act of 1934. After the principal comments have been filed, a limited opportunity for discovery is provided to participants to assist them in the formulation of reply comments. In addition, comments are requested on issues to be designated to a Joint Board in the areas of: Separations, settlements, division of revenues, and non-discriminatory access charges.

DATES: MTS and WATS market structure comments must be received on or before February 15, 1980. Reply comments to the market structure comments must be filed on or before the 90th day after the deadline for the filing of responses to information requests (see paragraphs 43 and 49, *infra*). Comments which address the issues

which are to be designated to a Joint Board must be filed on or before October 15, 1979, and reply comments to those issues must be filed on or before October 31, 1979.

ADDRESSES: Federal Communications Commission, 1919 M Street, NW., Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Dr. Kent Nilsson, Common Carrier Bureau, (202) 632-9342.

SUPPLEMENTARY INFORMATION:

Adopted: August 14, 1979.

Released: August 30, 1979.

In the matter of MTS and WATS Market Structure CC Docket No. 78-72.

Overview

1. This proceeding was instituted to determine the MTS-WATS market structure which will best serve the public interest. Our initial Notice of Inquiry and Proposed Rulemaking invited interested persons to define specific issues for investigation during the course of this proceeding. Numerous comments have been received in response to that Notice. Many of the comments recommend that this Commission describe the objectives which will serve as criteria in evaluating the relative merits of alternative market structures before designating particular issues for comment. In this regard, we agree with those participants who have observed that the goals expressed in Section 1 of the Communications Act should serve as the primary criteria in determining whether a particular market structure is in the public interest. Those goals include improving the cost and quality of service for users of communications services, making such services available to all users, satisfying national defense needs, and promoting the safety of life and property. Other goals may be implicit in Section 1 and other provisions of the Act.

2. At this time we will not designate any questions for trial type hearings. We are inviting interested persons to submit comments and reply comments. We will determine whether any additional steps will be required in this proceeding after we have evaluated the comments, reply comments, and other data which the Chief of the Common Carrier Bureau will direct certain carriers to provide.

3. Instead of inviting participants to comment upon a detailed list of specific questions, we will establish a format for the principal comments which we expect will develop an adequate record for deciding the issues which are involved in this proceeding. We are concerned that responses to specific questions may obscure the important interdependencies which exist among

the issues raised in this proceeding. Specific questions would also tend to inhibit participants from evaluating broad regulatory options and from advancing economic, technical, and legal arguments to support the adoption of particular regulatory policies. We note that the initial comments in this proceeding have presented conflicting views of the existing telecommunications market and of the decisions which should be made in determining which market structure would best serve the public interest. Those differences in perception and the policy implications which flow from those perceptions require that we adopt a different approach in this proceeding. Accordingly, we request that participants describe and document their perceptions of the present and future characteristics of the MTS/WATS market. We then ask each participant to specify those rules, orders, practices, and policies which this Commission should adopt to effect and maintain the market structure which each participant believes will best serve the public interest. After having defined the actions which this Commission should take, we request that each participant describe and document the changes which would result in the MTS-WATS market if we were to adopt the proposed course of action. Finally, we ask each participant to evaluate each of those changes against criteria which are derived from the Communications Act. Part IV of this Supplemental Notice describes the format which we have adopted in more detail.

4. While the United States Court of Appeals for the District of Columbia in its *Execunet* decisions¹ made it quite clear that the Commission was not to establish a presumption favoring competition or sole source supply pending the outcome of this proceeding, we have read those decisions to require routine processing of 214 applications for facilities used in the provision of MTS/WATS or like service offerings. See generally, *I.T.T. Corporate Communication Services, Inc.*, 70 F.C.C. 2d, Pamphlet No. 4, p. 1129 (1979). We recognize that such an approach, pending the outcome of this proceeding, may require changes in separations, settlements, divisions of revenues, and the determination of non-discriminatory access charges. Accordingly, we are

¹ *Execunet*, 60 F.C.C. 2d 25 (1976), *rev'd in part sub. nom.*, *MCI Telecommunications Corp. v. F.C.C.*, 561 F. 2d 285 (D.C. Cir., 1977), *cert. denied*, 434 U.S. 1040 (1978), 580 F. 2d 590 (D.C. Cir., 1978), *cert. denied*, — U.S. —, 47 U.S.L.W. 3388 (1978). See also, *MCI Telecommunications Corp.*, No. 75-1635 (D.C. Cir. filed May 11, 1978) denying a motion for further Stay.

also requesting comments on suggested issues which we may designate to a Joint Board pursuant to Section 410 of the Communications Act of 1934 as amended. Also, see generally *Network Facilities* (ENFIA), 71 F.C.C. 2d, Pamphlet No. 5 (CC Docket 78-371, released April 18, 1979).

I. Nature of the Inquiry

5. The initial Notice of Inquiry and Proposed Rulemaking in this proceeding stated that "the purpose of this proceeding is to determine whether the public interest requires that * * * MTS and/or WATS, or their functional equivalents, should be provided on a sole source basis (i.e., free from direct competition)." 67 FCC 2d 757 (1978). The Notice also stated that we are seeking to determine "whether the public interest would be better served by conferring single source status upon MTS and WATS, in whole or in part, or by authorizing some other kind of industry structure * * *." *Id.* at 758.

6. Sole source service and totally unrestricted entry are the opposite poles in a continuum of entry conditions and associated market structures which may ultimately result from this proceeding.² We seek to identify the structure which is most likely to produce industry performance which furthers the goals of the Communications Act. The identification of the desired market structure is a necessary first step in the formulation of policies and procedures which will govern the exercise of our statutory powers and responsibilities. The actions which this Commission takes in exercising its facility authorization powers under Section 214 of the Act and its radio licensing powers under Title III of the Act necessarily affect the structure of telecommunication service markets and submarkets. Section 214(a) prohibits carriers from constructing, operating, or acquiring additional or extended lines without a certificate from this Commission and Section 214(c) authorizes this Commission to attach conditions to a Section 214(a) certificate. Title III prohibits persons, including common carriers, from using radio

² The term "sole source", which appears in both notices, means a market structure in which a service is provided exclusively by an entity or co-operating entities between particular points. We have not used the term "monopoly" to describe such a provision of service because that word is frequently used to describe a dominant seller in a particular market who may not be the sole source of a product or service in that market. A "sole source" market structure does not inevitably mean that the same sole source provides service in all areas. Some non-AT&T entities such as RCA Alascom have participated in the provision of interstate MTS and WATS services on a sole source basis.

frequencies without a license from this Commission and requires that radio licenses be periodically renewed. See Sections 307-309. Section 303(b) empowers this Commission to prescribe the services to be rendered by each station and each class of station, and Section 314 prohibits certain activities where the effect of those activities may be to substantially lessen competition or restrain commerce.³ In each determination the standard the Commission is bound to follow is that of the public convenience, interest, or necessity. The public interest determinations required by these provisions must necessarily be based in part upon consideration of the structure of particular markets or submarkets. Thus, the Communications Act not only grants this Commission ample power to influence market structure, but it also imposes a duty to exercise such power in a manner which is most likely to result in a market structure which furthers the goals of the Act.

7. We have previously conducted rulemaking proceedings for the purpose of making such market structure determinations with respect to various types of telecommunications services and particular types of telecommunications facilities. See, e.g., *Specialized Common Carrier Services*, 29 FCC 2d 870 (1971), *affirmed sub nom. Washington Utilities and Transportation Comm'n v. FCC*, 513 F.2d 1142 (9th Cir.), *cert. denied*, 423 U.S. 838 (1975); *Establishment of Domestic Communications—Satellite Facilities by Non-Governmental Entities* ("Domsat II"), 35 FCC 2d 844 (1972); *Domestic Public Message Services*, FCC 79-42 (released March 28, 1979). However, we have never performed any systematic assessment of the effects of competition on the provision of MTS-WATS type services. The court decision in *M.C.I. Telecommunications Corp. v. F.C.C.*, 561 F.2d 365 (D.C. Circuit, 1977), *cert. denied* 434 U.S. 1040 (1978) has made it necessary to undertake such a systematic assessment in order to determine whether sole source or multiple source provision of services such as MTS and WATS will best serve the public interest.

8. We have used the term "MTS-WATS market" to describe the cluster of interstate services which will be governed by the policy we establish in this proceeding. As a starting point, we shall use the term to encompass the present interstate offerings of AT&T and the independent telephone companies

³ Also see Section 602(d) of the Communications Act of 1934 as amended, now codified at 15 U.S.C. 21(a).

which offerings are known as MTS and WATS, and existing or future offerings of any carrier which are or which will be the functional equivalent of MTS or WATS.⁴ Although any entry policy we adopt in this proceeding will be confined to the MTS-WATS market, we will necessarily consider any effects which an entry policy for the MTS-WATS market may have on the provision of other services, including both interstate and intrastate services, in determining an entry policy for the MTS-WATS market. The initial Notice also stated that the MTS-WATS market may not be a monolithic whole and that different entry policies may be appropriate with respect to "basic MTS service" and "fringe MTS services."

9. We stated in the first Notice that in addition to examining the effects of market structure upon rates, technical and operational efficiency, network planning, network management, and innovation, it will be necessary to examine the possible effects of competition upon the interstate MTS rate structure and local exchange service rates, and to determine appropriate access arrangements for all carriers who utilize local exchange facilities to provide interstate services. The Notice expressed a tentative conclusion that questions with respect to access arrangements and the subsidy which interstate MTS allegedly provides to local exchange service can be independently resolved in a proceeding pursuant to Section 201(a) of the Communications Act. We concluded that it will probably be necessary to examine the effects of competition upon the interstate MTS rate structure and upon local exchange rates because telephone companies have asserted in prior proceedings that MTS competition will lead to higher rates for local exchange services and some interstate MTS services. See *Specialized Common Carrier Services*, *supra*, 29 FCC 2d at 910, 914 n. 37. See also *First Report and Order in Docket No. 2003*, 61 FCC 2d 766

⁴ The criteria for distinguishing the functional equivalents of MTS or WATS from private line services are discussed in a series of prior Commission decisions. See, *MCI Telecommunications Corp.*, 60 FCC 2d 25 (1976), *reserved on other grounds*, 561 F. 2d 265 (D.C. Cir. 1977), *cert. denied*, 434 U.S. 1040 (1978); *Southern Pacific Communications Corp.* ("SPRINT II"), 63 FCC 2d 308 (1977); *MCI Telecommunications Corporation* ("SPLS II"), 63 FCC 2d 237 (1977). The *SPRINT II* and *SPLS II* decisions were vacated and remanded for reconsideration on February 1, 1978. D.C. Cir. No. 78-2071. Those criteria may require further refinements and we encourage interested persons to address that definitional question in this proceeding. Also see the *Final Decision and Order in Docket No. 21402*, FCC 78-612 (released December 13, 1978).

(1976). We have yet to determine whether such assertions are valid.

10. After the initial Notice was released, the American Telephone and Telegraph Company ("AT&T") filed a new tariff with this Commission which is commonly known as the ENFIA tariff. The ENFIA tariff specified the compensation specialized carriers would pay to AT&T subsidiaries for the use of local exchange facilities in the provision of Execunet and similar services. Those specialized carriers were being charged for such access service in accordance with local exchange service tariffs which were instituted under different conditions. The effective date of the ENFIA tariff has been deferred from time to time to enable AT&T, the affected specialized carriers, and others to negotiate an agreement with respect to such access charges. On December 13, 1978, AT&T, GTE, certain specialized carriers and others entered into an interim agreement, pending the outcome of this proceeding, which proposed to this Commission a method for compensating the telephone companies for the provision of local exchange service to specialized carriers providing Execunet type services. The parties to the December 13 agreement apparently expect that such an agreement will serve as an interim determination of interconnection charges, and that the interim agreement may be superseded by other arrangements established by this Commission in this, or in other, proceedings. The arrangement described in the December 13 agreement included substitution of a different ENFIA tariff for access services provided by AT&T subsidiaries. In the Memorandum Opinion and Order in *Network Facilities*, 71 F.C.C. 2d, Pamphlet No. 5 (CC Docket 78-371, released April 16, 1979), we determined that the December 13, 1978, agreement is in the public interest.

II. Summary of Comments

11. Formal comments, or statements of intention to participate, have been filed by numerous entities including carriers, government agencies, and a variety of carrier, consumer, and other organizations.⁸ In general the comments tend to confirm our tentative conclusions with respect to the general topics which should be examined in establishing entry policies for the MTS-WATS market. Many comments included detailed lists of questions which cover such general topics as the effect of sole source vs. competitive

⁸ A complete list of such persons is attached as an Appendix.

supply on the cost and quality of service, the effect of competition upon the interstate MTS rate structure, and the effect of competition in the MTS-WATS market upon local exchange service rates and arrangements to compensate local exchanges for the use of local exchange facilities in the provision of interstate services.

12. Our initial Notice indicated that we would examine such economic efficiency questions as the effects of market structure upon the pace of innovation, operational efficiency, and network planning. The comments have suggested that we also determine if economies of scale exist and whether such economies might not be realized in a competitive environment, and that we examine the effects of market structure upon the development of communications facilities.⁹ Although some opponents of competitive entry assert that competition may lead to wasteful duplication, many of the opponents of competitive entry in the MTS-WATS market assert that a competitive market structure may not produce sufficient facilities redundancies to satisfy the nation's communications needs. Other suggested areas of inquiry which may not have been encompassed within the topics in the initial Notice include the effect of market structure upon: Depreciation practices, regulatory costs, spectrum allocation, the national defense, and the quality of the environment. Some comments have also suggested that this Commission consider prescribing changes in the corporate structure of AT&T.

13. Many participants apparently agree that we should examine telephone industry claims that the MTS rate structure is and should be based upon rate averaging which has been alleged to equalize rates for low cost and high cost routes. Proponents of a sole source market structure have asserted that new entrants will inevitably limit their services to low cost, high density, routes and that such "cream skimming" will compel the former sole source providers of MTS service to adopt a de-averaged rate structure which will result in increased rates for high cost, low density, routes. Some proponents of a multiple source market structure question whether deviations from cost of service pricing do or should exist.

14. Telephone industry claims that interstate revenues provide subsidies for local exchange users were also discussed in many of the comments. Telephone companies have asserted in

⁹ Specialized carriers note that there may be economies of specialization.

prior Commission proceedings and Congressional hearings that such subsidies are necessary to achieve universal service and to maintain service in more sparsely populated areas, that such subsidies are currently flowing, and that subsidies could not be maintained in a competitive environment. Some of the comments in this proceeding said that this Commission should attempt to determine whether such "subsidies" are actually being paid, and, if so, to whom the "subsidies" have been flowing and from whom the "subsidies" have been received. Proponents of a multiple source market structure also said that we should examine the possibility that subsidized local service may stimulate "excessive" demand, thereby creating a circular condition under which additional local investment is needed, which, in turn, requires additional subsidies. Such participants also suggested that we examine alternative mechanisms for providing any "subsidies" which may be deemed to be desirable.

15. Many of the comments also discussed the existing separations procedures for the allocation of costs and investments between interstate and intrastate jurisdictions. Some comments asserted that the introduction of competition in the MTS-WATS market is undesirable because it will inevitably lead to a change in the existing separations procedures while others asserted that such competition is desirable because it will lead to changes in those procedures. Many of these comments with respect to separations are related to the alleged subsidy for local exchange service. Most participants who discussed separations procedures apparently assumed that any such subsidy is effectuated through the separations process.

16. Several parties have suggested that this Commission should describe its policy goals in the Supplemental Notice and should direct each participant to demonstrate that the market structure which each participant advocates will further those goals. Some comments have suggested that terms such as "basic MTS", "fringe MTS", and "functional equivalent" should be defined in the Supplemental Notice. We have also received several comments that discuss the allocation of the burden of proof. Some contend that persons who believe that these services should not be provided on a sole source basis have the burden of demonstrating that competition will be beneficial. Others contend that persons who advocate restrictive entry policies must

demonstrate that restrictions will be beneficial. MCI claims that AT&T and the other telephone companies have the burden of production with respect to most questions because they have the pertinent information.

17. Several participants have also discussed the procedures that should be followed in this proceeding. Some comments have noted that this Commission relied upon notice and comment procedures to resolve analogous entry policy questions in the *Specialized Carrier Services* and "Domsat" proceedings, and urge the Commission to follow the same procedures in this instance because notice and comment proceedings are far more expeditious than any alternative procedures. Others contend that some or all questions should or must be designated for an evidentiary hearing before an Administrative Law Judge. Others contend that some or all questions should or must be referred to a Joint Board. Several comments suggest that the Commission staff or outside consultants should prepare studies to supplement or evaluate the presentations of participants. Some comments state that all questions should be considered together because the questions are necessarily interrelated. Others suggest that the proceeding be divided into two to four phases in order to make it more manageable. Some suggest that all phases proceed simultaneously and others suggest that some questions should be resolved before others are considered.

18. USITA has noted that some materials submitted in Docket 20003 may be relevant in assessing the effects of competition in the MTS/WATS market.⁷ It concluded that these materials "may adequately support a tentative public interest decision on the question of MTS/WATS competition."

19. Several parties have expressed the view that it would be desirable to broaden participation and have suggested that this can be accomplished by funding a non-governmental consumer interest representative.

III. Discussion

20. We will not ask persons who file comments in this proceeding to respond to a list of specific questions. We believe that comments and evidence submitted in the format described in Part IV herein are best suited to

⁷ Docket 20003 was initiated to examine the economic effects of competition in interstate private line service and the provision of customer premises (terminal) equipment. See *Notice of Inquiry*, 46 F.C.C. 2d 214 (1974); *First Supplemental Notice*, 50 F.C.C. 2d 574 (1974); *First Report*, 61 F.C.C. 2d 786 (1978).

developing the record that we seek. The questions and general areas of inquiry suggested in the comments have, of course, been of great assistance to us in selecting and describing market structure, regulatory policy elements, and criteria for the evaluation of those elements. The comment format described in Part IV is intended to encompass the substantive issues discussed in paragraphs 11-15 of this Supplemental Notice and paragraphs 7-11 of the initial Notice.

21. We must agree with the participants who have observed that the formation of an entry policy must be guided by the purposes which Congress has articulated in Section 1 of the Communications Act. All provisions of the Act must be read in the light of that statement of purpose. This is particularly true of provisions which direct this Commission to determine whether the public interest or public convenience and necessity require or will be served by particular actions. Such determinations should be based upon the premise that actions which further the Congressional goals expressed in Section 1 are in the public interest.¹⁰ Of course, public interest determinations must not be based exclusively upon Section 1. Some basic policies of the Act may be inferred from other provisions, particularly Section 201-205, 214, 312-314, and 15 U.S.C. 21(a).

22. Section 1 states, in relevant part, that the Communications Act was enacted "[f]or the purpose of regulating interstate and foreign commerce so as to make available, so far as possible, to all the people of the United States a rapid, efficient, nationwide and world-wide wire and radio communication service with adequate facilities at reasonable charges, for the purpose of the national defense, for the purpose of promoting safety of life and property through the use of wire and radio communication . . .". The reference to the rapidity and efficiency of service and the adequacy of facilities obviously means that Congress wanted to maintain and enhance the quality of communications services. The reference to reasonable charges demonstrates that Congress was also concerned with the level of rates and expected this Commission to follow policies which would minimize the cost of communications services to ultimate users. This concern with the cost and quality of service demonstrates that

¹⁰ The public interest concept may also reflect national policies expressed in other statutes such as the National Environmental Policy Act, 42 U.S.C. 4321 et seq. We will consider the environmental impact, if any, of market structure alternatives in selecting the optimum market structure.

economic efficiency is a goal of the Act. The comments we have received indicate that participants agree that economic efficiency is one of the goals of the Act. Most of the areas of inquiry which have been suggested by the comments and the initial Notice of Inquiry relate to the cost and quality of communications services. Any effects which the selection of a market structure may have upon technical and operational efficiency, network planning and management, technological innovation, depreciation practices, regulatory costs, or spectrum allocation will ultimately have an impact upon the cost and quality of communications services. A market structure alternative which has an adverse impact upon particular carriers may also have an indirect impact upon the cost and quality of services which such carriers provide.⁹

23. The Statement in Section 1 that the Act has been enacted for the purpose of making service available to all the people of the United States at reasonable charges presents a more difficult question of statutory interpretation which may be of crucial importance in this proceeding. That language presumably means that Congress wanted to create conditions in which all or most common carrier communication services are offered to all persons. Many persons who filed comments in this proceeding apparently infer that it also means that Congress wanted to create conditions in which such services, or some of them, are "affordable" to all. The contention that any regulatory action which results in an increase in the relative cost of local exchange service conflicts with the goals of the Act is presumably based upon that interpretation of Section 1. While this may be a credible interpretation of Section 1, it does not appear to be the only possible interpretation. We encourage interested persons to address that interpretation question in their comments.¹⁰

24. Some comments have suggested that we establish relative priorities in this Supplemental Notice which will be observed if some of the explicit or implicit goals of the Act conflict. It would be unwise to assign any priorities at this time. It seems unlikely that Congress intended to give priority to any

⁹ The evaluative criteria described in paragraph 38, *infra*, are based upon these statutory goals. See also footnotes 24-28, *infra*, and decisions cited therein.

¹⁰ In addition, the Act clearly indicates that Congress was concerned with enhancing the national defense and protecting the safety of life and property. Those goals must also be taken into account in reaching a public interest determination.

particular goal under all conceivable circumstances. A public interest determination is necessarily a balancing process which requires the exercise of judgment, and different goals may take precedence depending on the facts of each case. Therefore we shall wait until the facts have been developed in the record before we attempt to set priorities for goals in this case.

25. Several parties have requested that we assign burdens of proof. It is inappropriate to speak of allocating a burden of proof in a rulemaking proceeding which this Commission initiated. We must, of course, establish an adequate factual predicate for the adoption of any rules. Persons who might benefit from the adoption of a particular rule have an incentive to develop and present information which supports the adoption of such a rule. Each participant should assume that any gaps in the record which might preclude this Commission from reaching a conclusive determination with respect to the effects of any regulatory policy will not inure to his benefit.

26. We shall not refer any question to an Administrative Law Judge at this time. We intend to follow a flexible approach in this proceeding in order to develop a record which will provide an adequate factual predicate for the adoption of a market structure policy in an assiduous manner. We have decided to invite interested persons to submit comments and reply comments and to allow sufficient time for the filing of the principal comments to enable the participants to document their contentions in a thorough manner. Our staff will also initiate a concurrent policy research effort in order to establish a perspective which will enhance its ability to evaluate the comments of the participants. The staff will attempt to gain quantitative insights into the effects of various policy alternatives subject to a range of assumed competitive and noncompetitive scenarios in the MTS/WATS market place.¹¹ As and when appropriate we will obtain the assistance of outside consultants or contractors to supplement these staff efforts. The Chief of the Common Carrier Bureau will direct certain

¹¹ The Commission is involved in a joint effort with the Experienced Technology Incentives Program (ETIP) of the National Bureau of Standards. ETIP is concerned with the effects of governmental policies on innovation. We are now cooperating with ETIP in monitoring the effects of our recent decision in *Domestic Public Message Services*. See F.C.C. 2, Pamphlet 5 Paragraph 151 (1979). Through this joint program, we are seeking better ways to gather pertinent, policy-related information, and we are now examining potential applications of our ETIP experience to MTS/WATS.

carriers to submit empirical data and other information in order that the staff may proceed expeditiously with its research. The responses to those information requests will be made available to participants in this proceeding to assist them in the preparation of their comments. We will take further steps to enable us to reach an informed decision if the comments of the participants and the research efforts of our staff do not provide a sufficient basis for resolving material questions of fact and law.

27. We have noted claims that evidentiary hearings will provide that most effective mechanism for accurate fact-finding. However, that type of multi-party proceeding could become almost interminable, given the complexity of the issues which we must resolve. We are endeavoring to establish an entry policy for the 1980's. A procedural option which would preclude us from reaching a final decision at or near the beginning of that decade would not be consistent with that goal. Accordingly, we have decided that we should not utilize evidentiary hearings to resolve all issues. Nevertheless, we may designate one or more discrete and limited questions of fact which may arise for evidentiary hearing at a later date.

28. We have also noted claims that some or all questions in this proceeding should be referred to a Joint Board composed of members of this Commission and representatives of state commissions pursuant to Section 410 of the Communications Act. Section 410(c) provides in relevant part: "(t)he Commission shall refer any proceeding regarding the jurisdictional separation of common carrier property and expenses between interstate and intrastate operations, which it institutes pursuant to a notice of proposed rulemaking and, except as provided in Section 409 of this Act, may refer any other matter, relating to common carrier communications of joint Federal-State concern, to a Federal-State Joint Board." The primary purpose of this proceeding is to determine entry policies with respect to interstate services and any conclusion we reach will not preclude the states from pursuing their own entry policy with respect to intrastate services. Thus, this proceeding does not present the type of "joint Federal-State concern" which would warrant referring all questions to a Joint Board. Any decision we reach may, of course, have an indirect impact upon intrastate services and the states have a legitimate interest in expressing their views. See *Washington Utilities and*

Transportation Comm'n v. F.C.C., 513 F.2d at 1146-53. State commissions may express their views by filing comments in this proceeding and we encourage them to do so.

29. Some participants may have assumed that we are presently contemplating changes in the separations procedures because the initial Notice states (87 F.C.C. 2d at 759): "A principal question we intend to explore has to do with the industry's division of revenues and settlements." Some confusion apparently exists with respect to the meaning of the terms "separations", "settlements", and "divisions". We will use the term "separations" in this Supplemental Notice to describe the allocation of investments and expenses among interstate and intrastate services. Such costs and expenses must be allocated among jurisdictions because the power to regulate rates has been divided among jurisdictions. See *Minnesota Rate Cases*, 230 U.S. 352 (1913); *Smith v. Illinois Bell Telephone Co.*, 282 U.S. 133 (1930). Section 221(c) of the Communications Act empowers this Commission to determine the allocation of common property between interstate and intrastate jurisdictions. This Commission has exercised that power by adopting a *Separations Manual* as part of its rules which prescribes the procedures to be followed in allocating investments and expenses between interstate and intrastate services. Those procedures cannot be changed without a further order of this Commission. Revenues must also be allocated among participating entities whenever two or more entities participate in providing a particular service. Although Section 201(a) of the Act uses the term "divisions of charges" to describe such an allocation of revenues, the term "divisions" is normally used in the communications industry to describe the allocation of revenues among AT&T entities and the term "settlements" is used to describe revenue allocations among the Bell System Operating Companies and the independent telephone companies. Section 201(a) empowers this Commission to establish the division of charges for services regulated by this Commission.

30. Although Section 410(c) of the Communications Act requires that this Commission obtain and consider a Joint Board report before we adopt any change in the separations procedures, it does not require that we obtain such a report before exercising our Section 201(a) powers to allocate revenues among carriers who participate in

providing an interstate service.¹² The states are directly affected by any change in jurisdictional separations, but they are not as directly affected by changes in the allocation of interstate revenues. The existing separations and settlement-divisions procedures have been historically treated as being related. Under the settlements-divisions procedures which have been devised within the telephone industry, the interstate charges collected by each originating telephone company are merged to form the interstate revenue pool. Those pooled revenues are then distributed to the participating companies on the basis of the total expense and investment which each participant incurred in the provision of interstate services and the rate of return which each entity is to receive on its investment. Expense and investment allocations procedures are derived from the *Separations Manual* methods for the allocation of expenses and investments between interstate and intrastate services. The historical relationship between settlements and separations indicates that changes in existing settlements-divisions procedures could conceivably require a change in separations procedures. Accordingly, in the light of the ENFIA access arrangements (see para. 10, *supra*) and the presence of additional suppliers in the MTS-WATS market, we request comments on those issues which we should designate for consideration by a Joint Board pursuant to Section 410 of the Communications Act of 1934 as amended. *Inter alia*, those comments should include all issues which would be attendant to the determination of nondiscriminatory access charges, and the changes, if any, which should be made to the existing separations, settlements, and division of revenues procedures.¹³

¹² Section 410(c) does not refer to the allocation of revenues.

¹³ A thorough understanding of the likely effects of competition of MTS-WATS and local exchange rate payers is conditioned on an equally thorough understanding of access arrangements between established carriers and their competitors. Specifically, until non-discriminatory access arrangements are defined, operating conditions under which specialized carriers compete for intercity business will remain ambiguous. Accordingly, the degree of risk associated with investing in competitive service offerings may remain unreasonably high and new entry may be inhibited. Similarly, until just and reasonable access arrangements are established, it may not be possible to determine, with any degree of accuracy, whether competition will engender more efficient utilization of resources currently being devoted to the provision of telecommunications services, whether competitive services will be offered exclusively along high density inter-city routes, or the extent to which policies encouraging open entry would affect local as well as interexchange rate

31. The initial Notice in this proceeding stated that we might "spin off" one or more issues for separate resolution and noted that questions related to interstate carrier access to local exchange facilities appear to be prime candidates for independent resolution. Although we have decided to invite separate comments with respect to questions related to access charges and changes in separations, settlements, and divisions of revenues which may be referred to a Joint Board, and may resolve such questions before we make a final determination with respect to entry policy for the MTS-WATS market, we have also decided to invite interested persons to address such questions in their industry model comments. See especially regulatory policy elements three through five in paragraph 37, *infra*. We have concluded that we should obtain comments which focus upon all of the inter-related policy questions before we resolve any of them.

32. The materials submitted in Docket 20003 would not provide an adequate basis for a tentative determination that a particular MTS-WATS market structure is or is not in the public interest. Docket 20003 was initiated in order to examine the economic effects of competition in the interstate private line services market and the customer premises (terminal) equipment market. Participants were not asked to address the possible effects of competition in the MTS-WATS market and most did not do so. Studies which purported to address such effects were deficient for reasons which are discussed in the First Report in Docket 20003.¹⁴

33. Although we cannot make a tentative public interest determination upon the basis of the Docket 20003 proceedings, some of our findings in that proceeding are relevant to this inquiry. We recommend that persons who wish to file comments in this proceeding become familiar with the First Report in

structures. Indeed, the establishment of non-discriminatory access arrangements arguably represents a necessary prerequisite to the disposition of many of the policy issues to be addressed in this proceeding. We believe it would be advantageous, therefore, to expedite resolution of all questions surrounding access arrangements so as to reach related issues in a timely manner. To that end, we invite interested parties to identify those issues concerning access arrangements that merit referral to a Joint Board. In addition, within the context of a Joint Board, we encourage comments which would specify issues for the appropriate treatment of foreign exchange (FX), common controlled switching arrangements (CCSA), and other interstate services through the separations, settlements, and division of revenues procedures.

¹⁴ 61 F.C.C. 2d 766 (1978).

Docket 20003.¹⁵ We urge participants to examine our conclusions with respect to deficiencies in the methodologies which were used in economic studies submitted in Docket 20003.

34. Several participants in their comments urged that broad participation in this proceeding be encouraged. Consumers Union, the Consumer Federation of America, and the Office of Consumer Affairs suggested that the government fund the participation of consumer interests. On the first point, we emphasize our firm intention and sincere hope that this proceeding will attract comments from groups or parties that have not in the past participated, or have infrequently participated, in Commission proceedings. Every user of MTS-WATS services has a stake in the outcome of this proceeding, and accordingly we encourage the development of a broadly based record. To assist in the development of such a record, we will supplement our usual public notice procedures by directing the Consumer Assistance Office to distribute copies of this Notice to consumer groups. On the second point, Commission funding of consumer groups, it should be noted that a Notice of Inquiry which is directed to consumer funding was adopted by this Commission on June 30, 1978 (Docket No. 78-205; 43 Fed. Reg. 30832). We anticipate that staff conclusions with respect to that proceeding will be before us shortly. Accordingly, it would be inadvisable at this time for us to address that issue in this proceeding.

IV. Developing and Evaluating Alternative Industry Structures

35. The complex, interrelated issues which we confront in this proceeding require an approach which will permit participants to present fully the information which they feel this Commission should consider. However, the analysis of changes in economic effects, service quality, availability of services, technological innovation, diversity of service offerings, and rates for MTS-WATS services requires the adoption of a formal structure for the analysis of comments. Accordingly, we request that participants who will submit industry models¹⁶ present their

¹⁵ We expect to issue a Second Report in Docket 20003 which should also be of interest to participants in this proceeding.

¹⁶ In the interest of brevity, the term "industry model" will be used in this notice to describe the regulatory changes which a proponent advances under the Communications Act of 1934 as amended, and will also be used in a broader sense to encompass legislative changes which a proponent feels this Commission should recommend to Congress. We do not intend that our use of the term

Footnotes continued on next page

comments in the following manner. The first section should provide an executive summary of the participant's comments. The second section should specify the existing MTS-WATS market structure.¹⁷ The third section should define the rules, orders, practices, and/or policies which this Commission should adopt, if any, to institute and maintain the industry structure which the participant prefers.¹⁸ The fourth section should describe the changes which would result in the MTS-WATS market structure if this Commission were to adopt the recommendations made in the third section of the participant's comments. Changes resulting from the adoption of the participant's industry model should be contrasted with "base case".¹⁹ A description of the MTS-WATS market structure which would be contained in the second section of a participant's comments.²⁰ The fifth section should evaluate the changes delineated in the fourth section of the comments in terms of the criteria which we suggest in para. 38, *infra*. We also encourage participants to discuss the relative priorities which should be accorded to those criteria in the light of judicial interpretations and the legislative history of the Communications Act. The sixth section should include a detailed discussion of whether this Commission has the authority to implement the participant's preferred industry model under the Communications Act. Participant's who conclude that requisite authority is lacking should supplement their discussions with suggested legislative changes. The seventh section should document the descriptions contained in the second section, and the eighth section should document statements made in the fourth section. The ninth section should contain any additional information which participants deem to be relevant to this proceeding. In other words,

Footnotes continued from last page
"industry model" be equated with a formal economic or econometric model. Rather, the phrase "industry model" has been chosen, for the sole purpose of economy of expression in this notice, to describe the regulatory and/or legislative changes that would be proposed by participants.

¹⁷ The elements which would be included are listed in para. 36, *infra*. Documentation to support statements which are made in the second section should be included as Section VII. All documentation should be cross-referenced, by page to the main text.

¹⁸ Specific areas which we would like participants to consider are contained in para. 37, *infra*.

¹⁹ Our decision to utilize a "status quo" base case as a tool of policy analysis should not be interpreted as establishing a legal presumption that the status quo is more consistent with the goals of the Communications Act than alternative industry structures. Participants are encouraged to compare the effects of different suggested industry models in their reply comments.

participants who choose to submit industry models should present their comments as follows:

Section I: an executive summary of comments;

Section II: a statement of the characteristics of the MTS-WATS market (see para. 36, *infra*);

Section III: proposed rules, orders, policies, and practices (see para. 37, *infra*);

Section IV: statements of changes which would occur in the characterizations contained in section II, *supra*, if the proposed rules, orders, policies, and practices were implemented;

Section V: evaluation of the changes stated in Section IV, *supra*, in terms of the criteria specified in para. 38, *infra*; discussion of the relative priorities which should be accorded to those criteria in the light of the legislative history and the judicial interpretations of the Communications Act;

Section VI: analysis of whether this Commission has the authority to implement the participant's preferred industry structure;

Section VII: documentation of the statements made in Section II;

Section VIII: documentation of statements made in Section IV;

Section IX: an appendix which incorporates any other information which this Commission should consider in this proceeding.

36. The elements of the MTS-WATS market structure which should be included in the second section of participants' comments are:

(1) *Definition of the MTS-WATS Market.* This would include service offering definition(s), geographic areas in which those service offerings occur, and the methods used for pricing those offerings.

(2) *Demand Relationships.* The characteristics and geographic locations of user demands for MTS-WATS services. This element would include the specification of existing and future demand functions for MTS-WATS services which are disaggregated by the types of service and classes of users as well as geographic areas.²⁰

(3) *Supply Relationships.* The specification of the supply functions of the existing and future providers of MTS-WATS services. *Inter alia*, this element should include: The geographic areas which would be served, the services which would be provided, and the number and size of firms which would be providing each service in each geographic market. This would also include, but would not be limited to, the limit to, the level of investment in telecommunications facilities, the efficacy of facility investment planning, the utilization and management of such

²⁰ Analyses of traffic data between Class 5 and Class 4 switching centers may be a useful starting point for some participants in developing their comments on this element.

facilities, and the administrative and regulatory costs to common carriers, this Commission, and other entities.

(4) *Economies of Scale.* The absence or presence, magnitude, and location of: Economies of scale, economies of specialization and diseconomies of scale.

(5) *Sources and Cost of Capital.* Constraints upon the acquisition of capital could be a factor in determining the extent to which the MTS-WATS market place would be divided among MTS-WATS providers in a competitive environment. This element would describe any capital constraints which may function as a barrier to entry into the MTS-WATS market.

(6) *Rate Averaging.* At the present time some interstate MTS-WATS rates are uniform (in terms of factors such as: class, distance, time, and time of day) throughout the contiguous 48 states. A consequence of this policy is that parties serviced over high cost routes may obtain service at the same rates as those serviced by low cost routes. The magnitudes and locations of these cost disparities, by types of service, have not been defined in the initial comments. We encourage participants to submit detailed descriptions and analyses of those disparities.²¹

(7) *Existence and Extent of Subsidies.* Several comments have suggested that existing MTS-WATS rate levels and structures may provide subsidies to local exchange and intrastate toll services through the mechanism of the jurisdictional separations process embodied in the 1971 NARUC-FCC *Separations Manual*. In addition, comments have suggested that the rate averaging mechanism may provide subsidies to subscribers serviced by high cost facilities. It has been further suggested that, due to the existing rate structure, some short haul users subsidize long haul users. Parties to this proceeding are urged to define the "subsidies" which they perceive, and specify the amounts of the "subsidies", the recipients of the "subsidies", and the providers of the "subsidies".

(8) *Other Characteristics.* This classification includes other factors which describe the MTS-WATS market

²¹ A Federal State Joint Board Proceedings is currently addressing the issue of which jurisdictional cost separations methodology is appropriate for Hawaii and Alaska (Docket 21283; 42 FR 30221) when those off-shore points become integrated into the mainland MTS-WATS rate schedule. Currently, these points receive MTS-WATS service at rates higher than the rates that would be charged for equivalent interstate calls on the mainland. With full rate integration these points will also participate in rates which are more fully aligned with the 48 contiguous states.

which participants feel that we should consider in this proceeding.

37. The industry model, which would be contained in Section III of participants' comments, should include those rules, orders, practices, and policies which this Commission should adopt to institute and maintain the industry structure which each participant would prefer. Important areas which participants are invited to address include:

(1) *Entry Policy For The MTS-WATS Market.* This element should include those rules or orders, if any, which this Commission should adopt subsequent to a determination of whether the public interest requires more than one supplier of MTS-WATS services. Participants who advocate more than one source of supply should specify the terms and conditions under which entrants would be allowed to provide services. Examples of such terms and conditions might be unlimited industry resale of all common carrier services and/or deregulation of non-monopoly services. Participants who advocate a sole source of supply should indicate how the determination of the sole source of supply entity should be made.

(2) *Accounting Practices.* This includes the treatment of recorded costs in the determination of revenue requirements, the allocation of costs and expenses between customers and shareholders, and the allocation of costs and expenses among interstate services. Any changes in treatment of depreciation expenses by the telephone companies should also be included. In addition, this element should encompass a description of the extent to which any new entrants would assume responsibility for the recorded costs of the existing telephone companies.

(3) *Allocation Of Investments And Expenses Among Jurisdictions.* This would include the method(s) by which operating expenses and the costs of embedded plant would be allocated among local exchange, intrastate, and interstate services. Here again, those parties who advocate unrestricted entry into the MTS-WATS telecommunications market are invited to comment on changes in existing separations and changes in settlements

²² If participants propose different entry policies for submarkets within the MTS-WATS market, those participants should define each submarket and describe any elements which are unique to that submarket. Submarkets might encompass different classes or types of service as well as different geographic markets.

arrangements that would be necessary to foster higher levels of competition.

(4) *Contractual Arrangements Among Carriers For The Distribution Of Interstate Revenues.* In addition to arrangements among independent entities, this element would include contractual arrangements among commonly controlled corporations.

(5) *Charges To Carriers For The Use Of Facilities Of Other Carriers.* This element should include rules which would specify the methods for calculating the compensation to be paid to interconnecting carriers and to local telephone companies for interstate interconnections. The mechanism(s) by which those charges would be collected and distributed should also be defined.

(6) *Other Forms Of Tariff Regulation.* This element subsumes Commission rules, practices, and policies relating to the determination of rate structures, rate levels, allowable rates of return, and terms and conditions of services.

38. After a participant has described an industry model, the participant should evaluate that model and its anticipated effects against the following criteria:²³

(1) *Economic Efficiency and Resource Allocation.* This term is used to describe the least cost combination of resources which is necessary to provide a level, or levels, of MTS-WATS service which would be consistent with the legislative intent embodied in the Communications Act of 1934 as amended.²⁴

(2) *Rates For Common Carrier Telecommunications Services.* This criterion includes any changes in the level or structure of rates for: Interstate MTS-WATS, equivalent services within the MTS-WATS market, interstate private line services, local exchange services, and any other intrastate or interstate common carrier telecommunications services. The impact of such rate changes upon

²³ We do not intend to foreclose any participant from discussing possible legislative changes which might produce results which are more consistent with the goals of the Act or goals which a participant believes Congress should adopt. This Commission may recommend the enactment of legislation if such a course appears to be desirable. However, any discussion of changes which cannot be effected within the present statutory framework should supplement the description of the optimal industry structure alternative which can be achieved within the present statutory framework.

²⁴ The intent of Congress with respect to the efficient utilization of resources has been clearly stated in the Act. See Section 1 and Section 214. Our continuing concern with the methods by which resources are allocated to particular services has been expressed recently in AT&T (Docket 18128), 61 FCC 2d 587 (1978); *recon.*, 64 FCC 2d 971 (1977); and *further recon.*, FCC 78-104, released February 24, 1978. Also, see generally AT&T (Docket 18129), 64 FCC 2d 1 (1977); *recon.*, FCC 78-103 (released February 24, 1978).

different customer groups such as business users, rural or small town subscribers, low income residential customers, and other user classifications should also be discussed.²⁵

(3) *Technological Innovation.* "Technological innovation" describes the process by which new methods for the provision of MTS-WATS type services are developed and implemented.²⁶

(4) *Diversity of Service Offerings.* This term is used to describe service offerings which differ by type, kind, and/or price from existing MTS-WATS services.²⁷

(5) *Service Quality and Reliability.* This criterion encompasses the existing qualities of MTS-WATS services in the United States and whatever facilities redundancies may be necessary to fulfill the legislative objectives which are stated in the Communications Act.²⁸

(6) *Other Relevant Effects.* This classification includes any other criterion which a participant believes to be relevant to this inquiry.

39. We have not included effects upon national defense, the safety of life and property, environmental quality, or the viability of particular classes of carriers in the list of criteria because it seems likely that many participants will not have the desire or the ability to provide information about such effects. However, we do encourage participants to consider those factors in formulating industry models. Participants who wish to discuss additional evaluative criteria should explain their reasons for

²⁵ See Sections 201-205 of the Communications Act of 1934 as amended, and 15 U.S.C. 21(a). Also, generally, see: AT&T (Docket 18128), 64 FCC 2d 1 (1977); *recon.*, FCC 78-103, released February 24, 1978; 538 (1977); AT&T Long Lines Department, 66 FCC 2d 9 (1977); *recon.*, FCC 78-806, released November 30, 1978.

²⁶ See Section 1 and Section 218 of the Communications Act of 1934, as amended. Also, see, generally, *Specialized Common Carrier Services* (Docket No. 18920), 29 FCC 2d 870 (1971); *affirmed sub. nom. Washington Utilities & Transportation Commission v. F.C.C.*, 513 F. 2d 1142 (1975); *cert. den.* 423 U.S. 836; *Domestic Communications Satellite Facilities* (Docket No. 16495), 35 FCC 2d 844 (1972); *Customer Interconnection* (Docket No. 20003), 61 FCC 2d 766 (1976).

²⁷ See, generally, AT&T Company, *Long Lines Department* (Docket No. 21402), 66 FCC 2d 324 (1977); 67 FCC 2d 248 (1977); FCC 78-812, released December 13, 1978; *Specialized Common Carrier Services* (Docket No. 18920), 29 FCC 2d 870 (1971); *affirmed sub. nom. Washington Utilities and Transportation Commission v. F.C.C.*, 513 F. 2d 1142 (1975); *cert. den.* 423 U.S. 836; *Domestic Communications—Satellite Facilities* (Docket No. 16495), 35 FCC 2d 844.

²⁸ See generally: WATS (Docket 19988), 50 FCC 2d 671 (1976); *recon.*, 64 FCC 2d 538 (1977); WATS *Rejection*, 66 FCC 2d 9 (1977); *recon.*, FCC 78-806 (released November 30, 1978); AT&T, (Docket 18128), 64 FCC 2d 1 (1977); *recon.*, FCC 78-103 (released February 24, 1978).

believing that such factors are relevant to the statutory goals. A participant who contends that the beneficial effects of a proposed industry model outweigh the detrimental effects should explain his reasons for believing that such a balance of public interest factors is consistent with the relative priorities which are implicitly expressed in the Act.

40. We recognize, of course, that the analytical framework established herein is complex and may prove burdensome or infeasible for parties with limited resources. In that regard, we wish to those reiterate our position that parties need not address all structured elements, regulatory policies, or evaluative criteria outlined above, but rather may focus on selected facets of the analytical framework that are of particular interest or that merit special attention. Given the scope and complexity of this proceeding, however, we recommend that established dominant carriers which have the necessary resources and information follow the guidelines specified herein. We also recognize that some parties may be precluded from providing extensive analysis of issues addressed in the analytical framework due to lack of requisite data. Because some carriers, principally A.T.&T., dominate MTS/WATS and like service markets, those carriers enjoy virtually complete control over the historical data which is needed to analyze the effects of alternative entry policies. Consequently, A.T.&T. and other established carriers may have a significant advantage over competing carriers in preparing their cases for preferred market entry policies. Given this situation, competing carriers, at their own discretion, may wish to focus their resources on replies to comments filed by A.T.&T. and other dominant carriers, or may wish to concentrate their efforts, at least initially, on non-empirical analyses. Those who limit their participation to reply comments, however, are requested to explain their reasons for not addressing empirically the issues which were outlined in the analytical framework. In this regard, we are especially interested in receiving comments concerning not only the availability of requisite data, but also their validity or usefulness in generally analyzing the issues which have been raised in this proceeding. As noted previously, prior to the *Execunet* decisions, MTS/WATS and like services were available only on a sole source basis. While that situation has been altered substantially by the courts and subsequent Commission actions, our experience with competition in this area

is limited and may not yet afford the type of information which is needed to assess fully the effects of an unrestricted entry policy on MTS/WATS subscribers. If that is true, resolution of issues raised in this proceeding may have to await the development of more reliable information gleaned from actual experience with competitive entry conditions as opposed to historical data stemming from markets characterized by sole source suppliers. We invite comments on this point and request that parties document their respective positions to the greatest extent possible.

V. Documentation of Statements and Information Requests

41. Participants should endeavor to relate particular effects to particular changes which would result from each industry model element to the extent that it is possible to do so. Through reply comments participants may provide factual information which rebuts assertions made in comments by participants. With respect to comments and reply comments, we note that a showing of potential effects from a particular entry policy is not by itself sufficient to describe the resultant effects of that policy. Specifically, we are addressing two points. First, we are generally less concerned with possible effects than with probable effects. Possible effects of a given entry policy will be examined not only in terms of their projected magnitudes, but also in terms of their likelihood or probability. Simply put, possible large effects with remote chances of occurrence will be weighed accordingly. Second, we note that adverse effects from changing a particular policy can often be mitigated or offset by changes in other policies, regulatory practices, or institutional arrangements. Consequently, we also urge participants who assert adverse effects of particular policies to suggest regulatory changes which would partially or wholly offset those adverse effects. We are asking all participants to describe anticipated effects upon rate levels because the Act indicates that minimizing the cost of telecommunications services to ultimate users is a major goal of the Act. Although we have not reached a conclusion with respect to the relationship between shifts in relative rates charged to particular classes of users and the goals of the Act, we are asking participants to describe the direct impact of changes in rate structure upon different classes of users because we need to obtain such information to complete this proceeding in an assiduous manner. As previously noted, improving the quality of service also

appears to be a goal of the Act and we are accordingly asking all participants to describe effects upon service quality.

42. Participants who have the most to gain or lose from the adoption or retention of particular regulatory policies also have the strongest incentive to develop and document their positions with respect to the probable effects of those policies. In this regard, a participant who chooses to utilize quantitative data shall, in separate appendices which are filed with the comments: (a) Make all relevant data (both pro and con) available to all participants to this proceeding; (b) specify in detail the exact data which have been employed; (c) clearly explain all assumptions which have been made in the development and utilization of that data; and (d) fully explicate all methodologies which have been utilized with detailed descriptions of the exact mathematical calculations which have been made. The nature of the disclosure contemplated in this paragraph is such that any participant to this proceeding should be able to replicate any quantitative result which is advanced by any participant.²⁹

43. We must emphasize that we are seeking, to the greatest extent possible, the incorporation of factual data in assessments of industry models. We recognize that some participants may not possess all the information they need to evaluate industry models and may not be able to obtain such information from public sources including the responses to the information requests which the Chief of the Common Carrier Bureau will be issuing to facilitate staff analysis. We have decided that the Chief of the Common Carrier Bureau should exercise our powers under Sections 213, 218, 219, 220, 403, and 409(e)-(h) of the Communications Act of 1934 as amended, to obtain such information from carriers who are subject to those provisions. We are accordingly inviting persons who plan to submit reply comments to submit such requests for information to the Chief of the Common Carrier Bureau on or before the 60th day following the final date for the filing of comments. Such requests shall identify the carriers who are likely to have the requested information. The Chief of the Common Carrier Bureau will then direct appropriate carriers to submit information to him which is responsive to information requests which he finds to be reasonable and relevant to this Inquiry. He will establish a deadline for

²⁹ The material which we contemplate in paragraph 42 should follow, at a minimum, § 1.363 (35 FR 16247) of this Commission's rules.

submitting such responses and may extend that deadline upon a showing of good cause. The Chief of the Common Carrier Bureau will arrange the transmittal of information to requesting participants.³⁰ Information requests filed with and issued by the Chief of the Common Carrier Bureau and the responses to the information requests which he issues will be made available for public inspection in the Docket Reference Room in the Commission's offices in Washington, D.C.

44. Comments in prior notice and comment rulemaking proceedings before this Commission have, on occasion, contained assertions of fact which have not been fully and completely supported. Conclusory statements of consequences and effects which would flow from the adoption of particular policies have also been made without detailed documentation of the bases for those claims. We seek to avoid those difficulties in this Inquiry, and in the furtherance of that objective, re-emphasize that every statement which is made in Sections II and IV of each participant's comments, as outlined in paragraph 36, *supra*, should be as fully documented and supported in Sections VII and VIII, respectively, of each participant's comments as the resources of each participant will permit.

45. We recognize that many persons who will wish to express views or provide information in this proceeding will not have sufficient resources or a sufficient stake in the outcome to perform the type of analysis which other participants should be expected to perform. The guidelines we are establishing for comments are not intended to foreclose or discourage participation by persons who are unable or unwilling to perform a complete analysis.³¹ We need and want the benefit of their views. However, we do encourage such participants to follow the general format described in Parts IV and V of this Supplemental Notice in order to enable us and other participants to identify the elements, criteria, or legal issues such participants have chosen to address. We are not prescribing a format for reply comments. However, reply comments which follow the general format of the comments will facilitate comparison and analysis and we encourage participants to structure

³⁰ He may direct responding carriers to serve copies of such responses upon participants if it is deemed necessary to facilitate an expeditious resolution of this proceeding.

³¹ We do expect, however, that such parties will evaluate any changes which they propose, or evaluate the status quo if they prefer no change, against all of the criteria which are specified in paragraph 38, *supra*.

their reply comments in that manner. We request that reply comments include a brief executive summary of the substance and organization of the reply comments. A table of contents and an index should also be provided for lengthy submissions.

VI. Comment Filings and Ordering Clauses.

46. Accordingly, it is hereby ordered, Pursuant to Section 1, 4(i)-(j), 213, 218, 220, 403, and 409(e)-(h) of the Communications Act of 1934 as amended, 47 U.S.C. 151, 154(i)-(j), 213, 218, 220, 403, and 409(e)-(h). That this inquiry shall proceed as described herein, and that common carriers subject to the jurisdiction of this Commission shall provide information requested by the Chief of the Common Carrier Bureau pursuant to authority which we are delegating to him in paragraph 43 of this Notice, and which is delegated in our rules.

47. It is further ordered, Pursuant to Sections 1, 4(i), and 4(j) of the Communications Act of 1934 as amended, 47 U.S.C. 151, 154(i)-(j). That interested parties may file suggestions on the issues to be considered by a Joint Board as specified in paragraph 30, *supra*, on or before October 15, 1979. Reply comments to issues suggested by participants may be filed on or before October 31, 1979. Pursuant to the procedures set forth in § 1.51(c)(1) of the Commission's rules (47 CFR 1.51(c)(1)), an original and nine (9) copies of all filings shall be furnished to the Commission. All comments received in response to this Notice will be made available for public inspection in the Commission's Offices in Washington, D.C.

48. It is further ordered, Pursuant to Section 4(i) and 4(j) of the Communications Act of 1934 as Amended, 47 U.S.C. 154(i)-(j), and 5 U.S.C. 553. That our Notice of Proposed Rulemaking in this proceeding, 67 F.C.C. 2d 757 (1978), is unmodified except to the extent indicated herein.

49. It is further ordered That interested parties may file comments describing and evaluating an industry model on or before February 15, 1980. Reply comments may be filed on or before the 90th day after the deadline for filing the responses to the information requests described in paragraph 43, *supra*. Pursuant to the procedures set forth in § 1.51(c)(1) of the Commission's rules (47 CFR 1.51(c)(1)), an original and nine (9) copies of all filings shall be furnished to the Commission. All comments received in response to this Notice will be made available for public inspection in the

Docket Reference Room in the Commission's Offices in Washington, D.C. In reaching its decision, the Commission may take into consideration information and ideas not contained in the comments, provided that such information or a writing indicating the nature and source of such information is placed in the public file, and provided that the fact of the Commission's reliance on such information is noted in the Report and Order.

50. It is further ordered That the Secretary shall cause this Supplemental Notice to be published in the Federal Register, and that this proceeding remains subject to further order by the Commission.

Federal Communications Commission,
William J. Tricarico,
Secretary.

Appendix

Participants in CC Docket No. 78-72

Advanced Decision Handling, Inc.
Aeronautical Radio, Inc.
American Satellite Corporation
American Telephone & Telegraph Co. and the
Bell System Associated Companies
Assn. of Data Processing Service
Organizations, Inc.
California Public Utilities Commission and
the
People of the State of California
Committee of Corporate Telephone Users
Central Telephone & Utilities Corporation
Computer & Communications Industry Assn.
Consumers Education and Protective Assn.
International, Inc.
Consumer Federation of America
Consumers Union of United States, Inc.
Continental Telephone Corporation
Farmers Telephone Company
General Services Administration
GTE Service Corporation
Hitch, Robert D.
Humphries, George E.
International Business Machines, Inc.
Independent Data Communications
Manufacturers Assn., Inc.
International Telephone & Telegraph
Corporation
MCI Telecommunications Corporation
Mullan, Marquita P.
National Assn. of Regulatory Utility
Commissioners
National Data Corporation
National Retail Merchants Association
National Telephone Cooperative Assn.
North Dakota Public Service Commission
Ohio Telephone Association
Oregon Public Utility Commission
Organization for the Protection &
Advancement of Small Telephone
Companies
Puerto Rico Telephone Company
RCA Alaska Communications, Inc.
RCA Global Communications, Inc.
Redding, Paul B.
Rochester Telephone Corporation
Rural Electrification Administration
Satellite Business Systems

Securities Industry Automation Corp.
Southern Pacific Communications Company
State of Vermont Public Service Board
Telenet Communications Corporation
Telephone and Data Systems, Inc. and Its
Operating Companies
TRI-EX Tower Corporation
United Church of Christ Office for
Church in Society
United Telecom Service, Inc.
U.S. Department of Commerce
(National Telecommunications and
Information Administration)
U.S. Department of Defense
(Defense Communications Agency)
U.S. Department of Health, Education &
Welfare
(Office of Consumer Affairs)
U.S. Department of Justice
(Antitrust Division)
U.S. Independent Telephone Assn.
Utah Department of Business Regulation
Weiser, Alan L.
(FR Doc. 79-27138 Filed 8-29-79; 9:45 am)
BILLING CODE 6712-01-M

[47 CFR Part 90]

[PR Docket No. 79-191; RM-3380; FCC 79-476]

Designating Frequencies in the 806-821 and 851-866 MHz Bands for Slow Growth, Land Mobile Radio Systems of Utilities and Public Safety Agencies

AGENCY: Federal Communications Commission.

ACTION: Notice of Proposed Rule Making.

SUMMARY: The FCC proposes amending Subpart M of Part 90 of its Rules and Regulations to designate specific frequencies in the 806-821 and 851-866 MHz frequency bands for use by slow growth public safety and utilities land mobile radio systems. It is proposed that 50 channels be set aside for conventional and trunked radio systems for applicants in the Police, Fire, Local Government, Telephone Maintenance, and Power Radio Services who meet certain specific criteria.

DATES: Comments must be received on or before November 1, 1979 and Reply Comments must be received on or before December 3, 1979.

ADDRESSES: Federal Communications Commission, 1919 M Street, N.W., Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Eugene Thomson, Private Radio Bureau (202) 632-6497.

In the matter of amendment of Part 90 of the Commission's Rules to designate frequencies in the 806-821 and 851-866 MHz bands for slow growth, land mobile radio systems of utilities and public safety agencies; notice of proposed rule making.

Adopted: August 1, 1979.

Released: August 30, 1979.

By the Commission: Commissioner Lee absent.

1. Notice of proposed rule making is given in the above-captioned matter.

Background

2. In Docket 18262, the Commission allocated 30 MHz of radio spectrum in the 806-821 and 851-866 MHz bands for private land mobile communications systems. This spectrum provided six hundred, 25 kHz frequency pairs. Of the 800 channels, 100 were earmarked for conventional radio systems, 200 for trunked systems, and the remaining 300 channels were held in reserve. These frequencies were made available for licensing in 1976. Since then, growth has been rapid for conventional systems in the major urban areas. By mid 1978, the 100 conventional channels were all assigned in Chicago, New York, and Los Angeles. Shortly thereafter, the Commission released 50 additional channels for conventional systems from the reserved group. These additional 50 channels have also been assigned, so that all of the 150 conventional channels are assigned in the Chicago, Los Angeles, and New York metropolitan areas.

3. The primary users of these frequencies are licensed in the Business Radio Service. For example, 62% of the 150 conventional channels in Chicago, 87% in Los Angeles, 80% in New York City, 71% in San Francisco, and 83% in Houston, have been authorized to licensees in the Business Radio Service. The next largest group has been licensed in the Special Industrial Radio Service. Both of these services have broad eligibility criteria. Licensing of trunked systems began within the past year but the pattern of usage is similar there also. Most of the trunked systems we have authorized have been specialized mobile radio (SMR) systems.

4. The rapid usage of the 800 MHz channels in the large urban areas over the last few years has caused concern to planners of large land mobile systems which are normally implemented over a number of years. They are concerned that before they will be able to complete their plans for their systems, there may not be frequencies in the 800-MHz bands for them to use. This concern has been expressed by representatives of public safety services and others. For example, the Associated Public Safety Communications Officers, Inc. (APCO), in its Project 16 Report,¹ stated:

¹ APCO Project 16 Report, *The Application of the 800 MHz Band to Law Enforcement Communications*, Feb. 1978, p. 4.7.

The Commission's Rules currently make little provision for the implementation for planned systems. Consequently, they inhibit long-range communications systems planning. Large scale, sophisticated systems that are configured to optimize utilization of spectrum while concurrently satisfying the users' operational needs are time consuming to prepare, approve, fund, and implement. They must be developed based upon the availability of specific frequencies, and such frequencies must be reserved so that they are available when the plan is implemented.

5. Also, on May 17, 1979, the Utilities Telecommunications Council (UTC) petitioned the Commission to amend Part 90 of our Rules or take other appropriate regulatory action to provide for the availability of spectrum for conventional and trunked 800-MHz band land mobile systems involving slow-growth and long-term planning, such as, large systems operated in public services and by utilities.²

6. In support of its petition, UTC argues that energy utilities have started the necessary engineering, planning, and budgetary procedures to convert or expand their land mobile communications systems from existing low, high, and UHF band frequencies to the 800-MHz frequencies, and that applications will be filed in the near future for large, state-wide utility land mobile systems that will involve both multiple frequency (5 channel) conventional systems, and high capacity (20 channel) trunked systems. UTC also states that utilities now find that in New York, Chicago, and Los Angeles, there are no 800-MHz conventional frequencies available for assignment to meet their present needs other than those in the spectrum being held in reserve. It claims that the steps being taken in PR Docket 79-106³ will not remedy this situation because of the number of conventional channels needed in these large urban systems, the need for exclusive channel assignments to accommodate the large number of

² UTC's petition specifically proposes: Immediately release 50 additional conventional 800 MHz band channel pairs in New York City, Chicago, and Los Angeles for use by slow-growth, long-term planning public service and utility users; in other areas of the country, earmark a "reasonable" number for use by such slow-growth, long-term planning, public service users; earmark a "reasonable" number of 800 MHz channels for trunked system in New York City, Chicago, and Los Angeles for use by such slow-growth, long-term planning public service and utility users; modify the Commission's policy concerning licensing of high capacity (20 channel) trunked systems to permit licensing of such systems on specific channels for long-term implementation; and require prospective applicants for such systems to submit plans for the use of the channels assigned to them.

³ This Docket proposes to change the co-channel mileage separation standards in some cases, and the frequency loading standards for conventional 800-MHz systems.

mobiles, and because of the extensive geographic areas which must be covered. It is argued that these large systems will require a number of years to implement and that the utilities must be able to rely on availability of compatible frequencies in the next few years for these systems.

7. Finally, UTC recites several factors which, in its view, will accelerate the use of frequencies by the utilities. UTC believes for example that, with the present energy shortage, the utilities will be taking additional steps to increase reliability of service and improve service restoration efforts; there will be an increase in the need for additional data communication; and the need for additional communications for plant control and operation; and that the introduction of portable radio units into the market will remove one of the most serious obstacles for the development of large mobile communication systems in the public safety, utility, and similar other services.

Proposal

8. This matter has been under consideration for some time. Setting aside frequencies for particular radio services or users is not consistent with the Commission's decision in Docket 18262. However, experience so far with the development of radio systems in the 800 MHz private land mobile bands indicates that it is necessary to take another look. Our 800 MHz plan for the private land mobile radio services has been successful in that we are accommodating the mobile radio communication requirements of a large group of licensees in the major urban centers as well as in other parts of the country. The growth of 800 MHz systems is expected to continue at an even faster rate. Yet, the very success of our plan poses the problems addressed by petitioner UTC and by APCO in its Project 16 Report. The problem, of course, is that unless we take some action, frequencies may not be available in the near future to accommodate highly important radio systems which are essential to such vital services as the police, the public utilities, and others. One of the major objectives of our 800-MHz allocation was to provide frequency resources for the communication needs of the safety services and it seems to us that if the plan we adopted somehow is not meeting that objective, corrective action becomes necessary. Accordingly, we think it would be in the public interest to set aside a relatively small portion of the radio spectrum we have allocated to the private land mobile radio service for the kind of larger, slow growth system

which APCO and UTC have described. Therefore, we are proposing to designate 50 frequency pairs out of these now held in reserve—approximately 8% of the total—for those systems. This is the number of channels requested by UTC and corresponds to our understanding of the need for frequencies for the type of systems we have in mind. Also, assigning 50 channels from the present 250 channel reserve leaves a remaining block of 200 reserve channels, which lends itself to convenient further sub-division.

9. The frequencies would be made available in the manner and under the conditions described below. First, we propose to make these channels available for only the larger systems, those actually having at least 200 vehicles in which it is planned to install the equipment applied for. We propose to limit the availability of these frequencies to large systems because the problems we are trying to deal with (e.g. difficulties and delays in system planning, approval, funding and implementation) are usually associated with larger systems. The smaller systems can and should be accommodated within the existing frequency allocations and existing authorized facilities. We also propose to limit eligibility for these frequencies to those eligible in the Local Government, Police, Fire, Telephone Maintenance, and Power Radio Services in that the kind of radio systems contemplated here are most usually authorized in these services, certainly in the larger urban areas where the need to reserve frequencies exists. Nevertheless, comments are invited on the foregoing limitations on eligibility and the size of the system.

10. Further, an applicant for those frequencies will be required to submit an implementation plan which has been adopted by the appropriate final authorities of the applicant. This plan shall include system details, showing funding, and the planned implementation schedule. Once authorized, the licensee will be required to submit progress reports that will outline the system implementation to date, and the projected plans for system completion. Since our aim is to reserve frequencies for the large, long-term planning, multi-year implemented systems, we solicit comments on the necessity for, and the extent of the planning and implementation time frame that would be specified in the eligibility requirements for these systems.

11. Moreover, the frequencies will be primarily for trunked systems since the large systems contemplated lend

themselves to trunked operation.

However, we realize that there may be other large 800 MHz systems for which trunking may not be suitable. We are therefore designating 10 of the 50 channels for possible conventional system use. But they will be assigned for conventional systems only upon a showing that trunking is not technically feasible for the operation. For example, cost, area of coverage, or need of licensee to have complete control over his own system will not be considered sufficient justification for conventional channel assignment. On the other hand, certain non-voice systems might be good candidates for conventional assignments because trunking in such systems might not be technically feasible. We have decided to designate 40 of the fifty channels for trunked systems because this would yield two, 20 channel trunked groups and would be consistent with our present trunking channel assignment plan, and because, as we have indicated, we expect the large systems we want to accommodate to use trunking technology.

12. The 40 trunked channels will be divided into two, 20-channel blocks whose channel spacings will be the same as the trunked system assignment plan adopted in SS Docket 78-394. The specific channel numbers are:

Trunked.....	201-241-281-321-361
20-channel.....	221-261-301-341-381
Block 11.....	211-251-291-331-371
Slow growth.....	231-271-311-351-391
Trunked.....	202-242-282-322-362
20-channel.....	222-262-302-342-382
Block 12.....	212-252-292-332-372
Slow growth.....	232-272-312-352-392
Conventional.....	151 through 160

13. Authority for issuance of this Notice is contained in Sections 4(f) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(f) and 303(r). Pursuant to procedures set out in Section 1.415 of the Rules and Regulations, 47 CFR 1.415, interested persons may file comments on or before November 1, 1979, and reply comments on or before December 3, 1979. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision, the Commission may take into consideration information and ideas not contained in the comments, provided that such information or a writing indicating the nature and source of such information is placed in the public file, and provided that the fact of the Commission's reliance on such information is noted in the Report and Order.

14. In accordance with the provisions of Section 1.419 of the Rules and Regulations, 47 CFR 1.419, formal

participants shall file an original and 5 copies of their comments and other materials. Participants wishing each Commissioner to have a personal copy of their comments should file an original and 11 copies. Members of the general public who wish to express their interest by participating informally may do so by submitting one copy. All comments are given the same consideration, regardless of the number of copies submitted. All documents will be available for public inspection during regular business hours in the Commission's Public Reference Room at its headquarters in Washington, D.C.

15. For further information concerning this document, contact Eugene Thomson (202) 632-6497.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Subpart M of Part 90 of the Commission's Rules is amended as follows.

1. Section 90.399 is added and reads as follows:

§ 90.399 Special conditions governing applications and authorizations for certain qualified Public Safety, Telephone Maintenance, and Power Radio Service systems.

(a) The following channels will be assigned only to qualified applicants meeting the criteria given in § 90.399(b). These channels will be authorized for conventional and trunked systems in accordance with the following assignment plan:

Channel Number

Trunked.....	201-241-281-321-361
20-channel.....	221-261-301-341-381
Block 11.....	211-251-291-331-371
Slow growth.....	231-271-311-351-391
Trunked.....	202-242-282-322-362
20-channel.....	222-262-302-342-382
Block 12.....	212-252-292-332-372
Slow growth.....	232-272-312-352-392
Conventional.....	151 through 160

(b) Applicants in the Police, Fire, Local Government, Telephone Maintenance, and Power Radio Services meeting the following criteria shall be eligible for the channels listed in subparagraph (a) of this Section.

(1) Since these channels are reserved for large, long term planning, slow growth, multi-year implemented systems, the applicant shall submit a system implementation plan that has been approved and adopted by the appropriate final authorities of the applicant. This plan shall include system technical details and the proposed implementation schedule.

(2) These channels will be assigned for use in systems actually having at

least 200 vehicles in which it is planned to install the equipment applied for.

(3) The applicant will supply with the request for authorization proof of existing or planned financial arrangements to be used in implementing the radio system.

(4) Licensees authorized to use the slow growth channels shall submit semi-annual progress reports to the Commission that will indicate the extent of system implementation to date, and give projected plans for system completion. The Commission may withdraw frequency authorizations if proposed implementation schedules are not followed.

(5) All other rule provisions of the Section will apply to the channels assigned to slow growth systems.

[FR Doc. 79-26834 Filed 8-29-79; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[49 CFR Part 571]

[Docket No. 2-6; Notice 9]

Evaluation Report on Federal Motor Vehicle Safety Standard No. 214; Side Door Strength

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Public notice.

SUMMARY: This notice announces the publication by the NHTSA of an Evaluation Report concerning Safety Standard No. 214, *Side Door Strength*. This staff report evaluates the effectiveness and costs of the Federal standard that sets crush resistance requirements for the side doors of passenger cars. The report was developed in response to Executive Order 12044, "Improving Government Regulations," which provides for a government-wide review of existing, major Federal regulations. The NHTSA welcomes public review and comment on this evaluation.

DATE: Deadline for filing applications for financial assistance is September 24, 1979.

ADDRESS: Interested persons may obtain a copy of the report free of charge by contacting Ms. Kitts, Office of Management Services, National Highway Traffic Safety Administration, Room 4423, 400 Seventh Street, S.W., Washington, D.C. 20590 (202-426-0874). All comments should refer to the docket number and notice number and be

submitted to: Docket Section, Room 5108, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590. Applications for financial assistance should be submitted in writing to: Ms. Anne Mitchell, Public Affairs and Consumer Participation, National Highway Traffic Safety Administration, Room 5232, 400 Seventh Street, S.W., Washington, D.C. 20590 (202-426-0870).

FOR FURTHER INFORMATION CONTACT: Mr. Frank G. Ephraim, Director Office of Program Evaluation, Plans and Programs, National Highway Traffic Safety Administration, Room 5212, 400 Seventh Street, S.W., Washington, D.C. 20590 (202-426-1574).

SUPPLEMENTARY INFORMATION: Safety Standard No. 214 (49 CFR 571.214) specifies crush resistance requirements for the side doors of passenger cars to reduce the likelihood of death and injury resulting from intrusion of the occupant compartment during side impacts. The standard became effective in January 1973.

Pursuant to Executive Order 12044, "Improving Government Regulations," The NHTSA recently conducted an evaluation of Safety Standard No. 214 to determine its effectiveness in terms of saving lives and preventing injuries and to determine its costs to consumers. Under the executive order, agencies are to review existing regulations to determine whether the regulations are achieving the order's policy goals, i.e., achieving legislative goals effectively and efficiently and without imposing any unnecessary burdens on those affected. The Evaluation Report of Safety Standard No. 214 has been completed and is now available to the public.

The 214 Evaluation Report is the first of a series of NHTSA studies reviewing existing Federal motor vehicle safety standards, and is based on real-life accident experience of vehicles complying with the standard and on cost and engineering analysis of these vehicles. The principal findings of the report are as follows:

- Standard No. 214 reduces the likelihood of intrusion in side door impact crashes.
- Standard No. 214 prevents a substantial proportion of the deaths and severe injuries in single vehicle side door impact crashes (such as when a car skids sideways into a tree).
- Standard No. 214 is significantly less effective in multivehicle crashes (such as intersection collisions) than in single vehicle crashes.
- Standard No. 214 adds \$56 to the cost of purchasing and operating an automobile over its lifetime.

The preliminary conclusion of the report is that Safety Standard No. 214 is effective in preventing many deaths and injuries in single-vehicle side door impact crashes and that the standard is not inflationary. Follow-up reports on this standard will be issued as additional accident and cost data become available. This report was developed from statistical analyses of the National Crash Severity Study accident data currently available and on detailed cost analyses of post-standard side door components.

The Evaluation Report also concludes that a substantial number of fatalities and injuries are still resulting from side impact crashes, in spite of the benefits of Standard No. 214. The report shows, therefore, the further upgrading of side impact protection in new passenger cars should remain a high priority of the NHTSA. The findings of this study are expected to be one basis for the preparation of an upgraded side impact standard.

The NHTSA welcomes public review of the Standard No. 214 Evaluation Report and invites all public comments.

Applications for Financial Assistance

The NHTSA invites all qualified individuals and organizations financially unable to participate in this proceeding to apply for financial assistance. All applications submitted before the deadline specified at the beginning of this notice will be examined by an evaluation board, composed of NHTSA and other Department of Transportation officials, to determine whether each applicant is eligible to receive funding. Consideration of late applications is at the discretion of the evaluation board.

In general, an applicant is eligible if its participation would contribute substantially to a full and fair determination of the issues involved in the proceeding, taking into consideration the novelty, complexity, and significance of the ideas advanced and the ability of the applicant to represent the interests it espouses competently. Additionally, it must be demonstrated that the applicant does not have sufficient resources available to participate effectively in the proceeding in the absence of an award under this program.

If more than one applicant representing the same or similar interest is deemed eligible, the board will either select the applicant which can make the strongest presentation or select more than one applicant if justified. Compensation is to the extent the agency's budget for this purpose will permit. Payment is made as soon as

possible after the selected applicant has completed its work and submitted a claim, but not later than 60 days after a completed claim is submitted.

Each applicant should specify in its application which rulemaking actions and issues it proposes to address if its application for funding is approved, and the nature of its proposed work product. Applicants must submit as part of their application all information required by section 5.49 of the recently revised DOT regulations governing this financial assistance program (44 FR 4675; January 23, 1979). Failure to submit the required information may result in delays in evaluation and possible disqualification of the application.

(Secs. 103, 112, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1401, 1407); delegation of authority at 49 CFR 1.50.)

Issued on August 28, 1979.

Frank Berndt,

Acting Administrator.

[FR Doc. 79-27353 Filed 8-29-79; 10:01 am]

BILLING CODE 4910-59-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[50 CFR Part 611]

Proposed Amendment to the Preliminary Fishery Management Plan for Squid Fisheries of the Northwestern Atlantic

AGENCY: National Oceanic and Atmospheric Administration, (NOAA)/Commerce.

ACTION: Approval of preliminary fishery management plan amendment; proposed rulemaking.

SUMMARY: The Preliminary Fishery Management Plan for Squid Fisheries of the Northwestern Atlantic (PMP) was published on February 16, 1977, and subsequently amended for 1978 and 1979. An amendment providing for an in-season reduction in the estimated U.S. harvesting capacity for short-finned squid of 4,000 metric tons (mt) and an in-season increase in the amount of short-finned squid available to the foreign fishery of 4,000 mt was approved by the Assistant Administrator for Fisheries, NOAA, on August 10, 1979. Regulations to implement this amendment are herein proposed for public review and comment.

DATE: Comments are invited in writing on or before September 26, 1979.

ADDRESS: Send comments to the Assistant Administrator for Fisheries, NOAA, Washington, D.C. 20235. Please

mark "Comments on Squid PMP, Attn. F38," on the outside of the envelope.

FOR FURTHER INFORMATION CONTACT: Allen E. Peterson, Jr., Regional Director, Northeast Region, National Marine Fisheries Service, 14 Elm Street, Gloucester, Massachusetts 01930. Telephone: (617) 281-3600.

SUPPLEMENTARY INFORMATION: The PMP, as amended on November 2, 1978 (43 FR 51053), established the optimum yield (OY) for short-finned squid (*Illex*) at 30,000 mt, the estimated U.S. harvesting capacity for *Illex* at 10,000 mt, and the resulting total allowable level of foreign fishing (TALFF) at 20,000 mt. Section 611.20(b) of the 1979 foreign fishing Regulations, published on December 19, 1978 (43 FR 59292), states that each assessment of OY and anticipated U.S. harvest will be reviewed during the fishing season.

The total domestic harvest of *Illex* in the Northwestern Atlantic as of July 15, 1979, is lower than was originally estimated. Therefore, the initial estimate of U.S. domestic harvest for *Illex* in the 1979 PMP of 10,000 mt is hereby reduced to 6,000 mt. The surplus of 4,000 mt obtained by revising the U.S. harvest estimate downward would be made available for foreign harvest in 1979, increasing the TALFF from 20,000 to 24,000 mt. This would allow for reasonably full utilization of the *Illex* resource.

This action involves no change in the OY, estimate of U.S. capacity, or TALFF for long-finned squid (*Loligo*), as established by the PMP on November 2, 1978.

The Mid-Atlantic Fishery Management Council (Council) prepared a fishery management plan for the Atlantic squid fishery that was approved by the Assistant Administrator for Fisheries (Assistant Administrator) and was published on June 26, 1979 (44 FR 37252). This plan contains a procedure for reallocation of Atlantic squids during the fishing year (April 1 to March 31) as in-season adjustments. Under the Council's plan, a review of domestic harvest of *Illex* should occur on August 31, with the reallocation from U.S. capacity to TALFF, if appropriate, occurring on December 1. The Council's plan will not be implemented by promulgation of final regulations until after August 31. Therefore, the Assistant Administrator has determined, after consultation with the Council, that a reallocation under the PMP prior to the implementation of the plan is appropriate in view of the performance of the domestic fishery, the desire of foreign nations for additional *Illex*, the seasonal nature of the *Illex*

fishery, and the desire to minimize disruption of the foreign fishery during implementation of the Council's plan.

The Assistant Administrator has determined that these changes will have no adverse impact on the U.S. squid fishery or on future supplies of squid.

The Assistant Administrator, under a delegation of authority from the Secretary of Commerce, has determined that an amendment to the PMP reducing the 1979 estimate of U.S. harvest for short-finned *Illex* squid by 4,000 mt and allocating 4,000 mt additional surplus to foreign nations is necessary and appropriate for full utilization of *Illex* squid and for proper management of the Northwestern Atlantic squid fishery during the 1979 fishing season.

The revision to the PMP is as follows:

1. In Section IV, strike the first paragraphs of subsections c. and d. and substitute the following:

"Estimated Domestic Production Potential and Allowable Foreign Surplus. The capacity of the United States to harvest squid in 1979 was estimated by NOAA as 30,000 mt of long-finned squid *Loligo* and 8,000 mt of short-finned squid *Illex*. This resulted in a surplus of 54,000 mt of both species available for foreign fishing. Specific figures by species are given in Table 26."

2. Strike Table 26 and substitute the following:

Table 26.—Squid Optimum Yield and Allocations
(In metric tons)

Species	Maximum sustainable yield	Optimum yield	U.S. capacity	Foreign surplus
<i>Illex</i>	40,000	30,000	6,000	24,000
<i>Loligo</i>	44,000	44,000	14,000	30,000

Note.—The Assistant Administrator has determined that this action does not require preparation of a regulatory analysis, nor does it meet the criteria of significance established by Executive Order 12044. An Environmental Impact Statement on the squid fishery PMP has been prepared and is on file with the Environmental Protection Agency.

Signed in Washington, D.C., the 24th day of August 1979.

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

50 CFR Part 611 is proposed to be amended as follows:

1. In Table I, under the column "TALFF," strike the amount "20,000" for squid, short-finned and substitute "24,000."

[FR Doc. 79-27177 Filed 8-29-79; 8:45 am]

BILLING CODE 3510-22-M

Notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Soil Conservation Service

Big Slough Watershed, Fla.; Deauthorization of Federal Funding

Pursuant to the Watershed Protection and Flood Prevention Act, Public Law 83-566, and the Soil Conservation Service Guidelines (7 CFR 622), the Soil Conservation Service gives notice of the deauthorization of Federal funding for the Big Slough Watershed project, Sarasota, Manatee, Desoto, and Charlotte Counties, Florida, effective on August 14, 1979.

Dated: August 23, 1979.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program, Public Law 83-566, 16 U.S.C. 1001-1008.)

Joseph W. Haas,

Assistant Administrator for Water Resources, Soil Conservation Service.

[FR Doc. 79-27013 Filed 8-29-79; 8:45 am]

BILLING CODE 3410-16-M

California Lake Watershed, Fla.; Deauthorization of Federal Funding

Pursuant to the Watershed Protection and Flood Prevention Act, Pub. L. 83-566, and the Soil Conservation Service Guidelines (7 CFR 622), the Soil Conservation Service gives notice of the deauthorization of Federal funding for the California Lake Watershed project, Dixie County, Florida, effective on August 14, 1979.

Dated: August 23, 1979.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program, Public Law 83-566, 16 U.S.C. 1001-1008.)

Joseph W. Haas,

Assistant Administrator for Water Resources, Soil Conservation Service.

[FR Doc. 79-27012 Filed 8-29-79; 8:45 am]

BILLING CODE 3410-16-M

CIVIL AERONAUTICS BOARD

[Order 79-8-140; Docket 35474]

Davis Agency, Inc.; Order Granting Exemption

Application of Davis Agency, Inc. For an exemption under section 416(b) of the Act.

By application filed May 4, 1979, as amended June 8, Davis Agency, Inc., An overseas military personnel charter (OMPC) operator, requests an exemption from section 403 of the Federal Aviation Act to eliminate the filing of rate tariffs for its OMPC flights under Part 372 of the Board's Special Regulations.¹ Davis seeks a temporary exemption until the Board acts on its separate request for rulemaking to eliminate such tariffs.²

In support of its request, Davis states that the tariff filing requirement produces no consumer benefits; and that, in fact, tariffs are costly to its operations and these costs must ultimately be passed on to the consumer. Davis further states that when Part 372 was adopted in 1972 the filing of tariffs was required because OMPC operators were the only indirect air carriers authorized to provide air-only charters. This fact is not true today, Davis argues, because Public Charters may be operated on an air-only basis.

In addition, Davis states that, even though tariff filings permits the Board to monitor its pricing activity, in the seven years of its OMPC operation, no problems affecting pricing or any other tariff matter have arisen; no OMPC rate has ever been suspended; and no claims for unjust discrimination or undue preference or prejudice have been

¹Section 372.25 states that an OMPC operator shall not operate or sell any charter trip unless it has on file with the Board a currently effective tariff showing all rates, fares and charges for such charter trip, and showing the rules, regulations, practices and services in connection with such transportation.

²By ER-1125, adopted May 31, 1979 (44 FR 33058; June 8, 1979), the Board exempted all certificated air carriers and foreign air carriers from having to file tariffs for their charter operations. However, the Board did not exempt charter operators, which are indirect air carriers that sell air transportation directly to individual persons, from filing tariffs for OMPC's, as had been requested by Davis in a comment filed in the docket (Docket 30654). Instead, it treated the comment as a petition to institute a rulemaking and kept the docket open for 30 days for the filing of answers in accordance with 14 CFR 302.38(a). Final Board action on this matter is still pending.

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lodged against OMPC operators. Thus, Davis states that the Board does not need to supervise its rates, and that the Board should place it on a par with all other indirect air carriers whose rates are published only in solicitation material.

In its June 8 amendment, Davis stated that if the exemption is granted it will put into immediate effect consumer protection provisions similar to those contained in the Public Charter rule (14 CFR Part 380) which will allow its passengers to cancel their trip and receive a full refund if Davis raises its price more than ten percent or increases the price at all less than ten days before the flight date.

We have decided to grant Davis' request for a temporary exemption from Part 372 and section 403 of the Act, subject to conditions. We agree with Davis that the tariff filing requirements of Part 372 may be burdensome on the operator, and that with appropriate amendments to its operator-participant contract its passengers will not be disadvantaged by this action but will receive the same price protections afforded passengers on Public Charter flights. The exemption will terminate when the Board takes final action on the related rulemaking in Docket 30654.

In granting this exemption, we will subject Davis to several conditions. First, we will prohibit Davis from increasing the price of any charter later than the 10th day prior to departure. Second, we will require Davis to offer a full refund to any passenger in the event of a price change that occurs 10 or more days before departure and results in an aggregate price increase of more than 10 percent. These two provisions are identical to those contained in the Public Charter rule (see § 380.33) and are similar to those which Davis suggested itself.³ Third, we will require Davis to revise its contracts to include these first two provisions and to send the revised contracts, along with a letter explaining the changes, to those participants whose bookings have already been accepted before the effective date of this order and whose flights are scheduled to depart 10 or more days after the

³The only difference between our condition and the one that Davis suggested is that while we would prohibit any price increase after the 10th day before departure, Davis would allow such an increase and couple it with a passenger refund option.

effective date of this order.⁴ Should any passenger find these changes unacceptable, we shall require Davis to offer those passengers the opportunity to cancel and receive a full refund. Similarly, Davis must not enter into any new contracts without these provisions.

We believe that the exemption, as conditioned, should allow Davis the flexibility it is seeking to change its prices when necessary while still ensuring that passengers are properly protected and are not forced to accept price increases except under circumstances to which they have agreed.

In view of the foregoing, and acting under authority delegated by the Board in the Board's Regulations, 14 CFR 385.13, we find that grant of the subject exemption, as conditioned, is consistent with the public interest.

Accordingly,

1. We exempt Davis from the provisions of section 403 of the Act and Part 372 of the Board's Special Regulations to the extent that those provisions would require Davis to file a rates tariff covering its OMPC operations, subject to the following conditions:

(a) Davis must offer a full refund of the charter price to any participant wishing to cancel in the event of a price increase that occurs 10 or more days before departure and results in an aggregate price increase of more than 10 percent;

(b) Davis shall not increase the charter price to any participant later than the 10th day prior to departure;

(c) Davis must include the provisions contained in paragraphs (a) and (b) above in all contracts entered into with participants on or after the effective date of this order; and

(d) Davis must send a copy of its revised contract to all participants whose bookings have been accepted before the effective date of this order and whose flights are scheduled to depart 10 or more days after the effective date of this order. The revised contract shall be accompanied by a letter (1) directing the participant to the revised sections of the new contract; and (2) stating that if the participant does not accept the new contract, he may cancel within five days after receiving the new contract and receive a full refund from the charter operator.

⁴ Since Davis will be precluded from increasing the charter price to any participant less than 10 days prior to departure, we will not require it to send revised contracts to those participants whose charter flights are scheduled to depart less than 10 days after the effective date of this order.

2. This authority shall terminate upon the effective date of final action by the Board in Docket 30654;

3. To the extent not granted, we deny the remainder of Davis' request; and

4. The Board may amend or revoke this order at any time in its discretion without hearing.

Persons entitled to petition the Board for review of this order under the Board's Regulations, 14 CFR 385.50, may file their petitions within 10 days after the date of service of this order.

This order shall be effective and become the action of the Civil Aeronautics Board upon expiration of the above period unless within such period a petition for review is filed, or the Board gives notice that it will review this order on its own motion.

This order will be published in the Federal Register.

By Barbara A. Clark,

Director, Bureau of Domestic Aviation.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 79-27096 Filed 8-29-79; 8:45 am]

BILLING CODE 6320-01-M

[Order 79-8-131; Docket 32851 Agreement C.A.B. 1175, as amended]

International Air Transport Association; Relating to the Traffic Conferences.

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 23d day of August, 1979.

Order

On August 20, 1979, the Department of State filed three pleadings in Docket 32851. The first was a document entitled "Original Testimony of the Department of State." It contains summaries of the views of foreign governments about the proceeding instituted by the Board in that docket to determine if certain agreements adopted by the International Air Transport Association (IATA) should continue to enjoy our approval under section 412 of the Federal Aviation Act and antitrust immunity under section 414 of the Act. Also included in it are the Department's views about what it considers to be pertinent foreign policy considerations. In its testimony the Department reveals that it has prepared a document for confidential submission to the Board that contains its assessment of the foreign policy consequences of the choices available to the Board in this proceeding. The document, which the

Department has classified confidential and has not yet submitted to us, is intended for use by the Board in reaching a decision in this proceeding but is not intended for release to the parties or the public. The filing of the document is dependent upon the Board's agreement to withhold it from public disclosure. The second pleading submitted by the Department is a motion for a one-year stay of the proceedings in Docket 32851 in order to permit a testing of revised IATA procedures. The third pleading summarizes the contents of the first two pleadings.

These pleadings raise important questions about the future conduct of this proceeding. Consequently, we are extending the period to answer them from the normal seven days to ten days. We believe that this extension will permit parties to respond more fully to the issues raised by the Department of State.

Accordingly, the time for answering the pleadings submitted on August 20, 1979 by the Department of State is extended to August 30, 1979.

This order shall be served on all parties to the proceeding in this docket and shall be published in the Federal Register.

By the Civil Aeronautics Board:

Phyllis T. Kaylor,

Secretary.

[FR Doc. 79-27097 Filed 8-29-79; 8:45 am]

BILLING CODE 6320-01-M

Kodiak-Western Alaska Airlines, Inc.; Establishment of Final Past Period Subsidy Mail Rate

AGENCY: Civil Aeronautics Board.

ACTION: Summary of Order 79-8-137 establishing a final past period subsidy mail rate for Kodiak-Western Alaska Airlines, Inc., for the period December 16, 1976, through June 30, 1978, inclusive.

SUMMARY: The Board adopted an order directing Kodiak-Western Alaska Airlines, Inc. (KWA) to show cause why a final past period subsidy mail rate of \$539,396 should not be established for that carrier for the period December 16, 1976, through June 30, 1978, inclusive. This amount is \$25,114 greater than the temporary subsidy paid to the carrier for this past period.

DATES: Parties must file notices of objection by September 10, 1979 and

¹ Attached to the Department's testimony is a memorandum of law in which it argues that the Board should receive and consider the confidential submission it has prepared.

must file objections by September 28, 1979.

FOR FURTHER INFORMATION CONTACT: John R. Hokanson or James Craun, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428, 202-673-5368.

The complete text of Order 79-8-137 is available from our Distribution Section, Room 516, 1825 Connecticut Avenue NW., Washington, D.C. Persons outside the metropolitan area may send a postcard request for Order 79-8-137 to the Distribution Section, Civil Aeronautics Board, Washington, D.C. 20428.

By the Civil Aeronautics Board: August 24, 1979.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 79-27098 Filed 8-29-79; 8:45 am]

BILLING CODE 6320-01-M

CIVIL RIGHTS COMMISSION

Illinois Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Illinois Advisory Committee (SAC) of the Commission will convene at 10:00 a.m. and will end at 3:00 p.m., on September 24, 1979, at the Midwestern Regional Office Conference Room, 230 South Dearborn Street, Room 3280, Chicago, Illinois 60604.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Midwestern Regional Office of the Commission, 230 South Dearborn Street, 32nd Floor, Chicago, Illinois 60604.

The purpose of this meeting is to discuss reports from Housing, Education and Employment Sub-Committees and plan activities to implement adopted recommendations from the adopted reports.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., August 27, 1979.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 79-27047 Filed 8-29-79; 8:45 am]

BILLING CODE 6335-01-M

District of Columbia Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the District of Columbia Advisory Committee (SAC) of the Commission will convene at 10:00 a.m. and will end at 2:00 p.m., on September 25, 1979, at 2120 L Street N.W., Washington, D.C. 20037.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Mid-Atlantic Regional Office of the Commission, 2120 L Street, N.W., Room 510, Washington, D.C. 20037.

The purpose of this meeting is to discuss the draft report on displacement and develop final recommendations for action on the draft.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., August 27, 1979.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 79-27048 Filed 8-29-79; 8:45 am]

BILLING CODE 6335-01-M

Virginia Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Virginia Advisory Committee (SAC) of the Commission will convene at 6:30 p.m. and will end at 9:00 p.m., on September 25, 1979, at Morton's Tea Room, 2 East Franklin Street, Richmond, Virginia 23219.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Mid-Atlantic Regional Office of the Commission, 2120 L Street, N.W., Room 510, Washington, D.C. 20037.

The purpose of this meeting is for program planning.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., August 27, 1979.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 79-27049 Filed 8-29-79; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF DEFENSE

Intent To Prepare a Draft Environmental Impact Statement (DEIS) for a Recreational Boat Harbor at Green Bay, Wis.

AGENCY: U.S. Army Corps of Engineers, Department of Defense.

ACTION: Notice of Intent to Prepare a Draft Environmental Impact Statement.

SUMMARY: 1. The proposed project involves constructing a recreational boat harbor at Green Bay, Wisconsin. The small boat harbor would require constructing breakwaters, excavating an entrance channel, and disposing of the dredged material.

2. The alternatives being studied in detail are as follows:

- No action.
- Five plans at a site between an island confined disposal facility, currently under construction by the Corps of Engineers, and the shore adjacent to Bay Beach Park in the City of Green Bay, Wisconsin. Several subplans which are variations of a basic plan are also being considered. The dredged material would be deposited either: (1) on land adjacent to the harbor site and on a nearby wildlife sanctuary; (2) on land adjacent to the harbor site and in an offshore confined disposal facility; or (3) totally on land adjacent to the harbor site.

3. Public meetings to discuss the study and select sites for detailed investigation were held in December 1972 and June 1973. A meeting was held in November 1978 to present and discuss the alternative plans for the boat harbor and to assist in the selection of a plan to recommend for authorization. Affected Federal, State, and local agencies and interested private organizations and parties were invited to attend.

Coordination has been undertaken with the following: the U.S. Fish and Wildlife Service, the Wisconsin Department of Natural Resources, the State Historical Society of Wisconsin, the City of Green Bay, the Brown County Board of Supervisors, and the Brown County Planning and Harbor Commission.

4. Significant issues to be analyzed in depth include the relocation of thirty-two (32) households and the use of hydraulic methods for disposal of dredged material on the wildlife sanctuary.

5. No scoping meeting will be held. The scoping process has been undertaken as part of the on-going public participation and coordination program.

6. The DEIS is expected to be available to the public in March 1980.

7. Questions about the proposed action and DEIS can be answered by Rose Austin, U.S. Army Corps of Engineers, Chicago District (NCCPD-ES), 219 South Dearborn Street, Chicago, Illinois 60604.

Dated: August 16, 1979.

James R. C. Miller,
Colonel, Corps of Engineers, District Engineer.

[FR Doc. 79-27015 Filed 8-29-79; 8:45 am]

BILLING CODE 3710-HN-M

Department of the Navy

Technology Sub-Panel of the Chief of Naval Operations Executive Panel Advisory Committee; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. I), notice is hereby given that the Technology Sub-Panel of the Chief of Naval Operations (CNO) Executive Panel Advisory Committee will meet on September 18-19, 1979, at the Pentagon, Washington, D.C. Sessions of the meeting will commence at 8:30 a.m. and terminate at 5:00 p.m. on both days. All sessions of the meeting will be closed to the public.

The entire agenda for the meeting will consist of discussions of Soviet naval research and development and related intelligence. These matters constitute classified information that is specifically authorized by Executive order to be kept secret in the interest of national defense and is, in fact, properly classified pursuant to such Executive order. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of Title 5, United States Code.

For further information concerning this meeting, contact Commander Robert B. Vosilus, U.S. Navy, Executive Secretary of the CNO Executive Panel Advisory Committee, 2000 N. Beauregard Street, Room 392, Alexandria, VA 22311, telephone number (703) 756-1205.

Dated: August 24, 1979.

P. B. Walker,
Captain, JAGC, Navy, Deputy Assistant Judge Advocate, General (Administrative Law).

[FR Doc. 79-27016 Filed 8-29-79; 8:45 am]

BILLING CODE 3610-71-M

Privacy Act of 1974; Addition of Proposed New System of Records

AGENCY: Department of the Navy.

ACTION: Notice of a new system of records.

SUMMARY: The Department of the Navy proposes to add a new system of records to its inventory, subject to the Privacy Act of 1974.

DATES: This system shall be effective as proposed without further notice on October 1, 1979, unless comments are received on or before October 1, 1979, which would result in a contrary determination and require republication for further comments.

ADDRESS: Any comments, including written data, views or arguments concerning the action proposed should be addressed to the systems manager identified in the system notice.

FOR FURTHER INFORMATION CONTACT: Mrs. Gwendolyn R. Rhoads, Privacy Act Coordinator, Department of the Navy, OP-09B1P, Washington, D.C. 20350; telephone: 202-694-2004.

SUPPLEMENTARY INFORMATION: The Department of the Navy systems of records notices as prescribed by the Privacy Act of 1974, Title 5 U.S.C., Section 552a, Public Law 93-597, have been published in the Federal Register as follows:

FR Doc 77-28255 (42 FR 51229) September 28, 1977.

FR Doc 78-23953 (43 FR 42379) September 29, 1978.

FR Doc 78-32596 (43 FR 54124) November 20, 1978.

FR Doc 79-20457 (44 FR 38961) July 3, 1979.

August 24, 1979.

H. E. Lofdahl,

Director, Correspondence and Directives,
Washington Headquarters Services,
Department of Defense.

N0003415

SYSTEM NAME:

Losses of Public Funds File.

SYSTEM LOCATION:

Navy Accounting and Finance Center,
Code NAFC-73, Washington, DC 20376.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Disbursing personnel who are entrusted with public funds and who incur losses of the public funds entrusted to them.

CATEGORIES OF RECORDS IN THE SYSTEM:

Alphabetized folders containing reports of losses of public funds, reports of investigations into losses of public funds, requests for relief of liability for losses of public funds and related correspondence.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

31 U.S.C. §§ 82a-1, 82a-2, 95a.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM INCLUDING CATEGORIES OF USERS, USES, AND PURPOSES OF SUCH USES:

Maintaining documentation relative to losses of public funds by accountable disbursing personnel. Used by the following individuals for the purpose of processing documentation relative to losses of public funds: Commanding Officer, Executive Director; Director, Functional Systems Department; Director, General Systems Division and other specified individuals within the General Systems Division. Inform individuals of their rights to repay losses or to submit requests for relief of liability; maintain records of investigations conducted; approval of requests for relief of liability for losses of less than \$500; recommendations to the Secretary of the Navy on all denials, and all losses of \$500 or more; and control over liquidation of losses by relief or by collection action.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

File folders and control log.

RETRIEVABILITY:

Name of accountable disbursing individual in whose custody the public funds were entrusted when the loss occurred.

SAFEGUARDS:

Maintained in General Services approved Class 3, Security Cabinet equipped with a Type II, three tumbler combination lock accessible only to authorized individuals.

RETENTION AND DISPOSAL:

Transferred to Federal Records Center one year following liquidation of the loss.

SYSTEM MANAGER(S) AND ADDRESS:

Commanding Officer, Navy Accounting and Finance Center, Code NAFC-73, Washington, DC 20376

NOTIFICATION PROCEDURES:

Correspondence only.

RECORD ACCESS PROCEDURES:

The agency's rules for access to records may be obtained from the system manager.

CONTESTING RECORD PROCEDURES:

The agency's rules for contesting contents and appealing initial determinations by the individual

concerned may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Messages, letters, and reports of investigations into losses of public funds received from: accountable disbursing personnel, commanding officers of Navy and Marine Corps activities at which disbursing offices are located, officers appointed to conduct Judge Advocate General Manual investigations, Commanding Officer, Naval Investigative Service, Commandant of the Marine Corps, and Secretary of the Navy.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 79-27186 Filed 8-29-79; 8:45 am]

BILLING CODE 3610-01-M

DEPARTMENT OF ENERGY

National Petroleum Council, Task Group of the Committee on Unconventional Gas Sources; Meeting

Notice is hereby given that a task group of the Committee on Unconventional Gas Sources will meet in September 1979. The National Petroleum Council was established to provide advice, information, and recommendations to the Secretary of Energy on matters relating to oil and natural gas or the oil and natural gas industries. The Committee on Unconventional Gas Sources will analyze the potential constraints in these areas which may inhibit future production and will report its findings to the National Petroleum Council. Its analysis and findings will be based on information and data to be gathered by the various task groups. The task group scheduling a meeting is the Coal Seams Task Group. The time, location and agenda of the meeting follows:

The sixth meeting of the Coal Seams Task Group will be held on Tuesday, September 11, 1979, starting at 10:00 a.m., Conference Room, National Petroleum Council, 1625 K Street, NW., Washington, D.C.

The tentative agenda for the meeting follows:

1. Introductory remarks by Chairman and Government Cochairman.
2. Review draft work of the Coal Seams Task Group.
3. Discuss the completion of the Coal Seams Task Group's assignment.
4. Discussion of any other matters pertinent to the overall assignment of the Coal Seams Task Group.

The meeting is open to the public. The chairman of the task group is

empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the task group will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform Lucio A. D'Andrea, Office of Resource Applications, 202/633-9482, prior to the meeting and reasonable provision will be made for their appearance on the agenda.

Summary minutes of the meeting will be available for public review at the Freedom of Information Public Reading Room, Room GA 152, DOE, Forrestal Building, 1000 Independence, SW., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C. on August 15, 1979.

J. Lisle Reed,

Acting Deputy Assistant Secretary, Oil, Natural Gas, and Shale Resources, Resource Applications.

August 15, 1979.

[FR Doc. 79-27052 Filed 8-29-79; 8:45 am]

BILLING CODE 6450-01-M

Office of Environment

Environmental Advisory Committee, Ad Hoc Subcommittee; Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770), notice is hereby given of the following ad hoc subcommittee meeting:

Date, time, and place: Tuesday, September 18, 1979, 9:00 a.m. to 5:00 p.m., Room GE-045, Forrestal Building, 1000 Independence Ave., SW., Washington, D.C. 20585.

Contact: Georgia Hildreth, Director, Advisory Committee Management, Department of Energy, Room 8G-031, 1000 Independence Ave., SW., Washington, D.C. 20585, Telephone: 202-252-5187.

Public participation: The meeting is open to the public. The Chairwoman of the Subcommittee is empowered to conduct the meeting in a fashion that will, in her judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Subcommittee will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements pertaining to the meeting should inform the Advisory Committee Management Office, (202) 252-5187, at least 5 days prior to the

meeting and reasonable provision will be made to include their presentation on the agenda.

Transcripts: Available for public review and copying at the Freedom of Information Public Reading Room, Room GA-152, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C., between 8:00 and 4:30 p.m., Monday through Friday, except Federal holidays.

Purpose of committee: To advise the Department of Energy on the overall activities which pertain to the goals of restoring, protecting and enhancing environmental quality and assuring public health and safety.

Tentative Agenda: The Ad Hoc Subcommittee will continue to address the use and significance of demand projections in the formulation of national energy policy.

Issued at Washington, D.C. on August 24, 1979.

Georgia Hildreth,

Director, Advisory Committee Management.

[FR Doc. 79-27051 Filed 8-29-79; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

(Docket No. CP78-123, et al.)

Alaskan Northwest Natural Gas Transportation Co.; Application

August 17, 1979

Take notice that on August 8, 1979, Alaskan Northwest Natural Gas Transportation Company (the Partnership), 1801 K Street, NW., Washington, D.C. 20006, filed in Docket No. CP78-123, et al., an application pursuant to the Alaska Natural Gas Transportation Act of 1976 (ANGTA), the natural Gas Act, the *Decision and Report to Congress on the Alaska Natural Gas Transportation System*, as ratified by Congress, and the Commission's Order Vacating Prior Proceedings and Issuing Conditional Certificate of Public Convenience and Necessity issued December 16, 1977, for an order approving the proposed Cost Estimate Format to be used by the Partnership in the submission of the Partnership's Certificate Cost and Schedule Estimate of the Federal Energy Regulatory Commission as a part of its application for a final certificate of public convenience and necessity.

The Partnership states that the proposed format results in the recasting of the 1977 filed estimate in the format of the work breakdown structure (WBS), which is appended to the application, and then escalating the 1975 prices to

1980 prices, the presently anticipated base year for certification filing.

The Partnership states that recasting the 1977 filed estimate to the WBS will provide the uniform structure for making the comparison with the certification cost and schedule estimate and will be presented in the format of Exhibit 1, which is attached to the application, and that Exhibits 2 through 29, also attached to the application, will provide the necessary format to display the methods of escalating the 1977 filing estimate and making its comparison with the Certification Cost Estimates.

The Partnership further states that the basis for the implementation of the scope change procedure will be established by the final design cost estimate. This estimate, when approved, will depict estimated resource quantities and costs which, when escalated, will be converted to the project baseline budget. The Partnership states that allowable scope changes are to be quantified in terms of resource, quantities, and current year prices, and will be added to the appropriate baseline budget element to revise project costs. The detailed composition of the final design Cost Estimate Format to meet this requirement are illustrated in Exhibits 40 through 56, also attached to the application.

The Partnership states that the Final Design Cost Estimate will fulfill the requirement set forth in Order No. 31, issued on June 8, 1979, in Docket No. RM 78-12, to permit the implementation of the inflation adjustment procedure. The estimate will be converted to 1980 base year dollars and recast by inflation categories to establish the bases for escalation evaluation. As actual costs are expended, they will be de-escalated according to the appropriate index for the specific category and contrasted with the 1980 base dollar estimate for performance measurement purposes. Exhibits 30 through 39 and 76 through 85, attached to the application, describe the Cost Estimate Format to be used to establish the inflation adjustment base.

The Partnership states that the comparison of the Certification Cost Estimate and the Final Design Cost Estimate will be made to evaluate deviations in quantities of labor, materials or services between the two. Although the comparison, according to the Partnership, will be made in dollars, both estimates will utilize the same pricing methods and any deviations will be attributable to changes in resource quantities only, unless the Final Design requires a type of labor, material or services input not assumed to be used in the Certification Cost Estimate. Exhibits 57 through 65, attached to the

application, will provide the format for making this estimate comparison.

The Partnership states that the cost estimate to be used for the cost tracking system will be the Final Design Cost Estimate. The estimate will be made in real year or escalated dollars and will be utilized as the project baseline budget. Like the budget, actual costs incurred during construction will be contrasted with it at select intervals for performance evaluation, i.e., calculation of an interim cost performance ratio. The partnership states that, when coupled with the inflation adjustment evaluation, the financial status of the project can be successfully evaluated in terms of cost effectiveness for control and incentive rate of return purposes. Exhibits 66 through 75, attached to the application, illustrate the formats to be used to present the baseline cost tracking estimate.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 14, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. All persons who have heretofore filed need not file again.

The Commission invites the parties of record in Docket Nos. CP78-123, *et al.*, to submit written data, views, comments and other information concerning the matters set forth in above described application. An original and 14 copies should be filed by September 14, 1979, with service of copies on all parties. Parties of record may also file reply comments, pursuant to the same procedure, by September 28, 1979. Comments and reply comments should be submitted to the Federal Energy Regulatory Commission, Office of the Secretary, 825 North Capitol St., N.E., Washington, D.C. 20426, and should reference Docket No. CP78-123, *et al.* All written submissions will be placed in the Commission's public files and will be available for public inspection in the Commission's Office of Public Information, 825 North Capitol, St., N.E.,

Washington, D.C., during regular business hours

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-27101 Filed 8-29-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER79-588]

Arizona Public Service Co.; Notice of Filing

August 16, 1979.

The filing Company submits the following:

Take notice that on August 10, 1979, Arizona Public Service Company (APS) tendered for filing a re-implementation of rates under the Agreement between APS and Arizona Electric Power Cooperative, Inc. (AEP) for the transmission service at Round Valley Switching Station in Arizona. The Agreement is APS Rate Schedule FPC No. 82. The rate requested is the rate that was in existence prior to the Commission Order dated August 1, 1978 in Docket No. ER78-530. Waiver of the formal filing requirements under Section 35.13 is requested. The Arizona Corporation Commission was furnished a copy of this filing.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 7, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-27121 Filed 8-29-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER79-600]

Central Power & Light Co.; Filing

August 24, 1979

Take notice that Central Power & Light Company (CPL) on August 17, 1979, tendered for filing Supplemental Filings Nos. 1 through 4 to CPL Rate Schedule No. 51.

CPL indicates that the rate changes described in these supplemental filings were made effective as follows:

Supplemental Filing No.:

1 4/78-12/78
2 1/77-3/78
3 4/78-3/79
4 4/79-3/79

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before September 17, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-27124 Filed 8-29-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. EL79-26]

Central Power & Light Co.; Petition for Declaratory Order

August 24, 1979.

The filing Company submits the following:

Take Notice that on August 16, 1979, Central Power & Light Company ("CPL") tendered for filing a Petition for Declaratory Order requesting that the Commission enter a finding that the manner in which CPL has billed and collected firm power rates, including demand charges, from the City of Brownsville has complied with this Commission's order approving such rates on May 9, 1977 in FERC Docket No. ER77-331, and is consistent with applicable Commission regulations. Alternatively, CPL seeks a waiver of any applicable regulations as more fully discussed in the petition.

It is stated that copies of the filing have been mailed, return receipt requested, to the City of Brownsville and its attorneys.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 N. Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before Sept. 14, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken but will

not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-27123 Filed 8-29-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER79-595]

Central Illinois Light Co.; Filing

August 23, 1979.

The filing Company submits the following: Take notice that on August 15, 1979, Central Illinois Light Company tendered for filing pursuant to Section 205 of the Federal Power Act and Part 35 of the Commission's regulations thereunder an executed electric service agreement for resale service presently being provided under Rate Schedule FERC No. 18 to the Village of Chatham, Illinois.

The agreement supersedes and updates a prior agreement between CILCO and the Village of Chatham, Illinois, but does not effect any changes in the presently effective rates.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426 in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 11, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-27110 Filed 8-29-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER77-89]

Central Illinois Public Service Co.; Granting Extension of Time

August 16, 1979.

On August 7, 1979, the Commission Staff Counsel filed a motion requesting an extension of time for submitting briefs opposing exceptions in the above-referenced proceeding. The motion states that staff attorneys assigned to

this case are on extended travel at this time and are not in a position to file briefs on time. The participants in this proceeding have authorized the Staff Counsel to make this request.

Upon consideration, notice is hereby given that an extension of time is granted to and including September 10, 1979, for the filing of briefs opposing exceptions.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-27122 Filed 8-29-79; 8:45 am]

BILLING CODE 6450-01-M

[Project No. 2814]

City of Paterson; Application for Major License

August 24, 1979.

Take notice that an applicant for a major federal license was filed by the City of Paterson, New Jersey (Applicant). Correspondence with Applicant should be addressed to: Mr. John Topalian, Community Development Department, 100 Hamilton Plaza, Paterson, New Jersey 07505. Applicant seeks a major license for FERC Project No. 2814 (Great Falls Hydro Project) located on the Passaic River in Passaic County, New Jersey.

Applicant proposed to rehabilitate the existing Society for Establishing Useful Manufactures (S.U.M.) Dam and hydroelectric project by installing four new turbine generators with a total capacity of 7,500 kW at 70 feet of head. The proposed Great Falls Hydro Project would consist of: (1) the existing S.U.M. dam, an overflow granite stone gravity structure about 315 feet long, with a maximum height of 15 feet and having a crest elevation of 114.6 feet (m.s.l.); (2) an existing forebay inlet structure; (3) an existing forebay with negligible storage; (4) an existing headgate control structure containing four trashracks and four steel gates each approximately 10 x 10 feet; (5) four existing steel-lined penstocks each 8.5 feet in diameter and approximately 55 feet long; (6) an existing concrete powerhouse which would contain the above mentioned four new turbine generators; (7) an existing 50-foot long 5-kV cable connecting the powerhouse to a 4.16/28.4-kV step-up transformer which in turn is connected to the City of Paterson Substation via a 1500-foot long 26-kV aerial and underground cable; (8) and appurtenant facilities.

Applicant proposes to use the power developed at Great Falls Hydro Project for public utility purposes.

Anyone desiring to be heard or to make any protest about this application

should file a protest and petition to intervene with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure ("Rules"), 18 C.F.R. § 1.10 or § 1.8 (1978). In determining the appropriate action to take, the Commission will consider all protests filed, but a person who merely files a protest does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any protest or petition to intervene must be filed on or before October 29, 1979. The Commission's address is: 825 N. Capitol Street, N.E., Washington, D.C. 20426. This application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-27125 Filed 8-29-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. RP78-12]

East Tennessee Natural Gas Co.; Filing of Tariff Sheets Pursuant to Commission Approved Stipulation and Agreement

August 24, 1979.

Take notice that on August 20, 1979, East Tennessee Natural Gas Company (East Tennessee) tendered for filing Thirtieth Revised Sheet No. 4, Second Revised Sheet No. 51D and Seventh Revised Sheet No. 69. These tariff sheets are proposed to become effective October 1, 1979.

East Tennessee states that these tariff sheets reflect the terms and provisions of a Stipulation and Agreement dated November 6, 1978, as approved by the Commission's letter order of August 10, 1979, except that (1) the rates reflected therein have been revised to reflect the presently effective 46 percent federal income tax rate pursuant to the condition in the Commission's letter order of August 10, 1979, and (2) the revised PGA provision included therein reflects the change required by the Stipulation as well as a change in East Tennessee's tariff filing of December 1, 1978 (subsequent to the filing of the Stipulation), which tariff filing was accepted by the Commission's order of December 28, 1979.

East Tennessee states that copies of the filing have been mailed to all of its jurisdiction customers, affected state regulatory commissions and all parties in Docket No. RP78-12.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 11, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene; provided, however, that any person who has previously filed a petition to intervene in this proceeding is not required to file a further petition. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-27126 Filed 8-29-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. RP72-155 (PGA79-2)]

El Paso Natural Gas Co.; Tariff Filing

August 24, 1979.

Take notice that on August 20, 1979, El Paso Natural Gas Company ("El Paso") tendered for filing, pursuant to Part 154 of the Federal Energy Regulatory Commission's ("Commission") Regulations Under the Natural Gas Act, Seventh Revised Sheet No. 67 to its FERC Gas Tariff, Original Volume No. 1.

El Paso states that on December 1, 1978, at Docket No. RM79-3, the Commission issued its Interim Regulations Implementing the Natural Gas Policy Act of 1978 ("NGPA"). Subpart C of Part 157 of such interim rules set forth regulations prescribing the conditions under which certain 60-day emergency transactions involving, *inter alia*, the sale of natural gas by an intrastate pipeline to an interstate pipeline are exempt from the requirements of Section 7 of the Natural Gas Act. Thereafter, on March 1, 1979, the Commission issued in Docket No. RM79-20 final rules, designated Subpart C of Part 284, implementing Section 311(b) of the NGPA, which provides for, *inter alia*, sales of natural gas by intrastate pipelines to interstate pipelines for a two-year period. El Paso states that it has determined that, given the effectiveness of the above rules, it is desirable to clarify the intent of phraseology contained in its FERC Gas Tariff, Original Volume No. 1, respecting the term "cost of gas purchased", as

defined in its Purchased Gas Cost Adjustment Provision ("PGAC"). El Paso states that the NGPA provides for intrastate purchases by an interstate pipeline; therefore, El Paso tendered the subject tariff sheet in order to clarify that gas purchased and sold on an intrastate basis shall continue to be excluded from the definition of said cost of purchased gas, but the cost of intrastate purchases made by El Paso pursuant to the NGPA to be utilized on El Paso's interstate transmission system shall be included.

El Paso has requested that the Commission grant such waiver of its Regulations Under the Natural Gas Act as may be necessary in order to accept the tendered tariff sheet for filing and permit it to become effective as of December 1, 1978, inasmuch as the aforementioned interim rules implementing the NGPA became effective on such date. El Paso states that grant of such waiver will provide for clarification of the definition of said cost of purchased gas contained in El Paso's FERC Gas Tariff in a manner consistent with the Commission's Regulations, retroactive to the date said interim rules became effective.

El Paso states that copies of the filing were served upon all interstate transmission system customers of El Paso and interested state regulatory commissions.

Any person desiring to be heard or to make any protest with reference to said tariff filing should, on or before Sept. 11, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations Under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make any protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-27127 Filed 8-29-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket Nos. CS66-108 and CS72-352]

Energy Resources Oil & Gas Corp. (Texam Oil Corporation), et al.; Applications for "Small Producer" Certificates¹

August 24, 1979.

Take notice that each of the Applicants listed herein has filed an application pursuant to Section 7(c) of the Natural Gas Act and § 157.40 of the Regulations thereunder for a "small producer" certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce, all as more fully set forth in the applications which are on file with the Commission and open to public inspection.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 10 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before September 4, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission in its own motion believes that a formal

¹ This notice does not provide for consolidation for hearing of the several matters covered herein.

hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

Kenneth F. Plumb,
Secretary.

Docket No.	Date filed	Applicant
CS66-108	4/30/79 ¹	Energy Resources Oil & Gas Corporation (Texam Oil Corporation), P.O. Box 1663, Midland, Texas 79701.
CS72-352	5/1/79 ¹	The Petroleum Corporation of Delaware (The Petroleum Corporation), 3303 Lee Parkway, Dallas, Texas 75219.

¹ Being noticed to reflect merger of Texam Oil Corporation into Energy Resources Oil & Gas Corporation and requesting that the small producer certificate be redesignated accordingly.

² Being noticed to reflect that the corporation's full and correct legal name was and still is The Petroleum Corporation of Delaware. The small producer exemption was originally issued in the name of The Petroleum Corporation.

[FR Doc. 79-27100 Filed 8-29-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER79-452 and Docket No. ER78-19, et al.]

Florida Power & Light Co.; Order Accepting Electric Rate Schedules for Filing, Providing for Suspension and Hearing, Waiving Regulations and Consolidating Proceedings

Issued August 20, 1979.

On June 22, 1979, the Florida Power & Light Company (FP&L) tendered for filing, pursuant to 18 CFR 35.13, an executed transmission agreement providing for specified transmission service to the Jacksonville Electric Authority (JEA).¹ Under the agreement, FP&L will provide the transmission service necessary to implement JEA's interchange agreements with Orlando Utilities Commission, Lake Worth Utilities Authority, Fort Pierce Utilities Authority and the City of Lakeland, Florida. According to FP&L, cost support data for this service is identical to that which previously has been submitted as Volume X in *Florida Power & Light Company*, Docket No. ER78-19, on June 16, 1978. Thus, FP&L seeks to incorporate by reference the cost support data furnished in Docket No. ER78-19, *et al.*, into the instant proceeding, pursuant to 18 CFR 35.19. FP&L also seeks waiver of the Commission's Regulations to the extent necessary to permit this agreement to be effective as of June 21, 1979, the date FP&L began transmission service to JEA. JEA supports this request.

¹ See Attachment A for designations.

Public notice of FP&L's filing was issued on June 28, 1979, with petitions to intervene or protests to be filed on or before July 20, 1979. No petitions to intervene or protests have been received.

FP&L's submittal has not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory, preferential or otherwise unlawful. The Commission shall suspend the proposed transmission service agreement for one day to become effective June 21, 1979, subject to refund, pending the outcome of a hearing and decision thereon.

FP&L has made previous filings for specified transmission service and the cost support for this filing is identical to those filed in the previous submittals. The prior filings were suspended for one day and consolidated with the ongoing proceeding in Docket Nos. ER78-19, *et al.*² The Commission finds that common questions of law and fact exist and it is appropriate to consolidate Docket No. ER79-452 with the ongoing proceeding in Docket Nos. ER78-19, *et al.*, for the purpose of hearing and decision.

The Commission Orders

(A) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Section 402(a) of the Department of Energy Act and by the Federal Power Act, particularly Sections 205, 206, 301, 308 and 309 thereof, and pursuant to the Rules of Practice and Procedure and the Regulations under the Federal Power Act (18 CFR Chapter I), a public hearing shall be held concerning the justness and reasonableness of the rate schedules proposed by FP&L in the instant docket.

(B) The Commission hereby waives the notice requirements pursuant to § 35.11 of our Regulations.

(C) Pending a hearing and decision thereon, FP&L's proposed filing is hereby accepted for filing and suspended for one day, to become effective June 21, 1979, the rates thereunder to be subject to refund.

(D) The proceeding in Docket No. ER79-452 is hereby consolidated with Docket Nos. ER78-19, *et al.*, for the purpose of hearing and decision.

² The prior specified transmission agreements are filed in the following dockets, all of which have been consolidated with Docket No. ER78-19, for the purpose of hearing and decision: Docket Nos. ER78-325, ER78-326, ER78-376, ER78-478, ER78-503, ER78-527, ER78-568, ER78-567, ER79-44, ER79-162, ER79-171, ER79-172, ER79-352, and ER79-418.

(E) The Commission hereby waives the cost support requirement of § 35.13 of its Regulations.

(F) The Secretary shall promptly publish this Order in the Federal Register.

By the Commission,
Lois D. Cashell,
Acting Secretary.

Attachment A

Florida Power & Light Company, Docket No. ER79-452

Filed: June 22, 1979.

Effective: June 21, 1979, subject to refund.

Designation and description

- (1) Rate Schedule FERC No. 34—Transmission agreement with Jacksonville Electric Authority.
- (2) Exhibit A to (1) above—Interchange service between Jacksonville and Orlando.
- (3) Exhibit B to (1) above—Interchange service between Jacksonville and Lake Worth.
- (4) Exhibit C to (1) above—Interchange service between Jacksonville and the City of Lakeland.
- (5) Exhibit D to (1) above—Interchange service between Jacksonville and Ft. Pierce.

[FR Doc. 79-27128 Filed 8-29-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket Nos. RP79-10, RP75-94, RP72-140]

Great Lakes Gas Transmission Co.; Proposed Changes in FERC Gas Tariff

August 24, 1979.

Take notice that Great Lakes Gas Transmission Company ("Great Lakes"), on August 20, 1979, tendered for filing the following changes to its FERC Gas Tariff.

Tariff Sheets To Be Effective August 1, 1979

First Revised Volume No. 1
Eighth Revised Sheet No. 4
Fourth Revised Sheet No. 54
Original Sheet No. 54A
Thirtieth "A" Revised Sheet No. 57

Original Volume No. 2

Fourteenth Revised Sheet No. 53
Fifth Revised Sheet No. 53-B
Fifth Revised Sheet No. 77
Original Sheet No. 78-A
Original Sheet No. 78-B
Original Sheet No. 78-C
Original Sheet No. 78-D
First Revised Sheet No. 79

Tariff Sheet To Be Effective September 1, 1979

First Revised Volume No. 1
Substitute Thirty-First Revised Sheet No. 57

Great Lakes states that on July 30, 1979, the Federal Energy Regulatory Commission issued Opinion No. 51 in Docket No. RP75-94. The above tariff sheets were filed in compliance with and as required by the provisions of ordering paragraph (B) of that Opinion. The tariff sheets include new base tariff rates based on the rate design ordered in Opinion No. 51 as well as related modifications to the purchased gas cost adjustment provisions of Great Lakes' FERC Gas Tariff.

Great Lakes also states that copies of this filing have been served upon its customers and the Public Service Commissions of Minnesota, Wisconsin and Michigan.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 11, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-27129 Filed 8-29-79; 8:45 am]
BILLING CODE 6450-01-M

[Project No. 2597]

Hartford Electric Light Co.; Application for Major License

August 17, 1979.

Take notice that on January 10, 1979, Hartford Electric Light Co. filed an application for major license pursuant to the Federal Power Act, 16 U.S.C. §§ 791a-825r, for its constructed Falls Village Hydroelectric Project No. 2597. The project is located on the Housatonic River in the Town of Canaan, Litchfield County, Connecticut. Correspondence with Applicant concerning the application should be addressed to: William G. Council, Vice President, Northeast Utilities Service Co., P.O. Box 270, Hartford, Connecticut 06101.

The project consists of: (1) a 300-foot-long, 14-foot-high concrete overflow dam; (2) a reservoir with a storage capacity of 440 acre-feet at normal water surface elevation 833.10 (U.S.G.S. datum); (3) three 10-foot-high by 5-foot-

wide canal gates; (4) a 2,200-foot-long, 30-foot-wide, 15½-foot-deep concrete canal; (5) an ice sluice; (6) three motor driven headgates; (7) three 9-foot-diameter and two 3-foot-diameter steel penstocks; (8) a powerhouse containing three generating units with a total installed capacity of 9,000 kW; (9) two direct current exciter units; and (10) appurtenant facilities. The project is operated as a run-of-the-river facility.

The Applicant proposes to spend about \$15,000 for recreational facilities at the project. The facilities would include a boat access area, a scenic overlook, a canoe access area, and trail and fishing access areas.

The energy produced by the project is fed into the Applicant's interconnected system for sale to its retail customers.

Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1978). In determining the appropriate action to take, the Commission will consider all protests filed, but a person who merely files a protest does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any protest or petition to intervene must be filed on or before October 19, 1979. The Commission's address is: 825 N. Capitol Street NE., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-27131 Filed 8-29-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. ER79-610]

Hartford Electric Light Co.; Purchase Agreement

August 24, 1979.

The filing company submits the following: Take notice that on August 22, 1979, The Hartford Electric Light Company (HELCO) tendered for filing a proposed Purchase Agreement with Respect to Various Gas Turbine Units dated December 1, 1976 between (1) HELCO, The Connecticut Light and Power Company (CL&P), and Western Massachusetts Electric Company (WMECO), and (2) New Bedford Gas and Edison Light Company (NB&E).

HELCO states that the Purchase Agreement provides for a sale to

NB&E of a specified percentage of capacity and energy from six gas turbine generating units during the period from November 1, 1979 to October 31, 1982, together with related transmission service.

HELCO requests that the Commission permit the rate schedule filed herewith to become effective on November 1, 1979.

HELCO states that the capacity charge for the proposed service was developed on a cost-of-service basis, and the variable and additional maintenance charges were derived from historical costs.

The transmission charge rate is a monthly rate equal to one-twelfth of the annual average cost of transmission service on the Northeast Utilities system determined in accordance with Section 13.9 (Determination of Amount of Pool Transmission Facilities (PTF) Costs) of the New England Power Pool (NEPOOL) Agreement and the uniform rules adopted by the NEPOOL Executive Committee. The monthly transmission charge is determined by the product of (i) the transmission charge rate (\$/kW-month), and (ii) the number of kilowatts which NB&E is entitled to receive during such month.

CL&P and WMECO have filed certificates of concurrence in this docket.

HELCO states that copies of this rate schedule have been mailed or delivered to HELCO, Hartford, Connecticut, CL&P, Hartford, Connecticut, WMECO, West Springfield, Massachusetts, and NB&E, New Bedford, Massachusetts.

HELCO further states that the filing is in accordance with Part 35 of the Commission's Regulations.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedures (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 17, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the

Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-27130 Filed 8-29-79; 8:45 am]
BILLING CODE 6450-01-M

[Project No. 2597]

Hartford Electric Light Co.; Application for Major License

August 17, 1979.

Take notice that on January 10, 1979, Hartford Electric Light Co. filed an application for major license pursuant to the Federal Power Act, 16 U.S.C. §§ 791a-825r, for its constructed Falls Village Hydroelectric Project No. 2597. The project is located on the Housatonic River in the Town of Canaan, Litchfield County, Connecticut. Correspondence with Applicant concerning the application should be addressed to: William G. Council, Vice President, Northeast Utilities Service Co., P.O. Box 270, Hartford, Connecticut 06101.

The project consists of: (1) a 300-foot-long, 14-foot-high concrete overflow dam; (2) a reservoir with a storage capacity of 440 acre-feet at normal water surface elevation 833.10 (U.S.G.S. datum); (3) three 10-foot-high by 5-foot-wide canal gates; (4) a 2,200-foot-long, 30-foot-wide, 15½-foot-deep concrete canal; (5) an ice sluice; (6) three motor driven headgates; (7) three 9-foot-diameter and two 3-foot-diameter steel penstocks; (8) a powerhouse containing three generating units with a total installed capacity of 9,000 kW; (9) two direct current exciter units; and (10) appurtenant facilities. The project is operated as a run-of-the-river facility.

The Applicant proposes to spend about \$15,000 for recreational facilities at the project. The facilities would include a boat access area, a scenic overlook, a canoe access area, and trail and fishing access areas.

The energy produced by the project is fed into the Applicant's interconnected system for sale to its retail customers.

Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR § 1.8 or § 1.10 (1978). In determining the appropriate action to take, the Commission will consider all protests filed, but a person who merely files a protest does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in

accordance with the Commission's Rules. Any protest or petition to intervene must be filed on or before October 19, 1979. The Commission's address is: 825 N. Capitol Street, N.E., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-27132 Filed 8-29-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket Nos. RI74-188; RI75-21]

Independent Oil and Gas Association of West Virginia; Extension of Time

August 21, 1979.

On August 17, 1979, the Independent Oil and Gas Association of West Virginia filed a motion requesting a confirmation of the 30 day period within which to file briefs on exceptions to the August 10, 1979, decision of the Administrative Law Judge in the above-referenced proceedings. This motion opposes a recommendation issued on July 19, 1979, by the Chief Administrative Law Judge that the Commission set abbreviated dates for the filing of exceptions and replies to the Initial Decision. On August 15, 1979, a notice was issued by the Commission in response to the recommendation of the Administrative Law Judge. This notice shortened the time, stating that briefs on exceptions in the above-referenced proceedings would be due on or before August 28, 1979, and briefs opposing exceptions would be due on September 7, 1979.

Upon consideration, notice is hereby given that the motion is denied.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-27111 Filed 8-29-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. ER79-594]

Kentucky Utilities Co.; Filing of Fourth Supplemental Agreement to Interconnection Agreement

August 23, 1979.

The filing Company submits the following: Take notice that Kentucky Utilities Company (KU) on August 18, 1979 tendered for filing Fourth Supplemental Agreement dated November 1, 1979 to the Interconnection Agreement dated July 22, 1966 between Kentucky Utilities Company (KU) and Louisville Gas & Electric Company (LG&E). The Commission has previously designated the July 22, 1966 Agreement

as KU Rate Schedule FPC No. 80 and LG&E Rate Schedule FPC No. 20.

The parties state that Fourth Supplemental Agreement to the Interconnection Agreement provides for an increase in the demand charge for short term power, proposed to become effective November 1, 1979.

Copies of the filing were served upon Louisville Gas & Electric Company.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 or 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 11, 1979. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-27112 Filed 8-29-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP78-433]

**Michigan Consolidated Gas Co.;
Petition To Amend**

August 21, 1979

Take notice that on August 7, 1979, Michigan Consolidated Gas Company (Michigan), One Woodward Avenue, Detroit, Michigan 48226, filed in Docket No. CP78-433 a petition to amend the order of July 23, 1979 issuing a certificate of public convenience and necessity in the instant docket pursuant to Section 7(c) of the Natural Gas Act for authorization to relocate the site of the proposed Milford Compressor Station and further, to increase the size of the compressor station from 12,000 horsepower to 16,000 horsepower, all as more fully set forth in the petition to amend which is on file with the Commission and open for public inspection.

Pursuant to said order, Michigan is authorized to construct and operate a 12,000 horsepower compressor station at Milford Junction, Oakland County, Michigan. Because of the denial of Michigan's application by local authorities for authorization to construct the said compressor station, Michigan states that it was forced to search for an acceptable alternate site. Michigan states that a new site, approximately 4

miles south of the authorized site was selected by Michigan and approved by the local authorities. Michigan, therefore requests authorization to relocate the said compressor station.

Michigan further states that because the new proposed site is approximately 4 miles south of the existing major pipeline interconnection facilities, operating conditions at the new site necessitate the addition of one 4,000 horsepower engine.

Therefore, Michigan requests authorization to construct and operate the Milford Compressor Station at a new site approximately four miles south of the originally authorized site and to install an additional 4,000 horsepower engine.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before September 17, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-27103 Filed 8-29-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER79-489]

Minnesota Power and Light Co.; Filing

August 24, 1979.

The filing Company submits the following:

Take notice that on August 14, 1979, the Minnesota Power and Light Company, pursuant to Section 35 of the Federal Power Act, tendered for filing Revised Supplement A dated July 30, 1979 which supersedes the Supplement A dated February 28, 1978 to the Electric Service Agreement between the City of Brainerd, and Minnesota Power and Light Company dated February 28, 1978. The Electric Service Agreement was tendered for filing with the FERC on June 27, 1979.

The Revised Schedule A will change the number of delivery points from 5 as indicated on the present Schedule A to the Electric Service Agreement, to one delivery point as indicated on the Revised Schedule A.

MP&L requests a retroactive effective date of the Electric Service Agreement and the Revised Schedule A to July 19, 1979, and therefore requests the Commission to waive the notice requirements of Section 35.11 of its Rules of Practice and Procedure.

Any person desiring to be heard or to make any protest with reference to said filing should, on or before September 7, 1979, file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, petitions to intervene or protests in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-27132 Filed 8-29-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. IS78-3]

**Mobil Pipe Line Co. and Eighteen
Participating Carriers; Settlement
Conference**

August 24, 1979.

Take notice that an informal settlement conference in the subject proceeding(s) will be convened on September 11, 1979, at 10 a.m. in a conference room of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Customers and other interested persons will be permitted to attend, but if such persons have not previously been permitted to intervene by order of the Commission, attendance at the conference will not be deemed to authorize intervention as a party in the proceeding.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-27133 Filed 8-29-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER79-596]

**Montaup Electric Co.; Filing of Unit
Sales Contract and Transmission
Service Agreement**

August 23, 1979.

The filing Company submits the following:

Take notice that on August 17, 1979, Montaup Electric Company ("Montaup") tendered for filing an executed agreement under which the Town of Reading Municipal Light Department will purchase capacity and energy from Montaup's Somerset Unit No. 6 and from Montaup's 50 percent ownership share of Canal Unit No. 2. The agreement provides that Reading will purchase 3.5994 percent of the capacity associated energy of the Somerset Unit No. 6 and 0.7705 percent of the capacity and associated energy of the Canal Unit No. 2 for the period November 1, 1979 through October 31, 1980. The capacity purchase from each unit is equivalent to 4.5 MW. Montaup's filing also includes a service agreement under which Montaup will provide transmission service for the purchase from the Somerset No. 6 unit, which is not a pool-planned unit, pursuant to its FERC Electric Tariff, Original Volume No. II. Montaup states that since Canal No. 2 is a pool-planned unit, Montaup will provide transmission service from that unit under the NEPOOL EHV PTF rate schedule.

Montaup requests that both agreements tendered for filing be made effective in accordance with their terms on November 1, 1979. Montaup states that its filing has been served on Reading and on the Massachusetts Department of Public Utilities.

Any person desiring to be heard or to make any protest with reference to said filing should, on or before September 12, 1979, file with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10).

All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules. The documents filed by Montaup Electric Company are

on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-27113 Filed 8-29-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP74-162]

**Natural Gas Pipeline Co. of America;
Petition to Amend**

August 23, 1979.

Take notice that on August 2, 1979, Natural Gas Pipeline Company of America (Natural), 122 South Michigan Avenue, Chicago, Illinois 60603, filed in Docket No. CP74-162 a petition to amend further the order of April 2, 1975¹ issuing a certificate of public convenience and necessity in the instant docket pursuant to Section 7(c) of the Natural Gas Act by authorizing additional exchange and delivery points, all as more fully set forth in the petition to amend which is on file with the Commission and open for public inspection.

Pursuant to the order issued April 2, 1975, Natural and El Paso Natural Gas Company (El Paso) are authorized to exchange natural gas. From time to time thereafter Natural and El Paso have amended the said order to include additional delivery and exchange points.

Natural and El Paso, it is indicated in the instant petition to amend, have available for delivery in Lea and Eddy Counties, New Mexico, and Washita County, Oklahoma, additional reserves which each has the right to purchase and which are in proximity to the other's gathering system. El Paso also has natural gas available for delivery for its account at the outlet of Cities Service Company's Bluit Gasoline Plant in Roosevelt County, New Mexico, where Natural presently receives gas for its own account. Natural proposes a "blanket type" exchange of gas between it and El Paso providing for the gathering, delivery and exchange.

By amendatory agreements dated June 22, 1979 Natural and El Paso propose to:

(1) Add an exchange point for gas where Natural would receive gas for El Paso's account at the outlet of Natural's existing delivery and measurement facilities at the outlet of Cities Service Company's Bluit Gasoline Plant located in Roosevelt County, New Mexico (Roosevelt Exchange Point). Gas delivered hereunder would represent gas that El Paso has available in excess of the gas volumes delivered by El Paso

to Natural under a transportation agreement dated August 25, 1975.

(2) Add a new exchange point where Natural would receive gas for El Paso's account from the Enserch-Bragg No. 1 well at a point on Natural's gathering system in Washita County, Oklahoma (Washita No. 3 Exchange Point).

(3) Deliver additional volumes of gas at the existing Lea No. 4 Exchange Point for Natural's account from the Federal "F" Comm. No. 1 well. This well would be connected to the line constructed under Natural's budget authorization to connect the Cleary Petroleum Corporation's Federal "E" Comm. No. 1 well to El Paso's line as the Lea No. 4 Exchange Point.

(4) Add a new delivery point where Natural would deliver gas for its account to El Paso from the Mewbourne Federal "G" well No. 1 located in Lea County, New Mexico (Lea No. 5 Exchange Point).

(5) Exchange natural gas for Natural's account attributable to Natural's interest in the Mewbourne Federal "E" No. 2 well located in Section 27 and the Mewbourne Federal "F" No. 1 well located in Section 23, both located in Lea County, New Mexico and such additional wells in the vicinity in which Natural has a preferential right to purchase. Such gas would be delivered to El Paso at the tailgate of Phillips Petroleum Company's Lusk Plant located in Lea County, New Mexico (Lea No. 6 Exchange Point).

(6) Add new delivery points where Natural would deliver gas for its account to El Paso from the Barner-Big Chief No. 1-F well and Shell-James Ranch No. 1 well, both located in Eddy County, New Mexico, (Eddy No. 9 Exchange Point).

(7) Exchange natural gas for Natural's account at an existing point of interconnection located in El Paso's 12-inch pipeline located in Reeves County, Texas (Worsham Exchange Point). Natural has agreed to reimburse El Paso 3.64 cents per Mcf for the cost of treating the volumes of gas delivered at the Worsham Exchange Point.

(8) Continue to utilize the existing point of interconnection located on El Paso's 20-inch pipeline in Ward County, Texas (Lockridge Exchange Point) and to add the existing point of interconnection of El Paso's 16-inch pipeline in Lea County, New Mexico (Jal Exchange Point) as balancing exchange points. The Worsham Exchange Point located in Reeves County, Texas, would no longer be utilized as a balancing exchange point.

Natural further requests authorization to permit the exchange of natural gas from additional wells which may be

¹ This proceeding was commenced before the FPC. By joint regulation of October 1, 1977 (10 CFR 1000.1), it was transferred to the FERC.

attached to the respective systems of each party as they become available to Natural and El Paso in the area of interest. Natural also proposes the addition of such balancing points as may be required to keep the volumes of exchange gas in balance. In addition, Natural requests authorization to delete exchange and/or balancing points from the exchange agreements as may be mutually agreed to from time to time by Natural and El Paso. Authorization for such future exchange activities between Natural and El Paso would obviate the need for seeking additional amendments, thereby permitting prompt and efficient connection of additional gas supplies to each party's system Natural asserts.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before September 18, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-27134 Filed 8-29-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. RP72-154 (PGA79-2) (DCA79-2)]

Northwest Pipeline Corp.; Change in Rates Pursuant To Purchased Gas Cost Adjustment

August 24, 1979.

Take notice that Northwest Pipeline Corporation, on August 16, 1979, tendered for filing a proposed change in rates applicable to service rendered under rate schedules affected by and subject to Article 18, Purchased Gas Cost Adjustment Provision ("PGAC"), contained in its FERC Gas Tariff, Original Volume No. 1. Such change in rates is for the purpose of (1) reflecting changes in Northwest's cost of purchased gas which will become effective by October 1, 1979, applied to volumes purchased for the twelve (12)-month period ending June 30, 1979, as

adjusted, and its change in unrecovered purchased gas costs since Northwest's prior semiannual PGAC filing dated February 15, 1979, and (2) crediting the storage gas purchasers of Jackson Prairie storage withdrawal volumes under Rate Schedule SGS-1 through a special surcharge, the difference between the estimated average storage injection cost and the estimated base average cost of purchased gas included in Northwest's sales rates during the withdrawal season.

Northwest has reflected in the instant notice of change in rates adjustments to eliminate (1) the Special Overriding Royalty Surcharge and (2) the Gas Research Institute surcharge from its rates effective as of October 1, 1979. Northwest has also included the six-month surcharges applicable to the deferred billing procedure under Rate Schedule LS-1 as approved by Commission Order dated June 15, 1979 for the increased demand and capacity billing determinants for the period July 16, 1979 through September 30, 1979.

The current PGAC adjustment, for which notice is given herein, aggregates to an increase of 5.109¢ per therm in all rate schedules affected by and subject to the PGAC. The annualized change in Northwest's purchased gas-cost aggregates an increase of of \$183,257,175. Northwest proposes to recover, through a surcharge, the adjusted balance of \$30,129,130 in its FERC Account No. 191, as of June 30, 1979. Northwest also proposes to credit \$4,020,224 to storage gas producers under Rate Schedule SGS-1 from Jackson Prairie storage through a special surcharge adjustment. The proposed change in rates from the PGAC and the other changes proposed by Northwest would result in a net increase in its annual revenues from jurisdictional sales and service of \$173,731,387.

Northwest is concurrently filing a notice of change in rates applicable to the currently effective Section 13.4, Change in Rates to Reflect Curtailment Credits, contained in its Original Volume No. 1 Tariff. In accordance with Article 13.4 contained in the aforementioned tariff, the current rate adjustment under the Demand Charge Credit Adjustment provision is to become effective on Northwest's PGAC adjustment date. Accordingly, both rate adjustments are reflected on the tendered Substitute Twenty-third Revised Sheet No. 10, which is proposed to become effective on October 1, 1979.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, Washington, D.C.

20428, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 10, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-27149 Filed 8-29-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. ES79-59]

Northwestern Public Service; Application

August 24, 1979.

The filing Company submits the following:

Take notice that on August 16, 1979, Northwestern Public Service Company filed an application with the Commission pursuant to Section 205 of the Act and Part 34 of the Regulations, for authorization to engage in negotiations for the sale of up to 400,000 shares of Common Stock, par value \$7 per share, and 60,000 shares of Cumulative Preferred Stock, par value \$100 per share, pursuant to Section 34.1a(a)(4) and 34.2(f)(2) of the Regulations under the Act.

Applicant is incorporated under the laws of the State of Delaware, with its principal business offices at Huron, South Dakota, and is authorized to do business in the States of Iowa, North Dakota, South Dakota and Nebraska.

Applicant indicates that a portion of the proceeds from the proposed Common Stock and Cumulative Preferred Stock financings will be used to repay outstanding short-term bank loans, which are expected to total \$11,000,000 at the anticipated time of closing, with the balance to become treasury funds to be used for the Company's 1980 construction program.

Applicant believes that a negotiated underwritten public offering of the Common Stock would be advantageous because of the relatively small amount of Common Stock involved, because of the successful prior negotiated offerings of Common Stock, and because the underwriter will be required to presell the issue to ensure a satisfactory market.

Applicant states that it believes that a negotiated sale of the Cumulative

Preferred Stock would be advantageous for similar reasons, but indicates that all previous issues of the Company's Cumulative Preferred Stock have been sold through private placement under terms which meet the Company's long-term needs for funds.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 10, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-27135 Filed 8-29-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. CP79-424]

Pacific Gas Transmission Co.; Application

August 20, 1979.

Take notice that on July 31, 1979, Pacific Gas Transmission Company (Pacific), 245 Market Street, San Francisco, California 94105, filed in Docket No. CP79-424 and application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing Pacific to construct and operate a natural gas transportation system extending from the vicinity of Kemmerer, Wyoming, and Bonanza, Utah, through the States of Utah and Nevada to a point on the Nevada-California border near Searchlight, Nevada, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Pacific states that the Rocky Mountain Pipeline Project is proposed for the transportation to California of natural gas to be produced and purchased by an affiliate of Pacific, Natural Gas Corporation of California, in the central Rocky Mountain area. Pacific further states that the proposed new system is designed to provide transportation of initial volumes of approximately 300,000 Mcf per day of natural gas on an average basis starting

in late 1985. Construction of the project is proposed to begin in late 1984 or early 1985.

The proposed pipeline system would consist of two pipeline laterals and a main line section with four compressor stations, maintenance bases, an operating headquarters and related communications facilities. The Kemmerer lateral will be approximately 143.5 miles in length beginning at a connection point with the facilities of Northwest Pipeline Corporation (Northwest), near Kemmerer, Wyoming, and extending southwesterly to a junction point with the main line and the Uintah lateral approximately 128.5 miles in length beginning at a connection point with Northwest near Bonanza, Utah, and extending westerly to the junction connecting with the main line and the Kemmerer lateral. The main line will be approximately 422.7 miles in length beginning at the junction and extending southwesterly to the proposed delivery point to the Pacific Gas and Electric Company (PG&E) system on the Nevada-California border near Searchlight, Nevada. At this point the proposed pipeline would connect with a new 40-mile pipeline of similar design to be constructed and operated by PG&E as a link to PG&E's existing gas transmission system west of Needles, California.

Four compressor units at four compressor stations are proposed by Pacific for initial construction and operation. The proposed compressor stations are: (1) Elkol compressor station near Elkol, Wyoming, on the Kemmerer Lateral consisting of one 1,000 horsepower compressor and appurtenant facilities; (2) Myton compressor station near Myton, Utah, on the Uintah Lateral consisting of one 3,500 horsepower unit and appurtenant facilities; (3) Holden compressor station near Holden, Utah, on the main line, consisting of one 3,500 horsepower compressor unit and appurtenant facilities; and (4) Glendale compressor station, near Glendale, Nevada, also on the main line consisting of one 1,200 horsepower compressor unit and appurtenant facilities. Also proposed for construction are a metering and odorant facility at the Nevada-California border, metering facilities on the Kemmerer and Uintah Laterals, four maintenance bases, an operating headquarters and related communication facilities.

Pacific estimates the total cost of the project to be \$340,982,000. Pacific proposes to finance the project on a conventional basis, relying on its own credit, aided by a cost-of-service tariff similar in many ways to the cost-of-

service tariff which Pacific indicates has been in effect successfully for 18 years on its existing pipeline system.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 12, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if not petition to intervene is filed within the time required herein, if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under this procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-27104 Filed 8-29-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. ER79-598]

Pacific Power & Light Co.; Supplementary Rate Schedule Filing

August 23, 1979

The filing Company submits the following:

Take Notice that Pacific Power & Light Company (Pacific) on August 16, 1979, tendered for filing, in accordance with § 35.13 of the Commission's Regulations, an agreement providing for sale of energy to Puget Sound Power & Light Company (Puget).

Pacific requests waiver of the Commission's notice requirements to permit this rate schedule to become effective September 1, 1979, which it

claims is the date of commencement of service.

Copies of the filing were supplied to Puget.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C., 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 12, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-27114 Filed 8-29-79; 8:45 am]
BILLING CODE 6450-01-M

(Docket No. SA79-9)

Partnership Properties Co.; Petition for Declaratory Order or for Adjustment

August 20, 1979.

Take notice that on July 17, 1979, Partnership Properties Co. (Applicant), P.O. Box 2250, Denver, Colorado 80201, filed with the Federal Energy Regulatory Commission (Commission) in Docket No. SA79-9, a petition for a declaratory order or, in the alternative, for an adjustment.

Specifically, applicant requests a declaratory order stating that the agreement between Applicant's predecessor-in-interest, the Atlantic Refining Company (ARCO) and the State of California (California), is an existing intrastate gas sales contract which would allow applicant to receive the maximum lawful price under section 105 of the Natural Gas Policy Act of 1978 (NGPA). In the alternative, if applicant can not qualify under section 105, applicant requests an adjustment of section 109 of the NGPA up to the maximum lawful price under section 105. This rate would be applicable to the working interest of California in natural gas produced and sold by Applicant from Tract No. 2 Long Beach Unit, Wilmington Oil Field, California.

The procedures applicable to the conduct of this adjustment proceeding are found in § 1.41 of the Commission's Rules of Practice and Procedure, Order No. 24 issued March 22, 1979.

Any person desiring to participate in this adjustment proceeding shall file a petition to intervene in accordance with the provisions of § 1.41. All petitions to intervene must be filed on or before September 14, 1979.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-27105 Filed 8-29-79; 8:45 am]
BILLING CODE 6450-01-M

(Docket No. ER79-599)

Pennsylvania Power & Light Co.; Filing

August 23, 1979.

The filing Company submits the following:

Take notice that on August 17, 1979, pursuant to § 35.13 of the Commission's Rules and Regulations, Pennsylvania Power & Light Company (PL) tendered for filing a restated Interconnection Agreement dated November 20, 1978, between Pennsylvania Electric Company (PN) (Rate Schedule FPC No. 59) and Pennsylvania Power & Light Company (Rate Schedule FPC No. 49).

PN has agreed to sell and PL has agreed to buy an existing single circuit 115 kv transmission line presently extending from the PL Peckville Substation in Lackawanna County, Pennsylvania, to the PN Lenox Substation in Susquehanna County, Pennsylvania, subject to various regulatory approvals, one of which is acceptance of the subject Interconnection Agreement. PL is presently modifying said line as a supply for the new PL Edella Substation, also in Lackawanna County. One of the reasons for restating said Interconnection Agreement is to terminate the Peckville 110 kv interconnection associated with said line.

Said Edella Substation will serve about 2,000 PP&L customers, of which approximately 800 use electric heat for residential purposes. The Edella area is presently supplied by a single, heavily loaded 12 kv line. Outages are prolonged with the present supply by the absence of other lines capable of carrying the load and the "cold load pickup" problems associated with electric heat. The Edella Substation was constructed to avoid the above problems and to provide capacity for increased demand from commercial customers who have recently entered the area.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with the

Commission's Rules of Practice and Procedure. All such petitions or protests should be filed on or before September 12, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-27115 Filed 8-29-79; 8:45 am]
BILLING CODE 6450-01-M

(Project No. 2938)

Ptarmigan Resources and Energy, Inc.; Application for Preliminary Permit

August 23, 1979.

Take notice that on July 30, 1979, Ptarmigan Resources and Energy, Inc., Post Office Box 292, Durango, Colorado 81301, filed an application for preliminary permit [pursuant to the Federal Power Act, 16 USC § 791(a)-825(r)] for the proposed Lemon Reservoir Project, FERC NO. 2938, that would be located on the Florida River and utilize the existing Lemon Dam and Reservoir, in La Plata County, Colorado. The project would occupy U.S. Forest Service lands (Sections 17 and 20, Township 36 North, Range 7 West, N.M.P.M.).¹ The existing dam was constructed by the U.S. Bureau of Reclamation and is operated by the Florida Water Conservancy District.

Purpose of the Project—Power generated by the project would be sold to the local utility or a local municipality.

Proposed Scope and Cost of Studies Under Permit—The work proposed under the preliminary permit would include preliminary designs, economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on results of these studies, Applicant would decide whether to proceed with more detailed studies and the preparation of an application for license to construct and operate the project. Applicant estimates that the cost of the work to be performed under the preliminary permit would be \$47,500.

Project Description—The project would be operated seasonally, during periods of heavy water releases, and would consist of a powerhouse with one or two generating units having a total installed capacity of 2,700 kW capable

¹ Map of area including site of proposed project is filed as part of the original document.

of generating 8,000,000 kWh annually, and an underground substation, if required. The Bureau of Reclamation's existing dam and reservoir include 265-foot-high, 1,300-foot-long earth and rock-fill dam, and reservoir with a storage capacity of 42,100 acre-feet at the normal maximum water surface elevation of 8,161 feet m.s.l.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other necessary information for inclusion in an application for a license. In this instance, the Applicant seeks a 36-month permit.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Protests and Petitions to Intervene—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR, § 1.8 or 1.10 (1978). In determining the appropriate action to take, the Commission will consider all protests filed, but a person who merely files a protest does not become a party to the proceeding. To become a party or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules.

Any protest, petition to intervene, or agency comments must be filed on or before October 29, 1979. The Commission's address is: 825 North Capitol Street, N.E., Washington, D.C. 20426.

The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-27150 Filed 8-29-79; 8:45 am]
BILLING CODE 6450-01-M

(Project No. 2157)

Public Utility District No. 1 of Snohomish County and the City of Everett; Application for Amendment of License

August 23, 1979.

Take notice that on July 6, 1979, the Public Utility District No. 1 of Snohomish County and the City of Everett (Joint Licensees) filed an application for amendment of their license for the existing Sultan Project No. 2157, located on the Sultan River in Snohomish County, Washington. Correspondence concerning the application should be sent to Mr. W. G. Hulbert, Jr., Manager, Public Utility District No. 1 of Snohomish County, P.O. Box 1107, Everett, Washington 98206.

On June 18, 1961, the Commission issued a license for Sultan Project No. 2157 authorizing two stage construction of a water supply and hydroelectric power project consisting of two dams and three powerhouses with total installed capacity of 140 MW. The first stage—construction of the Culmback Dam and other facilities required for a water supply system for the City of Everett—was completed in 1965. The second stage—construction and installation of generating facilities—was delayed because it was not economically feasible.

The Licensees now seek authorization to: (a) raise the existing earth and rockfill Culmback Dam, located at River Mile (RM) 16.5 on the Sultan River, from elevation 1,408 feet to 1,470 feet mean sea level (msl); (b) increase the usable storage capacity of Spada Lake, formed by the Culmback Dam, from 35,600 acre-feet at elevation 1,360 feet msl to 60,000 acre-feet at elevation 1,450 feet msl; (c) construct a concrete intake structure, with a single 9-foot-wide by 14.3-foot-wide fixed wheel gate, in the south bank of the Spada Lake, approximately 250 feet east of the dam; (d) construct a 12-foot-diameter, 20,900-foot-long unlined power tunnel and a connecting 10-foot-diameter, 19,400-foot-long, underground pipeline to deliver water from Spada Lake to the powerhouse; (e) construct a semioutdoor-type powerhouse adjacent to the Sultan River at RM 4.3 containing four generating units with a total installed capacity of 111.8 MW; (f)

install a 72/60-inch-diameter 18,540-foot-long pipeline that would carry water from the powerhouse to Lake Chaplain to the north; (g) install a smaller branch pipeline tapped to the powerhouse-Lake Chaplain pipeline that would return supplementary flows to the river, upstream of the powerhouse, of maintaining fish life; (h) construct 3,300 feet of new access road and upgrade 5,700 feet of existing road for access to the powerhouse; (i) construct a 110-kV switchyard adjacent to the powerhouse containing four 13.8/115-kV transformers and related facilities; and (j) construct a 115-kV single circuit transmission line approximately 3¼ miles long that would connect the switchyard to a point on the existing transmission line, south of the powerhouse.

The Licensees estimate the capital cost of the proposed action at \$142,220,000, assuming that the construction starts in July 1981 and the plant is in commercial operation by July 1984.

The Licensee's proposed recreation facilities include: (a) an overlook area approximately ½ mile north of the Culmback Dam; (b) a Spada Lake boat launch and day use area; (c) two fishing access points downstream of the powerhouse; and (d) an offsite campground at Wallace Lake, approximately 4 miles south of the Culmback Dam.

Power from Project No. 2157 would be used by Public Utility District No. 1 of Snohomish County for distribution in its existing system.

Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1978). In determining the appropriate action to take, the Commission will consider all protests filed, but a person who merely files a protest does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any protest or petition to intervene must be filed on or before October 8, 1979. The Commission's address is: 825 N. Capitol Street, N.E., Washington, D.C. 20426. The application

is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-27151 Filed 8-29-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER79-597]

**Southern Indiana Gas and Electric Co.;
Tariff Change**

August 23, 1979.

The filing Company submits the following:

Take notice that Southern Indiana Gas and Electric Company on August 17, 1979, tendered for filing pursuant to the Interconnection Agreement between Southern Indiana Gas and Electric Company and Louisville Gas and Electric Company a Fourth Supplemental Agreement to become effective October 1, 1979.

Said Supplemental Agreement increases the demand charge for Short Term Power from 60¢ per kilowatt per week to 70¢ per kilowatt per week.

Copies of the filing were served upon Louisville Gas and Electric Company and Southern Indiana Gas and Electric Company.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C., 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions should be filed on or before September 12, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of the filing are available for public inspection at the Federal Energy Regulatory Commission.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-27116 Filed 8-29-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP78-221]

**Southwest Gas Corp.; Amendment to
Application**

August 22, 1979.

Take notice that on August 2, 1979, Southwest Gas Corporation (Applicant), P.O. Box 15015, Las Vegas, Nevada 89114, filed in Docket No. CP78-221 an amendment to its application pending in the instant docket pursuant to Section

7(c) of the Natural Gas Act so as to authorize a change in the location of the liquefied natural gas (LNG) facilities proposed to be constructed and operated on Applicant's northern Nevada pipeline system in order that Applicant can have the capacity to meet the peak period requirements of its high priority customers, all as more fully set forth in the amendment on file with the Commission and open to public inspection.

Applicant states that in order to ensure that its proposed LNG facility would comply with the safety requirements for LNG facilities set forth in the Department of Transportation proposed rules, Applicant now proposes to construct and operate an LNG facility of the same size and type previously proposed herein approximately 6 miles west of Lovelock, Nevada, near Southwest's 16-inch pipeline and its Lovelock Compressor Station No. 6, in an area of broad, gently sloping plains of the eastern flank of the Trinity Mountain Range where the vegetal cover is scrub bush, desert sage and grasses. The estimated cost of the proposed facilities is now estimated to be approximately \$23,467,000.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before September 17, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8, or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. All persons who have heretofore filed need not file again.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-27152 Filed 8-29-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. SA79-10]

**Sun Oil Co. (Delaware); Application for
Adjustment**

Issued August 20, 1979.

On July 16, 1979, the Sun Oil Company (Delaware) filed with the Federal Energy Regulatory Commission an application

for adjustment under section 502(c) of the Natural Gas Policy Act of 1978 (NGPA). The applicant is located at P.O. Box 20, Dallas, Texas, 75221.

The applicant states that the J.W. Prather #1 well, located in the East Dykesville Field, Claiborne Parish, Louisiana was spudded on March 18, 1971 and began producing on June 24, 1971 from the McCreary Sand. The applicant further avers that the McCreary Sand was depleted by June, 1976, and that the well was recompleted in and began producing from the Cotton Valley Taylor Sand in July, 1976. Before the well is permanently abandoned, the applicant states that it desires to redrill the well and recomplete it in another reservoir, the Smackover C Sand. The applicant maintains that it would not be commercial to do so unless the gas produced from the Smackover C Sand could be sold at the price of section 103 of the NGPA, as gas from a new, onshore production well.

The applicant seeks an adjustment of \$ 271.303 of the Commission's regulations (18 CFR § 271.303), which incorporates by reference the definition of new, onshore production well contained in section 103 of the NGPA. To qualify as a new, onshore production well under section 103, a well among other requirements must have been spudded on or after February 19, 1977.

The procedures applicable to the conduct of this adjustment proceeding are found in § 1.41 of the Commission's Rules of Practice and Procedure. See Order No. 24 (March 22, 1979).

Any person desiring to participate in this adjustment proceeding shall file a petition to intervene in accordance with the provisions of § 1.41(e). All petitions to intervene must be filed no later than September 10, 1979 and should be sent to the Federal Energy Regulatory Commission, 825 N. Capitol St., N.E., Washington, D.C. 20426.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-27106 Filed 8-29-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP79-428]

**Texas Gas Transmission Corp.;
Application**

August 20, 1979.

Take notice that on August 3, 1979, Texas Gas Transmission Corporation (Texas Gas), 3800 Frederica Street, Owensboro, Kentucky 42301, filed in Docket No. CP79-428 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing

Texas Gas to transport up to 80,000 Mcf of natural gas per day for Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Texas Gas proposes to transport on an interruptible basis for Tennessee up to 80,000 Mcf of natural gas and associated liquids per day from lateral line pipelines, to be constructed by Tennessee pursuant to its existing budget authorization, which pipelines interconnect with the High Island Offshore System (HIOS) in Blocks A-281 and A-342, High Island Area, offshore Texas, or from other points of interconnection in the High Island Area and redeliver such volumes less fuel assessments to Tennessee at Egan, in Acadia Parish, Louisiana. Egan was certified in Docket No. CP78-321 as a point of exchange between Texas Gas and Tennessee. Tennessee may make available for transportation on any day volumes of natural gas up to 75,000 Mcf from either point of interconnection but not to exceed a total volume of 80,000 Mcf from both points of interconnection. Texas Gas would utilize its transportation capacity in the HIOS system and the Michigan Wisconsin Pipe Line System (Mich Wis) to the extent that Texas Gas is not receiving gas supplies which it may be obligated to receive on such day from its producers or others. The initial gas supplies, which Tennessee would make available in order for Texas Gas to render interruptible transportation service, would be gas produced which Tennessee is purchasing from Tenneco Oil Company in Blocks A-281 and A-338, High Island Area, offshore Texas. For rendering such transportation service, Texas Gas would charge Tennessee the applicable rates which Texas Gas is obligated to pay HIOS and Mich Wis for transporting natural gas and associated liquids through their respective systems.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 12, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person

wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein. If the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-27107 Filed 8-29-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP76-403]

**Texas Gas Transmission Corp.;
Petition To Amend**

August 23, 1979.

Take notice that on August 9, 1979, Texas Gas Transmission Corporation (Texas Gas), 3800 Frederica Street, Owensboro, Kentucky 42301, filed in Docket No. CP76-403 a petition to amend further the order issued August 13, 1976,¹ as amended, in the instant docket pursuant to Section 7(c) of the Natural Gas Act and Section 2.79 of the Commission's General Policy and Interpretations (18 CFR 2.79) by authorizing an extension for an additional year of the existing authorization to transport gas for Owens-Corning Fiberglas Corporation (Owens-Corning), all as more fully set forth in the petition to amend which is on file with the Commission and open for public inspection.

Pursuant to the order issued August 13, 1976, as amended, Texas Gas is authorized to transport and deliver for the account of Owens-Corning volumes of natural gas up to 2,000 Mcf per day to Jackson Utility Division, City of Jackson,

¹This proceeding was commenced before the FPC. By joint regulation of October 1, 1977 (10 CFR 1000.1), it was transferred to the FERC.

Tennessee (Jackson), and up to 300 Mcf per day to Texas Eastern Transmission Corporation (Texas Eastern) at a point of delivery located near Lebanon, Ohio. Pursuant to an order issued August 23, 1977, Texas Gas is authorized to divert all or a portion of the volumes being transported and delivered to Jackson for Owens-Corning's account, and deliver such volumes to Transcontinental Gas Pipe Line Corporation (Transco), for ultimate delivery to Owens-Corning's Anderson, South Carolina, plant. Such volumes are diverted when needed at the Anderson plant for high-priority use.

Additionally, pursuant to authorization granted by order issued January 30, 1978, Texas Gas receives up to 1,000 Mcf per day from Transco at an additional point of receipt near Mamou, Evangeline Parish, Louisiana, and transports the gas for the account of Owens-Corning for use in its Jackson Plant. The 1,000 Mcf per day which Texas Gas receives at Mamou from Transco is included within the 2,000 Mcf per day transportation volume which Texas Gas was previously authorized to transport and deliver for the account of Owens-Corning to Jackson. The authorization granted by the January 30, 1978 order extends through March 2, 1980.

Texas Gas requests an extension of the existing authorization for an additional year from August 27, 1979, pursuant to the letter agreement between Texas Gas and Owens-Corning. Such letter agreement, also reduces the volume to be delivered to Jackson for Owens-Corning's account from 2,000 Mcf per day to 1,200 Mcf per day.

Texas Gas is herein requesting authorization to transport and simultaneously redeliver through August 26, 1978, for Owens-Corning's account the following volumes: (1) up to 300 Mcf per day to Texas Eastern at a point of delivery located near Lebanon, Ohio; (2) up to 1,200 Mcf per day to its existing point or points of delivery with Jackson, or, (3) divert all or a portion of the volumes up to 1,200 Mcf per day to be transported and delivered to Jackson and deliver such volumes to Transco for ultimate delivery to Transco's Anderson, South Carolina, plant.

Texas Gas states that it would not retain any volumes of natural gas hereunder for its own system supply but would retain as makeup for compressor fuel and line loss 10.23 percent of those volumes delivered to Texas Eastern, 3.65 percent of those volumes delivered to Jackson and 0.30 percent of those volumes delivered to Transco.

Texas Gas asserts that it would collect a rate of 30.99 cents per Mcf for those volumes delivered to Texas Eastern, 19.63 cents per Mcf for those volumes delivered to Jackson and 6.00 cents per Mcf for those volumes delivered to Transco.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before September 19, 1979, file with the Federal Energy Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-27153 Filed 8-29-79; 8:45 am]
BILLING CODE 6450-01-41

[Docket No. E-9565]

Town of Massena, N.Y. v. Niagara Mohawk Power Corp. and The Power Authority of the State of New York; Order Denying Request for Emergency Relief

Issued August 23, 1979.

On August 6, 1979, the Town of Massena (Massena) filed a "Motion For Immediate Clarification of Order Granting Request For Summary Disposition In Part, Denying Request For Summary Disposition In Part And Establishing Expedited Hearing Procedures And For Other Emergency Relief." In this motion, Massena does not, in fact, request "clarification" of the Commission's August 1, 1979 Order but rather requests the Commission to (a) order Niagara Mohawk Power Corporation (Niagara Mohawk) to provide emergency transmission service to Massena under the terms and conditions of Niagara Contract NS-1 between Niagara Mohawk and the Power Authority of the State of New York (PASNY) and (b) order PASNY to commence delivery of power and energy to Massena pursuant to PASNY's October 17, 1978 contract with Massena. We have determined that the Commission lacks the authority to grant the relief requested. Accordingly, Massena's request for immediate interim

relief pending completion of the expedited hearing procedures in this docket is denied.

Background

The procedural history and facts surrounding this docket have been described in our August 1, 1979 order. In this motion, Massena offers no facts which were not before the Commission on August 1, 1979.

In support of its motion, Massena relies, in large part, on the following recent developments in its antitrust proceeding against Niagara Mohawk in the Federal District Court for the Northern District of New York.¹ On July 6, 1979 that Court denied Massena's motion for a preliminary injunction requiring Niagara Mohawk to transmit PASNY power to Massena. Massena has since renewed that motion. On July 30, 1979, the Court entered a temporary restraining order enjoining Massena from taking physical possession of the condemned distribution system and operating the system pending a hearing upon Niagara Mohawk's motion for preliminary injunction. The temporary restraining order was extended for ten days on August 9, 1979. Niagara Mohawk filed an answer on August 8, 1979, contending that this Commission lacked the authority under 202(c) to order emergency transmission and, alternatively, that there was no emergency.

Discussion

In support of the requested relief, Massena asserts that if the District Court denies the motions of both Massena and Niagara Mohawk for preliminary injunction and allows the temporary restraining order to lapse, Massena "will take physical possession of the condemned facilities and commence operating the system as of that time unless some other complication develops in the interim." (Motion at 4). Given Niagara Mohawk's continued refusal to provide transmission service to the town, Massena claims that its possession of the distribution system under the circumstances described above will constitute an emergency which entitles it to emergency transmission relief under Section 202(c) of the Federal Power Act. Without commenting on the merits of Massena's application for emergency transmission relief, we find that the Commission lacks the authority to grant such relief.

Pursuant to Section 402 of the Department of Energy Organization

¹ *Town of Massena, New York v. Niagara Mohawk Power Corporation*, 79 CV 183.

Act,² 42 USC § 7172, certain functions of the Federal Power Commission were transferred to this Commission including:

The establishment, review, and enforcement of rates and charges for the transmission or sale of electric energy, including determinations on construction work in progress, under part II of the Federal Power Act, and the interconnection, under Section 202(b) of such Act, of facilities for the generation, transmission, and sale of electric energy (other than emergency interconnection) (Emphasis supplied).

While the language of the statute refers only to the Commission's lack of authority with respect to "emergency interconnection," we feel that the statute was intended to vest in the Secretary emergency management authority not only under § 202(c) of the Federal Power Act but also under the Natural Gas Act³ and the Emergency Petroleum Allocation Act of 1973.⁴ Thus, the Secretary has authority with respect to the ordering of emergency temporary interconnection of facilities and also "such generation, delivery, interchange, or transmission of electric energy as in its judgment will best meet the emergency and serve the public interest," pursuant to Section 202(c).⁵ To permit the Commission to retain the authority to order emergency transmission service while transferring the authority to order emergency interconnection to another agency would frustrate the purposes of the emergency relief provision of the Federal Power Act and seriously compromise the ability of the Secretary to deal with fuel shortages such as those which occurred in the natural gas shortage of the winter of 1976-1977, the coal strike in 1978 and the petroleum product shortage in 1979. A reading of the statute which divides between two administrative bodies the Section 202(c) authority to order emergency interconnection, transmission and sale of electric energy would make it difficult, if not impossible, for prompt, efficient and complete regulatory relief in the kind of emergencies described in Section 202(c).

The Commission's view of the division of authority under the DOE Act is reinforced by the provisions of the Department of Energy Delegation Order

² Pub. L. No. 95-91, 91 Stat. 565 (1977), 42 USC 7101 *et seq.*

³ Section 402(a)(1)(E).

⁴ Section 402(c)(2).

⁵ Apparently recognizing this Commission's lack of authority to order relief under Section 202(c), on August 7, 1979 Massena filed an application for emergency relief under Section 202(c) with the Economic Regulatory Administration. (Docket EC 79-1). On August 15, 1979, the application was denied.

No. 0204-4, effective October 1, 1977, which delegates to the Administrator of the Economic Regulatory Administration (ERA) the authority to order all emergency relief contemplated in Section 202(c). The order states that "there is hereby delegated to the Administrator of the ERA the authority to adopt rules, issue orders, licenses, and allocations, collect fees, and take such other action as may be necessary and appropriate to administer the following function:

To order the temporary connections of facilities, during times of war or national emergency, for the generation or transmission of electric energy and such generation, delivery, interchange, or transmission of electric energy as in the Administrator's judgment will best meet the emergency and serve the public interest, pursuant to the provisions of Section 202(c) of the Federal Power Act.

Our finding that we lack jurisdiction to act on Massena's request for emergency transmission service under Section 202(c) is also consistent with our treatment of such applications in the past. See *Illinois Power Company*, Docket No. EL78-6, (issued February 1, 1978).

Of course, when and if the ERA exercises its authority under Section 202(c) to order emergency interconnection, sales and wheeling, this Commission would set the rates and charges for such sales and service in accordance with this section of the Act. The DOE Act specifically gave the Commission authority to establish all "rates and charges . . . under Part II of the Federal Power Act."⁶

We therefore do not read the DOE Act, *Illinois Power, supra*, or Delegation Order No. 0204-4 as limiting in any way the Commission's general ratemaking authority under part II, including the authority to set rates under Section 202(c).⁷

Massena has also requested the Commission to order PASNY to commence delivery to power to Massena as of August 9, 1979, in fulfillment of PASNY's pre-existing contractual obligations.

⁶ See "Notice of Proposed Rulemaking Governing Interchange Energy Rates During Section 202(c) Emergencies," Docket No. RM79-28, issued April 4, 1978.

⁷ The Commission's retention of the ratemaking authority under 202(c) is not inconsistent with the vesting on ERA of authority to order emergency interconnection and wheeling. As specified in the Federal Power Act, the rates and terms of 202(c) emergency service may be prescribed after such emergency relief has been ordered. ERA has all necessary authority to provided prompt and adequate relief in an emergency, leaving to subsequent proceedings before the Commission any auxiliary decisions as to compensation or reimbursement.

To the extent that Massena is requesting this Commission to require PASNY to sell power to Massena, such a request is premature. Massena's current motion and earlier pleadings filed in this docket give no indication that PASNY will not comply with its contractual and license obligations with respect to sales of Niagara Project power to Massena. To the extent that Massena is requesting an order requiring PASNY to fulfill its statutory and license obligation to provide transmission service to Massena, the Commission has, in its August 1, 1979 order, recognized that such an obligation exists. We indicated however that the determination as to the most efficient and economic method of meeting that obligation must await further development of the factual record in this docket. This request for relief, therefore, must await the resolution of factual issues in the expedited hearing in this docket.

The Commission orders:

(A) The Town of Massena's "Motion For Immediate Clarification of Order Granting Request For Summary Disposition In Part, Denying Request For Summary Disposition In Part And Establishing Expedited Hearing Procedures And For Other Emergency Relief" is denied in its entirety.

(B) The Secretary shall promptly publish this order in the Federal Register.

By the Commission.

Lois D. Cashell,
Acting Secretary.

[FR Doc. 79-27117 Filed 8-29-79; 8:45 am]
BILLING CODE 6450-01

[Docket No. TC79-8]

Transcontinental Gas Pipe Line Corp.; Order Granting In Part and Denying In Part Petition for the Institution of Proceedings and for a Declaratory Order, Establishing Procedures for Briefing and for Hearing and Granting Interventions

Issued August 17, 1979.

I. Introduction and Procedural History

On February 28, 1979, Transcontinental Gas Pipeline Corporation (Transco) filed in Docket No. TC79-8 a petition pursuant to Section 1.7 of the Commission's Rules of Practice and Procedure (18 CFR 1.7(c)) for the institution of a proceeding and for a declaratory order.

Transco requests the Commission to institute a proceeding to inquire into:

1. The facts and circumstances that resulted in the shortage of gas on Transco's pipeline system;
2. The effect of Transco's gas tariff curtailment provisions and service agreements and of the Commission's orders, rules and regulations; and
3. The effect of an award of damages for curtailment of service against Transco upon the Commission's ability to carry out its responsibilities under Sections 4, 5 and 7 of the Natural Gas Act.

Transco further requests the Commission to make specific findings and issue a declaratory order that:

- (a) The natural gas shortage on Transco's system was caused by intervening events and factors beyond Transco's control;
- (b) That Transco reacted to offset the shortage on its system in good faith and in a reasonable and prudent manner under conditions then existing;
- (c) That Transco's curtailment tariff provisions and service agreements are in compliance with Commission rules and regulations; and
- (d) That, under such circumstances, compliance with such tariff provisions is a complete defense to any claims for damages for breach of contract; and finally,
- (e) That an award of damages against Transco for curtailments of service would constitute an undue preference and discrimination under the Natural Gas Act and would unduly and adversely affect the Commission's ability to fairly allocate the gas supplies available to Transco.

Transco states that its petition was prompted by a continuing controversy concerning the causes of the natural gas shortage on Transco's system. Transco's efforts to maintain and supplement its gas supplies in response to the declining deliverability of its contracted reserves and the effect of curtailment plans on Transco's obligations to serve its customers.

It is necessary to inquire briefly into the procedural history associated with this petition in order to gain a fuller understanding of the issues involved therein. The instant petition arises out of a civil damage suit filed against Transco by CF Industries, Inc. (CF) and Farmers Chemical Association, Inc. (Farmers) in connection with the curtailment of Transco's system commencing in 1971 and continuing to the present time in U.S. District Court for the Western District of North Carolina, Civil Action No. CC77-131. Transco filed and the Commission approved interim curtailment plans as early as 1971 and a more permanent curtailment plan was approved in 1976.¹ Furthermore, the

¹ An order of November 15, 1971, 46 FPC 1212 (1971) approved the first interim curtailment plan. See Opinion No. 778 issued October 8, 1978 prescribing a permanent curtailment plan for Transco, and Opinion 778-A issued December 8, 1978, denying rehearing. Remanded, *State of North Carolina*. Footnotes continued on next page

Commission has conducted several investigations which commenced in January 1975 and are continuing at present into the causes of the shortages on the Transco system, both as a result of the Commission's own initiative and as mandated by several decisions of the U.S. Court of Appeals.² The final resolution of these investigations is still pending.

On February 16, 1979 a jury in the North Carolina federal district court proceeding awarded \$23.8 million in damages against Transco in favor of CF and Farmers based on Transco's liability in contract, negligence and promissory estoppel.³ The federal district court in that case twice denied Transco's motion to refer to the Commission several of the same issues for which Transco seeks a declaratory order in the instant petition.⁴ The case is now on appeal to the United States Court of Appeals for the Fourth Circuit⁵ where Transco has again filed a motion both to refer several of these issues to the Commission under the doctrine of primary jurisdiction and to stay the appeal pending such referral.⁶

Although many of the issues raised in the Transco petition are closely related to similar litigation against other pipeline companies arising out of curtailments in the early 1970's,⁷ the Commission specifically confines this

order to the instant petition. This order will address and dispose of each of the issues raised in Transco's petition.

II. Issues Raised in the Transco Petition For Institution of a Proceeding.

A. Transco seeks to institute a proceeding to inquire into the facts and circumstances that resulted in the shortage of gas on Transco's pipeline system in order to develop a factual record. The Commission undoubtedly can assert and has asserted jurisdiction over investigations into the causes of natural gas shortages on particular pipeline company systems pursuant to its broad authority under the Natural Gas Act in the area of curtailments.⁸

Upon thorough review of this request, the Commission declines to institute the proceeding sought by Transco. The Commission believes that it is not necessary at the present time to assert its jurisdiction to undertake the factual proceeding sought by Transco for several reasons.

First, there is no indication that the \$23.8 million federal district court judgment against Transco will have a material adverse effect on Transco's financial position so as to create a compelling present need for the institution of a Commission proceeding. In fact, to the contrary, Transco's 1978 Annual Report states that "Pipe Line [Transco] believes . . . that, in any event, the final resolution of [CF and Farmer's] claims will not have a material adverse effect on its financial position."⁹

Second, the Commission is unable to perceive a need at the present time for the Commission's assertion of jurisdiction to provide a forum for broad determinations into the full historical circumstances surrounding shortages on particular pipeline systems. The Commission has, in the past, conducted limited examinations into particularized points of inquiry concerning shortages on certain pipeline systems.¹⁰ The broad historical proceeding sought by the petitioner can justify the expenditure of the Commission's limited resources only upon a showing of a compelling present need to undertake the proceeding. In view of the Commission's judgment that no such present need has been

demonstrated in Transco's petition and in view of the significant ramifications of the acceptance of broad historical proceedings in that the potential for a substantial burden on the Commission's limited resources would arise, the Commission declines at this time to institute a proceeding to inquire into the facts and circumstances that resulted in the shortage of gas on Transco's pipeline system.¹¹

B. Transco next seeks a proceeding to inquire into the effect of its gas tariff curtailment provisions and service agreements and of the Commission's orders, rules and regulations. The Commission grants this request in part, but carefully circumscribes the scope of the proceeding in this area. In particular, the Commission will not adjudicate specific common law claims of contract liability. This is a determination ultimately for the courts.¹² Nor will the Commission make a determination as to negligence or wrongful conduct. Negligence questions bearing upon resolution of specific contract liability questions properly belong to the courts.¹³ The Commission, however, is cognizant of the public importance of tariff and service agreement interpretation questions in the context of curtailment damage suits and, therefore, provides the following reasons as justification for the limited proceeding ordered on this question.

Transco and other pipelines must submit to the Commission's certification authority before engaging in the transportation of gas subject to the Commission's jurisdiction or before the construction or extension of any facilities associated therewith, and such regulatory oversight continues once the certificate is issued by the Commission and accepted by the company.¹⁴ A federal obligation to continue service

¹¹ The Commission does not, at this time, decide the further question of whether a broader inquiry into the historical causes of shortage on pipeline systems would ever constitute a proper basis for the Commission's primary jurisdiction in curtailment damage suits. We have, however, no power to award reparations or damages. The Supreme Court has held, in similar cases involving a primary jurisdiction reference by a court to an agency of issues relating to damage claims, that the agency's lack of remedial power over alleged past wrongdoing makes such a reference inappropriate. *Montana-Dakota Utilities Co. v. Northwestern Public Service Co.*, 341 U.S. 246 (1951); *T.I.M.E. v. United States*, 359 U.S. 404 (1959).

¹² *Mississippi Power & Light Co. v. United Gas Pipeline Co.*, 532 F.2d 412 (5th Cir. 1976); *State of Louisiana v. FPC*, 503 F.2d 844 (5th Cir. 1974); *International Paper Co. v. FPC*, 476 F.2d 121 (5th Cir. 1973); Order of August 9, 1978 in *United Gas Pipeline Company* (Docket No. RP71-29—Phase III).

¹³ Order of August 9, 1978 in *United Gas Pipeline Company*, Docket No. RP71-29 (Phase III); see also Order of August 20, 1975 in Docket No. RP71-29.

¹⁴ Section 7(c) of the Natural Gas Act, 15 U.S.C. § 717(c).

attaches subsequent to the issuance of the certificate and continues until the Commission authorizes abandonment of service.¹⁵

The certificate rather than the specific contract controls the terms of the service.¹⁶ Moreover, the interpretation of the service agreement is clearly within the Commission's jurisdictional purview.¹⁷ It is, therefore, appropriate for the Commission to determine in a carefully delimited proceeding the effect of Transco's service agreements upon various claims asserted in connection with curtailments in service made pursuant to Commission-approved orders, rules, and regulations.

The interpretation and effect of Transco's gas tariff curtailment provisions and the Commission's approval thereof are also matters appropriately entrusted to the Commission pursuant to its regulatory authority under the Natural Gas Act. It is well established that the interpretation and effect of tariff provisions approved by a Federal regulatory agency are ordinarily uniquely within the agency's primary and exclusive jurisdiction.¹⁸ All of the reasons traditionally cited for the assertion of the primary jurisdiction doctrine, viz., special competency and expertise of the administrative agency, necessity to avoid disruption of the overall regulatory scheme and the necessity for uniformity of regulation are extant in the instant Transco request for the interpretation of its gas tariff curtailment provisions.¹⁹ The courts and this Commission have recognized the primary jurisdiction of the Commission over the interpretation and determination of the effect of the tariff provisions at issue in litigation closely akin to that involved in the instant petition.²⁰

Therefore, Transco's petition is granted in part to establish a process to interpret and determine the effect(s) of the petitioner's gas tariff curtailment provisions and service agreements and of the Commission's orders, rules, and

¹⁵ *California v. Southland Royalty Co.*, 436 U.S. 519, 528 (1978).

¹⁶ *Id.* at 526-527.

¹⁷ *Gulf Oil Corp. v. FPC*, 563 F.2d 588, 596-97 (3d Cir. 1977).

¹⁸ *U.S. v. Western Pacific Railroad Co.*, 352 U.S. 59 (1956); *Southwestern Sugar and Molasses Co. v. River Terminal's Corp.*, 360 U.S. 411 (1959).

¹⁹ *United States v. Western Pacific*, 352 U.S. 59 (1956); *United States v. R.C.A.*, 358 U.S. 334 (1959); *Ricci v. Chicago Mercantile Exchange*, 409 U.S. 239 (1973); *Nader v. Allegheny Airlines*, 428 U.S. 290 (1976).

²⁰ *Mississippi Power & Light Co. v. FPC*, 532 F.2d 412 (1976); *Texas Gulf Inc. v. United Gas Pipeline Co.*, Civil Action No. 71-2253 (D.C.D.C. February 13, 1979); Order of August 9, 1978 *United Gas Pipeline Company*.

regulations. The Presiding Administrative Law Judge shall be empowered to determine the extent to which this question presents factual as well as legal issues which require an evidentiary hearing and shall delineate the scope of the limited proceeding accordingly in view of the substantial record already developed in the other Commission and court proceedings involving the curtailment on Transco's system. Such parts of the records in these other Commission and court proceedings which are material to this inquiry may be incorporated therein. The Commission, however, emphasizes that it declines to consider specific questions of negligence or wrongful conduct or those involving ultimate contract liability premised upon negligence or wrongful conduct.

C. Transco also petitions the Commission for the institution of a proceeding to inquire into the effect of an award of damages against Transco upon the Commission's ability to carry out its responsibilities under Sections 4, 5, and 7 of the Natural Gas Act. This request is apparently designed to encompass the specific Transco request in the petition for a declaratory order that a damage award based on curtailment of service would constitute an undue preference and discrimination under the Natural Gas Act and would unduly and adversely affect the Commission's ability to allocate fairly the gas supplies available to Transco.

The Commission's authority with respect to determining under Section 4(b) of the Natural Gas Act whether an undue preference or advantage has been granted to any person or whether any person has been subjected to any undue prejudice or disadvantage has been described as being without limitation.²¹ The issue of undue preference raised in the context of curtailment damages suits, therefore, presents novel questions within the Commission's exclusive jurisdiction. However, while the Commission possesses the authority to set aside any contractual provision creating an undue preference²², the threshold question here relates to whether an undue preference is created by the award of damages in the context of curtailment damage suits.²³

Due to the novel and difficult questions presented, the Commission

²¹ See 15 U.S.C. § 717c(b); *Michigan Consolidated Gas Co. v. Ponhandle Eastern Pipeline Co.*, 173 F.2d 784, 789 (6th Cir. 1949).

²² *State of Louisiana v. FPC*, 503 F.2d 844, 864 (1974).

²³ The Commission has accepted the referral of the undue preference or advantage issue in *United Gas Pipeline Co.* Docket Nos. RP71-29, et al. (Phase III). Order of August 9, 1978.

accepts the issue of whether an undue preference or advantage has been or would be granted to any person, or whether any person has been or would be subjected to undue prejudice or disadvantage in connection with the award of damages for curtailment of service on Transco's system and what, if any, steps should be taken in response to this situation. Although this question involves predominantly legal issues suitable for the submission of briefs by interested parties and trial staff, the presiding Administrative Law Judge shall be empowered to institute a limited evidentiary hearing to the extent that this question presents factual issues not already adequately developed in other Commission and court proceedings involving the curtailment on Transco's system. Such parts of the records in these other Commission and court proceedings which are material to this inquiry may be incorporated therein.

The Commission believes that there is no present need, however, to depart from its previous position in *United*²⁴ which declined to consider the broader questions raised by Transco's request for the institution of a proceeding to inquire into the effects of an award of damages against Transco upon the Commission's ability to carry out its responsibilities under Section 4, 5 and 7 of the Natural Gas Act and to determine whether an award of damages would unduly and adversely affect the Commission's ability to allocate fairly the gas supplies available to Transco. It is premature at this time for the Commission to consider such issues in view of the fact that the district court judgment against Transco is now on appeal to the U.S. Court of Appeals for the Fourth Circuit and such issues cannot be answered effectively without speculating as to Transco's liability. As previously mentioned, the Commission will not adjudicate ultimate liability and therefore declines this request except with respect to the undue preference issue.

III. Issues Raised in Transco's Petition for a Declaratory Order

Transco has requested findings and a declaratory order that the natural gas shortage on Transco's system was caused by intervening events and factors beyond Transco's control and further that Transco reacted to offset the shortage of its system in good faith and in a reasonable and prudent manner under conditions then existing. In light of the Commission's declination to

²⁴ See Order of August 9, 1978 in *United Gas Pipeline Company*, mimeo., pp. 16-17.

Footnotes continued from last page
Carolina v. F.E.R.C., 584 F.2d 1003 (D.C. Cir. 1978). Transco's curtailment is presently governed by a settlement approved by an order of January 19, 1979; order denying rehearing of August 2, 1979. *State of North Carolina v. F.E.R.C.*, supra, also remanded the compensation issue under the Opinion No. 778 plan. The Commission has that matter under consideration; see August 2, 1979 order at pp. 3-4.

² By order of January 8, 1975 the FPC instituted an investigation in Docket No. RP75-51 into the causes of Transco's 1974-75 shortage and what should be done to prevent a recurrence thereof; See Order of June 25, 1976 in Docket No. RP72-99, wherein the causes of Transco's shortages as related to the compensation question were examined. This issue has been in the courts for some time, viz.: an order by the D.C. Circuit on August 1, 1975 which withheld consideration of the interim curtailment plan until the FPC's investigation was completed (Case No. 74-2038; a subsequent vacation of that order in *Transcontinental Gas Pipeline Corp. v. FPC*, 423 U.S. 328 (1976); a subsequent remand to the FPC by a D.C. Circuit order of February 6, 1976, and, on appeal, another remand to develop a fuller factual record. *Transcontinental Gas Pipeline Corp. v. FPC*, 562 F.2d 864 (D.C. Cir. 1976).

³ *CF Industries, Inc. and Farmer's Chemical Association, Inc. v. Transcontinental Gas Pipeline Corp.*, No. CC77-131 (W.D.N.C. Charlotte Division).

⁴ See 452 F. Supp. 358 (1978); second referral request denied in unreported order of October 6, 1978.

⁵ *CF Industries, Inc., et al. v. Transcontinental Gas Pipeline Corp.*, Nos. 79-1359 and 79-1366.

⁶ The motion was filed on July 5, 1979.

⁷ Similar litigation has been instituted against United Gas Pipeline Company, Kansas-Nebraska Natural Gas Company, El Paso Natural Gas Company and Florida Gas Company.

institute a proceeding to inquire into the facts and circumstances that resulted in the shortage of gas on Transco's pipeline system, the Commission emphasizes its intention not to adjudicate negligence or wrongful conduct questions and, therefore, herein declines to issue a declaratory order as to these two requests which concern the causation of the shortage of gas on Transco's system and the reasonableness and prudence of Transco's actions.

Transco next seeks a declaratory order that its curtailment tariff provisions and service agreements are in compliance with Commission rules and regulations. The Commission understands this request to contemplate Transco's technical compliance with Commission rules and regulations, viz., that Transco has filed for and has received the necessary FERC regulatory approvals with respect to its curtailment tariff provisions and service agreements. There is no material controversy regarding this request as Transco has dutifully filed proposed interim and permanent curtailment plans which have been approved by the FPC and this Commission.²⁵ Transco has been operating under either a court-ordered or Commission-approved curtailment plan since 1971.

Nor has there been any uncertainty as to Transco's compliance with the Commission's regulatory requirements in regard to its service agreements at issue. In this regard, the FPC issued a certificate of public convenience and necessity to Transco to construct a lateral from its main pipeline into northeastern North Carolina and southeastern Virginia in order to expand service to, *inter alia*, the North Carolina Natural Gas Company (NCNGC) pursuant to a twenty year service agreement.²⁶ NCNGC supplies CF and Farmers. The Commission, therefore, finds that Transco's curtailment tariff provisions and service agreements are in technical compliance with Commission rules and regulations and so grants the requested declaratory order with respect to this issue. This finding, however, in no way addresses the issue of causation of or blameworthiness for the curtailment on Transco's system.

A declaratory order that compliance with such tariff provisions is a complete

defense to any claims for damages for breach of contract is also sought by Transco. The legal authority of the Commission to issue such an order is at best doubtful in light of language in two Fifth Circuit decisions which suggests serious reservations as to the legal validity of such a Commission order.²⁷ The Commission need not reach this question, however, because it adheres to its traditional position of declining to adjudicate issues of ultimate contract liability which properly belong to the courts.²⁸ The Commission believes that the declaratory order sought by Transco with respect to the issue of whether Transco's compliance with curtailment tariff provisions is a complete defense to breach of contract damage claims clearly involves questions of ultimate contract liability and, therefore, is appropriately entrusted to the courts for ultimate resolution.

Finally, Transco requests the Commission to make specific findings and issue a declaratory order that an award of damages for curtailment of service would constitute an undue preference and discrimination under the Natural Gas Act and would unduly and adversely affect the Commission's ability to fairly allocate the gas supplies available to Transco. This issue has been previously discussed in this order (see Part II(C), *supra*), the resolution of which being the Commission's acceptance of the undue preference and discrimination issue for briefing by interested parties and trial staff and possibly for a limited evidential hearing and the Commission's non-acceptance of the issue of whether an award of damages would unduly and adversely affect the Commission's ability to fairly allocate the gas supplies to Transco. The resolution of this request with respect to the undue preference question, therefore, must await subsequent action after briefs have been submitted and the limited evidentiary hearing, if necessary, has been held.

In accordance with the March 19, 1979 notice of the Transco petition published at 44 FR 18073 (1979), petitions to intervene were required to be filed on or before April 10, 1979. The following petitions to intervene were filed in a timely fashion and intervention should be granted as to the parties listed below:

Consolidated Edison Company of New York, Inc.; North Penn Gas Company; Pennsylvania Gas and Water Company; Philadelphia Gas Works, Public Service

²⁵ *International Paper Co. v. F.P.C.*, 476 F.2d 121, 125 (5th Cir. 1973); *State of Louisiana v. Federal Power Commission*, 503 F.2d 844, 887 (5th Cir. 1974).

²⁶ See, Order of August 9, 1978 in *United Gas Pipeline Company, supra*.

Commission of the State of New York; Public Service Company of North Carolina, Inc.; Delmarva Power and Light Company; North Carolina Natural Gas Corporation; Public Service Electric and Gas Company; Atlanta Gas Light Company; Texas Gas Transmission Corporation; United Gas Pipeline Company; Interstate Natural Gas Association of America; Washington Gas Light Company; Elizabethtown Gas Company; North Carolina Utilities Commission; Columbia Gas Transmission Corporation; The Brooklyn Union Gas Company; Piedmont Natural Gas Company, Inc.; CF Industries, Inc. and Farmers Chemical Association, Inc.; Consolidated Gas Supply Corporation; The American Textile Manufacturers Institute, Inc.; Philadelphia Electric Company; General Motors Corporation; and Carolina Pipeline Company.

The following petitions to intervene were received after the April 10, 1979 deadline:

South Jersey Gas Company; Eastern Shore Natural Gas Company; Commonwealth Gas Pipeline Corporation; Long Island Lighting Company; Virginia Electric and Power Company (VEPCO).

VEPCO states that it did not become aware of the proceeding until after the filing deadline. The Commission finds good cause to grant VEPCO's petition to intervene. The other untimely petitioners did not state reasons for their late filings. The Commission, nevertheless, finds good cause to grant these petitions in view of their substantial interest in this proceeding.

The Commission finds and orders:

(A) That Transco's request to institute a proceeding to inquire into the facts and circumstances that resulted in the shortage of gas on its system is herein denied for the reasons stated above.

(B) That a proceeding be instituted to interpret and determine the effect(s) of Transco's gas tariff curtailment provisions and service agreements and of the Commission's orders, rules and regulations relevant thereto consistent with the foregoing procedural and substantive limitations regarding the scope of such proceeding.

(C) That the proceeding established by paragraph (B) in the context of this order also address the issue of whether an undue preference or advantage has been or would be granted to any person, or whether any person has been or would be subjected to undue prejudice or disadvantage in connection with the award of damages for curtailment of service on Transco's system and what, if any, steps should be taken in response to this situation, and that such issue be addressed in accordance with the procedural directions stated above.

(D) That all other requests for the institution of proceedings in Transco's

petition are herein denied for the reasons stated above.

(E) Transco's request for declaratory order that its actions with respect to curtailment of deliveries have been reasonable and prudent is herein denied for the reasons stated above.

(F) Transco's request for declaratory order that its curtailment tariff provisions and service agreements are in compliance with Commission rules and regulations is hereby granted provided that such declaratory order is understood to be strictly limited to technical compliance with Commission rules and regulations.

(G) That Transco's request for a declaratory order that its curtailment tariff provisions form a complete defense to claims for damages for breach of contract is herein denied for the reasons stated above.

(H) An Administrative Law Judge, to be designated by the Chief Administrative Law Judge for that purpose (see Delegation of Authority, 18 CFR § 3.5(d)), shall preside at the prehearing conference and subsequent hearing in this proceeding, with authority to establish and change all procedural dates and to rule on all motions (with the exception of motions to consolidate or sever and motions to dismiss), as provided by the Rules of Practice and Procedure.

(I) The above listed interveners are permitted to intervene in the instant proceeding subject to the rules and regulations of the Commission; *Provided, however*, that participation of such interveners shall be limited to matters affecting asserted rights and interests as specifically set forth in the petitions to intervene; and *Provided*, further, that the admission of such interveners shall not be construed as recognition by the Commission that they might be aggrieved because of any order of the Commission entered in the proceeding.

By the Commission.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-27118 Filed 8-29-79; 8:45 am]
BILLING CODE 8450-01-M

[Docket No. CP77-402]

Transcontinental Gas Pipe Line Corp.; Amendment

August 21, 1979.

Take notice that on July 31, 1979, Transcontinental Gas Pipe Line Corporation (Transco), P.O. Box 1396, Houston, Texas 77001, filed in Docket

No. CP77-402¹ an amendment to its pending application for a certificate of public convenience and necessity, pursuant to Section 7(c) of the Natural Gas Act requesting authorization to transport 2,000 Mcf per day of natural gas produced in East Cameron area Blocks 38 and 39 and redeliver equivalent million Btu's to Florida Gas Transmission Company (Florida Gas) for the account of Southern Natural Gas Company (Southern) at the East White Lake Lateral, all as more fully set forth in the amendment which is on file with the Commission and open for public inspection.

Transco presently transports up to 90,000 Mcf per day of natural gas for Southern produced in Vermilion area Block 22, offshore Louisiana and delivered into Transco's Central Louisiana Gathering System onshore in the Pecan Island area, Vermilion Parish through facilities jointly owned by Transco, Florida Gas, and Sea Robin Pipeline Company (Sea Robin). Pursuant to the temporary certificate and Transco's Rate Schedule X-158, Transco receives such gas at the Pecan Island location and redelivers equivalent million Btu to Florida Gas for the account of Southern at the interconnection between the Central Louisiana Gathering System and Florida Gas' East White Lake Lateral in Vermilion Parish.

The amendment indicates that Southern, through its affiliate Sea Robin, has arranged to purchase approximately 2,000 Mcf per day of gas to be produced in East Cameron area Blocks 38 and 39 and delivered to the jointly owned Vermilion 22 facilities by means of budget-type facilities to be constructed by Sea Robin. Transco would receive such gas at the Pecan Island location and redeliver equivalent million Btu's to Florida Gas for the account of Southern at the East White Lake Lateral, all in accordance with the provisions of Rate Schedule X-158. No additional facilities are required by Transco to perform this service, it is asserted.

The volumes of gas available to Southern from the East Cameron area blocks which can reach Southern's system by means of the proposed transportation service would help to maintain as adequate and reliable service as possible in Southern's marketing areas.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before September 6, 1979, file with the Federal Energy Regulatory Commission.

¹ Temporary authorization was issued August 3, 1977.

Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protest filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. All persons who have heretofore filed need not file again.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-27108 Filed 8-29-79; 8:45 am]
BILLING CODE 8450-01-M

[Docket No. GP79-103; Jicarilla B-4 Well, JD79-11675; Peggy Federal 1; JD79-11686]

Trans Delta Oil & Gas Co., Inc.; Preliminary Finding Regarding Determination by U.S. Geological Survey (New Mexico)

Issued August 17, 1979.

On July 5, 1979, the Commission received notice from the U.S. Geological Survey at Albuquerque, New Mexico that the above-listed wells qualify as stripper wells under section 108 of the Natural Gas Policy Act of 1978 (NGPA). The Commission published notice of these determinations on July 19, 1979.

Section 108(b)(1)(A) of the NGPA provides that in order to qualify as a stripper well, a well must produce nonassociated natural gas at a rate which does not exceed an average of 60 Mcf "per production day" during the preceding 90-day production period. Section 108(b)(3) defines "production day" as (1) any day during which natural gas is produced; and (2) any day during which natural gas is not produced if production during such day is prohibited by a requirement of State law or a conservation practice recognized or approved by the State agency.

The data submitted with the determinations for the above-listed wells indicate that these wells produced no natural gas during the 90-day production periods upon which the applications were based. There were no findings that the wells were shut in due to State law or practice. Accordingly, the 90-day production periods upon which the applications were based apparently contained no production days. Since section 108(b) requires that

a well produce at a rate not exceeding an average of 60 Mcf "per production day," a well's rate of production cannot be calculated where the 90-day production period contains no production days.

On the basis of the records submitted with these determinations, the Commission hereby makes a preliminary finding, pursuant to 18 CFR 275.202(a)(1)(i), that the determinations submitted by the U.S. Geological Survey (New Mexico) that the above-listed wells qualify as section 108 stripper wells are not supported by substantial evidence.

By direction of the Commission.
Lois D. Cashell,
Acting Secretary.
[FR Doc. 79-27154 Filed 8-29-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. GP79-103]

Trans Delta Oil & Gas Co., Inc.; Preliminary Finding Regarding Determination by U.S. Geological Survey (New Mexico)

Issued August 17, 1979.
In the matter of U.S. Geological Survey (New Mexico), Section 108 NGPA determinations, Trans Delta Oil & Gas Company, Inc.; Jicarilla B-4 Well, JD79-11675; and Peggy Federal 1, JD79-11686.

On July 5, 1979, the Commission received notice from the U.S. Geological Survey at Albuquerque, New Mexico that the above-listed wells qualify as stripper wells under section 108 of the Natural Gas Policy Act of 1978 (NGPA). The Commission published notice of these determinations on July 19, 1979.

Section 108(b)(1)(A) of the NGPA provides that in order to qualify as a stripper well, a well must produce nonassociated natural gas at a rate which does not exceed an average of 60 Mcf "per production day" during the preceding 90-day production period. Section 108(b)(3) defines "production day" as (1) any day during which natural gas is produced; and (2) any day during which natural gas is not produced if production during such day is prohibited by a requirement of State law or a conservation practice recognized or approved by the State agency.

The data submitted with the determinations for the above-listed wells indicate that these wells produced no natural gas during the 90-day production periods upon which the applications were based. There were no findings that the wells were shut in due to State law or practice. Accordingly,

the 90-day production periods upon which the applications were based apparently contained no production days. Since section 108(b) requires that a well produce at a rate not exceeding an average of 60 Mcf "per production day," a well's rate of production cannot be calculated where the 90-day production period contains no production days.

On the basis of the records submitted with these determinations, the Commission hereby makes a preliminary finding, pursuant to 18 CFR 275.202(a)(1)(i), that the determinations submitted by the U.S. Geological Survey (New Mexico) that the above-listed wells qualify as section 108 stripper wells are not supported by substantial evidence.

By direction of the Commission.
Lois D. Cashell,
Acting Secretary.

[FR Doc. 79-27109 Filed 8-29-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket Nos. RP72-23, et al. (AP 6/14/74)]

Trunkline Gas Co.; Request for an Order Relieving Refund Obligation

August 23, 1979.

Take notice that on May 3, 1979, Trunkline Gas Company (Trunkline) filed a request for an order from this Commission relieving Trunkline of any and all refund obligations under the rate condition imposed on Trunkline by Commission orders issued June 3, 1977, and December 15, 1978, in the above-referenced dockets. Trunkline states that good cause exists for such an order based upon cost data submitted to the Commission and further for the reasons stated in its petition.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 12, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file

with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.
[FR Doc. 79-27119 Filed 8-29-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. RP71-29, et al.]

United Gas Pipe Line Co.; Motion To Waive Filing Requirements

August 27, 1979.

Take notice that on August 17, 1979, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77001, filed in Docket Nos. RP71-29, RP71-120 (Phase II), and RM79-15 a motion¹ to waive certain filing requirements contained in Part 281 of the Commission's Regulations under the Natural Gas Policy Act of 1978 (NGPA) which were promulgated by Order No. 29, issued May 2, 1979, in Docket No. RM 79-15, all as more fully set forth in the motion which is on file with the Commission and open to public inspection.

United states that Order No. 29, as amended, establishes a series of dates by which pipelines subject to the Order are directed to establish a new index of entitlements and to file new curtailment tariffs. United further states that it will propose a settlement in the proceedings pending in Docket Nos. RP71-29 and RP71-120 (Phase II) which, it believes, would obviate the need for United to put into effect a plan in strict accord with the rules contained in Order No. 29. United indicates that it will demonstrate that its proposed plan satisfies the statutory requirements of the NGPA and that acceptance of the proposed plan is in the public interest even though it varies from the strict requirements of Order No. 29 and Part 281 of the regulations.

Further, United maintains that a review of the data United has received from its customers pursuant to the requirements of Order No. 29 makes it clear that enormous commitments of time and effort would be required to establish from such data an index of entitlements as contemplated by Order No. 29 and that the same people who would be required to analyze the data and compile the index are those who would be required to be spending virtually full time on the preparation of evidence in connection with the

¹ The filing is styled Motion of United Gas Pipe Line Company to Establish Procedures for Consideration of Settlement Proposal, Petition for Waiver of Rules and Motion to Shorten Dates for Response. The subject notice pertains only to that part of the filing requesting waiver of requirements ordered by Order No. 29.

settlement, on the preparation of responses to data requests, and in preparation for the hearings.

Accordingly, since United believes that the proposed settlement would obviate the need to establish a plan in strict conformity with Order No. 29 and since compliance by United with the dates set in Order No. 29 would conflict with its ability to meet the dates set for consideration of the proposed settlement, United requests that the Commission defer, with respect to United, the procedural schedule which has been established under Order No. 29 until such time as the Commission has completed its consideration of the proposed settlement on condition that United continue in effect its existing tariff filed to implement the Commission's Interim Curtailment Rule.

Any person desiring to be heard or to make any protest with reference to said motion should on or before September 4, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,
Secretary.
[FR Doc. 79-27136 Filed 8-29-79; 8:45 am]
BILLING CODE 6450-01-M

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

August 21, 1979

The Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the natural gas policy act of 1978.

Ohio Department of Natural Resources, Division of Oil and Gas

1. Control Number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC

10. Purchaser(s)
1. 79-15627/04350
2. 34-157-21113-0014
3. 108 000 000
4. The Mutual Oil & Gas Company
5. Watson-Goodie-Ruby #2
- 6.
7. Tuscarawas, OH
8. 11.0 million cubic feet
9. August 8, 1979
10. The East Ohio Gas Company
1. 79-15628/04351
2. 34-157-20987-0014
3. 108 000 000
4. The Mutual Oil & Gas Company
5. A & A Schupp #1
- 6.
7. Tuscarawas, OH
8. 4.0 million cubic feet
9. August 8, 1979
10. The East Ohio Gas Company
1. 79-15629/04352
2. 34-157-21000-0014
3. 108 000 000
4. The Mutual Oil & Gas Company
5. Albert B. Schupp #2
- 6.
7. Tuscarawas, OH
8. 7.0 million cubic feet
9. August 8, 1979
10. The East Ohio Gas Company
1. 79-15630/04353
2. 34-157-21959-0014
3. 108 000 000
4. The Mutual Oil & Gas Company
5. Robert Simpson #1
- 6.
7. Tuscarawas, OH
8. 7.0 million cubic feet
9. August 8, 1979
10. The East Ohio Gas Company
1. 79-15631/04354
2. 34-157-21922-0014
3. 108 000 000
4. The Mutual Oil & Gas Company
5. B C Stansbery #1
- 6.
7. Tuscarawas, OH
8. 8.0 million cubic feet
9. August 8, 1979
10. The East Ohio Gas Company
1. 79-15632/04393
2. 34-119-22949-0014
3. 108 000 000
4. Jeb Drilling Inc
5. Milam #1
- 6.
7. Muskingum, OH
8. 13.5 million cubic feet
9. August 8, 1979
10. The East Ohio Gas Company
1. 79-15633/04395
2. 34-167-23813-0014
3. 108 000 000
4. Mohawk Oil Corporation
5. Haas Et al #1
- 6.
7. Washington, OH
8. 5.2 million cubic feet
9. August 8, 1979
10. National Gas & Oil Corporation
1. 79-15634/04396
2. 34-111-21876-0014
3. 108 000 000

4. BP account
5. Stanley #1
- 6.
7. Monroe, OH
8. 2.2 million cubic feet
9. August 8, 1979
10. The River Gas Company
1. 79-15635/04397
2. 34-167-23199-0014
3. 108 000 000
4. Valentine Oil Properties
5. Cunningham #1
- 6.
7. Washington, OH
8. 7 million cubic feet
9. August 8, 1979
10. Columbia Gas Transmission
1. 79-15636/04398
2. 34-155-20966-0014
3. 108 000 000
4. Ohio Oil and Gas
5. Mateyko #1
- 6.
7. Trumbull, OH
8. 10.0 million cubic feet
9. August 8, 1979
10. East Ohio Gas Co
1. 79-15637/04399
2. 34-119-22906-0014
3. 108 000 000
4. H I Smith Oil & Gas Inc
5. Gierke-Foraker #1
- 6.
7. Muskingum, OH
8. 5.0 million cubic feet
9. August 8, 1979
10. Columbia Gas Transmission Corp
1. 79-15638/04400
2. 34-119-22839-0014
3. 108 000 000
4. H I Smith Oil & Gas Inc
5. B Knipe #1
- 6.
7. Muskingum, OH
8. 15.0 million cubic feet
9. August 8, 1979
10. East Ohio Gas Company
1. 79-15639/04401
2. 34-119-22651-0014
3. 108 000 000
4. H I Smith Oil & Gas Inc
5. J Hamilton #1
- 6.
7. Muskingum, OH
8. 8.0 million cubic feet
9. August 8, 1979
10. Columbia Gas Transmission Corp
1. 79-15640/04406
2. 34-155-20450-0014
3. 108 000 000
4. Eastern Petroleum Services Inc
5. Mowen #1
- 6.
7. Trumbull, OH
8. 9.0 million cubic feet
9. August 8, 1979
10. Columbia Gas Transmission Corp
1. 79-15641/04407
2. 34-155-20465-0014
3. 108 000 000
4. Eastern Petroleum Services Inc
5. Miller #1
- 6.
7. Trumbull, OH
8. 9.0 million cubic feet

9. August 8, 1979
10. Columbia Gas Transmission Corp
1. 79-15642/04411
2. 34-157-21598-0014
3. 108 000 000
4. H I Smith Oil & Gas Inc
5. Mizer #1
6.
7. Tuscarawas, OH
8. .5 million cubic feet
9. August 8, 1979
10. Columbia Gas Transmission Corp
1. 79-15643/04492
2. 34-053-20190-0014
3. 108 000 000
4. R Gene Brasel DBA Brasel & Brasel
5. L Ray Hughes #5
6.
7. Gallia, OH
8. 3.6 million cubic feet
9. August 8, 1979
10. Columbia Gas Transmission Corporation
1. 79-15644/04516
2. 34-121-22070-0014
3. 103 000 000
4. Allegheny Land & Mineral Company
5. Michael Well—AO-13A
6.
7. Noble, OH
8. .0 million cubic feet
9. August 8, 1979
10. East Ohio Gas Company
1. 79-15645/04518
2. 34-105-21575-0014
3. 108 000 000
4. R Gene Brasel DBA Brasel & Brasel
5. Loraine K Rice #1
6.
7. Meigs, OH
8. 3.0 million cubic feet
9. August 8, 1979
10. Columbia Gas Transmission Corporation
1. 79-15646/04521
2. 34-053-20198-0014
3. 108 000 000
4. R Gene Brasel DBA Brasel & Brasel
5. Floyd Leonard #3
6.
7. Gallia, OH
8. 2.4 million cubic feet
9. August 8, 1979
10. Columbia Gas Transmission Corporation
1. 79-15647/04522
2. 34-053-20176-0014
3. 108 000 000
4. R Gene Brasel DBA Brasel & Brasel
5. L Ray Hughes #3
6.
7. Gallia, OH
8. 3.6 million cubic feet
9. August 8, 1979
10. Columbia Gas Transmission Corporation
1. 79-15648/04523
2. 34-053-20189-0014
3. 108 000 000
4. R Gene Brasel DBA Brasel & Brasel
5. L Ray Hughes #4
6.
7. Gallia, OH
8. 3.6 million cubic feet
9. August 8, 1979
10. Columbia Gas Transmission Corporation
1. 79-15649/04524
2. 34-053-20186-0014

3. 108 000 000
4. R Gene Brasel DBA Brasel & Brasel
5. Floyd Leonard #2
6.
7. Gallia, OH
8. 2.4 million cubic feet
9. August 8, 1979
10. Columbia Gas Transmission Corporation
1. 79-15650/04525
2. 34-053-20175-0014
3. 108 000 000
4. R Gene Brasel DBA Brasel & Brasel
5. L Ray Hughes #1
6.
7. Gallia, OH
8. 3.6 million cubic feet
9. August 8, 1979
10. Columbia Gas Transmission Corporation
1. 79-15651/04526
2. 34-053-20183-0014
3. 108 000 000
4. R Gene Brasel DBA Brasel & Brasel
5. L Ray Hughes #2
6.
7. Gallia, OH
8. 3.6 million cubic feet
9. August 8, 1979
10. Columbia Gas Transmission Corporation
1. 79-15652/04527
2. 34-053-20170-0014
3. 108 000 000
4. R Gene Brasel dba Brasel & Brasel
5. Harrison—Carl #1
6.
7. Gallia, OH
8. 1.3 million cubic feet
9. August 8, 1979
10. Columbia Gas Transmission Corporation
1. 79-15653/04528
2. 34-053-20168-0014
3. 108 000 000
4. R Gene Brasel dba Brasel & Brasel
5. Gardner #1
6.
7. Gallia, OH
8. .5 million cubic feet
9. August 8, 1979
10. Columbia Gas Transmission Corporation
1. 79-15654/04529
2. 34-105-21578-0014
3. 108 000 000
4. R Gene Brasel dba Brasel & Brasel
5. Garnder-Griffith #1
6.
7. Meigs, OH
8. 3.0 million cubic feet
9. August 8, 1979
10. Columbia Gas Transmission Corporation
1. 79-15655/04530
2. 34-053-20197-0014
3. 108 000 000
4. R Gene Brasel dba Brasel & Brasel
5. Powell-Gross #1
6.
7. Gallia, OH
8. 8.0 million cubic feet
9. August 8, 1979
10. Columbia Gas Transmission Corporation
1. 79-15656/04531
2. 34-053-20182-0014
3. 108 000 000
4. R Gene Brasel dba Brasel & Brasel
5. Powell-Gross #1
6.
7. Gallia, OH

8. 8.0 million cubic feet
9. August 8, 1979
10. Columbia Gas Transmission Corporation
1. 79-15657/04549
2. 34-113-20124-0014
3. 108 000 000
4. Myrta D Ely Estate
5. Myrta Ely #1
6.
7. Portage, OH
8. 3.0 million cubic feet
9. August 8, 1979
10. East Ohio Gas Co.
1. 79-15658/04553
2. 34-127-23805-0014
3. 108 000 000
4. Wilson Petroleum Corporation
5. Wilson Petroleum Corporation #1
6.
7. Perry, OH
8. 5.0 million cubic feet
9. August 8, 1979
10. Columbia Gas Transmission Corporation
1. 79-15659/04556
2. 34-167-23882-0014
3. 108 000 000
4. Wynn Oil Company
5. Proctor #1
6.
7. Washington, OH
8. 6.0 million cubic feet
9. August 8, 1979
10. Columbia Gas Transmission Corporation
1. 79-15660/04557
2. 34-167-23921-0014
3. 108 000 000
4. Wynn Oil Company
5. John Busch #1
6.
7. Washington, OH
8. 4.0 million cubic feet
9. August 8, 1979
10. Columbia Gas Transmission Corporation
1. 79-15661/04574
2. 34-053-20219-0014
3. 108 000 000
4. H & W Drilling Co Inc
5. George French #1
6.
7. Gallia, OH
8. 9.0 million cubic feet
9. August 8, 1979
10. Columbia Gas Transmission Corporation
1. 79-15662/04577
2. 34-167-23805-0014
3. 108 000 000
4. Valentine Oil Properties
5. Brum/Dyar #1
6.
7. Washington, OH
8. 2.4 million cubic feet
9. August 8, 1979
10. The River Gas Company
1. 79-15663/04578
2. 34-167-22618-0014
3. 108 000 000
4. Valentine Oil Properties
5. Eva H Stacy (Evans) #1
6.
7. Washington, OH
8. 1.7 million cubic feet
9. August 8, 1979
10. The River Gas Company
1. 79-15664/04579

2. 34-167-22750-0014
3. 108 000 000
4. Valentine Oil Properties
5. ME & Lela Oliver #1
6.
7. Washington, OH
8. 1.7 million cubic feet
9. August 8, 1979
10. The River Gas Company
1. 79-15665/04617
2. 34-157-22767-0014
3. 108 000 000
4. The Mutual Oil & Gas Company
5. R I Helter #1
6.
7. Tuscarawas, OH
8. 8.0 million cubic feet
9. August 8, 1979
10. The East Ohio Gas Company
1. 79-15666/04618
2. 34-157-21803-0014
3. 108 000 000
4. The Mutual Oil & Gas Company
5. Harry and Etta Patterson #2
6.
7. Tuscarawas, OH
8. 17.0 million cubic feet
9. August 8, 1979
10. The East Ohio Gas Company
1. 79-15667/04632
2. 34-155-20945-0014
3. 102 000 000
4. Ohio Oil and Gas
5. Syperl #1
6.
7. Trumbull, OH
8. 20.0 million cubic feet
9. August 8, 1979
10. Columbia Gas Transmission Corporation
1. 79-15668/04633
2. 34-155-21110-0014
3. 102 000 000
4. Ohio Oil and Gas
5. Winfield #1
6.
7. Trumbull, OH
8. 25.0 million cubic feet
9. August 8, 1979
10. Columbia Gas Transmission Corporation
1. 79-15669/04634
2. 34-155-21130-0014
3. 102 000 000
4. Ohio Oil and Gas
5. Winfield #2
6.
7. Trumbull, OH
8. 25.0 million cubic feet
9. August 8, 1979
10. Columbia Gas Transmission Corporation
1. 79-15670/04635
2. 34-155-20930-0014
3. 102 000 000
4. Ohio Oil and Gas
5. Wissinger #2
6.
7. Trumbull, OH
8. 20.0 million cubic feet
9. August 8, 1979
10. Columbia Gas Transmission Corporation
1. 79-15671/04636
2. 34-155-21111-0014
3. 102 000 000
4. Ohio Oil and Gas
5. Trumbull #2
6.

7. Trumbull, OH
8. 20.0 million cubic feet
9. August 8, 1979
10. Columbia Gas Transmission Corporation
1. 79-15672/04637
2. 34-155-21105-0014
3. 102 000 000
4. Ohio Oil and Gas
5. Trumbull #1
6.
7. Trumbull, OH
8. 20.0 million cubic feet
9. August 8, 1979
10. Columbia Gas Transmission Corporation
1. 79-15673/04638
2. 34-155-20929-0014
3. 102 000 000
4. Ohio Oil and Gas
5. Bettiker #2
6.
7. Trumbull, OH
8. 25.0 million cubic feet
9. August 8, 1979
10. Columbia Gas Transmission Corporation
1. 79-15674/04640
2. 34-155-20851-0014
3. 102 000 000
4. Ohio Oil and Gas
5. Jewell #1
6.
7. Trumbull, OH
8. 25.0 million cubic feet
9. August 8, 1979
10. Columbia Gas Transmission Corporation
1. 79-15675/04641
2. 34-155-20949-0014
3. 102 000 000
4. Ohio Oil and Gas
5. Kloboves #1
6.
7. Trumbull, OH
8. 25.0 million cubic feet
9. August 8, 1979
10. Columbia Gas Transmission Corporation
1. 79-15676/04642
2. 34-155-20824-0014
3. 102 000 000
4. Ohio Oil and Gas
5. Maffitt #1
6.
7. Trumbull, OH
8. 25.0 million cubic feet
9. August 8, 1979
10. Columbia Gas Transmission Corporation
1. 79-15677/04643
2. 34-155-20944-0014
3. 102 000 000
4. Ohio Oil and Gas
5. Manz #1
6.
7. Trumbull, OH
8. 25.0 million cubic feet
9. August 8, 1979
10. Columbia Gas Transmission Corporation
1. 79-15678/04644
2. 34-155-21125-0014
3. 102 000 000
4. Ohio Oil and Gas
5. Bugos #1
6.
7. Trumbull, OH
8. 25.0 million cubic feet
9. August 8, 1979
10. Columbia Gas Transmission Corporation
1. 79-15679/04645

2. 34-155-20849-0014
3. 102 000 000
4. Ohio Oil and Gas
5. Cowdy #1
6.
7. Trumbull, OH
8. 25.0 million cubic feet
9. August 8, 1979
10. Columbia Gas Transmission Corporation
1. 79-15680/04527
2. 34-157-21317-0014
3. 108 000 000
4. Layton Enterprises Inc.
5. Wolford #1
6.
7. Tuscarawas, OH
8. 3.2 million cubic feet
9. August 8, 1979
10. East Ohio Gas Company
1. 79-15681/04623
2. 34-157-21309-0014
3. 108 000 000
4. Layton Enterprises Inc.
5. Solenthaler #1
6.
7. Tuscarawas, OH
8. 10.9 million cubic feet
9. August 8, 1979
10. East Ohio Gas Company
1. 79-15682/04575
2. 34-053-20212-0014
3. 108 000 000
4. H & W Drilling Co Inc
5. Moore and Glassburn No. 1
6.
7. Gallia, OH
8. 8.0 million cubic feet
9. August 8, 1979
10. Columbia Gas Transmission
1. 79-15683/04624
2. 34-157-21315-0014
3. 108 000 000
4. Layton Enterprises Inc
5. Reichman No. 1
6.
7. Tuscarawas, OH
8. 5.1 million cubic feet
9. August 8, 1979
10. East Ohio Gas Company
1. 79-15684/04626
2. 34-157-21348-0014
3. 108 000 000
4. Layton Enterprises Inc
5. Leggett No. 1
6.
7. Tuscarawas, OH
8. 7.5 million cubic feet
9. August 8, 1979
10. East Ohio Gas Company
1. 79-15685/04627
2. 34-157-21334-0014
3. 108 000 000
4. Layton Enterprises Inc
5. Galbraith No. 1
6.
7. Tuscarawas, OH
8. 3.1 million cubic feet
9. August 8, 1979
10. East Ohio Gas Company
1. 79-15686/04628
2. 34-157-21331-0014
3. 108 000 000
4. Layton Enterprises Inc
5. Gasser No. 1
6.

7. Tuscarawas, OH
8. 12.1 million cubic feet
9. August 8, 1979
10. East Ohio Gas Company

1. 79-15687/04629
2. 34-157-21318-0014
3. 108 000 000
4. Layton Enterprises Inc
5. Harig-Morrison No. 1
6.

7. Tuscarawas, OH
8. 4.8 million cubic feet
9. August 8, 1979
10. East Ohio Gas Company

1. 79-15688/04630
2. 34-157-21316-0014
3. 108 000 000
4. Layton Enterprises Inc
5. Wolford-Reichman No. 1
6.

7. Tuscarawas, OH
8. 8.1 million cubic feet
9. August 8, 1979
10. East Ohio Gas Company

1. 79-15689/04631
2. 34-157-21336-0014
3. 108 000 000
4. Layton Enterprises Inc
5. Monte No. 1
6.

7. Tuscarawas, OH
8. 2.5 million cubic feet
9. August 8, 1979
10. East Ohio Gas Company

1. 79-15690/04633
2. 34-157-21337-0014
3. 108 000 000
4. Layton Enterprises Inc
5. Gasser No. 2
6.

7. Tuscarawas, OH
8. 10.8 million cubic feet
9. August 8, 1979
10. East Ohio Gas Company

1. 79-15691/04634
2. 34-157-21346-0014
3. 108 000 000
4. Layton Enterprises Inc
5. Galbraith No. 2
6.

7. Tuscarawas, OH
8. 1.4 million cubic feet
9. August 8, 1979
10. East Ohio Gas Company

Persons objecting to any of these final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission within fifteen (15) days of the date of publication of this notice in the Federal Register.

Please reference the FERC control number in all correspondence related to these determinations.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-27120 Filed 8-29-79; 8:45 am]

BILLING CODE 6450-01-M

Office of Assistant Secretary for International Affairs

Proposed Subsequent Arrangements

Pursuant to Section 131 of the Atomic Energy Act of 1954, as amended, (42 U.S.C. 2160), notice is hereby given of proposed "subsequent arrangements" authorized by the Tiawan Relations Act of 1979 (Pub. L. 96-8).

The subsequent arrangements to be carried out under the above mentioned authority involve contractual arrangements for the assignment of uranium enrichment services held by U.S. utilities involving approximately 177,000 separative work units for the Second Northern Nuclear units 1 and 2 on Taiwan.

In accordance with Section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that entering into these subsequent arrangements will not be inimical to the common defense and security of the United States.

These subsequent arrangements will take effect no sooner than fifteen days after the date of publication of this notice.

For the Department of Energy.

Dated: August 28, 1979.

Robert N. Slawson,

Acting Director for Nuclear Affairs,
International Nuclear and Technical
Programs.

[FR Doc. 79-27374 Filed 8-29-79; 11:05 am]

BILLING CODE 6450-01-M

Proposed Subsequent Arrangements

Pursuant to Section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160), notice is hereby given of proposed "subsequent arrangements" authorized by the Taiwan Relations Act of 1979 (Pub. L. 96-8).

The subsequent arrangements to be carried out under the above mentioned authority involve conversion of Long-Term, Fixed-Commitment Uranium Enrichment contracts to the new Adjustable, Fixed-Commitment contracts at the customers option.

Contract number, customer, and facility

CI-100 Coordination Council for North American Affairs, Second Northern Nuclear 1.

CI-101 Coordination Council for North American Affairs, Second Northern Nuclear 2.

CI-102 Coordination Council for North American Affairs, Taipower-5.

CI-103 Coordination Council for North American Affairs, Taipower-6.

In accordance with Section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that entering into these subsequent arrangements will not

be inimical to the common defense and security.

These subsequent arrangements will take effect no sooner than fifteen days after the date of publication of this notice.

For the Department of Energy.

Dated: August 28, 1979.

Robert N. Slawson,

Acting Director for Nuclear Affairs,
International Nuclear and Technical
Programs.

[FR Doc. 79-27375 Filed 8-29-79; 11:05 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL 1308-3]

Approval of PSD Permit to the Brown Co.

Notice is hereby given that on August 3, 1979 the Environmental Protection Agency issued a Prevention of Significant Deterioration (PSD) permit to the Brown Company, Berlin-Gorham Division, for approval to construct a bark and waste wood-fired steam generating boiler at its pulp and paper mill in Berlin, New Hampshire. This permit has been issued under EPA regulations for the Prevention of Significant Air Quality Deterioration (40 CFR, Part 52.21), subject to certain conditions, including:

1. Construction and operation of the Modification shall be in accordance with the PSD application dated December 8, 1978 and supplementary documents, in addition to a Consent Decree (*United States of America and the State of New Hampshire v. Brown Company*, Civil Action No. 79, in the U.S. District Court for the District of New Hampshire) entered into by the U.S. Department of Justice, the State of New Hampshire, and the Brown Company on August 3, 1979.

2. Start-up of the Modification shall not commence until the construction program, defined in the above referenced Consent Decree, which is required to bring the Berlin Metropolitan Area into attainment for National Ambient Air Quality Standards (NAAQS), has been completed.

3. Fuel oil (at 2.2% sulfur) consumption shall not exceed:

a. 1,886 gallons per hour for the Modification,
b. 11,309,000 gallons per year for the two power boilers designated as #9 and #12,
c. 25,242,400 gallons per year at the Company's steam generating plant (for boilers #9, 12, 14, and #7 when used).

The purpose of these conditions is to limit the SO₂ emissions from the specified facilities and/or source. If a lower sulfur fuel is used more fuel may be combusted provided the resulting SO₂ emissions do not exceed those expected from the combustion of the above specified amounts of fuel at 2.2% sulfur.

4. a. The existing power boiler #6 is not to be operated after the Modification's (#14) start-up date.

b. The existing power boiler #7 is not to be operated until EPA approval of a modeling demonstration which shows that operation of #7 will not result in any NAAQS violations. After approval, #7 shall be operated only when boilers #9, #12, or #14 are not operating.

5. The emission rates from the Modification shall not exceed the following levels: 0.1 lb. of particulate/MM Btu, 0.8 lb. of SO₂/MM Btu, 0.3 lb. of NO₂/MM Btu.

6. The Company shall continuously monitor and record fuel oil consumption for the operating power boilers and the Modification's emissions.

The PSD permit is reviewable under Section 307(b)(1) of the Clean Air Act only in the First Circuit Court of Appeals. A petition for review must be filed on or before October 29, 1979.

Copies of the permit are available for public inspection upon request at the following locations:

Environmental Protection Agency, Region I,
Room 1903, J.F.K. Federal Building, Boston,
Massachusetts 02203.

Air Resource Agency, State of New Hampshire, Hazen Drive, Concord, New Hampshire 03301.

Dated: August 24, 1979.

William R. Adams, Jr.,
Regional Administrator, Region I.

[FR Doc. 79-27189 Filed 8-29-79; 8:45 am]

BILLING CODE 6560-01-M

[FRL-1308-7; OPP-30000/32]

Determination Concerning the Rebuttable Presumption Against Registration and Continued Registration of Pesticide Products Containing Trifluralin (Treflan EC); Availability of Position Document

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).

ACTION: Notice of determination and availability of position document concerning Trifluralin.

SUMMARY: On February 3, 1977, the Environmental Protection Agency (EPA) was petitioned to suspend the registration of Treflan (EPA Reg. No. 1471-35), under section 6(c) of the

Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (7 U.S.C. 136 et seq.), because a carcinogenic contaminant, N-nitroso-di-n-propylamine (NDPA), had been discovered in Treflan's active ingredient, trifluralin. After holding public informational hearings on March 7, 1977 and March 9, 1977, the agency decided against suspension. 42 FR 40009, August 8, 1977. The Agency determined, however that the trifluralin contaminant, NDPA, did meet or exceed the oncogenic risk criterion, and, therefore, trifluralin-containing pesticides should be subject to a more extensive review—the Rebuttable Presumption Against Registration (RPAR) process. During this review, the Agency examined, evaluated, and compared the risks and benefits associated with Treflan use.

The trifluralin RPAR review differs somewhat from the typical RPAR review in that two of the analytical RPAR phases—the initial determination that the risk criteria had been exceeded and the weighing of risk and benefit to determine the appropriate regulatory action—have been combined, uninterrupted by the rebuttal comment period. The Agency believes that this modification is justified by the unusual circumstances associated with the Treflan review and by the opportunities for public comment which have been and will be provided on any determinations in or issues raised by this position document.

After reviewing all the submitted information, the Agency in broad summary has determined that trifluralin is contaminated with low levels of the N-nitroso contaminant NDPA, that NDPA has a demonstrated oncogenic and mutagenic potential, and that human exposure may result from trifluralin-containing pesticide use. The Agency has reviewed the benefits of the use of trifluralin-containing pesticide uses and after considering risks in relation to benefits has determined that the risks may be reduced by modifying the terms and conditions of registration. Accordingly, the Agency is initiating action to cancel or deny trifluralin registrations unless the terms and conditions of registration are modified to provide that the level of NDPA not exceed the level of 1 part per million (ppm). In addition, the Agency has decided to require registrants and applicants to conduct additional mutagenicity, reproduction, and teratology studies to permit the Agency to further refine its evaluation of trifluralin teratogenic potential.

DATE: Comments must be received on or before November 13, 1979.

ADDRESS COMMENTS TO: Document Control Officer, Chemical Information Division (TS-793), EPA, 401 M Street, S.W., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Mr. Tom Miller, Project Manager, Office of Special Pesticide Review (TS-791), EPA Room 728G, Crystal Mall No. 2, Arlington, Virginia 22202, Phone 703-557-7400

SUPPLEMENTARY INFORMATION: The Notice of Determination published below and the referenced EPA position document regarding trifluralin/Treflan set forth in detail the reasons and factual basis for the regulatory actions being proposed. As required by the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, copies of this Notice of Determination and the position document are being transmitted to the Secretary of Agriculture and the Scientific Advisory Panel for comment; these documents are also being provided to the affected registrants. Other interested persons may receive a copy of the position document for review by contacting Mr. Tom Miller, Project Manager, Office of Special Pesticide Review (TS-791), EPA Room 728G, Crystal Mall No. 2, Arlington, Virginia 22202. Phone: 703-557-7400.

Registrants and other interested persons may also comment on all aspects of the trifluralin/Treflan review and the proposed actions. All comments should be sent to the Document Control Officer at the headquarters address given. Three copies of the comments should be submitted to facilitate the work of the Agency and others interested in inspecting the comments. The comments should bear the identifying notation OPP-30000/32, and should be submitted on or before November 13, 1979.

After completion of review procedures by the Secretary of Agriculture and the Scientific Advisory Panel, EPA will consider the comments received and publish an analysis of them together with any resulting changes in the regulatory actions announced in the notice of determination

Dated: August 17, 1979.

Steven D. Jellinek,
Assistant Administrator for Toxic
Substances.

[FR Doc. 79-27183 Filed 8-29-79; 8:45 am]

BILLING CODE 6560-01-M

[FRL-1308-8; OPP-30000/32A]

**Trifluralin/Treflan RPAR;
Determination****I. Introduction**

On February 3, 1977, the Environmental Protection Agency (EPA) was petitioned to suspend the registration of Treflan (EPA Reg. No. 1471-35), under section 6(c) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (7 U.S.C. 136 et seq.), because a carcinogenic contaminant, N-nitroso-di-n-propylamine (NDPA), had been discovered in Treflan's active ingredient, trifluralin. A hearing was held on March 7, 1977 and March 9, 1977 in which Congressmen, farmers, the Migrant Legal Action Program, farm workers, grower associations, the single Treflan registrant-producer, and university researchers gave oral and written testimony. 42 FR 10886, February 24, 1977. Subsequent to the hearing, additional information was obtained by EPA from the U.S. Department of Agriculture (USDA), other Federal agencies, and a number of individuals. After full consideration of all data, the Agency decided against a Treflan suspension, under section 6(c)(1) of FIFRA, because the risks associated with Treflan use during the period necessary to complete cancellation proceedings were determined to be substantially exceeded by the benefits. 42 FR 40009, August 8, 1977. The Agency determined, however, that the trifluralin contaminant, NDPA, did meet or exceed the oncogenic risk criteria,¹ and, therefore, trifluralin-containing pesticides should be subject to a more extensive review—the Rebuttable Presumption Against Registration (RPAR) process. During this review, the Agency examined, evaluated, and compared the risks and benefits associated with Treflan use. Because most of the trifluralin produced is formulated as Treflan EC, the RPAR review focused primarily on the risks and benefits of Treflan use. The Agency's proposed regulatory actions pertain, however, to all currently registered trifluralin-containing pesticides and applications for registration of trifluralin-containing pesticides.

The trifluralin RPAR review differs somewhat from the typical RPAR review

¹ 40 CFR 162.11(a)(3)(ii)(A) provides that if any ingredient of a pesticide has been found to induce oncogenic effects in experimental mammalian species or man from oral, inhalation, or dermal exposure, an RPAR shall be issued against that pesticide.

in that two of the analytical RPAR phases—the initial determination that the risk criteria had been exceeded and the weighing of risk and benefit to determine the appropriate regulatory action—have been combined, uninterrupted by the rebuttal comment period. The Agency believes that this modification is justified by the unusual circumstances associated with the Treflan review and by the opportunities which have been and will be provided for public comment on any determinations in or issues raised by this position document.

In broad summary, the Agency has determined that trifluralin-containing pesticides, as contaminated with NDPA, meet or exceed the oncogenic and mutagenic risk criteria of 40 CFR 162.11(a)(3)(ii). The Agency has considered benefits information associated with Treflan use, including that submitted by registrants, state, agricultural colleges, and the U.S. Department of Agriculture. The Agency has evaluated risks and benefits, in order to determine whether the risks of trifluralin-containing pesticide uses are warranted by the benefits of the uses. In addition, the Agency considered what risk reductions could be achieved, and how risk reduction measures would affect the benefits of the use.

The Agency has determined that the benefits of trifluralin-containing pesticide uses outweigh the risks when the level of NDPA contamination does not exceed 1 part per million (ppm). The proposed regulatory action requires that the terms and conditions of trifluralin-containing pesticide registrations and trifluralin-containing pesticide registration applications be amended in order to insure that the 1 ppm NDPA contamination level will not be exceeded. The Agency has determined that the risk reduction associated with the required maximum level of NDPA contamination can currently be achieved with no impact on the benefits of trifluralin-containing pesticide uses. Additionally, the Agency has determined that additional tests are necessary to fill data gaps in the areas of mutagenicity, reproduction, and teratology.

The remainder of this notice and the position document set forth in detail the Agency's analysis of, the reasons for, and factual bases for, the regulatory actions it is proposing. The notice is organized into four sections. Section I is this introduction. Section II, titled "Legal Background," sets forth a discussion of the general regulatory framework within which an RPAR is conducted. Section III

sets forth the Agency determinations and the proposed regulatory actions which flow from these determinations; Section III and the accompanying position document set forth the bases for these determinations. Section IV, titled "Procedural Matters," provides a brief discussion of the procedures which will be followed in implementing the regulatory actions which the Agency is proposing in this notice.

II. Legal Background

In order to obtain a registration for a pesticide under the Federal Insecticide, Fungicide and Rodenticide Act, as amended ("FIFRA"), a potential registrant must demonstrate that the pesticide satisfies the statutory standard for registration. That standard requires (among other things) that the pesticide perform its intended function without causing "unreasonable adverse effects" on the environment (section 3(c)(5)). "Unreasonable adverse effects on the environment" is defined to mean "any unreasonable risk to man or the environment, taking into account the economic, social and environmental costs and benefits of the use of any pesticide" (FIFRA, section 2(bb)). In effect, this standard requires a finding that the benefits of each use of the pesticide exceed the risks of use, when the pesticide is used in accordance with the terms and conditions of registration, or in accordance with commonly recognized practice. The burden of proving that a pesticide satisfies the registration standard continues as long as the registration remains in effect. Under section 6 of FIFRA, the Administrator is required to cancel the registration of a pesticide or modify the terms and conditions of registration whenever he determines that the pesticide no longer satisfies the statutory standard for registration.²

The Agency created the RPAR process to facilitate the identification of pesticide uses which may not satisfy the

² Another part of the statutory standard for registration is that the pesticide must satisfy the labeling requirements of FIFRA. These requirements are set out in the statutory definition of "misbranded" (FIFRA section 2(d)). Among other things, this section provides that a pesticide is misbranded if "the labeling . . . does not contain directions for use which are necessary for effecting the purpose for which the product is intended and if complied with, together with any . . . (restrictions) imposed under section 3(d) . . . are adequate to protect health and the environment."

The Agency can require changes to the directions for use of a pesticide in most circumstances either by finding that the pesticide is misbranded if the labeling is not changed, or by finding that the pesticide would cause unreasonable adverse effects on the environment, unless labeling changes are made which accomplish risk reductions.

statutory standard for registration and to provide a structure for the gathering and evaluation of information about the risks and benefits of these uses. The structure permits public participation at major points in the evaluation process.

The procedures followed in the trifluralin RPAR differ somewhat from those usually followed in an RPAR review. Normally, when one or more of the Section 162.11 risk criteria has been met or exceeded, a position document (PD 1) is issued in which the registration or continued registration of the pesticide is presumed against. The registrant and other interested persons are given the opportunity to submit rebuttal evidence against the presumption of risk as well as evidence regarding the economic, social, and environmental benefits of the pesticide's use. If one or more of the presumptions of risk is not rebutted, the Agency must determine whether the continued use of the pesticide would cause "unreasonable adverse effects on the environment" (Section 6(b) FIFRA). Section 2(bb) of FIFRA defines "unreasonable adverse effects on the environment" to mean "any unreasonable risk to man or the environment, taking into account the economic, social and environmental costs and benefits of use of any pesticide." Therefore, if the risks of a pesticide's use outweigh the benefits, the Administrator must issue a notice of intent either to cancel or deny the pesticide's registration without qualification or to cancel or deny the pesticide's registration if the registrant fails to meet Agency requirements which would reduce risks to a level where they are exceeded by the benefits (Section 6(b) and 3(c)(6) of FIFRA). The Administrator's proposed notice of intent to cancel or deny is then reviewed by the United States Department of Agriculture (Section 6(b) of FIFRA), the Scientific Advisory Panel (Section 25(d) of FIFRA), and the public.³ The Administrator then considers all the comments which were made in a timely manner before publishing a final decision.

In the case of trifluralin, two of the analytical RPAR phases—the initial determination that the risk criteria had been exceeded and the weighing of risks and benefits to determine the appropriate regulatory action—have been combined, uninterrupted by the rebuttal comment period. The Agency believes that this modification is justified by the unusual circumstances

³ Although not required by law, it has been Agency policy to allow a public comment period upon referral of the Administrator's proposed notice of intent to cancel.

associated with the trifluralin review. Moreover, the approach used will not in any significant way diminish the opportunities for public comment on any determinations or issues raised by this position document.

Regarding the special circumstances of this RPAR, a hearing was held to obtain information concerning whether or not EPA should suspend the Treflan registration. Such hearings are not usually part of the RPAR process. During this hearing, the single U.S. trifluralin registrant-producer presented its position concerning Treflan risk. It conceded that the N-nitroso-contaminant was carcinogenic, but it asserted that Treflan was still safe to use because, due to low exposure, the risk was slight, and the substantial benefits outweighed that slight risk.⁴ To some extent, therefore, the single registrant-producer of trifluralin has had an opportunity to rebut the presumption that NDPA-contaminated Treflan is an oncogen. In addition, the registrant and others have submitted detailed papers regarding many of the aspects of risks which have been considered by the Agency in making its determination. Furthermore, the Agency, with the aid of USDA and state agricultural colleges, considered benefits data presented by the registrant when its benefit determination was made.

Much of what the registrant would have submitted at the usual RPAR rebuttal stage, therefore, has already been submitted during the modified trifluralin RPAR. It seems reasonable, therefore, to focus public discussion on the risk/benefit analysis by presenting the Agency position in a single document followed by a public comment period during which time the registrant and anyone else may submit comments⁵ in response to the Agency's tentative risk/benefit conclusions regarding trifluralin. The Agency believes that neither the registrant nor any other interested person has been prejudiced by this procedural modification since he will not be deprived of his opportunity to participate meaningfully in the administrative decisionmaking process affecting the continued registration of this pesticide.

The statute requires the Agency to submit notices issued pursuant to

⁴ Transcript of Public Hearings on Petition to Suspend Certain Pesticide Products Section 6, FIFRA. March 7, 1977, Phoenix, Arizona, p. 11-28 and March 9, 1977, Washington, D.C. p. 2-13 through 2-23.

⁵ Under 40 CFR 162.11(a)(1)(i), only a registrant has the right to submit rebuttal evidence when its registered pesticide has been presumed against. It is Agency policy, however, to allow anyone to submit timely evidence and to consider such evidence before making regulatory decisions.

section 6 to the Secretary of Agriculture for comment and to provide the Secretary of Agriculture with an analysis of the impact of the proposed action on the agricultural economy (section 6(b)). The Agency is required to submit these documents to the Secretary at least 60 days before making the notice effective by sending it to registrants or making it public. The Secretary of Agriculture is required to comment in writing within 30 days of receiving this notice and the Agency is required to publish the Secretary's comments and the Administrator's response with publication of the notice. The statute also requires the Administrator to submit section 6 notices to a scientific advisory panel for comment on the impact of the proposed action on health and the environment, at the same time and under the same procedures as those described above for review by the Secretary of Agriculture. (Section 25(d)). The Agency is submitting its proposed decision on trifluralin to the Science Advisory Panel and the Secretary of Agriculture for their review.

Although not required to do so under the statute, the Agency has decided that it is consistent with the general theme of the RPAR process and the Agency's overall policy of open decisionmaking to afford an opportunity to comment on the bases for the proposed action to registrants and other interested persons, during the time that the proposed action is under review by the Secretary of Agriculture and the Scientific Advisory Panel. Accordingly, appropriate steps will be taken to make copies of the trifluralin position document available to registrants and other interested persons at the time the decision documents are transmitted for formal external review, through publication of a notice of availability in the Federal Register, and by other means. Because of the modified procedures used for the trifluralin position document, registrants and other interested persons will be allowed a somewhat longer period of time to comment—75 days—than the 30 day period provided by statute for receipt of comments from the Secretary of Agriculture and the Scientific Advisory Panel.

After completing these external review procedures and accomplishing any changes in the contemplated action which are deemed appropriate as a result of any comments received, the Agency will proceed to implement the desired regulatory action by preparing appropriate documents and releasing them in the manner prescribed by the statute and the Agency's rules.

III. Determinations and Initiation of Regulatory Action

The Agency has considered information on the risks associated with trifluralin/Treflan uses, including information submitted by registrants and other interested persons. The Agency has also considered information on the social, economic and environmental benefits of the trifluralin/Treflan uses including benefits information submitted by registrants, the United States Department of Agriculture, and other interested persons. The Agency's assessment of the risks and benefits of the trifluralin/Treflan uses, its conclusions and determinations whether trifluralin/Treflan uses pose unreasonable adverse effects on the environment, and its determinations whether modifications in terms or conditions of registration reduce risks sufficiently to eliminate any unreasonable adverse effects, are set forth in detail in the position document. This position document is hereby adopted by the Agency as its statement of reasons for the determinations and actions announced in this notice, and as its analysis of the impacts of the proposed regulatory actions on the agricultural economy. For the reasons summarized below and developed in detail in the position document, the determinations of the Agency with respect to Trifluralin/Treflan are as follows:

A. Determinations of Risk

The Agency has determined that both technical and formulated trifluralin are contaminated with low levels of the N-nitroso contaminant NDPA, a demonstrated oncogen in rats, mice, and hamsters, and a mutagen in bacteria, yeast, and in an *in vitro* mammalian cell culture. Trifluralin-containing pesticides therefore meet or exceed the oncogenic and mutagenic risk criteria.*

The Agency has determined further that human exposure may result from trifluralin-containing pesticide uses, and that trifluralin-containing pesticide use therefore poses a carcinogenic and mutagenic risk to man of sufficient magnitude to require the Agency to determine whether these uses offer offsetting social, economic or environmental benefits. The Agency has identified the key populations at risk with respect to Treflan use: agricultural

*Under 40 CFR 162.11(a)(3)(ii), "A rebuttable presumption shall arise if a pesticide's ingredient(s) meet or exceed any of the following criteria for risk: * * * Induces oncogenic effects in experimental mammalian species or in man as a result of oral, inhalation or dermal exposure; or induces mutagenic effects, as determined by multitest evidence."

and nursery workers who mix, load, apply, and incorporate Treflan into the soil; fieldworkers; domestic users; and the U.S. population at large.

B. Determinations on Benefits

The economic impact on farm income resulting from a possible Treflan cancellation was estimated for cotton, soybeans, fruits and vegetables, and other field crops. If Treflan were to be canceled, the total annual loss for the 3-5 year period following cancellation is estimated to be approximately \$300 million. For all the crop uses, Treflan is a preemergent herbicide which is effective on a broad spectrum of weeds and grasses.

1. *Cotton Uses.* Treflan is used on approximately 8.3 million acres of cotton per year (70% of the total U.S. planted cotton acreage). If Treflan were canceled, the Agency expects that yields would decrease, more expensive Treflan alternatives would increase weed control costs, and the price of cotton would increase. The Agency estimates that the total income change for cotton growers would be a decrease of approximately \$116 million.

2. *Soybean Uses.* Treflan is used on approximately 19.7 million acres of soybeans per year (38% of the total U.S. planted soybean acreage). If Treflan were canceled, the Agency expects that yields would decrease, more expensive Treflan alternatives would increase weed control costs, some soybean acreage would be shifted to corn (depressing corn prices), and the price of soybeans would increase. The Agency estimates that the total income change for soybean growers would be a decrease of approximately \$64 million.

3. *Fruit and Vegetable Uses.* Treflan is used on approximately 1.1 million acres of fruits and vegetables. If Treflan were canceled, the Agency expects that more expensive Treflan alternatives would increase weed control costs, but yields would decrease only for peas (the Agency did not estimate what impact Treflan cancellation would have on fruit and vegetable prices). The Agency estimates that the total income change for fruit and vegetable growers would be a decrease of approximately \$36 million.

4. *Other Field Crop Uses.* Treflan is used on approximately 2.5 million acres of crops in this category. If Treflan were canceled, the Agency expects that yields would decline (except for sugar beets) and more expensive Treflan alternatives would increase weed control costs

*This category includes potatoes, tomatoes, peas, cole crops, carrots, peppers, celery, cucurbits, mint, collards, okra, and beans.

*This category includes dry beans, peanuts, sugar beets, and sunflowers.

(except for dry beans). No estimate was made for the impact on prices due to a Treflan cancellation for crops in this category. The Agency estimates that the total income change for growers in this category would be a decrease of \$97 million.

C. Determinations on Unreasonable Adverse Effects

For the reasons set forth in detail in the position document, the Agency has made the following unreasonable adverse effect determination with respect to trifluralin-containing pesticide uses:

The Agency has determined that the benefits of trifluralin-containing pesticide use exceed the risks when Treflan is contaminated with no more than 1 ppm NDPA. The single registrant-producer is currently producing trifluralin and Treflan with NDPA contamination not exceeding 1 ppm. If trifluralin/Treflan were produced with a greater NDPA contamination level, risks would be increased, but benefits of use would be unchanged. Therefore, the Agency has determined that the terms and conditions of registrations and registration applications must be amended, as described below, or trifluralin-containing pesticide uses will "cause unreasonable adverse effects on the environment."

D. Other Determinations

On account of data gaps discussed in the trifluralin-position document, the Agency has determined that the registrant or applicant must submit additional data on mutagenicity, reproduction, and teratology. The Agency needs the data for the purpose of refining the estimate of risks. The administrator considers these data requirements to be additional data pursuant to FIFRA Section 3(c)(2)(B). The Agency will specify the precise requirements and protocols for filling these data gaps in the near future.

E. Proposed Regulatory Actions

Based upon the determinations summarized above and developed in detail in the Position Document, the Agency is proposing the following regulatory actions, and this document shall constitute its notice of intention to initiate those actions:

Cancellation and denial of all trifluralin-containing pesticide registrations unless registrants or applicants for registration amend the terms and conditions of registration as follows:

The label amendment proposed by this notice shall appear on the label under the inert ingredients' section of

the ingredients' statement and shall read as follows:

N-nitroso-di-n-propylamine (NDPA) . . . <1 ppm.

The amendment to the confidential statement of formula proposed by this notice shall appear in that statement under the inert ingredients' section of the ingredients' statement and shall read as follows:

N-nitroso-di-n-propylamine (NDPA) . . . <1 ppm.

IV. Procedural Matters

As discussed above in Section II of this notice, the Agency's decision to initiate the regulatory actions described in Section III must be referred for review by the Secretary of Agriculture and the Scientific Advisory Panel. The transmittal of the Agency's decision to satisfy these external review requirements will occur shortly. As further indicated above, the Agency also will offer registrants and other interested persons an opportunity to comment on the bases for the Agency's action by making copies of the position document available upon request. Registrants and other interested persons will be given 75 days to submit comments.⁹ Comments may be made on all aspects of the Agency's risk/benefit analysis and the Agency's proposed regulatory actions.

After completion of these review procedures, the Agency will consider the comments received and publish an analysis of them, together with any changes in the regulatory actions announced in this notice which it determines are appropriate. Until this final review phase is concluded in this manner, it is not necessary for registrants or other interested persons to request a hearing to contest any regulatory actions resulting from the conclusion of this RPAR.

Dated: August 17, 1979.

Steven D. Jellinek,

Assistant Administrator for Toxic Substances.

[FR Doc. 79-27164 Filed 8-29-79; 8:45 am]

BILLING CODE 6660-01-M

⁹Usually, only a 30 day period is given for public comment. However, in this instance, the Agency is extending the period to 75 days so that no prejudice will result from omitting the rebuttal comment period of 45 days. Referrals to the Secretary of Agriculture and to the Scientific Advisory Panel will be staggered so that all comments will be due at the end of the 75 day public comment period.

[OPP-42048A; FRL 1309-2]

Connecticut State Plan for Certification of Commercial and Private Applicators of Restricted Use Pesticides, Approval Status

Section 4(a)(2) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975 and 1978 (92 Stat. 819; 7 U.S.C. 136 *et seq.*), and the implementing regulations of 40 CFR Part 171, require each State desiring to certify applicators to submit a plan for its certification program. Any State certification program under this section shall be maintained in accordance with the State Plan approved under this section.

On July 14, 1977, notice was published in the Federal Register (42 FR 36282) of the intent of the Regional Administrator, Environmental Protection Agency (EPA), Region I, to approve on a contingent basis, the Connecticut State Plan for Certification of Commercial and Private Applicators of Restricted Use Pesticides (Connecticut State Plan). Contingent approval was requested by the State of Connecticut pending the enactment of certain specific statutory provisions and promulgation of additional implementing regulations necessary to permit Connecticut to carry out FIFRA responsibilities.

Complete copies of the Connecticut State Plan (except for sample examinations) were made available for public inspection at the following locations: Connecticut Department of Environmental Protection, Hartford, Connecticut; EPA, Boston, Massachusetts; and, the EPA, Federal Register Section, Technical Services Division, Office of Pesticide Programs, Washington, D.C.

Two comments on the State Plan were received during the 30-day comment period.

The National Canners Association inquired if the Agency considered funds provided to the Extension Service for training purposes in its determination of the adequacy of the State Plan budget and questioned the use of fees assessed for certification to support State Plan activities. The second commentor, the Chemical Services Corporation of Fairfield, Connecticut, questioned the procedure used to determine competency of supervisory level commercial applicators licensed prior to January, 1975, and further requested the Regional Office to conduct an onsite visit to review the procedure used by Connecticut for its adequacy to meet FIFRA requirements for certification.

EPA and Connecticut officials have reviewed both comments and have prepared a response summarized below.

Connecticut officials believe training offered to applicators, especially those requesting private applicator certification, is beneficial and hence plan to utilize training as useful support for implementation of the State Plan and the FIFRA. While the funding required for applicator training was identified as coming from both EPA and State sources, no specific amounts were identified in the plan. Further, any funds used for training purposes were not considered in the EPA assessment of adequacy of funding to support the plan.

Section 4(a)(2) of the amended FIFRA provides a State may be granted authority to certify applicators in accord with provisions of an approved State Plan. In addition, Section 4(a) provides considerable flexibility to a State in developing a certification program to meet prescribed Federal standards. Connecticut assesses applicators a fee for certification as provided by State statute and hence this issue is not considered to be germane to the acceptability of the plan under Federal regulations. Connecticut officials further note that funds expended to complete the State's certification program are largely those derived from State appropriations. Both private and commercial applicators are assessed a fee for examination as well as a fee for issuance of their certificate. Fees are waived for State, Federal and municipal employees.

Prior to the preparation of the Connecticut State Plan, commercial pest control operators doing business in Connecticut were required to be licensed as either supervisory level or as nonsupervisory operational level applicators. In the submission of its State Plan, Connecticut requested that the Agency determine the adequacy, to meet standards of 40 CFR 171.4 and 171.6, of the process used for determining competency of only supervisory level applicators who were issued licenses after January 1, 1975. The Agency was invited by State officials to conduct an on-site review before making its determination. The comment received from Chemical Services Corporation questioned the examination procedure used for re-licensing pest control operators and also urged the Agency to conduct an on-site review.

In September, 1977, the Agency conducted a two-day on-site review of procedures used for determination of competency of supervisory level pest control applicators who had requested licensing after January 1, 1975. Each of

three examinations, used beginning December, 1974, was carefully evaluated for adequacy to meet applicable standards required for certification under 40 CFR Part 171. In addition, the records and the examinations taken by 22 persons, randomly selected from a group of 178 licensed before 1975, were also individually reviewed before the determination was made.

Each of the three examinations used was found, after review, to be adequate to meet the standards of 40 CFR Part 171.6 and 171.4(c)(7) as required for determination of competency of applicators seeking certification under category 7 (Industrial, Institutional, Structural and Health Related Pest Control) or an appropriate subcategory. Of the 178 persons licensed as supervisory-level pest control applicators in 1974, only 148 were, upon re-examination, found to be competent and re-licensed in 1975. No evidence was obtained to indicate any irregularities in the administration of the examinations for the 22 persons whose records were reviewed.

Examinations used to determine the competency of operational level applicators were not reviewed during the on-site visit because Connecticut indicated in its plan that it did not intend to certify operational-level licensees, and that they would only be authorized to use restricted-use pesticides when such use is under the direct supervision of an appropriately certified supervisory level applicator.

Accordingly, the Agency finds that the Connecticut procedure used for determination of competency of supervisory-level pest control applicators licensed under category 7, beginning in 1975, is adequate to meet standards of 40 CFR Part 171.

Since the Notice of Intent to Approve the Connecticut State Plan was published on July 14, 1977, the Connecticut Legislature has made statutory changes in Gen. Stat. Ann's Secs. 22(a)-46 *et seq* as were required for implementation of FIFRA authorities. In addition, the Connecticut Department of Environmental Protection (CDEP) prepared regulations for promulgation that correct the deficiencies previously determined. Having reviewed these regulations, EPA has determined that the Connecticut State Plan would satisfy the requirements of Section 4(a)(2) of the amended FIFRA and 40 CFR Part 171 if these regulations were promulgated.

Earlier planning called for the promulgation of the regulation by late 1978 and for final approval of the Connecticut Plan shortly thereafter. However, unanticipated delays were encountered by CDEP in obtaining

approval of the regulations by the Regulations Review Committee of the Connecticut legislature until June 5, 1979. The CDEP promulgated the amendments correcting previously determined deficiencies on July 3, 1979. Having reviewed these regulations, EPA has determined that the Connecticut Plan satisfies the requirements of Section 4(a)(2) of the amended FIFRA and 40 CFR Part 171.

In view of the revision of regulations, EPA believes it would not serve any useful purpose to proceed with approval of the Connecticut Plan on a contingency basis, but rather believes it should proceed directly with action toward final approval and hereby provides public notice of such action. Accordingly, the Connecticut Plan is approved.

The Connecticut Plan will remain available for public inspection in Connecticut Department of Environmental Protection, Hazardous Materials Management Unit, 122 Washington Street, Hartford, Connecticut 06115.

EFFECTIVE DATE: Pursuant to Section 4(d) of the Administrative Procedure Act, 5 U.S.C. 553(d), the Agency finds that there is good cause for providing that the approval granted herein to the Connecticut State Plan shall be effective upon signature of this notice. Neither the Connecticut State Plan itself nor this Agency's approval of the plan creates any direct or immediate obligation on pesticide applicators or other persons in the State of Connecticut. Delays in starting the work necessary to implement the plan, such as may be occasioned by providing some later effective date for this approval, are inconsistent with the public interest. Accordingly, this approval shall become effective immediately.

Dated: August 15, 1979.
William R. Adams, Jr.,
Regional Administrator, Region I.
[FR Doc. 79-27187 Filed 8-29-79; 8:45 am]
BILLING CODE 6560-01-M

Council on Environmental Quality

[OTS-00005; FRL 1309-3]

Interagency Toxic Substances Data Committee; Change of Meeting Date

AGENCY: Environmental Protection Agency (EPA), Council on Environmental Quality (CEQ).

ACTION: Change of date of Open Meeting.

SUMMARY: The date of the September meeting of the Interagency Toxic Substances Data Committee has been changed to September 11, 1979. The meeting will be held in Room 2010, New Executive Office Building, 17th Street and Pennsylvania Avenue, N.W., Washington, D.C. 20006 at 9:30 a.m.

FOR FURTHER INFORMATION CONTACT: Ms. Nan Fremont, Acting Executive Secretary, Interagency Toxic Substances Data Committee, Office of Toxic Substances (TS-798), EPA, 401 M Street, SW., Washington, D.C. 20460. Telephone: 202/755-9336.

SUPPLEMENTARY INFORMATION: The regular meetings of the Interagency Toxic Substances Data Committee take place on the first Tuesday of each month at 9:30 a.m. The meetings are held in the New Executive Office Building at the address given above, and are open to the public. The date has been changed only for the September meeting. The next meeting of the Interagency Toxic Substances Data Committee will take place on October 2, 1979.

Dated: August 7, 1979.

Roger M. Connor,
Acting Executive Secretary, Interagency Toxic Substances Data Committee.

[FR Doc. 79-27186 Filed 8-29-79; 8:45 am]
BILLING CODE 6560-01-M

ENVIRONMENTAL PROTECTION AGENCY

DEPARTMENT OF TRANSPORTATION

Coast Guard

[FRL 1305-3]

Memorandum of Understanding Between the Environmental Protection Agency and the U.S. Coast Guard Concerning the Assessment of Civil Penalties for Discharges of Oil and Designated Hazardous Substances

Note.—This document originally appeared in the *Federal Register* as part of Part III in the issue of Wednesday, August 29, 1979. It is reprinted in this issue to meet requirements for publication on an assigned day of the week. (See OFR notice 41 FR 32914, August 6, 1976.)

The United States Environmental Protection Agency (EPA) and the United States Coast Guard (USCG) have determined that it is necessary to establish procedures pursuant to which decisions may be made:

(1) Whether a discharge of a designated hazardous substance is excluded from the application of the civil penalty procedures prescribed by

section 311(b)(6) of the Clean Water Act (CWA); and

(2) Whether action will be taken under paragraph (A) or under paragraph (B) of section 311(b)(6) CWA to impose a penalty for the discharge of a designated hazardous substance not so excluded.

The EPA and the USCG agree that decisions as to whether a discharge of a designated hazardous substance is excluded from the application of section 311(b)(6) CWA will be made initially by the EPA in cases evidencing particular potential violation gravity, *i.e.*, meeting criteria set out in section III of this memorandum. In all other cases the decision will be made initially by the agency providing the On Scene Coordinator to the discharge incident. When a decision is made that a discharge is excluded, penalty action under section 311(b)(6) CWA will be withheld.

The EPA and the USCG agree that decisions as to whether action will be initiated to impose civil penalties under paragraph (B) of section 311(b)(6) CWA, will be made by the EPA. Cases involving USCG responses, which evidence particular potential violation gravity, *i.e.*, meeting criteria set out in section III of this memorandum, will be transmitted to the EPA for its consideration. In all cases where EPA determines that it is appropriate to initiate civil penalty action under paragraph (B) of section 311(b)(6) CWA, the USCG will withhold the initiation of civil penalty action under paragraph (A) of section 311(b)(6) CWA.

This memorandum establishes policies, procedures, and guidelines concerning the responsibilities of the EPA and the USCG in carrying out the foregoing agreement.

The respective responsibilities of each agency specified in this memorandum may be delegated to their respective subordinates consistent with established procedures.

The EPA and the USCG will review the implementation of this memorandum at least one year from the effective date of 40 CFR Part 117 or sooner if agreed to by both agencies, and will make any changes to the policy, procedures, and guidelines set forth herein which are agreed to by both agencies.

Section 1: General

The amendment of November 2, 1978 to section 311 CWA (Public Law 95-576) excluded certain discharges of hazardous substances from the application of section 311(b)(6) CWA. The discharges so excluded are: (a) discharges in compliance with a section 402 CWA permit, (b) discharges resulting from circumstances identified

and reviewed and made a part of the public record with respect to a permit issued or modified under section 402 CWA, and subject to a condition in such permit, and (c) continuous or anticipated intermittent discharges from a point source, identified in a permit or permit application under section 402 CWA, which are caused by events occurring within the scope of relevant operating or treatment systems.

In addition, this amendment created two methods for penalizing discharges or hazardous substances. The first, which already existed as section 311(b)(6) CWA prior to the amendment, authorizes the USCG to assess a civil penalty not to exceed \$5,000 for the discharge of oil or a designated hazardous substance (section 311(b)(6)(A)). The second method, created by the new amendment, provides that the EPA, through the Department of Justice, may initiate a civil action in Federal district court for penalties not to exceed \$50,000 per spill of hazardous substance, unless such discharge is the result of willful negligence or willful misconduct, in which case the penalty shall not exceed \$250,000 (section 311(b)(6)(B)).

The legislative history accompanying the amendment makes clear that Congress intended to create a dual option system for penalizing discharges of hazardous substances under section 311(b)(6) CWA. A discharger of a designated hazardous substance can be penalized under paragraph (A) or paragraph (B), but not both. The EPA and the USCG agree that paragraph (B) does not apply to oil discharges. The USCG will continue to assess oil discharge penalties administratively under paragraph (A).

Section II: Coordination

When a spill of a designated hazardous substance occurs, the On Scene Coordinator (OSC) will prepare a factual report of the incident. At the minimum, the report will address those criteria set forth in section III, of this memorandum.

The OSC will submit this report within 60 days of the spill incident. The OSC will submit the report to the District Commander when he is a USCG OSC, and to the Regional Administrator, when he is an EPA OSC.

When the District Commander reviews the USCG OSC's report and determines that one or more of the criteria set forth in section III, below is applicable to that case, the entire record of that case will be referred to the EPA Regional Administrator for review. In addition the District Commander will refer the entire record of:

(a) Any other case involving a designated hazardous substance from a point source subject to a section 402 permit or permit application, which, prior to or after the commencement of penalty action, the USCG determines is excluded from the application of section 311(b)(6) CWA; and

(b) Any other case which, the District Commander considers appropriate for possible application of section 311(b)(6)(B) CWA.

When the Regional Administrator receives a case, either from an EPA OSC or upon referral from the District Commander, he will determine:

(a) Whether the case is excluded from the application of section 311(b)(6) CWA, and, if not,

(b) Whether a civil penalty action under section 311(b)(6)(B) CWA will be initiated.

The Regional Administrator will make these determinations within 90 days of his receipt of referral documents and will notify the District Commander promptly of the determinations in cases which have been referred. If the Regional Administrator determines that an action under section 311(b)(6)(B) CWA will be initiated, the case will be prepared in the EPA Regional Office and forwarded to the Department of Justice (DOJ) in accordance with established EPA case referral procedures.

If the Regional Administrator determines that the discharge is not excluded from the application of section 311(b)(6) CWA and that paragraph (B) action is inappropriate, or if EPA Headquarters declines to refer a Regional case, EPA will return the case to the USCG for appropriate action under paragraph (A).

Upon request, each Agency will make available to the other any or all cases, files, and records, including OSC reports and official determinations, regarding decisions concerning exclusions or the imposition of section 311(b)(6)(A) or (B) penalties. Where there is disagreement as to the disposition of a particular case, the District Commander and the Regional Administrator will consult to resolve the matter. If necessary, the matter will be submitted to the respective Agency Headquarters for final resolution.

Section III: Criteria

The USCG and the EPA agree that if one or more of the following criteria exists, the District Commander will refer the case to the Regional Administrator in accordance with section II of this memorandum:

a. Any indication of misconduct or lack of reasonable care on the part of the owner, operator, or person in charge

with respect to the discharge or with respect to the failure on the part of the owner, operator, or person in charge to adhere to the guidance of the OSC regarding clean-up or any policies, procedures, guidelines, or regulations applicable to clean-up;

b. Any discharge incident other than a threat for which payments are made or to be made from the section 311(k) fund pursuant to 33 CFR 153.407, except where no discharger has been identified;

c. Any indication of prior violations by the discharger of any provision of the CWA, or violations of provisions of the CWA other than section 311(b)(6) CWA occurring at the time of the discharge, such as violations of a section 402 permit;

d. Any discharge incident (other than a threat) as defined in 40 CFR 1510.5 (1) which requires activation (by full or limited assembly, or by telephone) of the Regional Response Team as required by 40 CFR 1510.34(d), as amended; and

e. Any discharge involving human injury or evacuation, damage to plant or animal life, or contamination of water supply or underground aquifers.

Other referrals to the EPA may be made on a discretionary basis.

Dated: August 15, 1979.

Marvin B. Durning,

Assistant Administrator for Enforcement,
United States Environmental Protection
Agency.

Dated: August 17, 1979.

R. H. Scarborough,

Acting Commandant, United States Coast
Guard.

[FR Doc. 79-26759 Filed 8-28-79; 8:45 am]

BILLING CODE 6560-01-M

FEDERAL COMMUNICATIONS COMMISSION

Radio Technical Commission for Marine Services; Meetings Cancellation

In accordance with Pub. L. 92-463, "Federal Advisory Committee Act," the schedule of future Radio Technical Commission for Marine Services (RTCM) meetings is as follows:

Meeting Cancellation

A schedule of September meetings of the Radio Technical Commission for Marine Services was published recently. Since that time, the scheduled September 13 through September 14 meeting of Special Committee No. 70, Minimum Performance Standards (MPS)—Marine Loran-C Receiving Equipment has been cancelled. Details on the rescheduled meeting will be

published in a future Federal Register Notice.

The RTCM has acted as a coordinator for maritime telecommunications since its establishment in 1947. All RTCM meetings are open to the public. Written statements are preferred, but by previous arrangement, oral presentations will be permitted within time and space limitations.

Those desiring additional information concerning the above meeting(s) may contact either the designated chairman or the RTCM Secretariat (phone: (202) 632-6490).

Federal Communications Commission.

William J. Tricarico,
Secretary.

[FR Doc. 79-27159 Filed 8-29-79; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL MARITIME COMMISSION

Armadores, Regina Magna S.A. Trading as Chandris Cruises; Certificate of Financial Responsibility To Meet Liability Incurred for Death or Injury to Passengers or Other Persons No. C-1,131; Order of Revocation

Whereas, Armadores Regina Magna S.A. trading as Chandris Cruises, c/o Chandris (London) Services Ltd., 5 St. Helen's Place, Bishopsgate, London EC3A 6BJ, England, has ceased to operate the passenger vessel Regina Magna to and from United States ports.

It is ordered, that Certificate (Casualty) No. C-1,131 issued to Armadores Regina Magna S.A. trading as Chandris Cruises covering the Regina Magna be and is hereby revoked effective August 23, 1979.

It is further ordered, that a copy of this Order be published in the Federal Register and served on certificant.

By the Commission August 23, 1979.

Francis C. Hurney,
Secretary.

[FR Doc. 79-27053 Filed 8-29-79; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Central Banccompany, Inc.; Acquisition of Bank

Central Banccompany, Inc., Jefferson City, Missouri, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 90 percent or more of the voting shares of City Bank and Trust Company, Moberly, Missouri. The factors that are considered in acting on the application

are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of St. Louis. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than September 24, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve
System, August 24, 1979.

Griffith L. Garwood,
Deputy Secretary of the Board.

[FR Doc. 79-27059 Filed 8-29-79; 8:45 am]

BILLING CODE 6210-01-M

First Greenville Bancshares, Inc.; Formation of Bank Holding Company

First Greenville Bancshares, Inc., Greenville, Texas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of First Greenville National Bank, Greenville, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than September 24, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve
System, August 23, 1979.

Griffith L. Garwood,
Deputy Secretary of the Board.

[FR Doc. 79-27057 Filed 8-29-79; 8:45 am]

BILLING CODE 6210-01-M

WiseTex Bancshares, Inc.; Formation of Bank Holding Company

WiseTex Bancshares, Inc., Rhome, Texas, has applied for the Board's approval under section 3(a)(1) of the

Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares (less directors' qualifying shares) of The First National Bank in Rhome, Rhome, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than September 24, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve
System, August 24, 1979.

Edward T. Mulrenin,
Assistant Secretary of the Board.

[FR Doc. 79-27058 Filed 8-29-79; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL TRADE COMMISSION

Lamson & Sessions Co.; Early Termination of Waiting Period of the Premerger Notification Rules

AGENCY: Federal Trade Commission.

ACTION: Granting of request for early termination of the 30-day waiting period of the premerger notification rules.

SUMMARY: The Lamson & Sessions Co. is granted early termination of the 30-day waiting period provided by law and the premerger notification rules with respect to its proposed acquisition of certain assets of Intel Corporation. The grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice in response to requests for early termination submitted by both parties to the transaction. Neither agency intends to take any action with respect to this acquisition during the waiting period.

EFFECTIVE DATE: August 22, 1979.

FOR FURTHER INFORMATION CONTACT: Joan S. Truitt, Attorney, Premerger Notification Office, Bureau of Competition, Room 303, Federal Trade Commission, Washington, D.C. 20580, (202) 523-3894.

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by sections 201 and 202 of the

Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act and § 803.11 of the rules implementing the Act permit the agencies, in individual cases, to terminate this waiting period prior to its expiration and require that notice of this action be published in the Federal Register.

By direction of the Commission.

James A. Tobin,
Acting Secretary.

[FR Doc. 79-27082 Filed 8-29-79; 8:45 am]

BILLING CODE 6750-01-M

Springs Mills, Inc.; Early Termination of Waiting Period of the Premerger Notification Rules

AGENCY: Federal Trade Commission.

ACTION: Granting of request for early termination of the waiting period of the premerger notification rules.

SUMMARY: Springs Mills, Inc. is granted early termination of the waiting period provided by law and the premerger notification rules with respect to its proposed acquisition of Graber Industries, Inc. from Consolidated Foods Corporation. The grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice in response to a request for early termination submitted by Springs Mills, Inc. Neither agency intends to take any action with respect to this acquisition during the waiting period.

EFFECTIVE DATE: August 22, 1979.

FOR FURTHER INFORMATION CONTACT: Joan S. Truitt, Attorney, Premerger Notification Office, Bureau of Competition, Room 303, Federal Trade Commission, Washington, D.C. 20580, (202-523-3894).

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by sections 201 and 202 of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act and § 803.11 of the rules implementing the Act permit the agencies, in individual cases, to terminate this waiting period prior to its expiration and require that

notice of this section be published in the Federal Register.

By direction of the Commission.

James A. Tobin,
Acting Secretary.

[FR Doc. 79-27081 Filed 8-29-79; 8:45 am]

BILLING CODE 6750-01-M

GENERAL ACCOUNTING OFFICE

Regulatory Reports Review; Receipt of Report Proposal

The following request for clearance of a report intended for use in collecting information from the public was received by the Regulatory Reports Review Staff, GAO, on August 23, 1979. See 44 U.S.C. 3512(c) and (d). The purpose of publishing this notice in the Federal Register is to inform the public of such receipt.

The notice includes the title of the request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed FCC request are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed request, comments (in triplicate) must be received on or before September 17, 1979, and should be addressed to Mr. John M. Lovelady, Assistant Director, Regulatory Reports Review, United States General Accounting Office, Room 5106, 441 G Street, NW, Washington, DC 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202-275-3532.

Federal Communications Commission

The FCC requests clearance of revisions to Form 342, Application for Renewals of Noncommercial Educational Broadcast Station License. Form 342 is used to apply for renewal of a license for a noncommercial educational TV, FM or Standard Broadcast station license. The form is required by sections 1.511 and 1.539 of the Commission's Rules and Regulations. Form 342 is being revised to include the applicant's telephone number (which will eliminate delay in processing applications) and minor editorial and format changes as well as revisions regarding EEO exemptions and ethnic categories directed by a Federal court and the Office of Management and Budget. The FCC estimates that respondent burden will average 14 hours

per response and that approximately 325 applications are received annually.

John M. Lovelady,
Assistant Director, Regulatory Reports
Review.

[FR Doc. 79-27176 Filed 8-29-79; 8:45 am]
BILLING CODE 1610-01-M

GOVERNMENT PRINTING OFFICE

Depository Library Council to the Public Printer; Meeting

The Depository Library Council to the Public Printer will meet on October 15 thru 17, 1979, at the Holiday Inn—Alexandria Old Town Motel, Alexandria, Virginia.

The purpose of this meeting is to discuss the Depository Library Program.

The meeting will be open to the public. Any member of the public who wishes to attend shall notify Mr. J. D. Livsey, Head, Library and Statutory Distribution Service, Government Printing Office, Washington, D.C. 20401 (Telephone: Area Code 703-557-2050). General participation by members of the public, or questioning of Council members or other participants, shall be permitted with approval of the Chairman.

Dated: August 17, 1979.

John J. Boyle,
Public Printer.

[FR Doc. 79-27065 Filed 8-29-79; 8:45 am]
BILLING CODE 1505-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of the Assistant Secretary for Health

National Council on Health Care Technology; Announcement Soliciting Comments on Health Care Technology and Technology Assessment

Note.—This document originally appeared in the Federal Register of Wednesday, August 29, 1979.

Announcement is made that the National Council on Health Care Technology is soliciting the views and comments of professional health societies and organizations regarding the Department's focus in the field of health care technology and technology assessment. Organizations wishing to make formal presentations to the Council may do so at the October 10 afternoon meeting to be held in Room 800 of the Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, D.C. 20201. Participants should plan to limit their presentations to ten minutes. However, written

statements may be filed with the staff before or after the meeting.

Interested parties should contact Mr. Dwight Blankenbaker, Acting Executive Secretary, Office of Health Research, Statistics, and Technology, National Center for Health Care Technology, 5600 Fishers Lane, Rockville, Maryland 20857, (202) 472-4248.

Dated: August 23, 1979.

Marilyn McCarroll,

Acting Executive Secretary, Office of Health Research, Statistics, and Technology.

[FR Doc. 79-26975 Filed 8-29-79; 8:45 am]
BILLING CODE 4110-85-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Arizona Strip District Advisory Board; Meeting

Notice is hereby given that the Arizona Strip District Grazing Advisory Board will meet at 8:00 a.m. on October 2, 1979 at the Arizona Strip District office, 196 E. Tabernacle, Room 25, St. George, Utah for a field tour on the Arizona Strip District.

The purpose of the tour is to review and discuss range sites that will present special problems for allotment management planning after the Shivwits E. S. is completed.

The field tour will be open to the public. Any interested persons wishing to participate in the tour should contact the official listed below at least five (5) days prior to the tour.

Further information concerning this meeting may be obtained from the District Manager, Bureau of Land Management, 196 E. Tabernacle, St. George, Utah 84770 (801-673-3545).

Marvin H. Woodbury,
Acting District Manager.

August 21, 1979.

[FR Doc. 79-27068 Filed 8-29-79; 8:45 am]
BILLING CODE 4310-84-M

[M 44368]

Montana; Right-of-Way Application for Pipeline

August 24, 1979.

Notice is hereby given that, pursuant to Sec. 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), Matador Pipelines, Inc. has applied for an 8½-inch buried gas pipeline right-of-way across the following described public lands:

Fifth Principal Meridian, North Dakota

T. 144 N., R. 103 W.,
Sec. 18, Lot 1 and NE¼.

This pipeline will convey natural gas across 0.70 of a mile of public lands in Golden Valley County, North Dakota.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, P.O. Box 1229, Pulver Hall, Dickinson, North Dakota 58601.

Roland F. Lee,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79-27086 Filed 8-29-79; 8:45 am]
BILLING CODE 4310-84-M

[NM 37993 and 38001]

New Mexico; Applications

August 23, 1979.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Llano Inc. has applied for two 4½-inch natural gas pipeline rights-of-way across the following land:

New Mexico Principal Meridian, New Mexico

T. 19 S., R. 34 E.,
Sec. 7, SW¼NE¼ and W¼SE¼;
Sec. 18, NW¼NE¼.

T. 20 S., R. 34 E.,
Sec. 9, W¼SE¼;
Sec. 21, E¼NE¼.

These pipelines will convey natural gas across 1.53 miles of public lands in Lea County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, New Mexico 88201.

Fred E. Padilla,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79-27087 Filed 8-29-79; 8:45 am]
BILLING CODE 4310-84-M

[U-43659]

Utah; Application

Notice is hereby given that pursuant to Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Northwest Pipeline Corporation has applied for a 4½ and 12½-inch natural gas pipeline right-of-way across the following lands:

Salt Lake Meridian, Utah

T. 9 S., R. 23 E.,

Secs. 1 and 3.

T. 9 S., R. 24 E.,

Secs. 4, 5, 6, 9 and 10.

The needed right-of-way is a portion of applicant's gas gathering system located in Uintah County, Utah.

The purpose of this notice is to inform the public that the Bureau will be proceeding with the preparation of environmental and other analyses necessary for determining whether the application should be approved, and if so, under what terms and conditions.

Interested persons should express their interest and views to the Vernal District Manager, Bureau of Land Management, P.O. Box F, Vernal, Utah 84078.

Dell T. Waddoups,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79-27088 Filed 8-29-79; 8:45 am]
BILLING CODE 4310-84

[Wyoming 48330]

Wyoming; Request for Public Comment

August 23, 1979.

U.S. Department of the Interior, Bureau of Land Management, Wyoming State Office, 2515 Warren Avenue, P.O. Box 1828, Cheyenne, Wyoming 82001. The Bureau of Land Management requests public comment on the fair market value of certain coal resources it proposes to offer for competitive lease sale.

The coal resource to be evaluated consists of the coal recoverable by surface mining methods from only Bed #80, as defined by U.S. Geological Survey, and any overlying coal beds in the following described land located approximately six miles north of Hanna, Wyoming:

T. 23 N., R. 81 W., 6th P.M. (Carbon County)
Section 20: E¼NE¼, E¼E¼ NW¼NE¼
and NE¼SE¼.
Containing 130.00 acres.

The estimated total strippable reserves are 1.6 million tons. The coal quality is as follows: Btu—11,400/lb; Sulfur—0.8 and Ash—6.7 percent. The #80 coal bed averages 28 feet thick over all the described lands.

The public is invited to submit written comments concerning the fair market value of the coal resource to the Bureau of Land Management and the U.S. Geological Survey. Public comments will be utilized in establishing fair market value for the coal resources in the described lands.

Comments should address specific factors related to fair market value including, but not limited to: the quantity and quality of the coal resource, the price that the mined coal would bring in the market place, the cost of producing the coal, the probable timing and rate of production, the interest rate at which anticipated income streams would be discounted, depreciation and other accounting factors, the expected rate of industry return, the value of the surface estate (if private surface), and the mining method of methods which would achieve maximum economic recovery of the coal. Documentation of similar market transactions, including location, terms, and conditions, may also be submitted at this time.

These comments will be considered in the final determination of fair market value as determined in accordance with 30 CFR 211.63 and 43 CFR 3422.1-2. Should any information submitted as comments be considered to be proprietary by the commentor, the information should be labeled as such and stated in the first page of the submission. Comments should be sent to both the State Director, WSO, Bureau of Land Management, P.O. Box 1828, Cheyenne, Wyoming 82001, and to the Regional Conservation Manager, Conservation Division, Geological Survey, Box 25046, Denver Federal Center, Denver, Colorado 80225, to arrive no later than September 29, 1979. Harold G. Stinchcomb,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79-27090 Filed 8-29-79; 8:45 am]
BILLING CODE 4310-84-M

Motorized Vehicles on Public Lands; Closure To Use

Notice is hereby given that use of motorized vehicles on the following described lands, in Franklin County, Washington, is prohibited in accordance with provisions of 43 CFR Part 8340. These lands are located approximately

fifteen air miles northeast of Pasco, Washington in the area known as Juniper Forest. The area contains approximately 4,600 acres.

Willamette Meridian

T. 11 N., R. 31 E., Section 36—portion of
T. 10 N., R. 32 E., Sections 5 and 6
T. 11 N., R. 32 E., Sections 29 and 32; Sections
20, 21, 28, 30, 31, and 33—portions of all.

This closure does not apply to emergency, law enforcement, and federal or other government vehicles, while being used for official or emergency purposes, or vehicles authorized by permit or contract.

This area is presently closed under provisions of 43 CFR 6010.4. The existing closure will expire upon publication of this notice. The area has been closed to protect its unique natural qualities, which include the largest concentration of Western Juniper (*Juniperus occidentalis*), and the largest area of active sand dunes in the state of Washington.

This area has been fenced and signed. Violation of the closure could result in a fine of not more than \$1,000.00, or imprisonment for more than 12 months, or both. A map of the closed area is available for inspection in the Spokane District Office, Bureau of Land Management, W. 920 Riverside, Spokane, Washington 99201.

Roger Burwell,
District Manager.

[FR Doc. 79-27022 Filed 8-29-79; 8:45 am]
BILLING CODE 4310-84-M

New Orleans' Outer Continental Shelf Office; Availability of Outer Continental Shelf Official Protraction Diagram for Gulf of Mexico Area

1. Notice is hereby given that, effective with this publication, the following OCS Official Protraction Diagram, approved on the date indicated, is on file and available, for information only, in the New Orleans Outer Continental Shelf Office, Bureau of Land Management, New Orleans, Louisiana. In accordance with Title 43, Code of Federal Regulations, this protraction diagram is the basic record for the description of mineral and oil and gas lease offers in the geographic area it represents.

Outer Continental Shelf Official Protraction Diagram

Description and approval date

NG 16-9, Howell Hook—April 18, 1979.

2. Copies of this protraction diagram may be purchased for \$2.00 each from the Manager, New Orleans Outer Continental Shelf Office, Bureau of Land Management, Suite 841, Hale Boggs Federal Building, 500 Camp Street, New Orleans, Louisiana 70130. Checks or money orders should be made payable to the Bureau of Land Management.

John L. Rankin,
Manager, New Orleans Outer Continental Shelf Office.

August 23, 1979.
[FR Doc. 79-27021 Filed 8-29-79; 8:45 am]
BILLING CODE 4310-84-M

Realty Action—Sale; Public Lands in Kern County, Calif.

August 21, 1979.

The following described land has been examined and identified as suitable for disposal by sale under Section 203 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1713), at not less than the appraised fair market value shown:

Legal description, Acreage, and Value

T. 25 S., R. 33 E., M.D.M., Sec. 21,
N $\frac{1}{2}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$, NW $\frac{1}{4}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$, and NE $\frac{1}{4}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$
4—2.50—\$12,500.

The above described land is being offered as a direct sale to Helmuth O. and Eleanor Essig. The sale will not be held until 60 days after the date of this notice. The Essig home is actually located on public land and not on the land described in their deed. Because of the unauthorized structure on the subject parcel, the land is difficult and uneconomic to manage as part of the public lands, and the presence of the structure makes it unsuitable for management by another Federal agency. The public interest would be served by offering this land for sale.

The land will be sold subject to:

1. A right-of-way thereon for ditches and canals constructed by the authority of the United States (43 U.S.C. 945).

2. A reservation to the United States of all minerals in the land, together with the right to prospect for, mine, and remove the minerals under applicable law and such regulations as the Secretary may prescribe.

3. A reservation to the United States of all the geothermal steam and associated geothermal resources in the land, and to it, or persons authorized by it, the right to prospect for, mine, and remove such deposits upon compliance with the conditions and subject to the provisions and limitations of the Act of December 24, 1970 (84 Stat. 1586).

Detailed information concerning the sale, including the land report and environmental assessment report, is available for review at the Bakersfield District Office, 311 Federal Building, 800 Truxtun Avenue, Bakersfield, California 93301.

For a period of 30 days from the date of last publication of this notice, interested parties may submit comments to the Secretary of the Interior, LLM (320), Washington, D.C. 20240. Any adverse comments will be evaluated by the Secretary of the Interior, who may vacate or modify this realty action and issue a final determination. In the absence of any action by the Secretary of the Interior, this realty action will become the final determination of the Department of the Interior.

Joan B. Russell,

Chief, Lands Section, Branch of Lands and Minerals Operations.

[FR Doc. 79-27020 Filed 8-29-79; 8:45 am]
BILLING CODE 4310-84-M

[Serial No. F-35618]

William F. Spear; Application for Airport Lease

August 21, 1979.

Notice is hereby given that pursuant to the Act of May 24, 1928 (45 Stat. 728; 49 U.S.C. 211-214) William F. Spear, has applied for an airport lease for the following land:

A parcel contained in Sec. 23, T. 6 S., R. 19 W., Fairbanks Meridian, Alaska, further described to wit:

Commencing at Corner No. 1, (a large birch tree) located on the northwest shore of Wien Lake at approximately latitude 64°22'45" North and longitude 151°18'30" West; thence two thousand feet north to Corner No. 2 (marked by a 4 x 4 post four feet high); thence six hundred sixty feet west to Corner No. 3, (marked by a 4 x 4 post four feet high); thence south to the shoreline of Wien Lake and then along shoreline to Corner No. 1, the point of beginning of this parcel; and containing approximately thirty acres.

The purpose of this notice is to inform the public that the filing of this application segregates the described land from all other forms of use or disposal under the public land laws.

Interested persons desiring to express their views should do so to the District Manager, Bureau of Land Management, P.O. Box 1150, Fairbanks, Alaska 99707.

Donald E. Runberg,
Acting District Manager.

[FR Doc. 79-27019 Filed 8-29-79; 8:45 am]
BILLING CODE 4310-84-M

Fish and Wildlife Service

Intent To Prepare an Environmental Impact Statement

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: This notice announces that the Fish and Wildlife Service will prepare an Environmental Impact Statement for a proposal to preserve and protect fish and wildlife resources of the Outer Banks of Virginia and North Carolina. The proposal could result in Federal acquisition of significant areas of the Outer Banks by the Fish and Wildlife Service. Authorities for acquisition are derived from the Fish and Wildlife Act of 1956, the Land and Water Conservation Fund Act of 1965, as amended, and the Migratory Bird Conservation Act of 1929, as amended. This notice solicits public comment regarding the Service's preparation of the environmental impact statement.

DATES: Comments must be received on or before October 1, 1979.

ADDRESS: Send written comments to Howard N. Larsen, Regional Director, U.S. Fish and Wildlife Service, Suite 700, Newton Corner, Massachusetts 02158.

FOR FURTHER INFORMATION CONTACT: Mr. David Janes, U.S. Fish and Wildlife Service, One Gateway Center, Suite 700, Newton Corner, Massachusetts 02158, Telephone No. (617) 965-5100 Ext. 300.

SUPPLEMENTARY INFORMATION: The Service proposal could provide for acquisition and management of certain areas of the Outer Banks as a unit of the National Wildlife Refuge System. Specific management objectives would be dependent on the selected course of action and would be addressed in a separate planning document.

Concerns for establishing some protective mechanism on the Outer Banks have been expressed for a number of years by conservation and resource management groups. The multiple and complex environmental issues triggered action by the Fish and Wildlife Service in late 1978 to identify, display and propose solutions to the problem.

Meetings were held with conservation organizations and the States of Virginia and North Carolina in early 1979. As a result of those sessions, a preliminary assessment was developed as a working document to highlight the issues. The assessment displayed possible protective mechanisms on the Outer Banks in terms of degree of Federal involvement. Wide circulation of the assessment was provided, including the news media.

On May 8 and 9, 1979, public meetings were held in Virginia Beach, Virginia and Currituck, North Carolina to seek public input to preparation of the Draft Environmental Impact Statement (DEIS). Much opposition to the proposals in the preliminary assessment was expressed, primarily from people with development interests on the Outer Banks. Elected representatives in both states, have expressed initial reservation over Service activity in the area.

Comment and resource information continue to be provided from local, state and Federal agencies and from the private sector. The information is being incorporated into the DEIS which will display a number of alternative actions which could be accomplished by the Fish and Wildlife Service. These alternatives will include (1) a no action alternative; (2) a proposed action which will also be a preferred alternative; (3) primary alternatives which are reasonable solutions to the problem; (4) secondary alternatives which will include non-jurisdictional actions and actions which were considered but determined not to be reasonable solutions to the problems.

The DEIS will be prepared after comments have been received from the notice. Public hearings on the DEIS will be held in Virginia and North Carolina before preparation of the Final Environmental Impact Statement. The availability of the DEIS and dates and addresses of the public hearings will be announced in the Federal Register.

The primary author of this notice is David Janes, U.S. Fish and Wildlife Service, Regional Office, Newton Corner, Massachusetts.

Dated: August 24, 1979.

Robert S. Cook,
Acting Director, U.S. Fish and Wildlife Service.

[FR Doc. 79-27007 Filed 8-29-79; 8:45 am]
BILLING CODE 4310-55-M

Office of the Secretary

[INT FES 79-36]

Crude Oil Transportation Systems

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Availability of Final Environmental Statement.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a final environmental statement that addresses four specific proposals which have been filed for consideration under the provisions of Title V of the Public Utilities Regulatory Policies Act of 1978,

to construct and operate a crude oil transportation system. The proposals are from Northern Tier Pipeline Company, Northwest Energy Company, Kitimat Pipe Line Ltd., and Trans Mountain Oil Pipe Line Corporation.

DATES: Written comments from public agencies and interested citizens on the final environmental statement will be accepted until September 30, 1979. Comments should be sent to: Oregon State Director, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

Comments will be available for public review at 729 N.E. Oregon Street, Portland, Oregon, during regular business hours (7:45 a.m. to 4:15 p.m.) on regular work days.

FOR FURTHER INFORMATION CONTACT: Richard Miller, Bureau of Land Management, Washington, D.C. 20240, 202-343-5441.

SUPPLEMENTARY INFORMATION: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a final environmental statement that addresses four specific proposals which have been filed for consideration under the provisions of Title V of the Public Utilities Regulatory Policies Act of 1978, to construct and operate a crude oil transportation system. The proposals are from Northern Tier Pipeline Company, Northwest Energy Company, Kitimat Pipe Line Ltd., and Trans Mountain Oil Pipe Line Corporation.

Written comments from public agencies and interested citizens on the final environmental statement will be accepted until September 30, 1979. Comments should be sent to the Oregon State Director, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

All four proposals involve the construction and operation of a crude oil transportation system for delivery of Alaskan North Slope and foreign crude oil from ports on the west coast to the northern tier and inland States.

The Northern Tier Pipeline Company proposes port and onshore storage facilities at Port Angeles, Washington, and a 1,491-mile pipeline system extending to Clearbrook, Minnesota.

Northwest Energy Company proposes port and onshore storage facilities at Skagway, Alaska and a 710-mile pipeline system extending to Keg River, Alberta, Canada. From Keg River, crude oil would be delivered through existing systems to the northern tier States.

Kitimat Pipe Line Ltd., proposes port and onshore storage facilities at Kitimat, British Columbia, and a 753-mile pipeline extending to Edmonton,

Alberta, Canada. From Edmonton, crude oil would be delivered through existing systems to the northern tier States.

Trans Mountain Oil Pipe Line Corporation proposes port and onshore storage facilities at Low Point near Port Angeles, Washington, and an 823-mile pipeline system extending to Edmonton, Alberta, Canada. From Edmonton, crude oil would be delivered through existing systems to northern tier States.

Copies of the final environmental statement are available for inspection at the following Bureau of Land Management Office locations:

Washington Office of Public Affairs, 18th and C Streets, NW., Washington, D.C. 20240.

Alaska State Office, 701 C Street, Box 13, Anchorage, AK 99513.

Oregon State Office, 729 N.E. Oregon Street, Portland, OR 97208.

Spokane District Office, West 920 Riverside, Spokane, WA 99201.

Idaho State Office, Room 398, Federal Building, 550 W. Fort Street, Box 042, Boise, ID 83724.

Coeur d'Alene, 1808 N. Third Street, Coeur d'Alene, ID 83814.

Montana State Office, 222 N. 32nd Street, P.O. Box 30157, Billings, MT 59107.

Butte District Office, 220 N. Alaska, P.O. Box 308, Butte, MT 59107.

Lewistown District Office, Bank Electric Building, Drawer 1160, Lewistown, MT 59457.

Miles City District Office, West of Miles City, P.O. Box 940, Miles City, MT 59301.

Dickinson District Office, Pulver Hall, P.O. Box 1229, Dickinson, ND 58601.

Copies are also available for review at many local, State, and university libraries in those States that would be crossed by the pipeline as well as many Federal depository libraries throughout the country. To locate such places, call toll free (800) 547-5532. Requests for a copy should be directed to the Oregon State Director, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

Dated: August 24, 1979.

Larry E. Meierotto,
Assistant Secretary.

[FR Doc. 79-27005 Filed 8-29-79; 8:45 am]
BILLING CODE 4310-84-M

Bureau of Reclamation

[INT FES 79-37]

Closed Basin Division—San Luis Valley Project, Colo. Availability of Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a final environmental statement for the Closed Basin

Division—San Luis Valley Project, Colorado.

The environmental statement concerns a multiple-purpose water resource project designed to deliver water to the Rio Grande and to provide for waterfowl management and stabilization of San Luis Lake water levels. Pumping of the shallow ground water will be through a system of well fields developed in four stages over a period of about 10 years.

Copies are available for inspection at the following locations:

Office of Environmental Affairs, Room 7622, Bureau of Reclamation, Department of the Interior, Washington, D.C. 20240, Telephone (202) 343-4991.

Division of Management Support, Library Branch, E&R Center, Denver Federal Center, Denver, Colorado 80225, Telephone (303) 234-3019.

Office of the Regional Director, Bureau of Reclamation, Herring Plaza, Box H-4377 East 3rd Avenue, Amarillo, Texas 79101, Telephone (806) 376-2145.

Albuquerque Planning Office, Bureau of Reclamation, Post Office Box 252, 505 Marquette Avenue, N.W., Albuquerque, New Mexico 87103, Telephone (505) 766-2272.

Ben F. Morrison, Civil Engineer, Bureau of Reclamation, P.O. Box 449, 422 4th Street, Alamosa, Colorado 81101, Telephone (303) 589-5242.

Carnegie Public Library, 1209 Jefferson, Monte Vista, Colorado 81144. Adams State College Library, Alamosa, Colorado 81101. Library Center Branch, 400 South Worth, Center, Colorado 81125. Public Library, 416 Gasper, San Luis, Colorado 81152. Ruth Tabor Memorial Library, South Fork, Colorado 81154. Southern Peaks Library, 424 Fourth, Alamosa, Colorado 81101. Del Norte Public Library, Del Norte, Colorado 81132. Saguache County Public Library, Saguache, Colorado 81149.

Denver Public Library, Saguache, Colorado 81149.

Single copies of the final statement may be obtained on request to the Office of Environmental Affairs, Regional Director, Albuquerque Planning Office, or Ben Morrison, Alamosa, Colorado. Please refer to the statement number above.

Larry E. Meierotto,

Assistant Secretary of the Interior.

Dated: August 27, 1979.

[FR Doc. 79-27094 Filed 8-29-79; 8:45 am]

BILLING CODE 4310-09-M

Grand Mesa Project, Colo.; Intent To Prepare an Environmental Impact Statement

Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969, the Department of the Interior proposes to prepare an environmental impact statement on the Grand Mesa

Project. The Grand Mesa Project study area is located in west-central Colorado near the town of Cedaredge in the Gunnison River Basin, a part of the Upper Colorado River Basin.

The Grand Mesa Project is a potential multiple-purpose water resource development. The project would develop water from streams draining into the Gunnison River and its North Fork from the south-sloping Grand Mesa. The recommended plan developed by the multi-objective planning team involves the enlargement of the existing Fruitgrowers Reservoir near Cedaredge, Colorado. The plan provides for development of water for municipal uses, irrigation of 22,250 acres of land, development of a waterfowl area, and stabilization of selected reservoirs in the Grand Mesa National Forest. Alternatives that will also be discussed at the meeting include a non-development alternative, and alternatives involving storage at the Electric Mountain and Cactus Park Reservoir sites which would develop water for irrigation, municipal uses, and fish and wildlife uses. Other alternatives to the recommended plan would include construction of storage facilities on the Gunnison River or Dirty George Creek in lieu of enlargement of Fruitgrowers Reservoir, and plan developing water for municipal uses by enlarging two reservoirs within the Grand Mesa National Forest.

A scoping session will be conducted to solicit information from all interested individuals and organizations to assist planners in determining the scope of issues to be addressed in environmental analyses and to identify the significant issues related to the Grand Mesa Project. The scoping session will be held at 8 p.m. on September 11, 1979, in the American Legion Hall, Cedar Mesa Street, Cedaredge, Colorado. Inquiries should be addressed to Mr. J. F. Rinckel, Projects Manager; Bureau of Reclamation, 764 Horizon Drive, Grand Junction, Colorado 81501, telephone 303-243-4992.

Dated: August 22, 1979.

Clifford I. Barrett,

Assistant Commissioner.

[FR Doc. 79-27095 Filed 8-29-79; 8:45 am]

BILLING CODE 4310-09-M

National Park Service

Little Mountain Service Center, Inc.; Intent To Extend Concession Contract

Pursuant to the provisions of Section 5 of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20), public notice is hereby

given that on October 1, 1979, the Department of the Interior, through the Regional Director, Southeast Region, National Park Service, proposes to extend the concession contract with Little Mountain Service Center, Inc., authorizing it to continue to provide an automobile service station with facilities for minor repairs and merchandise for the sale of limited camping supplies for the public within the Natches Trace Parkway for a period of two (2) years from January 1, 1980 through December 31, 1981.

It has been determined that the proposed extension of this contract does not have potential for causing significant environmental impact and therefore preparation of an environmental assessment is not required.

The foregoing concessioner has performed its obligations to the satisfaction of the Secretary under an existing contract which expires by limitation of time on December 31, 1979, and therefore, pursuant to the Act of October 9, 1965, as cited above, is entitled to be given preference in the renewal of the contract and in the negotiation of a new contract. This provision, in effect, grants Little Mountain Service Center, Inc., as the present satisfactory concessioner, the right to meet the terms of responsive offers for the proposed new contract and a preference in the award of the contract, if, thereafter, the offer of Little Mountain Service Center, Inc., is substantially equal to others received. The Secretary is also required to consider and evaluate all proposals received as a result of this notice. Any proposal to be considered and evaluated must be submitted on or before October 1, 1979.

Interested parties should contact the Regional Director, Southeast Region, National Park Service, Richard B. Russell Federal Building, Atlanta, Ga. 30303, for information as to the requirements of the proposed contract.

Dated: July 28, 1979.

Neal G. Guse,

Acting Regional Director, Southeast Region National Park Service.

[FR Doc. 79-27061 Filed 8-29-79; 8:45 am]

BILLING CODE 4310-70-M

DEPARTMENT OF JUSTICE

Council on the Role of Courts; Meeting

Notice is hereby given that the Council on the Role of Courts will meet in Washington, D.C., on September 14 and 15, 1979. The meeting, which is scheduled to begin at 9:00 a.m. on both

days, will be held at the Federal Judicial Center, 1520 H Street, N.W.

The meeting will deal with the work and role of courts of limited jurisdiction, trends in the volume and mix of tort cases in federal and state courts, and reform efforts aimed at increasing access to courts for resolving disputes. The meeting will be open to the public, and minutes of the proceedings will be made available upon request.

Additional information may be obtained from Mr. C. Ronald Ellington, Office for Improvements in the Administration of Justice, United States Department of Justice, Washington, D.C. 20530. Telephone (202) 633-3593.

Harry A. Scarr, Ph.D.,
Administrator, Federal Justice Research Program.

[FR Doc. 79-27046 Filed 8-29-79; 8:45 am]

BILLING CODE 4410-01-M

NUCLEAR REGULATORY COMMISSION

Abnormal Occurrence Event; Damage to New Fuel Assemblies

Section 208 of the Energy Reorganization Act of 1974, as amended, requires the NRC to disseminate information on abnormal occurrences (i.e., unscheduled incidents or events which the Commission determines are significant from the standpoint of public health and safety). The following incident was determined to be an abnormal occurrence using the criteria published in the Federal Register on February 24, 1977 (42 FR 10950). Appendix A (Example I.C.2) of the Policy Statement notes that a substantiated case of actual or attempted "sabotage of a facility can be considered an abnormal occurrence. The following description of the event also contains the remedial actions taken.

Date and Place—On May 7, 1979, the NRC Resident Inspector at the Surry Power Station was notified by the licensee (Virginia Electric and Power Company—VEPCO) that while conducting inspections of new fuel for Unit 2 it was found that 62 of 64 assemblies were coated with a white crystalline substance. Surry Units 1 and 2 are pressurized water nuclear power plants located in Surry County, Virginia.

Nature and Probable Consequences—On May 7, 1979, while conducting routine inspections of new fuel, the licensee discovered that a foreign substance had been poured onto 62 of the 64 new fuel assemblies stored in the Fuel Building, a vital area which contains both new and spent fuel. An

analysis of the substance determined it to be sodium hydroxide. As a result of this analysis and the uncertainty of the extent of damage, the licensee is returning all the assemblies to the vendor for refurbishment. The licensee determined that there were no indications of damage to the spent fuel, nor was there evidence of unauthorized individuals gaining access to the vital area.

Fuel as the Surry site is stored in the Fuel Building, an area which is locked and alarmed, and to which access is controlled by the use of specially coded access cards. Authorized individuals, who are permitted access to the Fuel Building using the specially coded access cards, are afforded unimpeded access to both the new and spent fuel.

Since normally conducted inspections by the licensee detected the damage to the new fuel, there is little chance that these assemblies—damaged in this way—would have been used in the reactor. While the actual consequences of this incident had no effect on the public health and safety, the incident did represent a potential threat in that it occurred within a vital area where sabotage to both new fuel and spent fuel was possible.

Cause or Causes—The cause was an alleged criminal act. On May 7, 1979, the licensee notified the FBI of the damage to the new fuel. The FBI conducted an investigation which culminated in two plant workers surrendering to Surry County authorities on June 19, 1979. A grand jury hearing was held in Surry, Virginia on July 24, 1979; trial is scheduled for October 10-12, 1979. The two workers, under advice from their attorney, have refused to describe the details of the safety issues which reportably motivated them to commit the acts.

Actions Taken to Prevent Recurrence—As a result of the incident, and to assist the FBI in its investigation, the licensee considerably reduced the number of people permitted access to the Fuel Building and stationed a security guard inside the Fuel Building to verify access authorization. These were prompt temporary actions. The licensee has completed a thorough review of their access control program, and are now more selective in determining whether unescorted access should be provided. The licensee has made the Superintendent of Administrative Services responsible for coordinating corrective actions, and to ensure that weaknesses are corrected even if noted by someone not normally responsible for that particular professional discipline. These actions are consistent with the NRC IE Bulletin

described below. Similar measures were also instituted at VEPCO's North Anna Power Station.

NRC—An NRC IE Security Inspector was dispatched to the site on May 8, 1979. Additionally, the Region II Senior Investigator, the Region II Security Section Chief and a Health Physics Inspector were onsite to assist the NRC Resident Inspector and to provide onsite assistance to the FBI. NRC IE Security Inspectors have examined the corrective measures taken by the licensee.

NRC IE Information Notice No. 79-12, "Attempted Damage to New Fuel Assemblies" was issued on May 11, 1979, to alert all NRC licensees who store new fuel assemblies of this problem.

NRC IE Bulletin No. 79-16, "Vital Area Access Controls" was issued on July 26, 1979 to require specific actions by the licensees, including a report by September 9, 1979 of actions taken and planned.

Dated at Washington, D.C., this 22nd day of August 1979.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 79-27163 Filed 8-29-79; 8:45 am]

BILLING CODE 7590-01-M

Abnormal Occurrence Event; Indication of Low Water Level in a Boiling Water Reactor

Section 208 of the Energy Reorganization Act of 1974, as amended, requires the NRC to disseminate information on abnormal occurrences (i.e., unscheduled incidents or events which the Commission determines are significant from the standpoint of public health and safety). The following incident was determined to be an abnormal occurrence using the criteria published in the Federal Register on February 24, 1977 (42 FR 10950). Appendix A (Example II.A.1) of the Policy Statement notes that exceeding a safety limit of license Technical Specifications, (10 CFR 50.38(c)) can be considered an abnormal occurrence. The following description of the event also contains the remedial actions taken.

Date and Place—On May 2, 1979, the NRC was notified by the licensee (Jersey Central Power and Light Company) of an event at their Oyster Creek facility. The Oyster Creek Nuclear Plant utilizes a boiling water reactor and is located in Ocean County, New Jersey.

Nature and Probable Consequences**Summary**

A loss of feedwater transient at the Oyster Creek facility on May 2, 1979, resulted in a significant reduction in water inventory above the reactor core area as measured by one set of water level instruments (triple-low level), while the remaining two sets of level instrumentation in the reactor annulus indicated water levels above any protective feature setpoint (Figure 1). The water level measured within the core shroud area fell below the triple-low level setpoint, a safety limit, of 5-feet, 8-inches above the top of the fuel. Subsequent analyses by the licensee have conservatively determined that the minimum water level over the top of the fuel was 1 to 1½ feet. Coolant sample analyses and offgas release rates support the conclusion that no fuel damage occurred.

Sequence of Events

Oyster Creek is a non-jet pump BWR¹ with a licensed power of 1930 MWt. Immediately prior to the transient, the reactor was operating at 98% power with the reactor vessel water level at 13-feet, 4-inches above the top of the fuel. The "D" reactor recirculation loop was out-of-service because of a recirculation pump seal cooler problem and the "S" startup transformer was out-of-service for inspection of the associated 4160 volt cabling.

The initiating event was a false high reactor pressure scram. The pressure spike that led to the scram signal was generated by the way an instrument technician was performing surveillance testing on isolation condenser pressure switches. The signal resulted in a simultaneous reactor scram and the tripping of all operating recirculation pumps. The tripping of all operating recirculation pumps is a safeguard to mitigate the consequences of anticipated-transients-without-scram events.

Thirteen seconds after the reactor scram, the turbine tripped at the low load setpoint. The turbine trip initiated a transfer of power from the auxiliary transformers to the startup transformers. Because one startup transformer "SB" was out of service, two feedpumps and two condensate pumps (pumps 1B and 1C) on the associated 4160v bus (2B) lost power. The third feedpump (1A) tripped due to low suction pressure during the

¹ The non-jet pump BWR is of an older design. The newer designs incorporate jet pumps within the reactor pressure vessel to improve the coolant recirculation system performance. The jet pump concept reduced the number of external coolant recirculation loops to two.

feedwater transient. An immediate attempt to restart the 1A feedwater pump, powered by the live 4160v bus (1A), was unsuccessful because of failure of an auxiliary oil pump to start. The lube oil pump is interlocked in the feedpump start sequence. This was the only equipment failure during the transient.

Subsequent to the reactor scram, reactor water inventory initially decreased due to steam flow through the turbine bypass valves to the main condenser. This loss together with the void collapse associated with decreased temperature of the core inlet coolant and the subsequent loss of feed flow, resulted in a rapid reactor water level reduction to the low water level alarm setpoint of 11-feet, 5-inches above the top of the fuel at 13.6 seconds. The operator manually initiated closure of all main steam line isolation valves (MSIV) at about 43 seconds into the transient to conserve water. The minimum indicated water level in the annulus was 9-feet, 8-inches above the top of the fuel (the low-low setpoint is 7-feet, 2-inches above the top of the fuel).

After closure of the MSIV, an isolation condenser was manually placed in service for core decay heat removal. The isolation condenser was condensing steam from the core and returning the condensate to the reactor annulus through a connection to a recirculation loop pump suction line (Figure 1). At approximately a minute and a quarter after the reactor scram, the discharge valves in "A" and "E" recirculation loops were closed in accordance with a Standing Order that was in effect. Closing the "A" and "E" loop discharge valves had been necessary to prevent inadvertent stopping of the isolation condenser due to forced flow from operating recirculation pumps being sensed as if it were an isolation-condenser line break. (This Standing Order was no longer appropriate since an ATWS modification had been made that tripped the recirculation pumps coincident with high-pressure or low-level scrams. The necessary procedure change had not been performed following the plant modification.) At the same time, the "B" and "C" loop discharge valves were apparently closed, in anticipation of restarting the recirculation pumps. The "D" loop discharge valve had been closed prior to the event because the associated pump was out of service.

The reactor triple low water level (5-feet, 8-inches above the top of the fuel) setpoint was reached at 172 seconds into the transient. The triple low level setpoint activates one of the permissives

on the automatic depressurization system and alarms in the control room to alert the operator.

The triple-low level in the core shroud area resulted from the restriction of the flow path between the annulus and the core region by closure of all recirculation pump discharge valves. With the recirculation pump discharge valves closed (discharge piping is over 2 feet in diameter), the only flow path back to the core region was via the 2-inch bypass lines around the discharge valves. The effect of this flow restriction was to reduce the water level in the core region and to increase the level in the reactor annulus area.

Reactor pressure was controlled by intermittent manual operation of the two isolation condensers. At about half an hour into the transient, a recirculation pump was started. The operator tripped the recirculation pump within 2 minutes when he noted a rapid decrease in the annulus level (the recirculation pumps take suction from the annulus). About 5 minutes later, a feedpump was started. At about 40 minutes into the event, a primary recirculation pump and a reactor feedpump were restarted for continued cooldown of the reactor. From about 40 minutes onward, the water level within the core region was normal. The plant attained cold shutdown condition within 9 hours.

Review of the occurrence by the licensee and NRC established that although the water level in the core shroud area went below the triple low level setpoint, the core remained covered and consequently no fuel damage would be expected.

Cause or Causes—A spurious reactor high pressure scram was initiated by a pressure spike on the reactor high pressure scram switches, caused by an instrument technician while performing surveillance testing. However, the fundamental causes of the resulting sequence of events were:

- (1) The operators essentially isolated the reactor annulus and core region from each other by shutting all recirculation pump discharge valves.
- (2) Notes or Cautions against closing all suction and discharge valves in the recirculation loops were not adequate.

Actions Taken To Prevent Recurrence

Licensee—The licensee performed a thorough evaluation of the event to determine whether any fuel damage had occurred and developed follow up actions. As a result of the evaluation and discussions with the NRC, the licensee took the following significant actions:

1. The triple-low level was established as a Safety Limit for all modes of reactor operation.²

2. A requirement was added to the Technical Specifications that the suction and discharge valves in at least two recirculation loops be open at all times. The procedures were changed to implement this requirement.

3. Operator training sessions were held, the event was thoroughly discussed and the revised procedures reviewed.

NRC—Following notification from the licensee of the event, an NRC inspector was dispatched to the site. Additional NRC personnel arrived at the site on May 3, 1979 to review the situation and determine the status of the plant. Fact finding by the NRC was supplemented by information obtained from the licensee, the reactor vendor (General Electric) and fuel supplier (Exxon). A safety evaluation report (SER) of the event was prepared which discusses the minimum water level experienced in the reactor vessel and the fuel conditions. The following three requirements were added to the Technical Specifications:

1. The triple-low level was made a Safety Limit for all mode-switch positions.
2. At least two recirculation loop discharge and suction valves must remain in the full open position.
3. The time duration of the low-low level signal was required to be not greater than that used in the safety analysis for the limiting loss-of-inventory transient.

The NRC staff also recommended that the licensee consider the surveillance program and level instrument improvements.

It was concluded that no evidence of fuel damage was apparent, and that the facility could be safely returned to operation.

Based on the satisfactory actions taken by the licensee, on May 30, 1979 the NRC authorized the licensee to resume operation.

The possible generic implications of the Oyster Creek event have been considered. Nine Mile Point Unit 1 (operated by Niagara Mohawk Power Corporation and located in Oswego County, New York) and LaCrosse (operated by Dairyland Power

² At the time of the event, the licensee's technical specifications defined the triple-low water level as a Safety Limit when the reactor mode switch was in the "SHUTDOWN" mode only. A limiting safety system setting was also associated with the double low water level when the mode switch was in the "RUN" position. Even though the mode switch had been placed in the "REFUEL" position by the operator shortly after initiation of the transient, the event was regarded by the licensee as if a Safety Limit had been violated.

Cooperative and located in Monroe County, Wisconsin) are the only reactors presently operating which are susceptible to a similar event. Immediate requirements similar to those which were required for Oyster Creek (Technical Specification changes 1 and 2) were implemented at these facilities prior to their start-up (they were both in a shutdown condition at the time of the Oyster Creek event). The third requirement will be implemented as soon as practicable.

Two other plants (Dresden Unit 1 and Big Rock Point), which are presently in extended shutdowns, would also be susceptible to a similar event. However, it is planned to impose appropriate requirements on these two plants prior to their startup.

In addition, on May 29, 1979 the NRC issued IE Information Notice No. 79-13, detailing this event, to all holders of operating licenses and construction permits.

Dated at Washington, D.C. this 22nd day of August 1979.

For the Nuclear Regulatory Commission,

Samuel J. Chilk,
Secretary of the Commission.

BILLING CODE 7590-01-M

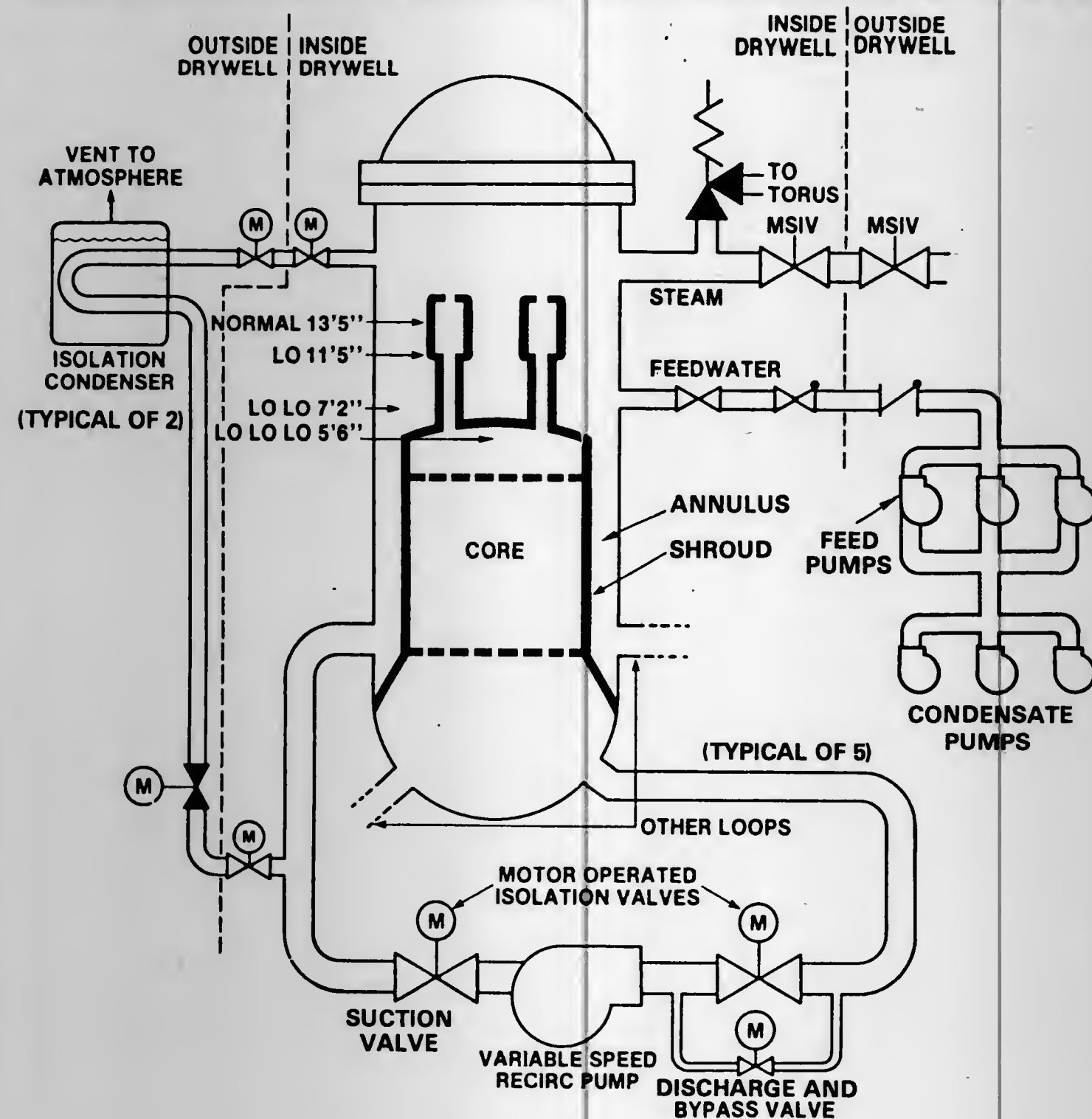


Figure 1. RECIRCULATION, STEAM AND ISOLATION CONDENSER SCHEMATIC

[FR Doc. 79-27162 Filed 8-29-79; 8:45 am]
BILLING CODE 7590-01-C

Applications for Licenses To Export Nuclear Facilities or Materials

Pursuant to 10 CFR 110.41, "Public Notice of Receipt of an Application," please take notice that the Nuclear Regulatory Commission has received the

following applications for export licenses. A copy of each application is on file in the Nuclear Regulatory Commission's Public Document Room located at 1717 H Street, NW., Washington, D.C.

Dated this day August 22, 1979, at Bethesda, Maryland.
For the Nuclear Regulatory Commission.
Marvin R. Peterson,
Acting Assistant Director for Export/Import and International Safeguards, Office of International Programs.

Name of applicant, date of application, date received, application number	Material type	Material in kilograms		End-use	Country of destination
		Total element	Total isotope		
Transnuclear, 07/31/79, 08/01/79, XSNM01552	3.15% Enriched Uranium	73,556.4	1,816.23	Initial core for Koeberg Unit 2	South Africa
Transnuclear, 07/31/79, 08/01/79, XSNM01553	3.15% Enriched Uranium	73,556.4	1,816.23	Initial core for Koeberg Unit 1	South Africa
Mitsubishi Internat'l, 07/31/79, 08/06/79, XSNM01556	2.25% Enriched Uranium	17,578	396	Reload for Mihama Unit 1	Japan
U.K. Treasury & Supply, 07/31/79, 08/01/79, XU08455 (01)	Depleted Uranium	Increase Quantity from 750 KGS to 1,200 KGS.		For manufacture of penetrator munitions.	United Kingdom

[FR Doc. 79-27175 Filed 8-29-79; 8:45 am]

BILLING CODE 7590-01-M

Draft Regulatory Guide; Issuance and Availability

The Nuclear Regulatory Commission has issued for public comment a draft of a proposed revision to a guide in its Regulatory Guide Series together with a draft of the associated value/impact statement. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

The draft, temporarily identified by its task number, RS 050-2, is proposed Revision 1 to Regulatory Guide 1.131 and is entitled "Qualification Tests of Electric Cables and Field Splices for Light-Water-Cooled Nuclear Power Plants." It describes a method for qualification testing of electric cables and field splices for service in light-water-cooled nuclear powerplants to ensure that the cables and field splices can perform their safety-related functions. The guide will endorse IEEE Std 383-1974, "IEEE Standard for Type Test of Class IE Electric Cables, Field Splices, and Connections for Nuclear Power Generating Stations."

This draft guide and the associated value/impact statement are being issued to involve the public in the early stages of the development of a regulatory position in this area. They have not

received complete staff review, have not been reviewed by the NRC Regulatory Requirements Review Committee, and do not represent an official NRC staff position.

Public comments are being solicited on both drafts, the guide (including any implementation schedule) and the draft value/impact statement. Comments on the draft value/impact statement should be accompanied by supporting data. Comments on both drafts should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch by October 22, 1979.

Although a time limit is given for comments on these drafts, comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Requests for single copies of draft guides or the latest revision of published guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future guides or draft guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Technical Information and Document Control. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a))

Dated at Rockville, Maryland this 21st day of August 1979.

For the Nuclear Regulatory Commission.

Guy A. Arlotto,

Director, Division of Engineering Standards, Office of Standards Development.

[FR Doc. 79-27172 Filed 8-29-79; 8:45 am]

BILLING CODE 7590-01-M

Draft Regulatory Guide; Issuance and Availability

The Nuclear Regulatory Commission has issued for public comment a draft of a new guide planned for its Regulatory Guide Series together with a draft of the associated value/impact statement. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

The draft guide, temporarily identified by its task number, RS 705-4, is entitled "Lightning Protection for Nuclear Power Plants" and is intended for Division 1, "Power Reactors." It describes criteria for the design, application, and testing of lightning protection systems to ensure that electrical transients resulting from lightning phenomena do not render systems important to safety inoperable or cause spurious operation of such systems.

This draft guide and the associated value/impact statement are being issued to involve the public in the early stages of the development of a regulatory position in this area. They have not received complete staff review, have not been reviewed by the NRC Regulatory Requirements Review Committee, and

do not represent an official NRC Staff position.

Public comments are being solicited on both drafts, the guide (including any implementation schedule) and the draft value/impact statement. Comments on the draft value/impact statement should be accompanied by supporting data. Comments on both drafts should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington D.C. 20555, Attention: Docketing and Service Branch, by October 17, 1979.

Although a time limit is given for comments on these drafts, comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Requests for single copies of draft guides or the latest revision of published guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future guides or draft guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Technical Information and Document Control. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a))

Dated at Rockville, Maryland, this 20th day of August 1979.

For the Nuclear Regulatory Commission,
Guy A. Arlotto,
Director Division of Engineering Standards,
Office of Standards Development.

[FR Doc. 79-27173 Filed 8-29-79; 8:45 am]
BILLING CODE 7590-01-M

[Docket No. 50-409 (SFP License Amendment)]

Dairyland Power Cooperative; Change of Location of Prehearing Conference

August 23, 1979.

In the matter of Dairyland Power Cooperative (La Crosse Boiling Water Reactor).

Notice is hereby given that the location of the prehearing conference scheduled for September 20 and 21, 1979, in this proceeding has been changed from Room 303 of the Cartwright Center to Room 219, Wing Communication Center, of the

University of Wisconsin at La Crosse, 1705 State Street, La Crosse, Wisconsin.

Dated at Bethesda, Maryland, this 23rd day of August, 1979.

For the Atomic Safety and Licensing Board,
Charles Bechhoefer,
Chairman.

[FR Doc. 79-27165 Filed 8-29-79; 8:45 am]
BILLING CODE 7590-01-M

Draft Regulatory Guide; Issuance and Availability

The Nuclear Regulatory Commission has issued for public comment a draft of a new guide planned for its Regulatory Guide Series together with a draft of the associated value/impact statement. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

The draft guide, temporarily identified by its task number, OH 717-4, is entitled "Radiation Protection Training for Light-Water-Cooled Nuclear Power Plant Personnel" and is intended for Division 8, "Occupational Health." It describes a radiation protection training program to help ensure that the radiation exposure of individuals who enter restricted areas at light-water-cooled nuclear power plants will be kept as low as is reasonably achievable.

This draft guide and the associated value/impact statement are being issued to involve the public in the early stages of the development of a regulatory position in this area. They have not received complete staff review, have not been reviewed by the NRC Regulatory Requirements Review Committee, and do not represent an official NRC staff position.

Public comments are being solicited on both drafts, the guide (including any implementation schedule) and the draft value/impact statement. Comments on the draft value/impact statement should be accompanied by supporting data. Comments on both drafts should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, by October 24, 1979.

Although a time limit is given for comments on these drafts, comments and suggestions in connection with (1) items for inclusion in guides currently

being developed or (2) improvements in all published guides are encouraged at any time.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Requests for single copies of draft guides or the latest revision of published guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future guides or draft guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Technical Information and Document Control. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a))

Dated at Rockville, Maryland, this 22nd day of August 1979.

For the Nuclear Regulatory Commission,
Karl R. Goller,
Director, Division of Siting, Health and
Safeguards Standards, Office of Standards
Development.

[FR Doc. 79-27174 Filed 8-29-79; 8:45 am]
BILLING CODE 7590-01-M

[Docket 50-335]

Florida Power & Light Co.; Notice of Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 33 to Facility Operating License No. DPR-67, issued to Florida Power and Light Company which amended the license for operation of the St. Lucie Plant, Unit No. 1, located in St. Lucie County, Florida. This amendment will become effective twenty days after its date of issuance provided no hearing is requested.

The amendment adds license conditions relating to the completion of facility modifications and implementation of administrative controls for fire protection.

The licensee's filings comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission had made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of the amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of the amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of the amendment.

For further details with respect to this action, see (1) the licensee's filings dated March 31, 1977, as revised July 18, December 14, and December 22, 1977, February 23, March 6, April 13, June 23, August 28 and September 29, 1978, January 26, April 3 and July 27, 1979, (2) Amendment No. 33 to License No. DPR-67 and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Indian River Junior College Library, 3209 Virginia Avenue, Ft. Pierce, Florida. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated At Bethesda, Maryland, this 17th day of August 1979.

For The Nuclear Regulatory Commission,
Robert W. Reid,
Chief, Operating Reactors Branch #4,
Division of Operating Reactors.

[FR Doc. 79-27166 Filed 8-29-79; 8:45 am]
BILLING CODE 7590-01-M

[Docket Nos. 50-277 and 50-278]

Philadelphia Electric Co. et al.; Notice of Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment Nos. 56 and 56 to Facility Operating License Nos. DPR-44 and DPR-56, issued to Philadelphia Electric Company, Public Service Electric and Gas Company, Delmarva Power and Light Company, and Atlantic City Electric Company, which revised Technical Specifications for operation of the Peach Bottom Atomic Power Station, Unit Nos. 2 and 3 (the facility) located in York County, Pennsylvania. The amendments are effective as of the date of issuance.

The amendments delete the Appendix B Technical Specifications relating to heavy metal sampling.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The

Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the application for amendment dated July 18, 1976, (2) Amendment Nos. 56 and 56 to License Nos. DPR-44 and DPR-56, and (3) the Commission's letter dated ——. All of these items are available for public inspection at the Commission's Public Document Room 1717 H Street, NW., Washington, D.C. and at the Government Publications Section, State Library of Pennsylvania, Education Building, Commonwealth and Walnut Streets, Harrisburg, Pennsylvania. A copy of items (2) and (3) may be obtained upon request addressed to the U. S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 22 day of August 1979.

For the Nuclear Regulatory Commission,
Thomas A. Ippolito,
Chief, Operating Reactors Branch No. 3,
Division of Operating Reactors.
[FR Doc. 79-27167 Filed 8-29-79; 8:45 am]
BILLING CODE 7590-01-M

[Docket Nos. 50-568A and 50-569A]

Massachusetts Municipal Wholesale Electric Co. et al.; Receipt of Attorney General's Advice and Time for Filing of Petitions To Intervene on Antitrust Matters

The Commission has received, pursuant to section 105c of the Atomic Energy Act of 1954, as amended, the following additional advice from the Attorney General of the United States, dated August 20, 1979, with respect to the construction permit application for New England Power Units No. 1 and No. 2:

"You have requested our advice pursuant to Section 105(c) of the Atomic Energy Act of 1954, as amended, in connection with the purchase by Massachusetts Municipal Wholesale Electric Company (MMWEC) and

Maine Public Service Company of ownership interests in the above captioned nuclear units. In addition, you have informed us that Bangor Hydro-Electric Company (Bangor-Hydro) will increase its existing ownership share by 3.13%.

"Maine Public Service's proposed interest would be less than 20 MW per unit, and Bangor-Hydro was reviewed in my letter of April 11, 1977 in connection with its current ownership interest in these units. MMWEC, which will be purchasing a 8.008% ownership share, while not previously reviewed in connection with these units, was recently reviewed in my letter of December 19, 1978, pertaining to Seabrook Nuclear Power Station, Units 1 and 2, NRC Docket Nos. 50-443A and 50-444A.

"Our review of the information submitted in connection with the present application, as well as other relevant information, has disclosed no evidence that the proposed participation by Maine Public Service, Bangor-Hydro and MMWEC in the New England Power Units would either create or maintain a situation inconsistent with the antitrust laws under Section 105(c). We do not, therefore, believe it is necessary for the Commission to hold an antitrust hearing in this matter."

Any person whose interest may be affected by this proceeding may, pursuant to § 2.714 of the Commission's "Rules of Practice," 10 CFR Part 2, file a petition for leave to intervene and request a hearing on the antitrust aspects of the application. Petitions for leave to intervene and requests for hearing shall be filed by October 1, 1979, either (1) by delivery to the NRC Docketing and Service Branch at 1717 H Street, NW, Washington, DC, or (2) by mail or telegram addressed to the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attn: Docketing and Service Branch.

For the Nuclear Regulatory Commission,
Jerome Saltzman,
Chief, Antitrust and Indemnity Group, Office
of Nuclear Reactor Regulation.

[FR Doc. 79-27160 Filed 8-29-79; 8:45 am]
BILLING CODE 7590-01-M

[NUREG 75/087]

Proposed Revision to the Standard Review Plan; Issuance and Availability

As part of the continual maintenance of the standard Review Plan (SRP), the Nuclear Regulatory Commission has issued a proposed Revision 1 to SRP Section 9.3.1, "Compressed Air System." A value/impact statement has been prepared in support of the proposed changes.

Public comments on this revision to the SRP and the supporting value/impact statement are solicited. Comments should be sent to the Secretary of the Commission, U.S.

Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch.

This proposed revision, the supporting value/impact statement, and all comments that have been received by October 24, 1979 will be considered by the Regulatory Requirements Review Committee (RRRC). A summary of the RRRC meeting at which these changes are considered, the committee recommendations, and all of the associated documents and comments considered by the committee will be made publicly available prior to a decision by the Director of the Office of Nuclear Reactor Regulation on whether to implement these changes.

Copies of this proposed revision to the SRP and the supporting value/impact statement are available for public inspection at the NRC Public Document Room at 1717 H Street NW., Washington, D.C. Requests for single copies of this material or for placement on an automatic distribution list for single copies of future proposed revisions to the SRP should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Technical Information and Document Control.

Dated at Rockville, Maryland this 24th day of August 1979.

For the U.S. Nuclear Regulatory Commission.

Guy A. Arlotto,

Director, Division of Engineering Standards, Office of Standards Development.

[FR Doc. 79-27199 Filed 8-29-79; 8:45 am]
BILLING CODE 7590-01-M

[Docket No. 50-311]

Public Service Electric & Gas Co.; (Salem Nuclear Generating Station, Unit No. 2); Request for Action

Notice is hereby given that by petition dated August 3, 1979, Alfred and Eleanor Coleman of Pennsville, New Jersey, requested that the issuance of the operating license for Salem Unit 2 be stayed until questions concerning need for the plant, operating costs of the plant and the necessity for design changes are resolved. This petition is being treated as a request for action under 10 CFR 2.206 of the Commission's regulations, and accordingly, action will be taken on the petition within a reasonable time.

Copies of the petition are available for inspection in the Commission's Public Document Room at 1717 H Street, N.W.,

Washington, D.C. 20555 and in the local public document room at the Salem Free Public Library, 112 West Broadway, Salem, New Jersey 08240.

Dated at Bethesda, Md., this 21st day of August 1979.

For the Nuclear Regulatory Commission.

Edson G. Case,

Deputy Director, Office of Nuclear Reactor Regulation.

[FR Doc. 79-27181 Filed 8-29-79; 8:45 am]

BILLING CODE 7590-01-M

Research Report; Issuance and Availability

The Nuclear Regulatory Commission has released a research report on a study of possible relationships between cancer and exposure to mill tailings in Mesa County, Colorado. The report was prepared by the Colorado Department of Health under a contract to NRC.

The report, NUREG/CR-0635, "Excess Cancer Incidence in Mesa County, Colorado", describes an epidemiological investigation conducted by the Colorado Department of Health to determine (1) if there is a significant excess of leukemia and/or lung cancer in Mesa County, Colorado, and (2) if there is an association between leukemia and radiation exposure from uranium mill tailings used for construction purposes.

The results of the investigation indicated that there is a two-fold excess of leukemia incidence for all ages in Mesa County. The greatest excess was observed among residents over 65 years of age who developed leukemia at two and one half times the expected rate. No excess incidence of lung cancer was identified. No association between radiation exposure from tailings structures and leukemia excess was observed.

NUREG/CR-0635 is available for public inspection at the Commission's Public Document Room at 1717 H Street N.W., Washington, D.C. Copies may be purchased at current rates from the National Technical Information Services, Springfield, VA 22161, on or about July 31, 1979.

Dated at Rockville, MD, this 24th day of August, 1979.

For the Nuclear Regulatory Commission.

Robert B. Minogue,

Director, Office of Standards Development.

[FR Doc. 79-27171 Filed 8-29-79; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-280]

Virginia Electric & Power Co. (Surry Power Station, Unit No. 1)

Order

I

The Virginia Electric and Power Company (the licensee) is the holder of Facility Operating License No. DPR-32 which authorizes operation of the Surry Power Station, Unit No. 1 at power levels up to 2441 megawatts thermal (rated power). The facility, which is located at the licensee's site in Surry County, Virginia, is a pressurized water reactor used for the commercial generation of electricity.

II

Because certain safety related piping systems at the facility had been designed and analyzed with a computer code which summed earthquake loads algebraically, the potential existed for compromising the basic defense-in-depth provided by redundant safety systems in the event of an earthquake. This potential compromising resulted from the possibility that an earthquake of the type for which the plant must be designed could cause a pipe rupture as well as degrade the emergency cooling system designed to mitigate such an accident. Therefore, by Order of the Director of Nuclear Reactor Regulation (the Director) for the Nuclear Regulatory Commission (NRC), dated March 13, 1979 (44 FR 16511, March 19, 1979), the licensee was ordered to show cause:

(1) Why the licensee should not reanalyze the facility piping systems for seismic loads on all potentially affected safety systems using an appropriate piping analysis computer code which does not combine loads algebraically;

(2) Why the licensee should not make any modifications to the facility piping systems indicated by such reanalysis to be necessary; and

(3) Why facility operation should not be suspended pending such reanalysis and completion of any required modifications.

In view of the importance to safety of this matter, the Order was made immediately effective and the facility was required to be placed in the cold shutdown condition and remain in that mode until further Order of the Commission.

III

The facility is currently in the cold shutdown condition. Pursuant to the March 13, 1979 Order, the licensee filed

a written answer to the Order by letter dated April 2, 1979. In this response the licensee stated that it is reanalyzing all potentially affected safety systems for seismic loads using an appropriate method which does not sum loads algebraically.

By letter dated August 1, 1979, the licensee requested the startup of Surry Power Station, Unit 1. This request is based on the completion of all pipe stress analyses for the Design Basis Earthquake (DBE), the completion of all analyses for those pipe supports inside containment for the DBE, the completion of all modifications to the supports inside containment, and a commitment to complete the analyses of pipe supports outside containment within 60 days from the date of plant startup. Technical Support for these conclusions is provided in the "Report on the Reanalysis of Safety-Related Piping Systems, Surry Power Station, Unit 1" dated June 5, 1979 and letters from the licensee dated March 30, April 23, 24, 27, May 2, 22, 24, 30, June 4, 8, 12, 15, 19, 25, August 1 and 21, 1979, and letters from Stone and Webster dated March 22, 30, April 3, 6, 11, 13, 18, 27 and May 11, 14, 18, 1979. The licensee has committed to (1) shut down the facility if a seismic event occurs, which results in accelerations greater than an acceleration level of 0.01 g, the setpoint of the facility's accelerometers, and (2) inspect those piping systems and supports which have not been shown to be fully acceptable for the Operating Basis Earthquake (OBE) case (ground acceleration of 0.07 g). This commitment is required only until such time that the reanalysis for the OBE loading condition, and any necessary modifications, is completed. Based on the above, the licensee contends that good cause has been shown why the suspension of facility operation should not be continued in effect while the reanalysis of the remaining pipe supports are completed.

The licensee's analyses were performed using the NUPIPE computer code, which combines stresses in a manner acceptable to the NRC staff. The reanalyses resulted in the calculation of some stresses above allowable. In these cases, the licensee recalculated the stresses using soil structure interaction (SSI) methodology with a 50 percent increase in the inertia forces which the staff required to be applied to each pipe run after computer calculation of stress and support loads. This methodology with a 50 percent increase was approved by the NRC staff in its letter dated May 25, 1979. In those cases when stresses on the piping from the

calculations using SSI indicated that support loadings were above original design values, the licensee was required to reanalyze the support.

The licensee reanalyzed 63 pipe stress problems which required reanalysis as a result of the March 13, 1979 Show Cause Order. Nineteen problems required hardware modifications. Of these 19 problems, four required modifications to supports as a result of seismic overstresses. Other modifications were required because of verification of "as-built" conditions, thermal stresses, and modeling differences. The licensee has also evaluated 492 pipe supports inside containment. Of these supports, 51 required modifications, and only a few of these modifications were because of significant load increases. The other modifications resulted from as-built conditions.

The NRC staff has reviewed the licensee's submittals. This review included, among other things, an evaluation of the codes which compute pipe stresses resulting from the facility's response to an earthquake. The means by which piping responses are combined in the codes that are currently a basis for the facility design are summarized below:

NUPIPE

This code combines intramodal¹ responses by a modified the square root of the sum of the squares (SRSS) and combines intermodal¹ responses by SRSS or absolute sum for closely spaced modes.

The NRC staff has determined that an algebraic summation of responses was not incorporated into the NUPIPE code. The NRC staff has further concluded that this code provides an acceptable basis for analyzing the facility piping design.

Based on the NRC Staff's Safety Evaluation dated August 22, 1979, the staff finds the piping affected by the March 13, 1979 Show Cause Order and all piping supports inside containment have been acceptably reanalyzed.

Out of a total of 536 supports outside containment, 170 had been reanalyzed as of August 21, 1979. Of these 170 supports, 14 required modification.

The remaining pipe supports outside containment will be analyzed and any modifications identified within sixty (60) days of startup. Based on the results of the analysis of supports inside containment (i.e., 4 of 492 have a safety

¹Modes are defined as dynamic piping deflections at a given frequency. Intramodal responses are the components of force, moment and deflection within a mode. Intermodal responses are the components of force, moment and deflection of all modes.

factor of less than 2 with respect to ultimate capacity), it is expected that very few, if any, supports outside containment have a safety factor of less than 2 with respect to ultimate capacity. All supports outside containment associated with high and low head safety injection, containment and recirculation spray, and auxiliary feedwater systems have been reanalyzed insuring operability of these priority systems.

The remaining supports outside containment are less on systems critical to safe shutdown than those inside containment, such as the component cooling water system. There is no potential for a loss-of-coolant accident because the reactor coolant pressure boundary is inside containment. In addition, the modifications will be completed within sixty (60) days of startup and an earthquake approaching the DBE in this time period is very unlikely. In the event a support is found to be above design load, a determination will be made of the significance of the load, and modifications will be made. Those supports that fall in this category may, depending on the load level, be declared inoperable as defined in the Technical Specifications.

The licensee to date has not completed the actions identified in paragraph number 2 of the Order to Show Cause dated March 13, 1979 and this Order does not affect that portion of the March 13, 1979 Order. The licensee has, pursuant to paragraph 3 of the Order, shown cause why operation of the facility should not remain suspended pending the completion of reanalyses and completion of any further required modifications.

The licensee's answer to the Order did not request a hearing nor did any other person request a hearing.

IV.

Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, and the Commission's rules and Regulations in 10 CFR Parts 2 and 50, it is determined that: The public health, interest or safety does not require the continued shutdown of the facility, and it is hereby ordered that:

1. Effective this date the suspension of facility operation required by the Order to Show Cause of March 13, 1979 is lifted.

2. All modifications to correct piping system overstress and all modifications to supports inside containment and those support modifications outside containment identified in Table 4.1.B of the licensee's August 1, 1979 report as supplemented August 21, 1979, shall be completed prior to startup.

3. The licensee shall complete reanalysis of the remaining pipe supports outside containment and shall propose a schedule for implementation of all identified modifications, both within sixty (60) days of the date of plant startup.

4. For each modification identified as a result of reanalysis of the supports outside containment after resumption of facility operation, when the overall margin of safety of the support to ultimate capacity is determined to be less than 2, the NRC shall be notified within 24 hours after making each such determination. The affected system shall be considered inoperable as that term is used in the facility Technical Specifications until the necessary modifications are implemented within the time frame allowed by the facility Technical Specifications unless a reanalysis of the affected piping system is performed with the overstressed support removed from the system to demonstrate that the system is operable.

5. The Surry Power Station Unit No. 1 shall be shut down if an earthquake with an acceleration greater than 0.01 g occurs (site accelerometers exceed 0.01 g) and the licensee shall inspect all safety-related piping systems which have not been reanalyzed and shown to be acceptable at the 0.07 g level of the OBE. Prior to resuming operations following an earthquake the licensee shall demonstrate to the Commission that no functional damage has occurred to those features necessary for continued operation without undue risk to the health and safety of the public.

Dated at Bethesda, Maryland this 22nd day of August, 1979.

For the Nuclear Regulatory Commission,

Harold R. Denton,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 79-27166 Filed 8-29-79; 8:45 am]

BILLING CODE 7590-01-M

NATIONAL TRANSPORTATION SAFETY BOARD

[N-AR 79-35]

Accident Reports, Responses to Safety Recommendations; Availability

Marine Accident Reports

Collision of U.S. Bulk Carrier SS Yellowstone and Algerian Freighter M/V IBN Batouta, Mediterranean Sea, June 12, 1978 (NTSB-MAR-79-11).—The National Transportation Safety Board has determined that the probable cause of this accident was the failure of the master of the *Yellowstone* to properly use the ship's radar, which led to his

crossing the bow of the *IBN Batouta* in an effort to prevent a collision in a close-quarters situation. Contributing to this accident were the excessive speed of both vessels in a dense fog; their failure to avoid a close-quarters situation; and the failure of the *IBN Batouta* to sound fog signals, to have the engine ready for immediate maneuver, and to use the bridge-to-bridge radiotelephone to establish a safe passing maneuver.

The Safety Board's formal investigation report, released August 21, indicates that the *Yellowstone* and the *IBN Batouta* collided about 14 miles southeast of Gibraltar. Five crewmen on the *Yellowstone* died and two were injured. On the following morning the ships were separated, and after the remaining crew of the *Yellowstone* were deployed to rescue ships at the scene, the ship was put under tow. Shortly thereafter, the ship sank stern first. Although the *IBN Batouta* sustained major bow damage, none of the crew was injured.

As a result of its investigation, the Safety Board made a series of recommendations (Nos. M-79-72 through 75) to the U.S. Coast Guard to: Require more frequent examinations of deck officers to keep them proficient in the techniques of solving radar target problems; propose to the Intergovernmental Maritime Consultative Organization (IMCO) that a study be initiated to determine the need for establishing an effective Vessel Traffic Service facility at the east end of the Strait of Gibraltar to improve safety in this heavily-trafficked area; expedite action to promote adoption by IMCO of a requirement for using bridge-to-bridge radiotelephone in collision avoidance; and require periodic gauging of bulkheads on bulk carriers that are more than 15 years old—in particular, gauging the lower portions of bulkheads in cargo holds, bilge wells, saltwater ballast tanks, and machinery spaces for timely renewal due to corrosion and wastage. (See also 44 FR 48001, August 16, 1979.)

Collision of the M/V Star Light (Greek) and the USS Francis Marion (LPA-249) at the Entrance to the Chesapeake Bay, near Norfolk, Virginia, March 4, 1979 (NTSB-MAR-79-12).—Also made available to the public on August 21 were copies of this accident investigation report. Investigation showed that the outbound cargo ship *Star Light* and the inbound U.S. Navy amphibious assault ship *Francis Marion* collided at the entrance of Chesapeake Bay about 15 nmi east of Norfolk. The bow of the *Star Light* struck amidship on the starboard side of the *Francis*

Marion. There were no deaths; however, three naval personnel were injured in the accident. Damage to the vessels was estimated at about \$3.5 million.

The Safety Board found that the probable cause of this accident was the failure of the master of the *Star Light* to comply with the starboard-to-starboard passing agreement that was made with the *Francis Marion*. Contributing to the accident were the failure of the *Star Light's* navigation watch to plot the radar data, and the relatively high closing speeds of both vessels.

Following the investigation, the Board recommended to Coast Guard that a Vessel Traffic Service (VTS) be established at the entrance of Chesapeake Bay. The Board believes that an active, manned VTS with adequate surveillance—usually radar—would have advised each vessel of the position, speed, course, and intended action of the other in the congested Bay entrance, and could have prevented the March 4 collision as well as others occurring in October and December 1978. The Safety Board also urged Coast Guard to (1) record and preserve radiotelephone navigation messages in the Bay entrance as an aid to accident investigation; (2) relocate the demarcation line separating the inland and international rules of the road away from the precautionary area at the entrance to Chesapeake Bay; and (3) establish an additional designated area, away from where pilots may embark and disembark vessels in good weather. (See also 44 FR 48001, August 12, 1979, for complete text of recommendations M-79-76 through 79.)

Railroad Accident Reports

Derailment of Amtrak Train No. 8, The Empire Builder, on Burlington Northern Track, Lohman, Montana, March 28, 1979 (NTSB-RAR-79-7).—Forty-eight persons were injured and property damage was estimated at \$333,500 when nine cars of the Amtrak derailed. The Safety Board's formal investigation report on the accident was released August 17.

The Safety Board determined that the probable cause of this accident was the cracking from overheating of the right rear wheel on the trailing truck of baggage car 1248. The cracked wheel moved inward off the axle seat and decreased the wheel-to-wheel gauge. Contributing to the accident was the inadequate maintenance and inspection of the car, which allowed it to continue in service in violation of minimum safety standards.

As a result of its investigation, the Safety Board on August 9 issued two recommendations (Nos. R-79-57 and 58)

to the Burlington Northern concerning equipment inspection procedures and one joint recommendation (No. R-79-59) to the Burlington Northern and Amtrak to insure that inspection and maintenance schedules are maintained, and to be certain that they are accomplished efficiently. (See also 44 FR 48003, August 16, 1979.)

Derailment of New York City Transit Authority Subway Train, New York, New York, December 12, 1978.—About 4:30 p.m. the sixth and seventh cars of the subway train, designated "CC" 4:06 p.m., derailed within moments after departing 59th Street station. Twenty-two persons were injured, and property damage was estimated to be \$667,500. While the Safety Board was investigating this accident, three other trains derailed from what appeared to be similar causes. Therefore, the investigation was expanded to include all four accidents. The Board's report was made public on August 20.

The other derailments were: (1) At 8:08 a.m. on January 15, 1979, when the fourth car of an "A" train derailed north of Rockaway Avenue; (2) at 7:23 p.m. on February 14 when the seventh car of an "E" train derailed at 53rd Street; and (3) at 7:04 a.m. on March 21 when the first car of a "C" train derailed at 14th Street. Following this fourth accident, the Safety Board convened a public hearing in New York to explore what action would be taken to avert wheel damage from overheating due to partially applied brakes.

As a result of its investigation, the Safety Board determined that the probable cause of each of the four accidents was a cracked wheel which had resulted from extensive overheating. Contributing to the cause of the overheating of the wheels was the partial application of a handbrake. Because of a lack of adequate inspection procedures, the New York City Transit Authority (NYCTA) employees failed to detect the partially applied handbrake and the thermally damaged wheels before they cracked.

During its investigation of the first two accidents, the Safety Board on January 19 urged the Metropolitan Transportation Authority to immediately inspect all NYCTA rapid transit cars to determine if their wheels have been subjected to above normal heat and remove from service any wheel that shows evidence of thermal damage (recommendation R-79-1), and to immediately equip handbrakes on NYCTA rapid transit cars with a positive indicator so that an operator can determine if the brake is applied or fully released (R-79-2). (See 44 FR 6537, February 1, 1979.)

As a result of its completed investigation, the Safety Board on August 9 recommended that the Metropolitan Transportation Authority require NYCTA to establish an inspection procedure that will detect overheated wheels before failure (R-79-56). (See 44 FR 48003, August 16, 1979.)

The subject accident report notes that the Safety Board also reiterates the following recommendation, which was made to the U.S. Department of Transportation on March 6, 1978, after the Board's investigation of the head-on collision of two Greater Cleveland Regional Transit Authority trains in Cleveland, Ohio, on July 8, 1977:

Develop oversight capability to insure that the safety of rail rapid transit systems will be regulated and endorsed by a responsible State or Federal Agency. Within the Department of Transportation, accountability for oversight should be assigned to the Administration that controls Federal grants to aid rail rapid transit. (Class II, Priority Action) (R-78-10)

Responses to Safety Recommendations

Aviation, A-79-31.—The Federal Aviation Administration on August 9 responded to a recommendation issued following investigation of the Antilles Air Boats, Inc., Grumman G-21 crash which occurred last September 2 near St. Thomas, V.I. The recommendation called on FAA to strengthen surveillance and enforcement programs directed toward Part 135 operators to: (1) Provide adequate staffing for FAA facilities charged with surveillance of Part 135 operators; (2) assure uniform application of surveillance and enforcement procedures; and (3) upgrade enforcement procedures and actions in order to provide a viable deterrent to future violations. (See 44 FR 28897, May 17, 1979.)

In response to requirement (1), FAA reports that implementation of revised 14 CFR Part 135 has generated increased manpower requirements and resulted in realignment at the headquarters, regional, and district office levels to use air carrier and general aviation personnel to accomplish this program more efficiently. Responsibility for the air taxi program at headquarters was transferred to the Air Carrier Division from the General Aviation Division on December 1, 1978; responsibility at the regional level now rests with the air carrier or combined air carrier/general aviation branches. Notice N 8000.176, "Increased Surveillance for Operators Under New Part 135," dated April 25 directs field division chiefs and district office managers to use all available resources to ensure continuing emphasis on the air taxi/commuter program.

Regarding requirement (2) of the recommendation, FAA reports that the Air Taxi Operations Handbook has been rewritten and is in final review. The Air Taxi Maintenance Handbook has been incorporated into the Air Carrier Maintenance Inspector's Handbook. FAA Enforcement Handbooks are being combined into one. Headquarters personnel have met with personnel from regional and district offices to discuss uniform application of surveillance and enforcement procedures during FY 1979.

The FAA Administrator, with reference to requirement (3) reports he has recently reemphasized and reoriented FAA enforcement policy. He met with the Chiefs of all Flight Standards Field Offices on March 15 to personally express this policy in order to achieve nationwide understanding and acceptance and, on April 26, issued Order 1000.9C, "Enforcement Policy," which instructs the Regional Directors to keep personally informed on regional enforcement policies and to review all major cases. This policy will upgrade enforcement actions as a deterrent to future violations.

Copies of Order 1000.9C and Notice N 8000.176 are attached to the FAA response.

Highway, H-75-25 and 26.—The National Highway Traffic Safety Administration on August 7 responded to the Safety Board's letter of May 15, 1979, asking for a reconsideration of NHTSA's position on the after-market modification of highway use vehicles. This position was established in a letter from NHTSA in response to these recommendations, dated January 2, 1978. The recommendations resulted from investigation of the March 8, 1974, collision rear El Centro, Calif., involving a van-type vehicle carrying passengers and a large tractor trailer unit, and asked NHTSA to issue a Federal Motor Vehicle Safety Standard which will set guidelines, based on human factors research, for seat installation for after-market installers (H-75-25), and to conduct research on crash dynamics for sideward sitting occupants and develop and issue adequate standards for their protection (H-75-26).

The Safety Board's May 15 letter notes that NHTSA's January 2, 1978, response states that NHTSA statutory jurisdiction was limited in two ways. The National Traffic and Motor Vehicle Safety Act authorized the setting up to the points of first purchase for purposes other than resale, and the 1974 amendments to that Act prohibited the willful rendering inoperative by a manufacturer, distributor, dealer, or motor vehicle repair business of any

device or element of design in conformity with a safety standard. This means that under Federal law, when a user purchases a vehicle, any safety device can be altered, removed, or disconnected at will, as long as it is not done by any of the persons described in the 1974 amendments, or the user can purchase a stripped model and install whatever is desired regardless of the impact on safety. The NHTSA response further implies that sidewalk sitting seat installations are not as safe as front or rear facing seats and NHTSA is reluctant to develop standards that might be seen as encouraging this type of installation.

In the belief that this problem warrants further discussion and action, the Safety Board then offered for NHTSA's consideration alternative solutions to the problem of unsafe modifications to vehicles by users:

A first possibility, involving major enforcement problems, would be to seek a legislated increase in NHTSA's regulatory authority to develop the safety aspects of vehicle design and construction for the life of the vehicle. NHTSA could then lock in the safety standards and enforce maintenance of same regardless of how many times the vehicle is resold.

A second alternative would be the development and publication of design guidelines that would stress the positive aspects of the safest methods for modifying a vehicle and that would strongly discourage the use of unsafe equipment and installation procedures. The Board disagrees with the posture that the issuance of guidelines will only encourage more installations of nonstandard equipment. The Board believes that such guidelines, depicting safe methods of installing added equipment, would encourage those who are performing vehicle modifications to do it in the safest possible manner. This possibility is the most desirable in the opinion of the Safety Board.

A third possibility for coverage of the problem, although much less effective than the previous two suggestions, would be to publish consumer warning bulletins describing unsafe equipment items and installation procedures as these are determined through accident investigation. This would at least provide some guidance on how not to modify a vehicle.

The Board further noted in its May 15 letter that vehicle users are installing equipment for which there are no safety standards. This was shown by the Safety Board's special study "Safety of Multipurpose Vans," NTSB-HSS-79-1 dated March 22, 1979 (44 FR 24656, April 26, 1979), and by the investigation and report of the ambulance rollover accident near Littleton, N.H., August 22, 1978 (44 FR 34221, June 14, 1979). The

Board notes that these operations, although proven unsafe, are legal due to limitations in the regulatory authority of the Department of Transportation established by statute. Given these two items, the fact that unsafe modifications are being made and the fact that there is nothing to discourage or prevent them, the Board believes that it is incumbent upon NHTSA to provide some guidance as to how to safely modify a vehicle.

In response, NHTSA states that the statutory limitations on its regulatory authority have not changed since 1975, no changes are expected to occur, and NHTSA still does not have the authority to restrict the activities of the individual vehicle owner. NHTSA has considered the Board's suggestion of developing and publicizing design guidelines, and feels that, without an effective State Inspection Program, such guidelines would not be an effective tool. Currently, less than 50 percent of the individual States have an effective inspection program. Secondly, development of design guidelines for the multitude of probable modifications requires resources, both personnel and budgetary, which NHTSA does not have. This problem also exists to a large degree for the Board's third suggestion—publishing consumer warning bulletins describing unsafe equipment items and installation procedures on a great variety of items. However, NHTSA states, to the extent possible as a result of a defect investigation, accident investigation work, or consumer complaints, NHTSA issues consumer bulletins or warnings with remedial advice and will continue to do so. Examples are enclosed with the response letter for the Safety Board's consideration.

H-79-36 through 39.—On August 6 the California Department of Transportation (Caltrans) responded to recommendations, issued June 18 to the Governor of California, which developed from Safety Board investigation of a traffic accident involving a station wagon penetration of bridge rail on I-10 near Alhambra, Calif., November 11, 1978. (See 44 FR 37702 June 28, 1979.)

Recommendation H-79-36 asked Caltrans to install, until the accident site is improved, "Slippery When Wet" warning signs at the Ramona Boulevard entrance ramp and the branch connection ramp from I-10 and a 25-mph speed advisory sign at the Ramona Boulevard entrance ramp. Caltrans reports that these signs were installed in early July 1979.

In response to H-79-37, which recommended that Caltrans establish a policy and program consistent with

Federal Highway Administration guidelines and safety standards that will provide for upgrading substandard bridge railing that has been crash damaged, Caltrans notes that when bridge rail is damaged, temporary repairs must be made immediately. Upgrading substandard rail is done by contract and the repairs cannot be delayed for the amount of time it takes to prepare plans and process contracts for upgrading. Caltrans has a program for upgrading substandard bridge rail with a priority system for selecting projects which considers accident experience as well as roadway and traffic factors. Caltrans says the cost to upgrade all State highway bridges exceeds \$160 million. Since bridge rail deficiencies represent a small part of Caltrans' total highway safety needs, bridge rail upgrading must compete with all other safety needs on the basis of cost-effectiveness for the State's limited resources.

Recommendation H-79-38 asked Caltrans to expedite action to complete and adopt its safety improvement project for accident location and make recommend safety improvements to comply with current safety guidelines. Caltrans reports that this project is expedited to extent possible and advertising for bids is currently scheduled for November 1979.

Recommendation H-79-39 called for a program to retrofit, on a priority basis, bridge railing that does not meet Federal performance guidelines, which provide that bridge railings be designed to minimize severity of impact, retain the vehicle, redirect the vehicle so that it will move parallel to the roadway, and minimize danger to traffic flow. As noted in its comments under recommendation H-79-37, Caltrans has a program, on a priority basis, for upgrading substandard bridge rail. Caltrans also notes that a policy to remove all "unsafe" features from the highway system leads to almost limitless cost.

Intermodal. The Safety Board on August 13 wrote to the Materials Transportation Bureau, U. S. Department of Transportation, concerning recommendations H-71-27 and 28, HM-75-1 and 2, I-76-1 and 2, and I-78-9, issued over the past 8 years, which were designed to insure that transportation operations involving hazardous materials are properly analyzed to identify risks and that action is taken to minimize or eliminate risks judged to be unacceptable. The following related recommendations are being held in an open status by the

Safety Board pending further action by DOT:

H-71-27—Develop and adopt a risk-based framework for planning and evaluating dangerous goods transportation safety regulations and programs.

H-71-28—Require application of such a framework by modal administrations in regulatory programming.

HM-75-1—Establish a standard format for safety analysis statements to accompany exemption applications.

HM-75-2—Require submission of a safety analysis statement by applicants for exemption.

I-76-1—Require applicants to examine conditions for detonation risks when filing transportation proposals for detonable materials.

I-76-2—Describe methods available for conducting safety analyses that would facilitate the discovery of detonation risks and describe standards to be followed when preparing the proposal.

I-78-9—Develop and implement a plan that will utilize the best safety analysis technology to plan hazardous materials transportation regulatory programs.

Safety analysis as viewed by the Safety Board is a generic term for all analytical methodologies used to identify, evaluate, control, and/or eliminate safety problems and hazards. It includes use of techniques such as fault free analysis, failure mode, and effects analysis, preliminary hazards analysis, and other analysis methods.

The first of these recommendations, H-71-27, was released by the Board on April 12, 1971; the last, I-78-9, was issued on June 29, 1978. In addition to the seven recommendations listed, the Board has reiterated its interest in safety analysis in special studies, accident investigation reports, Congressional testimony, and in reviews of regulations proposed by MTB. MTB has proposed studies, rulemaking activity, educational programs, and carrier accountability procedures—none of which has met the need for the analysis advocated by the Safety Board.

Under the Hazardous Materials Transportation Act of 1974, the Secretary is expected to evaluate hazardous materials transportation operations, identify unreasonable risks, and cause those risks determined to be unreasonable to be minimized. The thrust of the Board's seven recommendations has been to assure the use of the best available safety analysis methods in DOT's hazardous materials transportation safety program.

The Board believes it is essential that the best safety analysis techniques be used to evaluate hazardous materials transportation operations to identify and control the risks posed by such operations. To do this, the Board is

consolidating the seven existing recommendations into one.

Recommendations H-71-27, H-71-28, HM-75-1, HM-75-2, I-76-1, and I-76-2 will be closed as no longer applicable; I-78-9 will be kept open and all responses to this recommendation will be evaluated in part against the criteria of the superseded recommendations.

In the view of the Safety Board, an acceptable response by the MTB to I-78-9 would require that it fully address the use of the best available safety analysis methods as they affect (1) risk identification, (2) regulatory program planning, (3) regulation development, (4) exemption application, and (5) exemption processing.

The Board believes that this consolidation will permit a greater effort to be brought to bear on the overall problem with less time spent addressing separate recommendations covering individual portions of the analytical tasks. Also, the Board will consider the issue of hazardous materials transportation safety analysis during future hazardous materials accident investigations, special studies, and safety effectiveness evaluations.

Marine. M-79-17 through 30.—The U.S. Coast Guard on August 6 responded to recommendations issued following investigation of the collision between the USCGC *Cuyahoga* and M/V *Santa Cruz* which occurred in the Chesapeake Bay last October 20. (See 44 FR 15815, March 15, 1979.)

In response to M-79-17, which recommended that Coast Guard install VHF radiotelephones on Coast Guard cutters which will constantly monitor channel 13, Coast Guard notes that all of its cutters including the *Cuyahoga*, except those on the Great Lakes, are already equipped with VHF radiotelephones that can constantly monitor channels 13 and 16 except when the vessel is transmitting on any other VHF channel. In order to constantly monitor both channels 13 and 16, two guard receivers must be available on each cutter. Coast Guard says a program is now underway to do this for medium and high endurance cutters, and patrol boats. On other classes of cutters, the second receiver has been or will be made optional at the discretion of the District Commander.

Recommendation M-79-18 asked Coast Guard to determine in quantitative terms at what minimum distance navigational information should be transmitted by bridge-to-bridge radiotelephone in passing, crossing, or meeting situations, and promulgate regulations accordingly. Coast Guard states that quantifying a useful and workable minimum distance

for exchanging navigational information over the bridge-to-bridge radiotelephone is idealistic. The large number of variable factors to be considered would result in a complex and ponderous regulation which would increase unnecessary message traffic. This would be at the expense of information necessary for the safe navigation of vessels. Coast Guard believes that the present language of 33 CFR 26.04 is succinct, workable, and reasonable and does not consider it necessary to amend the existing Vessel Bridge-to-Bridge Regulations. No further response is considered necessary.

With respect to M-79-19, which recommended that Coast Guard review its personnel assignment policy to insure that the experience and training level of critical personnel is high and that their time on board is adequate for familiarization with the vessel, Coast Guard notes with respect to afloat command assignments that a thorough review and selection process already exists, with various specific qualifications such as previous afloat assignments being mandatory. The present command selection process has been for the most part very effective; a few additional requirements such as a review of the individual's security jacket have been added. Coast Guard reports that commencing with 1979 assignments, all Commanding Officers/Officers in Charge will be required to have a physical within 6 months of the date of their orders (and prior to assuming command) and annually thereafter while in command. Prior experience and performance will remain Coast Guard's most reliable predictors of professional qualification in the screening process. Regarding deck watch officer (DWO) qualifications, the new officer is basically qualified to assume the role of an apprentice DWO, with full qualification being achieved only after completion of Personnel Qualification Standards (CG-415-1) (PQS) and a sufficient period of supervised on-the-job training. Coast Guard times its assignments so that an adequate number of qualified DWO's remain aboard a unit at any given time. Also, steps are being taken to insure that Coast Guard Headquarters monitors the completion of PQS's by DWO's. The Commanding Officer will be depended upon to exert the effort necessary to make the PQS an effective training tool.

Further in response to M-79-19, with reference to the experience level of enlisted personnel, Coast Guard says it carefully coordinates personnel transfers to ensure that the experience level aboard a unit is not depleted;

particular attention has been placed on key personnel. Sea duty tours have been lengthened from 2 to 3 years aboard buoy tenders and tugs, and similar lengthening of sea duty tours is being considered aboard medium and high endurance cutters. Coast Guard notes, however, that lengthening tours can also have an adverse effect on retention, which could ultimately lower the experience level. With respect to training, Coast Guard personnel receive various degrees of formal resident, job entry-level training, depending upon the requirements of an individual's job or rating and are exposed to a variety of training situations while actually assigned afloat. These include refresher training, area training teams, advanced/specialized resident training, and on-the-job training under the tutelage of more experienced personnel. Coast Guard is now studying ways to improve "pipeline" training for key officer and petty officer billets on floating units by perhaps requiring completion of a number of mandatory courses before reporting to a floating unit for duty. Further response to the Safety Board is anticipated by November 1979.

Recommendation M-79-20 asked Coast Guard to review the manning level of its vessels, particularly training vessels, to insure that an adequate number of experienced persons are assigned to stand watches, and that trainees are not required to stand critical watches. In response, Coast Guard states that a recent study, "Assessment of Afloat Training," constitutes a review of the manning level of Coast Guard training vessels. Actions taken as a result of the Assessment include:

(1) *Reliance*: Fourteen additional billets have been issued to provide a full 210 MEC complement.

(2) *Eagle*: Permanent crew is being augmented by personnel assigned TAD, as is current policy, and are being assigned earlier than usual to allow more pre-cruise preparation. Nine additional permanent crew billets are planned. After the billets are issued, these additional personnel will be assigned on a permanent basis as expeditiously as possible.

(3) Recruit Training Small Boats: More qualified personnel are needed and Coast Guard is making efforts to provide necessary budgetary relief. As soon as these billets are issued, personnel will be assigned on a permanent basis. To clarify the term "trainees standing critical watches," Coast Guard notes that such a person is one who has not yet achieved a standard of skill or performance as determined by competent authority to be qualified to independently stand that watch or position. There is a progression of steps involved in any lengthy training process involving gradually diminishing degrees of supervision. Coast

Guard recognizes the need to improve servicewide procedures and standards for qualifying these personnel.

In response to recommendation M-79-21, which called for requirements to insure that all training vessels have enough instructors aboard so that safe navigation of the vessel is not adversely affected by the training program, Coast Guard notes that with respect to officer candidates and cadet afloat training, Operation Orders currently specify that Reserve Training Center and the Academy are to provide members of their instructor staffs for training cruises involving officer candidates or cadets. These instructors are to be among the most highly qualified and effective available, and more specific direction will be given to the commands to ensure sufficient numbers of instructors. Such guidance will be provided within the next month. With respect to small boat training, similar guidance will be given to the training commands on the required number of qualified personnel to be assigned to small boats during training cruises. Further responses to this recommendation will be made by November 1979.

Recommendation M-79-22 sought a servicewide policy to provide guidance to Commanding Officers of vessels concerning necessary qualifications for personnel assigned the duties of OOD, lookout, helmsman, quartermaster, and other important positions. Coast Guard notes in response that Article 3-F-13 of the Coast Guard Personnel Manual (CG-207) outlines a program to be utilized in connection with DWO qualification. The purpose of the publication is to identify the minimum skills and knowledge of all DWO's. Since it is the Commanding Officer's responsibility to certify qualification of DWO's, he should use every means available to do so, including CG-415-1. Coast Guard is also evaluating other programs dealing with OOD qualification, one being the use of the Merchant Marine Third Mate License Examination which would be used in connection with OOD qualification. U.S. Coast Guard Regulations (CG-300) and the Shipboard Lookout Manual (CG-414) provide policy and guidance for qualification of lookout. Quartermaster's duties are covered in the Enlisted Qualification Manual (CG-311). Utilizing guidelines of the Coast Guardsman's Manual and again a shipboard training program, the Commanding Officer should be able to qualify helmsmen. Coast Guard believes that these ongoing programs already provide the procedures that include the recommended action and that no further response is considered necessary.

With respect to recommendation M-79-23, which asked Coast Guard to evaluate the installation of radar equipment on Coast Guard vessels and insure that indicators are so located that the equipment can be easily and properly used by personnel on watch in the wheelhouse, Coast Guard notes that the *Cuyahoga* was the only Coast Guard cutter 65' or longer without a wheelhouse radar display. The *Cuyahoga* would have received such equipment with the installation of the AN/SPS-64 (V) radar. This installation was scheduled for *Cuyahoga* upon return from her training cruise.

In response to M-79-24, which asked Coast Guard to establish a policy concerning the use of radar equipment and the plotting of radar data, Coast Guard states that its regulation CG-300 establishes policy concerning use of radar. Article 4-2-2 of these regulations states that the Commanding Officer is responsible for the safe navigation of his vessel and he shall:

(1) Require all officers eligible to succeed to command to qualify and maintain competency in the operations and use of the devices, including electronic devices on board, which may be used in navigation of the vessel (Art. 4-2-2(5)).

(2) Require the position of the vessel to be known at all times insofar as it is possible to do so by the utilization of navigational methods, devices, and equipment in accordance with the highest standards of navigation and seamanship (Art. 4-2-2(6)).

(3) Require the use of radar when the vessel is underway in or near areas of reduced visibility, or when it is necessary for the safety of the vessel (Art. 4-2-2(14)).

Recommendation M-79-25 called for standards for the taking of medication by watchstanders on Coast Guard vessels to insure that the medication does not impede the individual's ability to perform his duties. Coast Guard states that such standards will be established, the estimated date for publication being November 1, 1979, at which time further response will be made.

Coast Guard reports, with reference to M-79-26, that all watchstanders who have a vision impairment will be required to wear their corrective lenses while on duty, as recommended. Estimated date for publication is November 1, 1979, at which time further response will be made.

In answer to M-79-27, asking Coast Guard to amend the Inland Rules and the Pilot Rules for Inland Waters to provide mariners the flexibility to initiate early action in crossing situations to prevent dangerously close situations, as in the International Rules for Preventing Collisions at Sea, 1972,

Coast Guard notes that Rule 17(a)(ii), which allows the stand-on vessels to take early action, has been incorporated into draft unified inland rules which will be implemented as legislation replacing the existing Inland, Western Rivers, and Great Lakes Rules.

Recommendation M-79-29 called for locating lifejackets on Coast Guard cutters so that they are readily accessible to all crewmen. Coast Guard states that the positioning of lifejacket lockers on *Cuyahoga* at the time of her construction and the guidelines used to determine this positioning cannot be determined. Where possible, lifejacket lockers are now installed on all Coast Guard cutters in accord with General Specifications for Ships of the United States Navy (NAVSHIPS 0902-001-5000), Section 671, Special Storage Arrangements. Coast Guard says a review of present shipboard locations will be made and if discrepancies are discovered arrangement alterations will be made. Further response will be made prior to December 1979.

Concerning M-79-29, which recommended automatic emergency lighting for egress from all manned spaces on all Coast Guard cutters, Coast Guard endorses the standards for emergency lighting specified in Naval Ships' Technical Manual. A survey of all Coast Guard cutters will be conducted to determine their status with regard to this requirement. Ship Alterations will be prepared to correct any deficiencies discovered. The survey will be completed by August 1979 and Class A (urgent) alterations issued by December 1979. Coast Guard's response, in tracing the status of emergency lighting on the *Cuyahoga*, indicates that most documentation on alterations performed on the *Cuyahoga* is no longer available. The *Cuyahoga* was not routinely inspected by refresher training facilities which rigorously check many Coast Guard cutters for emergency lighting requirements, Coast Guard stated.

In response to M-79-30, calling for examination of all Coast Guard cutters and removal of drawers from any inclined ladders, Coast Guard states that there are no authorized installations of drawers next to inclined ladders or any cutters. District inspectors will be directed to pay particular attention to this condition and require correction of any discrepancies.

Railroad R-77-38 and 39.—The Federal Railroad Administration on July 24 again responded to recommendations issued following investigation of the railroad/highway grade crossing collision at Marland, Okla., December 15, 1976. FRA's letter is in response to the Safety Board's comments of March

12 concerning FRA's earlier response dated February 8 (44 FR 17609, March 22, 1979).

FRA reports that it has supplied the Federal Highway Administration with copies of the Grade Crossing Sight Distance Hazard Analysis study conducted by the Transportation Systems Center (TSC) staff. The strategy developed by TSC for selecting potentially hazardous crossings due to inadequate sight distance may be used as a tool for setting grade crossing improvement priorities, according to FRA. In accordance with present FHWA regulations, such a tool can only be offered to the States for their consideration. In no case, however, would FHWA require that priorities for grade crossing improvements be based solely on sight distance restrictions, FRA stated. Insofar as the program to protect grade crossings is the responsibility of the FHWA, they will coordinate with the FRA relative to the impact on train operations.

FRA, though funding the Grade Crossing Sight Distance Hazard Analysis study, feels that it has fulfilled its responsibility to identify those grade crossings where inadequate warnings do not permit the prudent and careful driver to cross without risk of injury or death.

Note.—Single copies of the Safety Board's accident reports are available without charge, as long as limited supplies last. Copies of recommendation letters issued by the Board, response letters and related correspondence are also available free of charge. All requests for copies must be in writing, identified by report or recommendation number. Address inquiries to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594.

Multiple copies of accident reports may be purchased by mail from the National Technical Information Service, U.S. Department of Commerce, Springfield, Va. 22151.

(Secs. 304(a)(2) and 307 of the Independent Safety Board Act of 1974 (Pub. L. 93-633, 88 Stat. 2169, 2172 (49 U.S.C. 1903, 1907)).)

Margaret L. Fisher,
Federal Register Liaison Officer.
August 24, 1979.

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OFFICE OF MANAGEMENT AND BUDGET

Agency Forms Under Review Background

August 27, 1979.

When executive departments and agencies propose public use forms,

reporting, or recordkeeping requirements, the Office of Management and Budget (OMB) reviews and acts on those requirements under the Federal Reports Act (44 USC, Chapter 35). Departments and agencies use a number of techniques including public hearings to consult with the public on significant reporting requirements before seeking OMB approval. OMB in carrying out its responsibility under the Act also considers comments on the forms and recordkeeping requirements that will affect the public.

List of Forms Under Review

Every Monday and Thursday OMB publishes a list of the agency forms received for review since the last list was published. The list has all the entries for one agency together and grouped into new forms, revisions, extensions, or reinstatements. Each entry contains the following information:

The name and telephone number of the agency clearance officer;

The office of the agency issuing this form;

The title of the form;

The agency form number, if applicable;

How often the form must be filled out; Who will be required or asked to report;

An estimate of the number of forms that will be filled out;

An estimate of the total number of hours needed to fill out the form; and

The name and telephone number of the person or office responsible for OMB review.

Reporting or recordkeeping requirements that appear to raise no significant issues are approved promptly. In addition, most repetitive reporting requirements or forms that require one half hour or less to complete and a total of 20,000 hours or less annually will be approved ten business days after this notice is published unless specific issues are raised; such forms are identified in the list by an asterisk (*).

Comments and Questions

Copies of the proposed forms and supporting documents may be obtained from the agency clearance officer whose name and telephone number appear under the agency name. Comments and questions about the items on this list should be directed to the OMB reviewer or office listed at the end of each entry.

If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the reviewer of your intent as early as possible.

The timing and format of this notice have been changed to make the publication of the notice predictable and to give a clearer explanation of this process to the public. If you have comments and suggestions for further improvements to this notice, please send them to Stanley E. Morris, Deputy Associate Director for Regulatory Policy and Reports Management, Office of Management and Budget, 728 Jackson Place, Northwest, Washington, D.C. 20503

Department of Agriculture

Agency Clearance Officer—Richard J. Schrimper—447-6201

New Forms

Forest Service
Changing Use Patterns in the Boundary Waters Canoe Area Wilderness
Single time
1,000 Rec. Users of the boundary waters canoe area wild., 1,000 responses, 330 hours
Charles A. Billet, 395-5080

Forest Service

Study Plan and Questionnaire for Estimating Recreation Use-Mount Rogers National Recreation Area
Single time
Recre. visitors to the Mt. Rogers Nat. Rec. Area, 7,575 responses, 505 hours
Charles A. Billet, 395-5080

Forest Service

National Directory of Forest Tree Seed Orchards
FS-3300-2
Single time
200 owners of forest tree seed orchards, 200 responses, 50 hours
Charles A. Billet, 395-5080

Department of Commerce

Agency Clearance Officer—Edward Michaels—377-4217

New Forms

Economic Development Administration
Application for Title IX SSEED
M-4 Suppl.
On occasion
Providers of family planning services, 1,000 responses, 80 hours
Budget Review Division, 395-4775
Economic Development Administration
Application for Title IX SSEED
M-4 Suppl.
On occasion
State & local governments; nonprofit organizations, 25 responses, 125 hours
Budget Review Division, 395-4775

Revisions

Bureau of the Census
Sheets, Pillowcases, and Towels (Production, Shipments, Inventories, and Unfilled Sales Orders)

MQ-23X
Quarterly
Manufacturers of sheets & towels, 200 responses, 400 hours
Off. of Federal Statistical Policy & Standard, 673-7974
Economic Development Administration
Application for Technical Assistance From Non-Government Applicant
ED-357NG
On occasion
Nonprofit & community based organization, 250 responses, 1,750 hours

Richard Sheppard, 395-3211
Economic Development Administration
Application for Financial Assistance—Private Sector
ED-201
On occasion

For profit business firms, 240 responses, 39,840 hours

Richard Sheppard, 395-3211
Economic Development Administration
Application for Public Works
ED-101A, 1C1P
On occasion

State & local governments, 275 responses, 22,000 hours
Budget Review Division, 295-4775
Economic Development Administration
Application for Technical Assistance From Government Applicant
ED-357A
On occasion

State & local governments, 500 responses, 5,000 hours
Budget Review Division, 395-4775

Extensions

Bureau of the Census
Annual Trade Survey: 1978
B-45O, E-451
Annually
Merchant wholesalers, 12,500 responses, 3,125 hours
Richard Sheppard, 395-3211

Reinstatements

National Oceanic and Atmospheric Administration
*Recreational Fisheries Investigations
Fishing Log
NCAA 88-904
Recreational fishermen & boat captains, 10,000 responses, 333 hours
Richard Sheppard, 395-3211

Department of Energy

Agency Clearance Officer—John Gross—252-5214

New Forms

Permanent Exemption for New Installations Necessary To Meet Scheduled Outages
ERA 315

Single time
Major fuel burning installations, 10 responses, 10 hours
Jefferson B. Hill, 395-5867
*Faculty Development Survey
IR-167
Annually
Participants in energy workshops, 700 responses, 58 hours
Jefferson B. Hill, 395-5867
Alternate Fuel Price Monitoring Report
EIA-194
Monthly
Sellers of No. 2 & No. 6 fuel oils, 24,000 responses, 600,000 hours
Jefferson B. Hill, 395-5867
Permanent Exemption for New Powerplants Necessary To Maintain Reliability of Service
ERA-312
Single time

Electric utilities, 10 responses, 3,200 hours
Jefferson B. Hill, 395-5867
Schedule (B), General and Special Cost Tests for New Installations
ERA-318
Single time

Major fuel burning installations, 88 responses, 880 hours
Jefferson B. Hill, 395-5867
Use of Mixtures—General Requirement for Permanent Exemptions for New Installations and Powerplants
ERA-320
Single time

Utilities and major fuel burning installations, 163 responses, 163 hours
Jefferson B. Hill, 395-5867
No Alternate Power Supply (Schedule C)
ERS-319
Single time

Electric utilities, 47 responses, 94 hours
Jefferson B. Hill, 395-5867
General For for New Installations
ERS-301B
Single time
Major fuel burning installations, 156 responses, 312 hours
Jefferson B. Hill, 395-5867
General Form for New Powerplants
ERS-301A
Single time

Electric Utilities, 47 responses, 470 hours
Jefferson B. Hill, 395-5867
Temporary Exemption for the Future Use of Synthetic Fuels for New Powerplants and Installations
ERA-302
Single time

Powerplants & major fuel burning installations, 10 responses, 50 hours
Jefferson B. Hill, 395-5867
Lack of Alternate Fuel Supply
ERA-304
Single time

Powerplants & major fuel burning installations, 103 responses, 257,500 hours

Jefferson B. Hill, 395-5867
General and Special Cost Tests for New Powerplants
ERA-317
Single time
Electric utilities, 10 responses, 100 hours
Jefferson B. Hill, 395-5867
Temporary and Permanent Site Limitation Exemption
ERA-305
Single time
Powerplants & installations, 10 responses, 25 hours
Jefferson B. Hill, 395-5867
Permanent Exemption for Cogeneration for New Powerplants and Installations
ERA-309
Single time
Powerplants & installations, 15 responses, 450 hours
Jefferson B. Hill, 395-5867

Revisions

Emergency Product Price Telephone Survey
EIA-126
Other (See SF-83)
Refiners & large resellers, 6,480 responses, 6,480 hours
Jefferson B. Hill, 395-5867

Department of Health, Education, and Welfare

Agency Clearance Officer—Peter Gness—245-7488

NEW FORMS

Alcohol, Drug Abuse and Mental Health Administration
Survey of Youth at Risk for Alcohol Problems
Single time
1,500 youths (12-18 year olds) in households, 1,500 responses, 1,125 hours
Off. of Federal Statistical Policy & Standard, 673-7974
Office of Human Development
*An Evaluation of the Head Start Bilingual Bicultural Curriculum Development Projects; Parent Questionnaire
Semi-annually
Parents of Head Start children, 1,440 responses, 720 hours
Barbara F. Young, 395-6132
Public Health Service
*Agency Reporting System for Updating the National Inventory of Family Planning Service Sites
Other (see SF-83)
Providers of family planning services, 1,000 responses, 80 hours
Off. of Federal Statistical Policy & Standard 673-7974
Public Health Service
Generic Drug Information in CMEC's
Single time

All federally funded community mental health centers, 585 responses, 98 hours
Richard Eisinger, 395-3214
Public Health Service
Pilot Study for Study of Social Interaction Between Staff and Patients in VD Clinics
Single time
Staff, patients of VD clinics, 279 responses, 140 hours
Richard Eisinger, 395-3214
Public Health Service
Survey of Services Provided By Adolescent Pregnancy Programs
Single time
Special programs for pregnancy adolescents, 2,500 responses, 1,250 hours
Richard Eisinger, 395-3214

Department of Housing and Urban Development

Agency Clearance Officer—Robert G. Masarsky—755-5184

Extensions

Housing Production and Mortgage Credit
Survey of Current Wage Rates
FHA 2320
On Occasion
Building constr. contractors & sub-contractors, 1,000 responses, 500 hours
Arnold Strasser, 395-5080

Reinstatements

Housing Management
Report of Family Characteristics for the Section 8 Housing Assistance Payments
HUD-52675
Semi-annually
PHA's operating section 8 existing projects, 2,800 responses, 4,200 hours
Arnold Strasser, 395-5080
Housing Production and Mortgage Credit Application for Project Mortgage Insurance
FHA 2013, 2013-nh-ICF 2013 Hosp
On occasion
Project sponsors, 4,200 responses, 13,000 hours
Arnold Strasser, 395-5080

Department of Justice

Agency Clearance Officer—Donald E. Larue—633-3526

New Forms

Offices, Boards, Division
Department of Justice Electric Utility Survey
ATR-172
Single time
55 electric utilities, 55 responses, 55 hours
Laverne V. Collins, 395-3214

Department of Labor

Agency Clearance Officer—Philip M. Oliver—523-6341

Revisions

Employment Standards Administration
*Complaint of Discrimination in Employment Under Government Contracts
CC-1 & CC-1A
On occasion
Women & minority workers, 1,400 responses, 700 hours
Arnold Strasser, 395-5080
Employment Standards Administration
Employer's Report of Injury or Occupational Illness
LS-202, 202A & 210
On occasion
Employers, 259,184 responses, 107,015 hours
Arnold Strasser, 395-5080

Department of Transportation

Agency Clearance Officer—Bruce H. Allen—426-1887

New Forms

Federal Railroad Administration
Northeastern U.S. Freight Transportation Survey
Single time
Freight shippers & receivers in northeast U.S., 50 response, 38 hours
Susan B. Geiger, 395-5867

Department of the Treasury

Agency Clearance Officer—Floyd I. Sandlin—376-0436

Revisions

Bureau of Customs
Entry and Manifest of Merchandise Free of Duty
7523
On occasion
Personal and Commercial Importers, 720,000 responses, 144,000 hours
Off. of Federal Statistical Policy & Standards, 673-7974

Railroad Retirement Board

Agency Clearance Officer—Pauline Lohens—312-751-4693

Revisions

*Statement Showing Whether Widow or Widower Was Living With Employee (At Time of Date)
G-288
On occasion
Applicants for benefits, 300 responses, 75 hours
Barbara F. Young, 395-6132
*Medical Reports
G-3EMP, 250, 253A, & 257
On occasion
Physicians, 21,650 responses, 3,616 hours

Barbara F. Young, 395-6132
 *Report Concerning Employment
 G-377
 On occasion
 Survivor annuitants, 2,000 responses,
 166 hours
 Barbara F. Young, 395-6132
 Stanley E. Morris,
*Deputy Associate Director for Regulatory
 Policy and Reports Management.*
 [FR Doc. 79-27185 Filed 8-29-79; 8:45 am]
 BILLING CODE 3110-01-M

THE PRESIDENT'S MANAGEMENT IMPROVEMENT COUNCIL

Pursuant to the provisions of section 10 of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that the first meeting of the President's Management Improvement Council will be held on Friday, September 14, 1979. The meeting will convene at 11:30 a.m. in the 6th floor Board Room of the Federal Home Loan Bank Board Building at 1700 G Street, N.W., Washington, D.C. Members of the public must use the entrance at the corner of 17th and G Streets to attend the meeting.

The President announced the creation of the President's Management Improvement Council in his May 3, 1979 Memorandum on "Improving Management and Combating Fraud and Waste in Federal Programs." In that directive, the President stated that the Council would "support efforts to improve Federal management and program performance and to further the governmentwide management improvements envisioned in the Civil Service Reform Act of 1978." The Council will advise the President and Federal managers on management problems and issues affecting Executive agencies and Federal programs. The Council will be co-chaired by the Director of the Office of Management and Budget and the Director of the Office of Personnel Management. Membership of the Council will consist of individuals from Federal, State, and local governments, private industry, universities, and organized labor. Formal establishment of the Council by Executive Order was pending at the time this notice was prepared.

The September 14, 1979 meeting will be devoted largely to presentations and discussions related to management improvement issues and problems in specific Federal agencies and programs. Formal meetings of the President's Management Improvement Council will be open to the public in accordance with section 10 of the Federal Advisory Committee Act.

Members of the public are invited to submit material in writing to the Executive Director of the Council concerning specific management improvement matters felt to be deserving of the Council's attention. Additional information concerning the Council and its first meetings may be obtained by contacting the Executive Director, the President's Management Improvement Council, Room 5315, 1900 E Street, N.W., Washington, D.C. 20415 (202-632-6104).

Charles F. Bingham,
*Executive Director, The President's
 Management Improvement Council.*
 August 28, 1979.
 [FR Doc. 79-27345 Filed 8-29-79; 8:45 am]
 BILLING CODE 6325-01-M

SECURITIES AND EXCHANGE COMMISSION

[R&L No. 16128; SR-Amex-79-8]
 August 21, 1979.

American Stock Exchange, Inc.; Order Approving Proposed Rule Change

On June 8, 1979, the American Stock Exchange, Inc. ("Amex"), 86 Trinity Place, New York, NY 10006, filed with the Commission, pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78(s)(b)(1) (the "Act") and Rule 19b-4 thereunder, copies of a proposed rule change which would add Government National Mortgage Association ("GNMA") securities to its United States Government odd-lot program. Under the proposal, all outstanding GNMA securities would be listed for trading. The Amex's United States Government securities dealers would be required to maintain bid and offer quotations on all current production GNMA coupons¹ which meet the good delivery standards of the Mortgage-Backed Dealers' Association. Trades would be cleared on an ex-clearing basis² and be settled in Federal Funds on a normal five-day delivery basis (i.e., regular way), except that if a trade should settle in the first ten days of a month, delivery would be made on the next business day following the tenth of the month.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission Release

¹ The proposal defines "current production GNMA coupons" as those bearing the current GNMA coupon rate, which is mortgage ceiling rate of the Federal Housing Association and the Veterans Administration.

² The term "ex-clearing basis" refers to clearing that is effected outside of a regular clearing agency, as broker to broker.

(Securities Exchange Act Release No. 34-15948, June 25, 1979) and by publication in the *Federal Register* (44 FR 38032, June 29, 1979). No comments were received with respect to the proposed rule filing.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and in particular, the requirements of Section 6 and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and it hereby is approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc. 79-27023 Filed 8-29-79; 8:45 am]
 BILLING CODE 8010-01-M

[Rel. No. 21195; 70-6341]

August 22, 1979.

Louisiana Power & Light Co.; Proposed Issuance and Sale of Preferred Stock at Competitive Bidding

Notice is hereby given that Louisiana Power & Light Company ("Louisiana") 142 Delaronde Street, New Orleans, Louisiana 70174, an electric utility subsidiary of Middle South Utilities, Inc. ("Middle South"), a registered holding company, has filed a declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 6(a) and 7 of the Act and Rule 50 promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transaction.

Louisiana proposes to issue and sell, subject to the competitive bidding requirements of the Act, not in excess of 1,600,000 shares of a new series of its class of preferred stock, \$25 par value ("Stock"). The Stock is to be established by appropriate corporate action and, except as to the number of shares and designation, divided rate, the date from which dividends commence to accumulate, the amounts payable upon redemption, the terms and amount of the sinking fund and matters relating to par value and certain voting rights (including matters relating to quorums and adjournments), will have the same rank and the same relative rights as the

presently outstanding preferred stock of the company.

The dividend rate of the Stock (which will be a multiple of 4/25ths of 1%) and the price to be paid to the company for the Stock (which will be not less than \$25 nor more than \$25.70 per share, plus accumulated dividends, if any) will be determined by competitive bidding. The terms of the Stock will include a prohibition until October 1, 1984, against refunding the Stock, directly or indirectly, with funds derived from the issuance of securities at a lower effective interest or dividend cost. Louisiana presently expects that the terms of the stock will include provisions for a sinking fund designed to redeem at \$25 per share, plus accumulated dividends, 80,000 shares on each October 1 commencing in the year 1984, with the company having a non-cumulative option to redeem an additional 80,000 shares on each October 1 during the sinking fund redemption period. In the event, however, that market conditions change so that, in the opinion of the company, the market for non-sinking fund preferred stock is more favorable, the company may amend the declaration to provide therefor.

The declaration states that in the event that market conditions change so that, in the opinion of the company, the market for \$100 par value preferred stock is more favorable than that for \$25 preferred stock, Louisiana may amend the declaration to propose the issuance and sale of not in excess of 400,000 shares of its \$100 par value preferred stock in lieu thereof.

Louisiana will apply the net proceeds derived from the issuance and sale of the preferred stock to the payment in part of short-term borrowings estimated to total \$70,000,000 at the time the sale proceeds are received, to the financing in part of the company's construction program, and to other corporate purposes.

The fees and expenses to be incurred in connection with the proposed transaction are estimated at \$150,000, including legal fees of \$47,000 and auditors' fees of \$14,000. It is stated that no state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given than any interested person may, not later than September 17, 1979, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the filing which he desires to controvert; or he may request that he be notified if the

Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as filed or as it may be amended, may be permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc. 79-27025 Filed 8-29-79; 8:45 am]
 BILLING CODE 8010-01-M

[Rel. No. 21191; 70-6340]

August 20, 1979.

Indiana & Michigan Electric Co.; Proposed Issuance and Sale of Preferred Stock at Competitive Bidding

Notice is hereby given that Indiana & Michigan Electric Company ("I&M") 2101 Spy Run Avenue, Fort Wayne, Indiana 46801, an electric utility subsidiary of American Electric Power Company, Inc. ("AEP"), a registered holding company, has filed with this Commission an application-declaration pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 6(b) and 12(c) of the Act and Rules 42 and 50 promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transaction.

I&M proposes to issue and sell at competitive bidding up to 1,600,000 shares of a new series of its cumulative preferred stock ("Preferred Stock"), par value \$25 per share. The price to be paid to I&M shall be \$25 per share, which shall also be the price at which the Preferred Stock shall be initially offered

to the public. The dividend rate (which will be expressed in a multiple of \$.01) and the amount per share to be paid by I&M as compensation to the purchasers will be determined by competitive bidding. None of the shares of the Preferred Stock may be redeemed prior to a date five years from the first day of the month in which such shares are issued if such redemption is for the purpose of refunding them, directly or indirectly, through the incurring of debt or the issuance of stock ranking equally with or prior to the Preferred Stock at an effective interest cost or dividend cost less than the effective dividend cost of the Preferred Stock.

The terms of the Preferred Stock may also include a sinking fund provision pursuant to which I&M would retire at \$25 per share, commencing no earlier than five years from the first day of the month in which such shares are issued, not more than 5% annually of the number of shares initially issued, with the non-cumulative option on any sinking fund date of redeeming at \$25 per share an additional like number of shares, and with the option to credit against any sinking fund requirement the shares of Preferred Stock theretofore purchased or otherwise acquired by I&M. It is proposed that I&M will decide upon the necessity for a sinking fund provision at a subsequent date and, notify prospective bidders of its decision reasonably in advance of, but not less than 72 hours prior to, the bidding date. It is stated that the Preferred Stock will not be issued and sold unless I&M shall have received, subsequent to June 30, 1979, and prior to such sale, one or more cash capital contributions in an aggregate amount of \$20,000,000 from AEP. The making of such cash capital contributions by AEP was authorized by order dated December 29, 1978 (HAR) No. 20865).

The proceeds from the sale of the Preferred Stock will be used by I&M to repay its unsecured short-term indebtedness, which was approximately \$126,165,000 at July 26, 1979, and is expected to be approximately \$150,000,000 at the time of sale of the Preferred Stock.

The fees and expenses to be incurred in connection with the proposed transaction will be supplied by amendment. It is stated that the Public Service Commission of Indiana and the Michigan Public Service Commission have jurisdiction over the proposed transaction, and that no other state commission and no federal commission, other than this Commission, has jurisdiction thereover.

Notice is further given that any interested person may not later than

September 17, 1979, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application-declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicant-declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such Rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of

Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc. 79-27024 Filed 8-29-79; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE-79-18]

Petitions for Exemption; Summary of
Petitions Received and Dispositions of
Petitions Issued

AGENCY: Federal Aviation
Administration (FAA), DOT.

ACTION: Notice of petitions for
exemptions received and of dispositions
of petitions issued.

SUMMARY: Pursuant to FAA's
rulemaking provisions governing the
application, processing, and disposition
of petitions for exemption (14 CFR Part
11), this notice contains a summary of
certain petitions seeking relief from
specified requirements of the Federal
Aviation Regulations (14 CFR Chapter I)
and of dispositions of certain petitions
previously received. The purpose of this
notice is to improve the public's
awareness of, and participation in, this
aspect of FAA's regulatory activities.

Publication of this notice and any
information it contains or omits is not
intended to affect the legal status of any
petition or its final disposition.

DATES: Comments on petitions received
must identify the petition docket number
involved and must be received on or
before September 19, 1979.

ADDRESSES: Send comments on any
petition in triplicate to: Federal Aviation
Administration, Office of the Chief
Counsel, Attn.: Rules Docket (AGC-24),
Petition Docket No. —, 800
Independence Avenue, SW.,
Washington, D.C. 20591.

FOR FURTHER INFORMATION: The
petition, any comments received and a
copy of any final disposition are filed in
the assigned regulatory docket and are
available for examination in the Rules
Docket (AGC-24), Room 918, FAA
Headquarters Building (FOB 10A), 800
Independence Avenue, SW.,
Washington, D.C. 20591; telephone (202)
426-3644.

This notice is published pursuant to
paragraphs (c), (e), and (g) of § 11.27 of Part
11 of the Federal Aviation Regulations (14
CFR Part 11).

Issued in Washington, D.C., on August 24,
1979.

Carl B. Schellenberg,
Assistant Chief Counsel, Regulations and
Enforcement Division.

Petitions for Exemptions

Docket No.	Petitioner	Regulations affected	Description of relief sought
19472	Big Apple Balloons	14 CFR § 91.79(b)	To permit the petitioner to operate its hot air balloons down to a minimum altitude of 500 feet over congested areas.
19474	Eastman Kodak Company	14 CFR § 61.57(d)	To permit the petitioner to substitute six-month proficiency checks in Flight Safety International's Gulfstream I and II visual cue simulators for the recent night experience prescribed in Section 61.57(d).
19477	Metropolitan Enterprises, Inc.	14 CFR § 135.185(a)	To permit the petitioner to operate its Beech Baron Aircraft N201UC without a weight and balance established by actual weighing of the aircraft.
19470	Airwest Helicopters, Inc.	14 CFR § 135.136(b)	To permit the petitioner to provide standby pilots with a seven consecutive hour rest period while on duty in lieu of the required 10 consecutive hours during the twenty-four hour period preceding assignment.
19471	Mr. Raymond J. Bailey	14 CFR § 135.243(a)	To allow petitioner to serve as Captain for Alaska Aeronautical Industries until he has reached his 23rd birthday, without holding an airline transport certificate.
19475	Flight Safety International	14 CFR §§ 61.63 and 61.157	To permit petitioner's trainees to accomplish the maneuvers required by FAR Part 61, Appendix A for an airline transport certificate or an associated class or type rating in a simulator.

Dispositions of Petitions for Exemptions

Docket No.	Petitioner	Regulations affected	Description of relief sought—disposition
12227	National Business Aircraft Association, Inc.	14 CFR § 91.169 and Parts 121, 123, 129, 135, and 137.	To permit petitioner an extension of Exemption No. 1637F which will expire October 23, 1979. <i>Granted 8/15/79.</i>
16607	Trans Mediterranean Airways	14 CFR Parts 21, 61, and 91.	To amend Exemption No. 2405E to add Mr. Tor Wilmann to the list of those exempted from Subparts A and F of Part 61 of the FAR. <i>Granted 8/16/79.</i>
18950	Summit Airlines	14 CFR Section 121.351(a)	To permit Summit Airlines to conduct extended over water operations of CV-580 aircraft with only one high frequency transceiver. <i>Granted 8/16/79.</i>
19280	Rotafly, Inc.	14 CFR §§ 141.35(d)(2) and 141.35(d)(3)(i).	To allow petitioner to designate as a chief flight instructor a person who does not have 2,000 hours PIC, 3 years flight instruction experience or 1,500 hours of pilot instruction. <i>Denied 8/16/79.</i>
19306	Philippine Airlines (PAL)	14 CFR Parts 21, 61, 63, and 91.	To amend Exemption No. 2783 and to correct the job title of two PAL flight crewmembers listed in the appendix. <i>Granted 8/16/79.</i>

Dispositions of Petitions for Exemptions—Continued

Docket No.	Petitioner	Regulations affected	Description of relief sought—disposition
19165	Executive Jet Aviation	14 CFR §§ 135.89(b)(3) and 121.333(c) (2), (3), and (4).	To permit operation of its Learjet aircraft to maximum certificated altitude without one pilot having to wear and use an oxygen mask above FL 350. <i>Partial grant 8/21/79.</i>
79-NW-27-AD	United Airlines, Inc.	14 CFR Part 39	To permit an adjustment to the annual inspection requirement of Paragraph B, to permit petitioner to accomplish the required inspection at intervals not to exceed 13 months. <i>Granted 8/16/79.</i>

[FR Doc. 79-27045 Filed 8-29-79; 8:45 am]

BILLING CODE 4910-13-M

National Highway Traffic Safety
Administration

Model 344788 Jack, Original
Equipment on Chevrolet and GMC
Light Duty Truck; Public Proceeding
Scheduled

Pursuant to section 152 of the National
Traffic and Motor Vehicle Safety Act of
1966 as amended (Pub. L. 93-492, 88 Stat.
1470; October 27, 1974), 15 U.S.C. 1412,
the Associate Administrator for
Enforcement, National Highway Traffic
Safety Administration, has made an
initial determination that a safety
related defect exists in the Model 344788
jack provided as original equipment on
1975-1976 Chevrolet C-10, P-10, G-20,
and GMC C-15, P-15, and G-25 light
duty trucks.

A public proceeding will be held at 10
a.m., October 4, 1979, in Room 2230,
Department of Transportation Building,
400 Seventh Street, SW., Washington,
D.C. 20590, at which the General Motors
Corporation will be afforded an
opportunity to present data, views and
arguments to establish that there is not
safety related defect in the Model
344788 jack supplied on those 1975-76
Chevrolet and GMC light duty trucks.

Interested persons are invited to
participate through written or oral
presentations. Persons wishing to make
oral presentations are requested to
notify Joann Murianka, Office of Defects
Investigation, National Highway Traffic
Safety Administration, Room 5326,
Nassif Building, 400 Seventh Street, SW.,
Washington, D.C. 20590 (telephone 202-
426-2850) before close of business on
September 28, 1979.

The agency's investigative file in this
matter is available for public inspection
during working hours (7:45 a.m. to 4:15
p.m.) in the Technical Reference Library,
Room 5108, 400 Seventh Street, SW.,
Washington, D.C. 20590.

(Sec. 152 Pub. L. 93-492, 88 Stat. 1470 (15
U.S.C. 1412); delegation of authority at 49
CFR 1.51 and 49 CFR 501.8)

Issued on: August 27, 1979.

Lynn L. Bradford,
Associate Administrator for Enforcement.

[FR Doc. 79-27137 Filed 8-27-79; 3:30 pm]

BILLING CODE 4910-59-M

[Docket No. IP79-11; Notice 1]

General Motors Corp.; Receipt of
Petition for Determination of
Inconsequentiality

General Motors Corp. of Warren,
Michigan ("GM" herein), has petitioned
to be exempted from the notification
and remedy requirements of the
National Traffic and Motor Vehicle
Safety Act (15 U.S.C. 1381 et seq.) for an
apparent noncompliance with 49 CFR
571.110, Motor Vehicle Safety Standard
No. 110, *Tire Selection and Rims for
Passenger Cars*, on the basis that it is
inconsequential as it relates to motor
vehicle safety.

Approximately 137 1979 model
Chevrolet Malibu passenger cars
equipped with bucket seats may carry
tire inflation placards (required by
Standard No. 110) with an incorrect
seating capacity and vehicle capacity
weight. The placards indicate that the
front seating capacity is three persons
when the correct capacity is two, that
the occupant capacity is six when
actually it is five, and that the total
vehicle capacity weight is 1,060 pounds
when it is 910 pounds.

GM argues that the incorrect seating
capacity noncompliance is
inconsequential because it is obvious to
anyone comparing the tire placard to the
actual front seating accommodations
that the placard must be in error.
Further, even if the vehicle were loaded
with an additional 150 pounds, its tire
load limits would not be exceeded,
because "they are identical to Malibu
series vehicles equipped with bench
seats and six-passenger capacity." The
vehicles involved are special option
police vehicles whose production
release inadvertently failed to contain
instructions to modify tire placard
information. The error has now been
corrected.

Interested persons are invited to
submit written data, views, and
arguments on the petition of General
Motors Corp. described above.
Comments should refer to the docket
number and be submitted to: Docket
Section, National Highway Traffic
Safety Administration, Room 5108, 400
Seventh Street, S.W., Washington, D.C.

20590. It is requested but not required
that five copies be submitted.

All comments received before the
closing date indicated below will be
considered. The application and
supporting materials, and all comments
received after the closing date will also
be filed and will be considered to the
extent possible. When the petitions is
granted or denied, notice will be
published in the *Federal Register*
pursuant to the authority indicated
below.

Comment closing date: October 1,
1979.

(Sec. 102, Pub. L. 93-492, 88 Stat. 1470 (15
U.S.C. 1417); delegations of authority at 49
CFR 1.50 and 49 CFR 501.8.)

Issued on August 22, 1979.

A. C. Malliaris,
Acting Associate Administrator for
Rulemaking.

[FR Doc. 79-26919 Filed 8-29-79; 8:45 am]

BILLING CODE 4910-59-M

Fiat Model 124 for Model Years 1970-
74 Imported by Fiat Motors of North
America, Inc.; Public Proceeding

The National Highway Traffic Safety
Administration (NHTSA) has reinstated
the initial determination issued to Fiat
Motors of North America, Inc. on
January 18, 1979, that a defect relating to
motor vehicle safety exists in the frame
and under body of the Fiat model 124
automobile for model years 1970 through
1974 because these critical vehicle
components are susceptible to
weakening and failure due to excessive
rust or corrosion which can result in
accidents, injuries, deaths and property
damage. The determination with respect
to model 124 vehicles issued January 18
was suspended following an agreement
between Fiat and the NHTSA that Fiat
would recall 1970-71 model 850 Spyder
(Racer) automobiles. The agreement was
reached after assurances were made to
the NHTSA that the rust problem was
concentrated in the 1970-71 model 850
due to assembly problems. The agency
has subsequently learned that Fiat has
repurchased some 124 models from
owners who have complained of rust. It
appears that Fiat's repurchase campaign

does not meet the agency's statutory requirements of notification and remedy.

Pursuant to § 152 and § 156 of the National Traffic and Motor Vehicle Act of 1966, as amended (Pub. L. 93-492, 88 Stat. 1470; October 27, 1974, 15 U.S.C. § 1412 and § 1416), a public meeting will be held at 10 a.m., on September 26, 1979, in Room 2230, Department of Transportation Headquarters, 400 Seventh Street, S.W., Washington, D.C. 20590, at which time Fiat Motors of North America, Inc. will be afforded an opportunity to present data, views and arguments regarding the initial determination and the alleged inadequacy of the repurchase campaign.

Interested persons are invited to participate through written or oral presentations. Persons wishing to make oral presentations are requested to notify Mrs. Joann Murianka, Office of Defects Investigation, National Highway Traffic Safety Administration, Washington, D.C. 20590, telephone 202-426-2850 before the close of business on September 18, 1979. A transcript will be kept and exhibits may be accepted. There will be no cross-examination of witnesses.

The agency's investigative file in this matter is available for public inspection during the regular working hours (7:45 a.m. to 4:15 p.m.) in the Technical Reference Division, Room 5108, 400 Seventh Street, S.W., Washington, D.C. 20590.

(Sec. 152 ad 156, Pub. L. 93-492, 88 Stat. 1470, 15 U.S.C. 1412 and 1416); delegations of authority at 49 CFR 1.51 and 49 CFR 501.8).

Issued on: August 22, 1979.

Lynn L. Bradford,
Associate Administrator for Enforcement.

[FR Doc. 79-29613 Filed 8-24-79; 12:47 pm]
BILLING CODE 4910-59-M

Fiat Model 850 Rust and Corrosion Defect Investigation; Public Proceeding Regarding Adequacy of Manufacturer's Notification and Remedy Campaign on Rust and Corrosion

Pursuant to Section 156 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1416) the Administrator has granted the petitions of Jay Luskin of Baltimore, Maryland, James F. Morris of Marietta, Georgia, Richard P. Fredetta of Huntington Beach, California, and Roger Engalla of Houston, Texas requesting a hearing to determine whether Fiat Motors of America, Inc., has reasonably met its obligations to notify owners of Fiat model 1971 850 Spyder (Racer) automobiles, and either remedy a declared safety related defect or refund

the purchase price less a reasonable amount of depreciation.

The defect exists in the critical structural components of the vehicles due to their susceptibility to failure resulting from rust and corrosion. Fiat entered an agreement with the NHTSA to recall the 1970-71 850 Spyder (Racer) model after the NHTSA issued a finding of a defect for 1970-74 124 model and 1970-74 850 model. Fiat filed its defect report pursuant to 49 CFR 573.4 on March 27, 1979, and the recall was assigned the number 79V-078. Fiat's remedy plan was to repair if possible three areas affected by rust and to repurchase cars found to be structurally corroded beyond the repair areas. The repair consisted of installation of upper front shock absorber enforcement plate, installation of a battery support and installation of a central jack bracket reinforcement. Under the plan, only owners showing proof of current registration could participate in the recall campaign. After Fiat filed its remedy plan, the NHTSA notified Fiat that certain aspects of the plan appeared not to meet statutory requirements. In addition, the agency has received an unusually large number of complaints from owners participating in the campaign. Those complaints have dealt primarily with repurchase offers, the repair policy, the current registration requirement, and alleged coercive tactics of Fiat toward participants in the campaign.

The agency has notified Fiat of these complaints, and the manufacturer's response has been unsatisfactory.

An initial public proceeding will be held at 10 a.m., September 26, in Room 2230, Department of Transportation Headquarters, 400 Seventh Street, S.W., Washington, D.C. 20590, at which any interested person (including the manufacturer) may make oral or written presentations of data, views, and arguments on the question of whether Fiat has reasonably met its obligation to notify owners, purchasers, and dealers of a safety-related defect under 15 U.S.C. 1411, and to remedy such defect under 15 U.S.C. 1414. A transcript will be kept and exhibits may be accepted. There will be no cross examination of witnesses. Persons who wish to make oral presentations are requested to notify Mr. Joann Murianka, Office of Defects Investigation, National Highway Traffic Safety Administration, Washington, D.C. 20590 (202-426-2850) before the close of business on September 18, 1979.

(Sec. 9 Pub. L. 89-670, 80 Stat. 931 (49 U.S.C. 1657); Sec. 103, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407); Sec. 102, Pub. L. 93-

492 (Sec. 156), 88 Stat. 1470 (15 U.S.C. 1416); delegation of authority at 49 CFR 1.50)).

Issued on: August 22, 1979.

Lynn L. Bradford,
Associate Administrator for Enforcement.

[FR Doc. 79-29612 Filed 8-24-79; 12:47 pm]
BILLING CODE 4910-59-M

[Docket No. IP79-10; Notice 1]

Mack Trucks, Inc.; Petition for Determination of Inconsequential Noncompliance

Mack Trucks, Inc. of Allentown, Pennsylvania ("Mack" herein) has petitioned to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 et seq.) for an apparent noncompliance with 49 CFR 571.108, Motor Vehicle Safety Standard No. 108, *Lamps, Reflective Devices and Associated Equipment*, on the basis that it is inconsequential as it relates to motor vehicle safety.

This notice of receipt of a petition is published under Section 157 of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1417) and 49 CFR Part 558 and does not represent any agency decision or other exercise of judgment concerning the merits of the petition.

Standard No. 108 requires that motor vehicle headlamps be mounted not more than 54 inches above the road surface, measured from the center of the headlamp, on the vehicle at its curb weight. Mack has determined that, on 19 of its RM series chassis produced between June 1977 and June 1979, headlamp mounting height may exceed the 54-inch limit by as much as 1.7 inches. The height increase creating the noncompliance is attributable to use of a larger tire size that raised the height of the chassis when larger brake drums were installed in order to comply with Standard No. 121, *Air Brake Systems*.

The vehicles in question are "4 x 4 snow plow-dump chassis." Mack deems the noncompliance inconsequential because the vehicles are operated primarily during day light hours and when used in snow removal service, auxiliary headlamps are required due to the positioning of the plow.

Interested persons are invited to submit written data, views and arguments on the petition of Mack Trucks described above. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5108, 400 Seventh Street, S.W., Washington, D.C. 20590. It is requested but not required that five copies be submitted.

All comments received before the close of business on the comment closing date indicated below will be considered. The application and supporting materials, and all comments received after the closing date will also be filed and will be considered to the extent possible. When the petition is granted or denied, notice will be published in the *Federal Register* pursuant to the authority indicated below.

Comment closing date: October 1, 1979.

(Sec. 102, Pub. L. 93-492, 88 Stat. 1470 (15 U.S.C. 1417) delegation of authority at 49 CFR 1.50 and 49 CFR 501.8.)

Issued on August 22, 1979.

A. C. Malliaris,
Acting Associate Administrator for Rulemaking.

[FR Doc. 79-29620 Filed 8-29-79; 8:45 am]
BILLING CODE 4910-59-M

National Highway Traffic Safety Administration Safety, Bumper, and Consumer Information Programs; Public Meetings

The National Highway Traffic Safety Administration (NHTSA) will hold a meeting on Wednesday, October 10, 1979, to answer questions from the public and industry regarding the Agency's safety, bumper, and consumer information programs. The meeting will begin at 10:30 a.m., run until 1:00 p.m., and reconvene at 2:00 p.m., if necessary. It will be held in the Conference Room of the Environmental Protection Agency's Motor Vehicle Environmental Laboratory Facility, 2565 Plymouth Road, Ann Arbor, Michigan.

At the October meeting, representatives of DOT will answer questions received in writing from the industry and the public relating to NHTSA's vehicle safety, bumper, or consumer information programs which are technical, interpretative or procedural in nature. The questions may relate to the research and development, rulemaking, or enforcement (including defects) phases of these activities. (Questions regarding the Agency's fuel economy program will continue to be addressed at the EPA's meetings on vehicle emissions.)

Questions for the October 10 meeting must be submitted in writing by September 24 to William Marsh, NHTSA Executive Secretary, Room 5221, 400 Seventh Street, S.W., Washington, D.C. 20590. Every effort will be made to answer appropriate questions received. Questions received after the September 24 date may be answered at the meeting if sufficient time is available and a

person from DOT knowledgeable in the subject matter is present. The individual, group, or company submitting a question does not have to be present for the question to be answered. A consolidated list of questions submitted by September 24 will be available at the meeting and this list will serve as the agenda.

A transcript of the meeting will be available for public inspection in the NHTSA Technical Reference Section in Washington, D.C., within four weeks after the meeting. Copies of the transcript will be available in four to five weeks at twenty-five cents for the first page and five cents for each additional page (length has varied from 100 to 150 pages) upon request to NHTSA, Technical Reference Section, Room 5108, 400 Seventh Street, S.W., Washington, D.C. 20590.

Issued in Washington, D.C. on: August 27, 1979.

Wm. H. Marsh,
Executive Secretary.

[FR Doc. 79-27157 Filed 8-29-79; 8:45 am]
BILLING CODE 4910-59-M

VETERANS ADMINISTRATION

Advisory Committee on Health-Related Effects of Herbicides; Meeting

The Veterans Administration gives notice pursuant to Public Law 92-463 that a meeting of the Advisory Committee on Health-Related Effects of Herbicides will be held in Room 119 of the Veterans Administrations, 810 Vermont Avenue, N.W., Washington, DC 20420, September 24, 1979, at 10 a.m. The purpose of the meeting will be to assemble and analyze information concerning toxicological issues which the Veterans Administration needs in order to formulate appropriate medical policy and procedures in the interest of veterans who may have encountered herbicidal chemicals used during the Vietnam Wars.

The meeting will be open to the public up to the seating capacity of the room. Members of the public may only direct questions in writing to the Chairman, Paul A. L. Haber, M.D., and submit prepared statements for review by the Committee. Such members of the public may be asked to clarify submitted material prior to consideration by the Committee.

Summary minutes of the meeting and rosters of the committee members may be obtained from the Vice-Chairman, Gerrit W. H. Schepers, M.D., Medical Service (III), Department of Medicine and Surgery, Veterans Administration,

Washington, DC 20420 (Phone 202-389-2550).

Dated: August 23, 1979.
By direction of the Administrator,

John J. Leffler,
Associate Deputy Administrator.

[FR Doc. 79-27066 Filed 8-29-79; 8:45 am]
BILLING CODE 8320-01-M

Station Committee on Educational Allowances; Meeting

Notice is hereby given pursuant to Section V, Review Procedure and Hearing Rules, Station Committee on Educational Allowances that on October 3, 1979, at 10:00 a.m., the San Francisco Regional Office Station Committee on Educational Allowances shall at Room 1700, 211 Main Street, San Francisco, California 94105, conduct a hearing to determine whether Veterans Administration benefits to all eligible persons enrolled in Rainbow Flyers, Incorporated, 100 Airport Road, Yuba City, California 95991, should be discontinued, as provided in 38 CFR 21.4134, because a requirement of law is not being met or a provision of the law has been violated. All interested persons shall be permitted to attend, appear before, or file statements with the committee at that time and place.

Dated: August 23, 1979.

H. H. Villalobos,
VA Regional Office, 211 Main Street, San Francisco, CA 94105

[FR Doc. 79-27062 Filed 8-29-79; 8:45 am]
BILLING CODE 8320-01-M

INTERSTATE COMMERCE COMMISSION

Permanent Authority Decision; Decision-Notice

Correction

In FR Doc. 79-23841, appearing at page 45525 in the issue for Thursday, August 2, 1979, make the following corrections:

(1) On page 45526, in the middle column, immediately above the paragraph for "MC 26377 (Sub-25F)" insert the following:

Volume No. 123

Decided: July 13, 1979.

By the Commission, Review Board Number 1, Members Carleton, Joyce, and Jones.

(2) On page 45527, in the first column, immediately above the paragraph for "MC 25798 (Sub-362F)" insert the following:

Volume No. 124

Decided: July 13, 1979.

By the Commission, Review Board Number 2. Members Boyle, Eaton, and Liberman.

Permanent Authority Decisions; Decision-Notice

Correction

In FR Doc. 79-23840, appearing at page 45527 in the issue for Thursday, August 2, 1979, make the following corrections:

(1) On Page 45528, in the middle column, immediately above the paragraph for "MC 18459 (Sub-10F)" insert the following:

Volume No. 94

Decided: June 21, 1979.

By the Commission, Review Board Number 2. Members Boyle, Eaton, and Liberman.

(2) On page 45531, in the first column, immediately above "MC 4405 (Sub-596F)" insert:

Volume No. 101

Decided: June 14, 1979.

By the Commission, Review Board Number 1. Members Carleton, Joyce, and Jones.

(3) On page 45535, in the first column, immediately above the paragraph for "MC 908 (Sub-3F)" insert:

Volume No. 115

Decided: July 6, 1979.

By the Commission, Review Board Number 2. Members Boyle, Eaton, and Liberman.
BILLING CODE 1505-01-M

Permanent Authority Decisions

The following applications, filed on or after March 1, 1979, are governed by Special Rule 247 of the Commission's rules of practice (49 CFR § 1100.247). These rules provide, among other things, that a petition for intervention, either in support of or in opposition to the granting of an application, must be filed with the Commission within 30 days after the date notice of the application is published in the *Federal Register*. Protests (such as were allowed to filings prior to March 1, 1979) will be rejected. A petition for intervention without leave must comply with Rule 247(k) which requires petitioner to demonstrate that it (1) holds operating authority permitting performance of any of the service which the applicant seeks authority to perform, (2) has the necessary equipment and facilities for performing that service, and (3) has performed service within the scope of the application either (a) for those supporting the application, or, (b) where the service is not limited to the facilities of particular shippers, from and to, or between, any of the involved points.

Persons unable to intervene under Rule 247(k) may file a petition for leave to intervene under Rule 247(l) setting forth the specific grounds upon which it is made, including a detailed statement of petitioner's interest, the particular facts, matters, and things relied upon, including the extent, if any, to which petitioner (a) has solicited the traffic or business of those supporting the application, or, (b) where the identity of those supporting the application is not included in the published application notice, has solicited traffic or business identical to any part of that sought by applicant within the affected marketplace the extent to which petitioner's interest will be represented by other parties, the extent to which petitioner's participation may reasonably be expected to assist in the development of a sound record, and the extent to which participation by the petitioner would broaden the issues or delay the proceeding.

Petitions not in reasonable compliance with the requirements of the rules may be rejected. An original and one copy of the petition to intervene shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named.

Section 247(f) provides, in part, that an applicant which does not intend to timely prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

If an applicant has introduced rates as an issue it is noted. Upon request, an applicant must provide a copy of the tentative rate schedule to any protestant.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication.*

Any authority granted may reflect administrative acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each common carrier applicant has demonstrated that its proposed service is required by the present and future public convenience

and necessity, and that each contract carrier applicant qualifies as a contract carrier and its proposed contract carrier service will be consistent with the public interest and the transportation policy of 49 CFR U.S.C. § 10101. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where specifically noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a petitioner, that the proposed dual operations are consistent with the public interest and the transportation policy of 49 U.S.C. § 10101 subject to the right of the Commission, which is expressly reserved, to impose such terms, conditions or limitations as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. § 10930(a) [formerly section 210 of the Interstate Commerce Act].

In the absence of legally sufficient petitions for intervention, filed on or before October 1, 1979 (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of the decision-notice. To the extent that the authority sought below may duplicate an applicant's other authority, such duplication shall be construed as conferring only a single operating right.

Applicants must comply with all specific conditions set forth in the grant or grants of authority within 90 days after the service of the notification of the effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

Volume No. 139

Decided: August 3, 1979.

By the Commission, Review Board Number 3. Members Parker, Fortier, and Hill

MC 29079 (Sub-104F), filed April 17, 1979. Applicant: BRADA MILLER FREIGHT SYSTEM, INC., P.O. Box 935, Kokomo, IN 46901. Representative: Chandler L. Van Orman, 1729 H Street, NW, Washington, DC 20006. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over

irregular routes, transporting (1) *iron and steel articles*, from the facilities of Connors Steel Company, at Huntington, WV, to points in IL, IN, KY, MD, MI, MO, NJ, NY, NC, OH, PA, SC, VA, WI, and DC; and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, in the reverse direction. (Hearing site: Washington, DC.)

MC 29079 (Sub-105F), filed April 17, 1979. Applicant: BRADA MILLER FREIGHT SYSTEM, INC., P.O. Box 935, Kokomo, IN 46901. Representative: Chandler L. Van Orman, 1729 H Street, NW, Washington, DC 20006. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *iron and steel articles*, from the facilities of Ohio Valley Metals, at Bridgeport, OH, to points in IL, IN, KY, MD, MI, MO, NJ, NY, NC, PA, SC, TN, VA, WV, WI, and DC; and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, in the reverse direction. (Hearing site: Washington, DC.)

MC 50069 (Sub-544F), filed April 18, 1979. Applicant: REFINERS TRANSPORT & TERMINAL CORPORATION, 445 Earlwood Avenue, Oregon, OH 43616. Representative: J. A. Kundtz, 1100 National City Bank Building, Cleveland, OH 44114. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *petroleum products*, in bulk, in tank vehicles, from West Branch, MI, to points in OH. (Hearing site: Washington, DC.)

Note.—Dual operations may be involved.

MC 52709 (Sub-358F), filed April 9, 1979. Applicant: RINGSBY TRUCK LINES, INC., 3980 Quebec St., P.O. Box 7240, Denver, CO 80207. Representative: Rick Barker (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *petroleum and petroleum products* (except commodities in bulk), from Kansas City, MO, to points in CO, UT, and WY. (Hearing site: Denver, CO.)

MC 56679 (Sub-117F), filed April 18, 1979. Applicant: BROWN TRANSPORT CORP., 352 University Ave., SW., Atlanta, GA 30310. Representative: Leonard S. Cassell (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *canned and preserved foodstuffs*, from the facilities of Heinz U.S.A., Division of H. J. Heinz Company,

at or near Pittsburgh, PA, to points in AL, LA, MS, MI, and TN. (Hearing site: Washington, DC.)

MC 82079 (Sub-75F), filed April 12, 1979. Applicant: KELLER TRANSFER LINE, INC., 5635 Clay Avenue, S.W., Grand Rapids, MI 49503. Representative: Edward Malinzak, 900 Old Kent Building, Grand Rapids, MI 49503. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs* (except commodities in bulk), in vehicles equipped with mechanical refrigeration, from the facilities of Hershey Foods Corporation, at Taylor, MI, to points in Allen, De Kalb, Elkhart, Kosciusko, Lagrange, La Porte, Marshall, Noble, St. Joseph, Starke, Steuben, and Whitley Counties, IN. (Hearing site: Lansing, MI, or Chicago, IL.)

MC 106398 (Sub-879F), filed April 17, 1979. Applicant: NATIONAL TRAILER CONVOY, INC., 525 South Main, Tulsa, OK 74103. Representative: Fred Rahal, Jr. (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *iron and steel articles*, from the facilities of Vincennes Steel Division, at Vincennes, IN, to points in the United States (except AK and HI). (Hearing site: Indianapolis, or Terre Haute, IN.)

MC 106398 (Sub-880F), filed April 18, 1979. Applicant: NATIONAL TRAILER CONVOY, INC., 525 South Main, Tulsa, OK 74103. Representative: Fred Rahal, Jr. (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *iron and steel articles*, from the facilities of Raritan River Steel Company, at Perth Amboy, NJ, to points in the United States (except AK and HI). (Hearing site: Washington, DC.)

MC 106398 (Sub-884F), filed April 17, 1979. Applicant: NATIONAL TRAILER CONVOY, INC., 525 South Main, Tulsa, OK 74103. Representative: Fred Rahal, Jr. (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *pre-cast concrete products*, from the facilities of Concrete Panel Systems, Inc., at Charlotte, NC, to points in TN, KY, VA, SC, GA, FL, and AL. (Hearing site: Washington, DC.)

MC 108119 (Sub-143F), filed April 17, 1979. Applicant: E. L. MURPHY TRUCKING COMPANY, a corporation, P.O. Box 43010, St. Paul, MN 55164. Representative: Andrew R. Clark, 1000 First National Bank Building,

Minneapolis, MN 55402. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *self-propelled vehicles, trailers, buildings, building components*, and (2) *materials, equipment, and supplies* used in the manufacture of the commodities in (1) above, between Forest City, IA, Riverside, CA, and Asheville, NC, on the one hand, and, on the other, points in the United States (except AK and HI), restricted to the transportation of traffic originating at or destined to the facilities of Winnebago Industries. (Hearing site: Minneapolis, MN, or Des Moines, IA.)

MC 108119 (Sub-144F), filed April 17, 1979. Applicant: E. L. MURPHY TRUCKING COMPANY, a corporation, P.O. Box 43010, St. Paul, MN 55164. Representative: Andrew R. Clark, 1000 First National Bank Building, Minneapolis, MN 55402. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *counterbalances*, from Opelika, AL, to those points in the United States in and east of MN, IA, MO, AR, and LA, (except ME, VT, NH, MA, RI, CT, NY, and WV). (Hearing site: Birmingham, AL.)

MC 108119 (Sub-145F), filed April 18, 1979. Applicant: E. L. MURPHY TRUCKING COMPANY, a corporation, P.O. Box 43010, St. Paul, MN 55164. Representative: Andrew R. Clark, 1000 First National Bank Building, Minneapolis, MN 55402. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *boats* and (2) *parts and accessories* for boats, from points in Los Angeles and Orange Counties, CA, to points in the United States (except AK and HI). (Hearing site: Los Angeles or San Francisco, CA.)

MC 108119 (Sub-146F), filed April 18, 1979. Applicant: E. L. MURPHY TRUCKING COMPANY, a corporation, P.O. Box 43010, St. Paul, MN 55164. Representative: Andrew R. Clark, 1000 First National Bank Building, Minneapolis, MN 55402. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *cast iron pipe, fittings, valves, and hydrants*, from the facilities of Mueller Company, at Albertville, AL, and Chattanooga, TN, to points in the United States (except AK and HI). (Hearing site: Chicago, IL, or Minneapolis, MN.)

MC 108119 (Sub-149F), filed April 18, 1979. Applicant: E. L. MURPHY TRUCKING COMPANY, a corporation, P.O. Box 43010, St. Paul, MN 55164. Representative: Andrew R. Clark, 1000

First National Bank Building, Minneapolis, MN 55402. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *used construction machinery and used construction equipment*, between points in the United States (except AK and HI), restricted to the transportation of traffic originating at or destined to the facilities of Al J. Goodman & Sons, Inc. (Hearing site: Charlotte or Raleigh, NC.)

MC 108119 (Sub-150F), filed April 19, 1979. Applicant: E. L. MURPHY TRUCKING COMPANY, a corporation, P.O. Box 43010, St. Paul, MN 55164. Representative: Andrew R. Clark, 1000 First National Bank Building, Minneapolis, MN 55402. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *trucks and truck chassis*, and (2) *parts, attachments, and accessories* for the commodities in (1) above, between Oshkosh, WI, on the one hand, and, on the other, those points in the United States in and east of ND, SD, NE, KS, OK, and TX. (Hearing site: Milwaukee, WI, or Chicago, IL.)

MC 109818 (Sub-49F), filed April 17, 1979. Applicant: WENGER TRUCK LINE, INC., P.O. Box 3427, Davenport, IA 52808. Representative: Larry D. Knox, 600 Hubbell Building, Des Moines, IA 50309. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products and meat byproducts, and articles distributed by meat-packing houses*, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), (1) from the facilities of Iowa Beef Processors, Inc., at or near Dakota City, NE, to points in Lake and Porter Counties, IN, and IL and IA, restricted to the transportation of traffic originating at the named origin facilities and destined to the indicated destinations. (Hearing site: Omaha, NE.)

MC 110098 (Sub-175F), filed April 12, 1979. Applicant: ZERO REFRIGERATED LINES, 1400 Ackerman Road, P.O. Box 20380, San Antonio, TX 78220. Representative: T. W. Cothren (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs* except commodities in bulk, from the facilities of General Foods Corporation, at Houston, TX, to points in CA and OR, restricted to the transportation of traffic originating at the named origin facilities and destined to the named destinations.

(Hearing site: San Antonio or Houston, TX.)

MC 110988 (Sub-385F), filed April 19, 1979. Applicant: SCHNEIDER TANK LINES, INC., 4321 W. College Avenue, Appleton, WI 54911. Representative: Neil A. Dujardin, P.O. Box 2298, Green Bay, WI 54306. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *acids and chemicals*, in bulk, between St. Louis, MO-East St. Louis, IL, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Chicago, IL.)

Note.—Dual operations may be involved.

MC 111729 (Sub-755F), filed April 5, 1979. Applicant: PUROLATOR COURIER CORP., 3333 New Hyde Park Road, New Hyde Park, NY 11042. Representative: Elizabeth L. Henoch (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in FL, restricted (1) against the transportation of packages weighing more than 50 pounds, and (2) against the transportation of packages or articles weighing in the aggregate more than 100 pounds from one consignor at one location, to one consignee at one location, in any one day. (Hearing site: Washington, D.C.)

Note.—Dual operations may be involved.

MC 112989 (Sub-95F), filed April 17, 1979. Applicant: WEST COAST TRUCK LINES, INC., 85647 Highway 99 South, Eugene, OR 97405. Representative: John W. White, Jr. (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *aluminum sheet and aluminum plate*, from the facilities of Kaiser Aluminum & Chemical Corporation, at Ravenswood, WV, to points in OR, WA, CA, ID, AZ, UT, WY, MT, NV, and TX. (Hearing site: San Francisco, CA.)

Note.—Dual operations may be involved.

MC 113678 (Sub-794F), filed April 12, 1979. Applicant: CURTIS, INC., 4810 Pontiac Street, Commerce City, CO 80022. Representative: Roger M. Shaner (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products, and meat byproducts, and articles distributed by meat-*

packing houses, (except commodities in bulk), from the facilities of Thies Packing Co., at or near Great Bend, Topeka, and Wichita, KS, to points in AL, AZ, AR, CO, FL, GA, ID, KY, MS, NV, NC, OK, SC, TN, TX, UT, and WY. (Hearing site: Kansas City, KS.)

MC 113678 (Sub-795F), filed April 12, 1979. Applicant: CURTIS, INC., 4810 Pontiac Street, Commerce City, CO 80022. Representative: Roger M. Shaner (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *malt beverages*, from points in Jefferson County, CO, to points in AZ, CA, ID, IA, KS, MO, MT, NE, NV, TX, UT and UT, and (2) *empty used beverage containers for recycling, and materials and supplies* dealt in or used by breweries, in the reverse direction. (Hearing site: Denver, CO.)

MC 113678 (Sub-804F), filed April 19, 1979. Applicant: CURTIS, INC., 4810 Pontiac Street, Commerce City, CO 80022. Representative: Roger M. Shaner (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *bananas*, and (2) *agricultural commodities* exempt from economic regulation under 49 U.S.C. 10526(a)(6) (formerly Section 203(b) of the Interstate Commerce Act), when transported in mixed loads with bananas, from the facilities of Del Monte Banana Co., at Port Hueneme, CA, to points in NE, ND, SD, and WY, restricted to the transportation of traffic having a prior movement by water.

MC 113678 (Sub-807F), filed April 12, 1979. Applicant: CURTIS, INC., 4810 Pontiac Street, Commerce City, CO 80022. Representative: Roger M. Shaner (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs* (except commodities in bulk), in vehicles equipped with mechanical refrigeration, between the facilities of Packers Cold Storage, Inc., at or near Laramie, WY, on the one hand, and, on the other, points in AL, GA, IL, KS, MN, NE, TN, TX, and WI, restricted to the transportation of traffic originating at and destined to the above described territory. (Hearing site: Omaha, NE.)

MC 113878 (Sub-808F), filed April 12, 1979. Applicant: CURTIS, INC., 4810 Pontiac Street, Commerce City, CO 80022. Representative: Roger M. Shaner (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats,*

meat products, meat by products, and articles distributed by meat-packing houses (except commodities in bulk), (1) from the facilities of Dold Foods, Inc., at Wichita, KS, to points in AZ, CA, CO, ID, MT, NV, OR, UT, and WA, and (2) from Chicago, IL, to Wichita, KS. (Hearing site: Kansas City, KS.)

MC 117068 (Sub-115F), filed April 19, 1979. Applicant: MIDWEST SPECIALIZED TRANSPORTATION, INC., P.O. Box 6418, Rochester, MN 55901. Representative: Paul F. Sullivan, 711 Washington Building, Washington, DC 20005. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *construction, earth-moving, and material-handling equipment*, and (2) *parts and accessories* for the commodities in (1) above, from White Marsh, MD, to points in the United States (except AK and HI). (Hearing site: Washington, DC.)

MC 117119 (Sub-732F), filed April 17, 1979. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, AR 72728. Representative: Martin M. Geffon, P.O. Box 156, Mt. Laurel, NJ 08054. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *plastic materials and plastic products* (except commodities in bulk), from South Brunswick, Perth Amboy, Franklin, and Clyde, NJ, to points in WA and OR. (Hearing site: New York NY, or Washington, DC.)

MC 117119 (Sub-736F), filed April 17, 1979. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, AR 72728. Representative: L. M. McLean (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs* (except in bulk), in vehicles equipped with mechanical refrigeration, from the facilities of The Pillsbury Company, at Denison, TX, to points in AZ, CA, NV, OR, and WA, restricted to the transportation of traffic originating at the named origin facilities and destined to the indicated destinations. (Hearing site: Minneapolis, MN, or Washington, DC.)

MC 118318 (Sub-44F), filed April 12, 1979. Applicant: IDA-CAL FREIGHT LINES, INC., P.O. Drawer M, Nampa, ID 83851. Representative: Timothy R. Stivers, P.O. Box 162, Boise, ID 83701. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs*, (1) from Clearfield, UT, and points in ID, OR, and WA, to points in AZ, CA, ID, OR, NV,

and WA, (2) from Hermiston and Ontario, OR, and points in ID, to points in UT, and (3) from points in CA, AZ, WA, and OR, to Hermiston, OR, and Clearfield, UT, and points in ID. (Hearing site: Boise, ID.)

MC 119789 (Sub-574), filed April 18, 1979. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 226188, Dallas, TX 75268. Representative: James K. Newbold, Jr. (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in or used by grocery, hardware, and drug business houses (except commodities in bulk), between Canton, OH, on the one hand, and, on the other, Dallas, TX, and Los Angeles, CA. (Hearing site: New York, NY.)

MC 124078 (Sub-961F), filed April 19, 1979. Applicant: SCHWERTMAN TRUCKING CO., a corporation, 611 South 28th Street, Milwaukee, WI 53215. Representative: Richard H. Prevette, P.O. Box 1601, Milwaukee, WI 53201. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *barite*, in bulk, from Brownsville, Houston, and Galveston, TX, to points in LA. (Hearing site: Houston, TX.)

MC 124328 (Sub-130F), filed April 12, 1979. Applicant: BRINK'S INCORPORATED, Thornadal Circle, P.O. Box 1225, Darien, CT 06820. Representative: Richard H. Streeter, 1729 H Street, NW., Washington, DC 20006. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *coin, currency, securities, stocks, bonds, negotiable and non-negotiable instruments, and rare or valuable documents and objects*, between Louisville, KY, on the one hand, and, on the other, points in IN, under continuing contract(s) with banks, and banking institutions. (Hearing site: Louisville, KY, or Washington, DC.)

MC 125708 (Sub-163F), filed April 17, 1979. Applicant: THUNDERBIRD MOTOR FREIGHT LINES, INC., 425 W. 152nd Street, East Chicago, IN 46312. Representative: Anthony C. Vance, 1307 Dolley Madison Blvd., McLean, VA 22101. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *plastic articles and insulation*, between Dallas, TX, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Dallas, TX, or Washington, DC.)

MC 125708 (Sub-162F), filed April 17, 1979. Applicant: THUNDERBIRD MOTOR FREIGHT LINES, INC., 425 W. 152nd Street, East Chicago, IN 46312. Representative: Anthony C. Vance, 397 Dolley Madison Blvd., McLean, VA 22101. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *lumber, wood products, paint, and varnish*, between Jacksonville, TX, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Dallas, TX, or Washington, DC.)

MC 126118 (Sub-151F), filed April 19, 1979. Applicant: CRETE CARRIER CORPORATION, P.O. Box 81222, Lincoln, NE 68501. Representative: Duane W. Acklie (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *park and playground equipment*, and (2) *materials, equipment, and supplies* used in the sale and installation of the commodities in (1) above, from Litchfield, MI, to points in FL, and those points in the United States in and west of MN, IA, MO, OK, and TX (except AK and HI). (Hearing site: Detroit, MI, or Lincoln, NE.)

Note.—Dual operations may be involved.

MC 126118 (Sub-152F), filed April 19, 1979. Applicant: CRETE CARRIER CORPORATION, P.O. Box 81223, Lincoln, NE 68501. Representative: Duane W. Acklie (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *Paper*, from Morrilton, AR, to Kaukauna, WI, and (2) *talc*, from Three Forks, MT, to Kaukauna, WI. (Hearing site: Milwaukee, WI, or Lincoln, NE.)

Note.—Dual operations may be involved.

MC 126679 (Sub-11F), filed April 11, 1979. Applicant: DENNIS TRUCK LINE, INC., P.O. Box 189, Vidalia, GA 30474. Representative: Virgil H. Smith, Suite 12, 1587 Phoenix Boulevard, Atlanta, GA 30349. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *hot rolled steel products, steel roof deck, and barjoist*, from points in AL, PA, MD, and SC, to points in Burke County, GA, and (2) *fabricated structural steel and steel articles*, from Burke County, GA, to points in AL, FL, GA, DE, NC, SC, MS, TN, NY, NJ, PA, MD, and VA. (Hearing site: Atlanta, GA.)

MC 126899 (Sub-125F), filed April 17, 1979. Applicant: USHER TRANSPORT, INC., P.O. Box 3156, Paducah, KY 42001.

Representative: William P. Whitney, Jr., 708 McClure Building, Frankfort, KY 40601. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *malt beverages*, in containers, from Evansville, IN, to points in KY. (Hearing site: LaCrosse or Milwaukee, WI.)

MC 133119 (Sub-158F), filed April 19, 1979. Applicant: HEYL TRUCK LINES, INC., P.O. Box 206, 200 Norka Drive, Akron, IA 51001. Representative: A. J. Swanson, 521 South 14th Street, P.O. Box 81849. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *vacuum systems*, and *attachments and parts* for vacuum systems, from Ponca City, OK, and Morristown, NJ, to the port of entry on the international boundary line between the United States and Canada at or near Portal, ND. (Hearing site: Fargo, ND, or Omaha, NE.)

MC 133689 (Sub-267F), filed April 17, 1979. Applicant: OVERLAND EXPRESS, INC., 719 First Street, SW., New Brighton, MN 55112. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *plastic articles* (except in bulk), from Townsend, MA, to points in VA, GA, AL, OH, IN, MI, WI, IA, MN, TN, NC, SC, ND, SD, NE, KS, and MO, restricted to the transportation of traffic originating at the named origin. (Hearing site: St. Paul, MN.)

MC 134389 (Sub-14F), filed April 16, 1979. Applicant: CARLSON TRANSPORT, INC., P.O. Box R, Byron, IL 61010. Representative: Allan C. Zuckerman, 39 South LaSalle Street, Chicago, IL 60603. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *bentonite and bentonite products*, in bulk, from the facilities of Federal Bentonite Company, at or near Colony, WY, to the facilities of A. E. Schultz Corporation, at or near Neenah, WI. (Hearing site: Chicago, IL.)

MC 135078 (Sub-47F), filed March 22, 1979. Applicant: AMERICAN TRANSPORT, INC., 7850 "F" Street, Omaha, NE 68127. Representative: Arthur J. Cerra, P.O. Box 19251, 2100 TenMain Center, Kansas City, MO 64141. To operate as a *common carrier*, by motor vehicle in interstate or foreign commerce, over irregular routes, transporting *wine* in vehicles equipped with mechanical refrigeration, from Kansas City, MO, to points in AR, CO, FL, IA, ID, IL, IN, KS, MD, ME, NJ, NM,

NY, PA, SD, TX, and DC. (Hearing site: Kansas City, MO.)

Note.—Dual operations may be involved. MC 135568 (Sub-3F), filed April 17, 1979. Applicant: CHRISTIE RIGGING & TRUCKING CO., a corporation, 182 Oakwood Drive, Glastonbury, CT 06033. Representative: Paul F. Sullivan, 711 Washington Building, Washington, DC 20005. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *electrical generating equipment, power plants, and sound reducing equipment*, the transportation of which requires the use of special equipment, (2) *parts* for the commodities in (1) above, and (3) *materials and supplies* used in the installation and operation of the commodities in (1) and (2) above, (except commodities in bulk), between the facilities of Turbo Power & Marine Systems, Inc., at or near Hartford, CT, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Hartford, CT.)

MC 138198 (Sub-11F), filed April 9, 1979. Applicant: SPD TRUCK LINE, INC., 401 Cottage Street, Abilene, KS 67410. Representative: William B. Barker, 641 Harrison Street, Topeka, KS 66603. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *household goods* as defined by the Commission, between points in AR, CO, IL, IA, KS, MN, MO, NE, NM, OK, SD, TX, and WY, under continuing contract(s) with Duckwall-Alco Stores, Inc., of Abilene, KS. (Hearing site: Wichita, KS, or Kansas City, MO.)

MC 138328 (Sub-67F), filed April 17, 1979. Applicant: CLARENCE L. WERNER, d.b.a. WERNER ENTERPRISES, P.O. Box 37308, Omaha, NE 68137. Representative: James F. Crosby, P.O. Box 37205, Omaha, NE 68137. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *tires and tubes*, (a) from Jackson and Natchez, MS, to Hanford, CA, and (b) from Madison, TN, to points in AZ, CA, OR, and WA; (2) *tire fabric*, from Laurinburg and Laurel Hill (Scotland County), NC, to Hanford, CA, Des Moines, IA, and Madison, TN; and (3) *synthetic rubber*, (a) from Baton Rouge, LA, and Berger, TX, to Hanford, CA, and Des Moines, IA. (Hearing site: Washington, DC, or Omaha, NE.)

MC 138438 (Sub-44F), filed April 17, 1979. Applicant: D. M. BOWMAN, INC., Route 2, Box 43A1, Williamsport, MD 21795. Representative: Charles E. Creager, 1329 Pennsylvania Avenue, P.O. Box 1417, Hagerstown, MD 21740.

To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *petroleum and petroleum products*, from Baltimore, MD, and Fairfax, Newington, and Manassas, VA, to points in MD, VA, and WV. (Hearing site: Hagerstown or Baltimore, MD.)

Note.—Dual operations may be involved. MC 138469 (Sub-137F), filed April 13, 1979. Applicant: DONCO CARRIERS, INC., P.O. Box 75354, Oklahoma City, OK 73107. Representative: William J. Green (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *office and household furnishings and fixtures*, (2) parts of the commodities in (1), and (3) materials, equipment, and supplies used in the manufacture of the commodities in (1) above, from the facilities of Triangle Pacific Corporation, at or near Elizabeth City, NC, to those points in the United States in and west of ND, SD, NE, KS, OK, and TX (except AK and HI). (Hearing site: Dallas, TX, or Oklahoma City, OK.)

MC 139879 (Sub-3F), filed February 5, 1979. Applicant: LASALLE CARTAGE COMPANY, INC., 2707 Territorial Road, St. Paul, MN 55114. Representative: Val M. Higgins, 1000 First National Bank Building, Minneapolis, MN 55402. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *industrial solvents, epoxy resins, lubricating oil, industrial soap, and polymers*, from the facilities of Worum Chemical Co., Inc., at St. Paul, MN, to Fargo, Grand Forks, and Devils Lake, ND, Sioux Falls, Mitchell, and Brookings, SD, Houghton, MI, points in WI, and those points in IA on and north of U.S. Hwy 18, and (2) *materials and supplies* used in the manufacture of fiberglass, from the facilities of Worum Fiberglass Supply Co., Inc., at St. Paul, MN, to the destinations named in (1) above. (Hearing site: Minneapolis, MN.)

MC 140389 (Sub-52F), filed April 17, 1979. Applicant: OSBORN TRANSPORTATION, INC., P.O. Box 1830, Gadsden, AL 35902. Representative: Clayton R. Byrd, P.O. Box 12566, Atlanta, GA 30315. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *petroleum, petroleum products, vehicle body sealer, sound deadener compounds, and filters*, (except commodities in bulk, in tank vehicles), (a) from the facilities of Quaker State Oil Refining Corporation, in Warren County, MS, to points in AL,

FL, GA, KY, and TN, and (b) from points in AL, GA, and KY, to the facilities named in (1)(a) above; and (2) *materials, equipment, and supplies* used in the manufacture, sale, and distribution of the commodities in (1) above, (except commodities in bulk), from points in AL, GA, and KY, to the facilities named in (1) (a) above, restricted in (1) and (2) above to the transportation of traffic originating at or destined to the named facilities. (Hearing site: Pittsburgh, PA, or Atlanta, GA.)

MC 140389 (Sub-57F), filed April 17, 1979. Applicant: OSBORN TRANSPORTATION, INC., P.O. Box 1830, Gadsden, AL 35902. Representative: Clayton R. Byrd, P.O. Box 12566, Atlanta, GA 30315. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in by grocery and food business houses, (except commodities in bulk), (1) between points in AL, AR, FL, GA, KY, LA, MS, NC, SC, and TN, and (2) between points in the territory described in (1) above, on the one hand, and on the other, points in IL, IN, IA, KS, MI, MN, MO, NE, ND, OH, SD, and WI. (Hearing site: Atlanta, GA.)

MC 140829 (Sub-225F), filed April 19, 1979. Applicant: CARGO, INC., P.O. Box 206, Sioux City, IA 51102. Representative: David King (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products, and meat byproducts, and articles distributed by meat-packing houses*, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides, skins, and commodities in bulk), from the facilities of Wilson Foods Corporation, at Omaha, NE, to points in CT, DE, ME, MD, MA, NH, NJ, NY, PA, RI, VT, VA, and DC, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations. (Hearing site: Dallas, TX, or Kansas City, MO.)

Note.—Dual operations may be involved. MC 141889 (Sub-5F), April 2, 1979. Applicant: RONALD DE BOER, d.b.a. DE BOER TRUCKING, Route 1—Sherry Station, Milladore, WI 54454. Representative: Wayne W. Wilson, 150 Gilman Street, Madison, WI 53703. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are

dealt in or used by manufacturers converters, and printers of paper and paper products (except commodities in bulk), from points in Portage and Wood Counties, WI, to points in AZ, CA, CO, ID, MT, NM, NV, OR, UT, WA, and WY. (Hearing site: Madison or Stevens Points, WI.)

MC 142368 (Sub-22F), filed April 22, 1979. Applicant: DANNY HERMAN TRUCKING, INC., 1415 East Ninth Avenue, Pomona, CA 91766. Representative: William J. Monheim, P.O. Box 1756, Whittier, CA 90609. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *steel wire*, (1) from Houston, TX, and points in NJ, NY, OH, and PA, to City of Industry, CA, (2) from City of Industry, CA, to Elk Grove Village, IL, and Houston, TX, and (3) from Los Angeles, CA, to points in AR, IN, KS, OH, and TX. (Hearing site: Los Angeles, CA.)

Note.—The person or persons who appear to be engaged in common control with another carrier must either file an application under 49 U.S.C. 11343(a) (formerly Section 5(2) of the Interstate Commerce Act), or submit an affidavit indicating why such approval is unnecessary. Affidavits or the application under 49 U.S.C. 11343(a) is due 20 days from the date of publication hereof.

MC 142539 (Sub-5F), filed April 19, 1979. Applicant: B.W.T. TRANSPORT, INC., 757 River Drive, Passaic, NJ 07055. Representative: Robert B. Pepper, 168 Woodbridge Avenue, Highland Park, NJ 08904. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *chemicals, petroleum, and petroleum products*, (except commodities in bulk), and (2) *materials and supplies* used in the manufacture and sale of the commodities in (1) above, (except commodities in bulk), between Paterson and Perth Amboy, NJ, and Chicago, IL, on the one hand, and on the other, those points in the United States in and east of ND, SD, NE, KS, OK, and TX, under continuing contract(s) with Witco Chemical Corp., of New York, NY. (Hearing site: Newark, NJ.)

MC 143059 (Sub-76F), filed April 19, 1979. Applicant: MERCER TRANSPORTATION CO., a corporation, P.O. Box 35610, Louisville, KY 40232. Representative: James L. Stone (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *building materials*, (except commodities in bulk), from the facilities of Bird & Sons, Inc., at or near Shreveport, LA, to points in AR, IL, KS, KY, MS, NM, OK, TN, and TX,

restricted to the transportation of traffic originating at the named origin. (Hearing site: Louisville, KY, or Washington, DC.)

MC 144209 (Sub-6F), filed April 16, 1979. Applicant: ERWIN TRUCKING, INC., 9100 "F" Street, Omaha, NE 68127. Representative: Paul D. Kratz, Suite 810, 7171 Mercy Road, Omaha, NE 68106. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *telephone equipment and switchboard parts*, (2) *materials and supplies* used in the installation and maintenance of telephone equipment and telephone lines, and (3) *supplies* used by manufacturers of the commodities in (1) and (2) above, from Kearny, NJ, to Goddard, KS. (Hearing site: Omaha, NE.)

Note.—Rates are involved in this proceeding.

MC 145099 (Sub-3F), filed April 17, 1979. Applicant: MARLOR ENTERPRISES, LTD., 2950 Altamont Crescent, West Vancouver, British Columbia, Canada V7V 1C3. Representative: William J. Monheim, P.O. Box 1756, Whittier, CA 90609. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *pipe coating*, from Fontana, CA, to those ports of entry on the international boundary line between the United States and Canada in WA, under continuing contract(s) with Shaw Pipe Protection (Pacific) Ltd., of Surrey, British Columbia, Canada. (Hearing site: Seattle, WA)

MC 145099 (Sub-4F), filed April 17, 1979. Applicant: MARLOR ENTERPRISES, LTD., 2950 Altamont Crescent, West Vancouver, British Columbia, Canada V7V 1C3. Representative: William J. Monheim, P.O. Box 1756, Whittier, CA 90609. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *lumber*, from those ports of entry on the international boundary line between the United States and Canada at or near (a) Blaine, Sumas, Oroville, Ferry, and Danville, WA, (b) Eastport, ID, and (c) Eureka, MT, to points in AZ, CA, NV, and TX, under continuing contract(s) with Marlor Industries, Ltd., of West Vancouver, British Columbia, Canada. (Hearing site: Seattle, WA.)

MC 145338 (Sub-3F), filed April 19, 1979. Applicant: MEDICAL EMERGENCY TRANSPORTATION CORPORATION d.b.a. METCOR, P.O. Box 8, Califo, NJ 07830. Representative: Norman Weiss, P.O. Box 1409, 167 Fairfield Road, Fairfield, NJ 07006. To operate as a *contract carrier*, by motor

vehicle, in interstate or foreign commerce, over irregular routes, transporting *radiopharmaceuticals and medical isotopes*, from Newark International Airport, at Newark, NJ, to points in Adams, Berks, Bucks, Carbon, Chester, Columbia, Dauphin, Delaware, Lackawanna, Lancaster, Lebanon, Lehigh, Luzerne, Lycoming, Monroe, Montgomery, Northampton, Northumberland, Philadelphia, Schuylkill, Sullivan, Wyoming, and York Counties, PA, restricted to the transportation of traffic having a prior movement by air, and further restricted against the transportation of packages or articles weighing in the aggregate more than 40 pounds from one consignor to one consignee on any one day, under continuing contract(s) with New England Nuclear Corporation, of North Bellerica, MA. (Hearing site: New York, NY.)

MC 145539 (Sub-1F), filed March 22, 1979. Applicant: OHIO NORTHERN TRANSIT CO., a corporation, 2871 West 130th St., Hinckley, OH 44233. Representative: James C. White (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *commodities* which because of size or weight require special equipment, (1) between points in Lorain and Medina Counties, OH, on the one hand, and, on the other, those points in the United States east of the Continental Divide (except OH), and (2) between Mathiston, MS, on the one hand, and, on the other, points in the United States (except AK, HI, and MS). (Hearing site: Cleveland or Columbus, OH.)

MC 145818 (Sub-1F), filed April 17, 1979. Applicant: AMERICAN TRANSPORT, INC., 305 West 14th Street, Sioux Falls, SD 57102. Representative: M. Mark Menard, P.O. Box 480, Sioux Falls, SD 57101. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *steel buildings, grain bins, grain drying systems, and elevator leg systems*, from Atlantic and Houghton, IA, Assumption, IL, and Madison, WI, to points in AR, CO, IA, KS, MN, MO, ND, NE, OK, SD, TX, and LA, under continuing contract(s) with (a) Agra Sun Systems, Inc., and (b) Wholesale Farm Supply, Inc., of Sioux Falls, SD. (Hearing site: Sioux Falls, SD, or Sioux City, IA.)

MC 146419 (Sub-2F), filed April 18, 1979. Applicant: RAYMOND J. SCHWANBECK AND LEE ALLEN SCHWANBECK, a partnership d.b.a. SCHWANBECK BROS., Route 1 Box 187 C, Pittsville, WI 54468. Representative:

Wayne E. Wilson, 150 E. Gilman Street, Madison, WI 53703. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in or used by manufacturers converters, and printers of paper and paper products, (except *commodities* in bulk), from points in Portage and Wood Counties, WI, to points in AZ, CO, CA, ID, MT, NM, NV, OR, UT, WA, and WY. (Hearing site: Madison or Stevens Point, WI.)

MC 146599 (Sub-2F), filed April 19, 1979. Applicant: HANNAN TRUCKING, INC., 11208 Sherman, Dallas, TX 75229. Representative: Harry F. Horak, Suite 115, 5001 Brentwood Stair Road, Fort Worth, TX 76112. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in or used by grocery and food business houses, between Grand Prairie, TX, on the one hand, and, on the other, points in KS and OK. (Hearing site: Ft. Worth or Dallas, TX.)

MC 146608 (Sub-1F), filed April 17, 1979. Applicant: BOARD TRUCKING COMPANY, INC., Bli Big Springs, KY 40106. Representative: Herbert D. Liebman, P.O. Box 478, Frankfort, KY 40601. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in by wholesalers and retailers of building materials and supplies, (except *commodities* in bulk, in tank vehicles), between points in KY, on the one hand, and, on the other, points in IN, restricted to the transportation of traffic originating at or destined to the facilities of The Wickes Corporation, under continuing contract(s) with The Wickes Corporation, of Saginaw, MI. (Hearing site: Louisville or Frankfort, KY.)

MC 147139F, filed April 18, 1979. Applicant: A-1 MOVERS, INC., 11557 Darryl Drive, Baton Rouge, LA 70815. Representative: Howard Taylor (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *used household goods*, between Baton Rouge, LA, on the one hand, and, on the other, points in LA, restricted to the transportation of traffic having a prior or subsequent movement, in containers, beyond the points authorized, and further restricted to the performance of pickup and delivery service in connection with the packing, crating, and containerization or unpacking, uncrating, and decontainerization of

such shipments. (Hearing site: Baton Rouge or Lafayette, LA.)

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Decided: August 3, 1979.

By the Commission, Review Board Number 2, Members Liberman, Eaton, and Boyle

MC 4484 (Sub-8F), filed March 26, 1979. Applicant: CROWN TRANSPORT, INC., Rural Delivery No. 2, Wampum, PA 16157. Representative: Andrew R. Clark, 1000 First National Bank Building, Minneapolis, MN 55402. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *machinery*, between Charlotte, NC, and points in Delaware and Philadelphia Counties, PA, on the one hand, and on the other, points in the United States in and east of WI, IA, MO, AR, and LA. (Hearing site: Philadelphia, PA, or Washington, DC.)

MC 8535 (Sub-78F), filed March 28, 1979. Applicant: GEORGE TRANSFER AND RIGGING COMPANY, INCORPORATED, P.O. Box 500, Parkton, MD 21120. Representative: John Guandolo, 1000 Sixteenth St., N.W., Washington, DC 20036. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *aluminum articles, and materials, equipment, and supplies* used in the manufacture of aluminum (except *commodities* in bulk), between the facilities of Alumax, Inc., in Berkeley County, SC, on the one hand, and, on the other, points in AL, CT, DE, GA, IL, IN, KY, MD, MI, NJ, NC, NY, OH, PA, SC, TN, VA, WV, and DC. (Hearing site: Charleston, SC, or Atlanta, GA.)

MC 8535 (Sub-81F), filed March 28, 1979. Applicant: GEORGE TRANSFER AND RIGGING COMPANY, INCORPORATED, P.O. Box 500, Parkton, MD 21120. Representative: John Guandolo, 1000 Sixteenth St., N.W., Washington, DC 20036. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *aluminum articles*, from the facilities of Kaiser Aluminum & Chemical Corporation, at or near Ravenswood, WV, to points in DE, IL, IN, KY, MD, MI, NJ, NY, NC, OH, PA, TN, VA, WV, and DC. (Hearing site: Columbus, OH, or Pittsburgh, PA.)

MC 8535 (Sub-82F), filed March 28, 1979. Applicant: GEORGE TRANSFER AND RIGGING COMPANY, INCORPORATED, P.O. Box 500, Parkton, MD 21120. Representative: John Guandolo, 1000 Sixteenth St., N.W., Washington, DC 20036. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *iron and*

steel articles, from the facilities of Kentucky Electric Steel Co., at Coalton, (Boyd County), KY, to points in IL, IN, IA, and TN. (Hearing site: Columbus, OH, or Pittsburgh, PA.)

MC 22195 (Sub-178F), filed March 27, 1979. Applicant: DAN DUGAN TRANSPORT COMPANY, a corporation, 41st & Grange Ave., Sioux Falls, SD 57105. Representative: F. Fred Fischer (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *molasses*, in bulk, in tank vehicles, (a) from Drayton and Hillsboro, ND, to points in MN, SD, IA, and WI, and (b) from East Grand Forks, Crookston, and Moorhead, MN, to points in ND, SD, IA, and WI. (Hearing site: Fargo, ND, or Sioux Falls, SD.)

MC 44805 (Sub-50F), filed April 6, 1979. Applicant: MILNE TRUCK LINES, INC., 2500 West California Ave., Salt Lake City, UT 84104. Representative: Edward J. Hegarty, 100 Bush St., 21st Floor, San Francisco, CA 94104. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, *commodities* in bulk, and those requiring special equipment), between Reno and Las Vegas, NV, from Reno over Interstate Hwy 80 to junction Alternate U.S. Hwy 95, then over Alternate U.S. Hwy 95 to junction U.S. Hwy 95, then over U.S. Hwy 95 to Las Vegas, and return over the same route, serving no intermediate points. Condition: The person or persons who appear to be engaged in common control of applicant and another regulated carrier must either file an application under 49 U.S.C. 11343 (a) (formerly section 5(2) of the Interstate Commerce Act), or submit an affidavit indicating why such approval is unnecessary. (Hearing sites: Reno, NV, and Phoenix, AZ.)

MC 50935 (Sub-27F), filed March 28, 1979. Applicant: WOLVERINE TRUCKING COMPANY, a corporation, 1020 Doris Rd., Pontiac, MI 48057. Representative: Robert E. McFarland, 999 West Big Beaver Rd., Suite 1002, Troy, MI 48064. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *malt beverages* (1) from Newark, NJ, to points in MI, and (2) between Newark, NJ, on the one hand, and, on the other, Milwaukee, WI and Peoria, IL. (Hearing site: Detroit or Lansing, MI.)

MC 52704 (Sub-215F), filed April 6, 1979. Applicant: GLENN McCLENDON TRUCKING COMPANY, INC., P.O. Box Drawer "H", Lafayette, AL 36862. Representative: Archie B. Culbreth, Suite 202, 2200 Century Parkway, Atlanta, GA 30345. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *dry milk products* (except in bulk), from the facilities of DMI, Inc., at or near Louisville, KY, to points in AL, FL, GA, LA, MS, NC, SC, TN, and VA. (Hearing site: Atlanta, GA, TN.)

MC 52704 (Sub-237F), filed April 9, 1979. Applicant: GLENN McCLENDON TRUCKING COMPANY, INC., P.O. Box Drawer "H", Lafayette, AL 36862. Representative: Archie B. Culbreth, Suite 202, 2200 Century Parkway, Atlanta, GA 30345. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *pet foods*, from the facilities of Mavar Shrimp & Oyster Co., at or near Biloxi, MS, to points in AL, AR, FL, GA, IL, IN, KS, KY, LA, MO, NC, SC, TN, TX, and VA; and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the *commodities* named in (1) above (except *commodities* in bulk), in the reverse direction. (Hearing site: New Orleans, LA, or Atlanta, GA.)

MC 60014 (Sub-128F), filed April 9, 1979. Applicant: AERO TRUCKING, INC., Box 308, Monroeville, PA 15146. Representative: A. Charles Tell, 100 East Broad St., Columbus, OH 43215. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *glass making machinery*, between the facilities of Maul Bros., at or near (a) Winchester, IN, and (b) Millville, NJ, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Washington, DC.)

MC 95084 (Sub-133F), filed March 28, 1979. Applicant: HOVE TRUCK LINE, a corporation, Stanhope, IA 50246. Representative: Kenneth F. Dudley, P.O. Box 279, 611 Church St., Ottumwa, IA 52501. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in or used by agricultural equipment, industrial equipment, and lawn care and leisure product manufacturers and dealers (except *commodities* in bulk), between the facilities of International Harvester Company, at (a) Canton, East Moline, and Rock Island, IL, and (b) Memphis, TN, on the one hand, and, on the other,

points in CT, DE, KY, ME, MD, MA, MI, NH, NJ, NY, OH, PA, RI, VT, WV, and DC, restricted, except for movements in foreign commerce, to the transportation of traffic originating at the named origins, and destined to the indicated destinations. (Hearing site: Chicago, IL.)

MC 105045 (Sub-101F), filed April 5, 1979. Applicant: R. L. JEFFRIES TRUCKING CO., INC., P.O. Box 3277, Evansville, IN 47701. Representative: Paul F. Sullivan, 711 Washington Bldg., Washington, DC 20005. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *iron and steel articles*, from the facilities of Tennessee Forging & Steel Corp., at or near Newport, AR, to those points in the United States in and east of CO, MN, NE, KS, OK, and TX. (Hearing site: Washington, DC.)

MC 106674 (Sub-381F), filed April 5, 1979. Applicant: SCHILLI MOTOR LINES, INC., P.O. Box 123, Remington, IN 47977. Representative: Jerry L. Johnson (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *composition board*, from Blountstown, FL, to those points in the United States in and east of WI, IL, KY, TN, and MS. (Hearing site: Chicago, IL, or Indianapolis, IN.)

MC 107515 (Sub-1216F), filed March 29, 1979. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Alan E. Serby, Fifth Floor, Lenox Towers South, 3390 Peachtree Rd., N.E., Atlanta, GA 30326. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in by grocery and food business houses (except *commodities* in bulk), in vehicles equipped with mechanical refrigeration, between the facilities of Seneca-Lincoln Foods, Division of Seneca Food Corp., at or near Mountain Home, NC, on the one hand, and, on the other, those points in the United States in and east of MN, IA, NE, KS, OK, and TX (except NC). (Hearing site: Atlanta, GA.)

Note.—Dual operations may be involved.

MC 107515 (Sub-1218F), filed March 26, 1979. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Alan E. Serby, Fifth Floor, Lenox Towers South, 3390 Peachtree Rd., N.E., Atlanta, GA 30326. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *frozen foods*, in vehicles equipped with

mechanical refrigeration, from Falmouth, VA, to points in NH. (Hearing site: Atlanta, GA.)

Note.—Dual operations may be involved.

MC 109124 (Sub-70F), filed April 9, 1979. Applicant: SENTLE TRUCKING CORPORATION, P.O. Box 7850, Toledo, OH 43619. Representative: James M. Burtch, 100 East Broad St., Suite 1800, Columbus, OH 43215. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *iron and steel articles, and non-ferrous metal articles*, from Chicago, IL, to Buffalo, NY, and points in OH. (Hearing site: Chicago, IL, or Washington, DC.)

MC 109584 (Sub-192F), filed March 28, 1979. Applicant: ARIZONA-PACIFIC TANK LINES, a corporation, 3980 Quebec St., P.O. Box 7240, Denver, CO 80207. Representative: Rick Barker (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *liquid animal feed*, in bulk, in tank vehicles, from Clovis, NM, to points in Imperial County, CA. Condition: The person or persons engaged in common control of applicant and another regulated carrier must file an application under 49 U.S.C. 11343 (formerly section 5(2) of the Interstate Commerce Act) for approval of the common control, or file an affidavit indicating why such approval is unnecessary. (Hearing site: Phoenix, AZ, or Los Angeles, CA.)

Note.—Dual operations may be involved.

MC 111274 (Sub-42F), filed March 28, 1979. Applicant: SCHMIDGALL TRANSFER INC., P.O. Box 356, Morton, IL 61550. Representative: Frederick C. Schmidgall (same address as applicant). To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *steel tubing, pipe tubing and alloy tubing*, and (2) *accessories*, for the commodities in (1) above, between Chicago, IL, on the one hand, and, on the other, (a) points in MO, OK, IA, KS, MN, NV, ND, SD, CO, KY, and TN, and (b) points of entry on the international boundary line between the United States and Canada in MT, ID, and WA. (Hearing site: Chicago or Springfield, IL.)

MC 112595 (Sub-85F), filed April 5, 1979. Applicant: FORD BROTHERS, INC., P.O. Box 727, Ironton, OH 45638. Representative: Jerry B. Sellman, 50 West Broad St., Columbus, OH 43215. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *petroleum and petroleum products, and chemicals*, in bulk,

between the facilities of Ashland Oil, Inc., in (a) Boyd County, KY, (b) Lawrence County, OH, and (c) Wayne County, WV, on the one hand, and, on the other, those points in the United States in and east of MN, IA, MO, AR, and LA. (Hearing site: Columbus, OH, or Washington, DC.)

MC 113434 (Sub-128F), filed April 5, 1979. Applicant: GRA-BELL TRUCK LINE, INC., A-5253—144th Ave., Holland, MI 49423. Representative: Wilhelmina Boersma, 1600 First Federal Bldg., Detroit, MI 48226. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs* (except in bulk, in tank vehicles), from the facilities of Kraft, Inc., at (a) Dunkirk, NY, and (b) Erie, PA, to points in IL, IN, OH, and MI, restricted to the transportation of traffic originating at the named origin facilities and destined to the indicated destinations. (Hearing site: Chicago, IL, or Washington, DC.)

MC 113855 (Sub-478F), filed March 22, 1979. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Rd. SE, Rochester, MN 55901. Representative: Michael E. Miller, 502 First National Bank Bldg., Fargo, ND 58126. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *such commodities* as are dealt in or used by manufacturers of pollution control equipment, (except commodities in bulk, in tank vehicles), (2) *such commodities* as are dealt in or used by manufacturers of energy producing, reclamation and mining equipment, (except commodities in bulk, in tank vehicles), and (3) *such commodities* as are dealt in or used by manufacturers of self-propelled vehicles and self-propelled machinery, (except commodities in bulk, in tank vehicles), between points in the United States (including AK, but excluding HI); restricted in (3) above, to the transportation of traffic originating at the facilities of Envirotech Corporation. (Hearing site: San Francisco, CA.)

MC 113855 (Sub-479F), filed March 22, 1979. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Rd. SE, Rochester, MN 55901. Representative: Michael E. Miller, 502 First National Bank Bldg., Fargo, ND 58126. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *utility bodies, machinery, and metal articles*, and (2) *parts, attachments, and accessories* for the commodities in (1) above, between Reading, PA, on the one hand, and, on the other, points in the United States (including AK, but

excluding HI). (Hearing site: Washington, DC.)

MC 113855 (Sub-480F), filed April 2, 1979. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Rd. S.E., Rochester, MN 55901. Representative: Michael E. Miller, 502 First National Bank Bldg., Fargo, ND 58126. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *heat exchangers and equalizers, and gas and liquid, washing, heating, cooling, humidifying, and moving equipment*; (2) *pollution control equipment*; (3) *piston ring valves*; (4) *material handling equipment*; (5) *foundry equipment*; (6) *fabricated metal articles*; (7) *parts, attachments, and accessories* for the commodities in (1) through (6) above; and (8) *materials, equipment, and supplies* used in the manufacture of the commodities in (1) through (7) above, between points in York County, PA, on the one hand, and, on the other, points in the United States (including AK, but excluding HI). (Hearing site: Washington, DC.)

MC 115654 (Sub-154F), filed April 3, 1979. Applicant: TENNESSEE CARTAGE CO., INC., P.O. Box 23193, Nashville, TN 37202. Representative: Henry E. Seaton, 929 Pennsylvania Bldg., 425 Thirteenth St., NW, Washington, DC 20004. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *charcoal briquettes*, from the facilities used by Husky Industries, at or near Meridian and Pachuta, MS, to points in AL, GA, and TN. (Hearing site: Atlanta, GA, or Nashville, TN.)

MC 116915 (Sub-78F), filed March 26, 1979. Applicant: BCK MILLER TRANSPORTATION CORP., a corporation, 1830 S. Plate St., Kokomo, IN 46901. Representative: Fred F. Bradley, P.O. Box 773, Frankfort, KY 40602. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *dump bodies, axles, supports, hoists cylinders, fuel tanks, and mobile feed mixers*, and (2) *materials, equipment, and supplies* used in the manufacture of the commodities in (1) above, (except commodities in bulk, in tank vehicles), between the facilities of (a) Harsh Manufacturing, at or near Owensboro, KY, (b) Hydraulics Unlimited Manufacturing Co., at or near Eaton, CO, (c) Clark Truck Equipment Co., at or near Linden, IN, and (d) Harsh of Platte Valley Equipment Co., at or near Scotts Bluff, NE, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Louisville, KY.)

MC 119765 (Sub-88F), filed April 3, 1979. Applicant: EIGHT WAY XPRESS, INC., 5402 South 27th St., Omaha, NE 68107. Representative: Arlyn L. Westergren, Suite 108, 7101 Mercy Rd., Omaha, NE 68106. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products and meat byproducts, and articles distributed by meat-packing houses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (except hides, and commodities in bulk, in tank vehicles), from Harlan, IA, to Lodi, CA. (Hearing site: Omaha, NE.)

Note.—Dual operations may be involved.

MC 121664 (Sub-83F), filed March 27, 1979. Applicant: HORNADY TRUCK LINE, INC., P.O. Box 846, Monroeville, AL 36460. Representative: W. E. Grant, 1702 First Ave. South, Birmingham, AL 35233. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *coiled steel, flat sheet steel, steel tubing, mufflers, and tail pipes*, from Gadsden, AL, to Dexter, MO. (Hearing site: Birmingham, AL, or Indianapolis, IN.)

MC 121664 (Sub-67F), filed March 26, 1979. Applicant: HORNADY TRUCK LINE, INC., P.O. Box 846, Monroeville, AL 36460. Representative: W. E. Grant, 1702 First Ave. South, Birmingham, AL 35233. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *roofing*, (a) from Holt, AL, to points in MO, TN, KY, GA, NC, SC, FL, AL, LA, AR, VA, MO, IL, and IN, and (b) from Doraville, GA, to points in TN, NC, SC, and FL. (Hearing site: Birmingham or Montgomery, AL.)

MC 121664 (Sub-68F), filed April 9, 1979. Applicant: HORNADY TRUCK LINE, INC., P.O. Box 846, Monroeville, AL 36460. Representative: W. E. Grant, 1702 First Ave., South, Birmingham, AL 35201. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *rotary cutters and components* of rotary cutters, from Selma, AL, to points in PA, VA, FL, MO, TX, KY, IL, IN, and SC; and (2) *materials and supplies* used in the manufacture of the commodities named in (1) above, in the reverse direction. (Hearing site: Birmingham or Montgomery, AL.)

MC 123294 (Sub-63F), filed April 5, 1979. Applicant: WARSAW TRUCKING CO., INC., Sawyer Center, Route 1, Chesterton, IN 46304. Representative: H. E. Miller, Jr. (same address as

applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *aluminum scrap*, between points in IL, IN, OH, MI, MO, IA, and KY, and (2) *aluminum ingots and aluminum wire*, from Coldwater, MI, and Toledo, OH, to points in IL, IN, OH, MI, MO, IA, and KY. (Hearing site: Chicago, IL.)

Note.—Dual operations may be involved.

MC 127625 (Sub-33F), filed April 4, 1979. Applicant: SANTEE CEMENT CARRIERS, INC., P.O. Box 638, Holly Hill, SC 29059. Representative: Frank B. Hand, Jr., P.O. Drawer C, Berryville, VA 22611. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *composition board and plywood*, and (2) *accessories and materials* used in the installation and sale of the commodities named in (1) above, from the facilities of Abitibi Corporation, at Toledo, OH, to points in AL, CT, DE, FL, GA, IL, IN, KY, ME, MD, MA, MI, MS, NH, NJ, NY, OH, PA, RI, SC, TN, VA, VT, WV, WI, and DC. (Hearing site: Detroit, MI, or Washington, DC.)

MC 127705 (Sub-87F), filed April 4, 1979. Applicant: KREVDA BROS. EXPRESS, INC., P.O. Box 68, Gas City, IN 46933. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *glass containers*, from the facilities of Midland Glass Company, Inc., at Terre Haute, IN, to points in WI (Hearing site: Indianapolis, IN.)

MC 127834 (Sub-121F), filed April 2, 1979. Applicant: CHEROKEE HAULING & RIGGING, INC., Hwy 85 East, Madisonville, KY 42431. Representative: Carl U. Hurst, P.O. Drawer "L", Madisonville, KY 42431. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, and commodities in bulk), between Hickman, KY, and the facilities of Hickman-Fulton County Riverport, at or near Hickman, KY, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Memphis, TN, or St. Louis, MO.)

MC 128205 (Sub-66F), filed March 28, 1979. Applicant: BULKMATIC TRANSPORT COMPANY, a corporation, 12000 South Doty Ave., Chicago, IL 60628. Representative: Arnold L. Burke, 180 North La Salle St.,

Chicago, IL 60601. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *cereal food products*, in bulk, from Battle Creek, MI, to Delvan, WI. (Hearing site: Chicago, IL.)

MC 133095 (Sub-247F), filed April 5, 1979. Applicant: TEXAS CONTINENTAL EXPRESS, INC., P.O. Box 434, Euless, TX 76039. Representative: Kim G. Meyer, 1100 Gas Light Tower, 235 Peachtree St., N.E., Atlanta, GA 30303. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *paper and paper products, and materials, and supplies* used in the manufacture of paper and paper products (a) from the facilities of Scott Paper Company, at or near Mobile, AL, to Huntington and Fairmont, WV, and points in IL, IN, DE, MN, MI, WI, and PA (except Philadelphia), and (b) from the facilities of Scott Paper Company, at or near Marinette, Oconto Falls, Green Bay, and Fond du Lac, WI, to Atlanta, GA, and Mobile, AL. (Hearing site: Mobile, AL, or Atlanta, GA.)

MC 133775 (Sub-19F), filed March 9, 1979. Applicant: REEFER TRANSIT LINE, INC., 1977 West 103rd St., Chicago, IL 60604. Representative: Elaine M. Conway, 10 S. LaSalle St., Chicago, IL 60603. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products and meat byproducts, and articles distributed by meat-packing houses*, as described in Sections A and C of Appendix I to the report in *Description in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk), from Worthington, MN, to points in AL, FL, GA, LA, MS, NC, SC, and TN. (Hearing site: Chicago, IL, or Des Moines, IA.)

MC 134064 (Sub-24F), filed March 28, 1979. Applicant: INTERSTATE TRANSPORT, INC., 1600 Hwy. 129 South, Gainesville, GA 30501. Representative: Charles M. Williams, 350 Capitol Life Center, 1600 Sherman St., Denver, CO 80203. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs* (except commodities in bulk), from the facilities of Beatrice Foods Co., at or near Archbold, OH, to points in AL, FL, GA, MS, NC, SC, and TN. (Hearing site: Columbus, OH, or Atlanta, GA.)

MC 134405 (Sub-66F), filed March 28, 1979. Applicant: BACON TRANSPORT COMPANY, a corporation, P.O. Box 1134, Ardmore, OK 73401.

Representative: Wilburn L. Williamson, Suite 615-East, The Oil Center, 2601 Northwest Expressway, Oklahoma City, OK 73112. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *soybean oil*, in bulk, in tank vehicles, from the facilities of Cargill, Inc., at or near Wichita, KS, to the Port of Catoosa, OK. (Hearing site: Oklahoma City, OK.)

MC 135884 (Sub-16F), filed March 15, 1979. Applicant: CALDWELL TRUCKING, INC., Holdman Route, Pendleton, OR 97801. Representative: Lawrence V. Smart, Jr., 419 N.W. 23rd Ave., Portland, OR 97210. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *plastic foam insulation and insulation supplies*, from the facilities of Vertex, Inc., at Oakland and Los Angeles, CA, to points in WA and OR. (Hearing site: Portland, OR.)

MC 136384 (Sub-14F), filed April 6, 1979. Applicant: PALMER MOTOR EXPRESS, INC., P.O. Box 103, Savannah, GA 31402. Representative: W. W. Palmer, Jr. (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *building materials*, and *insulating materials*, and (2) *materials, equipment, and supplies* used in the manufacture, installation, and distribution of building materials, between the facilities of Johns-Manville Corporation at Savannah, GA, on the one hand, and, on the other, points in TN and VA. (Hearing site: Savannah or Atlanta, GA.)

MC 136384 (Sub-15F), filed April 6, 1979. Applicant: PALMER MOTOR EXPRESS, INC., P.O. Box 103, Savannah, GA 31402. Representative: W. W. Palmer, Jr. (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *paper and paper products (except commodities in bulk)*, between the facilities of Union Camp Corp., at Savannah and Tifton, GA, on the one hand, and, on the other, points in AL, AR, CO, CT, DE, FL, GA, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, NH, NY, NJ, NC, OH, OK, PA, RI, SC, TN, TX, VT, VA, WV, WI, and DC, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of paper and paper products (except commodities in bulk), from points in AL, AR, CO, CT, DE, FL, GA, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, NH, NY, NJ, NC, OH, OK, PA, RI, SC, TN, TX, VT, VA, WV, WI, and DC, to the

facilities named in (1) above. (Hearing site: Savannah or Atlanta, GA.)

MC 136605 (Sub-97F), filed April 4, 1979. Applicant: DAVIS BROS., DIST., INC., P.O. Box 8058, Missoula, MT 59807. Representative: Allen P. Felton (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *iron and steel articles*, from the facilities of Northwest Steel and Wire Company, at or near Sterling, IL, to those points in the United States in and west of MN, IA, MO, OK, and TX (except AK, and HI). (Hearing site: Chicago, IL.)

MC 136605 (Sub-125F), filed April 3, 1979. Applicant: DAVIS BROS., DIST., INC., P.O. Box 8058, Missoula, MT 59807. Representative: Allen P. Felton (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *bentonite*, from the facilities of Wyo-Ben, Inc., in Big Horn and Hot Springs Counties, WY, to points in ID, WA, and OR. (Hearing site: Billings, MT.)

MC 138265 (Sub-2F), filed March 28, 1979. Applicant: W. A. BARNES TRUCKING CO., INC., Route 2, Box 234 D-1, Prince George, VA 23875. Representative: Calvin F. Major, 200 W. Grace Street, Suite 415, Richmond, VA 23220. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *lumber and building materials*, from points in VA, to points in NY, NJ, CT, MA, NH, VT, ME, DE, OH, RI, PA, MD, WV, TN, NC, and DC, under continuing contract(s) with (a) Roper Brothers Lumber Co., Inc., of Petersburg, VA, (b) Wrenn Lumber Corporation of Roanoke, VA, and (c) Continental Forest Industries, a division of The Continental Group, Inc., of Savannah, GA. (Hearing site: Richmond, VA.)

MC 138635 (Sub-88F), filed April 3, 1979. Applicant: CAROLINA WESTERN EXPRESS, INC., Box 3961, Gastonia, NC 28052. Representative: Eric Meierhoefer, Suite 423, 1511 K St., NW., Washington, DC 20005. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *office furniture*, from Bell Gardens, CA, to Raleigh, NC, Miami and Fort Meyers, FL, Atlanta, GA, Mobile, AL, and Memphis, TN. (Hearing site: Los Angeles, CA.)

Note.—Dual operations may be involved.

MC 139395 (Sub-3F), filed April 5, 1979. Applicant: BULK TRANSIT CORPORATION, 2040 North Wilson Rd., Columbus, OH 43228.

Representative: Paul F. Beery, 275 East State St., Columbus, OH 43215. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *foodstuffs*, in bulk, in tank vehicles, and (2) *materials, equipment, and supplies* used in the manufacture of the commodities in (1) above, between Columbus, OH, on the one hand, and, on the other, points in the United States (except OH). (Hearing site: Columbus, OH, or Washington, DC.)

MC 140615 (Sub-35F), filed April 5, 1979. Applicant: DAIRYLAND TRANSPORT, INC., P.O. Box 1116, Wisconsin Rapids, WI 54494. Representative: Terrence D. Jones, 2033 "K" St., N.W., Washington, DC 20006. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *canned goods*, from the facilities of Campbell Soup Company, at Chicago, IL, to points in WI, and the Upper Peninsula of MI. (Hearing site: Washington, DC, or Chicago, IL.)

MC 141804 (Sub-199F), filed March 23, 1979. Applicant: WESTERN EXPRESS, DIVISION OF INTERSTATE RENTAL, INC., P.O. Box 3488, Ontario, CA 91761. Representative: Frederick J. Coffman (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), from points in VA, NC, SC, GA, TN, and AL, to points in UT, AZ, NV, WA, OR, and CA, restricted to the transportation of traffic moving on bills of lading of freight forwarders as defined in 49 U.S.C. § 10102(8) (formerly section 402(a)(5) of the Interstate Commerce Act). (Hearing site: Los Angeles or San Francisco, CA.)

MC 141804 (Sub-200F), filed March 21, 1979. Applicant: WESTERN EXPRESS, DIVISION OF INTERSTATE RENTAL, INC., P.O. Box 3488, Ontario, CA 91761. Representative: Frederick J. Coffman (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *cabinets, range hoods, sanitation systems, ventilators, and mail boxes*, (2) *parts, supplies, and accessories* used in the installation of the commodities in (1) above, (3) *vehicle accessories*, and (4) *parts and supplies* for vehicle accessories from points in CA to those points in the United States in and east of

ND, SD, NE, KS, OK, and TX. (Hearing site: Los Angeles, or San Francisco, CA.)

MC 141804 (Sub-245F), filed April 4, 1979. Applicant: WESTERN EXPRESS, Division of Interstate Rental, Inc., P.O. Box 3488, Ontario, CA 91761. Representative: Frederick J. Coffman (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *adhesives*, between points in CA, on the one hand, and, on the other, those points in the United States in and east of ND, SD, NE, KS, OK, and TX, restricted to the transportation of traffic originating at or destined to the facilities of Essex Chemical Corp. (Hearing site: Los Angeles or San Francisco, CA.)

MC 142715 (Sub-62F), filed April 3, 1979. Applicant: LENERTZ, INC., P.O. Box 141, So. St. Paul, MN 55075. Representative: K. O. Petrick (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs* (except commodities in bulk), from points in Cumberland, Dauphin, Lancaster, and Lebanon Counties, PA, to points in IA, IL, IN, KS, MO, MN, MI, NE, ND, SD, and WI. (Hearing site: Philadelphia, PA.)

MC 142715 (Sub-63F), filed April 3, 1979. Applicant: LENERTZ, INC., P.O. Box 141, So. St. Paul, MN 55075. Representative: K. O. Petrick (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *iron and steel chilled shot*, (except in bulk), from Wadsworth, OH, to points in IL, IN, IA, KS, MN, MO, and WI, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations. (Hearing site: Milwaukee, WI, or St. Paul, MN.)

MC 142844 (Sub-3F), filed March 28, 1979. Applicant: DON HAUSAUER, d.b.a. DON HAUSAUER TRUCKING, Route No. 5, Carufel Addition, Bismarck, ND 58501. Representative: Charles E. Johnson, 418 East Rosser Ave., P.O. Box 1982, Bismarck, ND 58501. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *lumber*, (1) from points in CA, WY, SD, and UT, to points in MN, WI, ND, SD, NE, IA, MI, IL, and IN, (2) from points in WA, OR, MT, and ID, to points in ND, SD, NE, IA, IL, MI, and IN, and (3) from points in MN, WI, MI, IL, and IA, to points in ND, SD, MN, WI, MT, MI, ID, WA, and OR, under continuing contract(s) with Owens Forest Products, of Duluth, MN. (Hearing site: St. Paul or Duluth, MN.)

Note.—Dual operations may be involved.

MC 143775 (Sub-72F), filed March 28, 1979. Applicant: PAUL YATES, INC., 6601 West Orangewood, Glendale, AZ 85301. Representative: Michael R. Burke (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) from points in CA, to points in ID, KS, LA, MT, NE, OK, OR, TX, UT, and WA, and (2) between AZ, CA, NV, and UT, on the one hand, and, on the other, points in CT, FL, GA, IL, DE, ME, MD, MA, MO, NJ, NY, NC, PA, SC, TN, and WI, restricted to the transportation of traffic moving on bills of lading of freight forwarders as defined in 49 U.S.C. § 10102(8) [formerly section 402(a)(5) of the Interstate Commerce Act]. (Hearing site: Los Angeles or San Francisco, CA.)

Note.—Dual operations may be involved.

MC 143775 (Sub-81F), filed March 26, 1979. Applicant: PAUL YATES, INC., 6601 West Orangewood, Glendale, AZ 85301. Representative: Michael R. Burke (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *plastic pellets*, in packages, from the facilities of the Gulf Oil Chemical Company, at or near Houston and Beaumont, TX, to points in CT, DE, IL, IN, MA, MD, MI, MN, NJ, NY, OH, PA, RI, and WI. (Hearing site: Houston, TX, or Washington, DC.)

Note.—Dual operations may be involved.

MC 143775 (Sub-82F), filed March 26, 1979. Applicant: PAUL YATES, INC., 6601 West Orangewood, Glendale, AZ 85301. Representative: Michael R. Burke (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission, and commodities in bulk), (a) from the facilities of Southeastern Michigan Shippers Cooperative Association of Detroit, MI, at points in MI, to points in AZ, CA, CO, CT, FL, GA, IL, KS, MA, MO, NM, NC, OR, TN, TX, UT, and WA, and (b) between the facilities of Southeastern Michigan Shippers Cooperative Association of Detroit, MI, at points in MI, on the one hand, and, on the other, points in NJ, NY, and PA. (Hearing site: Detroit, MI, or Washington, DC.)

Note.—Dual operations may be involved.

MC 143775 (Sub-103F), filed April 4, 1979. Applicant: PAUL YATES, INC., 6601 West Orangewood, Glendale, AZ 85301. Representative: Michael R. Burke (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring the use of special equipment), (1) from the facilities used by West Coast Shippers Association, (a) at or near Philadelphia, PA, and (b) in NJ, to points in the United States (except AK and HI), restricted to the transportation of traffic originating at the named origin facilities, and (2) from Marinette, WI, to Philadelphia, PA, and New York, NY. (Hearing site: Philadelphia, PA, or Washington, DC.)

Note.—Dual operations may be involved.

MC 144075 (Sub-6F), filed March 27, 1979. Applicant: INDUSTRIAL TRANSPORT, INC., 11910 Harvard Ave., Cleveland, OH 44105. Representative: Brian S. Stern, 2425 Wilson Blvd., Suite 327, Arlington, VA 22201. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *electric stairways and electric walks*, and (2) *materials, equipment, and supplies* used in the manufacture, and installation of the commodities in (1) above, from Gettysburg, PA, Edison, NJ, and points in Randolph Township, (Morris County), NJ, to those points in the United States in and east of WI, IL, KY, TN, and MS, under continuing contract(s) with Westinghouse Electric Corporation, of Edison, NJ. (Hearing site: Newark, NJ, or Washington, DC.)

Note.—Dual operations may be involved.

MC 144725 (Sub-2F), filed March 1, 1979. Applicant: MONROE DELIVERY AND DISTRIBUTION, INC., 7792 N.W. 72nd Ave., Miami, FL 33166. Representative: Frank J. Hathaway, 7615 Biscayne Blvd., Miami, FL 33138. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in Dade, Broward, and Palm Beach Counties, FL. (Hearing site: Miami or Ft. Lauderdale, FL.)

MC 145454 (Sub-3F), filed March 26, 1979. Applicant: SOUTHERN REFRIGERATED TRANSPORTATION COMPANY, INC., 2154 Green Valley Dr., Crown Point, IN 46301.

Representative: Anthony E. Young, 29 S. LaSalle St., Suite 350, Chicago, IL 60603. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *bananas*, and (2) *pineapples*, in mixed loads with *bananas*, from Tampa, FL, and Charleston, SC, to points in IN, OH, MI, IL, KY, MO, KS, IA, WI, and MN. (Hearing site: Chicago, IL.)

MC 145614 (Sub-2F), filed March 22, 1979. Applicant: TRIPLE A TRANSPORT, INC., Littlefield Rd. Springvale, ME 04083. Representative: John C. Lightbody, 30 Exchange St., Portland, ME 04101. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats*, *meat products* and *meat byproducts*, and *articles distributed by meat-packing houses*, as described in sections A and C in Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from the facilities of Palamera Beef Corp., and John Roth & Son, Inc., at Omaha, NE, to points in CT, ME, MA, NH, NJ, NY, and PA. (Hearing site: Portland, ME or Boston, MA.)

MC 145715 (Sub-2F), filed April 9, 1979. Applicant: BELL TRUCKING, INC., 2504 Industrial Park Rd., Van Buren, AR 72956. Representative: Bernard J. Kompore, Suite 1600, 10 South LaSalle St., Chicago, IL 60603. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *canned goods*, from the facilities of Meeter Bros. & Co., at or near Union Grove, WI, to Ackley, IA, Dallas, TX, Evansville and Hammond, IN, Joplin, MO, Little Rock, AR, Los Angeles, CA, Memphis, TN, and Oklahoma City and Tulsa, OK, restricted to the transportation of traffic originating at the named origin facilities. (Hearing site: Chicago, IL.)

MC 146055 (Sub-2F), filed March 26, 1979. Applicant: JOHN H. SCHUEMAN & DENNY SCHUEMAN d.b.a. DOUBLE "S" TRUCK LINE, 425 Livestock Exchange Bldg., Omaha, NE 68107. Representative: James F. Crosby, P.O. Box 37205, Omaha, NE 68137. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats*, *meat products* and *meat byproducts*, and *articles distributed by meat-packing houses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (except hides, and commodities in bulk, in tank vehicles), from the facilities of Western Iowa Park, at or near Harlan,

IA, to points in CA. (Hearing site: Omaha, NE.)

MC 146245 (Sub-2F), filed April 6, 1979. Applicant: DIRECT CARRIERS, INC., 935 Millbury St., Worcester, MA 01607. Representative: Mary R. Desy (same address as applicant). To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *plastic articles*, *rubber articles*, *games*, and *toys*, and (2) *materials*, *equipment*, and *supplies* used in the manufacture, sale, and distribution of the commodities in (1) above, between the facilities of Kiddie Products, Inc., at Avon, Leominster, and Worcester, MA, on the one hand, and, on the other, points in the United States (except AK, CT, HI, MA, ME, NH, RI, and VT), under continuing contract(s) with Kiddie Products, Inc., of Avon, MA. (Hearing site: Springfield or Boston, MA.)

MC 146465 (Sub-3F), filed April 6, 1979. Applicant: Lawrence Pilgrim d.b.a. PILGRIM TRUCKING COMPANY P.O. Box 77, Cleveland, GA 30528. Representative: Jeffrey Kohlman, Suite 508, 1447 Peachtree St., N.E., Atlanta, GA 30309. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *lumber*, between the facilities of Hoover Universal, Inc., Wood Preserving Division, at (a) Thomson, GA, and (b) Milford, VA, on the one hand, and, on the other, those points in the United States in and east of MT, WY, CO, and NM. (Hearing site: Atlanta, GA, or Washington, DC.)

Note.—By this application, applicant proposes to convert, in part, contract carrier authority to common carrier authority. Dual operations may be involved.

MC 146625 F, filed March 9, 1979. Applicant: EDGAR TREMBLAY, Rural Route No. 6, Coaticook, Quebec, Canada J1A 2S5. Representative: Frank J. Weiner, 15 Court Square, Boston, MA 02108. To operate as a *common carrier*, by motor vehicle, in foreign commerce only, over irregular routes, transporting (1) *lumber*, between the ports of entry on the international boundary line between the United States and Canada in ME, NH, NY, and VT, on the one hand, and, on the other, points in CT, DE, ME, MD, MA, NH, NJ, NY, PA, RI, VT, VA, and WV; and (2) *fencing*, from the ports of entry on the international boundary line between the United States and Canada in ME, NH, NY, and VT, to points in CT, DE, ME, MD, MA, NH, NJ, NY, PA, RI, VT, and VA. (Hearing site: Montpelier, VT, or Boston, MA.)

MC 146684, (Sub-1F), filed April 5, 1979. Applicant: Howard S. Davis d.b.a.

HOWARD S. DAVIS & SON TRUCKING, 1800 Laurel Hwy, Seaford, DE 19973. Representative: J. Michael May, 1447 Peachtree St., NE, Suite 508, Atlanta, GA 30309. To operate as a *contract carrier* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *feed ingredients*, in bulk, from the facilities of International Bakerage, Inc., at Carteret, NJ, to points in DE, MD, NC, PA, and VA, under continuing contract(s) with International Bakerage, Inc., of Atlanta, GA. (Hearing site: Atlanta, GA or Washington, DC.)

MC 146944 F, filed April 2, 1979. Applicant: LYKES PASCO PACKING CO., a corporation, P.O. Box 97, Dade City, FL 33525. Representative: Ansley Watson, Jr., 512 N. Florida Ave., P.O. Box 1531, Tampa, FL 33601. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats*, from points in AL, LA, MS, ND, SD, NE, KS, CO, OK, TX, MN, IA, MO, AR, WI, IL, TN, IN, KY, MI, OH, and GA, to the facilities of Lykes Bros., Inc., in GA and FL, under continuing contract(s) with Lykes Bros. Inc., of Tampa, FL. (Hearing site: Tampa, FL.)

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Decided: August 1, 1979.
By the Commission, Review Board Number 3, Members Parker, Fortier, and Hill.

MC 2245 (Sub-12F), filed April 9, 1979. Applicant: THE O. K. TRUCKING COMPANY, a corporation, 3000 E. Crescentville Rd., Cincinnati, OH 45241. Representative: Robert H. Kinker, 314 West Main St., P.O. Box 464, Frankfort, KY 40602. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Charleston and Parkersburg, WV, over Interstate Hwy 77; and (2) between Athens and Columbus, OH, over U.S. Hwy 33, in (1) and (2) serving no intermediate points, as an alternate route for operating convenience only. (Hearing site: Cincinnati, OH.)

MC 2605 (Sub-7F), filed March 21, 1979. Applicant: COMMERCIAL TRANSPORTATION, INC., 2300 Adams Ave., Philadelphia, PA 19124. Representative: Robert B. Einhorn, 3220 P.S.F.S. Bldg., 12 South 12th St., Philadelphia, PA 19107. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general*

commodities (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), in containers, (A) over regular routes, (1) between Baltimore, MD, and Norfolk, VA, over Maryland Hwy 2 to junction U.S. Hwy 50, then over U.S. Hwy 50 to Salisbury MD, then over U.S. Hwy 13 to Norfolk, VA; (2) between Wilmington, DE, and Norfolk, VA, over U.S. Hwy 13, in (A) above, serving no intermediate points, U.S. Hwy 13, (B) over irregular routes, between Norfolk, VA, Baltimore, MD, Wilmington, DE, Philadelphia, PA, and New York, NY, on the one hand, and, on the other, New Cumberland, Mechanicsburg, and Chambersburg, PA, restricted in (A) and (B) above, to the transportation of traffic having an immediate prior or subsequent movement by water. (Hearing site: Philadelphia, PA.)

MC 8535 (Sub-83F), filed April 10, 1979. Applicant: GEORGE TRANSFER AND RIGGING COMPANY, INCORPORATED, P.O. Box 500, Parkton, MD 21120. Representative: John Guandolo, 1000 Sixteenth St., N.W., Washington, DC 20036. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *materials* and *supplies* used in the manufacture and distribution of iron products (except commodities in bulk), (1) between Florence, NJ, on the one hand, and, on the other, points in AZ, AR, CA, CO, GA, IL, IN, ID, IA, KS, MI, MN, MO, MT, NE, NV, NM, ND, OK, OR, SC, SD, TN, TX, UT, WA, WI, and WY; (2) between Lynchburg, VA, on the one hand, and, on the other, points in AZ, AR, CA, CO, GA, IL, IN, ID, IA, KS, MI, MN, MO, MT, NE, NV, NM, ND, OK, OR, SC, SD, TN, TX, UT, WA, WI, and WY; and (3) between Council Bluffs, IA, on the one hand, and, on the other, points in CT, DE, IL, IN, KY, MD, MA, MI, ME, NJ, NY, NH, NC, OH, PA, RI, SC, VA, VT, WV, WI, and DC. (Hearing site: Chicago, IL, or Washington, DC.)

MC 26825 (Sub-39F), filed April 6, 1979. Applicant: ANDREWS VAN LINES, INC., P.O. Box 1609, Norfolk, NE 68701. Representative: J. Max Harding, P.O. Box 82028, Lincoln, NE 68501. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *pillows* and *padding*, from Middletown, IN, to points in the United States (except AK and HI). (Hearing site: Indianapolis, IN, or Chicago, IL.)

MC 14215 (Sub-36F), filed April 9, 1979. Applicant: SMITH TRUCK SERVICE, INC., 1118 Commercial, Mingo

Junction, OH 43938. Representative: A. Charles Tell, 100 East Broad St., Columbus, OH 43215. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *iron and steel articles*, (1) from the facilities of Temson-Roby Steel Co., at Cleveland, OH, to points in AL and GA, and (2) from Detroit, MI, to New Cumberland, WV. (Hearing site: Columbus, OH.)

MC 44605 (Sub-51F), filed April 9, 1979. Applicant: MILNE TRUCK LINES, INC., 2500 West California Ave., Salt Lake City, UT 84104. Representative: Edward J. Hegarty, 100 Bush St., 21st Floor, San Francisco, CA 94104. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Reno, NV, and Los Angeles, CA, (a) from Reno over U.S. Hwy 395 to junction Interstate Hwy 15, then over Interstate Hwy 15 to junction Interstate Hwy 10, then over Interstate Hwy 10 to Los Angeles, and return over the same route, serving the intermediate point of Carson City, and serving junction U.S. Hwy 395 and CA Hwy 14 for purposes of joinder only, and (b) from Reno over Interstate Hwy 80 to junction Interstate Hwy 5 at Sacramento, CA, then over Interstate Hwy 5 to Los Angeles, and return over the same route, serving the intermediate point of Carson City and serving junction Temporary Interstate Hwy 5 and Interstate Hwy 80 at Sacramento, CA for purposes of joinder only, (2) between junction U.S. Hwy 395 and CA Hwy 14, and Los Angeles, CA, from junction U.S. Hwy 395 and CA Hwy 14, over CA Hwy 14 to Los Angeles, and return over the same route, serving no intermediate points, and (3) between junction Temporary Interstate Hwy 5 and Interstate Hwy 80 at Sacramento, CA, and Los Angeles, CA, from junction Temporary Interstate Hwy 5 and Interstate Hwy 80 over Temporary Interstate Hwy 80 to junction Interstate Hwy 5 at Wheeler Ridge, then over Interstate Hwy 5 to Los Angeles, and return over the same route, serving no intermediate points. (Hearing sites: Los Angeles, CA, and Reno, NV.)

MC 52704 (Sub-218F), filed April 9, 1979. Applicant: GLENN MCCLENDON TRUCKING COMPANY, INC., P.O. Drawer "H", LaFayette, AL 36862. Representative: Archie B. Culbreth, Suite 202, 2200 Century Pkwy, Atlanta, GA 30345. To operate as a *common*

carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *sugar* (except in bulk), from Kenner and Reserve, LA, to points in AL, FL, GA, KY, MS, NC, OK, SC, TN, TX, VA, and WV. (Hearing site: New Orleans, LA, or Atlanta, GA.)

MC 53965 (Sub-157F), filed April 9, 1979. Applicant: GRAVES TRUCK LINE, INC., 2130 South Ohio, P.O. Drawer 1387, Salina, KS 67401. Representative: William B. Barker, 641 Harrison St., Topeka, KS 66603. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats*, *meat products* and *meat byproducts*, and *articles distributed by meat-packing houses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the facilities of John Morrell & Co., at or near St. Louis, MO, to points in IA, KS, MO, TX, OK, and AR. (Hearing site: St. Louis or Kansas City, MO.)

MC 72235 (Sub-12F), filed April 5, 1979. Applicant: IVORY VANLINES, INC., 5601 Corporate Way, Suite 107, West Palm Beach, FL 33407. Representative: Martin J. Leavitt, 22375 Haggerty Rd., P.O. Box 400, Northville, MI 48167. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *zinc and zinc alloys*, between Josephstown, Potter Township, Beaver County, PA, on the one hand, and, on the other, points in NJ, NY, CT, MA, and MD. (Hearing site: Washington, DC, or Miami, FL.)

MC 94635 (Sub-7F), filed March 8, 1979, previously noticed in the *Federal Register* of July 19, 1979. Applicant: INTERSTATE SAND & GRAVEL TRANSPORTATION, INC., 717 Elmer Street, Vineland, NJ 08360. Representative: Terrence D. Jones, 2033 K Street, N.W., Washington, DC 20006. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *sand*, *gravel* and *stone*, (1) from points in Burlington, Camden, Gloucester, Salem, Cumberland, Cape May, and Atlantic Counties, NJ, to points in CT, DE, ME, MD, MA, NH, NY, OH, RI, VT, VA, WV, PA [except points in Bucks, Berks, Lehigh, Lebanon, Lancaster, Chester, Delaware, Montgomery and Philadelphia Counties], and DC, under continuing contract(s) with New Jersey Silica Sand Co., of Millville, NJ, and Unimin Corp., of Greenwich, TN, and (2) from Gore, VA, to points in MD, PA, and WV, under continuing contract(s) with Unimin

Corp., of Greenwich, CT. (Hearing site: Washington, DC.)

Note.—The purpose of this republication is to indicate the correct contracting shippers in (1) above.

MC 106195 (Sub-25F), filed April 9, 1979. Applicant: CLARK BROS. TRANSFER, INC., 900 North First, Norfolk, NE 68701. Representative: Arlyn L. Westergren, Suite 106, 7101 Mercy Rd., Omaha, NE 68106. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products and meat byproducts, and articles distributed by meat-packing houses*, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk, in tank vehicles), from Madison, NE, to points in KS. (Hearing site: Phoenix, AZ, or Omaha, NE.)

MC 107295 (Sub-913F), filed April 9, 1979. Applicant: PRE-FAB TRANSIT CO., a corporation, P.O. Box 146, Farmer City, IL 61842. Representative: Mack Stephenson, 42 Fox Mill Lane, Springfield, IL 62707. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *adhesives and caulking compounds* (except commodities in bulk), from Mattawan, MI, to points in the United States (except AK and HI). (Hearing site: Chicago, IL.)

MC 112304 (Sub-185F), filed April 9, 1979. Applicant: ACE DORAN HAULING & RIGGING CO., a corporation, 1601 Blue Rock St., Cincinnati, OH 45223. Representative: John D. Herbert (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *pipe, couplings, pilings, well casings, well screens, and tubing*, from the facilities of Stranron Supply, Inc., at or near Lubbock TX, to points in the United States (except AK and HI); (2) *pipe, pilings, well screens, and well casings*, from Fontana and Long Beach, CA, Valley, NE, Pueblo, CO, Houston, TX, and ports of entry on the international boundary between the United States and Canada in MT and ND, to points in the United States (except AK and HI); and (3) *materials, equipment, and supplies* (except commodities in bulk, in tank vehicles) used in the manufacture and distribution of commodities in (1) and (2) above, in the reverse direction of (1) above. (Hearing site: Dallas, TX, or Washington, DC.)

MC 117765 (Sub-260F), filed April 11, 1979. Applicant: HAHN TRUCK LINE, INC., 1100 S. MacArthur, P.O. Box 75216, Oklahoma City, OK 73147.

Representative: R. E. Hagan (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *petroleum, petroleum products, vehicle body sealer and sound deadener compounds* (except commodities in bulk, in tank vehicles), and filters, from the facilities of Quaker State Oil Refining Corporation, in Warren County, MS, to points in AR, IL, IA, KS, MN, MO, NE, ND, OK, SD, TX, and WI, restricted to the transportation of traffic originating at the named facilities. (Hearing site: Oklahoma City, OK.)

MC 119765 (Sub-76F), filed April 6, 1979. Applicant: EIGHT WAY XPRESS, INC., 5402 South 27th St., Omaha, NE 68127. Representative: Donald L. Stern, Suite 610, 7171 Mercy Rd., Omaha, NE 68106. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *packinghouse products* (except hides and commodities in bulk), from the facilities of Farmland Foods, Inc., at or near (a) Carroll, Denson, Iowa Falls, Cherokee, Des Moines, Fort Dodge, and Sioux City, IA, and (b) Crete, Lincoln, and Omaha, NE, to points in AZ, CA, CO, ID, MT, NV, NM, OR, UT, WA, and WY. (Hearing site: Omaha, NE.)

MC 121664 (Sub-66F), filed April 9, 1979. Applicant: HORNADY TRUCK LINE, INC., P.O. Box 846, Monroeville, AL 36460. Representative: W. E. GRANT, 1702 First Ave., South, Birmingham, AL 35201. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *lumber*, from New Augusta, MS, to points in AL, FL, NC, GA, SC, TN, KY, PA, OH, MI, MN, WI, IA, IN, IL, MO, AR, and TX. (Hearing site: Birmingham or Mobile, AL.)

MC 127705 (Sub-72F), filed March 12, 1979. Applicant: KREVDA BROS. EXPRESS, INC., P.O. Box 68, Gas City, IN 46933. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in or used by manufacturing or distributors of containers, container ends and container closures, (except commodities in bulk, in tank vehicles), between those points in the United States in and east of MN, IA, MO, AR, and LA, restricted to the transportation

of traffic originating at or destined to the facilities of Brockway Glass Company, Inc. (Hearing site: Washington, DC.)

MC 129625 (Sub-14F), filed April 5, 1979. Applicant: ROBERT COLE TRUCKING COMPANY, a corporation, P.O. Box M, Falls Creek, PA 15840. Representative: William J. Lavelle, 2310 Grant Bldg., Pittsburgh, PA 15219. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *rock salt*, in bulk, in dump vehicles, from Erie, PA to points in Niagara, Erie, Cattaraugus, and Chautauqua Counties, NY. (Hearing site: Pittsburgh, PA, or Washington, DC.)

MC 133095 (Sub-281F), filed April 9, 1979. Applicant: TEXAS CONTINENTAL EXPRESS, INC., P.O. Box 434, Euless, TX 76039. Representative: Mark C. Ellison, 1200 Gas Light Tower, 235 Peachtree St., N.E., Atlanta, GA 30303. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *traffic control products, pavement marking compounds, and materials, equipment, and supplies* used in the installation of the commodities in (1) above, (except commodities in bulk), from points in Cobb County, GA, to points in the United States (except AK and HI), and (2) *materials, equipment, and supplies* used in the manufacture, installation, and distribution of the commodities in (1) above, (except commodities in bulk), from (a) Baton Rouge, LA, (b) Brownwood and Paris, TX, (c) Jackson, MS, (d) Savannah, GA, (e) Apex, NC, (f) Keyser, WV, and (g) Cleveland, OH, to points in Cobb County, GA. (Hearing site: Dallas, TX, or Atlanta, GA.)

MC 134755 (Sub-183F), filed April 9, 1979. Applicant: CHARTER EXPRESS, INC., P.O. Box 3772, Springfield, MO 65804. Representative: Larry D. Knox, 600 Hubbell Bldg., Des Moines, IA 50309. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *carbonated beverages* (except commodities in bulk), from Houston, TX, to points in LA and MS. (Hearing site: Kansas City, MO.)

Note.—Dual operations may be involved.

MC 134755 (Sub-198F), filed April 8, 1979. Applicant: CHARTER EXPRESS, INC., P.O. Box 3772, Springfield, MO 65804. Representative: Larry D. Knox, 600 Hubbell Bldg., Des Moines, IA 50309. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *fruit juice concentrates and fruit juices*, (except commodities in bulk), in vehicles equipped with

mechanical refrigeration, from Ontario, CA, to points in OH, MN, IA, MO, MI, GA, AL, IL, MA, MD, VA, NC, LA, and TX. (Hearing site: Kansas City, MO.)

Note.—Dual operations may be involved.

MC 135364 (Sub-39F), filed April 10, 1979. Applicant: MORWALL TRUCKING, INC., P.O. Box 76 C, R.D. 3, Moscow, PA 18444. Representative: J. G. Dail, Jr., P.O. Box 11, McLean, VA 22101. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in or used by manufacturers and converters of paper and paper products (except commodities in bulk), between points in the United States (except AK and HI), under continuing contract(s) with the Paper Printing and Forms Group, of Litton Business Systems, Inc., Fitchburg, MA. Condition: Issuance of this permit is subject to coincidental cancellation of MC 135364 Subs 2 and 23. (Hearing site: Washington, DC.)

MC 135895 (Sub-43F), filed April 9, 1979. Applicant: B & B DRAYAGE, INC., P.O. Box 8534, Battlefield Station, Jackson, MS 39204. Representative: Douglas C. Wynn, P.O. Box 1295, Greenville, MS 38701. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *charcoal, charcoal briquettes, charcoal lighter fluid, hickory chips, barbecue articles, and wooden pallets* (except commodities in bulk, and those requiring special equipment), between the facilities of Husky Industries, Inc., at or near Meridian and Pachuta, MS, and Branson, MO, on the one hand, and, on the other, points in AL, AR, FL, GA, MS, LA, MO, NC, OK, SC, TN, and TX. (Hearing site: Jackson, MS, or Atlanta, GA.)

MC 136605 (Sub-126F), filed April 9, 1979. Applicant: DAVIS BROS. DIST., INC., P.O. Box 8058, Missoula, MT 59807. Representative: Allen P. Felton (same address as applicant). To operate as a *common carrier*, by motor vehicle, in foreign commerce only, over irregular routes, transporting *soy bean meal*, from points in MN, IA, IL, and SD, to the ports of entry on the international boundary line between the United States and Canada, in MT, ID, and WA. (Hearing site: Seattle, WA, or Billings, MT.)

MC 138635 (Sub-79F), filed April 11, 1979. Applicant: CAROLINA WESTERN EXPRESS, INC., Box 3961, Gastonia, NC 28052. Representative: Eric Meierhoefer, Suite 423, 1511 K St., NW, Washington, DC 20005. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *non-alcoholic beverage*

mixes, from Byhalia, MS, to those points in the United States in and east of ND, SD, NE, KS, OK, and TX. (Hearing site: St. Louis, MO.)

Note.—Dual operations may be involved.

MC 141205 (Sub-13F), filed April 9, 1979. Applicant: HUSKY OIL TRANSPORTATION COMPANY, a corporation, 600 South Cherry St., Denver, CO 80222. Representative: F. Robert Reeder, P.O. Box 11898, Salt Lake City, UT 84147. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *crude oil, scrubber oil, and condensate oil*, from the Roughrider Oil Field, at or near Dickinson, ND, to the Portal Pipeline injection station, at or near Stanley, ND, the Donkey Creek Pipeline injection station, at or near Gillette, WY, the Butte Pipeline injection station, at or near Baker, MT, and the facilities of Husky Oil Co., at Cheyenne, WY, under a continuing contract with Husky Oil Co., of Denver, CO. (Hearing site: Denver, CO.)

MC 141804 (Sub-207F), filed April 10, 1979. Applicant: WESTERN EXPRESS, DIVISION OF INTERSTATE RENTAL, INC., P.O. Box 3488, Ontario, CA 91761. Representative: Frederick J. Coffman (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *milled talc*, in bags, from Grand Island, NE, and Three Forks, MT, to points in WV and KY. (Hearing site: Los Angeles or San Francisco, CA.)

MC 142364 (Sub-9F), filed April 12, 1979. Applicant: KENNETH SAGELY, d.b.a. SAGELY PRODUCE, 2802 Kibler Rd., Van Buren, AR 72956. Representative: Don A. Smith, P.O. Box 43, 510 North Greenwood, Fort Smith, AR 72902. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (A) *iron, steel, zinc, and lead articles* (except commodities in bulk), and (B) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (A) above (except commodities in bulk), (1) between the facilities of Penn-Dixie Steel Corporation, at (a) Blue Island and Joliet, IL, (b) Cicero, Elkhart, Fort Wayne, and Kokomo, IN, (c) Newton, KS, (d) Jackson, MS, and (e) Columbus, and Toledo, OH, and (2) between the facilities named in (1) above, on the one hand, and, on the other, points in AR, IL, IN, KY, MO, MS, OK, TN, and TX. (Hearing site: Washington, DC, or Indianapolis, IN.)

MC 142715 (Sub-34F), filed April 5, 1979. Applicant: LENERTZ, INC., P.O.

Box 141, So. St. Paul, MN 55075. Representative: K. O. Petrick (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *foodstuffs* (except commodities in bulk), (a) from the facilities of Geo. A. Hormel & Co., at Beloit, WI, to points in AL, AR, CO, CT, DE, GA, FL, IN, IL, KY, LA, MD, ME, MA, MI, MN, MS, NM, NY, NC, OH, OK, PA, RI, SC, TN, TX, VT, VA, WV, and DC; (b) from the facilities of Geo. A. Hormel & Co., at Minneapolis-St. Paul, and Owatonna, MN, to points in CT, DE, GA, ME, MD, MA, NH, NY, OH, PA, RI, TN, VT, VA, WV, and DC, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations (except in foreign commerce); and (2) *meats, meat products, meat byproducts, foodstuffs, and materials, equipment, and supplies* (except commodities in bulk), from points in AL, AR, CO, CT, DE, FL, IN, IL, KY, IA, MD, ME, MA, MI, MN, MS, NH, NJ, NM, NY, NC, OH, OK, PA, RI, SC, TN, TX, VT, VA, WV, and DC, to the facilities of Geo. A. Hormel & Co., at Beloit, WI, restricted to the transportation of traffic originating at the named origin and destined to the named destinations (except in foreign commerce). (Hearing site: St. Paul, MN.)

MC 144345 (Sub-8F), filed April 12, 1979. Applicant: DON'S FROZEN EXPRESS, INC., 3820 Airport Way, Caldwell, ID 83605. Representative: David E. Wishney, P.O. Box 837, Boise, ID 83701. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *furniture, and window covering*, and (2) *materials and supplies* used in the manufacture of the commodities named in (1) above, from points in Los Angeles, Orange, Riverside, and San Bernardino Counties, CA., to points in Canyon County, ID. (Hearing site: Boise, ID, or Los Angeles, CA.)

MC 144844 (Sub-4F), filed April 9, 1979. Applicant: OZARK TRANSPORTATION, INC., P.O. Box 203, Greenville, MO 63944. Representative: Joseph Winter, 29 South LaSalle St., Chicago, IL 60603. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in by metal processors (except commodities in bulk), from the facilities of Mid-State Metals Processing, Inc., at or near East Chicago, IN, to Birmingham, AL, Pocatonton, AR, Dexter, MO, and Oklahoma City and Stroud, OK, restricted to the transportation of traffic

originating at the named origin and destined to the indicated destinations. (Hearing site: Chicago, IL.)

MC 144964 (Sub-3F), filed April 11, 1979. Applicant: ESSEX EXPRESS, INC., 1200 Hammondville Rd., Pompano, FL 33060. Representative: Don A. Allen, 2550 M. Street, NW, Washington, DC 20037. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *dried and frozen foodstuffs*, in cartons, from South Hackensack and Secaucus, NJ, to points in GA, NC, SC, and FL. (Hearing site: Washington, DC, or Miami, FL.)

Note.—Dual operations may be involved.

MC 145174 (Sub-4F), filed April 10, 1979. Applicant: NORTH FORTY LINES, INC., 6700 Driftwood Lane, Missoula, MT 59801. Representative: Bradley J. Luck, 127 E Main, Suite 214, Missoula, MT 59801. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *wood and wood products, and building materials, and supplies*, from points in WA, OR, ID, MT, and CA, to points in UT, AZ, CO, NM, and NV, under a continuing contract(s) with Hampton Affiliates, of Portland, OR. (Hearing site: Missoula or Helena, MT.)

MC 145374 (Sub-2F), filed March 21, 1979. Applicant: THOMAS E. FANELLI, d.b.a. AIR CARGO SERVICES, P.O. Box 30961, Raleigh, NC 27612. Representative: Thomas E. Fanelli (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, those requiring special equipment and automobiles), between Raleigh-Durham Airport, NC, and Charlotte Airport, NC, restricted to the transportation of traffic having a prior or subsequent movement by air. (Hearing site: Raleigh or Charlotte, NC.)

MC 145744 (Sub-2F), filed April 9, 1979. Applicant: C. V. SOHN, INC., 142 Midland, Maryland Heights, MO 63043. Representative: Warren H. Sapp, P.O. Box 16047, Kansas City, MO 64112. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products and meat byproducts*, as described in Section A of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61M.C.C. 209 and 766, (except hides and commodities in bulk), from the facilities of (a) Seitz Foods, Inc., and (b) Terminal Warehouses of St.

Joseph, Inc., at or near St. Joseph, MO, to points in DE, MD, NC, NJ, NY, OH, PA, SC, VA, and DC. (Hearing site: Kansas City, MO.)

MC 146734 (Sub-1F), filed April 9, 1979. Applicant: BREITEN TRUCKING COMPANY, a division of Fred J. Breiten Lumber Company, a Michigan Corporation, 3155 West Big Beaver Rd., Suite 116, Troy, MI 48064. Representative: Frank J. Kerwin, 22725 Greater Mack Ave., P.O. Box 319, St. Clair Shores, MI 48080. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *lumber, posts, poles, ties, laminated wood products, chipboard, flakeboard, wood residuals, wooden boxes, and wooden crates*, between points in AL, AR, GA, IL, IN, KY, MI, MS, MO, NY, NC, OH, PA, SC, TN, VA, WV, and WI. (Hearing site: Chicago, IL, or Washington, DC.)

Passenger Authority

MC 146955 (Sub-1F), filed April 9, 1979. Applicant: LAMERS BUS LINES, INC., 2407 South Point Rd., Green Bay, WI 54303. Representative: Andrew R. Clark, 1000 First National Bank Bldg., Minneapolis, MN 55402. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *passengers and their baggage* in round-trip charter and special operations, beginning and ending at points in Door, Kewaunee, Manitowoc, and Brown Counties, WI, and extending to points in the United States (including AK but excluding HI). (Hearing site: Green Bay, WI.)

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Decided: August 8, 1979.

By the Commission, Review Board Number 3, Members Parker, Fortier, and Hill.

MC 2052 (Sub-21F), filed April 26, 1979. Applicant: BLAIR TRANSFER, INC., 203 South Ninth, Blair, NE 68008. Representative: Arlyn L. Westergren, Suite 106, 7101 Mercy Road, Omaha, NE 68106. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *plastic articles, and accessories* used in the floral industry, from Kent, OH, to points in AR, CO, IL, IA, KS, LA, MN, MO, NE, OK, TX, and WI. (Hearing site: Chicago, IL or Omaha, NE.)

MC 20722 (Sub-36F), filed April 30, 1979. Applicant: M & G CONVOY, INC., 590 Elk Street, Buffalo, NY 14240. Representative: Eugene C. Ewald, 100 West Long Lake Road, Suite 102, Bloomfield Hills, MI 48013. To operate as a *common carrier*, by motor vehicle,

in foreign commerce only, over irregular routes, transporting *motor vehicles* (except trailers), in secondary movements, in truckaway service, from Baltimore, MD, to points in CT, IN, KY, ME, MI, NH, NC, OH, RI, SC, VT, VA, and WV, restricted to the transportation of traffic having a prior movement in foreign commerce. (Hearing site: Detroit, MI, or Washington, DC.)

MC 82063 (Sub-105F), filed April 24, 1979. Applicant: KLIPSCH HAULING CO., A Corporation, 10795 Watson Road, Sunset Hills, MO 63127. Representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 Eleventh Street, NW, Washington, DC 20001. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *liquid chemicals*, in bulk, in tank vehicles, between the facilities of Dow Chemical U.S.A., at or near Plaquemine, LA, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Baton Rouge, LA, or Memphis, TN.)

MC 82492 (Sub-233F), filed April 30, 1979. Applicant: MICHIGAN & NEBRASKA TRANSIT CO., INC., 2109 Olmstead Road, P.O. Box 2853, Kalamazoo, MI 49003. Representative: Dewey R. Marselle (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs*, from Franksville, WI, to points in IL, IN, IA, KS, MI, MO, NE, and OH. (Hearing site: Chicago, IL, or Washington, DC.)

MC 82492 (Sub-234F), filed April 26, 1979. Applicant: MICHIGAN & NEBRASKA TRANSIT CO., INC., 2109 Olmstead Road, P.O. Box 2853, Kalamazoo, MI 49003. Representative: Dewey R. Marselle (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products, and meat byproducts, and articles distributed by meat-packing houses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), (1) from St. Paul and Worthington, NM, and Sioux Falls, SD, to points in IN, MI, OH, those points in NY in and west of Broome, Cortland, Onondaga and Oswego Counties and those points in PA on and west of U.S. Hwy 219, (2) from Estherville, IA, to points in OH, on and south of U.S. Hwy 224, those points in NY, in and west of Broome, Cortland, Onondaga and Oswego Counties, and those points in PA on and west of U.S. Hwy 219, and (3)

from Sioux City, IA, to points in NY, in and west of Broome, Cortland, Onondaga and Oswego Counties, and those points in PA on and west of U.S. Hwy 219, restricted to the transportation of traffic originating at the facilities of John Morrell & Co. (Hearing site: Chicago, IL or Washington, DC.)

MC 99653 (Sub-17F), filed April 30, 1979. Applicant: VICTORY FREIGHT LINES, INC., P.O. Box 2254, Birmingham, AL 35201. Representative: George M. Boles, 727 Frank Nelson Bldg., Birmingham, AL 35203. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *cast iron pipe, valves, couplings, and gaskets, and fittings* for pipe, from the facilities of United States Pipe & Foundry Company, in Jefferson County, AL, to points in OH. (Hearing site: Birmingham, AL.)

MC 104523 (Sub-75F), filed April 30, 1979. Applicant: HUSTON TRUCK LINE, INC., P.O. Box 427, Seward, NE 68434. Representative: Michael J. Ogborn, P.O. Box 82028, Lincoln, NE 68501. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *carpet padding*, from the facilities of General Felt Industries, Inc., at or near Dallas, TX, to points in AR, IL, LA, MN, MT, NM, ND, WI, and WY. (Hearing site: New York, NY.)

MC 107012 (Sub-358F), filed April 30, 1979. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: Gerald A. Burns (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *lawn mowers, rotary tillers, snow throwers, lawn and garden, equipment, tools, work benches, vises, vacuum cleaners, flashlights, air compressors, and (2) parts and accessories* for the commodities in (1) above, from the facilities of Black & Decker (U.S.) Inc., at or near (a) Easton and Hampstead, MD, (b) Fayetteville and Tarboro, NC, and (c) Lancaster, PA, to points in the United States (except AK and HI), restricted to the transportation of traffic originating at the named origin facilities. (Hearing site: Baltimore, MD, or Washington, DC.)

MC 107403 (Sub-1202F), filed April 26, 1979. Applicant: MATLACK, INC., Ten West Baltimore Avenue, Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *well packing fluids*, in bulk, in tank vehicles, from the facilities of

Plastifax, Inc., Gulfport, MS, to points in LA and TX. (Hearing site: Washington, DC.)

MC 108393 (Sub-142F), filed April 30, 1979. Applicant: SIGNAL DELIVERY SERVICE, INC., 201 East Ogden Avenue, Hinsdale, IL 60521. Representative: Edward F. Schiff, 1333 New Hampshire Avenue, NW, Washington, DC 20036. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such merchandise* as is dealt in or used by retail department stores and mail order houses, (except commodities in bulk, in tank vehicles), between points in the United States (except AK and HI), under continuing contract(s) with Sears, Roebuck and Co., of Chicago, IL.

Note.—Dual operations may be involved. (Hearing site: Chicago, IL.)

MC 110012 (Sub-54F), filed April 30, 1979. Applicant: ROY WIDENER MOTOR LINES, INC., 707 N. Liberty Hill Road, Morristown, TN 37814. Representative: John R. Sims, Jr., 915 Pennsylvania Bldg., 425—13th Street, NW, Washington, DC 20004. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *new furniture and furniture parts*, from Appomattox, VA, to points in AR, IA, MI, MN, MO, and WI. (Hearing site: Washington, DC.)

MC 1100563 (Sub-269F), filed April 30, 1979. Applicant: COLDWAY FOOD EXPRESS, INC., P.O. Box 747, State Route 29 N, Sidney, OH 45365. Representative: Joseph M. Scanlan, 111 West Washington Street, Chicago, IL 60602. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *plastic articles and accessories* used in the floral industry, from the facilities of Smithers Company, at or near Kent, OH, to points in the United States (except AK and HI). (Hearing site: Cleveland, OH, or Washington, DC.)

MC 110563 (Sub-272F), filed April 30, 1979. Applicant: COLDWAY FOOD EXPRESS, INC., P.O. Box 747, State Route 29 N, Sidney, OH 45365. Representative: Joseph M. Scanlan, 111 West Washington Street, Chicago, IL 60602. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *bags, envelopes, and plastic film* (except commodities in bulk), from Garfield Heights, OH, to points in CA, CO, CT, GA, IL, IN, IA, MD, MA, MI, MO, NE, NJ, NY, NC, OR, PA, SC, VT, and WA. (Hearing site: Cleveland, OH, or Washington, DC.)

MC 110563 (Sub-273F), filed April 30, 1979. Applicant: COLDWAY FOOD EXPRESS, INC., P.O. Box 747, State Route 29 N, Sidney, OH 45365. Representative: Joseph M. Scanlan, 111 West Washington Street, Chicago, IL 60602. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *bagels*, from Buffalo, NY, to points in AL, AR, CO, FL, GA, IA, KS, LA, MD, MN, MI, NE, NC, OK, SC, TX, and VA. (Hearing site: Buffalo, NY, or Washington, DC.)

MC 111812 (Sub-629F), filed May 1, 1979. Applicant: MIDWEST COAST TRANSPORT, INC., P.O. Box 1233, Sioux Falls, SD 57101. Representative: Lamoyne Brandsma (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *frozen foods* from Omaha, NE, to Modesto and Sacramento, CA, and points in IA, MN, ND, SD, and WI, restricted to the transportation of traffic originating at the facilities of Campbell Soup Co. at Omaha, NE. (Hearing site: Omaha, NE.)

MC 111812 (Sub-634F), filed April 30, 1979. Applicant: MIDWEST COAST TRANSPORT, INC., P.O. Box 1233, Sioux Falls, SD 57101. Representative: Lamoyne Brandsma (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *hard surface floor coverings and articles* used in the installation and maintenance of hard surface floor coverings (except commodities in bulk), from the facilities of Armstrong Cork, Co., in Lancaster County, PA, to points in IA, MN, NE, ND, SD, and WI, restricted to the transportation of traffic originating at the named origin facilities and destined to the indicated destinations. (Hearing site: Philadelphia, PA.)

MC 111812 (Sub-640F), filed April 30, 1979. Applicant: MIDWEST COAST TRANSPORT, INC., P.O. Box 1233, Sioux Falls, SD 57101. Representative: Lamoyne Brandsma (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in by chain grocery and food business houses (except commodities in bulk, in tank vehicles), in vehicles equipped with mechanical refrigeration, between points in AZ, GA, IA, ID, IL, IN, KS, KY, MA, MI, MN, MO, MT, ND, NE, NY, OH, PA, SD, UT, VA, VT, and WI, restricted to the transportation of traffic originating at or destined to the facilities

of Kraft, Inc. (Hearing site: Washington, DC.)

MC 112713 (Sub-264F), filed April 30, 1979. Applicant: YELLOW FREIGHT SYSTEM, INC., P.O. Box 7270, Overland Park, KS 66207. Representative: Robert E. DeLand (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving Midland, MI, as an off-route point in connection with carrier's otherwise authorized regular-route operations. (Hearing site: Chicago, IL, or Washington, DC.)

MC 114273 (Sub-589F), filed May 1, 1979. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *agricultural machinery*, and (2) *parts and accessories* for the commodities in (1) above, from Pella, IA, to points in IL, IN, OH, MI, PA, MD, NJ, DE, VA, NY, and WV. (Hearing site: Chicago, IL, or Washington, DC.)

MC 114273 (Sub-593F), filed April 26, 1979. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *heatilator fireplaces*, and (2) *parts and accessories* for the commodities in (1) above, from the facilities of Heatilator, Division of Vega Industries, at or near Mt. Pleasant and/or Centerville, IA, to points in DE, IL, IN, MD, MA, MI, MN, NJ, NY, OH, PA, VA, WV, and WI. (Hearing site: Chicago, IL, or Washington, DC.)

MC 114273 (Sub-594F), filed April 26, 1979. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *cast iron boilers* from Lancaster, PA, to Iowa City, IA. (Hearing site: Chicago, IL, or Washington, DC.)

MC 114632 (Sub-219F), filed April 30, 1979. Applicant: APPLE LINES, INC., P.O. Box 287, Madison, SD 57042. Representative: David E. Peterson (same address as applicant). To operate as a *common carrier*, by motor vehicle, in

interstate or foreign commerce, over irregular routes, transporting *foodstuffs*, and *materials, equipment, and supplies* used in the manufacture and distribution of foodstuffs, (except frozen foods and commodities in bulk, in tank vehicles), between the facilities of Stokely-Van Camp, Inc., at or near (a) Gibson City, Hoopeston, and Rochelle, IL, (b) Indianapolis and Tipton, IN, (c) Hart and Scottville, MI, (d) Fairmont and Lakeland, MN, (e) Norwalk and Paulding, OH, and (f) Appleton, Columbus, Cumberland, Frederic, and Plymouth, WI, on the one hand, and, on the other, those points in the United States in and east of ND, SD, NE, KS, OK, and TX, restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearings site: Indianapolis, IN, or Chicago, IL.)

Note.—Dual operations may be involved.

MC 115322 (Sub-175F), filed April 27, 1979. Applicant: REDWING REFRIGERATED, INC., P.O. Box 10177, Taft, FL 32809. Representative: Lawrence E. Lindeman, Suite 1032, Pennsylvania Building, Pennsylvania and 13th St., NW, Washington, DC 20004. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *Foodstuffs*, (1) (a) from Hamlin and Williamson, NY, (b) Aspers, PA, (c) points in Berkeley and Jefferson Counties, WV, and (d) points in Frederick and Rockingham Counties, VA, to points in LA; (2) from points in Adams and Franklin County, PA, to points in LA and MS. (Hearing site: Washington, DC.)

MC 117072 (Sub-5F), filed April 30, 1979. Applicant: ARMORED TRANSPORT, INC., 1130 S. Flower Street, P.O. Box 15060, Los Angeles, CA 90015. Representative: R. Y. Schureman, 1545 Wilshire Blvd., Los Angeles, CA 90017. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *coin, currency, securities, savings bonds, stock, and non-cash collection items*, between Los Angeles, CA, on the one hand, and, on the other, points in Clark and Nye Counties, NV, and Kern, Los Angeles, and San Bernardino Counties, CA, under continuing contract(s) with Federal Reserve Bank of San Francisco, San Francisco, CA. (Hearing site: Los Angeles or San Francisco, CA.)

MC 118142 (Sub-219F), filed April 30, 1979. Applicant: M. BRUENGER & CO., INC., 6250 North Broadway, Wichita, KS 67219. Representative: Brad T. Murphree, 814 Century Plaza Bldg., Wichita, KS 67202. To operate as a

common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *bananas*, and (2) *agricultural commodities* which are otherwise exempt from economic regulation under 49 U.S.C. § 10526(a)(6) (formerly section 203(b)(6) of the Interstate Commerce Act), in mixed loads with bananas, from the facilities of Best Banana, Inc., at or near Norfolk, VA, to points in IL, IN, MD, MA, MI, MO, NY, NC, OH, PA, SC, VA, WV, and DC, restricted to the transportation of traffic having an immediately prior movement by water. (Hearing site: Norfolk, VA, or Washington, DC.)

Note.—Dual operations may be involved.

MC 123712 (Sub-1F), filed May 8, 1979. Applicant: STANLEY'S TRANSFER CO., INC., 950/1000 N. Marine Blvd., P.O. Drawer F, Jacksonville, NC 28540. Representative: George V. McCotter, P.O. Box 715, Lillington, NC 27546. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *household goods*, between points in NC, SC, VA, MD, NJ, NY, PA, and DC. Condition: Issuance of this certificate is subject to prior or coincidental cancellation at applicant's written request, of Certificate No. MC-123712 issued January 24, 1963. (Hearing site: Jacksonville, NC.)

MC 125433 (Sub-255F), filed April 30, 1979. Applicant: F-B TRUCK LINE COMPANY, a corporation, 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: John B. Anderson (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *cranes and excavators*, (2) *materials, equipment, and supplies* used in the manufacture of the commodities in (1) above, and (3) *parts and accessories* used in connection with the commodities in (1) above, between the facilities of FMC Corp., at or near Cedar Rapids, IA, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Chicago, IL.)

MC 125433 (Sub-258F), filed April 30, 1979. Applicant: F-B TRUCK LINE COMPANY, a corporation, 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: John B. Anderson (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *iron and steel articles* (except commodities in bulk), from the facilities of CF&I Steel Corporation, at or near Pueblo, CO, to

points in AR, IA, KS, LA, MI, MO, NE, OK, TX, and WI. (Hearing site: Denver, CO.)

MC 127042 (Sub-264F), filed April 30, 1979. Applicant: HAGEN, INC., P.O. Box 98—Leeds Station, Sioux City, IA 51108. Representative: Robert G. Tassar (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *coatings, adhesives, tapes, sound deadeners, caulking, sealing compounds, and paint*, (except commodities in bulk), from Kankakee, IL, to points in MN. (Hearing site: Chicago, IL.)

MC 127042 (Sub-266F), filed April 30, 1979. Applicant: HAGEN, INC., P.O. Box 98—Leeds Station, Sioux City, IA 51108. Representative: Robert G. Tassar (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products and meat byproducts, and articles distributed by meat-packing houses*, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (except hides and commodities in bulk), from the facilities of Wilson Foods Corporation, at Monmouth, IL, to points in IA, KS, MN, MO, NE, ND, SD, and WI, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations. (Hearing site: Dallas, TX, or Kansas City, MO.)

MC 127042 (Sub-267F), filed April 30, 1979. Applicant: HAGEN, INC., P.O. Box 98—Leeds Station, Sioux City, IA 51108. Representative: Robert G. Tassar (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in by wholesale and retail food and drug stores (except commodities in bulk), from Chicago, IL, to points in IA. (Hearing site: Cincinnati, OH.)

MC 127902 (Sub-11F), filed April 30, 1979. Applicant: DIETZ MOTOR LINES, INC., P.O. Box 1427, Hickory, NC 28601. Representative: John R. Sims, Jr., 915 Pennsylvania Bldg., 425—13th Street, NW., Washington, DC 20004. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *tire racks, machinery, and machinery parts*, from Hickory, NC, to points in AL, AR, GA, KY, LA, MS, and TN. (Hearing site: Washington, D.C. or Hickory, NC.)

MC 128772 (Sub-17F), filed April 30, 1979. Applicant: STAR BULK TRANSPORT, INC., 821 North Front

Street, New Ulm, MN 56073. Representative: Val M. Higgins, 1000 First National Bank Bldg., Minneapolis, MN 55402. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *containers*, from New Ulm, MN, to Ridgeway and Hopkinton, IA, under continuing contract(s) with Pace Dairy Foods Corporation, of Rochester, MN. (Hearing site: Minneapolis or St. Paul, MN.)

MC 129032 (Sub-84F), filed April 30, 1979. Applicant: TOM INMAN TRUCKING, INC., 6015 S. 49th West Avenue, Tulsa, OK 74107. Representative: David R. Worthington (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *cheese and cheese foods*, (except commodities in bulk, in tank vehicles), from the facilities of Borden's Inc., at or near Van Wert, OH, to points in CA, restricted to the transportation of traffic originating at the named origin. (Hearing site: Cincinnati, OH, or Chicago, IL.)

MC 134922 (Sub-289F), filed April 30, 1979. Applicant: B. J. MCADAMS, INC., Route 6, Box 15, North Little Rock, AR 72118. Representative: Bob McAdams (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *dehydrated banana chips, roasted nuts and seeds*, and (2) *commodities* the transportation of which are otherwise exempt from economic regulation under 49 U.S.C. § 10526(a)(6) (formerly section 203(b)(6) of the Interstate Commerce Act), in mixed loads with the commodities in (1) above, from Bakersfield, Indio, Kerman, and Sultana, CA, to those points in the United States in and east of ND, SD, NE, KS, OK, and TX. (Hearing site: San Francisco, or Los Angeles, CA.)

MC 139902 (Sub-6F), filed April 30, 1979. Applicant: MOWRY TRUCKING, INC., Box 125, Cambridge, NE 69022. Representative: Lavern R. Holdeman, 521 South 14th Street, Suite 500, P.O. Box 81849, Lincoln, NE 68501. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1)(a) *agricultural implements, equipment, and machinery*, and (b) *materials and supplies* used in the manufacture and distribution of the commodities in (1)(a) above, from the facilities of Valley Sales Co., at or near Lexington, NE, to points in the United States (except AK, HI, and NE); (2) *lumber*, from points in MO and those points in the United States in and west of ND, SD, WY, CO, and NM

(except AK and HI), to the facilities of Valley Sales Co., at or near Lexington, NE; (3) *iron and steel articles*, from Chicago, IL, Seymour, IN, Des Moines and Clinton, IA, Manhattan, KS, Minneapolis, MN, St. Louis and Kansas City, MO, Houston, TX, and Green Bay, WI, to the facilities of Valley Sales Co., at or near Lexington, NE; (4) *roofing materials*, from points in KS to the facilities of Valley Sales Co., at or near Lexington, NE, under continuing contract(s) in (1), (2), (3), and (4) above with Valley Sales Co., of Lexington, NE. (Hearing site: Omaha or Lincoln, NE.)

MC 140553 (Sub-12F), filed April 30, 1979. Applicant: ROGERS TRUCK LINE, INC., 801 Erie Street, Logansport, IN 46957. Representative: Thomas E. Leahy, Jr., 1980 Financial Center, Des Moines, IA 50309. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in by chain grocery and food business houses, (except commodities in bulk, in tank vehicles), in vehicles equipped with mechanical refrigeration, between points in AL, AR, CT, GA, IA, IL, IN, KS, KY, MA, MD, MI, MN, MO, NC, ND, NE, NY, NJ, OH, PA, SD, TN, TX, VA, and WI, restricted to the transportation of traffic originating at or destined to the facilities of Kraft, Inc. (Hearing site: Washington, DC, or Chicago, IL.)

MC 141443 (Sub-17F), filed April 30, 1979. Applicant: JOHN LONG TRUCKING, INC., 1030 East Denton, Sapulpa, OK 74066. Representative: Wilburn L. Williamson, Suite 615—East, The Oil Center, 2601 Northwest Expressway, Oklahoma City, OK 73112. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in or used by wholesale, retail, discount, and variety stores, (except commodities in bulk), from points in CA to the facilities of Wal-Mart Stores, Inc., at or near Bentonville, Searcy, and Ft. Smith, AR. (Hearing site: Oklahoma City, OK, or Dallas, TX.)

Note.—Dual operations may be involved.

MC 141913 (Sub-4F), filed April 30, 1979. Applicant: V. N. TRANSPORTATION CO., INC., 7 Ensign Girardot Place, Cape Girardeau, MO 63701. Representative: Richard D. Kinder, P.O. Box 643, Cape Girardeau, MO 63701. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are used in the operation and maintenance of hospitals, (1) from St. Louis, MO, to

those points in TN on and west of a line beginning at the KY-TN State line and extending along U.S. Hwy 79 to junction TH Hwy 13, then along TH Hwy 13 to the TN-AL State line, (2) from Kansas City, MO, to points in Cherokee, Atchison, Wyandotte, Leavenworth, Jefferson, Douglas, Johnson, Franklin, Lyon, Bourbon, Crawford, Shawnee, and Labette, Counties, KS, (3) from Peoria, IL, to St. Louis, MO, and points, in St. Louis, St. Charles, Jefferson, and Cape Girardeau Counties, MO, and (4) from points in Coles County, IL, to St. Louis, MO, and points in St. Louis County, MO. (Hearing site: St. Louis, MO, or Chicago, IL.)

MC 142743 (Sub-13F), filed April 30, 1979. Applicant: FAST FREIGHT SYSTEMS, INC., P.O. Box 132C, Tupelo, MS 38801. Representative: Edwin M. Snyder, 22375 Haggerty Road, P.O. Box 400, Northville, MI 48167. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *iron and steel articles*, from Chicago, IL, St. Louis, MO, Houston, TX, and Birmingham, AL, to points in AR, MS, and TN. (Hearing site: Chicago, IL, or Washington, DC.)

MC 143173 (Sub-1F), filed April 27, 1979. Applicant: DEPENDABLE DELIVERY SERVICE, INC., 522 Twin Oaks Drive, Havertown, PA 19083. Representative: Edwin L. Scherlis, Suite 420, 1315 Walnut Street, Philadelphia, PA 19107. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *furniture, appliances, home furnishings* and such merchandise as is dealt in by retail stores between New York, NY, points in NJ, DE, MD, DC, Loudon, Prince William, Fairfax, Stafford, Fauquier and Accomac Counties, VA, Berks, Bucks, Carbon, Chester, Cumberland, Delaware, Dauphin, Lackawanna, Lancaster, Lebanon, Lehigh, Luzerne, Lycoming, Montgomery, Northampton, Northumberland, Monroe, Philadelphia, York, and Schuylkill Counties, PA. (Hearing site: Philadelphia, PA.)

MC 143452 (Sub-1F), filed April 30, 1979. Applicant: SUPREME EXPRESS & TRANSFER CO., a corporation, 3311 Chouteau Avenue, St. Louis, MO 63103. Representative: Ernest A. Brooks II, 1301 Ambassador Bldg., St. Louis, MO 63101. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *copper, copper products, and insulated tubing*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above (except commodities in bulk), between the

facilities of Cerro Cooper Products Company, at Sauget, IL, on the one hand, and, on the other, points in AL, AR, GA, IL, IN, IA, KS, KY, MI, MN, MO, OH, OK, PA, TN, TX, and WI, under continuing contract(s) with Cerro Cooper Products Company, of East St. Louis, MO. (Hearing site: St. Louis, MO.)

Note.—Dual operations may be involved.

MC 144572 (Sub-15F), filed April 30, 1979. Applicant: MONFORT TRANSPORTATION COMPANY, a corporation, P.O. Box G, Greeley, CO 80631. Representative: John T. Wirth, 717 17th Street, Suite 2600, Denver, CO 80202. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *malt beverages* (except commodities in bulk), from Phoenix, AZ, Los Angeles and Irvine, CA, Belleville and Peoria Heights, IL, Portland, OR, and Milwaukee, WI, to the facilities of Murray Bros. Distributing Company, at Denver, CO. (Hearing site: Denver, CO.)

Note.—Dual operations may be involved.

MC 144572 (Sub-16F), filed April 26, 1979. Applicant: MONFORT TRANSPORTATION COMPANY, P.O. Box G, Greeley, CO 80631. Representative: John T. Wirth, 717 17th Street, Suite 2600, Denver, CO 80202. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *alcoholic beverages and non-alcoholic beverage mixes*, from points in (1) CA, (2) Buffalo, NY, and (3) La Crosse, WI, to the facilities of C & C Distributing Company, at or near Denver, CO. (Hearing site: Denver, CO.)

Note.—Dual operations may be involved in this proceeding.

MC 144592 (Sub-3F), filed April 26, 1979. Applicant: WAYDENS HEAVY HAULERS, INC., 251 Fifth Avenue, Hiawatha, IA 52233. Representative: James M. Hodge, 1980 Financial Center, Des Moines, IA 50309. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *stone, gravel, ore and clay processing equipment*, and (2) *parts, materials and supplies* used in the manufacture of the commodities in (1) above (except commodities in bulk), between Des Moines, IA, on the one hand, and, on the other, points in the United States in and east of ND, SD, NE, KS, OK, and TX, under continuing contract(s) with Eagle Iron Works of Des Moines, IA. (Hearing site: Des Moines, IA, or Chicago, IL.)

MC 144842 (Sub-3F), filed May 1, 1979. Applicant: CLIFFORD L. RIGGINS d.b.a. RIGGINS TRUCKING, 1004 West Maple Street, Springdale, AR 72764. Representative: Nancy Pyeatt, 815 15th

St. N.W., Washington, DC 20005. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *drugs, animal feed supplements, chemicals, acids, sugar, and toilet preparations* (except commodities in bulk), from the facilities of Hoffmann-La Roche, Inc., at Belvedere, Branchburg, and Nulley, NJ, to points in CA, IL, IA, and TX. (Hearing site: Newark, NJ, or Washington, DC.)

MC 144903 (Sub-1F), filed April 30, 1979. Applicant: RICHARD SANSOM, d.b.a. R. H. SANSOM TRUCKING, P.O. Box 8778, Stockton, CA 95208. Representative: Richard Sansom (same address as applicant). To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *construction equipment*, the transportation of which because of size and weight requires the use of special equipment, between points in CA, on the one hand, and, on the other, points in AZ and NM, under continuing contract(s) with Ball, Ball, and Brosamer, Inc., of Danville, CA. (Hearing site: San Francisco or Los Angeles, CA.)

MC 145102 (Sub-22F), filed May 1, 1979. Applicant: FREYMILLER TRUCKING, INC., P.O. Box 188, Shullsburg, WI 53586. Representative: Michael J. Wyngaard, 150 East Gilman Street, Madison, WI 53703. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *cleaning solutions*, and (2) *such commodities* as are dealt in or used by manufacturers, converters, printers and distributors of paper and paper products (except commodities in bulk), (a) from the facilities of Bay West Paper Company, a Division of Mosinee Paper Corporation, at or near Green Bay, WI, and (b) from the facilities of Mosinee Paper Corporation, at or near Mosinee and Columbus, WI, to points in AZ, CA, NV, NM, OR, UT, WA, MT, WY, CO, and ID. (Hearing site: Madison, or Milwaukee, WI.)

MC 145102 (Sub-24F), filed April 30, 1979. Applicant: FREYMILLER TRUCKING, INC., P.O. Box 188, Shullsburg, WI 53586. Representative: Mark C. Ellison, 1200 Gas Light Tower, 235 Peachtree Street, NE., Atlanta, GA 30303. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products and meat byproducts, and articles distributed by meat-packing houses*, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C.

209 and 766, (except hides and commodities in bulk), from the facilities of John Morrell & Co., at or near Sioux City, IA, to points in CA, restricted to the transportation of traffic originating at the named origin facilities. (Hearing site: Madison, WI, or Chicago, IL.)

MC 145593 (Sub-3F), filed April 30, 1979. Applicant: HAROLD SHULL TRUCKING, INCORPORATED, P.O. Box 1533, Hickory, NC 28601. Representative: Charles Ephraim, Suite 600, 1250 Connecticut Avenue, NW., Washington, DC 20036. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *furniture and furniture parts*, from points in McDowell, Guilford, and Davie Counties, NC, to points in MI and OH; and (2) *returned shipments* of new furniture and furniture parts, and *materials, equipment, and supplies* used in the manufacture of new furniture and furniture parts, (except commodities in bulk), from points in MI and OH, to points in McDowell, Guilford, Davie, Catawba, Iredell, Caldwell, Wilkes, Burke, Rutherford, Cleveland, Alexander, and Lincoln Counties, NC. (Hearing site: Charlotte, NC.)

MC 146182 (Sub-2F), filed April 30, 1979. Applicant: GARY W. GRAY, P.O. Box 48, Delaware, NJ 07823. Representative: Joseph F. Hoary, 121 South Main Street, Taylor, PA 18517. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *gasoline and distillates*, in bulk, from Newark and Changewater, NJ, to points in Carbon, Schuylkill, Lackawanna, Lehigh, Luzerne, Lycoming, Northampton, and Monroe Counties, PA, and Orange and Rockland Counties, NY, under continuing contract(s) with Getty Refining and Marketing Company, of Tulsa, OK. (Hearing site: Philadelphia, PA.)

Note.—Dual operations may be involved.

MC 146422 (Sub-3F), filed April 30, 1979. Applicant: DELBERT F. JOHNSTON, 2601 Gore Road, Pueblo, CO 81006. Representative: Jack B. Wolfe, 350 Capitol Life Center, 1600 Sherman Street, Denver, CO 80203. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *brick and building materials*, from the facilities of Summit Pressed Brick and Tile Co., at or near Pueblo and Trinidad, CO, to points in ID, IL, KS, NE, NM, OK, TX, UT, WI, and WY, under continuing contract(s) with Summit Pressed Brick and Tile Co., of Pueblo, CO; and (2) *refractories, and materials, equipment,*

and supplies used in the manufacture and installation of refractories, between the facilities of A. P. Green Refractories Company, at or near Pueblo, CO, on the one hand, and, on the other, points in AZ, CA, CO, ID, IL, IA, KS, MO, MT, NE, NM, OR, TX, UT, WA, and WY, under continuing contract(s) with A. P. Green Refractories Company, of Mexico, MO. (Hearing site: Pueblo or Denver, CO.)

MC 146573 (Sub-1F), filed April 30, 1979. Applicant: LA SALLE TRUCKING, INC., P.O. Box 48, Peru, IL 61365. Representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 Eleventh Street, NW., Washington, DC 20001. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *plastic materials* (except in bulk), between Ottawa, IL, on the one hand, and, on the other, points in DE, MD, IN, NJ, PA, MI, NY, and OH. (Hearing site: Chicago, IL, or Washington, DC.)

MC 146583 (Sub-2F), filed April 24, 1979. Applicant: TERRAIN TAMERS, INC.—INTERSTATE TRANSPORT, 17 Clark Branch Road, Myrtle Creek, OR 97370. Representative: Thomas Y. Higashi, 2075 S.W. First Avenue, Suite 2N, Portland, OR 97201. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *lumber, lumber mill products, wood products, and pitchstick*, from points in OR to points in CA, AZ, NV, and ID; (2) *lumber, lumber mill products, and wood products*, between points in WA, on the one hand, and, on the other, points in OR; and (3) *building materials, contractors' materials and supplies, and steel strapping in coils*, from points in CA, AZ, and NV, to points in OR and WA. (Hearing site: Portland, OR.)

MC 146652 (Sub-2F), filed May 1, 1979. Applicant: FEDERAL PRODUCE TRANSPORTATION CO., a corporation, 8309 Tujunga Ave., Sun Valley, CA 91352. Representative: Jack H. Blanshan, Suite 200, 205 West Touhy Ave., Park Ridge, IL 60068. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *agricultural commodities*, the transportation of which are otherwise exempt from economic regulation under 49 U.S.C. § 10528 (a)(8) (formerly Section 203 (b)(8) of the Interstate Commerce Act), in mixed loads with bananas, from the facilities of Del Monte Banana Co., at Port Hueneme, CA, to points in AZ, OR, and WA, restricted to the transportation of traffic having a prior movement by water. (Hearing site: Los Angeles, CA.)

Passenger Authority

MC 94742 (Sub-40F), filed April 13, 1979. Applicant: MICHAUD BUS LINES, INC., 63 Jefferson Avenue, Salem, MA 01970. Representative: Robert G. Parks, 20 Walnut Street, Suite 101, Wellesley Hills, MA 02181. To operate as a *common carrier*, by motor vehicle, in foreign commerce only, over regular routes, transporting *passengers and their baggage*, in the same vehicle with passengers, between Boston, MA, and the port of entry on the international boundary line between the United States and Canada, at or near Derby, VT: from Boston over Interstate Hwy 93 to junction MA Hwy 110, then over MA Hwy 110 to Lawrence, MA, then over MA Hwy 110 to junction Interstate Hwy 93, then over Interstate Hwy 93 to junction U.S. Hwy 3 at or near Lincoln, NH, then over U.S. Hwy 3 to junction Interstate Hwy 93 at or near Franconia, NH, then over Interstate Hwy 93 to junction NH Hwy 18, then over NH Hwy 18 to the NH-VT State line, then over VT Hwy 18 to junction U.S. Hwy 2, then over U.S. Hwy 2 to junction Interstate Hwy 91, then over Interstate Hwy 91 to the port of entry on the international boundary line between the United States and Canada at or near Derby, VT, and return over the same route, serving the intermediate points of Lawrence, MA, and Manchester, Concord, and Littleton, NH. (Hearing site: Boston, MA, or Manchester, NH.)

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Decided: August 6, 1979.

By the Commission, Review Board Number 1, Members Carleton, Joyce, and Jones.

MC 1222 (Sub-46F), filed May 4, 1979. Applicant: THE REINHARDT TRANSFER COMPANY, a corporation, 1410 Tenth Street, Portsmouth, OH 45662. Representative: Robert H. Kinker, P.O. Box 464, Frankfort, KY 40602. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Louisville, KY and Chicago, IL: from Louisville over Interstate Hwy 65 to junction Interstate Hwy 465, then north over Interstate Hwy 465 to junction Interstate Hwy 65, then over Interstate Hwy 65 to junction Interstate Hwy 94, then over Interstate Hwy 94 to Chicago, and return over the same route, serving no intermediate points, as a alternate route for operating convenience only in connection with applicant's existing regular-route

operations. (Hearing site: Louisville, KY or Chicago, IL.)

MC 2253 (Sub-92F), filed May 4, 1979. Applicant: CAROLINA FREIGHT CARRIERS CORPORATION, P.O. Box 697, Highway 150 East, Cherryville, NC 28021. Representative: J. S. McCallie (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *compressors and drills*, and (2) *compressor and drill parts*, from Michigan City, IN, to points in AL, AR, CT, DE, FL, GA, IL, KY, LA, MA, MD, ME, MI, MO, MS, NC, NH, NJ, NY, OH, PA, RI, SC, TN, TX, VA, VT, WV, and DC. (Hearing site: Chicago, IL.)

MC 14702 (Sub-78F), filed May 7, 1979. Applicant: OHIO FAST FREIGHT, INC., P.O. Box 808, Warren, OH 44482. Representative: Michael Spurlock, 275 East State Street, Columbus, OH 43215. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *iron and steel articles*, from the facilities of Northwestern Steel and Wire Company, at or near Sterling and Rock Falls, IL, to points in OH, MI, and PA. (Hearing site: Columbus, OH.)

MC 14702 (Sub-80F), filed May 7, 1979. Applicant: OHIO FAST FREIGHT, INC., P.O. Box 808, Warren, OH 44482. Representative: Michael Spurlock, 275 East State Street, Columbus, OH 43215. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *iron and steel articles*, from the facilities of Nucor Steel, at or near Jewett, TX, to points in AL, FL, GA, IL, IN, KY, MO, OH, and TN. (Hearing site: Columbus, OH.)

MC 14252 (Sub-58F), filed May 3, 1979. Applicant: COMMERCIAL LOVELACE MOTOR FREIGHT, INC., 3400 Refugee Road, Columbus, OH 43227. Representative: William C. Buckham (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving West Lebanon, IN, as an off-route point in connection with carrier's presently authorized regular-route operations. (Hearing site: Columbus, OH, or Washington, DC.)

MC 18502 (Sub-20F), filed May 3, 1979. Applicant: ROBINSON TRUCK LINE, INC., P.O. Box 737, West Main Street, West Point, MS 39773. Representative: Thomas A. Stroud, 2008 Clark Tower,

5100 Poplar Avenue, Memphis, TN 38137. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between junction Alt. U.S. Hwy 45 and U.S. Hwy 45 at or near Shannon, MS, and Columbus, MS, over U.S. Hwy 45; (2) between junction U.S. Hwy 45 and U.S. Hwy 278, and junction U.S. Hwy 278 and MS Hwy 25, over U.S. Hwy 278; (3) between Okolona, MS, and junction U.S. Hwy 45 and MS Hwy 41, over MS Hwy 41; (4) between junction Alt. U.S. Hwy 45 and MS Hwy 25, and junction MS Hwy 25 and U.S. Hwy 45, at or near Aberdeen, MS, over MS Hwy 25; (5) between Columbus, MS, and junction U.S. Hwy 82 and Alt. U.S. Hwy 45, over U.S. Hwy 82, serving all intermediate points on routes (1) through (5) above, and serving Columbus Mississippi Air Force Base, and Hamilton, MS, as off-route points. (Hearing site: Columbus, or Westpoint, MS.)

MC 47583 (Sub-98F), filed May 7, 1979. Applicant: TOLLIE FREIGHTWAYS, INC., 1020 Sunshine Road, Kansas City, KS 66115. Representative: D. S. Hulst, P.O. Box 225, Lawrence, KS 66044. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *containers*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of containers, (except commodities in bulk), between points in the United States (except AK and HI), restricted to the transportation of traffic originating at or destined to the facilities of Midland Glass Company, Inc. (Hearing site: Kansas City, MO.)

MC 59583 (Sub-172F), filed May 3, 1979. Applicant: THE MASON AND DIXON LINES, INCORPORATED, Eastman Road, P.O. Box 969, Kingsport, TN 37662. Representative: Kim D. Mann, Suite 1010, 7101 Wisconsin Avenue, Washington, DC 20014. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Irwin and Uniontown, PA, from Irwin over Interstate Hwy 76 to junction U.S. Hwy 119, then over U.S. Hwy 119 to Uniontown, and return over the same

route, serving all intermediate points. (Hearing site: Pittsburgh, PA.)

MC 82492 (Sub-232F), filed May 3, 1979. Applicant: MICHIGAN & NEBRASKA TRANSIT CO., INC., 2109 Olmstead Road, P.O. Box 2853, Kalamazoo, MI 49003. Representative: Dewey R. Marselle (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in by chain grocery and food business houses, (except commodities in bulk, in tank vehicles), in vehicles equipped with mechanical refrigeration, between points in AR, IA, IL, IN, KS, KY, MI, MN, MO, ND, NE, NY, OH, PA, SD, TN, and WI, restricted to the transportation of traffic originating at or destined to the facilities of Kraft, Inc. (Hearing site: Washington, DC, or Chicago, IL.)

MC 82492 (Sub-238F), filed May 4, 1979. Applicant: MICHIGAN & NEBRASKA TRANSIT CO., INC., 2109 Olmstead Road, P.O. Box 2853, Kalamazoo, MI 49003. Representative: Dewey R. Marselle (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products, meat byproducts, and articles distributed by meat-packing houses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), between the facilities of (1) Lauridsen Foods, Inc., at or near Britt, IA, and (2) Armour Co., at or near Mason City, IA, on the one hand, and, on the other, Covington and Louisville, KY, and points in IL, IN, KS, MI, MN, MO, NE, OH, TN, those points in PA on and west of U.S. Hwy 219, and those points in NY in and west of Broome, Cortland, Onondaga and Oswego Counties, restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Washington, DC or Chicago, IL.)

MC 103993 (Sub-957F), filed May 3, 1979. Applicant: MORGAN DRIVE-AWAY, INC., 28651 U.S. 20 West, Elkhart, IN 46515. Representative: Paul D. Borghesani (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *prefabricated steel articles* used in the erection and construction of electric substations and towers, from the facilities of Charles E. Schuller Engineering Co., at Newark, OH, to points in AR, CO, DE, GA, KS, KY, LA,

MD, NJ, NM, NY, NC, OH, OK, PA, SC, TX, VA, and WV. (Hearing site: Columbus, OH.)

MC 103993 (Sub-959F), filed May 3, 1979. Applicant: MORGAN DRIVE-AWAY, INC., 28651 U.S. 20 West, Elkhart, IN 46515. Representative: Paul D. Borghesani (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *roofing materials*, (1) from the facilities of Warrior Roofing Manufacturing Co., at or near Tuscaloosa, AL, and (2) from the facilities of Warrior Sales & Distribution Co., at or near (a) Tuscaloosa, AL, and (b) Doraville, GA, to those points in the United States in and east of ND, SD, NE, KS, OK, and TX. (Hearing site: Mobile, AL.)

MC 103993 (Sub-962F), filed May 7, 1979. Applicant: MORGAN DRIVE-AWAY, INC., 28651 U.S. 20 West, Elkhart, IN 46515. Representative: Paul D. Borghesani (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *materials, equipment, and supplies* used in the manufacture and distribution of metal buildings, metal building parts, and metal building sections, (except commodities in bulk), from those points in the United States in and east of ND, SD, NE, KS, OK, and TX, to the facilities of Cuckler Steel Division of Lear Siegler, Inc., at or near Monticello, IA. (Hearing site: Des Moines, IA.)

MC 108403 (Sub-6F), filed May 1, 1979. Applicant: JACKSON AUTO TRANSPORT, INC., 1020 Port Austin Road, Port Austin, MI 48467. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *wheels, rims, hubs and spindles*, from (1) Mendota and Quincy, IL, and (2) Davenport, IA, to Romeo and Detroit, MI. (Hearing site: Detroit MI, or Washington, DC)

MC 110563 (Sub-270F), filed May 2, 1979. Applicant: COLDWAY FOOD EXPRESS, INC., P.O. Box 747, State Route 29 N, Sidney, OH 45365. Representative: Joseph M. Scanlan, 111 West Washington Street, Chicago, IL 60602. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs*, from Indianapolis, IN, to points in AL, AR, CT, DE, FL, GA, IL, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, NE, NJ, NY, NC, OH, OK, PA, RI, SC, TN, TX, VA, WV,

WI, and DC. (Hearing site: Indianapolis, IN, or Chicago, IL.)

MC 110563 (Sub-271F), filed May 2, 1979. Applicant: COLDWAY FOOD EXPRESS, INC., P.O. Box 747, State Route 29 N, Sidney, OH 45365. Representative: Joseph M. Scanlan, 111 West Washington Street, Chicago, IL 60602. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products and meat byproducts, and articles distributed by meat-packing houses*, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (except hides and commodities in bulk), from the facilities of John Morrell & Co., at or near Sioux City, IA, to points in IL, IN, MI, and OH, restricted to the transportation of traffic originating at the named origin. (Hearing site: Chicago, IL, or Washington, DC)

MC 112223 (Sub-121F), filed May 4, 1979. Applicant: QUICKIE TRANSPORT COMPANY, a corporation, 1700 New Brighton Boulevard, Minneapolis, MN 55413. Representative: Earl Hacking (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *bentonite clay*, in bulk, from points in Phillips County, MT, Butte County, SD, and Big Horn, Crook, Hot Springs, Natrona, Washakie and, Weston Counties, WY, to points in IL, IN, IA, MI, MN, and OH.

MC 112713 (Sub-268F), filed May 3, 1979. Applicant: YELLOW FREIGHT SYSTEM, INC., P.O. Box 7270, Shawnee Mission, KS 66207. Representative: John M. Records, P.O. Box 7270, Shawnee Mission, KS 66207. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of Environmental Control Systems, Inc., at or near Whiteville, TN, as an off-route point in connection with carrier's otherwise authorized regular-route operations. (Hearing site: Memphis or Nashville, TN.)

MC 112713 (Sub-296F), filed May 4, 1979. Applicant: YELLOW FREIGHT SYSTEM, INC., P.O. Box 7270, Overland Park, KS 66207. Representative: Robert E. De Land (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, transporting *general commodities*, (except those of unusual value, classes A and B explosives,

commodities in bulk, household goods as defined by the Commission, and those requiring special equipment), serving the terminal facilities of Associated Truck Lines, Inc., at or near Coldwater, MI, as an off-route point in connection with carrier's otherwise authorized operations. (Hearing site: Kansas City, or Chicago, IL.)

MC 112713 (Sub-273F), filed May 3, 1979. Applicant: YELLOW FREIGHT SYSTEM, INC., P.O. Box 7270, Overland Park, KS 66207. Representative: Robert E. DeLand (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of Cities Service Company, North Bend Carbon Black Plant, at or near Franklin, LA, as an off-route point in connection with carrier's otherwise authorized regular-route operations. (Hearing site: Dallas, TX, or Kansas City, MO.)

MC 114273 (Sub-604F), filed May 3, 1979. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *pneumatic tires, tire tubes, and such commodities* as are used in the manufacture and repair of tires, from Des Moines, IA, to points in VA. (Hearing site: Chicago, IL, or Washington, DC.)

MC 114382 (Sub-15F), filed May 3, 1979. Applicant: ROBERT J. ECKLUND, d.b.a. ECKLUND TRUCKING, P.O. Box 151, Kiester, MN 56051. Representative: John B. Van de North, Jr., 2200 First National Bank Bldg., St. Paul, MN 55101. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *feed and feed ingredients*, (1) from Red Wing, MN, to points in IA and WI, and (2) from Minneapolis, MN, to points in IA. (Hearing site: Minneapolis or Mankato, MN.)

MC 114632 (Sub-215F), filed May 1, 1979. Applicant: APPLE LINES, INC., 212 S.W. Second St., P.O. Box 287, Madison, SD 57042. Representative: David E. Peterson (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such merchandise* as is dealt in by chain grocery and food business houses, (except commodities in bulk, in tank vehicles), in vehicles

equipped with mechanical refrigeration, between points in IA, ID, IL, IN, KS, KY, MA, MI, MN, MO, MT, NJ, ND, NE, NY, OH, PA, SD, TN, TX, UT, and WI, restricted to the transportation of traffic originating at or destined to the facilities of Kraft, Inc. (Hearing site: Chicago, IL, or Minneapolis, MN.)

Note.—Dual operations may be involved.

MC 114632 (Sub-216F), filed May 1, 1979. Applicant: APPLE LINES, INC., 212 S.W. Second St., P.O. Box 287, Madison, SD 57042. Representative: David E. Peterson (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *petroleum, petroleum products, vehicle body sealer, sound deadener compounds*, (except commodities in bulk), and *filters*, from (1) Emlenton and Farmers Valley, PA, and (2) Congo and St. Marys, WV, to points in CO, IL, IN, IA, KS, MN, MO, NE, ND, SD and WI. (Hearing site: Philadelphia, PA, or Washington, DC.)

Note.—Dual operations may be involved.

MC 114632 (Sub-226F), filed May 4, 1979. Applicant: APPLE LINES, INC., P.O. Box 287, Madison, SD 57042. Representative: David E. Peterson, (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *frozen foodstuffs*, from Buffalo, NY, to points in CO, DE, IL, IN, IA, KS, KY, MD, MI, MN, MO, NE, ND, OH, PA, SD, WV, UT, WI, and DC. (Hearing site: New York, NY, or Washington, DC.)

Note.—Dual operations may be involved.

MC 115092 (Sub-80F), filed May 3, 1979. Applicant: TOMAHAWK TRUCKING, INC., P.O. Box O, Vernal, UT 84078. Representative: Walter Kobos, 1016 Kehoe Drive, St. Charles, IL 60174. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *lumber and lumber products*, from points in CA to points in OK and TX, restricted to the transportation of traffic destined to the indicated destinations. (Hearing site: San Francisco or Sacramento, CA.)

MC 115092 (Sub-87F), filed May 3, 1979. Applicant: TOMAHAWK TRUCKING, INC., P.O. Box O, Vernal, UT 84078. Representative: Walter Kobos, 1016 Kehoe Drive, St. Charles, IL 60174. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *plastic foam articles*, in packages, from Biola, CA, to points in AR, AZ, CO, ID, KS, MT, NE, NM, NV, OK, OR, TX, UT, WA, and WY. (Hearing site: Denver, CO, or Fresno, CA.)

MC 115322 (Sub-178F), filed May 7, 1979. Applicant: REDWING REFRIGERATED, INC., P.O. Box 10177, Taft, FL 32809. Representative: L. W. Fincher, P.O. Box 426, Tampa, FL 33601. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs*, from Canajoharie, NY, to points in FL. (Hearing site: New York, NY, or Washington, DC.)

MC 115523 (Sub-184F), filed May 4, 1979. Applicant: CLARK TANK LINES, INC., P.O. Box 1985, Salt Lake City, UT 84110. Representative: William S. Richards, P.O. Box 2465, Salt Lake City, UT 84110. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *sugar, corn products, and blends of sugar and corn*, in bulk, from Nampa, Twin Falls, and Paul, ID, and Ogden, UT, to points in ID, MT, OR, UT, and WA. (Hearing site: Salt Lake City, UT.)

MC 116763 (Sub-510F), filed May 4, 1979. Applicant: CARL SUBLER TRUCKING, INC., North West Street, Versailles, OH 45380. Representative: H. M. Richters (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are manufactured or dealt in by manufacturers of rubber products, (except commodities in bulk, in tank vehicles), from those points in the United States in and east of MN, IA, MO, OK, and TX, to the facilities of J. & L. Distributing Company, at or near (a) Chicago, IL, and (b) Milwaukee, WI, restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Milwaukee, WI.)

MC 116763 (Sub-513F), filed May 3, 1979. Applicant: CARL SUBLER TRUCKING, INC., North West Street, Versailles, OH 45380. Representative: H. M. Richters (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *malt beverages and malt syrups*, (except commodities in bulk, in tank vehicles), from the facilities of Anheuser-Busch, Inc., at or near St. Louis, MO, to points in CT, DE, ME, MD, MA, NH, PA, NJ, NY, RI, VT, VA, and DC, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations. (Hearing site: St. Louis, MO.)

MC 116763 (Sub-539F), filed May 4, 1979. Applicant: CARL SUBLER

TRUCKING, INC., North West Street, Versailles, OH 45380. Representative: H. M. Richters (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in by chain grocery and food business houses, (except commodities in bulk, in tank vehicles), in vehicles equipped with mechanical refrigeration, between points in AL, AR, CT, FL, GA, IA, IL, IN, KY, MA, MD, MI, MN, MO, MS, NC, NY, NJ, OH, PA, SC, TN, TX, VA, VT, WV, and WI, restricted to the transportation of traffic originating at or destined to the facilities of Kraft, Inc. (Hearing site: Chicago, IL.)

MC 119493 (Sub-293F), filed May 4, 1979. Applicant: MONKEM COMPANY, INC., P.O. Box 1196, Joplin, MO 64801. Representative: Thomas D. Boone, Traffic Manager (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *plastic articles*, and (2) *materials and supplies* used in the manufacture and distribution of the commodities in (1) above, between Springfield, IL, on the one hand, and, on the other, points in AL, AR, IA, KS, MO, MS, NE, ND, OK, SD, and TN. (Hearing site: Chicago, IL or Kansas City, MO.)

MC 125433 (Sub-261F), filed May 3, 1979. Applicant: F-B TRUCK LINE COMPANY, a corporation, 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: John B. Anderson (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *pipe, pipe fittings, and irrigation equipment*, from York, NE, and Garden City, KS, to points in the United States (except AK and HI); and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, (except commodities in bulk, in tank vehicles), in the reverse direction. (Hearing site: Omaha, NE.)

MC 125433 (Sub-262F), filed May 3, 1979. Applicant: F-B TRUCK LINE COMPANY, a corporation, 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: John B. Anderson (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *prefabricated buildings*, knocked-down or in sections, and *equipment, materials, and supplies* used in the construction, erection, and completion of prefabricated buildings, (except commodities in bulk, in tank vehicles), from the facilities of American Steel

Buildings, Inc., at or near Aurora, CO, to points in AZ, CA, ID, IA, KS, MN, MO, MT, NE, NV, NM, ND, OK, OR, SD, TX, UT, WA, and WY; and (2) *equipment, materials, and supplies* used in the construction, erection, and completion of prefabricated buildings, (except commodities in bulk, in tank vehicles), from points in the United States (except AK and HI), to the facilities of American Steel Buildings, Inc., at or near Aurora, CO. (Hearing site: Houston, TX.)

MC 128343 (Sub-46F), filed May 3, 1979. Applicant: C-LINE, INC., Tourtellot Hill Road, Chepachet, RI 02814. Representative: Ronald N. Cobert, 1730 M Street, NW., Suite 501, Washington, DC 20036. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *stapling machines, stitching machines, hand tools, hardware, files, staples, nails, and wire*, from East Greenwich, RI, to points in CO, GA, IL, IN, KS, MN, MO, TX, and VA, under continuing contract(s) with Bostitch, a division of Textron, Inc., of East Greenwich, RI. (Hearing site: Boston, MA, or Washington, DC.)

Note.—Dual operations may be involved.

MC 129032 (Sub-87F), filed May 3, 1979. Applicant: TOM INMAN TRUCKING, INC., 6015 South 49th West Avenue, Tulsa, OK 74107.

Representative: David R. Worthington, (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in by chain grocery and food business houses, (except commodities in bulk, in tank vehicles), in vehicles equipped with mechanical refrigeration, between points in AR, AZ, GA, ID, IL, IN, KS, KY, MI, MN, MO, NC, OH, TN, TX, UT, and WI, restricted to the transportation of traffic originating at or destined to the facilities of Kraft, Inc. (Hearing site: Washington, DC, or Chicago, IL.)

MC 138902 (Sub-12F), filed May 4, 1979. Applicant: ERB TRANSPORTATION CO., INC., P.O. Box 65, Crozet, VA 22932. Representative: Harry C. Ames, Jr., 805 McLachlen Bank Building, 666 Eleventh Street, NW, Washington, DC 20001. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *bananas* and (2) *agricultural commodities* the transportation of which is otherwise exempt from economic regulation under 49 U.S.C. § 10525(a)(6) [formerly Section 203 (b)(6)], of the Interstate Commerce Act, in mixed loads with bananas, from Norfolk, VA, to points in MD, OH, PA,

VA, WV, MN, IA, AL, GA, NC, SC, TN, IN, KY, IL, WI, MI, MO, and DC. (Hearing site: Norfolk or Richmond, Va.)

MC 139482 (Sub-124F), filed May 4, 1979. Applicant: NEW ULM FREIGHT LINES, INC., P.O. Box 877, New Ulm, MN 56073. Representative: Samuel Rubenstein, 301 North Fifth Street, Minneapolis, MN 55403. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *drugs, toilet preparations and household products*, from Chicago, IL, to Indianapolis, IN, Kansas City and St. Louis, MO, Minneapolis, MN, and Omaha, NE. (Hearing site: Minneapolis, or St. Paul, MN.)

MC 141532 (Sub-38F), filed May 1, 1979. Applicant: PACIFIC STATES TRANSPORT, INC., 3328 East Valley Road, Renton, WA 98055. Representative: Henry C. Winters, Evergreen Building, 15 South Grady Way, Suite 525, Renton, WA 98055. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *gypsum products* from the facilities of Gold Bond Building Products, Division of National Gypsum Company, at or near Phoenix, AZ, to points in CA. (Hearing site: Los Angeles, CA.)

MC 144503 (Sub-15F), filed May 4, 1979. Applicant: ADAMS REFRIGERATED EXPRESS, INC., P.O. Box "F", Forest Park, GA 30050. Representative: Donald L. Stern, Suite 610, 7171 Mercy Road, Omaha, NE 68106. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *frozen boxed meat*, from the facilities of Coast Packing Co. of Omaha, Inc., at Omaha, NE, to points in AL, FL, GA, KY, MS, NC, SC, and TN. (Hearing site: Omaha, NE.)

MC 145152 (Sub-72F), filed May 3, 1979. Applicant: BIG THREE TRANSPORTATION, INC., P.O. Box 706, Springdale, AR 72764. Representative: Don Garrison, P.O. Box 159, Rogers, AR 72756. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *canned and preserved foodstuffs*, from the facilities of Campbell Soup (Texas) Inc., at or near Paris, TX, to the facilities of Campbell Soup Company, at or near Camden, NJ, Napoleon, OH, and Chicago, IL. (Hearing site: Dallas, TX, or Tulsa, OK.)

MC 145643 (Sub-2F), filed April 30, 1979. Applicant: BECKER'S TRUCKING, INC., 23 Railroad Street, South, Turtle Lake, WI 54889. Representative: Wayne

W. Wilson, 150 East Gilman Street, Madison, WI 53703. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *dry fertilizer and dry fertilizer ingredients*, from Pine Bend, Winona, and Duluth, MN, to those points in WI on and north of U.S. Hwy 10. (Hearing site: Minneapolis, MN, or Madison, WI.)

MC 145733 (Sub-2F), filed May 2, 1979. Applicant: AMERICAN AUTO SHIPPERS, a partnership, 152 W. 42nd Street, Suite 923, New York, NY 10036. Representative: C. Jack Pearce, 1000 Connecticut Avenue NW., Washington, DC 20036. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *new motor vehicles*, in initial movements, and (2) *new and used motor vehicles*, in secondary movements in driveway service, between points in the United States (except AK and HI). (Hearing site: Washington, DC, or New York, NY.)

MC 146442 (Sub-4F), filed May 1, 1979. Applicant: DELBERT F. JOHNSON, 2801 Gore Road, Pueblo, CO 81006. Representative: Jack B. Wolfe, 350 Capitol Life Center, 1600 Sherman Street, Denver, CO 80203. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *building material*, from Acme, TX, Wichita, KS, and points in ID, MT, OR, and WA, to the facilities of Contractor Building Supply, Inc., at Pueblo, CO, under continuing contract(s) with Contractor Building Supply, Inc., of Pueblo, CO. (Hearing site: Pueblo, or Denver, CO.)

MC 147152F, filed April 27, 1979. Applicant: GENERAL CARRIERS CORPORATION, 12425 East Florence Avenue, Santa Fe Springs, CA 90670. Representative: Miles L. Kavalier, 315 So. Beverly Drive, Suite 315, Beverly Hills, CA 90212. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in CA, on the one hand, and, on the other, points in FL, GA, IL, IN, LA, MA, MI, MN, MO, NC, NJ, NY, OH, PA, SC, TX, VA, and WI, restricted to the transportation of traffic originating at or destined to the facilities of Major Shippers Association or its members located at (1) Pacific Electric Company, Gardena, CA, (2) Henkel, Inc., Hawthorne, CA, (3) Polar Chip, Inc., Irvine, CA, (4) Bass & Sons,

Inc., Los Angeles, CA, (5) Miller Electric Cable, Inc., Los Angeles, CA (6) Twentieth Century Plastics, Inc., Los Angeles, CA, (7) Vylene Corporation, Long Beach, CA, (8) Fresco Tire Distributors, Lynwood, CA, (9) Cactus Mat Mfg. Company, South El Monte, CA, (10) Seasonings, Inc., Elk Grove, IL, (11) Miner Enterprises, Inc., Geneva, IL, (12) Briggs Company, Robinson, IL, (13) Rockford Products, Inc., Rockford, IL, (14) Wayne Novelty Company, Decatur, IN, (15) The Maytag Company, Newton, IA, (16) Burmah Castrol Company, Edison, NJ, (17) Douglas Foods, Inc., Johnson City, NY, (18) Malco Products, Inc., Barborton, OH, (19) Mooney Chemicals, Inc., Cleveland, OH, (20) Amchem Products, Inc., Ambler, PA, (21) Cerro Metal Products, Inc., Bellefonte, PA, and (22) American Insulated Wire Corporation, Pawtucket, RI. (Hearing site: Los Angeles, CA.)

MC 147313F, filed May 4, 1979. Applicant: JOHN PFROMMER, INC., P.O. Box 307, Douglassville, PA 19518. Representative: Theodore Polydoroff, Suite 301, 1307 Dolly Madison Boulevard, McLean, VA 22101. To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting agricultural limestone and roasted dolomite, in bulk, from the facilities of J. E. Baker Co., York, PA, to points in NJ. (Hearing site: Philadelphia, PA.)

Note.—Dual operation may be involved.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 79-27044 Filed 8-29-79; 8:45 am]
BILLING CODE 7035-01-M

Somerset Station Railroad Line Construction; Intent To Prepare Environmental Impact Statement

Notice is hereby given that, in accordance with the National Environmental Policy Act of 1969, the Interstate Commerce Commission and the New York State Department of Environmental Conservation as joint lead agencies intend to prepare an environmental impact statement (EIS) on the proposed Somerset Station railroad line. The EIS seeks to identify, examine and analyze the environmental consequences resulting from the construction and operation of a new line of railroad to the proposed Somerset electric power generating station. The proposed plant will use coal as an energy source.

The alternatives to be assessed in the EIS will be the feasible alternative routings for accessing the power generating facility.

All interested agencies, organizations, or persons are invited to participate in the scoping process as defined in current CEQ Regulations. Accordingly, a scoping meeting will be held on September 13, 1979 at 7:30 PM at the Trolley Building, Orleans County Junior Fairgrounds, Knowlesville, New York.

As joint lead agency with the New York State Department of Environmental Conservation, the Interstate Commerce Commission has initiated actions to allocate assignments to cooperating agencies for the preparation of the EIS.

The environmental analyses contained in the EIS will be considered as an integral component of the lead agencies' decision-making process. The preparation of the EIS is being so coordinated to insure timely and appropriate consideration of crucial environmental issues identified by the final document.

The Commission's contact person for this action is Mr. Glen D. Bottoms, Energy and Environment Branch, RM 5380, Interstate Commerce Commission, 12th and Constitution Avenue, NW., Washington, DC 20423 (telephone 202-275-7916).

Upon completion of the Draft EIS, its availability will be announced in the Federal Register at which time public comments will be solicited. It is also contemplated that a public hearing will be held to consider the proposed action. The time and place of this hearing will also be announced in the Federal Register.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 79-27040 Filed 8-29-79; 8:45 am]
BILLING CODE 7035-01-M

[Finance Docket No. 29078; Docket No. AB-7 (Sub-No. 86F)]

Stanley E. G. Hillman, Trustee of the Property of Chicago, Milwaukee, St. Paul and Pacific Railroad Company—Request for Expedited Handling of Abandonment; and Abandonment—Portions of Pacific Coast Extension in Montana, Idaho, Washington, and Oregon

AGENCY: Interstate Commerce Commission.

ACTION: In Finance Docket No. 29078, adoption of expedited abandonment procedure. In Docket No. AB-7 (Sub-No. 86F), institution of investigation, consolidation with certain other proceedings, requirement to provide certain information, and establishment of hearing schedule.

SUMMARY: On July 19, 1979, the Commission published notice of its proposal to establish an expedited procedure to decide an abandonment application anticipated from the Trustee in Reorganization for the Chicago, Milwaukee, St. Paul and Pacific Railroad Company (Milwaukee). 44 Fed. Reg. 42368 (1979). Interested persons submitted comments to the proposed procedure, and on August 8, 1979, the Trustee filed the expected application to abandon most of the Milwaukee's lines west of Miles City, Montana. The Commission has adopted the expedited procedure and expects to decide the abandonment application by January 10, 1980.

DATE: This decision shall be effective on the date it is served.

FOR FURTHER INFORMATION CONTACT: Michael Erenberg, 202-275-7245.

SUPPLEMENTARY INFORMATION: On June 27, 1979, Stanley E. G. Hillman, Trustee in Reorganization for the Milwaukee, submitted waiver petition and request for expedited handling in Docket No. AB-7 (Sub-No. 86F). In response to the request of expedited handling, we proposed the establishment of a procedure to decide the abandonment application within 155 days after filing. We solicited public reaction to the proposed expedited procedure, and have received a large number of comments in response.

As anticipated, the Milwaukee filed its application in Docket No. AB-7 (Sub-No. 86F) on August 8, 1979. The applicant seeks authority to abandon all of the railroad's lines and discontinue all of its operations west of Miles City, Montana, with the exception of trackage rights between Miles City and Billings, Montana. The proceeding involves nearly 2500 route miles of trackage which the Milwaukee operates through ownership, joint ownership, or trackage rights.

We have decided to adopt the proposed expedited procedure. We shall institute an investigation of the application in Docket No. AB-7 (Sub-No. 86F); void the requirement of an initial decision; consolidated that proceedings with those pending in Docket Nos. AB-7 (Sub-Nos. 64 F, 69 F, and 78 F); require the Milwaukee submit certain additional information; and establish a hearing schedule for the matter.

Finance Docket No. 29078

Acceptance of application. Some commentators maintain that failure to designate a time by which we would accept or reject the application indicates that acceptance is automatic. That is not correct. The proposed procedure

presumes the filing of an acceptable application, but does not presume that whatever the Milwaukee files will in fact be acceptable. Should the applicant not comply with our regulations, as waived in part by our decision of July 12, 1979, in Docket No. AB-7 (Sub-No. 86F), we would reject its application.

We have examined the submissions and have found no defects warranting rejection of the application. As discussed below, however, we shall require the Milwaukee to provide certain additional information which we believe is important to complete the initial record.

Period for comment. One commentator believes that we should not have shortened to 30 days the standard 35-day period for filing comments. Interested persons should file as soon as possible, in order to become parties of record eligible to receive copies of the studies and other material which the applicant proposes to submit into evidence. We proposed shortening the comment period to prompt potential parties into filing sufficiently early to receive those data before hearings (which would begin on the 33d day following filing). Given the broad scope and effect of the proposed abandonment, we shall be lenient in permitting intervention in the proceeding after expiration of the comment period. Leniency does not, however, suggest that late-comers should be permitted to disrupt the progress of this adjudication.

Initial decision. Our proposal to void the requirement of an initial decision has also generated adverse comment. We continue to believe that the proposed abandonment proceeding would be of general transportation importance and that timely execution of our functions require voiding the requirement of an initial decision and setting the matter for consideration by the entire Commission. Compare Finance Docket No. 28799 (Sub-No. 1). *St. Louis-Southwestern Railway Company-Purchase (Portion)-William M. Gibbons, Trustee of the Property of Chicago, Rock Island and Pacific Railroad Company, Debtor* (not printed), decided July 16, 1979. We can always reopen a proceeding or reconsider or change our action because of material error, new evidence, or substantially changed circumstances. 49 U.S.C. § 10327(g)(1). Where, as here, time is of the essence, an administratively final decision in the first instance would permit the parties to move more rapidly toward ultimate resolution of the matter.

Due process and the need for expedition. In our notice of proposed expedited handling, we pointed out that

the exigency presented by the Milwaukee's acute financial problems necessitated special procedures for deciding the abandonment application in Docket No. AB-7 (Sub-No. 86F). The continuing reports of the Early Warning Branch of our Bureau of Accounts, the findings of the Reorganization Court, and the Milwaukee's own filings in the proceeding substantiate our prior determination that an early resolution of the matter is in the best interest of the public.

Regardless of the merits of the abandonment proposal, we must act quickly. For example, an early decision to deny would enable the Trustee and others to formulate reorganization plans incorporating continued operations west of Miles City. An early decision to grant would permit the Trustee to consolidate the railroad's operations and reduce operating expenses, and thus might increase the survival opportunities for the balance of the system. Our decision to expedite the proceeding represents not an abrogation of established procedural protections, nor a prejudgment on the merits, but rather a maximum effort to preserve as much Milwaukee service as possible.

We do not intend and shall not allow our pursuit of an expeditious resolution of Docket No. AB-7 (Sub-No. 86F) to impair the procedural rights of the participants, and thereby contaminate the decisional process. We shall not act with undue haste, but we must move with all deliberate speed toward a decision in the proceeding. The administrative law judge designated for the primary hearing shall have discretion to act upon discovery motions and, if absolutely necessary, to continue hearings beyond the scheduled period and adjust the briefing schedule. We emphasize, however, that a timely decision is essential to the public interest. We believe that the timetable and procedure adopted here will provide a full and fair opportunity to be heard.

Several commentators contend that the proposed timetable would violate due process by failing to afford a meaningful opportunity for parties to be heard. They argue that the schedule permits inadequate time for discovery, preparation of response, or presentation of alternatives. The hearings schedule set forth below, however, provides that interested persons will have nearly two weeks after seeing and hearing the applicant's evidence before being called upon to test it by cross-examination. Further, the order of Chairman O'Neal dated August 16, 1979, required the applicant to serve copies of its technical studies upon a large number of persons

known or anticipate to have a substantial interest in the proceeding by August 27, 1979, and upon all subsequent protestants. In addition, 49 CFR 1121.34(d) (1978) requires the applicant to furnish upon request a copy of its application to any interested person proposing to file a written comment. We believe that our proposal provides interested persons with sufficient time to prepare, present and argue their evidence, and to evaluate and test that of the Milwaukee.

Some of the commentators assert that the secondary hearings are improper unless they afford a full opportunity to test the applicant's evidence. The secondary hearings shall not be scheduled to conflict with the primary hearing, however, and no person would be precluded from participating in the primary hearing merely because he or she participates in a secondary hearing. However, the evidence offered by a party in secondary hearing should not be duplicative of that offered in the primary hearing of any other secondary hearing. The secondary hearings shall be adjudicative in nature, and are intended to provide those who are unable to attend the primary hearing with an opportunity to place on the record evidence and comments relating to abandonment. All evidence presented at the secondary hearings would be subject to admissibility requirements and cross-examination.

A number of commentators submit that the proposed briefing schedule may be unrealistic. We agree. Instead of providing a short period both for briefs and reply briefs, we shall adhere to our standard practice of permitting a longer period for the filing of a single brief. See 49 CFR 1100.90 (1978). We shall modify the timetable to provide that all briefs shall be due on December 3, 1979.

Burden of proof. One commentator insists that our decision to grant waiver of certain informational requirements indicates a predetermination of the abandonment proceeding. We have made no preliminary judgments on the merits of the Milwaukee's application, however, and we certainly harbor no predisposition to grant abandonment summarily. The applicant railroad has the burden of proof in a proceeding of this nature. It must demonstrate, and we must find, that the present or future public convenience and necessity require or permit abandonment or discontinuance. We have neither formed opinions nor made findings on the merits of the application in Docket No. AB-7 (Sub-No. 86F), and shall do so only at the point of rendering a final decision after the close of the evidentiary period.

Docket No. AB-7 (Sub-No. 86F)

Institution of investigation. The Idaho Public Utilities Commission and the Grain Terminal Association have petitioned for investigation of the abandonment proposed in Docket No. AB-7 (Sub-No. 86F). We stated in our notice of proposed expedited procedure that we intended to institute investigation on our own motion. We shall conduct an investigation of the matter, and shall postpone the proposed effective date of abandonment and discontinuance pending completion of investigation.

Consolidation with related abandonment proceedings. We indicated in our notice in Finance Docket No. 29078 that certain abandonments pending in the region west of Miles City would be consolidated with Docket No. AB-7 (Sub-No. 86F) unless decisions on pending applications would be delayed by consolidation. The noted proceedings would not be delayed by consolidation, and in fact the lines involved in them are embraced by the application in Docket No. AB-7 (Sub-No. 86F). We shall consolidate the applications pending in Docket No. AB-7 (Sub-Nos. 64F, 69F, and 78F) with that in Docket No. AB-7 (Sub-No. 86F).

Relation to reorganization. On August 10, 1979, the Trustee filed with the Reorganization Court his plan to reorganize the Milwaukee. Section 77(d) of the Bankruptcy Act, 11 U.S.C. 205(d), requires us to hold public hearings on a plan of reorganization presented for consideration, and to approve a plan which is in the public interest. A prerequisite to effecting the Trustee's plan is our authorization for the abandonment proposed in Docket No. AB-7 (Sub-No. 86F). We need not delay the abandonment proceeding by consolidating it with the necessary proceeding on the reorganization plan, however. See section 77(o) of the Bankruptcy Act, 11 U.S.C. 205(1), which provides that

The Trustee . . . shall determine what lines . . . should be abandoned or sold during the pendency of the proceedings in the interest of the debtor's estate and of ultimate reorganization but without unduly or adversely affecting the public interest, and shall present to the judge petitions . . . for authority to abandon or to sell any such property; and upon order of the judge . . . authorizing any such abandonment or sale, but only with the approval and authorization of the Commission . . . the Trustee shall take all steps and carry out all proceedings necessary for the consummation of any such abandonment or sale . . . (emphasis supplied)

Although we shall not consolidate Docket No. AB-7 (Sub-No. 86F) with the reorganization plan proceeding, we intend to consider all evidence presented in this and other Milwaukee abandonments in our evaluation of the Trustee's and any competing reorganization plans.

Waivers. By our order of July 12, 1979, in Docket No. AB-7 (Sub-No. 86F), we granted certain waivers requested by the Trustee in his supplemental petition. Briefly, we permitted (a) the use of calendar year 1978 as the base period for accounting and traffic data, (b) the filing of an application encompassing lines which had appeared in category 2, (c) minor deviation from the notice timing provisions of the abandonment regulations, and (d) variance from certain informational requirements contained in the abandonment, energy, and environmental reporting regulations. We provided that any party to the abandonment proceeding may, after the application is filed and upon showing good cause, request the submission of additional information. Several commentators objected to the various waivers.

49 U.S.C. 10904(d)(3) provides that if a significant user or a state or political subdivision of a state opposes abandonment, we may not authorize abandonment unless the railroad has described and identified the line on a system diagram for at least four months prior to filing an application. In adopting the abandonment regulations, we recognized that the statute embraces both those lines which the carrier plans to abandon (category 1) and those lines which the carrier is studying as candidates for a future abandonment because of excessive anticipated operating losses or rehabilitation costs (category 2). Our regulations provide that the four month statutory period commences only upon designation of a line as category 1. We believe, however, that designation in category 2 satisfies the statutory requirement. Because of the unique circumstances posed by the Milwaukee, and especially in light of the Trustee's long-standing position respecting the railroad's western lines, we continue to believe that designation of the involved lines in category 2 has satisfied our own more stringent requirements.

49 CFR 1121.30(b)(1978) requires railroads to complete posting and publication of the notice of intent to abandon within the 30-day period prior to the actual filing of the application, and to complete service of the notice of intent at least 15 days prior to the actual filing date. Our partial waiver of this

provision simply permitted Milwaukee to complete posting, publication, and service at any time 45 days prior to the actual filing of the abandonment application. The pertinent statute, 49 U.S.C. 10904, contains no notice-timing requirements beyond prescribing that the notice of intent be filed at least 60 days before abandonment or discontinuance is to become effective, and be published for three consecutive weeks. Our waiver did not vitiate any statutory requirements, and certainly did not reduce the notice received by the public.

The informational waivers related primarily to format and detail of presentation, and did not eliminate the necessity for providing data. We see no need to rescind our decision permitting variance from the reporting requirements. Based upon a preliminary analysis of the application, however, we shall require the Milwaukee to supply certain additional or more complete information as set forth in the appendix. The railroad shall furnish copies of this additional material to all interested persons who make request for the application pursuant to 49 CFR 1121.34(d)(1978).

Schedule. The administrative law judge designated for the primary hearing shall commence that hearing on September 10, 1979, in Butte, Montana. The applicant will present its case-in-chief and be subject to clarifying questions during that week, but cross-examination will be deferred. Hearings in Butte will continue through September 14, 1979.

The week of September 17-21, 1979, will be open. On September 24, 1979, the primary hearing will reconvene in Chicago, Illinois, for a week of cross-examination of the applicant's witnesses.

The two weeks of October 1-5 and 8-12 will be dedicated to the secondary hearings. Administrative law judges will conduct secondary hearings in six locations, three during the week of October 1-5 and three during the week of October 8-12. We shall hold those hearings in Butte, Great Falls, and Missoula, Montana and Spokane, Moses Lake, and Seattle, Washington. The exact locations and dates will be established by subsequent notice.

The draft environmental impact statement will be issued on or about October 12, 1979.

On October 15, 1979, the primary hearing will again convene in Chicago for two weeks of testimony by protestants' witnesses, cross-examinations of protestants' witnesses and rebuttal.

Comments on the draft environmental impact statement will be due on November 27, 1979, and briefs will be due on December 3, 1979. The final environmental impact statement will be issued on or about December 10, 1979.

We anticipate issuing a final decision no later than 35 to 40 days following the date on which briefs are due. Assuming that hearings conclude on October 26, 1979, we will issue our decision by January 10, 1979.

To summarize, we shall adhere to the following timetable:

Day	Date	Action
0	Aug. 8	Application filed.
30	Sept. 7	Comments.
33-37	Sept. 10-14	Primary hearing in Butte.
40-44	Sept. 17-21	Open.
47-51	Sept. 24-28	Primary hearing in Chicago.
54-65	Oct. 1-12	Secondary hearings.
65	Oct. 12	Draft environmental impact statement issued.
68-79	Oct. 15-26	Primary hearing in Chicago.
111	Nov. 27	Comments on draft environmental impact statement due.
117	Dec. 3	Briefs due.
124	Dec. 10	Final environmental impact statement issued.
155	Jan. 10	Administratively final decision issues.

The administrative law judge designated to conduct the primary hearing will have the discretion to select alternative sites for the primary hearing following comments at Butte; to adjust the primary hearing schedule (without conflicting with the secondary hearings); to act upon discovery motions; to require service of written testimony and witness lists on opposing parties prior to appearance at hearings; and, if absolutely necessary, to continue hearings and adjust the briefing period.

It is so ordered: An investigation is instituted in Docket No. AB-7 (Sub-No. 86F), and the effective date of the proposed abandonment and discontinuance is postponed pending completion of the investigation.

The requirement of an initial decision in Docket No. AB-7 (Sub-No. 86F) is voided.

The proceedings in Docket Nos. AB-7 (Sub-Nos. 64F, 69F, and 78F) are consolidated with the proceeding in Docket No. AB-7 (Sub-No. 86F).

The applicant in Docket No. AB-7 (Sub-No. 86F) shall, in conformance with this decision, submit and make available the information described in the appendix.

In Docket No. AB-7 (Sub-No. 86F), the proceeding shall follow the schedule established in this decision, except that the primary hearing schedule shall be subject to adjustment by the designated administrative law judge.

Decided: August 22, 1979.

By the Commission, Chairman O'Neal, Vice Chairman Stafford, Commissioners Gresham, Clapp, Christian, Trantum, and Gaskins.

Agatha L. Mergenovich,
Secretary.

Appendix

The applicant shall supply the following information pursuant to the noted provisions of the abandonment regulations set forth in title 49 of the Code of Federal Regulations.

§ 1121.32(b)(1)

Provide on a subdivision basis substantiating data to support the rehabilitation estimate. This information should include the estimated amounts and costs for material and labor.

§ 1121.32(e)(5)

Provide statement of whether the properties to be abandoned are suitable for use for other public purposes, in conformity with the regulation.

§ 1121.44(c)

Provide on a subdivision basis substantiating data to support the net liquidation value estimate. This information should include the estimated salvage value of track and structures, the estimated cost of salvage, and the estimated land values.

[FR Doc. 79-27043 Filed 8-30-79; 8:45 am]

BILLING CODE 7035-01-M

[Notice No. 126]**Assignment of Hearings**

August 24, 1979

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 127602 (Sub-17F), Denver-Midwest Motor Freight, Inc., MC-F-13723, Denver-Midwest Motor Freight, Inc.—Control—Merger—Load & Go Truck Line, transferred to modified procedure.

MC 124211 (Sub-346F), Hilt Truck Line, Inc., MC-F-13835, Hilt Truck Line, Inc.—Purchase—Heimberg Cartage Co., Inc., transferred to modified procedure.

MC 42261 (Sub-144F), Langer Transport Corp., now assigned for Prehearing Conference on September 5, 1979 at the Offices of the Interstate Commerce Commission, Washington, DC.

MC 14138 (Sub-8F), Heavy Transport, Inc., MC 14138 (Sub-9F), Heavy Transport, Inc., now assigned for hearing on October 31, 1979 (3 days), at Los Angeles, CA, in a hearing room to be later designated.

MC 120364 (Sub-17F), A & B Freight Line, Inc., now assigned for hearing on November 13, 1979 at Chicago, IL, in a hearing room to be later designated.

MC 141532 (Sub-35F), Pacific State Transport, Inc., now assigned for hearing on October 16, 1979 (3 days), at Los Angeles, CA, in a hearing room to be later designated.

MC 120364 (Sub-17F), A & B Freight Line, Inc., now assigned for hearing on November 13, 1979 (4 days) at Chicago, IL, in a hearing room to be later designated.

MC 145297F, Vern Breazeale Freight Service, Inc. d.b.a. Denver-Lander-Riverton Freight Service, now assigned for hearing on October 29, 1979 (2 weeks) at Lander, WY, in a hearing room to be later designated.

MC 60012 (Sub-99F), Rio Grande Motor Way, Inc., now assigned for hearing on October 9, 1979 (9 days), at Salt Lake City, UT, in a hearing room to be later designated.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 79-27041 Filed 8-29-79; 8:45 am]

BILLING CODE 7035-01-M

[Permanent Authority Decisions Volume No. 140]**Decision-Notice**

August 3, 1979.

The following applications filed on or before February 28, 1979, are governed by Special Rule 247 of the Commission's Rules of Practice (49 CFR 1100.247). For applications filed before March 1, 1979, these rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date notice of the application is published in the Federal Register. Failure to file a protest, within 30 days, will be considered as a waiver of opposition to the application. A protest under these rules should comply with Rule 247(e)(3) of the Rules of Practice which requires that it is set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding, (as specifically noted below), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. A protestant should include a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describe in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no

representative is named. If the protest includes a request for oral hearing, such request shall meet the requirements of section 247(e)(4) of the special rules and shall include the certification required in that section.

On cases filed on or after March 1, 1979, petitions for intervention either with or without leave are appropriate.

Section 247(f) provides, in part, that an applicant which does not intend timely to prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

If applicant has introduced rates as an issue it is noted. Upon request an applicant must provide a copy of the tentative rate schedule to any protestant.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication.*

Any authority granted may reflect administratively acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exceptions of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each common carrier applicant has demonstrated that its proposed service is required by the public convenience and necessity, and that each contract carrier applicant qualifies as a contract carrier and its proposed contract carrier service will be consistent with the public interest and the transportation policy of 49 U.S.C. 10101. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a protestant, that the proposed dual operations are consistent with the public interest and

the transportation policy of 49 U.S.C. 10101 subject to the right of the Commission, which is expressly reserved, to impose such conditions as it finds necessary to insure that applicant's operation shall conform to the provisions of 49 U.S.C. 10930(a) (formerly section 210 of the Interstate Commerce Act).

In the absence of legally sufficient protests, filed within 30 days of publication of this decision-notice (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, such duplication shall not be construed as conferring more than a single operating right.

Applicants must comply with all specific conditions set forth in the grant or grants of authority within 90 days after the service of the notification of the effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

By the Commission, Review Board Number 2, Members Liberman, Eaton and Boyle.
Agatha L. Mergenovich,
Secretary.

MC 4405 (Sub-593F), filed February 26, 1979, previously noticed in the FR of June 21, 1979. Applicant: DEALERS TRANSIT, INC., 4221 South 68th East Ave., P.O. Box 236, Tulsa, OK 74101. Representative: Michael E. Miller, 502 First National Bank Bldg., Fargo, ND 58126. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *press brakes*, (2) *shears*, and (3) *parts* for the commodities in (1) and (2) above, from the facilities of Rockwell Hydrapower Corp., at or near Norfolk, VA, to points in CT, MD, ME, MA, NH, NJ, NY, PA, VT, and RI. NOTE: This republication indicates NY as a destination State. (Hearing site: Norfolk, VA, or Washington, DC)

MC 144965 (Sub-2F), filed February 26, 1979. Applicant: RONALD ASHBY, Route 1, Giltner, NE 68841. Representative: Ronald Ashby (same address as applicant). To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *internal combustion engines, parts and components of internal combustion engines, and accessories* for internal combustion engines, from Detroit, Marysville, and Farmington, MI, Jamestown, NY, Beaver Dam, WI,

Rockford, IL, Canton, OH, Omaha, NE, and Lubbock, TX, to the facilities of Industrial-Irrigation Services at or near Hastings, NE, under continuing contract(s) with Industrial-Irrigation Services of Hastings, NE. (Hearing site: Omaha, NE, or Denver, CO)

[FR Doc. 79-27042 Filed 8-29-79; 8:45 am]
BILLING CODE 7035-01-M

Sunshine Act Meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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FEDERAL DEPOSIT INSURANCE CORPORATION.

TIME AND DATE: September 4, 1979; 2:00 p.m.

PLACE: Board Room, 6th Floor, FDIC Building, 550 17th Street, N.W., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Disposition of minutes of previous meetings.

Requests by the Comptroller of the Currency for reports on the competitive factors involved in proposed mergers, purchase and assumption transactions, or consolidations:

The First National Bank in Sioux Falls, Sioux Falls, South Dakota, and Dakota State Bank of Dell Rapids, South Dakota, Dell Rapids, South Dakota.

Mid-American National Bank and Trust Company, Northwood (P.O. Toledo), Ohio, and The Farmers and Merchants Bank, Arlington, Ohio.

Memorandum and resolution proposing, with respect to the Corporation's rules and regulations, the publication for comment of the revision of Part 307 (Voluntary Termination of Insured Status); deletion of Parts 301 (Introductory), 305 (Payment of Insured Deposits), 306 (Receiverships and Liquidations), 325 (Introductory), and sections 330.13 and 330.14; and amendment of Part 327 (Assessments).

Memorandum proposing the payment of final principal and interest dividends in connection with the receivership of State Bank of Prairie City, Prairie City, Iowa.

Memorandum proposing the payment of a fourth dividend of 7.5 percent in connection with the receivership of Citizens State Bank, Carrizo Springs, Texas.

Reports of committees and officers:
Minutes of the actions approved by the Committee on Liquidations, Loans and Purchases of Assets pursuant to authority delegated by the Board of Directors.

Report of the Executive Secretary regarding his transmittal of "no significant effect" competitive factor reports.

Reports of the Director of the Division of Bank Supervision with respect to applications or requests approved by him and the various Regional Directors pursuant to authority delegated by the Board of Directors.

Report of the Director of the Division of Liquidation detailing all disbursements in excess of \$10,000 and all sales of real estate properties, during the period June 16, 1979—August 16, 1979, in connection with the liquidation of The Hamilton National Bank of Chattanooga, Chattanooga, Tennessee.

Report of the Director of the Division of Liquidation detailing all disbursements, under special authorization given to the Director of the Division of Liquidation by the Board of Directors on December 9, 1974, in excess of \$10,000 during calendar year 1978, in connection with the liquidation of Franklin National Bank, New York, New York.

Audit Report: Payment of Depositors' Claims.

CONTACT PERSON FOR MORE INFORMATION: Mr. Hoyle L. Robinson, Executive Secretary (202) 389-4425.

[S-1694-79 Filed 8-28-79; 4:00 pm]

BILLING CODE 6714-01-M

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FEDERAL DEPOSIT INSURANCE CORPORATION.

TIME AND DATE: September 4, 1979; 2:30 p.m.

PLACE: Board Room, 6th Floor, FDIC Building, 550 17th Street, N.W., Washington, D.C.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Applications for Federal deposit insurance: First State Bank of Beebe, a proposed new bank to be located at the west side of U.S. Highway 367 in the Beebe Shopping Center, Beebe, Arkansas, for Federal deposit insurance.

Interstate Bank of St. Peters, a proposed new bank to be located at the southeast corner of the intersection of Jungermann and Mexico Roads, St. Peters, Missouri, for Federal deposit insurance.

Bank of Johnston County, a proposed new bank to be located at 800 East Main Street, Tishomingo, Oklahoma, for Federal deposit insurance.

Applications for consent to establish a branch:

Arlington Trust Company, Lawrence, Massachusetts, for consent to establish a branch on the northerly side of Andover Street at its intersection with River Road, Tewksbury, Massachusetts.

Recommendations regarding the liquidation of a bank's assets acquired by the

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Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 44,006-L—American Bank & Trust, Orangeburg, South Carolina.
Case No. 44,015-L—American Bank & Trust, Orangeburg, South Carolina.
Case No. 44,017-L—The Hamilton Bank & Trust Company, Atlanta, Georgia.
Case No. 44,023-L—Franklin National Bank, New York, New York.

Case No. 44,032-L—Banco de Ahorro de Puerto Rico, San Juan (Hato Rey), Puerto Rico.

Case No. 44,036-SR—Citizens State Bank, Carrizo Springs, Texas.

Case No. 44,037-L—Wilcox County Bank, Camden, Alabama.

Memorandum re: Bank of Woodmoor, Woodmoor (P.O. Monument), Colorado.

Recommendations with respect to the initiation or termination of cease-and-desist proceedings termination-of-insurance proceedings, or suspension or removal proceedings against certain insured banks or officers or directors thereof:

Names of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), and (c)(9)(A)(ii)).

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552(c)(2) and (c)(6)).

CONTACT PERSON FOR MORE INFORMATION:

Mr. Hoyle L. Robinson, Executive Secretary (202) 389-4425.

[S-1695-79 Filed 8-28-79; 4:00 pm]

BILLING CODE 6714-01-M

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FEDERAL DEPOSIT INSURANCE CORPORATION.

Notice of Change in Subject Matter of Agency Meeting

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its meeting held at 2:00 p.m. on Monday, August 27, 1979, the Corporation's Board of Directors determined, on motion of Chairman Irvine H. Sprague, seconded by Director John G. Heimann (Comptroller of the Currency), and concurred in by Director William M. Isaac (Appointive), that Corporation

business required the withdrawal from the agenda from consideration at the meeting, on less than seven days' notice to the public, of a memorandum proposing new regional office quarters for the San Francisco Region.

The Board further determined, by the same majority vote, that no earlier notice of the change in the subject matter of the meeting was practicable.

Dated: August 27, 1979.
Federal Deposit Insurance Corporation.
Hoyle L. Robinson,
Executive Secretary.
[S-1690-79 Filed 8-28-79; 11:42 am]
BILLING CODE 6714-01-M

4 NATIONAL TRANSPORTATION SAFETY BOARD.

TIME AND DATE: 8:30 a.m., Wednesday, August 29, 1979. [NM-79-28]

PLACE: NTSB Board Room, National Transportation Safety Board, 800 Independence Avenue, S.W., Washington, D.C. 20594.

STATUS: Open.

MATTER TO BE CONSIDERED: A majority of the Board has determined by recorded vote that the business of the Board requires that the following item be discussed on this date and that no earlier announcement was possible:

Request for Public Hearing—Aircraft accident, Prinair DH-114, N57PR, St. Croix, V.I., July 24, 1979.

CONTACT PERSON FOR MORE INFORMATION: Sharon Flemming, 202-472-6022.

August 28, 1979.
[S-1692-79 Filed 8-28-79; 3:07 pm]
BILLING CODE 4910-58-M

5 NATIONAL TRANSPORTATION SAFETY BOARD.

TIME AND DATE: 9 a.m., Thursday, September 6, 1979 [NM-79-29]

PLACE: NTSB Board Room, National Transportation Safety Board, 800 Independence Avenue S.W., Washington, D.C. 20594.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. *Aircraft Accident Report—Universal Airways, Inc., Beech 70, Excalibur Conversion, N777AE, Gulfport, Miss., March 1, 1979.*

2. *Highway Accident Report—Ford Courier pickup truck fixed-object collision, Patuxent Road near Crofton, Md., April 23, 1979, and Recommendations to the National Committee on Uniform Laws and Ordinances and to the Chief, Anne Arundel County Police.*

3. *Marine Accident Report—R/V Dan J. Miller II collision with the R/V Welcome in Admiralty Inlet, Puget Sound, October 25, 1978, and Recommendations to the Geological Survey, U.S. Department of Interior.*

4. *Discussion of letters to close out the following Safety Recommendations relative to Part 135 Operations: A-75-31, A-75-32, A-75-33, A-75-34, and A-78-37.*

5. *Discussion—Board policy on allowing absent Members to vote on agenda items after Board meetings.*

8. *Briefing by Board Staff on the Field Office structure.*

CONTACT PERSON FOR MORE INFORMATION: Sharon Flemming 202-472-6022.

August 28, 1979.
[S-1693-79 Filed 8-28-79; 3:07 pm]
BILLING CODE 4910-58

6 PAROLE COMMISSION.

TIME AND DATE: Tuesday, August 21, 1979, starting at 1:00 p.m.

PLACE: Penn Center Inn, Room 919, 20th and Market Streets, Philadelphia, Pennsylvania.

STATUS: Closed, pursuant to a vote to be taken at the beginning of the meeting.

MATTERS TO BE DISCUSSED: Parole case transferred to the Commission from one of its regions. This case had been originally heard by an examiner panel.

The Commission determined pursuant to 5 U.S.C. 552b(e)(1) and 28 CFR 16.204d that Commission business requires that this meeting be held on less than one week's notice to the public and that notice be given at the earliest practicable time.

CONTACT PERSON FOR MORE INFORMATION: Henry J. Sadowski, Regional Counsel, United States Parole Commission, Scott Plaza II, 6th Fl., Industrial Highway, Tinicum Township, Philadelphia, Pennsylvania 19113, Phone: (215) 596-1868.

[S-1689-79 Filed 8-28-79; 11:19 am]
BILLING CODE 4410-01-M

7 UNITED STATES RAILWAY ASSOCIATION.

TIME AND DATE: 9:00 a.m., September 6, 1979.

PLACE: Board Room, Room 2-500, Fifth Floor, 955 L'Enfant Plaza North, S.W., Washington, D.C. 20595.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED BY THE BOARD OF DIRECTORS:

Portions open to the public (9:00 a.m.)

1. Approval of minutes of the August 2, 1979 Board of Directors meeting; Resolutions on departing Board Members.
2. Missouri-Kansas-Texas financial monitoring and consideration of request for amendments to loan agreement.
3. Review of D&H financial results.
4. Consideration of Conrail Board Member.
5. Report on Conrail monitoring.
6. Consideration of Conrail Fourth Quarter Investment Commitment.
7. Consideration of Conrail drawdown request for September.
8. Consideration of 211(h) loan program.
9. 1981 Budget.
10. Contract Actions (extensions and approvals).

Portions closed to the public

11. Consideration of internal personnel matters.
12. Review of Conrail proprietary and financial information for monitoring and investment purposes.
13. Review of Missouri-Kansas-Texas Railroad Company proprietary and financial information.
14. Review of Delaware and Hudson Railway Company proprietary and financial information for monitoring and investment purposes.
15. Litigation report.

CONTACT PERSON FOR MORE INFORMATION: Alex Bilanow (202) 426-4250.

[S-1691-79 Filed 8-28-79; 1:35 pm]
BILLING CODE 8240-01-M

federal register

Thursday
August 30, 1979

Part II

Community Services Administration

Community Services Administration
Grantee Management System. Volume I:
A Manual for Community Action Agency
Planning, Application and Performance

COMMUNITY SERVICES ADMINISTRATION

[45 CFR Part 1067]

[CSA Instruction 6710-1a]

Community Services Administration Grantee Program Management System. Volume I: A Manual for Community Action Agency Planning, Application and Performance

AGENCY: Community Services
Administration.

ACTION: Proposed rule.

SUMMARY: The Community Services Administration is filing a proposed rule to implement a program management system for community action agencies that sets forth basic minimum requirements for CAA planning, grant application, and reporting and evaluation of program operation. CSA has determined that the present system of funding CAAs is confusing and inconsistent from one region to another and does not help CAAs meet the legislative requirements of the Economic Opportunity Act of 1964 as amended. The proposed rule would provide for a standard procedure to be used by all CAAs, would enhance the planning and management capabilities of CAAs, and would clarify the role and relationship between CSA and CAAs.

DATE: CSA welcomes comments on this rule. Comments received by November 28, 1979 will be considered in writing the final rule.

ADDRESS: Please send all comments to: Mrs. Fumie Gray, Community Services Administration, Office of Community Action, Office of Regional Operations, 1200 19th Street, NW., Washington, D.C. 20506.

FOR FURTHER INFORMATION CONTACT: Mrs. Fumie Gray, telephone (202) 254-6410; teletypewriter (202) 254-6218.

SUPPLEMENTARY INFORMATION: The "CSA Grantee Program Management System. Volume I: A Manual for CAA Planning, Application and Performance", is designed to replace OEO Instruction 6710-1, "Applying for a CAP Grant", issued in 1968. Since publication of 6710-1, more than eleven Instructions have been issued changing various requirements of the old system, dropping some, modifying others and adding new ones. In addition, community action agencies have evolved over the years, new federal programs have been legislated, and conditions in the country have changed, calling for changes in the way CAAs operate.

As a result of the many piecemeal changes in the old grants management system, CAAs and CSA are operating, in effect, under a "non-system". Current planning and application procedures are inconsistent, disjointed, confusing and administered differently from one regional office to another. By taking a new approach and designing a complete system, we are convinced that CAAs and CSA will have a clearer understanding of requirements and expectations than is presently the case and that CAAs will be better able to perform the key functions of any management system—planning, program operation, and evaluation.

The primary goal of this proposed rule is to develop and install a grantee program management system that governs planning, application, reporting, evaluation, monitoring, and technical assistance to ensure that the basic purposes and functions of Title II of the EOA are effectively accomplished. The main purpose of issuing this subpart is to inform CAAs of the new requirements.

The CSA Grantee Program Management System proposes the following major changes to the previous system:

1. CAAs would establish a planning process that meets certain criteria and which would be approved by the CSA Regional Office.

2. After CSA approval of the planning process, CAAs would implement that process and develop a four year plan of action outlining CAA priorities, goals and strategies. This plan would be the foundation for subsequent grant application/funding requests. The four year plan would be submitted to the CSA Regional Office for acceptance.

3. CAA grant applications would include projects to be operated over a two year period. CSA would approve work programs for a two year period, instead of annually. Funds would be released annually, contingent upon availability. Normally, the grant for the second year of the approved work program would be awarded automatically.

4. All of CAA's CSA-funded work would be on a project basis, although funding would continue to be by program account.

5. The grant application and project progress review (PPR) forms would be combined. Project progress reporting would be simplified and required less frequently.

6. CAAs would have greater flexibility to move Section 221 funds between program accounts.

7. CSA would formally reinstitute the field representative on-site prereview visit.

8. Additional changes would be incorporated in the criteria for approval of amendments, in the amount of information required in the grant application, and in the capability of CSA to aggregate information for reporting purposes.

The provisions of this subpart are issued under the authority of Sec. 602, 78 Stat. 530; 42 U.S.C. 2942.

Graciela (Grace) Olivarez,
Director.

45 CFR 1067 is proposed to be amended by adding the following:

Part 1067—Funding of CSA Grantees

Subpart 1067.70—CSA Grantee Program Management System. Volume I: A Manual for Community Action Agency Planning, Application and Performance

Sec.

1067.70-1 Preface: CAA Mission, Functions and Objectives.

1067.70-2 Introduction.

Planning

1067.70-3 Legislative Requirements for CAA Planning.

1067.70-4 Overview and Policy.

1067.70-5 Submission Requirements.

Grant Application and Performance.

1067.70-6 Eligibility.

1067.70-7 Grant Application Process and Performance Reporting.

1067.70-8 Amendments.

Appendix A to Subpart 1067.70—Glossary.

Appendix B to Subpart 1067.70—Where to Apply for Funds—CSA Regional Offices.

Appendix C to Subpart 1067.70—Program Areas for Section 221 Local Initiative Funding.

Appendix D to Subpart 1067.70—Program Account Codes.

Appendix E to Subpart 1067.70—Chart of Documents.

Appendix F to Subpart 1067.70—Agreement for Delegation of Activities.

Appendix G to Subpart 1067.70—General Conditions Governing Grants.

Appendix H to Subpart 1067.70—Cross Reference of Old and New Forms.

Authority: Sec. 602, 78 Stat. 530 (42 U.S.C. 2942).

Subpart 1067.70—CSA Grantee Program Management System. Volume I: A Manual for Community Action Agency Planning, Application and Performance

§ 1067.70-1 Preface: CAA Mission, functions and objectives.

(a) The basic purpose of Title II of the Economic Opportunity Act (EOA) "is to stimulate a better focusing of all available local, State, private, and Federal resources upon the goal of enabling low-income families, and low-income individuals of all ages, in rural

and urban areas to attain the skills, knowledge, and motivations and secure the opportunities needed for them to become fully self-sufficient." (Section 201(a).)

(b) Section 212(b) of the Act further cites the basic functions of community action agencies (CAAs) in carrying out a community action program:

"(1) Planning systematically for and evaluating the program, including actions to develop information as to the problems and causes of poverty in the community, determine how much and how effectively assistance is being provided to deal with those problems and causes, and establish priorities among projects, activities and areas as needed for the best and most efficient use of resources.

"(2) Encouraging agencies engaged in activities related to the community action program to plan for, secure and administer assistance available under this title or from other sources on a common or cooperative basis; providing planning or technical assistance to those agencies; and generally, in cooperation with community agencies and officials, undertaking actions to improve existing efforts to attack poverty, such as improving day-to-day communication, closing service gaps, focusing resources on the most needy, and providing additional opportunities to low-income individuals for regular employment or participation in the programs or activities for which those community agencies and officials are responsible.

"(3) Initiating and sponsoring projects responsive to needs of the poor which are not otherwise being met, with particular emphasis on providing central or common services that can be drawn upon by a variety of related programs, developing new approaches or new types of services than can be incorporated into other programs, and filling gaps pending the expansion or modification of those programs.

"(4) Establishing effective procedures by which the poor and area residents concerned will be enabled to influence the character of programs affecting their interests, providing for their regular participation in the implementation of those programs, and providing technical and other support needed to enable the poor and neighborhood groups to secure on their own behalf available assistance from public and private sources.

"(5) Joining with and encouraging business, labor, and other private groups and organizations to undertake, together with public officials and agencies, activities in support of the community action program which will result in the additional use of private resources and capabilities, with a view to such things

as developing new employment opportunities, stimulating investment that will have a measurable impact in reducing poverty among residents of areas of concentrated poverty, and providing methods by which residents of those areas can work with private groups, firms, and institutions in seeking solutions to problems of common concern."

(c) CAAs may perform these functions through various means, including operating programs, mobilizing resources, involving the poor in decision making, and advocating changes beneficial to the poor. In the totality of their program they must:

(1) Strengthen community capabilities for planning and coordinating assistance from all sources related to eliminating poverty so that the assistance can be more responsive to local needs and conditions;

(2) Better organize a range of services for the poor so that these services may better help families and individuals overcome the whole complex of interrelated poverty problems;

(3) Initiate a more widespread use of new types of services and approaches so that available resources can be used more effectively;

(4) Develop and carry out all programs and projects designed to serve the poor or low-income areas with the maximum feasible participation of residents of the areas and members of the groups served to stimulate and take full advantage of capabilities for self-advancement and to assure that the programs are meaningful to and widely used by their intended beneficiaries;

(5) Broaden the resource base of programs aimed at eliminating poverty to secure the services and assistance of public officials, private, religious, charitable, and neighborhood organizations and individuals and to promote a more active role for business, labor and professional groups.

(d) Community action thus aims at stimulating changes needed to achieve a better focusing of public and private resources upon poverty in a community. It means sharing views and approaches among public and private groups and deciding upon actions to be taken together or independently. It calls for a commitment to seek solutions and to act to create change.

(e)(1) Responsibility for carrying out the purpose and functions of community action agencies rests with each CAA governing board. The CAA staff implements board policies and offers advice and counsel, but, in the final analysis, the governing board is the key to a successful CAA. Governing board powers that affect the CAA's planning

and program operations include: (i) Deciding major fiscal and program policies; (ii) approving overall program plans, priorities and requests for funds; and (iii) assuring CAA compliance with CSA eligibility requirements and grant conditions. (2) In the case of a public CAA, there is a sharing of powers and responsibilities because the governing board, composed of elected public officials, delegates some of its powers and responsibilities to a community action board, which has prescribed community representation.

(f) Title II of the EOA mandates maximum participation of the poor in all CAA activities. This subpart deliberately stresses throughout, the need to assure that the poor (residents of the areas and members of the groups served) take part in all aspects of the comprehensive community-wide planning process and in the conduct and evaluation of all CAA projects and activities. (Section 211(c) of the EOA.)

§ 1067.70-2 Introduction.

(a) *Purpose of the subpart*—(1) *CSA Grantee Program Management System. Volume I: A Manual for CAA Planning, Application and Performance* describes the process by which community action agencies apply for funds under Title II, sections 221, 222 and 230 of the Economic Opportunity Act of 1964, as amended. It discusses the role of the Community Services Administration (CSA) in accepting CAA plans, approving grants and monitoring CAA performance, and delineates the relationship between CAAs and CSA in the process.

(2) This subpart is a policy statement of the minimum mandatory requirements for CAA funding under the referenced sections of the EOA. It applies only to officially designated and recognized CAAs. CAAs planning to apply for grants under Sections 221, 222 and 230 should do so through the appropriate regional or headquarters funding office. (Appendix B contains a listing of regional offices. Individual program policy statements indicate where to submit applications for programs under Sections 222 and 230 programs.)

(3) The process and instructions for organizing, designating and recognizing community action agencies are contained in CSA Instruction 6302-2, and Change 1, "CAAs: Eligibility and Establishment".

(b) *Subpart for CSA Planning, Application, and Performance*—(1) *Purpose.* The major goal of this subpart is to help CAAs effectively achieve the basic purposes and functions under Title II of the Economic Opportunity Act. Among the specific objectives are to:

(i) Establish procedures to ensure that the poor have opportunities to influence and to take part in key phases of the CAA's planning and funding cycles, and to document that participation;

(ii) Give CAAs the maximum program and budgetary flexibility consistent with legal and regulatory limitations;

(iii) Describe the rights and obligations of CAAs to CSA and of CSA to CAAs;

(iv) Design a procedure that places upon CAAs the basic responsibility to document their compliance with CSA statutory and regulatory eligibility requirements;

(v) Provide an application format for CAAs to address the objectives and activities of their proposed program, incorporating the functions and purposes set forth in Title II, in enough detail to permit evaluation of performance;

(vi) Require forms containing only that information needed to permit CSA to meet its management, information, funding, and evaluation/monitoring responsibilities;

(vii) Enable CSA to help CAAs with training and technical assistance and to provide data that will enhance CAA planning and compliance processes.

(2) *Elements of the CAA Grantee Program Management System.* (i) The basic elements of the program management system are: a planning cycle culminating in a four year plan of action; a two year program development, grant application and program execution phase; ongoing self-evaluation by the CAA; and, performance monitoring by CSA. Additional elements include determination of CAA eligibility to receive funding; periodic CSA conducted on-site visits, including a prereview trip; and training and technical assistance.

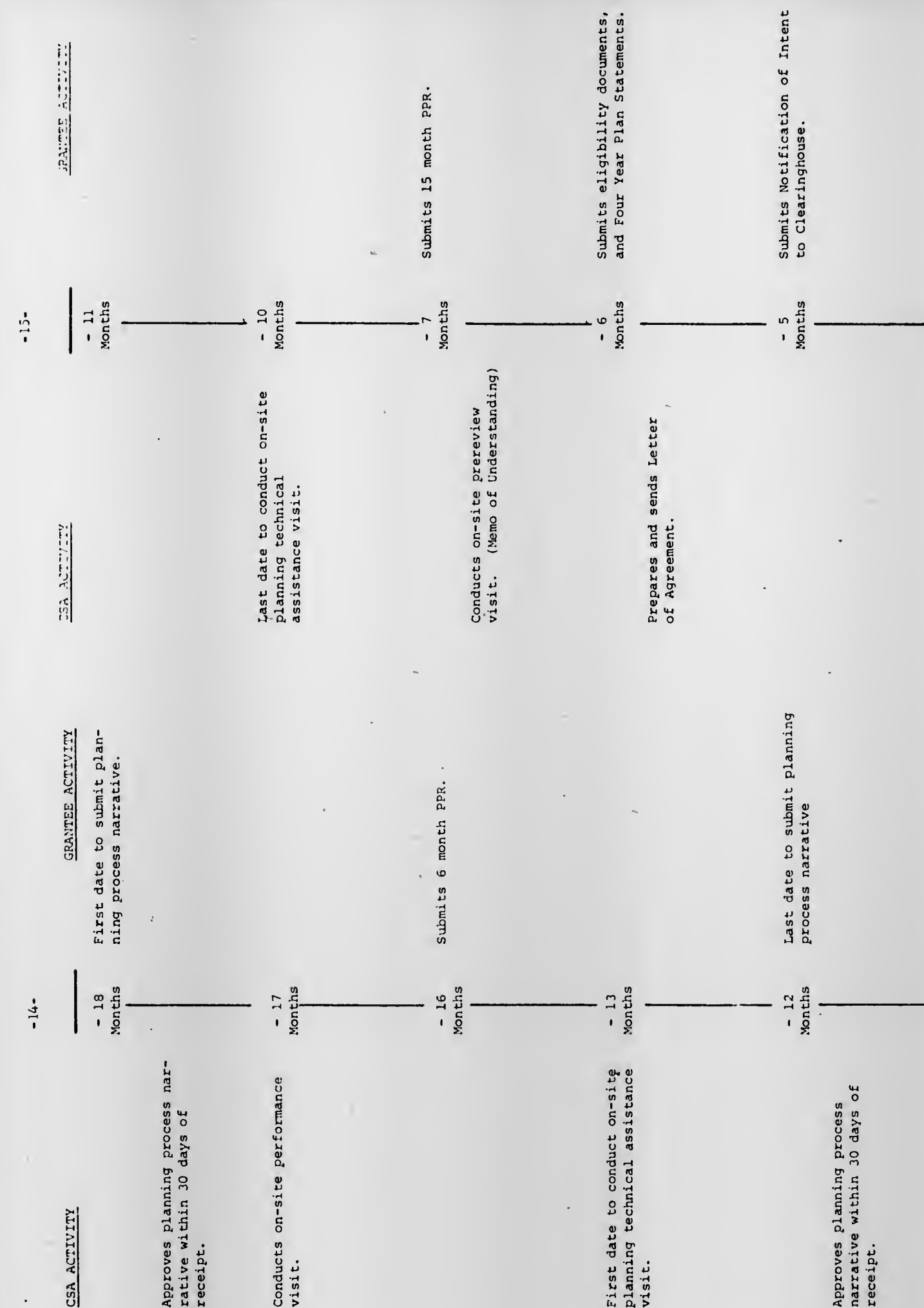
(ii) *CSA Grantee Program Management System. Volume I: A Manual for CAA Planning, Application and Performance* outlines one unified system for CAA planning and program implementation. The system is concerned with the total CAA program—with what the CAA is doing in all its programs, projects, and activities during the program period. It is only by viewing the planning, program development, implementation and evaluation activities as integral parts of a whole system that the CAA can hope to address the causes of poverty in its community and marshal all available resources to deal with them effectively.

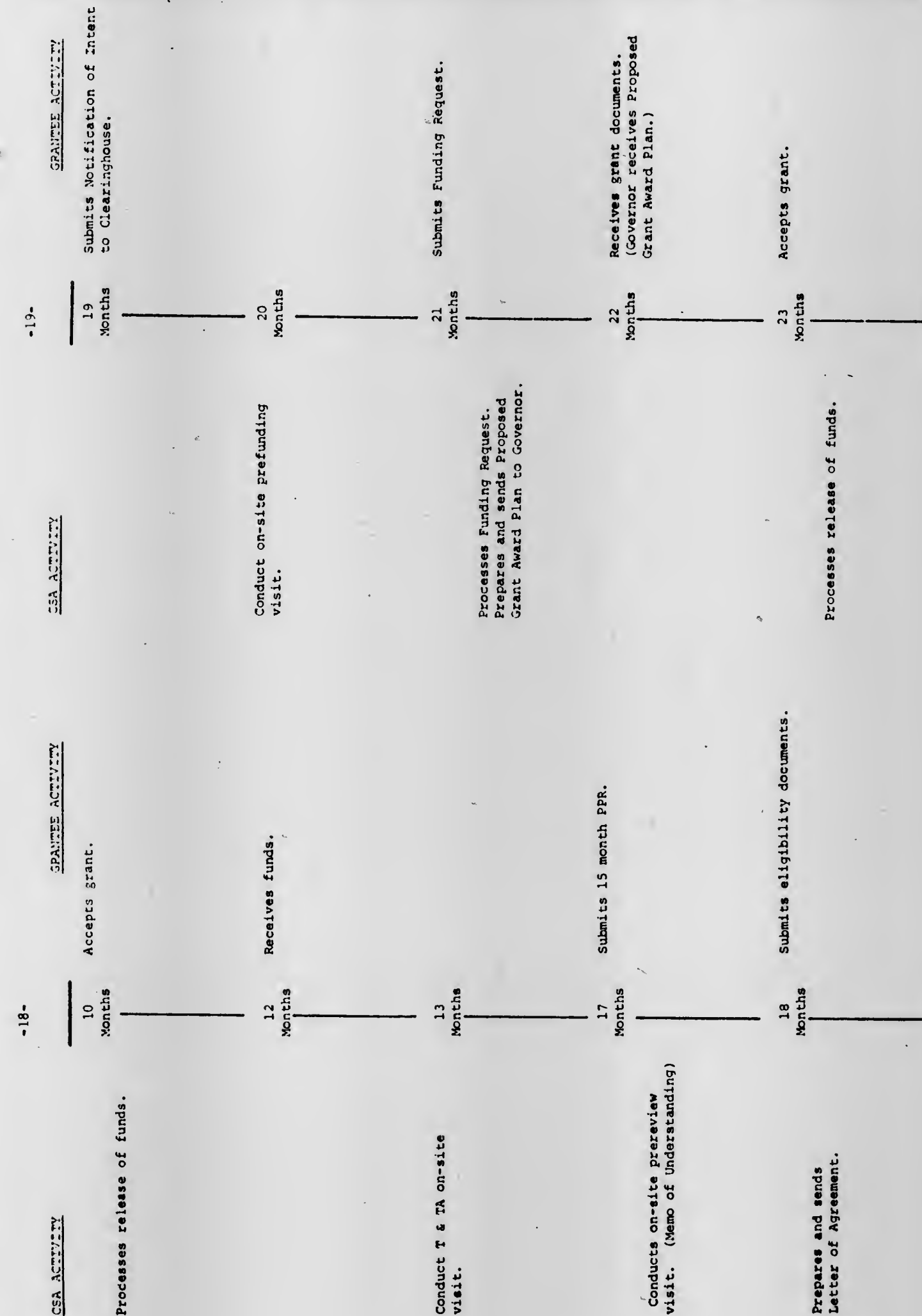
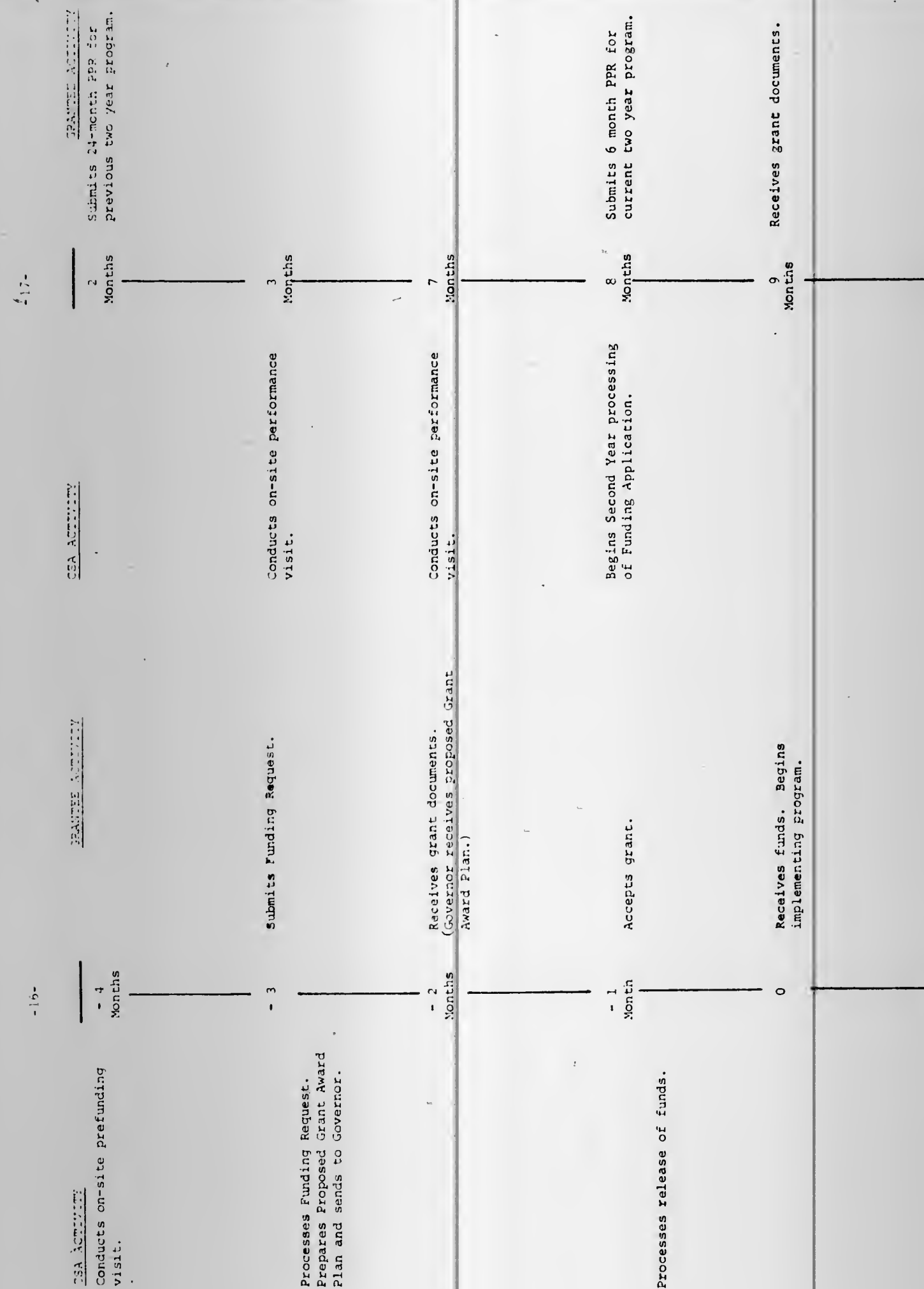
(iii) The time line on the next several pages shows the month in which major events and activities described in this subpart occur. The first is a

"countdown" period (—18 to 0 months on the time line) during which the CAA develops and carries out the planning process resulting in the four year plan of action. Since the countdown period occurs before the beginning of the four year plan period, there is a minus (—) sign before the numbers (months) within it. Although shown as preceding the four year plan period, the countdown period is not separate and distinct; at the same time, the CAA is operating its currently approved program. For the sake of clarity, some events or activities (those concerned with the current program) not essential to understanding the countdown period are omitted; they do appear in the four year time line.

(iv) The second period (0 to 48 months on the time line) is the four years during which the CAA implements the plan. In this period, the time line starts with the first month of the 48 month period. Months in which no activities occur are not listed. The complete four year period is described because some events or activities occur only once in four years. Others happen annually or every second year. These are repeated on the time line. (Appendix E has the number and title of forms and documents referred to on the time line.)

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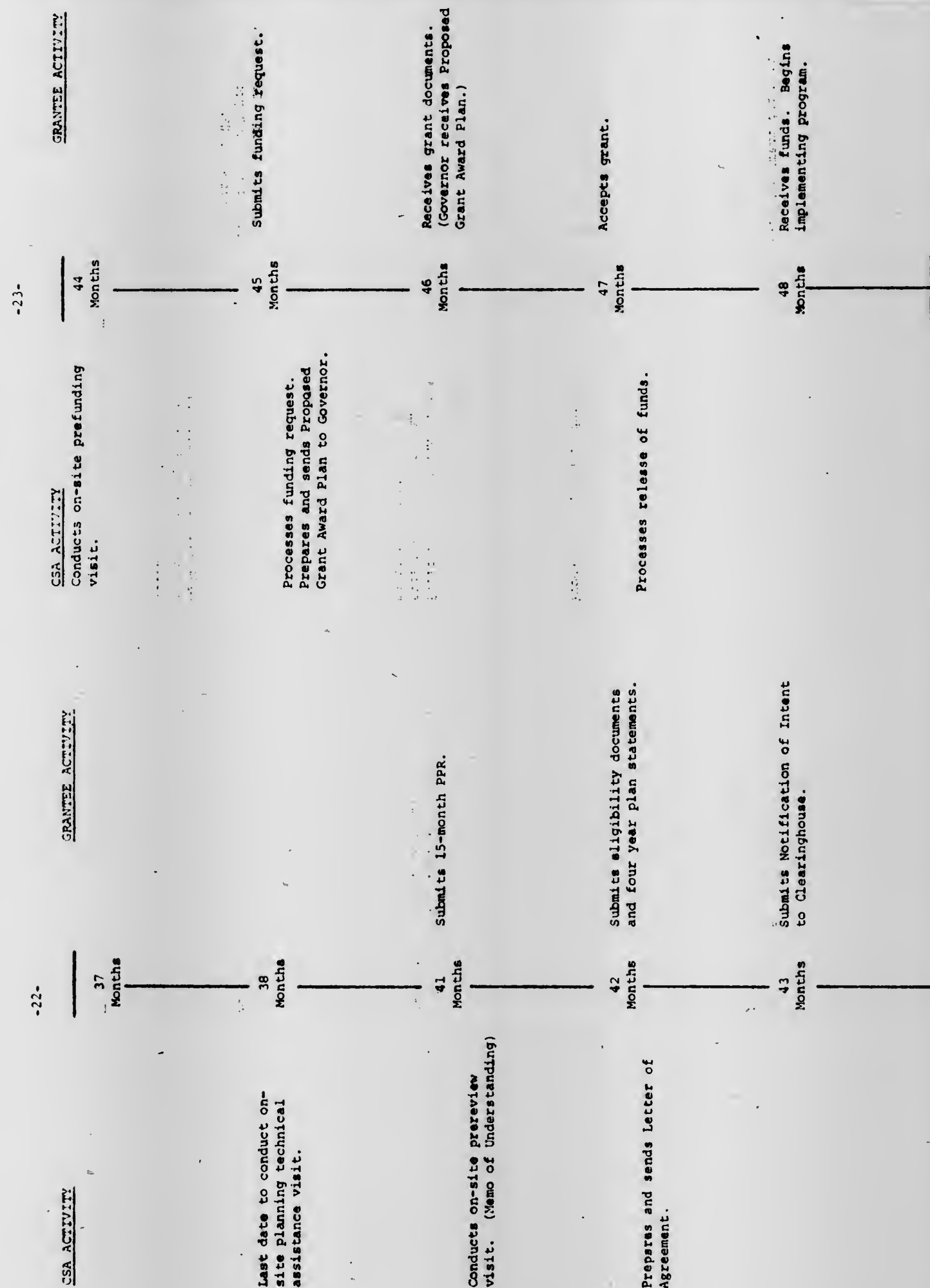
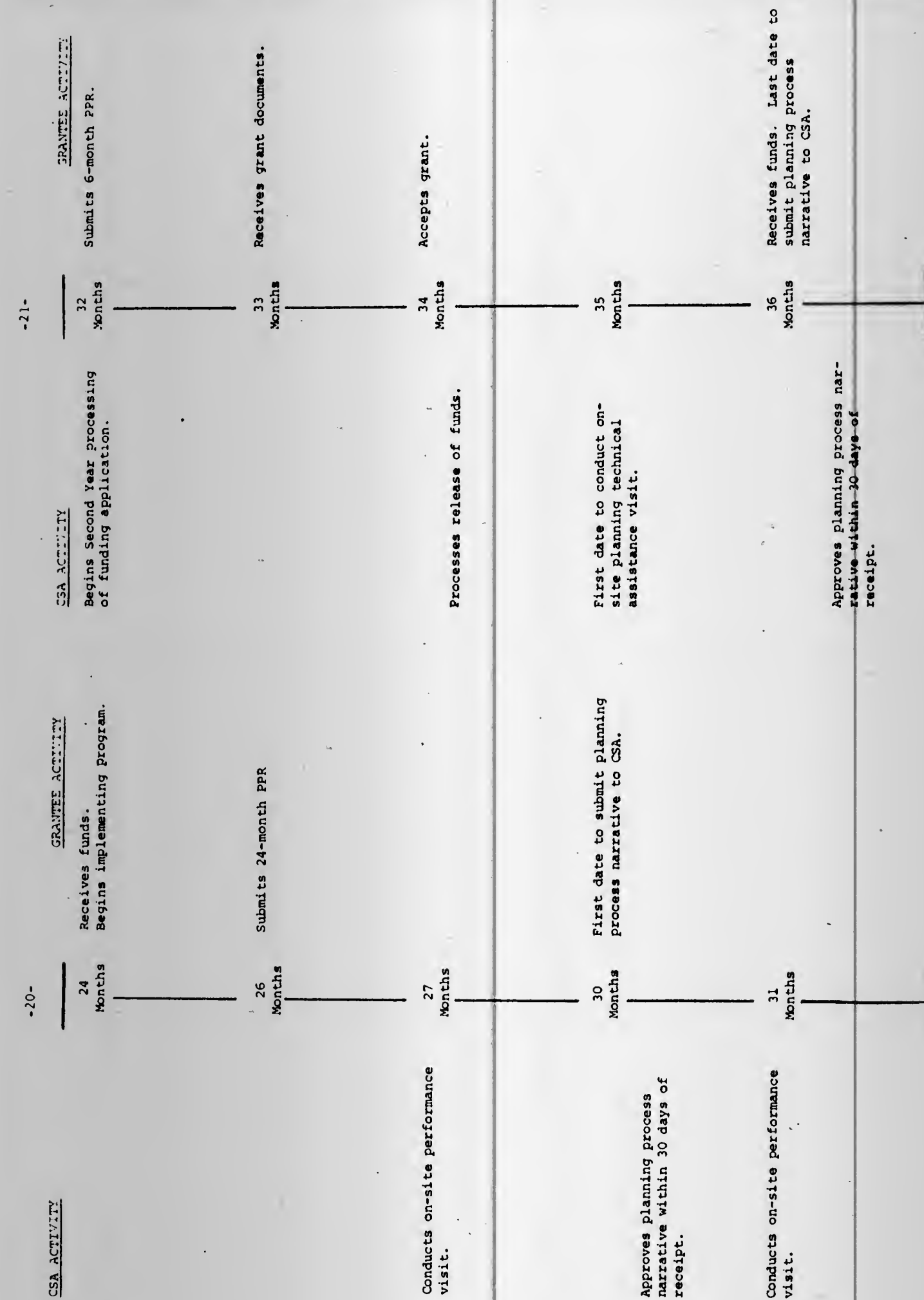


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(A) *Planning.* (1) Planning is paramount to the success of CAAs in fulfilling their missions, in assuring that local communities offer the widest possible range of services to the poor, and in identifying new directions communities can pursue to attack the causes of poverty and help the poor attain self-sufficiency. Even if the EOA did not stress systematic CAA planning, CAAs could not act effectively without it.

(2) Planning enables CAAs to determine the causes and extent of poverty locally and to decide how best to deal with it. It requires CAAs to identify community resources or lack thereof, pinpoint various sources of funds and expertise, and try to mesh the resources and programs of diverse agencies into a comprehensive assault on poverty. In addition to helping CAAs to design their own programs, planning enhances the CAA's ability to effectively advocate with other agencies on behalf of the poor by encouraging them to provide more opportunities and better services for low-income people.

(3) Besides planning for their own programs, funded from both CSA and non-CSA sources, CAAs must coordinate their plans with those of other local anti-poverty efforts. As far as possible, CAAs should help other agencies and institutions develop their own plans so that the community as a whole can carry out a comprehensive anti-poverty program.

(4) A key mechanism for comprehensive planning is the CAA board of directors. Section 211(f) of the Act specifies that the CAA board shall participate in developing and carrying out all programs and projects designed to serve the poor, and stresses the role of the poor in influencing both the character of programs and the planning process.

(5) CAA planning as outlined in this subpart has two major components: a planning process that results in a four year plan of action with overall goals, priorities and strategies; and, a funding application for a two year work program including specific objectives and projects derived from the four year plan.

(B) *Applying for Funds Under Sections 221, 222 and 230 of the EOA.* Community action agencies wishing to apply for funds under the referenced sections of the EOA shall follow the entire process outlined below and shall adhere to all requirements contained in the chapters on individual elements in the CAA planning and program development system.

(1) *Determination/maintenance of CAA eligibility.* To remain eligible for CSA funding, recognized CAAs must

comply with a variety of legislative requirements and administrative regulations derived from the EOA. Some of these are discussed in this subpart; others are found in various subparts under 45 CFR Chapter X (CSA instructions).

(2) *Grant application.* (i) The grant application is the vehicle CAAs use to formally request monies to operate CSA funded programs. It describes a two year work program and the budget needed to operate the program.

(ii) The grant application must stem from the planning process and four year plan of action. It reflects the goals and priorities of the plan of action and is a more detailed statement of what the CAA intends to achieve in two years and of how it will operate. The application includes projects to be funded under Section 221 of the EOA (the so-called "local initiative" programs) and, whenever possible, Section 222 special programs and Section 230 technical assistance and training activities.

(3) *Amendments.* CSA intends to give CAAs as much flexibility as possible in carrying out programs and projects consistent with their four year plans of action. Therefore, CAAs shall submit requests for approval of amendments only when they wish to: add or delete a project; make significant changes in a project's work program; exceed allowable flexibility in transferring funds between program accounts; or, at the specific request of the CSA funding office.

(C) *Performance.* Both CAAs and CSA are obligated to monitor the performance and evaluate the effectiveness and impact of community action programs. Monitoring and evaluation are integral parts of the CAA planning and program development system, for they bear directly on the ability of CAAs to plan and operate their own programs and to influence the planning and conduct of programs of other community agencies dealing with poverty.

(1) It is only by evaluating their own performance that CAAs can determine how effective and significant their planning is and whether their programs are needed and working, whether and how they should change priorities or strategies, and if new programs are needed. Unless CAA's can demonstrate the ability to assess their own performance, they can hardly expect to have credibility in advocating improved community-wide planning and program development.

(2) Performance monitoring is an ongoing activity of paramount importance to both CSA and CAA governing boards.

Both have a common interest in assuring that CAA performance is measurably on target or can be brought on target; that the CAA's program, as reflected in its current and past projects, contributes to achieving the goals of the four year plan of action; and that the CAA is operating its programs in conformity with the EOA.

(3) *Role of CSA.* (i) CSA is responsible for helping CAAs achieve their goals. To do so, CSA will perform a variety of activities, some of which are touched upon in this subpart.

(A) *CAA Planning Process and Four Year Plan of Action.* The CSA Regional Director will approve CAA planning processes contingent upon their meeting certain criteria. The Regional Director or his designee will accept CAA four year plans of action.

(B) *Prereview.* CSA Regional field representatives and other staff will conduct on-site prereview visits before the start of CAA program periods in preparation for CAA submission of funding requests.

(C) *Guidance for and review of grant applications.* Through a variety of instruments, CSA will provide program and funding guidance to CAAs to aid them in preparing funding requests. The CSA funding office will review, approve, modify or reject CAA grant applications and will notify CAAs of action taken.

(D) *Monitoring and technical assistance.* CSA, through the primary point of contact, the field representative, will monitor and give technical assistance to CAAs to help them fulfill the purposes and perform the functions of the EOA and to assure that they are doing so. Many monitoring and technical assistance activities will occur during on-site visits which are scheduled to coincide with major events in the grantee program management system.

(1) Monitoring will focus largely on CAA performance as related to effective planning procedures, the content of CAA programs, and the progress of projects. Monitoring will cover the board (meetings, involvement of the poor, committee structure); planning and programs (advocacy, institutional change, mobilization of resources, service); and administration (management practices, personnel, fiscal practices). Activities will include gathering information needed to complete performance measurement; spotchecking CAA information reporting systems; assessing effectiveness of the planning process and obtaining views of program participants and representatives of other community and government agencies.

(2) CSA will also provide technical assistance and guidance on CSA requirements, regulations and rulings.

(E) CSA reserves the authority to require from the CAA additional documentation necessary to make funding or refunding decisions.

Planning

§ 1067.70-3 Legislative requirements for CAA planning.

(a) A major goal of CAAs is "the strengthening of community capabilities for planning and coordinating Federal, State, and other assistance related to the elimination of poverty, so that this assistance, through the efforts of local officials, organizations, and interested and affected citizens, can be made more responsive to local needs and conditions." (Section 201(a)(1).) The additional four basic purposes and functions of community action mandated in Section 201(a) relate directly to the planning capabilities of community action agencies.

(b) Section 212(b)(1) specifically lists planning as a basic CAA function. (See § 1067.70-1.) Section 221(d) further requires, as a condition of CSA funding, that each CAA have adopted a systematic approach to achieving the purposes of Title II of the EOA encompassing a planning and implementation process that:

- (1) Identifies problems and causes of poverty in the community;
- (2) Mobilizes and coordinates relevant public and private resources;
- (3) Establishes program priorities;
- (4) Links program components with one another and with other relevant programs; and,
- (5) Provides for evaluation.

(c) To promote local responsibility and initiative, the Director of CSA may not establish binding national priorities on Section 221 funds. Instead, the Director must allocate funds based on an assessment of "the extent and nature of poverty in the community and the probable capacity of the agency to carry out an effective program." (Section 221(e).) CAA planning will influence CSA's judgment of the need for local initiative monies in a community and of the CAA's ability to administer them.

(d) Besides planning for its own activities, CAAs must strengthen community planning capabilities. Planning is not something that is merely required by law; it is a prerequisite to the satisfactory performance of every community action agency, its delegate agencies, and other entities in the community dealing with poverty matters.

(e) Planning does not occur in a vacuum. It is a part of, and permeates, every aspect of the CAA's work. The needs assessment, resource analysis,

and evaluation activities are integral parts of the planning process and take place throughout the duration of a program.

(f) The programs of CAAs will be better as a result of carrying out and developing a systematic planning process. Benefits to CAAs will include an improved ability to:

- (1) Analyze the extent, causes and conditions of poverty, and current efforts to overcome them;
- (2) Determine priorities and select strategies to permit CAAs to achieve the mission and purposes of the EOA;
- (3) Identify gaps in programs and experiment with new approaches or programs to fill the gaps;
- (4) Develop a strong data base, such as community profiles, with information from low-income residents, for use in advocacy or the design of new programs;
- (5) Refine operational and procedural techniques to achieve goals and objectives, consider alternatives, and affect different approaches to problems;
- (6) Institute a clearly defined participatory process, encouraging the direct involvement of low-income citizens, community based organizations, and other private and public organizations;
- (7) Serve as a reservoir of information for the community-at-large and its leadership; and,
- (8) Educate, reform, or improve

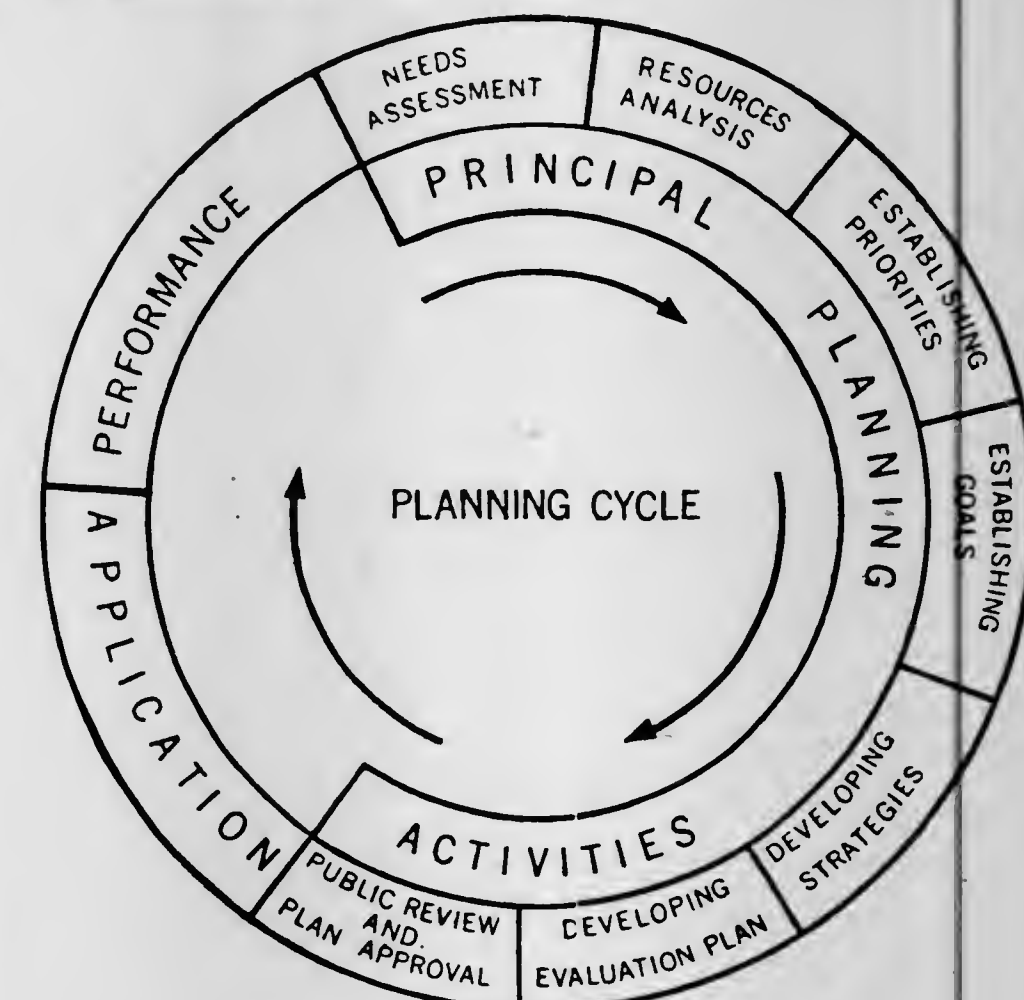
community attitudes toward poverty and its problems and enlist greater community involvement in the resolution of these problems.

§ 1067.70-4 Overview and policy.

(a) *Components of CAA planning.* The CAA planning cycle consists of two basic components and applies to all CAAs funded by CSA:

- (1) A planning process that meets the specific criteria set forth below, and,
- (2) A four year plan of action resulting from the planning process. The plan of action forms the basis for the grant application work programs and budgets.

(b) *Characteristics of the CAA planning process.* (1) The planning process provides a formal opportunity for CAAs, together with the communities they serve, to examine both the problems that stand in the way of low-income people becoming self-sufficient and the methods used to combat those problems. This process should help to assure that the plans, priorities and activities of CAAs are related directly to the needs of the poor, and that community resources are addressing those needs effectively. The following graphic shows the cyclical nature of the principal planning activities, and how they relate to the two remaining elements (application and performance) of the program management system.



(2) The long range plan is included as a major component in the community action strategy to help the community at large understand the dimensions of its poverty problems, and to be able to better apply scarce resources to their solutions. The CAA board should be able to target where it will apply its own resources while helping to focus the use of other community resources. The community action strategy builds on the experience of CAA planning as a tool for directing its own programs. Thus, planning is as much a major function of CAAs as participation of the poor and mobilization of resources.

(3) Apart from complying with the legislative mandate, this approach makes sense in terms of CAA goals and programming. CAAs must look at the total poverty picture in the community, including causes and problems, and at all available resources, including non-CSA sources. Only then can the CAA identify gaps in needed activities and services, determine priorities, and develop strategies. Thus it addresses most important problems not currently being dealt with and decides how it can have the greatest impact.

(c) *Developing the planning process.*

(1) CAAs shall develop a planning process that includes all the steps they will take to complete the four year plan of action. The basic minimum steps or activities CAAs must follow are listed below; CAAs may choose to add more as needed.

(2) In carrying out the planning process, CAAs shall identify and rank the problems, then ascertain in which standard program area each problem falls. Use the standard program areas (e.g., housing development and/or assistance, economic development and/or assistance) as the basic unit for collecting information, analyzing needs, setting priorities, developing goals designing strategies. (See Appendix C for a description of program areas.)

(3) CAAs must submit to the CSA Regional Office a descriptive narrative of the CAA planning process. The document shall contain at a minimum:

(i) A written policy (to serve as the CAA mission statement) that commits the agency to the purpose of community action as required by Title II, section 201(a)(1-5) of the EOA;

(ii) A description of the steps (activities) the CAA will follow in developing its plan of action and of how the CAA proposes to accomplish each step (activity);

(iii) A timetable for each planning step or activity;

(iv) A statement on the nature of

community participation including a clear description of all participants in each planning activity and of how each activity will be publicized to invite community participation;

(v) A description of how target populations will be identified and included in the planning process;

(vi) A description of the process the CAA will follow to amend the four year plan and to make modifications should they become necessary during the four year period. Because CAAs cannot control changes in events and circumstances, they are expected to review the four plan at least biennially to update date, and modify priorities or programs of the initial plan as needed; and,

(vii) A description of how the CAA will evaluate its effectiveness in carrying out the planning process and/or in modifying that process as needed.

(d) *Developing the four year plan of action.* (1) The four year plan of action is the end result of the planning process and the steps the CAA has taken to carry it out. Projects selected for implementation must originate from an objective examination of all current causes and problems of poverty, and possible strategies for dealing with them.

(2) In the four year plan CAAs must analyze all significant problems of poverty in the community regardless of the source of funds used to address the problem. This is so whether the CAA plans to operate programs dealing with a specific problem itself, delegate program operation, or not deal with a given problem directly. CAAs have a mandate to see that significant problems are addressed, whether by CAAs themselves or by other community agencies.

(3) CAAs must, at a minimum, undertake each of the following steps or activities in the planning process in developing the plan of action.

(i) *Needs assessment.* (A) CAAs shall identify low-income needs by obtaining community opinions about poverty problems in the low-income areas. From these, and analyses of other existing data, CAAs shall obtain or develop statistical information about the magnitude and nature of poverty in low-income areas.

(B) CAAs shall develop a concise statement for each poverty problem outlining, at a minimum: what the problem is; the cause(s) of the problem; the number and characteristics of those affected by the problem; and where they live. Problems shall then be ranked by severity of need. CAAs shall also ascertain in which standard program area a problem falls.

(ii) *Resource analysis.* CAAs shall identify and assess CSA and other public and private resources that can be brought to bear on each poverty problem. They shall determine how much and how effectively existing resources (the CAA's and those of other agencies) are dealing with the problems and causes of poverty.

(iii) *Establishing priorities.* CAA boards shall address ranked poverty problems and related program areas by establishing priorities based on assessed needs and availability of resources. This priority order will help guide CAAs in formulating goals for the four year plan of action. In setting priorities, CAA boards shall consider: severity of need (e.g., number of people affected by the problem, depth or extent of the problem); and, the probable impact the CAA can make on the problem (e.g., need vs. existing efforts, time and costs required to achieve results taking into account opportunities and constraints of resources available or to be obtained).

(iv) *Establishing goals.* (A) CAA boards shall develop one or more goal statements for each poverty problem to be addressed during the four year period. Goals should be stated in terms of desired results, related to assessed needs indicating changes to be accomplished and who will benefit. They should be realistic, measurable and quantifiable.

(B) In stating goals CAAs shall indicate how long it will take to realize each. Although the plan of action is for four years, it may be possible to achieve some goals in less time.

(C) All goals must be consistent with the CAA mission statement and must show clearly that the CAA program is designed to achieve the legislative purposes of community action. They must address the legislative standards of program and project effectiveness as described in section 201(a)(1-5) of the EOA and in CSA Instruction 7850-1a, "Standards for Evaluating the Effectiveness of CSA-Administered Programs and Projects". Each goal must serve as the basis for the specific objectives and activities included in the CAA's two year grant application.

(v) *Developing strategies.* CAA boards shall consider various approaches (strategies) the CAA might take and select those that have the best potential, within the resources available for achieving each goal. The strategies (i.e., projects) and tactics (i.e., activities) selected must be designed to enable CAAs to fulfill the mission and purposes of the EOA.

(vi) *Evaluation plan.* (A) CAAs shall describe how they will evaluate:

(1) Development and implementation of the four-year plan of action.

(2) Performance of the projects in the two-year work program. (See § 1067.70-7(a)(5) for monitoring process.)

(3) Program effectiveness and impact.

(4) Administrative and management procedures and practices.

(B) This evaluation plan must also describe the role of the poor and the community at large, as well as board members, in evaluation activities. Target dates for reporting progress to the CAA board must be specified.

(C) Evaluation is critical as a means of giving an empirical basis for decisions to continue, change, drop, or add projects. CAAs must be able to assess whether they and their delegate agencies are achieving stated project objectives, how efficiently CAA planning, administration, financial control and project management are carried out; the extent to which CAAs are meeting the general and specific standards of effectiveness described in CSA Instruction 7850-1a; and the extent to which CAAs are achieving the broad purposes of community action.

(D) The implementation of the CAA's evaluation plan shall be treated as a project by CAAs. Therefore, progress on implementation shall be reported on CSA form 514, "Grantee Work Program and Progress Report", at six (6) months, fifteen (15) months, and twenty-four (24) months. All records and documents coincidental to implementation and completion of the CAA's evaluation plan shall be maintained by the CAA and shall be made available to CSA on request.

(vii) *Public review and plan approval.* (A) CAA boards must review and approve the four year plan of action at a public meeting held especially for such purposes.

(B) The approved plan shall be publicized, with low-income residents and relevant community organizations, as well as political jurisdictions, being the primary focus.

(C) Should the board reject suggestions that have received substantial community support, it shall include the community comments and the board's reasons for rejecting the suggestions with the four year plan sent to the CSA Regional Office.

§ 1067.70-5 *Submission requirements.*

(a) *The planning process narrative.* (1) The CAA shall submit three copies of the document describing the CAA's planning process for CSA review and approval.

(2) A cover letter, signed by the presiding official of the CAA, certifying that the governing board has approved

the planning process narrative, must accompany the document. If the CAA is a local government, the CAA also shall submit to the CSA Regional Office the written recommendations of the community action board concerning the CAA's planning process.

(3) The Regional Office will determine the due date of each CAA planning process document, which will be between the eighteenth and twelfth month before the CAA completes its current four year plan of action. CAAs shall submit a new planning process document twelve to eighteen months before each four year plan cycle.

(4) The CSA Regional Director will approve the CAA's planning process within thirty days of receipt. CAAs must have Regional Office approval before they put the planning process into effect. Approval will be based on adherence to: the planning steps outlined in this part of the subpart; CSA Instruction 6005-1, "Participation of the Poor in the Planning, Conduct and Evaluation of Community Action Programs"; CSA Instruction 6004-01a, "Nondiscrimination in Federally Assisted Programs of the Office of Economic Opportunity Effectuation of Title VI of the Civil Right Act 1964"; and, CSA Notice 6004-2, "Requirement for Affirmative Action Civil Rights Program".

(b) *The four year plan of action.* (1) The CAA shall submit three copies of the four year plan (CSA Forms 510 and 511) to CSA.

(2) CSA Form 511, "Grantee Four Year Plan Statement", is required:

(i) Before CAAs start a four year plan cycle. The forms are due in the Regional Office 180 days before the start of the CAA's initial (first two year) program period of the four year plan cycle.

(ii) When the CAA amends its four year plan.

(3) CSA Form 510, "Grantee Plan Summary Data and Certification".

(i) This form is submitted each time one or more CSA Form(s) 511 is sent to CSA. CSA uses it to aggregate information on poverty problems and resource availability at the national level.

(4) The CSA Regional Director or his/her designee will accept the CAA's four year plan of action if it meets the minimal planning requirements of this subpart and follows the CAA's own planning process described in the planning process narrative previously approved by CSA.

(c) *Instructions for completing the forms.* (Instructions are included only for those items that are not self-explanatory.)

BILLING CODE 5315-01-M

GRANTEE FOUR YEAR PLAN STATEMENT		1. Grantee Number		Reserved for OMB Approval	
COMMUNITY SERVICES ADMINISTRATION		2. Grantee Name, Address, and Zip			
3. Submission Date	4. Page				
	Of				
5. Plan Start Date	6. Plan End Date				
7. Submission Purpose		8. Plan Amended Year			
☐ Four Year Plan ☐ Amend Plan		☐ One ☐ Two ☐ Three ☐ Four			
9. Grantee Problem Ranking		10. Program Area			
11. Description of Poverty Related Problem					
12. Statistical Data (state source)					
13. Causes of the Problem					
14. Analysis of Current and Past Effort					
15. Goal ☐ Check here if this problem will not be addressed. Do not complete items 15 & 16.					
16. Possible Alternative Strategies. (Place asterisk (*) before strategies which CAA has selected for implementation during the next two-year program period.)					

CSA TEST FORM 511-1/79
BILLING CODE 6315-01-C

(1) CSA Form 511, "Grantee Four Year Plan Statement".

(i) Use a separate Form 511 for each problem identified in the planning process.

(ii) *Item 1—Grantee Number:* Enter CSA assigned grantee identification number.

(iii) *Item 4—Page of:* Submit all CSA Forms 511 covering a CAA's four year cycle as a package. Assemble the individual forms so that those with the highest CAA priority rating are on top. The first CSA Form 511 (i.e. page 1) will apply to the problem the CAA gives first priority.

(iv) *Item 5—Plan Start Date:* Enter the first date of the CAA four year plan cycle (synonymous with the first day of the two year program period).

(v) *Item 6—Plan End Date:* Enter the last date of the CAA four year plan cycle (i.e. the end of the second two year program period).

(vi) *Item 7—Submission Purpose:* Place an (x) in the box labeled Four Year Plan. If CSA Form 511 is to amend and accepted four year plan, mark the box titled Amend Plan.

(vii) *Item 8—Plan Amended Year:* Fill in only if the form is used to amend an accepted four year plan. Mark the box showing the year of the four year cycle for which the amendment is submitted.

(viii) *Item 9—Grantee Problem Ranking:* Enter the rank the governing board has given this problem in relation to all other identified poverty problems.

(ix) *Item 10—Program Area:* Select the program area (See Appendix C) into which the poverty problem falls. When a problem is related to more than one program area choose the one which covers the major causes of the problem.

(x) *Item 11—Description of Poverty-Related Problem:* State the problem, the characteristics of people affected and where they live.

(xi) *Item 12—Statistical Data:* Report poverty census data, survey data, outreach reports and other sources that support the description. The data should indicate scope and magnitude of the problem.

(xii) *Item 13—Causes of the Problem:* State the CAA's analysis of the factors causing the problem. Be specific.

(xiii) *Item 14—Analysis of Current and Past Effort:* List all current and recent past efforts of both the CAA and other groups, agencies or organizations to resolve the problem. Indicate their effectiveness in terms of impact and cost/benefits.

(xiv) *Item 15—Goal:* State the changes the CAA plans to achieve in the next four years, showing the amount of time it should take to reach each goal. If the CAA will not address the problem

during this four year cycle, check the box and do not fill in the rest of Item 15 or Item 16.

(xv) *Item 16—Possible Alternative Strategies:* Show the strategies considered to deal with the problem. Asterisk (*) those which the CAA has chosen to implement during the next two year program period.

BILLING CODE 6315-01-M

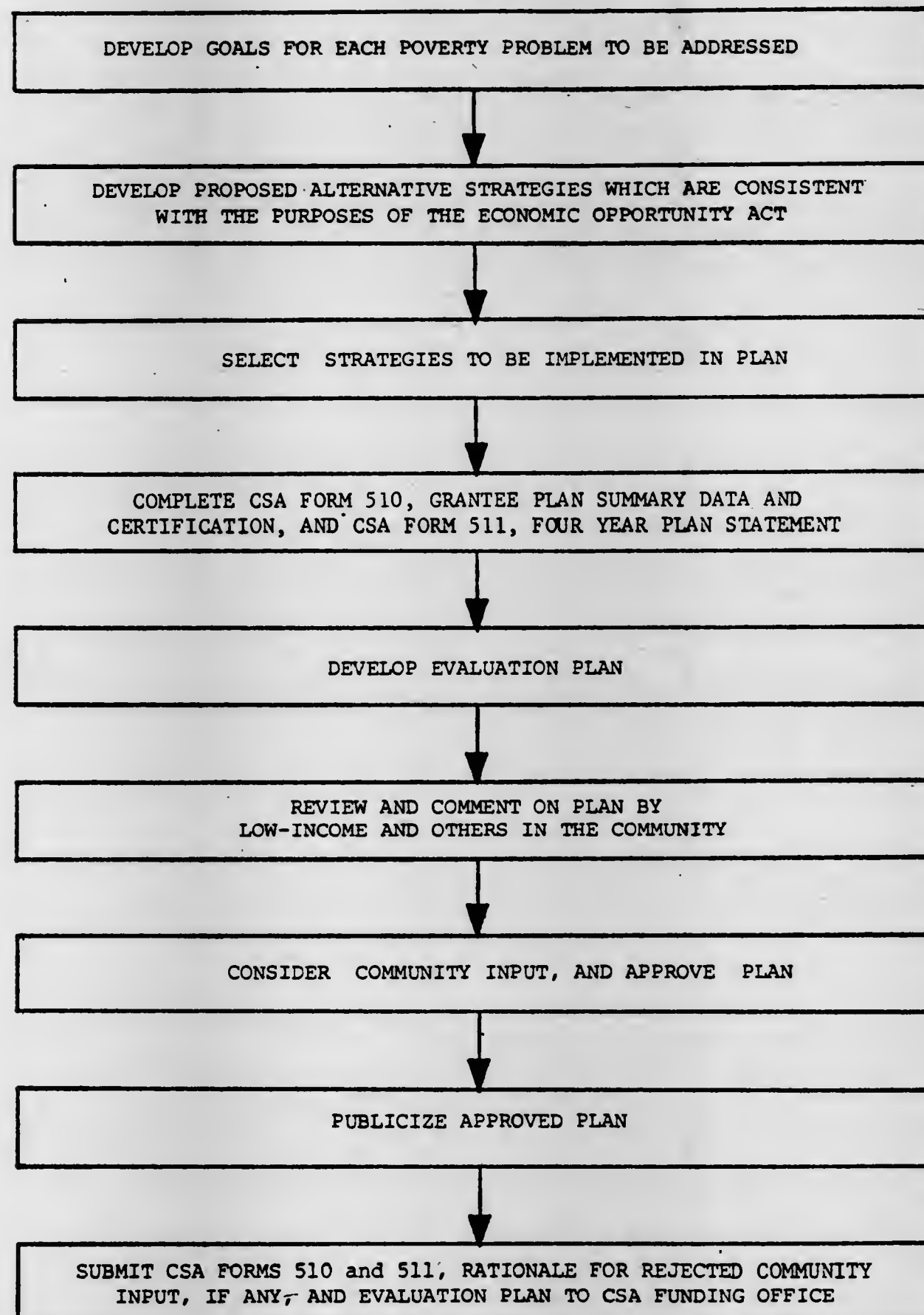
GRANTEE PLAN SUMMARY DATA AND CERTIFICATION		1. Grantee Number		Reserved for OMB Approval	
COMMUNITY SERVICES ADMINISTRATION		2. Grantee Name, Address, and Zip			
3. Submission Date	4. No. Pages Submitted				
5. Plan Start Date	6. Plan End Date				
7. Submission Purpose		8. Plan Amended Year			
☐ Plan (Complete all Parts)		☐ One			
☐ Amended Plan (Only Parts B and C)		☐ Two			
		☐ Three			
		☐ Four			
A. PARTICIPATION OF THE POOR					
9. Total Number of Low Income Persons Participating in the Planning Process					
10. Total Number of Planning Meetings Held					
11. Total Number of Low Income Persons Served in Planning Process					
B. SEVERITY OF NEED AND RESOURCE AVAILABILITY RANKING					
INSTRUCTION: ITEM 12: RANK PROGRAM AREAS FROM 1 TO 13 TO INDICATE THE CAA'S DETERMINATION OF THE SEVERITY OF NEED OF SPECIFIC PROGRAM AREAS IN THEIR COMMUNITY. A "1" IN ITEM 12 INDICATES THE AREA WITH THE HIGHEST SEVERITY OF NEED. A "13" INDICATES THE AREA WITH THE LEAST SEVERE NEED.					
INSTRUCTION: ITEM 13: INDICATE THE RELATIVE AMOUNT OF RESOURCES AVAILABLE TO THE COMMUNITY FROM ALL SOURCES FOR EACH PROGRAM AREA. USE THE SCALE BELOW TO DETERMINE WHAT NUMBER TO RECORD IN EACH BOX OF ITEM 13. A "1" IN THE BOX INDICATES THE LEAST AMOUNT OF RESOURCES AVAILABLE, AND A "9" INDICATES THE GREATEST AVAILABILITY OF RESOURCES.					
Scale to Resource Availability: 1 Little 2 3 4 Moderate 5 6 7 8 9 Great					
12. Severity of Need		13. Resource Availability		14. Severity of Need	
a. Employment	b. Economic	c. Housing	d. Transportation	e. Income	f. Consumer
g. Nutritional	h. Energy	i. Judicial	j. Medical	k. Educational	l. Individual/Family
m. Group	n. CSA Reserved				
C. NON CSA FEDERAL RESOURCE ASSESSMENT					
ENTER THE APPROPRIATE CODES IN THE COLUMNS NEXT TO THE PROGRAM NAME. OPERATING STATUS CODES: 1 = GRANTEE OPERATED, 2 = OPERATED BY OTHERS, 3 = NOT OPERATED IN COMMUNITY. RESPONSE TO COMMUNITY NEEDS CODES: 1 = VERY SATISFACTORY, 2 = SATISFACTORY, 3 = LESS THAN SATISFACTORY.					
Program Name	Operating Status	Response To Need	Program Name	Operating Status	Response To Need
CETA Title I			HUD Section 701		
CETA Title II			HUD Section 202		
CETA Title VI			FMHA Section 502		
ODL Youth Employment			FMHA Section 504		
ODL Summer Youth Programs			FMHA Section 514		
EDA Bus Dev. Ass't			FMHA Section 515		
EDA Tech. Assistance			USDA Food Stamps		
HEW Title I, Elm./Sec. Act			USDA Community Food		
HEW Title II, Adult Basic Ed			DOT JMTA Grant		
HEW Headstart			OTHER - Specify		
HEW Title VI Home Health					
HEW Title IX, Fam. Planning					
HEW Title III, HMD					
HUD - HICDO Act, Title I					
HUD Section 312					
D. CERTIFICATION					
14. The Data on this Form, and the Plan Statements Submitted with this Form, were Generated from the Planning Process Approved by CSA, and have been (Check Appropriate Box)					
☐ Approved by the Grantee's Governing Board		☐ Reviewed by the Grantee's Administering Board, and Approved by its Governing Officials.			
15. Name and Title of Certifying Official		16. Signature of Certifying Official		17. Date Board Approved	
				18. Date Signed	

CSA TEST FORM 510-1/79

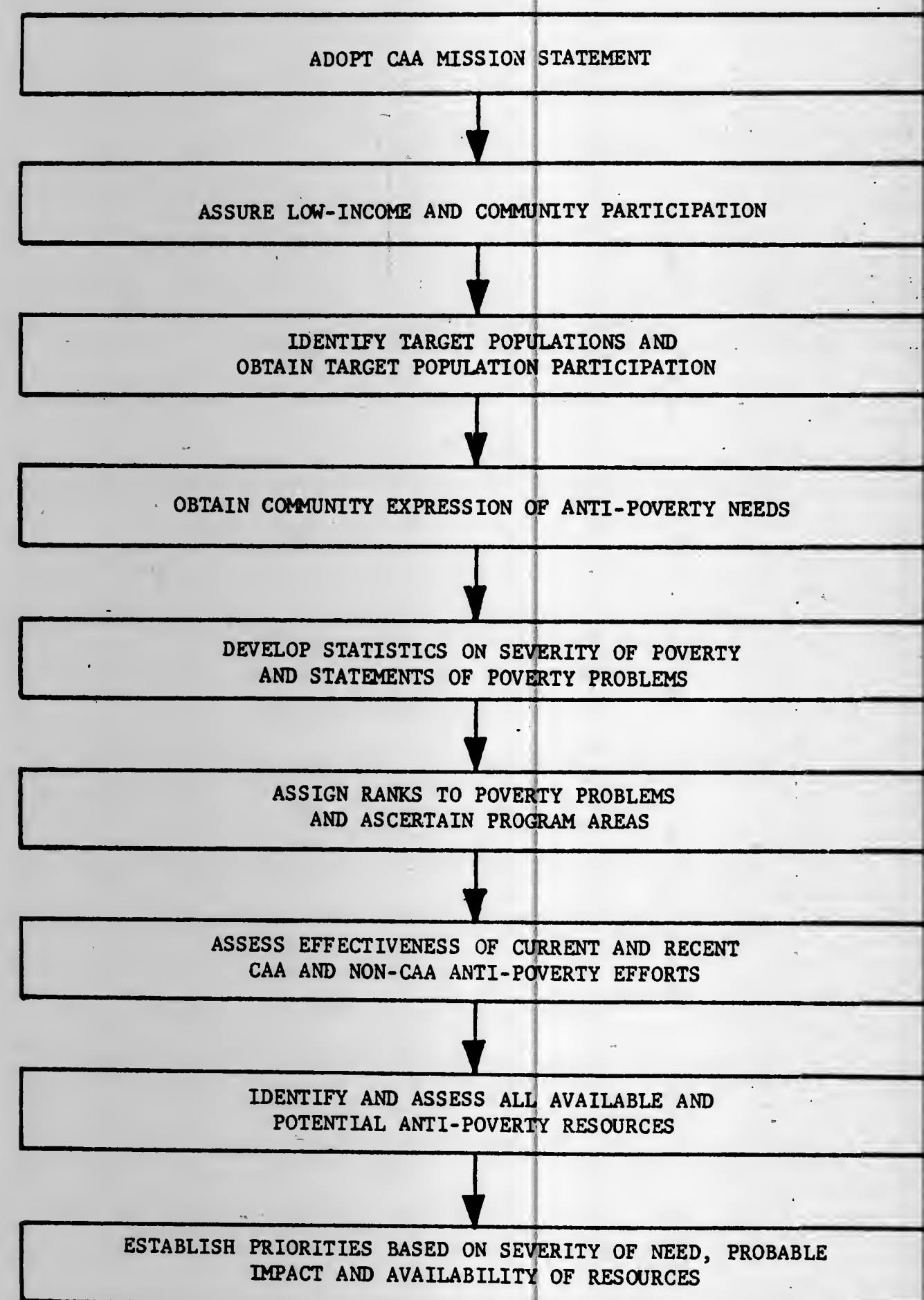
(2) CSA Form 510, "GRANTEE PLAN SUMMARY DATA AND CERTIFICATION".

Instructions for completing the form are on the form itself.

CAA PLANNING PROCESS



CAA PLANNING PROCESS



Grant Application and Performance

§ 1067.70-6 Eligibility.

(a) *Introduction.* (1) Once CAAs are designated by the local government and officially recognized by CSA, they must maintain eligibility to receive CSA funds. Besides performing certain on-going functions (e.g., auditing, accounting), CAAs must keep on file or submit to CSA certain forms and documents. Some are submitted once, others periodically. Some documents are required only to update previously submitted information.

(2) CAAs shall, on a continuing basis, monitor their own performance to ensure that they are complying with the law and CSA regulations and that they remain eligible for funding. In addition, CSA staff will review CAA activities and documents from time to time.

(3) Appendix E outlines the documents CAAs must submit at various stages in the community action agency planning, application and performance and program development system.

(b) *CAA/CSA activities preceding the grant application.* (1) No later than 180 days before the start of the first or second two year program period of the four year plan cycle, CAAs shall send to the Regional Office those documents required as part of the eligibility compliance. (See Appendix E.) The Regional Office will review the documents to verify the CAA's continuing eligibility to receive CSA funding and to highlight problems needing correction. CSA Form 395 (rev. 1/79), "Grantee Refunding Certification", also serves as the cover sheet for documents submitted.

BILLING CODE 6315-01-M

GRANTEE REFUNDING CERTIFICATION

COMMUNITY SERVICES ADMINISTRATION

2. Grantee No. 3. Date Submitted Reserved for OMB Use

1. Grantee Name, Address, and Zip

INSTRUCTIONS: THIS FORM IS USED FOR TWO PURPOSES:
(1). IT IS SUBMITTED AS PART OF THE GRANTEE'S ELIGIBILITY AND COMPLIANCE REVIEW.
(2). AS A COVER SHEET WHEN SUBMITTING PROPOSED CHANGES TO DOCUMENTS LISTED BELOW.

SECTION 1: CERTIFICATION OF GRANTEE ELIGIBILITY DOCUMENTS. (Submit as Required by CSA Instructions or as Changes Occur)

Document	Date of Document Currently on File With CSA	Is New or Updated Document Being Submitted?		Date of Board Approval of New or Updated Document	Attachment No.	CSA Use Only
		Yes (X)	No (X)			
A. Articles of Incorporation or Charter.						
B. Cap Form 3, "CAA Basic Information".						
C. Bylaws or Rules of Organization.						
D. Personnel Policies and Procedures.						
E. CSA Form 509, "Delegate Agency Basic Information/Funding Estimate.						
F. Current Bond.						
G. Planning Process Narrative.						
H. Four Year Plan Statements.						
I. Affirmative Action Plan.						
J. AAP Bi-annual Report.						
K.						
L.						
M.						

N. Comments

(SEE REVERSE FOR ADDITIONAL CERTIFICATIONS AND SIGNATURES)

CSA TEST FORM 395-1/79

SECTION II. CERTIFICATION OF COMPENSATION COMPARABILITY

The salaries and fringe benefits of all employees of this applicant which are supported by OEO funds, or are counted as contribution to the non-Federal share under a grant made by OEO have been reviewed according to OEO instructions and comparability has been established.

Documentation of the methods by which the applicant established comparability is available in applicant's files for review by persons authorized by OEO and personnel of the General Accounting Office.

Any amendment in the future to the OEO approved salary schedule resulting in a general raise in salaries or any change or increase in fringe benefits for all employees shall be based on a current determination of compensation comparability.

SECTION III. TITLE VI OF THE CIVIL RIGHTS ACT

The applicant AGREES that it will comply with Title VI of the Civil Rights Act of 1964 (P.L. 88-352) and the Regulations of the Office of Economic Opportunity issued pursuant to that title (45 C.F.R. Part 1010), to the end that no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the Applicant receives Federal financial assistance either directly or indirectly from the Office of Economic Opportunity; and HEREBY GIVES ASSURANCE THAT it will immediately, in all phases and levels of programs and activities, install an affirmative action program to achieve equal opportunities for participation, with provisions for effective periodic self-evaluation.

In the case where the Federal financial assistance is to provide or improve or is in the form of personal property, or real property or interest therein or structures thereon, this assurance shall obligate the Applicant, or, in the case of a subsequent transfer, the transferee, for the period during which the property is used for a purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar services and benefits, or for as long as the Applicant retains ownership or possession of the property, whichever is longer. In all other cases, this assurance shall obligate the Applicant for the period during which the Federal financial assistance is extended to it.

THIS ASSURANCE is given in consideration of and for the purpose of obtaining either directly or indirectly any and all Federal grants, loans, contracts, property, or discounts, the referral or assignment of VISTA volunteers, or other Federal financial assistance extended after the date hereof to the Applicant by the Office of Economic Opportunity, including installment payments after such date on account of applications for Federal financial assistance which were approved before such date. The Applicant recognizes and agrees that such Federal financial assistance will be extended in reliance on the representations and agreements made in this assurance, and that the United States shall have the right to seek judicial enforcement of this assurance. This assurance is binding on the Applicant, its successors, transferees, and assignees, and the person or persons whose signatures appear below are authorized to sign this assurance on behalf of the Applicant.

SECTION IV. MAINTENANCE OF EFFORT

Funds or other resources devoted to programs or activities designed to meet the needs of the poor within the community will not be diminished in order to provide non-Federal share contributions for the Grantee.

With respect to each program account in this funding request:

- (1) The amounts claimed as non-Federal share represent a net increase over expenditures from non-Federal sources made for similar activities during the twelve months prior to initial application to OEO for the program account.
- (2) The program account services will be in addition to, not in substitution for, services previously provided without Economic Opportunity Act assistance.

SECTION V. CERTIFICATION

We hereby CERTIFY that to the best of our knowledge and belief the information shown on this form and the documents, if any, attached hereto, accurately represent the status of the above-named grantee as of the date of this certification.

We further CERTIFY that we are complying, and will continue to comply, with the provisions and policies stated in Sections II through IV of this form.

Typed Name of Executive Director	Signature	Date
Typed Name of Chairman of the Board	Signature	Date

CSA TEST FORM 395-1/79

BILLING CODE 6215-01-C

(i) Purpose of CSA Form 395 (rev. 1/79), "Grantee Refunding Certification". CSA Form 395, revised, is a basic eligibility certification summary. It also incorporates certification of Compensation Comparability, Title VI of the Civil Rights Act and maintenance of effort.

(A) *Section I: Certification of Grantee Eligibility Documents.* Documents listed in this Section must be submitted and on file at the CSA funding office. Items A through D need not be resubmitted unless they have been changed and replaced by a new or updated documents. Items E to J are submitted periodically as prescribed by CSA instructions. Changes to any of the items listed in Section I which occur after submission of this form to CSA must be reported to the appropriate funding office immediately.

(B) *Section II: Certification of Compensation Comparability.* This section certifies CAA compliance with compensation/wage comparability as required by Section 610 of the EOA.

(C) *Section III: Title VI of the Civil Rights Act.* This section assures CAA compliance with Title VI of the Civil Rights Act of 1964.

(D) *Section IV: Maintenance of Effort.* This section certifies CAA compliance to the maintenance of effort as required by Section 25(d) of the EOA.

(ii) *Instruction.* This form is self-explanatory.

(2) *Prereview visit.* (i) CSA Regional Office field representatives, sometimes with the assistance of other personnel, will conduct an on-site prereview visit between 200 and 190 days before the start of the two year program period.

(ii) The purpose of the prereview visit will be to:

(A) Discuss the CAA's plan of action in light of the approved planning process;

(B) Validate the information contained in the CAA's program progress reports;

(C) Ascertain the degree to which the CAA is adhering to key eligibility and compliance requirements; and,

(D) Eliminate possible funding or refunding obstacles.

(iii) Among the areas to be covered during the prereview are: the board of directors, personnel administration, financial administration, planning, and program operations.

(3) *Memorandum of understanding.* (i) The field representative and CAA executive director will execute and sign a memorandum of understanding at the end of the prereview. It will include subjects covered in the prereview and actions to be taken by the CAA or CSA. It will also highlight any areas of

disagreement needing the attention of the CAA governing board or of CSA.

(ii) The board chairperson and CSA Regional Office will review and approve or disapprove the memorandum of understanding within five working days after completion of the prereview.

(4) *Letter of Agreement/Funding Guidance.* Within 20 working days of the end of the prereview, the CSA Regional Director or his/her designee will send a letter outlining the agreements reached between CSA and the CAA and giving program and funding guidance for the grant application. The letter will: confirm agreements in the memorandum of understanding; state the CAA's eligibility status. If all is in order, CSA will find the CAA provisionally eligible to receive CSA funds. If documentation is incomplete or other problems exist, CSA may find the CAA ineligible or provisionally eligible contingent upon receipt and approval of missing or incomplete documents or correction of problems. CSA makes the final determination of eligibility during the grant-making stage; accept the CAA's four year plan of action; highlight pending problems and needed corrective actions; and, give program guidance and expected funding levels.

(5) *Prefunding visit.* Between 120 and 100 days before the start of the two year period, the CSA field representative will conduct an on-site prefunding visit to review compliance with the letter of agreement, resolve any remaining issues and provide technical assistance, when needed, before the application is submitted.

§ 1067.70-7 Grant application process and performance reporting.

(a) *Components of the application/reporting process.*

(1) The grant application process begins immediately upon completion of the prereview phase of the community action agency grantee program management system and has several components: CAA notification to clearinghouses of intent to apply for CSA funding; preparation and submission of the grant application/funding request to CSA; CSA Regional Office review and approval of the application; and, CAA project progress reporting to CSA.

(2) *Clearinghouse notification.* (i) CAAs seeking initial funding or program period refunding must simultaneously notify both state and areawide clearinghouses of their intent to apply for funds at least sixty days before they expect to submit a grant application to CSA. (This is the same as 150 days before the program period ends.)

Notification should occur immediately upon receipt of the letter of agreement/funding guidance from the Regional Office.

(ii) Some clearinghouses have their own forms. When clearinghouses do not require use of their own forms, CAAs should use Standard Form 424, "Federal Assistance", as the notice of intent to apply.

(iii) Further instructions for notifying clearinghouses to enable CAAs to comply with the requirements of section 221c of the EOA and OMB Circulars A-95 and A-110 procedures are contained in CSA Instruction 6710-3a, "CSA Procedures for the Federal Project Notification and Review System (PNRS)".

(3) *Grant Application/Funding Request.* (i) Ninety days prior to the beginning of the two year program period, CAAs shall submit to the appropriate CSA funding office three copies of a formal grant application/funding request. The grant application builds upon and expands in greater detail the goals and strategies of the four year plan of action. It also reflects decisions reached by the CAA and CSA during the prereview and reaffirmed in the memorandum of understanding and letter of agreement.

(ii) The application consists of the following documents:

(A) SF 424, "Federal Assistance".

(B) CSA Form 512, "Grantee Work Program Summary and Application Certification".

(C) CSA Form 514, "Grantee Work Program and Progress Report" (Part A).

(D) CSA Form 515, "Grantee Budget Information" (Pages 1 and 2).

(E) CSA Form 513, "Board and Participants Characteristics".

(F) SF 100, "Employer Information Report EEO-1".

(G) CSA Form 509, "Delegate Agency Basic Information/Funding Estimate".

(iii) CAAs shall submit application for CSA funding of section 221, and, whenever possible for section 222 and 230 programs, for a two year period. CSA will release funds annually, subject to Congressional appropriations and availability of funds.

(iv) *CAA's operate projects.* Each project proposed in the grant application must address one or more significant causes or problems of poverty which were identified in the planning process. In addition, each project must have at least one measurable, verifiable, and, if possible, quantifiable objective. The objective must be related to the goal cited for the cause or problem. Projects operated with CSA money are funded by program account. One or more projects may be funded by a single

program account, or a project may be funded by more than one program account.

(v) As was the case for the four year plan of action, so too, participation of the poor is required in developing the two year grant application. The poor also must take part in assessing current projects before the CAA selects strategies which may lead to new projects in the second program period, and when the CAA actually chooses new strategies.

(vi) In preparing the application, CAAs shall develop clearly defined work programs that:

(A) Address, at a minimum, each of the purposes of section 201 of the EOA;

(B) Are related directly to the four year plan and have a range of programs and activities consistent with the four year goals and CAA priorities;

(C) Have measurable, quantifiable, and realistic objectives;

(D) Incorporate a broad range of activities and services;

(E) Include work programs of community-based organizations serving as delegate agencies;

(F) Identify resources other than those sought from CSA that can be used to meet objectives;

(G) Document evidence of participation of the poor, including socio-economically disadvantaged racial and ethnic minority groups, in program planning, operation and evaluation; and,

(H) Lend themselves to monitoring and evaluation of performance.

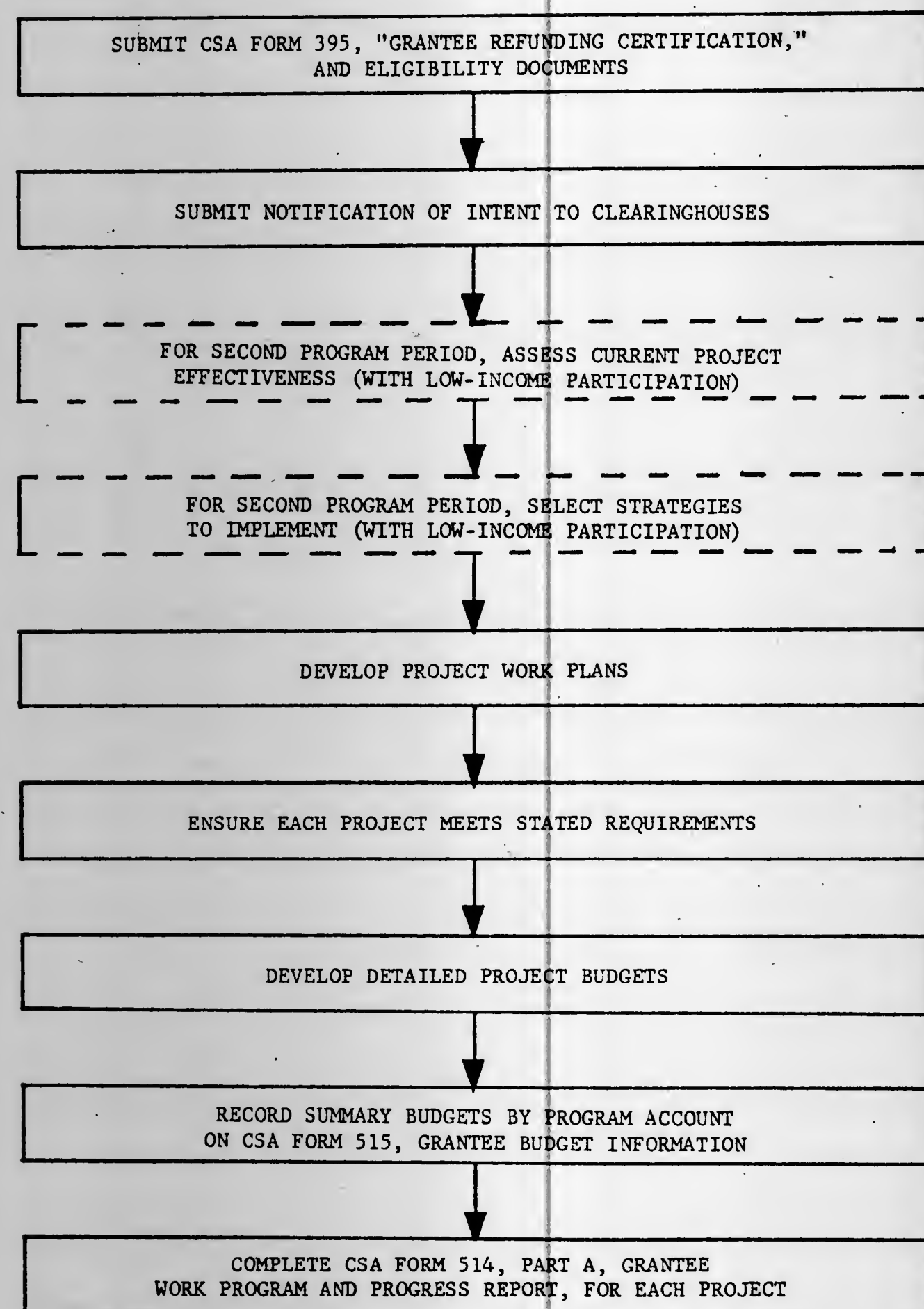
(vii) Budgets shall be submitted for program accounts.

(viii) CAA staff prepares the funding request, which is reviewed by the community action board, policy advisory groups, low-income people and county and area boards. The governing board approves the request before sending it to CSA.

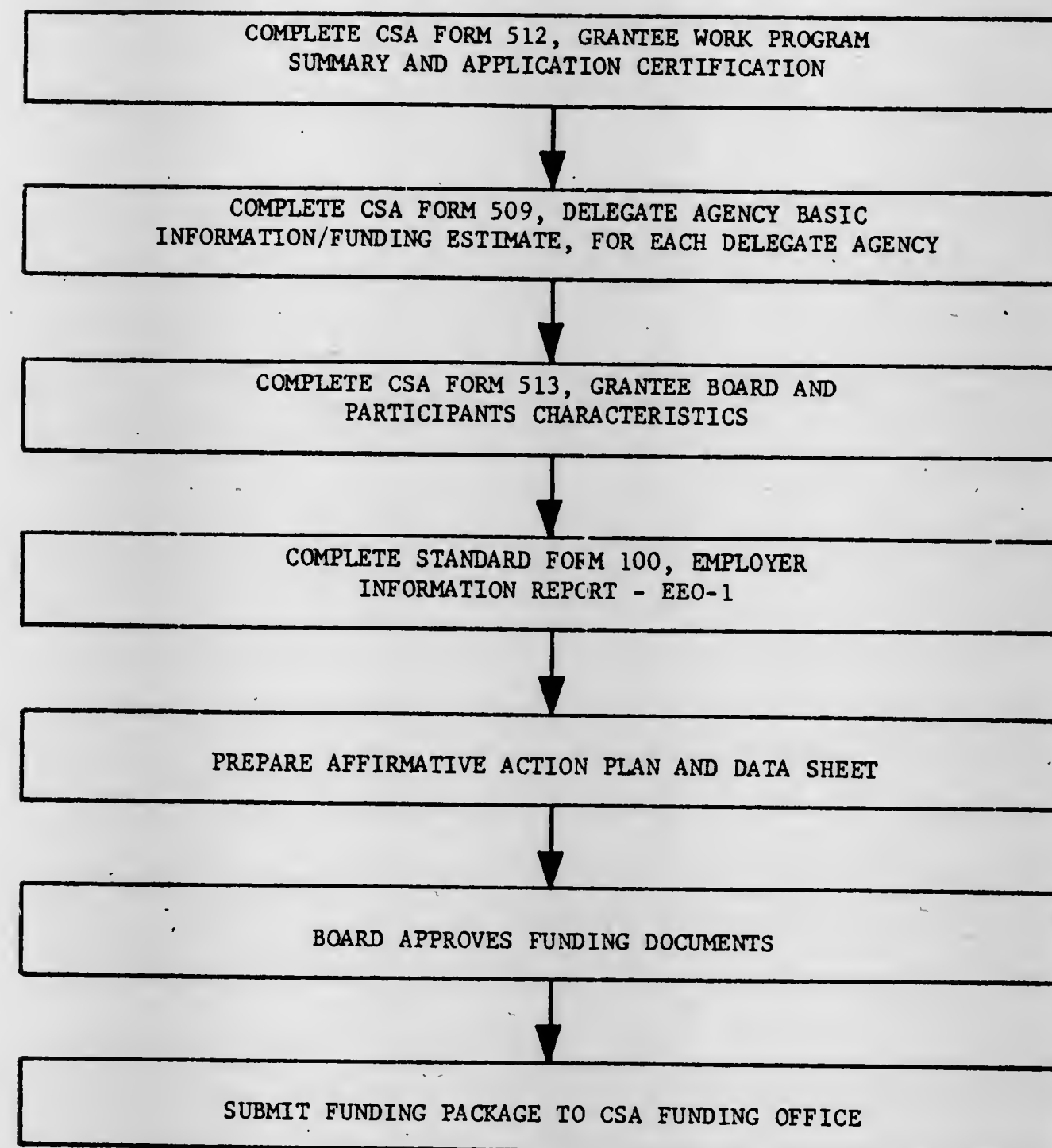
(ix) The complementary nature of the planning and application elements of the grantee program management system cannot be stressed too much. Planning and implementation are all part of one process, as is program monitoring and evaluation.

BILLING CODE 6315-01-M

CAA GRANT APPLICATION DEVELOPMENT



CAA GRANT APPLICATION DEVELOPMENT



BILLING CODE 6315-01-C

(4) *CSA Grant Application Review/Approval.* (i) Upon receipt of the grant application, the CSA Regional Office will review the grant application and send to the governor(s) a plan to fund a proposed grant to the CAA. Section 242 of the EOA requires that CSA send to the governor a plan setting forth the proposed grant; the governor has thirty days in which to disapprove the plan.

(ii) The Regional Office will base its decision to approve or reject on criteria that include the application's conformance with goals and strategies of the CAA's four year plan; attention to standards of effectiveness; eligibility of planned activities; extent to which objectives are quantifiable, measurable and realistic; relationship of activities to objectives; compliance with civil rights requirements; and, completeness and acceptability of CSA Form 395, "Grantee Refunding Certification".

(iii) The Regional Office will complete the review and make its decision approximately sixty days before the start of the new program period. Assuming the application is approved and funds are to be awarded, CSA will prepare a grant package with all or any of the following:

(A) CSA Form 314, "Statement of CSA Grant";

(B) General Conditions Governing Grants under Titles II, III-B, and VII of the Community Services Act of 1974;

(C) CSA Form 29, "Special Condition", if required; and,

(D) CSA Form 25c, "Explanation of Budget and Work Program Changes", if required.

(iv) CSA sends the original and one copy of the CSA Form 314 and accompanying documents to the CAA. If the CAA accepts the grant, the copy of the 314 is signed, dated, and returned with accompanying documents to CSA. The grant package then becomes a binding contract and signifies the CAA's willingness to abide by all the general and special conditions attached to the grant. It also indicates willingness to accept any budget and work program changes CSA may have made on the CSA Form 25c. The official who signs the copy of CSA Form 314 should be either the principal governing official (or his/her authorized designee) or the principal officer of the governing board.

(5) *CAA Performance Monitoring/Project Progress Reporting.* (i) CAAs shall develop a process for monitoring their CSA-funded projects. They shall review performance and report progress to CSA on work completed by the 6th, 15th, and 24th month after the start of the program period. The governing board must approve project progress reports (PPRs). They are due in the CSA

funding office within 60 days of the end of the three reporting periods. Submit three (3) copies of the report to CSA. CSA will advise CAAs of action it will take on the PPRs.

(ii) As part of the CAA evaluation plan CAAs must describe in writing the process to be used for monitoring directly operated and delegated projects. The process must provide for participation of the poor and the governing board. CAAs need not submit the written description to CSA but must have it available for CSA representatives during on-site visits.

(iii) CAAs may reschedule individual projects at the time of the six month review without receiving prior permission from CSA and without requesting an amendment. However, such rescheduling shall occur *only* at the time of the six month review and *only* if the project is not on schedule. If the rescheduling does not result in achieving originally targeted project objectives by the end of the grant period, a portion of the funds allocated to that project may be subject to deobligation.

(iv) CAAs should plan targets for achievement carefully to keep later reporting to a minimum; detailed project progress reporting is required only if a project is not proceeding according to schedule.

(v) During the preparation of the sixth month PPR, the field representative shall make an on-site performance visit to provide technical assistance to the CAA in the development of the PPR.

(vi) The field representative will schedule on-site performance visits to the CAA after receiving the project progress reports to:

(A) Verify accomplishments;

(B) Ascertain extent of problems identified;

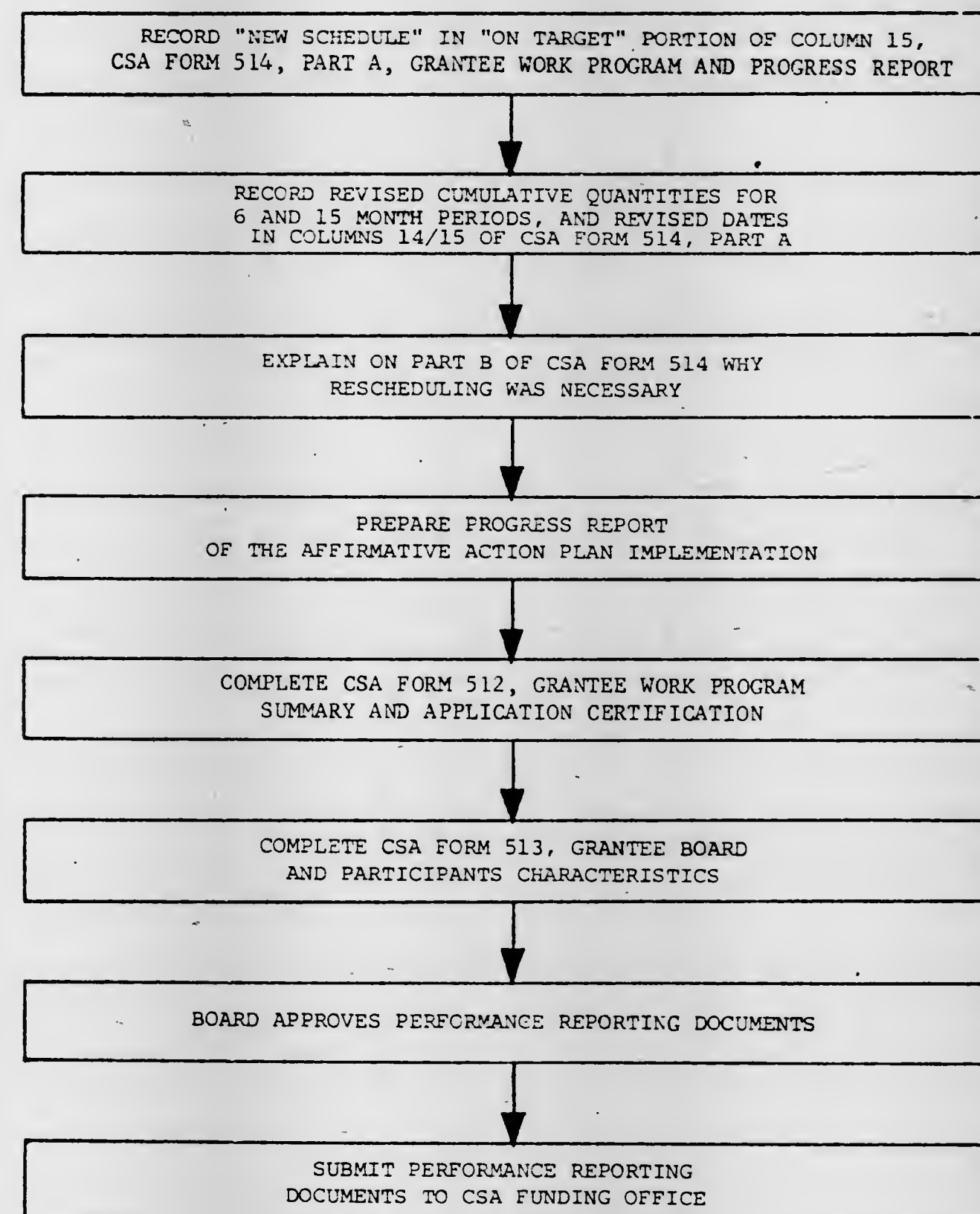
(C) Pinpoint training and technical assistance needs and suggest how these may be met; and,

(D) Help the CAA obtain additional resources.

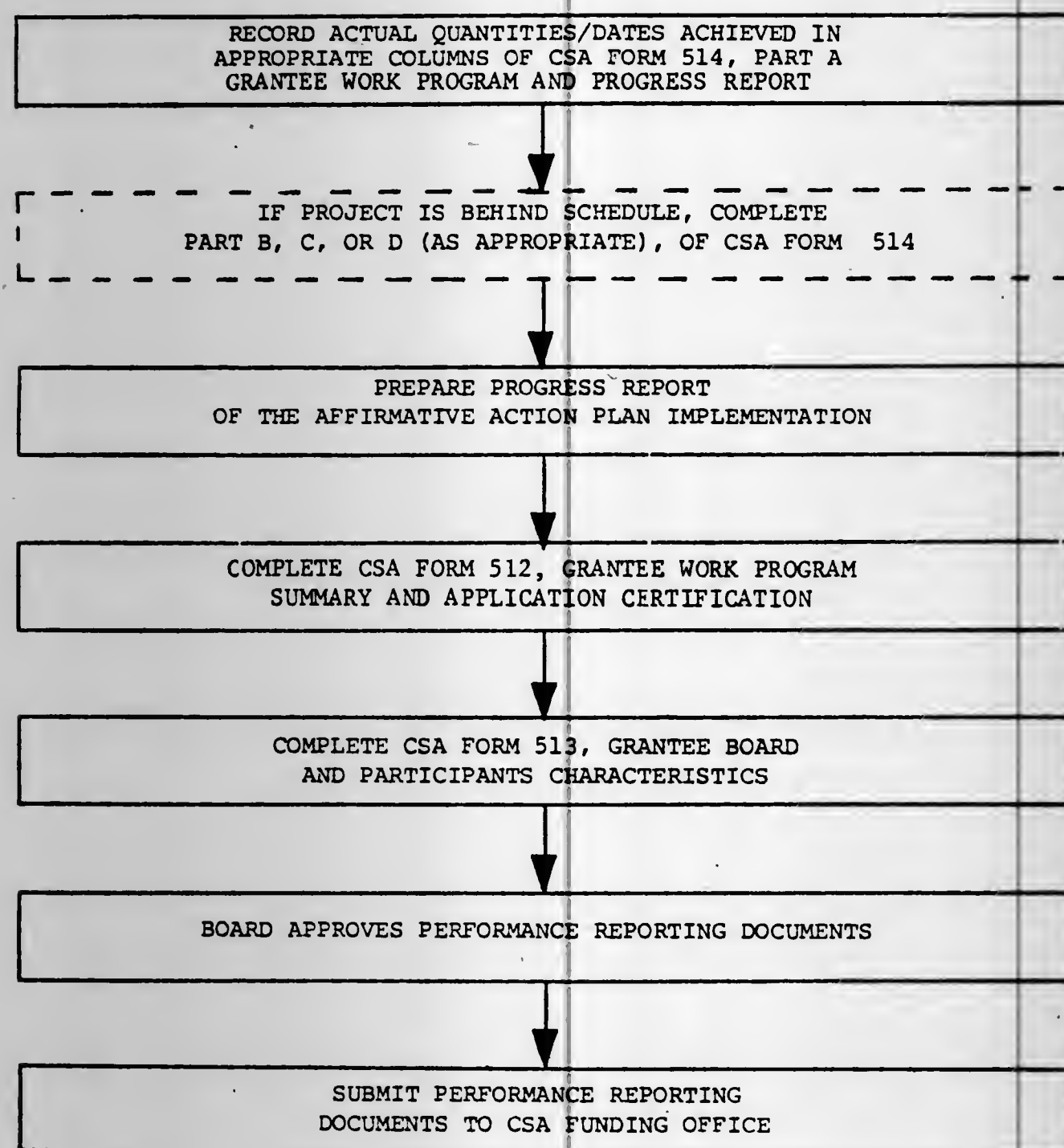
(vii) The CAA and CSA assess program impact formally every second year. As part of the four year planning process, the CAA shall review the impact and effectiveness of its past projects on the causes and problems of poverty in its community to determine the direction of future CAA and other community anti-poverty efforts. CAAs perform a similar review when they choose strategies to carry out the goals of the second program period of the four year plan. Its purpose remains the same: to determine the direction future efforts should take.

BILLING CODE 6315-01-M

CAA PROJECT PERFORMANCE REPORTING
(RESCHEDULING PROJECTS AT SIX MONTHS)



CAA PROJECT PERFORMANCE REPORTING
(NO RESCHEDULING)



BILLING CODE 6315-01-C

(b) *Eligible activities.* (1) *Under Section 221 of the EOA.* (i) Section 221 of the EOA provides for financial assistance to community action agencies for the planning, conduct, administration and evaluation of community action programs and components. CSA recognizes two basic kinds of activities under Section 221: those relating to administration and those programmatic activities relating directly to low-income people's needs.

(ii) Included in the category known as Central Administration. (Program Account 01), is support for general administration and management of CAA central staff, facilities and equipment; coordination; mobilization of resources; information/data collection and use. Other aspects of central administration are planning, program development and evaluation activities related to CAA overall administrative and management responsibilities. Included, too, are delegate agency administrative overhead costs and general support given by CAAs to delegates.

(iii) Assistance is also available for programs designed to meet local community needs (Program Account 05). Section 221(e) specifically encourages local responsibility and initiative by prohibiting the Director of CSA from establishing binding national priorities on funds authorized under section 221. CAAs may choose to deal with concerns in areas such as housing, health, day care, consumer affairs, general social services, or they may select from a variety of other possibilities identified locally. CAA projects may take the form of service delivery, advocacy, technical assistance or other kinds of support.

(iv) CAAs may shift funds between section 221 program accounts and from section 221 to section 222 program accounts without requesting CSA permission. Section 221 funds moved to section 222 program accounts may also be later reallocated back to section 221 program accounts.

(2) *Under Section 222 of the EOA.* (i) The intent of section 222 is to: "stimulate actions to meet or deal with particularly critical needs or problems of the poor which are common to a number of communities . . ." To do this, and when the objectives sought cannot be achieved under section 221, CSA may design special programs, which must also meet the following conditions:

(A) Involve activities which can be incorporated into or closely coordinated with community action programs;

(B) Involve significant new combinations of resources or innovative approaches; and,

(C) Are structured in such a way as to fully promote the purposes of Title II.

(ii) CAAs may apply for special emphasis programs consistent with CSA instructions and guidance. CSA will only consider applications for these programs when the CAA's four year plan clearly indicates that the needs assessment shows that the program area is one that ought to be addressed to accomplish the agency's goals and objectives.

(iii) Section 222 programs currently authorized by the EOA are:

(A) Community Food and Nutrition.
(B) Senior Opportunities and Services.
(C) Environmental Action.

(D) Rural Housing Development and Rehabilitation.

(E) Emergency Energy Conservation Services.

(F) Summer Youth Recreation.

(G) Demonstration Employment and Training Opportunities.

(iv) Sections 1061.50, 1061.30 and 1061.2 (CSA Instructions 6132-2, 6143-1a, 6168-2b and 6170-1) describe these programs and special provisions related to them. While they are an integral part of the CAA's program, an additional budgetary limitation applies; CAAs shall not shift funds from a section 222 program account to any other program account.

(3) *Under Section 230 of the EOA.* CAAs may operate programs involving technical assistance to communities in developing, conducting and administering programs and may provide or receive training for specialized or other personnel. CAAs shall not transfer funds granted under section 230 to program accounts other than the ones for which the funds were approved.

(c) *How a community action program may be carried out.* (1) CAAs have many options in how they carry out their programs. They should choose the method that is most consistent with achieving the objectives of any given program or project and that will best help to advance the purposes of community action.

(2) Among the means that may be used to develop, conduct and administer community action programs are:

(i) Direct performance of activities by staff of the community action agency;

(ii) Delegation of all or portions of a project to another public or private non-profit agency by means of a contract or agreement. (Section 212(a) of the EOA.) The legislative intent is that neighborhood-based organizations composed of residents of the area or members of the groups served assist the CAA in the planning, conduct, and evaluation of components of the community action program. (Section 211(c) of the EOA.) In the case of

delegation to a church or church-related organization, CAAs must show that such delegation will meet a need that cannot be satisfied economically or efficiently by other alternatives and that the activities are wholly non-sectarian in purpose and content. Certain special conditions must be included in any contract between a CAA and a church or church-related organization. Both the CAA and the delegate agency are responsible for complying with these conditions. (See CSA Instruction 6001-01, "Means of Carrying Out a Community Action Program".)

(iii) Retaining the services of qualified consultants or other organizations to conduct specialized activities or to provide advice under contract. In general, consultants or other organizations should be used only when it is not feasible for the CAA staff or other local public or non-profit agency to operate the project.

(3) CSA has developed standard contract forms CAAs may use in retaining the services of delegate agencies and consultants. (Appendix F has a sample delegate agency contract. See CSA Instruction 7410-01, "Standard Form for Professional or Technical Services to a Community Action Program", for sample consultant contracts.) When CAAs use one of the standard forms, they need not submit the contract to CSA for review before execution; they shall submit a copy for information purposes immediately after execution.

(4) In the following cases, however, CAAs must submit proposed contracts to CSA for review and approval before the contract is signed:

(i) Any contract, whether the standard form or not, that involves the delegation of activities to or purchase of services from a church or church-related organization.

(ii) Any contract other than the standard CSA contract form. CSA urges CAAs to modify parts of the standard form rather than to use entirely new contracts. Modified standard contracts must receive prior CSA approval.

(iii) Any contract involving delegation of a project not contemplated in the application and grant action.

(d) *Forms and documents.* (1) *Grant application.* The application is composed of the following forms:

(i) Standard Form 424, "Federal Assistance". This form is the cover sheet for all requests CAAs submit to CSA and also is used for clearinghouse notification. All comments and recommendations received from clearinghouse reviews must be attached to the SF 424 when it is submitted as a cover sheet.

BILLING CODE 6315-01-M

Federal Register / Vol. 44, No. 170 / Thursday, August 30, 1979 / Proposed Rules

COMMUNITY SERVICES ADMINISTRATION
STATEMENT OF CSA GRANT

[illegible]

CSA TEST FORM 314-1/79
BILLING CODE: 6315-01-C

(i) CSA Form 314, "Statement of CSA Grant".

(A) The 314 may be used for the following purposes:

(1) to approve funds for a program account for the first time in a program period, or to increase or decrease the federal or non-federal share approved for a program period;

(2) to approve transfers of funds between program accounts when such transfers will exceed allowable flexibility guidelines;

(3) to approve program extensions not involving changes in funding; and,

(4) to adjust audits.

(B) Items on the CSA 314 are defined as follows:

(1) Item 2—This item consists of:

(i) *Grantee No.*: a five digit number assigned by CSA to permanently identify grantee.

(ii) *Fund source Code (FS)*: Alphabetic character identifying the applicable funding office.

(iii) *FFY*: Last two digits of Federal Fiscal Year in which funds are awarded.

(iv) *Action Number*: A consecutive number assigned by the funding office to identify each funding action for a grantee during a federal fiscal year.

(2) *Item 3—Effective Date*: The effective date of the funding action, i.e., obligation, deobligation, extension. If funds are being obligated, grantee may not incur costs against the funding action before the effective date.

(3) *Item 4—Obligation Date*: The date on which a grant action (CSA Form 314) obligating new funds is mailed to the grantee.

(4) *Item 5—Grantee Accounting Year*: The grantee's fiscal accounting year.

(5) *Item 7—Program Activity Code (PAC)*: Code for identification of CSA obligations.

(6) *Item 9—Federal Funds Awarded This Action*:

(i) *Funds Awarded*: This column shows the amount of federal funds awarded by this action. An amount will be shown for each program account funded by this action with the total at the bottom of the column. Amounts previously awarded will not be included.

(ii) *Funds Deobligated*: A minus (—) sign in front of the amount indicates deobligation of federal funds.

(iii) *Funds Transferred*: This column reflects CSA's approval for the transfer of funds between program accounts. The appropriate (+) and (—) symbols are placed in front of the amounts representing the increase and decrease. Only the amount being transferred, not the original amount awarded, will be reflected.

(7) *Items 10 and 11—Non-Federal Share*: These columns show the percentage and amount of non-Federal share required for each program account. If non-Federal share is not required for a program account, N/A (not applicable) will be entered in this space. In no case will a figure higher than that legally or administratively required be entered.

(8) *Item 12—Termination Date*: If a termination date is entered, expenses may not be incurred for the program account beyond that date. This date determines the end of the program account funding period.

(9) *Item 13—Planned Minimum Number of Months Funding Provided*: This information will help CAAs in planning and budget control and in determining the program account funding period. The number of months indicated is the minimum.

BILLING CODE 5315-01-

COMMUNITY SERVICES ADMINISTRATION
SPECIAL CONDITION

1. NAME OF GRANTEE 2. GRANT NO. PROGRAM YR. ACTION NO.

3. SPECIAL CONDITION APPLIES TO:

a. ☐ ALL PROGRAM ACCOUNTS IN GRANT ACTION b. ☐ ONLY PROGRAM ACCOUNT NUMBER(S)

This grant is subject to the Special Condition below, in addition to the applicable General Conditions governing grants under Title II or III-B of the Economic Opportunity Act of 1964 as amended.

(ii) CSA Form 29, "Special Condition".

(A) CSA uses this form to attach special conditions to the grant.

Any special condition is in addition to the General Conditions required for all grants.

(B) Special conditions may apply to a single program account, several program accounts or all program accounts. Item 3 on the form indicates to which program account(s) the special condition applies.

COMMUNITY SERVICES ADMINISTRATION		PAGE OF PAGES	
EXPLANATION OF BUDGET AND WORK PROGRAM CHANGES		Form Approved Budget Bureau No. 116-R0158	
1. NAME OF GRANTEE	2. END OF PROGRAM YEAR	3. GRANT NO. PROG. YR. ACTION NO.	
4. PROGRAM ACCOUNT			
a. NUMBER	b. NAME	c. BEGINNING	d. ENDING

5. THE GRANTEE MUST RESUBMIT THE FOLLOWING FORMS REFLECTING THE CHANGES INDICATED ABOVE

CSA TEST FORM 25c (6/79)

(iii) CSA Form 25c, "Explanation of Budget and Work Program Changes".

(A) The CSA Form 25c is attached to CSA Form 314 to show any changes CSA has made in the budget and/or specific work plan for any program account included in the grant application that CSA is approving. CSA uses a separate CSA Form 25c for every program account it changes.

(B) Budget changes will be shown by cost category and will indicate increases in or decreases to the specific amounts or items requested. If a function and/or its cost has been reduced or eliminated, CAAs may not apply additional funds to that function, even within their flexibility to transfer funds, without prior written approval from CSA.

(C) Item 5 on the CSA Form 25c shows which revised forms, if any, the CAA must resubmit to reflect budget or work program changes CSA made.

(e) Instructions for completing forms for grant applications:

Instructions are included only for those items that are not self-explanatory.

FEDERAL ASSISTANCE		2. APPLICANT'S APPLICATION	3. STATE APPLICATION IDENTIFIER	4. NUMBER	5. NUMBER
1. TYPE OF ACTION (Mark appropriate box) ☐ PREAPPLICATION ☐ APPLICATION ☐ NOTIFICATION OF INTENT (Opt.) ☐ REPORT OF FEDERAL ACTION		b. DATE Year month day 19	b. DATE Year month day ASSIGNED 19		
4. LEGAL APPLICANT/RECIPIENT a. Applicant Name b. Organization Unit c. Street/P.O. Box d. City e. State f. Contact Person (Name & telephone No.)		a. County g. ZIP Code	5. FEDERAL EMPLOYER IDENTIFICATION NO.		
7. TITLE AND DESCRIPTION OF APPLICANT'S PROJECT		6. PRO-GRAM (From Federal Catalog) a. NUMBER b. TITLE			
10. AREA OF PROJECT IMPACT (Names of cities, counties, States, etc.)		8. TYPE OF APPLICANT/RECIPIENT A-State B-Interstate C-Substate D-County E-City F-School District G-Special Purpose District H-Community Action Agency I-Higher Educational Institution J-Indian Tribe K-Other (Specify): Enter appropriate letter			
13. PROPOSED FUNDING a. FEDERAL \$.00 b. APPLICANT .00 c. STATE .00 d. LOCAL .00 e. OTHER .00 f. TOTAL \$.00		14. CONGRESSIONAL DISTRICTS OF: a. APPLICANT b. PROJECT		9. TYPE OF ASSISTANCE A-Basic Grant B-Supplemental Grant C-Loan D-Insurance E-Other Enter appropriate letter(s)	
16. PROJECT START DATE Year month day 19		17. PROJECT DURATION Months		12. TYPE OF APPLICATION A-New B-Renewal C-Revision D-Continuation E-Augmentation Enter appropriate letter	
18. ESTIMATED DATE TO BE SUBMITTED TO FEDERAL AGENCY 19		15. TYPE OF CHANGE (For 12c or 12e) A-Increase Dollars B-Decrease Dollars C-Increase Duration D-Decrease Duration E-Cancellation Enter appropriate letter(s)			
20. FEDERAL AGENCY TO RECEIVE REQUEST (Name, City, State, ZIP code)		19. EXISTING FEDERAL IDENTIFICATION NUMBER			
22. THE APPLICANT CERTIFIES THAT: a. To the best of my knowledge and belief, data in this preapplication/application are true and correct, the document has been duly authorized by the governing body of the applicant and the applicant will comply with the attached assurances if the assistance is approved. b. If required by OMB Circular A-95 this application was submitted, pursuant to instructions therein, to appropriate clearinghouses and all responses are attached: (1) (2) (3)		21. REMARKS ADDED ☐ Yes ☐ No			
23. CERTIFYING REPRESENTATIVE a. TYPED NAME AND TITLE b. SIGNATURE c. DATE SIGNED Year month day 19		24. AGENCY NAME			
26. ORGANIZATIONAL UNIT		27. ADMINISTRATIVE OFFICE		25. APPLICATION RECEIVED 19	
29. ADDRESS		30. FEDERAL GRANT IDENTIFICATION		28. FEDERAL APPLICATION IDENTIFICATION	
31. ACTION TAKEN ☐ a. AWARDED ☐ b. REJECTED ☐ c. RETURNED FOR AMENDMENT ☐ d. DEFERRED ☐ e. WITHDRAWN		32. FUNDING a. FEDERAL \$.00 b. APPLICANT .00 c. STATE .00 d. LOCAL .00 e. OTHER .00 f. TOTAL \$.00		33. ACTION DATE 19	
34. STARTING DATE 19		35. CONTACT FOR ADDITIONAL INFORMATION (Name and telephone number)		36. ENDING DATE 19	
37. REMARKS ADDED ☐ Yes ☐ No		38. FEDERAL AGENCY A-95 ACTION a. In taking above action, any comments received from clearinghouses were considered. If agency response is due under provisions of Part I, OMB Circular A-95, it has been or is being made. b. FEDERAL AGENCY A-95 OFFICIAL (Name and telephone no.)			

SECTION IV-REMARKS (Please reference the proper item number from Sections I, II or III, if applicable)

FOR USE WITH MULTIPLE PROGRAMS ONLY (As a breakout of Items 6, 13 and 32)						
6.	PROGRAM	PROGRAM	PROGRAM	PROGRAM		TOTAL
a. Cat. No.						
b. Prog. Title (Abbreviate)						
Prog. Acct. No.						
13.	PROPOSED FUNDING					
a. Federal	\$.00	\$.00	\$.00	\$.00	\$.00	.00
b. Applicant	.00	.00	.00	.00	.00	.00
c. State	.00	.00	.00	.00	.00	.00
d. Local	.00	.00	.00	.00	.00	.00
e. Other	.00	.00	.00	.00	.00	.00
f. TOTAL	\$.00	\$.00	\$.00	\$.00	\$.00	.00
32.	FUNDING					
a. Federal	\$.00	\$.00	\$.00	\$.00	\$.00	.00
b. Applicant	.00	.00	.00	.00	.00	.00
c. State	.00	.00	.00	.00	.00	.00
d. Local	.00	.00	.00	.00	.00	.00
e. Other	.00	.00	.00	.00	.00	.00
f. TOTAL	\$.00	\$.00	\$.00	\$.00	\$.00	.00

NOTE: Place an asterisk (*) next to Program Account No. if project is not subject to A-95.

GENERAL INSTRUCTIONS

This is a multi-purpose standard form. First, it will be used by applicants as a required facesheet for pre-applications and applications submitted in accordance with Federal Management Circular 74-7. Second, it will be used by Federal agencies to report to Clearinghouses on major actions taken on applications reviewed by clearinghouses in accordance with OMB Circular A-95. Third, it will be used by Federal agencies to notify States of grants-in-aid awarded in accordance with Treasury Circular 1082. Fourth, it may be used, on an optional basis, as a notification of intent from applicants to clearinghouses, as an early initial notice that Federal assistance is to be applied for (clearinghouse procedures will govern).

APPLICANT PROCEDURES FOR SECTION I

Applicant will complete all items in Section I. If an item is not applicable, write "NA". If additional space is needed, insert an asterisk "*", and use the remarks section on the back of the form. An explanation follows for each item:

- | | |
|--|---|
| <p>Item</p> <p>1. Mark appropriate box. Pre-application and application guidance is in FMC 74-7 and Federal agency program instructions. Notification of intent guidance is in Circular A-95 2nd procedures from clearinghouse. Applicant will not use "Report of Federal Action" box.</p> <p>2a. Applicant's own control number, if desired.</p> <p>2b. Date Section I is prepared.</p> <p>3a. Number assigned by State clearinghouse, or if delegated by State, by areawide clearinghouse. All requests to Federal agencies must contain this identifier if the program is covered by Circular A-95 and required by or applicable State/areawide clearinghouse procedures. If in doubt, consult your clearinghouse.</p> <p>3b. Date applicant notified of clearinghouse Identifier.</p> <p>4a-4h. Legal name of applicant/recipient, name of primary organizational unit which will undertake the assistance activity, complete address of applicant, and name and telephone number of person who can provide further information about this request.</p> <p>5. Employer identification number of applicant as assigned by Internal Revenue Service.</p> <p>6a. Use Catalog of Federal Domestic Assistance number assigned to program under which assistance is requested. If more than one program (e.g., joint-funding) write "multiple" and explain in remarks. If unknown, cite Public Law or U.S. Code.</p> <p>6b. Program title from Federal Catalog. Abbreviate if necessary.</p> <p>7. Brief title and appropriate description of project. For notification of intent, continue in remarks section if necessary to convey proper description.</p> <p>8. Mostly self-explanatory. "City" includes town, township or other municipality.</p> <p>9. Check the type(s) of assistance requested. The definitions of the terms are:
 A. Basic Grant. An original request for Federal funds. This would not include any contribution provided under a supplemental grant.
 B. Supplemental Grant. A request to increase a basic grant in certain cases where the eligible applicant cannot supply the required matching share of the basic Federal program (e.g., grants awarded by the Appalachian Regional Commission to provide the applicant a matching share).
 C. Loan. Self explanatory.</p> | <p>Item</p> <p>D. Insurance. Self explanatory.</p> <p>E. Other. Explain on remarks page.</p> <p>10. Governmental unit where significant and meaningful impact could be observed. List only largest unit or units affected, such as State, county, or city. If entire unit affected, list it rather than subunits.</p> <p>11. Estimated number of persons directly benefiting from project.</p> <p>12. Use appropriate code letter. Definitions are:
 A. New. A submittal for the first time for a new project.
 B. Renewal. An extension for an additional funding/budget period for a project having no projected completion date, but for which Federal support must be renewed each year.
 C. Revision. A modification to project nature or scope which may result in funding change (increase or decrease).
 D. Continuation. An extension for an additional funding/budget period for a project the agency initially agreed to fund for a definite number of years.
 E. Augmentation. A requirement for additional funds for a project previously awarded funds in the same funding/budget period. Project nature and scope unchanged.</p> <p>13. Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions will be included. If the action is a change in dollar amount of an existing grant (a revision or augmentation), indicate only the amount of the change. For decreases enclose the amount in parentheses. If both basic and supplemental amounts are included, breakout in remarks. For multiple program funding, use totals and show program breakouts in remarks. Item definitions: 13a, amount requested from Federal Government; 13b, amount applicant will contribute; 13c, amount from State, if applicant is not a State; 13d, amount from local government, if applicant is not a local government; 13e, amount from any other sources, explain in remarks.</p> <p>14a. Self explanatory.</p> <p>14b. The district(s) where most of actual work will be accomplished. If city-wide or State-wide, covering several districts, write "city-wide" or "State-wide."</p> <p>15. Complete only for revisions (item 12c), or augmentations (item 12e).</p> |
|--|---|

- Item
16. Approximate date project expected to begin (usually associated with estimated date of availability of funding).
17. Estimated number of months to complete project after Federal funds are available.
18. Estimated date preapplication/application will be submitted to Federal agency if this project requires clearinghouse review. If review not required, this date would usually be same as date in item 2b.

APPLICANT PROCEDURES FOR SECTION II

Applicants will always complete items 23a, 23b, and 23c. If clearinghouse review is required, item 22b must be fully completed. An explanation follows for each item:

- Item
- 22b. List clearinghouses to which submitted and show in appropriate blocks the status of their responses. For more than three clearinghouses, continue in remarks section. All written comments submitted by or through clearinghouses must be attached.
- 23a. Name and title of authorized representative of legal applicant.

FEDERAL AGENCY PROCEDURES FOR SECTION III

If applicant supplied information in Sections I and II needs no updating or adjustment to fit the final Federal action, the Federal agency will complete Section III only. An explanation for each item follows:

- Item
24. Executive department or independent agency having program administration responsibility.
25. Self explanatory.
26. Primary organizational unit below department level having direct program management responsibility.
27. Office directly monitoring the program.
28. Use to identify non-award actions where Federal grant identifier in item 30 is not applicable or will not suffice.
29. Complete address of administering office shown in item 26.
30. Use to identify award actions where different from Federal application identifier in item 28.
31. Self explanatory. Use remarks section to amplify where appropriate.
32. Amount to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions will be included. If the action is a change in dollar amount of an existing grant (a revision or augmentation), indicate only the amount of change. For decreases, enclose the amount in parentheses. If both basic and supplemental amounts are included, breakout in remarks. For multiple program funding, use totals and show program breakouts in remarks. Item definitions: 32a, amount awarded by Federal Government; 32b, amount applicant will contribute; 32c, amount from State, if applicant is not a State; 32d, amount from local government if applicant is not a local government; 32e, amount from any other sources, explain in remarks.
33. Date action was taken on this request.
34. Date funds will become available.

- Item
19. Existing Federal identification number if this is not a new request and directly relates to a previous Federal action. Otherwise write "NA".
20. Indicate Federal agency to which this request is addressed. Street address not required, but do use ZIP.
21. Check appropriate box as to whether Section IV of form contains remarks and/or additional remarks are attached.

- Item
- 23b. Self explanatory.
- 23c. Self explanatory.
- Note: Applicant completes only Sections I and II. Section III is completed by Federal agencies.

- Item
35. Name and telephone no. of agency person who can provide more information regarding this assistance.
36. Date after which funds will no longer be available.
37. Check appropriate box as to whether Section IV of form contains Federal remarks and/or attachment of additional remarks.
38. For use with A-95 action notices only. Name and telephone of person who can assure that appropriate A-95 action has been taken—If same as person shown in item 35, write "same". If not applicable, write "NA".

Federal Agency Procedures—special considerations

- A. *Treasury Circular 1082 compliance.* Federal agency will assure proper completion of Sections I and III. If Section I is being completed by Federal agency, all applicable items must be filled in. Addresses of State Information Reception Agencies (SCIRA's) are provided by Treasury Department to each agency. This form replaces SF 240, which will no longer be used.
- B. *OMB Circular A-95 compliance.* Federal agency will assure proper completion of Sections I, II, and III. This form is required for notifying all reviewing clearinghouses of major actions on all programs reviewed under A-95. Addresses of State and areawide clearinghouses are provided by OMB to each agency. Substantive differences between applicant's request and/or clearinghouse recommendations, and the project as finally awarded will be explained in A-95 notifications to clearinghouses.
- C. *Special note.* In most, but not all States, the A-95 State clearinghouse and the (TC 1082) SCIRA are the same office. In such cases, the A-95 award notice to the State clearinghouse will fulfill the TC 1082 award notice requirement to the State SCIRA. Duplicate notification should be avoided.

(1) Standard Form 424, "FEDERAL ASSISTANCE". Instructions for completing this form are contained in CSA Instruction 6710-3a, "CSA Procedures for the Federal Project Notification and Review System (PNRS)".

(x) Item 12 - Planned Project Results: Under "Quantity" give the units of work or service to be completed. Under "Description", characterize the units to which the quantity applies (e.g. 100 youth, 50 homes). Under direct participants, give the number of people enrolled in or directly served by the project.

(xi) Item 13 - Reserved for Codes: Do not complete.

1. Grantee Name, Address, and Zip		2. Grantee No.	3. Project No.	4. Amnt. No.	5. Project Page	6. Project Page	7. Project Page	8. Project Page	9. Project Page	10. Project Page	11. Project Page	12. Project Page	13. Project Page	14. Project Page	15. Project Page	16. Project Page	17. Project Page	18. Project Page	19. Project Page	20. Project Page	21. Project Page	22. Project Page	23. Project Page	24. Project Page	25. Project Page	26. Project Page	27. Project Page	28. Project Page	29. Project Page	30. Project Page	31. Project Page	32. Project Page	33. Project Page	34. Project Page	35. Project Page	36. Project Page	37. Project Page	38. Project Page	39. Project Page	40. Project Page	41. Project Page	42. Project Page	43. Project Page	44. Project Page	45. Project Page	46. Project Page	47. Project Page	48. Project Page	49. Project Page	50. Project Page	51. Project Page	52. Project Page	53. Project Page	54. Project Page	55. Project Page	56. Project Page	57. Project Page	58. Project Page	59. Project Page	60. Project Page	61. Project Page	62. Project Page	63. Project Page	64. Project Page	65. Project Page	66. Project Page	67. Project Page	68. Project Page	69. Project Page	70. Project Page	71. Project Page	72. Project Page	73. Project Page	74. Project Page	75. Project Page	76. Project Page	77. Project Page	78. Project Page	79. Project Page	80. Project Page	81. Project Page	82. Project Page	83. Project Page	84. Project Page	85. Project Page	86. Project Page	87. Project Page	88. Project Page	89. Project Page	90. Project Page	91. Project Page	92. Project Page	93. Project Page	94. Project Page	95. Project Page	96. Project Page	97. Project Page	98. Project Page	99. Project Page	100. Project Page																																																																																																																																																																																																																																																																																									
10. Project Title		11. CSA Funds, Source and Amount		12. Project Cost		13. GRANTEE WORK PROGRAM		14. Implementation Indicator		15. 8 Month PFR		16. 16 Month PFR		17. 24 Month PFR		18. 8 Month PFR		19. 16 Month PFR		20. 24 Month PFR		21. 8 Month PFR		22. 16 Month PFR		23. 24 Month PFR		24. 8 Month PFR		25. 16 Month PFR		26. 24 Month PFR		27. 8 Month PFR		28. 16 Month PFR		29. 24 Month PFR		30. 8 Month PFR		31. 16 Month PFR		32. 24 Month PFR		33. 8 Month PFR		34. 16 Month PFR		35. 24 Month PFR		36. 8 Month PFR		37. 16 Month PFR		38. 24 Month PFR		39. 8 Month PFR		40. 16 Month PFR		41. 24 Month PFR		42. 8 Month PFR		43. 16 Month PFR		44. 24 Month PFR		45. 8 Month PFR		46. 16 Month PFR		47. 24 Month PFR		48. 8 Month PFR		49. 16 Month PFR		50. 24 Month PFR		51. 8 Month PFR		52. 16 Month PFR		53. 24 Month PFR		54. 8 Month PFR		55. 16 Month PFR		56. 24 Month PFR		57. 8 Month PFR		58. 16 Month PFR		59. 24 Month PFR		60. 8 Month PFR		61. 16 Month PFR		62. 24 Month PFR		63. 8 Month PFR		64. 16 Month PFR		65. 24 Month PFR		66. 8 Month PFR		67. 16 Month PFR		68. 24 Month PFR		69. 8 Month PFR		70. 16 Month PFR		71. 24 Month PFR		72. 8 Month PFR		73. 16 Month PFR		74. 24 Month PFR		75. 8 Month PFR		76. 16 Month PFR		77. 24 Month PFR		78. 8 Month PFR		79. 16 Month PFR		80. 24 Month PFR		81. 8 Month PFR		82. 16 Month PFR		83. 24 Month PFR		84. 8 Month PFR		85. 16 Month PFR		86. 24 Month PFR		87. 8 Month PFR		88. 16 Month PFR		89. 24 Month PFR		90. 8 Month PFR		91. 16 Month PFR		92. 24 Month PFR		93. 8 Month PFR		94. 16 Month PFR		95. 24 Month PFR		96. 8 Month PFR		97. 16 Month PFR		98. 24 Month PFR		99. 8 Month PFR		100. 16 Month PFR		101. 24 Month PFR		102. 8 Month PFR		103. 16 Month PFR		104. 24 Month PFR		105. 8 Month PFR		106. 16 Month PFR		107. 24 Month PFR		108. 8 Month PFR		109. 16 Month PFR		110. 24 Month PFR		111. 8 Month PFR		112. 16 Month PFR		113. 24 Month PFR		114. 8 Month PFR		115. 16 Month PFR		116. 24 Month PFR		117. 8 Month PFR		118. 16 Month PFR		119. 24 Month PFR		120. 8 Month PFR		121. 16 Month PFR		122. 24 Month PFR		123. 8 Month PFR		124. 16 Month PFR		125. 24 Month PFR		126. 8 Month PFR		127. 16 Month PFR		128. 24 Month PFR		129. 8 Month PFR		130. 16 Month PFR		131. 24 Month PFR		132. 8 Month PFR		133. 16 Month PFR		134. 24 Month PFR		135. 8 Month PFR		136. 16 Month PFR		137. 24 Month PFR		138. 8 Month PFR		139. 16 Month PFR		140. 24 Month PFR		141. 8 Month PFR		142. 16 Month PFR		143. 24 Month PFR		144. 8 Month PFR		145. 16 Month PFR		146. 24 Month PFR		147. 8 Month PFR		148. 16 Month PFR		149. 24 Month PFR		150. 8 Month PFR		151. 16 Month PFR		152. 24 Month PFR		153. 8 Month PFR		154. 16 Month PFR		155. 24 Month PFR		156. 8 Month PFR		157. 16 Month PFR		158. 24 Month PFR		159. 8 Month PFR		160. 16 Month PFR		161. 24 Month PFR		162. 8 Month PFR		163. 16 Month PFR		164. 24 Month PFR		165. 8 Month PFR		166. 16 Month PFR		167. 24 Month PFR		168. 8 Month PFR		169. 16 Month PFR		170. 24 Month PFR		171. 8 Month PFR		172. 16 Month PFR		173. 24 Month PFR		174. 8 Month PFR		175. 16 Month PFR		176. 24 Month PFR		177. 8 Month PFR		178. 16 Month PFR		179. 24 Month PFR		180. 8 Month PFR		181. 16 Month PFR		182. 24 Month PFR		183. 8 Month PFR		184. 16 Month PFR		185. 24 Month PFR		186. 8 Month PFR		187. 16 Month PFR		188. 24 Month PFR		189. 8 Month PFR		190. 16 Month PFR		191. 24 Month PFR		192. 8 Month PFR		193. 16 Month PFR		194. 24 Month PFR		195. 8 Month PFR		196. 16 Month PFR		197. 24 Month PFR		198. 8 Month PFR		199. 16 Month PFR		200. 24 Month PFR	

GRANTEE WORK PROGRAM AND PROGRESS REPORT PART B

COMMUNITY SERVICES ADMINISTRATION

[illegible]

CSA TEST FORM 514-1/79

GRANTEE WORK PROGRAM AND
PROGRESS REPORT
PART C

COMMUNITY SERVICES ADMINISTRATION

GRANTEE WORK PROGRAM AND PROGRESS REPORT PART C			
COMMUNITY SERVICES ADMINISTRATION			
10. Project Title			
11. CSA Funds, Source and Amount		12. Project Cost	
13. GRANTEE WORK PROGRAM List Project Objectives and Major Activities			
1. Grantee Name, Address, and Zip		2. Grantee No.	
3. Project No.		4. Amtd. No.	
5. Project Date (if)		6. Project Date (if)	
7. Submission Dates		8. Program Period (in Plan Cycle)	
9. Program Period Start		10. Program Period End	
11. Program Period End		12. Program Period End	
13. Program Period End		14. Program Period End	
15. Program Period End		16. Program Period End	
17. Program Period End		18. Program Period End	
19. Program Period End		20. Program Period End	
21. Program Period End		22. Program Period End	
23. Program Period End		24. Program Period End	
25. Program Period End		26. Program Period End	
27. Program Period End		28. Program Period End	
29. Program Period End		30. Program Period End	
31. Program Period End		32. Program Period End	
33. Program Period End		34. Program Period End	
35. Program Period End		36. Program Period End	
37. Program Period End		38. Program Period End	
39. Program Period End		40. Program Period End	
41. Program Period End		42. Program Period End	
43. Program Period End		44. Program Period End	
45. Program Period End		46. Program Period End	
47. Program Period End		48. Program Period End	
49. Program Period End		50. Program Period End	
51. Program Period End		52. Program Period End	
53. Program Period End		54. Program Period End	
55. Program Period End		56. Program Period End	
57. Program Period End		58. Program Period End	
59. Program Period End		60. Program Period End	
61. Program Period End		62. Program Period End	
63. Program Period End		64. Program Period End	
65. Program Period End		66. Program Period End	
67. Program Period End		68. Program Period End	
69. Program Period End		70. Program Period End	
71. Program Period End		72. Program Period End	
73. Program Period End		74. Program Period End	
75. Program Period End		76. Program Period End	
77. Program Period End		78. Program Period End	
79. Program Period End		80. Program Period End	
81. Program Period End		82. Program Period End	
83. Program Period End		84. Program Period End	
85. Program Period End		86. Program Period End	
87. Program Period End		88. Program Period End	
89. Program Period End		90. Program Period End	
91. Program Period End		92. Program Period End	
93. Program Period End		94. Program Period End	
95. Program Period End		96. Program Period End	
97. Program Period End		98. Program Period End	
99. Program Period End		100. Program Period End	

CSA TEST FORM 514-1/79

1. Grantee Name, Address, and Zip		2. Grantee No.		3. Project No.		4. Grant No.		5. Project Page		6. Project Page		7. Project Page		8. Project Page		9. Project Page		10. Project Page		11. Project Page		12. Project Page		13. Project Page		14. Project Page		15. Project Page		16. Project Page		17. Project Page		18. Project Page		19. Project Page		20. Project Page		21. Project Page		22. Project Page		23. Project Page		24. Project Page		25. Project Page		26. Project Page		27. Project Page		28. Project Page		29. Project Page		30. Project Page		31. Project Page		32. Project Page		33. Project Page		34. Project Page		35. Project Page		36. Project Page		37. Project Page		38. Project Page		39. Project Page		40. Project Page		41. Project Page		42. Project Page		43. Project Page		44. Project Page		45. Project Page		46. Project Page		47. Project Page		48. Project Page		49. Project Page		50. Project Page		51. Project Page		52. Project Page		53. Project Page		54. Project Page		55. Project Page		56. Project Page		57. Project Page		58. Project Page		59. Project Page		60. Project Page		61. Project Page		62. Project Page		63. Project Page		64. Project Page		65. Project Page		66. Project Page		67. Project Page		68. Project Page		69. Project Page		70. Project Page		71. Project Page		72. Project Page		73. Project Page		74. Project Page		75. Project Page		76. Project Page		77. Project Page		78. Project Page		79. Project Page		80. Project Page		81. Project Page		82. Project Page		83. Project Page		84. Project Page		85. Project Page		86. Project Page		87. Project Page		88. Project Page		89. Project Page		90. Project Page		91. Project Page		92. Project Page		93. Project Page		94. Project Page		95. Project Page		96. Project Page		97. Project Page		98. Project Page		99. Project Page		100. Project Page	
1. Grantee Name, Address, and Zip		2. Grantee No.		3. Project No.		4. Grant No.		5. Project Page		6. Project Page		7. Project Page		8. Project Page		9. Project Page		10. Project Page		11. Project Page		12. Project Page		13. Project Page		14. Project Page		15. Project Page		16. Project Page		17. Project Page		18. Project Page		19. Project Page		20. Project Page		21. Project Page		22. Project Page		23. Project Page		24. Project Page		25. Project Page		26. Project Page		27. Project Page		28. Project Page		29. Project Page		30. Project Page		31. Project Page		32. Project Page		33. Project Page		34. Project Page		35. Project Page		36. Project Page		37. Project Page		38. Project Page		39. Project Page		40. Project Page		41. Project Page		42. Project Page		43. Project Page		44. Project Page		45. Project Page		46. Project Page		47. Project Page		48. Project Page		49. Project Page		50. Project Page		51. Project Page		52. Project Page		53. Project Page		54. Project Page		55. Project Page		56. Project Page		57. Project Page		58. Project Page		59. Project Page		60. Project Page		61. Project Page		62. Project Page		63. Project Page		64. Project Page		65. Project Page		66. Project Page		67. Project Page		68. Project Page		69. Project Page		70. Project Page		71. Project Page		72. Project Page		73. Project Page		74. Project Page		75. Project Page		76. Project Page		77. Project Page		78. Project Page		79. Project Page		80. Project Page		81. Project Page		82. Project Page		83. Project Page		84. Project Page		85. Project Page		86. Project Page		87. Project Page		88. Project Page		89. Project Page		90. Project Page		91. Project Page		92. Project Page		93. Project Page		94. Project Page		95. Project Page		96. Project Page		97. Project Page		98. Project Page		99. Project Page		100. Project Page	

CSA TEST FORM 514-1/79

(3) CSA Form 514, "GRANTEE WORK PROGRAM AND PROGRESS REPORT".

This form is a four-part carbon-interleaved set. It is used to request funds and amendments, and to report project progress. Complete only items 1-14 of Part A when preparing the application for CSA funds. (Because of the construction of the form, items 1-14 of Parts B, C, and D will be completed automatically at the same time.) Photocopy Part A for submission to CSA and retain original together with Parts B, C, and D as a set for future use. Part A is updated during the PPR periods and photocopies of it are submitted as the PPR. Parts B, C, and D (one for each PPR period) are used only if a project is not on schedule. If it is necessary to use them, they are removed from the set, updated, and sent to CSA.

(i) Include only Part A of the CSA Form 514 in the grant application. Parts B, C, and D are used to report progress.

(ii) Item 3 - Project Number: The CAA assigns the number to the project.

(iii) Item 4 - Amendment Number: Assign a number in chronological order for each amendment.

(iv) Item 6 - Submission Dates: Enter the date the grant application or amendment is being sent to CSA. Do not fill in the boxes referring to the program progress reports (PPRs).

(v) Item 9 - Program Period (of Plan Cycle): Check "one" for the first two year program period of the four year cycle or "two" for the second two year program period.

(vi) Item 10 - Project Title: Give a short descriptive title.

(4) CSA Form 513, "GRANTEE BOARD AND PARTICIPANTS CHARACTERISTICS".

(i) Item 5 - Certifying Signature: Do not complete this item for the grant application.

(ii) Section A - Summary of Board Composition: Give the number of board members for each of the three statutory categories (public, private, and representatives of the poor) and their racial/ethnic origin. When requesting additional funds, do not complete Section A unless there are changes in the original application for Section 221 funds.

(iii) Most items in Section B, "Summary of Participant Characteristics" are self-explanatory with one or two exceptions that apply to all cases.

(A) Number of Eligibles: In this column, for categories 6, 7, and 8 record the total number of people who are eligible to be served. Do the same for categories 9 and 10, 13 through 17, and 20-25. Since the last three categories (9 and 10, 13-17, and 20-25) are only different ways of describing those recorded in categories 6-8, the sum of each of those separate categories must be the same as the sum of categories 6 through 8.

(B) Non-Duplicated Totals: This column requires an unduplicated count (projection) of the number of people the CAA expects to serve during the program period. Counts are by various characteristics of those expected to be served. In completing this column, count each person served only once, even if that person is expected to be served by more than one project. The sums of the numbers entered in

categories 6, 7, and 8, must equal the sum of the numbers in categories 9 and 10, and the sum of categories 13 through 17, and 20 through 25 as well. Note that since the figures being recorded are estimates, no figures will be entered for categories 11, 18, and 26 which are labelled "Percentage Not Recorded".

(C) Program Areas: For categories 6, 7, and 8, record the estimated numbers by program area of people to be served. These may be duplicated estimates. That is, if the same person is expected to be served under more than one program area, that person will appear in the estimate for each program area. For categories 9 and 10, 13 through 17, and 20 through 25, record the percentages that are expected to be served by program area. Since these are estimates, categories 11, 18, and 26 are not used. Note that for each individual group of characteristics, the percentages sum to 100%.

**GRANTEE BUDGET
INFORMATION - 1**
COMMUNITY SERVICES ADMINISTRATION

1. Grantee Name, Address, and Zip		Reserved for OMB Approval	
		2. Grantee No.	3. Page Of
		4. PPS	5. PPE

SECTION A - BUDGET SUMMARY		ESTIMATED UNOBLIGATED FUNDS		NEW OR REVISED BUDGET		Total (g)
Program Account (a)	Federal Catalog Number (b)	Federal (c)	Non-Federal (d)	Federal (e)	Non-Federal (f)	
1.		\$	\$	\$	\$	\$
2.						
3.						
4.						
5. Totals		\$	\$	\$	\$	\$

SECTION B - BUDGET CATEGORIES

6. Object Class Categories	PROGRAM ACCOUNT					Total (5)
	(1)	(2)	(3)	(4)	(5)	
a. Personnel	\$	\$	\$	\$	\$	\$
b. Fringe Benefits						
c. Travel						
d. Equipment						
e. Supplies						
f. Contractual Services						
g. Space Costs/Rental						
h. Other						
i. Totals	\$	\$	\$	\$	\$	\$
7. Program Income	\$	\$	\$	\$	\$	\$

CSA TEST FORM 515-1/79

**GRANTEE BUDGET
INFORMATION - 2**
COMMUNITY SERVICES ADMINISTRATION

1. Grantee Name, Address, Zip		Reserved for OMB Approval	
		2. Grantee No.	3. Page Of
		4. PPS	5. PPE

SECTION C - NON-FEDERAL RESOURCES		(a) Program Account		(b) Applicant		(c) State		(d) Other Sources		(e) Totals	
8.			\$		\$		\$		\$		\$
9.											
10.											
11.											
12. Totals			\$		\$		\$		\$		\$

SECTION D - FORECASTED CASH NEEDS		Total for 1st Year		1st Quarter		2nd Quarter		3rd Quarter		4th Quarter	
13. Federal		\$	\$	\$	\$	\$	\$	\$	\$	\$	\$
14. Non-Federal											
15. Total		\$	\$	\$	\$	\$	\$	\$	\$	\$	\$

SECTION E - BUDGET ESTIMATES OF FEDERAL FUNDS NEEDED FOR BALANCE OF THE PROJECT		FUTURE FUNDING PERIODS (YEARS)							
(a) Program Account		(b) First		(c) Second		(d) Third		(e) Fourth	
16.		\$	\$	\$	\$	\$	\$	\$	\$
17.									
18.									
19.									
20.		\$	\$	\$	\$	\$	\$	\$	\$

SECTION F - OTHER BUDGET INFORMATION (Attach Additional Sheets if Necessary)

21.

CSA TEST FORM 515-1/79

(6) CSA Form 509, "DELEGATE AGENCY BASIC INFORMATION/FUNDING ESTIMATE".

(i) Prepare a separate form for each delegate agency. List all projects that agency will run on the same form. All items are self-explanatory except for Section C.

(ii) Section C - CSA Funds Administered: Give the title of each project being delegated. Show the appropriate program account number and the amount of CSA funds to be delegated.

Standard Form 100
(Rev. 12-76)
Approved GAO B-180541 (ROC77)
Expires 12-31-78

EQUAL EMPLOYMENT OPPORTUNITY EMPLOYER INFORMATION REPORT EEO-1

Joint Reporting
Committee

- Equal Employment Opportunity Commission
- Office of Federal Contract Compliance Programs

SAMPLE

Section A — TYPE OF REPORT

Refer to instructions for number and types of reports to be filed.

1. Indicate by marking in the appropriate box the type of reporting unit for which this copy of the form is submitted (MARK ONLY ONE BOX).

- | | |
|---|--|
| ☐ (1) Single-establishment Employer Report | ☐ (2) Multi-establishment Employer Consolidated Report |
| | ☐ (3) Headquarters Unit Report |
| | ☐ (4) Individual Establishment Report (submit one for each establishment with 25 or more employees) |
| | ☐ (5) Special Report |

2. Total number of reports being filed by this Company (Answer on Consolidated Report only) _____

Section B — COMPANY IDENTIFICATION (To be answered by all employers)

1. Parent Company

a. Name of parent company (owns or controls establishment in item 2) omit if same as label

Name of receiving office

Address (number and street)

City or town

County

State

ZIP code

b. Employer Identification No.

2. Establishment for which this report is filed (Omit if same as label)

a. Name of establishment

Address (number and street)

City or town

County

State

ZIP code

b. Employer Identification No.

(If same as label skip)

3. Parent company affiliation

(Multi-establishment Employers
Answer on Consolidated Report only)

a. Name of parent-affiliated company

b. Employer Identification No.

Address (number and street)

City or town

County

State

ZIP code

Section C — EMPLOYERS WHO ARE REQUIRED TO FILE (To be answered by all employers)

- ☐ Yes ☐ No 1. Does the entire company have at least 100 employees in the payroll period for which you are reporting?
- ☐ Yes ☐ No 2. Is your company affiliated through common ownership and/or centralized management with other entities in an enterprise with a total employment of 100 or more?
- ☐ Yes ☐ No 3. Does the company or any of its establishments (a) have 50 or more employees AND (b) is not exempt as provided by 41 CFR 60-1.5, AND either (1) is a prime government contractor or first-tier subcontractor, and has a contract, subcontract, or purchase order amounting to \$50,000 or more, or (2) serves as a depository of Government funds in any amount or is a financial institution which is an issuing and paying agent for U.S. Savings Bonds and Savings Notes?

NOTE: If the answer is yes to ANY of these questions, complete the entire form, otherwise skip to Section G.

Section D—EMPLOYMENT DATA

Employment at this establishment—Report all permanent, temporary, or part-time employees including apprentices and on-the-job trainees unless specifically excluded as set forth in the instructions. Enter the appropriate figures on all lines and in all columns. Blank spaces will be considered as zeros.

JOB CATEGORIES	OVERALL TOTAL (SUM OF A-K)	NUMBER OF EMPLOYEES										
		MALE					FEMALE					
		A	B	C	D	E	F	G	H	I	J	K
Officials and Managers												
Professionals												
Technicians												
Sales Workers												
Office and Clerical												
Craft Workers (Skilled)												
Operatives (Semi-Skilled)												
Laborers (Unskilled)												
Service Workers												
TOTAL												
Total employment reported in previous EEO-1 report												

(The trainees below should also be included in the figures for the appropriate occupational categories above)

Formal On-the-job trainees	White collar	Production

1. NOTE: On consolidated report skip questions 2-5 and Section E.
2. How was information as to race or ethnic group in Section D obtained?

1 ☐ Visual Survey 3 ☐ Other—Specify
2 ☐ Employment Record

3. Dates of payroll period used—

4. Pay period of last report submitted for this establishment

5. Does this establishment employ apprentices?

This year? 1 ☐ Yes 2 ☐ No
Last year? 1 ☐ Yes 2 ☐ No

Section E—ESTABLISHMENT INFORMATION

1. Is the location of the establishment the same as that reported last year? 1 ☐ Yes 2 ☐ No	3. Did not report last year	4. Reported on combined basis	2. Is the major business activity at this establishment the same as that reported last year? 1 ☐ Yes 2 ☐ No 3 ☐ No report last year 4 ☐ Reported on combined basis	OFFICE USE ONLY
3. What is the major activity of this establishment? (Be specific, i.e., manufacturing steel castings, retail grocer, wholesale plumbing supplies, title insurance, etc. Include the specific type of product or type of service provided, as well as the principal business or industrial activity)				

Section F—REMARKS

Use this item to give any identification data appearing on last report which differs from that given above, explain major changes in composition or reporting units, and other pertinent information.

Section G—CERTIFICATION (See Instructions G)

Check one 1. ☐ All reports are accurate and were prepared in accordance with the instructions (check on consolidated only) 2. ☐ This report is accurate and was prepared in accordance with the instructions.					
Name of Certifying Official	Title	Signature	Date		
Name of person to contact regarding this report (Type or print)	Address (Number and street)				
Title	City and State	ZIP code	Telephone Area Code	Number	Extension

All reports and information obtained from individual reports will be kept confidential as required by Section 709 (e) of Title VII. WILLFULLY FALSE STATEMENTS ON THIS REPORT ARE PUNISHABLE BY LAW, U.S. CODE, TITLE 18, SECTION 1001.

(7) Standard Form 100, "EMPLOYER INFORMATION REPORT EEO-1". CSA will provide, under separate cover, the instruction booklet for completing this form. This form is not required for supplemental fundings.

(8) "AFFIRMATIVE ACTION PLAN AND AAP DATA SHEET". See CSA Notice 6004-2, "Requirement for Affirmative Action Civil Rights Program", for instructions.

(f) Instructions for completing forms for project progress reporting: Instructions are included only for those items that are not self-explanatory.

GRANTEES WORK PROGRAM AND PROGRESS REPORT PART A		1. Grantee Name, Address, and Zip		3. Project No.	4. Amnt. No.	5. Project Page of	Reserved for OMB Approval
COMMUNITY SERVICES ADMINISTRATION		6. Submission Date	7. Program Period Start	8. Program Period End	9. Program Period (Q1 Plan Cycle)	10. Program Period (Q2 Plan Cycle)	11. Program Period (Q3 Plan Cycle)
10. Project Title		GRANTEE PROJECT PROGRESS REPORT					
11. CSA Fund, Source and Amount		12. Project Cost	13. List Project Objectives and Major Activities	14. Implementation Indicator	15. 6 Month PPR	16. 15 Month PPR	17. 24 Month PPR
12. Project Cost		13. List Project Objectives and Major Activities	14. Implementation Indicator	15. 6 Month PPR	16. 15 Month PPR	17. 24 Month PPR	18. 24 Month PPR
13. List Project Objectives and Major Activities		14. Implementation Indicator	15. 6 Month PPR	16. 15 Month PPR	17. 24 Month PPR	18. 24 Month PPR	19. 24 Month PPR

CSA TEST FORM 514, (1/79)

GRANTEES WORK PROGRAM AND PROGRESS REPORT PART B		1. Grantee Name, Address, and Zip		3. Project No.	4. Amnt. No.	5. Project Page of	Reserved for OMB Approval
COMMUNITY SERVICES ADMINISTRATION		6. Submission Date	7. Program Period Start	8. Program Period End	9. Program Period (Q1 Plan Cycle)	10. Program Period (Q2 Plan Cycle)	11. Program Period (Q3 Plan Cycle)
10. Project Title		GRANTEE PROJECT PROGRESS REPORT					
11. CSA Fund, Source and Amount		12. Project Cost	13. List Project Objectives and Major Activities	14. Implementation Indicator	15. 6 Month PPR	16. 15 Month PPR	17. 24 Month PPR
12. Project Cost		13. List Project Objectives and Major Activities	14. Implementation Indicator	15. 6 Month PPR	16. 15 Month PPR	17. 24 Month PPR	18. 24 Month PPR
13. List Project Objectives and Major Activities		14. Implementation Indicator	15. 6 Month PPR	16. 15 Month PPR	17. 24 Month PPR	18. 24 Month PPR	19. 24 Month PPR

CSA TEST FORM 514-1/79

GRANTEE WORK PROGRAM AND PROGRESS REPORT PART C

COMMUNITY SERVICES ADMINISTRATION

10. Project Title

11. CSA Funds, Source and Amount

12. Project Cost

13. GRANTEE WORK PROGRAM
List Project Objectives and Major Activities

2. Grantee No.	3. Project No.	4. Award No.	5. Project Type Of	6. Reserved for OMB Approval
6. Submission Dates	7. Program Period Start Date	8. Program Period End Date	9. Program Period (of Plan Cycle) One ☐ Two ☐	10. Program Period 15 Month PPR 24 Month PPR
GRANTEE PROJECT PROGRESS REPORT				
A. Evaluation Submission Date				
B. Actual Performance				
C. Implementation Indicators not Met				
D. Reasons for not Being on Schedule				
E. Planned Changes				
F. T&TA Required				
G. CSA Action:				

CSA TEST FORM 514-1/79

GRANTEE WORK PROGRAM AND PROGRESS REPORT PART D

COMMUNITY SERVICES ADMINISTRATION

10. Project Title

11. CSA Funds, Source and Amount

12. Project Cost

13. GRANTEE WORK PROGRAM
List Project Objectives and Major Activities

2. Grantee No.	3. Project No.	4. Award No.	5. Project Type Of	6. Reserved for OMB Approval
6. Submission Dates	7. Program Period Start Date	8. Program Period End Date	9. Program Period (of Plan Cycle) One ☐ Two ☐	10. Program Period 15 Month PPR 24 Month PPR
GRANTEE PROJECT PROGRESS REPORT				
A. Evaluation Submission Date				
B. Actual Performance				
C. Implementation Indicators not Met				
D. Reasons for not Being on Schedule				
E. Planned Changes				
F. T&TA Required				
G. CSA Action:				

CSA TEST FORM 514-1/79

(1) CSA Form 514, "GRANTEE WORK PROGRAM AND PROGRESS REPORT".

This form is a four-part carbon-interleaved set. Items 1-14 will have been completed at the time the application was prepared. These same items will have been reproduced on parts B, C, and D of the form.

(i) Part A. Photocopy Part A of the form prepared at the application time, and send it to the CSA funding office as part A of the project progress report. Do not photocopy it until after completing the required items for the appropriate PPR period. Part A is all that is needed if a project is on target.

(A) Item 6 - Submission Dates: Record the submission date in the 6, 15 or 24 month PPR box, as appropriate.

(B) Item 15 - 6 Month PPR:

(1) If the project is on schedule, show in the "On Target" column the number actually produced and the dates when the activities were achieved. Complete this column for each objective and major activity listed on the original CSA Form 514, Part A.

(2) If the project is not on schedule and you do not wish to reschedule it, show in the "Not On Target" column the quantities actually produced and dates when activities were completed. For projects that are not quantifiable, show dates when activities were completed. Show the anticipated completion date for activities that were scheduled for completion during the review period. Complete Part B of the form.

(3) If the project is not on schedule and you wish to revise the schedule:

(i) Write "NEW SCHEDULE" in the "On Target" column.

(ii) Cross out, with a single line, all the implementation indicators in Item 14.

(iii) Record new quantities over (or under) the old quantities in the 15 month or 24 month columns of Item 14.

(iv) Record new target dates in the "Not On Target" column of Item 15.

(v) On part B of the form explain why you had to reschedule the project.

(C) Items 16 and 17 - 15 and 24 Month PPR: If the project is proceeding according to either the original schedule or the revised schedule shown on the PPR for the 6 month period, show in the "On Target" column quantities produced since the start of the project or dates on which activities were completed.

(ii) Part B, C or D.

(A) Item A - Submission Dates: Show the submission date under the appropriate PPR period.

(B) Item B - Actual Performance: State work done to achieve the implementation indicators.

(C) Item C - Implementation Indicators Not Met: List each objective not met or activity not finished. Include indicators whose target you have exceeded.

(D) Item D - Reasons For Not Being On Schedule: Tell why the project is not on schedule.

(2) *CSA Form 513, "GRANTEE BOARD AND PARTICIPANTS CHARACTERISTICS"*. (i) Submit this form to the CSA funding office with the 24-month PPR within 60 days after the end of the two year program period. Data entered are the actual results of the two year program operated by the CAA.

(ii) *Item 5—Certifying Signature*: The CAA official certifying to the accuracy of the data shall sign.

(iii) Complete Section A only if there have been changes since the grant application.

(iv) The instructions for the remaining items are the same as those for completing the Form 513 for the grant application except that the figures reported at this time are the number or percentage of beneficiaries who actually participated in the program during the two-year program period. See § 1067.70-7(e)(5) for detailed instructions on completing each item.

(3) *Affirmative Action Plan and AAP Data Sheet*. At the time of submission of the 15-Month PPR, CAAs shall also evaluate implementation of the Affirmative Action Plan during the first 15 months of the program period. They shall also submit an updated AAP Data Sheet, if needed.

§ 1067.70-8 Amendments.

(a) *Overview*. (1) CAAs have a great deal of flexibility to modify their work programs without requesting CSA approval. However, in a few cases, CAAs must receive approval before effecting changes in the work program or budget.

(2) CAAs shall request CSA approval for amendments under the following conditions:

(i) When they wish to add a project or to delete a project from the approved program;

(ii) When they wish to make a significant change in the objectives or work program of an approved project. The CAA shall determine whether, in its judgment, the change is significant;

(iii) When they wish to exceed allowable flexibility (no account may be increased or decreased by more than 20 percent or \$150,000, whichever is smaller, without prior CSA approval) in transferring funds between program accounts; and,

(iv) At the request of the CSA funding office.

(3) Use the amendment mechanism to add a project not requiring additional funding to the approved program. To add a project requiring new or additional money, CAAs must submit a grant application to receive supplemental funding. The amendment

procedure is used only when the changes do not affect the previously approved funding level of the CAA.

(4) CAAs must follow the basic clearinghouse procedures when requesting amendments to add or delete projects or to make significant changes in the objectives or work programs of approved projects. See § 1067.10 or CSA Instruction 6710-3a, "CSA Procedures for the Federal Project Notification and Review System (PNRS)," for procedures to follow.

(5) The percentage of Federal assistance approved on the current CSA Form 314 may not be increased as a result of amendments.

(6) CAAs may transfer funds between section 221 program accounts and from section 221 program accounts to section 222 program accounts. They may later transfer the same or a smaller amount of funds back to section 221 or to any other program accounts.

(b) *CSA approval of amendments*. (1) Within 30 days of receipt of the amendment request, CSA will review and approve or disapprove the amendment. If the amendment is to add or delete a project without affecting previously approved funding, CSA will indicate approval or disapproval on the CSA Form 25b, "Justification for Program Account Amendment". If the amendment requires a change in approved funding (e.g., to transfer funds from Section 221 into any program account other than 01 and 05), CSA will use CSA Form 314, "Statement of CSA Grant".

(2) Depending upon the type of amendment approved, the amendment package may contain a CSA Form 314, General Conditions, CSA Form 29, "Special Condition", CSA Form 25b and CSA Form 25c, "Explanation of Budget and Work Program Changes". If a CSA Form 314 is used, CSA will send the original and one copy to the CAA. The CAA shall sign the new CSA Form 314 to show acceptance of the amendment and any conditions attached thereto and return one copy, with any accompanying documents to the CSA funding office.

(c) *Forms*—(1) *To add a project*. (i) SF Form 424, "Federal Assistance".

(ii) CSA Form 512, "Grantee Work Program Summary and Application Certification".

(iii) CSA Form 514, "Grantee Work Program and Progress Report".

(iv) CSA Form 513, "Board and Participants Characteristics".

(v) CSA Form 25b, "Justification for Program Account Amendment".

(2) *To delete a project*. (i) SF Form 424, "Federal Assistance".

(ii) CSA Form 25b, "Justification for Program Account Amendment".

(3) *To transfer funds from 01 or 05 program accounts to other program accounts*. (i) CSA Form 25b, "Justification for Program Account Amendment".

(4) *To make significant changes in objectives or work program*. (i) SF Form 424, "Federal Assistance".

(ii) CSA Form 512, "Grantee Work Program Summary and Application Certification".

(iii) CSA Form 514, "Grantee Work Program and Progress Report".

(iv) CSA Form 513, "Board and Participants Characteristics".

(v) CSA Form 25b, "Justification for Program Account Amendment".

(d) *Instructions for completing forms for amendments*: Instructions are included only for items that are not self-explanatory.

(1) *SF 424, "FEDERAL ASSISTANCE"*. Follow the instructions in § 1067.10 or CSA Instruction 6710-3a. An exception applies to amendments to make significant changes in a project's objectives or work program: Section I, Item 12—Type of Application: Write "Other" for a change in a project that does not affect the approved funding level.

(2) *CSA Form 514, "GRANTEE WORK PROGRAM AND PROGRESS REPORT"*. (i) Use only Part A for the amendment request. Items 15-17 are not completed for amendment requests.

(ii) *Item 6—Check "Amendment"*. When submitting CSA Form 514 for an amendment to add a project, follow the remaining instructions in § 1067.70-7.

(iii) For significant changes in an already approved project, see § 1067.70-7(e)(5) with these exceptions:

(A) *Item 13—Grantee Work Program*: Show the original objectives and activities. Cross out and asterisk those that will be changed and add the new objectives and/or activities at the bottom of the column.

(B) *Item 14—Implementation Indicator*: Show the original targets and activity completion dates. Cross out and asterisk those that will be changed and give new target (completion) dates at the bottom of the column next to the new objectives and activities.

(C) The amended CSA Form 514 will be used for subsequent program progress reports.

(3) *CSA Form 512, "GRANTEE WORK PROGRAM SUMMARY AND APPLICATION CERTIFICATION"*. (i) *Item 7—Submission Purpose*: Check the box for "Amendment Application".

(ii) *Item 11—Project Title*: Give the title of the project being added or for which significant changes are proposed. In the latter case, use the same title as

that which appeared in Item 11 in the grant application.

(4) *CSA Form 513, "BOARD AND PARTICIPANTS CHARACTERISTICS"*.

(i) To add a project, follow the instructions in § 1067.70-7(d)(3).

(ii) To make significant changes in a project, photocopy the previously submitted form. For the program area(s) affected by the proposed amendment, cross out the original figures and substitute the expected new numbers or percentages.

(iii) Section A need not be completed unless changes have occurred since the grant application.

BILLING CODE 6315-01-M

COMMUNITY SERVICES ADMINISTRATION
APPLICATION FOR COMMUNITY ACTION PROGRAM
JUSTIFICATION FOR PROGRAM ACCOUNT AMENDMENT

PAGE OF PAGES

Form Approved
Budget Bureau No. 116-R0158

1. APPLICANT AGENCY		2. DATE SUBMITTED	3. PROGRAM YEAR END DATE:	4. GRANT NO.
5. PROGRAM ACCOUNT				
a. NUMBER	b. NAME	c. BEGINNING	d. ENDING	
6. SUBMITTED TO JUSTIFY (Check the following as appropriate)				
a. ☐ CHANGE IN EITHER FEDERAL OR NONFEDERAL SHARE				
b. ☐ CHANGE, BEYOND FLEXIBILITY, IN SALARIES AND POSITIONS AND/OR OTHER BUDGET CHANGES WITHIN PROGRAM ACCOUNT				
c. ☐ CHANGE IN WORK PROGRAM				
d. ☐ CHANGE, BEYOND FLEXIBILITY, IN ADMINISTERING AGENCY FUNDING LEVEL				

GRANTEE EXPLANATION (If additional space is needed, continue on blank paper.)

7. IF ITEM 6 a, ABOVE, IS NOT CHECKED, COMPLETE THE FOLLOWING IN LIEU OF CAP FORM 1.

a. SUBMITTED BY (Typed name and title of authorized official)		b. SIGNATURE	
8. CSA ACTION			
a. ☐ APPROVED		b. ☐ DISAPPROVED	
c. TYPED NAME AND TITLE OF CSA OFFICIAL	d. SIGNATURE	e. DATE	

CSA TEST FORM 25b (1/79)
BILLING CODE 6315-01-C

(5) CSA Form 25b, "JUSTIFICATION FOR PROGRAM ACCOUNT AMENDMENT". (i) Item 4—Grant

Number: Enter the action number assigned by CSA to the original grant.

(ii) Item 6—Grantee Explanation: Explain clearly why the amendment is needed, including expected results.

Appendix a to Subpart 1067.70—Glossary

1. *Administering Agency.* A CAA or delegate agency with direct responsibility for operating all or portions of a project.2. *Amendment.* A change in the work program of a project or the budget of an already funded program account that does not require new, additional, or supplemental CSA funds.3. *Area boards or councils.* Boards or councils meeting CSA composition requirements and operation within an area served by the CAA. Area boards or councils may be subsidiary to the CAA itself or may be boards of separate community-based organizations. They may have major policy-making powers or may serve as advisory groups to the CAA.4. *Assessment.* A generic term for performance measurement in any area: project impact; project progress; project administrative organization; grantee management; standards of effectiveness; compliance; etc.5. *Authorized official.* Governing officials and board and staff officials who have authority to sign funding documents.6. *Community action board.* The principal representative board of a CAA that is a State, political subdivision of a state, or a combination of political subdivisions, through which the CAA administers its program.7. *Community-Based Organizations.* Local organizations composed predominantly, if not entirely, of socio-economically disadvantaged people. In areas served by CAAs, the organizations may assist the CAA in the planning, policy-making, conduct and evaluation of programs within their neighborhoods. They may be delegate agencies or divisions of the CAA or they may be advisory boards of the CAA.8. *Delegate Agency.* An organization with which the CAA has contracted to operate all or portions of a project.9. *Evaluate.* To measure the effectiveness and impact of a CAA's program on poverty in its community, or of individual projects on specific poverty problems.10. *Funding Office.* The CAA Headquarters or Regional Office authorized to obligate funds.11. *Funding period.* The time from effective date of grant to end of the program period or termination date.12. *Funding request.* The CAA application to CSA for funds to implement projects not yet approved for the program period.13. *Goal.* The change the CAA wants to accomplish in a four year period in response to identified poverty problem(s).14. *Governing Board.* The principal representative board of a CAA which is a designated separate public agency or private non-profit organization, possessing full decision-making authority.15. *Grant agreement.* A legally binding instrument which reflects the relationship between grantor and grantee. It transfers money or other things of value to the recipient to support activities to carry out the purposes of the EOA.16. *Grant action.* The action by which CSA authorizes a CAA to operate, either directly or through delegation, one or more projects.17. *Implementation Indicator.* A verifiable quantity or date which allow objective measurement of actual performance as compared to planned performance of a project. A target indicator may be associated with a single activity, a group of activities, or all of the activities of a project. It also may be associated with any quantifiable objective(s) of a project.18. *Monitor.* To systematically review actual performance in comparison to planned performance, and to observe maintenance of grantee eligibility and compliance.19. *Objective.* A specific result, or results, which will occur from implementing a project. Objectives must be verifiable, and if possible they should be quantifiable.20. *Principal Governing Official.* The chief elected official of a state or political subdivision.21. *Principal Officer of Governing or Community Action Board.* The Chair or President of the governing or community action board of a CAA.22. *Program.* The total work effort of a CAA.23. *Program account.* The title and two-digit code CSA assigns to a funding package. This is the level at which CSA approves funds for CAA programs.24. *Program Area.* A classification defined by CSA as a part of the total work effort of a CAA, and which is derived from generic or broad poverty-related problems. (See appendix C.)25. *Program period.* The two year period for which a CAA requests CSA funds.26. *Program Period Ending (PPE).* The last day of the grantee's program period.27. *Program Period Starting (PPS).* The first day of the grantee's program period.28. *Project.* The implementation level of work effort. Resources are applied at this level only. A project is subsidiary to a program area, and there can be more than one project within a single program area.29. *Refunding.* The authorization to continue a community action program.30. *Relationship of problem statement, goal, strategy and objective.* The problem statement describes the incidence, causes and conditions of the poverty-related problem; a goal sets desired broad results; strategy is the possible approach(es) to deal with the problem; and an objective sets specific targets (quantifiable and measurable) which result from implementing the project(s) to impact on the problem and to achieve the goal(s).31. *Strategy.* One or more possible methods of overcoming a cause or improving a condition of poverty.32. *Supplemental Grant.* A CSA grant action awarding funds beyond the CAA level of approved program.33. *Target Area.* A territory with a high incidence of poverty in which the CAA

concentrates operations; a CAA may have more than one target area.

34. *Target Area Residents.* All people who live within the area identified by the CAA as a target area, regardless of whether they are above or below the poverty line.35. *Work Program.* The description of activities to be undertaken to accomplish the objectives of a project.

APPENDIX B TO SUBPART 1067.70—WHERE TO APPLY FOR FUNDS—CSA REGIONAL OFFICES

Region I

Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont. Director, John F. Kennedy Federal Building, Boston, Massachusetts 02203.

Region II

New Jersey, New York, Puerto Rico, Virgin Islands. Director, 26 Federal Plaza, 12nd Floor, New York, New York 10007.

Region III

Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, West Virginia. Director, Old Courthouse Building, P.O. Box 160, Ninth and Market Streets, Philadelphia, Pennsylvania 19105.

Region IV

Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee. Director, 101 Marietta Street, N.W., Atlanta, Georgia 30323.

Region V

Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin. Director, 300 South Wacker Drive, 24th Floor, Chicago, Illinois 60606.

Region VI

Arkansas, Louisiana, New Mexico, Oklahoma, Texas. Director, 1200 Main Street, Dallas, Texas 75202.

Region VII

Iowa, Kansas, Missouri, Nebraska. Director, 911 Walnut Street, Kansas City, Missouri 64106.

Region VIII

Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming. Director, Federal Office Building, 1961 Stout Street, Denver, Colorado 80202.

Region IX

Arizona, California, Guam, Hawaii, Nevada, Pacific Trust Territories. Director, 450 Golden Gate Avenue, P.O. Box 36008, San Francisco, California 94102.

Region X

Alaska, Idaho, Oregon. Director, Arcade Plaza Building, 1321 Second Avenue, Seattle, Washington 98101.

For Section 222 and 230 Fundings—CSA Instructions for each program will indicate where to apply.

BILLING CODE 6315-01-M

LOCATION OF REGIONAL OFFICES AND BOUNDARIES OF JURISDICTION



BILLING CODE 6315-01-C

Appendix C to Subpart 1067.70—Program Areas for Section 221 Local Initiative Funding

Program Areas

Program areas are classifications defined by CSA as parts of the total work effort of a CAA. They are derived from generic or broad poverty-related problems, and are descriptive of needs of poor people. CSA records the program areas selected by CAAs to address local needs and problems, information on characteristics of CAA program participants, measures of accomplishment by project, and amount of resources devoted to program areas for the purpose of reporting to Congress and the public the type and magnitude of its programs.

Listed below are the CSA defined program areas. All projects operated by grantees must be assigned to a program area. Program areas encompass research and demonstration projects, advocacy, mobilization of resources, institutional change, and outreach related to need described by the program area. The amount of resources applied to the program area includes the costs of operating the projects in the program area and a proportional share of the overall CAA administrative cost.

Program Areas for Section 221 Local Initiative Funding

a. *Employment Development and/or Assistance.* This program area helps poor people to secure training and employment to earn a decent living. Examples of projects are job development and placement, vocational training and placement, supportive services to enable people to obtain or continue employment, direct employment, and employment of people with special needs, such as ex-offenders, non-citizens, the aging and handicapped. Projects may include activities designed to help low-income people benefit from employment programs outside the grantee's delivery system, including CETA, to provide mobilized resources directly to poor people, to effect institutional change, and to provide outreach and representation related to the program area.

b. *Income Development and/or Services.* This program area helps poor people to obtain benefits from social insurance programs including social security, workers' compensation, veterans' benefits, benefits for disabled coal miners, medicare, SSI, welfare, pensions and unemployment insurance. The program area helps to bring about changes in legislation, regulations or administrative practices to secure more adequate and dignified assistance, and enable eligible persons to exercise their rights to benefits. Projects may advise clients of benefit programs, refer them to services and help them use available services. Projects may organize community groups to advocate for their interests, plan and act together with other agencies, and contact administrators and public officials. Projects include activities designed to effect institutional change and to provide outreach and representation related to the program area.

c. *Economic Development and/or Assistance.* This program area increases economic activity and consequently the number of jobs and businesses in low-income

areas and helps poor people become entrepreneurs. Projects may provide technical assistance in planning, financing and operating businesses. Projects may create incentives to attract business and industry to low-income areas, or to prevent deterioration of a community's economic base. Projects may provide working capital directly or through a loan fund. Projects may assist farmers improve profitability of crops and livestock. Projects may include activities designed to help low-income people benefit from economic development assistance outside the grantee's delivery system, to provide mobilized resources directly to poor people, to effect institutional change and to provide outreach and representation related to the program area.

d. *Consumer Development and/or Services.* This program area assists poor people to improve money management so they can live better and to get enough serviceable clothing and household furnishings to meet their needs. Projects may provide consumer education, home management training, household budget counselling, assistance in growing food for home use, and advice in using consumer rights of complaint. Projects may establish or operate consumer institutions such as credit unions, buying clubs and community gardens. Projects may organize groups to advocate for expanding or enforcing consumer rights. Projects may include clothing and furniture drives, and maintaining distribution facilities. Projects may include activities designed to help low-income people benefit from consumer services and activities conducted outside the grantee's delivery system, to provide mobilized resources directly to poor people, to effect institutional change, and to provide outreach and representation related to the program area.

e. *Nutritional Development and/or Assistance.* This program area helps poor people to get a nutritionally adequate diet. Projects may provide nutrition education, communal meals, or home delivered meals to the old and sick. Projects may attempt to increase participation of persons entitled to the benefits of nutrition programs such as Food Stamps, WIC, School Breakfast and School Lunch programs. Projects may advocate laws and regulations designed to improve the nutritional status of poor people and to extend entitlement of poor people to benefits. Projects may include activities designed to help low-income people benefit from nutrition programs outside the grantee's delivery system, to provide mobilized resources directly to poor people, to effect institutional change, and to provide outreach and representation related to the program area.

f. *Housing Development and/or Assistance.* This program area helps poor people get adequate housing at an affordable cost. Projects may establish housing development and service organizations, acquire real estate, construct new homes, develop prerequisites for residential development such as utilities and roads, rehabilitate or repair homes including weatherization as a secondary purpose, provide for relocation, help poor people get financial assistance for rent, purchase or improvement of their homes,

locate housing, exercise tenant's rights, and seek correction of building code violations. Projects may provide housing counselling and operate neighborhood improvement projects. Projects may include activities designed to help low-income people benefit from housing programs outside the grantee's service delivery system including loan and grant programs administered by the Farmers' Home Administration of USDA and the Department of Housing and Urban Development, to provide mobilized resources directly to poor people, to effect institutional change, and to provide outreach and representation related to the program area.

g. *Energy Development and/or Assistance.* This program area helps poor people to satisfy their energy needs at an affordable cost. Projects include some weatherization, energy conservation, education, emergency assistance, development of low technology alternative energy sources, and advocacy for changes in the utility rates structure favorable to the poor. Projects may include subsidizing the cost of fuel, utilities and home repairs. Projects may include activities designed to help low-income people benefit from energy programs outside the grantee's delivery system, including Department of Energy programs, to provide mobilized resources to poor people, to effect institutional change and to provide outreach and representation related to the program area.

h. *Transportation Development and/or Assistance.* This program area helps poor people in urban and rural areas to get the transportation they need to meet basic needs such as getting to work, to educational programs, to nutrition programs, to medical services, to welfare services, to social services, to markets, and to participate in community life. The program area also seeks adequate transportation services for poor communities including services for poor people with special needs such as the elderly and handicapped. Projects may transport poor people, or provide links to existing services. Projects may organize groups to advocate for transportation services. Projects may include activities designed to help low-income people benefit from transportation programs outside the grantee's delivery system, to provide mobilized resources directly to poor people, to effect institutional change and to provide outreach and representation related to the program area.

i. *Judicial Development and/or Assistance.* This program area helps prevent people from low-income areas from committing crimes and promotes the successful reintegration of offenders into communities. The program area also seeks a safe environment in low income areas and helps poor people obtain their legal rights. Projects include cooperative efforts between communities and police, counselling, diversionary activities and supportive services for high-risk youth and for ex-offenders, half-way houses, escort services for senior citizens, and legal services. Projects may include activities designed to help low-income people use LEAA programs and other programs outside the CAA service delivery system, to provide mobilized resources directly to poor people, to effect institutional change, and to provide

outreach and representation related to the program area.

j. *Medical Development and/or Assistance.* This program area helps poor people improve individual and community health and prevent or control medical conditions that have differential adverse effects on poor people. The program area includes individual and group efforts to secure more and better health services. Projects include health education, referral to medical services, provision of direct services such as immunization, screening, vision and hearing assessment, physical examinations, medical treatment by general practitioners or specialists, family planning, home health care, dental care, mental health care, mental retardation services, physical rehabilitation services, alcohol and narcotics abuse prevention and treatment, cardiopulmonary resuscitation, venereal disease control, lead poisoning control and rodent control. Projects may organize groups to advocate for more or better health services. Projects may include activities designed to help low-income people use medical and public health services provided outside the grantee's system, to provide mobilized resources directly to poor people, to effect institutional change, and to provide outreach and representation related to the program area.

k. *Educational Development and/or Assistance.* This program area helps poor people secure a level of education and skill to enable them to meet their material and social needs. The program area also includes advocacy for increasing the availability of day care and other educational programs responsive to the needs of the poor. Projects include preschool education, day care, supportive services to such programs, parent education, parent involvement in the schools, tutoring and supervised study, educational enrichment for school age children, remedial education, language instruction, adult education, library services, voter education, truancy and dropout prevention, college counselling, placement and support, career guidance and education and training for the handicapped, and for those with learning disabilities. Projects may organize groups to advocate for different or better educational programs. The program area includes activities designed to help low-income people benefit from special educational programs such as Headstart and ESEA programs, including programs operated outside the grantee's delivery system, to provide mobilized resources directly to poor people, to effect institutional change and to provide outreach and representation related to the program area.

l. *Individual/Family development and/or Assistance.* This program area helps poor people achieve optimal personal and social development and adjustment. The program area also advocates for providing needed services and for changes in institutions to deal more humanely with people subject to their jurisdictions, and to prevent discrimination on racial, ethnic, sex or age grounds. Projects include family and individual counselling, information on civil rights, crisis intervention, protective services, immigration services, translation services, ethnic and cultural activities, social, athletic

and crafts activities, friendly visiting, homemaker services, camping, and improving personal appearance. The program area includes activities to help low-income people benefit from social development/assistance, programs outside the grantee's delivery system, to provide mobilized resources directly to poor people to effect institutional change, and to provide outreach and representation related to the program area.

m. *Group Development and/or Assistance.* This program area seeks to improve services involving two or more program areas, organize services better, improve opportunities for minorities, women and the handicapped, expand opportunities for the poor to participate effectively in governing their communities, promote more effective use of existing services, foster voluntary activity, and raise funds. Projects include organizing and providing support to groups of poor people, joint planning and action with other agencies, developing and implementing affirmative action programs, and stimulating affirmative action by others. The program area includes activities to help low-income people benefit from group development/assistance programs outside the grantee's delivery system, to provide mobilized resources directly to groups of poor people, to effect institutional change, and to provide outreach and representation related to the program area.

Appendix D to Subpart 1067.70—Program Account Codes

Program Account Codes

- 01 Local Initiative/CAA Administration.
- 05 Local Initiative Program.
- 02 Youth Sports—Summer Personnel.
- 03 Youth Sports—Other.
- 04 Youth Sports—Winter Program.
- 60 Summer Recreation—Personnel.
- 10 Summer Recreation—Other.
- 06 SOS—Personnel.
- 07 SOS—Non-Personnel.
- 08 SEO—Training.
- 09 SEO—Other.
- 12 Nutrition—Access.
- 13 Nutrition—Self-Help.
- 15 Nutrition—Consumer Education.
- 16 Nutrition—Crisis Relief.
- 29 Nutrition—Research.
- 39 Nutrition—Demonstrations.
- 42 Nutrition—T&TA—Seminars.
- 43 Nutrition—T&TA—On-Site Assistance.
- 44 Nutrition—T&TA—Other.
- 48 Nutrition—Evaluation.
- 18 Migrants and Seasonal Farmworkers.
- 21 Energy—Weatherization.
- 22 Energy—Crisis Intervention.
- 23 Energy—Consumer Information, Education, Legal Assistance.
- 24 Energy—Transportation.
- 25 Energy—Alternate Energy Sources.
- 80 Energy—Emergency Energy Assistance.
- 50 Energy—Research.
- 53 Energy—Demonstration.
- 54 Energy—T&TA—Seminars.
- 56 Energy—T&TA—On-Site Assistance.
- 57 Energy—T&TA—Other.
- 58 Energy—Evaluation.
- 19 Technical Assistance—Grantee Administration.
- 27 Technical Assistance—Grantee Program.
- 28 Technical Assistance—Other.

- 31 Rural Housing—Community Development.
- 32 Rural Housing—Management Services.
- 33 Rural Housing—Training & Technical Assistance.
- 36 Rural Housing—New Home Manufacture.
- 37 Rural Housing—Repair/Rehabilitation.
- 38 Rural Housing—Housing Subsidies.
- 64 Special Assistance.
- 63 Economic Development—Special Impact.
- 49 Economic Development—Rural Programs.
- 51 Economic Development—Rural Development Finance.
- 52 Economic Development—Community Development Finance.
- 61 Economic Development—Training & Technical Assistance.
- 66 Economic Development—Demonstration.
- 67 Economic Development—Research.
- 68 Economic Development—Evaluation.
- 69 Economic Development—Planning Grants.
- 71 Evaluation—Type I.
- 73 Evaluation—Type II.
- 75 Evaluation—Type III.
- 78 Evaluation—Other.
- 82 Research and Evaluation.
- 84 Demonstration.
- 98 Program Administration.

Descriptions of Activities Which May Be Conducted, Singly or in Combination Under Each Program Account

01. *Local Initiative/CAA Administration (221).* Includes support for general administration and management of central staff, facilities, and equipment of the community action agency. Coordination, mobilization of resources, general management, information collection and use, as well as planning, program development, and evaluation activities undertaken by CAAs as part of their overall administrative and management responsibilities are included in this account. Support of the CAA board's functioning should also be included. Administrative overhead costs for delegate agencies or general support functions performed by the CAA for such delegate agencies where these costs are not related to specific programs may be included as appropriate. However, this activity does not include administration or management directly linked to specific program activities such as community nutrition activities, etc. Such administrative overhead should be reported under the account designated for that program.

02. *Youth Sports—Summer Personnel (227).* Includes the personnel costs to operate the national youth sports program during the summer months, June through late August or mid September. This program provides disadvantaged youths the opportunity for sports skills instruction, sports competition, learning good health practices, and career and educational opportunities. Stipends should not be included in this account.

03. *Youth Sports—Summer Other (227).* Includes the non-personnel costs to operate the national youth sports program during the summer months, June through late August or mid September.

04. *Youth Sports—Winter Program (227).* Includes all costs, both personnel and non

personnel to operate the national youth sports program during the winter months, September through May.

05. *Local Initiative Program (221).* The basic purpose of community action programs as stated in the Economic Opportunity Act is "to stimulate a better focusing of all available local, State, private, and Federal resources upon the goal of enabling low-income families, and low-income individuals of all ages, in rural and urban areas, to attain the skills, knowledge, and motivations and secure the opportunities needed for them to become fully self-sufficient." This purpose may be accomplished by programs designed and/or selected at the local level to meet specific community needs. They may deal with particular concerns in such areas as housing, manpower, education, health, day care, consumer affairs, economic development, general social services, etc. They may focus on particular target groups such as youth. They may employ some type of neighborhood center(s) as a means of reaching persons and delivering services.

06. *Senior Opportunities and Services—Personnel (222)(A)(7).* Includes the personnel costs to identify and meet the needs of older poor persons above the age of 60, in projects which serve or employ older persons as the predominant or exclusive beneficiary or employee group. Among other things, such projects may seek to develop and provide new employment and volunteer services; effective referral to existing health, welfare, employment, housing, legal, consumer, transportation, education, recreational, and other services; stimulation and creation of additional services and programs to remedy gaps and deficiencies in presently existing services and programs; modification of existing procedures, eligibility requirements and program structures to facilitate the greater use of, and participation in, public services by the older poor; development of all-season recreation and service centers controlled by older persons themselves; and such other activities and services as are necessary or specially appropriate to meet the needs of the older poor and to assure them greater self-sufficiency.

07. *Senior Opportunities and Services—Other (222)(a)(7).* Includes the non-personnel costs associated with the program described in Program Account 06, above.

08. *SEO—Training (231).* Includes all costs directly associated with providing training and technical assistance by the SEOs to communities, state and local agencies and to community action agencies in carrying out the programs under the Economic Opportunity Act.

09. *SEO—Other (231).* Includes other costs incurred by the SEOs not included as training and technical assistance under account 08.

10. *Summer Recreation—Other (222)(a)(13).* Includes non-personnel costs associated with the summer recreation program which is aimed at expanding and improving recreational services and activities for the economically disadvantaged youths. (Personnel costs associated with this program are shown under Program Account 60.)

12. *Nutrition—Access (222)(a)(5).* Includes operating program costs associated with

improving the opportunities for low-income people to gain access to, and participate in Federal and non-Federal food and nutrition programs.

13. *Nutrition—Self-Help (222)(a)(5).* Includes operating program costs associated with projects designed to foster self-sufficiency through the mobilization of financial and community resources. Examples include buying clubs, community gardens, food raising co-ops, community canneries, farmer-to-consumer sales and greenhouse food production.

15. *Nutrition—Consumer Education (222)(a)(5).* Includes operating program costs associated with improving the ability of low-income individuals and families to understand the connection between diet and health, to obtain at the lowest prices nutritionally superior food and to prepare and preserve these foods in ways that minimize the loss of nutrients.

16. *Nutrition—Crisis Relief (222)(a)(5).* Includes operating program costs associated with the provision of food vouchers, foodstuffs or funds to purchase food stamps on a temporary or crisis basis. (For additional Program accounts dealing with nutrition see numbers 29, 39, 42, 43, 44 and 48.)

18. *Migrants and Seasonal Farmworkers (Title III-B).* Includes costs associated with the provision of services to migrant and seasonal farmworkers such as weatherization, transportation, housing, training, technical assistance, etc.

19. *Training & Technical Assistance—Grantee Administration (230).* Includes costs associated with providing training and technical assistance to improve and maintain the administrative and managerial capacity of CSA-funded grantees, such as accounting, personnel, property or Board training. (For additional program accounts dealing with Technical Assistance see numbers 27 & 28).

21. *Energy—Weatherization (222)(a)(12).* Includes costs associated with home repairs and energy saving improvements to minimize heat transfer and improve thermal efficiency of dwellings.

22. *Energy—Crisis Intervention (222)(a)(12).* Includes costs associated with the intervention to prevent hardship or danger to health due to utility shut-off or lack of fuel.

23. *Energy—Consumer Information, Education & Legal Assistance (222)(a)(12).* Includes cost associated with the dissemination of energy conservation information, conduct of energy conservation educational activities, and the representation of the interests of the poor in public proceedings, for example, energy policy and utility rate structure.

24. *Energy—Transportation (222)(a)(12).* Includes costs associated with efforts to offset the increased costs to the poor of transportation needed for access to essential services and employment.

25. *Energy—Alternate Energy Sources (222)(a)(12).* Includes costs associated with the development and application to energy needs of the poor those technologies that capitalize on non-fossil fuels and renewable energy resources, or make conventional fuels available to the poor at substantially

decreased costs and/or at increased energy efficiency.

(For additional program accounts dealing with Energy see numbers 50, 53, 54, 56, 57 and 58).

27. *Training & Technical Assistance—Grantee Program (230).* Includes costs associated with the providing of training and technical assistance in specific program areas such as housing, mobilization of resources, etc.

28. *Training & Technical Assistance—Other (230).* Includes costs associated with training and technical assistance which does not relate specifically to grantee administration or grantee program areas.

29. *Nutrition—Research (222)(a)(5).* Includes costs associated with the development of new knowledge about hunger and malnutrition among the poor and/or ways to deal with their problems approved under the authority of Section 222(a)(1) of the EOA.

31. *Rural Housing—Community Development (222)(a)(11); (232).* Includes costs associated with providing assistance to effect infrastructure development (e.g. water, sewer, zoning and housing projects).

32. *Rural Housing—Management Services (222)(a)(11); (232).* Includes costs associated with providing management services to assist grantees in the acquisition and maintenance of default housing. Also, includes costs associated with providing housing assistance (such as homeownership and default counselling, homesteading, advocacy and legal services) to individuals and tenant organizations.

33. *Rural Housing—Training & Technical Assistance (222)(a)(11); (232).* Includes costs associated with area and state-wide housing development corporations designed to provide technical assistance, seed money, training and advocacy support in the housing area. Also includes costs associated with developing innovative and effective packaging techniques to obtain loan subsidies for self-help, home repair, rehabilitation and construction projects.

36. *Rural Housing—New Home Manufacture (222)(a)(11); (232).* Includes costs associated with the development of housing factory delivery systems for building low cost housing.

37. *Rural Housing—Repair/Rehabilitation (222)(a)(11); (232).* Includes costs associated with the repair and rehabilitation of housing for low-income families. Also includes costs associated with removing architectural barriers from the homes of low-income disabled individuals.

38. *Rural Housing—Housing Subsidies (222)(a)(11); (232).* Includes costs associated with the development of alternative financing mechanisms for low cost housing production.

39. *Nutrition—Demonstrations (222)(a)(5).* Includes costs associated with experimental, pilot or demonstration projects which test new or improved approaches to combatting the problems of hunger and malnutrition.

42. *Nutrition—T&TA Seminars (222)(a)(5).* Includes costs associated with holding nutrition related T&TA seminars for persons from two or more agencies. Such seminars should help grantees plan, conduct and/or evaluate nutrition programs.

43. *Nutrition—T&TA On Site Assistance (222)(a)(5)*. Includes the cost of providing nutrition related T&TA services to specific grantee personnel at the grantee's location. Such services should help a specific grantee plan, conduct and/or evaluate nutrition programs.

44. *Nutrition—T&TA Other (222)(a)(5)*. Includes any costs of a T&TA nature related to nutrition which is not classified as seminar or on-site assistance in program accounts 42 and 43.

48. *Nutrition—Evaluation (222)(a)(5)*. Includes costs associated with evaluation of nutrition projects approved under the authority of Section 222(a)(5) of the EOA. Does not include cost for grantees self evaluation.

49. *Economic Development—Rural Programs (Title VII)*. Includes costs associated with meeting the special economic needs of rural communities and areas pursuant to Title VII, Part B of the EOA.

50. *Energy—Research (222)(a)(12)*. Includes costs of research related to energy type projects approved under the authority of Section 222(a)(12) of the EOA.

51. *Economic Development—Rural Development Finance (Title VII, Part C)*. Includes costs associated with the development, testing and operation of rural financial support mechanisms in conjunction with loans from the Rural Development Loan Fund.

52. *Economic Development—Community Development Finance (Title VII, Part C)*. Includes costs associated with the development, testing and operation of community financial support mechanisms in conjunction with loans from the Community Development Loan Fund.

53. *Energy—Demonstrations (222)(a)(12)*. Includes costs associated with experimental, pilot or demonstration projects which test new or approved approaches to solving the energy problems of the poor.

54. *Energy—T&TA Seminars (222)(a)(12)*. Includes costs associated with holding energy related T&TA seminars for persons from two or more grantees. Such seminars should help grantees plan, conduct and/or evaluate energy programs.

56. *Energy—T&TA On Site Assistance (222)(a)(12)*. Includes the cost of providing energy related T&TA services to specific grantee personnel at the grantees' location. Such services should help a specific grantee plan, conduct and/or assess energy projects.

57. *Energy—T&TA Other (222)(a)(12)*. Includes any costs of a T&TA nature related to Energy which is not classified as services or on-site assistance in program accounts 54 and 56.

58. *Energy—Evaluation (222)(a)(12)*. Includes costs associated with evaluation of energy projects approved under the authority of Section 222(a)(12) of the EOA.

60. *Summer Recreation—Personnel (222)(a)(13)*. Includes all personnel costs associated with the summer recreation program which is aimed at expanding and improving recreational services and activities for the economically disadvantaged youths. (Non-personnel costs associated with this program are shown under Program Account 10)

61. *Economic Development—Training & Technical Assistance (Title VII, Part D)*. Includes training and technical assistance costs related to economic development projects approved under the authority of Title VII, Part D of the EOA.

63. *Economic Development—Special Impact (Title VII, Part A)*. Includes costs associated with community development corporation projects approved under the authority of Title VII, Part A of the EOA.

64. *Special Assistance (234)*. Includes costs associated with projects serving groups of low income individuals who are not being effectively served by other Title II programs.

66. *Economic development—Demonstration (Title VII, Part D)*. Includes costs associated with pilot and demonstration activities approved under the authority of Title VII, Part D of the EOA.

67. *Economic Development—Research (Title VII, Part D)*. Includes costs associated with research activities approved under the authority of Title VII, Part D of the EOA.

68. *Economic Development—Evaluation (Title VII, Part D)*. Includes costs associated with evaluation activities approved under the authority of Title VII, Part D of the EOA.

69. *Economic Development—Planning Grants (Title VII, Part D)*. Includes costs associated with economic development planning grants approved under the authority of Title VII, Part D of the EOA.

71. *Evaluation—Type I (Title IX)*. Includes costs associated with national impact evaluation strategies approved under the authority of Title IX.

73. *Evaluation—Type II (Title IX)*. Includes costs associated with determining the relative effects of different program strategies, intervention techniques and administrative processes employed to implement a national program approved under the authority of Title IX.

75. *Evaluation—Type III (Title IX)*. Includes costs associated with assessing the effectiveness and efficiency of individual grantees and projects.

78. *Evaluation—Other (Title IX)*. Includes costs associated with assessment projects not included under program accounts 71, 73 and 75. Examples might include short-term studies that respond to policy-relevant questions.

80. *Energy—Emergency Energy Assistance (222)(a)(12)*. Includes costs associated with a special one-time assistance program to provide immediate assistance in those crisis situations which endanger the health and survival of eligible low-income household members.

82. *Research and Evaluation (Title I); (232)*. Includes costs associated with basic research and related evaluation conducted to provide meaningful information for formulating new programs and policies affecting the poverty population in program areas not included elsewhere. Specifically excluded are nutrition (29, 39, 48) energy (50, 53, 58) rural housing (31, 32, 33, 36, 37, 38) economic development (67, 68) and Title IX (71, 73, 75, 78).

84. *Demonstration (232)*. Includes costs associated with pilot or demonstration projects designed to test or assist in the development of new approaches or methods which will aid CSAs poverty population.

98. *Program Administration*. Includes costs incurred by Federal employees for the overall direction, management, coordination and support of all CSA programs and related anti-poverty programs of other Federal, State and local agencies.

BILLING CODE 6315-01-M

APPENDIX E TO SUBPART 1067.70—CHART OF DOCUMENTS

CHART OF DOCUMENTS:

TYPE OF ACTIVITY	FORM NO. AND TITLE	TO CSA	CAA FILES	WHEN TO SUBMIT	CSA INSTRUCTIONS
PLANNING:					
1. Planning Documents					
a. CAA planning process narrative	None	x		12-18 months before initial PPS	6710-1a, "CSA Grantee Program Management System. Vol. I: A Manual for CAA Planning, Application and Performance"
b. Governing board certification letter	None	x		"	"
2. CAA Four Year Plan of Action					
a. Plan Statement	CSA 511, "Four Year Plan Statement"	x		180 days before initial PPS	"
b. Plan Certification	CSA 510, "Grantee Plan Summary Data and Certification"	x		"	"
ESTABLISHING ELIGIBILITY:					
1. Eligibility Certification	CSA 395 rev. 1/79, "Grantee Refunding Certification"	x		"	"

APPENDIX E

CHART OF DOCUMENTS:

TYPE OF ACTIVITY	FORM NO. AND TITLE	TO CSA	CAA FILES	WHEN TO SUBMIT	CSA INSTRUCTIONS
APPLYING FOR FUNDS:					
1. Clearinghouse Procedure	SF 424, "Federal Assistance"			To clearinghouse 150 days before PPS	6710-3a, "CSA Procedures for the Federal Project Notification and Review System"
2. Initial Grants and Supplemental Funding	SF 424, "Federal Assistance"	x		90 days before PPE	6710-1a "CSA Grantee Program Management System. Vol. I: A Manual for CAA Planning, Application and Performance"
	CSA 512, "Grantee Work Program Summary and Application Certification"	x		"	"
	CSA 513, "Grantee Board and Participants Characteristics"	x		"	"
3. Statement of Accounting System	CSA 514, "Grantee Work Program and Progress Report"	x		"	"
	CSA 515, "Grantee Budget Information"	x		"	"
	CSA 509, "Delegate Agency Basic Information/Funding Estimate"	x		"	"
	Affirmative Action Plan* AAP Data Sheet*	x		"	"
	SF 100, "Employer Information Report, EEO-1"	x		"	"
	None	x		Before release of funds	6801-1 and 6801-1, Change 1, "Grantee Fiscal Responsibility and Auditing"

*Not required for Supplemental Funding

APPENDIX E

CHART OF DOCUMENTS:

TYPE OF ACTIVITY	FORM NO. AND TITLE	TO CSA	CAA FILES	WHEN TO SUBMIT	CSA INSTRUCTIONS
AMENDMENTS:					
1. Preliminary Audit Survey	SF 424, "Federal Assistance"	x		30 days before effective date	6710-3a, "CSA Procedures for the Federal Project Notification and Review System"
	CSA 512, "Grantee Work Program Summary and Application Certification"	x		"	6710-1a, "CSA Grantee Program Management System. Vol. I: A Manual for CAA Planning, Application and Performance"
	CSA 513, "Grantee Board and Participants Characteristics"	x		"	"
	CSA 514, "Grantee Work Program and Progress Report"	x		"	"
	CSA 25b, "Justification for Program Account Amendment"	x		"	"
REPORTING:					
1. Preliminary Audit Survey	None	x		90 days after effective date of initial grant	6801-1 and 6801-1, Change 1, "Grantee Fiscal Responsibility and Auditing"
2. Program Progress Reports	CSA Form 514, "Grantee Work Program and Progress Report"	x		60 days after reporting period (6th, 15th, 24th month)	6710-1a, "CSA Grantee Program Management System. Vol. I: A Manual for CAA Planning, Application and performance"
3. Progress Report of Affirmative Action Plan and updated AAP Data Sheet if needed	None	x		With 15th month PPR	6004-2, "Requirement for Affirmative Action Civil Rights Program"

APPENDIX E

CHART OF DOCUMENTS:

TYPE OF ACTIVITY	FORM NO. AND TITLE	TO CSA	CAA FILES	WHEN TO SUBMIT	CSA INSTRUCTIONS
4. Quarterly Financial Reporting	SF 269, "Financial Status Report" SF 272, "Federal Cash Transactions Report"	x		15 working days after end of each quarter of program period & within 90 days of PPE	6800-8, "Financial Reporting Requirements"
5. Administrative Costs	CSA 315(d) "The Administrative Costs Report"	x		Annually, 20 days after end of 6th month of each year of program period	6807-1, "Limitation on CAA Administrative Costs"
6. Property Inventory					
a. Equipment requirements list	None	x		With initial grant application	7001-01a, "Grantee Property Administration"
b. Property inventory	None	x		Annually 75 days before end of each year of program period	"
DOCUMENTS RELATED TO DELEGATE AGENCIES:					
1 a. Compensation Comparability	CSA 395, rev 1/79, "Grantee Refunding Certification"		x		6710-1a, "CSA Grantee Program Management System. Vol. I: A Manual for CAA Planning, Application and Performance"

APPENDIX E

CHART OF DOCUMENTS:

TYPE OF ACTIVITY	FORM NO. AND TITLE	TO CSA	CAA FILES	WHEN TO SUBMIT	CSA INSTRUCTIONS
2. Delegate Agency Contract	CSA Form 280, "Agreement for Delegation of Activities Under Grant No..."		x		6710-1a, "CSA Grantee Program Management System. Vol. I: A Manual for CAA Planning, Application and Performance"
3. Bonding (if delegate will spend an average of \$1,000 per month or more)	None		x		

Appendix F to Subpart 1067.70—Agreement for Delegation of Activities Under Grant No._____

This agreement entered into as of _____, 19____, including all attachments and conditions annexed hereto (which are expressly made part hereof), shall govern certain activities of the _____ (name of program account for the delegated activities) financed under Grant No. _____ during the period _____ to _____, which are to be carried out by _____ (name of delegate agency), hereinafter referred to as the "Delegate", on behalf of _____ (name of grantee), hereinafter referred to as the "Grantee."

The Grantee and Delegate agree as follows:

1. **WORK TO BE PERFORMED.** The Delegate shall, in a satisfactory manner as determined by the Grantee, perform all activities in Attachment "A".

2. **COMPLIANCE WITH APPROVED PROGRAM.** All activities authorized by this agreement will be performed in accordance with the approved work program, the approved budget, the grant conditions and relevant CSA directives.

3. **REPORTS, RECORDS & EVALUATIONS.** The Grantee shall supervise, evaluate, and provide guidance and direction to the Delegate in the conduct of activities delegated under this contract. The Delegate agrees to submit to the Grantee such reports as may be required by CSA directives or by the Grantee, including the reports listed in Attachment "B" according to the schedule there set out.

The Delegate also agrees to prepare and retain, and permit the Grantee to inspect as it deems necessary for grant purposes (in addition to inspections authorized by the conditions in the grant from CSA) the records listed in Attachment "C", as well as all other records that may be required by relevant CSA directives, with the exception of confidential client information. The Delegate further agrees that the Grantee may carry out monitoring and evaluation activities to include, at a minimum, those listed in Attachment "D", and will effectively ensure the cooperation of the Delegate's employees and board members in such efforts.

4. **CHANGES.** The Grantee may, from time to time, request changes in the scope of the services of the Delegate to be performed hereunder. Such

changes, including any increase or decrease in the amount of the Delegate's compensation, which are mutually agreed upon by and between the Grantee and the Delegate, must be incorporated in written amendments to this contract.

5. **COMPLIANCE WITH LOCAL LAWS.** The Delegate shall comply with all applicable laws, ordinances, and codes of the state and local governments.

6. **COVENANT AGAINST CONTINGENT FEES.** The Delegate warrants that no person or selling agency or other organization has been employed or retained to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee. For breach or violation of this warrant the Grantee shall have the right to annul this contract without liability or, in its discretion, to deduct from the contract or otherwise recover the full amount of such commission, percentage, brokerage, or contingent fee, or to seek such other remedies as legally may be available.

7. **SCHEDULE OF PAYMENT.** Subject to receipt of funds from CSA, the Grantee agrees to reimburse the Delegate for authorized expenditures. An advance of \$_____ for estimated expenditures for _____ (months) will be made to the Delegate, who will submit to the Grantee vouchers that are sufficient to support payment under the Grantee's accounting procedures established or approved by the Grantee's accountant. Within _____ days the Grantee will approve or disapprove payment of the vouchers, and will make additional payments equal to the amount of such approved expenditures to the Delegate. In no event, however, will the Delegate receive reimbursement for personnel costs exceeding \$_____, or for non-personnel costs exceeding \$_____, except as it has received prior written authorization from the Grantee, which is incorporated into and shall be attached to this contract.

8. **TERMINATION.** The Grantee may, by giving reasonable written notice specifying the effective date, terminate this contract in whole or in part for cause, which shall include: (1) failure, for any reason, of the Delegate to fulfill in a timely and proper manner its obligations under this contract, including compliance with the approved program and attached conditions, with statutes and Executive Orders, and with such

CSA directives as may become generally applicable at any time; (2) submission by the Delegate to CSA or to the Grantee of reports that are incorrect or incomplete in any material respect; (3) ineffective or improper use of funds provided under this contract; and (4) suspension or termination by CSA of the grant to the Grantee under which this contract is made, or the portion thereof delegated by this contract. The Grantee may also assign and transfer this contract to another grantee when required to do so by CSA direction.

If the Delegate is unable or unwilling to comply with such additional conditions as may be lawfully applied by CSA to the grant to the Grantee, the Delegate shall terminate the contract by giving reasonable written notice to the Grantee, signifying the effective date thereof. In such event the grantee may require the delegate to ensure that adequate arrangements have been made for the transfer of the delegated activities to another Delegate or to the Grantee.

In the event of any termination, all property and finished or unfinished documents, data, studies, and reports purchased or prepared by the Delegate under this contract shall be disposed of according to CSA directives, and the Delegate shall be entitled to compensation for any un-

reimbursed expenses reasonably and necessarily incurred in satisfactory performance of the contract. Notwithstanding the above, the Delegate shall not be relieved of liability to the Grantee for damages sustained by the Grantee by virtue of any breach of the contract by the Delegate and the Grantee may withhold any reimbursement to the Delegate for the purpose of set-off until such time as the exact amount of damages due the Grantee from the Delegate is agreed upon or otherwise determined.

9. **NON-FEDERAL SHARE.** The Delegate will contribute \$_____ to the program funds. Such contribution shall be in cash in the amount of \$_____, and in-kind in the amount of \$_____. (If none, state "none.")

10. **REVIEW OF NEW DIRECTIVES.** The Grantee will submit promptly to the Delegate for comment those proposed additional directives that it receives from CSA for comment.

In witness whereof, the Grantee and the Delegate have executed this agreement as of the date first above written.

Delegate Grantee

By: _____ By: _____
Position: _____ Position: _____

June 1979

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Appendix G to Subpart 1067.70—General Conditions Governing Grants

General conditions governing grants under titles II, III-B and VII of the Economic Opportunity Act of 1964, as amended (including amendments made by the Community Services Act of 1974).

Program funds expended under authority of this funding action are subject to the provisions of the Community Services Act of 1974, the general conditions listed below, any attached special grant conditions, and Community Services Administration (CSA) directives. The grantee is expected to inform CSA promptly if it fails to receive, or has reason to believe it has failed to receive, all CSA applicable directives or any attachments to the Statement of OEO Grant. Many of those provisions do not represent invariable policies of the CSA and exceptions should be requested in cases in which compliance with one or more of them would cause unnecessary difficulties in carrying out the approved program. Requirements found in grant conditions or CSA directives may be waived only by a written notification signed by an authorized CSA official. Any such waiver must be explicit; no waiver may be inferred from the fact that the funding action is responsive to a grant funding request which may have contained material inconsistent with one or more of these conditions.

1. Definitions. As used in these conditions:

(a) An "approved program" consists only of those activities described in the grant funding request for which funding is approved in the Statement of OEO Grant and its attachments (which may include modifications of proposed activities) or in CSA approved written amendments to the Statement of OEO Grant.

(b) "Program account funding period" extends from the effective date of a new or refunding action through the termination date or expiration of planned number of months for which funding is provided.

(c) "Total program funds" refers to all amounts approved for expenditure for the approved program as shown on the Statement of OEO Grant, whether such amounts are derived from Federal or non-Federal sources, or whether they are provided in cash or in kind.

(d) "CSA directives" are statements of policy and procedure published in the CSA publications system.

2. *Applicability of conditions to delegate agencies.* These conditions are applicable both to the grantee and to any delegate agency or organization that, pursuant to an agreement with the grantee, undertakes responsibility for any part of the approved program. Such an agreement may be entered into only if (1) the intention to make such a delegation to the particular agency has been set forth in the funding request for this grant action or has otherwise been approved by CSA, and (2) the contract contains all of the provisions found in the approved "Standard Contract Form for Delegation of Program Accounts."

3. *Limitations on expenditure of program funds.* Expenses charged against program funds may not be incurred prior to the effective date of the grant or subsequent to

the grant termination date and may be incurred only as necessary to carry out the purposes and activities of the approved program. Such expenditures may not exceed the maximum limits shown on the Statement of OEO Grant or those subsequently approved for that approved program, subject to allowable flexibility guidelines published by CSA. All expenses incurred for the approved program must be supported by approved contracts, purchase orders, requisitions, bills, or other evidence of liability consistent with the grantee or delegate agency's established purchasing procedures. Expenses charged against program funds must also be incurred in accordance with CSA directives. Liabilities of the grantee or its delegate agencies to third parties as a result of termination action which are costs of phasing out in accordance with CSA directives or are specifically approved shall be considered proper expenditures of program funds. CSA will determine the disposition of unexpended funds at the termination of the grant.

4. *Limitations of expenditures of Federal funds.* Expenditures of funds derived from Federal grant funds must not exceed in any event the amount of the Federal grant shown in the Statement of OEO Grant. (Column 9, OEO Form 314). Moreover, if a minimum non-Federal percentage of program funds is shown in the Statement of OEO Grant (Column 10, OEO Form 314), the portion of the total expenditures of the approved program derived from non-Federal sources, valued in accordance with CSA Instructions, must not be less than that minimum percentage of the total program funds for the approved program. This requirement must be met for each program account funding period, and should be substantially true for each financial reporting period. Deficiencies of non-Federal share in one program account may be supplied by an excess in other program accounts consistent with applicable CSA Instructions concerning the pooling of non-Federal share. Further, the amount of total program funds derived from Federal grant funds must not exceed the grantee's allowable costs for the approved program which have been or are to be paid in cash.

5. *Property.* No program funds may be expended or costs incurred for the purchase of real property except as in accordance with regulations on the acquisition, ownership, and disposition of personal property as set forth in CSA directives.

6. *Discrimination prohibited.* No person in the United States shall on the ground of race, color, religion, sex, age, or national origin, be excluded from participation in, be denied the proceeds of, or be subject to discrimination under the program approved as a result of this funding request. The grantee and its delegate agencies will comply with the regulations promulgated by the Director of CSA, pursuant to the Civil Rights Act of 1964, and pursuant to the Community Services Act of 1974.

7. *Discrimination in employment prohibited.* In all hiring or employment made possible by or resulting from this grant action, each employer (1) will not discriminate against any employee or

applicant for employment because of race, color, religion, sex, age, or national origin; and (2) will take affirmative action to ensure all applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, age, or national origin. This requirement shall apply to, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates or pay or other forms of compensation; and selection for training, including apprenticeship. The grantee and its delegate agencies shall comply with all applicable Statutes and Executive Orders on equal employment opportunity and this grant action shall be governed by the provisions of all such Statutes and Executive Orders, including enforcement provisions, as implemented by, but not limited to, CSA directives.

8. *Religious institutions.* The grantees and its delegate agencies shall ensure that any part of the approved program that is conducted by a church or church related institution is entirely non-sectarian in content and purpose, and that CSA directives on grants and delegations to churches or church related institutions are satisfied.

9. *Labor standards.* All laborers and mechanics employed by contractors or subcontractors in the construction, alteration or repair, including painting and decorating, of projects, buildings, and works which are federally assisted under this grant shall be paid wages at rates not less than those prevailing on similar construction in the locality, as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a to 276a-5).

10. *Patents.* Any discovery or invention arising out of or developed in the course of work aided by the grant shall be promptly and fully reported to the Director of CSA for determination as to whether patent protection on such invention or discovery shall be sought and how the rights in the invention or discovery, including rights under any patent issued thereon shall be disposed of and administered, in order to protect the public interest.

11. *Copyrights.* If the grant results in a book or other copyrightable material, the author is free to copyright the work, but CSA reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use, all copyrighted material and any material which can be copyrighted resulting from the approved program.

12. *Reports, records, and inspections.* The grantee and its delegate agencies shall submit financial, program progress, evaluation, and other reports as required by CSA directives, and shall maintain such property, personnel, financial and other records and accounts as are deemed necessary by CSA to assure proper accounting for all program funds. The grantee and its delegate agencies and contractors shall permit on-site inspections by CSA representatives, and shall effectively require employees and board members to furnish such information as, in the judgment of the CSA representatives, may be relevant to a question of compliance with grant

conditions and CSA directives, or the effectiveness, legality, and achievements of the program. All grant records will be made available to the authorized representatives of CSA or the Comptroller General of the United States, and will be retained for three years after the expiration of this grant unless permission to destroy them is granted by the Director of CSA.

13. *Covenant against contingent fees.* The grantee warrants that no person or selling agency or other organization has been employed or retained to solicit or secure this funding action upon an agreement or understanding for commission, percentage, brokerage, or contingent fee. For breach or violation of this warrant the government shall have the right to annul this funding action without liability or, in its discretion, to deduct from the grant or otherwise recover the full amount of such commission, percentage, brokerage, or contingent fee, or to seek such other remedies as may be legally available.

14. *Suspension and termination.* The Director of CSA may in accordance with published regulations, suspend or terminate this grant in whole or in part for cause, which shall include: (1) failure or unwillingness of the grantee or its delegate agencies to comply with the approved program including attached conditions, with applicable statutes and Executive Orders, or with such CSA directives as may become generally applicable at any time; (2) submission by the grantee or its delegate agencies to CSA of reports which are incorrect or incomplete in any material respect; (3) ineffective or improper use of Federal funds by the grantee or its delegate agencies; (4) making any change which significantly impairs the representative character of the grantee's policymaking body or the grantee's capacity to enlist community support; (5) failure of the grantee either to adequately monitor and evaluate program activities delegated to other agencies, or to provide effective guidance to such agencies in carrying out the purpose and activities of the portions of the approved program delegated to them. This grant may also be suspended or terminated in whole or in part in the event the grantee is a Community Action Agency and a new agency is recognized by CSA as the Community Action Agency for all or part of the area served by the grantee in accordance with CSA directives. In such event part of the grant funds and the grantee's or delegate agencies' functions, obligations, records (or copies), authority and property relating to assistance provided to the grantee or its delegate agencies under this funding shall be transferred by the grantee and its delegate agencies to such newly recognized agency. No suspension or termination will effect any expenditures or legally binding commitments made prior to receiving notice of the suspension or termination, provided such expenditures or commitments were made in good faith and not in anticipation of termination and are otherwise allowable. Funds shall not be treated as committed for this purpose solely by virtue of a grantee's contract or other commitment to a delegate agency. Upon suspension or termination, the disposition of unexpended Federal funds and property purchased with program funds will be subject to CSA direction.

15. *Successor authority of Community Services Administration.* By virtue of the Community Services Act of 1974 (P.L. 93-644), the Community Services Administration (CSA) is, in all respects and for all purposes, the successor authority to the Office of Economic Opportunity (OEO).

Pursuant to section 601(d)(2) of the Community Services Act of 1974, all references to the Office of Economic Opportunity, in official documents including but not limited to, grant documents and regulations, shall be deemed to refer to the Community Services Administration, as set forth in OEO Notice 6000-3 "Successor Authority to the Office of Economic Opportunity," dated January 15, 1975 and published in Volume 40 of the Federal Register at page 3213 (January 20, 1975).

All references to "CSA Directives" or "CSA Instructions" in these general conditions, and special conditions attached hereto and the grant-making documents themselves shall be read so as to include all regulations issued by the Office of Economic Opportunity and any subsequent regulations issued by the Community Services Administration. Such regulations, whether referred to as "OEO" or "CSA" regulations, Instructions or Notice, remain in force and are deemed to be the policy statements of the Community Services Administration until superseded, rescinded, or changed.

All references herein to "Statement of OEO Grant", or a portion thereof, are deemed to refer to the document, regardless of form or title, utilized by the Community Services Administration to make grants under the authority of the Community Services Act of 1974.

All references to the Community Services Act of 1974 shall be read so as to include the Economic Opportunity Act of 1964 as amended.

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APPENDIX H TO SUBPART 1067.70—CROSS REFERENCE OF OLD AND NEW FORMS

CROSS REFERENCE OF OLD AND NEW FORMS:

SECTION OF MANUAL	OLD FORM RETAINED	NEW FORM	REPLACES OLD FORM
Planning		CSA 510, "Grantee Plan and Summary Data Certification" CSA 511, "Four Year Plan Statement"	None
Eligibility		CSA 395, rev. 1/79, "Grantee Refunding Certification"	OEO 395, "Grantee Refunding Certification" CAP 11, "Assurance of Compliance with the OEO's Regulations Under Title VI of the Civil Rights Act of 1964" CAP 82, "Maintenance of Effort Certification"
Grant Application/Funding Request	Affirmative Action Plan AAP Data Sheet SF 424, "Federal Assistance"	CSA 512, "Grantee Work Program Summary and Application Certification" CSA 513, "Grantee Board and Participants Characteristics" CSA 514, "Grantee Work Program and Progress Report"	OEO Form 394, "Checkpoint Procedures for Coordination" CAP 84, "Participant Characteristics Plan" CAP 3, "CAA Basic Information (partly)" CSA 419, "Summary of Work Programs and Budget" CSA 440, "Project Progress Review Report"

APPENDIX H

CROSS REFERENCE OF OLD AND NEW FORMS:

SECTION OF MANUAL	OLD FORM RETAINED	NEW FORM	REPLACES OLD FORM
Grant Application/Funding Request - (Cont)		CSA 515, "Grantee Budget Information" CSA 509, "Delegate Agency Basic Information/Funding Estimate" SF 100, "Employer Information Report EEO-1"	CAP 25, "Program Account Budget" CAP 25a, "Program Account Budget Support Sheet" CAP 87, "Delegate Agency Basic Information"
Grant Package	CSA 314, "Statement of CSA Grant" CSA 25c, "Explanation of Budget and Work Program Changes" CSA 29, "Special Condition"		
Amendments	CSA 25b, "Justification for Program Account Amendment" SF 424, "Federal Assistance"	CSA 512, "Grantee Work Program Summary and Application Certification" CSA 513, "Grantee Board and Participants Characteristics" CSA 514, "Grantee Work Program and Progress Report"	OEO Form 394, "Checkpoint Procedure for Coordination" CSA 419, "Summary of Work Programs and Budget"

APPENDIX H

CROSS REFERENCE OF OLD AND NEW FORMS:

SECTION OF MANUAL	OLD FORM RETAINED	NEW FORM	REPLACES OLD FORM
Reporting	Affirmative Action Plan AAP Data Sheet	CSA 512, "Grantee Work Program Summary and Application Certification" CSA 513, "Grantee Board and Participants Characteristics" CSA 514, "Grantee Work Program Progress Report"	CSA 440, "Project Progress Review Report"

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department federal register

Thursday
August 30, 1979

Part III

Department of
Energy

Privacy Act of 1974; Systems of Records

DEPARTMENT OF ENERGY

Privacy Act of 1974; Proposal To Consolidate and Republish Previously Established Systems of Records; Adoption of Previously Proposed System; Proposal of New systems; Proposed Deletion of Systems

AGENCY: Department of Energy (DOE)

ACTION: Proposal to consolidate and republish previously established systems of records; adoption of one previously proposed system; proposal of eight new systems not previously noticed; and proposed deletion of two systems.

SUMMARY: The systems of records established or proposed by DOE's predecessor agencies were formally transferred to the Secretary (or to the Federal Energy Regulatory Commission (FERC) within the Department, as appropriate to their respective functions) (42 FR 54856, October 11, 1977). Since certain of these systems described like records and the description of other systems were no longer accurate in some respects, DOE is consolidating and republishing its systems. While this proposal does not, in the main, address those systems transferred to the FERC, a number of those systems are affected, as further discussed herein.

Additionally, DOE is formally noticing the adoption of a system previously proposed by the Department, proposing eight new systems not heretofore noticed, and proposing the deletion of two systems formerly noticed by predecessor agencies.

DATES: Written comments on or before October 1, 1979.

ADDRESSES: Written comments should be directed to the following address:

U.S. Department of Energy
Public Hearing Management
2000 M Street, NW., Room 2313
Box WQ
Washington, DC 20461

FOR FURTHER INFORMATION CONTACT:

Milton Jordan, Director
U.S. Department of Energy
Division of FOI and Privacy Acts Activities
Forrestal Building, Room GB-137
Washington, DC 20585
(202) 252-5955
William D. Luck
U.S. Department of Energy
Office of General Counsel
12th and Pennsylvania Avenue, NW.
Room 6144
Washington, DC 20461
(202) 633-9296

SUPPLEMENTARY INFORMATION:

- I. Report on New Systems: Proposal to Consolidate and Republish Previously Established Systems.
- II. Discussion: Adoption of Previously Proposed System and Proposal to Establish a New Subsystem to that System.
- III. Report on New Systems: Proposal of Eight New Systems, Not Previously Noticed.
- IV. Discussion: Proposal to Delete Two Systems Previously Established by Predecessor Agencies.
- V. Comment Procedures.
- VI. Table of Contents of All DOE Systems as Adopted or Proposed.
- VII. Table Correlating DOE Proposed System Designations with Those of Predecessor Agencies.
- VIII. Table Correlating Predecessor Agency System Designations with Those Proposed by DOE.
- Listing of All DOE Systems as Adopted or Proposed.

I. Report on New Systems: Proposal To Consolidate and Republish Previously Established Systems

A. Background: This Report on New Systems, covering the proposed consolidation of previously established systems into 59 systems, is submitted by the Department of Energy (DOE), as required by the Privacy Act of 1974, 5 U.S.C. 552a(o), and paragraph 2a(2) of Transmittal Memorandum No. 1 to Office of Management and Budget (OMB) Circular A-108. OMB Circular A-108 requires a Report on New Systems by a Government agency whenever a new system of records is proposed or there occurs a change in the number or types of individuals on whom records are maintained; and expansion in the type or categories of information maintained; an alteration in the manner in which the records are organized, indexed, or retrieved so as to change the nature of scope of those records; an alteration in the

purposes for which the information is used; or a change in the equipment configuration on which the system is operated so as to create the potential for either greater or easier access.

The DOE was established by the Department of Energy Organization Act (Pub. L. 95-91) (DOE Act), which was made effective October 1, 1977, by Executive Order 12009, dated September 13, 1977 (42 FR 46267, September 15, 1977). The DOE Act consolidated in DOE various energy functions previously performed by several Federal agencies so that Federal energy policy and programs might be effectively coordinated and administered. The DOE Act transfers to, and vests in, the Department and the independent collegial body within the Department, the Federal Energy Regulatory Commission (FERC), the functions of the former Federal Energy Administration, the former Energy Research and Development Administration, the former Federal Power Commission, and certain functions previously performed by several other departments and entities.

The departments, agencies, and commissions, or components thereof, which, prior to the DOE Act, discharged the functions which that Act vests in the DOE, established and proposed certain systems of records in accordance with the Privacy Act of 1974 and the substantive authorities vested in them. Those systems of records (or portions thereof) either in existence or proposed prior to October 1, 1977, which relate to the functions which were transferred by the DOE Act to either the Secretary of Energy or to the FERC (or delegated to the FERC by the Secretary) were formally transferred to the Secretary and to the FERC, as appropriate to their respective functions (42 FR 54856, October 11, 1977). In addition, since the formal transfer to DOE of systems of records maintained or proposed by its predecessors, the Department has amended certain of its systems, and proposed the establishment of another (this last matter is taken up in Section II of SUPPLEMENTARY INFORMATION).

At this time, DOE is proposing to consolidate, rename, and renumber its systems of records, in order to better reflect their character as DOE systems, rather than as systems of DOE's predecessor agencies. In some cases, systems with overlapping concerns are being merged. This is the case, for example, with regard to personnel records, travel records, and other administrative records, where predecessor agencies had each established separate systems, but DOE requires only one system for each category of records. In other cases, systems which may have applied only to personnel or regional offices of one predecessor agency have been broadened to encompass larger numbers of employees or facilities.

Accordingly, DOE is publishing the reorganized and renumbered systems which it is proposing. It is intended that at the expiration of the 60-day advance notice period these systems will be operated as proposed. In the interim, DOE will continue to operate each of its current systems of records in accordance with the corresponding system description most recently published.

The most recent republication notices for the DOE systems so affected are as indicated.

- Agency Establishing System and Where Noticed
- Federal Energy Administration
42 FR 53480 (September 30, 1977) for systems FEA-1 through FEA-23
42 FR 54450 (October 6, 1977) for FEA-24 and FEA-25
Energy Research and Development Administration
42 FR 53435 (September 30, 1977)
Federal Power Commission
41 FR 38932 (September 13, 1976)
Department of the Interior (for functions transferred to DOE from the Bureau of Mines, Bureau of Reclamation, and the Power Administrations)
42 FR 18968 (April 11, 1977). See also 43 FR 13640 (March 31, 1978), noticing the transfer of former Interior systems to DOE.

Additionally, subsequent to the publication of the notices just referenced, DOE proposed amendments to the following systems. In each case, no comments to the contrary were received and, by the terms of the proposal notice, the amendments were therefore adopted as proposed at the expiration of the comment period. The following systems were so amended:

- System and Where Noticed
- System FEA-14, 43 FR 18739 (May 2, 1978)
System FEA-23 43 FR 32855 (July 28, 1978)

B. Effect on Federal Energy Regulatory Commission: It should be noted that in general this Report pertains only to that portion of the DOE which excludes the FERC. This Report concerns the FERC only in that seven systems of records, formerly maintained by the FERC's predecessor, the Federal Power Commission (and by virtue of the previously mentioned transfer of systems to the Secretary and FERC, now formally noticed as being maintained by the FERC), will be incorporated entirely into systems to be formally maintained

by DOE. Additionally, one other FERC system will be incorporated in part into a DOE system. The affected FERC systems are those designated as FPC-1, Appeals, Grievances and Complaint Records (in part); FPC-9, Computer Usage Production Statistics for the Office of Regulatory Information Systems; FPC-13, Data Operator Performance Statistics for the Office of Regulatory Information Systems; FPC-19, Mailing List for News Releases; FPC-20, Pay and Pay-Related Records; FPC-21, Personnel Investigations Records; FPC-22, Personnel Records, and FPC-23, Recruiting, Examining and Placement Records.

C. Effect on Individual Privacy and Safeguards Against Unauthorized Access: The consolidation of these systems should have no negative effect on the privacy and other rights of subject individuals. The restructuring of DOE's systems is largely a technical matter. The agency is not creating any more covered records as a result of this action. Indeed, from the perspective of safeguarding against unauthorized access to covered records, the proposed consolidation should have a salutary effect, since it will eliminate situations where different officials were formally responsible for maintaining substantially identical records only because of differing historical derivations of particular systems.

D. Regulations to Implement the Privacy Act: DOE has not yet established Department-wide regulations to implement the Privacy Act, since the consolidations discussed herein were considered necessary prior to proposal of such rules. Until such time as DOE proposes and adopts such Privacy Act regulations, the Department is operating under the Privacy Act regulations of both the former FEA (10 CFR Part 206) and the former ERDA (10 CFR Part 708). This is reflected in the Notification, Record Access, and Contesting Records sections of the various system descriptions, which indicate that "DOE will determine whether 10 CFR Part 206 or Part 708 will apply." Generally, this determination will be made, if possible, by reference to the historical antecedent for the system and/or the record(s) in question. All such determinations will be made on a case-by-case basis. It is hoped that DOE will publish proposed regulations soon and this proposed consolidation should hasten that result.

Those systems under the control of the FERC remain governed by the regulations of the former Federal Power Commission, 18 CFR Part 3b.

II. Discussion: Adoption of Previously Proposed System and Proposal To Establish a New Subsystem to That System.

On September 1, 1978, DOE proposed a system designated at that time as DOE-X, Participants in Experiments, Studies, and Surveys (43 FR 39171). At this time, DOE is adopting the system, as amended in certain respects, and proposing the establishment of an additional subsystem to the system. Under the proposed renumbering of systems contemplated by this notice the system will be known as DOE-67, Participants in Experiments, Studies, and Surveys.

A. Deletion of Proposed Subsystem: One proposed subsystem of DOE-67 was to have covered records generated in response to a survey instrument identified as EIA-86, Residential Energy Consumption Survey. However, DOE is still in the process of revising this form and expects to issue it in approximately 6 months. As a result, the proposed subsystem pertaining to those records has been deleted; it will be repropounded at a later date.

B. Adoption of Subsystems A and B: Greater Specificity in System Description: The Office of Management and Budget, in its September 25, 1978 letter to DOE acknowledging the report on new systems for DOE-X and granting DOE's request for waiver of the 60-day advance notice period to Congress and OMB, suggested that DOE describe the subsystems of DOE-X in greater detail. Accordingly, DOE in this respect has amended the system description previously proposed. DOE-67, as so amended, is contained in the Listing of All DOE Systems as Adopted or Proposed (see Section IX of SUPPLEMENTARY INFORMATION). While the amendments serve to better describe the subsystems of DOE-67, DOE does not consider the amendments to be so significant as to require proposal of DOE-67 as a new system. Therefore, Subsystems A and B, which correspond to portions of the system previously proposed, are hereby adopted as amended.

C. Comments Received on Proposal to Establish DOE-X: Two comments were received by DOE in response to the Federal Register notice proposing DOE-X. However, neither comment has resulted in any amendment to the system. Both EXXON Company, U.S.A. and Kerr-McGee Corporation, as companies required to file form EIA-23, took exception to language in the Report on New Systems and in the "routine uses" section of the system description which suggested that disclosure of covered records outside DOE might occur in appropriate cases. The comments were to the effect that the companies did not favor their responses to the EIA-23 being treated in such a manner. However, since the Privacy Act definition

of "individual" covers only natural persons and since both the notice and system description indicated that the only submitters of form EIA-23 to be covered by the system are "individuals," DOE does not consider the companies' comments to be pertinent, because their responses to the EIA-23 are not part of the system of records.

None of the persons whose records are encompassed by those subsystems of DOE-67 proposed in the DOE-X notice submitted comments on the proposal.

D. Proposal to Establish a New Subsystem of DOE-67

1. Purpose: The Energy Information Administration (EIA) of DOE is developing a program to produce data on energy consumption for major sectors of the economy. The data base for energy consumption in the residential sector of the economy is a survey of households. The first survey, the Form EIA-84, National Interim Energy Consumption Survey, is currently in the field and for purposes of the Privacy Act, the resultant records have been established as Subsystem B in DOE-67. Personal transportation is included in the EIA-84 survey, but those personal transportation data are based on respondent claims of miles traveled and miles-per-gallon for vehicles operated by the household. More accurate methods of measuring vehicle fuel economy in personal transportation are needed, since 43 percent of the direct energy used by households is consumed by household vehicles.

The EIA plan to produce this transportation data is to develop a Transportation Panel whose members would keep records on their fuel purchases and miles traveled. Data on personal transportation, based on the actual use of individual vehicles, will include annual fuel consumption, annual miles traveled, and mileage. The data will be used by DOE and the Department of Transportation for planning purposes and to monitor fuel consumption and vehicle efficiency in the transportation sector.

To obtain such data, DOE plans to conduct a preliminary methodology pretest using Form EIA-141, Transportation Panel. This proposed form has been submitted for clearance to the Office of Management and Budget, in accordance with the provisions of the Federal Reports Act. The methodological pretest will involve two groups of households—a sample of 192 households to test the panel instruments and procedures, and a sample of 60 households to obtain variance estimates. The pretest samples will be selected from the 4,400 households surveyed by the EIA-84. Two types of households will be omitted from the methodological pretest sample: (1) households which had no cars, trucks, or similar vehicles at the time of the household interview; and (2) households which moved between the time of the household interview and the beginning of the transportation panel survey period.

2. Authority, Potential Consequences on Individual Privacy and Safeguards Against Unauthorized Access: Since this data collection effort is so closely related to that involving the Form EIA-84, the records of which are being maintained as Subsystem B of DOE-67, these heading topics are addressed in a fashion virtually identical to the treatment of the Subsystem B records, as more fully set forth in the accompanying system description of DOE-67 in the Listing of All DOE Systems as Adopted or Proposed (see Section IX of SUPPLEMENTARY INFORMATION).

III. Report on New Systems: Proposal of Eight New Systems, Not Previously Noticed

A. Background: This Report on New Systems, consisting of eight separate parts, is submitted by the Department of Energy (DOE) as required by the Privacy Act of 1974, 5 U.S.C. 552a(o), and paragraph 2a(2) of Transmittal Memorandum No. 1 to Office of Management and Budget (OMB) Circular A-108. OMB Circular A-108 requires a Report on New Systems by a Government agency whenever a new system of records is proposed or certain significant changes occur to previously established systems. At this time, DOE is proposing to establish eight systems of records not heretofore noticed. Their proposed designations are as follows:

- DOE-10, Time and Accountability Records.
- DOE-11, Emergency Locator Records.
- DOE-53, Automatic Data Processing (ADP) Management Records.
- DOE-57, Congressional Profiles.
- DOE-60, Environmental Impact Document Monitoring, Processing, and Correspondence Tracking System (IMPACT).
- DOE-62, Historical Files—Published Information Concerning Selected Persons in the Energy Field.
- DOE-65, Energy Extension Service Records.
- DOE-66, Minority Energy Technical Assistance (META) Program Records.

In one case, that of DOE-11, two subsystems of the proposed system had been previously established as separate systems. In addition to making those systems subsystems of a larger, generic system,

this proposal would add to the larger system an additional subsystem consisting of records not previously noticed. The other proposed new systems consist entirely of records not previously noticed. The eight separate portions of this Report on New Systems follow. The system descriptions for these eight systems are contained in the Listing of All DOE Systems as Adopted or Proposed (see Section IX of SUPPLEMENTARY INFORMATION).

B. DOE-10, Time and Accountability Records

1. Purpose: Certain DOE offices, in order to monitor and manage effectively the work they are engaged in, to enable a prudent allocation of their personnel resources, and to plan for future requirements maintain time and accountability reports. This proposed system consists of three subsystems, one each covering such reports pertaining to (1) personnel in the Offices of Enforcement and Special Counsel within the Economic Regulatory Administration, (2) personnel in the Office of Energy Data of the Energy Information Administration, and (3) the attorneys and paraprofessionals in the Office of General Counsel. The specifics of the three subsystems are addressed in detail in the accompanying documentation.

2. Authority: This system is established under the authority vested in the Secretary contained in 5 U.S.C. 301 and Section 644 of the Department of Energy Organization Act, Pub. L. 95-91, to prescribe such procedural and administrative rules as he may deem necessary or appropriate to manage functions vested in him.

3. Potential Consequences on Individual Privacy and: 4. Safeguards Against Unauthorized Access: The records maintained in connection with this proposed system contain only the minimum information necessary for the effective management of the offices concerned. As the system description for this system indicates, there is very little, if any, information retained which would ordinarily be considered to be personal. Also, with regard to each of the subsystems, the records are maintained not to monitor the work performance of individuals, but rather to better understand, control, and prepare adequately for the work flow of the office involved. As a result, DOE does not believe that the maintenance of this system will have any substantial effect on the privacy and other personal or property rights of the subject individuals.

The safeguards for these subsystems are considered to be more than adequate. Access is restricted to authorized management personnel in each subject office, on a need-to-know basis. The technical safeguards for the respective subsystems are recited in the accompanying system description.

C. DOE-11, Emergency Locator Records

1. Purpose: The systems designated as FEA-23, Telephone Numbers and Addresses of DOE Senior and Support Staff, and FEA-24, Strategic Petroleum Reserve Emergency Personnel List, were originally established as a necessary precaution to guard against an emergency situation during which the appropriate official could not otherwise be contacted. Given the similarity of purpose of these two systems, and given the present need to formally establish a system of records to encompass similar records maintained for similar purposes by the Department's Energy Information Administration (EIA), DOE is proposing these three systems as subsystems of a proposed system to be designated as DOE-11, Emergency Locator Records. This arrangement is administratively more convenient for DOE than having three separately established systems, in that it more readily enables the future establishment of additional subsystems, if necessary. The consolidation of these systems into one system should also serve to simplify for the public the task of identifying these related systems from among the list of other DOE systems.

2. Authority: This system is established under the authority vested in the Secretary contained in 5 U.S.C. 301 and Section 644 of the Department of Energy Organization Act, Pub. L. 95-91, to prescribe such procedural and administrative rules as he may deem necessary or appropriate to manage functions vested in him.

3. Potential Consequences on Individual Privacy and: 4. Safeguards Against Unauthorized Access: The consolidation of these three systems into one system with three subsystems should have no effect on either the privacy and other rights of subject individuals, or on the safeguards employed against unauthorized access.

With respect to the establishment of the Energy Information Administration component of this proposed system, DOE does not believe that the maintenance of the subsystem will have any substantial effect on the privacy and other personal or property rights of individuals, since no information is or will be retained in the subsystem other than that which is given voluntarily to the EIA by the subject individuals. The use of the EIA locator records is totally internal to EIA operations, with no access to information contained therein allowed to persons other than those in the immediate office of the EIA Administrator. This limited distribution of these records, coupled with the limited intended use of the records contained in this subsystem, indicates that the operation of the subsystem will have

minimal effect on individual privacy and other personal or property rights.

D. DOE-53, Automatic Data Processing (ADP) Management Records

1. Purpose: A significant function of the DOE Office of ADP Services, located within the Department's Energy Information Administration (EIA), is to manage access to the EIA computer system and to provide some measure of assurance that sensitive information is being properly safeguarded. In order to accomplish this function, it is necessary to record and continually reference the names and other identifying information about those persons who are authorized users of the computer system.

2. Authority: This system is established under the authority vested in the Secretary contained in 5 U.S.C. 301 and Section 644 of the Department of Energy Organization Act, Pub. L. 95-91, to prescribe such procedural and administrative rules as he may deem necessary or appropriate to manage functions vested in him.

3. Potential Consequences on Individual Privacy and: 4. Safeguards Against Unauthorized Access: The records maintained in connection with this proposed system contain only the minimum information necessary for the management of the EIA computer system. As the system description for this system indicates, there is very little, if any, information retained which would ordinarily be considered to be personal.

Even to the extent that the information could be considered to be personal, it is not information of a sensitive nature. As a result, DOE does not believe that the maintenance of this system will have any substantial effect on the privacy and other personal or property rights of the subject individuals.

In addition, given the described nature of the records, the level of safeguards is considered to be adequate, notwithstanding that lower risk storage alternatives were available. Access of these records is limited to authorized personnel on a need-to-know basis.

DOE-57, Congressional Profiles

1. Purpose: DOE personnel, particularly those within the Office of Congressional Affairs, have a continuing need in the ordinary course of conducting the Department's business to keep informed of stands taken on energy issues by members of Congress and to have available some minimal background information on each member and the member's district or State. Having such information on file enables DOE to be better informed, more accurate, and more responsive in its dealings with Congress. As a result, DOE collects and maintains publicly available information (derived from published sources, releases by members' offices, abstracts from the Congressional Record, committee hearings, and other public sources) by the name of each individual member of the current Congress.

2. Authority: This system is established under the authority vested in the Secretary contained in 5 U.S.C. 301 and Section 644 of the Department of Energy Organization Act, Pub. L. 95-91, to prescribe such procedural and administrative rules as he may deem necessary or appropriate to manage functions vested in him.

3. Potential Consequences on Individual Privacy and: 4. Safeguards Against Unauthorized Access: DOE does not believe that the maintenance of this system will have any substantial effect on the privacy and other personal or property rights of the subject individuals. The records retained in this system are not of a sensitive nature; they are compiled from public sources and consist of the kind of information generally available about public figures. Nonetheless, these records are maintained in a building with a 24-hour guard service and access is limited to authorized personnel on a need-to-know basis.

F. DOE-60, Environmental Impact Document Monitoring Processing and Correspondence Tracking System (IMPACT)

1. Purpose: This system is designed to assist the Assistant Secretary for Environment (ASEV) (i) in distributing to interested persons copies of draft and final environmental impact statements (EIS) and notices concerning their publication, comment extensions, and hearings; (ii) in determining whether comments and/or requests for additional information have been submitted in a timely manner; (iii) in determining the status of the National Environmental Policy Act (NEPA) comment process for a specific project or program; (iv) in determining the magnitude and scope of response to any particular EIS; and (v) in maintaining a record of correspondence in case of future litigation.

Whenever an individual contacts DOE requesting or commenting on a NEPA document, his/her name, address, and affiliation (and, if apparent, population segment, e.g., Federal Government, public interest group, library, etc.) are recorded in the system, as are the date of the contact, the NEPA document referenced, and related information.

The ASEV Office of NEPA Affairs uses information contained in this system in planning its activities for assuring compliance with NEPA, such as the review and distribution of NEPA-related docu-

ments. The correspondence-tracking features of the system are intended to better enable DOE's ASEV to comply with certain statutory requirements of NEPA, Council on Environmental Quality (CEQ) guidelines relating to the implementation of NEPA, and related executive orders and judicial decisions. Section 102 of NEPA establishes the requirement for the preparation of EIS's and 40 CFR 1500.9(d) of the CEQ guidelines requires that "agency procedures should make provisions for facilitating the comments of public and private organizations and individuals by announcing the availability of draft environmental statements . . . and, . . . maintain a list of groups . . . known to be interested in the agency's activities and directly notify such groups . . ."

The prime function of the system is to select individuals to receive NEPA documents relative to their particular interests, based upon the individuals' prior requests, comments, or self-described interests. The system is used to produce mailing labels and letters as needed for the selected individuals and to record the receipt and/or acknowledgment of their requests or comments. The system may be queried to determine if all requests have been answered, or to analyze the population segments, location, or other demographic characteristics of the correspondents on any specific NEPA document. This in turn assists the Office of NEPA Affairs in planning its activities.

The system also tracks the procedural history and status of the DOE NEPA review process for each particular NEPA document.

2. Authority: This system is established under the authority vested in the Secretary contained in 5 U.S.C. 301 and Section 644 of the Department of Energy Organization Act, Pub. L. 95-91, to prescribe such procedural and administrative rules as he may deem necessary or appropriate to manage functions vested in him.

Authority for the maintenance of this system is contained in Sections 102(13) and 203 of the Department of Energy Organization Act, which specify that DOE carry out environmental responsibilities and functions, including determining the conformance of DOE activities to environmental protection laws and policies. In addition, the National Environmental Policy Act, Pub. L. 91-190, and Council on Environmental Quality guidelines require that all Federal agencies disseminate to the public pertinent information relative to the NEPA process.

3. Potential Consequences on Individual Privacy and: 4. Safeguards Against Unauthorized Access: The records maintained in connection with this proposed system contain only the minimum information necessary to the management of the NEPA comment process. As the system description for this system indicates, there is very little, if any, information retained which would ordinarily be considered to be personal. Even to the extent that the information could be considered to be personal, it is not information of a sensitive nature. As a result, DOE does not believe that the maintenance of this system will have any substantial effect on the privacy and other personal or property rights of the subject individuals.

It might be argued that the use of a computerized recordkeeping system as part of a data retention function could increase the risk of unauthorized access to the extent that the computer system's access method can be violated. A lower risk alternative would be to record the information contained in the system manually. However, the argument against the computerization of the records was not considered sufficiently persuasive in light of the aims of the IMPACT program. Given the continuing increase in EIS-related correspondence, the manual retrieval of these records would be more likely to result in a lower level of service to DOE's correspondents on NEPA matters and greater confusion in determining whether all interested parties were being properly informed. In addition, given the described nature of the records, the level of safeguards is considered to be more than adequate, notwithstanding the lower risk storage alternative which is available. This system will be operated via a dual-level password mechanism with access and control limited to the ASEV and specified personnel in the Office of NEPA Affairs.

G. DOE-62, Historical Files—Published Information Concerning Selected Persons in the Energy Field

1. Purpose: The Historian's Office within the Executive Secretariat of the Department of Energy is responsible for assembling significant materials on the history of the Federal role in energy development in the United States. In furtherance of this function, published information (from newspaper and magazine articles, press releases, announcements, and speeches) is collected and maintained by individual name, regarding individuals whom the Historian's Office considers to be prominently involved in historic events of interest to the energy community. The resulting materials are used both in the preparation of official histories and in responding to specific requests for historical information.

2. Authority: This system is established under the authority vested in the Secretary contained in 5 U.S.C. 301 and Section 644 of the Department of Energy Organization Act, to prescribe such procedur-

al and administrative rules as he may deem necessary or appropriate to manage functions vested in him.

3. Potential Consequences on Individual Privacy and: 4. Safeguards Against Unauthorized Access: DOE does not believe that the maintenance of this system will have any substantial effect on the privacy and other personal or property rights of the subject individuals. The subject individuals are persons of at least some public renown. The records retained in this system are not of a sensitive nature; they are compiled from public sources and consist of the kind of information generally available about public figures. Nonetheless, these records are maintained in locked vault, and the Historian's Office must authorize any release of these documents.

H. DOE-65, Energy Extension Service Records

1. Purpose: Title V of the Energy Research and Development Administration Authorization Act of 1977 (Public Law 95-49) is the National Energy Extension Service Act (the Act). In Section 502 of the Act, Congress made the following findings:

(1) that the general welfare and the common defense and security require a greater public knowledge of energy conservation opportunities;

(2) that scientific identification and practical demonstration of specifically designed energy conservation opportunities, the dissemination of information relating thereto, and the prompt delivery and acceptance of specific energy conservation opportunities require a national effort;

(3) that the national effort required to develop, demonstrate, and encourage acceptance and adoption of energy conservation opportunities should be coordinated at the Federal level by the (Department of Energy);

(4) that a special effort must be made to develop and demonstrate practical alternative energy technologies such as solar heating and cooling;

(5) that successful implementation of energy conservation and new technologies will require both public awareness and individual capability to use the conservation opportunities and new technology;

(6) that this required awareness and capability can only be achieved on a national basis by an active outreach effort;

(7) that existing energy outreach programs are underfunded;

(8) that any Federal outreach program should be organized with the States as full participants, and each State should plan and coordinate the outreach activities within the State, optimizing the use of existing outreach capabilities;

(9) that Federal assistance should be provided for energy outreach activity, including coordinated energy outreach activities and technical support in each State for such efforts;

(10) that the (Department of Energy) should provide overall national direction and review of federally assisted State energy outreach programs.

As a result, the Act creates the Energy Extension Service (EES) and directs in Section 504 that the EES: shall develop and implement a comprehensive program for the identification, development, and practical demonstration of energy conserving opportunities, techniques, or methods responsive to local needs or resources, and alternative energy technologies such as solar heating and cooling, for—

(1) agricultural, commercial, and small business operations; and
(2) new and existing residential, commercial, and agricultural buildings or structures.

The program developed by the DOE EES is to be undertaken on a State-by-State basis by State Energy Extension Service, in accordance with those plans designed and submitted by the States under the Act which are approved by the DOE pursuant to the criteria detailed in the Act. The State EES's are to emphasize the provision of direct, face-to-face assistance to energy consumers and organizations that influence their energy consumption. The State EES's are not intended to duplicate or substitute for similar existing outreach activities, but rather to supplement them and provide for new forms of assistance. Where appropriate, full advantage is to be taken of the capabilities of existing State organizations in implementing the State EES's in order to avoid creating large new bureaucracies. Once a State's plan has been approved, DOE will provide funds adequate for the support of the proposed energy outreach plan (subject to the limitations contained in Section 512(c) (1) and (2) of the Act).

Section 505(b)(4) of the Act makes it a condition of approval of a State's plan that:

" . . . the State will maintain, or require other participating entities within the State to maintain, and make available upon request to the (DOE), such records with respect to the use and expenditure of any Federal funds paid to the State, or to entities within the State, under this title as the (DOE) may require."

Consequently, each State will maintain records on the name, address, and telephone number of State EES clients, in order to account for the contacts made by that State in the course of executing

its EES program. These records constitute what is described in the accompanying system description as subsystem A of the proposed system.

In addition, the Act imposes upon DOE an obligation to evaluate the implementation of the EES program by participating States. As a result of this requirement, DOE will maintain a list of all State EES employees, contractors, volunteers, and their project roles in the implementation of the various State EES programs. These records constitute what is more fully described in the accompanying system description as subsystem B of the proposed system.

2. Authority: The Energy Extension Service Act (also known as Title V of the Energy Research and Development Administration Authorization Act of 1977 (Pub. L. 95-39)) and the DOE regulations implementing that Act, 10 CFR Part 465 (43 FR 45536, October 2, 1978) to provide the programmatic authority for the maintenance of the records contained in both subsystems A and B of this proposed system.

The administrative predicate for the establishment of this system is the authority vested in the Secretary contained in 5 U.S.C. 301 and Section 644 of the Department of Energy Organization Act, Pub. L. 95-91, to prescribe such procedural and administrative rules as he may deem necessary or appropriate to manage functions vested in him.

3. Potential Consequences on Individual Privacy and: 4. Safeguards Against Unauthorized Access: DOE does not believe that the maintenance of the system will have any substantial effect on the privacy and other personal or property rights of the subject individuals. With respect to subsystem A, no information is retained in the system other than that which is given voluntarily to the State EES's by the subject individuals. Moreover, as the system description indicates, there is little information retained which is of a personal nature, and to the extent the information is considered to be personal, it is not of a very sensitive nature. With respect to subsystem B, all of the information is really of a professional, as distinct from a personal, nature. And, in the case of both subsystems, the maintenance of the records stems from statutory requirements in the Energy Extension Service Act (discussed supra under Purpose).

Safeguards are considered to be adequate. For subsystem A records, the agreements with the States stipulate that the offices maintaining the records will exercise all diligence in controlling access to them, with only authorized personnel and routine users allowed access. All personnel who handle or process these records are instructed and cautioned as to the confidentiality of the data and its proper disposition. For subsystem B, the records are retained in lockable metal file cabinets, with access limited to authorized personnel on a need-to-know basis.

1. DOE-68, Minority Energy Technical Assistance Program (METAP) Records

1. Purpose: The Department of Energy has recently taken steps to encourage participation in energy conservation programs by minority and low-income persons. DOE has funded a grant to the Center for Urban Environmental Studies (CUES), a nonprofit, nonpartisan organization, to design, develop, and implement a pilot project known as the Minority Energy Technical Assistance Program (METAP). The project will have a duration of approximately two years. The purpose of METAP is to test a model program for use in educating State and local officials in energy conservation. The three primary elements of the project will be (a) a needs assessment survey to determine the levels of awareness and interest on energy matters of the sample group of State and local elected officials, (b) a training program for such officials, and (c) development of an information and referral system. Should the pilot program be successful, it will be made available for use among all elected officials. The records which will be generated in the course of conducting the needs assessment survey will be specific as to the official queried, and it is these records which constitute this system of records.

2. Authority: Section 5(b)(7) of the Federal Energy Administration Act of 1974, Pub. L. 93-275, as amended, directs the Secretary, to the extent he is otherwise authorized to "develop and oversee the implementation of equitable voluntary and mandatory energy conservation programs and promote efficiencies in the use of energy resources." Section 381(b)(1)(A) of the Energy Policy and Conservation Act, Pub. L. 94-163, provides that the Secretary shall "establish and carry out a responsible public education program—to encourage energy conservation and energy efficiency."

The administrative predicate for the establishment of this system is the authority vested in the Secretary contained in 5 U.S.C. 301 and Section 644 of the Department of Energy Organization Act, Pub. L. 95-91, to prescribe such procedural and administrative rules as he may deem necessary or appropriate to manage functions vested in him.

3. Potential Consequences on Individual Privacy and: 4. Safeguards Against Unauthorized Access: DOE does not believe that the maintenance of this system will have any substantial effect on the privacy and other personal or property rights of the subject individuals. The subject individuals are elected officials and, therefore, persons of at least some public renown. The records to be retained in this system will not be of a personal nature; they will reflect the perceptions of the sampling of elected officials, with respect to their energy information needs and those of their constituents. Nonetheless, the records will be accorded the safeguards described in the accompanying system description.

IV. Discussion: Proposal to Delete Two Systems Previously Established by Predecessor Agencies

The Office of Management and Budget, which according to the Privacy Act is responsible for providing "continuous assistance to and oversight of the implementation of (the Act) by agencies," has interpreted the term "individual" (as defined in the Act) in such a way as to suggest that a collection of records about individuals acting in their entrepreneurial capacity, as opposed to their personal capacity, does not constitute a "system of records" (also as defined by the Act) requiring formal establishment and maintenance. OMB's Privacy Act Guidelines of July 1, 1975 (40 FR 28948, July 9, 1975), include the following entry:

Individual. Subsection (a)(2) "The term 'individual' means a citizen of the United States or an alien lawfully admitted for permanent residence."

This definition is intended to "distinguish between the rights which are given to the citizen as an individual under this Act and the rights of proprietorships, businesses, and corporations which are not intended to be covered by this Act. This distinction was to insure that the bill leaves untouched the Federal Government's information activities for such purposes as economic regulations . . ." (Senate Report 93-1183, p. 79)

The (Senate Report) language cited above suggests that a distinction can be made between individuals acting in a personal capacity and individuals acting in an entrepreneurial capacity (e.g., as sole proprietors) and that this definition (and, therefore, the Act) was intended to embrace only the former. This distinction is, of course, crucial to the application of the Act since the Act, for the most part, addresses "records" which are defined as " . . . information about individuals" (subsection (a)(4)). Agencies should examine the content of the records in question to determine whether the information being maintained is, in fact, personal in nature. A secondary criterion in deciding whether the subject of an agency file is, for purposes of the Act, an individual, the manner in which the information is used, i.e., is the subject dealt with in a personal or entrepreneurial role.

This interpretation has led DOE to propose the deletion of two systems previously established by predecessor agencies. The systems are those designated as Bonneville Power Administration—12, Report of Inventions, and Southwestern Power Administration—2, Contracts System. In each case, the records concern individuals functioning in entrepreneurial capacities, and no information of a personal nature is maintained. Moreover, while other predecessor agencies to DOE maintained records similar to those contained within BPA-12 and SWPA-2, none had considered it necessary to establish systems encompassing such records. Accordingly, DOE proposes to delete BPA-12 and SWPA-2 from its inventory of systems.

V. Comment Procedures

As provided by Section 3(e)(11) of the Privacy Act of 1974 (5 U.S.C. 552a(e)(11)), interested persons are invited to submit written data, views, or arguments related to these proposals to Public Hearing Management, Department of Energy, Box WQ, 2000 M Street, NW., Room 2313, Washington, D.C. 20461. Hand-carried comments may be delivered to that same office between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except on legal public holidays.

Comments should be identified on the outside of the envelope and on the documents submitted to DOE with the designation "DOE Privacy Act Systems Proposals." Ten copies should be submitted. All comments received on or before 30 days after publication will be available for public inspection in the DOE Reading Room, Room GA-152, James Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except on legal public holidays. These comments and all other relevant information will be considered by DOE before the various proposals are adopted in their final form.

Any information or data considered by the person furnishing it to be confidential must be so identified and submitted in writing, one copy only. The DOE reserves the right to determine the confidential status of the information or data and to treat it according to that determination.

If no comments to the contrary are received with respect to a particular proposed system, it is the intent of DOE to operate any such system as proposed at the expiration of the 60-day advance notice period for informing Congress and the Office of Management and Budget of proposed new systems, as defined in OMB Circular A-108.

DOE is submitting the Reports on New System required by Circular A-108 concurrently with the publication of this Federal Register notice.

The DOE has determined that this document does not contain a proposal requiring preparation of a regulatory analysis under Executive Order 12044.

(Privacy Act of 1974, Pub. L. 93-579; Department of Energy Organization Act, Pub. L. 95-91; Executive Order 12009, 42 FR 46267; and those authorities vested in DOE's predecessor agencies which are incorporated by reference in Title III of the Department of Energy Organization Act.)

In consideration of the foregoing, the measures described above are proposed. Set forth below as Sections VI-IX of SUPPLEMENTARY INFORMATION, respectively, are a Table of Contents of All DOE Systems as Adopted or Proposed, a Table Correlating DOE Proposed System Designations with those of Predecessor Agencies, a Table Correlating Predecessor Agency System Designations with those Proposed by DOE, and, finally, a Listing of All DOE Systems as Adopted or Proposed.

Issued in Washington, D.C., August 21, 1979.

William S. Heffelfinger,
Director of Administration.

VI. Table of Contents of All DOE Systems as Adopted or Proposed

DOE-1 DOE Personnel and General Employment Records (this system of records supplements the General Personnel Records System of the Office of Personnel Management)

DOE-2 DOE Personnel: Supervisor-Maintained Personnel Records

DOE-3 DOE Personnel: Appraisal and Development Records

DOE-4 Applications for DOE Employment

DOE-5 Personnel Records of Former and Present Contractor Employees

DOE-6 Consultants to DOE Contractors

DOE-7 Applications and Reference Checks for Overseas Employment with the International Atomic Energy Agency

DOE-8 Intergovernmental Personnel Act Contracts

DOE-9 Members of DOE Advisory Committees

DOE-10 Time and Accountability Records

DOE-11 Emergency Locator Records

DOE-12 Nationwide Traineeship Reporting System

DOE-13 Payroll and Leave Records

DOE-14 Compensation for Contractor Employees (25,000 dollars or more)

DOE-15 Payroll and Pay-Related Data for Employees of Terminated Contractors

DOE-16 Reports of Financial Interest

DOE-17 Certificates of Eligibility for FHA Insured Loans

DOE-18 Accounts Payable Financial System

DOE-19 Accounts Receivable Financial System

DOE-20 Imprest Fund Cashiers

DOE-21 Emergency Defense Mobilization Files

DOE-22 Plant Services History

DOE-23 Property Accountability System

DOE-24 Land Records

DOE-25 Employee Parking Records (this system concerns parking managed and controlled by DOE under the general direction of the General Services Administration)

DOE-26 Domestic Travel Records

DOE-27 Foreign Travel Records

DOE-28 General Training Records

DOE-29 Technology Training Program—Skill Training at Technician Level

DOE-30 Nuclear Qualification Examination Records (for personnel to be assigned to ships, shipyards prototypes, and Shippingport Atomic Power Station)

DOE-31 Firearms Qualifications Records

DOE-32 Government Motor Vehicle Operator Records

DOE-33 Personnel Medical Records

DOE-34 Employee Assistance Program (Alcohol and Drug Abuse Program)

DOE-35 Personnel Radiation Exposure Records

DOE-36 Statistical Analysis Using Personnel Security Questionnaire (Health and Mortality Study)

DOE-37 Equal Opportunity Complaint Files

DOE-38 Occupational and Industrial Accident Records
DOE-39 Labor Standards Complaints and Grievances
DOE-40 Contractor Employees Insurance Claims
DOE-41 Legal Files (Claims, Litigations, Criminal Violations, Patents, and Others)

DOE-42 Personnel Security Clearance Index

DOE-43 Personnel Security Clearance Files

DOE-44 Special Access Authorization for Categories of Classified Information

DOE-45 Weapon Data Access Control System

DOE-46 Clearance Board Cases

DOE-47 Security Investigations

DOE-48 Security Education and/or Infraction Reports

DOE-49 Security Correspondence Files

DOE-50 Personnel Assurance Program Records

DOE-51 Employee and Visitor Access Control Records

DOE-52 Alien Visits and Participation

DOE-53 Access Authorization for ADP Equipment

DOE-54 Investigative Files of the Inspector General

DOE-55 Freedom of Information and Privacy Act Requests for Records

DOE-56 Congressional Constituent Inquiries

DOE-57 Congressional Profiles

DOE-58 General Correspondence Files

DOE-59 Mail Lists for Requesters of Energy-Related Information

DOE-60 Environmental Impact Document Monitoring, Processing, and Correspondence Tracking System (IMPACT)

DOE-61 Census of High Energy Physicists

DOE-62 Historical Files—Published Information Concerning Selected Persons in the Energy Field

DOE-63 Electric Rate Demonstration Data Base

DOE-64 Low-Income Weatherization Home Report Records

DOE-65 Energy Extension Service Records

DOE-66 Power Sales to Individuals

DOE-67 Participants in Experiments, Studies, and Surveys

DOE-68 Minority Energy Technical Assistance Program (METAP) Records

VIII. Table Correlating DOE Proposed System Designations with those of Predecessor Agencies

Note: The following abbreviations are used throughout this table:

APA Alaska Power Administration

BPA Bonneville Power Administration

DOE Department of Energy

EBM Bureau of Mines

ERDA Energy Research and Development Administration

FEA Federal Energy Administration

FPC Federal Power Commission

OS Office of the Secretary, Department of the Interior

SEPA Southeastern Power Administration

SWPA Southwestern Power Administration

Proposal System Designation and Present System Designation(s) (if any)

DOE-1—ERDA-15, FEA-1, FEA-10, FPC-22

DOE-2—ERDA-11

DOE-3—ERDA-3

DOE-4—ERDA-12, FEA-1, FPC-23

DOE-5—ERDA-31

DOE-6—ERDA-7

DOE-7—ERDA-2

DOE-8—FEA-16

DOE-9—FEA-17

DOE-10—proposed new system

DOE-11—FE-23, FEA-24, and one subsystem is newly proposed

DOE-12—ERDA-40

DOE-13—APA-1, BPA-2, EBM-1, ERDA-27, FEA-2, FPC-20,

SEPA-1, SWPA-1

DOE-14—ERDA-6

DOE-15—ERDA-28

DOE-16—ERDA-10, FEA-8

DOE-17—ERDA-16

DOE-18—FEA-3

DOE-19—BPA-11, FEA-4

DOE-20—SWPA-6

DOE-21—OS-15

DOE-22—BPA-8

DOE-23—APA-1, BPA-9, SEPA-1, SWPA-4

DOE-24—BPA-10

DOE-25—BPA-13, FEA-14, SWPA-4 (part)

DOE-26—APA-1, BPA-1, ERDA-41, FEA-5, SEPA-1, SWPA-5

DOE-27—APA-1, BPA-1, ERDA-19, FEA-5, SEPA-1, SWPA-5
 DOE-28—BPA-7, FEA-13 (safety training portion)
 DOE-29—ERDA-14
 DOE-30—ERDA-25
 DOE-31—ERDA-17
 DOE-32—APA-1, BPA-15, ERDA-20, FEA-15, SEPA-1
 DOE-33—BPA-3, ERDA-24, FEA-9
 DOE-34—FEA-12
 DOE-35—ERDA-30
 DOE-36—ERDA-37
 DOE-37—ERDA-9, FEA-11
 DOE-38—APA-1, BPA-4, BPA-6, ERDA-26, SEPA-1, SWPA-7
 DOE-39—ERDA-22
 DOE-40—ERDA-13
 DOE-41—ERDA-23
 DOE-42—BPA-14, EBM-7, ERDA-33, FEA-6, FPC-21
 DOE-43—BPA-14, EBM-7, ERDA-33, FEA-6, FPC-21
 DOE-44—ERDA-36
 DOE-45—ERDA-39
 DOE-46—ERDA-5
 DOE-47—ERDA-18, FEA-6, FPC-21
 DOE-48—ERDA-35
 DOE-49—ERDA-8
 DOE-50—ERDA-29
 DOE-51—ERDA-38
 DOE-52—ERDA-1
 DOE-53—FPC-9, FPC-13, proposed new system as regards remainder of DOE
 DOE-54—ERDA-21, FEA-7
 DOE-55—FEA-20
 DOE-56—FEA-19
 DOE-57—proposed new system
 DOE-58—FEA-22
 DOE-59—ERDA-42, FEA-18, FPC-19
 DOE-60—proposed new system
 DOE-61—ERDA-4
 DOE-62—proposed new system
 DOE-63—FEA-21
 DOE-64—FEA-25
 DOE-65—proposed new system
 DOE-66—Bureau of Reclamation-31
 DOE-67—DOE-X
 DOE-68—proposed new system

VIII. Table Correlating Predecessor Agency System Designations With Those Proposed by DOE

Note: The following abbreviations are used throughout this table:
 APA Alaska Power Administration
 BPA Bonneville Power Administration
 DOE Department of Energy
 EBM Bureau of Mines
 ERDA Energy Research and Development Administration
 FEA Federal Energy Administration
 FPC Federal Power Commission
 OS Office of the Secretary, Department of the Interior
 SEPA Southeastern Power Administration
 SWPA Southwestern Power Administration
 Present System Designation and Proposed System Designation(s) (if any)

APA-1—DOE-13, DOE-23, DOE-26, DOE-27, DOE-32, DOE-38
 BPA-1—DOE-26, DOE-27
 BPA-2—DOE-13
 BPA-3—DOE-33
 BPA-4—DOE-38
 BPA-5—DOE-32
 BPA-6—DOE-38
 BPA-7—DOE-28
 BPA-8—DOE-22
 BPA-9—DOE-23
 BPA-10—DOE-24
 BPA-11—DOE-19
 BPA-12—DOE-proposed to be deleted
 BPA-13—DOE-25
 BPA-14—DOE-42, DOE-43
 Bureau of Reclamation-31—DOE-66
 DOE-X—DOE-67
 EBM-1*—DOE-13
 EBM-2*—DOE-26
 EBM-3*—DOE-26
 EBM-7*—DOE-42, DOE-43

ERDA-1—DOE-52
 ERDA-2—DOE-7
 ERDA-3—DOE-3
 ERDA-4—DOE-61
 ERDA-5—DOE-46
 ERDA-6—DOE-14
 ERDA-7—DOE-6
 ERDA-8—DOE-49
 ERDA-9—DOE-37
 ERDA-10—DOE-16

*Only that portion of the system pertaining to DOE will be affected; that portion pertaining to the Department of the Interior will remain unaffected.

ERDA-11—DOE-2
 ERDA-12—DOE-4
 ERDA-13—DOE-40
 ERDA-14—DOE-29
 ERDA-15—DOE-1
 ERDA-16—DOE-17
 ERDA-17—DOE-31
 ERDA-18—DOE-47
 ERDA-19—DOE-27
 ERDA-20—DOE-32
 ERDA-21—DOE-54
 ERDA-22—DOE-39
 ERDA-23—DOE-41
 ERDA-24—DOE-33
 ERDA-25—DOE-30
 ERDA-26—DOE-38
 ERDA-27—DOE-13
 ERDA-28—DOE-15
 ERDA-29—DOE-50
 ERDA-30—DOE-35
 ERDA-31—DOE-5
 ERDA-32—DOE-43
 ERDA-33—DOE-42
 ERDA-34—designation was previously reserved—never working system

ERDA-35—DOE-48
 ERDA-36—DOE-44
 ERDA-37—DOE-36
 ERDA-38—DOE-51
 ERDA-39—DOE-45
 ERDA-40—DOE-12
 ERDA-41—DOE-26
 ERDA-42—DOE-59
 FEA-1—DOE-1, DOE-4
 FEA-2—DOE-13
 FEA-3—DOE-18
 FEA-4—DOE-19
 FEA-5—DOE-26, DOE-27
 FEA-6—DOE-42, DOE-43, DOE-47
 FEA-7—DOE-54
 FEA-8—DOE-16
 FEA-9—DOE-33
 FEA-10—DOE-1
 FEA-11—DOE-37
 FEA-12—DOE-34
 FEA-13—DOE-28
 FEA-14—DOE-25
 FEA-15—DOE-32
 FEA-16—DOE-8
 FEA-17—DOE-9
 FEA-18—DOE-59
 FEA-19—DOE-56
 FEA-20—DOE-55
 FEA-21—DOE-63
 FEA-22—DOE-58
 FEA-23—DOE-11
 FEA-24—DOE-11
 FEA-25—DOE-64
 FPC-1 (in part)—DOE-1
 FPC-9—DOE-53
 FPC-13—DOE-53
 FPC-19—DOE-59
 FPC-20—DOE-13
 FPC-21—DOE-42, DOE-43, DOE-47
 FPC-22—DOE-1
 FPC-23—DOE-4
 OS-15—DOE-21
 SEPA-1—DOE-13, DOE-23, DOE-26, DOE-27, DOE-32, DOE-38

SEPA-2—DOE-13
 SWPA-2—proposed to be deleted
 SWPA-4—DOE-23, DOE-25
 SWPA-5—DOE-26, DOE-27
 SWPA-6—DOE-20
 SWPA-7—DOE-38

IX. LISTING OF ALL DOE SYSTEMS AS ADOPTED OR PROPOSED

DOE-1

System name: DOE Personnel and General Employment Records (this system of records supplements the General Personnel Records System of the Office of Personnel Management).

Security classification: Unclassified.

System location: The locations listed in items 1 through 4, 6 through 12, 14 through 19, 21 through 26, 28, 29, 31, 33 and 35 of Appendix A and the following additional locations:

Environmental Measurement Laboratories
 376 Hudson Street
 New York, New York 10014
 Grand Junction Office
 P.O. Box 2567
 Grand Junction, Colorado 81501
 Pittsburgh Naval Reactors Office
 P.O. Box 109
 West Mifflin, Pennsylvania 15122
 Schnectady Naval Reactors Office
 P.O. Box 1069
 Schnectady, New York 12301

Categories of individuals covered by the system: Current and former employees, consultants, board members, and applicants (only to the extent they are considered for competitive selection), specifically including all such personnel of the Federal Energy Regulatory Commission.

Categories of records in the system: Name, social security number, sex, grade level, occupational code, Official Personnel Folders (SF-66), Service Record Cards (SF-7), records on suggestions and awards, training request and authorization data, training course evaluation statements, appraisals resulting from annual supervisor-employee review, pay requests and dispositions, reduction-in-force registers (including associated records of competitive levels and competitive areas), reemployment and reemployment priority lists, retirement-associated eligibility and calculations, records on competitive selections (Form 178, Standard Form 39, and supporting documents), central copy of approved position descriptions, correspondence related to and copies of employee appeals, grievances, and complaints, including records of hearing's or examiner's reports, lists of separated employees, correspondence from employees requesting transfer or reassignment, average grade data, minority group code, data related to and derived from the "Personnel Automated Records and Information System" (PARIS).

Authority for maintenance of the system: 5 U.S.C. 301; Department of Energy Organization Act, including authorities incorporated by reference in Title III of the Department of Energy Organization Act; Executive Order 12009; 5 U.S.C. 2102 et seq.; Office of Personnel Management regulations.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses as listed in Appendix B.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records, computer printouts, punched cards, magnetic tape and disk, microfilm.

Retrievability: By name and social security number.

Safeguards: Records are maintained in locked file cabinets in controlled access rooms. Computerized records are maintained in the DOE computer center with access limited to those with a need to know.

Retention and disposal: Records retention and disposal authorities are contained in DOE Order 1324.1, "Records Disposition." Records within the DOE are destroyed by shredding, burning, or burial in a sanitary landfill, as appropriate.

System manager(s) and address: Headquarters (location 8 in Appendix A):

Director of Personnel
 U.S. Department of Energy
 Washington, D.C. 20585

Field Offices: The managers and directors of field locations 1 through 4, 6, 7, 9 through 12, 14 through 19, 21 through 26, 28, 29, 31, 33 and 35 in Appendix A and of the Pittsburgh Naval Reactors, and Schnectady Naval Reactors Offices and the Environmental Measurement Laboratory listed above under system location are the System Managers for their respective portions of this system.

Notification procedure:

a. Requests by an individual to determine if a system of records contains information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, at the appropriate address from among items 1 through 4, 6 through 12, 14 through 19, 21 through 26, 28, 29, 31, 33, and 35 of Appendix A and the Pittsburgh Naval Reactors Office, the Schnectady Naval Reactors Office and the Environmental Measurement Laboratory listed above under system location, in accordance with DOE's Privacy Act regulations (10 CFR 206.3, 40 FR 45610 (October 2, 1975) or 10 CFR 708.6, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR, Part 206 or Part 708 should apply.

b. Required identifying information: Complete name and, if appropriate, the geographic location(s) and organization(s) where requester believes such record may be located, social security number, date of birth, and time period.

Record access procedures:

a. Requests by an individual for access to a system of records that contains information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, at the appropriate address from among items 1 through 4, 6 through 12, 14 through 19, 21 through 26, 28, 29, 31, 33 and 35 of Appendix A, the Pittsburgh Naval Reactors and Schnectady Naval Reactors Offices, and the Environmental Measurement Laboratory listed above under system location, in accordance with DOE's Privacy Act regulations (10 CFR 206.3, 40 FR 45610 (October 2, 1975) or 10 CFR 708.6, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

b. Required identifying information: Complete name and, if appropriate, the geographic location(s) and organization(s) where requester believes such record may be located, social security number, date of birth, and time period.

Contesting record procedures:

a. Requests by an individual to correct or amend the content of a record containing information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, at the appropriate address from among items 1 through 4, 6 through 12, 14 through 19, 21 through 26, 28, 29, 31, 33 and 35 of Appendix A, the Pittsburgh Naval Reactors and Schnectady Naval Reactors Offices, and the Environmental Measurement Laboratory listed above under system location, in accordance with DOE's Privacy Act regulations (10 CFR 206.7, 40 FR 45613 (October 2, 1975) or 10 CFR 708.6 and 708.7, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

b. Required identifying information: Complete name and, if appropriate, the geographic location(s) and organization(s) where requester believes such record may be located, social security number, date of birth, and time period.

Record source categories: The subject individual, supervisors, other Government agencies, former employers, references provided by subject individual.

Systems exempted from certain provisions of the act: The Secretary has exempted this system from subsections (c)(3), (d), (e)(1), (e)(4) (G), (H), (I), and (J) of 5 U.S.C. 552a under the Privacy Act of 1974. This exemption applies only to information in this system of records which is exempt pursuant to 5 U.S.C. 552a(k), (2), (5), or (6).

DOE-2

System name: DOE Personnel: Supervisor-Maintained Personnel Records.

Security classification: Unclassified.

System location: The locations listed as items 1-35 in Appendix A and the following additional locations:

Clinch River Breeder Reactor Plant Project
 P.O. Box U
 Oak Ridge, Tennessee 37830
 Grand Junction Office
 P.O. Box 2567
 Grand Junction, Colorado 81501
 Pittsburgh Naval Reactors Office
 P.O. Box 109
 West Mifflin, Pennsylvania 15122

Schenectady Naval Reactors Office
P.O. Box 1069
Schenectady, New York 12301

Categories of individuals covered by the system: Current DOE employees; in a few cases, records include former employees, assigned military personnel, or applicants for employment.

Categories of records in the system: The contents vary from office to office, but include all or some of the following: copies and summaries of employment history, job descriptions, education, address, next of kin, phone number, date of birth, awards and commendations received, participation in professional or community activities, training, earnings and leave data, travel actions, certification or qualification examinations, injury reports, appraisals, copy of ADP-produced Form 702, copy of Form 50, assignment records, security infraction notices, records of supervisor-employee discussions, reprimands, admonitions, adverse actions, contingency planning data, security clearance status, and government property in employee's possession.

Authority for maintenance of the system: 5 U.S.C. 301; Department of Energy Organization Act, including authorities incorporated by reference in Title III of the Department of Energy Organization Act; Executive Order 12009.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses listed in Appendix B.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records, computer printout, punched cards, magnetic tape, disk, paper, microfiche.

Retrievability: By name.

Safeguards: Records are maintained in files under the control of supervisory officials.

Retention and disposal: Records retention and disposal authorities are contained in DOE Order 1324.1, "Records Disposition." Records within the DOE are destroyed by shredding, burning, or burial in a sanitary landfill, as appropriate.

System manager(s) and address: Headquarters (location 8 in Appendix A):

Director of Personnel
U.S. Department of Energy
Washington, D.C. 20585

Also the managers and directors of offices maintaining such records are the System Managers for their respective portions of this system.

Field Offices:

The managers and directors of field locations 1 through 7 and 9 through 35 in Appendix A and of the Pittsburgh Naval Reactors and Schenectady Naval Reactors Offices listed above under system location are the System Managers for their respective portions of this system.

Notification procedure:

a. Requests by an individual to determine if a system of records contains information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, at the appropriate address from among items 1 through 35 of Appendix A and the Clinch River Breeder Reactor, Pittsburgh Naval Reactors and Schenectady Naval Reactors Offices listed above under system location, in accordance with DOE's Privacy Act regulations (10 CFR 206.3, 40 FR 45610 (October 2, 1975) or 10 CFR 708.6, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

b. Required identifying information: Complete name, the geographic location(s) and organization(s) where requester believes such record may be located, date of birth, and time period.

Record access procedures:

a. Requests by an individual for access to a system of records that contains information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, at the address listed in the appropriate item from among items 1 through 35 of Appendix A and the Clinch River Breeder Reactor, Pittsburgh Naval Reactors and Schenectady Naval Reactors Offices listed above under system location, in accordance with DOE's Privacy Act regulations (10 CFR 206.3, 40 FR 45610 (October 2, 1975) or 10 CFR 708.6, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

b. Required identifying information: Complete name, the geographic location(s) and organization(s) where requester believes such record may be located, date of birth, and time period.

Contesting record procedures:

a. Requests by an individual to correct or amend the content of a record containing information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, at the address listed in the appropriate item from among items 1 through 35 of Appendix A and the Clinch River Breeder Reactor, Pittsburgh Naval Reactors and Schenectady Naval Reactors Offices listed above under system location, in accordance with DOE's Privacy Act regulations (10 CFR 206.3, 40 FR 45610 (October 2, 1975) or 10 CFR 708.6 and 708.7, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

b. Required identifying information: Complete name, the geographic location(s) and organization(s) where requester believes such record may be located, date of birth, and time period.

Record source categories: The great majority of the data comes directly from the individuals or cognizant supervisory officials; other data comes from copies of personnel action documents.

Systems exempted from certain provisions of the act: The Secretary has exempted certain information in this system from subsections (c)(3), (d), (e)(1), (e)(4)(G), (H), (I), and (f) of 5 U.S.C. 552a. This exemption applies only to information in this system of records which is exempt pursuant to 5 U.S.C. 552a(k)(5) and (6).

DOE-3

System name: DOE Personnel: Appraisal and Development Records.
Security classification: Unclassified.

System location: The locations listed as items 2, 3, 6 through 12, 14, 15, 26, 28, 29 in Appendix A and the following additional locations:

Grand Junction Office
P.O. Box 2567
Grand Junction, Colorado 81501
Pittsburgh Naval Reactors Office
P.O. Box 109
West Mifflin, Pennsylvania 15122
Schenectady Naval Reactors Office
P.O. Box 1069
Schenectady, New York 12301

Categories of individuals covered by the system: All DOE employees.

Categories of records in the system: Supervisor-employee appraisal, (by name of employee), of performance, and preparation of development plans; and, for employees GS-15 and above, an appraisal of managerial potential for the agency Executive Development Program.

Authority for maintenance of the system: 5 U.S.C. 301; Department of Energy Organization Act, including authorities incorporated by reference in Title III of the Department of Energy Organization Act; Executive Order 12009.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses listed in Appendix B.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: On paper ERDA Forms 622, 622A, 622B, 622C, with some older records on Form 625; computer printouts; punched cards; magnetic tape; disk; other paper; and microfiche.

Retrievability: By name.

Safeguards: Records are usually maintained in lockable file cabinets under the control of supervisory personnel.

Retention and disposal: Records retention and disposal authorities are contained in DOE Order 1324.1, "Records Disposition." Records within the DOE are destroyed by shredding, burning, or burial in a sanitary landfill, as appropriate.

System manager(s) and address: Headquarters (location 8 in Appendix A):

The Director of Personnel
Washington, D.C. 20585

Also the managers and directors of offices maintaining such records are the System Managers for their respective portions of this system.

Field Offices: The managers and directors of field locations 1 through 7 and 9 through 35 in Appendix A and of the Pittsburgh Naval Reactors and Schenectady Naval Reactors Offices listed above under system location are the System Managers for their respective portions of this system.

Notification procedure:

a. Requests by an individual to determine if a system of records contains information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, at the appropriate address from among items 1 through 35 of Appendix A and the Pittsburgh Naval Reactors and Schenectady Naval Reactors Offices listed above under system location, in accordance with DOE's Privacy Act regulations (10 CFR 206.3, 40 FR 45610 (October 2, 1975) or 10 CFR 708.6, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

b. Required identifying information: Complete name, the geographic location(s) and organization(s) where requester believes such record may be located, date of birth, and time period.

Record access procedures:

a. Requests by an individual for access to a system of records that contains information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, at the address listed in the appropriate item from among items 1 through 35 of Appendix A and the Pittsburgh Naval Reactors and Schenectady Naval Reactors Offices listed above under system location, in accordance with DOE's Privacy Act regulations (10 CFR 206.3, 40 FR 45610 (October 2, 1975) or 10 CFR 708.6, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

b. Required identifying information: Complete name, the geographic location(s) and organization(s) where requester believes such record may be located, date of birth, and time period.

Contesting record procedures:

a. Requests by an individual to correct or amend the content of a record containing information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, at the address listed in the appropriate item from among items 1 through 35 of Appendix A and the Pittsburgh Naval Reactors and Schenectady Naval Reactors Offices listed above under system location, in accordance with DOE's Privacy Act regulations (10 CFR 206.3, 40 FR 45610 (October 2, 1975) or 10 CFR 708.6 and 708.7, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

b. Required identifying information: Complete name, the geographic location(s) and organization(s) where requester believes such record may be located, date of birth, and time period.

Record source categories: Supervisors and employees.

Systems exempted from certain provisions of the act: None.

DOE-4

System name: Applications for DOE Employment.

Security classification: Unclassified.

System location: The locations listed as items 1 through 35 in Appendix A and the following additional locations:

Grand Junction Office
P.O. Box 2567
Grand Junction, Colorado 81501
Pittsburgh Naval Reactors Office
P.O. Box 109
West Mifflin, Pennsylvania 15122
Schenectady Naval Reactors Office
P.O. Box 1069
Schenectady, New York 12301

Categories of individuals covered by the system: Individuals applying for, or inquiring about, employment with DOE and the Federal Energy Regulatory Commission.

Categories of records in the system: Letters of inquiry, application supply file (Standard Form 171, "Personal Qualifications Statement"; general applications, resumes of personal data, education, and work experience and education, military and employment history statements; personnel evaluation forms; completed reference check letters and record check forms; interview summary sheets; candidate ratings performed by DOE; authorization of payment of travel expenses; correspondence related to recruitment, application and employment; test records and academic transcripts (as appropriate); referrals for consideration; medical records; certification of performance ability and medical reports concerning candidates under selective placement programs, such as handicapped persons, offenders and Vietnam veterans; and other documents related to application and employment.

Authority for maintenance of the system: 5 U.S.C. 301; Department of Energy Organization Act, including authorities incorporated by reference in Title III of the Department of Energy Organization Act; Executive Order 12009.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Key operating officials and supervisors (including military personnel assigned to DOE or directly associated with the naval or military application functions of DOE); Referrals of applicants; evaluation of qualifications and selection of candidates under consideration for employment; or in other activities directly concerned with their official responsibilities.

Colleges and universities participating in the DOE recruiting program: Performance of regular practices in placement of students and in receiving information concerning evaluation or selection of their graduates.

Additional routine uses as listed in Appendix B.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records, computer printouts, punched cards, magnetic tape, disk, paper, and microfiche.

Retrievability: By name, occupational category, date, register number; in college recruitment files, retrievable by educational institution's name.

Safeguards: Physical security varies with records maintained either in a locked and guarded building or in locked file cabinets. In either case, access is limited on a need-to-know basis.

Retention and disposal: Records retention and disposal authorities are contained in DOE Order 1324.1, "Records Disposition." Records within the DOE are destroyed by shredding, burning, or burial in a sanitary landfill, as appropriate.

System manager(s) and address: Headquarters (location 8 in Appendix A):

Director of Personnel
U.S. Department of Energy
Washington, D.C. 20585

Field Offices:

The managers and directors of field locations 1-7 and 9-35 in Appendix A and of the Pittsburgh Naval Reactors and Schenectady Naval Reactors Offices listed above under system location are the Systems Managers for their respective portions of this system.

Notification procedure:

a. Requests by an individual to determine if a system of records contains information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, at the appropriate address from among items 1 through 35 of Appendix A and the Pittsburgh Naval Reactors and Schenectady Naval Reactors Offices listed above under system location, in accordance with DOE's Privacy Act regulations (10 CFR 206.3, 40 FR 45610 (October 2, 1975) or 10 CFR 708.6, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or part 708 should apply.

b. Required identifying information: Full name, social security number, date of birth, occupational category and location at which application or other material was submitted; in case of college recruitment material, applicable college or university name, and time period.

Record access procedures:

a. Requests by an individual for access to a system of records that contains information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, at the appropriate address from among items 1 through 35 of Appendix A and the Pittsburgh Naval Reactors and Schenectady Naval Reactors Offices listed above under system location, in accordance with DOE's Privacy Act regulations (10 CFR 206.3, 40 FR 45610 (October 2, 1975) or 10 CFR 708.6, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

b. Required identifying information: Full name, social security number, date of birth, occupational category and location at which application or other material was submitted; in case of college recruitment material, applicable college or university name, and time period.

Contesting record procedures:

a. Requests by an individual to correct or amend the content of a record containing information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, at the address listed in the appropriate item from among items 1 through 35 of Appendix A and the Pittsburgh Naval Reactors and Schenectady Naval Reactors Offices listed above under system location, in accordance with DOE's Privacy Act regulations (10 CFR 206.3, 40 FR 45610 (October 2, 1975) or 10 CFR 708.6 and 708.7, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

b. Required identifying information: Full name, social security number, date of birth, occupational category and location at which application or other material was submitted; in case of college recruitment material, applicable college or university name, and time period.

Record source categories: Individuals seeking, or referred for, employment; personal references provided by individuals; personnel administrators, officials, assistants, and other staff; interviewers; current and former employers, teachers, supervisors, and other Government agencies; Congressmen, testing officials, State Employment Service; and educational institutions.

Systems exempted from certain provisions of the act: The Secretary has exempted this system from subsections (c)(3), (d), (e)(1), (e)(4), (G), (H), (I), and (f) of 5 U.S.C. 552a under the Privacy Act of 1974. This exemption applies only to information in this system of records which is exempt pursuant to 5 U.S.C. 552a(k) (2, 5, 6).

DOE-5

System name: Personnel Records of Former and Present Contractor Employees.

Security classification: Unclassified.

System location: The locations listed as items 2, 6, 8, 9, 12, 14, 26, 28, and 29 in Appendix A and the following additional locations:

Clinch River Breeder Reactor Plant Project
P.O. Box U
Oak Ridge, Tennessee 37830
Schenectady Naval Reactors Office
P.O. Box 1069
Schenectady, New York 12301

Categories of individuals covered by the system: Former and present contractor employees.

Categories of records in the system: Name, employment history, earnings, medical history, and other related information.

Authority for maintenance of the system: 5 U.S.C. 301; Department of Energy Organization Act, including authorities incorporated by reference in Title III of the Department of Energy Organization Act; Executive Order 12009.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses listed in Appendix B.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records.

Retrievability: By name.

Safeguards: Records are maintained in locked or guarded buildings.

Retention and disposal: Records retention and disposal authorities are contained in DOE Order 1324.1, "Records Disposition." Records within the DOE are destroyed by shredding, burning, or burial in a sanitary landfill, as appropriate.

System manager(s) and address:

Headquarters (location 8 in Appendix A):
Director
Office of Contractor Industrial Relations
U.S. Department of Energy
Washington, D.C. 20545

Field Offices: The managers and directors of field locations 2, 6, 9, 12, 14, 26, 28, and 29 of Appendix A and of the Clinch River Breeder Reactor Plant Project and Schenectady Naval Reactors Office listed above under system location are the System Managers for their respective portions of this system.

Notification procedure:

a. Requests by an individual to determine if a system of records contains information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, at the appropriate address from among items 1, 6, 8, 9, 12, 14, 26, 28, and 29 of Appendix A and the Clinch River Breeder Reactor Plant Project and the Schenectady Naval Reactors Offices listed above under system location, in accordance with DOE's Privacy Act regulations (10 CFR 206.3, 40 FR 45610 (October 2, 1975) or 10 CFR 708.6, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

b. Required identifying information: Complete name, the geographic location(s) and organization(s) where requester believes such record may be located, date of birth, and time period.

Record access procedures:

a. Requests by an individual for access to a system of records that contains information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, at the address listed in the appropriate item from among items 1, 6, 8, 9, 12, 14, 26, 28, and 29 of Appendix A and the Clinch River Breeder Reactor Plant Project and the Schenectady Naval Reactors Offices listed above under system location, in accordance with DOE's Privacy Act regulations (10 CFR 206.3, 40 FR 45610 (October 2, 1975) or 10 CFR 708.6, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

b. Required identifying information: Complete name, the geographic location(s) and organization(s) where requester believes such record may be located, date of birth and time period.

Contesting record procedures:

a. Requests by an individual to correct or amend the content of a record containing information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, at the address listed in the appropriate item from among items 6, 8, 9, 12, 14, 26, 28, and 29 of Appendix A and the Clinch River Breeder Reactor Plant Project and the Schenectady Naval Reactors Offices listed above under system location in accordance with DOE's Privacy Act regulations (10 CFR 206.7, 40 FR 45613 (October 2, 1975) or 10 CFR 708.6 and 708.7, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

b. Required identifying information: Complete name, the geographic location(s) and organization(s) where requester believes such record may be located, date of birth, and time period.

Record source categories: The subject individual's employer.

Systems exempted from certain provisions of the act: None.

DOE-6

System name: Consultants to DOE Contractors.

Security classification: Unclassified.

System location: The locations listed as items 2, 6, 8, 9, 12, 14, 26, 28, and 29 in Appendix A and the following additional locations:

Clinch River Breeder Reactor Plant Project
P.O. Box U
Oak Ridge, Tennessee 37830
Grand Junction Office
P.O. Box 2567
Grand Junction, Colorado 81501
Pittsburgh Naval Reactors Office
P.O. Box 109
West Mifflin, Pennsylvania 15122
Schenectady Naval Reactors Office
P.O. Box 1069
Schenectady, New York 12301

Categories of individuals covered by the system: Consultants to DOE contractors.

Categories of records in the system: Biographical notes, personal data, correspondence, employment history, education, salary/total compensation, area of specialization, contractual arrangements and duration, service provided and research support.

Authority for maintenance of the system: 5 U.S.C. 301; Department of Energy Organization Act, including authorities incorporated by reference in Title III of the Department of Energy Organization Act; Executive Order 12009.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses listed in Appendix B.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records.

Retrievability: By name.

Safeguards: Records are maintained in locked file cabinets in secured and guarded buildings with access on a need-to-know basis.

Retention and disposal: Records retention and disposal authorities are contained in DOE Order 1324.1, "Records Disposition." Records within the DOE are destroyed by shredding, burning, or burial in a sanitary landfill, as appropriate.

System manager(s) and address:

Headquarters (location 8 in Appendix A):
Director
Office of Contractor Industrial Relations
U.S. Department of Energy

Washington, D.C. 20545

Field Offices: The managers and directors of field locations 2, 6, 9, 12, 14, 26, 28, and 29 of Appendix A and the Clinch River, Breeder Reactor Plant Project, Pittsburgh Naval Reactors, and Schenectady Naval Reactors Offices listed above under system location are the System Managers for their respective portions of this system.

Notification procedure:

a. Requests by an individual to determine if a system of records contains information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, at the appropriate address from among items 2, 6, 8, 9, 12, 14, 26, 28, and 29 of Appendix A and the Clinch River Breeder Reactor Plant Project, the Pittsburgh Naval Reactors and Schenectady Naval Reactors Offices listed above under system location, in accordance with DOE's Privacy Act regulations (10 CFR 206.3, 40 FR 45610 (October 2, 1975) or 10 CFR 708.6, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

b. Required identifying information: Complete name, the geographic location(s) and organization(s) where requester believes such record may be located, date of birth, and time period.

Record access procedures:

a. Requests by an individual for access to a system of records that contains information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, at the address listed in the appropriate item from among items 2, 6, 8, 9, 12, 14, 26, 28, and 29 of Appendix A and the Clinch River Breeder Reactor Plant Project, the Pittsburgh Naval Reactors and Schenectady Naval Reactors Offices listed above under system location, in accordance with DOE's Privacy Act regulations (10 CFR 206.3, 40 FR 45610 (October 2, 1975) or 10 CFR 708.6, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

b. Required identifying information: Complete name, the geographic location(s) and organization(s) where requester believes such record may be located, date of birth, and time period.

Contesting record procedures:

a. Requests by an individual to correct or amend the content of a record containing information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, at the address listed in the appropriate item from among items 2, 6, 8, 9, 12, 14, 26, 28, and 29 of Appendix A and the Clinch River Breeder Reactor Plant Project, the Pittsburgh Naval Reactors and Schenectady Naval Reactors Offices listed above under system location in accordance with DOE's Privacy Act regulations (10 CFR 206.7, 40 FR 45613 (October 2, 1975) or 10 CFR 708.6 and 708.7, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

b. Required identifying information: Complete name, the geographic location(s) and organization(s) where requester believes such record may be located, date of birth, and time period.

Record source categories: Reports from individuals, contractors, and Dun and Bradstreet.

Systems exempted from certain provisions of the act: None.

DOE-7

System name: Applications and Reference Checks for Overseas Employment with the International Atomic Energy Agency.

Security classification: Unclassified.

System location: The location listed as item 8 in Appendix A.

Categories of individuals covered by the system: United States citizens interested in employment with International Atomic Energy Agency, Vienna, Austria.

Categories of records in the system: Education, employment history, salary, and personal reference checks.

Authority for maintenance of the system: 5 U.S.C. 301; Department of Energy Organization Act, including authorities incorporated by reference in Title III of the Department of Energy Organization Act; Executive Order 12009.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: United States Mission to IAEA, Vienna and other governmental agencies interested in foreign programs: Evaluation prior to offers of employment.

Additional routine uses as listed in Appendix B.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper files.

Retrievability: By name, specialty, IAEA organizational designation.

Safeguards: Records are maintained in locked file cabinets, with access limited to personnel of the Office of Personnel and the Office of International Affairs.

Retention and disposal: Records retention and disposal authorities are contained in DOE Order 1324.1, "Records Disposition." Records within the DOE are destroyed by shredding, burning, or burial in a sanitary landfill, as appropriate.

System manager(s) and address:

Director or Personnel
U.S. Department of Energy
Washington, D.C. 20585

Notification procedure: a. Requests by an individual to determine if a system of records contains information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, Washington, D.C. 20585, in accordance with DOE's Privacy Act regulations (10 CFR 206.3, 40 FR 45610 (October 2, 1975) or 10 CFR 708.6, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

b. Required identifying information: Complete name, the geographic location(s) and organization(s) where requester believes such record may be located, date of birth and time period.

Record access procedures:

a. Requests by an individual for access to a system of records that contains information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, Washington, D.C. 20585, in accordance with DOE's Privacy Act regulations (10 CFR 206.3, 40 FR 45610 (October 2, 1975) or 10 CFR 708.6, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

b. Required identifying information: Complete name, the geographic location(s) and organization(s) where requester believes such record may be located, date of birth, and time period.

Contesting record procedures:

a. Requests by an individual to correct or amend the content of a record containing information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, Washington, D.C. 20585, in accordance with DOE's Privacy Act regulations (10 CFR 206.7, 40 FR 45613 (October 2, 1975) or 10 CFR 708.6 and 708.7, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

b. Required identifying information: Complete name, the geographic location(s) and organization(s) where requester believes such record may be located, date of birth, and time period.

Record source categories: Individuals seeking employment, references, and information provided by knowledgeable agency personnel.

Systems exempted from certain provisions of the act: None.

DOE-8

System name: Intergovernmental Personnel Act Contracts.

Security classification: Unclassified.

System location: The locations listed as items 1-35 in Appendix A.

Categories of individuals covered by the system: Individuals who are now or have been under IPA contract to DOE.

Categories of records in the system: Names, addresses, social security numbers, telephone numbers, salaries, and related correspondence.

Authority for maintenance of the system: 5 U.S.C. 301; Department of Energy Organization Act, including authorities incorporated by reference in Title III of the Department of Energy Organization Act; Executive Order 12009.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Transmittal of data to State and local governments or institutions of higher education to implement IPA contracts, and the routine uses listed in Appendix B.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records.

Retrievability: By name.

Safeguards: Records are maintained in lockable metal file cabinets with access limited to those whose official duties require access.

Retention and disposal: Records are retained for five years and then destroyed.

System manager(s) and address: Headquarters (location 8 in Appendix A):

Director of Personnel
U.S. Department of Energy
Washington, D.C. 20585

Field Offices: The managers and directors of field locations 1 through 7 and 9 through 35 in Appendix A are designated the System Managers for their respective portions of this system.

Notification procedure:

a. Requests by an individual to determine if a system of records contains information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, at the appropriate address from among items 1 through 35 of Appendix A, in accordance with DOE's Privacy Act regulations (10 CFR 206.3, 40 FR 45610 (October 2, 1975) or 10 CFR 708.6, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

b. Required identifying information: Complete name, the geographic location(s) and organization(s) where requester believes such record may be located, social security number, date of birth, and time period.

Record access procedures:

a. Requests by an individual for access to a system of records that contains information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, at the address listed in the appropriate item from among items 1 through 35 of Appendix A, in accordance with DOE's Privacy Act regulations (10 CFR 206.3, 40 FR 45610 (October 2, 1975) or 10 CFR 708.6, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

b. Required identifying information: Complete name, the geographic location(s) and organization(s) where requester believes such record may be located, social security number, date of birth, and time period.

Contesting record procedures:

a. Requests by an individual to correct or amend the content of a record containing information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, at the address listed in the appropriate item from among items 1 through 35 of Appendix A, in accordance with DOE's Privacy Act regulations (10 CFR 206.7, 40 FR 45613 (October 2, 1975) or 10 CFR 708.6 and 708.7, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

b. Required identifying information: Complete name, the geographic location(s) and organization(s) where requester believes such record may be located, social security number, date of birth, and time period.

Record source categories: The subject individual, State or local governments, institutions of higher education.

System exempted from certain provisions of the act: None.

DOE-9.

System name: Members of DOE Advisory Committees.

Security classification: Unclassified.

System location:

Office of the Secretary
U.S. Department of Energy
Washington, D.C. 20585

Categories of individuals covered by the system: All individuals who are members of a DOE Advisory Committee.

Categories of records in the system: Name, biographical information, home address and telephone number, work address and telephone number, type of business or organizational affiliation, present position with business or other organization, numbers of years in present position, other related experience, congressional district, and photographs.

Authority for maintenance of the system: 5 U.S.C. 301; Department of Energy Organization Act, including authorities incorporated by reference in Title III of the Department of Energy Organization Act; Executive Order 12009.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The name and mailing address of any Advisory Committee member is provided to anyone requesting it.

Additional routine uses as listed in Appendix B.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records.

Retrievability: By name.

Safeguards: Records are maintained in a locked room, with access limited to those whose official duties require access.

Retention and disposal: Records are retained in a binder while the individual is a member of a committee. Upon a member's termination, records are destroyed or returned to individual.

System manager(s) and address:

Director
Advisory Committee Management Office
U.S. Department of Energy
Washington, D.C. 20585

Notification procedure:

a. Requests by an individual to determine if a system of records contains information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, Washington, D.C. 20585, in accordance with DOE's Privacy Act regulations (10 CFR 206.3, 40 FR 45610 (October 2, 1975) or 10 CFR 708.6, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

b. Required identifying information: Complete name, the geographic location(s) and organization(s) where requester believes such record may be located, date of birth, and time period.

Record access procedures:

a. Requests by an individual for access to a system of records that contains information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, Washington, D.C. 20585, in accordance with DOE's Privacy Act regulations (10 CFR 206.3, 40 FR 45610 (October 2, 1975) or 10 CFR 708.6, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

b. Required identifying information: Complete name, the geographic location(s) and organization(s) where requester believes such record may be located, date of birth, and time period.

Contesting record procedures:

a. Requests by an individual to correct or amend the content of a record containing information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, Washington, D.C. 20585, in accordance with DOE's Privacy Act regulations (10 CFR 206.7, 40 FR 45613 (October 2, 1975) or 10 CFR 708.6 and 708.7, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

b. Required identifying information: Complete name, the geographic location(s) and organization(s) where requester believes such record may be located, date of birth, and time period.

Record source categories: The subject individual, the individual's supervisor, members of Congress, and public interest groups.

Systems exempted from certain provisions of the act: None.

DOE-10

System name: Time and Accountability Records.

Subsystem A: Office of Enforcement Case Time/Activity Report System

Subsystem B: Energy Information Administration Time and Accountability/Resource Accountability Reports (TA/RAR)

Subsystem C: Office of General Counsel Time and Accountability Reports

Security classification: Subsystems A, B, and C: Unclassified.

System location: Subsystem A: For the national office, paper records are located at:

Office of Enforcement Information
Economic Regulatory Administration
U.S. Department of Energy
2000 M Street, NW.
Washington, D.C. 20461

The machine-readable records are located at:

Optimum Systems, Inc.
5615 Fishers Lane
Rockville, MD 20852

For the ERA regional offices, records are at the locations listed as items 5, 13, 27, 30, and 32 in Appendix A.

Subsystem B:

Paper records:

Energy Information Administration
U.S. Department of Energy
2000 M Street, NW.
Washington, D.C. 20461

Machine-readable records:

Optimum Systems, Inc.
5615 Fishers Lane
Rockville, MD 20852

Subsystem C:

Office of General Counsel
U.S. Department of Energy
Washington, D.C. 20585

and/or other location(s) designated by the General Counsel.

Categories of individuals covered by the system:

Subsystem A: Economic Regulatory Administration employees of the Offices of Enforcement and Special Counsel.

Subsystem B: Energy Information Administration employees of the Office of Energy Data.

Subsystem C: All Office of General Counsel attorneys and para-professionals, whether in Headquarters or field offices.

Categories of records in the system:

Subsystem A: Name, social security number, reporting period, office location code, job series code, grade, date on board, date terminated, case number, activity code, work function, hours.

Subsystem B: Name, social security number, reporting period, office location code, job series code, grade, date on board, date terminated, project number, task type, actual hours, computer charges by project, date.

Subsystem C: Name, office unit, reporting period, office location code, grade, case number, project code or description, client code or description, matter code or description, task code or description, hours.

Authority for maintenance of the system: Subsystems A, B, and C: 5 U.S.C. 301; Department of Energy Organization Act, including authorities incorporated by reference in Title III of the Department of Energy Organization Act; Executive Order 12009.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Subsystem A: Retrieval of data for area offices, regional offices, and the national office for audit management reporting, allocation and development of audit resources, cost-benefit analysis, program and case management, and budget plans.

Subsystem B: Use of data for person-month and resource accountability reports, to inform managers on expenditures of time, to determine levels of ADP support provided to other DOE officers, and for budget plans.

Subsystem C: Retrieval of data for all General Counsel managerial levels (at regional offices, operations offices, and Headquarters) for management reporting, allocation and deployment of legal resources, cost-benefit analysis, program and case management and budget justification and plans.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Subsystems A and C: Paper records, tape, disk, and micro-film.

Subsystem B: Paper records, disk.

Retrievability:

Subsystem A: Name, social security number, reporting period, office location code, job series code, grade, date on board, date terminated, case number.

Subsystem B: Name.

Subsystem C: Name, reporting period, office location code, grade, case number.

Safeguards: Subsystems A and C: Physical, technical, and administrative security is maintained, with access restricted to authorized personnel via passwords.

Subsystem B: Records are maintained in binders in secured area locked by a combination lock.

Retention and disposal:

Subsystem A: Computer record retention is 15 months. Backup history file retention is in accordance with GSA standards.

Subsystem B: Records retained for 2 years.

Subsystem C: Records retained for 2-1/2 years.

System manager(s) and address: Subsystem A:

For records at the national office:

Assistant Administrator for Enforcement
Economic Regulatory Administration
U.S. Department of Energy
2000 M Street, NW.
Washington, D.C. 20461

For records at ERA's regional offices:

The Regional Directors of Enforcement
in the regional offices.

Subsystem B:

Director, Office of Energy Data and Interpretation
Office of Energy Data
Energy Information Administration
U.S. Department of Energy
Washington, D.C. 20461

Subsystem C:

Administrative Officer
Office of General Counsel
U.S. Department of Energy
Washington, D.C. 20585

Notification procedure:

Subsystem A: Requests by an individual to determine if a system of records contains information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, at the appropriate address from among those listed in items 5, 8, 13, 27, 30, and 32 of Appendix A, in accordance with DOE's Privacy Act regulations (10 CFR 206.3, 40 FR 45610 (October 2, 1975) or 10 CFR 708.6, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

Subsystem B: Requests by an individual to determine if a system of records contains information about him should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, Washington, D.C. 20585, in accordance with DOE's Privacy Act regulations (10 CFR 206.3, 40 FR 45610 (October 2, 1975) or 10 CFR 708.6, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

Subsystem C: Requests by an individual to determine if a system of records contains information about him should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, at the appropriate address from among those listed in items 2, 6, 8, 9, 12, 14, and 16-25 of Appendix A, in accordance with DOE's Privacy Act regulations (10 CFR 206.3, 40 FR 45610 (October 2, 1975) or 10 CFR 708.6, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

Record access procedures:

Subsystem A: Requests by an individual for access to a system of records that contains information about him or her should be directed to the Director, FOI and Privacy Act Activities, Department of Energy, at the appropriate address from among those listed in items 5, 8, 13, 27, 30, and 32 of Appendix A, in accordance with DOE's Privacy Act regulations (10 CFR 206.3, 40 FR 45610 (October 2, 1975) or 10 CFR 708.6, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

Subsystem B: Requests by an individual for access to a system of records that contains information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, Washington, D.C. 20585, in accordance with DOE's Privacy Act regulations (10 CFR 206.3, 40 FR 45610 (October 2, 1975) or 10 CFR 708.6, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

Subsystem C: Requests by an individual for access to a system of records that contains information about him should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, at the appropriate address from among items 2, 6, 8, 9, 12, 14, and 16-25 of Appendix A, in accordance with DOE's Privacy Act regulations (10 CFR 206.3, 40 FR 45610 (October 2, 1975) or 10 CFR 708.6, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

Contesting record procedures:

Subsystem A: Requests by an individual for access to a system of records that contains information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, at the appropriate address from among items 5, 8, 13, 27, 30, and 32 of Appendix A, in accordance with DOE's Privacy Act regulations (10 CFR 206.7, 40 FR 45613 (October 2, 1975) or 10 CFR 708.6 and 708.7, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

Subsystem B: Requests by an individual to correct or amend the content of a record containing information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, Washington, D.C. 20585, in accordance with DOE's Privacy Act regulations (10 CFR 206.7, 40 FR 45613 (October 2, 1975) or 10 CFR 708.6 and 708.7, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

Subsystem C: Requests by an individual to correct or amend the content of a record containing information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, at the appropriate address from among those listed in items 2, 6, 8, 9, 12, 14, and 16-25 of Appendix A, in accordance with DOE's Privacy Act regulations (10 CFR 206.7, 40 FR 45613 (October 2, 1975) or 10 CFR 708.6 and 708.7, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

Record source categories: Subsystems A and C: The subject individual.

Subsystem B: The subject individual, except that the computer charge-back report is the source for computer charges for actual time used.

Systems exempted from certain provisions of the act: Subsystems A, B, and C: None.

DOE-11

System name: Emergency Locator Records. Subsystem A: Telephone Numbers and Addresses of DOE Officials and Support Staff.

Subsystem B: Strategic Petroleum Reserve Emergency Personnel List.

Subsystem C: Energy Information Administration Emergency Personnel List.

Security classification: Subsystem A, B, C: Unclassified.

System location: Subsystem A:

Director, Office of the Secretary
U.S. Department of Energy
James Forrestal Building
Washington, D.C. 20585

Subsystem B:

Strategic Petroleum Reserve
Project Management Office
U.S. Department of Energy
800 Commerce Road West
New Orleans, LA 70123

Strategic Petroleum Reserve Office

U.S. Department of Energy
1726 M Street, NW
Washington, D.C. 20461

Subsystem C:

Energy Information Administration
U.S. Department of Energy
Washington, D.C. 20461

Categories of individuals covered by the system:

Subsystem A: DOE senior staff officials and support staff.

Subsystem B: Individuals employed by DOE and other Federal agencies and departments and DOE contractors who are involved in the operation of the Strategic Petroleum Reserve Project.

Subsystem C: Office directors and key support staff of the Energy Information Administration and other various Federal officials involved in EIA business.

Categories of records in the system: Subsystem A: Name, home telephone number, home address, individual's title, and spouse's name.

Subsystem B: Name, home address, and business and home telephone numbers.

Subsystem C: Name, home telephone number, and home address.

Authority for maintenance of the system: Subsystems A, B, C: 5 U.S.C. 301; Department of Energy Organization Act, including authorities incorporated by reference in Title III of the Department of Energy Organization Act; Executive Order 12009.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Subsystem A: The records are available only to Office of the Secretary principals and their selected senior representative. This means that the Secretary, his Executive Assistant, the Under Secretary, his Executive Assistant, the Deputy Under Secretaries, the Special Assistant, the two Assistants to the Secretary, and the Director, Office of the Secretary, and his Executive Assistant, are the only persons in OSE who have access to this listing. Distribution is not made to all OSE staff members, nor is the list made available to other DOE principals, with the exception of the General Counsel, the Assistant Secretary for Policy and Evaluation, the Director, Office of Public Affairs, and the Assistant Secretary for International Affairs.

Subsystem B: The records are made available to the DOE personnel, contractors, and other Government agency personnel involved

with the operation of the Strategic Petroleum Reserve Project. The information is used in order to enable contact with appropriate personnel in the event of a program emergency.

Subsystem C: The records are made available only to the staff of the Administrator of the Energy Information Administration to enable contact with appropriate personnel in the event of a program emergency.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Subsystems A, B, C: Paper records.

Retrievability: Subsystems A, B, C: Name of subject individual.

Safeguards:

Subsystems A and B: Records are located in lockable drawers or file cabinets in secured rooms with access limited to those whose official duties require access.

Subsystem C: Access is limited to authorized personnel (the immediate staff of the Administrator of the Energy Information Administration) on a need-to-know basis.

Retention and disposal: Subsystems A, B, C: Records are revised when appropriate, at which point the older records are destroyed.

System manager(s) and address: Subsystem A:

Director, Office of the Secretary
U.S. Department of Energy
James Forrestal Building
Washington, D.C. 20585

Subsystem B:

Project Manager
Strategic Petroleum Reserve
Project Management Office
U.S. Department of Energy
800 Commerce Road West
New Orleans, LA 70123

Subsystem C:

Executive Assistant to the Administrator
Energy Information Administration
U.S. Department of Energy
Washington, D.C. 20461

Notification procedure: Subsystems A, B, C: Requests by an individual to determine if a system of records contains information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, Washington, D.C. 20585, in accordance with DOE's Privacy Act Regulations (10 CFR 206.3, 40 FR 45610 (October 2, 1975) or 10 CFR 708.6, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

Record access procedures: Subsystems A, B, C: Requests by an individual for access to a system of records that contains information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, Washington, D.C. 20585, in accordance with DOE's Privacy Act regulations (10 CFR 206.3, 40 FR 45610 (October 2, 1975) or 10 CFR 708.6, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

Contesting record procedures: Subsystems A, B, C: Requests by an individual to correct or amend the content of a record containing information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, Washington, D.C. 20585, in accordance with DOE's Privacy Act regulations (10 CFR 206.7, 40 FR 45613 (October 2, 1975) or 10 CFR 708.6 and 708.7, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

Record source categories: Subsystems A, B, C: The subject individual.

Systems exempted from certain provisions of the act: Subsystems A, B, C: None.

DOE-12

System name: Nationwide Traineeship Reporting System.

Security classification: Unclassified.

System location: The location listed as items 8 and 26 in Appendix A.

Categories of individuals covered by the system: College graduate students participating in the DOE-sponsored traineeship/laboratory graduate program.

Categories of records in the system: Academic background, employment history, traineeship area of study, and mailing/permanent addresses.

Authority for maintenance of the system: 5 U.S.C. 301; Department of Energy Organization Act, authorities incorporated by reference in Title III of the Department of Energy Organization Act; Executive Order 12009.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: University traineeship advisers—compliance with contract terms covering traineeship administration functions.

Contractor officials—for possible employment selection/notification.

Additional routine uses as listed in Appendix B.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper, punched cards, and magnetic tape.

Retrievability: By name, institution, laboratory, traineeship program class, and traineeship identification number.

Safeguards: Records are maintained in a secure building. Access to magnetic tapes is controlled through established DOE computer center procedures (personnel screening and physical security). Access is on a need-to-know basis.

Retention and disposal: Records retention and disposal authorities are contained in DOE Order 1324.1, "Records Disposition." Records within the DOE are destroyed by shredding, burning, or burial in a sanitary landfill, as appropriate.

System manager(s) and address: Headquarters (item 8 in Appendix A):

The Director
Education Programs Office
U.S. Department of Energy
Washington, D.C. 20545

Field Offices: The manager or director of field location 26 of Appendix A is the System Manager for his portion of this system.

Notification procedure:

a. Requests by an individual to determine if a system of records contains information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, at the address from among items 8 and 26 of Appendix A, in accordance with DOE's Privacy Act regulations (10 CFR 206.3, 40 FR 45610 (October 2, 1975) or 10 CFR 708.6, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

b. Required identifying information: Complete name, the geographic location(s) and organization(s) where requester believes such record may be located, date of birth, and time period.

Record access procedures:

a. Requests by an individual for access to a system of records that contains information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, at the address listed in the appropriate item from among items 8 and 26 of Appendix A, in accordance with DOE's Privacy Act regulations (10 CFR 206.3, 40 FR 45610 (October 2, 1975) or 10 CFR 708.6, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

b. Required identifying information: Complete name, the geographic location(s) and organization(s) where requester believes such record may be located, date of birth, and time period.

Contesting record procedures:

a. Requests by an individual to correct or amend the content of a record containing information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, at the address listed in the appropriate item from among items 8 and 26 of Appendix A, in accordance with DOE's Privacy Act regulations (10 CFR 206.7, 40 FR 45613 (October 2, 1975) or 10 CFR 708.6 and 708.7, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

b. Required identifying information: Complete name, the geographic location(s) and organization(s) where requester believes such record may be located, date of birth, and time period.

Record source categories: University traineeship advisors.

Systems exempted from certain provisions of the act: None.

DOE-13

System name: Payroll and Leave Records.

Security classification: Unclassified.

System location: The locations listed as items 1-35 in Appendix A and the following additional locations:

Grand Junction Office

P.O. Box 2567
Grand Junction, Colorado 81501
Schenectady Naval Reactors Office
P.O. Box 1069
Schenectady, New York 12301
Pittsburgh Naval Reactors Office
P.O. Box 109
West Mifflin, Pennsylvania 15122

Categories of individuals covered by the system: DOE personnel and consultants, specifically including personnel and consultants of the Federal Energy Regulatory Commission.

Categories of records in the system: Time and attendance records, earning records, payroll actions and deduction information requests and authorizations for overtime/night differential, and Office of Personnel Management retirement records.

Authority for maintenance of the system: 5 U.S.C. 301; Department of Energy Organization Act, including authorities incorporated by reference in Title III of the Department of Energy Organization Act; Executive Order 12009; Sections 112(a) and 113 of the Budget and Accounting Procedures Act of 1950 (31 U.S.C. 66(a)); 5 U.S.C. 5101-5115; T. 766 General Accounting Office Policy and Procedures Manual; Federal Personnel Manual Supplement 296-31/293-31.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Treasury Department—Collection of withheld taxes, printing payroll checks and issuing savings bonds.

Internal Revenue Service—Federal income tax processing.

State and Local Governments—State and local income tax processing.

Office of Personnel Management—Retirement records and benefits.

Social Security Administration—Social Security records and benefits.

Department of Labor—Processing Workmen's Compensation claims.

DOD-Military Retired Pay Offices—Adjusting of Military Retirement.

Savings Institutions—Crediting accounts for savings made through payroll deductions.

Employee Unions—Crediting accounts for employees with union dues deductions.

Health Insurance Carriers—To process insurance claims.

GAO-Audit—Verification of accuracy and legality of disbursement.

Veterans' Administration—For evaluation of veteran's benefits to which the individual may be entitled.

States' Departments of Employment Security—For determining entitlement to unemployment compensation or other State benefits.

Additional routine uses as listed in Appendix B.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records, punched cards, magnetic tape and disk, and microfiche.

Retrievability: By name, social security number, and payroll number.

Safeguards: Access to magnetic tapes and disk files is controlled through established DOE computer center procedures (personnel screening and physical security). Paper records are maintained in locked cabinets and desks. Access to any record is on a need-to-know basis.

Retention and disposal: Records retention and disposal authorities are contained in DOE Order 1324.1, "Records Disposition." Records within the DOE are destroyed by shredding, burning, or burial in a sanitary landfill, as appropriate.

System manager(s) and address:

Headquarters (location 8 in Appendix A):

Controller

U.S. Department of Energy

Washington, D.C. 20585

Field Offices:

The managers and directors of field location 1-7 and 9-35 in Appendix A and of the Pittsburgh Naval Reactors and Schenectady Naval Reactors Offices listed above under system location are the System Managers for their respective portions of this system.

Notification procedure:

a. Requests by an individual to determine if a system of records contains information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy,

at the appropriate address from among those listed in items 1-35 of Appendix A and the Pittsburgh Naval Reactors and Schenectady Naval Reactors Offices listed above under system location, in accordance with DOE's Privacy Act regulations (10 CFR 206.3, 40 FR 45610 (October 2, 1975) or 10 CFR 708.6, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

b. Required identifying information: Full name, social security number, location(s) of employment, and time period.

Record access procedures:

a. Requests by an individual for access to a system of records that contains information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, at the appropriate address from among those listed in items 1-35 of Appendix A and the Pittsburgh Naval Reactors and Schenectady Naval Reactors Offices listed above under system location, in accordance with DOE's Privacy Act regulations (10 CFR 206.3, 40 FR 45610 (October 2, 1975) or 10 CFR 708.6, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

b. Required identifying information: Full name, social security number, location(s) of employment, and time period.

Contesting record procedures:

a. Requests by an individual to correct or amend the content of a record containing information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, at the appropriate address from among those listed in items 1-35 of Appendix A and the Pittsburgh Naval Reactors and Schenectady Naval Reactors Offices listed above under system location, in accordance with DOE's Privacy Act regulations (10 CFR 206.7, 40 FR 45613 (October 2, 1975) or 10 CFR 708.6 and 708.7, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

b. Required identifying information: Full name, social security number, location(s) of employment, and time period.

Record source categories: The subject individual, supervisors, timekeepers, official personnel records, and the IRS.

Systems exempted from certain provisions of the act: None.

DOE-14

System name: Compensation for Contractor Employees (25,000 dollars or more).

Security classification: Unclassified.

System location: The locations listed as items 2, 6, 8, 9, 12, 14, 26, 28, and 29 in Appendix A and the following additional locations:

Clinch River Breeder Reactor Plant Project
P.O. Box U
Oak Ridge, Tennessee 37830
Grand Junction Office
P.O. Box 2567
Grand Junction, Colorado 81501
Pittsburgh Naval Reactors Office
P.O. Box 109
West Mifflin, Pennsylvania 15122
Schenectady Naval Reactors Office
P.O. Box 1069
Schenectady, New York 12301.

Categories of individuals covered by the system: Administrative, professional, and scientific personnel.

Categories of records in the system: Name, contractor, salary history, and current salary.

Authority for maintenance of the system: 5 U.S.C. 301; Department of Energy Organization Act, including authorities incorporated by reference in Title III of the Department of Energy Organization Act; Executive Order 12009.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses listed in Appendix B.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Usually paper records; sometimes other media.

Retrievability: By name.

Safeguards: Records are kept in lockable file cabinets in guarded buildings.

Retention and disposal: Records retention and disposal authorities are contained in DOE Order 1324.1, "Records Disposition." Records

within the DOE are destroyed by shredding, burning, or burial in a sanitary landfill, as appropriate.

System manager(s) and address:

Headquarters (location 8 in Appendix A):

The Director
Office of Contractor Industrial Relations
U.S. Department of Energy
Washington, D.C. 20545

Field Offices:

The managers and directors of field locations 2, 6, 9, 12, 26, 28, and 29 in Appendix A and of the Clinch River Breeder Reactor Plant Project, Pittsburgh Naval Reactors, and Schenectady Naval Reactors Offices listed above under system location are the System Managers for their respective portions of this system.

Notification procedure:

a. Requests by an individual to determine if a system of records contains information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, at the appropriate address from among items 2, 6, 8, 9, 12, 14, 26, 28, and 29 of Appendix A and the Clinch River Breeder Reactor Plant Project, Pittsburgh Naval Reactors and Schenectady Naval Reactors Offices listed above under system location, in accordance with DOE's Privacy Act regulations (10 CFR 206.3, 40 FR 45610 (October 2, 1975) or 10 CFR 708.6, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

b. Required identifying information: Complete name, the geographic location(s) and organization(s) where requester believes such record may be located, date of birth, and time period.

Record access procedures:

a. Requests by an individual for access to a system of records that contains information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, at the address listed in the appropriate item from among items 2, 6, 8, 9, 12, 14, 26, 28, and 29 of Appendix A and the Clinch River Breeder Reactor Plant Project, Pittsburgh Naval Reactors and Schenectady Naval Reactors Offices listed above under system location, in accordance with DOE's Privacy Act regulations (10 CFR 206.3, 40 FR 45610 (October 2, 1975) or 10 CFR 708.6, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

b. Required identifying information: Complete name, the geographic location(s) and organization(s) where requester believes such record may be located, date of birth, and time period.

Contesting record procedures:

a. Requests by an individual to correct or amend the content of a record containing information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, at the address listed in the appropriate item from among items 2, 6, 8, 9, 12, 14, 26, 28, and 29 of Appendix A and the Clinch River Breeder Reactor Plant Project, Pittsburgh Naval Reactors and Schenectady Naval Reactors Offices listed above under system location, in accordance with DOE's Privacy Act regulations (10 CFR 206.7, 40 FR 45613 (October 2, 1975) or 10 CFR 708.6 and 708.7, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

b. Required identifying information: Complete name, the geographic location(s) and organization(s) where requester believes such record may be located, date of birth, and time period.

Record source categories: Contractor salary administrative personnel.

Systems exempted from certain provisions of the act: None.

DOE-15

System name: Payroll and Pay-Related Data for Employees of Terminated Contractors.

Security classification: Unclassified.

System location: The locations listed as items 2, 8, 14 and 26 in Appendix A, and the following additional location:

Clinch River Breeder Reactor Plant Project
P.O. Box U
Oak Ridge, Tennessee 37830

Categories of individuals covered by the system: Former contractor employees.

Categories of records in the system: Employee payroll data from terminated contractors, employment history, job titles, complaints, salary reviews, and similar information.

Authority for maintenance of the system: 5 U.S.C. 301; Department of Energy Organization Act, including authorities incorporated by reference in Title III of the Department of Energy Organization Act; Executive Order 12009.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses listed in Appendix B.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records.

Retrievability: By name.

Safeguards: Records are maintained in DOE records holding area.

Retention and disposal: Records retention and disposal authorities are contained in DOE Order 1324.1, "Records Disposition." Records within the DOE are destroyed by shredding, burning, or burial in a sanitary landfill, as appropriate.

System manager(s) and address:

Headquarters (location 8 in Appendix A):

Director
Office of Contractor Industrial Relations
U.S. Department of Energy
Washington, D.C. 20545

Field Offices:

The managers and directors of field locations 2, 14, and 26 of Appendix A and of the Clinch River Breeder Reactor Plant Project listed above under system location are the System Managers for their respective portions of this system.

Notification procedure:

a. Requests by an individual to determine if a system of records contains information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, at the appropriate address from among items 2, 8, 14 and 26 of Appendix A and the Clinch River Breeder Reactor Office listed above under system location, in accordance with DOE's Privacy Act regulations (10 CFR 206.3, 40 FR 45610 (October 2, 1975) or 10 CFR 708.6, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

b. Required identifying information: Complete name, the geographic location(s) and organization(s) where requester believes such record may be located, date of birth, and time period.

Record access procedures:

a. Requests by an individual for access to a system of records that contains information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, at the address listed in the appropriate item from among items 2, 8, 14 and 26 of Appendix A and the Clinch River Breeder Reactor Office listed above under system location, in accordance with DOE's Privacy Act regulations (10 CFR 206.3, 40 FR 45610 (October 2, 1975) or 10 CFR 708.6, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

b. Required identifying information: Complete name, the geographic location(s) and organization(s) where requester believes such record may be located, date of birth, and time period.

Contesting record procedures:

a. Requests by an individual to correct or amend the content of a record containing information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, at the address listed in the appropriate item from among items 2, 8, 14 and 26 of Appendix A and the Clinch River Breeder Reactor Office listed above under system location in accordance with DOE's Privacy Act regulations (10 CFR 206.7, 40 FR 45613 (October 2, 1975) or 10 CFR 708.6 and 708.7, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or 708 should apply.

b. Required identifying information: Complete name, the geographic location(s) and organization(s) where requester believes such record may be located, date of birth, and time period.

Record source categories: DOE contractors.

Systems exempted from certain provisions of the act: None.

DOE-16

System name: Reports of Financial Interest.

Security classification: Unclassified.

System location: The locations listed as items 2, 5, 6, 8, 9, 12, 13, 14, 26, 27, 28, 29, 30, 32 and 34 in Appendix A and the following additional locations:

Brookhaven Area Office

Upton, New York 11973
Grand Junction Office
Office of the Chief Counsel
P.O. Box 2567
Grand Junction, Colorado 81501
Kansas City Area Office
Office of Counsel
P.O. Box 202
Kansas City, Missouri 64141
Los Alamos Area Office
Office of the Chief Counsel
528 35th Street
Los Alamos, New Mexico 87544
Pittsburgh Naval Reactors Office
Office of the Chief Counsel
P.O. Box 109
West Mifflin, Pennsylvania 15122
Rocky Flats Area Office
P.O. Box 928
Golden, Colorado 80401
Schenectady Naval Reactors Office
Office of the Chief Counsel
P.O. Box 1069
Schenectady, New York 12301

Categories of individuals covered by the system: Current or former officers, employees and special Government employees of the DOE or its predecessor agencies, excluding employees of the Federal Energy Regulatory Commission (FERC) (and its predecessor, the Federal Power Commission (FPC)), required to submit financial interest forms in accordance with Executive Order 11222; Title VI of the Department of Energy Organization Act; and regulations or other instructions issued by the DOE and its predecessor agencies (except for the FERC and FPC) in implementation of the Government financial interest program.

Categories of records in the system: Information contained in DOE Report of Financial Interests (Forms DOE-459, 460, 461), in ERDA Conflict of Interest Forms 443 and 269, and in FEA Financial Interest Forms FEA F-82, F-91, and F-254, including individual's name, position title, date of appointment, employment and financial interests, creditors, interest in real property, names and addresses of other persons requested to supply information, individual's certificate of truth and veracity, and correspondence pertaining to the individual's financial interest statement.

Authority for maintenance of the system: 5 U.S.C. 301; Department of Energy Organization Act, including authorities incorporated by reference in Title III of the Department of Energy Organization Act; Executive Order 12009; 5 CFR, Part 735 (also Federal Personnel Manual, Chapter 735).

Routine uses of records maintained in the system, including categories of such users and the purposes of such uses: Cognizant appointing officials—to assist the Department, Office of Personnel Management, and the President in determining whether individuals have conflicts or apparent conflicts of interest in the performance of official duties; for counseling of personnel in avoiding violations; for assignment of duties; for law enforcement review.

The public—pursuant to statute, portions of the DOE Forms 459 and 460 (Parts A thereof), and all of FEA Form F-254 are required to be made available to the public.

Additional routine uses as listed in Appendix B.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper files.

Retrievability: By name.

Safeguards: Records are maintained in locked filing cabinets and rooms, or in Class C manipulation-proof, three-way combination locked steel containers. Access is by authorized personnel only.

Retention and disposal: Records generated pursuant to the Department of Energy Organization Act are retained for six years after receipt. ERDA forms and related papers are retained for two years after the individual leaves the position for which the submission is required, or two years after separation, whichever is earlier. FEA records are maintained until the individual severs connection with the agency; no time period for retention after severance was developed by the FEA. Records within DOE are destroyed by shredding, burning, or burial in a sanitary landfill, as appropriate.

System manager(s) and address:

Headquarters (location 8 in Appendix A):

General Counsel
U.S. Department of Energy
Washington, D.C. 20585

Field Offices:

The managers, directors, or administrators of field locations 2, 5, 6, 9, 12, 13, 14, 26, 27, 28, 29, 30, 32, and 34 of Appendix A are System Managers for their respective portions of this system.

Notification procedure:

a. Requests by an individual to determine if a system of records contains information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, at the appropriate address from among items 2, 5, 6, 9, 12, 13, 14, 26, 27, 28, 29, 30, 32, and 34 of Appendix A, in accordance with DOE's Privacy Act regulations (10 CFR 206.3, 40 FR 45610 (October 2, 1975) or 10 CFR 708.6, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

b. Required identifying information: Individual's name, DOE (or ERDA or FEA) location of last employment or cognizant office, and time period of employment.

Record access procedures:

a. Requests by an individual for access to a system of records that contains information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, at the appropriate address from among items 2, 5, 6, 9, 12, 13, 14, 26, 27, 28, 29, 30, 32, and 34 of Appendix A, in accordance with DOE's Privacy Act regulations (10 CFR 206.3, 40 FR 45610 (October 2, 1975) or 10 CFR 708.6, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

b. Required identifying information: Individual's name, DOE (or ERDA or FEA) location of last employment or cognizant office, and time period of employment.

Contesting record procedures:

a. Requests by an individual to correct or amend the content of a record containing information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, at the appropriate address from among items 2, 5, 6, 9, 12, 13, 14, 26, 27, 28, 29, 30, 32, and 34 of Appendix A, in accordance with DOE's Privacy Act regulations (10 CFR 206.7, 40 FR 45613 (October 2, 1975) or 10 CFR 708.6 and 708.7, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

b. Required identifying information: Individual's name, DOE (or ERDA or FEA) location of last employment or cognizant office, and time period of employment.

Record source categories: The individual on whom the record is maintained, or other person (such as a trustee, attorney or accountant) identified by the individual as a supplier of information.

Systems exempted from certain provisions of the act: None.

DOE-17

System name: Certificates of Eligibility for FHA Insured Loans.

Security classification: Unclassified.

System location:

Los Alamos Area Office
528 35th Street
Los Alamos, New Mexico 87544

Categories of individuals covered by the system: Persons having Certificates of Eligibility for FHA insured loans.

Categories of records in the system: Name, employment, and loan information.

Authority for maintenance of the system: 5 U.S.C. 301; Department of Energy Organization Act, including authorities incorporated by reference in Title III of the Department of Energy Organization Act; Executive Order 12009.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Federal Housing Administration (FHA)—for approval by area manager and processing of loan.

Additional routine uses as listed in Appendix B.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records.

Retrievability: By name.

Safeguards: Records are maintained in a locked building.

Retention and disposal: Records retention and disposal authorities are contained in DOE Order 1324.1, "Records Disposition." Records

within the DOE are destroyed by shredding, burning, or burial in a sanitary landfill, as appropriate.

System manager(s) and address:

Field Offices:

Manager
Albuquerque Operations Office
U.S. Department of Energy
P.O. Box 5400
Albuquerque, New Mexico 87115

Notification procedure:

a. Requests by an individual to determine if a system of records contains information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, at the address listed in item 2 of Appendix A, in accordance with DOE's Privacy Act regulations (10 CFR 206.3, 40 FR 45610 (October 2, 1975) or 10 CFR 708.6, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

b. Required identifying information: Complete name, the geographic location(s) and organization(s) where requester believes such record may be located, date of birth and time period.

Record access procedures:

a. Requests by an individual for access to a system of records that contains information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, at the address listed in item 2 of Appendix A, in accordance with DOE's Privacy Act regulations (10 CFR 206.3, 40 FR 45610 (October 2, 1975) or 10 CFR 708.6, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

b. Required identifying information: Complete name, the geographic location(s) and organization(s) where requester believes such record may be located, date of birth, and time period.

Contesting record procedures:

a. Requests by an individual to correct or amend the content of a record containing information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, at the address listed in item 2 of Appendix A, in accordance with DOE's Privacy Act regulations (10 CFR 206.7, 40 FR 45613 (October 2, 1975) or 10 CFR 708.6 and 708.7, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

b. Required identifying information: Complete name, the geographic location(s) and organization(s) where requester believes such record may be located, date of birth and time period.

Record source categories: Subject individual, employer, real estate broker.

Systems exempted from certain provisions of the act: None.

DOE-18

System name: Accounts Payable Financial System.

Security classification: Unclassified.

System location:

The paper records are located at: The locations listed as items 1-35 in Appendix A.

The machine readable records are located at:

Optimum Systems, Inc.
5615 Fishers Lane
Rockville, Maryland 20852

Categories of individuals covered by the system: Creditors due money from the agency (including employees), former employees, and members of the general public.

Categories of records in the system: Name and address; amount owed and service performed; underpayment or other accounting information; and invoice number.

Authority for maintenance of the system: 5 U.S.C. 301; Department of Energy Organization Act, including authorities incorporated by reference in Title III of the Department of Energy Organization Act; Executive Order 12009.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Paying creditors and the additional routine uses listed in Appendix B.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records.

Retrievability: By name and purchase order or contract number, as appropriate.

Safeguards: Physical, technical, and administrative security is maintained, with all storage equipment and rooms locked when not in use. Access is restricted to authorized personnel.

Retention and disposal: Records are retained until payment is made and account is audited. They are then disposed of in accordance with the DOE records control schedule.

System manager(s) and address:

Headquarters (location 8 in Appendix A):

Controller
U.S. Department of Energy
Washington, D.C. 20585

Field Offices:

The managers and directors of field locations 1-7 and 9-35 of Appendix A are the System Managers for their respective portions of this system.

Notification procedure:

a. Requests by an individual to determine if a system of records contains information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, at the appropriate address from among items 1 through 35 of Appendix A, in accordance with DOE's Privacy Act regulations (10 CFR 206.3, 40 FR 45610 (October 2, 1975) or 10 CFR 708.6, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

b. Required identifying information: Complete name, the geographic location(s) and organization(s) where requester believes such record may be located, date of birth, and time period.

Record access procedures:

a. Requests by an individual for access to a system of records that contains information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, at the address listed in the appropriate item from among items 1 through 35 of Appendix A, in accordance with DOE's Privacy Act regulations (10 CFR 206.3, 40 FR 45610 (October 2, 1975) or 10 CFR 708.6, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

b. Required identifying information: Complete name, the geographic location(s) and organization(s) where requester believes such record may be located, date of birth, and time period.

Contesting record procedures:

a. Requests by an individual to correct or amend the content of a record containing information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, at the address listed in the appropriate item from among items 1 through 35 of Appendix A, in accordance with DOE's Privacy Act regulations (10 CFR 206.7, 40 FR 45613 (October 2, 1975) or 10 CFR 708.6 and 708.7, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

b. Required identifying information: Complete name, the geographic location(s) and organization(s) where requester believes such record may be located, date of birth, and time period.

Record source categories: Subject individual, contracting officer and, as appropriate, accounting records.

Systems exempted from certain provisions of the act: None.

DOE-19

System name: Accounts Receivable Financial System.

Security classification: Unclassified.

System location: The locations listed as items 1-35 in Appendix A.

Categories of individuals covered by the system: Persons owing money to DOE.

Categories of records in the system: Name and address, services rendered, amount receivable, billing date, and invoice number, if any.

Authority for maintenance of the system: 5 U.S.C. 301; Department of Energy Organization Act, including authorities incorporated by reference in Title III of the Department of Energy Organization Act; Executive Order 12009; 31 U.S.C. 66a; 5 U.S.C. 5701-09; Federal Property Management Regulations 101-7; Treasury Fiscal Requirements Manual.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Billing debtors and reporting to the Office of Personnel Management.

Additional routine uses as listed in Appendix B.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records, magnetic tape, microfilm, and microfiche.

Retrievability: By name or invoice number.

Safeguards: Access to records is by authorized personnel only.

Retention and disposal: Records are retained until payment is received and account is audited, then disposed of in accordance with records control schedule.

System manager(s) and address:

Headquarters (location 8 in Appendix A):

Chief, Financial Operations
U.S. Department of Energy
Washington, D.C. 20585

Field Offices:

The managers and directors of field locations 1-7 and 9-35 in Appendix A are the System Managers for their respective portions of this system.

Notification procedure:

a. Requests by an individual to determine if a system of records contains information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, at the appropriate address listed from among items 1-35 of Appendix A, in accordance with DOE's Privacy Act regulations (10 CFR 206.3, 40 FR 45610 (October 2, 1975) or 10 CFR 708.6, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

b. Required identifying information: Complete name, the geographic location(s) and organization(s) where requester believes such record may be located, date of birth, and time period.

Record access procedures:

a. Requests by an individual for access to a system of records that contains information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, at the appropriate address listed from among items 1-35 of Appendix A, in accordance with DOE's Privacy Act regulations (10 CFR 206.3, 40 FR 45610 (October 2, 1975) or 10 CFR 708.6, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

b. Required identifying information: Complete name, the geographic location(s) and organization(s) where requester believes such record may be located, date of birth, and time period.

Contesting record procedures:

a. Requests from an individual to correct the content of a record containing information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, at the appropriate address listed from among items 1-35 of Appendix A, in accordance with DOE's Privacy Act regulations (10 CFR 206.3, 40 FR 45613 (October 2, 1975) or 10 CFR 708.6 and 708.7, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

b. Required identifying information: Complete name, the geographic location(s) and organization(s) where requester believes such record may be located, date of birth, and time period.

Record source categories: The individual who is the subject of the record, contracting officer, accounting records.

Systems exempted from certain provisions of the act: None.

DOE-20

System name: Imprest Fund Cashiers.

Security classification: Unclassified.

System location: The location listed as item 33 in Appendix A, and the following additional locations:

Arkansas Area Office
Southwestern Power Administration
305 North Floyd Street
Jonesboro, Arkansas 72402

Line Maintenance Crew
Southwestern Power Administration
907 North Mississippi
Ada, Oklahoma 74820

Missouri Area Office
Southwestern Power Administration
Golden Avenue and Battlefield Road
Springfield, Missouri 65804

Oklahoma Area Office
Southwestern Power Administration
1409 West Chawnee Street
Muskogee, Oklahoma 74401

Categories of individuals covered by the system: Employees of the Southwestern Power Administration who are imprest fund cashiers.

Categories of records in the system: Name, date of appointment, authorized amount of funds, and reports of unannounced administrative reviews.

Authority for maintenance of the system: 5 U.S.C. 301; Department of Energy Organization Act, including authorities incorporated by reference in Title III of the Department of Energy Organization Act; Executive Order 12009.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: For control of funds handling appointments.

Additional routine uses as listed in Appendix B.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records (letter memoranda or forms).

Retrievability: By name and by office location.

Safeguards: Records are maintained in a locked building.

Retention and disposal: Records are destroyed after six years.

System manager(s) and address: Field Offices:

Chief
Division of Administrative Management
Southwestern Power Administration
U.S. Department of Energy
333 West Fourth Street
Tulsa, Oklahoma 74103

Notification procedure:

a. Requests by an individual to determine if a system of records contains information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, at the address listed in item 33 of Appendix A, in accordance with DOE's Privacy Act regulations (10 CFR 206.3, 40 FR 45610 (October 2, 1975) or 10 CFR 708.6, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

b. Required identifying information: Complete name, the geographic location(s) and organization(s) where requester believes such record may be located, date of birth, and time period.

Record access procedures:

a. Requests by an individual for access to a system of records that contains information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, at the address listed in item 33 of Appendix A, in accordance with DOE's Privacy Act regulations (10 CFR 206.3, 40 FR 45610 (October 2, 1975) or 10 CFR 708.6, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

b. Required identifying information: Complete name, the geographic location(s) and organization(s) where requester believes such record may be located, date of birth, and time period.

Contesting record procedures:

a. Requests by an individual to correct or amend the content of a record containing information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, at the address listed in item 33 of Appendix A, in accordance with DOE's Privacy Act regulations (10 CFR 206.7, 40 FR 45613 (October 2, 1975) or 10 CFR 708.6 and 708.7, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

b. Required identifying information: Complete name, the geographic location(s) and organization(s) where requester believes such record may be located, date of birth and time period.

Record source categories: Subject individual supervisors, and employees appointed to conduct administrative reviews.

Systems exempted from certain provisions of the act: None.

DOE-21

System name: Emergency Defense Mobilization Files.

Security classification: Unclassified.

System location:

Office of Fuels Regulation
Economic Regulatory Administration
2000 M Street, NW.
Washington, D.C. 20461

Office of Utility Systems
Economic Regulatory Administration

2000 M Street, NW.
Washington, D.C. 20461

Categories of individuals covered by the system: Members of the National Defense Executive Reserve and other individuals assigned responsibilities in the event of a national defense emergency.

Categories of records in the system: Biographical and related records.

Authority for maintenance of the system: 5 U.S.C. 301; Department of Energy Organization Act, including authorities incorporated by reference in Title III of the Department of Energy Organization Act; Executive Order 12009; Defense Production Act of 1950.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: DOE officials and officials of other departments and agencies—use of records to administer the National Defense Executive Reserve Program.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records.

Retrievability: By name.

Safeguards: Records are maintained in lockable drawers or file cabinets in secured rooms with access limited to those whose official duties require access.

Retention and disposal: Records are retained for two years following the resignation or death of the subject individual.

System manager(s) and address:

Assistant Administrator for Fuels Regulation (or his designee)
Economic Regulatory Administration
U.S. Department of Energy
2000 M Street, NW.
Washington, D.C. 20461

Assistant Administrator for Utility Systems (or his designee)
U.S. Department of Energy
1111 20th Street, NW.
Washington, D.C. 20461

Notification procedure: Requests by an individual to determine if a system of records contains information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, Washington, D.C. 20585, in accordance with DOE's Privacy Act regulations (10 CFR 206.3, 40 FR 45610 (October 2, 1975) or 10 CFR 708.6, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

Record access procedures: Requests by an individual for access to a system of records that contains information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, Washington, D.C. 20585, in accordance with DOE's Privacy Act regulations (10 CFR 206.3, 40 FR 45610 (October 2, 1975) or 10 CFR 708.6, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

Contesting record procedures: Requests by an individual to correct or amend the content of a record containing information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, Washington, D.C. 20585, in accordance with DOE's Privacy Act regulations (10 CFR 206.7, 40 FR 45613 (October 2, 1975) or 10 CFR 708.6 and 708.7, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

Record source categories: The subject individual.

Systems exempted from certain provisions of the act: None.

DOE-22

System name: Plant Services History.

Security classification: Unclassified.

System location: The location listed as item 4 in Appendix A.

Categories of individuals covered by the system: Individuals who have been or are employed by the Branch of Plant Services.

Categories of records in the system: Records concerning labor performed by the above-defined individuals, including type of work, rate, pay, travel and per diem status, and for whom these services were performed.

Authority for maintenance of the system: 5 U.S.C. 301; Department of Energy Organization Act, including authorities incorporated by reference in Title III of the Department of Energy Organization Act; Executive Order 12009.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary uses of the

records are (a) to provide a detailed record of costs incurred for labor against any plant services requested on a monthly basis, (b) to provide backup for charges for work performed for other Federal agencies under the cross-servicing agreements authorized by GSA Bulletin FPMR 100.G-23, and (c) to provide backup for charges against contractors and other vendors for corrective work performed by the Branch of Plant Services.

Additional routine uses as listed in Appendix B.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Magnetic tape.

Retrievability: By name, position number, and time period involved.

Safeguards: Records are maintained in a locked building.

Retention and disposal: Tapes are erased after 10 years.

System manager(s) and address: Field Offices:

Chief, Branch of Plant Services
Bonneville Power Administration
U.S. Department of Energy
P.O. Box 3621
Portland, Oregon 97208

Notification procedure:

a. Requests by an individual to determine if a system of records contains information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, at the address listed in item 4 of Appendix A, in accordance with DOE's Privacy Act regulations (10 CFR 206.3, 40 FR 45610 (October 2, 1975) or 10 CFR 708.6, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

b. Required identifying information: Complete name, the geographic location(s) and organization(s) where requester believes such record may be located, date of birth, and time period.

Record access procedures:

a. Requests by an individual for access to a system of records that contains information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, at the address listed in item 4 of Appendix A, in accordance with DOE's Privacy Act regulations (10 CFR 206.3, 40 FR 45610 (October 2, 1975) or 10 CFR 708.6, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

b. Required identifying information: Complete name, the geographic location(s) and organization(s) where requester believes such record may be located, date of birth and time period.

Contesting record procedures:

a. Requests by an individual to correct or amend the content of a record containing information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, at the address listed in item 4 of Appendix A, in accordance with DOE's Privacy Act regulations (10 CFR 206.7, 40 FR 45613 (October 2, 1975) or 10 CFR 708.6 and 708.7, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

b. Required identifying information: Complete name, the geographic location(s) and organization(s) where requester believes such record may be located, date of birth, and time period.

Record source categories: Daily time reports and leave applications completed and signed by subject individuals.

Systems exempted from certain provisions of the act: None.

DOE-23

System name: Property Accountability System.

Security classification: Unclassified.

System location: The locations listed as items 1, 4, 31, and 33 in Appendix A and the following additional location:

Branch of Plant Services
EJ, Bonneville Power Administration
5400 NE Highway 99
P.O. Box 491
Vancouver, Washington 98660

Categories of individuals covered by the system: DOE employees authorized to be custodians of controlled DOE equipment.

Categories of records in the system: Contains records concerning the types, quantity, make and models, and value of equipment assigned to individuals and crews. Also, the employees assigned equipment, their account numbers, organization, and location.

Authority for maintenance of the system: 5 U.S.C. 301; Department of Energy Organization Act, including authorities incorporated by reference in Title III of the Department of Energy Organization Act; Executive Order 12009; Federal Property and Administrative Services Act of 1949, Section 202(b), 40 U.S.C. 483(b).

Routine uses of records maintained in the system, including categories of users and the purpose of such uses: The primary uses of the records are (a) to provide inventories to satisfy other FPMR requirements; (b) to maintain a record of location of emergency equipment; (c) to control equipment assignments authorized under union contracts; (d) to provide management information necessary for the budgeting and allocation of equipment funds; and (e) to provide evidence of assignment, location, and value in the event that Government property is stolen.

Additional routine uses as listed in Appendix B.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Magnetic disks, paper records.

Retrievability: By name, position number, and/or employee identification number.

Safeguards: Access is restricted to authorized personnel.

Retention and disposal: Tapes are erased after ten years. Paper records are held no longer than six years after final payment.

System manager(s) and address: The managers or directors of field locations 1, 4, 31, and 33 and of the Bonneville office listed above under system location are the System Managers for their respective portions of this system.

Notification procedure:

a. Requests by an individual to determine if a system of records contains information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, at the appropriate address from among items 1, 4, 31, and 33 in Appendix A and the Bonneville office listed above under system location, in accordance with DOE's Privacy Act regulations (10 CFR 206.3, 40 FR 45610 (October 2, 1975) or 10 CFR 708.6, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

b. Required identifying information: Complete name, the geographic location(s) and organization(s) where requester believes such record may be located, date of birth, and time period.

Record access procedures:

a. Requests by an individual for access to a system of records that contains information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, at the appropriate address from among items 1, 4, 31, and 33 in Appendix A and the Bonneville office listed above under system location, in accordance with DOE's Privacy Act regulations (10 CFR 206.3, 40 FR 45610 (October 2, 1975) or 10 CFR 708.6, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

b. Required identifying information: Complete name, the geographic location(s) and organization(s) where requester believes such record may be located, date of birth, and time period.

Contesting record procedures:

a. Requests by an individual to correct or amend the content of a record containing information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, at the appropriate address from among items 1, 4, 31, and 33 in Appendix A and the Bonneville office listed above under system location, in accordance with DOE's Privacy Act regulations (10 CFR 206.7, 40 FR 45613 (October 2, 1975) or 10 CFR 708.6 and 708.7, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

b. Required identifying information: Complete name, the geographic location(s) and organization(s) where requester believes such record may be located, date of birth, and time period.

Record source categories: DOE employees who have authority to have tools and work equipment and their supervisors.

Systems exempted from certain provisions of the act: None.

DOE-24

System name: Land Records.

System location: The following subunits of the Bonneville Power Administration:

Branch of Land
1002 Holladay Street, NE.

P.O. Box 3621
Portland, Oregon 97208
Portland Area Office
Lloyd Plaza Building
P.O. Box 3621
Portland, Oregon 97208
Ross Complex 5400 Highway 99, NE.
P.O. Box 491, NE.
Vancouver, Washington 98660
Spokane Area Office
U.S. Court House
West 920 Riverside
Room 561
Spokane, Washington 99201
Walla Walla Area Office
West 101 Poplar
P.O. Box 1518
Walla Walla, Washington 99362.

Categories of individuals covered by the system: Individuals and/or companies from whom or to whom BPA has acquired or given interests in land.

Categories of records in the system: The Records contain the individual's name, description of land tract, type of agreement, rights granted or received, and history of the transaction.

Authority for maintenance of the system: 5 U.S.C. 301; Department of Energy Organization Act, including authorities incorporated by reference in Title III of the Department of Energy Organization Act; Executive Order 12009.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To answer questions regarding land rights which BPA has granted to individuals or land rights individuals have granted to BPA; and as a data source used to update maps.

Additional routine uses as listed in Appendix B.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained on computer punched cards and magnetic tapes; maintained manually in file folders and card files; the land tract register is stored in a safe; computer (punched cards) are stored in a cabinet.

Retrievability: By line identification, tract number, and contract number; cross referenced by name of landowner, grantee, or grantor.

Safeguards: Access to the records is limited to authorized persons. During nonworking hours, access to the records is restricted by their storage in locked metal file cabinets or a locked room.

Notification procedure:

a. Requests by an individual to determine if a system of records contains information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, Bonneville Power Administration, 1002 Holladay Street, NE., P.O. Box 3621, Portland, Oregon 97208, in accordance with DOE's Privacy Act regulations (10 CFR 206.3, 40 FR 45610 (October 2, 1975) or 10 CFR 708.6, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

b. Required identifying information: Complete name, the geographic location(s) and organization(s) where requester believes such record may be located, date of birth, and time period.

Record access procedures:

a. Requests by an individual for access to a system of records that contains information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, Bonneville Power Administration, 1002 Holladay Street, NE., P.O. Box 3621, Portland, Oregon 97208, in accordance with DOE's Privacy Act regulations (10 CFR 206.3, 40 FR 45610 (October 2, 1975) or 10 CFR 708.6, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

b. Required identifying information: Complete name, the geographic location(s) and organization(s) where requester believes such record may be located, date of birth, and time period.

Contesting record procedures:

a. Requests by an individual to correct or amend the content of a record containing information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, Bonneville Power Administration, 1002 Holladay Street, NE., P.O. Box 3621, Portland, Oregon 97208, in accordance with DOE's Privacy Act regulations (10 CFR 206.7, 40 FR 45613 (October 2, 1975) or 10 CFR 708.6 and 708.7, 40 FR 7320 (February 19, 1975)).

1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

b. Required identifying information: Complete name, the geographic location(s) and organization(s) where requester believes such record may be located, date of birth, and time period.

Record source categories: Information in this system comes from individual landowners, grantees, or grantors; BPA officials; and State and local authorities.

Systems exempted from certain provisions of the act: None.

DOE-25

System name: Employee Parking Records (this system concerns parking managed and controlled by DOE under the general direction of the General Services Administration).

Security classification: Unclassified.

System location: The locations listed in Appendix A and the following additional locations:

1. Strategic Petroleum Reserve Project Management Office
900 Commerce Road East
New Orleans, Louisiana 70123
2. Naval Petroleum Reserves
Box 11
Tupman, California 93276
3. Naval Petroleum Reserves
400 East 1st Street, Suite 311
Casper, Wyoming 82611
4. Carbondale Mining Resource Center
P.O. Box 2587
Carbondale, Illinois 62901
5. Pittsburgh Naval Reactors Office
P.O. Box 109
West Mifflin, Pennsylvania 15122
6. Schenectady Naval Reactors Office
P.O. Box 1069
Schenectady, New York 12301
7. Clinch River Breeder Reactor Project Office
P.O. Box V, Jefferson Circle
Oak Ridge, Tennessee 37830

Categories of individuals covered by the system: All DOE employees who apply as members of a carpool for DOE parking spaces managed and controlled by DOE under the general direction of the General Services Administration. Also, employees of DOE, of DOE contractors, and of nearby employers at the locations listed in Appendix A and the additional locations listed under "System Locations."

Categories of records in the system: Name; Federal service computation date; payroll or other assigned number; office address and telephone; home address and telephone; make, year, State of registration, and tag number of pool vehicles; and number of days per week in the carpool; and other carpooling information.

Authority for maintenance of the system: 5 U.S.C. 301; Department of Energy Organization Act, including authorities incorporated by reference in Title III of the Department of Energy Organization Act; Executive Order 12009; Federal Management Circular 1-74.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Dissemination to individuals seeking to join a carpool which operates from their residence area.

Additional routine uses as listed in Appendix B.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records and magnetic tape.

Retrievability: By name, location of parking assignment, home address, payroll or other assigned number, and license number.

Safeguards: Paper records are maintained in a lockable metal file cabinet. Magnetic tapes are stored in a restricted area. Access is limited to DOE and contractor personnel who need the information to perform their official duties.

Retention and disposal: Parking records are retained until new parking assignments are made (approximately six months). Carpool records are retained for two years.

System manager(s) and address: Headquarters (location 8 in Appendix A):

Director
Office of Administrative Services
U.S. Department of Energy

Washington, D.C. 20585

Field Offices: The managers and directors of field locations listed in Appendix A and additional locations listed under "System Locations."

Notification procedure:

a. Requests by an individual to determine if a system of records contains information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, at the appropriate address listed in Appendix A, in accordance with DOE's Privacy Act regulations (10 CFR 206.3, 40 FR 45610 (October 2, 1975) or 10 CFR 708.6, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

b. Required identifying information: Complete name, the geographic location(s) and organization(s) where requester believes such record may be located, date of birth, and time period.

Record access procedures:

a. Requests by an individual for access to a system of records that contains information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, at the appropriate address listed in Appendix A, in accordance with DOE's Privacy Act regulations (10 CFR 206.3, 40 FR 45610 (October 2, 1975) or 10 CFR 708.6, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

b. Required identifying information: Complete name, the geographic location(s) and organization(s) where requester believes such record may be located, date of birth, and time period.

Contesting record procedures:

a. Requests by an individual to correct or amend the content of a record containing information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, at the appropriate address among items 4, 8, 26, and 33 of Appendix A in accordance with DOE's Privacy Act regulations (10 CFR 206.7, 40 FR 45613 (October 2, 1975) or 10 CFR 708.6 and 708.7, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

b. Required identifying information: Complete name, the geographic location(s) and organization(s) where requester believes such record may be located, date of birth, and time period.

Record source categories: The subject individual.

Systems exempted from certain provisions of the act: None.

DOE-26

System name: Domestic Travel Records.

Security classification: Unclassified.

System location: The locations listed as items 1 through 35 in Appendix A and the following additional locations:

- Clinch River Breeder Reactor Plant Project
P.O. Box U
Oak Ridge, Tennessee 37830
- Grand Junction Office
P.O. Box 2567
Grand Junction, Colorado 81501
- Pittsburgh Naval Reactors Office
P.O. Box 109
West Mifflin, Pennsylvania 15122
- Schenectady Naval Reactors Office
P.O. Box 1069
Schenectady, New York 12301

Categories of individuals covered by the System: DOE employees who have traveled on official business or changed official duty stations, and other individuals authorized to travel at Government expense for DOE. Also official guests of DOE.

Categories of records in the system: Name address, social security number, destination, itinerary, mode and purpose of travel, date of travel, expenses (including amount advanced, if any), amounts claimed, and amounts reimbursed. Travel orders, travel vouchers, receipts, and passport record card.

Authority for maintenance of the System: 5 U.S.C. 301; Department of Energy Organization Act, including authorities incorporated by reference in Title III of the Department of Energy Organization Act; Executive Order 12009; 5 U.S.C. 5701-5709; Federal Property Management Regulations 101-7; Federal Travel Regulations; Budget and Accounting Act of 1921; Accounting and Auditing Act of 1950; Federal Claims Collection Act of 1966.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Transmittal to the U.S.

Treasury for payment of claim, to General Accounting Office for audit and verification of accuracy and legality of disbursements, to IRS to inform regarding taxable travel reimbursements.

Additional routine uses as listed in Appendix B.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records, punched cards, magnetic tape and disk, microfiche, and computer printouts.

Retrievability: By name, social security number, travel order number, and chronologically.

Safeguards: Access to magnetic tapes and disk files is controlled through established DOE computer center procedures (personnel screening and physical security). Records are maintained in locked cabinets and desks with access on a need-to-know basis.

Retention and disposal: Records retention and disposal authorities are contained in DOE Order 1324.1, "Records Disposition." Records within the DOE are destroyed by shredding, burning, or burial in a sanitary landfill, as appropriate.

System manager(s) and address: Headquarters (location 8 in Appendix A):

Controller
U.S. Department of Energy
Washington, D.C. 20585

Field Offices:

The managers and directors of field locations 1 through 7 and 9 through 35 in Appendix A, and the Clinch River Breeder Reactor Plant Project, Pittsburgh Naval Reactors, and Schenectady Naval Reactors Offices listed above under system location are System Managers for their respective portions of this system.

Notification procedure:

a. Requests by an individual to determine if a system of records contains information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, at the appropriate address from among items 1 through 25 of Appendix A and the Clinch River Breeder Reactor Plant Project, Pittsburgh Naval Reactors and Schenectady Naval Reactors Offices listed above under system location, in accordance with DOE's Privacy Act regulations (10 CFR 206.3, 40 FR 45610 (October 2, 1975) or 10 CFR 708.6, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

b. Required identifying information: Full name, social security number, and location of employment and time period.

Record access procedures:

a. Requests by an individual for access to a system of records that contains information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, at the appropriate address from among items 1 through 35 of Appendix A and the Clinch River Breeder Reactor Plant Project, Pittsburgh Naval Reactors and Schenectady Naval Reactors Offices listed above under system location, in accordance with DOE's Privacy Act regulations (10 CFR 206.3, 40 FR 45610 (October 2, 1975) or 10 CFR 708.6, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

b. Required identifying information: Full name, social security number, and location of employment, and time period.

Contesting record procedures:

a. Requests by an individual to correct or amend the content of a record containing information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, at the appropriate address from among items 1 through 35 of Appendix A and the Clinch River Breeder Reactor Plant Project, Pittsburgh Naval Reactors and Schenectady Naval Reactors Offices listed above under system location, in accordance with DOE's Privacy Act regulations (10 CFR 206.7, 40 FR 45613 (October 2, 1975) or 10 CFR 708.6, and 708.7, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

b. Required identifying information: Full name, social security number, and location of employment, and time period.

Record source categories: Subject individuals, supervisors, and finance (or accounting) office standard references.

Systems exempted from certain provisions of the act: None.

DOE-27

System name: Foreign Travel Records.

Security classification: Classified and unclassified.

System location: The locations listed as items 1 through 35 in Appendix A and the following additional locations:

Grand Junction Office
P.O. Box 2567
Grand Junction, Colorado 81501
Los Alamos Area Office
528 35th Street
Los Alamos, New Mexico 87544
Pittsburgh Naval Reactors Office
P.O. Box 109
West Mifflin, Pennsylvania 15122
Schenectady Naval Reactors Office
P.O. Box 1069
Schenectady, New York 12301

Categories of individuals covered by the system: DOE employees and contractor employees authorized to travel to foreign countries.

Categories of records in the system: Security evaluation of individual's access to classified information and background data relating to proposed foreign travel; travel itinerary and summary report following completion of travel.

Authority for maintenance of the system: 5 U.S.C. 301; Department of Energy Organization Act, including authorities incorporated by reference in Title III of the Department of Energy Organization Act; Executive Order 12009; 5 U.S.C. 5701-5709; Federal Property Management Regulations 101-7; Federal Trade Regulations; Budget and Accounting Act of 1921; Accounting and Auditing Act of 1950; Federal Claims Collection Act of 1966.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Transmittal to U.S. Treasury for payment of claims, to General Accounting Office for audit and verification of accuracy and legality of disbursements, to IRS to inform regarding taxable reimbursements, to State Department for passports, and to law enforcement and intelligence agencies for post-travel discussions.

Additional routine uses as listed in Appendix B.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Computer printouts, punched cards, magnetic tape, disk, paper, microfiche.

Retrievability: By name.

Safeguards: Access is limited to employees with a need to know. Records are maintained in guarded buildings.

Retention and disposal: Records retention and disposal authorities are contained in DOE Order 1324.1, "Records Disposition." Records within the DOE are destroyed by shredding, burning, or burial in a sanitary landfill, as appropriate.

System manager(s) and address:

Headquarters (location 8 in Appendix A):

Director
Office of Safeguards and Security
U.S. Department of Energy
Washington, D.C. 20545

Field Offices:

The managers and directors of field locations 1 through 7 and 9 through 35 of Appendix A and the Pittsburgh and Schenectady Naval Reactors Offices listed above under system location are the System Managers for their respective portions of this system.

Notification procedure:

a. Requests by an individual to determine if a system of records contains information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, at the appropriate address from among items 1 through 35 of Appendix A and the Pittsburgh Naval Reactors and Schenectady Naval Reactors Offices listed above under system location, in accordance with DOE's Privacy Act regulations (10 CFR 206.3, 40 FR 45610 (October 2, 1975) or 10 CFR 708.6, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

b. Required identifying information: Indicate full name, date of birth, employment location, and dates of travel.

Record access procedures:

a. Requests by an individual for access to a system of records that contains information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, at the appropriate address from among items 1 through 35 of Appendix A and the Pittsburgh Naval Reactors and Schenectady Naval Reactors Offices listed above under system location, in accordance with DOE's Privacy Act regulations (10 CFR 206.3, 40 FR 45610 (October 2, 1975) or 10 CFR 708.6, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

Reactors Offices listed above under system location, in accordance with DOE's Privacy Act regulations (10 CFR 206.3, 40 FR 45610 (October 2, 1975) or 10 CFR 708.6, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

b. Required identifying information: Indicate full name, date of birth, employment location, and dates of travel.

Contesting record procedures:

a. Requests by an individual to correct or amend the content of a record containing information about him should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, at the appropriate address from among items 1 through 35 of Appendix A, and the Pittsburgh Naval Reactors and Schenectady Naval Reactors Offices listed above under system location, in accordance with DOE's Privacy Act regulations (10 CFR 206.7, 40 FR 45613 (October 2, 1975) or 10 CFR 708.6 and 708.7, FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR, Part 206 or Part 708 should apply.

b. Required identifying information: Indicate full name, date of birth, employment location and dates of travel.

Record source categories: Subject individuals and supervisors.

Systems exempted from certain provisions of the act: The Secretary has exempted this system from subsections (c)(3), (d), (e)(1), (e)(4), (G), (H), (I), and (f) of 5 U.S.C. 552a under the Privacy Act of 1974. This exemption applies only to information in this system of records which is exempt pursuant to 5 U.S.C. 552a(k) (1), (2) and (5).

DOE-28

System name: General Training Records.

Security classification: Unclassified.

System location: The locations listed as items 1-35 in Appendix A.

Categories of individuals covered by the system: All individuals who have requested and participated in training programs administered by DOE, other agencies, or other organizations.

Categories of records in the system: Name, grade, organization, date of birth, social security number; home address and telephone number and special interest area; education completed, course name, justification for attending the course, direct and indirect costs or training, coded information dealing with purpose, type, source; OF 170; course evaluation form, accounting records and central personnel data file quarterly training report.

Authority for maintenance of the system: 5 U.S.C. 301; Department of Energy Organization Act, including authorities incorporated by reference in Title III of the Department of Energy Organization Act; Executive Order 12009; Government Employees Training Act of 1958; Federal Personnel Manual Bulletin 290-15; Federal Personnel Manual, Chapter 410 and Appendix A thereto.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The information in these records is transmitted to intra- and interagency program offices for purposes of determining eligibility for training; to Federal agencies, including the Office of Personnel Management, as source documents for training reports; to training institutions that personnel have requested to attend; and to other Federal agencies as the information documents for payment of funds for training.

Additional routine uses as listed in Appendix B.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records.

Retrievability: By name and social security number.

Safeguards: Records are maintained in secured file cabinets with access limited to those whose official duties require access.

Retention and disposal: Training requests and authorizations are retained for three years and then destroyed. Other training records are incorporated in the individual's personnel file.

System manager(s) and address:

Headquarters (location 8 in Appendix A):

Director
Office of Training and Development
U.S. Department of Energy
Washington, D.C. 20585

Field Offices:

The managers, directors, or administrators of field locations 1-7 and 9-35 of Appendix A are System Managers for their respective portions of this system.

Notification procedure:

a. Requests by an individual to determine if a system of records contains information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, at the appropriate address from among items 1 through 35 of Appendix A, in accordance with DOE's Privacy Act regulations (10 CFR 206.3, 40 FR 45610 (October 2, 1975) or 10 CFR 708.6, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

b. Required identifying information: Complete name, the geographic location(s) and organization(s) where requester believes such record may be located, date of birth, and time period.

Record access procedures:

a. Requests by an individual for access to a system of records that contains information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, at the address listed in the appropriate item from among items 1 through 35 of Appendix A, in accordance with DOE's Privacy Act regulations (10 CFR 206.3, 40 FR 45610 (October 2, 1975) or 10 CFR 708.6, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

b. Required identifying information: Complete name, the geographic location(s) and organization(s) where requester believes such record may be located, date of birth, and time period.

Contesting record procedures:

a. Requests by an individual to correct or amend the content of a record containing information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, at the address listed in the appropriate item from among items 1 through 35 of Appendix A, in accordance with DOE's Privacy Act regulations (10 CFR 206.7, 40 FR 45613 (October 2, 1975) or 10 CFR 708.6, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

b. Required identifying information: Complete name, the geographic location(s) and organization(s) where requester believes such record may be located, date of birth, and time period.

Record source categories: The subject individuals and the individual's supervisors.

Systems exempted from certain provisions of the act: None.

DOE-29

System name: Technology Training Program—Skill Training at Technician Level.

Security classification: Unclassified.

System location: The locations listed as items 8, 9, and 26 in Appendix A and the following additional location:

Oak Ridge Associated Universities
Oak Ridge Operations Office
P.O. Box 117
Oak Ridge, Tennessee 37830

Categories of individuals covered by the system: Technicians in skill-level training for industrial employers within the energy industry, e.g., construction, electro/mechanical drafting, inhalation toxicologists, radiation monitoring, welding inspection, vacuum technology, and laser and optics technology.

Categories of records in the system: Applications for training assignment, work histories, education, training evaluations.

Authority for maintenance of the system: 5 U.S.C. 301; Department of Energy Organization Act, including authorities incorporated by reference in Title III of the Department of Energy Organization Act; Executive Order 12009.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses listed in Appendix B.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Computer printouts, punched cards, magnetic tapes, disks, paper, microfiche.

Retrievability: By name.

Safeguards: Records are maintained in a guarded building.

Retention and disposal: Records retention and disposal authorities are contained in DOE Order 1324.1, "Records Disposition." Records within the Department of Energy are destroyed by shredding, burning, or burial in a sanitary landfill, as appropriate.

System manager(s) and address:

Headquarters (Location 8 in Appendix A):

Director
Office of Contractor Industrial Relations

U.S. Department of Energy
Washington, D.C. 20545

Field Offices:

The managers and directors of field locations 9, 14, and 26 of Appendix A are the Systems Managers for their respective portions of this system.

Notification procedure:

a. Requests by an individual to determine if a system of records contains information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, at the appropriate address from among items 8, 9, 14, and 26 of Appendix A, in accordance with DOE's Privacy Act regulations (10 CFR 206.3, 40 FR 45610 (October 2, 1975) or 10 CFR 708.6, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

b. Required identifying information: Complete name, the geographic location(s) and organization(s) where requester believes such record may be located, date of birth, and time period.

Record access procedures:

a. Requests by an individual for access to a system of records that contains information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, at the address listed in the appropriate item from among items 8, 9, 14, and 26 of Appendix A, in accordance with DOE's Privacy Act regulations (10 CFR 206.3, 40 FR 45610 (October 2, 1975) or 10 CFR 708.6, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

b. Required identifying information: Complete name, the geographic location(s) and organization(s) where requester believes such record may be located, date of birth, and time period.

Contesting record procedures:

a. Requests by an individual to correct or amend the content of a record containing information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, at the address listed in the appropriate item from among items 8, 9, 14, and 26 of Appendix A, in accordance with DOE's Privacy Act regulations (10 CFR 206.7, 40 FR 45613 (October 2, 1975) or 10 CFR 708.6, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

b. Required identifying information: Complete name, the geographic location(s) and organization(s) where requester believes such record may be located, date of birth, and time period.

Record source categories: Subject individual and contractor by whom the individual is employed.

Systems exempted from certain provisions of the act: None.

DOE-30

System name: Nuclear Qualification Examination Records (for personnel to be assigned to ships, shipyards, prototypes and Shippingport atomic power station).

Security classification: Unclassified.

System location:

Headquarters
U.S. Department of Energy
Washington, D.C. 20585

Categories of individuals covered by the system: Candidates for the following positions: United States naval nuclear ship commanding officers, engineer officers, naval nuclear prototype plant managers, naval reactors representatives, shipyard and prototype shift test engineers, and Shippingport atomic power station operations supervisors and nuclear control operators.

Categories of records in the system: Completed examinations and associated records necessary to locate the exams.

Authority for maintenance of the system: 5 U.S.C. 301; Department of Energy Organization Act, including authorities incorporated by reference in Title III of the Department of Energy Organization Act; Executive Order 12009.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Department of Defense—performance of regular duties.

Additional routine uses as listed in Appendix B.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records.

Retrievability: By name and examination serial number.

Safeguards: Access is controlled by the cognizant engineer.

Retention and disposal: Records retention and disposal authorities are contained in DOE Order 1324.1, "Records Disposition." Records within the Department of Energy are destroyed by shredding, burning, or burial in a sanitary landfill, as appropriate.

System manager(s) and address:

Headquarters:

Director
Division of Naval Reactors
U.S. Department of Energy
Washington, D.C. 20545

Notification procedure:

a. Requests by an individual to determine if a system of records contains information about him or her should be directed to the Director, FOI Privacy Acts Activities, Department of Energy, Washington, D.C. 20585, in accordance with DOE's Privacy Act regulations (10 CFR 206.3, 40 FR 45610 (October 2, 1975) or 10 CFR 708.6, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

b. Required identifying information: Name, position for which examination taken, and the approximate date of the exam.

Record access procedures:

a. Requests by an individual for access to a system of records that contains information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, Washington, D.C. 20585, in accordance with DOE's Privacy Act regulations (10 CFR 206.3, 40 FR 45610 (October 2, 1975) or 10 CFR 708.6, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

b. Required identifying information: Name, position for which examination taken, and the approximate date of the exam.

Contesting record procedures:

a. Requests by an individual to correct or amend the content of a record containing information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, Washington, D.C. 20585, in accordance with DOE's Privacy Act regulations (10 CFR 206.7, 40 FR 45613 (October 2, 1975) or 10 CFR 708.6 and 708.7, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

b. Required identifying information: Name, position for which examination taken, and the approximate date of the exam.

Record source categories: The subject individuals.

Systems exempted from certain provisions of the act: None.

DOE-31

System name: Firearms Qualification Records.

Security classification: Unclassified.

System location: The locations listed as items 2, 6, 8, 9, 12, 14, 29, and 31 in Appendix A and the following additional locations:

Amarillo Area Office
Pantex Plant
P.O. Box 1086
Amarillo, Texas 79105

Dayton Area Office
Mound Laboratory
Box 66
Miamisburg, Ohio 45342

Grand Junction Office
P.O. Box 2567
Grand Junction, Colorado 81501

Kansas City Area Office
P.O. Box 202
2000 E. Bannister Road
Kansas City, Missouri 64141

Los Alamos Area Office
528 35th Street
Los Alamos, New Mexico 87544

Pinellas Area Office
GE Pinellas Peninsula
P.O. Box 11500
St. Petersburg, Florida 33733

Pittsburgh Naval Reactors Office

P.O. Box 109
West Mifflin, Pennsylvania 15122

Rocky Flats Area Office
P.O. Box 928
Golden, Colorado 80401

Sandia Area Office
Technical Area 1
Kirtland Air Force Base-East
Albuquerque, New Mexico 87115

San Francisco Livermore Site Office
Trailer 125
Room 106
Livermore, California 94550

Schenectady Naval Reactors Office
P.O. Box 1069
Schenectady, New York 12301

Categories of individuals covered by the system: Department of Energy employees and contractor employees who familiarize themselves or qualify with firearms in the performance of their regular duties.

Categories of records in the system: Records of an individual's annual qualification scores; approvals of gun permits; records concerning accountability of firearms.

Authority for maintenance of the system: 5 U.S.C. 301; Department of Energy Organization Act, including authorities incorporated by reference in Title III of the Department of Energy Organization Act; Executive Order 12009.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Wackenhut Services Inc. (Nevada) Training and Administrative Personnel—performance of regular duties.

Los Alamos County Sheriff—deputation of individuals.
Los Alamos County Clerk—recording of Deputy Commission.
Los Alamos District Court Clerk—recording of Deputy Commission.

Additional routine uses as listed in Appendix B.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records.

Retrievability: By name.

Safeguards: Access is limited to employees having a need to know. Records are stored in security areas under guard and/or alarm protection.

Retention and disposal: Records retention and disposal authorities are contained in DOE Order 1324.1, "Records Disposition." Records within the Department of Energy are destroyed by shredding, burning, or burial in a sanitary landfill, as appropriate.

System manager(s) and address:

Headquarters (location 8 in Appendix A):
Director
Office of Safeguards and Security
U.S. Department of Energy
Washington, D.C. 20545

Field Offices:

The managers and directors of field locations 2, 6, 9, 12, 14, 29 and 31 of Appendix A and the Pittsburgh and Schenectady Naval Reactors Offices listed under system location are the System Managers for their respective portions of this system.

Notification procedure:

a. Requests by an individual to determine if a system of records contains information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, at the appropriate address from among items 2, 6, 8, 9, 12, 14, 29, and 31 of Appendix A and the Pittsburgh Naval Reactors and Schenectady Naval Reactors Offices listed above under system location, in accordance with DOE's Privacy Act regulations (10 CFR 206.3, 40 FR 45610 (October 2, 1975) or 10 CFR 708.6, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

b. Required identifying information: Complete name, the geographic location(s) and organization(s) where requester believes such record may be located, date of birth, and time period.

Record access procedures:

a. Requests by an individual for access to a system of records that contains information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, at the address listed in the appropriate item from among items 2, 6, 8, 9, 12, 14, 29, and 31 of Appendix A and the Pittsburgh Naval Reactors and Schenectady Naval Reactors Offices listed above under system location, in accordance with DOE's Privacy Act regulations (10 CFR 206.3, 40 FR 45610 (October 2, 1975) or 10 CFR 708.6, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

b. Required identifying information: Complete name, the geographic location(s) and organization(s) where requester believes such record may be located, date of birth, and time period.

Contesting record procedures:

a. Requests by an individual to correct or amend the content of a record containing information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, at the address listed in the appropriate item from among items 2, 6, 8, 9, 12, 14, 29, and 31 of Appendix A and the Pittsburgh Naval Reactors and Schenectady Naval Reactors Offices listed above under system location, in accordance with DOE's Privacy Act regulations (10 CFR 206.7, 40 FR 45613 (October 2, 1975) or 10 CFR 708.6 and 708.7, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

b. Required identifying information: Complete name, the geographic location(s) and organization(s) where requester believes such record may be located, date of birth, and time period.

Record source categories: Gun permit notifications and firearm qualifications results from individuals and training personnel.

Systems exempted from certain provisions of the act: None.

DOE-32

System name: Government Motor Vehicle Operator Records.

Security classification: Unclassified.

System location:

The locations listed as items 1 through 35 in Appendix A and the following additional locations:

Bonneville Power Administration
Portland Area Office
919 Northeast 19th Avenue
P.O. Box 3621
Portland, Oregon 97208

Bonneville Power Administration
Seattle Area Office
415 First Avenue North
Room 250
Seattle, Washington 98109

Bonneville Power Administration
Spokane Area Office
Room 561
United States Court House
West 920 Riverside Avenue
Spokane, Washington 99201

Bonneville Power Administration
Ross Complex
5400 Northeast Highway 99
P.O. Box 491
Vancouver, Washington 98660

Bonneville Power Administration
Walla Walla Area Office
West 101 Poplar
P.O. Box 1518
Walla Walla, Washington 99362

Carbondale Mining Research Center
P.O. Box 2587
Carbondale, Illinois 62901

Grand Junction Office
P.O. Box 2567
Grand Junction, Colorado 81501

Los Alamos Area Office
528 35th Street
Los Alamos, New Mexico 87544

Naval Petroleum Reserve
P.O. Box 11
Tupman, California 93276

New Brunswick Laboratory
P.O. Box 150

New Brunswick, New Jersey 08930

Pittsburgh Naval Reactors Office
P.O. Box 109
West Mifflin, Pennsylvania 15122

Rocky Flats Area Office
P.O. Box 928
Golden, Colorado 80401

Schenectady Naval Reactors Office
P.O. Box 1069
Schenectady, New York 12301

Solar Energy Research Institute
1536 Cole Boulevard
Golden, Colorado 80401

Strategic Petroleum Reserve
900 Commerce Road, East
New Orleans, Louisiana 70123

Categories of individuals covered by the system: Each DOE employee and contractor employee whose job duties require frequent or occasional use of Government-owned or leased vehicles and who apply for Motor Vehicle Operator Identification Cards (Standard Form 46). Also, some U.S. Geological Survey personnel, U.S. Forest Service personnel, and Nuclear Regulatory Commission personnel.

Categories of records in the system: Name, job title, office, physical description, birthplace, social security number, type and serial number of State driver's license, record of traffic arrests and/or accidents over the past five years, and signature. A second form (SF-47) contains the employee's full name, date of birth, job title, home address, and general health history.

Authority for maintenance of the system: 5 U.S.C. 301; Department of Energy Organization Act, including authorities incorporated by reference in Title III of the Department of Energy Organization Act; Executive Order 12009; 40 U.S.C. 491(j); Federal Property Management Regulations concerning use of Government-owned and leased vehicles.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To determine eligibility for operation of Government motor vehicles.

Additional routine uses as listed in Appendix B.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper, microfiche, computer printouts, punched cards, magnetic tape, disk.

Retrievability: By name, chronologically by expiration date and date of any incidents, and numerically by badge number.

Safeguards: Maintained in buildings with controlled access, combination file safe, and key lock file.

Retention and disposal: Records retention and disposal authorities are contained in DOE Order 1324.1, "Records Disposition." Records within the DOE are destroyed by shredding, burning, or burial in a sanitary landfill, as appropriate.

System manager(s) and address:

Headquarters (location 8 in Appendix A):
Director of Administrative Services
U.S. Department of Energy
Washington, D.C. 20585

Field Offices:

The managers and directors of field locations 1 through 7 and 9 through 35 of Appendix A and/or the Carbondale Mining Research Center, Naval Petroleum Reserve, Pittsburgh Naval Reactors, Schenectady Naval Reactors, Solar Energy Research Institute, and Strategic Petroleum Reserve Offices listed above under system location are the System Managers for their respective portions of this system.

Notification procedure:

a. Requests by an individual to determine if a system of records contains information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, at the appropriate address from among those indicated above under System Manager, in accordance with DOE's Privacy Act regulations (10 CFR 206.3, 40 FR 45610 (October 2, 1975) or 10 CFR 708.6, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

b. Required identifying information: Full name, location(s) of DOE installation, where Government driver's license was issued, and time period.

Record access procedures:

a. Requests by an individual to determine if a system of records contains information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, at the appropriate address from among those indicated above under System Manager, in accordance with DOE's Privacy Act regulations (10 CFR 206.3, 40 FR 45610 (October 2, 1975) or 10 CFR 708.6, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

b. Required identifying information: Full name, location(s) of DOE installation, where Government driver's license was issued, and time period.

Contesting record procedures:

a. Requests by an individual to correct or amend the content of a record containing information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, at the appropriate address from among those listed above under System Manager, in accordance with DOE's Privacy Act regulations (10 CFR 206.7, 40 FR 45613 (October 2, 1975) or 10 CFR 708.6 and 708.7, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

b. Required identifying information: Full name, location(s) of DOE installation, where Government driver's license was issued, and time period.

Record source categories: Individual applications, accident reports, examinations (for qualifications) by medical personnel, National Driver Register, reports by citizens on alleged misuse of Federal vehicles, and State or local police.

Systems exempted from certain provisions of the act: None.

DOE-33

System name: Personnel Medical Records.

Security classification: Unclassified.

System location: The locations listed as items 1 through 35 in Appendix A and the following additional locations:

Bendix Corporation
P.O. Box 1159
Kansas City, Missouri 64141
Bettis Atomic Power Laboratory
P.O. Box 79
West Mifflin, Pennsylvania 15122
Brookhaven National Laboratory
Industrial Medicine Division
Upton, New York 11973
Carbondale Mining Research Center
P.O. Box 2587
Carbondale, Illinois 62901
Clinch River Breeder
Reactor Plant Project
P.O. Box U
Oak Ridge, Tennessee 37830
Dayton Area Office
Mound Laboratory
Box 66
Miamisburg, Ohio 45342
Grand Junction Office
P.O. Box 2567
Grand Junction, Colorado 81501
Kansas City Area Office
2006 East Bannister
Box 202
Kansas City, Missouri 64141
Knolls Atomic Power Laboratory
P.O. Box 1072
Schenectady, New York 12301
Los Alamos Area Office
528 35th Street
Los Alamos, New Mexico 87544
Naval Petroleum Reserve
P.O. Box 11
Tupman, California 93276
Naval Reactors Facility
P.O. Box 2068
Idaho Falls, Idaho 83411
Pittsburgh Naval Reactors Office
P.O. Box 109
West Mifflin, Pennsylvania 15122

Schenectady Naval Reactors Office
P.O. Box 1069
Schenectady, New York 12301
Solar Energy Research Institute
1536 Cole Boulevard
Golden, Colorado 80401
Strategic Petroleum Reserve
900 Commerce Road, East
New Orleans, Louisiana 70123

Categories of individuals covered by the system: Present and former DOE employees and DOE contractor employees. This system includes individuals admitted to or treated at Kadlec Hospital, Richland, prior to September 9, 1956.

Categories of records in the system: Medical histories on employees resulting from medical examinations and radiation exposure. In cases of injury, description of injury occurrence and treatment. In addition, medical records of periodic physical examinations and psychological testing, blood donor program records, audiometric testing, routine first aid, and other visits. Also, hospital in-patient records and emergency room out-patient records for private patients at Kadlec Hospital.

Authority for maintenance of the system: 5 U.S.C. 301; Department of Energy Organization Act, including authorities incorporated by reference in Title III of the Department of Energy Organization Act; Executive Order 12009; 5 U.S.C. 7901; OMB Circular A-72

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Physicians, U.S. Department of Labor, various State departments of labor and industries, and contractors—use information (a) to ascertain suitability of an employee for job assignments with regard to health, (b) to provide benefits under Federal programs or contracts, and (c) to maintain a record of occupational injuries or illnesses in the performance of regular diagnostic and treatment services to patients.

Additional routine uses as listed in Appendix B.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Computer printouts, magnetic tape, paper, microfilm.

Retrievability: By name, social security number, plant area.

Safeguards: Active records are maintained in locked file cabinets in locked buildings. Inactive records are maintained in locked storage vaults.

Retention and disposal: Records retention and disposal authorities are contained in DOE Order 1324.1, "Records Disposition." Records within the DOE are destroyed by shredding, burning, or burial in a sanitary landfill, as appropriate.

System manager(s) and address:

Headquarters (location 8 in Appendix A):

Director
Division of Operational and Environmental Safety
U.S. Department of Energy
Washington, D.C. 20545

Field Offices:

The managers and directors of field locations 1 through 7 and 9 through 35 are designated the System Managers for their respective portions of this system.

Notification procedures:

a. Requests by an individual to determine if a system of records contains information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, at the appropriate address from among items 1 through 35 of Appendix A and the Clinch River Breeder Reactor Plant Project, Pittsburgh Naval Reactors and Schenectady Naval Reactors Offices listed above under system location, in accordance with DOE's Privacy Act regulations (10 CFR 206.3, 40 FR 45610 (October 2, 1975) or 10 CFR 708.6, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

b. Required identifying information: Applicable location or locations where individual is or was employed, full name of requester, social security number, employer(s), and time period.

Record access procedures:

a. Requests by an individual to determine if a system of records contains information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, at the appropriate address from among items 1 through 35 of Appendix A and the Clinch River Breeder Reactor Plant Project, Pittsburgh Naval Reactors and Schenectady Naval Reactors Offices listed above under system location, in accordance with DOE's Privacy Act

regulations (10 CFR 206.3, 40 FR 45610 (October 2, 1975) or 10 CFR 708.6, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

b. Required identifying information: Applicable location or locations where individual is or was employed, full name of requester, social security number, employer(s), and time period.

Contesting record procedures:

a. Requests by an individual to correct or amend the content of a record containing information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, at the appropriate address from among items 1 through 35 of Appendix A and the Clinch River Breeder Reactor Plant Project, Pittsburgh Naval Reactors and Schenectady Naval Reactors Offices listed above under system location, in accordance with DOE's Privacy Act regulations (10 CFR 206.7, 40 FR 45613 (October 2, 1975) or 10 CFR 708.6 and 708.7, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

b. Required identifying information: Applicable location or locations where individual is or was employed, full name of requester, social security number, employer(s), and time period.

Record source categories: The individual who is the subject of the record, physicians, medical institutions, Office of Workers Compensation Programs, military retired pay systems records, Federal civilian retirement systems, pay and leave records, Office of Personnel Management retirement life insurance and health benefits records system, and the Office of Personnel Management personnel management records system.

Systems exempted from certain provisions of the act: None.

DOE-34

System name: Employee Assistance Program (Alcohol and Drug Abuse Program).

Security classification: Unclassified.

System location: The locations listed as items 1-35 in Appendix A.

Categories of individuals covered by the system: Employees receiving counseling and referral services to resolve alcohol and/or drug abuse problems.

Categories of records in the system: Name, address, job title, grade level, date of employment, work history, community social service agency referrals, medical reports.

Authority for maintenance of the system: Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970; Federal Personnel Manual Letter No. 792-4; 5 U.S.C. 301; Department of Energy Organization Act, including authorities incorporated by reference in Title III of the Department of Energy Organization Act; Executive Order 12009.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses listed in Appendix B.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records.

Retrievability: By name.

Safeguards: Records are located in lockable metal file cabinets with access limited to those whose official duties require access.

Retention and disposal: Records are retained in accordance with applicable DOE record disposition schedules.

System manager(s) and address: Headquarters (location 8 Appendix A):

Director
Office of Equal Opportunity
U.S. Department of Energy
Washington, D.C. 20585

Field Offices:

The managers and directors of field locations 1 through 7 and 9 through 35 of Appendix A are the System Managers for their respective portions of the system.

Notification procedure:

a. Requests by an individual to determine if a system of records contains information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, at the appropriate address from among items 1 through 35 of Appendix A, in accordance with DOE's Privacy Act regulations (10 CFR 206.3, 40 FR 45610 (October 2, 1975) or 10 CFR 708.6, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

b. Required identifying information: Complete name, the geographic location(s) and organization(s) where requester believes such record may be located, date of birth, and time period.

Record access procedures:

a. Requests by an individual for access to a system of records that contains information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, at the address listed in the appropriate item from among items 1 through 35 of Appendix A, in accordance with DOE's Privacy Act regulations (10 CFR 206.3, 40 FR 45610 (October 2, 1975) or 10 CFR 708.6, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

b. Required identifying information: Complete name, the geographic location(s) and organization(s) where requester believes such record may be located, date of birth, and time period.

Contesting record procedures:

a. Requests by an individual to correct or amend the content of a record containing information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, at the address listed in the appropriate item from among items 1 through 35 of Appendix A, in accordance with DOE's Privacy Act regulations (10 CFR 206.7, 40 FR 45613 (October 2, 1975) or 10 CFR 708.6 and 708.7, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

b. Required identifying information: Complete name, the geographic location(s) and organization(s) where requester believes such record may be located, date of birth, and time period.

Record source categories: The subject individual and the individual's supervisors.

Systems exempted from certain provisions of the act: None.

DOE-35

System name: Personnel Radiation Exposure Records.

Security classification: Unclassified.

System location: The locations listed as items 2, 3, 6-12, 14, 15, 26, 28, and 29 in Appendix A and the following additional locations:

Amarillo Area Office
Pantex Plant
P.O. Box 1086
Amarillo, Texas 79105
Batavia Area Office
P.O. Box 2000
Batavia, Illinois 60510
Brookhaven Area Office
Upton, New York 11973
Brookhaven National Laboratory
Health Physics and Safety Division
Building 535
20 North Technology Street
Upton, New York 11973
Dayton Area Office
P.O. Box 66
Miamisburg, Ohio 45342
Division of Naval Reactors
2521 Jefferson Davis Highway
Arlington, Virginia 22202
Environmental Measurements Laboratory
376 Hudson Street
New York, New York 10014
Grand Junction Office
P.O. Box 2567
Grand Junction, Colorado 81501
Hanford Environmental Health Foundation
Kadlec Medical-Dental Building
Richland, Washington 99352
Idaho Branch Office
P.O. Box 2469
Idaho Falls, Idaho 83401
Idaho Health Services Laboratory, CF-690
INEL and Computer Science Center
Idaho Falls, Idaho 83401
Kansas City Area Office
P.O. Box 202
Kansas City, Missouri 64141
Los Alamos Area Office
528 35th Street
Los Alamos, New Mexico 87544

Naval Reactors Representative Office
Building 195
Charleston Naval Shipyard
Charleston, South Carolina 29408

Naval Reactors Representative Office
P.O. Box 21
Groton, Connecticut 06340

Naval Reactor Representative Office
Mare Island Naval Shipyard
P.O. Box 2053
Mare Island, California 94592

Naval Reactors Representative Office
Newport News Shipbuilding & Dry Dock Company
P.O. Box 973
Newport News, Virginia 23607

Naval Reactors Representative Office
Norfolk Naval Shipyard
P.O. Box 848
Portsmouth, Virginia 23705

Naval Reactors Representative Office
P.O. Box 1687
Pascagoula, Mississippi 39567

Naval Reactors Representative Office
Pearl Harbor Naval Shipyard
P.O. Box 128
FPO San Francisco 96610

Naval Reactors Representative Office
Portsmouth Naval Shipyard
Building 178
P.O. Box 2008
Portsmouth, New Hampshire 03801

Naval Reactors Representative Office
Puget Sound Naval Shipyard
P.O. Box 1A
Bremerton, Washington 98314

New Brunswick Laboratory
P.O. Box 150
New Brunswick, New Jersey 08903

Pinellas Area Office
P.O. Box 11500
St. Petersburg, Florida 33733

Pittsburgh Naval Reactors Office
P.O. Box 109
West Mifflin, Pennsylvania 15122

Puerto Rico Office
P.O. Box BB
San Juan, Puerto Rico 00935

Rocky Flats Area Office
P.O. Box 928
Golden, Colorado 80401

Sandia Area Office
P.O. Box 5800
Albuquerque, New Mexico 87115

Schenectady Naval Reactors Office
P.O. Box 1069
Schenectady, New York 12301

Shippingport Branch Office
P.O. Box 11
Shippingport, Pennsylvania 15077

West Milton Field Office
P.O. Box 1069
Schenectady, New York 12301

Windsor Field Office
P.O. Box 393
Windsor, Connecticut 06095

Categories of individuals covered by the system: DOE personnel, contractor personnel, and any other persons having access to certain DOE facilities.

Categories of records in the system: DOE and contractor personnel and other individuals' radiation exposure records, and other records in connection with the transuranic registry.

Authority for maintenance of the system: 5 U.S.C. 301; Department of Energy Organization Act, including authorities incorporated by reference in Title III of the Department of Energy Organization Act; Executive Order 12009.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: U.S. Navy uses these records to monitor radiation exposure of Naval and other personnel at Navy activities.

NRC uses these records to monitor radiation exposure of contractor personnel. DOE and its contractors and consultants, other contractors, and organizations, including various States' departments of labor and industry groups, use these records to monitor radiation exposure of personnel.

Additional routine uses as listed in Appendix B.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Computer printouts, paper records, index cards, magnetic tape, punched cards, microfilm and disc.

Retrievability: By name, alphanumeric code, and social security number.

Safeguards: Records are maintained in locked file cabinets, locked safes, guarded areas, and secured buildings, with access on a need-to-know basis.

Retention and disposal: Records retention and disposal authorities are contained in DOE Order 1324.1, "Records Disposition." Records within the DOE are destroyed by shredding, burning, or burial in a sanitary landfill, as appropriate.

System manager(s) and address:

Headquarters (location 8 in Appendix A):

Director
Division of Operational and Environmental Safety
U.S. Department of Energy
Washington, D.C. 20545

Field Offices:

The managers and directors of field locations 2, 3, 6, 7, 9, 10, 11, 12, 14, 15, 26, 28, and 29 in Appendix A and of the Pittsburgh Naval Reactors and Schenectady Naval Reactors Offices listed above under system location are the System Managers for their respective portions of this system.

Notification procedure:

a. Requests by an individual to determine if a system of records contains information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, at the appropriate address from among items 2, 3, 6-12, 14, 15, 26, 28 and 29 of Appendix A, and the Pittsburgh Naval Reactors and Schenectady Naval Reactors Offices listed above under system location, in accordance with DOE's Privacy Act regulations (10 CFR 206.3, 40 FR 45610 (October 2, 1975) or 10 CFR 708.6, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

b. Required identifying information: Complete name, the geographic location(s) and organization(s) where requester believes such record may be located, date of birth, and time period.

Record access procedures:

a. Requests by an individual for access to a system of records that contains information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, at the address listed in the appropriate item from among items 2, 3, 6-12, 14, 15, 26, 28, and 29 of Appendix A, and the Pittsburgh Naval Reactors and Schenectady Naval Reactors Offices listed above under system location, in accordance with DOE's Privacy Act regulations (10 CFR 206.3, 40 FR 45610 (October 2, 1975) or 10 CFR 708.6, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

b. Required identifying information: Complete name, the geographic location(s) and organization(s) where requester believes such record may be located, date of birth, and time period.

Contesting record procedures:

a. Requests by an individual to correct or amend the content of a record containing information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, at the address listed in the appropriate item from among items 2, 3, 6-12, 14, 15, 26, 28, and 29 of Appendix A, and the Pittsburgh Naval Reactors and Schenectady Naval Reactors Offices listed above under system location, in accordance with DOE's Privacy Act regulations (10 CFR 206.7, 40 FR 45613 (October 2, 1975) or 10 CFR 708.6 and 708.7, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

b. Required identifying information: Complete name, the geographic location(s) and organization(s) where requester believes such record may be located, date of birth, and time period.

Record source categories: The subject individual, accident/incident investigations, film badges, dosimetry records, and previous employee records.

Systems exempted from certain provisions of the act: None.

DOE-36

System name: Statistical Analysis Using Personnel Security Questionnaire (Health and Mortality Study).

Security classification: Unclassified.

System location:

Nevada Operations Office
P.O. Box 14100
Las Vegas, Nevada 89114
Oak Ridge Operations Office
P.O. Box E
Oak Ridge, Tennessee 37830

Categories of individuals covered by the system: Department of Energy and predecessor agency employees, consultants and contractor employees, and consultants who were granted access authorizations (clearances).

Categories of records in the system: Records of employees of the Manhattan Engineering District Project, Atomic Energy Commission, Energy Research and Development Administration, and DOE, including copies of Personnel Security Questionnaires completed after termination of employment.

Authority for maintenance of the system: 5 U.S.C. 301; Department of Energy Organization Act, including authorities incorporated by reference in Title III of the Department of Energy Organization Act; Executive Order 12009.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Statistical analyses using Personnel Security Questionnaires.

Additional routine uses as listed in Appendix B.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records.

Retrievability: By name and social security number.

Safeguards: Records are maintained in guarded security areas in locked file cabinets. Access is limited to individuals having a need to know.

Retention and disposal: Records retention and disposal authorities are contained in DOE Order 1324.1, "Records Disposition." Records within the Department of Energy are destroyed by shredding, burning, or burial in a sanitary landfill, as appropriate.

System manager(s) and address:

Field Offices:

The managers and directors of field locations 12 and 14 in Appendix A are the System Managers for their respective portions of this system.

Notification procedure:

a. Requests by an individual to determine if a system of records contains information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, at the appropriate address from among items 12 and 14 of Appendix A, in accordance with DOE's Privacy Act regulations (10 CFR 206.3, 40 FR 45610 (October 2, 1975) or 10 CFR 708.6, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

b. Required identifying information: Name, social security number, and time period.

Record access procedures:

a. Requests by an individual for access to a system of records that contains information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, at the address listed in the appropriate item from among items 12 and 14 of Appendix A, in accordance with DOE's Privacy Act regulations (10 CFR 206.3, 40 FR 45610 (October 2, 1975) or 10 CFR 708.6, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

b. Required identifying information: Name, social security number, and time period.

Contesting record procedures:

a. Requests by an individual to correct or amend the content of a record containing information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, at the address listed in the appropriate item from among

items 12 and 14 of Appendix A, in accordance with DOE's Privacy Act regulations (10 CFR 206.7, 40 FR 45613 (October 2, 1975) or 10 CFR 708.6 and 708.7, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

b. Required identifying information: Name, social security number, and time period.

Record source categories: Clearance histories of Manhattan Engineering District, Atomic Energy Commission, Energy Research and Development Administration, and DOE employees; access permittees' security clearance; and reports from investigative agencies.

Systems exempted from certain provisions of the act: None.

DOE-37

System name: Equal Opportunity Complaint Files.

Security classification: Unclassified.

System location: The locations listed as items 1 through 35 in Appendix A and the following additional locations:

Clinch River Breeder Reactor Plant Project
P.O. Box U
Oak Ridge, Tennessee 37830
Grand Junction Office
P.O. Box 2567
Grand Junction, Colorado 81501
Pittsburgh Naval Reactors Office
P.O. Box 109
West Mifflin, Pennsylvania 15122
Schenectady Naval Reactors Office
P.O. Box 1069
Schenectady, New York 12301

Categories of individuals covered by the system: Each DOE employee, or applicant for employment, DOE contractor employees, or Assigned Facilities contractor employee who, in accordance with the provisions of Federal Personnel Manual No. 713, has filed a written complaint of discrimination based on race, religion, national origin, or sex with DOE or with another Federal agency which has referred the complaint to DOE.

Categories of records in the system: Name, address, job title, wage rate, earnings, dates of employment, data on applications for employment, race, sex, work history, the complaint, investigation reports (with affidavits), Equal Opportunity (EO) Officer disposition with respect to complaint, and agency head decision regarding complaint.

Authority for maintenance of the system: 5 U.S.C. 301; Department of Energy Organization Act, including authorities incorporated by reference in Title III of the Department of Energy Organization Act; Executive Order 12009; Equal Employment Opportunity Act of 1972; Federal Personnel Manual No. 713.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses listed in Appendix B.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records.

Retrievability: By name of complainant.

Safeguards: Records are located in a combination safe with access limited to those whose official duties require access.

Retention and disposal: Records retention and disposal authorities are contained in DOE Order 1324.1, "Records Disposition." Records within the DOE are destroyed by shredding, burning, or burial in a sanitary landfill, as appropriate.

System manager(s) and address:

Headquarters (location 8 in Appendix A):

Director
Office of Equal Opportunity
U.S. Department of Energy
Washington, D.C. 20585

The managers and directors of field locations 1-7 and 9-35 of Appendix A and of the Clinch River Breeder Reactor Plant Project, Pittsburgh Naval Reactors and Schenectady Naval Reactors Offices listed above under system location are the System Managers for their respective portions of this system.

Notification procedure:

a. Requests by an individual to determine if a system of records contains information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, at the appropriate address from among items 1-35 of Appendix A and the Clinch River Breeder Reactor Plant Project, Pittsburgh Naval

Reactors and Schenectady Naval Reactors Offices listed above under system location, in accordance with DOE's Privacy Act regulations (10 CFR 206.3, 40 FR 45610 (October 2, 1975) of 10 CFR 708.6, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

b. Required identifying information: Full name and time period.

Record access procedures:

a. Requests by an individual for access to a system of records that contains information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, at the appropriate address from among items 1-35 of Appendix A and the Clinch River Breeder Reactor Plant Project, Pittsburgh Naval Reactors and Schenectady Naval Reactors Offices listed above under system location, in accordance with DOE's Privacy Act regulations (10 CFR 206.7, 40 FR 45613 (October 2, 1975) or 10 CFR 708.6, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

b. Required identifying information: Full name and time period.

Contesting record procedures:

a. Requests by an individual to correct or amend the content of a record containing information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, at the appropriate address from among items 1-35 of Appendix A and the Clinch River Breeder Reactor Plant Project, Pittsburgh Naval Reactors and Schenectady Naval Reactors Offices listed above under system location, in accordance with DOE's Privacy Act regulations (10 CFR 206.7, 40 FR 45613 (October 2, 1975) or 10 CFR 708.6, 708.7, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

b. Required identifying information: Full name and time period.

Record source categories: The subject individual, coworkers, other employees, and contractor employees.

Systems exempted from certain provisions of the act: None.

DOE-38

System name: Occupational and Industrial Accident Records.

Security classification: Unclassified.

System location: The locations listed as items 1-35 in Appendix A and the following additional locations:

Amarillo Area Office
Pantex Plant
P.O. Box 1086
Amarillo, Texas 79105
Brookhaven Area Office
Upton, New York 11973
Carbondale Mining Research Center
P.O. Box 2587
Carbondale, Illinois 62901
Clinch River Breeder Reactor Plant Project
P.O. Box U
Oak Ridge, Tennessee 37830
Dayton Area Office
P.O. Box 66
Miamisburg, Ohio 45342
Environmental Measurements Laboratory
376 Hudson Street
New York, New York 10014
Grand Junction Office
P.O. Box 2567
Grand Junction, Colorado 81501
Idaho Branch Office
P.O. Box 2469
Idaho Falls, Idaho 83401
Kansas City Area Office
P.O. Box 202
Kansas City, Missouri 64141
Los Alamos Area Office
P.O. Box 5800
Los Alamos, New Mexico 87544
Naval Petroleum Reserve
P.O. Box 11
Tupman, California 93276
Nevada Test Site
Mercury, Nevada 89023
New Brunswick Laboratory
P.O. Box 150
New Brunswick, New Jersey 08903

Pinellas Area Office
P.O. Box 11500
St. Petersburg, Florida 33733
Pittsburgh Naval Reactors Office
P.O. Box 109
West Mifflin, Pennsylvania 15122
Puerto Rico Area Office
P.O. Box BB
San Juan, Puerto Rico 00935
Rocky Flats Area Office
P.O. Box 928
Golden, Colorado 80401
Sandia Area Office
P.O. Box 5800
Albuquerque, New Mexico 87115
Schenectady Naval Reactors Office
P.O. Box 1069
Schenectady, New York 12301
Shippingport Branch Office
P.O. Box 11
Shippingport, Pennsylvania 15077
Solar Energy Research Institute
1536 Cole Boulevard
Golden, Colorado 80401
Strategic Petroleum Reserve
900 Commerce Road, East
New Orleans, Louisiana 70123
West Milton Field Office
P.O. Box 1069
Schenectady, New York 12301
Windsor Field Office
P.O. Box 393
Windsor, Connecticut 06095

Categories of individuals covered by the system: DOE employees, contractor employees, and any other persons having access to DOE facilities. Also individuals involved in accidents with employees or contractor employees or other persons having access to DOE facilities.

Categories of records in the system: Accident/incident information, occupational injury and illness experience, property damage experience, motor vehicle accidents.

Authority for maintenance of the system: 5 U.S.C. 301; Department of Energy Organization Act, including authorities incorporated by reference in Title III of the Department of Energy Organization Act; Executive Order 12009; Federal Tort Claims Act, 28 U.S.C. 2671-2680; Military Personnel and Civilian Employees Claims Act, 31 U.S.C. 240-243.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Physicians: For purpose of treating patients.

Property owners and insurance companies: For purpose of processing insurance claims.

DOE Contractors and consultants, State departments of labor and industries and other State agencies, U.S. Department of Labor, National Drivers Registry, and Department of Transportation: For purposes of processing insurance claims and accident reporting.

Pertinent provisions of 29 CFR 1904.7 apply to the records maintained in this system of records.

Additional routine uses as listed in Appendix B.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Magnetic tape, punched cards, paper records, microfilm.
Retrievability: By name and by alphabetic, numeric, or alphanumeric code.

Safeguards: Records are maintained in locked file cabinets, locked safes, guarded areas, and secured buildings with access limited to personnel with a need to know.

Retention and disposal: Records retention and disposal authorities are contained in DOE 1324.1, "Records Disposition." Records within the DOE are destroyed by shredding, burning, or burial in a sanitary landfill, as appropriate.

System manager(s) and address: Headquarters (location 8 in Appendix A):

Director
Division of Operational and Environmental Safety
U.S. Department of Energy

Washington, D.C. 20545

Field Offices:

The managers and directors of field locations 1-7, 9-35 and the Carbondale Mining Research Center, Naval Petroleum Reserve, Pittsburgh Naval Reactors, Schenectady Naval Reactors, Solar Energy Research Institute, and Strategic Petroleum Reserve Offices listed as under system location are the System Managers for their respective portions of this system.

Notification procedure:

a. Requests by an individual to determine if a system of records contains information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, at the appropriate address from among those indicated above under System Manager, in accordance with DOE's Privacy Act, regulations (10 CFR 206.3, 40 FR 45610 (October 2, 1975) or 10 CFR 708.6, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

b. Required identifying information: Full name, social security number, and/or birth date, geographic location of the accident, and time period.

Record access procedures:

a. Requests by an individual for access to a system of records that contains information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, at the appropriate address from among those indicated above under System Manager, in accordance with DOE's Privacy Act regulations (10 CFR 206.3, 40 FR 45610 (October 2, 1975) or CFR 708.6, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

b. Required identifying information: Full name, social security number, and/or birth date, geographic location of the accident, and time period.

Contesting record procedures:

a. Requests by an individual to correct or amend the content of a record containing information about him should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, at the appropriate address from among those indicated above under System Manager, in accordance with DOE's Privacy Act regulations (10 CFR 206.7, 40 FR 45613 (October 2, 1975) or 10 CFR 708.6 and 708.7, 40 FR (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

b. Required identifying information: Full name, social security number, and/or birth date, geographic location of the accident and time period.

Record source categories: The subject individual, the individual's supervisor, medical officers or personal physicians, accident investigators, investigation boards, investigating law enforcement officers, the National Drivers Register, and previous employer records.

Systems exempted from certain provisions of the act: None.

DOE-39

System name: Labor Standards Complaints and Grievances.

Security classification: Unclassified.

System location: Locations are listed in items 2, 6, 8, 9, 14, 26, and 29 in Appendix A and the following additional locations:

Pittsburgh Naval Reactors Office
P.O. Box 109
West Mifflin, Pennsylvania 15122
Schenectady Naval Reactors Office
P.O. Box 1069
Schenectady, New York 12301

Categories of individuals covered by the system: Current and former contractor employees.

Categories of records in the system: Complaints against contractors, labor unions.

Authority for maintenance of the system: 5 U.S.C. 301; Department of Energy Organization Act, including authorities incorporated by reference in Title III of the Department of Energy Organization Act; Executive Order 12009.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: U.S. Department of Labor—contract labor standards enforcement.

Additional routine uses as listed in Appendix B.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records.

Retrievability: By name and case number.

Safeguards: Records are maintained in locked files.

Retention and disposal: Records retention and disposal authorities are contained in DOE Order 1324.1, "Records Disposition." Records within the Department of Energy are destroyed by shredding, burning, or burial in a sanitary landfill, as appropriate.

System manager(s) and address: Headquarters (location 8 in Appendix A):

Director
Office of Contractor Industrial Relations
U.S. Department of Energy
Washington, D.C. 20545

Field Offices: The managers and directors of field locations 2, 6, 8, 9, 14, 26, and 28 of Appendix A, and the Pittsburgh Naval Reactors and Schenectady Naval Reactors Offices listed above under system location are the System Managers for their respective portions of this system.

Notification procedure:

a. Requests by an individual to determine if a system of records contains information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, at the appropriate address from among items 2, 6, 8, 9, 14, 26, and 28 of Appendix A and the Pittsburgh Naval Reactors and Schenectady Naval Reactors Offices listed above under system location, in accordance with DOE's Privacy Act regulations (10 CFR 206.3, 40 FR 45610 (October 2, 1975) or 10 CFR 708.6, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

b. Required identifying information: Complete name, the geographic location(s) and organization(s) where requester believes such record may be located, date of birth, and time period.

Record access procedures:

a. Requests by an individual for access to a system of records that contains information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, at the address listed in the appropriate item from among items 2, 6, 8, 9, 14, 26, and 28 Appendix A and the Pittsburgh Naval Reactors and Schenectady Naval Reactors Offices listed above under system location, in accordance with DOE's Privacy Act regulations (10 CFR 206.3, 40 FR 45610 (October 2, 1975) or 10 CFR 708.6, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

b. Required identifying information: Complete name, the geographic location(s) and organization(s) where requester believes such record may be located, date of birth, and time period.

Contesting record procedures:

a. Requests by an individual to correct or amend the content of a record containing information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, at the address listed in the appropriate item from among items 2, 6, 8, 9, 14, 26, and 28 of Appendix A and the Pittsburgh Naval Reactors and Schenectady Naval Reactors Offices listed above under system location in accordance with DOE's Privacy Act regulations (10 CFR 206.7, 40 FR 45613 (October 2, 1975) or 10 CFR 708.6 and 708.7, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

b. Required identifying information: Complete name, the geographic location(s) and organization(s) where requester believes such record may be located, date of birth, and time period.

Record source categories: Subject individuals, contractors, members of the public.

Systems exempted from certain provisions of the act: None.

DOE-40

System name: Contractor Employees Insurance Claims.

Security classification: Unclassified.

System location:

Headquarters
U.S. Department of Energy
Washington, D.C. 20585

Categories of individuals covered by the system: Claimants under workmen's compensation insurance, third-party claimants against DOE contractors.

Categories of records in the system: Accident reports, physician statements, pictures, maps, sketches, claimant and witness statements, doctor and hospital bills, reports from engineers firms, claims activity reports.

Authority for maintenance of the system: 5 U.S.C. 301; Department of Energy Organization Act, including authorities incorporated by reference in Title III of the Department of Energy Organization Act; Executive Order 12009.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Insurance companies—in administering claims against DOE Contractors and DOE.

State and local agencies—for consideration of insurance claims. Physicians—for claim evaluations.

Lawyers—for claim evaluations.

State industrial commissions—for claim evaluations.

Claims-adjustment services firms—for claim evaluations.

The additional routine uses listed in Appendix B.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper, records, and computer printouts.

Retrievability: By name and claim number.

Safeguards: Records are maintained in a locked building.

Retention and disposal: Records retention and disposal authorities are contained in DOE Order 1324.1, "Records Disposition." Records within the Department of Energy are destroyed by shredding, burning, or burial in a sanitary landfill, as appropriate.

System manager(s) and address: Headquarters:

Director
Office of Contractor Industrial Relations
U.S. Department of Energy
Washington, D.C. 20545

Notification procedure:

a. Requests by an individual to determine if a system of records contains information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, Washington, DC 20585, in accordance with DOE's Privacy Act regulations (10 CFR 206.3, 40 FR 45610 (October 2, 1975) or 10 CFR 708.6, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

b. Required identifying information: Complete name, the geographic location(s) and organization(s) where requester believes such record may be located, date of birth, and time period.

Record access procedures:

a. Requests by an individual for access to a system of records that contains information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, Washington, DC 20585, in accordance with DOE's Privacy Act regulations (10 CFR 206.3, 40 FR 45610 (October 2, 1975) or 10 CFR 708.6, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

b. Required identifying information: Complete name, the geographic location(s) and organization(s) where requester believes such record may be located, date of birth, and time period.

Contesting record procedures:

a. Requests by an individual to correct or amend the content of a record containing information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, Washington, DC 20585, in accordance with DOE's Privacy Act regulations (10 CFR 206.7, 40 FR 45613 (October 2, 1975) or 10 CFR 708.6 and 708.7, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

b. Required identifying information: Complete name, the geographic location(s) and organization(s) where requester believes such record may be located, date of birth, and time period.

Record source categories: Claimants, witnesses, insurance company claim files.

Systems exempted from certain provisions of the act: None.

DOE-41

System name: Legal Files (Claims, Litigations, Criminal Violations, Patents, and Others).

Security classification: Unclassified.

System location: The locations listed in items 1-35 in Appendix A and the following additional location:

Grand Junction Office
P.O. Box 2567
Grand Junction, Colorado 81501
Pittsburgh Naval Reactors Office
P.O. Box 109
West Mifflin, Pennsylvania 15122

Schenectady Naval Reactors Office
P.O. Box 1069
Schenectady, New York 12301

Categories of individuals covered by the system: DOE related debtors and bankrupts; claimants with respect to radiation, tort, patent, contract employee compensation and workmen's compensation matters; injured parties, litigants and complaints generally; inventors; those against whom claims have been filed; persons suspected of violating DOE regulations and criminal laws.

Categories of records in the system: Claims relating personal injury, radiation injury, property damage and other tort matters, and contract matters; litigation records, accident reports; addendums to inspection reports; employment records; consultants agreements; cases alleging discrimination; conflict of interest files; criminal litigation records; Personal Security Review Board cases; medical records; photographs; telephone records; investigations; government orders; inventions; correspondence and other data relating to the foregoing.

Authority for maintenance of the system: 5 U.S.C. 301; Department of Energy Organization Act, including authorities incorporated by reference in Title III of the Department of Energy Organization Act; Executive Order 12009.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Department of Justice; GAO; State and local law enforcement agencies; civil and criminal courts; administrative arbitrators; litigants; investigators; Congress; attorneys; physicians; consultants; insurance carriers—for appraisal, evaluation, settlement and denial of claims and other matters and as a basis for administrative and legal action and all matters pertaining thereto, including civil and criminal remedies.

The additional routine uses listed in Appendix B.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records.

Retrievability: By name and control card locator.

Safeguards: Records are maintained in vaults and locked safes (under surveillance during business hours).

Retention and disposal: Records retention and disposal authorities are contained in DOE Order 1324.1, "Records Disposition." Records within the Department of Energy are destroyed by shredding, burning, or burial in a sanitary landfill, as appropriate.

System manager(s) and address: Headquarters (location 8 in Appendix A):

General Counsel
U.S. Department of Energy
Washington, D.C. 20585

Field Offices: The managers and directors of field locations 1-7 and 9-35 of Appendix A and the Pittsburgh Naval Reactors and Schenectady Naval Reactors Offices listed above under system location are the System Managers for their respective portions of this system.

Notification procedure:

a. Requests by an individual to determine if a system of records contains information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, at the appropriate address from among items 1 through 35 of Appendix A and the Pittsburgh Naval Reactors and Schenectady Naval Reactors Offices listed above under system location, in accordance with DOE's Privacy Act regulations (10 CFR 206.3, 40 FR 45610 (October 2, 1975) or 10 CFR 708.6, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

b. Required identifying information: Complete name, the geographic location(s) and organization(s) where requester believes such record may be located, date of birth, and time period.

Record access procedures:

a. Requests by an individual for access to a system of records that contains information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, at the address listed in the appropriate item from among items 1-35 of Appendix A and the Pittsburgh Naval Reactors and Schenectady Naval Reactors Offices listed above under system location, in accordance with DOE's Privacy Act regulations (10 CFR 206.3, 40 FR 45610 (October 2, 1975) or 10 CFR 708.6, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

b. Required identifying information: Complete name, the geographic location(s) and organization(s) where requester believes such record may be located, date of birth, and time period.

Contesting record procedures:

a. Requests by an individual to correct or amend the content of a record containing information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, at the address listed in the appropriate item from among items 1 through 35 of Appendix A and the Pittsburgh Naval Reactors and Schenectady Naval Reactors Offices listed above under system location, in accordance with DOE's Privacy Act regulations (10 CFR 206.7, 40 FR 45613 (October 2, 1975) or 10 CFR 708.6 and 708.7, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

b. Required identifying information: Complete name, the geographic location(s) and organization(s) where requester believes such record may be located, date of birth, and time period.

Record source categories: Subject individuals, inspection reports, other agencies, Office of General Counsel attorneys, other agency officers and staff, contractors, investigators, and auditors.

Systems exempted from certain provisions of the act: The Administrator has exempted this system from subsections (c)(3), (d), (e)(1), (e)(4) (G), (H), (I), and (f) of 5 U.S.C. 552a under the Privacy Act of 1974. This exemption applies only to information in this system of records which is exempt pursuant to 5 U.S.C. 552a(k) (1), (2) and (5).

DOE-42

System name: Personnel Security Clearance Index.

Security classification: Both classified and unclassified material.

System location: The locations listed as items 2, 4, 6, 8, 9, 12, 14, 28, and 29 in Appendix A and the following additional locations:

Grand Junction Office
P.O. Box 2567
Grand Junction, Colorado 81501
Pittsburgh Naval Reactors Office
P.O. Box 109
West Mifflin, Pennsylvania 15122
Schenectady Naval Reactors Office
P.O. Box 1069
Schenectady, New York 12301

Categories of individuals covered by the system: Employees and applicants for employment with DOE and DOE contractors and access permittees for whom access authorizations (clearances) have been initiated, granted, and/or terminated.

Categories of records in the system: Records identifying history and status of processed access authorizations (clearances).

Category A—Personnel security index: Name, position, organization, social security number, and date and place of birth. May also contain position sensitivity description, date of appointment, date and type of clearance, basis of clearance, briefing and debriefing data, date folder was retired, and date folder was destroyed.

Category B—Automatic data processing index: Name and social security number. Contains references to organization, position sensitivity, access clearances issued, security briefing data, date of background investigation, date of security interview, and existence of personnel security folder of index card.

Category C—Identification pass index: Name, social security number, location, issue date and expiration date of passes issued to individuals who hold valid, permanent identification passes for DOE Headquarters offices, and a photograph of the individual.

Category D—DOE credential index: Name, organization, location and position of individuals who hold DOE credentials.

Authority for maintenance of the system: 5 U.S.C. 301; Department of Energy Organization Act, including authorities incorporated by reference in Title III of the Department of Energy Organization Act; Executive Order 12009; Executive Order 10450 and 9830; Federal Personnel Manual, Chapters 731 and 736.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: In investigations concerning DOE personnel, contractors, and access permittees, with regard to loyalty, classified access, and suitability determinations.

Additional routine uses as listed in Appendix B.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper files, data cells, magnetic tape, punched cards, and disc packs.

Retrievability: By name and access authorization (clearance) number.

Safeguards: Access is limited to employees having a need to know. Records are stored in secured building subject to guard patrols and/or alarm protection.

Retention and disposal: Records retention and disposal authorities are contained in DOE Order 1324.1, "Records Disposition." Records within the DOE are destroyed by shredding, burning, or burial in a sanitary landfill, as appropriate.

System manager(s) and address: Headquarters (location 8 in Appendix A):

Director
Office of Safeguards and Security
U.S. Department of Energy
Washington, D.C. 20545

Field Offices: The managers and directors of field locations 2, 4, 6, 9, 12, 14, 28, and 29 in Appendix A and of the Pittsburgh Naval Reactors and Schenectady Naval Reactors Offices listed above under system location are the System Managers for their respective portions of this system.

Notification procedure:

a. Requests by an individual to determine if a system of records contains information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, at the appropriate address from among items 2, 4, 6, 8, 9, 12, 14, 28, and 29 in Appendix A and the Pittsburgh Naval Reactors and Schenectady Naval Reactors Offices listed above under system location, in accordance with DOE's Privacy Act regulations (10 CFR 206.3, 40 FR 45610 (October 2, 1975) or 10 CFR 708.6, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

b. Required identifying information: Indicate full name, date of birth, social security number, and dates of employment.

Record access procedures:

a. Requests by an individual for access to a system of records that contains information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy at the appropriate address from among items 2, 4, 6, 8, 9, 12, 14, 28, and 29 in Appendix A and the Pittsburgh Naval Reactors and Schenectady Naval Reactors Offices listed above under system location, in accordance with DOE's Privacy Act regulations (10 CFR 206.3, 40 FR 45610 (October 2, 1975) or 10 CFR 708.6, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

b. Required identifying information: Indicate full name, date of birth, social security number, and dates of employment.

Contesting record procedures:

a. Requests by an individual to correct or amend the content of a record containing information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, at the appropriate address from among items 2, 4, 6, 8, 9, 12, 14, 28, and 29 in Appendix A and the Pittsburgh Naval Reactors and Schenectady Naval Reactors Offices listed above under system location, in accordance with DOE's Privacy Act regulations (10 CFR 206.7, 40 FR 45613 (October 2, 1975) or 10 CFR 708.6 and 708.7, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

b. Required identifying information: Indicate full name, date of birth, social security number, and dates of employment.

Record source categories: Personnel Security Questionnaire and fingerprint card executed by the subject individual, other sources contacted during security investigation, and DOE Security Offices.

Systems exempted from certain provisions of the act: The Secretary has exempted this system from subsections (c)(3), (d), (e)(1), (e)(4) (G), (H), (I), and (f) of 5 U.S.C. 552a under the Privacy Act of 1974. This exemption applies only to information in this system of records which is exempt pursuant to 5 U.S.C. 552a(k) (1), (2) and (5).

DOE-43

System name: Personnel Security Clearance Files.

Security classification: Both classified and unclassified material.

System location: The locations listed as items 2, 4, 6, 8, 9, 12, 14, 26, 28, and 29 in Appendix A and the following additional locations:

Grand Junction Office
P.O. Box 2567
Grand Junction, Colorado 81501
Pittsburgh Naval Reactors Office
P.O. Box 109
West Mifflin, Pennsylvania 15122

Schenectady Navy Reactors Office
P.O. Box 1069
Schenectady, New York 12301

Categories of individuals covered by the system: Employees and applicants for employment with DOE and DOE contractors; consultants; other individuals requiring access to classified information and facilities; access permittees who are authorized access.

Categories of records in the system: Results of investigations concerning individuals processed for access authorizations (clearances).

Personnel security folders: Name, grade, organization, date and place of birth, and social security number. Contains requests for security clearance, OPM Standard Forms 85, 86, 87 and 171, and OS Forms DPS 24 and 24A; results of national agency check and inquiries and a record of authorized individuals who have had access to the folder. May also contain action checklist, termination checkout sheet OPM Standard Forms 50, 52, or 73, as well as notification to Office of Personnel Management of agency action on case.

Authority for maintenance of the system: 5 U.S.C. 301; Department of Energy Organization Act, including authorities incorporated by reference in Title III of the Department of Energy Organization Act; Executive Order 12009; Executive Orders 10450 and 9830; Federal Personnel Manual, Chapters 731 and 736.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses as listed in Appendix B.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records.

Retrievability: By name and numeric code.

Safeguards: Access is limited to employees having a need to know. Records are stored in locked file cabinets in locked buildings.

Retention and disposal: Records retention and disposal authorities are contained in DOE Order 1324.1, "Records Disposition." Records within the DOE are destroyed by shredding, burning, or burial in a sanitary landfill, as appropriate.

System manager(s) and address:

Headquarters (location 8 in Appendix A):

Director
Office of Safeguards and Security
U.S. Department of Energy
Washington, D.C. 20545

The managers and directors of field locations 2, 4, 6, 9, 12, 14, 26, 28, and 29 in Appendix A and the Pittsburgh Naval Reactors and Schenectady Naval Reactors Offices listed above under system location are the System Managers for their respective portions of this system.

Notification procedure:

a. Requests by an individual to determine if a system of records contains information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, at the appropriate address from among items 2, 4, 6, 8, 9, 12, 14, 26, 28, and 29 in Appendix A and the Pittsburgh Naval Reactors and Schenectady Naval Reactors Offices listed above under system location, in accordance with DOE's Privacy Act regulations (10 CFR 206.3, 40 FR 45610 (October 2, 1975) or 10 CFR 708.6, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

b. Required identifying information: Full name, date of birth, social security number, clearance processing location, and time period.

Record access procedures:

a. Requests by an individual for access to a system of records that contains information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, at the appropriate address from among items 2, 4, 6, 8, 9, 12, 14, 26, 28, and 29 in Appendix A and the Pittsburgh Naval Reactors and Schenectady Naval Reactors Offices listed above under system location, in accordance with DOE's Privacy Act regulations (10 CFR 206.3, 40 FR 45610 (October 2, 1975) or 10 CFR 708.6, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

b. Required identifying information: Full name, date of birth, social security number, clearance processing location, and time period.

Contesting record procedures:

a. Requests by an individual to correct or amend the content of a record containing information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, at the appropriate address from among items 2, 4, 6, 8, 9, 12, 14, 26, 28, and 29 in Appendix A, and the Pittsburgh Naval Reactors

and Schenectady Naval Reactors Offices listed above under system location, in accordance with DOE's Privacy Act regulations (10 CFR 206.7, 40 FR 45613 (October 2, 1975) or 10 CFR 708.6 and 708.7, FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR, Part 206 or Part 708 should apply.

b. Required identifying information: Full name, date of birth, social security number, clearance processing location, and time period.

Record source categories: Personnel Security Questionnaire and fingerprint card executed by the subject individual; background investigation reports by Federal Bureau of Investigation, Office of Personnel Management, and other Government agencies conducting background investigations; summaries and transcripts of interviews with the individual; interrogatory letters to the individual; local police department reports; and security infraction reports received from the individual's supervisor.

Systems exempted from certain provisions of the act: The Secretary has exempted this system from subsections (c)(3), (d), (e)(1), (e)(4), (G), (H), (I), and (f) of 5 U.S.C. 552a under the Privacy Act of 1974. This exemption applies only to information in this system of records which is exempt pursuant to 5 U.S.C. 552a(k)(1), (2) and (5); or including internal memoranda specifically identified as OS Forms DPS 24 and 24A.

DOE-44

System name: Special Access Authorization for Categories of Classified Information.

Security classification: Unclassified.

System location: The locations listed in items 2, 8, 9, 10, 12, 14, 26, 28, and 29 in Appendix A and the following additional locations:

Amarillo Area Office
Pantex Plant
P.O. Box 1086
Amarillo, Texas 79105
Dayton Area Office
P.O. Box 66
Miamisburg, Ohio 45342
Kansas City Area Office
P.O. Box 202
Kansas City, Missouri 64141
Los Alamos Area Office
528 35th Street
Los Alamos, New Mexico 87544
Pinellas Area Office
P.O. Box 5400
Albuquerque, New Mexico 87115
Rocky Flats Area Office
P.O. Box 298
Golden, Colorado 80401
Sandia Area Office
P.O. Box 5400
Albuquerque, New Mexico 87115

Categories of individuals covered by the system: Individuals authorized to access special categories of information and compartmentalized DOE facilities and/or areas.

Categories of records in the system: Letters and memoranda of authorization to special categories of classified information.

Authority for maintenance of the system: 5 U.S.C. 301; Department of Energy Organization Act, including authorities incorporated by reference in Title III of the Department of Energy Organization Act; Executive Order 12009.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

DOE contractors—for purposes of performing contractual functions.

NATO, National Security Agency, and CIA—for determining individuals who have access to classified information generated by these agencies.

The additional routine listed in Appendix B.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper files; also magnetic tape (at Headquarters).

Retrievability: By name.

Safeguards: Access is limited to employees with a need-to-know. Records are stored in security areas under either guard or alarm protection.

Retention and disposal: Records retention and disposal authorities are contained in DOE Order 1324.1, "Records Disposition." Records

within the DOE are destroyed by shredding, burning, or burial in a sanitary landfill, as appropriate.

System manager(s) and address:

Headquarters:

Director
Office of Safeguards and Security
U.S. Department of Energy
Washington, D.C. 20545

Field Offices:

The managers and directors of field locations in 2, 9, 10, 12, 14, 26, 28, and 29 of Appendix A are the System Managers for their respective portions of this system.

Notification procedure:

a. Requests by an individual to determine if a system of records contains information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, at the appropriate address from among items 2, 8, 9, 10, 12, 14, 26, 28, and 29 of Appendix A, in accordance with DOE's Privacy Act regulations (10 CFR 206.3, 40 FR 45610 (October 2, 1975) or 10 CFR 708.6, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

b. Required identifying information: Complete name, the geographic location(s) and organization(s) where requester believes such record may be located, date of birth, and time period.

Record access procedures:

a. Requests by an individual for access to a system of records that contains information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, at the address listed in the appropriate item from among items 2, 8, 9, 10, 12, 14, 26, 28, and 29 of Appendix A, in accordance with DOE's Privacy Act regulations (10 CFR 206.3, 40 FR 45610 (October 2, 1975) or 10 CFR 708.6, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

b. Required identifying information: Complete name, the geographic location(s) and organization(s) where requester believes such record may be located, date of birth, and time period.

Contesting record procedures:

a. Requests by an individual to correct or amend the content of a record containing information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, at the address listed in the appropriate item from among items 2, 8, 10, 12, 14, 26, 28, and 29 of Appendix A, in accordance with DOE's Privacy Act regulations (10 CFR 206.7, 40 FR 45613 (October 2, 1975) or 10 CFR 708.6 and 708.7, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

b. Required identifying information: Complete name, the geographic location(s) and organization(s) where requester believes such record may be located, date of birth, and time period.

Record source categories: Individual reports from Federal investigation agencies; letters and/or plans from DOE operating offices, operating divisions and contractor facilities.

Systems exempted from certain provisions of the act: The Secretary has exempted this system from subsections (c)(3), (d), (e)(1), (e)(4), (G), (H), (I) and (f) of 5 U.S.C. 552a under the Privacy Act of 1974. This exemption applies only to information in this system of records which is exempt pursuant to 5 U.S.C. 552a(k) (1), (2) and (5).

DOE-45

System name: Weapon Data Access Control System.

Security classification: Unclassified.

System location: The locations listed as items 2, 8, 12, 14, and 28 in Appendix A and the following additional locations:

Amarillo Area Office
Panter Point
P.O. Box 1086
Amarillo, Texas 79105
Kansas City Area Office
P.O. Box 202
Kansas City, Missouri 64141
Los Alamos Area Office
528 35th Street
Los Alamos, New Mexico 87544
Pinellas Area Office
P.O. Box 11500
St. Petersburg, Florida 33733

Rocky Flats Area Office

P.O. Box 928

Golden, Colorado 80401

Sandia Area Office

P.O. Box 5406

Albuquerque, New Mexico

Categories of individuals covered by the system: DOE, DOD, and other Government agency employees, Government contractors and consultants requiring access to classified weapons data and/or DOE nuclear weapons program facilities.

Categories of records in the system: Name, social security number, date of birth, citizenship, employer, type of clearance, number and date of clearance, categories of information requested and authorized, locations to be visited and dates of visit, purpose of visit, point of contact, and Government agency certifying "need-to-know."

Authority for maintenance of the system: 5 U.S.C. 301; Department of Energy Organization Act, including authorities incorporated by reference in Title III of the Department of Energy Organization Act; Executive Order 12009.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: DOE and DOE contractors—to determine whether persons have appropriate security clearances to gain access to classified weapons data.

Additional routine uses as listed in Appendix B.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Microfiche, paper, magnetic tapes, and computer printouts.

Retrievability: By name and by specific weapon program.

Safeguards: Records are maintained in buildings with controlled access.

Retention and disposal: Headquarters master copy is retained for three years. Field Office copies are destroyed as the system is undated every two weeks. Records within DOE are destroyed by shredding, or burial in a sanitary landfill, as appropriate.

System manager(s) and addresses:

Headquarters:

Director
Office of Military Application
U.S. Department of Energy
Washington, D.C. 20545

Field Offices:

The managers and directors of field locations 2, 12, 14, 24, and 29 in Appendix A are the System Managers for their respective portion of this system.

Notification procedure:

a. Requests by an individual to determine if a system of records contains information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, at the appropriate address from among items 2, 8, 12, 14, 24, and 29 of Appendix A, in accordance with DOE's Privacy Act regulations (10 CFR 206.3, 40 FR 45610 (October 2, 1975) or 10 CFR 708.6, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

b. Required identifying information: Complete name, the geographic location(s) and organization(s) where requester believes such record may be located, date of birth, and time period.

Record access procedures:

a. Requests by an individual for access to a system of records that contains information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, at the address listed in the appropriate item from among items 2, 8, 12, 14, 28, and 29 of Appendix A, in accordance with DOE's Privacy Act regulations (10 CFR 206.3, 40 FR 45610 (October 2, 1975) or 10 CFR 708.6, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

b. Required identifying information: Complete name, the geographic location(s) and organization(s) where requester believes such record may be located, date of birth, and time period.

Contesting record procedures:

a. Requests by an individual to correct or amend the content of a record containing information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, at the address listed in the appropriate item from among items 2, 8, 12, 14, 28, and 29 of Appendix A, in accordance with DOE's Privacy Act regulations (10 CFR 206.7, 40 FR 45611 (October 2, 1975) or 10 CFR 708.6 and 708.7, 40 FR 7320 (February 19,

1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

b. Required identifying information: Complete name, the geographic location(s) and organization(s) where requester believes such record may be located, date of birth, and time period.

Record source categories: The individuals themselves, Government agencies, and Government contractors.

Systems exempted from certain provisions of the act: None.

DOE-46

System name: Clearance Board Cases.

Security classification: Unclassified.

System location:

Headquarters Washington, D.C. 20585

Categories of individuals covered by the system: DOE employees, access permittees, consultants and prospective employees, and contractors and contractor access permittees.

Categories of records in the system: Results of investigations concerning individuals processed for access authorizations (clearances).

Authority for maintenance of the system: 5 U.S.C. 301; Department of Energy Organization Act, including authorities incorporated by reference in Title III of the Department of Energy Organization Act; Executive Order 12009.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Personnel involved in administrative review—information used for reference during review board hearings.

Additional routine uses as listed in Appendix B.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper files.

Retrievability: By name.

Safeguards: Access is limited to employees having a need-to-know. Records are stored in security areas under guard and/or guard protection.

Retention and disposal: Records retention and disposal authorities are contained in DOE Order 1324.1, "Records Disposition." Records within the DOE are destroyed by shredding, burning, or burial in a sanitary landfill, as appropriate.

System manager(s) and address:

Director
Office of Safeguards and Security
U.S. Department of Energy
Washington, D.C. 20545

Notification procedure:

a. Requests by an individual to determine if a system of records contains information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, Washington, D.C. 20585, in accordance with DOE's Privacy Act regulations (10 CFR 206.3, 40 FR 45610 (October 2, 1975) or 10 CFR 708.6, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

b. Required identifying information: Complete name, the geographic location(s) and organization(s) where requester believes such record may be located, date of birth, and time period.

Record access procedures:

a. Requests by an individual for access to a system of records that contains information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, Washington, D.C. 20585, in accordance with DOE's Privacy Act regulations (10 CFR 206.3, 40 FR 45610 (October 2, 1975) or 10 CFR 708.6, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

b. Required identifying information: Complete name, the geographic location(s) and organization(s) where requester believes such record may be located, date of birth and time period.

Record source categories: Personnel Security Questionnaire and Fingerprint Card executed by individual; background investigation reports by Federal Bureau of Investigation, Office of Personnel Management and other Government agencies; summaries and transcripts of interviews with the individual; transcripts of Administrative Review Board hearings with individual; correspondence to individual concerning administrative processing of clearance action; and local and State police agency reports.

Systems exempted from certain provisions of the act: The Secretary has exempted this system from subsections (c)(3), (d), (e)(1), (e)(4),

(G), (H), (I) and (f) of 5 U.S.C. 552a under the Privacy Act of 1974. This exemption applies only to information in this system of records which is exempt pursuant to 5 U.S.C. 552a(k) (1), (2) and (5).

DOE-47

System name: Security Investigations.

Security classification: Unclassified.

System location: The locations listed as items 2, 8, 9, 26, 28, and 29 in Appendix A and the following additional location:

Los Alamos Area Office

528 35th Street

Los Alamos, New Mexico 87544

Categories of individuals covered by the system: DOE employees, specifically including employees of the Federal Energy Regulatory Commission; Contractor employees, private citizens.

Categories of records in the system: Reports to determine cause and circumstance of accidents and/or incidents.

Authority for maintenance of the system: 5 U.S.C. 301; Department of Energy Organization Act, including authorities incorporated by reference in Title III of the Department of Energy Organization Act; Executive Order 12009; Executive Orders 10450 and 9830; Federal Personnel Manual, Chapters 731 and 736.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Property Owners and Insurance Companies—Insurance claims.

DOE Fire and Safety and Administrative Personnel—Evaluation of fire and safety incidents.

Additional routine uses as listed in Appendix B.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records.

Retrievability: By name.

Safeguards: Access is limited to individuals having a need-to-know. Records are maintained in locked and guarded buildings.

Retention and disposal: Records retention and disposal authorities are contained in DOE Order 1324.1, "Records Disposition." Records within the DOE are destroyed by shredding, burning, or burial in a sanitary landfill, as appropriate.

System manager(s) and address: Headquarters (location 8 in Appendix A):

Director
Office of Safeguards and Security
U.S. Department of Energy
Washington, D.C. 20545

Field Offices: The managers and directors of field locations 2, 9, 26, 28, and 29 of Appendix A are the System Managers for their respective portions of this system.

Notification procedure:

a. Requests by an individual to determine if a system of records contains information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, at the appropriate address from among items 2, 8, 9, 26, 28, and 29 of Appendix A, in accordance with DOE's Privacy Act regulations (10 CFR 206.3, 40 FR 45610 (October 2, 1975) or 10 CFR 708.6, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

b. Required identifying information: Indicate full name, date of birth, employer, dates of employment, and social security number.

Record access procedures:

a. Requests by an individual for access to a system of records that contains information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, at the appropriate address from among items 2, 8, 9, 26, 28, and 29 of Appendix A, in accordance with DOE's Privacy Act regulations (10 CFR 206.3, 40 FR 45610 (October 2, 1975) or 10 CFR 708.6, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

b. Required identifying information: Indicate full name, date of birth, employer, dates of employment, and social security number.

Contesting record procedures:

a. Requests by an individual to amend the content of a record containing information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, at the appropriate address from among items 2, 8, 9, 26, 28, and 29 of Appendix A, in accordance with DOE's Privacy Act regulations (10 CFR 206.7, 40 FR 45613 (October 2, 1975) or 10 CFR 708.6 and

708.7, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

b. Required identifying information: Indicate full name, date of birth, employer, dates of employment, and social security number.

Record source categories: The subject individual, other sources contacted during security investigations, and official records.

Systems exempted from certain provisions of the act: Internal memoranda specifically identified as OS Forms DPS 24 and 24A are exempted from certain of the Privacy Act's requirements, in accordance with 5 U.S.C. 552a(k)(2), (5). Additionally, with regard to certain records, pursuant to 5 U.S.C. 552a(k)(5), this system is exempt from 5 U.S.C. 552a(d) and the Commission's rules issued pursuant thereto, 18 CFR 3b.221 and 3b.224, to the extent that disclosure would reveal a source who furnished information under an express promise of confidentiality, or prior to September 27, 1975, under an express or implied promise of confidentiality, because the screening of personnel to assure that only qualified and trustworthy individuals are placed in governmental positions will, at times, require information to be collected under a pledge of confidentiality.

DOE-48

System name: Security Education and/or Infraction Reports.

Security classification: Unclassified.

System location: The locations listed as items 2, 8, 9, 12, 14, 26, and 29 in Appendix A and the following additional locations:

Amarillo Area Office

Pantex Plant

P.O. Box 1086

Amarillo, Texas 79105

Dayton Area Office

P.O. Box 66

Miamisburg, Ohio 45342

Kansas City Area Office

P.O. Box 202

Kansas City, Missouri 64141

Los Alamos Area Office

528 35th Street

Los Alamos, New Mexico 87544

Pinellas Area Office

P.O. Box 11500

St. Petersburg, Florida 33733

Pittsburgh Naval Reactors Office

P.O. Box 109

West Mifflin, Pennsylvania 15122

Rocky Flats Area Office

P.O. Box 928

Golden, Colorado 80401

Schenectady Naval Reactors Office

P.O. Box 1069

Schenectady, New York 12301

Categories of individuals covered by the system: DOE and employees having access authorization (clearance) to classify information and/or materials.

Categories of records in the system: Records of security education lectures, and investigative and summary reports of security infraction incidents.

Authority for maintenance of the system: 5 U.S.C. 301; Department of Energy Organization Act, including authorities incorporated by reference in Title III of the Department of Energy Organization Act; Executive Order 12009.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses listed in Appendix B.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper files.

Retrievability: By name.

Safeguards: Access is limited to employees with a need to know. Records are stored in security areas.

Retention and disposal: Records retention and disposal authorities are contained in DOE Order 1324.1, "Records Disposition." Records within the Department of Energy are destroyed by shredding, burning, or burial in a sanitary landfill, as appropriate.

System manager(s) and address: Headquarters:

Director
Office of Safeguards and Security

U.S. Department of Energy
Washington, D.C. 20545

Field Offices: The managers and directors of field locations 2, 9, 12, 14, 26, and 29 and the Pittsburgh and Schenectady Naval Reactors Offices listed under system location are the System Managers for their respective portion of this system.

Notification procedure:

a. Requests by an individual to determine if a system of records contains information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, at the appropriate address from among items 2, 8, 9, 12, 14, 26, and 29 of Appendix A and the Pittsburgh Naval Reactors and Schenectady Naval Reactors Offices listed above under system location, in accordance with DOE's Privacy Act regulations (10 CFR 206.3, 40 FR 45610 (October 2, 1975) or 10 CFR 708.6, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

b. Required identifying information: Complete name, the geographic location(s) and organization(s) where requester believes such record may be located, date of birth, and time period.

Record access procedures:

a. Requests by an individual for access to a system of records that contains information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, at the address listed in the appropriate item from among items 2, 8, 9, 12, 14, 26, and 29 of Appendix A and the Pittsburgh Naval Reactors and Schenectady Naval Reactors Offices listed above under system location, in accordance with DOE's Privacy Act regulations (10 CFR 206.3, 40 FR 45610 (October 2, 1975) or 10 CFR 708.6, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

b. Required identifying information: Complete name, the geographic location(s) and organization(s) where requester believes such record may be located, date of birth, and time period.

Contesting record procedures:

a. Requests by an individual to correct or amend the content of a record containing information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, at the address listed in the appropriate item from among items 2, 8, 9, 12, 14, 26, and 29 of Appendix A and the Pittsburgh Naval Reactors and Schenectady Naval Reactors Offices listed above under system location, in accordance with DOE's Privacy Act regulations (10 CFR 206.7, 40 FR 45613 (October 2, 1975) or 10 CFR 708.6 and 708.7, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

b. Required identifying information: Complete name, the geographic location(s) and organization(s) where requester believes such record may be located, date of birth, and time period.

Record source categories: Training officers; security personnel; individual's supervisor; and local, State, and Federal authorities.

Systems exempted from certain provisions of the act: None.

DOE-49

System name: Security Correspondence File.

Security classification: Unclassified.

System location:

Headquarters
U.S. Department of Energy
Washington, D.C. 20585

Categories of individuals covered by the system: Individuals of interest to DOE officials.

Categories of records in the system: Correspondence received from individuals, articles from news media, and informational reports.

Authority for maintenance of the system: 5 U.S.C. 301; Department of Energy Organization Act, including authorities incorporated by reference in Title III of the Department of Energy Organization Act; Executive Order 12009.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses listed in Appendix B.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper files.

Retrievability: By name.

Safeguards: Access is limited to individuals having a need to know. Records are stored in security area under guard protection.

Retention and disposal: Records retention and disposal authorities are contained in DOE Order 1324.1, "Records Disposition." Records within the Department of Energy are destroyed by shredding, burning, or burial in a sanitary landfill, as appropriate.

System manager(s) and address:

Director
Office of Safeguards and Security
U.S. Department of Energy
Washington, D.C. 20545

Notification procedure:

a. Requests by an individual to determine if a system of records contains information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, Washington, D.C. 20585, in accordance with DOE's Privacy Act regulations (10 CFR 206.3, 40 FR 45610 (October 2, 1975) or 10 CFR 708.6, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

b. Required identifying information: Complete name, the geographic location(s) and organization(s) where requester believes such record may be located, date of birth, and time period.

Record access procedures:

a. Requests by an individual for access to a system of records that contains information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, Washington, D.C. 20585, in accordance with DOE's Privacy Act regulations (10 CFR 206.3, 40 FR 45610 (October 2, 1975) or 10 CFR 708.6, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

b. Required identifying information: Complete name, the geographic location(s) and organization(s) where requester believes such record may be located, date of birth, and time period.

Notification procedure:

a. Requests by an individual to correct or amend the content of a record containing information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, Washington, D.C. 20585, in accordance with DOE's Privacy Act regulations (10 CFR 206.7, 40 FR 45613 (October 2, 1975) or 10 CFR 708.6 and 708.7, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

b. Required identifying information: Complete name, the geographic location(s) and organization(s) where requester believes such record may be located, date of birth, and time period.

Record source categories: Subject individual, official records, articles from news media.

Systems exempted from certain provisions of the act: The Secretary has exempted this system from subsections (c)(3), (d), (e)(1), (e)(4), (G), (H), (I) and (f) of 5 U.S.C. 552a under the Privacy Act of 1974. This exemption applies only to information in this system of records which is exempt pursuant to 5 U.S.C. 552a(k) (1), (2) and (5).

DOE-50

System name: Personnel Assurance Program Records.

Security classification: Unclassified.

System location: The locations listed as items 2, 12, and 28 in Appendix A and the following additional locations:

Amarillo Area Office
Pantex Plant
P.O. Box 1086
Amarillo, Texas 79605
Sandia Area Office
P.O. Box 5800
Albuquerque, New Mexico 87115

Categories of individuals covered by the system: DOE or contractor employees performing work which afford both technical knowledge and access to assembled nuclear explosives or certain nuclear weapon components.

Categories of records in the system: Results of medical examinations, employment review, credit-consumer reports; data pertaining to access authorizations (clearances); and training records pertaining to individual's duties involving assembled nuclear explosives or certain nuclear weapon components.

Authority for maintenance of the system: 5 U.S.C. 301; Department of Energy Organization Act, including authorities incorporated by reference in Title III of the Department of Energy Organization Act; Executive Order 12009.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses listed in Appendix B.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper files.

Retrievability: By name.

Safeguards: Access is limited to employees having a need to know. Records are stored in locked file cabinets in secured buildings.

Retention and disposal: Records retention and disposal authorities are contained in DOE Order 1324.1, "Records Disposition." Records within the DOE are destroyed by shredding, burning, or burial in a sanitary landfill, as appropriate.

System manager(s) and address: Field Offices: The managers and directors of field locations 2, 12, and 28 of Appendix A are the System Managers for their respective portions of this system.

Notification procedure:

a. Requests by an individual to determine if a system of records contains information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, at the appropriate address from among items 2, 12, and 28 of Appendix A, in accordance with DOE's Privacy Act regulations (10 CFR 206.3, 40 FR 45610 (October 2, 1975) or 10 CFR 708.6, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

b. Required identifying information: Complete name, the geographic location(s) and organization(s) where requester believes such record may be located, date of birth, and time period.

Record access procedures:

a. Requests by an individual for access to a system of records that contains information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, at the address listed in the appropriate item from among items 2, 12, and 28 of Appendix A, in accordance with DOE's Privacy Act regulations (10 CFR 206.3, 40 FR 45610 (October 2, 1975) or 10 CFR 708.6, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

b. Required identifying information: Complete name, the geographic location(s) and organization(s) where requester believes such record may be located, date of birth, and time period.

Contesting record procedures:

a. Requests by an individual to correct or amend the content of a record containing information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, at the address listed in the appropriate item from among items 2, 12, and 28 of Appendix A, in accordance with DOE's Privacy Act regulations (10 CFR 206.7, 40 FR 45613 (October 2, 1975) or 10 CFR 708.6 and 708.7, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

b. Required identifying information: Complete name, the geographic location(s) and organization(s) where requester believes such record may be located, date of birth, and time period.

Record source categories: Medical records, occupational training records, and personnel security records.

Systems exempted from certain provisions of the act: None.

DOE-51

System name: Employee and Visitor Access Control Records.

Security classification: Unclassified.

System location: The locations listed as items 2, 7, 8, 9, 12, 14, 26, 28, and 29 in Appendix A and the following additional locations:

Amarillo Area Office
Pantex Plant
P.O. Box 1086
Amarillo, Texas 79105
Dayton Junction Office
P.O. Box 66
Miamisburg, Ohio 45342
Grand Junction Office
P.O. Box 2567
Grand Junction, Colorado 81501
Kansas City Area Office
P.O. Box 202
Kansas City, Missouri 64141
Los Alamos Area Office
528 35th Street
Los Alamos, New Mexico 87544

Pinellas Area Office
P.O. Box 11500
St. Petersburg, Florida 33733
Rocky Flats Area Office
P.O. Box 928
Golden, Colorado 80401
Sandia Area Office
P.O. Box 5400
Albuquerque, New Mexico 87115
Schenectady Naval Reactors Office
P.O. Box 1069
Schenectady, New York 12301

Categories of individuals covered by the system: Individuals visiting DOE facilities, DOE employees seeking access to DOE facilities and classified records.

Categories of records in the system: Records of individual visiting DOE and employee identification files (including photographs) maintained for access purposes.

Authority for maintenance of the system: 5 U.S.C. 301; Department of Energy Organization Act, including authorities incorporated by reference in Title III of the Department of Energy Organization Act; Executive Order 12009.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

DOE contractors—to control access to classified information and areas.

Department of Defense contractors—to authorize access to classified information and areas.

Additional routine uses as listed in Appendix B.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper files and microfiche.

Retrievability: By name.

Safeguards: Access is limited to employees with a need to know. Records are stored in guarded security areas.

Retention and disposal: Records retention and disposal authorities are contained in DOE Order 1324.1, "Records Disposition." Records within the DOE are destroyed by shredding, burning, or burial in a sanitary landfill, as appropriate.

System manager(s) and address:

Headquarters (location 8 in Appendix A):

Director
Office of Safeguards and Security
U.S. Department of Energy
Washington, D.C. 20545

Field Offices: The managers and directors of the field locations 2, 7, 9, 12, 14, 26, 28, and 29 of Appendix A and of the Schenectady Naval Reactors Office listed above under system location are the System Managers for their respective portions of this system.

Notification procedure:

a. Requests by an individual to determine if a system of records contains information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, at the appropriate address from among items 2, 8, 7, 9, 12, 14, 26, 28, and 29 of Appendix A and the Schenectady Naval Reactor Offices listed above under system location, in accordance with DOE's Privacy Act regulations (10 CFR 206.3, 40 FR 45610 (October 2, 1975) or 10 CFR 708.6, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

b. Required identifying information: Complete name, the geographic location(s) and organization(s) where requester believes such record may be located, date of birth, and time period.

Record access procedures:

a. Requests by an individual for access to a system of records that contains information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, at the address listed in the appropriate item from among items 2, 7, 8, 9, 12, 14, 26, 28, and 29 of Appendix A and the Schenectady Naval Reactors Offices listed above under system location, in accordance with DOE's Privacy Act regulations (10 CFR 206.3, 40 FR 45610 (October 2, 1975) or 10 CFR 708.6, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

b. Required identifying information: Complete name, the geographic location(s) and organization(s) where requester believes such record may be located, date of birth, and time period.

Contesting record procedures:

a. Requests by an individual to correct or amend the content of a record containing information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, at the address listed in the appropriate item from among items 2, 7, 8, 9, 12, 14, 26, 28, and 29 of Appendix A, and the Schenectady Naval Reactors Offices listed above under system location, in accordance with DOE's Privacy Act regulations (10 CFR 206.7, 40 FR 45613 (October 2, 1975) or 10 CFR 708.6 and 708.7, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR, Part 206 or Part 708 should apply.

b. Required identifying information: Complete name, the geographic location(s) and organization(s) where requester believes such record may be located, date of birth, and time period.

Record source categories: Subject individual, Department of Defense, DOE offices and contractors, National Aeronautics and Space Administration, and other Government agencies.

Systems exempted from certain provisions of the act: None.

DOE-52

System name: Alien Visits and Participation.

Security classification: Unclassified.

System location: The locations listed as items 2, 8, 12, 14, 26, 28, and 29 in Appendix A and the following additional locations:

Dayton Area Office
P.O. Box 66
Miamisburg, Ohio 45342
Grand Junction Office
P.O. Box 2567
Grand Junction, Colorado 81501

Categories of individuals covered by the system: Resident aliens who visit and participate at DOE offices and contractor facilities.

Categories of records in the system: Federal agency checks and DOE records regarding alien visits and participation at DOE offices and/or contractor facilities.

Authority for maintenance of the system: 5 U.S.C. 301; Department of Energy Organization Act, including authorities incorporated by reference in Title III of the Department of Energy Organization Act; Executive Order 12009.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses listed in Appendix B.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper files.

Retrievability: By name and visit number.

Safeguards: Access is limited to employees with a need to know. Records are stored in security areas under guard and/or alarm protection.

Retention and disposal: Records retention and disposal authorities are contained in DOE Order 1324.1, "Records Disposition." Records within the Department of Energy are destroyed by shredding, burning, or burial in a sanitary landfill, as appropriate.

System manager(s) and address: Headquarters (Location 8 in Appendix A):

Director
Office of Safeguards and Security
U.S. Department of Energy
Washington, D.C. 20545

Field Offices: The managers and directors of field locations 2, 12, 14, 26, 28, and 29 of Appendix A are the System Managers for their respective portions of this system.

Notification procedure:

a. Requests by an individual to determine if a system of records contains information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, at the appropriate address from among items 2, 8, 12, 14, 26, 28, and 29 of Appendix A in accordance with DOE's Privacy Act regulations (10 CFR 206.3, 40 FR 45610 (October 2, 1975) or 10 CFR 708.6, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

b. Required identifying information: Full name, nationality, and date and location of visit.

Record access procedures:

a. Requests by an individual for access to a system of records that contains information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, at the address listed in the appropriate item from among items 2, 8, 12, 14, 26, 28, and 29 of Appendix A, in accordance with DOE's Privacy Act regulations (10 CFR 206.3, 40 FR 45610 (October 2, 1975) or 10 CFR 708.6, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

b. Required identifying information: Full name, nationality, and date and location of visit.

Contesting record procedures:

a. Requests by an individual to correct or amend the content of a record containing information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, at the address listed in the appropriate item from among items 2, 8, 12, 14, 26, 28, and 29 of Appendix A, in accordance with DOE's Privacy Act regulations (10 CFR 206.7, 40 FR 45613 (October 2, 1975) or 10 CFR 708.6 and 708.7, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

b. Required identifying information: Full name, nationality, and date and location of visit.

Record source categories: Subject individual; reports from Federal investigation agencies; and letters and/or plans from DOE operating offices, operating divisions, and contractor facilities.

Systems exempted from certain provisions of the act: The Secretary has exempted this system from subsections (c)(3), (d), (e)(1), (c)(4)(G), (H), (I), and (f) of 5 U.S.C. 552a under the Privacy Act of 1974. This exemption applies only to information in this system of records which is exempt pursuant to 5 U.S.C. 552a(k) (1), (2) and (5).

DOE-53

System name: Access Authorization for ADP Equipment.

Security classification: Unclassified.

System location:

Office of ADP Services
Energy Information Administration
Washington, D.C. 20461
Optimum System, Inc.
5615 Fishers Lane
Rockville, Maryland 20852
Project Research Corporation
825 North Capitol Street
Washington, D.C. 20426

Categories of individuals covered by the system: Users of the Energy Information Administration computer system, including DOE employees and contractor employees (specifically including employees and contractor employees of the Federal Energy Regulatory Commission), and other authorized users of the system.

Categories of records in the system: Name, user identification number, office address and telephone number, organizational code, computer usage figures, data accessed and other management-related information.

Authority for maintenance of the system: 5 U.S.C. 301; Department of Energy Organization Act, including authorities incorporated by reference in Title III of the Department of Energy Organization Act; Executive Order 12009; OMB Circular A-71; Department of Commerce Federal Information Processing Standards Publications (FIPS PUBS) on computer security; GSA Procurement Regulations Amendment 155, adding Section 1-1.327.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Records are used by the Office of ADP Services to control and manage Energy Information Administration computer resources and to insure that sensitive information is properly safeguarded.

Additional routine uses as listed in Appendix B.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Disk, computer tape, printouts.

Retrievability: Name, user identification number, project number.

Safeguards: Records are maintained in Federal buildings with 24-hour guard service. Access is limited to authorized personnel on a need-to-know basis.

Retention and disposal: Updated on a regular basis. Older records are destroyed.

System manager(s) and address:

Director
Office of ADP Services
Energy Information Administration
U.S. Department of Energy
Washington, D.C. 20461

Notification procedure: Requests by an individual to determine if a system of records contains information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, Washington, D.C. 20585, in accordance with DOE's Privacy Act regulations (10 CFR 206.3, 40 FR 45610 (October 2, 1975) or 10 CFR 708.6, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

Record access procedures: Requests by an individual for access to a system of records that contains information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, Washington, D.C. 20585, in accordance with DOE's Privacy Act regulations (10 CFR 206.3, 40 FR 45610 (October 2, 1975) or 10 CFR 708.6, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

Contesting record procedures: Requests by an individual to correct or amend the content of a record containing information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, Washington, D.C. 20585, in accordance with DOE's Privacy Act regulations (10 CFR 206.7, 40 FR 45613 (October 2, 1975) or 10 CFR 708.6 and 708.7, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

Record source categories: Subject individual, with some information assigned by the Office of ADP Services.

Systems exempted from certain provisions of the act: None.

DOE-54

System name: Investigative Files of Inspector General.

Security classification: Generally unclassified. Classified material is sometimes maintained.

System location: The location listed as items 1 through 35 in Appendix A and the following additional locations:

Grand Junction Office
P.O. Box 2567
Grand Junction, Colorado 81501
Pittsburgh Naval Reactors Office
P.O. Box 109
West Mifflin, Pennsylvania 15122
Schenectady Naval Reactors Office
P.O. Box 1069
Schenectady, New York 12301

Categories of individuals covered by the system: Current and former DOE and contractor employees and applicants for employment who are subjects of investigations, and individuals involved in miscellaneous investigative matters.

Categories of records in the system: Investigative reports, memoranda, and letters.

Authority for maintenance of the system: 5 U.S.C. 301; Department of Energy Organization Act, including authorities incorporated by reference in Title III of the Department of Energy Organization Act; Executive Order 12009.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses listed in Appendix B.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records.

Retrievability: By name, case number, and title of investigative report.

Safeguards: Information is kept in locked General Services Administration approved Class 6 security containers. Access is on a need to know basis.

Retention and disposal: Records retention and disposal authorities are contained in DOE Order 1324.1, "Records Disposition." Records within the DOE are destroyed by shredding, burning, or burial in a sanitary landfill, as appropriate.

System manager(s) and address:

Headquarters (location 8 in Appendix A):
Inspector General
U.S. Department of Energy
Washington, D.C. 20585

Field Offices:

The managers and directors of field locations 1 through 7 and 9 through 35 of Appendix A and of the Pittsburgh Naval Reactors and Schenectady Naval Reactors Offices listed above under system location are the System Managers for their respective portions of this system.

Notification procedure:

a. Requests by an individual to determine if a system of records contains information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, at the appropriate address from among items 1 through 35 of Appendix A, in accordance with DOE's Privacy Act regulations (10 CFR 206.3, 40 FR 45610 (October 2, 1975) or 10 CFR 708.6, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

b. Required identifying information: Complete name, the geographic location(s) and organization(s) where requester believes such record may be located, date of birth, and time period.

Record access procedures:

a. Requests by an individual for access to a system of records that contains information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, at the address listed in the appropriate item from among items 1 through 35 of Appendix A, in accordance with DOE's Privacy Act regulations (10 CFR 206.3, 40 FR 45610 (October 2, 1975) or 10 CFR 708.6, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

b. Required identifying information: Complete name, the geographic location(s) and organization(s) where requester believes such record may be located, date of birth, and time period.

Contesting record procedures:

a. Requests by an individual to correct or amend the content of a record containing information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, at the address listed in the appropriate item from among items 1 through 35 of Appendix A, in accordance with DOE's Privacy Act regulations (10 CFR 206.7, 40 FR 45613 (October 2, 1975) or 10 CFR 708.6 and 708.7, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

b. Required identifying information: Complete name, the geographic location(s) and organization(s) where requester believes such record may be located, date of birth, and time period.

Record source categories: The subject individual, complaints, witnesses, respondents, confidential sources, agency files and records, and official Federal, State, or local records.

Systems exempted from certain provisions of the act: The Secretary has exempted this system from subsections (c)(3), (d), (e)(1), (3)(4)(G), (H), (I), and (f) of 5 U.S.C. 552a, the Privacy Act of 1974. This exemption applies only to information in this system of records which is exempt pursuant to 5 U.S.C. 552a(k) (1), (2) and (5).

DOE-55

System name: Freedom of Information and Privacy Acts Requests for Records.

Security classification: Unclassified.

System location: The locations listed in items 1 through 35 of Appendix A.

Categories of individuals covered by the system: Individuals requesting copies of records from DOE under the provisions of the Freedom of Information Act and under the Privacy Act of 1974.

Categories of records in the system: Name, address, and telephone number; description or identification of records requested, furnished, and/or denied; dates of request and response; amount of fees paid, if any; payment delinquencies, if any; final determinations of appeals or denials; and the names and titles of authorizing officials and officials responsible for denials.

Authority for maintenance of the system: Freedom of Information Act; Privacy Act of 1974; 5 U.S.C. 301; Department of Energy Organization Act, including authorities incorporated by reference in Title III of the Department of Energy Organization Act; Executive Order 12009.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Annual report to the Congress under section (d) of the Freedom of Information Act. Additional routine uses as listed in Appendix B.

These records are available for public inspection at all times.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records.

Retrievability: By name of requester.

Safeguards: Records are located in lockable metal file cabinets with access limited to those whose official duties require access. However, records are at all times available for public inspection.

Retention and disposal: Records are retained in accordance with DOE's record disposal schedule.

System manager(s) and address: For each of the locations listed above:

Director
FOI and Privacy Acts Activities
U.S. Department of Energy
Washington, D.C. 20585

Notification procedure:

a. Requests by an individual to determine if a system of records contains information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, at the appropriate address from among items 1-35 of Appendix A, in accordance with DOE's Privacy Act regulations (10 CFR 206.3, 40 FR 45610 (October 2, 1975) or 10 CFR 708.6, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

b. Required identifying information: Complete name, the geographic location(s) and organization(s) where requester believes such record may be located, date of birth, and time period.

Record access procedures:

a. Requests by an individual for access to a system of records that contains information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, at the address listed in the appropriate item from among items 1-35 of Appendix A, in accordance with DOE's Privacy Act regulations (10 CFR 206.3, 40 FR 45610 (October 2, 1975) or 10 CFR 708.6, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

b. Required identifying information: Complete name, the geographic location(s) and organization(s) where requester believes such record may be located, date of birth, and time period.

Contesting record procedures:

a. Requests by an individual to correct or amend the content of a record containing information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, at the address listed in the appropriate item from among items 1-35 of Appendix A, in accordance with DOE's Privacy Act regulations (10 CFR 206.7, 40 FR 45613 (October 2, 1975) or 10 CFR 708.6 and 708.7, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

b. Required identifying information: Complete name, the geographic location(s) and organization(s) where requester believes such record may be located, date of birth, and time period.

Record source categories: The subject individual.

Systems exempted from certain provisions of the act: None.

DOE-56

System name: Congressional Constituent Inquiries.

Security classification: Unclassified.

System location: The locations listed in items 1 through 35 of Appendix A and the following additional location:

Grand Junction Office
P.O. Box 2567
Grand Junction, Colorado 81501
Pittsburgh Naval Reactors Office
P.O. Box 109
West Mifflin, Pennsylvania 15122
Schenectady Naval Reactors Office
P.O. Box 1069
Schenectady, New York 12301

Categories of individuals covered by the system: Individuals on whose behalf there have been Congressional inquiries and members of Congress making requests on behalf of their constituents.

Categories of records in the system: Name, address of constituent and date of letter by a Senator or member of Congress on behalf of the constituent; materials forwarded by a member of Congress; and DOE response.

Authority for maintenance of the system: 5 U.S.C. 301; 44 U.S.C. 3101; Department of Energy Organization Act, including authorities incorporated by reference in Title III of the Department of Energy Organization Act; Executive Order 12009.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The records are used to record Congressional inquiries on behalf of constituents, to ensure proper document control of the response, and to reference DOE responses to such inquiries.

Additional routine uses as listed in Appendix B.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records.

Retrievability: By name of constituent and name of member of Congress.

Safeguards: Records are located in lockable metal file cabinets in secured rooms or secured premises with access limited to those whose official duties require access.

Retention and disposal: The records are retained in accordance with DOE's records disposition schedule.

System manager(s) and address: The head of each office which maintains such records.

Notification procedure:

a. Requests by an individual to determine if a system of records contains information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, at the appropriate address from among items 1 through 35 of Appendix A and the Pittsburgh Naval Reactors and Schenectady Naval Reactors Offices listed above under system location, in accordance with DOE's Privacy Act regulations (10 CFR 206.3, 40 FR 45610 (October 2, 1975) or 10 CFR 708.6, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

b. Required identifying information: Complete name, the geographic location(s) and organization(s) where requester believes such record may be located, date of birth, and time period.

Record access procedures:

a. Requests by an individual for access to a system of records that contains information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, at the address listed in the appropriate item from among items 1 through 35 of Appendix A and the Pittsburgh Naval Reactors and Schenectady Naval Reactors Offices listed above under system location, in accordance with DOE's Privacy Act regulations (10 CFR 206.3, 40 FR 45610 (October 2, 1975) or 10 CFR 708.6, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

b. Required identifying information: Complete name, the geographic location(s) and organization(s) where requester believes such record may be located, date of birth, and time period.

Contesting record procedures:

a. Requests by an individual to correct or amend the content of a record containing information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, at the address listed in the appropriate item from among items 1 through 35 of Appendix A and the Pittsburgh Naval Reactors and Schenectady Naval Reactors Offices listed above under system location, in accordance with DOE's Privacy Act regulations (10 CFR 206.7, 40 FR 45613 (October 2, 1975) or 10 CFR 708.6 and 708.7, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

b. Required identifying information: Complete name, the geographic location(s) and organization(s) where requester believes such record may be located, date of birth, and time period.

Record source categories: Subject individual, member of Congress, and drafter of DOE response.

Systems exempted from certain provisions of the act: None.

DOE-57

System name: Congressional Profiles.

Security classification: Unclassified.

System location:

Office of Congressional Affairs
Washington, D.C. 20585

Categories of individuals covered by the system: Current members of Congress.

Categories of records in the system: Name, picture (taken from Congressional Pictorial Directory), personal background (as developed from published sources), demographic information by State or district, committee assignments, and energy interests (as developed from published sources, information from member's office, abstracts from Congressional Record, committee hearings and other public sources).

Authority for maintenance of the system: 5 U.S.C. 301; Department of Energy Organization Act, including authorities incorporated by reference in Title III of the Department of Energy Organization Act; Executive Order 12009.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Disclosures to Office of Congressional Affairs personnel and senior Departmental officials for information purposes in the ordinary course of business.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records, computer printouts.

Retrievability: Name, committee membership, State, region, energy issue topic.

Safeguards: Records are maintained in Federal building with 24-hour guard service. Access is limited to authorized personnel on a need-to-know basis.

Retention and disposal: Records are retained as long as the subject individual remains a member of Congress.

System manager(s) and address:

Director
Office of Congressional Affairs
U.S. Department of Energy
Washington, D.C. 20585

Notification procedure: Requests by an individual to determine if a system of records contains information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, Washington, D.C. 20585, in accordance with DOE's Privacy Act regulations (10 CFR 206.3, 40 FR 45610 (October 2, 1975) or 10 CFR 708.6, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

Record access procedures: Requests by an individual for access to a system of records that contains information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, Washington, D.C. 20585, in accordance with DOE's Privacy Act regulations (10 CFR 206.3, 40 FR 45610 (October 2, 1975) or 10 CFR 708.6, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

Contesting record procedures: Requests by an individual to correct or amend the content of a record containing information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, Washington, D.C. 20585, in accordance with DOE's Privacy Act regulations (10 CFR 206.7, 40 FR 45613 (October 2, 1975) or 10 CFR 708.6 and 708.7, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

Record source categories: Published sources, committee hearings, and the members' offices.

Systems exempted from certain provisions of the act: None.

DOE-58

System name: General Correspondence Files.

Security classification: Unclassified.

System location: The locations listed in items 1 through 35 of Appendix A and the following additional locations:

Grand Junction Office
P.O. Box 2567
Grand Junction, Colorado 81501
Pittsburgh Naval Reactors Office
P.O. Box 109
West Mifflin, Pennsylvania 15122
Schenectady Naval Reactors Office
P.O. Box 1079
Schenectady, New York 12301

Categories of individuals covered by the system: Individuals communicating by letter with DOE.

Categories of records in the system: Name, address of correspondent, and copies of the agency response.

Authority for maintenance of the system: 5 U.S.C. 301; 44 U.S.C. 3101; Department of Energy Organization Act, including authorities incorporated by reference in Title III of the Department of Energy Organization Act; Executive Order 12009.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The records are used by DOE personnel to record written communications from correspondents outside of DOE, to ensure proper document control of the DOE response, and as a reference for such response.

Additional routine uses as listed in Appendix B.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records.

Retrievability: By name.

Safeguards: Records are located in lockable metal file cabinets in secured rooms with access limited to those whose official duties require access.

Retention and disposal: Records are retained in accordance with DOE's records disposition schedule.

System manager(s) and address: The head of each office which maintains such records.

Notification procedure:

a. Requests by an individual to determine if a system of records contains information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, at the appropriate address from among items 1 through 35 of Appendix A and the Pittsburgh Naval Reactors and Schenectady Naval Reactors Offices listed above under system location, in accordance with DOE's Privacy Act regulations (10 CFR 206.3, 40 FR 45610 (October 2, 1975) or 10 CFR 708.6, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

b. Required identifying information: Complete name, the geographic location(s) and organization(s) where requester believes such records may be located, date of birth, and time period.

Record access procedures:

a. Requests by an individual for access to a system of records that contains information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, at the address listed in the appropriate item from among items 1 through 35 of Appendix A and the Pittsburgh Naval Reactors and Schenectady Naval Reactors Offices listed above under system location, in accordance with DOE's Privacy Act regulations (10 CFR 206.3, 40 FR 45610 (October 2, 1975) or 10 CFR 708.6, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

b. Required identifying information: Complete name, the geographic location(s) and organization(s) where requester believes such records may be located, date of birth, and time period.

Contesting record procedures:

a. Requests by an individual to correct or amend the content of a record containing information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, at the address listed in the appropriate item from among items 1 through 35 of Appendix A and the Pittsburgh Naval Reactors and Schenectady Naval Reactors Offices listed above under system location, in accordance with DOE's Privacy Act regulations (10 CFR 206.7, 40 FR 45613 (October 2, 1975) or 10 CFR 708.6 and 708.7, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

b. Required identifying information: Complete name, the geographic location(s) and organization(s) where requester believes such record may be located, date of birth, and time period.

Record source categories: Subject individuals and drafter of DOE response.

Systems exempted from certain provisions of the act: None.

DOE-59

System name: Mailing Lists for Requesters of Energy Related Information.

Security classification: Unclassified.

System location: The locations listed as items 1 through 35 in Appendix A.

Categories of individuals covered by the system: Persons requesting energy-related information.

Categories of records in the system: Each of DOE's mailing lists contains the name and address of the subject individual.

Authority for maintenance of the system: 5 U.S.C. 301; Department of Energy Organization Act, including authorities incorporated by reference in Title III of the Department of Energy Organization Act; Executive Order 12009.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The records are released to contractors handling bulk and single copy mailings for DOE. Names and addresses of such contractors may be requested from the appropriate System Manager.

Additional routine uses as listed in Appendix B.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records, punched cards, magnetic tape and disk, and microfiche.

Retrievability: Records are retrieved by record identification code number; by type of information being disseminated (e.g., solar, nuclear, etc.); or by the occupation, profession, or other stated interest of an individual.

Safeguards: Access is limited to employees with a need to know in the performance of their duties. Records are maintained in buildings with controlled access. Computer information is controlled through established DOE computer center procedures of personnel screening and physical security.

Retention and disposal: The lists are continually updated.

System manager(s) and address:

Headquarters (location 8 in Appendix A):

Director
Office of Administrative Services
U.S. Department of Energy
Washington, D.C. 20585

The managers and directors of field location 1 through 7 and 9 through 35 in Appendix A are System Managers for their respective portions of this system.

Notification procedure:

a. Requests by an individual to determine if a system of records contains information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, at the appropriate address from among items 1-35 of Appendix A, in accordance with DOE's Privacy Act regulations (10 CFR 206.3, 40 FR 45610 (October 2, 1975) or 10 CFR 708.6, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

b. Required identifying information: Complete name, the geographic location(s) or organization(s) where requester believes such record may be located, date of birth, and time period.

Record access procedures:

a. Requests by an individual for access to a system of records that contains information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, at the address listed in the appropriate item from among items 1-35 of Appendix A, in accordance with DOE's Privacy Act regulations (10 CFR 206.3, 40 FR 45610 (October 2, 1975) or 10 CFR 708.6, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

b. Required identifying information: Complete name, the geographic location(s) or organization(s) where requester believes such record may be located, date of birth, and time period.

Contesting record procedures:

a. Requests by an individual to correct or amend the content of a record containing information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, at the address listed in the appropriate item from among items 1-35 of Appendix A, in accordance with DOE's Privacy Act regulations (10 CFR 206.7, 40 FR 45613 (October 2, 1975) or 10 CFR 708.6 and 708.7, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

b. Required identifying information: Complete name, the geographic location(s) or organization(s) where requester believes such record may be located, date of birth, and time period.

Record source categories: The subject individual, generally as the result of a request for information by such individual.

Systems exempted from certain provisions of the act: None.

DOE-60

System name: Environmental Impact Document Monitoring, Processing and Correspondence Tracking System (IMPACT).

Security classification: Unclassified.

System location:

Headquarters Washington, D.C. 20585

Categories of individuals covered by the system: State and local officials having responsibilities on environmental matters, Federal Government National Environmental Policy Act (NEPA) coordinators, persons affiliated with public interest groups and associations, persons affiliated with congressional delegations, and other persons who have expressed interest in specific environmental matters associated with DOE activities, by participating in the NEPA comment process.

Categories of records in the system: Name, address, and population segment code for each correspondent; copies of correspondence and/or hearing submissions; and identification of subject or geographic area of interest. In addition, there is nonpersonal information regarding the status and history of NEPA-related documents.

Authority for maintenance of the system: 5 U.S.C. 301; Department of Energy Organization Act, including authorities incorporated by reference in Title III of the Department of Energy Organization Act; Executive Order 12009; National Environmental Policy Act; Council on Environmental Quality guidelines.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Government agencies with NEPA responsibilities, when necessary for their participation in the DOE NEPA process Parties (and representatives of parties) engaged in litigation involving the DOE NEPA program—where relevant to issues in litigation.

Additional routine uses as listed in Appendix B.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Magnetic disk with tape backup.

Retrievability: Name of individual, address, population segment, and/or subject of interest. Retrieval is also possible by date and nature of correspondence.

Safeguards: The system is maintained in a building with controlled access and on computer facilities with controlled entry and access. Access to the records is limited to those employees of the Office of NEPA Affairs specified by the system manager.

Retention and disposal: Retention and disposal of records in this system are based upon the following:

(1) If an individual on his/her own initiative request removal from the mailing list, his/her file will be so marked and will receive no further correspondence. That file will then be considered to be inactive. However, if such an individual has corresponded on an environmental matter which is still active, such records will be retained in active storage until the cases on those statements are closed, at which time the records will be removed to inactive storage.

(2) Once each year, each subject individual will receive a form by which to express current interests. If an individual does not respond within 60 days, that person's records will be retained or deleted based upon whether or not there is any correspondence on a currently active matter, as in (1) above.

System manager(s) and address:

Director
Office of NEPA Affairs
U.S. Department of Energy
Washington, D.C. 20545

Notification procedure: Requests by an individual to determine if a system of records contains information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, Washington, D.C. 20585, in accordance with DOE's Privacy Act regulations (10 CFR 206.3, 40 FR 45610 (October 2, 1975) or 10 CFR 708.6, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

Record access procedures: Requests by an individual for access to a system of records that contains information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, Washington, D.C. 20585, in accordance with DOE's Privacy Act regulations (10 CFR 206.3, 40 FR 45610 (October 2, 1975) or 10 CFR 708.6, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

Contesting record procedures: Requests by an individual to correct or amend the content of a record containing information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, Washington, D.C. 20585, in accordance with DOE's Privacy Act regulations (10 CFR 206.7, 40 FR 45613 (October 2, 1975) or 10 CFR 708.6 and 708.7, 40 FR 7320

(February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

Record source categories: The subject individual.

Systems exempted from certain provisions of the act: None.

DOE-61

System name: Census of High Energy Physicists.

System location: Location 8 as listed in Appendix A.

Categories of individuals covered by the system: Scientists and graduate students in the field of high energy physics.

Categories of records in the system: Name, date of birth, education, employment history, research support agencies, technical specialties.

Authority for maintenance of the system: 5 U.S.C. 301; Department of Energy Organization Act, including authorities incorporated by reference in Title III of the Department of Energy Organization Act; Executive Order 12009.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Physicists, research organizations and various Government organizations engaged in physics research—to obtain information on individuals and organizations engaged in high energy physics research.

Additional routine uses as listed in Appendix B.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Magnetic tape.

Retrievability: By name, employer, or any other combination of data.

Safeguards: Access is limited to Division of High Energy and Nuclear Physics personnel. Records are maintained in locked file cabinet in secured building.

Retention and disposal: Records retention and disposal authorities are contained in DOE Order 1324.1, "Records Disposition." Records within the DOE are destroyed by shredding, burning, or burial in a sanitary landfill, as appropriate.

System manager(s) and address:

Associate Director
High Energy and Nuclear Physics
U.S. Department of Energy
Washington, D.C. 20545

Notification procedure:

a. Requests by an individual to determine if a system of records contains information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, Washington, D.C. 20585, in accordance with DOE's Privacy Act regulations (10 CFR 206.3, 40 FR 45610 (October 2, 1975) or 10 CFR 708.6, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

b. Required identifying information. Complete name, the geographic location(s) and organization(s) where requester believes such records may be located, date of birth, and time period.

Record access procedures:

a. Requests by an individual for access to a system of records that contains information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, Washington, D.C. 20585, in accordance with DOE's Privacy Act regulations (10 CFR 206.3, 40 FR 45610 (October 2, 1975) or 10 CFR 708.6, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

b. Required identifying information. Complete name, the geographic location(s) and organization(s) where requester believes such records may be located, date of birth, and time period.

Contesting record procedures:

a. Requests by an individual to correct or amend the content of a record containing information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, Washington, D.C. 20585, in accordance with DOE's Privacy Act regulations (10 CFR 206.7, 40 FR 45613 (October 2, 1975) or 10 CFR 708.6 and 708.7, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

b. Required identifying information. Complete name, the geographic location(s) and organization(s) where requester believes such records may be located, date of birth, and time period.

Record source categories: High energy physics research group leaders and laboratory directors. Other personnel in the field of high energy physics.

Systems exempted from certain provisions of the act: None.

DOE-62

System name: Historical Files—Published Information Concerning Selected Persons in the Energy Field.

Security classification: Unclassified.

System location:

Historian's Office
Executive Secretariat
Washington, D.C. 20585

Categories of individuals covered by the system: Selected senior staff officials of the Manhattan Project, Atomic Energy Commission, Nuclear Regulatory Commission, Energy Research and Development Administration, DOE, and other selected individuals prominent in the energy field.

Categories of records in the system: Newspaper and magazine articles, press releases, announcements, and speeches.

Authority for maintenance of the system: 5 U.S.C. 301; Department of Energy Organization Act, including authorities incorporated by reference in Title III of the Department of Energy Organization Act; Executive Order 12009.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Records are used (1) to prepare histories, (2) in responding to informational inquiries from members of the public including the media, and (3) in responding to requests from DOE officials.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records.

Retrievability: By name.

Safeguards: Records are maintained in a locked vault with access dependent upon the permission of the Historian's Office.

Retention and disposal: Records are retained indefinitely with no plans for their disposal.

System manager(s) and address:

Chief Historian
Historian's Office
Executive Secretariat
U.S. Department of Energy
Washington, D.C. 20585

Notification procedure: Requests by an individual to determine if a system of records contains information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, Washington, D.C. 20585, in accordance with DOE's Privacy Act regulations (10 CFR 206.3, 40 FR 45610 (October 2, 1975) or 10 CFR 708.6, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

Record access procedures: Requests by an individual for access to a system of records that contains information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, Washington, D.C. 20585, in accordance with DOE's Privacy Act regulations (10 CFR 206.3, 40 FR 45610 (October 2, 1975) or 10 CFR 708.6, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

Contesting record procedures: Requests by an individual to correct or amend the content of a record containing information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, Washington, D.C. 20585, in accordance with DOE's Privacy Act regulations (10 CFR 206.7, 40 FR 45613 (October 2, 1975) or 10 CFR 708.6 and 708.7, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

Record source categories: DOE press releases, DOE NewsClips (a daily compilation of energy-related newspaper and magazine articles), and other published sources.

Systems exempted from provisions of the act: None.

DOE-63

System name: Electric Rate Demonstration Data Base.

Security classification: Unclassified.

System location: As broken out by project, the records are located at the following participating agencies and utilities:

Arizona—Solar Research Commission, Arizona Public Service Company.

Arkansas—Public Service Commission, Arkansas Power & Light Company.

California—Energy Resources Conservation and Development Commission and Public Utilities Commission, Pacific Gas & Electric Company, San Diego Gas & Electric Company, Southern California Edison Company, Sacramento Municipal Utility District.

Connecticut—Public Utilities Commission, Connecticut Light and Power Company.

New Jersey—State Energy Office, Jersey Central Power & Light Company.

New York—Public Service Commission, Consolidated Edison.

North Carolina—Utilities Commission, Carolina Power & Light Company, Blue Ridge Electric Membership Corporation.

Ohio—Public Utilities Commission, Dayton Power & Light Company, Toledo Edison Company, Buckeye Power Company.

Rhode Island—Public Utilities Commission, Blackstone Valley Electric Company.

Vermont—Public Service Board, Green Mountain Power Company.

Washington—State Energy Office, Seattle City Light (Department of Lighting, City of Seattle), Clark County Public Utilities District, Puget Sound Power & Light Company.

Wisconsin—Public Service Commission, Wisconsin Public Service Corporation.

Puerto Rico—Commonwealth of Puerto Rico, Puerto Rico Water Resources Authority.

Edmond, Oklahoma—City of Edmond, Edmond Municipal Electric Company.

Los Angeles—City of Los Angeles, Los Angeles Department of Water & Power.

For the DOE Headquarters, the location of the records is:

Optimum Systems, Inc.
5615 Fishers Lane
Rockville, Maryland 20852.

Categories of individuals covered by the system: All consumers of electricity participating in DOE-sponsored rate demonstration projects.

Categories of records in the system: Consumer identification number, rate code, historical data on past year's energy consumption, hourly current electrical consumption, household information (including age distribution and income), dwelling characteristics, fuel use information, water heating characteristics, and appliance inventory. The records maintained by the DOE, the parent companies of the participating utilities, and the Electric Power Research Institute will not contain name or other identifying particulars (see discussion under routine uses).

Authority for maintenance of the system: 5 U.S.C. 301; Department of Energy Organization Act, including authorities incorporated by reference in Title III of the Department of Energy Organization Act; Executive Order 12009.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The participating utilities will use the records maintained for the following purposes: Measurement of price elasticity under various nontraditional rate forms, correlation of demographic characteristics with demand and usage patterns, analysis of shifts in usage patterns under various rate forms and at different times of day and seasons of the year, and determination of changes in load and capacity factors attributable to experimental rates and/or load management techniques.

The records maintained by the participating utilities will also be made available to the participating utilities' parent companies, the sponsoring State and local agencies, the DOE, and the Electric Power Research Institute (EPRI), so that these parties can do analyses of the data similar to those contemplated by the utilities. As previously noted under categories of records maintained, the records made available to the participating utilities' parent companies, the DOE and to EPRI will not contain name or other identifying particulars.

The sponsoring State and local agencies will also use the records to deal with any complaints brought by participating consumers of electricity.

Additional routine uses as listed in Appendix B.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Machine readable records.

Retrievability: By any data element (except by name for the participating utilities' parent companies, EPRI, and DOE Headquarters records).

Safeguards: The contracts with the utilities stipulate that the utilities will exercise all diligence in controlling access to their computer facilities and that only authorized members of the project team and other routine users will be allowed to use the data.

At the DOE, physical, technical, and administrative security is maintained with all storage areas locked when not in use. Admittance, when open, is restricted to authorized personnel only. All personnel that handle or process the data are instructed and cautioned as to the confidentiality of the data and its proper disposition. Remote terminal users need special access code.

Retention and disposal: At the participating utilities and the EPRI, three years after the completion of the test on the utility's system.

At the DOE Headquarters, records will be destroyed within two years of completion of the last project.

System manager(s) and address: For records at the participating utilities:

Arizona Public Service Company
411 North Central Avenue
Phoenix, Arizona 85004
Arkansas Power & Light Company
Box 551
Little Rock, Arkansas 72203
Blackstone Valley Electric Company
Washington Highway, Box 1111
Lincoln, Rhode Island 02865
Blue Ridge Electric Membership Corporation
1216 Blowing Rock Boulevard, NE.
Lenoir, North Carolina 28645
Buckeye Power Company
4302 Indianola Avenue
Columbus, Ohio 43124
Carolina Power & Light
Box 551
Raleigh, North Carolina 27602
Clark County Public Utilities District
Box 1626
1200 Fort Vancouver Way
Vancouver, Washington 98663
Connecticut Light & Power Company
P.O. Box 270
Hartford, Connecticut 06101
Consolidated Edison
Four Irving Place
New York, New York 10003
Dayton Power and Light Company
25 North Main Street
Dayton, Ohio 45401
Edmond Municipal Electric Company
Edmond, Oklahoma 73034
Green Mountain Power Company
One Main Street
Burlington, Vermont 05401
Jersey Central Power & Light Company
Madison Avenue and Punch Bowl Road
Morristown, New Jersey 07960
Los Angeles Department of Water and Power
Box 111
Los Angeles, California 90051
Pacific Gas & Electric Company
77 Beale Street
San Francisco, California 94106
Puerto Rico Water Resources Authority
Planning and Engineering
San Juan, Puerto Rico
Puget Sound Power & Light Company
600 116th Street, NE.
Bellevue, Washington 98009
Sacramento Municipal Utility District
P.O. Box 15830 6201 South Street,
Sacramento, California 95813
San Diego Gas & Electric Company
P.O. Box 800
San Diego,
California 92112
Seattle City Light
(Department of Lighting, City of Seattle),
1015 Third Avenue.
Seattle, Washington 98104
Southern California Edison Company
P.O. Box 1831,
Rosemead, California 91770
Toledo Edison Company
300 Madison Avenue,
Toledo, Ohio 43652

Wisconsin Public Service Corporation,
700 North Adams Avenue,
Green Bay, Wisconsin 54301

For the records at the DOE:
Division of Regulatory Assistance Office of Utility Systems
Economic Regulatory Administration U.S. Department of
Energy 2000 M Street, NW. Washington, D.C. 20461

Notification procedure:

a. Requests by an individual to determine if a system of records contains information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, Washington, DC 20585; in accordance with DOE's Privacy Act regulations (10 CFR 206.3, 40 FR 45610 (October 2, 1975) or 10 CFR 708.6, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

b. Required identifying information. Complete name, the geographic location(s) and organization(s) where requester believes such record may be located, date of birth, and time period.

Record access procedures:

a. Requests by an individual for access to a system of records that contains information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, Washington, D.C. 20585, in accordance with DOE's Privacy Act regulations (10 CFR 206.3, 40 FR 45610 (October 2, 1975) or 10 CFR 708.6, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

b. Required identifying information. Complete name, the geographic location(s) and organization(s) where requester believes such record may be located, date of birth, and time period.

Contesting record procedures:

a. Requests by an individual to correct or amend the content of a record containing information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, Washington, D.C. 20585, in accordance with DOE's Privacy Act regulations (10 CFR 206.7, 40 FR 45613 (October 2, 1975) or 10 CFR 708.6, and 708.7, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

b. Required identifying information. Complete name, the geographic location(s) and organization(s) where requester believes such record may be located, date of birth, and time period.

Record source categories: The subject individual and those authorized by the individual to furnish information.

Systems exempted from certain provisions of the act: None.

DOE-64

System name: Low-Income Weatherization Program Home Report Records.

Security classification: Unclassified.

System location: For each State participating in this program, the records will be located in the community action agency designated by the State to implement the program. A list of participating States and community action agencies is available from the Director, Office of Weatherization Assistance, Office of Conservation and Solar Applications, Washington, D.C. 20585.

Categories of individuals covered by the system: All persons eligible for weatherization assistance participating in Department of Energy-sponsored weatherization programs.

Categories of records in the system: Information about weatherization program participants, including name, address, annual income; whether participant receives public assistance; whether the participant owns or rents; and number of elderly, handicapped, native American, migrants and total members in a participant's household; information about the characteristics of a participant's dwelling, including fuel use data; before and after information about improvements to the dwelling to be undertaken in connection with the program and information about the costs of such improvements; information about the hours and source of labor involved in making the improvements.

Authority for maintenance of the system: 5 U.S.C. 301; Department of Energy Organization Act, including authorities incorporated by reference in Title III of the Department of Energy Organization Act; Executive Order 12009.

Authority for maintenance of the system: The participating community action agencies will use the records maintained for the following purposes: determination of whether and which improvements should be undertaken; determination of correlation of the demographic and building characteristics to the quantity, quality, and cost of the work undertaken to enable the Department of Energy to monitor the effectiveness of the program.

The Department of Energy will use the record for the following purposes: to assure the effective provisions of weatherization assistance for the dwelling units of low-income persons; to carry out periodic evaluations of the program.

Additional routine uses as listed in Appendix B.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records.

Retrievability: By name.

Safeguards: The contracts with the community action agencies stipulate that the community action agencies will exercise all diligence in controlling access to the records maintained under this program and that only authorized members of the community action agency and other routine users will be allowed to use the data. All personnel that handle or process the data are to be instructed and cautioned as to the confidentiality of the data and its proper disposition.

Retention and disposal: Records will be retained for three years or until the completion of the low-income weatherization program.

System manager(s) and address: For each State participating in the program, the System Manager will be the head of the community action agency designated by the State to implement the program. A list of participating States and community action agencies is available from:

Director
Office of Weatherization Assistance
Office of Conservation and Solar Applications
U.S. Department of Energy
Washington, D.C. 20585

Notification procedure:

a. Requests by an individual to determine if a system of records contains information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, Washington, D.C. 20585, in accordance with DOE's Privacy Act regulations (10 CFR 206.3, 40 FR 45610 (October 2, 1975) or 10 CFR 708.6, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

b. Required identifying information: Complete name, the geographic location(s) and organization(s) where requester believes such record may be located, date of birth, and time period.

Record access procedures:

a. Requests by an individual for access to a system of records that contains information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, Washington, D.C. 20585, in accordance with DOE's Privacy Act regulations (10 CFR 206.3, 40 FR 45610 (October 2, 1975) or 10 CFR 708.6, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

b. Required identifying information: Complete name, the geographic location(s) and organization(s) where requester believes such record may be located, date of birth, and time period.

Contesting record procedures:

a. Requests by an individual to correct or amend the content of a record containing information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, Washington, D.C. 20585, in accordance with DOE's Privacy Act regulations (10 CFR 206.7, 40 FR 45613 (October 2, 1975) or 10 CFR 708.6 and 708.7, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

b. Required identifying information: Complete name, the geographic location(s) and organization(s) where requester believes such record may be located, date of birth, and time period.

Record source categories: The subject individuals and those authorized by the individuals to furnish information.

Systems exempted from certain provisions of the act: None.

DOE-65

System name: Energy Extension Service Records.

Subsystem A: Energy Extension Service Client Names.

Subsystem B: Energy Extension Service—Listing of State EES Employees, Contractors, and Volunteers.

Security classification:

Subsystems A and B:

Unclassified.

System location:

Subsystem A: For each State or Territory participating in this program, the records will be located in the office(s) designated by

the State or Territory to implement the program. A list of participating States and Territories and the corresponding offices implementing the program is available from the Evaluation Coordinator, Energy Extension Service, Office of Conservation and Solar Applications, Washington, D.C. 20585.

Subsystem B: Office of the Evaluation Coordinator, Energy Extension Service, Office of Conservation and Solar Applications.

Categories of individuals covered by the system:

Subsystem A: State Energy Extension Service employees, contractors, and volunteers participating in the pilot projects implementing the Energy Extension Service program.

Categories of records in the system:

Subsystem A: Names, addresses, telephone numbers.

Subsystem B: Names, addresses, telephone numbers, project roles.

Authority for maintenance of the system:

Subsystems A and B: 5 U.S.C. 301; Department of Energy Organization Act, including authorities incorporated by reference in Title III of the Department of Energy Organization Act; Executive Order 12009; National Energy Extension Service Act (Title V of the Energy Research and Development Administration Authorization Act of 1977).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Subsystem A:

States: Uses the records for the administration of the subject programs. Also will, in some cases, use the DOE evaluations derived from the records (described immediately below) for evaluation and administration of the subject programs.

DOE: Client names, addresses, and telephone numbers will be used to select a sample for a telephone survey of users of the Energy Extension Service. The survey will provide information on client evaluation of the service and on energy conserving activities which clients may have taken as a result of the availability of the service. The prime contractor for the survey is ICF, Inc., which will receive the requisite records from the State EES's and, in turn, make them available to Westat, Inc., the subcontractor which will actually perform the evaluation. DOE will receive only information which is distinguishable between persons, but which is not identifiable to specific persons. However, DOE anticipates that it will retain the capability to disclose to a participating State not only the evaluation but also the corresponding client identities for clients of that particular State.

Subsystem B:

DOE: Uses the records to evaluate the implementation of the program by participating States and Territories.

Subsystems A and B: The additional routine uses as listed in Appendix B.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Subsystems A and B: Paper records.

Retrievability: Subsystems A and B: Name.

Safeguards:

Subsystem A: The agreements with the States stipulate that the offices maintaining the records will exercise all diligence in controlling access to them with only authorized personnel and routine users allowed access. All personnel who handle or process these records are instructed and cautioned as to the confidentiality of the data and its proper disposition.

Subsystem B: Records are retained in lockable metal file cabinets with access limited to authorized personnel on a need-to-know basis.

Retention and disposal:

Subsystem A: The records will be retained as long as they are useful in implementing the program.

Subsystem B: The records will be retained only for the time necessary to evaluate the States' implementation of the Energy Extension Service pilot projects.

System manager(s) and address:

Subsystems A and B:

Evaluation Coordinator
Energy Extension Service
Office of Conservation and Solar Applications
U.S. Department of Energy
Washington, D.C. 20585

Notification procedure:

Subsystems A and B: Requests by an individual to determine if a system of records contains information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Depart-

ment of Energy, Washington, D.C. 20585, in accordance with DOE's Privacy Act regulations (10 CFR 206.3, 40 FR 45610 (October 2, 1975) or 10 CFR 708.6, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

Record access procedures:

Subsystems A and B: Requests by an individual for access to a system of records that contains information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, Washington, D.C. 20585, in accordance with DOE's Privacy Act regulations (10 CFR 206.3, 40 FR 45610 (October 2, 1975) or 10 CFR 708.6, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

Contesting record procedures:

Subsystems A and B: Requests by an individual to correct or amend the content of a record containing information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, Washington, D.C. 20585, in accordance with DOE's Privacy Act regulations (10 CFR 206.7, 40 FR 45613 (October 2, 1975) or 10 CFR 708.6 and 708.7, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

Record source categories:

Subsystem A: Subject individuals.
Subsystem B: The State or Territory implementing the program and the subject individuals.

Systems exempted from certain provisions of the act:

Subsystems A and B: None.

DOE-66

System name: Power Sales to Individuals.

Security classification: Unclassified.

System location:

Western Area Power Administration
P.O. Box 3402
Golden, Colorado 80401

Also, records in this system are located at various regional offices of the Western Area Power Administration.

Categories of individuals covered by the system: Individuals purchasing power from the Western Area Power Administration.

Categories of records in the system: Executed contracts, agreements, amendments, extensions, and related correspondence.

Authority for maintenance of the system: 5 U.S.C. 301; Department of Energy Organization Act, including authorities incorporated by reference in Title III of the Department of Energy Organization Act; Executive Order 12009.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses listed in Appendix B.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records.

Retrievability: By name.

Safeguards: Records are maintained in a locked facility with access limited to authorized personnel on a need-to-know basis.

Retention and disposal: Records retention and disposal authorities are contained in DOE Order 1324.1, "Records Disposition."

System manager(s) and address:

Administrator
Western Area Power Administration
U.S. Department of Energy
P.O. Box 3402
Golden, Colorado 80401

Notification procedure: Requests by an individual to determine if a system of records contains information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, Washington, D.C. 20585, in accordance with DOE's Privacy Act regulations (10 CFR 206.3, 40 FR 45610 (October 2, 1975) or 10 CFR 708.6, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR part 206 or Part 708 should apply.

Record access procedures: Requests by an individual for access to a system of record that contains information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, Washington, D.C. 20585, in accordance with DOE's Privacy Act regulations (10 CFR 206.3, 40 FR 45610 (October 2, 1975) or 10 CFR 708.6, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

ber 2, 1975) or 10 CFR 708.6, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

Contesting record procedures: Requests by an individual to correct or amend the content of a record containing information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, Washington, D.C. 20585, in accordance with DOE's Privacy Act regulations (10 CFR 206.7, 40 FR 45613 (October 2, 1975) or 10 CFR 708.6 and 708.7, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

Record source categories: Subject individuals.

Systems exempted from certain provisions of the act: None.

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System name: Participants in Experiments, Studies, and Surveys.

Subsystem A: EIA-23 Survey Reports (Annual Survey of Domestic Oil and Gas Reserves) Submitted by Natural Persons.

Subsystem B: EIA-84 Survey Reports (National Interim Energy Consumption Survey).

Subsystem C: EIA-141 Survey Reports (Pretest of Transportation Panel).

Subsystem D: EIA-178 Survey Reports (Pacific Northwest Residential Energy Survey).

Security classification:

Subsystems A, B, C and D: Unclassified.

System location: Generally: Portions of the system may be located with contractors or other entities involved in conducting the experiments, studies or surveys, or in any DOE office. A complete listing of the location of all subsystems of this system is available from the Director, Division of FOI and Privacy Act Activities, Department of Energy, Washington, D.C. 20585.

Subsystem A:

Office of Oil and Gas Information System
Forrestal Building, Room 2E-076
1000 Independence Avenue, SW.
Washington, D.C. 20585

Information Systems Program/Energy Resources Center
University of Oklahoma
Physical Sciences Building
Norman, Oklahoma 73070

Subsystems B and C:

Response Analysis Corporation
Route 206, Research Park
Princeton, New Jersey 08540

Subsystem D:

Elrick and Lavidge
650 California Street
San Francisco, California 94108

Categories of individuals covered by the system: Generally: Individuals who are participants in experiments, studies, and surveys undertaken in furtherance of authorized DOE research activities.

Subsystem A: Natural person (as opposed to business) respondents to the Form EIA-23, Annual Survey of Domestic Oil and Gas Reserves.

Subsystem B: Persons responding to the Form EIA-84, National Interim Energy Consumption Survey.

Subsystem C: Persons responding to the Form EIA-141, Pretest of Transportation Panel.

Subsystem D: Persons responding to the Form EIA-178, Pacific Northwest Residential Energy Survey.

Categories of records in the system: Generally: Name, age, birth date, place of birth, sex, race, home address and telephone number, business address and telephone number, education, income, occupation, family size and composition, patterns of product use, and such other information as is necessary, to be determined by the subject matter and purpose of the experiment, study or survey, including data derived from participants' responses during the course of the authorized research.

Subsystem A: Name, address and telephone number, social security number, reserves, and production data.

Subsystems B, C and D: Name, age, birth date, sex, home address and telephone number, education, income, occupation, family size and composition, characteristics of housing unit, patterns of energy consumption.

Authority for maintenance of the system: Generally, including authority for establishment of system: 5 U.S.C. 301; Department of Energy Organization Act, including authorities incorporated by ref-

erence in Title III of the Department of Energy Organization Act; Executive Order 12009.

Subsystem A data collection authority: Section 13(b) of the Federal Energy Administration Act of 1974.

Subsystems B and C data collection authority: Section 52 of the Federal Energy Administration Act of 1974.

Subsystem D data collection authority: Section 2(f) of the Bonneville Project Act of 1937.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Generally and Subsystems A, B, C and D: Information in this system may, on occasion, be disclosed to Federal agencies and other entities which are participating in research in connection with which the data were obtained. Information in the possession of the Energy Information Administration must be disclosed, upon request, to any DOE office which determines the information relates to its functions.

Additional routine uses as listed in Appendix B.

Subsystems B, C and D: In addition to the above, it should be noted that the DOE, as a routine user of these records, receives from its contractors, Response Analysis and Elrick and Lavidge, only records which do not admit of identification of the individual respondents.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Generally: Paper records in file folders, electromagnetic storage material, and microform.

Subsystem A: Paper records, microfiche, disk, and tape.

Subsystems B and C: Paper records.

Subsystem D: Magnetic tape.

Retrievability: Generally: Filed alphabetically by name, control number, or other code identifier.

Subsystem A: Retrievable by any data element.

Subsystems B, C and D: By name, identification number, and geographic location.

Safeguards: Generally: During business hours the records at DOE sites are maintained in secured buildings with access limited to those whose official duties require access; during nonbusiness hours, the records are in secured rooms with access controlled by security guards. Any records maintained by other entities will be maintained in a similar fashion in accordance with DOE specifications.

Subsystem A: The contract with the University of Oklahoma stipulates that it will exercise all diligence in controlling access to the records maintained under the program and that only authorized members of the contractor, DOE, and routine users will be allowed to use the data. All personnel that handle or process the data are instructed and cautioned as to the confidentiality of the data and its proper disposition.

Subsystems B, C and D: The contracts with Response Analysis and Elrick and Lavidge stipulates that it will exercise all diligence in controlling access to the records maintained under the program and that only authorized members of Response Analysis, Elrick and Lavidge, DOE, and routine users will be allowed to use the data. All personnel that handle or process the data are instructed and cautioned as to the confidentiality of the data and its proper disposition. In addition, the records DOE receives do not admit of identification of the individual respondents.

Retention and disposal: Generally: Retained in accordance with DOE's records control schedule.

Subsystem A: It is intended that the records will be maintained indefinitely.

Subsystems B and C: It is expected that these records will be destroyed approximately 9 months after the data is obtained.

Subsystem D: It is expected that records which identify the individual households will be destroyed approximately 3 months after the data is collected.

System manager(s) and address: Generally: The designated person in each office conducting the relevant experiment, study, or survey. A listing of these persons is available from the Director, FOI and Privacy Acts Activities, Department of Energy, Washington, D.C. 20585.

Subsystems A, B, C and D:

Administrator, Energy Information Administration (or designee)
U.S. Department of Energy
Federal Building, 12th and Pennsylvania Avenue, NW.
Washington, D.C. 20461

Notification procedures: Generally and Subsystems A, B, C and D: Requests by an individual to determine if a system of records contains information about him or her should be directed to the Direc-

tor, FOI and Privacy Acts Activities, Department of Energy, Washington, D.C. 20585, in accordance with DOE's Privacy Act regulations (10 CFR 206.3, 40 FR 45610 (October 2, 1975) or 10 CFR 708.6, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

Record access procedures: Generally and Subsystems A, B, C and D: Requests by an individual for access to a system of records that contains information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, Washington, D.C. 20585, in accordance with DOE's Privacy Act regulations (10 CFR 206.3, 40 FR 45610 (October 2, 1975) or 10 CFR 708.6, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

Contesting record procedures: Generally and Subsystems A, B, C and D: Requests by an individual to correct or amend the content of a record containing information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, Washington, D.C. 20585, in accordance with DOE's Privacy Act regulations (10 CFR 206.7, 40 FR 45613 (October 2, 1975) or 10 CFR 708.6 and 708.7, FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR, Part 206 or Part 708 should apply.

Record source categories: Generally: The subject individuals and those authorized by the individuals to furnish information.

Subsystem A: The subject individual.

Subsystems B, C and D: The subject individual and utility companies authorized by the individual to disclose consumption and billing information.

Systems exempted from certain provisions of the act: Generally and Subsystems A, B, and C: None.

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System name: Minority Energy Technical Assistance Program (METAP) Records.

Security classification: Unclassified.

System location: For the Department of Energy, records are located at:

Office of Special Projects
Office of Conservation and Solar Applications
Washington, D.C. 20585

For the Center for Urban Environmental Studies (CUES), records are located at:

Center for Urban Environmental Studies
1012 14th Street, NW.
Washington, D.C.

Categories of individuals covered by the system: Selected elected officials.

Categories of records in the system: Name, position, sources of energy information, perception of needs of constituents for energy information.

Authority for maintenance of the system: 5 U.S.C. 301; Department of Energy Organization Act, including authorities incorporated by reference in Title III of the Department of Energy Organization Act; Executive Order 12009.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

CUES: Records are used to construct training programs for the DOE. Additional routine uses as listed in Appendix B.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: At DOE, computer medium records. At CUES, paper records.

Retrievability: By name and Federal region.

Safeguards: At DOE, records are maintained in a locked facility, with access limited to authorized personnel on a need-to-know basis.

At CUES, the grant agreement with CUES stipulates that CUES will exercise all diligence in controlling access to the records maintained under this program and that only authorized members of CUES, DOE, and routine users will be allowed to use the data. All personnel that handle or process the data are to be instructed and cautioned as to the confidentiality of the data and its proper disposition.

System manager(s) and address:

Assistant Secretary for Conservation and Solar Applications (or designee)
U.S. Department of Energy
Washington, D.C. 20585

Notification procedure: Requests by an individual to determine if a system of records contains information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, Washington, D.C. 20585, in accordance with DOE's Privacy Act regulations (10 CFR 206.3, 40 FR 45610 (October 2, 1975) or 10 CFR 708.6, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

Record access procedures: Requests by an individual for access to a system of records that contains information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, Washington, D.C. 20585, in accordance with DOE's Privacy Act regulations (10 CFR 206.3, 40 FR 45610 (October 2, 1975) or 10 CFR 708.6, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

Contesting record procedures: Requests by an individual to correct or amend the content of a record containing information about him or her should be directed to the Director, FOI and Privacy Acts Activities, Department of Energy, Washington, D.C. 20585, in accordance with DOE's Privacy Act regulations (10 CFR 206.7, 40 FR 45613 (October 2, 1975) or 10 CFR 708.6, and 708.7, 40 FR 7320 (February 19, 1975)). DOE will determine whether 10 CFR Part 206 or Part 708 should apply.

Record source categories: Subject individual.

Systems exempted from certain provisions of the act: None.

Appendix A

- (1) Alaska Power Administration
P.O. Box 50
Juneau, Alaska 99802
- (2) Albuquerque Operations Office
P.O. Box 5400
Albuquerque, New Mexico 87115
- (3) Bartlesville Energy Technology Center
P.O. Box 1398
Bartlesville, Oklahoma 74003
- (4) Bonneville Power Administration
1002 N.W. Holladay Street
P.O. Box 3621
Portland, Oregon 97208
- (5) Central District Office of Enforcement
(Kansas City (HQ), Chicago, Cleveland, Detroit, St. Louis, Wichita)
- (6) Twelve Grand Building
1150 Grand Avenue
Kansas City, Missouri 64106
- (7) Chicago Operations Office
9800 South Cass Avenue
Argonne, Illinois 60439
- (8) Grand Forks Energy Technology Center
P.O. Box 8213, University Station
Grand Forks, North Dakota 58201
- (9) Headquarters, Department of Energy
Washington, D.C. 20585
- (10) Idaho Operations Office
550 2nd Street
Idaho Falls, Idaho 83401
- (11) Laramie Energy Technology Center
P.O. Box 3395, University Station
Laramie, Wyoming 82070
- (12) Morgantown Energy Technology Center
P.O. Box 830
Morgantown, West Virginia 26505
- (13) Nevada Operations Office
P.O. Box 14100
Las Vegas, Nevada 89114
- (14) Northeast District Office of Enforcement
(Philadelphia (HQ), Boston, New York, Pittsburgh)
1421 Cherry Street, 10th Floor
Philadelphia, Pennsylvania 19102
- (15) Oak Ridge Operations Office
P.O. Box E
Oak Ridge, Tennessee 37830
- (16) Pittsburgh Energy Technology Center
4800 Forbes Avenue
Pittsburgh, Pennsylvania 15213
- (17) Region I
Analex Building, Room 700

- 150 Causeway Street
Boston, Massachusetts 02114
- (18) Region II
26 Federal Plaza
Room 3206
New York, New York 10007
- (19) Region III
10th Floor
1421 Cherry Street
Philadelphia, Pennsylvania 19102
- (20) Region IV
8th Floor
1655 Peachtree Street, NE.
Atlanta, Georgia 30309
- (21) Region V
Room A-333
175 West Jackson Boulevard
Chicago, Illinois 60604
- (22) Region VII
Twelve Grand Building
1150 Grand Avenue
Kansas City, Missouri 64106
- (23) Region VII
P.O. Box 26247, Belmar Branch
1075 South Yukon Street
Lakewood, Colorado 80226
- (24) Region IX
Third Floor
111 Pine Street
San Francisco, California 94111
- (25) Region X
1992 Federal Building
915 Second Avenue
Seattle, Washington 98174
- (26) Richland Operations Office
P.O. Box 550
Richland, Washington 99352
- (27) Rocky Mountain District Office of Enforcement
(Denver (HQ), Casper)
P.O. Box 26247, Belmar Branch
1075 South Yukon Street
Lakewood, Colorado 80226
- (28) San Francisco Operations Office
1333 Broadway, Wells Fargo Building
Oakland, California 94616
- (29) Savannah River Operations Office
P.O. Box "A"
Aiken, South Carolina 29801
- (30) Southeast District Office of Enforcement
(Atlanta (HQ), Birmingham, Louisville, Richmond)
8th Floor
1655 Peachtree Street, NE.
Atlanta, Georgia 30309
- (31) Southeastern Power Administration
Samuel Elbert Building
P.O. Box 3621
Portland, Oregon 97208
- (32) Southwest District Office of Enforcement
(Dallas (HQ), Houston, New Orleans, San Antonio, Midland, Tulsa, Oklahoma City)
P.O. Box 35228
2626 West Mockingbird Lane
Dallas, Texas 75235
- (33) Southwestern Power Administration
P.O. Box Drawer 1619
Tulsa, Oklahoma 74101
- (34) Western District Office of Enforcement
(San Francisco (HQ), Los Angeles, Seattle)
111 Pine Street, Third floor
San Francisco, California 94111
- (35) Western Area Power Administration
P.O. Box 3402
Golden, Colorado 8401

Appendix B

Additional Routine Uses

The following routine uses apply to and are incorporated by reference into each system of records as stated therein:

1. In the event that a record within this system of records maintained by this agency indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program pursuant thereto, the relevant records in the system of records may be referred as a routine use to the appropriate agency, whether Federal, State, local, or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

2. A record from this system of records may be disclosed as a routine use to a Federal, State, or local agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information, such as current licenses, if necessary, to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit.

3. A record from this system of records may be disclosed, as a routine use, to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

4. A record from this system of records may be disclosed, as a routine use (a) to appropriate parties engaged in litigation or in preparation of possible litigation, such as potential witnesses, for the purpose of securing their testimony when necessary; (b) to courts, magistrates or administrative tribunals; (c) to parties and their attorneys for the purpose of proceeding with litigation or settlement of disputes; and (d) to individuals seeking information by using established discovery procedures, whether in connection with civil, criminal, or regulatory proceedings.

5. A record maintained by this agency to carry out its functions which relates to civil and criminal proceedings may be disclosed to the news media in accordance with guidelines contained in Department of Justice regulations 28 CFR 50.2.

6. A record maintained by this agency to carry out its functions may be disclosed to foreign governments in accordance with treaty obligations.

7. A record from this system of records may be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A-19 at any stage of the legislative coordination and clearance process as set forth in that Circular.

8. A record from this system of records may be disclosed, as a routine use, to DOE contractors in performance of their contracts, and their officers and employees who have a need for the record in the performance of their duties subject to the same limitations applicable to DOE officers and employees under the Privacy Act.

9. A record in this system of records may be disclosed, as a routine use, to a member of Congress submitting a request involving the individual when the individual is a constituent of the member and has requested assistance from the member with respect to the subject matter of the record.

10. A record in this system of records which contains medical and/or psychological information may be disclosed, as a routine use, to the physician or mental health professional of any individual submitting a request for access to the record under the Privacy Act of 1974 and DOE's Privacy Act regulations if, in its sole judgment and good faith, DOE believes that disclosure of the medical and/or psychological information directly to the individual who is the subject of the record could have an adverse effect upon that individual, in accordance with the provisions of 5 U.S.C. 552a(f)(3) and applicable DOE regulations.

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federal register

Thursday
August 30, 1979

Part IV

Department of Transportation

Federal Railroad Administration

Assistance to States for Local Rail
Service

V

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Part 266

[FRA State Rail Docket No. 1979-1; Notice No. 1]

Assistance to States for Local Rail Service Under Section 5 of the Department of Transportation Act

AGENCY: Federal Railroad Administration ("FRA"), Department of Transportation ("DOT").

ACTION: Interim regulations and invitation for public comment.

SUMMARY: This rule revises Part 266 to establish interim procedures and requirements for receipt of rail service assistance under Section 5 (f)-(p) of the Department of Transportation Act ("Act"). These revisions effect the changes to the Act occasioned by the Local Rail Service Assistance Act of 1978, ("1978 Act").

DATES: This interim rule is effective August 30, 1979. Interested parties are invited to submit written comments by October 15, 1979. Written comments received on or before that date will be considered before final regulations are issued. Comments received after that date will be considered to the extent possible.

ADDRESSES: (1) Submission of written comments. Written comments should identify the docket and notice number and be submitted to the Office of State Assistance Programs, RFA-30, Room 5406, Federal Railroad Administration, 400 Seventh Street, S.W., Washington, D.C. 20590. Any commenter who wishes to have FRA acknowledge the receipt of his or her comments should include a self-addressed, stamped post card with the comments. No other acknowledgement of comments will be provided.

(2) Examination of written comments. Written comments will be available for examination at the above address between 8:30 a.m. and 5:00 p.m. Monday through Friday except Federal holidays.

FOR FURTHER INFORMATION CONTACT:

Jo Anne McGowan, Program Analyst, Office of State Assistance Programs, Federal Railroad Administration, Washington, D.C. 20590, (202) 426-1877.

Lawrence A. Friedman, Attorney-Advisor, Office of Chief Counsel, Federal Railroad Administration, Washington, D.C. 20590, (202) 426-7737.

SUPPLEMENTARY INFORMATION: On January 4, 1978, Procedures and Requirements Regarding Applications

and Disbursements under Section 5 of the Act (49 U.S.C. 1654 (f)-(p)), as amended by Pub. L. 95-607 were published in the Federal Register as 49 CFR Part 266 (43 FR 858, Jan. 4, 1978). This interim rule revises 49 CFR Part 266 to reflect the following:

Changes in Section 5 of the Act resulting from the 1978 Act:

Comments received in response to FRA's Advance Notice of Proposed Rulemaking regarding substitute service assistance under Section 5 of the Act (43 FR 1108, Jan. 6, 1978); and

Comments received at and following the June 20, 1978, public meeting regarding 49 CFR Part 266.

In addition, this interim rule incorporates the substantive provisions of the FRA "Standards and Procedures Regarding In-Kind Benefits" formerly 49 CFR Part 267 and, therefore, repeals 49 CFR Part 267.

The most significant changes to 49 CFR Part 266 included in this interim rule result from the 1978 Act which expanded the categories of assistance to include assistance for constructing rail or rail related facilities for the purpose of improving the quality and efficiency of rail freight service and made other revisions to the Act.

The 1978 Act also increased the universe of eligible rail lines. Rehabilitation or improvement assistance and rail facility construction assistance may be provided for lines which annually carry between 3 and 5 million gross ton miles of freight per mile when the proposed rehabilitation or improvement or rail facility construction is essential to the implementation of a proposal made under subsections 5 (a) through (e) of the Act and all lines which annually carry less than 3 million gross ton miles of freight per mile. To ensure that States are aware of the lines now eligible, the 1978 Act requires railroads to report to FRA by August 1 of each year all lines which carried less than 3 million gross ton miles per mile during the prior year. A proposed rule implementing this requirement will soon be published for public comment.

Also revised as a result of the 1978 Act is the formula used for calculating a State's entitlement. Unlike the prior formula, the revised formula is weighted in favor of rail lines not yet authorized for abandonment or discontinuance. Although the method of computing the formula has been modified by the 1978 Act, each State is still entitled to a minimum allocation of 1%.

Also revised by the 1978 Act are the timing and basis of reallocation. Previously, funds not programmed for use in a State's annual Program of Projects were reallocated immediately,

to the greatest extent practicable. The 1978 Act, however, provides that funds not covered by an executed grant agreement before the end of the fiscal year in which they are allocated are subject to reallocation. Reallocated funds are distributed in accordance with the formula at the time the next fiscal year's appropriation is allocated.

The 1978 Act also modified the matching share ratio and the types of in-kind benefits which are eligible to be contributed as the State share. The prior ratio in which the Federal share decreased from 100% to 70% over a five year period has been replaced with a set Federal share of 80%, except that the Federal share of assistance for rail service continuation payments is 70% during the third year the assistance is provided. Under the 1978 Act, personal services are eligible as in-kind benefits only if they are provided by State public employees working in the State's rail service assistance program. Overhead and general administrative expenses with respect to the State salaries are not eligible. In addition, in-kind benefits no longer must be provided pro-rata during the year in which the match is due. Effective October 1, 1978, contributions in excess of a State's required share in any year may be carried forward and applied toward a required share in subsequent years.

To ensure that each State has sufficient funds available to develop and implement its State Rail Plan, the 1978 Act authorizes each State to use up to the greater of \$100,000 or 5% of its entitlement for planning purposes. In addition, the 1978 Act requires the State Rail Plan to include a methodology for determining the ratio of benefits to costs of projects for acquisition, rehabilitation or improvement, substitute service, and rail facility construction. Accordingly, the interim rule requires a State to include in its State Rail Plan a benefit-cost methodology as well as the results of the application of the methodology to non-subsidy projects which the State has selected to study in detail.

In addition to changes resulting from the 1978 Act, this interim rule also revises 49 CFR Part 266 to reflect the comments received in response to the substitute service Advance Notice of Proposed Rulemaking which was published in the Federal Register on January 6, 1978 (43 FR 1108). The advance notice specifically requested comments regarding relocation of shippers and operating subsidies for use of non-rail freight transportation. The very few comments received did not reflect a clear consensus regarding the need for operating subsidies for non-rail

freight transportation as a substitute service alternative. In light of the broadened eligibility and formula changes embodied in the 1978 Act, it is FRA's view that the scope of substitute service assistance should be limited to permanent transportation solutions, which foster long-term viability, such as the construction of alternate facilities or relocation of shippers. Accordingly, non-rail operating subsidies are not eligible to be funded with substitute service assistance.

Several changes to 49 CFR Part 266 included in the interim rule were suggested at the June 22, 1978, public meeting regarding Part 266. As a result of the meeting, certain data requirements, such as identification of Standard Transportation Commodity Codes, have been reduced or eliminated and other requirements which were felt to have been ambiguous have been clarified. A particular requirement which has been relaxed is the requirement for a separate submission of an annual Program of Projects. Under the interim rule, the Program of Projects is to be included in the State Rail Plan.

As a result of amendments to section 5 of the Act included in the 1978 Act and FRA's proposed "Procedures for Considering Environmental Impacts" (44 FR 40174, July 9, 1979), the interim rule also revises the requirements of 49 CFR Part 266 regarding environmental assessments. Previously, an applicant was required to prepare an environmental assessment for substitute service projects involving highway or highway related facilities and for projects involving construction or improvement of facilities for which the acquisition of real estate was necessary. Consistent with FRA's proposed "Procedures for Considering Environmental Impacts", the interim rule requires applicants to prepare an environmental assessment when requesting assistance for substitute service, rail facility construction, and rehabilitation or improvement except for work normally performed on a periodic basis which does not change the existing character of the facility including work to overcome normal periodic maintenance which had been deferred.

The Administrator has determined that the publication of this interim rule does not itself constitute a major FRA action requiring environmental assessment. In addition, the interim rule has been reviewed in accordance with the policies for evaluating regulatory impacts contained in Executive Order 12044 on "Improving Government Regulations" (43 FR 12661, March 24,

1978) and the Regulatory Policies and Procedures of the Department of Transportation (44 FR 11034, February 26, 1979). On the basis of this review, the Administrator has determined that the interim rule constitutes a "non-significant" regulatory proposal.

In consideration of the foregoing, 49 CFR Part 267 is repealed and 49 CFR Part 266 is amended to read as set forth below:

Issued in Washington, D.C. on August 22, 1979.

John M. Sullivan,
Administrator.

PART 226—ASSISTANCE TO STATES FOR LOCAL RAIL SERVICE UNDER SECTION 5 OF THE DEPARTMENT OF TRANSPORTATION ACT

- Sec. 266.1 Definitions.
- 266.3 Rail Service Assistance Program.
- 266.5 State Eligibility.
- 266.7 Project Eligibility.
- 266.9 Federal/State Share.
- 266.11 Allowable Costs.
- 266.13 Distribution of Funds.
- 266.15 Requirements for State Rail Plan.
- 266.17 Applications.
- 266.19 Environmental Impact.
- 266.21 Grant Agreement and Disbursement.
- 266.23 Record, Audit, and Examination.
- 266.25 Waivers and Modifications.

Authority: Sec. 5 of the Department of Transportation Act (49 U.S.C. 1654), as amended by the Local Rail Service Assistance Act of 1978, Pub. L. 95-607, 92 Stat. 3059, November 8, 1978.

§ 266.1 Definitions.

As used in this part:
"Acquisition assistance" means funds granted to a State under section 5(f)(2) of the Department of Transportation Act (49 U.S.C. 1654(f)(2)) to cover the cost of acquiring by purchase, lease, or in such other manner as the State considers appropriate, a line of railroad or other rail properties, or any interest therein for existing or future rail freight service.

"Act" means the Department of Transportation Act (49 U.S.C. 1650 *et seq.*).

"Administrator" means the Administrator of the Federal Railroad Administration or the Administrator's delegate.

"Cash" means an outlay of funds.

"Commission" means the Interstate Commerce Commission or any successor Federal agency to the relevant activity.

"Common carrier" means a person providing railroad transportation for compensation who is subject to the jurisdiction of the Commission under Subchapter I of Chapter 105 of Title 49 of the United States Code.

"Designated State Agency" means the State agency designated under section

5(j)(2) of the Act (49 U.S.C. 1654(j)(2)).

"Entitlement" means the amount of assistance which a State is eligible to receive annually under section 5(h) of the Act (49 U.S.C. 1654(h)).

"Equipment" means rolling stock of the kind generally used by American railroads in revenue freight service.

"Facilities" means track, ties, roadbed and related structures including terminals, team tracks and appurtenances, bridges and tunnels, and other structures used or usable for rail service operations.

"FRA" means the Federal Railroad Administration.

"Federal Share" means the contribution by the Administrator under section 5(g) of the Act (49 U.S.C. 1654(g)) to a State's rail service assistance program.

"Final System Plan" means the plan approved by the Congress under section 208 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 718).

"Gross ton miles per mile" means the combined weight of locomotives and all trailing cars and their contents used in revenue freight trains multiplied by the number of route miles traveled and divided by the number of route miles of the line.

"Line" means a line of railroad.

"Maintenance" means inspection and light repairs, emergency repairs and a planned program of periodic maintenance which is necessary to keep a line at its existing condition or to comply with FRA Class 1 Safety Standards.

"Planning assistance" means funds granted to a State under section 5(i) of the Act (49 U.S.C. 1654(i)) to meet the cost of establishing (including developing a planning application), implementing, revising, and updating the State Rail Plan required by section 5(j) of the Act (49 U.S.C. 1654(j)).

"Planning Work Program" means that portion of a State's planning application which outlines the State's plan for establishing, implementing, revising, or updating a State Rail Plan which meets the requirements of section 5(i) of the Act (49 U.S.C. 1654(i)).

"Program operation assistance" means funds granted to a State to cover those administrative costs allowable under Federal Management Circular 74-4.

"Rail Act" means the Regional Rail Reorganization Act of 1973 (45 U.S.C. 701 *et seq.*).

"Rail banking" means the acquisition of an interest in a rail right-of-way sufficient to ensure its preservation for future rail freight service.

"Rail facility construction assistance" means funds granted to a State under section 5(f)(5) of the Act (49 U.S.C.

1654(f)(5)) to cover the cost of constructing rail or rail related facilities (including new connections between two or more existing lines, intermodal freight terminals, sidings, and relocation of existing lines) for the purpose of improving the quality and efficiency of rail freight service.

"Rail service continuation assistance" means funds granted to a State under section 5(f)(1) of the Act (49 U.S.C. 1654(f)(1)) to cover rail service continuation payments for the difference between the revenue attributable to a line of railroad and the avoidable costs of providing rail service on that line, together with a reasonable return on the value of the line and other rail properties related to that line, all as determined in accordance with 49 CFR Part 1121 with the following exceptions: (1) Where service was eligible to be subsidized under section 402(c)(2)(A) and (B) of the Rail Act, rail service continuation assistance means funds for payments determined in accordance with 49 CFR Part 1125; and (2) where service was eligible to be subsidized under section 402(c)(2)(C) of the Rail Act, rail service continuation assistance means funds for payments calculated, to the greatest extent possible, in a manner consistent with 49 CFR Part 1121.

"Rehabilitation or improvement assistance" means funds granted to a State under section 5(f)(3) of the Act (49 U.S.C. 1654(f)(3)) to cover the cost of replacing or upgrading, to the extent necessary to permit adequate and efficient rail freight service, facilities needed to provide service on a line.

"Relocation costs" means actual expenses directly incurred in moving shippers from a line to a new location. "State" means any State or the District of Columbia in which a common carrier maintains any line.

"State Rail Plan" means the current plan, including all updates, revisions, and amendments required by section 5(j)(1) of the Act (49 U.S.C. 1654(j)(1)).

"Substitute service assistance" means funds granted to a State under section 5(f)(4) of the Act (49 U.S.C. 1654(f)(4)) to cover the cost of reducing the costs of lost rail service in a manner less expensive than continuing rail service and includes (but is not limited to) the acquisition, construction, or improvement of facilities for the provision of substitute freight transportation services and relocation costs.

§ 266.3 Rail Service Assistance Program.

(a) *Scope of the program.* The Rail Service Assistance Program includes:

(1) rail service continuation assistance;

(2) acquisition assistance;
(3) rehabilitation or improvement assistance;
(4) substitute service assistance;
(5) rail facility construction assistance;
(6) planning assistance; and
(7) program operations assistance.

(b) *Special limitations on planning assistance and program operation assistance.*

(1) A State is eligible to receive up to \$100,000, or 5 percent of its entitlement, whichever is greater, as planning assistance; and

(2) A State is eligible to receive up to 5 percent of the total amount of funds granted to it each fiscal year under paragraphs (a)(1)-(5) of this section as program operation assistance.

§ 266.5 State eligibility.

(a) *General eligibility requirements under the rail service assistance program.* A State is eligible for assistance if:

(1) The State has certified pursuant to section 5(j)(4) of the Act that it has or will adopt and maintain adequate procedures for financial control, accounting and performance evaluation in order to assure proper use of Federal funds;

(2) For purpose of establishing a State Rail Plan, the State has submitted, in accordance with § 266.17(e) of this part, a planning application; and

(3) For any other assistance,

(i) The State has established an adequate plan for rail services in the State which (A) meets the requirements of § 266.15 of this part; (B) is part of an overall planning process for all transportation services in the State; (C) includes a suitable procedure for updating, revising, and amending such plan; and (D) as updated, revised, or amended has been approved by the Administrator;

(ii) Such State Rail Plan (A) is administered or coordinated by a designated State agency; (B) provides for the equitable distribution of resources; and (C) includes a methodology for determining the ratio of benefits to costs of projects for which acquisition assistance, rehabilitation or improvement assistance, substitute service assistance, and rail facility construction assistance is sought;

(iii) The State agency:

(A) has authority and administrative jurisdiction to develop, promote, supervise, and support safe, adequate, and efficient rail transportation services;

(B) employs or will employ, directly or indirectly, sufficient trained and qualified personnel;

(C) maintains or will maintain adequate programs of investigation, research, promotion, and development with provision for public participation; and

(D) is designated and directed solely or in cooperation with other State agencies to take all practicable steps to improve transportation safety and to reduce transportation-related energy utilization and pollution; and

(iv) The State undertakes to immediately notify the Administrator of any changes in conditions which might affect its compliance with this section.

§ 266.7 Project eligibility.

(a) *Rail service continuation assistance, acquisition assistance and substitute service assistance.* A project is eligible for assistance under § 266.3(a) (1), (2), and (4) of this part, respectively, if:

(1) the Commission pursuant to 49 U.S.C. 10903 has found since February 5, 1976, that the public convenience and necessity permit the abandonment and discontinuance of rail service on the line related to the project, except that any such line or related project eligible prior to October 1, 1978, is eligible only until September 30, 1981 and any such line eligible for rail service continuation assistance shall receive such assistance for no more than 36 months after October 1, 1978;

(2) the line related to the project was eligible for assistance under section 402 of the Rail Act (45 U.S.C. 762), except that any such line or related project is eligible only until September 30, 1981; or

(3) for purposes of acquisition assistance, the line related to the project is listed for possible inclusion in a rail bank in part III, section C of the Final System Plan.

(b) *Rehabilitation and Improvement Assistance and Rail Facility Construction Assistance.* A project is eligible for assistance under § 266.3(a) (3) and (5) of this part, respectively, if:

(1)(i) The Commission has not made a finding that the public convenience and necessity would require or permit abandonment or discontinuance of rail service on the line related to the project;

(ii) Any pending application for a certificate of abandonment or discontinuance of rail service on the line related to the project is withdrawn within a reasonable period (as determined by the Administrator) following the execution of the grant agreement and before Federal funds are disbursed for the project; and

(iii)(A) The line related to the project is certified by the railroad as having carried three million gross ton miles per mile or less during the prior year; or

(B) The line related to the project is certified by the railroad in a written statement which identifies the name of the line, the State or States in which it is located, its length, termini, and termini mile posts as having carried between three and five million gross ton miles per mile during the prior year, and the Administrator has determined that the project is consistent with proposals made under the authority of subsections 5 (a) through (e) of the Act (49 U.S.C. 1654 (a)-(e)).

(2)(i) An application for a certificate of abandonment or discontinuance of rail service on the line related to the project has been filed with the Commission during the period February 5, 1976 through December 31, 1978, whether or not such application has been granted; or

(ii) During the period February 5, 1976, through December 31, 1978, the Commission has found that the public convenience and necessity would require or permit abandonment or discontinuance of rail service on the line related to the project irrespective of when the application was filed;

(3) The line related to the project is listed for possible inclusion in a rail bank in part III, section C of the Final System Plan; or

(4) The line related to the project was eligible to be acquired under section 402(c)(3) of the Rail Act (45 U.S.C. 762(c)(3)).

(c) Projects eligible under paragraphs (b)(2), (b)(3), and (b)(4), of this section are eligible only until September 30, 1981. Projects initially eligible under paragraph (b)(2) may subsequently become eligible under paragraph (b)(1) if the Commission issues a new certificate of public convenience and necessity with respect to the line related to the project.

§ 266.9 Federal/State share.

(a) *Federal Share.* The Federal share of allowable costs under the Rail Service Assistance Program is 80 percent, with the exception that the Federal share of payments to be covered by rail service continuation assistance shall be 70 percent for any third twelve month period which begins on or after October 1, 1980 that such assistance is provided.

(b) *State Share-General.* The State share of allowable costs under the Rail Service Assistance Program shall be provided either in cash or through eligible in-kind benefits which would not otherwise have been provided. When more than the required State share is provided during the Federal fiscal year beginning October 1, 1978, or thereafter, the amount in excess of the

required State share may be carried forward to subsequent fiscal years. The State share of allowable costs under the Rail Service Assistance Program may not be satisfied directly or indirectly by any Federal funds unless the funds are provided through a Federal program which specifically authorizes the use of such funds to satisfy the non-Federal share of a Federally subsidized program.

(c) *In-kind Benefits.*

(1) Eligible types of benefits and their valuation. The following types of in-kind benefits are eligible when they are provided for projects eligible under § 266.7 of this part (whether or not Federal assistance is requested for the projects) or they are activities which would be eligible for planning and program operation assistance. Eligible in-kind benefits are valued as follows:

(i) The value of forgiven taxes, such as those portions of gross receipts or revenue taxes which are applicable to an approved project or property taxes on project related property, shall be the amount which would otherwise have been levied by the taxing authority. Forgiveness may be through exemption or remission;

(ii) The value of trackage rights secured by a State for a common carrier shall be the amount paid by railroads for comparable rights on comparable rail freight properties;

(iii) The value of State salaries for State public employees working in the State Rail Service Assistance Program, shall be consistent with rates paid for similar work by state public employees working in comparable state programs but shall not include overhead or general administrative costs;

(iv) The value of donations by the State or by a third party on behalf of the State of real property or tangible personal property of the kind necessary for safe and efficient operation of rail freight service, such as State or locally owned or leased buildings used in rail freight operations or equipment or materials, shall be determined as follows:

(A) The value of State tangible personal property shall be established at the State's actual cost in accordance with Federal Management Circular 74-4;

(B) The value of donated tangible personal property shall be determined in accordance with Attachment F of Office of Management and Budget Circular (OMB) A-102;

(C) The value of State real property shall be established at the State's actual cost in accordance with Federal Management Circular 74-4, if at least one independent appraisal based on the results of a title search was performed when the property was purchased by the

State, otherwise it shall be valued at the fair market value as established by at least one independent appraisal based on the results of a title search at the time the state proposes to make the property available as in-kind benefit; and

(D) The value of donated real property shall be its fair market value, at the time of donation to the State, as established by at least one independent appraisal based on the results of a title search;

(2) Eligibility criteria. To be applied toward the State share, in-kind benefits must:

(i) Be verifiable from the State's records;

(ii) Be necessary and reasonable for proper and efficient accomplishment of the objectives of the Rail Service Assistance Program;

(iii) Be provided for in the approved grant budget; and

(iv) Be approved under subparagraph (3) of this paragraph.

(v) The State shall submit such information as the Administrator may request to verify the value of in-kind benefits.

(3) Request for Approval. A request for approval of the in-kind benefits are to be applied and shall include the following:

(i) Full name and principal business address of the contributor if other than grantee;

(ii) Detailed documentation of the in-kind benefits including identification of the kind of in-kind benefits to be provided as well as their estimated value. When in-kind benefits are to be provided by a third party, a copy of the executed agreement between the State and the third party; and

(iii) Certification by the State that the contribution will be used solely for the purposes documented.

§ 266.11 Allowable costs.

Allowable costs include only the following costs which are properly allocable to the work performed: planning and program operation costs which are allowed under Federal Management Circular 74-4; and costs of projects eligible under § 266.7 of this part. All allowable costs shall be authorized by a fully executed grant agreement. A State may incur costs prior to the execution of a grant agreement only if the Administrator, based on the State's demonstration of a compelling need to incur costs prior to the execution of a grant agreement, has authorized the costs in writing prior to their incurrence by the State.

§ 266.13 Distribution of funds.

(a) *Formula.* Funds appropriated for or reallocated in any fiscal year (in this section referred to jointly as "funds") are to be distributed to each State as follows:

(1) Two-thirds of the funds will be allocated in the ratio which a State's rail mileage that, in accordance with 49 U.S.C. 10904(d), is either potentially subject to abandonment or is to become the subject of an application for a certificate of abandonment or discontinuance which a carrier plans to submit, but has not yet submitted, bears to the total such rail mileage in all the States;

(2) One-third of the funds will be allocated in the ratio which a State's rail mileage for which the Commission has found within three years prior to the first day of the fiscal year for which the funds are being allocated that the public convenience and necessity permits the abandonment, or the discontinuance, of rail service on such rail mileage, bears to the total such rail mileage in all the States. Until September 30, 1981, such rail mileage includes the rail mileage which was eligible under the Rail Service Assistance Program pursuant to section 402 of the Rail Act, and all rail mileage which, prior to October 1, 1978, had been included for formula allocation purposes. The Administrator will calculate rail mileage under this paragraph as of October 1 of each year, and

(3) The above calculations will be adjusted if necessary so that no State receives less than 1 percent of the funds appropriated for a fiscal year.

(b) *Reallocation.* The Administrator will reallocate among the States funds which have not been granted under an executed grant agreement by the end of the fiscal year for which the funds were appropriated and funds determined by a Federal audit to be in excess of allowable costs when they have not been granted under an executed grant agreement by the end of the fiscal year in which the Federal audit is made. Reallocated funds are distributed in accordance with the allocation formula described in paragraph (a) of this section.

(c) *Interstate sharing of allocated funds.* Where not in violation of State law, two or more States, which are eligible to receive assistance under the Rail Service Assistance Program pursuant to § 266.5 of this part may combine any portion of their entitlements for purposes of conducting any eligible project of mutual benefit provided that they enter into an agreement for this purpose.

§ 266.15 Requirements for State Rail Plan.

(a) *State planning process.* The State Rail Plan shall be based on a comprehensive, coordinated and continuing planning process for all transportation services within the State and shall be developed with an opportunity for participation by persons interested in rail activity in the State and adjacent States where appropriate. At a minimum, the State shall hold a public hearing if, on the basis of reasonable public notice appearing in the press, there is sufficient public interest to justify a hearing. Public notice shall be given, in accordance with applicable State law and practice concerning comparable matters, that a draft of the State Rail Plan is available for public inspection at a reasonable time in advance of the hearing. The State shall enable local and regional governmental bodies to review and comment on appropriate elements of the State Rail Plan. Provisions shall also be made for updating, revising, and amending the State Rail Plan.

(b) *Format of the State Rail Plan.* Each item submitted in response to a requirement of this section shall reference that requirement by subsection, paragraph, and subparagraph.

(c) *Contents of the State Rail Plan.* Each State Rail Plan shall:

(1) Specify the objectives of the State's Rail Service Assistance Program and explain how the implementation of the State Rail Plan will accomplish these objectives and explain relevant data sources, assumptions, analytical methodology, other legal constraints and special problems or conditions which will aid the public in understanding the State Rail Plan;

(2) Contain an illustration of the State's entire rail system on suitable scale maps of the State highway system (such as a reduction of the County Highway Planning Series of maps), designating with respect to each line listed under subparagraph (3) of this subsection, including all lines connecting to them:

- (i) The operating carrier or carriers;
- (ii) Freight traffic density, and
- (iii) Location of passenger service.

These maps shall be accompanied by a written description of the service provided on each line;

(3) Identify the following classes of rail service within the State:

- (i) Lines in the State which are eligible for assistance under § 266.7 of this part other than those included in subparagraph (ii) of this paragraph;
- (ii) Lines in the State which a common carrier has identified on its system diagram map submitted under 49 CFR

§ 1121.20(b) (1) and (2) as potentially subject to abandonment and lines which are anticipated to be the subject of an abandonment or discontinuance application within three years following the date of submission;

(iv) Lines in the State for which abandonment or discontinuance applications are pending;

(v) Lines in the State which are involved in the following kinds of proposals that have been submitted to the Commission for approval or are in the process of negotiation, to the extent that this information is publicly available:

- (A) mergers;
- (B) consolidations;
- (C) reorganizations;
- (D) purchases by other common carriers; or

(E) other unification and coordination projects.

(vi) rail projects for which the State plans to request Federal assistance or approval as in-kind benefits; and

(vii) rail projects for which a State provides or plans to provide assistance from sources other than the Rail Service Assistance Program, including the estimated cost of the projects;

(4) Establish and describe screening criteria to be used in selecting the eligible lines which the State analyzes in detail, identify these lines, and explain how the application of the screening criteria resulted in their selection;

(5) Describe the State's methodology for determining the ratio of benefits to the costs of proposed projects eligible under § 266.7 of this part (except projects to be funded with rail service continuation assistance);

(6) Include, to the extent that the information is available to the State, the following data for each line the State has selected to analyze in detail:

(i) Annual freight tonnage and carloads segregated by commodity type and indicating any seasonal traffic fluctuations and the number of shippers and receivers on the line aggregated by type (e.g., grain elevator, power plant, heavy manufacturing), including identification of information which a shipper wishes the Administrator to consider confidential to the extent permitted by law;

(ii) Revenues and costs of providing rail freight service on the line;

(iii) Condition of the related rail facilities and equipment, and for a line eligible under § 266.7(b) of this part, a description of the particular rail facilities involved in any project a State may be considering on the line;

(iv) When the State is considering a line for rail service continuation assistance, projections of freight traffic

needs on the line for at least the three succeeding calendar years and estimates of the amount and type of equipment, the condition of the rail facilities, and the level of service necessary to satisfy the projected traffic needs as well as estimates of the revenue and costs of providing this service; and

(v) When the State is considering a project eligible under § 266.7(b) of this part, the amount of funds expended for the maintenance of the line and the kinds of work performed during the five year period preceding its eligibility.

(vi) When the State is considering a line for rail banking, a description of the line's future economic potential, such as the existence of fossil fuel reserves or agricultural production likely to be served;

(7) Describe the alternatives which the State will analyze in applying the methodology described in paragraph 5 of this subsection, such as: rail service continuation payments, rehabilitation or improvement, acquisition, rail facility construction, potential for moving freight by alternate modes, or abandonment or discontinuance of rail freight service;

(8) Apply the methodology described in paragraph 5 of this subsection to each line the State has selected to analyze in detail;

(9) Specify the State's decision regarding the alternative selected for each line the State has analyzed in detail and include the following:

(i) An indication of whether Federal assistance will be requested or other funds will be used to implement the alternative selected;

(ii) An identification of lines which may be affected by the alternative selected;

(iii) An explanation of how the alternative selected contributes to the accomplishment of the State's objectives as stated in paragraph (1) of this subsection; and

(iv) A statement of the projected future of the line after the alternative selected is implemented and the line is no longer eligible for rail service continuation assistance under § 266.7(a) of this part or after the payback period used in the State's benefit-cost analysis, whichever is appropriate;

(10) Describe the planning process participation of local and regional governmental bodies, the railroads, railroad labor, rail service users, and the public in general;

(11) Describe the overall planning process for all transportation services in the State; and

(12) Include a program of projects which identifies the projects for which

the State expects to submit applications and the anticipated submission date. The program shall group the proposed projects in the order they comply with the State's criteria and goals for assistance, and shall:

(i) identify the type of project (i.e., rail service continuation payments, acquisition, rehabilitation or improvement, rail facility construction, or substitute service), its location, and duration; and

(ii) include the anticipated amount of funds to be requested for each project;

(d) *Updates, revisions, and amendments of the State Rail Plan.*

(1) General. As provided for in paragraph (e) of this section, State Rail Plans shall be updated at least on an annual basis but may be revised more frequently at the discretion of the State in accordance with its program needs. Such updates shall be subject to the same review, public participation and approval procedures by the State and FRA as the original State Rail Plan.

(2) Contents. Annual updates shall include the following:

(i) A response to unanswered FRA comments on previously submitted updates, revisions, amendments, or the original State Rail Plan;

(ii) An update of information in previous submittals which is no longer accurate as a result of plan implementation, action by a governmental entity or railroad, or changed conditions;

(iii) For lines receiving rail service continuation assistance, inclusion of revenue and cost information from the past year's operating experience and a reevaluation of service based on these new data;

(iv) Updating of the maps and descriptions required under paragraph (c)(2) of this section;

(v) Analysis of any new projects developed by the State in accordance with paragraphs (c)(4), (5) and (6) of this section;

(vi) Changes in agency responsibilities and authority including ability to provide the non-Federal share; and

(vii) Revisions in the State's policies, objectives or long-range expectations.

(e) *Adoption and submission of State Rail Plan and Annual Updates.* An original and five copies of the State Rail Plan, and any amendments, revisions, or updates shall be submitted to FRA for review and approval with a certification by the Governor, or by the Governor's delegate, that the submission constitutes the State Rail Plan established by the State as provided in section 5(j) of the Act. In accordance with Office of Management and Budget Circular No. A-95 Revised, 41 Fed. Reg. 2052 (Jan. 13,

1976), the State Rail Plan and all amendments, revisions, and updates shall also be submitted with a certification by the chief executive officer of the designated State agency that the Governor or his or her delegated agency for plan coordination has been afforded a period of 45 days in which to comment on the State Rail Plan. Such submittal shall include an original and five copies of either these comments or a statement to the effect that there were no comments. The State Rail plan, and all amendments, revisions, and updates shall be submitted to the FRA through the appropriate Federal Highway Division Office. A current list of mailing addresses of the above offices will be provided by FRA to each State.

(f) *Review of the State Rail Plan and Updates.* The State Rail Plan and all amendments, revisions, and updates shall analyze in accordance with this section all projects for which the State anticipates requesting rail service assistance, other than planning assistance, during the fiscal year. In accordance with § 266.17(b) of this part, a project for which funds are requested must have been addressed in a previously approved State Rail Plan or update. If the Administrator determines that the State Rail Plan or update is not in accordance with this part, the Administrator will notify the State in writing setting forth the Administrator's reasons for such a determination.

§ 266.17 Applications.

(a) *General.*

(1) Applications for planning assistance shall comply with paragraphs (b), (c) and (e) of this section.

(2) Applications for rail service continuation assistance shall comply with paragraphs (b), (c), (d) and (f) of this section.

(3) Applications for acquisition assistance shall comply with paragraphs (b), (c), (d) and (g) of this section.

(4) Applications for rehabilitation or improvement assistance and rail facility construction assistance shall comply with paragraphs (b), (c), (d) and (h) of this section.

(5) Applications for substitute service assistance shall comply with paragraphs (b), (c), (d) and (i) of this section.

(b) *Submission.*

(1) Applications shall be submitted by the designated State agency using the standard forms contained in Attachment M of Office of Management and Budget Circular No. A-102 ("OMB Circular A-102"). Each item submitted in response to a requirement of this section shall reference that requirement by subsection, paragraph, and subparagraph. Each application shall be

consistent with the current State Rail Plan and analyzed in it.

(2) A State may apply for planning assistance to cover prospective costs at any time during the planning process.

(3) Exhibits previously filed with the Administrator need not be refiled unless the prior filing has been rendered obsolete by changed circumstances. Such prior filing shall be appropriately referenced by source, location of data and date of submittal.

(c) *Contents.* Each application shall include:

(1) Full name and principal business address of the applicant;

(2) Name, title, address and phone number of the person to whom correspondence regarding the application should be addressed;

(3) Budget estimates for the total amount of assistance required for projects or planning;

(4) Applicant's proposed means of furnishing its share of the total costs of the projects, as well as copies of executed agreements between the agency and any third party which may be providing the non-Federal share or a portion thereof;

(5) Assurance by the chief executive officer of the applicant that the Federal funds provided under the Act will be used solely for the purpose for which the assistance will be provided and in conformity with limitations on expenditures under the Act and applicable regulations;

(6) Evidence that the applicant has established in accordance with Attachment G of OMB Circular A-102, adequate procedures for financial control, accounting and performance evaluation in order to assure proper use of the Federal funds;

(7) Assurance by applicant's chief executive officer that the timing of all advances by the applicant will comply with the Department of Treasury advance financing regulations (31 CFR Part 205);

(8) Statement as to whether the applicant prefers to receive disbursement of Federal funds by advance payment or reimbursement;

(9) Opinion of applicant's legal counsel showing that counsel is familiar with the corporate or other organizational powers of the applicant, that the applicant is authorized to make the application, that the applicant is eligible to participate in the Rail Service Assistance Program in accordance with the provisions of the Act and this part, and that the applicant has the requisite authority to carry out actions proposed in the application and to assume the responsibilities and obligations created thereby;

(10) Assurances that the applicant will comply with and that the program will be conducted in accordance with the following Federal laws, policies, regulations and pertinent directives:

(i) Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d *et seq.*, and 49 CFR Part 21;

(ii) Section 905 of the Railroad Revitalization and Regulatory Reform Act of 1976, 45 U.S.C. 803, and 49 CFR Part 265;

(iii) The Rehabilitation Act of 1973, 29 U.S.C. 794 and 49 CFR Part 27 (44 Fed. Reg. 31442, May 31, 1979) relating to non-discrimination on the basis of handicap; and

(iv) The State and Local Fiscal Assistance Act of 1972, 31 U.S.C. 1221 *et seq.* and 31 CFR Part 51; and

(11) When two or more States desire to combine their entitlements or any portion of them for the purpose of funding a project, certification of the Governor or the Governor's delegate of each State involved that it is a party to an interstate agreement as required under section 5(h)(4) of the Act (49 U.S.C. 1654(h)(4)). Such certification shall include the amount of money to be used from each State's entitlement and which State is to enter into a grant for the project.

(d) *Additional contents.* In addition to meeting the requirements of paragraphs (b) and (c) of this section each application except when planning assistance is requested, shall include evidence that the agency submitting the application has the statutory authority and administrative jurisdiction to develop, promote, supervise and support safe, adequate, and efficient rail services; that it employs or will employ, directly or indirectly, sufficient trained and qualified personnel; that it maintains or will maintain adequate programs of investigation, research, promotion, and development with provision for public participation; and that it is designated and directed solely, or in cooperation with other State agencies, to take all practicable steps to improve transportation safety and to reduce transportation related energy utilization and pollution.

(e) *Planning assistance.* In addition to meeting the requirements of paragraphs (b) and (c) of this section, each application for planning assistance shall include a Planning Work Program which, together with such other information the State may choose to submit, demonstrates to the satisfaction of the Administrator that the State's proposed use of planning assistance will produce a State Rail Plan, or an update, amendment or revision which meets the requirements of § 266.15 of this part. The

Planning Work Program shall include the following information:

(1) An explanation of how the State Rail Plan will be related to the overall planning process for transportation within the State. This explanation shall concentrate on the expectations of the State for the future of local rail freight services and consider such factors as likelihood of profitability of existing rail lines, necessity of rail service continuation payments, State acquisition of rail lines, use of alternate modes of transportation in lieu of rail freight service, and other long-term alternatives;

(2) A description of the methods by which the State will involve local and regional governmental bodies and the public generally in its rail planning process, including its methods of providing for equitable distribution of resources;

(3) An identification of the data to be obtained on the rail network and rail services in the State, the sources of this data, and the methodology to be employed in the collection of the data;

(4) A description of the method by which the State will develop the State Rail Plan, including a brief description of discrete tasks or activities to be accomplished; and

(5) A list of the individuals responsible for the planning, a work schedule and a budget.

(f) *Rail service continuation assistance.* In addition to meeting the requirements of paragraphs (b), (c), and (d) of this section, each application for rail service continuation assistance shall include the following:

(1) The amount of the estimated rail service continuation payment for each line; and

(2) A description of the arrangements which the applicant has made for operation of the rail services to be subsidized including copies of the proposed operating agreements, leases, or other compensation agreements under which service is to be provided, and the results of the application's preaward audit of proposed operators and equipment leasing companies if the equipment to be used in providing the rail service is to be leased by the proposed operator.

(g) *Acquisition assistance.* In addition to meeting the requirements of paragraphs (b), (c), and (d) of this section, each application for acquisition assistance shall include the following:

(1) Copies of the results of a title search, and the basis for the proposed acquisition price including two independent valuation appraisals by qualified appraisers. Such appraisals shall be performed in accordance with

the "Uniform Appraisal Standards for Federal Land Acquisition" proposed by the Interagency Land Acquisition Conference and shall be based on the results of a title search and comparable sales and shall take cognizance of all easements, encumbrances and restrictions that may affect the value of the property. Such appraisals shall be reviewed by a State Review appraiser to establish just compensation;

(2) Written assurance that the acquisition is being undertaken in accordance with 49 CFR 25.253, 25.255, 25.257, and 25.259 to the greatest extent practicable under State law and fully in compliance with 49 CFR 25.261(a) and 25.263;

(3) Written assurance that the owner of the property to be acquired has been advised of the requirements of 49 CFR 25.259 or will be advised of such requirements prior to the consummation of the acquisition;

(4) A description of the necessary steps, and timing for completion of the acquisition;

(5) When rail service is to be immediately provided over the line, a description of the arrangements which the applicant has made for operation of the rail service, including copies of the proposed operating agreements, leases, and other compensation agreements under which the service is to be provided, and a description of the means by which the State will continue rail service on the property to be acquired once assistance under the Act is terminated;

(6) For applications regarding rail banking, evidence that the properties for which assistance is requested have potential for rail freight service such as plans for agricultural development or existence of fossil fuel reserves, the State's anticipated timetable for returning the line to service, and its proposed use of the property while it is out of service including its maintenance plans; and

(7) Evidence that the anticipated benefits and costs of the proposed acquisition have been analyzed in accordance with the methodology established by the State under § 266.15(c)(5) of this part.

(h) *Rehabilitation or improvement assistance and rail facility construction assistance.*

(1) In addition to meeting the requirements of paragraphs (b), (c), and (d) of this section, each application for rehabilitation or improvement assistance and rail facility construction assistance shall include the following:

(i) A detailed estimate of the materials and labor required to complete the work, the total estimated costs of the

work, the estimated numbers and kinds of ties and other material, the milepost termini involved, and a schedule for completion of the work;

(ii) Evidence that the anticipated benefits and costs of the proposed acquisition have been analyzed in accordance with the methodology established by the State under § 266.15(c)(5) of this part;

(iii) When rehabilitation assistance is requested—
(A) A copy of the document by which funds will be granted or loaned (at an interest rate determined by the State) to the owner of the rail properties or the operator of the rail service related to the project; and

(B) An assurance by the chief executive officer of the applicant that:

(1) repaid loan funds and interest accumulated with respect to such funds will not be loaned or granted without the prior written approval of the Administrator;

(2) the Federal share of repaid loan funds will be placed in an interest-bearing account or with the prior written approval of the Administrator will be deposited by the borrower, for the benefit and use of the State, in a bank which has been designated by the Secretary of Treasury in accordance with 12 U.S.C. 265; and

(3) if the rehabilitated or improved facilities are not used for rail freight service during the useful life of the improvement the Federal share of the fair market value of the improvement or facility will be placed in an interest-bearing account or with the prior written approval of the Administrator will be deposited by the owner of the rail properties, for the benefit and use of the State, in a bank which has been designated by the Secretary of the Treasury in accordance with 12 U.S.C. 265;

(iv) An assurance by chief executive officer of the applicant that rehabilitated or improved facilities or newly constructed facilities will be maintained to prevent deterioration below the speed at which the line could be operated upon completion of the project during the period of time established as the payback period in the benefit-cost analysis of the project;

(2) In addition to meeting the requirements of paragraphs (b), (c), and (d) and (h)(1) of this section, each application for a project eligible under § 266.7(b)(2)(i) (if the Commission has made a finding granting the application for abandonment and discontinuance) (ii), (3) or (4) shall also include the following:

(i) An indication of which of the following methods will be used to

complete the work, including proposed contracts unless the work will be performed under method (A);

(A) On an actual cost basis by the operator or the applicant;

(B) By contracting for the work in accordance with Attachment O to OMB Circular A-102; or

(C) Under an existing continuing contract between the operator and another firm provided that the applicant can demonstrate the costs are comparable to those under clause (A) or (B) of this paragraph; and

(ii) A description of the plans for inspection of the work including identification and qualifications of the staff to be responsible for the inspection and a proposed schedule of inspections; and

(iii) A description of the arrangements made for the operation of rail service over the property including copies of the proposed operating agreements, leases or other compensation agreements under which service is to be provided, and the proposed method of financing the operation of such rail service;

(3) In addition to meeting the requirements of paragraphs (b), (c), (d), and (h)(1) of this section, each application for a project eligible under § 266.7 (b)(1) or 2(i) (if the Commission has not made a finding granting the application for abandonment discontinuance) shall include an assurance by the common carrier which operates service on or owns the line related to the project that if an application for a certificate of abandonment or discontinuance has been filed with the Commission the application will be withdrawn within a reasonable period following execution of a grant agreement and before Federal funds are disbursed for the project; and

(4) When rail facility construction assistance is requested an assurance by the chief executive officer of the applicant that if the facility is abandoned, sold, or converted to non-rail freight use during its useful life, FRA will be compensated an amount computed by applying FRA's participation in the cost of constructing the facility to the fair market value of the facility at the time it is abandoned, sold, or converted to non-rail use.

(i) *Substitute Service Assistance.* In addition to meeting the requirements of paragraphs (b), (c), and (d) of this section, each application for substitute service assistance shall include:

(1) A detailed description of the substitute service project, including evidence that the cost and scope of the project are limited to that necessary to replace the rail service being discontinued;

(2) Evidence that the anticipated benefits and costs of the proposed acquisition have been analyzed in accordance with the methodology established by the State under § 266.15(c)(5) of this part;

(3) For construction or improvement of fixed facilities, a description of the proposed work, including:

(i) The cost and timing of the work; and

(ii) An assurance by the chief executive officer of the applicant that the Federal share of the project will be repaid in accordance with Attachment N of OMB Circular A-102, if the properties are not used for rail freight service during the useful life of the project properties;

(4) For relocation costs, the following assurances by the chief executive officer of the applicant:

(i) When the rail line related to the project is eligible under section 5(k)(4)(A) of the Act (49 U.S.C. 1654(k)(4)(A)), an assurance that the applicant is requesting only such assistance as is needed to relocate the shippers which were receiving rail service on the line at the time the Commission found that the public convenience and necessity would permit discontinuance or abandonment of the rail service;

(ii) When the rail line related to the project is eligible under section 5(k)(4)(B) of the Act (49 U.S.C. 1654(k)(4)(B)), an assurance that assistance is being requested to relocate only the shippers who received rail service on the line as of April 1, 1976; and

(iii) An assurance, and the basis therefor, that the shippers will not be relocated to a line with respect to which an application for a certificate of abandonment or discontinuance has been filed with the Commission or that if an application has been filed it will be withdrawn within a reasonable period following execution of a grant agreement and before Federal funds are disbursed for the project;

(5) An assurance by the chief executive officer of the applicant that after completion of the substitute service project, additional Federal assistance will not be requested for the continuation of the rail freight service that the substitute service is designed to replace, unless the Administrator determines that circumstances have changed so that continuation of rail freight service is more cost-effective than continued use of the substitute service project;

(6) A description of the arrangements made for operation of service where rail service is to be provided in conjunction

with a substitute service project, including copies of proposed operating agreements, leases, or other compensation agreements under which service is to be provided; and

(7) An assurance by the chief executive officer of the applicant that assistance provided will not be used to pay the non-Federal share under any Federal program.

(j) *Execution and filing of applications.*

(1) Each original application shall bear the date of execution and be signed by the chief executive officer of the agency submitting the application;

(2) Each application for planning assistance, and two (2) copies thereof, shall be filed with the Administrator through the appropriate Federal Highway Administration Division Office;

(3) Each application (excluding requests for planning assistance), and two (2) copies thereof, shall be filed with the Administrator through the appropriate Regional Director of Federal Assistance. A current list of the appropriate mailing addresses of the above officials will be provided by FRA to each State.

§ 266.19 Environmental impact.

(a) *General.* The Administrator has determined that providing assistance to cover the following costs is not a major action significantly affecting the quality of the human environment: rehabilitation or improvement consisting of work normally performed on a periodic basis which does not change the existing character of the facility (including work to overcome normal periodic maintenance that had been deferred) rail service continuation, acquisition, and planning.

(b) *Substitute Service Assistance, Rail Facility Construction Assistance, and Non-Exempt Rehabilitation or Improvement Assistance.*

(1) *Environmental assessment.* (i) When an applicant requests substitute service assistance, rail facility construction assistance, or rehabilitation or improvement assistance (except for rehabilitation or improvement assistance which is exempt under paragraph (a) of this section), the applicant shall (A) prepare an environmental assessment to determine whether the future use of the property will significantly affect the quality of the human environment; or (B) provide sufficient documentation to enable the Administrator to determine that the project satisfies the following criteria:

(1) The action is not likely to be environmentally controversial from the

point of view of people living within the environment affected by the action or controversial with respect to the availability of adequate relocation housing;

(2) The action is not inconsistent with any Federal, State, or local law, regulation, ordinance, or judicial or administrative determination relating to environmental protection;

(3) The action will not have any significant adverse impact in any natural, cultural, recreational, or scenic environment(s) in which the action takes place, or on the air or water quality or ambient noise levels of such environment(s);

(4) The action will not: use 4(f)-protected properties; adversely affect properties under section 106 of the National Historic Preservation Act; involve new construction location in a wetlands area; or affect a base floodplain;

(5) The action will not cause a significant short- or long-term increase in traffic congestion, or other significant adverse environmental impact on any mode of transportation;

(6) The action is not an integral part of a program of actions which, when considered separately, would not be classified as major FRA actions, but when considered together would be so classified; and

(7) Environmental assessment or documentation is not required by any Federal law, regulation, guideline, order, or judicial or administrative determination other than this part.

(ii) Prior to submitting an application, FRA recommends that the applicant seek the Administrator's advice as to form and substance of the assessment for the project under consideration. The environmental assessment shall utilize an interdisciplinary approach in identifying the type, degree of effect, and probability of occurrence of primary, secondary and cumulative potential environmental impacts (positive and negative) of the proposed action and of alternative courses of action. The depth of coverage shall be consistent with the magnitude of the project and its expected environmental effects. The environmental assessment and all documents used as a basis for the assessment shall be submitted together with the application for assistance.

(2) *Environmental impact statement.* A draft environmental impact statement (EIS) shall be submitted with each application when the environmental assessment concludes that the future use significantly affects the quality of human environment. FRA recommends that prior to submitting the application,

the applicant seek the Administrator's advice as to form and substance of the EIS for the project under consideration.

(3) *Finding of no significant impact.* A draft finding of no significant impact declaration shall be submitted with each application when the applicant's environmental assessment concludes that the figure use does not significantly affect the quality of the human environment. The finding of no significant impact shall include a description of the project, and sufficient data and environmental findings to support the conclusions as to the impact upon the quality of the human environment. FRA recommends that prior to submitting the application, the applicant seek the Administrator's advice as to the form and substance of this finding for the project under consideration.

(4) *Section 4(f) Determination.* For projects involving the use of any land from a public park, recreation area, wildlife and waterfowl refuge, or historic site of national, State or local significance as determined by the Federal, State, or local officials having jurisdiction thereon, information to support a determination pursuant to section 4(f) of the Act shall be submitted together with the application. The section 4(f) determination shall document that:

(i) There is no feasible and prudent alternative to the use of such land; and

(ii) The project includes all planning to minimize harm resulting from such use.

(5) *Historic preservation.* For projects involving the use of historic, cultural or archeological resources listed or eligible for listing in the National Register of Historic Places, information which documents that the Advisory Council on Historic Preservation has been afforded an opportunity for review and comment on the proposed project in accordance with 16 U.S.C. 470 and 36 CFR Part 800 shall be submitted with the application.

(c) *Highway or highway-related facilities.* Substitute service projects involving highway or highway-related facilities are subject to the applicable substantive Federal Highway Administration regulations on environmental considerations (23 CFR Part 771).

(3) *Highway or highway-related facilities.* Substitute service projects involving highway or highway-related facilities are subject to the applicable substantive Federal Highway Administration regulations on environmental considerations (23 CFR Part 771).

(c) *Highway or highway-related facilities.* Substitute service projects involving highway or highway-related facilities are subject to the applicable substantive Federal Highway Administration regulations on environmental considerations (23 CFR Part 771).

§ 266.21 Grant agreement and disbursement.

(a) *Grant Agreement.*

(1) Upon the approval of an application meeting the requirements of § 266.17 of this part, a grant agreement for the Federal share of the approved amount of estimated program costs will

be executed by the Administrator and the grantee.

(2) The grant agreement will identify the amount of the grantee's share of program costs to be furnished in cash and through approved in-kind benefits. The grantee shall expend a pro-rata share of its cash contribution at the same time payments of the Federal share are made available to the grantee.

(b) *Disbursement.*

(1) Federal funds are provided either in advance by a letter-of-credit or a Treasury check or by reimbursement in accordance with Attachment J of OMB Circular A-102.

(2) Prior to receipt of advance payments, the grantee must have demonstrated to the satisfaction of the Administrator that it has established procedures to comply with OMB Circular A-102, Attachment J, including procedures that will minimize the time elapsing between the receipt of funds by the grantee and their disbursement. Evidence of such compliance shall be provided to the Administrator at least 30 days prior to the anticipated date of receipt of advance payments. An advance by letter-of-credit is used when the rail service assistance is expected to be provided for a minimum of one (1) year, and is expected to involve annual payments aggregating at least \$120,000. Otherwise, advance payments are made by Treasury check.

(3) If the grantee is not eligible for advance payments or does not desire them, the grantee will be reimbursed for eligible expenditures at the end of each fiscal quarter upon submission of a request for reimbursement.

(4) Before disbursement of Federal funds can be made to a grantee for payment to third parties under this subsection, the grantee must have executed an agreement with the third party.

(5) Acquisition assistance will be disbursed only after the following have been approved by the Administrator:

(i) A title opinion of the chief legal officer of the grantee that describe the type of title being acquired, and if a general warranty deed is not being given, it must explain why it could not be given. The opinion shall also advise of any need for use of the State's eminent domain powers to assure adequate title. In addition, the opinion shall explain how the defects disclosed by the title search might affect the marketability of the property;

(ii) A written determination that the property acquired is limited to the land and facilities that are needed for the rail freight services which would have been curtailed or abandoned but for the

acquisition has been accepted by the Administrator; and

(iii) A written determination that the purchase price is consistent with the value of the property interest being acquired, and the evidence upon which the determination is based.

(c) *Settlement.*

(1) Settlement under the grant agreement is made on the basis of a Federal audit which has determined the allowable costs over the entire term of the grant agreement. If the Federal audit determines that the allowable costs under the grant agreement are less than the amount of the grant, the difference shall be refunded to FRA at the end of the fiscal year in which the audit was made unless it has become the subject of another executed grant agreement. Upon termination of a State's participation in the Rail Service Assistance Program, the State shall repay FRA the Federal share of any unused rehabilitation and improvement assistance and any accumulated interest.

§ 266.23 Record, audit, and examination.

(a) Retention and custodial requirements for financial records, supporting documents, statistical records, and all other records pertinent to a grant provided under this part shall be governed by Attachment C of OMB Circular A-102.

(b) The Administrator and the Comptroller General of the United States or any of their duly authorized representatives shall, until the expiration of three years after submission to the Administrator of the grantee's final accounting of all program funds, and for any longer period necessary to resolve audit findings, have access for the purpose of audit and examination to any books, documents, papers, and records which in the opinion of the Administrator or the Comptroller General of the United States may be related or pertinent to the grants, contracts, or other arrangements arising out of, or in any way connected with, the rail service assistance program.

§ 266.25 Waivers and modifications.

The Administrator may, with respect to individual requests, upon good cause shown, waive or modify any requirement of this part not required by law or make any additional requirements the Administrator deems necessary. Procedures for submission and consideration of petitions for waiver or modification are governed by 49 CFR Part 211.

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**Thursday
August 30, 1979**

Part V

**Department of
Transportation**

Federal Railroad Administration

**Common Carrier Data Reporting
Requirements**

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[49 CFR Part 269]

[FRA State Rail Docket No. 1979-2; Notice No. 1]

Common Carrier Data Reporting Requirements Under Section 5(k)(5) of the Department of Transportation Act, 49 U.S.C. 1654(k)(5)**AGENCY:** Federal Railroad Administration ("FRA"), Department of Transportation ("DOT").**ACTION:** Notice of Proposed Rulemaking.

SUMMARY: The Federal Railroad Administration is authorized to provide Federal assistance to States for rehabilitation and improvement projects on certain light density rail lines. To ensure State awareness of these eligible lines, this rule establishes proposed procedures for the reporting of traffic density data by railroads under section 5(k)(5) of the Department of Transportation Act ("Act"). The reporting requirement was added to the Act by the Local Rail Service Assistance Act of 1978 ("1978 Act").

DATES: Interested parties are invited to submit written comments by October 15, 1979. Written comments received on or before that date will be considered before final regulations are issued. Comments received after that date will be considered to the extent possible.

ADDRESSES: (1) Submission of written comments. Written comments should identify the docket and notice number and be submitted to the Federal Railroad Administration, Office of State Assistance Programs, FRA-30, Room 5406, 400 Seventh Street, S.W., Washington, D.C. 20590. Any commenter who wishes to have FRA acknowledge the receipt of his or her comments should include a self-addressed, stamped post card with the comments. No other acknowledgement of comments will be provided.

(2) Examination of written comments. Written comments will be available for examination at the above address between 8:30 a.m. and 5:00 p.m. Monday through Friday except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Jo Anne McGowan, Program Analyst, Office of State Assistance Programs, Federal Railroad Administration, Washington, D.C. 20590, (202) 426-1677.

SUPPLEMENTARY INFORMATION: The Local Rail Service Assistance Program under Section 5 of the Act (49 U.S.C. 1654(k)(5), as amended by Pub. L. 95-607) authorizes the Secretary of Transportation ("Secretary") to provide

Federal assistance to States for projects on certain light density rail lines. (For further information on the Local Rail Service Assistance Program see 49 CFR Part 266.) This assistance may be provided for rehabilitation and improvement projects or rail facility construction projects on lines which annually carry 3 million gross ton miles or less of freight per mile (or in certain circumstances 5 million or less). The Secretary's authority has been delegated to the Administrator of FRA ("Administrator").

To ensure State awareness of these eligible lines, Section 5(k)(5) of the Act, as amended by the 1978 Act, requires common carriers by railroad subject to Part 1 of the Interstate Commerce Act (Subchapter I of Chapter 105 of Title 49 of the United States Code) to report to the Secretary by August 1 of each year all lines which carried 3 million gross ton miles of freight per mile or less during the prior year.

The Administrator has determined that the publication of this rule does not itself constitute a major FRA action requiring environmental assessment. In addition, the rule has been reviewed in accordance with the policies for evaluating regulatory impacts contained in Executive Order 12044 on "Improving Government Regulations" (43 Fed. Reg. 12661, March 24, 1978) and the Regulatory Policies and Procedures of the Department of Transportation (44 Fed. Reg. 11034, February 20, 1979). On the basis of this review, the Administrator has determined that the rule constitutes a "non-significant" regulatory proposal, and, therefore, an economic impact statement is not required.

In consideration of the foregoing, it is proposed to amend Title 49 of the Code of Federal Regulations by adding a new Part 269 to read as follows:

Part 269—Common Carrier Data Reporting Requirements Under Section 5(k)(5) of the Department of Transportation Act, 49 U.S.C. 1654(k)(5)

Sec.

269.1 Definitions.

269.3 Submission of Traffic Density Data.

269.5 Waivers and Modifications.

Authority: Section 5(k)(5) of the Department of Transportation Act (49 U.S.C. 1654 (k)(5)), as amended by the Local Rail Service Assistance Act of 1978, Pub. L. 95-607, 92 Stat. 3059, November 8, 1978.

§ 269.1 Definitions.

As used in this part:
"Act" means the Department of Transportation Act (49 U.S.C. 1650 *et seq.*).

"Administrator" means the Administrator of the Federal Railroad Administration or the Administrator's delegate.

"Commission" means the Interstate Commerce Commission or any successor Federal agency to the relevant activity.

"Common carrier" means a person providing transportation of freight by rail for compensation who is subject to the jurisdiction of the Commission under Subchapter I of Chapter 105 of Title 49 of the United States Code.

"Gross ton miles per mile" means the combined weight of locomotives and all trailing cars and their contents used in revenue freight trains multiplied by the number of route miles traveled and divided by the number of route miles of the line.

§ 269.3 Submission of traffic density data.

(a) *Format.* By August 1 of each year each common carrier shall submit a new or updated listing of its rail lines which, on the basis of usage, carried three million gross ton miles per mile or less during the prior calendar year. The listing shall identify each line by the line name used in the common carrier's system diagram which is required to be submitted to the Commission under 49 CFR Part 1121. The listing shall also identify the State or States in which the line is located, its length, termini, termini mileposts, and the number of gross ton miles per mile carried on the line during the prior calendar year. When a line is located in more than one State, the mileage and ton miles per mile for each State shall be provided.

(b) *Submission.* At least two copies of each listing shall be provided to the Administrator at the following address: Administrator of the Federal Railroad Administration, Attention: Director, Office of State Assistance Programs, FRA-30, 400 Seventh Street, S.W., Washington, D.C. 20590.

§ 269.5 Waivers and modifications.

The Administrator may, with respect to individual requests, upon good cause shown, waive or modify any requirements of this part not required by law and make any additional requirements deemed necessary. Procedures for submission and consideration of petitions for waiver and modification are governed by 49 CFR Part 211.

Issued in Washington on August 22, 1979.

John M. Sullivan,
Administrator.

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**Thursday
August 30, 1979**

Part VI

Interior Department

Fish and Wildlife Service

**Critical Habitat for the Virginia Big-eared
Bat**

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[50 CFR 17]

Endangered and Threatened Wildlife and Plants; Reproposal of Critical Habitat for the Virginia Big-eared Bat

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Reproposal of Critical Habitat for the Virginia Big-eared Bat.

SUMMARY: The Service reproposes the Critical Habitat for the Virginia big-eared bat (*Plecotus townsendii virginianus*). Endangered status and Critical Habitat originally were proposed for this bat on December 2, 1977 (42 FR 61290-61292). The Critical Habitat portion of this proposal was withdrawn by the Service on March 6, 1979, because of the procedural and substantive changes made by the Endangered Species Act Amendments of 1978. This proposed rule conforms to these requirements.

DATE: Comments on this proposed rule must be submitted by Nov. 1, 1979. A public meeting will be held on the date set out in the table below.

ADDRESSES: Interested persons or organizations are requested to submit comments to Director (OES), U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240. Comments and materials relating to this rulemaking are available for public inspection during normal business hours at the Service's Office of Endangered Species, Suite 500, 1000 North Glebe Road, Arlington, Virginia 22201. A public meeting will be held at the location set out in the table below.

FOR FURTHER INFORMATION CONTACT: Mr. John L. Spinks, Jr., Chief, Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (703/235-2771).

SUPPLEMENTARY INFORMATION:

Background

The Virginia big-eared bat was proposed as Endangered on December 2, 1977. That proposal included Critical Habitat for this species. Before final action could be taken on the proposal, however, Congress passed the Endangered Species Act Amendments of 1978, which substantially modified the procedures the Service must follow when designating Critical Habitat. The present rulemaking will bring the Critical Habitat proposal into conformity with the Amendments.

Summary of Factors Affecting the Species

The Virginia big-eared bat long has been restricted to a relatively small area, and is dependent on a few specific kinds of caves for hibernation and reproductive activity. It is highly intolerant of human presence, and will readily abandon its roosts when disturbed. Even well-meaning biologists and spelunkers, observing the bats for scientific or educational purposes, have caused disturbances and subsequent population reductions.

This bat still is found in three separate populations, centered in eastern Kentucky, southwestern Virginia, and eastern West Virginia, but many caves within this region have been abandoned. In the last 15 years, at least five wintering colonies have disappeared in West Virginia. Only three nursery colony caves are known to remain in this State, and numbers therein have declined considerably because of repeated disturbance by spelunkers and vandals. There are still about 2,500 to 3,000 bats in West Virginia, but their dependence on the few remaining nursery caves makes the entire population subject to rapid extermination under the wrong conditions. A serious decline also has occurred in the single known nursery colony in Kentucky, which now contains fewer than 500 bats. In the Virginia population not more than a few hundred individuals survive.

Critical Habitat

The Act defines "critical habitat" as (i) the specific areas within the geographical area occupied by the species, at the time it is listed in accordance with the provisions of section 4 of this Act, on which are found those physical or biological features (I) essential to the conservation of the species and (II) which may require special management considerations or protection; and (ii) specific areas outside the geographic area occupied by the species at the time it is listed in accordance with the provisions of section 4 of this Act, upon a determination by the Secretary that such areas are essential for the conservation of the species.

The Service believes that certain caves within the geographical area occupied by the species under consideration should be designated as Critical Habitat. Because of precise conditions of physical structure, temperature, and humidity, these caves are suitable for use by the species as sites for hibernation and reproduction. The species has a limited range and is

highly susceptible to changes in its habitat. Even minor disturbance or physical changes in the caves occupied may result in extinction. Therefore, these caves are essential for its conservation. The physical and biological features of its habitat are such as to require special management considerations and protection.

Section 4(b)(4) of the Act requires the Service to consider economic and other impacts of specifying a particular area as Critical Habitat. The Service has prepared a draft impact analysis and believes at this time that economic and other impacts of this action are insignificant in the foreseeable future. The Service is notifying agencies that may have jurisdiction over the areas under consideration of this proposed action. These agencies and other interested persons or organizations are requested to submit information on economic or other impacts of this proposed action (see below).

The Service will prepare a final impact analysis prior to the time of final rulemaking, and will use this document as the basis for its decision as to whether or not to exclude any area from Critical Habitat for the species.

Effect of This Proposal if Published as a Final Rule

Section 7(a) of the Act provides: The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this Act. All other Federal agencies shall, in consultation with and with the assistance of the Secretary, utilize their authorities in furtherance of the purposes of this Act by carrying out programs for the conservation of endangered species and threatened species listed pursuant to section 4 of this Act. Each Federal agency shall, in consultation with and with the assistance of the Secretary, insure that any action authorized, funded or carried out by such agency (hereinafter in this section referred to as "agency action") does not jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of habitat of such species which is determined by the Secretary, after consultation as appropriate with the affected States, to be critical, unless such agency has been granted an exemption for such action by the Committee pursuant to subsection (h) of section 7 of the Endangered Species Act Amendments of 1978.

Provisions for Interagency Cooperation are codified at 50 CFR Part 402. If published as a final rule this proposal would require Federal agencies

not only to insure that activities they authorize, fund, or carry out, do not jeopardize the continued existence of the species, but also to insure that their actions do not result in the destruction or adverse modification of this Critical Habitat which has been determined by the Secretary to be critical.

Section 4(f)(c) of the Act requires, to the maximum extent practicable, that any proposal to determine Critical Habitat be accompanied by a brief description and evaluation of those activities which, in the opinion of the Director, may adversely modify such habitat if undertaken, or may be impacted by such designation. Such activities are identified below for the Virginia big-eared bat.

1. Any action which would substantially alter the physical structure, temperature, humidity, or air flow of the designated caves could adversely modify Critical Habitat, since the Virginia big-eared bat depends on the maintenance of precise conditions in these caves which it must use for hibernating sites in the winter and for nurseries in the summer.

2. Any action which would result in disturbance of the bats in their hibernating or nursery caves would adversely affect Critical Habitat, since the species is highly intolerant of human disturbance. Such activity might include blasting or construction in or near the designated caves, or increasing human access to the caves.

The Service announces that a public meeting will be held on this proposed rule. The public is invited to attend this meeting and to present opinions and information on the proposal. Specific information on the meeting is as follows:

Time—Wednesday, September 26, 1979, starting at 7:00 P.M.

Place—Elkins Operations Center, West Virginia Department of Natural Resources, Ward Road, Elkins, West Virginia (located south of Elkins off of Route 219).

The Director intends that the rules finally adopted be as accurate and effective as possible in the conservation of the Virginia big-eared bat. Therefore, any comments or suggestions from the public, concerned governmental agencies, the scientific community, industry, private interests, or any other interested party concerning any aspect of this proposed rule are solicited. The Service particularly requests comments on the following:

(1) biological and other relevant data concerning any threat (or lack thereof) to this species;

(2) additional information concerning the range and distribution of the species;

(3) current or planned activities in the subject areas;

(4) the probable impacts of such activities if the areas are designated as Critical Habitat; and

(5) the foreseeable economic and other impacts of the Critical Habitat designation.

National Environmental Policy Act

A draft environmental assessment has been prepared and is on file in the Service's Washington Office of Endangered Species. The assessment will be the basis for a decision as to whether this determination is a major Federal action which would significantly affect the quality of the human environment within the meaning of Section 102(2)(C) of the National Environmental Policy Act of 1969.

The primary author of this repropoal is Ronald M. Nowak, Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, D.C. 20240.

Note.—The Department of the Interior has determined that this is not a significant rule and does not require preparation of a regulatory analysis under Executive Act 12044 and 43 CFR Part 14.

Regulations Promulgation

Accordingly, it is hereby proposed to amend Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, as set forth below:

It is proposed that § 17.95(a) be amended by adding Critical Habitat of the Virginia big-eared bat after that of the Indiana bat, as follows:

§ 17.95 Mammals.

Virginia Big-eared Bat
(*Plecotus townsendii virginianus*)
West Virginia. Cave Mountain Cave, Hellhole Cave, Hoffman School Cave, and Sinnit Cave, each in Pendleton County; Cave Hollow Cave, Tucker County.

Dated: August 27, 1979.

Robert S. Cook,

Acting Director, Fish and Wildlife Service.

[FR Doc. 79-27064 Filed 8-29-79; 8:45 am]

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**Thursday
August 30, 1979**

Part VII

**Department of
Energy**

Economic Regulatory Administration

**Tertiary Incentive Crude Oil; Amendment
To Permit Higher Prices**

DEPARTMENT OF ENERGY

Economic Regulatory Administration

10 CFR Part 212

(Docket No. ERA-R-77-1)

Amendment To Permit Higher Prices for Tertiary Incentive Crude Oil

AGENCY: Economic Regulatory Administration, Department of Energy.
ACTION: Final rule.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) is amending 10 CFR section 212.78 of the Mandatory Petroleum Price Regulations to provide producers with "front-end" money to offset certain costs associated with enhanced oil recovery (EOR) techniques. Producers will obtain this incentive by selling at market prices crude oil currently produced by or for the interest of these producers.

Today's action is intended to increase domestic crude oil production by lessening the level of risk involved in the use of EOR techniques and, thus, encouraging the application of these techniques in a wide range of situations. The increased activity which we expect to result from this incentive program should also promote rapid technical and commercial advances in EOR techniques.

The existing incremental tertiary crude oil program of 10 CFR section 212.78 is being amended to facilitate participation in that program and also to permit coordinated participation in that program and the incentive program being adopted today.

EFFECTIVE DATE: October 1, 1979.

FOR FURTHER INFORMATION CONTACT:

Robert C. Gillette (Office of Public Hearings Management), Economic Regulatory Administration, Room 2222 A, 2000 M Street, N.W., Washington, D.C. 20461, (202) 254-5201.

William L. Webb (Office of Public Information), Economic Regulatory Administration, Room B-110, 2000 M Street, N.W., Washington, D.C. 20461, (202) 634-2170.

Douglas Harnish (Office of Regulations and Emergency Planning), Economic Regulatory Administration, Room 2310, 2000 M Street, N.W., Washington, D.C. 20461, (202) 254-7477.

Eugene Glass (Office of Fuels Regulation), Economic Regulatory Administration, Room 6128-C, 2000 M Street, N.W., Washington, D.C. 20461, (202) 254-7183.

Lisle Reed (Resource Applications), Department of Energy, Room 3334, 12th and Pennsylvania Avenue, N.W., Washington, D.C. 20461, (202) 633-8395.

Raymond J. Braitsch (Energy Technologies), Department of Energy, Room 6C-087, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 252-6503.
 Ben McRae (Office of General Counsel), Department of Energy, Room 6A-127, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 252-6739.

SUPPLEMENTARY INFORMATION:

- I. Introduction
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I. Introduction

In order to decrease our dependence on foreign crude oil, we must increase domestic crude oil production. This effort will require us to develop to the extent practicable, every potential source of crude oil. Significant amounts of domestic crude oil, however, cannot be recovered by conventional primary and secondary production practices. If these amounts are to be recovered, EOR techniques must be used.

During the summer of 1978, the DOE's Commercialization Task Force for Enhanced Oil Recovery evaluated the technological and commercial readiness of a number of EOR techniques and identified several factors which impede significant increases in domestic crude oil production through the application of EOR techniques. The two most significant impediments were found to be (1) the risks created by the combination of high pre-production expenditures and uncertain process performance and (2) the relatively low technological level of many EOR techniques.

On March 22, 1979, we proposed an incentive program to provide front-end money to producers engaged in certain types of tertiary enhanced recovery projects (44 FR 18677, March 29, 1979).

The three main categories of EOR techniques are: (1) *thermal* processes involving application of heat to decrease the viscosity and increase the mobility of the oil in the reservoir; (2) *chemical* processes involving injection of materials such as detergents, caustics, and polymers to increase or control mobility of the oil; and (3) *miscible gas* processes involving injection of fluids which dissolve into the oil enabling it to flow through the reservoir more easily than the original crude.

Under this proposal, a producer engaged in a tertiary project would have been permitted to charge market prices for current production from any property in which it had an interest, provided that the revenue from such sales in excess of what would otherwise be permitted under the pricing regulations would not have been permitted to exceed seventy-five percent of certain specified expenses actually incurred and reported to DOE. Expenses which could have been recouped would have been dependent upon the type of EOR technique which the project employed. No more than twenty million dollars of expenses could have been recouped with respect to a particular project.

In the March Notice, we indicated our preliminary determination that a general finding could be made that a tertiary project was not an attractive investment opportunity solely on the basis that the producer was employing any one of certain EOR techniques. Therefore, we proposed that a producer be permitted to participate in the proposed program upon notification to the DOE that it was engaged in a tertiary project that employed one of these specified EOR techniques. With respect to a tertiary project that employed an EOR technique other than one for which a general finding of economic infeasibility had been made, the producer's participation would be conditioned upon designation by the DOE.

We requested comments on this proposal and held a public hearing in Washington, D.C. on May 1, 1979. Most of the comments favored an incentive program for tertiary projects as a means to increase domestic crude oil production. Several of the comments asserted that the immediate decontrol of domestic crude oil prices would be a better incentive than the proposed program, but agreed with the majority of the comments that the proposed program would provide a needed incentive. In addition, the comments indicated several other types of EOR techniques for which participation in the program upon notification to DOE would be appropriate. The comments generally urged an increase in the type and the total amount of expenses that a producer could recoup.

After reviewing the comments, we have decided to adopt an incentive program for projects that utilize EOR techniques. This action is intended to increase domestic crude oil production through the initiation of additional projects utilizing a variety of EOR techniques in a wide range of reservoirs. This increased level of activity, during the period of crude oil price controls,

should promote technical and commercial advances in EOR techniques. The consequent public benefits should long outlast the crude oil price control program, which will expire by October 1981.

II. Amendments Adopted

A. Scope of Incentive Program

The amendments adopted today will permit producers to recoup seventy-five percent of certain costs that they incur in connection with projects employing specified EOR techniques, provided that no more than twenty million dollars of such costs may be recouped with respect to any particular property. Producers will recoup these costs by charging market prices for some of their current production. The following paragraphs describe the specific provisions of this incentive program.

B. Participation

1. *Self-Certification.* We have determined that our goals of promoting the development of EOR techniques and increasing domestic crude oil production can be attained best by a program that permits producers to participate with as little administrative burden as possible. Accordingly, under the amendments adopted today, a producer may recoup certain costs with respect to a particular project in which it is engaged upon its certification to ERA by certified mail that the project employs one of certain specified EOR techniques. These specified techniques are (1) unconventional steam drive injection, (2) conventional steam drive injection, (3) cyclic steam injection, (4) in situ combustion, (5) microemulsion flooding, (6) alkaline flooding, (7) polymer augmented waterflooding, (8) miscible fluid displacement, (9) immiscible non-hydrocarbon gas displacement, and (10) any technique for the recovery of oil with a gravity of less than 16° API.

2. *ERA Designation.* We recognize that in certain instances it may be appropriate for a producer to recover some of the costs associated with a project that employs an EOR technique for which self-certification is not permitted. Therefore, under the amendments adopted today, a producer may request that ERA issue an order designating it as a qualified producer with respect to such a project. Such an order will be granted upon a showing that the project employs an EOR technique which involves high levels of risks and costs.

We are amending the general procedures set forth in subpart G of 10 CFR part 205 (§ 205.90 *et seq.*) and the guidelines to section 212.78 so that they

will apply to applications for orders relating to the incentive program being adopted today. After reviewing an application we will issue an order either granting or denying designation. If designation is granted, the order will include a list of expenses that a producer may partially recoup through charging market prices for current crude oil production.

C. Recoupment of Expenses

Beginning January 1, 1980, market prices will be permitted for the first sale of any crude oil produced by or for the interest of a producer as long as the "tertiary incentive revenue" from such sales does not exceed the "recoupable allowed expenses" attributable to that producer. Tertiary incentive revenue is the amount by which the revenues actually received under this program exceed the revenues that would otherwise have been permitted under the regulations, less any severance and *ad valorem* taxes attributable to the price increase permitted under this program. In this regard, we are continuing this rulemaking for the limited purpose of taking appropriate action to account for the effects of the windfall profits tax when such a tax is enacted.

Recoupable allowed expenses are the "allowed expenses" for a particular tertiary project that have actually been paid and reported to ERA pursuant to the applicable provisions of this program. (Allowed expenses are seventy-five percent of certain expenses paid after August 21, 1979.) Recoupable allowed expenses for a particular project will be attributable to the producers that have qualified either by self-certification or designation order to participate in this program with respect to that project. Participating producers with respect to a particular project may attribute the recoupable allowed expenses among themselves in whatever proportion they determine, regardless of their actual interest in the project. This flexibility will permit participants in a project to agree upon internal business arrangements with minimal governmental interference.

In order to permit producers to recoup costs on the basis of their self-certifications, we have reviewed each EOR technique for which self-certification is permitted and identified, for each technique, those items on which allowed expenses should be based. In this process we have attempted to prevent the use of this program to underwrite costs that are not associated with a particular EOR technique and to limit the allowed expenses for each technique to those that are necessary to

make it an attractive investment opportunity in most instances.

Both the U.S. Environmental Protection Agency and the State of California Air Resources Board noted the potential environmental impact of EOR techniques and strongly urged that producers be permitted to recoup the expenses that they incurred in complying with the applicable environmental requirements. We agree that expenses incurred in complying with environmental requirements should be included in this incentive program since they, in many instances, impose a substantial financial burden on a project yet are essential to our national policy of protecting the quality of the environment. Accordingly, allowed expenses for each self-certifiable EOR technique may be based on environmental expenses, which will be defined to be those expenses that are incurred in connection with a particular project to the extent that those expenses are necessary to comply with federal and state environmental regulations applicable to that project.

Several comments requested that laboratory and engineering costs be included among those expenses that a producer can recover. We agree that such costs are a necessary component of a successful project. However, since this program is intended to encourage the actual use of EOR techniques we have decided that with respect to a particular project no more than one million dollars or twenty-five percent, whichever is less, of the total allowed expenses may be based on engineering and laboratory expenses.

Our examination of the EOR techniques for which self-certification is permitted indicated that the recovery of additional expenses is necessary to make certain of these techniques attractive investment opportunities. Accordingly, with respect to each such technique, we have set forth in an appendix to section 212.78 those additional items on which we believe it appropriate to permit allowed expenses to be based.

If a producer believes that a particular project requires the recovery of expenses in addition to those otherwise provided for, it may request ERA to issue an order with respect to that project that expands the categories of items on which allowed expenses may be based. The procedures relating to the application for and the consideration of such an order will be the same as those for an order requesting designation as a qualified producer.

With respect to any project that does not employ a self-certifiable EOR technique, the items on which allowed

expenses may be based will be set forth in the order that designates a producer as a qualified producer with respect to that project. The application for such an order should specify clearly what items would be an appropriate basis for allowed expenses.

This incentive is intended to provide producers with the financing necessary to evaluate the feasibility of utilizing EOR techniques in situations that involve a high investment risk. In the event of a favorable evaluation, we believe a producer should be able to secure the financing necessary to enable it to continue the project. Accordingly, we have decided that a limit of twenty million dollars should be placed on the total amount of recoupable allowed expenses with respect to a particular property.² Prior to the recoupment of any expenses, all producers with an interest in a particular property must coordinate their participation in the program to ensure that this limit is not exceeded.

D. Reporting Requirements³

1. *Initial Report.* Prior to recouping any costs with respect to a particular project, a producer must submit to ERA an initial report on the engineering and environmental aspects of that project. The report shall include information on the reservoir and the EOR technique that the producer intends to employ on that reservoir. This information must be certified by a professional engineer. The environmental section of the report will provide information regarding any environmental requirements applicable to that project and any actions taken to comply with such requirements. The guidelines for section 212.78 have been revised to specify what information should be included in these reports. The initial reports will provide us with a basis on which to review the operation of the incentive program and will impose no undue burden on producers since the requested information should be readily available with respect to any legitimate project.

2. *Annual Reports.* With respect to a particular project, the participating producers will be required to file with

² The current definition of the term "property" is set forth in § 212.72 of the crude oil price regulations (10 CFR Part 212). All rulings, adjudications, and interpretations that have been developed by the DOE or its predecessor agency with regard to the current property definition will apply similarly to the term "property" as used in this rule for tertiary incentive crude oil.

³ These reporting requirements are being submitted to the Office of Management and Budget (OMB) for clearance under the provisions of the Federal Reports Act. Any compliance with these requirements may require revisions or additions as a result of OMB's action.

DOE's Office of Energy Technology an annual report on the status of that project. The guidelines for section 212.78 will be revised to specify what information should be included in these reports. We will use these reports and the initial reports to establish a program through which producers can obtain information on EOR techniques and how such techniques may relate to their particular circumstances.

3. *Monthly Reports.* Each producer that participates in this program must submit a monthly report to DOE in which states (1) the recoupable allowed expenses attributed to it during the previous month; (2) the project from which each such expense is attributed; (3) the cumulative total of recoupable allowed expenses attributed to it at the close of the previous month; (4) the amount of tertiary incentive revenue received by it during the previous month; (5) the cumulative total of tertiary incentive revenue received by it at the close of the previous month; (6) the properties from which tertiary incentive crude oil was sold by or for the interest of the producer and the amounts sold from each such property during the previous month; (7) the maximum lawful selling price(s) of crude oil from each such property absent the incentive provided by this program; (8) the price at which tertiary incentive crude oil was actually sold at each such property; (9) the names of the purchasers of tertiary incentive crude oil; and (10) copies of the certifications provided to these purchasers under section 212.131. Each producer will be required to submit an annual opinion by a certified public accountant concerning the accuracy of these reports.

With respect to a particular project, the participating producers must submit a monthly report in which they state (1) the recoupable allowed expenses for that project for the previous month; and (2) the amount of such recoupable allowed expenses attributable to each producer. We also will require the participating producers to submit an annual opinion by a certified public accountant concerning the accuracy of these reports.

We will audit participants in this program to insure that reported expenses are actually incurred and that no overrecoupment occurs. Expenses must be incurred in arms length transactions and reflect the fair market value of a good or service. The producers may be required to substantiate the items on which allowed expenses are based through the submission of invoices, receipts, contracts, or any other document

evidencing the actual payment of an expense. In the event of abuses, we will take the appropriate enforcement action.

E. Revisions to Certification Requirements and Entitlements Program

In keeping with the general requirement that producers and resellers of crude oil certify to their purchasers the composition of the crude oil sold to such purchasers, a producer that sells crude oil at market prices under this program will be required to certify any such crude oil as tertiary incentive crude oil. The Entitlements Program (10 CFR 211.67) is also being amended to provide for the treatment of tertiary incentive crude oil on the same basis as other domestic crude oil for which the market price may be charged.

F. Changes to Tertiary Incremental Program

Both the existing tertiary incremental program and the tertiary incentive program are intended to encourage increased domestic production through the use of EOR techniques. We believe that these two programs should be coordinated in order to generate the optimal incentive for EOR techniques. To this end, we are amending the definitions of certain EOR techniques so that the same definitions may be used for both the incremental and the incentive programs. These changes will not affect the availability of the incremental program to any project since ERA may designate a project that employs any EOR technique as a qualified tertiary enhanced recovery project. We have also revised the guidelines to section 212.78 so that they set forth, to the extent practicable, identical procedures for the two programs. This action is intended to minimize administrative burden by permitting producers to consolidate, to the greatest extent possible, their actions with respect to the two programs.

In addition, we have reviewed the relationship between the tertiary incremental program and various EOR techniques and have decided that the incremental production that results from certain EOR techniques should receive market price on the basis of a self-certification by a producer. Accordingly, under the amendments adopted today, a producer may charge market prices for first sales of incremental crude oil resulting from the initiation⁴ after September 30, 1979 of a project employing (1) miscible fluid

⁴ Initiation of a project means the start of a process on a regular basis that is intended to increase crude oil production.

displacement, (2) unconventional steam drive injection, (3) microemulsion flooding, or (4) in situ combustion; provided that the producer has filed by certified mail with ERA (1) a certification that one of these techniques was initiated after September 30, 1979 with respect to the project, (2) an initial report on the project and, (3) a schedule setting forth the amount of non-incremental crude oil which will result from the project. The initial report will be the same as that required from producers that seek to participate in the incentive program. ERA will review the schedule of incremental and non-incremental crude oil production for each project and may revise the schedule for a particular project. With respect to any other tertiary project, a producer must receive certification from ERA under the procedures of the incremental program, as amended today.

III. Procedural Requirements

A. Section 404 of the DOE Act

In accordance with section 404 of the Department of Energy Organization Act ("DOE Act", 42 U.S.C. 7101 *et seq.*), the Federal Energy Regulatory Commission received a copy of the proposed rule and has declined to determine that the rule may significantly affect any of its functions under sections 402 (a)(1), (b), or (c)(1) of the DOE Act.

B. Executive Order 12044

Pursuant to Executive Order 12044, entitled "Improving Governmental Regulations" (43 FR 12661, March 23, 1978), and DOE's implementing procedures, set forth in DOE Order 2030 (44 FR 1032, January 3, 1979), we have prepared a regulatory analysis with respect to the incentive program being adopted today. A copy of that regulatory analysis may be obtained from the ERA Office of Public Information, Room B-110, 2000 M Street, N.W., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday.

The regulatory analysis indicates that the incentive program could potentially result in the recovery of significant amounts of domestic crude oil over the next twenty to thirty years. The expected increase in EOR production for 1985 is 70-190 thousand barrels per day (MB/D); for 1990, 420-890 MB/D; and for 1995, 840-1,400 MB/D. Total ultimate recovery by EOR techniques is projected to be increased by 8.9-16.1 billion barrels. This increased production will benefit the nation primarily by a barrel-for-barrel reduction in oil imports. The regulatory analysis estimates that the total cost to the consumer will be \$0.8 to

\$1.2 billion which represents the additional revenues that producers will receive to offset a portion of the costs associated with EOR techniques.

The regulatory analysis also examines several alternative methods to provide incentives for EOR production, such as direct production subsidies and release from price controls of all production from an EOR project. The regulatory analysis indicates that the incentives offered in this rule will result in greater increases in domestic crude oil production with a lower cost to the consumer.

C. NEPA

The final environmental impact statement (EIS) on *Crude Oil Price Incentive Rulemaking*, issued by DOE in May 1978, discussed the generic environmental impacts of EOR techniques. We do not believe it is possible to assess the possible cumulative environmental impacts of the amendments being adopted today in greater detail than we did in that EIS since we cannot know at this time the exact locations and magnitude of the projects that will benefit from these amendments.

We will perform an environmental review with respect to each application to ERA for the issuance of an order pursuant to subsection (e) in order to determine whether such an order constitutes a major Federal action significantly affecting the quality of the human environment for purposes of the National Environment Policy Act ("NEPA", 42 U.S.C. 4321 *et seq.*). The level of documentation that will be required for each such review will be determined on a case-by-case basis. In addition, the initial reports which we are requiring for participation in either the incentive program or the incremental program will provide us with a significant amount of information on the effects of these programs on the environment and will assist us to expedite our environmental review in those instances where such a review is required.

(Emergency Petroleum Allocation Act of 1973, 15 U.S.C. § 751 *et seq.*, Pub. L. 93-159, as amended, Pub. L. 93-511, Pub. L. 94-99, Pub. L. 94-133, Pub. L. 94-163, and Pub. L. 94-385; Federal Energy Administration Act of 1974, 15 U.S.C. § 787 *et seq.*, Pub. L. 93-275, as amended, Pub. L. 94-332, Pub. L. 94-385, Pub. L. 95-70, and Pub. L. 95-91; Energy Policy and Conservation Act, 42 U.S.C. § 6201 *et seq.*, Pub. L. 94-163, as amended, Pub. L. 94-385, and Pub. L. 95-70; Department of Energy Organization Act, 42 U.S.C. § 7101 *et seq.*, Pub. L. 95-91; E.O. 11790, 39 FR 23185; E.O. 12009, 42 FR 46267.)

In consideration of the foregoing, Part 212 of Chapter II, Title 10 of the Code of Federal Regulations, is amended as set forth below, effective October 1, 1979.

Issued in Washington, D.C., August 21, 1979.

David J. Bardin,
Administrator, Economic Regulatory
Administration.

1. Section 205.90 is amended by revising paragraph (b) to read as follows:

§ 205.90 Purpose and scope.

(b) *Petitions under § 212.78.* This subpart also establishes general procedures for applications for certifications in accordance with the provisions of § 212.78. However, §§ 205.95 and 205.96 of this subpart shall not be applicable to such applications. Such applications shall be governed exclusively by § 205.98, in lieu of §§ 205.95 and 205.96.

2. Section 211.66 is amended by revising paragraph (h)(5) to read as follows:

§ 211.66 Reporting requirements.

(h) *Monthly report.* On or prior to the fifth day of each month, commencing with the month of August 1978, each refiner shall file with the ERA a report certifying the following information as to the second month prior to the month in which the report is filed:

(5) The weighted average costs for that refiner (including transportation costs to the refinery) of old oil, upper tier crude oil, ANS crude oil, stripper well crude oil (as defined in Part 212 of this chapter), incremental tertiary crude oil (as determined pursuant to § 212.78), tertiary incentive crude oil (as determined pursuant to § 212.78), other domestic crude oils the first sale of which is exempt from the provisions of Part 212 of this chapter, and imported crude oil included in that refiner's crude oil receipts. For refiners required to file transfer pricing report forms under § 212.84 of this chapter, the weighted average cost of imported crude oil reported under this subparagraph should be derived from the landed costs set forth in such reports.

3. Section 211.67 is amended by revising paragraphs (b)(2), (g)(2), (i)(4), and (l) to read as follows:

§ 211.67 Allocation of domestic crude oil.

(b) *Required purchase of entitlements by refiners.*

(2) To calculate the number of barrels of deemed old oil included in a refiner's adjusted crude oil receipts for purposes of the definition of national domestic crude oil supply ratio in § 211.62 of this subpart, paragraph (b)(1) of this section and paragraph (c) of this section, each barrel of old oil shall be equal to one barrel of deemed old oil and each barrel of upper tier crude oil shall constitute that fraction of a barrel of deemed old oil the numerator of which is equal to the reported weighted average cost per barrel to refiners of imported crude oil, ANS crude oil, stripper well crude oil (as defined in Part 212 of this chapter), incremental tertiary crude oil (as determined pursuant to § 212.78), tertiary incentive crude oil (as determined pursuant to § 212.78), and other domestic crude oils the first sale of which is exempt from the provisions of Part 212 of this chapter for that month, less such weighted average cost per barrel to refiners of upper tier crude oil, and the denominator of which is the entitlement price for that month.

(g) *Exchanges of crude oil.*

(2) Subject to the provisions of paragraph (g)(3) below volumes of domestic crude oil deemed to be retained by a refiner under the provisions of paragraph (g)(1) above shall be (i) included in that refiner's crude oil receipts at the time the crude oil acquired pursuant to the related exchange or purchase and sale transaction constitutes a crude oil receipt under § 211.62 of this subpart to that refiner, or (ii) certified as old oil, upper tier crude oil, ANS crude oil, stripper well crude oil (as defined in Part 212 of this chapter), incremental tertiary crude oil (as determined pursuant to § 212.78), tertiary incentive crude oil (as determined pursuant to § 212.78), or any other domestic crude oil the first sale of which is exempt from the provisions of Part 212 of this chapter, as the case may be, under the provisions of § 212.131 of Part 212 when the crude oil acquired pursuant to the related exchange or purchase and sale transaction is sold to another firm.

(i) *Issuance and transfer of entitlements.*

(4) The price at which entitlements shall be sold and purchased shall be fixed by the ERA for each month and shall be the exact differential between the weighted average cost per barrel to

refiners of old oil and such weighted average cost of imported crude oil, ANS crude oil, stripper well crude oil (as defined in Part 212 of this chapter), incremental tertiary crude oil (as determined pursuant to § 212.78), tertiary incentive crude oil (as determined pursuant to § 212.78), and other domestic crude oils the first sale of which is exempt from the provisions of Part 212 of this chapter, such costs to be equivalent to the delivered costs to the refinery.

(1) *Certification by non-refiners.* Within twenty-eight (28) days following each month, commencing with the month of January 1978, each firm other than a refiner that has delivered crude oil to a refiner for processing for the account of such firm pursuant to a processing agreement in that month shall certify to that refiner the respective volumes of and that firm's costs for old oil (separately identifying any California lower tier crude oil), upper tier crude oil (separately identifying any California upper tier crude oil), ANS crude oil, stripper well crude oil (as defined in Part 212 of this chapter), incremental tertiary crude oil (as determined pursuant to § 212.78), tertiary incentive crude oil (as determined pursuant to § 212.78), other domestic crude oils the first sale of which is exempt from Part 212 of this chapter, and imported crude oil contained in the crude oil so delivered to that refiner.

4. Section 212.73 is amended in paragraph (a) to read as follows:

§ 212.73 Lower tier ceiling price rule.

(a) *Rule.* Except as provided in § 212.74 with respect to new crude oil; except as provided in § 212.75 for certain crude oil produced from unitized properties; except as provided in § 212.78 for incremental crude oil produced from qualified tertiary enhanced recovery projects and for tertiary incentive crude oil; except as provided in § 212.79 for newly discovered crude oil; and except as provided in Subpart C of this Part for exempt crude oil, no producer may charge a price higher than the lower tier ceiling price for any first sale of domestic crude oil.

5. Section 212.78 is revised to read as follows:

§ 212.78 Tertiary incremental crude oil and tertiary incentive crude oil.

(a) *Rule.*

(1) *Incremental tertiary crude oil.* Notwithstanding the provisions of § 212.73(a), first sales of incremental crude oil resulting from the implementation or expansion of a

qualified tertiary enhanced recovery project are not subject to the ceiling price limitations of this subpart.

(2) *Tertiary incentive crude oil.* Notwithstanding the provisions of § 212.73(a), beginning January 1, 1980, first sales of crude oil by or for the behalf of a producer are not subject to the ceiling price limitations of this subpart, provided that the tertiary incentive revenue from such sales does not exceed the recoupable allowed expenses attributable to that producer.

(b) *Applicability of subparagraph (a)(1) to existing tertiary enhanced recovery projects.*

Incremental crude oil produced from a tertiary enhanced recovery project, or expansion thereof, which was initiated prior to the date on which a producer has satisfied the requirements of either paragraph (d)(1) or (e)(1) of this section with respect to that project, may qualify for pricing in accordance with paragraph (a)(1) of this section only if:

(1) The producer affirms that he intends to discontinue the project (or the particular high-cost phase of the project) in the absence of permission to price production therefrom in accordance with paragraph (a)(1) of this section, because continuation of the project (or the particular high-cost phase) would be uneconomic at the otherwise applicable ceiling price;

(2) There has been a material change of circumstances since the time that the project was initiated or expanded; and

(3) The project is certified pursuant to paragraph (e)(1) of this section. For the purposes of determining eligibility for certification, an existing project shall be examined prospectively, on the basis of the circumstances existing at the time such certification is sought.

(c) *Definitions.* For purposes of this section—

"Alkaline (or caustic) flooding" means an augmented waterflooding technique in which the water is made chemically basic as a result of the addition of alkali metals. The concentration and size of the alkaline slug must be at least 500 ppm-PV for the alkaline concentration multiplied by the pore volume of the alkaline slug.

"Allowed expense" means seventy-five percent of an environmental expense or seventy-five percent of an engineering and laboratory expense or seventy-five percent of an expense listed either in the appendix to this section or in a order issued pursuant to either paragraph (e)(2) or (e)(3) of this section; provided that, an allowed expense may not be based on an expense incurred and paid prior to August 22, 1979. No more than one million dollars or twenty-five percent,

whichever is less, of the total amount of allowed expenses with respect to a particular project may be based on engineering and laboratory expenses.

The allowed expenses of a particular project shall be attributable to the qualified producer(s) with respect to that project. Where there is more than one qualified producer, the qualified producers shall allocate these expenses among themselves in whatever manner they determine. With respect to a particular property, the total amount of allowed expenses may not exceed twenty million dollars.

"Certifying authority" means the Administrator, Economic Regulatory Administration, Department of Energy, or any officer of the Department of Energy to whom the Administrator has delegated such functions.

"Conventional steam drive injection" means the continuous injection of at least 50% quality steam (surface conditions) into one set of wells (injection wells) to effect oil displacements toward and production from a second set of wells (production wells). The process may include the prior, concurrent, alternating or subsequent injection of water, solvents and/or other fluids into any portion of the reservoir to assist in recovery and conformance.

"Cyclic steam injection" means the alternating injection of at least 50% quality steam (surface conditions) and production of oil with condensed steam from the same well or wells.

"Engineering and laboratory expense" means an expense relating to field-laboratory quality control equipment, reservoir and geologic evaluation as required for optimum process design, engineering plans, facility design, and laboratory/field process optimization (tracer, pressure transient, injectant quality, etc.).

"Enhanced heavy oil recovery technique" means any technique for the recovery of crude oil with a gravity less than 16° API.

"Environmental expenses" means those expenses that are incurred in connection with a particular project to the extent that those expenses are necessary to comply with federal or state environmental regulations applicable to that project.

"Immiscible gas displacement" means injection of non-hydrocarbon gas into an oil reservoir to effect oil displacement under conditions in which miscibility with reservoir oil is not obtained. The process may include the concurrent, alternating, or subsequent injection of water. The injected fluid measured at reservoir temperature and pressure must, with reasonable expectations, be

more than 10 percent of the reservoir pore volume being served by the injection well or wells.

"In situ combustion" means combustion of oil in the reservoir, sustained by continuous air injection, to displace unburned oil toward producing wells provided that such combustion must be intended to continue until at least 15 percent of the reservoir volume being served by the injection well or wells has been burned. The process may include the concurrent, alternating, or subsequent injection of water.

"Incremental crude oil" means the amount of crude oil which is or will be produced as a result of the initiation or expansion of a qualified tertiary enhanced recovery project and which is in excess of the amount of crude oil ("non-incremental crude oil") which could have been produced from the property or project area through continued maximum feasible production from methods of production employed on the property prior to compliance with the requirements of paragraphs (d)(1) or (e)(1) of this section, whichever is applicable. As applied to an existing project within the meaning of paragraph (b) of this section, the term means the amount of crude oil which is or will be produced as a result of the continuation of the project and which is in excess of the amount of crude oil ("non-incremental crude oil") which could have been produced from the property or project area through continued maximum feasible production from methods of production (other than the tertiary method, or that phase of such method, that would be discontinued in the absence of the incentive) employed on the property prior to receipt of the certification provided for in paragraph (e)(1) of this section. The actual amount of incremental crude oil in the case of any particular project shall be the amount produced from the property or project area during the period in question which is in excess of the amount of the non-incremental crude oil for that period as set forth in a certification by a producer pursuant to paragraph (d)(1) or as certified by the certifying authority pursuant to paragraph (e)(1) of this section; provided that, ERA may adjust the amount of non-incremental crude oil.

"Initiation" (of a project) means the start, on a regular basis, of a process that is intended to increase crude oil production.

"Microemulsion (or micellar/emulsion) flooding" means an augmented waterflooding technique in which a surfactant system is injected in order to enhance oil displacement toward producing wells. A surfactant

system normally includes a surfactant, hydrocarbon, cosurfactant, an electrolyte and water, and polymers for mobility control. The concentration and size of the micellar slug (not including the polymers and other non-surface active materials) must be more than 3000 ppm-PV for the combined active surfactant concentration and active cosurfactant concentration in the slug multiplied by the pore volume of the micellar slug.

"Miscible fluid displacement" means an oil displacement process in which fluid is injected into an oil reservoir at pressure levels such that the injected fluid and reservoir oil are miscible. The process may include the concurrent, alternating, or subsequent injection of water. The injected fluid measured at reservoir temperature and pressure must, with reasonable expectations, be more than 10 percent of the reservoir pore volume being served by the injection well or wells. Gas cycling, i.e., gas injection into gas condensate reservoirs, is not a miscible fluid displacement technique nor a tertiary enhanced recovery technique.

"Polymer augmented waterflooding" means augmented waterflooding in which polymers are injected with the water to improve areal and vertical sweep efficiency.

"Qualified producer" means, with respect to a particular project, a producer that possesses an interest in the property on which the project is located and contributes to the initiation or expansion of the project, provided that the producer has complied with the requirements of paragraphs (d)(2) or (e)(2) of this section, whichever is applicable.

"Qualified tertiary enhanced recovery project" means a project for the recovery of crude oil, to the extent that such project involves the application of an enhanced oil recovery technique; provided that, with respect to that project, a producer has complied with the requirements of either paragraphs (d)(1) or (e)(1) or this section, whichever is applicable.

"Recoupable allowed expenses" means, with respect to a particular producer, the allowed expenses that are attributable to that producer; provided that such expenses are incurred in arm's-length transactions and for fair market value and further provided that such expenses have been paid and reported pursuant to paragraph (h) of this section.

"Self-certifiable EOR technique" means any of the following enhanced oil recovery techniques: (a) miscible fluid displacement; (b) conventional steam drive injection; (c) unconventional

steam drive injection; (d) microemulsion flooding; (e) in situ combustion; (f) polymer augmented waterflooding; (g) cyclic steam injection; (h) alkaline flooding; (i) immiscible non-hydrocarbon gas displacement; or (j) any enhanced heavy oil recovery technique.

"Self-certifiable tertiary project" means a project for the recovery of crude oil to the extent that crude oil production from that project results from the initiation after September 30, 1979 of one of the following techniques: (a) unconventional steam drive injection, (b) in situ combustion, (c) microemulsion flooding, or (d) miscible fluid displacement.

"Tertiary incentive revenue" means, in the case of first sales of crude oil pursuant to the provisions of paragraph (a)(2) of this section, the excess of the market-clearing price over the otherwise applicable ceiling price less any *ad valorem* or severance taxes attributable to this excess.

"Unconventional steam drive injection" means the continuous injection of at least 50 percent quality steam (at surface conditions) into one set of wells (injection wells) to effect oil displacement toward and production from a second set of wells (production wells). The process may include the prior, concurrent, alternating or subsequent injection of water, solvents, and/or other fluids into any portion of the reservoir to assist in recovery and conformance. This applies only to steam drive projects with an average depth greater than 2,500 ft. or steam drive projects which recover oil with a gravity less than 10° API.

"Well costs" means the non-capital expenses incurred in the reworking or reconditioning of wells to be used in the field project (as recognized by the Internal Revenue Service), the non-capital expenses incurred in the abandonment or reabandonment of wells (as necessary for proper engineering and environmental protection of the project) less any salvage value, and the intangible drilling costs of new production, injection and test/evaluation wells needed for the project (as recognized by the Internal Revenue Service).

(d) *Self-certification.*

(1) *Qualified tertiary enhanced recovery projects.* With respect to a self-certifiable tertiary project, a producer shall certify to the certifying authority by certified mail that the project is a self-certifiable tertiary project. In this certification a producer must set forth, to the best of its ability, the amounts of non-incremental and incremental crude oil which will be produced in association with the project and the

basis on which it determined these amounts.

(2) *Qualified producers.* A producer shall be considered a qualified producer with respect to a particular project if it certifies to the certifying authority by certified mail that that project employs a self-certifiable EOR technique.

(3) *Disallowance or modification of self-certifications.* A self-certification pursuant to either paragraphs (d)(1) or (d)(2) of this section shall be subject to disallowance or modification, at any time and either retroactively or prospectively or both, as and to the extent that the ERA determines to be appropriate:

(i) if the producer does not certify in good faith or implement the project in good faith; or

(ii) if certification was based on a material error or omission of fact of which the producer knew or should have known or to which the producer contributed; or

(iii) if the producer does not adhere to the requirements of this section or any additional conditions and limitations which the ERA may prescribe.

(e) *ERA certification.*

(1) *Qualified tertiary enhanced recovery projects.* A producer shall obtain final certification from the certifying authority that the project (or expansion) is a qualified tertiary-enhanced recovery project and that the project would not be economic at the otherwise applicable ceiling prices. In addition, such producer shall obtain final certification of the amount of incremental and non-incremental crude oil which result from the implementation (or expansion) of such project. The amount of incremental and non-incremental crude oil shall be expressed in terms of both the total amount of incremental and non-incremental recovery over the life of the project (or such shorter period as the certifying authority determines to be appropriate) and in terms of incremental and non-incremental production estimates, commencing with the time that the project is estimated to begin producing incremental crude oil.

(2) *Qualified producers.* With respect to a project that does not employ a self-certifiable EOR technique, a producer shall obtain a final order from ERA that designates it as a qualified producer engaged in the initiation or expansion of a tertiary project that involves high levels of risk and of cost and that sets forth what the allowed expenses will be with respect to that project.

(3) *Allowed expenses.* With respect to a project that employs a self-certifiable EOR technique, a producer may request a final order from ERA that designates

allowed expenses with respect to that property in addition to those based on environmental expenses, engineering and laboratory expenses, or expenses listed in the appendix to this section.

(4) *General procedures.* In order to receive an order pursuant to either paragraphs (e)(1), (e)(2), or (e)(3) of this section a producer shall submit a signed application to ERA. The general procedures of Subpart G of Part 205 of this Chapter (§ 205.90 *et seq.*) shall apply to such an application. A producer that requests such an order shall have the burden of establishing its entitlement to the requested order and shall submit all data, required by these regulations or guidelines issued pursuant thereto or reasonably demanded by ERA.

(5) *Conditions and limitations within orders.* In addition to the conditions and limitations set forth elsewhere in this section, ERA may, in its discretion, prescribe such other conditions and limitations within an order as are consistent with the requirements of this section and as are determined to be reasonably necessary, either to assure that the purposes of this section are not frustrated, or to promote the effective administration of the programs established by this section.

(6) *Revocation or modification of order.* A final order shall be subject to revocation or modification, at any time and either retroactively or prospectively or both, as and to the extent that the ERA determines to be appropriate:

(i) if the producer does not obtain the order in good faith or implement the project in good faith; or

(ii) if the order was issued on the basis of a material error or omission of fact of which the producer knew or should have known or to which the producer contributed; or

(iii) if the producer does not adhere to the requirements of this section or any additional conditions and limitations which ERA may prescribe.

(f) *Additional procedures and criteria.* The ERA may from time to time publish, or otherwise make available to producers and the public, additional instructions or guidelines setting forth procedures to be followed and criteria to be applied in obtaining or making the certifications provided for in paragraphs (d) or (e) of this section; provided, however, that such instructions or guidelines shall not be mandatory or binding upon the ERA or the certifying authority, and shall not create or enlarge any procedural or substantive rights against the ERA.

(g) *Base production control level adjustments under the tertiary incremental program; measurement of*

post-certification production.

Notwithstanding any other provision of this part, and except as otherwise prescribed by ERA, a producer shall adjust the base production control level for a property (including any unitized property for which a unit base production control level has been established) on which a qualified tertiary enhanced recovery project is being implemented, and shall measure production from such property, as follows:

(1) *Projects involving an entire property.* Where the project is determined to involve or affect the entire property, upon commencement of the production of incremental crude oil (as determined in the certification) the property's base production control level shall be deemed to be the same proportion to the total amount of non-incremental crude oil (as such non-incremental crude oil is determined in the certification for the period concerned) as the amount of old crude oil produced from such property in the twelve-month period immediately preceding the month in which incremental crude oil production commences bears to total crude oil produced from that property during the same twelve-month period. The property's base production control level shall not thereafter be adjusted except as provided in the preceding sentence, i.e., except as the non-incremental crude oil production from the property (as determined in the certification) may vary from period to period.

(2) *Projects involving a portion of a property.* Where the project is determined to involve or affect only a portion of a property (including a unitized property for which a unit base production control level has been established), upon commencement of the production of incremental crude oil (as determined in the certification) the unaffected portion of the property shall receive the entire property's base production control level existing at the time incremental crude oil production commences. The amount of crude oil production to be credited against such base production control level shall be the sum of (i) the separately measured actual production from the unaffected portion of the property, plus (ii) the amount of non-incremental production (as established in the certification) for the project area for the period concerned (or the actual production from the project area for that period, if less than said non-incremental production). The base production control level may thereafter be adjusted as provided in § 212.76. It shall be a

condition of any certification applying to only a portion of a property that the producer shall undertake to measure actual production from the affected portion and the unaffected portion separately, by such means as certifying authority may from time to time prescribe either at the time of certification or at any time thereafter.

(h) *Reporting requirements.*

(1)(i) *Monthly producer reports.* By the close of each month, a qualified producer shall file with DOE a report in which the producer shall certify (A) the recoupable allowed expenses attributed to it during the previous month; (B) the project from which each such expense is attributed; (C) the cumulative total of recoupable allowed expenses attributed to it at the close of the previous month; (D) the amount of tertiary incentive revenue received by it during the previous month; (E) the cumulative total of tertiary incentive revenue received by it at the close of the previous month; (F) the properties from which tertiary incentive crude oil was sold by or for the interest of the producer and the amounts sold from each such property during the previous month; (G) the maximum lawful selling price(s) of crude oil from each such property absent the provisions of paragraph (a)(2) of this section; (H) the price at which tertiary incentive crude oil was actually sold at each such property; and (I) the names of the purchasers of tertiary incentive crude oil. Copies of the certifications provided to purchasers of tertiary incentive crude oil under § 212.131 shall be attached to this report.

(ii) *Annual CPA opinion.* By January 31 of each year after 1980, each qualified producer shall submit to DOE an opinion by a certified public accountant attesting that during the course of its annual audit nothing has come to its attention that causes it to believe that the reports submitted by that producer in accordance with paragraph (b)(1)(i) of this section are inaccurate.

(2)(i) *Monthly project reports.* With respect to a particular project, the qualified producers therefor shall submit to DOE by the close of each month a consolidated monthly report in which they shall certify (A) the recoupable allowed expenses for the previous month and; (B) the amount of such recoupable allowed expenses attributable to each qualified producer.

(ii) *Annual CPA opinion.* By January 31 of each year after 1980, the qualified producers with respect to a particular project shall submit to DOE an opinion by a certified public accountant attesting that during the course of its annual audit nothing has come to its attention that causes it to believe that

the reports with respect to that project submitted during the prior calendar year in accordance with paragraph (b)(2)(ii) of this section are inaccurate.

(3) *Initial report.* A producer shall file with the certifying authority an initial report on each project with respect to which the producer is a qualified producer prior to its recouping any allowed expenses attributable to it from that project. The contents of this report will be set forth in the guidelines to this section.

(4) *Annual report.* By July 1 of each year the qualified producers with respect to a particular project shall file with the Office of Energy Technology an annual report on the status of that project. The contents of this report will be set forth in the guidelines to this section.

Appendix to Section 212.76

Items on Which Allowed Expenses for Self-Certifiable EOR Techniques May Be Based

1. *Conventional Steam Drive and Cyclic Steam Injection.*—a. The cost of any additives or gases used in conjunction with the steam flood to increase recovery efficiencies.

b. The costs of produced fluid treatment required to assure environmentally acceptable disposal of waste fluids.

c. The costs of surface boilers not fueled by oil or gas (such as coal and solar powered generators) or non-surface boilers (such as down-hole steam generators).

d. The cost of fuel, excluding crude oil or refined petroleum products, natural gas and/or electricity, used by boilers for surface steam generation.

2. *Unconventional Steam Drive.*—a. The cost of any additives or gases used in conjunction with the steam flood to increase recovery efficiencies.

b. The costs of conventional hydrocarbon fuel fired boilers provided that, with respect to a particular year, the amount of allowed expenses based on such costs may not exceed the amount of depreciation reported to the IRS with respect to such costs for that year.

The costs of surface boilers not fueled by oil or gas (such as coal and solar powered generators) or non-surface boilers (such as down-hole steam generators).

d. The costs of fuel, excluding crude oil or refined petroleum products, natural gas and/or electricity, used by surface boilers for steam generation.

e. Well costs.

f. The costs of valves, regulators, insulation, coatings, etc., in fluid injection distribution systems, necessary to maintain the injection fluid quality of the project.

g. The costs of produced fluid treatment required to assure environmentally acceptable disposal of waste fluids from the project.

3. *In Situ Combustion.*—a. The costs of purchased compressed air plus any oxygen, steam, or water used in association with combustion at the project site.

b. The costs of air compressors and prime movers used for air compression, provided that with respect to a particular year the amount of allowed expenses based on such costs may not exceed the amount of depreciation reported to the IRS with respect to such costs for that year.

c. The costs of fuel for operation of air compressors and prime movers.

d. Well costs.

e. The costs of valves, regulators, insulation, coatings, etc., in fluid injection distribution systems, necessary to maintain the injection fluid quality of the project.

f. The costs of produced fluid treatment required to assure environmentally acceptable disposal of waste fluids from the project.

4. *Miscible Fluid Flooding*.—a. The costs of injected fluids and additives for use at the project site.

b. The costs of compressors and prime movers used for the compression of injection fluids provided that, with respect to a particular year the amount of allowed expenses based on such costs may not exceed the amount of depreciation reported to IRS with respect to such costs for that year.

c. The costs of fuel for operation of compressors and prime movers.

d. Well costs.

e. The costs of valves, regulators, insulation, coatings, etc., in fluid injection distribution systems, necessary to maintain the injection fluid quality of the project.

f. The costs of produced fluid treatment required to assure environmentally acceptable disposal of waste fluids from the project.

5. *Micro-emulsion and Alkaline Flooding*.—a. The costs of the chemicals (including surfactants, polymers, alcohols, and caustics) injected into the formation plus any fluids used in association with the surfactant flood at the project site.

b. The costs of capital equipment used for mixing of chemicals on the project site, provided that with respect to a particular year the amount of allowed expenses based on such costs may not exceed the amount of depreciation reported to the IRS with respect to such costs for that year.

c. The costs of chemicals to preserve quality of injectants (including oxygen removal, control of iron contamination and biocides for control of bacteria).

d. The costs of water purchased to meet quality specifications to protect chemicals or costs of treating equipment and chemicals required to condition water to meet quality specifications to protect chemicals.

e. The costs of process control equipment, instruments, and filters.

f. Well costs.

g. The costs of valves, regulators, insulation, coatings, etc., in fluid injection distribution systems, necessary to maintain the injection fluid quality of the project.

h. The costs of produced fluid treatment required to assure environmentally acceptable disposal of waste fluids from the project.

6. *Immiscible Fluid Flooding*.—a. The costs of injected fluids (excluding hydrocarbons) and additives for use at the project site.

7. *Polymer Augmented Waterflooding*.—a. Costs of the polymers injected into the formation.

The General Guidelines on Tertiary Enhance Recovery Project Review appearing after the Appendix to section 212.78 are revised to read as follows.

General Guidelines on Tertiary Incremental and Incentive Programs

I. Introduction

These guidelines are intended to assist crude oil producers and other potentially affected parties in complying with the provisions of 10 CFR 212.78. These guidelines are issued pursuant to, and subject to the limitations of, 10 CFR 212.78(f). They are not to be construed as mandatory upon the ERA, nor do they confer or enlarge any rights, procedural or substantive, against the ERA. They are intended to be informational in nature. Producers and other parties must consult and adhere to all applicable regulations, including (but not necessarily limited to) §§ 212.78 and 205.90 *et seq.* of Title 10 of the Code of Federal Regulations. Finally, these guidelines are subject to revision from time to time. Although the ERA will attempt to publish any substantial revisions, the published guidelines may not always reflect all changes. Therefore, producers should confirm that they have the most recent guidelines, and otherwise inform themselves as to current ERA procedures, by contacting the Manager, Tertiary Enhanced Recovery Program, Office of Petroleum Operations, Economic Regulatory Administration.

II. Initial Report

A particular project shall not be eligible for the pricing provisions of section 212.78 concerning tertiary incremental crude oil and tertiary incentive crude oil unless an initial report has been submitted to DOE with respect to that project. This initial report must contain the following information:

1. Name and address of producer (firm, including an individual).
2. Parent, subsidiary, unit operator.
3. Parent company if subsidiary.
4. Name, address, and working interest fraction of each working interest in project.
5. Location of project: state, counties, field, reservoir (I.D. number if available), leases embraced in project (if fractional leases, describe boundaries precisely).

Include map(s) showing boundaries, existing producing, injection, service and inactive wells and proposed wells in each category.

6. Production history:

History of primary, secondary, and prior tertiary recovery operations.

Extent of current development.

Status of wells.

7. Tertiary method(s) employed.

8. Reservoir characteristics:

Oil gravity, (° API) _____

Oil saturation, (fraction) _____

Oil in place _____

Original oil in place (bbls) _____

Present oil in place (bbls) _____

Oil type:

Paraffinic _____

Naphthenic _____

Asphaltic _____
 Oil viscosity (cp) _____
 Rock type: _____
 Sandstone _____
 Carbonate _____
 Coarse Clastic _____
 Other (describe) _____
 Depth (feet) _____
 Thickness (feet) _____
 Temperature (°F) _____
 Permeability (md) _____
 Free gas: _____
 Significant _____
 Insignificant _____
 Wettability: _____
 Oil wet _____
 water wet _____
 Dip: _____
 Significant _____ degree _____ direction

Insignificant _____
 Stratification: _____
 significant _____
 insignificant _____
 Salinity (% tds) _____
 Consolidation: _____
 Friable _____
 Indurated _____
 Clay Swelling: _____
 Significant _____
 Insignificant _____
 Other significant reservoir characteristics: (describe) _____

9. Laboratory Analysis:
 Certifying firm (producer) _____
 Contract Lab _____ (Name and address)

10. Project Characteristics (if applicable):

a. In-situ combustion projects:

Project area (acres) _____

Pattern: _____

Line _____

Single _____

Multiple (describe) _____

Pattern area (acres): _____

Pre-soak? (yes, no) _____

Method: _____

wet _____

dry _____

b. Steam drive and cyclic steam projects:

Project area (acres) _____

Pattern: _____

Line _____

Single _____

Multiple (describe) _____

Pre-soak? (yes, no) _____

Average operation BHP _____

c. Microemulsion and alkaline flooding projects:

Project area (acres): _____

Pattern: _____

Line _____

Single _____

Multiple _____

Pre-flush? (yes, no) _____

Agent _____

Surfactant or alkaline slug: _____

Size _____

Concentration _____

Mobility buffer: _____

Size _____

Polymer: _____

Synthetic _____

Biologic _____

d. Miscible fluid and immiscible non-hydrocarbon gas projects:

Miscibility (where applicable):

Partial _____

Complete _____

Project area (acres): _____

Pattern: _____

Line _____

Single _____

Multiple _____

Pattern area (acres) _____

Slug (% PV) _____

Drive fluid: _____

Water _____

Other (describe) _____

WAG (yes, no) _____

e. Polymer project:

Project area (acres): _____

Pattern: _____

Line _____

Single _____

Multiple _____

Pre-flush? (yes, no) _____

Agent _____

Mobility buffer: _____

Size _____

Polymer: _____

Synthetic _____

Biologic _____

10. Planned project time schedule:

Laboratory analysis _____

Field pilot (same for Field Development): _____

Workover existing wells _____

Install surface tertiary equipment _____

Pre-flush _____

Injection _____

Initial incremental response _____

12. Project Costs:

Contract (or inhouse) laboratory analysis:

Contract engineering _____

Authorized surface installations _____

Authorized downhole equipment _____

Authorized drilling _____

Injected fluids: _____

Pre-flush _____

Injection _____

Direct project supervision _____

Direct project operation _____

13. Environmental Information:

a. Has any State or Federal agency prepared an environmental evaluation of this project? If so, please give the name of the agency below and attach a copy of the document. If preparation is in progress, please indicate the name of the government official with whom the project can be discussed and give his/her telephone number.

b. Please provide specific information regarding the applicability to your operations of any State or Federal laws, including the Clean Air Act, (42 U.S.C. § 7401 *et seq.*); the Clean Air Act, (33 U.S.C. § 1251 *et seq.*); the Safe Drinking Water Act, (42 U.S.C. § 300f *et seq.*); and the Resource Conservation and Recovery Act, (42 U.S.C. § 6901 *et seq.*).

For any applicable State or Federal law, please indicate whether a permit or other form of authorization is required, whether it has been obtained, and, if the tertiary recovery operation is in existence now, whether it is in compliance with the requirement. If some form of authorization is required but has not been received, please indicate whether an application has been filed and the date of application, when you expect to receive the authorization, and whether a request has been denied. In all cases, if a permit has been issued, please attach a copy.

c. Please give any additional information which you consider is relevant to an appraisal of the environmental impacts of your operation.

All of the preceding information must be certified by the producer submitting the initial report. In addition, the information requested in sections 8, 7, 8, and 10 must be certified by a professional engineer. The report should be submitted by certified mail to the following address:

Administrator, Economic Regulatory Administration, Department of Energy, Washington, D.C. 20461. Attention: Manager, Tertiary Enhanced Recovery Program, Office of Petroleum Operations.

III. Self-Certification

A. Tertiary Incremental Crude Oil Program:

Under the tertiary incremental crude oil program, market prices may be received for first sales of the incremental crude oil production from a particular property, provided that a producer has certified to ERA the amount of the incremental crude oil from that property and that such amount results from the initiation after September 30, 1979 of a project employing (1) miscible fluid displacement, (2) unconventional steam drive injection, (3) microemulsion flooding, or (4) in situ combustion. This certification should contain a schedule setting forth the amount of non-incremental and incremental crude oil which will be associated with the project and the basis on which the producer calculated those amounts. In general, for a new project, non-incremental crude oil production is that amount of production from the property or project area, which would have occurred had the project not been undertaken.

B. Tertiary Incentive Crude Oil Program:

Under the tertiary incentive crude oil program, a producer may charge market price for first sales of crude oil in order to recover the recoverable allowed expenses attributed to it with respect to a particular project, provided that the producer has certified to ERA that it has contributed to a project employing (1) miscible fluid displacement, (2) conventional steam drive, (3) unconventional steam drive injection, (4) microemulsion flooding, (5) in situ combustion, (6) polymer augmented waterflooding, (7) cyclic steam injection, (8) alkaline flooding, (9) immiscible non-hydrocarbon gas displacement, (10) enhanced heavy oil recovery.

Certifications for both the tertiary incremental and incentive programs should be submitted by certified mail to the following address:

Administrator, Economic Regulatory Administration, Department of Energy, Washington, D.C. 20461. Attention: Manager, Tertiary Enhanced Recovery Program, Office of Petroleum Operations.

IV. ERA Certification

A. Tertiary Incremental Crude Oil Program:

In the event that tertiary incremental crude oil production is not eligible for self-certification by a producer, the producer may request ERA to issue an order that will permit the incremental production from that project to be sold at market prices. Such an order

will be granted upon a showing that the project employs a bona fide "tertiary" technique and that incremental production would be economically feasible only if the property is eligible to receive market prices.

B. Tertiary Incentive Crude Oil Program:

A producer which does not employ an EOR technique providing the basis for self-certification may apply to the ERA for participation in the tertiary incentive crude oil program. A producer which may self-certify its eligibility for participation in the tertiary incentive crude oil program may apply to the ERA to permit the recoupment of costs other than those specified as allowed expenses in § 212.78. In either case, ERA may grant such request by issuing orders, provided that the producer has demonstrated that it is employing an EOR technique which involves high levels of risks and costs and that the offset of certain costs is necessary to make the use of that technique an attractive investment opportunity.

C. Procedure for Requesting ERA Certification:

Prior to the issuance of any order described above, a producer must submit an application to ERA in accordance with the general procedures set forth in subpart G of 10 CFR part 205. This application should contain all the information which would be required in the initial report for that project and any other information that would justify the issuance of the requested order(s). With respect to orders concerning the incremental program, the application should specify the incremental production which will be attributable to the project.

Some of the information contained in an application may be regarded as proprietary information. In such a case, the producer should observe the filing requirements of 10 CFR 205.9(f) as incorporated in 10 CFR 205.91(a). Broadly, this means that applicants should prepare and submit the application in two copies, one of which (the "confidential" copy) contains all information and the other of which (the "non-confidential" copy) deletes the information claimed to be proprietary.

An application should carry a cover page with the applicant's name and authorized signature and be submitted to the following address:

Administrator, Economic Regulatory Administration, Department of Energy, Washington, D.C. 20461. Attention: Manager, Tertiary Enhanced Recovery Program, Office of Petroleum Operations.

6. Section 212.131 is amended by revising paragraphs (a)(2)(i), (a)(3)(i), (a)(4), and (b)(1) to read as follows:

§ 212.131 Certification of domestic crude oil sales.

(a)(1) *Stripper well properties.*

(2) *Non-stripper well properties.* (i) With respect to each sale of crude oil from a property which has not qualified as a stripper well property, the producer shall certify in writing to the purchaser the number of barrels, if any, of—
 (A) lower-tier ("old") Crude oil (separately identifying any California

lower tier crude oil, as defined in § 211.62 of Part 211 of this chapter, and the gravity in degrees API of such California lower tier crude oil at the time of the sale);

(B) upper-tier ("new") crude oil (separately identifying any California upper tier crude oil, as defined in § 211.62 of Part 211 of this chapter, and the gravity in degrees API of such California upper tier crude oil at the time of the sale), excluding any crude oil transported through the trans-Alaska pipeline;

(C) crude oil transported through the trans-Alaska pipeline; and

(D) incremental tertiary crude oil as determined pursuant to § 212.78;

(E) tertiary incentive crude oil as determined pursuant to § 212.78; and

(F) newly discovered crude oil as determined pursuant to § 212.79.

With respect to any property (except a property with respect to which any amount of crude oil is or at any time has been certified by the producer as incremental tertiary crude oil) which has not qualified as a stripper well property, and from which crude oil is only sold to one purchaser, the requirements of paragraph (a)(2)(i) of this section may be complied with by a one-time certification to the purchaser of the property's monthly base production control level determined pursuant to § 212.72, whether based upon production and sale of crude oil in 1972 or upon production and sale of old crude oil in 1975, and, if applicable, either the property's adjusted base production control level determined pursuant to § 212.76 or the information necessary to compute such adjusted base production control level pursuant to § 212.76; *Provided, however*, that the producer shall certify to the purchaser the amounts and gravity of California lower tier crude oil and California upper tier crude oil in each sale.

(3) *Unitized properties.* (i) With respect to each sale of crude oil from a unitized property for which the producer has determined a unit base production control level, the producer shall certify in writing to the purchaser the number of barrels of—

(A) lower-tier ("old") crude oil (separately identifying any California lower tier crude oil, as defined in § 211.62 of Part 211 of this chapter, and the gravity in degrees API of such California lower tier crude oil at the time of the sale);

(B) upper-tier ("new") crude oil, if any (separately identifying any California upper tier crude oil, as defined in § 211.62 of Part 211 of this chapter, and

the gravity in degrees API of such California upper tier crude oil at the time of the sale), including either "actual new crude oil" or "imputed new crude oil" determined pursuant to § 212.75(b), but excluding any crude oil transported through the trans-Alaska pipeline;

(C) crude oil transported through the trans-Alaska pipeline, if any;

(D) incremental tertiary crude oil determined pursuant to § 212.78;

(E) tertiary incentive crude oil as determined pursuant to § 212.78;

(F) imputed stripper well crude oil, if any, determined pursuant to § 212.75(b); and

(G) imputed newly discovered crude oil, if any, determined pursuant to § 212.75(b).

With respect to any unitized property (except such a property with respect to which any amount of crude oil is or at any time has been certified by the producer as incremental tertiary crude oil) for which the producer has determined a unit base production control level, and from which crude oil is only sold to one purchaser, the requirements of paragraph (a)(3)(i) of this section may be complied with by a one-time written certification to the purchaser of—

(1) the monthly unit base production control level, determined pursuant to § 212.75(b);

(2) the number of barrels of "imputed new crude oil," if any, determined pursuant to § 212.75(b), excluding any crude oil transported through the trans-Alaska pipeline;

(3) the number of barrels of crude oil transported through the trans-Alaska pipeline, if any; and

(4) the number of barrels of imputed stripper well crude oil, if any, determined pursuant to § 212.75(b); *provided, however*, that the producer shall certify to the purchaser the amounts and gravity of California lower tier crude oil and California upper tier crude oil in each sale.

(4) *Other domestic crude oils the first sale of which is exempt from this part.*

(i) With respect to each sale of crude oil exempt from the provisions of this part, other than crude oil produced from a stripper well property, the producer shall certify in writing once to each purchaser of crude oil produced and sold from that property that the first sale of crude oil produced and sold from that property is exempt from the provisions of this part.

(ii) For purposes of this paragraph (a)(4), domestic crude oil the first sale of which is exempt from the provisions of this part includes U.S.-owned petroleum

sold by the Secretary of the Navy under the Naval Petroleum Reserves Production Act of 1976 (Pub. L. 94-258); but domestic crude oil the first sale of which is exempt from this part does not include incremental tertiary crude oil or tertiary incentive crude oil determined pursuant to § 212.78.

(b)(1) Each seller of domestic crude oil, other than a producer of domestic crude oil covered by paragraph (a) of this section, shall, with respect to each sale of domestic crude oil other than an allocation sale pursuant to § 211.65 of Part 211, or a sale in which no volumes of domestic crude oil are deemed to have been transferred pursuant to § 211.67(g) of Part 211, certify in writing to the purchaser the respective volumes of and respective per barrel prices for the—

(i) lower-tier ("old") crude oil (separately identifying any California lower tier crude oil, as defined in § 211.62 of Part 211 of this chapter, and the gravity in degrees API of such California lower tier crude oil at the time of the sale);

(ii) upper-tier ("new") crude oil (separately identifying any California upper tier crude oil, as defined in § 211.62 of Part 211 of this chapter, and the gravity in degrees API of such California upper tier crude oil at the time of the sale), exclusive of any crude oil transported through the trans-Alaska pipeline;

(iii) crude oil transported through the trans-Alaska pipeline;

(iv) stripper well crude oil;

(v) incremental tertiary crude oil;

(vi) tertiary incentive crude oil; and

(vii) other domestic crude oils the first sale of which is exempt from the provisions of this part—included in the volume of domestic crude oil so sold. The certification shall also contain a statement that the price charged for the domestic crude oil is no greater than the maximum price permitted pursuant to this part.

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Department of Housing and Urban Development

Office of the Assistant Secretary for
Community Planning and Development

Community Development Block Grant
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lower tier crude oil, as defined in § 211.62 of Part 211 of this chapter, and the gravity in degrees API of such California lower tier crude oil at the time of the sale);

(B) upper-tier ("new") crude oil (separately identifying any California upper tier crude oil, as defined in § 211.62 of Part 211 of this chapter, and the gravity in degrees API of such California upper tier crude oil at the time of the sale), excluding any crude oil transported through the trans-Alaska pipeline;

(C) crude oil transported through the trans-Alaska pipeline; and

(D) incremental tertiary crude oil as determined pursuant to § 212.78;

(E) tertiary incentive crude oil as determined pursuant to § 212.78; and

(F) newly discovered crude oil as determined pursuant to § 212.79.

With respect to any property (except a property with respect to which any amount of crude oil is or at any time has been certified by the producer as incremental tertiary crude oil) which has not qualified as a stripper well property, and from which crude oil is only sold to one purchaser, the requirements of paragraph (a)(2)(i) of this section may be complied with by a one-time certification to the purchaser of the property's monthly base production control level determined pursuant to § 212.72, whether based upon production and sale of crude oil in 1972 or upon production and sale of old crude oil in 1975, and, if applicable, either the property's adjusted base production control level determined pursuant to § 212.76 or the information necessary to compute such adjusted base production control level pursuant to § 212.76; *Provided, however*, that the producer shall certify to the purchaser the amounts and gravity of California lower tier crude oil and California upper tier crude oil in each sale.

(3) *Unitized properties.* (i) With respect to each sale of crude oil from a unitized property for which the producer has determined a unit base production control level, the producer shall certify in writing to the purchaser the number of barrels of—

(A) lower-tier ("old") crude oil (separately identifying any California lower tier crude oil, as defined in § 211.62 of Part 211 of this chapter, and the gravity in degrees API of such California lower tier crude oil at the time of the sale);

(B) upper-tier ("new") crude oil, if any (separately identifying any California upper tier crude oil, as defined in § 211.62 of Part 211 of this chapter, and

the gravity in degrees API of such California upper tier crude oil at the time of the sale), including either "actual new crude oil" or "imputed new crude oil" determined pursuant to § 212.75(b), but excluding any crude oil transported through the trans-Alaska pipeline;

(C) crude oil transported through the trans-Alaska pipeline, if any;

(D) incremental tertiary crude oil determined pursuant to § 212.78;

(E) tertiary incentive crude oil as determined pursuant to § 212.78;

(F) imputed stripper well crude oil, if any, determined pursuant to § 212.75(b); and

(G) imputed newly discovered crude oil, if any, determined pursuant to § 212.75(b).

With respect to any unitized property (except such a property with respect to which any amount of crude oil is or at any time has been certified by the producer as incremental tertiary crude oil) for which the producer has determined a unit base production control level, and from which crude oil is only sold to one purchaser, the requirements of paragraph (a)(3)(i) of this section may be complied with by a one-time written certification to the purchaser of—

(1) the monthly unit base production control level, determined pursuant to § 212.75(b);

(2) the number of barrels of "imputed new crude oil," if any, determined pursuant to § 212.75(b), excluding any crude oil transported through the trans-Alaska pipeline;

(3) the number of barrels of crude oil transported through the trans-Alaska pipeline, if any; and

(4) the number of barrels of imputed stripper well crude oil, if any, determined pursuant to § 212.75(b); *provided, however*, that the producer shall certify to the purchaser the amounts and gravity of California lower tier crude oil and California upper tier crude oil in each sale.

(4) *Other domestic crude oils the first sale of which is exempt from this part.*

(i) With respect to each sale of crude oil exempt from the provisions of this part, other than crude oil produced from a stripper well property, the producer shall certify in writing once to each purchaser of crude oil produced and sold from that property that the first sale of crude oil produced and sold from that property is exempt from the provisions of this part.

(ii) For purposes of this paragraph (a)(4), domestic crude oil the first sale of which is exempt from the provisions of this part includes U.S.-owned petroleum

sold by the Secretary of the Navy under the Naval Petroleum Reserves Production Act of 1978 (Pub. L. 94-258); but domestic crude oil the first sale of which is exempt from this part does not include incremental tertiary crude oil or tertiary incentive crude oil determined pursuant to § 212.78.

(b)(1) Each seller of domestic crude oil, other than a producer of domestic crude oil covered by paragraph (a) of this section, shall, with respect to each sale of domestic crude oil other than an allocation sale pursuant to § 211.65 of Part 211, or a sale in which no volumes of domestic crude oil are deemed to have been transferred pursuant to § 211.67(g) of Part 211, certify in writing to the purchaser the respective volumes of and respective per barrel prices for the—

(i) lower-tier ("old") crude oil (separately identifying any California lower tier crude oil, as defined in § 211.62 of Part 211 of this chapter, and the gravity in degrees API of such California lower tier crude oil at the time of the sale);

(ii) upper-tier ("new") crude oil (separately identifying any California upper tier crude oil, as defined in § 211.62 of Part 211 of this chapter, and the gravity in degrees API of such California upper tier crude oil at the time of the sale), exclusive of any crude oil transported through the trans-Alaska pipeline;

(iii) crude oil transported through the trans-Alaska pipeline;

(iv) stripper well crude oil;

(v) incremental tertiary crude oil;

(vi) tertiary incentive crude oil; and

(vii) other domestic crude oils the first sale of which is exempt from the provisions of this part—included in the volume of domestic crude oil so sold. The certification shall also contain a statement that the price charged for the domestic crude oil is no greater than the maximum price permitted pursuant to this part.

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Part VIII

Department of Housing and Urban Development

Office of the Assistant Secretary for
Community Planning and Development

Community Development Block Grant
Loan Guarantees

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**Office of Assistant Secretary for Community Planning and Development****24 CFR Part 570****[Docket No. R-79-498]****Community Development Block Grants; Loan Guarantees****AGENCY:** Department of Housing and Urban Development.**ACTION:** Final rulemaking.

SUMMARY: The Secretary is issuing final rules on Subpart M of the regulations for the community development block grant program governing loan guarantees under section 108 of the Housing and Community Development Act of 1974, as amended ("section 108"). Rules governing loan guarantees have been revised to incorporate changes authorized by Title I of the Housing and Community Development Act of 1977.

EFFECTIVE DATE: October 5, 1979.

FOR FURTHER INFORMATION CONTACT: Paul D. Webster, Financial Analyst, Office of Block Grant Assistance, HUD/Community Planning and Development, Room 7178, 451 Seventh Street, S.W., Washington, D.C. 20410, (202) 755-6326.

SUPPLEMENTARY INFORMATION: On January 18, 1978 revisions to Subpart M were published in the *Federal Register* (43 FR 2714) as an interim rule. Interested parties were given until March 1, 1978 to submit views and comments. All comments were considered carefully in development of the final rule. There follows a discussion of the significant comments and the changes that were made.

Eligible Applicants

There were several comments objecting to the limitation on eligibility to metropolitan cities and urban counties. Commenters on this issue recommended for a number of reasons that eligibility be extended to communities receiving Comprehensive Grants with multiyear funding commitments under the Small Cities program. All commenters argued that such communities are on a par with metropolitan cities and urban counties with respect to their access to an assured source of funds for loan repayment.

The Department agrees that small cities with multiyear funding commitments can offer adequate security, provided the loan guarantee covers the same period as the

commitment. As indicated in the interim rule, an ability to furnish adequate security is the principal criterion of eligibility to apply for loan guarantee assistance. Therefore, it is deemed appropriate to extend eligibility to these communities. As the first step to accomplish this, a proposed rule soon will be published in the *Federal Register* that would include small cities receiving Comprehensive Grants with multiyear funding commitments as eligible applicants.

Careful consideration was given to including these communities as eligible applicants under this rule. However, further rulemaking is deemed essential for the following reasons.

Since the interim rule limited eligibility to entitlement recipients, many loan guarantee requirements were developed in light of requirements applicable to entitlement grants. These include application submission requirements, criteria for disapproval of loan guarantee requests, and reduction in the amount of loan guarantee assistance requested. Requirements on the maximum loan amount and the loan repayment period are also consonant with the entitlement grant concept.

Loan guarantee requirements also should be consonant with the requirements of the Small Cities program. At the same time, the interests of the Department as guarantor must be protected. However, both objectives cannot be achieved without extensive revision of this rule. Provisions of this subpart pertaining to the loan repayment period, review and approval of applications, submission requirements, and the maximum loan amount will all require modification. In addition, preapplication submission requirements must be developed and included in this subpart.

Further rulemaking will obtain for the Department the useful comments and recommendations of interested parties on the substantial changes resulting from extending eligibility and will help avoid the risk of arbitrary action. Publication of the proposed rule will have the added benefit of assuring that the impact of extending eligibility on the administration of the Small Cities program is fully considered.

Based on the foregoing considerations, the requirements of this section will not be changed at this time.

Eligible Activities

The introductory statement of this section has been changed to note that for purposes of determining the eligibility of activities for which loan guarantee assistance may be provided, § 570.204 does not apply. Section

570.204, which authorizes assistance to be provided directly to certain qualified private entities, is inapplicable since further grants or loans may not be made from guaranteed loan funds.

Section 570.701(a) has been clarified to indicate that acquisition of real property must be by the unit of general local government or its designated public agency.

The introductory statement of § 570.701(c), governing related expenses, has been revised to indicate that such expenses must be related to the acquisition, rehabilitation, development, or use of the real property assisted under this subpart.

Section 570.701(c)(4) has been clarified to better delineate the types of property improvements that are eligible for construction, reconstruction, or installation with loan guarantee assistance. These include all of the types of public improvements and public utilities eligible for assistance under Subpart C, and those eligible public facilities under Subpart C which are not buildings. For example, parking lots, water and sewer lines, and utility lines would all be eligible for loan guarantee assistance; however, a fire station or a public parking garage would be ineligible. As a further criterion of eligibility, expenses eligible under § 570.701(c)(4) must be related to the preparation for development or use of the assisted property.

Application Requirements

The requirement specified in § 570.702(a)(2) that an application for loan guarantee assistance include a proposed instrument effecting a pledge of grant has been deleted. This requirement is no longer necessary because the form of the pledge of grant required as security for repayment of obligations guaranteed under this subpart shall be prescribed by HUD and included as a provision of the contract required under § 570.703(b)(1). The requirement for an opinion of counsel as to the applicant's legal authority to make such pledge has also been deleted. In lieu of this opinion of counsel, the applicant shall be required to submit a certification providing assurance that it possesses legal authority to make the pledge of grants required under § 570.703(b)(2).

The reference to "community development budget" in § 570.702(b) is changed to "cost summary."

In paragraph (d) of § 570.702, which governs HUD review and approval of applications, subparagraphs (1), (2), and (3) of the interim rule have been redesignated as subdivisions (i), (ii), and (iii) of subparagraph (1) of the final rule.

In § 570.702(d)(1)(i), as redesignated, the reference to "§ 570.306(b)(2)" has been changed to "§ 570.311(c)."

Section 570.702(d)(1)(ii) of the final rule has been revised to clarify that a loan guarantee request may be disapproved whenever the Secretary determines that the guarantee constitutes an unacceptable financial risk. This change is essential to permit consideration of all factors relevant to determining financial risk, including but not limited to: length of proposed repayment period, ratio of expected annual debt service requirements to expected annual grant amount, an applicant's status as a metropolitan city or urban county during the proposed repayment period, and an applicant's ability to furnish adequate security pursuant to § 570.703(b).

A new provision, § 570.702(d)(2), has been added which specifies the reasons for which HUD may reduce the amount of loan guarantee assistance requested. This provision corresponds to § 570.311(e) and is added to ensure that loan guarantee funds are approved for use in a manner consonant with statutory and administrative requirements applicable to approval of block grant funds.

Paragraph (e)(2) of this section has been modified to indicate the applicability of environmental review requirements for multiyear projects to designated public agencies. Changes have also been made to conform this provision to the requirements of § 570.301(d).

Loan Requirements

Section 570.703(a) has been modified to indicate the requirement pertaining to the maximum loan amount also applies to notes or other obligations issued by designated public agencies. The reference to "§ 570.102" is changed to "§ 570.311."

Section 570.703(b)(1) has been changed for the sake of clarity to note that the contract required under this provision shall be entered into with HUD.

Section 570.703(c)(2) has been changed to more clearly reflect the full scope of the Secretary's authority to apply pledged grants. In this regard, the Secretary is authorized to apply grant funds pledged pursuant to paragraph (b)(2) of this section, whether or not there has been a default by the borrower requiring payments pursuant to the Secretary's guarantee. This authority is reflected in the contract required by paragraph (b)(1) of this section.

Section 570.703(e) has been changed to note the applicability of this provision to designated public agencies.

Comments Not Acted Upon

Several comments were received which after due consideration were not accepted. There follows a discussion of these comments.

Some commenters recommended that § 570.703(b), which pertains to the contract and pledge of grants required as security, be modified to accommodate the requirements of states having limitations prohibiting political subdivisions from incurring indebtedness beyond the current fiscal year. The proposed regulation has been retained because it reflects the statutory provision (section 108(d)) on which it is based more precisely than the alternatives presented by the commenters; however, where the form of the contract or pledge is an obstacle to participation under the loan guarantee provision, HUD will consider modifications on a case by case basis, provided such modifications do not impair the security for the loan guarantee or result in nonconformance with the statutory provision.

Section 570.702(a)(3), requiring that applicants certify that neither they nor public agencies own property suitable for the purpose for which the guarantee is being requested, was criticized as being too restrictive. It was recommended that this requirement be waived under specified circumstances. Although waiver of this requirement will be considered under extenuating circumstances, such circumstances will not be specified in the regulations. If a particular application of this requirement meets the criteria for a waiver under § 570.4, a request for waiver of the requirement will be considered.

One commenter noted that the Act authorizes the Secretary, at her discretion, to require other security to be furnished (e.g., tax increments), and urged that § 570.702(c) be changed to indicate that approval of a loan guarantee request reflects consideration of such other security. HUD will utilize this authority and require revenues which may result from activities financed under this subpart and which constitute program income under § 570.506 to be pledged as additional security. However, the pledge of such revenues will not be a factor in the determination as to whether a loan guarantee covering a repayment period of six years or less is an acceptable financial risk. This does not preclude an applicant from developing a financial plan, which provides for the utilization of other revenues, in lieu of block grant funds, for payment of principal or interest. It is, however, the applicant's

responsibility to determine whether other revenues are sufficient for that purpose. Because HUD will make no determination as to the sufficiency of other security, the recommended change was not adopted.

It was recommended that a new provision be added to § 570.702 which would require the applicant to comply with the procedures prescribed by the Advisory Council on Historic Preservation in 36 CFR Part 800 if the project would affect resources listed or eligible for listing in the National Register of Historic Places. This requirement is set forth in § 570.604 and is made applicable under § 570.705 to activities or projects assisted under this subpart. It is therefore unnecessary to repeat the requirement in a separate provision.

A Finding of Inapplicability with respect to Environmental Impact has been prepared in accordance with HUD Handbook 1390.1. A copy of the Finding is available for inspection and copying during business hours in the Office of the Rules Docket Clerk, Room 5216, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

Accordingly, 24 CFR Part 570 is amended by revising Subpart M as set forth below.

PART 570—COMMUNITY DEVELOPMENT BLOCK GRANTS

Authority: Title I, Housing and Community Development Act of 1974 (Pub. L. 93-383, 88 Stat. 633).

Subpart M—Loan Guarantees**§ 570.700 Eligible applicants.**

(a) Units of general local government entitled to receive basic grant amounts under § 570.102 (metropolitan cities and urban counties) may apply for loan guarantee assistance under this subpart. Loan guarantee assistance will be limited to such entitlement recipients in order to assure a reasonably certain source of repayment.

(b) Public agencies may be designated by eligible units of general local government to receive a loan guarantee on notes or other obligations issued by the public agency in accordance with this subpart. In such case the applicant unit of general local government shall be required to pledge its current and future entitlement grants as security for the notes or other obligations issued by the public agency.

§ 570.701 Eligible activities.

For purposes of determining the eligibility of the following activities for which loan guarantee assistance may be

provided, the requirements of Subpart C (other than § 570.204) shall apply:

(a) Acquisition by the unit of general local government or its designated public agency of real property (including improvements thereon) including acquisition for economic development purposes.

(b) Rehabilitation of real property (including improvements thereon) owned or acquired by the unit of general local government.

(c) Payment of the following expenses related to the acquisition, rehabilitation, development, or use of the real property:

(1) Interest on obligations guaranteed under this subpart.

(2) Relocation payments and assistance for individuals, families, businesses, nonprofit organizations, and farm operations displaced by activities financed with loan guarantee assistance. (Further information regarding relocation costs is set forth in § 570.602.)

(3) Clearance, demolition and removal of buildings and improvements, including movement of structures to other sites.

(4) Construction, reconstruction, or installation of public improvements, utilities, or facilities (other than buildings) related to the preparation for development or use of the real property. For example, parking lots, water and sewer lines, and utility lines would be eligible for loan guarantee assistance, but a fire station and a public parking garage would be ineligible.

§ 570.702 Application requirements.

An application for loan guarantee shall be made as a part of an application for grant assistance or as a Community Development Program amendment. Except as provided in the following paragraphs, the applicant shall comply with the application requirements outlined in Subpart D.

(a) *Other submission requirements.* In addition to the documentation required to be submitted with a grant application, an application for loan guarantee shall include the following:

(1) A schedule for repayment of the loan which identifies the sources of repayment;

(2) A certification providing assurance that the applicant possesses legal authority to make the pledge of grants required under § 570.703(b)(2).

(3) When the proceeds of the loan are to be used for acquisition of real property, a certification providing assurance that real property already owned by the applicant or a local public agency is not suitable for the intended use of the land to be acquired, and a brief statement of the reasons why the existing land inventory is inadequate.

(b) *Community Development Program.* The project summary shall specify those activities that will be financed with loan guarantee assistance. Proceeds from guaranteed loans shall be identified as an anticipated resource in the cost summary.

(c) *Economic feasibility and financial risk.* The Secretary will make no determination with respect to the economic feasibility of projects proposed to be funded with the proceeds of guaranteed loans; such determination is the responsibility of the applicant. In determining whether a loan guarantee constitutes an acceptable financial risk, the Secretary will consider the applicant's current and future entitlement block grants as the primary source of loan repayment. Approval of a loan guarantee under this subpart is not to be construed, in any way, as indicating that HUD has agreed to the feasibility of a project beyond recognition that block grant funds should be sufficient to retire the debt.

(d) *HUD review and approval of applications.* The Area Office shall review the application for compliance with application requirements specified in Subpart D and this subpart, and forward the application together with its recommendation for approval or disapproval of the requested loan guarantee to HUD Headquarters.

(1) The Secretary will approve the loan guarantee request unless:

(i) One or more of the criteria for disapproval specified in § 570.311(c) are applicable.

(ii) The Secretary determines that the guarantee constitutes an unacceptable financial risk. Factors that will be considered in assessing financial risk shall include, but not be limited to, the following:

(A) The length of the proposed repayment period;

(B) The ratio of expected annual debt service requirements to expected annual grant amount;

(C) The applicant's status as a metropolitan city or urban county during the proposed repayment period; and

(D) The applicant's ability to furnish adequate security pursuant to § 570.703(b).

(iii) The guarantee requested exceeds the maximum loan amount specified under § 570.703(a).

(2) The Secretary may approve loan guarantee assistance for an amount less than requested for the following reasons:

(i) Activities are not eligible under Subpart C or § 570.701;

(ii) Activities do not meet other program requirements, such as benefits

to low- and moderate-income persons described in § 570.302; or

(iii) The applicant's performance does not meet the standards prescribed in § 570.909.

(3) The Secretary will notify the applicant in writing that the loan guarantee request has either been approved or disapproved. If the request is disapproved the applicant shall be informed of the specific reasons for disapproval. If the request is approved, the Secretary shall issue an offer of commitment to guarantee obligations of the applicant or the designated public agency subject to such conditions as the Secretary may prescribe, including the conditions for release of funds described in paragraph (e).

(e) *Environmental review.* (1) The applicant shall comply with HUD Environmental Review Procedures (24 CFR Part 58) leading to certification for the release of funds for each project carried out with loan guarantee assistance. These procedures set forth the regulations, policies, responsibilities, and procedures governing the carrying out of environmental review responsibilities of applicants.

For the purposes of this paragraph, the "release of funds" shall be deemed to occur at the time of guarantee of notes or other obligations by the Secretary.

(2) The environmental assessment of a multiyear project financed with loan guarantee assistance, performed under 24 CFR Part 58, should encompass the entire multiyear scope of activities. Upon certification that the applicant has completed the environmental requirements for a multiyear project, HUD may issue its release of funds for the entire project. The continued authority of an applicant (or the designated public agency, where appropriate) to commit Title I funds to a multiyear project or to be reimbursed for the expenditure of local funds for costs of such project, after completion of environmental requirements and HUD release of funds, shall be subject to the continued relevance and completeness of the environmental assessment performed. The applicant shall, prior to any further commitment of funds to the project, complete the requirements of 24 CFR Part 58 relating to the updating of environmental clearances in the event that:

(i) There is any significant or substantial change in the nature, magnitude or extent of the project;

(ii) There is any significant or substantial change in the environment affecting the project; or

(iii) Previously conducted environmental reviews are insufficient due to changed circumstances, including

the availability of additional data or advances in technology.

§ 570.703 Loan requirements.

(a) *Maximum loan amount.* No guarantee or commitment to guarantee shall be made with respect to any note or other obligation if the total outstanding notes or obligations guaranteed under this subpart (including principal and interest thereon) on behalf of the applicant or public agency duly designated by the applicant would thereby exceed an amount equal to three times the amount of the entitlement grant approval for the applicant pursuant to § 570.311; however, this maximum amount is to be reduced by the amount of any grant funds required by HUD to be applied to the repayment of urban renewal temporary loans pursuant to § 570.802.

(b) *Security requirements.* To assure the repayment of notes or other obligations and charges incurred under this subpart and as a condition for receiving loan guarantee assistance, the applicant (or the applicant and designated public agency, where appropriate) shall:

(1) Enter into a contract with HUD, in a form acceptable to the Secretary, for repayment of notes or other obligations guaranteed hereunder;

(2) Pledge any grant approved or for which the applicant may become eligible under this Part; and

(3) Furnish, at the discretion of the Secretary, such other security as may be deemed appropriate by the Secretary in making such guarantees, including increments in local tax receipts generated by the activities assisted under this Part or disposition proceeds from the sale of land or rehabilitated property.

(c) *Use of grants for loan repayment.* Notwithstanding any other provision of this Part:

(1) Grants allocated to an applicant under this Part (including program income derived therefrom) are authorized for use in the payment of principal and interest due (including such servicing, underwriting, or other costs as may be authorized by the Secretary) on the notes or other obligations guaranteed pursuant to this subpart.

(2) The Secretary may apply grants pledged pursuant to paragraph (b)(2) of this section to any amounts due under the note or other obligation guaranteed pursuant to this subpart, or to the purchase of such obligation, in accordance with the terms of the contract required by paragraph (b)(1) of this section.

(d) *Debt obligations.* Notes or other obligations guaranteed pursuant to this subpart shall be in the form and denominations prescribed by the Secretary. Such notes or other obligations shall be issued and sold only to the Federal Financing Bank under such terms as may be prescribed by the Secretary and the Federal Financing Bank.

(e) *Taxable obligations.* Interest earned on obligations guaranteed under this subpart shall be subject to Federal taxation as provided in Section 108(j) of the Act.

All applicants or designated public agencies issuing guaranteed obligations must bear the full cost of interest.

(f) *Loan repayment period.* As a general rule, the repayment period for a loan guaranteed under this subpart shall be limited to six years. However, a longer repayment period may be permitted in special cases where it is deemed necessary to achieve the purposes of this Part.

§ 570.704 Federal guarantee.

The full faith and credit of the United States is pledged to the payment of all guarantees made under this subpart. Any such guarantee made by the Secretary shall be conclusive evidence of the eligibility of the obligations for such guarantee with respect to principal and interest, and the validity of such guarantee so made shall be incontestable in the hands of a holder of the guaranteed obligations.

§ 570.705 Applicability of rules and regulations.

The provisions of Subparts A, B, C, D, J, K, and O shall apply to this subpart, except to the extent they are specifically modified or augmented by the provisions of this subpart.

Issued at Washington, D.C., August 21, 1979.

Robert C. Embry, Jr.,
Assistant Secretary for Community Planning
and Development.

[FR Doc. 79-27060 Filed 8-29-79; 8:45 am]

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Thursday
August 30, 1979

Part IX

Environmental Protection Agency

Preliminary Notice of Determination
Concluding the Rebuttable Presumption
Against Registration of Pesticide
Products Containing Benomyl; Availability
of Position Document

ENVIRONMENTAL PROTECT AGENCY

[FRL 1308-8; OPP-30000/23B]

Preliminary Notice of Determination Concluding the Rebuttable Presumption Against Registration of Pesticide Products Containing Benomyl; Availability of Position Document

I. Introduction

On December 6, 1977, the Environmental Protection Agency issued a notice of rebuttable presumption against registration and continued registration (RPAR) of pesticide products containing benomyl (42 FR 61788), a pesticide used on food and non-food crops to control fungi, thereby initiating the Agency's public review of the risks and benefits of benomyl. This notice constitutes the Agency's Notice of Determination (Notice) pursuant to 40 CFR 162.11(a)(5), terminating the benomyl RPAR. This determination is preliminary at this point, pending external review through submission to, and review by, the United States Department of Agriculture and the Scientific Advisory Panel, pursuant to sections 6(b) and 25(d) of the Federal Fungicide, Insecticide, and Rodenticide Act (FIFRA) as amended, the action does not become final until the Agency has reviewed the comments of these reviewers and issued a final notice based in part on consideration of these comments.

In broad summary, the Agency has determined that benomyl continues to exceed the risk criteria outlined in 40 CFR 162.11 for mutagenicity (as a spindle poison which interferes with proper chromosome segregation during mitosis resulting in non-disjunction), teratogenicity, reduction in spermatogenic activity and acute toxicity to aquatic organisms. The Agency has concluded that the presumption against benomyl on the basis of point mutation has been rebutted, and that the presumption issued against the use of benomyl based on significant local reductions in earthworm populations has also been successfully rebutted.

The risks that benomyl pose to certain exposed groups is of sufficient concern to require the Agency to consider whether these risks can be reduced. The Agency has considered benefits information, including that submitted by registrants, interested persons, and the United States Department of Agriculture, and has analyzed the social and environmental benefits of the uses of benomyl as well as the economic

benefits of the use of benomyl on rice. The Agency has weighed risks and benefits together, in order to determine whether the risks of each benomyl use are warranted by the benefits of the use. In weighing risks and benefits, the Agency considered what risk reductions could be achieved and how risk reduction measures would affect the benefits of the use.

The Agency has determined that the risks of certain uses of benomyl are greater than the social, economic, and environmental benefits of these uses, unless risk reductions are accomplished by modifications in the terms of conditions of registration, as described below. The Agency has further determined that these modifications in the terms or conditions of registration accomplish significant risk reductions, and that these risk reductions can be achieved without significant impacts on the benefits of the uses.

The remainder of this Notice and the accompanying Position Document set forth in detail the Agency's analysis of comments submitted during the rebuttal phase of the benomyl RPAR, and the Agency's reasons and factual bases for the regulatory actions it is initiating. The Notice is organized into four sections. Section I is this introduction. Section II, titled "Legal background", sets forth a general discussion of the regulatory framework within which this action is taken. Section III sets forth the Agency's determinations concluding the benomyl RPAR and initiating the regulatory actions which flow from these determinations. Section IV and the accompanying Position Document set forth the basis for these determinations. Section IV, titled "Procedural Matters", provides a brief discussion of the procedures which will be followed in implementing the regulatory actions which the Agency is initiating in this Notice.

II. Legal Background

In order to obtain a registration for a pesticide under FIFRA, a manufacturer must demonstrate that the pesticide satisfies the statutory standard for registration. That standard requires (among other things) that the pesticide perform its intended function without causing "unreasonable adverse effects" on the environment (section 3(c)(5)). "Unreasonable adverse effects on the environment" is defined as "any unreasonable risk to man or the environment, taking into account the economic, social and environmental costs and benefits of the use of any pesticide" (FIFRA, section 2(b)(5)). In effect, this standard requires a finding that the benefits of each use of the

pesticide exceed the risks of use, when the pesticide is used in accordance with commonly recognized practice. The burden of proving that a pesticide satisfies the registration standard continues as long as the registration remains in effect. Under section 6 of FIFRA, the Administrator is required to cancel the registration of a pesticide or modify the terms and conditions of registration whenever he determines that the pesticide no longer satisfies the statutory standard for registration.¹

The Agency created the RPAR process to facilitate the identification of pesticide uses which may not satisfy the statutory standard for registration and to provide a public, informal procedure for the gathering and evaluation of information about the risks and benefits of these uses.

The regulations governing the RPAR process are set forth at 40 CFR 162.11. This section provides that a rebuttable presumption shall arise if a pesticide meets or exceeds any of the risk criteria set out in the regulations. The Agency generally announces that an RPAR has arisen by publishing a notice in the Federal Register. After an RPAR is issued, registrants and other interested persons are invited to review the data upon which the presumption is based and to submit data and information to rebut the presumption. Respondents may rebut the presumption of risk by showing that the Agency's initial determination of risk was in error, or by showing that use of the pesticide is not likely to result in any significant exposure to many or to animals or plants of concern with regard to the adverse effect in question.² Further, in

¹ Another part of the statutory standard for registration is that the pesticide must satisfy the labeling requirements of FIFRA. These requirements are set out in the statutory definition of "misbranded" (FIFRA section 2(q)). Among other things, this section provides that a pesticide is misbranded if "the labeling . . . does not contain directions for use which are necessary for effecting the purpose for which the product is intended and if it complies with, together with any . . . (restrictions) imposed under section 3(d) . . . are adequate to protect health and the environment."

The Agency can require changes to the directions for use of a pesticide in most circumstances either by finding that the pesticide is misbranded if the labeling is not changed, or by finding that the pesticide would cause unreasonable adverse effects on the environment, unless labeling changes are made which accomplish risk reductions.

² 20 CFR 162.11(a)(4) provides that registrants and applicants may rebut a presumption against registration by sustaining the burden of proving: (i) in the case of a pesticide which meets or exceeds the criteria for risk set forth in paragraphs (a)(3)(i) or (iii) that when considered with the formulations, packaging, method of use, and proposed restrictions on and directions for use and widespread and commonly recognized practices of use, the anticipated exposure to an applicator or user and to local, regional or national populations of nontarget

Footnotes continued on next page

addition to submitting evidence to rebut the risk presumption, respondents may submit evidence as to whether the economic, social, and environmental benefits of the use of the pesticide subject to the presumption outweigh the risks of use.

The regulations require the Agency to conclude an RPAR by issuing a Notice of Determination in which the Agency states and explains its position on the question of whether the risk presumptions have been rebutted. If the Agency determines that the presumption is not rebutted, it will then consider information relating to the social, economic, and environmental costs and benefits which registrants and other interested persons submitted to the Agency, and any other benefits information known to the Agency.

After weighing the risks and the benefits of a pesticide use, the Administrator may conclude the RPAR process by issuing a notice of intent to cancel or deny registration, pursuant to FIFRA section 6(b)(1) and section 3(c)(6) or by issuing a notice of intent to hold a hearing pursuant to section 6(b)(2) of FIFRA to determine whether the registrations should be cancelled or applications for registration denied.

In determining whether the use of a pesticide poses risks which are greater than benefits, the Agency considers modifications to the terms and conditions of registration which can reduce risks, and the impacts of such modifications in the terms or conditions of registration on the benefits of the use. Among the risk reduction measures short of cancellation which are available to the Agency are requiring changes in the directions for use on the pesticide's labeling, and classifying the pesticide for "restricted use" pursuant to FIFRA section 3(d).

FIFRA requires the Agency to submit notices issued pursuant to section 6 to the Secretary of Agriculture for comment and to provide the Secretary of

Footnotes continued from last page organisms is not likely to result in any significant acute adverse effects; or (ii) in the case of a pesticide which meets or exceeds the criteria for risk set forth in paragraph (a)(3)(ii) that when considered with proposed restrictions on use and widespread and commonly recognized practices of use, the pesticide will not concentrate, persist or accrue to levels in man or the environment likely to result in any significant chronic adverse effects; or (iii) that the determination by the Agency that the pesticide meets or exceeds any of the criteria for risk was in error. A primary purpose of the RPAR process is to screen for appropriate action those pesticide uses which pose risks which are of sufficient concern to require the Agency to consider whether offsetting benefits justify the risks. Accordingly, the Agency's approach to rebuttal determinations concentrates on whether the risk concerns which are central to each RPAR proceeding have in fact been answered.

Agriculture with an analysis of the impact of the proposed action on the agricultural economy (section 6(b)). The Agency is required to submit these documents to the Secretary at least 60 days before making the notice effective by sending it to registrants or making it public. If the Secretary of Agriculture comments in writing within 30 days after receiving the notice, the Agency is required to publish the Secretary's comments and the Administrator's response with the notice. FIFRA also requires the Administrator to submit section 6 notices to a Scientific Advisory Panel for comment on the impact of the proposed action on health and the environment, at the same time and under the same procedures as those described above for review by the Secretary of Agriculture [section 25(d)].

Although not required to do so under the statute, the Agency has decided that it is consistent with the general theme of the RPAR process and the Agency's overall policy of open decision making to afford registrants and other interested persons an opportunity to comment on the bases for the proposed action during the time that the proposed action is under review by the Secretary of Agriculture and the Scientific Advisory Panel. Accordingly, appropriate steps will be taken to make copies of the Position Document available to registrants and other interested persons at the time the decision documents are transmitted for formal external review, through publication of a notice of availability in the Federal Register, or by other means. Registrants and other interested persons will be allowed the same period of time to comment—30 days—that the statute provides for receipt of comments from the Secretary of Agriculture and the Scientific Advisory Panel.

The determination to issue a FIFRA section 6 notice is a preliminary determination, pending external review and Agency analysis of comments received. On the basis of these comments, the Agency may withdraw the notice, issue a final notice without modification, or modify the notice, as appropriate.

After complying with the external review requirements and, if the notice is not withdrawn, accomplishing any changes in the contemplated action deemed appropriate as a result of any comments received, the Agency will proceed to implement the desired regulatory action by sending and making public a notice of intent to cancel under FIFRA section 6(b)(1) or a notice of intent to hold a hearing under FIFRA section 6(b)(2), as appropriate.

Registrants and other interested persons have 30 days to request a hearing, in the case of notice of intent to cancel under FIFRA section 6(b)(1). In the event a hearing is not requested and any changes in the terms and conditions of registration directed in the cancellation notice are not accepted, the cancellation action announced in the notice of intent will take effect automatically at the end of the 30-day notice period. If a hearing is requested, it will be governed by the Agency's rules of practice for hearings under FIFRA section 6 (40 CFR Part 164); the cancellation action will not become effective except pursuant to an order of the Administrator at the conclusion of the hearing. Rules governing participation in number, and the conduct of hearings under FIFRA section 6(b)(2), are also set forth in 40 CFR Part 164. Upon appropriate findings the Agency may withdraw such a notice prior to the commencement of a hearing.

III. Determination and Initiation of Regulatory Action

The Agency has considered information on the risks associated with the uses of benomyl, including information submitted by registrants and other interested persons in rebuttal to the benomyl RPAR. The Agency has also considered information on the social, economic, and environmental benefits of the uses of benomyl subject to the RPAR, including benefits information submitted by registrants and other interested persons in conjunction with their rebuttal submissions, and information submitted by the United States Department of Agriculture. The Agency's assessment of the risks and benefits of the uses of benomyl subject to this RPAR, its conclusions and determinations whether any uses of benomyl pose unreasonable adverse effects on the environment, and its determinations whether modifications in terms of conditions of registration reduce risks sufficiently to eliminate any unreasonable adverse effects, are set forth in detail in the Position Document accompanying this Notice. This Position Document is hereby adopted by the Agency as its statement of reasons for the determinations and actions announced in this Notice, and as its analysis of the impacts of the proposed regulatory actions on the agricultural economy. For the reasons summarized below and developed in detail in the Position Document, the Determinations of the Agency with respect to benomyl are as follows:

A. Determinations On Risks

The benomyl RPAR was based on information indicating that benomyl posed the following risks to humans and the environment: (1) Mutagenicity; (2) spermatogenic depression and teratogenic effects; (3) acute toxicity to aquatic organisms; and (4) significant population reductions in nontarget organisms. As developed fully in the Position Document, the Agency has determined that information submitted to rebut these risk criteria was insufficient to remove the Agency's concerns that benomyl poses the risks of mutagenicity (as a spindle poison), teratogenicity, and spermatogenic depression to humans and acute toxicity to aquatic organisms.

The risks of mutagenicity, teratogenicity and spermatogenic depression are greatest to mixer/loaders during aerial application and to pesticide applicators operating air blast equipment. The risk to aquatic organisms is greatest when benomyl is applied to rice, because residues present in water drained from the rice fields might cause fish-kills. These risks are of sufficient magnitude to require the Agency to determine whether the uses of benomyl offer offsetting social, economic, or environmental benefits.

The Agency has also concluded that the presumption against benomyl on the basis of the potential to produce point mutations has been rebutted, since the data available on point mutations are inadequate at the present time to determine if benomyl poses a mutagenic risk as a point (gene) mutagen to humans. Finally, the Agency has determined that the risk presumption for significant population reductions in nontarget organisms has been rebutted.

B. Determinations on Benefits

The uses of benomyl which are subject to this RPAR fall into four categories: Rice uses, aerial application uses;³ air blast application uses;⁴ and other uses.⁵

1. *Rice Uses.* Benomyl is used on rice, principally to control rice blast and stem

³ Benomyl is registered for aerial application for the following uses: Almonds, avocados, beans, cabbage (seed crop), cucurbits, grapes, peanuts, pecans, rice, stone fruits, strawberries, soybeans, sugar beets, roses, flowers, ornamentals, and shade trees.

⁴ Benomyl is registered for air blast application for the following uses: Almonds, apples, avocados, citrus, grapes, macadamia nuts, mangoes, pears, pecans, and stone fruits.

⁵ Other uses comprise postharvest dipping or spraying of apples, citrus, pears, pineapple, and stone fruits; mushrooms; preplant dip treatment of pineapple, strawberries, sugar cane, flowers and bulbs; greenhouse use for tomatoes and ornamentals; trunk injection of elms, turf and any hard spraying application.

rot. Benomyl is used on approximately 20 percent of the total rice production in the U.S. There are no other chemicals registered for control of these rice diseases. Cultural practices are not effective in reducing or controlling these diseases.

The Agency has determined that the use of benomyl on rice provides significant benefits to users but no benefits to any other group. Cancellation of this use would cause current benomyl users to sustain a net loss of approximately \$15 million.

2. *Other Uses.* The Agency did not perform a detailed quantitative analysis of the economic benefits for the uses other than rice because the Agency determined that proposed modifications to the terms and conditions of registration would adequately reduce risks for these other uses with only an insignificant impact on benefits.

C. Determinations of Unreasonable Adverse Effects

For the reasons set forth in detail in the accompanying Position Document, the Agency has made the following unreasonable adverse effect determinations about the uses of benomyl.

The Agency has determined that the risks arising from the use of benomyl to mixer/loaders during aerial application and to pesticide applicators operating air blasts equipment are greater than the social, economic, and environmental benefits of these uses, unless risk reductions are accomplished by modifications in the terms and conditions of registration as described in the following section.

The Agency has further determined that these modifications in the terms and conditions of registration accomplish significant risk reductions, and that these risk reductions can be achieved without significant impacts on the benefits of the uses. Accordingly, the Agency has determined that, unless these changes in the terms or conditions of registration are accomplished, the uses of benomyl will generally cause unreasonable adverse effects on the environment, when used in accordance with widespread and commonly recognized practices, and that the labeling of benomyl pesticide products will not comply with the provisions of FIFRA.

D. Other Determinations

The Agency has determined that registrants and applicants for registration of benomyl products must submit to the Agency data from tests to detect gene mutations in the following test systems: (1) *Drosophila*, (2)

Mammalian somatic cells in culture and, (3) an appropriate eukaryotic micro-organism for benomyl and its metabolite MBC.

The Agency will use this test data for the purpose of refining its risk and benefits assessments on the use of benomyl; this data will also be used to reassess its conclusions that the use of benomyl does not cause unreasonable adverse effects in accordance with the Agency's proposed modifications to the terms or conditions of registration.

The Agency has determined that registrants and applicants for registration of benomyl products for rice uses must develop and submit to the Agency field monitoring studies of benomyl residues in water when applied at different rates. The measurements should be made at varying distances downstream from the rice fields. The Agency will use these data for the purpose of refining its risk and benefit assessments of the use of benomyl on rice; these data will also be used to reassess its conclusion that the use of benomyl on rice in accordance with the Agency's proposed modifications to the terms or conditions of registration does not cause unreasonable adverse effects on the environment.⁶

E. Initiation of Regulatory Actions

Based upon the determinations summarized above and developed in detail in the Position Document, the Agency is initiating the following regulatory actions, and this document shall constitute its Notice of Preliminary Determination:

Cancellation and denial of registrations of benomyl products for all uses unless registrants or applicants for registration modify the terms and conditions of registration as follows⁷:

⁶ For the Agency's authority to require registrants to conduct studies relevant to assessing the risks and benefits of a pesticide, and to report the results thereof to the Agency, see FIFRA section 3(c)(2)(B) and 40 CFR 182.8(d)(1).

⁷ FIFRA 6(b)(1) provides that the Administrator may initiate proceedings to cancel a registration or change its use classification, where the Administrator finds that the pesticide does not satisfy the statutory standard for registration. However, the registered benomyl products subject to this RPAR have not yet been initially classified. Accordingly, any classification action with respect to these products is an initial classification, and not a change in classification. Initial classification generally does not give rise to a right to review the classification decision in an adjudicatory hearing. (See Preamble to Optional Procedures for Classification of Pesticide Uses by Regulation, 42 FR 5782, 5784 (Feb. 9, 1978). However, in view of the fact that the Agency is proposing other changes to the terms or conditions of the registration (e.g., labeling changes) for registered benomyl products, which are reviewable in adjudicatory hearings, the Agency has determined that it is appropriate to exercise its discretion to fashion procedures in excess of minimum statutory requirements, and to

Footnotes continued on next page

1. Modification of the labeling of benomyl pesticide products packaged in five pound or larger bags to include the following statement:

Warning to Workers

The United States Environmental Protection Agency has determined that benomyl causes birth defects and reduced sperm production in laboratory animals. Exposure to benomyl during pregnancy should be avoided. Exposure to benomyl might cause a depressed sperm count. Workers must be sure to wear cloth masks while mixing for aerial application. In case of accidental spills or other unusual exposure, cease work immediately and follow directions for contact with benomyl.

2. Requirement for water-soluble packaging for benomyl products in five pounds or larger quantities formulated as the wettable powder as soon as technically feasible.

The minimum labeling which must appear on the water soluble bag includes the product name, EPA Registration Number and the words: "Caution: Keep out the reach of children."

The following statement must appear on the labels of five pound or larger packages of wettable powder formulations:

Handling Precautions

This product is in a water soluble bag. Do not break open the bag prior to use. Do not use in quantities smaller than one full bag. If a bag is leaking, use extreme care in handling. Do not get in eyes, on skin or on clothing.

3. Modification of the labeling of benomyl products formulated as the wettable powder in five pounds or larger quantities, which are not contained in water soluble packaging, to include the following requirement for protective clothing:

Required Clothing

During mixing and loading of this product for aerial application, a fine woven cloth mask must be worn.

In addition to these actions, the Agency soon will be initiating action to require the accomplishment and the submission to the Agency of the mutagenicity test data cited above and the field monitoring studies for the rice use. This action is not being initiated by this Notice, but instead will be initiated by subsequent correspondence from the Office of Pesticide Programs to registrants and applicants for registration of benomyl products.

Footnotes continued from last page permit the question of whether benomyl products should be initially classified for restricted use and its use limited to certified applicators to be reviewed in any such adjudicatory hearing as well.

V. Procedural Matters

This Notice of Determination notifies the United States Department of Agriculture, the Scientific Advisory Panel, pesticide registrants and users, and other interested parties of the Agency's preliminary determinations relating to the risks and benefits of the uses of benomyl, and provides these entities and individuals with opportunity to comment on these determinations.

As discussed in Section II of this Notice, the Agency's decision to initiate the regulatory action described in Section III must be referred for review by the Secretary of Agriculture and the Scientific Advisory Panel. The EPA position document setting forth in detail the reasons and factual bases for the regulatory actions which the Agency proposes and this Notice of Determination are being transmitted immediately to the Secretary of Agriculture and the Scientific Advisory Panel for comments. The Agency also will offer registrants and other interested persons an opportunity to comment on the bases for the Agency's action by making copies of the Position Document available upon request. Interested persons may receive copies of the documents by communicating their requests to Esther Saito, Project Manager, Special Pesticide Review Division, Office of Pesticide Programs, EPA (TS-791), Room 711D, Crystal Mall II, 401 M Street, SW., Washington, D.C. 20460, (703) 557-7420. Registrants and other interested persons have the same period of 30 days to submit comments that the statute provides for comments from the Secretary of Agriculture and the Scientific Advisory Panel.

All comments on the proposed actions should be sent to the Document Control Office, Chemical Information Division, EPA (TS-793), Room E-447, 401 M Street, SW., Washington, D.C. 20460. In order to facilitate the work of the Agency and of others inspecting the comments, registrants and other interested persons should submit three copies of their comments. The comments should bear the identifying notation 30000/23B, and should be submitted on or before October 1, 1979.

After completion of these review procedures, the Agency will consider the comments received and publish an analysis of them, together with any changes in the regulatory actions announced in this Notice which it determines are appropriate. Until this final review phase is concluded in this manner, it is not necessary for registrants or other interested persons to request a hearing to contest any

regulatory actions resulting from the conclusion of this RPAR.

Steven D. Jellinek,
Assistant administrator for Toxic Substances.

Dated: August 17, 1979.
[FR Doc. 79-27182 Filed 8-29-79; 8:45 am]
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Thursday
August 30, 1979

Part X

**Office of
Management and
Budget**

Budget Deferrals and Rescissions

OFFICE OF MANAGEMENT AND BUDGET

Budget Deferrals and Rescissions

To the Congress of the United States:

In accordance with the Impoundment Control Act of 1974, I herewith report three new deferrals of budget authority totalling \$30.1 million. These items involve human development services in the Department of Health, Education, and Welfare, emergency refugee and migration assistance in the Department of State, and the National Commission on Social Security.

The details of the deferrals are contained in the attached reports.

Jimmy Carter

The White House.
August 27, 1979.
BILLING CODE 3110-01-M

CONTENTS OF SPECIAL MESSAGE
(in thousands of dollars)

Deferral No.	Item	Budget Authority
D79-63	Department of Health, Education, and Welfare: Human Development Services.....	22,500
D79-64	Department of State: United States Emergency Refugee and Migration Assistance Fund.....	5,650
D79-65	National Commission on Social Security: Salaries and Expenses.....	1,943
	Total, deferrals.....	30,093

SUMMARY OF SPECIAL MESSAGES
FOR FY 1979
(in thousands of dollars)

	Rescissions	Deferrals
Twelfth special message:		
New items.....	---	30,093
Effect of twelfth special message.....	---	30,093
Previous special messages.....	908,692	4,584,545
Total amount proposed in special messages.....	908,692	4,614,638 ^{1/}
	(in 11 rescission proposals)	(in 65 deferrals)

^{1/} This amount represents budget authority except for \$15,809,478 in two Treasury Department deferrals of outlays only (D79-40A and D79-25B).

Deferral No: D79-63

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency Department of Health, Education and Welfare	New budget authority (P.L. 95-482) (96-38) \$2,368,568,000
Bureau Office of Human Development Services	Other budgetary resources 7,600,200
Appropriation title & symbol	Total budgetary resources 2,376,168,200
Human Development Services 7591636 (Administration on Aging - Nutrition)	Amount to be deferred: Part of year \$ 22,500,000
	Entire year
OMB identification code: 75-1636-0-1-500	Legal authority (in addition to sec 1013): ☐ Antideficiency Act ☐ Other
Grant program ☒ Yes ☐ No	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other
Type of account or fund: ☒ Annual ☐ Multiple-year (expiration date) ☐ No-year	

Justification:

Public Law 96-38 enacted July 25, 1979 included a supplemental appropriation of \$22,500,000 for the Aging Nutrition Service program. These funds were appropriated to meet State requirements to maintain operating levels for activities under Part C of Title III of the Older Americans Act.

The conference report accompanying P.L. 96-38 requires the Department to submit a report to the Congress covering the planned allocation of funds to the States within twenty days after enactment and prior to making the grant awards. OMB is advised that HEW has requested and received from the congressional appropriations committees an extension of time for submission of the required report, which will now be sent to OMB and the Congress by approximately September 1, 1979. These funds are deferred until the allocation report is provided to OMB and the Congress.

Estimated Effects:

There is no programmatic effect of this action because the Department, upon satisfying the reporting requirement to Congress, will fully support all States which need funds to meet the operating levels required by law.

Outlay Effect:

There is no outlay effect of this action.

Deferral No: D79-64

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency Department of State	New budget authority (P.L. 95-481) (96-38) \$26,700,000
Bureau	Other budgetary resources 3,559,670
Appropriation title & symbol	Total budgetary resources 30,259,670
United States Emergency Refugee and Migration Assistance Fund, Executive 1/	Amount to be deferred: Part of year \$
11X0040	Entire year 5,650,000
OMB identification code: 11-0040-0-1-151	Legal authority (in addition to sec 1013): ☒ Antideficiency Act ☐ Other
Grant program ☐ Yes ☒ No	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other
Type of account or fund: ☐ Annual ☐ Multiple-year (expiration date) ☒ No-year	

Justification: Section 501(a) of the Foreign Relations Authorization Act, Fiscal Year 1976, Public Law 94-141, approved November 29, 1975, amended section 2(c) of the Refugee and Migration Assistance Act of 1962 (22 U.S.C. 2601) by authorizing a fund not to exceed \$25 million to enable the President to provide emergency assistance for unexpected urgent refugee and migration needs.

By Executive Order No. 11922 of June 16, 1976, the President allocated all funds appropriated to him for the Emergency Fund to the Secretary of State but reserved to himself the determination of assistance to be furnished and the designation of refugees to be assisted by the Fund.

The Supplemental Appropriations Act, 1979 (P.L. 96-38), enacted July 25, provided \$17.2 million of additional appropriations to the Fund. Of this amount, \$11,550,000 will be utilized to increase the rate of entry of Indochinese refugees into the United States to 14,000 per month by October 1979, as the President has directed. The remaining \$5.65 million have been deferred consistent with the President's authority set out in Executive Order No. 11922 and to achieve the most economical use of appropriations. It is anticipated that additional reapportionments may be made on a case-by-case basis as the President determines assistance to be furnished and designates refugees to be assisted by the Fund.

This deferral action is taken in accordance with the Antideficiency Act (31 U.S.C. 665).

Estimated Effect: There are no programmatic or budgetary effects resulting from this deferral.

Outlay Effect: No effect on outlays results from this deferral action.

1/ This account was the subject of similar deferral action during FY 1978 and earlier in FY 1979.

Deferral No: D79-65

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency National Commission on Social Security	New budget authority (P.L. 95-216) (96-38) \$2,500,000.
Bureau	Other budgetary resources 0
Appropriation title & symbol	Total budgetary resources 2,500,000.
Salaries & Expenses 48-91-1600	Amount to be deferred: Part of year \$ Entire year 1,943,000.
OMB identification code: 48-1600-0-1-601	Legal authority (in addition to sec. 1013): ☒ Antideficiency Act
Grant program ☐ Yes ☒ No	☐ Other
Type of account or fund: ☐ Annual ☒ Multiple-year September 30, 1981 (expiration date) ☐ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other

Justification: These funds were appropriated in P.L. 96-38 to fully fund the expenses of the National Commission on Social Security for its two year life. The Commission is to study the Old-Age, Survivors, Disability, and Health Insurance programs.

Funds totalling \$1,943,000 of the \$2 million appropriated are being deferred to assure prudent financial management. These funds could not be used effectively during the current year. The original financial plan was made prior to the creation of the Commission and assumed that the supplemental appropriation would be available by April of 1979. Since the supplemental was not enacted until late July, changes were required in the financial plan reducing the funds which could reasonably be obligated in an effective and efficient manner.

Estimated Effects: This action will enable the Commission to be fully operational, in terms of staff and contracted studies, during FY 1980.

Outlay Effect: There is no outlay effect from this deferral since the funds could not be obligated in FY 1979.

[FR Doc. 79-27244 Filed 8-29-79; 8:45 am]
BILLING CODE 3110-01-C

Reader Aids

Federal Register
Vol. 44, No. 170
Thursday, August 30, 1979

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY*	USDA/ASCS		DOT/SECRETARY*	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/FHWA	USDA/FSQS		DOT/FHWA	USDA/FSQS
DOT/FRA	USDA/REA		DOT/FRA	USDA/REA
DOT/NHTSA	MSPB/OPM		DOT/NHTSA	MSPB/OPM
DOT/RSPA	LABOR		DOT/RSPA	LABOR
DOT/SLS	HEW/FDA		DOT/SLS	HEW/FDA
DOT/UMTA			DOT/UMTA	
CSA			CSA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

*NOTE: As of July 2, 1979, all agencies in the Department of Transportation, will publish on the Monday/Thursday schedule.

REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.

Rules Going Into Effect Today

- ENVIRONMENTAL PROTECTION AGENCY**
- 45066 7-31-79 / Guidelines for development and implementation of State solid waste management plans
- FEDERAL RESERVE SYSTEM**
- 44830 7-31-79 / Equal credit opportunity, official staff interpretation
- INTERIOR DEPARTMENT**
- Indian Affairs Bureau—
- 45096 7-31-79 / Indian Child Welfare Act, implementation
- 45092 7-31-79 / Tribal reassumption of jurisdiction over child custody proceedings
- LABOR DEPARTMENT**
- Mine Safety and Health Administration—
- 31908 8-1-79 / Radiation, fire protection and control; safety standards

List of Public Laws

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's List of Public Laws.

Last Listing August 17, 1979

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